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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AG82

Prevailing Rate Systems; Abolishment of Marquette, MI, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to abolish the Marquette, MI, nonappropriated fund (NAF) Federal Wage System wage area and add Dickinson County, MI, and Marquette County, MI, as areas of application to the Lake, IL, NAF wage area for pay-setting purposes. No employee's wage rate will be reduced as a result of this change.

EFFECTIVE DATE: December 28, 1995.

FOR FURTHER INFORMATION CONTACT: Paul Shields, (202) 606–2848.

SUPPLEMENTARY INFORMATION: On July 10, 1995, OPM published an interim rule to abolish the Marquette, MI, nonappropriated fund (NAF) Federal Wage System wage area and add Dickinson County, MI, and Marquette County, MI, as areas of application to the Lake, IL, NAF wage area for pay-setting purposes. The interim rule provided a 30-day period for public comment. OPM received no comments during the comment period. Therefore, the interim rule is being adopted as a final rule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule amending 5 CFR part 532 published on July 10, 1995 (60 FR 35467), is adopted as final without any changes.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 95–28908 Filed 11–27–95; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 905 and 944

[Docket No. FV95–905–3IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; and Import Regulations (Grapefruit); Relaxation of the Minimum Size Requirement for Red Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule makes a change in regulations under the Florida citrus marketing order and grapefruit import regulations. This rule relaxes the minimum size requirement for red seedless grapefruit to $3^{5}/_{16}$ inches in diameter (size 56). The Citrus Administrative Committee (Committee), the agency that locally administers the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida, unanimously recommended this change. This change will enable handlers and importers to continue to ship size 56 red seedless grapefruit for the entire 1995–96 season.

DATES: Effective on November 13, 1995; comments received by December 28, 1995, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456, FAX Number (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, PO Box 2276, Winter Haven, Florida 33883–2276; telephone: 813–299–4770; or Caroline C. Thorpe, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2522–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–8139.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 905 (7 CFR part 905), as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C 601–674), hereinafter referred to as the Act.

This interim final rule is also issued under section 8e of the Act, which provides that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities. Section 8e also provides that whenever two or more marketing orders regulate the same commodity produced in different areas of the United States, the Secretary shall determine which area the imported commodity is in most direct competition with and apply regulations based on that area to the imported commodity. The Secretary has determined that grapefruit imported into the United States are in most direct competition with grapefruit grown in Florida regulated under Marketing Order No. 905, and has found that the minimum grade and size requirements for imported grapefruit should be the same as those established for grapefruit under Marketing Order No. 905.

The Department of Agriculture is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 100 handlers of Florida citrus who are subject to regulation under the marketing order and approximately 12,000 producers of citrus in the regulated area, and about 25 grapefruit importers. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of handlers, producers, and importers of Florida citrus may be classified as small entities.

The order for Florida citrus provides for the establishment of minimum grade and size requirements. The minimum grade and size requirements are designed to provide fresh markets with fruit of acceptable quality, thereby maintaining consumer confidence for fresh Florida citrus. This helps create buyer confidence and contributes to stable marketing conditions. This is in the interest of producers, packers, and consumers, and is designed to increase returns to Florida citrus growers.

This interim final rule invites comments on a change to the order's rules and regulations to relax the minimum size requirement for red seedless grapefruit allowing for the continued shipment of size 56 grapefruit. The Committee met September 14, 1995, and unanimously recommended this action.

This rule relaxes the minimum size from size 48 (3$^{9}/_{16}$ inches diameter) to size 56 (3$^{5}/_{16}$ inches diameter) for the period November 13, 1995 through November 10, 1996. Absent this change, the size will revert back to size 48 (3$^{9}/_{16}$ inches diameter), on November 13, 1995.

Section 905.52, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 (7 CFR 905.306) specifies minimum grade and size requirements for different varieties of fresh Florida grapefruit. Such requirements for domestic shipments are specified in § 905.306 in Table I of paragraph (a), and for export shipments in Table II of paragraph (b). Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106 (7 CFR 944.106), as reinstated on July 26, 1993 (58 FR 39428, July 23,1993). Export requirements are not changed by this rule.

In making its recommendation, the Committee considered estimated supply and current shipments. The Committee reports that it expects that fresh market demand will be sufficient to permit the shipment of size 56 red seedless grapefruit grown in Florida during the entire 1995–96 season. The Committee believes that markets have been developed for size 56 and that they should continue to supply those markets.

This size relaxation will enable Florida grapefruit shippers to continue shipping size 56 red seedless grapefruit to the domestic market. This rule will have a beneficial impact on producers and handlers, since it will permit Florida grapefruit handlers to make available those sizes of fruit needed to meet consumer needs. This is consistent with current and anticipated demand in those markets for the 1995–96 season, and will provide for the maximization of shipments to fresh market channels.

There are several exemptions to these regulations provided under the order. Handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day, and up to 2 standard packed cartons of fruit per day in gift packages which are individually addressed and not for resale. Fruit shipped for animal feed is also exempt under specific conditions. Fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule will relax the minimum size requirement under the domestic handling regulations, a corresponding change to the import regulations must also be considered.

Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106 (7 CFR 944.106), as reinstated on July 26, 1993 (58 FR 39428, July 23, 1993). This rule relaxes the minimum size requirements for imported red seedless grapefruit to 3$^{5}/_{16}$ inches in diameter (size 56) for the period November 13, 1995, through November 10, 1996, to reflect the relaxation being made under the order for grapefruit grown in Florida. The minimum grade and size requirements for Florida grapefruit are specified in § 905.306 (7 CFR 905.306) under Marketing Order No. 905.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this interim final rule.

Based on these considerations, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule relaxes the minimum size requirements that would otherwise be in effect November 13, 1995, for grapefruit grown in Florida, (2) Florida grapefruit handlers are aware of this action which was unanimously recommended by the Committee at a public meeting, and they will need no additional time to comply with the relaxed requirements; (3) Florida grapefruit shipments began on September 1, 1995, and the season will be well underway by November 13, 1995; and (4) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this interim final rule.

List of Subjects

7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth above, 7 CFR parts 905 and 944 are amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR parts 905 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 905.306 is amended by revising the entries for grapefruit in paragraph (a), Table I, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	*
Grapefruit			
Seeded, except red	On and after 9/01/94	U.S. No. 1	3$^{12}/_{16}$
Seeded, red	On and after 9/01/94	U.S. No. 1	3$^{12}/_{16}$
Seedless, red	11/24/94–11/12/95	U.S. No. 1	3$^{5}/_{16}$
	11/13/95–11/10/96	U.S. No. 1	3$^{5}/_{16}$
	On and after 11/11/96	U.S. No. 1	3$^{9}/_{16}$
Seedless, except red	On and after 9/01/94	U.S. No. 1	3$^{9}/_{16}$

* * * * *

PART 944—FRUITS; IMPORT REGULATIONS

4. In § 944.106, paragraph (a) is revised to read as follows:

§ 944.106 Grapefruit import regulation.

(a) Pursuant to Section 8e (7 U.S.C. 608e–1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and part 944—Fruits; Import Regulations, the importation into the United States of any grapefruit is prohibited unless such grapefruit meet the following minimum grade and size requirements for each specified grapefruit classification:

Grapefruit classification	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Seeded	On and after 09/01/94	U.S. No. 1	3$^{12}/_{16}$
Seedless, red	11/24/94–11/12/95	U.S. No. 1	3$^{5}/_{16}$
	11/13/95–11/10/96	U.S. No. 1	3$^{5}/_{16}$
	On and after 11/11/96	U.S. No. 1	3$^{9}/_{16}$
Seedless, except red	On and after 09/01/94	U.S. No. 1	3$^{9}/_{16}$

* * * * *

Dated: November 20, 1995.

Martha B. Ransom,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–28925 Filed 11–27–95; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 1220

[No. LS–95–014]

Technical Amendments to the Soybean Promotion and Research Order and Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule and Termination Order.

SUMMARY: A review of the Soybean Promotion and Research Order (Order) and rules and regulations implementing the soybean promotion and research program identified a number of changes to eliminate sections which are duplicative or obsolete and will avoid current and future conflict, and correct an administrative error. The revisions eliminate certain sections dealing with membership on the United Soybean

Board (Board), obtaining refunds, and other miscellaneous provisions.

EFFECTIVE DATE: December 28, 1995.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2606–S; Livestock and Seed Division, AMS, USDA; PO Box 96456; Washington, DC 20090–6456; telephone 202/720–1115.

SUPPLEMENTARY INFORMATION: This rule amends the Order and Rules and Regulations (7 CFR part 1220). The Order and regulations are effective under the Soybean Promotion, Research, and Consumer Information Act (Act).

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This rule was reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1971 of the Act, a person subject to the Order may file a petition with the Secretary stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with law and requesting a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

Effect on Small Entities

The Administrator of the Agricultural Marketing Service (AMS) has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the changes are primarily to remove obsolete and duplicate material and to correct an administrative error.

Paperwork Reduction

Information collection requirements and recordkeeping provisions contained in 7 CFR part 1220 have been previously approved by OMB and assigned OMB Control No. 0581–0093 under the Paperwork Reduction Act of 1980.

No additional recordkeeping requirements are imposed as a result of this rule.

Background and Proposed Changes

A review of the Order and regulations was conducted in response to the President's Regulatory Review Initiative of March 4, 1995. As a result, a number of paragraphs were identified that could be removed without adverse impact to the program. The amendments eliminate sections which are duplicative or obsolete or will avoid conflicting information.

Sections which are obsolete or are duplicated in other sections involve initial membership on the Board (§ 1220.500–560) and authority for three temporary members on the initial Board (§ 1220.201(f)).

Other sections (§ 1220.224, 225, 226, 227, and § 1220.330 and 331) originally implemented a statutory provision allowing producers to request refunds prior to and after the continuance referendum. These sections became obsolete after a February 1994 referendum in which producers voted in favor of mandatory assessments based on 10 percent escrowed assessments paid at the end of each State's fiscal year.

In July 1995, producers were provided the opportunity to request a refund referendum to determine whether refunds (at 10 percent of escrowed funds) should continue. The number of producers required to cause a referendum to be conducted did not sign the poll. Therefore, a referendum will not be held and refunds were eliminated as of October 1, 1995. Provisions for establishing escrow accounts (§ 1220.212(j); § 1220.228(a)(1)(v) through (vi); and § 1220.228(b)(5)(i) through (6)(iii)) are no longer applicable and should be removed, the sections they pertain to are: Continuance referendum (§ 1220.106); Producer poll (§ 1220.120); and Refund referendum (§ 1220.124).

In addition, § 1220.312(b) has been revised to move Virginia from the monthly column to the quarterly column to correct an error.

After consideration of all relevant material with regard to the termination of the provisions as hereinafter set forth, it is found that these provisions no longer tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that, upon good cause, it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice or to engage in further public procedure prior to implementing this action because: (1) The sections being removed are either duplicative or obsolete and removal will not alter any aspect of the program; and (2) changing the status of Virginia from monthly to quarterly for remittance of assessments is an action to correct an error that will not affect program implementation.

List of Subjects in 7 CFR Part 1220

Administrative practice and procedure, Advertising, Agricultural research, Soybeans and soybean products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1220 is amended as follows:

PART 1220—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for part 1220 continues to read as follows:

Authority: 7 U.S.C. 6301–6311.

§§ 1220.106, 1220.120, 1220.124, 1220.224–1220.227 [Removed and reserved]; §§ 1220.201, 1220.212 and 1220.228 [Amended]

2. In part 1220, §§ 1220.106, 1220.120, 1220.124, 1220.201(f), 1220.212(j), 1220.224 through 1220.227, 1220.228(a)(1)(v) and (vi), 1220.228(b)(5)(i) and (b)(6)(iii) are removed and reserved.

§ 1220.312 [Amended]

3. Section 1220.312 is amended in paragraph (b) by removing the word "Virginia" in the Monthly column and adding the word "Virginia" in the Quarterly column, in alphabetical order, immediately following the word South Dakota.

Dated: November 20, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–28923 Filed 11–27–95; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 1230

[No. LS–95–013]

Technical Amendments to the Pork Promotion, Research, and Consumer Information Order and Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule and Termination Order.

SUMMARY: A review of the Pork Promotion, Research, and Consumer Information Order (Order) and rules and regulations implementing the pork promotion and research program identified a number of changes to eliminate sections which are duplicative or obsolete and will avoid current and future conflict. The revisions eliminate certain sections dealing with membership on the National Pork Producers Delegate Body (Delegate Body), obtaining refunds, and other miscellaneous provisions.

EFFECTIVE DATE: December 28, 1995.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, Room 2606–S, Livestock and Seed Division, AMS, USDA, PO Box 96456, Washington, DC 20090–6456; telephone 202/720–1115.

SUPPLEMENTARY INFORMATION: This rule amends the Order and Rules and Regulations (7 CFR part 1230). The Order and regulations are effective under the Pork Promotion, Research, and Consumer Information Act (Act).

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This rule was reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1625 of the Act, a person subject to the Order may file a petition with the Secretary stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with law and requesting a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

Effect on Small Entities

The Administrator of the Agricultural Marketing Service (AMS) has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the changes are primarily to remove obsolete and duplicate material.

Paperwork Reduction

Information collection requirements and recordkeeping provisions contained in 7 CFR part 1230 have been previously approved by OMB and assigned OMB Control No. 0581–0093 under the Paperwork Reduction Act of 1980.

No additional recordkeeping requirements are imposed as a result of this rule.

Background and Proposed Changes

A review of the Order and regulations was conducted in response to the President's Regulatory Review Initiative of March 4, 1995. As a result, a number of paragraphs were identified that could be removed without adverse impact to the program. The amendments eliminate sections which are duplicative or obsolete.

Sections which are obsolete or are duplicated in other sections involve initial membership on the Delegate Body and the Board (§ 1230.30; § 1230.31; and §§ 1230.501–.512).

Other sections (§ 1230.72 and § 1230.77) originally implemented a statutory provision allowing producers to request refunds prior to the referendum. These sections became obsolete after a May 1988 referendum in which producers voted in favor of mandatory assessments.

After consideration of all relevant material with regard to the termination of the provisions hereinafter set forth, it is found that these provisions no longer tend to effectuate the declared policy of the Act.

Pursuant to 7 U.S.C. 553, it is also found and determined that upon good cause, it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice or engage in further public procedure prior to implementing this action because the sections being removed are either duplicative or obsolete and removal will not alter any aspect of the program.

List of Subjects in 7 CFR Part 1230

Advertising, Agricultural research, Marketing agreement, Meat and meat products, Pork and pork products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1230 is amended as follows:

PART 1230—[AMENDED]

1. The authority citation for 7 CFR Part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

§ 1230.30 [Amended]

2. In § 1230.30, paragraphs (b)(2) and (c)(2) are removed and reserved and in paragraphs (b)(3) and (c)(3) the word "thereafter" is removed.

§ 1230.31 [Amended]

3. In § 1230.31, paragraph (a) is removed and reserved and the first three words "for each subsequent" and the comma "," after Body of paragraph (b) are removed.

§ 1230.72 [Amended]

4. In § 1230.72, paragraph (a) in the second sentence the words "less the amount of refunds paid to producers in that State" are removed and in paragraph (b) in the first sentence the words "and to which no refund was received" are removed.

§ 1230.77 [Removed and reserved]

5. Section 1230.77 is removed and reserved.

§§ 1230.501–1230.512 [Removed and Reserved]

6. Sections 1230.501 through 1230.512 are removed and reserved.

Dated: November 20, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–28924 Filed 11–27–95; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 1260

[No. LS–95–012]

Technical Amendments to the Beef Promotion and Research Order and Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule and Termination Order.

SUMMARY: A review of the Beef Promotion and Research Order (Order) and rules and regulations implementing the beef promotion and research program identified a number of changes to eliminate sections which are duplicative or obsolete and will avoid current and future conflict. The revisions eliminate certain sections dealing with membership on the Cattlemen's Beef Promotion and Research Board (Board), obtaining refunds, and other miscellaneous provisions.

EFFECTIVE DATE: December 28, 1995.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2606–S; Livestock and Seed Division, AMS, USDA; P.O. Box 96456; Washington, DC. 20090–6456; telephone 202/202–1115.

SUPPLEMENTARY INFORMATION: This rule amends the Order and Rules and Regulations (7 CFR part 1260). The Order and regulations are effective under the Beef Promotion and Research Act of 1985 (Act).

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This rule was reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 11 of the Act, a person subject to the Order may file a petition with the Secretary stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with law and requesting a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

Effect on Small Entities

The Administrator of the Agricultural Marketing Service (AMS) has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the changes are primarily to remove obsolete and duplicate material.

Paperwork Reduction

Information collection requirements and recordkeeping provisions contained in 7 CFR part 1260 have been previously approved by OMB and assigned OMB Control No. 0581–0093 under the Paperwork Reduction Act of 1980.

No additional recordkeeping requirements are imposed as a result of this rule.

Background and Proposed Changes

A review of the Order and regulations was conducted in response to the President's Regulatory Review Initiative of March 4, 1995. As a result, a number of paragraphs were identified that could be removed without adverse impact to the program. The amendments eliminate sections which are duplicative or obsolete or will avoid conflicting information.

Sections which are obsolete or are duplicated in other sections involve initial membership on the Board (§ 1260.580 and § 1260.590). Other sections (§ 1260.150, 151, 173, 174, and 181) originally implemented a statutory provision allowing producers to request refunds prior to the May 1988 referendum and provided for establishing escrow accounts to pay refunds. These sections became obsolete after a referendum in which producers voted in favor of mandatory assessments.

A definition which is obsolete as a consequence of removing the sections it pertains to is: Referendum (§ 1260.110).

After consideration of all relevant material with regard to the removal of the provisions as hereinafter set forth, it is found that these provisions no longer tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that, upon good cause, it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice or to engage in further public procedure prior to implementing this action because: The sections being removed are either duplicative or obsolete and removal will not alter any aspect of the program.

List of Subjects in 7 CFR Part 1260

Advertising, Agricultural research, Imports, Marketing agreements, Meat and meat products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1260 is amended as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

1. The authority citation for part 1260 is revised to read as follows:

Authority: 7 U.S.C. 2901–2911.

2. In part 1260, §§ 1260.110, 1260.150(i) and (j), 1260.151(c), 1260.173, 1260.174, 1260.181(b)(5), 1260.580, and 1260.590 are removed and reserved.

§§ 1260.110, 1260.173, 1260.174, 1260.580, and 1260.590 [Removed and reserved]

§§ 1260.150, 1260.151, and 1260.181 [Amended]

Dated: November 20, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–28926 Filed 11–27–95; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 705 and 741

Requirements for Insurance and Technical Amendments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The final rule consolidates all current regulations and requirements that apply to federally insured state-chartered credit unions (FISCUs) in one place, the regulations on requirements for insurance. The rule does not impose any new requirements on FISCUs. This rule will aid FISCUs by simplfying the process of determining which regulations they must follow.

EFFECTIVE DATE: January 29, 1996.

FOR FURTHER INFORMATION CONTACT: Linda Groth, State Program Officer, Office of Examination and Insurance, at the above address or telephone (703) 518–6360 or Mary Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

In August 1995, the NCUA requested comments on proposed changes to part 741 of its regulations. 60 FR 39274 (August 2, 1995). Part 741 applies to all credit unions whose accounts are insured by the National Credit Union Share Insurance Fund (NCUSIF). It applies to federal credit unions (FCUs), FISCUs and credit unions making application for insurance of accounts. Part 741 also serves as a reference for FISCUs in determining which NCUA rules apply to them. Some regulations that apply to FISCUs, however, are not currently included or referenced in part 741. Additionally, the Agreement for Insurance of Accounts, which outlines conditions for state-chartered credit unions obtaining and maintaining federal insurance, contains requirements that are not included in part 741. This final rule corrects those shortcomings by addressing, in part 741, all regulations and requirements that apply to FISCUs. This revision will aid FISCUs by simplifying the process of determining which regulations they must follow. The revision does not impose any additional requirements or new burdens on FISCUs.

Additionally, the revision reorganizes part 741 into subparts A and B. Subpart A contains requirements that apply to all insured credit unions and are not codified elsewhere in NCUA's regulations. Subpart B contains requirements that are set forth in various other parts of NCUA's regulations affecting FCUs and that are, by incorporation in part 741, applicable to FISCUs as well.

Summary of Comments

Two FISCUs, four trade groups and two credit union leagues responded to the proposal. Five of the commenters expressed total support for the amendments, one expressed qualified support and two objected. The supportive commenters praised the proposal because it simplifies the process for determining which regulations apply, it clarifies items not mentioned elsewhere and it deletes repetitious material. The revised index was cited by one commenter as a particularly useful tool.

One commenter took exception to the following sections of the proposal: Criteria § 741.3, Maximum Public Unit and Nonmember Accounts and Low Income Designation § 741.204, Corporate Credit Unions § 741.206, Management Official Interlocks § 741.209, Administrative Actions, Adjudicative Hearings, Rules of Practice and Procedure § 741.213, Records Preservation Program § 741.215, Truth in Savings § 741.217 and Involuntary Liquidation and Creditor Claims § 741.218. The commenter did not object to the substance of the sections. The objection was based on the misperception that NCUA is "taking more and more authority over state chartered credit unions." The NCUA Board notes that all of these provisions currently apply to FISCUs.

Two commenters took exception to the provision in proposed § 741.3 which requires FISCUs to establish an Investment Valuation Reserve Account for those investments owned by FISCUs that do not conform to NCUA's investment regulation for federal credit unions (12 CFR part 703). The reserve must equal the net excess of book value over current market value. If the market value cannot be determined, a reserve equal to the full book value must be reserved. One commenter maintained that this places an undue burden on state-chartered credit unions that are following state law. Further, the commenter argued it will be costly, difficult and time consuming. The commenters also questioned the practice of "incorporating contractual terms and conditions into a regulation." The commenters are apparently under the misimpression that this is a new requirement being imposed on FISCUs. For safety and soundness reasons, this requirement is and for many years has been, imposed on FISCUs by the Agreement for Insurance of Accounts signed and agreed to all insured state chartered credit unions as a condition of federal insurance.

Final Rule

The NCUA Board adopts without change the proposed rule published on August 2, 1995, as the final rule. 60 FR 39274. Further, the Board is making technical corrections to Sections 701.6, 701.21(a), 701.23(b)(2)(iii) and 705.3. These sections reference part 741 and must be revised to reflect the redesignated section numbers in part 741. Since these changes are housekeeping and do not have any substantive effect on credit unions, the Board finds it unnecessary to either issue a proposed rule or delay the rule's effective date.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe the significant economic impact any proposed regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The final rule is a compilation of existing regulations and requirements already in place for FISCUs. It does not add any additional requirements or burden. Accordingly, the NCUA Board has determined and certifies under the authority granted in 5 U.S.C. 605(b) that the final rule, if adopted, will not have a significant economic impact on a significant number of small credit unions and that a Regulatory Flexibility Act analysis is not required.

Paperwork Reduction Act

The final rule does not impose any new paperwork requirements.

Executive Order 12612

The final rule does not make any substantive changes. Therefore, no new analysis of part 741's effect on state interests is required.

List of Subjects in 12 CFR Parts 701, 705 and 741

Bank deposit insurance, Credit unions, and Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on November 16, 1995.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR chapter VII as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789 and Public Law 101–73. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 12 U.S.C. 1601, *et seq.*, 42 U.S.C. 1981 and 42 U.S.C. 3601–1610. Section 701.35 is also authorized by 12 U.S.C. 4311–4312.

2. Section 701.6 is amended by revising paragraph (d)(4) to read as follows:

§ 701.6 Fees paid by Federal credit unions.

* * * * * *

(d) * * *

(4) If a credit union makes a combined payment of its operating fee and its share insurance deposit as provided in

§ 741.4 of this chapter and such payment is delinquent, only one administrative fee will be charged and interest will be charged on the total combined payment.

3. Section 701.21(a) is amended by revising the fourth sentence to read as follows:

§ 701.21 Loans to members and lines of credit to members.

(a) * * * Also, while § 701.21 generally applies to Federal credit unions only, its provisions may be used by state-chartered credit unions with respect to alternative mortgage transactions in accordance with 12 U.S.C. 3801 *et seq.*, and certain provisions apply to loans made by federally insured state-chartered credit unions as specified in § 741.203 of this chapter. * * *

* * * * *

4. Section 701.23 is amended by revising paragraph (b)(2)(iii) to read as follows:

§ 701.23 Purchase, sale, and pledge of eligible obligations.

* * * * *

(b) * * *

(2) * * *

(iii) for purchases under paragraph (b)(1)(ii) of this section, any advance written approval required by § 741.8 of this chapter is obtained before consummation of such purchase.

* * * * *

PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM FOR CREDIT UNIONS

5. The authority citation for part 705 continues to read as follows:

Authority: Public Law 97–35, 42 U.S.C. 9822; Public Law 99–609, note to 42 U.S.C. 9822; Public Law 101–144, 12 U.S.C 1766(k).

6. Section 705.3 is amended by revising paragraph (b) to read as follows:

§ 705.3 Definitions.

* * * * *

(b) For purposes of this part, a "participating credit union" means a state- or federally-chartered credit union that is specifically involved in stimulation of economic development activities and community revitalization efforts aimed at benefiting the community it serves; whose membership consists of predominantly low-income members as defined in paragraph (a) of this section or applicable state standards as reflected by a current low-income designation pursuant to § 701.32(d)(1) or § 741.204(b) of this chapter or, in the case of a state-chartered nonfederally insured credit union, under applicable state standards; and has submitted an application for a loan and/or technical assistance and has been selected for participation in the Program in accordance with this part.

7. Part 741 is revised to read as follows:

PART 741—REQUIREMENTS FOR INSURANCE

Sec.

741.0 Scope.

Subpart A—Regulations That Apply to Both Federal Credit Unions and Federally Insured State-Chartered Credit Unions and That Are Not Codified Elsewhere in NCUA's Regulations

741.1 Examination.
741.2 Maximum borrowing authority.
741.3 Criteria.
741.4 Insurance premium and one percent deposit.
741.5 Notice of termination of excess insurance coverage.
741.6 Financial and statistical and other reports.
741.7 Conversion to a state-chartered credit union.
741.8 Purchase of assets and assumption of liabilities.
741.9 Uninsured membership shares.
741.10 Disclosure of share insurance.

Subpart B—Regulations Codified Elsewhere in NCUA's Regulations as Applying to Federal Credit Unions That Also Apply to Federally Insured State-Chartered Credit Unions

741.201 Minimum fidelity bond requirements.
741.202 Audit and verification requirements.
741.203 Minimum loan policy requirements.
741.204 Maximum public unit and nonmember accounts, and low-income designation.
741.205 Reporting requirements for credit unions that are newly chartered or in troubled condition.
741.206 Corporate credit unions.
741.207 Community development revolving loan program for credit unions.
741.208 Mergers of federally insured credit unions: voluntary termination or conversion of insured status.
741.209 Management official interlocks.
741.210 Central liquidity facility.
741.211 Advertising.
741.212 Share insurance.
741.213 Administrative actions; adjudicative hearings, rules of practice and procedure.
741.214 Report of crime or catastrophic act and Bank Secrecy Act compliance.
741.215 Records preservation program.
741.216 Flood Insurance.
741.217 Truth in savings.
741.218 Involuntary liquidation and creditor claims.

Authority: 12 U.S.C. 1757, 1766, and 1781–1790.

Section 741.4 is also authorized by 31 U.S.C. 3717.

§ 741.0 Scope.

The provisions of this part apply to federal credit unions, federally insured state-chartered credit unions, and credit unions making application for insurance of accounts pursuant to Title II of the Act, unless the context of a provision indicates its application is otherwise limited. This part prescribes various requirements for obtaining and maintaining federal insurance and the payment of insurance premiums and capitalization deposit. Subpart A of this part contains substantive requirements that are not codified elsewhere in this chapter. Subpart B of this part lists additional regulations, set forth elsewhere in this chapter as applying to federal credit unions, that also apply to federally insured state-chartered credit unions. As used in this part, "insured credit union" means a credit union whose accounts are insured by the National Credit Union Share Insurance Fund (NCUSIF).

Subpart A—Regulations that Apply to Both Federal Credit Unions and Federally Insured State-Chartered Credit Unions and That are not Codified Elsewhere in NCUA's Regulations

§ 741.1 Examination.

As provided in Sections 201 and 204 of the Act (12 U.S.C. 1781 and 1784), the NCUA Board is authorized to examine any insured credit union or any credit union making application for insurance of its accounts. Such examination may require access to all records, reports, contracts to which the credit union is a party, and information concerning the affairs of the credit union. Upon request, such documentation must be provided to the NCUA Board or its representative. Any credit union which makes application for insurance will be required to pay the cost of such examination and processing. To the maximum extent feasible, the NCUA Board will utilize examinations conducted by state regulatory agencies.

§ 741.2 Maximum borrowing authority.

Any credit union which makes application for insurance of its accounts pursuant to Title II of the Act, or any insured credit union, must not borrow, from any source, an aggregate amount in excess of 50 per centum of its paid-in and unimpaired capital and surplus (shares and undivided earnings, plus net income or minus net loss).

§ 741.3 Criteria.

In determining the insurability of a credit union which makes application for insurance and in continuing the insurability of its accounts pursuant to Title II of the Act, the following criteria shall be applied:

(a) *Adequacy of reserves* (1) *General rule.* State-chartered credit unions must meet, at a minimum, the statutory reserve and full and fair disclosure requirements imposed on federal credit unions by Section 116 of the Act and part 702 of this chapter.

(2) *Charges against reserves.* State-chartered credit unions may charge losses, including losses other than loan losses, against the statutory reserve in accordance with either state law or procedures established by the state supervisory authority. However, charges for losses other than loan losses shall be made only after notification to the Regional Director, unless the credit union's ratio of capital to assets is greater than 6 percent and the charge reduces the ratio by no more than ½ percent. For purposes of this section, capital is defined as the total of the Regular Reserve, the Allowance for Loan Losses, the Allowance for Investment Losses, Undivided Earnings, and other reserves.

(3) *Special reserve for nonconforming investments.* State-chartered credit unions (except state-chartered corporate credit unions) are required to establish an additional special reserve for investments if those credit unions are permitted by their respective state laws to make investments beyond those authorized in the Act or the NCUA Rules and Regulations. For any investment other than loans to members and obligations or securities expressly authorized in Title I of the Act and part 703 of this chapter, as amended, state-chartered credit unions (except state-chartered corporate credit unions) are required to establish and maintain at the end of each accounting period and prior to payment of any dividend, an Investment Valuation Reserve Account in an amount at least equal to the net excess of book value over current market value of the investments. If the market value cannot be determined, an amount equal to the full book value will be established. When at the end of any dividend period, the amount in the Investment Valuation Reserve exceeds the difference between book value and market value, the board of directors may authorize the transfer of the excess to Undivided Earnings.

(b) *Financial condition and policies.* The following factors are to be considered in determining whether the credit union's financial condition and policies are both safe and sound:

(1) The existence of unfavorable trends which may include excessive losses on loans (i.e., losses which exceed the regular reserve or its equivalent [in the case of state-chartered credit unions] plus other irrevocable reserves established as a contingency against losses on loans), the presence of special reserve accounts used specifically for charging off loan balances of deceased borrowers, and an expense ratio so high that the required transfers to reserves create a net operating loss for the period or that the net gain after these transfers is not sufficient to permit the payment of a nominal dividend;

(2) The existence of written lending policies, including adequate documentation of secured loans and the protection of security interests by recording, bond, insurance, or other adequate means, adequate determination of the financial capacity of borrowers and co-makers for repayment of the loan, and adequate determination of value of security on loans to ascertain that said security is adequate to repay the loan in the event of default;

(3) Investment policies which are within the provisions of applicable law and regulations, i.e., the Act and part 703 of this chapter for federal credit unions and the laws of the state in which the credit union operates for state-chartered credit unions, except state-chartered corporate credit unions. State-chartered corporate credit unions are permitted to make only those investments that are in conformance with part 704 of this chapter and applicable state laws and regulations;

(4) The presence of any account or security, the form of which has not been approved by the Board, except for accounts authorized by state law for state-chartered credit unions.

(c) *Fitness of management.* The officers, directors, and committee members of the credit union must have conducted its operations in accordance with provisions of applicable law, regulations, its charter and bylaws. No person shall serve as a director, officer, committee member, or employee of an insured credit union who has been convicted of any criminal offense involving dishonesty or breach of trust, except with the written consent of the Board.

(d) *Insurance of member accounts would not otherwise involve undue risk to the NCUSIF.* The credit union must maintain adequate fidelity bond coverage as specified in § 741.201. Any circumstances which may be unique to the particular credit union concerned shall also be considered in arriving at the determination of whether or not an undue risk to the NCUSIF is or may be present. For purposes of this section, the term "undue risk to the NCUSIF" is defined as a condition which creates a probability of loss in excess of that normally found in a credit union and which indicates a reasonably foreseeable probability of the credit union becoming insolvent because of such condition, with a resultant claim against the NCUSIF.

(e) *Powers and purposes.* The credit union must not perform services other than those which are consistent with the promotion of thrift and the creation of a source of credit for its members, except as otherwise permitted by law or regulation.

(f) *Letter of disapproval.* A credit union whose application for share insurance is disapproved shall receive a letter indicating the reasons for such disapproval, a citation of the authority for such disapproval, and suggested methods by which the applying credit union may correct its deficiencies and thereby qualify for share insurance.

(g) Nothing in this section shall preclude the NCUA Board from imposing additional terms or conditions pursuant to the insurance agreement.

§ 741.4 Insurance premium and one percent deposit.

(a) *Scope.* This section implements the requirements of Section 202 of the Act (12 U.S.C. 1782) providing for capitalization of the NCUSIF through the maintenance of a deposit by each insured credit union in an amount equaling one percent of its insured shares and payment of an annual insurance premium.

(b) *Definitions.* For purposes of this section:

(1) *Insurance year* means the period from January 1 through December 31;

(2) *Insured shares* means the total amount of a credit union's share, share draft and share certificate accounts, or their equivalent under state law (which may include deposit accounts), authorized to be issued to members, other credit unions, public units, or nonmembers (where permitted under the Act or equivalent state law). "Insured shares" does not include amounts in excess of insurance coverage as provided in part 745 of this chapter; and

(3) *Normal operating level* means a total value of the NCUSIF equity equaling 1.3 percent of the aggregate of all insured shares in insured credit unions as of the end of the preceding insurance year, or such lower value as

established by action of the NCUA Board.

(c) *One percent deposit.* Each insured credit union shall maintain with the NCUSIF during each insurance year a deposit in an amount equaling one percent of the total of the credit union's insured shares as of the close of the preceding insurance year. The deposit amount shall be adjusted annually on a date to be determined by the NCUA Board.

(d) *Premium.* Unless waived by the NCUA Board, each insured credit union shall pay to the NCUSIF, on a date to be determined by the NCUA Board, an insurance premium for that insurance year in an amount equaling one-twelfth of one percent of the credit union's total insured shares as of the close of the preceding insurance year.

(e) *Redistribution of NCUSIF equity.* When the NCUSIF exceeds its normal operating level, the NCUA Board will, at least annually, make a proportionate adjustment for insured credit unions of the amount necessary to reduce the NCUSIF to its normal operating level. Such adjustment will be in the form determined by the NCUA Board and may include a waiver of insurance premiums, premium rebates, and/or distributions from NCUSIF equity.

(f) *Forms 1304 and 1305.* A certified copy of Form 1304 will be provided to all federally insured state-chartered credit unions and Form 1305 to all federally chartered credit unions in connection with the computation and funding of their annual premium payment and any change in their one percent deposit. Form 1305 also includes the annual operating fee. Forms 1304 and 1305 are invoices and are precalculated based on the credit union's previous year's insured shares. The forms provide for any adjustments declared by the NCUA Board, resulting in a single net transfer of funds between the credit union and the NCUA. Additional copies of each credit union's Form 1304 and 1305 may be obtained from the appropriate NCUA Regional Office.

(g) *New charters.* A newly-chartered credit union that obtains share insurance coverage from the NCUSIF during the insurance year in which it has obtained its charter shall not be required to pay an insurance premium for that insurance year. The credit union shall fund its one percent deposit on a date to be determined by the NCUA Board in the following insurance year, but shall not participate in any distribution from NCUSIF equity related to the period prior to the credit union's funding of its deposit.

(h) *Conversion to Federal insurance.* An existing credit union that converts to insurance coverage with the NCUSIF during an insurance year shall immediately fund its one percent deposit based on the total of its shares as of the close of the month prior to conversion and shall pay a premium (unless waived in whole or in part for all insured credit unions during that year) in an amount that is prorated to reflect the remaining number of months in the insurance year. The credit union will be entitled to a prorated share of any distribution from NCUSIF equity declared subsequent to the credit union's conversion.

(i) *Mergers of nonfederally insured credit unions.* Where a nonfederally insured credit union merges into a federally insured credit union, the continuing federally insured credit union shall immediately pay to the NCUSIF a prorated insurance premium (unless waived in whole or in part for all federally insured credit unions), and an additional one percent deposit based upon the increase in insured shares resulting from the merger.

(j) *Return of deposit.* Any insolvent credit union that is closed for involuntary liquidation will not be entitled to a return of its deposit. Any solvent credit union that is closed due to involuntary liquidation shall be entitled to a return of its deposit prior to final distribution of member shares. Any other credit union whose insurance coverage with the NCUSIF terminates will be entitled to a return of the full amount of its deposit immediately after the final date on which any shares of the credit union are insured, except that the NCUA Board reserves the right to delay payment by up to one year if it determines that immediate payment would jeopardize the financial condition of the NCUSIF. This includes termination of insurance due to mergers and consolidations. A credit union that receives a return of its deposit during an insurance year shall have the option of leaving a nominal sum on deposit with the NCUSIF until the next distribution from NCUSIF equity and will thus qualify for a prorated share of the distribution.

(k) *Assessment of administrative fee and interest for delinquent payment.* Each federally insured credit union shall pay to the NCUA an administrative fee, the costs of collection, and interest on any delinquent payment of its capitalization deposit or insurance premium. A payment will be considered delinquent if it is postmarked later than the date stated in the invoice provided to the credit union. The NCUA may waive or abate charges or collection of interest, if circumstances warrant.

(1) The administrative fee for a delinquent payment shall be an amount as fixed from time to time by the NCUA Board based upon the administrative costs of such delinquent payments to the NCUA in the preceding year.

(2) The costs of collection shall be calculated as the actual hours expended by NCUA personnel multiplied by the average hourly cost of the salaries and benefits of such personnel.

(3) The interest rate charged on any delinquent payment shall be the U.S. Department of the Treasury Tax and Loan Rate in effect on the date when the payment is due as provided in 31 U.S.C. 3717.

§ 741.5 Notice of termination of excess insurance coverage.

In the event of a credit union's termination of share insurance coverage other than that provided by the NCUSIF, the credit union must notify all members in writing of such termination at least thirty days prior to the effective date of termination.

§ 741.6 Financial and statistical and other reports.

(a) Each operating insured credit union with assets in excess of $50,000,000 shall file with the NCUA a quarterly Financial and Statistical Report on Form NCUA 5300, on or before January 22 (as of the previous December 31), April 22 (as of the previous March 31), July 22 (as of the previous June 30) and October 22 (as of the previous September 30) of each year. All other operating insured credit unions shall file with the NCUA on or before January 31 and on or before July 31 of each year a semiannual Financial and Statistical Report on Form NCUA 5300, as of the previous December 31 (in the case of the January filing) or June 30 (in the case of the July filing).

(b) Insured credit unions shall, upon written notice from the NCUA Board or Regional Director, file such financial or other reports in accordance with instructions contained in such notice.

§ 741.7 Conversion to a state-chartered credit union.

Any federal credit union that petitions to convert to a state-chartered federally insured credit union is required to apply to the Regional Director for continued insurance of its accounts and meet the requirements as stated in the Act and this part. If the application for continued insurance is not approved, such insurance will terminate subject to the conditions set forth in section 206(d) of the Act.

§ 741.8 Purchase of assets and assumption of liabilities.

(a) Any credit union insured pursuant to Title II of the Act must apply for and receive approval from the NCUA Board before either purchasing or acquiring loans or assuming or receiving an assignment of deposits, shares, or liabilities from:

(1) Any credit union that is not insured pursuant to Title II of the Act;

(2) Any other financial-type institution (including depository institutions, mortgage banks, consumer finance companies, insurance companies, loan brokers, and other loan sellers or liability traders); or

(3) Any successor in interest to any institution identified in paragraph (a)(1) or (a)(2) of this section.

(b) Approval is not required for:

(1) Purchases of student loans or real estate secured loans to facilitate the packaging of a pool of loans to be sold or pledged on the secondary market under § 701.23(b)(1) (iii) or (iv) of this chapter or comparable state law for state-chartered credit unions, or purchases of member loans under § 701.23(b)(1)(i) of this chapter or comparable state law for state-chartered credit unions; or

(2) Assumptions or receipt of deposits, shares or liabilities as rollovers or transfers of member retirement accounts or in which an NCUSIF-insured credit union perfects a security interest in connection with an extension of credit to any member.

§ 741.9 Uninsured membership shares.

Any credit union that is insured pursuant to Title II of the Act may not offer membership shares that, due to the terms and conditions of the account, are not eligible for insurance coverage. This prohibition does not apply to shares that are uninsured solely because the amount is in excess of the maximum insurance coverage provided pursuant to part 745 of this chapter.

§ 741.10 Disclosure of share insurance.

Any credit union which is insured pursuant to Title II of the Act and is permitted by state law to accept nonmember shares or deposits from sources other than other credit unions and public units (or, for low-income designated credit unions, any nonmembers), shall identify such nonmember accounts as nonmember shares or deposits on any statement or report required by the NCUA Board for insurance purposes. Immediately after a state-chartered credit union receives notice from NCUA that its member accounts are federally insured, the credit union shall advise any present nonmember share and deposit holders by letter that their accounts are not insured by the NCUSIF. Also, future nonmember share and deposit fund holders will be so advised by letter as they open accounts.

Subpart B—Regulations Codified Elsewhere in NCUA's Regulations as Applying to Federal Credit Unions That Also Apply to Federally Insured State-Chartered Credit Unions

§ 741.201 Minimum fidelity bond requirements.

(a) Any credit union which makes application for insurance of its accounts pursuant to Title II of the Act must possess the minimum fidelity bond coverage stated in § 701.20 of this chapter in order for its application for such insurance to be approved and for such insurance coverage to continue. A federally insured credit union whose fidelity bond coverage is terminated shall mail notice of such termination to the Regional Director not less than 35 days prior to the effective date of such termination.

(b) Corporate credit unions must comply with § 704.17 of this chapter in lieu of § 701.20 of this chapter.

§ 741.202 Audit and verification requirements.

(a) The supervisory committee of each credit union insured pursuant to Title II of the Act shall make or cause to be made an audit of the credit union at least once every calendar year covering the period elapsed since the last audit. The audit must fully meet the requirements set forth in §§ 701.12 and 701.13 of this chapter.

(b) Each credit union which is insured pursuant to Title II of the Act shall verify or cause to be verified, under controlled conditions, all passbooks and accounts with the records of the financial officer not less frequently than once every 2 years. The verification must fully meet the requirements set forth in §§ 701.12(e) and 701.13 of this chapter.

§ 741.203 Minimum loan policy requirements.

Any credit union which is insured pursuant to Title II of the Act must:

(a) Adhere to the requirements stated in § 701.21(h) of this chapter concerning member business loans, § 701.21(c)(8) of this chapter concerning prohibited fees, and § 701.21(d)(5) of this chapter concerning nonpreferential loans. State-chartered, NCUSIF-insured credit unions in a given state are exempt from these requirements if the state regulatory authority for that state adopts substantially equivalent regulations as determined by the NCUA Board. In nonexempt states, all required NCUA reviews and approvals will be handled in coordination with the state credit union supervisory authority; and

(b) Adhere to the requirements stated in part 722 of this chapter concerning appraisals.

§ 741.204 Maximum public unit and nonmember accounts, and low-income designation.

Any credit union that is insured, or that makes application for insurance, pursuant to Title II of the Act must:

(a) Adhere to the requirements of § 701.32 of this chapter regarding public unit and nonmember accounts, provided it has the authority to accept such accounts. Requests by federally insured state-chartered credit unions for an exemption from the limitation of § 701.32 of this chapter will be made and reviewed on the same basis as that provided in § 701.32 of this chapter for federal credit unions, provided, however that NCUA will not grant an exemption without the concurrence of the appropriate state regulator.

(b) Obtain a low-income designation in order to accept nonmember accounts, other than from public units or other credit unions, provided it has the authority to accept such accounts under state law. The state regulator shall make the low-income designation with the concurrence of the appropriate regional director. The designation will be made and reviewed by the state regulator on the same basis as that provided in § 701.32(d) of this chapter for federal credit unions. Removal of the designation by the state regulator for such credit unions shall be with the concurrence of NCUA.

§ 741.205 Reporting requirements for credit unions that are newly chartered or in troubled condition.

Any federally insured credit union chartered for less than 2 years or any credit union defined to be in troubled condition as set forth in § 701.14(b)(3) of this chapter must adhere to the requirements stated in § 701.14(c) of this chapter concerning the prior notice and NCUA review. Federally insured state-chartered credit unions must submit required information to both the appropriate NCUA Regional Director and their state supervisor. NCUA will consult with the state supervisor before making its determination pursuant to § 701.14 (d)(2) and (f) of this chapter. NCUA will notify the state supervisor of its approval/disapproval no later than the time that it notifies the affected individual pursuant to § 701.14(d)(1) of this chapter.

§ 741.206 Corporate credit unions.

Any corporate credit union insured pursuant to Title II of the Act shall adhere to the requirements of part 704 of this chapter.

§ 741.207 Community development revolving loan program for credit unions.

Any credit union which is insured pursuant to Title II of the Act and is a "participating credit union," as defined in § 705.3 of this chapter, shall adhere to the requirements stated in part 705 of this chapter.

§ 741.208 Mergers of federally insured credit unions: voluntary termination or conversion of insured status.

Any credit union which is insured pursuant to Title II of the Act and which merges with another credit union or non-credit union institution, and any state-chartered credit union which voluntarily terminates its status as a federally-insured credit union, or converts from federal insurance to other insurance from a government or private source authorized to insure member accounts, shall adhere to the applicable requirements stated in section 206 of the Act and parts 708a and 708b of this chapter concerning mergers and voluntary termination or conversion of insured status.

§ 741.209 Management official interlocks.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the requirements stated in part 711 of this chapter concerning management official interlocks, issued under the provisions of the Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.).

§ 741.210 Central liquidity facility.

Any credit union which is insured pursuant to Title II of the Act and is a member of the Central Liquidity Facility, shall adhere to the requirements stated in part 725 of this chapter.

§ 741.211 Advertising.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the requirements prescribed by part 740 of this chapter.

§ 741.212 Share insurance.

(a) Member share accounts received by any credit union which is insured pursuant to Title II of the Act in its usual course of business, including regular shares, share certificates, and share draft accounts, are insured subject to the limitations and rules in subpart A of part 745 of this chapter.

(b) The payment of share insurance and the appeal process applicable to any credit union which is insured pursuant to Title II of the Act are addressed in subpart B of part 745 of this chapter.

§ 741.213 Administrative actions, adjudicative hearings, rules of practice and procedure.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the applicable rules of practice and procedures for administrative actions and adjudicative hearings prescribed by part 747 of this chapter. Subpart E of part 747 of this chapter applies only to federal credit unions.

§ 741.214 Report of crime or catastrophic act and Bank Secrecy Act compliance.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the requirements stated in part 748 of this chapter.

§ 741.215 Records preservation program.

Any credit union which is insured pursuant to Title II of the Act shall maintain a records preservation program as prescribed by part 749 of this chapter.

§ 741.216 Flood insurance.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the requirements stated in part 760 of this chapter.

§ 741.217 Truth in savings.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the requirements stated in part 707 of this chapter.

§ 741.218 Involuntary liquidation and creditor claims.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the applicable provisions in part 709 of this chapter. Section 709.3 of this chapter applies only to federal credit unions.

[FR Doc. 95–28703 Filed 11–27–95; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 35

[Docket No. 94–ANE–50; Notice No. 35–ANE–01]

Special Conditions; Hamilton Standard Model 247F Propeller

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for Hamilton Standard Model 247F propeller with electronic propeller and pitch control system. The applicable regulations currently do not contain adequate or appropriate safety standards for constant speed propellers with electronic propeller and pitch control. These special conditions contain the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that established by the airworthiness standards of part 35 of the Federal Aviation Regulations (FAR).

EFFECTIVE DATE: December 28, 1995.

FOR FURTHER INFORMATION CONTACT: Martin Buckman, Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803–5229; telephone (617) 238–7112; fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Background

On March 8, 1993, Hamilton Standard applied for an amendment to the type certificate of Model 247F propeller. The new propeller would use a new electronic propeller and pitch control system in place of the primary governor control and synchrophaser unit.

The existing propeller pitch control is normally monitored by a governor which senses propeller speed and adjusts the pitch to absorb the engine power and therefore maintains the propeller at the correct RPM. When the primary governor fails, the propeller pitch is controlled by an overspeed governor. This type of system is conventional and its airworthiness considerations are addressed by part 35 of the FAR's.

The FAA has determined that special conditions are necessary to certificate a Hamilton Standard electronic propeller and pitch control in place of the primary governor control and synchrophaser unit for the Model 247F propeller. This control is designed to operate with existing mechanical and hydraulic interface of the engine and propeller. Electronic propeller and pitch controls introduce potential failures that can result in unsafe conditions. These types of failures are not addressed by the requirements of part 35. These failures can lead to the following possible unsafe conditions:

(1) Loss of control of the propeller,

(2) Instability of a critical function,

(3) Unwanted change in propeller pitch causing improper thrust/overspeed, and

(4) Unwanted action of a critical control function resulting in propeller flat pitch or reverse.

Certification issues that must be addressed are possible loss of aircraft-supplied electrical power, aircraft-supplied data, failures modes, environmental effects including lightning strikes and high intensity radiated fields (HIRF), and software design.

The FAA finds that under the provisions of § 21.16 of the FAR, additional safety standards must be applied to the Hamilton Standard electronic propeller control for Model 247F propellers to demonstrate that it is capable of acceptable operation.

Type Certification Basis

Under the provisions of § 21.17 of the FAR, Hamilton Standard must show that the Model 247F propeller meets the requirements of the applicable regulations in effect on the date of the application. Those FAR's are § 21.21 and part 35, effective February 1, 1965, as amended.

The Administrator finds that the applicable airworthiness regulations in part 35, as amended, do not contain adequate or appropriate safety standards for the Model 247F propeller. Therefore, the Administrator prescribes special conditions under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice and opportunity for comment, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Novel or Unusual Design Features

Because of the unusual design features of the Hamilton Standard Model 247F propeller with electronic propeller and pitch control, the FAA issues special conditions under §21.16 of the FAR.

Discussion of Comments

Interested persons have been afforded the opportunity to participate in the making of these special conditions. Due consideration has been given to the comments received.

One commenter was concerned that the terms "unsafe conditions" and "unacceptable change" are vague and could lead to multiple interpretations if the terms were not defined in the special conditions.

The FAA agrees, and the term "unsafe conditions" is now defined in the special conditions and the term "unacceptable change" has been removed and replaced with the term "unsafe condition".

One commenter was concerned with system redundancy and stated that FAR 25.1309, its associated Advisory Circular and a Failure Modes Effects Analysis (FMEA) should be applied to the special condition.

The FAA disagrees. The special condition as stated in paragraph (a)(2) addresses the commenter's concern by requiring that the propeller be designed and constructed so that no single failure or malfunction, or probable combination of failures of electrical or electronic components of the propeller control system, result in an unsafe condition. Also, the propeller manufacturer includes a FMEA report as part of the data required for propeller certification. This same report is submitted to the airframe manufacturer for incorporation into aircraft certification documentation to show compliance with FAR 25.1309.

After careful review of the available data, including the comments noted above, the FAA determined that air safety and the public interest require the adoption of these special conditions with the changes discussed previously.

Conclusion

This action affects only Hamilton Standard Model 247F propeller with a new system of electronic propeller and pitch control. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the aircraft.

List of Subjects in 14 CFR Part 35

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704; and 14 CFR 11.49 and 21.16.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Federal Aviation Administration (FAA), the following special conditions are issued as part of the type certification basis for the Hamilton Standard Model 247F propeller and pitch control system. Considering that electronic propeller and pitch control systems introduce potential failures that can result in unsafe conditions, the following special conditions are issued:

(a) Each propeller and pitch control system which relies on electrical and electronic means for normal operation must:

(1) Be designed and constructed so that any failure or malfunction of aircraft supplied power or data will not result in an unsafe condition of the propeller pitch setting or prevent continued safe operation of the propeller.

(2) Be designed and constructed so that no single failure or malfunction, or probable combination of failures of electrical or electronic components of the propeller control system, result in an unsafe condition.

(3) Be tested to its environmental limits including transients (variations) caused by lightning and high intensity radiated fields (HIRF) and demonstrate no adverse effects on the control system operation and performance or resultant damage. These tests shall include, but not be limited to, the following:

(i) Lightning strikes, such as multiple-stroke and multiple-burst

(ii) Pin-injected tests to appropriate wave forms and levels

(iii) HIRF susceptibility tests

(4) Be demonstrated by analysis/tests that associated software is designed and implemented to prevent errors that would result in an unsafe propeller pitch setting or an unsafe condition.

(5) Be designed and constructed so that a failure or malfunction of electrical or electronic components in the propeller or control system will not prevent safe operation of any remaining propeller that is installed on the aircraft.

(b) For the purpose of these special conditions, an unsafe condition is considered to exist for each of the following conditions:

(1) Loss of control of the propeller,

(2) Instability of a critical function,

(3) Unwanted change in propeller pitch causing improper thrust/overspeed, and

(4) Unwanted action of a critical control function resulting in propeller flat pitch or reverse.

Issued in Burlington, Massachusetts, on November 16, 1995.

Jay Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–28995 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–AGL–10]

Establishment of Class E Airspace; Pinecreek, MN; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the description of Piney Pinecreek Border Airport, MN Class E5 airspace published in a final rule on October 18, 1995, Airspace Docket Number 95–AGL–10.

EFFECTIVE DATE: 0901 UTC, January 4, 1996.

FOR FURTHER INFORMATION CONTACT: Eleanor J. Williams, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7568.

SUPPLEMENTARY INFORMATION:

History

Federal Register document 95–25848, Airspace Docket 95–AGL–10, published on October 18, 1995, (60 FR 53870), established Class E5 airspace at Piney Pinecreek Border Airport, Pinecreek, MN. An error was discovered in the description of the airspace in the latitude. This action corrects the description of the minutes of latitude.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the airspace designation for the Piney Pinecreek Border Airport, Pinecreek, MN, Class E5 airspace, as published in the **Federal Register** on October 18, 1995 (60 FR 53870), (Federal Register document 95–25848; page 53871, column 2), is corrected in the incorporation by reference in 14 CFR 71.1 as follows:

Paragraph 6005 The Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * * * *

AGL MN E5 Pinecreek, MN [Corrected]

Piney Pinecreek Border Airport, MN
(Lat. 48°59'45" N, long. 95°58'45" W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Piney Pinecreek Border Airport; excluding that area north of lat. 49°00'00" N (Canadian-U.S. boundary).

* * * * * * *

Maureen Woods,

Acting Manager, Air Traffic Division.

[FR Doc. 95–28841 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 28391; Amdt. No. 1696]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC, on November 17, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * EFFECTIVE UPON PUBLICATION

FDC date	State	City	Airport	FDC No.	SIAP
08/31/95 ...	NV	Reno	Tahoe Intl	FDC 5/4646	LOC/DME BC Rwy 34L, Amdt 1.
11/02/95 ...	AR	Russellville	Russellville Muni	FDC 5/5993	NDB or GPS–A, Amdt 4.
11/02/95 ...	FL	Fort Lauderdale	Fort Lauderdale Executive	FDC 5/6009	ILS Rwy 8 Amdt 4.
11/02/95 ...	FL	Fort Lauderdale	Fort Lauderdale Executive	FDC 5/6010	NDB Rwy 8 Amdt 8.
11/02/95 ...	FL	Fort Lauderdale	Fort Lauderdale-Hollywood Intl	FDC 5/5999	LOC Rwy 9R, Amdt 3B.
11/02/95 ...	FL	Miami	Dade-Collier Training and Transition	FDC 5/6007	Effective 9 November 1995, 0901 UTC. ILS Rwy 9 Amdt 13.
11/02/95 ...	FL	Miami	Dade-Collier Training and Transition	FDC 5/6008	NDB or GPS Rwy 9 Amdt 12.
11/02/95 ...	FL	Miami	Miami Intl	FDC 5/6002	ILS Rwy 27R Amdt 12.
11/02/95 ...	FL	Miami	Miami Intl	FDC 5/6003	ILS Rwy 27L Amdt 22A.
11/02/95 ...	FL	Miami	Miami Intl	FDC 5/6004	LOC Rwy 30 Amdt 5B.
11/02/95 ...	FL	Miami	Miami Intl	FDC 5/6005	VOR/DME RNAV or GPS Rwy 27R orig.
11/02/95 ...	FL	Miami	Opalocka	FDC 5/6006	VOR/DME RNAV Rwy 27R orig.
11/02/95 ...	FL	West Palm Beach	Palm Beach County Park	FDC 5/6011	VOR or GPS Rwy 15 Amdt 2.
11/02/95 ...	TX	Mesquite	Phil L. Hudson Muni	FDC 5/6015	NDB or GPS Rwy 17, Amdt 4.
11/02/95 ...	TX	Mesquite	Phil L. Hudson Muni	FDC 5/6017	LOC BC Rwy 35, Amdt 1.
11/02/95 ...	TX	Mesquite	Phil L. Hudson Muni	FDC 5/6020	LOC Rwy 17, Amdt 3.
11/03/95 ...	NC	Edenton	Edenton/North-Eastern Regional	FDC 5/6032	NDB or GPS Rwy 5, Amdt 4A. This corrects 5/5962 in TL95–24.
11/03/95 ...	NC	Edenton	Edenton/North-Eastern Regional	FDC 5/6033	NDB or GPS Rwy 19, Amdt 5A. This corrects 5/5963 in TL95–24
11/06/95 ...	OR	Portland	Portland Intl	FDC 5/6052	LOC/DME Rwy 20, Amdt 7.
11/06/95 ...	OR	Portland	Portland Intl	FDC 5/6053	VOR/DME Rwy 20, orig.
11/07/95 ...	CA	Oakland	Metropolitan Oakland Intl Winnsboro/ Fairfield County.	FDC 5/6085	NDB or GPS Rwy 4 Amdt 3A.
11/08/95 ...	FL	Naples	Naples Muni	FDC 5/6095	VOR or GPS Rwy 4 Amdt 4.
11/08/95 ...	FL	Naples	Naples Muni	FDC 5/6096	VOR or GPS Rwy 22 Amdt 5.

FDC date	State	City	Airport	FDC No.	SIAP
11/09/95 ...	DE	Wilmington	New Castle County	FDC 5/6146	Effective 7 Dec 95 at 0901 UTC. VOR Rwy 27 Amdt 3.
11/09/95 ...	DE	Wilmington	New Castle County	FDC 5/6147	Effective 7 Dec 95 at 0901 UTC. VOR or GPS Rwy 19 Amdt 4.
11/09/95 ...	DE	Wilmington	New Castle County	FDC 5/6148	Effective 7 Dec 95 at 0901 UTC. VOR or GPS Rwy 11 Amdt 3.
11/09/95 ...	NY	Albany	Albany County	FDC 5/6123	ILS Rwy 1 Amdt 8.
11/09/95 ...	OK	Ardmore	Ardmore Muni	FDC 5/6121	NDB or GPS Rwy 30, Amdt 4.
11/09/95 ...	OK	Ardmore	Ardmore Muni	FDC 5/6122	ILS Rwy 30, Amdt 3.
11/09/95 ...	WI	Racine	John H. Batten	FDC 5/6135	NDB Rwy 4, Amdt 3. Terminal route.
11/09/95 ...	WI	Racine	John H. Batten	FDC 5/6136	ILS Rwy 4, Amdt 4. Terminal route.
11/13/95 ...	AR	Little Rock	Adams Field	FDC 5/6201	ILS Rwy 4R, orig.
11/13/95 ...	AZ	Douglas Bisbee	Bisbee Douglas Intl	FDC 5/6191	VOR Rwy 17 Amdt 2.
11/13/95 ...	AZ	Douglas Bisbee	Bisbee Douglas Intl	FDC 5/6192	VOR/DME or GPS Rwy 17 Amdt 5.
11/13/95 ...	FL	Fort Lauderdale	Fort Lauderdale-Hollywood Intl	FDC 5/6190	VOR or GPS Rwy 27R, Amdt 10B.
11/13/95 ...	FL	West Palm Beach	Palm Beach	FDC 5/6193	RADAR–1, Amdt 9.
11/13/95 ...	IL	Freeport	Freeport Albertus	FDC 5/6185	VOR/DME RNAV or GPS Rwy 6, Amdt 5.
11/13/95 ...	LA	New Orleans	Lakefront	FDC 5/6195	ILS Rwy 18R, Amdt 11.
11/13/95 ...	LA	New Orleans	Lakefront	FDC 5/6196	VOR or GPS Rwy 36L, Amdt 6.
11/13/95 ...	LA	New Orleans	Lakefront	FDC 5/6197	VOR or GPS–B, Amdt 8.
11/13/95 ...	LA	New Orleans	Lakefront	FDC 5/6198	VOR or GPS Rwy 18R, Amdt 3.
11/13/95 ...	LA	New Orleans	Lakefront	FDC 5/6199	VOR or GPS–A, Amdt 16.
11/14/95 ...	SC	Greer	Greenville-Spartanburg	FDC 5/6217	IL Rwy 21, Amdt 2.

[FR Doc. 95–28840 Filed 11–27–95; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 776 and 799

[Docket No. 951002244–5244–01]

RIN 0694–AB08

Foreign Policy Controls: Specially Designed Implements of Torture

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by expanding foreign policy controls on specially designed implements of torture. Previously, such implements were controlled under ECCN 0A82C of the Commerce Control List, along with handcuffs, police helmets and shields, as crime control and detection commodities. As such, they did not require a validated license for export to member countries of the North Atlantic Treaty Organization (NATO), Australia, Japan or New Zealand. This rule creates a new CCL entry requiring a validated license for export of specially designed implements of torture to all destinations, including Canada. Applications for such exports will continue to be subject to a general policy of denial.

EFFECTIVE DATE: This rule is effective November 28, 1995.

FOR FURTHER INFORMATION CONTACT: Joan Roberts, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Department of Commerce, Washington, DC 20230, Telephone: (202) 482–0171.

SUPPLEMENTARY INFORMATION:

Background

This rule expands controls on specially designed implements of torture, by moving them from Export Commerce Control Number (ECCN) 0A82C to a new ECCN, 0A83D, and requiring a validated license to all destinations, including Canada. Such items will continue to be subject to a general policy of denial to all destinations. This policy is described in a new section, § 776.19, and § 776.14 has been revised to eliminate references to implements of torture.

Please note that the CCL entries controlled for reasons of Crime Control added in the revision of § 776.14 do not constitute an expansion of control. The additional entries merely extend the control to product groups (i.e., software, technology) within previously existing CCL categories. This completes a process begun in September 1991 by the issuance of the new Commerce Control List and its revised numbering and categorization schemes.

Although the Export Administration Act of 1979 (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and determined that, to the extent permitted by law, the provisions of the EAA, as amended, shall be carried out under Executive Order 12924 of August 19, 1994, and notice of August 15, 1995 (60 FR 42767), so as to continue in full force and effect and amend, as necessary, the export control system heretofore maintained by the Export Administration Regulations issued under the EAA. Under a policy of conforming actions under the Executive Order to those under the EAA, insofar as appropriate, the Department of Commerce notified the Congress of this expansion of foreign policy controls on November 20, 1995.

Rulemaking Requirements

1. This rule has been determined to be not significant for purposes of E. O. 12866.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under Control Numbers 0694–0005, 0694–0007, and 0694–0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Hillary Hess, Office of Exporter Services, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 776 and 799

Exports, Reporting and recordkeeping requirements.

Accordingly, Parts 776 and 799 of the Export Administration Regulations (15 CFR Parts 730–799) are amended as follows:

PART 776—[AMENDED]

1. The authority citation for 15 CFR Part 776 continues to read as follows:

Authority: Pub. L. 264, 59 Stat. 619 (22 U.S.C. 287c), as amended; Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; Pub. L. 102–484, 106 Stat. 2575 (22 U.S.C. 6004); sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); E.O. 12868 of September 30, 1993 (58 FR 51749, October 4, 1993); E.O. 12918 of May 26, 1994 (59 FR 28205, May 31, 1994); E.O. 12924 of August 19, 1994 (59 FR 43437, August 23, 1994); E.O. 12938 of November 14, 1994 (59 FR 59099 of November 16, 1994); and Notice of August 15, 1995 (60 FR 42767).

PART 799—[AMENDED]

2. The authority citation for 15 CFR Part 799 continues to read as follows:

Authority: 50 U.S.C. App. 5, as amended; Pub. L. 264, 59 Stat. 619 (22 U.S.C. 287c), as amended; Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; Pub. L. 102–484, 106 Stat. 2575 (22 U.S.C. 6004); sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); E.O. 12918 of May 26, 1994 (59 FR 28205, May 31, 1994); E.O. 12924 of August 19, 1994 (59 FR 43437, August 23, 1994); E.O. 12938 of November 14, 1994 (59 FR 59099 of November 16, 1994); and Notice of August 15, 1995 (60 FR 42767).

3. Section 776.14 is amended by revising the section heading and by revising paragraph (a) to read as follows:

§ 776.14 Crime control and detection items.

(a) *Export license requirements.* Pursuant to section 6(n) of the Export Administration Act of 1979, an individual validated export license is required for foreign policy purposes to export crime control and detection instruments and equipment and related software and technology, except that authorized under General License GTDA (§ 779.3 of this subchapter) to any destination except Australia, Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Turkey or the United Kingdom. Items affected by this requirement are identified on the Commerce Control List under Export Control Classification Numbers (ECCNs) 1A84, 3A80, 3A81, 3D80, 3E80, 4A03 (fingerprint computers only), 4A80, 4D01 (software for the "development", "production", or "use" of fingerprint computers only), 4D80, 4E01 (technology for the "development", "production", or "use" of fingerprint computers only), 4E80, 6A02 (police-model infrared viewers only), 6E01 (technology for the "development" of police-model infrared viewers only), 6E02 (technology for the "production" of police-model infrared viewers only), 9A80, 0A82, 0A84 and 0E84. Applications for items controlled under this paragraph (a) will generally be considered favorably on a case-by-case basis unless there is evidence that the government of the importing country may have violated internationally recognized human rights and that the judicious use of export controls would be helpful in deterring the development of a consistent pattern of such violations or in distancing the United States from such violations.

* * * * *

4. Section 776.19 is added to read as follows:

§ 776.19 Implements of torture.

Pursuant to section 6 of the Export Administration Act of 1979, an individual validated export license is required to export specially designed implements of torture controlled by 0A83 to all destinations, including Canada. Applications for such licenses will generally be denied to all destinations.

Supplement No. 1 to § 799.1 [Amended]

5. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 10, Miscellaneous, ECCN 0A82C is revised to read as follows:

0A82C Saps; thumbcuffs, leg irons, shackles, and handcuffs; straight jackets, plastic handcuffs, police helmets and shields; and parts and accessories, n.e.s.

Requirements

Validated License Required: QSTVWYZ, except NATO, Australia, New Zealand and Japan.
Unit: $ Value.
Reason for Control: FP (see Notes).
GLV: $0.
GCT: No.
GFW: No.

Notes: 1. FP controls for crime control (human rights) apply to items controlled by 0A82 (see § 776.14 of this subchapter).

2. These items are subject to the United Nations Security Council arms embargo against Rwanda described in § 785.4 (a) of this subchapter.

6. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 10, Miscellaneous, a new ECCN 0A83D is added to read as follows:

0A83D Thumbscrews and specially designed implements of torture; and parts and accessories, n.e.s.

Requirements

Validated License Required: QSTVWYZ and Canada.
Unit: $ Value.
Reason for Control: FP (see Note).
GLV: $0.
GCT: No.
GFW: No.

Dated: November 21, 1995.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 95–28887 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–DT–P

FEDERAL TRADE COMMISSION

16 CFR Part 3

Duration of Existing Competition and Consumer Protection Orders

AGENCY: Federal Trade Commission (FTC).

ACTION: Final rule.

SUMMARY: The Commission hereby issues a rule ("Sunset Rule") that terminates existing administrative orders when certain conditions have been met, consistent with the Commission's "Policy Statement Regarding Duration of Competition and Consumer Protection Orders" published in the **Federal Register** on August 16, 1995. Prior to the issuance of this rule, the Commission could only set aside the provisions of such orders upon petition of the respondent, or pursuant to show-cause proceedings initiated *sua sponte* by the Commission. The rule reduces the administrative expense and burden associated with those procedures by automatically vacating certain order provisions that no longer serve the public interest.

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Justin Dingfelder, Assistant Director for Enforcement, Division of Enforcement, Bureau of Consumer Protection, FTC, (202) 326–3017; Roberta Baruch, Deputy Assistant Director for Compliance, Bureau of Competition, (202) 326–2861.

SUPPLEMENTARY INFORMATION: On September 1, 1994, the Commission published a policy statement that sunsetted Commission competition orders under certain conditions.[1] The Commission requested comment on the policy and on whether a similar policy should be applied to consumer protection orders.

On August 16, 1995, the Commission published a further "Policy Statement Regarding Duration of Competition and Consumer Protection Orders" in the **Federal Register**. 60 FR 42569. Under this Policy Statement, which superseded the Commission's 1994 Policy Statement, the Commission will ordinarily sunset future competition and consumer protection administrative orders automatically after 20 years, unless the Commission or the Department of Justice has filed a complaint (with or without an accompanying consent decree) in federal court to enforce such order pursuant to Section 5(l) of the Federal Trade Commission Act ("FTC Act"). This policy does not extend to federal court orders. The Commission also announced its intention to sunset existing administrative orders through rulemaking, rather than case-by-case determinations, and published a Notice of Proposed Rulemaking regarding the "Duration of Existing Competition and Consumer Protection Orders" in the **Federal Register**. 60 FR 42481 (August 16, 1995).

The Commission received 22 comments regarding the proposed rule, 21 of which support the issuance of the proposed rule. One comment, filed by the American Association of Retired Persons ("AARP"), opposes the proposed rule.[2] In addition, three of the 21 comments supporting the proposed rule urge the Commission to sunset existing administrative orders in less than 20 years.[3] One of the 21 comments supporting the proposed rule urges the Commission to adopt (1) an expedited process for reviewing petitions to set aside consumer protection orders that are ten years old or older; and (2) a presumption that such petitions should be granted unless substantial contrary evidence is submitted on the record.[4]

[1] "Policy Statement With Request for Public Comment Regarding Duration of Competition Orders and Request for Public Comment Regarding Duration of Consumer Protection Orders," 59 FR 45286.

[2] AARP opposes the sunsetting of core provisions in consumer protection orders (AARP took the same position when it commented on the Commission's 1994 Policy Statement). However, if the Commission decides to sunset consumer protection orders after 20 years, AARP endorses the proposal to extend the duration of any order where the government has filed a complaint to enforce the order while it remains in force. AARP contends that the proposed rule is unclear as to whether the Commission will be able to impose civil penalties as well as extend an order's duration by filing a complaint. AARP urges the Commission to state unambiguously that civil penalties may be imposed for violations of an order, the duration of which is extended under the proposed rule.

The Commission notes that the issuance of the rule will not affect the Commission's authority pursuant to Section 5(l) of the FTC Act to seek civil penalties for violations of an order that remains in effect. Complaints filed in federal court by the Commission or the Department of Justice pursuant to Section 5(l) of the FTC Act routinely seek civil penalties and will continue to do so.

[3] Another comment supporting the proposed rule requested that the Commission clarify its policy by confirming that the reference date for computing the 20 year sunset period is the date of the order's initial issuance and not the date of any subsequent modification. As the Commission stated in its Policy Statement:

> Unless an order modification expressly changes the duration of an order, such modification will not affect the duration of the order as determined by this Policy Statement.

60 FR at 42572 n.9.

[4] One of the three comments described above urges the Commission to adopt a ten year sunset period for competition orders. Another urges the Commission to adopt a ten year sunset period for consumer protection orders. The last one urges the Commission to consider a sunset period shorter than 20 years. The Policy Statement explains why the Commission decided to sunset administrative orders after 20 years, 60 FR at 42573, as does the superseded 1994 Policy Statement, 59 FR at 45288. Furthermore, the Policy Statement explains why the Commission decided to sunset existing orders through rulemaking as opposed to the petitioning process:

> The cost of the Commission retaining added discretion as to whether it should retain older orders, thereby requiring a case-by-case analysis with respect to each petition, likely exceeds the benefits of retaining older orders in extraordinary circumstances. By adopting a policy that does not require the Commission to exercise discretion with respect to individual orders, the Commission will conserve scarce resources and ensure equitable treatment of similarly situated respondents now subject to administrative orders.

None of the comments provide any information or express any views that the Commission had not already considered in issuing its Policy Statement and the proposed rule. Accordingly, the Commission has determined to issue the proposed rule with no changes. The rule provides that, in general, all provisions of any existing administrative order will automatically sunset 20 years from the date that the order was issued.[5] The rule establishes an exception, however, where a federal court complaint alleging a violation of an existing order was filed (with or without an accompanying consent decree) within the last 20 years, or where such a complaint is subsequently filed with respect to an existing order that has not yet expired. In that event, the order will run for another 20 years from the date that the most recent complaint was or is filed with the court, unless the complaint was or is dismissed, or the court has ruled or rules that the respondent did not violate any provision of the order, and the dismissal or ruling was or is not appealed (or was or is upheld on appeal). The Commission's order will remain in effect while the court complaint and any appeal is pending.

The filing of a court complaint will not affect the duration of an order's application to any respondent that is not named as a defendant in the complaint. The issuance of this rule does not affect the Commission's ability to consider whether a complaint alleging order violations has ever been filed against a respondent, and any other relevant circumstances, in determining whether to grant or deny a subsequent petition by a respondent to reopen and set aside an order on the basis of changes in law, fact, or the public interest. *See* Commission Rule 2.51, 16 CFR 2.51.

Regulatory Flexibility Act

On the basis of information currently available to the Commission, it is anticipated that the rule will result in the elimination of a substantial number of existing orders that no longer serve the public interest. Many of the comments supporting the issuance of the rule state that it will reduce costs and stimulate competition. Accordingly, the Commission has determined at this time that the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis, because the rule will not have a significant impact on a substantial number of small entities within the meaning of the Act. 5 U.S.C. § 605. This notice serves as certification to that effect for purposes of the Small Business Administration.

Effective Date

The rule will take effect on January 2, 1996. Petitions to stay, in whole or in part, the termination of an order pursuant to the rule shall be filed pursuant to Commission Rule 2.51, 16 CFR 2.51. In the case of orders that have been in effect for at least 20 years, the rule provides respondents with 30 days to file such a petition before the order is automatically terminated by the rule. Pending the disposition of such a petition, the order will be deemed to remain in effect without interruption.

List of Subjects in 16 CFR Part 3

Administrative practice and procedure, Claims, Equal access to justice, Lawyers.

Accordingly, the Federal Trade Commission amends Title 16, Chapter I, Subchapter A, of the Code of Federal Regulations as follows:

PART 3—[AMENDED]

1. The authority for Part 3 continues to read as follows:

Authority: Sec. 6, 38 Stat. 721 (15 U.S.C. 46), unless otherwise noted.

2. Section 3.72 is amended by adding a new paragraph 3.72(b)(3) to read as follows:

§ 3.72 Reopening.

* * * * *

(b) * * *

(3) *Termination of existing orders.* (i) *Generally.* Notwithstanding the foregoing provisions of this rule, and except as provided in paragraphs (b)(3)(ii) and (iii) of this section, an order issued by the Commission before August 16, 1995, will be deemed, without further notice or proceedings, to terminate 20 years from the date on which the order was first issued, or on January 2, 1996, whichever is later.

(ii) *Exception.* This paragraph applies to the termination of an order issued before August 16, 1995, where a complaint alleging a violation of the order was or is filed (with or without an accompanying consent decree) in federal court by the United States or the Federal Trade Commission while the order remains in force, either on or after August 16, 1995, or within the 20 years preceding that date. If more than one complaint was or is filed while the order remains in force, the relevant complaint for purposes of this paragraph will be the latest filed complaint. An order subject to this paragraph will terminate 20 years from the date on which a court complaint described in this paragraph was or is filed, except as provided in the following sentence. If the complaint was or is dismissed, or a federal court rules or has ruled that the respondent did not violate any provision of the order, and the dismissal or ruling was or is not appealed, or was or is upheld on appeal, the order will terminate according to paragraph (b)(3)(i) of this section as though the complaint was never filed; provided, however, that the order will not terminate between the date that such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal. The filing of a complaint described in this paragraph will not affect the duration of any order provision that has expired, or will expire, by its own terms. The filing of a complaint described in this paragraph also will not affect the duration of an order's application to any respondent that is not named in the complaint.

(iii) *Stay of Termination.* Any party to an order may seek to stay, in whole or part, the termination of the order as to that party pursuant to paragraph (b)(3)(i) or (ii) of this section. Petitions for such stays shall be filed in accordance with the procedures set forth in § 2.51 of these rules. Such petitions shall be filed on or before the date on which the order would be terminated pursuant to paragraph (b)(3)(i) or (ii) of this section. Pending the disposition of such a petition, the order will be deemed to remain in effect without interruption.

(iv) *Orders not terminated.* Nothing in § 3.72(b)(3) is intended to apply to *in camera* orders or other procedural or interlocutory rulings by an Administrative Law Judge or the Commission.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–28554 Filed 11–27–95; 8:45 am]

BILLING CODE 6750–01–P

[5] Orders that are 20 years old or older will sunset on January 2, 1996. Certain provisions in existing administrative orders will expire, or have already expired, according to their own terms, and the rule will not affect the duration of those provisions. The rule also will not revive any order provision that the Commission has previously reopened and set aside. *See* 16 CFR 2.51 & 3.72. The rule will not apply to *in camera* orders or other procedural or interlocutory rulings by an Administrative Law Judge or the Commission.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 95–98]

RIN 1515–AB50

North American Free Trade Agreement—Submission of Certificates of Eligibility for Textile and Apparel Goods Under the Tariff Preference Level Provisions

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: On June 20, 1994, T.D. 94–52 was published in the **Federal Register** (59 FR 31519) setting forth an interim amendment to § 12.132 of the Customs Regulations to require submission of a Certificate of Eligibility in connection with the entry of non-originating textile and apparel goods from Canada or Mexico for which preferential tariff treatment is claimed under the tariff preference level provisions of the North American Free Trade Agreement (NAFTA). The interim amendment to § 12.132 contained in T.D. 94–52 was adopted as a final rule without change on September 6, 1995, in T.D. 95–68 (60 FR 46334) which set forth final regulations implementing the NAFTA. This document discusses the public comments submitted in response to T.D. 94–52 and makes one clarifying change to the regulatory text.

EFFECTIVE DATE: November 28, 1995.

FOR FURTHER INFORMATION CONTACT: Dick Crichton, Office of Strategic Trade (202–927–0162).

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1992, the United States, Canada and Mexico entered into the North American Free Trade Agreement (NAFTA), one of the principal purposes of which is to eliminate tariff and other barriers to trade in, and facilitate the cross-border movement of, goods and services between the territories of the countries. The provisions of the NAFTA were adopted by the United States with the enactment of the North American Free Trade Agreement Implementation Act, Public Law 103–182, 107 Stat. 2057. On December 30, 1993, Customs published in the **Federal Register** (58 FR 69460) T.D. 94–1 setting forth interim amendments to the Customs Regulations to implement the Customs-related aspects of the NAFTA. Those interim regulations took effect on January 1, 1994, to coincide with the entry into force of the NAFTA.

The centerpiece of the NAFTA involves the granting of preferential tariff (duty-free or reduced-duty) treatment on goods imported into a NAFTA country from another NAFTA country. As a general rule, such preferential tariff treatment may only be accorded to goods that satisfy the rules of origin standards set forth in Chapter Four of the NAFTA; such goods are referred to as "originating" goods for NAFTA purposes. The NAFTA Chapter Four rules of origin are set forth in section 202 of the Act which is codified at 19 U.S.C. 3332.

Under Chapter Three of the NAFTA, Appendix 6.B. to Annex 300–B provides for an exception to the general rule regarding the granting of NAFTA preferential tariff treatment only to originating goods. This exception concerns specified textile and apparel goods which, because of the origin of the materials used to produce the goods in a NAFTA country and/or the nature of the processing used to produce the goods in a NAFTA country, do not meet the Chapter Four rules of origin standards and thus do not qualify as originating goods under the NAFTA. For such non-originating goods, Appendix 6.B. to Annex 300–B provides that they may nevertheless be granted preferential tariff treatment (that is, the duty-free or reduced-duty treatment that would be accorded to the same type of good when it qualifies as an originating good) up to specified annual quantitative "tariff preference levels" (TPLs). Once a TPL applicable to a NAFTA country's exports to another NAFTA country has been reached, any further exports of goods of that TPL category to the same NAFTA country during that year may not be accorded NAFTA preferential tariff treatment but rather will be subject to duty at the most-favored-nation rate. The TPL quantitative limits are set forth by category in Schedules 6.B.1. through 6.B.3. of Annex 300–B with reference to imports into each NAFTA country from each of the other NAFTA countries. For U.S. import purposes, the TPL provisions of Appendix 6.B. and Schedules 6.B.1. through 6.B.3. are also set forth in Additional U.S. Notes 3 through 6 to Section XI, HTSUS.

The basic procedures for filing a claim for NAFTA preferential tariff treatment, set forth in § 181.21 of the NAFTA implementing regulations (19 CFR 181.21), are generally applicable in the case of goods for which preferential tariff treatment is sought under the TPL provisions described above. However, there is one principal exception to those procedures as regards goods to which Appendix 6.B. to Annex 300–B applies: as stated in paragraph (a) of that section, there is no requirement that the written declaration (which constitutes the claim for preferential tariff treatment) be based on a Certificate of Origin in the possession of the importer. This exception is necessary because a NAFTA Certificate of Origin has reference only to originating goods (that is, goods which comply with the Chapter Four rules of origin standards) and thus does not cover TPL goods which are, by definition, not originating goods.

Following the publication of T.D. 94–1 and the entry into force of the NAFTA, representatives of the United States, Canada and Mexico continued to have discussions regarding whether additional requirements or procedures should be adopted for purposes of administering the provisions of Annex 300–B of the NAFTA. As a result of those discussions, Canada and Mexico decided on, and implemented, use of a Certificate of Eligibility as the means for monitoring and identifying export shipments eligible for preferential tariff treatment pursuant to the TPL provisions of Appendix 6.B. to Annex 300–B of the NAFTA (no corresponding Certificate of Eligibility has been adopted for purposes of U.S. exports to Canada and Mexico). The Certificate of Eligibility, signed by an authorized official of the Canadian or Mexican government, is issued to the Canadian or Mexican exporter for transmittal to the importer of the goods who then is able to make a claim for preferential tariff treatment based on the Certificate of Eligibility. The United States, Canada and Mexico agreed that presentation of a properly completed and executed Certificate of Eligibility for Canadian and Mexican exports is a prerequisite to the granting of a claim for preferential tariff treatment under the TPL provisions, and failure to present such a Certificate of Eligibility will result in assessment of duty at the most-favored-nation (that is, non-NAFTA) rate. In furtherance of this agreement, Customs implemented the procedure of granting claims for preferential tariff treatment on TPL goods imported from Canada or Mexico only if a properly completed and executed Certificate of Eligibility pertaining to the goods is presented to Customs when the claim is made.

In order to reflect the procedures agreed to by the three countries and implemented by Customs with regard to Canadian and Mexican exports, on June 20, 1994, Customs published T.D. 94–52 in the **Federal Register** (59 FR 31519) for purposes of amending, on an interim basis, § 12.132 of the Customs Regulations (19 CFR 12.132), which had been adopted as an interim regulation in T.D. 94–4 discussed above, to require submission of a Canadian or Mexican Certificate of Eligibility in connection with a claim for preferential tariff treatment on goods covered by the NAFTA TPL provisions. Although the interim regulation took effect on the date of publication, T.D. 94–52 prescribed a public comment period which closed on August 19, 1994.

The interim NAFTA regulations set forth in T.D. 94–1 and the interim amendment to § 12.132 set forth in T.D. 94–52 were adopted as a final rule in T.D. 95–68 which was published in the **Federal Register** on September 6, 1995 (60 FR 46334). Although T.D. 95–68 republished the entire text of interim § 12.132 (that is, the original text contained in T.D. 94–1 as amended by T.D. 94–52), the **SUPPLEMENTARY INFORMATION** portion of T.D. 95–68 stated that Customs would publish a separate document to specifically address T.D. 94–52, including any public comments submitted in response thereto.

Discussion of Public Comments

Three comments were received in response to the interim regulation set forth in T.D. 94–52.

Two of these commenters were primarily concerned with the ability to file a claim after importation and whether or not there would be a sufficient time period to make such a claim, particularly when the U.S. importer is unable to obtain and provide a Certificate of Eligibility at the time of entry.

While a failure to supply the required Certificate of Eligibility will preclude the filing of a claim for preferential tariff treatment and will result in liquidation of the entry at the non-preferential duty rate, Customs believes that importers in most cases will have adequate opportunity, following the date of entry, to submit the Certificate and make the claim when the Certificate is not available at the time of entry. Customs notes in this regard that the importer may supply the necessary documentation and make the claim either at any time prior to final liquidation or in connection with the filing of a protest within 90 days following final liquidation. Moreover, under existing procedures, liquidation is delayed for a minimum of 90 days following the date of entry. Thus, an importer has at least 180 days from the date of entry in which to file a claim through submission of the required Certificate of Eligibility. In addition, on a case-by-case basis, Customs may grant an importer's request for a delay in liquidation so as to afford the importer additional time to submit the Certificate and make the claim if the request explains the reason for the delay in providing the Certificate.

With specific reference to the requirement in § 12.132(b) that the Certificate of Eligibility "shall be presented to Customs at the time the claim for preferential tariff treatment is filed under § 181.21 of this chapter", the third commenter objected to adoption of the interim rule with an immediate effective date. This commenter stated that the rule should only be implemented after sufficient notice and opportunity for comment are provided to the importing public in accordance with the requirements of the Administrative Procedure Act (APA), arguing that T.D. 94–52 did not set forth an adequate basis for dispensing with the normal APA advance notice and delayed effective date procedures.

Customs believes that T.D. 94–52 set forth an adequate justification, consistent with the provisions of the APA, for dispensing with the normal advance notice, comment and delayed effective date requirements of the APA. T.D. 94–52 specifically cited the foreign affairs function exception to application of the normal APA rulemaking procedures. To the extent that this commenter believes that the failure to provide for a delayed effective date limits the opportunity to obtain preferential tariff treatment on TPL goods that could be the subject of a claim at the time of entry but for the absence of a Certificate of Eligibility, Customs would point out that, as explained in the response to the two other commenters set forth above, there are alternative procedures that may be followed to ensure that such treatment is nevertheless accorded to the goods when the Certificate of Eligibility cannot be presented until after the date of entry.

Customs notes that the last sentence of paragraph (b) of § 12.132, which states that "[f]ailure to timely submit the required Certificate of Eligibility will result in a denial of the claim", could be taken to imply that a claim for preferential tariff treatment on TPL goods may be made without simultaneous presentation of the Certificate to Customs. Such a conclusion would be inconsistent with the wording and intent of the preceding paragraph (b) text as discussed above in connection with the public comments. Accordingly, in order to avoid any ambiguity on this point, this document amends § 12.132 by removing the last sentence of paragraph (b).

Inapplicability of Notice and Delayed Effective Date Requirements

Pursuant to the provisions of 5 U.S.C. 553(a), public notice is inapplicable to this final regulation because it is within the foreign affairs function of the United States. The amendment contained in this document is consistent with procedures agreed to and implemented by the United States, Canada, and Mexico. In addition, because this amendment does not involve a substantive change but rather merely clarifies existing procedures for claiming a tariff preference under the NAFTA, it is determined pursuant to 5 U.S.C. 553(b)(B), that notice and public procedures are impracticable, unnecessary, and contrary to the public interest. Furthermore, for the above reasons, it is determined that good cause exists under the provisions of 5 U.S.C. 553(d)(3) for dispensing with a delayed effective date.

Executive Order 12866

Because this document involves a foreign affairs function of the United States and implements an international agreement, it is not subject to the provisions of E.O. 12866.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 12

Canada, Customs duties and inspection, Marking, Mexico, Reporting and recordkeeping requirements, Textiles and textile products, Trade agreements.

Amendment to the Regulations

Accordingly, for the reasons set forth above, Part 12, Customs Regulations (19 CFR Part 12), is amended as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The authority citation for Part 12 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

§ 12.132 [Amended]

2. In § 12.132, paragraph (b) is amended by removing the last sentence.

Approved: October 24, 1995.

George J. Weise,

Commissioner of Customs.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 95–29001 Filed 11–27–95; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–94–094]

RIN 2115–AE47

Drawbridge Operation Regulations; Merrimack River, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating rules governing the Newburyport US1 Bridge at mile 3.4, over the Merrimack River in Newburyport, Massachusetts, by requiring a one hour advance notice for openings during the winter months. This rule is being changed because the waterway is often frozen during the winter and there have been few requests for bridge openings. This will relieve the bridge owner of the burden of posting personnel at the bridge during the winter months.

EFFECTIVE DATE: December 28, 1995.

ADDRESSES: Documents referred to in this preamble are available for copying and inspection at the First Coast Guard District, Bridge Branch office located in the Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, Massachusetts 02110–3350, room 628, between 6:30 a.m. and 3 p.m., Monday through Friday, except federal holidays. The telephone number is (617) 223–8364.

FOR FURTHER INFORMATION CONTACT:

John W. McDonald, Project Manager, Bridge Branch, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this final rule are Mr. John W. McDonald, Project Officer, Bridge Branch, and Lieutenant Commander Samuel R. Watkins, Project Counsel, District Legal Office.

Regulatory History

On December 12, 1994 the Coast Guard published a notice of proposed rulemaking entitled "Drawbridge Operation Regulations; Merrimack River, Massachusetts" in the **Federal Register** (59 FR 63944). The Coast Guard received no comments on the notice of proposed rulemaking. No public hearing was requested, and none was held.

Background and Purpose

The Newburyport US1 Bridge over the Merrimack River in Newburyport, Massachusetts has a vertical clearance of 35′ above mean high water (MHW) and 42′ above mean low water (MLW). The Merrimack River is frozen during most of the winter and there have been few requests for bridge openings during this period. The previous rule required the bridge to open on signal from May 1 to October 31, 6 a.m. to 10 p.m. This final rule will extend the period during which the bridge will open on signal: from May 1 to November 15, from 6 a.m. to 10 p.m. This final rule will require at least a one hour advance notice for openings at all other times.

Discussion of Comments and Changes

The Coast Guard received no comments on the notice of proposed rulemaking. Therefore, no changes to the proposed rule were made.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that this rule will not prevent mariners from passing through the Newburyport US1 Bridge, but will only require mariners to plan their transits.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Because of the reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.605 is amended by revising paragraph (a) to read as follows:

§ 117.605 Merrimack River.

(a) The draw of Newburyport US1 Bridge, mile 3.4, shall open on signal from May 1 through November 15, from 6 a.m. to 10 p.m. At all other times the draw shall open on signal if at least one hour advance notice is given by calling the number posted at the bridge.

* * * * *

Dated: July 6, 1995.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 95–29047 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD07–94–094]

RIN 2115–AE84

Regulated Navigation Area; Tampa Bay, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a regulation requiring certain vessels to make a navigation advisory broadcast when approaching or reaching points within Tampa Bay. The required navigation advisory broadcasts are designed to minimize the hazards associated with navigation in Tampa Bay and enhance safety be making vessel operators aware of the movements of other vessels in the area. This action establishes a permanent regulation which requires vessel navigational advisory broadcasts that have previously been voluntary.

EFFECTIVE DATE: This rule is effective on December 28, 1995.

FOR FURTHER INFORMATION CONTACT: LT Dirk Greene, Coast Guard Marine Safety Office Tampa at (813) 228–2189.

SUPPLEMENTARY INFORMATION: On November 8, 1994, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for this regulation (Volume 59, No. 215, FR 55602). Interested parties were requested to submit comments and none were received.

Drafting Information

The drafters of this regulation are LT Dirk A. Greene, project officer for Coast Guard Marine Safety Office, Tampa, and LTJG Julia Diaz, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Comments

Marine Safety Office Tampa did not receive any comments by the end of the comment period, January 9, 1995. The Tampa Bay Pilots Association responded after the comment period was over requesting a minor change in the order of information broadcast. This change has been made. The words "Navigational Advisory Broadcasts" replace the words "Security Broadcasts" to reflect requirements contained in the Federal Communication Commission regulations. These changes are considered minor and do not change the intent of the regulation as published in the NPRM.

Discussion of Regulations

As the result of marine casualties occurring in the Tampa Bay entrance channels, the existing voluntary navigational advisory broadcast program established in the Coast Pilot will be made mandatory. This navigational advisory broadcast program gives master, pilots, and persons in charge of vessels real-time information on the density of marine traffic in Tampa Bay as required by 33 CFR 164.11 (p)(5). The navigational advisory broadcast program also supplements the Vessel Bridge to Bridge Radiotelephone Regulations contained in 33 CFR 26. The Captain of the Port has determined that these requirements are necessary to reduce the likelihood of any adverse incidents while transiting Tampa Bay. The chance of a collision will be further minimized by requiring masters, pilots, or persons in charge of all vessels over 50 meters in length to make navigational advisory broadcasts when approaching or reaching the broadcast/report points specifically listed under "Final Regulations."

Nothing in these procedures would supersede the Navigation Rules or relieve the Master or person in charge of a vessel of responsibility for the safe navigation of the vessel.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this action to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is not necessary. The security broadcast system has been followed on a voluntary basis for at least five (5) years and all vessels affected are required by 33 CFR 26 to have radiotelephone equipment. Since the impact of this is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2. of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion checklist has been prepared and is available.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulations

In consideration of the foregoing, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations as follows:

PART 165—[AMENDED]

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

1. A new section 165.753 is added to read as follows:

§ 165.753 Regulated navigation area; Tampa Bay, Florida.

(a) The following is a regulated navigation area (RNA): All the navigable waters of Tampa Bay, Hillsborough Bay and Old Tampa Bay, including all navigable waterways tributary thereto. Also included are the waters of Egmont Channel, Gulf of Mexico from Tampa Bay to the seabuoy, Tampa Lighted Whistle Buoy T, LLNR 18465.

(b) The master, pilot, or person in charge of any vessel of 50 meters or greater shall give a Navigational Advisory Broadcast in accordance with 47 CFR 80.331 on VHF–FM channel 13 at the following broadcast/reporting points:

(1) Prior to getting underway from any berth or anchorage;

(2) Prior to entering Egmont Channel from seaward;

(3) Prior to passing Egmont Key in any direction;

(4) Prior to transiting the Skyway Bridge in either direction;

(5) Prior to transiting the intersection of Tampa Bay Cut F Channel, Tampa Bay Cut G Channel, and Gadsden Point Cut Channel;

(6) Prior to anchoring or approaching a berth for docking;

(7) Prior to tending hawser;
(8) Prior to transiting Point Pinellas Channel Light 1 in either direction.
(c) Each Navigational Advisory required by this section shall be made in the English language and will contain the following information:
(1) The words "Hello all vessels, a Navigational Advisory follows";
(2) Name of vessel;
(3) If engaged in towing, the nature of the tow;
(4) Direction of Movement;
(5) Present location; and,
(6) The nature of any hazardous conditions as defined by 33 CFR 160.203.
(d) Nothing in this section shall supersede either the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) or the Inland Navigation Rules, as applicable, or relieve the Master or person in charge of the vessel of responsibility for the safe navigation of the vessel.

Dated: October 19, 1995.

Roger T. Rufe, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 95–29049 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–5334–7]

Oregon: Affirmation of Immediate Final Rule To Authorize State Hazardous Waste Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Affirmation of immediate final rule and response to comments.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) today is responding to a significant adverse comment received in response to EPA's published decision in the **Federal Register** at Vol. 60, No. 195, FR 52629, October 10, 1995, to grant final authorization of Oregon's hazardous waste program revision under the Resource Conservation and Recovery Act, as amended (RCRA). After consideration of the comment, EPA's decision that Oregon's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization remains unchanged. Thus, EPA approves Oregon's hazardous waste program revision and authorization of the revised program shall become effective on December 7, 1995.

EFFECTIVE DATE: December 7, 1995.

FOR FURTHER INFORMATION CONTACT: Cheryl Williams. U.S. EPA, M/S HW–105, 1200 Sixth Avenue, Seattle, Washington 98101, Phone (206) 553–2137.

SUPPLEMENTARY INFORMATION:

A. Background

EPA published an Immediate Final Rule in the **Federal Register** Vol. 60, No. 195 on October 10, 1995, FR 52629, stating that authorization of a revision to Oregon's hazardous waste program "shall become effective on December 7, 1995, unless significant adverse comments on Oregon's program revision application are received by the close of business on November 8, 1995." One significant comment was received on November 8, 1995, by the Technical Staff of the Confederated Tribes of the Umatilla Indian Reservation. EPA's Immediate Final Decision explained that if an adverse comment was received, EPA would publish either "(1) A withdrawal of the Immediate Final Decision or (2) a notice containing a response to comments which either affirms that the Immediate Final Decision takes effect or reverses the decision." EPA does not believe that the significant adverse comment made by the Technical Staff of the Confederated Tribes of the Umatilla Indian Reservation (Technical Staff of CTUIR or Technical Staff) merits a withdrawal of the Immediate Final Decision. However, EPA believes that a response to the Technical Staff of CTUIR is important to address the concerns raised and to affirm that the Immediate Final Decision will take effect as described.

B. Comments Regarding the Immediate Final Decision

The Technical Staff raised five issues concerning the Agency's decision to authorize Oregon's hazardous waste program revision. The heart of the comments go to the Technical Staff's concern over disposal of chemical weapons at the Umatilla Army Depot. To address the underlying concern, EPA reaffirms its role in environmental protection in this country. EPA is firmly committed to protection of human health and the environment and to ensuring that hazardous wastes are managed in an environmentally sound manner. After authorizing a state for a revision to its hazardous waste program, EPA functions in an oversight capacity with a strong mandate to see that the goals of RCRA are met. Based on its decision to authorize a revision to Oregon's hazardous waste program, EPA believes that Oregon can meet its delegated obligation to carry out a hazardous waste program equivalent to the federal RCRA program. EPA does not abdicate its central role in protection of this nation's human health and the environment when it delegates a program to a state. EPA continues to monitor and assess a delegated program and, when necessary, calls upon the Agency's own enforcement authorities to fulfill the goals of RCRA. This core commitment is central to RCRA and no delegation alters the Agency's firm stance on upholding its obligation to protect the environment.

The specific concerns raised by the Technical Staff can be addressed one by one. The first issue is a concern that Tribal staff had neither initiated nor completed an independent Tribal evaluation of Oregon's authority compared to the federal requirements. EPA appreciates the difficulty in evaluating a state's application for revision to its authorized program. This complex task is detailed and resource intensive. To assist interested parties who wish to review a state application, EPA makes the state application available for review and designates staff to be available to respond to concerns. EPA believes that these measures, combined with publication in two of the largest newspapers in the state and in the **Federal Register** as well as the provision of an opportunity to comment on an authorization decision, are adequate. The Agency makes the decision to authorize a state program based on its findings that a state program is equivalent to the federal program, consistent on a national basis and provides adequate enforcement.

The second issue raised by the Technical Staff is a concern with proposed incinerators on ceded lands. If hazardous waste incinerators are built and permitted under RCRA, Oregon will have primary responsibility for enforcing corrective action requirements for these units. EPA will continue to oversee and assess the delegated program and anticipates working closely with Oregon as Oregon initiates its authorized corrective action program. Through the Memorandum of Agreement (MOA) between Oregon and EPA, the integrity of the delegated program will be maintained. EPA will use the Agency's enforcement authorities where necessary to ensure that human health and the environment are protected. Additionally, where EPA has trust obligations on ceded lands, EPA will act to fulfill those obligations.

The third issue raised is a concern that Oregon lacks a baseline environmental and human health monitoring system to predict, identify or mitigate operational or accidental impacts. This concern raises a basic authorization issue about the delegated program currently in Oregon. EPA has not identified a similar concern in Oregon's delegated program but appreciates the comment. Although this concern does not effect the immediate decision to authorize this revision to Oregon's program, EPA will assess this concern in light of the existing delegated program.

The fourth issue raises a concern that the Confederated Tribes have interests, such as Natural Resource Trustee authority under CERCLA and Local Reuse of disposal of excess federal property land issues, that are directly impacted by the increased permitting authority available to Oregon upon authorization for this program revision. EPA and Oregon will work closely as Oregon undertakes this new delegation of authority in its hazardous waste program. In its evaluation of Oregon's revision to its delegated program, EPA has no reason to believe that these Tribal interests will not be addressed.

The final issue raises a concern related to emergency preparedness should proposed hazardous waste incinerators be sited as proposed on ceded lands near the Umatilla Reservation. EPA believes that emergency preparedness and planning is very important at all hazardous waste management sites. All appropriate parties should be included as part of the emergency planning coordination process. EPA will encourage Oregon to include all such appropriate parties in this process.

After consideration of these issues, EPA affirms its Immediate Final Decision to grant final authorization for Oregon's hazardous waste program revision.

C. Decision

I conclude that the immediate final decision, as noticed in the **Federal Register** Vol. 60, No. 195, on October 10, 1995, will take effect on December 7, 1995 as described. Accordingly, Oregon is granted final authorization to operate its hazardous waste program, as revised.

Compliance With Executive Order 12866

The Office of management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of Section 2002(a), 3006 and 7004(b) of the solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: November 14, 1995.

Chuck Clarke,

Regional Administrator.

[FR Doc. 95–29036 Filed 11–27–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7174

[MT–930–1430–01; SDM 79849]

Withdrawal of National Forest System Lands for the Pactola Visitor Information Center, Pactola Marina North, and Pactola Marina South; South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 35 acres of National Forest System lands from location and entry under the United States mining laws for a period of 20 years for the Department of Agriculture, Forest Service to protect the Pactola Visitor Information Center, Pactola Marina North, and Pactola Marina South. The lands have been and remain open to such forms of disposition as may by law be made of National Forest System lands and to mineral leasing.

EFFECTIVE DATE: November 28, 1995.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2949.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect three Forest Service recreation areas:

Black Hills Meridian

Bleck Hills National Forest

Pactola Visitor Information Center

T. 1 N., R. 5 E.,
Sec. 2, W½SW¼SW¼SE¼.
The area described contains 5 acres.

Pactola Marina South

T. 1 N., R. 5 E.,
Sec. 10, SW¼ of lot 4, and NW¼NE¼SE¼.
The area described contains 20 acres.

Pactola Marina North

T. 2 N., R. 5 E.,
Sec. 34, SE¼SW¼SE¼.
The area described contains 10 acres.
The total areas described above aggregate 35 acres in Pennington County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the National Forest System lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: November 8, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–28914 Filed 11–27–95; 8:45 am]

BILLING CODE 4310–DN–P

43 CFR Public Land Order 7175

[NM–010–1430–01; NMNM 90118]

Withdrawal of Public Land and Federal Minerals to Allow Sale of Humate; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 120 acres of public land from surface entry and mining, and 680 acres of federally reserved mineral interests underlying private surface estate from mining, for a period of 20 years, for the Bureau of Land Management to protect an area having high potential for development of humate (a carbonaceous shale) from encumbrances due to mining claim location. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: November 28, 1995.

FOR FURTHER INFORMATION CONTACT: Margie Martinez, BLM, Rio Puerco Resource Area Office, 435 Montano

Road NE., Albuquerque, New Mexico 87107, 505–761–8907.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect an area having potential for development of humate (a carbonaceous shale) from encumbrances due to mining claim location:

New Mexico Principal Meridian

T. 23 N., R. 1 W.,
Sec. 11, NE¼NE¼ and S½NE¼.

The area described contains 120 acres in Rio Arriba County.

2. Subject to valid existing rights, the federally reserved mineral interests in the following described land are hereby withdrawn from the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect an area having potential for development of humate (a carbonaceous shale) from encumbrances due to mining claim location:

New Mexico Principal Meridian

T. 23 N., R. 1 W.,
Sec. 11, SE¼SW¼ and SE¼;
Sec. 14, NW¼NE¼, S½NE¼, E½W½, SW¼SW¼, and SE¼.

The area described contains 680 acres in Rio Arriba County.

3. The surface estate of the land described in paragraph 2 is non-Federal. If the United States subsequently acquires this land, the land will be subject to the terms and conditions of this withdrawal.

4. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of its mineral or vegetative resources other than under the mining laws.

5. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: November 8, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–28921 Filed 11–27–95; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 564 and 571

[Docket No. 85–15; Notice 17]

RIN 2127–AF52

Replaceable Light Source Information; Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This fiscal rule adopts amendments to Standard No. 108, the Federal motor vehicle standard on lighting, to facilitate the transfer by NHTSA of all dimensional and specification information on HB Type replaceable light sources for headlamps from the Standard to Docket No. 93–11. This docket has been established as the information docket specified in the regulations for replaceable light source information. This regulatory action is intended to simplify Standard No. 108 while ensuring consistent regulatory treatment of all headlamp replaceable light sources. This final rule also adopts amendments to the regulations for replaceable light source information.

EFFECTIVE DATE: The amendments are effective January 29, 1996.

FOR FURTHER INFORMATION CONTACT: Kenneth O. Hardie, Office of Safety Performance Standards, NHTSA (202–366–6987).

SUPPLEMENTARY INFORMATION: This final rule is based upon a notice of proposed rulemaking (NPRM) that was published on March 16, 1995 (60 FR 14247). The NPRM proposed to amend Motor Vehicle Safety Standard No. 108 *Lamps, Reflective Devices, and Associated Equipment* to transfer all dimensional and specification information on HB Type headlamp replaceable light sources from the Standard to Docket No. 93–11, the repository established for information on non-HB Types. Corresponding amendments necessary to implement the transfer were also proposed for the information regulation, 49 CFR part 564. For further information, the reader is referred to the NPRM.

Three comments were received on the NPRM. Two commenters, General Motors Corporation (GM) and the American Automobile Manufacturers Association (AAMA), supported the proposal. Advocates for Highway and Auto Safety (Advocates) opposed it.

GM said that it believes that the rule will simplify the approval process and provide consistent treatment for replaceable light sources. AAMA recommended modifications to address what it believes are minor typographical errors and oversights. One of these oversights was the omission of a sentence from 49 CFR 564.5(c) which stated that "[u]pon acceptance [of the information submitted], the Associate Administrator files the information in Docket No. 93–11." NHTSA is ensuring that the final rule contains the language inadvertently omitted from the NPRM. AAMA also brought the agency's attention to an error in a final rule amending paragraph S7.5(e)(2)(i)(B) published on February 13, 1995 (Docket No. 85–15; Notice 14; 60 FR 8199, at 8201) which referred to the "upper" beam in a lower beam context. The paragraph is being amended to refer to the "lower" beam.

AAMA also had further comments of a minor nature to which NHTSA is responding with amendments. In its view, the NPRM did not remove and reserve Figure 3, and that if Figure 3 were removed, its reference in paragraph S7.3.8(c)(2) needs to be deleted. NHTSA proposed the removal and reservation of "Figures 3–1 through 3–11", intending to encompass the entirety of Figure 3. However, "Figure 3" itself is the title to Figures 3–1 through 3–11, and, if not specifically included in the removal language, is apt to remain in the CFR text of Standard No. 108. It is therefore being removed. The reference to "Figure 3" in paragraph S7.3.8(c)(2) was erroneous in the first instance, and is being changed to "Figure 16", Deflectometer, the Figure originally intended.

Under the NPRM, paragraph S7.7(b) would continue to require the use of a white cover during the measurement of luminous flux for Types HB3 and HB4 replaceable light sources, but would no longer reference the specific HB drawings (Figures 19–1 and 20–1) that depict the cover. To avoid ambiguity, paragraph S7.7(b), as amended, will amplify that the white cover is "shown in the HB3 and HB4 drawings filed in Docket No. 93–11."

In addition, AAMA brought to the agency's attention that the proposed revision to Figure 8 did not identify Distance "A" referenced in Section S9. Figure 8, as adopted, will define the reference plane and Distance "A".

Finally, AAMA asked why it is necessary to specify marking of the base of HB bulbs with HB Type designations, as proposed in paragraph S7.7(a), when the transfer of the applicable Figures to part 564 also transfers the HB designations in the Figures' titles. Base marking of HB Types has always been required under former paragraph S7.7(f). NHTSA believes that it is important to continue to do so, to assist packages of aftermarket bulbs in proper packaging, and to inform purchasers of the contents of a replacement headlamp bulb package.

Advocates, in essence, advanced the view that, when a manufacturer first submits the specifications for a new design to NHTSA, the public must evaluate the light source photometric performance characteristics to determine if the light source for which specifications are submitted is capable of meeting the photometric requirements of Standard No. 108. NHTSA understands Advocates' continuing concern for sufficient illumination of overhead signs by headlamps. However, Advocates' comment reflects a fundamental misunderstanding of how headlamps provide illumination. Compliance with the photometrics of Standard No. 108 is not based upon performance of the light source alone. It is the product of the partnership of the light source, the reflector, and the lens. Standard No. 108 requires each headlamp to comply to its photometric specifications when the appropriate part 564 light source is used in the lens/reflector assembly. The headlamp will then be certified by its manufacturer as complying with Standard No. 108. NHTSA therefore assures Advocates that the process it recommends is not required for motor vehicle safety. Accordingly, the proposal is being adopted virtually as proposed.

This final rule removes from Standard No. 108 those Figures and text that specify dimensional, performance, and electrical specifications for HB Types 1 through 5. NHTSA is placing this information in Docket No. 93–11. The final rule also redefines "replaceable light source" to mean an assembly of a capsule, base, and terminals that is designed to conform to the dimensions, specifications, and marking furnished with respect to it pursuant to Appendix A of part 564. The section on replaceable light sources, S7.7, is revised by removing paragraphs (a) through (e) which refer to the Figures that are deleted. Paragraph (f), which relates to marking, is incorporated into paragraph (h), which is redesignated paragraph (a). Present paragraph (g) is transferred to the introductory text of S7.7, and paragraphs (h) through (k) are redesignated (a) through (d) with minor changes in text. A conforming amendment is made to S9.

In addition, a conforming amendment is made to part 564 to remove the present exclusion of replaceable light sources specified in S7.7 of Standard No. 108.

Effective Date

The effective date of the final rule is January 29, 1996. Because the final rule establishes no additional burden on any party and is primarily of an administrative nature, it is hereby found for good cause shown that an effective date for the amendments to Standard No. 108 that is earlier than 180 days after their issuance would be in the public interest.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

The Office of Management and Budget has determined that it will not review this rulemaking action under Executive Order 12866. It has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. The purpose of the rulemaking action is an administrative one, to remove regulatory material from Standard No. 108 which the agency will file in a regulatory docket on the subject. Since the rule does not have any significant cost or other impacts, preparation of a full regulatory evaluation is not warranted.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. It is not anticipated that the rule will have a significant effect upon the environment. The design and composition of headlamps or light sources will not change from those presently in production.

Regulatory Flexibility Act

The agency has also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act. For the reasons discussed above and below, I certify that this rulemaking action will not have a significant economic impact upon a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles, headlamps, and light sources, those affected by the rulemaking action, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions will not be significantly affected because the price of new vehicles, headlamps, and light sources will not be impacted.

Executive Order 12612 (Federalism)

This rulemaking action has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and NHTSA has determined that this rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice (Executive Order 12778)

The final rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 30161 of Title 49 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Parts 564 and 571

Motor vehicle safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR parts 564 and 571 are amended as follows:

PART 564—REPLACEABLE LIGHT SOURCE INFORMATION

1. The authority citation for part 564 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30166; delegation of authority at 49 CFR 1.50.

2. Section 564.5 is amended by revising paragraphs (a) and (c) to read as follows:

§ 564.5 Information filing; agency processing of filings.

(a) Each manufacturer of a motor vehicle, original equipment headlamp, or original equipment headlamp replaceable light source, which intends to manufacture a replaceable light source as original equipment or to incorporate a replaceable light source in its headlamps or motor vehicles, shall furnish the information specified in Appendix A of this part to: Associate Administrator for Safety Performance Standards, National Highway Traffic Safety Administrauon, 400 Seventh Street SW, Washington, D.C. 20590. Attn: *Replaceable Light Source*

Information Docket No. 93–11, (unless the agency has already filed such information in Docket No. 93–11).

* * * * *

(c) The Associate Administrator promptly reviews each submission and informs the manufacturer not later than 30 days after its receipt whether the submission has been accepted. Upon acceptance, the Associate Administrator files the information in Docket No. 93–11. The Associate Administrator does not accept any submission that does not contain all the information specified in Appendix A of this part, or whose accompanying information indicates that any new light source which is the subject of a submission is interchangeable with any replaceable light source for which the agency has previously filed information in Docket No. 93–11.

* * * * *

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 is revised to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30177, 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.108 is amended by:

a. revising the definition of "Replaceable light source" in section S4 to read as set forth below;

b. revising the third sentence of paragraph S7.3.8(c)(2) to read as set forth below;

c. revising paragraph S7.5(e)(2)(i)(B) to read as set forth below;

d. revising paragraph S7.7 to read as set forth below;

e. revising the last sentence of S9 as set forth below; and

f. removing and reserving Figures 3, 3–1 through 3–11, 19, 19–1 through 19–5, 20, 20–1 through 20–5, 23–1 through 23–7, and 24–1 through 24–9.

g. revising Figures 8 and 25 as set forth below.

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S4 *Definitions.*

* * * * *

Replaceable light source means an assembly of a capsule, base and terminals designed to conform to the dimensions, specifications and markings furnished with respect to it pursuant to Appendix A of part 564 *Replaceable Light Source Information* of this chapter.

* * * * *

S7.3.8 *Type G headlighting system.*

* * * * *

(c) * * *

(2) * * * A special adapter (Figure 22) for the deflectometer (Figure 16) shall be clamped onto the headlamp assembly. * * *

* * * * *

S7.5 *Replaceable bulb headlamp system.*

* * * * *

(e) * * *

(2) * * *

(i) * * *

(B) By both light sources, designed to conform to the lower beam requirements of Figure 17A.

* * * * *

S7.7 *Replaceable light sources.* Each replaceable light source shall be designed to conform to the dimensions and electrical specifications furnished with respect to it pursuant to part 564 of this chapter, and shall conform to the following requirements:

(a) If other than an HB Type, the light source shall be marked with the bulb marking designation specified for it in compliance with section VIII of Appendix A of part 564 of this chapter. The base of each HB Type shall be marked with its HB Type designation. Each replaceable light source shall also be marked with the symbol DOT and with a name or trademark in accordance with paragraph S7.2.

(b) The measurement of maximum power and luminous flux that is submitted in compliance with section VII of Appendix A of part 564 of this chapter shall be made in accordance with this paragraph. The filament shall be seasoned before measurement of either. Measurement shall be made with the direct current test voltage regulated within one quarter of one percent. The test voltage shall be design voltage, 12.8v. The measurement of luminous flux shall be in accordance with the Illuminating Engineering Society of North America, LM–45; *IES Approved Method for Electrical and Photometric Measurements of General Service Incandescent Filament Lamps* (April 1980), shall be made with the black cap installed on Type HB1, Type HB2, Type HB4, and Type HB5, and on any other replaceable light source so designed, and shall be made with the electrical conductor and light source base shrouded with an opaque white cover, except for the portion normally located within the interior of the lamp housing. The measurement of luminous flux for the Types HB3 and HB4 shall be made with the base covered with a white cover as shown in the drawings for Types HB3 and HB4 filed in Docket No. 93–11. (The white cover is used to eliminate the likelihood of incorrect lumen measurement that will occur should the reflectance of the light source base and electrical connector be low).

(c) The capsule, lead wires and/or terminals, and seal on each Type HB1, Type HB3, Type HB4, and Type HB5 light source, and on any other replaceable light source which uses a seal, shall be installed in a pressure chamber as shown in Figure 25 so as to provide an airtight seal. The diameter of the aperture in Figure 25 on a replaceable light source (other than an HB Type) shall be that figure furnished for such light source in compliance with Section IV.B of Appendix A of part 564 of this chapter. An airtight seal exists when no air bubbles appear on the low pressure (connector) side after the light source has been immersed in water for one minute while inserted in a cylindrical aperture specified for the light source, and subjected to an air pressure of 70kPa (10 P.S.I.G.) on the glass capsule side.

(d) After the force deflection test conducted in accordance with S9, the permanent deflection of the glass envelope shall not exceed 0.13 mm in the direction of the applied force.

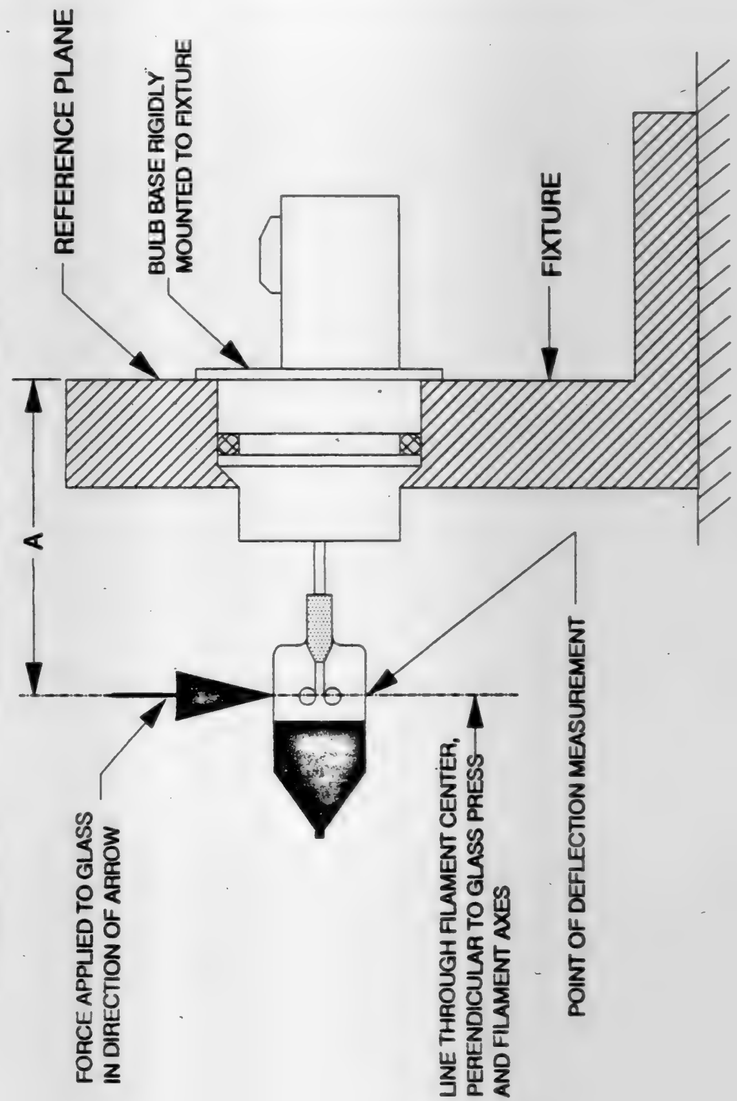
* * * * *

S9 *Deflection test for replaceable light sources.* * * * Distance 'A' for a replaceable light source other than an HB Type shall be the dimension provided in accordance with Appendix A of part 564 of this chapter, section I.A.1 if the light source has a lower beam filament, or as specified in section I.B.1 if the light source has only an upper beam filament.

* * * * *

BILLING CODE 4910–59–P

FIGURE 8 - BULB DEFLECTION TEST



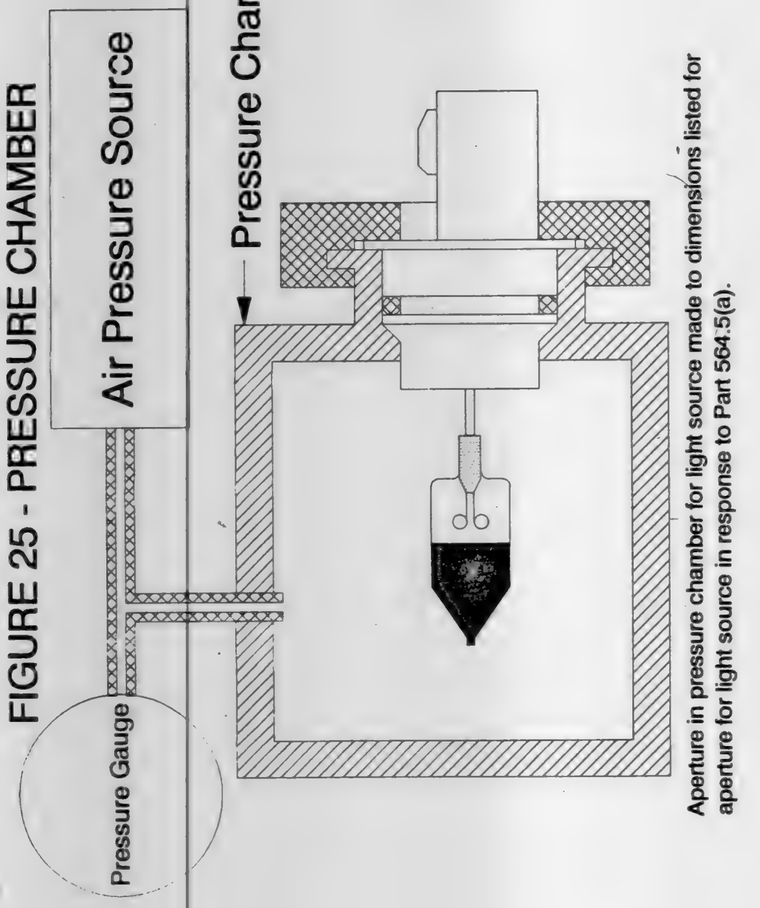


FIGURE 25 - PRESSURE CHAMBER

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* * * * *

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* * * * *

Issued on: November 13, 1995.

Howard M. Smolkin,

Executive Director.

[FR Doc. 95-28464 Filed 11-27-95; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 941265-4365; I.D. 111795A]

Pacific Coast Groundfish Fishery; Closure and Trip Limit Reduction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure; fishing restrictions; request for comments.

SUMMARY: NMFS announces the closure of the commercial fishery for thornyheads and trawl-caught sablefish, and a reduction in the trip limit for Dover sole in the groundfish fishery off Washington, Oregon, and California. This action is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP). The closure and trip limit are designed to keep landings as close as possible to the 1995 harvest guidelines for these species which are caught together, while extending the fisheries as long as possible during the year.

DATES: Effective from 0001 hours (local time) December 1, 1995, until the effective date of the 1996 annual specifications and management measures for the Pacific Coast groundfish fishery, as published in the **Federal Register**. Comments will be accepted through December 13, 1995.

ADDRESSES: Submit comments to William Stelle, Jr., Director, Northwest Region (Regional Director), National Marine Fisheries Service, 7600 Sand Point Way NE., BIN-C15700, Seattle, WA 98115-0070; or Hilda Diaz-Soltero, Regional Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140; or Rodney McInnis at 310-980-4040.

SUPPLEMENTARY INFORMATION: Dover sole, thornyheads (shortspine and longspine), and trawl-caught sablefish are managed together as the DTS complex. Trip landing and frequency limits (hereafter referred to as trip limits) for the complex, and the species which it includes, are designated as routine management measures at 50 CFR 663.23(c). Routine management measures may be adjusted after consideration at a single meeting of the Pacific Fishery Management Council (Council). At its October 1995 meeting in Portland, OR, the Council recommended that the following actions take effect on December 1, 1995, for the reasons stated below.

In 1995, the 1,500 metric ton (mt) harvest guideline for shortspine thornyheads was set higher than the 1,000-mt acceptable biological catch (ABC), largely because of uncertainty in the stock assessment. The harvest guideline for shortspine thornyheads is near the level that would produce the maximum sustainable yield (MSY) and the overfishing level is about 1,800 mt. The longspine thornyhead population remains at or above the level that would produce MSY. However, in 1995, longspine thornyheads have a 6,000-mt harvest guideline, which is below its ABC of 7,000 mt, primarily to protect the fully exploited shortspine thornyheads.

On January 4, 1995, (60 FR 2331, January 9, 1995), the cumulative trip limit for both thornyhead species combined was set at 20,000 lb (9,072 kg) per vessel per month, of which no more than 4,000 lb (1,814 kg) could be shortspine thornyheads. The catch of thornyheads is counted toward the cumulative trip limit for the DTS complex (35,000 lb (15,876 kg) per vessel per month north of Cape Mendocino (40°30'00" N. lat.) and 50,000 lb (22,680 kg) per vessel per month south of Cape Mendocino). A cumulative trip limit is the maximum amount that may be taken and retained, possessed or landed per vessel in a specified period of time, without a limit on the number of landings or trips.

The cumulative monthly trip limit for thornyheads was reduced by 25 percent on April 1, 1995, to 15,000 lb (6,804 kg) for thornyheads combined, of which no more than 3,000 lb (1,361 kg) could be shortspine thornyheads (60 FR 16811, April 3, 1995). At its August meeting, the Council stated that, if landings of shortspine thornyheads were not drastically reduced, the entire DTS fishery could be closed before the end of the year. The trip limit for thornyheads combined was reduced again, by almost half, on September 1, 1995, to 8,000 lb (3,629 kg), of which no more than 1,500 lb (680 kg) could be shortspine thornyheads (60 FR 46538, September 7, 1995). At that time, the Council expected that, if the fishery continued to the end of November, the harvest guideline would be exceeded by about 10 percent, but the overfishing level would not be reached.

The best available information at the October 1995 Council meeting indicated that, although 1995 landings of shortspine thornyheads through September were 39 percent lower than in 1994, the 1,500 mt harvest guideline had been reached by September 20, 1995, and would be exceeded by 24 percent by the end of the year if landings were not slowed. The overfishing level of about 1,800 mt was projected to be reached in mid- to late November, but could have been reached earlier depending on assumptions made about trip-limit induced discards.

The best available information at the October Council meeting also indicated that the other species in the DTS complex were approaching their harvest guidelines: The harvest guideline for longspine thornyheads would be reached on December 20, 1995, the limited entry trawl allocation for sablefish would be reached on November 29, 1995, and the harvest guideline for Dover sole in the Columbia Subarea would be reached in late December, although only 76 percent of the coastwide harvest guideline for Dover sole would be taken by the end of the year.

After considerable deliberation, the Council recommended closing the limited entry and open access fisheries for thornyheads and trawl-caught sablefish on December 1, 1995, while allowing a small 3,000-lb (1,361-kg) monthly cumulative limit for Dover sole, because it is caught incidentally in rockfish and Petrale sole fisheries. The overfishing level of shortspine thornyheads will be exceeded by as much as 170 mt and the trawl allocation for sablefish will be reached but not exceeded. However, the harvest guidelines for longspine thornyheads and Dover sole will not be reached in 1995, resulting in a loss to the industry of at least 200 mt of longspine thornyheads and an undetermined amount of Dover sole (possibly as high as 1,000 mt, although catch under the 3,000 lb (1,361 kg) cumulative limit is not known). The overall trip limit for the DTS complex no longer has meaning and is removed.

Other actions were considered by the Council. Further reduction of the cumulative trip limit for shortspine thornyheads was not recommended because it was believed it would only result in increased discards. Closing the thornyhead and trawl-caught sablefish fisheries immediately on November 1, rather than December 1, was not recommended for the following reasons: (1) This was the first year that the two thornyhead species had been managed separately, and landings of shortspine have been reduced considerably, from 3,700 mt in 1993 to 2,700 mt in 1994, to 1,900 mt in 1995 (if landings are not slowed); (2) only about 130 mt of shortspine thornyheads would be saved

by closing the fishery on November 1 rather than December 1, resulting in a loss to the industry of an additional 400 mt of longspine thornyheads, 400 mt of trawl-caught sablefish, and an undetermined amount of Dover sole (since landing rates under the 3,000–lb (1,361–kg) monthly cumulative limit are not known); (3) the harvest guideline for longspine thornyheads already is lower than its ABC to protect shortspine thornyheads; (4) uncertainty in the thornyhead stock assessments also applies to the overfishing level; and (5) aggressive action to further reduce landings of shortspine thornyheads will be taken in January 1996, starting the year with a cumulative trip limit at half the level in 1995. Even with this reduction, the Council agreed that the DTS fishery is unlikely to last longer than 10 months in 1996, and may be shorter.

As stated in the annual management measures (60 FR 2331, January 9, 1995) at paragraph IV.I., a vessel operating in the open access fishery must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery or for the same gear and/or subarea in the limited entry fishery. Therefore, landings of shortspine or longspine thornyheads or trawl-caught sablefish in the open access fishery are prohibited, and the cumulative trip limit for Dover sole may not be exceeded. (The only legal trawls in the open access fishery are non-groundfish trawls used to fish for shrimp or prawns, California halibut or sea cucumbers.)

NMFS Action

For the reasons above, the Regional Director concurs with the Council's recommendations and hereby announces the following changes to the management measures for Dover sole, thornyheads, and trawl-caught sablefish. Paragraph IV.E(3)(b) of the annual management measures (60 FR 2331, January 9, 1995, as amended) is replaced with the following:

"(b) *Dover sole, thornyheads, and trawl-caught sablefish.* These provisions apply to Dover sole (*Microstomus pacificus*), shortspine thornyhead (*Sebastolobus alascanus*), longspine thornyhead (*S. altivelis*), and trawl-caught sablefish (*Anoplopoma fimbria*). Sablefish are also called blackcod. Thornyheads are also called idiots, channel rockfish, or hardheads.

(i) *Closure.* It is unlawful for any person to take and retain, possess or land shortspine or longspine thornyheads or trawl-caught sablefish. This applies to limited entry and open access fisheries.

(ii) *Trip limits.* No more than 3,000 lb (1,361 kg) cumulative of Dover sole may be taken and retained, possessed, or landed per vessel per calendar month. This limit may not be exceeded by any vessel fishing in the limited entry or open access fishery."

Classification

These actions are authorized by the FMP, which governs the harvest of groundfish in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California. The determination to take these actions is based on the most recent data available. The aggregate data upon which the determinations are based are available for public inspection at the office of the Regional Director (see **ADDRESSES**) during business hours. Because of the need for immediate action to reduce the harvest of shortspine thornyheads, and because the public had advance opportunity to comment on these actions at the August and October 1995 Council meetings and was notified that a fishery closure could occur before the end of the year, NMFS has determined that good cause exists for this document to be published without affording a prior opportunity for public comment or a 30-day delayed effectiveness period. These actions are taken under the authority of 50 CFR 663.23(c)(1)(i)(E), (F), and (G), and are exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 21, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29057 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–22–F

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50 CFR Part 676

[Docket No. 951116269–5269–01; I.D. 110795C]

RIN 0648–AD19

Limited Access Management of Federal Fisheries In and Off of Alaska; Interpretation

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interpretive rule.

SUMMARY: NMFS issues an interpretive rule to clarify the definitions of "qualified person" that are published in regulations implementing the Individual Fishing Quota (IFQ) Program for the Pacific halibut and sablefish fixed gear fisheries in and off of Alaska. This action is necessary to restate NMFS' consistent practice in applying the definitions to determine a person's qualification for the IFQ Program. This interpretive rule is intended to restate clearly the regulatory language defining the qualifications necessary for entry into the IFQ Program.

EFFECTIVE DATE: November 28, 1995.

FOR FURTHER INFORMATION CONTACT: James Hale, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The IFQ Program is a regulatory regime designed to promote the conservation and management of the Pacific halibut and sablefish stocks in and off of Alaska, in accordance with the objectives of the Magnuson Fishery Conservation and Management Act (Magnuson Act) and the Northern Pacific Halibut Act. The IFQ Program manages the fishing effort for these species by limiting access to halibut and sablefish fixed gear fisheries. The North Pacific Fishery Management Council (Council) developed the IFQ Program and in 1992, under authority of the Magnuson Act, recommended it to NMFS, which approved the program the following year. Further information about the origins and elements of the IFQ Program can be found in the preambles to the proposed and final implementing regulations published December 3, 1992 (57 FR 57130) and November 9, 1993 (58 FR 59375), respectively.

The IFQ Program for fixed gear Pacific halibut and sablefish fisheries in and off of Alaska implements essentially two separate limited access systems, one for the fixed gear fishery of Pacific halibut (*Hypoglossus stenolepis*) and one for the fixed gear fishery of sablefish (*Anaplopoma fimbria*). The IFQ Program limits access to the fixed gear halibut fishery to persons who qualify for an initial allocation of halibut quota share (QS) or who receive an approved transfer of halibut QS. Similarly, the fixed gear sablefish fishery is limited by the IFQ Program to persons who qualify for an initial allocation of sablefish QS or who receive an approved transfer of sablefish QS.

Qualification for Initial Allocation of QS

To qualify for an initial allocation of halibut QS, a person had to have owned or leased a vessel that made legal landings of halibut during the qualifying years (1988, 1989, and 1990); to qualify for an initial allocation of sablefish QS, a person had to have owned or leased a vessel that made legal landings of sablefish during the qualifying years. The amount of a qualified person's legal landings of halibut harvested with fixed gear from a vessel that person owned or leased during the halibut base years (1984–90) determined the amount of halibut QS that person received, specific to vessel category and IFQ regulatory area. The amount of a qualified person's legal landings of sablefish harvested with fixed gear from a vessel that person owned or leased during the sablefish base years (1985–90) determined the amount of that person's sablefish QS, specific to vessel category and IFQ regulatory area. The amount of QS a person holds determines the annual amount of halibut or sablefish IFQ that a person may harvest using a specified vessel category and in a specified regulatory area.

The IFQ Program regulations governing the halibut fishery pertain exclusively to Pacific halibut; IFQ Program regulations governing the sablefish fishery pertain exclusively to sablefish. As is evident from the administrative record of the IFQ Program's development, the Council intended to create two clearly distinguished limited access systems, one for the halibut fixed gear fishery and one for the sablefish fixed gear fishery.

NMFS has been informed that this intent may not be entirely clear from the regulatory text at § 676.20(a)(1), which reads as follows:

> As used in this section, a "qualified person" means a "person," as defined in § 676.11 of this part, that owned a vessel that made legal landings of halibut or sablefish, harvested with fixed gear, from any regulatory area in any QS qualifying year. A person is a qualified person also if (s)he leased a vessel that made legal landings of halibut or sablefish, harvested with fixed gear, from any IFQ regulatory area in any QS qualifying year* * *.

This text indicates that qualification for initial allocation of halibut or sablefish QS is limited to persons who, qualifying in all other respects, either owned or leased the fishing vessel when legal landings of halibut and sablefish were made. This text may be misinterpreted to suggest that fixed gear harvest and legal landing of either species will qualify a person for QS of both species. That interpretation would be erroneous.

The use of the phrase "legal landings of halibut or sablefish, harvested with fixed gear" delineates in brief the additional qualifications for entry into the IFQ Program and in no instance combines the separate qualifications necessary for halibut QS and sablefish QS. This interpretive rule simply restates NMFS' consistent practice in determining eligibility for halibut QS and sablefish QS.

Classification

This final rule is issued under the Magnuson Act, 16 U.S.C. 1801 *et seq.*

In that this rule merely interprets an existing regulation without creating any new rights or duties, it is not subject to the requirement of notice and opportunity for public comment under 5 U.S.C. 553(b)(A). Similarly, as an interpretive rule, this rule is not subject to a 30-day delay in effective date pursuant to authority set forth at 5 U.S.C. 553(d)(2).

This rule has been determined to be not significant for the purposes of E.O. 12866.

Dated: November 21, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–29051 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 228
Tuesday, November 28, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Small Business Investment Companies

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: In response to President Clinton's government-wide regulatory reform initiative, the Small Business Administration (SBA) is proposing to restructure its existing regulations. This proposed rule is intended to streamline the regulations governing the Small Business Investment Company (SBIC) program. To this end, SBA proposes to eliminate obsolete regulations and to reorganize the remaining regulations in a more readable format.

In addition to changes in organization, the proposed regulations include a number of substantive changes, many of which are intended to reduce the regulatory burden on Licensees, as well as SBA's administrative burden. Other proposed changes would provide additional protection for SBA's position as a creditor of, or investor in, Licensees with outstanding Leverage. At the same time, certain requirements would be made inapplicable to non-leveraged Licensees, which pose no financial risk to the Agency.

DATES: Comments must be submitted on or before December 28, 1995.

ADDRESSES: Written comments should be addressed to David R. Kohler, Regulatory Reform Initiative Team Leader, Office of General Counsel, U.S. Small Business Administration, 409 3rd Street, S.W., Suite 13, Washington, D.C. 20416, Attn. Part 107.

FOR FURTHER INFORMATION CONTACT: Leonard W. Fagan, Investment Division, at (202) 205–6510.

SUPPLEMENTARY INFORMATION: On March 4, 1995, President Clinton issued a Memorandum to all federal agencies, directing them to simplify their regulations. In response to this directive, SBA has completed a page-by-page, line-by-line review of all of its existing regulations to determine which might be revised or eliminated. As a result of its review of the regulations governing the SBIC program, SBA is proposing to eliminate obsolete or redundant regulations, substantively revise others, and reorganize all of Part 107 in a more readable format.

In this proposed rule, all sections are renumbered for purposes of clarity and improved organization, and the regulations are organized into the following new subparts:

(A) Introduction to Part 107.

(B) Definition of Terms Used in Part 107.

(C) Qualifying for an SBIC License.

(D) Changes in Ownership, Control, or Structure of Licensee; Transfer of License.

(E) Managing the Operations of a Licensee.

(F) Record keeping, Reporting, and Examination Requirements for Licensees.

(G) Financing of Small Businesses by Licensees.

(H) Non-leveraged Licensees, Exceptions to the Regulations.

(I) SBA Financial Assistance for Licensees (Leverage).

(J) Licensee's Noncompliance with Terms of Leverage.

(K) Ending Operations as a Licensee.

(L) Miscellaneous.

For convenience, this preamble includes a chart listing the current section numbers in Part 107 and matching them to either a corresponding proposed regulation or indicating that the current section is deleted in the proposed regulations. The chart also identifies the character of any changes to the current regulations.

Following the chart is a two-part analysis of the proposed changes to the SBIC regulations. Part I details regulations that would be eliminated. Part II describes proposed modifications of the current regulations and the policy reasons for them.

PART 107: CURRENT AND PROPOSED SECTION NUMBERS

Current section	Proposed section	Revised (non-substantive)	Revised (substantive)	Deleted	No change
107.1	107.20				X
107.2	107.40		X		
107.3	107.50		X		
107.4	107.160	X	X		
107.101(a)	107.130, 107.230(d)	X	X		
107.101(b)	107.508	X			
107.101(c)				X	
107.101(d)	107.200	X			
107.101(e)	107.210	X			
107.101(f)	107.230(e)	X			
107.101(g)	107.503	X			
107.101(h)	107.504	X			
107.101(i)	107.710	X			
107.102(a)	107.300		X		
107.102(b)	107.400(b), 107.680(b)	X			
107.103				X	
107.104	107.475*	X			
107.105	107.1900	X			
107.210(a)–(d)	107.1100–107.1140	X			
107.210(e)	107.509	X			

PART 107: CURRENT AND PROPOSED SECTION NUMBERS—Continued

Current section	Proposed section	Revised (non-substantive)	Revised (substantive)	Deleted	No change
107.210(f)(1)–(4)	107.1700				X
107.210(f)(5)	107.560	X			
107.210(f)(6)	107.550		X		
107.210(g)	107.1710				X
107.210(h)	107.1830–107.1850	X			
107.210(i)	107.1720				X
107.215	107.1200–107.1240	X			
107.215(a)	107.1200(c)		X		
107.215(f)(1)	107.1230(b)		X		
107.220(a)–(b)	107.1150(a)	X			
107.220(c)	107.1150(b)	X			
107.220(d)	107.1150(b)(2)				
107.220(e)	107.1170	X			
107.230(a)	107.1100(b)	X			
107.230(b)	107.1400–107.1430	X			
107.230(c)(1)–(5)	107.1160	X			
107.230(c)(3)(iii)	107.1160(f)		X		
107.230(c)(4)(iv)	107.1160(f)		X		
107.230(c)(6)	107.1170	X			
107.230(d)	107.1100(c)	X			
107.230(e)	107.1350	X			
107.230(f)	107.1450	X			
107.241(a)	107.220	X			
107.241(b)	107.1500(b)(4)	X			
107.241(c)	107.150		X		
107.241(d)	107.140, 107.510		X		
107.241(e)	107.570	X			
107.241(f)	107.1505	X			
107.241(g)	107.1500(e)	X			
107.241(h)	107.1500(f)	X			
107.242	107.1510		X		
107.243	107.1520, 107.1540	X			
107.244	107.1530	X			
107.245(a)	107.1540(a)	X			
107.245(b)	107.1550	X			
107.245(c)	107.1560	X			
107.245(d)	107.1570	X			
107.245(e)	107.1580	X			
107.246	107.1520(g)	X			
107.247	107.1590	X			
107.250	107.1600– 107.1680				X
107.260	107.1800	X			
107.261	107.1810	X			
107.262	107.1820	X			
107.263	107.1910				X
107.301(a)	107.830		X		
107.301(b)	107.845	X			
107.302	107.855		X		
107.303	107.740	X			
107.304(a)	107.610, 107.700	X			
107.304(b)	107.620	X			
107.304(c)	107.630(e)	X			
107.305				X	
107.320(a)	107.800	X			
107.320(b)	107.815(a)	X			
107.321	107.850		X		
107.322				X	
107.401	107.820		X		
107.402(a)	107.825	X			
107.402(b)–(c)				X	
107.402(d)–(e)	107.860		X		
107.402(f)	107.830(d)(3)	X			
107.402(g)	107.855		X		
107.403(a)				X	
107.403(b)(1)	107.835		X		
107.403(b)(2)				X	
107.403(b)(3)	107.828	X			
107.404	107.828		X		
107.501	107.900		X		
107.601	107.410–107.440	X			

PART 107: CURRENT AND PROPOSED SECTION NUMBERS—Continued

Current section	Proposed section	Revised (non-substantive)	Revised (substantive)	Deleted	No change
107.601(e)	107.1120(f)	X			
107.601(g)				X	
107.602	107.460		X		
107.603	107.450	X			
107.701	107.30				X
107.702				X	
107.703	107.500				X
107.704	107.501		X		
107.705(a)	107.240	X			
107.705(b)	107.250	X			
107.706	107.760	X			
107.707(b)	107.828(d)	X			
107.708(a)&(b)	107.530	X			
107.708(c)	107.1000	X			
107.709	107.510		X		
107.710	107.880		X		
107.711	107.750	X			
107.712	107.120	X			
107.801	107.865		X		
107.802	107.585	X			
107.803	107.470	X			
107.804	107.720(e)	X			
107.901(a)	107.720(a)	X			
107.901(b)	107.720(i)	X			
107.901(c)	107.720(c)		X		
107.901(d)	107.720(f)	X			
107.901(e)	107.720(g)		X		
107.901(f)	107.720(b)		X		
107.901(g)	107.720(h)	X			
107.902	107.590		X		
107.903	107.730	X			
107.904	107.885	X			
107.905	107.502	X			
107.906	107.507	X			
107.1001	107.690–107.692		X		
107.1002(a)–(b)	107.600		X		
107.1002(c)–(d)	107.660	X			
107.1002(e)	107.630		X		
107.1003(a)	107.506	X			
107.1003(b)				X	
107.1004	107.680	X			
107.1101	107.670	X			
107.1201	107.1920	X			
107.1202	107.1930	X			

Part I

Eliminated Sections

SBA proposes deletion of the following sections of the current regulations. The effect of the proposed deletion and the reason for the action is provided.

Current § 107.103 would be deleted, eliminating the requirement for giving public notice of license applications. Similarly, § 107.601(g) requiring public notice of an application for a change in a proposed transfer of Control over a Licensee would be deleted. The Agency has received few comments in the past on either type of application and believes these requirements unnecessarily lengthen the application process.

Current § 107.305 would be deleted, eliminating the requirement for Licensees to conduct a "post closing review" of each Financing of a Small Business in order to assure that the proceeds were used for the intended purposes. The requirement that Financing documents contain certain standard provisions restricting the use of proceeds, and the requirement for Licensees to report any unauthorized diversion of funds to SBA, would also be eliminated. SBA believes these provisions are burdensome because of the special documentation requirements imposed, and essentially redundant because other regulations require an SBIC to identify and monitor a Small Business's use of financing proceeds. In particular, under proposed § 107.620 (which would replace current § 107.304(b)); a Licensee must obtain information about a Small Business's intended use of proceeds before extending any Financing and must obtain updated financial information sufficient to verify the actual use of proceeds.

Current § 107.322, which allows an SBIC making an equity investment to place restrictions on current and future indebtedness of the financed Small Business, would be deleted. This deletion would not restrict the rights of Licensees in any way, since the practices described are specifically permitted under the Act. See 15 U.S.C. section 684(b).

Part II

1. Subpart A—Introduction to Part 107

As part of its effort to make the regulations more readable, SBA has used "you" to refer to a Licensee or a license applicant, as appropriate, throughout Part 107. Proposed § 107.40(c) explains this convention.

2. Subpart B—Definition of Terms Used in Part 107

SBA proposes revising the following definitions currently found in § 107.3 of the regulations.

a. "Close Relative" and "Secondary Relative"

The definition of "Close Relative" would be narrowed to cover only immediate relatives (spouses, along with parents, children, brothers and sisters, and their spouses). Other relatives, such as grandparents and grandchildren, aunts, uncles, and first cousins, would be defined as "Secondary Relatives." The two separate categories have been proposed so that a distinction between them can be made in the definition of "Associate", which is discussed below. The effect of the change is to limit the circumstances under which concerns with only a peripheral relationship to a Licensee, through a Secondary Relative, become its Associates.

b. "Associate"

SBA proposes two modifications to the definition of "Associate", a key term that appears extensively in the conflict of interest rules (proposed § 107,730), and in various other regulations including proposed §§ 107.150 (management and ownership diversity requirement), 107.865 (Control of Small Businesses), and 107.885 (disposition of assets to Licensee's Associate).

Proposed paragraphs (h) and (i) specify the conditions under which an Associate's involvement in a concern, either through positions held or ownership interests, causes that concern to become an Associate of a Licensee. The two paragraphs are comparable to paragraph (f) of the current definition, with the following exceptions:

First, under paragraph (h), the presence of an Associate as a director of a concern would no longer cause the concern to become an Associate of the Licensee. SBA believes that an Associate functioning as an outside director is unlikely to create a conflict of interest, and often can provide insight into a company that a Licensee may find useful.

Second, under paragraph (i), a concern would not become an Associate of a Licensee because of its relationship with a Secondary Relative, unless that relative had a majority equity interest in the concern (or controlled it through other means), either alone or with other Associates. For example, a concern in which the uncle of the president of the Licensee had a 10 percent equity interest would not be an Associate of the Licensee (as it is under the current definition). However, if the uncle were the majority owner of the concern, it would be an Associate. SBA has proposed this change to exclude from the definition of Associate those concerns that are only marginally related to the Licensee.

c. "Control Person"

The definition of "Control Person" was developed in part to identify persons that might control, or at least influence, a Partnership Licensee's general partner and thus the Licensee itself, even though they themselves might have no direct relationship with the Licensee. This designation is important for regulatory purposes because Control Persons are considered Associates of the Licensee.

A portion of the current definition identifies as a Control Person (1) any investor that has at least a 10 percent ownership interest in a Licensee's general partner and participates in the general partner's investment decisions concerning the Licensee; or (2) any passive investor that has at least a 40 percent ownership interest in a Licensee's general partner.

The proposed rule would make the following change to the definition of Control Person:

Under paragraphs (c) and (d), the same criteria that cause an investor in a Licensee's general partner to become a Control Person would also be applied to a direct investor in the Licensee. For example, under paragraph (d), a 40 percent limited partner in the Licensee's general partner would be a Control Person, and so would a 40 percent limited partner in the Licensee itself. This proposal reflects SBA's belief that a limited partner's potential influence on a partnership Licensee is no different from that of a limited partner with an equivalent ownership interest in a partnership serving as the Licensee's general partner.

d. "Equity Capital Investment"

A Licensee with Participating Securities must make "Equity Capital Investments" in an amount at least equal to the total amount of Participating Securities issued. In addition, the amount of Equity Capital Investments in its portfolio at the end of each fiscal year must remain at least equal to the amount of its outstanding Participating Securities. SBA is not proposing any substantive change in the definition of Equity Capital Investments, but is proposing to clarify that an investment classified as a Debt Security is not precluded from qualifying as an Equity Capital Investment.

There are two general categories of Debt Securities that may qualify as Equity Capital Investments. First, the definition of Equity Capital Investments specifically includes "subordinated debt with equity features if such debt provides only for interest payments contingent upon and limited to the extent of earnings." Such debt must also be unsecured and non-amortizing in order to qualify.

Second, certain equity interests may qualify as Equity Capital Investments even if they have covenants and/or redemption provisions that require them to be classified as Debt Securities for regulatory purposes. Such an investment may qualify if a Licensee's ability to recover its investment and/or realize returns is subject to essentially the same conditions that apply to a qualifying subordinated debt instrument. For example, a Licensee could purchase the preferred stock of a Small Business, with a provision requiring the issuer to redeem it after five years at its original cost plus any accumulated unpaid dividends. Because of the mandatory redemption provision, the investment would be treated as a Debt Security under proposed § 107.800. However, as long as dividends were payable only from retained earnings, the investment would qualify as an Equity Capital Investment.

e. "Financing"

In the current regulations, "Financings" are defined to include commitments made to Small Businesses in addition to amounts actually invested and amounts guaranteed. The proposed definition would exclude such commitments. SBA is proposing this change to make the definition of Financing more objective, and to eliminate the regulatory compliance issues that sometimes arise when Licensees keep making commitments without actually making investments for an extended period of time.

f. "Institutional Investor"

The "Institutional Investor" definition identifies those investors in a Licensee whose unfunded binding commitments may be included in the Licensee's Private Capital. Institutional Investors may be entities or individuals. SBA proposes three non-substantive changes

to this definition which are intended to clarify the Agency's interpretation:

First, proposed paragraph (a)(6), which permits a qualified employee benefit or pension plan to be an Institutional Investor, would clarify that 401(k) plans are excluded. This treatment is consistent with SBA's interpretation of the current regulation.

Second, proposed paragraph (a)(10) would clarify the circumstances under which an entity that invests the funds of others can qualify as an Institutional Investor. The purpose of the clarification is to reflect more precisely the original intent of this paragraph, which is to allow a "fund of funds" to qualify as an Institutional Investor if it is investing on behalf of other entities that also meet the Institutional Investor criteria.

Third, under proposed paragraph (b)(1), an individual with net worth of less than $2 million would qualify as an Institutional Investor only if his/her commitment were backed by a letter of credit from a State or National bank acceptable to SBA. This is a clarification of the current definition, which requires only that the letter of credit be issued by a "qualified Institutional Investor." SBA has proposed the new language to minimize confusion as to the meaning of a "qualified" Institutional Investor.

f. "Lending Institution"

The definition of "Lending Institution" is used in proposed § 107.730 (comparable to current § 107.903), which provides an exemption from the conflict of interest rules for certain transactions involving Lending Institutions that are Associates of the Licensee. Under the current definition, a Lending Institution must be an entity subject to federal or state regulation, such as a bank or savings and loan association. SBA recognizes, however, that other types of entities now extend credit in a manner similar to banks. Therefore, SBA proposes that the term "Lending Institution" be expanded to include corporations engaged in activities similar to those performed by commercial lenders, if they have assets in excess of $500 million and their shares are publicly traded and listed on a recognized stock exchange or NASDAQ. SBA believes that such entities, although not regulated in the same manner as banks, have sufficient oversight under federal securities laws.

g. "Disadvantaged Business"

SBA is proposing to change the defined term "Disadvantaged Concern" to "Disadvantaged Business"; however, the Agency is not proposing any change in the definition itself at this time. SBA is reviewing the definition as part of an examination of various issues affecting the SSBIC program, and intends to work with the SSBIC industry to develop a revised definition which will be proposed at a later date.

3. Subpart C—Qualifying for an SBIC License

a. Permitted Forms of Organization for Licensees

Proposed §§ 107.100 and 107.110 describe the permitted forms of organization for Section 301(c) and Section 301(d) Licensees, respectively; these provisions are currently found in § 107.3. The proposed sections would delete limited liability companies as a permitted form of organization because this form is not currently authorized by the Act. SBA plans to seek a legislative change that would permit SBICs to organize as limited liability companies.

b. 1940 Act and 1980 Act Companies

Under proposed § 107.115, SBA would license 1940 and 1980 Act Companies only if they do not elect to be taxed as regulated investment companies under section 851 of the Internal Revenue Code. The same criteria would be applied to existing Licensees seeking to convert to 1940 Act or 1980 Act Companies. This reflects current program policy in the licensing area, and is being formalized because the tax code conflicts with the distribution regulations applicable to Participating Securities as mandated by the Act, and with SBIC program accounting guidelines that limit other profit distributions to the amount of a Licensee's Retained Earnings Available for Distribution. Such distribution regulations are designed to reduce risk to SBA by protecting its investment or creditor position.

c. SBIC management

Proposed § 107.130 would continue the general requirement in current § 107.101(a) that each Licensee must have qualified management approved by SBA. However, two changes are proposed. First, the specific requirement that the manager be "available to the public during normal business hours" would be eliminated, giving Licensees greater flexibility in their management arrangements. Second, each Licensee would be required to designate at least one individual as the official responsible for contact with SBA. This change would allow SBA to address communications to a specific person, who would be responsible for routing information to the appropriate persons within the Licensee's organization.

d. SBA approval of initial Management Expenses

Under proposed § 107.140, all new license applicants would be required to obtain SBA approval of their initial Management Expenses. Currently, SBA approves initial Management Expenses only if an applicant plans to issue Participating Securities, or if an applicant plans to issue Debentures and utilizes an Investment Advisor/Manager. Otherwise, SBA approves only management compensation. With the proposed change, SBA seeks to have consistency in controlling excessive expenses of Licensees, regardless of management structure or the type of Leverage an applicant expects to issue.

e. Management and Ownership Diversity

Proposed § 107.150 would require all license applicants planning to obtain Leverage to have diversity between management and ownership. This represents an expansion of current § 107.241(c), which requires such diversity only for applicants that plan to issue Participating Securities. SBA's intent in broadening the diversity requirement is for all new leveraged Licensees to have investors who are independent of management and who have a substantial stake in the Licensee's financial performance. The Agency believes that the presence of such investors will reduce the potential for self-dealing and help to assure that Licensees are operated with the objective of optimizing returns and protecting the interests of all investors. Under current § 107.241(c), the diversity criteria may be satisfied either by a Licensee or by its "ultimate parent" (an entity that has an interest in the Licensee's Regulatory Capital of more than 50 percent). Proposed § 107.150 would not change the diversity criteria, but would require them to be satisfied by the Licensee itself unless SBA agreed to accept diversity achieved at the parent level as a substitute. The Agency believes that it must have this discretion in order to assure that a Licensee has genuine diversity between management and ownership, as opposed to an ownership structure that provides "technical" diversity but does not satisfy the intent of the regulation.

Finally, under proposed § 107.150, any SBIC that was required to have diversity in order to be licensed would also have to maintain diversity as long as it had outstanding Leverage or Earmarked Assets in its portfolio. A Licensee that failed to maintain diversity would have to re-establish it within six months.

f. Special Rules for Partnership Licensees

Proposed § 107.160(b) would allow an Entity General Partner to be organized for the sole purpose of serving as the general partner of one or more Licensees. Under the current regulation (§ 107.4), an entity may serve as the general partner of only one Licensee. The proposed change would reduce the expense and administrative burden of general partners that Control more than one company in the SBIC program.

g. Minimum Capital Requirements

Proposed § 107.220 would require any company licensed after the regulation is finalized to have Regulatory Capital of at least $5,000,000 in order to apply for Debentures, unless it demonstrates to SBA's satisfaction that it can be financially viable over the long term with a lower amount. A review of the financial performance of Licensees supports the conclusion that Regulatory Capital below $5 million significantly reduces the likelihood of profitable operation over the long term. Companies licensed before the effective date of the final rule would be grandfathered under proposed §§ 107.210(a) or (b), or § 107.220(c), depending on the date they were licensed.

h. Qualified Non-private Funds

Proposed § 107.230(d) would broaden the definition of "qualified non-private funds" which may be included in the Private Capital of Section 301(d) Licensees. Currently, a nonprofit entity that has received state or local government grant funds may invest only the income derived from such grant funds in a Section 301(d) Licensee. The proposed change would allow a nonprofit entity to invest the principal of the grant funds in a Section 301(d) Licensee as long as: (1) the nonprofit entity exercises discretionary authority over such funds, and (2) SBA determines that such funds have taken on a private character and that the nonprofit entity is not simply acting as a conduit for government funds.

i. License Application Fees

Proposed § 107.300 would raise the license application fee in order to reflect the true costs of processing applications and to reimburse SBA for such costs. In accordance with applicable statutory provisions, the Administration has taken into consideration direct and indirect costs to SBA of necessary services performed, value to the recipients, the public policy interest served, and other pertinent factors involved. The base fee would be raised from $5,000 to $10,000 for all applicants. There would be a surcharge of $5,000 for a Partnership applicant and an additional $5,000 surcharge for an applicant planning to issue Participating Securities. Thus, a Partnership applicant that intends to issue Participating Securities would pay a fee of $20,000.

4. Subpart D—Changes in Ownership, Control or Structure of Licensee; Transfer of License

a. Fees for Transfer of Control or Change in Form of Organization

Proposed § 107.410 would raise the processing fee for an application to transfer Control of a Licensee from $5,000 to $10,000. The fee would be the same as the base amount charged for a new license application, as discussed under subpart C. Proposed § 107.470 would require a $5,000 processing fee for a change in a Licensee's form of organization (from a corporation to a partnership, or vice versa) which does not involve a change of Control.

b. Licensees under Common Control

Under current § 107.602, SBA generally must approve common management or ownership of two or more Licensees. Section 301(d) Licensees, however, are exempt from this requirement. Proposed § 107.460(b) would narrow the exemption, limiting it to a Section 301(d) Licensee and its parent Section 301(c) Licensee. SBA considers this to be an issue of safety and soundness which is equally applicable to Section 301(c) and Section 301(d) Licensees.

5. Subpart E—Managing the Operations of a Licensee

a. Identification as a Licensee

Under current § 107.704, a Licensee must identify itself to the public as "A Federal licensee under the Small Business Investment Act of 1958" on all written communications. Proposed § 107.501 would limit this requirement only to Financing documents (commitment letters, closing documents, etc.), where SBA believes the requirement is most meaningful. This change would accommodate the increasing number of Licensees that utilize Investment Advisor/Managers, by allowing such managers to handle correspondence on behalf of Licensees using their own letterhead.

b. Responsibility for Licensee's Valuations

Current § 107.101(g)(1) states that a Licensee's board of directors or general partners shall have "sole responsibility" for valuing the Licensee's Loans and Investments. This regulation was not intended to mean that SBA would abandon its obligation as a regulatory agency to exercise oversight over this critical area of a Licensee's operations. Therefore, proposed § 107.503(c) would clarify SBA's original intention by stating that the board of directors or general partners are solely responsible for using the Licensee's approved valuation policy to prepare the Licensee's valuations of its Loans and Investments for submission to SBA. The Agency would reserve the right to review or independently establish valuations.

c. Facsimile Receiving Capability

Proposed § 107.505 would require Licensees to be capable of receiving fax messages 24 hours a day. In order to make the most efficient use of limited resources, most communications from SBA to SBICs are done at night through broadcast faxes.

d. Internal Control

Current § 107.100 contains many specific requirements concerning internal control procedures and the safeguarding of a Licensee's assets. Under proposed § 107.506(a), the requirements for dual control over cash disbursements and securities (or alternative bond coverage) would be eliminated. The general requirement that Licensees adopt a plan to safeguard their assets and maintain an adequate internal control environment would remain. SBA believes that proper safeguards and controls are essential if Licensees are to operate soundly and profitably, but that Licensees themselves are in the best position to determine the appropriate procedures.

e. SBA Approval of Contract With Investment Adviser/Manager

Proposed § 107.510 would require SBA's prior approval of a contract with an Investment Adviser/Manager only for Licensees that have Leverage or plan to seek Leverage. Prior approval is currently required for all Licensees. SBA considers this provision to be unnecessary when the Agency has no financial interest to protect.

Although it is not addressed in the regulations, SBA's current policy concerning a Licensee's contract with an Investment Adviser/Manager requires that such contracts contain a provision allowing for termination, without

penalty to the SBIC, on not more than 60 days notice (see SBA Policy and Procedural Release #2001). SBA intends to eliminate this requirement because it believes that such a provision is a matter for negotiation between the two parties.

f. Management Expenses

Current § 107.241(d) requires Licensees with Participating Securities or Earmarked Assets to have their Management Expenses approved by SBA at the time of licensing and before any proposed increases in such expenses. Proposed § 107.520, together with proposed § 107.140 (discussed above), would extend this requirement to Licensees with any type of outstanding Leverage. Under proposed § 107.520(c), a leveraged Licensee whose Management Expenses had not already been approved by SBA would be required to submit such expenses for approval with its SBA Form 468 for its first fiscal year ending after the effective date of the final rule. SBA believes that this review of the expenses of leveraged Licensees is consistent with its obligation to ensure the safety and soundness of the SBIC program.

In evaluating the expenses of Licensees, particularly those that have been in the program for some time, SBA does not intend to impose any specific expense ceiling or formula. Rather, the Agency will compare Licensees with similar profiles to determine whether a Licensee is out of line with its peers in terms of its operating costs.

SBA is also proposing a non-substantive change in the definition of Management Expenses. This proposed rule would delete language from the definition (currently found in § 107.3) which states that Management Expenses do *not* include "the cost of services provided by any Associate of the Licensee which are not part of the normal process of making and monitoring venture capital financings." This language is found in the Act and SBA does not intend to change the meaning of Management Expenses as a result of the deletion. Rather, SBA believes that this exclusion is encompassed in proposed § 107.520(b), which excludes from Management Expenses the cost of services provided by "specialized outside consultants, outside lawyers and independent public accountants, if they perform services not generally performed by a venture capital company." As SBA interprets this provision, "outside" consultants and lawyers may be Associates of the Licensee, so it is not necessary to include a separate provision dealing with Associates in the regulations.

g. Limitations on Third-party Debt

Under current § 107.210(f)(6), Licensees with outstanding Leverage must obtain SBA's prior written approval before incurring secured third-party debt. Under proposed § 107.550(a), expansion of the scope of a security interest or lien associated with existing debt would also require SBA approval. This proposal is intended to address SBA's concern about situations in which SBICs have given blanket liens on all their assets to third-party creditors, even when the amount of money borrowed is very small by comparison.

A similar concern underlies proposed § 107.550(c), which states specifically that SBA would look unfavorably upon any request involving a blanket lien on all assets, or a security interest in the Licensee's unfunded investor commitments in excess of 1.25 times the amount to be borrowed. Under proposed § 107.550(d), proposed borrowings would qualify for expedited approval by SBA only if the security interest given were limited either to the assets acquired with the borrowed funds or to an asset coverage ratio of no more than 1.25 to 1.

h. Activity Requirement

Proposed § 107.590 would revise the test used to determine whether an SBIC is actively making Financings. The current test is based upon the amount of Financings made over an 18-month period relative to a Licensee's average idle funds balance for the period. With the change in the Act made in 1992 that recognized commitments from Institutional Investors as part of a Licensee's Regulatory Capital, along with associated "lockstep" takedowns of Leverage, most new SBICs take down funds only when needed, and make distributions to their investors as they realize income or gains on their portfolios. Thus, very little idle funds would be maintained by Licensees.

Proposed § 107.590(a) would institute a two-part activity test. In order to be considered active, a Licensee could have no more than 20 percent of its total assets in idle funds at the end of its fiscal year, and must have invested an amount equal to at least 20 percent of its Regulatory Capital over the previous 18 months. In § 107.590(b), there would be recognized exemptions to the activity tests, taking into account the chronological unevenness of investing and profit-taking by SBICs. For example, a Licensee may have excess idle funds at the end of its fiscal year because it recently received Leverage, raised additional capital, or liquidated an investment.

Under proposed § 107.590(c), the activity requirements would be inapplicable to any Licensee that has filed a "Wind-up Plan" approved by SBA. Such a Licensee would no longer be making investments other than follow-on Financings of existing portfolio companies. This new provision accommodates the normal operating pattern of a limited-life investment company.

Proposed § 107.590(d) would provide a phase-in period for the new activity requirements above. During such period, any Licensee that is in compliance with the current regulation would be considered active.

The activity requirements would also be affected by the proposed change in the definition of "Financing" that is discussed under Subpart A. As a result of this change, Licensees would no longer be able to meet the activity test by making commitments to invest in Small Businesses; only actual investments (and guarantees) would count.

6. Subpart F—Record keeping, Reporting, and Examination Requirements for Licensees

a. Record Keeping Requirements

For Licensees with more than one business location, proposed § 107.600(b) would clarify that records relating to an individual Financing transaction may be kept at the branch with primary responsibility for the transaction. For all Licensees, paragraph (b)(3) would clarify that a Licensee's securities may be held in a safe deposit box or by a licensed securities broker, provided the securities are covered by the broker's insurance.

Current § 107.1002(b)(1) requires a Licensee to preserve certain business and accounting records for a period of 20 years. Proposed § 107.600(c)(1) would reduce the period to 15 years for a corporation or two years beyond the date of liquidation for a partnership. SBA believes that shorter time periods are adequate to protect the Agency's interests.

Proposed § 107.610 includes two new documentation requirements for Loans and Investments. Paragraph (c) would implement a recent change in the Act by requiring a Section 301(d) Licensee to have a completed "Financing Eligibility Statement" (SBA Form 1941) for each Financing, certifying that the concern being financed is a Disadvantaged Business. Paragraph (d) would require each concern being financed to certify its intended use of the financing proceeds. This change is intended to make it easier for Licensees to satisfy § 107.620 (the equivalent of current § 107.304(b)), which requires that information be obtained regarding a Small Business's intended use of Financing proceeds.

b. Insurance Requirement for Independent Public Accountants

Proposed § 107.630(a)(2) would require all accountants who perform audits of SBICs to carry errors and omissions insurance or be self-insured with a net worth acceptable to SBA. The Agency is proposing this change because, in a number of instances, substandard audits have resulted in a misleading presentation of a Licensee's financial condition. The change would create a source of recovery for monetary damages in the event SBA or the SBIC were injured as a result of an auditor's negligence. SBA recognizes that the regulation, as proposed, does not provide adequate guidance, particularly as far as the amounts of insurance or net worth that would be "acceptable to SBA." The Agency strongly encourages Licensees, accountants, and other interested parties to submit any suggestions on this topic.

c. SBA Access to Accountant's Work Papers

Proposed § 107.691 would require the agreement between a Licensee and the independent public accountant performing its annual audit to allow SBA personnel, including examiners, to have access to the accountant's work papers. Although SBA does not expect to review accountants' work papers on a routine basis, the Agency believes that it needs such access to carry out its regulatory oversight function.

d. Examination Fees

Proposed § 107.692(a) would increase the examination fees charged to SBICs. Fees would continue to be assessed based on total assets of the Licensee, but at higher rates as shown in the table included in the proposed rule. The proposed fee schedule was designed to produce total revenue sufficient to cover the current direct costs to SBA of conducting examinations. The change would help to sustain the examination function, which is a key element in maintaining the integrity of the SBIC program.

Proposed § 107.692 would reflect inflation and the actual costs of delay to SBA, by increasing from $250 to $500 per day the fee imposed if an examination is delayed due to a Licensee's lack of cooperation or based on the condition of its records. Licensees are required to cooperate with SBA's examination; Licensees are also required to maintain their records in a reasonable and businesslike manner. This section is designed as an incentive to SBICs to cooperate with the examination and to compensate SBA for costs incurred if they do not.

7. Subpart G—Financing of Small Businesses by Licensees

a. Financings of Smaller Businesses

Although proposed § 107.710 contains approximately the same wording as current § 107.101(i), the requirement to finance Smaller Businesses would be affected by the proposed change in the definition of "Financing." As discussed under Subpart A, this term would no longer include commitments to make investments. Thus, only actual loans, investments, or guarantees would be counted when measuring the amount of "Financing" extended to Smaller Businesses.

Another change is proposed in § 107.710(e), which deals with Licensees that have not achieved the required percentage of Financings to Smaller Businesses. The current regulation states that such Licensees may provide Financing only to Smaller Businesses until they are in compliance. The proposed rule would allow greater flexibility, requiring only that such Licensees reach the required percentage by the end of their next fiscal year.

b. Passive Businesses

Existing § 107.901(f) prohibits the Financing of passive businesses; however, the term "passive" is inadequately defined. Proposed § 107.720(b) would provide more specific criteria. For example, the proposed rule would clarify that a business is passive if its employees are not making the day to day operating decisions of the company, or if it passes substantially all of the Financing proceeds through to another entity. The proposed changes are consistent with the public purpose of the SBIC program, which is to provide capital to operating small businesses to stimulate the economy and create jobs.

c. Real Estate Investments

Financing of most real estate leasing and development activities is prohibited or restricted under current §§ 107.901(c) and 107.101(c) since SBA considers that the Section 504 program is specifically designed to finance real estate. In addition, most real estate investments tend to be "project"-oriented rather than the financing of an on-going long-term business. Proposed § 107.720(c) would recognize these realities by narrowing the range of permitted real estate-related financing. Financing of real estate subdividers and developers (who subdivide and improve building lots), and of "operative builders" (who build homes or other buildings) would be prohibited. Currently, these activities are permitted, though only on a limited basis (see current § 107.101(c)). The section would also prohibit financing of businesses that buy real estate for the purpose of improving and reselling it, an activity currently permitted under § 107.901(c)(2)(ii).

However, the Financing of the acquisition of real estate by an operating concern for its own use would still be permitted, and the restrictions in current § 107.101(c) that limit investment in companies that operate hotels and motels would be removed.

d. Project Financing

Proposed § 107.720(d) would prohibit project financing (such as dams, oil and gas wells, and motion pictures). Although this prohibition does not appear in the current regulations, it has been in effect as a matter of policy for more than ten years, reflecting SBA's view that project financing is essentially short-term in nature and is inconsistent with the goals of the Act. An investment is considered project financing if the assets of the business are reduced as the life of the business progresses (as opposed to a continuing business that regularly replenishes its inventory, for example) and the business provides a stream of cash payments to its investors or lenders as assets are sold (for example, payments made as oil is pumped from a well and sold). An investment is also considered project financing if its major purpose is to fund production of a specific item (such as a motion picture), over a limited period of time, by a company whose major activity consists of such production. The company need not have been formed for the specific purpose of carrying out the project, although this is often the case.

e. Foreign Investment

The current § 107.901(e) requires at least 51 percent of the "assets and activities" of a Financed Small Business to remain within the United States. The term "assets and activities" has never had a definitive interpretation. Proposed § 107.720(g) would clarify the restriction on foreign investment by requiring at least 60 percent of the employees and at least 60 percent of the tangible assets to remain within the United States for one year after the Financing unless the SBIC can demonstrate, to SBA's satisfaction,

that the proceeds were used for a specific domestic purpose.

f. Conflicts of Interest

Proposed § 107.730(a)(4) would permit a Licensee to provide financing that the Small Business will use to repay an obligation to a Lending Institution that is an Associate of the Licensee, provided the obligation was incurred in the normal course of business. The current requirement that such obligations be short-term would be removed, in order to give Small Businesses greater flexibility in meeting their financing needs.

Proposed § 107.730(d) would replace the current rules on "Joint Financings with Associates" (which cover investments by a Licensee and its Associate that take place no more than 6 months apart) with new provisions on "Financings with Associates" (which cover all situations in which a Licensee and its Associate finance the same Small Business, regardless of when each party invests). The basic requirement for such Financings is that a Licensee be able to demonstrate that the terms and conditions are fair and equitable to the Licensee (paragraph (d)(2)). This reflects SBA's fundamental concern that a Licensee not be disadvantaged relative to its Associates when these parties co-invest. The proposed regulation would also establish certain categories of Financings with Associates that would require SBA's prior written approval (paragraph (d)(1)), and other categories that would be exempt from such requirement (paragraph (d)(3)).

In addition to the specific changes proposed, § 107.730 would also be affected throughout by the proposed changes in the definition of "Associate" that are discussed under Subpart A.

g. Overline Limitation

Under current § 107.303(c), a Licensee may increase its "overline" limit (the maximum amount it is permitted to invest in any one company) if it has net unrealized appreciation on "marketable securities." Proposed § 107.740 contains the same rule, but would replace the term "marketable" with the very similar defined term "Publicly Traded and Marketable" used elsewhere in the regulations. The only effect of the change would be on the number of market makers that a non-listed stock must have in order to qualify (two under the proposed rule, compared with three under the current rule).

h. Definition of "Equity Securities"

Under proposed § 107.800(b), an apparent equity financing would be considered Debt Financing for regulatory purposes if the Financing agreement included covenants or compliance provisions with remedies typical of debt, such as acceleration. This change is consistent with current SBA policy, under which the Agency looks to the substance of an investment rather than its form in order to determine whether it is debt disguised as equity.

Under the current regulation, securities that the Small Business must redeem at a fixed price are classified as Debt Securities rather than equity. Under proposed § 107.800(b) in combination with § 107.850(b), this provision would remain in effect with one clarification: If the fixed redemption price is no higher than the amount the Licensee originally paid for the security, then the security would still qualify as an Equity Security.

As used in proposed § 107.850(b), "redemption price" includes all amounts that the Small Business is required to pay at redemption, including accumulated dividends. Thus, if a Licensee purchased the preferred stock of a Small Business for $500,000, and the Financing agreement required the Small Business to pay $500,000 at the time of redemption, the Licensee's investment would be considered an Equity Security. However, if the required payment at the time of redemption was $500,000 plus cumulative dividends of 8 percent per year, the investment would be considered a Debt Security.

i. Options Received from Small Businesses

Proposed § 107.815(a) would require a Licensee to pay some consideration (even if only $1) for any options acquired from a Small Business, in order to establish a basis for such options.

Proposed § 107.815(b) would restrict the ability of a Licensee's employees, officers, directors, or general partners to receive options in a Small Business financed by the Licensee. Such persons could receive options only if they participated in the Financing on the same terms and conditions as the Licensee or if approved by SBA. The Agency believes that officers and partners of SBICs should share in the overall profits of an SBIC, but should not have special beneficial side deals.

j. Guarantees of the Obligations of Small Businesses

Proposed § 107.820 would delete two provisions from the current rules on guarantees. Current § 107.401(a)(6), which permits a Licensee to guarantee a Small Business's obligation to an Associate if approved by SBA under the rules governing conflicts of interest, would be eliminated. This type of arrangement is covered in the conflict of interest provisions and does not need to be repeated in this section. The second proposed change is that guarantees would no longer be limited to 100 percent of Regulatory Capital. Guarantees are considered Financings and are included in a Licensee's overline computation, since the risk to the Licensee is the same whether a cash investment is made or whether a guarantee is utilized. Thus, SBA should not have a preference for one type of Financing over another, so long as a Small Business benefits.

k. Fees Paid to Associate Underwriters

Proposed § 107.828(c) would allow an underwriter who is an Associate of a Licensee to receive fees from Licensees that purchase securities in an initial public offering, including the Licensee with which it has the Associate relationship. However, if the underwriter and the Licensee are Associates, the total fees or charges paid by the Licensee may not exceed the total of the application and closing fees and reimbursable expenses permitted by proposed § 107.860. The current regulations prohibit an underwriter who is an Associate of a Licensee from receiving fees from any Licensee, and thus effectively requires Licensees to purchase from non-Associate underwriters. This proposed regulation recognizes the risks involved in underwriting and allows an underwriter to be compensated.

l. Minimum Term of Financings

Under proposed § 107.830(b), the entire portfolio of a Section 301(d) Licensee could consist of Financings with a minimum term of four years instead of five. Currently, such Financings are limited to 50 percent of a Section 301(d) Licensee's portfolio. This change is intended to give Section 301(d) Licensees greater flexibility in structuring their Financings.

Currently, short-term Financings permitted under § 107.403 are limited, in the aggregate, to 20 percent of a Licensee's "total adjusted assets" (total assets minus outstanding Leverage and current liabilities). Proposed § 107.835 would remove this limitation for most types of permitted short-term Financings. For short-term Financings of changes of ownership in a Small Business, the limit would be set at 20 percent of total Loans and Investments (at cost). SBA is proposing these changes to give Licensees greater flexibility to respond to the needs of

Small Businesses. However, Licensees should bear in mind that the purpose of the SBIC program, as stated in the Act, is to provide equity capital and long-term loan funds to Small Businesses. Thus, Licensees should not plan to have the bulk of their portfolios in short-term investments; to do so would constitute engaging in activities not contemplated by the Act.

m. Amortization of Loan Principal

Proposed § 107.845 would establish uniform amortization rules for all Loans and Debt Securities. This change would eliminate the accelerated amortization of principal permitted, to a limited extent, under current § 107.403(b)(2). SBA considers straight-line amortization to be fair to both Licensees and Small Businesses, particularly when coupled with the right of Small Businesses to prepay loans voluntarily at any time.

n. Redemption of Equity Securities

Proposed § 107.850 would provide certain exceptions to the general rule that Equity Securities cannot be redeemed in less than five years. Earlier redemption would be allowed if the Small Business makes a public offering, incurs a change of management or control, files for bankruptcy protection, or materially breaches the Financing agreement. In addition, when a Licensee makes a follow-on investment, the minimum redemption period would be counted from the date of the first closing, so that the follow-on Financing could be redeemed in less than five years.

o. Cost of Money

Under proposed § 107.855, SBA's Cost of Money rules would be substantively revised in some respects and clarified throughout. Paragraph (c) would raise the minimum Cost of Money ceiling for a Loan from 15 percent to 19 percent, allowing an SBIC that does not receive any equity interest in a firm to charge a higher interest rate commensurate with risk. The minimum ceiling for a Debt Security would remain unchanged at 14 percent.

Proposed § 107.855(d) would allow Licensees to recalculate their "Cost of Capital" quarterly rather than annually. The proposed term "Cost of Capital" replaces the current unwieldy term "Weighted Average Cost of Qualified Borrowing." Paragraph (e) would reduce the paperwork burden by eliminating the current requirement for Licensees to submit their Cost of Capital computations to SBA. However, SBICs would have to document such computations and make them available for SBA's review, upon request.

SBA is aware that many private firms do not want to give up any equity at all to outside shareholders, yet would like to grow faster than retained earnings would allow. At the same time, an SBIC must achieve an equity type return if it is taking equity type risks. To accommodate these needs, proposed § 107.855(g) would permit a Licensee to receive a one-time "bonus" from a Small Business at the end of the term of a Debt Financing in lieu of an equity participation, and to exclude such a bonus from the Cost of Money if it meets the criteria in proposed § 107.855(i). Paragraph (g) also explicitly sets forth the fees and expenses that are excluded from Cost of Money calculations; currently, these exclusions are found in the definition of Cost of Money in § 107.3.

Finally, proposed § 107.855(h) would eliminate a great deal of current confusion over how to make the calculations that determine whether an SBIC is in compliance with Cost of Money ceilings. This paragraph would require that the evaluation of compliance with a Cost of Money ceiling always be performed on a discounted cash flow basis, based solely upon actual cash outflows and inflows.

p. Financing Fees Charged to Small Businesses

Proposed § 107.860 would replace the "processing fee" that a Licensee may charge under current § 107.402 with an "application fee" and "closing fee" that are very easy to administer. A Licensee would be able to charge a nonrefundable one percent application fee to review a Financing application, and a two percent (for Loans) or four percent (for Debt or Equity Securities) closing fee when it actually disburses funds to a Small Business. All the complex provisions in the current regulation concerning the circumstances under which a processing fee must be partially or fully refunded would be eliminated.

q. Control of a Small Business

Proposed § 107.865 would modify the restrictions on Control of a Small Business by a Licensee. As in the current regulations, paragraph (b) of the proposed section would establish a presumption of Control based on a Licensee's percentage of ownership. However, proposed paragraph (c) would allow the presumption of Control to be rebutted if the management of the Small Business owns at least 25 percent of the voting securities and can elect at least 40 percent of the board of directors (and Licensees and their Associates can elect no more than 40 percent). By defining conditions under which Licensees can avoid the time-consuming process of seeking a waiver from SBA, this provision is intended to make it easier for Licensee to co-invest with non-SBIC investors.

Proposed paragraph (d) would expand the circumstances under which a Licensee may take temporary Control of a Small Business to include the following: (1) If the Small Business has materially breached the Financing agreement; (2) if there has been during the past two years, or will be as a result of the Financing, a substantial change in the Small Business's operations or products, and the Licensee (or investor group including the Licensee) is the concern's major source of capital; or (3) if the Financing is a Start-up Financing, and the Licensee (or investor group including the Licensee) is the concern's major source of capital. These changes are intended to encourage investment by giving Licensees an increased ability to protect their investment positions, particularly in high-risk areas such as start-ups.

Proposed § 107.865(d) would eliminate the current requirement to file a plan of divestiture when a Licensee takes temporary Control of a concern. Instead, a Licensee would file a "Control certification" stating the date on which it took Control and the reason for its action, and the Licensee's agreement to relinquish Control within five years. SBA is persuaded that the typical plan of divestiture represents nothing more than guesswork as to future events, and therefore serves no practical purpose.

r. Assets Acquired in Liquidation of Portfolio Securities

Proposed § 107.880(b)(2) would eliminate the prior approval requirement for reasonably necessary expenditures to improve acquired assets and make them salable, as long as an overline does not occur as a result. Paragraph (c) would limit the prior approval requirement for expenditures involving overlines to leveraged Licensees only. SBA believes that these changes will not adversely affect the Agency's financial interests and will reduce the regulatory burden on Licensees.

s. Management Services Provided to Small Businesses

SBA is proposing to liberalize the rules governing management services provided to a Small Business. Under proposed § 107.900, a Licensee could provide management services to a Financed Small Business without SBA's prior approval, as long as the contract met the criteria in § 107.900(a). The

proposed regulation would not apply at all to services provided to a Small Business not financed by the Licensee; SBA believes that in such cases, any agreement between the parties is likely to be a true arm's-length transaction, in which the Small Business does not require any special protections.

Proposed § 107.900(e) would allow Licensees to charge reasonable "transaction fees" for services performed in connection with a public or private offering made by the Small Business or the sale of all or part of the business. In addition, this paragraph generally would allow an Associate of the Licensee to charge market rate investment banking fees to a Small Business in connection with Financing provided by anyone other than the Licensee.

8. Subpart H—Non-Leveraged Licensees—Exceptions to Regulations

The primary purpose of certain regulations is to protect the government's interest as a creditor or investor in a Licensee. If a Licensee does not have outstanding Leverage and has no plans to seek Leverage, the safeguards provided by many regulations are unnecessary.

Proposed § 107.1000 would provide a consolidated listing of those regulatory provisions from which a non-Leveraged Licensee would be exempt. This section would include provisions in the current regulations such as those relating to portfolio diversification (overline) and deposits of idle funds. It would also include several provisions that appeared in a proposed rule published in the **Federal Register** on February 7, 1994 (59 FR 5552). That proposed rule is hereby withdrawn.

Proposed § 107.1000(a)(4) would exempt non-leveraged Licensees from the limitations on expenses incurred to maintain or improve assets acquired in liquidation of portfolio securities (see proposed § 1007.880).

Paragraph (b)(1) would allow non-leveraged Licensees to reduce their Regulatory Capital by more than two percent per year without SBA approval (see proposed § 107.585).

Paragraph (b)(2) would permit non-leveraged Licensees to dispose of assets to an Associate without SBA approval (see proposed § 107.885).

Paragraph (b)(3) would allow non-leveraged Licensees to contract with an Investment Adviser/Manager without SBA approval; Licensees would only be required to notify SBA of the compensation paid under the contract (see proposed § 107.510).

For ease of reference, proposed § 10 .1000 would incorporate the current exemptions for non-leveraged Licensees from the rules governing overline investments, third party debt, and idle funds. Regarding the investment of idle funds, proposed § 107.1000(a)(2) states that non-Leveraged Licensees are exempt from the restrictions in § 107.530, provided they do not engage in activities not contemplated by the Act. SBA is proposing this language in order to emphasize that a licensed SBIC, whether leveraged or not, must be formed for the purpose of making long-term investments in Small Businesses. It is not appropriate under the Act, for example, for a non-leveraged Licensee to invest its "idle funds" in commodities futures or financial derivatives to the extent that such investing becomes a major component of its operations.

9. Subpart I—SBA Financial Assistance for Licensees (Leverage)

a. Eligibility for Leverage

Under proposed § 107.1120(a), with respect to determining eligibility for Leverage, a Licensee that had invested at least 50 percent of its Leverageable Capital would be presumed to lack sufficient funds for investment only in connection with its first takedown of Leverage. Currently, the presumption applies to all issuances of Leverage and refers to the investment of "50 percent of Leverageable Capital and outstanding Leverage." Regardless of how this ambiguous wording is interpreted, SBA believes the presumption is not appropriate for later takedowns of Leverage, since a Licensee could be presumed eligible while having a significant dollar amount of uninvested capital.

b. Eligibility For Fourth Tier of Leverage and Second Tier of Preferred Securities

Proposed §§ 107.1160 (c) and (d) would eliminate the current minor distinctions between the types of investments needed for a Section 301(d) Licensee to qualify for a fourth tier of Leverage (currently, "Venture Capital Financings") and for a second tier of Preferred Securities (currently, "Qualified Investments"). The change is intended to simplify the process of establishing and maintaining the required investment amounts and ratios by substituting a single category of qualifying investments (to be called "Venture Capital Financings") for use in determining eligibility for both types of Leverage. The proposed definition of Venture Capital Financing would include equity securities and those debt securities that are unsecured and subordinated to all other borrowings of the issuer.

c. SBA Leverage Commitment to Licensees

Proposed § 107.1200 would reduce the minimum amount of a Leverage commitment from $1 million to $500,000; proposed § 107.1230 would make the same reduction in the minimum amount of a Licensee's draw request. These changes are intended to give Licensees greater flexibility and to recognize the current limitations on the availability of Leverage funds.

d. Earmarked Profit computation for Participating Securities issuers

Proposed § 107.1510 would simplify the computation of Earmarked Profit (Loss) for Participating Securities issuers that have both Earmarked Assets and non-Earmarked Assets in their portfolios (currently, there are no such Licensees). The proposed regulation would replace requirements to identify whether certain revenues and expenses are specifically attributable to Earmarked or non-Earmarked Assets with a simpler percentage allocation system. Capital gains and losses would continue to be classified as Earmarked or non-Earmarked based on the specific assets from which they are derived.

e. Computation of the Profit Participation Rate for Participating Securities Issuers

Proposed § 107.1530(e) would clarify the method of computing the ratio of Participating Securities to Leverageable Capital (the "PLC ratio"), which a Participating Securities issuer uses in determining SBA's Profit Participation Rate for a particular distribution. The current regulation does not always produce a definitive answer when a Licensee increases its Leverageable Capital. The proposed rule also would add a "lockout period" of 120 days before the date as of which Profit Participation is computed; increases in Leverageable Capital within that period could not be used to reduce the PLC ratio. SBA considers this change necessary to protect the Agency from a sharp decrease in its Profit Participation when a Licensee increases its capital shortly before performing its distribution calculations.

Proposed § 107.1530(g)(2) would make a technical correction in the method of time weighting outstanding issuances of Participating Securities for the purpose of indexing the Profit Participation Rate. The current method incorrectly causes the Profit Participation Rate to go to zero after all Participating Securities have been redeemed.

f. "Payment Dates" for Participating Securities

This proposed rule would add the defined term "Payment Dates" to the regulations for issuers of Participating Securities, reflecting the terms of the public fundings of Participating Securities that have already taken place. Payment Dates have been established as each February 1, May 1, August 1, and November 1 during the term of a Participating Security, and represent the dates on which Trust Certificate holders receive interest payments and any returns of principal to which they are entitled. To accommodate this structure, Participating Securities issuers would be permitted to make distributions only on Payment Dates. SBA recognizes, however, that there is one situation in which this arrangement may present difficulties for Licensees, and is requesting comments and suggestions to help resolve the following issue:

Under proposed § 107.1550 (equivalent to current § 107.245(b)), a partnership Licensee may make an annual "tax distribution" to its private investors and SBA. The recipients of this distribution may or may not be taxable investors. However, for those who are taxable and need to receive cash in order to pay taxes by the April 15 filing deadline, the timing of the Payment Dates may present a problem: For a Licensee with a December 31 fiscal year end, it is unlikely that a distribution based on audited year end figures could be made as early as February 1; on the other hand, the next Payment Date (May 1) is after the tax filing deadline. SBA is willing to consider an exception that would permit a tax distribution to be made on a date other than a Payment Date, but is asking interested parties to assist the Agency in developing an effective approach.

10. Subpart J—Licensee's Non-Compliance with Terms of Leverage

a. Capital Impairment Computation

The determination of a Licensee's Capital Impairment would be clarified in two ways. In the computation of Adjusted Unrealized Gain for Capital Impairment purposes, proposed § 107.1840(d)(3) would clarify that a Licensee claiming unrealized appreciation on non-Publicly Traded and Marketable Securities based on subsequent rounds of equity financing at a higher price ("Class 2 Appreciation") must substantiate, to SBA's satisfaction, that such appreciation meets the required criteria. Proposed § 107.1840(d)(6) would require unrealized gains on securities that are pledged or encumbered to be reduced by the amount of the related borrowing or other obligation. These changes reflect current SBA policy in the administration of the Capital Impairment regulations.

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this proposed rule would not be a significant regulatory action for purposes of Executive Order 12866 because it would not have an annual effect on the economy of more than $100 million, and that it would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The primary purpose of the proposed rule is to streamline the regulations governing the SBIC program by eliminating obsolete regulations and reorganizing the remainder in a more logical and readable format.

Two areas of the proposed regulations would have some economic effect, including possible effects on small entities. First, license application fees and examination fees would be raised. An SBIC license applicant would pay a fee of $10,000 to $20,000, compared with the current $5,000. This increase is not significant relative to the private capital of an average Licensee, which exceeds $10 million. Exam fees would continue to be based on the total assets of a Licensee, but at higher rates. The largest Licensees, generally those with assets of at least $25 million, could experience fee increases of $20,000 or more; however, the number of such Licensees is currently very small.

Second, the proposed changes in the regulations governing "Cost of Money" (the maximum amount a Licensee can charge on loans and debt securities) would potentially affect the borrowing costs of small entities. Although the interest rate on loans is determined primarily by market forces, the proposed rule would raise the interest rate ceiling on loans extended by Licensees from 15 percent to 19 percent. The total amount of loans provided to small businesses by Licensees is approximately $240 million per year. Even if the additional four percentage points were charged on the entire balance of such loans, the annual economic impact would be less than $10 million.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this proposed rule, if adopted in final form, would contain no new reporting or record keeping requirements that have not already been approved by the Office of Management and Budget. The "Financing Eligibility Statement" (SBA Form 1941) which would be required under proposed § 107.610 has already been approved by OMB under Control Number 3245–0301.

For purposes of Executive Order 12612, SBA certifies that this rule would not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of that Order.

For the reasons set forth above, SBA hereby proposes to amend Part 107 of Title 13 of the Code of Federal Regulations as follows:

1. 107.1 through 107.1202 and all center headings are removed the authority citation for Part 107 continues to read as set forth below, and new subparts A through L are added to read as follows:

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Subpart A—Introduction to Part 107

107.20 Legal basis and applicability of Part 107.
107.30 Amendments to Act and regulations.
107.40 How to read Part 107.

Subpart B—Definition of Terms Used in Part 107

107.50 Definition of terms.

Subpart C—Qualifying for an SBIC License

Organizing an SBIC

107.100 Organizing a Section 301(c) Licensee.
107.110 Organizing a Section 301(d) Licensee.
107.115 1940 Act and 1980 Act Companies.
107.120 Special rules for a Section 301(d) Licensee owned by another Licensee.
107.130 Requirement for qualified management.
107.140 SBA approval of initial Management Expenses.
107.150 Management and ownership diversity requirement.
107.160 Special rules for Licensees formed as limited partnerships.

Capitalizing an SBIC

107.200 Adequate capital for Licensees.
107.210 Minimum capital requirements for Licensees.
107.220 Special minimum capital requirements for Licensees issuing Leverage.

107.230 Permitted sources of Private Capital for Licensees.
107.240 Limitations on accepting non-cash capital contributions.
107.250 Issuance of stock options by Licensees.

Applying for an SBIC License

107.300 License application form and fee.

Subpart D—Changes in Ownership, Control, or Structure of Licensee; Transfer of License

Changes in Control or Ownership of Licensee

107.400 Changes in ownership of 10 percent or more of Licensee but no change of Control.
107.410 Changes in Control of Licensee (through change in ownership or otherwise).
107.420 Prohibition on exercise of ownership or Control rights in Licensee before SBA approval.
107.430 Notification to SBA of transactions that may change ownership or Control.
107.440 Standards governing prior SBA approval for a proposed transfer of Control.
107.450 Notification to SBA of pledge of Licensee's shares.

Restrictions on Common Control or Ownership of Two or More Licensees

107.460 Restrictions on Common Control or ownership of two (or more) Licensees.

Change in Structure of Licensee

107.470 SBA approval of merger, consolidation, or reorganization of Licensee.

Transfer of License

107.475 Transfer of license.

Subpart E—Managing The Operations of a Licensee

General Requirements

107.500 Lawful operations under the Act.
107.501 Identification as a Licensee.
107.502 Representations to the public.
107.503 Licensee's adoption of an approved Valuation Policy.
107.504 Computer capability requirements of Licensee.
107.505 Facsimile requirement.
107.506 Safeguarding Licensee's assets/Internal controls.
107.507 Violations based on false filings and nonperformance of agreements with SBA.
107.508 Accessible office.
107.509 Employment of SBA officials.

Management and Compensation

107.510 SBA approval of Licensee's Investment Adviser/Manager
107.520 Management Expenses of a Licensee.

Cash Management by a Licensee

107.530 Restrictions on investments of idle funds by leveraged Licensees.

Borrowing by Licensees From Non-SBA Sources

107.550 Prior approval of secured third-party debt of leveraged Licensees.
107.560 Subordination of SBA's creditor position.
107.570 Restrictions on third-party debt of issuers of Participating Securities.

Voluntary Decrease in Licensee's Regulatory Capital

107.585 Voluntary decrease in Licensee's Regulatory Capital.

Requirement To Conduct Active Investment Operations

107.590 Licensee's requirement to maintain active operations.

Subpart F—Record keeping, Reporting, and Examination Requirements for Licensees

Recordkeeping Requirements for Licensees

107.600 General requirement for Licensee to maintain and preserve records.
107.610 Required certifications for Loans and Investments.
107.620 Requirements to obtain information from Portfolio Concerns.

Reporting Requirements for Licensees

107.630 Requirement for Licensees to file financial statements with SBA (Form 468).
107.640 Requirement to file Portfolio Financing Reports (SBA Form 1031).
107.650 Requirement to report portfolio valuations to SBA.
107.660 Other items required to be filed by Licensee with SBA.
107.670 Application for exemption from civil penalty for late filing of reports.
107.680 Reporting changes in Licensee not subject to prior SBA approval.

Examinations of Licensees by SBA for Regulatory Compliance

107.690 Examinations.
107.691 Responsibilities of Licensee during examination.
107.692 Examination fees.

Subpart G—Financing of Small Businesses by Licensees

Determining the Eligibility of a Small Business for SBIC Financing

107.700 Compliance with size standards in Part 121 of this chapter as a condition of Assistance.
107.710 Requirement to finance Smaller Businesses.
107.720 Small Businesses that may be ineligible for Financing.
107.730 Financings which constitute conflicts of interest.
107.740 Portfolio diversification ("overline" limitation).
107.750 Conditions for financing a change of ownership of a Small Business.
107.760 How a change in size or activity of a Portfolio Concern affects the Licensee and the Portfolio Concern.

Structuring Licensee's Financing of Eligible Small Businesses: Types of Financing

107.800 Financings in the form of Equity Securities.
107.810 Financings in the form of Loans.
107.815 Financings in the form of Debt Securities.
107.820 Financings in the form of guarantees.
107.825 Commitments to Small Businesses.
107.828 Purchasing Securities from an underwriter or other third party.

Structuring Licensee's Financing of an Eligible Small Business: Terms and Conditions of Financing

107.830 Minimum duration/term of financing.
107.835 Exceptions to minimum duration/term of Financing.
107.840 Maximum term of Financing.
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Authority: Title III of the Small Business Investment Act, 15 U.S.C. 681 et seq., as amended; 15 U.S.C. 687(c); 15 U.S.C. 683; 15 U.S.C. 687d; 15 U.S.C. 687g; 15 U.S.C. 687b; 15 U.S.C. 687m, as amended by Pub. L. 102–366.

Subpart A—Introduction to Part 107

§ 107.20 Legal basis and applicability of Part 107.

(a) The regulations in this part implement Title III of the Small Business Investment Act of 1958, as amended. All Licensees, including Section 301(d) Licensees, must comply with all applicable regulations,

accounting guidelines and valuation guidelines for Licensees.

(b) Provisions of this part which are not mandated by the Act shall not supersede existing State law. A party claiming that a conflict exists shall submit an opinion of independent counsel, citing authorities, for SBA's resolution of the issues involved.

§ 107.30 Amendments to Act and regulations.

A Licensee shall be subject to all existing and future provisions of the Act and Parts 107 and 112 of title 13 of the Code of Federal Regulations.

§ 107.40 How to read Part 107.

(a) *Center headings.* All references in this part to SBA forms, and instructions for their preparation, are to the current issue of such forms. Center headings are descriptive and are used for convenience only. They have no regulatory effect.

(b) *Capitalizing defined terms.* Terms defined in § 107.50 are capitalized hereafter.

(c) The pronoun "you" as used in this Part 107 means a Licensee or license applicant, as appropriate, unless otherwise noted.

Subpart B—Definition of Terms Used in Part 107

§ 107.50 Definition of terms.

Accumulated prioritized payments has the meaning set forth in § 107.1520.

Act means the Small Business Investment Act of 1958, as amended.

Adjustments has the meaning set forth in § 107.1520.

Affiliate or *Affiliates* has the meaning set forth in § 121.401.

Articles mean articles of incorporation or charter for a Corporate Licensee and the partnership agreement or certificate for a Partnership Licensee.

Assistance or *Assisted* means Financing of or management services rendered to a Small Business by a Licensee pursuant to the Act and these regulations.

Associate of a Licensee means any of the following:

(1)(i) An officer, director, employee or agent of a Corporate Licensee;

(ii) A Control Person, employee or agent of a Partnership Licensee;

(iii) An Investment Adviser/Manager of any Licensee, including any Person who contracts with a Control Person of a Partnership Licensee to be the Investment Adviser/Manager of such Licensee; or

(iv) Any Person regularly serving a Licensee in the capacity of attorney at law.

(2) Any Person who owns or controls, or who has entered into an agreement to own or control, directly or indirectly, at least 10 percent of any class of stock of a Corporate Licensee or a limited partner's interest of at least 10 percent of the partnership capital of a Partnership Licensee. However, a limited partner in a Partnership Licensee is not considered an Associate if such Person is an entity Institutional Investor whose investment in the Partnership, including commitments, represents no more than 33 percent of the partnership capital of the Licensee and no more than five percent of such Person's net worth.

(3) Any officer, director, partner (other than a limited partner), manager, agent, or employee of any Associate described in paragraph (1) or (2) of this definition.

(4) Any Person that directly or indirectly Controls, or is Controlled by, or is under Common Control with, a Licensee.

(5) Any Person that directly or indirectly Controls, or is Controlled by, or is under Common Control with, any Person described in paragraphs (1) and (2) of this definition.

(6) Any Close Relative of any Person described in paragraphs (1),(2), (4), and (5) of this definition.

(7) Any Secondary Relative of any Person described in paragraphs (1), (2), (4), and (5) of this definition.

(8) Any concern in which—

(i) Any Person described in paragraphs (1) through (6) of this definition is an officer; or

(ii) Any such Person(s) singly or collectively Control or own, directly or indirectly, an equity interest of at least 10 percent (excluding interests that such Person(s) own indirectly through ownership interests in the Licensee).

(9) Any concern in which any Person(s) described in paragraph (7) of this definition singly or collectively own (including beneficial ownership) a majority equity interest, or otherwise have Control. As used in this paragraph (9), "collectively" means together with any Person(s) described in paragraphs (1) through (7) of this definition.

(10) For the purposes of this definition, if any Associate relationship described in paragraphs (1) through (7) of this definition exists at any time within six months before or after the date that a Licensee provides Financing, then that Associate relationship is considered to exist on the date of the Financing.

(11) If any Licensee has any ownership interest in another Licensee, the two Licensees are Associates of each other.

Capital impairment has the meaning set forth in § 107.1830(c).

Central Registration Agent or *CRA* means one or more agents appointed by SBA for the purpose of issuing TCs and performing the functions enumerated in § 107.1660 and performing similar functions for Debentures and Participating Securities funded outside the pooling process.

Close Relative of an individual means:

(1) A current or former spouse;

(2) A father, mother, guardian, brother, sister, son, daughter; or

(3) A father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

Combined Capital means the sum of Regulatory Capital and outstanding Leverage.

Commitment has the meaning set forth in § 107.825.

Common Control means a condition where two or more Licensees either through ownership, management, contract, or otherwise, are under the Control of one group or Person. Two or more Licensees are presumed to be under Common Control if they are Affiliates of each other by reason of common ownership or common officers, directors, or general partners; or if they are managed or their investments are significantly directed either by a common independent investment advisor or managerial contractor, or by two or more such advisors or contractors that are Affiliates of each other. This presumption may be rebutted by evidence satisfactory to SBA.

Control means the possession, direct or indirect, of the power to veto or to direct or cause the direction of the management and policies of a Licensee or other concern, whether through the ownership of voting securities, by contract, or otherwise.

Control Person means any Person that controls a Licensee, either directly or through an intervening entity. A Control Person includes:

(1) A general partner of a Partnership Licensee;

(2) Any Person serving as the general partner, officer, director, or manager (in the case of a limited liability company) of any entity that controls a Licensee, either directly or through an intervening entity;

(3) Any Person that—

(i) Controls or owns, directly or through an intervening entity, at least 10 percent of a Partnership Licensee or any entity described in paragraphs (1) or (2) of this definition; and

(ii) Participates in the investment decisions of the general partner of such Partnership Licensee;

(4) Any Person that controls or owns, directly or through an intervening entity, at least 40 percent of a Partnership Licensee or any entity described in paragraphs (1) or (2) of this definition.

Corporate Licensee. See definition of Licensee in this section.

Cost of Money has the meaning set forth in § 107.855.

Debenture Rate means the interest rate, as published from time to time in the **Federal Register** by SBA, for ten year debentures issued by Licensees and funded through public sales of certificates bearing SBA's guarantee. User or guarantee fees, if any, paid by a Licensee are not considered in determining the Debenture Rate.

Debentures means debt obligations issued by Licensees pursuant to section 303(a) of the Act and held or guaranteed by SBA.

Debt Securities has the meaning set forth in § 107.815.

Disadvantaged Business means a Small Business that is at least 50 percent owned, and controlled and managed, on a day to day basis, by a person or persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Distribution means any transfer of cash or non-cash assets to SBA, its agent or Trustee, or to partners in a Partnership Licensee, or to shareholders in a Corporate Licensee. Capitalization of Retained Earnings Available for Distribution constitutes a Distribution to the Licensee's non-SBA partners or shareholders.

Earmarked Assets has the meaning set forth in § 107.1510(b). (See also § 107.1590.)

Earmarked Profit (Loss) has the meaning set forth in § 107.1510.

Earned Prioritized Payments has the meaning set forth in § 107.1520.

Equity Capital Investments means investments in a Small Business in the form of common or preferred stock, limited partnership interests, options, warrants, or similar equity instruments, including subordinated debt with equity features if such debt provides only for interest payments contingent upon and limited to the extent of earnings. Equity Capital Investments must not require amortization. Equity Capital Investments may be guaranteed; however, neither Equity Capital Investments nor such guarantee may be collateralized or otherwise secured. Investments classified as Debt Securities (see §§ 107.800 and 107.815) are not precluded from qualifying as Equity Capital Investments.

Entity General Partner has the meaning set forth in § 107.160(b).

Equity Securities has the meaning set forth in § 107.800.

Financing or *Financed* means outstanding financial assistance provided to a Small Business by a Licensee, whether through:

(1) Loans;

(2) Debt Securities;

(3) Equity Securities;

(4) Guarantees; or

(5) Purchases of securities of a Small Business through or from an underwriter (see § 107.805).

Guaranty Agreement means the contract entered into by SBA which is a guarantee backed by the full faith and credit of the United States Government as to timely payment of principal and interest on Debentures or the Redemption Price of and Prioritized Payments on Participating Securities and SBA's rights in connection with such guarantee.

Includible Non-Cash Gains means those non-cash gains (as reported on SBA Form 468) that are realized in the form of Publicly Traded and Marketable securities or investment grade debt instruments. For purposes of this definition, investment grade debt instruments means those instruments that are rated "BBB" or "Baa", or better, by Standard & Poor's Corporation or Moody's Investors Service, respectively. Non-rated debt may be considered to be investment grade if Licensee obtains a written opinion from an investment banking firm acceptable to SBA stating that the non-rated debt instrument is equivalent in risk to the issuer's investment grade debt.

Institutional Investor means:

(1) *Entities.* Any of the following entities if the entity has a net worth (exclusive of unfunded commitments from investors) of at least $1 million, or such higher amount as is specified below. (See also § 107.230(b)(4) for limitations on the amount of an Institutional Investor's commitment that may be included in Private Capital.)

(i) A State or National bank, trust company, savings bank, or savings and loan association.

(ii) An insurance company.

(iii) A 1940 Act Investment Company or Business Development Company (each as defined in the Investment Company Act of 1940, as amended).

(iv) A holding company of any entity described in paragraph (1)(i), (ii)or (iii) of this definition.

(v) An employee benefit or pension plan established for the benefit of employees of the Federal government, any State or political subdivision of a State, or any agency or instrumentality of such government unit.

(vi) An employee benefit or pension plan (as defined in the Employee Retirement Income Security Act of 1974, as amended, excluding plans established under section 401(k) of the Internal Revenue Code of 1986, as amended).

(vii) A trust, foundation or endowment exempt from Federal income taxation under the Internal Revenue Code of 1986, as amended.

(viii) A corporation, partnership or other entity with a net worth (exclusive of unfunded commitments from investors) of more than $10 million.

(ix) A State, a political subdivision of a State, or an agency or instrumentality of a State or its political subdivision.

(x) An entity whose primary purpose is to manage and invest non-Federal funds on behalf of at least three Institutional Investors described in paragraphs (1)(i) through (1)(ix) of this definition, each of whom must have at least a 10 percent ownership interest in the entity.

(xi) Any other entity that SBA determines to be an Institutional Investor.

(2) *Individuals.* (i) Any of the following individuals if he/she is also a permanent resident of the United States:

(A) An individual who is an Accredited Investor (as defined in the Securities Act of 1933, as amended) and whose commitment to the Licensee is backed by a letter of credit from a State or National bank acceptable to SBA.

(B) An individual whose personal net worth is at least $2 million and at least ten times the amount of his or her commitment to the Licensee. The individual's personal net worth must not include the value of any equity in his or her most valuable residence.

(C) An individual whose personal net worth (determined in accordance with paragraph (2)(i)(B) of this definition) is at least $10 million.

(ii) Any individual who is not a permanent resident of the United States but who otherwise satisfies paragraph (2)(i) of this definition *provided* such individual has irrevocably appointed an agent within the United States for the service of process.

Investment Adviser/Manager means any Person who furnishes advice or assistance with respect to operations of a Licensee under a written contract executed in accordance with the provisions of § 107.510.

Lending Institution means a concern that is operating under regulations of a state or Federal licensing, supervising, or examining body, or whose shares are publicly traded and listed on a recognized stock exchange or NASDAQ and which has assets in excess of $500 million; and which, in either case, holds itself out to the public as engaged in the making of commercial and industrial loans and whose lending operations are not for the purpose of financing its own or an Associates's sales or business operations.

Leverage means financial assistance provided to a Licensee by SBA, either through the purchase or guaranty of a Licensee's Debentures or Participating Securities, or the purchase of a Licensee's Preferred Securities, and any other SBA financial assistance evidenced by a security of the Licensee.

Leverageable Capital means Regulatory Capital, excluding unfunded commitments and Qualified Non-private Funds whose source is Federal funds.

Licensee means either a corporation (Corporate Licensee), or a limited partnership organized pursuant to § 107.160 (Partnership Licensee), to which a license has been granted pursuant to the Act. For certain purposes, the Entity General Partner of a Partnership Licensee is treated as if it were a Licensee (see § 107.160(b)(2)).

Loan has the meaning set forth in § 107.810.

Loans and Investments means Portfolio Securities, Assets Acquired in Liquidation of Portfolio Securities, Operating Concerns Acquired, and Notes and Other Securities Received, as set forth in the Statement of Financial Position of SBA Form 468.

Management Expenses has the meaning set forth in § 107.520.

1940 Act Company means a Licensee which is registered under the Investment Company Act of 1940.

1980 Act Company means a Licensee which is registered under the Small Business Investment Incentive Act of 1980.

Original Issue Price means the price paid by the purchaser for securities at the time of issuance.

Participating Securities means preferred stock, preferred limited partnership interests, or similar instruments issued by Licensees, including debentures having interest payable only to the extent of earnings, all of which are subject to the terms set forth in §§ 107.1500 through 107.1590 and section 303(g) of the Act.

Partnership Licensee. See definition of Licensee in this section.

Payment Date means, for a Participating Securities issuer, each February 1, May 1, August 1, and November 1 during the term of a Participating Security.

Person means a natural person or legal entity.

Pool means an aggregation of SBA guaranteed Debentures or SBA

guaranteed Participating Securities approved by SBA.

Portfolio means the securities representing a Licensee's total outstanding Financing of Small Businesses. It does not include idle funds or assets acquired in liquidation of Portfolio securities.

Portfolio Concern means a Small Business Assisted by a Licensee.

Preferred Securities means nonvoting preferred stock issued to SBA by a for-profit Section 301(d) Corporate Licensee, or securities having similar characteristics issued by a Section 301(d) Licensee organized as a nonprofit corporation, or nonvoting preferred limited partnership interests issued by a Section 301(d) Partnership Licensee.

Prioritized Payments has the meaning set forth in § 107.1520.

Private Capital has the meaning set forth in § 107.230.

Profit Participation has the meaning set forth in § 107.1500(c)(3).

Publicly Traded and Marketable means securities that are salable without restriction or that are salable within 12 months pursuant to Rule 144 of the Securities Act of 1933, as amended, by the holder thereof (or in the case of an In-kind Distribution by the distributee thereof), and are of a class which is traded on a regulated stock exchange, or is listed in the Automated Quotation System of the National Association of Securities Dealers (NASDAQ), or has, at a minimum, at least two market makers as defined in the relevant sections of the Securities Exchange Act of 1934, as amended, and in all cases the quantity of which can be sold over a reasonable period of time without having an adverse impact upon the price of the stock.

Qualified Non-private Funds has the meaning set forth in § 107.230.

Redemption Price means the amount required to be paid by the issuer, or successor to the issuer, of Preferred or Participating Securities to repurchase such securities from the holder. The Redemption Price shall be the Original Issue Price less any prepayments or prior redemptions.

Regulatory Capital means:

(1) *General.* Regulatory Capital means Private Capital, excluding non-cash assets contributed to a Licensee or a license applicant, and non-cash assets purchased by a license applicant, unless such assets have been converted to cash or have been approved by SBA for inclusion in Regulatory Capital. For purposes of this definition, sales of contributed non-cash assets with recourse or borrowing against such assets shall not constitute a conversion to cash.

(2) *Exclusion of questionable commitments.* An investor's commitment to a Licensee is excluded from Regulatory Capital if SBA determines that the collectibility of the commitment is questionable.

Retained Earnings Available for Distribution means Undistributed Net Realized Earnings less any Unrealized Depreciation on Loans and Investments (as reported on SBA Form 468), and represents the amount that a Licensee may distribute to investors (including SBA) as a profit Distribution, or transfer to Private Capital.

SBA means the Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Secondary Relative of an individual means:

(1) A grandparent, grandchild, or any other ancestor or lineal descendent who is not a Close Relative;

(2) An uncle, aunt, nephew, niece, or first cousin; or

(3) A spouse of any person described in paragraph (1) or (2)of this definition.

Section 301(c) Licensee has the meaning set forth in § 107.100.

Section 301(d) Licensee has the meaning set forth in § 107.110.

Short-term Financing means Financing for a term of less than five years in accordance with the regulations.

SIC Manual means the latest issue of the Standard Industrial Classification Manual, prepared by the Office of Management and Budget, and available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pa., 15250–7954.

Small Business means a small business concern as defined in section 103(5) of the Act (including its Affiliates), which for purposes of size eligibility, meets the applicable criteria set forth in part 121 of this chapter.

Smaller Business has the meaning set forth in § 107.710.

Start-up Financing means an Equity Capital Investment in a Small Business that—

(1) Engages in technology development or commercialization, manufacturing, and/or exporting;

(2) At the time of Licensee's initial Financing has not existed, in any form, for more than three fiscal years;

(3) Has not had sales exceeding $5,000,000 or positive cash flow in any fiscal year; and

(4) Was not formed to acquire any existing business.

Temporary Debt has the meaning set forth in § 107.570.

Trust means the legal entity created for the purpose of holding guaranteed Debentures or Participating Securities and the guaranty agreement related thereto, receiving, holding and making any related payments, and accounting for such payments.

Trust Certificate Rate means a fixed rate determined at the time Participating Securities are issued by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with maturities comparable to the maturities of the Trust Certificates being guaranteed by SBA, adjusted to the nearest one-eighth of one percent.

Trust Certificates (TCs) means certificates issued by SBA, its agent or Trustee and representing ownership of all or a fractional part of a Trust or Pool of Debentures or Participating Securities.

Trustee means the trustee or trustees of a Trust.

Undistributed Net Realized Earnings means Undistributed Realized Earnings less Non-cash Gains/Income, each as reported on SBA Form 468.

Unrealized Appreciation means the amount by which a Licensee's valuation of Loans and Investments, as determined by its Board of Directors or General Partner(s) in accordance with Licensee's valuation policies, exceeds the cost basis thereof.

Unrealized Depreciation means the amount by which a Licensee's valuation of Loans and Investments, as determined by its Board of Directors or General Partner(s) in accordance with Licensee's valuation policies, is below the cost basis thereof.

Unrealized Gain (Loss) on Securities Held means the sum of the Unrealized Appreciation and Unrealized Depreciation on all of a Licensee's Loans and Investments, less estimated future income tax expense or estimated realizable future income tax benefit, as appropriate.

Venture Capital Financing has the meaning set forth in § 107.1160.

Wind-up Plan has the meaning set forth in § 107.590.

Subpart C—Qualifying for an SBIC License

Organizing an SBIC

§ 107.100 Organizing a Section 301(c) Licensee.

Section 301(c) Licensee means a company licensed under section 301(c) of the Act. It may be organized as a for-profit corporation or as a limited partnership created in accordance with the special rules of § 107.160.

§ 107.110 Organizing a Section 301(d) Licensee.

Section 301(d) Licensee means a company licensed under section 301(d) of the Act that may provide Assistance only to Disadvantaged Businesses. A Section 301(d) Licensee may be organized as a for-profit corporation, a non-profit corporation, or as a limited partnership created in accordance with the special rules of § 107.160.

§ 107.115 1940 Act and 1980 Act Companies.

For license applications received on or after November 28, 1995, SBA will license a 1940 Act or 1980 Act Company only if such company does not elect to be taxed as a regulated investment company under section 851 of the Internal Revenue Code of 1986, as amended. After such date, a request by an existing Licensee to convert to a 1940 Act or 1980 Company will be approved by SBA only if the same criteria are satisfied.

§ 107.120 Special rules for a Section 301(d) Licensee owned by another Licensee.

A Section 301(d) Licensee may be licensed to operate as the subsidiary of one or more Licensees (participant Licensee), with or without non-Licensee participation, subject to the following:

(a) *Application.* In reviewing the license application, SBA will consider what effect, if any, a capital contribution to the proposed Section 301(d) Licensee will have on the participant Licensee.

(b) *Participant Licensees.* Each participant Licensee must propose to own at least twenty percent of the voting securities of the proposed Section 301(d)Licensee.

(c) *Capital contribution.* A subsidiary Section 301(d) Licensee must receive capital contributions in cash, in an amount at least equal to the minimum capital requirement under § 107.210. Capital contributed by a participant Licensee in excess of the required minimum may be in the form of securities of a Disadvantaged Business, valued at the lower of cost or fair value. A participant Licensee must treat its entire capital contribution to the subsidiary as a reduction of its Leverageable Capital. The participant Licensee's remaining Leverageable Capital must be sufficient to support its outstanding Leverage.

(d) *No transfer of Leverage.* A participant Licensee may not transfer its Leverage to a subsidiary Section 301(d) Licensee.

§ 107.130 Requirement for qualified management.

When applying for a license, you must show, to the satisfaction of SBA, that your current or proposed management is qualified and has the knowledge, experience, and capability necessary for investing in the types of businesses contemplated by the Act, these regulations and your business plan. You must designate at least one individual as the official responsible for contact with SBA.

§ 107.140 SBA approval of initial Management Expenses.

You must have your Management Expenses approved by SBA at the time of licensing. (See § 107.520 for the definition of Management Expenses.)

§ 107.150 Management and ownership diversity requirement.

You must have diversity between management and ownership in order to be licensed, unless you do not plan to obtain Leverage. To establish diversity, you must meet the requirements in paragraphs (a) and (b) of this section unless SBA approves otherwise.

(a) *Requirement one.* You must satisfy either paragraph (a)(1) or paragraph (a)(2) of this section.

(1) You must have at least three shareholders or limited partners, or at least one acceptable Institutional Investor, in either case with an aggregate ownership interest equal to at least 30 percent of your Regulatory Capital. Such investors must not be your Associates (except for their status as your shareholders or limited partners) or Affiliates of any of your Associates. For purposes of this paragraph (a)(1), the following Institutional Investors are acceptable:

(i) Entities regulated by state or Federal authorities satisfactory to SBA;

(ii) Public or private employee pension funds;

(iii) Trusts, foundations, or endowments which are exempt from Federal income taxation; or

(iv) Other Institutional Investors satisfactory to SBA.

(2) Your common stock or limited partnership interests are publicly traded.

(b) *Requirement two.* Your shareholders or limited partners may not delegate their voting rights to any other Person without prior SBA approval. This restriction does not apply to:

(1) Publicly traded Licensees.

(2) Proxies given to vote at single specified meetings.

(3) Delegations of voting rights by your investors to their investment advisors, provided such advisors are not your Associates (except for their status as your shareholder or partner).

(c) *Diversity based on Licensee's parent company.* If you do not have diversity as defined in paragraphs (a) and (b) of this section, SBA in its sole discretion may accept diversity achieved on the same basis by your parent company as a substitute. As used in this paragraph (c), "parent company" means an entity that directly or indirectly has an interest of more than 50 percent of your Regulatory Capital.

(d) Requirement to maintain diversity after licensing. If you were required to have diversity between management and ownership at the time you were licensed, you must maintain such diversity while you have outstanding Leverage or Earmarked Assets, unless SBA approves otherwise. If, at any time, you no longer satisfy the diversity criteria in paragraph (a) or (b) of this section, you must:

(1) Notify SBA within 10 days; and

(2) Re-establish diversity within six months.

(e) *Exception to diversity rule.* This § 107.150 does not apply if:

(1) You received your license before November 28, 1995 and you are not licensed to issue Participating Securities; or

(2) SBA received your license application before November 28, 1995 and, as of such date, you had raised the funds needed to begin operations as contemplated in your business plan.

§ 107.160 Special rules for Licensees formed as limited partnerships.

A limited partnership organized under State law solely for the purpose of performing the functions and conducting the activities contemplated under the Act may apply for a license under section 301(c) or section 301(d) of the Act ("Partnership Licensee").

(a) *Number of Licensee's General Partners.* If you are a Partnership Licensee, you must have as your general partner(s) at least two individuals, or at least one corporation, partnership, or limited liability company (LLC), or any combination of individuals, corporations, partnerships, or LLCs.

(b) *Entity General Partner of Licensee.* A general partner which is a corporation, limited liability company or partnership (an "Entity General Partner") shall be organized under state law solely for the purpose of serving as the general partner of one or more Licensees.

(1) SBA must approve any person who will serve as an officer, director, manager, or general partner of the Entity General Partner. This provision must be

stated in an Entity General Partner's Certificate of Incorporation, member agreement, Limited Partnership Agreement or other similar governing instrument which must, in each case, accompany the license application.

(2) An Entity General Partner is subject to the same examination and reporting requirements as a Licensee under section 310(b) of the Act. The restrictions and obligations imposed upon a Licensee by §§ 107.1800 through 107.1820, and 107.30, 107.410 through 107.450, 107.470, 107.475, 107.500, 107.510, 107.585, 107.600, 107.680, 107.690 through 107.692, 107.865, and 107.1910 apply also to an Entity General Partner of a Licensee.

(3) The general partner(s) of your Entity General Partner(s) will be considered your general partner.

(4) If your Entity General Partner is a limited partnership, its limited partners may be considered your Control Person(s) if they meet the definition for Control Person in § 107.50.

(5) If your Entity General Partner is a limited partnership, it is subject to paragraph (a) of this section.

(c) *Other requirements for Partnership Licensees.* If you are a Partnership Licensee:

(1) You must have a minimum duration of ten years or two years following the maturity of your last-maturing Leverage security, whichever is longer. After 10 years, if all Leverage has been repaid or redeemed and all amounts due SBA, its agent, or Trustee have been paid, the Partnership Licensee may be terminated by a vote of your partners. (For purposes of this provision SBA is not considered a partner.)

(2) None of your general partner(s) may be removed or replaced by your limited partners without prior written approval of SBA;

(3) Any transferee of, or successor in interest to, your general partner shall have only the rights and liabilities of a limited partner pending SBA's written approval of such transfer or succession; and

(4) You must incorporate all the provisions in this paragraph (c) in your Limited Partnership Agreement.

(d) *Obligations of a Control Person.* All Control Persons are bound by the disciplinary provisions of sections 313 and 314 of the Act and by the conflict-of-interest rules under section 312 of the Act. The term Licensee, as used in §§ 107.30, 107.460, and 107.680 includes all of the Licensee's Control Persons. The term Licensee as used in § 107.670 includes only the Licensee's general partner(s). The conditions specified in §§ 107.1800 through 107.1820 and § 107.1910 apply to all general partners.

(e) *Liability of general partner for partnership debts to SBA.* Subject to section 314 of the Act, your general partner is not liable solely by reason of its status as a general partner for repayment of any Leverage or debts you owe to SBA unless SBA, in the exercise of reasonable investment prudence, and with regard to your financial soundness, determines otherwise prior to the purchase or guaranty of your Leverage.

(f) *Reorganization of Licensee.* A corporate Licensee wishing to reorganize as a Partnership Licensee, or a Partnership Licensee wishing to reorganize as a Corporate Licensee, may apply to SBA for approval under § 107.470.

(g) *Special Leverage requirement.* Before the extension of any Leverage, you must furnish SBA with evidence that you qualify as a partnership for tax purposes, either by a ruling from the Internal Revenue Service, or by an opinion of counsel.

Capitalizing an SBIC

§ 107.200 Adequate capital for Licensees.

You must meet the requirements of this § 107.200 to qualify for a license, to continue as a Licensee, and to receive Leverage.

(a) You must have enough Regulatory Capital to provide reasonable assurance that:

(1) You will operate soundly and profitably over the long term; and

(2) You will be able to operate actively in accordance with your Articles and within the context of your business plan, as approved by SBA.

(b) In SBA's sole discretion, you must be economically viable, taking into consideration actual and anticipated income and losses on your Loans and Investments, and the experience and qualifications of your owners and managers.

§ 107.210 Minimum capital requirements for Licensees.

(a) *Minimum capital for Section 301(c) Licensees—general rule.* A Section 301(c) Licensee or applicant must have Regulatory Capital (excluding commitments from your investors) of at least $2,500,000.

(b) *Minimum capital for Section 301(d) Licensees—general rule.* A Section 301(d) Licensee or applicant must have Regulatory Capital (excluding commitments from your investors) of at least $1,500,000.

(c) *Exception to general rule—grandfather clause.* The minimum capital requirements in paragraphs (a) and (b) of this section do not apply if you were licensed before October 2, 1990, or if SBA had your license application on file before October 2, 1990 and granted you a license on the basis of such application. If you qualify for this exception, you must have at least the minimum Private Capital required by the regulations in effect on October 1, 1990.

(d) *Additional capital requirements for Licensees seeking Leverage.* If you are a license applicant who intends to seek Leverage, see § 107.220.

§ 107.220 Special minimum capital requirements for Licensees issuing Leverage.

(a) *Participating Securities.* You must have Regulatory Capital of at least $10,000,000 in order to apply for Participating Securities, unless you demonstrate to SBA's satisfaction that you can be financially viable over the long term with a lower amount. You are not permitted under any circumstances to apply for Participating Securities if your Regulatory Capital is less than $5,000,000.

(b) *Debentures.* If you are licensed after the effective date of this regulation, you must have Regulatory Capital of at least $5,000,000 in order to apply for Debentures, unless you demonstrate to SBA's satisfaction that you can be financially viable over the long term with a lower amount.

(c) *Companies licensed before October 2, 1990.* If § 107.210(c) applies to you and your Regulatory Capital (excluding commitments from investors) is below $2,500,000 (for a Section 301(c) Licensee) or $1,500,000 (for a Section 301(d) Licensee):

(1) You are eligible for Leverage (other than refinancing) only if you can demonstrate to SBA's satisfaction that you have been profitable for three out of your last four fiscal years before applying for Leverage and, on the average, have been profitable for all such fiscal years.

(2) Even if you do not satisfy paragraph (c)(1) of this section, you may apply for Leverage needed to refinance any Debenture outstanding on October 2, 1990, as follows:

(i) Any such Debenture which matures on or before December 31, 1995 may be refinanced, one time only, for a term of not more than ten years; and

(ii) Any such Debenture which matures after December 31, 1995, may be refinanced, one time only, for a term of three years.

§ 107.230 Permitted sources of Private Capital for Licensees.

Private Capital means the contributed capital of a Licensee, plus unfunded binding commitments by Institutional Investors (including commitments evidenced by a promissory note) to contribute capital to a Licensee.

(a) *Contributed capital.* For purposes of this section, contributed capital means the paid-in capital and paid-in surplus of a Corporate Licensee, or the partners' contributed capital of a Partnership Licensee, in either case subject to the limitations in paragraph (b) of this section.

(b) *Exclusions from Private Capital.* Private Capital does not include:

(1) Funds borrowed by a Licensee from any source.

(2) Funds obtained through the issuance of Leverage.

(3) Funds obtained directly or indirectly from any Federal, State, or local government, or any government agency or instrumentality, except for funds invested by a public pension fund and "Qualified Non-private Funds" as defined in paragraph (d) of this section.

(4) Any portion of a commitment from an Institutional Investor with a net worth of less than $10 million that exceeds 10 percent of such Institutional Investor's net worth and is not backed by a letter of credit from a State or National bank acceptable to SBA.

(c) *Non-cash capital contributions.* Capital contributions in a form other than cash are subject to the limitations in § 107.240 of this section.

(d) *Qualified Non-private Funds.* Private Capital includes "Qualified Non-private Funds" as defined in this paragraph (d); however, investors of Qualified Non-private Funds must not control, directly or indirectly, a Licensee's management, or its board of directors or general partner(s). Qualified Non-private Funds are:

(1) Funds directly or indirectly invested in any Licensee on or before August 16, 1982 by any Federal agency except SBA, under a statute explicitly mandating the inclusion of such funds in "Private Capital";

(2) Funds directly or indirectly invested in any Licensee by any Federal agency under a statute that is enacted after September 4, 1992, explicitly mandating the inclusion of such funds in "Private Capital";

(3) Funds invested in any Licensee or license applicant by one or more State or local government entities (including any guarantee extended by such entities) in an aggregate amount that does not exceed 33 percent of Regulatory Capital; and

(4) Funds invested in any Section 301(d) Licensee or such license applicant from the following sources:

(i) A State financing agency, or similar agency or instrumentality, if the funds invested are derived from such agency's net income and not from appropriated State or local funds; and

(ii) Grants made by a state or local government agency or instrumentality into a nonprofit corporation or institution exercising discretionary authority with respect to such funds, if SBA determines that such funds have taken on a private character and the nonprofit corporation or institution is not a mere conduit.

(e) You may not accept any capital contribution made with funds borrowed by a Person seeking to own an equity interest (whether direct or indirect, beneficial or of record) of at least 10 percent of your Private Capital. This exclusion does not apply if:

(1) Such Person's net worth is at least twice the amount borrowed; or

(2) SBA gives its prior written approval of the capital contribution.

§ 107.240 Limitations on accepting non-cash capital contributions.

Non-cash capital contributions to a Licensee or license applicant are included in Private Capital only if they fall into one of the following categories:

(a) Direct obligations of, or obligations guaranteed as to principal and interest by, the United States.

(b) Services rendered or to be rendered to you, priced at no more than their fair market value.

(c) Tangible assets used in your operations, priced at no more than their fair market value.

(d) Shares in a Disadvantaged Business received by a subsidiary Section 301(d) Licensee from its parent Licensee, valued at the lower of cost or fair value.

(e) Other non-cash assets approved by SBA.

§ 107.250 Issuance of stock options by Licensees.

(a) *Issuance of stock options.* You may issue stock options. A 1940 Act Company or a 1980 Act Company may issue stock options only as permitted under such Acts or orders issued thereunder.

(b) *Stock options not deemed compensation.* Stock options issued by any Licensee, including a 1940 or 1980 Act company, are not considered compensation and therefore do not count as part of a Licensee's Management Expenses.

Applying for an SBIC License

§ 107.300 License application form and fee.

The license application must be submitted on SBA Form 415 together with a processing fee computed as follows:

(a) All license applicants will pay a base fee of $10,000.

(b) All applicants who will be Partnership Licensees will pay an additional $5,000 fee, for a total of $15,000.

(c) All applicants who will be issuing Participating Securities will pay an additional $5,000 fee, for a total of $15,000, or a total fee of $20,000 if they also intend to be Partnership Licensees.

Subpart D—Changes in Ownership, Control, or Structure of Licensee; Transfer of License

Changes in Control or Ownership of Licensee

§ 107.400 Changes in ownership of 10 percent or more of Licensee but no change of Control.

(a) *Prior approval requirements.* You must obtain SBA's prior written approval for any proposed transfer or issuance of ownership interests that results in the ownership (beneficial or of record) by any Person, or group of Persons acting in concert, of at least 10 percent of any class of your stock or partnership capital.

(b) *Fee.* A processing fee of $200 must accompany each such request for approval of a change of ownership.

§ 107.410 Changes in Control of Licensee (through change in ownership or otherwise).

(a) *Prior approval requirements.* You must obtain SBA's prior written approval for any proposed transaction or event that results in Control by any Person(s) not previously approved by SBA.

(b) *Fee.* A processing fee of $10,000 must accompany any application for approval of one or more transactions or events that will result in a transfer of Control.

§ 107.420 Prohibition on exercise of ownership or Control rights in Licensee before SBA approval.

Without prior written SBA approval, no change of ownership or Control may take effect and no officer, director, employee or other Person acting on your behalf shall:

(a) Register on your books any transfer of ownership interest to the proposed new owner(s);

(b) Permit the proposed new owner(s) to exercise voting rights with respect to such ownership interest (including directly or indirectly procuring or voting any proxy, consent or authorization as to such voting rights at any shareholders' or partnership meeting);

(c) Permit the proposed new owner(s) to participate in any manner in the

conduct of your affairs (including exercising control over your books, records, funds or other assets; participating directly or indirectly in any disposition thereof; or serving as an officer, director, partner, employee or agent); or

(d) Allow ownership or Control to pass to another Person.

§ 107.430 Notification to SBA of transactions that may change ownership or Control.

You must promptly notify SBA as soon as you have knowledge of transactions or events that may result in a transfer of Control or ownership of at least 10 percent of your capital. If there is any doubt as to whether a particular transaction or event will result in such a change, report the facts to SBA.

§ 107.440 Standards governing prior SBA approval for a proposed transfer of Control.

SBA approval is contingent upon full disclosure of the real parties in interest, the source of funds for the new owners' interest, and other data requested by SBA. As a condition of approving a proposed transfer of control, SBA may:

(a) Require an increase in your Regulatory Capital;

(b) Require the new owners or the transferee's Control Person(s) to assume, in writing, personal liability for your Leverage, effective only in the event of their direct or indirect participation in any transfer of Control not approved by SBA; or

(c) Require compliance with any other conditions set by SBA.

§ 107.450 Notification to SBA of pledge of Licensee's shares.

(a) You must notify SBA in writing, within 30 calendar days, of the terms of any transaction in which:

(1) Any Person, or group of Persons acting in concert, pledges shares of your stock (or equivalent ownership interests) as collateral for indebtedness; and

(2) The shares pledged are at least 10 percent of your Regulatory Capital.

(b) If the transaction creates a change of ownership or Control, you must comply with § 107.400 or § 107.410, as appropriate.

Restrictions on Common Control or Ownership of Two or More Licensees

§ 107.460 Restrictions on Common Control or ownership of two (or more) Licensees.

(a) *General rule.* Without SBA's prior written approval, you must not have an officer, director, manager, Control Person, or owner (with a direct or indirect ownership interest of at least 10 percent) who is also:

(1) An officer, director, manager, Control Person, or owner (with a direct or indirect ownership interest of at least 10 percent) of another Licensee; or

(2) An officer or director of any Person that directly or indirectly controls, or is controlled by, or is under Common Control with, another Licensee.

(b) *Exception for Section 301(d) Licensees.* This § 107.460 does not apply to common officers, directors, managers, or owners of a Section 301(c) Licensee and its Section 301(d) subsidiary.

Change in Structure of Licensee

§ 107.470 SBA approval of merger, consolidation, or reorganization of Licensee.

(a) *Prior approval requirements.* You may not merge, consolidate, change form of organization (corporation or partnership) or reorganize without SBA's prior written approval. Any such merger or consolidation will be subject to § 107.440.

(b) *Fee.* A processing fee of $5,000 must accompany any application for approval of a change in your form of organization (from corporation to partnership or partnership to corporation).

Transfer of License

§ 107.475 Transfer of license.

You may not transfer your license in any manner without SBA's prior written approval.

Subpart E—Managing The Operations of a Licensee

General Requirements

§ 107.500 Lawful operations under the Act.

You must engage only in the activities contemplated by the Act and in no other activities.

§ 107.501 Identification as a Licensee.

You must display your SBIC license in a prominent location. You must also have a listed telephone number. All Financing documents must identify you as "a Federal Licensee under the Small Business Investment Act of 1958, as amended."

§ 107.502 Representations to the public.

You may not represent or imply to anyone that the SBA, the U.S. Government or any of its agencies or officers has approved any ownership interests you have issued or obligations you have incurred. Be certain to include a statement to this effect in any solicitation to investors. Example: You may not represent or imply that "SBA stands behind the Licensee" or that "Your capital is safe because SBA's experts review proposed investments to make sure they are safe for the Licensee."

§ 107.503 Licensee's adoption of an approved Valuation Policy.

(a) *SBA approval.* You must have a written valuation policy for use in determining the value of your Loans and Investments. You must include this policy as part of your initial application to SBA.

(b) *Adopting SBA's valuation guidelines/automatic approval.* If you adopt the exact wording of the Model Valuation Policy, "Valuation Guidelines for SBICs", and make absolutely no additions or changes, then SBA will automatically accept your Valuation Policy. With SBA's prior written approval, you may adopt a policy that differs from the model.

(c) *Licensee's adoption of policy.* Your board of directors or general partners will be solely responsible for adopting your Valuation Policy and for using it to prepare valuations of your Loans and Investments for submission to SBA. SBA reserves the right to review or independently establish valuations of your Loans and Investments.

(d) *Frequency of valuations.* (1) If you have outstanding Leverage or Earmarked Assets, you must value your Loans and Investments at the end of the second quarter of your fiscal year, and at the end of your fiscal year.

(2) Otherwise, you must value your Loans and Investments only at your fiscal year end.

(3) On a case-by-case basis, SBA may require you to perform valuations more frequently.

(4) You must report material changes in valuations at least quarterly, within thirty days following the close of the quarter.

(e) *Review of valuations by independent public accountant.* Your independent public accountant must review only valuations performed as of the end of your fiscal year. The accountant's responsibility includes reviewing your valuation procedures and the implementation of such procedures, including adequacy of documentation. The accountant also has reporting responsibilities concerning the results of this review.

§ 107.504 Computer capability requirements of Licensee.

You must have a personal computer with a modem, and be able to use this equipment to prepare reports (using SBA-provided software) and transmit them by modem to SBA.

§ 107.505 Facsimile requirement.

You must be able to receive fax messages 24 hours per day at your primary office.

§ 107.506 Safeguarding Licensee's assets/internal controls.

You must adopt a plan to safeguard your assets and monitor the reliability of your financial data, personnel, Portfolio, funds and equipment. You must provide your bank and custodian with a certified copy of your resolution or other formal document describing your control procedures.

§ 107.507 Violations based on false filings and nonperformance of agreements with SBA.

The following shall constitute a violation of this part:

(a) *Nonperformance.* Nonperformance of any of the requirements of any Debenture, Participating Security or Preferred Security, or of any written agreement with SBA.

(b) *False statement.* In any document submitted to SBA:

(1) Any false statement knowingly made; or

(2) Any misrepresentation of a material fact; or

(3) Any failure to state a material fact. A material fact is any fact which is necessary to make a statement not misleading in light of the circumstances under which the statement was made.

§ 107.508 Accessible office.

You must maintain an office that is convenient to the public and is open for business during normal working hours.

§ 107.509 Employment of SBA officials.

Without SBA's prior written approval, for a period of two years after the date of your most recent issuance of Leverage (or the receipt of any SBA Assistance as defined in part 105 of this chapter), you are not permitted to employ, offer employment to, or retain for professional services, any person who:

(a) Served as an officer, attorney, agent, or employee of SBA on or within one year before such date; and

(b) As such, occupied a position or engaged in activities which, in SBA's determination, involved discretion with respect to the granting of Assistance under the Act.

Management and Compensation

§ 107.510 SBA approval of Licensee's Investment Adviser/Manager.

You may employ an Investment Adviser/Manager who will be subject to the supervision of your board of directors or general partner. If you have Leverage or plan to seek Leverage, you must obtain SBA's prior written approval of the management contract. SBA's approval of an Investment/Advisor Manager for one Licensee does not indicate approval of that manager for any other Licensee.

(a) *Management contract.* The contract must:

(1) Specify the services the Investment Adviser/manager will render to you and to the Small Businesses in your Portfolio;

(2) Indicate the basis for computing Management Expenses; and

(3) Be approved annually by your board of directors or principals.

(b) *Material change to approved management contract.* If there is a material change, both you and SBA must approve such change in advance. If you are uncertain if the change is material, submit the proposed revision to SBA.

§ 107.520 Management Expenses of a Licensee.

SBA must approve any increases in your Management Expenses if you have outstanding Leverage or Earmarked Assets.

(a) *Definition of Management Expenses.* Management Expenses include:

(1) Salaries;

(2) Office expenses;

(3) Travel;

(4) Business development;

(5) Office and equipment rental;

(6) Bookkeeping; and

(7) Expenses related to developing, investigating and monitoring investments.

(b) Management Expenses do *not* include services provided by specialized outside consultants, outside lawyers and independent public accountants, if they perform services not generally performed by a venture capital company.

(c) If your Management Expenses have not already been approved by SBA, you must submit such expenses for approval with your SBA Form 468 for your first fiscal year ending after the effective date of this Regulation.

Cash Management by a Licensee

§ 107.530 Restrictions on investments of idle funds by leveraged Licensees.

(a) *Applicability of this section.* This § 107.530 applies if you have outstanding Leverage or if you have applied for Leverage.

(b) *Permitted investments of idle funds.* Funds not invested in Small Businesses must be maintained in:

(1) Direct obligations of, or obligations guaranteed as to principal and interest by, the United States, which mature within 15 months from the date of the investment; or

(2) Repurchase agreements with federally insured institutions, with a maturity of seven days or less. The securities underlying the repurchase agreements must be direct obligations of, or obligations guaranteed as to principal and interest by, the United States. The securities must be maintained in a custodial account at a federally insured institution; or

(3) Certificates of deposit with a maturity of one year or less, issued by a federally insured institution; or

(4) A deposit account in a federally insured institution, subject to a withdrawal restriction of one year or less; or

(5) A checking account in a federally insured institution.

(c) *Deposit of funds in excess of the insured amount.* (1) You are permitted to deposit funds in a federally insured institution in excess of the institution's insured amount, but only if the institution is "well capitalized" in accordance with the definition set forth in regulations of the Federal Deposit Insurance Corporation, as amended (12 CFR 325.103).

(2) Exception: You may make a temporary deposit (not to exceed 30 days) in excess of the insured amount, in a transfer account established to facilitate the receipt and disbursement of funds or to hold funds necessary to honor Commitments issued.

(d) *Deposit of funds in Associate institution.* A deposit in, or a repurchase agreement with, a federally insured institution that is your Associate is not considered a Financing of such Associate under § 107.730, provided the terms of such deposit or repurchase agreement are no less favorable than those available to the general public.

Borrowing by Licensees From Non-SBA Sources

§ 107.550 Prior approval of secured third-party debt of leveraged Licensees.

(a) *General rule.* If you have outstanding Leverage, you must get SBA's written approval before you incur any non-SBA debt secured by any of your assets (referred to in this section as "secured third-party debt") or refinance any debt with secured third-party debt, including any renewal of, or increase in, a secured line of credit, or expansion of the scope of a security interest or lien. Secured third-party debt includes all guarantees and other contingent obligations that you voluntarily assume that are secured by any of your assets, all secured lines of credit, and any secured Temporary Debt of a Licensee

with outstanding Participating Securities.

(b) *Additional rule for secured lines of credit in existence on April 8, 1994.* If you have outstanding Leverage and you have a secured line of credit that was created on or before April 8, 1994, you must receive SBA's written approval of the line before you increase the amounts outstanding thereunder.

(c) *Conditions for SBA approval.* As a condition of granting its approval under this § 107.550, SBA may impose such restrictions or limitations as it deems appropriate, taking into account your historical performance, current financial position, proposed terms of the secured debt and amount of aggregate debt you will have outstanding (including Leverage). SBA will not favorably consider any requests for approval which include a blanket lien on all your assets, or a security interest in your investor commitments in excess of 125 percent of the proposed borrowing.

(d) *Thirty day approval.* Unless SBA notifies you otherwise within 30 days after it receives your request, you may consider your request automatically approved if:

(1) You are in regulatory compliance;

(2) The security interest in your assets is limited to either those assets being acquired with the borrowed funds or an asset coverage ratio of no more than 1.25:1;

(3) Your Leverage does not exceed 150 percent of your Leverageable Capital; and

(4) Your request is for approval of a secured line of credit that would not cause your total outstanding borrowings (not including Leverage) to exceed 50 percent of your Leverageable Capital.

§ 107.560 Subordination of SBA's creditor position.

(a) *Debentures purchased or guaranteed on or before July 1, 1991.* Under the terms of any Debenture purchased or guaranteed by SBA on or before July 1, 1991, SBA's unsecured claims against you, as a Debenture-holder or as subrogee, are subordinated in favor of all your other creditors, except to the extent that such claims may be subject to equitable subordination in SBA's favor.

(b) *Debentures purchased or guaranteed after July 1, 1991, including refinancings of Debentures previously purchased or guaranteed.* (1) Under the terms of any Debenture purchased or guaranteed by SBA after July 1, 1991, SBA's unsecured claims against you, as a Debenture-holder or as subrogee, are subordinated only in favor of non-Associate lenders; and, to the extent that your indebtedness to such lenders exceeds the lesser of $10,000,000 or 200 percent of your Regulatory Capital (determined as of the date your Debentures were purchased or guaranteed), SBA's unsecured claims enjoy parity with those of other unsecured creditors, except with respect to indebtedness created on or before July 1, 1991.

(2) In order to induce others to lend you money after your Debenture has been purchased or guaranteed, SBA may agree in writing on a case-by-case basis to subordinate its unsecured claims, on such terms as it may determine, in favor of one or more of your Associates, or in favor of other lenders in excess of the amounts mentioned in paragraph (b)(1)of this section.

(3) SBA reserves the authority to refuse to subordinate its claims if it determines, at the time you request your Debenture be purchased or guaranteed, that the exercise of reasonable investment prudence and your financial condition warrant such refusal.

§ 107.570 Restriction on third-party debt of issuers of Participating Securities.

(a) *General.* Temporary Debt is the only debt (other than Leverage) that you are permitted to incur if you have applied to issue Participating Securities or if you have outstanding Participating Securities. For additional rules governing secured Temporary Debt, see § 107.550.

(b) *Definition of Temporary Debt.* Temporary Debt means your short-term borrowings if:

(1) Such borrowings are for the purpose of maintaining your operating liquidity or providing funds for a particular Financing of a Small Business;

(2) The funds are borrowed from a regulated financial institution or a regulated credit company (or, if approved by SBA on a case-by-case basis, from non-regulated lenders including shareholders or partners);

(3) Your total outstanding borrowings (not including Leverage) do not exceed 50 percent of your Leverageable Capital; and

(4) All such borrowings are fully paid off for at least 30 consecutive days during your fiscal year so that you have no outstanding third-party debt for 30 days.

Voluntary Decrease in Licensee's Regulatory Capital

§ 107.585 Voluntary decrease in Regulatory Capital.

You must obtain SBA's prior written approval to reduce your Regulatory Capital by more than two percent in any fiscal year, unless otherwise permitted under §§ 107.1560 and 107.1570. At all times, you must retain sufficient Regulatory Capital to meet the minimum capital requirements in the Act and § 107.210, and sufficient Leverageable Capital to avoid having excess Leverage in violation of section 303 of the Act and §§ 107.1150 through 107.1170.

Requirement To Conduct Active Investment Operations

§ 107.590 Licensee's requirement to maintain active operations.

(a) *Activity test.* You must conduct active operations, as determined under this § 107.590, as a condition of your license. You will be considered active if:

(1) During the eighteen months preceding your most recent fiscal year end, you made Financings (excluding Commitments) totaling at least 20 percent of your Regulatory Capital; and

(2) Your idle funds did not exceed 20 percent of your total assets (at cost) at your most recent fiscal year end.

(b) *Permitted exceptions to activity requirements.* You are considered active if SBA determines that your failure to meet the requirements in paragraph (a) of this section is the result of one or more of the following factors:

(1) Your excess idle funds are the result of recent realized gains, repayments, the raising of additional capital or Leverage recently received.

(2) It is necessary for you to maintain excess idle funds to conduct your operations because:

(i) You have no remaining unfunded commitments from investors; and

(ii) You cannot receive additional Leverage, solely because SBA has insufficient funds available.

(3) You have not made sufficient Financings because of a lack of available funds, evidenced by Loans and Investments (at cost) equal to at least 90 percent of your Combined Capital as of your most recent fiscal year end.

(4) You have not made sufficient Financings solely because SBA has restricted your ability to make investments.

(c) *Applicability of activity requirements.* The activity requirements in paragraph (a) of this section do not apply if you have filed a "Wind-up Plan" approved by SBA. "Wind-up Plan" means a plan that you prepare when you decide that you will no longer make any Financings other than follow-on investments, and that you update annually when you file your SBA Form 468. The plan must contain your best estimates of the following:

(1) The remaining number of years you expect to operate.

(2) For each of your Loans and Investments, the expected liquidation date and anticipated proceeds.

(3) The timing of your repayment of obligations to SBA.

(4) The timing and amount of any planned reductions in your Management Expenses.

(d) *Phase-in of activity requirements.* You must meet the activity requirements in this § 107.590 as of the end of your first full fiscal year following the effective date of the final regulation. Until then, you will be considered active if you meet the activity requirements in effect the day before the effective date of the final regulation.

Subpart F—Recordkeeping, Reporting, and Examination Requirements for Licensees

Recordkeeping Requirements for Licensees

§ 107.600 General requirement for Licensee to maintain and preserve records.

(a) *Maintaining your accounting records.* You must establish and maintain your accounting records using SBA's standard chart of accounts for Licensee, unless SBA approves otherwise.

(b) *Location of records.* You must keep the following records at your principal place of business or, in the case of paragraph (b)(3) of this section, at the branch office that is primarily responsible for the transaction:

(1) All your accounting and other financial records;

(2) All minutes of meetings of directors, stockholders, executive committees, partners, or other officials; and

(3) All documents and supporting materials related to your business transactions, except for any items held by a custodian under a written agreement between you and a Portfolio Concern or non-SBA lender, or any securities held in a safe deposit box, or by a licensed securities broker in an amount not exceeding the broker's per-account insurance coverage.

(c) *Preservation of records.* You must retain all the records that are the basis for your financial reports. Such records must be preserved for the periods specified in this paragraph (c), and must remain accessible for the first two years of the preservation period.

(1) You must preserve for at least 15 years or, in the case of a Partnership Licensee, at least two years beyond the date of liquidation:

(i) All your accounting ledgers and journals, and any other records of assets, asset valuations, liabilities, equity, income, and expenses.

(ii) Your Articles, bylaws, minute books, and license application.

(iii) All documents evidencing ownership of the Licensee including ownership ledgers, and ownership transfer registers.

(2) You must preserve for at least six years all supporting documentation (such as vouchers, bank statements, or canceled checks) for the records listed in paragraph (b)(1) of this section.

(3) After final disposition of any item in your Portfolio, you must preserve for at least six years:

(i) Financing applications and Financing instruments.

(ii) All loan, participation, and escrow agreements.

(iii) Size status declarations (SBA Form 480) and Financing Eligibility Statements (SBA Form 1941).

(iv) Any capital stock certificates and warrants of the Portfolio Concern that you did not surrender or exercise.

(v) All other documents and supporting material relating to the Portfolio Concern, including correspondence.

(4) You may substitute a microfilm or computer-scanned or generated copy for the original of any record covered by this paragraph (c).

§ 107.610 Required certifications for Loans and Investments.

For each of your Loans and Investments, you must have the documents listed in this section. You must keep these documents in your files and make them available to SBA upon request.

(a) SBA Form 480, the Size Status Declaration, executed both by you and by the concern you are financing. By executing this document, both parties certify that the concern is a Small Business. For securities purchased from an underwriter in a public offering, you may substitute a prospectus showing that the concern is a Small Business.

(b) SBA Form 652, a certification by the concern you are financing that it will not illegally discriminate (see part 112 of this chapter).

(c) SBA Form 1941 (for Section 301(d) Licensees only), executed both by you and by the concern you are financing. By executing this document, both parties certify that the concern is a Disadvantaged Business.

(d) A certification by the concern you are financing of the intended use of the proceeds. For securities purchased from an underwriter in a public offering, you may substitute a prospectus indicating the intended use of proceeds.

§ 107.620 Requirements to obtain information from Portfolio Concerns.

All the information required by this section is subject to the requirements of § 107.600 and must be in English.

(a) *Information for initial Financing decision.* Before extending any Financing, you must require the applicant to submit such financial statements, plans of operation (including intended use of financing proceeds), cash flow analyses and projections as are necessary to support your investment decision. The information submitted must be consistent with the size and type of the business and the amount of the proposed Financing.

(b) *Updated financial information.* (1) The terms of each Financing must require the Portfolio Concern to provide, at least annually, sufficient financial information to enable you to perform the following required procedures:

(i) Evaluate the financial condition of the Portfolio Concern for the purpose of valuing your investment;

(ii) Determine the continued eligibility of the Portfolio Concern; and

(iii) Verify the use of Financing proceeds.

(2) The information submitted to you must be certified by the chief financial officer, general partner, or proprietor of the Portfolio Concern.

(3) For financial and valuation purposes, you may accept a complete copy of the Federal income tax return filed by the Portfolio Concern (or its proprietor) in lieu of financial statements, but only if appropriate for the size and type of the business involved.

(4) The requirements in this paragraph (b) do not apply when you acquire securities from an underwriter in a public offering (see § 107.828). In that case, you must keep copies of all reports furnished by the Portfolio Concern to the holders of its securities.

(c) *Information required for examination purposes.* You must obtain any information requested by SBA's examiners for the purpose of verifying the certifications made by a Portfolio Concern under § 107.610. In this regard, your Financing documents must contain provisions requiring the Portfolio Concern to give you and/or SBA's examiners access to its books and records for such purpose.

Reporting Requirements for Licensees

§ 107.630 Requirement for Licensees to file financial statements with SBA (Form 468).

(a) *Annual filing of Form 468.* For each fiscal year, you must submit to SBA financial statements and

supplementary information prepared on SBA Form 468. You must file Form 468 on or before the last day of the third month following the end of your fiscal year.

(1) *Audit of Form 468.* The annual Form 468 must be audited by an independent public accountant acceptable to SBA.

(2) *Insurance requirement for public accountant.* Your independent public accountant must carry Errors and Omissions insurance in an amount acceptable to SBA, or be self-insured and have a net worth acceptable to SBA.

(b) *Interim filings of Form 468.* When requested by SBA, you must file interim reports on Form 468. SBA may require you to file the entire form or only certain statements and schedules. You must file such reports on or before the last day of the month following the end of the reporting period.

(c) *Standards for preparation of Form 468.* You must prepare SBA Form 468 in accordance with appendix I, Accounting Standards and Financial Reporting Requirements for Small Business Investment Companies.

(d) *Where to file Form 468.* Submit all filings of Form 468 to the Investment Division of SBA.

(e) *Reporting of economic impact information on Form 468.* Your annual filing of SBA Form 468 must include an assessment of the economic impact of each Financing, specifying the full-time equivalent jobs created or retained, and the impact of the Financing on the revenues and profits of the business and on taxes paid by the business and its employees.

§ 107.640 Requirement to file Portfolio Financing Reports (SBA Form 1031).

For each Financing of a Small Business (excluding guarantees), you must submit a Portfolio Financing Report on SBA Form 1031 within 30 days of the closing date.

§ 107.650 Requirement to report portfolio valuations to SBA.

You must determine the value of your Loans and Investments in accordance with § 107.503. You must report such valuations to SBA within 90 days of the end of the fiscal year in the case of annual valuations, and within 30 days following the close of other reporting periods. You must report material changes in valuations at least quarterly, within thirty days following the close of the quarter.

§ 107.660 Other items required to be filed by Licensee with SBA.

(a) *Reports to owners.* You must give SBA a copy of any report you furnish to your investors, including any prospectus, letter, or other publication concerning your financial operations or those of any Portfolio Concern.

(b) *Documents filed with SEC.* You must give SBA a copy of any report, application or document you file with the Securities and Exchange Commission.

(c) *Litigation reports.* When you become a party to litigation or other proceedings, you must give SBA a report within 30 days that describes the proceedings and identifies the other parties involved and your relationship to them.

(1) The proceedings covered by this paragraph (c) include any action by you, or by your security holder(s) in a personal or derivative capacity, against an officer, director, Investment Adviser or other Associate of yours for alleged breach of official duty.

(2) SBA may require you to submit copies of the pleadings and other documents SBA may specify.

(3) Where proceedings have been terminated by settlement or final judgment, you must promptly advise SBA of the terms.

(4) This paragraph (c) does not apply to collection actions or proceedings to enforce your ordinary creditors' rights.

(d) *Other reports.* You must file any other reports that SBA may require by written directive.

§ 107.670 Application for exemption from civil penalty for late filing of reports.

(a) If it is impracticable to submit any required report within the time allowed, you may apply for an extension. The request for an extension must:

(1) Be filed before the reporting deadline;

(2) Certify to an extraordinary occurrence, not within your control, that makes timely filing of the report impracticable; and

(3) Be accompanied by written evidence of such occurrence, where appropriate.

(b) Upon receipt of your request, SBA may exempt you from the civil penalty provision of section 315(a) of the Act, in such manner and under such conditions as SBA determines.

§ 107.680 Reporting changes in Licensee not subject to prior SBA approval.

(a) *Changes to be reported for post approval.* This section applies to any changes in your Articles, ownership, capitalization, management, operating area, or investment policies that do not require SBA's prior approval. You must report such changes to SBA within 30 days for post approval. A processing fee of $200 must accompany each request for post approval of new officer, directors, or Control Persons.

(b) *Approval by SBA.* You may consider any change submitted under this section § 107.680 to be approved unless SBA notifies you to the contrary within 90 days after receiving it. SBA's approval is contingent upon your full disclosure of all relevant facts and is subject to any conditions SBA may prescribe.

Examinations of Licensees by SBA for Regulatory Compliance

§ 107.690 Examinations.

SBA will examine all Licensees for the purpose of evaluating regulatory compliance.

§ 107.691 Responsibilities of Licensee during examination.

You must make all books, records and other pertinent documents and materials available for the examination, including any information required by the examiner under § 107.620(c). In addition, the agreement between you and the independent public accountant performing your audit must provide that any information in the accountant's working papers be made available to SBA upon request.

§ 107.692 Examination fees.

(a) SBA will assess fees for examinations. Fees will be assessed based on your assets as of the date of your latest certified financial statement submitted to SBA prior to the examination. As a general rule, SBA will not assess fees for special examinations to obtain specific information. The rate table is as follows:

Total assets of licensee	Base rate	Percent of assets
$0 to $2,000,000	$3,500	+0
$2,000,001 to $5,000,000	$3,500	+.24% over $2,000,000
$5,000,001 to $10,000,000	$10,700	+.12% over $5,000,000
$10,000,001 to $15,000,000	$16,700	+.06% over $10,000,000
$15,000,001 or more	$19,700	+.03% over $15,000,000

(b) *Delay Fee.* If, in the judgment of SBA, the time required to complete your examination is delayed due to your lack of cooperation or the condition or your records, SBA may assess an additional fee of up to $500 per day.

Subpart G—Financing of Small Businesses by Licensees

Determining the Eligibility of a Small Business for SBIC Financing

§ 107.700 Compliance with size standards in Part 121 of this chapter as a condition of Assistance.

You are permitted to provide financial assistance and management services only to a Small Business. To determine whether an applicant is a Small Business, you may use either the financial size standards in § 121.802(a)(3)(i) of this chapter or the industry standard covering the industry in which the applicant is primarily engaged, as set forth in § 121.802(a)(3)(ii) of this chapter.

§ 107.710 Requirement to finance Smaller Businesses.

Your Portfolio must include Financings to Smaller Businesses.

(a) *Definition of Smaller Business.* A Smaller Business means a business that:

(1) Together with its Affiliates has a net worth of not more than $6.0 million and average net income after Federal income taxes (excluding any carry-over losses) for the preceding two years no greater than $2.0 million; or

(2) Both together with its affiliates, and by itself, meets the size standard of § 121.601 of this chapter at the time of the Financing for the industry in which it is then primarily engaged.

(b) *Phase 1 of Smaller Business Financing requirement.* At the close of your first complete fiscal year beginning on or after April 25, 1994, at least 10 percent of the total dollar amount of the Financings you extended since April 25, 1994 must have been in Smaller Businesses.

(c) *Phase 2 of Smaller Business Financing requirement.* At the close of each of your next fiscal years, at least 20 percent of the total dollar amount of the Financings you extended since April 25, 1994 must have been invested in Smaller Businesses.

(d) *Financing a change of ownership which results in the creation of a Smaller Business.* The Financing of a change of ownership under § 107.750 which results in the creation of a Smaller Business qualifies as a Smaller Business Financing.

(e) *Non-compliance with this section.* If you have not reached the required percentage of Smaller Business Financings at the end of any fiscal year, then you must be in compliance by the end of the following fiscal year.

§ 107.720 Small Businesses that may be ineligible for Financing.

(a) *Relenders or reinvestors.* You are not permitted to finance any business that is a relender or reinvestor.

(1) *Definition.* Relenders or reinvestors are businesses whose primary business activity involves, directly or indirectly, providing funds to others, purchasing debt obligations, factoring, or long-term leasing of equipment with no provision for maintenance or repair.

(2) *Exception.* You may provide Venture Capital Financing to Disadvantaged Businesses that are relenders or reinvestors (except banks or savings and loans not insured by agencies of the federal government, and agricultural credit companies). Without SBA's prior written approval, total Financings under this paragraph (a)(2) that are outstanding as of the close of your fiscal year must not exceed your Regulatory Capital.

(b) *Passive Businesses.* You are not permitted to finance a passive business.

(1) *Definition.* A business is passive if:

(i) It is not engaged in a regular and continuous business operation (for purposes of this paragraph (b), the mere receipt of payments such as dividends, rents, lease payments, or royalties is not considered a regular and continuous business operation); or

(ii) Its employees are not carrying on the majority of the day to day operations; or

(iii) It passes through substantially all of the proceeds of the Financing to another entity.

(2) *Exception.* You may finance a passive business if it passes all the proceeds of the Financing through to a wholly-owned eligible Small Business that is not passive.

(c) *Real Estate Businesses.* (1) You are not permitted to finance any business classified under Major Group 65 (Real Estate) or Industry No. 1532 (Operative Builders) of the SIC Manual, with the following exceptions:

(i) Title Abstract companies (Industry No. 6541); and

(ii) Companies listed under Industry No. 6531 (for example, real estate agents, brokers, escrow agents, managers and multiple listing services) that derive at least 80 percent of their revenue from non-Affiliate sources.

(2) You are not permitted to finance a business, regardless of SIC classification, if the Financing is to be used to acquire realty or to discharge an obligation relating to the prior acquisition of realty, unless the Small Business:

(i) Is acquiring an existing building and will use at least 51 percent of the usable square footage for an eligible business activity; or

(ii) Is building or renovating a building and will use at least 67 percent of the usable square footage for an eligible business activity.

(d) *Project Financing.* You are not permitted to finance a business if:

(1) The assets of the business are to be reduced or consumed, generally without replacement, as the life of the business progresses, and the nature of the business requires that a stream of cash payments be made to the business's financing sources, on a basis associated with the continuing sale of assets. Examples include real estate development projects and oil and gas wells; or

(2) The primary purpose of the Financing is to fund production of a single item or defined limited number of items, generally over a defined production period, and such production will constitute the majority of the activities of the Small Business. Examples include motion pictures and electric generating plants.

(e) *Farm land purchases.* You are not permitted to finance the acquisition of farm land. Farm land means land which is or is intended to be used for agricultural or forestry purposes, such as the production of food, fiber, or wood, or is so taxed or zoned.

(f) *Public interest.* You are not permitted to finance any business if the proceeds are to be used for purposes contrary to the public interest, including but not limited to activities which are in violation of law, or inconsistent with free competitive enterprise.

(g) *Foreign investment*—(1) *General rule.* You are not permitted to finance a business if:

(i) The funds will be used substantially for a foreign operation; or

(ii) At the time of the Financing or within one year thereafter, more than 40 percent of the employees or tangible assets of the Small Business are located outside the United States (unless you can show, to SBA's satisfaction, that the Financing was used for a specific domestic purpose).

(2) *Exception.* This paragraph (g) does not prohibit a Financing used to acquire foreign materials and equipment or foreign property rights for use or sale in the United States.

(h) *Associated supplier.* You are not permitted to finance a business that purchases, or will purchase, goods or services from a supplier who is your

Associate, except under the following conditions:

(1) The amount of goods and services purchased (or to be purchased) from your Associate with the proceeds of the Financing, or with funds released as a result of the Financing, is less than 50 percent of the total amount of the Financing (75 percent for a Section 301(d) Licensee);

(2) The price of such goods and services is no higher than that charged other customers of your Associate; and

(3) The Small Business purchases no capital goods from your Associate.

(i) *Financing Licensees.* You are not permitted to provide funds, directly or indirectly, that the Small Business will use:

(1) To purchase stock in or provide capital to a Licensee; or

(2) To repay an indebtedness incurred for the purpose of investing in a Licensee.

§ 107.730 Financings which constitute conflicts of interest.

(a) *General rule.* You must not self-deal to the prejudice of a Small Business, the Licensee, its shareholders or partners, or SBA. Unless you obtain a prior written exemption from SBA for special instances in which a Financing may further the purposes of the Act despite presenting a conflict of interest, you must not directly or indirectly:

(1) Provide Financing to any of your Associates.

(2) Provide Financing to an Associate of another Licensee if one of your Associates has received or will receive any direct or indirect Financing or a Commitment from that Licensee or a third Licensee (including Financing or Commitments received under any understanding, agreement, or cross dealing, reciprocal or circular arrangement).

(3) Borrow money from:

(i) A Small Business Financed by you;

(ii) An officer, director, or owner of at least a 10 percent equity interest in such business; or

(iii) A Close Relative of any such officer, director, or equity owner.

(4) Provide Financing to a Small Business to discharge an obligation to your Associate or free other funds to pay such obligation. This paragraph (a)(4) does not apply if the obligation is to an Associate Lending Institution and is a line of credit or other obligation incurred in the normal course of business.

(5) Provide Financing to a Small Business for the purpose of purchasing property from your Associate, except as permitted under § 107.720(h).

(b) *Rules applicable to Associates.* Without SBA's prior written approval, your Associates must not, directly or indirectly:

(1) Borrow money from any Person described in paragraph (a)(3) of this section.

(2) Receive from a Small Business any compensation in connection with Assistance you provide (except as permitted under §§ 107.828(c) and 107.900), or anything of value for procuring, attempting to procure, or influencing your action with respect to such Assistance.

(c) *Applicability of other laws.* You are also bound by any restrictions in Federal or State laws governing conflicts of interest and fiduciary obligations.

(d) *Financings with Associates*—(1) *Financings with Associates requiring prior approval.* Without SBA's prior written approval, you may not Finance any business in which your Associate has either a voting equity interest, or total equity interests (including potential interests), of at least five percent.

(2) *Other Financings with Associates.* If you and an Associate provide Financing to the same Small Business, either at the same time or at different times, you must be able to demonstrate to SBA's satisfaction that the terms and conditions are (or were) fair and equitable to you, taking into account any differences in the timing of each party's financing transactions.

(3) *Exceptions to paragraphs (d)(1) and (d)(2) of this section.* A Financing that falls into one of the following categories is exempt from the prior approval requirement in paragraph (d)(1) of this section or is presumed to be fair and equitable to you for the purposes of paragraph (d)(2) of this section, as appropriate:

(i) Your Associate is a Lending Institution that is providing financing under a credit facility in order to meet the operational needs of the Small Business, and the terms of such financing are usual and customary.

(ii) Your Associate invests in the Small Business on the same terms and conditions and at the same time as you.

(iii) Both you and your Associate are leveraged Licensees, and both have outstanding Participating Securities or neither has outstanding Participating Securities.

(iv) Both you and your Associate are non-leveraged Licensees.

(e) *Use of Associates to manage Portfolio Concerns.* To protect your investment, you may designate an Associate to serve as an officer, director, or other participant in the management of a Small Business. You must identify any such Associate in your records available for SBA's review under § 107.600. Without SBA's prior written approval, the Associate must not:

(1) Have any other direct or indirect financial interest in the Portfolio Concern that exceeds, or has the potential to exceed, 3 percent of the Portfolio Concern's equity.

(2) Have served for more than 30 days as an officer, director or other participant in the management of the Portfolio Concern before you provided Financing.

(3) Receive any income or anything of value from the Portfolio Concern unless it is for your benefit, with the exception of director's fees, expenses, and distributions based upon the Associate's ownership interest in the Concern.

(f) *1940 and 1980 Act Companies: SEC exemptions.* If you are a 1940 or 1980 Act Company and you receive an exemption from the Securities and Exchange Commission for a transaction described in this § 107.730, you need not obtain SBA's approval of the transaction. However, you must promptly notify SBA of the transaction and satisfy the public notice requirements in paragraph (g) of this section.

(g) *Public notice.* Before SBA grants an exemption under this § 107.730, you must publish notice of the transaction in a newspaper of general circulation in the locality most directly affected by the transaction, and furnish a certified copy to SBA within 10 days of publication. SBA will publish a similar notice in the **Federal Register**.

§ 107.740 Portfolio diversification ("overline" limitation).

(a) *General rule.* This § 107.740 applies if you have outstanding Leverage or want to be eligible for Leverage. Without SBA's prior written approval, your aggregate outstanding Financings and Commitments to a Small Business (including its Affiliates) must not exceed:

(1) 20 percent of Regulatory Capital for a Section 301(c) Licensee; or

(2) 30 percent of Regulatory Capital for a Section 301(d) Licensee.

(b) *Outstanding Financings.* For the purposes of paragraph (a) of this section, you must measure each outstanding Financing at its current cost *plus* any amount of the Financing that was previously written off.

(c) *Adjustment to Regulatory Capital.* For the purposes of paragraph (a) of this section, you may compute a higher maximum permitted investment in a Small Business (an "increased limit") by adding "net unrealized gains" on Publicly Traded and Marketable securities to your Regulatory Capital, subject to the following conditions:

(1) *Net unrealized gains* on Publicly Traded and Marketable securities means unrealized gains on Publicly Traded and Marketable securities minus unrealized losses on *all* Loans and Investments.

(2) You must value your Publicly Traded and Marketable securities in accordance with your SBA-approved valuation policy.

(3) You must have positive Retained Earnings Available for Distribution at the time you compute an increased limit under this paragraph (c).

(4) At the time you first compute an increased limit, and as of the first business day of each calendar quarter that the increased limit is in effect, you must keep copies in your files of the NASDAQ listings (or the Wall Street Journal) or written quotations from the market makers quoting the Publicly Traded and Marketable securities which support the adjustment.

(5) If your net unrealized gains on Publicly Traded and Marketable securities are more than 30 percent below their original level on the first business day of any calendar quarter, and remain so for the next 30 days, you agree to do one of the following to remain in compliance with the terms of your Leverage:

(i) By the first day of the next calendar quarter, increase your Regulatory Capital sufficiently to restore support for the increased limit; or

(ii) Lower the increased limit to reflect the decrease in net unrealized gains on Publicly Traded and Marketable securities, and reduce any Financings that exceed the lower limit.

Example to paragraph (c) of this section. Your Regulatory Capital is $2,500,000 and your overline limit is $500,000 (20 percent of $2,500,000). On January 15, 1995, you document net unrealized gains on Publicly Traded and Marketable securities of $200,000 and compute an increased limit of $540,000 (20 percent of $2,700,000). You now make an investment of $540,000 in a Small Business. Nothing changes until the first business day of April, 1996, when you document net unrealized gains on Publicly Traded and Marketable securities of only $120,000, a reduction of more than 30 percent. Your net unrealized gains remain at this level for the next 30 days. Your increased limit is now only $524,000 (20 percent of $2,620,000). By July 1, 1996, you must either increase Regulatory Capital by $80,000 to restore your increased limit to $540,000, or reduce your portfolio investment from $540,000 to $524,000.

§ 107.750 Conditions for financing a change of ownership of a Small Business.

You may finance a change of ownership of a Small Business only under the conditions set forth in this section.

(a) The Financing must:

(1) Promote the sound development or preserve the existence of the Small Business;

(2) Help create a Small Business as a result of a corporate divestiture; or

(3) Facilitate ownership in a Disadvantaged Business.

(b) The Resulting Concern (as defined in paragraph (c) of this section) must:

(1) Be a Small Business under § 107.700;

(2) Have 500 or fewer full-time equivalent employees; or meet one of the appropriate debt/equity ratio tests:

(i) If you have outstanding Leverage, the Resulting Concern's ratio of debt to equity must be no more than 5 to 1; or

(ii) If you have no outstanding Leverage, the Resulting Concern's ratio of debt to equity must be no more than 8 to 1.

(c) *Definitions.* (1) The "Resulting Concern" is determined by viewing the business as though the change of ownership had already occurred, giving effect to all contemplated financing, mergers, and acquisitions.

(2) For purposes of this section, "debt" means long-term debt, including contingent liabilities, but excluding accounts payable, operating leases, letters of credit, subordinated notes payable to the seller, any other liabilities approved for exclusion by SBA and short-term working capital loans (so long as the loans carry a zero balance for 30 consecutive days during the concern's fiscal year).

(3) For purposes of this section, "equity" means common and preferred stock (corporation), contributed capital (partnership), or membership interests (limited liability company).

§ 107.760 How a change in size or activity of a Portfolio Concern affects the Licensee and the Portfolio Concern.

(a) *Effect on Licensee of a change in size of a Portfolio Concern.* If a Portfolio Concern no longer qualifies as a Small Business you may keep your investment in the concern and:

(1) Subject to the overline limitations of § 107.740, you may provide additional Financing to the concern up to the time it makes a public offering of its securities.

(2) Even after the concern makes a public offering, you may exercise any stock options, warrants, or other rights to purchase Equity Securities which you acquired before the public offering.

(b) *Effect of a change in business activity occurring within one year of Licensee's initial Financing*—(1) *Retention of Investment.* Unless you receive SBA's written approval, you may not keep your investment in a Portfolio Concern, small or otherwise, which becomes ineligible by reason of a change in its business activity within one year of your initial investment.

(2) *Presumption against Portfolio Concern—Default.* If such a change occurs within one year, there is a presumption that the change was within the contemplation of the Portfolio Concern at the time of your initial Financing. Unless this presumption is rebutted, this change constitutes a default or breach of the terms of your initial Financing and a violation of this part.

(3) *Licensee's rights upon default of Portfolio Concern.* If the Portfolio Concern is in breach or default, you have the right to demand immediate repayment of all indebtedness owed by the Portfolio Concern to you, or redemption of all of your equity investments in the Portfolio Concern.

(4) *Request for SBA's approval to retain investment.* If you request that SBA approve the retention of your investment, your request must include sufficient evidence to rebut the presumption in paragraph (b)(2) of this section by a showing that the change in business activity was caused by an unforeseen change in circumstances.

(5) *Additional Financing.* If SBA approves your request to retain an investment under paragraph (b)(4) of this section, you may provide additional Financing to the Portfolio Concern to the extent necessary to protect against the loss of the amount of your original investment, subject to the overline limitations of § 107.740.

(c) *Effect of a change in business activity occurring more than one year after the initial Financing.* If a Portfolio Concern becomes ineligible because of a change in business activity more than one year after your initial Financing you may:

(1) Retain your investment; and

(2) You may provide additional Financing to the Portfolio Concern to the extent necessary to protect against the loss of the amount of your original investment, subject to the overline limitations of § 107.740.

Structuring Licensee's Financing of Eligible Small Businesses: Types of Financing

§ 107.800 Financings in the form of Equity Securities.

(a) You may purchase the Equity Securities of a Small Business. You may not, inadvertently or otherwise:

(1) Become a general partner in any unincorporated business; or

(2) Become jointly or severally liable for any obligations of an unincorporated business.

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(b) *Definition.* Equity Securities means stock of any class in a corporation, limited partnership interests in a limited partnership, membership interests in a limited liability company, or joint venture interests. If the Financing agreement contains covenants or compliance provisions with debt-type remedies (as determined by SBA), or includes redemption provisions other than those permitted under § 107.850, the security will be considered a Debt Security for all regulatory purposes.

§ 107.810 Financings in the form of Loans.

You may make Loans to Small Businesses. A Loan means a transaction evidenced by a debt instrument with no provision for you to acquire Equity Securities.

§ 107.815 Financings in the form of Debt Securities.

You may purchase Debt Securities from Small Businesses.

(a) *Definition.* Debt Securities are instruments evidencing a loan with an option or any other right to acquire Equity Securities in a Small Business or its Affiliates, or a loan which by its terms is convertible into an equity position. Consideration must be paid for all options that you acquire.

(b) *Restriction on options obtained by Licensee's management and employees.* Your employees, officers, directors or general partners, or the general partners of the management company that is providing services to you or to your general partner, may obtain options in a Financed Small Business only if:

(1) They participate in the Financing on a pari passu basis with you; or

(2) SBA gives its prior written approval.

§ 107.820 Financings in the form of guarantees.

At the request of a Small Business or where necessary to protect your existing investment, you may guarantee the monetary obligation of a Small Business to any non-Associate creditor.

(a) You may not issue a guaranty if:

(1) You would become subject to State regulation as an insurance, guaranty or surety business;

(2) The amount of the guaranty plus any direct Financings to the Small Business exceed the overline limitations of § 107.740, except that a pledge of the Equity Securities of the issuer or a subordination of your lien or creditor position does not count toward your overline; or

(3) The total financing cost to the Small Business exceeds the cost of money limits of § 107.855.

(b) *Pledge of Licensee's assets as guaranty.* For purposes of this section, a guaranty with recourse only to specific asset(s) you have pledged is equal to the fair market value of such asset(s) or the amount of the debt guaranteed, whichever is less.

§ 107.825 Commitments to Small Businesses.

You may enter into a written Commitment to provide Financing to a Small Business. A Commitment is a written agreement between you and an eligible Small Business that obligates you to provide Financing (except a guarantee) to that Small Business in a fixed or determinable sum, by a fixed or determinable future date. In this context the term "agreement" means that there has been agreement on the principal economic terms of the Financing. You may include in the agreement reasonable conditions precedent to your obligation to fund the commitment but these conditions must be outside your control.

§ 107.828 Purchasing securities from an underwriter or other third party.

(a) *Securities purchased through or from an underwriter.* You may purchase the securities of a Small Business through or from an underwriter if:

(1) You purchase such securities within 90 days of the date the public offering is first made;

(2) Your purchase price is no more than the original public offering price; and

(3) The amount paid by you for the securities (less ordinary and reasonable underwriting charges and commissions) has been, or will be, paid to the Small Business.

(b) *Recordkeeping requirements.* In addition to the recordkeeping requirements of § 107.600, you must keep records available for SBA's inspection which show the relevant details of the transaction, including, but not limited to, date, price, commissions, and the underwriter's certifications required under paragraph (c) of this section.

(c) *Underwriter's requirements.* The underwriter must certify in writing that the requirement in paragraph (a)(3) of this section has been met. The underwriter also must certify whether it is your Associate. Any such Associate underwriter may keep fees or charges related to the portion of the offering purchased by you only if such fees and charges do not exceed the total of the application and closing fees and reimbursable expenses permitted by § 107.860.

(d) *Securities purchased from another Licensee or from SBA.* You may purchase from, or exchange with, another Licensee, Portfolio securities (or any interest therein). Such purchase or exchange may only be made on a non-recourse basis. You may not have more than one-third of your total assets(valued at cost) invested in such securities. If you have previously sold Portfolio Securities (or any interest therein) on a recourse basis, you shall include the amount for which you may be contingently liable in your overline computation.

(e) *Purchases of securities from other non-issuers.* You may purchase securities of a Small Business from a non-issuer not previously described in this § 107.828 if:

(1) Such acquisition is a reasonably necessary part of the overall sound Financing of the Small Business under the Act; or

(2) The securities are acquired to finance a change of ownership under § 107.750.

Structuring Licensee's Financing of an Eligible Small Business: Terms and Conditions of Financing

§ 107.830 Minimum duration/term of financing.

(a) *General rule for Section 301(c) Licensees.* If you are a Section 301(c) Licensee, the duration/term of all your Financings must be for a minimum period of five years. *Exception:* You may finance a Disadvantaged Business for a minimum term of four years.

(b) *General rule for Section 301(d) Licensees.* The duration/term of your Financings may be for a minimum period of four years.

(c) *Restrictions on mandatory redemption of Equity Securities.* If you have acquired Equity Securities, options or warrants on terms that include redemption by the Small Business, you must not require redemption by the Small Business within the first five years of your acquisition except as permitted in § 107.850.

(d) *Special rules for Loans and Debt Securities*—(1) *Term.* The minimum term for Loans and Debt Securities starts with the first disbursement of the Financing.

(2) *Prepayment before five years.* You must permit voluntary prepayment by the Small Business at any time during the initial five year term. You must obtain SBA's prior written approval of any restrictions on the ability of the Small Business to prepay other than the imposition of a reasonable prepayment penalty under paragraph (d)(3) of this section.

(3) *Prepayment penalties.* You may charge a reasonable prepayment penalty which must be agreed upon at the time of the Financing. If SBA determines that a prepayment penalty is unreasonable, you must refund the entire penalty to the Small Business. A prepayment penalty equal to 5 percent of the outstanding balance during the first year of any Financing, declining by one percentage point per year through the fifth year, is considered reasonable.

§ 107.835 Exceptions to minimum duration/term of Financing.

You may make a Short-term Financing for a term less than five years if the Financing is:

(a) An interim financing (for a period not to exceed one year) in contemplation of long-term Financing. The contemplated long-term Financing must be in an amount at least equal to the short-term Financing, and must be made by you alone or in participation with other investors; or

(b) For protection of your prior investment(s); or

(c) For the purpose of Financing a change of ownership under § 107.750. The total amount of such Financings may not exceed 20 percent of your Loans and Investments (at cost) at the end of any fiscal year; or

(d) For the purpose of aiding a Small Business in performing a contract awarded under a Federal, State, or local government set-aside program for "minority" or "disadvantaged" contractors.

§ 107.840 Maximum term of Financing.

The maximum term of any Financing must be no longer than 20 years.

§ 107.845 Maximum rate of amortization on Loans and Debt Securities.

The principal of any Loan (or the loan portion of a Debt Security) with a term of five years or less cannot be amortized faster than straight line. If the term is greater than five years, the principal cannot be amortized faster than straight line for the first five years.

§ 107.850 Restrictions on redemption of Equity Securities.

(a) A Portfolio Concern cannot be required to redeem Equity Securities earlier than five years from the date of the first closing unless:

(1) The concern makes a public offering, or has a change of management or control, or files for protection under the provisions of the Bankruptcy Code, or materially breaches your Financing agreement; or

(2) You make a follow-on investment, in which case the new securities may be redeemed in less than five years, but no earlier than the redemption date associated with your earliest Financing of the concern.

(b) The redemption price must be either:

(1) A fixed amount that is no higher than the price you paid for the securities; or

(2) An amount that cannot be fixed or determined before the time of redemption. In this case, the redemption price must be based on:

(i) A reasonable formula that reflects the performance of the concern (such as one based on earnings); or

(ii) The fair market value of the concern at the time of redemption, as determined by a professional appraisal performed under an agreement acceptable to both parties.

(c) Any method for determining the redemption price must be agreed upon no later than the date of the first (or only) closing of the Financing.

§ 107.855 Interest rate ceiling and limitations on fees charged to Small Businesses ("Cost of Money").

"Cost of Money" means the interest and other consideration that you receive from a Small Business. The Cost of Money to the Small Business may not exceed the ceiling determined under this section.

(a) *Financings to which the Cost of Money rules apply.* This section applies to all Loans and Debt Securities. As required by § 107.800(b), you must include as Debt Securities any equity interests with redemption provisions that do not meet the restrictions in § 107.850.

(b) *When to determine the Cost of Money ceiling for a Financing.* Your Cost of Money ceiling for a particular Financing is determined as of the date of the first closing of the Financing and remains fixed for the duration of the Financing.

(c) *How to determine the Cost of Money ceiling for a Financing.* At a minimum, you may use a Cost of Money ceiling of 19 percent for a Loan and 14 percent for a Debt Security. To determine whether you may charge more, do the following:

(1) Choose a base rate for your Cost of Money computation. The base rate may be either the Debenture Rate currently in effect or your own "Cost of Capital" as determined under paragraph (d) of this section.

(2) For a Loan, add 11 percentage points to the base rate; for a Debt Security, add 6 percentage points. In either case, round the sum down to the nearest eighth of one percent.

(3) If the result is more than 19 percent (for a Loan) or 14 percent (for a Debt Security), you may use it as your Cost of Money ceiling.

(4) If two or more Licensees participate in the same Financing of a Small Business, the base rate used in this paragraph (c) is the highest of the following:

(i) The current Debenture rate;

(ii) The Cost of Capital of the lead Licensee; or

(iii) The weighted average of the Cost of Capital for all Licensees participating in the Financing.

(d) *How to determine your Cost of Capital.* "Cost of Capital" is an optional computation of the weighted average interest rate you pay on your "qualified borrowings". "Qualified borrowings" means your Debentures together with your borrowings at or below the usual interest rate charged by banks in your locality on the date your loan was made.

(1) For any fiscal year, you may compute your Cost of Capital:

(i) As of the first day of your fiscal year, to remain in effect for the entire year; or

(ii) As of the first day of every fiscal quarter during the fiscal year, to remain in effect for the duration of the quarter.

(2) For each qualified borrowing outstanding at your last fiscal year or fiscal quarter end, multiply the ending principal balance (net of related unamortized fees) by the number of days during the past four fiscal quarters that the borrowing was outstanding, and divide the result by 365.

(3) Add together the amounts computed for all borrowings under paragraph (d)(2) of this section. The result is your weighted average borrowings.

(4) For all qualified borrowings outstanding at your last fiscal year or fiscal quarter end, determine the aggregate interest expense for the past four fiscal quarters (excluding amortization of loan fees).

(5) Divide the interest expense from paragraph (d)(4) of this section by the weighted average borrowings from paragraph (d)(3) of this section, and multiply by 100. The result is your Cost of Capital, which you may use to compute a Cost of Money ceiling under paragraph (c) of this section.

(e) *SBA review of Cost of Capital computation.* You must keep your Cost of Capital computations in a separate file available for SBA's review.

(1) A computation that is kept in such a file and is audited by your independent public accountant is considered correct unless SBA demonstrates otherwise.

(2) If a computation is not kept in such a file or is unaudited, you must prove its accuracy to SBA's satisfaction.

(f) *Charges included in the Cost of Money.* The Cost of Money includes all

interest, points, discounts, fees, royalties, profit participation, and any other consideration you receive from a Small Business, except for the specific exclusions in paragraph (g) of this section. For equity interests subject to the Cost of Money rules (see paragraph (a) of this section), you must include:

(1) The portion of the fixed redemption price that exceeds your original cost.

(2) Any amount of a redemption that is paid out of accounts other than the Small Business's capital accounts (capital, paid-in surplus, or retained earnings of a corporation; or partners' capital of a partnership).

(g) *Charges excluded from the Cost of Money.* You may exclude from the Cost of Money:

(1) Closing fees, application fees, and expense reimbursements, each as permitted under § 107.860.

(2) Reasonable prepayment penalties permitted under § 107.830(d)(3).

(3) Out-of-pocket conveyance and/or recordation fees and taxes.

(4) Reasonable closing costs.

(5) Fees for management services as permitted under § 107.900.

(6) Reasonable and necessary out-of-pocket expenses you incur to monitor the Financing.

(7) Board of director fees not in excess of those paid to other outside directors, if your board representation meets the requirements of § 107.730(e).

(8) A reasonable fee for arranging financing for a Small Business from a source that is neither a Licensee nor an Associate of yours. The Small Business must agree in writing to pay such a fee before you arrange the financing.

(9) A one-time "bonus" that satisfies the requirements in paragraph (i) of this section.

(10) The difference between the contractual interest rate of the Financing and a default rate of interest permitted as follows:

(i) If a Small Business is in default, you may charge a default rate of interest as much as 7 percentage points higher than the contractual rate until the default is cured.

(ii) For this purpose, "default" means either failure to pay an amount when due or failure to provide information required under the Financing documents or SBA regulations.

(h) *How to evaluate compliance with the Cost of Money ceiling.* You must determine whether a Financing is within the Cost of Money ceiling based on its discounted cash flows, as follows:

(1) Beginning with the date of the first disbursement ("period zero"), identify your cash inflows and cash outflows for each period of the Financing. The appropriate period to use (such as years, quarters, or months) depends on how you have structured the disbursements and payments.

(2) Discount the cash flows back to the first disbursement date using the Cost of Money ceiling from paragraph (d) of this section as the discount rate.

(3) If the result is zero or less, the Financing is within the Cost of Money ceiling; if it is greater than zero, the Financing exceeds the Cost of Money ceiling.

(i) *"Bonus" paid by a Small Business.* You may provide Financing to a Small Business that includes both a loan and a one-time "bonus" determined at the end of the loan term. For Cost of Money purposes, you must treat such a Financing as a Debt Security. You may exclude a bonus from the Cost of Money only if it is:

(1) Computed on or after the date that the Financing is repaid in full;

(2) Not fixed or determinable before the computation date; and

(3) Fully contingent upon factor(s) that reflect the performance of the Small Business. The period for which such performance is measured must not extend beyond the Small Business's fiscal year end immediately following repayment of the Financing. You must demonstrate to SBA's satisfaction that the factor(s) used are appropriate indicators of performance. Examples of generally acceptable factors include net income and operating cash flow; examples of generally unacceptable factors include gross revenues or gross profit.

§ 107.860 Financing fees and expense reimbursements a Licensee may receive from a Small Business.

You may collect Financing fees and receive expense reimbursements from a Small Business only as permitted under this § 107.860.

(a) *Application Fee.* You may collect a nonrefundable application fee from a Small Business to review its Financing application if:

(1) The fee is no more than 1 percent of the amount of Financing requested (or, if two or more Licensees participate in the Financing, their combined application fees are no more than 1 percent of the total Financing requested); and

(2) The Financing applicant signs a letter agreeing to pay the fee.

(b) *SBA review of application fees.* For any fiscal year, if the number of application fees you collect is more than twice the number of Financings closed, SBA in its sole discretion may determine that you are engaged in activities not contemplated by the Act, in violation of § 107.115.

(c) *Closing fee—Loans.* You may charge a closing fee on a Loan if:

(1) The fee is no more than 2 percent of the Financing amount (or, if two or more Licensees participate in the Financing, their combined closing fees are no more than 2 percent of the total Financing amount); and

(2) You charge the fee no earlier than the date of the first disbursement.

(d) *Closing fee—Debt or Equity Financings.* You may charge a Closing Fee on a Debt Security or Equity Security Financing if:

(1) The fee is no more than 4 percent of the Financing amount (or, if two or more Licensees participate in the Financing, their combined closing fees are no more than 4 percent of the total Financing amount); and

(2) You charge the fee no earlier than the date of the first disbursement.

(e) *Limitation on dual fees.* If another Licensee or an Associate of yours collects a transaction fee under § 107.900(e) in connection with your Financing of a Small Business, the sum of the transaction fee and your application and closing fees cannot exceed the maximum application and closing fees permitted under this § 107.860.

(f) *Expense reimbursements.* You may charge a Small Business for the reasonable out-of-pocket expenses, other than Management Expenses, that you incur to process its Financing application. If SBA determines that any of your reimbursed expenses are unreasonable or are Management Expenses, SBA will require you to include such amounts in the Cost of Money or refund them to the Small Business.

§ 107.865 Restrictions on Control of a Small Business by a Licensee.

(a) *General.* You must not operate a business enterprise or function as a holding company exercising Control over a business enterprise. Neither you, nor you and your Associates, nor you and other Licensee(s) (in the latter two cases, the "Investor Group") may, except as set forth in this section, assume Control over a Small Business through management agreements, voting trusts, majority representation on the board of directors, or otherwise.

(b) *Presumption of Control.* Control over a Small Business will be presumed to exist whenever you or the Investor Group own or control, directly or indirectly:

(1) At least 50 percent of the outstanding voting securities, if there are fewer than 50 shareholders; or

(2) More than 25 percent of the outstanding voting securities, if there are 50 or more shareholders; or

(3) A block of at least 20 percent of the outstanding voting securities, if there are 50 or more shareholders and no other party holds a larger block.

(c) *Rebuttals to presumption of Control.* A presumption of Control under paragraph (b) of this section is rebutted if:

(1) The management of the Small Business owns at least a 25 percent interest in the voting securities of the business; and

(2) The management of the Small Business can elect at least 40 percent (rounded down) of the board members of a corporation, general partners of a limited partnership, or managers of a limited liability company, as appropriate, and the Investor Group can elect no more than 40 percent (rounded up). The balance of such officials may be elected through mutual agreement by management and the Investor Group.

(d) *Temporary Control permitted.* You may acquire temporary Control:

(1) Where reasonably necessary for the protection of your investment under circumstances where a Small Business is threatened with insolvency or closure;

(2) If there has been a material breach of the Financing agreement by the Small Business;

(3) If there has been a substantial change in the Small Business's operations or products during the past 2 years, or such a change is the intended result of the Financing, and the Investor Group's original Financing constitutes the Small Business's major source of capital; or

(4) In the case of a Start-up Financing, if you or the Investor Group constitute the Small Business's major source of capital.

(e) *Control certification.* If you take temporary Control of a Small Business under paragraph (d) of this section, you must file a Control certification with SBA within 30 days. The certification must state:

(1) The date on which you took Control;

(2) The basis for taking Control; and

(3) Your agreement to relinquish Control within five years (although you may, under extraordinary circumstances, request SBA's approval of an extension beyond five years).

(f) *Control acquired through enforcement actions.* If you retain or acquire Control through enforcement action, you must notify SBA immediately and submit a Control certification within 30 days.

(g) *Additional Financing for businesses under Licensee's Control.* If you assume Control of a Small Business, you may later provide additional Financing, without an exemption under § 107.730(a)(1).

§ 107.880 Assets acquired in liquidation of Portfolio securities.

You may acquire assets in full or partial liquidation of a Small Business's obligation to you under the conditions permitted by this § 107.880. The assets may be acquired from the Small Business, a guarantor of its obligation, or another party.

(a) *Timely disposition of assets.* You must dispose of assets acquired in liquidation of a Portfolio security within a reasonable period of time.

(b) *Permitted expenditures to preserve assets.* (1) You may incur reasonably necessary expenditures to maintain and preserve assets acquired.

(2) You may incur reasonably necessary expenditures for improvements to render such assets saleable.

(3) You may make payments of mortgage principal and interest (including amounts in arrears when you acquired the asset), pay taxes when due, and pay for necessary insurance coverage.

(c) *SBA approval of expenditures.* This paragraph (c) applies if you have outstanding Leverage or are applying for Leverage. Any application for SBA approval under this paragraph must specify all expenses estimated to be necessary pending disposal of the assets. Without SBA's prior written approval:

(1) Your total expenditures under paragraphs (b)(1) and (b)(2) of this section plus your total Financing(s) to the Small Business must not exceed your overline limit under § 107.740; and

(2) Your total expenditures under paragraph (b) of this section plus your total Financing(s) to the Small Business must not exceed 35 percent of your Regulatory Capital.

Limitations on Disposition of Assets

§ 107.885 Disposition of assets to Licensee's Associates or to competitors of Portfolio Concern.

(a) *Sale of assets to Associate.* Except with SBA's prior written approval, you are not permitted to dispose of assets (including assets acquired in liquidation) to any Associate if you have outstanding Leverage or Earmarked Assets. As a prerequisite to such approval, you must demonstrate that the proposed terms of disposal are at least as favorable to you as the terms obtainable elsewhere.

(b) *Sale of assets to competitor of Small Business.* Except with the prior written approval of the Portfolio Concern (if it is not under your Control) or of SBA, you are not permitted to dispose of Portfolio securities to a competitor of such concern. If SBA's prior approval is not required, you must promptly notify SBA of any such disposal.

Management Services and Fees

§ 107.900 Management fees for services provided to a Small Business by Licensee or its Associate.

This § 107.900 applies to management services that you or your Associate provide to a Small Business during the term of a Financing or prior to Financing. It does not apply to management services that you or your Associate provide to a Small Business that you do not finance. Fees permitted under this section are not included in the Cost of Money (see § 107.855).

(a) *Permitted management fees.* You or your Associate may provide management services to a Small Business financed by you if:

(1) You or your Associate have entered into a written contract with the Small Business;

(2) Services are provided only on an hourly fee basis;

(3) The fees charged are for services actually performed; and

(4) The hourly rate does not exceed the prevailing rate charged for comparable services by other organizations in your geographic area.

(b) *Fees for service as a board member.* You or your Associate may receive fees for services provided as members of the board of directors of a Small Businesses Financed by you. The fees must not exceed those paid to other outside board members.

(c) *SBA approval required.* You must obtain SBA's prior written approval of any management contract that does not satisfy paragraphs (a) or (b) of this section.

(d) *Record keeping requirements.* You must keep a record of hours spent and amounts charged to the Small Business, including expenses charged.

(e) *Transaction fees.* (1) You may charge reasonable transaction fees for work you or your Associate perform to prepare a client for a public offering, private offering, or sale of all or part of the business, and for assisting with the transaction. Compensation may be in the form of cash, notes, stock, and/or options.

(2) Your Associate may charge market rate investment banking fees to a Small Business on that portion of a Financing that you do not provide. However, at

least 95 percent of the Associate's revenues must derive from sources unrelated to Financings by you. If the Associate does not meet this test, its fee must not exceed the sum of the application and closing fees permitted under § 107.860.

Subpart H—Non-leveraged Licensees—Exceptions to Regulations

§ 107.1000 Licensees without Leverage—exceptions to the regulations.

The regulatory exceptions in this section apply to Licensees with no outstanding Leverage or Earmarked Assets.

(a) You are exempt from the following provisions (but you must come into compliance with them to become eligible for Leverage):

(1) The overline limitation in § 107.740.

(2) The restrictions in § 107.530 on investments of idle funds, provided you do not engage in activities not contemplated by the Act.

(3) The restrictions in § 107.550 on third-party debt.

(4) The restrictions in § 107.880 on expenses incurred to maintain or improve assets acquired in liquidation of Portfolio securities.

(b) You are exempt from the requirements to obtain SBA's prior approval for:

(1) A decrease in your Regulatory Capital of more than two percent under § 107.585 (but not below the minimum required under the Act or these regulations). You must report the reduction to SBA within 30 days.

(2) Disposition of any asset to your Associate under § 107.885.

(3) A contract to employ an Investment Adviser/Manager under § 107.510. However, you must notify SBA of the Management Expenses to be incurred under such contract, or of any subsequent material changes in such Management Expenses, within 30 days of execution. In order to become eligible for Leverage, you must have the contract approved by SBA.

Subpart I—SBA Financial Assistance for Licensees (Leverage)

General Information About Obtaining Leverage

§ 107.1100 Types of Leverage available.

(a) *Types of Leverage available for Section 301(c) Licensees.* If you are a Section 301(c) Licensee, you may apply for Leverage from SBA in one or both of the following forms:

(1) The purchase or guarantee of your Debentures.

(2) The purchase or guarantee of your Participating Securities.

(b) *Types of Leverage available for Section 301(d) Licensees.* If you are a Section 301(d) Licensee, you may apply for Leverage from SBA in one or more of the following forms:

(1) The purchase or guarantee of your Debentures.

(2) The purchase or guarantee of your Participating Securities.

(3) The purchase of your Preferred Securities.

(c) *Subsidized and non-subsidized Debentures available to Licensees.* If you are a Section 301(d) Licensee, you may issue both subsidized and non-subsidized Debentures. If you are a Section 301(c) Licensee, you may issue only non-subsidized Debentures.

(1) *Non-subsidized Debentures.* SBA may purchase or guarantee non-subsidized Debentures under section 303(b) of the Act. You pay interest on a non-subsidized Debenture at the rate stated on its face.

(2) *Subsidized Debentures.* SBA may purchase or guarantee subsidized Debentures under section 303(c) of the Act. On a guaranteed Debenture, during the first 5 years of the term, you pay an interest rate that is 300 basis points below the rate stated on the face of the Debenture. On a Debenture that SBA purchases, you pay a reduced interest rate determined under section 317 of the Act.

§ 107.1110 How to apply for Leverage.

(a) *Application forms.* Select the appropriate form from the following table:

Type of leverage you are applying for	Application form
Debentures (any type) ..	SBA Form 1022.
Participating Securities .	SBA Form 1022A.
4% Preferred Securities	SBA Form 1022B.

(b) *Where to send your application.* Send all Leverage applications to SBA, Investment Division, 409 Third Street, S.W., Washington, D.C. 20416.

§ 107.1120 General eligibility requirements for Leverage.

To be eligible for Leverage, you must:

(a) Demonstrate a need for Leverage, evidenced by your investment activity and a lack of sufficient funds for investment. For your first issuance of Leverage, if you have invested at least 50 percent of your Leverageable Capital, you are presumed to lack sufficient funds for investment.

(b) Have adequate Private Capital to satisfy the requirements for financial viability under § 107.200.

(c) Meet the minimum capital requirements of § 107.210 or § 107.220, as appropriate.

(d) Show, to the satisfaction of SBA, that your management is qualified and has the knowledge, experience, and capability necessary for investing in the types of businesses contemplated by the Act, these regulations and your business plan.

(e) Be in compliance with the regulations in this Part.

(f) If required by SBA, have your Control Person(s) assume, in writing, personal responsibility for your Leverage, effective only if such Control Person(s) participate (directly or indirectly) in a transfer of Control not approved by SBA.

§ 107.1130 Leverage fees payable by Licensee.

(a) *User fee for Debentures and Participating Securities.* You must pay a user fee to SBA for each issuance of a Debenture or Participating Security. The fee is 2 percent of the face amount of the Leverage issued.

(b) *Payment of user fee.* If you issue a Debenture or Participating Security:

(1) To repay or redeem existing Leverage, you must pay the user fee before SBA will guarantee or purchase the new Debenture or Participating Security.

(2) That is not used to repay or redeem existing Leverage, SBA will deduct the user fee from the proceeds remitted to you, unless you prepaid the fee under § 107.1210.

(c) *Refundability.* The user fee is not refundable under any circumstances.

(d) *Other Leverage fees.* SBA may establish a fee structure for services performed by the CRA. SBA will not collect any fee for its guarantee of TCs.

§ 107.1140 Licensee's acceptance of SBA remedies under §§ 107.1800 through 107.1820.

If you issue Leverage after April 25, 1994, you automatically agree to the terms and conditions in §§ 107.1800 through 107.1820 as they exist at the time of issuance. The effect of these terms and conditions is the same as if they were fully incorporated in the terms of your Leverage.

Maximum Amount of Leverage for Which a Licensee is Eligible

§ 107.1150 Maximum amount of Leverage for a Section 301(c) Licensee.

(a) *Maximum amount of Leverage.* If you are a Section 301(c) Licensee, use the following table to determine the maximum amount of Leverage you may have outstanding at any time:

If your leverageable capital is	Then your maximum leverage is:
Not over $15,000,000	300% of Leverageable Capital.
Over $15,000,000 but not over $30,000,000.	$45,000,000 + [200% of (Leverageable Capital − $15,000,000)].
Over $30,000,000 but not over $45,000,000.	$75,000,000 + [100% of (Leverageable Capital − $30,000,000)].
Over $45,000,000	$90,000,000.

(b) *Exceptions to maximum Leverage provisions—(1) Licensees under Common Control.* Two or more Licensees under Common Control may have aggregate outstanding Leverage over $90,000,000 only if SBA gives them permission to do so. SBA may grant such permission on a case-by-case basis only. SBA may impose any terms and conditions SBA considers appropriate to minimize its risk of loss in the event of default.

(2) *Licensees with excess Leverage issued before March 31, 1993.* If you had outstanding Debentures on March 31, 1993 that exceeded 300 percent of your Leverageable Capital:

(i) You do not have to prepay the excess amount.

(ii) You may apply for an additional Debenture guarantee or Participating Security guarantee if you use the proceeds solely to pay the amount due at maturity on a Debenture issued before March 31, 1993. The new Debenture or Participating Security must mature on or before September 30, 2002.

(iii) You must maintain at least 65 percent of your "Total Funds Available for Investment" in "Venture Capital Financings" (as defined in § 107.1160(e) and (f), respectively) until your outstanding Debentures no longer exceed 300 percent of your Leverageable Capital.

(3) *Maximum amount of Participating Securities.* See § 107.1170.

§ 107.1160 Maximum amount of Leverage for a Section 301(d) Licensee.

(a) *Maximum amount of subsidized Leverage.* (1) "Subsidized Leverage" means Debentures with a reduced interest rate and Preferred Securities. If you are a Section 301(d) Licensee:

(i) The maximum amount of subsidized Leverage you may have outstanding at any time is the lesser of 400 percent of your Leverageable Capital, or $35,000,000. The same limit applies to a group of Section 301(d) Licensees under Common Control.

(ii) The maximum amount of Preferred Securities you may have outstanding at any time is 200 percent of your Leverageable Capital.

(2) Certain types and amounts of subsidized Leverage have special eligibility requirements (see paragraphs (c) and (d) of this section).

(b) *Maximum amount of total Leverage.* Use § 107.1150(a) and (b)(1) to determine your maximum amount of Leverage as if you were a Section 301(c) Licensee. If the result is more than your maximum subsidized Leverage, then this is your maximum total (subsidized plus non-subsidized) Leverage. Otherwise, your maximum total Leverage is the same as your maximum subsidized Leverage. For Participating Securities, see § 107.1170.

(c) *Special eligibility requirements for fourth tier of Leverage.* A "fourth tier of Leverage" is any amount of outstanding Leverage in excess of 300 percent of your Leverageable Capital.

(1) To qualify for a fourth tier of Leverage, you must have invested (or have Commitments to invest) at least 30 percent of your "Total Funds Available for Investment" in "Venture Capital Financings" (see the definitions in paragraphs (e) and (f) of this section).

(2) While you have a fourth tier of Leverage, you must maintain Venture Capital Financings (at cost) that equal at least 30 percent of your Total Funds Available for Investment.

(d) *Special eligibility requirements for second tier of Preferred Securities.* A "second tier of Preferred Securities" is any amount of outstanding Preferred Securities in excess of 100 percent of your Leverageable Capital.

(1) To qualify for a second tier of Preferred Securities:

(i) If your license was issued after October 13, 1971, you must have at least $500,000 of Leverageable Capital.

(ii) You must have invested (or have Commitments to invest) at least the same dollar amount in Venture Capital Financings.

(2) While you have a second tier of Preferred Securities, you must maintain at least the same dollar amount of Venture Capital Financings (at cost).

(e) *Definition of "Total Funds Available for Investment".* Total Funds Available for Investment means the result obtained from the following formula:

T = .90 x (CA + LI)

Where:

T = Total funds available for investment
CA = Total current assets
LI = Total Loans and Investment at cost (as reported on SBA Form 468), net of current maturities

(f) *Definition of "Venture Capital Financing".* Venture Capital Financing means an investment represented by common or preferred stock, a limited partnership interest, or a similar ownership interest; or by an unsecured debt instrument that is subordinated by its terms to all bther borrowings of the issuer.

(1) A debt secured by any agreement with a third party is not a Venture Capital Financing, whether or not you have a security interest in any asset of the third party or have recourse against the third party.

(2) A Financing that originally qualified as a Venture Capital Financing will continue to qualify (at its original cost), even if you later must report it on SBA Form 468 under either Assets Acquired in Liquidation of Portfolio Securities or Operating Concerns Acquired.

§ 107.1170 Maximum amount of Participating Securities for any Licensee.

The maximum amount of Participating Securities you may have outstanding at any time is 200 percent of your Leverageable Capital. If you are a Section 301(d) Licensee, the maximum combined amount of Participating Securities and Preferred Securities you may have outstanding at any time is 200 percent of your Leverageable Capital.

Conditional Commitments by SBA to Reserve Leverage for a Licensee

§ 107.1200 SBA's Leverage commitment to a Licensee—application procedure, amount, and term.

(a) *General.* Under the provisions in §§ 107.1200 through 107.1240, you may apply for SBA's conditional commitment to reserve a specific amount and type of Leverage for your future use. You may then apply to draw down Leverage against the commitment.

(b) *Applying for a Leverage commitment.* SBA will notify you when it is accepting requests for Leverage commitments. Upon receipt of your request, SBA will send you a complete application package.

(c) *Limitations on the amount of a Leverage commitment.* The amount of any Leverage commitment must be at least $500,000. It must not exceed 100 percent of your Regulatory Capital or your remaining Leverage eligibility, whichever is less.

(d) *Term of Leverage commitment.* SBA's Leverage commitment will automatically lapse at 5:00 P.M. Eastern Time on August 1 of the next full Federal fiscal year following issuance of the commitment.

§ 107.1210 Commitment fees payable by Licensee.

(a) *Commitment fees.* As a condition of SBA's Leverage commitment, and before you may draw any Leverage, you must pay SBA a non-refundable fee of:

(1) 3 percent of the face amount of the Debentures or Participating Securities reserved under the commitment; or

(2) 1 percent of the issue price of Preferred Securities reserved under the commitment.

(b) *Credit for user fee.* The 3 percent commitment fee paid by issuers of Debentures or Participating Securities under paragraph (a)(1) of this section includes the 2 percent user fee required under § 107.1130. If you pay the commitment fee, you do not have to pay the user fee separately.

(c) *Automatic cancellation of commitment.* Unless you pay the full amount of the commitment fee by 5:00 P.M. Eastern Time on the 30th calendar day following the issuance of SBA's Leverage commitment, the commitment will be automatically canceled.

§ 107.1220 Requirement for Licensee to file quarterly financial statements.

As long as any part of SBA's Leverage commitment is outstanding, you must give SBA a Financial Statement on SBA Form 468 (Short Form) as of the close of each quarter of your fiscal year. You must file this form within 30 days after the close of the quarter, or with any request for a draw that you make within such 30-day period. You will not be eligible for a draw if you are not in compliance with this § 107.1220.

§ 107.1230 Draw-downs by Licensee under SBA's Leverage commitment.

(a) *Licensee's authorization of SBA to purchase or guarantee securities.* By submitting a request for a draw against SBA's Leverage commitment, you:

(1) Authorize SBA to purchase your Preferred Security; or

(2) Authorize SBA, or any agent or trustee SBA designates, to guaranty your Debenture or Participating Security and to sell it with SBA's guarantee.

(b) *Limitations on amount of draw.* For Debentures or Participating Securities, any draw against SBA's Leverage commitment must be at least $500,000; amounts above $500,000 must be in multiples of $100,000. You may issue Preferred Securities in any amount.

(c) *Effect of regulatory violations on Licensee's eligibility for draws*—(1) *General rule.* You are eligible to make a draw against SBA's Leverage commitment only if you are in compliance with all applicable provisions of the Act and SBA regulations (i.e., no unresolved statutory or regulatory violations).

(2) *Exception to general rule.* If you are not in compliance, you may still be eligible for draws if:

(i) SBA determines that your outstanding violations are of non-substantive provisions of the Act or regulations and that you have not repeatedly violated any non-substantive provisions; or

(ii) You have agreed with SBA on a course of action to resolve your violations and such agreement does not prevent you from issuing Leverage.

(d) *Procedures for funding draws.* You may request a draw at any time during the term of the commitment. With each request, submit the following documentation:

(1) If your request is submitted within 30 days following the close of your fiscal quarter, a Financial Statement on SBA Form 468 (Short Form) prepared as of the close of that fiscal quarter; otherwise, a statement certifying that there has been no material adverse change in your financial condition since your last filing of SBA Form 468 (Long or Short Form).

(2) A statement certifying that to the best of your knowledge and belief, you are in compliance with all provisions of the Act and SBA regulations (i.e., no unresolved regulatory or statutory violations), or a statement listing any specific violations you are aware of. Either statement must be executed by one of the following:

(i) An officer of the Licensee;

(ii) An officer of a corporate general partner of the Licensee; or

(iii) An individual who is authorized to act as or for a general partner of the Licensee.

(3) A statement that the proceeds are needed to fund one or more particular Small Businesses, including the name and address of each Small Business, and the amount and anticipated closing date of each proposed Financing.

(e) *Reporting requirements after drawing funds.* (1) Within 30 calendar days after the actual closing date of each Financing funded with the proceeds of your draw, you must file an SBA Form 1031 confirming the closing of the transaction.

(2) Within 60 calendar days after the anticipated closing date, if a planned Financing has not closed, you must give SBA a written explanation of the failure to close.

(3) If you do not comply with this paragraph (e), you will not be eligible for additional draws. SBA may also determine that you are not in compliance with the terms of your Leverage under §§ 107.1810 or 107.1820.

§ 107.1240 Funding of Licensee's draw request through sale to short-term investor.

(a) *Licensee's authorization of SBA to arrange sale of securities to short-term investor.* By submitting a request for a draw of Debenture or Participating Security Leverage, you authorize SBA, or any agent or trustee SBA designates, to enter into any agreements (and to bind you to such agreements) necessary to accomplish:

(1) The sale of your Debenture or Participating Security to a short-term investor;

(2) The purchase of your security from the short-term investor, either by you or on your behalf; and

(3) The pooling of your security with other securities with the same maturity date.

(b) *Sale of Debentures to a short-term investor.* If SBA sells your Debenture to a short-term investor:

(1) The sale will be at a discount based on an interest rate determined under section 303(b) of the Act (without any interest rate subsidy), as if the maturity date of the Debenture were the next scheduled date for the sale of Debenture Trust Certificates.

(2) If the actual sale of Trust Certificates takes place after the scheduled date, you must pay the short-term investor daily interest on the Debenture, at the same rate, from the scheduled sale date to the actual sale date. This additional interest is due on the actual sale date. Failure to pay the interest constitutes noncompliance with the terms of your Leverage (see §§ 107.1810 and 107.1820).

(c) *Sale of Participating Securities to a short-term investor.* If SBA sells your Participating Security to a short-term investor:

(1) The sale price will be the face amount.

(2) At the closing of the next scheduled sale of Participating Security Trust Certificates, you (or SBA, as guarantor) must pay the short-term investor Earned Prioritized Payments at a rate determined under section 303(b) of the Act, as if the maturity date of the Participating Security were the next scheduled date for the sale of Trust Certificates.

(d) *Licensee's right to repurchase its securities before pooling.* You may repurchase your securities from the short-term investor before they are pooled. To do so, you must:

(1) Give SBA written notice at least 10 days before the cut-off date for the pool in which your security is to be included; and

(2) Pay the face amount of the Debenture, or the face amount of the Participating Security plus Earned Prioritized Payments, to the short-term investor.

Exchange of Outstanding Debentures for Participating or Preferred Securities—Section 301(d) Licensees

§ 107.1350 Exchange by Section 301(d) Licensee of Debentures for Preferred or Participating Securities.

(a) *Conditions for exchange of Debentures.* A Section 301(d) Licensee may, in SBA's discretion, retire an eligible Debenture through the issuance of Preferred or Participating Securities. To do so, you must:

(1) Pay all unpaid accrued interest on the Debenture, plus any applicable prepayment penalties, fees, and other charges.

(2) Comply with all conditions that apply to the issuance of Preferred or Participating Securities.

(b) *Debentures not eligible for exchange.* You may not retire a Debenture by issuing Preferred or Participating Securities if SBA guaranteed or purchased it on the basis of funds not included in your Leverageable Capital. You must repay such a Debenture at its maturity date, unless SBA extends it. SBA has discretion to extend the maturity to a date not more than 15 years from the date of issuance if SBA believes the extension is necessary for orderly liquidation of the indebtedness.

Preferred Securities Leverage—Section 301(d) Licensees

§ 107.1400 Stock dividends or partnership distributions on 4 percent Preferred Securities.

Preferred Securities that SBA purchases from a Section 301(d) Licensee may be in the form of either preferred stock issued at par value or a preferred limited partnership interest issued at face value. When you issue Preferred Securities, you agree to pay SBA a dividend or partnership distribution of 4 percent per year, from the date you issue Preferred Securities to the date you repay them, both inclusive. The dividend or partnership distribution is:

(a) Computed on the par value of the outstanding stock or the face value of the outstanding limited partnership interest.

(b) Cumulative. This means that if you do not pay the entire dividend or partnership distribution for a given fiscal year, the unpaid balance accumulates as a distribution in arrears. You do not have to pay interest on distributions in arrears.

(c) Preferred. This means that you must pay SBA in full (including distributions in arrears) before setting aside or paying any amount to any other equity holder.

(d) Payable at the discretion of your Board of Directors or General Partner(s), except that all distributions in arrears must be paid in full when you redeem the Preferred Securities.

§ 107.1410 Requirement to redeem 4 percent Preferred Securities.

You must redeem 4 percent Preferred Securities not later than 15 years from the date of issuance. At the redemption date, you must pay to SBA:

(a) The par value (of preferred stock) or face value (of a preferred limited partnership interest); plus

(b) Any unpaid dividends or partnership distributions accrued to the redemption date.

§ 107.1420 Articles requirements for 4 percent Preferred Securities issuers.

You may issue 4 percent Preferred Securities only if your Articles contain all the provisions in §§ 107.1400 and 107.1410.

§ 107.1430 Redeeming 4 percent Preferred Securities with proceeds of non-subsidized Debentures.

If SBA approves, a Section 301(d) Licensee may use the proceeds of a Debenture to redeem Preferred Securities at their mandatory redemption date, including any accrued unpaid dividends or partnership distributions. For this purpose, you may issue only a non-subsidized Debenture (see § 107.1100(c)).

§ 107.1440 Three percent preferred stock issued before November 21, 1989.

Before November 21, 1989, Preferred Securities were available only in the form of preferred stock and had a preferred and cumulative dividend of 3 percent. If you have such preferred stock outstanding, you must follow § 107.1400 (except for § 107.1400(d)), substituting "3 percent" for "4 percent" throughout.) Dividends on 3 percent preferred stock are payable at the discretion of your Board of Directors or General Partner(s), except that all dividends in arrears must be paid in full before any non-SBA investor receives any distribution. Upon your liquidation, SBA is entitled to payment of all dividends in arrears even if you have no Retained Earnings Available for Distribution at such time.

§ 107.1450 Optional redemption of Preferred Securities.

(a) *Redemption at par or face value.* A Section 301(d) Licensee may redeem Preferred Securities at any time, provided you give SBA at least 30 days written notice. You may redeem all or only part of your Preferred Securities, but the par value or face value of the securities being redeemed must be at least $50,000. At the redemption date, you must pay to SBA:

(1) The par value (of preferred stock) or face value (of a preferred limited partnership interest); plus

(2) Any unpaid dividends or partnership distributions accrued to the redemption date.

(b) *Repurchase of 3 percent preferred stock for less than par value.* If you issued 3 percent preferred stock to SBA, you may ask SBA to sell it back to you at a price less than its par value. The terms and conditions of any such transaction will be as set forth in the Notice published in the **Federal Register** on April 1, 1994 (Copies of this notice are available from SBA, 409 3rd Street, S.W., Washington, D.C., 20416). SBA has sole discretion to:

(1) Approve or disapprove the sale.

(2) Determine the sale price after considering any factors SBA considers appropriate.

(3) Determine the form of payment SBA will accept. SBA is not authorized to accept the proceeds of a subsidized Debenture as payment.

Participating Securities Leverage

§ 107.1500 General description of Participating Securities.

(a) *Types of Participating Securities.* Participating Securities are redeemable, preferred, equity-type securities. SBA may purchase or guarantee Participating Securities issued by Licensees in the form of limited partnership interests, preferred stock, or debentures with interest payable only to the extent of earnings. The structure, terms and conditions of Participating Securities are set forth in detail in §§ 107.1500 through 107.1590.

(b) *Special eligibility requirements for Participating Securities.* In addition to the general eligibility requirements for Leverage under § 107.1120, Participating Securities issuers must also comply with special rules on:

(1) Minimum capital (see § 107.220).

(2) Liquidity (see § 107.1505).

(3) Non-SBA borrowing (see § 107.570).

(4) Making Equity Capital Investments in Small Businesses, as follows:

(i) *General rule.* If you issue Participating Securities, you must invest an amount equal to the Original Issue Price of such securities solely in Equity Capital Investments.

(ii) *Continuing requirement to maintain Equity Capital Investments.*

Unless SBA permits otherwise, once you have met the initial investment requirement of this paragraph (b)(4), you must maintain Equity Capital Investments with an original cost equal to or greater than the outstanding balance of Participating Securities in your portfolio, measured as of the end of each fiscal year.

(c) *Special features of Participating Securities—Prioritized Payments, Adjustments, and Profit Participation.* When you issue Participating Securities, you agree to make the following payments:

(1) *Prioritized Payments.* Depending upon the type of Participating Security you issue, Prioritized Payments may be preferred partnership distributions, preferred dividends, or interest. Your obligation to pay Prioritized Payments is contingent upon your profits as determined under § 107.1520.

(2) *Adjustments to Prioritized Payments.* If you have unpaid Prioritized Payments, you must compute Adjustments, which are additional contingent obligations determined under § 107.1520. The conditions for paying Adjustments are the same as for Prioritized Payments.

(3) *SBA Profit Participation.* Profit Participation is an amount payable to SBA under § 107.1530 in consideration for SBA's guarantee of your Participating Securities.

(d) *Distributions by Licensees issuing Participating Securities.* Sections 107.1540 through 107.1580 govern both required and optional Distributions by Participating Securities issuers. Distributions include both profit distributions and returns of capital, paid either to SBA or to your non-SBA investors.

(e) *Mandatory redemption of Participating Securities.* You must redeem Participating Securities at the redemption date, which is the same as the maturity date of the Trust Certificates for the Trust containing such securities. The redemption date can never be later than 15 years after the issue date. You must pay the Redemption Price plus any unpaid Earned Prioritized Payments and any earned Adjustments due under § 107.1520.

(f) *Priority of Participating Securities in liquidation of Licensee.* In the event of your liquidation, the following are senior in priority, for all purposes, to all other equity interests you have issued at any time:

(1) The Redemption Price of Participating Securities;

(2) Any Prioritized Payments and earned Adjustments; and

(3) Any Profit Participation allocated to SBA under § 107.1530.

§ 107.1505 Liquidity requirements for Licensees issuing Participating Securities.

If you have outstanding Participating Securities, you must maintain sufficient liquidity to avoid a condition of Liquidity Impairment. Such a condition will constitute noncompliance with the terms of your Leverage under § 107.1820(e).

(a) *Definition of Liquidity Impairment.* A condition of Liquidity Impairment exists when your Liquidity Ratio, as determined in paragraph (b) of this section, is less than 1.20. You are responsible for calculating whether you have a condition of Liquidity Impairment as of the close of your fiscal year, at the time of application for Leverage, or at such time as you contemplate making any Distribution. However, SBA has the right to make the final determination of Liquidity Impairment.

(b) *Computation of Liquidity Ratio.* Your Liquidity Ratio equals your Total Current Funds Available (A) divided by your Total Current Funds Required (B), as determined in the following table:

CALCULATION OF LIQUIDITY RATIO

Financial account	Amount reported on SBA form 468	Weight	Weighted amount
Total Current Funds Available(A)			
Cash and invested idle funds	.....	×1.00	
Commitments from investors	.....	×1.00	
Current maturities	.....	×0.50	
Other current assets	.....	×1.00	
Publicly Traded and Marketable Securities	.....	×0.65	
Anticipated operating revenue for next 12 months	(1)	×1.00	
Total Current Funds Required(B)			
Current liabilities	.....	×1.00	
Commitments to Small Businesses	.....	×0.75	
Anticipated operating expense for next 12 months	(1)	×1.00	
Anticipated interest expense for next 12 months	(1)	×1.00	
Contingent liabilities (guarantees)	.....	×0.25	

[1] As determined by Licensee's management under its business plan.

§ 107.1510 How a Licensee computes Earmarked Profit (Loss).

Computing your Earmarked Profit (Loss) is the first step in determining your obligations to pay Prioritized Payments and Adjustments under § 107.1520 and Profit Participation under § 107.1530.

(a) *Requirement to compute your Earmarked Profit (Loss).* While you have Participating Securities outstanding or have Earmarked Assets (as defined in paragraph (b) of this section), you must compute your Earmarked Profit (Loss) for:

(1) Each full fiscal year.

(2) Any interim period (consisting of one or more fiscal quarters) for which you want to make a Distribution.

(b) *How to determine your Earmarked Assets.* "Earmarked Assets" means all the Loans and Investments that you have when you issue Participating Securities or that you acquire while you have Participating Securities outstanding, and any non-cash assets that you receive in exchange for such Loans and Investments.

(1) An Earmarked Asset remains earmarked until you dispose of it, even if you no longer have any outstanding Participating Securities.

(2) Investments you make after redeeming all your Participating Securities are not Earmarked Assets. However, if you issue new Participating Securities, all of your Loans and Investments again become Earmarked Assets.

(3) If you were licensed before March 31, 1993, you may be permitted to exclude Loans and Investments held at that date from Earmarked Assets under § 107.1590.

(c) *How to compute your Earmarked Asset Ratio.* You must determine your Earmarked Asset Ratio each time you compute Earmarked Profit (Loss). If all your Loans and Investments are Earmarked Assets, your Earmarked Asset Ratio equals 100 percent. Otherwise, compute your Earmarked Asset Ratio using the following formula:

$$EAR = [(EA + P) / (LI + P)] \times 100$$

Where:

EAR = Earmarked Asset Ratio
EA = Weighted average Earmarked Assets (at cost) for the fiscal year or interim period
P = Weighted average uninvested proceeds of Participating Securities for the fiscal year or interim period
LI = Weighted average Loans and Investments (at cost) for the fiscal year or interim period

(d) *How to compute your Earmarked Profit (Loss) if Earmarked Asset Ratio is 100 percent.* (1) If your Earmarked Asset Ratio from paragraph (b) of this section is 100 percent, use the following formula to compute your Earmarked Profit (Loss):

$$EP = NI + IK + EME$$

Where:

EP = Earmarked Profit (Loss)
NI = Net Income (Loss), as reported on SBA Form 468
IK = Unrealized Appreciation (Depreciation) on Earmarked Assets that you are distributing as an In-Kind Distribution under § 107.1580
EME = Excess Management Expenses

(2) "Excess Management Expenses" are those that exceed the following limit:

(i) For a full fiscal year, the limit is the lower of:

(A) 2.5 percent of your weighted average Combined Capital for the year, plus $125,000 if Combined Capital is below $20,000,000; or

(B) Your Management Expenses approved by SBA.

(ii) For less than a full fiscal year, you must prorate the annual amounts in paragraph (d)(2)(i) of this section to determine the limit.

(e) *How to compute your Earmarked Profit (Loss) if Earmarked Asset Ratio is less than 100 percent.* If your Earmarked Asset Ratio is less than 100 percent, compute your Earmarked Profit (Loss) as follows:

(1) Do the Earmarked Profit (Loss) computation in paragraph (d) of this section.

(2) Subtract your net realized gain (loss) (as reported on SBA Form 468) on Loans and Investments that are not Earmarked Assets.

(3) Separate the result from paragraph (e)(2) of this section into:

(i) Net realized gain (loss) (as reported on SBA Form 468) on Earmarked Assets ("EGL"); and

(ii) The remainder ("R").

(4) Your Earmarked Profit (Loss) equals:

$$EGL + (R \times \text{Earmarked Asset Ratio})$$

(f) *How to compute your cumulative Earmarked Profit (Loss).* Sum your Earmarked Profit (Loss) for all fiscal years and for any interim period following the end of your last fiscal year. The total is your cumulative Earmarked Profit (Loss), which you must use in the Prioritized Payment computations under § 107.1520.

§ 107.1520 How a Licensee computes and allocates Prioritized Payments to SBA.

This section tells you how to compute Prioritized Payments and Adjustments and determine the amounts you must pay. To distribute Prioritized Payments, see § 107.1540.

(a) *How to compute Prioritized Payments and Adjustments—(1) Prioritized Payments.* For a full fiscal year, the Prioritized Payment on a Participating Security equals the Redemption Price times the Trust Certificate Rate. For a shorter period (one or more fiscal quarters), you must prorate the annual Prioritized Payment.

(2) *Adjustments.* Compute Adjustments using paragraph (f) of this section.

(b) *Licensee's obligation to pay Prioritized Payments and Adjustments.* You are obligated to pay Prioritized Payments and Adjustments only if you have profit as determined under paragraph (d) of this section.

(1) Prioritized Payments that you must pay (or have already paid) because you have sufficient profit are "Earned Prioritized Payments".

(2) Prioritized Payments that are not payable because you lack sufficient profit are "Accumulated Prioritized Payments". Treat all Prioritized Payment as "Accumulated" until they become "Earned" under this section.

(3) Adjustments are computed under paragraph (f) of this section and are "earned" according to the same criteria applied to Prioritized Payments.

(c) *How to keep track of Prioritized Payments.* You must establish three accounts to record your Accumulated and Earned Prioritized Payments.

(1) *Accumulation Account.* The Accumulation Account is a memorandum account. Its balance represents your Accumulated Prioritized Payments and unearned Adjustments.

(2) *Distribution Account.* The Distribution Account is a liability account. Its balance represents your unpaid Earned Prioritized Payments and earned Adjustments.

(3) *Earned Payments Account.* The Earned Payments Account is a memorandum account. Each time you add to the Distribution Account balance, add the same amount to the Earned Payments Account. Its balance represents your total (paid and unpaid) Earned Prioritized Payments and earned Adjustments.

(d) *How to determine your profit for Prioritized Payment purposes.* As of the end of each fiscal year and any interim period (one or more fiscal quarters) for which you want to make a Distribution:

(1) Bring the Accumulation Account up to date by adding to it all Prioritized Payments through the end of the fiscal period.

(2) Determine your cumulative Earmarked Profit (Loss) under § 107.1510(e) and subtract your Earned Payments Account balance from it. The result (if greater than zero) is your profit for the purposes of this section; if zero or less, you have no profit.

(3) If you have a profit, continue with paragraph (e) of this section. Otherwise, continue with paragraph (f) of this section.

(e) *Allocating Prioritized Payments to the Distribution Account.* (1) If you have a profit under paragraph (d) of this section, determine the lesser of:

(i) Your profit; or

(ii) The balance in your Accumulation Account.

(2) Subtract the result in paragraph (e)(1) of this section from the Accumulation Account and add it to the Distribution Account.

(f) *How to compute Adjustments.* You must compute your Adjustments as of the end of each fiscal year.

(1) *Adjustments based on Accumulation Account balance.* If you have any balance in your Accumulation Account, determine your average Accumulation Account balance for the fiscal year and multiply it by the average of the Trust Certificate Rates for all the Participating Securities poolings during such year.

(2) *Adjustments based on Distribution Account balance.* If you have any balance in your Distribution Account after giving effect to any Distribution that will be made on the first or second Payment Date following your fiscal year end, do the computations in paragraph (f)(1) of this section, substituting

"Distribution Account" for "Accumulation Account".

(3) Add the amounts computed in this paragraph (f) to your Accumulation Account balance.

(g) *Licensee's obligation to pay Prioritized Payments after redeeming Participating Securities.* This paragraph (g) applies if you have redeemed all your Participating Securities, but you still hold Earmarked Assets and still have a balance in your Accumulation Account.

(1) You must continue to perform all the procedures in this § 107.1520 as of the end of each fiscal quarter. You must distribute any Earned Prioritized Payments and earned Adjustments in accordance with § 107.1540.

(2) After you dispose of all your Earmarked Assets and make any required Distributions in accordance with § 107.1540, your obligation to pay any remaining Accumulated Prioritized Payments and unearned Adjustments will be extinguished.

§ 107.1530 How a Licensee computes SBA's Profit Participation.

This section tells you how to compute SBA's Profit Participation. Profit Participation is included in the Distributions you make to SBA under §§ 107.1550 and 107.1560.

(a) *How to compute Profit Participation.* Profit Participation equals your "Base" times your "Profit Participation Rate" (if the Base is zero or less, you do not owe SBA Profit Participation). Compute the Base using paragraph (c) of this section and the Profit Participation Rate using paragraphs (d) through (g) of this section. You must compute your Earmarked Profit (Loss) under § 107.1510 and your Prioritized Payments and Adjustments under § 107.1520 before you can compute Profit Participation.

(b) *How to keep track of Profit Participation.* You must establish a Profit Participation Account to record your computations under this section and payments under §§ 107.1550 and 107.1560. Its balance represents your unpaid Profit Participation.

(c) *How to compute the Base.* As of the end of each fiscal year and any year-to-date interim period (one or more fiscal quarters) for which you want to make a Distribution, compute your Base using the following formula:

B = EP − PPA − UL

Where:

B = Base

EP = Earmarked Profit (Loss) for the period from § 107.1510

PPA = Prioritized Payments from § 107.1520(a)(1) and Adjustments (if applicable) from § 107.1520(f)

UL = "Unused Loss" as determined in this paragraph (c).

(1) If you have never computed a Base before, or if the Base as of the end of your last fiscal year (your "Previous Base") was zero or greater, your Unused Loss is zero.

(2) If your Previous Base was less than zero, your Unused Loss equals your Previous Base.

(d) *How to compute the Profit Participation Rate.* You must determine your Profit Participation Rate each time you compute a Base that is greater than zero. Compute the Rate by following the steps in paragraphs (e) through (g) of this section.

(e) *Compute the "PLC ratio"*—(1) *General rule.* The "PLC ratio" is the highest ratio of outstanding Participating Securities to Leverageable Capital that you have ever attained.

(2) *Exception.* You may reduce the ratio computed under paragraph (e)(1) of this section if you have increased your Leverageable Capital above its highest previous level. The increase must have taken place at least 120 days before the date as of which your Base is computed and must have been expressly provided for in a plan of operations submitted to and approved by SBA in writing. To reduce your PLC ratio:

(i) Determine the increase in your Leverageable Capital over its highest previous level.

(ii) Find your highest previous ratio of Participating Securities to Leverageable Capital. If you have attained your highest ratio more than once, with different numerators and denominators, choose the ratio with the highest numerator.

(iii) Add the increase in Leverageable Capital to the denominator of the ratio chosen in paragraph (e)(2)(ii) of this section, and divide the numerator by the revised denominator. The result is your new PLC ratio.

(3) Once you compute a PLC ratio under either paragraph (e)(1) or (e)(2) of this section, do not recompute it unless there has been a change in your outstanding Participating Securities or your Leverageable Capital.

(4) Example.

	Participating securities (A)	Leverageable capital (B)	A/B	PLC ratio
End of period 1	1,000	1,000	1.00	1.00
End of period 2	1,500	1,000	1.50	1.50
End of period 3	1,200	900	1.33	1.50
End of period 4	750	500	1.50	1.50
End of period 5	750	1,500	0.50	1.00

Explanation of PLC Ratio calculation following increase in Leverageable Capital:
Step 1: Increase in Leverageable Capital over highest previous level = 1,500 − 1,000=500.
Step 2: Highest previous ratio of Participating Securities to Leverageable Capital = 1.50 (attained two times, at end of periods 2 and 4).
Step 3: Highest numerator associated with highest ratio = 1,500 (at end of period 2); associated denominator = 1,000.
Step 4: Add the increase in Leverageable Capital (from step 1) to the denominator (from step 3): 500+1,000=1,500.
Step 5: Divide the numerator (from step 3) by the revised denominator (from step 4): 1,500/1,500=1.00.

(f) *Compute the Profit Participation Rate (before indexing).* Compute the Profit Participation Rate (before indexing) using the table in this paragraph (f). Then go to paragraph (g) of this section to determine whether to index the Profit Participation Rate.

If your PLC ratio is	Then your profit participation rate is
1 or less	9% × PLC Ratio.
More than 1	9%+[3%×(PLC ratio − 1)].

(g) *Indexing the Profit Participation Rate.* The Profit Participation Rate is indexed, up or down, to the yield-to-maturity on Treasury bonds with a remaining term of ten (10) years (the "Treasury Rate"). You must perform the indexing procedures in this paragraph (g) unless the Treasury Rate was exactly 8 percent on every date that you issued Participating Securities.

(1) *Licensees that have issued Participating Securities on only one occasion.* Determine the Treasury Rate for the date you issued your Participating Security. Adjust the Profit Participation Rate from paragraph (f) of this section by the percentage difference between the Treasury Rate and 8 percent. For example, assume that you issued Participating Securities when the Treasury Rate was 10 percent. The percentage difference between 10 percent and 8 percent is 25 percent. If you had a PLC ratio of 1, the Profit Participation Rate before indexing would be 9 percent. You would increase this rate by 25 percent, giving you a Profit Participation Rate of 11.25 percent.

(2) *Licensees that have issued Participating Securities on more than one occasion.* Determine the Treasury Rate for each of the dates you issued Participating Securities.

(i) Compute an average of all such Treasury Rates, weighted to reflect the dollar amount of each issuance (ignoring any redemptions) and the number of days from the date of each issuance to the date as of which you are computing the Profit Participation Rate.

Example to paragraph (g)(2)(i) of this section. If you issued $10 million of Participating Securities on the 60th day of Fiscal Year 1 when the Treasury Rate was 8 percent, and another $15 million on the 100th day of Fiscal Year 3 when the Treasury Rate was 10 percent, then the weighted average Treasury Rate computed as of the end of Fiscal Year 3 would be 8.55 percent. [Days elapsed since first issuance of Participating Securities = 1,035; days elapsed since second issuance of Participating Securities = 265; weighted amount of first issuance = $10,000,000×1,035/1,035=$10,000,000; weighted amount of second issuance = $15,000,000×265/1035=$3,840,579; weighted average amount of Participating Securities issued = $10,000,000+$3,840,579=$13,840,579; weighted average Treasury Rate = {(.08×$10,000,000)+(.10×$3,840,579)}/$13,840,579=8.55%].

(ii) Adjust the Profit Participation Rate from paragraph (f) of this section by the percentage difference between the weighted average Treasury Rate and 8 percent. In the example given in paragraph (g)(2)(i) of this section, if the PLC ratio were equal to 2, the Profit Participation Rate for the fiscal year would be 12.83 percent. [{((.0855 − .08)/.08)+1}×.12×100=12.83%].

(h) *Computing SBA's Profit Participation.* If the Base from paragraph (c) of this section is greater than zero, you must compute SBA's Profit Participation as follows:

(1) Multiply the Base by the Profit Participation Rate to determine the Profit Participation for the fiscal year or year-to-date interim period.

(2) Reduce the Profit Participation from paragraph (h)(1) of this section by any amounts of Profit Participation that you distributed or reserved for distribution to SBA, or its designated agent or Trustee, for any previous interim period during the fiscal year.

(3) If you computed Profit Participation for any previous interim period during the fiscal year, you must adjust it to account for any increase in the Profit Participation Rate.

(i) *Allocation of Profit Participation.* Before any Distribution and in any case within 120 days following the end of your fiscal year, you must add the amount of Profit Participation computed under this § 107.1530 to the Profit Participation Account. You must reserve funds equal to this amount for distribution to SBA, or its designated agent or Trustee; you may not reinvest these funds or use them for any other purpose.

§ 107.1540 Distributions by Licensee—Prioritized Payments and Adjustments.

After you compute Prioritized Payments and Adjustments under § 107.1520, you must distribute them in accordance with this § 107.1540.

(a) *Requirement to distribute Prioritized Payments and Adjustments.* This paragraph (a) applies only if you satisfy the liquidity requirement in § 107.1505. All Distributions under this paragraph (a) go to SBA or its designated agent or trustee.

(1) You must distribute the balance in your Distribution Account from § 107.1520 annually on the first or second Payment Date following your fiscal year end, and on any Payment Date when you are making any other Distribution.

(2) You may distribute all or part of the balance in your Distribution Account on any Payment Date regardless of whether you are making any other Distribution on that date.

(b) *Additional requirement for Licensees with undistributed Prioritized Payments.* This paragraph (b) applies if you do not distribute the full amount in your Distribution Account by the second Payment Date following the end of your fiscal year. At the end of each fiscal quarter, until you reduce the balance in your Distribution Account to zero, you must:

(1) Do all the steps in § 107.1520; and

(2) Distribute the balance in your Distribution Account on the next Payment Date following the end of your fiscal quarter, provided you satisfy the liquidity requirement in § 107.1505.

(c) *Order of Prioritized Payment Distributions.* If you have issued Participating Securities on more than one occasion, you must pay Prioritized Payments on them in the order of their issue date.

§ 107.1550 Distributions by Licensee—permitted "tax Distributions" to private investors and SBA.

If you have outstanding Participating Securities or Earmarked Assets, and you are a limited partnership, "S Corporation", or equivalent pass-through entity for tax purposes, you may make an annual "tax Distribution" to your investors, whether or not they have an actual tax liability. SBA receives a share of any tax Distribution you make. This section tells you when you may make a "tax Distribution" and how to compute it.

(a) *Conditions for making a tax Distribution.* You may make a tax Distribution only if:

(1) You have paid all your Prioritized Payments and Adjustments, so that the balance in both your Distribution Account and your Accumulation Account is zero (see § 107.1520).

(2) You satisfy the liquidity requirement in § 107.1505.

(3) The tax Distribution does not exceed your Retained Earnings Available for Distribution.

(4) The tax Distribution does not exceed the Maximum Tax Liability from paragraph (b) of this section.

(b) *How to compute the Maximum Tax Liability.* (1) Compute your Maximum Tax Liability for a full fiscal year only. Use the following formula:

M = (TOI × HRO) + (TCG × HRC)

Where:

M = Maximum Tax Liability.

TOI = Total ordinary income allocated to your partners or shareholders for Federal income tax purposes.

HRO = The highest combined marginal Federal and State income tax rates for corporations or individuals (whichever is higher), on ordinary income.

TCG = Total capital gains allocated to your partners or shareholders for Federal income tax purposes.

HRC = The highest combined marginal Federal and State income tax rates for corporations or individuals (whichever is higher), on capital gains.

(2) For purposes of this paragraph (b), the "State income tax" is that of the State where your principal place of business is located.

(c) *SBA's share of the tax Distribution.* (1) SBA's percentage share of the tax Distribution is equal to the Profit Participation Rate computed under § 107.1530.

(2) SBA may direct you to pay its share of the tax Distribution to its designated agent or Trustee.

(3) SBA will apply its share of the tax Distribution to the Profit Participation you owe SBA under § 107.1530.

(d) *Paying a tax Distribution.* You may make a tax Distribution only on the first or second Payment Date following the end of your fiscal year.

§ 107.1560 Distributions by Licensee—required Distributions to private investors and SBA.

You must make Distributions under this § 107.1560 if you have outstanding Participating Securities or Earmarked Assets and you satisfy the conditions in paragraph (a) of this section. Distributions under this section are determined as of the end of each fiscal year.

(a) *Conditions for making Distributions.* Distributions under this section are subject to the following conditions:

(1) You must have paid all your Prioritized Payments and Adjustments, so that the balance in both your Distribution Account and your Accumulation Account is zero (see §§ 107.1520 and 107.1540).

(2) You must have made any permitted tax Distribution that you choose to make under § 107.1550.

(3) You must satisfy the liquidity requirement in § 107.1505.

(4) The amount you distribute under this section must not exceed your Retained Earnings Available for Distribution.

(b) *Total amount you must distribute.* Unless SBA permits otherwise, the total amount you must distribute equals the result (if greater than zero) of the following computation:

(1) Your Retained Earnings Available for Distribution as of the end of your fiscal year; minus

(2) All previous Distributions under this § 107.1560 that were applied as redemptions or repayments of Leverage; plus

(3) All previous Distributions under § 107.1570(b) that reduced your Retained Earnings Available for Distribution.

(c) *When you must make Distributions.* You must make the required Distributions on either the first or second Payment Date following the end of your fiscal year.

(d) *Effect of Distributions on Retained Earnings Available for Distribution.* Distributions under this § 107.1560 have the following effect on your Retained Earnings Available for Distribution:

(1) All Distributions to private investors reduce Retained Earnings Available for Distribution.

(2) Distributions to SBA, or its designated agent or Trustee, reduce Retained Earnings Available for Distribution if they are applied as payments of Profit Participation or distributions on Preferred Securities (see paragraph (g) of this section).

(3) Distributions to SBA, or its designated agent or Trustee, do not reduce Retained Earnings Available for Distribution if they are applied as a repayment or redemption of Leverage (see paragraph (g) of this section).

(e) *SBA's share of the total Distribution.* Use the following table to determine the percentage share of the total Distribution (from paragraph (b) of this section) that goes to SBA (or its designated agent or Trustee):

SBA'S PERCENTAGE SHARE OF TOTAL DISTRIBUTION

If your ratio of leverage to leverageable capital as of the fiscal year end is	Then SBA's percentage share of the distribution is
Over 200%	[Leverage / (Leverage + Leverageable Capital)] x 100.
Over 100% but not over 200%.	50%.
100% or less	Profit Participation Rate from § 107.1530.

(f) *Exceptions to the Distribution requirement.* (1) With SBA's prior written approval, you may withhold from distribution reasonable reserves necessary to protect your investments or relative position in Loans and Investments and to meet contingent liabilities.

(i) If you submit a written request for SBA approval, you may consider it approved unless SBA notifies you otherwise within 30 days from receipt.

(ii) Reserves that you withhold from distribution may not be used to make investments in additional portfolio companies.

(iii) Withholding of reserves under this paragraph (f)(1) is not a "payment failure" in violation of § 107.1820(e)(6).

(2) SBA may restrict Distributions under this § 107.1560 if SBA determines that the value of your assets is materially overstated. SBA must give you notice of such a determination in advance of your proposed Distribution.

(g) *How SBA will apply your Distributions.* Your Distributions to SBA (or its designated agent or Trustee) under this § 107.1560 will be applied in the following order:

(1) First, to Profit Participation;

(2) Second, to the extent there remain any Retained Earnings Available for Distribution, to distributions on Preferred Securities;

(3) Third, as a redemption of Participating Securities in order of issue;

(4) Fourth, as a redemption of Preferred Securities; and

(5) Fifth, as the repayment of principal of any outstanding Debentures, with such repayment to be made into escrow on terms and conditions SBA determines.

§ 107.1570 Distributions by Licensee—optional Distribution to private investors and SBA.

If you have outstanding Participating Securities or Earmarked Assets, you may make two types of optional Distributions under this § 107.1570: quarterly Distributions determined the same way as the required annual Distributions in § 107.1560, and Distributions allocated between SBA and your private investors in proportion to the capital contributions of each.

(a) *Quarterly Distributions subject to conditions in § 107.1560.* (1) You may make Distributions under this paragraph (a) as of the end of any fiscal quarter, giving SBA (or its designated agent or Trustee) a percentage share determined under § 107.1560(e).

(2) Such Distributions are subject to all the provisions in § 107.1560(a)(1), (a)(3), (a)(4), (d), (f)(2), and (g).

(3) You may make such Distributions only on the next Payment Date following the end of your fiscal quarter.

(4) The total amount of such Distributions may not exceed the result of the following computation:

(i) Your Retained Earnings Available for Distribution as of the end of your fiscal quarter; minus

(ii) All previous Distributions under this paragraph (a) or § 107.1560 that were applied as redemptions or repayments of Leverage; plus

(iii) All previous Distributions under paragraph (b) of this section that reduced your Retained Earnings Available for Distribution.

(b) *Other optional Distributions.* On any Payment Date, you may make additional Distributions to your private investors and to SBA (or its designated agent or Trustee) under this paragraph (b).

(1) *Conditions for making Distribution.* You may make a Distribution under this paragraph (b) only if:

(i) You have distributed all Earned Prioritized Payments and earned Adjustments, so that the balance in your Distribution Account is zero (see § 107.1520).

(ii) You have distributed all Profit Participation computed under § 107.1530 and made all required Distributions under § 107.1560.

(iii) You satisfy the liquidity requirement in § 107.1505 or obtain SBA's prior written approval of the Distribution.

(iv) You do not have a condition of Capital Impairment.

(v) The Distribution does not reduce your Regulatory Capital (excluding commitments from Institutional Investors) below the minimum required under § 107.210, unless SBA approves the reduction as part of a plan of liquidation.

(vi) The Distribution does not cause you to have excess Leverage contrary to section 303 of the Act.

(2) *SBA's share of Distribution.* (i) If your Capital Impairment Percentage under § 107.1840 is zero, SBA's percentage share of any Distribution under this paragraph (b) equals:

[Leverage/(Leverage+Leverageable Capital)]x100

In this formula, use Leverage and Leverageable Capital as of the date of the Distribution, after giving effect to any Distribution under § 107.1560 and paragraph (a) of this section.

(ii) If your Capital Impairment Percentage under § 107.1840 is greater than zero, you must modify the formula in paragraph (b)(2)(i) of this section by replacing Leverageable Capital with:

Leverageable Capital×(100% – CIP)

where "CIP" is your Capital Impairment Percentage or 100 percent, whichever is less.

(3) *How SBA will apply Distributions.* Any amounts you distribute to SBA, or its designated agent or Trustee, under this paragraph (b) will be applied as a repayment or redemption of Leverage in the order set forth in § 107.1560(g)(3) through (g)(5).

(4) *Effect of Distributions on Retained Earnings Available for Distribution.* Any amounts you distribute to non-SBA investors under this paragraph (b) must reduce your Retained Earnings Available for Distribution to zero before reducing your Private Capital.

(5) *Permitted exception to § 107.585.* You may make any Distribution permitted by this paragraph (b), even if the result is a reduction in your Regulatory Capital that would otherwise be prohibited under § 107.585.

§ 107.1580 Special rules for In-Kind Distributions by Licensees.

(a) *In-Kind Distributions while Licensee has outstanding Participating Securities.* A Distribution under §§ 107.1560 or 107.1570 may consist of securities (an "In-Kind Distribution"). Such a Distribution must satisfy the conditions in this paragraph (a).

(1) You may distribute only securities that are Publicly Traded and Marketable at the time of the Distribution.

(2) You must distribute each security pro-rata to all investors and to SBA or its designated agent or Trustee, based on the amounts that each party would receive if the Distribution were in cash.

(3) You must impute a gain (loss) on each security being distributed as if it were being sold, using the value of the security as of the declaration date of the Distribution (if you are a Corporate Licensee) or the distribution date (if you are a Partnership Licensee).

(4) You must deposit SBA's share of the securities being distributed with the CRA, who will select a Disposition Agent (a person who is knowledgeable about and proficient in the marketing of thinly traded securities). As an alternative, if you agree, SBA may direct you to dispose of its share. In this case, you must promptly remit the proceeds to SBA.

(b) *In-Kind Distributions after Licensee has redeemed all Participating Securities.* This paragraph (b) applies from the time you redeem all your Participating Securities until you dispose of all your Earmarked Assets.

(1) You may make an In-Kind Distribution of an Earmarked Asset only if you pay SBA the lower of:

(i) An amount equal to the Unrealized Appreciation on the asset; or

(ii) The full amount of your Accumulated Prioritized Payments and unpaid Adjustments.

(2) You must obtain SBA's prior written approval of any In-Kind Distribution of an Earmarked Asset that is not Publicly Traded and Marketable, specifically including approval of the valuation of the asset.

§ 107.1590 Special rules for companies licensed on or before March 31, 1993.

This section applies to companies licensed on or before March 31, 1993 that apply to issue Participating Securities.

(a) *Election to exclude pre-existing portfolio.* You may choose to exclude all (but not a portion) of your Loans and Investments as of March 31, 1993, from classification as Earmarked Assets if:

(1) The proceeds of your first issuance of Participating Securities are not used to refinance outstanding Debentures (see paragraph (c) of this section). SBA will consider payment or prepayment of any outstanding Debenture to be a refinancing unless you demonstrate to SBA's satisfaction that you can pay the Debenture principal without relying on the proceeds of the Participating Securities.

(2) SBA, in its sole discretion, approves the exclusion.

(b) *Treatment of pre-existing portfolio if not excluded.* If you do not choose to exclude your Loans and Investments as of March 31, 1993, they will be Earmarked Assets for all purposes.

(c) *Refinancing Debentures with Participating Securities.* SBA may permit you to use the proceeds of a Participating Security to pay the principal amount due on an outstanding Debenture if:

(1) You have outstanding Equity Capital Investments (at cost) equal to the amount of the Debentures being refinanced.

(2) You have not elected to exclude Loans and Investments from Earmarked Assets under paragraph (a) of this section.

(d) *Requirements for Licensee's first issuance of Participating Securities.* When you apply for your first issuance of Participating Securities, you must comply with the following:

(1) For each of your Loans and Investments, you must submit:

(i) The most recent annual report (or fiscal year-end financial statements) and the most recent interim financial statements of the Small Business; and

(ii) Your valuation reports on the Small Business, prepared as of the end of each of your last three fiscal years. If you have applied for Participating Securities on the basis of interim financial statements, you must also submit a valuation report as of your interim financial statement date.

(2) If you have negative Undistributed Net Realized Earnings and/or a net Unrealized Loss on Securities Held, SBA may require you to undergo a quasi-reorganization in accordance with generally accepted accounting principles.

(3) If your financial statements accompanying the Participating Securities application are for an interim period, you must have your SBA-approved independent public accountant perform a limited-scope audit of the statements. For purposes of this paragraph (d)(3), "limited scope audit" means auditing procedures sufficient to enable the independent public accountant to express an opinion on the Statement of Financial Position and the accompanying Schedule of Loans and Investments.

Funding Leverage by Use of SBA-Guaranteed Trust Certificates ("TCs")

§ 107.1600 SBA authority to issue and guarantee Trust Certificates.

(a) *Full Faith and Credit.* Sections 321 (a) and (b) of the Act authorize SBA or its CRA to issue TCs, and SBA to guarantee the timely payment of the principal and interest thereon. Any guarantee by SBA of such TC is limited

to the principal and interest due on the Debentures or the Redemption Price of and Prioritized Payments on Participating Securities in any Trust or Pool backing such TC. The full faith and credit of the United States is pledged to the payment of all amounts due under the guarantee of any TC.

(b) *Periodic Exercise of Authority.* SBA will issue guarantees of Debentures and Participating Securities under section 303 and of TCs under section 321 of the Act at three month intervals, or at shorter intervals, taking into account the amount and number of such guarantees or TCs.

§ 107.1610 Terms and conditions of Trust Certificates.

TCs shall provide for a pass-through to their holders of all amounts of principal and interest paid on the Debentures, or the Redemption Price of and Prioritized Payments on the Participating Securities, in the Pool or Trust against which they are issued. SBA shall determine the legal and other terms and conditions of TCs in conjunction with the Secretary of the Treasury and its own statutory authority and such other requirements as may be mandated by law. The interest rate on Debentures or the Prioritized Payment rate on the Participating Securities in a Trust or Pool shall be determined pursuant to section 303 (b) or (g), respectively, of the Act.

§ 107.1620 SBA authority to pay subsidy amount on subsidized Debentures.

If SBA guarantees Debentures of a Section 301(d) Licensee, section 303(d) of the Act requires SBA to make payments to the CRA, or to the holder of any such Debenture, sufficient to reduce the effective rate of interest to such Licensee during the first five years of the term of such Debenture by three percentage points.

§ 107.1630 Effect of prepayment or early redemption of Leverage on a Trust Certificate.

(a) The rights, if any, of a Licensee to prepay any Debenture or make early redemption of any Participating Security are established by the terms of such securities, and no such right is created or denied by the regulations in this part.

(b) SBA's rights to purchase or prepay any Debenture without premium are established by the terms of the Guaranty Agreement relating to the Debenture. SBA's rights to redeem, at any time, any Participating Security without premium are established by the terms of the Guaranty Agreement relating to the Participating Security.

(c) Any prepayment of a Debenture or early redemption of a Participating Security pursuant to the terms of the Guaranty Agreement relating to such securities, shall reduce the SBA guarantee of timely payment of principal and interest on a TC in proportion to the amount of principal or Redemption Price that such prepaid Debenture or redeemed Participating Security represents in the Trust or Pool backing such TC.

(d) SBA shall be discharged from its guarantee obligation to the holder or holders of any TC, or any successor or transferee of such holder, to the extent of any such prepayment, whether or not such successor or transferee shall have notice of any such prepayment.

(e) Interest on prepaid Debentures and Prioritized Payments on Participating Securities shall accrue only through the date of such voluntary prepayment or SBA payment, as the case may be.

(f) In the event that all Debentures or Participating Securities constituting a Trust or Pool are prepaid, the TCs backed by such Trust or Pool shall be redeemed by payment of the unpaid principal and interest on the TCs; *Provided, however,* that in the case of the prepayment of a Debenture pursuant to the provisions of the Guaranty Agreement relating to the Debenture, the CRA shall pass through pro rata to the holders of the TCs any such prepayments including any prepayment penalty paid by the obligor Licensee pursuant to the terms of the Debenture.

§ 107.1640 Subrogation of SBA upon payment under Trust Certificate Program.

In the event SBA pays a claim under the guarantee of a TC, SBA's claim is subrogated fully to the rights satisfied by such payment. No state or Federal law can preclude or limit SBA's exercise of its ownership rights acquired by subrogation upon payment under its guarantee.

§ 107.1650 Formation of a Pool or Trust holding Leverage securities.

SBA shall approve the formation of each Pool or Trust. SBA may, in its discretion, establish the size of the Pools and their composition, the interest rate on the TCs issued against Trusts or Pools, fees, discounts, premiums and other charges made in connection with the Pools, Trusts, and TCs, and any other characteristics of a Pool or Trust it deems appropriate.

§ 107.1660 Functions of agents, including Central Registration Agent, Selling Agent and Fiscal Agent.

(a) *Agents.* SBA will appoint or cause to be appointed agent(s) to perform functions necessary to market and service Debentures, Participating Securities, or TCs pursuant to this part.

(1) *Selling Agent.* As a condition of guaranteeing a Debenture or Participating Security, SBA shall cause each Licensee to appoint a Selling Agent to perform functions which include, but are not limited to:

(i) Selecting qualified entities to become pool or Trust assemblers ("Poolers"). Such actions shall be subject to SBA prior written approval and to the provisions of § 107.1670(b).

(ii) Receiving guaranteed Debentures and Participating Securities as well as negotiating the terms and conditions of periodic offerings of Debentures and/or TCs with Poolers on behalf of Licensees.

(iii) Directing and coordinating periodic sales of Debentures and Participating Securities and/or TCs.

(iv) Arranging for the production of the Offering Circular, certificates, and such other documents as may be required from time to time.

(2) *Fiscal Agent.* SBA shall appoint a Fiscal Agent to:

(i) Establish performance criteria for Poolers.

(ii) Monitor and evaluate the financial markets to determine those factors that will minimize or reduce the cost of funding Debentures or Participating Securities.

(3) Monitor the performance of the Selling Agent, Poolers, CRA, and the Trustee.

(4) Perform such other functions as SBA, from time to time, may prescribe.

(b) The function of locating purchasers, and negotiating and closing the sale of Debentures, Participating Securities and TCs, may be performed either by SBA or an agent appointed by SBA. Nothing in the regulations in this part shall be interpreted to prevent the CRA from acting as SBA's agent for this purpose.

(c) Pursuant to a contract entered into with SBA, the CRA shall do the following as agent of SBA:

(1) *Issuance of the TCs.* Upon the formation of any Pool or Trust approved by SBA, CRA shall issue TCs, in the form prescribed by SBA, upon the primary sale of Debentures or Participating Securities, and shall issue or effect the transfer of TCs upon the sale of original issue TCs in any secondary market transaction.

(2) *Receipt of amounts due on Debentures and Participating Securities.* CRA shall receive payments from Licensees of amounts due on Debentures and Participating Securities, and amounts paid under voluntary prepayments or prepayments by SBA pursuant to the terms of the relevant Guaranty Agreements.

(3) *Payments of amounts due on TCs.* CRA shall make periodic payments as scheduled or required by the terms of the TCs, and pay all amounts required to be paid upon prepayment of Debentures or redemption of Participating Securities.

(4) *Custody of Debentures and Participating Securities and Documentation.* CRA shall hold and safeguard all Debentures and Participating Securities constituting Trusts or Pools and shall release, upon instructions of SBA, the Debentures and Participating Securities paid in full at maturity or prepaid in full prior to maturity. CRA also shall be custodian of such other documentation as SBA shall direct by written instructions.

(5) *Registration of Debentures and Participating Securities and TCs.* CRA shall provide for the registration of all pooled Debentures and Participating Securities, all Pools and Trusts, and all TCs. With respect to each sale of Debentures or Participating Securities, such registration shall include:

(i) The identification of the selling License;

(ii) The interest rate to be paid on the Debentures;

(iii) The Prioritized Payment rate to be paid on the Participating Securities;

(iv) All commissions, fees, and/or discounts paid to brokers and dealers in TCs or others;

(v) Identification of each purchaser and any subsequent purchaser of any TC;

(vi) The interest rate on any TC;

(vii) The price paid by any purchaser for a TC;

(viii) The fee of the CRA; and

(ix) Such other information as SBA may deem appropriate or that may be customary in the markets for transactions of similar type.

(6) *Fidelity bond or insurance.* CRA shall provide a fidelity bond or insurance in such amount as SBA may require to fully protect the interest of the government.

(7) *Other necessary functions.* CRA shall perform such other functions as SBA may deem necessary to implement the provisions of this section.

§ 107.1670 SBA regulation of Brokers and Dealers and disclosure to purchasers of Leverage or Trust Certificates.

(a) *Disclosure to purchasers.* Prior to any sale of a Debenture, Participating Security, or TC, SBA shall require the seller, or the broker or dealer as agent for the seller, to disclose to the purchaser, in a form prescribed or approved by SBA, specified information on the terms, conditions, and yield of such instrument.

(b) *Brokers and Dealers.* Each broker, dealer, and Pool or Trust assembler approved by SBA pursuant to these regulations shall either be regulated by a Federal financial regulatory agency, or be a member of the National Association of Securities Dealers (NASD), and shall be in good standing in respect to compliance with the financial, ethical, and reporting requirements of such body. They also shall be in good standing with SBA as determined by the SBA Associate Administrator for Investment (see paragraph (c)(5) of this section) and shall provide a fidelity bond or insurance in such amount as SBA may require. Nothing in these provisions shall affect the applicability of the securities laws, as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, or any of the rules and regulations thereunder, or otherwise supersede or limit the jurisdiction of the Securities and Exchange Commission or any authority at any time conferred under the securities laws.

(c) *Suspension and/or termination of Broker or Dealer.* SBA shall exclude from the sale and all other dealings in Debentures, Participating Securities or TCs any broker or dealer:

(1) If such broker's or dealer's authority to engage in the securities business has been revoked or suspended by a supervisory agency. When such authority has been suspended, such broker or dealer will be suspended by SBA for the duration of such suspension by the supervisory agency.

(2) If such broker or dealer has been indicted or otherwise formally charged with a misdemeanor or felony bearing on its fitness to participate in the market for Debentures, Participating Securities or TCs, such broker or dealer may be suspended while the charge is pending. Upon conviction, participation may be terminated.

(3) When such broker or dealer has suffered an adverse final civil judgment, holding that such broker or dealer has committed a breach of trust or violation of law or regulation protecting the integrity of business transactions or relationships, participation in the market for Debentures, Participating Securities or TCs may be terminated.

(4) When such broker or dealer has failed to make full disclosure of the information required by paragraph (a) of this section, such broker's or dealer's participation in the market for Debentures, Participating Securities or TCs may be terminated.

(5) Proceedings to terminate such broker's or dealer's participation in the market for Debentures, Participating Securities or TCs shall be conducted in accordance with Part 134 of this Chapter. SBA may, for any of the reasons stated above, suspend the privilege of any broker or dealer to participate in this market. SBA shall give written notice at least ten (10) business days prior to the effective date of such suspension. Such notice shall inform the broker or dealer of the opportunity for a hearing pursuant to part 134 of this chapter. The Assistant Administrator of the Office of Hearings and Appeals or an Administrative Law Judge of such office shall be the reviewing official for purposes of §§ 134.32(b)(7) and 134.34 of this chapter.

§ 107.1680 SBA access to records of the CRA, Brokers, Dealers and Pool or Trust assemblers.

The CRA and any broker, dealer and Pool or Trust assembler operating under the regulations in this part shall make all books, records and related materials associated with Debentures, Participating Securities and TCs available to SBA for review and copying purposes. Such access shall be at such party's primary place of business during normal business hours.

Miscellaneous

§ 107.1700 Characteristics of SBA's guarantee.

(a) *Unconditional nature of SBA's guarantee.* If SBA agrees to guarantee your Debentures or Participating Securities, such guarantee will be unconditional, irrespective of the validity, regularity or enforceability of the Debentures or Participating Securities or any other circumstances which might constitute a legal or equitable discharge or defense of a guarantor. Pursuant to its guarantee, SBA will make timely payments of principal and interest on the Debentures or the Redemption Price of and Prioritized Payments on the Participating Securities, irrespective of any default by you or acceleration of the maturity of the Debentures by SBA, or your inability to pay the Redemption Price of or to make the Prioritized Payments on the Participating Securities, or any early redemption of the Participating Securities by SBA.

(b) *SBA authority to arrange public or private fundings of Leverage.* SBA in its discretion may arrange for public or private financing under its guarantee authority. Such financing arranged by SBA may be accomplished by the sale of individual Debentures or Participating Securities, aggregations of Debentures or Participating Securities, or Pools or Trusts of Debentures or Participating Securities issued or sold

pursuant to §§ 107.1600 through 107.1680. Persons interested in providing funds to Licensees with SBA's guarantee must notify SBA by letter, certifying any direct or indirect beneficial interest, or actual or potential voting rights, in any Licensee, or in any person directly or indirectly controlling, controlled by or under common control with, any Licensee. These reporting requirements are approved under OMB No. 3245–0081.

(c) *SBA subrogation rights.* In the event SBA pays a claim under its guarantee, SBA's claim is subrogated fully to the rights satisfied by such payment. No state law or Federal law can preclude or limit SBA's exercise of its ownership rights acquired by subrogation upon payment under its guarantee.

§ 107.1710 Transfer by SBA of its interest in Licensee's Leverage security.

Upon such conditions and for such consideration as it deems reasonable, SBA may sell, assign, transfer, or otherwise dispose of any Preferred Security, Debenture, Participating Security, or other security held by or on behalf of SBA in connection with Leverage. Upon notice by SBA, Licensee will make all payments of principal, dividends, interest, Prioritized Payments, and redemptions as shall be directed by SBA. Licensee will be liable for all damage or loss which SBA may sustain by reason of such disposal, up to the amount of Licensee's liability under such security, plus court costs and reasonable attorney's fees incurred by SBA.

§ 107.1720 SBA authority to collect or compromise its claims.

SBA may, upon such conditions and for such consideration as it deems reasonable, collect or compromise all claims relating to Preferred or Participating Securities or obligations held or guaranteed by SBA, and all legal or equitable rights accruing to SBA.

Subpart J—Licensee's Noncompliance With Terms of Leverage

§ 107.1800 Licensee's agreement to terms and conditions in §§ 107.1810 and 107.1820.

Any Licensee that violates the terms and conditions of its Leverage is subject to SBA remedies. The terms, conditions and remedies in § 107.1810 apply to outstanding Debentures issued after April 25, 1994. The terms, conditions and remedies in § 107.1820 apply to outstanding Preferred Securities and Participating Securities issued after April 25, 1994, or if you have Earmarked Assets in your portfolio.

§ 107.1810 Events of default and SBA's remedies for Licensee's noncompliance with terms of Debentures.

(a) *Applicability of this section.* This § 107.1810 applies to Debentures issued after April 25, 1994. By issuing such Debentures, you automatically agree to the terms, conditions and remedies in this section, as in effect at the time of issuance and as if fully set forth in the Debentures. Debentures issued before April 25, 1994 continue to be governed by the remedies in effect at the time of their issuance.

(b) *Automatic events of default.* The occurrence of one or more of the events in this paragraph (b) causes the remedies in paragraph (c) of this section to take effect immediately.

(1) *Insolvency.* You become equitably or legally insolvent.

(2) *Voluntary assignment.* You make a voluntary assignment for the benefit of creditors without SBA's prior written approval.

(3) *Bankruptcy.* You file a petition to begin any bankruptcy or reorganization proceeding, receivership, dissolution or other similar creditors' rights proceeding, or such action is initiated against you and is not dismissed within 60 days.

(c) *SBA remedies for automatic events of default.* Upon the occurrence of one or more of the events in paragraph (b) of this section:

(1) Without notice, presentation or demand, the entire indebtedness evidenced by your Debentures, including accrued interest, and any other amounts owed SBA with respect to your Debentures, is immediately due and payable; and

(2) You automatically consent to the appointment of SBA or its designee as your receiver under section 311(c) of the Act.

(d) *Events of default with notice.* For any occurrence (as determined by SBA) of one or more of the events in this paragraph (d), SBA may avail itself of one or more of the remedies in paragraph (e) of this section.

(1) *Fraud.* You commit a fraudulent act which causes detriment to SBA's position as a creditor or guarantor.

(2) *Fraudulent transfers.* You make any transfer or incur any obligation that is fraudulent under the terms of 11 USC 548.

(3) *Willful conflicts of interest.* You willfully violate § 107.730.

(4) *Willful non-compliance.* You willfully violate one or more of the substantive provisions of the Act, specifically including but not limited to the provisions summarized in section 310(c) of the Act, or any substantive regulation promulgated under the Act.

(5) *Repeated Events of Default.* At any time after being notified by SBA of the occurrence of an event of default under paragraph (f) of this section, you engage in similar behavior which results in another occurrence of the same event of default.

(6) *Transfer of Control.* You violate § 107.475 and/or willfully violate § 107.410, and as a result of such violation you undergo a transfer of Control.

(7) *Non-cooperation under § 107.1810(h).* You fail to take appropriate steps, satisfactory to SBA, to accomplish any action SBA may have required under paragraph (h) of this section.

(8) *Non-notification of Events of Default.* You fail to notify SBA as soon as you know or reasonably should have known that any event of default exists under this section.

(9) *Non-notification of defaults to others.* You fail to notify SBA in writing within ten days from the date of a declaration of an event of default or nonperformance under any note, debenture or indebtedness of yours, issued to or held by anyone other than SBA.

(e) *SBA remedies for events of default with notice.* Upon written notice to you of the occurrence (as determined by SBA) of one or more of the events in paragraph (d) of this section:

(1) SBA may declare the entire indebtedness evidenced by your Debentures, including accrued interest, and/or any other amounts owed SBA with respect to your Debentures, immediately due and payable; and

(2) SBA may avail itself of any remedy available under the Act, specifically including institution of proceedings for the appointment of SBA or its designee as your receiver under section 311(c) of the Act.

(f) *Events of default with opportunity to cure.* For any occurrence (as determined by SBA) of one or more of the events in this paragraph (f), SBA may avail itself of one or more of the remedies in paragraph (g) of this section.

(1) *Excessive Management Expenses.* Without the prior written consent of SBA, you incur Management Expenses in excess of those permitted under § 107.520.

(2) *Improper Distributions.* You make any Distribution to your shareholders or partners, except with the prior written consent of SBA, other than:

(i) Distributions permitted under § 107.585;

(ii) Payments from Retained Earnings Available for Distribution based on either the shareholders' pro-rata

interests or the provisions for profit distributions in your partnership agreement, as appropriate; and

(iii) Distributions by Participating Securities issuers as permitted under §§ 107.1540 through 107.1580.

(3) *Failure to make payment.* Unless otherwise approved by SBA, you fail to make timely payment of any amount due under any security or obligation of yours that is issued to, held or guaranteed by SBA.

(4) *Failure to maintain Regulatory Capital.* You fail to maintain the minimum Regulatory Capital required under these regulations or, without the prior written consent of SBA, you reduce your Regulatory Capital, except as permitted by §§ 107.585 and 107.1560 through 107.1580.

(5) *Capital Impairment.* You have a condition of Capital Impairment as determined under § 107.1830.

(6) *Cross-default.* An obligation of yours that is greater than $100,000 becomes due or payable (with or without notice) before its stated maturity date, for any reason including your failure to pay any amount when due. This provision does not apply if you pay the amount due within any applicable grace period or contest the payment of the obligation in good faith by appropriate proceedings.

(7) *Nonperformance.* You violate or fail to perform one or more of the terms and conditions of any security or obligation of yours that is issued to, held or guaranteed by SBA, or of any agreement with or conditions imposed by SBA in its administration of the Act and the regulations promulgated under the Act.

(8) *Noncompliance.* Except as otherwise provided in paragraph (d)(5) of this section, SBA determines that you have violated one or more of the substantive provisions of the Act, specifically including but not limited to the provisions summarized in section 310(c) of the Act, or any substantive regulation promulgated under the Act.

(9) *Failure to maintain investment ratio.* You fail to maintain the investment ratio for Leverage in excess of 300 percent of Leverageable Capital (see §§ 107.1150(b)(2) and 107.1160(c)), if applicable to you, as of the end of each fiscal year. In determining whether you have maintained the ratio, SBA will disregard any prepayment, sale, or disposition of Venture Capital Financing, any increase in Leverageable Capital, and any receipt of additional Leverage, within 120 days prior to the end of your fiscal year.

(10) *Failure to maintain diversity.* You fail to maintain diversity between management and ownership as required by § 107.150, if applicable to you.

(g) *SBA remedies for events of default with opportunity to cure.* (1) Upon written notice to you of the occurrence (as determined by SBA) of one or more of the events of default in paragraph (f) of this section, and subject to the conditions in paragraph (g)(2) of this section:

(i) SBA may declare the entire indebtedness evidenced by your Debentures, including accrued interest, and/or any other amounts owed SBA with respect to your Debentures, immediately due and payable; and

(ii) SBA may avail itself of any remedy available under the Act, specifically including institution of proceedings for the appointment of SBA or its designee as your receiver under section 311(c) of the Act.

(2) SBA may invoke the remedies in paragraph (g)(1) of this section only if:

(i) It has given you at least 15 days to cure the default(s); and

(ii) You fail to cure the default(s) to SBA's satisfaction within the allotted time.

(h) *Repeated non-substantive violations.* If you repeatedly fail to comply with one or more of the non-substantive provisions of the Act or any non-substantive regulation promulgated under the Act, SBA, after written notification to you and until you cure such condition to SBA's satisfaction, may deny you additional Leverage and/or require you to take such actions as SBA may determine to be appropriate under the circumstances.

(i) *Consent to removal of officers, directors, or general partners and/or appointment of receiver.* The Articles of any Licensee issuing Debentures after April 25, 1994 must include the following provisions as a condition to the purchase or guarantee by SBA of such Leverage. Upon the occurrence of any of the events specified in paragraphs (d)(1) through (d)(6) or (f)(1) through (f)(3) of this section as determined by SBA, SBA shall have the right, and you consent to SBA's exercise of such right:

(1) With respect to a Corporate Licensee, upon written notice, to require you to replace, with individuals approved by SBA, one or more of your officers and/or such number of directors of your board of directors as is sufficient to constitute a majority of such board; or

(2) With respect to a Partnership Licensee, upon written notice, to require you to remove the person(s) responsible for such occurrence and/or to remove the general partner of Licensee, which general partner shall then be replaced in accordance with Licensee's Articles by a new general partner approved by SBA; and/or

(3) With respect to either a Corporate or Partnership Licensee, to obtain the appointment of SBA or its designee as your receiver under section 311(c) of the Act for the purpose of continuing your operations. The appointment of a receiver to liquidate a Licensee is not within such consent, but is governed instead by the relevant provisions of the Act.

§ 107.1820 Conditions affecting issuers of Preferred Securities and/or Participating Securities.

(a) *Applicability of this section.* This section applies if you have Preferred Securities issued after April 25, 1994, or if you issue Participating Securities or have Earmarked Assets in your portfolio. Your Articles must include the provisions of this § 107.1820 as a condition to SBA's purchase of Preferred Securities or guarantee of Participating Securities and for as long as you own Earmarked Assets. Preferred Securities issued before April 25, 1994 continue to be governed by the remedies in effect at the time of their issuance.

(b) *Removal Conditions.* Upon the occurrence (as determined by SBA) of any of the following conditions ("Removal Conditions"), SBA may avail itself of one or more of the remedies in paragraph (d) of this section:

(1) *Insolvency or extreme Capital Impairment.* You become equitably or legally insolvent, or have a Capital Impairment Percentage of 100 percent or more ("extreme Capital Impairment") and have not cured such Capital Impairment within the time limits set by SBA in writing. In this regard:

(i) You are not considered to have a condition of extreme Capital Impairment during the first eight years following your first issuance of Participating Securities.

(ii) This paragraph (b)(1) does not give you an additional opportunity to cure if you have already had an opportunity to cure your Capital Impairment under paragraph (e)(3) of this section.

(2) *Voluntary assignment.* You make a voluntary assignment for the benefit of creditors.

(3) *Bankruptcy.* You begin any bankruptcy or reorganization proceeding, receivership, dissolution or other similar creditors' rights proceeding, or such action is initiated against you and is not dismissed within 60 days.

(4) *Transfer of Control.* You violate § 107.475 and/or willfully violate § 107.410, and such violation results in a transfer of Control.

(5) *Fraud.* You commit a fraudulent act which causes serious detriment to SBA's position as a guarantor or investor.

(6) *Fraudulent transfers.* You make any transfer or incur any obligation that is fraudulent under the terms of 11 USC 548.

(c) *Contingent Removal Conditions.* Upon the occurrence (as determined by SBA) of any of the following conditions ("Contingent Removal Conditions"), SBA may avail itself of one or more of the remedies in paragraph (d) of this section, but only if you fail to remove the person(s) SBA identifies as responsible for such occurrence and/or cure such occurrence to SBA's satisfaction within a time period determined by SBA (but not less than 15 days):

(1) *Willful conflicts of interest.* You willfully violate § 107.730.

(2) *Willful or repeated noncompliance.* You willfully or repeatedly violate one or more of the substantive provisions of the Act, specifically including but not limited to the provisions summarized in section 310(c) of the Act, or any substantive regulation promulgated under the Act.

(3) *Failure to comply with restrictions under paragraph (f) of this section.* You fail to comply with the restrictions imposed by SBA under paragraph (f) of this section.

(d) *SBA remedies for Removal Conditions and Contingent Removal Conditions.* Upon the occurrence (as determined by SBA) of any Removal Condition, or any Contingent Removal Condition accompanied by your failure to act as set forth in paragraph (c) of this section, SBA has the following rights, and you consent to SBA's exercise of any or all of such rights:

(1) With respect to a Corporate Licensee, upon written notice, to require you to replace, with individuals approved by SBA, one or more of your officers and/or such number of directors as is sufficient to constitute a majority of your board of directors; or

(2) With respect to a Partnership Licensee, upon written notice, to require you to remove the person(s) responsible for such occurrence and/or to remove your general partner, who shall then be replaced in accordance with your Articles by a new general partner approved by SBA; and/or

(3) With respect to either a Corporate or Partnership Licensee, to the appointment of SBA or its designee as your receiver under section 311(c) of the Act for the purpose of continuing your operations. The appointment of a receiver to liquidate a Licensee is not within such consent, but is governed instead by the relevant provisions of the Act.

(e) *Restricted Operations Conditions.* Upon the occurrence (as determined by SBA) of any of the following conditions ("Restricted Operations Conditions"), SBA may avail itself of any of the remedies in paragraph (f) of this section.

(1) *Removal Conditions or Contingent Removal Conditions.* Any condition occurs which is listed in paragraphs (b) or (c) of this section.

(2) *Failure to maintain Regulatory Capital.* You fail to maintain the minimum Regulatory Capital required by this part.

(3) *Capital or Liquidity Impairment.* You have a condition of Capital Impairment as determined under § 107.1830 or, if applicable, a condition of Liquidity Impairment as determined under § 107.1505, and you fail to cure the impairment within time limits set by SBA in writing.

(4) *Improper Distributions.* You make any Distribution to your shareholders or partners other than those permitted by §§ 107.585 and 107.1560 through 107.1580.

(5) *Excessive Management Expenses.* Without the prior written consent of SBA, you incur Management Expenses in excess of those permitted under § 107.520.

(6) *Failure to make payment.* You fail to pay any amounts due under Preferred Securities or required by §§ 107.1500 through 107.1590, unless otherwise permitted by SBA.

(7) *Noncompliance.* Except as otherwise provided for in paragraphs (c)(1) and (c)(2) of this section, SBA determines that you have failed to comply with one or more of the substantive provisions of the Act, specifically including but not limited to the provisions summarized in section 310(c) of the Act, or any substantive regulation promulgated under the Act.

(8) *Failure to maintain diversity.* You fail to maintain diversity between management and ownership as required by § 107.150, if applicable to you.

(9) *Failure to maintain investment ratios.* You fail to maintain the investment ratios or amounts required for Participating Securities (§ 107.1500(b)(4)) or Leverage in excess of 300 percent of Leverageable Capital (§ 107.1160(c)) or Preferred Securities in excess of 100 percent of Leverageable Capital (§ 107.1160(d)), if applicable to you, as of the end of each fiscal year. In determining whether you have maintained the ratios or amounts, SBA will disregard any prepayment, sale, or disposition of Equity Capital Investments or Venture Capital Financings, as appropriate, any increase in Leverageable Capital, and any receipt of additional Leverage, within 120 days prior to the end of your fiscal year.

(10) *Nonperformance.* You violate or fail to perform one or more of the terms and conditions of any Participating Security or Preferred Security or of any agreement with or condition imposed by SBA in its administration of the Act and the regulations promulgated thereunder.

(11) *Noncooperation under paragraph (g) of this section.* You fail to take appropriate steps, satisfactory to SBA, to accomplish such action as SBA may have required under paragraph (g) of this section.

(f) *SBA remedies for Restricted Operations Conditions.* Upon the occurrence of any Restricted Operations Condition, and until such condition(s) are cured to SBA's satisfaction within a time period determined by SBA (but not less than 15 days), upon written notice SBA shall have the following rights, and you consent to SBA's exercise of any or all of such rights:

(1) To prohibit you from making any additional investments except for investments under legally binding commitments you entered into before such notice and, subject to SBA's prior written approval, investments that are necessary to protect your investments;

(2) Until all Leverage is redeemed and amounts due are paid, to prohibit Distributions by you to any party other than SBA, its agent or Trustee;

(3) To require all your commitments from investors to be funded at the earliest time(s) permitted in accordance with your Articles; and

(4) To review and re-determine your approved Management Expenses.

(g) *Repeated non-substantive violations.* If you repeatedly fail to comply with one or more of the non-substantive provisions of the Act or any non-substantive regulation promulgated thereunder, SBA, after written notification to you and until such condition is cured to SBA's satisfaction, will deny you additional Leverage and/or require you to take such actions as SBA may determine to be appropriate under the circumstances.

Computation of Licensee's Capital Impairment

§ 107.1830 Licensee's Capital Impairment—definition and general requirements.

(a) *Applicability of this section.* This § 107.1830 applies to you if you have any outstanding Leverage issued on or after April 25, 1994. If you only have outstanding Leverage issued before April 25, 1994, you must comply with paragraphs (e) and (f) of this section and the Capital Impairment regulations in this part in effect when you issued your Leverage.

(b) *Significance of Capital Impairment condition.* If you have a condition of Capital Impairment, you are not in compliance with the terms of your Leverage. As a result, SBA has the right to impose the applicable remedies for noncompliance in §§ 107.1810(g) and 107.1820(f).

(c) *Definition of Capital Impairment condition.* You have a condition of Capital Impairment if your Capital Impairment Percentage, as computed in § 107.1840, exceeds:

(1) For Section 301(d) Licensees, 75 percent.

(2) For Section 301(c) Licensees, the appropriate percentage from the following table:

MAXIMUM PERMITTED CAPITAL IMPAIRMENT PERCENTAGES FOR Section 301(c) LICENSEES

If the percentage of equity capital investments (at cost) in your portfolio is:	And your ratio of outstanding leverage to leverageable capital percentage is:	Then your maximum permitted capital impairment percentage is:
67	100 or less	70
Over 100 but not over 200	60.	
Over 200	50.	
At least 40 but under 67	100 or less	55
	Over 100 but not over 200	50
Over 200	40.	
Under 40	100 or less	45
Over 100 but not over 200	40.	
Over 200	35.	

(d) *Phase-in of maximum permitted Capital Impairment Percentages for Section 301(c) Licensees.* If you are a Section 301(c) Licensee, regardless of your maximum permitted Capital Impairment Percentage under paragraph (c) of this section, you will not have a condition of Capital Impairment if:

(1) Your Capital Impairment Percentage does not exceed 50 percent; and

(2) You have not reached your first fiscal year end occurring after April 25, 1995.

(e) *Quarterly computation requirement and procedure.* You must determine whether you have a condition of Capital Impairment as of the end of each fiscal quarter. You must notify SBA promptly if you are capitally impaired.

(f) *SBA's right to determine Licensee's Capital Impairment condition.* SBA may make its own determination of your Capital Impairment condition at any time.

§ 107.1840 Computation of Licensee's Capital Impairment Percentage.

(a) *General.* This section contains the procedures you must use to determine your Capital Impairment Percentage if you have outstanding Leverage issued after April 25, 1994. You must compare your Capital Impairment Percentage to the maximum permitted under § 107.1830(c) to determine whether you have a condition of Capital Impairment.

(b) *Preliminary impairment test.* If you satisfy the preliminary impairment test, your Capital Impairment Percentage is zero and you do not have to perform any more procedures in this § 107.1840. Otherwise, you must continue with paragraph (c) of this section. You satisfy the test if the following amounts are both zero or greater:

(1) The sum of Undistributed Net Realized Earnings, as reported on SBA Form 468, and Includible Non-Cash Gains.

(2) Unrealized Gain (Loss) on Securities Held.

(c) *How to compute your Capital Impairment Percentage.* (1) If you have an Unrealized Gain on Securities Held, compute your Adjusted Unrealized Gain using paragraph (d) of this section. If you have an Unrealized Loss on Securities Held, continue with paragraph (c)(2) of this section.

(2) Add together your Undistributed Net Realized Earnings, your Includible Non-cash Gains, and either your Unrealized Loss on Securities Held or your Adjusted Unrealized Gain.

(3) If the sum in paragraph (c)(2) of this section is zero or greater, your Capital Impairment Percentage is zero.

(4) If the sum in paragraph (c)(2) of this section is less than zero, drop the negative sign, divide by your Regulatory Capital (excluding Treasury Stock), and multiply by 100. The result is your Capital Impairment Percentage.

(d) *How to compute your Adjusted Unrealized Gain.* (1) Subtract Unrealized Depreciation from Unrealized Appreciation. This is your "Net Appreciation".

(2) Determine your Unrealized Appreciation on Publicly Traded and Marketable securities. This is your "Class 1 Appreciation".

(3) Determine your Unrealized Appreciation on securities that are not Publicly Traded and Marketable and meet the following criteria, which must be substantiated to the satisfaction of SBA (this is your "Class 2 Appreciation"):

(i) The Small Business that issued the security received a significant subsequent equity financing by an investor whose objectives were not primarily strategic and at a price that conclusively supports the Unrealized Appreciation;

(ii) Such financing represents a substantial investment in the form of an arm's length transaction by a sophisticated new investor in the issuer's securities; and

(iii) Such financing occurred within 24 months of the date of the Capital Impairment computation, or the Small Business' pre-tax cash flow from operations for its most recent fiscal year was at least 10 percent of the Small Business' average contributed capital for such fiscal year.

(4) Perform the appropriate computation from the following table:

ADJUSTED UNREALIZED GAIN BEFORE ESTIMATED TAX EFFECTS

If:	And:	Then Adjusted Unrealized Gain before Taxes is:

ADJUSTED UNREALIZED GAIN BEFORE ESTIMATED TAX EFFECTS—Continued

Class 1 Appreciation ≤ Net Appreciation	Class 1 Appreciation + Class 2 Appreciation ≤ Net Appreciation.	(80% x Class 1 Appreciation) + (50% x Class 2 Appreciation).
Class 1 Appreciation ≤ Net Appreciation	Class 1 Appreciation + Class 2 Appreciation > Net Appreciation.	(80% x Class 1 Appreciation) + [(50% x Net Appreciation − Class 1 Appreciation)].
Class 1 Appreciation > Net Appreciation	.....	80% x Net Appreciation.

(5) Reduce the gain computed in paragraph (d)(4) of this section by your estimate of related future income tax expense. Subject to any adjustment required by paragraph (d)(6) of this section, the result is your Adjusted Unrealized Gain for use in paragraph (c)(2) of this section.

(6) If any securities that are the source of either Class 1 or Class 2 Appreciation are pledged or encumbered in any way, you must reduce the Adjusted Unrealized Gain computed in paragraph (d)(5) of this section by the amount of the related borrowing or other obligation.

§ 107.1850 Exceptions to Capital Impairment provisions for Licensees with outstanding Participating Securities.

The provisions in this § 107.1850 apply only if at least two-thirds of your outstanding Leverage consists of Participating Securities, and at least two-thirds of your Loans and Investments (at cost) consist of Equity Capital Investments.

(a) *Forbearance period for Participating Securities issuers.* During the first forty-eight (48) months following your first issuance of Participating Securities, you will not have a condition of Capital Impairment if your Capital Impairment Percentage is below 85 percent.

(b) *Extended forbearance period for early stage investors.* If at least two-thirds of your Loans and Investments (at cost) are in Start-Up Financings, the forbearance period in paragraph (a) of this section is extended to 60 months.

(c) *Forbearance based on actions by Licensee.* The provisions of this paragraph (c) apply only during the fifth and sixth years following your first issuance of Participating Securities. If your Capital Impairment Percentage, as determined either by you or by SBA, exceeds the maximum permitted under § 107.1830(c) but is below 85 percent, you will not have a condition of Capital Impairment if you do either of the following within thirty (30) days of such determination:

(1) Increase your Regulatory Capital by a cash contribution placed in an escrow account or other account satisfactory to SBA, for its benefit. The contribution must equal, during the fifth year, 15 percent of your outstanding Leverage or, during the sixth year, 30 percent.

(2) Provide a guarantee, satisfactory to SBA and for its benefit, for the amount of the cash contribution required in paragraph (c)(1) of this section. SBA will credit any escrowed funds or guarantee received in the fifth year toward the requirements for the sixth year.

(d) *Conditions for forbearance under paragraph (c) of this section.* (1) You cannot count any funds placed in an escrow or other account under paragraph (c) of this section as Leverageable Capital.

(2) Any fee and/or any claim to repayment by the party making the capital contribution or by the guarantor must be deferred and subordinate to all outstanding Leverage plus any unpaid Earned Prioritized Payments and earned Adjustments.

(3) If there is an acceleration or mandatory redemption under § 107.1810 or § 107.1820, any funds in the escrow account and/or any guarantee received under paragraph (c) of this section will be applied toward repaying any amounts due SBA.

(4) If you reduce your Capital Impairment Percentage to zero, SBA will release and return any escrowed funds and/or any guarantee received under paragraph (c) of this section.

Subpart K—Ending Operations as a Licensee

§ 107.1900 Surrender of license.

You may not surrender your license without SBA's prior written approval. Your request for approval must be accompanied by an offer of immediate repayment of all of your outstanding Leverage (including any prepayment penalties thereon), or by a plan satisfactory to SBA for the orderly liquidation of the Licensee.

Subpart L—Miscellaneous

§ 107.1910 Non-waiver of SBA's rights or terms of Leverage security.

SBA's failure to exercise or delay in exercising any right or remedy under the Act or the regulations in this part does not constitute a waiver of such right or remedy. SBA's failure to require you to perform any term or provision of your Leverage does not affect SBA's right to enforce such term or provision. Similarly, SBA's waiver of, or failure to enforce, any term or provision of your Leverage or of any event or condition set forth in §§ 107.1810 or 107.1820 does not constitute a waiver of any succeeding breach of such term or provision or condition.

§ 107.1920 Licensee's application for exemption from a regulation in Part 107.

You may file an application in writing with SBA to have a proposed action exempted from any procedural or substantive requirement, restriction, or prohibition to which it is subject under this part, unless the provision is mandated by the Act. SBA may grant an exemption for such applicant, conditionally or unconditionally, provided the exemption would not be contrary to the purposes of the Act. Your application must be accompanied by supporting evidence which demonstrates to SBA's satisfaction that:

(a) The proposed action is fair and equitable; and

(b) The exemption requested is reasonably calculated to advance the best interests of the SBIC program in a manner consonant with the policy objectives of the Act and regulations.

§ 107.1930 Effect of changes in Part 107 on transactions previously consummated.

The legality of a transaction covered by these regulations is governed by the regulations in effect at the time the transaction was consummated, regardless of later changes. Nothing in this part bars SBA enforcement action with respect to any transaction consummated in violation of provisions applicable at the time, but no longer in effect.

Dated: November 11, 1995.

Philip Lader,

Administrator.

[FR Doc. 95–28757 Filed 11–27–95; 8:45 am]

BILLING CODE 8025–18–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–SW–23–AD]

Airworthiness Directives; Robinson Helicopter Company Model R22 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Robinson Helicopter Company (Robinson) Model R22 helicopters. This proposal would require replacement of the upper V-belt sheave (sheave). This proposal is prompted by three reports of cracks in the flange of the sheave. The actions specified in this AD are intended to prevent failure of the sheave, which could result in damage to other drive system components, and subsequent loss of control of the helicopter.

DATES: Comments must be received by January 29, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–23–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Robinson Helicopter Company, 2901 Airport Drive, Torrance, California 90505. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Bumann, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712, telephone (310) 627–5265, FAX (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to docket No. 95–SW–23–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–23–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes the adoption of a new AD that is applicable to Robinson Model R22 helicopters. In 1990, Robinson changed the sheave, part number (P/N) A170–1I or J, and P/N A170–2J, from a casting to a machined part. This change included some dimensional modifications, one of which was a reduction in the thickness of the sheave flange. Two reported cases of cracks in the thinner flange prompted Robinson to issue Robinson Helicopter Company R22 Service Bulletin SB–71, dated June 18, 1992, describing pre-flight owner/operator checks of the sheave for cracks until replacement with a modified sheave, P/N A170–1K or P/N A170–2K, is accomplished. This service bulletin was not reviewed or approved by the FAA prior to its issuance by Robinson. Another report of cracks in the thinner-flanged sheave prompted Robinson to issue Robinson Helicopter Company R22 Service Bulletin SB–77, dated April 25, 1995, describing procedures for removal and replacement of the thinner-flanged sheave. Any crack in the sheave creates an unsafe condition. That condition, if not corrected, could result in failure of the sheave, which could result in damage to other drive system components, and subsequent loss of control of the helicopter.

The FAA has reviewed and approved the design engineering aspects of Robinson Helicopter R22 Service Bulletin SB–77, dated April 25, 1995, which describes procedures for removal and replacement of sheave, P/N A170–1I or J, or P/N A170–2J.

Since an unsafe condition has been identified that is likely to exist or develop on other Robinson Model R22 helicopters of the same type design, the proposed AD would require replacement of the affected sheave with a sheave having a thicker flange within the next 100 hours time-in-service (TIS) or 60 calendar days, whichever occurs first. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 650 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,216 per helicopter for the sheave, P/N A170–1, and $2,298 per helicopter for the sheave, P/N A170–2. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,298,050, assuming replacement of the sheave in all 650 helicopters, and assuming that one-half of the helicopters have the sheave, P/N A170–1, installed, and one-half of the helicopters have the sheave, P/N A170–2, installed.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by

contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Robinson Helicopter Company: Docket No. 95–SW–23–AD.

Applicability: Model R22 helicopters with upper V-belt sheave (sheave), part number (P/N) A170–1I or J, or P/N A170–2J, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Note 2: Determination of whether the affected sheave has been installed can be accomplished by measuring the depth from the edge of the forward retainer plate to the flange of the sheave in an area located between the webs as shown in Figure 2 of Robinson Helicopter Company R22 Service Bulletin SB–77, dated April 25, 1995. If the depth is greater than 0.30 inch, then either sheave, P/N A170–1I or J, or sheave, P/N A170–2J, is installed.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the sheave, which could result in damage to other drive system components, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) or 60 calendar days, whichever occurs first after the effective date of this AD, replace the sheave, P/N A170–1I or J, or P/N A170–2J, with an airworthy sheave, P/N A170–1, or P/N A170–2, having a dimension equal to or less than 0.30 inch measured from the edge of the forward retainer plate to the flange of the sheave in an area located between the webs, in accordance with paragraphs 2 through 15 of the Compliance Procedures of Robinson Helicopter Company R22 Service Bulletin SB–77, dated April 25, 1995.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on October 26, 1995.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95–28396 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–ANE–44]

Airworthiness Directives; Textron Lycoming 235 Series, 290 Series, and Certain 320 and 360 Series Reciprocating Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Textron Lycoming 235 Series and 290 Series, and certain 320 and 360 series reciprocating engines. This proposal would require initial and repetitive inspections of the crankshaft inner diameter (ID) for corrosion and cracks, and replacement of cracked crankshafts with a serviceable part. This proposal permits operation of engines with crankshafts that are found to have corrosion pits but are free of cracks provided repetitive inspections are performed until the next engine overhaul or 5 years after the initial inspection, whichever occurs first, at which time crankshafts with corrosion pits but no cracks must be replaced with serviceable crankshafts. This proposal is prompted by reports of crankshaft breakage originating from corrosion pits on the inside wall. The actions specified by the proposed AD are intended to prevent crankshaft failure, which can result in engine failure, propeller separation, forced landing, and possible damage to the aircraft.

DATES: Comments must be received by January 29, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–44, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Textron Lycoming, 652 Oliver St., Williamsport, PA 17701; telephone (717) 327–7080, fax (717) 327–7100. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Raymond Reinhardt, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 10 Fifth St., Valley Stream, NY 11581–1200; telephone (516) 256–7532, fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–ANE–44." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–44, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On October 18, 1993, the Civil Aviation Authority (CAA), which is the airworthiness authority of the United Kingdom, received a report that a Piper PA–28–161 aircraft, with a Textron Lycoming O–320–D3G reciprocating engine executed a forced landing due to an engine crankshaft failure which caused the propeller to separate from the aircraft. The cause of the crankshaft failure was determined to be due to a high cycle reverse torsional fatigue mechanism that had initiated from a number of corrosion pits in the crankshaft bore. After the cracks had progressed through a substantial proportion of the crankshaft section, the rate of advance had increased until the remaining unseparated portion had failed as a result of overload. The cracking occurred in high cycle fatigue and it had progressed over an extended period of service. At the time of the accident the engine had operated for 1,950 hours time in service (TIS) since overhaul and had accumulated 4,429 hours TIS since new over a period of 16 years. In addition, the Federal Aviation Administration (FAA) has received reports of ten additional instances of cracks or failures of the crankshaft behind the propeller flange on various Textron Lycoming reciprocating engines due to cracks initiating from corrosion pits in the crankshaft bore. This condition, if not corrected, could result in crankshaft failure, which can result in engine failure, propeller separation, forced landing, and possible damage to the aircraft.

The FAA has reviewed and approved the procedures for initial and repetitive inspections of the crankshaft inner diameter (ID) for corrosion and cracks contained in Textron Lycoming Mandatory Service Bulletin (MSB) No. 505A, dated October 18, 1994, but has determined that additional inspections via Fluorescent Penetrant Inspection (FPI) are warranted if corrosion pits are found. The FPI inspection was developed due to reports from Lycoming and other approved repair stations that most of the crankshafts that are pitted do not contain cracks. The FPI inspection was based on crack propagation data developed by the FAA in conjunction with Textron Lycoming and the technical base in the U.S. for performing Non-Destructive Inspections. The FPI process has been shown to be reliable to detect cracks down to 0.050 inches deep and 0.100 inches long. The FPI inspection interval was based on the crack propagation data and the detection of a crack before the crankshaft failed. If a crankshaft is found to be pitted on-wing, it is not recommended that removal of metal be permitted to remove the corrosion pits due to possible contamination of the engine oil supply with metal filings and also to ensure the concentricity of the crankshaft is not compromised.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require initial and repetitive inspections of the crankshaft ID for corrosion and cracks, and replacement of cracked crankshafts with a serviceable part. The actions would be required to be accomplished in accordance with the MSB described previously and the FPI procedure detailed in paragraph (e) of this AD.

There are approximately 77,100 engines of the affected design in the worldwide fleet. The FAA estimates that 46,260 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per engine to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. The estimated cost impact for the proposed inspections would be $11,102,400. The FAA estimates 10% of the crankshafts will require replacement at engine overhaul due to corrosion pits, and that it would take 32 work hours per engine to replace pitted crankshafts. Required parts would cost approximately $4,742 per engine. The estimated cost for replacement of 10% of the crankshafts annually would be $3,081,841.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Textron Lycoming: Docket No. 94–ANE–44

Applicability: Textron Lycoming 235 series, 290 series, 320 series except model O–320–B2C installed in helicopters, and 360 series except models O–360–A4G, –A4J, A4K, –A4M, –C4F, –AEIO–360–B4A, HO–360 series, HIO–360 series, LHIO–360 series, VO–360 series, and IVO–360 series, four-cylinder reciprocating engines with fixed pitch propellers. These engines are installed on but not limited to reciprocating engine powered aircraft manufactured by Cessna, Piper, Beech, American Aircraft Corporation, Grumman American Aviation, Mooney, Augustair Inc., Maule Aerospace Technology Corporation, Great Lakes Aircraft Co., and Commander Aircraft Co.

Note: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or

repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the Federal Aviation Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent crankshaft failure, which can result in engine failure, propeller separation, forced landing, and possible damage to the aircraft, accomplish the following:

(a) For new engines shipped from Textron Lycoming prior to and including December 31, 1984, that have never been overhauled, or any remanufactured or overhauled engines that have accumulated 1,000 hours or more time in service (TIS) since remanufacture or overhaul, initially inspect the inner diameter (ID) of the crankshaft for corrosion pits within the next 100 hours TIS after the effective date of this AD, or 6 months after the effective date of this AD, whichever occurs first, in accordance with Textron Lycoming Mandatory Service Bulletin (MSB) No. 505A, dated October 18, 1994. The propeller, if installed, must be removed in accordance with the aircraft manufacturer's procedures to perform this inspection. If corrosion pits are found during this inspection, perform a Fluorescent Penetrant Inspection (FPI) in accordance with paragraph (e) of this AD.

(b) For new engines shipped from Textron Lycoming after December 31, 1984, that have never been overhauled, or any remanufactured or overhauled engines that have accumulated less than 1,000 hours TIS since remanufacture or overhaul, initially inspect the ID of the crankshaft for corrosion pits, at intervals specified in subparagraphs (1) through (3) of this paragraph, whichever occurs first, in accordance with Textron Lycoming MSB No. 505A, dated October 18, 1994. The propeller, if installed, must be removed in accordance with the aircraft manufacturer's procedures to perform this inspection. If corrosion pits are found during this inspection, perform an FPI in accordance with paragraph (e) of this AD.

(1) At the next engine overhaul or disassembly.

(2) Within 10 years of the original ship date or 6 months from the effective date of this AD whichever occurs later.

(3) At 1,000 hours TIS since remanufacture or overhaul, or 6 months from the effective date of this AD, whichever occurs later.

(c) Thereafter, if no corrosion pits are found on the ID of the crankshaft during the initial inspection, perform an inspection at intervals not to exceed 5 years since last inspection or at the next engine overhaul or disassembly, whichever occurs first, in accordance with Textron Lycoming MSB No. 505A, dated October 18, 1994. If corrosion pits but no cracks are found on the ID of the crankshaft during the initial inspection, repeat the FPI at intervals not to exceed 100 hours TIS since last FPI inspection, 5 years from the initial inspection that detected the corrosion pits, or next engine overhaul, whichever occurs first.

(d) Prior to further flight, remove from service and replace with a serviceable part the following:

(1) Crankshafts found cracked during FPI outlined in paragraph (e) of this AD.

(2) Crankshafts that have corrosion pits but no cracks, which are on a repetitive inspection cycle and have attained 5 years from the initial inspection that detected the corrosion pits, in accordance with Textron Lycoming MSB No. 505A, dated October 18, 1994.

(3) Crankshafts that have corrosion pits but no cracks, which are being overhauled.

(e) An engine as installed in the aircraft having a corroded crankshaft may be returned to service without disassembly provided an FPI confirms the bore to be crack free. The process and materials utilized for the FPI are in accordance with the classification contained in MIL–I–25135. The FPI must be fluorescent solvent removable (Method C) utilizing a Type 1 penetrant system with a penetrant sensitivity Level 3 or higher and a Form D-Nonaqueous Developer. Spray containers of the materials are acceptable for this inspection. Personnel performing the FPI that are making accept/reject decisions shall be qualified to at least Level II in liquid penetrant inspection in accordance with MIL–STD–410E, dated January 25, 1991 or a similar certification system assuring the competence of the inspector. This FPI process involves the removal of penetrant material from the inspection surface. Caution must be used to ensure that contaminants from the cleaning process and the FPI do not enter the engine oil supply by blocking off the area of the crankshaft bore that is aft of the area being inspected by using a clean, dry, lint-free cloth. The FPI must be performed using the following steps:

(1) Cleaning—The crankshaft bore surface must be cleaned of visible corrosion prior to the FPI process using Scotchbrite or an equivalent material. Metal-removing processes must not be used for visible corrosion cleaning. In addition, clean all surfaces to be inspected utilizing a cleaner, such as Magnaflux Spot Check Cleaner/Remover SKC–NF or equivalent, on the ID of the crankshaft bore. Let the cleaner/remover dry for 5 minutes minimum. Wipe clean with a lint- free cloth.

(2) Penetrant Application—Spray penetrant, such as ZYGLO ZL–22A Magnaflux Corp. or equivalent Type 1 with a penetrant sensitivity Level 3 or higher, on the ID bore.

(3) Penetrant Dwell—Allow a minimum of 10 minutes dwell. For dwell times exceeding 60 minutes the penetrant shall be reapplied to prevent drying.

(4) Penetrant Removal—Remove all bulk surface penetrant by wiping with a clean, dry lint-free cloth. Make a single wipe and then fold the cloth to provide a clean surface for succeeding wipes.

(i) Solvent Wipe—After the bulk of the surface penetrant has been removed, lightly moisten a fresh lint-free cloth with cleaner/remover and again wipe the surface. The cloth must not be saturated and the inspection surface must not be flooded with solvent. Excessive solvent will wash penetrant from defects.

(ii) During wiping, the inspection surface shall be illuminated with black light. Repeat the solvent wipe as necessary until no residual trace of penetrant remains on the inspection surface.

(5) Nonaqueous Developer (solvent suspended)—Following the cleaner/remover wipe apply nonaqueous developer by spraying a developer, such as Magnaflux Spot Check Developer SKD–NF or Form D-Nonaqueous equivalent, on the ID bore. Apply a thin uniform layer to the bore surface. The optimum coating thickness is indicated by the visibility of the part surface. If the metallic luster cannot be seen the developer is too thick.

(6) Dwell—Developer dwell is required to allow the developer time to draw entrapped penetrant from any small defects. The minimum development time shall be 10 minutes. The maximum dwell time for nonaqueous developer shall be 60 minutes.

(7) Inspection shall be performed within the allotted dwell time. Components that are not inspected within the allotted dwell time must be reprocessed.

(i) Examine crankshaft bore in a darkened enclosure under ultraviolet (black) light. Allow 1 minute for eyes to adapt to darkened environment prior to inspecting crankshaft bore. Use of photochromic lenses or permanent darkened lenses is prohibited.

(ii) During inspection make sure that the black light intensity is a minimum of 1200 microwatts/cm^2 at the bore surface. This can be accomplished by positioning the black light as close as necessary to the bore to achieve 1200 microwatts/cm^2. White light background shall not exceed 20 1x/m^2 (2 foot-candles). A photographic light meter may be used to determine the white light background reading.

(iii) Crankshaft bores having no crack indications are acceptable.

(iv) Magnification (10X maximum) and/or white light may be used to determine discontinuity type. Indications, on parts exhibiting fluorescent background which interferes with evaluation of questionable indications, shall be evaluated as follows:

(A) Lightly wipe the area once with a soft brush or cotton swab applicator dampened with ethyl alcohol. Do not permit alcohol to flood the surface.

(B) After the alcohol evaporates from the surface, re-inspect. If an indication reappears, evaluate it immediately. If the indication does not reappear, reapply developer . The redevelopment time shall equal the original development time. Thereafter, re-inspect.

(8) After inspection, clean residual penetrants and developers from crankshaft bore. Ensure lint-free cloth is removed from crankshaft bore prior to installing front crankshaft plug. Failure to do so may result in oil restriction within the engine and in turn cause engine failure.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the New York Aircraft Certification Office.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on November 8, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–28956 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–CE–82–AD]

Airworthiness Directives; Beech Aircraft Corporation Model C90A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Beech Aircraft Corporation (Beech) Model C90A airplanes equipped with an optional Beech electric trim system or a Collins autopilot system. The proposed action would require modifying the elevator electric trim tab actuator assembly. Failure of the elevator electric trim tab system on a Beech Model C90A prompted the proposed AD action. The actions specified by the proposed AD are intended to prevent possible failure of the elevator electric trim tab system, which, if not detected and corrected, could cause loss of airplane maneuverablity and possible loss of control of the airplane.

DATES: Comments must be received on or before January 29, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–82–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Harvey E. Nero, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4137, facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95–CE–82–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–82–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Investigation of an inoperative electric elevator trim system on a Beech Model C90A airplane revealed that the trim cable had moved out of its groove, twisted on top of the next groove, and stopped the actuator cable drum from moving. This airplane had a pin-type cable guard actuator assembly (part number (P/N) 33–524023–51) installed. These installations involve both the optional Beech electric trim system and the Collins autopilot system. Investigation shows the pin-type cable guard allows the trim cable to come out of the actuator grooves of the actuator cable drum when the elevator trim system is at maximum travel. This situation could cause the actuator cable drum to bind, thus causing the actuator motor to stall, and causing the actuator assembly to jam. Beech has changed the design to a shroud-type cable guard actuator assembly (P/N 33–524023–77 or P/N 33–524023–79). The shroud-type cable guard does not allow the trim cable to travel out of the grooves of the actuator cable drum and prevents failure of the actuator assembly.

The pin-type cable guards were installed on some airplanes starting at Beech Model C90A serial number LJ–1111. Beech changed to the shroud-type cable guard at some point between LJ–1111 and LJ–1410. After serial number LJ–1410, Beech manufactured the Model C90A airplanes with the shroud-type cable guard actuator assembly exclusively in the elevator electric trim system and the Collins autopilot system.

Beech Service Bulletin (SB) number (No.) 2631, Issued: June 1995, Revised: September 1995, specifies procedures for modifying the elevator electric trim tab actuator assembly.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent possible failure of the elevator electric trim tab system, which, if not detected and corrected, could result in loss of airplane maneuverablity and possible loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other Beech C90A airplanes of the same type design, the proposed AD would require modifying the elevator electric trim tab actuator assembly from the pin-type actuator cable guard to the shroud-type actuator cable guard. Accomplishment of the proposed action would be in accordance with Beech SB No. 2631, Issued: June 1995, Revised: September 1995.

The FAA estimates that 300 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 6 workhours per airplane to accomplish the proposed action, and

that the average labor rate is approximately $60 an hour. Parts are estimated to be $160 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $156,000 or $520 per airplane. Beech has informed FAA that no parts have been distributed to owners/operators for this modification; therefore, this figure is based on the assumption that no owners/operators have accomplished the proposed inspection and modification.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Beech Aircraft Corporation: Docket No. 95–CE–82–AD.

Applicability: The following Model C90A airplanes, certificated in any category, that are equipped with an optional Beech electric trim system or a Collins autopilot system:

(1) Serial numbers LJ–1111 through LJ–1410 that were equipped at manufacturer with a pin-type cable guard actuator assembly (P/N 33–524023–51) on the elevator electric trim tab actuator assembly.

(2) All serial numbers (except LJ–1 through LJ–1110) equipped with a pin-type cable guard actuator assembly (P/N 33–524023–51) installed through field approval.

Note 1: Steps 1 through 4 of the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin (SB) No. 2631, Issued: June 1995, Revised: September 1995, provide procedures for determining which assembly is installed.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as follows, unless already accomplished:

(1) Within 150 hours time-in-service (TIS) after the effective date of this AD; or

(2) Upon installation of an optional Beech elevator electric trim tab system or a Collins autopilot system.

To prevent possible failure of the optional Beech electric trim system or the Collins autopilot system, which, if not detected and corrected, could cause loss of airplane maneuverablity and possible loss of control of the airplane, accomplish the following:

(a) Modify all elevator electric trim tab actuator assemblies, part number (P/N) 33–524023–51 to the P/N 33–524023–77 or P/N 33–524023–79 level, by accomplishing the procedures in the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin SB No. 2631, Issued: June 1995, Revised: September 1995.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviations Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on November 20, 1995.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–28958 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–70–AD]

Airworthiness Directives; Fokker Model F27 Mark 050 and Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F27 Mark 050 and Model F28 Mark 0100 series airplanes. This proposal would require an inspection to verify that adequate clearance exists between the insulation screen and the two adjacent terminal bolts, and replacement of the circuit breaker terminal bolts with new bolts, if necessary. This proposal is prompted by a report that circuit breaker terminal bolts that were too long were discovered installed in the circuit breaker panels. The actions specified by the proposed AD are intended to prevent damage to the insulation screen between adjacent rows of circuit breakers, as the result of a circuit breaker terminal bolt being too long; this condition could lead to electrical arcing and loss of the associated electrical system, which could result in the potential for an electrical fire.

DATES: Comments must be received by January 8, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–70–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–70–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–70–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F27 Mark 050 and Model F28 Mark 0100 series airplanes. The RLD advises that, during production of Fokker Model F27 Mark 050 series airplanes, circuit breaker terminal bolts that were too long were installed in the circuit breaker panels. Investigation revealed that a design change introduced new circuit breaker terminal bolts having hexagonal heads that were too long. These new circuit breaker terminal bolts can cause damage to the insulation screen between adjacent rows of circuit breakers, which could result in electrical arcing; this condition could lead to the loss of the associated electrical system and could result in the potential for an electrical fire.

The RLD advises that this unsafe condition also exists on certain Model F28 Mark 0100 series airplanes.

Fokker has issued Service Bulletin SBF100–20–001, dated January 15, 1994 (for Model F28 Mark 0100 series airplanes), and Service Bulletin SBF50–20–003, dated January 11, 1994 (for Model F27 Mark 050 series airplanes). These service bulletins describe procedures for a one-time inspection to verify that adequate clearance exists between the insulation screen and the two adjacent terminal bolts, and replacement of the circuit breaker terminal bolts with new bolts, if necessary. The RLD classified these service bulletins as mandatory and issued Dutch airworthiness directive 94–029 (A), dated February 21, 1994, in order to assure the continued airworthiness of these airplanes in the Netherlands.

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a one-time inspection to verify that adequate clearance exists between the insulation screen and the two adjacent terminal bolts, and replacement of the circuit breaker terminal bolts with new bolts, if necessary. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 44 Model F28 Mark 0100 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators of Model F28 Mark 0100 series airplanes is estimated to be $2,640, or $60 per airplane.

Should an operator of Model F28 Mark 0100 series airplanes be required to accomplish the necessary bolt replacement, it would take approximately 7 work hours per airplane to accomplish the replacement, at an average labor rate of $60 per work hour. Required parts would cost approximately $100 per airplane. Based on these figures, the cost impact of any necessary replacement action is estimated to be $520 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Currently there are no Fokker Model F27 Mark 050 series airplanes on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the impact of the proposed inspection on operators of Model F27 Mark 050 series airplanes would be $60 per airplane.

Should an operator of Model F27 Mark 050 series airplanes be required to accomplish the necessary bolt replacement, it would take approximately 17 work hours per airplane to accomplish the replacement, at an average labor rate of $60 per work hour. Required parts would cost approximately $150 per airplane. Based on these figures, the cost impact of any necessary replacement action is estimated to be $1,170 per airplane.

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The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 95–NM–70–AD.

Applicability: Model F27 Mark 050 series airplanes having serial numbers 20247 through 20292 inclusive, and 20294 through 20297 inclusive; and Model F28 Mark 0100 series airplanes having serial numbers 11390 through 11479 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously. To prevent electrical arcing and subsequent loss of the associated electrical system, which could result in the potential for an electrical fire, accomplish the following:

(a) Within 12 months after the effective date of this AD, perform an inspection to verify if adequate clearance exists between the insulation screen and the two adjacent terminal bolts in accordance with Fokker Service Bulletin SBF100–20–001, dated January 15, 1994 (for Model F28 Mark 0100 series airplanes), or Fokker Service Bulletin SBF50–20–003, dated January 11, 1994 (for Model F27 Mark 050 series airplanes), as applicable.

(1) If adequate clearance is found, no further action is required by this AD.

(2) If inadequate clearance is found, prior to further flight, replace the circuit breaker terminal bolts with new bolts in accordance with the applicable service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 21, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–29012 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–CE–10–AD]

Airworthiness Directives; Jetstream Aircraft Limited HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 81–20–01, which currently requires repetitively inspecting the nose landing gear (NLG) actuator support structure and the front pressure bulkhead for cracks on Jetstream Aircraft Limited (JAL) HP137 Mk1 and Jetstream series 200 airplanes, and replacing any cracked part. The proposed action would: retain the repetitive inspections required by AD 81–20–01; require repetitively inspecting the NLG retraction jack upper mounting fitting and attachment hardware for security bolt failure and for bolts with improper torque levels on the HP137 Mk1, Jetstream series 200, and Jetstream Model 3101 airplanes, and require replacing any failed security bolts and adjusting any bolt with an improper torque level; and require modifying the NLG retraction jack on all affected airplanes as terminating action for the repetitive inspections. The proposed action is prompted by reports of NLG jack mounting fitting failures on several of the affected airplanes, and by the Federal Aviation Administration's policy on aging commuter-class aircraft. The actions specified in the proposed AD are intended to prevent failure of the NLG caused by a cracked NLG actuator support structure or cracked front pressure bulkhead, which, if not detected and corrected, could lead to nose gear collapse and damage to the airplane.

DATES: Comments must be received on or before February 9, 1996.

ADDRESSES: Submit comments on the proposal in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–10–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; telephone (44–292) 79888; facsimile (44–292) 79703; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029; telephone (703) 406–1161; facsimile (703) 406–1469. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Ms. Dorenda Baker, Program Officer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (322) 508–2715; facsimile (322) 230–6899; or Mr. Sam Lovell, Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95–CE–10–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–10–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received several reports of loose or failed bolts that attach the nose landing gear (NLG) jack mounting fitting to the front pressure bulkhead on JAL HP137 Mk1, Jetstream series 200, and Jetstream Model 3101 airplanes. In addition, JAL and the FAA have found similar failures during testing of fatigue test articles of this type design.

JAL has introduced Modification JM 5285, which consists of an attachment bracket of improved design for the NLG retraction jack. Procedures for accomplishing Modification JM 5285 are included within Jetstream Service Bulletin (SB) 53–JM 5285, which consists of the following pages and revision levels:

Pages	Revision level	Date
1 and 4	Revision 2	November 12, 1992.
2, 3, and 5 through 26.	Revision 1	May 18, 1992.

In addition, JAL has issued Jetstream SB 53–A–JA870510, which specifies procedures for inspecting the NLG retraction jack upper mounting fitting security bolts. Jetstream SB 53–A–JA870510 incorporates the following pages and revision levels:

Pages	Revision level	Date
3, 5, 6, 8, 9, and 10.	Original issue	May 26, 1987.
1, 2, 4 and 7	Revision 1	November 10, 1987.

The FAA has reviewed all available information related to the incidents described above including the referenced service bulletins and has determined that AD action should be taken to prevent failure of the NLG caused by a cracked NLG actuator support structure or cracked front pressure bulkhead, which, if not detected and corrected, could lead to nose gear collapse and damage to the airplane.

In addition, AD 81–20–01, Amendment 39–4223, currently requires the following on JAL HP137 Mk1 and Jetstream series 200 airplanes that do not have the front pressure bulkhead strengthened in the area of the NLG jack attachment fitting (Modification No. 5127): repetitively inspecting (using dye penetrant methods) the NLG actuator support structure and the front pressure bulkhead for cracks, and replacing or repairing any cracked NLG actuator support structure or cracked front pressure bulkhead. The inspections required by AD 81–20–01 are accomplished in accordance with Jetstream SB No. 6/5, dated September 4, 1978.

AD 81–20–01 has been identified as one that should be superseded under the FAA's aging commuter-class airplane policy. The FAA has determined that reliance on critical repetitive inspections on aging commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences if the known problem is not detected during the inspection; (2) the probability of the problem not being detected during the inspection; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

Based on these factors, the FAA established this aging commuter-class aircraft policy to require the incorporation of a known design change when it could eliminate or, in certain instances, reduce the number of critical repetitive inspections.

The FAA is combining this policy with the incidents presented in this discussion to establish the basis for the proposed AD action.

Since an unsafe condition has been identified that is likely to exist or develop in other JAL HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes of the same type design that do not have Modification JM 5285 incorporated, the proposed AD would supersede AD 81–20–01 with a new AD that would:

—retain the requirement contained in AD 81–20–01 of repetitively inspecting (using dye penetrant methods) the NLG actuator support structure and the front pressure bulkhead for cracks on JAL HP137 Mk1 and Jetstream series 200 airplanes without Modification 5127 incorporated, and replacing or repairing any cracked NLG actuator support structure or cracked front pressure bulkhead. Accomplishment of these proposed inspections would continue to be accomplished in accordance with Jetstream SB No. 6/5, dated September 4, 1978.

—require repetitively inspecting the NLG retraction jack upper mounting fitting and attachment hardware for security bolt failure and bolts with improper torque levels on the HP137 Mk1, Jetstream series 200, and

Jetstream Model 3101 airplanes, and replacing any failed security bolts and adjusting any bolt with an improper torque level. Accomplishment of these proposed inspections would be in accordance with Jetstream SB 53–A–JA870510.

—require modifying the NLG retraction jack on the HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes as terminating action for all the repetitive inspections, including the inspections referenced in the Model 3201 maintenance manual. Accomplishment of this proposed modification would be in accordance with Jetstream SB 53–JM 5285.

The FAA estimates that 170 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 41 workhours to accomplish the proposed modification, and that the average labor rate is approximately $60 an hour. Parts cost approximately $1,600 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $690,200 or $4,060 per airplane. This figure only takes into account the cost of the proposed inspection-terminating modification and does not take into account the cost of the proposed repetitive inspections. The FAA has no way of determining the number of repetitive inspections each HP137 Mk1, Jetstream series 200, and Jetstream Model 3101 airplane would incur.

This figure is also based on the assumption that none of the affected airplane operators have accomplished the proposed modification. This action would eliminate the repetitive inspections required by AD 81–20–01. The FAA has no way of determining the operation levels of each individual operator of the affected airplanes, and subsequently cannot determine the repetitive inspection costs that would be eliminated by the proposed action. The FAA estimates these costs to be substantial over the long term.

In addition, JAL has informed the FAA that parts have been distributed to owners/operators that would equip approximately 39 of the affected airplanes. Assuming that these parts have been installed on the affected airplanes, the cost impact of the proposed modification upon the public would be reduced $158,340 from $690,200 to $531,860.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 170 airplanes in the U.S. registry that would be affected by the proposed AD, the FAA has determined that approximately 95 percent are operated in scheduled passenger service by 14 different operators.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 81–20–01, Amendment 39–4223, and adding a new AD to read as follows:

Jetstream Aircraft Limited: Docket No. 95–CE–10–AD. Supersedes AD 81–20–01, Amendment 39–4223.

Applicability: The following airplanes, certificated in any category, that do not have Modification JM 5285 incorporated:

—HP137 Mk1 airplanes, all serial numbers;
—Jetstream Series 200 airplanes, all serial numbers;
—Jetstream Model 3101 airplanes, all serial numbers; and
—Jetstream Model 3201 airplanes, serial numbers 601 through 840.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent failure of the nose landing gear (NLG) caused by a cracked NLG actuator support structure or cracked front pressure bulkhead, which, if not detected and corrected, could lead to nose gear collapse and damage to the airplane, accomplish the following:

Note 2: The paragraph structure of this AD is as follows:

Level 1: (a), (b), (c), etc.
Level 2: (1), (2), (3), etc.
Level 3: (i), (ii), (iii), etc.

Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow:

(a) For HP137 Mk1 and Jetstream series 200 airplanes that do not have the front pressure bulkhead strengthened in the area of the NLG jack attachment fitting (Modification 5127), upon accumulating 1,600 landings or within the next 200 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 200 landings until the modification required by paragraph (c) of this AD is incorporated, inspect (using dye penetrant methods) the nose landing gear actuator support structure, part number (P/N) 137139C–13 and P/N 137139C–25, and the membrane of the front pressure bulkhead for cracks. Accomplish the inspection in accordance with British Aerospace (BAe) Service Bulletin (SB) No. 6/5, dated September 4, 1978.

(1) Prior to further flight after any of the inspections required by paragraph (a) of this AD, replace any cracked P/N 137139C–13 NLG actuator support structure.

(2) Prior to further flight after any of the inspections required by paragraph (a) of this AD, repair in accordance with the maintenance manual any P/N 137139C–25 NLG actuator support structure where cracking is found that extends more than half the full length of the fold line.

(3) Prior to further flight after any of the inspections required by paragraph (a) of this AD, repair in accordance with the maintenance manual any front pressure bulkhead membrane that has a crack with a length of six inches or more.

(4) If a crack less than 6 inches in length is found in the front pressure bulkhead membrane during any of the inspections required by paragraph (a) of this AD, prior to further flight, accomplish one of the following:

(i) Repair the front pressure bulkhead membrane in accordance with the applicable maintenance manual.

(ii) Fabricate a placard with the words "Pressurization Inoperative" in ⅛-inch letters, and install this placard in the airplane cabin within the pilot's clear view. Deactivate the cabin pressurization system by securing the safety valve assembly to the open position. This system is located on the front pressure bulkhead.

(iii) Install an improved design attachment bracket for the NLG retraction jack (Modification JM 5285) in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream SB 53–JM 5285, which incorporates the following pages and revision levels:

Pages	Revision level	Date
1 and 4	Revision 2	November 12, 1992.
2, 3, and 5 through 26.	Revision 1	May 18, 1992.

The repetitive inspections required by this AD are no longer required after incorporating Modification JM 5285.

(b) For all HP137 Mk1, Jetstream series 200, and Jetstream Model 3101 airplanes, upon accumulating 3,500 landings or within the next 200 landings after the effective date of this AD, whichever occurs later, accomplish the following:

(1) Inspect the NLG retraction jack upper mounting fitting and attaching hardware for correct installation, security bolt failure, and bolts with improper torque levels in accordance with Part A and B of the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream SB 53–A–JA870510, which incorporates the following pages and revision levels:

Pages	Revision level	Date
3, 5, 6, 8, 9, and 10.	Original Issue	May 26, 1987.
1, 2, 4 and 7	Revision 1	November 10, 1987.

Prior to further flight, replace any failed security bolt and adjust any bolt with an improper torque level in accordance with Jetstream SB 53–A–JA870510.

(2) Reinspect the NLG retraction jack upper mounting fitting and attaching hardware for security bolt failure and bolts with improper torque levels in accordance with Part A of the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream SB 53–A–JA870510 at intervals not to exceed 1,600 landings until the modification required by paragraph (c) of this AD is incorporated. Prior to further flight, replace any failed security bolt and adjust any bolt with an improper torque level in accordance with Jetstream SB 53–A–JA870510.

(3) Reinspect the NLG retraction jack upper mounting fitting security nuts for correct installation in accordance with Part B of the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream SB 53–A–JA870510 at intervals not to exceed 200 landings until the modification required by paragraph (c) of this AD is incorporated. If correct installation is not evident, prior to further flight, accomplish the reinspection specified in paragraph (b)(2) of this AD.

(c) For all applicable HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes, upon accumulating 25,000 landings or within the next 2,000 landings after the effective date of this AD, whichever occurs later, install an improved design attachment bracket for the NLG retraction jack (Modification JM 5285) in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream SB 53–JM 5285, which incorporates the following pages and revision levels:

Pages	Revision level	Date
1 and 4	Revision 2	November 12, 1992.
2, 3, and 5 through 26.	Revision 1	May 18, 1992.

(1) Incorporating Modification JM 5285 on Jetstream HP137 Mk1, Jetstream series 200, and Jetstream Model 3101 airplanes terminates the repetitive inspection requirement of this AD.

(2) Incorporating Modification JM 5285 on Jetstream Model 3201 airplanes eliminates the need for the repetitive inspections specified in the applicable maintenance manual.

(3) Modification JM 5285 may be accomplished at any time prior to accumulating 25,000 landings, at which time it must be incorporated.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office, Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels Aircraft Certification Office.

Note 4: Alternative methods of compliance approved in accordance with AD 81–20–01 (superseded by this action) are not considered approved as alternative methods of compliance with this AD.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) This amendment supersedes AD 81–20–01, Amendment 39–4223.

Issued in Kansas City, Missouri, on November 20, 1995.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–29050 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5336–1]

Hazardous Air Pollutant List; Proposed Modification

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of hearing and extension of comment period.

SUMMARY: EPA will hold a hearing in Columbia, South Carolina on December 7, 1995 concerning the proposed rule to amend the list of hazardous air pollutants (HAPs) in Clean Air Act section 112(b)(1) by removing the compound caprolactam (CAS No. 105–60–2), which was published in the **Federal Register** on September 18, 1995 (60 FR 48081). At the request of a commenter, EPA had agreed to an extension of the initial comment period concerning the proposed rule to delist caprolactam. This notice provides documentation of that comment period extension. In addition, EPA will keep the public docket open until January 8, 1996, to permit submission of supplementary or rebuttal information concerning the matters presented at the hearing to be held on December 7, 1995.

DATES: All written and electronic comments concerning the proposed rule to remove caprolactam from the HAP list, as published on September 18, 1995, must be received by EPA no later than December 5, 1995. The hearing will be held on December 7, 1995 at 6 P.M. EST at Irmo Elementary School auditorium, 7401 Gibbes Street, Irmo, South Carolina. All written or electronic submissions of supplementary or rebuttal information concerning the

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matters presented at the hearing on December 7, 1995 must be received by EPA no later than January 8, 1996.

ADDRESSES: Written comments (duplicate copies preferred) must be submitted to: Central Docket Section (A–130), Environmental Protection Agency, Attention: Docket No. A–94–33, 401 M St. SW, Washington, D.C. 20460. Comments and information may also be submitted electronically by sending electronic mail (e-mail) to: a-and-r-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and information will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and information in electronic form must be identified by the docket number A–94–33. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: Dr. Nancy B. Pate, Office of Air Quality Planning and Standards, (MD–12), U.S. EPA, Research Triangle Park, NC 27711, telephone (919) 541–5347, INTERNET: pate.nancy@epamail.epa.gov, fax 919–541–4028 or –0242.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 18, 1995 (60 FR 48081), EPA published a proposed rule that, upon promulgation, would amend the list of hazardous air pollutants in Clean Air Act section 112(b)(1), 42 U.S.C. 7412(b)(1)), by removing the compound caprolactam (CAS No. 105–60–2). This action was in response to a petition to delete the substance caprolactam which was filed by AlliedSignal, Inc., BASF Corporation, and DSM Chemicals North America under section 112(b)(3) of the Act.

EPA received a request for a public hearing concerning the proposed rule to remove caprolactam. Pursuant to that request, EPA will hold a hearing at the time and location stated above.

Clean Air Act section 307(d) does not expressly apply to a rulemaking to remove a substance from the list of hazardous air pollutants in section 112(b). However, section 307(d)(1)(V) permits the EPA Administrator to apply section 307(d) to other actions and EPA is holding the hearing announced by this notice pursuant to the requirements of section 307(d). Section 307(d) also requires EPA to keep the public record open for 30 days after it holds such a hearing "to provide an opportunity for submission of rebuttal and supplementary information."

Prior to the original comment period deadline for the proposed rule, EPA received a request to extend the comment period from a local citizen group in Columbia, South Carolina. Citing health problems of group members and difficulties in communicating with legal counsel, the group requested a three week extension of the comment period (until November 24, 1995). In response to this request, EPA extended the initial period for submission of written and electronic comments concerning the proposed rule and is providing notice to the public that the comment period is open until December 5, 1995. Following the hearing to be held on December 7, 1995, EPA will keep the public docket open until January 8, 1996, to permit submission of supplementary or rebuttal information concerning the matters presented at the hearing.

Dated: November 22, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95–29112 Filed 11–27–95; 8:45 am]

BILLING CODE 6560–60–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

[WO–310–4191–02–24 1A]

RIN 1004–AC09

Onshore Oil and Gas Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Department of the Interior, through the Bureau of Land Management (BLM), proposes to amend the provisions of 43 CFR Part 3160 that address BLM's responsibility for managing oil and gas operations on lands administered by the United States Forest Service (Forest Service). This action is being taken to clarify the regulations implementing the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (Reform Act), to establish clearly that BLM's responsibility on National Forest System (NFS) lands is limited to the approval of applications for permit to drill (APD), the approval of other development or operational proposals involving subsurface activity, related impacts, and any appeals regarding the same. On NFS lands the approval of an APD does not, in itself, constitute approval of the surface use plan of operations (SUPO). Surface use plans of operations on NFS lands require separate approval by the Forest Service, and all appeals related to the SUPO are appeals from the decision of the Forest Service. Agency responsibilities under this rule and the Reform Act are determined on the basis of subsurface (BLM) and surface (Forest Service) authority for oil and gas operations on NFS lands.

DATES: Comments should be submitted by January 29, 1996. Comments received or postmarked after this date may not be considered in the decision making on the final rule.

ADDRESSES: Comments should be sent to: Director (420), Bureau of Land Management, Room 401 LS, 1849 C Street, NW., Washington, DC 20240. Comments can also be sent to internet!WO140@attmail.com. Please include "attn: AC09" and your name and return address in your internet message. Comments will be available for public review at the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Erick Kaarlela, (202) 452–0340, or Howard Lemm, (406) 255–2842.

SUPPLEMENTARY INFORMATION: The Federal Onshore Oil and Gas Reform Act of 1987 (30 U.S.C. 226) vests the Secretary of the Interior and the Secretary of Agriculture with the authority to take actions on NFS lands for APD and SUPO approvals, respectively. The purpose of this proposed rule is to clarify in the regulations the statutory division of authority between the Department of the Interior, acting through the BLM, and the Department of Agriculture, acting through the Forest Service, for managing oil and gas operations on NFS lands. The responsibility for review of actions on NFS lands by the BLM for APDs and the Forest Service for SUPOs is clearly divisible. Each agency is responsible for predecisional reviews under such statutes as the National Environmental Policy Act of 1969 (42 U.S.C. 4332 *et seq.*) and the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) to the extent that such reviews are performed for decisions proposed to be made pursuant to its decisional authority.

The Reform Act authorizes the Secretary of Agriculture to regulate all surface-disturbing activities carried out in conjunction with oil and gas development and operation on NFS lands. The Act states: "The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall regulate all surface-disturbing activities conducted pursuant to any lease issued under this Act, and shall determine

reclamation and other actions as required in the interest of conservation of surface resources. No permit to drill on an oil and gas lease issued under this Act may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area." As applied to SUPOs and APDS, the Reform Act makes an approved SUPO a condition precedent to the granting of an APD. Although the Forest Service is responsible for the SUPO approval prior to the APD, the Reform Act does not make the SUPO a part of the APD. The analysis and subsequent decisions for SUPOs and APDs are separate functions for Forest Service and BLM, respectively.

Although Section 5102(g) of the Reform Act delineates the authority given to each agency, clarification of this division in part 3160 of Title 43 of the Code of Federal regulations is needed to bring the existing regulations into greater conformance with the Reform Act. The intent of this proposed rule is to accurately describe the authority of the BLM for managing oil and gas operations on NFS lands. The proposed rule would abolish the existing regulatory provision making the SUPO a part of an APD on NFS lands, thus making it clearer that a SUPO approved by the Forest Service is instead a precondition to the approval of an APD on NFS lands. The proposed rule would also clarify BLM's exclusive responsibility for APD approval and any subsequent appeals related to actions taken on APDs for NFS lands pursuant to 43 CFR 3162.3–1(h). Concurrently, the Forest Service is preparing a technical amendment to 36 CFR 228 subpart E to clarify the exclusive responsibility of that agency to approve any SUPO for oil and gas operations on NFS lands and to hear any appeals of related actions. It is the intention of both agencies to coordinate these rulemaking activities.

The BLM's environmental review responsibilities for oil and gas development on NFS lands would be for decisions related to those actions described in a new section 3161.3 subtitled *Responsibility of the authorized officer on National Forest System lands.* Section 3161.3 would reiterate that BLM's authority to make decisions relating to drilling and suspension of operations or production will be appropriately coordinated with Forest Service decisions on the corresponding SUPO.

It is intended under this proposed rule that environmental review responsibilities for oil and gas development on NFS lands would be fully met through the coordinated efforts of the BLM and Forest Service. These coordinated efforts could include the development of environmental documents as cooperating agencies pursuant to the regulations located at 40 CFR 1501.6 implementing the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4332 *et seq.*). Although this proposed rule would not affect the working relationships between the two agencies in terms of NEPA compliance, the rule would make clear the limits of authority of the two agencies for the ultimate decisions on APDs and SUPOs involving NFS lands.

The existing national level Memorandum of Understanding (MOU) between the BLM and the Forest Service dated November 11, 1991, would be updated, as needed, to ensure coordination between the agencies with respect to oil and gas development on NFS lands in a manner consistent with the rule. It is anticipated that items to be considered in future amendment of the MOU would include, but would not be limited to, public posting requirements, review timeframes, operator notification requirements, SUPO and APD information sharing, and the distribution of environmental review findings and decision documents.

The principal authors of this proposed rule are Howard Lemm and Chun Wong of the Montana State Office and Erick Kaarlela of the Washington Office (WO) Compliance Team, assisted by the Regulatory Management Team, WO BLM, and the Forest Service.

It is hereby determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The Bureau of Land Management has determined that this rule is categorically excluded from further environmental review pursuant to Departmental Manual (DM), Chapter 2, Appendix 1, Item 1.10, being a regulation of an administrative, financial, legal, technical, or procedural nature, and that the rule will not significantly affect the 10 criteria for exceptions listed in 516 DM 2, Appendix 2. Pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and environmental policies and procedures of the Department of the Interior, "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

This rule was not subject to review by the Office of Management and Budget under Executive Order 12866. This rule will not have a significant effect on the oil and gas industry. The rule will not adversely affect in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal communities. The rule would have a positive impact in that it would eliminate duplicative responsibilities and appeal processes, thereby streamlining the process for all involved without compromising the stewardship of the resource.

The Department has further determined that this rulemaking would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 605 *et seq.*). No small entities are likely to be affected by this rule and there are no particularly affected industries or sectors.

The Department certifies that this proposed rule does not represent a governmental action capable of interference with constitutionally protected property rights. Therefore, as required by Executive Order 12630, the Department of the Interior has determined that the rule would not cause a taking of private property.

The Department has certified to the Office of Management and Budget that these regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 43 CFR Part 3160

Government contracts, Indian lands—mineral resources, Mineral royalties, Oil and gas exploration, Oil and gas production, Public lands—mineral resources, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, part 3160, of title 43 of the Code of Federal Regulations is proposed to be amended as follows.

PART 3160—ONSHORE OIL AND GAS OPERATIONS

1. The authority citation for Part 3160 is revised to read as follows:

Authority: 30 U.S.C. 181 et seq.; 30 U.S.C. 359; 30 U.S.C. 306; 25 U.S.C. 396; 25 U.S.C. 396d; 25 U.S.C. 398e; 25 U.S.C. 399; and 30 U.S.C. 1701, 1751(a).

§ 3160.0–2 [Removed]

2. Section 3160.0–2 is removed.

3. Section 3160.0–5 is amended by redesignating paragraphs (m) through (w) as paragraphs (n) through (x), respectively, and by adding a new paragraph (m) to read as follows:

§ 3160.0–5 Definitions.

* * * * *

(m) *National Forest System lands* means all National Forest lands reserved or withdrawn from the public domain of the United States, all National Forest lands acquired through purchase, exchange, donation, or other means, the National Grasslands and land utilization projects administered by the Forest Service under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 *et seq.*), and other lands, waters or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the System (16 U.S.C. 1609).

* * * * *

4. In § 3161.1 paragraph (a) is revised to read as follows:

§ 3161.1 Jurisdiction.

(a) All operations conducted on a Federal or Indian oil and gas lease by the operator are subject to the regulations in this part except as provided in § 3161.3.

* * * * *

5. Section 3161.2 is revised to read as follows:

§ 3161.2 Responsibility of the authorized officer.

Except as provided in § 3161.3 of this title, the authorized officer is authorized and directed to approve unitization, communitization, gas storage and other contractual agreements for Federal lands; to assess compensatory royalty; to approve suspensions of operations or production, or both; to issue NTLs; to approve and monitor other operator proposals for drilling, development or production of oil and gas; to perform administrative reviews; to impose monetary assessments or penalties; to provide technical information and advice relative to oil and gas development and operations on Federal and Indian lands; to enter into cooperative agreements with States, Federal agencies and Indian tribes relative to oil and gas development and operations; to approve, inspect and regulate the operations that are subject to the regulations in this part; to require compliance with lease terms, with the regulations in this title and all other applicable regulations promulgated under the cited laws; and to require that all operations be conducted in a manner which protects other natural resources and environmental quality, protects life and property and results in the maximum ultimate recovery of oil and gas with minimum waste and with minimum adverse effect on the ultimate recovery of other mineral resources. The authorized officer may issue written or oral orders to govern specific lease operations. Any such oral orders shall be confirmed in writing by the authorized officer within 10 working days from issuance thereof. Before approving operations on leasehold, the authorized officer shall determine that the lease is in effect, that acceptable bond coverage has been provided and that except as provided in § 3161.3 of this title the proposed plan of operations is sound both from a technical and environmental standpoint.

§ 3161.3 [Redesignated as § 3161.4]

6. Section 3161.3 is redesignated as § 3161.4.

7. A new § 3161.3 is added as follows:

§ 3161.3 Responsibility of the authorized officer on National Forest System lands.

(a) The authorized officer is responsible for the approval, inspection, and regulation of drilling, development and production operations on National Forest System lands to the same extent as described in § 3161.2 of this title except that the authorized officer has no responsibility for the approval, enforcement, modification or revocation of any surface use plan of operations covering National Forest System lands. Approval of Applications for Permit to Drill, or approval of other proposed actions that would involve additional surface disturbance or reclamation, shall not be granted for operations to be conducted on National Forest System lands until the authorized representative of the Secretary of Agriculture has approved a surface use plan of operations covering related surface-disturbing activities. The authorized officer has the right to reexamine Applications for Permit to Drill, and other proposed development or production activities on National Forest System lands, if a related surface use plan of operations is revoked, modified or amended by the authorized representative of the Secretary of Agriculture.

(b) A surface use plan of operations related to the operator's proposed oil and gas operations must be furnished to the authorized officer for informational purposes at the time the operator submits an Application for Permit to Drill or other development or operational proposals applying to National Forest System lands.

8. In § 3162.3–1 paragraph (d)(1) is amended by removing the period and adding a semicolon in its place, paragraph (d)(3) is amended by removing ", and" and adding "; and" in its place, and paragraph (d)(2) is revised to read as follows:

§ 3162.3–1 Drilling applications and plans.

* * * * *

(d) * * *

(2) A surface use plan of operations containing information required by paragraph (f) of this section and appropriate orders and notices, except on National Forest System lands a surface use plan of operations is not required as part of an Application for Permit to Drill;

* * * * *

9. Paragraph (a) of § 3162.3–2 is revised to read as follows:

§ 3162.3–2 Subsequent well operations.

(a) A proposal for further well operations shall be submitted by the operator on Form 3160–5 and approved by the authorized officer prior to commencing operations to redrill, perform casing repairs, plug-back, alter casing, perform nonroutine fracturing jobs, recomplete in a different interval, perform water shut off, commingle production between intervals and/or convert to an injection well. If there will be additional surface disturbance, the proposal shall include a surface use plan of operations as an integral part of the proposal unless it comes within the exception provided in § 3161.3, in which case a copy of such surface use plan must be provided in accordance with § 3161.3(b). The authorized officer may prescribe that each proposal contain all or a portion of the information set forth in § 3162.3–1 of this part. The operator shall file a subsequent report of these operations with the authorized officer using Form 3160–5.

* * * * *

10. Section 3162.3–3 is revised to read as follows:

§ 3162.3–3 Other lease operations.

Prior to commencing any operation on the leasehold that will result in additional surface disturbance, other than those activities authorized under § 3162.3–1 or § 3162.3–2 of this title, the operator shall submit a proposal on Form 3160–5 and receive approval of the authorized officer. The proposal shall include a surface use plan of operations as an integral part of the proposal unless it comes within the exception provided in § 3161.3 of this title, in which case a copy of such surface use plan must be provided in accordance with § 3161.3(b).

11. Paragraph (c) of § 3162.3–4 is amended by revising the last sentence to read as follows:

§ 3162.3–4 Well abandonment.

* * * * *

(c) * * * Upon the removal of drilling or producing equipment from the site of a well that is to be permanently abandoned, the surface of the lands disturbed in connection with the conduct of operations shall be reclaimed in accordance with a plan already approved or prescribed by the authorized officer or, where appropriate, where approved by the authorized representative of the Secretary of Agriculture as provided in § 3161.3 of this title.

Dated: November 13, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–28965 Filed 11–27–95; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 94–102]

Compatibility of Wireless Services with Enhanced 911

AGENCY: FCC.

ACTION: Proposed rule.

SUMMARY: The petition filed by Ad Hoc Alliance for Public Access to 911 requests the Commission to amend its Rules to mandate the provision of 911 service access by Commercial Mobile Radio Services (CMRS) providers. Because the issues raised in this Petition are closely related to the current E911 rulemaking proceeding, the Commission requests that comments on the Petition be filed in conjunction with the proceeding in CC Docket No. 94–102. The effect of the proposed rules would be to provide users of cellular telephones with effective and reliable access to 911 emergency systems.

DATES: Comments must be filed on or before December 15, 1995 and reply comments must be filed on or before January 3, 1996.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Won Kim, Policy Division, Wireless Telecommunications Bureau, (202) 418–1310.

SUPPLEMENTARY INFORMATION: On October 27, 1995, the Ad Hoc Alliance for Public Access to 911 ("Alliance") filed a Petition for Rulemaking to amend Part 22 of the Commission's Rules to provide users of cellular telephones with effective and reliable access to 911 emergency systems. Copies of Alliance's Petition are available for public inspection and copying in the FCC Reference Center, Federal Communications Commission, 1919 M Street, N.W., Room 239, Washington, D.C. 20554. Alliance contends that 911 cellular telephone service may be denied or unavailable when the carrier's cellular telephone system is programmed to block 911 calls from transient or non-system subscribers. Specifically, Alliance requests the Commission to amend Section 22.911(b) of the Commission's Rules to require cellular carriers to promptly connect all 911 calls without precondition. Alliance also proposes that Section 22.933 of the Commission's Rules be amended to require that all newly constructed mobile and portable stations be equipped to scan all of the control cellular telephone channels assigned to both System A and to System B, and to select and use the channel with the strongest signal whenever a 911 call is placed.

In a Notice of Proposed Rulemaking adopted September 19, 1994,[1] the Commission proposed to adopt rules requiring, *inter alia*, that Commercial Mobile Radio Service ("CMRS") providers offering real time voice services include enhanced 911 ("E911") capability as part of their service within five years of a final Order. Under the proposed rules, any mobile radio transmitter that is service initialized on a radio network must be allowed to make a 911 call without a requirement for user validation. Comments on the NPRM were filed on January 9, 1995, and reply comments were filed on March 17, 1995. Consumers First and Alliance filed comments on the NPRM, requesting the Commission to issue a further notice of proposed rulemaking mandating the provision of 911 service access without regard to prior service arrangements by CMRS providers. The Commission is currently reviewing the record on this docket.

Because the issues raised in Alliance's Petition are closely related to the current E911 rulemaking proceeding, the Commission requests that comments on Alliance's Petition be filed in conjunction with the proceeding in CC Docket No. 94–102. Interested parties may file comments no later than December 15, 1995. Reply comments must be filed by January 3, 1996. All comments should be filed with the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, referencing CC Docket No. 94–102 and Alliance's Petition for Rulemaking. Filing should be accompanied by proof of service upon the petitioner and the parties in this proceeding. The list of the parties may be obtained from the Office of the Secretary by referencing CC Docket No. 94–102. The full text of the Petition, the comments, and reply comments are available for inspection and duplication during regular business hours in the FCC Reference Center, Federal Communications Commission, 1919 M Street, N.W., Room 239, Washington, D.C. 20554. Copies may be obtained from International Transcription Service, Inc. (ITS), 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, (202) 857–3800.

For further information, contact Won Kim at (202) 418–1310, Wireless Telecommunications Bureau, Policy Division.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 95–28990 Filed 11–27–95; 8:45 am]

BILLING CODE 6712–01–M

[1] *See* Revision of the Commission's rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94–102, Notice of Proposed Rulemaking, 59 FR 54878 (1994) ("NPRM").

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 951116270–5270–01; I.D. 110195B]

Summer Flounder Fishery; Proposed 1996 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed specifications for the 1996 summer flounder fishery; request for comments.

SUMMARY: NMFS proposes specifications for the 1996 summer flounder fishery, which include commercial catch quotas

and other restrictions. The implementing regulations for the fishery require NMFS to publish specifications for the upcoming fishing year and provide an opportunity for the public to comment. The intent of these measures is to prevent overfishing of the summer flounder resource.

DATES: Comments must be received on or before December 21, 1995.

ADDRESSES: Copies of the supporting documents used by the Summer Flounder Monitoring Committee are available from Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 S. New Street, Dover, DE 19901–6790. Comments on the proposed specifications should be sent to Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298.

FOR FURTHER INFORMATION CONTACT: Regina Spallone, 508–281–9221.

SUPPLEMENTARY INFORMATION:

Background

Section 625.20 of the regulations implementing the Fishery Management Plan for the Summer Flounder Fishery (FMP) specifies the process for setting annual management measures in order to achieve the fishing mortality rates (F) specified in the FMP. The schedule established by Amendment 2 to the FMP set a target F of 0.53 for 1993–95, and 0.23 (F_{max}) for 1996 and beyond. However, stock assessment data indicated that the quota associated with an F of 0.23 in 1996 would represent a more than 50 percent drop from the 1995 quota. This reduction would have had significant negative impacts on industry. The Council responded by submitting Amendment 7 on August 5, 1995, to revise the F reduction schedule. The amendment moderated the negative impacts on industry of the previous rebuilding schedule, while still maintaining the FMP's stock rebuilding strategy. The revised schedule is 0.41 in 1996, 0.3 in 1997, and 0.23 (F_{max}) in 1998 and beyond. In addition, the quota for 1996 and 1997 may not exceed 18.51 million lb (8.4 million kg), unless that quota had an associated F of 0.23. Amendment 7 was approved on November 7, 1995.

The regulations at 50 CFR part 625 establish a Summer Flounder Monitoring Committee (Monitoring Committee) consisting of representatives from the Atlantic States Marine Fisheries Commission, the Mid-Atlantic Fishery Management Council (Council), the New England Fishery Management Council, and NMFS, which recommends an annual commercial catch quota and other restrictions to achieve the specified F. The Monitoring Committee recommends annual measures after reviewing the following information: (1) Commercial and recreational catch data, (2) estimates of fishing mortality, (3) stock status, (4) estimates of recruitment, (5) virtual population analysis (VPA), (6) levels of regulatory noncompliance by fishermen or individual states, (7) impact of fish size and net mesh regulations, (8) impact of gear other than otter trawls on the mortality of summer flounder, and (9) other relevant information.

After reviewing the required information, the Monitoring Committee may recommend, in addition to the coastwide quota, modifications to the commercial minimum fish size, the minimum mesh size and restrictions to gears other than otter trawls.

The Council's Demersal Species Committee considers the recommendations of the Monitoring Committee as well as any public comments, and in turn, makes its recommendation to the full Council.

1996 Recommendations

The annual management measures are based upon stock projections derived from VPA results. This assessment indicates that although fishing mortality rates have declined, the target fishing mortality rates specified in the FMP have not been achieved in any year since plan implementation. The spawning stock biomass (SSB) of fish age 2 and older has increased; fish of these ages represent viable spawners. There was also improved recruitment in 1994, with the 1994 year class estimated at approximately 50 million fish.

Although the stock assessment indicates improvement in the summer flounder stock, the biomass is still comprised of mostly young fish, with only 26 percent of the total SSB older than age 3 in 1995. Under equilibrium conditions and a fishing mortality rate of 0.23, approximately 77 percent of the SSB would be age 3 and older.

The Monitoring Committee recommended a coastwide quota of 18.51 million lb (8.4 million kg). This quota would result in an allocation of 11.11 million lb (5.04 million kg) for the commercial quota and 7.4 million lb (3.36 million kg) for the recreational harvest limit. The Monitoring Committee determined, after a review of projections, that it was virtually impossible to recommend a higher quota, because it could not achieve the F level of 0.23 required by the FMP.

The Monitoring Committee recommendation was adopted by the Demersal Committee and the Council at its meeting September 20–21, 1995. The Director, Northeast Region, NMFS (Regional Director) has reviewed these recommendations and has determined that they are necessary to assure that the fishing mortality rates specified in § 625.20 are not exceeded. The Regional Director is seeking public comments on these proposed specifications: (1) A coastwide harvest limit of 18.51 million lb (8.4 million kg), (2) a coastwide commercial quota of 11.11 million lb (5.04 million kg), (3) a coastwide recreational harvest limit of 7.4 million lb (3.36 million kg), (4) no change from the present minimum commercial fish size of 13 inches (33 cm), and (5) no change in the present minimum mesh restriction of 5½ inch diamond (14.0 cm) or 6 inch square (15.2 cm).

If these proposed specifications are approved, the commercial quota allocated to each state according to percentage shares specified in § 625.20(d)(1), would be the amounts depicted in Table 1 below. (These state allocations do not reflect the adjustments required under § 625.20 if 1994 landings exceed the quota for any state. Allocation adjustments will be published in the **Federal Register** if such adjustments are necessary.)

TABLE 1.—1996 STATE COMMERCIAL QUOTAS (PROPOSED)

State	Share (%)	1996 quota (lb)	1996 quota (kg)
ME	0.04756	5,282	2,396
NH	0.00046	51	23
MA	6.82046	757,480	343,587
RI	15.68298	1,741,752	790,045
CT	2.25708	250,671	113,702
NY	7.64699	849,275	385,225
NJ	16.72499	1,857,477	842,537

TABLE 1.—1996 STATE COMMERCIAL QUOTAS (PROPOSED)—Continued

State	Share (%)	1996 quota (lb)	1996 quota (kg)
DE	0.01779	1,976	896
MD	2.03910	226,462	102,721
VA	21.31676	2,367,439	1,073,852
NC	27.44584	3,048,135	1,382,611

The FMP calls for proposed specifications of the commercial quota, recreational harvest limit, and additional measures for the commercial fishery, to be published in the **Federal Register** by October 15. However, due to the timing of the Council meeting (September 20–21) during which the recommendations were made, publication of the specifications was delayed.

Classification

This action is authorized by 50 CFR part 625 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 21, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–28922 Filed 11–21–95; 4:45 pm]

BILLING CODE 3510–22–W

Notices

Federal Register
Vol. 60, No. 228
Tuesday, November 28, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Bureau of Export Administration

President's Export Council Subcommittee on Export Administration; Notice of Meeting Change

Federal Register citation of previous announcement: p. 56978, November 13, 1995.

Previously announced time of meeting: 2:00 p.m., December 7, 1995.

New time of meeting: 2:00 p.m., January 12, 1996, Room 4830.

Dated: November 22, 1995.

Iain S. Baird,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 95–29059 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–DT–M

Sensors Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Sensors Technical Advisory Committee will be held December 14, 1995, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th Street between Constitution and Pennsylvania Avenues, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to sensors and related equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Old and new business.

Executive Session

4. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, OAS/EA—Room 3886C; Bureau of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 6, 1994, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: November 21, 1995.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 95–29063 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Docket 74–95]

Foreign-Trade Zone 83—Huntsville, AL; Request for Manufacturing Authority, Cummins/Onan Engine Company, Inc. (Internal-Combustion Engines)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Huntsville-Madison County Airport Authority, grantee of FTZ 83, pursuant to § 400.28(a)(2) of the Board's regulations (15 CFR Part 400), requesting authority on behalf of Cummins/Onan Engine Company, Inc. (COECI), to manufacture small internal combustion engines under zone procedures for the U.S. market and export within FTZ 83. It was formally filed on November 13, 1995.

COECI operates a facility within FTZ 83 that manufactures gasoline spark-ignition engines (up to 1,000 cc in size) and diesel engines (up to 2,800 cc) for golf carts, all-terrain vehicles, portable generators; and, farm, lawn, and garden equipment (HTS #8407.32.10–.33.30, 8408.20.10, 8408.90.90). Certain components are sourced from abroad (up to 95% of finished product value at the outset), including: crankcases, cylinder heads, manifolds, crankshafts, carburetors, connecting rods, pumps, valves, bearings, fasteners, speed changers, ignition coils, inductors, magnetos and other ignition components, hoses, and other related parts (1995 duty rate range: duty free-12.5%). The application indicates that 60 percent of all parts (by value) will be purchased from U.S. suppliers within three years of approval of subzone status.

Zone procedures would exempt COECI from Customs duty payments on the foreign components used in export production. On its domestic sales, COECI would be able to choose the duty rates that apply to finished engines (duty free, 3.0%) for the foreign components noted above. The application indicates that the savings from zone procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 28, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 12, 1996).

A copy of the application and the accompanying exhibits will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: November 20, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–29068 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 75–95]

Foreign-Trade Zone 99, Wilmington, Delaware; Proposed Foreign-Trade Subzone; Star Enterprise (Oil Refinery Complex); Delaware City, DE

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Delaware Economic Development Office on behalf of the State of Delaware, grantee of FTZ 99, requesting special-purpose subzone status for the oil refinery complex of Star Enterprise (general partnership between Texaco Refining and Marketing (East), Inc. and Saudi Refining, Inc.), located in Delaware City, Delaware. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on November 13, 1995.

The refinery complex (1,800 acres) consists of a main refinery/petrochemical plant, storage tanks and a marine terminal, located at the intersection of Rte. 9 and Rte. 72 on the Delaware River in Newcastle County (Delaware City area), Delaware, some 35 miles south of Philadelphia.

The refinery (140,000 barrels per day; 652 employees) is used to produce fuels and petrochemical feedstocks. Fuels produced include gasoline, distillates and naphthas. Petrochemicals include propane and butane, and refinery by-products include sulfur and petroleum coke. All of the crude oil (93 percent of inputs), and some feedstocks and motor fuel blendstocks are sourced abroad.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the finished product duty rate (nonprivileged foreign status—NPF) on certain petrochemical feedstocks and refinery by-products (duty-free). The duty on crude oil ranges from 5.25¢ to 10.5¢ barrel. The application indicates that the savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 29, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to February 12, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 660 American Avenue, Suite 201, King of Prussia, Pennsylvania 19406

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: November 20, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–29069 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 784]

Approval of Manufacturing Activity Within Foreign-Trade Zone 119, Minneapolis, MN; Tetra Rex Packaging Systems, Inc. (Liquid Food Products Packaging Equipment)

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, § 400.28(a)(2) of the Board's regulations, requires approval of the Board prior to commencement of new manufacturing/processing activity within existing zone facilities;

Whereas, the Greater Metropolitan Area Foreign Trade Zone Commission, grantee of FTZ 119, has requested authority under § 400.32(b)(1) of the Board's regulations on behalf of Tetra Rex Packaging Systems, Inc., to manufacture liquid food products packaging equipment under zone procedures within FTZ 119, Minneapolis, Minnesota (filed 4–12–95, FTZ Docket A(32b1)–5–95; Doc. 64–95, assigned 10–24–95);

Whereas, pursuant to § 400.32(b)(1), the Commerce Department's Assistant Secretary for Import Administration has the authority to act for the Board in making such decisions on new manufacturing/processing activity under certain circumstances, including situations where the proposed zone benefits do not involve the election of nonprivileged foreign status on items involving inverted tariff benefits (§ 400.32(b)(1)(iii)); and,

Whereas, the FTZ Staff has reviewed the proposal, taking into account the criteria of § 400.31, and the Executive Secretary has recommended approval;

Now, Therefore, the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation and hereby approves the request subject to the Act and the Board's regulations, including § 400.28, and subject to a restriction requiring that privileged foreign status (19 CFR 146.41) shall be elected on all foreign-origin merchandise admitted to the zone for the Tetra Rex Packaging Systems, Inc., operation, as indicated in the request.

Signed at Washington, DC, this 13th day of November 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–29070 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 785]

Revision of Grant of Authority, Subzone 84J; Shell Oil Co., (Oil Refinery), Harris County, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Board (the Board) authorized subzone status at the oil refinery of Shell Oil Company in Harris County (Houston area), Texas, in 1993 (Subzone 84J), Board Order 669, 50 FR 68116, 12/23/93);

Whereas, the Port of Houston Authority, grantee of FTZ 84, has requested, pursuant to § 400.32(b)(1)(i), a revision (filed 9/13/95, A(32b1)–17–95; FTZ Doc. 65–95, assigned 10/25/95) of the grant of authority for FTZ Subzone 84J which would make its scope of authority identical to that recently granted for FTZ Subzone 199A at the refinery complex of Amoco Oil Company, Texas City, Texas (Board Order 731, 60 FR 13118, 3/10/95); and,

Whereas, the request has been reviewed and the Assistant Secretary for

Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation of the Executive Secretary, and approves the request;

Now therefore, the Board hereby orders that, subject to the Act and the Board's regulations, including § 400.28, Board Order 669 is revised to include the following conditions:

1. Foreign status (19 CFR §§ 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR § 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR § 146.42) may be elected on refinery inputs covered under HTSUS Subheadings #2709.00.1000—#2710.00.1050 and # 2710.00.2500 which are used in the production of:

—Petrochemical feedstocks and refinery by-products (FTZ staff report, Appendix B);
—Products for export; and,
—Products eligible for entry under HTSUS #9808.00.30 and #9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 13th day of November 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–29071 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–DS–F

International Trade Administration

Determination Not To Revoke Antidumping Duty Orders and Findings Nor To Terminate Suspended Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Determination not to revoke antidumping duty orders and findings nor to terminate suspended investigations.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty orders and findings nor to terminate the suspended investigations listed below.

EFFECTIVE DATE: November 28, 1995.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–4737.

SUPPLEMENTARY INFORMATION: The Department of Commerce (the Department) may revoke an antidumping duty order or finding or terminate a suspended investigation, pursuant to 19 CFR § 353.25(d)(4)(iii), if no interested party has requested an administrative review for four consecutive annual anniversary months and no domestic interested party objects to the revocation or requests an administrative review.

We had not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months. Therefore, pursuant to § 353.25(d)(4)(i) of the Department's regulations, on July 31, 1995, we published in the **Federal Register** a notice of intent to revoke these antidumping duty orders and findings and to terminate the suspended investigations and served written notice of the intent to each domestic interested party on the Department's service list in each case. Within the specified time frame, we received objections from domestic interested parties to our intent to revoke these antidumping duty orders and findings and to terminate the suspended investigations. Therefore, because domestic interested parties objected to our intent to revoke or terminate, we no longer intend to revoke these antidumping duty orders and findings or to terminate the suspended investigations.

Antidumping Proceeding

A–570–101

The People's Republic of China.

Greige Polyester/Cotton Printcloth.

Objection Date: September 28, 1995.

Objector: American Textile Manufacturers Institute.

Contact: Zev Primor at (202) 482–4114.

Dated: November 8, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–29067 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–DS–P

Initiation of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of new shipper antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) has received a request to conduct a new shipper administrative review of an antidumping duty order with a February anniversary date. In accordance with 19 CFR 353.33(h) (1995), we are initiating this administrative review.

EFFECTIVE DATE: November 28, 1995.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received a request, pursuant to section 751(a)(2)(B) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994 (the Act), and in accordance with 19 CFR 353.22(h) (1995), for a new shipper review of the antidumping duty order on stainless steel bar from India, which has a February anniversary date.

Initiation of Review

In accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 353.22(h)(6), we are initiating a new shipper review of the antidumping duty order on stainless steel bar from India. We intend to issue the final results of review not later than 270 days from the date of publication of this notice.

Antidumping duty proceeding	Period to be reviewed
India: Stainless Steel Bar A–533–810:	
Akai Asian	02/01/95–07/31/95
Viraj	02/01/95–07/31/95

We will instruct the U.S. Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the above listed companies, in accordance with 19 CFR 353.22(h)(4) (1995).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b).

This initiation and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 353.22(h).

Dated: November 20, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–29066 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–DS–P

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews, Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On November 10, 1995, Gulf States Tube Division filed a First Request for Panel Review with the Mexican Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final antidumping determination made by the Secretariat de Comercio y Fomento Industrial, in the administrative review respecting Seamless Commercial Steel Tubes from the United States of America. This determination was published in the *Diario Oficial de la Federacion* on October 11, 1995. The NAFTA Secretariat has assigned Case Number MEX–95–1904–01 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determination in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Mexican Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on November 10, 1995, requesting panel review of the final antidumping duty administrative review described above.

The Rules provide that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is December 11, 1995);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is December 26, 1995); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints files in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: November 21, 1995.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 95–29065 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–GT–M

North American Free-Trade Agreement, Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On November 17, 1995 Savannah Foods and Industries Ltd. filed a First Request for Panel Review with the Canadian Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final dumping determination review made by the Deputy Minister of National Revenue for Customs and Excise respecting Refined Sugar, Refined From Sugar Cane or Sugar Beets, in Granulated, Liquid and Powdered Form, originating in or Exported From the United States of America. This determination was published in the *Canada Gazette* on October 28, 1995 (Part I, Volume 129, No. 43, page 3692). The NAFTA Secretariat has assigned Case Number CDA–95–1904–04 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (2202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Canadian Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on November 17, 1995, requesting panel review of the final dumping duty review described above.

The Rules provide that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is December 18, 1995);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline

for filing a Notice of Appearance is January 2, 1995); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: November 22, 1995.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 95–29064 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–GT–M

National Oceanic and Atmospheric Administration

[I.D. 111495B]

Mid-Atlantic Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Summer Flounder Monitoring Committee will hold a public meeting.

DATES: The meeting will be held on December 7, 1995, from 10:00 a.m. until 5:00 p.m.

ADDRESSES: The meeting will be held at the Days Inn Philadelphia Airport, 4101 Island Avenue, Philadelphia, PA 19153; telephone: (215) 492–0400.

Council Address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 674–2331.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to recommend the summer flounder recreational limits for 1996.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at (302) 674–2331 at least 5 days prior to the meeting date.

Dated: November 21, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29062 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 110995D]

North Pacific Fishery Management Council; Committee Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory bodies will meet the week of December 4, 1995, in Anchorage, AK. Other committee and workgroup meetings may be held on short notice during the week; notices will be posted at the meeting site. All meetings are open to the public with the exception of Council executive sessions and meetings of the Council's Nominating Committee to discuss personnel matters.

DATES: The Advisory Panel (AP) and Scientific and Statistical Committee (SSC) meetings will begin at 8:00 a.m. on December 4, 1995, and continue through December 6. The Council meeting will begin at 8:00 a.m. on December 6, 1995, and continue through December 10.

ADDRESSES: The meetings will be held at the Anchorage Hilton Hotel, 500 W. 3rd Avenue, Anchorage, AK 99501.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff; telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The agenda for the Council meeting will include the following subjects.

1. Reports on recent fisheries activities from NMFS, Alaska Department of Fish and Game, U.S. Coast Guard, and NMFS Enforcement.
2. Council appointments to the AP, SSC, and Pacific Northwest Industry Advisory Committee.
3. Final action on a catch-sharing plan for International Pacific Halibut Commission Area 4 halibut allocations.
4. Initial review of an amendment to the halibut and sablefish Individual Fishery Quota (IFQ) plan to allow the use of large boat IFQs for smaller vessel size classes.
5. Discussion of analytical outline for plan amendments to the groundfish fishery management plans to improve retention and utilization of the resource.
6. Review of an analytical outline for future amendment for individual bycatch quotas in the groundfish fisheries.
7. Review and discussion of the North Pacific Fisheries Research Plan and final decision on the fee program.
8. Approve final Stock Assessment and Fishery Evaluation documents for the Bering Sea/Aleutian Islands (BSAI) and Gulf of Alaska (GOA) 1996 groundfish fisheries and set final harvest specifications for the 1996 BSAI and GOA groundfish fisheries, including bycatch specifications and halibut discard mortality rates.
9. Report on groundfish management by the State of Alaska.
10. Final review of revisions to the rebuilding plan for Pacific ocean perch in the GOA.
11. Initial review of trimester allocations of pollock in the GOA.
12. Structure alternatives for Pacific cod gear allocation amendment.
13. Review staff tasking.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: November 21, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29061 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 110995C]

North Pacific Fishery Management Council; Plan Team Teleconference

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of teleconference.

SUMMARY: The North Pacific Fishery Management Council's Crab Plan Team (Team) will meet by teleconference.

DATES: The meeting will be held on December 14, 1995, beginning at 1:00 p.m. Alaska Time.

ADDRESSES: The meeting location is 605 W. 4th Avenue, Suite 306, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: David Witherell; telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include the following subjects:

1. Review a draft Environmental Assessment/Regulatory Impact Review document to allow increased flexibility in the apportionment of Tanner crab prohibited species catch among bycatch limitation zones.
2. Develop Team policy guidelines.
3. Review subcommittee recommendations on revisions to draft crab fishery management plan.
4. Approve minutes from previous meeting.
5. Discuss addition of economist to Team.

Special Accommodations

This meeting is being held by teleconference. Members of the public interested in listening in should contact Helen Allen at the Council office (see **ADDRESSES**) at least 5 working days prior to the teleconference to make arrangements. Any public listening site arranged will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to Helen Allen.

Dated: November 21, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29060 Filed 11–27–95; 8:45 am]

BILLING CODE 3510–22–F

Patent and Trademark Office

Cancellation of Hearings and Cancellation of Request for Comments on Issues Relating to Patent Protection for Nucleic Acid Sequences

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of cancellation of hearings and cancellation of request for comments.

SUMMARY: On November 14, 1995 (60 FR 57223), the Patent and Trademark Office announced that it was holding public hearings and requesting written comments on issues relating to patent protection for nucleic acid sequences. The announced public hearings and request for comments are now cancelled.

FOR FURTHER INFORMATION CONTACT: Esther Kepplinger by telephone at (703) 306–2714, by facsimile transmission to (703) 308–6879, by electronic mail at "ekepplin@uspto.gov", or by mail marked to her attention addressed to the Assistant Commissioner of Patents, Box DAC, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The public hearing that was to be held on November 29, 1995 at the University of California, San Diego, The Mandeville Auditorium/Recital Hall, Muir Campus, La Jolla, California, and the public hearing that was to be held December 7, 1995 in Suite 912, Commissioner's Conference Room, Crystal Park Building No. 2, 2121 Crystal Drive, Arlington, Virginia, have been cancelled. In addition, the request for comments announced November 14, 1995 (60 FR 57223) is also cancelled.

Dated: November 22, 1995.

Lawrence J. Goffney, Jr.,

Acting Deputy Assistant Secretary of Commerce and Deputy Commissioner of Patents and Trademarks.

[FR Doc. 95–29101 Filed 11–22–95; 4:37 pm]

BILLING CODE 3510–16–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Reauthorization of the National and Community Service Act of 1990, as Amended, and the Domestic Volunteer Service Act of 1973, as Amended

AGENCY: Corporation for National and Community Service.

ACTION: Request for public comment—extension of deadline for submission of public comments.

SUMMARY: To ensure participation by the greatest number of interested parties, the Corporation for National and Community Service extends the deadline for submission of written comments from the public regarding the reauthorization of the Corporation and of programs implemented under the National and Community Service Act of 1990, as amended by the National and Community Service Trust Act of 1993, 42 U.S.C. 12501 *et seq.*, and the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4950 *et seq.* The statutory authorization for the Corporation and its programs expires on September 30, 1996. However, the reauthorization process has already begun and issues are currently being discussed. In order to contribute in a timely manner to Congressional reauthorization discussions, the Corporation is reviewing its statutory provisions and programs. To ensure an opportunity for public participation, the Corporation invites public comments. As Congress may hold hearings on the reauthorization of the Corporation and its programs as early as the mid- or late-December of 1995, the Corporation encourages the public to submit written comments as soon as possible.

DATES: Only written comments will be considered. Comments must be submitted on or before January 15, 1996.

ADDRESSES: Comments should be addressed to Terry Russell, General Counsel, Corporation for National Service, 1201 New York Avenue, NW., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Myung J. Lee, Associate General Counsel, Corporation for National Service, 1201 New York Avenue, NW., Washington, DC 20525. Telephone: (202) 606–5000, ext. 548.

SUPPLEMENTARY INFORMATION: The Corporation is a government corporation that engages Americans of all ages and backgrounds in community-based service. This service addresses the nation's education, public safety, human, and environmental needs by achieving direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service.

Pursuant to the National and Community Service Act of 1990, as amended, the Corporation makes grants to States, subdivisions of States, Indian tribes, U.S. Territories, public or private nonprofit organizations, Federal agencies and institutions of higher education to carry out service programs as part of AmeriCorps* National, AmeriCorps* State, Learn and Serve America (School and Community Based and Higher Education), or AmeriCorps* NCCC (National Civilian Community Corps).

The Corporation also oversees programs implemented under the Domestic Volunteer Service Act of 1973, as amended, including AmeriCorps* VISTA (Volunteers in Service to America) and National Senior Service Corps (Retired Seniors Volunteer Program (RSVP), Senior Companions, and Foster Grandparents) programs.

Listed below are some of the issues that have been raised in anticipation of reauthorization by both critics and supporters of the Corporation and its programs. Please note that the following list is not exhaustive and comments do not have to be restricted to these issues:

1. Ethic of service—Beyond the programs of Learn and Serve, AmeriCorps, and National Senior

Service Corps, what can the Corporation do to further the mission, vision, and goals that engage Americans of all ages and backgrounds in community-based service?

2. Price of national service—How can we deliver national service in a way that costs less but that is as, or more, effective? For instance, for AmeriCorps programs, think in light of common aspects such as direct service, living allowance and benefits, education award, diversity, community-driven partnerships, non-federal match, and national identity.

3. Increasing the non-federal share of the budget—What functions and activities might be the most attractive to outside funders? What kinds of incentives might be necessary? What is a realistic time table for increasing the percentage of funds from the private and independent sectors?

4. Corporation structure—What is an effective and efficient field structure? What are the appropriate roles for state commissions and the Corporation, including the state offices?

5. Politicization—How can we guard against the politicization of national service? Are there any aspects of current Corporation programs and practices that create a perception of politicization?

6. Partnership relations—What products, assistance, information do you need from the Corporation? What services would make the partnerships more effective?

In order to contribute in a timely manner to the discussions concerning the reauthorization of the Corporation and its programs, the Corporation invites public commentary on any aspect of the Corporation for National Service, its policies, and its programs, including the issues presented above. Specific statutory references are preferred, but are not necessary to the submission of comments. All comments will be considered but the Corporation will not be able to reply individually to each submitter.

Dated: November 22, 1995.

Terry Russell,

General Counsel, Corporation for National and Community Service.

[FR Doc. 95–29045 Filed 11–27–95; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Intent To Prepare an Environmental Impact Statement for Proposed Military Training in the Territory of Guam and Islands of Rota, Tinian, and Farallon de Medinilla, Commonwealth of the Northern Mariana Islands

AGENCY: U.S. Pacific Command, DOD.

ACTION: Notice of intent.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the U.S. Pacific Command announces its intent to prepare an Environmental Impact Statement (EIS) for proposed military training in the Territory of Guam on the Islands of Rota, Tinian, and Farallon de Medinilla, Commonwealth of the Northern Mariana Islands (CNMI).

The actions to be covered in the EIS consist of training activities required to maintain military combat readiness. The EIS will analyze reasonable alternatives to meet this objective and assess their separate and cumulative environmental impacts. The U.S. Pacific Command will initiate a scoping process to identify significant related issues for study in the EIS and to identify and notify parties interested in and affected by the EIS.

The meetings will open with a short presentation of the purpose of the proposed action and alternatives to be evaluated, followed by a period for public comment. It is important that interested agencies, individuals, and organizations take this opportunity to identify environmental concerns that should be addressed in the EIS. To allow time for all views to be shared, each speaker will be limited to five minutes for oral comments.

Interested parties are also invited and encouraged to provide written comments in addition to, or in lieu of, oral comments at the public meetings. Scoping comments should clearly describe specific issues or topics that the EIS should address.

DATES: Three public scoping meetings will be held.

Guam: December 4, 1995, 7–10 pm.
Rota: December 6, 1995, 7–10 pm.
Tinian: December 7, 1995, 7–10 pm.

ADDRESSES: The scoping meetings will be held in the following locations:

Agaña, Guam: Governor's Cabinet Room, Adelup Complex.
Sing Song Village, Rota, CNMI: The Round House.
San Jose, Tinian, CNMI: Tinian School Cafeteria.

FOR FURTHER INFORMATION CONTACT: Written statements and/or questions regarding the scoping process should be mailed no later than December 22, 1995 to Mr. Fred Minato (Code 238), Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, HI 96860–7300; telephone (808) 471–9338; fax (808) 474–4890.

SUPPLEMENTARY INFORMATION: The proposed action consists of future military training activities in Guam and CNMI within existing military installations, public lands, and waters, including large-scale joint military exercises. Training will involve organizations from the U.S. Army, U.S. Marine Corps, U.S. Navy, U.S. Air Force, U.S. Army Reserve, Guam Army National Guard, and allied nations. Federal and Guamanian law enforcement agencies also train on these lands. The proposed training will take place on Tinian, primarily in the Military Lease Area, on Rota, primarily at Sand Island and the public airport, and on Guam, primarily at Andersen Air Force Base, Naval Activities Guam Ordnance Annex, and Apra Harbor. The proposed action also includes continued use of the island of Farallon de Medinilla for naval gunfire training and aerial bombardment.

Proposed training activities include tactical maneuver on foot and by wheeled and tracked vehicles, beach landings with boats, air-cushioned landing craft, and tracked amphibian vehicles, paradrops, fixed- and rotary-wing aircraft operations, underwater explosive ordnance training, military weapons and munitions training, and various logistical support activities.

Alternatives consist of: (1) The no action alternative, (2) the limited training activities alternative, (3) the proposed training activities alternative, and (4) alternate training locations. The "no action" alternative consists of continuing present training activities under present conditions, with no adjustment to planned future military needs. The "limited training activities" alternative consists of a sub-set of proposed training activities, based on constraints including the limitation of certain activities to avoid significant impacts to the environment. The "proposed training activities" alternative consists of implementing all proposed activities at the designated training locations. The use of alternate training locations is not applicable to this project.

Environmental issues to be addressed will include, but not be limited to, effects on cultural resources, terrestrial and aquatic habitats, threatened or endangered species, water quality, infrastructure, traffic, noise, and socioeconomic environment. Direct, indirect, and cumulative impacts will be analyzed, and mitigation measures will be developed as required.

Dated: November 22, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–29003 Filed 11–27–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Air Force

Privacy Act of 1974; Amend and Delete Systems of Records.

AGENCY: Department of the Air Force, DOD.

ACTION: Amend and delete systems of records.

SUMMARY: The Department of the Air Force proposes to delete one and amend two systems of records notices in its inventory of systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The deletion is effective November 28, 1995. The amendments will be effective on December 28, 1995, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Assistant Air Force Access Programs Officer, SAF/AAIQ, 1610 Air Force Pentagon, Washington, DC 20330–1610.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Gibson at (703) 697–3491 or DSN 227–3491.

SUPPLEMENTARY INFORMATION: The complete inventory of Department of the Air Force system of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The deletion and amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which requires the submission of an altered system report. The specific changes to the systems of records notices are set forth below followed by the systems notices, as amended, published in their entirety.

Dated: November 14, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION
F168 ACC A

SYSTEM NAME:

Physician Retention Program *(March 11, 1993, 58 FR 13460).*

Reason: System is no longer needed and was discontinued in 1993. There are no plans to reinstate this system in the future. Records maintained in the system have been destroyed.

* * * * *

AMENDMENT
F050 ACC B

SYSTEM NAME:

Instructional Systems Development (ISD) Evaluation *(March 11, 1993, 58 FR 13454).*

CHANGES:

SYSTEM NAME:

Delete entry and replace with 'Operations Training Development Evaluation'.

SYSTEM LOCATION:

Delete entry and replace with 'Detachment 13, Air Combat Command Training Support Squadron, 41 Orville Wright Avenue, Suite 001, Barksdale Air Force Base, LA 7110–3000.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Air Combat Command aircrew members, pilots, copilots, navigators, radar navigators, electronic warfare officers, who are attending, or have attended a course of instruction conducted by the 11 Bomb Squadron, Barksdale Air Force Base, LA 7110–3000.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Computerized information file compiled from questionnaires about training accomplished while attending a course of instruction; to include the responder's name, Social Security Number, base of assignment and subjective assessment of the training received.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 8013, Secretary of the Air Force: powers and duties; delegation by; Air Force Manual 36–92234, Instructional Systems Development; Air Combat Command Instruction 36–92250, Operations Training Development Program, and E.O. 9397.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Education Training Officer, Detachment 13, Air Combat Command Training Support Squadron, 41 Orville Wright Avenue, Suite 001, Barksdale Air Force Base, LA 7110–3000.'

NOTIFICATION PROCEDURE:

Delete entry and replace with 'Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Education Training Officer, Detachment 13, Air Combat Command Training Support Squadron, 41 Orville Wright Avenue, Suite 001, Barksdale Air Force Base, LA 7110–3000.

Requests to determine existence of record should include full name, and grade, Social Security Number and approximate dates individual attended a course of instruction.'

RECORD ACCESS PROCEDURES:

Delete entry and replace with 'Individuals seeking to access records about themselves contained in this system should address requests to the Education Training Officer, Detachment 13, Air Combat Command Training Support Squadron, 41 Orville Wright Avenue, Suite 001, Barksdale Air Force Base, LA 7110–3000.

Requests should include full name, and grade, Social Security Number and approximate dates individual attended a course of instruction.'

* * * * *

F050 ACC B

SYSTEM NAME:

Operations Training Development Evaluation.

SYSTEM LOCATION:

Detachment 13, Air Combat Command Training Support Squadron, 41 Orville Wright Avenue, Suite 001, Barksdale Air Force Base, LA 7110–3000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Combat Command aircrew members, pilots, copilots, navigators, radar navigators, electronic warfare officers, who are attending, or have attended a course of instruction conducted by the 11 Bomb Squadron, Barksdale Air Force Base, LA 7110–3000.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized information file compiled from questionnaires about training accomplished while attending a course of instruction; to include the responder's name, Social Security Number, base of assignment and subjective assessment of the training received.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: powers and duties; delegation by; Air Force Manual 36–92234, Instructional Systems Development; Air Combat Command Instruction 36–92250, Operations Training Development Program, and E.O. 9397.

PURPOSE(S):

Used to tabulate and compare data; and to identify strengths and weaknesses of the training programs. Will also be used to score trainee within-course test performances. Identification of specific responders in the records will only be used by the custodian to evaluate and assess quality of Air Force Training Programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, and in computers and on computer products.

RETRIEVABILITY:

Retrieved by Social Security Number. Information may also be retrieved by groupings of data from such elements as type airframe, course attended, crew position, or base of assignment.

SAFEGUARDS:

Records are accessed by custodian of the record system and personnel responsible for servicing the record system in performance of their official duties. Records are stored on diskettes kept in a locked room whenever office is not manned. Original questionnaire responses will be maintained in a locked container when the office is not manned.

RETENTION AND DISPOSAL:

Paper records are destroyed by tearing into pieces, shredding, burning, macerating, or pulping, and diskettes will be destroyed by degaussing, when superseded or when the individual is reassigned from Air Combat Command.

SYSTEM MANAGER(S) AND ADDRESS:

Education Training Officer, Detachment 13, Air Combat Command Training Support Squadron, 41 Orville Wright Avenue, Suite 001, Barksdale Air Force Base, LA 7110–3000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the: Education Training Officer, Detachment 13, Air Combat Command Training Support Squadron, 41 Orville Wright Avenue, Suite 001, Barksdale Air Force Base, LA 7110–3000.

Requests to determine existence of record should include full name, and grade, Social Security Number and approximate dates individual attended a course of instruction.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Education Training Officer, Detachment 13, Air Combat Command Training Support Squadron, 41 Orville Wright Avenue, Suite 001, Barksdale Air Force Base, LA 7110–3000.

Requests should include full name, and grade, Social Security Number and approximate dates individual attended a course of instruction.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from questionnaires completed by students, graduates or Flight Instructors, and current combat crew training instructors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F900 ACC A

SYSTEM NAME:

Special Awards File *(March 11, 1993, 58 FR 13462).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Director of Personnel, Headquarters Air Combat Command, 114 Douglas Street, Suite 214, Langley Air Force Base, VA 23665–2773.'

* * * * *

AUTHORITY FOR MAINTAINING THE SYSTEM:

Delete entry and replace with '10 U.S.C. 8013, Secretary of the Air Force: powers and duties; delegation by and 8074, Commands: Territorial organization.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Director of Personnel, Headquarters Air Combat Command, 114 Douglas Street, Suite 214, Langley Air Force Base, VA 23665–2773.'

NOTIFICATION PROCEDURE:

Delete entry and replace with 'Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Director of Personnel, Headquarters Air Combat Command, 114 Douglas Street, Suite 214, Langley Air Force Base, VA 23665–2773.'

RECORD ACCESS PROCEDURES:

Delete entry and replace with 'Individuals seeking to access records about themselves contained in this system should address requests to the Director of Personnel, Headquarters Air Combat Command, 114 Douglas Street, Suite 214, Langley Air Force Base, VA 23665–2773.'

* * * * *

F900 ACC A

SYSTEM NAME:

Special Awards File *(March 11, 1993, 58 FR 13461).*

SYSTEM LOCATION:

Director of Personnel, Headquarters Air Combat Command, 114 Douglas Street, Suite 214, Langley Air Force Base, VA 23665–2773.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel, civilian employees and retired Air Force officers who are or were formerly assigned to Air Combat Command (ACC), formerly Tactical Air Command.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetical file containing limited award and biographical data on command personnel where awards have been approved and may be used for reference in future. File is informational in nature and action does not result therefrom.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: powers and duties; delegation by and 8074, Commands: Territorial organization.

PURPOSE(S):

Used by Command Awards Branch for reference.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Headquarters Air Combat Command, 114 Douglas Street, Suite 214, Langley Air Force Base, VA 23665–2773.

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RECORD ACCESS PROCEDURES:

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CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers and source documents such as reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 95–29004 Filed 11–27–95; 8:45 am]

BILLING CODE 5000–04–F

Department of the Army

Board of Visitors, United States Military Academy

AGENCY: United States Military Academy, West Point, New York.

ACTION: Notice of Open Meeting.

SUMMARY: In accordance with Section 10(a)(20) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy.

Date of Meeting: 7 December 1995.

Place of Meeting: Russell Senate Office Building, Room 412, Washington, D.C.

Start Time of Meeting: 9:00 a.m.

Proposed Agenda: Preparation of Report to President; Commandant's Assessment of the Corps of Cadets, Report on Enhancing Teaching and Performance at USMA. All proceedings are open.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John J. Luther, United States Military Academy, West Point, NY 10996–5000, (914) 938–5870.

SUPPLEMENTARY INFORMATION: Please note that the Board of Visitors, United States Military Academy Meeting previously announced for 17 November at West Point, New York, was canceled due to the government shutdown.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–28950 Filed 11–27–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Guidance for the Establishment, Use and Operation of Mitigation Banks

AGENCIES: Corps of Engineers, Department of the Army, DOD; Environmental Protection Agency; Natural Resources Conservation Service, Agriculture; Fish and Wildlife Service, Interior; and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Army Corps of Engineers (Corps), Environmental Protection Agency (EPA), National Resources Conservation Service (NRCS), Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) are issuing final policy guidance regarding the establishment, use and operation of mitigation banks for the purpose of providing compensation for adverse impacts to wetlands and other aquatic resources. The purpose of this guidance is to clarify the manner in which mitigation banks may be used to satisfy mitigation requirements of the Clean Water Act (CWA) Section 404 permit program and the wetland conservation provisions of the Food Security Act (FSA) (i.e., "Swampbuster" provisions). Recognizing the potential benefits mitigation banking offers for streamlining the permit evaluation process and providing more effective mitigation for authorized impacts to wetlands, the agencies encourage the establishment and appropriate use of mitigation banks in the Section 404 and "Swampbuster" programs.

DATES: The effective date of this Memorandum to the Field is December 28, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Chowning (Corps) at (202) 761–

1781; Mr. Thomas Kelsch (EPA) at (202) 260–8795; Ms. Sandra Byrd (NRCS) at (202) 690–3501; Mr. Mark Miller (FWS) at (703) 358–2183; Ms. Susan-Marie Stedman (NMFS) at (301) 713–2325.

SUPPLEMENTARY INFORMATION: Mitigating the environmental impacts of necessary development actions on the Nation's wetlands and other aquatic resources is a central premise of Federal wetlands programs. The CWA Section 404 permit program relies on the use of compensatory mitigation to offset unavoidable damage to wetlands and other aquatic resources through, for example, the restoration or creation of wetlands. Under the "Swampbuster" provisions of the FSA, farmers are required to provide mitigation to offset certain conversions of wetlands for agricultural purposes in order to maintain their program eligibility.

Mitigation banking has been defined as wetland restoration, creation, enhancement, and in exceptional circumstances, preservation undertaken expressly for the purpose of compensating for unavoidable wetland losses in advance of development actions, when such compensation cannot be achieved at the development site or would not be as environmentally beneficial. It typically involves the consolidation of small, fragmented wetland mitigation projects into one large contiguous site. Units of restored, created, enhanced or preserved wetlands are expressed as "credits" which may subsequently be withdrawn to offset "debits" incurred at a project development site.

Ideally, mitigation banks are constructed and functioning in advance of development impacts, and are seen as a way of reducing uncertainty in the CWA Section 404 permit program or the FSA "Swampbuster" program by having established compensatory mitigation credit available to an applicant. By consolidating compensation requirements, banks can more effectively replace lost wetland functions within a watershed, as well as provide economies of scale relating to the planning, implementation, monitoring and management of mitigation projects.

On August 23, 1993, the Clinton Administration released a comprehensive package of improvements to Federal wetlands programs which included support for the use of mitigation banks. At that same time, EPA and the Department of the Army issued interim guidance clarifying the role of mitigation banks in the Section 404 permit program and providing general guidelines for their establishment and use. In that document it was acknowledged that additional guidance would be developed, as necessary, following completion of the first phase of the Corps Institute for Water Resources national study on mitigation banking.

The Corps, EPA, NRCS, FWS and NMFS provided notice [60 FR 12286; March 6, 1995] of a proposed guidance on the policy of the Federal government regarding the establishment, use and operation of mitigation banks. The proposed guidance was based, in part, on the experiences to date with mitigation banking, as well as other environmental, economic and institutional issues identified through the Corps national study. Over 130 comments were received on the proposed guidance. The final guidance is based on full and thorough consideration of the public comments received.

A majority of the letters received supported the proposed guidance in general, but suggested modifications to one or more parts of the proposal. In response to these comments, several changes have been made to further clarify the provisions and make other modifications, as necessary, to ensure effective establishment and use of mitigation banks. One key issue on which the agencies received numerous comments focused on the timing of credit withdrawal. In order to provide additional clarification of the changes made to the final guidance in response to comments, the agencies wish to emphasize that it is our intent to ensure that decisions to allow credits to be withdrawn from a mitigation bank in advance of bank maturity be make on a case-by-case basis to best reflect the particular ecological and economic circumstances of each bank. The percentage of advance credits permitted for a particular bank may be higher or lower than the 15 percent example included in the proposed guidance. The final guidance is being revised to eliminate the reference to a specific percentage in order to provide needed flexibility. Copies of the comments and the agencies' response to significant comments are available for public review. Interested parties should contact the agency representatives for additional information.

This guidance does not change the substantive requirements of the Section 404 permit program or the FSA "Swampbuster" program. Rather, it interprets and provides internal guidance and procedures to the agency field personnel for the establishment, use and operation of mitigation banks consistent with existing regulations and policies of each program. The policies set out in this document are not final agency action, but are intended solely as guidance. The guidance is not intended, not can it be relied upon, to create any rights enforceable by any party in litigation with the United States. The guidance does not establish or affect legal rights or obligations, establish a binding norm on any party and it is not finally determinative of the issues addressed. Any regulatory decisions made by the agencies in any particular matter addressed by this guidance will be made by applying the governing law and regulations to the relevant facts. The purpose of the document is to provide policy and technical guidance to encourage the effective use of mitigation banks as a means of compensating for the authorized loss of wetlands and other aquatic resources.

John H. Zirschky,

Acting Assistant Secretary (Civil Works), Department of the Army.

Robert Perciasepe,

Assistant Administrator for Water, Environmental Protection Agency.

James R. Lyons,

Assistant Secretary, Natural Resources and Environment, Department of Agriculture.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior.

Douglas K. Hall,

Assistant Secretary for Oceans and Atmosphere, Department of Commerce.

Memorandum to the Field

Subject: Federal Guidance for the Establishment, Use and Operation of Mitigation Banks

I. Introduction

A. Purpose and Scope of Guidance

This document provides policy guidance for the establishment, use and operation of mitigation banks for the purpose of providing compensatory mitigation for authorized adverse impacts to wetlands and other aquatic resources. This guidance is provided expressly to assist Federal personnel, bank sponsors, and others in meeting the requirements of Section 404 of the Clean Water Act (CWA), Section 10 of the Rivers and Harbors Act, the wetland conservation provisions of the Food Security Act (FS) (i.e., "Swampbuster"), and other applicable Federal statutes and regulations. The policies and procedures discussed herein are consistent with current requirements of the Section 10/404 regulatory program and "Swampbuster" provisions and are intended only to clarify the applicability of existing requirements to mitigation banking.

The policies and procedures discussed herein are applicable to the establishment, use and operation of public mitigation banks, as well as privately-sponsored mitigation banks, including third party banks (e.g. entrepreneurial banks).

B. Background

For purposes of this guidance, mitigation banking means the restoration, creation, enhancement and, in exceptional circumstances, preservation of wetlands and/or other aquatic resources expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

The objective of a mitigation bank is to provide for the replacement of the chemical, physical and biological functions of wetlands and other aquatic resources which are lost as a result of authorized impacts. Using appropriate methods, the newly established functions are quantified as mitigation "credits" which are available for use by the bank sponsor or by other parties to compensate for adverse impacts (i.e., "debits"). Consistent with mitigation policies established under the Council on Environmental Quality Implementing Regulations (CEQ regulations) (40 CFR Part 1508.20), and the Section 404(b)(1) Guidelines (Guidelines) (40 CFR Part 230), the use of credits may only be authorized for purposes of complying with Section 10/404 when adverse impacts are unavoidable. In addition, for both the Section 10/404 and "Swampbuster" programs, credits may only be authorized when on-site compensation is either not practicable or use of a mitigation bank is environmentally preferable to on-site compensation. Prospective bank sponsors should not construe or anticipate participation in the establishment of a mitigation bank as ultimate authorization for specific projects, as excepting such projects from any applicable requirements, or as preauthorizing the use of credits from that bank for any particular project.

Mitigation banks provide greater flexibility to applicants needing to comply with mitigation requirements and can have several advantages over individual mitigation projects, some of which are listed below:

1. It may be more advantageous for maintaining the integrity of the aquatic ecosystem to consolidate compensatory mitigation into a single large parcel or contiguous parcels when ecologically appropriate;

2. Establishment of a mitigation bank can bring together financial resources, planning and scientific expertise not practicable to many project-specific compensatory mitigation proposals. This consolidation of resources can increase the potential for the establishment and long-term management of successful mitigation that maximizes opportunities for contributing to biodiversity and/or watershed function;

3. Use of mitigation banks may reduce permit processing times and provide more cost-effective compensatory mitigation opportunities for projects that qualify;

4. Compensatory mitigation is typically implemented and functioning in advance of project impacts, thereby reducing temporal losses of aquatic functions and uncertainty over whether the mitigation will be successful in offsetting project impacts;

5. Consolidation of compensatory mitigation within a mitigation bank increases the efficiency of limited agency resources in the review and compliance monitoring of mitigation projects, and thus improves the reliability of efforts to restore, create or enhance wetlands for mitigation purposes.

6. The existence of mitigation banks can contribute towards attainment of the goal for no overall net loss of the Nation's wetlands by providing opportunities to compensate for authorized impacts when mitigation might not otherwise be appropriate or practicable.

II. Policy Considerations

The following policy considerations provide general guidance for the establishment, use and operation of mitigation banks. It is the agencies' intent that this guidance be applied to mitigation bank proposals submitted for approval on or after the effective date of this guidance and to those in early stages of planning or development. It is not intended that this policy be retroactive for mitigation banks that have already received agency approval. While it is recognized that individual mitigation banking proposals may vary, it is the intent of this guidance that the fundamental precepts be applicable to future mitigation banks.

For the purposes of Section 10/104, and consistent with the CEQ regulations, the Guidelines, and the Memorandum of Agreement Between the Environmental Protection Agency (EPA) and the Department of the Army Concerning the Determination of Mitigation under the Clean Water Act Section 404(b)(1) Guidelines, mitigation means sequentially avoiding impacts, minimizing impacts, and compensating for remaining unavoidable impacts. Compensatory mitigation, under Section 10/404, is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts. A site where wetlands and/or other aquatic resources are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources is a mitigation bank.

A. Authorities

This guidance is established in accordance with the following statutes, regulations, and policies. It is intended to clarify provisions within these existing authorities and does to establish any new requirements.

1. Clean Water Act Section 404 (33 U.S.C. 1344).

2. Rivers and Harbors Act of 1899 Section 10 (33 U.S.C. 403 *et seq.*)

3. Environmental Protection Agency, Section 404(b)(1) Guidelines (40 CFR Part 230). Guidelines for Specification of Disposal Sites for Dredged or Fill Material.

4. Department of the Army, Section 404 Permit Regulations (33 CFR Parts 320–330). Policies for evaluating permit applications to discharge dredged or fill material.

5. Memorandum of Agreement between the Environmental Protection Agency and the Department of the Army Concerning the Determination of Mitigation under the Clean Water Act Section 404(b)(1) Guidelines (February 6, 1990).

6. Title XII Food Security Act of 1985 as amended by the Food, Agriculture, Conservation and Trade Act of 1990 (16 U.S.C. 3801 *et seq.*).

7. National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), including the Council on Environmental Quality's implementing regulations (40 CFR Parts 1500–1508).

8. Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*).

9. Fish and Wildlife Service Mitigation Policy (46 FR pages 7644–7663, 1981).

10. Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

11. National Marine Fisheries Service Habitat Conservation Policy (48 FR pages 53142–53147, 1983).

The policies set out in this document are not final agency action, but are intended solely as guidance. The guidance is not intended, nor can it be relied upon, to create any rights

enforceable by any party in litigation with the United States. This guidance does not establish or affect legal rights or obligations, establish a binding norm on any party and it is not finally determinative of the issues addressed. Any regulatory decisions made by the agencies in any particular matter addressed by this guidance will be made by applying the governing law and regulations to the relevant facts.

B. Planning Considerations

1. Goal Setting

The overall goal of a mitigation bank is to provide economically efficient and flexible mitigation opportunities, while fully compensating for wetland and other aquatic resource losses in a manner that contributes to the long-term ecological functioning of the watershed within which the bank is to be located. The goal will include the need to replace essential aquatic functions which are anticipated to be lost through authorized activities within the bank's service area. In some cases, banks may also be used to address other resource objectives that have been identified in a watershed management plan or other resource assessment. It is desirable to set the particular objectives for a mitigation bank (i.e., the type and character of wetlands and/or aquatic resources to be established) in advance of site selection. The goal and objectives should be driven by the anticipated mitigation need; the site selected should support achieving the goal and objectives.

2. Site Selection

The agencies will give careful consideration to the ecological suitability of a site for achieving the goal and objectives of a bank, i.e., that it posses the physical, chemical and biological characteristics to support establishment of the desired aquatic resources and functions. Size and location of the site relative to other ecological features, hydrologic sources (including the availability of water rights), and compatibility with adjacent land uses and watershed management plans are important factors for consideration. It also is important that ecologically significant aquatic or upland resources (e.g., shallow sub-tidal habitat, mature forests), cultural sites, or habitat for Federally or State-listed threatened and endangered species are not compromised in the process of establishing a bank. Other significant factors for consideration include, but are not limited to, development trends (i.e., anticipated land use changes), habitat status and trends, local or regional goals for the restoration or protection of particular habitat types or functions (e.g., re-establishment of habitat corridors or habitat for species of concern), water quality and floodplain management goals, and the relative potential for chemical contamination of the wetlands and/or other aquatic resources.

Banks may be sited on public or private lands. Cooperative arrangements between public and private entities to use public lands for mitigation banks may be acceptable. In some circumstances, it may be appropriate to site banks on Federal, state, tribal or locally-owned resource management areas (e.g., wildlife management areas, national or state forests, public parks, recreation areas). The siting of banks on such lands may be acceptable if the internal policies of the public agency allow use of its land for such purposes, and the public agency grants approval. Mitigation credits generated by banks of this nature should be based solely on those values in the bank that are supplemental to the public program(s) already planned or in place, that is, baseline values represented by existing or already planned public programs, including preservation value, should not be counted toward bank credits.

Similarly, Federally-funded wetland conservation projects undertaken via separate authority and for other purposes, such as the Wetlands Reserve Program, Farmer's Home Administration fee title transfers or conservation easements, and Partners for Wildlife Program, cannot be used for the purpose of generating credits within a mitigation bank. However, mitigation credit may be given for activities undertaken in conjunction with, but supplemental to, such programs in order to maximize the overall ecological benefit of the conservation project.

3. Technical Feasibility

Mitigation banks should be planned and designed to be self-sustaining over time to the extent possible. The techniques for establishing wetlands and/or other aquatic resources must be carefully selected, since this science is constantly evolving. The restoration of historic or substantially-degraded wetlands and/or other aquatic resources (e.g., prior-converted cropland, farmed wetlands) utilizing proven techniques increases the likelihood of success and typically does not result in the loss of other valuable resources. Thus, restoration should be the first option considered when siting a bank. Because of the difficulty in establishing the correct hydrologic conditions associated with many creation projects and the tradeoff in wetland functions involved with certain enhancement activities, these methods should only be considered where there are adequate assurances to ensure success and that the project will result in an overall environmental benefit.

In general, banks which involve complex hydraulic engineering features and/or questionable water sources (e.g., pumped) are most costly to develop, operate and maintain, and have a higher risk of failure than banks designed to function with little or no human intervention. The former situations should only be considered where there are adequate assurances to ensure success. This guidance recognizes that in some circumstances wetlands must be actively managed to ensure their viability and sustainability. Furthermore, long-term maintenance requirements may be necessary and appropriate in some cases (e.g., to maintain fire-dependent plant communities in the absence of natural fire; to control invasive exotic plant species).

Proposed mitigation techniques should be well-understood and reliable. When uncertainties surrounding the technical feasibility of a proposed mitigation technique exist, appropriate arrangements (e.g., financial assurances, contingency plans, additional monitoring requirements) should be in place to increase the likelihood of success. Such arrangements may be phased-out or reduced once the attainment of prescribed performance standards is demonstrated.

4. Role of Preservation

Credit may be given when existing wetlands and/or other aquatic resources are preserved in conjunction with restoration, creation or enhancement activities, and when it is demonstrated that the preservation will augment the functions of the restored, created or enhanced aquatic resource. Such augmentation may be reflected in the total number of credits available from the bank.

In addition, the preservation of existing wetlands and/or other aquatic resources in perpetuity may be authorized as the sole basis for generating credits in mitigation banks only in exceptional circumstances, consistent with existing regulations, policies and guidance. Under such circumstances, preservation may be accomplished through the implementation of appropriate legal mechanisms (e.g., transfer of deed, deed restrictions, conservation easement) to protect wetlands and/or other aquatic resources, accompanied by

implementation of appropriate changes in land use or other physical changes as necessary (e.g., installation of restrictive fencing).

Determining whether preservation is appropriate as the sole basis for generating credits at a mitigation bank requires careful judgment regarding a number of factors. Consideration must be given to whether wetlands and/or other aquatic resources proposed for preservation (1) perform physical or biological functions, the preservation of which is important to the region in which the aquatic resources are located, and (2) are under demonstrable threat of loss or substantial degradation due to human activities that might not otherwise be expected to be restricted. The existence of a demonstrable threat will be based on clear evidence of destructive land use changes which are consistent with local and regional land use trends and are not the consequence of actions under the control of the bank sponsor. Wetlands and other aquatic resources restored under the Conservation Reserve Program or similar programs requiring only temporary conservation easements may be eligible for banking credit upon termination of the original easement if the wetlands are provided permanent protection and it would otherwise be expected that the resources would be converted upon termination of the easement. The number of mitigation credits available from a bank that is based solely on preservation should be based on the functions that would otherwise be lost or degraded if the aquatic resources were not preserved, and the timing of such loss or degradation. As such, compensation for aquatic resource impacts will typically require a greater number of acres from a preservation bank than from a bank which is based on restoration, creation or enhancement.

5. Inclusion of Upland Areas

Credit may be given for the inclusion of upland areas occurring within a bank only to the degree that such features increase the overall ecological functioning of the bank. If such features are included as part of a bank, it is important that they receive the same protected status as the rest of the bank and be subject to the same operational procedures and requirements. The presence of upland areas may increase the per-unit value of the aquatic habitat in the bank. Alternatively, limited credit may be given to upland areas protected within the bank to reflect the functions inherently provided by such areas (e.g., nutrient and sediment filtration of stormwater runoff, wildlife habitat diversity) which directly enhance or maintain the integrity of the aquatic ecosystem and that might otherwise be subject to threat of loss or degradation. An appropriate functional assessment methodology should be used to determine the manner and extent to which such features augment the functions of restored, created or enhanced wetlands and/or other aquatic resources.

6. Mitigation Banking and Watershed Planning

Mitigation banks should be planned and developed to address the specific resource needs of a particular watershed. Furthermore, decisions regarding the location, type of wetlands and/or other aquatic resources to be established, and proposed uses of a mitigation bank are most appropriately made within the context of a comprehensive watershed plan. Such watershed planning efforts often identify categories of activities having minimal adverse effects on the aquatic ecosystem and that, therefore, could be authorized under a general permit. In order to reduce the potential cumulative effects of such activities, it may be appropriate to offset these types of impacts through the use of a mitigation bank established in conjunction with a watershed plan.

C. Establishment of Mitigation Banks

1. Prospectus

Prospective bank sponsors should first submit a prospectus to the Army Corps of Engineers (Corps) or Natural Resources Conservation Service (NRCS)[1] to initiate the planning and review process by the appropriate agencies. Prior to submitting a prospectus, bank sponsors are encouraged to discuss their proposal with the appropriate agencies (e.g., pre-application coordination).

It is the intent of the agencies to provide practical comments to the bank sponsors regarding the general need for and technical feasibility of proposed banks. Therefore, bank sponsors are encouraged to include in the prospectus sufficient information concerning the objectives for the bank and how it will be established and operated to allow the agencies to provide such feedback. Formal agency involvement and review is initiated with submittal of a prospectus.

[1] The Corps will typically serve as the lead agency for the establishment of mitigation banks. Bank sponsors proposing establishment of mitigation banks solely for the purpose of complying with the "Swampbuster" provisions of FSA should submit their prospectus to the NRCS.

2. Mitigation Banking Instruments

Information provided in the prospectus will serve as the basis for establishing the mitigation banking instrument. All mitigation banks need to have a banking instrument as documentation of agency concurrence on the objectives and administration of the bank. The banking instrument should describe in detail the physical and legal characteristics of the bank, and how the bank will be established and operated. For regional banking programs sponsored by a single entity (e.g., a state transportation agency), it may be appropriate to establish an "umbrella" instrument for the establishment and operation of multiple bank sites. In such circumstances, the need for supplemental site-specific information (e.g., individual site plans) should be addressed in the banking instrument. The banking instrument will be signed by the bank sponsor and the concurring regulatory and resource agencies represented on the Mitigation Bank Review Team (section II.C.2). The following information should be addressed, as appropriate, within the banking instrument:

a. Bank goals and objectives;
b. Ownership of bank lands;
c. Bank size and classes of wetlands and/or other aquatic resources proposed for inclusion in the bank, including a site plan and specifications;
d. Description of baseline conditions at the bank site;
e. Geographic service area;
f. Wetland classes or other aquatic resource impacts suitable for compensation;
g. Methods for determining credits and debits;
h. accounting procedures;
i. Performance standards for determining credit availability and bank success;
j. Reporting protocols and monitoring plan;
k. Contingency and remedial actions and responsibilities;
l. Financial assurances;
m. Compensation ratios;
n. Provisions for long-term management and maintenance.

The terms and conditions of the banking instrument may be amended, in accordance with the procedures used to establish the instrument and subject to agreement by the signatories.

In cases where initial establishment of the mitigation bank involves a discharge into waters of the United States requiring Section 10/404 authorization, the banking instrument will be made part of a Department of the Army permit for that discharge. Submittal of an

individual permit application should be accompanied by a sufficiently-detailed prospectus to allow for concurrent processing of each. Preparation of a banking instrument, however, should not alter the normal permit evaluation process timeframes. A bank sponsor may proceed with activities for the construction of a bank subsequent to receiving the Department of the Army authorization. It should be noted, however, that a bank sponsor who proceeds in the absence of a banking instrument does so at his/her own risk.

In cases where the mitigation bank is established pursuant to the FSA, the banking instrument will be included in the plan developed or approved by NRCS and the Fish and Wildlife Service (FWS).

3. Agency Roles and Coordination

Collectively, the signatory agencies to the banking instrument will comprise the Mitigation Bank Review Team (MBRT). Representatives from the Corps, EPA, FWS, National Marine Fisheries Service (NMFS) and NRCS, as appropriate given the projected use for the bank, should typically comprise the MBRT. In addition, it is appropriate for representatives from state, tribal and local regulatory and resource agencies to participate where an agency has authorities and/or mandates directly affecting or affected by the establishment, use or operation of a bank. No agency is required to sign a banking instrument; however, in signing a banking instrument, an agency agrees to the terms of that instrument.

The Corps will serve as Chair of the MBRT, except in cases where the bank is proposed solely for the purpose of complying with the FSA, in which case NRCS will be the MBRT Chair. In addition, where a bank is proposed to satisfy the requirements of another Federal, state, tribal or local program, it may be appropriate for the administering agency to serve as co-Chair of the MBRT.

The primary role of the MBRT is to facilitate the establishment of mitigation banks through the development of mitigation banking instruments. Because of the different authorities and responsibilities of each agency represented on the MBRT, there is a benefit in achieving agreement on the banking instrument. For this reason, the MBRT will strive to obtain consensus on its actions. The Chair of the MBRT will have the responsibility for making final decisions regarding the terms and conditions of the banking instrument where consensus cannot otherwise be reached within a reasonable timeframe (e.g., 90 days from the date of submittal of a complete prospectus). The MBRT will review and seek consensus on the banking instrument and final plans for the restoration, creation, enhancement, and/or preservation of wetlands and other aquatic resources.

Consistent with its authorities under Section 10/404, the Corps is responsible for authorizing use of a particular mitigation bank on a project-specific basis and determining the number and availability of credits required to compensate for proposed impacts in accordance with the terms of the banking instrument. Decisions rendered by the Corps must fully consider review agency comments submitted as part of the permit evaluation process. Similarly, the NRCS, in consultation with the FWS, will make the final decision pertaining to the withdrawal of credits from banks as appropriate mitigation pursuant to FSA.

4. Role of the Bank Sponsor

The bank sponsor is responsible for the preparation of the banking instrument in consultation with the MBRT. The bank sponsor should, therefore, have sufficient opportunity to discuss the content of the banking instrument with the MBRT. The bank sponsor is also responsible for the overall operation and management of the bank in accordance with the terms of the banking instrument, including the preparation and distribution of monitoring reports and accounting statements/ledger, as necessary.

5. Public Review and Comment

The public should be notified of and have an opportunity to comment on all bank proposals. For banks which require authorization under an individual Section 10/404 permit or a state, tribal or local program that involves a similar public notice and comment process, this condition will typically be satisfied through such standard procedures. For other proposals, the Corps or NRCS, upon receipt of a complete banking prospectus, should provide notification of the availability of the prospectus for a minimum 21-day public comment period. Notification procedures will be similar to those used by the Corps in the standard permit review process. Copies of all public comments received will be distributed to the other members of the MBRT and the bank sponsor for full consideration in the development of the final banking instrument.

6. Dispute Resolution Procedure

The MBRT will work to reach consensus on its actions in accordance with this guidance. It is anticipated that all issues will be resolved by the MBRT in this manner.

a. Development of the Banking Instrument

During the development of the banking instrument, if any agency representative considers that a particular decision raises concern regarding the application of existing policy or procedures, an agency may request, through written notification, that the issue be reviewed by the Corps District Engineer, or NRCS State Conservationist, as appropriate. Said notification will describe the issue in sufficient detail and provide recommendations for resolution. Within 20 days, the District Engineer or State Conservationist (as appropriate) will consult with the notifying agency(ies) and will resolve the issue. The resolution will be forwarded to the other MBRT member agencies. The bank sponsor may also request the District Engineer or State Conservationist review actions taken to develop the banking instrument if the sponsor believes that inadequate progress has been made on the instrument by the MBRT.

b. Application of the Banking Instrument

As previously stated, the Corps and NRCS are responsible for making final decisions on a project-specific basis regarding the use of a mitigation bank for purposes of Section 10/404 and FSA, respectively. In the event an agency on the MBRT is concerned that a proposed use may be inconsistent with the terms of the banking instrument, that agency may raise the issue to the attention of the Corps or NRCS through the permit evaluaiton process. In order to facilitate timely and effective consideration of agency comments, the Corps or NRCS, as appropriate, will advise the MBRT agencies of a proposed use of a bank. The Corps will fully consider comments provided by the review agencies regarding mitigation as part of the permit evaluation process. The NCRS will consult with FWA is making its decisions pertaining to mitigation.

If, in the view of an agency on the MBRT, an issued permit or series of permits reflects a pattern of concern regarding the application of the terms of the banking instrument, that agency may initiate review of the concern by the full MBRT through written notification to the MBRT Chair. The MBRT Chair will convene a meeting of the MBRT, or initiate another appropriate forum for communication, typically within 20 days of receipt of notification, to resolve concerns. Any such effort to address concerns regarding the application of a banking instrument will not delay any decision pending before the authorizing agency (e.g., Corps or NRCS).

D. Criteria for Use of a Mitigation Bank

1. Project Applicability

All activities regulated under Section 10/404 may be eligible to use a mitigation bank as compensation for unavoidable impacts to wetlands and/or other aquatic resources. Mitigation banks established for FSA purposes may be debited only in accordance with the mitigation and replacement provisions of 7 CFR Part 12.

Credits from mitigation banks may also be used to compensate for environmental impacts authorized under other programs (e.g., state or local wetland regulatory programs, NPDES program, Corps civil works projects, Superfund removal and remedial actions). In no case may the same credits be used to compensate for more than one activity; however, the same credits may be used to compensate for an activity which requires authorization udner more than one program.

2. Relationship to Mitigation Requirements

Under the existing requirements of Section 10/404, all appropriate and practicable steps must be undertaken by the applicant to first avoid and then minimize adverse impacts to aquatic resources, prior to authorization to use a particular mitigation bank. Remaining unavoidable impacts must be compensated to the extent appropriate and practicable. For both the Section 10/404 and "Swampbuster" programs, requirements for compensatory mitigation may be satisfied through the use of mitigation banks when either on-site compensation is not practicable or use of the mitigation bank is environmentally preferable to on-site compensation.

It is important to emphasize that applicants should not expect that establishment of, or purchasing credits from, a mitigation bank will necessarily lead to a determination of compliance with applicable mitigation requirements (i.e., Section 404(b)(1) Guidelines or FSA Manual), or as excepting projects from any applicable requirements.

3. Geographic Limits of Applicability

The service area of a mitigation bank is the area (e.g., watershed, county) wherein a bank can reasonably be expected to provide appropriate compensation for impacts to wetlands and/or other aquatic resources. This area should be designated in the banking instrument. Designation of the service area should be based on consideration of hydrologic and biotic criteria, and be stipulated in the banking instrument. Use of a mitigation bank to compensate for impacts beyond the designated service area may be authorized, on a case-by-case basis, where it is determined to be practicable and environmentally desirable.

The geographic extent of a service area should, to the extent environmentally desirable, be guided by the cataloging unit of the "Hydrologic Unit map of the United States" (USGS, 1980) and the ecoregion of the "Ecoregions of the United States" (James M. Omernik, EPA, 1986) or section of the "Descriptions of the Ecoregions of the United States" (Robert G. Bailey, USDA, 1980). It may be appropriate to use other classification systems developed at the state or regional level for the purpose of specifying bank service areas, when such systems compare favorably in their objectives and level of detail. In the interest of the integrating banks with other resource management objectives, bank service areas may encompass larger watershed areas if the designation of such areas is supported by local or regional management plans (e.g., Special Area Management Plans, Advance Identification), State Wetland Conservation Plans or other Federally sponsored or recognized resource management plans. Furthermore, designation of a more inclusive service area may be appropriate for mitigation banks whose primary purpose is to compensate for linear projects that typically involve numerous small impacts in several different watersheds.

4. Use of a Mitigation Bank vs. On-Site Mitigation

The agencies' preference for on-site mitigation, indicated in the 1990 Memorandum of Agreement on mitigation between the EPA and the Department of the Army, should not preclude the use of a mitigation bank when there is no practicable opportunity for on-site compensation, or when use of a bank is environmentally preferable to on-site compensation. On-site mitigation may be preferable where there is a practicable opportunity to compensate for important local functions including local flood control functions, habitat for a species or population with a very limited geographic range or narrow environmental requirements, or where local water quality concerns dominate.

In choosing between on-site mitigation and use of a mitigation bank, careful consideration should be given to the likelihood for successfully establishing the desired habitat type, the compatibility of the mitigation project with adjacent land uses, and the practicability of long-term monitoring and maintenance to determine whether the effort will be ecologically sustainable, as well as the relative cost of mitigation alternatives. In general, use of a mitigation bank to compensate for minor aquatic resource impacts (e.g., numerous, small impacts associated with linear projects; impacts authorized under nationwide permits) is preferable to on-site mitigation. With respect to larger aquatic resource impacts, use of a bank may be appropriate if it is capable of replacing essential physical and/or biological functions of the aquatic resources which are expected to be lost or degraded. Finally, there may be circumstances warranting a combination of on-site and off-site mitigation to compensate for losses.

5. In-kind vs. Out-of-kind Mitigation Determinations

In the interest of achieving functional replacement, in-kind compensation of aquatic resource impacts should generally be required. Out-of-kind compensation may be acceptable if it is determined to be practicable and environmentally preferable to in-kind compensation (e.g., of greater ecological value to a particular region). However, non-tidal wetlands should typically not be used to compensate for the loss or degradation of tidal wetlands. Decisions regarding out-of-kind mitigation are typically made on a case-by-case basis during the permit evaluation process. The banking instrument may identify circumstances in which it is environmentally desirable to allow out-of-kind compensation within the context of a particular mitigation bank (e.g., for banks restoring a complex of associated wetland types). Mitigation banks developed as part of an area-wide management plan to address a specific resource objective (e.g., restoration of a particularly vulnerable or valuable wetland habitat type) may be such an example.

6. Timing of Credit Withdrawal

The number of credits available for withdrawal (i.e., debiting) should generally be commensurate with the level of aquatic functions attained at a bank at the time of debiting. The level of function may be determined through the application of performance standards tailored to the specific restoration, creation or enhancement activity at the bank site or through the use of an appropriate functional assessment methodology.

The success of a mitigation bank with regard to its capacity to establish a healthy and fully functional aquatic system relates directly to both the ecological and financial stability of the bank. Since financial considerations are particularly critical in early stages of bank development, it is generally appropriate, in cases where there is adequate financial assurance and where the likelihood of the success of the bank is high, to allow limited debiting of a percentage of the total credits projected for the bank at maturity. Such determinations should take into consideration the initial capital costs needed to establish the bank, and the likelihood of its success. However, it is the intent of this policy to ensure that those actions necessary for the long-term viability of a mitigation bank be accomplished prior to any debiting of the bank. In this regard, the following minimum requirements should be satisfied prior to debiting: (1) banking instrument and mitigation plans have been approved; (2) bank site has been secured; and (3) appropriate financial assurances have been established. In addition, initial physical and biological improvements should be completed no later than the first full growing season following initial debiting of a bank. The temporal loss of functions associated with the debiting of projected credits may justify the need for requiring higher compensation ratios in such cases. For mitigation banks which propose multiple-phased construction, similar conditions should be established for each phase.

Credits attributed to the preservation of existing aquatic resources may become available for debiting immediately upon implementation of appropriate legal protection accompanied by appropriate changes in land use or other physical changes, as necessary.

7. Crediting/Debiting/Accounting Procedures

Credits and debits are the terms used to designate the units of trade (i.e., currency) in mitigation banking. Credits represent the accrual or attainment of aquatic functions at a bank; debits represent the loss of aquatic functions at an impact or project site. Credits are debited from a bank when they are used to offset aquatic resource impacts (e.g. for the purpose of satisfying Section 10/404 permit or FSA requirements).

An appropriate functional assessment methodology (e.g., Habitat Evaluation Procedures, hydrogeomorphic approach to wetlands functional assessment, other regional assessment methodology) acceptable to all signatories should be used to assess wetland and/or other aquatic resource restoration, creation and enhancement activities within a mitigation bank, and to quantify the amount of available credits. The range of functions to be assessed will depend upon the assessment methodology identified in the banking instrument. The same methodology should be used to assess both credits and debits. If an appropriate functional assessment methodology is impractical to employ, acreage may be used as a surrogate for measuring function. Regardless of the method employed, the number of credits should reflect the difference between site conditions under the with- and without-bank scenarios.

The bank sponsor should be responsible for assessing the development of the bank and submitting appropriate documentation of such assessments to the authorizing agency(ies), who will distribute the documents to the other members of the MBRT for review. Members of the MBRT are encouraged to conduct regular (e.g., annual) on-site inspections, as appropriate, to monitor bank performance. Alternatively, functional assessments may be conducted by a team representing involved resources and regularly agencies and other appropriate parties. The number of available credits in a mitigation bank may need to be adjusted to reflect actual conditions.

The banking instrument should require that bank sponsors establish and maintain an accounting system (i.e., ledger) which documents the activity of all mitigation bank accounts. Each time an approved debit/credit transaction occurs at a given bank, the bank sponsor should submit a statement to the authorizing agency(ies). The bank sponsor should also generate an annual ledger report for all mitigation bank accounts to be submitted to the MBRT Chair for distribution to each member of the MBRT.

Credits may be sold to third parties. The cost of mitigation credits to a third party is determined by the bank sponsor.

Party Responsible for Bank Success

The bank sponsor is responsible for assuring the success of the debited restoration, creation, enhancement and preservation activities at the mitigation bank, and it is therefore extremely important that an enforceable mechanism be adopted establishing the responsibility of the bank sponsor to develop and operate the bank properly. Where authorization under Section 10/404 and/or FSA is necessary to establish the bank, the Department of the Army permit or NRCS plan should be conditioned to ensure that provisions of the banking instrument are enforceable by the appropriate agency(ies). In circumstances where establishment of a bank does not require such authorization, the details of the bank sponsor's responsibilities should be delineated by the relevant authorizing agency (e.g., the Corps in the case of Section 10/404 permits) in any permit in which the permittee's mitigation obligations are met through use of the bank. In addition, the bank sponsor should sign such permits for the limited purpose of meeting those mitigation responsibilities, thus confirming that those responsibilities are enforceable against the bank sponsor if necessary.

E. Long-Term Management, Monitoring and Remediation

1. Bank Operational Life

The operational life of a bank refers to the period during which the terms and conditions of the banking instrument are in effect. With the exception of arrangements for the long-term management and protection in perpetuity of the wetlands and/or other aquatic resources, the operational life of a mitigation bank terminates at the point when (1) Compensatory mitigation credits have been exhausted or banking activity is voluntarily terminated with written notice by the bank sponsor provided to the Corps or NRCS and other members of the MBRT, and (2) it has been determined that the debited bank is functionally mature and/or self-sustaining to the degree specified in the banking instrument.

2. Long-term Management and Protection

The wetlands and/or other aquatic resources in a mitigation bank should be protected in perpetuity with appropriate real estate arrangements (e.g., conservation easements, transfer of title to Federal or State resource agency or non-profit conservation organization). Such arrangements should effectively restrict harmful activities (i.e., incompatible uses [2]) that might otherwise jeopardize the purpose of the bank. In exceptional circumstances, real estate arrangements may be approved which dictate finite protection for a bank (e.g., for coastal protection projects which prolong the ecological viability of the aquatic system). However, in no case should finite protection extend for a lesser time than the duration of project impacts for which the bank is being used to provide compensation.

The bank sponsor is responsible for securing adequate funds for the operation and maintenance of the bank during its operational life, as well as for the long-term management of the wetlands and/or other aquatic resources, as necessary. The banking instrument should identify the entity responsible for the ownership and long-term management of the wetlands and/or other aquatic resources. Where needed, the acquisition and protection of water rights should be secured by the bank sponsor and documented in the banking instrument.

3. Monitoring Requirements

The bank sponsor is responsible for monitoring the mitigation bank in accordance with monitoring provisions identified in the banking instrument to determine the level of success and identify problems requiring remedial action. Monitoring provisions should be set forth in the banking instrument and based on scientifically sound performance standards prescribed for the bank. monitoring should be conducted at time intervals appropriate for the particular project type and until such time that the authorizing agency(ies), in consultation with the MBRT, are confident that success is being achieved (i.e., performance standards are attained). The period for monitoring will typically be five years; however, it may be necessary to extend this period for projects requiring more time to reach a stable condition (e.g., forested wetlands) or where remedial activities were undertaken. Annual monitoring reports should be submitted to the authorizing agency(ies), who is responsible for distribution to the other members of the MBRT, in accordance with the terms specified in the banking instrument.

4. Remedial Action

The banking instrument should stipulate the general procedures for identifying and implementing remedial measures at a bank, or any portion thereof. Remedial measures should be based on information contained in the monitoring reports (i.e., the attainment of prescribed performance standards), as well as agency site inspections. The need for remediation will be determined by the authorizing agency(ies) in consultation with the MBRT and bank sponsor.

5. Financial Assurances

The bank sponsor is responsible for securing sufficient funds or other financial assurances to cover contingency actions in the event of bank default or failure. Accordingly, banks posing a greater risk of failure and where credits have been debited, should have comparatively higher financial sureties in place, than those where the likelihood of success is more certain. In addition, the bank sponsor is responsible for securing adequate funding to monitor and maintain the bank throughout its operational life, as well as beyond the operational life if not self-sustaining. Total funding requirements should reflect realistic cost estimates for monitoring, long-term maintenance, contingency and remedial actions.

Financial assurances may be in the form of performance bonds, irrevocable trusts, escrow accounts, casualty insurance, letters of credit, legislatively-enacted dedicated funds for government operate banks or other approved instruments. Such assurances may be phased-out or reduced, once it has been demonstrated that the bank is functionally mature and/or self-sustaining (in accordance with performance standards).

F. Other Considerations

1. In-lieu-fee Mitigation Arrangements

For purposes of this guidance, in-lieu-fee, fee mitigation, or other similar arrangements, wherein funds are paid to a natural resource management entity for implementation of either specific or general wetland or other aquatic resource development projects, are not considered to meet the definition of mitigation banking because they do not typically provide compensatory mitigation in advance of project impacts. Moreover, such arrangements do not typically provide a clear timetable for the initiation of mitigation efforts. The Corps, in consultation with the other agencies, may find there are circumstances where such arrangements are appropriate so long as they meet the requirements that would otherwise apply to an offsite, prospective mitigation effort and provides adequate assurances of success and timely implementation. In such cases, a formal agreement between the sponsor and the agencies, similar to a banking instrument, is necessary to define the conditions under which its use is considered appropriate.

2. Special Considerations for "Swampbuster"

Current FSA legislation limits the extent to which mitigation banking can be used for FSA purposes. Therefore, if a mitigation bank is to be used for FSA purposes, it must meet the requirements of FSA.

III. Definitions

For the purposes of this guidance document the following terms are defined:

A. *Authorizing agency.* Any Federal, state, tribal or local agency that has authorized a particular use of a mitigation bank as compensation for an authorized activity; the authorizing agency will typically have the enforcement authority to ensure that the terms and conditions of the banking instrument are satisfied.

B. *Bank sponsor.* Any public or private entity responsible for establishing and, in most circumstances, operating a mitigation bank.

C. *Compensatory mitigation.* For purposes of Section 10/404, compensatory mitigation is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

D. *Consensus.* The term consensus, as defined herein, is a process by which a group synthesizes its concerns and ideas to form a common collaborative agreement acceptable to all members. While the primary goal of consensus is to reach agreement on an issue by all parties, unanimity may not always be possible.

E. *Creation.* The establishment of a wetland or other aquatic resource where one did not formerly exist.

F. *Credit.* A unit of measure representing the accrual or attainment of aquatic functions at a mitigation bank; the measure of function is typically indexed to the number of wetland acres restored, created, enhanced or preserved.

G. *Debit.* A unit of measure representing the loss of aquatic functions at an impact or project site.

H. *Enhancement.* Activities conducted in existing wetlands or other aquatic resources which increase one or more aquatic functions.

I. *Mitigation.* For purposes of Section 10/404 and consistent with the Council on Environmental Quality regulations, the Section 404(b)(1) Guidelines and the Memorandum of Agreement Between

[2] For example, certain silvicultural practices (e.g. clear cutting and/or harvests on short-term rotations) may be incompatible with the objectives of a mitigation bank. In contrast, silvicultural practices such as long-term rotations, selective cutting, maintenance of vegetation diversity, and undisturbed buffers are more likely to be considered a compatible use.

the Environmental Protection Agency and the Department of the Army Concerning the Determination of Mitigation under the Clean Water Act Section 404(b)(1) Guidelines, mitigation means sequentially avoiding impacts, minimizing impacts, and compensating for remaining unavoidable impacts.

J. *Mitigation bank.* A mitigation bank is a site where wetlands and/or other aquatic resources are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources. For purposes of Section 10/404, use of a mitigation bank may only be authorized when impacts are unavoidable.

K. *Mitigation Bank Review Team (MBRT).* An interagency group of Federal, state, tribal and/or local regulatory and resource agency representatives which are signatory to a banking instrument and oversee the establishment, use and operation of a mitigation bank.

L. *Practicable.* Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

M. *Preservation.* The protection of ecologically important wetlands or other aquatic resources in perpetuity through the implementation of appropriate legal and physical mechanisms. Preservation may include protection of upland areas adjacent to wetlands as necessary to ensure protection and/or enhancement of the aquatic ecosystem.

N. *Restoration.* Re-establishment of wetland and/or other aquatic resource characteristics and function(s) at a site where they have ceased to exist, or exist in a substantially degraded state.

O. *Service area.* The service area of a mitigation bank is the designated area (e.g., watershed, county) wherein a bank can reasonably be expected to provide appropriate compensation for impacts to wetlands and/or other aquatic resources.

John H. Zirschky,

Acting Assistant Secretary (Civil Works), Department of the Army.

Robert Perciasepe,

Assistant Administrator for Water, Environmental Protection Agency.

Thomas R. Hebert,

Acting Undersecretary for Natural Resources and Environment, Department of Agriculture.

Robert P. Davison,

Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior.

Douglas K. Hall,

Assistant Secretary for Oceans and Atmosphere, Department of Commerce.

[FR Doc. 95–28907 Filed 11–27–95; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford Site.

DATES:

Thursday, December 7, 1995: 9:00 a.m.–4:30 p.m.

Friday, December 8, 1995: 8:30 a.m.–3:00 p.m.

ADDRESSES: Columbia River Red Lion, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Jon Yerxa, Public Participation Coordinator, Department of Energy Richland Operations Office, P.O. Box 550, Richland, WA, 99352.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

December Meeting Topics

The Hanford Advisory Board will receive information on and discuss issues related to: Update on Congressional Budget Action, the Waste Management Programmatic Environmental Impact Statement, Status of Tri-Party Agreement Milestone, M–33, and the Strategic Planning Process. The Committee will also receive updates from various Subcommittees, including reports on: the Plutonium Disposition Final Report, the Quarterly Progress Report from DOE, and EPA's Budget and Reorganization in Region 10.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jon Yerxa's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Jon Yerxa, Department of Energy Richland Operations Office, P.O. Box 550, Richland, WA 99352, or by calling him at (509)–376–9628.

Issued at Washington, DC on November 21, 1995.

Gail Cephas,

Acting Advisory Committee Management Officer.

[FR Doc. 95–29023 Filed 11–27–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting:

Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation.

DATES: Wednesday, December 20, 1995: 6:00 pm–9:00 pm.

ADDRESSES: Oak Ridge Mall Community Room, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Sandy Perkins, Site-Specific Advisory Board Coordinator, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, (423) 576–1590.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

December Meeting Topics

The Board members will continue to address issues required for the Board to function routinely. Topics to be discussed are largely organizational. The Board members will have an opportunity to discuss issues related to the Environmental Restoration program to help guide the waste management and cleanup program on the Oak Ridge Reservation.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Sandy Perkins at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of meeting due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 8:30 am and 5:00 pm on Monday, Wednesday, and Friday; 8:30 am and 7:00 pm on Tuesday and Thursday; and 9:00 am and 1:00 pm on Saturday, or by writing to Sandy Perkins, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, or by calling her at (423) 576–1590.

Issued at Washington, DC on November 21, 1995.

Gail Cephas,

Acting Advisory Committee Management Officer.

[FR Doc. 95–29022 Filed 11–27–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site Membership Replacement Subcommittee.

DATES AND TIMES: Thursday and Friday, December 7–8, 1995: 8:30 a.m. to 6:00 p.m.

ADDRESSES: Holiday Inn—Shipwatch Room, One Center Street, Folly Beach, S.C.

FOR FURTHER INFORMATION CONTACT: Tom Heenan, Manager, Environmental Restoration and Solid Waste, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802 (803) 725–8074.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

Thursday, December 7, 1995

8:30 a.m.
Review applications of potential candidates for Board membership and select three qualified applicants per Board vacancy

6:00 p.m.
Adjourn

Friday, December 8, 1995

8:30 a.m.
Review applications of potential candidates for Board membership and select three qualified applicants per Board vacancy

6:00 p.m.
Adjourn

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Heenan's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of meeting due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday—Friday except Federal holidays. Minutes will also be available by writing to Tom Heenan, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, or by calling him at (803) 725–8074.

Issued at Washington, DC on November 21, 1995.

Gail Cephas,

Acting Advisory Committee Management Officer

[FR Doc. 95–29021 Filed 11–27–95; 8:45 am]

BILLING CODE 6450–01–P

Energy Information Administration

Inventory of Current DOE Reporting and Recordkeeping Requirements

AGENCY: Energy Information Administration, DOE.

ACTION: Department of Energy's inventory of energy information collections, including reporting and recordkeeping requirements.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) herein publishes an inventory of energy information

collections (including reporting and recordkeeping requirements) which had Office of Management and Budget (OMB) approval on October 1, 1995, the first day of Fiscal Year (FY) 1996. The inventory is published for the use of respondents and other interested parties. DOE's management and procurement collections are the responsibility of DOE's Assistant Secretary for Human Resources and Administration and are not included in these notices.

The listing that is attached, hereto, includes DOE energy information collections that had OMB approval as of October 1, 1995. For each information collection utilizing a structured form, Part I lists the current DOE control or form number, the title of the requirement, the OMB control number, and the OMB approval expiration date.

Part II lists those information collections which do not utilize structured forms and the corresponding citations from the Code of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: Herbert Miller, Energy Information Administration (EI–73), 1000 Independence Avenue, S. W., Washington, D. C. 20585, (202) 426–1103 (e-mail = hmiller@eia.doe.gov and FAX 202–426–1081). Information on the availability of single, blank copies of those information collections utilizing structured forms can be obtained by contacting the National Energy Information Center (EI–231), 1000 Independence Avenue, S. W., Washington, D. C. 20585, (202) 586–8800.

SUPPLEMENTARY INFORMATION: As DOE's energy information collections are submitted for review and approval to OMB during FY 1996 (October 1, 1995 through September 30, 1996), **Federal Register** notices will be published informing the public. Such notices not only provide an opportunity for the public to review and comment on the collections, but also notify the public of proposed changes to the inventory. Questions concerning this notice should be directed to Mr. Miller at the address above.

Statutory Authority:

Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

Issued in Washington, D. C., Nov. 17, 1995.

John Gross,

Acting Director, Office of Statistical Standards, Energy Information Administration.

OCTOBER 1, 1995 INVENTORY: PART I—DOE ACTIVE INFORMATION COLLECTIONS

DOE Number and Title	OMB Control No.	Expiration date
Civilian Radioactive Waste Management:		
NWPA–830R–A–G—Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Waste	19010260	05/31/97
RW–859—Nuclear Fuel Data	19010287	12/31/97
Department of Energy:		
DOE–887—DOE Customer Surveys	19010302	05/31/97
Energy Information Administration:		
EIA–1—Weekly Coal Monitoring Report—General Industries and Blast Furnaces (Standby Form)	19050167	03/31/96
EIA–3—Quarterly Coal Consumption Report—Manufacturing Plants	19050167	03/31/96
EIA–3A—Annual Coal Quality Report—Manufacturing Plants	19050167	03/31/96
EIA–4—Weekly Coal Monitoring Report—Coke Plants (Standby Form)	19050167	03/31/96
EIA–5—Coke Plant Report—Quarterly	19050167	03/31/96
EIA–5A—Annual Coal Quality Report—Coke Plants	19050167	03/31/96
EIA–6—Coal Distribution Report	19050167	03/31/96
EIA–7A—Coal Production Report	19050167	03/31/96
EIA–14—Refomers' Monthly Cost Report	19050174	09/31/96
EIA–20—Weekly Telephone Survey of Coal Burning Utilities (Standby Form)	19050167	03/31/96
EIA–23—Annual Survey of Domestic Oil and Gas Reserves	19050057	12/31/97
EIA–34P—Oil and Gas Well Operator List Update Report	19050057	12/31/97
EIA–28—Financial Reporting System	19050149	12/31/96
EIA–63A/B—Annual Solar Thermal Collector Manufacturers Survey and Annual Photovoltaic Module/Cell Manufacturers Survey	19020292	08/31/98
EIA–64A—Annual Report of the Origin of Natural Gas Liquids Production	19050057	12/31/97
EIA–176—Annual Report of Natural and Supplemental Gas Supply and Disposition	19050175	12/31/96
EIA–182—Domestic Crude Oil First Purchase Report	19050174	09/31/96
EIA–191—Underground Gas Torage Report	19050175	12/31/96
EIA–191S—Weekly Underground Gas Storage Report (Standby Form)	19050175	12/31/96
EIA–254—Semiannual Report on Status of Reactor Construction	19050160	12/31/97
EIA–412—Annual Report of Public Electric Utilities	19050129	12/31/95
EIA–457A/H—Residential Energy Consumption Survey	19050092	05/30/96
EIA–627—Annual Quantity and Value of Natural Gas Report	19050175	12/31/96
EIA–759—Monthly Power Plant Report	19050129	12/31/95
EIA–782A—Refiners'/Gas Plant Operators' Monthly Petroleum Product Sales Report	19050174	09/30/96
EIA–782B—Resellers'/Retailers' Monthly Petroleum Product Sales Report	19050174	09/30/96
EIA–782C—Monthly Report of Prime Supplier Sales of Petroleum Products Sold for Local Consumption	19050174	09/30/96
EIA–800—Weekly Refinery Report	19050165	01/31/96
EIA–801—Weekly Bulk Terminal Report	19050165	01/31/96
EIA–802—Weekly Product Pipeline Report	19050165	01/31/96
EIA–803—Weekly Crude Oil Stocks Report	19050165	01/31/96
EIA–804—Weekly Imports Report	19050165	01/31/96
EIA–807—Propane Telephone Survey	19050165	01/31/96
EIA–810—Monthly Refinery Report	19050165	01/31/96
EIA–811—Monthly Bulk Terminal Report	19050165	01/31/96
EIA–812—Monthly Product Pipeline Report	19050165	01/31/96
EIA–813—Monthly Crude Oil Report	19050165	01/31/96
EIA–814—Monthly Imports Report	19050165	01/31/96
EIA–816—Monthly Natural Gas Liquids Report	19050165	01/31/96

OCTOBER 1, 1995 INVENTORY: PART I—DOE ACTIVE INFORMATION COLLECTIONS—Continued

DOE Number and Title	OMB Control No.	Expiration date
EIA–817—Monthly Tanker and Barge Movement Report	19050165	01/31/96
EIA–819A—Annual Oxygenate Capacity Report	19050165	01/31/96
EIA–819M—Monthly Oxygenate Telephone Report	19050165	01/31/96
EIA–820—Annual Refinery Report	19050165	01/31/96
EIA–821—Annual Fuel Oil and Kerosene Sales Report	19050174	09/30/96
EIA–825—Petroleum Facility Operator Identification Survey	19050165	01/31/96
EIA–826—Monthly Electric Utility Sales and Revenue Report with State Distributions	19050129	12/31/95
EIA–846 (A, B, C)—Manufacturing Energy Consumption Survey	19050169	04/30/98
EIA–851—Domestic Uranium Mining Production Report	19050160	12/31/97
EIA–856—Monthly Foreign Crude Oil Acquisition Report	19050174	09/30/96
EIA–857—Monthly Report of Natural Gas Purchases and Deliveries to Consumers	19050175	12/31/96
EIA–857S—Weekly Report of Natural Gas Supplies and Deliveries to Consumers (Standby Form)	19050175	12/31/96
EIA–858—Uranium Industry Annual Survey	19050160	12/31/97
EIA–860—Annual Electric Generator Report	19050129	12/31/95
EIA–861—Annual Electric Utility Report	19050129	12/31/95
EIA–863—Petroleum Product Sales Identification Survey	19050174	09/30/96
EIA–867—Annual Nonutility Power Producer Report	19050129	12/31/95
EIA–871A/F—Commercial Buildings Energy Consumption Survey	19050145	07/31/98
EIA–876A/E—Residential Transportation Energy Consumption Survey	19050068	01/31/97
EIA–877—Winter Heating Fuels Telephone Survey	19050174	09/30/96
EIA–878—Motor Gasoline Price Survey	19050174	09/30/96
EIA–882T—Generic Clearance for Questionnaire Testing, Evaluation, and Research	19050186	06/30/96
EIA–885—Propane Provider Fleet Survey	19050187	04/30/97
EIA–886—Alternative Fuel Vehicles Suppliers' Annual Report	19050191	01/31/98
EIA–888—On-Highway Diesel Fuel Price Survey	19050174	09/30/96
EIA–890—Clean City Vehicle Fleet Survey	19050189	06/30/97
EIA–895—Monthly Quantity of Natural Gas Report	19050192	12/31/97
EIA–1605—Voluntary Reporting of Greenhouse Gases	19050194	05/31/98
EIA–1605EZ—Voluntary Reporting of Greenhouse Gases	19050194	05/31/98
Federal Energy Regulatory Commission:		
FERC–1—Annual Report of Major Electric	19020021	07/31/98
FERC–1–F—Annual Report of Nonmajor Public Utilities and Licensees	19020029	07/31/98
FERC–2—Annual Report of Major Natural Gas Companies	19020028	07/31/96
FERC–2A—Annual Report of Nonmajor Natural Gas Companies	19020030	07/31/96
FERC–6—Annual Report of Oil Pipeline Companies	19020022	09/31/96
FERC–8—Underground Gas Storage Report	19020026	08/31/98
FERC–11—Natural Gas Pipeline Company Monthly Statement	19020032	05/30/96
FERC–73—Oil Pipeline Service Life Data	19020019	08/31/98
FERC–80—Licensed Hydropower Development Recreation Report	19020106	10/31/95
FERC–423—Monthly Report of Cost and Quality of Fuels for Electric Plants	19020024	12/31/96
FERC–556—Cogeneration and Small Power Production	19020075	03/31/98
FERC–561—Annual Report of Interlocking Positions	19020099	10/31/95
FERC–580—Fuel Purchase Practices	19020137	06/30/97
FERC–592—Marketing Affiliates of Interstate Pipelines	19020157	12/31/96
FERC–597—Customer Satisfaction Survey	19020163	11/30/96
FERC–714—Annual Electric Power System Report	19020140	01/31/97
FERC–715—Annual Transmission Planning and Evaluation Report	19020171	01/31/97
FPC–14—Annual Report for Importers and Exporters of Natural Gas	19020027	08/31/98
Fossil Energy:		
EIA–767(3)—Steam Electric Plant Operation and Design Report	19010298	05/31/97
FE–748—Enhanced Oil Recovery Annual Report	19010291	12/31/95
FE–781R—Annual Report of International Electrical Export/Import Data	19010296	12/31/97
Nonproliferation and National Security:		
OE–417R—Power System Emergency Reporting Procedures	19010288	08/31/98
Policy: OE–411—Coordinated Regional Bulk Power Supply Program Report	19010286	10/31/96
Policy, Safety, and Environment: EIA–767(2)—Steam Electric Plant Operation and Design Report	19010267	05/31/97

OCTOBER 1, 1995 INVENTORY: PART II—DOE ACTIVE INFORMATION COLLECTIONS

[Not utilizing structured forms]

DOE number and title	OMB Control No.	Expiration date	CFR citation
Economic Regulatory Administration:			
ERA–766R—Recordkeeping Requirements of DOE's General Allocation and Price Rules.	19030073	10/31/96	10 CFR 210.1.
Federal Energy Regulatory Commission:			
FERC–16A—Monitoring (Omnibus) Report (stand-by authority)	19020105	11/30/95	18 CFR 375.307.
FERC–16AT—Interstate Pipeline Curtailment (Telephone) Survey	19020139	11/30/96	By FERC Order.

OCTOBER 1, 1995 INVENTORY: PART II—DOE ACTIVE INFORMATION COLLECTIONS—Continued

[Not utilizing structured forms]

DOE number and title	OMB Control No.	Expiration date	CFR citation
FERC–500—Application For License for Hydropower Projects Greater Than 5MW.	19020058	11/30/97	18 CFR 4.38, 4.39, 4.40, 4.41, 4.50, 4.51, 4.200–.202, 16.1, 16.14–16.
FERC–505—Application for License for Water Projects 5MW or Less	19020115	11/30/97	18 CFR 4.61, 4.71, 4.92, 4.93, 4.107, 4.108, 4.112, 4.113, 4.201–.202.
FERC–510—Application for Surrender of Electric License	19020068	05/31/96	18 CFR 6.1, 6.3.
FERC–511—Application for Transfer of Electric License	19020069	12/31/97	18 CFR 9.1, 9.2, 9.10.
FERC–512—Application for Preliminary Permit	19020073	11/30/97	18 CFR 4.31, 4.32, 4.33, 4.81, 4.82.
FERC–515—Hydropower License—Declaration of Intention	19020079	12/31/97	18 CFR 24.1.
FERC–516—Electric Rate Schedule Filings	19020096	02/29/96	18 CFR 35, Subpart A, 35.12–.16, 35.26, 35.30, 35.31, 292, 301.
FERC–519—Disposition of Facilities, Mergers, and Acquisitions of Securities.	19020082	03/31/96	18 CFR 33.
FERC–520—Application for Authority to Hold Interlocking Directorate Positions.	19020083	02/28/96	18 CFR 45.
FERC–521—Headwater Benefits	19020087	08/31/98	18 CFR 11.16.
FERC–523—Application for Authorization of the Issuance of Securities or the Assumption of Liabilities.	19020043	03/31/96	18 CFR 20, 34, 131.43, 131.50.
FERC–525—Financial Audits	19020092	02/28/98	18 CFR 41, 101, 116, 125, 141.1, 158, 216, 225, 260, 351, 356.
FERC–537—Gas Pipeline Certificates: Construction, Acquisition & Abandonment.	19020060	06/30/98	18 CFR 2.79, 157.5–.21, .100, .201–.218, 159.1, 284.107, .127, .221.
FERC–538—Gas Pipeline Certificate: Initial Service	19020061	04/30/97	18 CFR 156.3, 156.4, 156.5.
FERC–539—Gas Pipeline Certificate: Import/Export Related	19020062	05/31/97	18 CFR 153.
FERC–541—Gas Pipeline Certificate: Curtailment Plan	19020066	05/31/97	18 CFR 2.78, 281.
FERC–542—Gas Pipeline Rates: Initial Rates, Rate Change, and PGA Tracking.	19020070	05/31/97	18 CFR 154.38, 154.61–154.67.
FERC–542A—Tracking and Recovery of Alaska Natural Gas Transportation System.	19020129	02/28/97	18 CFR 154.201–154.213.
FERC–543—Gas Pipeline Rates: Purchased Gas Adjustment Tracking	19020152	05/31/97	18 CFR 154.38.
FERC–544—Gas Pipeline Rates: Rate Change (Formal)	19020153	05/31/97	18 CFR 154.63–154.67.
FERC–545—Gas Pipeline Rates: Rate Change (Non-Formal)	19020154	05/30/96	18 CFR 154.63–154.67.
FERC–546—Gas Pipeline Rates: Certificated Rate Filings	19020155	05/31/97	18 CFR 154.62–154.67.
FERC–547—Gas Pipeline Rates: Refund Obligations	19020084	05/31/95	18 CFR 154.38(5)(V)(H), 270.101, 273.301, 273.302
FERC–549—Gas Pipeline Rates: Natural Gas Policy Act Title III Transactions.	19020086	02/28/98	18 CFR Sub. A/D/E/H, 284.7–.11, .102, .105, .106, .122, and others.
FERC–549B—Gas Pipeline Rates: Capacity Release Information	19020169	12/31/96	18 CFR 284(b)(5).
FERC–550—Oil Pipeline Rates: Tariff Filings	19020089	08/31/98	18 CFR 340–345, 347.
FERC–555—Preservation of Records of Public Utilities and Licensees, Natural Gas Companies and Oil Pipeline Companies.	19020098	06/30/98	18 CFR 125, 150, 160.1, 225, 276.108, 277.210, 356.
FERC–566—Report of Utility's Twenty Largest Purchasers	19020114	05/30/98	18 CFR 46.3.
FERC–567—Gas Pipeline Certificates: Annual Reports of System Flow Diagrams and System Capacity.	19020005	08/31/96	18 CFR 260.8, 284.12.
FERC–576—Report by Certain Natural Gas Companies on Service Interruptions.	19020004	05/30/98	18 CFR 260.9.
FERC–577—Gas Pipeline Certificates: Environmental Impact Statement	19020128	12/31/97	18 CFR 157.14.
FERC–581—Management and Procurement Reporting and Recordkeeping Requirements.	19020130	11/30/96	48 CFR 30 Subtitle A, Chapter 9.
FERC–582—Oil, Gas, Electric Fees and Annual Charges	19020132	10/31/96	18 CFR 381.106, 382.105(A), 382.201(B)(4).
FERC–583—Hydroelectric Fees and Annual Charges	19020136	10/31/96	18 CFR 11.1, 11.3, 11.4, 11.6.
FERC–585—Reports on Electric Energy Shortages & Contingency Plans Under PURPA 206.	19020138	12/31/96	18 CFR 294.202.
FERC–588—Emergency Natural Gas Sale, Transportation and Exchange Transactions.	19020144	05/31/97	18 CFR 284, Subpart I.
FERC–598—Certification of Entities Seeking Exempt Wholesale Generator Status.	19020166	04/30/96	18 CFR 365.
FERC–716—Good Faith Request for Transmission Services and Response by Transmitting Utility.	19020170	11/30/96	18 CFR 2.20.
FERC–716A—Application for Transmission Services Under Section 211 of the Federal Power Act.	19020168	10/31/96	18 CFR 36.

OCTOBER 1, 1995 INVENTORY: PART II—DOE ACTIVE INFORMATION COLLECTIONS—Continued

[Not utilizing structured forms]

DOE number and title	OMB Control No.	Expiration date	CFR citation
Fossil Energy:			
FE–329R—Regulatory Reporting and Recordkeeping Requirements Pursuant to 10 CFR 500, 501, 503, and 504.	19010297	08/31/98	10 CFR 500, 501, 503, 504, 505, 508, 515.
FE–746R—Import and Export of Natural Gas	19010294	01/31/96	10 CFR 205, 590.

[FR Doc. 95–29024 Filed 11–27–95; 8:45 am]

BILLING CODE 6450–01–P–M

Federal Energy Regulatory Commission

[Docket No. RP95–408–000 and RP95–408–001]

Columbia Gas Transmission Corporation; Notice of Settlement Conference

November 21, 1995.

Take notice that Commission Staff will convene an informal settlement conference in this proceeding on November 29, 1995, at 10:00 a.m. The conference will be held in a hearing room at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. The conference will continue through November 30, 1995, if necessary.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined in 18 CFR 385.102(b), may attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's Regulations, 18 CFR 385.214.

For additional information, contact Thomas J. Burgess at (202) 208–2058 or David R. Cain at (202) 208–0917.

Lois D. Cashell,

Secretary.

[FR Doc. 95–28962 Filed 11–27–95; 8:45am]

BILLING CODE 6717–01–M

[Docket No. CP96–64–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

November 21, 1995.

Take notice that on November 13, 1995, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478 filed in Docket No. CP96–64–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to operate as a jurisdictional facility, a delivery tap placed in service under Section 311(a) of the Natural Gas Policy Act, under Koch Gateway's blanket certificate issued in Docket No. CP88–6–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Koch Gateway states that the certification of the facilities would enable Koch Gateway to provide transportation services under its blanket transportation certificate to Entex, Inc., a local distribution company, in Rankin County, Mississippi.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–28959 Filed 11–27–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–326–000 and RP94–242–000]

Natural Gas Pipeline Company of America; Notice of Informal Settlement Conference

November 21, 1995.

Take notice that an informal settlement conference will be convened in this proceeding on Thursday, November 30, 1995, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's Regulations (18 CFR 385.214).

For additional information, please contact David R. Cain (202) 208–0917 or John P. Roddy (202) 208–0053.

Lois D. Cashell,

Secretary.

[FR Doc. 95–28961 Filed 11–27–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP85–60–008]

Overthrust Pipeline Company; Notice of Report of Refund

November 21, 1995.

Take notice that on October 20, 1995, Overthrust Pipeline Company, tendered for filing a refund report. The report documents the payment of Deferred Income Tax (DIT) refunds on August 24, 1995, of $57,739.32 and $57,749.09 for years 1993 and 1994, to Columbia Gas Transmission Corporation (Columbia) pursuant to Overthrust's settlement in Docket Nos. RP85–60–000 and RP85–60–007. Overthrust originally withheld Columbia's refund amounts pending payment by Columbia of past-due transportation charges associated with its bankruptcy proceeding.

Overthrust states that on June 15, 1995, in Docket No. RP95–204, the Commission approved a settlement agreement between Columbia and Overthrust resolving all bankruptcy issues with respect to Overthrust. Overthrust explains that the settlement terms became effective on August 16, 1995. Overthrust also states that it is filing the refund report pursuant to Article V of its settlement approved by the Commission on May 21, 1991. Overthrust explains that Article V of the settlement as modified, requires Overthrust to file an annual report 60

days after making the actual DIT refunds.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protest should be filed on or before November 28, 1995. Protest will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–28960 Filed 11–27–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–43–000]

Pacific Gas Transmission Company; Notice of Motion For Limited Waiver of Tariff Provisions

November 21, 1995.

Take notice that on November 15, 1995, Pacific Gas Transmission Company ("PGT") filed a motion for temporary, limited waiver of provisions of its FERC Gas Tariff governing crediting revenues received from interruptible, parking and imbalance services on PGT's system, until thirty (30) days after issuance of a final order in PGT's on-going Section 4 rate proceeding in Docket No. RP94–149–000.

PGT asserts that the purpose of this filing is to seek a temporary waiver of Sections 35 and 38 of its FERC Gas Tariff, First Revised Volume No. 1–A, which require PGT to determine total revenues received from interruptible, parking and imbalance services over and above costs allocated to those services and credit difference to eligible firm shippers.

PGT states that because the rates and costs for the above services are subject to retroactive adjustment as determined by PGT's ongoing rate proceeding, it is impossible at this time to determine the appropriate level of revenue crediting. PGT further states it proposes to issue refunds 45 days after a final decision in its rate proceeding, including interest from the date such credits accrue.

PGT states that a copy of this filing has been served upon its jurisdictional customers and upon interested state regulatory agencies.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 27, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–28964 Filed 11–27–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–34–002]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 21, 1995.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on November 17, 1995, tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, six copies of substitute revised tariff sheets listed on Appendix A to the filing.

The proposed effective date of these substitute revised tariff sheets is December 1, 1995.

Texas Eastern states that these substitute revised tariff sheets are being filed in substitution for revised tariff sheets filed by Texas Eastern on October 31, 1995 in Docket No. RP96–34–000. Texas Eastern states that it has discovered a transposition error in the workpaper contained in the October 31, 1995 filing supporting the Spot Fuel Components proposed to be effective December 1, 1995. Texas Eastern states that correcting the transposition error has a relatively small impact on the Spot Fuel Components proposed to be effective December 1, 1995. Texas Eastern estimates that the annual revenue impact of the correction will be a net reduction of approximately $66,000.

Texas Eastern states that copies of its filing have been served on all firm customers of Texas Eastern, interested state commissions, all interruptible shippers as of the date of the filing, as well as all parties to the Settlement in Docket No. RP85–177–119, et al.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–28963 Filed 11–27–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Arms Control and Nonproliferation Policy

Proposed Subsequent Arrangement

AGENCY: Office of Arms Control and Nonproliferation Policy, Energy.

ACTION: Subsequent Arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Australia concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following sale:

Contract Number S–AU–143, for the sale of one milligram of uranium-233 as uranium oxide and 10 micrograms of thorium-229 as nitrate solution to La Trobe University in Australia for use in disequilibrium studies of geological samples.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: November 21, 1995.

For the Department of Energy.

Edward T. Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 95–29025 Filed 11–27–95; 8:45 am]

BILLING CODE 6450–01–P

Proposed Subsequent Arrangement

AGENCY: Office of Arms Control and Nonproliferation Policy, Department of Energy.

ACTION: Subsequent Arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following sale: Contract Number S–JA–462 for the sale of 5 grams of uranium, enriched to >99% in the isotope U-234, in the form of uranium oxide to the Toshiba Corporation for manufacturing neutron detectors to be sold to electric power companies.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: November 21, 1995.

For the Department of Energy.

Edward T. Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 95–29027 Filed 11–27–95; 8:45 am]

BILLING CODE 6450–01–P

Proposed Subsequent Arrangement

AGENCY: Office of Arms Control and Nonproliferation Policy, Department of Energy.

ACTION: Subsequent Arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy, and the Agreement for Cooperation between the Government of the United States of America and the Government of Norway concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/NO(SW)–24, for the transfer of 10 kilograms of uranium samples containing up to 500 grams of the isotope U235 (enrichments between 0.25 percent and 5 percent) for use as safeguards and control analysis.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner that fifteen days after the date of publication of this notice.

Dated: November 21, 1995.

For the Department of Energy.

Edward T. Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 95–29028 Filed 11–27–95; 8:45 am]

BILLING CODE 6450–01–P

Proposed Subsequent Arrangement

AGENCY: Office of Arms Control and Nonproliferation Policy, Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following sale:

Contract Number S–EU–1045, for the sale of 49.5 grams of uranium, enriched to 19.8% in the isotope U–235, to the Joint Research Centre of the Commission of the European Communities in Belgium for preparation of certified reference material for uranium accountancy measurements.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: November 21, 1995.

For the Department of Energy.

Edward T. Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 95–29029 Filed 11–27–95; 8:45 am]

BILLING CODE 6450–01–P

Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/JA(EU)–75, for the transfer of 20 grams of uranium containing 18.6 grams of the isotope uranium-235 (93 percent enrichment) from EURATOM to Japan for research purposes.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner that fifteen days after the date of publication of this notice.

Dated: November 21, 1995.

For the Department of Energy.

Edward T. Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 95–29030 Filed 11–27–95; 8:45 am]

BILLING CODE 6450–01–P

Proposed Subsequent Arrangement

AGENCY: Office of Arms Control and Nonproliferation Policy, Department of Energy.

ACTION: Subsequent Arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Korea concerning Civil Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Canada concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/KO(CA)–5, for the transfer of 420.2 grams of uranium containing 82.9 grams of the isotope uranium-235 (19.75 percent enrichment) from Canada to the Republic of Korea for re-installation in the KAERI reactor.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: November 21, 1995.

For the Department of Energy.

Edward T. Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 95–29031 Filed 11–27–95; 8:45 am]

BILLING CODE 6450–01–P

Proposed Subsequent Arrangement

AGENCY: Office of Arms Control and Nonprolifeation, Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed subsequent arrangement.

The subsequent arrangement to be carried out involves approval for the government-to-government supply of the following material:

Subsequent Arrangement WC-PC–1, for the supply of 500 millicuries Tungsten-188/Rhenium-188 to Beijing Normal University in China, and 500 millicuries Tungsten-188/Rhenium-188 to the Shanghai Institute for Nuclear Research in China. The shipment is part of a Cooperative Research Project with Oak Ridge National Laboratory which will use the materials for medical research in cancer therapy.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: November 21, 1995.

For the Department of Energy.

Edward T. Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 95–29032 Filed 11–27–95; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5334–9]

Agency Information Collection Activities Up for Renewal: Import of Pesticides or Devices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) listed below is coming up for renewal. Before submitting the renewal package to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted January 29, 1996.

ADDRESSES: Office of Enforcement and Compliance Assurance, Office of Compliance, Agriculture and Ecosystems Division, Agriculture Branch (2225A), 401 M Street, SW. Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Steve Howie, 202–564–4146/fx202–564–0028/Frank Coleman, 202–564–5012/fx202–564–0028.

SUPPLEMENTARY INFORMATION:

Affected Entities: This action affects entitites which import pesticides or devices into the continental United States.

Title: Notice of Arrival of Pesticides and Devices (EPA Form 3540–1), OMB No. 2070–0020, Expiration Date: 04/30/96.

Abstract: Pursuant to section 17(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) U.S. Customs is required to notify EPA prior to the import of pesticides or devices into the United States. To assist in meeting this requirement, importers, who may be represented by brokers, agents, or consignees, must present a Notice of Arrival (NOA, EPA Form 3540–1) to the EPA informing the Agency of the arrival of the imported pesticide products as required by 19 CFR 12.112. The form is submitted to the regional headquarters address (printed on the reverse side of the form) having jurisdiction over the port through which the product or device is to be imported.

Part I of the form requests identification and address information of the importer or his agent followed by information on the imported pesticide or device, e.g., the active ingredients or devices produced, brand name, and the product registration number (for pesticides but not devices) and the establishment registration number. Certain information reported on the form (names and addresses of broker or agent, of importer or consignee, and of shipper, along with unit size, quantity, total net weight, country of origin, port of entry, carrier, entry number, and entry date) may be claimed as Confidential Business Information (CBI). Other information (EPA Registration Number, EPA Producer Establishment Number, the brand name of product, and major active ingredients and percentage of each) may not be claimed as CBI.

EPA Regional personnel review the completed form for completeness and accuracy and to determine: (1) If the product is registered and has a valid registration number, (2) if the product contains an active ingredient that has been suspended or cancelled, (3) if the pesticide was produced in a registered and active pesticide producing establishment, and (4) if the product is misbranded. EPA resolves any discrepancies on the report with the importer or his agent. If the information on the form is correct, Part II is signed and the form is returned to the respondent with approval.

Upon the arrival of the shipment, the importer presents the NOA to the District Director of U.S. Customs at the port of entry. U.S. Customs compares entry documents for the shipment with the Notice of Arrival; it notifies the EPA Regional Office of any discrepancies between the NOA and the entry documents and releases the shipment for entry after receipt of EPA clearance. Customs signs Part III of the form, returns the Official File Copy to EPA, and retains the Customs' Copy to complete this portion of the transaction.

The purpose of this reporting requirement is to insure that no unregistered or misbranded pesticides enter the U.S. Uniform reporting of information submitted for pesticides arriving in the customs territory of the U.S. is necessary to monitor compliance with FIFRA, to identify the responsible party in cases of violations, and to determine specific information regarding the source of any pesticide in question. The information permits EPA to trace ineffective, contaminated, or otherwise violative products to their source, and minimizes any adverse environmental impact that might arise from this importation of violative products. Additionally, by requiring brokers/agents to offer documentation to Customs and EPA of the importation of registered pesticides the flow of commerce for approved products is facilitated.

The information collected is used by EPA Regional pesticide enforcement and compliance staffs and the Headquarters Office of Enforcement and Compliance Assurance and Office of Pesticide Programs. Customs, the U.S. Department of Agriculture, the Food and Drug Administration, and other federal agencies may also make use of this information.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement

Burden Hours per Response: 0.3 hour per NOA to include time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the application.

Frequency of Response: Once per shipment of pesticide or device imported.

Number of Respondents: 7,000 annually.

Total annual reporting and record-keeping burden: 2,100 hours.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number for EPA's regulations are displayed in 40 CFR part 9.

Send comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to the address listed above.

Dated: November 13, 1995.

Elaine S. Stanley,

Director, Office of Compliance, Office of Enforcement and Compliance Assurance.

[FR Doc. 95–29038 Filed 11–27–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5335–1]

Notice of Intent to Reissue an Exemption From the Land Disposal Restrictions of the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA) Regarding Injection of Hazardous Waste to Cabot Corporation

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Reissue an Exemption to Cabot Corporation (Cabot) of Tuscola, Illinois, for the Injection of Waste Hydrochloric Acid and Specified Hazardous Constituents Found in Ground Water at the Tuscola Facility.

SUMMARY: The United States Environmental Protection Agency (EPA or Agency) is today proposing to reissue an exemption from the ban on disposal of certain hazardous wastes through injection wells to Cabot Corporation for its site at Tuscola, Illinois. On November 6, 1990, the Agency issued Cabot an exemption for injection of certain hazardous wastes into Waste Disposal Well (WDW) No. 2 after determining that there is a reasonable degree of certainty that Cabot's injected wastes will not migrate out of the injection zone within the next 10,000 years. On February 4, 1991, Cabot was granted an exemption to allow use of WDW No. 1 at the facility for the disposal of the same wastes injected through the WDW No. 2. The exemption was modified on November 4, 1994, to include monitor well purge water. If granted, the proposed reissuance would allow Cabot to inject the RCRA

regulated wastes D002, F003, and F039, which are already injected through WDWs Nos. 1 and 2, through WDW No. 3 and will add information gained as a result of the drilling of WDW No. 3 to the administrative record. WDW No. 1 will be closed after WDW No. 3 is put on line.

DATES: The EPA is requesting public comments on its proposed decision to reissue the exemption condition described above. Comments will be accepted until 45 days after the date of publication of the notice in local newspapers. Comments on any aspect of the no-migration demonstration and integrity of the deepwell disposal system are admissible because the exemption is proposed for reissuance in its entirety. Comments postmarked after the close of the comment period will be stamped "Late". A public information meeting and a public hearing to allow comment on this action may be scheduled if significant comments are received, and a notice of these meetings will be given in a local paper and to all people on a mailing list developed by the Agency. If you wish to request that a public hearing be held or to be notified of the date and location of any pubic hearing held, please contact the lead petition reviewer listed below.

ADDRESSES: Submit written comments, by mail, to: United States Environmental Protection Agency, Region 5, Underground Injection Control Branch (WD–17]), 77 West Jackson Street, Chicago, Illinois 60604, Attention: Rebecca L. Harvey, Chief.

FOR FURTHER INFORMATION CONTACT: Harlan Gerrish, Lead Petition Reviewer, UIC Section, Water Division; Office Telephone Number: (312) 886–2939; 17th Floor, Metcalfe Building, 77 West Jackson Street, Chicago, Illinois.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

The Hazardous and Solid Waste Amendments of 1984 (HSWA), enacted on November 8, 1984, impose substantial new responsibilities on those who manage hazardous waste. The amendments prohibit the land disposal of untreated hazardous waste beyond specified dates, unless the Administrator determines that the prohibition is not required in order to protect human health and the environment for as long as the waste remains hazardous (RCRA Sections 3004 (d)(1), (e)(1), (f)(2), (g)(5)). The statute specifically defined land disposal to include any placement of hazardous waste in an injection well (RCRA Section 3004(k)). After the effective date of prohibition, hazardous waste can be injected only under two circumstances:

(1) When the waste has been treated in accordance with the requirements of Title 40 of the Code of Federal Regulations (40 CFR) Part 268 pursuant to Section 3004(m) of RCRA, (the EPA has adopted the same treatment standards for injected wastes in 40 CFR Part 148, Subpart B); or

(2) When the owner/operator has demonstrated that there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. Applicants seeking this "no-migration" exemption from the ban must demonstrate to a reasonable degree of certainty that hazardous waste will not leave the injection zone until either:

(a) The waste undergoes a chemical transformation within the injection zone through attenuation, transformation, or immobilization of hazardous constituents so as to no longer pose a threat to human health and the environment; or

(b) The fluid flow is such that injected fluids will not migrate vertically upward out of the injection zone, or laterally to a point of discharge or interface with an underground source of drinking water (USDW), for a period of 10,000 years.

The EPA promulgated final regulations on July 26, 1988, (53 FR 28118) which govern the submission of petitions for exemption from the injection well disposal prohibition (40 CFR Part 148). Most companies seeking exemption have opted to demonstrate waste confinement (option (b) above) rather than waste transformation (option (a) above). A time frame of 10,000 years was specified for the confinement demonstration not because migration after that time is of no concern, but because a demonstration which can meet a 10,000 year time frame will likely provide containment for a substantially longer time period, and also to allow time for geochemical transformations which would render the waste immobile. The Agency's confinement standard thus does not imply that leakage will occur at some time after 10,000 years, rather, it is a showing that leakage will not occur within that time frame and probably much longer.

The EPA regulations at 40 CFR 148.20(e) provide that any person who has been granted an exemption to the land disposal restrictions may request that the Agency reissue the exemption to include additional wastes, or modify any conditions placed on the exemption by the Director. If the petitioner complies with 40 CFR 148.20 (a), (b), and (c) the exemption shall be reissued. Reissuance allows reconsideration of all factors involved in the determination that land disposal through injection is protective of the health of persons. Cabot has submitted data from testing of WDW No. 3 that shows that the assumptions used in 1990 to calculate the distance of migration of hazardous constituents were very conservative. In fact, the distance of waste migration can be expected to be considerably less than previously determined. Cabot has requested that the administrative record be updated to include this new information and to show that the earlier modeling results are considerably more conservative than necessary.

Neither the existing exemption from the restrictions of the HSWA to RCRA nor this reissuance exempts Cabot from the duty to comply with other laws or regulations.

B. Facility Operation and Process

The Cabot facility in Tuscola, Illinois, is a chemical manufacturing plant designed to produce fumed silica, SiO_2 or silicon dioxide, which is used as an additive in many products. The central reaction in the manufacturing process is combination of silicon tetrachloride with oxygen and hydrogen to produce both fumed silica and hydrogen chloride vapor. Separation results in fumed silica, product hydrochloric acid, and wastewaters contaminated with hydrochloric acid which must be disposed of. This waste, along with rainwater runoff and seepage into a subsurface drainage system, are normally injected into Cabot's on-site, Class I hazardous waste injection wells.

C. Exemption

The current exemption allows Cabot to inject wastes bearing RCRA waste codes D002, F003, and F039 into parts of the Franconia, Potosi, and Eminence Dolomites, the Gunter Sandstone Formation, and Oneota Dolomite found between 5,400 and 4,442 feet below the kelly bushing elevation in WDW No. 2 and extending radially 23,500 feet from WDW No. 2.

D. Submission

On August 15, 1995, Cabot submitted a written request that its exemption be reissued to change the condition that wastes be injected only through WDWs No. 1 and 2 to include WDW No. 3. WDW No. 3 was constructed to replace WDW No. 1 which has a limited capacity due to size of well elements, and it has had mechanical problems which threaten its usefulness. In addition, Cabot wished to add information relevent to the demonstration of no migration gained as a result of testing carried out during the construction of WDW No. 3. The submissions were reviewed by staff at the EPA to ensure that requirements of 40 CFR 148.120(a)(2)(iv) were met and that the conclusions based on testing are consistent with the test data.

II. Basis for Determination

A. Mechanical Integrity of WDW No. 3

On January 19, 1995, a standard annulus pressure test of WDW No. 3 demonstrated the absence of leaks in the tubing, packer, and casing, and on January 20, a radioactivity tracer test was used to demonstrate the integrity of the annular seal and bottom-hole cement of WDW No. 3 as required by 40 CFR 148.20(a)(2)(iv). The results of these tests were submitted as parts of the completion report for WDW No. 3, and are incorporated into the administrative record for this proposed decision.

B. Model Demonstration of No Migration

The grant of an exemption from the land disposal restrictions imposed by the HSWA of RCRA is based on a demonstration that disposed wastes will not migrate out of the waste management unit, which is defined as the injection zone and is specifically those parts of the Franconia, Potosi, and Eminence Dolomites, the Gunter Sandstone Formation, and Oneota Dolomite found between depths of 5,400 and 4,442 feet from the kelly bushing elevation in WDW No. 2 and extending radially 23,500 feet from WDW No. 2. The no-migration demonstration is made through use of mathematical simulations which use geological information collected at the site or which is found to be appropriate for the site and mathematical models which have been proven to be capable of simulating natural responses to injection. The simulation is calibrated by matching simulator results against observations at the site. The exemption was based on the injection through two wells with the premise that, at the plume boundary, the effects of injection through two or more wells in close proximity are indistinguishable from those of injection through a single well. Substitution of WDW No. 3 for WDW No. 1 would not require a revision of the modeling, because any change in the plume extent will be contained within the conservatively delineated boundaries established in 1990.

In 1990, Cabot used volumetric calculations including dispersivity to find that the greatest lateral extent of movement by the waste plume will be 17,700 feet. The limit of the waste plume during the life of the facility is the distance required for the pH to be increased to 2 from an original pH of 0.5 due to mixing during advective flow of three times the volume of waste injection expected during the wells' operational lives. No consideration of reaction of injected waste acid and host dolomite which will result in a much more rapid pH neutralization was considered. Additional movement of waste constituents at hazardous levels for the 10,000-year post operating period was determined by calculating the extent of natural ground water movement, including buoyancy and dispersion. The total distance of travel from the wells' centroid required to increase pH from 0.5 to 2 with additional movement of 3,300 feet due to natural flow and 2,500 feet due to buoyancy effects results in a total movement of 23,500 feet. The lateral extent of migration was shown to be less than distances to features which might allow discharge of hazardous waste constituents into USDWs.

The limit of vertical movement was determined by a similar process. The lower starting point used to calculate the distance upward to the point where dispersion would result in waste dilution 10 times greater than that required to increase the waste's pH from 0.5 to 2 was 4,830 feet, the greatest depth at which the packer of WDW No. 1 could be set with no indication of leakage. Long-term vertical movement is primarily due to molecular diffusion through 10,000 years. The calculation showed that the total vertical distance from the surface to the plume boundary is 4,592 feet from the surface. This vertical plume was contained within the waste management unit defined for Cabot's two injection wells. Therefore, the Agency accepted the demonstration and granted an exemption in 1990.

The petitioner has complied with 40 CFR §§ 148.20(a), (b), and (c) by the demonstration described in the proposal to grant the original exemption published in the **Federal Register** on August 24, 1990, at 55 FR 34739 et seq. The petitioner has further demonstrated the protective nature of land disposal through injection by the submission of additional geological and hydrological data on August 16, 1995. Accordingly, U.S. EPA proposes to reissue the exemption as requested.

III. Conditions of Petition Approval

The existing exemption was granted with conditions. All of the conditions attached to the exemption and modifications remain in force except Nos. 5 and 6 of the exemption granted on February 4, 1991. Condition No. 5 required that an oxygen activation log be run in WDW No. 1 in 1991. Condition No. 6 required annual temperature logging of WDW No. 1. These conditions will be moot after the plugging of WDW No. 1. No new conditions are attached to this reissuance of the exemption.

Dated: November 20, 1995.

Rebecca L. Harvey,

Acting Director, Water Division, Region 5, U.S. Environmental Protection Agency.

[FR Doc. 95–29035 Filed 11–27–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5334–6]

Common Sense Initiative Council, Metal Finishing Subcommittee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Open Meeting of the Public Advisory Common Sense Initiative Council, Metal Finishing Sector Subcommittee.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is given that, pending resolution of EPA's FY 1996 appropriation, the Metal Finishing Sector Subcommittee of the Common Sense Initiative Council will meet on Thursday and Friday, December 14 and 15, 1995 in Washington, D.C. The Subcommittee will continue project workplan development and discuss procedural substantive issues of importance to the Sector. Limited time will be provided for members of the public to make oral comments at the meeting.

Open Meeting Notice: Notice is hereby given that the Environmental Protection Agency, pending resolution of its FY 1996 appropriation, is convening an open meeting of the Metal Finishing Sector Subcommittee on Thursday and Friday, December 14 and 15, 1995. The meeting will begin on December 14, at 10:00 a.m. EST and run until noon EST. Workgroup meeetings will be held from noon EST until 5:00 p.m. EST. On Friday, December 15, workgroups will reconvene at 8:00 a.m. EST and meet until 10:00 a.m. EST. The Subcommittee will then reconvene and meet from 10:00 a.m. EST until 3:00 p.m. EST. The Subcommittee will be held at the Washington Marriott Hotel, 22nd and M Streets, NW, Washington, D.C. telephone number 202-872-1500. Seating will be available on a first come, first served basis. Limited time will be provided for public comment.

The Metal Finishing Subcommittee will convene to consider such issues as the strategic environmental goals for the sector, public participation in regional pilot projects, and compliance and enforcement issues associated with project implementation. Open workgroup meetings will continue the development of the pilot projects that have been endorsed by the subcommittee, and will consider new project ideas and related issues as well.

Inspection of subcommittee documents: Documents relating to the above topics will be publicly available at the meeting. Thereafter, these documents and the minutes of the meeting will be available for public inspection in room 2821M of EPA Headquarters, 401 M Street, SW, Washington, D.C. 20460, telephone number 202–260–7417. Common Sense Initiative information can be accessed electronically through contacting Katherine Brown at: brown.katherine@epamail.gov.

FOR FURTHER INFORMATION CONTACT: For more information about and verification of this meeting, please call Mr. Bob Benson at 202–260–8668 in Washington, D.C.

Dated: November 21, 1995.

Prudence Goforth,

Designated Federal Officer.

[FR Doc. 95–29039 Filed 11–27–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 90–571; DA 95–1874]

Telecommunications Relay Services

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that in an Order on Telecommunications Relay Services and the Americans with Disabilities Act of 1990 (Order), CC Docket No. 90–571, adopted and released on August 25, 1995, the Commission suspended enforcement of the requirement that the Telecommunications Relay Services (TRS) be capable of handling coin sent-paid calls until August 26, 1997. The Commission also ordered that common carriers providing telephone voice transmission services, and TRS providers, make payphones accessible to TRS users during the suspension pursuant to an alternative plan. The Commission took these actions after determining that the provision of TRS coin sent-paid service was not currently feasible.

FOR FURTHER INFORMATION CONTACT: Pamela Gerr, Network Services Division, Common Carrier Bureau, (202) 418–2357.

SUPPLEMENTARY INFORMATION: The alternative plan includes the following elements: (1) Local TRS payphone calls to be provided free of charge; (2) toll TRS payphone calls to be chargeable to calling cards and/or prepaid (debit) cards, with rates not to exceed those that would apply to similar non-TRS calls made using coin sent-paid service; and (3) programs to educate TRS users about these alternative payment options and to make calling cards and/or prepaid cards available to TRS users. The Commission ordered that the alternative plan be implemented as soon as possible, with implementation to be completed within ninety (90) days after the release date of the order. The Commission also required parties that had filed petitions in this proceeding to join with any other interested parties wishing to participate to prepare and file joint status reports with the Commission. These status reports are to be filed with the Commission on August 26, 1996 and February 26, 1997 and shall address the effectiveness of the alternative plan in making payphones accessible to TRS users. The later status report must also address the technical feasibility and cost of providing TRS coin sent-paid service and provide data on TRS and non-TRS payphone use. These reporting requirements are subject to approval by the Office of Management and Budget (OMB). Public reporting burden for the collections of information is estimated as follows:

Requirement	No. of respondents	Est. avg. hours per response	Annual hours
12-month joint status report	30	7	210
18-month joint status report	30	9	270
Disclosure requirements	3000	2.5	7500
Total Annual Burden: 7980.			
Frequency of Response: On occasion.			

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspects of the collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Branch, Room 234, Paperwork Reduction Project, Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Federal Communications Commission.

Linda Dubroof,

Deputy Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 95–28906 Filed 11–27–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Premier Insurance Services, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than December 12, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Premier Financial Services, Inc., Freeport, Illinois; to acquire Premier Insurance Services, Inc., Warren, Illinois, and thereby engage in general insurance agency activities, pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. The sale of insurance will be limited to villages of less than 5,000 persons in which the bank holding company or its subsidiaries have lending offices, these include: Warren, Stockton, Mt. Carroll and Polo, all in Illinois.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Colonial Banc Corp, Eaton, Ohio; to acquire Financial Services, Inc., Eaton, Ohio, and thereby engage in the business of real estate appraising, pursuant to § 225.25(b)(13) of the Board's Regulation Y. This activity will be conducted throughout the State of Ohio.

Board of Governors of the Federal Reserve System, November 21, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–28983 Filed 11–27–95; 8:45 am]

BILLING CODE 6210–01–F

UJB Financial Corp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 22, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. UJB Financial Corp, Princeton, New Jersey; to merge with The Summit Bancorporation, Chatham, New Jersey, and thereby indirectly acquire Summit Bank, Chatham, New Jersey.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Community First Bancorp, Inc., Reynoldsville, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Reynoldsville, Reynoldsville, Pennsylvania.

C. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. FNB Financial Corporation, Three Rivers, Michigan; to become a bank holding company by acquring 100 percent of the voting shares of The First National Bank of Three Rivers, Three Rivers, Michigan.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Wells Fargo & Company San Francisco, California; to acquire at least 50.1 percent of the voting shares of First Interstate Bancorp, Los Angeles, California, and thereby indirectly acquire First Interstate Bank of Alaska, N.A., Anchorage, Alaska; First Interstate Bank of Arizona, N.A., Phoenix, Arizona; First Interstate Bank of California, Los Angeles, California; First Interstate Bank of Denver, N.A., Denver, Colorado; First Interstate Bank of Englewood, N.A., Englewood, Colorado; First Interstate Bank of Idaho, N.A., Boise, Idaho; First Interstate Bank of Montana, N.A., Kalispell, Montana; First Interstate Bank of Nevada, N.A., Las Vegas, Nevada; First Interstate Bank of New Mexico, N.A., Santa Fe, New Mexico; First Interstate Bank of Oregon, N.A., Portland, Oregon; First Interstate Bank of Texas, N.A., Houston, Texas; First Interstate Bank of Utah, N.A., Salt Lake City, Utah; First Interstate Bank of Washington, N.A., Seattle, Washington; First Interstate Bank of Wyoming, N.A., Casper, Wyoming; First Interstate Bank, Ltd., Los Angeles, California; and First Interstate Central Bank, Calabasas, California.

Board of Governors of the Federal Reserve System, November 21, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–28984 Filed 11–27–95; 8:45 am]

BILLING CODE 6210–01–F

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Notice of public hearing.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a public hearing of the Federal Accounting Standards Advisory Board will be held on Tuesday, December 5, 1995 from 9:00 a.m. to 4:00 p.m. in room 4N30 of the General Accounting Office, 441 G St. NW., Washington, D.C. The purpose of the hearing is to hear testimony from interested parties on the Supplementary Stewardship Reporting exposure draft, issued in August 1995.

Any interested person may attend the hearing as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Ronald S. Young, Executive Staff Director, 750 First St., NE., Room 1001, Washington, D.C. 20002, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86 Stat. 770, 774, (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: November 22, 1995.
Ronald S. Young,
Executive Director.
[FR Doc. 95–29058 Filed 11–27–95; 8:45 am]
BILLING CODE 1610–31–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.
ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

Tetsuya Matsuguchi, M.D., Ph.D., Dana-Farber Cancer Institute: On November 3, 1995, ORI found that Tetsuya Matsuguchi, M.D., Ph.D., formerly a Harvard Medical School Research Fellow at the Dana-Farber Cancer Institute, committed scientific misconduct by intentionally falsifying data by artificially darkening one band each on two autoradiographs in figures that he had prepared for a presentation at an intramural research seminar and by altering three bands on the print of an immunoblot included in Figure 2A of a paper published in the EMBO Journal. This research was supported by a Public Health Service grant.

Dr. Matsuguchi has entered into a Voluntary Exclusion Agreement with ORI in which he has accepted ORI's finding and has agreed to exclude himself voluntarily, for the three (3) year period beginning November 3, 1995:

(1) From any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, Federal nonprocurement transactions (e.g., grants and cooperative agreements), of the United States Government, as defined in 45 C.F.R. Part 76 and 48 C.F.R. Subparts 9.4 and 309.4 (Debarment Regulations); and

(2) From serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

The above voluntary exclusion, however, shall not apply to Dr. Matsuguchi's future training or practice of clinical medicine whether as a medical student, resident, fellow, or licensed practitioner unless that practice involves research or research training.

Dr. Matsuguchi has agreed to submit a letter to the EMBO Journal requesting correction of the article entitled "Tyrosine phosphorylation of $p85^{Vav}$ in myeloid cells is regulated by GM-CSF, IL–3, and Steel factor and is constitutively increased by $p210^{BCR/ABL}$" (EMBO Journal 14:257–265, 1995) by retracting Figure 2A, because Dr. Matsuguchi enhanced the *Vav* bands in lanes 2, 3, and 4 without the knowledge of the other authors, and by substituting the correct Figure 2A.

FOR FURTHER INFORMATION CONTACT: Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852.

Lyle W. Bivens,
Director, Office of Research Integrity.
[FR Doc. 95–28916 Filed 11–27–95; 8:45 am]
BILLING CODE 4160–17–P

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

This Notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) as follows: Chapter K, Administration for Children and Families (ACF) (60 FR 40586); Chapter KL, The Office of Staff Development and Employee Relations (OSDER); and Chapter KS, The Office of Human Resources and Equal Employment Opportunity/Civil Rights (OHREEO/CR), as last amended, August 9, 1995. This reorganization will establish a new servicing personnel office, Office of Human Resource Management.

1. Amend K.10 Organization. After "Office of Legislative Affairs and Budget (KT)," add the following: "Office of Human Resource Management (KU)"

2. Delete Chapter KL. "The Office of Staff Development and Employee Relations," retitle it as the "Office of Staff Development and Organizational Resources" and replace with the following:

The Office of Staff Development and Organizational Resources

KL.00 Mission
KL.10 Organization
KL.20 Functions

KL.00 Mission. The Office of Staff Development and Organizational Resources (OSDOR) serves as principal advisor to the Deputy Assistant Secretary for Program Operations and provides consultation, policy development, technical assistance and related services to all ACF components in the areas of training, staff development, organizational development and organizational analysis. Supports the implementation of ACF's streamlining efforts.

KL.10 Organization. The Office of Staff Development and Organizational Resources is headed by a Director who reports to the Deputy Assistant Secretary for Program Operations.

KL.20 Functions. The Office of Staff Development and Organizational Resources provides leadership in directing and managing agency-wide staff development and training activities for ACF. The Office is responsible for the functional management of training and development in the agency, including policy development, guidance, and technical assistance and evaluation of all aspects of career, employee, supervisory, management, executive and organizational development. Provides leadership in implementing the recommendations of the Staff Development and Training Team, by creating, managing/overseeing and monitoring an ACF training resource center and institutionalizing long-term developmental training for ACF employees.

The Office serves as the principal source of advice through the Deputy Assistant Secretary for Program Operations to the Assistant Secretary on organizational design by collaborating with staff to develop high-leverage, tailored solutions to achieve measurable outcomes and to transform the agency to a quality organization that supports ACF's vision, values and goals. The Office advises the Assistant Secretary through the Deputy Assistant Secretary for Program Operations on all aspects of ACF organizational analysis including: planning for new organizational elements; and planning, organizing and performing studies, analysis and evaluations related to structural, functional and organizational issues, problems and policies to ensure organizational effectiveness. Conducts the review process for ACF reorganization proposals. Acts as liaison with the HHS Office of the Assistant Secretary for Management and Budget to coordinate organizational proposals requiring Secretarial approval; prepares functional statements and official organizational charts. Administers ACF's system for review, approval, and documentation of delegations of authority and maintains the guidelines related to the delegations of authority.

3. Delete Chapter KS. "The Office of Human Resources and Equal Employment Opportunity/Civil Rights," retitle it as the "Equal Employment Opportunity/Civil Rights and Special Initiatives Staff" and replace with the following:

Equal Employment Opportunity/Civil Rights and Special Initiatives Staff

KS.00 Mission
KS.10 Organization
KS.20 Functions

KS.00 Mission. The Equal Employment Opportunity/Civil Rights and Special Initiatives Staff (EEO/CRSIS) directs and manages the ACF Equal Employment Opportunity and Civil Rights program. The Staff is responsible for all special initiative activities for ACF.

KS.10 Organization. The Equal Employment Opportunity/Civil Rights and Special Initiatives Staff is headed by a Director who reports to the Deputy Assistant Secretary for Program Operations.

KS.20 Functions. The Equal Employment Opportunity/Civil Rights and Special Initiatives Staff serves as the principal advisor to the Deputy Assistant Secretary for Program Operations on all aspects of the Equal Employment Opportunity and Civil Rights program. Serves as the liaison between ACF and the HHS Office for Civil Rights. Provides leadership for all special initiative activities for ACF; participates in pilot projects; and represents ACF on committees which relate to the functions of the Staff. Manages and coordinates honor awards programs for ACF.

The Staff directs and manages the ACF Equal Employment Opportunity and Civil Rights program in accordance with Equal Employment Opportunity Commission (EEOC) regulations and HHS guidelines. Immediate oversight is provided by a staff under the direction of the ACF EEO Officer. Plans, develops, and evaluates programs and procedures designed to identify and eliminate discrimination in employment, training, incentive awards, promotion and career opportunities. Responsible for implementing and evaluating a cost-effective, timely, and impartial system for processing individual complaints of discrimination under Title VII of the Civil Rights Act of 1964, as amended. Provides information, guidance, advice, and technical assistance to ACF supervisors and managers on Affirmative Employment planning and other means of achieving parity and promoting work force diversity. Responsible for ensuring that ACT-conducted programs do not discriminate against recipients on the basis of race, color, national origin, age or disability. Monitors and implements civil rights compliance actions under Title VI, Section 504 of the Rehabilitation Act of 1973, as amended and the Age Discrimination Act of 1975, as amended. Implements the applicable provisions of the Americans with Disabilities Act of 1990.

4. Establish a new "Chapter KU," as follows:

Office of Human Resource Management

KU.00 Mission
KU.10 Organization
KU.20 Functions

KU.00 Mission. The Office of Human Resource Management (OHRM) is the principal advisor to the Deputy Assistant Secretary for Program Operations on all personnel administration and management areas.

KU.10 Organization. The Office of Human Resource management is headed by a Director who reports to the Deputy Assistant Secretary for Program Operations.

KU.20 Functions. The Office of Human Resource Management directs and manages the personnel operations and services for the Administration for Children and Families (ACF). Provides advice and assistance to ACF managers in their personnel management activities including workforce planning, recruitment, selection, position management, performance management, and incentive awards. Provides a variety of services to ACF employees, including provision of employee assistance services and career, retirement and benefits counseling. Provides the following personnel administrative services: the exercise of appointing authority, position classification, awards authorization, personnel management evaluation, personnel action processing and recordkeeping. Manages the merit promotion, special hiring and placement programs.

Provides leadership, oversight, and coordination for the planning, analysis, and development of human resource policies and programs. Serves as liaison between ACF, the Department, and the Office of Personnel Management. Provides technical advice and assistance on policy, legal and regulatory matters. Formulates and interprets policies pertaining to all areas related to personnel administration and management. Formulates and interprets new human resource programs and strategies.

Formulates and oversees the implementation of ACF-wide policies, regulations and procedures concerning all aspects of the Senior Executive Service, and SES equivalent recruitment, staffing, position establishment, compensation, award, performance management and other related personnel areas. Manages the performance recognition systems and the responsibilities of the Executive Resources Board (ERB) and the Performance Review Board (PRB). Coordinates the Schedule C and Executive personnel activity with the Office of the Secretary. Is the focal point for data, reports, and analyses relating to SES, Schedule C and other executive personnel, such as those in Executive Level positions.

Provides management advisory service on all labor management and employee relations issues. Plans and coordinates ACF-wide employee relations and labor relations activities, including the application and interpretation of the Federal Labor-Management Relations Program, collective bargaining agreements, disciplinary and adverse action regulations, and appeals. Pursues human relations innovations such as alternative dispute resolutions and serves as the focal point on all issues pertaining to the Labor-Management Partnership Council. Provides leadership in assuring the integrity, effectiveness and impartiality of ACF's alternative dispute resolution programs, grievances, and merit systems program. Participates in the formulation and implementation of policies, practices and matters affecting bargaining unit employees' working conditions by assuring management's compliance with the Federal Labor Relations Program (5 U.S.C. Chapter 71).

Administers ACF's personnel security responsibilities and ethics program. Coordinates the ethics program with the Department's Office of Special Counsel for Ethics.

Dated: November 20, 1995.
Mary Jo Bane,
Assistant Secretary for Children and Families.
[FR Doc. 95–28982 Filed 11–27–95; 8:45 am]
BILLING CODE 4184–01–M

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering Laboratory Health Effects Subcommittee and Idaho National Engineering Laboratory Worker Epidemiologic Study: Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease

Control and Prevention (CDC) announce the following meeting.

Name: Citzens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Idaho National Engineering Laboratory Health Effects Subcommittee (INEL).

Times and Dates: 9 a.m.–4 p.m., December 12, 1995; 9 a.m.–12 noon, December 13, 1995.

Place: Holiday Inn Westbank, 475 River Parkway, Idaho Falls, Idaho 83401, telephone 208/523–8000, FAX 208/529–9610.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 75 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, an MOU was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the pubic; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: The purpose of this meeting is to begin work to update the pubic on the status of CDC's and ATSDR's community involvement plans, health research, and public health activities and present consensus advice and recommendations to CDC and ATSDR regarding these plans.

Matters to be Discussed: The Subcommittee will take into consideration information provided by technical experts on the history of the Idaho National Engineering Laboratory and present operations there, as well as updates on the Idaho National Engineering Laboratory Dose Reconstruction findings and implications. The Subcommittee will also work on organizational issues relating to its future activities.

Name: Idaho National Engineering Laboratory Worker Epidemiologic Study.

Time and Date: 7 p.m.–9 p.m., December 13, 1995.

Place: Holiday Inn Westbank, 475 River Parkway, Idaho Falls, Idaho 83401, telephone 208/523–8000, FAX 208/529–9610.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 75 people.

Purpose: The National Institute for Occupational Safety and Health will hold its annual public meeting for the Idaho National Engineering Laboratory Worker Epidemiologic Study. The purpose of this meeting is to inform the public on the progress of this study.

Agenda items are subject to change as priorities dictate.

Contact Persons for More Information: Arthur J. Robinson, Jr., or Nadine Dickerson, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, (F–35), Atlanta, Georgia 30341–3724, telephone 770/488–7040, FAX 770/488–7044.

Dated: November 20, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–29013 Filed 11–27–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Joint Meeting of the Anti-Infective Drugs Advisory Committee and the Gastrointestinal Drugs Advisory Committee

Date, time, and place. December 13, 1995, 8 a.m., Holiday Inn—Silver Spring, Plaza Ballroom, 8777 Georgia Ave., Silver Spring, MD.

Type of meeting and contact person. Open committee discussion, 8 a.m. to 5 p.m.; open public hearing, 5 p.m. to 6 p.m., unless public participation does not last that long; Ermona B. McGoodwin or Valerie M. Mealy, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Anti-Infective Drugs Advisory Committee, code 12530.

General function of the committees. The Anti-Infective Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of infectious diseases and disorders. The Gastrointestinal Drugs Advisory Committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before December 6, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committees will meet jointly to discuss data relevant to: (1) Supplemental new drug application (NDA) 50–662/S10 for Biaxin Filmtab® (clarithromycin tablets, Abbott Laboratories), clarithromycin in combination with omeprazole for the treatment of active duodenal ulcers and prevention of recurrence of duodenal ulcers associated with *Helicobacter pylori*; and (2) NDA 20–558 for ranitidine bismuth citrate tablets plus amoxicillin (Tritec®, Glaxo Wellcome, Inc.), and NDA 20–559 for ranitidine bismuth citrate tablets plus clarithromycin (Tritec®, Glaxo Wellcome, Inc.), for healing and prevention of duodenal ulcer relapse due to *H. pylori* infection when used in conjunction with clarithromycin or amoxicillin.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: November 20, 1995.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 95–29084 Filed 11–28–95; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Public Information Collection Requirements Submitted for Public Comment and Recommendations

AGENCY: Health Care Financing Administration; HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Request:* Reinstatement, without change of a previously approved collection for which approval has expired; *Title of Information Collection:* Corrective Action Plan (Medicaid Eligibility Quality Control); *Form No.:* HCFA–320; *Use:* Medicaid Eligibility Quality Control is a State administered management system designed to improve the administration of the Medicaid program. States are required to submit a corrective action plan annually. The plan must detail the initiatives the State will implement in order to reduce the type of errors found. *Frequency:* Annually; *Affected Public:* State, local, or tribal government; *Number of Respondents:* 51; *Total Annual Hours:* 20,400.

To request copies of the proposed paperwork collection referenced above, E-Mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: November 13, 1995.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 95–28915 Filed 11–27–95; 8:45 am]

BILLING CODE 4120–03–P

[OPL–007–N]

Medicare Program; December 11, 1995 Meeting of the Practicing Physicians Advisory Council

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Practicing Physicians Advisory Council. This meeting is open to the public.

DATES: The meeting is scheduled for December 11, 1995, from 9 a.m. until 4:30 p.m. e.s.t. (The Spring meeting is tentatively scheduled for March 18, 1996.)

ADDRESSES: The meeting will be held in the Auditorium, 1st Floor, Health Care Financing Administration Building, 7500 Security Boulevard, Baltimore, Maryland 21244.

FOR FURTHER INFORMATION CONTACT: Samuel Shekar, M.D., Executive Director, Practicing Physicians Advisory

Council, Room 425–H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, (202) 260–5463.

SUPPLEMENTARY INFORMATION: The Secretary of the Department of Health and Human Services (the Secretary) is mandated by section 1868 of the Social Security Act, as added by section 4112 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, effective on November 5, 1990), to appoint a Practicing Physicians Advisory Council (the Council) based on nominations submitted by medical organizations representing physicians. The Council meets quarterly to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services, as identified by the Secretary. To the extent feasible and consistent with statutory deadlines, the consultation must occur before publication of the proposed changes. The Council submits an annual report on its recommendations to the Secretary and the Administrator of the Health Care Financing Administration not later than December 31 of each year.

The Council consists of 15 physicians, each of whom has submitted at least 250 claims for physicians' services under Medicare in the previous year. Members of the Council include both participating and nonparticipating physicians, and physicians practicing in rural and underserved urban areas. At least 11 members must be doctors of medicine or osteopathy authorized to practice medicine and surgery by the States in which they practice. Members have been invited to serve for overlapping 4-year terms. In accordance with section 14 of the Federal Advisory Committee Act, terms of more than 2 years are contingent upon the renewal of the Council by appropriate action before the end of the 2-year term.

The Council held its first meeting on May 11, 1992.

The current members are: Richard Bronfman, D.P.M.; Gary C. Dennis, M.D.; Catalina E. Garcia, M.D.; Kenneth D. Hansen, M.D.; Ardis Hoven, M.D.; Sandral Hullett, M.D.; Jerilynn S. Kaibel, D.C.; Marie G. Kuffner, M.D.; Marc Lowe, M.D.; Katherine L. Markette, M.D.; Isadore Rosenfeld, M.D.; Richard B. Tompkins, M.D.; Kenneth M. Viste, Jr., M.D.; James C. Waites, M.D.; and one vacancy. We are planning to fill this vacancy from the list of nominees received from last year's solicitation notice. (In addition, we are developing a separate notice to solicit nominations from medical organizations representing physicians for individuals to fill future vacancies on the Council.) The chairperson is Kenneth M. Viste, Jr., M.D.

The next meeting of the Council will be held on December 11, 1995. The Council agenda will provide for discussion and comment on the following three items:

- Medicare and Medicaid Health Plan Employer Data Information Set (HEDIS),
- The role of carrier medical directors in Medicare policy development and implementation.
- Telemedicine demonstration projects and telecommunications coverage policy.

In addition, Council members will receive a legislative update and be briefed on HCFA's consumer-focused clinical initiatives and program integrity (fraud and abuse) activities. Those individuals or organizations who wish to make 5-minute oral presentations on the first three issues listed should contact the Executive Director by 12:00 noon, November 27, 1995, to be scheduled. The number of oral presentations may be limited by the time available. A written copy of the oral remarks should be submitted to the Executive Director no later than 12:00 noon, December 1, 1995. For the name, address, and telephone number of the Executive Director, see the **FOR FURTHER INFORMATION CONTACT** section at the beginning of this notice. Anyone who is not scheduled to speak may also submit written comments to the Executive Director by 12:00 noon, December 1, 1995. The meeting is open to the public, but attendance is limited to the space available on a first-come basis.

(Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Public Law 92–463 (5 U.S.C. App. 2, section 10(a)); 45 C.F.R. Part 11)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 22, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–29137 Filed 11–24–95; 11:17 am]

BILLING CODE 4120–01–P

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel

Agenda/Purpose: To review and evaluate grant applications.

Committee name: National Institute of Mental Health Special Emphasis Panel.

Date: November 30, 1995.

Time: 4 p.m.

Place: Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Angela L. Redlingshafer, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–1367.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: November 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–29073 Filed 11–27–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Microbiological and Immunological Sciences.

Date: November 30, 1995.

Time: 10 a.m.

Place: NIH, Rockledge 2, Room 4180, Telephone Conference.

Contact Person: Dr. Tim Henry, Scientific Review Administrator, 6701 Rockledge Drive, Room 4180, Bethesda, Maryland 20892, (301) 435–1147.

Name of SEP: Multidisciplinary Sciences.

Date: December 1, 1995.

Time: 2:15 p.m.

Place: NIH, Rockledge 2, Room 5100, Telephone Conference.

Contact Person: Dr. Elliot Postow, Scientific Review Administrator, 6701 Rockledge Drive, Room 5100, Bethesda, Maryland 20892, (301) 435–1750.

Name of SEP: Clinical Sciences.

Date: December 5, 1995.

Time: 3 p.m.

Place: NIH, Rockledge 2, Room 4106, Telephone Conference.

Contact Person: Ms. Josephine Pelham, Scientific Review Administrator, 6701 Rockledge Drive, Room 4106, Bethesda, Maryland 20892, (301) 435–1786.

Name of SEP: Behavioral and Neurosciences.

Date: December 6, 1995.

Time: 2 p.m.

Place: NIH, Rockledge 2, Room 5186, Telephone Conference.

Contact Person: Dr. Kenneth Newrock, Scientific Review Administrator, 6701 Rockledge Drive, Room 5186, Bethesda, Maryland 20892, (301) 435–1252.

Name of SEP: Behavioral and Neurosciences.

Date: December 8, 1995.

Time: 2:30 p.m.

Place: NIH, Rockledge 2, Room 5196, Telephone Conference.

Contact Person: Ms. Carol Campbell, Scientific Review Administrator, 6701 Rockledge Drive, Room 5196, Bethesda, Maryland 20892, (301) 435–1257.

Name of SEP: Biological and Physiological Sciences.

Date: December 8, 1995.

Time: 2 p.m.

Place: NIH, Rockledge 2, Room 6178, Telephone Conference.

Contact Person: Dr. Nancy Pearson, Scientific Review Administrator, 6701 Rockledge Drive, Room 6178, Bethesda, Maryland 20892, (301) 435–1047.

Name of SEP: Biological and Physiological Sciences.

Date: December 11, 1995.

Time: 2 p.m.

Place: NIH, Rockledge 2, Room 6178, Telephone Conference.

Contact Person: Dr. Nancy Pearson, Scientific Review Administrator, 6701 Rockledge Drive, Room 6178, Bethesda, Maryland 20892, (301) 435–1047.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: Clinical Sciences.

Date: December 12, 1995.

Time: 10 a.m.

Place: NIH, Rockledge 2, Room 4114, Telephone Conference.

Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

Name of SEP: Clinical Sciences.

Date: December 12, 1995.

Time: 12:00 p.m.

Place: NIH, Rockledge 2, Room 4114, Telephone Conference.

Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

Name of SEP: Clinical Sciences.

Date: December 13, 1995.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4112, Telephone Conference.

Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 6701 Rockledge Drive, Room 4112, Bethesda, Maryland 20892, (301) 435–1783.

Name of SEP: Biological and Physiological Sciences.

Date: December 18, 1995.

Time: 2:30 p.m.

Place: NIH, Rockledge 2, Room 5196, Telephone Conference.

Contact Person: Ms. Carol Campbell, Scientific Review Administrator, 6701 Rockledge Drive, Room 5196, Bethesda, Maryland 20892, (301) 435–1257.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93,893, National Institutes of Health, HHS)

Dated: November 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–29072 Filed 11–27–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–933–96–1320–01; COC 54608]

Notice of Coal Lease Re-Offering By Sealed Bid; COC 54608

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of competitive coal lease sale.

SUMMARY: Bureau of Land Management, Colorado State Office, Lakewood, Colorado, hereby gives notice that certain coal resources in the lands hereinafter described in Routt County, Colorado, will be re-offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*). On August 18, 1995, these resources were re-offered for competitive lease by sealed bid to the highest qualified bidder provided that the high bid met the fair market value of the coal resources as determined by the authorized officer after the sale. Cyprus Western Coal Company was the only bidder. The bid did not meet the fair market value established for this tract. Therefore, the bid was rejected and the tract is being re-offered. A third sale was scheduled for November 16, 1995; however, due to the federal employee furlough, the sale is rescheduled.

DATES: The lease sale will be held at 11 a.m., Friday, December 22, 1995. Sealed bids must be submitted no later than 10 a.m., Friday, December 22, 1995.

ADDRESSES: The lease sale will be held in the Conference Room, Fourth Floor, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado. Sealed bids must be submitted to the Cashier, First Floor, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Karen Purvis at (303) 239–3795.

SUPPLEMENTARY INFORMATION: The tract will be leased to the qualified bidder submitting the highest offer, provided that the high bid meets the fair market value determination of the coal resource. The minimum bid for this tract is $100 per acre or fraction thereof. No bid less than $100 per acre or fraction thereof will be considered. The minimum bid is not intended to represent fair market value.

Sealed bids received after the time specified above will not be considered.

In the event identical high sealed bids are received, the tying high bidders will be requested to submit follow-up bids until a high bid is received. All tie-breaking sealed bids must be submitted within 25 minutes following the Sale Official's announcement at the sale that identical high bids have been received.

Fair market value will be determined by the authorized officer after the sale. COAL OFFERED: The coal resource to be offered is limited to coal recoverable by underground mining methods in the Wadge seam on the Twentymile Tract in the following lands:

Sixth Principal Meridian

T. 5 N., R. 86 W.,
Sec. 21, N½, and SE¼;
Sec. 22, E½E½, and W½;
Sec. 23, all;
Sec. 26, N½, and N½SW¼;
Sec. 27, W½;
Sec. 28, NE¼, and E½NW¼;
Sec. 33, NE¼NE¼,

The land described contains 2,600 acres, more or less.

The recoverable reserves have been adjusted down to 23.87 million tons to account for coal purchased by Cyprus Western Coal Company for two mineral R/W's. The Wadge seam underground minable coal is ranked as high volatile C bituminous coal. The estimated coal quality for the Wadge seam on an as-received basis is as follows:

Btu—11,745 Btu/lb.
Moisture—7.76%
Sulfur Content—0.48%
Ash Content—8.80%

Rental and Royalty

The lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States of 8 percent of the value of coal mined by underground methods. The value of the coal will be determined in accordance with 30 CFR 206.

Notice of Availability

Bidding instruction for the offered tract are included in the Detailed Statement of Coal Lease Sale. Copies of the statement and the proposed coal lease are available upon request in person or by mail from the Colorado State Office at the address given above. The case file is available for inspection in the Public Room, Colorado State Office, during normal business hours at the address given above.

Dated: November 21, 1995.

Karen A. Purvis,

Solid Minerals Team, Resource Services.

[FR Doc. 95–28989 Filed 11–27–95; 8:45 am]

BILLING CODE 4310–JB–M

Fish and Wildlife Service

Availability of Draft Recovery Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of the draft recovery plan for *Jacquemontia reclinata*. *Jacquemontia reclinata* is restricted to the barrier islands of Florida's southeastern coast from Palm Beach County to Miami.

DATES: Comments on the draft recovery plan must be received on or before January 29, 1996 to receive consideration by the Service.

ADDRESSES: Copies can be obtained from Field Supervisor, Jacksonville Field Office, U.S. Fish and Wildlife Service, 6620 Southpoint Drive, South, Suite 310, Jacksonville, Florida 32216. Comments and material received are available upon request for public inspection at the above addresses.

FOR FURTHER INFORMATION CONTACT: Dr. L. Karolee Owens at 904/232–2580.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice, and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will take these comments into account in the course of implementing approved recovery plans.

Jacquemontia reclinata was listed as an endangered species on November 24, 1993. Fewer than 1000 individual plants are presently found in small, widely separated populations in Broward, Dade, and Palm Beach Counties in Florida. The primary habitat is beach strand and maritime hammock vegetation. Its range has been further limited by habitat loss resulting from urban development, beach erosion, invasion of exotic plant species, and park maintenance activities, including mowing and herbicide use. *J. reclinata* does not tolerate shade and requires open areas, which were maintained historically by hurricanes and, possibly, by fire. The ecological characteristics and requirements, population structure and dynamics, and responses to habitat changes and management manipulations by *Jacquemontia reclinata* are not known.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified will be considered prior to the approval of the plans.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: November 9, 1995.

David J. Wesley,

Field Supervisor.

[FR Doc. 95–28920 Filed 11–27–95; 8:45 am]

BILLING CODE 4310–55–M

Notice of Intent To prepare an Environmental Impact Statement for the Acquisition of Lands for the Big Muddy National Fish and Wildlife Refuge in Counties Adjacent to the Missouri River From the Confluence of the Kansas and Missouri Rivers Near Kansas City, Missouri, to the Confluence of the Missouri and Mississippi Rivers Near St. Louis, Missouri

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Intent.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare an Environmental Impact Statement (EIS) for the acquisition of lands for the Big Muddy National Fish and Wildlife Refuge (refuge) in Missouri. Public "open house" meetings will be held. Dates, times, and locations of the open house scoping meetings will be published in local media in advance.

This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received by March 27, 1996. Public open house meetings will be held from 1:00 p.m. to 8:00 p.m. as follows:

January 8, 1996, Park Place Hotel, 1601 Universal, Kansas City, Missouri 64120.

January 9, 1996, Marshall Inn, Highway 65 Bypass, Marshall, Missouri 65340.

January 10, 1996, Capitol Plaza Hotel, 415 West McCarty, Jefferson City, Missouri 65101.

January 11, 1996, Jaycees Hall, City park, Washington and 11th Streets, Hermann, Missouri 65041.

January 12, 1996, The Heart of St. Charles Banquet Center, 1400 South 5th Street, St. Charles, Missouri 63301.

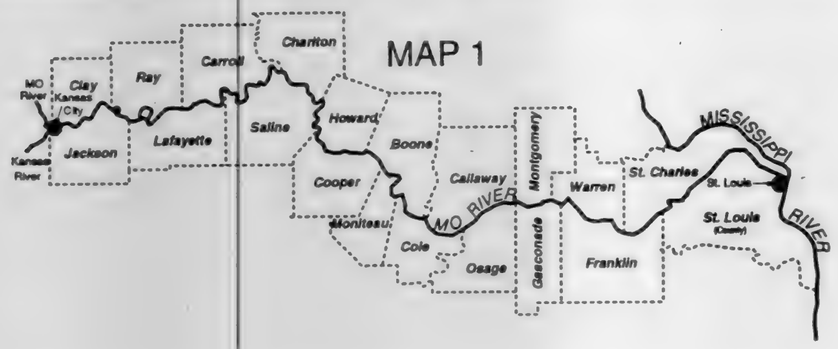
FOR FURTHER INFORMATION CONTACT: J.C. Bryant, Project Leader, Big Muddy National Fish and Wildlife Refuge, 4200 New Haven Road, Columbia, Missouri 65201–9643; Telephone 1–800–611–1826.

SUPPLEMENTARY INFORMATION: R. Wayne Weier, Wildlife Biologist, U.S. Fish and Wildlife Service, 24385 State Highway 51, Puxico, Missouri 63960 is the primary author of this document.

Proposed Action

The Service proposes to acquire 60,000 acres, more or less, of Missouri River floodplain land at multiple sites along the Kansas City to St. Louis reach (Map 1) for management as a unit of the National Wildlife Refuge System. The project area encompasses River Miles 367 to 0 and includes the lower 10 miles of tributary streams and rivers. Land would be acquired from willing sellers through fee less, easement, or other property transfer arrangements. The project would involve less than ten percent of the floodplain in this river reach if the entire acreage were acquired.

BILLING CODE 4310–55–M



BILLING CODE 4310-55-C

Map. 1. Study area for proposed land acquisition.

Purpose of Action

The purpose of the proposed action is to contribute to the Service's resource responsibilities, as stated in the Service's mission statement, through protection, restoration, and management of Missouri River floodplain lands in the benefit of fish, wildlife, and their habitats and to provide for compatible public use.

Need for Action

The action is proposed to meet Service stewardship mandates for interjurisdictional fish, migratory birds, and threatened and endangered species. Channelization and floodplain development have led to the loss of over 500,000 acres of aquatic and terrestrial habitat in the Lower Missouri River floodplain (between Sioux City, Iowa, and St. Louis, Missouri) since 1912. Consequently, native fish and wildlife resources dependent upon the river and its associated floodplain have declined dramatically. Land acquisition and habitat restoration would benefit a diversity of fish and wildlife resources, including native river fishes, birds such as waterfowl, shorebirds, and passerine birds, and advance the recovery of Federally-listed threatened and endangered species.

Related Actions of Other Agencies

Acquisition of lands and rights to lands under existing Service authorities would complement other floodplain land acquisition being done along this reach of the Missouri River by the U.S. Army Corps of Engineers, the Natural Resources Conservation Service, the Missouri Department of Conservation, and the Federal Emergency Management Agency. Depending on agency missions, these acquisitions are being made to restore Missouri River habitats, contribute to the river's floodway, or to alleviate past or future flood damage.

Alternatives

Alternatives for the Service to pursue restoration of the Missouri River ecosystem to benefit fish and wildlife include: (1) Acquiring appropriate ownership interest in floodplain lands and managing those lands as Big Muddy National Fish and Wildlife Refuge—a unit of the National Wildlife Refuge System, (2) non-acquisition methods, such as private lands initiatives or public information thrusts, and (3) no action. These alternatives, along with others identified during the scoping process, may or may not be examined in detail in the EIS.

Issues

The following would be likely issues under the Service's proposed action: (1) Floodplain land use: Agricultural uses of acquired lands would mostly cease. Forest and wetland habitat, and areas available for outdoor recreation, would increase. Acquired lands would no longer be available to others for purchase. New or expanded transportation and utility systems across refuge land could be authorized through Service issuance of right-of-way permits. (2) Fish and wildlife: The river eventually would reconnect to its floodplain on the refuge, restoring floodplain habitats and functions to the benefit of fish and wildlife, including Federally-listed threatened and endangered species. (3) Economics: Both pluses and minuses would occur. On acquired lands, economic returns from agriculture would mostly cease, while returns from outdoor recreation would likely increase. Long-term, increases in economic returns from commercial fishing and timber harvest could be possible. Little impact on commercial navigation is expected. (4) Drainage and flooding: Previously established drainage across the refuge would continue. The Missouri River would have a larger floodway in certain areas. (5) Levee and drainage districts: The Service would develop cooperative agreements with levee and drainage districts as required to address specific needs, including levee and drainage system maintenance. (6) County tax revenues: Lands and Service acquired in fee title would be removed from county tax rolls; tax revenue losses would be offset by annual payments to those counties through the Refuge Revenue Sharing Act. (7) Taxes associated with transfer of title: On accreted lands, or for long-term ownerships, capital gains taxes could be so high as to deter land sales by certain owners who would otherwise be willing to sell.

Other Information

The environmental review of this proposal will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), NEPA regulations (40 CFR 1500–1508), other appropriate Federal regulations, and Service procedures for compliance with those regulations.

We estimate the Draft EIS will be available to the public by Fall, 1996.

Dated: October 27, 1995.

Marvin E. Moriarty,

Acting Regional Director.

[FR Doc. 95–28918 Filed 11–27–95; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Meeting of the National Park System Advisory Board

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Meeting of the National Park System Advisory Board.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix, that an orientation meeting of the National Park System Advisory Board will be held on December 7–8, 1995, at the U. S. Department of the Interior, 1849 C Street, NW, Washington, DC, Rooms 5160 and 7000–A. The Board will convene in Room 5160 at about 9:30 a.m., Thursday, December 7, and will meet until about 5 p.m. The Board will reconvene in Room 7000–A at about 9 a.m., on Friday, December 8, and the meeting will be adjourned about 12 noon, that day.

On December 7, following opening remarks by the Director of the National Park Service, the Board will be addressed by the Deputy Director, Associate Directors, and other National Park Service officials, providing an overview of the National Park Service (NPS), including NPS partnerships, National Historic Landmark and National Natural Landmark programs, and the recent NPS restructuring.

On December 8, the Board will be addressed regarding issues that will be brought before the Board in the immediate future. The Board will elect officers and determine committee assignments.

The Board may be addressed at various times by other officials of the National Park Service and 2 the Department of the Interior, and other miscellaneous topics and reports may be covered. The order of the agenda may be changed, if necessary, to accommodate travel schedules or for other reasons.

The Board meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come basis. Anyone may file with the Board a written statement concerning matters to be discussed. The Board also may permit attendees to address the Board, but may restrict the length of presentations, as necessary to allow the Board to complete its agenda within the allotted time.

Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Geraldine Smith, Office of Policy, National Park Service, P.O. Box 37127, Washington, DC 20013–7127 (telephone 202–208–7456).

Draft minutes of the meeting will be available for public inspection about 12 weeks after the meeting, in Room 1217, Main Interior Building, 1849 C Street, NW, Washington, DC.

John Reynolds,

Deputy Director.

[FR Doc. 95–28912 Filed 11–27–95; 8:45 am]

BILLING CODE 4310–70–P

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 18, 1995. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, PO Box 37127, Washington, DC 20013–7127. Written comments should be submitted by December 13, 1995.

Patrick Andrus,

Acting Keeper of the National Register.

COLORADO

Denver County

Joshel, Lloyd M., House, 220 S. Dahlia St., Denver, 95001456

MAINE

Franklin County

Madrid Village Schoolhouse, Reeds Mills Rd. W side, 0.05 mi. N of jct. with ME 4, Madrid, 95001460

Hancock County

Cover Farm, Off ME 3 W side, 0.3 mi. NW of jct. with Crooked Rd., Hulls Cove, 95001464

Lincoln County

Loudville Church, Center of Louds Island, Loudville vicinity, 95001457

Oxford County

Philbrook, John M., House, 32 Main St., Bethel, 95001465

Sagadahoc County

Swan Island Historic District, Kennebec R., between Richmond and Dresden, Richmond vicinity, 95001461

Somerset County

Holden, Samuel, House, US 201 E side, 0.25 mi. N of jct. with MDOT Rd., Moose River, 95001459

Waldo County

Belfast Historic District (Boundary Increase), 121 High St., Belfast, 95001476

York County

Division No. 9 School, ME 9 S side, 0.15 mi. E of jct. with Bragdon Rd., North Berwick vicinity, 95001463

Ogunquit Playhouse, US 1 E side, 0.2 mi. S of jct. with Bourne Rd., Ogunquit, 95001458

Way Way General Store, 93 Buxton Rd., Saco vicinity, 95001462

MASSACHUSETTS

Suffolk County

Riviera, The, 270 Huntington Ave., Boston, 95001450

NEW MEXICO

Curry County

Santa Fe Passenger Depot—Clovis, 221 W. First St., Clovis, 95001451

Lincoln County

Aguayo Family Homestead (Homesteads on the Lincoln National Forest, New Mexico MPS) Tortolita Canyon, W of Nogal, Nogal vicinity, 95001478

Santa Fe County

Nuestra Senora de Luz Church and Cemetery (Religious Properties of New Mexico MPS) 13 mi. SE of Santa Fe, N of I–25 frontage rd., Canoncito, 95001452

OKLAHOMA

Oklahoma County

Crown Heights Historic District, Roughly bounded by NW. 36th St., N. Western Ave., NW. 43rd St. and N. Walker Ave., Oklahoma City, 95001467

Jefferson Park Historic District, Roughly bounded by NW. 23rd St., N. Walker Ave., NW. 30th St. and I–235, Oklahoma City, 95001466

SOUTH DAKOTA

Dewey County

Laurens Polygonal Hog House (South Dakota's Round and Polygonal Barns and Pavilions MPS) SD 63, 1 mi. N of US 212, Eagle Butte vicinity, 95001468

Jones County

Freier Round Barn (South Dakota's Round and Polygonal Barns and Pavilions MPS) 2 mi. N and 2 mi. E of Draper, Draper vicinity, 95001471

Minnehaha County

Austin—Olson Farm (South Dakota's Round and Polygonal Barns and Pavilions MPS) 24993 465th Ave., Colton vicinity, 95001474

Shafer Round Barn (South Dakota's Round and Polygonal Barns and Pavilions MPS) 1600 S. Powder House Rd., Sioux Falls vicinity, 95001470

Moody County

Little Village Farm Sale Barn (South Dakota's Round and Polygonal Barns and Pavilions MPS) Off US 77, NE of Dell Rapids, Dell Rapids vicinity, 95001469

Pennington County

Sitting Bull Crystal Cavern Dance Pavilion (South Dakota's Round and Polygonal

Barns and Pavilions MPS) US 16 NE of Rockerville, Rockerville vicinity, 95001475

Turner County

Bones Hereford Ranch Sale Barn (South Dakota's Round and Polygonal Barns and Pavilions MPS) 45874 268th St., Parker vicinity, 95001472

TENNESSEE

Washington County

Shelbridge, Jct. of N. Roan and E. 11th Sts., Johnson City, 95001477

TEXAS

Goliad County

San Antonio River Valley (West of Goliad) Rural Historic District, Address Restricted, Goliad vicinity, 95001453

WISCONSIN

Rock County

Crosby, James B., House, 1005 Sutherland Ave., Janesville, 95001454

Taylor County

Saint Ann's Catholic Church and Cemetery, W3963 Brehm Ave., Greenwood, 95001455

[FR Doc. 95–29015 Filed 11–27–95; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–365 and 366 (Final)]

Certain Pasta From Italy and Turkey

AGENCY: International Trade Commission.

ACTION: Institution of final countervailing duty investigations.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigations Nos. 701–TA–365 and 366 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports from Italy and Turkey of certain pasta,[1] provided for in subheading 1902.19.20 of the Harmonized Tariff Schedule of the United States.

Pursuant to a request from petitioner under section 705(a)(1) of the Act (19 U.S.C. 1671d(a)(1)), Commerce has extended the date for its final determinations to coincide with those to be made in the ongoing antidumping investigations on certain pasta from Italy and Turkey. Accordingly, the Commission will not establish a schedule for the conduct of the countervailing duty investigations until Commerce makes preliminary determinations in the antidumping investigations (currently scheduled for December 15, 1995).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: October 17, 1995.

FOR FURTHER INFORMATION CONTACT: George Deyman (202–205–3197), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Italy and Turkey of certain pasta. The investigations were requested in a petition filed on May 12, 1995, by Borden, Inc., Columbus, OH; Hershey Foods Corp., Hershey, PA; and Gooch Foods, Inc. (Archer Daniels Midland Co.), Lincoln, NE.

Participation in the Investigations and Public Service List

Persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than 21 days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these final investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than 21 days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.20 of the Commission's rules.

Issued: November 22, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–29054 Filed 11–27–95; 8:45 am]

BILLING CODE 7020–02–P

[1] "Certain pasta," the imported product subject to these investigations, consists of non-egg dry pasta in packages of 5 pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to 2 percent egg white. Certain pasta is typically sold in the retail market in fiberboard or cardboard cartons or polyethylene or polypropylene bags, of varying dimensions. Excluded from the definition of certain pasta are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to 2 percent egg white.

[Investigation No. 337–TA–379]

Certain Starter Kill Vehicle Security Systems; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 18, 1995, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Code-Alarm, Inc., 950 East Whitcomb, Madison Heights, Michigan 48071–6408. Supplements to the complaint were filed on November 2, November 13, and November 20, 1995. The complaint alleges a violation of section 337 based on the importation into the United States, the sale for importation, and the sale within the United States after importation of certain starter kill vehicle security systems by reason of alleged contributory and induced infringement of claims 7 and 8 of U.S. Letters Patent 4,740,775. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202–205–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

FOR FURTHER INFORMATION CONTACT: Mary Jane Boswell, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2582.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10.

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on November 20, 1995, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain starter kill vehicle security systems by reason of infringement of claims 7 or 8 of U.S. Letters Patent 4,740,775, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Code-Alarm, Inc., 950 East Whitcomb, Madison Heights, Michigan 48071–6408.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Directed Electronics, Inc., 2560 Progress Drive, Vista, California 92083

Nutek Company, 150 Muhhsin Road, Section 3, Taipei, Taiwan

(c) Mary Jane Boswell, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401–I, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR § 210.13. Pursuant to section 201.16(d) and 210.13(a) of the Commission's Rules, 19 CFR §§ 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: November 21, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–29053 Filed 11–27–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigation 332–135]

Synthetic Organic Chemicals (SOC) Reports

AGENCY: International Trade Commission.

ACTION: Phaseout of report series and termination of investigation.

EFFECTIVE DATE: November 14, 1995.

SUMMARY: The Commission has published both the annual and the quarterly reports on synthetic organic chemicals (SOC) on an annual basis since 1917 (the one exception being 1931). Beginning in 1982, the annual and quarterly data were collected and published through self-initiated Investigation No. 332–135 under the authority of section 332(b) of the Tariff Act of 1930. Effective May 13, 1988, that authority was changed to section 332(g) at the request of the House Committee on Ways and Means. Notice of this action was published in the **Federal Register** of May 25, 1988 (53 FR 18912).

By letter of October 17, 1995, the Committee on Ways and Means requested that the Commission terminate publication of the quarterly and annual SOC Reports by October 1, 1996. Accordingly, the Commission will publish a final annual report in 1995 and quarterly reports covering all quarters through June 1996. The Commission will terminate the investigation effective October 1, 1996.

FOR FURTHER INFORMATION CONTACT: Information may be obtained from Ms. Elizabeth Nesbitt (202–205–3355), Energy, Chemicals, and Textiles Division, Office of Industries, or from Mr. William Gearhart, Office of the General Counsel (202–205–3091). The media should contact Ms. Margaret O'Laughlin, Office of Public Affairs (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

By order of the Commission.

Issued: November 20, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–29055 Filed 11–27–95; 9:45 am]

BILLING CODE 7020–02–P

[Investigation 332–207]

The U.S. Automobile Industry Monthly Report on Selected Economic Indicators

AGENCY: International Trade Commission.

ACTION: Phaseout of report series and termination of investigation.

SUMMARY: In December 1980, the House Committee on Ways and Means requested that the Commission provide it with monthly data on U.S. automobile imports, sales, production, and prices. In December 1980, the Commission instituted Investigation No. 332–121, U.S. Automobile Industry Monthly Report on Selected Economic Indicators. The request by the Committee for monthly data on the automobile industry was renewed four times during 1981–85, with the final request in 1985 having no fixed date for termination.

Notice of the current investigation, Investigation No. 332–207 was published in the **Federal Register** of March 13, 1985 (50 FR 10118).

EFFECTIVE DATE: November 14, 1995.

By letter of October 17, 1995, the Committee requested that the Commission change its publication schedule from monthly to quarterly reports, effective immediately, and by January 1996 move to annual publication and finally, terminate the report by January 1998. Accordingly, the Commission has determined to publish one quarterly report for the Oct.–Dec. 1995 period and one annual report for 1996, and will terminate the investigation effective January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Information may be obtained from Mr. Michael Hagey (202–205–3392), Services, Electronics, and Transportation Division, Office of Industries, or from Mr. William Gearhart, Office of the General Counsel (202–205–3091). The media should contact Ms. Margaret O'Laughlin, Office of Public Affairs (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

Issued: November 20, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–29056 Filed 11–27–95; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs, Bureau of Justice Statistics

Information Collection Under Review

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" from the date listed at the top of this page in the **Federal Register**.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through he use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses. If you have additional comments or suggestions, please include them with your written response. If a copy of the proposed collection instrument with instructions is not published in this notice please contact the agency representative listed below if you wish to receive a copy: Dr. Jan M. Chaiken, Director, Bureau of Justice Statistics, 633 Indiana Avenue NW., Washington, DC 20531. Telephone: 202–307–0765.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement, with Change, of a Previously Approved Collection for which Approval has Expired.

(2) *Title of the Form/Collection:* Survey of Inmates in State Correctional Facilities—1996, and Survey of Inmates in Federal Correctional Facilities—1996.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Forms NPS–13, and NPS–25. Sponsored by the Bureau of Justice Statistics and the Federal Bureau of Prisons, United States Department of Justice.

(4) *Who will be asked or required to respond, as well as a brief abstract:* Primary: Federal and State Prison Management Officials. Other: None. Federal and State Prison Management Officials will be asked to furnish a list of all inmates in custody. The list will be checked for completeness with the NPS–13. Approximately 19,150 sampled State and Federal inmates will be asked a series of questions in a personal interview (NPS–25) using Computer Assisted Personal Interviewing. The interview will collect information on the controlling offense, demographic characteristics of the inmate, criminal history, alcohol and drug use, victims of violent crime and conditions of confinement. The Bureau of Justice Statistics uses this information in published reports, and for the United States Congress, the Executive Office of the President, practitioners, researchers, and others in the criminal justice community.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 278 responses at 1 hour each for the NPS–13 and 19,150 responses at 1 hour each for the NPS–25.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 19,428 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Systems Policy Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: November 21, 1995.

Robert B. Briggs,

Department Clearance Officer, U.S. Department of Justice.

[FR Doc. 95–29005 Filed 11–27–95; 8:45 am]

BILLING CODE 4410–18–M

Information Collection Under Review

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" from the date listed at the top of this page in the **Federal Register**.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. If you have additional comments or suggestions, please include them with your written response. If a copy of the proposed collection instrument with instructions is not published in this notice please contact the agency representative listed below if you wish to receive a copy: Mr. Richard Florence, Federal Bureau of Investigation, 10th and Pennsylvania Avenue, Washington, DC 20535.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Age, Sex, Race, and Ethnic Origin of Persons Arrested (Over 18). Age, Sex, Race, and Ethnic Origin of Persons Arrested (Under 18).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form: I–708, I–708a. Federal Bureau of Investigation, United States Department of Justice.

(4) *Who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal Governments. Other: None. These two forms are used to collect the age, sex, race, and ethnic origin of persons arrested. Resulting statistics are published in the annual "Crime in the United States" publication.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 10,148 respondents 12 responses per year at .50 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 60,888 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Systems Policy Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: November 21, 1995.

Robert B. Briggs,

Department Clearance Officer, U.S. Department of Justice.

[FR Doc. 95–29006 Filed 11–27–95; 8:45 am]

BILLING CODE 4410–02–M

Information Collection Under Review

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" from the date listed at the top of this page in the **Federal Register**.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. If you have additional comments or suggestions, please include them with your written response. If a copy of the proposed collection instrument with instructions is not published in this notice please contact the agency representative listed below if you wish to receive a copy: Ms. Charlotte C. Black, Assistant General Counsel, Office of Community Oriented Policing Services, 1100 Vermont Avenue, NW, Washington, DC 20530.

Overview of this information collection:

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* Innovative Community Policing Grants Application.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form COPS 016/01. Office of Community Oriented Policing Services (COPS), United States Department of Justice.

(4) *Who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal Governments. Other: None. This collection will be used to collect information relating to applications to initiate, support, and enhance innovative and collaborative projects implementing community policing. The information will be used to make determinations of competitive grant awards.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 4,210 responses per year at 14 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 67,781 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Systems Policy Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: November 21, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–29007 Filed 11–27–95; 8:45 am]

BILLING CODE 4410–21–M

Information Collection Under Review

The Notice Below is a Correction to the Notice on Page 54515–16 of The Federal Register, Vol. 60, No. 205, Tuesday, October 24, 1995.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" from the date listed at the top of this page in the **Federal Register**.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. e.g., permitting electronic submission of responses. If you have additional comments or suggestions, please include them with your written response. If a copy of the proposed collection instrument with instructions is not published in this notice please contact the agency representative listed below if you wish to receive a copy: Ms. Audrey B. LaSante, Federal Bureau of Investigation, FBI Academy, Washington Dorm, Quantico, Va. 22135.

Overview of this information collection:

(1) *Type of Information Collection:* Existing Collection in use without an OMB Control Number.

(2) *Title of the Form/Collection:* Postgraduate Evaluation of the FBI National Academy Survey Booklet.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form: None. Federal Bureau of Investigation, United States Department of Justice.

(4) *Who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal Governments. Other: None. This is program evaluation data collected to verify the appropriateness of courses offered at the FBI Academy to state and local law enforcement officers. Respondents are graduates of the FBI National Academy Program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 907 responses per year at .75 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 680 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Systems Policy Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: November 21, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–29009 Filed 11–27–95; 8:45 am]

BILLING CODE 4410–02–M

Information Collection Under Review

The Notice Below is a Correction to the Notice on Page 54516 of the Federal Register, Vol. 60, No. 205, Tuesday, October 24, 1995.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" from the date listed at the top of this page in the **Federal Register**.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. e.g., permitting electronic submission of responses.

If you have additional comments or suggestions, please include them with your written response. If a copy of the proposed collection instrument with instructions is not published in this notice please contact the agency representative listed below if you wish to receive a copy: MS. Ellen Westley, Office of Justice Programs, Room 401, Indiana Building, 633 Indiana Ave., NW., Washington, DC 20530.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* The Parole Data Survey and the Probation Data Survey.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* CJ7—The Parole Data Survey, CJ8—The Probation Data Survey. Bureau of Justice Statistics, United States Department of Justice.

(4) *Who will be asked or required to respond, as well as a brief abstract:* Primary: Federal Government. Other: State, Local or Tribal Governments. These data will provide the Bureau of Justice Statistics with aggregate information about offenders under the supervision of parole and probation agencies across the country. Data are collected from 93 central respondents and 234 local respondents. Since over 70% of the 5.1 million offenders under correctional supervision are under parole or probation supervision it is essential for any criminal justice reporting system to include this segment.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 327 responses per year at 1.5 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 491 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Systems Policy Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: November 21, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–29011 Filed 11–27–95; 8:45 am]

BILLING CODE 4410–18–M

Information Collection Under Review

The Notice Below is a Correction to the Notice on Page 54515 of the Federal Register, Vol. 60 No. 205, Tuesday, October 24, 1995.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" from the date listed at the top of this page in the **Federal Register**.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriated automated, electronic, mechanical, or other technological collection techniques or other forms of information technology e.g., permitting electronic submission of responses.

If you have additional comments or suggestions, please include them with your written response. If a copy of the proposed collection instrument with instructions is not published in this notice please contact the agency representative listed below if you wish to receive a copy: Ms. Ellen Westley, Office of Justice Programs, Room 401, Indiana Building, 633 Indiana Ave., NW., Washington, DC 20530.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Edward Byrne Memorial State and Local Law Enforcement Assistance Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* None. Bureau of Justice Statistics, United States Department of Justice.

(4) *Who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal Governments. Other: None. This collection covers the forms used to administer formula grant awards under the provisions of Subtitle C—State and Local Law Enforcement Assistance Act of the Anti-Drug Abuse Act of 1988, as amended by the Crime Control and the Immigration Acts of 1990.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 70,108 responses per year at .38 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 26,829 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Systems Policy Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: November 21, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–29010 Filed 11–27–95; 8:45 am]

BILLING CODE 4410–18–M

Information Collection Under Review

The Notice Below is a Correction to the Notice on Page 55600 of the Federal Register, Vol. 60, No. 211, Wednesday, November 1, 1995.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" from the date listed at the top of this page in the Federal Register. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. If you have additional comments or suggestions, please include them with your written response. If a copy of the proposed collection instrument with instructions is not published in this notice please contact the agency representative listed below if you wish to receive a copy: Ms. Jill Ptacek, Room 9828, Judiciary Center Building, 555 4th Street, NW, Washington, DC 20001.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Department of Justice Federal Coal Lease Review Information.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Forms: ATR–139, ATR–140. Antitrust Division, United States Department of Justice.

(4) *Who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None. The Department of Justice evaluates the competitive impact of issuances, transfers and exchange of federal coal leases. These forms seek information regarding a prospective coal lessee's coal reserves and the reserves subject to the federal lease. The Department uses this information to determine whether the lease transfer is consistent with the antitrust laws.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20 responses per year at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 40 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Office, United States Department of Justice, Systems Policy Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W., Washington, DC 20530.

Dated: November 21, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–29008 Filed 11–27–95; 8:45 am]

BILLING CODE 4410–11–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petrotechnical Open Software Corporation

Notice is hereby given that on July 17, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* ("the Act"), Petrotechnical Open Software Corporation ("POSC") filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following additional parties have become new, non-voting members of POSC: Object Management Group, Framingham, MA; Panther Software Corporation, Calgary, Alberta, CANADA; Kestrel Data Limited, Calgary, Alberta, CANADA; System Development Inc.; Houston, TX; MATE srl, Milan, ITALY; IEDS Limited, Tetbury, Gloucesteshire, UNITED KINGDOM.

No other changes have been made in either the membership or planned activity of POSC.

On January 14, 1991, POSC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 7, 1991 (56 FR 5021).

The last notification was filed with the Department on April 19, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 27, 1995 (60 FR 33233).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–28919 Filed 11–27–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–31,531]

Allegheny Ludlum Corporation, Brackenridge, Pennsylvania; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 16, 1995 in response to a worker petition which was filed October 4, 1995 on behalf of workers at Allegheny Ludlum Corporation, Brackenridge, Pennsylvania (TA–W–31,531).

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification (TA–W–31,231A). Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 9th day of November 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–28971 Filed 11–27–95; 8:45 am]

BILLING CODE 4510–30–M

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In the matter of TA–W–31,114, Pennzoil Exploration & Production Company, Midland, Texas and Operating in the States of TA–W–31,114A Louisiana; TA–W–31,114B Mississippi; TA–W–31,114C Texas (excluding Midland); TA–W–31,114D Alabama; TA–W–31,114E Tennessee; TA–W–31,114F Utah; TA–W–31,114G Colorado.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 7, 1995, applicable to all workers of Pennzoil Exploration & Production Company located at Midland, Texas. The notice was published in the **Federal Register** on July 19, 1995 (60 FR 37082).

New information received from the company shows that workers of the subject firm operating in other States were inadvertently excluded from the certification. The company reports that worker separations occurred in Louisiana, Mississippi, locations in Texas other than Midland, Alabama, Tennessee, Utah and Colorado. The workers are engaged in seismic analysis related to the production of crude oil and natural gas. Based on these findings, the Department is amending the certification to cover workers of Pennzoil Exploration & Production in those States.

The intent of the Department's certification is to include all workers of Pennzoil Exploration & Production Company who were adversely affected by increased imports.

The amended notice applicable to TA–W–31,114 is hereby issued as follows:

"All workers of Pennzoil Exploration & Production Company, Midland, Texas (TA–W–31,114), and other States cited below, engaged in seismic analysis related to the production of crude oil and natural gas who became totally or partially separated from employment on or after May 17, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

TA–W–31,114A Louisiana;
TA–W–31,114B Mississippi;
TA–W–31,114C Texas (excluding Midland);
TA–W–31,114D Alabama;
TA–W–31,114E Tennessee;
TA–W–31,114F Utah;
TA–W–31,114G Colorado."

Signed at Washington, D.C. this 9th day of November 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–28972 Filed 11–27–95; 8:45 am]

BILLING CODE 4510–30–M

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In the matter of Allegheny Ludlum Corporation, TA–W–31, 231, Bagdad Plant Leechburg, Pennsylvania; TA–W–31, 231A, Brackenridge, Pennsylvania; and TA–W–31, 231B, Natrona, Pennsylvania.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 8, 1995, applicable to all workers of Allegheny Ludlum Corporation located in Leechburg, Pennsylvania. The notice was published in the Federal Register on September 26, 1995 (60 FR 49634).

New information received from the company shows that worker separations have occurred at the subject firm's silicon electrical steel production facilities in Brackenridge and Natrona, Pennsylvania. Based on these new findings, the Department is amending the certification to cover workers of Allegheny Ludlum Corporation at those facilities.

The intent of the Department's certification is to include all workers of Allegheny Ludlum Corporation who were adversely affected by increased imports.

The amended notice applicable to TA–W–31,231 is hereby issued as follows:

"All workers of Allegheny Ludlum Corporation, Bagdad Plant, Leechburg, Pennsylvania (TA–W–31,231); Brackenridge, Pennsylvania (TA–W–31,231A) and Natrona, Pennsylvania (TA–W–31,231B) who became totally or partially separated from employment on or after July 3, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 9th day of November 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–28973 Filed 11–27–95; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address show below, not later than December 8, 1995.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than December 8, 1995.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 6th day of November, 1995.

Russell Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted On 11/06/95]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
31,601	Continental Emsco (Wkrs)	Garland, TX	10/17/95	Barrel Tubes, Plungers, Polish Rods.
31,602	Crown Textile Co. (UNITE)	Talladega, AL	10/23/95	Apparel Interlinings.
31,603	Diesel ReCon Company (Comp)	Santa Fe Sprgs, CA	10/25/95	Industrial Engines.
31,604	Fernbrook Company #3 (UNITE)	Neffs, PA	10/23/95	Ladies' Apparel.
31,605	General Dynamics Land (UAW)	Eynon, PA	10/23/95	Machined Parts for Military Tanks.
31,606	Kerr McGee Refining (Wkrs)	Houston, TX	10/12/95	Marketing, Accounting Operations.
31,607	Signal Apparel Company (Comp)	Bean Station, TN	10/18/95	Cotton Tee Shirts.
31,608	Paxar Woven Label (UTWA)	Paterson, NJ	10/20/95	Woven Labels for Suits, Coats.
31,609	Empire Stamp and Seal Co. (Comp)	New York, NY	10/24/95	Rubber Stamps.
31,610	Toll Gate Garment Co. (Comp)	Hamilton, AL	10/26/95	Men's Sport Shirts.
31,611	Plains Blouse Co. (UNITE)	Plains, PA	10/26/95	Men's & Ladies' Tee Shirts.
31,612	Rita's Sportswear Co. (UNITE)	Moscow, PA	10/26/95	Ladies' Sportwear.
31,613	American White Cross, Inc (UNITE)	Dayville, CT	10/26/95	Cosmetic Machinery.
31,614	Christian Fashions (Co.)	El Paso, TX	10/25/95	Ladies' Sportswear.
31,615	Dalen Resources Oil & Gas (Co.)	Dallas, TX	10/24/95	Crude Oil, Natural Gas.
31,616	Ozone Industries, Inc. (Wkrs)	Ozone Park, NY	10/26/95	Landing Gears for Jets.

[TA–W–31,548]

General Electric Company, GE Transportation Systems Erie, Pennsylvania; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 23, 1995 in response to a worker petition which was filed on October 23, 1995 on behalf of workers at General Electric, GE Transportation Systems, Erie, Pennsylvania.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA–W–31,536). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 13th day of November, 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–28970 Filed 11–27–95; 8:45 am]

BILLING CODE 4510–30–M

Employment and Training Administration

Portac Incorporated of Washington; Notice of Revised Determination on Reconsideration

In the matter of TA–W–31,295, Beaver, Washington; TA–W–31,296, Forks, Washington.

On October 6, 1995, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on October 20, 1995 (60 FR 54259).

Investigation findings show that the workers produced softwood lumber products. The workers were denied TAA because the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met. The test is generally determined through a survey of the workers' firm's major declining customers.

Findings on reconsideration show that the quantity of U.S. imports of softwood lumber increased from 1993 through June 1995. New investigation findings show that a major customer of Portac changed its earlier statement to the Department and reported that, during the base period in question, it purchased imports of softwood lumber.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the workers of Portac Incorporated of Tacoma, in Beaver and Forks, Washington were adversely affected by increased imports of articles like or directly competitive with softwood lumber produced at the subject firm.

"All workers of Portac Incorporated of Tacoma, Beaver, Washington (TA–W–31,295) and Forks, Washington (TA–W–31,296) who became totally or partially separated from employment on or after July 17, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 9th day of November 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–28974 Filed 11–27–95; 8:45 am]

BILLING CODE 4510–30–M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 95–103; Exemption Application No. D–09611, et al.]

Grant of Individual Exemptions; General Motors, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

General Motors Retirement Program for Salaried Employes; General Motors Hourly Rate Employes Pension Plan; the Saturn Individual Retirement Plan for Represented Team Members; Saturn Personal Choices Retirement Plan for Non-Represented Team Members; and Employees' Retirement Plan for GMAC Mortgage Corporation (collectively, the Plans) Located in New York, New York

[Prohibited Transaction Exemption No. 95–103; Application Nos. D–09611, D–09612, ♠ and D–09809]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code [1] shall not apply, effective May 21, 1993, to the purchase by a partnership (the Partnership) of a parcel of improved real property (the Property) located in Washington, DC, from Collin Equities, Inc. (the Seller), a party in interest with respect to the Plans, pursuant to an agreement which provided that the Plans would invest in the Partnership upon purchase of the Property, provided the following conditions are met:

(a) the terms of the purchase of the Property were no less favorable to the Plans than those negotiated at arm's length in similar circumstances with unrelated third parties;

(b) the fair market value of the Property was determined by an independent, qualified appraiser;

(c) the Plans paid no commissions or fees in regard to the transaction; and

(d) prior to investing in the Partnership an independent, qualified fiduciary acting on behalf of the Plans, reviewed and recommended approval of the transaction and determined that the transaction was in the best interest of the Plans and the participants and beneficiaries of such Plans.

EFFECTIVE DATE: The exemption is effective retroactively, as of May 21, 1993.

Written Comments

In the Notice of Proposed Exemption (the Notice), the Department invited all interested persons to submit written comments and requests for a hearing on the proposed exemption. All comments and requests for hearing were due by September 29, 1995.

During the comment period, the Department received no requests for a hearing but did receive one letter from an interested person commenting on the exemption. With respect to this comment letter, the Department forwarded a copy to the applicant and requested that the applicant address in writing the concerns raised by the commentator. In this regard, the commentator raised four points which the applicant responded to in turn. A description of the comments and the applicant's responses are summarized below.

The commentator first alleges that General Motors Investment Management Corporation (GMIMCO) would "make sure they take care of themselves and their fiduciary agents before they look after the interests of the participants." The applicant notes that the commentator cites no specific factual basis for his concerns other than an unsupported assertion that "the Corporation provides a profitable interest to those fiduciary agents who do business with them, so that such agents will act in kind for GM, regardless of the potential harm to the Plan participants." In response, the applicant reiterates the fact that it was completely coincidental that the Seller happened to be a party in interest with respect to the Plans in this transaction and that it was not known that the Seller was a party in interest at the time the initial offering price was formulated. The applicant further states that at no time after the Seller was identified as a subsidiary of a service provider with respect to the Plans until the offer was first submitted to the Seller, did GMIMCO argue or urge in any way to have the price increased. Further, the applicant asserts that GMIMCO did not profit from the transaction. Accordingly, the applicant maintains that there is nothing in the record to indicate an intent on the part of GMIMCO to favor either itself or the Seller.

In his second comment, the commentator cites the bailout of the Savings and Loan industry, arising from bad real estate investments, as a precedent for his uncertainty that the transaction is in the best interest of the participants. In addition, the commentator expresses concern that the desire and intention of GMIMCO to make money ultimately may result in a loss to the Plans and the participants and beneficiaries of such Plans. In response, the applicant submits that the experience of the Savings and Loan industry in the late 1980's is not relevant to this application for exemption, except perhaps to the extent that it may have helped lay the backdrop for a depressed real estate market in the early 1990's that appears to have enabled the Plans to make a

[1] For purposes of this exemption reference to specific provisions of title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

favorable investment for their real estate portfolio in entering this transaction. Further, the applicant maintains that it has provided ample information on the value of the Property as part of its submissions in support of the exemption. While the applicant agrees that while intentions to make a profit can result in losses, it does not follow that the transaction which is the subject of this exemption was imprudent or was undertaken in a way that was not protective of the interest of the Plans.

In his third comment, the commentator objected to the fact that the Property was only 55.2% leased, as of March 1, 1993. In this regard, the applicant notes that the fact that the Property was newly constructed and was not fully leased at the time of the purchase was taken into account in its pricing strategy and resulted in a substantially discounted price for the Property in relation to similar fully-leased Class A office buildings in the same market. Further, the applicant points out that the Property is now essentially 100 percent (100%) leased, and has met or exceeded all expectations for its value.

Finally, the commentator notes that the transaction is "not entirely free from doubt, in part because of the dearth of authority on what constitutes an indirect prohibited transaction, regardless of its "arm's length negotiation." In response, the applicant requests that the dearth of legal authority in this area and the admitted uncertainty of a legal conclusion of applicant's counsel, should not penalize the applicant for its decision to seek the Department's guidance or an exemption to cover the transaction.

After giving full consideration to the entire record, including the written comments by the commentator and the responses of the applicant, the Department has determined to grant the exemption, as described herein. In this regard, the comment submitted to the Department and the responses of the applicant have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on Friday, July 21, 1995, 60 FR 37677.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

Prudential Property Investment Separate Account (PRISA) and Prudential Property Investment Separate Account II (PRISA II), Located in Newark, NJ

[Prohibited Transaction Exemption No. 95–104; Application Nos. D–09845 and D–09846]

Exemption

The restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code,[2] shall not apply, effective December 31, 1995, to the advanced commitment to provide an enhanced return and the payment of such return by the Prudential Insurance Company of America (Prudential) to various employee benefit plans (the Plan or Plans) on the assets of such Plans which are invested either in PRISA and/or PRISA II (the Account or Accounts), as of April 1, 1994, and which remain invested for all or any portion of a twenty-one (21) month period, beginning April 1, 1994, and ending December 31, 1995, (the Investment Period), provided that the following conditions are met:

(1) the decision to invest funds in either or both of the Accounts for all or a portion of the Investment Period has been and will be made by fiduciaries of the Plans independent of Prudential;

(2) the amount of the enhanced return payment with respect to the assets of the Plans that are invested in either or both of the Accounts for only a portion of the Investment Period will be calculated in the same manner as the amount of the enhanced return payment with respect to the assets of the Plans that remain invested in either or both of the Accounts for the entire Investment Period;

(3) the enhanced return will be derived by comparing the cumulative total return for the Investment Period reported by the expanded NCREIF Property Index (the Index) with the cumulative total return of PRISA or PRISA II for the same period;

(4) the Plans will obtain an enhanced rate of return (but not more than 200 basis points) for amounts invested in one or both of the Accounts during all or any portion of the Investment Period, if the cumulative total investment return of such Account for such Investment Period is less than that reported for the Index;

(5) the payments, if any, of enhanced return will be made by Prudential to investors in the Accounts not later than thirty (30) days following the final determination of the amounts owed;

(6) every property held by the Accounts is individually valued at least once during the Investment Period and thereafter will be valued at least once in each calendar year by an independent qualified appraiser;

(7) a valuation policy committee, consisting of representatives from an valuation management firm (the Valuation Management Firm), Prudential Real Estate Investors (PREI), the interim and permanent advisory councils (the Advisory Council or Advisory Councils) composed of investors in PRISA and PRISA II and their consultants, and other clients of PREI, will meet at least quarterly and set valuation policy for the Accounts;

(8) the Valuation Management Firm, an independent third party, will be responsible for retaining (and terminating) all appraisal firms which value the properties in the Accounts; reviewing all appraisals generated by such appraisal firms; and collecting, reviewing, and distributing any information needed by such appraisal firms to appraise the properties in the Accounts;

(9) the Plans invested in the Accounts who receive the enhanced return will incur no additional cost or risk in connection with the transaction;

(10) in connection with the determination of enhanced return payments, no upward adjustment will be made by Prudential to the value reported by an external independent appraiser of any Property in PRISA and PRISA II without the concurrence of the Valuation Management Firm;

(11) any required state insurance regulatory approvals are obtained for the transaction; and

(12) the Plans will receive the same treatment and proportional payment under the enhanced return as any other investor in PRISA and PRISA II.

EFFECTIVE DATE: This exemption will be effective on December 31, 1995.

Written Comments

In the Notice of Proposed Exemption (the Notice), the Department invited all interested persons to submit written comments and requests for a hearing on the proposed exemption within forty-five (45) days of the date of the publication of the Notice in the **Federal Register** on September 13, 1995. All

[2] For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

comments and requests for hearing were due by October 30, 1995.

During the comment period, the Department received no requests for hearing. However, the Department did receive a comment letter from Prudential, dated September 20, 1995. In this letter, Prudential requested a clarification of the meaning of one of the operant conditions of the proposed exemption and suggested that certain revisions to the Summary of Facts and Representations (SFR) would more accurately describe the transactions.

With respect to Prudential's requested clarification of the operant language of the exemption, on page 47594, column 1, lines 35–40, the sixth condition in the Notice reads as follows: "Every property held by the Accounts is individually valued at least once during the Investment Period and thereafter will be valued at least once in each calendar year by an independent qualified appraiser." Prudential represents that in accordance with current policy and practice and state regulatory approvals, every property held by PRISA and PRISA II is valued at least once in each calendar year by an independent qualified appraiser. Accordingly, each such property will be valued at least once during the Investment Period (*i.e.* the period April 1, 1994 through December 31, 1995). Although there are at present no plans to seek regulatory approval to change the current policy and practice of obtaining independent valuations at least annually, it is Prudential's understanding that the above-quoted language of condition six is not intended to preclude future modification of this policy and practice. The Department concurs in Prudential's understanding in this matter. However, we do note that condition 6, which requires that every property held by the Accounts be valued at least annually, must be met until the successful completion of the payment of the enhanced return by Prudential to the Plans which were invested in the Accounts on April 1, 1995, and remain invested in the Accounts for any portion of the Investment Period.

With respect to Prudential's suggested revisions of the facts as reflected in the SFR, on page 47595, column 3, lines 19–25, with regard to the expanded Russell-NCREIF Property Index (the Index), the Notice reads as follows: "The Index is produced in partnership between Russell Real Estate Consulting (a division of the Frank Russell Company, an investment consulting firm) and the National Council of Real Estate Investment Fiduciaries (NCREIF)." Prudential has informed the Department that, while the statement in the Notice correctly identifies the parties responsible for the production of the Index through the final quarter of 1994, commencing with the first quarter of 1995, the Index has been produced solely by NCREIF without participation by Russell Real Estate Consulting and, accordingly, is currently referred to as the NCREIF Property Index. The Department concurs with this comment and has incorporated this change in the reference to the Index in condition three of the operant language of this exemption.

On page 47596, column 2, lines 52–58, regarding the PRISA and PRISA II Advisory Councils, the Notice reads as follows: "It is represented that formal meetings of the Advisory Councils will be held quarterly approximately thirty (30) days following the end of each quarter, with additional meetings to be held at the discretion of the Advisory Councils." Prudential has informed the Department that meetings of the PRISA and PRISA II Advisory Councils are scheduled at the discretion of each respective Advisory Council. In this regard, during 1994, both Advisory Councils met more frequently than quarterly. During 1995, the PRISA Advisory Council has met four times and is expected to have at least one more meeting before year end. The PRISA II Advisory Council has met once during 1995, and is expected to have at least one more meeting before year end. Both Advisory Councils have the discretion to schedule additional meetings. The Department concurs in this comment.

After giving full consideration to the entire record, including the written comment from Prudential, the Department has decided to grant the exemption, as described and concurred in above. In this regard, the comment letter submitted by Prudential to the Department has been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension Welfare Benefits Administration, Room N–5638, U. S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on Wednesday, September 13, 1995, at 60 FR 47593.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

Plumbers and Steamfitters Local No. 177 Health and Welfare Fund (the Welfare Plan), and Plumbers and Steamfitters Local No. 177 Pension Trust Fund (the Pension Plan; collectively, the Plans) Located in Brunswick, Georgia

[Prohibited Transaction Exemption 95–105; Exemption Application Nos. L–09927, D–09928 and L–09929]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply (1) effective February 17, 1994, to the past sale by the Welfare Plan of an office building located in Brunswick, Georgia (the Office Building) to Plumbers and Steamfitters Local No. 177 (the Union), a party in interest with respect to the Plans; and (2) effective February 16, 1995, to the leases of space in the Office Building by the Union to the Plans (the Leases); provided the following conditions are satisfied:

(a) The purchase price paid by the Union for the Office Building was no less than the fair market value of the Office Building as of the date of the sale;

(b) All terms of the Leases are at least as favorable to the Plans as those which the Plans could obtain in arm's-length transactions with unrelated parties;

(c) Rents paid under the Leases do not exceed the fair market rental values of the leased spaces;

(d) The interests of the Plans under the Leases for all purposes are represented by a qualified independent fiduciary who monitors the Leases and takes appropriate action to enforce the Union's compliance with all Lease terms and conditions; and

(e) Within 60 days of the publication in the **Federal Register** of this notice granting the exemption, the Union pays any excise taxes applicable under section 4975(a) of the Code by virtue of the past Leases for the period commencing February 17, 1994 to February 16, 1995.

EFFECTIVE DATE: This exemption is effective as of February 17, 1994 with respect to the sale of the Office Building, and February 16, 1995 with respect to the Leases.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on September 21, 1995 at 60 FR 49014.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

State Mutual Life Assurance Company of America (State Mutual) Located in Worcester, MA

[Prohibited Transaction Exemption 95–106; Exemption Application No. D–10008]

Exemption

Section I. Covered Transactions.

Effective October 16, 1995, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to (a) the receipt of common stock of Allmerica Financial Corporation, State Mutual's prospective sole owner, or (b) the receipt of cash or policy credits, by or on behalf of an employee benefit plan policyholder of State Mutual (the Plan), other than any policyholder which is a Plan maintained by State Mutual or an affiliate of State Mutual for its own employees (the State Mutual Plans), in exchange for such policyholder's membership interest in State Mutual, in accordance with the terms of a plan of reorganization (the Demutualization Plan) adopted by State Mutual and implemented pursuant to section 19E (Section 19E) of Chapter 175 of the Massachusetts General Laws.

In addition, effective October 16, 1995, the restrictions of section 406(a)(1)(E) and (a)(2) and section 407(a)(2) of the Act shall not apply to the receipt and holding, by the Allmerica Financial Cash Balance Pension Plan (the Allmerica Pension Plan), of employer securities in the form of excess stock, in accordance with the terms of the Demutualization Plan.

This exemption is subject to the conditions set forth below in Section II.

Section II. General Conditions.

(a) The Demutualization Plan is implemented in accordance with procedural and substantive safeguards that are imposed under Massachusetts law and is subject to the review and supervision by the Massachusetts Commissioner of Insurance (the Commissioner).

(b) The Commissioner reviews the terms of the options that are provided to certain policyholders of State Mutual, which include, but are not limited to the subject Plans and the State Mutual Plans (the Eligible Policyholders), as part of such Commissioner's review of the Demutualization Plan, and approves the Demutualization Plan following a determination that such Demutualization Plan is not prejudicial to all Eligible Policyholders.

(c) The Demutualization Plan is filed with the New York Superintendent of Insurance (the Superintendent) who determines whether the Demutualization Plan is fair and equitable to Eligible Policyholders from New York.

(d) Each Eligible Policyholder has an opportunity to comment on the Demutualization Plan and decide whether to vote to approve such Demutualization Plan after full written disclosure is given such Eligible Policyholder by State Mutual, of the terms of the Demutualization Plan.

(e) Any election by an Eligible Policyholder which is a Plan (including the State Mutual Plans), to receive stock, cash or policy credits, pursuant to the terms of the Demutualization Plan is made by one or more independent fiduciaries (the Independent Fiduciaries) of such Plan and neither State Mutual nor any of its affiliates exercises any discretion or provides investment advice with respect to such election.

(f) In the case of the State Mutual Plans, where the consideration is in the form of stock, the Independent Fiduciary—

(1) Elects the form of consideration that such Plans receive;

(2) Monitors, on behalf of such Plans, the acquisition and holding of the stock;

(3) Makes determinations on behalf of such Plans with respect to the voting, the continued holding or the disposition of such stock; and

(4) Disposes, in a prudent manner, shares of stock exceeding the 10 percent holding limitation of section 407(a)(2) of the Act within 90 days following its receipt by the Allmerica Pension Plan. Such shares that are not disposed of during this initial 90 day period must be disposed of within an additional period of 90 days.

(g) After each Eligible Policyholder entitled to receive stock is allocated at least 28 shares of stock, additional consideration is allocated to Eligible Policyholders who own participating policies based on actuarial formulas that take into account each participating policy's contribution to the surplus of State Mutual which formulas have been approved by the Commissioner and the Superintendent.

(h) All Eligible Policyholders that are Plans participate in the transactions on the same basis as other Eligible Policyholders that are not Plans.

(i) No Eligible Policyholder pays any brokerage commissions or fees in connection with their receipt of stock or in connection with the implementation of the commission-free sales program.

(j) All of State Mutual's policyholder obligations remain in force and are not affected by the Demutualization Plan.

Section III. Definitions.

For purposes of this proposed exemption:

(a) The term "State Mutual" means State Mutual Life Assurance Company of America and any affiliate of State Mutual as defined in paragraph (b) of this Section III.

(b) An "affiliate" of State Mutual includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with State Mutual. (For purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

(2) Any officer, director or partner in such person, and

(3) Any corporation or partnership of which such person is an officer, director or a 5 percent partner or owner.

(c) The term "Eligible Policyholder" means a policyholder whose name appears on the conversion date on the insurer's records as owner of a participating policy under which there is a right to vote and which is in full force on both the December 31 immediately preceding the conversion date and the date the insurer's board of directors first votes to convert to stock form. Under Massachusetts law, only such policyholders are entitled to receive consideration in the demutualization. Policyholders who are not Eligible Policyholders will not receive any stock or other consideration. As used herein, the term "Eligible Policyholder" includes, but is not limited to, the State Mutual Pension Plan as well as those Plans that are not sponsored by State Mutual.

(d) The term "policy credit" means (i) for an individual life insurance policy, an increase in the dividend accumulation account, (ii) for an individual deferred annuity policy where the owner has elected a dividend accumulation option, an increase in the dividend accumulation account, (iii) for all other individual deferred annuity policies, an increase to the dividend addition value, and (iv) for a supplementary contract or settlement option issued by State Mutual to effect the annuitization of an individual deferred annuity, an increase in the contract reserve which shall provide for an increase in the monthly income payment equal to the ratio of the reserve

increase to the then current contract reserve.

EFFECTIVE DATE: This exemption is effective as of October 16, 1995.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) published on September 21, 1995 at 60 FR 49016.

Written Comments

The Department received one written comment with respect to the Notice. The comment was submitted by State Mutual and is intended to clarify information contained in the Notice. Discussed below is State Mutual's comment.

1. *Form of Transaction.* State Mutual represents that in describing the demutualization transaction, the Notice refers to the receipt by policyholders of common stock of State Mutual and the substitution of the common stock of Allmerica, State Mutual's prospective sole owner, for the State Mutual stock. State Mutual explains that while this structure was initially considered, the Demutualization Plan ultimately adopted called for the issuance of Allmerica stock directly to policyholders in exchange for such policyholder's membership interests in State Mutual. Accordingly, State Mutual represents that reference to the issuance of State Mutual stock to policyholders and the substitution of the Allmerica stock should be amended to reflect the direct issuance of Allmerica stock to policyholders in exchange for their policyholder interests.

2. *The Initial Public Offering (the IPO).* State Mutual explains that the Notice states that Allmerica "may" sell new Allmerica stock in an underwritten IPO. However, State Mutual advises that the Demutualization Plan now requires the IPO as a condition to the effectiveness of the reorganization.

3. *Adoption of Demutualization Plan, Policyholder Vote and Hearing.* State Mutual notes that its Board of Directors adopted the Demutualization Plan on February 28, 1995 and that on June 30, 1995, the Demutualization Plan was approved by a vote of the policyholders. On June 17 and June 27, 1995, State Mutual represents that the Commissioner held a hearing on the Demutualization Plan and issued an order on August 2, 1995, approving such plan.

4. *Minimum Consideration.* State Mutual explains that the Notice states that each Eligible Policyholder will be allocated a minimum consideration of 30 shares. While section 7.1(b)(i) of the Demutualization Plan refers to a fixed component of consideration equal to 30 shares, that number, according to State Mutual, is subject to proportional adjustment as provided in section 9.6 of the Demutualization Plan. Pursuant to this provision, State Mutual asserts that the number of shares constituting the minimum consideration has been adjusted to 28 shares and that the exemption should be amended to reflect 28 shares rather than 30 shares as the minimum consideration.

5. *Definition of Policy Credit.* State Mutual points out that the Notice contained the following definition of the term "policy credit" which it now considers to be out of date:

"(d) The term "policy credit" means an increase in accumulation account value (to which no surrender or similar charges are applied) in the general account or an increase in a dividend accumulation on a policy."

To make the definition more comprehensive, State Mutual has redefined this term as follows:

"(d) The term "policy credit" means (i) for an individual life insurance policy, an increase in the dividend accumulation account, (ii) for an individual deferred annuity policy where the owner has elected a dividend accumulation option, an increase in the dividend accumulation account, (iii) for all other individual deferred annuity policies, an increase to the dividend addition value, and (iv) for a supplementary contract or settlement option issued by State Mutual to effect the annuitization of an individual deferred annuity, an increase in the contract reserve which shall provide for an increase in the monthly income payment equal to the ratio of the reserve increase to the then current contract reserve."

6. *Plan Name Change and Coverage.* State Mutual represents that the Notice describes the State Mutual Companies' Pension Plan (the State Mutual Pension Plan) as covering exclusively eligible career agents, general agents and clerical employees of State Mutual and its affiliates. State Mutual wishes, however, to clarify that the name of the State Mutual Pension Plan has been changed to the "Allmerica Financial Cash Balance Pension Plan" and to explain that this Plan covers all eligible employees of State Mutual.

7. *Trustee Change.* State Mutual advises that the trustee of the Allmerica Pension Plan (i.e., the former State Mutual Pension Plan) is currently First National Bank of Boston and not Mechanics Bank of Worcester.

8. *Independent Fiduciary.* State Mutual represents that the Notice requires State Street Bank & Trust Company (State Street), an independent fiduciary, to act on behalf of all State Mutual Plans. Specifically, State Street is required to—(a) elect the form of consideration that such Plans receive; (b) monitor, on behalf of such Plans, the acquisition and holding of the stock; (c) make determinations on behalf of the Plans with respect to the voting, the continued holding or the disposition of such stock; and (d) dispose, in a prudent manner, shares of stock exceeding the 10 percent holding limitation of section 407(a)(2) of the Act within 90 days following its receipt by the Allmerica Pension Plan. Such shares that are not disposed of during this initial 90 day period must be disposed of within an additional period of 90 days.

Although State Street has been retained as independent fiduciary on behalf of all of the State Mutual Plans throughout the demutualization process, State Mutual believes that once the transaction has been consummated and the Allmerica Pension Plan has reduced its holdings of employer stock to under the 10 percent limitation of section 407(a)(2) of the Act, the retention of State Street should not be required indefinitely. Therefore, State Mutual wishes to clarify that once a State Mutual Plan's holdings have been reduced to below the 10 percent threshold, the continued retention of State Street will be at the discretion of a State Mutual Plan's named fiduciary.

9. *Retroactivity of Exemption.* State Street requests that the exemption reflect a retroactive effective date of October 16, 1995 which is the closing date of the demutualization and the IPO.

The Department does not object to any of the clarifications or modifications of the Notice that have been described by State Street in its comment letter and it has revised the exemption, accordingly.

Thus, after giving full consideration to the entire record, the Department has decided to grant the subject exemption. State Street's comment letter has been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Charleston Area Medical Center Deferred Profit Sharing Plan (the Plan); Located in Charleston, West Virginia

[Prohibited Transaction Exemption 95–107; Exemption Application No. D–10009]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the past cash sale by the Plan to the Camcare & Affiliates Malpractice Self-Insurance Trust (the Malpractice Trust) of certain publicly-traded securities, provided the following conditions were satisfied: a) the sale was a one-time transaction for cash; b) the Plan paid no commissions or other fees in connection with the transaction; and c) the transaction involved publicly-traded securities, the fair market values of which were determined by an independent bank by reference to the closing price for the securities on the New York Stock Exchange.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on September 25, 1995 at 60 FR 49423.

EFFECTIVE DATE: This exemption is effective November 30, 1993.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary o. other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 21st day of November, 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 95–28911 Filed 11–27–95; 8:45 am]

BILLING CODE 4510–29–P

[Application No. D–09840, et al.]

Proposed Exemptions; World Omni Financial Corporation

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice To Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

World Omni Financial Corporation and its Affiliates, Located in Deerfield Beach, Florida

[Application No. D–09840]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).

Section I—Transactions

A. Effective June 27, 1994, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to Section I.A.(1) or (2).

Notwithstanding the foregoing, Section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan, as defined in Section III.K. below, by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[1]

B. Effective June 27, 1994, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group, as defined in Section III.L., and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[2] For purposes of this paragraph B.(1)(iv) only, an entity shall not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that conditions set forth in paragraphs B.(1)(i), (iii), and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to Section I.B.(1) or (2).

C. Effective June 27, 1994, the restrictions of sections 406(a), (b) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, provided;

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[3]

Notwithstanding the foregoing, Section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act, or from the taxes imposed by reason of section 4975(c) of the Code, for the receipt of a fee by the servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in Section III.S. below.

D. Effective June 27, 1994, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by sections 4975(a) and (b) of the Code, by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transaction to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider as described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

Section II—General Conditions

A. The relief provided under Section I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as such terms would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poors Corporation, Moody's Investor Service, Inc., Duff & Phelps Inc., or Fitch Investors Service, Inc. (collectively, the Rating Agencies);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to or retained by the sponsor pursuant to the assignment of obligations (or interest therein) to the trust represents not more than the fair market value of such obligation (or interest); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith;

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933;

(7) To the extent that the pool of leases used to create a portfolio for a trust is not closed at the time of the issuance of certificates by the trust, additional leases may be added to the portfolio for a period of no more than 15 consecutive months from the cut-off date used for the initial allocation of leases that was made to create such portfolio, provided that:

(a) all such additional leases meet the same terms and conditions for eligibility as the original leases used to create the portfolio (as described in the prospectus or private placement memorandum for such certificates), which terms and conditions have been approved by the Rating Agencies. Notwithstanding the foregoing, the terms and conditions for an "eligible lease" (as defined in Section III.X below) may be changed if such changes receive prior approval either by a majority vote of the outstanding certificateholders or by the Rating Agencies; and

(b) such additional leases do not result in the certificates receiving a lower credit rating from the Rating Agencies, upon termination of the period during which additional leases may be added to the portfolio, than the rating that was obtained at the time of the initial issuance of the certificates by the trust;

(8) Any additional period described in Section II.A.(7) shall be described in the prospectus or private placement memorandum provided to investing plans;

(9) The average annual percentage lease rate (the Average Lease Rate) for the pool of leases in the portfolio for the trust, after the additional period described in Section II.A.(7), shall not be more than 200 basis points greater than the Average Lease Rate for the original pool of leases that was used to create such portfolio for the trust;

(10) For the duration of the additional period described in Section II.A.(7), principal collections that are reinvested in additional leases are first reinvested in the "eligible lease contract" (as defined in Section III.X. below) with the earliest origination date, then in the "eligible lease contract" with the next earliest origination date, and so forth, beginning with any lease contracts that have been reserved specifically for such purposes at the time of the initial allocation of leases to the pool of leases used to create the particular trust, but excluding those specific lease contracts reserved for allocation to or allocated to other pools of leases used to create other trusts; and

(11) The trustee of the trust is a substantial financial institution or trust company experienced in trust activities and is familiar with its duties, responsibilities, and liabilities as a fiduciary under the Act. The trustee, as the legal owner of the obligations in the trust, enforces all the rights created in favor of certificateholders of such trust, including employee benefit plans subject to the Act.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Section I, if the provision in Section II.A.(6) above is not satisfied for the acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees shall be required to make a written representation regarding compliance with the condition set forth in Section II.A.(6).

C. World Omni and its Affiliates abide by all securities and other laws applicable to any offering of interests in securitized assets, such as certificates in a trust as described herein, including those laws relating to disclosure of material litigation, investigations and contingent liabilities.

Section III—Definitions

For purposes of this proposed exemption:

A. "Certificate" means:

(1) A certificate

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal (except during the period described in Section II.A.(7), if any), interest, and/or other payments made in connection with the assets of such trust; or

(2) A certificate denominated as a debt instrument that is issued by and is an obligation of a trust;

With respect to certificates defined in Section III.A. (1) and (2) above, the underwriter shall be an entity which has received from the Department an individual prohibited transaction exemption relating to certificates which is substantially similar to this proposed exemption (as noted below in Section III.C.) and shall be either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this proposed exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. "Trust" means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either

(a) Qualified motor vehicle leases (as defined in Section III.T.); or

(b) Fractional undivided interests in a trust containing assets described in paragraph (a) of this Section III.B.(1), where such fractional interest is not subordinated to any other interest in the same pool of qualified motor vehicle leases held by such trust;[4]

[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[3] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

[4] It is the Department's view that the definition of "Trust" contained in Section III.B. includes a

Continued

(2) Property which has secured any of the obligations described in Section III.B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to be made to certificateholders, except during the period described in Section II.A.(7) above when temporary investments are made until such cash can be reinvested in additional leases described in paragraph (a) of this Section III.B.(1); and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under motor vehicle dealer agreements, any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements for any obligations described in Section III.B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) the investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest categories by the Rating Agencies for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. "Underwriter" means any investment banking firm that has received an individual prohibited transaction exemption from the Department that provides relief for so-called "asset-backed" securities that is substantially similar in format and structure to this proposed exemption (the Underwriter Exemptions);[5] or any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such investment banking firm; and any member of an underwriting syndicate or selling group of which such firm or person described above is a manager or co-manager with respect to the certificates.

D. "Sponsor" means an entity, independent of World Omni or affiliated with World Omni, that organizes a trust by depositing obligations therein in exchange for certificates provided that, if such entity is independent of World Omni, the servicer of the trust is an affiliate of World Omni.

E. "Master Servicer" means World Omni or an entity affiliated with World Omni that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. "Subservicer" means World Omni or an entity affiliated with World Omni which, under the supervision of and on behalf of the master servicer, services leases contained in the trust, but is not a party to the pooling and servicing agreement.

G. "Servicer" means World Omni or an entity affiliated with World Omni which services leases contained in the trust, including the master servicer and any subservicer.

H. "Trustee" means an entity that is independent of World Omni and its affiliates which is the trustee of the trust. In the case of certificates which are denominated as debt instruments, "trustee" also means the trustee of the indenture trust.

I. "Insurer" means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust. In addition, a person is not an insurer if such person merely provides: (1) Property damage or liability insurance to an Obligor with respect to a lease or leased vehicle; or (2) property damage, excess liability or contingent liability insurance to any lessor, sponsor or servicer, if such entities are included in the same insurance policy, with respect to a lease or leased vehicle.

J. "Obligor" means any person, other than the insurer, that is obligated to make payments for a lease in the trust. For any qualified motor vehicle leases contained in a trust as described herein, "obligor" shall include any owner of property subject to a lease included in the trust, or subject to a lease securing an obligation in the trust.

K. "Excluded Plan" means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. "Restricted Group" with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust and at the end of the period described in Section II.A.(7); or

(7) Any affiliate of a person described in (1)–(6) above.

M. "Affiliate" of another person includes:

(1) Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. "Control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person shall be "independent" of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to assets of such person.

P. "Sale" includes the entrance into a forward delivery commitment (as defined in Section III.Q. below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's-length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this proposed exemption applicable to sales are met.

Q. "Forward Delivery Commitment" means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. "Reasonable Compensation" has the same meaning as that term is defined in 29 CFR 2550.408c-2.

S. "Qualified Administrative Fee" means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing for the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust shall not be reduced by the amount of any such fee waived by the servicer.

T. "Qualified Motor Vehicle Lease" means a lease of a motor vehicle where:

(1) The trust holds a security interest in the lease;

(2) The trust holds a security interest in the leased motor vehicle; and

(3) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as the trust would receive under a motor vehicle installment loan contract.

U. "Pooling and Servicing Agreement" means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

V. "Lease Rate" means an implicit rate in each lease calculated as an annual percentage rate on a constant yield basis, based on the capitalized cost of the leased vehicle as determined under the particular lease contract for the vehicle. With respect to the determination of a "Lease Rate", each lease will provide for equal monthly payments such that at the end of the lease contract term the capitalized cost will have been amortized to an amount equal to the residual value of the leased vehicle established at the time of origination of such contract. The amount to which the capitalized cost has been amortized at any point in time will be the outstanding principal balance for the lease.

W. "Average Lease Rate" means the average annual percentage lease rate, as defined in Section III.V. above, for all leases included at any particular time in a portfolio used to create a trust from which certificates are issued.

X. "Eligible Lease" or "Eligible Lease Contract" means a Qualified Motor Vehicle Lease, as defined in Section III.T. above, which meets the eligibility criteria established for, among other things, the term of the lease, place of origination, date of origination, and provisions for default, as described in the particular prospectus or private placement memorandum for the certificates provided to investors, if such terms and conditions have been approved by the Rating Agencies prior to the issuance of such certificates.

The Department notes that this proposed exemption, if granted, will be included within the meaning of the term "Underwriter Exemption" as it is defined in Section V(h) of the Grant of the Class Exemption for Certain Transactions Involving Insurance Company General Accounts, which was published in the **Federal Register** on July 12, 1995 (see PTE 95–60, 60 FR 35925).

EFFECTIVE DATE: This proposed exemption, if granted, will be effective for all transactions described herein which occurred on or after June 27, 1994.

Summary of Facts and Representations

1. World Omni Financial Corporation (World Omni) is a Florida corporation which is a wholly-owned subsidiary of J.M. Family Enterprises, Inc. (JMFE). JMFE also owns Southeast Toyota Distributors, Inc., which is the exclusive distributor of Toyota cars and light duty trucks in Alabama, Florida, Georgia, North Carolina and South Carolina (the Five-State Area). World Omni provides consumer lease and installment contract financing to retail customers of, and floorplan financing to, automobile and light-duty truck dealers located primarily in the Five-State Area.

World Omni Lease Securitization L.P. is a Delaware limited partnership, the sole general partner of which is World Omni Lease Securitization, Inc., a Delaware corporation that is a wholly-owned subsidiary of World Omni, and the sole limited partner of which is World Omni.

Auto Lease Finance L.P. is a Delaware limited partnership, the sole general partner of which is Auto Lease Finance, Inc., a Delaware corporation that is a wholly-owned subsidiary of World Omni, and the sole limited partner of which is World Omni.

2. World Omni and its Affiliates, including World Omni Lease Securitization, L.P., and Auto Lease Finance L.P., seek an exemption to permit employee benefit plans to invest in certificates indirectly representing undivided interests in a trust which contains motor vehicle leases and the motor vehicles related to those leases. The exemption World Omni seeks is substantially similar to the Underwriter Exemptions granted by the Department to various broker-dealers and banks to permit investments in, among other things, motor vehicle receivable investment trusts. In the exemption sought by World Omni, the primary asset of the trust in which investors have beneficial interests (i.e. the Securitization Trust) is a special unit of beneficial interest (SUBI) in a separate trust that actually holds the motor vehicle leases and related motor vehicles (i.e. the Origination Trust). The Underwriter Exemptions may also include such a two-tier trust structure (as noted above in Footnote 5). However, unlike the trusts described in the Underwriter Exemptions, the Origination Trusts established by World Omni do not contain fixed pools of assets (i.e. qualified motor vehicle leases and related motor vehicles) for at least a year, as discussed further below. World Omni states that the Securitization Trusts meet all other requirements of the Underwriter Exemptions. Such requirements include: (i) That investor certificates covered by the exemption have one of the three highest ratings from the Rating Agencies; (ii) that there be no subordination of investor certificates purchased by employee benefit plans to the rights and interests evidenced by other certificates of the same trust; and (iii) that there be a pass-through of principal, interest and other payments received by the trust relating to the receivables beneficially owned by the trust, less certain specified servicing fees which are disclosed and approved by the investors prior to the acquisition of any trust certificates.

3. The Origination Trust is formed pursuant to a trust agreement between the sponsor of the Origination Trust and its trustee (the Origination Trustee). The sponsor of the Origination Trust is generally a wholly-owned subsidiary of World Omni (or a limited partnership in which such a wholly-owned subsidiary is the sole general partner), but could be an entity independent of World Omni and its affiliates. The Origination Trustee is a wholly-owned subsidiary of an independent entity qualified to provide trust services, and in fact

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two-tier trust structure under which certificates issued by the first trust, which contains a pool of receivables described above, are transferred to a second trust which issues certificates that are sold to plans. However, the Department is of the further view that, since the exemption provides relief for the direct or indirect acquisition or disposition of certificates that are not subordinated, no relief would be available if the certificates held by the second trust were subordinated to the rights and interests evidenced by other certificates issued by the first trust.

[5] For a current listing of the Underwriter Exemptions, see Section V(h) of Prohibited Transaction Exemption (PTE) 95–60 (60 FR 35925, July 12, 1995).

provides such services to the Origination Trust under contract with its subsidiary (i.e. the Trust Agent). Currently, the Trust Agent is Bank of America Illinois (Bank of America). Bank of America is not affiliated in any way with World Omni, other than as a service provider. World Omni or an affiliate acts as servicer (the Servicer) for all of the leases and leased vehicles owned by the Origination Trust, pursuant to a servicing agreement with the Origination Trustee (the Servicing Agreement).

4. The assets of the Origination Trust include retail closed-end automobile and light-duty truck lease contracts assigned to the Origination Trust by dealers in the World Omni family, the automobiles and light duty trucks relating thereto, all proceeds thereof (including any sale of such vehicles), and payments made under certain insurance policies relating to such leases or the related lessees or leased vehicles. World Omni is the initial holder of a sole beneficial interest (i.e. the "Undivided Trust Interest" or "UTI") in the Origination Trust.

The Origination Trusts are open-ended; that is, as leases are originated, they and the related vehicles are assigned to the Origination Trust by World Omni. When the aggregate dollar amount of leases and leased vehicles in the Origination Trust grows large enough to justify a securitization, World Omni, as holder of the UTI, may direct the trustee of the Origination Trust to segregate from among all the leases and leased vehicles within the Origination Trust a specified portfolio of leases and related leased vehicles. The trustee then issues to World Omni a separate certificate representing a "Separate Unit of Beneficial Interest" or "SUBI" in that segregated portfolio. It is this SUBI that becomes the basis for a securitization and the creation of a separate Securitization Trust.

Any leases and leased vehicles held by the Origination Trust that are not included in a SUBI portfolio at the time of such segregation, as well as any new leases and related vehicles acquired subsequent to the "cut-off date" on which the new SUBI portfolio is identified, remain part of the UTI portfolio, and the original UTI continues to represent a beneficial interest therein.

New leases and related leased vehicles are added to the SUBI's segregated portfolio by World Omni in an aggregate amount approximately equal to principal collections on the leases and leased vehicles already allocated to the SUBI,[6] for a fixed period (which will be no more than fifteen consecutive months) after the cut-off date used for the initial allocation of leases made to create the SUBI. (This period is referred to hereafter as the "revolving period"). The applicant represents that this fixed "revolving period" for principal collections on the leases and leased vehicles is established so that the investor certificates issued by the Securitization Trust are treated as debt for Federal and state income tax purposes, but does not affect the characterization of those certificates as beneficial interests in the Securitization Trust property for accounting and other state law purposes.

After the "revolving period", the pool of leases and leased vehicles allocated to the SUBI (i.e. the SUBI portfolio) remains fixed. Any leases which are added to the SUBI portfolio during the "revolving period" must meet the same terms and conditions for eligibility as the original leases in the portfolio, as described in the prospectus or private placement memorandum, which terms and conditions have been approved by the Rating Agencies prior to the "revolving period". However, World Omni states that the terms and conditions for an "eligible lease" (as defined in Section III.X above) may be changed if such changes receive prior approval either by a majority vote of the outstanding certificateholders or by the Rating Agencies. Further, under the conditions of the proposed exemption, World Omni must ensure that the additional leases added to the SUBI portfolio do not result in the certificates receiving a lower credit rating from the Rating Agencies at the end of the "revolving period" than the rating that was obtained at the time of the initial issuance of the certificates by the trust (see Section II.A.(7)(b) above).

World Omni states that for the duration of the "revolving period", principal collections that are reinvested in additional leases are first reinvested in the "eligible lease contract" (as defined in Section III.X. above) with the earliest origination date, then in the "eligible lease contract" with the next earliest origination date, and so forth (i.e. on a "FIFO basis), beginning with any lease contracts that have been reserved by World Omni specifically for such purposes at the time of the initial allocation of leases to the particular SUBI portfolio. However, those lease contracts reserved for allocation to, or actually allocated to, other pools of leases (i.e. other SUBI portfolios used to create different trusts) will be excluded from the available additional leases to be added to the particular SUBI portfolio. World Omni states that no adverse selection procedures may be employed in selecting leases during the "revolving period". Thus, World Omni represents that it will not be able to manipulate the order in which leases are added to a particular SUBI portfolio during the "revolving period" in order to improve its economic position with respect to the assets held in a particular SUBI portfolio. World Omni states further that at all times there will be a clear identification within the Origination Trust of which leases and leased vehicles belong in each SUBI portfolio and which belong in the UTI or "residual" portfolio. The holders of beneficial interests in each SUBI have also agreed in writing to rely solely upon the assets contained within their respective portfolios to satisfy any payment obligations.

This "revolving period" arrangement differs from the Underwriter Exemptions wherein each trust contains a "fixed pool" of assets and substitution of receivables by the trust sponsor is permitted only in the event of defects in documentation discovered within a limited time after the issuance of trust certificates. The applicant states that in the present case, during the "revolving period", the outstanding principal balance of the SUBI's portfolio of leases remains unchanged and the certificateholders receive only interest payments with respect to their certificates. Once the "revolving period" ends, principal payments are no longer reinvested but rather are paid out to certificateholders.

To the extent that leases added to the SUBI portfolio during the "revolving period" have a higher Lease Rate (as defined in Section III.V. above) than do the original leases in the SUBI portfolio at the time of the initial offering of the certificates to investors, total returns on the ultimate lease pool in excess of that promised to investors on the trust certificates may inure to affiliates of the Servicer. However, the applicant states that the Average Lease Rate (as defined in Section III.W. above) for the pool of leases allocated to a SUBI portfolio owned by a particular Securitization Trust, after accounting for all the leases added to the SUBI portfolio during the "revolving period", shall not be more than 200 basis points (i.e. 2 percent) greater than the Average Lease Rate for the leases in the SUBI portfolio on the cut-off date used for the initial allocation of leases to the SUBI portfolio owned by the Securitization Trust.

The Average Lease Rate for the leases in the trust at the time of the initial offering of the certificates is described in the prospectus or offering memorandum provided to investors. The applicant represents that changes to the Average Lease Rate based on new leases added to a trust during the "revolving period" depend on current interest rates and market conditions as well as the amount of lessee prepayments and repossessions on the leased vehicles. Thus, potential plan investors at the time of the initial offering of trust certificates know the total dollar amount of leases in the trust, the Average Lease Rate on those leases, the fact that principal received by the trust during the "revolving period" is used to invest in additional leases, and the length of the "revolving period". Under the terms of the proposed exemption, potential plan investors shall also be provided with a statement disclosing the fact that the relief provided by the exemption shall be available to the Servicer and its affiliates only if the additional leases do not cause the Average Lease Rate for the leases in the pool after the "revolving period" to increase by more than 200 basis points.

5. Pursuant to a supplement to the Origination Trust Agreement and a supplement to the Servicing Agreement, World Omni, acting as Servicer on behalf of the Origination Trustee, selects the assets to be represented by each SUBI (as discussed above). Certificates representing the entire beneficial interest in each SUBI are issued to the sponsor of the Securitization Trust. The sponsor is usually a wholly-owned subsidiary of World Omni (or a partnership in which such a subsidiary is the sole general partner), but in some cases could be an entity that is independent of World Omni and its affiliates provided that World Omni or an affiliate acts as the Servicer of the trust. The sponsor creates the Securitization Trust and transfers a certificate representing approximately a 99.8 percent beneficial interest in the SUBI to the Securitization Trust, pursuant to a trust agreement between the sponsor and the trustee of the Securitization Trust (the Securitization Trustee).[7] The Securitization Trustee is an unrelated commercial institution with trust powers, meeting certain specified requirements. Currently, the trustee of the Securitization Trusts is the Bank of America. In addition, pursuant to the Securitization Trust agreement, the Securitization Trust issues to its sponsor investor certificates representing fractional undivided interests in the assets of the Securitization Trust (i.e. the 99.8 percent interest in the SUBI, which itself represents a beneficial interest in a portfolio of motor vehicle leases and related leased motor vehicles held by the Origination Trust).

6. The sponsor of the Securitization Trust sells approximately 96 percent of the certificates to various outside investors, including employee benefit plans subject to the Act. World Omni retains a subordinated interest in the Securitization Trust of approximately 4 percent, as required by the Rating Agencies, so that unanticipated losses with the SUBI portfolio will first by borne by World Omni. With respect to the certificates sold to outside investors, there may be two or more classes of securities. The investor certificates are either publicly or privately offered. In the public lease securitizations completed by World Omni thus far, approximately 92.5 percent of the certificates were sold to investors publicly and approximately 3.5 percent of the certificates were sold to investors privately. The public investor certificates had a AAA/Aaa rating from the Rating Agencies. The private investor certificates had a single "A" rating from the Rating Agencies because such certificates were subordinated to the public investor certificates.[8] Except under rare circumstances, physical certificates are not issued to investors in a public senior class of certificates. Instead, the Securitization Trust uses a book-entry registration system through the Depository Trust Company (DTC), a limited-purpose trust company organized under New York law, which is a member of the Federal Reserve system, and a clearing agency under Section 17A of the Securities Exchange Act of 1934.

Investors are entitled to receive monthly payments of interest at a fixed certificate rate, and after the "revolving period" described above, payments of principal. Principal payments are based on the decline in the value of the pool of leases and vehicles allocated to each SUBI, based on certain standard depreciation schedules for the related motor vehicles. All net collections collected for the assets underlying each SUBI, including all net proceeds from the sale of a vehicle upon repossession, early lease termination or maturity of the related lease, are available to make payments on the investor certificates.

The price of the investor certificates, both in the initial offering and in the secondary market, is affected by market forces including investor demand and the Average Lease Rate for the leases allocated to the particular SUBI. The applicant states that the Average Lease Rate generally is determined by the same market forces that determine the price of the investor certificates. Certificate interest rates are set at the time of the pricing of each securitization. While the Average Lease Rate for the particular lease portfolio is a factor in the interest rates a Securitization Trust will be able to pay, the actual interest rate set for the certificates issued is determined by a combination of additional factors. Specifically, these factors include: (a) the then-current yields on U.S. Treasury Notes with a remaining term equivalent to the anticipated average life of the particular Securitization Trust, and (b) the then-current "spreads" on similarly-rated competitive investments available in the marketplace, as determined by

[6] World Omni represents that the aggregate amount of new leases added to a SUBI portfolio is approximately equal, rather than exactly equal, to principal collections on the existing leases because, when additional leases are added, the outstanding principal balance of the new leases is not always equal to the principal collections available for reinvestment. The uninvested principal amounts are held by the Securitization Trust in a cash account and temporarily invested in short-term investments, with interest thereon accruing to the Securitization Trust, until such amounts can be reinvested in additional leases for the SUBI portfolio. World Omni states that any uninvested principal amounts, and interest on such amounts, held by the Securitization Trust are distributed to the certificateholders once principal payments on the leases in the SUBI portfolio are passed-through to investors.

[7] World Omni or an affiliate retains a de minimis interest in each SUBI portfolio which represents a subordinated interest in the portfolio, under requirements established by the Rating Agencies, in order to meet certain Federal tax code objectives.

[8] The applicant is not requesting an exemption for the purchase of any subordinated class of certificates by employee benefit plans. However, the applicant is requesting relief for prohibited transactions that may occur as a result of the investments in a trust made by an insurance company's general account which are considered to be "plan assets" under the recent U.S. Supreme Court decision in *John Hancock Mutual Life Insurance Co.* v. *Harris Trust & Savings Bank*, 114 S.Ct. 517 (1993) (Harris Trust). As a result of the decision in Harris Trust and the Department's plan assets regulation (see 29 CFR 2510.3–101), an insurance company investing general account assets could be viewed as a "benefit plan investor" for purposes of calculating the 25 percent significant participation test in section 2510.3– 101(f)(1) of the regulation.

The Department notes that Section III of the Class Exemption for Certain Transactions Involving Insurance Company General Accounts (PTE 95–60, 60 FR 35925, July 12, 1995) provides an exemption for transactions in connection with the operation of asset pool investment trusts notwithstanding that the certificates acquired by the general account are subordinated to the rights and interests evidenced by other certificates of the same trust. In this regard, the Department has included a paragraph at the end of the operative language of the proposed exemption which states that this exemption, if granted, will be included within the definition of the term "Underwriter Exemption" under Section V(h) of PTE 95–60. Therefore, the exemptive relief provided by PTE 95–60 will be available for subordinated investments in a trust described herein by insurance company general accounts.

the Rating Agencies. Once the certificate rate is set for the certificates issued by the Securitization Trust, that rate remains fixed for its duration, regardless of any changes to the Average Lease Rate of the SUBI portfolio occurring during the "revolving period". The price of an investor certificate and the certificate rate together determine the yield to investors. If an investor purchases a certificate at less than par, that discount augments the certificate rate; conversely, a certificate purchased at a premium yields less than the stated coupon.

7. The origination of the leases held by the Origination Trust begins with World Omni, which enters into arrangements with its network of dealers allowing it to cause the assignment of leases and related vehicles originated by those dealers either directly to World Omni or to any other specified entity, including the Origination Trust. Once assigned to the Origination Trust for ultimate inclusion in a portfolio of SUBI assets for securitization as described above, this mechanism enables World Omni to go to the capital markets directly for financing and thereby enhance its leasing capacity without outside financing.

World Omni and/or one or more wholly-owned subsidiaries of World Omni, or partnerships in which such a wholly-owned subsidiary is the sole general partner, are responsible for creating each SUBI, creating the Origination Trust and each Securitization Trust, and designating the Trust Agent and the Securitization Trustee.

The Trust Agent, its subsidiary the Origination Trustee, and the Securitization Trustee, are each independent entities, unrelated to World Omni, the underwriter or placement agent. The Origination Trustee is the legal owner of the motor vehicle leases and related leased motor vehicles allocated to a SUBI. The Securitization Trustee is the legal owner of the obligations in the Securitization Trust and is responsible for enforcing all the rights created thereby in favor of certificateholders, whether independently or through the Origination Trustee. The applicant represents that each Securitization Trustee and Trust Agent are substantial financial institutions or trust companies experienced in trust activities. The Trust Agent and Securitization Trustee receive a fee for their services, which is paid out of assets of the Origination Trust or the Securitization Trust, as applicable. The method of compensating each for its service related to a SUBI is specified in the Origination Trust Agreement or Securitization Trust Agreement, as applicable, and disclosed in the prospectus or private placement memorandum relating to the offering of the investor certificates.

8. The Servicer administers the leases on behalf of the beneficial owners of the Origination Trust, including the holders of SUBI certificates and, indirectly, the holders of the investor certificates. The Servicer's functions involve monitoring of leases, maintenance of records, institution of proceedings in the event of default, and sale of vehicles after lease maturity, as well as certain functions relating to the qualifications and permits required to be obtained by the Origination Trustee.[9] The Servicer, the sponsor of the Origination Trust, and the sponsor of the Securitization Trust are unrelated to the underwriter and to DTC. DTC has public senior investor certificates registered in its name (or that of its nominee) and maintains procedures for the distribution of notices, reports, distributions and statements to certificateholders.

As compensation for performing its servicing duties for the Origination Trust, the Servicer is paid a fee equal to a specified percentage (usually no more than one percent) of the balance of the leases it services, including those leases allocated to the SUBI. The Servicer may receive additional compensation related to the SUBI in the form of interest on various accounts of the Origination Trust and/or the Securitization Trust containing proceeds of the leases and related leased motor vehicles allocated to each SUBI as well as interest on certain cash deposits. The Servicer is required to pay the administrative expenses of servicing the Origination Trust out of its servicing compensation.

The Servicer is also compensated to the extent it may provide credit enhancement to the Securitization Trust or otherwise arranges to obtain credit support from another party. This "credit support fee" may be aggregated with other servicing fees, and may be either paid out of the income received on the leases in excess of the certificate rate or paid in a lump sum at the time the Securitization Trust is established. The Servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor under a lease, provided that such fees are "qualified administrative fees" as defined under Section III.S. These administrative fees fall into three categories: (a) prepayment processing fees; (b) late payment fees; and (c) fees and charges associated with the purchase of a leased vehicle by an obligor as well as any repossession of such vehicle, or other conversion of a secured position into cash proceeds, upon default of an obligation.

Payments on leases may be made by lessees to the Servicer at various times during the period preceding any date on which payments to the Origination Trust are due. In some cases, the Servicing Agreement may permit the Servicer to place these payments in non-interest bearing accounts in itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the Servicer would be entitled to the benefit derived from the use of the funds between the date of payment on a lease and the date payment is due to the Origination Trust. Commingled payments may not be protected from the creditors of the Servicer in the event of the Servicer's bankruptcy or receivership. In those instances when payments on leases are held in non-interest bearing accounts or are commingled with the Servicer's own funds, the Servicer is required to deposit these payments into an Origination Trust account by a date specified in the Servicing Agreement.

All compensation payable to the Servicer with regard to the leases allocated to a SUBI is set forth or referred to in the Servicing Agreement, and described in reasonable detail in the prospectus or private placement memorandum relating to the investor certificates.

9. Participating underwriters or placement agents receive a fee in connection with the securities underwriting or private placement of investor certificates. In a firm commitment underwriting, this fee would consist of the difference between what such underwriter receives for the certificates that it distributes and what it pays the sponsor of the Securitization Trust for those certificates.[10] In a private placement, the fee normally takes the form of an agency commission paid by the sponsor of the Securitization Trust.

The arrangements among underwriters typically are set forth in an "Agreement Among Underwriters", which gives the managing underwriter, as lead manager of the offer, the authority to act on behalf of all the underwriters. This agreement also imposes customary restrictions on the underwriters' dealings in the offered securities as are necessary to comply with securities laws and to ensure the orderly distribution of the offered securities.

10. The applicant represents that as the principal amount of the leases allocated to a SUBI is reduced by payments thereon and recoveries on the disposition of leased vehicles, the cost of separately administering the assets allocated to that SUBI generally increases, making the servicing of those assets prohibitively expensive at some point. Consequently, the Securitization Trust Agreement generally provides that the sponsor of the Securitization Trust may repurchase the 99 percent interest in the SUBI when the aggregate principal balance of the investor certificates is reduced to a specified percentage (usually between 5 and 10 percent) of the initial aggregate investor certificate balance. The terms of such repurchase are specified therein and are at least equal to the unpaid principal balance on the investor certificates plus accrued interest. The supplement to the Origination Trust Agreement generally provides that upon such a repurchase of the Securitization Trust's interest in the SUBI by its sponsor, the Origination Trust may repurchase the entire SUBI from the sponsor and thereby terminate the SUBI. The terms of such repurchase are specified therein and generally are at least equal to the value of the pool of leases and leased vehicles allocated to the SUBI.

11. The senior class of investor certificates must receive one of the three highest ratings available from the Rating Agencies. Insurance or other credit support is obtained by the sponsor of the Securitization Trust or the Origination Trust to the extent necessary for the certificates to attain the desired rating. The amount of this credit support is set by the Rating Agencies at a level expected to be a multiple of the worst historical net credit loss experience for leases of automobiles and light-duty trucks such as those allocated to the SUBI.

World Omni states that the Rating Agencies, before granting AAA/Aaa ratings for the publicly issued securitization certificates, review the underlying portfolio of assets securing payment to the investors to determine, among other things, if (a) The principal value of the assets is sufficiently greater than the aggregate face amount of the investor certificates as to provide protection against defaults or losses, and (b) there is a sufficient "spread" between the overall yield, based on the Average Lease Rate, being earned on the portfolio and the certificate rate to cover servicing costs, expenses and losses. In the case of World Omni's current public securitizations of leases, the Rating Agencies have required that (i) The face value of public investor senior certificates not exceed 92.5 percent of the principal value of the underlying assets, and (ii) the "spread" (after the discounting procedure described below) between the overall yield, based on the Average Lease Rate, of the SUBI portfolio and the certificate rate be approximately 200 basis points. Thus, for example, a SUBI portfolio with a principal value of $100,000,000 would support the issuance of certificates with a face value of only $92,500,000, and a certificate rate of 6 percent per annum would require an overall yield, based on the Average Lease Rate, for that SUBI portfolio of approximately 8 percent per annum. World Omni states that the Rating Agencies will always require a specific "spread" between the certificate rate and the overall yield for leases in the particular SUBI portfolio before providing their initial credit ratings for the certificates. World Omni must maintain this "spread" when leases are added to the SUBI portfolio during the "revolving period" or risk a lower credit rating for the certificates (see Section II.A.(7)(b) above).

For purposes of the securitization described above, World Omni represents that each individual lease should yield a rate of return, based on the Lease Rate (as defined in Section III.V. above), which is at least equal to the certificate rate plus approximately 200 basis points. However, where the spread required by the Rating Agencies is not met as to any lease based solely on the Lease Rate, the Rating Agencies require that World Omni "discount" the principal value of that lease so that such lease is treated as having a "net investment value" less than its actual outstanding principal balance. In such instances, the lease is discounted to a level at which the actual lease charges to be collected under the lease (including expected principal payments) would yield, on a percentage basis, an overall rate of return which exceeds the certificate rate by the amount specified by the Rating Agencies. Thus, for each individual lease included in a securitization, its principal value is either: (a) Its outstanding principal balance, if its Lease Rate is equal to or greater than the "spread" required by the Rating Agencies; or (b) its discounted net investment value, if its Lease Rate is less than the "spread" so required.[11] World Omni states that the use of discounted aggregate net investment values in measuring the ratio of certificate face values to the discounted principal balance of the SUBI portfolio can only further assure that investors are paid interest and principal on their certificates on a timely basis.

12. In some cases, the Servicer may provide temporary or permanent credit support to the trust (i.e. act as an insurer). As a temporary provider of credit support, the Servicer typically would advance funds to the full extent that it determines that such advances are recoverable (a) Out of late payments by the lessees, (b) from a permanent credit support provider (which may be itself) or, (c) in the case of a trust that issues subordinated certificates, from amounts otherwise distributable to holders of subordinated certificates. The Servicer would advance such funds in a timely manner. When the Servicer temporarily advances funds, the amount so advanced is recoverable by the Servicer out of future payments on or for leases or leased vehicles allocated to the SUBI to the extent that such amounts are not covered by the other sources described above, including payments from a permanent credit support provider.

In some cases, the Servicer may be called upon to provide permanent credit support in the form of funds to cover defaulted payments to the full extent of its obligations as insurer. When the Servicer is the provider of permanent credit support and provides its own funds to cover defaulted payments, it does so either on the initiative of the Origination Trustee or Securitization Trustee, or on its own initiative on behalf of such trustees. The applicant states that in either event the Servicer

[9] World Omni states that these functions are necessary since, as noted in Paragraph 4 above, the Origination Trust is the owner of, and holds title to, the vehicle unless the lessee chooses to purchase such vehicle under the terms of the lease.

[10] World Omni represents that a "best efforts" underwriting would not ordinarily be used for the investor certificates because of their high credit ratings.

[11] For example, if the certificate rate for a transaction were 8 percent, then, in determining the aggregate face value amount of certificates that could be issued with respect to a given SUBI portfolio, World Omni could include each lease with a Lease Rate of 10 percent or more at its current outstanding principal balance without any discounting. However, if the portfolio included individual leases each with outstanding principal balances of $20,000 and Lease Rates of only 5 percent, then World Omni would have to "discount" the value of each such lease for purposes of the securitization to a low enough net investment value (approximately $18,000) so that the same overall monthly lease payment for each lease would now yield a Lease Rate of 10 percent. World Omni notes that any "discounting" of leases added to the SUBI portfolio during the "revolving period" will result in more leases being added to the portfolio in order to maintain a constant outstanding principal balance during such period. Thus, when interest rates used to determine the Lease Rate for leases added to a SUBI portfolio are declining, the "discounting" of leases adds more "collateral" to secure payments of the certificate rate.

provides such funds to cover payments to the full extent of its obligations under the credit support mechanism. If the Servicer fails to advance funds, fails to call upon a credit support mechanism to provide funds to cover defaulted payments, or otherwise fails in its duties, the Securitization Trustee would be required to enforce the investor certificateholders' rights, in its capacity as a third-party beneficiary of the Servicing Agreement, as owner of the estate of the Securitization Trust, and as an indirect beneficial owner of the Origination Trust assets allocated to a SUBI (including rights under any credit support mechanism). Therefore, the Securitization Trustee, who is independent of the Servicer, ultimately has the right to enforce any credit support arrangement.

13. The applicant represents that there are protections in place to guard against a delay in calling upon the credit support to take advantage of the fact that the credit support declines proportionally with the decrease in the principal amount of the leases allocated to a SUBI as payments for these leases and the related vehicles are used to make payments to the Securitization Trust, as holder of an interest in the SUBI, and then to investors. These safeguards include the following:

(a) There is a disincentive to postponing credit losses because the sooner repossession or sale activities are commenced, the more value generally will be realized on the leased vehicle.

(b) The Servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which a lessee's obligations ordinarily are deemed uncollectible. The Servicing Agreement requires the Servicer to follow its normal servicing guidelines. In addition, a supplement to the Servicing Agreement sets forth the Servicer's general policy as to the period of time after which delinquent obligations ordinarily will be considered uncollectible.

(c) As frequently as payments are due on the investor certificates (monthly, quarterly or semi-annually, as set forth in the Securitization Trust Agreement), the Servicer is required to report to the Securitization Trustee the amount of all past-due payments and the amount of all Servicer advances, along with other current information as to collections on the leases, recoveries on the related leased vehicles, and draws upon the credit support. Further, the Servicer is required to deliver to the trustee annually a certificate from an executive officer of the Servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the Servicer has fulfilled all of its obligations under the Servicing Agreement or, if the Servicer has defaulted under any of its obligations, specifying any such default. The Servicer's reports are reviewed at least annually by independent accountants to ensure that the Servicer is following its normal servicing standards and that the reports conform to the Servicer's internal account records. The results of the independent accountants' review are delivered to the Securitization Trustee.

(d) In cases where the Servicer and an insurer providing credit support are affiliated or are the same entity, the credit support has a "floor" dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the SUBI, whether due to Servicer advances or any other cause. The floor amount may be a fixed dollar amount or a multiple of the balance of one or more of the largest obligations outstanding. Once the floor amount has been reached, the Servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount becomes a fixed dollar amount, subject to reduction only for actual draws on such amount. From the time that the floor amount is effective until the end of the life of the trust, there are no proportionate reductions in the credit support amount caused by reductions in the principal balance of the leases allocated to the SUBI. The applicant states that where the floor is a fixed dollar amount, the amount of credit support ordinarily would increase as a percentage of the principal balance during the period that the floor is in effect.

14. In connection with the original issuance of investor certificates, a prospectus or private placement memorandum is furnished to investing plans. The prospectus or private placement memorandum contains information material to a plan fiduciary's decision to invest in the certificates, including:

(a) Information concerning the payment terms of the certificates, the rating of the certificates, and any material risk factors with respect to the certificates;

(b) A description of the Origination Trust and Securitization Trust as legal entities and a description of how they were formed by their respective sponsors;

(c) Identification of the Trust Agent, Origination Trustee and Securitization Trustee;

(d) A description of the leases and related leased vehicles allocated to each SUBI, including the diversification of the leases and vehicles, the principal terms of the leases, and their material legal aspects;

(e) A description of the sponsors of the Origination Trust and the Securitization Trust, and of the Servicer;

(f) A description of the servicing arrangements set forth in the Servicing Agreement, and the agreements governing the Origination Trust and the Securitization Trust, including a description of the Servicer's principal representations and warranties as to the leases and leased vehicles allocated to each SUBI and the remedies for any breach thereof;

(g) A description of the procedures for collection of payments on or for leases and related leased vehicles and for making distributions to the Securitization Trust, as holder of an interest in the SUBI, and then to investor certificateholders, and a description of the accounts into which such payments are deposited and from which such distributions are made;

(h) Identification of the servicing compensation and any fees for credit support that are deducted from payments on or for leases or related leased vehicles before distributions are made to investors;

(i) A description of periodic statements provided to the Securitization Trustee, and such statements that are provided or made available to investors by the Securitization Trustee;

(j) A description of the events that constitute events of default under the Servicing Agreement and a description of the Securitization Trustee's and the investors' remedies;

(k) A description of any credit support;

(l) A general discussion of the principal Federal income tax consequences of the purchase, ownership and disposition of the investor certificates by a typical investor;

(m) A description of the underwriters' plan for distributing the certificates to investors; and

(n) Information about the scope and nature of the secondary market for the certificates.

Reports indicating the amount of payments of principal and interest are provided to investors at least as frequently as distributions are made to investors. Investors are also provided with periodic information statements setting forth material information concerning the leases and related vehicles allocated to each SUBI, including information as to the amount and number of delinquent and defaulted leases.

15. In the case of the offer and sale of investor certificates in a registered public offering, the Securitization Trustee, the Servicer or the sponsor of the Securitization Trust will file periodic reports as required by the Securities Exchange Act of 1934 (the 1934 Act). Although some trusts that offer certificates in a public offering file quarterly reports on Form 10–Q and Annual Reports on Form 10–K, many trusts obtain, by application to the Securities and Exchange Commission (SEC), a complete exemption from the requirement to file quarterly reports on Form 10–Q and a modification of the disclosure requirements for annual reports on Form 10–K. If such an exemption is obtained or available for the Securitization Trust, it normally would continue to have the obligation to file current reports on Form 8–K to report material developments concerning the Securitization Trust and the investor certificates. World Omni states that while the SEC's interpretation of the periodic reporting requirements is subject to change, periodic reports concerning the Securitization Trust shall be filed to the extent required under the 1934 Act.

At the time distributions are made to certificateholders, a report is delivered to the trustee as to the status of the Securitization Trust and each SUBI, including the assets allocated to the SUBI. Such report contains information regarding, among other things, the leases and related vehicles allocated to the SUBI, payments received or collected by the Servicer, the amount of prepayments, delinquencies, Servicer advances, defaults and foreclosures, the amount of any payments made pursuant to any credit support, and the amount of compensation payable to the Servicer. Such report is also delivered to or made available to the Rating Agency or Agencies that have rated the investor certificates. A statement based on this report is also provided to certificateholders either by the Securitization Trustee, the Servicer, or DTC as depository of the investor certificates, including a summary statement regarding the Securitization Trust and the assets allocated to the SUBI. The statement contains information regarding payments and prepayments, delinquencies, the remaining amount of credit support, a breakdown of payments between principal and interest and other information concerning the leases and leased vehicles allocated to the SUBI.

With respect to payments on the certificates, World Omni states that such payments are legally obligated to be made by the Securitization Trustee to DTC, the record owner of the certificates. World Omni represents that DTC makes payments to the beneficial owners of the certificates as required by New York Stock Exchange Regulations, SEC Regulations and the rules of the U.S. Federal Reserve Board.

16. In general, it is the policy of many underwriters to make a market for securities for which they are the lead or co-managing underwriter. It is also the policy of many placement agents to facilitate sales by investors who purchase certificates if the placement agent has acted as a principal or agent in the original private placement of the certificates and if the investors request the placement agent's assistance. In this regard, the applicant states that many underwriters have made a secondary market in certificates sponsored by World Omni and its Affiliates and that the wide range of investors involved have made such certificates fairly liquid investments.[12]

17. World Omni has requested that the relief proposed herein be made retroactive to June 27, 1994, which is the date upon which World Omni states that the conditions of this proposed exemption were satisfied. World Omni does not believe that it has engaged in any prohibited transactions that would be covered by the requested exemption. However, since June 27, 1994, it is possible that some transactions may have occurred that would be prohibited. For example, because many certificates are held in street or nominee name, the applicant states that it is not always possible to identify whether the percentage interest of plans in a trust is or is not "significant" for purposes of the Department's "plan asset" regulation (see 29 CFR 2510.3–101(f)). These problems are compounded as transactions occur in the secondary market. In addition, with respect to the "publicly-offered security" exception contained in that regulation (29 CFR 2510.3–101(b)), the applicant states that it is difficult to determine whether each purchaser of a certificate is independent of all other purchasers. Thus, World Omni requests an exemption which would provide the relief described herein as of June 27, 1994.

18. In summary, the applicant represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of the Act because:

(a) The Securitization Trust holds an interest in a SUBI, which generally represents a "fixed pool" of leases and related leased vehicles, other than the obligation to reinvest principal collections on the leases and leased vehicles in additional qualifying leases and leased vehicles during a fixed "revolving period" of no more than 15 months.

(b) The Average Lease Rate for the leases in the portfolio used to create a trust, after accounting for all leases added to such portfolio during the "revolving period", will not exceed by more than 200 basis points the Average Lease Rate for the original portfolio of leases used to create the trust.

(c) Certificates in which employee benefit plans invest have been rated in one of the three highest rating categories by the Rating Agencies. Credit support is obtained to the extent necessary to attain the desired rating. In addition, leases added to a trust portfolio during the "revolving period" will not result in the certificates receiving a lower credit rating from the Rating Agencies, at the end of the "revolving period", than the rating that was obtained at the time of the initial issuance of the certificates by the trust.

(d) All transactions for which the applicant seeks exemptive relief are governed by the Origination Trust Agreement, the Servicing Agreement and any applicable supplements thereto, and the Securitization Trust Agreement. These agreements as well as the prospectus or private placement memorandum are made available to plan fiduciaries for their review prior to the plan's investment in the certificates.

(e) Exemptive relief from sections 406(b) and 407(a) of the Act for sales to employee benefit plans is substantially limited.

[12] The Department notes that on April 3, 1995, World Omni and a number of respondents involving some 55 Toyota dealers (the Toyota Dealers) entered into an agreement with the State of Florida (the Agreement) following an investigation by the State. The investigation apparently resulted from allegations by Florida consumers of unfair trade practices by various Florida dealers, including but not limited to certain Toyota Dealers. Under the terms of the Agreement, a restitution fund of up to $4.5 million (the Restitution Fund) was created for consumers in connection with certain leases originated by the Toyota Dealers from January 1, 1989 through December 31, 1994. Initial "advance" payments into the Restitution Fund were made by an affiliate of World Omni. However, the Toyota Dealers ultimately will be responsible for most of the restitution payments made to consumers.

World Omni and its Affiliates represent that they will abide by all securities and other laws applicable to any offering of interests in securitized assets, such as certificates in a trust as described herein, including those laws relating to disclosure of material litigation, investigations and contingent liabilities.

World Omni represents that the Agreement did not require any payment from or adjustment to any assets of a Securitization Trust and, according to the applicant, is not material to World Omni as Servicer or to any such trust.

(f) Many underwriters have made, and the applicant anticipates that such underwriters will continue to make, a secondary market in investor certificates sponsored by World Omni and its Affiliates.

FOR FURTHER INFORMATION CONTACT: Mr. E. F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

General Motors Hourly-Rate Employes Pension Plan (the Hourly Plan), General Motors Retirement Program for Salaried Employes, Saturn Individual Retirement Plan for Represented Team Members and Saturn

Personal Choices Retirement Plan for Non-Represented Team Members (the Saturn Plans), and Employees' Retirement Plan for GMAC Mortgage Corporation (the GMAC Plan; collectively, the Plans) Located in New York, New York

[Application Nos. D–09930 & D–09931]

Proposed Exemption

(a) General Exemption. The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to any transaction arising in connection with the acquisition, ownership, management, development, leasing, financing, or sale of real property (including the acquisition, ownership or sale of any joint venture or partnership interest in such property) or the borrowing or lending of money in connection therewith, between a party in interest and the Plans, provided that the following conditions are satisfied:

(1) The terms of the transaction are negotiated on behalf of the Plans by, or under the authority and general direction of, General Motors Investment Management Corporation (GMIMCo), as described in the summary of facts in the notice of proposed exemption, and GMIMCo makes the decision to invest the assets of the Plans in such transaction. Notwithstanding the foregoing, a transaction involving an amount of $20 million or more, which has been negotiated on behalf of a Plan by GMIMCo will not fail to meet the requirements of this section (a)(1) solely because General Motors Corporation or its designee retains the right to veto or approve such transaction;

(2) Any such party in interest is not—

(i) GMIMCo or any person directly or indirectly controlling, controlled by, or under common control with GMIMCo, any officer, director or employee of GMIMCo or any of its subsidiaries, or any partnership in which GMIMCo is a 10 percent or more (directly or indirectly in capital or profits) partner;

(ii) General Motors Corporation (GM) or any of its subsidiaries, any officer or director of GM or any of its subsidiaries;

(iii) any named fiduciary of any Plan, or any person who has discretionary authority in the selection, supervision or operation of GMIMCo or any of its officers, directors or employees;

(iv) a sponsor of any of the Plans (Plan Sponsor) or any subsidiary of a Plan Sponsor, or a ten percent or more shareholder, partner, or joint venturer of a Plan Sponsor, or any officer or director of any of them;

(v) any person who exercises discretionary authority, responsibility or control, or who provides investment advice [within the meaning of 29 CFR 2510.3–21(c)], with respect to the investment of Plan assets involved in the transaction;

(3) The transaction is not part of an agreement, arrangement or understanding designed to benefit a party in interest;

(4) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of GMIMCo, the terms of the transaction are at least as favorable to the Plans as the terms generally available in arm's-length transactions between unrelated parties;

(4) GM or GMIMCo shall maintain for a period of six years from the date of each transaction mentioned above the records necessary to enable the persons described in subparagraph (5) of this section (a) to determine whether the conditions of this exemption have been met, except that: (i) A prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of GM and GMIMCo, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest except GM and GMIMCo shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by subparagraph (5) below;

(5)(i) Except as provided in subsection (ii) of this subparagraph (5) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in subparagraph (4) of this section (a) are unconditionally available at GM's headquarter offices, or, upon prior arrangement with GM, at any other customary location for the maintenance and/or retention of such records, for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(B) Any fiduciary of a Plan or any duly authorized employee or representative of such fiduciary, and

(C) Any participant or beneficiary of any Plan or any duly authorized representative of such participant or beneficiary.

(ii) None of the persons described in subdivisions (i)(B) and (i)(C) of this subparagraph (5) shall be authorized to examine GM's trade secrets or commercial or financial information which is privileged, confidential or of a proprietary nature.

(b) *Specific exemption.* The restrictions of sections 406(a)(1) (A) through (D) and sections 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the furnishing of services, facilities, and any goods incidental thereto by a place of public accommodation which is or may be considered an asset of a Plan if the services, facilities or incidental goods are furnished on a comparable basis to the general public, and if the requirements of subparagraphs (a) (4) and (5) of this exemption are met.

EFFECTIVE DATE: This exemption, if granted, will be effective as of July 1, 1994.

TEMPORARY NATURE OF THE EXEMPTION: The exemption proposed herein, if granted, will be temporary in nature and will expire on the date of publication by the Department of the final class exemption for plan asset transactions determined by in-house asset managers, which was proposed by the Department on March 24, 1995 at 60 FR 15597 (application no. D–09602).

Summary of Facts and Representations

1. The Plans are defined benefit plans sponsored by the General Motors Corporation (GM) and subsidiaries of GM. As of December 31, 1994, there were approximately 835,700 active participants in the Plans, and the Plans held assets totaling approximately $44.2 billion. Approximately 5.6 percent of the Plans' total assets is currently invested, or committed for specific investment, in real estate or real estate related investments.

2. The Plans are administered by the Finance Committee of GM's board of directors (the Finance Committee) as the named fiduciary with respect to each of the Plans, except for the Employee's Retirement Plan for GMAC Mortgage Corporation (the GMAC Plan), discussed below. The Finance Committee, among other functions, is responsible for the direction and oversight of each Plan's investment policy, monitors each Plan's performance, and adopts broad investment policy guidelines. The Finance Committee receives assistance from an Investment Policy Committee (IPC), which periodically reviews and makes recommendations on investment policy guidelines. The IPC is comprised of officers of GM and officers of the General Motors Investment Management Corporation (GMIMCo), a wholly-owned subsidiary of GM. Further, the Finance Committee has authorized the IPC to approve all investment commitments involving more than one percent of the assets of any Plan's trust. The Finance Committee has also appointed GMIMCo to act as an investment manager with respect to the Plans. In that regard, GMIMCo is actively involved in real estate transactions undertaken by the Plans, including transactions under the direct management of third party investment managers.

The named fiduciary of the GMAC Plan is the GMAC Mortgage Corporation Pension Committee (GMAC Committee). The assets of the GMAC Plan have been commingled with the assets of the Hourly Plan and Saturn Plans for investment purposes. As a result, GMIMCo acts also as an investment manager with respect to the GMAC Plan.

Real estate transactions involving the Plans' assets may be undertaken directly by GMIMCo's real estate portfolio group (the R.E. Group) or indirectly through a third party asset manager with the R.E. Group's involvement. The R.E. Group's functions include the identification and analysis of real estate investments. The R.E. Group is comprised of six investment professionals, four attorneys and administrative personnel.

3. GM requests an exemption to allow the Plans to engage in real estate transactions which may otherwise be prohibited under the Act, as described herein. GM represents that all prospective transactions will be effected on behalf of the Plans by GMIMCo and will not involve parties in interest who have fiduciary authority over the particular investments of the Plans. GM represents that due to its size and complexity, the normal operation of the Plans with respect to their real estate investments may involve party in interest transactions. The Department recognizes this situation and, to date, has proposed and granted various individual exemptions on behalf of large plans for real estate transactions involving parties in interest who maintain no authority over the investments involved. GM is requesting similar exemptive relief.

4. GM represents that the Plans' investments in real estate are made in various forms. Such forms involve real estate partnerships, joint ventures, leases, and mortgages. As a result of such real property investment arrangements, prohibited transactions by and between a Plan and party in interest lenders, lessees, joint venturers, partnership partners, and service providers may occur. Such parties would maintain no authority with respect to the Plan assets involved in such transactions.

5. GM represents that the Plans' investments in real estate take on various forms, including limited partnerships, joint ventures, leases, mortgages, sale-leasebacks, and convertible mortgage arrangements. With respect to each investment structure, the projects in question are typically office buildings, shopping centers, hotels and other commercial or multi-family residential projects. GM represents that the owners/operators/developers with whom the Plan invests are carefully chosen and are experienced in the evaluation, ownership, management, financing and, in the case of new projects, development of real estate. Parties in interest with respect to the Plans which may become involved in these various types of real estate transactions include bank lenders, lessees, joint venturers, and partnership partners. The proposed exemption would not include transactions involving any parties in interest with any authority with respect to the Plans' investment in the subject transaction.

6. The applicant states that it is possible that the investment by the Plans in places of public accommodation may result in the use of such facilities by parties in interest. Therefore, such transactions involving these places of public accommodation may constitute prohibited transactions as described in the Act.

7. GM represents that regardless of the structure involved, each potential real estate investment on behalf of the Plans receives thorough and careful analysis by GMIMCo and by its professional staff. The investment process operates as follows: potential real estate investments are generally brought to the attention of one or more members of GMIMCo's professional staff by real estate professionals, brokers, or advisers. A staff of real estate professionals under the direction of GMIMCo's managing director then inspects and appraises prospective properties, considers existing and prospective tenants, and evaluates numerous other financial and non-financial aspects such as size, location, actual and potential use, financing, taxes, insurance, title requirements and compliance with zoning and other applicable laws. Sophisticated computer models are utilized as a tool to assist the real estate professionals and to evaluate risk and reward potential.

Upon completion of this analysis, the potential real estate investment is either rejected or approved by a manager. If the manager approves the proposed transaction, it is then presented to GMIMCo's Pension Investment Review Team (PIRT). Approval by the PIRT is final as to transactions involving $30 million or less. Transactions involving more than $30 million are referred for further consideration by the Chief Investment Funds Officer of GM, who retains the right to approve or veto such transaction. Transactions involving more than 1% of the assets of a Plan's trust are referred for further consideration to the IPC, which retains approval and veto authority with respect to such transactions. GMIMCo's investment professionals are aided in the review process by GMIMCo's in-house legal staff.

8. GM represents that by means of the arrangements described above, rigorous financial standards and procedures have been established to ensure sound real estate investments with appropriate rates of return. GM represents that any covered transactions will be on terms not less favorable to the Plans than those available between the Plan and unrelated parties. GM represents that given the size and scope of the Plans and their investment, and GM's relationship to numerous financial institutions, denial of the requested exemption would substantially inhibit the Plans from investing in many prime quality real estate projects of substantial size.

9. In summary, the applicant represents that the requested exemption will satisfy the criteria of section 408(a) of the Act for the following reasons: (a) All investments will be subject to the discretion and control of GMIMCo and its professional staff, which have extensive experience in real property investments and which will conduct complete analyses with respect to potential Plan investments; (b) The Plans will be able to enter into transactions which, although prohibited, are necessary for the prudent conduct of the Plans' operation;

(c) All transactions will involve parties who are independent from GM and who have no discretion, authority or control with particular transactions; and (d) All transactions will be conducted on an arm's-length basis on terms not less favorable to the Plan than those available in arm's-length transactions with unrelated parties.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Ventura County National Bancorp 401(k) and Employee Stock Ownership Plan (the Plan) Located in Oxnard, California

[Application No. D–10024]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply for the period from May 12, 1995 until June 21, 1995 (the Offering Period), to: (1) The receipt of certain stock rights (the Rights) by the Plan, which is sponsored by Ventura County National Bancorp (Ventura) and its affiliates, pursuant to a stock rights offering (the Rights Offering) by Ventura to shareholders of record of Ventura's common stock (the Employer Stock) as of May 10, 1995; (2) the holding of the Rights by the Plan during the Offering Period; and (3) the exercise of the Rights by the Plan, provided the following conditions were met:

(a) The Plan's acquisition and holding of the Rights resulted from an independent act of Ventura as a corporate entity, and all holders of the Employer Stock were treated in a like manner, including the Plan;

(b) With respect to the "401(k) portion" of the Plan, the Rights were acquired, held and controlled by individual Plan participant accounts pursuant to plan provisions for individually directed investment of such accounts; and

(c) With respect to the "ESOP portion" of the Plan, the authority for all decisions regarding the acquisition, holding and control of the Rights was exercised by an independent fiduciary which made determinations as to whether and how the Plan should exercise or sell the Rights acquired through the Rights Offering.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective for the period from May 12, 1995 until June 21, 1995.

Summary of Facts and Representations

1. Ventura is a registered bank holding company conducting business in Southern California through its wholly-owned subsidiaries, Ventura County National Bank (VCNB) and Frontier Bank (Frontier; together, the Banks). The principal executive offices of Ventura are located at 500 Esplanade Drive, Oxnard, California.

2. The Employer Stock is registered under Section 12 of the Securities Exchange Act of 1934. The Employer Stock is publicly traded on the National Association of Securities Dealers Automated Quotation National Market System (NASDAQ). The applicant states that the Employer Stock is issued by Ventura, an employer of employees covered by the Plan, and further represents that such stock is a "qualifying employer security" under section 407(d)(5) of the Act and section 4975(e)(8) of the Code.[13]

3. The applicant represents that due to declining earnings beginning in 1991, the Banks entered into Formal Agreements with the Office of the Comptroller of the Currency (OCC) in 1992 and 1993 which imposed higher minimum regulatory capital requirements than had previously applied to the Banks. The deadline for reaching this goal was June 30, 1995.

The applicant represents further that new management personnel brought in by Ventura's Board of Directors in September 1993 instituted a plan to restore core profitability to the Banks. Ventura states that these efforts have been largely successful. However, as of May 1995, VCNB had not yet reached the capital ratio required under the Formal Agreement. Therefore, Ventura initiated the Rights Offering as a means to raise capital necessary for VCNB to attain the requisite capital ratio levels and reimburse interest in accordance with the Formal Agreements.

4. The Plan comprises an employee stock ownership plan (the "ESOP portion") with a cash or deferred arrangement (the "401(k) portion"). The trustee of the Plan is Dai-Ichi Kangyo Bank of California (the Trustee). The Trustee is independent of, and does not have any other business relationship with, Ventura and its subsidiaries. The Trustee has investment authority over Plan assets other than participants' individually directed 401(k) accounts in the Plan.

The Plan is an individual account plan as described in section 3(34) of the Act. Participants' individual accounts are divided into subaccounts, which include the following: (i) The Deferred Income Account, which contains a participant's salary deferrals under the 401(k) portion of the Plan; (ii) the Employer Contribution Account, which contains discretionary employer matching contributions that are allocated to the participant's account; (iii) the Employer Stock Account, which contains shares of employer securities allocated to the participant under the ESOP portion of the Plan; and (iv) the Rollover Account, containing distributions from other qualified retirement plans.

As of May 10, 1995, the Plan had 134 participants and total assets of approximately $1,182,254. On such date, the Plan was the record holder of 415,854 shares of the Employer Stock, of which 236,860 shares were allocated to participants' individual accounts, and 178,994 unallocated shares were held in a suspense account under the Plan as collateral for a loan to the Plan.[14]

Investment of Plan assets is different under the 401(k) and ESOP portions of the Plan. The 401(k) portion of the Plan permits each Plan participant to direct the investment of his or her Deferred Income Account, containing participants' salary deferrals, and Employer Contribution Account, which contains discretionary employer matching contributions, by choosing among the different investment funds available under the Section 401(k) portion of the Plan. Participants may also invest a portion of these accounts in shares of the Employer Stock. Participants who have elected to invest a portion of their Deferred Income Account or Employer Contribution Account in shares of the Employer Stock are referred to herein as "Invested Participants".

With respect to the ESOP portion of the Plan, the Trustee exercises exclusive investment authority over Plan assets, subject to the requirement that Plan assets be primarily invested in the Employer Stock. In this regard, the applicant states that the Trustee must take into consideration its fiduciary duties to act prudently with respect to Plan investments and to invest Plan assets in the best interests of Plan participants and their beneficiaries.

5. Effective May 12, 1995, Ventura instituted a Rights Offering in connection with the Employer Stock. The Rights Offering called for the issuance to all holders of the Employer Stock as of the close of business on May 10, 1995 (the Record Date) transferable subscription rights (i.e. the Rights) in the ratio of one Right for each 3.17 shares of the Employer Stock held. No fractional rights were issued. The number of Rights issued to each shareholder was rounded up to the nearest whole Right.

Each Right conferred upon its holder an entitlement (the Basic Privilege) to purchase one share of the Employer Stock at $2.25 per share (the Exercise Price).[15] Each Right also conferred upon its holder a second privilege (the Oversubscription Privilege) allowing each Right holder exercising the Basic Privilege in full to subscribe for an additional number of shares of the Employer Stock (Excess Shares), also at the Exercise Price. Excess Shares were subject to certain availability, proration and reduction restrictions imposed by Ventura. The applicant states that where an insufficient number of Excess Shares was available to satisfy fully all exercises of the Oversubscription Privilege, the available Excess Shares were prorated among shareholders who exercised their Oversubscription Privilege based upon the respective number of shares of the Employer Stock owned as of the Record Date.

The Basic Privilege was freely transferable. The Oversubscription Privilege was not transferable. The Rights were traded on NASDAQ under the symbol "VCNBR" through the close of trading on June 20, 1995, the date prior to the expiration of the Rights Offering on June 21, 1995. The proceeds of any Rights that were sold were credited to the accounts of the Invested Participants according to the investments and percentages which had been specified in such accounts.

6. The applicant states that all Invested Participants received by mail: (i) a copy of the Prospectus published by Ventura; (ii) a letter from the Trustee describing the procedures for participant directions with respect to the Rights Offering; and (iii) a direction form (Direction Form). The Direction Forms enabled the Invested Participants to direct the Trustee either to (i) exercise the Rights allocable to their accounts, or (ii) sell such Rights on the open market. The Direction Forms also permitted Invested Participants to elect not to participate in the Rights Offering.

The date that notification of the Rights Offering was mailed to Invested Participants was May 17, 1995 (the Notification Date), which was the same date that such information was received by the other shareholders of record. In addition, Direction Forms necessary to participate in the Rights Offering were provided to Invested Participants on May 18, 1995. A postage paid envelope addressed to the Trustee was provided with each Direction Form. The applicant states that an informational meeting about the Rights Offering was held for employees on May 22, 1995.

Invested Participants had to return the Direction Forms to the Trustee within fourteen (14) days after the Notification Date (i.e. May 31, 1995) because the Trustee needed approximately twenty-one (21) days to process such forms (as noted in Paragraph 8 below). In order for the Rights to be exercised, the Subscription Agent had to receive the Direction Form, together with payment for the shares which were to be purchased, by 5:00 p.m., Pacific Time, on June 21, 1995 (the Expiration Time). Rights not exercised prior to the Expiration Time became worthless.

7. The applicant represents that the Rights Offering was an independent act of Ventura as a corporate entity, under which all holders of the Employer Stock, including the Plan, were treated in a like manner. With respect to the 401(k) portion of the Plan, the Rights were acquired, held and controlled by Invested Participants' individual Plan accounts pursuant to Plan provisions for individually-directed investment of such accounts. With respect to the ESOP portion of the Plan, the Trustee made all decisions regarding whether to exercise or sell Rights allocated to shares of the Employer Stock held in the Plan.

8. For each Invested Participant who directed the Trustee to exercise Rights attributable to his or her Deferred Income or Employer Contribution Accounts in the 401(k) portion of the Plan, the funds which were needed to pay the exercise price were obtained by selling specific investments in the Invested Participant's accounts. The order of withdrawal was made at the direction of the Invested Participant or, if no direction was given, specific investments were sold pro-rata from the funds in the Invested Participant's accounts.

The Plan provided that amounts sold from the investment funds prior to the last day of the Rights Offering were deposited by the Trustee in a special short-term investment account pending the Trustee's payment to the Subscription Agent of the exercise price for the subscribed shares of the Employer Stock. Rights were exercisable by an Invested Participant only to the extent of funds available in his or her accounts in the Plan. If amounts in an Invested Participant's accounts were insufficient to pay the exercise price for all shares of the Employer Stock subscribed for, the Plan provided that the Trustee would sell any Rights not exercised. The proceeds of any Rights that were sold and any income from the special short-term investment account were credited to the accounts of the Invested Participants. In the case of such sale proceeds, credits were made to the accounts of the Invested Participants whose allocable Rights were sold. In the case of such income, credits were made to the accounts of the Invested Participants whose redemption proceeds were deposited in the special short-term investment account. In either case, the credits were made to each account according to the investments and percentages that were currently specified for such account.

The Direction Forms containing the Invested Participants' instructions for the Rights Offering had to be returned to the Trustee within twenty-one (21) working days before the date of the Expiration Time (the Filing Date),[16] in order to give the Trustee sufficient time to perform the administrative procedures required to review participant Direction Forms and implement directions, including the liquidation of other Plan investments. With respect to any Invested Participant who failed to submit a Direction Form to the Trustee by the Filing Date, or submitted an invalid Direction Form, the Plan provided that the Trustee had to sell the Rights on the open market.

[13] In the case of an employee benefit plan that is an "eligible individual account plan" (as defined under section 407(d)(3) of the Act), section 407(d)(5) of the Act states, in pertinent part, that the term "qualifying employer security" means an employer security which is stock. However, the Department is providing no opinion in this proposed exemption as to whether the Employer Stock is a "qualifying employer security" under section 407(d)(5) of the Act.

[14] In this regard, the applicant states that there is a loan outstanding between Ventura and the Plan which was made by Ventura to enable the ESOP portion of the Plan to acquire Employer Stock from Ventura (the ESOP Loan). Ventura represents that the ESOP Loan met all of the requirements for a statutory exemption under section 408(b)(3) of the Act. However, the Department is providing no opinion in this proposed exemption as to whether the ESOP Loan met the conditions necessary for exemptive relief under section 408(b)(3) of the Act.

[15] The price per share of the Employer Stock, as quoted on NASDAQ, was $2.37 as of the end of the day on May 11, 1995, and was approximately the same price per share at the end of the Offering Period on June 21, 1995.

[16] The Filing Date was June 1, 1995. The Filing Date was supposed to be fourteen (14) days after the Notification Date (i.e. May 17, 1995, as noted in Paragraph 6), but was extended one day because May 31st was the Memorial Day holiday. Thus, Invested Participants had approximately two weeks following notification to provide their instructions to the Trustee.

These possible consequences were disclosed in the information sent to shareholders of the Employer Stock prior to the Rights Offering.

In the event that the market price for the Employer Stock, including the effect of any applicable brokerage commissions and other expenses, at the time the Trustee submitted the Rights for exercise, was less than the exercise price under the Offering, the Plan provided that the Trustee would not automatically attempt to exercise such Rights. In such situations, an Invested Participant was permitted to direct the Trustee to either: (i) use the available funds to purchase shares of the Employer Stock on the open market; or (ii) reinvest the available funds pursuant to the investment elections and percentages specified for the Invested Participant's accounts. In addition, the Trustee could, at the direction of the Invested Participant, either: (i) allow the Rights to expire, or (ii) attempt to sell the Rights on the open market. If the latter option was chosen, the Trustee was required, as directed by the Invested Participant, to either: (i) apply the available funds toward the purchase of shares of the Employer Stock on the open market, or (ii) reinvest the available funds pursuant to the investment elections and percentages specified for the Investment Participant's accounts.

9. With respect to the ESOP portion of the Plan, the Trustee had exclusive authority to exercise or sell the Rights allocable to shares of the Employer Stock held in the ESOP portion of the Plan. The Trustee represents that it's decision to exercise or sell the Rights was made in accordance with the fiduciary duty to act prudently with respect to Plan investments and to invest Plan assets in the best interests of the Plan's participants and beneficiaries.

In this regard, the Trustee decided to sell the Rights allocated to the ESOP portion of the Plan on the open market. The applicant states that the Trustee did not solicit the views of participants with respect to this decision because investment decisions are not generally passed-through under the ESOP portion of the Plan. The proceeds of the sale of the Rights were allocated to each participant's ESOP Employer Stock Account in the Plan in the same ratio as that particular Employer Stock Account bore to all other Employer Stock Accounts in the Plan on the record date.

Prior to making the decision on behalf of the ESOP portion of the Plan to sell the Rights, the Trustee consulted with a financial consulting firm, the Financial Valuation Group (FVG), whose consultants were acquainted with ESOPs and regional banks such as Ventura. The Trustee considered, with the assistance of FVG, a variety of factors that it deemed relevant to whether the Plan should exercise or sell the Rights. These factors included: (a) any transaction and financing costs which may be involved in exercising the Rights; (b) future per share value expectations of market analysts who follow the Employer Stock; (c) the recent trading history of shares of the Employer Stock, and the Rights, and how that trading compared to the trading of similar offerings of comparable financial institutions; (d) the price/earnings ratio of the Employer Stock; (e) a comparison of the Employer Stock's price/earnings ratio and pro forma book value to that of other financial institutions and the relation of such values to the respective market values of those institutions; (f) the current market price of the Employer Stock; and (g) the market price of the Rights.

The Trustee represents that it also considered the investment objectives of the participants in the ESOP portion of the Plan, the risks of each available alternative for the Rights, and the financial resources of the ESOP portion of the Plan. After considering all these factors, the Trustee determined that the sale of the Rights was appropriate for the ESOP portion of the Plan and in the best interests of the affected Plan participants.

10. The Trustee received a total of 131,185 Rights, of which 74,718 represented Rights attributable to allocated shares of Employer Stock in the Plan and 56,467 represented Rights attributable to unallocated shares. The Rights, as listed on NASDAQ, were initially valued at $.156 per Right on May 24, 1995.[17] The Rights were valued at $.125 per Right at the close of the Offering Period. The approximate volume of trading in the Rights during the Rights Offering was as follows: (i) 32,127 Rights were traded between May 10 and May 31, 1995, and (ii) 816,417 Rights were traded between June 1 and June 21, 1995.

All of the Rights received by the Trustee in connection with the Plan's ownership of the Employer Stock in the ESOP portion of the Plan, as well as the Rights received for the 401(k) portion of the Plan which Invested Participants elected to sell rather than exercise (as discussed further below), were sold by the Trustee on the open market. The Rights were sold in two separate transactions on June 13 and June 14, 1995 for $.093 per Right, which was the market price for the Rights on the date of the transactions as quoted on NASDAQ. The Trustee states that the sale of the Rights was executed by an unrelated party.

With respect to the 401(k) portion of the Plan, the applicant states that there were 134 Invested Participants who collectively received a total of 6,989 Rights as a result of the Rights Offering. As noted above in Paragraph 8, Invested Participants who elected to sell their Rights could make such an election up until the Filing Date (i.e. June 1, 1995). For those Invested Participants who elected to sell their Rights, the Trustee sold such Rights (along with the other Rights received by the ESOP portion of the Plan) as part of the two separate transactions on June 13 and 14, 1995. The Rights were sold for $.093 per Right, which was the market price on such dates. In this regard, the Trustee believed that it would be more efficient and fair to all affected Invested Participants in the Plan for the Rights to be sold at about the same time, rather than gradually as the Direction Forms were received. The proceeds from all such sales were allocated to the Plan accounts of those Invested Participants who elected to sell their Rights, in direct proportion to the number of Rights they elected to sell. The applicant states that of the 6,989 Rights received by the Plan on behalf of Invested Participants, a total of 1,024 Rights (with rounding) were exercised, a total of 470 Oversubscription Privileges were exercised, a total of 5,901 Rights were sold, and a total of 64 Rights were allowed to expire.

11. The total number of shares of Employer Stock outstanding prior to the Rights Offering was 6,333,835, of which approximately 415,854 shares, or 6.56 percent, were held by the Plan. The total number of shares of the Employer Stock outstanding after the Rights Offering was 9,226,723, an increase of 2,888,888 shares.[18] Of these additional shares, approximately 1,685,652 were sold to shareholders upon exercise of the Rights, or to investors who purchased the Rights on the open market, and the other 1,203,236 shares were sold to outside investors pursuant to certain standby purchase agreements. The applicant represents that following the Rights Offering, VCNB attained the capital ratio required under the OCC Formal Agreements.

12. In summary, the applicant represents that the transactions satisfied the statutory criteria of section 408(a) of the Act because, among other things: (a) the Plan's acquisition of the Rights resulted from an independent act of Ventura, an employer of employees covered by the Plan; (b) with respect to all aspects of the Offering, all holders of the Employer Stock were treated in the same manner, including the Plan; (c) individual participants whose Deferred Income and Employer Contribution Accounts under the 401(k) portion of the Plan held interests in the Employer Stock were responsible for directing the Trustee to exercise or sell Rights under the Rights Offering; and (d) with respect to the ESOP portion of the Plan, investment decisions regarding whether to sell or exercise the Rights received by the Plan were made by a qualified, independent fiduciary acting for the Plan (i.e. the Trustee).

Notice to Interested Persons

The applicant states that notice of the proposed exemption shall be made by first class mail to all Plan participants within fifteen (15) days following the publication of the proposed exemption in the **Federal Register**. This notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and a supplemental statement (see 29 CFR 2570.43(b)(2)) which informs interested persons of their right to comment on and/or request a hearing with respect to the proposed exemption. Comments and requests for a public hearing are due within forty-five (45) days following the publication of the proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Life Insurance Corporation Retirement Savings Plan (The Plan) Located in Dallas, Texas

[Application No. D–10048]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408 (a) of the Act and section 4975 (c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale of 16 residential mortgage loans (the Loans) by the Life Insurance Company of the Southwest Holding Corporation Retirement Savings Plan (the Plan) to the Life Insurance Company of the Southwest (the Employer), a party in interest with respect to the Plan, provided the following conditions are satisfied:

(a) The Employer will pay on a Loan by Loan basis as of the date of sale the greater of: (1) The outstanding principal balance plus any accrued, unpaid interest on each of the Loans, or (2) the fair market value of each of the Loans, as determined by a contemporaneous independent appraisal;

(b) The proposed sale will be a one-time cash transaction; and

(c) The Plan will pay no costs or commissions as a result of this transaction.

Summary of the Facts and Representations

1. The Plan, in effect since June 16, 1988, is a profit sharing plan with a 401(k) feature providing for participant directed accounts. The Plan covered 122 employees as of January 1, 1993. As of December 31, 1993, the Plan had $3,945,285 in total assets. The Employer is a privately held Texas Corporation. The Trustee is the Texas Commerce Trust Company, N.A.

2. It is represented that during the 1980's, the Plan Trustees purchased the Loans for the Plan as a part of the Plan's General Investment Fund. It is represented that during the mid 1980's the percentage of Plan assets invested in mortgage loans (calculated based on the outstanding loan balance of the mortgage loan portfolio (Loan Portfolio)) approached 35%. Most of the Loans were purchased at various times from Couch Mortgage, a mortgage banking firm in Houston, Texas. Couch Mortgage is independent of the Plan and Employer. All Loans purchased by the Plan were originated between August 17, 1973 and July 17, 1990, with various original durations and all were secured by first lien positions on residential real properties located in Greater Houston. All the Loans were purchased for their remaining principal balance at the time of the purchase from Couch Mortgage. Eleven of the 16 Loans have fixed rates that range from 10.00% to 16.50%. The remaining five Loans have variable rates that currently range between 7.560% and 10.625%. The borrowers were all independent of the Plan and the Employer.

The Loans which are the subject of this application represent 100% of the Loan Portfolio held by the Plan. As of June 2, 1995, the percentage of the fair market value of the Plan assets invested in the Loans was 8.53%. The Loans are residential real estate mortgage loans and one land only loan.[19]

3. Coopers & Lybrand L.L.P. (Coopers & Lybrand), an independent third party appraiser estimated the fair market value for each of the 16 Loans held in the Loan Portfolio, and the outstanding principal balance, as of March 31, 1995. The methodology used to determine the fair market value of the Loans is more fully discussed in paragraph number 6.

4. The Employer proposes to purchase each of the Loans held in the Loan Portfolio from the Plan for cash. It is represented that the Employer will pay on a Loan by Loan basis as of the date of sale the greater of: (a) The outstanding principal balance plus any accrued, unpaid interest on each of the Loans, or (b) the fair market value of each of the Loans. It is represented that the Employer will compare the principal balance plus accrued but unpaid interest on the loans with the fair market value for each of the Loans. If this amount is higher than the fair market value on the date of the sale, the Employer will pay the higher amount. In the event that the fair market value of each of the Loans is higher than the principal balance plus accrued but unpaid interest, the Employer will pay the fair market value on the date of the sale. In this regard, as of March 31, 1995, seven of the 16 Loans had a fair market value which was less than the outstanding principal balance of the Loan, and nine of the Loans had a fair market value which was greater than the outstanding principal balance of such Loans. Based on calculations as of March 31, 1995, it is estimated that the total amount the Plan will receive as a result of the sale will be approximately $275,939.08.

5. The applicant represents that since 1988 the Plan has sought a buyer for the total Loan Portfolio. Offers received have been deeply discounted from the par value. Potential purchasers considered the package expensive to administer due to the average size of the outstanding loan balance, lack of uniformity in the loan terms (i.e. interest rate, maturity date), and lack of

[17] In this regard, the applicant states that the Rights were not traded in sufficient volume prior to May 24, 1995 to be listed on NASDAQ.

[18] The applicant notes that the number used to show the increase due to the Rights Offering does not include an additional 4,000 shares which were added to the post-Rights Offering total following the exercise of a stock option by a former employee of VCNB.

[19] The Department notes that the decisions of the fiduciaries on behalf of the Plan, in connection with the acquisition and holding of the Loans are governed by the fiduciary responsibility requirements of part 4, Subpart B, of Title I. The Department expresses no opinion, herein, as to whether any of the relevant provisions of part 4, Subpart B, of Title I have been violated regarding the Plan's investment in and subsequent holding of the Loans, and no exemption from such provisions is proposed herein.

original background information from the original loan underwriting.

6. The applicant submitted an appraisal of the fair market value of the Loans (the Appraisal) prepared on March 31, 1995, by Coopers & Lybrand. Coopers & Lybrand is a member of Coopers & Lybrand International, incorporated in Switzerland. It is represented that Coopers & Lybrand has no relationship to the Employer or the Plans and less than 1% of its annual income comes from business derived from the Employer and its affiliates. The value of each of the Loans was appraised using an Income Approach, specifically, the Discounted Free Cash Flow Method. Employing this method, the net cash flow from each of the Loans was forecast over the remaining life of each Loan and discounted to the present value. Monthly principal and interest payments received from each of the Loans were considered to be the Loan's cash flow. For the purpose of determining this cash flow, the following assumptions were made: the next set of payments was assumed to occur on the date of the Appraisal, with the remaining payments made monthly thereafter; rates on the five variable rate loans were assumed constant at their current levels; and payments were assumed to occur on their monthly due date, with no prepayments or late payments. The net cash flow from each of the Loans was then discounted to present value on a monthly basis.

The Market Approach was not utilized, as Coopers & Lybrand was unable to locate institutions who would be desirous of a portfolio with similar characteristics to the Plan's Loan Portfolio. In order to determine the market's interest in this type of loan portfolio, Coopers & Lybrand analyzed an attempt made by the Plan to market the Loan Portfolio. Specifically, Coopers & Lybrand noted correspondence from the Vice President of Institutional Sales for Meridian Capital Markets, the firm which attempted to sell the Loan Portfolio for the Plan. Meridian concluded that the Loans lacked marketability due to various reasons including the Loan Portfolio's small size, varying maturities, cost of servicing, location of the collateral, and the non-uniform nature of the Loans.

Based on the valuation analysis, and the facts and circumstances as of the valuation date, the aggregate fair market value and aggregate outstanding principal balance of the 16 Loans held by the Plan, as of March 31, 1995 was estimated to be $266,483.41 and $267,915.37, respectively.

7. The best offer for purchase of these assets is from the Employer. In this regard, if the Plan had sold the 16 Loans at the aggregate outstanding principal on March 31, 1995, it would have received $267,915.37, based on the Appraisal. If the Plan had sold the 16 Loans at the aggregate fair market value on March 31, 1995, it would have received $266,483.41, based on the Appraisal. However, treating each note as an individual asset and requiring the Employer to pay on a Loan by Loan basis the greater of the fair market value or outstanding principal balance on each Loan, then, as of March 31, 1995, the Plan would have received an additional $8,023.71 when compared to the aggregate principal balance and $267,915.37. When compared to the aggregate fair market value of $266,483,41 the Plan will receive an additional $9,455.67.

8. The Plan's Advisory Committee, which consists entirely of employees and officers of the Employer, desires to offer participants a new selection of nationally known investment funds and other features such as daily valuation and 24-hour a day access to fund balances. However, the Plan cannot do so while the Loans constitute a portion of the General Investment Fund. The General Investment Fund and the other investment options available to participants are presently managed by the Trustees. The applicant represents that of the investment advisors interviewed by the Advisory Committee, no firm would manage the Loan Portfolio without charging the Plan a fee for such services. No investment advisor interviewed could manage the Loans and offer daily valuation, 24-hour access to fund balances, or daily investment changes to the Participants. The Plan as drafted currently would permit valuations as frequently as daily, but because of the existence of the Loans, no nationally known investment advisor of which the Committee is aware, is willing to offer daily valued funds for participant direction. Therefore, the current Trustee-managed funds are valued on a quarterly basis, and permit participant-directed trades only on a quarterly basis. The applicant represents that daily valuations allows the participants to make daily changes to their investment decisions and better react to violative market conditions.

9. The applicant represents that the proposed transaction is in the interest of and protective of the Plan. The applicant represents that by granting the Plan this exemption, the Plan would be receiving at least par value for the Loans which it has not been able to obtain on the open market. The administrative burdens in record keeping for the Plan would be reduced. Plan participants could be offered faster service regarding account balances and options for changing investment choices if they were participating in a Plan whose assets were wholly managed and directed by the Trustee.

10. The applicant maintains that the proposed sale is administratively feasible as the transaction will be a one-time cash sale. The transaction is protective and in the interest of the Plan because the Plan will pay no fees in connection with the sale and the Employer will pay on a Loan by Loan basis as of the date of sale the greater of: (1) The outstanding principal balance plus any accrued, unpaid interest on each of the Loans; or (2) the fair market value of each of the Loans, as determined by a contemporaneous independent appraisal.

11. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The Employer will pay on a Loan by Loan basis on the date of sale the greater of: (1) The outstanding principal balance plus any accrued, unpaid interest on each of the Loans; or (2) the fair market value of each of the Loans, as determined by a contemporaneous independent appraisal;

(b) The proposed sale will be a one-time cash transaction; and

(c) The Plan will pay no costs or commissions as a result of this transaction.

FOR FURTHER INFORMATION CONTACT: Janet L. Schmidt of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Fidelitone, Inc. Employees' Profit Sharing and Savings Plan & Trust (the Plan) Located in Wauconda, Illinois

[Application No. D–10077]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by the Plan of certain securities to Fidelitone, Inc. (Fidelitone), a party in interest with respect to the Plan, provided that the following conditions are satisfied: (1) the sale is a one-time transaction for cash; (2) the Plan pays no commissions nor any other expenses relating to the sale; and (3) the purchase price is the greater of: (a) the fair market value of the securities as determined by a qualified, independent appraiser, or (b) the Plan's initial capital investment plus opportunity costs attributable to the securities, less cash dividends received.

Summary of Facts and Representations

1. The Plan is a profit sharing plan sponsored by Fidelitone. As of March 31, 1995, the Plan had approximately 185 participants and total assets of approximately $2.3 million. The trustee of the Plan is Ronald Comm, Chief Financial Officer of Fidelitone. Fidelitone, an Illinois corporation, is a distributor of electronic repair parts and accessories and is located in Wauconda, Illinois.

2. Among the assets of the Plan are shares in two real estate investment trusts, the Krupp Government Income Trust (Krupp I) and the Krupp Government Income Trust II (Krupp II), both of which invest primarily in insured mortgage obligations. On November 14, 1990, the Plan invested in 5000 Krupp I shares at a cost of $20/share, a total of $100,000. On April 2, 1992, the Plan invested in 4500 Krupp II shares at $20/share, a total of $90,000. The Krupp funds are both close-ended trusts having a fixed number of outstanding shares and no unissued shares. They were both set up to last approximately 10 to 12 years and consequently have seven to eight years remaining. Barring any defaults in the portfolios, the Krupp Co. reports that all remaining capital will be paid to shareholders.

The Krupp Trusts have returned both income and principal to the Plan. A portion of the dividends was used to acquire additional Krupp shares through the dividend reinvestment plan. From November 1990 to November 1993, the Plan purchased 1421.91 Krupp I shares at an average price of $19.11 per share. From April 1992 through November 1993, the Plan purchased 576.34 Krupp II shares at an average price of $19.30 per share. From February 14, 1994 through October 1995, rather than reinvesting the dividends, the Plan has received cash in the aggregate amount of $25,677.28. Specifically, the cumulative cash dividends with respect to the Krupp I shares have been $14,588.24, while the cumulative cash dividends with respect to the Krupp II shares have been $11,089.04

3. The applicant obtained an independent appraisal of the Krupp investments from Mark S. Loftus, First Vice President, Investments, at Dean Witter Reynolds' Rolling Meadows, Illinois office. The letter from Mr. Loftus notes that neither Krupp fund trades on any public exchange.[20] However, each fund's own dividend reinvestment plan buys back shares quarterly using a sealed bid auction method. As of June 1, 1995, the dividend reinvestment plan was repurchasing Krupp I shares at $14.40 per share, and Krupp II shares at $14.90 per share. Mr. Loftus stated that the Krupp Co. also annually computes a net asset value for ERISA purposes by marking securities to comparable Treasury market securities. As of December 31, 1994, Krupp I shares had a net asset value of $15.10 per share, while Krupp II shares had a net asset value of $15.32 per share. Besides the dividend reinvestment plan, Mr. Loftus notes the existence of a few third party companies not affiliated with Dean Witter Reynolds, Inc. nor with the Krupp Co. who attempt to match buyers and sellers on a secondary basis. Prices obtained on such third party transactions are often at substantial discounts to par value and net asset value prices.

The applicant represents that the Plan trustee and Fidelitone have attempted to sell the Krupp shares at the cost paid by the Plan. Mr. Loftus, in his summary of the Plan's transaction history, indicates that Fidelitone attempted on two different occasions in 1994 to sell the Krupp shares using the sealed bid auction method but was unsuccessful because average buy back prices had declined.

4. Because the Plan has been modified to permit the participants to direct the investment of their respective individual accounts among six mutual funds, all Plan assets have been liquidated, with the exception of the Krupp shares. Fidelitone now proposes to purchase all the Krupp shares in the Plan, including those purchased with reinvested dividends, for the greater of: (a) the aggregate fair market value of the Krupp shares as determined by a qualified, independent appraiser, or (b) the Plan's initial capital investment plus opportunity costs attributable to the Krupp shares, less cash dividends received. Because the aggregate fair market value of the Krupp shares is less than the Plan's initial capital investment, Fidelitone will purchase them from the Plan for the latter amount. Accordingly, Fidelitone will pay the Plan a total purchase price of $245,289.72. The purchase price was calculated by taking the Plan's initial capital investment in the Krupp shares (i.e., $190,000) and (i) adding to that amount an assumed 10% annual return for each of the years since the Plan's initial investment in the shares through October 14, 1995 (i.e., $80,967), and (ii) subtracting from that amount the aggregate cash dividends received (i.e., $25,677.28). The sale will be a one-time transaction for cash, and the Plan will pay no commissions nor any other expenses relating to the sale.

The applicant represents that the proposed transaction is in the interests of the Plan because if the Plan is forced to attempt a sale of the Krupp shares on the open market, the Plan will receive substantially less than the amount the applicant is willing to pay. In addition, the sale will enable the Plan to divest itself of illiquid assets that are difficult to value and give participants the opportunity to direct the investment of the total value of their accounts, including that portion attributable to the Krupp shares.

5. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act for the following reasons: (1) the sale will be a one-time transaction for cash; (2) the Plan will pay no commissions nor any other expenses relating to the sale; (3) the sale will enhance the liquidity of the assets of the Plan; and (4) the purchase price will be the greater of: (a) the fair market value of the Krupp shares as determined by a qualified, independent appraiser, or (b) the Plan's initial capital investment plus opportunity costs attributable to the Krupp shares, less cash dividends received.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Notice of the proposed exemption shall be given to all interested persons by personal delivery and by first-class mail within 10 days of the date of publication of the notice of pendency in the **Federal Register**. Such notice shall

[20] The Department expresses no opinion herein on whether the acquisition and holding of the Krupp shares by the Plan violated any of the provisions of Part 4 of Title I in the Act.

include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and/or to request a hearing with respect to the proposed exemption. Comments and requests for a hearing are due within 40 days of the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Intrenet Employee Retirement Savings Plan (the Plan) Located in Milford, OH

[Application No. D–10095]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale by the Plan of certain units of limited partnership interests (the Units) to Intrenet Inc. (Intrenet), a party in interest with respect to the Plan, provided that the following conditions are satisfied: (a) the sale is a one-time transaction for cash; (b) the Plan suffers no loss, taking into account all cash distributions received as a result of owning the Units; (c) the Plan pays no commissions nor any other expenses relating to the sale; and (d) the purchase price is the greater of $48,850 or the fair market value of the Units as of the date of the sale as determined by a qualified, independent appraiser.

Summary of Facts and Representations

1. The Plan is a defined contribution, profit sharing plan with approximately 1,821 participants and beneficiaries and total assets of approximately $2,224,567 as of December 31, 1994. The trustee of the Plan is the SBS Trust Company. Intrenet, the Plan sponsor, is a holding company for six truckload carrier subsidiaries providing general and specialized carrier services throughout the United States.

2. Among the assets of the Plan are investments in two limited partnerships, the ML Venture Partners II, L.P. (the Venture Fund) and the ML LEE Acquisition Fund, L.P. (the Acquisition Fund). In April 1987, the Plan purchased 50 Units of the Venture Fund at a cost of $1000 per Unit. In October 1989, the Plan purchased 40 Units of the Acquisition Fund at a cost of $1000 per Unit. The Venture Fund invests primarily in securities of new and developing companies. The Acquisition Fund invests primarily in subordinated debt and preferred stock securities issued in connection with friendly leveraged acquisitions, recapitalizations, and other leveraged financing. The Units are not tradable on any public securities market.[21]

The Units have returned both income and principal to the Plan in the form of cash distributions. With respect to the Venture Fund, the Plan has received cumulative cash distributions of $790 per Unit ($39,500/50 Units), as of October 1995. With respect to the Acquisition Fund, the Plan has received cumulative cash distributions of $950.31 per Unit ($38,012.40/40 Units), as of August 14, 1995.

3. An estimate of the value of the Units is provided to Merrill Lynch by an independent valuation service on an annual basis. The most recent statement, dated May 31, 1995, provided to the Plan by Merrill Lynch, reports a value of $561 per Unit of the Venture Fund ($28,050/50 Units), and $520 per Unit of the Acquisition Fund ($20,800/40 Units), a total of $48,850 for all the Units. The Merrill Lynch statement indicates that these investments are generally illiquid and that investors may not be able to sell them nor realize the amounts shown above upon a sale or liquidation. Thus although there is no readily available market for the Units, the valuation methodology used by the independent valuation service determines the most probable price as of a specified date that the Plan could expect to receive if it sold the Units in an arm's length transaction in a competitive market.

4. In mid-1994, the Plan liquidated all of its assets, with the exception of the Units, and permitted the participants to direct the investment of their respective individual accounts among six mutual funds. In order to enable participants to direct the investment of the total value of their accounts, including that portion attributable to the Units, and to facilitate any required distributions, Intrenet proposes to purchase the Units from the Plan for the greater of $48,850 or the fair market value of the Units as of the date of the sale, as reported in the then most recent Merrill Lynch statement. Taking into account an assumed purchase price of $48,850, the original costs of the Units, and all cash distributions received, the Plan will receive the following rates of return on its original investment in the Units. The applicant represents that the Plan will receive a simple average annual return of 4.13% with respect to the Venture Fund for the period from April 1987 to October 1995, and of 7.84% with respect to the Acquisition Fund for the period from October 1989 to October 1995. The sale will be a one-time transaction for cash, and the Plan will pay no commissions nor any other expenses relating to the sale.

The applicant represents that the proposed transaction is in the interests of the Plan because if the Units are sold to an unrelated third party, the Plan will receive substantially less than the appraised value of the Units, due to their lack of marketability. In addition, the sale will enable the Plan to divest itself of illiquid assets and facilitate any required distributions. Finally, the sale will enhance the diversification of the assets of the Plan by providing participants the opportunity to reinvest the value attributable to the Units in their accounts.

5. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act for the following reasons: (a) the sale will be a one-time transaction for cash; (b) the Plan will pay no commissions nor any other expenses relating to the sale; (c) the price paid by the applicant will be the greater of $48,850 or the fair market value of the Units as of the date of the sale as determined by a qualified, independent appraiser; and (d) the sale will enhance the liquidity and diversification of the assets of the Plan.

Notice to Interested Persons

Notice of the proposed exemption will be given to all interested persons by first-class mail within 10 days of the date of publication of the notice of pendency in the **Federal Register**. Such notice will include a copy of the notice of proposed exemption as published in the **Federal Register** and inform interested persons of the right to comment and/or to request a hearing. Comments with respect to the notice of the proposed exemption are due within 40 days after the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

[21] The Department expresses no opinion herein on whether the acquisition and holding of the Units by the Plan violated any of the Provisions of Part 4 of Title I in the Act.

ContiFinancial Services Corporation (ContiFinancial) Located in New York, New York

[Application No. D–10102]

Proposed Exemption

Section I. Transactions

A. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to Subsection I.A.(1) or (2).

Notwithstanding the foregoing, Section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[22]

B. The restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or assets contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[23] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to Subsection I.B.(1) or (2).

c. The restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust; provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[24] Notwithstanding the foregoing, Section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in Section III.S.

D. The restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

Section II. General Conditions

A. The relief provided under Section I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Corporation (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps Inc. (D&P) or Fitch Investors Service, Inc. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in

[22] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

[23] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[24] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission (the SEC) under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Section I, if the provision of Subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) Such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in Subsection II.A.(6) above.

Section III. Definitions

For purposes of this exemption:

A. "Certificate" means:

(1) A certificate—

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) That is issued by and is an obligation of a trust;

with respect to certificates defined in (1) and (2) for which ContiFinancial or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. "Trust" means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either

(a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in Section III.T);

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property, (including obligations secured by leasehold interests on commercial real property);

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in Section III.U);

(e) "Guaranteed governmental mortgage pool certificates," as defined in 29 CFR 2510.3–101(i)(2);

(f) Fractional undivided interests in any of the obligations described in clauses (a)–(e) of this Section B.(1);[25]

(2) Property which had secured any of the obligations described in Subsection B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to made to certificateholders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any obligations described in Section B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) The investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's, D&P, or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. "Underwriter" means:

(1) ContiFinancial;

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with ContiFinancial; or

(3) Any member of an underwriting syndicate or selling group of which ContiFinancial or a person described in (2) is a manager or co-manager with respect to the certificates.

D. "Sponsor" means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. "Master Servicer" means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. "Subservicer" means an entity which, under the supervision of and on behalf of the master servicer, services assets contained in the trust, but is not a party to the pooling and servicing agreement.

G. "Servicer" means any entity which services assets contained in the trust, including the master servicer and any subservicer.

H. "Trustee" means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

[25] The Department wishes to take the opportunity to clarify its view that the definition of Trust contained in Section III.B.(1) (a) through (e) includes a two-tier trust structure under which certificates issued by the first trust, which contains a pool of receivables described above, are transferred to a second trust which issues certificates that are sold to plans. However, the Department is of the further view that, since the exemption provides relief for the direct or indirect acquisition or disposition of certificates that are not subordinated, no relief would be available if the certificates held by the second trust were subordinated to the rights and interests evidenced by other certificates issued by the first trust.

I. "Insurer" means the insurer or guarantor of, or provider of other credit support for, a trust.

Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. "Obligor" means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, "obligor" shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. "Excluded Plan" means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. "Restricted Group" with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. "Affiliate" of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. "Control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be "independent" of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. "Sale" includes the entrance into a forward delivery commitment (as defined in Section III.Q. below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. "Forward delivery commitment" means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. "Reasonable compensation" has the same meaning as that term is defined in 29 CFR 2550.408c-2.

S. "Qualified Administrative Fee" means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. "Qualified Equipment Note Secured By A Lease" means an equipment note:

(a) Which is secured by equipment which is leased;

(b) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(c) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as the trust would have if the equipment note were secured only by the equipment and not the lease.

U. "Qualified Motor Vehicle Lease" means a lease of a motor vehicle where:

(a) The trust holds a security interest in the lease;

(b) The trust holds a security interest in the leased motor vehicle; and

(c) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as the trust would receive under a motor vehicle installment loan contract.

V. "Pooling and Servicing Agreement" means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

The Department notes that this proposed exemption is included within the meaning of the term "Underwriter Exemption" as it is defined in Section V(h) of Prohibited Transaction Exemption (PTE) 95–60 (60 FR 35925, July 12, 1995), the Class Exemption for Certain Transactions Involving Insurance Company General Accounts, at 35932.

Summary of Facts and Representations

1. ContiFinancial is an investment banking firm that specializes in asset securitization, asset-backed financing and the placement of asset-backed securities. The firm serves major regional banking and thrift institutions and national and regionally-based consumer and commercial finance companies. ContiFinancial provides a range of services in all aspects of structuring securitization transactions, as well as arranging for interim lending facilities and credit enhancement alternatives for issuers of asset-backed securities. It is a broker-dealer registered with the National Association of Securities Dealers. ContiFinancial is a wholly owned subsidiary of ContiFinancial Corporation, which is, in turn, owned in excess of 80 percent by Continental Grain Company and the remaining ownership of which will be offered to the public pursuant to a Registration Statement filed with the SEC on October 11, 1995. As of June 30, 1995, the total assets of ContiFinancial Corporation were $482,007,000.[26]

2. ContiFinancial seeks exemptive relief to permit plans to invest in pass-through certificates representing undivided interests in the following

[26] As described herein, the term "ContiFinancial" refers to ContiFinancial Services Corporation and its affiliates unless the context otherwise requires.

categories of trusts:[27] (1) single and multi-family residential or commercial mortgage investment trusts;[28] (2) motor vehicle receivables pool investment trusts; (3) consumer or commercial receivables investment trusts; and (4) guaranteed governmental mortgage pool certificate investment trusts.[29]

3. Residential and commercial mortgage investment trusts may include mortgages on ground leases of real property. Commercial mortgages are frequently secured by ground leases on the underlying property rather than by fee simple interests. The separation of the fee simple interest and the ground lease interest is generally done for tax reasons. Properly structured, the pledge of the ground lease to secure a mortgage provides a lender with the same level of security as would be provided by a pledge of the related fee simple interest. The terms of the ground lease pledged to secure leasehold mortgages will in all cases be at least ten years longer than the term of such mortgage.[30]

Trust Structure

4. Each trust is established under a pooling and servicing agreement or equivalent agreement between a sponsor, a servicer and a trustee. The sponsor or servicer of a trust selects assets to be included in the trust. These assets are receivables or certificates which may have been originated, in the ordinary course of business, by a sponsor or servicer of the trust, an affiliate of the sponsor or servicer, or by an unrelated lender and subsequently acquired by the trust sponsor or servicer.

On or prior to the closing date, the sponsor acquires legal title to all assets selected for the trust, establishes the trust and designates an independent entity as trustee. Typically, prior to the closing date, the sponsor conveys to the trust legal title to all such assets. In some cases, legal title to some or all of such assets remains with the originator until the closing date. On or prior to the closing date, the sponsor and/or the originator conveys to the trust legal title to the assets, and the trustee issues certificates representing fractional undivided interests in the trust assets. ContiFinancial, alone or together with other broker-dealers, acts as underwriter or placement agent with respect to the sale of the certificates. Public offerings of certificates to be underwritten by ContiFinancial will generally be made on a firm commitment basis. Private placements of certificates may be made on a firm commitment or agency basis. ContiFinancial may also act as the manager or co-manager of an underwriting syndicate or selling group with respect to the certificates.

Certificateholders will be entitled to receive periodic installments of principal and/or interest, or other payments due on the trust assets.

5. Some of the certificates will be multi-class certificates. ContiFinancial requests exemptive relief for two types of multi-class certificates: "strip" certificates and "fast-pay/slow-pay" certificates. Strip certificates are a type of security in which the stream of interest payments on receivables is split from the flow of principal payments and separate classes of certificates are established, each representing rights to disproportionate payments of principal and interest.[31]

"Fast-pay/slow-pay" certificates involve the issuance of classes of certificates having different stated maturities or the same maturities with different payment schedules. Interest and/or principal payments received on the underlying trust assets are distributed first to the class of certificates having the earliest stated maturity of principal and/or earlier payment schedule, and only when that class of certificates has been paid in full (or has received a specified amount) will distributions be made with respect to the second class of certificates. Distributions on certificates having later stated maturities will proceed in like manner until all the certificateholders have been paid in full. The only difference between this multi-class pass-through arrangement and a single-class pass-through arrangement is the order in which distributions are made to certificateholders. In each case, certificateholders will have a beneficial ownership interest in the underlying trust assets. In neither case will the rights of a plan purchasing certificates be subordinated to the rights of another certificateholder in the event of default on any of the underlying obligations. In particular, if the amount available for distribution to certificateholders is less than the amount required to be so distributed, all senior certificateholders will share in the amount distributed on a pro rata basis.[32]

6. For tax reasons, the trust must be maintained as an essentially passive entity. Therefore, both the sponsor's discretion and the servicer's discretion with respect to assets included in a trust are severely limited. Pooling and servicing agreements provide for the substitution of trust assets by the sponsor only in the event of defects in documentation discovered within a short time after the issuance of trust certificates (within 120 days, except in the case of obligations included in trusts which are to be treated as REMICs, in which case the period will not exceed two years). Any receivable so substituted is required to have characteristics substantially similar to the replaced receivable and will be at least as creditworthy as the replaced receivable.

In some cases, the affected receivable would be repurchased, with the purchase price applied as a payment on the affected receivable and passed through to certificateholders.

Parties to Transactions

7. The originator of a receivable is the entity that initially lends money to a borrower (obligor), such as a homeowner or automobile purchaser, or leases property to a lessee. The originator may either retain a receivable in its portfolio or sell it to a purchaser, such as a trust sponsor (or sell it directly to a trust).

Originators of receivables included in the trusts will be entities that originate receivables of the type included in a trust. Each trust may contain assets of one or more originators. The originator of the receivables may also function as the trust sponsor or servicer.

8. The duties of a trust sponsor (other than a sponsor which is also the servicer) are typically limited to acquiring the assets to be included in the trust, establishing the trust, designating the trustee, and assigning the assets to the trust.

9. The trustee of a trust is the legal owner of the obligations in the trust. The trustee is also a party to or beneficiary of all the documents and instruments deposited in the trust, and as such, is responsible for enforcing all the rights created thereby in favor of certificateholders.

The trustee will be an independent entity, and therefore will be unrelated to ContiFinancial, the trust sponsor or the servicer. ContiFinancial represents that the trustee will be a substantial financial institution or trust company experienced in trust activities. The trustee receives a fee for its services, which will be paid by the servicer, the sponsor, or out of trust assets. The method of compensating the trustee will be specified in the pooling and servicing agreement and disclosed in the prospectus or private placement memorandum relating to the offering of the certificates.

10. The servicer of a trust administers the trust assets on behalf of the certificateholders. The servicer's functions typically involve, among other things, notifying borrowers of amounts due on receivables, maintaining records of payments received on receivables and instituting foreclosure or similar proceedings in the event of default. In cases where a pool of receivables has been purchased from a number of different originators and deposited in a trust, it is common for the receivables to be "subserviced" by their respective originators and for a single entity to "master service" the pool of receivables on behalf of the owners of the related series of certificates. Where this arrangement is adopted, a receivable continues to be serviced from the perspective of the borrower by the local subservicer, while the investor's perspective is that the entire pool of receivables is serviced by a single, central master servicer who collects payments from the local subservicers and passes them through to certificateholders.

The underwriter will be a registered broker-dealer that acts as underwriter or placement agent with respect to the sale of certificates. Public offerings of certificates are generally made on a firm commitment basis or agency basis.

It is anticipated that the lead or co-managing underwriter will make a market in certificates offered to the public.

In some cases, the originator and servicer of assets to be included in a trust and the sponsor of the trust (though they themselves may be related) will be unrelated to ContiFinancial. However, affiliates of ContiFinancial may originate or service assets included in a trust, or may sponsor a trust.

Certificate Price, Pass-Through Rate and Fees

11. In some cases, the sponsor will obtain the assets from various originators or other secondary market participants pursuant to existing contracts with such originators under which the sponsor continually buys receivables. In other cases, the sponsor will purchase the receivables at fair market value from the originator or another secondary market participant pursuant to a purchase or sale agreement related to the specific offering of certificates. In other cases, the sponsor will originate the receivables, itself.

As compensation for the assets transferred to the trust, the party (or parties) which conveys legal title to the trust (i.e., the sponsor and/or the originator) receives cash, or certificates representing the entire beneficial interest in the trust. If such party receives certificates from the trust, such party sells some or all of these certificates for cash to investors or securities underwriters. In some transactions, such party or an affiliate may retain a portion of the certificates for its own account.

12. The price of the certificates, both in the initial offering and in the secondary market, is affected by market forces including investor demand, the pass-through interest rate on the certificates in relation to the rate payable on investments of similar types and quality, expectations as to the effect on yield resulting from prepayment of underlying receivables, and expectations as to the likelihood of timely payment.

The pass-through rate for certificates is equal to the interest rate on assets included in the trust minus a specified servicing fee.[33] This rate is generally determined by the same market forces that determine the price of a certificate. The price of a certificate and its pass-through, or coupon rate, together determine the yield to investors. If an investor purchases a certificate at less than par, that discount augments the stated pass-through rate; conversely, a certificate purchased at a premium yields less than the stated coupon.

13. As compensation for performing its servicing duties, the servicer (who may also be the sponsor or an affiliate thereof, and receive fees for acting as sponsor) will retain the difference between payments received on the assets in the trust and payments payable (at the pass-through rate) to certificateholders, except that in some cases, a portion of the payments on assets in the trust may be paid to a third party, such as a fee paid to a provider of credit support. The servicer may receive additional compensation by having the use of the amounts paid on the assets between the time they are received by the servicer and the time they are due to the trust (which time is set forth in the pooling and servicing agreement). The servicer, typically, will be required to pay the administrative expenses of servicing the trust, including in some cases the trustee's fee, out of its servicing compensation.

The servicer is also compensated to the extent it may provide credit enhancement to the trust or otherwise arrange to obtain credit support from another party. This "credit support fee" may be aggregated with other servicing fees, and is either paid in a lump sum at the time the trust is established, or out of the payments received on the assets in the trust.

14. The servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor. These administrative fees fall into three categories: (a) prepayment fees; (b) late payment and payment extension fees; and (c) expenses, fees and charges associated with foreclosure or repossession of assets in the trust, or other conversion of a secured position into cash proceeds, upon default of an obligation.

Compensation payable to the servicer will be set forth or referred to in the pooling and servicing agreement and described in reasonable detail in the prospectus or private placement memorandum relating to the certificates.

[27] A given trust may include receivables of the type described below in one or more of the categories of trusts discussed herein.

[28] The Department notes that Prohibited Transaction Exemption (PTE) 83–1 (48 FR 895, January 7, 1983) a class exemption for mortgage pool investment trusts, would generally apply to trusts containing single-family residential mortgages, provided that the applicable conditions of PTE 83-1 are met. ContiFinancial requests relief for single-family residential mortgages in this exemption because it would prefer one exemption for all trusts of similar structure. However, ContiFinancial has stated that it may still avail itself of the exemptive relief provided by PTE 83–1.

[29] Guaranteed governmental mortgage pool certificates are mortgage- backed securities with respect to which interest and principal payable is guaranteed by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA). The Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(i)) provides that where a plan acquires a guaranteed governmental mortgage pool certificate, the plan's assets include the certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate. The applicant is requesting exemptive relief for trusts containing guaranteed governmental mortgage pool certificates because the certificates in the trusts may be plan assets.

[30] Trust assets may also include obligations that are secured by leasehold interests on residential real property. See PTE 90–32 involving Prudential-Bache Securities, Inc. (55 FR 23147, June 6, 1990) at 23150.

[31] It is the Department's understanding that where a plan invests in REMIC "residual" interest certificates to which this exemption applies, some of the income received by the plan as a result of such investment may be considered unrelated business taxable income to the plan, which is subject to income tax under the Code. The Department emphasizes that the prudence requirement of section 404(a)(1)(B) of the Act would require plan fiduciaries to carefully consider this and other tax consequences prior to causing plan assets to be invested in certificates pursuant to this exemption.

[32] If a trust issues subordinate certificates, holders of such subordinate certificates may not share in the amount distributed on a *pro rata* basis. The Department notes that the exemption does not provide relief for plan investment in such subordinated certificates.

[33] The pass-through rate on certificates representing interests in trusts holding leases is determined by breaking down lease payments into "principal" and "interest" components based on an implicit interest rate.

15. Payments on assets in the trust may be made by obligors to the servicer at various times during the period preceding any date on which pass-through payments to the trust are due. In some cases, the pooling and servicing agreement may permit the servicer to place these payments in non-interest bearing accounts in itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the servicer would be entitled to the benefit derived from the use of the funds between the date of payment on an asset and the certificate payment. Commingled payments may not be protected from the creditors of the servicer in the event of the servicer's bankruptcy or receivership. In those instances when payments on trust assets are held in non-interest bearing accounts or are commingled with the servicer's own funds, the servicer is required to deposit these payments by a date specified in the pooling and servicing agreement into an account from which the trustee makes payments to certificateholders.

16. The underwriter will receive a fee in connection with the securities underwriting or private placement of certificates. In a firm commitment underwriting, this fee would consist of the difference between what the underwriter receives for the certificates that it distributes and what it pays the sponsor for those certificates. In a private placement, the fee normally takes the form of an agency commission paid by the sponsor. In a best efforts underwriting in which the underwriter would sell certificates in a public offering on an agency basis, the underwriter would receive an agency commission rather than a fee based on the difference between the price at which the certificates are sold to the public and what it pays the sponsor. In some private placements, the underwriter may buy certificates as principal, in which case its compensation would be the difference between what the underwriter receives for the certificates and what it pays the sponsor for these certificates.

Purchase of Receivables by the Servicer

17. The applicant represents that as the principal amount of the assets in a trust is reduced by payment, the cost of administering the trust generally increases in proportion to the unpaid balance of the assets in the trust, making the servicing of the trust prohibitively expensive at some point. Consequently, the pooling and servicing agreement generally provides that the servicer may purchase the receivables included in the trust when the aggregate unpaid balance payable on the receivables is reduced to a specified percentage (usually between 5 and 10 percent) of the initial balance.

The purchase price of the receivables is specified in the pooling and servicing agreement and will be at least equal to either: (a) the unpaid principal balance on the receivables plus accrued interest, less any unreimbursed advances of principal made by the servicer; or (b) the greater of (i) the amount in (a), or (ii) the fair market value of such obligations in the case of a REMIC, or the fair market value of the certificates in the case of a trust that is not a REMIC.

Certificate Ratings

18. The certificates will have received one of the three highest ratings available from either S&P's, Moody's, D&P or Fitch. Insurance or other credit support (such as overcollateralization, surety bonds, letters of credit or guarantees) will be obtained by the trust sponsor to the extent necessary for the certificates to attain the desired rating. The amount of this credit support is set by the rating agencies at a level that is a multiple of the worst historical net credit loss experience for the type of obligations included in the issuing trust.

Provision of Credit Support

19. In some cases, the servicer, or an affiliate of the servicer, may provide credit support to the trust (i.e., act as an insurer). Typically in these cases, the servicer will first advance funds to the full extent that it determines that such advances will be recoverable (a) out of late payments by the obligors, (b) from the credit support provider (which may be itself) or, (c) in the case of a trust that issues subordinated certificates, from amounts otherwise distributable to holders of subordinated certificates. In some transactions, the servicer may not be obligated to advance funds, but instead would be called upon to provide funds to cover defaulted payments to the full extent of its obligations as insurer. Moreover, a servicer typically can recover advances either from the provider of credit support or from the future payment stream. When the servicer is the provider of the credit support and provides its own funds to cover defaulted payments, it will do so either on the initiative of the trustee, or on its own initiative on behalf of the trustee, but in either event it will provide such funds to cover payments to the full extent of its obligations under the credit support mechanism.

If the servicer fails to advance funds, fails to call upon the credit support mechanism to provide funds to cover defaulted payments, or otherwise fails in its duties, the trustee would be required and would be able to enforce the certificateholders' rights pursuant to the pooling and servicing agreement. Therefore, the trustee, who is independent of the servicer, will have the ultimate right to enforce the credit support arrangement.

When a servicer advances funds, the amount so advanced is recoverable by the servicer out of future payments on assets held by the trust to the extent not covered by credit support. However, where the servicer provides credit support to the trust, there are protections, including those described below, in place to guard against a delay in calling upon the credit support to take advantage of the fact that the credit support declines proportionally with the decrease in the principal amount of the obligations in the trust as payments on assets are passed through to investors. These protective safeguards include:

(a) There is often a disincentive to postponing credit losses because the sooner repossession or foreclosure activities are commenced, the more value that can be realized on the security for the obligation;

(b) The servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which an obligation ordinarily will be deemed uncollectible. The pooling and servicing agreement will require the servicer to follow its normal servicing guidelines and will set forth the servicer's general policy as to the period of time after which delinquent obligations ordinarily will be considered uncollectible;

(c) As frequently as payments are due on the assets included in the trust (monthly, quarterly, or semi-annually as set forth in the pooling and servicing agreement), the servicer is required to report to the independent trustee the amount of all past-due payments and the amount of all servicer advances, along with other current information as to collections on the assets and draws upon the credit support. Further, the servicer is required to deliver to the trustee annually a certificate of an executive officer of the servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the servicer has fulfilled all of its obligations under the pooling and servicing agreement or, if the servicer has defaulted under any of its obligations, specifying any such default. The servicer's reports are reviewed at least annually by independent accountants to ensure that the servicer is following its normal servicing standards and that the master servicer's reports conform to the servicer's internal accounting records. The results of the independent accountants' review are delivered to the trustee;

(d) The credit support has a "floor" dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the trust, whether due to servicer advances or any other cause. Once the floor amount has been reached, the servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount becomes a fixed dollar amount, subject to reduction only for actual draws. From the time that the floor amount is effective until the end of the life of the trust, there are no proportionate reductions in the credit support amount caused by reductions in the pool principal balance. Indeed, since the floor is a fixed dollar amount, the amount of credit support ordinarily increases as a percentage of the pool principal balance during the period that the floor is in effect. The protection provided by a floor dollar amount to the credit support applies particularly where the servicer and the insurer are affiliated or are the same entity. (An entity should not be considered an insurer solely because it holds subordinated certificates.)

Disclosure

20. In connection with the original issuance of certificates, the prospectus or private placement memorandum will be furnished to investing plans. The prospectus or private placement memorandum will contain information material to a fiduciary's decision to invest in the certificates, including:

(a) Information concerning the payment terms of the certificates, the rating of the certificates, and any material risk factors with respect to the certificates;

(b) A description of the trust as a legal entity and a description of how the trust was formed by the seller/servicer or other sponsor of the transaction;

(c) Identification of the independent trustee for the trust;

(d) A description of the assets contained in the trust, including the types of assets, the diversification of the assets, their principal terms and their material legal aspects;

(e) A description of the sponsor and servicer;

(f) A description of the pooling and servicing agreement, including a description of the seller's principal representations and warranties as to the trust assets and the trustee's remedy for any breach thereof; a description of the procedures for collection of payments on receivables and for making distributions to investors, and a description of the accounts into which such payments are deposited and from which such distributions are made; identification of the servicing compensation and any fees for credit enhancement that are deducted from payments on receivables before distributions are made to investors; a description of periodic statements provided to the trustee, and provided to or made available to investors by the trustee; and a description of the events that constitute events of default under the pooling and servicing contract and a description of the trustee's and the investors' remedies incident thereto;

(g) A description of the credit support;

(h) A general discussion of the principal federal income tax consequences of the purchase, ownership and disposition of the pass-through securities by a typical investor;

(i) A description of the underwriters' plan for distributing the pass-through certificates to investors; and

(j) Information about the scope and nature of the secondary market, if any, for the certificates.

21. Reports indicating the amount of payments of principal and interest are provided to certificate holders at least as frequently as distributions are made to certificateholders. Certificateholders will also be provided with periodic information statements setting forth material information concerning the underlying assets, including, where applicable, information as to the amount and number of delinquent and defaulted assets.

22. In the case of a trust that offers and sells certificates in a registered public offering, the trustee, the servicer or the sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934. Although some trusts that offer certificates in a public offering will file quarterly reports on Form 10–Q and Annual Reports on Form 10–K, many trusts obtain, by application to the SEC, a complete exemption from the requirement to file quarterly reports on Form 10–Q and a modification of the disclosure requirements for annual reports on Form 10–K. If such an exemption is obtained, these trusts normally would continue to have the obligation to file current reports on Form 8–K to report material developments concerning the trust and the certificates. While the SEC's interpretation of the periodic reporting requirements is subject to change, periodic reports concerning a trust will be filed to the extent required under the Securities Exchange Act of 1934.

23. At or about the time distributions are made to certificateholders, a report will be delivered to the trustee as to the status of the trust and its assets, including underlying obligations. Such report will typically contain information regarding the trust's assets, payments received or collected by the servicer, the amount of prepayments, delinquencies, servicer advances, defaults and foreclosures, the amount of any payments made pursuant to any credit support, and the amount of compensation payable to the servicer. Such report also will be delivered to or made available to the rating agency or agencies that have rated the trust's certificates.

In addition, promptly after each distribution date, certificateholders will receive a statement prepared by the trustee summarizing information regarding the trust and its assets. Such statement will typically contain information regarding payments and prepayments, delinquencies, the remaining amount of the guaranty or other credit support and a breakdown of payments between principal and interest.

Secondary Market Transactions

24. At times, ContiFinancial will facilitate sales by investors who purchase certificates if ContiFinancial has acted as agent or principal in the original private placement of the certificates and if such investors request ContiFinancial's assistance. Other underwriters have made, and ContiFinancial anticipates that such underwriters will continue to make, a secondary market in publicly-offered certificates sponsored by ContiFinancial.

Summary

25. In summary, the applicant represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The trusts contain "fixed pools" of assets. There is little discretion on the part of the trust sponsor to substitute assets contained in the trust once the trust has been formed;

(b) Certificates in which plans invest will have been rated in one of the three highest rating categories by S&P's, Moody's, D&P or Fitch. Credit support will be obtained to the extent necessary to attain the desired rating;

(c) All transactions for which ContiFinancial seeks exemptive relief will be governed by the pooling and servicing agreement, which is made available to plan fiduciaries for their

review prior to the plan's investment in certificates;

(d) Exemptive relief from sections 406(b) and 407 for sales to plans is substantially limited; and

(e) Other underwriters have made, and the applicant anticipates that such underwriters will continue to make a secondary market in the publicly-offered certificates sponsored by the applicant.

Discussion of Proposed Exemption

I. Differences between Proposed Exemption and Class Exemption PTE 83–1

The exemptive relief proposed herein is similar to that provided in PTE 81–7 (46 FR 7520, January 23, 1981), Class Exemption for Certain Transactions Involving Mortgage Pool Investment Trusts, amended and restated as PTE 83–1 (48 FR 895, January 7, 1983).

PTE 83–1 applies to mortgage pool investment trusts consisting of interest-bearing obligations secured by first or second mortgages or deeds of trust on single-family residential property. The exemption provides relief from sections 406(a) and 407 for the sale, exchange or transfer in the initial issuance of mortgage pool certificates between the trust sponsor and a plan, when the sponsor, trustee or insurer of the trust is a party-in-interest with respect to the plan, and the continued holding of such certificates, provided that the conditions set forth in the exemption are met. PTE 83–1 also provides exemptive relief from section 406(b)(1) and (b)(2) of the Act for the above-described transactions when the sponsor, trustee or insurer of the trust is a fiduciary with respect to the plan assets invested in such certificates, provided that additional conditions set forth in the exemption are met. In particular, section 406(b) relief is conditioned upon the approval of the transaction by an independent fiduciary. Moreover, the total value of certificates purchased by a plan must not exceed 25 percent of the amount of the issue, and at least 50 percent of the aggregate amount of the issue must be acquired by persons independent of the trust sponsor, trustee or insurer. Finally, PTE 83–1 provides conditional exemptive relief from section 406(a) and (b) of the Act for transactions in connection with the servicing and operation of the mortgage trust.

Under PTE 83–1, exemptive relief for the above transactions is conditioned upon the sponsor and the trustee of the mortgage trust maintaining a system for insuring or otherwise protecting the pooled mortgage loans and the property securing such loans, and for indemnifying certificateholders against reductions in pass-through payments due to defaults in loan payments or property damage. This system must provide such protection and indemnification up to an amount not less than the greater of one percent of the aggregate principal balance of all trust mortgages or the principal balance of the largest mortgage.

The exemptive relief proposed herein differs from that provided by PTE 83–1 in the following major respects: (a) The proposed exemption provides individual exemptive relief rather than class relief; (b) The proposed exemption covers transactions involving trusts containing a broader range of assets than single-family residential mortgages; (c) Instead of requiring a system for insuring the pooled assets, the proposed exemption conditions relief upon the certificates having received one of the three highest ratings available from S&P's, Moody's, D&P or Fitch (insurance or other credit support would be obtained only to the extent necessary for the certificates to attain the desired rating); and (d) The proposed exemption provides more limited section 406(b) and section 407 relief for sales transactions.

II. Ratings of Certificates

After consideration of the representations of the applicant and information provided by S&P's, Moody's, D&P and Fitch, the Department has decided to condition exemptive relief upon the certificates having attained a rating in one of the three highest generic rating categories from S&P's, Moody's, D&P or Fitch. The Department believes that the rating condition will permit the applicant flexibility in structuring trusts containing a variety of mortgages and other receivables while ensuring that the interests of plans investing in certificates are protected. The Department also believes that the ratings are indicative of the relative safety of investments in trusts containing secured receivables. The Department is conditioning the proposed exemptive relief upon each particular type of asset-backed security having been rated in one of the three highest rating categories for at least one year and having been sold to investors other than plans for at least one year.[34]

III. Limited Section 406(b) and Section 407(a) Relief for Sales.

ContiFinancial represents that in some cases a trust sponsor, trustee, servicer, insurer, and obligor with respect to assets contained in a trust, or an underwriter of certificates may be a pre-existing party in interest with respect to an investing plan.[35] In these cases, a direct or indirect sale or certificates by that party in interest to the plan would be a prohibited sale or exchange of property under section 406(a)(1)(A) of the Act.[36] Likewise, issues are raised under section 406(a)(1)(D) of the Act where a plan fiduciary causes a plan to purchase certificates where trust funds will be used to benefit a party in interest.

Additionally, ContiFinancial represents that a trust sponsor, servicer, trustee, insurer, and obligor with respect to assets contained in a trust, or an underwriter of certificates representing an interest in a trust may be a fiduciary with respect to an investing plan. ContiFinancial represents that the exercise of fiduciary authority by any of these parties to cause the plan to invest in certificates representing an interest in the trust would violate section 406(b)(1), and in some cases section 406(b)(2), of the Act.

Moreover, ContiFinancial represents that to the extent there is a plan asset "look through" to the underlying assets of a trust, the investment in certificates by a plan covering employees of an obligor under receivables contained in a trust may be prohibited by sections 406(a) and 407(a) of the Act.

After consideration of the issues involved, the Department has determined to provide the limited section 406(b) and section 407(a) relief as specified in the proposed exemption.

[34] In referring to different "types" of asset-backed securities, the Department means certificates representing interests in trusts containing different "types" of receivables, such as single family residential mortgages, multi-family residential mortgages, commercial mortgages, home equity loans, auto loan receivables, installment obligations for consumer durables secured by purchase money security interests, etc. The Department intends this condition to require that certificates in which a plan invests are of the type that have been rated (in one of the three highest generic rating categories by S&P's, D&P, Fitch or Moody's) and purchased by investors other than plans for at least one year prior to the plan's investment pursuant to the proposed exemption. In this regard, the Department does not intend to require that the particular assets contained in a trust must have been "seasoned" (e.g., originated at least one year prior to the plan's investment in the trust).

[35] In this regard, we note that the exemptive relief proposed herein is limited to certificates with respect to which ContiFinancial or any of its affiliates is either (a) the sole underwriter or manager or comanager of the underwriting syndicate, or (b) a selling or placement agent.

[36] The applicant represents that where a trust sponsor is an affiliate of ContiFinancial, sales to plans by the sponsor may be exempt under PTE 75–1, Part II (relating to purchases and sales of securities by broker-dealers and their affiliates), if ContiFinancial is not a fiduciary with respect to plan assets to be invested in certificates.

Notice to Interested Persons

The applicant represents that because those potentially interested participants and beneficiaries cannot all be identified, the only practical means of notifying such participants and beneficiaries of this proposed exemption is by the publication of this notice in the **Federal Register**. Comments and requests for a hearing must be received by the Department not later than 30 days from the date of publication of this notice of proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

LEGENT Retirement Security Plan (the Plan) Located In Pittsburgh, PA

[Application No. D–10113]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reasons of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan of a limited partnership interest (the Interest) in Consolidated Capital Institutional Properties Two Limited Partnership (CCIP/2) to LEGENT Corporation (LEGENT), a party in interest with respect to the Plan.

This proposed transaction is conditioned upon the following requirements: (1) All terms and conditions of the sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party; (2) the sale is a one-time transaction for cash; (3) the Plan is not required to pay any commissions, costs or other expenses in connection with the sale; and (4) the Plan receives a sales price which is not less than the greater of: (a) The fair market value of the CCIP/2 Interest as determined by a qualified, independent appraiser, or (b) the total acquisition cost plus opportunity costs attributable to the CCIP/2 Interest.

Summary of Facts and Representations

1. The Plan is a defined contribution plan sponsored by LEGENT, a publicly-held Pennsylvania corporation engaged in supplying systems management solutions to large users of computer technology. As of September 30, 1994, the Plan had net assets available for benefits that totaled $55,577,555. As of June 30, 1995, the Plan had 2,400 participants.

Prior to September 1, 1993, Mellon Bank (Mellon Bank) served as the Plan trustee. Effective September 1, 1993, Fidelity Investments became the trustee of all of the Plan's assets with the exception of certain limited partnership interests in BPT Union City Associates, Inc. and CCIP/2. Although Mellon Bank continues to serve as Plan trustee with respect to the CCIP/2 Interest,[37] since 1989 the Plan has permitted each participant to direct the investments held in his or her individual account among several funds selected by LEGENT.

2. On July 1, 1977, Morino Inc. (Morino), a Delaware corporation engaged in supplying systems management solutions to users of computer technology, adopted the Morino Associates, Inc. Money Purchase Pension Plan (the Morino Pension Plan) and the Morino Associates, Inc. Profit Sharing Plan (the Morino Profit Sharing Plan; collectively, the Morino Plans). On October 1, 1989, Morino merged with Duquesne Systems, Inc. (Duquesne) and formed LEGENT. Effective October 1, 1989, the Morino Pension Plan merged into the Duquesne Systems, Inc. Pension Plan and the Morino Profit Sharing Plan merged into the Duquesne Systems, Inc. Profit Sharing Plan. The resulting merged plans were amended and restated, effective October 1, 1989, as the LEGENT Corporation Pension Plan and the LEGENT Corporation Savings Plan, respectively. Subsequently, on October 1, 1992, the LEGENT Corporation Savings Plan was amended and restated as the LEGENT Retirement Security Plan (i.e., the Plan) to reflect the merging of the LEGENT Corporation Pension Plan and the Goal Systems International, Inc. Profit Sharing Plan into the LEGENT Corporation Savings Plan due to the merger of Goal Systems International Inc. into LEGENT.

3. As noted above, currently among the assets of the Plan is a 0.02 percent interest in CCIP/2, a South Carolina limited partnership whose underlying assets generate income from leasing space in office buildings primarily in Southfield, Michigan. The CCIP/2 Interest has no maturity date. To the extent known, LEGENT has never invested in CCIP/2. In addition, none of the general partners of CCIP/2 or investors in CCIP/2 are parties in interest with respect to the Plan or its predecessors.

The Morino Pension Plan acquired the CCIP/2 Interest from unrelated parties on March 21, 1984 for a total purchase price of $15,400 (or $110 per unit for 140 units). The acquisition of the CCIP/2 Interest was made at the direction of Morino. Although the Morino Pension Plan (and subsequently the Plan) received income totaling $154 from CCIP/2, no further income payments were made to the Plan after 1991. In addition, the Plan never paid any holding costs in connection with its ownership of the CCIP/2 Interest.

4. When Morino merged with Duquesne, the existing Plan accounts invested in the CCIP/2 Interest were not initially frozen. Because the former Morino Plans did not offer individual participant investment elections, the Plan has held the CCIP/2 Interest as a general asset with a portion of such interest allocated to all participants in the Morino Pension Plan. As these participants terminated their employment with Duquesne, their allocable portion of the CCIP/2 Interest was purchased by the Plan using cash generated from such interest. The remaining portions of the participant accounts that were invested in the CCIP/2 Interest were frozen when Mellon Bank determined that the CCIP/2 Interest had no value and there was insufficient cash to purchase any additional portions from terminating employees. Accordingly, LEGENT froze the remaining accounts invested in the CCIP/2 Interest. As of January 13, 1995, the CCIP/2 Interest was allocated to the accounts of 86 former Morino employees.

5. LEGENT represents that the CCIP/2 Interest is a highly illiquid investment for which there is a very limited secondary market.[38] Mellon Bank represents, in a letter dated November 29, 1993, that it made every effort to sell the CCIP/2 Interest to unrelated parties. However, due to the insufficient secondary market, no purchaser has been found. Accordingly, LEGENT requests an administrative exemption from the Department in order to purchase the CCIP/2 Interest from the Plan.

6. Mellon Bank proposes to sell the CCIP/2 Interest to LEGENT for not less than the greater of (a) the fair market value of the CCIP/2 Interest as

[37] On September 13, 1995, the Department issued Prohibited Transaction Exemption 95–84 at 60 FR 47612. This exemption permitted the cash sale by the Plan of the BPT Interest to LEGENT.

[38] The Department expresses no opinion, in this proposed exemption, on whether Plan fiduciaries violated any of the fiduciary responsibility provisions of Part 4 of Title I of the Act in acquiring the CCIP/2 Interest.

determined by a qualified, independent appraiser; or (b) the total acquisition cost and opportunity costs attributable to the CCIP/2 Interest. The proposed sale will be a one-time transaction for cash. In addition, the Plan will not be required to pay any fees, commission or expenses in connection with the sale. Mellon Bank represents that it will determine, prior to the sale, whether such transaction is appropriate for the Plan and is in the best interest of the Plan and its participants and beneficiaries.

7. CCIP/2 and its underlying assets were valued by Mr. Brad Davidson, President of Partnership Valuations, Inc. of Annapolis, Maryland. A qualified, independent appraiser, Mr. Davidson values non-traded securities for banks and brokerage firms. As of December 31, 1994, Mr. Davidson determined that the fair market value of each unit in CCIP/2 was worth $45. He also concluded that a 29 percent discount factor was appropriate to his appraisal of CCIP/2 due to its lack of marketability. Therefore, based upon Mr. Davidson's valuation of CCIP/2, the fair market value of the CCIP/2 Interest held by the Plan is $6,300 ($45 x 140 units).

8. Because the fair market value of the CCIP/2 Interest is less than its acquisition cost, LEGENT will purchase the CCIP/2 Interest for the latter amount. In addition, LEGENT represents that because the Plan did not receive an adequate rate of return on the CCIP/2 Interest, it will pay $3,059 to make up for the Plan's lost opportunity costs.[39] Accordingly, LEGENT will purchase the CCIP/2 Interest from the Plan for an aggregate purchase price of $18,459.[40]

9. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) all terms and conditions of the sale will be at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party; (b) the sale will be a one-time transaction for cash; (c) the Plan will not be required to pay any commissions, costs or other expenses in connection with the sale; (d) the Plan will receive a sales price which is not less than the greater of (i) the fair market value of the CCIP/2 Interest as determined by a qualified, independent appraiser or (ii) the total acquisition cost plus opportunity costs that are attributable to the CCIP/2 Interest; and (e) Mellon Bank will determine that the sale is an appropriate transaction for the Plan and in the best interests of the Plan and its participants and beneficiaries.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including section 401(a)(4), 404 and 415.

Notice to Interested Persons

Notice of the proposed exemption will be given to all interested persons by first-class mail within 30 days of the date of publication of the notice of proposed exemption in the **Federal Register**. Such notice will include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment on and/or to request a hearing. Comments with respect to the notice of proposed exemption are due within 60 days after the date of publication of this proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 21st day of November, 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 95–28910 Filed 11–27–95; 8:45 am]

BILLING CODE 4510–29–P

[39] LEGENT represents that the average rates of return for the remaining assets that were held each year by its predecessor Plans is a fair measure of the Plan's lost opportunity costs. Therefore, LEGENT has calculated interest on the amount invested in the CCIP/2 Interest for the Plan Years beginning October 1, 1991 since CCIP/2 paid income to the Plan through the Plan Year ending September 30, 1994. Using this method of calculation, LEGENT represents that the CCIP/2 Interest would have earned aggregate opportunity costs of $3,059.

[40] The applicant represents that the amount by which the purchase price for the CCIP/2 Interest exceeds its fair market value, if treated as an employer contribution to the Plan, when added to the annual additions to such Plan, will not exceed the limitation prescribed by section 415 of the Code.

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 94–3 CARP–CD 90–92]

Distribution of 1990, 1991 and 1992 Cable Royalty Funds

AGENCY: Copyright Office, Library of Congress.

ACTION: Initiation of arbitration.

SUMMARY: The Copyright Office of the Library of Congress is announcing initiation of the 180 day arbitration period for the distribution of 1990–92 cable compulsory license royalties.

EFFECTIVE DATE: December 4, 1995.

ADDRESSES: All hearings and meetings for the 1990–92 cable distribution proceeding shall take place in the James Madison Memorial Building, Room 414, First and Independence Avenue, SE., Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel or William Roberts, Senior Attorney for Compulsory Licenses, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

Section 251.72 of 37 CFR provides:

> If the Librarian determines that a controversy exists among the claimants to either cable, satellite carrier, or digital audio recording devices and media royalties, the Librarian shall publish in the **Federal Register** a declaration of controversy along with a notice of initiation of an arbitration proceeding. Such notice shall, to the extent feasible, describe the nature, general structure and schedule of the proceeding.

The notice published today fulfills the requirements of § 251.72 for the distribution of cable compulsory license royalties for the years 1990–92.

On December 15, 1994, the Copyright Office published a notice in the **Federal Register** requesting comment as to the existence of controversies to the distribution of the 1990 cable royalty fund, 59 FR 64714 (December 15, 1994). In response to this notice, copyright owners identified the existence of controversies for distribution of the 1990 fund, as well as the 1991 and 1992 funds. The copyright owners requested that the Office consolidate the 1990–92 funds into a single distribution proceeding.

On March 21, 1995, the Office published a notice consolidating the 1990–1992 cable royalty funds into a single distribution proceeding, and announced the precontroversy discovery schedule, 60 FR 14971 (March 21, 1995). The Office also announced in that notice that controversies to the 1990–92 cable royalty funds would be declared, and arbitration initiated, on November 17, 1995, 60 FR at 14975.

In order to prepare for the commencement of proceedings, and to afford the cable royalty claimants the full use of the prescribed 180 days for arbitration, the Copyright Office has completed the selection of the arbitrators in accordance with 17 U.S.C. 802. The arbitrators for the 1990–92 cable distribution proceeding are:

The Honorable Mel R. Jiganti, Chairperson
The Honorable John B. Farmakides
The Honorable Ronald P. Wertheim

These arbitrators have signed their agreements to serve in the proceeding and have, pursuant to agreement by the cable claimants, begun background work in preparation for the commencement of the proceeding.

II. Joint Motion to Defer Commencement

On November 8, 1995, the parties to the proceeding filed a joint motion requesting a delay in the initiation of proceedings to December 29, 1995. They cited as their reasons: the time needed to produce the volume of discovery documents their motions to compel have generated; the time needed to evaluate the data contained in those discovery documents; the time needed to amend their direct cases in response to the granting of JSC's motion to add an additional issue to the proceeding; the potential for additional motions to be filed if discovery documents are not furnished as ordered; the difficulty of scheduling witnesses during the holidays and the loss of working days due to the holidays; the concern that the 180 day period will not be sufficient unless actual testimony begins on the heels of the initiation of the proceeding after all preliminary matters have been resolved; and a desire to have the mechanics of paying the arbitrators worked out before the initiation of proceedings.

The Copyright Office partially granted the joint motion to allow a delay to December 4, 1995, of the initiation of the 1990–92 cable royalty distribution proceeding in an Order dated November 13, 1995. *See* Order in Docket No. 94–3 CARP–CD 90–92 (November 13, 1995). In issuing its ruling, the Office noted in the Order that it engaged the services of the arbitrators on the basis of a starting date the parties themselves agreed to last spring and that any extension of the starting date would require amending the arbitrator's contracts and consideration of their loss of time to do other work. The Office therefore concluded that the six week delay requested by the parties would work a hardship on it and the arbitrators and decided that a December 4 commencement date was more appropriate. *Id.*

III. Initiation of Proceeding

Pursuant to § 251.72 of the CARP rules, the Copyright Office of the Library of Congress is formally announcing the existence of Phase I controversies to the distribution of cable compulsory license royalties for 1990, 1991 and 1992, and is initiating an arbitration proceeding under chapter 8 of title 17 to resolve the distribution of those funds. The arbitration proceeding commences on December 4, 1995, and runs for a period of 180 days, by which time the arbitrators shall make their report to the Librarian of Congress by June 1, 1996 in accordance with § 251.53 of the rules.

A meeting between the copyright claimants participating in the distribution proceeding and the arbitrators shall take place at 10 a.m. on Monday, December 4, 1995, at the above described address to discuss the hearing schedule, arbitrator billing and payment, and any other necessary procedural matters. The meeting is open to the public. Copies of the hearing schedule, once finalized, will be available at the Copyright Office upon request.

Dated: November 21, 1995.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 95–29044 Filed 11–27–95; 8:45 am]

BILLING CODE 1410–33–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–104]

NASA Advisory Council (NAC), Aeronautics Advisory Committee, Subcommittee on Human Factors; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting Cancellation.

Federal Register Citation of Previous Announcement: 60FR55869, Notice Number 95–097, November 3, 1995.

Previously Announced Dates of Meeting: December 5, 1995, December 6, 1995, and December 7, 1995. Meeting has been canceled.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory W. Condon, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 415/604–5567.

Dated: November 20, 1995.

Danalee Green,

Chief, Management Controls Office.

[FR Doc. 95–28937 Filed 11–27–95; 8:45 am]

BILLING CODE 7510–01–M

[Notice (95–105)]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC), Task Force on University Strategy; Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NAC, Aeronautics Advisory Committee Task Force on University Strategy.

DATES: December 14, 1995, 8:30 a.m. to 5 p.m.; and December 15, 1995, 8:30 a.m. to 4:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 7H46, 300 E Street, S.W., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Isaiah Blankson, Office of Aeronautics, National Aeronautics and Space Administration, Washington, DC 20546 202/358–4610.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aeronautics Overview
—Objectives and Expectations of Task Force
—Task Force Activities for USAF (DOD)
—Task Force Caucus/Assignments
—Planning of Working Group Task Activities
—University Strategy
—Spring Workshop Strategy

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: November 20, 1995.

Danalee Green,

Chief, Management Controls Office.

[FR Doc. 95–28936 Filed 11–27–95; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Literature Advisory Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Literary Publishing Section) to the National Council on the Arts will be held on December 6–7, 1995. The panel will meet from 9:00 a.m. to 6:30 p.m. on December 6 and from 9:00 a.m. to 5:00 p.m. on December 7. This meeting will be held in Room 714, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506.

A portion of this meting will be open to the public from 3:30 p.m. to 5:00 p.m. on December 7, for a policy discussion and guidelines review.

The remaining portions of this meeting from 9:00 a.m. to 6:30 p.m. on December 6 and from 9:00 a.m. to 3:30 p.m. on December 7, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Access Ability, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5433.

Dated: November 21, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–28944 Filed 11–27–95; 8:45 am]

BILLING CODE 7537–01–M

Museum Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Special Exhibitions Section A) to the National Council on the Arts will be held on December 11–14, 1995, from 9 a.m. to 6 p.m. on December 11–13 and from 9 a.m. to 5:30 p.m. on December 14. This meeting will be held in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

Portions of this meeting will be open to the public from 9 a.m. to 10 a.m. on December 11, for opening remarks and panel instructions and on December 14 from 4:30 p.m. to 5:30 p.m. for a policy discussion.

The remaining portions of this meeting from 10 a.m. to 6 p.m. on December 11; from 9 a.m. to 6 p.m. on December 12–13; and from 9 a.m. to 4:30 p.m. on December 14 are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5 United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussion at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506 or call 202/682–5433.

Dated: November 21, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–28943 Filed 11–27–95; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts; Music Teleconferences

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that teleconferences of the Music Advisory Panel (Jazz Services and Services to Composers Sections) to the National Council on the Arts will occur on December 5–6, 1995. The Jazz Services Teleconference will occur from 3:00 p.m. to 6:00 p.m. on December 5 and the Services to Composers Teleconference will occur from 3:00 p.m. to 6:00 p.m. on December 6. These teleconferences will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of application evaluation, under the National foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: November 21, 1995.

Yvonne M. Sabine,

Director, Council & Panel Operations, National Endowment for the Arts.

[FR Doc. 95–28945 Filed 11–27–95; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts; Opera-Musical Theater Teleconference

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a teleconference of the Opera-Musical Theater Advisory Panel (Services to the Field Section) to the National Council on the Arts will meet on December 14, 1995 from 12:00 p.m. to 5:00 p.m. The teleconference will occur at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of application evaluation, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995 this session will be closed to the public pursuant to subsections (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: November 21, 1995.

Yvonne M. Sabine,

Director, Council & Panel Operations, National Endowment for the Arts.

[FR Doc. 95–28941 Filed 11–27–95; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts; Partnership Advisory Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Partnership Advisory Panel (State and Regional Section) to the National Council on the Arts will be held on January 9, 1996, from 8:30 to 5:00 p.m. This meeting will be held in Room M–09, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

This meeting will be open to the public on a space available basis.

Any interested person may observe meetings or portions thereof, which are open to the public, and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Access Ability, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, D.C. 20506, 202/682–5532, TYY/TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202/682–5433.

Dated: November 21, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–28942 Filed 11–27–95; 8:45 am]

BILLING CODE 7537–01–M

Partnership Teleconferences; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that teleconferences of the Partnership Advisory Panel (State and Regional Section) to the National Council on the Arts will be held on December 20–21, 1995 and on January 3–4, 1996. The teleconference will occur from 3:30 p.m. to 6:30 p.m. on December 20 and from 9 a.m. to 12 p.m. on December 21. On January 3, the teleconference will occur from 3 p.m. to 6 p.m. and on January 4, from 9 a.m. to 12 p.m. This teleconference will be held at the Navy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

These meetings are for the purpose of application evaluation, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsections (c)(4), (6), and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: November 21, 1995.

Yvonne M. Sabine,

Director, Council & Panel Operations, National Endowment for the Arts.

[FR Doc. 95–28938 Filed 11–27–95; 8:45 am]

BILLING CODE 7537–01–M

Theater Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Professional Theater Companies A Section) to the National Council on the Arts will be held on December 4–7, 1995. The panel will meet from 9 a.m. to 6 p.m. on December 4–6 and from 9 a.m. to 7 p.m. on December 7. This meeting will be held in Room 730, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C., 20506.

Portions of this meeting will be open to the public from 9:30 a.m. to 11:15 a.m. on December 4, for welcome and orientation and from 5 p.m. to 7 p.m. on December 7, for a policy discussion.

The remaining portions of this meeting from 11:15 a.m. to 6:00 p.m. on December 4; from 9 a.m. to 6 p.m. on December 5–6; and from 9 a.m. to 5 p.m. on December 7, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsection

(c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682-5532, TDY-TDD 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682-5433.

Dated: November 21, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95-28939 Filed 11-27-95; 8:45 am]

BILLING CODE 7537-01-M

National Endowment for the Arts; Theater Advisory Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Professional Theater Companies B Section) to the National Council on the Arts will be held on December 12-15, 1995. The panel will meet from 9:00 a.m. to 6:00 p.m. on December 12-14 and from 9:00 a.m. to 7:00 p.m. on December 15. This meeting will be held in Room 730, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

Portions of this meeting will be open to the public from 9:00 a.m. to 11:15 a.m. on December 12, for welcome and orientation and from 5:00 p.m. to 7:00 p.m. on December 15, for a policy discussion.

The remaining portions of this meeting from 11:15 a.m. to 6:00 p.m. on December 12; from 9:00 a.m. to 6:00 p.m. on December 13-14 and from 9:00 a.m. to 5:00 p.m. on December 15, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682-5532, TDY-TDD 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682-5433.

Dated: November 21, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95-28940 Filed 11-27-95; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Astronomical Sciences (1186); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Astronomical Sciences.

Date and Time: December 18 and 19, 1995 8:00 A.M.-5:00 P.M.

Place: Room 360, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: G. Siegfried Kutter, Program Director, Division of Astronomical Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: 703/306-1820.

Purpose of Meeting: To provide advice and recommendations on proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate proposals in the Planetary Astronomy Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: November 22, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95-28955 Filed 11-27-95; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Computer & Computation Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Computer Computation & Research (1192).

Date and Time: December 18, 1995, 8:30 a.m. to 5:00 p.m.

Place: Rooms 310, 320, 340, 360, 365, 370, 380, 390, 1120, and 1150.

Type of Meeting: Closed.

Contact Person(s): Caroline Wardle, Deputy Division Director, CISE/CDA, Room 1145, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306-1910.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Career Proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 22, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95-28952 Filed 11-27-95; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Computer & Computation Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Computer & Computation & Research (1192).

Date and Time: December 18, 1995, 8:30 a.m. to 5:00 p.m.

Place: Rooms 310 and 320.

Type of Meeting: Closed.

Contact Person(s): Caroline Wardle, Deputy Division Director, CISE/CDA, Room 1145, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306-1910.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate SBIR Phase II Proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 22, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95-28953 Filed 11-27-95; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Physics (1208).

Date and Time: Wednesday, December 13 thru Saturday, December 16, 1995.

Place: Fermilab High Rise, Batavia, IL 60510.

Type of Meeting: Closed.

Contact Person: Dr. Marvin Goldberg, Program Director for Elementary Particle Physics, Division of Physics, Rm 1015, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306-1894.

Purpose of meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Elementary Particle Physics Career proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 28, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95-28954 Filed 11-27-95; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Company; Point Beach Nuclear Plant Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain technical requirements of Appendix E to 10 CFR Part 50 for operation of the Point Beach Nuclear Plant, Unit Nos. 1 and 2, located in Manitowoc County, Wisconsin (Facility Operating License Nos. DPR-24 and DPR-27, respectively, issued to Wisconsin Electric Power Company, the licensee).

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant an exemption from the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2., for annually exercising the onsite Emergency Plan at the Point Beach Nuclear Plant in the year 1995.

The proposed action is in accordance with the licensee's application for exemption dated October 6, 1995, as supplemented November 3, 1995.

The Need for the Proposed Action

The proposed action is needed to allow the licensee to begin loading dry cask storage containers in December 1995 in order to minimize the time that Point Beach will not have the capacity for a full-core offload. The licensee has stated that emergency response personnel who would be involved in the emergency exercise will be involved in oversight of the process for loading the dry cask storage containers. Therefore, the licensee anticipates the 1995 emergency exercise to have a negative impact on the oversight of the storage of spent fuel in the independent spent fuel storage installation at the Point Beach plant.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the one-time action is acceptable because the licensee has demonstrated excellent performance in the emergency preparedness area during the last two Systematic Assessment of Licensee Performance (SALP) periods and has performed an emergency drill in August 1995 involving major elements of the Point Beach Emergency Plan with no significant deficiencies.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for Point Beach.

Agencies and Persons Consulted

In accordance with its stated policy, on November 3, 1995, the staff consulted with the Wisconsin State official, Ms. Sarah Jenkins, of the Public Service Commission of Wisconsin, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 6, 1995, as supplemented by letter dated November 3, 1995, which are available for public inspection at the

Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241.

Dated at Rockville, Maryland, this 17th day of November 1995.

For the Nuclear Regulatory Commission.

Gail H. Marcus,

Director, Project Directorate III–3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–28979 Filed 11–27–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–295 and 50–304]

In the Matter of: Commonwealth Edison Company (Zion Nuclear Power Station, Unit Nos. 1 and 2); Exemption

I.

Commonwealth Edison Company (ComEd or the licensee) is the holder of Facility Operating License Nos. DPR–39 and DPR–48, which authorize operation of the Zion Nuclear Power Station, Unit Nos. 1 and 2, at a steady-state reactor power level not in excess of 3250 megawatts thermal. The facilities are pressurized water reactors located at the licensee's site in Lake County, Illinois. The licenses provide, among other things, that the Zion Nuclear Power Station is subject to all rules, regulations, and Orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II.

Sections III.B and III.D.2.(a) of 10 CFR Part 50, Appendix J, Option A, require that Type B local leakage rate periodic tests shall be performed during reactor shutdown for refueling, or other convenient intervals, but in no case at intervals greater than 2 years. In addition, Sections III.C and III.D.3 of 10 CFR Part 50, Appendix J, Option A, require that Type C local leakage rate periodic tests shall be performed during each reactor shutdown for refueling, but in no case at intervals greater than 2 years. These requirements are reflected in the Zion Technical Specifications (TS) as requirements to perform Type B and C containment leakage rate testing in accordance with 10 CFR Part 50, Appendix J and approved exemptions.

III.

The licensee has determined that certain containment isolation pathways have not been locally leakage rate tested (Type B and C tests) as required by 10 CFR Part 50, Appendix J, Option A. There were 23 untested pathways in Unit 1 and 18 in Unit 2. In a letter dated August 16, 1995, the licensee requested relief from the requirement to perform the Type B and C containment leakage rate tests of certain penetrations and valves in these pathways in accordance with the requirements of Sections III.B, III.C and III.D of 10 CFR Part 50, Appendix J, Option A. Continued operation of the Zion units was authorized by a Notice of Enforcement Discretion (NOED) orally granted on August 15, 1995, until such time as the staff acted on the exemption requests. The NOED was granted in writing on August 16, 1995.

If the exemptions the licensee requested in its letter dated August 16, 1995, are granted, the tests, except those for which permanent exemptions were requested, would be performed: (1) during the fall 1995 Unit 1 refueling outage, or (2) during power operation on Unit 2 prior to September 15, 1995, or (3) during the Unit 2 refueling outage in the fall of 1996.

Attachment 1A of the licensee's letter contained one-time schedular exemption requests and justifications for pathways that can be tested at power. Although the tests can be performed with the units at power, time was needed to properly develop and perform the necessary test procedures. Accordingly, the licensee requested that the Type B and C testing of the pathways associated with Zion, Unit 2, be deferred, with final test completion of the affected pathways (as listed in Attachment 1A) prior to September 15, 1995. The tests have been completed on Unit 2. In addition, the licensee requested that the affected penetrations associated with Zion, Unit 1, be deferred until the completion of its current refueling outage, which began on September 9, 1995.

Attachment 1B of the licensee's letter also contains one-time schedular exemption requests and justifications for pathways that can only be tested with the unit shutdown. The tests of the penetrations listed in Attachment 1B would be performed during the next cold shutdown of sufficient duration. In all cases, the testing would be performed prior to the end of the next refueling outage on each unit. The refueling outage is currently in progress for Unit 1 and is planned for the fall of 1996 for Unit 2.

Attachment 2 of the licensee's letter contains permanent exemption requests and justifications for pathways that cannot satisfy the requirements of 10 CFR Part 50, Appendix J, Option A, due to system/penetration design; that is, a test is not feasible, without making physical plant modifications.

Pathways Listed in Licensee's Attachment 1A

Attachment 1A of the licensee's letter requested temporary, schedular exemptions for components in the following containment penetrations:

Units 1 and 2:
- P–14, Valve 1(2) RC8045, Nitrogen to the Pressurizer Relief Tank.

Unit 2 only:
- P–30, Valve 2AOV–DT9159A, Reactor Coolant Drain Tank to Gas Analyzer.

For Unit 2, the required tests were completed prior to September 15, 1995.

For Unit 1, the required tests will be performed before startup from the current refueling outage. The Zion TSs do not require compliance with containment leakage rate limits during refueling outages, because there is little risk of an accident occurring which would release significant amounts of radioactivity. Therefore, the staff finds acceptable the schedular exemption request to delay the local leakage rate testing of valve 1 RC8045 until no later than startup from the current Unit 1 refueling outage.

Pathways Listed in Licensee's Attachment 1B

Attachment 1B of the licensee's letter requested temporary, schedular exemptions for components in the following containment penetrations:

Units 1 and 2:
- P–60, Valve 1(2)AOV–RV0005, Containment Vent Isolation
- P–70, Valve 1(2)SF8767, Refuel Cavity to Purification Pump
- P–80, ECCS Relief Valve Header to Pressurizer Relief Tank
- P–99, Valve 1(2)SF8787, Purification Pump to Refuel Cavity

Unit 1 only:
- P–30, Valve 1AOV–DT9159A, Reactor Coolant Drain Tank to Gas Analyzer

For Unit 1, the required tests will be performed before startup from the current refueling outage. The Zion TSs do not require compliance with containment leakage rate limits during refueling outages, because there is little risk of an accident occurring which would release significant amounts of radioactivity. Therefore, the staff finds acceptable the schedular exemption request to delay the local leakage rate testing of the Unit 1 components listed above until startup from the current Unit 1 refueling outage.

For Unit 2, the leakage pathways do not consist of through-valve leakage paths, but rather leakage paths out of

containment isolation valves or barriers through or past valve packing, diaphragms, flanges, or other resilient seals. The potential leakage paths are small or restrictive and are at mechanical joints of flange and compression fittings, through valve packing, or through cracks or tears in valve diaphragms. Although none of the penetrations in question were tested in accordance with the requirements, most of them were tested during the most recent Type A containment leakage rate test or by process flow, with either no or minimal leakage. For those penetrations that were not tested, the leakage path for a significant leak to occur requires a sequence of events for which the probability of occurrence during the limited time period of the exemption is low enough to provide reasonable assurance of no significant increase in risk to the health and safety of the public. In addition, seismic qualification of some of the systems, missile protection, and the isolation valve seal water system all provide additional assurance that the risk of a significant leak is minimal. For these reasons, the staff finds that the requested schedular exemption is justified and that it is acceptable to delay the local leakage rate testing of the Unit 2 components listed above until the next cold shutdown of sufficient duration for testing, but no later than startup from the next Unit 2 refueling outage, currently scheduled for September 1996.

Pathways Listed in Licensee's Attachment 2

Attachment 2 of the licensee's letter requested permanent exemptions for components in the following containment penetrations:

Units 1 and 2:
- P–14, Valve 1(2) FCV–SA01A, Service Air Supply to Containment
- P–19, Valve 1(2) MOV–CC9413A, Component Cooling Water Supply to the Reactor Coolant Pumps
- P–34, Valve 1(2) DW0030, Demineralized Flushing Water to Containment
- P–43, Valve 1(2) LCV–DT1003, Reactor Coolant Drain Tank Pump Discharge
- P–75, Valves 1(2) VC8402A, 1920HCV–VC182, 1(2) VC8402B, 1(2) VC8403, Chemical and Volume Control to Regenerative Heat Exchanger
- P–76, Valve 1(2) VC8480A, Reactor Coolant Loop Fill Header
- P–77, Valves 1(2) PP0101, 1(2) PP0102, 1(2) PP0103, 1(2) PP0104, Penetration Pressurization to Containment Valve Stations
- P–88, Valve 1(2) FCV–RV112, Containment Hot Water Supply
- P–102, Valve 1(2) AOV–RC8029, Primary Water to the Pressurizer Relief Tank

Unit 1 only:
- P–16, Compression Fittings on Five Reactor Vessel Leak Detection System Lines

To provide time for additional staff review before granting permanent exemptions, the staff will consider only schedular exemptions for these components. Final staff action on these exemption requests will be taken by December 31, 1995.

The leakage pathways listed above do not consist of through-valve leakage paths, but rather leakage paths out of containment isolation valves or barriers through or past valve packing, diaphragms, flanges, or other resilient seals, except for Penetration P–77, which is reviewed separately below. The potential leakage paths are small or restrictive and are at mechanical joints of flange and compression fittings, through valve packing, or through cracks or tears in valve diaphragms. Although none of the penetrations in question were tested in accordance with the requirements, most of them were tested during the most recent Type A containment leakage rate test or by process flow, with either no or minimal leakage. For those penetrations that were not tested, the leakage path for a significant leak to occur requires a sequence of events for which the probability of occurrence during the limited time period of the schedular exemption is low enough to provide reasonable assurance of no significant increase in risk to health and safety of the public. In addition, seismic qualification of some of the systems, missile protection, and the isolation valve seal water system all provide additional assurance that the risk of a significant leak is minimal. For these reasons, the staff finds that a schedular exemption is justified and that it is acceptable to delay the local leakage rate testing of the components listed above (except Penetration P–77) until final staff action on these exemptions, which will be taken prior to December 31, 1995.

Penetration P–77

Manual containment isolation valves 1(2) PP0101, 1(2) PP0102, 1(2) PP0103, 1(2) PP0104, are in four lines that are part of the Penetration Pressurization (PP) system. There is one valve in each line and it is open during power operation. The piping associated with the PP system is seismically supported and missile protected. The valves' primary post-accident design function is to remain open so that the PP system can continue to pressurize containment penetrations, such as electrical penetrations, preventing containment leakage out through those penetrations. These valves have not been locally leakage rate (Type C) tested for through-valve leakage. Local leakage rate testing is conducted with the valves open, with the packing of the four valves part of the test boundary. The leakage rate from this test is added into the sum of all local leakage rate tests for comparison to the 0.6 La acceptance criterion. This test was completed with satisfactory results during refueling outage Z1R13 which ended March 1994 for Unit 1 and during refueling outage Z2R13 which ended April 1995 for Unit 2. The portion of the PP system that includes these valves is continuously monitored for leakage, with a high flow condition annunciated in the control room. Additionally, these valves are tested for seat leakage during the Type A (integrated leak rate) test.

The post-accident design function of the PP system is to pressurize components to a pressure greater than Pa, the calculated peak accident pressure of the containment atmosphere during a design-basis accident, thereby preventing containment out-leakage. The licensee asserts that Penetration P–77 and its associated valves are provided with a suitable alternative to Type C testing due to the leak detection and mitigation capability of the system. The PP system features which provide that capability are summarized as follows:

(1) Supply characteristics:

(a) Normal supply: 100 psig air receivers
—passive components
—pressurized greater than or equal to 1.10 Pa (Pa=47 psig)

(b) Backup supplies—high degree of redundancy
—three PP air compressors: safety-related, seismic, auto start feature, powered from ESF buses
—passive supply from high pressure Nitrogen bottles: safety-related, seismic
—non-safety-related Instrument Air system;

(2) Leak Detection Capabilities: continuously monitored, main control board alarms on low pressure and on high flow;

(3) Piping system characteristics: seismically designed, missile protected;

(4) Operational readiness—TSs maintain:

(a) Required pressure and flow

(b) Availability of supplies (air compressors and Nitrogen) and emergency power supplies

(c) Periodic testing requirements for compressors.

This system is required to be operable during Operational Modes 1–4 per the TSs. In addition, the PP system seal pressure is designed to continuously maintain a nominal pressure of 1.04 Pa during post-accident conditions. Since this penetration and associated valves are maintained at a pressure greater than or equal to post-loss-of-coolant accident containment pressure, containment leakage is unlikely through this penetration.

Based on the above, the staff finds that a schedular exemption is justified and that it is acceptable to delay the local leakage rate testing of the four subject valves in Penetration P–77 until final staff action is taken on these requests. Final staff action will be taken by December 31, 1995.

In addition, the Commission will not grant an exemption unless at least one of the special circumstances, as defined in 10 CFR 50.12(a)(2), are present. One of the special circumstances is that: the exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulations. The licensee presented the following discussion to show that the requested exemptions provide only temporary relief and that the licensee made good faith efforts to comply.

The Requested Exemptions Proved Only Temporary Relief and the License Made Good Faith Efforts to Comply

As discussed above, the exemption request is for short duration relative to the discovery of the aforementioned issues (30 days for Unit 2; completion of the upcoming refueling outage for Unit 1). All pathways that can be safely tested during reactor power operation for Unit 2 will be tested within 30 days. Such pathways for Unit 1 will be deferred until entry into Hot Shutdown at the completion of the upcoming outage (outage begins September 7, 1995). For pathways that cannot be tested during power operation, testing described in Attachment 1B will be performed during the next opportunity of sufficient duration when Unit 1 and Unit 2 are in Mode 5. The pathways selected for testing will be based upon the expected duration of the shutdown and the time required to prepare the pathways for testing. Pathways not tested during a Cold Shutdown will be tested during subsequent cold shutdowns that may occur prior to the upcoming refueling outages. In all cases, tests will be completed by the end of Unit 1 outage scheduled to commence September 7, 1995 and for Unit 2 prior to the completion of the September 1996 refueling outage. This meets an additional criterion for a special circumstance per item (v) of 10 CFR 50.12(a)(2)(v), i.e., "The exemption would provide only temporary relief from the applicable regulation and licensee or applicant has made good faith efforts to comply with the regulation." ComEd believes that testing to be performed prior to September 15, 1995 for Unit 2 and during the upcoming refueling outage for Unit 1 demonstrates a good faith effort.

The exemption request is for a short duration relative to the discovery of the above issues. On Unit 2, the pathways that could be safely tested during power operation were tested prior to September 15, 1995. On Unit 1, this exemption allows the deferment of the testing of these pathways until Unit 1 enters hot shutdown during the current refueling outage. For pathways that can not be tested during power operation, the testing described in Attachment 1B will be performed on Unit 1 prior to the end of its current refueling outage and on Unit 2, prior to the completion of the refueling outage currently scheduled to commence in September 1996. The staff has decided that a good faith effort on the part of the licensee to comply with the regulations has been demonstrated by the testing that has already been completed on Unit 2, the testing that will be completed on Unit 1 prior to startup from its current refueling outage, and the schedule for completion of the remainder of the testing.

IV.

Sections III.B and III.D.2.(a) of 10 CFR Part 50, Appendix J, Option A, require that Type B local leakage rate periodic tests shall be performed during reactor shutdown for refueling, or other convenient intervals, but in no case at intervals greater than 2 years. In addition, Sections III.C and III.D.3 of 10 CFR Part 50, Appendix J, Option A, require that Type C local leakage rate periodic tests shall be performed during reactor shutdown for refueling, but in no case at intervals greater than 2 years.

The licensee proposes an exemption to these sections which would provide relief from the requirement to perform the Type B and C containment leakage rate tests of certain penetrations and valves in accordance with the requirements of Sections III.B, III.C, and III.D of 10 CFR Part 50, Appendix J, Option A.

The Commission has determined that, pursuant to 10 CFR 50.12(a)(1), this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determined, for the reasons discussed above, that special circumstances, as provided in 10 CFR 50.12(a)(2)(v), are present justifying the exemption; namely, that the exemption would provide only temporary relief and the licensee made good faith efforts to comply.

Based on its review of the licensee's justifications, the staff finds the licensee's requests for schedular exemptions for Type B and C tests of 10 CFR Part 50, Appendix J, Option A, that can be performed while at power (Attachment 1A to the licensee's letter) and those that must be performed while shutdown (Attachment 1B to the licensee's letter) to be acceptable. The staff has reviewed the licensee's requests for permanent exemptions for components in certain penetrations. To provide additional time for staff review before granting permanent exemptions, the staff will at this time grant only schedular exemptions until final staff action is taken on these requests for these components. Final staff action on these exemption requests will be taken prior to December 31, 1995.

Pursuant to 10 CFR 51.32, the Commission has determined that granting these exemptions will not have a significant impact on the human environment (60 FR 45499).

This exemption is effective upon issuance and shall expire upon completion of the Unit 2 refueling outage, currently scheduled to commence in September 1996.

Dated at Rockville, Maryland, this 20th day of November 1995.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–28978 Filed 11–27–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–213]

Connecticut Yankee Atomic Power Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. 61 issued to Connecticut Yankee Atomic Power Company (the licensee) for operation of the Haddam Neck Plant located in Middlesex County, Connecticut.

The proposed amendment would be a one-time exception to the technical specifcation 3.9.12, "Fuel Building Storage Air Cleanup System," to allow the fuel storage building air cleanup system to be inoperable during intervals in which new fuel rack modules will be moved into and old fuel modules will be moved out of the fuel storage building (FSB).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with 10CFR50.92, CYAPCO has reviewed the proposed change and has concluded that it does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not compromised. The proposed change does not involve an SHC because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The requirements of technical specification 3/4.9.7 will be maintained at all times. Any heavy load (rack or rig) with a potential to drop on a rack will have no less than a 3 feet lateral free zone clearance from active fuel. Safe load paths will be developed for moving the rack modules in the FSB. The old or new rack modules will not be carried over any region of the pool containing fuel. In addition, there will be no fuel movement in the spent fuel pool when the modules are being relocated with the hatch open. Therefore, there is no possibility of a drop of a fuel assembly which would necessitate the use of the FSB air cleanup system when the hatch is open. There is no impact to the probability or consequences of any previously evaluated accidents due to this proposed modification.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

There is no potential for a new or different kind of accident from any previously analyzed. All failure modes that can cause an accident have been identified and evaluated. When the movements of a rack module are completed, and the roof hatch is closed, operation of the FSB air cleanup system will be verified. The system will be aligned and operated to verify the system maintains the spent fuel pool storage area at a negative pressure greater than 0 inch water gage differential, relative to the outside atmosphere as requirement [SIC] by the technical specifications. CYAPCO will assure that the plant is maintained in a safe condition by limiting rack movement with the yard crane only in the cask pit area; no rack movement will be allowed over stored fuel; any heavy loads will have no less than 3 feet lateral free zone clearance from active fuel and; no fuel assemblies will be moved while the roof hatch is open. Verification of system operation combined with the use of the safe load paths ensure that there is no potential for a new or unanalyzed accident.

3. Involve a significant reduction in a margin of safety.

There is no significant reduction in the margin of safety. The function of the FSB air cleanup system is to ensure that all radioactive material released from an irradiated fuel assembly will be filtered through the HEPA filters and charcoal adsorber prior to discharge to the atmosphere. The FSB air cleanup system shall be operable during operations involving the movement of fuel within the FSB or crane operation with loads over the storage pool. This requirement is to reduce radioactive iodine release in the event of a crane handling event involving spent fuel. Due to the safe load paths which will be utilized in the movements of the rack modules and the precluding of fuel movement with the hatch open, there is no postulated accident that can cause a fuel failure. The operation of the yard crane inside the SFB is physically limited to traverse between the crane bay and the spent fuel pool cask area due to the size of the roof hatch opening. All phases of the reracking activity will be conducted in accordance with procedures reviewed and approved by CYAPCO. Therefore, this change does not involve a significant reduction to the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 28, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Russell Library, 123 Broad Street, Middletown, CT 06457. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition

should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Phillip F. McKee: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 14, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Russell Library, 123 Broad Street, Middletown, CT 06457.

Dated at Rockville, Maryland, this 22nd day of November 1995.

For the Nuclear Regulatory Commission.

Alan Wang,

Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–28976 Filed 11–27–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–413 and 50–414]

Duke Power Company, et al.; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-35 and NPF-52 issued to Duke Power Company, et al. (the licensee) for operation of the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina.

The proposed amendments would change the Updated Final Safety Analysis Report. The Catawba Updated Final Safety Analysis Report (UFSAR), Section 5.2.5, and the Safety Evaluation Report (SER) (NUREG-0954), related to the application for an operating license for Catawba Nuclear Station, Units 1 and 2, Section 5.2.5, "Detection of Leakage Through Reactor Coolant Pressure Boundary," includes a review of the various Catawba reactor coolant leakage detection systems. The operability requirements for the Reactor Coolant Leakage Detection Systems are in Technical Specification 3.4.6.1 that requires that the following combination of systems be operable: (1) the Containment Atmosphere Gaseous Radioactivity Monitoring System (EMF39(L)), (2) the Containment Floor and Equipment Sump Level and Flow Monitoring Subsystems, and (3) either the Containment Atmosphere Particulate Radioactivity Monitoring System (EMF38(L)) or the Containment Ventilation Unit Condensate Drain Tank (VUCDT) Level Monitoring Subsystem.

The FSAR and SER state that EMF38(L) is seismic Category I. A licensee engineering review has determined that documentation does not exist to show that EMF38(L) is designed to withstand a Safe Shutdown Earthquake (SSE). The licensee's review relative to the necessity of seismic qualification for these monitors and analysis, performed pursuant to 10 CFR 50.59, form the basis for a licensee proposal to delete the seismic qualification requirement from the UFSAR. The licensee requests that the NRC approve this change to the UFSAR through an amendment to the operating licenses.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> This proposed change has been evaluated against the standards in 10 CFR 50.92 and has been determined to involve no significant hazards considerations, in that operation of the facility in accordance with the proposed amendment would not:
>
> 1. [I]nvolve a significant increase in the probability or consequences of an accident previously evaluated; or
>
> EMF38(L) is not used directly for any phase of power generation or conversion or transmission, normal decay heat removal, fuel handling, or the processing of radioactive fluids. As such, it is not an "accident initiator". No "accident initiator" is affected by the change to the UFSAR. Thus, the probability of accidents evaluated in Sections 6, 9.1, and 15 of the FSAR is not affected by the change. It is determined that sufficient ability to determine conditions inside containment remain available for any earthquake up to and including the SSE. Furthermore, should it be determined that either EMF38(L) or EMF39(L) are not capable of fulfilling its intended function following any earthquake, including those smaller than the OBE [Operating Basis Earthquake], the associated unit will be taken to Cold Shutdown, a mode for which neither the Emergency Core Cooling System nor the containment safeguards are required. Finally, no equipment provided to mitigate any accident is affected adversely... by the change. For these reasons, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated in the SAR [safety analysis report].
>
> 2. [C]reate the possibility of a new or different type of accident from any accident previously evaluated; or
>
> As stated above, no equipment used in direct support of power generation or conversion or transmission, normal decay heat removal, fuel handling, or the processing of radioactive fluids is affected with the update. No new failure modes are identified with the change. The upper bound to an undetected leak in the Reactor Coolant System is a Loss of Coolant Accident [LOCA]. As noted above, no equipment provided to mitigate a LOCA is affected by the change. For these reasons, the change will not create a new or different type of accident from any accident previously evaluated.
>
> 3. [I]nvolve a significant reduction in a margin of safety.
>
> It has been determined that sufficient means remain at the disposal to the operators to assess conditions within the containment following any earthquake up to and including the SSE. In particular, the ability to determine leakage with the sensitivity comparable to that of EMF38(L) can be established. This meets the intent of the latter part of Regulatory Position of RG [Regulatory Guide] 1.45. In addition, should it be determined that either EMF38(L) or EMF39(L) is not functional following any earthquake, the associated unit(s) will be brought to Cold Shutdown even if it (they) have remained on line following that earthquake. This brings the unit(s) to a mode in which TS 3.4.6.1 does not apply. It ensures that at least the minimum required Reactor Coolant System leakage detection systems will be functional before power operations are continued following a postulated earthquake smaller than the OBE (cf. Reference 3). It ensures protection of the reactor coolant pressure boundary, one of the fission product barriers. No other fission product barrier is affected by the change. Therefore, the margin of safety is not reduced.
>
> Therefore, based on the information contained in this submittal, it is determined that no significant hazard is associated with the proposed change to the UFSAR.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments requested involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 28, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the York County Library, 138 East Black Street, Rock Hill, South Carolina. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Herbert N. Berkow: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 5, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the York County Library, 138 East Black Street, Rock Hill, South Carolina.

Dated at Rockville, Maryland, this day of 20th day of November 1995.

For the Nuclear Regulatory Commission.

Robert E. Martin,

Senior Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation .

[FR Doc. 95–28977 Filed 11–27–95; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Manifest Analysis and Certification (MAC)

AGENCY: Postal Service.

ACTION: Notice of establishment of program.

SUMMARY: This notice adopts the proposed standards for the Manifest Analysis and Certification (MAC) program as published in the **Federal Register** on September 14, 1995 (60 FR 47765–47768). This new, voluntary program allows software developers to receive testing and certification by the Postal Service for mail manifesting software sold to mailers.

EFFECTIVE DATE: November 28, 1995.

FOR FURTHER INFORMATION CONTACT: Cheryl Beller, (202) 268–5166, or Tom Amonette, (317) 464–6599.

SUPPLEMENTARY INFORMATION: On September 14, 1995, the Postal Service published in the **Federal Register** proposed standards for the Manifest Analysis and Certification (MAC) program (60 FR 47765–47768). MAC was proposed as a voluntary program in which the Postal Service would, upon request, provide testing for certain categories of mail manifesting software developed by vendors for sale to mailers to support single-piece rated domestic and international mailings.

The program tests the ability of software to calculate accurately the payment of postage and fees for mailpieces listed on documentation (the manifest) generated by the software. This program will assure mailers using a MAC-certified manifesting software product, if used properly, that the product will have the capability of performing its intended function according to the current mailing standards of the Postal Service.

Evaluation of Comments Received

The deadline for submitting comments on the proposed program was October 16, 1995. All comments received or mailed by that date were considered.

No comments were received suggesting changes in the program. All comments received were favorable. This positive response may be attributed to the fact that, from the inception of the proposed program, the Postal Service worked closely with vendors and mailers to ensure that the program met their needs as well as current mailing standards of the Postal Service. Because of this initial work, issues and concerns were resolved prior to the public presentation of the program.

On the basis of the comments received, the Postal Service has decided to adopt the MAC program as proposed. The Postal Service has determined that for 1995, the initial MAC cycle will begin immediately and close on January 31, 1996, with all testing and retesting to be concluded by that closing date.

The MAC program will be implemented as described in the **Federal Register** notice published on September 14, 1995 (60 FR 47765–47768). To obtain detailed information about participation in MAC, manifesting software developers may request the MAC Technical Guide from the Postal Service National Customer Support Center by calling 1–800–331–5746, extension 4651. Participants may use the MAC order form included in that guide to order the appropriate MAC tests.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95–29019 Filed 11–27–95; 8:45 am]

BILLING CODE 7710–12–P

Privacy Act of 1974; System of Records; Correction

AGENCY: Postal Service.

ACTION: Correction.

SUMMARY: This document corrects the notice of the addition of a new routine use to Privacy Act system of records USPS 080.010, Inspection Requirements—Investigative File System, that was published in the **Federal Register** on Tuesday, November 14, 1995 (60 FR 57254–57255). The published notice did not contain the requirement that the Chief Postal Inspector, or delegate, must approve disclosures of information on electronic bulletin boards to ensure compliance with the Privacy Act.

On page 57255 in the second column, new routine use number 12 should be changed to read as follows:

"12. A record from this system may be disclosed on an electronic bulletin board to organizations or individuals in the public or private sectors that share in the bulletin board, provided that the disclosure is approved by the Chief Postal Inspector, or delegate, because it is deemed necessary: (1) To elicit information or cooperation from these organizations or individuals for use by the Postal Inspection Service in the performance of an authorized activity; or (2) to alert these organizations or individuals of possible criminal activity for which the Postal Inspection Service has authority to investigate and about which it has obtained credible information."

Dated: November 21, 1995.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95–29018 Filed 11–27–95; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36497; File No. SR–DTC–95–22]

Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing of Proposed Rule Change Regarding Arrangement Between the Depository Trust Company and the Chicago Stock Exchange, Incorporated Relating to a Decision by the Chicago Stock Exchange, Incorporated to Withdraw from the Clearance and Settlement, Securities Depository, and Branch Receive Businesses

November 20, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on November 13, 1995, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No SR–DTC–95–22) as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change involves proposed arrangements relating to a decision by the Chicago Stock Exchange, Incorporated ("CHX") to withdraw from the clearance and settlement, securities depository, and branch receive businesses. Parties to the proposed arrangements are DTC, CHX, Midwest Securities Trust Company ("MSTC"), the National Securities Clearing Corporation ("NSCC"), the Midwest Clearing Corporation ("MCC") and Securities Trust Company of New Jersey ("STC/NJ").[2]

The proposed arrangements as they relate to DTC would provide for the following:

(1) DTC would offer sole MSTC participants an opportunity to become DTC participants if they meet DTC's qualifications.

(2) DTC and MSTC would cooperate to assure the orderly transfer of securities from the custody of MSTC to the custody of DTC for (i) sole MSTC participants and (ii) dual DTC/MSTC participants which authorize such transfer.

(3) DTC would acquire certain assets and assume certain lease and other contractual obligations of STC/NJ.

(4) DTC would assume certain lease obligations of CHX.

(5) DTC would make certain payments to CHX, MSTC, and STC/NJ.

(6) In general, for a period of ten years CHX, MSTC, and STC/NJ would not engage in the businesses from which they have decided to withdraw (*i.e.*, the securities depository and branch receive businesses). However, CHX and its subsidiaries would be free to provide specified securities depository-related services and products to CHX members and certain third-parties.

The proposed rule change seeks to make conforming changes in DTC procedures to, among other things, (i) eliminate the service of providing fourth-party deliveries between participants of the Philadelphia Depository Trust Company ("Philadep") and participants of MSTC through the facilities of DTC and (ii) allocate the DTC general refund to sole DTC participants to the extent necessary to equalize the benefit of the arrangements between sole DTC participants and dual DTC/MSTC participants which will realize significant cost savings as a result of the proposed arrangements.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] STC/NJ is a wholly-owned subsidiary of CHX that currently provides certain services, including a securities custody service. STC/NJ is not a clearing agency as defined in the Act and therefore is not required to register with the Commission.

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proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CHX has announced that it plans to close its clearance and settlement and securities depository businesses in order to focus its resources on the operations of the exchange. CHX has determined to take that action now to support the securities industry's efforts to eliminate redundant infrastructure. The proposed arrangements have been designed to permit CHX to achieve this objective while affording qualified sole MSTC participants an opportunity to become DTC participants and transfer their securities to DTC. DTC's primary purpose for entering into the proposed arrangements at this time is to facilitate the industry's planned conversion to same-day funds settlement.[4] Additionally, DTC has stated that the proposal will result in substantial savings for DTC participants and the securities industry as a whole.

Currently, transactions in equities, corporate debt, and municipal debt are settled in next-day funds.[5] Transactions in commercial paper and other money market instruments are settled in same-day funds. As the Commission is aware, DTC and NSCC have been working with the industry over the last few years to develop a system that will provide for the settlement of virtually all securities transactions in same-day funds. DTC's and NSCC's efforts have been encouraged by the Commission, the Board of Governors of the Federal Reserve System, and the Federal Reserve Bank of New York, and their plans have been monitored by the staffs of these regulatory bodies.[6] Under the conversion plan, all issues currently settling in DTC's next-day funds settlement system will be transferred to DTC's same-day funds settlement system on a single day. Several months ago, a consensus was reached that the conversion date will be February 22, 1996.

Where there are interface between securities depositories, same-day funds settlement exposes each depository to certain risks, such as the failure of another depository to settle its net payment obligation because of a failure by one of the participants of such other depository to settle with it or because such other depository is experiencing a major systems problem. These risks cannot be entirely avoided with existing and available risk management controls. CHX's withdrawal from the securities depository business will eliminate the exposure of DTC and its participants to the payment system risks associated with the DTC-MSTC interface. Also, the interests of MSTC participants can be provided for in an orderly manner that will help assure successful integration in the process of converting to same-day funds settlement.

The proposed arrangements should result in substantial savings for DTC participants and the securities industry. In connection with this proposal, former sole MSTC participants may become DTC participants if they qualify under DTC's participant standards. An increase in the number of DTC participants will result in higher DTC transaction volumes thereby reducing the per-unit service costs that must be recovered through DTC participant service fees.

Moreover, interdepository interfaces involve the maintenance of substantial facilities, communications networks, and account and inventory reconciliation mechanisms. As a result of the proposal, the substantial costs incurred by both DTC and MSTC in operating an interface would be eliminated.

In addition to the DTC costs savings that would be passed through to all DTC participants, dual DTC/MSTC participants would achieve special savings by discontinuing their payment of MSTC fees for largely redundant custody-related processing. DTC has a policy of refunding to its participants each year all revenues in excess of current and anticipated needs. In order to equalize the payback on DTC's investment in the arrangements as between dual DTC/MSTC participants and sole DTC participants, which would not obtain the special savings, DTC proposes to "ear-mark" a portion of its general refund for 1995 and to the extent necessary for 1996 and subsequent years for allocation to sole DTC participants only.

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because the rule proposal will facilitate the industry's conversion of same-day funds settlement for virtually all securities transactions and thereby facilitate the prompt and accurate clearance and settlement of such transactions. The proposal also will provide qualified sole MSTC participants with access to DTC's facilities and will be implemented consistently with the safeguarding of securities and funds in DTC's custody and control.

In addition, the proposed allocation of DTC's general refund will, consistent with the requirements of the Act, assure that DTC's costs associated with the proposed arrangements are equitably allocated among sole DTC participants and dual DTC/MSTC participants based upon DTC's estimate of the savings that each of these groups will obtain as a result of the proposed arrangements.

Because CHX no longer will be operating a securities depository, certain changes will be required in DTC procedures, principally the elimination of fourth-party deliveries between MSTC participants and Philadep participants through the interfaces that DTC has maintained with MSTC and Philadep.[7]

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed arrangements will have an impact on or impose a burden on competition. Securities depositories registered under section 17A of the Exchange Act are utilities created to serve members of the securities industry for the purpose of providing certain services that are ancillary to the businesses in which industry members compete with one another. Operating a securities depository requires a substantial and continuing investment in infrastructure, including securities vaults, telecommunications links with users, data centers, and disaster recovery facilities, in order to meet the increasing needs of participants and to respond to regulatory requirements.

After consummation of the proposed arrangements, securities industry members will continue to have access to high-quality, low-cost depository services provided under the mandate of the Act. The overall cost to the industry of having such services available will be reduced thereby permitting a more efficient and productive allocation of industry resources. Furthermore, because most of a depository's interface costs must be mutualized, thereby requiring some participants to subsidize costs incurred by others, CHX's withdrawal from maintaining depository facilities will reduce costs to DTC participants and thereby remove impediments to competition. Finally, CHX's ability to focus its resources on the operations of its exchange should help enhance competition among securities markets.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposal from DTC Participants or others have not been solicited or received. The proposed arrangements are, however, consistent with recommendations made to the Boards of DTC and NSCC by the Vision 2000 Committee ("Committee"), a committee of industry representatives of the two Boards. The Committee's Report dated September 1994 states:

> The industry owns a number of utilities that provide services related to the comparison, clearing, settlement and safekeeping of U.S. (and to a lesser degree, international) securities. These utilities overlap in two ways.* * * We believe that the industry's and, as important, the investors', overall costs can be reduced and safety and soundness can be enhanced by eliminating these overlaps where there is no clear advantage to having specialization or competing development.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to the file number SR–DTC–95–22 and should be submitted by December 19, 1995.

For the Commission by the Division of market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–28935 Filed 11–27–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36496; File No. SR–NASD–95–50]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Amending the Buy-in Procedures in Section 59 of the Uniform Practice Code to Clarify the Appropriate Delivery Deadlines for Buy-in Notices

November 20, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 15, 1995, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) of the Act, the NASD is herewith filing a proposed rule change to amend Section 59 of the Uniform Practice Code ("UPC" or "Code") to revise the buy-in procedures to clarify the appropriate delivery deadlines for buy-in notices. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Uniform Practice Code

Close-Out Procedure

"Buying-in"

Sec. 59.

A contract which has not been completed by the seller according to its terms may be closed by the buyer not sooner than the third business day following the date delivery was due, in accordance with the following procedure:

Notice of "buy-in"

(a)(1) Written notice of "buy-in" shall be delivered to the seller at his office not later than 12 noon, his time, two business days preceding the executing of the proposed "buy-in."

(2) For purposes of this rule written notice shall include an electronic notice through a medium that provides for an immediate return receipt capability. Such electronic media shall include but not be limited to facsimile transmission, a computerized network facility, etc.

Information contained in "buy-in" notice

(b)(1) Every notice of "buy-in" shall state the date of the contract to be closed, the quantity and contract price of the securities covered by said contract, the settlement date of said contract and any other information deemed necessary to properly identify the contract to be closed. Such notice shall state further that unless delivery is effected at or before a certain specified time, which may not be prior to 11:30 a.m. local time in the community where the buyer maintains his office, the security may be "bought-in" on the date specified for the account of the seller. If the originator of a "buy-in" in a depository eligible security is a participant in a registered securities

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(May 16, 1995), 60 FR 27360 [File No. SR–DTC–95–06] (order granting accelerated approval to proposed rule change modifying the same-day funds settlement system).

[3] The Commission has modified the text of the summaries prepared by DTC.

[4] The term "same-day funds" refers to payment in funds that are immediately available and generally are transferred by electronic means.

[5] The term "next-day funds" refers to payment by means of certified checks that are for value on the following day.

[6] In approving certain modifications of DTC's existing system in order to accommodate the overall conversion to same-day funds settlement, the Commission stated that it believes that the overall conversion to a same-day settlement system will help reduce systemic risk by eliminating overnight credit risk. The same-day funds settlement system also will reduce risk by achieving closer conformity with the payment methods used in the derivatives markets, government securities markets, and other markets. Securities Exchange Act Release No. 35720

[7] MSTC and Philadep never established their own interface.

[8] 17 CFR 200.30–3(a)(12) (1994).

[1] The proposal was originally filed with the Commission on October 26, 1995. The NASD subsequently submitted Amendment No. 1 to the filing. This document provides notice of the filing as amended. Letter from Elliot Curzon, Assistant General Counsel, NASD, to Karl J. Varner, Over-the-Counter Regulation, Division of Market Regulation, SEC, dated November 15, 1995.

depository, the *specified delivery time may not be prior to 3:30 p.m. Eastern Time and the* "buy-in" may not be executed prior to [2:30] *3:00* p.m., Eastern Time. Each "buy-in" notice shall also state the name and telephone number of the individual authorized to pursue further discussions concerning the buy-in.

(2) Notice may be redelivered immediately to another broker/dealer from whom the securities involved are due in the form of a re-transmitted notice ("re-transmit"). *A*r[R]e-transmitted notice of buy-in must be delivered to subsequent broker/dealers not later than *12 noon, recipient's local time, on the* [one] business day preceding the time and date of execution of the proposed buy-in, *and the time specified for delivery may not be prior to the time specified in the original notice.*

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under Section 59 of the Code, when the seller has not completed a contract of sale of securities by delivering the securities called for in the contract on settlement day, the buyer may close the contract by purchasing the subject securities in the open market ("buying-in"). When securities are bought in to complete a contract, the seller in liable for any difference between the contract price and the buy-in price.

Pursuant to subsection 59(a) of the Code, a buy-in is initiated by the buyer delivering a notice of buy-in to the seller at his office not later than 12 noon, the seller's time, two business days preceding the execution of the proposed buy-in. Subsection 59(b) provides that the notice must include the terms of the contract to be closed and must state that unless delivery is effected at or before a certain specified time not earlier than 11:30 A.M., the buyer's local time, the security may be bought in for the account of the seller (meaning the seller assumes the liability for the market price of the security bought in). Subsection 59(b) also provides that if the originator of the buy-in notice is a participant in a registered securities depository, and the security to be bought in is a depository eligible security, the buy-in may not be executed before 2:30 P.M. Eastern Time.

The NASD has identified an inconsistency in subsection 59(b) in that the provisions permit a buy-in notice to specify a delivery deadline no earlier than 11:39 A.M., local time, yet the buy-in may not be executed before 2:30 P.M., Eastern Time. If the seller obtained securities and tendered them for delivery after the notice deadline but before the buy-in was executed, the provisions of the rule and the notice could permit the buyer to refuse delivery and subject the seller to the risk of an execution at a price higher than the original contract price.

In order to resolve this anomaly, the NASD is proposing to amend subsection 59(b) of the UPC to modify the delivery times permitted to be specified in the buy-in notice. With respect to buy-in notices for depository eligible securities where the originator is a depository participant, the NASD is proposing to amend subsection 59(b) to provide that the notice may not specify a delivery time earlier than 3:00 P.M. Eastern Time.[2] By limiting this restriction to depository eligible securities and depository participants, the rule retains the current provision permitting broker-to-broker buy-ins specifying an earlier delivery time (no earlier than 11:30 A.M. local time).

In addition, the NASD is proposing to amend subsection 59(b)(2), which permits the recipient of a buy-in notice to re-transmit the notice to another broker/dealer from whom the subject securities are due. The proposed amendment to subsection 59(b)(2) provides that a re-transmitted buy-in notice must be delivered to the recipient not later than 12 noon, seller's local time, on the business day preceding the buy-in date and that the specified delivery time in the re-transmitted notice must not be earlier than the time specified in the original notice. This amendment clarifies the existing language and will ensure that the recipient of the retransmitted notice has at least one full business day's notice.[3]

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[4] in that the proposed rules will facilitate the functioning of the clearance and settlement system by eliminating an inconsistencyin the buy-in process and refining the provisions of the Code relating to buy-ins to recognize new developments in the clearance and settlement system.

(B) Self-Regulatory Organization's Statement on Burden on Completion

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received, from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if if finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the

[2] The NASD notes that with the advent of same day funds settlement (SDFS) in early 1996 and the new settlement time frames associated with the Depository Trust Company's SDFS System, the appropriate buy-in execution time in Section 59(b) should not be prior to 3:00 P.M. Eastern Time.

[3] The NASD notes that because subsection 59(b)(1) permits the buy-in notice to specify a delivery deadline of 11:30 A.M. local time for broker-to-broker buy-ins in non-depository eligible securities, it is possible that a buy-in notice retransmitted at 12 noon the previous business day would afford the recipient 23½ hours to deliver. Nevertheless, the proposed amendment is an improvement to the current rule language which arguably permits retransmittal to occur at the end of the previous business day, affording the recipient as little as 18½ hours notice.

[4] 15 U.S.C. §78*o*–3.

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to SR–NASD–95–50 and should be submitted by December 19, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–28932 Filed 11–27–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36495; File No. SR-NSCC–95–13]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Enabling Members Settling Mutual Fund Transactions in Same Day Funds to Settle Through a Settling Bank

November 20, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on November 3, 1995, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by NSCC. On November 14, 1995, NSCC amended the filing to make technical changes.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NSCC proposes modifying its rules to establish a new membership category for settling banks that will enable members settling mutual fund transactions in same day funds to settle their obligations through a settling bank.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[4]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to modify NSCC's rules to enable members settling mutual fund transactions in same day funds to settle their obligations through a settling bank. The proposed rules will establish a new membership category for settling banks. Any bank that wants to become a settling bank will be required to meet the operational and financial requirements established by NSCC. To qualify as a settling bank, each bank must have short-term obligation ratings of at least A–2 by Standard and Poor's Corp. or P–2 by Moody's Investors Services Inc. Banks that do not meet this standard will be considered on an exception basis. Each bank that qualifies as a settling bank will be required to enter into a separate agreement with each member on whose behalf it will perform settlement functions.

The proposed rules provide that settling banks will have the opportunity to refuse to settle for one or more members by notifying NSCC within the time established by NSCC. The proposed rules also specify that settling banks will be required to wire funds by the deadline imposed by NSCC or be subject to a penalty fee. In addition, settling banks that fail to pay on settlement day will be required to cover NSCC's interest costs due as a result of their failure to settle in a timely manner. NSCC's proposed rule change also makes conforming changes to relevant sections of NSCC's rules.

NSCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it will facilitate the prompt and accurate clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not perceive that the proposed rule change will have an impact on or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change that are filed with Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street N.W., Washington, D.C.

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Letter from Karen L. Saperstein, Vice President/Director of Legal & Deputy General Counsel, NSCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (November 13, 1995).

[3] The text of the proposed rule change is attached as Exhibit A to File No. SR-NSCC–95–13 and is available for review in the Public Reference Section of the Commission.

[4] The Commission has modified the text of the summaries prepared by NSCC.

20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–95–13 and should be submitted by December 19, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–28934 Filed 11–27–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21523; 811–4781]

Flagship Pennsylvania Triple Tax Exempt Fund; Notice of Application

November 20, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Flagship Pennsylvania Triple Tax Exempt Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on September 25, 1995, and amended on November 7, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 15, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service, hearing requests should state the nature of the writer's interest, the reason for the request, and the issue contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, One Dayton Centre, One South Main Street, Dayton, Ohio 45402.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney at (202) 942–0574, or Alison E. Bauer, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

[5] 17 CFR 200.30–3(a)(12) (1994).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Represention

1. Applicant is an open-end investment company organized as an unincorporated Pennsylvania common law trust. On July 23, 1986, applicant registered under the Act and filed a registration statement under the Securities Act of 1933 on Form N–1A. Applicant's registration statement was declared effective on September 10, 1986 and applicant's initial public offering commenced promptly thereafter.

2. On December 9, 1994, applicant's trustees, including the independent trustees, unanimously approved an asset purchase agreement (the "Agreement") under which applicant's assets and liabilities would be sold to Flagship Tax Exempt Funds Trust (the "Trust"), a registered open-end investment company with the same investment adviser as the applicant.

3. Applicant has existed separately from the Trust solely because of Pennsylvania tax law. Because of changes in Pennsylvania tax law, it was no longer necessary for applicant to continue to operate separately. Accordingly, and in compliance with rule 17a–8 under the Act, the applicant's Board of Trustees determined that the Agreement and merger into the Trust was in the best interests of the applicant and that the interest of the existing shareholders would not be diluted as a result of the transaction. In addition, the Board determined that permitting applicant's business to continue as a series of the Trust should result in cost savings and more efficient operations.

4. Proxy statements were filed with the SEC and distributed to applicant's shareholders on or about march 6, 1995. At the shareholder's meeting held on April 21, 1995, applicant's shareholders approved the sale of assets of the Trust.

5. On May 31, 1995, applicant's net assets were transferred to the Trust in exchange for a number of shares of Flagship Pennsylvania Triple Tax Exempt Fund, a series of the Trust ("new Pennsylvania fund"), at the same net asset value and for the same number of shares as applicant's shares of beneficial interest outstanding on such date. Each shareholder of applicant became an owner of new Pennsylvania fund shares equal in number and aggregate net asset value to shares held immediately prior to the transaction. No fees or brokerage commissions were paid.

6. The expenses incurred in connection with the sale of assets were primarily legal and accounting fees, and printing and mailing costs associated with the distribution of the proxy statement. These costs were all borne by applicant.

7. As of the filing date of this application, applicant had no assets and no debts or liabilities. Applicant has no shareholders, and is not a party to any litigation or administrative proceeding. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

8. On May 31, 1995, applicant dissolved pursuant to the requirements of Pennsylvania law.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–28928 Filed 11–27–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IA–1537; 803–096]

Foster Industries, Inc.; Notice of Application

November 20, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Advisers Act of 1940 (the "Advisers Act").

APPLICANT: Foster Industries, Inc.

RELEVANT ADVISERS ACT SECTIONS: Sections 206A and 205(a)(1).

SUMMARY OF APPLICATION: Applicant is a corporation engaged solely in the business of investing for the benefit of fifteen natural persons, ten trusts, and five custodianships. All such natural persons, and the beneficiaries of the trusts and custodianships, are related to one family. Applicant requests an order to permit registered investment advisers to charge it performance-based advisory fees.

FILING DATE: The application was filed on February 27, 1995 and amended on June 23, 1995, September 19, 1995. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 15, 1995 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 681 Andersen Drive, Pittsburgh, PA 15220.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 942–0563, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Pennsylvania corporation formed as an operating company in 1918 by four brothers of the Foster Family.[1] In 1977, the Foster Family business was sold and the proceeds of sale were retained by applicant and have been managed since that time by applicant on a collective basis for the benefit of applicant's shareholders. Since 1977, applicant has been engaged solely in the business of investing such funds under management as a private investment fund exempt from registration as an investment company pursuant to section 3(c)(1) of the Investment Company Act of 1940. Applicant requests an order under section 206A of the Advisers Act that would permit registered investment advisers to charge it performance-based advisory fees.

2. Applicant is essentially a Foster Family investment vehicle which, as of December 31, 1994, had total assets of approximately $62.1 million. Applicant has one class of stock outstanding held by thirty shareholders of record, fifteen of which are individual Foster Family members, ten of which are irrevocable trusts established for the benefit of one or more Foster Family members (the "Trusts"), and five of which are custodianships established under the Pennsylvania Uniform Gifts to Minors Act for the benefit of five Foster Family members who are currently minors (the "Custodianships"). The assets to be delivered out of the Trusts and Custodianships to each beneficiary will be so delivered, in the case of the Trusts, when all of such beneficiary's ancestors have passed away, and, in the case of the Custodianships, when the beneficiaries reach the age of majority.

3. All investment decisions are made for applicant by its board of directors, which consists of nine members, seven of whom are Foster Family members. Applicant's president and his staff prepare and present an analysis of each prospective investment to the investment committee (the "Investment Committee") and the board of directors. The Investment Committee recommends investment proposals favorably reviewed by it to the board of directors for approval.

4. None of the president, the other officers or directors receive any compensation determined on the basis of a share of capital gains upon, or capital appreciation of, all or any portion of the invested assets of applicant. However, applicant may in the future adopt an incentive compensation plan for its officers that may provide for compensation based on profitability. Neither the president, nor any other officer who is not also a Foster Family member, is the legal or beneficial owner of any shares of applicant's stock. Each officer and director is and will continue to be wholly unaffiliated with any registered investment adviser providing services to applicant.

5. Applicant contemplates entering into performance fee agreements from time to time with registered investment advisers. Under investment guidelines to be adopted by the board of directors in connection with such performance fee agreements, not more than 5% of applicant's assets will be invested at any one time under any single performance fee agreement, and not more than 25% of applicant's assets will be invested under all performance fee agreements at any one time. In addition, the investment guidelines will require that all performance fee agreements must meet the requirements of sections (c), (d), and (e) of rule 205–3.

6. Of applicant's thirty shareholders, twelve of the fifteen individual shareholders and four of the ten Trusts (the "Qualified Shareholders") qualify under the client eligibility requirements of rule 205–3(b) under the Advisers Act. The remaining three individuals, six trusts, and five Custodianships (the "Unqualified Shareholders") do not individually satisfy the net worth requirement of rule 205–3(b).[2] The Qualified Shareholder hold in the aggregate 91.63% of applicant's shares, and the Unqualified Shareholders hold the remaining 8.37%. Except for the presence of the Unqualified Shareholders, the requirements of rule 205–3(b) are satisfied with respect to applicant and its shareholders in all respects.

7. Applicant is party to a shareholders' agreement which requires it to purchase any of its shares tendered for redemption at a price which generally reflects the fair market value of its investments, less certain reserves, and subject to its right to distribute to a redeeming shareholder in partial satisfaction of such obligation such shareholder's *pro rata* portion of certain illiquid investments. Applicant represents that no shareholder will transfer any shares of applicant other than to applicant or to either one or more Foster Family members or to one or more trusts or custodianships established solely for the benefit of Foster Family members where each such trust or custodianship is either a Qualified Shareholder or has at least one Qualified Shareholder Foster Family member as a trustee or custodian, as applicable.

8. Applicant desires that the requested exemptive order be applicable not only with respect to the current Unqualified Shareholders but also with respect to any future Unqualified Shareholder who is either an individual Foster Family member or a trust or custodianship where such trust or custodianship has at least one Qualified Shareholder Foster Family member as a trustee or custodian, as the case may be, and one or more Foster Family members as its sole beneficiaries. All such Foster Family members, trusts, and custodianships will comply with the representations set forth in this application.

Legal Analysis

1. Section 205(a)(1) of the Advisers Act generally prohibits a registered investment adviser from receiving compensation on the basis of a share of capital gains in or capital appreciation of a client's account. Section 206A of the Advisers Act provides that the SEC may exempt any person or transaction

[1] "Foster Family" means (i) all lineal or adopted descendants of the four founding Foster brothers, (ii) all spouses of such descendants, and (iii) all in-laws of any founding Foster brother.

[2] As applicant contemplates entering into several performance fee agreements with different registered investment advisers, it is unlikely that Unqualified Shareholders will satisfy the alternative requirement of rule 205–3(b) of having $500,000 under the management of each applicant's registered investment adviser.

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from any provision of the Advisers Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Advisers Act.

2. Notwithstanding the general restrictions of section 205(a)(1), an investment adviser required to register under the Advisers Act may enter into a performance-based compensation agreement if such contract meets the requirements of rule 205–3 and if each advisory client meets certain net worth and sophistication requirements set forth in the rule. With specific reference to a private investment company such as applicant, section (b)(2) of rule 205–3 provides that each shareholder must either have at least $500,000 under management of the investment adviser or have a net worth at the time the performance-based compensation agreement is entered into of more than $1,000,000.

3. The client eligibility requirements of rule 205–3 reflect the SEC's recognition that such requirements were a means of determining client capacity to understand and bear the risks associated with performance fee contracts. Applicants state that the considerable investment expertise and experience of the persons comprising its board of directors, Investment Committee and senior management group will enable applicant to more than adequately understand and assess the method of compensation and attendant risks with respect to any proposed performance-based compensation agreement.

4. Applicant believes that there is a strong commonality of interest between the members of the board of directors and Investment Committee and both the legal and beneficial owners of Unqualified Shareholder stock. There is a close family relationship between the beneficial owners of Qualified Shareholder stock and both the legal and beneficial owners of Unqualified Shareholder stock. By reason of the ownership of a majority of applicant's stock by the Qualified Shareholders and their ability to elect the board of directors (which, in turn, appoints members to the Investment Committee), the analysis of the merits and risks of entering into any performance fee agreement will be made for the benefit and protection of the Unqualified Shareholders my individual Qualified Shareholders who are close family members of the Unqualified Shareholders (or of the ultimate beneficial owners thereof, in the case of trusts and custodianships), and by other directors elected by the Qualified Shareholders. Further, the Qualified Shareholders making the investment decisions for applicant have substantial assets invested in applicant and are, therefore, subject to the same risks as the Unqualified Shareholders. Thus, applicant believes that granting the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Advisers Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–28933 Filed 11–27–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21525; 812–9694]

Pitcairn Group L.P.; Notice of Application

November 20, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Pitcairn Group, L.P.

RELEVANT ACT SECTION: Order requested under section 6(c) for an exemption from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant is a privately-held investment company substantially owned and controlled by one family and certain persons and entities affiliated with, or otherwise related to, members of that family. Applicant seeks an exemption from all provisions of the Act.

FILING DATES: The application was filed on July 28, 1995, and amended on October 10, 1995 and November 13, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 19, 1995 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549; Applicant, Suite 3000, One Pitcairn Place, 165 Township Line Road, Jenkintown, Pennsylvania 19046.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Senior Attorney, at (202) 942–0565, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Delaware limited partnership that elected to be regulated as a business development company under section 54 of the Act, was organized in 1986 as a vehicle for private investments for the Pitcairn family. Applicant was capitalized with assets derived from the liquidation of the Pitcairn Company, a Delaware corporation formed in 1923 by members of the Pitcairn family (the "Family") to hold and manage the estate of John Pitcairn, one of the founders of Pittsburgh Plate Glass Company. Limited partnership interests ("Units") in applicant were distributed to the former shareholders of the Pitcairn Company.

2. Over 97% of the Units are held by or for the benefit of Family members, related trusts, and Family-Related Organizations (as defined below).[1] Approximately 22.7% of the Units are owned directly by individual Family members and 69.4% are held in various irrevocable trusts crated between the years 1923 and 1979 primarily by John Pitcairn's three sons and their spouses for the benefit of their descendants. In addition, 5.6% of the Units are owned directly by eight religious organizations, academic institutions of foundations created or affiliated with and supported by the Family (the "Family-Related Organizations").[2] None of the individuals, trust, or Family-Related

[1] The Units are registered under section 12 of the Securities Exchange Act of 1934 (the "1934 Act"), although there are fewer than 300 holders of record, so Pitcairn Group can maintain its election to be treated as a business development company under section 54 of the Act. If the SEC grants the relief requested by this application, applicant intends to deregister the Units under section 12(g)(4) of the 1934 Act.

[2] All of the Family-Related Organizations that own Units were shareholders of the Pitcairn Company and had received that stock as the result of gifts from Family members over many years.

Organizations currently owns in excess of 10% of the Units.[3]

3. Applicant has three general partners. Two of these are individual members of the Family, who have served since inception. The third general partner is Pitcairn Company ("Pitco"), applicant's managing general partner since April 17, 1990.

4. Pitco, a Pennsylvania corporation wholly-owned by applicant, is a registered investment adviser and serves as investment adviser to applicant. Pitco (directly, and through its wholly-owned subsidiary Pitcairn Trust Company) provides advisory, management, supervisory, and administrative services to applicant (subject to the supervision of the individual general partners of applicant). Applicant has no employees of its own.

5. Pitcairn Trust Company ("Trustco") is a state chartered trust company. Trustco primarily serves as co-trustee of personal trusts created by and for the benefit of members of the Family. Trustco maintains a staff of professional investment managers to oversee direct investments by trust accounts. Trustco provides income tax planning and administration, financial planning, trust and estate administration, asset allocation, investment advice, and miscellaneous financial services to Family members.

6. There are currently nine members of the board of directors of Pitco: six are Family members who beneficially own limited partnership interests in applicant; one is the President of Pitco (who, as a non-Family director, is elected annually by the Board of Directors); and the remaining two are non-Family. There are currently nine members of the board of directors of Trustco: six are Family members; two are non-Family senior officers of Trustco; and one is a retired, non-Family former senior officer of a subsidiary of The Pitcairn Company.

7. Representation of the boards of Pitco and Trustco historically has been drawn from all three lines of descendants of John Pitcairn, ensuring that the views of each line are heard and that the Family's collective interests are served. In 1990, the Family adopted a Family Governance Structure Charter (the "Charter") that defines the role of Family leaders, as directors of Pitco, in establishing policies and overall direction for the Family entities and communicating information directly to Family members.[4]

8. Applicant's Units have never been offered or sold to the public. During the past nine years (except for the redemption of Unites by applicant and transfers in connection therewith), Units have been transferred solely to Family members and/or related trusts. Since 1986, there have been only eight sales between Unit holders. There is no trading market for the Units.

9. In May, 1995, applicant made a private offering of additional Units to replace capital used to redeem approximately 39% of the outstanding limited partnership interests of a portion of the Family that no longer wished to be clients or owners of applicant and its related entities.[5] Applicant raised approximately $5.3 million from existing Family members and from trusts that benefit descendants of John Pitcairn.

10. The ownership of Units is likely to remain entirely within the Family for three reasons. First, the terms of governing trust instruments are exclusively for the benefit of present and/or future generations of Family members (subject to the rule against perpetuities). Second, the Units are not freely transferable. Limited partners only can sell or otherwise dispose of their Units or portion thereof pursuant to the terms of the partnership agreement. Third, the admission of new (substitute) limited partners requires the consent of Pitco as the managing general partner, regardless of whether the transfer results from a voluntary transfer or assignment, from death, or by operation of law. Inasmuch as Pitco effectively is controlled by the Family, the Family controls, and will continue to control, access to membership in applicant.

11. To ensure that Units will remain Family-controlled and privately-owned, a majority in interest of applicant's limited partners have approved an amendment to the partnership agreement to provide for a future restriction on the transferability of Units. The amendment provides that the consent of Pitco, as managing general partner, must be withheld for any transfer or assignment of Units to other than Family members, trusts for their benefit, their estates, any entity wholly-owned by one or more of them, or to any partner of record as of October 13, 1995 (the "Permitted Transferees") unless (i) Pitco in its sole and absolute discretion, grants its consent and (ii) the proposed transfer or assignment does not result in greater than 10% of the Units being owned directly or indirectly by or for the benefit of persons who are not Permitted Transferees. The amendment was approved at a meeting held on November 10, 1995 (the "Partnership Meeting").[6] Applicant believes that this amendment will be effective in maintaining its essentially private nature.

12. At the Partnership Meeting, a majority in interest of applicant's limited partners approved the withdrawal of applicant's election to be treated as a business development company. If the SEC grants the relief requested by this application, applicant will withdraw its election to be regulated as a business development company under the Act.

Applicant's Legal Analysis

1. Prior to 1986, applicant relied on section 3(c)(1) of the Act for an exemption from registration under the Act. Section 3(c)(1) excepts from the definition of "investment company" any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making, and does not presently propose to make, a public offering of its securities. With the increase in Family members so that applicant's beneficial owners exceeded 100, however, applicant could no longer rely on the exemption and elected business development company status under the Act.

2. A business development company is a closed-end investment company whose principal activity is investing in and providing managerial assistance to small, growing businesses. As a business development company, applicant must invest 70 percent of its assets primarily in "eligible portfolio companies" as defined in section 2(a)(46) of the Act.

3. Applicant has found that continued compliance with the obligations imposed on business development companies is burdensome. In addition

[3] Applicants believe that the actual number of individual beneficial owners (excluding Family-Related Organizations) who have an economic interest in Units, either directly or as an income beneficiary of trusts, could be deemed to be 148.

[4] The Charter sets forth the process for selecting the candidates for the board of directors of Pitco. A nominating committee proposes candidates for election to Pitco's board of directors. Any other Family member may run for a board position after receiving the endorsement of three Family members. A straw vote of Unit holders is taken and the results, which are only advisory, are relayed to applicant's general partners. Applicant's general partners then elect the Family member directors of Pitco. Non-Family directors of Pitco are selected annually by applicant's individual general partners, after considering the views of the Family directors. The directors of Pitco, in turn, elect the directors of Trustco.

[5] *See* Investment Company Act Release Nos. 20982 (March 31, 1995) (notice) and 21031 (April 26, 1995) (order).

[6] The effectiveness of the amendment is dependent upon the SEC granting the relief requested by this application.

to the time and costs asscciated with 1934 Act reporting obligations necessitated by applicant's status as a business development company, the investment limitations in section 55 of the Act make it difficult to achieve adequate diversification of investments by applicant in privately held companies or partnerships.

4. Applicant asserts that section 3(c)(1) evidences the intention of Congress to exclude "private" investment companies from the purview of the Act. Under section 6(c) of the Act the SEC may exempt private investment companies that have more than 100 beneficial owners.[7] Applicant contends that its request for a conditional order under section 6(c) is consistent with relief granted to other private investment companies substantially owned and controlled by a single family.[8] Applicant asserts that it is a private investment vehicle not intended to be within the scope of the Act and that the protections of the Act are not necessary for investors in family-sponsored enterprises such as applicant.

5. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant believes that the requested exemption meets these standards.

Applicant's Conditions

Applicant agrees that the order granting the requested relief shall be subject to the following conditions:

1. Applicant will continue to provide each investor annual financial statements audited by an accounting firm of recognized national standing.

2. Applicant, through its managing general partner, shall neither admit as a new investor, nor permit the assignment or transfer of any interest therein to any individual or entity, if such admission, assignment or transfer would cause applicant to fail to be 90% owned by or for the benefit of Family members, trusts for their benefit, their estates, any entity wholly-owned by them, and Family-Related Organizations.

3. Applicant shall not have as a general partner a person or entity other than Pitco, a Family member, an entity controlled directly or indirectly by Family members, or an affiliated person of applicant.

4. Applicant shall not knowingly make available to any broker or dealer registered under the 1934 Act any financial information concerning applicant for the purpose of knowingly enabling such broker or dealer to initiate any regular trading market in any Units.

5. Pursuant to section 54(c) of the Act, applicant will file a notification of withdrawal of election to be subject to sections 55 through 65 of the Act, as soon as practical (but in no event later than 120 days) after receiving the order requested by this application.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–28929 Filed 11–27–95; 8:45 am]

BILLING CODE 8010–01–M

[7] *See Maritime Corporation*. 9 SEC 906, 909 (1941).

[8] *See, e.g., Bessemer Securities Corporation*, Investment Company Act Release Nos. 18529 (Feb. 5, 1992) (notice) and 18594 (March 3, 1992) (order); *Richardson Corporation*, Investment Company Act Release Nos. 16566 (Sept. 22, 1988) (notice) and 16606 (Oct. 21, 1988) (order); and *5600, Inc.*, Investment Company Act Release Nos. 16004 (Sept. 25, 1987) (notice) and 16067 (Oct. 21, 1987) (Order).

[Release No. 35–26415; International Series Release No. 888]

Filings Under the Public Utility Holding Company Act of 1935, as amended ("Act")

November 21, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 18, 1995, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should by filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities (70–7883)

Northeast Utilities ("Nu"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01090–0010, a registered holding company, has filed a post-effective amendment to its application-declaration under sections 6(a), 7, 9(a), and 10 of the Act and rule 54 thereunder.

By order dated November 18, 1991 (HCAR No. 25411) ("Order"), the Commission approved the issuance and sale of up to 11 million NU common shares, $5.00 par value, to an employee stock ownership plan ("ESOP") trust to be added to a NU system 401(k) plan ("Plan").

In accordance with the terms of the Order, the Plan, and the ESOP trust agreement, the ESOP trustee votes allocated ESOP shares as directed by the employee participants who beneficially own the allocated shares, and abstains from voting allocated ESOP shares for which no direction from the beneficial owner is received. No change in the voting of allocated ESOP shares is contemplated.

However, under the Order the ESOP trustee votes the unallocated shares in the same proportion of yes and no votes and abstentions as it votes the allocated shares. This results in a large number of abstentions of unallocated ESOP shares. The nonvoted unallocated shares represented almost 3 percent of NU's shares outstanding at the time of its last annual meeting on May 23, 1995.

NU now proposes to amend the Plan and the ESOP trust agreement to modify the manner in which the ESOP trustee votes the unallocated shares held in the ESOP trust. Under the proposed change, allocated ESOP shares would still be voted in accordance with participant instructions, including abstaining from voting allocated ESOP shares for which no instructions are received. However, unallocated ESOP shares would be voted "yes" or "no" in the same proportions as allocated ESOP shares for which voting instructions are received.

In a "no-action" letter dated March 25, 1992, the Commission staff analyzed the trust holdings of NU common shares under the Plan, including the voting requirements for the ESOP shares, and concluded that it would not recommend any enforcement action under the Act that would result in the Plan or the bank trustee under the Plan being deemed to be a "holding company," as defined in section 2(a)(7)(A) of the Act, or an "affiliate," as defined in section 2(a)(11)(A) of the Act, on account of the trustee's holding and voting the NU common shares under the Plan. NU believes that following the change in the voting of unallocated shares described above, the ESOP trustee should still not be deemed to "own, control, or hold with power to vote" the shares held in the ESOP trust, and that such shares should still not be counted in determining whether the Plan or the ESOP trustee is a "holding company" or "affiliate" of NU under the Act, because the ESOP trustee will still have no discretion as to how ESOP shares are voted.

NorAm Energy Corp. (70–8673)

NorAm Energy Corporation ("NorAm"), 1600 Smith, 11th floor, Houston, Texas, 77002, has filed an application under Section 3(b) of the Act for an order of exemption in connection with its contemplated acquisition, for an aggregate investment of up to $150 million over the next five-year period, of (i) An interest in concessions granted by the government of Colombia to establish natural gas distribution services to areas in Colombia, (ii) an interest in concessions granted by the government of Mexico to establish natural gas distribution services in Mexico, and (iii) a minority interest in one or more existing Mexican natural gas distribution businesses.

NorAm is engaged in the distribution and transmission of natural gas, with business and operations in Texas, Louisiana, Arkansas, Mississippi, Oklahoma, Missouri and Minnesota. NorAm is not a public utility holding company under the Act.

NorAm proposes to participate in the purchase of an interest in concessions granted by the government of Colombia. NorAm will acquire minority interests in each concession through ownership of a Colombian corporation ("Colombian Corporation").

NorAm also proposes to participate in the purchase of an interest in concessions granted by the government of Mexico and the purchase of minority interests in one or more existing Mexican natural gas distribution businesses. NorAm will participate in such acquisitions through a memorandum of understanding entered into with Grupo Gutsa and TransCanada Pipelines for the creation of a subsidiary in Mexico ("Mexican Corporation"). NorAm's interests in the Colombian concessions and the Mexican concessions and businesses will in each instance not exceed 49%.

The concessions and existing Mexican gas distribution businesses would be gas utility companies under the Act. Thus NorAm, the Colombian Corporation and the Mexican Corporation would each be a holding company under the Act.

Section 3(b) of the Act authorizes the Commission to exempt any subsidiary company of a holding company from the Act if such subsidiary company derives no material part of its income, directly or indirectly, from sources within the United States, and neither it nor any of its subsidiary companies is a public utility company operating in the United States.

NorAm states that neither the concessions nor the existing businesses will derive any income, directly or indirectly, from sources in the United States, and will operate, or have any subsidiary operating, as a public utility company in the United States. NorAm further states that the proposed acquisitions will not affect or impair utility functions or the financial condition of NorAm. Under these circumstances, NorAm states that it is not necessary in the public interest or for the protection of investors to subject the concessions or the existing businesses to any provisions of the Act.

Entergy Corporation, et al. (70–8681)

Entergy Corporation ("Entergy"), 639 Loyola Avenue, New Orleans, Louisiana 70113, a registered holding company, and its wholly-owned, nonutility subsidiary company, Entergy Enterprises, Inc. ("Enterprises"), Three Financial Centre, Little Rock, Arkansas 72211, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 13 of the Act and rules 45 and 54 thereunder.

Entergy proposes to invest up to $30 million through September 30, 1997, in one or more new direct or indirect subsidiaries of Entergy and/or Enterprises ("New Subsidiaries"). The investments would be in the form of acquisitions of stock and/or debt securities, capital contributions, open account advances, guarantees of indebtedness or other extensions of credit, whether directly in the New Subsidiary or through one or more New Subsidiary intermediate holding companies. As a percentage of consolidated assets of the Entergy System ($22.5 billion at June 30, 1995), the proposed investments would amount, in the aggregate, to not more than 0.133%. Interest on the debt securities would be established at a rate not to exceed the prime rate in effect on the date of the issuance of the securities at a bank designated by Entergy, and the debt securities would have a maturity not later than December 31, 2005.

The New Subsidiaries either directly or indirectly would acquire interests in nonutility businesses including, among others, network-based businesses, telecommunications, energy and security management services businesses or environmental technology businesses. Network-based businesses or telecommunications would involve wired or wireless networks or systems, including, among others, cable or personal communications or other data communications services, which could be interactive and developed to permit utility applications, including remote meter reading and reporting of power outages. Such businesses could operate inside and outside the Entergy System's service territory, or both. The proceeds from the investments will not be used to invest directly or indirectly in an exempt wholesale generator or foreign utility company.

The proposed investments would be made nonrecourse as to other Entergy System companies and assets, and be isolated in one or more New Subsidiaries. Enterprises would provide services to the New Subsidiaries of the types and at the prices specified pursuant to the Commission's order dated June 30, 1995 (HCAR No. 26322). To the extent that additional affiliate transactions between the New Subsidiaries and other Entergy System companies, except for the investments and the provision of services by Enterprises, become necessary, the applicants will seek any requisite regulatory approval at the time.

Cinergy Corp., et al. (70–8717)

Cinergy Corp., a registered holding company, and Cincinnati Gas & Electric Company ("CG&E"), its wholly-owned public-utility subsidiary company (collectively, "Applicants"), both located at 139 East Fourth Street, Cincinnati, Ohio 45202, have filed a declaration under section 12(d) of the Act and rules 42, 44 and 54 thereunder. Applicants request authorization for CG&E to sell certain moveable property of its Woodsdale Generating Station, Units 1 and 7, including gas combustion turbines, transformers, boilers and water pumps ("Equipment"), to a non-affiliated third-party finance lessor which would concurrently lease back the Equipment to CG&E.[1]

Applicants expect the Equipment to be sold for an amount not to exceed $40

[1] Applicants are not seeking authorization from this Commission for the leaseback of the Equipment. CG&E has applied to the Public Utilities Commission of Ohio ("PUCO"), the state commission with jurisdiction over CG&E, for approval of the leaseback transaction. Upon receipt of a PUCO order approving the leaseback (a copy of which will be filed with this Commission by amendment to applicant's declaration), applicants will rely on the exemption provided by section 9(b)(1) of the Act.

million and not less than its net book value (estimated to be not less than $20 million), depending on its aggregate appraised value, as determined by an independent appraiser to be selected by the buyer. CG&E would use the net proceeds from the sale of the Equipment to redeem, prior to maturity, all or some of one or more series of its outstanding first mortgage bonds and repay short-term debt incurred in connection with such redemption.[2] The balance, if any, of such net proceeds would be used for other general corporate purposes. CG&E is currently considering the redemption, in whole or in part of its First Mortgage Bonds, 10.20% Series due December 1, 2020, which are callable December 1, 1995 at a redemption price of 107.44% plus accrued interest to the redemption date.[3]

Applicants state that the proposed redemption of high cost first mortgage bonds using the Equipment sale proceeds is expected to produce greater cost savings than might otherwise be achieved if CG&E were to issue and sell other securities to fund the redemption.

National Fuel Gas Company, et al. (70–8729)

National Fuel Gas Company ("National"), a registered holding company, 10 Lafayette Square, Buffalo, New York 14203, and its wholly-owned subsidiary companies: National Fuel Gas Distribution Corporation ("Distribution"), National Fuel Gas Supply Corporation ("Supply"), Seneca Resources Corporation ("Seneca"), Highland Land & Minerals, Inc. ("Highland"), Leidy Hub, Inc. ("Leidy"), Horizon Energy Development, Inc. ("Horizon"), Data-Track Account Services, Inc. ("Data-Track"), all located at 10 Lafayette Square, Buffalo, New York 14203, National Fuel Resources, Inc. ("NFR"), 478 Main Street, Buffalo, New York 14202 and Utility Constructors, Inc. ("UCI"), East Erie Extension, Linesville, Pennsylvania 16424 (collectively, "Subsidiary Companies"), have filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10, 12 (b) and 12(f) of the Act and rules 43, 45 and 54 thereunder.

By prior Commission order, National and its Subsidiary Companies were authorized to participate in the National system money pool ("Money Pool") through December 31, 1995. National and its Subsidiary Companies now propose to continue to participate in, and incur short-term borrowings from the Money Pool, through December 31, 2000. Total outstanding short-term borrowings from the Money Pool by Distribution will not exceed a principal amount of $315 million. National will not borrow funds from any Subsidiary Company through the Money Pool.

In addition, in the event that intra-system sources of funds are insufficient to meet short-term needs of the Subsidiary Companies, National proposes, from time-to-time through December 31, 2000, to: (1) Issue and sell, up to $300 million aggregate principal amount at any one time outstanding of commercial paper ("Commercial Paper") directly or through dealers and placement agents; and/or (2) issue an aggregate principal amount of up to $600 million of short-term unsecured notes ("Notes") under credit facilities with banks and financial institutions. The aggregate principal amount of such Commercial Paper and Notes shall not exceed $600 million outstanding at any one time. The proceeds of such external borrowings by National shall be made available to its Subsidiary Companies through the Money Pool. In addition, National proposes that up to $75 million of its external borrowing be made available for its own corporate purposes.

If only surplus funds of National and its Subsidiary Companies make up the funds available in the Money Pool, the interest rate applicable and payable to or by the Subsidiary Companies for all loans of such surplus funds will be the rates for high grade unsecured 30-day commercial paper sold through dealers by major corporations as quoted in The Wall Street Journal.

If external funds make up all of the funds available in the Money Pool, or when surplus funds from National and other participating Subsidiary Companies and external funds are concurrently borrowed through the Money Pool, the interest rate applicable to all such borrowings and payable by borrowing Subsidiary Companies will be equal to National's net cost for such external borrowings.

The borrowing arrangements with banks or financial institutions may require compensating balances and/or commitment fees or similar fees. National requests authority to incur, if necessary, commitment or similar fees not to exceed one-half (½) of one percent (1%) of average daily credit facilities available, and/or compensating balances not to exceed twenty percent (20%) of the credit facility established. National, at all times, will attempt to negotiate the most favorable effective borrowing rate taking into account any compensating balances and/or fees.

National has, and from time to time through December 31, 2000, will continue to enter into interest rate and currency exchange agreements ("Swap Agreement(s)") with one or more parties ("Counterparty"), covering a total principal amount of up to $300 million for terms of one month to five years. In no event will the effective fixed rate of interest paid by National inclusive of any fees, exceed by more than 2.0% per annum the yield, at the time of entering into any such Swap Agreement, on direct obligations of the U.S. Government with maturities comparable to that of the applicable Swap Agreement. From time to time, National may be obligated to pay arrangement fees and/or legal fees and other expenses in connection with these Swap Agreements. National requests authority to allocate all such fees and expenses together with the payments made to a Counterparty or received from a Counterparty among National and the Subsidiary Companies based upon their weighted average amount of borrowings outstanding during the period when such amounts are paid or received.

Consolidated Natural Gas Company (70–8739)

Consolidated Natural Gas Company ("Consolidated"), CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222, a registered holding company, has filed a declaration under sections 6(a), 7, 9(a), 10, and 12(c) of the Act and rules 42 and 54 thereunder.

Consolidated seeks authorization to implement a stockholder rights plan ("Plan") and to enter into a related Rights Agreement ("Agreement") with Society National Bank, as agent. To implement the Plan, the board of directors of Consolidated would declare a dividend distribution of one right ("Right") for each outstanding share of common stock, $2.75 par value, of Consolidated ("Common Stock") to stockholders of record at the close of business on a specified record date. Each Right would entitle the holder to purchase from Consolidated one-half of a share of Common Stock at a price of $175 per share ($87.50 per half-share), subject to adjustment ("Purchase Price"). Initially, the Rights will be evidenced by the certificates for shares of Common Stock to which they relate, and will be transferable only with the Common Stock. Until a Right is exercised or exchanged for Common Stock, as described below, the holder, as such, will have no rights as a stockholder of Consolidated.

Upon the earlier to occur of (a) ten days after the date ("Shares Acquisition Date") of the public announcement that a person or affiliated group ("Acquiring Person") has acquired or obtained the right to acquire beneficial ownership of securities having 10% or more of the voting power of the outstanding voting securities of Consolidated, or (b) ten days after commencement of, or announcement of the intention of a person to make, a tender or exchange offer that would result in such person acquiring, or obtaining the right to acquire, beneficial ownership of securities having 10% or more of the voting power of the outstanding voting securities of Consolidated (such earlier date being the "Distribution Date"), separate certificates evidencing the Rights will be mailed to holders of record of Common Stock as of the close of business on the Distribution Date.

The Rights will become exercisable after the Distribution Date on the following terms: (1) If a person becomes an Acquiring Person after the Distribution Date, each holder (other than an Acquiring Person) may exercise a Right and receive Common Stock (or, in certain cases, cash, property or other securities of Consolidated) having a value equal to two times the Purchase Price of the Right then in effect. Rights that are beneficially owned by an Acquiring Person will be null and void. (2) If, after the Shares Acquisition Date, Consolidated is acquired in a business combination transaction of 50% or more of its assets or earning power is sold or transferred, each holder of a Right will have the right to receive, upon exercise, common stock of the acquiring company having a value equal to two times the Purchase Price of the Right then in effect.

The Purchase Price is subject to adjustment to prevent dilution in certain situations involving stock dividends, splits, combinations or reclassification; grants of warrants to subscribe for or purchase Common Stock or convertible securities at less than market price; or distribution to holders of Common Stock of evidences of indebtedness or assets or of subscription rights or warrants. Adjustments will be required upon the earlier of three years from the date of the event giving rise to the adjustment or the time when cumulative adjustments require a 1% or more change in the Purchase Price.

Consolidated may redeem the Rights in whole, but not in part, prior to 5 p.m. on the tenth day after the Shares Acquisition Date (subject to extension by the board of directors of Consolidated for an additional 20 days), at a price of $0.01 per Right, payable in cash or stock. In addition, at any time after a person becomes an Acquiring Person, the board may exchange the Rights (other than Rights held by an Acquiring Person, which become void), in whole or in part, at an exchange ratio of one share of Common Stock (and/or other securities, cash or other assets having the same value as a share of Common Stock) per Right, subject to adjustment.

The Agreement may be amended by the board of directors of Consolidated without the consent of the holders of Rights prior to the Distribution Date. Therefore, the board may amend the Agreement in order to cure any ambiguity, defect or inconsistency or to make changes that do not adversely affect the interests of holders of Rights (other than any Acquiring Person), provided that no amendment may be made on and after the Distribution Date that changes the principal economic terms of the Rights.

Yankee Atomic Electric Company (70–8743)

Yankee Atomic Electric Company ("Yankee Atomic"), 580 Main Street, Bolton, Massachusetts 01740, a subsidiary of both New England Electric System and Northeast Utilities, both registered holding companies, has filed an application under sections 6(a) and 7 of the Act and rule 54 thereunder.

By order dated March 11, 1994 (HCAR No. 26002), Yankee Atomic was authorized to borrow up to $10 million through December 31, 1995.

Yankee Atomic now proposes to borrow money from one or more banks up to a maximum aggregate amount outstanding at one time of $10 million, from January 1, 1996 through December 31, 1997.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29002 Filed 11–27–95; 8:45 am]

BILLING CODE 8010–01–M

[2] If short-term debt is used to redeem bonds prior to receiving regulatory authority for the sale of the Equipment, CG&E will use net Equipment sale proceeds to repay all or a portion of such short-term debt.

[3] As of September 30, 1995, these bonds had an aggregate principal amount of $150 million outstanding.

[Rel. No. IC–21524; 812–9730]

State Street Research Tax-Exempt Fund, et al.; Notice of Application

November 20, 1995.

AGENCY: Securities and Exchange Commission (the "SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: State Street Research Tax-Exempt Fund (the "Acquiring Fund"), State Street Research California Tax-Free Fund (the "California Fund"), State Street Research Florida Tax-Free Fund (the "Florida Fund"), State Street Research Pennsylvania Tax-Free Fund (the "Pennsylvania Fund") (collectively, the California, Florida and Pennsylvania Funds are the "Acquired Funds" and the Acquiring and Acquired Funds are the "Funds"), and State Street Research & Management Company ("State Street").

RELEVANT ACT SECTIONS: Order requested under section 17(b) of the Act to exempt applicants from the provisions of section 17(a). Applicants further request an order pursuant to rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by section 17(d) and rule 17d–1.

SUMMARY OF APPLICATION: Applicants seek an order to permit applicants to effectuate a reorganization between the Acquiring and Acquired Funds.

FILING DATES: The application was filed on August 21, 1995, and amended on November 1, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 15, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, One Financial Center, Boston, Massachusetts 02111.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds are series of State Street Research Tax-Exempt Trust (the

"Trust"), a Massachusetts business trust registered under the Act as a diversified, open-end management investment company. Each Fund offers four classes of shares. The classes of shares of the Acquiring Fund have identical arrangements with respect to the imposition of initial and contingent deferred sales charges and distribution and service fees as the comparable classes of shares of each of the Acquired Funds. As of July 31, 1995, Metropolitan Life Insurance Company ("Met Life") held with power to vote 10.8%, 43.9%, and 29.4% of the outstanding shares of the California, Florida, and Pennsylvania Funds, respectively.

2. State Street serves as each Fund's investment adviser and State Street Research Investment Services, Inc. (the "Distributor") serves as the distributor for each of the Funds. State Street and the Distributor are both indirect wholly-owned subsidiaries of Met Life.

3. The investment objective of the Acquiring Fund is to seek a high level of interest income exempt from federal income taxes. The Acquiring Fund invests primarily in investment grade tax-exempt debt obligations. The investment objective of the California, Florida, and Pennsylvania Funds is to seek a high level of interest income exempt from federal income taxes and income or property taxes of their eponymous states. The California, Florida, and Pennsylvania Funds invest primarily in investment grade securities issued by or on behalf of their eponymous states.

4. The board of trustees of the Trust has approved agreements and plans of reorganization and liquidation providing for the transfer of all of the assets of each of the Acquired Funds to the Acquiring Funds in exchange for Acquiring Fund shares. The reorganization is subject to the assumption by the Acquiring Fund of all of the liabilities of each of the Acquired Funds.

5. As a result of the reorganization, shareholders of each Acquired Fund will receive, in exchange for his or her shares of an Acquired Fund, shares of the corresponding class of the Acquiring Fund with an aggregate value equal to the value of such shareholder's shares of the Acquired Fund, calculated as of the close of business on the business day immediately prior to the closing for each Fund. Each Acquired Fund will liquidate and distribute shares of the Acquiring Fund to their respective shareholders at or as soon as practicable after the relevant closing.

6. At or prior to the relevant closing, each of the Acquired Funds shall declare a dividend or dividends which shall have the effect of distributing to the shareholders of each Acquired Fund all of the respective Fund's investment company taxable income for all taxable years ending on or prior to the respective closing (computed without regard to any deduction for dividends paid) and all of its net capital gain realized in all taxable years ending on or prior to the respective closing (after reduction for any capital loss carry-forward).

7. The board of trustees of the Acquired Funds, including the trustees who are not "interested persons" as such term is defined by the Act, have concluded that the reorganizations would be in the best interest of the Acquired and Acquiring Funds and that the interests of the existing shareholders of the respective Funds will not be diluted as a consequence thereof. In making this determination, the trustees considered a number of factors, including the smaller size and higher expenses of each of the Acquired Funds compared to the Acquiring Fund and, in each case, the efficiencies resulting from combining the operations of two separate funds with the same investment manager, the same multiple class structure, the same sales load structure, and similar investment objectives and policies.

8. The proposed reorganization is subject to approval by the holders of a majority (as defined in the Act) of the outstanding shares of each Acquired Fund. Approval will be solicited pursuant to a prospectus/proxy statement, which was sent to shareholders of each Acquired Fund on or about October 20, 1995. Each prospectus/proxy statement includes pertinent financial information and projected expense ratios of the combined funds based primarily upon the advisory agreement as it applies to the Acquiring Fund.

9. The expenses of each reorganization, whether or not each reorganization is consummated, will be apportioned between the Distributor and the Funds. Expenses will be allocated to the Acquiring and the applicable Acquired Fund in an appropriate manner on the basis of identifiable direct costs or otherwise on the basis of relative net assets. The Distributor will assume the liability for and pay one-half of each Fund's expenses incurred in connection with each reorganization.

10. The consummation of each reorganization is subject to certain conditions, including that the parties shall have received from the SEC the order requested herein, and the receipt of an opinion of tax counsel to the effect that upon consummation of each reorganization and the transfer of substantially all the assets of each Acquired Fund, no gain or loss will be recognized by the Acquired or Acquiring Funds or their shareholders as a result of the reorganization. Applicants will not make any material changes adversely affecting the rights of shareholders that affect the application without the prior approval of the SEC staff.

Applicants' Legal Analysis

1. Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such an affiliated person, acting as principal, knowingly to sell or purchase securities to or from such registered company.

2. Section 2(a)(3) of the Act defines the term "affiliated person" of another person to include, in pertinent part, (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of such other person, (b) any person directly or indirectly controlling, controlled by, or under common control with such other person, and (c) if such other person is an investment company, any investment adviser thereof.

3. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied. Met Life indirectly owns 100% of the outstanding voting shares of State Street, the adviser to each Fund. Met Life also owns with power to vote more than 5% of the outstanding shares of each of the Acquiring Funds. Accordingly, the Acquiring Fund may be deemed an affiliated person of an affiliated person of each of the Acquired Funds, and vice versa, for reasons not based solely on their common adviser.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from the prohibitions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

5. Applicants believe that the reorganizations are consistent with the policies and purposes of the Act. In addition, applicants state that the exchange of assets will be based on each Fund's relative net asset values. Further, applicants state that the trustees, including the non-interested trustees, have concluded that any potential benefits to Met Life, State Street, the Distributor, and their affiliates as a result of the reorganizations are on balance outweighed by the potential benefits to each Fund and its shareholders. Although income from the Acquiring Fund will be subject to taxation at the state level, whereas income from each Acquired Fund is exempt from taxation in the eponymous state, the trustees have determined that the benefits of the reorganization substantially offset the loss of this tax benefit to the shareholders of each Acquired Fund.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–28930 Filed 11–27–95;8:45am]

BILLING CODE 8010–01–M

[Rel. No. IC–21526; File No. 812–7659]

Vanguard Variable Insurance Fund, et al.

November 20, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Vanguard Variable Insurance Fund ("Fund") and The Vanguard Group, Inc. ("Vanguard").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from Sections 9(a), 13(a), 15(a), and 15(b) and Rules 6e–2(b)(15) and 6e–3(T) (b) (15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit shares of the Fund to be sold to and held by variable annuity and variable life separate accounts of both affiliated and unaffiliated life insurance companies.

FILING DATE: The application was filed on December 20, 1990 and amended on July 23, 1991, August 11, 1995, November 1, 1995 and November 6, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on the application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on December 15, 1995, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of the hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: P.O. Box 2600, Valley Forge, Pennsylvania 19482.

FOR FURTHER INFORMATION CONTACT: Joyce Merrick Pickholz, Senior Counsel, or Wendy Finck Friedlander, Deputy Chief, on (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Fund, a Pennsylvania business trust registered under the 1940 Act as an open-end management investment company, currently consists of seven series, each with its own investment objective and policies. The Fund is a member of The Vanguard Group of Investment Companies ("The Vanguard Group"), a family of over 32 investment companies. The Fund and the other funds in The Vanguard Group obtain virtually all of their corporate management, administrative, shareholding accounting and distribution services at cost through their jointly owned subsidiary, The Vanguard Group, Inc. Vanguard Marketing Corporation ("VMC"), a broker-dealer subsidiary of The Vanguard Group, Inc., markets the shares of the investment companies in the Vanguard Group. An order granting the exemptive relief necessary to implement this arrangement ("Vanguard Order") was issued by the Commission on February 25, 1981 (IC–11645) and amended on December 29, 1992 (IC–19184).

2. The Fund presently sells its shares only to separate accounts of Providian Life & Health Insurance Company (formerly, National Home Life Assurance Company) and First Providian Life & Health Insurance Company (formerly, National Home Life Assurance Company of New York) to fund variable annuity contracts. The annuity contracts are distributed without the imposition of a sales load. Vanguard, through VMC, is the sole distributor of the contracts and bears all expenses related to the distribution of such contracts. As a member of the Vanguard Group, the Fund contributes to the cost of VMC's distribution efforts in accordance with provisions of the Vanguard Order.

3. As a member of The Vanguard Group, the Fund contributes to distribution expenses of VMC under the Vanguard Modified Formula ("VMF") on the same basis as the other funds in The Vanguard Group. The Fund currently accrues for such costs an amount of approximately .02% of assets annually to cover its share of the cost of distributing shares of the investment companies in The Vanguard Group. Applicants state that this amount is one tenth of the .20% limit contained in the Vanguard Order. Applicants represent that no part of this fee is paid to the Providian companies nor will they receive any other payments from either Vanguard or the Fund.

4. The Fund intends to sell its shares to separate accounts of Ameritas Life Insurance Corp. ("ALIC") and separate accounts of other unaffiliated insurance companies (together with ALIC and Providian, "Participating Insurance Companies") to serve as the investment vehicle for variable annuity contracts, scheduled premium variable life insurance contracts and flexible premium variable life insurance contracts (collectively, "Variable Contracts").

5. Although ALIC may offer variable annuity products in the future, it currently plans to offer and distribute, through Ameritas Investment Corp. its principal underwriter, variable life insurance contracts utilizing the Fund as their underlying funding vehicle. These variable life insurance contracts will not be subject to a sales load, contingent deferred sales charge, or a surrender charge. The contracts will be subject, however, to a 3.5% premium charge (guaranteed not to exceed 5%) to reimburse ALIC for premium taxes and the expense of deferring the tax deduction of policy acquisition costs ("DAC Tax"). According to the Applicants, ALIC has applied for a Commission order that would permit the imposition of the DAC Tax charge without treating such charge as sales load. Applicants represent that no part of the VMF fee paid by the Fund to Vanguard is paid to ALIC nor will ALIC receive any other payments from either Vanguard or the Fund.

6. Applicants propose to sell shares only to Participating Insurance Companies which offer their Variable Contracts utilizing the Fund as their underlying funding vehicle, without the imposition of a sales load, contingent deferred sales charge, or surrender charge. Applicants represent that, if such Participating Insurance Companies anticipate imposing a DAC Tax charge, they will have received the appropriate exemptive order from the Commission before imposing such charge. Applicants affirm that no portion of the Fund's contribution to Vanguard for distribution expenses will be paid to the Participating Insurance Companies, nor will such Participating Insurance Companies receive any other payments from either Vanguard or the Fund. Any participation agreement between the Fund and a Participating Insurance Company will include the requirements contained in this paragraph as conditions to such agreement.

Applicants' Legal Analysis

1. In connection with scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–2(b)(15) provides partial exemption from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The exemptions granted to a separate account (and any investment adviser, principal underwriter and depositor thereof) by Rule 6e–2(b)(15), however, are not available with respect to a scheduled premium variable life insurance separate account that owns shares of an investment company that also offers its shares to a variable annuity separate account of the same or of any affiliated or unaffiliated insurance company ("mixed funding"). In addition, the relief granted by Rule 6e–2(b)(15) is not available if shares of the underlying investment company are offered to variable annuity or variable life insurance separate accounts of unaffiliated insurance companies ("shared funding"). Accordingly, Applicants seek an order exempting scheduled premium variable life insurance separate accounts (and, to the extend necessary, any investment adviser, principal underwriter and depositor of such an account) from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and Rule 6e–2(b)(15) thereunder, to the extent necessary to permit shares of the Fund to be offered and sold in connection with both mixed funding and shared funding.

2. In connection with flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The exemptions granted to a separate account (and to any investment adviser, principal underwriter and depositor thereof) by Rule 6e–3(T)(b)(15) permit mixed funding of flexible premium variable life insurance but preclude shared funding. Accordingly, Applicants seek an order exempting flexible premium variable life insurance separate accounts (and, to the extent necessary, any investment adviser, principal underwriter and depositor of such an account) from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and Rule 6e–3(T)(b)(15) (and any comparable permanent rule) thereunder, to the extent necessary to permit shares of the Fund to be offered and sold to separate accounts in connection with shared funding.

3. Section 9(a) of the 1940 Act provides that it is unlawful for company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Section 9(a) (1) or (2). However, Rule 6e–2(b)(15) (i) and (ii) and Rule 6e–3(T)(b)(15) (i) and (ii) provide partial exemptions from Section 9(a) under certain circumstances, subject to the limitation discussed above on mixed and shared funding. These exemptions limit the disqualification to affiliated individuals or companies that directly participate in the management or administration of the underlying investment company. Applicants assert that although costs would increase, no regulatory benefit would result from the application of Section 9(a) to the many employees of Participating Insurance Companies who are not involved in the management or administration of the separate account. Applicants submit that Section 9(a) would still apply to those persons who should remain disqualified under the 1940 Act.

4. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide partial exemptions from Section 13(a), 15(a), and 15(b) of the 1940 Act to the extent that those sections have been deemed by the Commission to require "pass-through" voting with respect to management investment company shares held by a separate account, to permit the insurance company to disregard the voting instructions of its contractowners in certain limited circumstances when required to do so by a state insurance regulatory authority. Paragraph (b)(15) of both Rules 6e–2 and 63–3(T) provides that the insurance company may disregard voting instructions if its contractowners initiate any change in such company's investment policies, principal underwriter or any investment adviser, provided that disregarding such voting instructions is reasonable and subject to certain other provisions in the Rules. However, a particular insurer's disregard of voting instructions could conflict with the majority of contractowner voting instructions. Applicants state that if a particular insurance company's disregard of voting instructions conflicted with a majority of the contractowner's voting instructions, or precluded a majority vote, the Fund may require the insurer to withdraw its separate account's investment in the Fund.

5. Applicants assert that shared funding by unaffiliated insurance companies does not present any issues that do not already exist where a single insurance company is licensed to do business in some or all states. In this regard, Applicants state that a particular state insurance regulatory body could require action that is inconsistent with the requirements of insurance regulators in other states in which Participating Insurance Companies may be domiciled. Applicants submit that this possibility is no different or no greater than that which exists where a single insurer and its affiliates offer their insurance products in several states. Applicants state that there is no reason why the Fund's investment policies would or should be materially different from what they would or should be if it funded only variable annuity contracts or only variable life insurance contracts. Further, there is no reason to believe that different features of various types of contracts will led to different investment policies for different types of variable contracts. Applicants represent that the Fund will not be managed to favor or disfavor any particular Participating Insurance Company or type of insurance product. Applicants submit that there is no significant legal impediment to permitting mixed and shared funding and they note that separate accounts organized as unit investment trusts have historically been employed to accumulate shares of mutual funds which have not been affiliated with the depositor or sponsor of the separate account. Finally, Applicants assert that mixed and shared funding will have no adverse federal income tax consequences.

6. Applicants argue that mixed and shared funding should benefit variable contractowners by: (1) Eliminating a significant portion of the costs of

establishing and administering separate funds; (2) allowing for the development of larger pools of assets resulting in greater cost efficiencies; and (3) encouraging more insurance companies to offer variable contracts, which should result in increased competition and lower contract costs. Applicants assert that the Fund's series will not be managed to favor or disfavor any particular insurer or type of insurance contract.

7. Finally, Applicants state that, as a member of The Vanguard Group, the Fund receives the same benefits and advantages offered to the other funds in The Vanguard Group. As discussed in the application and the Vanguard Order, such benefits include the name recognition, growth of complex-wide assets, and reduced per share expenses resulting from Vanguard's complex-wide and individual fund marketing and advertising. Applicants submit that VMC incurs costs and obligations to make such benefits available and it would not be fair to the other funds in The Vanguard Group, or permissible under the Vanguard Order, to free the Fund of its share of such costs, since it participates in the benefits of such efforts.

Applicants' Conditions

Applicants consent to the following conditions if an order is granted:

1. A majority of the Fund's Board of Trustees ("Board") shall consist of persons who are not "interested persons" of the Fund, as defined by Section 2(a) (19) of the 1940 Act, except that if this condition is not met by reason of death, disqualification, or bona fide resignation of any trustee, then the operation of this condition shall be suspended (a) For a period of 45 days if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. The Board will monitor the Fund for the existence of any material irreconcilable conflict between the interests of the contractowners of all separate accounts investing in the Fund. An irreconcilable material conflict may arise for a variety of reasons, including: (i) An action by any state insurance regulatory authority; (ii) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, or any similar action by insurance, tax, or securities regulatory authorities; (iii) an administrative or judicial decision in any relevant proceeding; (iv) the manner in which the investments of any series are being managed; (v) a difference in voting instructions given by variable annuity contractowners and variable life insurance contractowners or contractowners of different Participating Insurance Companies; or (vi) a decision by an insurer to disregard the voting instructions of contractowners.

3. Participating Insurance Companies and Vanguard will report any potential or existing conflicts to the Board. Participating Insurance Companies and Vanguard will be responsible for assisting the Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by each Participating Insurance Company to inform the Board whenever contractowner voting instructions are disregarded. The responsibility to report such information and conflicts and to assist the Board will be contractual obligations of all Participating Insurance Companies under their agreements governing participation in the Fund and such agreements shall provide that such responsibilities will be carried out with a view only to the interests of the contractowners.

4. If it is determined by a majority of the Board, or a majority of its disinterested trustees, that a material irreconcilable conflict exists, the relevant Participating Insurance Companies shall, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees), take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict, which could include: (i) Withdrawing the assets allocable to some or all of the separate accounts from the Fund or any series thereof and reinvesting such assets in a different investment medium (including another series of the Fund) or submitting the question of whether such segregation should be implemented to a vote of all affected contractowners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, annuity contractowners, life insurance contractowners, or variable contractowners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected contractowners the option of making such a change; and (ii) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a Participating Insurance Company's decision to disregard contractowner voting instructions and that decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at the Fund's election, to withdraw its separate account's investment in the Fund, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participating Insurance Companies under agreements governing their participation in the Fund and these responsibilities will be carried out with a view only to the interests of the contractowners.

For the purposes of this condition (4), a majority of the disinterested members of the Board shall determine whether or not any proposed action adequately remedies any irreconcilable conflict, but in no event will the Fund be required to establish a new funding medium for any variable contract. No Participating Insurance Company shall be required by this condition (4) to establish a new funding medium for any variable contract if an offer to do has been declined by a vote of a majority of contractowners materially adversely affected by the material irreconcilable conflict.

5. The Board's determination of the existence of an irreconcilable material conflict and its implications shall be made known promptly in writing to all Participating Insurance Companies.

6. Participating Insurance Companies will provide pass-through voting privileges to all variable contractowners for so long as the Commission continues to interpret the 1940 Act as requiring passthrough voting privileges for variable contractowners. Accordingly, the Participating Insurance Companies will vote shares of the Fund held in their separate accounts in a manner consistent with the voting instructions timely received from contractowners. Participating Insurance Companies will be responsible for assuring that each of their separate accounts investing in the Fund calculates voting privileges in a manner consistent with other Participating Insurance Companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in the Fund shall be a contractual obligation of all present and future Participating Insurance Companies under their agreements governing participation in the Fund. Each Participating Insurance Company also will vote shares of the

Fund or series held in its separate accounts for which no timely voting instructions are received, as well as shares it owns, in the same proportion as those shares for which voting instructions are received.

7. The Fund will notify all Participating Insurance Companies that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. The Fund shall disclose in its prospectus that (1) Its shares are offered to insurance company separate accounts that fund both annuity and life insurance contracts, (2) due to differences of tax treatment or other considerations, the interests of various contractowners participating in the Fund might at some time be in conflict, and (3) the Board will monitor for any material conflicts and determine what action, if any, should be taken.

8. All reports received by the Board of potential or existing conflicts, and all Board action with regard to determining the existence of a conflict, notifying Participating Insurance Companies of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

9. If and to the extent Rule 6e–2 and Rule 6e–3(T) are amended or Rule 6e–3 is adopted, to provide exemptive relief from any provision of the 1940 Act, or the rules thereunder, with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in this application, then the Fund and/or the Participating Insurance Companies shall take such steps as may be necessary to comply with Rule 6e–2 and Rule 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

10. The Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in the shares of the Fund), and in particular the Fund will either provide for annual meetings (except insofar as the Commission may interpret Section 16 not to require such meetings) or comply with Section 16(c) of the 1940 Act (although the Fund is not a trust of the type specified in Section 16(c) of the 1940 Act) as well as with Sections 16(a) and, if and when applicable, 16(b). Further, the Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of trustees and with whatever rules the Commission may promulgate with respect thereto.

11. The Participating Insurance Companies and/or Vanguard shall at least annually submit to the Board such reports, materials or data as the Board may reasonably request so that it may fully carry out the obligations imposed upon it by the conditions contained in the application and said reports, materials and data shall be submitted more frequently if deemed appropriate by the Board. The obligations of the Participating Insurance Companies to provide these reports, materials and data to the Board when it so reasonably requests, shall be a contractual obligation of all Participating Insurance Companies under their agreements governing participation in the Fund.

12. The Fund will sell shares only to Participating Insurance Companies which offer their variable annuity and variable life products utilizing the Fund as their underlying funding vehicle, without the imposition of a sales load, contingent deferred sales charge, or surrender charge. If such Participating Insurance Companies anticipate imposing a premium charge to reimburse them for the cost of deferring the tax deduction of policy acquisition costs, they will have received an appropriate exemptive order from the Commission before imposing such charge. No portion of the Fund's contribution to Vanguard for distribution expenses will be paid to the Participating Insurance Companies, nor will such Companies receive any other payments from either Vanguard or the Fund. Any participation agreement between the Fund and a Participating Insurance Company will contain the above-mentioned requirements as conditions of such agreement.

Conclusion

For the reason and upon the facts stated above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–28927 Filed 11–27–95; 8:45 am]

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[Rel. No. IC–21522; No. 812–9542]

Warburg, Pincus Trust; Notice of Application

November 20, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Warburg, Pincus Trust ("Trust") and Warburg, Pincus Counsellors, Inc. ("Counsellors").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and sub-paragraph (b)(15) of Rules 6e–2 and 6e–3(T) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to the extent necessary to permit shares of the Trust and shares of any other investment company or series thereof that is designed to fund insurance products and for which Counsellors, or any of its affiliates, may serve as investment adviser, administrator, manager, principal underwriter or sponsor (collectively with the Trust, "Funds") to be sold to and held by: (1) variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies; and (2) qualified pension and retirement plans outside the separate account content.

FILING DATE: The application was filed on March 17, 1995, and amended on July 11, 1995 and November 17, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 15, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants: Warburg, Pincus Trust, 466 Lexington Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Assistant Special Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a free from the Public Reference Branch of the Commission.

Applicants' Representations

1. The Trust is an open-end, management investment company organized as a Massachusetts Business Trust. The Trust currently consists of two portfolios, the International Equity Portfolio and the Small Company Portfolio (collectively, "Portfolios"). Additional portfolios may be offered in the future ("Future Portfolios"). Applicants incorporate by reference into the application the registration statement (File No. 33–58125) on Form N–1A of the Trust, which was declared effective on June 19, 1995.

2. Counsellors serves as investment adviser to the Portfolios and is a registered investment adviser under the Investment Advisers Act of 1940. Counsellors' wholly owned subsidiary, Counsellors Securities, Inc., serves as distributor for shares of the Portfolios. Counsellors is a wholly owned subsidiary of Warburg, Pincus Counsellors G.P., a New York general partnership and holding company. E.M. Warburg, Pincus & Co., Inc. controls Counsellors through its ownership of a class of voting preferred stock of Counsellors.

3. The Trust currently offers its shares to separate accounts, registered with the Commission under the 1940 Act as unit investment trusts, of life insurance company affiliates of Nationwide Insurance Companies ("Nationwide Companies"). The Trust serves as the investment vehicle for life and variable annuity contracts issued by Nationwide Companies. Shares of the Trust also are held by a separate account of Nationwide Companies, which is exempt from registration as an investment company under the 1940 Act pursuant to Section 3(c)(1) of the 1940 Act.

4. Applicants state that, upon the granting of the order requested in this application, the Trust intends to offer shares of its Portfolios and Future Portfolios to separate accounts [1] of the Nationwide Companies and of other unaffiliated insurance companies (collectively, "Participating Insurance Companies"),[2] to serve as an investment vehicle for various types of insurance products. These insurance products may include variable annuity contracts, single premium variable life insurance contracts, scheduled premium variable life insurance contracts or flexible premium variable life insurance contracts (collectively, "Variable Contracts"). The Trust also intends to sell shares of the Portfolios and Future Portfolios directly to qualified pension and retirement plans ("Qualified Plans") outside of the separate account context.

5. In connection with any Contract issued by a Participating Insurance Company, the application states that each such company will have the legal obligation of satisfying all applicable requirements under both state and federal law. Applicants further state that the role of the Funds under this arrangement, insofar as the federal securities laws are applicable, will consist of offering shares to the Separate Accounts and fulfilling any conditions that the Commission may impose upon granting the order requested in the application.

6. Applicants state that applicable tax law permits the Funds to increase their asset base through the sale of Fund shares to Qualified Plans without endangering the tax status of Variable Contracts issued by Participating Insurance Companies. The Qualified Plans may choose any of the Funds as the sole investment option under the Plan or as one of several investment options. Participants may be given an investment choice depending upon the Plan. Shares of any of the Funds sold to Plans will be held by the trustees of the Plans as mandated by Section 403(a) of the Employee Retirement Income Security Act ("ERISA"). To the extent permitted under applicable law, Counsellors may act as investment adviser to Qualified Plans that will purchase shares of the Funds. Applicants note that, pursuant to ERISA, pass-through voting is not required to be provided to participants in the Qualified Plans.

Applicants' Legal Analysis

Mixed and Shared Funding and Sales to Qualified Plans

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust ("Separate Account-UIT"), Rule 6e–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The relief provided by Rule 6e–2(b)(15) extends to a separate account's investment adviser, principal underwriter, and sponsor or depositor. The exemptions granted by Rule 6e–2(b)(15) are available, however, only where the management investment company underlying the UIT offers its shares "exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company."

2. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of a single insurance company (or of two or more affiliated insurance companies) is referred to as "mixed funding." The use of a common management investment company as the underlying investment medium for variable annuity and/or variable life insurance separate accounts of unaffiliated insurance companies is referred to as "shared funding." "Mixed and shared funding" denotes the use of a common management investment company to fund the variable annuity and variable life insurance separate accounts of affiliated and unaffiliated insurance companies. The relief granted by Rule 6e–2(b)(15), thus, is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to a variable annuity separate account of the same company or of any other affiliated or unaffiliated life insurance company.[3] Rule 6e–2(b)(15), therefore, precludes mixed and shared funding.

3. In connection with flexible premium variable life insurance contracts issued through a Separate Account-UIT, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The exemptive relief extends to a separate account's investment adviser, principal underwriter, and sponsor or depositor. The exemptions granted to a separate account by Rule 6e–3(T)(b)(15) are

[1] These separate accounts may be registered as investment companies under the 1940 Act or exempt from registration under the 1940 Act pursuant to Section 3(c)(1) (collectively, "Separate Accounts").

[2] Each Participating Insurance Company will enter into a fund participation agreement ("Participating Agreement") with the Trust on behalf of the Fund in which the Participating Insurance Company invests.

[3] Applicants note that amendments to Rule 6e–2 have been proposed by the Commission and, if adopted, would permit shares of one underlying fund to be sold to separate accounts of the insurer, or any affiliated life insurance company offering variable annuity contracts or scheduled premium or flexible premium variable life insurance. *See* Release No. IC–14421 (Mar. 15, 1985). The proposed amendments, however, would not permit shares of one underlying fund to be sold to separate accounts of unaffiliated companies.

available only where all the assets of the separate account consist of shares of one or more registered management investment companies which offer their shares "exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled contacts or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company. . . . Rule 6e–3(T) thus permits mixed funding with respect to a flexible premium variable life insurance separate account, subject to certain conditions, but precludes shared funding.

4. Applicants state that various factors have kept certain insurance companies from offering variable annuity and variable life insurance contracts. According to Applicants, these factor include: the cost of organizing and operating an investment funding medium; the lack of expertise with respect to investment management; the lack of name recognition by the public of certain insurers as investment professionals. Applicants argue that use of the Funds as common investment media for the Variable Contracts would ease these concerns. Participating Insurance Companies would benefit not only from the investment and administrative expertise of the Funds' investment advisor, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Applicants state that making the Funds available for mixed and shared funding may encourage more insurance companies to offer variable contracts such as the Variable Contracts which may, in turn, increase competition with respect to both the design and pricing of variable contracts. Applicants submit that this can be expected to result in greater product variation and lower charges. Applicants thus argue that Variable Contract owners would benefit because mixed and shared funding will eliminate a significant portion of the costs of establishing and administering separate funds. Moreover, Applicants assert that sales of shares of the Funds to Qualified Plans should increase the amount of assets available for investment by the Funds. This should, in turn, promote economies of scale, permit increased safety of investments through greater diversification, and make the addition of new portfolios more feasible.

5. Applicants state that, because relief under paragraph (b)(15) of Rules 6e–2 and 6e–3(T) is available only where shares are offered exclusively to separate accounts of insurance companies, additional exemptive relief is necessary if shares of the Funds also are to be sold to Qualified Plans. Applicants assert that the relief granted by paragraph (b)(15) of Rules 6e–2 and 6e–3(T) should not be affected by the proposed sale of Fund shares to Qualified Plans because such sales may allow for the development of larger pools of assets resulting in the potential for greater investment and diversification opportunities, and for decreased expenses at higher asset levels resulting in greater cost efficiencies. Applicants further assert that they are not aware of any stated rationale for the exclusion of separate accounts and investment companies engaged in shared funding from the exemptive relief provided under paragraph (b)(15) of Rules 6e–2 and 6e–3(T), or for the exclusion of separate accounts and investment companies engaged in mixed funding from the exemptive relief provided under (b)(15) of Rules 6e–2 and 6e–3(T), or for the exclusion of separate accounts and investment companies engaged in mixed funding from the exemptive relief provided under Rule 6e–2(b)(15). Similarly, Applicants are not aware of any stated rationale for excluding Participating Insurance Companies from the exemptive relief requested because the Funds also may sell their respective shares only to qualified pension and retirement plans.

6. Applicants state that current tax law permits Funds to increase their asset base through the sale of Fund shares to Qualified Plans. Applicants state that Section 817(h) of the Internal Revenue Code of 1986, as amended ("Code"), imposes certain diversification requirements on the underlying assets of Variable Contracts invested in the Funds. The Code provides that such Variable Contracts shall not be treated as an annuity contract or life insurance contract for any period in which the underlying assets are not adequately diversified, as prescribed by Treasury Department regulations; to meet the diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies, subject to certain exceptions. Treas. Reg. § 1.817–5 (1989). For example, shares in an investment company may be held by the trustee of a qualified pension or retirement plan without adversely affecting the ability of shares in the same investment company also to be held by the separate accounts of insurance companies in connection with the variable contracts. Treas. Reg. § 1.817–5(b)(3)(iii).

7. Applicants state that the promulgation of Rules 6e–2 and 6e–3(T) under the 1940 Act preceded the issuance of these Treasury regulations, and that the sale of shares of the same investment company to both separate accounts and Qualified Plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

8. Applicants therefore request relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and paragraph (b)(15) of Rules 6e–2 and 6e–3(T) thereunder to the extent necessary to permit shares of the Funds to be offered and sold now and in the future to Separate Accounts of Participating Insurance Companies in Connection with both mixed and shared funding, and to be sold directly to Qualified Plans. Relief is requested for a class or classes of persons and transactions consisting of Participating Insurance Companies and their schedule premium variable life insurance Separate Accounts and flexible premium variable life insurance Separate Accounts (and, to the extent necessary, any investment adviser, principal underwriter and depositor of such Separate Accounts) investing in any of the Funds.

Disqualification

9. Section 9(a) of the 1940 Act makes it unlawful for any company to serve as an investment adviser to, or principal underwriter for, any registered open-end investment company if an affiliated person of that company is subject to a disqualification specified in Sections 9(a)(1) or 9(a)(2).

10. Rules 6e–2(b) and 6e–3(T)(b)(15) provide exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. The relief provided by subparagraphs (b)(15)(i) of Rules 6e–2 and 6e–3(T) permits a person disqualified under Section 9(a) to serve as an officer, director, or employee of the life insurer, or any of its affiliates, so long as that person does not participate directly in the management or administration of the underlying fund. The relief provided by subparagraph (b)(15)(ii) of Rules 6e–2 and 6e–3(T) permits the life insurer to serve as the underlying fund's investment adviser or principal underwriter, provided that none of the insurer's personnel who are ineligible pursuant to Section 9(a) are participating in the management or administration of the fund.

11. Applicants state that the partial relief from Section 9(a) found in subparagraph (b)(15) of Rules 6e–2 and 6e–3(T), in effect, limits the monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of the Section. Applicants state that those 1940 Act rules recognize that it is not necessary for the protection of investors or for the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to the many individuals in an insurance company complex, most of whom will have no involvement in matters pertaining to investment companies within that organization. Applicants note that the Participating Insurance Companies are not expected to play any role in the management or administration of the Funds. Therefore, Applicants assert, applying the restrictions of Section 9(a) serves no regulatory purpose. The application states that the relief requested should not be affected by the proposed sale of shares of the Funds to the Qualified Plans. Qualified Plans are not investment companies and are not, therefore, subject to Section 9(a).

Pass-Through Voting

12. Subparagraph (b)(15)(iii) of Rules 6e–2 and 6e–3(T) assumes the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. Applicants represent that the Participating Insurance Companies will provide pass-through voting privileges to all Variable Contract owners so long as the Commission interprets the 1940 Act to require such privileges, and that Participating Insurance Companies will vote all shares as to which no response from Variable Contract owners is timely received, as well as shares owned by them, in the same proportion as shares for which voting instructions are received.

13. Subparagraph (b)(15)(iii) of Rules 6e–2 and 6e–3(T) provides partial exemptions from the pass-through voting requirement with respect to several significant matters, assuming observance of the limitations on mixed and shared funding. Subparagraph (b)(15)(iii)(A) of Rules 6e–2 and 6e–3(T) provides that the insurance company may disregard voting instructions of its contract owners with respect to the subclassification or investment objectives of a fund or any contract between a fund and its investment advisor, when required to do so by an insurance regulatory authority.

14. Subparagraph (b)(15)(iii)(B) of Rule 6e–2 and subparagraph (b)(15)(iii)(A)(2) of Rule 6e–3(T) provides that the insurance company may disregard voting instructions of its contract owners if the contract owners initiate any change in the company's investment objectives, principal underwriter or investment advisor, provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraph (b)(5)(ii) and (b)(7)(ii)(B) and (C) of each rule.

15. Applicants represent that the Funds' sale of shares to Qualified Plans does not affect the relief requested in this regard. As previously noted, shares of the Funds sold to Qualified Plans would be held by the trustees of such Plans as required by Section 403(a) of ERISA. Section 403(a) also provides that the trustee(s) must have exclusive authority and discretion to manage and control the Plan with two exceptions: (a) when the Qualified Plan expressly provides that the trustee(s) are subject to the direction of the named fiduciary who is not a trustee, in which case the trustee(s) is (are) subject to proper directions made in accordance with the terms of the Qualified Plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the Qualified Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA.

16. Unless one of the two exceptions stated in Section 403(a) applies, Qualified Plan trustees have the exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or to the named fiduciary. In any event, there is no pass-through voting to the participants in such Qualified Plans. Accordingly, Applicants assert that, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with Qualified Plans because the Plans are not entitled to pass-through voting privileges. Applicants further assert that investment in the Funds by Qualified Plans will not create any of the voting complications occasioned by mixed and shared funding because Qualified Plan investor voting rights cannot be frustrated by veto rights of insurers or state regulators.

17. Applicants state that some Qualified Plans may provide participants with the right to give voting instructions. Applicants submit that there is no reason to believe that participants in Qualified Plans generally, or those in a particular Plan, either as a single group or in combination with other Qualified Plans, would vote in a manner that would disadvantage Variable Contract owners. Accordingly, Applicants assert that the purchase of Fund shares by Qualified Plans that provide voting rights to participants does not present any complications not otherwise occasioned by mixed and shared funding.

Conflicts of Interest

18. Applicants state that no increased conflicts of interest would be present by the granting of the requested relief. Applicants assert that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several, or all, states. Applicants note that where insurers are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one insurance company is domiciled could require action that is inconsistent with the requirements of insurance regulators in one or more other states in which other insurance companies are domiciled. Applicants submit that this possibility is no different and no greater than exists where a single insurer and its affiliates offer their insurance products in several states.

19. Applicants further submit that affiliation does not reduce the potential, if any exists, for differences among state regulatory requirements. In any event, the conditions (adapted from the conditions included in Rule 6e–3(T)(b)(15)) discussed below are designed to safeguard against any adverse effects that these differences may produce. If a particular state insurance regulator's decision conflicts with the decisions of a majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Funds.

20. Applicants also argue that affiliation does not eliminate the potential, if any, for divergent judgments as to when a Participating Insurance Company could disregard Variable Contract owner voting instructions. Potential disagreement is limited by the requirement that the Participating Insurance Company's disregard of voting instructions be both reasonable and based on specific good faith determinations. However, if a Participating Insurance Company's decision to disregard Variable Contract owner instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Fund, to withdraw its investment in that Fund.

No charge or penalty will be imposed as a result of such withdrawal.

21. Applicants state that there is no reason why the investment policies of a Fund with mixed funding would or should be materially different from what those policies would or should be if such investment company or series thereof funded only variable annuity or variable life insurance contracts. Applicants therefore argue that there is no reason to believe that conflicts or interest would result from mixed funding. Moreover, Applicants represent that the Funds will not be managed to favor or disfavor any particular insurance company or type of Variable Contract.

22. Applicants note that Section 817(h) imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life insurance contracts held in the portfolios of management investment companies. Treasury Regulation 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits "qualified pension or retirement plans" and insurance company separate accounts to share the same underlying investment company. Therefore, Applicants have concluded that neither the Code, nor the Treasury regulations, nor the revenue rulings thereunder, present any inherent conflicts of interest if Qualified Plans, variable annuity separate accounts and variable life insurance separate accounts all invest in the same management investment company.

23. Applicants state that while there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance contracts and Qualified Plans, these tax consequences do not raise any conflicts of interest. When distributions are to be made, and the Separate Account or the Qualified Plan is unable to net purchase payments to make the distributions, the Separate Account or the Qualified Plan will redeem shares of the Funds at their respective net asset value. The Qualified Plan will then make distributions in accordance with the terms of the Plan. A Participating Insurance Company will surrender values from the separate account into the general account to make distributions in accordance with the terms of the Variable Contract.

24. Applicants state that they do not see any greater potential for material irreconcilable conflicts arising between the interests of participants under the Qualified Plans and owners of the Variable Contracts issued by the Separate Accounts from possible future changes in the federal tax laws than that which already exists between variable annuity contract owners and variable life insurance contract owners.

25. With respect to voting rights, Applicants state that it is possible to provide an equitable means of giving such voting rights to Variable Contract owners and to Qualified Plans. Applicants represent that a Fund will inform each shareholder, including each Separate Account and Qualified Plan, of information necessary for the meeting, including their respective share ownership in the respective Funds. A Participating Insurance Company will then solicit voting instruction in accordance with the "pass-through" voting requirements of Rules 6e–2 and 6e–e(T).

26. Applicants argue that the ability of the Funds to sell their respective shares directly to Qualified Plans does not create a "senior security," as such term is defined under Section 18(g) of the 1940 Act, with respect to any Variable Contract owner as opposed to a participant under a Qualified Plan. Regardless of the rights and benefits of participants and Variable Contract owners under their respective Qualified Plans and Variable Contracts, Qualified Plans and Separate Account have rights only with respect to their respective shares of the Funds. Such shares may be redeemed only at net asset value. No shareholder of the Funds has any preference over any other shareholder with respect to distribution of assets or payment of dividends.

27. Applicants state that there are no conflicts between Variable Contract owners and participants under Qualified Plans with respect to the state insurance commissioners' veto powers (direct with respect to variable life insurance and indirect with respect to variable annuities) over investment objectives. The basis premise of corporate democracy and shareholder voting is that not all shareholders may agree with a particular proposal. The state insurance commissioners have been given the veto power in recognition of the fact that insurance companies can not simply redeem their separate accounts out of one fund and invest those assets in another fund. Generally, to accomplish such redemptions and transfers, complex and time consuming transactions must be undertaken. Conversely, trustees of (or participants in) Qualified Plans can redeem shares of the Funds held by them and reinvest in another Fund without the same regulatory impediments or, as is the case with most Qualified Plans, even hold cash or other liquid assets pending suitable alternative investment. Based on the foregoing, Applicants represent that even should there arise issues where the interests of Variable Contract owners and the interest of the Qualified Plans conflict, the issues can be almost immediately resolved in that trustees of the Qualified Plans can, independently, redeem shares out of the Funds.

28. Applicants have concluded that the addition of Qualified Plans as eligible shareholders should not increase the risk of material irreconcilable conflicts among shareholders. However, Applicants assert further that, even if a material irreconcilable conflict involving Qualified Plans arose, the trustees of (or participants in) the Qualified Plans, unlike the Separate Accounts, can redeem their shares and make alternative investments. Applicants thus submit that allowing Qualified Plans to invest directly in shares of the Funds should not increase the opportunity for conflicts of interest.

29. Further, Applicants state that, regardless of the types of Fund shareholders, Counsellors is legally obligated to manage the Funds in accordance with each Fund's investment objectives, policies and restrictions as well as any guidelines established by the relevant Board of Directors or Trustees of the Funds. Applicants assert that Counsellors works with a pool of money without consideration for the identity of shareholders, and, thus, manage the Funds in the same manner as any other mutual fund.

30. Applicants believe that there is no significant legal impediment to permitting mixed and shared funding. Additionally, Applicants note the previous issuance of orders permitting mixed and shared funding where shares of a fund were sold directly to qualified plans, such as the Qualified Plans. Applicants note further that there is ample precedent for extending exemptive relief to members of a class or classes or persons, not currently identified, that may be similarly situated in the future. Such class relief has been granted in various contexts and from a wide variety of the 1940 Act's provisions including class exemption in the context of mixed and shared funding.

Applicants' Conditions

The Applicants have consented to the following conditions if the order requested in the application is granted:

1. A majority of the Board of Trustees or Board of Directors (each a "Board") of each Fund shall consist of persons who are not "interested persons" of the Funds, as defined by Section 2(a)(19) of the 1940 Act and Rules thereunder and as modified by any applicable orders of the Commission, except that, if this condition is not met by reason of death, disqualification, or bona fide resignation of any Director or Trustee, then the operation of this condition shall be suspended: (i) for a period of 45 days, if the vacancy or vacancies may be filled by the appropriate Board; (ii) for a period of 60 days, if a vote of shareholders is required to fill the vacancy or vacancies; or (iii) for such longer period as the Commission may prescribe by order upon application.

2. Each Board will monitor its respective Funds for the existence of any material irreconcilable conflict among the interests of the Variable Contract owners of all the Separate Accounts and of participants of Qualified Plans investing in the respective Funds, and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) an action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the Funds are managed; (e) a difference in voting instructions given by the owners of variable annuity and variable life insurance contracts; or (f) a decision by a Participating Insurance Company to disregard voting instructions of Variable Contract owners.

3. Participating Insurance Companies, Counsellors (or any other investment manager of a Fund), and any Qualified Plan that executes a Participation Agreement upon becoming an owner of 10% or more of the assets of a Fund (collectively, "Participants") shall report any potential or existing conflicts to the relevant Board. Participants will be responsible for assisting the appropriate Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for it to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each insurance company Participant to inform the Board whenever it has determined to disregard contract holders' voting instructions. The responsibility to report such information and conflicts and to assist the Board will be a contractual obligation of all Participants under their Participation Agreements and such Agreements, in the case of insurance company Participants, shall provide that these responsibilities will be carried out with a view only to the interests of the Variable Contract owners.

4. If it is determined by a majority of the Board of a Fund, or by a majority of its disinterested members, that a material irreconcilable conflict exists, the relevant Participant shall, at its expense and to the extent reasonably practicable (as determined by a majority of disinterested members of the Board), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (a) withdrawing the assets allocable to some or all of the Separate Accounts from a Fund or its portfolio and reinvesting such assets in a different investment medium (including another portfolio of the relevant Fund, if any), or, in the case of insurance company participants, submitting the question as to whether such segregation should be implemented to a vote of all affected contract owners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, variable annuity contract owners, life insurance contract owners, or variable contract owners of one or more Participants) that votes in favor of such segregation, or offering to the affected contract owners the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of an insurance company Participant's decision to disregard contract owner voting instructions, and that decision represents a minority position or would preclude a majority vote, such Participant may be required, at the election of the relevant Fund, to withdraw its Separate Account's investment in the Fund, and no charge or penalty will be imposed as a result of such withdrawal.

The responsibility to take remedial action in the event of a Board determination that an irreconcilable material conflict exists, and to bear the cost of such remedial action, shall be a contractual obligation of all Participants under their Participation Agreements, and this responsibility, in the case of insurance company Participants shall be carried out with a view only to the interests of the Variable Contract owners.

For the purposes of this Condition "4.," a majority of disinterested members of the applicable Board shall determine whether any proposed action adequately remedies any irreconcilable material conflict, but in no event will the relevant Fund or Counselors (or any other investment advisor to the Funds) be required to establish a new funding medium for any Variable Contract. Further, no insurance company President shall be required by this Condition "4." to establish a new funding medium for any Variable Contract if an offer to do so has been declined by a vote of a majority of Variable Contract owners materially affected by the irreconcilable material conflict.

5. The Board's determination of the existence of an irreconcilable material conflict and its implications shall be made known promptly in writing to all Participants.

6. Insurance company Participants will provide pass-through voting privileges to all Variable Contract owners so long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for Variable Contract owners. Accordingly, such Participants, where applicable, will vote shares of the Fund held in its Separate Accounts in a manner consistent with voting instructions timely received from Variable Contract owners. Also, each insurance company Participant will vote shares of a Fund held in its Separate Accounts for which no timely voting instructions from contractowners are received, as well as shares it owns, in the same proportion as those shares for which voting instructions are received. Insurance company Participants will be responsible for assuring that each of their Separate Accounts investing in a Fund calculates voting privileges in a manner consistent with other Participants. The obligation to vote a Fund's shares and calculate voting privileges in a manner consistent with all other Separate Accounts will be a contractual obligation on all Participants under their Participation Agreements.

7. All reports received by the Board of potential or existing conflicts, and all Board action with regard to (a) determining the existence of a conflict, (b) notifying Participants of a conflict, and (c) determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the appropriate Board or other appropriate records. Such minutes or other records shall be made available to the Commission upon request.

8. Each Fund will notify all Participants that Separate Account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Fund

shall disclose in its prospectus that: (a) its shares may be offered to insurance company separate accounts that fund both variable annuity and variable life insurance contracts, as well as to Qualified Plans; (b) differences in tax treatment or other considerations may cause the interests of various Variable Contract owners participating in the Funds and the interests of Qualified Plans investing in the Funds to conflict; and (c) each Fund's Board will monitor the Funds for any material conflicts and determine what action, if any, should be taken.

9. Each Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (for these purposes, the persons having a voting interest in the shares of the Funds). In particular, each Fund will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act (although none of the Funds shall be one of the trusts described in Section 16(c) of the 1940 Act, as well as with Section 16(a) and, if applicable, Section 16(b) of the 1940 Act. Further, each Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors (or trustees) and with whatever rules the Commission may promulgate with respect thereto.

10. If and to the extent Rule 6e–2 or Rule 6e–3(T) is amended, or Rule 6e–3(T) is adopted, to provide exemptive relief from any provision of the 1940 Act or the rules thereunder with respect to mixed and shared funding on terms and conditions materially different from any exemptions granted in the order requested, then the Funds and/or the Participants, as appropriate, shall take such steps as may be necessary to comply with Rule 6e–2 or Rule 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

11. No less than annually, the Participants shall submit to each Board such reports, materials or data as each Board may reasonably request so that such Boards may fully carry out the obligations imposed upon them by the conditions stated in the application. Such reports, materials, and data shall be submitted more frequently if deemed appropriate by the Boards. The obligations of the Participants to provide these reports, materials, and data upon reasonable request of a Board shall be a contractual obligation of all Participants under their Participation Agreement.

12. None of the Funds will accept a purchase order from a Qualified Plan shareholder if such purchase would make the Qualified Plan shareholder an owner of 10% or more of the assets of a Fund unless such Qualified Plan executes a fund participation agreement with the applicable Fund. A Qualified Plan shareholder will execute an application containing an acknowledgment of this condition upon such Plan's initial purchase of the shares of any Fund.

Conclusion

For the reasons stated above, Applicants assert that the requested exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2 and 6e–3(T) thereunder are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–28931 Filed 11–27–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 2292]

Advisory Committee on Historical Diplomatic Documentation; Notice of Meeting

Due to a lapse of appropriations for the Department of State and the Office of the Historian, the meeting of the Advisory Committee on Historical Diplomatic Documentation scheduled for November 16 and 17, 1995, was postponed. Every available measure was used in the short time available to publicly announce the postponement. The Advisory Committee has been rescheduled for Monday, December 11, 1995 in Conference Room 1105 and Tuesday, December 12, 1995, in Conference Room 1205.

On Tuesday, December 12, 1995, from 9 a.m. until 12 noon, the Committee's session will be open to the public. The Committee will meet in closed sessions Monday, December 11, 1995, from 1:30 p.m. until 5 p.m., and from 1:30 p.m. on Tuesday, December 12, 1995, until adjournment at 5 p.m. These two sessions will be closed in accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463). It has been determined that discussions during these portions of the meeting will involve consideration of matters not subject to public disclosure under 5 U.S.C. 552b(c)(1), and that the public interest requires that such activities be withheld from disclosure.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC, 20520, telephone (202) 663–1123, (e-mail histoff@ix.netcom.com).

Dated: November 20, 1995.

William Z. Slany,

Executive Secretary.

[FR Doc. 95–28917 Filed 11–27–95; 8:45 am]

BILLING CODE 4710–11–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements

AGENCY: Office of the Secretary, Department of Transportation (DOT).

ACTION: Notice of proposed information collection.

SUMMARY: This notice is concerning an information collection request transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for emergency processing in accordance with 5 CFR Part 1320.13 and the requirements of the Paperwork Reduction Act of 1980, as amended (44 U.S.C. Chapter 35). Emergency processing has been requested since allowing for the normal review period would adversely affect the public interest.

DATES: November 21, 1995.

ADDRESSES: Written comments on the information collection request should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them please notify the OMB official of your intent immediately.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection request submitted to OMB may be obtained from Susan Pickrel, Information Resource Management (IRM) Strategies Division, M–32, Office of the Secretary of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366–4735.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, as amended, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to OMB for approval or renewal under the Act. OMB reviews and approves agency submissions in accordance with criteria set forth in the Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years. Under emergency clearance procedures, OMB will assign a control number to the collection for a maximum of 90 days.

Item(s) Submitted to OMB for Review

The following information collection request was submitted to OMB on November 21, 1995:

OMB No: 2133-New

Administration: Maritime Administration

Title: Applications and Amendments for Participation under Section 651, Subtitle B, Merchant Marine Act, 1936, as amended

Need for Information: There are two maritime security bills (S. 1139 and H.R. 1350) under consideration in the Congress to revise Title VI of the Merchant Marine Act, 1936, as amended. The Senate bill will require MARAD to accept applications for enrollment in a Maritime Security Fleet no later than 30 days after the date of enactment, which is anticipated to take place by the end of the year.

Proposed Use of Information: Receipt of an application will indicate intent on the part of a carrier to enter its vessel(s) in the Maritime Security Program. MARAD will analyze the information according to the prescribed priorities and vessels will be selected to participate in the program. The information collection is intended for initial application for participation in the Maritime Security Program, and subsequent amendments for additional vessels, changes to existing vessels or status of the applicant.

Frequency: One-time (application); amendments as required

Burden Estimate: 80 hours

Respondents: Carriers

Form(s): Application

Average Burden Hours Per Response: 10 hours (application); 30 minutes (amendment)

Issued in Washington, D.C. on November 21, 1995.

James A. Harrell,

Acting Manager, IRM Strategies Division.

[FR Doc. 95–29040 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–62–P

Aviation Proceedings; Agreements Filed During the Week Ending November 17, 1995

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–95–816.
Date filed: November 13, 1995.
Parties: Members of the International Air Transport Association.
Subject:
TC12 Reso/P 1703 dated November 3, 1995
Mid Atlantic-Africa Expedited Reso 0021
Intended effective date: expedited January 1, 1996

Docket Number: OST–95–817.
Date filed: November 13, 1995.
Parties: Members of the International Air Transport Association.
Subject:
Comp Telex Reso 024f/033f
Fare/Rate changes—Pakistan
R–1—024f
R–2—0033f
Intended effective date: November 15, 1995

Docket Number: OST–95–833.
Date filed: November 14, 1995.
Parties: Members of the International Air Transport Association.
Subject:
TC3 Reso/P 0647 dated October 24, 1995
R–1—R–2
TC3 Reso/P 0649 dated October 24, 1995
R–3—R–8
TC3 Reso/P 0650 dated October 24, 1995
R–9—R–17
TC3 Reso/P 0652 dated October 24, 1995
R–18—R–22
TC3 Reso/P 0654 dated October 24, 1995
R–23—R–30
TC3 Reso/P 0656 dated October 24, 1995
R–31—R–38
TC3 Reso/P 0657 dated October 24, 1995
R–39—R–43
TC3 Reso/P 0659 dated October 24, 1995
R–44—R–55
TC3 Reso/P 0660 dated October 24, 1995
R–56—R–69
TC3 Reso/P 0661 dated October 24, 1995
R–70—R–92
TC3 Reso/P 0663 dated October 24, 1995
R–93—R–98
TC3 Reso/P 0664 dated October 24, 1995
R–99—R–108
TC3 Reso/P 0665 dated October 24, 1995
R–109—R–120
TC3 Reso/P 0666 dated October 24, 1995
R–121—R–147
TC3 Reso/P 0667 dated November 7, 1995
Corrections
TC3 Reso/P 0669 dated November 7, 1995
Intended effective date: April 1, 1996

Docket Number: OST–95–834.
Date filed: November 14, 1995.
Parties: Members of the International Air Transport Association.
Subject:
TC3 Reso/P 0648 dated October 24, 1995
R–1
TC3 Reso/P 0651 dated October 24, 1995
R–2- R–9
TC3 Reso/P 0653 dated October 24, 1995
R–10 - R–14
TC3 Reso/P 0655 dated October 24, 1995
R–15 - R–18
TC3 Reso/P 0658 dated October 24, 1995
R–19 - R–22
TC3 Reso/P 0662 dated October 24, 1995
R–23 - R–38
TC3 Meet/P 0059 dated November 10, 1995
Minutes
TC3 Fares 0403 dated November 3, 1995
Tables
TC3 Fares 0404 dated November 3, 1995
Intended effective date: April 1, 1996

Myrna F. Adams,

Acting Chief, Documentary Services Division.

[FR Doc. 95–28980 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending November 17, 1995

The following Applications for Certificates of Public Convenience and

Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–95–822.
Date filed: November 13, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 11, 1995.
Description: Application of Allegheny Airlines, Inc. d/b/a USAir Express, Inc. pursuant to 49 U.S.C. Section 41101 and 41108, and Subpart Q of the Regulations applies for a certificate of public convenience and necessity authorizing it to engage in scheduled and charter foreign air transportation of persons, property and mail between points in the United States and points in Canada.

Docket Number: OST–95–827,
Date filed: November 13, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 11, 1995.
Description: Application of United Air Lines, Inc., pursuant 49 U.S.C. Section 41101, and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity for authority to offer scheduled foreign air transportation of persons, property and mail between the following U.S.-Canada city-pairs: 1) Chicago, Illinois-Montreal, Quebec; (2) Los Angeles, California-Montreal, Quebec; (3) Miami, Florida-Montreal, Quebec; and (4) Los Angeles, California-Florida-Montreal, Quebec; and (4) Los Angeles, California-Toronto, Ontario, Canada.

Myrna F. Adams,
Acting Chief, Documentary Services Division.
[FR Doc. 95–28981 Filed 11–27–95; 8:45 am]
BILLING CODE 4910–62–P

Office of the Secretary

[Docket No. OST–95–859]

Grade Crossing Safety Task Force

AGENCY: Office of the Secretary, DOT.
ACTION: Request for comments.

SUMMARY: The Department of Transportation (USDOT) seeks to broaden the knowledge of the safety implications of the decisionmaking and coordination processes associated with the planning, design, construction, maintenance, operation, and inspection of highway-rail grade crossings. To do this, the Department has formed a USDOT Grade Crossing Safety Task Force. In addition, the Department intends to:

—Form a "Blue Ribbon" Working Group to support the task Force,
—Hold public meetings to provide input to the Task Force, and
—Prepare and publish a report documenting the findings of the Task Force.

DATES: Comments must be received on or before January 15, 1996, to be fully considered by the Department's Grade Crossing Safety Task Force.

ADDRESSES: Three copies of comments for the public docket on the Grade Crossing Safety task Force should be sent to: Office of the Secretary, Documentary Services Division, C–55, Attn: Grade Crossing Safety Task Force Public Docket No. OST–95–859, Room PL 401, 400 Seventh Street, S.W., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:
Transportation Secretary Federico Peña recently announced that he has directed the formation of a Grade Crossing Safety task Force within the DOT to conduct a comprehensive national review of safety measures relating to highway-rail grade crossing planning, design, construction, maintenance, operation, and inspection.

Secretary Peña took this action in the aftermath of the tragic accident in Illinois involving a commuter train and school bus at a railroad crossing last October 25. The Secretary ordered the Department of Transportation to build upon its June 1994 Rail-Highway Crossing Safety Action Plan by forming a Task Force to conduct a comprehensive national review of the design, construction, and operation of highway-rail grade crossings.

The Secretary has directed the Task Force to report back to him by March 1, 1996, with its evaluation of the decisionmaking process related to the Nation's grade crossings, as well as recommendations for improvement. The Task Force will work with State, local, and private sector transportation officials to review existing standards and will develop a summary of national needs focusing on coordinated decisionmaking, inspection, and approval processes for highway-rail grade crossings.

The Task Force includes representatives from four agencies within the U.S. Department of Transportation: The Federal Railroad Administration, the Federal Highway Administration, the National Highway Traffic Safety Administration and the Federal Transit Administration. The Task Force is headed by Michael P. Huerta, Associate Deputy Transportation Secretary and Director of the Office of Intermodalism.

In addition to the Task Force activities, both the Federal Railroad Administration and the Federal Highway Administration will work with the States as they respond to the National Transportation Safety Board's recommendation that States conduct an assessment of physical characteristics and traffic associated with crossings having interconnected highway and rail signals, and their systems design.

To support the Task Force, the Department will also form a "Blue Ribbon" Working Group of approximately 20 people who can provide specialized information that will assist the Task Force in its work. This Working Group will reflect the diverse public and private sector entities involved in the processes which create or alter infrastructure at or near highway-rail grade crossings in order to create an expanded knowledge base for the Task Force. The participants for the Working Group will be selected on December 4 and the first meeting of the Working Group is currently scheduled for December 14.

To provide additional input to the Task Force during its work, the Department intends to hold three public meetings in the coming weeks. The prospective sites of these public meetings are Raleigh, NC, Chicago, IL, and Los Angeles, CA. The dates, times, and specific locations of these public meetings have not been determined, but will be announced in future press releases and/or **Federal Register** notices. Persons desiring more details on these meetings also can receive direct notification by addressing their requests to the individual identified at the end of this **Federal Register** notice under the section below entitled **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT:
Questions on the Grade Crossing Safety Task Force and its public meetings can also be directed to the Secretary of Transportation's Office of Intermodalism which has been designated as the lead for the Grade Crossing Safety Task Force. Questions can be mailed, faxed, or transmitted on the Internet to: Ms. Susan Ducan, Office of Intermodalism, Room 10126, 400 Seventh Street, S.W., Washington, D.C. 20590, Ph: (202) 366–8015, Fax: (202) 366–8999, Internet: http://www.dot.gov/dotinfo/gen/xingtf.

Comments by all parties on these highway-rail crossing issues are welcome.

To give the public a better sense of the scope of this USDOT initiative, the Grade Crossing Safety Task Force Charter is presented in the paragraphs below.

Charter of the Grade Crossing Safety Task Force

Mission and Purpose: The Department recognizes its role to ensure safe transportation and to develop a "seamless" national intermodal transportation system. In June 1994, Secretary of Transportation Federico Peña released a DOT Rail-Highway Crossing Safety Action Plan that presented a multi-faceted, multi-modal approach for improving safety at our Nation's highway-rail crossings. The 55 individual proposals taken together represent a comprehensive Departmental effort that has elevated highway-rail crossing safety across the Modal Administrations to deal with this important issue.

The Department's Grade Crossing Safety Task Force, designed to complement the ongoing work of the Action Plan and to further the Department's goals, will address issues beyond the scope of the Action Plan. Through the Grade Crossing Safety Task Force, the Department will investigate and assess the decisionmaking and coordination processes, and safety aspects pertaining to the planning, design, construction, maintenance, operation, and inspection of highway-rail grade crossings. Following this assessment, the Task Force will develop recommendations and submit them to the Secretary.

Participants: From the Department of Transportation, the Federal Railroad Administration (FRA), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and the National Highway Traffic Safety Administration (NHTSA) will be members of the Task Force. The Associate Deputy Secretary of Transportation will serve as its Chairman. Each member agency will select one representative and one alternate to serve as delegates to the Task Force on grade crossing issues. The National Transportation Safety Board (NTSB), an independent Federal agency, also will participate as a Task Force member. Representative will attend regular meetings and participate in necessary assignments. A "Blue Ribbon" Working Group consisting of people with expertise in the use or design of railroad grade crossings will be established to assist the Task Force by providing additional information.

Key Issues: The accidents and deaths at highway-rail grade crossings continue to be a problem nationwide. The Rail-Highway Crossing Safety Action Plan addresses some aspects of these issues, however, questions remain concerning the level of planning coordination and review of safety considerations associated with grade crossings. The Task Force will examine these questions as they relate to five potential problem areas:

1. Interconnected (Pre-empted) signals. Highway traffic signals along roadways in close proximity to rail crossings which are triggered by oncoming trains.
2. Storage. The roadway space allotted for vehicles stopped between a road intersection and nearby railroad tracks.
3. High-profile crossings. Junctions at which railroad tracks are elevated above the crossing roadway surface, thus requiring vehicular traffic to pass over a "hump" and exposing the vehicles to the risk of getting "hung-up" on the tracks.
4. Light rail transit crossings. This most prevalent type of newly constructed highway-rail grade crossing also lacks standards for crossing design, warning devices, and traffic control measures.
5. Inclusion of grade crossing information in the permit process for slow, low, and other special vehicles including oversized and overweight vehicles whose route crosses a railroad right-of-way.

The NTSB recently issued a Class I Urgent Recommendation requesting the States to identify all highway/railroad grade crossings where control of a highway traffic signal is preempted by train movements and to take corrective action where sufficient time is not provided to clear vehicles stopped on the tracks before the train arrives at the crossing. As a result, an inventory of highway-rail crossings which have interconnected signals will be compiled by the FRA using input from the NTSB, the States and the railroads.

Technology shows promise for enhancing safety in these areas. However, technology alone will not solve the problem. Therefore, the focus of the Task Force will not be on the various technologies which could serve as solutions to prevent accidents at the highway-rail crossings. Rather, the Task Force will concentrate on the decisionmaking processes which result in the construction and maintenance of the grade crossing infrastructure. In order to accomplish this, the Task Force will specifically address the following:

1. Federal, State, local, and industry standards, criteria and guidelines governing the planning, design, construction, maintenance, operation and use of highway-rail grade crossings and the effectiveness of these regulations and standards.
2. Planning, design, construction, maintenance, operation, and inspection decisionmaking processes for grade crossings.
3. The construction and reconstruction/alteration approval and periodic review processes, including coordination among the various levels of government and with the private sector.
4. The decisionmaking and procedural processes for defining acceptable crossing design and warning device design.

Task Force Activities: The Task Force will hold regularly scheduled meetings. In order to keep a timely work flow and to meet any schedules and deadlines, ad hoc meetings may be called to address issued and problems that need immediate discussion and resolution.

To determine where decisionmaking and coordination can be improved, the Task Force will review technical reports on planning, engineering, operations, maintenance, and inspection practices associated with highway-rail crossings. The objective of this Task Force effort is not to summarize the considerable body of literature that already exists on highway-rail crossing safety, but to identify gaps that might exist in standard-setting, system engineering and multidisciplinary reviews. The Task Force may create subgroups of Federal employees which would be asked to draft issue-specific working papers that can serve as the basis for the final report to the Secretary on March 1, 1996.

The Task Force will be involved in outreach to the transportation community through:

1. Publication of this **Federal Register** notice which outlines the Task Force activities and seeks written public comments and suggestions.
2. Creation of a dedicated FAX number and Internet address to allow the general public to submit comments to the task force.
3. Holding public meetings with State transportation officials, local community representatives, and others (such as the general public, industry groups, and safety organizations) to gain stake-holder input on grade crossing issues. Three public outreach meetings will be scheduled nationwide at locations representative of the potential problem areas listed above.
4. Create a "Blue Ribbon" Working Group comprised of diverse public and private sector entities that has relevant experience and expertise to provide specialized information that will assist the Task Force in its efforts to investigate and improve the safety of highway-rail grade crossings.

Final Product and Timeframe: The Task Force will submit a report to the Secretary that gives an overview of the

highway-rail grade crossing issues and problems along with any recommendations on how to solve any construction decision-making and safety problems that may be identified. The report must be submitted by March 1, 1996.

Issued this 22nd day of November, 1995, in Washington, D.C.

Michael P. Huerta,

Associate Deputy Secretary and Director, Office of Intermodalism.

[FR Doc. 95–29132 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–62–P–M

Coast Guard

[CGD 95–085]

Chemical Transportation Advisory Committee (CTAC), CTAC Subcommittee on Hazardous Substances Response Plan (HSRP); Meetings

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: CTAC and its HSRP Subcommittee will meet to discuss various issues relating to the marine transportation of hazardous materials in bulk. The meetings are open to the public.

DATES: The CTAC meeting will be held on Thursday, January 11, 1996, from 9:30 a.m. to 3:00 p.m. The HSRP Subcommittee meeting will be held on Wednesday, January 10, 1996, from 10 a.m. to 4 p.m. Persons wishing to make oral presentations should notify the Executive Director, listed below under **ADDRESSES,** on or before January 4, 1996.

ADDRESSES: The CTAC meeting will be held in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593–0001. Written material should be sent to Commander Kevin S. Cook, Executive Director, Commandant (G–MOS–3), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Commander Kevin S. Cook Executive Director, or Lieutenant Rick J. Raksnis, Assistant to the Executive Director, Commandant (G–MOS–3), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593–0001, telephone (202) 267–1217.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2, section 1 *et. seq.* The agenda for the CTAC meeting will comprise the following topics:

(1) Introduction and swearing-in of new Executive Director and new members;

(2) Progress report from the *ad hoc* subcommittee on recommended 46 CFR part 152;

(3) Progress report from the subcommittee on Hazardous Substances Response Plans;

(4) Presentation of task statement, and formation of subcommittee on Prevention through People;

(5) Status Report on the Navigation and Vessel Inspection Circular (NCIV) on tank barge cleaning;

(6) Status Report on policy guidance for Marine Vapor Control Systems; and

(7) Status Report on the implementation of the International Safety Management Code (ISM), SOLAS Chapter IX.

The HSRP Subcommittee will review and discuss the work completed by each of the four work groups. Each work group will present its major accomplishments, and its plans for the future.

Attendance at all the meetings is open to the public. With advance notice, and at the Chairman's discretion, members of the public may make oral presentations during the meetings. Persons wishing to make oral presentations should notify the Executive Director, listed above under **ADDRESSES,** no later than January 4, 1996. Written material may be submitted at any time for presentation to CTAC or the HSRP Subcommittee.

Dated: November 13, 1995.

Howard L. Hime,

Acting Director of Standards Directorate, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–29048 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

RTCA, Inc.; "Technical Management Committee"; Notice of RTCA Technical Management Committee Meeting To Be Held December 1, 1995; Meeting Cancellation

AGENCY: Federal Aviation Administration, DOT.

ACTION: Cancellation.

SUMMARY: The RTCA Technical Management Committee meeting scheduled to be held on December 1, 1995, as announced in a notice published in the **Federal Register** for November 13, 1995 (60 FR 57053), has been canceled. A new date has not been determined at this time.

Issued in Washington, D.C., on November 22, 1995.

Janice L. Peters,

Designated Official.

[FR Doc. 95–29014 Filed 11–27–95; 8:45 a.m.]

BILLING CODE 4910–13–M

RTCA, Inc., Special Committee 182; Minimum Operational Performance Standards (MOPS) for an Avionics Computer Resource (ACR)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 182 meeting to be held January 10–12, 1996, starting at 9 a.m. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will include: (1) Chairman's Introductory Remarks; (2) Review and Approval of Meeting Agenda; (3) Review and Approval of Minutes from the Previous Meeting; (4) Assemble Draft 0.1 of MOPS Document: Section 1 Purpose and Scope' Section 2.1.2 General Requirements, Intended Function; (5) Recertification of Post-Type Certification Changes: Answer from FAA Software NRS; (6) Proposed DO–178B Objectives Satisfied Independent of Target; (7) Update Glossary (RTCA Paper No. 280–94/SC182–10): Application, Channel, Data Base, Fault, Operating System, Partition, Process, Platform; (8) Other Business; (9) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC., on November 22, 1995.

Janice L. Peters,

Designated Official.

[FR Doc. 95–29017 Filed 11–28–95; 8:45 a.m.]

BILLING CODE 4910–13–M

RTCA, Inc., Special Committee 183; Standards for Airport Security Access Control Systems

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 183 meeting to be held January 17, 1996, beginning at 9:30 a.m. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036. The agenda will include: (1) Administrative Announcements; (2) Chairman's Opening Remarks; (3) Review and Approval of Agenda; (4) Review and Approval of Minutes of the Previous Meeting; (5) Review of Comments From Proposed Final Draft Ballot Process; (6) Consideration of Recommending Proposed Final Draft to TMC for Approval; (7) Other Business; (8) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 22, 1995.

Janice L. Peters,

Designated Official.

[FR Doc. 95–29016 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) Imposed at Cleveland Hopkins International Airport, Cleveland, Ohio at Burke Lakefront Airport, Cleveland, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC imposed at Cleveland Hopkins International Airport at Burke Lakefront Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 28, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to William F. Cunningham Jr., A.A.E., Director of the Department of Port Control at the following address: Cleveland Hopkins International Airport, 5300 Riverside Drive, Cleveland, Ohio 44135.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Department of Port Control under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Conrad, Project Manager, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (313) 487–7295. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC imposed at Cleveland Hopkins International Airport at Burke Lakefront Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR 158).

On November 8, 1995, the FAA determined that the application to use the revenue from a PFC submitted by the City of Cleveland, Department of Port Control, was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 30, 1996.

The following is a brief overview of the application.

PFC Application Number: 96–04–U–00–CLE.

Level of the PFC: $3.00.

Actual charge effective date: November 1, 1992.

Estimated charge expiration date: February 1, 1997.

Total approved net PFC revenue: $57,819,282.

Brief description of proposed project:

Burke Lakefront Airport

Sewers for Confined Disposal Facility.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Department of Port Control, Cleveland Hopkins International Airport.

Issued in Des Plaines, Ill., on November 20, 1995.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 95–28994 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Chisholm-Hibbing Airport, Hibbing, Minnesota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Chisholm-Hibbing Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 28, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David Danielson, Airport Manager, Chisholm-Hibbing Airport Authority, at the following address: Chisholm-Hibbing Airport Authority 11038 Highway 37, Hibbing, Minnesota 55746.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Chisholm-Hibbing Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Gordon Nelson, Program Manager, Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450, (612) 725–4358. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public

comment on the application to impose and use the revenue from a PFC at Chisholm-Hibbing Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On November 8, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Chisholm-Hibbing Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 28, 1996.

The following is a brief overview of the application.

PFC Application Number: 96–01–C–00–HIB.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1996.

Proposed charge expiration date: October 1, 2004.

Total estimated PFC revenue: $340,667.

Brief description of proposed project(s):

1. Reimbursement for 1991 Parallel Taxiway and Pavement Rehabilitation.
2. Reimbursement for the 1993 Airfield Signs and Drainage Improvements.
3. Reimbursement for 1994 Airport Drainage, Perimeter Fence, Airport Layout Plan (ALP) Update and Pavement Rehabilitation.
4. Fencing.
5. Passenger Facility Charge (PFC) Application administration costs.
6. Drainage Improvements.
7. Passenger Terminal Building Remodeling.
8. Environmental Assessment (EA) for Runway 13 Medium Intensity Runway Lighting System with Runway Alignment Indictor Lights (MALSR).
9. Replace high speed snow plow and carrier unit.
10. Entrance Road and Parking Lot Reconfiguration and Pavement Rehabilitation.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Chisholm-Hibbing Airport Authority office.

Issued in Des Plaines, Ill. on November 20, 1995.

Benito De Leon,

Manager, Airports Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 95–28993 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Rochester International Airport, Rochester, Minnesota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Rochester International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 28, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Steven W. Leqve, Airport Manager of the City of Rochester, Rochester, MN at the following address: Helgerson Drive Southwest, Rochester, MN 55902.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Rochester under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Sandra Depottey, Program Manager, Airport District Office, 6020 28th Avenue South Room 102, Minneapolis, MN 55450, (612) 725–4359. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Rochester International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On November 9, 1995 the FAA determined that the application to impose and use the revenue from a PFC submitted by City of Rochester was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 10, 1996.

The following is a brief overview of the application.

PFC Application Number: 96–01–C–00–RST.

Level of the proposed PFC: $3.00.

Proposed charge effective date: May 1, 1996.

Proposed charge expiration date: April 1, 1999.

Total estimated PFC revenue: $1,160,582.

Brief description of proposed project(s):

Projects to Impose and Use

Reconstruct Runway 13/31, Reconstruct Taxiway A, D, E & F, Reconstruct NW Apron, Acquire Airport Snow Removal Vehicles (plow & grader), Install Airport Security access system, Install signs, replace beacon and Install electrical regulator, Reconstruct portion of Taxiway A, Conduct Part 150 Noise study, Update Master Plan, Modify cooling system in terminal building, Conduct environmental assessment for extension of Runway 2/20, Reconstruct Taxiways B, G, H, and J, Acquire Snow removal Equipment (blower and broom), PFC Administration.

Impose-Only Project

Acquire land for Runway 2/20 extension Class or classes of air carriers which the public agency has requested not be required to collect PFCs: FAR Part 135 Air Taxi.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Rochester.

Issued in Des Plaines, Illinois on November 20, 1995.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 95–28992 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: City of Lincoln, NE

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed beltway project on the south and east fringes of the City of Lincoln, Nebraska.

FOR FURTHER INFORMATION CONTACT: Mr. Philip E. Barnes, Operations Engineer, Federal Highway Administration, Federal Building, Room 220, 100 Centennial Mall North, Lincoln, Nebraska 68508, Telephone: (402) 437–5521. Mr. Arthur Yonkey, Project Development Engineer, Nebraska Department of Roads, P.O. Box 94759, Lincoln, Nebraska 68509, Telephone: (402) 479–4795. Mr. Richard Erixson, Director of Public Works, City of Lincoln, 555 South 10th Street, Lincoln, Nebraska 68508, Telephone: (402) 441–7566.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration, in cooperation with the Nebraska Department of Roads and the City of Lincoln, Nebraska, is preparing a major investment study (MIS) and environmental impact statement (EIS) for the South and East Beltways around Lincoln. The primary goal of the study work is to determine the need and feasibility of a new transportation corridor on the south and east fringes of Lincoln, and the ultimate preservation of such corridors. The project will encompass two project corridors. The general limits for the South Corridor are: from Yankee Hill Road on the north to 0.8 km (0.5 mi) south of Saltillo Road on the south, and from US 77 on the west to Nebraska Highway 2 on the east. The general limits for the East Corridor are: from 96th Street on the west to 148th Street on the east, and from I–80 on the north to Nebraska Highway 2 on the south. The approximate length of the total study area is 27.4 km (17mi).

The principle alternatives will include (1) taking no action, (2) building local arterial roads on section lines, and (3) plans for an eventual bypass. Other alternatives under consideration include intermodal and multi-use options, alternative design and enhancement features, alternative alignments, and phasing.

The general design concept for the proposed South and East Beltways envisions a multi-lane freeway or expressway-type facility with consideration to such design features as depressed center median, paved shoulders, full control of access, fence along the right-of-way, bridges at creek crossings, two-span bridges over the beltways, few if any at-grade intersections, and 62 to 75 m (203–246 ft) typical right-of-way widths. Greater right-of-way widths could be proposed for buffer areas or joint use corridor uses. At a minimum, interchanges would connect the South and East Beltways to US 77, Nebraska Highway 2, US 34 and I–80.

Several public information meetings will be held. A Draft EIS will be prepared and a public hearing will be held. Public notice will be given of the meetings and hearing.

To ensure that a full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the EIS should be directed to the FHWA or the Nebraska Department of Roads at the address provided.

(Catalog of Federal Domestic Assistance Project Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities apply to this program.)

Philip E. Barnes,

Operations Engineer, Nebraska Division, Federal Highway Administration, Lincoln, Nebraska

[FR Doc. 95–28675 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–22–M

Maritime Administration

[Docket S–927]

Aquarius Marine Co. and Atlas Marine Co.; Application for Payment of Unused Operating-Differential Subsidy

Notice is hereby given that Aquarius Marine Company (Aquarius) and Atlas Marine Company (Atlas), contractors under Operating-Differential Subsidy Agreements, Contracts MA/MSB–309 and MA/MSB–274, respectively, request the Maritime Subsidy Board to extend the term of these contracts by four years each, to expire October 15, 1999, and December 30, 2000, subject to the restriction that subsidy will not be paid for more than 1,188 voyage days (about 3.25 years) of operations in subsidized service during the additional term, under whichever of the two contracts such operations may take place. In the alternative, Aquarius and Atlas requests a new four year operating-differential subsidy contract covering the operations of the CHARLESTON.

Aquarius and Atlas (applicants) advise that subsidized operations under Contract MA/MSB–309 terminated October 15, 1995, and subsidized operations under Contract MA/MSB–274 will terminate December 29, 1996. The applicants state that the vessels under these contracts were the AMERICAN HERITAGE, GOLDEN MONARCH, and CHARLESTON, under a subsidy-sharing arrangement stipulated in Addendums 84 and 85 of the respective contracts. Effective January 12, 1993, these addenda amended the contracts by adding to Article I–3(a) the CHARLESTON as a vessel eligible for subsidy under the terms of the two contracts and permitted to be substituted in the subsidized service for Aquarius's GOLDEN MONARCH and Atlas' AMERICAN HERITAGE, subject to the condition that the annual amount of subsidy accrued for all three vessels operating under the two contracts could not exceed two ship-years of subsidized operations annually.

The applicants advise that the AMERICAN HERITAGE entered subsidized service on or about December 30, 1976; the GOLDEN MONARCH on or about October 15, 1975; and the CHARLESTON on or about January 12, 1993. The AMERICAN HERITAGE was withdrawn, sold, and scrapped in or about November 1994. The GOLDEN MONARCH was withdrawn, sold, and transferred to foreign registry in or about June 1995. The CHARLESTON continues in subsidized service.

The applicants advise that the AMERICAN HERITAGE performed no subsidized service after June 5, 1993, and the GOLDEN MONARCH operated sometimes in and sometimes out of subsidized service after October 25, 1992. As a result, these two vessels will have accumulated more than 2,500 voyage days of "unused subsidy"—that is to say, voyage days during which they had a contractual right to earn subsidies but refrained from doing so—from those dates to the end of the terms of the respective contracts. The applicants advise that allowing for the absorption of 1,370 of these unused days by subsidized operations of the CHARLESTON, there will remain 1,188 unused days of entitlement to subsidy. They are proposing that the contracts be extended to enable them to absorb these 1,188 days by continuing the subsidized operation of the CHARLESTON. This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm or

corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7210, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5 p.m. on December 12, 1995. The Maritime Subsidy Board will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 2.804 Operating-Differential Subsidies).

By order of the Maritime Subsidy Board.

Dated: November 21, 1995.

Joel C. Richard,

Secretary.

[FR Doc. 95–29041 Filed 11–27–95; 8:45 am]

BILLING CODE 4910–81–M

DEPARTMENT OF THE TREASURY

Domestic Finance; Notice of Open Meeting of the Advisory Committee, U.S. Community Adjustment and Investment Program

The Department of the Treasury, pursuant to the North American Free Trade Agreement ("NAFTA") Implementation Act (Pub. L. 103–182), established an advisory committee (the "Advisory Committee") for the community adjustment and investment program (the "Program"). The Program will provide financing to businesses and individuals in communities adversely impacted by NAFTA to create new jobs. The charter of the Advisory Committee has been filed in accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463), with the approval of the Secretary of the Treasury.

The Advisory Committee consists of nine members of the public, appointed by the President, who collectively represent: (1) community groups whose constituencies include low-income families; (2) scientific, professional, business, nonprofit, or public interest organizations or associations, which are neither affiliated with, nor under the direction of, a government; and (3) for-profit business interests.

The objectives of the Advisory Committee are to: (1) provide informed advice to the President regarding the implementation of the Program; and (2) review on a regular basis, the operation of the Program, and provide the President with the conclusions of its review. Pursuant to Executive Order No. 12916, dated May 13, 1994, the President established an interagency committee to implement the Program and to receive, on behalf of the President, advice of the Advisory Committee. The committee is chaired by the Secretary of the Treasury.

A meeting of the Advisory Committee, which will be open to the public, will be held in Los Angeles, California, at the Mexican American Opportunity Foundation (MAOF) Auditorium, 401 N. Garfield Avenue, Montebello, CA 90640, from 9 a.m. to 1 p.m. on Tuesday, December 12, 1995. The room will accommodate approximately 75 persons and seating is available on a first-come, first-serve basis, unless space has been reserved in advance. Due to limited seating, prospective attendees are encouraged to contact the person listed below prior to December 8, 1995. If you would like to have the Advisory Committee consider a written statement, material must be submitted to the U.S. Community Adjustment and Investment Program, Advisory Committee, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Room 1124, Washington, DC 20220 no later than Tuesday, December 5, 1995. If you have any questions, please call Dan Decena at (202) 622–0637. (Please note that this telephone number is not toll-free.)

Mozelle W. Thompson

Deputy Assistant Secretary, Government Financial Policy.

[FR Doc. 95–28996 Filed 11–27–95; 8:45 am]

BILLING CODE 4815–25–P

Customs Service

Proposed Agency Information Collection Activities; Comment Request; Public Input

AGENCY: Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Manufacturer/Shipper Identification Required at Time of Entry. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before January 15, 1996, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Manufacturer/Shipper Identification Required at Time of Entry.

OMB Number: 1515–0170.

Form Number: N/A.

Abstract: This collection of information requires that all importers provide the name and complete address of the individual or firm who is responsible for invoicing the merchandise. This information assists Customs in the selection process for intensive examinations or scrutiny of those shipments that are considered high risk for violations.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 119,570.

Estimated Time Per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 5,978.

Dated: November 22, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–28997 Filed 11–27–95; 8:45 am]

BILLING CODE 4820–02–P

Proposed Agency Information Collection Activities; Comment Request; Public Input

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Authorization of Bonded Carriers to Transport Cargo Within Port Limits Without Obtaining Cartman's License. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before January 15, 1996, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue N.W., Washington, D.C. 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Authorization of Bonded Carriers To Transport Cargo Within Port Limits Without Obtaining Cartman's License .

OMB Number: 1515–0193.

Form Number: N/A.

Abstract: This collection of information authorizes the approval of a bond and license to transact business as a cartman or a lighterman for the cartage or lighterage of merchandise entered for warehouse, designated for examination, taken to container stations, or taken into custody as unclaimed.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 250.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 42.

Dated: November 22, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–28999 Filed 11–27–95; 8:45 am]

BILLING CODE 4820–02–P

Proposed Agency Information Collection Activities; Comment Request; Public Input

AGENCY: Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Report of International Transportation of Currency or Monetary Instruments. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before January 15, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue N.W., Washington, D.C. 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Report of International Transportation of Currency or Monetary Instruments.

OMB Number: 1515–0079.

Form Number: CF–4790.

Abstract: This collection of information is required to provide Customs Agents with an established record, where none previously existed, of currency and negotiable instruments entering the United States, and has a high level of usefulness in criminal, tax and regulatory investigations and proceedings.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 178,943.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 29,830.

Dated: November 22, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–29000 Filed 11–27–95; 8:45 am]

BILLING CODE 4820–02–P

Proposed Agency Information Collection Activities; Comment Request; Public Input

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to

comment on an information collection requirement concerning Request for Information. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before January 15, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue N.W., Washington, D.C. 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Request for Information.

OMB Number: 1515–0068.

Form Number: CF–28.

Abstract: This collection of information is requested by Customs to provide additional information from importers if sufficient information is not provided on the invoice or entry documentation. This helps Customs Officers in ascertaining the classification and rate of duty on imported merchandise.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 60,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 30,000.

Dated: November 22, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–28998 Filed 11–27–95; 8:45 am]

BILLING CODE 4820–02–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (70 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects in the exhibit "Pergamon: The Legend of Telephos on the Great Altar" (See list [1]) imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, from on or about January 16, 1996, through on or about April 14, 1996, and at The California Palace of the Legion of Honor, San Francisco, California, from on or about May 4, 1996, through on or about September 8, 1996, is in the national interest. Public Notice of this determination is ordered to be published in the **Federal Register.**

Dated: November 20, 1995.

Les Jin,

General Counsel.

[FR Doc. 95–28913 Filed 11–27–95; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Proposed Information Collection Activity; Public Comment Request: Loan Guaranty Funding Fee Transmittal, VA Forms 26–8986 and 26–8986–1

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Veterans Benefits Administration (VBA) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before January 29, 1996.

ADDRESSES: Direct all written comments to Nancy J. Kessinger, Veterans Benefits Administration (20M30), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the VBA request for Office of Management and Budget (OMB) approval. In this document VBA is soliciting comments concerning the following information collection:

OMB Control Number: 2900–0474.

Title and Form Number: Loan Guaranty Funding Fee Transmittal, VA Forms 26–8986 and 26–8986–1.

Type of Review: Extension of a currently approved collection.

Need and Uses: Use of these forms will allow lending institutions to transmit funding fees required for VA-guaranteed home loans to a lockbox depository.

Current Actions: A funding fee must be paid to VA before loans will be guaranteed. A fee is payable for both home and manufactured home loans and for assumptions of VA-guaranteed loans. The only exceptions are loans made to veterans receiving VA compensation for service-connected disabilities, or who, but for receipt of retirement pay, would be entitled to receive compensation, and loans made to surviving spouses of veterans who died in service or from a service-connected disability regardless of whether the spouse has his or her own eligibility, provided the spouse's eligibility was not used to obtain the VA-guaranteed loan. This fee is required by 38 U.S.C. 3729, 38 CFR 36.4232 and 36.4312. There is a schedule of funding fees to be applied to VA home loans. The amount of the fee will be dependent upon whether the veteran's eligibility is based upon active or reservist duty and upon the amount of down-payment, if any, paid by a veteran.

Affected Public: Individuals or households and Business or other for-profit.

Estimated Annual Burden: 58,333 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Generally one-time.

Estimated Number of Respondents: 350,000.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, Telephone (202) 565–4412 or FAX (202) 565–8267.

Dated: November 9, 1995.

By direction of the Secretary:

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 95–28948 Filed 11–27–95; 8:45 am]

BILLING CODE 8320–01–P

Proposed Information Collection Activity; Public Comment Request: Escrow Agreement for Postponed Exterior Onsite Improvements, VA Form 26–1849

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Veterans Benefits Administration (VBA) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before January 29, 1996.

ADDRESSES: Direct all written comments to Nancy J. Kessinger, Veterans Benefits Administration (20M30), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the VBA request for Office of Management and Budget (OMB) approval. In this document VBA is soliciting comments concerning the following information collection:

OMB Control Number: 2900–0320.

Title and Form Number: Escrow Agreement for Postponed Exterior Onsite Improvements, VA Form 26–1849.

Type of Review: Extension of a currently approved collection.

Need and Uses: The form is a legal agreement between builder/seller, lender, and escrow agent covering escrow of funds for unfinished exterior onsite improvements of newly constructed housing proposed for VA guaranteed financing.

Current Actions: Title 38, U.S. Code, Section 501(a) authorizes the Secretary to make necessary rules and regulations appropriate to carry out the laws administered by VA. Accordingly, escrow procedures were originally developed so that the Loan Guaranty Program could carry practices similar to those of the private mortgage lending industry. The escrow procedures and VA Form 26–1849 were developed for the benefit of the veteran who may gain occupancy of the property when specified exterior onsite improvements must be postponed because of delays.

Affected Public: Individuals or households and Business or other for-profit.

Estimated Annual Burden: Because escrow agreements, such as VA Form 26–1849, are common practices in the building and lending industry, only 1 hour is being requested.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Generally one-time.

Estimated Number of Respondents: 32,000.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW. Washington, DC 20420, Telephone (202) 565–4412 or FAX (202) 565–8267.

Dated: November 9, 1995.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 95–28947 Filed 11–27–95; 8:45 am]

BILLING CODE 8320–01–P

[1] A copy of this list may be obtained by contacting Neila Sheahan, Assistant General Counsel, at 202/619–5030; the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547.

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Sunshine Act Meetings

Federal Register

Vol. 60, No. 228

Tuesday, November 28, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

DATE AND TIME: November 29, 1995, 10:00 a.m.

PLACE: 888 First Street, NE., Room 2C, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro, 642nd Meeting—November 29, 1995, Regular Meeting (10:00 a.m.)

CAH–1.
Docket # P–10078, 021, Carl and Elaine Hitchcock
CAH–2.
Omitted
CAH–3.
Docket # P–2436, 035, Consumers Power Company
Other #s P–2447, 035, Consumers Power Company
P–2448, 045, Consumers Power Company
P–2449, 033, Consumers Power Company
P–2450, 033, Consumers Power Company
P–2453, 032, Consumers Power Company
P–2580, 052, Consumers Power Company
CAH–4.
Docket # P–5456, 003, Nekoosa Packaging Corporation
CAH–5.
Docket # P–10455, 004, JDJ Energy Company
CAH–6.
Docket # UL94–1, 001, Union Water Power Company
Other #s UL94–3, 001, Kennebec Water Power Company
CAH–7.
Docket # P–5, 026, Montana Power Company and Confederated Salish and Kootenai Tribes of the Flathead Reservation
CAH–8.
Docket # P–4797, 034, Cogeneration, Inc.

Consent Agenda—Electric

CAE–1.
Docket # ER95–1586, 000, Citizens Utilities Company
Other #s EL96–17, 000, Citizens Utilities Company
CAE–2.
Docket # ER96–43, 000, San Diego Gas and Electric Company
CAE–3.
Docket # EC94–23, 000, The Washington Water Power Company and Sierra Pacific Power Company
Other #s ER95–808, 000, The Washington Water Power Company and Sierra Pacific Power Company
CAE–4.
Docket # ER93–465, 022, Florida Power & Light Company
Other #s EL93–28, 008, Florida Power & Light Company
EL93–40, 008, Florida Power & Light Company
EL94–12, 008, Florida Power & Light Company
EL94–28, 006, Florida Power & Light Company
EL94–47, 006, Florida Power & Light Company
ER93–922, 013, Florida Power & Light Company
CAE–5.
Docket # ES96–4, 000, El Paso Electric Company
CAE–6.
Docket # ER95–215, 000, Southern California Edison Company, the Montana Power Company, Nevada Power Co., and Pacificorp, et al.
CAE–7.
Omitted
CAE–8.
Docket # ER95–1453, 001, Commonwealth Electric Company
CAE–9.
Docket # ER95–1842, 001, New England Power Company
Other #s ER92–764, 005, New England Power Company
ER92–766, 005, Northeast Utilities Service Company
ER95–1668, 001, Northeast Utilities Service Company
CAE–10.
Docket # ER95–1468, 001, Southern Company Services, Inc.
Other #s ER95–976, 001, Southern Energy Marketing, Inc.
TX95–5, 001, Southeastern Power Administration
CAE–11.
Docket # ER95–791, 001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Co.
CAE–12.
Omitted
CAE–13.
Docket # EG96–8, 000, Compania Samalayuca II, S.A. De C.V.
CAE–14.
Docket # EG96–4, 000, Jamaica Energy Partners
CAE–15.
Docket # EG96–5, 000, Jamaica Energy Operators
CAE–16.
Docket # EG96–2, 000, Houston Industries Energy—Peru, Inc.
CAE–17.
Docket # EG96–3, 000, China U.S. Power Partners I, Ltd.
CAE–18.
Omitted
CAE–19.
Docket # EG96–1, 000, International Power Advisors, Inc.
CAE–20.
Docket # RM96–3, 000, Delegation of Authority to the Secretary, Director of Office of Electric Power and the General Counsel
CAE–21.
Docket # EL95–31, 000, City of Concord, North Carolina, Town of Dallas, North Carolina, et al. v. Duke Power Company
CAE–22.
Docket # EL95–29, 000, Kamine/Besicorp Allegany L.P.
Other #s QF88–292, 003, Kamine/Besicorp Allegany L.P.
Other #s EL95–29, 000, Kamine/Besicorp Allegany L.P.

Consent Agenda—Gas and Oil

CAG–1.
Omitted
CAG–2.
Omitted
CAG–3.
Omitted
CAG–4.
Docket# PR95–15, 000, Manchester Pipeline Corporation
CAG–5.
Omitted
CAG–6.
Docket# RP96–22, 000, Iroquois gas Transmission System, L.P.
CAG–7.
Omitted
CAG–8.
Omitted
CAG–9.
Docket# RP96–28, 000, Tennessee Gas Pipeline Company
CAG–10.
Docket# RP96–29, 000, National Fuel Gas Supply Corporation
CAG–11.
Omitted
CAG–12.
Docket# RP96–34, 000, Texas Eastern Trasnmission Corporation

OTHER#S RP96–34, 002, Texas Eastern Transmission Corporation
CAG–13.
Docket# RP96–35, 000, East Tennessee Natural Gas Company
CAG–14.
Omitted
CAG–15.
Omitted
CAG–16.
Docket# TM96–3–29, 000, Transcontinental Gas Pipe Line Corporation
CAG–17.
Docket# RP94–220, 009, Northwest Pipeline Corporation
CAG–18.
Omitted
CAG–19.
Docket# RP95–326, 004, Natural Gas Pipeline Company of America
OTHER#S CP95–534, 000, Natural Gas Pipeline Company of America
CP95–535, 000, Natural Gas Pipeline Company of America
RP95–242, 002, Natural Gas Pipeline Company of America
RP95–242, 005, Natural Gas Pipeline Company of America
RP95–326, 001, Natural Gas Pipeline Company of America
RP95–424, 000, Natural Gas Pipeline Company of America
CAG–20.
Docket# RP96–23, 000, Natural Gas Pipeline Company of America
CAG–21.
Docket# RP96–33, 000, Northern Natural Gas Company
CAG–22.
Omitted
CAG–23.
Omitted
CAG–24.
Docket# RP94–96, 012, CNG Transmission Corporation
Other#s RP94–213, 009, CNG Transmission Corporation
RP95–115, 003, CNG Transmission Corporation
RP95–116, 000, CNG Transmission Corporation
RP95–222, 000, CNG Transmission Corporation
TM95–2–22, 000, CNG Transmission Corporation
CAG–25.
Docket# RP95–182, 000, ANR Pipeline Company
CAG–26.
Docket# RP95–197, 004, Transcontinental Gas Pipe Line Corporation
CAG–27.
Docket# RP95–175, 003, Mojava Pipeline Company
CAG–28.
Omitted
CAG–29.
Docket# RP96–27, 000, Northwest Pipeline Corporation
CAG–30.
Docket# RP96–31, 000, Northwest Pipeline Corporation
CAG–31.
Docket# PR94–22, 000, Mobil Vanderbilt-Beaumont Pipeline Company
Other#s PR94–22, 001, Mobil Vanderbilt-Beaumont Pipeline Company
CAG–32.
Docket# RP88–262, 029, Panhandle Eastern Pipe Line Company
Other#s RP88–262, 022, Panhandle Eastern Pipe Line Company
RP88–262, 023, Panhandle Eastern Pipe Line Company
RP88–262, 026, Panhandle Eastern Pipe Line Company
RP88–262, 027, Panhandle Eastern Pipe Line Company
RP88–262, 028, Panhandle Eastern Pipe Line Company
CAG–33.
Docket# TM96–1–59, 001, Northern Natural Gas Company
CAG–34.
Docket# RP95–429, 001, ANR Pipeline Company
CAG–35.
Docket# OR95–5, 001, Mobil Oil Corporation V. SFPP, L.P.
Other#s OR92–8, 006, SFPP, L.P.
OR94–4, 003, SFPP, L.P.
CAG–36.
Docket# RP95–190, 004, Williams Natural Gas Company
CAG–37.
Docket# RP95–146, 001, Texas Gas Transmission Corporation
CAG–38.
Docket# AC93–116, 001, Northern Border Pipeline Company
CAG–39.
Docket# RP95–98, 002, Columbia Gas Transmission Corporation
Other#s CP95–186, 002, Tennessee Gas Pipeline Company
CP95–231, 002, Ozark Gas Transmission System
CP95–232, 002, Ozark Gas Transmission System
RP95–144, 002, Tennessee Gas Pipeline Company
CAG–40.
Omitted
CAG–41.
Docket# RP95–303, 002, Williams Natural Gas Company
CAG–42.
Docket# RP95–141, 001, Pacific Gas Transmission Company
CAG–43.
Docket# RP91–203, 057, Tennessee Gas Pipeline Company
CAG–44.
Docket# RP95–206, 001, Tennessee Gas Pipeline Company
CAG–45.
Docket# RP95–208, 001, Kansas and Oklahoma Cities v. Williams Natural Gas Company
CAG–46.
Docket# GP90–11, 004, Nicor Exploration Company
CAG–47.
Docket# RP90–137, 023, Williston Basin Interstate Pipeline Company
Other#S RP90–137, 020, Williston Basin Interstate Pipeline Company
RP90–137, 021, Williston Basin Interstate Pipeline Company
RP90–137, 022, Williston Basin Interstate Pipeline Company
RP90–137, 023, Williston Basin Interstate Pipeline Company
RP90–137, 025, Williston Basin Interstate Pipeline Company
RP90–137, 026, Williston Basin Interstate Pipeline Company
CAG–48.
Omitted
CAG–49.
Docket# RP95–112, 012, Tennessee Gas Pipeline Company
CAG–50.
Docket# RP91–203, 058, Tennessee Gas Pipeline Company
Other#S RP92–132, 045, Tennessee Gas Pipeline Company
CAG–51.
Docket# IS94–1, 000, Phillips Pipe Line Company
Other#S IS94–21, 000, Phillips Pipe Line Company
OR94–1, 000, Sinclair Oil Corporation v. Phillips Pipe Line Company
CAG–52.
Docket# IS94–9, 000, Total Pipeline Corporation
Other#S IS94–25, 000, Total Pipeline Corporation
IS95–4, 000, Total Pipeline Corporation
CAG–53.
Docket# MG88–54, 006, Trunkline Gas Company
CAG–54.
Docket# MG95–6, 001, Young Gas Storage Company, LTD.
CAG–55.
Docket# MG95–9, 000, National Fuel Gas Supply Corporation
CAG–56.
Omitted
CAG–57.
Docket# CP94–183, 002, El Paso Natural Gas Company
CAG–58.
Omitted
CAG–59.
Docket# CP95–482, 000, Columbia Gas Transmission Corporation
CAG–60.
Docket# CP95–505, 000, Southern Natural Gas Company
Other#S RP95–301, 000, Southern Natural Gas Company
CAG–61.
Docket# CP95–636, 000, Transcontinental Gas Pipe Line Corporation
CAG–62.
Docket# CP95–645, 000, Colorado Interstate Gas Company
CAG–63.
Docket# CP94–763, 000, Northern Natural Gas Company
CAG–64.
Docket# CP95–677, 000, Colorado Interstate Gas Company
CAG–65.
Docket# CP93–685, 002, Tuscarora Gas Transmission Company
CAG–66.
Docket# CP95–464, 000, Continental Natural Gas, Inc. v. Colorado Interstate Gas Company
CAG–67.
Docket# CP95–657, 000, Columbia Gas Transmission Corporation
CAG–68.

Docket# CP95–272, 000, Mobil Natural Gas, Inc.
Other#S CP95–270, 000, Northern Natural Gas Company
CAG–69.
Docket# CP94–610, 000, Enron Gathering Company
Other#S CP94–608, 000, Northern Natural Gas Company
CP94–608, 001, Northern Natural Gas Company
CP94–608, 002, Northern Natural Gas Company
CP94–608, 003, Northern Natural Gas Company
CP94–608, 004, Northern Natural Gas Company
CP94–610, 001, Enron Gathering Company
CP94–610, 002, Enron Gathering Company
CP94–610, 003, Enron Gathering Company
CP94–610, 004, Enron Gathering Company
MT95–12, 000, Northern Natural Gas Company
CAG–70.
Docket# PR95–14, 000, Louisiana Resources Pipeline Company, L.P.

Hydro Agenda

H–1. Reserved

Electric Agenda

E–1. Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Reserved

II. Pipeline Certificate Matters

PC–1.
Docket# RM96–5, 000, Gas Pipeline Facilities and Services on the Outer Continental Shelf, et al.

Dated: November 22, 1995.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29138 Filed 11–24–95; 12:27 pm]

BILLING CODE 6717–01–P

Board of Governors of the Federal Reserve System

TIME AND DATE: 11:00 a.m., Monday, December 4, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 24, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29165 Filed 11–24–95; 12:43 pm]

BILLING CODE 6210–01–P

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 27, December 4, 11, and 18, 1995.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of November 27

There are no meetings scheduled for the Week of November 27.

Week of December 4—Tentative

Friday, December 8

1:30 p.m.
Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)
(Contact: John Larkins, 301–415–7360)

Week of December 11—Tentative

Tuesday, December 12

10:00 a.m.
Briefing by DOE on Statue of High Level Waste Program (Public Meeting)
2:00 p.m.
Briefing on Materials Events Data Base (Public Meeting)
(Contact: Samuel Pettijohn, 301–415–6822)

Thursday, December 14

10:00 a.m.
Briefing on Industry Restructuring and Deregulation (Public Meeting)
2:00 p.m.
Briefing on EEO Program (Public Meeting)
(Contact: Vandy Miller, 301–415–7380)

Week of December 18—Tentative

Tuesday, December 19

10:00 a.m.
Briefing on Mechanism for Addressing Generic Safety Issues (Public Meeting)
(Contact: Denny Crutchfield, 301–415–1199)
2:00 p.m.
Briefing on Generic Implications of Recent Events Involving Ingestion of Radioactive Material at Research Facilities (Public Meeting)

ADDITIONAL INFORMATION: Affirmation of "Georgia Power Company's Interlocutory Appeal of Licensing Board Discovery Order" (Public Meeting) was held on November 21.

Note: The Nuclear Regulatory Commission is operating under a delegation of authority to Chairman Shirley Ann Jackson, because with three vacancies on the Commission, it is temporarily without a quorum. As a legal matter, therefore, the Sunshine Act does not apply; but in the interests of openness and public accountability, the Commission will conduct business as though the Sunshine Act were applicable.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: November 22, 1995.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 95–29134 Filed 11–24–95; 10:41 am]

BILLING CODE 7590–01–M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Board of Directors Meeting

ACTION: The Pennsylvania Avenue Development Corporation announces the date of their forthcoming quarterly meeting of the Board of Directors.

DATE: A regular open meeting will be held Wednesday, December 13, 1995, at 10:00 a.m.

ADDRESS: The meeting will be held at the Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with 36 Code of Federal Regulations Part 901, and is open to the public.

Dated: November 20, 1995.

Robert E. McCally,

General Counsel.

[FR Doc. 95–29121 Filed 11–24–95; 12:26 pm]

BILLING CODE 7630–01–M

Corrections

Federal Register
Vol. 60, No. 228
Tuesday, November 28, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1049

[Docket No. AO-14-A66, etc.; DA-92-11]

Milk in the New England and Other Marketing Areas; Order Amending the Orders

Correction

In rule document 95–9009 beginning on page 18952 in the issue of Friday, April 14, 1995 make the following correction:

§1049.51 [Corrected]

On page 18965, in §1049.51, in the second column, the section number should read as set forth above.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–205–AD; Amendment 39–9421; AD 95–22–13]

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

Correction

In rule document 95–27075 beginning on page 55785 in the issue of Friday, November 3, 1995, make the following correction:

Under the heading **DATES:**, in the second full paragraph, in the third line, "January 2, 1995" should read "January 2, 1996".

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8618]

RIN 1545–AM15

Definition of a Controlled Foreign Corporation, Foreign Base Company Income and Foreign Personal Holding Company Income of a Controlled Foreign Corporation

Correction

In rule document 95–21838 beginning on page 46500 in the issue of Thursday, September 7, 1995, make the following correction:

§ 1.954-2 [Corrected]

On page 46527, in the first column, in § 1.954-2(g)(3)(ii), in the third line, "§ 1.954-1(c)(5)" should read "§ 1.964-1(c)(5)".

BILLING CODE 1505–01–D

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H.R. 2394/P.L. 104–57

Veterans' Compensation Cost-of-Living Adjustment Act of 1995 (Nov. 22, 1995; 109 Stat. 555)

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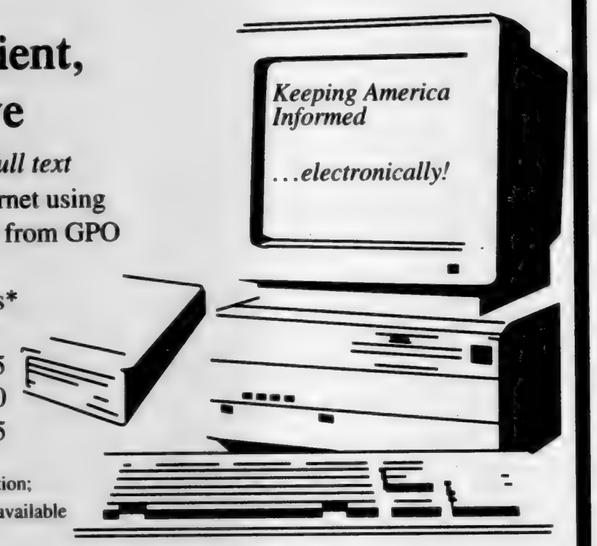

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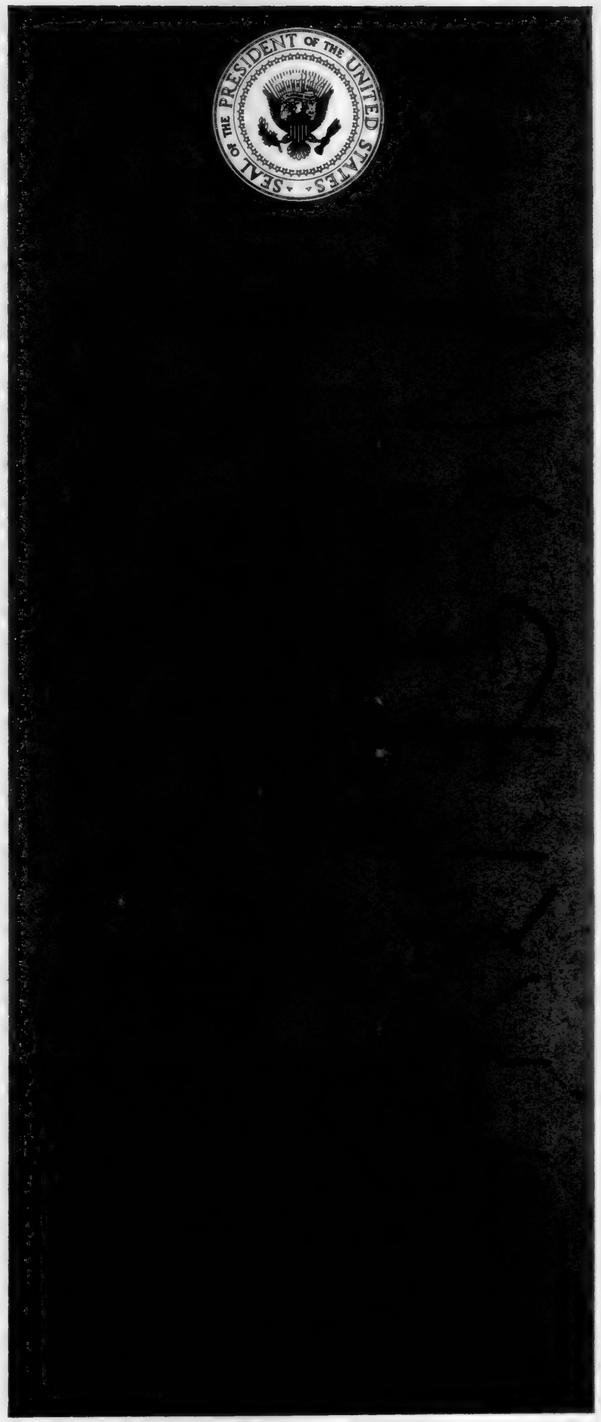

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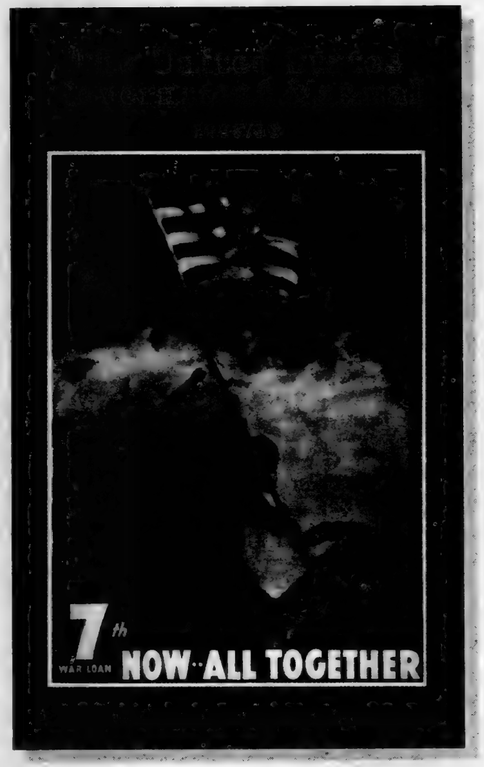

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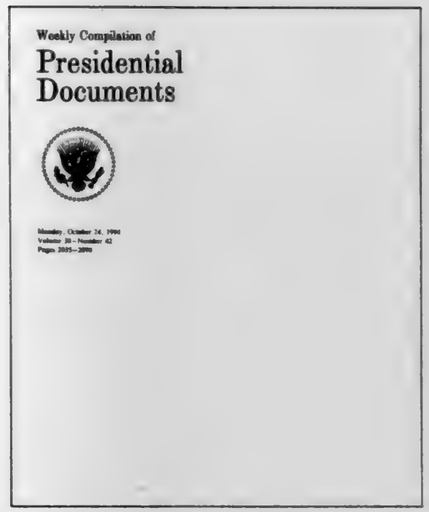
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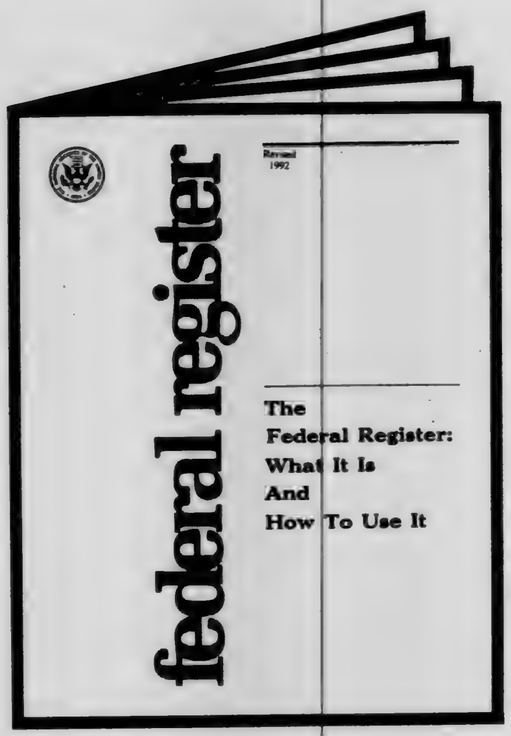

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The Regulatory Plan and the Unified Agenda of Federal Regulations

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Part II

Regulatory Information Service Center

Statement by the Vice President

Introduction to the Regulatory Plan and the Unified Agenda of Federal Regulations

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Vol. 60, No. 228
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Presidential Documents

Statement by the Vice President

During the past year, a vigorous and often unnecessarily acrimonious debate on regulatory reform has been underway. There is agreement by people in and out of Washington that there are too many regulations; that regulations are too costly, too invasive, and too prescriptive; and that regulatory reform is necessary. That is why changing the way the Federal Government regulates is, and has been since January 1993, a priority for us.

In September 1993, the President signed Executive Order No. 12866 "Regulatory Planning and Review." In that Order, we reaffirmed our commitment to: (1) the use of the best available scientific and economic data; (2) the use of analysis to inform decision-making; (3) consideration of flexible, cost-effective performance standards; and (4) early public participation in an open and accountable regulatory process.

We have made great progress implementing the principles set forth in that Order. We have legitimized centralized review (which was a subject of intense controversy in previous administrations). We have improved the use of cost/benefit analyses. We have produced better, more tailored, focused, and cost-effective regulations. We have done a better job of coordinating regulatory efforts between Federal agencies. And we have expanded outreach to the regulated communities.

Building on those efforts, in the fall of 1994, the President asked me to conduct a series of meetings with various agencies to develop additional reforms on both cross-cutting and sector-specific regulatory issues. As a result, we have announced commitments to reinvent significant regulatory programs by the Environmental Protection Agency, the Food and Drug Administration, the Occupational Safety and Health Administration, the Health Care Financing Administration, the Small Business Administration, and regarding pension reform, the Departments of Labor and the Treasury and the Pension Benefit Guaranty Corporation.

In addition, we announced new policies on enforcement and paperwork reduction. Enforcers have been encouraged to use their authority to waive up to 100 percent of punitive fines for small businesses, so that a business that acts in good faith can put its energy into fixing the problem, not fighting with a regulator. Regarding paperwork, agencies are eliminating or consolidating some reports and cutting the frequency of others, reducing the burden of businesses, State, local, and tribal governments and others.

We have also asked agencies to review, page-by-page, their existing regulations in order to eliminate or revise those that are outdated, unduly burdensome, unproductive, or where circumstances have changed key assumptions. We announced the results this past summer—16,000 pages to be eliminated from the Code of Federal Regulations and another 31,000 to be reinvented. So far, almost a quarter of the pages slated for elimination have been removed.

This same spirit—a critical review, applying common sense to regulatory programs—infuses this Regulatory Plan. As you will see, a substantial number of the entries in this Plan—more that 50 percent—are identified as efforts to eliminate or reinvent regulations. This is the right way to reform the regulatory system of this Nation. We are doing it deliberately and thoughtfully, with careful analysis, extensive public involvement, ingenuity, and hard work—not with promises of quick fixes or simple, one-size-fits-all declarations. We are proud of the work we are doing and the efforts that are reflected in this Regulatory Plan.

[FR Doc. 95-29103
Filed 11-24-95; 8:45 am]
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REGULATORY INFORMATION SERVICE CENTER

Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulations

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulations.

SUMMARY: The Regulatory Flexibility Act (5 U.S.C. 602) requires that agencies publish semiannual regulatory agendas describing regulatory actions they are developing. Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and Office of Management and Budget memoranda implementing section 4 of that Order establish minimum standards for agencies' agendas, including specific types of information for each entry. In addition, the Office of Federal Procurement Policy Act Amendments of 1988 (41 U.S.C. 402) require the development and semiannual publication of a report on procurement regulations.

The Unified Agenda helps agencies fulfill all of these requirements. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of this publication.

Section 4 of Executive Order 12866 also directs that, as part of their submissions to the October edition of the Unified Agenda, agencies prepare a regulatory plan of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. The agency plans appear as the first section of this joint publication; the agency agendas follow.

The Regulatory Plan begins with Vice President Gore's statement, followed by an introduction, and then the regulatory plans of 30 Federal departments and agencies. Each of these agencies has also submitted a regulatory agenda describing its other regulatory actions. The regulatory agendas for these 30 agencies and 34 other Federal agencies appear in Parts III-LXVI of this issue of the **Federal Register**, followed by indexes to both Plan and Agenda entries.

We welcome your comments on this joint publication and your suggestions for improving future ones.

ADDRESSES: Regulatory Information Service Center, 750 17th Street NW., Suite 500, Washington, DC 20006.

Electronic Availability

The full text of this edition of **The Regulatory Plan** and the **Unified Agenda of Federal Regulations** can be browsed and searched by pointing a worldwide web viewer to the U.S. Business Advisor located at:

http://www.business.gov

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the Agency Contact listed for each entry.

To provide comment on or to obtain further information about this publication, contact: Mark G. Schoenberg, Executive Director, Regulatory Information Service Center, 750 17th Street NW., Suite 500, Washington, DC 20006, (202) 395-6222. You may also send comments by e-mail to us at RISC@A1.EOP.GOV.

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INTRODUCTION TO THE REGULATORY PLAN AND THE UNIFIED AGENDA OF FEDERAL REGULATIONS

About The Regulatory Plan

The Regulatory Plan serves as a defining statement of the Administration's regulatory policies and priorities. E.O. 12866 directs that an agency's regulatory plan should be published as part of the October edition of the **Unified Agenda of Federal Regulations** (Unified Agenda) and contain two sections: (1) a narrative statement of its regulatory priorities; and (2) a description of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year.

About the Unified Agenda

The Regulatory Information Service Center (the Center) compiles the **Unified Agenda of Federal Regulations** for the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The Center provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The Office of Information and Regulatory Affairs is responsible for overseeing the Federal Government's regulatory, paperwork, and information resource management activities, including implementation of E.O. 12866.

The Unified Agenda provides uniform reporting of data on regulatory activities under development throughout the Federal Government. This edition of the Unified Agenda includes 64 regulatory agendas from the Federal departments, agencies, and commissions that publish agendas. Agencies of the United States Congress are not included. Several agencies have published regulatory agendas in the past but have nothing to report for this edition.

Except for completed actions, the regulatory activities included are, in general, those where there will be a regulatory action within the next 12 months. In addition, agencies include in a Long-Term Actions section activities where there will be a regulatory action within a longer timeframe. Some of the entries in this section may contain abbreviated information. The agendas do not include regulations that were excluded under E.O. 12866, such as those concerning military or foreign affairs functions or regulations related to agency organization, management, or personnel matters.

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for this publication.

In addition, Executive Order 12875 entitled "Enhancing the Intergovernmental Partnership" (October 26, 1993; 58 FR 58093) directs agencies to reduce the imposition of unfunded mandates upon State, local, and tribal governments. The Order directs agencies that are proposing to impose nonstatutory unfunded mandates to consult with affected governmental officials and document their concerns, report those concerns to the Director of the Office of Management and Budget, and explain the agency's position supporting the continuing need to issue the regulation in light of those concerns. As part of this effort, agencies include in their submissions for this publication information on whether their regulatory actions may have an effect on the various levels of government.

The Unified Agenda also helps fulfill the statutory requirement that the Office of Federal Procurement Policy (OFPP) publish a **Procurement Regulatory Activity Report** as required by the Office of Federal Procurement Policy Act Amendments of 1988 (102 Stat. 4055; 41 U.S.C. 402). In their submissions for this publication, agencies indicate which regulatory actions are procurement-related, as well as whether or not there is a statutory requirement or a paperwork burden associated with the procurement-related actions. Information that agencies publish in the Plan and the Unified Agenda is used by OFPP to produce its report.

The Plan and the Unified Agenda are produced through a computer system designed and maintained by the Center with the advice and assistance of the Government Printing Office. The system was designed to save agencies time and money by automating the preparation and printing of their materials in a uniform format and the production of the tables of contents and indexes for the publication. To further facilitate production of this publication, many agencies currently use computer terminals at their offices to enter information into the Center's computer system.

All Plan and Agenda entries contain uniform data elements, which are described below. Agencies may also include any additional information they consider important.

Congress generally authorizes a single Federal agency to implement, through regulation, a specific policy objective. Sometimes, however, a statute may require that several agencies issue regulations to accomplish the objective. In such cases, the agencies, working with a central coordinator, jointly publish the documents issued in the course of the rulemaking proceeding. These proceedings are referred to as Governmentwide common rules.

In this edition of the Unified Agenda, two Governmentwide common rules are reported by the agencies participating in their development. They are:

- Debarment and Suspension
- Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Thresholds)

Agencies participating in the development of these common rules have reported them in their individual sections of the Unified Agenda.

Regulatory agendas have been required by Executive orders since 1978. The Unified Agenda has been published twice each year since 1983. The October 1995 edition of the Agenda is the second one to include **The Regulatory Plan**.

How To Use The Regulatory Plan and the Unified Agenda

Agency regulatory plans begin with a Statement of Regulatory Priorities that is followed by descriptions of the agency's most important significant regulatory actions. Each agency introduces its part of the Unified Agenda with a preamble providing information specific to that part.

Each agency agenda appears as a separate part in this edition of the **Federal Register**. The sections of the Plan and the parts of the Unified Agenda appear alphabetically in four groups: Cabinet departments, other executive agencies, the Federal Acquisition Regulation, a joint authority (Agenda only), and independent regulatory agencies. Departments may in turn be divided into subagencies.

In the Plan and Unified Agenda, agencies place their entries under one of five headings according to the rulemaking stage of the entry, although Long-Term and Completed Actions appear only in the Unified Agenda portion of this document. The five stages are:

1. Prerule Stage—actions agencies will undertake to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. Proposed Rule Stage—actions for which agencies plan to publish a Notice of Proposed Rulemaking (NPRM) as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. Final Rule Stage—actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step in their rulemaking process.

4. Long-Term Actions (Unified Agenda only)—items not expected to result in a regulatory action within the 12 months after publication of this edition of the Unified Agenda.

5. Completed Actions (Unified Agenda only)—actions or reviews the agency has completed or withdrawn since publishing its last agenda. This section also includes items the agency began and completed between issues of the Agenda.

In the Unified Agenda, an agency may use a subheading to identify regulations that it has grouped according to a particular topic. When these subheadings are used, they appear above the title of the first regulation in the group.

A bullet (●) preceding an entry indicates that the entry appears in the publication for the first time.

All entries are numbered sequentially from the beginning of the Plan to the end of the Unified Agenda. The Sequence Number (Seq. No.) preceding the title of each entry identifies the location of the entry in this edition of **The Regulatory Plan** and the Unified Agenda. The same number is used in the indexes to enable readers to find entries on specific subjects.

In the Unified Agenda, for each agency that requests it, the Center provides a computer-produced table of contents that appears after the agency preamble. The agency tables of contents help readers locate quickly those entries within an agency that may be of most interest to them. Sequence numbers also appear in agency tables of contents. Regulatory Plan entries are identified in these tables of contents by a cross-reference to the Plan that appears in bold brackets.

This publication contains three indexes. The first two indexes list the regulatory actions that agencies believe may have effects on small entities or levels of government. The third is a Subject Index based on the **Federal Register Thesaurus of Indexing Terms** to help readers locate entries from various agencies that may affect a particular area of interest. This index also contains cross references to assist the reader's search.

Regulatory Plan Data Elements

In addition to the Unified Agenda data elements that appear below, each Regulatory Plan entry may contain the following information:

- Statement of Need—a description of the need for the regulatory action.
- Summary of the Legal Basis—a description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.
- Alternatives—a description of the alternatives to be considered or that were considered as required by section 4(c)(1)(B) of E.O. 12866.
- Anticipated Costs and Benefits—a description of preliminary estimates of the costs and benefits of the action.
- Risks—a description of the magnitude of the risk being addressed by the action, the amount by which this risk is expected to be reduced by the action, and the relation of these risks and risk-reduction efforts to other risks and risk-reduction efforts within the agency's jurisdiction.

Unified Agenda Data Elements

Entries in the Unified Agenda should contain, at a minimum, the following information:

- Title of the Regulation.
- Priority—agencies have been asked to place each entry into one of the following five categories of significance:

Economically Significant

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Other Significant

A rulemaking that is not economically significant but is considered significant by the agency. This category includes rules that the agency anticipates will be reviewed under E.O. 12866 or rules that are a priority of the agency head. These rules may or may not be included in **The Regulatory Plan**.

Substantive, Nonsignificant

A rulemaking that has substantive impacts but is neither Significant nor Routine and Frequent nor Informational/Administrative.

Routine and Frequent

A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

Informational/Administrative/Other

A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Agenda to inform the public of the activity.

- Reinvention—an indication of whether the action is part of the Administration's Reinventing Government effort and, if so, whether the result is elimination of existing text in the Code of Federal Regulations (CFR) or revision of text in the CFR to reduce burden or duplication or to streamline requirements.
- Legal Authority—the section(s) of the United States Code (U.S.C.) or Public Law (P.L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.
- CFR Citation—the section(s) of the Code of Federal Regulations that will be affected by the action.
- Legal Deadline—an indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some "Other" action.
- Abstract—a description of the problem the regulation will address; the need for a Federal solution; to the extent available, the alternatives that the agency is considering to address the problem; and the potential costs and benefits of the action.
- Timetable—the dates and citations (if available) for all past steps and at least a projected date for the next step for the regulatory action. If a date appears in this section as 00/00/00, the date of the action is currently undetermined. Similarly, 10/00/95 means the agency can predict the month and year the action will take place but not the day it will occur. "Undetermined" indicates the agency does not know what action it will take next.
- Small Entities Affected—indicates whether the rule is expected to have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act (5 U.S.C. 601) and, if so, whether the small entities are businesses, governmental jurisdictions, or organizations.
- Government Levels Affected—indicates whether the rule is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.
- Agency Contact—the name, title, address, and phone number of a person in the agency who is knowledgeable about the regulation. If available, the agency may also provide the fax number, e-mail address, and TDD for the agency contact.
- Procurement—a statement identifying procurement-related actions and indicating whether there is a statutory requirement for the action and whether there is a paperwork burden associated with the action. The Procurement heading appears only if the entry is a procurement-related action.

Some agencies have provided other optional information at their discretion; this information may include:

- Compliance Cost to the Public—the estimated gross compliance cost to the public of the action.
- Affected Sectors—the industrial sectors that the action may most affect, either directly or indirectly. Affected Sectors are identified by Standard Industrial Classification (SIC) numbers.
- Analysis—agencies may indicate if a Regulatory Flexibility Analysis, within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601), is being prepared or if any other kind of analysis or evaluation is being prepared (e.g., an environmental impact statement).

In addition, some agencies have used "Additional Information" to elaborate on the information they have provided.

Data Limitations

Agencies prepared entries for this edition of **The Regulatory Plan** and the Unified Agenda to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed.

The Regulatory Plan and the Unified Agenda do not create a legal obligation on agencies to adhere to schedules within them or to confine their regulatory activities to those regulations that appear in those publications. The information in this edition is accurate as of September 15, 1995, in the judgment of the submitting agencies, except as otherwise noted by the agencies. In addition, a number of agencies submitted updates after that date.

Where applicable, individual actions will be subject to review for compliance with applicable Executive orders, the Regulatory Flexibility Act, the Office of Federal Procurement Policy Act Amendments of 1988, and the Paperwork Reduction Act at appropriate points in the regulatory process.

List of Abbreviations

The following abbreviations appear throughout this publication:

ANPRM—An Advance Notice of Proposed Rulemaking is a preliminary notice that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule. The ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR—The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the departments and agencies of the Federal Government. The Code is divided into 50 titles, and each title covers a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

EO—An Executive order is a directive from the President to an executive agency, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

FR—The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal departments and agencies.

FY—The Federal fiscal year runs from October 1 to September 30.

NPRM—A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum:

- A statement of the time, place, and nature of the public rulemaking proceeding;
- a reference to the legal authority under which the rule is proposed; and
- either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL—A Public Law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, as opposed to a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, PL 103-5 is the fifth public law of the 103rd Congress.

RFA—A Regulatory Flexibility Analysis, within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601), describes the impact of a proposed rule on small entities. An RFA describes why the agency is considering the action; the objectives of and legal basis for the proposed rule; an estimate of the number of small entities that could be affected and the compliance requirements they would have to fulfill; any other duplicative, overlapping, or conflicting Federal rules; and alternatives to the proposed action. When required, an initial RFA accompanies an NPRM, and a final RFA accompanies a final rule.

RIN—The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in this publication as directed by E.O. 12866 (section 4(b)). Additionally, OMB has asked agencies to include RIN numbers in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register** to make it easier for the public and agency officials to track the publication history of regulatory actions throughout their life cycles.

Seq. No.—The Sequence Number identifies the location of an entry in this publication.

USC—The United States Code is a consolidation and codification of all general and permanent laws of the United States. The USC is divided into 50 titles, and each title covers a broad area of Federal law.

Information About Additional Copies

Additional copies of this edition of the **Federal Register** are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325, (202) 512-1800.

Copies of individual agency materials may be available directly from the agency. Please contact the particular agency for further information.

Dated: November 1, 1995.

Mark G. Schoenberg,

Executive Director.

[FR Doc. 95-27487 Filed 11-24-95; 8:45 am]

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DEPARTMENT OF AGRICULTURE (USDA)

Statement of Regulatory Priorities

The Department of Agriculture (USDA) has recently completed an in-depth review of all its regulatory holdings, in compliance with the President's March 4, 1995, memorandum, "Regulatory Reinvention Initiative." Over 14,000 pages in the Code of Federal Regulations (CFR) were reviewed, and as a result the Department plans to eliminate more than 3,400 pages of obsolete or redundant regulations. In addition, over 8,000 pages will be reinvented to ensure greater conformity with the President's regulatory priorities. When the results of the review are fully implemented the Department will have eliminated or reinvented 81 percent of its regulatory holdings in the CFR.

Positive changes resulting from actions proposed by the Department will reach into every corner of the country and, both directly and indirectly, touch the lives of most Americans. Those programs that offer support to specific rural and urban segments of the economy will be simplified so that persons who qualify for assistance, or some other form of participation, will find less burdensome rules. Yet high standards will be set for efficient and effective program management that makes the best use of taxpayer dollars. Farmers, ranchers, and others involved in U.S. agriculture will find significant changes in all aspects of regulations that govern their interaction with the Department and its programs. Farm credit, a mainstay of the Nation's rural economy, will be significantly streamlined by the merger of cumbersome loan-making regulations with forms and certifications simplified to facilitate the application process. The Department will undertake a number of actions in the regulation of commodities that will increase efficiency, improve customer service, reduce intervention in markets, and allow States to assume greater responsibility in controlling the spread of plant pests or disease. The Department will also improve the regulations that serve rural communities. Several changes are being proposed in rural housing programs. Nutrition programs will also be strengthened, their efficiency improved, and their integrity enhanced through regulatory reform. In the area of food safety, the Department has undertaken a significant reinvention of all policies and relationships with industry and the public. There are several important reinvention plans in the natural resources and conservation area.

The Role of Regulations

The programs of the Department are diverse and far reaching, as are the regulations that attend their delivery. Regulations codify how the Department will conduct its business, including the specifics of access to, and eligibility for, USDA programs. Regulations also specify the behavior of State and local governments, private industry, businesses, and individuals that is necessary to comply with their provisions. The diversity in purpose and outreach of our programs contributes significantly to the USDA being at or near the top of the list of Departments that produce the largest number of regulations annually. These regulations range from nutrition standards for the school lunch program, to natural resource and environmental measures governing national forest usage and soil conservation, to regulations protecting American agribusiness (the largest dollar value contributor to exports) from the ravages of domestic or foreign plant or animal pestilence; and they extend from farm to supermarket to ensure the safety, quality, and availability of the Nation's food supply. Many regulations function in a dynamic environment which requires their periodic modification. The factors determining various entitlement, eligibility, and administrative criteria often change from year to year. Therefore, many significant regulations must be revised annually to reflect changes in economic and market benchmarks. Almost all legislation that affects Departmental programs has accompanying regulatory needs, often with a significant impact. A current example is the pending 1995 Farm Bill now before Congress. Congress enacts a new "Farm Bill" every 5 years, and 1995 marks the start of the next 5-year cycle. This key legislation affects most agencies of USDA and results in the addition of new programs, the deletion of others, and modification to still others. Although the specifics of this bill are currently under development, its passage will have considerable regulatory consequences.

Administration Guidance—USDA Response

In developing and implementing regulations the Department has been guided by the regulatory principles and philosophy set forth by the President in Executive Order 12866, "Regulatory Planning and Review." As prescribed in the Order, the USDA is committed to "promulgate only those regulations that are required by law, are necessary to interpret the law, or are made necessary by compelling public need." When considering a rulemaking action, the Department will assess the costs and benefits of available regulatory alternatives, including the alternative of not regulating. Our analysis will consider the costs and benefits of both quantifiable and qualitative measures, and opt for approaches that maximize net benefits.

The following are examples of USDA response mechanisms that have been undertaken as a result of regulation improvement guidance found in Presidential directives, the "Accompanying Report of the National Performance Review, Improving Regulatory Systems," and guidance from the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs. These examples predate the March 4, 1995, initiative:

- Simplified Review Procedures—The process for developing new regulations in USDA has been thoroughly reviewed to identify and implement streamlining opportunities. There is already in place a procedure that provides for expedited review of "not significant" regulations. The Department has also worked cooperatively with OMB to improve the coordination of classification and clearance activities. Simple interactive procedures have been developed, and communication has been excellent. The Department is also exploring opportunities to apply innovative rulemaking approaches.
- Improved Impact Statements—With respect to "significant regulations," the Department is working to strengthen the impact analyses supporting these regulations. For instance, the regulation review process contains a section of guidelines for the preparation of risk assessments and cost benefits analyses. Further, as a result of the recent USDA reorganization, there is now a subcabinet position of Chief Economist, whose responsibilities include supervision of an Office of Risk Assessment and Cost-Benefit Analysis.
- Reduced Paperwork Burdens—The Department has reviewed its existing regulations with the intention of reducing paperwork burdens wherever possible. As part of an earlier commitment to regulatory reform, the Consolidated Farm Service Agency conducted a comprehensive regulatory review and identified changes in its procedures and forms that will greatly reduce the complexity and paperwork imposed on participants in its programs. Over 200 changes will be implemented, which are estimated to result in a reduction of 2 to 3 million work hours by farm program participants.
- Fewer Internal Regulations—Executive Order 12861 directs that all internal agency regulations be reduced by 50 percent over a 3-year period. A reduction in overall regulations will aid in streamlining work throughout USDA and ease reporting burdens within the Department. USDA has developed an implementation plan and performance measures for achieving the 50 percent reduction.
- Consensus-Based Rulemaking—In compliance with the President's request to explore nontraditional means of rulemaking, the Department's Animal and Plant Health Inspection Service is utilizing negotiated rulemaking in the development of a regulation concerning marine mammal health and safety.

Major Regulatory Priorities

Six agencies are represented in this regulatory plan. They are the Consolidated Farm Service Agency (which includes the Federal Crop Insurance Corporation), the Food and Consumer Service, the Forest Service, the Food Safety Inspection Service, the Rural Housing and Community Development Service, and the Rural Business and Community Development Service.

This document presents summary information on prospective significant regulations, as called for in Executive Order 12866. A brief comment on each of the six agencies appears below, which summarizes the agency mission and its key regulatory priorities. The agency summaries are followed by the Regulatory Plan entries.

Consolidated Farm Service Agency

Mission: The mission of the Consolidated Farm Service Agency (CFSA) is prescribed by various statutes that require the agency to (a) operate commodity programs to support commodity prices and the incomes of producers in a manner that will provide producers flexibility to respond to changing market conditions, (b) protect producers from unavoidable losses by providing a program of crop insurance, (c) provide credit to improve family farm opportunities, (d) maintain adequate carry-over stocks of vital commodities, (e) maintain an agricultural resource base and protect the environment through voluntary conservation programs, and (f) facilitate the orderly marketing and distribution of certain commodities through Commodity Credit Corporation operations. These goals are addressed through various means including loans and other credit programs, purchases, deficiency payments, crop insurance, conservation compliance, and production adjustment programs.

Priorities: CFSA's priorities for 1996 will be to implement the regulations required by the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (P.L. 103-354), as well as to implement the commodity and other programs as they are revised by the 1995 Farm Bill, which has not yet been legislated, and to implement the many revisions to the farm program and farm credit regulations that were identified by the President's Regulatory Review Initiative. The most significant CFSA regulations are those which implement commodity programs. Such programs are adjusted annually to reflect changes required by statutory formula and/or commodity market conditions. These recurring rulemaking actions implement price and income support and production adjustment programs for wheat, feed grains, upland cotton, extra-long staple cotton, and rice. Other crop regulations include a price support program for oilseeds, a poundage quota and price support program for peanuts, and a marketing quota and price support program for tobacco. Although these crop programs have significant economic impact they are driven by statute and by very specific program level-setting formulae. Therefore, they are noted here to acknowledge their significance in the overall USDA regulatory plan but are not further listed in the body of the plan which appears below.

Food and Consumer Service

Mission: The Food and Consumer Service (FCS) administers domestic food assistance programs essential to the health and well-being of millions of low-income children, working families, and the elderly. These programs provide access to a healthful, nutritious diet, encourage better eating habits among all Americans, particularly the Nation's children, and form a bridge between agriculture and health.

Priorities: FCS has established five broad strategic policy goals that are enabled and/or supported by the Agency's regulatory agenda. These goals include:

- Improving the nutritional quality of meals served through the National School Lunch and Breakfast Programs by implementing the School Meals Initiative for Healthy Children;
- Reforming the Food Stamp Program to assure access to a nutritious, healthful diet for low-income Americans, through food assistance and nutrition education, while improving the integrity of program operations;
- Integrating nutrition policy within FCS programs to assure a coordinated effort that maximizes resources and delivers consistent, coherent, science-based, consumer-driven messages to the American public;
- Improving the nutritional status and health of low-income women, infants, and children; and
- Reinventing the food distribution program by (a) providing more nutritious commodities and nutrition education programs that are in balance with continued support for agricultural markets, (b) streamlining program administration, and (c) improving customer service and program reputation/acceptance.

In addition, in support of the President's Regulatory Reform Initiatives, FCS has conducted a comprehensive, page-by-page review of all existing FCS regulations with the objectives of identifying regulations that are outdated, eliminating redundant provisions, empowering States to set their own procedures for case management and customer service, and emphasizing recipient responsibility for complying with program requirements. The findings of the review will be incorporated into proposed rulemaking for public comment.

Forest Service

Mission: The mission of the Forest Service is to achieve quality land management, under the sustainable multiple-use management concept, to meet the diverse needs of people. It includes:

- Advocating a conservation ethic in promoting the health, productivity, diversity, and beauty of forests and associated lands;
- Listening to people and responding to their diverse needs, in making decisions;
- Protecting and managing the National Forests and Grasslands so they best demonstrate the sustainable multiple-use management concept;
- Providing technical and financial assistance to State and private forest landowners, encouraging them to

practice good stewardship and quality land management in meeting their specific objectives;
- Providing technical and financial assistance to cities and communities to improve their natural environment by planting trees and caring for their forests;
- Providing international technical assistance and scientific exchanges to sustain and enhance global resources and to encourage quality land management;
- Helping States and communities to wisely use the forests to promote rural economic development and a quality rural environment;
- Developing and providing scientific and technical knowledge aimed at improving our capability to protect, manage, and use forests and rangelands; and
- Providing work, training, and education to the unemployed, underemployed, elderly, youth, and disadvantaged, in pursuit of our mission.

Priorities: The President's environmental program includes efforts to incorporate the principles of ecosystem management in natural resource decisionmaking on the National Forests. In support of that effort, final regulations will be published governing the amendment, revision, and implementation of forest land management plans. Significantly, the regulation will also streamline the planning process and update planning procedures and requirements in order to reflect court decisions and the Agency's experience gained with the first generation of forest plans.

Food Safety and Inspection Service

Mission: Few government agencies have a more pervasive influence on the public than the Food Safety and Inspection Service (FSIS). The FSIS is responsible for ensuring that the Nation's meat and poultry supply is safe, wholesome, unadulterated, and properly packaged and labeled.

Priorities: FSIS is carrying out a comprehensive review of its regulatory procedures and requirements and is evaluating which are consistent with Hazard Analysis and Critical Control Point (HACCP)-based systems, as articulated in FSIS's February 3, 1995, Pathogen Reduction/HACCP proposed rule (60 FR 6774). HACCP is an internationally recognized process-control system for preventing problems from occurring in the course of production rather than after a product is produced.

FSIS expects to publish the Pathogen Reduction/HACCP final rule, its most significant and far-reaching regulatory undertaking, by the end of calendar year 1995. The development of the rule has benefited from public participation in a series of meetings, conferences, and hearings during the extensive public comment period. The rule will amend the meat and poultry products inspection regulations to mandate the use in official meat and poultry establishments of HACCP systems.

The regulatory review is needed to enable FSIS to implement the food safety regulatory strategy spelled out in the preamble to the February 3 proposal and to establish a HACCP-oriented inspection system. The strategy is aimed at reducing the risk of foodborne illness by assuring that appropriate steps are taken in the food production process to prevent or reduce the likelihood of food safety hazards. To achieve this strategy the Agency must clarify the respective roles of Government and industry and place increased reliance on science-based performance standards, or food safety goals to be achieved, rather than command-and-control requirements that specify, often in great detail, the steps to be taken to achieve the goals. The Agency intends thereby to induce greater accountability in the regulated industry and encourage the adoption of scientific and technological innovations that can improve food safety.

The ongoing regulatory review is identifying command-and-control regulations that should be eliminated or converted to the science-based performance standards necessary for the operation of HACCP programs. Among the first significant regulatory changes to emerge from this review is the proposed elimination of prior-approval, or approval-before-use, requirements for blueprints, equipment, and most partial quality control programs used in official meat and poultry establishments. This proposal would hold establishments accountable for meeting performance standards for facilities and equipment. It is also intended to encourage establishments to develop and implement quality control programs without first seeking FSIS permission to do so and without direct Agency guidance in designing these programs.

Another significant regulation is proposing to convert current regulations governing the production of cooked beef products, uncured meat patties, and certain poultry products into performance standards. The proposed performance standards would spell out the objective level of performance establishments must meet during their operations in order to produce safe products, but allow the use of plant-specific processing procedures other than the procedures prescribed in the current regulations. By allowing establishments to select or design processing systems to meet these performance standards, FSIS hopes to spur innovation in the meat and poultry industry.

Finally, FSIS will be issuing a final rule to eliminate duplication in the prior labeling approval system, contributing to greater efficiency in Government services. The rule eliminates $3 million of direct labeling costs without compromising the accuracy and amount of information provided to the consumer.

Rural Housing and Community Development Service

Mission: The mission of the Rural Housing and Community Development Service (RHCDS) is to improve the quality of life in rural America as it provides community facilities, technical assistance, and outreach. RHCDS administers the Department's rural housing programs, which provide direct loans, loan guarantees, rental assistance payments, and grants for low-income families who reside in rural areas. The agency also administers the Community Facility Loan Program. RHCDS delivers its programs at the local level through an extensive network of county and district offices.

Priority: The significant regulation appearing in this plan results from a comprehensive review of the single-family housing program. Major changes in the rule are being proposed to improve and simplify the administration of the program. These changes include providing more flexibility with regard to size and amenity restrictions for direct loans, use of income ratios instead of a family budget for determining repayment ability, changes to the interest credit calculation method to base any subsidy on a family's percentile in area median income, and changes in the method of selecting and processing applications. This latter initiative focuses on the NPR theme of better "customer service" by setting up a separate fund at the State level for priority applicants. The applications of families in hardship situations would be given expedited handling.

Rural Business and Community Development Service

Mission: The Rural Business and Community Development Service (RBCDS) administers the Department's business programs, including the technical assistance and research provided by the former Agricultural Cooperative Service. The Business and Industry Loan Guarantees Program involves the participation of private lenders, to which the agency offers protection against loss, so that these lenders will be willing to extend credit to the borrower-client. Other programs, including the Intermediary Relending Program and the Rural Economic Development programs involve sponsors who borrow from the agency in order to make loans to businesses and other organizations for development purposes. The Alternative Agricultural Research and Commercialization Program offers assistance that is subject to repayment once projects become successful, allowing more latitude than a conventional loan for risk-taking.

Priority: Despite decades of investments in infrastructure and business development, rural America continues to face many significant challenges. Some of the challenges, like the persistence of poverty in major parts of the South and in Appalachia, have been with us for a long time. Others, such as the loss of jobs and businesses from rural economies, are due to changes in the structure of rural economic bases and the globalization of competition.

The primary goals of RBCDS regulatory changes are to economize in the use of public resources while making the programs more effective at rural community economic development and more customer friendly. New or revised regulations will generally be shorter, better organized, and clearer than the current regulations for the same programs, and program requirements will be more flexible.

USDA—Rural Housing and Community Development Service (RHCDS)

FINAL RULE STAGE

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1. SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1480; 7 USC 1989; 5 USC 301

CFR Citation:

7 CFR 1944 subpart A; 7 CFR 1910 subpart A; 7 CFR 1965 subpart C; 7 CFR 1951 subpart G; 7 CFR 1944 subpart J; 7 CFR 1924 subpart C; 7 CFR 1930 subpart C; 7 CFR 1941 subpart A; 7 CFR 1944 subpart D; 7 CFR 1944 subpart N; 7 CFR 1951 subpart M; 7 CFR 1951 subpart S; 7 CFR 1955 subpart B

Legal Deadline:

None

Abstract:

The Rural Housing and Community Development Service (RHCDS) published a proposed rule in the **Federal Register** on May 12, 1995, containing four primary initiatives:

1. Size and amenity restrictions lessened: The proposal is to use the dollar limitations on RHCDS Guaranteed Rural Housing Loans ("HUD caps") for the direct loan program, rather than using a laundry list of allowed and disallowed amenities, when determining "modest" housing in an area and the maximum amount of the loan.

2. Income ratios used for determining repayment ability instead of a family budget: This approach is more in line with industry standards and is in conformance with the Guaranteed Rural Housing Program.

3. Payment assistance calculation method changed to base subsidy on family's percentile of area median income: An equivalent rate table would be structured to tie the rate of interest paid by the borrower to the relationship of the borrower's income to median income. Applicant/borrowers would pay a minimum "floor" for principal, interest, taxes, and insurance (PITI). The percentages are 22 percent for very low income, 24 percent for applicants with income between 50 and 65 percent of median income, and 26 percent for those with income between 65 and 80 percent of median. As household income rises, the borrower's interest rate would also rise, until eventually the full note rate is reached. A study conducted by the Agency indicates that 94 percent of existing RHCDS borrowers will continue to qualify for interest credit under the proposed method. Exceptions have been incorporated to provide additional subsidy in high-cost areas when it is difficult to obtain less costly housing.

4. Changes made to the method of selecting and processing applications—maintaining a separate fund for priority applications: A separate fund for priority applications would be maintained by the State Director, including mutual self-help housing, servicing loans, participation loans, refinancing non-RHCDS debts, and hardship applications from persons living in deficient housing for more than 6 months. The proposal will allow refinancing of non-RHCDS debts when, although the debt is not delinquent, it is clear the applicant cannot continue to maintain payments for reasons beyond his or her control; and will also allow refinancing non-RHCDS debts on a building site without a dwelling. Application processing has been streamlined and improved; eligible applicants will be issued a Certificate of Eligibility that is good for 90 days; a maximum of two extensions may be granted if the applicant is actively pursuing locating a home. Time limits have been incorporated regarding completion of the real estate appraisal and approval of the loan.

The final rule on these initiatives will also incorporate several technical changes contained in a proposed rule published in the **Federal Register** on January 6, 1993. These changes include: excluding certain payments in determining income eligibility, deleting the requirement for a public posting of applicants' names, and requiring applicants to submit their Federal income tax returns for certifying their income.

Statement of Need:

Changes to this regulation are necessary to make the instruction more customer-friendly, to conform the direct Rural Housing program to the Guaranteed Rural Housing Loan program and industry standards, and to reduce the Agency's subsidy budget authority.

Summary of the Legal Basis:

Section 502 of the Housing Act of 1949 as amended.

Alternatives:

Proposed changes to this rule were determined by comparing alternatives used by conventional lenders when conducting similar loan programs and by consulting with interested groups

such as the National Association of County Supervisors and County Office Assistants and Clerks, the Housing Assistance Council, and the National Association of Home Builders. The Agency also published an advance notice of proposed rulemaking in the **Federal Register** soliciting comments on the four primary initiatives; comments received were considered and incorporated wherever possible. A study was conducted which indicates that approximately 94 percent of existing borrowers would continue to qualify for interest credit under the proposed method.

Anticipated Costs and Benefits:

We do not anticipate costs connected with the proposed changes. Benefits include a program which will be more borrower-friendly and more in line with conventional lending programs, reduced work load in field offices, and a reduction of payment assistance subsidy by approximately 2.5 points, which should reduce the required budget authority by approximately $44,500,000. In addition, the revised method of providing payment assistance should encourage applicants to shop for less costly housing, in line with their repayment ability, and will provide an incentive for RHCDS borrowers to graduate to other credit.

Risks:

There are no known risks.

Timetable:

Action	Date	FR Cite
ANPRM	04/28/92	57 FR 17858
ANPRM Comment Period End	05/28/92	57 FR 17858
NPRM	05/12/95	60 FR 25629
NPRM Comment Period End	07/11/95	60 FR 25629
Final Action	10/00/95	

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Agency Contact:

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USDA—Food and Consumer Service (FCS)

PROPOSED RULE STAGE

2. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD DELIVERY SYSTEMS

Priority:

Other Significant

Legal Authority:

42 USC 1786

CFR Citation:

7 CFR 246

Legal Deadline:

None

Abstract:

A proposed rule addressing WIC Food Delivery Systems was published on December 28, 1990 (55 FR 53446). The Department provided a 120-day comment period for the proposed rule, which closed on April 29, 1991. Nearly 1,100 comments were received from a wide variety of sources. Despite the degree of preliminary input to the December 28, 1990, proposed rule, many of the commenters responding during the formal comment period suggested that the Department's food delivery regulations needed to be proposed again, rather than proceeding directly to a final rule. In addition, several members of Congress requested that the rule be reproposed in light of its impact on State agency food delivery systems. Therefore, the Department intends to issue a second proposed rule addressing WIC food delivery systems and requirements. This second rule will address all of the provisions contained in the previous rulemaking, but will contain significant modifications to some of the proposed provisions, as well as clarifications of several provisions that may not have been clearly understood in the earlier rule. (88-512)

Statement of Need:

On December 28, 1990, the Department published a proposed rule designed primarily to strengthen State agency operations in vendor management and related food delivery areas for the WIC Program. This proposal was developed with input over several years' time from State agency experts in food delivery, and with the full support of and encouragement from Congress and the Department's Office of Inspector General (OIG). The Department provided a 120-day comment period for the proposed rule, which closed on April 28, 1991. During this comment period, nearly 1,100 comments were received from State and local WIC agencies, vendors, and associated groups, public interest groups, members of Congress, members of the public, and WIC participants.

Despite the degree of preliminary input to the December 28, 1990, proposed rule, many of the commenters suggested that the Department's food delivery regulations needed to be proposed again, rather than proceeding directly to a final rule. In addition, several members of Congress requested that the rule be reproposed in light of its impact on State agency food delivery systems.

The Department has therefore drafted a second proposed rule addressing WIC food delivery systems and requirements. This second rule addresses all of the provisions contained in the previous rulemaking, and contains significant modifications to some of the proposed revisions, as well as clarifications to a number of provisions that may not have been clearly understood in the earlier rule. A 120-day public comment period will be provided with this proposed rule. The Department intends to publish a final rule, based on all of the comments received, by the middle of fiscal year 1996.

Although this rule does not have a direct impact on reducing risks to public health, safety, or the environment, it will significantly improve the operation and accountability of the WIC Program nationwide.

Alternatives:

Given the intensive input that has been gathered for the development of this rule since it was recommended by the General Accounting Office in 1986, and the comments that were received pertaining to the first proposed version of the rule in December 1990, the Department has determined that there are no viable alternatives to the provisions included in this reproposal. The alternative of proceeding directly to promulgation of a final rule based on the 1990 proposal has been rejected by Congress.

Anticipated Costs and Benefits:

The costs of this action include costs due to vendor overcharges and costs associated with the proposal. The estimated costs for implementation of the proposal include a shift of not more than $2.0 million in WIC Program Nutrition Services and Administration (NSA) funds within the 87 State agencies, partially from reduced requirements for management evaluations of local agencies and reduced costs due to elimination of representative on-site monitoring. They also include $0.5 million in additional costs to vendors to meet the proposed minimum training and authorization requirements. It should be noted that all the vendors are currently required to participate in some type of training and complete an application form for program authorization. The estimated $0.5 million in additional costs therefore represents those instances where current training and authorization requirements are below the level established in the proposal. In these instances, vendors may incur costs in attending more frequent training sessions or may be required to complete an application form at more frequent intervals. The estimated cost does not represent charges to the vendor for training or authorization. Rather, the cost represents the estimated cost of the vendor's time to participate in the training session and to complete the application form.

The gross benefit results from a significant reduction in vendor overcharges. A significant net benefit of $37 million is expected, as vendor overcharges are estimated at $39.5 million and costs associated with the proposal are a maximum of $2.5 million.

Risks:

This rule is intended to reduce and minimize the risk of vendor fraud and abuse of the WIC program.

Timetable:

Action	Date	FR Cite
NPRM	12/28/90	55 FR 53446
NPRM Comment Period End	04/29/91	
NPRM	03/00/96	
Final Action	01/00/97	
Final Action Effective	01/00/97	
NPRM Comment Period End	07/00/96	

Small Entities Affected:

None

Government Levels Affected:

State, Local, Tribal

Sectors Affected:

None

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RIN: 0584–AA80

USDA—FCS

3. FOOD STAMP PROGRAM: FOOD STAMP RECIPIENT CLAIM ESTABLISHMENT AND COLLECTION STANDARDS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

7 USC 2011 to 2032

CFR Citation:

7 CFR 272; 7 CFR 273

Legal Deadline:

None

Abstract:

This rule would improve the establishment and collection of recipient claims in the Food Stamp Program. The last significant revision to these regulations was in 1983. Subsequent activities, such as technological advances and general debt management regulations, have rendered many portions of the current rule obsolete. In addition, the current rule has been found to place unnecessary burdens on State agencies. State agencies are responsible for establishing and collecting recipient claims. (94-005)

Statement of Need:

This rule is necessary to improve the establishment and collection of recipient claims. The last significant revision to these regulations was in 1983. Subsequent activities, such as technological advances and general debt management regulations, have rendered many portions of the current rule obsolete. In addition, the current rule has been found to place unnecessary burdens on State agencies. State agencies are responsible for establishing and collecting recipient claims. This rule will address two dimensions of the overissuance problem: establishing claims on excess allowances, and recovering overages where possible. Data from the food stamp quality control system for 1993 show that overissuances to recipients totaled over $1.8 billion, 8.3 percent of the $22.0 billion in total food stamp issuances that year. These errors were concentrated in just 18 percent of food stamp households, which received an average of almost 50 percent more than they should have. Claims against recipients are a direct means to recover overissuances and, to the extent that recipients know that recovery of overissuances will be sought, represent a deterrent to households who quietly accept the extra food benefits.

Alternatives:

The alternative is not to revise the current rule governing this aspect of the Program. This is not practical. The current rule is not adequate to facilitate effective and efficient debt management. The inability of State agencies to establish and collect claims has continuously been cited as a deficiency by the Department's Office of Inspector General.

Anticipated Costs and Benefits:

Nationwide, as of October 1, 1993, there was over $800 million in uncollected recipient claims. Inspector General reports have also noted that, in addition to large accounts receivable for established, uncollected claims, there are backlogs of hundreds of millions of claims that have not yet been established. These unestablished claims represent the most current, and typically the most collectable losses to the program. Updated regulations that incorporate recent debt management rules and technological advances, as well as practical suggestions and feedback received from State agencies, should improve the establishment and collection of recipient claims in the Food Stamp Program. In addition, efforts will be made to increase the degree of conformity with claims-related issues and procedures currently used in other social programs, including the Department of Health and Human Service's Aid to Families with Dependent Children Program.

Risks:

The tolerance of program abuse or even the perception of such undermines the fundamental mission of the Food Stamp Program. The efficient and effective establishment and collection

of recipient claims, which this rulemaking addresses, is essential in ensuring that this does not occur.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	05/00/96	
Final Action	08/00/96	
Final Action Effective	10/00/96	

Small Entities Affected:

None

Government Levels Affected:

State, Local

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USDA—FCS

4. FOOD STAMP PROGRAM: REVISIONS IN RETAIL FOOD STORE ELIGIBILITY CRITERIA AND IN ELIGIBILITY GUIDANCE AND PROGRAM AUTHORIZATION

Priority:

Other Significant

Legal Authority:

PL 103-225; 7 USC 2012; 7 USC 2018

CFR Citation:

7 CFR 271; 7 CFR 278

Legal Deadline:

Final, Statutory, March 25, 1994.

Abstract:

This proposed rule sets forth changes required by provisions of the Food Stamp Program Improvements Act of 1994, Public Law 103-225, Title II, 108 Stat. 108-110 (1994). The purpose of this rule is to implement these statutory changes to the Food Stamp Act of 1977, as amended. It would revise the definition of "retail food store" to conform to the statutory changes to require that a firm must meet one of two new criteria to qualify for participation in the Food Stamp Program. One criterion focuses on the variety of staple foods for home preparation and consumption available on a continuous basis, including perishables. The second criterion requires that a firm's staple-food sales exceed 50 percent of its total gross sales. This rule also addresses the requirement in Public Law 103-225 for new procedures for providing periodic notification of eligibility and for reauthorizing participating firms. (95-003)

Statement of Need:

Public Law 103-225 amends the Food Stamp Act of 1977, to make changes in eligibility requirements for retail food stores to participate in the Food Stamp Program. Prior to enactment of these changes, a retail food store qualified to participate in the Food Stamp Program if more than 50 percent of its total eligible food sales were in staple foods. The new law changes that to require 50 percent of its total gross sales in staple foods. It also provides another option for stores not meeting the new 50 percent rule. Those stores can now qualify if they offer for sale, on a continuous basis, a variety of food in each of four categories of staple foods. The staple food categories are defined as "(1) meat, poultry, or fish; (2) bread or cereals; (3) vegetables or fruits; or (4) dairy products." This statutory change in eligibility will require developing policy definitions for the terms "continuous basis," "variety," and "perishable."

Alternatives:

None. The new law also requires the Secretary to issue new rules providing for the periodic reauthorization of retail food stores and wholesale food concerns. This must include providing periodic notice of the definitions for "retail food stores," "staple foods," and "perishable foods."

Anticipated Costs and Benefits:

The legislation requires a report to Congress assessing the impact of these changes. This report has been requested to determine the impact of Public Law 103-225 on retail food stores. It is expected to be completed and presented to the House and Senate Agriculture Committees not later than 18 months after enactment (March 25, 1994).

The report must include data on (a) the number and types of stores newly authorized and (b) the number and types of stores withdrawn (denied authorization/reauthorization) from the Food Stamp Program after implementation of the new law. The report must also include a description of the procedures used and the adequacy of those procedures to determine store eligibility to participate in the Food Stamp Program and to authorize and reauthorize stores to participate. Finally, the report must assess the adequacy of the guidance provided by the Secretary to retail food stores concerning the definitions of "retail food stores," "staple foods," and "perishables," and the eligibility criteria for stores to participate in the Food Stamp Program.

Risks:

The report to Congress must include an assessment of whether the change in the definition of "retail food store" has had an adverse effect on the integrity of the Food Stamp Program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—FCS

FINAL RULE STAGE

5. FOOD STAMP PROGRAM: CERTIFICATION PROVISIONS OF THE MICKEY LELAND CHILDHOOD HUNGER RELIEF ACT

Priority:

Economically Significant

Legal Authority:

PL 103-66 Mickey Leland Childhood Hunger Relief Act

CFR Citation:

7 CFR 271.2; 7 CFR 273.1; 7 CFR 273.2; 7 CFR 273.7; 7 CFR 273.8; 7 CFR 273.9; 7 CFR 273.10; 7 CFR 273.12; 7 CFR 273.21

Legal Deadline:

Final, Statutory, September 1, 1994.

All provisions must be implemented on 09/01/94.

Abstract:

The final rule will (a) exclude certain general-assistance vendor payments from income; (b) increase the amount of the dependent care deduction; (c) require State agencies to establish a statewide limit for dependent care reimbursements paid to participants in the Food Stamp Employment & Training (E&T) Program; (d) increase the fair market value on vehicles for determining a household's resource limit; (e) exclude the value of vehicles from resources that are used by the household to transport fuel or water; (f) simplify the "household" definition; (g) establish eligibility for children who live with their food-stamp-eligible parents in a drug or alcohol rehabilitation center; (h) provide an income exclusion for earnings of elementary and secondary school students under 22; and (i) require proration of benefits following a break of more than 30 days in certification. (93-017)

Statement of Need:

Over 85 percent of the benefits provided by Public Law 103-66 would be to families with children, primarily through reforming the Federal Food Stamp Program. These reforms include making the Food Stamp Program's treatment of dependent care expenses consistent with those in the AFDC JOBS program while increasing Federal support for E&T training activities for recipients; simplifying the definition of "household" to remove the burden imposed on relatives who "double up" or who take in children who might otherwise be placed in foster care; permitting children living with their parents in residential drug or alcohol treatment centers to be eligible for food stamps just like their parents; permitting the fair market value of vehicles to be indexed to the CPI for new cars by fiscal year 1996; and aiding families living in isolated, rural areas by exempting vehicles they use to carry heating fuel or water.

This final rule implements nine positions from the Mickey Leland Childhood Hunger Relief Act, Public Law 103-66. These provisions are:

A. General Assistance Vendor Payments. Section 13915 of Public Law 103-66 amends section 5(k) of the Food Stamp Act to provide that only those general assistance vendor payments for housing assistance (exclusive of emergency or utility expenses) are counted.

B. Dependent Care Deduction. Section 13922 of Public Law 103-66 amends section 5(e) of the Food Stamp Act to change the dependent care deduction from the current $160 maximum deduction to $200 a month for each dependent child under two (2) years of age and $175 a month for each other dependent.

C. Dependent Care Reimbursements. Section 13922 also amends section 6(d) of the Food Stamp Act by eliminating the dollar cap on dependent care reimbursements to participants in the Food Stamp Employment and Training (E&T) Program. The law also instructs State agencies to establish a statewide limit on the amount of dependent care costs the State will reimburse.

D. Vehicles Needed to Seek and Continue Employment and for Household Transportation. Section 13923 of Public Law 103-66 amends Section 5(g)(2) of the Food Stamp Act by raising the fair market value exclusion limit for vehicles in increments from its current amount of $4,500. Beginning September 1, 1994, the exclusion will be raised to $4,550 and will be effective through September 30, 1995. Beginning October 1, 1995, the exclusion will be raised to $4,600 and will be effective through September 30, 1996. On October 1, 1996, and on every October 1 thereafter, the fair market value exclusion limit of vehicles shall be adjusted annually, using a base of $5,000, to reflect changes in the CPI for All Urban Consumers for new cars as published by the Bureau of Labor Statistics. The change shall be for the 12-month period ending the preceding June 30th, and rounded to the nearest $50 until September 30, 1996.

E. Vehicles Necessary to Carry Fuel or Water. Section 13924 of Public Law 103-66 amends Section 5(g) of the Food Stamp Act to exclude from financial resources the value of a vehicle that is used by a household to transport fuel for heating when that fuel or water is the primary source for the household.

F. Simplifying the Household Definition for Households with Children and Others. Section 13931 amends Section 3(i) of the Food Stamp Act by revising the current definition of "household" by requiring that parents and their children 21 years of age or younger (children that are not themselves parents living with their children or married living with their spouses) who live together; children under 18 years of age who live with and are under the parental control of a person other than their parent (with the exception of foster children), together with that person; and spouses who live together would continue to be treated as a group of individuals who customarily purchase and prepare meals together even if they do not do so.

G. Eligibility of Children of Parents Participating in Drug or Alcohol Abuse Treatment Programs. Section 13932 of Public Law 103-66 amends Section 3 of the Food Stamp Act to provide Food Stamp eligibility to children living with their eligible parents in a drug or alcohol rehabilitation center.

H. Student Earnings. Sections 13911 of Public Law 103-66 amends section 5(d) of the Food Stamp Act to exclude the earnings of elementary and secondary school students under age 22.

I. Proration of Benefits. Section 13916 of Public Law 103-66 amends section 8(c) of the Food Stamp Act to require proration only if a household has a break of more than 30 days in certification.

Summary of the Legal Basis:

All provisions of this proposed rule are mandated by Public Law 103-66 and must be implemented no earlier than September 1, 1994. Implementation of Section 13921 (Child Support Payments) must be completed no later than October 1, 1995.

Alternatives:

Because of the magnitude of changes mandated by Public Law 103-66, the Food and Nutrition Service (FNS) held a public hearing on January 20, 1994, to give advocates, public interest groups, State agencies, and the general public the opportunity to comment on these provisions. Based on the public hearing, the Department published a proposed rule on August 30, 1994. After reviewing comments on the proposed rule, the Department evaluated the following alternatives for the final rule.

Section 13922, Improving Access to Employment and Training Activities--Dependent Care Deduction. Minimizing administrative burdens on State agencies: The final rule will allow State agencies to delay reducing a household's dependent care deduction whenever a child in the household reaches his/her second birthday during the certification period. The dependent care deduction will be reduced at the next regularly scheduled recertification, which is a more efficient use of staff time and resources. This alternative was supported by commenters.

Section 13931, Simplifying the Household Definition for Households with Children and Others--Major issue:

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Definition of parental control for minors living with an adult who is not their parent.

In previous policy memos, the Department has defined "parental control" as referring to minors who are financially or otherwise dependent on an adult household member who is not their parent. The Department is retaining this definition of "parental control" in the rule.

Section 13911, Excluding the Income of Elementary and Secondary School Students Under Age 22.

In the proposed rule, the Department limited the earned income exclusion to elementary and secondary school students who were living with their parents or under the parental control of nonparent adults. Commenters universally opposed this limitation. Because the Department believes that this limitation is supported by both the legislative history and the case law on the issue, the Department retained this limitation in the final rule.

Anticipated Costs and Benefits:

It is estimated that the provisions of this rule will cost $643 million between fiscal years 1994 and 1998. The provision simplifying the household definition for households with children and others will cost approximately $320 million. The provision that increases the fair market value of vehicles will cost approximately $142 million. The provisions which increase the dependent care deduction and which make children of parents participating in drug or alcohol treatment programs eligible to participate in the Food Stamp Program will each cost $4 million. The two provisions, which increase dependent care reimbursements for participants in the E&T program and which exclude from resource consideration vehicles which are needed to carry fuel and water, will both cost less than $1 million. The provision excluding certain general assistance vendor payments will cost $20 million. The provision excluding student earnings will cost $45 million, and the proration provision will cost $107 million. Two provisions, dependent care deduction and E&T dependent care reimbursements, will be coordinated with the Department of Health and Human Services.

Risks:

Implementation of this proposed rule will reduce the risk to public health by making it easier for needy families with children to qualify for food stamps. Food stamps help families stretch their food dollars so that they can buy a larger amount of nutritious food without expending their own personal funds. Better nutrition is cost-effective because it helps individuals remain healthy.

Timetable:

Action	Date	FR Cite
NPRM	08/30/94	59 FR 44866
NPRM Comment Period End	10/31/94	59 FR 44866
Final Action	12/00/95	

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

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USDA—Food Safety and Inspection Service (FSIS)

PROPOSED RULE STAGE

6. PATHOGEN REDUCTION; HAZARD ANALYSIS AND CRITICAL CONTROL POINTS (HACCP) SYSTEMS

Priority:

Economically Significant

Legal Authority:

21 USC 451 et seq; 21 USC 601 et seq

CFR Citation:

9 CFR 308; 9 CFR 310; 9 CFR 318; 9 CFR 320; 9 CFR 325; 9 CFR 326; 9 CFR 327; 9 CFR 381

Legal Deadline:

None

Abstract:

On February 3, 1995, the Food Safety and Inspection Service (FSIS) proposed a rule that would require all meat and poultry establishments to develop and maintain Hazard Analysis and Critical Control Point (HACCP) systems. It also proposed that these establishments implement certain pathogen reduction interventions. The Agency is currently reviewing comments received on the proposed rule. In addition, on August 11, 1995, the Agency reopened the comment period until October 31, 1995.

Statement of Need:

The mission of the Food Safety and Inspection Service (FSIS) is to ensure that meat and poultry products are safe, wholesome, and accurately labeled. The Agency's goals are to prevent adulteration and to reduce the presence of pathogens in meat and poultry products to the extent that science and technology allows. To achieve greater food safety, particularly pathogen reduction, FSIS is proposing to mandate HACCP. In order to achieve near-term reduction in pathogens before HACCP is implemented, the Agency is also proposing certain pathogen-reduction interventions in processing operations, which can subsequently be incorporated by meat and poultry establishments into a HACCP system. Interim targets for pathogen reduction would also be established. Microbiological testing is being proposed to evaluate the effectiveness of the interventions and other process controls, and to measure whether each establishment is meeting interim reduction targets.

Inspected meat and poultry establishments would adopt HACCP systems to accomplish and document that their processes are in control and producing safe, unadulterated products. The HACCP approach is a preventive system of process control that is widely recognized by scientific authorities such as the National Academy of Sciences (NAS) and international organizations such as the Codex Alimentarius, and that is used in the food industry to produce product that is in compliance with health and safety requirements.

The near-term pathogen reduction interventions would require establishments to develop and adhere to written sanitation standard operating procedures, to apply at least one approved antimicrobial treatment to all meat and poultry carcasses, and to assure expeditious chilling and temperature control of products. Additionally, the industry would begin microbiological testing, both to provide an ongoing measure of the general level of process control and to demonstrate the required reductions in the incidence of pathogens. FSIS will use the data to develop, on a national scale, information on pathogen incidence, subsequently using these baseline data to establish new pathogen-reduction goals.

The pathogen-reduction interventions and microbiological testing would be near-term interventions that could be implemented shortly after promulgation of a final rule. The development of HACCP systems by establishments would be phased in over a 4-year period after promulgation of a final rule.

Alternatives:

FSIS could continue using current regulations and procedures. NAS determined that the meat and poultry inspection programs as currently structured are effective in ensuring that healthy animals are slaughtered in clean and sanitary environments, and progress has been made in reducing the risks to public health from conditions that can be observed during inspections and can be evaluated during processing. However, NAS also recognized that the current system of organoleptic inspection cannot provide the kind of preventive controls that are needed to reduce foodborne pathogens. Regulations governing meat and poultry must be reformed to target the threat posed to public health by pathogens.

FSIS could institute HACCP as a voluntary system rather than a mandatory system. There is concern, however, that voluntary participation in HACCP may not provide sufficient assurance that all meat and poultry products have been produced under controls designed to minimize food safety hazards or that adequate procedures have been developed to reduce the presence of pathogens.

Anticipated Costs and Benefits:

FSIS is currently analyzing the cost to develop and institute the plans and requirements of this proposed rulemaking. FSIS believes that the proposal's two-tiered approach of short-term and long-term initiatives will reduce the burden of initiating HACCP on the industry by permitting a more gradual introduction of process control. Once HACCP is instituted, costs to maintain it would be significantly less.

The current annual costs to the economy from foodborne illness attributable to pathogens in meat and poultry products are approximately $2 billion. FSIS believes that if these regulations are required for each process in each establishment, the chance of producing adulterated product will be substantially reduced. Further, dramatic reductions in the incidence of pathogens will significantly reduce foodborne illness. Finally, increased process controls that anticipate and prevent problems should decrease the incidence of product recalls by establishments.

Risks:

The current system of organoleptic inspection has been an effective way of controlling or reducing the risks of eating meat and poultry products by ensuring that only healthy animals are slaughtered, that establishments are clean and sanitary, and that the adverse conditions that can be observed and evaluated during inspection are remedied. The system has also been effective in reducing the presence of chemical residues in the food supply. However, the current system of organoleptic inspection does not address in a direct and scientific way the risks posed by microbiological pathogens that make people sick. This gap has created a public health problem that is reflected in the level of foodborne illness.

In order to address the risks associated with microbiological contamination of meat and poultry products, FSIS is proposing these regulations. A system of preventive controls with documentation and verification of successful operation should be a critical element of a modern risk-based food safety system. When implemented, this system will be a powerful tool for targeting and preventing significant foodborne hazards, such as those posed by microbiological contamination. As part of this effort, FSIS will establish interim targets for pathogen reduction. Microbiological testing will be conducted by meat and poultry establishments as a means to evaluate the effectiveness of processing controls and interventions as well as to measure each establishment's progress in meeting targets for pathogen reduction. Emphases on improving the control of microbiological hazards in raw products in conjunction with process control will dramatically reduce foodborne illness associated with meat and poultry products. Consumer confidence will be strengthened as a result of the actions taken to reduce the risk of foodborne illness associated with consuming meat and poultry products.

Timetable:

Action	Date	FR Cite
NPRM	02/03/95	60 FR 6774
NPRM Comment Period End	06/05/95	
NPRM Reopening of Comment Period	08/11/95	60 FR 41029
NPRM Comment Period Extended to	11/13/95	
Final Action	00/00/00	

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

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USDA—FSIS

7. • ELIMINATION OF PRIOR APPROVAL REQUIREMENTS FOR FACILITIES EQUIPMENT AND CERTAIN PARTIAL QUALITY CONTROL PROGRAM

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority:

21 USC 451 et seq; 21 USC 601 et seq

CFR Citation:

9 CFR 304; 9 CFR 308; 9 CFR 317; 9 CFR 318; 9 CFR 319; 9 CFR 381

Legal Deadline:

None

Abstract:

The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry products inspection regulations by removing current requirements for FSIS approval of facilities and equipment prior to their use in official establishments. Establishments would be held accountable for meeting existing regulations for facilities and equipment and for preventing conditions that would tend to adulterate meat, meat food, and poultry products. FSIS is also proposing to end its prior approval of most voluntary, plant-operated partial quality control (PQC) programs, which are used by establishments to control certain kinds of food processing and

product characteristics. Establishments would be encouraged to develop and implement quality control programs without first receiving permission from the Agency to do so and without having to rely on Agency guidance in operating them.

Statement of Need:

This action is being taken as part of the continuing Reinventing Government initiative to streamline and modernize the meat and poultry inspection regulations, to reduce reliance on command-and-control regulations in favor of science-based prevention measures and performance standards, and to encourage innovations that will improve food safety.

Alternatives:

Alternatives to removing requirements for facilities and equipment prior approvals include development by FSIS of detailed standards to be published in booklets with periodic updates, recognizing industry organizations as prior approval authorities, and establishing general performance standards similar to FDA-recognized good manufacturing practices. FSIS has chosen the option of proposing general performance standards. Industry would be free to set up technical assistance organizations. For PQC prior approvals, the alternatives to removing requirements were market sampling, mandating additional in-plant controls, sampling of finished products for chemical analysis, and general requirements, and a performance standard option was the one chosen.

Anticipated Costs and Benefits:

Costs of this proposed rulemaking to the Agency and the regulated industry would be minimal because the rulemaking would remove administrative burdens. Benefits include annual current-dollar cost savings or avoidance to FSIS of nearly $3 million and to industry of at least $40,000 for blueprint submissions that are no longer required, plus additional, substantial uncalculated benefits because there would no longer be production delays arising from prior approval of facilities, equipment, and PQC programs.

Risks:

This rulemaking could induce reduced health and safety risks to the public by providing industry with additional flexibility to innovate, which the command-and-control approach of prior-approval regulation has not encouraged.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—FSIS

8. • PERFORMANCE STANDARDS FOR CERTAIN MEAT PRODUCTS AND POULTRY PRODUCTS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 451 et seq; 21 USC 60 et seq

CFR Citation:

9 CFR 301; 9 CFR 318; 9 CFR 320; 9 CFR 381

Legal Deadline:

None

Abstract:

The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry inspection regulations by converting the current regulations governing the production of cooked beef products, uncured meat patties, and certain poultry products into performance standards. The proposed performance standards spell out the objective level of performance establishments must meet during their operations in order to produce safe products, but allow the use of plant-specific processing procedures other than the procedures prescribed in the current regulations. All of the provisions in the current regulations meet the proposed performance standards. Therefore, establishments would not be required to change any current practices in response to this proposed rule. The current provisions would remain in the regulations as examples of how an establishment might comply with proposed performance standards, constituting "safe harbors."

Statement of Need:

Under the Federal Meat Inspection Act (21 USC 601 et seq.) and the Poultry Products Inspection Act (21 USC 451 et seq.), FSIS issues regulations governing the production of meat and poultry products prepared for distribution in interstate commerce. Many of these regulations employ the command-and-control approach, prescribing a precise sequence of steps to be followed when producing food that is safe and not adulterated. The command-and-control approach to rulemaking has ensured that all establishments are subject to the same rules and that no establishment has a technological advantage over another. However, this approach has several drawbacks: it can stifle innovation in meat and poultry processing technology; it does not account for the uniqueness of individual processing procedures and needs within different establishments; and, it produces regulations that can have a negative economic impact on small businesses. Command-and-control rulemaking often fails to account for the development of innovative processing technologies. By prescribing specific steps establishments must take during processing, command-and-control regulations often do not allow establishments to employ innovations in processing technology that may produce meat and poultry products that are as safe as, or even safer than, those produced in accordance with the command-and-control regulations. While FSIS endeavors to account for technological innovation when rulemaking, new processing technologies are developed at a faster pace than the Agency can amend the regulations. Also, command-and-control regulations often do not account for the uniqueness of individual processing procedures and needs within different establishments. FSIS command-and-control regulations require all establishments to produce meat and poultry products in the same manner. Such prescriptive regulations are impractical in many settings. Further, they can have disparate economic effects on establishments producing different volumes of the same product. By promulgating command-and-control regulations mandating the use of specific processes or technologies, FSIS often inadvertently imposes significant economic burdens on small businesses. Small establishments producing meat and poultry products at low volumes often must pay a high cost per product unit when required to employ a specific process or technology. Large establishments, however, are able to spread the cost of a required process or technology over their higher production volumes. While FSIS has attempted to incorporate prevailing industry processing practices into its command-and-control regulations in order to lessen the economic burden imposed on small establishments, many small establishments often find prevailing industry processing practices to be impractical and/or expensive. In light of these general problems, FSIS is proposing to substitute performance standards for the current command-and-control regulations governing the production of cooked beef products, uncured meat patties, and certain fully and partially cooked poultry products. The proposed performance standards spell out the objective level of performance that establishments must meet during their operations in order to produce safe and nonadulterated products, but allow the use of plant-specific processing procedures other than the procedures prescribed in the current regulations. Accordingly, establishments could employ innovative or unique processing procedures customized to the nature and volume of their production, as long as their products meet the proposed performance standards for safe, nonadulterated food. Furthermore, all of the prescriptive, command-and-control provisions in the current regulations governing cooked beef products, uncured meat patties, and certain fully and partially cooked poultry products meet the proposed standards. Therefore, establishments producing these products would not be required to change any current practices in response to this proposed rule. By proposing performance standards that may be met through adherence to the current regulations, FSIS creates a "safe harbor" for establishments content with the current regulations and mitigates any negative impact this proposal could have on such establishments.

Summary of the Legal Basis:

Under the Federal Meat Inspection Act (21 USC 601 et seq.) and the Poultry Products Inspection Act (21 USC 451 et seq.), FSIS issues regulations governing the production of meat and poultry products prepared for distribution in interstate commerce.

Alternatives:

FSIS could maintain the current command-and-control regulations governing cooked beef products, uncured meat patties, and certain poultry products. However, as explained above, these regulations have several drawbacks: they stifle innovation in meat and poultry processing technology; they do not account for the uniqueness of individual processing procedures and needs within different establishments; and, they can have a negative economic impact on small businesses.

Anticipated Costs and Benefits:

By allowing establishments to meet performance standards for cooked beef products, uncured meat patties, and certain poultry products by means other than those prescribed in the current regulations, FSIS hopes to encourage innovation in meat and poultry processing technology and allow establishments to customize processes to meet their individual needs. Because employing alternative means to meet the proposed performance standards would be optional, FSIS concludes that this proposal would not have a significant economic impact on small or large establishments.

Risks:

The proposed performance standards would maintain a level of food safety equivalent to that which is ensured by the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0583–AB94

USDA—FSIS

FINAL RULE STAGE

9. • PRIOR LABEL APPROVAL PROCESS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 601 et seq; 21 USC 451 et seq

CFR Citation:

9 CFR 317; 9 CFR 381

Legal Deadline:

None

Abstract:

This rule amends the Federal meat and poultry products inspection regulations to streamline the labeling process. Specifically the rule expands the types of labeling, authorized for use on meat and poultry products, which would not require submittal to the Food Safety and Inspection Service (FSIS) for approval prior to use. In addition, the rule permits the submission of only sketch labeling, except for temporary approvals, in those instances where labeling is required to be submitted for approval. This will result in significant savings for manufacturers, as well as for FSIS, while continuing to provide consumers with useful and truthful information on product labels.

Statement of Need:

The Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) direct the Secretary of Agriculture to maintain meat and poultry inspection programs designed to assure consumers that meat and poultry products distributed to them are wholesome, not adulterated, and properly labeled. To assure that meat and poultry products are properly labeled, the Food Safety and Inspection Service (FSIS) conducts a prior labeling approval system under which all labels, with minor exceptions, must be approved by FSIS prior to their use on federally inspected meat and poultry products. To obtain labeling approval, meat and poultry establishments must submit draft labels to FSIS for approval,

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accompanied by an application for labeling approval. Minor changes to approved labels need not be submitted to FSIS, provided the labeling shows all information required by regulation. These modified labels are known as "generically approved" labels. In the interest of streamlining the prior labeling approval system and contributing to greater efficiency in government services, FSIS published an advance notice of proposed rulemaking (ANPRM) on March 25, 1992 (57 FR 10300) seeking public comments on two options. Option 1 was to (a) expand the categories of generically approved labels and (b) allow draft (rather than final) labels to be submitted to FSIS. Option 2 was to eliminate the prior label approval system entirely, replacing it with a system already in use at the Food and Drug Administration. In that system, the Agency requires that label content standards be met; the preapproval of individual labels is not required. On the basis of responses to the ANPRM, in a document published on November 23, 1993 (58 FR 62014), FSIS proposed to expand the categories of generically approved labeling, while continuing to consider procedures that could eventually eliminate prior labeling approval.

Anticipated Costs and Benefits:

The final rule could eliminate over $3 million in direct label-application costs and reduce the paperwork burden of establishments by eliminating the requirement that certain labels be submitted for FSIS approval.

Risks:

FSIS recognizes that many detailed labeling requirements are designed to stabilize markets, and that the promulgation of nutrition labeling requirements has replaced the need for many of the detailed provisions now covered under the prior label approval system. After reviewing the comments received and in light of FSIS' ongoing reassessment of its labeling policies, FSIS has decided to proceed, at this time, with the gradual streamlining and modernization of the prior labeling approval system. Therefore, this rule expands the types of labeling that will be generically approved, as opposed to eliminating all prior review of labels and instituting a system where all labeling would be generically approved.

Timetable:

Action	Date	FR Cite
ANPRM	03/25/92	57 FR 10300
ANPRM Comment Period End	04/24/92	
NPRM	11/23/93	58 FR 62014
NPRM Comment Period End	01/24/94	
Final Action	10/00/95	
Final Action Effective	04/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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RIN: 0583–AB92

USDA—Forest Service (FS)

FINAL RULE STAGE

10. NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

Priority:

Other Significant

Legal Authority:

Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613); and 5 U.S.C. 301.

CFR Citation:

36 CFR Part 219

Legal Deadline:

None

Abstract:

This rulemaking will revise the regulations governing forest land and resource management planning to reflect Agency experience in preparing initial forest plans as required by the National Forest Management Act. The rule will articulate and clarify the forest planning and decisionmaking process, propose ways to streamline plan amendment and revision, and, in general, adjust and fine-tune the rule and its requirements to make the planning process more realistic, meaningful, and efficient.

Statement of Need:

The planned regulatory action is to revise the existing rule at 36 CFR Part 219, Subpart A, in order to describe the Agency's overall framework for National Forest System resource decisionmaking to incorporate the principles of ecosystem management into resource decisionmaking and management to establish requirements for implementation, monitoring, evaluation, amendment, and revision of forest plans and to make various other changes intended to clarify and simplify the planning process.

The planned regulatory action is needed in order to streamline the planning process and update planning procedures and requirements in order to respond to the Critique of Land Management Planning, results of court decisions, and other information which has become available since the existing regulation was promulgated.

Summary of Legal Basis:

The legal basis for the planned regulatory action is the National Forest Management Act, which requires that regulations be promulgated. This action would revise the existing regulation which was finalized in 1982.

Alternatives:

Most of the proposed changes could only be addressed through a regulatory change.

Anticipated Costs and Benefits:

The proposed rule has been estimated to result in savings of approximately $61 million over 15 years relative to cost under the existing regulation. In addition, benefits should include improved communication and coordination with the public and other agencies and governments, better understanding of the planning process, improved procedures for resource decisionmaking, and improved on-the-ground results as those decisions are implemented.

Risks:

The planned regulatory action addresses agency planning procedures and would not directly address specific risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/91	56 FR 6508
NPRM	04/13/95	60 FR 18886
NPRM Comment Period Extension End	08/17/95	60 FR 36767
Final Action	07/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

None

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RIN: 0596–AB20

USDA—Rural Business and Cooperative Development Service (RBCDS)

PROPOSED RULE STAGE

11. RURAL BUSINESS LOAN STREAMLINING

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation:

7 CFR 1980; 7 CFR 4279; 7 CFR 4287

Legal Deadline:

None

Abstract:

This initiative will create a complete new set of regulations for the program of loan guarantees for rural businesses known as the Business and Industry Program. The purpose is to streamline both the regulations and the program. The new regulations will be much shorter than the previous regulations for the program and will be better organized and clearer. Program procedures and requirements will be more flexible, applications will be simpler, and more reliance will be placed on the commercial lender.

Statement of Need:

The new regulation for the program known as the Business and Industry Guaranteed loan program will be more user friendly for lenders, borrowers, and Agency staff. These changes are essential to allow for improved service to the public and for an expanded program with increased impact on rural employment, without a corresponding expansion in Agency staff. The regulations will be shorter, better organized, and more simple and clear. Many documentation requirements will be eliminated or consolidated into more convenient formats. Analysis and processing responsibilities will be shifted from the National Office to field offices and from the Agency to lenders. Eligible uses of the program will be expanded.

Summary of the Legal Basis:

The Business and Industry program was authorized by the Rural Development Act of 1972, which amended the Consolidated Farm and Rural Development Act. The program provides for the guarantee of loans made by private lenders to rural businesses. The purpose is to improve employment opportunities and economic conditions in rural areas. The proposed new regulations are an administrative, rather than legislative, initiative. However, the Senate report on the fiscal year 1995 Appropriations Act did contain a directive for the department to streamline the Business and Industry regulations and application procedures, reduce loan application processing time by relying on in-state resources, allow more management flexibility and decisionmaking capacity at the State Office level, and expand eligible loan purposes to include recreation and tourism.

Alternatives:

More staff could be devoted to the operation of the Business and Industry program, or the volume of program funding and activity could be limited to pre-1994 levels. However, if the program is to be expanded or maintained at the 1994 or 1995 level, if customer service is to be improved, and if staff resources are to be limited in accordance with budget and Government reduction goals, streamlining of the program is essential. The Agency has utilized the expertise of its headquarters staff, task forces of State Office staff, and comments from the Office of Inspector General to determine what changes will be the most appropriate. Public comments will be taken and considered before the changes become final.

Anticipated Costs and Benefits:

The only costs that could be anticipated as a result of this action would be potential increased losses on the loans guaranteed. However, the Agency is confident that the regulations contain sufficient safeguards to mitigate any increased risk and prevent increased losses. The streamlining of the regulations for this program will enhance the use of the program in improving the prosperity of rural residents through financial assistance that increases rural competitiveness, facilitates industrial development, and enables rural residents to profit from private-sector economic activity. The proposed regulations are consistent with the Administration's efforts to streamline Government functions, improve the efficiency and effectiveness of Government activities, and be more customer friendly. The size of the Business and Industry loan guarantee program has been increased from $100 million in fiscal year 1993 to $249 million in fiscal year 1994 and to $500 million in fiscal year 1995. However, decreasing administrative resources dictate that the Agency deliver the increased program with a much smaller Federal staff. The new regulations will enable the Agency to deliver a much larger program with fewer staff resources, and simultaneously meet the objectives of the National Performance Review regarding improved customer service, less regulation, and streamlined Agency operations.

Risks:

The risk associated with this regulatory initiative is that shifting more responsibility from the National Office to field offices and from the Agency to the lenders, and providing more flexibility in loan structuring and credit quality analysis, could result in more loan losses. The Agency believes that the risk has been mitigated. The shifting responsibilities will allow the Agency staff to better perform their oversight functions. National Office staff will spend more time training and monitoring field office staff. Field Office staff will spend more time monitoring the performance of lenders. Lenders will be able to respond more quickly to troubled loans. Agency staff will continue to review the credit quality of proposed loans. However, reviewers will begin with the written analysis prepared by the lender rather than beginning with a completely new analysis. Lenders will have a minimum of 20 percent unguaranteed exposure on almost all loans to ensure incentive to consider the credit quality and to properly monitor and service the loan. On most loans over $5 million the lender will have a minimum of 30 percent unguaranteed exposure. The

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Agency will receive and review periodic financial reports on the borrowers and will visit all lenders at least once each year and all borrowers at least once every 3 years. No increase in delinquency rates or losses is expected as a result of the new regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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BILLING CODE 3410-90-F

DEPARTMENT OF COMMERCE (DOC)

Statement of Regulatory Priorities

Sustainable, long-term economic growth is a central focus of the President's policies and priorities. The mission of the Department of Commerce—ensuring and enhancing long-term economic opportunity and a rising standard of living for all Americans—fully supports the President's economic policy.

The Department of Commerce plays a critical role in helping the Nation meet its economic goals. The Department works primarily with and through the private sector, creating partnerships that facilitate job creation, international trade, local and regional economic development, manufacturing excellence, investment in R&D, environmentally sound development, and other activities that contribute to the Nation's economic well-being. It is both the representative and the pacesetter for the course business must take to be competitive in the new world order. The President and the Secretary of Commerce have established a clear set of priorities and programs for the Department of Commerce that will enable the Department to help create the best possible climate for long-term private sector economic growth and development in the United States.

The Department's policy and program priorities stress economic growth and development through:

- Opening and expanding foreign markets and promoting increased exports of U.S. goods and services in markets with the highest potential for growth and in important growing sectors;
- Advocating free and fair trade policies and enacting and implementing the first post-Cold War export regime—a regime that facilitates trade while safeguarding our national security;
- Enhancing technological development and commercialization through improved strategies for Government and/or industry cooperation;
- Providing developmental assistance to distressed communities;
- Establishing a new economic information infrastructure;
- Promoting stewardship and assessment of the global environment; and
- Creating a more effective, economical, productive, and responsive Department of Commerce.

As the President recently stated, the Commerce Department helps the private sector face the trends that affect the world's economy. Markets are becoming increasingly global. Competition is fierce and relentless. Technology—one of the principal drivers of sustained economic growth—is constantly changing, knowing neither predetermined home nor boundaries. The ability of smaller companies to enter export markets and develop and adopt innovations is increasingly vital. In such an environment, the American economy depends in large part on our companies' abilities to innovate and to survive and prosper in new markets abroad and against foreign competition at home.

That is why the President has put forward a national economic strategy, with Commerce at center stage, that includes concrete tools to enhance investment, to open markets and to promote exports, to encourage innovation, and to educate and train our people. In addition, the Department of Commerce embraces the Administration's environmental strategy that promotes sustainable development and rejects the false choice between environmental goals and economic growth. The Department of Commerce has a unique role in promoting stewardship of the global environment through effective management of the Nation's marine and coastal resources and in monitoring and predicting changes in the Earth's environment, thus linking trade, development, and technology with environmental issues.

The President's recent budget reaffirms the importance he places not only on balancing the Federal budget in a way that enhances sustainable economic growth, but also on stimulating investment, opening markets, and promoting innovation. In fact, Commerce programs help the U.S. economy more fully realize its growth potential, thus contributing to the incomes and tax revenues that finance these public expenditures.

The Department of Commerce's emphasis on boosting U.S. exports and stimulating technological innovation recognizes that open markets and technology are critical to our Nation's ability to compete. In both areas, the United States must have in place policies and programs that work to level the playing field for American businesses and workers. Compared with our major trading partners, the United States ranks dead last in expenditures for export promotion relative to the size of our economy and, compared with Japan and Germany, the United States spends less on nondefense R&D as a percentage of gross defense production. Through the Department of Commerce, the United States takes as seriously as our trading partners the need for public-private partnerships that promote economic competitiveness.

For too long, U.S. companies were shut out of lucrative foreign markets or repeatedly lost bids for international contracts, while foreign governments aggressively promoted the interests of their firms abroad. Smaller manufacturers in the United States, unable to modernize quickly enough and meet payroll, laid off workers and closed their plants in the face of fierce and relentless competition. And report after report told us that the United States was losing ground in virtually every area of high technology—from automobiles to semiconductors—as the Federal Government stood idly by.

This Department of Commerce has instituted the programs and policies that mean cutting-edge, competitive, better paying jobs. We work every day to boost exports, to deregulate business, to help smaller manufacturers battle foreign competition, to advance the technologies critical to our future prosperity, to invest in our communities, and to fuse economic and environmental goals.

The Department of Commerce is American business' surest ally in job creation, serving as a vital resource base a tireless advocate, and a Cabinet-level voice for the private sector.

The Department's regulatory plan directly tracks these policy and program priorities, only a few of which involve regulation of the private sector by the Department.

Responding to the Administration's Regulatory Philosophy and Principles

To the extent permitted by law, all preregulatory and regulatory activities and decisions adhere to the Administration's statement of regulatory philosophy and principles, as set forth in section 1 of Executive Order 12866. The Department of Commerce has long been a leader in advocating and using market-oriented regulatory approaches in lieu of traditional command-and-control regulations when such approaches offer a better alternative. All regulations are designed and implemented to maximize societal benefits while placing the smallest possible burden on those being regulated. When a regulation is no longer needed, the Secretary's standing order is to rescind it.

The Secretary has prohibited the issuance of any regulation that discriminates, and requires that all

regulations be written in simple, plain English so as to be understandable to those affected by them. The Secretary also requires that the Department afford the public the maximum possible opportunity to participate in Departmental rulemakings, even where public participation is not required by law.

The vast majority of the Department's programs and activities do not involve regulation. Of the Department's 12 primary operating units, only six—the Bureau of Export Administration (BXA), the International Trade Administration (ITA), the National Oceanic and Atmospheric Administration (NOAA), the Patent and Trademark Office, the Economic Development Administration (EDA), and the Technology Administration—plan significant preregulatory or regulatory actions for the Regulatory Plan year. Many of these regulatory actions do not involve new or increased regulation of the private sector. Four of these operating units—BXA, ITA, EDA, and NOAA—have the most important of the Department's significant regulatory actions planned for the Regulatory Plan year. These four units are described below, along with their regulatory objectives and priorities, how they relate to the President's priorities, and their most significant planned regulatory actions.

The Commerce Department is also reinventing itself by taking into account, among other things, the President's regulatory principles. We have made bold and dramatic changes, never being satisfied with the status quo. Over the past 2 1/2 years we have emphasized, initiated, and expanded programs that work in partnership with the American people to secure the Nation's economic future. At the same time we have downsized, cut regulations, closed offices, and eliminated programs and jobs that are not part of our core mission. The bottom line is that, after much thought and debate, we have made many hard choices needed to make this Department "state of the art."

Reinvention at the Department of Commerce has not only meant cutting regulations or improving existing services. It has also meant purposeful growth, particularly in the areas of trade and technology.

The Secretary believes reinvention should view the entire Federal Government as a major corporation, and view the Department of Commerce as a critical function within that corporation. A company going through a reinvention process may shed jobs and functions, but it will also expand and enhance operations that are vital to its long-term growth. It is certainly going to build on partnerships with its customers that work. The Department believes expansion of essential programs at Commerce is vital to economic growth.

Streamlining Regulatory Processes

The Department of Commerce has taken a variety of steps to reduce regulatory burden by streamlining its regulatory processes. For instance, export controls on computers and telecommunications equipment have been changed, thereby eliminating the requirement for prior approval on over $32 billion worth of exports. Further, the Department has proposed the first complete rewrite of the export control regulations in 45 years. This will make compliance easier, particularly for small firms. In addition, Departmental grants processing time has been reduced an average of 25 percent. Finally, the Department has simplified its forms, has encouraged electronic filing, and has coordinated data sharing with other statistical agencies to reduce respondent burden, saving the private sector hundreds of thousands of dollars in time and money.

The Department is taking steps to streamline its regulatory processes and delivery systems in line with the President's directives. In his September 30, 1993, Memorandum for Heads of Departments and Agencies, President Clinton stated:

> In order to streamline the entire [Federal] rulemaking process, agencies must, consistent with any applicable laws, utilize internally the most efficient method of developing and reviewing regulations. Accordingly, I direct the head of each agency and department to examine its internal review procedures to determine whether, and if so, how those procedures can be improved and streamlined. In conducting this examination, the agency or department shall consider the number of clearances required by its review process and whether its review process varies according to the complexity or significance of the rule.

Each preregulatory and regulatory action of the Department is undertaken with the concept of streamlining in mind. Methodologies for eliminating levels of review and delegating decisionmaking authority down to the lowest appropriate level are constantly being tested. Further, the Department is employing advanced technology designed to create greater responsiveness. For example, the Office of the General Counsel developed a regulation database and tracking system. This system, which became fully operational in January 1995, provides decisionmakers with precise, concise, and up-to-the-minute information on the substance, status, and history of each of the Department's regulatory actions.

By volume, the greatest number of Commerce Department regulatory actions are fisheries-related rules issued under authority of the Magnuson Fishery Conservation and Management Act, 16 USC section 1801 et seq., by the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration (NOAA). In order to have the most streamlined process for review and clearance of the large volume of Magnuson Act rulemakings in place, NOAA and the Department this year established a new, more collegial clearance procedure for NMFS rules.

First, NOAA, NMFS, and the Department participate in a weekly conference call to coordinate all regulatory activity.

Next, all NMFS rules are categorized and reviewed according to priority:

1. Those rules designated as "significant or controversial" are fully reviewed at both the NOAA and departmental level.

2. Those rules designated as "noncontroversial" and "nondiscretionary" are reviewed by NOAA, with the Department being provided the copies of the rule for information and, at the option of the Department, comment.

3. Those actions designated as "nondiscretionary, noncontroversial rule-related notices" are cleared by NOAA, with the Department simply monitoring any action through the weekly conference call.

This clearance system was designed with two goals in mind. First, the procedures were established to delegate clearance authority to the greatest extent possible, thereby streamlining the number of clearances required for publication of a particular rule or rule-related document. Next, the weekly conference call, where individuals from both organizations discuss all regulatory actions, was instituted to foster an atmosphere of congeniality and cooperation. In practice, these two ideas have meshed into a clearance procedure that is characterized by efficient processing of regulatory actions and frank, nonadversarial communication between the parties.

Eliminating and Improving Regulations

On February 21, 1995, President Clinton announced his plans for reform of the Federal regulatory system. This plan included four steps each agency was to undertake in order to achieve meaningful reform. One of the points in the President's program directed each agency to undertake a page-by-page review of its regulations to determine those that were obsolete and could be deleted. In light of the varied activities and responsibilities of the Department, each agency reviewed its regulations using a methodology most appropriate for its legal obligations, organizational structure, and policy priorities. However, all agencies were directed to analyze each of their regulations to determine if it was necessary and, if so, whether it should be rewritten to make it more streamlined and user-friendly. Additionally, the regulatory review was conducted by each agency with the Department's and Administration's policy and program priorities, as well as its own, clearly in mind.

The results of each agency's regulatory review produce a total elimination or reinvention of a substantial percentage of the Department's regulations. The Department of Commerce has a total of 317 parts in the Code of Federal Regulations (CFR). Of these, 52 CFR parts, 16.5 percent of all Commerce Department CFR parts, are slated to be eliminated in their entirety. Furthermore, 140 Commerce Department CFR parts are proposed to be reinvented so as to streamline, clarify, and consolidate the regulations and generally make them more user-friendly. Reinvention also includes elimination of regulatory text from these CFR parts. The 140 CFR parts being reinvented represent nearly half, 44 percent, of all current Commerce Department CFR parts.

These changes, represented in terms of CFR pages, break down as follows: The Department of Commerce presently has 2,878 pages of regulatory text in the CFR. Of this amount 705 pages will be eliminated, fully 25 percent of all pages of Commerce Department regulations. Further, 1,859 pages of regulatory text, or 66 percent of the total Commerce Department pages in the CFR, two-thirds of all pages, will be reinvented.

These totals represent the changes proposed by the Department as a whole. However, as mentioned above, the regulatory review was conducted by the individual agencies of the Department of Commerce, whose substantial contribution to these amounts should be noted.

The National Oceanic and Atmospheric Administration (NOAA) proposes to reduce the total volume of its regulations by at least 45 percent. In addition, NOAA is proposing to reduce the 127 separate parts it currently maintains in the CFR to approximately 40. The end result will be a new set of NOAA regulations that will be easier for the public to read, to comprehend, and comply with. Further, regulations which are no longer necessary or obsolete will be eliminated.

Next, an interim final rule of the Economic Development Administration (EDA) deletes 200 or more regulations. This represents approximately a 50 percent reduction in agency regulations.

Finally, on May 11, 1995, following over one year of work, the Bureau of Export Administration published a proposed rule, described more fully below, to completely revise the Export Administration Regulations (EAR). This proposed rule clarified the very technical language of the EAR, simplified their application, and generally made the export control regulatory regime more user-friendly.

On March 16, 1995, President Clinton announced that the Administration would implement several additional new policies as part of his regulatory reform initiative. Two of these policies concerned enforcement of existing regulations and the imposition of penalties on small business. Specifically, the President directed agency heads to allow for the waiver of up to 100 percent of any punitive fine on a small business, if the same sum would be used toward correcting the violation leading to the fine and to offer small businesses, found to be in violation of regulations, an opportunity to avoid punitive action by correcting the violation(s) within a time period appropriate to the violation in question.

On April 21, the President issued an Executive Memorandum (EM) providing guidance on implementation of these measures. The EM stated that the additional policies did not apply to matters related to, among other things, national security, foreign affairs, the importation or exportation of prohibited or restricted items, and Government duties. Nor did they apply to agencies, or components thereof, whose principal purpose is the collection, analysis, and dissemination of statistical information. For purposes of the Department of Commerce, we interpreted these exclusions to apply to the Economics and Statistics Administration, the Bureau of Export Administration, and the Import Administration.

In light of the noted exclusions, only NOAA, among Department agencies, has regulatory enforcement functions subject to the President's directive. NOAA, therefore, reviewed every enforcement case that had been referred for assessment of monetary penalties. Most of these cases resulted from violations of those statutes, and NOAA's implementing regulations, pertaining to fisheries conservation and management, endangered species and marine mammal protection, and protection of marine sanctuaries. In addition to serious natural resource violations, there were some minor violations that appeared to have resulted from ignorance of the law by otherwise law-abiding citizens and small businesses. There also were some technical violations in which the violators appeared to have attempted to comply with the applicable regulations but fell short.

NOAA is in the process of instituting a "Fix-it" ticket program which uses compliance procedures for relatively minor violations. Under this program, both verbal and written warnings will be used more frequently than has been past practice. For example, in the instance of a violation of conservation regulations that prohibit the possession of certain fish, where there is no evidence of an intent to violate the regulations for commercial gain, the appropriate remedy may be to allow the inadvertent violator to abandon the unlawfully obtained fish. The same remedy may be used in cases involving small-percentage violations of fishing-trip poundage limits. In cases where a particular type of fishing gear must be used, and the fisherman has not done so, first offenses may be forgiven if the fisherman demonstrates that he or she subsequently has acquired the proper gear or otherwise corrected the problem with the gear.

NOAA has developed a first draft of a plan to extend these new enforcement practices within its organization and to its law enforcement partners. Implementation will involve cooperation among the Office of the General Counsel, the NMFS Enforcement Office, the U.S. Coast Guard, and cooperating State fish and game law enforcement officers. Additionally, NOAA will amend its penalty schedules to reflect a less confrontational approach to first-time violators and small businesses. If compliance can be easily obtained at the time a violation is detected, then that will be the preferred approach. These changes will improve the Agency's

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image with the regulated public and foster voluntary compliance. Moreover, these changes will free up enforcement agent and attorney time to allow greater concentration on major cases involving deliberate noncompliance for commercial gain.

Description of Agency Regulations

Bureau of Export Administration

The Department of Commerce Bureau of Export Administration's (BXA's) main programmatic objective is to operate an export control program that encourages economic opportunities without compromising national security. Over the last 7 years, U.S. exports of goods and services accounted for one-third of U.S. economic growth, and export-related jobs grew six times faster than total employment. The Department of Commerce has primary responsibility in advocating for U.S. exports and international economic affairs. BXA helps achieve the major Departmental goal of advocating free and fair trade policies and enacting and implementing the first post-Cold War export regime—a regime that will facilitate trade while safeguarding our national security.

Export Controls and Related Programs

BXA oversees the administration and enforcement of U.S. export controls on items that have both civil and military uses. Pursuant to the Export Administration Act (EAA), the Nuclear Non-Proliferation Act, and other statutes, BXA seeks to promote and protect U.S. security, foreign policy, and nonproliferation interests without imposing unnecessary burdens on exporters.

Further, BXA administers and enforces export controls on commodities that are in short supply as provided for by the EAA, the Forest Resources Conservation and Shortage Relief Amendments Act, and other statutes.

BXA also implements the antiboycott provisions of the EAA to ensure that U.S. firms do not cooperate with the Arab economic boycott of Israel or other international economic boycotts that are contrary to U.S. law.

Defense Industrial Base Programs

Pursuant to the Defense Production Act, other national-security-related legislation, and Executive Orders, BXA administers a range of programs designed to strengthen the U.S. defense industrial base and assist U.S. defense manufacturers in diversifying production for civil applications.

Streamlining the Export Administration Regulations (EAR)

Although many substantive changes to the EAR must await reauthorization of the EAA, BXA's top regulatory priority is to clarify, simplify, and make more user-friendly the present EAR, consistent with U.S. national security and foreign policy interests and present law. This is one of the export control reform measures announced by the Administration in the first report of the Trade Promotion Coordinating Committee (TPCC), "Toward a National Export Strategy," (Sept. 30, 1993). (The TPCC is a 19-agency working group, chaired by the Secretary of Commerce, whose report recommendations form an integral part of the Administration's economic development strategy for the next several years.)

In order to meet the programmatic end described above within the regulatory philosophy and principles of Executive Order 12866 and the President's regulatory reform goals, BXA, on May 11, 1995, issued a proposed rule to reorganize its regulations in a more logical and transaction-oriented order; to make its regulations usable by both newcomers and professionals; to remove redundancy, overlap, and inconsistency; and to use consistent and easily understood drafting style.

The proposed new EAR contain many innovative changes designed to make the regulations easier to use. Probably the most important of these is a reorientation from the current regulations prohibition on all exports, absent BXA authorization, to a presumption that no license is needed unless the regulations affirmatively state the requirement. In addition, the chapters of the new regulations are arranged to give the exporter and reexporter a logical path to follow. Finally, the affirmative statements of the need to obtain a license or other obligation, currently scattered throughout the regulations, are consolidated into ten general prohibitions.

Additionally, the proposed new EAR include a Country Chart that lists worldwide licensing requirements by reason for control for all items listed on the Commerce Control List (CCL). Once an exporter identifies an item on the CCL, worldwide licensing requirements, the reason for control, and the licensing policy are readily discernible. This innovation will signficantly reduce the amount of time exporters will need to obtain this information. BXA received overwhelming support for this new approach when it conducted a pilot test comparing it with the current regulatory scheme.

The proposed new EAR would establish a Special Comprehensive License (SCL) procedure to replace four multiple-export licensing procedures currently in the regulations. This amounts to a 75 percent reduction in procedures that exporters need to consider when they apply for multiple-export authorizations. In addition, the transactions that would be eligible for the SCL are expanded in terms of country and product scope. This would further reduce burdens on exporters by expanding the number of cases for which transaction-by-transaction license applications could be replaced by the SCL.

The current EAR include approximately 30 general licenses, permissive reexports, and other exceptions which are scattered throughout a number of CFR parts. These general licenses, known as "license exceptions" in the proposed new EAR, are consolidated into one part of the proposed new EAR, and are combined into transaction-based groupings. This combination results in an almost 30 percent reduction in the number of license exceptions.

International Trade Administration

The International Trade Administration (ITA) is responsible for most of the nonagricultural trade promotion and enforcement activities of the Federal Government. It works with the Office of the U.S. Trade Representative in coordinating U.S. trade policy. A large component of ITA's activities does not involve regulation. However, ITA has important regulatory authority under a number of U.S. trade laws.

ITA administers programs to strengthen domestic export competitiveness and to promote U.S. industry's increased participation in international markets. ITA's trade development program includes policy development, industry analysis, and promotion, organized by industrial sectors such as science and electronics, basic industries, chemicals, and allied products, energy, and textiles and apparel. Among its regulatory activities, ITA issues certificates of review providing export trading companies with limited immunity from liability under antitrust laws.

ITA helps achieve the major Departmental goal of opening and expanding foreign markets and promoting increased exports of U.S. goods and services in markets with the highest potential for growth, such as Asia and Latin America, and in important growing sectors, such as computers, telecommunications, and environmental technologies. The report of the TPCC outlined more than 60 specific actions to strengthen U.S. export promotion efforts. Many of these actions, such as increasing U.S. businesses' awareness of sources of, and access to, trade finance and the establishment of one-stop U.S. Export Assistance Centers, directly involve ITA but do not involve regulation.

ITA also enforces our trade laws to ensure free and fair competition in our domestic market between U.S. and foreign-manufactured goods. It administers and enforces the antidumping and countervailing duty laws of the United States. It investigates whether exports to the United States are subsidized or sold at less than fair value; when it finds that they are, and the U.S. International Trade Commission finds that a U.S. industry has been injured or threatened with material injury as a result, it issues an order to the U.S. Customs Service to impose offsetting duties. In addition, ITA administers the Foreign Trade Zone and Watch Quota Programs, and the Educational, Scientific, and Cultural Materials Importation Act.

Antidumping and Countervailing Duties Regulations

The top regulatory priority of ITA is revising the antidumping and countervailing duty regulations to conform to legislation implementing the results of the Uruguay Round multilateral trade negotiations.

The newly negotiated Antidumping Agreement and Subsidies/Countervailing Measures Agreement (Agreements) establish general principles regarding the administration of antidumping and countervailing duty laws. In order to facilitate the administration of these laws and to provide greater predictability for private parties affected by them, it will be necessary to promulgate regulations which translate the principles of the Agreements and the implementing legislation into specific and predictable rules. Revisions also will address matters that were the subject of other uncompleted rulemaking proceedings that the Department of Commerce has previously withdrawn. Clarifying the methodologies and procedures used in administering the antidumping and countervailing duty laws will enhance the efficiency and fairness of these laws at little, if any, additional cost. The manner in which these regulations are drafted could have a significant impact on various important sectors of the economy, including the steel, lumber, and bearings industries.

National Oceanic and Atmospheric Administration

The National Oceanic and Atmospheric Administration (NOAA) establishes and administers Federal policy for the conservation and management of the Nation's oceanic, coastal, and atmospheric resources. It provides a variety of essential environmental services vital to public safety and to the Nation's economy, such as weather forecasts and storm warnings. It is a source of objective information on the state of the environment. NOAA plays the lead role in achieving the departmental goal of promoting stewardship and assessment of the global environment.

In recognition that economic growth must go hand in hand with environmental stewardship, the Commerce Department, through NOAA, conducts programs designed to provide a better understanding of the connections between environmental health, economics, and national security. Commerce's emphasis on "sustainable fisheries" is saving fisheries and confronting short-term economic dislocation, while boosting long-term economic growth. The Department of Commerce is where business and environmental interests intersect, and the classic debate on the use of natural resources is transformed into a "win-win" situation for the environment and the economy.

Three of NOAA's major components, the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), and the National Environmental Satellite, Data, and Information Service (NESDIS), exercise regulatory authority.

NMFS oversees the management and conservation of the Nation's marine fisheries, protects marine mammals, and promotes the economic development of the U.S. fishing industries. NOS assists the coastal States in their management of land and ocean resources in their coastal zones, including estuarine research reserves; manages the Nation's national marine sanctuaries; monitors marine pollution; and directs the national program for deep-seabed minerals and ocean thermal energy. NESDIS administers the civilian weather satellite program and licenses private organizations to operate civil operational land-remote sensing satellite systems.

The Administration is committed to an environmental strategy that promotes sustainable economic development and rejects the false choice between environmental goals and economic growth. The intent is to have the Government's economic decisions be guided by a comprehensive understanding of the environment. The Department of Commerce, through NOAA, has a unique role in promoting stewardship of the global environment through effective management of the Nation's marine and coastal resources and in monitoring and predicting changes in the Earth's environment, thus linking trade, development, and technology with environmental issues. NOAA has the primary Federal responsibility for providing the sound scientific observations, assessments, and forecasts of environmental phenomena on which resource management and other societal decisions can be made. The Department of Commerce's Economics and Statistics Administration has the primary Federal responsibility for providing information about the economy.

In the environmental stewardship area, NOAA's goals include rebuilding U.S. fisheries by refocusing policies and fishery management planning on increased scientific information; increasing the populations of depleted, threatened, or endangered species of marine mammals by implementing recovery plans that provide for their recovery while still allowing for economic and recreational opportunities; promoting healthy coastal ecosystems by ensuring that economic development is managed in ways that maintain biodiversity and long-term productivity for sustained use; and modernizing navigation and positioning services. In the environmental assessment and prediction area, goals include modernizing the National Weather Service; implementing reliable seasonal and interannual climate forecasts to guide economic planning; providing science-based policy advice on options to deal with very long-term (decadal to centennial) changes in the environment; and advancing and improving short-term warning and forecast services for the entire environment.

Programs that seek to achieve the above goals involve fishery management activities under the Magnuson Fishery Conservation and Management Act and other statutes, including regulatory, enforcement, and conservation actions; endangered species and marine mammal protection activities; marine

habitat conservation activities under the Fish and Wildlife Coordination Act and the Federal Power Act; deep-seabed mining regulatory activities under the Deep Seabed Hard Mineral Resources Act; studies on locating ocean dump sites and disposing of toxic waste under the Marine Protection, Research and Sanctuaries Act and other laws; and coastal zone, estuarine research reserve and national marine sanctuary management activities, including regulatory activities under various statutes.

NOAA's principal regulatory objectives are to manage the marine fishery resources under its jurisdiction more effectively, to implement the designation of the Florida Keys National Marine Sanctuary, and to promulgate natural resource damage assessment regulations applicable to oil spills.

Magnuson Act Rulemakings

Magnuson Fishery Conservation and Management Act (Magnuson Act) rulemakings concern the conservation and management of fishery resources in the U.S. 3-to-200-mile Exclusive Economic Zone. Among the several hundred rulemakings that NOAA plans to issue in the Regulatory Plan year, a number of the preregulatory and regulatory actions will be significant. The exact number of such rulemakings is unknown, since they are usually initiated by the actions of eight regional Fishery Management Councils (FMCs) that are responsible for preparing fishery management plans (FMPs) and FMP amendments and for drafting implementing regulations for each managed fishery, and by other circumstances which cannot be predicted. Once a rulemaking is triggered by an FMC, the Magnuson Act places stringent deadlines upon NMFS within which it must exercise its rulemaking responsibilities. Most of these rulemakings will be minor, involving only the opening or closing of a fishery under an existing FMP. While no one Magnuson Act rulemaking is among the Department's most important significant regulatory actions, and therefore none is specifically described below, the sum of these actions, and a few of the individual actions themselves, are highly significant.

The Magnuson Act, which is the primary legal authority for Federal regulation to conserve and manage fishery resources, establishes eight regional FMCs, responsible for preparing FMPs and FMP amendments. NMFS issues regulations to implement FMPs and FMP amendments, FMPs address a variety of fishery matters, including depressed stocks, overfished stocks, gear conflicts, and foreign fishing. One of the strategies that FMPs may use is preventing overcapitalization (preventing excess fishing capacity) of fisheries by limiting access to those dependent on the fishery in the past and/or by allocating the resource through individual transferable quotas which can be sold on the open market to other participants or those wishing access. Quotas set on good scientific information, whether as a total fishing limit for a species in a fishery or as a share assigned to each vessel participant, enable stressed stocks to rebuild. Other measures include staggering fishing seasons or limiting gear types to avoid gear conflicts on the fishing grounds; and establishing seasonal and area closures to protect fishery stocks.

NMFS favors the concept of framework FMPs where applicable. Such FMPs provide ranges, boundaries, and decision rules within which NMFS can change management measures without formally amending the FMP. Further, consistent with the recommendations on improving regulatory systems accompanying the Report of the National Performance Review, NMFS favors using market-oriented approaches such as marketable limited-access permits and marketable individual quotas in managing fisheries. Open-access fisheries are destined to have too many people investing too much money in vessels and equipment. Access controls (e.g., a limited number of permits) represent a rational approach for managing fishery resources; they can be used to control fishing mortality levels and to prevent overfishing, economic dissipation, and subsequent economic and social dislocation. Of course overall quotas will need to be set based on the best scientific information available as to such things as stock status and optimum yields. At present, adequate scientific information is available for only 34 percent of all U.S. fishery resources.

The FMCs provide a forum for public debate and, using the best scientific information available, make the judgments needed to determine optimum yield on a fishery-by-fishery basis. Optional management measures are examined and selected in accordance with the national standards set forth in the Magnuson Act. This process, including the selection of the preferred management measures, constitutes the development, in simplified form, of an FMP. The FMP, together with draft implementing regulations and supporting documentation, is submitted to NMFS for review against the national standards set forth in the Magnuson Act, in other provisions of the Act, and other applicable laws. The same process applies to amending an existing approved FMP.

The Magnuson Act contains seven national standards against which fishery management measures are judged. NMFS has supplemented these standards with guidelines interpreting each standard. One of the national standards requires that management measures, where practicable, minimize costs and avoid unnecessary duplication. Under the guidelines, NMFS will not approve management measures submitted by an FMC unless the fishery is in need of management. Together, the standards and the guidelines correspond to many of the Administration's principles of regulation as set forth in section 1(b) of Executive Order 12866. One of the national standards establishes a qualitative equivalent to the Executive order's net benefits requirement—one of the focuses of the Administration's statement of regulatory philosophy as stated in section 1(a) of the order.

Rulemakings implementing an FMP or amendment cannot be precisely scheduled in advance because, for the most part, an FMP or amendment is developed and submitted by an FMC. The timing of the submission is determined by the FMC, not by NMFS. Upon receiving an FMP or amendment and implementing regulations, NMFS is required by the Magnuson Act to publish the proposed implementing regulations within 15 days unless, after preliminary review, NMFS disapproves the FMP or amendment because it is inconsistent with the national standards or too deficient in scope and substance to warrant review. Upon completion of the preliminary review, if NMFS finds that the FMP or amendment is consistent with the national standards and sufficient in scope and substance to warrant further review, NMFS must commence such review. Upon completion of that review, if NMFS finds that the FMP or amendment is consistent with the national standards, the other provisions of the Magnuson Act, and any other applicable law, NMFS must approve the FMP or amendment and issue final regulations implementing it. If the FMP or amendment is not consistent with the Magnuson Act or other applicable law, NMFS must disapprove or partially disapprove it within 95 days of receipt,

and the FMC may submit a revised FMP or amendment.

Florida Keys National Marine Sanctuary Rulemaking

One of NOAA's most important significant regulatory actions will be finalizing the management plan and regulations for the Florida Keys National Marine Sanctuary. A proposed management plan and proposed implementing regulations were published in early spring, 1995. Mounting threats to the ecological health and future of the coral reefs of the Florida Keys from oil drilling, deteriorating water quality, vessel groundings, pollution, and intense human use prompted Congress to enact the Florida Keys National Marine Sanctuary and Protection Act (FKNMSPA) in late 1990. This Act designated a 2,800-square-nautical-mile area of coastal waters running the entire 220-mile length of the Florida Keys as the Florida Keys National Marine Sanctuary (Sanctuary). The Act makes NOAA responsible for developing a comprehensive Sanctuary management plan, including a Florida and U.S. EPA-developed Water Quality Plan, to protect Sanctuary resources while facilitating all compatible public and private uses of the Sanctuary.

Because of the size of the Sanctuary and the variety of the resources the proposed plan addresses, many problems never before presented in sanctuary management must be addressed. For example, significant declines in water quality and habitat conditions in Florida Bay are threatening the health of Sanctuary resources. These conditions are thought to be the result of water quality and quantity management in the South Florida region. Accordingly, all agencies with responsibility in these areas are being incorporated into the continuous process of Sanctuary management of this marine area.

A draft environmental impact statement (DEIS) has been published which sets forth management alternatives for dealing with the problems identified in the planning process (e.g., boating, fishing, recreation). Five alternatives are set forth for each problem ranging from complete restriction of uses to maintaining the status quo, with the most attention paid to the three mid-range alternatives. The DEIS sets forth the environmental consequences and the economic and social effects on the human environment of the three mid-range alternatives, including the groups and industries likely to be impacted under each alternative. The DEIS selects the middle alternative as the preferred course of action because it best accomplishes the statutory objectives with due consideration of impacts on the human environment and costs.

In passing the FKNMSPA, Congress specifically recognized that the unique natural and historic environment of the Florida Keys is irreplaceable. Accordingly, the benefits of the proposed regulation are best seen by looking at what would be lost if the environment were not protected. First, the 2.4 million-acre Sanctuary contains one of North America's most diverse assemblages of terrestrial, estuarine, and marine fauna and flora, particularly the Florida Reef Tract. In addition to the reef tract, the Sanctuary boundaries include thousands of patch reefs, one of the world's largest seagrass communities covering 1.4 million acres, mangrove-fringed shorelines, mangrove islands, and various hardbottom habitats. Moreover, these diverse habitats provide shelter and food for thousands of species of marine plants and animals, including over 50 species of animals identified by either Federal or State law as endangered or threatened. Finally, because the Keys were at one time a major seafaring center for European and American trade routes in the Caribbean, submerged cultural and historic resources, that is, shipwrecks, also abound in the surrounding waters. Recent information indicates that there may be more archaeological resources of pre-European cultures there than previously believed.

Loss of the unique and distinct marine resources of the Sanctuary would not only cost an irreplaceable ecosystem and cultural and historic resources, it would also significantly damage the economy of the Florida Keys. The abundance of marine resources in the Keys draws thousands of visitors each year. The major industry in the Florida Keys is tourism, including activities related to the Keys' marine resources, such as dive shops, charter fishing and dive boats, and marinas, as well as hotels and restaurants. More than half (51 percent) of the Florida Keys' employment is based in recreation and tourism, with about 61 percent of all recreation and tourism activities being water-related. About half of the $1.6 billion in total sales for the area is related to tourism, and another $16 million is spent by Keys residents for recreation activities.

The wealth of natural marine resources also supports a large commercial fishing sector. With approximately 9 percent of the area work force, this industry is the fourth largest source of employment in the Keys.

Finally, the monetary costs of compliance with these proposed regulations borne by individuals would be relatively small and arise from two items. First, some of those engaged in consumptive fishing will likely need to travel farther to fish. Additionally, some activities that were previously unregulated, such as treasure salvaging (in Federal waters) and coral collecting, would require permits or be subject to additional requirements. However, the amount charged for a permit may not exceed the cost of administering permit issuance.

It should be noted that Congress itself included several prohibitions that, by the prevention of income-generating and wealth-generating activity, will be quite costly. Specifically, Congress prohibited oil, gas, and mineral leasing and development and prohibited vessels greater than 50 meters from an Area to Be Avoided. However, since Congress prohibited these activities, the regulatory prohibition does not create associated costs. Other than the prohibition of oil, gas, and mineral leasing, the Sanctuary regulations contain some Sanctuary-wide prohibitions, such as the prohibition on harvesting live rock or altering the seabed, that may generate costs.

Many issues inherent in Sanctuary regulation are foreclosed by prohibitions in the FKNMSPA on tank vessels and on mineral and hydrocarbon leasing, exploration, development, and production within the Sanctuary.

The proposed regulations employ water zoning as a means of protecting Sanctuary resources and preventing user group conflicts. While several regulatory restrictions apply throughout the Sanctuary, certain restrictions apply only by zone. For example, all consumptive activities would be prohibited within 22 zones, constituting just over 5 percent of the Sanctuary area, including 90 percent of the heavily used, well-developed coral reef formations. This action might engender opposition from members of the public whose activities (diving, fishing, and boating) would be highly restricted; however it was believed that this method was the best approach for achieving protection while still facilitating use of the Sanctuary.

Natural Resources Damage Assessment Regulations

Another of NOAA's most important significant regulatory activities for the Regulatory Plan year is promulgation of natural resource damage assessment regulations applicable to oil spills.

Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 4201 et seq. (CERCLA, also known as Superfund) and the Oil Pollution Act of 1990, 33 USC 2701 et seq. (OPA), NOAA, in concert with the Department of the Interior (DOI), is charged with developing regulations for natural resources damage assessment for injury to natural resources as a result of hazardous substance release and oil spills. Section 1006(b) of the OPA provides for the designation of Federal, State, Indian, and foreign officials to act on behalf of the public as trustees of the Nation's natural resources. In the event that such natural resources are injured, lost, or destroyed as a result of a discharge of oil, these officials are authorized to assess the injury to the natural resource and develop and implement a restoration plan. Section 1006(e) directs NOAA to take the lead for the Federal Government in developing natural resource damage assessment regulations for harm resulting from oil spills. Such regulations will help fulfill the goal of promoting stewardship and assessment of the global environment.

Natural resource damages under both CERCLA and OPA include the cost of restoring a resource, the diminution in its value pending restoration, and the cost of the damage assessment. Determination of damages made in accordance with these regulations by Federal, State, or Indian resource trustees will have the "force and effect of a rebuttable presumption" in administrative or judicial proceedings.

On December 28, 1990, NOAA issued an advance notice of proposed rulemaking for these regulations. Following review of the comments received, NOAA on January 7, 1994, published proposed regulations. The public comment period continued through October 7, 1994. In addition, 12 public meetings were held on the proposed regulations in January and February, 1994, again showing full consistency with the President's policy of increased public participation in rulemaking. Subsequently, NOAA determined, due in part to the comments received on the January 7, 1994, proposed rule, to issue a second proposed rule. That second proposal was published in the **Federal Register** on August 3, 1995 (60 FR 39804).

A single set of Federal natural resource damage assessment regulations will be more cost efficient than having the individual States develop separate methodologies. It is expected that the trustees will use the procedures contained in the regulations because the Oil Pollution Act provides that any determination or assessment of damages made in accordance with the regulations shall have the force and effect of a rebuttable presumption on behalf of the trustee in an administrative or judicial proceeding.

Economic Development Administration

Because economic opportunity is not evenly dispersed to all communities and because of the dynamic nature of our economy, the Commerce Department includes programs to help areas respond to conditions of economic deterioration and dislocation. Under the Department's economic development programs, we help communities build the capacity to plan and implement the economic development strategies needed to respond to problems and to restore their job bases. The Economic Development Administration (EDA) provides grants to help communities fund the infrastructure improvements needed to support development. We have been particularly active in helping communities respond to problems caused by the down-sizing of the defense industry. With 70 major military facilities selected for closure or realignment in the first two rounds and an additional 49 major facilities recommended by the Defense Base Realignment and Closure Commission for closure or realignment in the 1995 round, the need for this assistance will continue to grow.

It had been over 20 years since the EDA's regulations were completely revamped. Many regulations were out of date, applied to programs that no longer existed, or reflected policies that had changed or were not applied in a consistent or regular manner. The regulatory system did not fully reflect actual programmatic procedures or practices. In essence, EDA regulations did not achieve the desired goal of truth-in-regulating that is at the heart of a reinvented government. As a result, the reform of EDA's regulations produces not only fewer and more streamlined regulations, but regulations that have been thought through anew and restricted to the absolute minimum to achieve EDA's program goals.

An initial review resulted in an agency consensus to delete and/or rewrite over 200 of approximately 370 EDA regulations. An interim final rule to accomplish the deletions was recently published.

The reform of the regulatory system has also prompted a complete review of long-time requirements and policies that may not always be reflected in the regulations. Some will be eliminated, others rewritten. In conjunction with the regulatory reform, EDA's annual Notice of Funding Availability (NOFA) is also undergoing revision and streamlining. Over the years, the NOFA has grown to well over 50 typewritten pages of information, requirements, policies, and directions, becoming yet another—and sometimes duplicative—required source of information for applicants.

The participation of agency staff in the reform effort has been very broad. Additionally, public comment has been invited and has already generated useful suggestions that have been incorporated into the reform.

The reform of EDA's regulations is intended to produce a set of regulations that will more easily be read and understood by EDA's customers—potential applicants for grant funding and the businesses and communities that benefit from economic development projects. Their expectations will reflect more accurately the reality of the application process they will have to undergo. There will be the potential for one-stop application information.

In addition, the regulations will be more user-friendly to the staff of EDA that applies them on a daily basis. They will be able to explain and use the regulations more rationally. The agency will be able to achieve more continuity and consistency in the application of its regulations among its regional offices. The regulatory reform effort will also have a positive effect on EDA's ongoing efforts to re-engineer its grant application, including the process and the forms used.

DOC—Economic Development Administration (EDA)

FINAL RULE STAGE

12. SIMPLIFICATION AND STREAMLINING OF REGULATIONS OF THE ECONOMIC DEVELOPMENT ADMINISTRATION

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation:

13 CFR 301 to 318

Legal Deadline:

None

Abstract:

The Economic Development Administration (EDA) has issued an interim final rule to revise all of its regulations so that they are easier to read and use, and accurately reflect program requirements, evaluation criteria, and selection processes in implementing programs under the Public Works and Economic Development Act of 1965 (PWEDA), as amended, the Trade Act of 1974, as amended, and other statutes. This streamlining effort includes the removal of numerous unnecessary, redundant, and outdated parts, sections, and smaller portions of the existing regulations.

Statement of Need:

It has been over 20 years since the Economic Development Administration's regulations were completely revamped. During that time, EDA's regulations have been criticized by Congress, applicants, recipients, and others as being too long, burdensome, complex, and difficult to understand. EDA believes that many of its regulations are out of date, apply to programs that no longer exist, or reflect policies that have changed or are not applied in a consistent or regular manner. Therefore, EDA's regulatory system does not fully reflect actual programmatic procedures or practices. In essence, current EDA regulations do not achieve the desired goal of truth-in-regulating that is at the heart of a reinvented government. As a result, the reform of EDA's regulations will produce not only fewer and more streamlined regulations, but regulations that have been thought through anew and restricted to the absolute minimum to achieve EDA's program goals.

The reform of the regulatory system has also prompted a complete review of long-time requirements and policies that may not always be reflected in the regulations. Some have been eliminated, others rewritten. Also in conjunction with the regulatory reform, EDA's annual Notice of Funding Availability (NOFA) is also undergoing revision and streamlining. Over the years, the NOFA has grown to well over fifty typewritten pages of information, requirements, policies, and directions, becoming yet another--and sometimes duplicative--required source of information for applicants.

Summary of the Legal Basis:

The PWEDA, as amended, and the Trade Act of 1974, as amended, serve as the basic underlying legal authorities for EDA's assistance programs.

Alternatives:

EDA held three representative regional public meetings, in Philadelphia, Chicago, and Monterey, during early 1995, in order to receive input on the regulatory reform project from recipients and applicants of EDA financial assistance. Comments received at these meetings focused on the complexity, length of time, and repetitive nature of grants processing. Additionally, all EDA employees were encouraged to participate in the process of identifying problems in the agency's regulations, and many did.

The interim final rule addresses the concerns raised at the public meetings and by EDA employees because they are less complex and set forth program descriptions, evaluation criteria, and processing procedures in an easy-to-read and straightforward manner. The interim final rule also contains several significant changes. Certain regulations were removed because the programs to which those regulations apply are no longer in existence. Other removals were made because policy rules not required by PWEDA have become unnecessarily constraining or outdated. Finally, the new 13 CFR 304, which contains the general selection process and evaluation criteria for EDA projects funded under PWEDA, was substantially rewritten to condense and clarify policies and criteria previously published in EDA's annual funding notices, which were codified in the interim final rule.

Anticipated Costs and Benefits:

The reform of EDA's regulations is intended to produce a set of regulations that will more easily be read and understood by EDA's customers -- potential applicants for grant funding and the businesses and communities that benefit from economic development projects. They will be able to determine before applying what requirements they must meet. Their expectations will reflect more accurately the reality of the application process they will have to undergo. There will be the potential for one-stop application information.

In addition, the regulations will be more user-friendly to the staff of EDA that applies them on a daily basis, who will then be able to explain and use the regulations more rationally. The agency will be able to achieve more continuity and consistency in the application of its regulations among its regional offices. The regulatory reform effort will also have a positive effect on EDA's ongoing efforts to re-engineer its grant application, including the process and the forms used.

The costs of achieving these benefits should be minimal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/26/95	60 FR 49670
Final Action	04/00/96	

Small Entities Affected:

None

Government Levels Affected:

State, Local, Tribal

Sectors Affected:

Multiple

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DOC—International Trade Administration (ITA)

PROPOSED RULE STAGE

13. ANTIDUMPING DUTIES; COUNTERVAILING DUTIES

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

19 USC 1671 et seq; 19 USC 1673 et seq; 19 USC 1303

CFR Citation:

19 CFR 353; 19 CFR 355

Legal Deadline:

Other, Statutory, January 1, 1996.

Section 103(b) of the Uruguay Round Agreements Act establishes January 1, 1996, as the deadline for interim final regulations.

Abstract:

Revisions of the antidumping and countervailing duty regulations are necessary due to enactment of legislation implementing the results of the Uruguay Round multilateral trade negotiations. Revisions also will address matters that were the subject of other uncompleted rulemaking proceedings that ITA has previously withdrawn. (See April 1994 Unified Agenda of Federal Regulations). Clarifying the methodologies and procedures used in administering the antidumping and countervailing duty laws will enhance the efficiency and fairness of these laws at little, if any, additional cost.

Statement of Need:

Regulations will be needed to implement the results of the Uruguay Round with respect to the administration of the antidumping and countervailing duty laws. The newly negotiated Antidumping Agreement and Subsidies/Countervailing Measures Agreement (Agreements) establish general principles regarding the administration of these laws. In order to facilitate administration and to provide greater predictability for private parties affected by these laws, it will be necessary to promulgate regulations which translate the principles of the Agreements and the implementing legislation into specific and predictable rules.

Summary of the Legal Basis:

The Secretary of Commerce is responsible for administering the antidumping and countervailing duty laws pursuant to authority contained in several legislative enactments, See 19 USC 1671 et seq.; 19 USC 1673 et seq.; 19 USC 1303. These laws conform to the Subsidies Code and the Antidumping Code (Codes) of the General Agreement on Tariffs and Trade (GATT) and reflect internationally agreed rules regarding unfair trade. The Secretary, acting through the Import Administration of the International Trade Administration, is responsible for processing petitions from firms that allege they have been harmed by unfair competition from imports, making preliminary and final determinations about whether such competition was subsidized or benefited from "dumping," and conducting periodic administrative reviews of antidumping and countervailing duty orders. Merchandise found to be benefiting from subsidies or to have been "dumped" is subject to duties in the amount of the dumping or subsidization.

Alternatives:

U.S. objectives in the Uruguay Round antidumping negotiations were to improve transparency and due process in antidumping proceedings, develop disciplines on diversionary dumping, and ensure that the antidumping rules continue to provide an effective tool to combat injurious dumping. The Agreements substantially achieve these objectives.

The Subsidies agreement establishes clearer rules and stronger disciplines in the subsidies area while also making certain subsidies nonactionable, provided they are subject to conditions designed to limit distorting effects. The Agreements create three categories of subsidies and remedies: (a) prohibited subsidies; (b) permissible subsidies which are actionable if they cause adverse trade effects; and (c) permissible subsidies which are nonactionable if they are structured according to criteria intended to limit their potential for distortion.

Anticipated Costs and Benefits:

The Uruguay Round Agreements are anticipated to create hundreds of thousands of high-wage, high-skilled jobs in the United States. Further, economists estimate that the Uruguay Round will increase trade and will add between $100 and $200 billion to the United States economy after the round is fully implemented. Finally, the Agreements create an effective set of rules for the prompt settlement of disputes by eliminating shortcomings in the current system that allows parties to prolong the process and block adverse determinations.

The costs of administering the antidumping/countervailing duty system will be increased pursuant to the new rules established in the Uruguay Round and the implementing legislation. The new Codes dictate a number of new obligations in the investigation of petitions and the conduct of administrative reviews. Binding GATT dispute settlement will also increase legal costs because substantially more challenges to ITA determinations will be brought to the GATT forum.

Timetable:

Action	Date	FR Cite
ANPRM	01/03/95	60 FR 80
ANPRM Comment Period End	02/24/95	60 FR 80
Interim Final Rule	05/11/95	60 FR 25130
Interim Final Rule Effective	05/11/95	
NPRM	10/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

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DOC—Bureau of Export Administration (BXA)

FINAL RULE STAGE

14. SIMPLIFICATION OF THE EXPORT ADMINISTRATION REGULATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation:

15 CFR 768 to 779; 15 CFR 785 to 791; 15 CFR 799

Legal Deadline:

None

Abstract:

The Bureau of Export Administration (BXA) is continuing a comprehensive review of the Export Administration Regulations (EAR). This review is intended to simplify, to clarify, and to make the export control regulatory requirements more user-friendly.

Statement of Need:

It is essential that the United States have and implement export controls that take into account the realities of a post-Cold War world. Strong controls will continue to be needed to combat the threat of proliferation of weapons of mass destruction and to preserve our national security and foreign policy interests. However, long overdue reforms are needed to ensure that we do not unfairly and unnecessarily burden our important commercial interests.

There has not been a complete overhaul of the EAR in the approximately 45 years they have been in place. The structure has become disorganized and the content has become increasingly complex as the EAR have been repeatedly revised over the years to reflect numerous changes in their legal and policy foundation. The most fundamental change has been a shift away from requiring governmental review of a wide range of exports to making it unnecessary, in most cases, for an exporter to apply for a license if the export meets a set of destination and use criteria. Moreover, it can be extremely difficult for exporters to find and understand the rules using the current EAR.

Forces driving the revision of export control regulations in the near term as BXA tries to meet these objectives are reauthorization of the Export Administration Act (EAA) and simplification of the EAR as recommended by the Trade Promotion Coordinating Committee (TPCC).

Section 201 of the Export Enhancement Act of 1992, P.L. 102-429, directed the President to establish the TPCC. The law requires, among other things, that the TPCC issue an annual report to Congress on the country's exports and export promotion efforts. The statute designates the Secretary of Commerce as the chairperson of the TPCC, with representatives from the Departments of State, Treasury, Agriculture, Energy, and Transportation, the U.S. Trade Representative, Small Business Administration, Agency for International Development, Overseas Private Investment Corporation, Export-Import Bank, the Trade and Development Agency, and such other agencies as the President determines to be necessary.

On September 30, 1993, the first report of the TPCC, "Toward a National Export Strategy," was issued. This report outlined more than 60 specific actions to strengthen U.S. export promotion efforts. An important recommendation of the TPCC report was to clarify and simplify United States export control regulatory requirements. On February 10, 1994, an advance notice of proposed rulemaking was published in the **Federal Register** (59 FR 6526) inviting comments on areas that should be the focus of our simplification process. On May 11, 1995, BXA published a proposed rule (60 FR 25268) to simplify the EAR and make them more user-friendly.

Summary of the Legal Basis:

The legal authority to regulate exports of dual-use products stems from the Export Administration Act, as amended, 50 USC app. 2401, et seq. The EAA authorizes three types of controls: (a) national security controls which cover high-technology items of strategic significance, (b) foreign policy controls used to achieve various foreign policy objectives, and (c) short-supply controls restricting the export of commodities that are in domestic short supply.

The EAA expired on August 20, 1994. However, on August 19, 1994, the President issued Executive Order 12924 invoking the International Emergency Economic Powers Act and continuing in effect, to the extent permitted by law, the provisions of the EAA and EAR. The EAR will need to be amended, in various degrees, to take into account changes in the EAA once it is reauthorized. At the present time, however, we cannot predict with any degree of certainty how the regulations will need to be amended.

Alternatives:

A clarified, simplified, and logically structured EAR will bring such clear benefit to both business and government that it is more appropriate to note additional steps regarding export control, rather than alternatives. BXA has already taken steps to carry out other TPCC recommendations. These include a major reduction in export licensing requirements through elimination of outdated controls. The processing of export licenses will be expedited under an Executive Order on interagency review that awaits the President's signature. Work is well underway on arrangements to shift dual-use items that remain on the State Department Munitions List to BXA licensing and to give exporters reliable guidance as to which agency has licensing jurisdiction over specific items. As these and other substantive reforms are accomplished, they will be incorporated into the pending, simplified, EAR.

Anticipated Costs and Benefits:

The publication of the proposed EAR brought an extraordinary number of written public comments. Many comments noted that there would be one-time costs associated with adjusting internal systems to the new regulations and in training personnel. There was, however, broad support for the overall direction of the simplification initiative and expression of the view that transition costs would be exceeded by the long-term benefits. The principal benefits from the new EAR will accrue, not only to the applicants for the approximately 10,000 individual export licenses issued annually by BXA, but also to the vastly greater number of exporters who will be able to determine for themselves, quickly and reliably, that they can legally export without a license.

Timetable:

Action	Date	FR Cite
ANPRM	02/10/94	59 FR 6528
ANPRM Comment Period End	03/28/94	
NPRM	05/11/95	60 FR 25268
NPRM Comment Period End	07/10/95	
Final Action	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

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DOC—National Oceanic and Atmospheric Administration (NOAA)

PROPOSED RULE STAGE

15. FLORIDA KEYS NATIONAL MARINE SANCTUARY

Priority:

Other Significant

Legal Authority:

16 USC 1431 et seq; PL 101-605

CFR Citation:

15 CFR 929

Legal Deadline:

Final, Statutory, May 1993.

Abstract:

These regulations are necessary for the implementation of the Congressionally designated national marine sanctuary.

Statement of Need:

Mounting threats to the ecological health and future of the coral reefs of the Florida Keys from oil drilling, deteriorating water quality, vessel groundings, pollution, and intense human use prompted Congress to enact the Florida Keys National Marine Sanctuary and Protection Act (FKNMSPA) in late 1990. This Act designated a 2,800-square nautical mile area of coastal waters running the entire 220-mile length of the Florida Keys as the Florida Keys National Marine Sanctuary (Sanctuary). The Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) is made responsible for developing a comprehensive Sanctuary management plan designed to protect Sanctuary resources while facilitating all compatible public and private uses of the Sanctuary.

Because of the size of the Sanctuary and the variety of the resources it contains, many problems never before presented in sanctuary management must be addressed. For example, significant declines in water quality and habitat conditions in Florida Bay are threatening the health of Sanctuary resources. These conditions are thought to be the result of water quality and quantity management in the South Florida region. Accordingly, all agencies with responsibility in these areas are being incorporated into the continuous process of Sanctuary management.

Summary of the Legal Basis:

On November 16, 1990, the Florida Keys National Marine Sanctuary and Protection Act, PL 101-605, set out as a note to 16 USC 1453, became law. The FKNMSPA designated, effective the day of enactment, an area of waters and submerged lands, including the living and nonliving resources within those waters, the Florida Keys National Marine Sanctuary. Congress found that the area encompassed "spectacular, unique, and nationally significant marine environments, including seagrass meadows, mangrove islands, and extensive living coral reefs" with the environments being "the marine equivalent of tropical rain forests in that they support high levels of biological diversity, are fragile and easily susceptible to damage from human activities, and possess high value to human beings if properly conserved."

Both section 7(a) of the FKNMSPA and the National Marine Sanctuaries Research Act, 17 USC 1431 et seq. authorize NOAA to issue regulations necessary to implement the designation, including managing and protecting the conservation, recreational, ecological, historical, research, educational, and aesthetic resources and qualities of the Florida Keys National Marine Sanctuary.

Alternatives:

A draft environmental impact statement (DEIS) has been published which sets forth alternatives for dealing with the problems identified in the planning process (e.g., boating, fishing, recreation). Five alternatives are set forth for each problem, ranging from complete restriction of uses to maintaining the status quo, with the most attention paid to the three mid-range alternatives. The DEIS sets forth the environmental consequences and the economic and social effects on the human environment of the three mid-range alternatives, including the groups and industries likely to be impacted under each alternative. The DEIS selects the middle alternative as the preferred course of action because it best accomplishes the statutory objectives with due consideration of impacts on the human environment and costs.

A final management plan and regulations will be published that will further the Clinton Administration's objective of providing long-term protection for ecologically significant areas while maximizing their sustainable use. The final regulations will protect Sanctuary resources with the minimum necessary regulatory burden on Sanctuary users.

Anticipated Costs and Benefits:

In passing the FKNMSPA, Congress specifically recognized that the unique natural and historic environment of the Florida Keys is irreplaceable. Accordingly, the benefits of the proposed regulation are best seen by looking at what would be lost if the environment were not protected. First, the 2.4 million-acre Sanctuary contains one of North America's most diverse assemblages of terrestrial, estuarine, and marine fauna and flora, particularly the Florida Reef Tract. In addition to the reef tract, the Sanctuary boundaries include thousands of patch reefs, one of the world's largest seagrass communities covering 1.4 million acres, mangrove-fringed shorelines, mangrove islands, and various hardbottom habitats. Moreover, these diverse habitats provide shelter and food for thousands of species of marine plants and animals, including over 50 species of animals identified by either Federal or State law as endangered or threatened. Finally, because the Keys were at one time a major seafaring center for European and American trade routes in the Caribbean, submerged cultural and historic resources, that is, shipwrecks, also abound in the surrounding waters. Recent information indicates that there may be more archaeological resources of pre-European cultures there than previously believed.

Loss of the unique and distinct marine resources of the Sanctuary would not only cost an irreplaceable ecosystem and cultural and historic resources, it would also significantly damage the economy of the Florida Keys. The abundance of marine resources in the Keys draws thousands of visitors each year. The major industry in the Florida Keys is tourism, including activities related to the Keys' marine resources, such as dive shops, charter fishing, and dive boats, and marinas, as well as hotels and restaurants. More than half (51 percent) of the Florida Keys' employment is based in recreation and tourism, with about 61 percent of all recreation and tourism activities being water-related. About half of the $1.6 billion in total sales for the area are related to tourism, with another $16 million spent by Keys residents for recreation activities.

The wealth of natural marine resources also supports a large commercial fishing sector. With approximately 9 percent of the area work force, this industry is the fourth largest source of employment in the Keys.

Finally, the monetary costs of compliance with these regulations borne by individuals would be relatively small and arise from two items. First, those engaged in consumptive fishing will likely need to travel farther to fish. Additionally, some activities that were previously unregulated, such as treasure salving and coral collecting, would be required to obtain permits. However, the amount permitted to be charged for a permit may not exceed the cost of administering permit issuance.

It should be noted that Congress itself included several prohibitions that, by the prevention of income-generating and wealth-generating activity, will be quite costly. Specifically, Congress prohibited oil, gas, and mineral leasing and development. However, since Congress prohibited this activity, the regulatory prohibition does not itself create this cost. Other than the prohibition of oil, gas, and mineral leasing, the Sanctuary regulations contain only one Sanctuary-wide prohibition, live rock harvest, that may generate costs.

Risks:

Many issues inherent in Sanctuary regulation are foreclosed by statutory prohibitions on tank vessels and on mineral and hydrocarbon leasing, exploration, development, and production within the Sanctuary.

The proposed regulations employ water zoning as a means of protecting Sanctuary resources and preventing user group conflicts. While several regulatory restrictions apply throughout the Sanctuary, certain restrictions apply only by zone. For example, all consumptive activities would be prohibited within 22 zones, constituting just over 5 percent of the Sanctuary area, including 90 percent of the heavily used, well-developed coral reef formations. This action might engender opposition from members of the public whose activities (diving, fishing, and boating) would be highly restricted; however, it was believed that this method was the best approach for achieving the goals of the statute.

Timetable:

Action	Date	FR Cite
NPRM	03/30/95	60 FR 16399
NPRM Comment Period End	12/31/95	
Final Action	06/00/96	

Small Entities Affected:

None

Government Levels Affected:

State, Local

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DOC—NOAA

16. NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION REGULATIONS

Priority:

Other Significant

Legal Authority:

33 USC 2706

CFR Citation:

15 CFR 990

Legal Deadline:

Final, Statutory, August 18, 1992. Final, Judicial, December 31, 1995.

Congress required the regulations to be promulgated no later than 2 years following the enactment of the Oil Pollution Act (OPA).

Abstract:

The Oil Pollution Act of 1990 (OPA) requires the President, acting through the Under Secretary of Commerce for Oceans and Atmosphere, acting through NOAA, to promulgate natural resource damage assessment regulations applicable to oil spills. A Federal approach will provide a consistent, uniform set of procedures specifically for use in oil spills. These procedures will be available to Federal, State, Indian, and foreign natural resource trustees. A single Federal solution will be more cost efficient than having the individual States develop separate methodologies. It is expected that trustees will use the procedures contained in the regulations because the OPA provides that any determination or assessment of damages made in accordance with the regulations shall have the force and effect of a rebuttable presumption on behalf of the trustee in an administrative or judicial proceeding.

Statement of Need:

Under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) and OPA, DOI and NOAA are charged with developing regulations for natural resources damage assessment for injury to natural resources resulting from a release or substantial threat of release of a hazardous substance or oil. Damages under both CERCLA and OPA include the cost of restoring a resource, the diminution in its value pending restoration, and the cost of the damage assessment. Section 1006(b) of the OPA provides for the designation of Federal, State, Indian, and foreign officials to act on behalf of the public as trustees of the Nation's natural resources. In the event that such natural resources are injured, lost, or destroyed as a result of a discharge of oil, these officials are authorized to assess the injury to the natural resource and develop and implement a restoration plan. Section 1006(e) directs NOAA to take the lead for the Federal Government in developing natural resource damage assessment regulations for harm resulting from oil spills. Such regulations will help fulfill the goal of promoting stewardship and assessment of the global environment.

Natural resource damages under both CERCLA and OPA include the cost of restoring a resource, the diminution in its value pending restoration, and the cost of the damage assessment. Determination of damages made in accordance with these regulations by Federal, State, or Indian resource trustees will have the "force and effect of a rebuttable presumption" in administrative or judicial proceedings. Currently, natural resource damages resulting from the discharge of oil, or substantial threat of a discharge, are calculated using the rules promulgated by the DOI at 43 CFR 11, or under State law.

On December 28, 1990, NOAA issued an advance notice of proposed rulemaking for these regulations. Following review of the comments received, NOAA published proposed regulations on January 7, 1994. The public comment period continued through October 7, 1994. In addition, 12 public meetings were held on the proposed regulations in January and February, again showing full consistency with the National Performance Review's recommendation for increased public participation in rulemaking. Subsequently, NOAA determined, due in part to the comments received on the January 7,

1994 proposed rule, to issue a second proposed rule. This second proposal was published in the **Federal Register** on August 3, 1995.

Summary of the Legal Basis:

The OPA provides for the prevention of, liability for, removal of and compensation for the discharge, or substantial threat of discharge, of oil into or upon the navigable waters of the United States, its adjoining shoreline or the Exclusive Economic Zone. Section 1006(e)(1) of the OPA requires NOAA to promulgate regulations for use by authorized Federal, State, or tribal officials, collectively referred to as trustees, in the assessment of damages for injury to, destruction of, loss of, or loss of use of natural resources sustained as a result of the discharge of oil.

Alternatives:

Because the rulemaking is Congressionally mandated, there is no alternative to the rulemaking itself. However, through the rulemaking process to date, including substantial public input, NOAA has developed a new approach which was made available for public comment in the August 3, 1995, proposed rule. As described below, that proposal focuses on restoring the resource rather than merely developing a process for assessing damages.

The goal of OPA is to make the environment and public whole for injuries to natural resources and natural resource services resulting from an incident involving oil. This goal is achieved through the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources and/or services. Under the proposed rule, restoration plans, including activities to compensate for natural resource injuries and diminution in value, are the basis of a claim for damages. This approach will decrease the time from the incident until completion of restoration, due to reduction in duplicative steps, and will reduce transaction costs. In addition, the proposed rule explicitly considers allowing responsible parties to implement trustee-approved restoration plans. The restoration planning process provided in the proposed rule is divided into three phases: (a) preassessment; (b) restoration planning; and (c) restoration implementation.

Preassessment Phase

When notified by response agencies of an incident involving a discharge or substantial threat of discharge of oil, trustees must first determine threshold issues that provide their authority to begin the NRDA process. Trustees then determine whether natural resource and/or service injuries will be adequately addressed through response or emergency restoration actions, or whether further action is warranted to consider the need for restoration. If further action is justified, the trustees make a preliminary determination as to whether natural resources and/or services have been injured and whether feasible restoration alternatives exist to address these injuries.

Restoration Planning Phase

The purpose of the Restoration Planning Phase is to evaluate potential injuries to natural resources and/or services, and use that information to determine the need for and scale of restoration actions. The Restoration Planning Phase integrates and provides the link between injury and restoration. It has two basic components: injury assessment and restoration selection.

Injury Assessment Component

The goal of the injury assessment component of the Restoration Planning Phase is to determine the nature, degree, and extent of injuries to natural resources and/or services, thus providing a technical basis for evaluating the need for and scale of restoration. Under the proposed rule, injury is defined as an observable or measurable adverse change in a natural resource or impairment of a service. To determine injury, trustees must decide if this definition has been met. Trustees must also determine either that: (a) the natural resource was exposed, and there is a plausible pathway between the incident and the natural resource of concern; or (b) in the case of response-related injuries and incidents involving a substantial threat of a discharge, the injury or impairment of use of a natural resource service has occurred as a result of the incident. Trustees must also perform injury quantification. Injury quantification is the process by which trustees determine the degree and extent of injuries. The quantification of injury is accomplished by comparing the condition of the injured natural resource and/or service to baseline conditions.

The proposed rule provides a range of possible approaches to injury determination and quantification, including simplified and more detailed procedures. Although trustees are encouraged to use simplified procedures, when appropriate, selection of assessment procedures will be based upon such factors as: the potential nature, degree, and extent of the injury; time and cost necessary to implement the assessment procedures; and relationship between the anticipated injury information and restoration planning.

Restoration Selection

Once injury assessment is completed, trustees must develop a plan for restoring the injured natural resources and/or services. Under the proposed rule, trustees would identify a reasonable range of restoration alternatives, evaluate those alternatives, select an alternative, develop a draft restoration plan, and produce a final restoration plan that considers public comments. Trustees must identify a reasonable range of alternative restoration actions for consideration. Acceptable restoration actions include any of the actions authorized under OPA (i.e., restoration, rehabilitation, replacement, or acquisition of the equivalent), any combination of those actions, and natural recovery, as well as a no-action alternative.

Restoration alternatives may include: (a) primary restoration, which is human intervention or natural recovery that returns injured natural resources and services to baseline; and (b) compensatory restoration, which is action taken to make the environment and the public whole for service losses that occur from the date of the incident through recovery.

Each alternative considered would have a primary restoration action. Alternative primary restoration actions can range from natural recovery with no human intervention to more intensive actions expected to return injured natural resources to baseline faster or with greater certainty than natural recovery.

Trustees may also include a compensatory restoration action in some or all of the alternatives. Trustees would first identify compensatory restoration alternatives that, in the judgment of the trustees, provide services of the same type and quality, and are subject to resource scarcity and demand conditions comparable to those lost. Trustees would determine the scale of such alternatives by selecting the scale that would provide services equal in quantity to those lost. If alternatives that provide services of the same type and quality, and are subject to comparable resource scarcity and demand conditions as those lost were infeasible or too few in number to provide a reasonable range of alternatives, trustees could then consider other alternatives that would provide services of at least comparable type and quality as those lost. The procedure for determining the scale of such additional alternatives would differ from that of determining the scale of alternatives that provided services of the same type and quality, and are subject to comparable resource scarcity and demand conditions. When trustees consider alternatives that provide services of a different type or quality, or are subject to resource scarcity and demand conditions not comparable to those lost, they need a way of translating the services lost and the services provided into a common metric. In such cases, the proposed rule would allow trustees to measure quantities in terms of lost economic value. Trustees would first calculate the value of the lost services and then determine the value gained from different scales of the alternative. Trustees would then select the scale that would produce value equal to that lost. However, the responsible parties would not be liable for the value calculated but rather for the cost of implementing a restoration alternative that would generate that amount of value.

If valuation of the services provided by an alternative could not, in the judgment of the trustees, be performed consistently with the definition of "reasonable assessment costs," the trustees would be allowed to calculate the value of the lost services and then select the scale of the restoration alternative that posed a cost equivalent to the lost value. The responsible parties would have the option of requesting trustees to value the alternative, if the responsible parties advanced the costs of doing so in a timeframe acceptable to the trustees.

Selection of a Preferred Alternative

Once trustees have developed a reasonable range of restoration alternatives, they would be required to evaluate the alternatives based on a number of factors. Such factors include: the extent to which the alternative can return natural resources and/or services to baseline and compensate for interim lost services; extent to which the alternative improves the rate of recovery; likelihood of success of the alternative; and relative cost of the alternative. Based on the evaluation of the various factors, trustees select a preferred restoration package. If there are two or more preferred alternatives, trustees must select the most cost-effective.

Draft restoration plans will be made available for review and comment by the public, including appropriate members of the scientific community where possible. These draft restoration plans will describe the trustees' preassessment activities, as well as injury assessment activities and results, evaluate restoration alternatives, and identify preferred restoration projects. Final restoration plans will become the basis of claims for damages.

Restoration Implementation Phase

The final restoration plans are presented to responsible parties for implementation or funding of trustee costs to implement. Presentation will include a demand letter, summarizing the restoration planning process and selected alternatives, all trustee assessment costs, and all incurred and expected costs associated with restoration implementation and oversight. Responsible parties will have the option to settle the damages claim. Should responsible parties decline to settle claims for natural resource damages, OPA authorizes trustees to bring civil actions for damages in Federal court, or present claims for damages to the Oil Spill Liability Trust Fund.

Anticipated Costs and Benefits:

NOAA's attempt to minimize transaction costs and discourage complex litigation littered with discovery battles and other activities not leading to restoration of natural resources is born of the unsatisfactory experience of the *Exxon Valdez*. In that incident all parties were criticized by the public for maintaining the confidentiality of scientific studies, conducting science for purpose of litigation, and then settling the case without providing for the release of the scientific data gathered. Clearly, that process did not serve the public owners of the injured natural resources very well. NOAA and other Federal, State, and tribal trustees are now engaged in a very public process for restoration, replacement and acquisition of the equivalent resources injured in the *Exxon Valdez* incident. However, it is NOAA's view that significantly more fiscal resources might have been available for dedication to restoration of the environment had not so much been committed to litigation over the nature and extent of the injury.

The August 3, 1995, proposed rule differs significantly in approach from that originally proposed in January, 1994. The differences strengthen the focus of the damage assessment process on achieving restoration of injured natural resources as quickly as possible. The August 1995 proposed rule provides a process for involving the public and responsible parties in selecting restoration actions appropriate for a given incident. NOAA intends for this process to eliminate the need for costly and time-consuming studies and litigation.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/90	55 FR 53478
Public Meeting Scheduled for 03/20/91	02/28/91	56 FR 8307
ANPRM	04/01/91	56 FR 8307
ANPRM Comment Period Extended to 10/01/92	06/01/92	57 FR 23067
ANPRM Comment Period End	01/15/93	58 FR 4601
ANPRM; Release of Report; Extension of Comment Period to January 15, 1993	01/15/93	58 FR 4601
6 Cooperative Prespilling Planning Meetings Scheduled During January and February 1994	01/07/94	59 FR 1190
6 Public Meetings Scheduled During January and February 1994	01/07/94	59 FR 1189
NPRM Comment Period Extended to	10/07/94	59 FR 32148
NPRM	08/03/95	60 FR 39804
NPRM Comment Period End	10/02/95	
Interim Final Rule	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

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DEPARTMENT OF DEFENSE (DOD)

Statement of Regulatory Priorities

Background

The Department of Defense (DoD) is the largest Federal Department, consisting of three Military Departments (Army, Navy, and Air Force), nine Unified Combatant Commands, 16 Defense Agencies, and nine DoD Field Activities. It has over 1,500,000 military personnel and 850,000 civilians assigned as of June 30, 1995, and over 500 military installations and properties in the continental United States, U.S. Territories, and foreign countries. The overall size, composition, and dispersion of the Department of Defense, coupled with a new and innovative regulatory program, presents a challenge to the management of the Defense regulatory program under Executive Order 12866 of September 30, 1993.

Because of its nature, composition, and size, the DoD is impacted by the regulations issued by regulatory agencies such as the Departments of Energy, Health and Human Services, Housing and Urban Development, Labor, and Transportation and the Environmental Protection Agency. In order to develop the best possible regulations that embody the principles and objectives embedded in Executive Order 12866, there must be coordination of proposed regulations among the regulating agencies and the affected Defense Components. Coordinating the proposed regulations in advance throughout an organization as large as the DoD is a straightforward, yet formidable undertaking.

The DoD is not a regulatory agency, but in the course of its operations, it does issue regulations on occasion. These regulations, while small in number compared to those of the regulating agencies, can be significant as defined in Executive Order 12866. In addition, some of DoD's regulations may impact the regulatory agencies. An example of this is the Base Closure Community Revitalization requiring coordination with the Departments of Housing and Urban Development and Health and Human Services. DoD, as a part of its new program, is not only receiving coordinating actions from the regulating agencies but is coordinating with the agencies that are impacted by its regulations.

The regulatory program for the DoD fully incorporates the provisions of the President's priorities and objectives under Executive Order 12866. Promulgating and implementing the new regulatory program throughout DoD presents a unique challenge to the management of our regulatory efforts.

Coordination

Interagency

DoD has been receiving regulatory plans from those agencies that impact the operation of the Department through the issuance of regulations. A system for coordinating the review process is in place, regulations have been reviewed, and comments have been forwarded to the Office of Management and Budget. The system is working in the Department, and the feedback from the Defense Components is most encouraging. For the first time, they are able to see and comment on regulations from the other agencies before they are required to comply with them. One example of this is the coordination of DoD's regulations on community revitalization with the Department of Housing and Urban Development, the Department of Health and Human Services, the General Services Administration, and the public. The coordination process in DoD is working as outlined in Executive Order 12866.

Internal

Through regulatory program points of contact in the Department, we have established a system that provides information from the Vice President and the Administrator of the Office of Information and Regulatory Affairs (OIRA) to the personnel responsible for the development and implementation of DoD regulations. Conversely, the system can provide feedback from DoD regulatory personnel to the Administrator, OIRA. The changes in the internal communications on the regulatory program have been well received within the Department.

Overall Priorities

The Department of Defense needs to function at a reasonable cost, while eliminating ineffective and unnecessarily burdensome regulations. The process should respond in a timely manner, be efficient, cost-effective, and both fair and perceived as fair. This is being done at a time when there is significant downsizing in the Department and it will need to react to the contradictory pressures of providing more services with fewer resources.

The Department of Defense, as a matter of overall priority for its regulatory program, adheres to the general principles set forth in Executive Order 12866 as amplified below.

Problem Identification

Congress typically passes legislation to authorize or require an agency to issue regulations and often is quite specific about the problem identified for correction. Therefore, DoD does not generally initiate regulations as a part of its mission.

Conflicting Regulations

DoD does not plan to issue any significant regulations this year, and the probability of developing conflicting regulations is low. On the other hand, DoD is impacted to a great degree by the regulating agencies. From that perspective, DoD is in a position to advise the regulatory agencies of conflicts that appear to exist, using the coordination processes that have been developed as a part of the new way of doing business in the DoD and Federal agency regulatory programs. It is a priority in the Department to communicate with other agencies and the affected public to identify and proactively pursue regulatory problems that occur as a result of conflicting regulations both within and without the Department.

Alternatives

DoD will identify feasible alternatives that will obtain the desired regulatory objectives. Where possible, the Department encourages the use of incentives to include financial, quality of life, and others to achieve the desired regulatory results.

Risk Assessment

A priority in DoD is the assessment and minimization of risk. In the regulation on community revitalization, the risk was ameliorated by incorporating the alternatives involving the risk into the regulation. The Department will either recover the cost of the property through outright sale, or in the case of conveyance, recover the cost later in a financial arrangement with the redevelopment authority.

Cost-Effectiveness

One of the highest priority objectives of DoD is to obtain the desired regulatory objective by the most cost-effective method available. This may or may not be through the regulatory process. If a regulation is required, DoD will consider incentives for innovation to achieve desired results, consistency in the application of the regulation, predictability of the activity outcome (achieving the expected results), and the costs for regulation development, enforcement, and compliance. These will include costs to the public, government, and regulated entities, using the best available data or parametric analysis methods, in the cost-benefit analysis and the decisionmaking process.

In the current regulatory actions involving community revitalization, the cost of the regulation to the Government is basically the cost of developing and managing the procedures to dispose of excess real and personal property in the event of a base closure. In return, the Government will receive reimbursement in the event of a direct sale or profit sharing in certain conveyance situations. Cost-effectiveness is being achieved.

Cost-Benefit

Conducting cost-benefit analyses on regulation alternatives is a priority in the Department of Defense so as to ensure that the potential benefits to society outweigh the costs. Evaluations of these alternatives are done quantitatively or qualitatively or both, depending on the nature of the problem being solved and the type of information and data available on the subject. DoD is committed to considering the most important alternative approaches to the problem being solved and providing the reasoning for selecting the proposed regulatory change over the other alternatives.

Information-Based Decisions

Lack of information in the rulemaking process has been a serious problem, and it is a priority regulatory issue with the Department of Defense. The new thrust of Executive Order 12866, with open communications among other Federal agencies; State, local, and tribal governments; public interest groups; and the public at large, is a great step towards solving this problem.

In addition, the pressures of time also require agencies to make decisions without as much information as would be ideal. To solve this problem, in part, a priority of the Defense Department is to use the latest information technology to provide access to the latest technical, scientific, and demographic information that is available on the "information highway" in a timely manner, through world-wide communications. Furthermore, the Department intends to use more automation in the Notice and Comment Rulemaking process, which should also reduce time pressures in the rulemaking process.

Performance-Based Regulations

Where appropriate, DoD plans to develop performance-based standards that will allow the regulated parties to achieve the regulatory objective in the most cost-effective manner.

Outreach Initiatives

DoD is taking steps to seek the views of appropriate State, local, and tribal officials and the public in implementing measures to enhance public awareness and participation both in developing and implementing regulatory programs. Last year, in its most recent significant regulation concerning revitalization of the communities, the Department received hundreds of comments from the public and held a public hearing involving focus groups. This reaching out to organizations and individuals who are affected by or involved in the particular regulatory action was a significant regulatory priority of the Department and resulted in a much better regulation.

Coordination

DoD has embraced the coordination process between and among other Federal agencies in the development of new and revised regulations. For the first time ever, DoD has received regulatory plans from key regulatory agencies and has established a systematic approach to providing the plans to the appropriate policy officials within the Department. Feedback from the DoD Components indicates that the communication among the Federal agencies is a major step toward improving regulations and the regulatory process and improving overall Government operations as well.

Minimize Burden

In the regulatory process, there are more complaints concerning burden than anything else. In DoD, much of the burden is in the acquisition process. Over the years, acquisition regulations have grown and become burdensome principally because of legislative action. But, in coordination with Congress, the Office of Federal Procurement Policy, and the public, DoD is initiating significant reforms in acquisition so as to effect major reductions in the regulatory burden on personnel in government and the public sectors. To effect these changes, DoD has established the position of Deputy Under Secretary of Defense for Acquisition Reform.

In addition, DoD is presently reviewing its information collections with a view towards cutting the reporting burden on the public in half. This is a direct result of the reduction efforts initiated by the President and strongly supported in DoD.

Simple Design

Ensuring that regulations are simple and easy to understand is a high regulatory priority in the Department of Defense. All too often the regulations are complicated, difficult to understand, and subject to misinterpretation, all of which can result in the costly process of litigation. The objective in the development of regulations is to write them in clear, concise language that is simple and easy to understand.

In summary, the rulemaking process in DoD should produce a rule that addresses an identifiable problem, implements the law, implements the President's policies, including Executive Order 12866, is in the public interest, is consistent with other rules and policies, is based on the best information available, is rationally justified, is cost-effective, can actually be implemented, is acceptable and enforceable, is easily understood, and stays in effect only as long as is necessary. Moreover, the proposed rule or the elimination of a rule should simply make sense.

Specific Priorities

For this Regulatory Plan, there are four specific DoD priorities, all of which reflect the regulatory principles established in Executive Order 12866. There are no significant regulatory actions planned, but in those areas where rulemaking or participation in the regulatory process is required, DoD has studied and developed policy and regulation that incorporates not only the provisions of the President's priorities and objectives under Executive Order 12866, but also those of the National Performance Review, dated September 1993.

The DoD has focused its regulatory resources on the most serious environmental, health, and safety risks. Perhaps most significant is that each of the four priorities described below promulgates regulations to offset the resource impacts of Federal decisions on the public or to improve the quality of public life, such as those regulations concerning base closures, wetlands, acquisition, and health care delivery.

Base Realignment and Closure (BRAC) Activities

Revitalizing Base Closure Communities and Community Assistance

On July 2, 1993, President Clinton announced his five-part plan for the economic revitalization of communities affected by base closures. The plan, "A Program to Revitalize Base Closure Communities," is a high administration

priority that improves the policy of Federal property disposal at closing bases. Provisions of the plan include:

- Jobs-centered property disposal that puts local economic redevelopment first;
- Fast-track environmental cleanup that removes needless delays while protecting human health and the environment;
- Transition coordinators at major bases slated for closure;
- Easy access to transition and redevelopment help for workers and communities; and
- Larger and faster economic development planning grants to base closure communities.

Following the President's announcement, DoD worked with representatives of the National Economic Council and the Congress to develop legislation that would enable DoD to implement the plan. In November 1993, Congress supported the President's plan by enacting the Base Closure Community Assistance Act (subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103-160), referred to here as "title XXIX." This legislation substantially amended the base closure laws and provided the Department of Defense with the tools it needed to carry out the President's plan.

On April 6, 1994, the Department of Defense issued an interim final rule (59 FR 16123). The rule promulgated guidance required by section 2903 of title XXIX and provided interpretive guidance concerning other changes to the base realignment and closure process. Subjects in the regulation included real property screening to aid disposal planning, property conveyances at or below fair market value (referred to as "economic development conveyances"), interim leasing, personal property disposal, and minimum maintenance levels necessary to support civilian reuse. The rule was available for public comment until August 1994, during which time the Department held four outreach seminars (in Washington, DC, Chicago, Dallas, and San Francisco) and a public hearing (in Washington, DC) to explain the interim final rule and foster public comments.

In response to public comments, the Assistant Secretary of Defense for Economic Security convened a working group made up of representatives from the Military Departments and the Office of the Secretary of Defense. The working group was asked to address the public's concerns and develop needed revisions for the final rule, and to identify and foster DoD-wide approaches to base reuse implementation. As a result of the working group's recommendations, an amendment to the April 1994 interim final rule was issued by the Department of Defense on October 26, 1994, (59 FR 53735). That amendment addressed the requirements for Economic Development Conveyances (EDCs), eliminated certain requirements, including a "market test" to determine marketability of property, and provided more detailed instructions on EDC application and review criteria.

On July 20, 1995, (60 FR 37337), the Department of Defense issued a final rule which covered all of the subject areas in the interim final rule.

Throughout the development of the interim final rule, amendment, and final rule, DoD worked closely with other interested parties to identify problems requiring solutions and to identify performance-based outcomes for each base reuse initiative requiring regulation. DoD worked closely with other Federal agencies and State and local authorities, as well as the Congress. For example, in developing procedures for the screening and disposal of withdrawn public domain lands, the Department worked closely with representatives from the Bureau of Land Management (BLM) to create a process to quickly identify those parcels which will be disposed of in accordance with the base closure law. This joint process will help determine, in a rapid manner, what property may become available for civilian use.

This new regulation calls for increased participation by the public throughout the process of disposing of base closure property. For example, decisions on the disposal of personal property will be made in consultation with the local redevelopment authority (LRA) and every effort will be made to provide personal property to the community to support its "locally-developed" reuse plan. In addition, Federal agencies that desire to acquire property at a closing installation are urged to consult with the LRA to have their needs considered as part of a comprehensive local planning process. Most importantly, a new emphasis has been placed on disposing of property in accordance with the LRA's reuse plan.

DoD, in developing the regulation, is committed to promoting economic recovery and rapid job creation in the communities adversely affected by base closures, while still ensuring that Federal resources are available for other important public uses. To achieve this, the regulation calls for the balancing of needs—those of the Federal Government and those of base closure communities. For example, DoD specified timetables and requirements that Federal agencies must follow to claim base closure property under the priority accorded to them by the Federal Property and Administrative Services Act of 1949. If these strict requirements are not met, the local community's economic development needs will be considered when determining whether or not to award property to another Federal agency. More importantly, the regulations were designed to improve upon the base closure property reuse process by simplifying the procedures and accelerating property transfers and leases.

In summary, this regulatory initiative, developed after extensive consultation with other Federal agencies and the public, is aimed at assisting base closure communities by providing a mechanism to rapidly redevelop surplus Federal property.

Community Redevelopment and Homeless Assistance (Interim Rule published on August 8, 1995, 60 FR 40277)

In light of the Defense Base Closure and Realignment Commission's 1995 report, the timely issuance of this interim rule was critical. Since this initiative fundamentally changes and improves the way the needs of the homeless are addressed at base closure sites, it was imperative that regulations be issued immediately so communities could be fully informed of the new process prior to final approval of the base closure list. DoD is closing and realigning bases in the United States as a result of decisions made through base closure processes in 1988, 1991, 1993, and 1995. These 4 rounds identified 98 major bases for closure. Integral to this action, and to the President's Five-Part Plan to revitalize base closure communities, is the need to establish policy that ensures expeditious and viable disposition of associated real and personal property, and that speeds the economic recovery of communities where bases identified for closure are located. This interim rule promulgates policy and procedures for implementing the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (the Redevelopment Act).

Title V of the Stewart B. McKinney Homeless Assistance Act of 1987 granted first priority on use of all surplus federally owned real and personal property, including former

military installations, to the homeless. The title V provisions have worked reasonably well for small parcels and individual buildings. However, with respect to base closure property, which is large and diverse, the McKinney Act title V provisions did not work well and caused disruption and conflicts at the local level. Consequently, Congress passed the Redevelopment Act, which exempts base closure property from the McKinney Act and creates a new community-based process. Under this new improved process, homeless assistance providers will work directly with Local Redevelopment Authorities on the reuse of former military installations. Minimally, the cost of this regulatory action will result from the establishment and management of procedures which provide for addressing the needs of the homeless in communities affected by the closure of a military base. Benefits, on the other hand, will be substantial and will accrue to the Federal Government and the local communities. The Government will accrue savings from the disposal of unneeded infrastructure and the local communities will receive redevelopment benefits coupled with buildings and services to assist the homeless. In addition, the new process shifts control and responsibility for homeless assistance from Washington and the Federal Government to local communities. It is a win-win situation.

Preserve Quality and Quantity of Wetlands

During fiscal year 1996, the Army Corps of Engineers is not proposing any significant regulations as defined by Executive Order 12866. The Office of the Assistant Secretary of the Army for Civil Works (OASA(CW)) and the Corps will propose and complete several regulations initiated as part of the President's August 24, 1993, Wetlands Protection Plan and the President's 1995 Regulatory Reinvention Initiative. The wetlands protection plan provides for a fair, flexible, and effective approach to protecting America's wetlands through both regulatory and nonregulatory mechanisms. The regulatory reinvention initiative reinforced those provisions and included additional regulatory reform and streamlining provisions.

During 1995 and 1996 the Corps will propose and finalize four regulations pursuant to its authorities under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. The first regulation establishes the wetland delineator certification program. This regulation was proposed on March 14, 1995, and will be finalized by end of 1996. This program provides for training and certification of individuals, as provided for by Section 307(e) of the Water Resources Development Act of 1990, to submit for approval, wetland delineations in accordance with the current Federal wetland delineation manual. Individuals can be certified as meeting certain standards, resulting in an expedited decision by the Corps on their submitted wetland delineation. The goal of the certification program is to improve the quality of consultant-prepared wetland delineations that are submitted to the Corps so that they can be approved more quickly by the Corps.

The second regulation will establish an administrative appeal process whereby permit applicants and landowners can appeal permit denial decisions and jurisdictional determinations. This regulation was proposed on July 19, 1995, and will be finalized in 1996. The administrative appeal process will increase fairness to applicants and landowners in the permitting process by establishing a recourse to Corps permit denial decisions and jurisdictional determinations short of going to court. The process will also provide for third-party involvement if the Corps reconsiders a previous permit denial. The third regulation will increase fairness and efficiency in the wetlands permitting process by establishing deadlines for wetlands permitting decisions under the Clean Water Act. Normally, decisions will be made 90 days from the issuance of a public notice except in certain situations that are beyond the control of the Corps or that involve delays required by other laws. The final regulation will be a consolidation of the Corps rulemaking and guidance, including the above regulations, that have been issued since the last consolidated regulations dated November 13, 1986. The regulations would also be reorganized to make them clearer and easier to use.

Reform Defense Acquisition

In "Acquisition Reform: A Mandate for Change," the Secretary of Defense highlighted the need for acquisition reform as follows:

> The Department of Defense Bottom-up Review provides the vision and the blueprint for meeting the security challenges of the post-Cold War world, responding to threats anywhere in the world where U.S. interests are at risk. In today's environment, the current process will not always be able to meet the Department's need. DoD will not be able to carry out this blueprint without dramatic changes in its acquisition processes; that is, from determining what the Department needs to logistics support and reutilization requirements.

To meet these new security challenges, the United States must be able to rely heavily on commercial companies for defense needs. It cannot, as it has in the past, rely exclusively on companies that are predominantly defense suppliers. As the Secretary has stated:

> ...the Department of Defense cannot afford the extra costs associated with keeping its industrial base isolated from the National base. The country needs the benefit that it would otherwise lose as a result of the defense industrial base being kept out of this National base.

Assessing risk, performing cost-benefit analysis, and minimizing burden are cornerstones in the establishment of a cost-effective acquisition process that is consistent with Executive Order 12866.

To make this drastic change, the acquisition process must be fundamentally reengineered, to ensure that the commercial sector is fully utilized to support Government needs, and that all possible streamlining measures are adopted. The Federal Acquisition Streamlining Act of 1994, enacted into law on October 13, 1994, was a major step towards achieving this goal. Specifically, the legislation provided relief in the following major areas: (a) Comprehensive authority to facilitate commercial item acquisition, and (b) simplification and streamlining of most contract actions.

This legislation is the center of regulatory activity in the Department of Defense. DoD is leading the Governmentwide effort to implement the legislation in the Federal Acquisition Regulation (FAR). It is also making necessary changes to the Defense Federal Acquisition Regulation Supplement (DFARS). In addition to actions related to the pending legislation, there is a substantial FAR rewrite effort under consideration as a result of a National Performance Review (NPR) and Core Roles and Mission Commission recommendations. DoD has also chartered 11 process action teams (PATs) to review discrete parts of the acquisition system. Based upon recommendations from these PATs, DoD is in the process of changing its internal acquisition regulations and policies. As the result of the recommendations of our Automated Acquisition Information System PAT, it is in the process of developing a mechanism which would ensure access to individuals within the

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Department to all of the regulatory material, as well as other information in our possession, concerning the acquisition system. The Department is committed to acquisition reform and will continue making significant improvements in this area, consistent with the NPR and Executive Order 12866.

Improve Health Care Delivery in the Defense Department

DoD operates an extensive system of military medical treatment facilities, in support of two missions: wartime readiness and peacetime benefits. The readiness mission maintains the peacetime health of active duty personnel and makes preparations to attend the sick and wounded in war; the benefits mission provides a health benefit as a condition of service to DoD's eligible beneficiaries, including dependents of active duty personnel and retired military personnel and their dependents and survivors.

The principal health-related regulatory publications of the Department involve CHAMPUS, the Civilian Health and Medical Program of the Uniformed Services (32 CFR 199). Through CHAMPUS, DoD shares in the cost of civilian care obtained by eligible beneficiaries when services are unavailable in military medical treatment facilities. CHAMPUS regulations address comprehensively issues such as eligibility, benefits, authorized providers, claims payment, appeals procedures, and the like. Changes to the CHAMPUS regulations are coordinated by DoD with the Departments of Transportation (U.S. Coast Guard) and Health and Human Services (Public Health Service), which also have beneficiaries eligible for CHAMPUS.

Amendments to the CHAMPUS regulations generally focus on program changes arising from revisions to the program's statutory base or from DoD initiatives to improve the program. Over the next few years, changes in management of high-cost care and revisions to reimbursement approaches for providers will be among DoD's regulatory priorities.

A major health care initiative of DoD is the TRICARE Program, which is intended to improve the management and integration of health care delivery in military medical treatment facilities and CHAMPUS, and to increase access to health services, control health care costs, and strengthen quality assurance activities. A major feature of TRICARE will be local health care delivery networks based on arrangements between military and civilian providers and organizations. Beneficiaries will be able to enroll in an HMO-like option to receive all their care from this integrated military-civilian network or obtain care on a case-by-case basis from the network at preferred cost-sharing rates.

The regulatory vehicle for implementation of TRICARE will be an amendment to the CHAMPUS regulation that was published on October 5, 1995. An extensive and ongoing effort to inform the public about TRICARE will enhance the Executive Order 12866 objective of providing full information to the public to encourage substantial and meaningful participation in the regulatory process.

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DEPARTMENT OF EDUCATION (ED)

Statement of Regulatory Priorities

In response to President Clinton's "Regulatory Reinvention Initiative," announced March 4, 1995, the Department of Education is engaged in a comprehensive reinvention of its programs, legislation, and implementing regulations to enhance partnerships, flexibility, and accountability. The Department's Principles for Regulating determine when and how it will regulate. Through the application of these principles, the Department will eliminate or reinvent 93 percent of its regulations, will not issue new regulations unless they are essential to improve the quality of educational services and customers' access to those services, and will continue to review its existing regulations for opportunities to reduce excessive prescription and burden.

Principles for Regulating

The Department will regulate only if regulating improves the quality and equality of services to the Department's customers, learners of all ages. The Department will regulate only when absolutely necessary, and then in the most flexible, most equitable, and least burdensome way possible.

Regulate only if:
- Regulating is essential to promote quality and equality of opportunity in education;
- A demonstrated problem cannot be resolved without regulation;
- Regulating is necessary to provide legally binding interpretation to resolve ambiguity.

Do not regulate if:
- Entities or situations to be regulated are so diverse that a uniform approach does more harm than good.

How to regulate:
- Regulate no more than necessary;
- Minimize burden and promote multiple approaches to meeting statutory requirements;
- Encourage federally funded activities to be integrated with State and local reform activities;
- Ensure that benefits justify costs of regulation;
- Establish performance objectives rather than specifying compliance behavior;
- Encourage flexibility so institutional forces and incentives achieve desired results.

Regulatory Priorities, General

Through aggressive application of the Principles for Regulating, a dedicated, departmentwide effort, and recognition that students and educational partners are best served by comprehensive regulatory reinvention, the Department of Education has identified significant opportunities to eliminate and reinvent its regulations. As a result of the President's regulatory reinvention initiative, the Department has already eliminated over 35 percent of its regulations and is committed to eliminating or reinventing a total of 93 percent of its regulations.

Not content simply to remove outdated or unnecessary regulations, the Department has identified situations in which major new programs could be implemented without any regulations at all. The Department originally expected to issue regulations to implement the Goals 2000: Educate America Act and the School-to-Work Opportunities Act and, in fact, included these regulations in its 1994 Regulatory Plan as two of the Department's most significant planned regulatory actions. However, the Department subsequently decided not to issue regulations to implement either of these high-priority statutes. Instead, schools, school districts, and States have maximum flexibility to use funds within statutory limits. In other words, regulatory burden has been avoided altogether.

Woven throughout the Department's reinvention is a commitment to provide quality customer service in the spirit of continuous improvement to assure that the Department is truly "putting people first." The Department places a high priority on listening to its customers to identify their needs and incorporate their suggestions into program goals and strategies.

Negotiated rulemaking is a formal process for assuring public participation. Recently, the Department successfully used this technique for regulations implementing the programs under title I of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994. Negotiators reached substantial consensus on policy options on two key issues in these regulations, "standards, assessment, and accountability" and "schoolwide programs." Final title I regulations incorporating the results of the negotiations were published July 3, 1995 (60 FR 34800).

During the past 2 years, the Department conducted extensive meetings and other exchanges to design new laws and regulations, develop research priorities, and plan program implementation and technical assistance. These valuable partnerships will continue in fiscal year 1996. The Department has initiated many focused discussion groups with teachers, parents, students, and program administrators to find out what they think about its programs and service and to help it to make policy decisions.

The Department solicited feedback on its overall performance through telephone interviews, conducted in 15 States during February 1995, with randomly selected parents and teachers, State education staff, principals, school board members, superintendents, and financial aid officers.

To provide information and support enhanced exchange, the Department instituted 1-800-USA-LEARN to connect customers to a "one-stop-shopping" center for information about Departmental programs and initiatives, 1-800-4FED-AID for information on student aid, and an On-line Library of information on education legislation, research, statistics, and promising programs. More than 10,000 people take advantage of these resources every week.

The Department has forged effective partnerships with customers and partners to develop policies, regulations, guidance, technical assistance, and compliance approaches. The Department has an impressive record of successful communication and shared policy development with affected persons and groups, including representatives of State and local governments, institutions of higher education, school administrators, teachers, parents, students, special education and rehabilitation service providers, professional associations, advocacy organizations, business, and labor.

In particular, the Department continues to seek greater and more useful customer participation in its rulemaking activities. When rulemaking is determined to be absolutely necessary, customer participation is essential and sought at all stages—in advance of formal rulemaking, during rulemaking, and after rulemaking is completed—in anticipation of further improvements through statutory or regulatory changes.

Solicitation of public comment in advance of the publication of notices of proposed rulemaking is becoming standard procedure in the Department. In 1994, for example, Assistant Secretaries, regulatory policy staff, and program administrators of bilingual education programs, rehabilitative

education, vocational rehabilitation, and student aid programs held prepublication meetings in several locations around the country to ask the public for suggestions respecting regulations.

To facilitate even broader awareness of and participation in its rulemaking activity, the Department is expanding these outreach efforts through the use of satellite broadcasts, electronic bulletin boards, and teleconferencing. For example, since the Department now invites comments on all proposed rules through the Internet, the next step could be to provide an electronic mechanism that would allow commenters to respond to each others' comments, thereby enhancing the information available to the Department in developing any necessary regulations.

The Department has also proposed dramatic program improvements, leading to major regulatory reforms, through its reauthorization proposals for vocational education, adult education, and the education of individuals with disabilities.

Under the Department's vocational education proposal, 23 separate set-asides and categorical authorities would be eliminated and replaced by one State-administered program, one broad discretionary grant program for national needs, and two small special-purpose authorities. The administrative and paperwork requirements under the State-administered program would be scaled back significantly in favor of accountability for results.

The Department's adult education proposal includes the consolidation of 12 programs into one, administered by States, and substitutes performance measures for burdensome process requirements.

The Department proposes to consolidate 14 discrete categorical programs into 5 broad program authorities that will support State and local implementation of the Individuals with Disabilities Education Act and improve results for children with disabilities. The Department's reauthorization proposal would reduce unnecessary paperwork and burden so that resources can be focused on improving teaching and learning.

Regulatory Priorities for the Next Year

The Department of Education will have the following major regulatory priorities in 1996:

William D. Ford Federal Direct Loan Program

As a result of administering the Direct Loan Program for 1 year, the Secretary is convinced that services to borrowers can be improved and program flexibility increased. A notice of proposed rulemaking has been issued proposing programmatic changes that would improve services to student and parent borrowers, increase institutional flexibility, and enhance the Department's administrative and fiscal oversight capabilities.

In addition to these regulations listed in the Department's Regulatory Plan, the following regulations would also propose changes affecting the Direct Loan Program: RIN 1840-AC19 (amending provisions of the income contingent repayment plan to provide benefits to borrowers and protect the taxpayers' interests), and RIN 1840-AC17 (defining a measure the Secretary may use to determine if a school may continue to participate in the Direct Loan Program).

Elimination of Regulations

In response to the President's "Regulatory Reinvention Initiative," directing heads of departments and agencies to eliminate outdated regulations and modify others to increase flexibility and reduce burden, the Department has so far eliminated 96 entire regulations from the Code of Federal Regulations (CFR), totaling over 480 pages (60 FR 27223, May 23, 1995; 60 FR 34800, July 3, 1995; 60 FR 50774, September 29, 1995). An additional 58 regulations have been targeted for elimination under the Department's plan for regulatory reinvention.

Student Financial Aid Improvements

During October and November 1994, the Assistant Secretary for Postsecondary Education and other senior Department officials conducted four regional meetings—in Seattle, Washington; Kansas City, Missouri; Boston, Massachusetts; and Atlanta, Georgia—to solicit public comment on the reform of the Federal student financial assistance programs through statutory, regulatory, and procedural improvements. The Department was represented at these meetings by the Assistant Secretary and other senior officials, including the Chief Financial Officer and Deputy General Counsel for Regulations and Legislation Service, representing program and other offices.

Disussion at each of the meetings focused on three areas—regulatory simplicity, access to postsecondary education, and vocational education and training. In conjunction with these meetings, the Department also held targeted sessions with students, financial aid administrators, college presidents, business officers, and representatives of associations, community colleges, proprietary schools, and Historically Black Colleges and Universities to focus on the particular concerns of these customers. Representatives of the Department visited financial aid offices at local institutions of higher education to seek the views of those who administer student aid programs. Between 200 and 300 people attended each of the four public meetings, and an average of 20 attended each of the smaller meetings. In addition, the Department received more than 60 written comments relating to student aid reform.

In regulations governing the oversight of postsecondary institutions, the Department has attempted to minimize reporting and recordkeeping burden on institutions, within the constraints of the applicable statutes. The Secretary is currently involved in comprehensive discussions with the higher education community on possible statutory and regulatory changes to enhance accountability while further reducing this burden.

The Department is proposing a new approach to gatekeeping, oversight, and regulatory reform in which (a) substantial regulatory relief will be provided to institutions that have demonstrated highly responsible management of title IV student financial aid programs, and (b) stronger gatekeeping and oversight efforts will be focused on new and risky institutions. The Department is already focusing its resources on at-risk institutions and is developing a system of risk analysis to further develop that process.

The Department also plans to conduct regulatory and administrative experiments and to provide associated statutory and regulatory waivers to explore ways of providing regulatory relief to institutions that demonstrate sound management of student aid programs. In an April 25, 1995, notice in the **Federal Register** (60 FR 20326), the Secretary invited institutions of higher education that administer Federal student aid programs to propose "experimental sites" projects under section 487A(d) of the Higher Education Act of 1965, as amended (HEA). This statutory authority permits institutions to serve as laboratories for regulatory innovation by participating voluntarily as sites for experimental management approaches. This authority will be used to develop experiments under which the Secretary waives burdensome (but generally necessary) requirements for an institution in exchange for performance measures suited to the institution and to the regulatory objective. An institution approved as an experimental site under this student aid reform initiative may be exempted from certain statutory or regulatory requirements.

The Secretary established no regulatory requirements for the proposals invited by the notice. The Department hopes that this approach will encourage institutions to develop truly innovative administrative strategies that relieve unnecessary regulatory burden while maintaining program accountability. If these experimental strategies prove successful, the Department will incorporate them into future regulations and, if appropriate, legislative proposals. While it is not possible to estimate the number of administrative strategies that might relieve unnecessary regulatory burden, the potential for identifying greatly improved regulatory approaches is substantial. The Department is currently reviewing a large number of proposals from institutions and consortia and expects to begin approving the first experimental sites soon.

Student Right-to-Know Act

The Student Right-to-Know Act is a consumer-information law that requires institutions that participate in any of the student financial assistance programs authorized by title IV of the HEA to disseminate to students and prospective students information regarding the graduation rates of the institution's full-time, undergraduate, degree- or certificate-seeking students. It also requires participating institutions that award athletically related student aid to disclose to potential student-athletes and their parents, coaches, and high school counselors information regarding enrollment and the average graduation and completion rates (categorized by race and gender) of all students and of students who receive athletically related student aid.

Publication of these regulations, previously listed in the Department's 1994 Regulatory Plan, was deferred so that the Department could develop a new notice of proposed rulemaking (NPRM), substantially simplifying the disclosure requirements, in accordance with the Secretary's Principles for Regulating. The revised NPRM proposes to ensure utility of the data for students while minimizing burden.

Revised Education Department General Administrative Regulations (EDGAR) Selection Criteria

The Department has initiated a review and evaluation of the EDGAR selection criteria for discretionary grant programs that do not have regulations. (See section 75.210 of 34 CFR Part 75 (Direct Grant Programs)). A broad cross-section of Department program, legal, and administrative personnel are participating in the review with the intention of developing a "menu" of selection criteria that will be appropriate for many of the Department's discretionary grant programs now implemented through individual program regulations.

By using an extensive menu of EDGAR selection criteria appropriate for a wide variety of the Department's programs (e.g., research, planning, demonstration, training, fellowship, and field-initiated programs), as well as for more traditional grant programs, and allowing variable weights to be assigned for these criteria, the individual sets of regulations needed for these programs could be substantially reduced or eliminated. This action would benefit the Department's customers by reducing regulatory burden and increasing program flexibility. As many as 38 existing regulations could be eliminated as a result.

ED—Departmental Management (EDMAN)

PROPOSED RULE STAGE

17. • REVISED EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR) SELECTION CRITERIA

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

20 USC 1221e-3; 20 USC 3474

CFR Citation:

34 CFR 75

Legal Deadline:

None

Abstract:

These regulations would expand the current EDGAR selection criteria in 34 CFR 75.210. Section 75.210 provides selection criteria for discretionary grant programs without implementing regulations. This regulatory action would create an extensive menu of criteria that could be used for a variety of the Department's programs, including research, planning, demonstration, training, fellowship, and field-initiated programs.

Statement of Need:

These regulations would reduce the need for separate sets of regulations to govern individual discretionary grant programs.

Summary of the Legal Basis:

Use of the EDGAR selection criteria would be determined on a program-by-program basis, subject to the applicable statutory program authority and program needs for effective and efficient operation.

Alternatives:

The EDGAR selection criteria would be developed as an alternative to issuing regulations for each of the individual programs that are able to use them.

Anticipated Costs and Benefits:

Regulations for programs for which the EDGAR selection criteria are appropriate could be reduced or eliminated. Providing a menu of criteria for which variable weights could be assigned, would increase program flexibility.

Risks:

These proposed regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	00/00/00	

Small Entities Affected:

None

Government Levels Affected:

None

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ED—Office of Postsecondary Education (OPE)

PROPOSED RULE STAGE

18. • STUDENT FINANCIAL AID IMPROVEMENTS (STUDENT ASSISTANCE GENERAL PROVISIONS, FEDERAL FAMILY EDUCATION LOANS, PELL GRANT, PERKINS LOAN, WORK STUDY, & SUPPLEMENTAL EDUC. OPPORTUNITY GRANT PROGS)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

20 USC 1070 et seq

CFR Citation:

34 CFR 668; 34 CFR 674; 34 CFR 675; 34 CFR 676; 34 CFR 682; 34 CFR 685; 34 CFR 690

Legal Deadline:

None

Abstract:

These regulations would amend certain provisions of the student financial assistance regulations to relieve unnecessary compliance burdens and remove obsolete requirements. Many changes have already been made, and further reforms will be implemented as soon as possible. Separate regulations involving these or additional parts of the Code of Federal Regulations may be scheduled in the future as part of the improvement effort.

Statement of Need:

Meetings and discussions involving Department officials, members of the higher education community, and others interested in the Department's student financial assistance programs have indicated areas where improvements in the Department's regulations are warranted. These changes are part of a comprehensive effort to improve the administration of the student financial assistance programs.

Summary of the Legal Basis:

Title IV of the Higher Education Act of 1965, as amended.

Alternatives:

The Department will consider alternatives to the existing regulations, including the elimination of regulations, in circumstances that would continue to safeguard and ensure the appropriate expenditure of Federal funds.

Anticipated Costs and Benefits:

The Department has already made a number of changes to the Federal student aid regulations to eliminate paperwork burden regarding recordkeeping, exchange of paper documents, hard copy storage, multiple forms of signatures, and complex calculations. Examples of these changes include the following:

1. Eliminating most of the contents of paper Student Aid Reports and planning for the complete elimination of paper forms in favor of electronically transmitted data. This change alone means that each year four million forms will not have to be processed and stored by participating schools. If laid end to end, these forms would stretch nearly 700 miles.

2. Simplifying the process by which hundreds of thousands of student aid applicants verify to their schools the information provided on original financial aid application.

3. Permitting one parent to sign financial aid application and verification forms rather than requiring two.

4. Saving time for student aid staff by simplifying the description of the refund process and the resulting calculation process.

5. Giving schools flexibility to decide how best to inform new students of their student loan obligations under direct lending.

6. Allowing Federal Perkins Loan borrowers to repay their loans by electronic funds transfer and allowing institutions to provide a statement of account only once each year.

7. Allowing students and schools flexibility to manage student accounts to help budget funds and to enhance opportunities to use new technologies, such as Smart Cards and Electronic Funds Transfer.

8. Reducing burden on schools by expanding the types of media that schools may use to store Federal financial aid information.

9. Requiring submission of compliance audits 6, rather than 4, months after the end of the school's fiscal year to improve coordination with most schools' regular auditing process.

Similar benefits are expected to result from continuing the Department's efforts to improve the administration of the student financial assistance programs.

Risks:

These proposed regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/21/95	60 FR 49114
NPRM Comment Period End	10/27/95	
Final Action	12/00/95	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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RIN: 1840–AC20

ED—OPE

19. • WILLIAM D. FORD FEDERAL DIREQT LOAN PROGRAM

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

20 USC 1087a et seq

CFR Citation:

34 CFR 685

Legal Deadline:

None

Abstract:

These proposed regulations would provide schools with more flexibility in providing loan origination functions, clarify the date of loan origination, and set timelines for the submission of promissory notes, disbursement records, and origination records. The proposed regulations would also establish the repayment plans available for the consolidation of a single Federal Family Education Loan Program loan into the Direct Loan Program.

Related proposed regulations would define a measure (called the Direct Loan cohort default rate and a weighted average cohort default rate) the Secretary may use to determine if a school may continue to participate in the Direct Loan Program (see RIN 1840-AC17, Student Assistance General Provisions (Default Rate Definition)) and improve the existing income contingent repayment plan (see RIN 1840-AC19, William D. Ford Federal Direct Loan Program (Income Contingent Repayment)).

Statement of Need:

The Secretary has proposed these regulations to improve the Direct Loan Program based on experience gained during the first year of operation.

Summary of the Legal Basis:

Title IV of the Higher Education Act of 1965, as amended.

Alternatives:

Regulations are necessary to implement this student financial assistance program. As a result of administering the program for 1 year, the Secretary is convinced that services to borrowers can be substantially improved and schools given more flexibility by revising the existing regulations. The Secretary also will consider any alternatives recommended in the public comments received on the proposed regulations.

Anticipated Costs and Benefits:

The proposed changes would improve services to student and parent borrowers, increase institutional flexibility, and enhance the Department's administrative and fiscal oversight capabilities. The potential costs associated with the regulations are those resulting from statutory requirements and those necessary for administering the program effectively and efficiently.

Risks:

These regulations do not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/20/95	60 FR 48858
NPRM Comment Period End	10/31/95	
Final Action	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

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ED—OPE

FINAL RULE STAGE

20. STUDENT RIGHT-TO-KNOW ACT

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

20 USC 1092

CFR Citation:

34 CFR 668

Legal Deadline:

None

Abstract:

These regulations would amend subpart D of 34 CFR Part 668 to require, in accordance with the statute, institutions that participate in any of the student financial assistance programs authorized by title IV of the HEA to disseminate to students and prospective students information regarding the graduation rates of the institutions' full-time, undergraduate, degree- or certificate-seeking students. In accordance with the statute, the amended regulations would also require those participating institutions that award athletically related student aid to disclose to potential student-athletes and their parents, coaches, and high school counselors, information regarding enrollment and the average graduation and completion rates (categorized by race and gender) of all students and of students who receive athletically related student aid.

Statement of Need:

By expanding the types of consumer information that certain institutions of higher education must disclose, these regulations would help students, student-athletes, and their families make better, more informed decisions when they choose a postsecondary institution.

Summary of the Legal Basis:

The regulations are necessary to implement provisions of the Student Right-to-Know and Campus Security Act, Pub. L. 101-542, as amended by the Higher Education Technical Amendments of 1991, Pub. L. 102-26; the Higher Education Amendments of 1992, Pub. L. 102-325; and the Higher Education Technical Amendments of 1993, Pub. L. 103-208.

Alternatives:

Regulations are necessary to implement the statutory requirements. The Secretary has some flexibility with regard to the scope of the information required under the disclosure requirement. On July 10, 1992, the Secretary published proposed regulations and received numerous comments from the academic community. These comments, the Secretary's Principles for Regulating, and the values reflected in Executive Order 12866 and the President's regulatory reinvention initiative were considered in developing a revised notice of proposed rulemaking that would simplify the regulations and minimize burden on the institutions affected.

Anticipated Costs and Benefits:

The costs associated with these regulations will be those for recordkeeping and disclosure of the information on graduation rates. In implementing the statutory requirements and providing information to consumers, the Secretary will work with the postsecondary education community to minimize costs for institutions to the extent possible.

Risks:

These regulations do not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	07/10/92	57 FR 30826
NPRM	09/21/95	60 FR 49156
Final Action	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

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ED—Office of Special Education and Rehabilitative Services (OSERS)

FINAL RULE STAGE

21. • ELIMINATION OF REGULATIONS

Priority:

Other Significant

Reinventing Government:

This rule making is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

20 USC 1221e-3

CFR Citation:

34 CFR 302 et al

Legal Deadline:

None

Abstract:

Elimination of these regulations reduces regulatory burden and increases flexibility.

Statement of Need:

As a result of new legislation, absence of funding, and regulatory reinvention review, the Secretary has determined that these regulations are no longer needed.

Summary of the Legal Basis:

The Secretary's general authority to rescind regulations is granted in section 410 of the General Education Provisions Act, as amended.

Alternatives:

Not applicable

Anticipated Costs and Benefits:

Elimination of these regulations reduces regulatory burden and increases flexibility.

Risks:

These regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Final Rule	05/23/95	60 FR 27223
Final Rule Effective	06/22/95	
Final Action	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

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BILLING CODE 4000-01-F

DEPARTMENT OF ENERGY (DOE)

Statement of Regulatory Priorities

The Department of Energy's (DOE's) 1995 Regulatory Plan reflects the Department's response to the President's challenge to all Federal agencies to help create a government that works better and costs less. DOE has met that challenge through a fundamental reexamination of what its work is and how it is conducted. DOE's plan highlights the following items:

- The results of DOE strategic planning efforts to define its mission and improve service to the public, which are expected to save taxpayers $14.1 billion over the next 5 years;
- DOE's regulatory principles, which are to streamline its regulations, increase stakeholder involvement, and incorporate consensus and cooperation mechanisms in the process of developing rules and achieving mission objectives; and
- Major rulemaking efforts that implement the Department's mission and major initiatives.

DOE Overview

Mission

The Department's five mission areas were identified, to assure more effective use of its unique scientific and technological assets, engineering expertise, and facilities, for the benefit of the Nation. They are:

- *Industrial Competitiveness*: Promote economic growth, competition, and the creation of high-wage jobs through research and development partnerships with industry, to drive products into the domestic and international marketplace and to help industry become more cost-effective.
- *Energy Resources*: Encourage efficiency and advance alternative and renewable energy technologies, increase energy choices for all consumers, assure adequate supplies of clean conventional energy, and reduce U.S. vulnerability to external events.
- *Science and Technology*: Use the unique resources of the Department's laboratories and the country's universities to maintain leadership in basic research, to increase applied research, and to maintain world technical leadership through long-term, systemic reform of science and mathematics education.
- *National Security*: Support and maintain a safe, secure, and reliable stockpile without nuclear testing; safely dismantle excess weapons; provide for safe and secure long-term storage and disposition of surplus weapons-usable fissile materials; and provide the technical leadership for National and global nonproliferation activities.
- *Environmental Quality*: Understand and reduce the environmental, safety, and health risks associated with DOE facilities and operations and develop the technologies and institutions required for solving domestic and global environmental problems.

The regulatory initiatives summarized in the regulatory plan are an integral contribution to performing the Department's vital missions at dramatically reduced cost, while increasing the level of service to the American public.

Eliminating and Improving Regulations

Regulatory Approach and Guiding Principles

With respect to its regulatory program, the Department has been engaged in a continuing, comprehensive review to make its rulemakings less burdensome, more cost-effective, and more responsive to the needs of our stakeholders.

The President's Regulatory Reform Initiative announced in February 1995 provided welcome emphasis to efforts already underway. The result of Presidential leadership and the Department's inclusive consultative approach has been a dramatic improvement in the Department's regulatory program. These improvements will benefit, among others: State governments; schools, hospitals, and other public care institutions; the electric and natural gas utility industry; and U.S. taxpayers.

The guiding principles for DOE's reinvention efforts are to:

- Involve the public and DOE stakeholders (i.e., our customers);
- Streamline regulations;
- Strip away non-value-added requirements and processes;
- Consider alternative approaches to regulation (e.g., the Department's voluntary Climate Challenge program); and
- Emphasize performance-based measures and best practices.

Accomplishments

Reinvention of External Regulations

In response to the President's Regulatory Reform Initiative, including a page-by-page review of all existing DOE regulations, the Department has targeted 75 percent of its regulations for elimination or reinvention. Specifically, the Department has set the following goals:

- 34 percent of all CFR parts targeted for elimination;
- 41 percent of all CFR parts targeted for reinvention;
- 33 percent of all CFR pages targeted for elimination;
- 55 percent of all CFR pages targeted for reinvention.

The Department expects that the total number of pages in the Code of Federal Regulations will be reduced from almost 2,200 to under 1,500, with over 1,200 of those remaining pages slated for reinvention. To date DOE has eliminated 23 percent of its total CFR pages and remains committed to its goal of a 33 percent reduction.

On September 22, 1995, the Department published a final rule eliminating nonprocurement regulations made obsolete by the expiration or supersession of statutory authorities, or for which appropriations have not been available since the early 1980s. The result of the final rule is the elimination of 454 of the Department's CFR pages.

Reinvention of Procurement Regulations

The Department is aggressively pursuing efforts to reduce and streamline the Department of Energy Acquisition Regulation (DEAR).

The goals of the procurement regulation reduction effort are to:

- Reduce the volume of the DEAR by 50 percent;
- Streamline procurement operations;
- Reduce constraints, prescriptive requirements, and administrative processes;
- Make remaining requirements outcome—not process—oriented; and
- Define roles and responsibilities at the lowest appropriate level.

In May 1994, DOE published a final rule that eliminated 10 percent of the DEAR (59 FR 24357), and recently published, in September 1995, a final rule (60 FR 47304) to eliminate approximately another 15 percent from the regulation, which will bring the total DEAR reduction to date to 25 percent. Additional reductions will be achieved in fiscal year 1996 when significant amounts of material will be removed from the DEAR. The remaining portions of the DEAR will be revised to reflect performance-based measures and best business practices.

In September 1995, the Department published a final rule (60 FR 49512) amending its procurement regulations to identify purchasing system objectives and standards for DOE contractors,

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eliminating the application of the so-called "Federal norm" for contracting, and placing greater reliance on commercial practices.

In November 1995, the Department expects to publish a proposed rule to implement key recommendations of the Department's Contract Reform Initiative. Changes are being proposed in the following areas associated with the Department's contracting activities: Fines, penalties, third-party liability, and property liability requirements for contractor make-or-buy plans; fee policy for profit-making entities; fee policy for non-profit-making entities; payment of fee laws, regulations, and Department directives; environment ownership of records; and contractor overtime. A related action, RIN 1992-AB09 on Competition for Management and Operating Contracts, will complete the Department's contract reform changes.

Reinvention of Internal Regulations

The Department is engaged in an accelerated effort to reduce the burden and increase the cost-effectiveness of orders governing its management and operating contractors, while protecting public safety, health, and the environment. As of September 30, 1995, the Department has achieved a 50 percent reduction in departmental orders. This complements the Secretary's Strategic Alignment Initiative to streamline departmental activities and fulfills the Secretary's commitment to the President to reduce the number of such orders from 312 to 156 by the end of fiscal year 1995.

Energy Efficiency Rulemakings

This year, the Department finalized a rule (60 FR 18326) establishing innovative Federal energy savings performance contracts that allow private contractors to retrofit Federal buildings to achieve energy efficiency savings at no cost to U.S. taxpayers. Contractors would share in energy use cost savings realized through these performance contracts.

Rewarding Results

With respect to its nuclear facilities and operations, the Department has emphasized performance-based results over prescriptive, process-laden approaches to health and safety regulation. By providing positive incentives to find and fix safety problems, the Department emphasizes compliance over enforcement to assure safety performance and continuous improvement.

The Department is implementing new contract approaches designed to give contractors greater incentives for good performance, including safety performance. For example, DOE recently announced the award of a contract for cleanup of the Rocky Flats Environmental Technology Site. The new contract is the first that incorporates all elements of the Department's contract reform initiatives. The contract:

- Is performance-based in that the contractor is paid for results, with 85 percent of fees based on performance and only 15 percent of fees fixed;
- Has built-in incentives for cost savings and performance (shared by contractor and employees); and
- Is estimated to save $1.2 billion compared to current projections under the existing contract.

Creating Grassroots Partnerships

Over the last 3 years, the Department has been working closely with its stakeholders, including the following, to improve its regulations.

Energy Efficiency Industry Partnerships

With respect to energy efficiency regulations, the Department has worked extensively with the regulated community to determine the costs and benefits of possible regulations. The Department, for example, has supported the activities of manufacturers, States, electric utilities, and energy efficiency advocates to recommend energy efficiency standards for refrigerators, refrigerator-freezers, and freezers. Moreover, the Department has initiated a review of the analytical methodologies used to assess options for energy efficiency regulations. In addition, the Department, working in partnership with affected stakeholders and in the context of the Department's review, will seek to develop consensus-based improvements to the energy efficiency standards rulemaking process.

Partnerships to Enhance Environment, Safety, and Health

The Office of Environment, Safety, and Health's Advisory Committee on External Regulation of DOE Nuclear Safety is an independent panel formed by the Secretary in February 1995. The Committee will recommend whether and how existing and new DOE nuclear facilities and operations might be externally regulated to best protect health, safety, and the environment; eliminate unnecessary oversight; and reduce costs. The Committee will develop its recommendations and submit them in 1995 to the Secretary of Energy and simultaneously to the Office of Management and Budget and the Council on Environmental Quality.

Science and Technical Information Partnership

The Department has involved over 100 stakeholders in an effort to reduce the burden associated with the management of scientific and technical information generated by the Department and its contractors. As a result of this 6-month effort, 143 pages of prescriptive policy requirements have been replaced with an eight-page policy document with three outcome-based performance objectives for the DOE National Laboratories and other research contractors. The result of this effort has been significant cost and burden reduction, while improving public and industry access to the information emanating from the Department's $6 billion annual investment in science and technology research.

Negotiate—Don't Dictate Rules

The Department is actively engaged in efforts to build consensus and to foster cooperation in the process of developing rules and achieving its mission objectives.

Energy Efficiency Standards and Test Procedures

The Department is encouraging product manufacturers, consumer groups, environmental organizations, and other interested parties to build consensus on energy efficiency rules for home appliances. On October 18, 1994, a coalition including the Association of Home Appliance Manufacturers and its members, the Natural Resources Defense Council, the American Council for an Energy Efficient Economy, and several State energy offices and utilities announced a landmark consensus on the efficiency levels that should be required in the next generation of refrigerators and freezers sold in the United States.

This agreement was the result of nearly 2 years of informal negotiations among the interested parties, supported by the Department with analytical and technical support. If adopted, it is estimated that these standards will result in refrigerators using 22 to 30 percent less electricity than today's new models, saving consumers $13 billion and reducing carbon emissions by 5 million metric tons by 2010. The Department has challenged manufacturers, consumers, and environmental organizations to repeat the process for other appliances.

Climate Challenge Program

The Department has embarked upon an innovative program of cooperation with the electric utility industry to achieve cost-effective greenhouse gas emission reductions. The Climate Challenge Program is based on voluntary commitments by participating electric utilities to undertake actions to reduce, avoid, or sequester greenhouse gas emissions. The Department provides technical assistance, encouragement, and public recognition for utility participants.

Almost 500 utilities have joined the Climate Challenge Program to date, pledging to conclude projects with an estimated reduction potential of 46 million metric tons of carbon equivalent by the year 2000.

Waiving Penalties and Cutting Frequency of Reports

The Department is committed to streamlining its reporting requirements. In the area of management of DOE contractors alone, the Department eliminated 7,000 reporting requirements, resulting in estimated annual savings of $48 million. This effort involved tossing out three large notebooks filled with detailed directives and replacing them with an 11-page document. The ultimate beneficiaries are American taxpayers, who will benefit from the increased flexibility and decreased costs associated with the operation of DOE research facilities.

DOE—Energy Efficiency and Renewable Energy (EE)

PROPOSED RULE STAGE

22. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL APPLIANCES

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6295

CFR Citation:

10 CFR 430.32

Legal Deadline:

Final, Statutory, January 1, 1992, For Water Heaters, Pool Heaters, Direct Heating Equipment, Mobile Home Furnaces,Kitchen Ranges and Ovens, etc.

Final, Statutory, January 1, 1994, For Central Air Conditioners,Heat Pumps, and Furnaces.

Final, Statutory, November 17, 1994, For Refrigerators,Refrigerator-Freezers, and Freezers.

Final, Statutory, May 14, 1996, For Dishwashers, ClothesWashers, and Clothes Dryers.

Abstract:

This is the initial review of the statutory standards for water heaters, pool heaters, direct heating equipment, mobile home furnaces, kitchen ranges and ovens, room air conditioners, fluorescent lamp ballasts, central air conditioners, heat pumps, and furnaces, to determine whether those levels need to be amended. This is the second reanalysis of the standards levels for refrigerators, refrigerator-freezers and freezers, dishwashers, clothes washers, and clothes dryers. These actions are covered by RINs 1904-AA38, 1904-AA47, 1904-AA67, 1904-AA75, 1904-AA76, 1904-AA77 and 1904-AA78. The proposed standards for television sets were withdrawn (RIN 1904-AA79).

At this time it appears that the Department's rulemaking actions with respect to energy efficiency standards for appliances may be restricted in fiscal year 1996 by a rider attached to the Interior and Related Agencies appropriations bill. This rider, if enacted, would prohibit the Department from using fiscal year 1996 appropriations for the issuance of any proposed or final energy efficiency standards for appliances. Because of this rider and an internal review of the processes and methodologies used to develop and analyze appliance standards, the Department has not developed revised schedules for these actions.

Statement of Need:

These standards are required by statute. Experience has shown that the choice of residential appliances purchased by both builders and homeowners is based on the initial cost rather than life cycle costs. Minimum energy efficiency standards for appliances eliminate economically inefficient products from the market and encourage industry to explore innovative ways to improve product performance.

Summary of the Legal Basis:

The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

Alternatives:

In conducting these reviews DOE considers a number of options, including retention of the existing standard and revised standards based on varying levels of stringency. The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination a large number of complex issues must be considered. Data and information are solicited from industry and the public at large. Engineering analysis to estimate the efficiency of various combinations of design options is conducted. Estimates of energy savings resulting from more stringent standards are made using the Lawrence Berkeley Laboratory Residential Energy Model, which forecasts the appliance purchase choices that households make as well as their subsequent appliance usage behavior and energy consumption. The effect of revised standards on an industry's profitability and scale of operation is also evaluated. The output of this analysis is the development of a proposal, which is published in a notice of proposed rulemaking for public comment.

The above process requires a great deal of effort and time to accomplish. The Department has been exploring methods to reduce the amount of effort and shorten the time required to accomplish the appliance standards rulemakings. In this regard, the Department recently has provided technical support and legal guidance to a group of refrigerator manufacturers, efficiency advocates, State energy offices and utilities involved in informal negotiations concerning standards for refrigerators Department has recently provided technical support and legal of the Department's proposed rule. The general acceptance of environmentalists, State energy offices, and utilities involved in informal negotiations concerning standards for refrigerators and freezers. The

negotiated standards were used as the bosis of the proposed rule. The general acceptance of negotiated standard levels by the interested parties prior to the proposal can lead to a more speedy final rule. This approach can also reduce the contention and divisiveness that is sometimes present in the traditional rulemaking process.

Anticipated Costs and Benefits:

These revised standards, combined with other market stimuli, are expected to yield energy savings worth about $6 billion annually by the year 2010 and reduce greenhouse gas emissions from projected 2010 levels by 12 MMT of carbon equivalent. Redesign and retooling to produce products meeting these more stringent efficiency standards for these products are expected to require an investment in excess of $800 million by the industry.

Risks:

Without appliance standards, energy use will continue to increase, with resulting damage to the environment caused by atmospheric emissions. Standards that are too stringent could result in excessive increases in the cost of the product, possible reductions in product utility and possible placing of such a burden on the industry as to cause some manufacturers to withdraw from the market, resulting in a loss of competition and jobs. On the other hand, enhancing appliance energy efficiency reduces atmospheric emissions of CO2, NOx and SOx, or the costs of complying with existing emission limits.

Timetable:

CACs and Heat Pumps (RIN 1904-AA77)
ANPRM 09/08/93 (58 FR 47326)
NPRM 00/00/00
Final Action 00/00/00
Dishwashers, Clothes Washers and Dryers (RIN 1904-AA67)
ANPRM 11/14/94 (59 FR 56423)
NPRM 00/00/00
Final Action 00/00/00
Fluorescent Lamp Ballasts (RIN 1904-AA75)
ANPRM 09/28/90 (55 FR 39624)
NPRM 03/04/94 (59 FR 10464)
Revised NPRM 00/00/00
Final Action 00/00/00
Furnaces (RIN 1904-AA78)
ANPRM 09/08/93 (58 FR 47326)
NPRM 00/00/00
Final Action 00/00/00
Pool Heaters, Direct Heating Equip., etc. (RIN 1904-AA38)
ANPRM 09/28/90 (55 FR 39624)
NPRM 03/04/94 (59 FR 10464)
Final Action 00/00/00
Refrigerators and Freezers (RIN 1904-AA47)
ANPRM 09/08/93 (58 FR 47326)
NPRM 07/20/95 (60 FR 37338)
NPRM Comment Period End 11/02/95
Final Action 00/00/00
Water Heaters (RIN 1904-AA76)
ANPRM 09/28/90 (55 FR 39624)
NPRM 03/04/94 (59 FR 10464)
Revised NPRM 00/00/00
Final Action 00/00/00

Small Entities Affected:

None

Government Levels Affected:

State, Local

Agency Contact:

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Office of Codes and Standards
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Energy Efficiency and Renewable Energy
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RIN: 1904–AA38

DOE—Departmental and Others (ENDEP)

PROPOSED RULE STAGE

23. NUCLEAR SAFETY MANAGEMENT

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR 830

Legal Deadline:

None

Abstract:

This action will add regulations under 10 CFR 830 to establish nuclear safety management requirements for the Department's nuclear facilities. These requirements stem from the Department's obligations to assure adequate protection and to hold contractors who manage and operate these facilities accountable and responsible for safe operations. Under phase 1 of this action, major requirements will include conduct of employees, safety analysis reports, technical safety requirements training, maintenance, unreviewed safety questions and occurrence reporting. Under phase 2 of this action, major requirements will include nuclear design criteria, fire protection, natural phenomena hazards mitigation, and nuclear criticality safety. An initial phase adopted a quality assurance rule and definitions.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligations to protect health and safety are fulfilled and to provide, if needed, a basis for the assessment of civil and criminal penalties consistent with the Price-Anderson Amendments Act of 1988. This action is consistent with the Department's commitment to the issuance of all new nuclear safety requirements to using notice and comment rulemaking.

Summary of the Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department of Energy has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health and safety of the public and workers affected by its operations.

Alternatives:

The Department could continue to impose nuclear safety requirements through directives made applicable to DOE contractors through the terms of their contracts.

Anticipated Costs and Benefits:

The incremental costs of the proposed rules should be minimal because contractors are currently bound by comparable contractual obligations. Full compliance by contractors with nuclear safety standards will result in substantial societal benefits.

Risks:

This rulemaking should reduce the risk of nuclear safety problems by clarifying safety requirements applicable to DOE contractors and improving compliance.

Timetable:

Initial Phase
NPRM 12/09/91 (56 FR 64316)
Final Rule 04/05/94 (59 FR 15843)
Phase I
NPRM 12/09/91 (56 FR 64316)
Final Rule 03/00/96
Phase II
NPRM 12/00/95
Final Rule 12/00/96

Small Entities Affected:

None

Government Levels Affected:

None

Agency Contact:

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RIN: 1901–AA34

DOE—ENDEP

FINAL RULE STAGE

24. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT

Priority:

Other Significant

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR 834

Legal Deadline:

None

Abstract:

This action would add a new 10 CFR 834 to DOE's regulations establishing a body of rules setting forth the basic requirements for ensuring radiation protection of the public and environment in connection with DOE nuclear activities. These requirements stem from the Department's ongoing effort to strengthen the protection of health, safety, and the environment from the nuclear, radiological, and chemical hazards posed by these DOE activities. Major elements of the proposal included a dose limitation system for protection of the public, requirements for liquid discharges; reporting and monitoring requirements; and residual radioactive material requirements.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligations to protect health and safety are fulfilled and to provide, if needed, a basis for the assessment of civil and criminal penalties consistent with the Price-Anderson Amendments Act of 1988. This action is consistent with the Department's commitment to the issuance of all new nuclear safety requirements using notice and comment rulemaking.

Summary of the Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department of Energy has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health and safety of the public and workers affected by its operations and the protection of the environs around its facilities.

Alternatives:

The Department could continue to impose nuclear safety requirements through directives made applicable to DOE contractors through the terms of their contracts.

Anticipated Costs and Benefits:

The incremental costs of the proposed rules should be minimal because contractors are currently bound by comparable contractual obligations. Full compliance by contractors with nuclear safety standards will result in substantial societal benefits.

Risks:

This rulemaking should reduce the risk of nuclear safety problems by clarifying safety requirements applicable to DOE contractors and improving compliance.

Timetable:

Action	Date	FR Cite
NPRM	03/25/93	58 FR 16268
NPRM Comment Period End	06/22/93	58 FR 16268
Final Action	03/00/96	

Small Entities Affected:

None

Government Levels Affected:

Federal

Agency Contact:

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RIN: 1901–AA38

DOE—Office of Procurement and Assistance Management (PR)

PROPOSED RULE STAGE

25. • CONTRACT REFORM

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 2201; 42 USC 7254

CFR Citation:

48 CFR 970

Legal Deadline:

None

Abstract:

This action would amend the Department of Energy Acquisition Regulation to implement certain key recommendations of the Department's contract reform initiative. Changes are made to the following areas: fines, penalties, third-party liability and property liability; requirements for contractor make-or-buy plans; fee policy for profit-making entities; fee policy for non-profit-making entities; payment of fee; laws, regulations, and Department directives; environment; ownership of records; and contractor overtime. A related action, RIN 1991-AB09 on Competition for Management and Operating Contracts, completes the Department's contract reform changes.

Statement of Need:

The purpose of this rule is to place into regulation those new policies, and changes to existing policies, to strengthen the management of the Department's management and operating contracts.

Summary of the Legal Basis:

Under Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) and section 644 of the Department of Energy Organization Act, Public Law 95-91 (42 U.S.C. 7254), the Department of Energy has the authority to enter into and perform contracts necessary to carry out functions vested in the Department and to prescribe such rules and regulations necessary to manage these contract activities.

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Alternatives:

The Department could rely on the Federal Acquisition Regulation to describe regulatory requirements for contracts without addressing unique relationships that the Department has with its contractors.

Anticipated Costs and Benefits:

This action should save the Government costs, make contractors more accountable for their performance, and improve the quality of work performed through performance, and improve the quality of work performed through the Department's management and operating contracts.

Risks:

This rulemaking should reduce the risk that the Government does not receive reasonable value for work performed through management and operating contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

Procurement:

This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 1991–AB28

BILLING CODE 6450-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Statement of Regulatory Priorities

Overall Regulatory Priorities

The Department of Health and Human Services (HHS) provides direct services or assistance to one of every five Americans. With emphasis on children, the elderly, disabled persons, the poor, and others who are most vulnerable, HHS is the Federal Government's principal agency for protecting health and providing essential human services to Americans. HHS activities are striking in their variety, ranging from some of the largest programs in Government (Medicare, Medicaid) to some of the smallest; from improving infant health to providing care for the elderly; from gathering basic national health and welfare statistics to providing job training, health clinics, and Head Start services; and from the cutting edge of health research at the National Institutes for Health to regulating products that account for some 25 cents of every dollar spent by American consumers at the Food and Drug Administration.

HHS is committed to the Administration's initiatives to substantially reform existing regulations in order to reduce regulatory burden while meeting the health and human services responsibilities of the Department.

HHS began its comprehensive review of existing regulations with implementation of the President's Executive Order 12866 of September 30, 1993, on Regulatory Planning and Review. To assist in identifying priorities for HHS's review of existing regulations, the Department solicited recommendations from the public on plans for review in a January 20, 1994, **Federal Register** notice. More recently, on May 8, 1995, HHS again requested public comment on this Department's regulations in the Unified Agenda, seeking suggestions for furthering regulatory reform efforts.

HHS's review accelerated in 1995 with the establishment of regulatory reinvention task forces targeted at specific industries, under the leadership of the Vice President. HHS played a major role in two of these groups—one on drugs and medical devices and one on the health care industry. These efforts produced important reforms in regulations concerning clinical laboratories, hospitals, dialysis centers, drugs, biologics, and medical devices.

The Regulatory Reinvention Initiative

With the President's March 4, 1995, memorandum on the "Regulatory Reinvention Initiative," HHS joined the Governmentwide effort to pursue additional steps to reduce unnecessary regulatory burden and to increase cooperation and coordination with its customers. Specifically, the President asked that the Department:

- Conduct a page-by-page review of HHS regulations, with the goal of eliminating or revising those that are outdated or otherwise in need of reform;
- Change the way performance is measured by agencies and frontline regulators to focus on results rather than on process and punishment;
- Create "grassroots partnerships" by getting out of Washington and convening groups of frontline regulators and the people affected by regulations to discuss issues of concern; and
- Increase use of consensual rulemaking.

These efforts have been a major undertaking of the Department. The changes in our regulations and rulemaking approach are reducing burden, as well as promoting better communication, consensus building, and a less adversarial environment while maintaining the critical health and safety protections the American people expect and deserve. As a result of this year's page-by-page review of HHS's portion of the Code of Federal Regulations (more than 6,900 pages), the Department plans to eliminate more than 1,000 pages by rulemaking (approximately 15%), as well as an additional 700 or so pages that will require statutory change, and reinvent another 2,200 pages (approximately 32%). In all, HHS plans to eliminate or reinvent over 50 percent of the pages.

These efforts have already produced a number of successes in reducing burden. For example, the Medicare program will no longer require the "attestation statements" that physicians had to sign before hospitals could submit claims for payment. These statements were abolished in a final rule published September 1, 1995. Ending this requirement eliminates 11 million forms a year, saving almost 200,000 hours of physician time and decreasing hospital administrative costs by approximately $22,500 per hospital annually.

In another case, before a regulation was issued in July 1995 by the National Institute for Occupational Safety and Health (NIOSH), the only respirator for health care workers that met criteria for the prevention of tuberculosis cost the purchaser approximately $8. The first respirators certified under the new regulation range in price from about $1 to $3, according to manufacturers' data. Working closely with the industry, NIOSH developed a regulation that provides better protection for workers and increased savings for industry.

Other examples of reinvention of HHS regulations and approaches to rulemaking are discussed throughout this year's Regulatory Plan and Unified Agenda.

Consultation with our Partners

HHS has examined its approach to rulemaking in light of Executive Order 12866, the Regulatory Reinvention Initiative, Executive Order 12875 on Intergovernmental Partnerships, and the related legislation on Unfunded Mandates. As a result, HHS is undertaking more frequent and earlier consultation with those parties affected by rulemaking. HHS will use a number of innovative approaches as it works on developing the most effective strategies for consultation with State and local governments and the wide variety of other groups and individuals affected by regulations issued by this Department. For example, in the spring of 1995, senior HHS officials from the Food and Drug Administration, the Health Care Financing Administration, and the Administration for Children and Families held grassroots meetings at a number of locations around the Nation to hear first-hand the concerns of our regulatory partners regarding the issues facing the Department.

Last year for the first time, the Department used the negotiated rulemaking approach to develop rules in a consensual process. This process brings HHS together with the external interests who would be significantly affected by a new rule to reach consensus through open discussions on some or all issues under consideration before a rule is formally published as a notice of proposed rulemaking. HHS recently completed a negotiated rulemaking for reforming the Medicare hospice wage index and is now using the process to revamp the Indian health programs based on the Indian Self-Determination and Education Assistance Act.

HHS is taking a new approach to its relationship with State, local, and tribal governments. Pursuant to Executive Order 12875 "Enhancing the Intergovernmental Partnership" and the "Unfunded Mandate Reform Act of 1995," HHS is committed to avoiding,

where possible, imposition of mandates—funded, and particularly unfunded—and to consulting with appropriate levels of government as early as possible in the development of policies and regulations affecting them. HHS is carrying out its decisionmaking and consultation with a full appreciation of State, local, and tribal governments as partners in serving the public.

The Department's regulatory priorities also include initiatives related to implementation of the Department's strategic goals and enacted congressional legislation. For example, new Head Start regulations will not only strengthen the existing program as an investment in our Nation's children, but will also implement the new component for infants and toddlers through performance standards. Another regulatory initiative that will further the goal of investing in the future of our Nation's children is the Food and Drug Administration proposed rule restricting the sale and distribution of addictive tobacco products to children and adolescents.

Because of the significance of HHS's regulatory responsibilities, the Department believes that the principles of Executive Order 12866, the Regulatory Reinvention Initiative, and related efforts are particularly important in assuring that HHS's activities most effectively meet their objectives with as little burden as possible on the public. In ongoing efforts, HHS will emphasize regulating only where required by statute or to meet a compelling public need, fully considering the costs and benefits of regulatory alternatives, increasing consultation with affected public, and reducing regulatory burden.

Agency Plans

Virtually all HHS regulations are issued by a handful of agencies within the Department. Descriptions of priorities for these are as follows.

Health Care Financing Administration (HCFA)

HCFA has improved its regulations by focusing on rulemakings that reduce unnecessary burden, while ensuring continual improvement in the quality of services to Medicare and Medicaid beneficiaries. Working closely with the public in developing new rules, HCFA has been conducting listening events around the country concerning specific regulations to collect ideas on partnerships from front-line regulators, those being regulated, and other interested stakeholders. Some examples of specific successes follow.

Accomplishments

Even before the September 1, 1995, elimination of the physician attestation requirement mentioned above, HCFA eliminated the regulatory requirement that hospitals obtain a signed acknowledgement form from each attending physician every year. This form acknowledged that the physician understood the penalty for misrepresenting the information on an attestation statement relating to principal and secondary diagnoses and major procedures performed on patients. Beginning in April 1994, physicians are only required to sign a one-time acknowledgement statement upon being granted admitting privileges at a hospital.

As a result of a rule published July 25, 1994, the process for obtaining Medicaid home and community-based services waivers was simplified and now enables States to offer a wide variety of home and community-based services as cost-effective alternatives to more expensive institutional care. Without this regulatory change, joint State and Federal efforts to expand opportunities to provide cost-effective alternatives to institutional care would have been frustrated. The regulatory provisions were worked out in collaboration with the States, through the National Governor's Association.

HCFA successfully completed negotiated rulemaking for the wage index that is used to adjust payment rates to hospices under the Medicare program. As part of the agreement with the members of the negotiating committee, the hospice wage index will rely on the most recent data from the hospital wage index published in the Medicare hospital prospective payment systems rule published on September 1, 1995.

HCFA and the Centers for Disease Control and Prevention (CDC), which share responsibility for the Clinical Laboratory Improvement Act (CLIA) program, have continually taken actions to reduce burden and improve the entire CLIA system. A flexible survey system for good performers, which has already been initiated for certain laboratories, allows for self-attestation and off-site reviews. Information requirements and paperwork have been eliminated, steps have been taken to make personnel requirements more flexible, and the inspection process has been streamlined. Additional burden reductions have been undertaken that will virtually eliminate oversight for certain appropriate laboratories, establish performance standards in place of process requirements, and use information and education as a substitute for sanctions.

As of September 1, 1995, six private accrediting organizations have been approved for Federal accrediting status ("deemed" status) because their accreditation standards are as stringent as those of CLIA. In addition, exemption from CLIA requirements has been granted to laboratories in two States because the States in which they are located have requirements equal to or more stringent than CLIA's. The impact of these actions is to reduce Federal inspections, offer laboratories oversight by peers, and allow States with strong licensure programs to be approved for exemption from CLIA.

HCFA's Regulatory Reform Initiatives Included in the 1995 Plan

The October 1995 Plan includes the President's and Vice President's initiatives for reinventing health care regulations. (One of the initiatives, eliminating the physician attestation form, was finalized in the September 1, 1995, annual rule on the hospital prospective payment system and is not included in the 1995 Plan.)

CLIA regulations are being revised to reduce unnecessary burden and improve the CLIA system by rewarding good performance by laboratories, creating incentives for manufacturers to develop more reliable testing equipment, and using proficiency testing as an outcome measure to monitor laboratory performance.

New regulations for hospitals, home health agencies (HHAs), and end-stage renal disease (ESRD) facilities will focus on the outcomes of care and replace unnecessary process requirements. These three proposed rules would provide for the collection and analysis of patient care data needed for continuous quality improvement and performance evaluation, increase consistency of requirements across providers, and ask the customer to provide input on what the outcome measures should be and evaluate the services they received.

HCFA will conduct a pilot project in four States to apply a different, less prescriptive set of rules to excellent ESRD facilities. Under the pilot project, an ESRD facility's performance will be measured using only three key patient care outcome indicators. Facilities that document sustained achievement in the outcome indicators over 6 consecutive months will be awarded a HCFA certificate of excellence. Information about project results will be packaged in brochures and newsletters so that ESRD patients and nonparticipating ESRD facilities will be aware of the results.

HCFA will also conduct a pilot project that will evaluate the impact of the elimination of Medicare personnel requirements for ESRD facilities. The pilot project will be conducted in concert with the project establishing relaxed rules for ESRD facilities with good track records (see above). HCFA will collect information regarding the skills level of all personnel employed by those facilities participating in the project. Facilities will be informed that as part of the project Medicare will not apply any of the personnel requirements contained in the conditions for coverage. At the end of the 2-year project period, HCFA will re-collect information regarding the education and experience levels of all the facility's staff and evaluate the impact of the changes on predetermined measures of quality of care.

HCFA's Legislative Initiatives

Three of the initiatives from the July 1995 report will require statutory revisions before new regulations can be developed. First, Home Health Agencies are required by law to be surveyed yearly, even though historical data show that this frequency is excessive for many HHAs and does not improve care. Legislation is being proposed to allow flexible survey cycles.

Second, States must currently perform annual assessments of Medicaid nursing home residents with mental illness or mental retardation. This duplicates the requirement for Medicare- and Medicaid-certified nursing homes to assess their residents promptly after admission, after a significant change in condition, and no less often than annually. Under a legislative proposal, the redundant requirement for annual State reviews would be eliminated, reducing costly duplication. The assessments conducted by the nursing homes ensure that residents' continuing needs are properly evaluated and met.

Third, a legislative proposal would specify that a State could choose to approve a nurse aide training and competency evaluation program offered in (but not by) a nursing home, subject to an extended or partial extended survey or certain other sanctions, if the State determines that there is no other nurse aide training and competency evaluation program offered within a reasonable distance. This statutory change would relieve a special problem encountered by rural nursing homes where alternate training programs may not be readily accessible. The proposal would alleviate this problem and still ensure patient health and safety.

HCFA's Objectives

HCFA has made communication, cooperation, and partnership the guiding principles of the regulatory process, replacing the adversarial environment that often existed in the past. At a time when the American health care system is undergoing dramatic changes, HCFA is committed to putting the Federal Government's customers—the American people—first. The Nation can look forward to continued endeavors to reduce and eliminate unnecessarily burdensome regulations.

Food and Drug Administration (FDA)

FDA has made substantial progress toward carrying out vitally important regulatory reforms identified in response to the Clinton Administration's emphasis on reforming the Federal Government's regulatory processes with no sacrifice in public health and safety protections. FDA's reforms have three broad goals: to eliminate unnecessary burdens on the regulated industry, to get products to market more quickly, and to allow FDA to do its job more efficiently. The agency is well on its way toward accomplishing many of these reforms—others are in early stages of development, and still more potential reforms have been identified. For example, FDA has already outlined, in a report published by the Clinton Administration in April, a number of reforms that are under way in the regulation of drugs, biologics—including biotechnology products—and medical devices. The agency will propose further reforms in these areas and has identified and will propose reforms for human food products, new animal drugs, and medicated animal feeds.

Under the Prescription Drug User Fee Act of 1992, FDA has used the income from user fees to shorten substantially the review of new drugs, vaccines, and biotechnology products. Average review times dropped by more than 30 percent between 1992 and 1994—from 30 months to 20 months, and by 1997 FDA will be making decisions on these products in a year or less after applications are submitted—as fast, or faster than anywhere else in the world, with no sacrifice in quality. Medical devices and animal drugs are now reviewed more efficiently as well, and a record number of 38 new animal drugs was approved in 1994.

Regulatory Reinvention Proposals

The reforms identified so far for drugs, biologics, and medical devices are estimated to save manufacturers $500 million per year through measures such as:

- Allowing manufacturers of drugs and biologics to change the way they manufacture an approved product without submitting applications for FDA preapproval if the risk involved is negligible;
- Publishing a notice on April 6, 1995, clarifying that biologic manufacturers may use pilot or small-scale facilities (instead of building far more costly full-scale facilities) to conduct safety and efficacy studies of their products;
- Eliminating special requirements for insulin and antibiotics that are outdated and burdensome to manufacturers of these products;
- Excluding drug and biologic manufacturers from requirements for most environmental assessments, which cost tens of thousands of dollars and provide no real benefit to the environment;
- Exempting up to 125 categories of low-risk medical devices from premarket review, adding to the 441 categories already exempted from review (a final rule exempting 9 categories was published on July 28, along with a proposal to exempt 12 additional categories);
- Publishing a notice on June 2, 1995, eliminating the "Reference List" program by clarifying that marketing clearance of a device will not be deferred for uncorrected manufacturing violations unless there is a reasonable relationship between the violations and the application under review;
- Seeking authority to set up a user-fee program for medical devices, similar to the program that has shortened drug reviews, that would allow FDA to charge industry user fees and commit the agency to meet strict performance goals;
- Publishing a notice on August 1, 1995, clarifying FDA's effectiveness requirement for drugs and medical devices, to give industry a better understanding of how to go about developing new products and firmly refute a concern that FDA requires a new drug or device to be more effective than comparable therapies that are already approved; and
- Harmonizing FDA's drug and device testing requirements with those of

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other countries, to reduce duplicative testing and expedite international marketing of new products.

Some of the reforms in the April report are facilitated by regulations included in the Unified Agenda, which appears elsewhere in this issue of the **Federal Register**. For example, for documents required to be maintained but not submitted to FDA, persons could use electronic records and signatures upon the effective date of a final rule. For documents submitted to FDA, persons could use electronic records and signatures if FDA has stated, in a public docket to be maintained for that purpose, that the intended receiving organization is prepared to accept the submission in electronic form. This step will simplify recordkeeping for industry and will support FDA's Submission Management and Review Tracking (SMART) Program, which aims to develop and implement a number of automated applications, including Establishment Licensing Applications for biologics firms, a gene therapy patient registry, and preapproval inspections.

In other Unified Agenda entries, FDA is proposing to expand the criteria for allowing the export of investigational medical devices to developed countries. The goals of this reform are to relax restrictions on exports of investigational products to industrialized nations, while leaving intact existing protections for countries that are not industrialized. FDA is also proposing to allow the name of the developer of a biologic (which must be listed as a selling agent or distributor) to be listed in product labeling with equal prominence as the name of the manufacturer. This will benefit small, innovative firms that develop important new therapies, but, because of a lack of capital, must rely on other firms to manufacture their therapies in commercial quantities.

Regulatory Plan Entries

FDA's Regulations Plan, which follows, contains initiatives that reflect the Clinton Administration's goal of providing traditional public health protections through a streamlined regulatory process that is focused on minimizing burdens on those who are regulated. Regulations included in the plan cut back significantly on the number of applications that drug and device manufacturers are required to submit, eliminate many pages of regulations that are outdated, duplicative, or otherwise in need of reform from the Code of Federal Regulations (CFR), seek to prevent children and adolescents from forming a habit with long-term health consequences, protect the health of women by assuring the high quality of mammography, and set forth a voluntary program of disseminating to consumers important information on their prescription drugs.

Currently, sponsors of licensed biological products must obtain FDA approval of such changes as changes in product labeling, production process, equipment, and facilities by submitting supplements to approved marketing applications. This process has become burdensome, time-consuming, and unnecessarily rigid, and FDA is proposing a new process that will reduce the number of supplements that license holders must submit for these changes each year by an estimated 50 percent—from 1,000 to 500. The new process creates different categories for changes, based on their potential to adversely affect the product, and reporting requirements are tailored to each category.

FDA regulates 1,700 types of medical devices, and manufacturers of most of these types of devices must submit information to FDA and receive FDA clearance before marketing them. FDA has determined that, when such a device poses a low level of risk to patients, review is not necessary to protect the public health; it places an unnecessary regulatory burden on device manufacturers, and it delays introduction of new devices. Accordingly, FDA is proceeding to exempt low-risk medical devices from premarket notification requirements and, to date, has exempted 450 of them. The agency will issue a final rule exempting more than 100 additional types of devices so that, when this rulemaking is completed, one-third of the regulated devices will be exempted from premarket notification requirements.

In response to the President's charge to conduct a page-by-page review to identify regulations that are obsolete or otherwise in need of reform, FDA has determined that 941 pages of its regulations in the CFR should be deleted. Congressional approval will be sought for deletion of 735 of these pages, and FDA will propose to delete regulations that can be deleted administratively, including regulations that are actually statements of policy or guidance, that have been made inaccurate by changes in legislation or technology, or that are duplicative. FDA is proposing to delete a number of food standards for which there is little public interest, and regulations dealing with substances no longer used in product formulations or products that are no longer marketed.

If children and adolescents are prevented from using nicotine-containing tobacco products habitually, they will avoid the serious health problems caused later in life by use and addiction to the nicotine in these products. FDA is proposing regulations that would affect the easy access and promotion and sale of nicotine-containing tobacco products to individuals at the young age when the majority of tobacco users take up the habit. The proposed rule would not restrict the use of tobacco products by adults.

Nearly half a million women will die of breast cancer during the nineties, and more than one and one-half million new cases will be diagnosed. Currently, the most effective method for detecting breast cancer is mammography. To assure quality in all aspects of mammography, FDA is proposing regulations to implement provisions of the Mammography Quality Standards Act (MQSA) that allow for oversight of all mammography facilities through a certification and inspection program. The proposed regulations set forth requirements for accreditation bodies, equipment, quality assurance, and personnel. The certification standards are existing private sector standards and allow implementation of the MQSA with minimum burden on mammography facilities.

In recognition of the importance of the individual participating in his or her own health care, FDA is proposing performance standards for drug labeling that will provide a readily available and understandable source of the information patients need in order to use their prescription drugs safely and properly. In accordance with the Administration's philosophy of fairly assessing a voluntary approach before imposing requirements through regulations, FDA is proposing that this information be disseminated through voluntary private sector initiatives. The goal of the proposal is for distribution of useful patient information to 75 percent of individuals receiving new prescriptions by the year 2000, and to 95 percent by the year 2006. Informing patients will reduce the potential for harm related to inappropriate prescription drug use and make it possible to realize substantial savings in health care costs.

Administration for Children and Families (ACF)

ACF is committed to a management and stewardship philosophy that fosters excellence through customer focus, results orientation, and the talents of staff. The agency has reinvented the way it conducts business: Redefining relationships with States, tribes, and other grantees; stressing creation of partnerships; and focusing on program outcomes that indicate improvement in the lives of children and families through efficient and effective means.

Regulatory reform is an important element of ACF's reinvention strategy. The agency has already undertaken a comprehensive, page-by-page review of its regulations and eliminated hundreds of unnecessary pages. More importantly, a cultural change in the agency has taken place that will improve the approach taken in future rulemakings. All ACF regulatory efforts will, without fail, respond to the needs of State and local partners and the public at large by routinely employing a consultative process that is open and reaches out to all involved parties. In tandem with this, ACF is actively seeking to reduce burden and focus on outcome rather than process.

The benefits of this strategy will be evident in a key upcoming initiative to establish performance standards with respect to Head Start services provided to children 0 to 5 years old, as well as in the adoption of final rules proposed in the last regulatory planning period, including a computer systems rule designed to reduce reporting and recordkeeping burdens on States and Family Preservation and Family Support rules that provide a consultative and coordinated approach to service planning, consolidating two service programs under title IV-B of the Social Security Act. ACF will continue to create partnerships with the stakeholders of all new regulatory initiatives to effect improved services and outcomes for children and families.

HHS—Substance Abuse and Mental Health Services Administration (SAMHSA)

FINAL RULE STAGE

26. BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE (TOBACCO PROVISIONS)

Priority:

Other Significant

Legal Authority:

42 USC 300x-21

CFR Citation:

45 CFR 96; 45 CFR 130

Legal Deadline:

None

Abstract:

Sets procedures for the Secretary to determine compliance under section 1926 of the PHS Act regarding State enforcement of laws against sale of tobacco products to minors as a condition of full funding of Federal block grants for prevention and treatment of substance abuse.

Statement of Need:

Section 1932(d) of the Public Health Service (PHS) Act requires the Secretary to publish regulations on the standards that will be used in approving Substance Abuse Prevention and Treatment Block Grant applications. Section 1926 of the PHS Act requires that States, as a condition of receiving a grant, must have in place a law that prohibits the sale and distribution of tobacco products to minors. It further requires the States to enforce the provision in a manner that can reasonably be expected to reduce the availability of tobacco products to minors, and to conduct annual, random, unannounced inspections to ensure compliance with the law.

In addition States are required to report as part of their application for Block Grant funds the activities carried out in the previous year for enforcing the provision, the State's success in reducing the availability of tobacco products to minors, and the activities it plans to carry out during the year for which it is seeking funds. If the Secretary determines that a State has not complied with the requirements of section 1926, the Secretary shall penalize the State 10 percent of its allotment the first year, 20 percent the second, 30 percent the third, and 40 percent the fourth and all subsequent years.

These regulations set the criteria and standards for the Secretary's determination of compliance with section 1926.

A notice of proposed rulemaking was issued on August 26, 1993 and the public was given 60 days to comment. The Department will respond to those comments and amend the proposed rule as appropriate.

Alternatives:

The Department has minimal discretion in establishing the criteria and standards to use for establishing compliance. States are statutorily required to carry out random inspections of outlets in a manner that provides an accurate, reliable and valid measure of how successful the enforcement of the provisions is being conducted throughout the State. The results of these inspections constitute an objective measure for the Secretary's use in determining compliance.

Anticipated Costs and Benefits:

The NPRM was considered a major rule for the purposes of carrying out an economic impact analysis. With regard to the States enforcing the State laws on the availability of tobacco products to minors and for conducting the inspections, States may only use the 5 percent of their allocation that they currently use for the purposes of administering the block grant. Thus little or no Federal funds are available to the States to enforce their statute.

We estimate the cost of a substantial enforcement effort at $50 million nationwide. The costs of training staff, moving vending machines, etc., we estimate will cost businesses about $100 million nationwide. The costs of carrying out the inspections we believe will be between $1 and $2 million nationwide. This suggests a total cost of a maximum effort at $152 million nationwide.

The annual benefit of the provision is in reduction of medical bills incurred by those who choose to stop smoking; reduced sick leave and group life-insurance subsidies, increased productivity and the taxes realized from people choosing to stop smoking; the value of lives gained; reduced costs for fire damage that would have been caused by the smokers; and the lives saved from those fires that would not happen. We estimate these savings at one-sixth to one-third of a billion dollars per year.

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Risks:

Implementation of the above-cited statute leaves the Department no option other than issuing a regulation in this area. In any case, the risks in not acting against illegal sales of tobacco products are great. The Centers for Disease Control and Prevention (CDC) estimate that at present approximately 500,000 minors become regular smokers each year. A major cause is ready access to illegal tobacco. Three fourths or more of all outlets sell illegally to minors, due in part to insufficient enforcement efforts by many States, which encourage a scofflaw attitude among merchants. CDC estimates that 73 percent of all over-the-counter outlets and 96 percent of all vending machine outlets sell tobacco products to minors.

Timetable:

Action	Date	FR Cite
NPRM	08/26/93	58 FR 45156
NPRM Comment Period End	10/25/93	58 FR 45156
Final Action	12/00/95	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Tribal

Additional Information:

Previously reported under RIN 0905-AE05.

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RIN: 0930–AA03

HHS—Food and Drug Administration (FDA)

PRERULE STAGE

27. • FOOD STANDARDS OF IDENTITY, QUALITY, AND FILL OF CONTAINER; COMMON OR USUAL NAME REGULATIONS: REQUEST FOR COMMENTS ON EXISTING REGULATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 321; 21 USC 336; 21 USC 341; 21 USC 343; 21 USC 348; 21 USC 349; 21 USC 371; 21 USC 376

CFR Citation:

21 CFR 102 to 103; 21 CFR 130 to 131; 21 CFR 133; 21 CFR 135 to 137; 21 CFR 139; 21 CFR 145 to 146; 21 CFR 150; 21 CFR 152; 21 CFR 155 to 156; 21 CFR 158; 21 CFR 160 to 161; 21 CFR 163 to 166; 21 CFR 168 to 169

Legal Deadline:

None

Abstract:

The Food and Drug Administration (FDA) is considering amending, revising, or revoking its food standards of identity, quality, and fill of container and its common or usual name regulations for nonstandardized foods to make them less burdensome on industry. A notice of proposed rulemaking that published October 13, 1995, identified, among other obsolete or otherwise unnecessary regulations, 17 specific CFR sections on food standards for possible revocation. In addition an advance notice of proposed rulemaking (ANPRM) would request comments on other such standards from all interested parties, including consumers, consumer groups, academia, the regulated food industry, food distributors, importers, and exporters on these regulations. The agency would seek comments on the benefits or lack of benefits of such regulations in facilitating domestic, as well as international, commerce and on their value to consumers, less costly alternative means of accomplishing the statutory objective of food standards, that is, to promote honesty and fair dealing in the interest of consumers, in the manufacture and sale of food products covered by these regulations.

Statement of Need:

Standards of identity, quality, and fill of container are designed to protect consumers from manufacturing, packaging, and labeling practices that could result in economic deception, such as substitution of water or filler for more valuable constituents in a food or the use of substandard ingredients. Common or usual names are designed to ensure that the food products will bear names that are appropriately descriptive of the food so that consumers will be provided with sufficient information to make informed purchasing decisions in the marketplace. The agency has received complaints that some of these regulations should be amended, particularly some food standards, because they are overly restrictive and inhibit product development. Others may be obsolete and should be revised or revoked.

Summary of the Legal Basis:

Section 401 of the Federal Food, Drug, and Cosmetic Act (the act) provides that food standards of identity, quality, and fill of container may be established when such action will promote honesty and fair dealing in the interest of consumers. Section 403(i) of the act which requires, among other things, that a nonstandardized food bear on its label the common or usual name of the food, and if the food is fabricated of two or more ingredients, the common or usual name of each such ingredient; and section 201(n) that provides, among other things, that an article (food, drug, or cosmetic) is alleged to be misbranded if its labeling or advertising fails to reveal material facts about the nature of the article, provide the agency with authority to establish common or usual name regulations. These regulations are promulgated under section 701(a) of the act (notice and comment rulemaking), except that actions for amendments or repeal of any dairy standards that are accomplished under section 701(e) of the act (formal rulemaking).

Alternatives:

This ANPRM requests public comment on ways to make existing regulations more flexible and less burdensome on industry. It also requests comment on alternatives to these regulations that will provide comparable consumer protection.

Anticipated Costs and Benefits:

A proper assessment of the costs and benefits to be derived from this ANPRM is premature.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/95	
ANPRM Comment Period End	03/00/96	
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

State, Federal

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RIN: 0910–AA67

HHS—FDA

PROPOSED RULE STAGE

28. MAMMOGRAPHY QUALITY STANDARDS ACT OF 1992

Priority:

Other Significant

Legal Authority:

PL 102-539 Mammography Quality Standards Act of 1992; 42 USC 263b

CFR Citation:

21 CFR 900

Legal Deadline:

Final, Statutory, July 27, 1993.

Standards for accreditation bodies are required by July 27, 1993.

Abstract:

The purpose of the Mammography Quality Standards Act of 1992 (MQSA), enacted October 27, 1992, is to assure quality in all aspects of the practice of mammography. The primary mechanism for this is oversight of all mammography facilities through a certification and inspection program. Only facilities certified by the Secretary are permitted to produce, process, or interpret mammographic images. The statute also required the establishment of an advisory committee to set regulatory quality standards and also provided for the establishment of surveillance systems to evaluate breast cancer screening programs.

The agency published interim regulations on December 21, 1993, which were drafted and implemented so as to maximize lawful operation by facilities under existing quality standards, and to ensure adequate examinee access to quality mammography during the transition to more comprehensive national standards.

Concurrent with the implementation of the interim rules, FDA has proceeded with the development of proposed regulations to replace the interim rules. The agency now plans to issue proposed rules, with the advice and consultation of the National Mammography Quality Assurance Advisory Committee, on requirements for accreditation bodies, equipment and quality assurance requirements, facility requirements, and personnel requirements.

Statement of Need:

Nearly 50,000 women die each year from breast cancer. While much research into causes and treatments still needs to be done, we do know that, for women over 50, mortality for lesions found by mammography is 30 percent less than for larger lesions identified by physical examination. Unfortunately, not all mammography facilities offer services commensurate with the value of mammography in the abstract. To ensure quality control compliance, the Congress enacted the MQSA.

The primary mechanism established by the MQSA to ensure quality in mammography is oversight of all mammography facilities through a certification and inspection program. Only facilities certified by the Secretary will be permitted to produce, process, or interpret mammographic images. The statute also requires the establishment of an advisory committee to set regulatory quality standards and also provides for the establishment of surveillance systems to evaluate breast cancer screening programs.

The implementation of these regulations will ensure that mammograms are properly administered and interpreted, to provide adequate protection, diagnosis, and treatment of breast cancer among women. FDA has worked with the Health Care Financing Administration, the Centers for Disease Control, and State and local radiation control officials to coordinate mammography quality assurance activities and the development of policies and regulations for implementation of the MQSA, and will continue to coordinate its efforts with these agencies as appropriate.

Summary of the Legal Basis:

The MQSA established a comprehensive statutory scheme for the certification and inspection of mammography facilities to ensure that, after October 1, 1994, only those facilities that comply with minimum Federal standards for safe, high-quality mammography services may lawfully continue to operate. Operation after that date is contingent on receipt of an FDA certificate attesting that the facility meets the minimum mammography quality standards promulgated under section 354(f) of the Public Health Service Act. The standards are intended to apply equally to screening and diagnostic mammography. The MQSA required: (a) accreditation of mammography facilities by private, nonprofit organizations or State agencies meeting FDA established standards; (b) annual physics surveys of mammography facilities; (c) annual inspections of mammography facilities; (d) qualification standards for interpreting physicians, radiologic technologists; medical physicists, and mammography facility inspectors; (e) specification by FDA of boards or organizations eligible to certify mammography personnel; (f) quality standards for mammography equipment and practices, including quality assurance; (g) establishment of the National Mammography Quality Assurance Advisory Committee; and (h) standards governing recordkeeping for examinee files and requirements for mammography reporting and examinee notification by physicians.

Alternatives:

The statute is prescriptive and does not allow for a substantially different regulatory approach than is being taken by FDA. It allows for discretion in the details of individual standards, and FDA has sought to avoid unnecessary burden in devising these standards. In order to reduce the burden of complying with the MQSA regulations on mammography facilities, FDA incorporated existing standards to the maximum extent possible; issued Federal certificates, which are required

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for facilities to legally operate after October 1, 1994, to facilities already accredited by the American College of Radiology; required facilities to submit information for certification only to the accrediting body--not to FDA; and allowed flexibility to accrediting bodies in developing their standards by requiring that accrediting body standards be "substantially the same as" FDA's standards, rather than identical.

Anticipated Costs and Benefits:

Direct Federal costs in fiscal year 1995 are $13 million. Yearly costs to mammography facilities, over a 10-year period, were estimated to range from a high of approximately $88.8 million to $24.3 million. Yearly costs differed due to the phased implementation dates for some proposed requirements. Overall, average annualized costs of the proposals are preliminarily estimated at $50.5 million.

There are many benefits associated with these proposed rules. High-quality mammography could significantly reduce breast cancer mortality. Early detection could reduce the morbidity associated with treating later-stage disease. There may be a reduction in the number of malpractice claims filed for failure to diagnose early breast cancer. In addition, because of improved mammography quality, the agency expects a reduction in the number of follow-up procedures in nondiseased patients, resulting in a reduction of annual medical costs. By themselves, the health care cost savings are expected to substantially exceed the expected average annualized costs.

Risks:

The motivation for the MQSA was public response to concerns about breast cancer and to concerns about the quality of mammography services relied on for early detection of breast cancer. Breast cancer is the most prevalent nonskin cancer among women (and the second most deadly) with over 175,000 new cases and 45,000 breast cancer-related deaths occurring annually. The disease is most treatable in the early stages. Missed diagnosis of early lesions due to factors such as poor image quality or incorrect interpretation of images could result in delayed treatment, leading to otherwise avoidable increases in mortality or more complex and costly remediations.

Timetable:

Action	Date	FR Cite
Approval of Accrediting Bodies		
Interim Final Rule	12/21/93	(58 FR 67558)
Draft Proposed Quality Standards		
Notice of Availability	01/26/95	(60 FR 5152)
Draft X-Ray and Medical Physicist Standards Proposals		
Notice of Availability;	12/30/94	(59 FR 67710)
General Facility Requirements		
NPRM	11/00/95	
Mammography Quality Standards Act of 1992; Inspection Fees		
Notice	03/17/95	(60 FR 4584)
Personnel Requirements		
NPRM	11/00/95	
Quality Standards for Mammography Equipment and QA		
NPRM	11/00/95	
Quality Standards for Mammography Facilities		
Interim Final Rule	12/21/93	(58 FR 67565)
Requirements for Accreditation Bodies and Quality Standards		
Notice (Advisory Committee)	12/21/94	(59 FR 65776)
NPRM	11/00/95	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Federal

Additional Information:

Previously reported under RIN 0905-AE07.

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RIN: 0910–AA24

HHS—FDA

29. • REGULATIONS RESTRICTING THE SALE AND DISTRIBUTION OF CIGARETTES AND SMOKELESS TOBACCO PRODUCTS TO PROTECT CHILDREN AND ADOLESCENTS

Priority:

Economically Significant

Legal Authority:

21 USC 351; 21 USC 360; 21 USC 360j; 21 USC 371; 21 USC 374

CFR Citation:

21 CFR 801; 21 CFR 803; 21 CFR 804; 21 CFR 897

Legal Deadline:

None

Abstract:

The Food and Drug Administration is proposing new regulations governing the sale and distribution of nicotine-containing cigarettes and smokeless tobacco products to children and adolescents, in order to address the serious public health problems caused by the use of and addiction to these products. The proposed rule would reduce children's and adolescents' easy access to cigarettes and smokeless tobacco and would significantly decrease the amount of positive imagery that makes these products so appealing to them. The proposed rule would not restrict the use of tobacco products by adults.

The objective of the proposed rule is to meet the goal of the report "Healthy People 2000" by reducing roughly by half children's and adolescents' use of tobacco products. If this objective is not met within 7 years of the date of publication of the final rule, the agency will take additional measures to help achieve the reduction in the use of tobacco products by young people. In the proposed rule, the agency is requesting comment regarding the type of additional measures that would be most effective.

Statement of Need:

Approximately 50 million Americans currently smoke cigarettes and another 6 million use smokeless tobacco products. These tobacco products are responsible for more than 400,000 deaths each year due to cancer, respiratory illnesses, heart disease, and other health problems. On average, smokers who die from a disease caused by smoking have lost 12 to 15 years of life because of tobacco use.

Summary of the Legal Basis:

The FDA has conducted an extensive investigation and has engaged in comprehensive legal analysis regarding the agency's jurisdiction over nicotine-containing cigarettes and smokeless tobacco products. The results of that inquiry and analysis support a finding at this time that nicotine in cigarettes and smokeless tobacco products is a drug, and that these products are drug delivery devices within the meaning to the Food, Drug, and Cosmetic Act. Traditionally, the FDA has initiated enforcement actions in cases where the agency determines that a product is a drug or a delivery device. Because the agency has elected to embark on this initiative through rulemaking, no enforcement action will be brought pending completion of that process.

Alternatives:

FDA is proposing to regulate cigarettes and smokeless tobacco products by employing its restricted device authority, which affords the most appropriate and flexible mechanism for regulating the sale, distribution, and use of these products. Rather than banning tobacco products for the millions of Americans who are currently addicted to them, this regulation focuses on preventing future generations from developing an addiction to nicotine-containing tobacco products.

One alternative considered by the agency was a far more prescriptive monitoring requirement for tobacco manufacturers. Under the alternative, each manufacturer of tobacco products would have been required to adopt a system for monitoring the sales and distributions of retail establishments. The additional cost for this monitoring was estimated at about $85 million per year. FDA rejected this alternative, because it was decided that the industry might employ its resources more efficiently if permitted to choose among alternative compliance modes. It is possible, however, that the industry might implement certain features of this approach in order to avoid the optional performance-based provision that would become effective if the "Healthy People 2000" goals were not met.

A second alternative considered by the agency was to require package inserts containing educational information in cigarette and smokeless tobacco products. A preliminary projection of one-time costs of this rule were about $490 million and annual operating costs of about $54 million. FDA did not select this alternative as the agency was not certain that the benefits of this provision would justify the large compliance costs.

FDA also considered setting the permissible age for purchase at 19 rather than 18, because many 18-year-old adolescents are still in high school, where they can easily purchase tobacco products for classmates. This alternative would have added costs of about $34 million annually, mostly due to lost producer profits. The proposed regulation restricts access to regulated tobacco products for persons under the age of 18, because most adult smokers have already become regular smokers by the age 18, and because that age limit is already consistent with most State and local laws.

The agency also considered restricting rather than prohibiting sales from vending machines. However, studies indicated that measures such as placing locks on vending machines or restricting their placement failed to prevent young people from purchasing cigarettes from vending machines.

Anticipated Costs and Benefits:

To comply with the initial requirements of the rule, FDA projects that manufacturers and retailers of tobacco products would incur one-time costs ranging from $26 to $39 million and annual operating costs of about $227 million. Achieving the "Healthy People 2000" goals, however could demand still further efforts by tobacco manufacturers to restrict youth access to tobacco products. Moreover, FDA plans to propose additional requirements that would become effective only if these goals were not met.

Each year, an estimated 1 million adolescents begin to smoke cigarettes. It is estimated that at least 24% of these youngsters will ultimately die from causes related to their nicotine habit. Other studies suggest even higher rates of excess mortality. As a result, FDA projects that the achievement of the "Healthy People 2000" goals would prevent well over 60,000 early deaths, gaining over 900,000 future life-years for each year's cohort of teenagers who would otherwise begin to smoke. The estimated monetary value of these benefits is projected to total from about $28 to $43 billion per year. In addition, the proposed rule would prevent numerous serious illnesses associated with the use of smokeless tobacco products.

Risks:

Cigarettes kill more Americans each year than acquired immune deficiency syndrome (AIDS), alcohol, car accidents, murders, suicides, illegal drugs, and fires combined. If even only a small fraction of the goals of the "Healthy People 2000" report were achieved, the benefits would be substantial. For example, it is estimated that halting the onset of smoking for only 1/20 of the 1 million adolescents who become new smokers each year would provide annual benefits valued at from $2.9 to $4.3 billion a year.

Timetable:

Action	Date	FR Cite
NPRM	08/11/95	60 FR 41314
NPRM Comment Period Extended to 01/02/96	10/16/95	60 FR 53560
NPRM Comment Period End	11/09/95	
Final Action	00/00/00	
Jurisdictional Analysis		
Notice	08/11/95	(60 FR 41453)

Small Entities Affected:

Businesses

Government Levels Affected:

State

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HHS—FDA

30. • REVOCATION OF CERTAIN REGULATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority:

21 USC 321 to 394; 21 USC 41 to 50; 21 USC 141 to 149; 21 USC 467F; 21 USC 679; 21 USC 821; 21 USC 1034; 42 USC 202; 42 USC 262; 42 USC 263B; 42 USC 264; 15 USC 1451 to 1461; 5 USC 551 to 558; 5 USC 701 to 721; 28 USC 2112

CFR Citation:

21 CFR 100 to 101; 21 CFR 103 to 105; 21 CFR 109; 21 CFR 137; 21 CFR 161; 21 CFR 163; 21 CFR 182; 21 CFR 186; 21 CFR 197; 21 CFR 505; 21 CFR 507 to 508; 21 CFR 601; 21 CFR 620; 21 CFR 630; 21 CFR 640 to 660; ...

Legal Deadline:

None

Abstract:

The Food and Drug Administration (FDA) is proposing to revoke certain regulations that either do not achieve public health goals or do not need to be codified as regulations to do so. These regulations include regulations that are actually statements of policy or guidance, that are duplicative, that

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are obsolete, or that have been made inaccurate by changes in legislation and technology.

FDA is taking this action in response to President Clinton's directive of March 4, 1995, to all Federal agencies to conduct a page-by-page review of their regulations and to eliminate or revise those that are outdated or otherwise in need of reform. As a result of its regulations review, FDA is proposing to eliminate 36 percent of its regulations that it has determined are obsolete or no longer necessary to achieve public health goals (735 pages of which will first require Congressional action). In addition, FDA plans to revise or modify an additional 45 percent of its remaining regulations to ease the burden on regulated industry and the consumer without sacrificing public health protection. For those regulations requiring Congressional permission to eliminate or reform, the Administration is seeking legislation. This proposal contains deletions that can be accomplished administratively. Examples include regulations that refer to substances no longer used in product formulations or to products that are no longer marketed; and regulations that codify product standards that can be more flexibly handled and updated within the context of the review process. FDA is providing a 90-day period for public comment on these proposed deletions.

Statement of Need:

This proposal represents FDA's most recent effort toward achieving for all products under its jurisdiction a set of regulations that is leaner and more clearly focused. By eliminating regulations that are out of date, or duplicative, or that amount to mere statements of policy and guidance, the agency is eliminating the potential for confusion with respect to its requirements.

Summary of the Legal Basis:

FDA's authority to promulgate and withdraw regulations, as stated in the agency's Administrative Practices and Procedures regulations, is grounded in the Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Fair Packaging and Labeling Act.

Alternatives:

One alternative to revoking the regulations that are the subject of this proposal would be to leave them untouched. Inasmuch as these regulations have been identified as either no longer serving useful public health goals, or as not requiring codification as regulations to do so, leaving them intact would amount to allowing them to take up space in the Code of Federal Regulations, which is printed at a cost to taxpayers, for no useful purpose. Another alternative would be to substantially rewrite these regulations in an effort to make them more useful. However, if they could be usefully rewritten, these regulations would not be proposed for deletion.

Anticipated Costs and Benefits:

FDA finds that this proposed rule is neither an economically significant nor significant regulatory action. It would result in no new requirements on regulated industries, but would, in many instances, delete requirements that are no longer meaningful and out of date and that may generate confusion as a result. Information contained in regulations that have been identified as statements of policy or guidance will continue to be available to the regulated industry. The proposed rule raises no new policy issues. Its significance lies in the fact that it is part of a larger effort to streamline, clarify, and reduce the burden on industry and consumers of FDA regulation with no sacrifice in public health protection. The benefit of the proposed regulation is that it would simplify and clarify FDA's regulation in all product areas.

Risks:

FDA is aware of no risk to public health and safety posed by regulations that this proposal would delete. Their deletion would leave in the Code of Federal Regulation a body of regulations that would provide a clearer statement of regulatory requirements that are needed to carry out FDA's mandate.

Timetable:

Action	Date	FR Cite
NPRM	10/13/95	60 FR 53480
NPRM Comment Period End	01/1,1/96	
Final Action	04/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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RIN: 0910–AA54

HHS—FDA

31. • STREAMLINING PROCEDURES FOR CHANGES IN PRODUCTION OF BIOLOGICS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

15 USC 1451 to 1461; 21 USC 321; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360c to 360f; 21 USC 360u to 360j; 21 USC 371; 21 USC 374; 21 USC 379e; 21 USC 381; 42 USC 216; 42 USC 241; 42 USC 262 to 263

CFR Citation:

21 CFR 601

Legal Deadline:

None

Abstract:

The Food and Drug Administration (FDA) is proposing to revise 21 CFR 601.12, which deals with proposed changes in the production of licensed biological products--for example, product labeling, production process, equipment, facilities, and responsible personnel. Currently, licenseholders must obtain FDA preapproval of all such changes through supplements to approved applications. In the proposed revision, FDA sets forth a process that is intended to reduce the burden on licenseholders by reducing the number of supplements submitted for changes and to result in more timely approval of changes in their products. The new process creates different mechanisms for reporting changes, based on their potential to affect adversely the safety, purity, potency, or effectiveness of the product. Proposed procedures for reporting changes in production are:

No supplements to approved applications will be required. Firms would notify FDA of changes and dates of implementation in an annual report.

License holders would notify FDA not less than 30 days prior to implementing a change.

Changes would require FDA approval prior to implementation.

Statement of Need:

The present system has been shown to be burdensome to both licenseholders and to FDA in that licenseholders must submit supplements for every proposed change, and FDA must review them. The present system is also time-consuming--manufacturers may wait from 6 to 12 months for approval of supplements--and unnecessarily rigid. FDA estimates that the proposed system would reduce by 50 percent--from 1,000 to 500--the number of supplements submitted annually for biologics and reviewed by FDA, allowing for more expeditious agency review of supplements that are submitted.

Summary of the Legal Basis:

The Public Health Service Act (42 USC 216 et seq.) and the Federal Food, Drug, and Cosmetic Act (21 USC 321 et seq.) authorize FDA to regulate the distribution of biological products so that the products are safe, pure, potent, and effective. These acts authorize FDA to promulgate regulations designed to ensure that the public is not exposed to biological products that may not be safe, pure, or potent for their intended uses. In order to carry out the public health protection purposes of the FD&C Act, FDA (a) reviews and approves applications for licenses to manufacture biological products; (b) inspects establishments involved in manufacturing activities; and (c) reviews and approves important changes that have the potential to adversely affect the biological product.

Alternatives:

FDA considered two alternatives. The first alternative was allowing license holders to submit summary data and a certification of validation and lack of adverse effect on the product's safety, purity, potency, or efficacy. FDA believes this alternative is appropriate for some changes, but not adequate or sufficient for changes with substantial potential to have an adverse effect.

The second alternative would have required license holders to keep validation data and certification of lack of adverse effect, and allowed them to report changes to FDA in annual report. FDA believes this alternative is appropriate for changes that have only a minimal potential for adverse effect on the product. It is incorporated into the proposed revision for such changes.

Anticipated Costs and Benefits:

FDA is specifically requesting comment and information that can be used to calculate the costs and benefits to licenseholders. In general, the proposed revision is expected to reduce significantly the burden of preparing supplements for proposed changes by eliminating this requirement for a number of changes. The proposed revision will accordingly reduce the number of supplements requiring FDA review and allow for more expeditious handling of supplements that are submitted. Licenseholders are expected to incur no additional costs as a result of the proposal; on the other hand it will allow for more timely implementation of changes by licenseholders--for example, streamlining and updating manufacturing facilities.

Risks:

FDA believes the risks posed by the proposed new reporting system are minimal. In addition to stating in the proposed revision which changes are considered to have substantial, moderate, and minimal potential for adverse effects, FDA will provide thorough supplementary guidance to manufacturers to help assure adequate assessment of the potential for adverse effects.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0910–AA57

HHS—FDA

32. • PROTECTION OF HUMAN SUBJECTS; INFORMED CONSENT

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 321; 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 352; 21 USC 353; 21 USC 355 to 357; 21 USC 360; 21 USC 360c to 360f; 21 USC 360h to 360j; 21 USC 371; 21 USC 379e; 42 USC 216; 42 USC 241; 42 USC 381

CFR Citation:

21 CFR 50; 21 CFR 56; 21 CFR 312; 21 CFR 314; 21 CFR 601; 21 CFR 812; 21 CFR 814

Legal Deadline:

None

Abstract:

The Food and Drug Administration (FDA) is proposing to amend its current informed consent regulations to permit harmonization of FDA and National Institutes of Health (NIH) policies on emergency research, and to reduce confusion as to when such research can proceed without obtaining informed consent. The regulation provides a narrow exception to the requirement for obtaining and documenting informed consent from each human subject prior to initiation of an experimental treatment. The exception would apply to a limited class of research activities involving human subjects who, because of their life-threatening medical condition and the unavailability of legally authorized persons to represent them, are in need of emergency medical intervention and cannot provide legally effective informed consent.

The proposed rule would permit an Institutional Review Board (IRB) to approve an emergency research protocol if the IRB finds and documents that (a) the human subjects will be in a life-threatening situation, available treatments are unproven or unsatisfactory, and the collection of valid scientific evidence is necessary to determine what particular treatment is most beneficial; (b) obtaining informed consent is not feasible; (c) the opportunity for the subjects to participate in the research is in the

interest of the subjects because treatment is required, and the risk is "reasonable" given what is known about the risks and benefits of experimental treatment, the current therapy, and the medical condition; (d) the research could not practically be carried out without the waiver; (e) additional protection of the rights and welfare of the subjects will be provided; and, (f) the IRB has reviewed and approved an informed consent document for use with subjects for whom consent is possible.

The proposed rule provided that, when possible and at the earliest possible opportunity, each subject will be informed about the details of the study and permitted to discontinue participation at any time without penalty. The rule also incorporates additional patient protections, including: FDA review of the protocol; consultation with representatives of the communities from which the subjects will be drawn; public disclosure prior to the study sufficient to describe the study and its risks and benefits; the establishment of an independent data and safety monitoring board; and public disclosure following completion of the study sufficient to apprise the community and researchers of the study and its results.

FDA, in coordination with NIH, developed this proposal because of concerns expressed by the research community and patient advocacy groups that emergency research is at a virtual halt pending a revision of both FDA's informed consent regulations and a waiver of HHS regulations for the protection of research subjects. HHS intends to bring both policies into harmony on this matter at the time this rule is made final.

Statement of Need:

FDA is proposing this action in response to growing concerns that current rules are making high-quality acute care research activities difficult or impossible to carry out at a time when the need for such research is increasingly recognized. There are many conditions, such as heart attacks, closed head wounds, and spinal cord injuries, where current medicine cannot save many of the patients. For example, each year, approximately 350,000 people in the United States suffer a sudden cardiac arrest. Most die, while many others are irreversibly harmed by complications such as brain damage. Given the large number of sudden cardiac arrests annually in the United States alone, even small improvements in care offer enormous life-saving potential. This proposed rule is intended to permit emergency care professionals to conduct appropriately designed clinical trials to validate or discredit current or innovative treatments.

Summary of the Legal Basis:

Sections 505(i), 507(d), and 520(g) of the Federal Food, Drug, and Cosmetic Act direct the Secretary (and, in accordance with section 903 of the act (21 USC 394), FDA) to issue regulations establishing conditions under which investigational use of drugs and devices by qualified experts will be permitted. For drugs (including biological drugs and antibiotics) and devices, the statute specifies that the agency must include among these conditions that the product manufacturer or sponsor require the expert studying the product to obtain informed consent from the subjects or their representatives. The only exceptions from the informed consent requirement for drugs are where the investigators "deem it not feasible or, in their professional judgment, contrary to the best interests" of the subjects (sections 505(i) and 507(d) of the act). The only exceptions from the informed consent requirements for devices are where the investigator determines "there exists a life threatening situation involving the human subject of such testing which necessitates the use of such device and it is not feasible to obtain informed consent from the subject and there is not sufficient time to obtain such consent from his representative" (section 520(g)(3)(D) of the act). In addition, "unless immediate use of the device is required to save the life of the human subject," and there is insufficient time to obtain the concurrence of a licensed physician must concur in the determination. The exceptions to require informed consent are "subject to such conditions as the Secretary may prescribe." The agency has analyzed the provisions of the proposed rule and found that they satisfy all of the statutory criteria of sections 505(i), 507(d), and 520(g) of the act for permitting exceptions to the informed consent requirements for investigational drug and device use.

Alternatives:

FDA considered whether a reinterpretation of its existing regulations would meet the needs of persons in life-threatening situations and the research community. It concluded against such a reinterpretation for a number of reasons, including: it would not make the FDA regulations and the HHS regulations congruent; it would not provide prospective protections to subjects participating in such research; it would be difficult if not impossible to enforce additional safeguards that the agency believes are essential to protect subjects involved in such research activities; and it would not adequately eliminate the confusion that currently exists within the research community as to the standards that must be applied to this research. The sole benefit of a reinterpretation of existing regulations would be to permit this limited class of research to move forward quickly, rather than delaying until a new regulation could be written. The agency has, thus, placed priority on developing this proposed regulation in order to permit the ethical conduct of a limited class of emergency research.

Anticipated Costs and Benefits:

FDA does not believe that this rule will have a significant economic impact on a substantial number of small entities. This is because this proposed rule is a deregulatory action insofar as it will permit research to proceed which could not proceed under existing regulations, and because relatively few research projects will need to meet the requirements of this rule.

By permitting certain controlled clinical trials to be conducted with the involvement of human subjects who are confronted by a life-threatening condition and who are also unable to give informed consent because of that condition, the agency expects to provide individual access to potentially beneficial treatment. The agency also expects that research to result in advancement and improvement of therapies used in emergency medicine situations that currently have poor clinical outcome. As a result of this rule, many individuals confronted by life-threatening situations will benefit immediately. Survival of these individuals may be enhanced by their participation in controlled trials. As described previously, there are many conditions where current medicine cannot save many of the patients. For example, each year, approximately 350,000 people in the United States suffer a sudden cardiac arrest. Even small improvements in emergency medical care offers enormous life-saving potential.

Risks:

Modern trauma care is based on the "golden hour" following acute injury. Most patients who die from injury in the first 24 hours do so from processes set in motion at the time of injury. Because of this, any therapeutic intervention must be begun immediately to interrupt the injury-induced cascade of body reactions that lead to death. There are many conditions, such as heart attacks, closed head wounds, and spinal cord injuries, where current medicine cannot save many of the patients. For example, currently, despite efforts to instill basic life support education, only a small percentage of individuals who suffer sudden out-of-hospital cardiac arrests are resuscitated by bystanders. Few survive to leave the hospital. This percentage may be as low as 1 to 3 percent in some large metropolitan areas, with the best results estimated to be only in the 25 percent range. Given the large number of sudden cardiac arrests annually in the United States alone, even small improvements in care offer enormous life-saving potential.

Timetable:

Action	Date	FR Cite
NPRM	09/21/95	60 FR 49086
NPRM Comment Period End	11/06/95	
Final Action	09/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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RIN: 0910–AA60

HHS—FDA

33. • MEDICAL DEVICE EXEMPTIONS FROM PREMARKET NOTIFICATION

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 351; 21 USC 360; 21 USC 360c; 21 USC 360e; 21 USC 360j; 21 USC 371

CFR Citation:

21 CFR 862; 21 CFR 866; 21 CFR 868; 21 CFR 870; 21 CFR 872; 21 CFR 874; 21 CFR 876; 21 CFR 878; 21 CFR 880; 21 CFR 882; 21 CFR 884; 21 CFR 886; 21 CFR 888; 21 CFR 890; 21 CFR 892

Legal Deadline:

None

Abstract:

The Food and Drug Administration (FDA) regulates some 1,700 types of medical devices and places them in classes, depending on the level of risk they present. Currently, manufacturers of most medical devices are required to submit information to FDA and receive FDA clearance before putting a device on the market, even if the device poses an extremely low risk. FDA has determined that, for devices that pose a low level of risk to patients, review is not necessary to protect the public health, places an unnecessary regulatory burden on device manufacturers, and delays introduction of new devices.

Accordingly, FDA is proceeding, through notice and comment rulemaking, to exempt low-risk medical devices from premarket notification requirements. Of these, 450 types of low-risk devices (such as stethoscopes, hernia supports, and surgical microscopes) have already been exempted. On July 28, 1995, FDA proposed to exempt 12 more types of low-risk devices and, at the same time, to reclassify an additional 112 types of devices as low-risk (Class I) and to exempt them from premarket notification requirements as well. FDA receives some 700 submissions each year for devices in the categories affected by this rulemaking and will be able to redirect resources for the review of these products to more complex products. This final regulation will complete the rulemaking, at which time one-third of all categories of devices will be exempted from premarket notification requirements. Examples of affected devices include arterial blood sampling kits, therapeutic humidifiers for home use, dental floss, and otoscopes for examining the ear.

Statement of Need:

Premarket notification is burdensome to manufacturers of low-risk devices, and review of such notification is time-consuming, delaying marketing of the devices, and represents an inefficient use of FDA resources. Exempting low-risk devices from premarket notification allows new devices to be brought to market more quickly and allows FDA to use its resources to better protect the public health.

Summary of the Legal Basis:

Section 513(d) of the Food, Drug, and Cosmetic Act (21 USC 360d) authorizes FDA to exempt, by regulation, a generic type of class I device from, among other things, the requirement of premarket notification in section 510(k) of the act (21 USC 360K). Pursuant to section 513(e)(1) of the act, based on new information respecting a device, FDA may, upon its own initiative, by regulation change a device's classification and revoke, because of the change in classification, any regulation or requirement in effect with respect to such device under sections 514 or 515 of the act (21 USC 360d or 21 USC 360e).

Alternatives:

The exemption process is an ongoing one, and 450 categories of devices have been exempted so far. This action has reduced burden on manufacturers, allowed FDA resources to be redirected more usefully, and has not been shown to affect public health protection. The alternative to the exemptions and reclassifications included in this regulation would be to do nothing, in effect, and continue to require premarket notification. This has been shown to be burdensome to manufacturers and to make inefficient use of FDA resources without offering meaningful public health protection.

Anticipated Costs and Benefits:

The proposal will not impose any costs on manufacturers, but will relieve them of the burden of submitting premarket notification submissions for certain devices. FDA will also benefit by receiving approximately 700 fewer submissions per year and will be able to redirect its resources to more complex products.

Risks:

In view of the low level of risk presented by these devices, the likelihood of their causing harm or injury to patients is slight. Exemption from premarket notification is not an exemption from any of the other general controls under the act, including current good manufacturing practices. In addition, under the reporting provisions of the Safe

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Medical Devices Act, actual or probable harm to patients and malfunction must be reported to FDA, and thus FDA will be able to monitor these devices and take appropriate remedial action if necessary.

Timetable:

Action	Date	FR Cite
NPRM	07/28/95	60 FR 38902
NPRM Comment Period End	10/11/95	
Final Action	12/00/95	

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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RIN: 0910–AA65

HHS—FDA

FINAL RULE STAGE

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34. FINAL REGULATION TO ESTABLISH PROCEDURES FOR THE SAFE AND SANITARY PROCESSING AND IMPORTING OF FISH AND FISHERY PRODUCTS

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 342 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 21 USC 374 Federal Food, Drug, and Cosmetic Act; 42 USC 264 Public Health Service Act; 21 USC 321; 21 USC 343; 21 USC 346; 21 USC 348; 21 USC 379e; 21 USC 381; 42 USC 241; 42 USC 242l; 42 USC 300u-l; 42 USC 216; 42 USC 243

CFR Citation:

21 CFR 123; 21 CFR 1240

Legal Deadline:

None

Abstract:

The Food and Drug Administration (FDA) is adopting regulations to ensure the safe and sanitary processing and importing of fish and fishery products. These procedures include the monitoring of selected processes in accordance with Hazard Analysis Critical Control Point (HACCP) principles. HACCP is a preventive system of hazard control that can be used by food processors. FDA is adopting these regulations because a system of preventive controls is the most effective and efficient way to ensure that these products are safe.

Statement of Need:

Ensuring the safety of seafood to consumers poses a unique challenge to both the industry that produces it and to regulators. Seafood involves more than 300 highly diverse species from around the world. It is the most perishable of all flesh foods. As stocks of traditionally consumed fish decline, the pressure to find new species increases. Most seafood is still wild caught, the range of possible human food safety hazards includes every hazard in the marine environment as well as those associated with aquaculture. It is essential that those who process seafood for consumers understand the hazards and the controls for those hazards. As a general rule, however, such knowledge is not a prerequisite for doing business. Preventive controls for ensuring safety are not always employed and good sanitation is not always practiced. Preventable illnesses from seafood do occur. Moreover, it is questionable whether the current regulatory system, which was developed for the general food supply, is best suited for the seafood industry. The current system provides the agency with a "snapshot" of conditions at a facility at the moment of the inspection. The reliability of the regulators' assumptions about conditions in the plant during the intervals between inspections creates legitimate concerns about the adequacy of the system. Moreover, the system places an undue burden on the regulator to find problems, rather than placing responsibility on the industry to demonstrate that it understands the human food safety hazards and is employing appropriate controls for those hazards. The HACCP system solves these problems. Processors design preventive controls that are tailored to their products and processes. In accordance with HACCP principles, these controls provide processors with immediate information about whether they are controlling hazards. The records generated by the monitoring of critical control points enable the plant and the regulator to observe key safety operations over time, rather than at a single moment.

Summary of the Legal Basis:

FDA's application of HACCP is intended for the efficient enforcement of sections 402(a)(1) and 402(a)(4) of the Federal Food, Drug, and Cosmetic Act, which applies to products that contain substances that may render the product injurious to health and to processing conditions that are insanitary and that could render a product injurious to health.

Alternatives:

Continuing the current system of highly generalized good manufacturing practices (GMPs) for seafood processors and intermittent inspections based on these GMPs would be less efficient and effective than a HACCP-based system for the reasons stated above. Continuous visual inspection is not a viable alternative. Few hazards associated with seafood are detectable through visual inspection. Moreover, the costs of such a system would likely exceed the nearly half-billion dollar public outlay now required to operate this kind of system for meat and poultry.

Another alternative would be to direct significant additional resources toward greatly increasing the frequency of FDA's inspection of seafood, as well as increasing the agency's sampling, laboratory analysis, and related regulatory activities with respect to seafood. Even if the funds for increased inspection and sampling were available, this approach alone would not be the best way for the agency to spend its resources on protecting the public health because the current form of inspection is inherently less efficient and effective than a HACCP-based inspection. Increased reliance on end-product testing, moreover, would involve a certain amount of inefficiency that would require very large sample sizes to overcome.

Anticipated Costs and Benefits:

Costs, first year, 69 million to 168 million, benefits first year 73-108 million, total discounted costs at 6 percent discounting: 677 million to 1,488 million. Total discounted benefits

at 6 percent: 1,435 million to 2,561 million.

Risks:

If this regulation is not adopted the U.S. industry will lose or be significantly hampered in exporting to the European Union market. In addition an opportunity to adopt an efficient and highly effective means of manufacturing and monitoring the safety of seafood will be lost. Finally, a major opportunity to significantly reduce the number of seafood related illnesses in the United States will also have been lost.

Timetable:

Action	Date	FR Cite
NPRM	01/28/94	59 FR 4142
NPRM Comment Period End	03/29/94	
Final Action	12/00/95	

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

Previously reported under RIN 0905-AD60.

42 USC 264; 42 USC 271

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RIN: 0910–AA10

HHS—FDA

35. PRESCRIPTION DRUG PRODUCT LABELING; MEDICATION GUIDE

Priority:

Other Significant

Legal Authority:

21 USC 321; 21 USC 352; 21 USC 371; 21 USC 355; 42 USC 262

CFR Citation:

21 CFR 201; 21 CFR 208; 21 CFR 314; 21 CFR 600

Legal Deadline:

None

Abstract:

Inadequate access to appropriate patient information is a major cause of inappropriate use of prescription medications, resulting in serious personal injury and related costs to the health care system. The Food and Drug Administration (FDA) believes that it is essential that patients receive information accompanying dispensed prescription drugs. This information needs to be widely distributed and be of sufficient quality to promote the proper use of prescription drugs. Therefore, FDA is proposing performance standards that would define acceptable levels of information distribution and quality, and to assess supplied information according to these standards. In accordance with the Administration's philosophy of fairly assessing a voluntary approach before imposing requirements through regulations, FDA is proposing that this information be disseminated through voluntary private-sector initiatives. Preliminary evidence suggests recent increases in the distribution of privately produced patient medication information with dispensed prescriptions; however, estimated distribution rates indicate that significant numbers of patients still do not receive information with their medications. FDA analyses also indicate that there is a high variablility in the quality of this information. FDA believes that, with greater encouragement and clear objectives, the private sector will substantially improve the quality and distribution of patient information. Therefore, in concert with Healthy People 2000, FDA is proposing that private-sector initiatives meet the goal of distributing useful patient information to 75 percent of individuals receiving new prescriptions by the year 2000 and 95 percent of individuals receiving new prescriptions by the year 2006. FDA is proposing two alternative approaches to help ensure that these goals (performance standards) are achieved. FDA would periodically evaluate and report on achievement of these goals. If the goals are not met in the specified timeframes, FDA would either (a) implement a mandatory comprehensive Medication Guide program, or (b) seek public comment on whether the comprehensive program should be implemented or whether, and what, other steps should be taken to meet patient information goals.

Regardless of the approach chosen, a mandatory Medication Guide program would initially be limited to instances where a product poses a serious and significant public health concern requiring immediate distribution of FDA-approved patient information. FDA believes that substantial health care cost savings can be realized by ensuring that consumers obtain the inherent benefits of proper use of prescription drugs, and by reducing the potential for harm caused by inappropriate drug use by the patient.

Statement of Need:

A fundamental principle of an effective health care system is that patients have a right and responsibility to participate actively in decisions affecting their own health. This requires that patients receive their own information, including information about their medicines. Despite the existence of numerous voluntary programs designed to improve patient knowledge, however, FDA has concluded that the number of consumers who receive patient information with their prescription drug products is unacceptably low. This rule will establish a program of patient information distribution through voluntary programs that is designed to ensure that consumers achieve maximum benefits from the use of prescription drugs and reduce the potential for harm caused by inappropriate patient drug use.

FDA is proposing that useful written information, in nontechnical language that is directed to the patient, be developed by the private sector for dispensing with prescription drug and biological products that are used primarily on an outpatient basis without direct supervision by a health care professional. The patient labeling would inform the patient about the drug product and would include information such as the product's approved uses, contraindications, proper administration, adverse drug reactions, and cautions for specific populations (including pregnant women and children).

Summary of the Legal Basis:

The Federal Food, Drug and Cosmetic Act (21 USC 321 et seq.) authorizes FDA to regulate the marketing of drug products so that the products are safe and effective for their intended uses and are properly labeled. In order to carry out the public health protection purposes of the act, FDA (a) monitors drug manufacturers and distributors to help make certain that drug products are manufactured and distributed under conditions that ensure their identity, strength, quality, and purity; (b)

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approves new drugs for marketing only if they have been shown to be safe and effective; and (c) monitors drug labeling and prescription drug advertising to help ensure that they provide accurate information about drug products.

The act authorizes FDA to promulgate a regulation designed to ensure that patients using prescription drugs will receive information that is material with respect to the consequences which may result from the use of a drug product under its labeled conditions. This interpretation of the act and the agency's authority to require patient labeling for prescription drug products has been previously upheld.

Alternatives:

FDA considered several alternative programs that could meet the objectives of this proposed regulation.

One alternative was to offer patients access to patient labeling through a catalogue or computer data base at the pharmacy or practitioner's office, but not necessarily dispense individual labeling with each product. FDA decided against this alternative because not all patients would be aware of or able to obtain sufficient information about the drug product, and because the information is needed at home where the drug product is consumed.

A second alternative was to provide patient labeling with both new and refill prescriptions. FDA decided against this alternative because of the relatively large economic burden it would place on pharmacists.

Anticipated Costs and Benefits:

FDA has analyzed the economic consequences of the proposed rule and has determined that patient labeling will have associated costs well below the $100 million threshold that defines a significant regulatory action. However, even though the rule is below this threshold, in accordance with Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96-354), FDA has developed a preliminary regulatory impact analysis (PRIA). The PRIA concludes that, even when utilizing very conservative benefit estimates, implementation costs will be more than offset by the health care savings that result from an increase in compliance with prescribed drug therapy, and a decrease in the number of adverse drug reactions.

Risks:

FDA has concluded from a review of the current literature that patient noncompliance with prescribed drug regimens ranges from 30 to 50 percent. Patients who do not comply with prescribed regimens are subject to two types of risks: risk of therapeutic failure and risk of adverse drug reaction or drug interaction with other drugs and foods. Both types of risk are potentially very serious. The seriousness of therapeutic failure depends on the seriousness of the illness being treated, while the effects of drug reaction or interaction may range from mild and transitory to long-lasting and even life-threatening.

Timetable:

Action	Date	FR Cite
NPRM	08/24/95	60 FR 44182
Final Action	06/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

Additional Information:

Previously reported under RIN 0905-AE43.

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RIN: 0910–AA37

HHS—Health Resources and Services Administration (HRSA)

FINAL RULE STAGE

36. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK RULES

Priority:

Other Significant

Legal Authority:

42 USC 1320b-8 sec 1138 of the Social Security Act; 42 USC 274 sec 372 of the Public Health Service Act

CFR Citation:

42 CFR 121

Legal Deadline:

None

Abstract:

Section 1138 of the Social Security Act requires Medicare and Medicaid participating hospitals that perform organ transplants to be members of and abide by the rules and requirements of the Organ Procurement and Transplantation Network (OPTN) as established by section 372 of the Public Health Service Act. Section 1138 also requires that for organ procurement costs attributable to payments to an Organ Procurement Organization (OPO) to be paid by Medicare or Medicaid, the OPO must be a member of and abide by the rules and requirements of the OPTN. No other entity (for example, a histocompatibility laboratory) is required to be a member of or abide by the rules of the OPTN under the provisions of the statute. It is the Department's position that no rule, requirement, policy, or other issuance of the OPTN will be considered to be a "rule or requirement" of the Network within the meaning of section 1138 unless the Secretary has formally approved that rule. The OPTN is currently in operation and these rules will impose no further cost or provide any benefit other than that which now exists.

Statement of Need:

These regulations are required by law.

Summary of the Legal Basis:

Section 1138 of the Social Security Act (42 USC 1320b-8) requires Medicare and Medicaid participating hospitals that perform organ transplants to be members of and abide by the rules and requirements of the Organ Procurement and Transplantation Network (OPTN) as established by section 372 of the Public Health Service Act (42 USC 274).

Alternatives:

The alternative was to continue without codifying existing policies.

Anticipated Costs and Benefits:

There are no anticipated costs beyond the cost of preparing the regulations (approximately $100,000.00). The anticipated benefit is that the regulations will make mandatory adherence to the policies set forth in the regulations.

Risks:

None known.

Timetable:

Action	Date	FR Cite
NPRM	09/08/94	59 FR 46482
NPRM Comment Period End	12/07/94	59 FR 46482
Final Action	03/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

Additional Information:

Previously reported under RIN 0905-AD26.

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RIN: 0906–AA32

HHS—Indian Health Service (IHS)

PROPOSED RULE STAGE

37. REVISION OF INDIAN SELF-DETERMINATION REGULATIONS

Priority:

Other Significant

Legal Authority:

PL 93-638; PL 100-202; PL 100-446; PL 100-472; PL 100-581; PL 101-301; PL 103-413; 25 USC 450

CFR Citation:

42 CFR 36; 48 CFR 380.4; 48 CFR 352.280-4

Legal Deadline:

Final, Statutory, March 1996.

Abstract:

Public Law 93-638, passed in 1975, requires the Indian Health Service (IHS) to turn over administrative responsibility for service delivery programs to tribes so requesting, using the mechanism of contracting. Public Law 93-638 also authorizes the IHS to make grants to tribes for the planning, development, and/or operations of health programs. Public Law 100-472, enacted October 5, 1988, made significant changes to the statute and required that regulations implementing the amendments be promulgated in final within 10 months of enactment. The NPRM was published on January 20, 1994. The 120-day comment period was extended until August 20, 1994. On October 26, 1994, Public Law 103-413 was enacted. These amendments superseded the published NPRM and authorized the Secretaries of Interior and Health and Human Services to publish joint regulations only in specified areas. These regulations would be developed using the negotiated rulemaking procedure and are to be published within 18 months of the passage of the authorizing legislation.

Statement of Need:

In response to the long-standing Indian interest in self-determination, Congress enacted the Indian Self-Determination and Education Assistance Act in 1975. The Indian people have long sought more meaningful participation in the planning, conduct, and administration of their programs and devices. The Act reflects a commitment to preserving the Federal relationship with and responsibility to the Indian people by promoting efforts to transfer the operation of service delivery programs of the Federal Government to Indian tribes. The 1975 Act requires the Indian Health Service (IHS) to contract with Indian tribal organizations for the operation of IHS service delivery programs.

The Act also authorizes IHS to make grants to tribes for the planning, development, and/or operation of Health Programs. On October 5, 1988, Congress amended the Act to expand its coverage and authorize a new nonprocurement contracting process which required revision of existing regulations. The Amendments (Public Law 100-472) provided that the regulations be developed with the participation of and in consultation with Indian tribes and tribal organizations.

Summary of the Legal Basis:

As mentioned above, on October 26, 1994, Public Law 103-413 was enacted. The amendments superseded the published NPRM and authorized the Secretaries of Interior and Health and Human Services to publish joint regulations only in specified areas.

Alternatives:

Public Law 103-413 authorizes the secretaries of Interior and HHS to publish joint regulations in certain specified areas, but does not require publication of any regulation. Regulations are under development using the negotiated rulemaking process. Therefore, the Secretaries and the tribes will jointly determine the nature and extent of the regulations.

Anticipated Costs and Benefits:

No additional costs are associated with this regulation. It is anticipated that Indian tribes and tribal organizations will benefit from having regulations required for "638" contracts and grants in one title of the Code of Federal Regulations.

Risks:

There are no public health risks addressed by this rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected:

None

Government Levels Affected:

Tribal

Additional Information:

Previously reported under RIN 0905-AE68.

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HHS—Health Care Financing Administration (HCFA)

PROPOSED RULE STAGE

38. HOME HEALTH AGENCY (HHA) CONDITIONS OF PARTICIPATION (BPD-819-P)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

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Legal Authority:

42 USC 1302; 42 USC 1395x; 42 USC 1395cc(a); 42 USC 1395hh; 42 USC 1395bbb

CFR Citation:

42 CFR 484

Legal Deadline:

None

Abstract:

This proposed rule would revise home health agency conditions of participation to center on the patient, using outcome-oriented measures. Most of the current HHA conditions of participation have remained unchanged since home health services became a Medicare benefit in 1966. Some limited modifications have been made over the years to comply with legislative changes. As a result, most of the conditions of participation continue to be structure and process oriented. They do not effectively support the mandate of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) to develop a patient-centered, outcome-oriented survey process that focuses on the organization and delivery of quality care services. This proposed rule is part of HCFA's regulatory reform initiative.

Statement of Need:

Most of the current HHA conditions of participation have remained unchanged since home health services became a Medicare benefit in 1966. Some limited modifications have been made over the years to comply with legislative changes. As a result, most of the conditions of participation continue to be structure and process oriented. They do not effectively support the mandate of OBRA '87 to develop a patient-centered, outcome-oriented survey process which focuses on the organization and delivery of quality care services.

Because the existing survey process continues to focus on structure and process measures, the discrepancy between a congressional mandate for outcome-oriented care and the authority for measuring the actual performance capabilities of HHAs in patient care services remains a problem. It presents difficulties for both providers and surveyors in areas of survey/certification, medical review, developing data based performance standards for HHA management and monitoring, and implementing a continuous quality improvement system for outcomes of care.

Regulations containing the Medicare HHA conditions of participation must be revised in order to provide a regulatory basis for a patient-centered, outcome-oriented system of home health quality assurance. The implementation of such a system will enhance Medicare's ability to ensure that high-quality care is furnished to the patients of Medicare-certified home health agencies. The Social Security Act authorizes us to regulate this area and no improvements in the survey process can be made without underlying regulatory authority.

The Health Care Financing Administration has already met with a variety of provider and consumer representatives to discuss the development of revised standards. Representatives of consumers, providers, and States participated in this effort. Additional consultations are ongoing and will continue during the development of the regulation.

Alternatives:

Congress has mandated the implementation of an outcome-oriented quality assurance system for home health. Therefore, the Medicare home health agency conditions of participation must be revised to provide the basis for implementation of such a system.

Because of this mandate, no alternatives to this action have been considered.

Anticipated Costs and Benefits:

The primary benefit of this rule will be the implementation of a more effective, efficient, and patient-centered system of quality assurance for HHAs. Costs and benefits associated with the implementation of the rule have not yet been estimated, but costs should not be significant.

Risks:

This rule would have the potential for reducing risks to patient health and safety. No quantitative estimates are available yet.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

Undetermined

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RIN: 0938–AG81

HHS—HCFA

39. END-STAGE RENAL DISEASE (ESRD) CONDITIONS OF COVERAGE (BPD-818-P)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1395rr

CFR Citation:

42 CFR 405

Legal Deadline:

None

Abstract:

This proposed rule would revise current conditions of coverage for end-stage renal disease (ESRD) services covered by Medicare. It would update the conditions to reflect new developments in outcome-oriented standards technology and equipment, emphasize the total patient experience with dialysis and develop performance expectations for the facility that result in quality, comprehensive care for the dialysis patient. This rule is part of HCFA's regulatory reform initiative.

Statement of Need:

Section 1881(b)(1) of the Social Security Act stipulates that payment is made to individuals, providers of services, and renal dialysis facilities that meet the requirements for institutional dialysis services and supplies that are determined by the Secretary. These requirements are the end-stage renal disease (ESRD) conditions of coverage.

The ESRD conditions-of-coverage regulations have not been comprehensively revised since the regulation's inception in the late 1970s.

The current regulations are written in an outdated style that primarily focuses on process-oriented requirements, which are unnecessarily burdensome. They do not provide adequate support for a modern survey system based on an outcome-oriented approach. As a result, revised regulations must be issued to bring the ESRD coverage conditions up to current standards of practice in the ESRD community. The revised regulations must reflect new developments in technology and equipment, as well as addressing the outcome-oriented standards process.

The regulations need to be revised to reflect the innovations in the dialysis and transplant community. The purpose of revising the regulations is to focus on the patient and the results of the care provided to the patient. Thus, the emphasis should be on the total patient experience with dialysis and quality improvement. The revised regulations should focus on patient-centered, outcome-oriented standards where appropriate. In addition, they should emphasize patient functional well-being and indicate continuous quality improvement. Patient rights and satisfaction will also be key areas in the regulation. The revised regulations would develop performance expectations for the facility that would result in quality, comprehensive care for the dialysis patient.

The Health Care Financing Administration held an industry meeting to discuss the focus of the conditions of coverage revision. Additional discussions with the ESRD community will occur during the regulations process.

Alternatives:

In the past, HCFA has revised portions of the ESRD regulations. However, it was determined that a complete and thorough revision would be a more effective mechanism for developing a comprehensive approach to quality care for the dialysis patient. In addition, this approach provides the regulation with greater potential for future application. Another option is to update the current regulations and maintain the process-oriented standards without developing an outcome-oriented approach. However, we believe it is important now to move forward with the outcome-oriented approach.

Anticipated Costs and Benefits:

The purpose of this final rule is to ensure that ESRD beneficiaries are receiving quality care in both the areas of dialysis and transplantation. We believe that this regulation is a necessary step to ensure that all facilities are using the most effective technology and equipment. The primary benefit of updating the conditions of coverage is the development of performance expectations for the facility that will result in the comprehensive, integrated care and outcomes the patient needs and wants. As a result, the beneficiaries will receive an improved quality of care. In addition, the revised regulations will address the issue of adequacy of dialysis, and this would have a significant impact on ensuring that patients are not being underdialyzed.

Items that have the potential to affect the cost of the ESRD program include data gathering and infection control. However, at this time the cost or savings to the Medicare program are speculative.

Risks:

If the ESRD regulations are not updated, the regulations will not reflect new developments in technology and equipment, thereby denying the improved protections to patients' health care that would result from this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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RIN: 0938–AG82

HHS—HCFA

40. CATEGORIZATION AND CERTIFICATION REQUIREMENTS FOR A NEW SUBCATEGORY OF MODERATE COMPLEXITY TESTING (HSQ-222-P)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 263a

CFR Citation:

42 CFR 493.2; 42 CFR 493.3; 42 CFR 493.5; 42 CFR 493.18; 42 CFR 493.20; 42 CFR 493.21; 42 CFR 493.25; 42 CFR 493.43; 42 CFR 493.45; 42 CFR 493.48; 42 CFR 493.49; 42 CFR 493.51; 42 CFR 493.53; 42 CFR 493.638

Legal Deadline:

None

Abstract:

This rule would develop criteria for simple and easy-to-use test systems that have demonstrated accuracy and precision through scientific studies. It would waive the routine 2-year survey of users of accurate and precise technology (APT) tests, conducting surveys only if there are indications of problems or complaints. A small number of surveys would be conducted to validate the criteria for determining APT and to assure quality.

Statement of Need:

This rule would add a subcategory of moderate complexity tests called "accurate and precise technology" (APT) tests that clinical laboratories may perform under the CLIA program. These tests would have to meet less stringent requirements because they will have demonstrated accuracy and precision through scientific studies evaluated by the Centers for Disease Control and Prevention. The purpose of adding this subcategory is to provide regulatory relief to laboratories that perform testing using methodologies that have been determined to be precise and accurate.

Summary of the Legal Basis:

The proposal, based on consultation and in response to public comments, establishes less stringent regulatory requirements for tests that have demonstrated accuracy and precision through scientific studies.

Alternatives:

Laboratories would have to meet the requirements applicable to moderate complexity testing, incurring expenses for personnel, paperwork, and routine biennial inspections. Continual regulatory updates would be required

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to reflect innovative technological advances. The performance standards currently in place would potentially limit technology.

Anticipated Costs and Benefits:

This rule creates incentives for manufacturers to develop more reliable testing equipment by stimulating demand for accurate and precise technological testing systems. It reduces paperwork and costs for providers, especially for physician office laboratories, as well as reducing costs of program management. It includes specific requirements for the test system manufacturer or producer to include instructions to laboratories for meeting the CLIA requirements, thus lessening operating requirements, supervisory staff qualifications, and the need for routine survey activities.

Risks:

Less oversight reduces assurance that users are following manufacturers instructions and producing reliable results. Technology may not perform as reliably as expected in all workplace settings. Test systems may not perform as expected in different users' hands. Specimen procurement and handling may affect the reliability of testing. We expect no clinically meaningful change in test accuracy, or patient health, from this proposal.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	60 FR 47982
NPRM Comment Period End	11/14/95	
Final Action	00/00/00	

Small Entities Affected:

None

Government Levels Affected:

None

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RIN: 0938–AG98

HHS—HCFA

41. CLIA PROGRAM: CATEGORIZATION OF WAIVED TESTS (HSQ-225-P)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 263a

CFR Citation:

42 CFR 493.2; 42 CFR 493.7; 42 CFR 493.9; 42 CFR 493.15; 42 CFR 493.20; 42 CFR 493.25; 42 CFR 493.35; 42 CFR 493.37; 42 CFR 493.39; 42 CFR 493.45; 42 CFR 493.47; 42 CFR 493.49; 42 CFR 493.53; 42 CFR 493.1775

Legal Deadline:

None

Abstract:

This rule would revise our current process of evaluating tests against generic criteria. A waiver would be granted to any test that meets the statutory criteria, provided that scientifically valid data were submitted verifying that the criteria were met.

Statement of Need:

This proposed regulation would clarify and expand the waiver criteria and streamline the waiver process so that more tests may be categorized as waived; that is, free from CLIA performance and personnel requirements. CLIA requirements would also be waived for tests approved for home use by the Food and Drug Administration.

Summary of the Legal Basis:

The Clinical Laboratory Improvement Advisory Committee (CLIAC) was established to advise and make recommendations on technical and scientific aspects of the regulations. The CLIAC recommended that the criteria for categorizing tests as waived be better defined. As a result of the comments concerning waived tests and the CLIAC recommendations, the Centers for Disease Control and Prevention developed criteria for placing tests in the waived category as outlined in this proposal.

Alternatives:

Performance standards based on current analysis specific criteria would have limited technology and impeded innovative ideas.

Anticipated Costs and Benefits:

This regulation decreases burden, especially for physician office laboratories due to virtually no regulatory oversight. It increases access to a greater variety of tests. Physician office laboratories may expand the range of tests they perform without an increase in costs/burden. The regulation creates incentives for manufacturers to develop more test systems that meet the clarified waiver criteria and criteria for approval for home use. It eliminates inspection fees for many of the 60,000 physician offices and other small laboratories performing tests that will fall into the expanded waived category.

Risks:

The proposed expansion of the waived criteria and development of a process protocol would provide for consistent application of detailed standards in order to ensure that tests categorized as waived preclude any reasonable risk of harm to patient as a result of testing error.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47534
NPRM Comment Period End	11/13/95	60 FR 47534
Final Action	00/00/00	

Small Entities Affected:

None

Government Levels Affected:

None

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RIN: 0938–AG99

HHS—HCFA

42. • CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 1997 RATES (BPD-847-P)

Priority:

Other Significant

Legal Authority:

42 USC 1395ww

CFR Citation:

42 CFR 412; 42 CFR 413

Legal Deadline:

NPRM, Statutory, May 1, 1996. Final, Statutory, September 1, 1996.

Abstract:

Medicare pays for hospital inpatient services under a prospective payment system (PPS) in which payment is made at a predetermined specific rate for the operating and capital-related costs associated with each discharge. These rules will announce the prospective payment rates for operating and capital-related costs for FY 1997. We will also revise the Medicare hospital inpatient prospective payment systems for operating costs and capital-related costs to implement necessary changes arising from our continuing experience with the system. In addition, we will set forth rate-of-increase limits as well as policy changes for hospitals and hospital units excluded from the prospective payment systems. These changes are applicable to discharges occurring on or after October 1, 1996.

Statement of Need:

Section 1886(e)(5) of the Social Security Act requires the Secretary to publish a proposed notice of prospective payment system policies and payment rates in the **Federal Register** by May 1 and a final rule by September 1.

Summary of the Legal Basis:

As noted above, publication of proposed and final rules concerning hospital PPS policies and payment rates is required by law. The statute sets forth several specific requirements concerning what must be included in the PPS proposed and final rules. (See sections 1886(b)(3)(B), 1886(d)(1)(A), 1886(d)(2)(H), 1886(d)(3)(A), 1886(d)(3)(E), 1886(d)(4)(C), 1886(e)(4), 1886(e)(5), and 1886(g)(1)(A) of the Act.)

Alternatives:

Publication of these rules is not discretionary. Thus, no alternatives exist.

Anticipated Costs and Benefits:

We are unable to estimate at this time the costs and benefits associated with these rules.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

State, Federal

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RIN: 0938–AH34

HHS—HCFA

FINAL RULE STAGE

43. MEDICARE, MEDICAID, AND CLIA PROGRAMS: REGULATIONS IMPLEMENTING THE CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988 (CLIA '88) (HSQ-226-F)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 263a

CFR Citation:

42 CFR 493

Legal Deadline:

None

Abstract:

Historically the Department regulated by "location," rather than by the types of tests they performed. CLIA changes this approach. CLIA requires that the Department "regulated by test," using what is commonly referred to as the "complexity model." A final rule with comment period was published February 28, 1992, that set forth standards for all laboratories, based on complexity, and responded to public comments on the proposed standards. The regulation was revised by rules with comment period published on January 19, 1993, December 6, 1994, and April 24, 1995. A final rule, which will respond to these public comments, will be issued.

Statement of Need:

On October 31, 1988, the Congress enacted comprehensive changes to existing laboratory regulations in CLIA. This statute requires the regulation of any facility (including physician offices) that performs tests on human beings for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings. Historically, the Department had regulated laboratories by "location," rather than by the types of tests they performed. CLIA requires that the Department regulate by test, using what is commonly referred to as the "complexity model" to categorize individual laboratory tests based on the experience, skills, and judgment required to perform each test accurately. Requirements vary as a function of the complexity of the tests the laboratory conducts.

The law requires the Secretary to implement the numerous provisions through regulation to ensure the quality of laboratory testing, regardless of where it is provided or who is providing the testing. The law also requires the CLIA program be operated through the assessment of user fees paid by entities subject to these requirements.

On May 21, 1990, the Department published proposed rules to implement CLIA and received public comments from over 60,000 commenters. Based on any analysis of these comments, the Public Health Service (PHS) with the Health Care Financing Administration (HCFA) developed a final rule with comment period that set forth standards for all entities performing laboratory testing based on test complexity. This rule was published on February 28,

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1992, and was effective September 1, 1992. This regulation was revised by regulations with comment period published on January 19, 1993, December 6, 1994, and April 24, 1995.

Issues that will be addressed in this rule include quality control, quality assurance, personnel standards, cytology requirements; proficiency testing (PT) requirements; employee workplace drug testing; and other issues raised by commenters and experience with implementation.

With respect to PT requirements, it is important to note that the July 1995 report of the President and Vice President on Reinventing Health Care Regulations indicated that we will use PT "failures" for education and as an outcome indicator in laboratory quality. (PT is testing samples of known values to assess the accuracy of a laboratory's results.) Sanctions (for example, loss of Medicare payment or loss of approval to do testing) are imposed only in cases of immediate jeopardy or when the laboratory has refused to correct the problem or has had repeated failures on PT. This final rule with comment period will provide clarification on this issue.

The Clinical Laboratory Improvement Advisory Committee (CLIAC), which is composed of members of professional organizations and private citizens, is actively involved in making recommendations regarding technical and scientific aspects of the regulations. In addition, we actively solicit comments from outside organizations such as the American Medical Association, the Association of State and Territorial Public Health Laboratory Directors, and other professional and medical organizations regarding the interpretive guidelines for surveyors.

Summary of the Legal Basis:

This rule summarizes and responds to CLIAC recommendations and public comments to four previously published CLIA regulations.

Alternatives:

HHS is currently developing a final rule that will address comments received on the final rule with comment period published February 28, 1992, and further comments received in response to the January 19, 1993, December 6, 1994, and April 24, 1995 notices with comment period. Based on these comments, modifications to improve the cost-effectiveness of the CLIA standards are under consideration.

Anticipated Costs and Benefits:

It is not possible to project costs and benefits of the omnibus rule at this time. These regulations serve to ensure consistent, reliable laboratory testing which is an integral part of ensuring that individuals receive appropriate treatment.

Risks:

Inferior and inappropriate laboratory testing can result in misdiagnosis causing patient harm. CLIA reduces the potential for inaccurate diagnosis resulting from poorly performed laboratory testing since entities must meet requirements (e.g., quality assurance, proficiency testing, quality control, personnel requirements) which have a direct impact on laboratory testing results. Overly stringent standards could, however, discourage needed testing and reduce early detection of health problems. The Department does not at this time have an estimate of the magnitude and severity of these types of risks, but believes that both the original regulations and the revisions will on balance contribute to better diagnosis.

Timetable:

Action	Date	FR Cite
NPRM	05/21/90	55 FR 20896
NPRM Comment Period End	09/21/90	55 FR 34289
Final Rule With Comment Period	02/28/92	57 FR 7002
Comment Period End	04/28/92	
Effective Date	09/01/92	
Effective Date	01/19/93	58 FR 5215
Final Rule With Comment Period	01/19/93	58 FR 5215
Comment Period End	03/22/93	58 FR 6215
Final Action	06/00/95	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

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RIN: 0938–AE47

HHS—HCFA

44. REVISION OF MEDICARE HOSPITAL CONDITIONS OF PARTICIPATION (BPD-745-P)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1395x; 42 USC 1302; 42 USC 1395(cc); 42 USC 1395(hh)

CFR Citation:

42 CFR 482

Legal Deadline:

None

Abstract:

This proposed rule would revise the requirements that hospitals must meet to participate in the Medicare and Medicaid programs. The revised requirements focus on patient care and the outcomes of that care, reflect a cross-functional view of patient treatment, encourage flexibility in meeting quality standards, and eliminate unnecessary procedural requirements. These changes are necessary to reflect advances in health care practices since the requirements were last revised in 1986. This regulation is part of the Administration's Reinventing Government and regulatory reform initiatives.

Statement of Need:

The purpose of the hospital conditions of participation is to protect patient health and safety and help assure that quality care is furnished to all hospital patients. Hospitals must meet the conditions of participation in order to participate in Medicare or Medicaid. Revised conditions are necessary to ensure that our regulations focus primarily on the actual quality of care furnished to patients, and the outcomes of that care, rather than on procedural compliance. These changes are intended to give hospitals the flexibility needed to achieve high-quality outcomes in the most cost-effective manner.

In addition, the regulations are intended to promote a cross-functional, interdisciplinary approach to hospital performance, instead of an approach

geared towards evaluating each department of a hospital as a stand-alone entity. This approach is in line with current best practices in hospitals, in which patients routinely encounter many caregivers and services that often cut across department lines.

Summary of the Legal Basis:

Section 1961(e) of the Social Security Act (the Act) provides that a hospital participating in the Medicare program must meet certain specified requirements. In addition, section 19861(e)(9) of the Act specifies that a hospital also must meet such requirements that the Secretary finds are necessary in the interest of the health and safety of the hospital's patients. Under this authority, the Secretary has established in regulations the requirements that a hospital must meet to participate in Medicare. These requirements are set forth in regulations at 42 CFR Part 482, Conditions of Participation for Hospitals. Section 1905(a) of the Act provides that Medicaid payments may be applied to hospital services. Under regulations at 42 CFR 440.10(a)(3)(iii), hospitals generally are required to meet the Medicare conditions of participation in order to participate in Medicaid.

Alternatives:

HCFA considered the possibility of revising individual sections of the current hospital regulations. However, we determined that the best means of achieving the systematic changes needed in the regulations was to revise the hospital conditions in their entirety. The specific areas that are likely to form the core of the revised requirements include patient rights, patient assessment, patient care, quality assessment and improvement, and information management.

Anticipated Costs and Benefits:

There would not be significant costs associated with this proposed rule. The benefits that would be derived from the rule are discussed in the Need section, above.

Risks:

By revising these regulations to focus on the quality of the actual care given to an individual and the effectiveness of that care for the individual patient, we hope to reduce risks to beneficiaries' health and safety. Revised procedures can better focus on ensuring that the care being given to a patient is the care that is actually necessary and effective for that patient. No quantitative estimates of risk reductions are available yet.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	08/19/95	60 FR 48417
Final Action Effective	11/01/95	
NPRM	01/00/96	
Final Action	09/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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RIN: 0938–AG79

HHS—HCFA

45. MEDICARE PROGRAM: REVISIONS TO PAYMENT POLICIES AND ADJUSTMENTS TO THE RELATIVE VALUE UNITS (RVUS) UNDER THE PHYSICIAN FEE SCHEDULE FOR CALENDAR YEAR 1996 (BPD-827-FC)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1395w-4

CFR Citation:

42 CFR 400; 42 CFR 405; 42 CFR 410; 42 CFR 411; 42 CFR 412; 42 CFR 413; 42 CFR 414; 42 CFR 415; 42 CFR 417; 42 CFR 489

Legal Deadline:

Final, Statutory, January 1, 1996.

Abstract:

This final rule with comment period revises various payment policies for specific physician services and the relative value units (RVUs) for certain existing procedure codes, effective January 1, 1996. It also establishes interim RVUs for new and revised procedure codes. The rule implements section 1848 of the Social Security Act.

Statement of Need:

The Omnibus Budget Reconciliation Act (OBRA) of 1989 changed the basis of the Medicare Physician payment system from reasonable charge to a fee schedule based on relative value units (RVUs). The fee schedule was first implemented in 1992. This document will announce the RVUs upon which Medicare payment for physician services will be based in 1996, including interim RVUs for procedure codes that are new or revised for 1996. The public was given a 60-day period to comment on the interim values. It will also explain the process by which the interim RVUs were reviewed and, in some cases, revised as a result of public comments.

After 3 full years of experience with the physician fee schedule, we have reevaluated several payment policies related to it. Proposed revisions to these policies were announced in a notice of proposed rulemaking on July 26, 1995. This final rule will respond to the public comments received on those proposals and announces the final policy decisions. Thus, it will discuss changes in payment for the services of teaching physicians, limiting payment for interpretation of electrocardiograms and x-rays taken in the emergency room, making budget neutrality adjustments on the conversion factor rather than the RVUs, and changes in the calculation of the multiple volume performance standard (MVPS). It will also announce final decisions regarding the extension of the site-of-service payment differential to ambulatory surgical centers, prohibition of separate payment for the transportation of diagnostic equipment to a patient, expansion of the definition of "diagnostic" mammography, and a variety of bundled services.

This document also discusses the process for periodic review and adjustment of all RVUs. In this regard, we have and will continue to work with the physician community through the American Medical Association Specialty Society Relative Value Update Committee.

Alternatives:

An alternative to this notice would be to continue to base payments on 1995 RVUs. This would continue inappropriate payments for certain services and would not allow a national basis for paying for new services. By

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not revising the payment policies described in this notice, we would continue inadequate or inequitable payments for certain physician services.

Anticipated Costs and Benefits:

Section 1848(c)(2)(B) of the Social Security Act requires that adjustments to RVUs for a year may not cause the amount of expenditures to differ by more than $20 million from the amount of expenditures if the adjustments had not been made. In general, the payment policies and other revisions included in this notice will be implemented in a budget-neutral manner. Thus, total Medicare expenditures will not be increased or decreased as a result of most of these changes.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	07/26/95	60 FR 38400
Final Rule With Comment Period	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

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RIN: 0938–AG96

HHS—HCFA

46. • CRITERIA AND PROCEDURES FOR EXTENDING COVERAGE TO CERTAIN DEVICES AND RELATED SERVICES (BPD-841-FC)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1395y(a)(1)(A)

CFR Citation:

42 CFR 405; 42 CFR 411

Legal Deadline:

None

Abstract:

This final rule establishes in regulations that certain medical devices with an investigational device exemption (IDE) approved by the Food and Drug Administration (FDA) may be covered under Medicare. Specifically, it sets forth the process by which the FDA will assist HCFA in identifying nonexperimental investigational devices that may be potentially covered under Medicare. It is intended to provide Medicare beneficiaries with greater access to advances in medical technology.

Statement of Need:

In his National Performance Review, Vice President Gore directed the health agencies of the Department of Health and Human Services (HHS) to review their policies and processes to determine which requirements could be reduced or eliminated without lowering health and safety standards. In accordance with this directive, FDA reviewed its current regulatory approval processes and HCFA reviewed its Medicare coverage policies for medical devices that have not received full FDA approval.

The Medicare program has historically interpreted the statutory terms "reasonable and necessary" to mean that a service or medical device must be safe and effective, medically necessary and appropriate, and not experimental, in order to qualify for reimbursement. For Medicare coverage proposes, the term *experimental* has been used synonymously with the term *investigational*. Therefore, an approved investigational device exemption (IDE) application served as an indication that the device was not "reasonable and necessary" within the meaning of the Medicare program. Under this policy, Medicare coverage was denied for devices that require, but have yet to receive, 510(k) clearance and those that have received an IDE but have not received premarket approval (PMA).

There is increasing recognition that there are devices which are refinements of existing technologies or replications of existing technologies by other manufacturers. Many of these devices are placed within the IDE category as a means of gathering the scientific information necessary for FDA to establish the safety and effectiveness of the particular device, even though there is scientific evidence that the type of device can be safe and effective. Arguably, these devices could be viewed as "reasonable and necessary" by Medicare and recognized for payment if it were possible to identify them in the FDA's process.

Accordingly, FDA and HCFA are developing a revised policy to meet the needs of Medicare beneficiaries. The purpose of this effort is to determine if it is feasible to expand Medicare coverage to include certain medical devices that have not yet received FDA marketing approval/clearance without compromising the safety of medical care provided to Medicare beneficiaries. The intent is to devise ways to assure Medicare beneficiaries greater access to advances in proven medical technology, to encourage clinical researchers to conduct high-quality studies, and to clarify Medicare coverage of reasonable and necessary medical services during clinical trials for investigational devices.

Anticipated Costs and Benefits:

In most instances, payment for devices covered as a result of this regulation will be held to the level of the most similar approved device. However, it is possible that some beneficiaries may be better suited to the newly covered device, resulting in some additional claims. Program costs associated with any new claims are estimated at $7 million for fiscal year 1996, rising to $9 million in fiscal year 2000.

Risks:

The anticipated policy will make more effective medical devices available sooner without exosing clients to additional risks.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	08/19/95	60 FR 48417
Comment Period End	10/20/95	
Effective Date	11/01/95	
Final Action	09/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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HHS—Administration for Children and Families (ACF)

PROPOSED RULE STAGE

47. QUALITY STANDARDS FOR HEAD START PROGRAMS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 9801

CFR Citation:

45 CFR 1301; 45 CFR 1304; 45 CFR 1309

Legal Deadline:

NPRM, Statutory, May 18, 1995.

Legal deadline only pertains to performance standards.

Abstract:

The NPRM will establish performance standards with respect to services provided to children 0 to 5 years old by Head Start Programs, including health, education, parent involvement, nutritional, social, and transitional services, administrative and financial management standards and standards relating to the condition and location of facilities used to carry out Head Start activities.

Statement of Need:

This regulation responds to the Administration's commitment to re-engineer the Head Start program in terms of quality improvement and capacity expansion and incorporates the Head Start Amendments of 1994 provision authorizing a new program of comprehensive, developmental services for low-income families with infants and toddlers. The statute requires the Department of Health and Human Services to publish performance standards governing the projects to be funded under this authority.

Summary of the Legal Basis:

Section 112, Title I (the Head Start Act Amendments of 1994) of the Human Resource Amendments of 1994.

Alternatives:

These rules are required by statutory mandate. To the extent that there is flexibility in regulating specific provisions, all reasonable alternatives were considered by the Administration for Children, Youth and Families prior to the promulgation.

Anticipated Costs and Benefits:

Any costs associated with this regulation are the result of legislation and therefore are reflected in the President's budget.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected:

Governmental Jurisdictions, Organizations

Government Levels Affected:

Local, Tribal

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Statement of Regulatory Priorities

The Mission of HUD

More than any other Federal agency, the Department of Housing and Urban Development (HUD) is defined by its relationship with communities across the Nation. Everything HUD does—enhancing homeownership opportunities, providing rental assistance to low-income families, expanding the supply of affordable housing, substantially reducing racial barriers to residential mobility, stimulating neighborhood economic activity—is geared towards supporting the development and maintenance of healthy, thriving communities of opportunity. This is why Secretary Henry G. Cisneros has defined HUD's central mission as "Helping People Create Communities of Opportunity."

Upon assuming the leadership of HUD in 1993, Secretary Cisneros made reinvention of HUD one of his first priorities. HUD's reinvention efforts took place in the context of President Clinton's governmentwide reinvention process, the National Performance Review (NPR), under the leadership of Vice President Gore. Secretary Cisneros recognized, as did NPR, that for HUD to fulfill its mission successfully, restructuring of HUD was necessary—restructuring of HUD's organization and its programs.

HUD's Regulatory Plan for fiscal year 1996 reflects HUD's commitment to its mission and also its commitment to reinvention. HUD is intent on moving away from overly bureaucratic, top-down approaches that tell communities what they need and how they should go about solving their problems. The new HUD believes that decisionmakers at the neighborhood, local, and State levels should have maximum flexibility to design and utilize Federal resources to solve problems and promote economic growth, consistent with national objectives.

The Transformation to a New HUD

Through its reinvention process, HUD established the framework for (a) assessing the Department's internal organization; (b) determining whether legislation, operating procedures, and regulations contribute to the achievement of HUD's purposes or impede it; and (c) defining results-oriented performance standards against which HUD policies and programs could be judged and the work of HUD's offices and employees could be evaluated. The overall objective of the reinvention process was to fundamentally transform HUD from an agency driven by numerous, individual, uncoordinated programs administered in isolation from each other; unnecessary procedures; and layers of regulations into an agency that is a responsive, problem-solving deliverer of affordable housing, and of community and economic development resources.

HUD determined that one of the first steps it needed to take in its transformation from the old HUD to the new HUD was the consolidation and streamlining of funding programs. HUD recognized that its effectiveness had been diminished by the proliferation of dozens of separate, albeit similar, funding programs. By allocating funds through many separate programs, HUD had undercut the incentive for States and local governments to engage in coordinated strategic planning. Consolidation of HUD funding programs would eliminate the fragmented delivery system of assistance that operates inefficiently and, at times, ineffectively. With fewer programs to administer, it would be possible to consolidate HUD's operational and administrative support functions to produce economies of scale and more efficient program administration.

The American Community Partnerships Act—HUD's Legislative Reinvention Proposal

On May 1, 1995, HUD took a major step forward in the reinvention of HUD. On that date, HUD submitted proposed legislation, the "American Community Partnerships Act," to the Congress. The American Community Partnerships Act proposes to streamline the delivery of housing and community development assistance to individuals and communities, and maximize the use of scarce Federal resources, by:

- Providing greater flexibility for State and local officials in deciding how to address locally identified needs;
- Providing individual choice for those in need of housing assistance, including the use of certificates for homeownership, while stressing the primacy of work and personal development; and
- Increasing homeownership rates through a new Federal Housing Corporation that is better equipped to serve low- and moderate-income homebuyers and that is in step with modern banking practices and services.

The American Community Partnerships Act also proposes to consolidate 60 separate programs into three performance-based funds: the Community Opportunity Fund, the Affordable Housing Fund, and the Housing Certificates Fund. These three funds will give communities the resources to address locally identified problems, free from the layers of Federal regulations and approvals that have characterized the scores of active HUD programs now on the books.

In addition to the three performance-based funds, the legislation proposes to provide the mechanisms to further reduce homelessness and transform public housing, Native American housing, and the Federal Housing Administration (FHA).

While this legislation is under consideration, HUD is continuing to work on consolidating and streamlining its programs through the regulatory process in an effort to achieve the objectives of the American Community Partnerships Act, to the extent possible given statutory parameters and barriers.

Regulatory Reinvention

A key component of HUD's reinvention has been reinvention of HUD's regulatory process and its approach to rulemaking. Reinvention of HUD's rulemaking operations was at the forefront of HUD's reinvention efforts launched in 1993.

At the foundation of HUD's reform of its regulatory process is Executive Order 12866 (Regulatory Planning and Review), issued by President Clinton on September 30, 1993. This order directs agencies to explore regulatory alternatives and, if regulations are determined to be necessary, to select approaches that maximize net benefits and involve enhanced public accessibility to and participation in the rulemaking process.

Under the leadership of Secretary Cisneros, public participation in HUD's rulemaking process has increased substantially. Consistent with Executive Order 12866, HUD has involved its program partners and the ultimate beneficiaries of HUD programs in the early stages of the rule development process by inviting them to participate as working groups and to share ideas about the issues to be addressed in a rule. HUD has also increased public participation in the rule development process through greater use of public meetings—both at the pre- and post-publication stages of a proposed rule. In addition to increasing public participation, HUD streamlined its internal process for development of regulations and began the process of streamlining rules and program requirements to make the programs operate more effectively and efficiently.

HUD's regulatory reinvention process gained momentum under President Clinton's regulatory reform initiatives. On March 4, 1995, the President issued a directive to all Federal departments and agencies to focus on the following four steps as part of the Administration's ongoing regulatory reform initiative: (a) cut obsolete regulations; (b) reward results, not red tape; (c) get out of Washington and create grassroots partnership; and (d) negotiate, don't dictate (provide for increased use of negotiated rulemaking). Through HUD's own reinvention efforts, begun in 1993 and following the guidance provided in Executive Order 12866, each one of these regulatory reform initiatives had already been implemented in varying degrees.

HUD's efforts to create grassroots partnerships began in early 1994, and HUD's successes in forming such partnerships across the country and the accomplishments of these partnerships were described in HUD's June 15, 1995, Summary Report to President Clinton on the President's Regulatory Reform Initiatives. HUD's successful efforts to involve the public in its rulemaking process were also described in the June 15, 1995, report, as well as in HUD's Regulatory Plan for fiscal year 1995, published in the **Federal Register** on November 14, 1994.

Although under Executive Order 12866 HUD had begun a review of its existing regulations to determine which should be modified or eliminated, the pace of this review increased under the President's March 4, 1995, directive to conduct a page-by-page review of all existing regulations and to complete that review by June 1, 1995. By the completion of this review, HUD had identified 65 regulatory parts that could be eliminated and an additional 153 parts that could be simplified and streamlined.

Regulatory Successes

HUD's regulatory reinvention has yielded several successes that affect HUD's current operations and programs. HUD has been successful in reducing paperwork and information collection requirements in several program areas, and has moved itself and its recipients further into the age of technology. HUD has completed its first negotiated rulemaking and has transferred more power and authority for the administration and operation of its programs to States and to local and tribal governments, to provide more flexibility in the operation of the programs. Specific examples of these successes are as follows:

- The Consolidated Plan final rule, published on January 5, 1995, replaces the separate application and reporting requirements for the Community Development Block Grant Program, the HOME program, the Emergency Shelter Grant Program, and the Housing Opportunities for Persons with AIDS Program.
- The Community Development Block Grant (CDBG) Program Economic Development Guidelines, published on January 5, 1995, established guidelines to assist CDBG recipients in evaluating and selecting economic development activities for assistance with CDBG funds, and makes certain changes to the CDBG program to facilitate the use of CDBG funds for economic development objectives.
- All of the requirements for Indian Housing program development and operations have been consolidated in a final rule published on April 10, 1995. The rule provides greater discretion and responsibility at the local level for the program, and reduces regulatory requirements by 40 percent for Indian Housing Authorities and tribes.
- HUD's Federal Housing Administration has streamlined requirements for mortgage insurance for newly constructed homes. This will reduce the paperwork burden on lenders and builders by as much as 75 percent.
- Required reporting to HUD on characteristics of tenants in assisted housing has been automated. Project-based reporting rules were issued in 1994 and a final rule to automate reporting by Public and Indian Housing Authorities was issued on March 2, 1995. These new requirements will substantially reduce the cost and burden of collecting this information.
- HUD's Office of Public and Indian Housing has streamlined the requirements for submission of operating budgets by housing authorities. As a result of this streamlining effort, it is anticipated that 3,000 housing authorities will not be required to submit operating budgets to HUD for review and approval.
- Revisions to the regulatory requirements for payment of Operating Subsidy for vacant units (the Vacancy rule) are being developed through negotiated rulemaking, the first use by HUD of this technique. HUD's proposed Vacancy rule was published on July 19, 1995, and received favorable public comment on the negotiated rulemaking process.
- On July 3, 1995, HUD published a final rule that combined and conformed HUD regulations governing tenant-based rental assistance under HUD's Rental Certificate Program and its Rental Voucher Program.
- On August 1, 1955, HUD published a final rule revising its regulations governing sanctions imposed by the Mortgage Review Board. This rule provides for the Board to delegate its hearing authority to a hearing official who will conduct informal hearings under stated time limitations, thereby streamlining the hearing process.
- On August 14, 1995, HUD's Government National Mortgage Association (Ginnie Mae) published a final rule that streamlined the existing Ginnie Mae regulations, and made them more flexible and customer-friendly. The regulations removed outdated parts and sections of parts to trim the Association's regulations to only those necessary to operate current programs.
- On September 11, 1995, (60 FR 47260), HUD published a final rule that removes approximately 40 obsolete or unnecessary parts and approximately 20 subparts and appendices. Development and publication of this rule stems from HUD's page-by-page review of its existing regulations.

Although HUD believes that it has made significant and important changes to its programs and operations through the regulatory process, it is committed to further regulatory changes to assist in the transformation to the new HUD.

HUD has several reinvention rules under development that will consolidate duplicative and repetitive program requirements to the extent possible given statutory parameters. To reduce the repetition of requirements applicable to all or the majority of HUD programs, HUD proposes to create a new part (and in the process eliminate other parts and subparts) that will contain (a) definitions that are used across the board in HUD programs, (b) a list of other Federal requirements applicable to HUD programs, (c) waiver authority (i.e., authority to waive regulatory provisions), (d) across-the-board funding requirements, and (e) admission and occupancy requirements. The consolidation into one part of all the above-noted provisions will help create uniformity in HUD grant programs that

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will benefit participants in these programs.

HUD also proposes to consolidate into a single rule, to the extent possible, the following nondiscrimination rules in 24 CFR: Parts 1 and 2—Nondiscrimination Under Title VI of the Civil Rights Act of 1964 (Nondiscrimination on the basis of race, color, or national origin in HUD-assisted programs) and Practice and Procedure for Hearings Under Part 1 (Nondiscrimination hearing procedures); Part 8—Nondiscrimination in HUD-Assisted Programs (Nondiscrimination on the basis of disability in HUD-assisted programs); Part 107—Nondiscrimination Under Executive Order 11063 (Nondiscrimination and equal opportunity in the sale, rental, or leasing of property owned by the Federal Government); Part 108—Compliance Procedures for Affirmative Fair Housing Marketing (Review of fair housing marketing plans); and Part 146—Nondiscrimination on the Basis of Age. These parts contain several identical or near-identical sections.

The Role of Regulations in the New HUD

In accordance with Executive Order 12866, the President's March 4, 1995, directive, and Secretary Cisneros' internal regulatory directives, HUD is committed to exploring alternatives to regulations, and to regulate only when necessary to achieve essential objectives or where mandated by statute to do so. Where regulations are required, HUD is committed to these regulatory principles.

HUD will ensure that its rules are consistent with HUD's reinvention objectives and that the rules are sensible, understandable, cost-effective, customer-friendly, and minimally burdensome. HUD will continue to consult with the public, using informal working groups, public meetings, regulatory negotiation, and other innovative techniques to increase public participation.

HUD will continue to work closely with other Federal agencies where regulatory matters overlap. HUD's noncitizens final rule, published March 20, 1995, reflects HUD's consultation with the Immigration and Naturalization Service. HUD's Base Closure rule, discussed more fully in this regulatory plan, reflects HUD's close working relationship with the Department of Defense. HUD is working closely with the Federal Highway Administration on a rule relating to standards for tires that transport manufactured homes.

HUD will continue to provide oversight and enforce the law in a number of key areas, including civil rights, operation of government-sponsored enterprises, real estate settlement processes, regulation of interstate land sales, and the establishment and enforcement of lead-based paint standards and manufactured housing. Changing the way that HUD fulfills its mission does not eliminate the need for HUD to continue to provide regulatory oversight in these key areas. However, HUD recognizes that its role as a regulator can be improved—that it can work more in partnership with the entities and individuals it regulates and other interested parties to achieve together the objectives of the regulatory authority (e.g., fair housing, safe manufactured housing, lead-based paint free housing, and protection of consumers).

Regulatory Priorities

For fiscal year 1996, HUD will focus its resources on regulatory actions that promote HUD's reinvention and HUD's mission, as demonstrated by the description of the following priority rules. Although the following rules reflect essential elements of HUD's reinvention efforts and a commitment to its mission, other regulations described in HUD's Semiannual Agenda of Regulations also reflect these efforts and commitment.

Priority: Reducing Homelessness

Reduce the number of homeless Americans through partnerships with local governments and private-sector nonprofit groups that help people gain access to housing and the services they need.

In early July 1995, HUD announced $900 million in grants to help the homeless. HUD's Office of Community Planning and Development issued 800 grants in 228 cities to help communities carry out a comprehensive plan to help homeless families and individuals. The award was the largest level of homeless assistance ever awarded and is a critical part of HUD's priority to help communities forge a comprehensive approach to break the cycle of homelessness. The following regulatory action is consistent with HUD's activities to date to work as a partner with communities to develop a coordinated strategy to aid the homeless population.

Regulatory Action: Use Base Closure Properties to Assist the Homeless

This interim rule, developed jointly with the Department of Defense (DoD), implements the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 and creates a new community-based process wherein homeless assistance providers work directly with local redevelopment authorities on the reuse of former military installations. This rule assists HUD's efforts to reduce homelessness by providing a process by which former military properties may be used to address the needs of homeless individuals and families. Final regulatory action will establish the definitive procedures to be followed to maximize use of base closure property to assist the homeless.

Priority: Turning Around Public Housing

Make public housing a source of pride to communities by encouraging resident participation in its management; downsizing large developments; restoring deteriorating buildings; offering residents opportunities to move to low-poverty areas; giving residents incentives to work and lift themselves economically; and ensuring that public housing sites become safe, healthy, and attractive places to live and raise children.

HUD is vigorously pursuing its efforts to transform America's worst public housing into communities where families can build a better future. On July 31, 1995, Secretary Cisneros joined local officials in Charlotte, North Carolina, as the Earle Village, a 307-unit public housing development in deteriorating condition, was toppled by a bulldozer to make room for affordable housing. During the weekend of July 29, 1995, the demolition of the final buildings of the Raymond Rosen public housing complex in Philadelphia, Pennsylvania, occurred. This public housing complex had become an uninhabitable eyesore for the community. On August 21, 1995, the Housing Authority of Baltimore City, Maryland, began the demolition of Lafayette Courts, the city's worst public housing development. With a grant from HUD, the city prepares to revitalize the neighborhood by building garden-style townhouses to serve the needs of the Lafayette community.

The following regulatory actions continue HUD's efforts to turn around public housing.

Regulatory Action: Revision of the Public Housing Management Assessment Program

The Public Housing Management Assessment Program is the major tool for assessing the performance of public housing authorities. However, the current system includes some process-oriented, staff-intensive reporting requirements that are thought to be not necessarily accurate or objective measures of results. This rule will eliminate unnecessary paperwork and provide better measures of performance and program results to promote better management of public housing developments. The rule incorporates recommendations made as a result of a comprehensive review of the program regulations.

Regulatory Action: Public Housing Development Program Redesign

The current public housing development program regulations are outdated and contain unnecessary restrictions on the flexibility of housing authorities. This rule will revise the public housing development regulations to provide more flexibility for all participants with even greater flexibility to the best performers. "High performer" PHAs will have maximum latitude to develop public housing within very broad parameters and with minimal HUD oversight (with the exception of those elements that HUD, by statute, must perform). Remaining PHAs will be given broadened responsibility commensurate with their abilities and areas of expertise. HUD will retain the option of reviewing any PHA action, thus minimizing risk to the Department.

Streamlining the program will help to reduce a substantial preconstruction pipeline and expedite the provision of replacement housing for developments that should be fully or partially replaced. The rule will reflect the recommendations resulting from a comprehensive review of the public housing program.

Regulatory Action: Public/Private Partnerships for Mixed-Finance Development of Public Housing Units

This rule will authorize a public housing authority to enter into a partnership with an entity (or entities) for the purpose of developing and owning public housing properties. The resulting partnership would also be authorized to use a combination of public and private financing mechanisms, which may include borrowing public housing development funds from the PHA and/or the sale of low-income housing tax credits, to develop projects.

Conventional methods of public housing development are time-consuming and costly; by permitting PHAs to enter into partnerships with nonpublic entities, the development process can be expedited, with resulting savings in both financing and construction costs.

Priority: Expanding Housing Opportunities

Expand Housing opportunities for low- and moderate-income people through partnerships with State and local governments, private developers, lending institutions, and nonprofit agencies, and reestablish the Federal Housing Administration as an active facilitator of homeownership for low- and moderate-income families.

On November 5, 1994, President Clinton directed Secretary Cisneros to develop, in cooperation with the most significant members of the housing industry and all levels of government, a plan to boost homeownership to an all-time high in the United States—a strategy that recommits America to homeownership, that will add millions of new homeowners by the end of the century.

In response, HUD established a National Homeownership Partnership, bringing together the resources and commitments of the housing industry's major public, private, and nonprofit organizations. HUD's partners include the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), the National Association of Home Builders, the National Association of Realtors, Habitat for Humanity and the National League of Cities. The partners recognized that the goal of the partnership will not be achieved without substantially increasing homeownership opportunities to moderate-income families, members of minority groups, newcomers to the United States, and residents of communities who aspire to own their own homes but whose needs have not been met by the conventional mortgage market.

On June 5, 1995, Secretary Cisneros joined President Clinton, Vice President Gore, and members of the National Homeownership Partnership to announce a national homeownership strategy that will add up to 8 million new families to the nation's homeownership rolls by the end of the year 2000. The strategy, announced at the June 5, 1995, meeting, does not require new government programs or new funds from Congress. Instead, national, State, and local groups will work together to make it less expensive to buy a home and easier to get a mortgage, and to eliminate obstacles to homeownership.

On July 26, 1995, Secretary Cisneros reported that recent Census Bureau data showed that the national homeownership rate grew one-half percentage point during the first six months of 1995, the strongest short-term gain in many months. At the end of June 1994, the homeownership rate was 64.2 percent. At the end of June 1995, the overall rate had increased to 64.7 percent.

The following regulatory action also reflects HUD's efforts to expand housing opportunities.

Regulatory Action: Federal Housing Enterprises Financial Safety and Soundness Act of 1992—Implementing Regulations

This final rule will establish housing goals for FNMA and FHLMC for 1995 and beyond, fair-lending requirements, guidelines for new program approval, regulations for proprietary information, reporting requirements, and other issues. The rule will focus additional effort by FNMA and FHLMC on underserved areas and lower-income families facing affordability problems. It will provide final guidance to replace the Interim Notice under which the program is currently operating.

Prior to issuance of the proposed rule, published on February 16, 1995, (FR 60 9154) HUD met many times with the GSEs (Fannie Mae and Freddie Mac) to discuss issues relating to the Interim Notice under which the GSEs were operating. HUD also held two roundtables to discuss the definition of "underserved" used in establishing the central cities, rural areas, and other underserved areas goal. Roundtable participants included the GSEs, researchers, other Federal agencies (Department of Agriculture, Farmers Home, Census Bureau), the Congressional Budget Office, and public-interest groups.

In developing the final rule, HUD considered the experience gained and lessons learned while operating under the interim notice during the transition period of 1993-1995, and held additional roundtable discussions. HUD also conducted extensive analysis and research to determine the appropriate changes to the housing goals.

Priority: Opening Housing Markets

Open housing markets to minorities through vigorous enforcement of fair housing laws and support for creative metropolitan-wide housing and urban development initiatives.

In addition to expanding housing opportunities, HUD is committed to opening housing markets by working to eliminate discrimination. Housing discrimination and segregation undermine the health and vitality of our Nation's communities. Discrimination denies minority families full and free choice about where to live, while denying minority neighborhoods the services and resources they need to thrive and grow.

HUD's reinvention approach to fair housing and equal opportunity is designed to strike a balance between enforcement and compliance. In an effort to obtain broad compliance with fair lending standards, HUD has encouraged mortgage companies to sign a voluntary fair-lending best practices agreement. Under this agreement, a lender voluntarily agrees to establish a set of policies and procedures that will ensure fair and equal treatment of all potential homebuyers. The objective is to provide an environment that increases lending and homeownership opportunities for historically underserved buyers. To date, approximately 10 mortgage entities have signed the agreement, including the Mortgage Bankers Association.

The following regulatory actions continue HUD's efforts to open housing markets, and will be developed with the participation and assistance of the real estate industry.

Regulatory Action: Methods of Proof of Discrimination under the Fair Housing Act.

This rule will describe the standards that HUD will apply in determining whether policies and practices in real estate-related transactions violate the Fair Housing Act. The standards used in making those determinations include overt discrimination, disparate treatment, and discriminatory effect. This rule will help promote compliance by those engaged in real estate-related transactions, eliminate uncertainty, and reduce litigation.

Regulatory Action: Fair Housing Council Regulation

This rule will describe the functions, organization, and operations of the President's Fair Housing Council; the Council's programs and activities; the responsibilities and obligations of member departments and agencies in ensuring that programs and activities related to housing and urban development are administered and executed in a manner that furthers fair housing; the responsibilities and obligations of applicants, participants, and other persons and entities involved in furthering the goal of fair housing; and a method to identify impediments in programs or activities that restrict fair housing choice and implement incentives that will maximize the achievements of practices that further fair housing.

Priority: Provide Maximum Flexibility to States and Local Governments to Design and Utilize Federal Resources

Empower communities by supporting local efforts to transform neighborhoods, by reinvigorating economic development programs and creating new opportunities for people and businesses, and by supporting community-based organizations.

In December 1994, President Clinton announced the designation of 72 areas as Empowerment Zones and Enterprise Communities (EZ/EC). These designations followed issuance of the EZ/EC rule and notice inviting applications, published in January 1994. The EZ/EC designations mean that distressed communities receive special tax, regulatory, and other forms of relief and incentives, plus seed money, to enact their own visionary plans for revitalization. The EZ/EC designations help to restore economic opportunity to distressed neighborhoods and enable communities to take responsibility for their own futures.

The EZ/EC rule and designations reflect one way in which HUD empowers communities to plan for and take charge of their own future. The following regulatory action also reflects HUD's efforts to vest more authority in States and local governments so that they will have better control over activities and resources.

Regulatory Action: Environmental Review Procedures

This proposed rule streamlines and updates current environmental procedures for entities assuming HUD environmental responsibilities for carrying out the environmental review in accordance with the National Environmental Policy Act (NEPA) of 1969 and the other related Federal environmental laws and authorities. This rule will ease the administration of environmental review responsibilities by recipients that are permitted to assume such responsibilities.

Regulatory Action: Final Rule Implementing the HOME Investment Partnerships Program

Improved administration of the HOME Program to increase its effectiveness as a vehicle for providing housing opportunities in communities has been a priority of the Department. This final rule will streamline and improve HOME Program operations at the State and local level by drawing upon public comments that were solicited as each HOME interim rule was published, upon HUD's experience in administering the program, and upon the input of program participants at numerous training sessions across the country.

Other Priority Regulations

The following rule supports a specific legislative initiative.

Regulatory Action: Revision of Lead-Based Paint Rules

The Housing and Community Development Act of 1992 made significant revisions to the requirements on the evaluation and control of lead-based paint hazards in federally assisted and federally owned housing. The regulations to be issued will specify what must be done, when, and by whom, in each housing program, and they will state minimum standards for how the activities must be done. The purpose of the requirements is to reduce childhood exposure to lead without reducing the supply of affordable housing.

These regulations consolidate a number of different requirements for different programs to control lead-based paint hazards. In the past, there were sometimes conflicting requirements for different programs. Lead-based paint regulations will now be targeted to controlling exposures and not necessarily to removal of all lead-based paint or to mere repainting. The requirements will be targeted to those dwellings most likely to poison children. They will now be consistent across all programs and will vary depending on the degree of Federal assistance provided to ensure that practical responses can be made to control lead-based paint hazards with available resources. The regulations are also based on valid approaches to most cost-effective ways of protecting children, based on scientific research. A companion piece to the regulations is provided by the recently released guidelines that describe how the various options to render housing lead-safe can be implemented.

HUD—Office of the Secretary (HUDSEC)

PROPOSED RULE STAGE

48. ENVIRONMENTAL REVIEW PROCEDURES FOR RECIPIENTS AND RESPONSIBLE ENTITIES ASSUMING HUD RESPONSIBILITIES (FR-3514)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 43320; 42 USC 3535(d)

CFR Citation:

24 CFR 58

Legal Deadline:

None

Abstract:

This proposed rule published September 25, 1995, streamlines and updates current environmental procedures for entities assuming HUD environmental responsibilities for carrying out environmental review in accordance with the National Environmental Policy Act (NEPA) of 1969 and the other related Federal environmental laws and authorities. When this rule is issued as a final rule, it will replace the current interim rule issued on April 12, 1982 (47 FR 15752).

Statement of Need:

This rule is needed to update and ease the administration of environmental review responsibilities by recipients that are permitted to assume such responsibilities.

Summary of the Legal Basis:

National Environmental Policy Act of 1969 (42 USC 4321-4347) and Federal laws and authorities cited in sections 58.5 and 58.6 of 24 CFR 58.

Alternatives:

HUD is considering legislative proposals that would permit additional HUD programs to qualify for the assumption of environmental review responsibilities by recipients.

Anticipated Costs and Benefits:

Costs: There would be incremental costs to entities that assume the environmental review responsibilities.

Benefits: Recipients would be empowered to conduct their own reviews and have greater control over their ability to draw funds. Additionally, because this rule will amend existing regulations to streamline and expedite the process of performing environmental reviews, it should ease the administrative burden on HUD as well as on recipients authorized to assume environmental review responsibilities. Costs should therefore be reduced. Costs are reduced for HUD because it is relieved of this responsibility for authorized recipients. Costs are reduced for recipients because new procedure minimizes the delays, and the costs incurred by such delays, in waiting for HUD (and its reduced staff resources) to perform the environmental review.

Risks:

This rule poses no risks to public health, safety, or the environment. It provides for the assumption of environmental review responsibilities by recipients and streamlines the governing regulatory requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/25/95	60 FR 49466
NPRM Comment Period End	11/24/95	
Final Action	03/00/96	

Small Entities Affected:

None

Government Levels Affected:

State, Local, Federal

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RIN: 2501–AB67

HUD—HUDSEC

FINAL RULE STAGE

49. LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES (FR-3482)

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 4822; 42 USC 3535(d)

CFR Citation:

24 CFR 35

Legal Deadline:

Final, Statutory, January 1, 1995.

Abstract:

The Office of Lead-Based Paint Abatement and Poisoning Prevention was established by Congress within the Office of the Secretary of HUD. The Office provides overall direction to HUD's lead-based paint activities.

Currently, part 35 of HUD's regulations addresses the Department's requirements on lead hazards in housing. The Residential Lead-Based Paint Hazard Reduction Act of 1992, which is title X of the Housing and Community Development Act of 1992, requires substantial revisions to HUD's current regulations for the evaluation and control of lead-based paint hazards in federally assisted and federally owned housing. The legislation evidences a concern with developing a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all nonelderly, pre-1978 housing. Because of the scope of the problem, the strategy will be implemented on a priority basis, and is to be based in part on guidelines issued by the Secretary on August 25, 1995, on the conduct of federally supported work involving risk assessments, inspections, interim control, and abatement of lead-based paint hazards ("Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing"). The revisions required by title X will affect HUD's housing programs and the

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housing programs of other Federal agencies.

HUD is consolidating the multitude of lead-based paint regulations found throughout HUD programs and will make them consistent, creating a single point of reference for the Department's lead-based paint requirements.

Statement of Need:

The Centers for Disease Control and Prevention (CDC), the American Academy of Pediatrics, and the National Academy of Sciences have labeled lead poisoning as the leading environmental health hazard facing America's children. Childhood lead exposure has been shown to cause damage to the brain and nervous system, which causes behavior and learning problems; reduced IQ; slowed growth; hearing problems; hypertension and heart disease; reproductive problems for both men and women; kidney damage; and many other adverse health effect, in some cases even seizures, coma, and death. These effects result in increased medical care costs, increased special education costs, and decreased lifetime earnings. The reduction in IQ appears to be irreversible, and because lead is stored primarily in bone, internal exposures can occur for decades, even if environmental exposures are controlled. The results of CDC's third National Health and Nutrition Examination Survey (NHANES III, 1988-1991) indicate that population blood lead levels have deceased dramatically as a result of the deleading of gasoline and the elimination of lead in solder in food canning. However, the CDC report has concluded that lead paint in older housing remains the primary source of lead exposure. CDC found that 8.9 percent of all American children less than 6 years of age had blood lead levels greater than CDC's level of concern (10 ug/dL). In large central cities, the figure was 21 percent, and among non-Hispanic black children in large central cities, 36.7 percent had blood lead levels above the level of concern. This constitutes 1.7 million children under the age of 5 and is considered to be a major epidemic. The NHANES report concludes that without further action to control lead-based paint in housing and the contaminated soil and dust it generates, "further declines are unlikely."

Summary of the Legal Basis:

Title X amends the Lead-Based Paint Poisoning Prevention Act (42 USC 4822) to focus attention and resources on identifying and controlling lead-based paint hazards in federally assisted and federally owned housing before children are poisoned.

Alternatives:

The statute is generally prescriptive in requiring regulatory action to be taken by HUD. For certain HUD programs the Department has some discretion in the level of hazard evaluation and control measures to be undertaken. Alternatives being considered are primarily: (a) the amount of on-site work that is required for hazard evaluation and control; and (b) targeting by year of construction.

Anticipated Costs and Benefits:

Costs: Previous cost-benefit studies by CDC and other researchers estimate that the benefits of lead-based paint hazard control exceed costs by at least $17 billion per year. HUD is in the final stages of estimating the precise costs and benefits of the proposed rule. An extensive regulatory impact analysis will accompany the title X regulations.

There also will be some cost to the real estate industry in implementing the new lead-based paint notification requirements of title X, which are the subject of a separate rule that is being developed in coordination with the EPA.

Benefits: Health benefits of the new regulations will include a reduction in lead poisoning exposures among children, consequently reducing costs for medical treatment and special education and increasing lifetime earnings. The rule will also provide benefits to housing by improving overall conditions and paint quality. The regulations will offer environmental protection to more families with young children by reducing lead paint hazards in the country's housing stock.

Risks:

Without the regulatory changes required by title X, childhood lead exposures will continue at current levels.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Federal

Agency Contact:

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RIN: 2501–AB57

HUD—HUDSEC

50. REGULATIONS IMPLEMENTING THE SECRETARY'S AUTHORITY OVER FNMA AND FHLMC (FR-3481)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

12 USC 4501 to 4589

CFR Citation:

24 CFR 81

Legal Deadline:

Final, Statutory, April 28, 1994.

Abstract:

Under subtitle A, part 2, of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Title XIII of the Housing and Community Act of 1992) (FHEFSSA), the Secretary has general regulatory authority over the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (jointly referred to as "enterprises").

The Secretary's responsibility does not encompass areas specifically under the authority of the Director of the Office of Federal Housing Enterprise Oversight or all other matters relating to the safety and soundness of the enterprises. The FHEFSSA provided the Secretary with new authority to ensure that each enterprise fulfills its obligations to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with the enterprise's overall public purposes, while maintaining a strong financial condition and reasonable economic return. Pursuant to the FHEFSSA and in accordance with the requirements in part 2 for notice-and-comment rulemaking, this rule would implement the Secretary's regulatory authority over

Fannie Mae and Freddie Mac regarding the establishment of housing goals for 1996 and following years, fair-lending requirements, approval of new programs, proprietary information, reporting requirements, and other issues.

Statement of Need:

Status as a government-sponsored enterprise provides important benefits to the enterprises and their stockholders. The FHEFSSA outlines a strategy to ensure that the enterprises fulfill the public purposes set out in their charters. The Department of Housing and Urban Development (HUD) is currently operating under an interim notice that details the enterprises housing goals for 1993 - 1995. The statute requires that HUD publish a final rule by April 28, 1994, after notice-and-comment rulemaking.

Summary of the Legal Basis:

The regulations are required by section 1349 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 USC 4589).

Alternatives:

In developing the final rule, HUD considered the experience gained and lessons learned while operating under the interim notice during the transition period of 1993 - 1995. HUD also conducted extensive analysis and research to determine the appropriate changes to the housing goals. Changes from the interim notice will be designed to make the regulatory process simpler and more streamlined for the enterprises. These changes would include streamlining the reports that the enterprises are required to provide to HUD and modifying requirements about which mortgage purchases would qualify for consideration in meeting the goals established for the enterprises. Under the modified requirements HUD expects more transactions to count toward mortgage purchase goals.

HUD has met numerous times with the enterprises to discuss issues relating to the interim notice under which the enterprises have been operating. In addition, HUD has also held a number of roundtables to discuss trends in the mortgage markets, the state of multifamily financing, and definitions of "underserved" used in establishing the mortgage purchase goals for central cities, rural areas, and other underserved areas. Roundtable participants included the enterprises, researchers, other Federal agencies and public-interest groups. HUD also held numerous meetings with the enterprises as the proposed rule was being developed, and during the revision of the proposed rule, for the purpose of clarifying assumptions HUD was making about the enterprises' operations and projections of future activities.

Anticipated Costs and Benefits:

Costs: Increased targeting to low- and moderate-income families and underserved areas will increase the credit risk or mortgage default costs experienced by the enterprises. The magnitude of this effect is expected to be small, given their expertise in attracting and underwriting creditworthy low-income borrowers. There may also be some increased cost associated with additional program outreach toward low-and moderate-income borrowers and borrowers in underserved market areas. With respect to fair housing regulations, there will be costs associated with the additional reporting and remedial actions by the enterprises that are mandated by FHEFSSA.

Benefits: The rule would establish that there are substantial unmet housing needs among low-income households and in distressed neighborhoods. The rule will benefit very low-, low-, and moderate-income families by assuring that an appropriate portion of the mortgage purchases of each enterprise relate to housing affordable to low-income families and housing in underserved areas. The rule will also establish a framework through which the enterprises will be involved in helping to eliminate discrimination in mortgage finance and to promote Federal fair housing objectives:

Risks:

This rule does not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	02/16/95	60 FR 9154
NPRM Comment Period End	05/02/95	
Final Action	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

Federal

Agency Contact:

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HUD—HUDSEC

51. • HOME iNVESTMENT PARTNERSHIP PROGRAM (FR-3962)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 12721

CFR Citation:

24 CFR 92

Legal Deadline:

None

Abstract:

Title II of the National Affordable Housing Act of 1990 established the HOME Investment Partnership Program. This program is intended to expand the supply of decent, safe and sanitary affordable housing. Under the HOME Program, the Department of Housing and Urban Development (HUD) provides formula allocations to participating States and units of local government to be used for specified eligible housing activities in accordance with the jurisdiction's approved housing plan. A portion of each allocation must be invested in housing that is developed, owned, or sponsored by community housing development organizations. HUD provides technical assistance to develop the capacity of participating jurisdictions and has developed model programs designed to assist participating jurisdictions in carrying out their programs.

HUD published an interim rule implementing the HOME Program in December 1991. HUD has since published several additional interim rules and a proposed rule. These rules were developed to implement statutory changes and to make changes in response to public comments that were solicited as each rule was published, HUD's experience in administering the

program, and to the input of program participants at numerous training sessions across the country. The changes simplify State and local operation of the HOME Program and make it more compatible with other Federal housing programs.

This final rule will merge the initial interim rule, the subsequent interim rules, and the proposed rule into a single, streamlined HOME Program rule. Wherever possible, text that only repeats statutory language and that is only advisory, rather than exclusive and legally binding, will be removed.

Statement of Need:

Promulgation of this regulation is necessary to permit HUD to simplify and improve the operation of the HOME Program.

Summary of the Legal Basis:

Section 206 of the National Affordable Housing Act requires that HUD promulgate regulations governing the operation of the HOME Program.

Alternatives:

HUD could continue the operation of the HOME Program under the current interim rule. However, it would forfeit the opportunity to make refinements to the program based upon experience and the attendant benefits to jurisdictions participating in the program.

Anticipated Costs and Benefits:

Costs: While the final rule is expected to streamline and simplify HOME program operations for participating jurisdictions, HUD does not expect that the final rule will significantly alter the reporting and paperwork burden estimates previously submitted by the Department and approved by the Office of Management and Budget.

Benefits: HUD expects that the opportunity to modify programmatic requirements in response to public comment based upon actual experience in implementing the program will result in substantial simplification of program administration. The jurisdictions administering the program, and the private and public for-profit and nonprofit entities participating in the program will be able to provide low-income housing more quickly and at lower cost.

Risks:

This rule does not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Final Action	02/00/96	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local

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HUD—Office of Community Planning and Development (CPD)

FINAL RULE STAGE

52. BASE CLOSURE COMMUNITY REDEVELOPMENT AND HOMELESS PROGRAM (FR-3820)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 3535(d); 42 USC 11301

CFR Citation:

24 CFR 586

Legal Deadline:

None

Abstract:

Title V of the Stewart B. McKinney Homeless Assistance Act of 1987, as amended, 42 U.S.C. 11411 (Title V), granted first priority on use of all surplus federally owned real and personal property, including former military installations, to the homeless. The title V provisions have worked reasonably well for small parcels. However, in the base closure and realignment environment the processes for reuse planning and homeless use were independent and the timing incompatible. On October 25, 1994, the President signed the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (the Redevelopment Act), which exempts base closure and realignment property from title V and substitutes a new community-based process wherein representatives of the homeless will work directly with Local Redevelopment Authorities (LRAs) on the reuse of former military installations.

HUD's interim rule, published on August 17, 1995, was jointly developed with the Department of Defense (DoD) and, together with DoD's rule published on July 20, 1994, will govern DoD's and HUD's role in implementing the Redevelopment Act. Through these rules, HUD and DoD have developed a flexible process which aims to balance the needs of the homeless with other development interests in the community in the vicinity of the installation.

Statement of Need:

Forty-five military installations from the 1988, 1991, or 1993 base closure/realignment rounds have elected to be included under the new process established by the Redevelopment Act. A regulation was necessary to establish the policy and procedures to be followed.

Summary of the Legal Basis:

The Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (P.L. 103-421) and if enacted, certain amendments to P.L. 103-421 proposed in the Defense Authorization Act of 1995.

Alternatives:

HUD considered whether to treat installations approved for closure/realignment before enactment of the authorizing law the same or differently from installations approved after enactment, and the degree to which homeless assistance and economic development needs should be balanced in this rule.

Anticipated Costs and Benefits:

Costs: The costs would be mainly those to local redevelopment agencies from accepting and reviewing notices of interest from State and local governments and other interests, and the preparation of proposals by those entities.

Benefits: The benefits would be the value of the utilization of the installations in terms of benefits to individuals, families, private entities, and the localities in which the installations are situated.

Risks:

This rule poses no risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/17/95	60 FR 42972
Interim Final Rule Effective	09/15/95	
Interim Final Rule Comment Period End	10/16/95	
Final Action	03/00/96	

Small Entities Affected:

None

Government Levels Affected:

State, Local

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RIN: 2506–AB72

HUD—Office of Fair Housing and Equal Opportunity (FHEO)

PROPOSED RULE STAGE

53. METHODS OF PROOF OF DISCRIMINATION UNDER THE FAIR HOUSING ACT (FR-3534)

Priority:

Other Significant

Legal Authority:

42 USC 3600 to 3619

CFR Citation:

24 CFR 100

Legal Deadline:

None

Abstract:

This rule will describe the standards the Department will apply in determining whether policies and practices in real estate-related transactions violate the Fair Housing Act. The standards used in making those determinations include overt discrimination, disparate treatment, and discriminatory effect.

Statement of Need:

This rule is necessary to promote compliance by those engaged in real estate-related transactions and to assist HUD investigators by setting forth the standards to be applied in determining whether a violation of the Fair Housing Act has occurred or is about to occur.

Summary of the Legal Basis:

The Fair Housing Act prohibits discrimination on the basis of race, color, national origin, sex, religion, familial status, or disability.

Alternatives:

Administrative Law Judge and court decisions could provide guidance to the real estate industry and HUD investigators on a case-by-case basis, but a rule that establishes clear standards could make much litigation unnecessary.

Anticipated Costs and Benefits:

Costs: Firms in the real estate transactions industry will incur costs to develop and implement practices to avoid violating the standards in the rule, but operating costs under the new practices may be higher or lower than previous practices.

Benefits: Clearer and more rapid adjudication of cases of discrimination in real estate transactions; reduced incidence of discrimination in real estate transactions as firms conform business practices to the new guidelines; and better housing and labor market outcomes for protected classes.

Risks:

This rule does not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Federal

Agency Contact:

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RIN: 2529–AA67

HUD—FHEO

54. • PRESIDENT'S FAIR HOUSING COUNCIL RULE (FR-3958)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 3601 to 3619

CFR Citation:

24 CFR 100

Legal Deadline:

None

Abstract:

By Executive Order 12892, entitled "Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing," President Clinton delegated to the Secretary of Housing and Urban Development (HUD), and where appropriate, to the Attorney General, primary authority for enforcement of Federal fair housing laws. In addition, the President directed the Secretary of HUD to take the lead in developing and coordinating measures to carry out the purpose of the order.

The order also establishes an advisory council entitled the "President's Fair Housing Council" ("Council"). The President directed the Secretary of HUD to chair the Council, which is to consist of the Secretary of Health and Human Services, the Secretary of Transportation, the Secretary of Education, the Secretary of Labor, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Veterans Affairs, the Secretary of the Treasury, the Attorney General, the Secretary of the Interior, the Chair of the Federal Reserve, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chair of the Federal Deposit Insurance Corporation, and such other officials of executive departments and agencies as the President may, from time to time, designate.

This Council, in accordance with the Executive Order, will review the design and delivery of Federal programs and activities to ensure that they support a coordinated strategy to affirmatively further fair housing.

This rule will describe the functions, organization, and operations of the President's Fair Housing Council; the Council's programs and activities; the responsibilities and obligations of member departments and agencies in ensuring that programs and activities related to housing and urban development are administered and executed in a manner that furthers fair housing; the responsibilities and obligations of applicants, participants, and other persons and entities involved in furthering the goal of fair housing; and a method to identify impediments in programs or activities that restrict fair housing choice and to implement incentives that will maximize the achievements of practices that further fair housing.

Statement of Need:

The President has called upon the Fair Housing Council to review the design and delivery of Federal programs and activities to ensure that they support a coordinated strategy to further fair housing. He has also requested that the Council propose appropriate revisions to existing programs and activities, develop pilot programs and activities, and propose new programs and activities to achieve its goals. The proposed regulation is needed to guide the Council in carrying out the President's mandate.

Summary of the Legal Basis:

The Fair Housing Act of 1968 and the Fair Housing Amendments Act of 1988 require all executive departments and agencies to administer their programs and activities related to housing and urban development so as to further fair housing and to cooperate with the Secretary of Housing and Urban Development in doing so. Executive Order 12892 gives the Secretary the specific responsibility of promulgating regulations for the Fair Housing Council and its activities, as described in the Abstract, above.

Alternatives:

Executive Order 12892 requires HUD to promulgate regulations, and requires each executive agency to publish, within 180 days, proposed regulations consistent with HUD's, and to publish final regulations as soon as practicable after the proposed rule. HUD could publish a model regulation to be adopted by other executive agencies, thereby streamlining the overall rulemaking activity under the executive order.

Anticipated Costs and Benefits:

Costs: The costs are limited to the commitment of personnel and other resources of the member departments and agencies when they participate in Council meetings and activities.

Benefits: The benefits include increased efficiency in the administration of fair housing laws, increased coordination and consistency among the Council's member departments and agencies, reduced duplication of efforts, and the bridging of gaps identified in the present delivery of services.

Risks:

This rule does not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

Federal

Agency Contact:

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RIN: 2529–AA77

HUD—Office of Public and Indian Housing (PIH)

PROPOSED RULE STAGE

55. REFORM OF PUBLIC HOUSING MANAGEMENT (FR-3447)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 3535(d); 42 USC 1437d(j)

CFR Citation:

24 CFR 901

Legal Deadline:

None

Abstract:

This rule proposes an extensive revision of the Public Housing Management Authority Program, (PHMAP), which contains the policies and procedures used by the Department of Housing and Urban Development (HUD) to identify public housing authority (PHA) management capabilities and deficiencies; to designate high performing and troubled PHAs; and to enter into agreements and formulate plans to improve PHA management.

Statement of Need:

A new, revised rule is needed to address the following issues concerning the current PHMAP regulation: PHMAP reporting and processing are time-consuming; information required from PHAs is not always available by HUD's deadline; PHA appeals of HUD decisions can extend the PHMAP process for months; the system should be a better measure of actual performance rather than "paper" performance; redundant and unnecessary procedures and paperwork need to be eliminated, and the volume of PHMAP-related correspondence needs to be reduced.

Summary of the Legal Basis:

PHMAP was promulgated under section 502 of the National Affordable Housing Act (NAHA) (approved November 28, 1990, Pub. L. 101-625), which requires HUD to establish, by rulemaking under 5 U.S.C. 553, indicators to evaluate the management performance of PHAs and procedures for designating troubled PHAs.

Alternatives:

In developing a new proposed rule, HUD considered adding or eliminating indicators, combining indicators and/or components, assigning different weights to existing indicators, varying the applicability of indicators by PHA size, and changing the reporting period for assessments.

Anticipated Costs and Benefits:

Costs: Because the revised regulation would be a refinement or improvement of existing procedures, and should result in no additional, or a decrease in, monitoring or reporting burdens, additional costs to PHAs or to HUD are negligible.

Benefits: Increasing the objectivity of the assessment program, making the

assessment program more performance-oriented rather than simply compliance-oriented, and reducing redundant and unnecessary procedures and paperwork requirements will make the assessment process itself less expensive, and result in the more efficient use of public housing funds,

Risks:

This rule does not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected:

None

Government Levels Affected:

State, Local

Agency Contact:

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RIN: 2577–AB30

HUD—PIH

56. • PUBLIC/PRIVATE PARTNERSHIPS FOR MIXED-FINANCE DEVELOPMENT OF PUBLIC HOUSING UNITS (FR-3919)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1437b; 42 USC 1427c; 42 USC 3535(d)

CFR Citation:

24 CFR 941

Legal Deadline:

None

Abstract:

This interim rule adds a new subpart F to the public housing development regulations, authorizing a public housing authority (PHA) to enter into a partnership with an entity (or entities) for the purpose of developing and owning public housing properties. The resulting partnership would also be authorized to use a combination of public and private financing mechanisms, which may include borrowing public housing development funds from the PHA and/or the sale of low-income housing tax credits, to develop public housing projects. The rule includes requirements that must be met by the proposed partnership before HUD will approve a mixed-finance proposal and requirements that govern the development and operation of a project by the partnership.

Statement of Need:

Conventional methods of public housing development are time-consuming and costly; if PHAs are permitted to enter into partnerships with nonpublic entities, the development process can be expedited, with resulting savings in both financing and construction costs.

Summary of the Legal Basis:

The public housing development program is authorized by the U.S. Housing Act of 1937.

Alternatives:

With the extensive revision of the public housing development program, it is likely that PHAs would be able to increase the speed and efficiency with which they develop new units; however, the present proposal offers an additional development mechanism and permits investment of private-sector resources and skills in the creation of additional housing resources for lower-income families. It would be possible to try this approach on a demonstration basis, without a regulatory change, but HUD believes that a demonstration would be too limited to attract sufficient participation, and that the demonstration and evaluation processes would unnecessarily slow down delivery of the benefits of this innovative approach to development.

Anticipated Costs and Benefits:

This innovative approach will enable PHAs to enlist the resources and skills of the private sector in developing housing resources for lower-income families, provide PHAs and HUD Field Offices with additional flexibility to develop public housing that is oriented more to the needs of the community, and further the Secretary's goal of empowering PHAs and Field Offices.

Risks:

This rule poses no risk to public health, safety or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local

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RIN: 2577–AB54

HUD—PIH

FINAL RULE STAGE

57. PUBLIC HOUSING DEVELOPMENT REGULATIONS (FR-3569)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1437c

CFR Citation:

24 CFR 941

Legal Deadline:

None

Abstract:

This rule proposes a comprehensive revision of the public housing development and acquisition program regulation at 24 CFR 941. The purpose of the program redesign is to simplify the public housing development process to give housing authorities and localities maximum flexibility in developing public housing in their communities. The revised procedures will shift responsibilities for decisionmaking from headquarters to the Field Offices and to public housing

authorities (PHAs) wherever possible; reassign responsibility for development activities to Field Office Public Housing Divisions; ensure coordination between headquarters and the field; reduce the number and depth of HUD reviews; promote the development of units in mixed-income communities; create HUD/PHA/local government partnerships; and in the case of "high performing" PHAs, eliminate most HUD reviews of development activities. HUD anticipates that these changes will reduce average development times by 6 to 9 months.

Statement of Need:

The public housing development regulation (24 CFR 941) and Handbook (7417.1 REV-1) have not been substantively revised since October 1980 and thus do not take into consideration many of the statutory changes made to the program. As a result of the 1987 and 1990 acts in particular, there is a need to update processing standards and criteria to reflect current statutory requirements and to facilitate processing of proposed projects in a stagnated pipeline. In addition, HUD is reinventing and streamlining the present time-consuming and burdensome development process under the existing regulation. PHAs are currently required to obtain HUD approval of each step in the development process before proceeding to the next step. The result of this step-by-step approval process is a preconstruction pipeline that is estimated at approximately $2 billion and dates back to 1980. The failure to issue updated and simplified regulations would result in continued delay and inactivity in the inventory of development projects, and a deterioration in housing authorities' ability to complete proposals; and cost escalations; all leading to increased shortages of decent, safe, and sanitary housing for low-income persons.

Summary of the Legal Basis:

The public housing development program is authorized by the U.S. Housing Act of 1937, and was the subject of substantive amendments and updates in 1981, 1983, 1987, 1990, and 1992, plus incremental amendments made in annual appropriations bills.

Alternatives:

HUD has considered amending its handbooks to address the many changes to the public housing development program before issuing revised regulations, but the type of comprehensive revision needed requires notice and comment rulemaking.

Anticipated Costs and Benefits:

Costs: Because the revised regulations would streamline existing procedures, they result in few or no additional monitoring or reporting burdens. Additional costs to PHAs or to HUD are negligible.

Benefits: A complete revision of the 1980 regulation will provide PHAs and HUD Field Offices with the maximum flexibility to develop public housing that is oriented more to the needs of the community, and will eliminate much of the "red tape" currently associated with the development process. The reduction of burdensome requirements would result in reduced administrative costs and development costs to PHAs, and an increase in the supply of affordable public housing units.

Risks:

This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local

Agency Contact:

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RIN: 2577–AB37

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DEPARTMENT OF THE INTERIOR (DOI)

Statement of Regulatory Priorities

The Department of the Interior (DOI) is the Nation's principal conservation agency, responsible for the management of much of our public lands and resources. It also has major responsibility for actions involving American Indians, Alaska Natives, and residents of island territories under the administration of the United States. Its mission is to encourage the conservation and responsible management of the Nation's natural resources and to fulfill the trust responsibilities of the U.S. Government.

In carrying out these responsibilities, the Department pursues the following major objectives:

- Preserving the nation's national park, wilderness, and fish and wildlife resources, and managing its public lands;
- Managing the supply of quality water resources;
- Improving the Federal Government's relationship with State, local, tribal, and territorial governments;
- Promoting the economic and social well-being of American Indians, Alaska Natives, and people of the U.S. territories; and
- Enhancing America's ability to meet its needs for domestic energy and mineral resources.

Major Regulatory Areas

Only one of DOI's ten bureaus—the Office of Surface Mining Reclamation and Enforcement—is primarily engaged in activities most often considered "regulatory." Its regulations set environmental standards for coal mining and reclamation operations and ensure that these standards are met through State programs.

A number of other bureau activities, however, have regulatory components. Those regulations serve primarily to facilitate DOI programs, which focus upon the management of public or trust lands and natural resources under U.S. ownership or control. Some of the major areas of these regulations include:

- Management of migratory birds and preservation of certain marine mammals and endangered species;
- Management of dedicated lands, such as national parks, wildlife refuges, and American Indian trust lands;
- Management of public lands open to multiple use;
- Leasing and oversight of development of Federal energy, mineral, and renewable resources;
- Management of revenues from American Indian and Federal minerals;
- Fulfillment of trust and other responsibilities pertaining to American Indian tribes;
- Natural resource damage assessments; and
- Management of financial and nonfinancial assistance programs.

Regulatory Policy

DOI Regulatory Procedures and Their Consistency With the Administration's Regulatory Policies

Within the general requirements and guidance set forth in Executive Orders 12866, 12612, and 12630, DOI's regulatory program seeks to accomplish the following: (a) fulfill all legal requirements as specified by statutes or court orders; (b) perform essential functions that cannot be handled by non-Federal entities; (c) minimize regulatory costs to society while maximizing societal benefits; and (d) operate programs openly, efficiently, and in cooperation with Federal and non-Federal entities.

To help meet these objectives, the Department has restructured its regulatory process. In mid-1993, it created the Office of Regulatory Affairs (ORA) within the Office of the Secretary. A primary function of ORA is to help ensure that regulations are promulgated in a timely and efficient manner. As part of this task, ORA requires that all bureaus/offices establish realistic rulemaking schedules. ORA then monitors the development of all rulemakings to ensure that deadlines are met. This structure allows the public to plan more effectively for anticipated regulatory changes and helps regulators focus more clearly upon issues to be regulated.

ORA also coordinates the development of rules that cross bureau or Departmental jurisdictional lines and helps ensure that agreements are reached on policy issues early in the rulemaking process. This system substantially reduces delays caused by the late intervention of interested parties.

Encouraging Responsible Management of the Nation's Resources

One of DOI's fundamental goals is to encourage the responsible management of the Nation's natural heritage. The regulatory program is designed to help achieve this by striking appropriate balances between the use and preservation of natural resources. For example, the Department is seeking ways to provide incentives for users of public resources to adopt long-term strategies designed to meet current needs while preserving resources for future generations. DOI also is seeking to ensure that the Government receives fair prices for public resources.

Minimizing Regulatory Burdens

DOI has made a major effort to streamline its regulations and to reduce the burdens that they impose. Planning processes for land use and water development have been substantially modified to reduce unnecessary delays and paperwork associated with agency decisionmaking. Moreover, DOI is currently reviewing regulations to determine whether their benefits continue to outweigh their costs to society. Rules will continue to be reassessed periodically, and needed changes will be made as existing operations are evaluated.

The Department's review of potential rules focuses both on assuring consistency with broad regulatory policies and goals and on making certain that rules are technically feasible and understandable. DOI is encouraging the use of performance standards rather than traditional command-and-control regulations, providing regulated entities with greater flexibility to develop more efficient and less burdensome compliance procedures.

The Department has also undertaken an initiative to reform the style in which regulations are drafted. Too often, rules are poorly written, unclear, and difficult to understand. This causes confusion for the public and the agencies responsible for implementing the regulations. To remedy this problem, the Department is encouraging the use of "plain English" in rulemakings. A number of seminars have been held on this rule-drafting technique, and projects are underway.

Encouraging Public Participation and Involvement in the Regulatory Process

One of the goals of Executive Order 12866 is to ensure that the public has full and adequate opportunities to participate in the development of regulations. Encouraging increased public participation in the regulatory process so as to make regulatory policies more responsive to our customers' needs is a priority under this Administration. The Department is reaching out to communities and seeking their input on a variety of regulatory issues. For example, every year the Fish and Wildlife Service (FWS) establishes migratory bird hunting seasons. The FWS develops the

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annual migratory bird hunting seasons in partnership with "flyway councils," which are made up of State fish and wildlife agencies. As the process evolves each year, FWS holds a series of public meetings to afford other interested parties, including hunters and other special interest groups, adequate opportunity to participate in the establishment of the upcoming seasons' regulations.

DOI is also encouraging the use of negotiated rulemaking to develop rules with the full participation of affected communities. Several bureaus are currently either employing negotiated rulemaking techniques or are exploring whether negotiated rulemaking is appropriate and feasible for particular rules.

Finally, Departmental policies are designed to delegate decisionmaking, including development and operation of DOI's regulatory programs, to the lowest appropriate level. With decentralization, management procedures can be developed that are sensitive to the various local needs and interests affected by DOI programs.

Bureaus and Offices Within DOI

The following are brief descriptions of the regulatory functions of DOI's major regulatory bureaus and offices.

Office of the Secretary, Office of Environmental Policy and Compliance

The regulatory functions of the Office of Environmental Policy and Compliance (OEPC) stem from requirements under section 301(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). Section 301(c) requires the development of natural resource damage assessment rules and the biennial review and revision, as appropriate, of these rules. Rules have been promulgated for the optional use of natural resource trustees to assess compensation for damages to natural resources caused by oil or hazardous substances. OEPC is overseeing the study and possible promulgation of additional rules pursuant to section 301(c)(2) and the review and possible revision of the existing rules in compliance with section 301(c)(3).

In undertaking DOI's responsibilities under section 301(c), OEPC is striving to meet three regulatory objectives: (a) that the minimal amount of regulation necessary be developed; (b) that the assessment process provide for tailoring to specific discharges or releases; and (c) that the process not be considered punitive, but rather a system to achieve fair and just compensation for injuries sustained.

Bureau of Indian Affairs

The philosophy of the Bureau of Indian Affairs (BIA) is to encourage the development and management of human and other resources among American Indians and Alaska Natives, to encourage tribal assumption of BIA programs, and to fulfill trust and other responsibilities of the U.S. Government. BIA regulatory actions serve to balance its dual role as: (a) advocate in assisting tribes and encouraging their participation in BIA programs, and (b) trustee protecting and/or enhancing American Indian trust resources.

Important BIA programs are promulgated through regulations, rather than informal guidelines, so that American Indians are aware of, and have an opportunity to participate in, the development of standards and procedures affecting them. BIA regulatory policies seek to accomplish the following: (a) ensure consistent policies throughout American Indian Country; (b) promote American Indian involvement in the operation, management, planning, and evaluation of BIA programs and services; (c) provide guidance to applicants for BIA services; and (d) govern the development of American Indian lands and provide for the protection of American Indian treaty and statutory rights.

BIA's regulatory program is designed (a) to promote American Indian self-determination, (b) to provide American Indians and Alaska Natives with high-quality education and tribal development opportunities, (c) to meet BIA's trust responsibilities, and (d) to meet the needs of tribes and their members.

Bureau of Land Management

The Bureau of Land Management (BLM) is responsible for the development, management, and protection of public land resources that traditionally have been subject to multiple use. The principal authorities for the BLM's activities are the Federal Land Policy and Management Act of 1976, the Mineral Leasing Act of 1920, the Taylor Grazing Act of 1934, the Mining Law of 1872, the Wild and Free-Roaming Horse and Burro Act, and the Recreation and Public Purposes Act. BLM's programs cover three main program areas: energy and minerals, renewable resources, and lands, including conducting Federal land surveys and maintaining the official records for all Federal and former Federal lands and minerals.

BLM's fundamental regulatory philosophy is that public resources should be managed responsibly, providing maximum benefits to the public, while conserving scarce resources for future generations. BLM's regulatory program is designed to ensure that:

- The resources in the Nation's lands are effectively and efficiently managed in accordance with law;
- The public's concern for the resources will be reflected in significant opportunity for participation in the development of rules;
- The regulatory compliance burden on individuals, firms, and other affected entities is kept to a minimum; and
- Individuals and firms operating under BLM regulations are given the opportunity to respond to, and make decisions based upon, assessments of market situations.

Minerals Management Service

The Minerals Management Service (MMS) has two major responsibilities: (a) timely and accurate collection, distribution, accounting for, and auditing of revenues owed by holders of Federal onshore, offshore, and tribal land mineral leases in a manner that meets or exceeds Federal financial integrity requirements and recipient expectations; and (b) management of the resources of the Outer Continental Shelf (OCS) in a manner that provides for safety, protection of the environment, and conservation of natural resources. These responsibilities are carried out under the provisions of the Federal Oil and Gas Royalty Management Act, the Minerals Leasing Act, the Outer Continental Shelf Lands Act, the Indian Mineral Leasing Act, and other related statutes.

The regulatory philosophy of MMS is to develop clear, enforceable rules that support the missions of each program. MMS will continue periodic reviews of offshore regulations to identify changes needed as a result of changes in technology, operating practices, or other factors. Specific revisions to rules to be pursued include ensuring the ability of lessee to meet end-of-lease obligations, its authority under the Oil Pollution Act of 1990 to require spill response plans in State and Federal waters, and developing regulations for certification of financial responsibility for offshore facilities. MMS also plans to continue its review and revision of existing regulations and to issue rules to refine the royalty management regulations in chapter II of 30 CFR.

Office of Surface Mining Reclamation and Enforcement

The Office of Surface Mining Reclamation and Enforcement (OSM) was created by the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to "strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy."

The principal regulatory provisions contained in Title V of SMCRA set minimum requirements for obtaining a permit for surface coal mining operations, set standards for surface coal mining operations, require land reclamation once mining ends, and require rules and enforcement procedures to ensure that the standards are met. Under SMCRA, OSM serves as the primary enforcer of SMCRA until the States achieve "primacy," that is, until they demonstrate that their regulatory program meets all the specifications in SMCRA and has regulations consistent with those issued by OSM.

A primacy State takes over the permitting, inspection, and enforcement activities of the Federal Government. OSM then changes its role from regulating mining activities directly to overseeing and evaluating State programs. Today, 24 of the 27 key coal-producing States have primacy. In return for assuming primacy, States are entitled to regulatory grants and to grants for reclaiming abandoned mine lands. In addition, under cooperative agreements, some primacy States have agreed to regulate mining on Federal lands within their borders. Thus, OSM regulates mining directly only in nonprimacy States, on Federal lands in States where no cooperative agreements are in effect, and on American Indian lands.

SMCRA charges OSM with the responsibility of publishing rules as necessary to carry out the purposes of the Act. The most fundamental mechanism for ensuring that the purposes of SMCRA are achieved is the basic policy and guidance established through OSM's permanent regulatory program and related rulemakings. Its regulatory framework is developed, reviewed, and applied according to policy directives and legal requirements.

Litigation by the coal industry and environmental groups is responsible for some of the rules now being considered by OSM. Others are the result of efforts by OSM to address areas of concern that have arisen during the course of implementing OSM's regulatory program.

OSM has sought to develop an economical, safe, and environmentally sound program for the surface mining of coal by providing a stable regulatory framework. To achieve stability, OSM has endeavored to create a regulatory program that provides a high degree of continuity in its requirements and creates minimal uncertainty concerning the nature and pace of changes to existing provisions.

OSM also has worked to create a consistent regulatory framework. At the same time, however, OSM has recognized the need (a) to respond to local conditions; (b) to provide flexibility to react to technological change; (c) to be sensitive to geographic diversity; and (d) to eliminate burdensome recordkeeping and reporting requirements that over time have proved unnecessary to ensure an effective regulatory program.

Major regulatory objectives regarding the mining of surface coal include:

- Continuing outreach activities with interested groups during the rulemaking process to increase the quality of the rulemaking process, improve the substance of the rules, and, to the greatest extent possible, reflect consensus on regulatory issues;
- Minimizing the recordkeeping and regulatory compliance burden imposed on the public by means of a review and, where advisable, revision of unnecessary and burdensome regulatory requirements; and
- Publishing final rules to implement the Energy Policy Act of 1992, Public Law 102-486.

U.S. Fish and Wildlife Service

The U.S. Fish and Wildlife Service has three basic mission objectives:

- To assist in the development and application of an environmental stewardship ethic based on ecological principles and scientific knowledge of fish and wildlife;
- To guide the conservation, development, and management of the Nation's fish and wildlife resources; and
- To administer a national program to provide the public with opportunities to understand, appreciate, and wisely use fish and wildlife resources.

These objectives are met through the following regulatory programs:

- Management of Service lands, primarily national wildlife refuges;
- Management of migratory bird resources;
- Conservation of certain marine mammals and endangered species;
- Allowance of certain activities that would otherwise be prohibited by law; and
- Administration of grant and assistance programs.

The Service maintains a comprehensive set of regulations in the first category—those that govern public access, use, and recreation on national wildlife refuges and in national fish hatcheries. As required by law, the Service is authorized to allow such uses only if they are compatible with the purpose for which each area was established. These regulations will be as consistent with State and local laws as practicable and will afford the public as much economic and recreational opportunity as possible. Consistent with the purposes for which those areas are established, with very few exceptions, the Service provides these types of opportunities on each of the more than 500 refuges and hatcheries. These regulations are developed and continually reviewed for improvements, with a substantial amount of public input, and are typically of limited geographical interest.

Management of migratory bird resources, covered by the second category of regulations, entails fulfilling U.S. obligations contained in various international treaties. This regulatory program entails an annual issuance on migratory bird hunting seasons and bag limits, developed in partnership with the States, American Indian tribal governments, and the Canadian Wildlife Service. Although these rules are issued annually, this regulatory program has been in existence for more than 50 years and has not significantly changed over that period of time. The regulations are necessary to permit migratory bird hunting that would otherwise be prohibited. Although recent declines in waterfowl populations have reduced the numbers of such birds that may be harvested, the regulations generally do not change significantly from one year to another.

The third category includes regulations to fulfill the statutory obligation to identify and conserve species faced with extinction. The basis for determining endangered species is limited by law to biological considerations, although priorities for allocating Service resources are established consistent with the President's policies (by directing the Service's efforts to species most

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threatened and those whose protection is of the most benefit to the natural resource). Also included in this program are regulations to enhance the conservation of listed species and of marine mammals for which DOI has management responsibility. This program also contains regulations that provide guidance to other Federal agencies to assist them in complying with section 7 of the Endangered Species Act, which requires them not to conduct activities that would jeopardize the existence of endangered species.

When a species is listed as endangered or threatened, the Service may designate critical habitat to promote the recovery of the species. Under section 7 of the Endangered Species Act, critical habitat designation limits activities carried out, funded, or authorized by Federal agencies within the critical habitat zone. In designating critical habitat, the Service considers biological information and economic and other impacts of the designation. Areas may be excluded from the designation where the benefits of exclusion outweigh the benefits of inclusion, provided that the exclusion will not result in the extinction of the species. For 1995, the Service is developing a number of proposed and final critical habitat rules, including: marbled murrlett (final); delta smelt (final); Alabama sturgeon (final); Louisiana black bear (final); Rio Grande silvery minnow (final); Arizona willow (final); two Klamath River fishes (proposed); Mexican spotted owl (proposed); and pecos pupfish (proposed).

The fourth category—the Service's regulatory program that permits activities otherwise prohibited by law—entails regulating possession, sale or trade, scientific research, and educational activities involving fish and wildlife and their parts or products. Generally, these regulations are supplemental to State protective regulations, and cover activities that involve interstate or foreign commerce, which must comply with various laws and international obligations. The Service is continually working with foreign and State governments, the industry and individuals affected, and other interested parties to minimize the burdens associated with Service-related activities. The easing of such burdens through regulatory actions continues to balance the benefits that may be made available with the necessity to ensure adequate protection to the natural resource. Most of the regulatory activities are permissive in nature, and the concerns of the public generally center on technical issues.

The last category—the Service's assistance programs—includes a limited number of regulations necessary to ensure that assistance recipients comply with applicable laws and Office of Management and Budget (OMB) Circulars. Regulations in this program help the affected parties to obtain assistance and to comply with requirements imposed by Congress and OMB.

Bureau of Reclamation

In recent years the Bureau of Reclamation's mission and goals have substantially changed. Its new mission is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. To accomplish this mission, Reclamation applies management, engineering, and scientific skills that result in effective and environmentally sensitive solutions.

Reclamation projects provide for some or all of the following concurrent purposes: irrigation water service, municipal and industrial water supply, hydroelectric power generation, water quality improvement, groundwater management, fish and wildlife enhancement, outdoor recreation, flood control, navigation, river regulation and control, system optimization, and related uses.

The bureau's regulatory program is designed to ensure that its mission is carried out expeditiously and efficiently.

DOI—Assistant Secretary for Policy, Management and Budget (ASPMB)

FINAL RULE STAGE

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58. NATURAL RESOURCE DAMAGE ASSESSMENTS; TYPE A—GREAT LAKES ENVIRONMENTS

Priority:

Other Significant

Legal Authority:

42 USC 9651(c) CERCLA

CFR Citation:

43 CFR 11

Legal Deadline:

NPRM, Judicial, August 8, 1994. Final, Judicial, January 16, 1996.

Settlement agreement

Abstract:

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or a discharge of oil. CERCLA calls for the promulgation of two types of natural resource damage assessment regulations: simplified "type A" assessment procedures involving minimal fieldwork, and "type B" procedures calling for more detailed, site-specific assessments. CERCLA requires that the regulations be reviewed, and revised as appropriate, every 2 years.

The Department has issued regulations establishing an administrative process for assessing damages, a type A procedure for determining injury and damages from minor spills in coastal and marine environments, and site-specific type B procedures for determining injury and damages when the type A procedure is not applicable.

In 1989 the Department began the biennial review of the type A procedure for coastal and marine environments. Subsequently, the court in *State of Colorado* vs. *United States Department of the Interior*, 880 F.2d 481 (DC Cir 1989), ordered the Department to revise the type A procedure to incorporate restoration costs as well as lost economic values. The type A procedure for coastal and marine environments incorporates a computer model capable of calculating damages based on a small number of user-supplied data inputs. The Department is revising the computer model to comply with the court remand as well as with the biennial review requirement.

The Department is developing a new type A procedure for use in the Great Lakes. This procedure, like the type A procedure for coastal and marine environments, incorporates a computer model capable of calculating damages based on a small number of user-supplied data inputs. Both type A computer models have been subjected to extensive analysis and testing, which has resulted in multiple revisions and refinements.

Statement of Need:

These regulations are required by statute and judicial decree. With regard to the type A procedures, use of the site-specific type B procedures to assess damages from minor releases or discharges is usually not cost-effective. Therefore the revised type A procedure for coastal and maring environments and the new type A procedure for Great Lakes environments are needed to enable trustees to obtain funds to restore injured resources.

Summary of the Legal Basis:

These regulations are required by CERCLA, 42 USC 9651(c).

Alternatives:

Two alternatives were considered. Alternative 1 was to take no action. Alternative 2 was to develop a type A procedure for minor releases and discharges in the Great Lakes that utilizes a computer model capable of calculating damages based on a small number of user-supplied data inputs.

Anticipated Costs and Benefits:

The natural resource damage assessment regulations do not themselves authorize the assessment and recovery of damages; they simply provide guidance on how to perform assessments. Costs include the costs of preparing the regulation, the costs of developing a computer model, and the cost of performing an assessment using the regulation. Without a simplified type A procedure, it is unlikely that natural resource trustees would attempt to recover damages for the minor releases or discharges that occur frequently in the Great Lakes. Therefore, under Alternative 1 there would be no assessment costs. Under Alternative 2, assessment costs would consist solely of the expenses associated with developing model input data and applying the model.

Benefits consist of increased damage recoveries available for restoration of injured resources. The estimate under Alternative 1 assumes that no damages would be recovered because no assessments would be performed.

Alternative 1 would yield a net benefit of $14,294,000; Alternative 2 a net benefit of $S14,294,000.

Risks:

Without appropriate standards to promote the reliability of lost nonuse value estimates, the public may not in some cases be able to obtain full compensation for its losses, and in other cases polluters may be assessed damages in excess of actual public losses. Without the biennial review, trustees may be left without the best available assessment procedures, which could prevent trustees from recovering adequate funds to restore injured resources and result in excessive damage assessment costs. Without the new type A procedures, trustees are unlikely to seek compensation for injuries from minor discharges and releases in Great Lakes environments, which would leave injured resources unrestored and prevent polluters from adequately internalizing costs.

Timetable:

Action	Date	FR Cite
ANPRM	09/22/89	54 FR 39015
ANPRM Comment Period End	10/23/89	
NPRM	08/08/94	59 FR 40319
NPRM Comment Period End	07/06/95	60 FR 7155
Final Action	01/00/96	
Final Action	01/00/96	
Coastal and Marine Environments (RIN 1090-AA23)		
ANPRM 09/22/89 (54 FR 39015)		
ANPRM Comment Period End 10/23/89		
NPRM 12/08/94 (59 FR 63300)		
NPRM Comment Period End 07/06/95 (60 FR 7155)		
Final Action 01/00/96		
Great Lakes (RIN 1090-AA21)		
ANPRM 09/22/89 (54 FR 39015)		
ANPRM Comment Period End 10/23/89		
NPRM 08/08/94 (59 FR 40319)		
NPRM Comment Period End 07/06/95 (60 FR 7155)		

Small Entities Affected:

None

Government Levels Affected:

None

Agency Contact:

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RIN: 1090–AA21

DOI—ASPMB

59. NATURAL RESOURCE DAMAGE ASSESSMENTS; TYPE A—COASTAL AND MARINE ENVIRONMENTS

Priority:

Other Significant

Legal Authority:

42 USC 9651(c) CERCLA

CFR Citation:

43 CFR 11

Legal Deadline:

NPRM, Judicial, December 8, 1994. Final, Judicial, January 16, 1996.

Settlement agreement

Abstract:

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or a discharge of oil. CERCLA calls for the promulgation of simplified "type A" assessment procedures involving minimal fieldwork for use in cases of minor releases or discharges. In 1987, the Department issued a type A procedure for coastal and marine environments that incorporated a computer model capable of calculating damages based on a small number of user-supplied data inputs. CERCLA requires that assessment procedures be reviewed, and revised as appropriate, every two years. In 1989, the Department began the biennial review of the type A procedure for coastal and marine environments. Subsequently, State of Colorado v. United States Department of the Interior, 880 F.2d 481 (D.C. Cir. 1989), ordered the Department to revise the type A computer model to incorporate restoration costs as well as lost economic values.

Statement of Need:

These regulations are required by statute and judicial decree. Also, use of site-specific type B procedures to assess damages from minor releases or discharges is usually not cost effective. Therefore, the revised type A procedure for coastal and marine environments is needed to enable trustees to obtain funds to restore injured resources.

Summary of the Legal Basis:

These regulations are required by CERCLA, 42 USC 9651(c).

Alternatives:

Two alternatives were considered. Alternative 1 was to take no action, which would leave trustees with a type A procedure that calculates only lost economic values. Alternative 2 was to revise the type A procedure in compliance with the statutory biennial review requirement and the court remand to produce a computer model that calculates lost economic values as well as restoration costs.

Anticipated Costs and Benefits:

The natural resource damage assessment regulations do not themselves authorize the assessment and recovery of damages; they simply provide guidance on how to perform assessments. Costs include the costs of revising the computer model and the cost of performing assessments using the regulation. Benefits consist of increased damage recoveries available for the restoration of injured resources. Under Alternative 1, trustees would obtain damages only for lost economic values. Under Alternative 2, trustees would obtain damages for lost economic values as well as restoration costs. Alternative 1 would yield a net benefit of $14,212,000. Alternative 2 would yield a net benefit of $56,955,000.

Risks:

Without the revised type A procedures, trustees are unlikely to seek compensation for injuries from minor discharges and releases in coastal and marine environments, which would leave injured resources unrestored and prevent polluters from adequately internalizing costs.

Timetable:

Action	Date	FR Cite
ANPRM	09/22/89	54 FR 39015
ANPRM Comment Period End	10/23/89	54 FR 39015
NPRM	12/08/94	59 FR 63300
NPRM Comment Period End	07/07/95	60 FR 7155
Final Action	01/18/96	

Small Entities Affected:

None

Government Levels Affected:

None

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RIN: 1090–AA23

DOI—Bureau of Indian Affairs (BIA)

PROPOSED RULE STAGE

60. TRIBAL SELF-GOVERNANCE

Priority:

Other Significant

Legal Authority:

PL 103-413

CFR Citation:

25 CFR 1000

Legal Deadline:

None

Abstract:

This rule will clarify how the Department and tribes will carry out their respective responsibilities under the Tribal Self-Governance Act of 1994. At the request of a majority of Indian tribes with self-governance agreements, the Secretary has established a negotiated rulemaking committee to negotiate and promulgate such regulations as are necessary to carry out the Act.

Statement of Need:

The Department of the Interior (DOI) needs to clarify how it and the tribes will carry out their respective responsibilities under the Tribal Self-Governance Act of 1994. Provisions are needed to clarify or establish:

- Procedures for conducting negotiations, defining stable base budgets, time lines for the transfer of funds for tribes, and the amount of residual funds to be retained;

- The processes for accepting new tribes into the self-governance program planning and negotiation process, for awarding planning and negotiation grants, for approving waiver requests, and for determining and negotiating tribal shares of BIA and eligible non-BIA programs;

- Mechanisms for reviewing tribal trust functions;

- Retrocession procedures;

- Procedures for ensuring that proper health and safety standards exist in construction projects and are included in annual funding agreements;

- Reporting requirements of tribes and DOI; and

- A mechanism for negotiating the inclusion of specific provisions of Federal procurement regulations into annual funding agreements.

DOI expects that the rulemaking process will identify other components of the program that require clarification.

Summary of the Legal Basis:

The Tribal Self-Governance Act of 1994 requires DOI, upon request of a majority of self-governance tribes, to negotiate and promulgate regulations to carry out the tribal self-governance program. The Act calls for a negotiated rulemaking committee under 5 USC 565, composed of Federal and tribal representatives, with a majority of the tribal representatives from self-governance tribes. The Act also authorizes DOI to adapt negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and the Indian tribes. On November 1, 1994, a majority of self-governance tribes wrote the Secretary requesting the immediate initiation of negotiated rulemaking.

Alternatives:

There is a range of alternatives for each of the program components, from maintaining discretion and flexibility at the local level to standardizing requirements and procedures on the national level.

Anticipated Costs and Benefits:

The rule is expected to promote greater efficiency of Federal and tribal government operations. It is also expected to reduce opportunity costs resulting from untimely Federal actions. The rule will improve the ability of Federal and tribal governments to plan their self-governance activities. This should lead to greater stability of operations. Clarifying procedures for conducting operations will improve the ability of governments to plan for the time and cost of conducting negotiations. Clarifying time lines for transfer of base funding and other funds to tribes will improve planning and reduce the opportunity costs resulting from the untimely transfer of funds under the self-governance program. Budget and operation planning will be improved by specifying the process for accepting additional tribes into the self-governance program planning and negotiating process as well as the process for awarding planning and negotiation grants. Since retrocession procedures will be specified, governments will be better able to plan for retrocessions. Standardization of tribal shares will allow the self-governance program to comply with statutory requirements not to limit or, reduce the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive.

Risks:

By removing uncertainty and promoting a more stable framework for the program, the rule will greatly lower the risk of not achieving the stated goals of tribal self-governance. It will change the role of Federal agencies that serve tribes by shifting their responsibilities from day-to-day management of tribal affairs to those concerned with protecting and advocating tribal interests.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish a Negotiated Rulemaking Committee	02/15/95	60 FR 8806
NPRM	03/01/96	

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

Tribal, Federal

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DOI—BIA

61. INDIAN SELF-DETERMINATION ACT AMENDMENTS OF 1994

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

25 USC 450; 25 USC 5911; 25 USC 1396; 25 USC 450 (PL 103-413)

CFR Citation:

25 CFR 900; 25 CFR 272; 25 CFR 274; 25 CFR 275; 25 CFR 277; 25 CFR 278

Legal Deadline:

Final, Statutory, April 25, 1995.

Negotiations for new regulations must be completed within 90 days of the Act's effective date unless the Secretary obtains written approval of an extension.

Abstract:

The Indian Self-Determination Contract Reform Act of 1994 (Public Law 103-413) significantly amends numerous provisions of the Indian Self-Determination and Education Assistance Act of 1975 (25 USC 450). Its purpose is to limit the promulgation of regulations under 25 USC 450 and to specify the terms of self-determination contracts entered into between the United States and Indian tribal organizations. The Act adds a new definition of the term "construction contract," excludes tribes or tribal organizations from the provisions of the Davis-Bacon Act, and recognizes the applicability of tribal employment and contract preference laws to contracts benefitting a single tribe. The latter provision in effect permits the application of tribal ordinances providing preference in employment to tribal members or other individuals. The Act also amends substantially the scope of contractable programs and the grounds for declination.

Statement of Need:

As a result of the passage of the Indian Self-Determination Contract Reform Act Amendments of 1994, the Department of the Interior (DOI) must revise the regulations governing how DOI, the Department of Health and Human Services (HHS) and the tribes will carry out their respective responsibilities. The Amendments significantly revise numerous provisions of the Indian Self-Determination and Education Assistance Act of 1975 (ISDEA). The overall purpose of Title I of ISDEA is to limit the promulgation of regulations and to specify the terms of self-determination contracts entered into between the United States and Indian tribes. Title I also makes contracting less burdensome for the tribes.

Summary of the Legal Basis:

The Indian Self-Determination Act of 1994 requires DOI to negotiate and promulgate regulations necessary to carry out the tribal Indian Self-Determination Program. The Act calls for DOI to establish a negotiated rulemaking committee composed of Federal and tribal representatives. It also authorizes the DOI to adapt negotiated rulemaking procedures to the unique context of self-determination and the government-to-government relationship between the United States and the Indian tribes.

During the week of April 13, 1995, DOI, HHS and tribal representatives held their first session in Arlington, Virginia, and formed the Indian Self-Determination Negotiated Rulemaking Committee. The Committee developed and approved the formal organizational protocols and preamble.

Alternatives:

The alternative to be considered is that of not issuing regulations or procedures and following the actual Indian Self-Determination Act, as amended in 1994.

Anticipated Costs and Benefits:

The rule is expected to promote greater efficiency of Federal and tribal government operations. The rule is also expected to reduce costs resulting from untimely Federal actions and transfer of funds to tribes. This reduction will reduce administrative costs for federal personnel and contracting tribes, allowing additional funds to provide services to the tribal clientele.

Risks:

If DOI, HHS, and tribal representatives are unable to reach an agreement on the proposed ISDEA regulations as amended, the Federal agencies and tribal representatives will be required to follow the amended Act without regulations and/or procedures. The deadline date for publication of the proposed regulations and the final rule cannot be extended without the approval of the tribes.

Timetable:

Action	Date	FR Cite
NPRM	10/31/95	
NPRM Comment Period End	04/30/96	

Small Entities Affected:

None

Government Levels Affected:

Tribal

Procurement:

This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information:

A proposed rule for a new 25 CFR part 900 was published in the **Federal Register** on January 20, 1994. This rule is being removed from the agenda due to the new legislation. The regulation

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now being proposed is a replacement for that regulation.

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DEPARTMENT OF JUSTICE (DOJ)

Statement of Regulatory Priorities

The Department of Justice is not a major regulatory agency, and it carries out its vital investigative, prosecutorial, and other law enforcement activities principally through means other than the regulatory process. Even so, the Department does have significant responsibilities for implementing the Americans with Disabilities Act (ADA) as well as the immigration laws, including the Immigration Reform and Control Act of 1986 and the Immigration Act of 1990. The Department's key regulatory goals and initiatives are set forth in detail below.

The Department has worked actively to implement the general regulatory principles of Executive Order 12866. Relatively few of the Department's rules are significant regulatory actions requiring review by the Office of Management and Budget (OMB) under the Executive Order. Accordingly, the orientation of the OMB review process to focus on significant rules has required the Department to increase its own efforts to ensure that all of its regulations are carefully reviewed for consistency with the Administration's regulatory principles, including the large majority of rules that are not reviewed directly by OMB as significant regulatory actions.

Pursuant to section 4(c) of Executive Order 12866, the Department of Justice provides the following statement of regulatory priorities, focusing in particular on three regulatory initiatives in the areas of civil rights and immigration.

In addition to the specific initiatives set forth below, several other components of the Department carry out important responsibilities through the regulatory process. Although their regulatory efforts are not singled out for specific attention in this Regulatory Plan, those components carry out key roles in implementing the Department's law enforcement priorities. In particular, the Drug Enforcement Administration (DEA) is responsible for controlling abuse of narcotics and dangerous drugs by restricting the aggregate supply of those drugs. DEA accomplishes its objectives through coordination with State, local, and other Federal officials in drug enforcement activities; development and maintenance of drug intelligence systems; regulation of legitimate controlled substances; and enforcement coordination and intelligence-gathering activities with foreign government agencies. DEA has various regulatory actions under development relating to the drug control requirements and to streamlining initiatives undertaken pursuant to the Administration's Regulatory Reinvention initiative.

Also, the Federal Bureau of Investigation will be promulgating regulations under the Communications Assistance to Law Enforcement Act of 1994 (CALEA). Congress enacted CALEA to address the recent and continuing advances in telecommunications technology which have impaired and, in some instances precluded, law enforcement agencies from fully conducting various types of court-authorized electronic surveillance. The Attorney General is authorized to reimburse carriers for all of the reasonable costs directly associated with the modifications they perform on equipment, facilities, and services deployed on or before January 1, 1995. These regulations will provide the cost accounting standards for reimbursements.

Civil Rights

The Department and its Civil Rights Division are deeply committed to a rigorous and revitalized approach to the enforcement of this Nation's civil rights laws. In keeping with that commitment, the Division will be reviewing, updating, and improving its civil rights regulations, which are the Division's basic enforcement tools. As a priority for the coming year, the Division is completing the initial ADA rulemaking cycle by amending its regulations under the ADA to incorporate revised standards applicable to new buildings and facilities used by State and local governments. The Department's Regulatory Plan has one civil rights initiative.

The Department is planning to make revisions in its regulations implementing title II of ADA (and conforming changes to title III) in order to incorporate the revised accessibility design guidelines developed by the Architectural and Transportation Barriers Compliance Board (the Access Board). Subtitle A of title II of the ADA protects qualified individuals with disabilities from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. Title III of the ADA protects qualified individuals with disabilities from discrimination on the basis of disability by public accommodations and in commercial facilities. The Access Board's new guidelines for State and local buildings and facilities are the subject of a related, pending rulemaking proceeding, and have been subject to considerable scrutiny through the Board's regulatory process. The Department of Justice, which is required by statute to promulgate regulations that do not go below the Access Board's minimum guidelines, will incorporate them into the Department's title II rule.

These amendments to the ADA regulations are an important step forward in fulfilling the promise of the ADA in ushering in a new era of opportunity and dignity for the many millions of Americans with disabilities. These regulations, which will apply to new construction and to alterations of State and local buildings and facilities, will open doors that have shut out people with disabilities in the past.

Immigration

The Immigration and Naturalization Service (INS) is responsible for facilitating the entry of persons legally admissible as visitors or as immigrants to the United States, for preventing unlawful entry or receipt of immigration benefits by those who are not entitled to receive them, and for apprehending or removing those aliens who enter or remain illegally in the United States. Though many of the Administration's goals for more effective immigration process require either new statutory authority or increased resources, the regulatory process is a vital aspect of carrying out the goals of the immigration laws.

Certainly, one of the regulatory challenges facing the Department of Justice is to improve the effectiveness of those regulatory efforts. Commissioner Meissner established three fundamental goals at the time of her confirmation: to increase the professionalism of the Service, to provide immigration control with compassion, and to build the Service's role in immigration policy leadership and communication. The regulatory priorities for the Service follow those priorities, though other desired improvements may require legislative action. Two INS initiatives are included in this regulatory plan.

The principal policy and program delivery regulations which will be presented this year address areas of vulnerability in the immigration system. They are also structured to facilitate the proper use of the system by deserving persons. The principal regulation will provide reforms which are geared to streamlining the naturalization process.

The Service has launched a major initiative, "Citizenship USA," designed

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to increase access to citizenship. Through this project, INS will streamline the naturalization process to assure that eligible applicants are approved and sworn in as citizens within 6 months of filing their applications. A team of INS headquarters and field staff, with the assistance of outside experts, has reviewed the current process and will propose to the Commissioner a number of modifications to procedures and policies. One of the first of these changes is the designation of qualified organizations to provide assistance to individuals applying for naturalization, on a fee-for-service basis.

The second major program area to be addressed in this regulatory plan is the Service's ongoing effort to facilitate the U.S. business community's ability to comply with the Employer Sanctions provisions of the Immigration Control and Reform Act. Over the past year the Service has published a supplemental proposed rule which not only further reduced the number of acceptable documents for verifying employment eligibility, but also proposed the addition, based on public comments, of an employee attestation provision.

The Service has also been involved in discussions with various private- and public-sector organizations concerning the feasibility of an electronic Form I-9, Employment Eligibility Verification Form. Efforts are currently underway to allow a pilot demonstration program to test various phases of electronically handling and/or processing the Form I-9. The demonstration project is scheduled to be a 2-year project, after which the Service hopes to be in a position to present findings and recommendations for possible regulatory and/or legislative modifications.

Additionally, the Service will be promulgating regulations which will propose to eliminate references to several types of employment authorization documents (EADs) and to phase in replacement of these documents by a new, more secure, EAD.

DOJ—Civil Rights Division (CRT)

FINAL RULE STAGE

62. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS

Priority:

Other Significant

Legal Authority:

42 USC 12134; 42 USC 12186; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

CFR Citation:

28 CFR 35; 28 CFR 36; 28 CFR 37; 28 CFR 38

Legal Deadline:

None

Abstract:

On July 26, 1991, the Department published its final rules implementing titles II and III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by public entities (title II) and in places of public accommodation and commercial facilities (title III). Those regulations included accessibility guidelines required for facilities covered by title III--the ADA Accessibility Guidelines for Buildings and Facilities (ADAAG)--but did not specifically include guidelines for facilities covered by title II, such as courthouses or prisons. Title II entities now have the option of using ADAAG (without certain exceptions applicable only to title III facilities) or another existing standard, the Uniform Federal Accessibility Standards.

The final rule will amend titles II and III to adopt a revised version of ADAAG, which incorporates new guidelines for facilities typically covered by title II. The new guidelines were issued as an interim rule by the Access Board and were published on the same day as the Department's proposed rule. The Department's final rule will also amend the compliance procedures set forth in subpart F of the title II regulation.

Statement of Need:

Section 504 of the ADA requires the Access Board to issue supplemental minimum guidelines and requirements for accessible design of buildings and facilities subject to the ADA, including titles II and III. Sections 204(c) and 306(c) of the ADA provide that the Attorney General shall promulgate regulations implementing titles II and III that are consistent with the Access Board's ADA guidelines. Because the Department of Justice is required by statute to promulgate regulations that do not go below the Access Board's minimum guidelines, and because this rule will adopt guidelines issued by the Access Board, as also required by statute, this rule is required by statute.

Summary of the Legal Basis:

The summary of the legal basis of authority for this regulation is set forth above in the Legal Authority and in Statement of Need.

Alternatives:

The Department is required by the ADA to issue this regulation as described in the Statement of Need above. All comments (including those that suggest alternatives to the current proposed guidelines) received by the Department on the proposed rule and by the Access Board on its current interim rule and its guidelines published December 21, 1992, have been and will continue to be thoroughly analyzed and considered by the Department prior to the adoption of any final rule.

Anticipated Costs and Benefits:

The Clinton Administration is deeply committed to ensuring that the goals of the ADA are met. Promulgating this amendment to the Department's ADA regulations will ensure that entities subject to the ADA will have one comprehensive regulation to follow. Currently, entities subject to title II of the ADA (State and local governments) have a choice between following the Department's ADA standards for title III, which were adopted for places of public accommodation and commercial facilities and which do not contain standards for common State and local government buildings (such as courthouses and prisons), or the Uniform Federal Accessibility Standards (UFAS). By developing one comprehensive standard, the Department will eliminate the confusion that arises when governments try to mesh two different standards. As a result, the overarching goal of improving access to the built environment to persons with disabilities will be better served.

The Access Board has analyzed the impact of applying its proposed amendments to ADAAG to entities covered by titles II and III of the ADA and has determined that they are a significant regulatory action for purposes of Executive Order 12866. The Access Board has prepared a Regulatory Assessment, which includes a cost impact analysis for certain accessibility elements and a discussion of the regulatory alternatives considered.

The Access Board has determined that this proposed rule will have a significant economic impact on a substantial number of small entities and, therefore, has included the flexibility analysis required by the Regulatory Flexibility Act in its regulatory assessment. The Access Board has made every effort to lessen the economic impacts of its proposed rule on small entities, but recognizes that such impacts are the necessary result of the mandate of the ADA itself. The Access Board's analysis also applies to the Department's proposed adoption of the revised ADAAG. The Department's proposed procedural amendments will not have a significant economic impact on small entities.

The Access Board has made every effort to lessen the impact of its proposed guidelines on State and local governments, but recognizes that the guidelines will have some federalism impacts. These impacts are discussed in the Access Board's Regulatory Assessment, which also applies to the Department's proposed rule.

Risks:

Without this amendment to the Department's ADA regulations, regulated entities will be subject to confusion and delay as they attempt to sort out the requirements of conflicting design standards. This amendment should eliminate the costs and risks associated with that process.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31808
NPRM Comment Period End	08/19/94	59 FR 31808
Final Action	09/00/96	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local

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DOJ—Immigration and Naturalization Service (INS)

PROPOSED RULE STAGE

63. • STREAMLINING NATURALIZATION

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

8 USC 1103; 8 USC 1252b; 8 USC 1362; 8 USC 1421; 8 USC 1443; 8 USC 1447; 8 USC 1448

CFR Citation:

8 CFR 103; 8 CFR 292

Legal Deadline:

None

Abstract:

This regulatory change is part of the Immigration and Naturalization (INS) "Citizenship USA" Project to make the naturalization process more accessible to eligible immigrants. The change is intended to increase the availability of high-quality, low-cost assistance to applicants for naturalization and other immigration benefits. It will reduce the burden of current regulations and will clarify some regulatory provisions which have been confusing to affected parties. It will also expand the partnership between INS and organizations in local communities.

Statement of Need:

INS now receives far more applications for naturalization than in previous years. Many of these applications are filed with some of the required information missing, or improperly filled out. Processing these applications and returning them for additional information wastes time of INS employees, and adds delay to an applicant's waiting time.

Many voluntary organizations working in immigrant communities help individuals prepare their applications. INS has learned that these are more likely to be complete and legible, expediting processing. Further, these organizations provide information regarding INS requirements and procedures, which helps individuals decide whether and when to file applications for naturalization and other immigration benefits. INS believes that increasing the availability of such assistance will increase the efficiency and effectiveness of its naturalization efforts, reduce the waiting time for applicants, and increase satisfaction among its applicants.

INS will amend existing regulations to establish procedures to designate qualifying organizations and their individual employees on a provisional basis to assist applicants for various naturalization benefits, on a fee-for-service basis. These procedures will be coordinated with those regarding representation by organizations recognized by the Board of Immigration Appeals (BIA).

Summary of the Legal Basis:

The legal basis of authority for these regulatory modifications is set forth above in Legal Authority. No aspect of these actions is required by statute or court order.

Alternatives:

Some attorneys provide these services to their clients; however, the demand exceeds the supply. The BIA recognizes qualified organizations to provide representation, which may include application assistance; again, the need for assistance exceeds the total capacity of these organizations, which are restricted to charging no more than a nominal fee for services. By establishing its own procedures for designation, INS can expand the availability of high-quality, low-cost services. As such designated organizations will be able to charge fees to support these services, they should be able to expand to meet the need.

Anticipated Costs and Benefits:

There will be a relatively small cost for staff time necessary to determine the qualifications of organizations and their individual employees seeking designation, as well as a small cost for

monitoring the ongoing quality of such services and the designees' continued compliance with the requirements. The benefits include: shortened average processing time for applications due to improved accuracy; reduced demand for INS staff to answer routine application questions or provide forms; better understanding of requirements and procedures by potential applicants; fewer filings by clearly ineligible persons, saving them and INS time and money; and the potential for enhanced relationships between INS and the public in local communities. The INS anticipates that these benefits will substantially exceed the costs.

Risks:

These regulatory initiatives do not involve risk reduction efforts involving health, public safety, or environmental concerns.

Timetable:

Action	Date	FR Cite
NPRM (INS 1735) Comment Period End 2/96	12/00/95	

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

Federal

Additional Information:

Craig S. Howie, Sr., Adjudications Officer is also an agency contact.

INS No. 1735, Contact Yolanda Sanchez-K, Pearl Chang.

INS No. 1275, Related Naturalization effort.

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DOJ—INS

FINAL RULE STAGE

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64. CONTROL OF EMPLOYMENT OF ALIENS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

8 USC 1101; 8 USC 1103; 8 USC 1255a; 8 USC 1255a note; 8 USC 1324a; 8 USC 1160; 8 CFR 2

CFR Citation:

8 CFR 210; 8 CFR 245a; 8 CFR 274a

Legal Deadline:

None

Abstract:

The document reduction rule (INS No. 1399-93) reduces the number of Immigration and Naturalization Service (INS)-issued documents that are acceptable for purposes of completing the Employment Eligibility Verification Form (Form I-9). This rule proposes to further simplify compliance with the employment eligibility verification requirements and address the concerns of employers who allege confusion created by the multiplicity of acceptable documents on the Form I-9.

A supplemental proposed rule published on June 22, 1995, at 60 FR 32472 proposed creating a requirement on the part of the employee to sign an attestation in section 3 of Form I-9, during the reverification process indicating that they are still authorized to work in the United States (INS No. 1399S-94). The supplemental rule also proposed the elimination of Federal identification cards as acceptable List B identity documents.

Statement of Need:

In a March 1990 report, the General Accounting Office (GAO) noted that the multiplicity of acceptable work eligibility documents can give rise to confusion and uncertainty in the minds of employers seeking to determine whether individuals are eligible to work. (Immigration Reform: Employer Sanctions and the Question of Discrimination 62 (GAO/GGD-90-62, Mar. 1990)). A reduction in the number of acceptable documents should reduce confusion and uncertainty on the part of employers, and thereby reduce potential employment discrimination based upon misapplication of the employment eligibility verification requirements.

Summary of the Legal Basis:

The legal basis of authority for this regulation is set forth above in Legal Authority. No aspect of this regulatory action is required by statute or court order.

Alternatives:

One often repeated criticism of employer sanctions is the number of documents that are acceptable for completing the Form I-9. The Service has taken steps to address this criticism. In July 1988, the Service committed to the establishment of procedures for a uniform employment authorization policy. First, the Service limited the number and types of paper documents on which employment could be authorized. Second, the Service introduced the standardized Employment Authorization Document (Form I-688B). The Service has determined that further steps can be taken to streamline the employment eligibility verification system by reducing the number of documents acceptable for Form I-9 purposes. During the next few months the Service will issue a proposed regulation which introduces a new, more secure employment authorization document (EAD) which will eventually replace existing EADs.

Anticipated Costs and Benefits:

Employment is often the magnet that attracts individuals to come to or stay in the United States illegally. The employer sanctions provisions help reduce the strength of this magnet by requiring employers to hire only those individuals who may legally work in the United States. This rule, by reducing the number of documents that are acceptable for employment eligibility verification purposes, will reduce confusion and uncertainty on the part of employers in the application of the employment eligibility verification requirements. This, in turn, will increase employer compliance and thereby result in more jobs being available for those who are authorized to work in the United States. In addition, by reducing confusion and uncertainty on the part of employers, this rule will reduce potential employment discrimination based upon misapplication of the employment eligibility verification requirement.

Risks:

An employment eligibility verification system that relies on a multiplicity of documents, and is difficult to understand, may result in employment discrimination based upon

misapplication of the employment eligibility verification requirements. In addition, a complicated employment eligibility verification system may encourage fraud and result in individuals who are authorized to work in the United States being displaced by unauthorized individuals.

Timetable:

Action	Date	FR Cite
NPRM (INS 1399); Comment period end 12/23/93	11/23/93	58 FR 61846
Supplemental NPRM (INS 1339S) Comment period end 7/24/95	06/22/95	60 FR 32472
Public Notice (INS 1713) Pilot Demonstration Program	10/00/95	
Final Rule (INS 1399)	12/00/95	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Federal

Additional Information:

INS No. 1399-92

INS No. 1399S-94, Control of Employment of Aliens Supplemental Rule.

INS No. 1713-95, Demonstration Project for Electronic I-9s, contact Robert Atwater, 202-514-2998.

Cross Reference INS No. 1707-95, RIN 1115-AE06, contact Sharen Nichols, 202-514-3156.

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DEPARTMENT OF LABOR (DOL)

Statement of Regulatory Priorities

The Department of Labor's (DOL's) mission is to protect and promote the welfare of those who are employed, those who are retired, and those who are seeking a new or better job. In order to successfully fulfill its mission, the Department must provide a strong but flexible framework of rules for employers and others to follow. This framework is largely formed by the more than 180 labor laws and implementing regulations the Department administers. It is this framework of rules that guarantees workers' rights to a safe and healthful work place; to a minimum wage and overtime pay; to freedom from employment discrimination; to family and medical leave; and to unemployment insurance. In addition, the rules support the Department's effort to protect workers' pension and other benefit rights; provide job-training programs; help workers find jobs; and work to strengthen free collective bargaining.

DOL's framework of rules undergoes continual change—for instance, it must be updated to reflect newly enacted laws that provide protections or benefits to workers (such as the Family and Medical Leave Act of 1993). It must also be updated to take into account changes in the work place such as improved, safer technologies, or to reflect new workplace hazards. In addition, the Department recognizes that a comprehensive review of the framework is periodically needed to eliminate those sections that are outdated and to reinvent those parts that are unreasonably burdensome or confusing. DOL has recently undertaken such a review in response to President Clinton's April 24, 1995, "Regulatory Reinvention Initiative." The Department, in its "Reinventing Labor Regulations" report, made a commitment to the President to expand its efforts to improve DOL regulatory processes and regulations. As part of that commitment, each DOL regulatory agency conducted a page-by-page review of its rules. This process has led to the generation of a DOL regulatory reform strategy, followed by agency commitments to change or eliminate specific regulations. DOL's regulatory reform strategy is designed to:

- Set clear and sensible priorities for hazards and other issues that need to be addressed;
- Establish basic "building block" standards that provide a solid foundation for future regulatory efforts;
- Revise and revoke obsolete, confusing, or unnecessary rules;
- Reduce excessive compliance burden and costs;
- Employ plain language to make rules more user-friendly; and
- Initiate cooperative partnerships with business, labor, State governments, interest groups, professional societies, and other important stakeholder groups.

Some of the specific regulatory changes that were identified in the review are found in the eleven "reinvention" entries in this plan; others will be included in the Department's regulatory agenda. The purpose of these reform efforts is to ensure that our framework of rules is strong enough to effectively promote and protect workers and is built so that it imposes the smallest possible burden on those who must abide by the rules.

DOL's 1995 regulatory plan includes 20 of the Department's most important significant regulations from 5 of our major regulatory agencies: Employment Standards Administration (ESA), Employment and Training Administration (ETA), Mine Safety and Health Administration (MSHA), Occupational Safety and Health Administration (OSHA), and Pension and Welfare Benefits Administration (PWBA). These regulations were selected because of their significant impact on the economy or other government agencies and because they are central to each agency's mission or to their regulatory reinvention efforts. Although these regulations represent those that are likely to have the greatest impact, it is important to note that the Department views every regulatory effort it undertakes as important and necessary.

Regulatory Priorities

The Department of Labor is one of the largest enforcement agencies within the U.S. Government. Its regulations cover an estimated 7 million establishments and over 125 million current and former employees, as well as job applicants and retirees. Given this extensive mandate, the entries in the Regulatory Plan were carefully selected as the most important: that is, they are essential to the Department's mission to improve worker protections and job services. And, in keeping with the Department's promise to the President to improve our regulatory framework, these proposals will be designed so that they are effective, consistent, sensible and understandable. Some, in fact, are designed solely to improve existing regulatory requirements and reduce compliance costs.

The Employment Standards Administration's Wage and Hour Division is responsible for implementing and enforcing a number of statutes establishing minimum labor standards that protect the Nation's work force, such as the Fair Labor Standards Act (FLSA), the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), the Family and Medical Leave Act, the Employee Polygraph Protection Act, and certain provisions of the Immigration and Nationality Act. These labor standards include provisions for payment of minimum wages and overtime compensation, protection of working youth under child labor standards, job protections for employees who take leave for certain covered family or medical reasons, and requirements to observe minimum working conditions for agricultural workers. The regulatory activities required to implement these statutory responsibilities represent a very important aspect of the Division's work, the results of which reach over 100 million employees in the work force. When developing regulatory proposals, the Department's focus is on assuring fair, safe and healthful workplaces for workers, while at the same time making regulatory standards less burdensome to the regulated community. The particular regulations selected for inclusion in this Plan affect a wide array of workers and workplaces. Under the FLSA, the Wage and Hour Division is undertaking a comprehensive review of the regulatory criteria applicable to child labor and to the minimum wage and overtime exemption for "executive," "administrative," "professional," and "outside sales employees." Other regulatory actions include clarification of the criteria to be followed in determining whether a joint employment relationship exists in the employment of migrant and seasonal farm workers under MSPA, and the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act.

ESA is also charged with enforcing the nondiscrimination and affirmative action requirements of Executive Order 11246, section 503 of the Rehabilitation Act of 1973, as amended, and section 4212 of the Vietnam Era Veterans' Readjustment Assistance Act. Through these regulations, ESA's Office of Federal Contract Compliance Programs seeks to ensure that Federal contractors and subcontractors provide a level playing field to all employees and applicants for employment. The proposed changes to regulations implementing Executive Order 11246, which will streamline, clarify, and reduce paperwork requirements, are an important ESA regulatory priority.

The mission of the Mine Safety and Health Administration (MSHA) is to achieve the goal of the Federal Mine Safety and Health Act of 1977: making the first priority and concern of all in the mining industry the health and safety of its most precious resource—the miner. MSHA is committed to providing the Nation's miners a safer and healthier workplace. Despite MSHA's past efforts, miners daily face safety and health hazards at levels unknown in most other professions. Government intervention alone cannot eliminate occupational deaths, injuries, and illnesses in mining. Effective regulation can best be accomplished through the combined commitment of miners, mine operators, and the Government to prevent accidents and illnesses. To facilitate this commitment, MSHA's Regulatory Plan concentrates on improving existing safety and health standards and addressing technological advances in mining.

Two significant regulatory actions exemplify MSHA's commitment to improving workplace safety and health for miners. The first action addresses the need to update the Agency's existing standards for exposure to noise. The proposed noise rule would re-examine the level of protection provided by existing standards. This examination is necessary because many miners, who are exposed to the maximum noise levels currently permitted by MSHA regulations, may still be suffering hearing impairments.

The second significant regulatory action concerns diesel-powered equipment. The introduction of diesel-powered equipment in underground coal mines over the past decade has created new hazards associated with the presence of a potential ignition source and diesel fuel in an already explosive environment. In addition, the exhaust from such equipment can expose miners to hazardous airborne contaminants. To assure that diesel-powered equipment does not adversely affect the safety or health of miners, MSHA plans to issue a final rule that includes criteria for the approval of such equipment, safety standards for the storage and distribution of diesel fuel, training requirements for workers who maintain diesel equipment, and requirements for monitoring miners' exposure to diesel exhaust. (Although it will not be a Regulatory Plan entry, MSHA does intend to issue a separate proposed rule for controlling diesel particulate emissions that would complement the diesal equipment standard. This Regulatory Agenda proposal will address the potential health hazards associated with particulate in the exhaust emitted by diesel-powered equipment in the mining environment.)

In the past 2 years, the Occupational Safety and Health Administration (OSHA) has changed its fundamental mode of operation from one of command and control to one that provides employers with a real choice between a partnership with OSHA and a traditional enforcement relationship. In the regulatory arena, this means that OSHA has changed its approach to regulating to enable the Agency, for the first time, to establish and act on clear and sensible priorities, focus on developing a basic "building block" standard—the safety and health programs rule—and eliminate out-of-date, confusing, or duplicative rules from the books. Despite the change in OSHA's methods, however, its mission remains as important as it was on the day President Nixon signed the Occupational Safety and Health Act into law in 1970: this mission is that of saving the lives and improving the safety and health of America's working men and women.

Over the years, some of OSHA's standards, particularly those adopted wholesale from national consensus standards in 1971, have become technologically obsolescent, while others are written in highly detailed, specification-driven language. To address these problems, OSHA has launched a series of initiatives aimed at streamlining and rationalizing the Agency's regulations and ensuring that all future OSHA rules will pass plain-language and common-sense tests. In addition, the Agency is actively soliciting input from stakeholders—business, labor, small employers, professional associations, and affected government entities—as it moves forward on these rulemaking initiatives. The OSHA rules featured in the 1995 Regulatory Plan reflect the rulemaking approach that is being followed by "the New OSHA." For example, the Agency is carefully reviewing the massive docket resulting from months of public hearings and comments on one of the Agency's highest priorities, a standard for indoor air quality, and staff will continue to work on this project over the next year. The size of the docket and the complexity of the issues raised by the indoor air rulemaking, however, have necessitated a delay in the expected promulgation date; as indicated in the regulatory agenda. Regulatory action to address the serious risks posed to America's workers by environmental tobacco smoke and unhealthful indoor air is now planned for fiscal year 1997.

One of the most important regulatory initiatives ever undertaken by OSHA—development of a safety and health programs rule—is the centerpiece of the Agency's current regulatory plan. This standard, which will require employers to develop safety and health programs to address occupational safety and health hazards of all types, will ensure that employers in all industries treat worker protection as a fundamental goal of their business. Evidence of the effectiveness of safety and health programs in achieving OSHA's ultimate goal—the prevention of deaths, injuries, and illnesses on the job—is widespread and growing daily, as more and more companies report that their accident rates and their workers' compensation costs have fallen after the implementation of such programs. This safety and health program standard will assist employers to identify job-related hazards in the workplace, correct those so identified, and prevent others from occurring. To simplify and streamline the program for employers, OSHA has decided to roll a number of separate rulemaking initiatives into the safety and health programs rule; these include exposure assessment, which was listed in last year's Agenda as a separate rulemaking, and consolidated training and records maintenance requirements, which will replace the hundreds of procedural training and records maintenance requirements currently scattered throughout OSHA's standards. OSHA is also seeking input from stakeholders on the need to include an exposure-monitoring and a medical surveillance module in the safety and health programs rule. The Department believes that, by actively involving both employers and employees in the implementation of safety and health programs, this standard will help to produce the high-performance workplaces of tomorrow.

In summary, OSHA's four-point regulatory strategy—to establish clear and sensible priorities, to focus on the safety and health programs rule, to eliminate or fix problem standards, and to emphasize interactions with its stakeholders—is designed to achieve a body of standards that will make sense

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to ordinary people and protect the safety and health of the U.S. work force.

The Pension Welfare and Benefits Administration (PWBA) protects the integrity of pensions, health plans, and other employee benefits for over 150 million workers, retirees, and dependents. PWBA's mission is to protect participants and beneficiaries in employment-based benefit plans by deterring and correcting violations of the law, by developing policies and laws that simplify compliance and encourage the growth and preservation of employment-based benefits, by assisting plan officials in understanding the requirements of the law, and by ensuring that employees receive the information they need to protect and secure their benefit rights. PWBA is preparing legislative and regulatory proposals to simplify compliance with benefits laws, improve pension and welfare benefit plan coverage, and protect the benefits of American workers. PWBA's top priority is, in conjunction with the Internal Revenue Service, Treasury, and the Pension Benefit Guaranty Corporation, to release for comment, before the end of 1995, a simplified report/return form for all employee benefit plans subject to the Employee Retirement Income Security Act's (ERISA) annual reporting requirements.

Reinvention Initiatives

The Department's June 15, 1995, report to the President, "Reinventing Labor Regulations," outlined the steps DOL will take to enhance its regulatory framework. The Department recognizes that one way to make rules more effective is to make them easier to understand and apply. This means eliminating duplicative, contradictory, unnecessary, or out-of-date rules; it means rewriting old rules or promulgating new rules that are easy to understand; and it means enlisting the help of the regulated community to identify better ways to fulfill our mission through changes in regulations. The Department knows that as it strives to provide a less burdensome, more effective, and more flexible framework, a strong business/labor consensus will be essential to the success of our reinvention initiative.

DOL's individual agencies are all taking part in the reinvention initiative. For example, the Employment Standards Administration conducted a comprehensive review of its existing regulations to identify rules that were obsolete or outdated, and those that could be streamlined to reduce regulatory burdens and simplify compliance obligations. ESA's initiative is designed to eliminate unnecessary overlap and duplication in rules wherever possible, provide meaningful opportunities for input from the regulated community as part of an agency's regulatory reform activities, and ensure that regulatory standards are easily understood, with reasonable compliance standards consistent with the underlying statutes they are intended to implement.

As a result of the Wage and Hour Division's "page-by-page review" of existing regulations, half were identified as possible candidates for reinvention, consolidation, or revocation. Out of 75 regulatory "parts" in the Code of Federal Regulations (CFR) administered by Wage-Hour, 28 (or 37 percent) were slated for elimination either through consolidation or repeal (because they are obsolete). Ten CFR parts (or 13 percent) will be reinvented and streamlined. This regulatory reform initiative is expected to result in removing 225 pages or nearly 20 percent of unnecessary regulatory text from the CFR, reducing excessive compliance burden and costs and making Wage-Hour's rules more "user-friendly."

The Federal Coal Mine Health and Safety Act of 1969, as amended, established a system for providing monthly cash payments and medical benefits to coal workers who are victims of pneumoconiosis (black lung) and to their survivors. The regulations implementing the law were reviewed by ESA's Office of Workers' Compensation Programs pursuant to the President's Regulatory Reinvention directive through a process involving front-line staff and extensive discussions with claimant and beneficiary groups. This review has identified areas of program administration for reinventing and streamlining so that service will be more prompt and economical. Specific modifications of existing regulatory impediments are now under development for proposed implementation in fiscal year 1996.

Under the reinventing government initiative, the Office of Federal Contract Compliance Program's emphasis is on regulatory reform, for example, revising the Executive Order 11246 regulations to reduce paperwork burdens, eliminate unnecessary regulations, and simplify and clarify the regulations while improving the efficiency and effectiveness of the contract compliance program.

ETA, as part of the reinvention effort, is currently re-engineering the labor certification process for the permanent employment of aliens in the United States, which has been criticized as being complicated, time consuming, costly, and burdensome to employers. ETA's goals are to make fundamental changes and refinements in that process that will (a) better serve customers, (b) streamline the process, (c) improve effectiveness, and (d) save resources. The re-engineering effort is a collaborative effort of Federal and State staff who are involved in the administration of alien certification programs. The re-engineering effort also involves consultation throughout the process with sponsors, stakeholders, State partners, and outside interest groups to solicit ideas and suggestions for change. Through this re-engineering effort, ETA hopes to achieve considerable savings in resources both for the Government and employers, without diminishing significant protections now afforded U.S. workers by the current regulatory and administrative requirements.

MSHA has also reviewed its regulations as part of the reinvention initiative. One type of reinvention arises from changes in technology that are not reflected in regulations. Thus, certain existing safety standards may need to be updated. One such instance is MSHA'S electrical standards. Advanced longwall mining systems that employ high-voltage electrical circuits have resulted in significant production gains for many underground coal mines, with no loss of safety, provided certain conditions are met. MSHA's electrical standards for underground coal mines currently prohibit high-voltage circuits in the area of the mine where coal is produced. As a result, mine operators have had to seek variances from MSHA to use high-voltage equipment. Over the past decade approximately 100 variances have been processed. MSHA intends to issue a final rule allowing the use of this type of equipment, reducing the burden on those mines that use this safe and highly productive method of mining coal.

The elimination and revision of outdated and restrictive regulations, most of which were adopted by OSHA nearly 25 years ago and have not been changed since, is another important aspect of the New OSHA's way of regulating. Several of the entries in this year's Regulatory Plan, including one titled, "Eliminating and Improving Regulations" and another titled "Revision of Certain Standards Promulgated under Section 6(a) of the Williams-Steiger Occupational Safety and Health Act of 1970," reflect the importance OSHA attaches to these projects. Finding and fixing confusing, hard-to-follow, and unnecessary regulations and streamlining and updating the Agency's excessively detailed and technologically obsolescent standards will further OSHA's primary goal—the protection of worker safety and health—and make it easier and less burdensome for employers to comply.

In addition, consolidating hundreds of procedural training provisions that are currently scattered throughout OSHA's general industry, construction, and maritime standards into a single module for incorporation into the proposed safety and health programs rule is a good example of regulating in a smart way. In the future, employers will have only a single set of training procedures to follow, regardless of which of OSHA's standards requires the training. For instance, the length of time an employer must keep OSHA-mandated training records will be standardized, as will the frequency of required training. Once the safety and health program rule is promulgated, OSHA will move to delete hundreds of training-related provisions from its existing standards, saving employers duplicative paperwork and unnecessary effort.

PWBA has worked with the Administration in developing and implementing the President's Pension Simplification Package. PWBA is coordinating with the Internal Revenue Service, Treasury, and the Pension Benefit Guaranty Corporation in order to simplify the Form 5500 Series, the annual report filed by over 750,000 employee benefit plans. Future plans for lessening the burden of this statutory requirement include developing software to allow plans to file electronically. In addition, PWBA will be soliciting comments on a proposal for eliminating obsolete regulations.

Regulations Included in the Plan

Twenty regulatory proposals are included in DOL's 1995 regulatory plan. These regulations acknowledge DOL's important role in rulemaking and the need to make regulations easier to understand and apply while increasing their effectiveness. As previously mentioned, these proposals were also selected because of their significant impact on the economy or other Government agencies. A detailed description of each follows.

DOL—Employment Standards Administration (ESA)

PROPOSED RULE STAGE

65. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS (ESA/OFCCP)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

EO 11246, as amended; 38 USC 4212; 29 USC 793

CFR Citation:

41 CFR 60-1; 41 CFR 60-2; 41 CFR 60-20; 41 CFR 60-30; 41 CFR 60-50; 41 CFR 60-60; 41 CFR 60-250; 41 CFR 60-741; 41 CFR 60-742; 41 CFR 60-4

Legal Deadline:

None

Abstract:

These regulations cover nondiscrimination and affirmative action obligations of Federal contractors under Executive Order 11246, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 USC 4212), as amended; and Section 503 of the Rehabilitation Act of 1973, as amended. The NPRM published 08/25/81 and supplemented on 04/23/82 extended the effective date of a final rule published 12/30/80 and proposed amendments to that rule. OFCCP's review of regulatory options continues with emphasis on streamlining and clarifying the regulatory language and reducing paperwork requirements associated with compliance.

Statement of Need:

Parts of the regulations implementing Executive Order 11246 need to be revised, to reflect changes in the law that have occurred over time, streamlined, and clarified. Executive Order 11246 requires all Federal contractors and subcontractors and federally assisted construction contractors and subcontractors to apply a policy of nondiscrimination and affirmative action in employment with respect to race, color, religion, sex, and national origin. The regulatory revisions are necessary in order to allow the Department of Labor (DOL) to effectively and efficiently enforce the provisions of the Order. As a first step in updating its Executive Order 11246 regulations, the Department intends to propose changes to the provisions that govern the pre-award review requirements; recordkeeping and record retention requirements; certification requirements; and related provisions. In addition, revisions will be made that will conform Executive Order 11246 regulations to the recent changes made in the Department's regulations implementing Section 503 of the Rehabilitation Act.

A second phase of revision will contain proposals to change provisions that govern requirements for written affirmative action plans and the provisions concerning contractor evaluation procedures.

Alternatives:

After careful review, it was decided that the most effective way to improve compliance with the Executive Order 11246 provisions, and reduce burdens on compliant contractors, was to propose revisions to these regulations. Administrative actions alone could not produce the desired results. A determination was also made to publish revisions to the remaining regulatory provisions of the Executive Order at a later date so that careful consideration can be given to what changes are needed in each of the parts of the regulations.

Anticipated Costs and Benefits:

It is anticipated that the net effect of the proposed changes will be an increase in the rate of compliance with the nondiscrimination and affirmative action requirements of Executive Order 11246 and a reduction in compliance costs to Federal contractors. The Department will also be able to employ its resources more efficiently and more effectively.

Risks:

An assessment of the magnitude of the risk addressed by this action and how it relates to other risks within the jurisdiction of DOL will be prepared once decisions are reached on specific proposed changes in the Executive Order 11246 regulations.

Timetable:

Action	Date	FR Cite
ANPRM	07/14/81	46 FR 36213

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Action	Date	FR Cite
NPRM Affirmative Action Plans (41 CFR 60-2)	11/00/95	
NPRM Compliance Reviews, etc. (41 CFR 60-1)	11/00/95	
FINAL Compliance Reviews, etc. (41 CFR 60-1)	04/00/96	
FINAL Affirmative Action Plans	06/00/96	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State

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RIN: 1215–AA01

DOL—ESA

68. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 203(l)

CFR Citation:

29 CFR 570

Legal Deadline:

None

Abstract:

Section 3(l) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14- and 15-year-olds may be employed, and specifies the number of hours in a day and in a week, and time periods within a day, that such minors may be employed. The Department has invited public comment in considering whether changes in technology in the workplace and job content over the years require new hazardous occupations orders, and review of some of the applicable hazardous occupation orders and the method of their promulgation. Comment has also been solicited on whether revisions should be considered in the permissible hours and time of day standards for 14- and 15-year-olds. Comment has been sought on appropriate changes required to implement school-to-work transition programs.

Statement of Need:

Because of changes in the workplace and the introduction of new processes and technologies, the Department is undertaking a comprehensive review of the regulatory criteria applicable to child labor. Other factors necessitating a review of the child labor regulations are changes in places where young workers find employment opportunities, the existence of differing Federal and State standards, and the divergent views on how best to correlate school and work experiences.

Under the Fair Labor Standards Act, the Secretary of Labor is directed to provide by regulation or by order for the employment of youth between 14 and 16 years of age under periods and conditions which will not interfere with their schooling, health and well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for youth between the ages of 16 and 18 years or detrimental to their health or well-being. The Secretary has done so by specifying, in regulations, the permissible industries and occupations in which 14- and 15-year-olds may be employed, and the number of hours per day and week and the time periods within a day in which they may be employed. In addition, these regulations designate the occupations declared particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being.

Public comment has been invited in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders or necessitate revision to some of the existing hazardous orders. Comment has also been invited on whether revisions should be considered in the permissible hours and time-of-day standards for the employment of 14- and 15-year-olds, and whether revisions should be considered to facilitate school-to-work transition programs. When developing regulatory proposals (after receipt of public comment on the advance notice of proposed rulemaking), the Department's focus will be on assuring healthy, safe and fair workplaces for young workers, and at the same time promoting job opportunities for young people and making regulatory standards less burdensome to the regulated community.

Alternatives:

Regulatory alternatives will be developed based on the public comments responding to the advance notice of proposed rulemaking. Alternatives likely to be considered include specific additions or modifications to the hazardous occupation orders and changes to the hours 14- and 15-year-olds may work.

Anticipated Costs and Benefits:

Preliminary estimates of the anticipated costs and benefits of this regulatory action will be developed once decisions are reached on particular proposed changes in the child labor regulations. Benefits will include safer working environments and the avoidance of injuries with respect to young workers.

Risks:

An assessment of the magnitude of the risk addressed by this action will be prepared once decisions are reached on particular proposed changes in the child labor regulations.

Timetable:

Action	Date	FR Cite
Final Action on HOs 2, 10, 12	11/20/91	56 FR 58626
Final Action Effective Date	12/20/91	
ANPRM	05/13/94	59 FR 25167
ANPRM Comment Period End	08/11/94	59 FR 40318
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

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DOL—ESA

67. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Priority:

Economically Significant

Legal Authority:

29 USC 213(a)(1)

CFR Citation:

29 CFR 541

Legal Deadline:

None

Abstract:

These regulations set forth the criteria for exemption from the Fair Labor Standards Act's minimum wage and overtime requirements for "executive," "administrative," "professional" and "outside sales employees." To be exempt, employees must meet certain tests relating to duties and responsibilities and be paid on a salary basis at specified levels. A final rule increasing the salary test levels was published on January 13, 1981 (46 FR 3010), to become effective on February 13, 1981, but was indefinitely stayed on February 12, 1981 (46 FR 11972). On March 27, 1981, a proposal to suspend the final rule indefinitely was published (46 FR 18998), with comments due by April 28, 1981. As a result of numerous comments and petitions from industry groups on the duties and responsibilities tests, and as a result of recent case law developments, the Department concluded that a more comprehensive review of these regulations was needed. An ANPRM reopening the comment period and broadening the scope of review to include all aspects of the regulations was published on November 19, 1985, with the comment period subsequently extended to March 22, 1986.

The Department has revised these regulations since the ANPRM to address specific issues. In 1991, as the result of an amendment to the Fair Labor Standards Act (FLSA), the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6-1/2 times the applicable minimum wage. Also, in 1992 the Department issued a final rule which provided, in part, that an otherwise exempt public sector employee would not be disqualified from the exemption's requirement for payment on a "salary basis" solely because the employee is paid according to a public pay and leave system that, absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. These revisions were limited in nature and the regulations are still in need of updating and clarification. In addition, recent court rulings have caused confusion as to what constitutes compliance with the regulation's "salary basis" criteria in both the public and private sectors. All of these factors have led the Department to conclude that a review of these regulations is both necessary and appropriate.

Statement of Need:

These regulations set forth the criteria used in the determination of the application of the FLSA exemption for "executive," "administrative," "professional," and "outside sales employees." The existing salary test levels used in determining which employees qualify as exempt from the minimum wage and overtime rules were adopted in 1975 on an interim basis. These salary level tests are outdated and offer little practical guidance in the application of the exemption. In addition, numerous comments and petitions have been received in recent years from industry groups regarding the duties and responsibilities tests in the regulations. These factors, as well as recent case law developments, have led the Department to conclude that a review of these regulations is needed.

These regulations have been revised in recent years to deal with specific issues. In 1991, as the result of an amendment to the FLSA, the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also in 1991, the Department undertook separate rulemaking on another aspect of the regulations, the definition of "salary basis" for public-sector employers. This interim final rule provided, in part, that an otherwise exempt public-sector employee would not be disqualified from the exemption's requirement for payment on a "salary basis" solely because the employee is paid according to a public pay and leave system that, absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. In 1992, the Department issued its final rule on this matter.

Because of the limited nature of these revisions, the regulations are still in need of updating and clarification. In addition, recent court rulings have caused confusion as to what constitutes compliance with the regulation's "salary basis" criteria in both the public and private sectors.

Alternatives:

The Department has met with affected interest groups in developing regulatory alternatives. Following completion of these outreach and consultation activities, full regulatory alternatives will be developed.

Although legislative proposals have been introduced in the Congress to address certain aspects of these regulations, the Department will continue to pursue revisions to the regulations as the appropriate response to the concerns raised. Alternatives likely to be considered include particular changes to address "salary basis" and salary level issues to a comprehensive overhaul of the regulations that also addresses the duties and responsibilities tests.

Anticipated Costs and Benefits:

Some 23 million employees are estimated to be within the scope of these regulations. Legal developments in court cases are causing progressive loss of control of the guiding interpretations under this exemption and are creating law without considering a comprehensive analytical approach to current compensation concepts and workplace practices. These court rulings are creating apprehension in both the private and public sectors. Clear, comprehensive, and up-to-date regulations would

provide for central, uniform control over the application of these regulations and ameliorate this apprehension. In the public sector, State and local government employers contend that the rules are based on production workplace environments from the 1940s and 1950s, and that they do not readily adapt to contemporary government functions. The Federal government also has concerns regarding the manner in which the courts and arbitration decisions are applying the exemption to the Federal workforce. Resolution of confusion over how the regulations are to be applied in the public sector will ensure that employees are protected, that employers are able to comply with their responsibilities under the law, and that the regulations are enforceable. Preliminary estimates of the specific costs and benefits of this regulatory action will be developed once the various regulatory alternatives are identified.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal To Suspend Rule Indefinitely	03/27/81	46 FR 18998
ANPRM	11/19/85	50 FR 47696
Extension of ANPRM Comment Period From 01/21/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	51 FR 2525
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Federal

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RIN: 1215–AA14

DOL—ESA

68. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION (29 CFR PART 500)

Priority:

Other Significant

Legal Authority:

29 USC 1801 to 1872, as amended

CFR Citation:

29 CFR 500

Legal Deadline:

None

Abstract:

The legislative history of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) indicates that the principles found in *Hodgson* v. *Griffin and Brand*, 471 F.2d 235, are to be followed in determining whether a joint employment relationship exists in the employment of migrant and seasonal farm workers in a given fact situation. The Department intends to publish an NPRM to solicit comments on a clarification of the regulations to more closely comport with the legislative history of MSPA and the principles found in *Hodgson* v. *Griffin and Brand* and also possible modifications to the procedures for MSPA hearings, seeking more timely decisions.

Statement of Need:

These regulations need to be revised in order to provide needed clarifications and to make the hearing process more efficient. In the legislative history to the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), Congress stated that the term "joint employment" in MSPA was to have the same meaning as is found in the Fair Labor Standards Act (FLSA). Further remarks in the legislative history indicate that the principles found in *Hodgson* v. *Griffin and Brand*, 471 F.2d 235, were to be determinative. However, subsequent legal developments have created confusion as to appropriate criteria for determining the existence of a joint employment relationship. In its rulemaking, the Department will solicit comments to clarify the regulatory criteria for determining when a joint employment relationship exists between two or more employers. The Department will also consider modifying the rules relating to procedures for hearings, seeking more timely decisions.

Alternatives:

Regulatory alternatives will be developed as part of this review.

Anticipated Costs and Benefits:

There is no identifiable cost impact to the contemplated clarifying change in the regulations. Employers in the agricultural community will benefit from the clearer, more definitive criteria provided regarding joint employment relationships. An expedited hearing process will also be beneficial to all parties.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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DOL—ESA

69. PROCEDURES FOR PREDETERMINATION OF WAGE RATES (29 CFR PART 1) AND LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5)

Priority:

Economically Significant

Legal Authority:

40 USC 276a to 276a(7)

CFR Citation:

29 CFR 1; 29 CFR 5

Legal Deadline:

None

Abstract:

The Department attempted to implement revised rules governing the

circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act in May 1982 (see 47 FR 23644, 23658 (May 28, 1982); 47 FR 32090 (July 20, 1982)). After protracted litigation, a final rule was published in January 1989 (see 54 FR 4234) which became effective on February 4, 1991. Thereafter, on two occasions, Congress acted to prevent the Department from expending any funds to implement these revised helper regulations--through the Dire Emergency Supplemental Appropriations Act of 1991, PL 102-27, 105 Stat. 130,151 (1991), and then through section 104 of the DOL Appropriations Act of 1994, PL 103-112. Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue may need to be addressed through rulemaking.

Statement of Need:

The current helper rules are difficult to administer and enforce, and--as evidenced by the prolonged litigation history and subsequent Congressional actions--are highly controversial. In May 1982, the Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act. After protracted litigation, a final rule was published in January 1989 and became effective on February 4, 1991. Thereafter, on two occasions, Congress acted to prevent the Department from expending any funds to implement these revised helper regulations through appropriations riders. Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue may need to be addressed through further rulemaking.

Alternatives:

The Administration has determined that there are only limited alternatives to addressing this issue through rulemaking, in addition to possible legislative changes. Specific regulatory alternatives have not yet been developed pending current appropriations actions in the Congress.

Anticipated Costs and Benefits:

A new rulemaking regarding the helper criteria will seek to make administration of the Davis-Bacon Act more efficient by establishing reasonable "helper" criteria and methodology--thus resolving the controversy and uncertainty currently experienced by interested parties. Changes in the helper regulations may affect prior estimates of potential construction procurement cost savings anticipated from the earlier rulemaking. Estimates of the financial impacts of revised "helper" regulations will be prepared for inclusion in the NPRM.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

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DOL—ESA

70. • BENEFITS UNDER THE FEDERAL COAL MINE SAFETY AND HEALTH ACT OF 1977, AS AMENDED AFFECTING THE BLACK LUNG BENEFITS ACT

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

30 USC 901 et seq

CFR Citation:

20 CFR 718; 20 CFR 722; 20 CFR 725; 20 CFR 726; 20 CFR 727

Legal Deadline:

None

Abstract:

The Division of Coal Mine Workers' Compensation reviewed its existing regulations, pursuant to Executive Order 12866, with a goal of eliminating outdated and unnecessary rules and streamlining the processes. The result is a proposal to revise existing rules to facilitate alternative dispute resolution, including the informal conference process; streamline the litigation process by encouraging the early development and submission of evidence and decentralizing control; reduce the costs of copying and mailing; raise the dollar limit for prior approval for medical equipment; and rewrite existing rules to make them more customer-oriented.

There will be no additional costs associated with these changes, but savings can be expected through streamlining.

Statement of Need:

The regulations implementing the Black Lung Benefits Act were last significantly revised in 1983. In the spirit of reinvention, the program proposes to update the rules to help improve services, streamline the adjudication process, and simplify the language.

Alternatives:

Regulatory alternatives will be developed based on the public comments responding to the notice of proposed rulemaking.

Anticipated Costs and Benefits:

Preliminary estimates of the anticipated costs and benefits of this regulatory action will be developed once decisions are reached on specific changes. Benefits will include a streamlined, more accessible process.

Risks:

Groups with a vested interest in a lengthy and expensive adjudication process will complain.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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DOL—Employment and Training Administration (ETA)

PROPOSED RULE STAGE

71. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

INA 212(a)(5)(A)

CFR Citation:

20 CFR 656

Legal Deadline:

None

Abstract:

The Department of Labor (DOL) is currently re-engineering the labor certification process that is set forth in DOL regulations at 20 CFR 656. DOL's goals are to make fundamental changes and refinements that will (a) better serve customers, (b) streamline the process, (c) improve effectiveness, and (d) save resources. The re-engineering effort is a collaborative effort of Federal and State staff who are involved in the administration of alien certification programs. The re-engineering effort also involves consultation throughout the process with sponsors, stakeholders, State partners, and outside interest groups to solicit ideas and suggestions for change.

Statement of Need:

The labor certification process has been criticized as being complicated and time-consuming. It can take up to 2 years or more to complete the process; the process requires substantial government resources to administer, and it is reportedly costly and burdensome to employers. The Employment and Training Administration (ETA), therefore, is reexamining the effectiveness of the various regulatory requirements and the application processing procedure, with a view to achieving considerable savings in resources both for the Government and employers, without diminishing the significant protections now afforded U.S. workers by the current regulatory and administrative requirements.

Summary of the Legal Basis:

Before the Department of State and the Immigration and Naturalization Service may issue visas and admit certain immigrant aliens to work permanently in the United States, the Secretary of Labor, pursuant to section 212(a)(5)(A) of the Immigration and Nationality Act (INA), must certify to the Secretary of State and to the Attorney General that: (a) there are not sufficient U.S. workers who are able, willing, qualified, and available at the time of the application for a visa and admission into the United States and at the place where the alien is to work: and (b) the employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers (8 USC 1182(a)(5)(A)). The Department of Labor has promulgated regulations at 20 CFR 656 pursuant to and to implement section 212(a)(5)(A) of the INA. These regulations set forth the fact-finding process designed to support the granting or denial of a permanent labor certification.

Anticipated Costs and Benefits:

As indicated above, it is anticipated that the re-engineering effort will result in significant cost savings to the Government and to the regulated community. DOL will be able to provide a more precise estimation of anticipated cost reductions after the re-engineering of the permanent labor certification process is completed.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected:

None

Government Levels Affected:

State, Federal

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RIN: 1205–AA66

DOL—Pension and Welfare Benefits Administration (PWBA)

PROPOSED RULE STAGE

72. • REVISION OF THE FORM 5500 SERIES AND RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 1021; 29 USC 1022; 29 USC 1023; 29 USC 1024; 29 USC 1025; 29 USC 1026; 29 USC 1027; 29 USC 1029; 29 USC 1030; 29 USC 1059; 29 USC 1135; 29 USC 1166; 29 USC 1168

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

Each year, pension and welfare benefit plans subject to title I of ERISA are generally required to file an annual return/report, the Form 5500 Series, regarding their financial condition, investments, and operations. The Form 5500 Series is the primary source of information concerning the operation, funding, assets, and investments of pension and other employee benefit plans. The Form 5500 Series is not only an important compliance and research tool for the Department, but is also a disclosure document for plan participants and beneficiaries and a source of information and data for use by other Federal agencies, Congress, and the private sector in assessing

employee benefit, tax, and economic trends and policies. As part of the President's Pension Simplification proposal, the agencies are undertaking a comprehensive review of the annual return/report forms in an effort to streamline the information required to be reported and the methods by which such information is filed and processed.

Statement of Need:

In the 20 years since Congress enacted ERISA to protect pension and other employee benefit promises made to employees, the laws and regulations have become more complex. There are many reasons for this: the desire for employers to have a high degree of flexibility in designing plans that best suit their work force; policies designed to ensure that all employees receive tax and savings benefits from retirement and other benefit plans that are comparable to those available to highly compensated employees and business owners; the need to protect the integrity of Federal tax revenues; and the prevention of tax-shelter abuses.

While each of these causes may have merit, and the private sector employee benefit system has been greatly strengthened as a result of ERISA, the cumulative result--together with frequent legislative changes--has been to raise compliance and administrative costs to a level that has created a disincentive for employers, and particularly small employers, to offer pension and other benefit plans to their employees.

A source of complexity and costs has been the Form 5500 Annual Return/Report Series, which is filed annually by an estimated 750,000 employee benefit plans. The Form 5500 Series is a joint Department of Labor, Internal Revenue Service, and Pension Benefit Guaranty Corporation form and serves as the principal source of financial information and data available to the Agencies, and participants and beneficiaries, concerning the operations of employee benefit plans. The proposed revision to the Form 5500 Series is being coordinated with the Internal Revenue Service, the Treasury Department, and the Pension Benefit Guaranty Corporation as part of the process of implementing the President's pension simplification proposal.

Title I of ERISA, sections 101 through 105, 107, 209, and 606, impose specific reporting and disclosure obligations on administrators of employee benefit plans. Section 104(a)(3) and 110 of ERISA provide the Secretary with the authority to prescribe exemptions and alternative methods of compliance for employee welfare benefit plans and employee pension benefit plans. Section 505 provides the Secretary with general authority to prescribe regulations necessary or appropriate to carry out the provisions of Title I of ERISA.

Alternatives:

The annual reporting requirement could be left unaltered. However, the Pension and Welfare Benefits Administration (PWBA) believes that compliance with the requirement may be facilitated without harming the security of the employment-based benefits system. Simplifying the Form 5500 Series is one step in improving ERISA's reporting and disclosure system. This initiative includes revision of the Form 5500 Series and related regulations. Filer costs from preparing forms and government costs for processing the Form 5500 Series can be reduced while enhancing the ability of the Government to protect workers' benefits by receiving more accurate and timely information on the operation, funding, investments, usefulness, and safety of employee pension and welfare benefit plans.

Anticipated Costs and Benefits:

Meaningful burden, hour, and cost reductions can be achieved only through an integrated implementation of changes to both the Form 5500 Series and the processing system. By simplifying the Form 5500 and creating an automated processing system for the filed reports, it is anticipated that filer costs of preparing forms, as well as Government processing costs, will be reduced. It is the goal of the Department to eliminate reporting requirements for information that is not needed to discharge its statutory responsibilities, while ensuring that participants and beneficiaries have access to the information they need to protect their rights and benefits under ERISA.

Risks:

The Form 5500 Series is part of ERISA's reporting and disclosure framework, which is intended to assure that employee benefit plans are operated and managed in accordance with certain prescribed standards and that participants and beneficiaries, as well as regulators, are provided or have access to sufficient information to protect the rights and benefits of participants and beneficiaries under employee benefit plans. Better focused annual reporting, through regulatory changes, should serve to facilitate compliance by plan administrators, thereby reducing litigation and penalty risks to plan administrators, fiduciaries, and sponsors, without increasing risks of benefit losses by participants and beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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DOL—Mine Safety and Health Administration (MSHA)

PROPOSED RULE STAGE

73. NOISE STANDARD

Priority:

Other Significant

Legal Authority:

30 USC 811

CFR Citation:

30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71

Legal Deadline:

None

Abstract:

Many miners are exposed to noise levels that are at or near maximum levels currently permitted by Mine Safety and Health Administration (MSHA) regulations. Notwithstanding MSHA's enforcement of its current noise regulations, miners are continuing to incur hearing impairment. Data indicate that protective action needs to be taken at a lower noise level than is currently required. MSHA is developing a proposed rule that would establish

uniform noise standards to apply to all mining, and which will consider requiring additional measures to protect miners, such as hearing protection and audiometric testing.

Statement of Need:

MSHA's experience under its current standards for occupational exposure to hazardous noise levels indicates that current standards do not provide the protection intended. Many miners are exposed to noise levels that are near the maximum currently permitted by MSHA regulations. Notwithstanding MSHA's enforcement of existing noise standards, miners continue to suffer hearing impairment. This proposed rule will consider establishing a lower action level for requiring hearing protection and will address methods for controlling exposure. The proposed rule also will consider requiring hearing conservation programs to determine the effectiveness of control measures in reducing the amount of hearing damage in exposed miners.

In addition, MSHA's current noise standards for coal mines differ from those for metal and nonmetal mines. MSHA's proposed rule would provide consistent requirements for all mines.

Alternatives:

MSHA published an advance notice of proposed rulemaking which requested industry comments and data on a number of issues. Based upon its own research and experience, and data and information submitted to the record, MSHA is considering numerous alternatives on a wide variety of complex issues. For example, MSHA is considering (a) the respective roles of personal hearing protection and engineering controls in controlling miners' exposures; (b) lowering the permissible exposure level; and (c) whether or not to require a hearing conservation program, including audiometric testing, exposure monitoring, and miner training. This proposed rule will be derived from MSHA's deliberations and decisions on these issues and alternatives.

Anticipated Costs and Benefits:

Depending on the form of the rule, MSHA expects costs could be incurred for engineering controls, personal hearing protection, exposure monitoring, audiometric testing, training, and recordkeeping. The major benefit of implementing the protection sought would be an average annual reduction of several hundred cases of hearing impairment from occupational noise exposure in mining, assuming that existing exposure levels and the number of miners remained constant and that miners were exposed for 20 years at these levels. The scope and nature of the proposed rule is currently under development and, thus, estimates of costs and benefits are preliminary.

Risks:

Noise is a serious occupational hazard in the mining industry. Occupational exposure to loud noises results in hearing loss and hearing impairment, which affects both quality of life and functional capacity. The Agency believes that the health evidence forms a reasonable basis for proposing revisions to MSHA's existing noise standards. In addition, cases of hearing loss reported to MSHA indicate that a significant number of these miners received all of their noise exposure under existing standards. This MSHA data is supported by State workers' compensation data.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/89	54 FR 50209
ANPRM Comment Period End	06/22/90	55 FR 6011
NPRM	01/00/96	
Final Action	07/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 1219–AA53

DOL—MSHA

FINAL RULE STAGE

74. DIESEL-POWERED EQUIPMENT FOR UNDERGROUND COAL MINES

Priority:

Other Significant

Legal Authority:

30 USC 811; 30 USC 957

CFR Citation:

30 CFR 7; 30 CFR 70; 30 CFR 75

Legal Deadline:

None

Abstract:

The use of diesel-powered equipment in underground coal mines poses a risk of fire or explosion from two sources: internal combustion engines that introduce an ignition source into an environment where methane can be present; and underground handling and storage of diesel fuel. The Mine Safety and Health Administration (MSHA) currently has limited approval, safety, and health regulations that address the use of diesel-powered equipment in underground coal mines. In addition, some hazards are currently addressed in the mine ventilation plan. In 1988, a Secretarial advisory committee made recommendations concerning safety and health standards for the use of diesel-powered equipment in underground coal mines. In 1989, MSHA published a proposed rule based on those recommendations. This final rule will address criteria for the approval of diesel equipment and provisions for the safe use of such equipment in underground coal mines.

Statement of Need:

The use of diesel-powered equipment is increasing steadily in underground coal mines across the United States, from 175 units in 30 mines in 1977 to more than 2,885 units in 170 mines in 1995. Given the current state of the industry and assuming no change in existing regulations, MSHA projects that the presence of diesel equipment in the industry would increase to about 3,520 units in 250 underground coal mines by the year 2000.

Currently, MSHA regulations do not specifically regulate this type of equipment, in contrast to other more conventional mining equipment. Diesel equipment in underground coal mines poses a risk of fire or explosion, as a result of the introduction of an ignition source (the diesel engine) into an environment that may contain methane gas. Poor fuel handling and fuel transfer procedures underground present significant fire hazards. Between 1979 and 1992, MSHA investigated 10 diesel-equipment-related fires in underground coal mines. Because of the methane gas and coal dust present in the underground coal mining environment, any fire presents a significant risk of loss of life. Without rules for the design, use, and maintenance of diesel-powered equipment, the Agency also lacks an effective means to regulate health and safety hazards associated with diesel equipment.

Under current regulations, diesel-powered equipment is not required to have a number of important safety features that have long been required on electric equipment, such as cabs and canopies (which protect equipment operators from roof falls), automatic emergency parking brakes, and methane monitors, which shut equipment off when methane concentrations reach certain levels.

In July 1988, a Federal advisory committee convened by the Secretary of Labor made recommendations to the Secretary concerning safety and health standards for the use of diesel-powered equipment in underground coal mines. Based on those recommendations, in 1989 MSHA published a proposed rule that: included criteria for the approval of diesel engines and other related equipment; addressed exposure limits, monitoring, and recordkeeping requirements for certain diesel emissions; and provided corresponding safety standards for the use of diesel-powered equipment in underground coal mines, including the safe storage and transport of diesel fuel and the training of mechanics. MSHA is working on a final rule which will provide increased protection for miners, allow for flexibility in control technology, and minimize recordkeeping requirements.

Alternatives:

On January 6, 1992, MSHA published an advance notice of proposed rulemaking soliciting comments on the potential health effects from occupational exposure to diesel exhaust particulates, especially in the closed environment of the underground mine. MSHA has decided to continue to address the potential health effects from exposure to diesel particulates in a separate rulemaking.

MSHA considered third-party testing and certification of the results as an alternative to MSHA testing for the approval of diesel-powered equipment. The final rule may contain a combination of approaches to address this issue.

Anticipated Costs and Benefits:

The scope and nature of the final rule is currently under development and, thus, final estimates of costs and benefits have not been determined. MSHA had made a preliminary assessment in 1989 that the proposed rule would have had an incremental annual impact of over $20 million on the mining industry. Subsequent estimates, however, project the incremental annual cost to be from $16 million to $35 million, depending upon the alternatives selected.

MSHA projects that one benefit of implementing this regulatory protection will be a reduction in the risk of fires and explosions, and corresponding injuries, resulting from the use of diesel-powered equipment in underground gassy mines, as well as a reduction in the incidence of potential adverse health effects that result from exposure to diesel exhaust.

The final rule also will encourage the use of advanced diesel technology, such as flame arresters, spark arresters, water scrubbers, and exhaust filters in the approval of diesel engine design, all of which would improve the safety and health of miners. Also, because some hazards are currently addressed in the mine ventilation plan, the final rule will reduce the resources and paperwork associated with the submission and approval of this aspect of the ventilation plan. It also will provide for more uniform requirements, resulting in more consistent enforcement.

Risks:

The use of diesel-powered equipment in underground coal mines poses a risk of fire or explosion by introducing an ignition source through the engine itself and from the underground handling and storage of diesel fuel. Without rules for the design, use, and maintenance of diesel-powered equipment, the Agency lacks an effective means to control safety and health hazards associated with diesel-powered equipment in the confined environment of the underground coal mine.

Timetable:

Action	Date	FR Cite
NPRM	10/04/89	54 FR 40950
NPRM Comment Period End	05/10/91	56 FR 13404
Final Action	02/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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DOL—MSHA

75. LONGWALL EQUIPMENT (INCLUDING HIGH-VOLTAGE)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

30 USC 811; 30 USC 957

CFR Citation:

30 CFR 18; 30 CFR 75

Legal Deadline:

None

Abstract:

Since 1970 MSHA regulations have required that high-voltage cables and transformers be kept at least 150 feet from the coal extraction area. The objective of this requirement is to prohibit the use of high-voltage cables and equipment that could serve as an ignition source for methane and coal dust in close proximity to the work area.

The modern development of highly productive longwall mining systems has resulted in their widespread use in the mining industry. Mine operators, however, currently must apply to MSHA for a variance from the existing standards in order to use this high-voltage equipment. The increased use of high-voltage longwalls in underground coal mines in recent years has led to the design of safe high-voltage electrical equipment and associated cables. These improvements have occurred specifically in the area of design and construction of explosion-proof equipment; insulation, short circuit, ground fault, and mechanical protection of cables; and equipment for safe handling of cables. For these reasons, in August 1992

MSHA published a proposed rule to establish safety requirements for the design, construction, installation, use, and maintenance of high-voltage longwall equipment and associated cables. The proposal would eliminate the need for a variance to use this equipment.

Statement of Need:

Because of the existing regulatory prohibition against using high-voltage cables and transformers within 150 feet of the extraction area, underground coal mine operators who wish to use high-voltage longwall equipment must apply for a variance from the standard. Over the years, MSHA has granted high-voltage longwall variances which require that the mine operator comply with certain requirements, including the use of explosion-proof high-voltage equipment, specially designed cable, cable-handling systems, and state-of-the-art ground fault and short-circuit protective devices. Since 1985 MSHA has granted about 90 variances for use of high-voltage longwalls and has denied only one. Since 1992, when the proposed rule was published, MSHA has granted about 30 variances for use of high-voltage longwalls.

The variance process involves substantial costs to the industry and MSHA. Most mine operators engage an attorney to prepare and submit a variance for the use of high-voltage longwall equipment. This part of the process alone can cost thousands of dollars. After receipt of the variance, MSHA processes the request, publishes a brief description in the **Federal Register**, has an inspector conduct an onsite investigation and prepare a report to the Administrator, and prepares a Proposed Decision and Order. Costs are incurred by industry in order to submit the appropriate documentation to support the variance. Agency costs are associated with processing, publication, and investigation of variances.

Alternatives:

MSHA intends to revise its regulations to allow underground coal mine operators to use high-voltage longwall equipment and associated cables. The regulations would be based on the Agency's experience with variances, and would require the use of properly designed and constructed equipment and cables, as well as electrical and mechanical protective devices.

Anticipated Costs and Benefits:

It is estimated that the rule would result in a cost savings. In the absence of the need to apply for variances, mine operators wishing to use high-voltage longwall equipment would realize reduced paperwork and significant savings associated with legal and administrative costs. In addition, high-voltage longwall equipment could be installed without waiting for MSHA to approve a variance. The normal length of time for preparing and processing a variance and issuing a decision is about 6 months to a year; but, on occasion, the entire process has taken several years. Eliminating the need to process and investigate variances would increase the resources available to both industry and MSHA personnel that could be directed to the proper installation, inspection, and maintenance of the equipment.

High-voltage longwall systems improve miners' safety from electrical hazards through improved technology in the areas of cable design and construction, circuit and equipment electrical protection, and cable handling and support systems. Additional benefits are realized from the convenient location of disconnect devices for the purpose of performing electrical work, and the use of barriers and interlock switches in electrical equipment to help guard against accidental contact with energized circuits.

Risks:

The mining industry, through the variance process, has been using high-voltage longwalls and associated cables since 1985. The Agency is unaware of any accidents attributable to the use of such equipment allowed under conditions approved through the variance process.

Timetable:

Action	Date	FR Cite
NPRM	08/27/92	57 FR 39036
NPRM Comment Period End	11/13/92	57 FR 46350
Re-open Record	10/00/95	
Final Action	09/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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DOL—Occupational Safety and Health Administration (OSHA)

PROPOSED RULE STAGE

76. STEEL ERECTION (PART 1926) (SAFETY PROTECTION FOR IRONWORKING)

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 655; 40 USC 333

CFR Citation:

29 CFR 1926.750 (Revision); 29 CFR 1926.751 (Revision); 29 CFR 1926.752 (Revision)

Legal Deadline:

None

Abstract:

On December 29, 1992, the Occupational Safety and Health Administration (OSHA) announced its intention to form a negotiated rulemaking advisory committee to negotiate issues associated with a revision of the existing steel erection standard. Four of the primary issues to be negotiated include the need to expand the scope and application of the existing standard, construction specifications and work practices, written construction safety erection plan, and fall protection. The Steel Erection Negotiated Rulemaking Advisory Committee (SENRAC), a 20-member committee, was established, and the SENRAC charter was signed by Secretary Reich on May 26, 1994. The first meeting was held in the Washington area on June 14-16, 1994, and the Committee has met nine times since.

The negotiated rulemaking process has been successful in bringing together the interested parties that will be affected by the proposed revision to the steel erection rule to work out contrasting positions, find common ground on the major issues, and achieve consensus on a proposed rule. The use of this process and a neutral facilitator allowed the stakeholders to develop an ownership stake in the proposal that they would not have had without the use of this process.

The process has led to a draft revision to Subpart R of 29 CFR 1926 that contains innovative provisions that will help to minimize the major causes of steel erection injuries and fatalities. Many of these provisions could not have been developed without this process, which has brought together industry experts, via face-to-face negotiations, to discuss different approaches to resolving the issues. This process has proved mutually beneficial to all the parties involved (including OSHA), with each Committee member participating in resolving the issues and developing practical and effective rules to make the steel erection industry safer.

The Agency benefitted from this process by having industry members participate and add to the Agency's knowledge about steel erection. Also, the Agency has been able to work together constructively with the various parties and has avoided the adversarial environment that sometimes develops during OSHA rulemaking. The negotiated rulemaking process will enable the Agency to publish a proposal and go from proposal to final rule more quickly and with less controversy than would otherwise have been possible.

Statement of Need:

In 1989, OSHA was petitioned by the Iron Workers Union and National Erectors Association to revise its construction safety standard for steel erection through the negotiated rulemaking process. OSHA asked an independent consultant to review the issues involved in a steel erection revision, render an independent opinion, and recommend a course of action to revise the standard. The consultant recommended that OSHA address the issues by using the negotiated rulemaking process. Based on the consultant's findings and the continued requests for negotiated rulemaking, OSHA decided to use the negotiated rulemaking process to develop a proposed revision of Subpart R. The use of negotiated rulemaking was thought to be the best approach to resolving steel erection safety issues, some of which have proven intractable in the past.

Alternatives:

An alternative to using the negotiated rulemaking process is to publish a notice of proposed rulemaking developed by Agency staff and consider the concerns of the affected interests through the public comment and public hearing process. It is anticipated that using this alternative would result in an extremely long and contentious rulemaking proceeding, with subsequent challenge in the Court of Appeals. This alternative was therefore rejected. Another alternative would be not to revise the Agency's current steel erection rules for construction. This alternative was rejected because it would permit steel erection-related injuries and fatalities to continue.

Anticipated Costs and Benefits:

The scope and nature of the proposed rule are currently under development, and thus estimates of costs and benefits have not been determined at this time. Costs are not likely to exceed $100 million annually, and benefits will include the prevention of numerous fatalities and hundreds of injuries associated with steel erection activities.

Risks:

The magnitude of the risk associated with steel erection activities is great. It is estimated that about 40 workers are killed every year during steel erection activities. Falls are currently the number one killer of construction workers, and since the erection of buildings necessarily involves high exposure to fall hazards, the central focus of this rule will be to eliminate or reduce the risks associated with falls. All other construction trades are afforded a higher level of protection from falls by other rules in the construction safety and health standards.

Timetable:

Action	Date	FR Cite
Notice of Committee Establishment	05/11/94	59 FR 24389
NPRM	06/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

None

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DOL—OSHA

77. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES (SIMPLIFIED INJURY/ILLNESS RECORDKEEPING REQUIREMENTS)

Priority:

Other Significant

Legal Authority:

29 USC 657; 29 USC 673

CFR Citation:

29 CFR 1904.1

Legal Deadline:

None

Abstract:

Over the years, concerns about the reliability and utility of injury and illness data derived from the employer-maintained OSHA records have been raised by Congress, NIOSH, BLS, the National Statistics (BLS), the National Academy of Sciences, the Office of Management and Budget (OMB), the General Accounting Office, business, and labor, as well as OSHA. In the late 1980s, to facilitate national policy dialogues, OSHA brought together representatives of industry, labor, government, and academia in a year-long effort to discuss problems with OSHA's injury and illness recordkeeping system. Keystone issued a report with specific recommendations on how to improve the system. Despite this effort, a regulatory revision was not formally begun. Earlier this year OSHA initiated an intensified effort to revive the revision process. Several meetings were again held with stakeholders from business, labor, and government in order to obtain feedback on a draft OSHA recordkeeping proposal and to gather related information. As a result of these meetings, OSHA is now planning to issue a proposed rule that will contain revised recordkeeping requirements, new recordkeeping forms, and new interpretive material to

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improve the Nation's injury and illness statistics, simplify the injury and illness recordkeeping system, and reduce the burden of the new rule on employers. Benefits will include: (1) a system that is more compatible with modern computer technology and is easier for employers, employees and government to use; (2) more reliable and useful records; (3) for the first time, comprehensive injury and illness records for construction sites; and (4) greater employee involvement in and awareness of safety and health matters.

Statement of Need:

A revision to OSHA's outdated recordkeeping system has been contemplated for some time. The process of revision originated in BLS in 1987 and moved in 1990 to OSHA, when the recordkeeping function was transferred to the Agency.

The proposed rule reflects the input of many stakeholders, including OSHA field and national office staff, the participants in the 1987 Keystone policy dialogue, staff from other government agencies (BLS, MSHA, the Federal Railroad Administration (FRA) NIOSH and the States), and members of OSHA's advisory committees. OSHA has discussed the proposed revision with thousands of employers and representatives of the safety/health community in over 100 presentations for employer groups, trade associations, safety councils, and union groups.

Recently, OSHA shared copies of the draft proposal with stakeholders from labor, industry, trade associations, and other government agencies. The proposal also was reprinted in several occupational safety and health trade publications, and OSHA held two stakeholder meetings to discuss the proposal and obtain feedback. As a result of this recent stakeholder input, OSHA made over 50 changes to the document. Although the various stakeholders did not agree on every detail of the proposal, OSHA is confident that the multiphase process followed in developing this proposal has resulted in substantial agreement on the issues and consensus on the desirability of publishing the proposal in the *Federal Register* to enable OSHA to obtain input from the public at large.

The occupational injury and illness records maintained by employers are an important component of OSHA's program. The records are used by employers and employees to discover and evaluate workplace safety and health hazards, and they provide OSHA personnel with necessary information during workplace inspections. The records also provide the source data for the Annual Survey of Occupational Injuries and Illnesses conducted by the BLS.

The records have their greatest value when they are used by employers and employees to manage and develop workplace safety and health programs. These records are an effective way to quantify a firm's injury and illness experience. When problems are quantified and presented to employers and employees, they are much more likely to be solved. Hazardous conditions, departments and jobs also can be identified by reviewing injury and illness records. Once hazards are discovered and corrective actions are taken, the records can be used to monitor the effectiveness of control approaches taken. Employers and employees can also use injury and illness records to develop and operate safety and health programs. When information on workplace injuries and illnesses is not available or is incorrect, the ability to identify problems and take corrective action is diminished.

The Government also has several uses for injury and illness records. These records are used by OSHA safety and health inspectors during worksite visits to highlight potential problems that require additional scrutiny. The records are the source documents for the Bureau of Labor Statistics Annual Survey of Occupational Injuries and Illnesses, the nation's primary source of information on workplace injury and illness. The resulting statistics on the frequency, rate, and factors contributing to job-related injury and illness are used to measure the performance of the Nation's safety and health policies, determine regulatory actions, and provide a point of comparison for an individual company's safety and health performance. The statistics are also used by NIOSH, academia, and other safety and health researchers to determine trends, discover emerging occupational conditions, and evaluate occupational safety and health policies.

The records will also be the source documents for OSHA's data collection initiative. This program will allow OSHA to use limited resources to focus intervention efforts (e.g., consultation, training, outreach, and enforcement) on worksites with the highest injury and illness rates. The data collection initiative will also provide OSHA with a means for measuring its performance in terms of outcomes--changes in workplace injury and illness--rather than activities.

Alternatives:

One alternative to publication of the proposed revision is to take no action and continue to administer the injury and illness recordkeeping system using the current regulation, forms and guidelines. Another alternative is to publish the proposal without changing the coverage and scope of the rule (i.e., continue the current rule's small employer and Standard Industrial Classification exemptions).

The first alternative is unacceptable because it does not address the recognized problems of the current system. The second alternative is also unacceptable. Evaluation of the most current injury and illness data available shows that modification of the existing coverage (of small employers and employers in certain Standard Industrial Classification Codes) will lead to the collection of more injury and illness information and reduce the paperwork burden on employers with smaller-sized establishments and those operating in less hazardous private industry sectors.

Anticipated Costs and Benefits:

The average establishment affected by the proposed changes to the recordkeeping requirements would incur a net reduction in recordkeeping costs. Thus the proposed rule will not impose adverse economic impacts on firms in the regulated community. The proposed exemption from the regulation of all nonconstruction establishments with fewer than 20 employees will mean that small entities are likely to experience the greatest cost savings.

Risks:

Benefits will include: (a) a system that is more compatible with and easier for government to use; (b) more reliable and useful records; (c) construction sites; and (d) greater employee involvement.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local

Sectors Affected:

All

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DOL—OSHA

78. PREVENTION OF WORK-RELATED MUSCULOSKELETAL DISORDERS

Priority:

Economically Significant

Legal Authority:

29 USC 655(b); 40 USC 333

CFR Citation:

29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926; 29 CFR 1928

Legal Deadline:

None

Abstract:

Work-related musculoskeletal disorders are a leading cause of pain, suffering, and disability in American workplaces. Since the 1980's, the Occupational Safety and Health Administration (OSHA) has had a number of initiatives related to addressing these problems, including enforcement under the general duty clause, issuance of guidelines for the meatpacking industry, and development of other compliance-assistance materials.

Ultimately, the Agency decided that, given the increasing magnitude of the problem, a regulatory approach should be explored to ensure that the largest possible number of employers and employees become aware of the problems and ways of preventing work-related musculoskeletal disorders. The Agency was precluded from issuing a standard or guidelines in this area by a rider on its fiscal year 1995 rescission bill. It is unclear at this point whether similar Congressional restrictions will prevent OSHA from addressing this issue in fiscal year 1996.

An open process to develop and consider regulatory alternatives was initiated by the Bush Administration with the publication of an advance notice of proposed rulemaking on August 3, 1992 (57 FR 34192). About 300 comments were received in response to that request. In addition to the public comments, OSHA has examined and analyzed the extensive scientific literature documenting the problem of work-related musculoskeletal disorders, the causes of the problem, and effective solutions; conducted a telephone survey of over 3,000 establishments regarding their current practices to prevent work-related musculoskeletal disorders; and completed a number of site visits to facilities with existing programs. The Agency has also held numerous stakeholder meetings to solicit input from individuals regarding the possible contents of a standard to prevent work-related musculoskeletal disorders, and on a draft proposed regulatory text and supporting documents. Agency representatives have delivered numerous outreach presentations to people who are interested in this subject; consulted professionals in the field to obtain expert opinions on various aspects of the options considered by the Agency; and had some employers field-test certain requirements under consideration for the standard. A quantitative risk assessment has been drafted, as well as a preliminary assessment of potential costs and benefits.

OSHA is in the process of refining its regulatory approach based on stakeholder input and other information for inclusion in an NPRM. The Agency believes that the scientific evidence supports the need for a standard and that the availability of effective and reasonable means to control these hazards has been demonstrated. The criteria that have been developed for setting OSHA priorities support the Agency's determination that action is needed now to stop the escalating occurrence of work-related musculoskeletal disorders.

Statement of Need:

OSHA estimates that the occurrence of work-related musculoskeletal disorders in the United States ranges from more than 700,000 lost workday injuries and illnesses (30% of all lost workdays reported to the Bureau of Labor Statistics (BLS)) to more than 2.7 million annually awarded workers' compensation claims. These disorders now account for one out of every three dollars spent on workers' compensation. It is estimated that employers spend $20 billion a year on direct costs for workers' compensation, and up to five times that much for indirect costs, such as those associated with hiring and training replacement workers. In addition to these monetary effects, these disorders often impose a substantial personal toll on workers who experience their effects, and as a result are no longer able to work or to perform simple personal tasks like buttoning their clothes or brushing their hair.

Scientific evidence associates these disorders with stresses to various body parts caused by the way certain tasks are performed. The positioning of the body and the type of physical work that must be done to complete the tasks of a job may cause persistent pain and lead over time to deterioration of the affected joints, tissues, and muscles. The longer time the worker must maintain a fixed or awkward posture, exert force, repeat the same movements, experience vibration, or handle heavy items, the greater the chance that such a disorder will occur. These job-related stresses are referred to as "workplace risk factors," and the scientific literature demonstrates that exposure to these risk factors, particularly in combination with each other, significantly increases an employee's risk of developing a work-related musculoskeletal disorder. Jobs involving exposure to workplace risk factors appear in all types of industries and in all sizes of facilities. Musculoskeletal disorders occur in all parts of the body--the upper extremity, the lower extremity, and the back.

The evidence OSHA has assembled and analyzed indicates that there are technologically and economically feasible measures available that can significantly reduce exposures to workplace risk factors and the risk of developing work-related musculoskeletal disorders. Many companies that have voluntarily implemented ergonomics programs have demonstrated that effective ergonomic interventions are available and implementation of them is beneficial to the employer and the employee. Many of these interventions are simple and inexpensive, but nevertheless have a significant effect on the occurrence of work-related musculoskeletal disorders. Substantial savings in workers' compensation costs, increased productivity, and decreased turnover are among the benefits found.

Alternatives:

OSHA has considered many different regulatory alternatives since initiating the rulemaking process. These include variations in the scope of coverage, particularly with regard to industrial sectors; various phasing options related

to the size of facility; and limitations to the types of disorders to be covered by the proposed rule. In particular, OSHA is examining scope options that would narrow or focus coverage to a similar percentage of the population at risk. The Agency is also looking at different ways to addres the issue, such as having a program-oriented approach rather than focusing on the process for identifying and controlling hazards.

Anticipated Costs and Benefits:

Implementation costs associated with a regulatory approach would include those related to identifying and correcting problem jobs using engineering and administrative controls. Benefits expected include reduced pain and suffering, both from prevented disorders as well as reduced severity in those disorders that do occur, fewer workers' compensation claims and lower associated costs, and reduced lost work time. Secondary benefits may accrue from improved quality and productivity due to better designed work systems.

Risks:

The data OSHA has obtained and analyzed indicate that employees are at a significant risk of developing or aggravating musculoskeletal disorders due to exposure to risk factors in the workplace. In addition, information OSHA has obtained from site visits, scientific literature, compliance experience, and other sources indicates that there are economically and technologically feasible means of addressing and reducing these risks to prevent the development or aggravation of such disorders, or to reduce their severity. These data and analyses will be presented in the preamble to any proposed standard published in the *Federal Register*.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/92	57 FR 34192
ANPRM Comment Period End	02/01/93	
NPRM	00/00/00	

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

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DOL—OSHA

79. COMPREHENSIVE OCCUPATIONAL SAFETY AND HEALTH PROGRAMS

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 655

CFR Citation:

29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926; 29 CFR 1928

Legal Deadline:

None

Abstract:

The Occupational Safety and Health Administration (OSHA), many of the States, members of the safety and health community, insurance companies, professional organizations, companies participating in the Agency's Voluntary Protection Program, and many proactive employers in all industries have recognized the value of worksite-specific safety and health programs in preventing job-related injuries, illnesses, and fatalities. The effectiveness of these programs is seen most dramatically in the reductions in job-related injuries and illnesses, workers' compensation costs, and absenteeism that occur after employers implement such programs. To assist employers in establishing safety and health programs, OSHA in 1989 (54 FR 3904) published nonmandatory guidelines that were based on a distillation of the best safety and health management practices observed by OSHA in the years since the Agency was established. OSHA's decision to expand on these guidelines by developing a safety and health programs rule is based on the Agency's recognition that occupational injuries, illnesses, and fatalities are continuing to occur at an unacceptably high rate. In fact, in the most recent year for which data are available--1993--fatalities rose by 1.7 percent over 1992, and injuries and illnesses continued at approximately the same rate as in the past.

Although the precise scope of the standard (e.g., what industries will be covered, what sizes of firms will be covered) has not yet been determined, the safety and health programs contained in the proposed rule will include at least the following elements: management leadership of the program; active employee participation in the program; analysis of the worksite to identify safety and health hazards of all types; requirements that employers eliminate or control those hazards in an effective and timely way; safety and health training for employees, supervisors, and managers; and regular evaluation of the effectiveness of the safety and health program. In addition, in response to preliminary meetings with OSHA stakeholders, the Agency has decided to incorporate several program elements into this rule that were under consideration for separate rulemaking action. These elements include exposure assessment and medical surveillance for workers exposed to chemical hazards in their places of work. In the last Regulatory Plan (see 59 FR 57138, November 14, 1994), for example, OSHA presented separate entries for a proposed rule addressing Exposure Assessment Programs for Employees Exposed to Hazardous Chemicals and for a proposed rule on Medical Surveillance Programs for Employees. At the present time, however, OSHA intends to address exposure assessment as part of the worksite analysis that will be required of employers by the proposed safety and health programs rule and to obtain additional input from stakeholders about the need for a medical surveillance module in this rulemaking. OSHA has also decided, in response to President Clinton's April 24, 1995, Regulatory Reinvention Initiative, to undertake a general consolidation of duplicative elements across current standards. For example, OSHA plans to consolidate hundreds of training and records maintenance provisions, that are currently found throughout OSHA's general industry, construction, and maritime standards, into the proposed safety and health programs rule. This means that, once the programs rule has been promulgated, all of the Agency's procedural requirements for training and records maintenance (e.g., who must be trained, how often training must be conducted, how long training records must be kept) will be found in one place--in the programs rule--rather than in hundreds of individual standards, as is current practice. In keeping with the President's directive, this regulatory consolidation will eliminate duplicative paperwork, make compliance easier for employers, and standardize the procedural aspects of training and records maintenance. OSHA is also developing a program evaluation directive and a program evaluation profile to be used by compliance officers to evaluate the completeness and effectiveness of an employer's safety and health program. Those employers who can demonstrate effective and comprehensive programs will receive penalty reductions for any cited violations found by the compliance officer. OSHA believes that the effect of these enforcement initiatives, coupled with the regulatory requirements of the safety and health programs rule, will act as incentives to employers to establish safety and health programs that protect workers, enhance productivity, and decrease employer costs.

Statement of Need:

Worksite-specific safety and health programs are increasingly being recognized as the most effective way of reducing job-related accidents, injuries, and illnesses. Ten States have to date passed legislation and/or regulations mandating such programs for some or all employers, and insurance companies have also been encouraging their client companies to implement these programs, because the results they have achieved have been so dramatic. In addition, all of the companies in OSHA's Voluntary Protection Program have established such programs and are reporting injury and illness rates that are sometimes only 20 percent of the average for other establishments in their industry. Safety and health programs apparently achieve these results by actively engaging front-line employees, who are closest to operations in the workplace and have the highest stake in preventing job-related accidents, in the process of identifying and correcting occupational hazards. Finding and fixing workplace hazards is a cost-effective process, both in terms of the avoidance of pain and suffering and the prevention of the expenditure of large sums of money to pay for the direct and indirect costs of these injuries and illnesses. For example, many employers report that these programs return between $5 and $9 for every dollar invested in the program, and almost all employers with such programs experience substantial reductions in their workers' compensation premiums. OSHA believes that having employers evaluate the job-related safety and health hazards in their workplace and address any hazards identified before they cause occupational injuries, illnesses, or deaths is an excellent example of "regulating smarter," because all parties will benefit: workers will avoid the injuries and illnesses they are currently experiencing; employers will save substantial sums of money and increase their productivity and competitiveness; and OSHA's scarce resources will be leveraged as employers and employees join together to identify, correct, and prevent job-related safety and health hazards.

Alternatives:

In the last few years, OSHA has considered both nonregulatory and regulatory alternatives in the area of safety and health program management. First, OSHA published, in 1989, a set of voluntary management guidelines designed to assist employers to establish and maintain programs such as the one envisioned by the proposed safety and health programs rule. Although these guidelines have received widespread praise from many employers and professional safety and health associations, they have not been effective in stemming the growing tide of job-related deaths, injuries, and illnesses, which have continued to occur at unacceptably high levels. Many of the States have also recognized the value of these programs and have mandated that some or all covered employers establish them; however, this has led to inconsistent coverage from State-to-State, with many States having no coverage and others imposing stringent program requirements. OSHA believes that this experience clearly points to the need for a national regulation that will be consistent across State lines, will apply to all or to a clearly identified group of employers, will have provisions that are widely recognized as being effective, and will be cost-effective in implementation.

Anticipated Costs and Benefits:

The scope and nature of the proposed rule are currently under development, and thus estimates of costs and benefits have not been determined at this time. Costs are likely to exceed $1 billion annually, and benefits will include the prevention of many of the thousands of fatalities and millions of injuries and illnesses associated with a broad spectrum of occupational hazards.

Risks:

Workers in all major industry sectors in the United States continue to experience an unacceptably high rate of occupational fatalities, injuries, and illnesses. In 1993, the latest year for which statistics are available, the Bureau of Labor Statistics reports that 5,590 fatalities and 6.7 million injuries and illnesses occurred within private industry. There is increasing evidence that addressing hazards in a piecemeal fashion, as employers tend to do in the absence of a comprehensive safety and health program, is considerably less effective in reducing accidents than a systematic approach. Dramatic evidence of the seriousness of this problem can be found in the staggering workers' compensation bill paid by America's employers and employees: $54 billion annually. These risks can be reduced by the implementation of safety and health programs, as evidenced by the experience of OSHA's Voluntary Protection Program participants, who regularly achieve injury and illness rates averaging one-fifth to one-third those of competing firms in their industries. Other benefits of reducing accidents include enhanced productivity, improved employee morale, and reduced absenteeism. Because these programs address all job-related hazards--including those that are covered by OSHA standards as well as those not currently addressed by these standards--the proposed rule will be effective in ensuring a systematic approach to the control of long-recognized hazards, such as lead, and emerging hazards, such as lasers and heat stress.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

VOL
60
SS
2
2
8
NO
28
995
UMI

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DOL—OSHA

80. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Priority:

Economically Significant

Legal Authority:

29 USC 655(b)

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

On August 25, 1993, the Occupational Safety and Health Administration (OSHA) was petitioned by the Labor Coalition to Fight TB in the Workplace to initiate rulemaking for a permanent standard to protect workers against occupational transmission of tuberculosis (TB). Although the Centers for Disease Control and Prevention (CDC) have developed recommendations for controlling the spread of TB in several work settings (correctional institutions, health-care facilities, homeless shelters, long-term care facilities for the elderly, and drug treatment centers), the petitioners stated that in every recent TB outbreak investigated by the CDC noncompliance with CDC's TB control guidelines was evident. After reviewing the available information, OSHA has preliminarily concluded that significant risk of occupational transmission of TB does exist for some workers and has decided to initiate a standard 6(b) rulemaking. The Agency is currently developing a proposed rule which would require certain employers to take steps to eliminate or minimize employee exposure to TB. OSHA already regulates the biological hazard of bloodborne pathogens (e.g., HIV, hepatitis B) under 29 CFR 1910.1030 and believes that development of a TB standard is consistent with the Agency's mission and previous activity. OSHA is currently pursuing a dialog with parties outside of the Agency with regard to the developing proposal. The draft preliminary Risk Assessment is being peer-reviewed by four individuals with specific knowledge in the areas of tuberculosis and risk assessment. One reviewer is from the Centers for Disease Control and Prevention (CDC) and three are from academia. In addition, OSHA is conducting stakeholder meetings with representatives of relevant professional organizations, trade associations, labor unions, and other groups. These meetings provide the opportunity for both general and frontline stakeholder representatives to present OSHA with their individual comments, observations, and concerns about the contents of the draft proposal. OSHA is also remaining cognizant of the activities of other Federal agencies relative to TB. In October of 994, CDC published revised guidelines for protection against transmission of TB. Similarly, the National Institute for Occupational Safety and Health published new respirator certification procedures in June 1995. OSHA will give careful consideration to these documents during development of the proposed standard.

Statement of Need:

For centuries, TB has been responsible for the deaths of millions of people throughout the world. TB is a contagious disease caused by the bacterium *Mycobacterium tuberculosis*. Infection is generally acquired by the inhalation of airborne particles carrying the bacterium. These airborne particles, called droplet nuclei, can be generated when persons with pulmonary or laryngeal tuberculosis in the infectious state of the disease cough, sneeze, speak, or sing. In some individuals exposed to droplet nuclei, TB bacilli enter the alveoli and establish an infection. In most cases, the bacilli are contained by the individual's immune response. However, in some cases, the bacilli are not contained by the immune system and continue to grow and invade the tissue, leading to the progressive destruction of the organ involved. While in most cases this organ is the lung (i.e., pulmonary tuberculosis), other organs outside of the lung may also be infected and become diseased (i.e., extrapulmonary tuberculosis).

From 1953, when active cases began to be reported in the United States, until 1984, the number of annual reported cases declined 74 percent, from 84,304 to 22,255. However, this steady decline in TB cases has not continued. Instead, from 1985 through 1992, the number of reported TB cases increased 20.1 percent. In 1992, more than 26,000 new cases of active TB were reported in the United States. In New York City alone, 3,700 cases of active TB were reported in 1991. Although a 5.1 percent decrease was observed in 1993, this number still represents a 14 percent increase over the number of cases reported in 1985. In addition to the resurgence of TB, strains of tuberculosis have emerged that are resistant to several of the first-line anti-TB drugs. This multidrug-resistant TB (MDR-TB) has a higher probability of being fatal due to the difficulty of halting the progression of the disease. Individuals with MDR-TB often remain infectious for longer periods of time due to delays in diagnosing resistance patterns and initiating proper treatment. This lengthened period of infectiousness increases the risk that the organism will be transmitted to other persons coming in contact with such individuals.

As the number of individuals with tuberculosis who require health care for the disease increases, so does occupational exposure to TB among health care workers. In fact, several outbreaks of tuberculosis, including MDR-TB, have recently occurred in health care facilities, resulting in transmission to both patients and health care workers. CDC found that factors contributing to these outbreaks included delayed diagnosis of TB, delayed recognition of drug resistance, delayed initiation of effective therapy, delayed initiation and inadequate duration of TB isolation, inadequate ventilation in TB isolation rooms, lapses in TB isolation practices, inadequate precautions for cough-inducing procedures, and lack of adequate respiratory protection. CDC's analysis of data collected from three of the health care facilities involved in the outbreaks indicated that transmission of TB decreased significantly or ceased entirely in areas where recommended TB control measures were implemented.

Alternatives:

Before deciding to publish a proposal, OSHA considered a number of options, including whether or not to develop an emergency temporary standard, publish an advance notice of proposed rulemaking, or enforce existing regulations.

Anticipated Costs and Benefits:

Costs will be incurred by employers for engineering controls, respiratory protection, medical surveillance, training, exposure control, recordkeeping, and work practice controls. Benefits will include the prevention of occupationally related TB transmissions and infections, and a corresponding reduced risk of exposure among the general population. The scope and nature of the proposed rule are currently under development and thus estimates of costs and benefits have not been determined at this time.

Risks:

Since 1985, the number of reported cases of TB in the United States increased, reversing a previous 30-year downward trend. In addition to the resurgence of TB, strains of multidrug-resistant TB have emerged which are even more likely to be fatal. Along with the increase of TB among the general population is an increased risk of occupational transmission to employees in work settings such as health care or correctional facilities who have contact with infectious individuals. TB is a contagious disease spread by airborne particles known as droplet nuclei. Active disease can cause signs and symptoms such as fatigue, weight loss, fever, night sweats, loss of appetite, persistent cough, and shortness of breath, and may possibly result in serious respiratory illness or death.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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DOL—OSHA

81. • ELIMINATING AND IMPROVING REGULATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority:

29 USC 655(b)

CFR Citation:

29 CFR 1901; 29 CFR 1910; 29 CFR 1926; 29 CFR 1928; 29 CFR 1950; 29 CFR 1951

Legal Deadline:

None

Abstract:

OSHA has made a continuing effort to eliminate confusing, outdated, and duplicative regulations. In 1978 and again in 1984, the Agency conducted comprehensive revocation and revision projects that resulted in the elimination of hundreds of unnecessary rules. In response to the President's Memorandum of March 4, 1995, and the April 24, 1995, Presidential Directive, the Agency is again renewing its effort to eliminate unnecessary regulations and improve others. Following a page-by-page review of regulations that was required as part of the President's April 24, 1995 regulatory reform initiative, OSHA developed a list of standards it proposes to revoke or revise. These standards were deemed to be out of date, duplicative, inconsistent with other OSHA standards, or preempted by the regulations of other Federal agencies. Administrative changes will also be addressed in this rulemaking.

Statement of Need:

This rulemaking is part of OSHA's response to the President's Regulatory Reform Initiative, as embodied in the Department of Labor's report of June 15, 1995. In carrying out OSHA's responsibilities under the Presidential directive, and as part of OSHA's reinvention efforts, the Agency is reworking many health and safety standards, particularly those that were first adopted by OSHA in 1971, into standards that are more understandable to employers and employees, are flexible in their means of compliance, and are founded in common-sense approaches to preventing or controlling workplace safety and health hazards. This standards project is a key part of the Agency's initial effort to meet this objective.

Workplace safety and health standards should be both protective of workers and user-friendly for employers and employees. If OSHA standards are duplicative, employers have more difficulty in achieving compliance. For example, rubber insulating equipment requirements in 29 CFR 1910.268(f) should be revoked, because these same requirements appear in a more up-to-date form in 29 CFR 1910.137. Similarly, information given in respirator fit test procedures contained in 29 CFR 1910.1000 is repeated in a number of other locations in OSHA health standards and could be eliminated by the addition of a cross reference to a single source.

In addition, any OSHA standards that are out of date as a result of industry changes in the use of materials or equipment should be revised to accommodate these changes. For example, only approved metal safety cans can be used for the storage and handling of flammable and combustible liquids in the construction industry, as required in 29 CFR 1926.152(a)(1). Since plastic cans are now also approved and acceptable for this purpose, the OSHA standard should be revised to allow this industry to use such equipment if desired.

OSHA standards that are preempted by similar standards enforced by other Federal agencies (as specified in Section 4(b)(1) of the OSH Act) should also be removed from OSHA's regulations. For example, the capacity limits for liquefied petroleum gas (LPG) cylinders addressed in 29 CFR 1910.110(e)(10) are preempted by regulations enforced by the Department of Transportation for the same equipment. The inclusion of such standards in OSHA regulations unnecessarily increases the burden on employers trying to understand and comply with applicable standards.

There are also some OSHA standards that conflict with the rules of other Federal agencies. For example, OSHA requires empty boxes that previously contained high explosives that are being disposed of to be burned (29 CFR 1910.109(e)(2)), although some employers have been prohibited from burning these boxes by local air pollution requirements. OSHA will be revising these standards to allow flexibility and common-sense alternative methods and procedures.

Administrative actions will also be proposed in this rulemaking to reduce employer burden. These actions include the elimination of obsolete standards that address such matters as effective dates and sources of standards.

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Alternatives:

OSHA has considered issuing de minimis citations for noncompliance with many of the duplicative, outdated, or confusing standards that would be addressed in this notice. Such enforcement actions, however, do not eliminate the continuing problem for employers who must attempt to identify the standards that apply to their worksites. OSHA believes that the selective elimination of unnecessary standards and the revision and updating of others is the most satisfactory approach to resolving this problem.

Anticipated Costs and Benefits:

No additional costs are anticipated for employers. Employers should benefit from this action because it will enhance their ability to comply with OSHA standards that are more user-friendly.

Risks:

Employee protection is likely to be enhanced to some extent by this action, which will clarify and update regulatory requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

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DOL—OSHA

82. • PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

Priority:

Economically Significant

Legal Authority:

29 USC 655 (b)

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

OSHA enforces hundreds of permissible exposure limits (PELs) for toxic air contaminants found in U.S. workplaces. These PELs set OSHA-enforceable limits on the magnitude and duration of employee exposure to each contaminant. The amount of exposure permitted by a given PEL depends on the toxicity and other characteristics of the particular substance. OSHA's PELs for air contaminants are codified in 29 CFR 1910.1000, Tables Z-1, Z-2, and Z-3. The air contaminant limits were adopted by OSHA in 1971 from existing national consensus standards issued by the American Conference of Governmental Industrial Hygienists and the American National Standards Institute. These PELs, which have not been updated since 1971, thus reflect the results of research conducted in the 1950s and 1960s. Since then, much new information has become available that indicates that, in most cases, these early limits are outdated and insufficiently protective of worker health. To correct this situation, OSHA published a proposal in 1988 updating the air contaminant limits in general industry. That proposal became a final rule in 1989 (54 FR 2332); it lowered the existing PEL for 212 toxic air contaminants and established PELs for 164 previously unregulated air contaminants. On June 12, 1992 (57 FR 26001), OSHA proposed a rule that would have extended these limits to workplaces in the construction, maritime, and agriculture industries. However, on July 10, 1992, the Eleventh Circuit Court of Appeals vacated the 1989 final rule on the grounds that "(1) OSHA failed to establish that existing exposure limits in the workplace presented significant risk of material health impairment or that new standards eliminated or substantially lessened the risk; (2) OSHA did not meet its burden of establishing that its 428 new permissible exposure limits (PELs) were either economically or technologically feasible." The Court's decision to vacate the rule forced the Agency to return to the earlier, insufficiently protective limits.

OSHA continues to believe that establishing a rulemaking approach that will permit the Agency to update existing air contaminant limits and establish new ones as toxicological evidence of the need to do so becomes available is a high priority. The rulemaking described in this Regulatory Plan entry reflects OSHA's intention to move forward with this process. In determining how to proceed, OSHA is being guided by the OSH Act and the Eleventh District Court decision regarding the extent of the risk and feasibility analyses required to support revised and new air contaminant limits. OSHA is planning to propose new PELs for a smaller number of substances (substantially fewer than in the 1989 rulemaking) by July of 1996. The Agency will rely on a risk-based prioritization system to identify those air contaminants that present significant risks to exposed employees and for which technologically and economically feasible controls exist. State-of-the-art risk assessment methodologies will be utilized for both carcinogens and noncarcinogens, and the determinations of feasibility contained in the economic analysis accompanying the proposal will be extensive. The specific hazards associated with the air contaminants to be regulated will depend on the particular contaminants selected for rulemaking. Using priority planning criteria, such as the severity of the health effect, either acute or chronic, and the number of exposed workers, will ensure that significant risks are addressed and that workers will experience substantial benefits in the form of enhanced health and safety. Publication of the proposal will allow OSHA to institutionalize a mechanism for updating and extending its air contaminant limits, which will, at the same time, provide added protection to many workers who are currently being overexposed to toxic substances in the workplace.

Statement of Need:

OSHA's current Tables Z-1, Z-2, and Z-3 contain approximately 470 PELs for various forms (e.g., dust, fumes, vapors) of the regulated contaminants, many of which are widely used in industrial settings. These PELs, which were adopted wholesale by OSHA in 1971 and have not been revised since then, are in many cases seriously unprotective of worker health. In addition, new chemicals are constantly being introduced into the working environment, and exposure to these substances can result in both acute and chronic health effects, with chronic effects being the more frequent and serious. Acute effects include respiratory and sensory irritation, chemical burns, and ocular damage; chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. For these reasons, it is a high OSHA priority to establish an ongoing regular process that will allow OSHA routinely to update existing PELs and establish limits for previously unregulated substances. The first step in achieving this goal is to publish an air contaminants proposal for a limited number of substances that will establish streamlined but scientifically sound and defensible procedures for conducting risk assessments and performing feasibility analyses that will permit regular updating and review of permissible exposure limits for air contaminants. The ability to lower existing limits and establish limits for new contaminants is an essential component of OSHA's mandate to protect the health and functional well-being of America's workers.

Alternatives:

OSHA has considered a variety of nonregulatory approaches to address the problem of the Agency's outdated exposure limits for air contaminants. These include the issuance of nonmandatory guidelines, enforcing lower limits through the "general duty" cause of the OSH Act in cases where substantial evidence exists that exposure presents a recognized hazard of serious physical harm, and the issuance of hazard alerts. OSHA believes, however, that the problem of overexposure to hazardous air contaminants is so widespread, and the Agency's current limits are so out of date, that only a regulatory approach will achieve the necessary level of protection. The regulatory approach also has advantages for employers, because it gives them the information they need to establish appropriate control strategies to protect their workers and reduce the costs of job-related illnesses. This first phase of an ongoing air contaminants updating and revision process thus will begin to resolve a problem of long-standing and major occupational health import.

Anticipated Costs and Benefits:

The scope of the proposed rule is currently under development, and thus quantitative estimates of costs and benefits have not been determined at this time. Implementation costs associated with the proposed standard include primarily those related to identifying and correcting over-exposures using engineering controls and work practices. Additional costs may be incurred for the implementation of administrative controls and the purchase and use of personal protective equipment. Estimates of the magnitude of the problem of occupational illnesses, both acute and chronic, vary considerably. In 1989, OSHA concluded that its Air Contaminants rule in general industry, which lowered 212 exposure limits and added 164 where none had previously existed, would result in a reduction of approximately 55,000 illnesses and over 23,300 lost-workday illnesses annually. Chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. Acute effects include respiratory and sensory irritation, chemical burns, and ocular effects.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

Federal

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DOL—OSHA

83. • REVISION OF CERTAIN STANDARDS PROMULGATED UNDER SECTION 6(A) OF THE WILLIAMS-STEIGER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 655(b); 5 USC 533

CFR Citation:

29 CFR 1910.106; 29 CFR 1910.107; 29 CFR 1910.108; 29 CFR 1910.94(c); 29 CFR 1910.94(d); 29 CFR 1911

Legal Deadline:

None

Abstract:

The Occupational Safety and Health Administration (OSHA) adopted its initial package of workplace safety and health standards from various nationally recognized consensus standards and from standards that had already been promulgated by other Federal agencies. These standards reflected technologies that were current at the time the Williams-Steiger Occupational Safety and Health Act of 1970 (the Act) became law. Section 6(a) of the Act permitted OSHA to adopt significant nationally recognized consensus standards, developed by groups such as the National Fire Protection Association (NFPA) and the American National Standards Institute (ANSI), and existing Federal standards for use as OSHA standards without public participation or public comment. OSHA refers to the standards it adopted under section 6(a) of the Act as "6(a) standards." Since their adoption, many of these 6(a) standards have been identified by the regulated community as being overly complex, difficult to read and follow, and out of date with current technology.

This project is part of a Presidential initiative to respond to the general criticism concerning the complexity and obsolescence of certain Federal regulations. OSHA believes that some of the Agency's section 6(a) standards in subpart H of part H of part 1910 meet the criteria for critical review set forth in the Presidential initiative. OSHA has identified three standards from subpart H that need to be revised and updated to eliminate their complexity and obsolescence. These standards include 29 CFR 1910.106, Flammable and Combustible Liquids; 29 CFR 1910.107, Spray Finishing Using Flammable and Combustible Materials; and 29 CFR 1910.108, Dip Tanks Containing Flammable or Combustible Materials.

With this project, OSHA is initiating three separate rulemakings that will revise and update three of OSHA's most complex and out-of-date section 6(a) standards. These specific sections address flammable and combustible liquid storage, handling, and use; spray finishing using flammable and combustible liquids; and dip tanks containing flammable and combustible liquids. The regulations contained in 29 CFR 1910.106, 1910.107, and 1910.108 have long been criticized by labor, management, and government for their

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complexity, duplicative nature, and obsolescence. 29 CFR 1910.106 contains outdated and duplicative standards as well. 29 CFR 1910.107 and 1910.108 also contain substantive ventilation requirements that are duplicative with ventilation requirements contained in 29 CFR 1910.104, paragraphs (c) and (d).

OSHA intends to issue three separate proposals individually addressing 29 CFR 1910.106; 29 CFR 1910.107 and 1910.94(c); and 29 CFR 1910.108 and 1910.94(d). The purpose of these rulemakings will be to solicit public participation in the revision and updating of these standards to current levels of technology. It is also the purpose of the rulemakings to eliminate the complexity, duplicative nature, and obsolescence of the current existing standards and to write them in "plain language," as directed by the President's report.

Statement of Need:

These three OSHA safety standards are being revised and updated as part of the President's initiative on Federal regulations discussed in the U.S. Department of Labor report of June 15, 1995. The Department of Labor report was issued in response to the President's Regulatory Reform Initiative dated April 24, 1995.

Fire hazards in the workplace associated with exposure to flammable and combustible liquids create a variety of safety and health problems, including thermal burns, chemical burns, smoke inhalation, respiratory inflammations, nausea, dizziness, other serious physical injuries and death. Overexposure to vapors, fumes, and mists created during spray applications or dipping processes involving flammable or combustible liquids create a variety of health problems, including respiratory infections, nausea, dizziness, respiratory allergies, heart disease, lung cancer, decreases in pulmonary function, other serious illnesses, and death.

Fires and explosions continue to occur frequently in the industrial environment. Such fires, which are often catastrophic, are often caused by improper storage, handling and use of flammable and combustible liquids, including improper or inadequate ventilation of their vapors, fumes, or mists. Control of the fire and health hazards that employees are exposed to during operations involving flammable and combustible liquids requires adequate fire control and ventilation procedures. These procedures can protect employees from the adverse physical safety or health effects resulting from exposure to flammable and combustible liquids and their vapor, fumes, or mists.

Employees are also exposed to significant health hazards when they work around spray finishing operations or dip tank operations that use nonflammable or noncombustible liquids. Many employers will use such nonflammable or noncombustible liquids in spray finishing or dipping operations to eliminate fire or explosion hazards. However, some chemicals, such as perchlorethylene, create significant health hazards to employees when used by spray finishing and dip tank operations. Health problems such as respiratory infections, nausea, dizziness, respiratory allergies, heart disease, lung cancer, decreases in pulmonary function, other serious illnesses, and death may occur if employee exposure to toxic, nonflammable or toxic noncombustible liquids are not controlled.

When 29 CFR 1910.94(c), 1910.94(d), 1910-106, 1910.107, and 1910.108 were promulgated, many of the protective technologies and work practices recognized today in industries using flammable and combustible liquids did not exist. Advances in fire prevention strategies and equipment and in ventilation techniques and equipment necessitate the updating of these OSHA standards. Revising and updating these sections of Subpart H to recognize these new technologies and work practices will improve the occupational safety and health of employees by introducing new fire control and ventilation techniques into the workplace. The revision of these standards will also make them consistent with current nationally recognized consensus standards adopted by various authorities having jurisdiction over fire safety and health hazards. A consistent set of standards will make compliance with these rules easier for the regulated populations of employees and employers.

Alternatives:

OSHA has considered several alternative approaches to controlling these hazards, including issuing guidelines, using the "general duty clause" of the OSHA Act to cite serious and unsafe work practices not regulated by the existing standards, issuing hazard alerts, issuing program directives, and revising and updating the current OSHA standards to reflect the updated national concensus standards. OSHA believes that, in this case, revising and updating these standards is the most appropriate way to proceed. It is the only approach that will assure public participation in the updating and revision of outdated, complex, and obsolete rules. It will also assure that employers will provide the most recent technologies to protect their employees from fire and explosion hazards.

Anticipated Costs and Benefits:

The benefits and costs associated with these revisions are undetermined at this time; however, OSHA anticipates that cost savings and increased benefits will be associated with these actions due to the use of newer technologies, equipment, and procedures to reduce employee injuries and fatalities in the workplace.

Risks:

Physicial injuries and fatalities caused by thermal burns, chemical burns, smoke inhalation and traumatic injuries are common among employees exposed to fire or explosion hazards in the workplace. In addition, overexposure to vapors, fumes, and mists created during spray applications or dipping processes involving flammable or combustible liquids can create a variety of health problems, including respiratory infections, nausea, dizziness, respiratory allergies, heart disease, lung cancer, decreases in pulmonary function, other serious illnesses, and death.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Federal

Additional Information:

ADDITIONAL INFO: Flammable and Combustible Liquids, 29 CFR 1910.106, Spray Finishing Using Flammable and Combustible Materials, 29 CFR 1910.107, Dip Tanks Containing Flammable and Combustible Liquids, 29 CFR 1010.108 are three standards selected for revision and updating under a Presidential Initiative to revise and update outdated, duplicative, or obsolete federal regulations. These standards were adopted under section 6(a) of the Williams-Steiger Occupational Safety and Health Act of 1970. 29 CFR 1910.106 will be revised and updated to be consisted with the current National Fire Protection Association source standard. It will also be formatted to make it easier to read. 29 CFR 1910.94(d) will be combined with 29 CFR 1910.108 to eliminate duplicative standards.

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RIN: 1218–AB55

DOL—OSHA

FINAL RULE STAGE

84. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (PART 1910) (SLIPS, TRIPS, AND FALLS PREVENTION)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 655(b)

CFR Citation:

29 CFR 1910.21; 29 CFR 1910.22; 29 CFR 1910.23; 29 CFR 1910.24; 29 CFR 1910.25; 29 CFR 1910.26; 29 CFR 1910.27; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1910.30; 29 CFR 1910.31; 29 CFR 1910.32; 29 CFR 1910.128; 29 CFR 1910.129; 29 CFR 1910.130; ...

Legal Deadline:

None

Abstract:

Standards for walking and working surfaces and personal fall protection systems will be issued concurrently as a final rule. The Occupational Safety and Health Administration's (OSHA's) existing standards for walking and working surfaces need to be revised because they are out of date and limit technological innovation in the means employers can use to comply. The final rule is performance-oriented, written in plain language, and flexible in the means of compliance permitted. In addition, OSHA's existing standards do not contain criteria for personal fall protection systems. Consequently, requirements containing criteria for such systems will be added to 29 CFR Part 1910, Subpart I, Personal Protection Equipment, to enhance employee protection from injury and death due to falls to different elevations.

Statement of Need:

The existing standards for walking/working surfaces were originally adopted in 1971 under Section 6(a) rulemaking procedures. These standards are now out of date, restrict technological innovation, and contain gaps in coverage. Currently, there are also no standards for personal fall protection systems that cover all general industry applications. This rulemaking action will thus revise and update OSHA's existing regulations for walking/working surfaces (29 CFR Part 1910, Subpart D) and add new coverage for personal fall protection systems to the current personal protective equipment standards (29 CFR Part 1910, Subpart I). The revised rules will be written in plain English so that they will be easier for employers and employees to understand.

The new standard will use a performance-oriented approach to permit flexibility in the means of compliance and to encourage innovation. New criteria for personal fall protection systems will be added to allow these systems to be used as additional alternatives to provide fall protection and to ensure that this type of equipment functions properly and is used correctly.

The legal basis for this action is that employees in general industry are exposed to a significant risk of falls, both falls on the same level and falls from an elevation. However, this action is not specifically required by statute, and is not required by court order.

The new standard will reduce risks to workers by providing clearer, up-to-date requirements to minimize fall hazards. The standard will also cover new areas of fall protection such as special surfaces and manhole steps, and the use of qualified climbers. The new standard will also recognize personal fall protection systems as an acceptable option for fall protection, as well as provide the criteria to ensure that such systems will safely stop a worker's fall.

Alternatives:

The following alternatives were considered for analysis:

1. Retaining the existing regulation unchanged. A number of the existing requirements are specification-oriented provisions that in some situations are inappropriate, unnecessarily costly, and inflexible. For example, the existing standard mandates guardrails for most roof perimeters and requires that fixed ladders on most towers and other structures be fitted with cages or ladder safety devices; but in some limited circumstances, such requirements are unnecessarily restrictive. Also, personal fall protection systems, which are suited to many difficult fall protection situations, are not permitted under the existing rule.

2. Issuing the final rule without an exemption for qualified climbers. This option would require that all fixed ladders over 24 feet in height utilize cages or ladder-safety devices. Under this option, the benefits of the standard would be about the same as they are for the version reflected in the final rule, but the first-year capital cost of compliance would be increased by more than a factor of eleven.

3. Issuing the revised final rule as a final standard, including the exemption for qualified climbers, requirements for fall protection systems, and other flexible provisions for such protective devices as guardrails. OSHA believes that this alternative will result in the greatest amount of employee protection at the least cost to employers of all the alternatives considered.

Anticipated Costs and Benefits:

Modifications to existing requirements are expected to involve annual costs of less than $20 million. Benefits include the prevention of dozens of fatalities and thousands of injuries associated with falls and other work-surface-related incidents.

Risks:

Nearly all workplaces and employees covered by the OSHA general-industry standards are affected by the standards for walking and working surfaces. These standards cover about 84 million workers. Examples of walking and working surfaces included in these standards are stairs, step bolts, manhole steps, ramps, ladders, floors, fall-protection systems, scaffolds, and mobile ladder stands.

The Bureau of Labor Statistics (BLS) reported from the 1987 and 1988 annual surveys that falls accounted for 12 percent of all deaths of employees in workplaces with 11 or more employees.

The National Institute of Occupational Safety and Health (NIOSH) publication, "Fatal Injuries to Workers in the United States, 1980-1989: A Decade of Surveillance," reports that deaths from falls are the fourth leading cause of occupational fatalities, accounting for 10 percent of all deaths in the workplace. According to the Insurance Institute for Highway Safety, falls are the second largest cause of occupational fatalities, next after death due to over-the-road motor vehicle accidents. Falls are also second only to motor vehicle accidents as a cause of brain injuries.

OSHA has determined that hazards associated with walking and working surfaces persist and must be addressed with improved standards. OSHA's preliminary regulatory impact analysis estimated that as many as 105,000 disabling injuries and 132 fatalities that occur annually are potentially preventable by compliance with the revised final rule.

A number of special studies have also been conducted to gain a better understanding of the nature and causes of employee injuries, and the methods required for reducing their numbers. One such study on ladders, conducted by BLS, indicated that in about 55 percent of ladder-related accidents where employee injuries occurred, the ladder either moved, slipped, fell or broke. The study also indicated that ladders were not secured or braced in about 50 percent of these injury incidents. Furthermore, in nearly 60 percent of the incidents, employees were carrying something in their hands at the time of the incident. The final standard will address these problems by requiring design criteria and employee training in the use of ladders. Another study of scaffold fatalities and catastrophes developed by OSHA indicated that 90 percent of fatally injured employees were performing their normal job activities at the time of the accident, and 55 percent of these employees were performing their basic or primary work tasks.

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	08/22/90	55 FR 13360
Hearing	09/11/90	55 FR 29224
Final Action	04/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

None

Additional Information:

Because RINs 1218-AB05 and 1218-AA48 will be issued concurrently, they have been combined under this RIN 1218-AB04.

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RIN: 1218–AB04

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DEPARTMENT OF TRANSPORTATION (DOT)

Statement of Regulatory Priorities

The Department of Transportation (DOT) consists of nine operating administrations and the Office of the Secretary, each of which has statutory responsibility for a wide range of regulations. For example, DOT regulates safety in the aviation, motor carrier, railroad, mass transit, motor vehicle, maritime, commercial space, and pipeline transportation areas. DOT regulates consumer and economic issues in aviation and provides financial assistance and writes the necessary implementing rules for programs involving highways, airports, mass transit, the maritime industry, railroads, and motor vehicle safety. It writes regulations carrying out such disparate statutes as the Americans with Disabilities Act and the Uniform Time Act. The Department establishes tolls and operational requirements for the St. Lawrence Seaway. It regulates the construction and operation of bridges over navigable waters, the prevention of oil pollution, and the security of commercial aviation and passenger vessels. Finally, DOT has the usual housekeeping regulations governing everything from conflicts of interest to the Privacy Act to seismic standards for building construction.

Although it carries this heavy regulatory workload, the Department has long been recognized as a leader in Federal efforts to improve and streamline the regulatory process and ensure that regulations do not impose unnecessary burdens. The Department was the first major Federal agency to establish a comprehensive internal management and review process for new and existing regulations.

This process is codified in the Department's regulatory policies and procedures, which ensure that the Secretary and other appropriate appointed officials review and concur in all significant DOT rules. These policies and procedures emphasize that DOT regulations should be necessary, clear, timely, reasonable, and fair, without imposing unnecessary burdens on individuals, the private sector, or State or local governments.

For virtually all DOT rules, the initiating office must prepare an analysis that includes a discussion of the problem intended to be addressed, the major alternatives, the reasons for choosing one alternative over another, and the economic and other consequences of the action. The Department has a management process that permits key officials to follow closely the development of significant regulatory projects. The process is intended to ensure that these rulemakings are completed in a timely manner, and it facilitates top management's involvement in these actions.

Under the leadership of Secretary of Transportation Federico Peña, the Department has adopted a regulatory philosophy that applies to all its rulemaking activities. This philosophy is articulated as follows: DOT regulations must be clear, simple, timely, fair, reasonable, and necessary. They will be issued only after an appropriate opportunity for public comment, which must provide an equal chance for all affected interests to participate, and after appropriate consultation with other governmental entities. The Department will fully consider the comments received. It will assess the risks addressed by the rules and their costs and benefits, including the cumulative effect. The Department will consider appropriate alternatives, including nonregulatory approaches. It will also make every effort to ensure that legislation does not impose unreasonable mandates.

Consistent with this process and the Department's regulatory philosophy, DOT continually seeks ways of improving the way it conducts regulatory work. The creation of an electronic docket for the Department and steps to shorten the internal review process for new rules are examples of these efforts. In addition, the Department consistently seeks out opportunities to review, in depth, certain regulations or groups of regulations. Some recent examples include the Federal Highway Administration's (FHWA's) "zero-based" review of its motor carrier safety rules, a Coast Guard-initiated review to cull out unnecessary and obsolete rules, and a Federal Aviation Administration (FAA) review of rules cited by the 1993 Airline Commission report as burdening the industry. The FAA also used an innovative technique for getting public input concerning priorities for regulatory reviews, by asking interested parties to list the three regulations they would most like to see FAA change.

This Department's regulatory process and philosophy also facilitated the Department's successful participation in President Clinton's 1995 Regulatory Reinvention initiative. The cumulative impact of this effort was significant. The Department has committed to removing 13.2 percent of its Code of Federal Regulations (CFR) pages and reinventing an additional 19.6 percent of its CFR pages. In addition, DOT identified a number of specific, substantial regulatory projects that will help the Administration to achieve its regulatory policy objectives. The following are a few examples:

- FAA rules to harmonize aviation safety rules with European standards should save the industry at least $100 million (perhaps up to $1 billion, depending on economic conditions) over 10 years.
- As part of a review of air traffic control procedures, the FAA determined it could expand pilot participation in selecting the most desirable routings for long-distance flights. This program, which is now in effect, saves the industry about $40 million per year; FAA is considering expanding the program in ways that could save an additional $40 million annually.
- DOT has suspended the requirement for preemployment alcohol testing and has proposed legislation to make such testing permanently discretionary. This should save the motor carrier, mass transit, aviation, and railroad industries $28 million a year.
- The Office of the Secretary (OST) is considering a proposal to align passenger fare tariff filing requirements more closely with international aviation policies and review requirements. This effort could substantially change the aviation tariff filing requirement for a significant number of the parties now covered. The remaining parties would file electronically. The result would be a significant reduction in paperwork.
- The Coast Guard is proposing to amend its rules to allow U.S. flag vessels to be inspected by the American Bureau of Shipping or other qualified private organizations rather than by the Coast Guard. This will eliminate duplication in inspection requirements and reduce "down time" for vessels.
- The Federal Railroad Administration (FRA) plans a major paperwork reduction initiative that would allow many "Hours of Service Act" records to be maintained and reported electronically. For Class I railroads, this initiative could save $2.3 million annually by eliminating requirements to store 7.3 million paper records at any given time and create 3.6 million paper records per year.
- FHWA is considering a new rule to exempt motor carriers and drivers from the requirement to record duty

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status on a specified grid for each 24-hour period if they use advanced technology to provide an accurate reflection of the driver's compliance with the hours-of-service regulations. Currently about 3.3 million drivers are subject to this safety requirement. This application of new technology would make possible a major paperwork reduction.

In other areas of the President's initiative, the Department reported on the ways in which we will ensure that our compliance efforts reward results and deemphasize red tape. This report focuses on such matters as improved performance measures (e.g., vessel casualties per 1,000 passenger vessels, commercial motor vehicle out-of-service rates), customer service training for front-line employees, development of a framework for performance management requiring that evaluation of the work of all employees, not just front-line regulators, be based on results, and education and training programs to assist regulators and customers to work together to achieve compliance.

The Department's enforcement policies are consistent with the effort to reward results and deemphasize red tape. For example, the Coast Guard authorizes its personnel to issue warnings, rather than impose penalties, for minor violations that are corrected promptly. It recently implemented a "pollution ticket" program that reduces paperwork and reduces penalties for first- and second-time minor violations of some environmental requirements. The Research and Special Programs Administration (RSPA) is implementing a program to waive up to 100 percent of penalties for violations that are corrected in a stated time frame. The FHWA's policy is to impose penalties only as a last resort when other means of obtaining compliance, such as education and training, have failed. The FRA's guidance to its inspectors emphasizes exercising discretion to waive or reduce initial penalty assessments, focusing particularly on efforts to achieve compliance.

The Department has engaged in a wide variety of activities to help cement the partnerships between its agencies and its customers that will produce good results for transportation programs and safety. For example, Secretary Peña participated in four transportation safety summits, along with front-line regulators and representatives of regulated industries. These concerned pipeline safety (July 1994), rail safety (September 1994), aviation safety (January 1995), and, most recently, a national truck and bus safety summit (March 1995). Administrators and other high officials of the operating administrations have participated in a wide variety of meetings with customers to form viable partnerships among industries, consumers, and front-line regulators. For example, the Federal Transit Administrator recently participated in a "Paratransit Summit" involving disability community groups and transit providers, which discussed issues concerning accessible public transportation. In addition, the Department's agencies have established a number of continuing partnership mechanisms. For example, the FAA's Aviation Rulemaking Advisory Committee (ARAC) is an ongoing grassroots effort. ARAC provides a forum for all elements of the aviation community to participate in the early development of FAA rulemakings.

The Department of Transportation was a pioneer in creating the regulatory negotiation concept, and it conducted the Federal Government's first negotiated rulemaking. Since that time, DOT has conducted regulatory negotiations on a variety of subjects, such as the Air Carrier Access Act and aspects of the Oil Pollution Act. The Department has also used advisory committees to obtain customer input on regulatory projects, such as the Americans with Disabilities Act rule. There are several regulatory negotiation projects currently planned or underway, concerning such subjects as roadway worker safety (FRA), oxygen use by airline passengers (OST), headlamp aimability (the National Highway Traffic Safety Administration, NHTSA), incorporating physical fitness determinations in the commercial drivers' license program (FHWA), and the definition of and safety requirements for gas gathering lines (RSPA).

The Department's regulatory process and philosophy also make it possible for the Department to achieve the aims of the DOT Strategic Plan. Many of the objectives of this plan—Tie America Together, Invest Strategically in Transportation Infrastructure, Promote Safe and Secure Transportation, Actively Enhance Our Environment, and Put People First—call for creating, reinventing, or improving DOT regulations.

Office of the Secretary of Transportation (OST)

The Office of the Secretary (OST) oversees the regulatory process for the Department. OST implements the Department's regulatory policies and procedures and is responsible for ensuring the involvement of top management in regulatory decisionmaking. Through the General Counsel's office, OST is also responsible for ensuring that the Department complies with Executive Order 12866 and other legal and policy requirements affecting rulemaking. Although OST's principal role concerns making the Department's regulatory process run smoothly and effectively, this office also plays an important role in the substance of rulemaking projects concerning aviation economic rules and those having cross-modal significance. In connection with its oversight and coordination role, the Office of the Secretary also led the Department's work to carry out President Clinton's Regulatory Reinvention Initiative.

OST provides guidance for use of regulatory personnel throughout the Department on compliance with requirements concerning the regulatory process. For example, OST provided guidance concerning implementation of the regulatory portions of the Unfunded Mandates Act, as well as providing updated information on such matters as compliance with Executive Orders, economic analyses, paperwork reduction, the Regulatory Agenda and Plan, and other regulatory policy matters. During the next year, OST plans to provide guidance and training concerning cost-benefit analyses and risk assessments, as well as continuing to offer DOT personnel a periodic 2-day training course on regulatory development and process.

OST led and coordinated the Department's response to the Administration and Congress in 1995 concerning legislative proposals for regulatory reform. The General Counsel's office worked closely with representatives of other agencies, the Office of Management and Budget, the White House, and Congressional staff to provide information on how various proposals would affect the ability of the Department to perform its safety, infrastructure, and other missions. OST gathered substantial information from the operating administrations to provide examples of the effects of these proposals. If regulatory reform legislation is enacted, OST will have the lead responsibility for providing Department-wide guidance and training on its implementation. Regardless of action on the pending proposals, OST and the operating administrations will continue their efforts to ensure that problems identified by proponents of the legislation do not exist in the Department's programs.

The Office of Commercial Space Transportation (OCST) is responsible for providing regulatory guidance to the emerging U.S. commercial space transportation industry. (Effective October 1, 1995, OCST will move from OST to the Federal Aviation Administration, where it will operate as a "seventh line of business.") U.S. aerospace companies, which have traditionally constructed launch vehicles and conducted launches as contractors of the U.S. Government, have been successfully marketing commercial services worldwide and are now conducting commercial launches on a regular basis. Commercial launch firms are developing and testing innovative vehicle technologies that will serve the important small-payload market. The Department, as the agency authorized by statute to license and otherwise regulate commercial space launch activities, is responsible for ensuring that these activities are conducted in a safe manner. At the same time, the Department must also shape its policies and requirements in a way that does not unduly burden the U.S. commercial space transportation industry. OCST, therefore, is seeking to streamline and further refine its regulatory processes, while continuing to consult with other agencies having responsibilities related to commercial space transportation.

United States Coast Guard (USCG)

The United States Coast Guard, an armed force of the United States, has many peacetime missions directly affecting the public. These missions include placing and maintaining aids to navigation, enforcing laws and treaties, protecting the marine environment, performing search and rescue, and ensuring marine safety and security. Various statutes authorize the Coast Guard to issue regulations in connection with these missions. The Coast Guard traditionally provides for pollution prevention and safety of passengers, crew, cargo, and ports through a framework of regulations that apply to U.S. flag vessels and foreign vessels that call at U.S. ports. The Marine Safety Council, a group of senior Coast Guard officers, establishes regulatory policy, reviews each rulemaking project, and advises the Commandant of the Coast Guard on regulatory matters.

The Oil Pollution Act of 1990 mandated over 30 different rulemaking projects, affecting pollution liability, personnel training and qualification, and vessel construction and equipment requirements. A number of regulations issued under the authority of the Oil Pollution Act of 1990 are now in effect, including requirements for financial responsibility, double-hull construction, and vessel and facility oil spill response plans. Other rulemaking projects, including requirements for hazardous substances response plans and structural and operational measures to prevent pollution from existing tank vessels, are in progress.

The percentage of foreign vessel traffic in U.S. ports has increased significantly over the past several years. As a result, the Coast Guard is shifting its emphasis from "flag state control," directed primarily at U.S. vessels, to "port state control." Its goal will be to identify substandard foreign vessels and operators, and ensure that deficiencies are corrected. Through Coast Guard initiatives at the International Maritime Organization (IMO), international standards have been raised to a level comparable with U.S. domestic requirements. The Coast Guard intends to increase its acceptance of international standards and eliminate or reduce inconsistencies with domestic regulations, while still ensuring an appropriate level of safety.

The Coast Guard recognizes its obligation to engage in a partnership with the regulated public. It will continue to provide meaningful opportunities for public participation at all stages of the regulatory process, using negotiated rulemaking when possible. The Coast Guard also recognizes its obligation to protect the maritime interests of the United States through helping the regulated public to achieve compliance with effective, efficient regulations. Finally, the Coast Guard is working to reduce unnecessary paperwork burdens. Very few of the Coast Guard information collection requirements are in the form of regularly scheduled reports. As directed by the President, the Coast Guard has reviewed its reporting requirements and has identified only six reports of this nature.

In the past year, the Coast Guard has reviewed each part of the Code of Federal Regulations for which it is responsible, primarily in titles 33 and 46. It received suggestions for improving these regulations from members of the affected public at local grassroots meetings, at a meeting at Coast Guard Headquarters, in written comments, and from Coast Guard field personnel. In identifying regulations to be eliminated or reinvented, the Coast Guard selected those parts which impose the greatest burdens and provide the least benefits. As a result of this review, the Coast Guard currently plans to remove over 300 pages from the Code of Federal Regulations.

Federal Aviation Administration (FAA)

Title 49, United States Code, Subtitle VII—Aviation Programs, charges the Administrator of the FAA with promoting safety of flight of civil aircraft in air commerce. The stated FAA mission is to provide a safe, secure, and efficient global aviation system which contributes to national security and the promotion of U.S. aviation. The agency relies on its Regulatory Plan to provide that system.

The FAA currently has underway a major initiative to improve the regulatory process in the spirit of Executive Order 12866, which charges agencies to promulgate regulations that are effective, consistent, sensible, and understandable. As a matter of policy, the FAA will promulgate no regulation if a nonregulatory solution exists. Other innovations include:

- Involving the aviation community early in the regulatory process to obtain input, both on the rule and the economics, from affected parties prior to publishing a proposed regulation. The Aviation Rulemaking Advisory Committee represents members from all aviation interests and is presently working on the resolution of more than 100 issues.
- Improving the agency's economic analysis process. The agency sponsored a Benefit Cost Conference on June 28, 1994, to obtain public input for the improvement of the process. An action plan has been developed to respond to concerns raised at the conference.
- Harmonizing the U.S. aviation regulations with those of other countries. The harmonization of the U.S. regulations with the European Joint Aviation Regulations (JAR) is the FAA's most comprehensive long-term rulemaking effort. The differences worldwide in certification standards, practices and procedures, and operating rules must be identified and minimized to reduce the regulatory burden on the international aviation system. The differences between the FAA regulations and the requirements of other nations impose a heavy burden on U.S. aircraft manufacturers and operators. Harmonization and standardization should help the U.S. aerospace industry, which contributed approximately $23 billion in trade surplus for 1990, to remain internationally competitive. While the

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overall effort to achieve this is global, it will be accomplished by many small, individual, nonsignificant rulemaking projects.

- Reviewing the regulations to identify those rules that are inconsistent with state-of-the-art technology or current industry practice. To enhance its ability to perform its statutory role without undue economic burden on the aviation industry, the agency announced a comprehensive review on January 10, 1994, asking interested parties to identify those regulations that are believed to be unwarranted or inappropriate. The comments provided in response to this notice will assist the agency in establishing its priorities for future regulatory changes. Other reviews will be conducted periodically.
- Improving the regulatory process. To improve its internal process, the FAA is experimenting with a new method of processing regulations that will require earlier involvement by all interested parties. Also, through an improved prioritization process, top management at the FAA now identifies certain projects that are designated as expedited rulemakings. These are generally simple, relieving rulemakings that are accomplished quickly through a dedication of resources. In addition, the FAA is working on a rulemaking proposal that would allow the use of a finding of equivalent level of safety that could be used in lieu of exemptions.

On July 13, 1995, Administrator Hinson announced CHALLENGE 2000—a comprehensive review of the FAA's regulation and certification capabilities. The purpose of the review is to determine what the agency will need to do to overcome the increasing challenges of regulating the aviation industry and certifying rapidly changing technologies as America enters the 21st century. Near term initiatives of CHALLENGE 2000 include an aggressive education program, targeting rulemaking initiatives to enhance safety, voluntary accreditation of parts suppliers, and a status report on the Safety Summit held in January 1995.

Top regulatory priorities of the FAA for 1995-1996 include a review of regulations affecting commuter operations and general certification and operations requirements, security at airports, harmonization of U.S. regulations with those of other countries, certification and maintenance of aircraft, survival equipment, and drug enforcement.

Federal Highway Administration (FHWA)

FHWA will continue to promulgate regulatory actions to implement the Intermodal Surface Transportation Efficiency Act of 1991 and other relevant statutes and will revise existing regulations where appropriate. The FHWA will rigorously pursue regulatory reform in areas where project development can be streamlined or accelerated, duplicative requirements can be consolidated, recordkeeping requirements can be reduced or simplified, and the decisionmaking authority of our State and local partners can be increased.

The major areas in which the FHWA will initiate or continue to develop significant rulemaking actions are in its ongoing zero-base review of the Federal Motor Carrier Safety Regulations and in implementing the Intermodal Surface Transportation Efficiency Act. The goals and objectives of the zero-base review project are to (a) focus on those areas of enforcement and compliance which are most effective in reducing motor carrier accidents, (b) reduce compliance costs, (c) encourage innovation, (d) clearly and succinctly describe what is required, and (e) facilitate enforcement. Through the zero-base review, the FHWA intends to develop a unified, performance-based regulatory system that will enhance safety on our Nation's highways while minimizing the burdens placed on the motor carrier industry. In addition, the FHWA is currently redrafting the Rules of Practice for Motor Carrier Safety and Hazardous Materials Proceedings. It plans to simplify the current process to facilitate responses by the accused motor carriers and drivers, and to offer alternative means of adjudicating the claims. It also intends to promulgate comprehensive rules covering the entire enforcement process from initial contact with the motor carrier to the final disposition of the claim.

National Highway Traffic Safety Administration (NHTSA).

The statutory responsibilities of the National Highway Traffic Safety Administration (NHTSA) include reducing and mitigating motor vehicle crashes and related fatalities and injuries, providing motor vehicle information to consumers, and improving automotive fuel efficiency. The agency pursues policies that encourage the development of nonregulatory approaches when feasible in meeting its statutory mandate; issues new standards and regulations or amendments to existing standards and regulations when appropriate; ensures that regulatory alternatives reflect a careful assessment of the problem and a comprehensive analysis of the benefits, costs, and other impacts associated with the proposed regulatory action; and considers alternatives consistent with the Administration's regulatory principles.

In addition to numerous programs that focus on the safety and performance of the motor vehicle, the agency is engaged in a variety of programs to improve driver behavior. These programs emphasize the human aspects of motor vehicle safety and recognize the important role of the States in this common pursuit. This goal is accomplished by a number of means, including encouraging initiatives in such areas as safety belt usage, motorcycle helmet usage, child safety-seat usage, activities aimed at combating drunk driving and driving under the influence of other drugs, and consumer information activities.

Furthering initiatives begun under the National Performance Review, NHTSA is conducting several program evaluations that are designed to review and evaluate the actual benefits, costs, and overall effectiveness of existing standards and regulations. For example, the agency is continuing an evaluation of the effectiveness of Standard No. 208's automatic crash protection requirement and is beginning an evaluation of Standard No. 214's new dynamic side-impact protection requirements.

NHTSA's regulatory program includes additional proposals that will be undertaken in order to allow design flexibility, promote new technology, and encourage market competition and consumer choice. Also, pursuant to the President's 1995 Regulatory Reinvention Initiative, NHTSA has undertaken a review of all its regulations and directives. During the course of this review, the agency identified several regulations that are potential candidates for rescission or amendment. NHTSA will continue to pursue these actions during the next year. The agency also will be continuing other ongoing safety rulemakings.

Federal Railroad Administration (FRA)

The Federal Railroad Administration (FRA) exercises regulatory authority over all areas of railroad safety. The Federal Railroad Safety Act of 1970 is the primary source of this authority.

FRA promotes safe, environmentally sound, and successful railroad transportation to meet the current and future needs of all its customers. It encourages policies and investment in infrastructure and technology to enable rail to reach its full potential.

FRA seeks to develop a regulatory program that is based on the regulatory principles enunciated in Executive Order 12866 and that satisfies the Order's basic criteria for such programs. FRA's vision is of a regulatory program that protects the health and safety of all persons affected by railroading in America and enhances the environment without imposing unreasonable costs on society. FRA seeks to create regulations that are as "effective, consistent, sensible, and understandable" as those envisioned by the President in his Order. More specifically, given the significant number of pending congressional mandates for railroad safety regulations, FRA is also challenged to address the most important regulatory issues on the agency's own agenda in the most timely and reasonable manner possible.

Our current regulatory priorities include the issuance of final rules on several important subjects: track safety; power brake inspection and maintenance; whistle bans at highway-rail grade crossings; and railroad accident reporting. Each of these rules will embody cost-effective improvements of the way railroads currently conduct business. These measures, we believe, will increase safety performance significantly within an industry that is already performing at high safety levels.

Pursuant to the President's 1995 Regulatory Reinvention Initiative, and for over the past 2 years on its own initiative, FRA has conducted a vigorous review of its regulations, consulting both its own safety professionals and our external customers in the industry. In so doing, FRA has identified numerous opportunities to eliminate or improve significant aspects of our regulatory program. For example, FRA identified 11 pages of the CFR, representing roughly 3 percent of the CFR parts, that it should eliminate. In addition, FRA identified roughly 55 percent of the CFR parts, the majority of those items identified for reinvention, as requiring significant improvements.

FRA has also commenced various nonstatutory regulatory reform initiatives. First, FRA is using negotiated rulemaking to create, with the industry, a rule addressing the issue of roadway worker safety. Begun early this year, the negotiated rulemaking advisory committee recently came to agreement on the recommendations they will make to the agency for ensuring the safety of roadway workers. This negotiated rulemaking represented an historic departure from FRA's traditional rulemaking program.

Second, based on the beneficial aspects of its negotiated rulemaking experience, FRA is intensively pursuing a new regulatory paradigm. This new model will consist of a more collaborative rulemaking program and will include the creation of a Rail Safety Advisory Committee (RSAC). RSAC will consist of members of rail management, labor, FRA and other interested parties and will operate by seeking agreement on the facts and data underlying any real or perceived safety problem; identifying cost-effective solutions based upon stipulated facts; and, where appropriate, identifying regulatory options to implement these solutions.

Finally, FRA is examining revising the User Fee Program to ease the user fee burdens imposed upon small entities who do not fit within the formulaic approach to assessment. FRA is required to establish and maintain a schedule of fees to be assessed equitably upon railroads to defray the costs of administering FRA's safety laws. Currently, many small entities that have low formula-based amounts assessed pay a minimum user fee that is higher than the formula assessment. Thus, FRA is considering proposing revisions to the user fee regulations to exempt small railroads or to eliminate a minimum fee for them.

Federal Transit Administration (FTA)

The Federal Transit Administration (FTA) provides financial assistance to State and local governments for mass transportation purposes. The regulatory activity of FTA focuses on establishing the terms and conditions of Federal financial assistance available under the Federal transit laws.

FTA's policy regarding regulations is to:

- Implement statutory authorities in ways which provide the maximum net benefits to society;
- Keep paperwork requirements to a minimum;
- Allow for as much local flexibility and discretion as is possible within the law;
- Ensure the most productive use of limited Federal resources;
- Protect the Federal interest in local investments; and
- Incorporate good management principles into the grant management process.

As mass transportation needs have changed over the years, so have the requirements for Federal financial assistance under the Federal transit laws and related statutes. FTA's regulatory priority for 1995 is to assist FTA recipients in complying with the drug and alcohol testing regulations.

Maritime Administration (MARAD)

MARAD administers Federal laws and programs designed to promote and maintain a U.S. merchant marine capable of meeting the Nation's shipping needs for both national security and domestic and foreign commerce.

MARAD's regulatory objectives and priorities are prescribed by statute and reflect the agency's responsibility for ensuring the availability of efficient water transportation services to American shippers and consumers. To advance these objectives, MARAD's regulations, which are principally administrative and interpretive in nature, are issued so as to provide a significant net benefit to the maritime industry. MARAD works closely with other agencies, for example, the Department of Defense and the Department of Agriculture, to ensure that its cargo preference regulations can be implemented by those agencies in a cost-effective manner. MARAD's proposal in the present Regulatory Plan is designed to bring government procurement of ocean transport more in line with commercial practices, and thus support a system that is more cost-effective to carriers, shippers, and ultimately the consumer.

Research and Special Programs Administration (RSPA)

The Research and Special Programs Administration (RSPA) has responsibility for rulemaking under three programs. Through the Associate Administrator for Hazardous Materials Safety, RSPA administers regulatory programs under Federal hazardous materials transportation law and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. Through the Associate Administrator for Pipeline Safety, RSPA administers regulatory programs under the Federal pipeline safety laws and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990.

The Associate Administrator for Research, Technology, and Analysis is responsible for collecting, evaluating, and disseminating the necessary tariff information to support the aviation

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programs of the Department under the Federal aviation laws. In the aviation tariffs area, the regulatory priorities are to fully automate tariff filings by air carriers and eliminate routine filing of cargo tariffs. However, this function is expected to be moved to OST on October 1, 1995, in order to improve program coordination.

In the area of hazardous materials transportation, the regulatory priorities are to complete the rulemaking actions mandated by the 1990 amendments of the Federal hazardous materials law, including extending Federal regulation to the intrastate highway transportation of hazardous materials. Another priority is to adopt a simplified compliance enforcement procedure that involves ticketing shippers, carriers, and other persons for minor violations of hazardous materials regulations. Also, as part of the President's 1995 Regulatory Reinvention Initiative, RSPA is considering the elimination of unnecessary, obsolete, and duplicative regulations and a simplification and reformatting of the remaining regulations that potentially may reduce the size of the Code of Federal Regulations by 100 pages and may reduce the size of the hazardous materials regulations by one volume, thereby reducing the cost to industry by more than $75,000 per year.

The regulatory priorities in the pipeline area are to manage the risks inherent in pipeline transportation through strategies directed at prevention, detection, and mitigation activities. Specific regulatory actions to implement these activities include excavation damage prevention programs, mandating participation in one-call notification systems, increased inspection requirements using instrumented internal inspection devices, and prescribing risk-based approaches to pipeline safety regulations.

Bureau of Transportation Statistics (BTS)

The Office of Airline Information (OAI), which recently became part of the Bureau of Transportation Statistics (BTS), is the only BTS function with regulatory authority. OAI collects airline passenger, cargo, traffic, and financial data. This information gives the Government consistent and comprehensive economic and market data on individual airline operations and is used, for instance, in supporting policy initiatives, negotiating international bilateral aviation agreements, awarding international route authorities, and meeting international treaty obligations. The aviation, travel, and tourism communities value this information for a variety of purposes, such as conducting analyses of on-time performance, denied boardings, and market trends.

BTS has two short-term regulatory priorities. The first is to resolve the requirement for on-time flight information in a way that meets consumer needs without compromising safety. The second is to consider whether to include foreign carriers among those that provide passenger origin and destination data for their operations within the United States.

BTS will also conduct a complete review and modernization of the passenger origin and destination survey. BTS can make significant improvements by providing data for the needs of DOT and other users in a way that takes advantage of the information revolution and matches the dramatically changed airline industry.

DOT—Office of the Secretary (OST)

PROPOSED RULE STAGE

85. +LICENSING COMMERCIAL SPACE LAUNCH ACTIVITIES

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

49 USC 70101 to 70119

CFR Citation:

14 CFR 400 to 415

Legal Deadline:

None

Abstract:

The Commercial Space Launch Act of 1984, as amended, grants the Department of Transportation's Office of Commercial Space Transportation authority to license and otherwise regulate commercial launches and the commercial operation of launch sites. The Office must ensure that commercial space launch activities are conducted in a manner that does not jeopardize public health and safety and the safety of property, without, however, imposing unnecessary regulatory burdens on the commercial launch industry. The industry has grown in size and complexity since the original regulations were published in 1988, and the Office's licensing program continues to evolve to reflect these changes. This rulemaking would modify the current regulations to reflect a streamlined and more mature licensing regime developed over the past few years. Such changes would benefit the industry by reducing regulatory burdens, thus reducing costs.

This rulemaking is significant because of substantial public interest.

Statement of Need:

On April 4, 1988, the Office of Commercial Space Transportation (OCST) published final regulations for licensing commercial space launch activities. The regulations include the general administrative procedures of OCST as well as revised and expanded policies for licensing commercial launch activities. The industry has grown in size and complexity since the licensing regulations were first published in 1988. As a result, the Office has continued to refine its approach to licensing launch proposals in a manner that facilitates private sector launch activities. This rulemaking would modify the current regulations to reflect a more efficient licensing regime. In addition, the rulemaking will address the procedures and requirements applicable to the licensing of commercial spaceport operators.

Summary of the Legal Basis:

The Commercial Space Launch Act of 1984, as amended, 49 USC 70101 to 70119, confers upon the Department of Transportation the responsibility to license and otherwise regulate launches by the private sector of launch vehicles and the commercial operation of launch sites. The Department's Office of Commercial Space Transportation carries out this responsibility for ensuring that these commercial launch activities do not jeopardize public health and safety, the safety of property, and national security and foreign policy interests of the United States.

Alternatives:

No alternatives were considered. OCST is required by the Commercial Space Launch Act to review and act upon applications for licenses to conduct commercial launches and commercial launch site operations. The Act does not permit OCST to follow alternative approaches in carrying out this responsibility. Therefore, although this rulemaking will make further refinements to the licensing process, the basic regulatory approach will not change.

Anticipated Costs and Benefits:

The rule should impose no additional costs on the commercial space transportation industry. By streamlining the licensing process that is already in place, the rule should benefit the industry by reducing the regulatory burden. The rule should benefit the Office by establishing a more efficient licensing mechanism, thereby reducing staff time.

Risks:

DOT's Office of Commercial Space Transportation must ensure that commercial space launch activities do not jeopardize public health and safety and the safety of property and also ensure compliance with international obligations of the United States. Although the historical safety record of government and commercial launch firms is excellent, significant risks or hazards are presented by the launch of launch vehicles. Risks or hazards include possible explosions and fires involving liquid or solid rocket propellants and ordnance, as well as the generation of launch vehicle and payload debris. Launch accidents, including in-flight failures of guidance or destruction systems, may result in injury to launch personnel and the public and in damages to or loss of government and private property. The potential maximum probable loss for injuries and damages from a single launch typically is in the tens of millions of dollars. The OCST licensing process, in conjunction with U.S. Government launch facilities' range safety control procedures, are directed at ensuring that these launch activities do not jeopardize public safety or U.S. national interests. In addition, OCST imposes financial responsibility requirements on licensees to protect the public and the government, pursuant to the 1988 amendments to the Commercial Space Launch Act.

Timetable:

Action	Date	FR Cite
Public Meeting Notice and Request for Comments	10/13/94	59 FR 52020
Comment Period Extended to 12/16/94	12/05/94	59 FR 62359
NPRM	04/00/96	

Small Entities Affected:

None

Government Levels Affected:

Federal

Analysis:

Regulatory Evaluation

Agency Contact:

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RIN: 2105–AB85

DOT—U.S. Coast Guard (USCG)

PRERULE STAGE

86. +FACILITY RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-048)

Priority:

Other Significant

Legal Authority:

33 USC 1321(j); PL 101-380

CFR Citation:

33 CFR 154

Legal Deadline:

None

Abstract:

This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a marine transportation-related facility transferring bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to marine transportation-related facilities that, because of their location, could cause substantial or significant and substantial harm to the environment by discharging a hazardous substance into or on the navigable waters or adjoining shoreline. This would be defined as any facility capable of transferring hazardous substances regulated under 46 CFR Subchapters D and O to or from a vessel with a capacity of 250 barrels or more. A separate rulemaking under RIN 2115-AE88 would address hazardous response plan requirements for tank vessels. This action is considered significant because of substantial public interest.

Statement of Need:

This rulemaking is intended to reduce the impact from hazardous substance spills from vessels and marine transportation-related facilities.

Summary of the Legal Basis:

Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 USC 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate interim rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under section 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. However, the Coast Guard has identified only 83 hazardous substances currently transferred in bulk by marine transportation-related facilities.

Alternatives:

The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans would be required, by statute, to address responses to a "worst case discharge." For facilities, a "worst case discharge" is "the largest foreseeable discharge in adverse weather conditions." The Coast Guard is considering requirements for response plans for less than "worst case discharges," similar to the requirements adopted in the vessel and facility response plans rules for oil discharges. Additionally, as in the vessel and facility response plans for oil discharges, owners or operators are

required by statute to maintain contracts or other acceptable arrangements with spill-response organizations.

Anticipated Costs and Benefits:

The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts with spill response organizations, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances and a reduction in the severity of the impact of accidental hazardous substance discharges. The Coast Guard does not yet have sufficient information to estimate the potential monetary costs and benefits of this rule. A key element in developing effective regulations for hazardous substance response plans will be the development of an approach for addressing different types of hazardous substances.

Risks:

Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and, in certain cases, help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of facilities involved in transferring hazardous substances in bulk or have a significant impact on the volume of hazardous substances shipped by marine transportation-related facilities. Most facilities involved in transferring hazardous substances in bulk have developed plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/95	

Small Entities Affected:

Undetermined

Government Levels Affected:

None

Analysis:

Regulatory Evaluation

Agency Contact:

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RIN: 2115–AE87

DOT—USCG

87. +TANK VESSEL RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-032)

Priority:

Other Significant

Legal Authority:

33 USC 1231; 33 USC 1321(j); PL 101-380

CFR Citation:

33 CFR 155

Legal Deadline:

None

Abstract:

This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a tank vessel carrying bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to vessels operating on the navigable waters or within the Exclusive Economic Zone (EEZ) of the U.S. that carry bulk hazardous substances regulated under 46 CFR Subchapters D and O. A separate rulemaking under RIN 2115-AE87 would address hazardous substances response plan requirements for marine transportation-related facilities. This action is considered significant because of substantial public interest.

Statement of Need:

This rulemaking is intended to reduce the impact from hazardous substance spills from vessels.

Summary of the Legal Basis:

Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 USC 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate interim rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under section 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. However, the Coast Guard has identified only 83 hazardous substances currently transferred in bulk by marine transportation-related facilities.

Alternatives:

The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans would be required, by statute, to address responses to a "worst case discharge." For vessels, a "worst case discharge" is "a discharge in adverse weather conditions of its entire cargo." The Coast Guard is considering requirements for response plans for less than "worst case discharges," similar to the requirements adopted in the vessel and facility response plans rules for oil discharges. Additionally, as in the vessel and facility response plans for oil discharges, owners or operators are required by statute to maintain contracts or other acceptable arrangements with spill response organizations.

Anticipated Costs and Benefits:

The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts with spill-response organizations, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances and a reduction in the severity of the impact of accidental hazardous substance discharges. The Coast Guard does not yet have sufficient information to estimate the potential monetary costs and benefits

of this rule. A key element in developing effective regulations for hazardous substance response plans will be the development of an approach for addressing different types of hazardous substances.

Risks:

Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and, in certain cases, help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of vessels involved in transferring hazardous substances in bulk, or have a significant impact on the volume of hazardous substances shipped by vessel. Most vessels carrying hazardous substances in bulk have developed plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/95	

Small Entities Affected:

Undetermined

Government Levels Affected:

None

Analysis:

Regulatory Evaluation

Agency Contact:

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RIN: 2115–AE88

DOT—USCG

PROPOSED RULE STAGE

88. +STRUCTURAL AND OPERATIONAL MEASURES TO REDUCE OIL SPILLS FROM EXISTING TANK VESSELS WITHOUT DOUBLE HULLS (CGD 91-045)

Priority:

Economically Significant

Legal Authority:

46 USC 3703; PL 101-380

CFR Citation:

33 CFR 157

Legal Deadline:

Final, Statutory, August 26, 1991.

Abstract:

This rulemaking will address the interim measures existing vessels must take to provide substantial protection to the environment. The interim measures will apply to existing vessels until the vessel must comply with the double-hull regulations. No tank vessel without a double hull may operate after January 15, 2015. Interim measures are to include structural and operational standards to provide substantial protection to the environment that are economically and technologically feasible. This rulemaking is considered significant due to substantial public interest and environmental impact.

Statement of Need:

This rulemaking is intended to reduce the likelihood of, and impact from, oil spills from existing tank vessels.

Summary of the Legal Basis:

Section 4115(b) of OPA 90, codified at 46 USC 3703a, mandates that the Secretary of Transportation "... issue a final rule to require that tank vessels over 5,000 gross tons ... comply until January 1, 2015, with structural and operational requirements that the Secretary determines will provide as substantial protection to the environment as is economically and technologically feasible."

Alternatives:

In 1989, the Coast Guard commissioned the National Academy of Sciences to conduct a study of alternative tank vessel designs. The study addressed the feasibility and ramifications of implementing various design options. An advance notice of proposed rulemaking (ANPRM) was published on November 1, 1991, and solicited comments on a number of possible structural and operational measures. Comments were specifically solicited on the number of vessels affected, technical feasibility, and costs of various measures. Based on comments received and the Coast Guard's own analysis, the range of possible alternatives was narrowed. Remaining options included protectively located noncargo tanks (PL/Spaces), emergency rapid transfer systems, emergency rescue systems, underpressure systems, and hydrostatically balanced loading (HBL). Following publication of a notice of proposed rulemaking (NPRM) on October 22, 1993, the Coast Guard conducted a public meeting and received additional comments. Several comments expressed concern over the effectiveness of some of the proposed structural and operational measures, such as protectively located spaces and hydrostatic balance loading. Therefore, the Coast Guard is considering a three-prong approach. A partial final rule addressed emergency lightering equipment and prearrival notification requirements. Two SNPRMs will address operational and structural measures respectively and solicit additional comments.

Anticipated Costs and Benefits:

The costs of the proposed rule will depend on what combination of alternatives is eventually selected. Costs may range from approximately $50,000 to create PL/Spaces on a small, pre-MARPOL ship to approximately $25 million to add a double bottom to a very large crude carrier. Lost cargo capacity may also impose substantial costs for certain alternatives, especially HBL, double sides, and double bottoms. The principal benefit of the proposed rule will be a potential reduction in oil spillage into U.S. waters. This should result in reduced cleanup costs and natural resource damages. The proposed regulation would provide environmental benefits during the period of time that single-hull vessels remain in service.

Risks:

The effectiveness of this rulemaking will depend on the combination of alternatives selected.

Timetable:

Action	Date	FR Cite
ANPRM	11/01/91	56 FR 56284
ANPRM Comment Period End	12/31/91	
ANPRM Comment Period Extended to 01/30/92	01/13/92	57 FR 1243
NPRM	10/22/93	58 FR 54870
NPRM Correction	11/19/93	58 FR 61143
Notice of Meeting and Comment Period Extended to 02/21/94	12/16/93	58 FR 65683
NPRM Comment Period End	12/20/93	
Final Rule; Arrival Notice and Lightering Equipment	08/05/94	59 FR 40186
SNPRM; Operational Measures	10/00/95	
SNPRM; Structural Measures	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

Analysis:

Regulatory Evaluation; Environmental Impact

Additional Information:

This entry was previously titled Existing Tank Vessel Hull Requirements. The correct docket number is 91-045. The rulemaking project has been divided into three distinct parts: A final rule was published that requires an advance notice of arrival for all tank vessels 5,000 GT or more entering U.S. ports and the carriage of lightering equipment on these vessels. A supplemental notice of proposed rulemaking will be issued for Structural Measures and an SNPRM will be issued for Operational Measures.

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DOT—Federal Aviation Administration (FAA)

FINAL RULE STAGE

89. +AIRCRAFT FLIGHT SIMULATOR USE IN PILOT TRAINING, TESTING, AND CHECKING AND AT TRAINING CENTERS

Priority:

Other Significant

Legal Authority:

49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation:

14 CFR 61; 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135; 14 CFR 141; 14 CFR 142

Legal Deadline:

None

Abatract:

This action would amend the pilot and flight instructor certification rules to include additional use of aircraft, aircraft flight simulators, and flight training devices for pilot training, testing, and checking. This notice also would propose a new part 142 that would govern a new concept called *training centers*. This new concept will emphasize the use of flight simulators in training applicants for pilot certificates. This rulemaking is considered significant because of substantial public interest; it involves a major change in the way industry trains applicants.

Statement of Need:

The training roles of several elements of the aviation community have expanded during the past 10 years. In October 1989, an advisory committee studying matters relating to training and qualification recommended that the FAA standardize the use of flight simulators and flight training devices, provide a means to certificate entities called training centers, and permit the training centers to apply for national approval of core curriculums that could be used by individuals receiving training. This rulemaking project responds to this recommendation by including the concept of a certificated training center.

Summary of the Legal Basis:

Secs. 601 and 602 of the Federal Aviation Act: section 601 empowers the Administrator to prescribe the minimum standards governing appliances such as simulators; section 602 empowers the Administrator to issue airmen certificates.

Alternatives:

Since the FAA accepted the recommendations of the advisory committee, it will not pursue any nonregulatory options.

Anticipated Costs and Benefits:

The total 10-year cost to implement part 142 is estimated to be about $1.3 million discounted. The benefits of this rule, however, far outweigh its costs. Most of the cost savings come from lowered operations costs. The estimated savings from existing simulator training centers training pilots will be $808 million, discounted over the next 10 years.

Risks:

Flight simulators will expand under the changes in the simulator rule. The future use of simulators should reduce the need for pilot instructional flights and the incidence of instructional flight accidents. Each year many student pilots and their instructors die in instructional flight accidents. In the 10-year period 1983 through 1993, the National Transportation Safety Board reported 307 fatal instructional accidents resulting in 553 fatalities. The FAA estimates the average value of such an accident equals $4.8 million. Instructional flight accidents are a risk that would follow in the absence of the simulator rule.

Timetable:

Action	Date	FR Cite
NPRM	08/11/92	57 FR 35888
NPRM Comment Period End	12/09/92	
SNPRM Comment Period End 3/22/93	02/19/93	58 FR 9514
Final Action	10/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

Analysis:

Regulatory Evaluation 08/11/92 (57 FR 35888)

Additional Information:

This project was formerly entitled "Aircraft Simulator Use in Airman Training and Certification." Project Number AFS-83-105R.

The SNPRM clarified or eliminated certain provisions found to be unclear or inappropriate for present consideration.

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RIN: 2120–AA83

DOT—FAA

90. +AIRWORTHINESS STANDARDS: FLIGHT RULES BASED ON EUROPEAN JOINT AVIATION REQUIREMENTS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

49 USC 134; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation:

14 CFR 23

Legal Deadline:

None

Abstract:

The FAA established an Aviation Rulemaking Advisory Committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The ARAC has been tasked to recommend airworthiness standards for standard and commuter category airplanes in part 23 of Title 14 of the CFR. The FAA has also committed to harmonizing its requirements applicable to type certification of new airplanes, rotocraft, aircraft engines, and propellers with those of the European members of the Joint Aviation Authorities (JAA). This proposal and the three related proposals, which resulted from recommendations from the ARAC, will harmonize the airworthiness requirements of part 23 with those of the JAA, and will result in significant cost savings to applicants for type certification for part 23 airplanes.

Statement of Need:

The FAA has committed to harmonizing the requirements that apply to type certification of new airplanes, rotocraft, aircraft engines, and propellers. Currently, an applicant for U.S. and European type certificates for a product must demonstrate that its design complies with Title 14 of the CFR, and the airworthiness requirements of the European countries in which applications are made. Because of differences between U.S. and European requirements, type certification programs can involve multiple certification efforts, including costly expenditures for flight testing and computer data generation and modeling. This is often redundant, because the requirements have common safety objectives. This effort to harmonize will result in type certification programs for which an applicant for multiple certification need only demonstrate compliance once. This rule is one of four such proposals to harmonize part 23 of the CFR with European requirements. Other areas are systems and equipment (2120-AE59), propulsion (2120-AE60), and airframe (2120-AE62).

Summary of the Legal Basis:

Former Title VI of the Federal Aviation Act of 1958, as amended, now codified at 49 USC 44701, requires the FAA to promote safe flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety for the design, material, construction, quality of work, and performance of aircraft, aircraft engines, and propellers.

Alternatives:

The only alternative to harmonization of the FAA's type certification requirements would be to allow the status quo to continue; that would mean that applicants for U.S. and foreign type certificates would continue to demonstrate compliance with multiple sets of rules.

Anticipated Costs and Benefits:

These flight harmonization rules would reduce the regulatory burden on type certificate applicants, both domestic and foreign, who apply for U.S. and foreign type certificates. A typical new airplane certification in the commuter category can cost tens of millions of dollars for a U.S. type certificate; demonstrating compliance with additional requirements for one or more foreign aviation authorities can cost additional millions of dollars. The overall cost benefits to the domestic and foreign aircraft, engine, and propeller manufacturers will be a function of the numbers of products for which new type certificate applications will be made. That is difficult to predict. However, it should be noted that typical type certification programs for new transport airplanes are more expensive than those for commuter airplanes, and programs for new engines and propellers are less expensive than for commuter airplanes.

Risks:

The aircraft, aircraft engine, and propeller industry has identified the additional, and sometimes redundant, cost of certifying a product to different sets of standards. Should the FAA not harmonize its rules with those of the other countries in which modern aircraft are operated, it will have lost an opportunity to achieve an important goal of "reinventing" government by decreasing the financial burden of regulations. The FAA has evaluated the proposed rules to ensure that they will further the public interest in a high level of aviation safety.

Timetable:

Action	Date	FR Cite
NPRM	07/25/94	59 FR 37878
NPRM Comment Period End	11/22/94	
Final Action	05/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

Analysis:

Regulatory Evaluation 07/25/94 (59 FR 37878)

Additional Information:

Project No.: ACE-94-286A.

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DOT—FAA

91. +COMMUTER OPERATIONS AND GENERAL CERTIFICATION AND OPERATIONS REQUIREMENTS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

49 USC 1153; 49 USC 40101 to 40103; 49 USC 40113; 49 USC 44105; 49 USC 44106; 49 USC 44111; 49 USC 44701; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44904; 49 USC 44912; 49 USC 44914; 49 USC 49936; 49 USC 44938; ...

CFR Citation:

14 CFR 121; 14 CFR 135

Legal Deadline:

None

Abstract:

This action would respond to the 10 recommendations from the National Transportation Safety Board dated November 15, 1994. The primary objective of this action is to revise the Federal Aviation Regulations (FAR) to require all scheduled passenger operations conducted with airplanes with more than nine passenger seats to be conducted under the requirements of Part 121. Other projects that the FAA already has ongoing include: Part 142, Training Centers; Flight Crewmember Duty Limitations and Rest Requirements; and the 121/135 Training Program. This rulemaking is considered significant because of substantial public interest.

Statement of Need:

The accident record of Part 135 operators is not as good as that of Part 121 operators. There has been a growing public perception that flying under Part 135 is not as safe as flying under Part 121. Although the safety record of Part 135 operators is improving, several accidents in the past several years have increased the public's desire for a single set of requirements for all passenger-carrying operations. These accidents led to NTSB to recommend to the FAA that scheduled passenger-carrying operations conducted in aircraft with 10 or more seats comply with Part 121.

Summary of the Legal Basis:

Section 44701, Title 49 of the United States Code states that the Administrator shall promote safety of flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety.

Alternatives:

The FAA is reviewing the comments submitted by the public. It is in the process of evaluating whether any suggested alternatives should be pursued in lieu of some regulatory proposals.

Anticipated Costs and Benefits:

In the notice of proposed rulemaking, the FAA anticipated that the safety benefits would be $393 million (discounted) from 1996-2005. Over the same period, the rule would impose costs of $275 million (discounted). The FAA is considering comments on these estimated costs and benefits to determine a final economic evaluation.

Risks:

Since the FAA initiated this rulemaking, one additional commuter airplane accident has occurred, resulting in the deaths of five persons. If issued as proposed, this rulemaking would add requirements, for example, for additional pilot training, a dispatch system, and enhanced performance requirements, that the FAA believes would increase the level of safety for the traveling public. On the other hand, these requirements will be very expensive for some operators. Alaska operators and air tour operators have indicated that, if the rule is imposed, they will convert to smaller, less safe 9-seat airplanes. This in turn would mean an increase in noise and air traffic. Other operators have pointed out that the costs would be passed on to passengers, making the price of tickets so expensive that the public would choose to travel by automobile, a less safe means of travel.

Timetable:

Action	Date	FR Cite
NPRM	03/29/95	60 FR 16230
NPRM Comment Period End	06/27/95	
Final Action	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

Additional Information:

Project Number: AFS-95-064

49 USC 46103, 49 USC 46105.

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DOT—Federal Highway Administration (FHWA)

PRERULE STAGE

92. • +ADVANCED TECHNOLOGY IN COMMERCIAL MOTOR VEHICLE OPERATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

49 USC 31136; 49 USC 31502

CFR Citation:

49 CFR 395

Legal Deadline:

None

Abstract:

Current Federal Motor Carrier Safety Regulations limit the hours of service of commercial motor vehicle (CMV) drivers in order to reduce fatigue-related accidents. These regulations include substantial recordkeeping requirements to monitor drivers' hours of service. The Federal Highway Administration (FHWA) is considering ways to reduce the recordkeeping burden while maintaining or improving safety. This is significant because of the broad industry impact.

Statement of Need:

The hours-of-service regulations adopted by the FHWA are intended to address the issue of driver fatigue and to enhance highway safety by reducing the number and severity of accidents caused by fatigue. The recordkeeping associated with this regulation, primarily the requirement for drivers to maintain daily records of duty status, imposes a significant burden on drivers and motor carriers. •

The FHWA believes that advances in technology may hold the promise for substantially reducing the paperwork burden of this rule while improving compliance with the underlying hours-of-service limitations, thus enhancing highway safety.

Summary of the Legal Basis:

The FHWA is authorized to regulate hours of service of CMV drivers in order to enhance highway safety. Beginning in 1935, the Federal Government (first the Interstate Commerce Commission and then the Federal Highway Administration) has regulated the hours of service of interstate drivers. See 49 USC 31502. In 1984, the Congress directed the Secretary of Transportation to prescribe regulations to ensure that commercial motor vehicles are operated safely and that the physical condition of operators of CMVs is adequate to enable them to operate safely. See 49 USC 31136. Finally the Congress has provided that, if the Secretary prescribes a regulation about the use of monitoring devices in CMVs to increase compliance with hours of service regulations, the regulation is to ensure that the devices are not used to harass vehicle operators. See 49 USC 31137(a).

Alternatives:

Current Federal safety regulations require drivers to maintain records of duty status on handwritten forms or alternatively, at a motor carrier's option, electronically through the use of on-board recording devices (49 CFR 395).

The FHWA has considered the use of satellite tracking technology to replace handwritten records of duty status. The FHWA believes that system modifications necessary to allow the use of this technology for this purpose is not cost effective at this time. Satellite tracking systems, as currently configured, are primarily designed to track vehicle location. They do not provide driver identification or supporting documentation for roadside enforcement.

The FHWA is now planning further study of the use of on-board recording devices to monitor drivers' hours of service. This study will include recent advances in technology and current costs.

Anticipated Costs and Benefits:

Current recordkeeping requirements directly affect 3.3 million drivers who are required to complete records of duty status. The motor carrier industry expends 14.8 million burden hours at an estimated cost of $340 million annually.

Risks:

Hours of service recordkeeping requirements are intended to reduce safety risks associated with driver fatigue. No risks have been identified with increased use of onboard recording devices.

Timetable:

Action	Date	FR Cite
Notice: Request for Information	09/07/95	60 FR 46682
Comments Period End	11/06/95	
Study To Be Completed	09/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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DOT—Federal Railroad Administration (FRA)

PRERULE STAGE

93. • +HOURS OF SERVICE ELECTRONIC RECORDKEEPING PROJECT

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

49 USC 20103; 49 USC 21101 to 21108; 49 USC 21303 to 21304; 49 USC 21311

CFR Citation:

49 CFR 228

Legal Deadline:

None

Abstract:

The Federal Railway Administration (FRA) will launch a major project to facilitate maintenance of hours-of-service records and submission of "excess service" reports in an electronic, rather than a paper, format. FRA will host an industry forum and propose to issue a model waiver to railroads interested in maintaining electronic records for train and engine service employees. These employees compose the vast majority of those subject to the statutory limitations on hours of service. This project will eventually lead to the formal revision of 49 CFR 228.

Statement of Need:

Two of the goals of FRA's Strategic Plan are to increase our customer focus by giving our best to the customer's needs and priorities and to "advance technological innovation in rail transportation through leadership and partnership." It is consistent with these goals to allow greater flexibility in the maintenance of hours-of-service records and to encourage the railroads' use of electronic recordkeeping. Moreover, when meeting with sectors of the industry pursuant to the President's March 4, 1995 Reinvention Initiative, FRA learned that the industry is interested in obtaining greater flexibility in this area. Consequently, it is anticipated that FRA will change the hours-of-service regulations' paper records and reports requirements for subscribing railroads. This will improve these regulations by providing flexibility in the generation of payroll and hours-of-service records from the same databases, by facilitating electronic filing of excess service records, and by providing data to FRA in a format that can be more readily analyzed.

Summary of the Legal Basis:

Under the Federal railroad safety laws, the FRA (by delegation from the Secretary), has regulatory and enforcement authority over all areas of railroad safety. This plenary authority certainly covers a modification of the method employed in the maintenance of hours-of-service records. There is currently no statutory or judicial requirement to make this modification.

Alternatives:

Because this rulemaking is at such a formative stage, it is premature to discuss alternatives. However, during the process of developing this waiver project, FRA will consider all reasonable alternatives.

Anticipated Costs and Benefits:

While FRA cannot yet conclusively provide an analysis of the costs and benefits of this project, it is estimated that this project will, after the initial cost of systems is recovered, yield savings to the industry of 2.3 million dollars annually for Class I railroads. These savings will flow from the elimination of the requirement to create 3.6 million paper records each year and to store 7.3 million records at any given time.

Risks:

As this project is designed to allow railroads to make technological improvements in the manner of creating and maintaining hours-of-service records, it is not anticipated that there will be any risks associated with allowing participating railroads to waive the requirements of paper recordkeeping.

Timetable:

Action	Date	FR Cite
Grant or Deny Master Waiver Application	04/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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DOT—Research and Special Programs Administration (RSPA)

PROPOSED RULE STAGE

94. +EMERGENCY FLOW-RESTRICTING DEVICES

Priority:

Other Significant

Legal Authority:

49 USC 60101 to 60125

CFR Citation:

49 CFR 195

Legal Deadline:

Final, Statutory, October 24, 1996.

Abstract:

This rulemaking would specify those circumstances under which operators of hazardous liquid pipelines are required to use emergency flow-restricting devices, and other procedures, systems, and equipment to detect and locate pipeline ruptures and minimize releases. This action is considered significant because of substantial public interest.

Statement of Need:

The adverse safety and environmental effects of pipeline accidents are often the result of an operator's failure to rapidly detecf and locate a leak and to rapidly shut down the pipeline. Quicker response to pipeline leaks through the strategic placement and use of emergency flow-restricting devices, with a reliable leak detection capability, can reduce the amount of liquid spilled into the environment and the consequent damages to life and property.

Summary of the Legal Basis:

Section 212 of the Pipeline Safety Act of 1992 requires the Secretary to survey and assess the effectiveness of emergency flow-restricting devices (including remotely controlled valves and check valves) and other equipment used to detect and locate pipeline ruptures and minimize product releases. Section 212 requires the Secretary, within 2 years after completing the survey and assessment, to issue regulations prescribing the circumstances under which operators of hazardous liquid pipeline facilities must use emergency flow-restricting devices or other equipment.

Alternatives:

The alternatives under consideration are different types of emergency flow-restricting devices and associated leak detection systems, and the sites that would maximize the usefulness of these devices and systems.

Anticipated Costs and Benefits:

The potential costs and benefits of this action have not yet been determined.

Risks:

This action addresses the increased risks to safety and the environment that result from the lack of prompt response to a line leak. Although the magnitude of potential risk reduction has not yet been determined, an example of the type of accident that this action might mitigate is the 1989 spill from an Exxon pipeline in the harbor between New York and New Jersey. Over 500,000 gallons of No. 2 fuel oil entered the water from a gash in the pipeline. A leak detection system that had been malfunctioning for 12 years failed to alert the operator to shut down the pipeline immediately.

This action is related to an action required by the Oil Pollution Act of 1990. This other action, now in effect under an interim final rule, but subject to change, requires operators to develop and execute approved oil spill response plans. Both actions are directed toward improving operators' accident response capabilities and minimizing accident consequences.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/94	59 FR 2802
ANPRM Comment Period End	04/19/94	
NPRM	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

Analysis:

Docket No. PS-133; Regulatory Evaluation 01/00/96

Additional Information:

Docket No. PS-133. Public Workshop 10/19/95. Notice published 8/29/95 (60 FR 44822).

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DOT—RSPA

FINAL RULE STAGE

95. +HAZARDOUS MATERIALS IN INTRASTATE COMMERCE

Priority:

Other Significant

Legal Authority:

49 USC 5101 to 5127

CFR Citation:

49 CFR 171 to 179

Legal Deadline:

None

Abstract:

This rulemaking proposes to extend the application of the hazardous materials regulations (HMR) to all intrastate transportation of hazardous materials in commerce. The 1990 amendments to Federal hazardous material transportation law mandate that the Research and Special Programs Administration (RSPA) regulate the safe transportation of hazardous materials in intrastate, in addition to interstate and foreign, commerce. The goal of this action is to raise the safety level of hazardous transportation by promoting national uniformity of the regulations. Currently the regulations generally do not apply to intrastate carriage by highway, with the exception of hazardous waste, hazardous substances, and flammable cryogenic liquids in portable tanks and cargo tanks. The supplemental notice would propose to extend the mandatory compliance date for regulations applicable to certain cargo tanks, and propose a "materials of trade" exception for relatively small quantities of hazardous materials contained on service vehicles operated by plumbing, welding, and lawn service companies.

Statement of Need:

Section 5103(b)(1) of Title 49, USC, specifies that the Secretary shall prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce. This statutory mandate follows the Department's long-standing policy of encouraging the States to adopt the HMR as a means of promoting national uniformity and transportation safety. In addition, the Federal Highway Administration (FHWA) requires States to adopt and enforce the highway-related portions of the HMR to qualify for grants under FHWA's Motor Carrier Safety Assistance Program.

Comments submitted in response to the original notice of proposed rulemaking advised RSPA that many cargo tank motor vehicles currently used by farmers and small businesses would need to be removed from hazardous materials service far in advance of the useful life of the tanks, or require extensive retrofitting. Other commenters noted the potential for significant adverse impact on small businesses that engage in the incidental transportation of hazardous materials used in support of their non-transportation-related commercial activities. To adequately address these concerns, RSPA is considering certain proposals that would require prior notice to the regulated community.

Summary of the Legal Basis:

Section 5103(b)(1) of Title 49 USC, specifies that the Secretary shall prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce.

Alternatives:

The statutory mandate to regulate the transportation of hazardous materials in intrastate commerce requires RSPA to take affirmative action. The alternative to the proposed action is to require immediate and uniform application of hazardous materials by motor vehicle.

Anticipated Costs and Benefits:

A preliminary regulatory evaluation prepared by RSPA considered potential costs and benefits in seven States (California, Georgia, Iowa, Illinois, Kansas, Texas, and Wyoming) having State regulations that are not in full conformance with the HMR. The preliminary estimate of costs and benefits for these seven States (where the regulatory cost impact would be the greatest) demonstrates a favorable benefit/cost ratio of approximately 3:1. The supplemental notice for "materials of trade" has the potential for annual savings by small businesses on the order of $50 million.

Risks:

There are several major considerations involved in developing uniform intrastate/interstate regulations for the transportation of hazardous materials in commerce. Most hazardous materials are of such a nature that no useful distinction can be made as to why intrastate transportation should be subject to less demanding safety standards than interstate counterparts. For example, the transportation of gasoline in a cargo tank presents the same level of risk to the public regardless of whether the transportation is intrastate or interstate.

It is neither economical nor efficient for each of the 50 states to duplicate RSPA's expertise and safety research efforts with respect to classification of hazardous materials; determination of transportation risks; and development of effective transportation safety standards. Economically and administratively, it is more efficient for State and local emergency response and enforcement personnel to focus on and become more proficient in one set of regulations that uniformly apply to the transportation of hazardous materials regardless of whether intrastate or interstate.

Emergency response personnel may not be able to make distinctions as to whether hazardous materials carriers are in intrastate or interstate service. Emergency response personnel reacting to incidents involving hazardous materials must first identify the specific hazards before determining a proper response. An inappropriate response involving an unfamiliar hazardous material carried intrastate by a cargo tank not subject to the HMR can significantly endanger the public, community, and environment. Also response to an incident involving materials, carried intrastate by a cargo tank, which are found to be nonhazardous, may cause inconvenience and needless economic hardship on the public and surrounding community. Communities have been evacuated on the mere suspicion that hazardous materials are present. Major roads and arteries have been closed and transportation patterns and delivery schedules have been disrupted or delayed because of poor or inadequate emergency planning and response. By adopting and becoming more proficient in one set of regulations, the effectiveness of State and local emergency response and enforcement programs will be increased, and transportation safety will be enhanced with respect to both intrastate and interstate transportation of hazardous materials.

This rule will address legitimate public concerns about incidents involving hazardous materials in intrastate commerce. Such incidents now lead to public concern regarding the transportation of hazardous materials and the risks associated with such movements in the form of increased State activity and Congressional pressure to further regulate both intrastate and interstate carriers of hazardous materials without regard to the underlying costs and benefits.

Timetable:

Action	Date	FR Cite
ANPRM	06/29/87	52 FR 24195
Comment Period Extended to 11/28/87	09/21/87	52 FR 35464
ANPRM Comment Period End	09/28/87	
NPRM	07/09/93	58 FR 36920
NPRM Correction	07/15/93	58 FR 38111
NPRM Comment Period End	10/13/93	
SNPRM	10/00/95	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

Analysis:

Regulatory Evaluation 07/09/93 (58 FR 36920)

Additional Information:

Docket No. HM-200. Regarding Small Entities Affected by this rule, RSPA is working with the Small Business Administration to identify the small entities affected and to minimize the impact on them.

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RIN: 2137–AB37
BILLING CODE 4910-60-P

DEPARTMENT OF THE TREASURY (TREAS)

Statement of Regulatory Priorities

The primary missions of the Department of the Treasury are: Protecting and collecting the revenue under the Internal Revenue Code and customs laws; supervising national banks and thrift institutions; managing the Community Development Financial Institutions Program and the Bank Enterprise Award Program; managing the fiscal operations of the Federal Government; enforcing laws relating to counterfeiting, Federal Government securities, firearms and explosives, foreign commerce in goods and financial instruments, and smuggling and trafficking in contraband; protecting the President, Vice President, and certain foreign diplomatic personnel; training Federal, State, and local law enforcement officers; and producing coins and currency.

Consistent with these missions, most regulations of the Department and its constituent bureaus are promulgated to interpret and implement the laws as enacted by the Congress and signed by the President. Unless circumstances require otherwise, it is the policy of the Department to issue a notice of proposed rulemaking (NPRM) and carefully consider public comments before adopting final regulations. Also, in particular cases the Department invites interested parties to submit views on rulemaking projects while the NPRM is being developed, and to hold public hearings to discuss a proposed rule.

To the extent permitted by law, it is the policy of the Department to adhere to the regulatory philosophy and principles set forth in Executive Order 12866 and to develop regulations that maximize aggregate net benefits to society while minimizing the economic and paperwork burdens imposed on persons and businesses subject to those regulations.

Pursuant to the President's regulatory reform initiative, each of the Department's regulatory offices and bureaus conducted a thorough page-by-page review of all of its regulations. As a result of this process, which included consultation with regulated entities, the Department identified over 2,200 pages of its nontax regulations in the Code of Federal Regulations (CFR) that will be streamlined or eliminated. In addition, the Internal Revenue Service identified over 1,200 pages of CFR regulations and other ruling documents that will be streamlined or eliminated. During fiscal year 1996, the Department will accord priority to implementing as many of these changes as possible, taking into consideration its ongoing regulatory responsibility to issue regulations necessary to implement or interpret the laws as enacted by the Congress.

Internal Revenue Service

The Internal Revenue Service (IRS), working with the Office of the Assistant Secretary (Tax Policy), promulgates regulations that interpret and implement the Internal Revenue Code and related tax statutes. In developing these regulations, every effort is made to carry out the tax policy determined by Congress in a fair, impartial, and reasonable manner, taking into account the intent of Congress, the realities of relevant transactions, the need for the Government to administer the rules and monitor compliance, and the overall integrity of the Federal tax system. The goal is to make the regulations practical and user-friendly by providing guidance that is as clear and simple as possible.

Most IRS regulations interpret tax statutes to resolve ambiguities or fill gaps in the tax statutes. This includes interpreting particular words, applying rules to broad classes of circumstances, and resolving apparent and potential conflicts between various statutory provisions.

During fiscal year 1996, the IRS will accord priority to the following regulations:

- *Substantiation and Disclosure Requirements for Certain Charitable Contributions.* The Omnibus Budget Reconciliation Act (OBRA) of 1993 amended the Internal Revenue Code to require a taxpayer desiring an income tax deduction for a charitable contribution of $250 or more to obtain a written acknowledgment of the contribution from the donee organization containing information not typically provided by donee organizations. In addition, OBRA 1993 amended the Internal Revenue Code to require donee organizations to supply a disclosure statement to the donor when the organization provided goods or services in return for a payment in excess of $75. In fiscal year 1995, proposed regulations were issued providing a number of simplifying and clarifying provisions to facilitate taxpayers' compliance with the new provisions. For example, the proposed regulations provide that certain token items and customary membership benefits that are offered to donors can be disregarded when calculating charitable contribution deductions or preparing acknowledgment and disclosure statements. Final regulations providing additional guidance will be published in fiscal year 1996.
- *Mark-to-Market Accounting for Dealers in Securities.* OBRA 1993 amended the Internal Revenue Code to require dealers in securities to account for their securities by marking them to market. The statutory definitions of the terms "security" and "dealer in securities" are extremely broad. Preliminary guidance in the form of temporary regulations was provided in 1993. A regulation providing additional guidance will be published in fiscal year 1996.
- *Allocation of Interest Expense to U.S. Trade or Business of a Foreign Corporation.* Section 882(a) of the Internal Revenue Code imposes a tax on the income of a foreign corporation that is effectively connected with the conduct of a trade or business within the United States (effectively connected income, or ECI). Section 882(c) allows deductions and credits only to the extent that they are connected with ECI, and further provides that the proper allocation and apportionment of deductions shall be determined as provided in regulations. Current regulations prescribe rules for allocating interest expense, using an approach that combines concepts of fungibility of funding and tracing of interest expense. Proposed regulations published in 1992 to replace existing rules better reflect the current economic environment and changes in the law since the original regulations were promulgated. The proposed regulations, among other things, impose a 96 percent cap on a bank's actual debt-to-assets ratio; reduce the elective fixed ratio to 93 percent; and eliminate the separate currency pool method of determining the appropriate interest rate for U.S. liabilities.
- *Original Issue Discount; Debt Instruments With Contingent Payments.* Sections 1271-1275 of the Internal Revenue Code, added by the Tax Reform Act of 1984, govern the taxation of debt instruments with original issue discount (OID). These sections provide that OID must be currently accrued by both issuers and holders of debt instruments on a constant yield basis, but the rules provided apply only to debt instruments calling for payments of principal and interest that are fixed

both as to timing and amount. Section 1275(d) of the Internal Revenue Code authorizes the issuance of regulations to address the taxation of OID on debt instruments providing for contingent payments. Proposed regulations issued in December 1994 address this issue; these regulations are expected to be finalized in fiscal year 1996.

- *Amortization of Intangible Assets.* OBRA 1993 added section 197 of the Internal Revenue Code to provide for a 15-year amortization of goodwill and certain other intangible assets. In addition, OBRA 1993 amended section 167 to provide specified amortization periods for certain computer software and mortgage-servicing rights. These provisions are generally effective for intangibles acquired after August 10, 1993. Proposed regulations will be issued to implement these two Code sections and provide guidance to taxpayers on the meaning and scope of certain provisions of the statute and its antichurning rules.
- *Withholding Tax Regulations Under Section 1441.* Section 1441 requires withholding of income tax on most payments of U.S. source income made to foreign persons. New regulations under section 1441 will streamline and modernize the existing regulations by coordinating the domestic reporting and backup withholding provisions and the section 1441 withholding requirements. Special provisions for omnibus accounts also will be provided.

Office of the Comptroller of the Currency

The primary mission of the Office of the Comptroller of the Currency (OCC) is to ensure a strong, safe-and-sound banking system that supports economic growth. The OCC's other goals include promoting bank competitiveness, increasing the efficiency of bank supervision (including reducing regulatory burden), and ensuring fair and equal access to credit. The OCC achieves these goals by regularly examining approximately 3,100 national banks with about $2 trillion in assets, representing approximately 56 percent of the total assets of commercial banks. In addition, the OCC issues rules and regulations that implement Federal law governing national banks, as well as taking actions against national banks that do not conform to laws and regulations, or that engage in unsound banking practices. The OCC also approves or denies applications for new national bank charters, branches, capital, or other changes in corporate or banking structure.

The OCC's Regulation Review Program, which was instituted in mid-1993, comprises a top-to-bottom review of all OCC regulations. This review embodies a fundamental rethinking of the OCC's approach to regulation, designed to better tailor the rules it imposes to the goals it seeks to achieve. The program is part of the agency's overall effort to promote the President's Regulatory Reform efforts by creating an environment where risk is prudently managed by banks and appropriately monitored by their regulator, without imposing unnecessary regulatory burdens that undermine the ability of banks to operate efficiently and provide credit and other financial products and services to their customers.

The program seeks to ensure that all OCC regulations are focused on those activities and products that present the greatest risks to safety and soundness, the payments system, or the general economic stability of the Nation. Critical elements of the program are to identify and eliminate rules that impose burdens on banks that are not necessary to maintain bank safety and soundness, to support equitable access to banking services for consumers, or to accomplish other statutory responsibilities of the OCC. Rules also are being examined to determine if they achieve their purpose at the least possible cost to the regulated institutions.

The following are some of the OCC's priority Regulation Review Program projects for fiscal year 1996:

- *Investment Securities*: The regulation that prescribes standards under which national banks purchase, sell, deal in, and underwrite investment securities are being substantially revised and rewritten. The revisions will reorganize the rules by placing related subjects together, clarify areas where the rules are unclear, and update various provisions to address market developments and to incorporate significant OCC interpretations, judicial decisions, and amendments to the governing statute.
- *Corporate Activities*: The OCC has published proposed regulations to revise the rules, policies, and procedures for national bank corporate activities and corporate transactions to make the regulations more user-friendly and to incorporate more flexible supervisory approaches for banks that are healthy and well-managed. The proposed revised rules (a) restructure and update the regulations by incorporating interpretive rulings and significant OCC interpretative positions; (b) establish procedures that will allow certain eligible banks to receive expedited approval of their applications for branches, corporate reorganizations, operating subsidiaries, and office relocations; (c) seek to achieve greater clarity by setting forth the application requirements for various filings and including directions that explain the contents of each section; and (d) recognize the evolution of the "business of banking" by introducing new approaches in areas such as operating subsidiaries and branching which provide additional flexibility for national bank activities.
- *Interpretive Rulings*: The OCC has proposed a revision to its interpretive rulings pertaining to national banks. Under the proposal the rulings are being reorganized and updated to reflect current policies and interpretations and to delete obsolete provisions, and to add new interpretive rulings to address current issues regarding permissible national bank activities.
- *Fiduciary Powers and Collective Investment Funds*: The regulation pertaining to the exercise of fiduciary powers by national banks is being modified to make less burdensome the requirements regarding the exercise of fiduciary powers, while preserving appropriate protection for trust customers. The review will also consider the manner in which investment advisory services are currently regulated, and whether provisions more tailored to investment advisory functions should be added. The revised regulation will also reflect recent court and administrative decisions relating to, among other things, collective funds for IRA and Keogh accounts.
- *Community Development Corporation and Project Investments*: The regulation relating to community development corporations and project investments is being revised to conform its standards and procedures to the processes and concepts employed in other OCC regulations. The OCC also is exploring alternatives that would give banks greater flexibility in conducting their community development activities and investments.
- *International Banking*: The regulations governing the international operations of national banks and the operations of foreign banks through Federal branches and agencies in the United States are being streamlined to reduce

compliance costs. The revised regulations will consolidate most of the OCC's regulations relating to international activities into Part 28, to improve clarity. The new regulations also will implement and clarify provisions of the Foreign Bank Supervisory Enhancement Act of 1991 relating to Federal branches and agencies.

- *Extensions of Credit to Insiders*: The rules limiting extensions of credit to national bank insiders are being reviewed to determine the extent to which burden and complexity can be reduced by achieving greater conformity with the standards in the OCC lending limits regulations.
- *Real Estate Lending and Appraisals*: The OCC has begun a comprehensive review of its real estate lending and appraisal regulations. The OCC has already published a final rule that relieved unnecessary burdens imposed by the original appraisal rule by raising the threshold loan amount for which appraisals are required, and providing other, prudent exceptions to the appraisal requirements.

Office of Thrift Supervision

As the primary Federal regulator of the thrift industry, the Office of Thrift Supervision (OTS) has established regulatory objectives and priorities to effectively and efficiently supervise thrift institutions. These include maintaining and enhancing the safety and soundness of the thrift industry; a flexible, responsive regulatory structure that enables savings associations to provide credit and other financial services to their communities, particularly housing credit; and an approach to supervision that is risk-focused and proactive. These objectives and priorities are consistent with those established by the President.

Pursuant to section 303(a) of the Community Development and Regulatory Improvement Act of 1994 (CDRIA) and the President's regulatory reform initiative, the OTS has conducted a page-by-page review of its regulations to determine whether each is necessary, imposes the least possible burden consistent with safety and soundness, and is written in a clear and straightforward manner. As a result of this review, OTS is undertaking a five-step process to improve its regulations:

First, the OTS is seeking public comment on a number of potential ways the OTS could streamline and restructure its regulations to make them more user-friendly.

Second, the OTS is seeking comment on the elimination of a number of individual regulations as well as entire parts of the Code of Federal Regulations that the agency has identified as outdated or unnecessary.

Third, under the auspices of the Federal Financial Institutions Examination Council, the OTS is participating with the other Federal banking agencies in implementing section 303(a)(2) of CDRIA by making regulations and guidance implementing common statutory provisions and supervisory policies more uniform.

Fourth, the OTS has identified and brought to the attention of the Congress certain statutory impediments to updating some regulations. These include the liquidity regulations required by section 6 of the Home Owners' Loan Act (HOLA), the requirement that Federal savings associations maintain membership in a Federal Home Loan Bank required by HOLA section 5(f), and additional lending flexibility under the Qualified Thrift Lender Test required by HOLA section 10(m).

Finally, the OTS will be substantively revising a number of its regulations. During fiscal year 1996, the OTS will accord priority to developing regulatory proposals to make significant burden-reducing changes in a number of key areas of its regulations, including those governing lending, subsidiaries, charters and bylaws, insurance, preemption, and adjustable-rate mortgages.

In its regulatory plan for fiscal year 1995, the OTS identified as its most important significant regulatory action the overall review of its regulations implementing the Community Reinvestment Act (CRA). The OTS adopted a final rule completing this regulatory reform action and revising its CRA regulations on May 4, 1995 (60 FR 22156). This final rule emphasizes performance, rather than process, in establishing a framework to assess depository institutions' records of helping to meet the credit needs of their communities. The rule should promote consistency in evaluations, eliminate unnecessary burdens, and reduce recordkeeping and reporting requirements.

United States Customs Service

The United States Customs Service is responsible for administering laws concerning the importation of goods into the United States. This includes inspecting imports, collecting applicable duties, overseeing the activities of persons and businesses engaged in importing, and enforcing the laws concerning smuggling and trafficking in contraband. The regulatory priorities of Customs for fiscal year 1996 are to continue to facilitate procedures for legitimate commercial transactions and to provide further obstacles to the flow of narcotics and other contraband into the United States.

During fiscal year 1995, one of Customs priorities was to issue a regulation to permit the Commissioner of Customs to conduct limited test programs to implement the National Customs Automation Program mandated under the customs modernization provisions of the North American Free Trade Agreement Implementation Act (NAFTA). Customs did issue that regulation, which enables Customs to ask members of the trade community to volunteer and participate in tests that will help evaluate alternative approaches to achieving more efficient and effective processing of passengers, carriers, and merchandise before rulemaking procedures are initiated. Two tests are underway now—one relating to remote location filing and another relating to reconciliation. Customs plans to conduct more tests this year that will assist Customs in modernizing and streamlining the way it does business with the trade community.

During fiscal year 1996, Customs plans to undertake several regulatory actions that will affect the traveling and importing public, customs brokers, carriers, and commercial importers. Customs will be continuing the reinvention of its regulatory procedures begun under authority granted by NAFTA. Customs reinvention efforts, in accordance with the principles of Executive Order 12866, have involved and will continue to involve much input from the importing public. During fiscal year 1996, Customs will accord priority to several regulatory actions focusing on the development of a more automated environment to expedite the entry, processing, and release of imported commercial merchandise. These regulations will benefit the importing public by facilitating the work of Customs officers and the trade community. Among the actions that Customs will pursue in this regard, which will improve the efficiency of Customs operations, reduce paperwork and administrative costs, are:

- Allowing for paperless procedures regarding extension and suspension of liquidation notices, and generally improving and clarifying the administrative process and

simplifying the regulations pertaining to liquidations and extensions and suspensions of liquidation notices.
- Allowing elements of an entry, other than those relating to the admissibility of merchandise, that are undetermined at the time an entry summary or an import activity summary statement is required to be submitted, to be provided to Customs at a later date. This reconciliation process will expedite the release of commercial merchandise.
- Accrediting commercial laboratories to permit them to analyze a wide range of commercial products for Customs purposes. This change will facilitate the release of merchandise because it will enable importers to receive laboratory results earlier.

Also during fiscal year 1996, Customs plans to:
- Develop more uniform rules for determining the country of origin of merchandise under the Customs and related laws (including for-country-of-origin marking and duty assessment purposes) to provide predictability and certainty for Customs and the trade community; and
- Amend its regulations to reflect a reorganization that will make the agency more efficient and responsive to its customers.

Bureau of Alcohol, Tobacco and Firearms

The Bureau of Alcohol, Tobacco and Firearms (ATF) issues regulations to enforce the Federal laws relating to the manufacture and commerce of alcohol products, tobacco products, firearms, and explosives.

ATF's regulations carry out these missions and are designed to:
- Curb illegal traffic in, and criminal use of, firearms and assist State, local, and other Federal law enforcement agencies in reducing crime and violence;
- Facilitate investigations of violations of Federal explosives laws, including arson-for-profit schemes;
- Regulate the alcohol, tobacco, firearms, and explosives industries, including the issuance of licenses and permits;
- Assure the collection of all alcohol, tobacco, firearms, and ammunition tax revenues and obtain a high level of voluntary compliance with those laws;
- Suppress commercial bribery, consumer deception, and other prohibited practices in the alcoholic beverage industry;
- Suppress the illicit manufacture and sale of alcoholic beverages for which Federal tax has not been paid; and
- Assist the States in their efforts to eliminate interstate trafficking in, and the sale and distribution of, cigarettes in avoidance of State taxes.

In its fiscal year 1995 regulatory plan, ATF accorded priority to issuing regulations implementing the provisions of the Brady handgun law and adding standards necessary to effectively enforce the exclusion provisions of the Federal Alcohol Administration (FAA) Act. Final regulations implementing the Brady law were issued on February 27, 1995 (60 FR 10782); final regulations concerning the exclusion provisions of the FAA Act were issued on April 26, 1995 (60 FR 20402).

Pursuant to the President's regulatory reform initiative, ATF conducted a page-by-page review of all of its regulations. In addition, ATF published a notice in the **Federal Register** requesting comments from the public concerning obsolete, unnecessary, and burdensome regulations. Copies of this notice were mailed to 30 trade associations representing the alcohol, tobacco, firearms, ammunition, and explosives industries. As a result of this process, ATF identified over 650 pages of its regulations in the Code of Federal Regulations that it will streamline or eliminate. During fiscal year 1996, ATF will accord priority to making as many of these changes as possible. For example, ATF expects to replace the alcoholic beverage label and formula approval system with a simplified registration system, to streamline the registration and operational activity requirements for small breweries (brewpubs), and to reduce the administrative burdens associated with the current basic permit application process for producers, wholesalers, and importers of alcoholic beverages.

ATF is also according priority during fiscal year 1996 to issuing a final rule implementing Public Law 103-322, the Violent Crime Control and Law Enforcement Act of 1994. This project is described below, as RIN 1512-AB35.

Financial Management Service

Regulations of the Financial Management Service (FMS) are promulgated to implement its mission of improving the quality of government financial management by linking program and financial management objectives, and by providing financial services, information, advice, and assistance. The FMS serves taxpayers, the Treasury Department, Federal program agencies, and government policymakers.

FMS's regulatory objectives for fiscal year 1996 include integrating new technologies to process Federal payments and collections more efficiently. The FMS plans to implement an Electronic Federal Tax Payment System in April 1996. This system will eliminate paper processing. Concurrent with this effort, the FMS plans to revise the Government's Automated Clearinghouse (ACH) standards to meet the needs of the new tax payment system. These changes will speed the flow of funds to the Treasury and ease the regulatory burden on private industry. These initiatives relate to the President's goals of improving technology to streamline financial services, and of using electronic funds transfers where possible.

Bureau of the Public Debt

The Bureau of the Public Debt administers regulations governing transactions in government securities effected by government securities brokers and dealers to fulfill the Treasury's statutory responsibility to safeguard the efficient functioning of the government securities market.

The Government Securities Act of 1986 (GSA), as amended, authorizes the Secretary of the Treasury to prescribe rules governing financial responsibility, the protection of customer funds and securities, and recordkeeping and reporting for all government securities brokers and dealers, including financial institutions. These rules are designed to prevent fraudulent and manipulative acts and practices and to protect the integrity, efficiency, and liquidity of the government securities market. The Department is committed to implementing rules that make sense from both a regulatory and market efficiency perspective. Accordingly, pursuant to Executive Order 12866, the Department seeks to balance the benefits of regulation with the compliance costs imposed on the government securities market and its participants.

The GSA regulations establish a consistent regulatory approach for all government securities brokers and dealers, including both securities firms and financial institutions, in a manner which minimizes the creation of any competitive advantages for any class of firm. Consistent with the principles in Executive Order 12866 and regulatory reform initiatives, regulations are only developed after actively involving market participants in the rulemaking process and fully considering existing regulations applicable to various broker/dealers, including financial institutions. The regulations are designed to minimize burdens and duplication or overlap with existing regulations. To help meet this objective, the Treasury actively consults with other regulatory organizations, including the Securities and Exchange Commission (SEC) and the bank regulators, to better coordinate its activities in securities regulation.

During fiscal year 1996, priority will be accorded to the following regulation:
- *Holders of Large Positions in Treasury Securities.* This regulation will establish recordkeeping and reporting requirements for holders of large positions in specific Treasury securities. The objectives of the regulation are to identify and monitor concentrations of ownership in Treasury securities, to assist regulators in conducting market surveillance, and to help the SEC carry out its enforcement duties under the Federal securities laws. This regulation will be promulgated under authority granted the Treasury in the Government Securities Act Amendments of 1993.

Financial Crimes Enforcement Network

The regulations of the Financial Crimes Enforcement Network (FinCEN) constitute the core of Treasury's anti-money-laundering initiative and are an essential component of Treasury's law enforcement and antinarcotics efforts. The Bank Secrecy Act (BSA) authorizes the Secretary of the Treasury to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, or regulatory proceedings, and to implement counter-money-laundering programs and compliance procedures.

Since mid-1994, FinCEN has been engaged in a thorough review of its regulatory policies and has been building a partnership between Government and the financial sector to fight money-laundering. The keystone of that partnership is the recognition that only a cooperative relationship between Government and industry can provide a way to implement a three-pronged strategy of prevention, detection, and enforcement against those who truly seek to use the financial system to promote or further illegal activity. FinCEN recognizes that BSA compliance imposes costs on the financial community, and that it should only require recordkeeping and reporting when the benefits to the Government are clear. In the coming year, FinCEN will continue to review and revise its existing regulations. In all cases, FinCEN will continue to work with the financial community to reduce administrative burdens associated with complying with the statutes while enhancing the usefulness of BSA information for law enforcement, financial regulators, and policymakers.

During fiscal year 1995, FinCEN completed a number of important regulatory projects, including the following:
- *Simplified Cash Transaction Report (CTR) Form.* As part of the general effort to reduce reporting burdens and emphasize the reporting of suspicious transactions, FinCEN developed and introduced a new CTR form, which became effective October 1, 1995.
- *Casino Recordkeeping Rules.* After extensive consultations with the industry, FinCEN issued final recordkeeping rules for casinos that were significantly less burdensome than the rules originally proposed.
- *Funds Transfer Regulations.* FinCEN, both independently and jointly with the Board of Governors of the Federal Reserve System, published in early 1995 final rules relating to recordkeeping for funds transfers. FinCEN will accord priority to revising certain aspects of these regulations during fiscal year 1996 (see below).

During fiscal year 1995, FinCEN also withdrew as unnecessary proposed regulations (a) regarding the mandatory aggregation of currency transactions and the filing of CTRs by magnetic media, and (b) requiring that financial institutions verify and record identifying information about purchasers of certain monetary instruments valued at $3,000 or more.

During fiscal year 1996, FinCEN is initiating a general revision and simplification of all of its regulations, and will also accord priority to the following projects:
- *Funds Transfer Regulations.* In response to concerns raised by the banking industry, FinCEN expects to finalize amendments to its funds transfer regulations.
- *Indian Gaming.* FinCEN will issue final regulations governing reporting and recordkeeping by tribal casinos, implementing a 1994 amendment to the BSA. This project is one step in a general effort to unify and simplify the application of the Bank Secrecy Act to gaming establishments.
- *Suspicious Transaction Reports.* FinCEN will issue final regulations concerning suspicious transaction reporting by banks. A similar regulation concerning nonbank financial institutions will also be issued. The new reporting system will greatly reduce the burdens on the financial industry.
- *Exemptions from CTR Requirements.* As required by legislation enacted in 1994, FinCEN will seek to reduce the number of CTRs required to be filed by 30 percent. FinCEN expects to exempt many transactions from the CTR filing requirement, including those between banks, between banks and Government entities, and between banks and certain businesses.

Community Development Financial Institutions Fund

The Community Development Financial Institutions Fund was established by the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 et seq.) The primary purpose of the Fund is to provide investments in and assistance to community development financial institutions (CDFIs), principally through the CDFI Program. The Fund also administers the Bank Enterprise Award (BEA) Program, which encourages insured depository institutions to engage in certain eligible development activities and to make equity investments in CDFIs. The Fund's regulatory priorities for fiscal year 1996 are to issue a temporary regulation for public comment in October 1995 in order to immediately conduct an initial round of funding for the CDFI and BEA Programs, and to finalize these regulations in May 1996. This project is described below (RIN 1505-AA71).

TREAS—Departmental Offices (DO)

FINAL RULE STAGE

96. • COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM; BANK ENTERPRISE AWARD PROGRAM REGULATIONS

Priority:

Other Significant

Legal Authority:

12 USC 4703; 12 USC 4713; PL 104-19; 42 USC 4332

CFR Citation:

12 CFR 1805 (New); 12 CFR 1806 (New); 12 CFR 1815 (New)

Legal Deadline:

None

Abstract:

Not applicable; any costs and benefits associated with this rule are derived from the CDFI and BEA provisions of the Community Development Banking and Financial Institutions Act of 1994 as enacted by the Congress.

Statement of Need:

The Department of the Treasury is issuing a temporary rule for public comment to implement two new programs that will be administered by the Community Development Financial Institutions (CDFI) Fund: the CDFI Program and the Bank Enterprise Award (BEA) Program. These programs were authorized by the Community Development Banking and Financial Institutions Act of 1994. The CDFI Program will provide financial and technical assistance to selected applicants in order to enhance their ability to make loans and investments and provide services for the benefit of designated investment areas and targeted populations. The purpose of the BEA Program is to encourage insured depository institutions to engage in certain eligible development activities within distressed communities and to make equity investments in CDFIs. The regulations establish eligibility criteria and application procedures for financial assistance through these programs. The regulations also establish the appropriate environmental review procedures for these two programs.

Summary of the Legal Basis:

Section 119 of the Community Development Banking and Financial Institutions Act of 1994 requires the promulgation of regulations to carry out the CDFI and BEA programs.

Alternatives:

Not applicable; this regulation merely implements the CDFI and BEA provisions of the Community Development Banking and Financial Institutions Act of 1994 as enacted by the Congress.

Anticipated Costs and Benefits:

Not applicable; any costs and benefits associated with this rule are derived from the CDFI and BEA provisions of the Community Development Banking and Financial Institutions Act of 1994 as enacted by the Congress.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
Interim Final Rule Comment Period End	01/15/95	
Interim Final Rule	10/19/95	60 FR 54110
Final Action	03/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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RIN: 1505–AA71

TREAS—Bureau of Alcohol, Tobacco and Firearms (BATF)

FINAL RULE STAGE

97. IMPLEMENTATION OF PUBLIC LAW 103-322, THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

Priority:

Other Significant

Legal Authority:

5 USC 522(a); 18 USC 847; 18 USC 921 to 930; 18 USC 1261; 19 USC 1607; 19 USC 1610; 19 USC 1612 to 1613; 19 USC 1618; 26 USC 7101; 26 USC 7322 to 7326; 31 USC 9301; 31 USC 9303 to 9304; 31 USC 9306; 40 USC 304(k); 44 USC 3504(h); ...

CFR Citation:

27 CFR 55; 27 CFR 72; 27 CFR 178; 27 CFR 179

Legal Deadline:

None

Abstract:

The Bureau of Alcohol, Tobacco, and Firearms (ATF) is issuing this temporary rule to implement the provisions of Public Law 103-322, the Violent Crime Control and Law Enforcement Act of 1994, enacted September 13, 1994. These regulations implement the law by restricting the manufacture, transfer, and possession of certain semiautomatic assault weapons and large-capacity ammunition feeding devices. Regulations are also prescribed with regard to reports of theft or loss of firearms from a licensee's inventory or collection, new requirements for Federal firearms licensing, responses by firearms licensees to requests for gun trace information, possession of firearms by persons subject to restraining orders, and possession of a handgun, or ammunition for a handgun, by juveniles.

Statement of Need:

Issuance of this regulation is necessary to implement the provisions of the Violent Crime Control and Law Enforcement Act of 1994, and ATF issued a temporary rule and a cross-reference notice of proposed rulemaking in April 1995. The temporary rule implements this law by restricting the manufacture, transfer, and possession of certain semiautomatic assault weapons and large-capacity ammunition-feeding devices. The regulation also concerns reports of the theft or loss of firearms from a licensee's inventory or collection; new requirements for Federal firearms licensing; responses by firearms licensees to requests for gun trace information; possession of firearms by persons subject to restraining orders; and possession of a handgun, or ammunition for a handgun, by juveniles. AFT expects to issue a final rule in early 1996.

Summary of the Legal Basis:

The Violent Crime Control and Law Enforcement Act of 1994 amended the Gun Control Act of 1968 (GCA) by prohibiting the manufacture, transfer and possession of semiautomatic assault weapons (with certain exceptions). The 1994 Act also amended the GCA to make it unlawful to transfer or possess large capacity ammunition-feeding devices, as well as the possession of firearms by certain persons.

Alternatives:

Not applicable; no alternatives are possible because this regulation merely implements the provisions of the Violent Crime Control and Law Enforcement Act of 1994 as enacted by the Congress.

Anticipated Costs and Benefits:

Not applicable; any costs and benefits associated with this rule are derived from the Violent Crime Control and

Law Enforcement Act of the 1994 as enacted by the Congress.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	04/06/95	60 FR 17494
Interim Final Rule	04/06/95	60 FR 17446
NPRM Comment Period End	07/05/95	
Final Action	01/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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RIN: 1512–AB35

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DEPARTMENT OF VETERANS AFFAIRS (VA)

Statement of Regulatory Priorities

The Department of Veterans Affairs (VA) is the custodian and administrator of important public obligations to those who served this Nation. The VA's regulatory responsibility is almost solely confined to carrying out the mandate of the laws enacted by Congress relating to programs for veterans and their beneficiaries. VA's major regulatory objective is to implement these laws with fairness, justice, and efficiency.

Most of the regulations issued by the VA involve three VA components: the Veterans Benefits Administration, the Veterans Health Administration, and the National Cemetery System. The basic goal of the Veterans Benefits Administration is to provide high-quality and timely nonmedical benefits to eligible veterans and their beneficiaries. The principal goal of the Veterans Health Administration is to provide high-quality health care on a timely basis to eligible veterans through its system of medical centers, nursing homes, domiciliaries, and outpatient medical and dental facilities. The National Cemetery System's primary mission is to bury eligible veterans, members of the Reserve components, and their dependents in VA National Cemeteries and to maintain those cemeteries as national shrines in perpetuity as a final tribute of a grateful Nation to honor the memory and service of those who served in the Armed Forces.

The VA is conducting regulatory reform initiatives. After obtaining input from representatives of veterans service organizations and other interested individuals, VA personnel undertook a line-by-line review of the more than 1,700 pages of VA regulations published in the Code of Federal Regulations. Actions are now underway to make appropriate changes. Consistent with the President's goals, this is the beginning of VA's effort to create better and more effective regulations governing the programs the VA administers for the Nation's veterans and their beneficiaries.

VA

FINAL RULE STAGE

98. SCHEDULE FOR RATING DISABILITIES—THE CARDIOVASCULAR SYSTEM

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

38 USC 1155

CFR Citation:

38 CFR 4.100; 38 CFR 4.101; 38 CFR 4.102; 38 CFR 4.103; 38 CFR 4.104

Legal Deadline:

None

Abstract:

The Department of Veterans Affairs (VA) is conducting the first comprehensive review of its rating schedule since 1945. These revisions will update the rating schedule to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances that have occurred since the last review.

Statement of Need:

Because evaluation criteria in the rating schedule are based on medical findings, the advances that have occurred in medicine since the last overall revision of the rating schedule in 1945 need to be incorporated into the schedule so that it reflects the current state of medicine, including the use of new techniques and procedures, such as liver and heart transplants. Some medical terms and nomenclature in the current schedule are obsolete, and the course of some illnesses has changed because of modern therapy. The rating schedule criteria need to reflect these advances. There are also new disease entities that have been defined or become more common since the last revision.

Summary of the Legal Basis:

Under 38 USC 1155, the Secretary of Veterans Affairs is required to establish a schedule for rating disabilities and has the authority to readjust the schedule from time to time in accordance with experience.

Alternatives:

Although VA has made some ad hoc revisions and additions to the rating schedule, this is the first comprehensive review since 1945. We could continue to make ad hoc revisions; however, we feel that this would be inadequate. We also intend to review three to four body systems per year on a cyclical basis to ensure that the schedule remains current.

Anticipated Costs and Benefits:

There are no known administrative costs directly related to these regulatory amendments of 38 CFR, part 4. The same personnel will adjudicate disability claims utilizing the same procedures. There are no readily ascertainable entitlement costs or savings related to these amendments. There is no accurate way to quantify their impact. We expect these revisions to result in greater precision and consistency within the disability evaluation process, but anticipate no net savings or cost within the entitlement account.

Risks:

None known.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/90	55 FR 6658
ANPRM Comment Period End	04/27/90	55 FR 6658
NPRM	01/19/93	58 FR 4954
NPRM Comment Period End	03/22/93	
Final Action	03/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

Additional Information:

This umbrellas RIN's: AE40, AF23, AE95, AE41, AF00, AF02, AE94, AE89, AF24, AH43, AF22

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VA

99. ELIGIBILITY REPORTING REQUIREMENTS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

38 USC 501(a)

CFR Citation:

38 CFR 3.256; 38 CFR 3.277

Legal Deadline:

None

Abstract:

The Department of Veterans Affairs (VA) is amending its adjudication regulations regarding submission of annual eligibility verification reports (EVRs) by changing the criteria for determining who would be required to submit EVRs.

Statement of Need:

EVRs are used to obtain information for determining continued eligibility for pension or parents' dependency and indemnity compensation (DIC). Until recently, VA was required by law to secure a completed EVR at least once a year from every pension beneficiary and every parents' DIC beneficiary under the age of 72. Public Law 103-271 gave the Secretary of Veterans Affairs discretionary authority to require submission of income and resource reports by recipients of income-based benefits. It appears that, in most cases, VA can obtain the necessary information for these income-based benefits from computer matches. In addition to reducing VA processing costs, VA estimates that adoption of the proposal would reduce the number of persons required to submit an EVR during a calendar year from 825,000 to 325,000, and would reduce the total annual reporting hours for the EVRs from 412,000 to 162,500 hours.

Summary of the Legal Basis:

38 U.S.C. 501, 1315,1506

Alternatives:

VA could have continued to require annual submission of EVRs by all beneficiaries of income-based benefits.

Anticipated Costs and Benefits:

No direct benefit savings or costs are expected from these amendments. Since VA estimates that roughly 500,000 fewer EVRs will be processed at regional offices, VA expects to be able to redirect approximately 135 full-time employees from EVR processing to other claims processing activities.

Risks:

VA conducts regular computer matches with the Social Security Administration, the Internal Revenue Service, and other Federal Agencies. These matches furnish information about income received by recipients of VA's means-tested programs. These matches are keyed to the beneficiary's Social Security number. The Social Security Administration furnishes information about the rate of Social Security benefits paid to VA beneficiaries shortly after the annual cost-of-living adjustment is accomplished. VA uses this information to verify the accuracy of Social Security rate information in its records. Since this Social Security rate information is current, it is not necessary to require beneficiaries whose Social Security numbers have been verified by the Social Security Administration, and who have no other income, to submit an annual EVR. Historically, few pensioners who have reported no income or only Social Security income start receiving income from some new source. VA will continue to require completion of annual EVR by any beneficiary whose Social Security number or whose spouse's Social Security number has not been verified by the Social Security Administration, since we cannot rely on computer matches to verify their income. We will also require submission of annual EVRs by beneficiaries with income other than Social Security. VA retains the authority to require any beneficiary to complete an EVR if it determines that submission of an EVR is necessary to preserve program integrity.

Timetable:

Action	Date	FR Cite
NPRM	05/15/95	60 FR 25877
NPRM Comment Period End	07/14/95	
Final Action	10/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

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ENVIRONMENTAL PROTECTION AGENCY (EPA)

Statement of Regulatory Priorities

EPA's Commitment to Change

When President Clinton and Vice President Gore came into office more than 2 1/2 half years ago, they made a public commitment to simplifying, streamlining, and reducing the costs of the Federal Government. While emphasizing the importance of the Federal Government's functions, they made it clear that those functions could be carried out in commonsense, cost-effective ways. The reinvention and improvement of the Federal Government thus has been one of the hallmarks of the Clinton Administration.

Administrator Browner of EPA has made that same commitment to simplify, streamline, and reduce the costs of Federal programs to better protect the environment and public health. She has applied common-sense principles to all EPA's actions in order to promote cleaner, cheaper, and smarter environmental and public health protection. As a result, EPA today is in the midst of the most profound and comprehensive reevaluation and change in its history.

The Agency is changing its internal operations—restructuring organizations, streamlining management, and broadening employee responsibilities. It is changing its external relationships—shifting more responsibility to States, improving customer service, strengthening stakeholder partnerships, and emphasizing the constructive involvement of regulated entities. The Agency is reinventing itself with one eye on the past—building on the lessons learned through a quarter-century of regulatory experience. And it is reinventing itself with one eye on the future—developing a new generation of environmental protection to meet the emerging challenges of the 21st century.

Although the current environmental protection system has generated a cleaner environment, with substantial human health and ecological benefits, over the past 25 years, the system will not be sufficient to meet the environmental and economic challenges of the future. The health of the economy, the health of the American people, and the health of the environment are inextricably intertwined, and the linkages among them are becoming more complex over time. EPA is changing so that it is better prepared to protect and enhance all three simultaneously in the future.

EPA is the single Federal organization with primary responsibility for protecting the environment, and the Agency is committed to using all available tools—regulatory and nonregulatory—to protect the environment and public health of all Americans. At the same time, because EPA is only one of many entities—public and private—with environmental responsibilities, EPA is working to ensure that more information and decisionmaking are shared with the States, tribes, and communities affected by EPA's actions.

EPA is reshaping its environmental and public health protections to make them simpler and more sensible, especially to regulated entities. In many cases, all stakeholders, including businesses, communities, labor, and public interest groups, are participating in developing new, more effective, less costly approaches. EPA's employees are taking on new responsibilities in new programs: Enforcers are emphasizing compliance assistance, permitters are paying more attention to pollution prevention and market mechanisms, and rule writers are adopting innovative alternatives proposed by regulated industries, without sacrificing one ounce of public health protection. Resources are being targeted where risks are the greatest, and programs are being scaled back, if necessary, where risks are the least. Most important, EPA is emphasizing environmental and public health results, not the fulfillment of regulatory mandates, as its primary goal, because flexibility, good stewardship, and strong partnerships between the public and private sectors inspire better solutions to public health and environmental problems.

The Process

Although EPA's commitment to public health and environmental quality remains undiminished, the Agency is refining and improving the methods it uses to protect them. EPA has undertaken a number of reinvention efforts, such as the Common Sense Initiative and line-by-line review of its regulations, either on its own or in response to Presidential directives. On March 16, 1995, President Clinton announced 39 additional EPA projects that will further the reinvention of public health and environmental regulations.

Reinvention at EPA is not the sum of all the new activities currently underway. Neither is it an overlay of new activities in addition to the traditional work of the Agency. Rather, reinvention is the fundamental, comprehensive change of EPA, both in terms of its internal organization and external relationships, so that the Nation achieves more public health and environmental benefits at less cost by using a system that makes more sense to all the people involved. Thus most of EPA's regulatory activities in the years ahead will incorporate parts of, or respond to, this overall reinvention effort at the Agency.

EPA's reinvention effort is intended to achieve two distinct purposes. First, it is aimed at strengthening the current system, which is largely composed of regulations driven by existing environmental laws that mandate action by regulated entities and, in many cases, specify public health and environmental goals. Second, EPA is building a new system that will use innovative, nonprescriptive, consensus-based techniques to achieve environmental and public health goals beyond those set by existing laws.

Strengthening the Current System

EPA is strengthening the current regulatory system in three basic ways by:

1. Simplifying Regulations and Reporting Requirements

The Agency is reexamining all environmental regulations and reporting requirements now in place in order to simplify and streamline them, and to reduce the time and costs associated with them, without compromising public health or the environment. For example, last February the President announced that all Federal agencies would conduct a line-by-line review of their regulations and then eliminate those that were obsolete or redundant. EPA is proposing to delete more than a thousand pages from the Code of Federal Regulations or more than 10 percent of the pages currently devoted to EPA regulations. In response to the President's March 16 directive to reduce paperwork requirements imposed on regulated entities by 25 percent, the Agency is identifying all monitoring, recordkeeping, and reporting requirements that can be eliminated. EPA is developing a one-stop emissions report (consolidating multiple environmental reports that businesses now are required to submit to the Agency) and a consolidated air rule (combining all Federal air quality regulations facing a specific industry into one comprehensive rule). EPA also has established a permits improvement team to streamline permit programs, reduce their administrative costs, and enhance pollution prevention and public participation in the permitting process. Many of the rules in EPA's regulatory plan and regulatory agenda will help accomplish this kind of simplification and streamlining.

2. Defining New Roles and Responsibilities

Reinvention necessarily involves changing the relationships among EPA offices and between EPA and the various stakeholders involved in and affected by environmental protection programs. Externally, EPA is encouraging increased authority and flexibility for State, tribal, and local governments through its State capacity building project and Performance Partnership Grants. EPA also is consulting regularly with regulated industries early in rule development by relying on types of consensus-based rulemaking, such as regulatory negotiation. Internally, EPA is streamlining management by reducing the ratio of supervisors to employees and reorganizing virtually every program and regional office. EPA also is reshaping the budget process to support reinvention initiatives and principles.

3. Retargeting Existing Programs to Achieve Better Results

EPA is proposing specific, targeted improvements in existing programs. For example, EPA is modifying the Resource Conservation and Recovery Act (RCRA) program to refocus hazardous waste regulations on the high risk wastes. In addition, EPA convened a multistakeholder process to identify specific RCRA requirements that could be revised to reduce costs and increase environmental benefits. The Agency is recommending changes in EPA's drinking water program to focus drinking water treatment requirements on the highest risks to public health. EPA also will expand pollution trading markets in specific airsheds and watersheds to increase flexibility and reduce costs. Again, the entries in EPA's regulatory plan will help accomplish these improvements.

Building a New Generation of Environmental Protection

Strengthening the existing regulatory system will not, by itself, do enough to achieve EPA's reinvention goals. So EPA is testing new, innovative ideas that promise either lower costs, greater environmental benefits, or both. Three basic kinds of new activities will help EPA build a new system that ensures a new generation of environmental protection:

1. Industry and Facility-Based Programs

EPA is redesigning the regulatory system so that it makes more sense to the regulated community and costs less, while achieving greater environmental and public health benefits. The Common Sense Initiative (CSI)—the centerpiece of this effort—is bringing together representatives from industry, public interest and environmental justice organizations, labor, and State and local governments to find better ways of achieving environmental goals in six specific industries. Under Project XL, which promotes environmental excellence and leadership, specific facilities, whole industries, and government agencies subject to environmental regulations are testing new strategies that simplify procedures, reduce costs, and provide greater environmental benefits than under the current system. EPA's Design for the Environment project is testing the use of innovative designs, processes, and materials that improve both environmental and economic performance in specific industries.

2. Community-Based Programs

To increase the effectiveness of environmental programs, EPA is coordinating and integrating environmental protection efforts in specific places like local communities and ecosystems. Building on place-based approaches used in successful ecosystem management and watershed protection programs, the Agency will initiate XL for Communities to integrate environmental quality and economic development goals in specific communities. EPA also is working with communities and States to identify and provide site-specific risk assessment tools to help local decisionmakers determine their environmental priorities. To promote place-based planning for sustainable development, EPA is providing Sustainable Development Challenge Grants to several communities through a national competition.

3. New Results-Based Tools

Over the long term, EPA will shift its focus, and the focus of regulated industries, away from meeting narrowly defined regulatory requirements and toward the achievement of environmental results. Thinking about results unleashes innovation and helps the public and private sector find new solutions to old problems. EPA is experimenting with several results-based tools that will help businesses and communities better focus their efforts and thus achieve better environmental results. To improve compliance with environmental regulations, for example, EPA will provide compliance incentives for small businesses and communities, and it will establish compliance assistance centers for small businesses as well. To collect the information necessary to measure environmental results, and to indicate where further efforts are needed, EPA will establish a center for environmental information and statistics and ensure public electronic access to EPA information. Finally, EPA already has initiated a series of voluntary programs that prevent or control pollution and, in many cases, lead directly to economic benefits.

Highlights of EPA's Regulatory Plan for 1996

The entries contained in EPA's regulatory plan reflect the Agency's continuing commitment to streamline and simplify its regulatory programs to achieve better environmental results at less cost. Many of these entries are designed to implement the new directions discussed above. While many of EPA's new directions are nonregulatory in nature, the Agency's entries focus on those changes that can be made through its regulatory activities. Here are some of the highlights of this ongoing commitment.

Office of Air and Radiation

EPA is committed to using the flexibility granted by the Clean Air Act to enable companies, communities, and individuals to protect public health by meeting clean air goals using innovative approaches at lower costs. The Office of Air and Radiation is committed to nearly 200 changes in existing rules and is changing many forthcoming rules to reflect the common-sense principles of the reinvention effort.

EPA recently issued an advance notice of proposed rulemaking requesting comment from the public on the need and potential for additional reduction of nitrogen oxides, hydrocarbons, and particulate matter from mobile heavy-duty engines. This action initiates work on a proposed rulemaking to establish standards for model year 2004 and later heavy-duty highway engines. The rulemaking seeks to bring together potentially affected industries, States, regional air management organizations, and public health and environmental interest groups to further their mutual goal of reducing emission of harmful air pollutants.

Building on successful State programs, EPA has been working with stakeholders to develop a more streamlined process for permit revisions to help facilities obtain required operating permits from State or local agencies. Under the proposed change, States would have greater flexibility to decide the amount of EPA and public review for most permit revisions by matching the level of review to the environmental significance of the change.

EPA's policy on open-market emissions trading is intended to establish a trading program that minimizes transaction costs and harnesses the power of the marketplace to enhance air quality and thus protect public health. In this regard, EPA will issue a final policy and model rule for open-market trading of ozone smog precursors (volatile organic compounds and oxides of nitrogen) that will provide more flexibility for companies to trade emission credits without prior State or Federal approval. EPA believes this action will ensure compliance with the established ozone standard at far less cost and an increased incentive to develop innovative emission-reduction technologies.

EPA also plans to modify requirements in two other significant air regulatory programs. We will propose changes to simplify and streamline the New Source Review program which requires newly built facilities or those undergoing major modification to obtain a permit to ensure that emissions will not cause or contribute to air pollution problems.

In addition, EPA plans to amend the original transportation conformity rule to streamline the conformity process and provide additional flexibility for State and local transportation and air quality agencies. This rulemaking, initiated in response to stakeholder concerns, will further enhance State and local governments' ability to meet requirements under the Clean Air Act Amendments of 1990 in common-sense, cost-effective ways and ensure that transportation plans do not further exacerbate existing air quality problems.

Other significant activities related to EPA's air programs include reviews of the national ambient air quality standards for sulphur dioxide, ozone, and particulate matter. The sulphur dioxide review is intended to examine existing standards to determine whether further protection for certain exposed individuals is needed. The ozone and particulate matter reviews seek to incorporate new scientific and technical information that has become available since the last reviews.

EPA will issue a final rule implementing a 49-State low-emission vehicle program. It is a voluntary emissions standards program applicable to manufacturers of light-duty vehicles and trucks beginning in model year 1997. This program is designed to be an alternative national program that provides emissions reductions equivalent to the Northeast Ozone Transport Commission's low-emission vehicle program. EPA anticipates that this program would relieve the 13 States in the northeastern part of the country of the December 1994 regulatory obligation to adopt their own motor vehicle programs. The rulemaking also harmonizes Federal and California low-emission vehicle standards and test procedures to enable automakers to design and test vehicles to one set of standards nationwide.

In further efforts to provide flexibility and adhere to common-sense principles, EPA will issue final rules in the areas of medical waste incinerators and municipal waste combustion that have incorporated comments from industry and many small entities. The emissions limits established under these rules are part of EPA's integrated combustion strategy, whereby EPA will regulate various forms of combustion under a coordinated plan.

EPA will propose an integrated rule for the pulp and paper industry that deals with both effluent guidelines and air emission standards to control the release of pollutants to both water and air. The regulations are being developed jointly to provide greater protection to human health and the environment, to promote the concept of pollution prevention, and to enable industry to more effectively plan compliance via a multimedia approach.

Finally, EPA is planning a proposed rule that will introduce additional flexibility into its compliance-assurance monitoring program. This action focuses on preventing pollution rather than imposing additional command-and-control regulations. This is a significant change in Agency direction for implementation of the monitoring and compliance certification requirements in titles V and VII of the Clean Air Act. The goal of the action is to provide reasonable assurance of compliance rather than a direct connection between monitoring and certification and will reduce the emphasis on assuring compliance through the threat of enforcement. Instead, this approach emphasizes assuring compliance by placing the burden on regulated sources to monitor their performance and take proactive steps to minimize emission exceedances.

Office of Water

EPA is streamlining four of its water-related programs to reduce burdens associated with them and to provide additional flexibility: National Pollutant Discharge Elimination System (NPDES) permits, national primary drinking water regulations, the pretreatment program, and water-quality planning and management. EPA estimates that 80 percent of regulations published under the jurisdiction of the Office of Water are undergoing change or modification. The following are highlights of efforts in 1996.

In the NPDES permits program (Part 122), EPA is removing outdated requirements, streamlining permit application and modification procedures, and reducing monitoring and reporting requirements. For example, EPA will consolidate and revise industrial and municipal permit application requirements and forms and streamline the application process. It will also revise the permit application requirements for municipal separate storm water sewer systems to reduce significantly the cost and burden of reapplication for succeeding permit terms. EPA will not require resubmission of information available from the earlier application or not pertinent to the approval process.

EPA is planning a major revision of the NPDES (Part 141) that will have a number of benefits for States and the regulated community. First, EPA will delete a number of obsolete provisions and simplify and reformat the remaining regulations to make it easier for managers of public water systems to understand and implement the requirements and for State officials to enforce. EPA will also streamline the public notification requirements to allow States more flexibility to design programs that will ensure notice to the public in a timely and effective manner.

Regulations in the pretreatment program for publicly owned treatment works (POTWs) (Part 403) will be streamlined and revised to delete obsolete requirements, simplify program operation, and eliminate unnecessary reporting requirements. For example, under streamlined procedures, only the most significant elements of an approved pretreatment program would be included in a POTW's NPDES permit, eliminating the need for a permit revision every time small changes are made to the pretreatment program.

EPA is undertaking revisions in its requirements for water-quality planning and assessment and waterbody listing requirements for State water-quality management programs. EPA will be soliciting public comment in the near future, through an advance notice of proposed rulemaking, on potential revisions to this program.

In addition, the Agency will be pursuing innovative, nonregulatory approaches, such as effluent trading within watersheds, to realize cost savings and reduce water pollution.

Office of Prevention, Pesticides, and Toxic Substances

The Office of Prevention, Pesticides, and Toxic Substances is using existing authorities under the Toxic Substances Control Act (TSCA) and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to decrease cost and burden to regulated entities, while at the same time providing additional flexibility. EPA will be amending or deleting 88 percent of its pesticides and toxics regulations that are currently in the Code of Federal Regulations. Among their major efforts in the coming year are the following actions:

As a follow up to the President's announcement in August of this year in support of Community Right to Know (CRTK), a proposed rule is being developed that will expand the universe of sources that are currently required to be reported to the Toxics Release Inventory (TRI). The TRI is a data base that provides communities with information on releases to air, water, and land of approximately 600 toxic chemicals. Currently, only the manufacturing sector collects TRI data. The upcoming rule will propose to require reporting from other sources of toxic chemicals that pose potentially significant risks to communities.

By the summer of 1996, EPA plans to issue a rule that will make over 50 modifications, additions, and deletions to the existing management program for polychlorinated biphenyls (PCBs) under TSCA. This rulemaking is the first comprehensive review of the PCB regulations in 17 years. The modification will allow currently prohibited activities which do not pose an unreasonable risk of injury to health and the environment.

In the area of pesticide regulation, a significant action in the prerule stage is the effort to evaluate self-certification as a possible approach to reinventing the registration process for pesticides. As one of the approaches under consideration, self-certification would allow a registrant to certify that a registration application (or part of it) complies with Agency requirements and then obtain EPA approval for the registration after an abbreviated review or no review at all.

Pursuant to its data-consolidation initiative, EPA is developing a proposed regulation for collecting uniform facility identification information under one regulation. The uniform facility information will be used to link data reported under various Federal environmental laws and will substantially reduce regulatory burden for facilities.

Finally, as part of President Clinton's directive to conduct a comprehensive review of the regulations, EPA has identified a number of pesticides and toxics regulations that can be eliminated from the Code of Federal Regulations or otherwise modified to reduce regulatory burden. EPA is seeking comments from the public and affected stakeholders to develop specific recommendations to reduce burden or duplication or streamline requirements. As these actions are developed, they will be included in the regulatory agenda as appropriate.

Office of Solid Waste and Emergency Response

The Office of Solid Waste and Emergency Response (OSWER) is planning to propose a number of actions that would streamline and simplify compliance under the Resource Conservation and Recovery Act (RCRA). As part of its effort to refocus hazardous waste regulation on high-risk wastes, EPA seeks to tailor standards to the nature or degree of risk posed by particular wastes. Toward this end, EPA is undertaking a number of actions in 1996 to implement this goal.

A rule entitled "Hazardous Waste Identification: Contaminated Media," is designed to resolve problems with the current RCRA cleanup program by deregulating large volumes of low-risk contaminated media (e.g., soil). The Agency will also create a more common-sense regulatory structure for those clean-up wastes that remain regulated.

Also related to hazardous waste identification is an action to modify certain regulations distinguishing "listed" hazardous waste. Certain current regulations, including the "mixture" and "derived from" rules, apply to listed wastes regardless of the concentrations and the mobility of toxicant in the waste, thereby regulating certain low-risk wastes and, in particular, treatment residuals. The modifications will establish exemption standards for these low-risk "listed" hazardous waste management requirements.

As part of its corrective action program, EPA will publish an advance notice of proposed rulemaking dealing with solid waste management units at hazardous waste management facilities. EPA believes final regulations are needed in this area to promote national consistency, clarify corrective action requirements, and reduce the number of site-specific negotiation and legal challenges. The public will be asked to comment on several alternatives presented in the notice.

EPA also plans to establish new emissions standards for hazardous waste combustors under joint Clean Air Act and RCRA authority. These revised standards will avoid duplicative Agency effort and piecemeal regulation of the hazardous waste management industry while enhancing EPA's ability to be adequately protective of human health and the environment in the areas of chlorinated dioxins and furans.

Finally, EPA will also issue an advance notice of proposed rulemaking concerning the definition of solid waste and regulations for hazardous waste recycling. This action will simplify and clarify what wastes/processes are and are not subject to RCRA jurisdiction.

Summary

In addition to these actions, EPA's Regulatory Plan contains entries on:

- Review of the Federal test procedures for emissions from vehicles and motor vehicle engines;
- Emission standards for new nonroad spark-ignition engines at and below 19 kilowatts;
- The risk management program for chemical accidental release prevention;
- Land disposal restrictions—phase III, decharacterized wastewaters, carbamate wastes, and spent aluminum potliners;
- Land disposal restrictions—phase IV, treatment standards for certain mineral processing wastes; TC metals, newly listed wastes from wood preserving and from dyes and pigments;
- Effluent guidelines and standards for the metal products and machinery category (phase I); and
- Selected rulemakings for abating lead hazards.

In developing these required actions EPA is committed to flexible, common-sense, cost-effective regulatory programs that protect human health and the environment.

EPA

PRERULE STAGE

100. STREAMLINING REVISIONS TO THE WATER QUALITY PLANNING AND MANAGEMENT REGULATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

33 USC 1313/CWA 303

CFR Citation:

40 CFR 130

Legal Deadline:

None

Abstract:

Section 303(d) of the Clean Water Act (CWA) requires States to identify waters still requiring total maximum daily loads (TMDLs). The TMDL is a tool for achieving State water quality standards. The TMDL process provides a framework for solving point and nonpoint source pollution problems in an integrated fashion. Current regulations implementing section 303(d) require States to submit their list of waters requiring TMDLs to the Environmental Protection Agency (EPA) every 2 years. This action will revise existing regulations to require States to submit their 303(d) list of waters still requiring TMDLs to EPA every 5 years rather than every 2 years. This revision is part of EPA's goal to comprehensively characterize State waters every five years. Currently, waters are identified on a number of lists as required by the CWA sections 303(d), 305(b), 314(a), and 319(a). The **Federal Register** notice proposing the revision will also announce the availability of supplemental TMDL guidance which will clarify the definition of a TMDL.

Statement of Need:

EPA identified this rule revision in response to the President's request to undertake a line-by-line review of the parts of the Code of Federal Regulations relevant to the Agency's programs. This revision should reduce the burdens associated with the Water Quality Planning and Management Program and make it more efficient. EPA's June 1 "Report to the President: Eliminating and Streamlining Regulations" included a commitment to streamline the Program.

Summary of the Legal Basis:

EPA has no statutory or court obligation to complete this rule.

Anticipated Costs and Benefits:

Firm cost-benefit data is not available at this time.

Risks:

EPA's streamlining efforts will address opportunities to reduce program implementation costs without jeopardizing public health or environmental protection.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/95	
NPRM	02/00/97	
Final Action	12/00/97	

Small Entities Affected:

Undetermined

Government Levels Affected:

State, Tribal, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3700.

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EPA

101. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6924/RCRA 3004(u), 3004(v)

CFR Citation:

40 CFR 264; 40 CFR 270

Legal Deadline:

None

Abstract:

Past and present waste management practices at Resource Conservation and Recovery Act (RCRA) facilities have resulted in releases of hazardous constituents from some waste management units. These releases may cause contamination of soils, groundwater, surface water, and air. This regulation provides a framework for investigating and remediating releases at RCRA facilities as necessary to protect human health and the environment.

The Agency plans to issue the corrective action regulations in several phases. Phase I was issued in February 1993 (i.e., regulations concerning Corrective Action Management Units (CAMU)). The next task will include issuing an advance notice of proposed rulemaking (ANPRM). The following phase (Phase II) will include finalizing certain provisions of the July 27, 1990, proposal at the same time as issuing a proposal that includes a reproposal of some provisions from the July 1990 notice plus some new provisions. The last phase (Phase III) will involve finalizing the newly proposed provisions.

Statement of Need:

The corrective action program is curently being implemented using minimal regulatory authorities; the proposed Subpart S rule has been used as guidance since July 1990. The Agency thinks final regulations are needed to promote national consistency, clarify corrective action requirements, and reduce the amount of site-specific negotiations and legal challenges, thereby promoting faster, more efficient cleanups.

In addition, some stakeholders have told the Agency that the current corrective action process can be too slow and expensive. The Agency is currently exploring additional options which could make cleanups faster and more efficient, without sacrificing protectiveness or public involvement. This rulemaking may be used to propose regulatory changes necessary to implement these options.

Alternatives:

The Agency is currently evaluating a number of alternatives that are aimed at achieving the following primary objectives: (a) create a more consistent, holistic approach to cleanup at RCRA facilities; (b) establish protective, "common-sense" cleanup expectations; (c) encourage the regulated community to conduct voluntary/proactive cleanups; (d) provide meaningful and inclusive opportunities for public involvement throughout the cleanup process.

The Agency plans to use an ANPRM, (see schedule below) to discuss rulemaking alternatives in greater detail. Some of the alternatives currently under consideration include: relying on performance criteria rather than prescriptive requirements; allowing for greater consideration of industrial and other nonresidential land uses; and promoting greater consistency between cleanup actions at individual areas of a RCRA site.

Anticipated Costs and Benefits:

Analysis of costs and benefits will be conducted as part of the economic analysis for this rule as required under Executive Order 12866.

Risks:

The objective of establishing protective, "common-sense" cleanup expectations reflects, in part, the Agency's position that the scope of remedial actions should accurately reflect the risks posed by the contamination. The Agency intends to design the rule with flexibility sufficient to select smart and cost-effective remedies in order to achieve the Agency's risk-reduction objectives more efficiently. More quantitative evaluation of the risks and risk reduction associated with this rule will be included in the economic analysis.

Timetable:

Action	Date	FR Cite
NPRM	07/27/90	55 FR 30798
Final Rule (Phase I)	02/16/93	58 FR 8658
ANPRM	12/00/95	
NPRM	00/00/00	
Final Action	00/00/00	
(Phase II)		
Final Action 00/00/00		
(Phase III)		
Final Action 00/00/00		

Small Entities Affected:

None

Government Levels Affected:

State, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 2390.

The rule was highlighted as one of the top regulatory reform initiatives in the President's March 16, 1995 report, "Reinventing Environmental Regulations." The Subpart S rule is an important component of EPA's regulatory efforts to refocus hazardous waste regulation on high-risk wastes and to expedite cleanups.

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RIN: 2050–AB80

EPA

PROPOSED RULE STAGE

102. • DATA CONSOLIDATION INITIATIVE; KEY IDENTIFIERS REPORTING

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

FIFRA, TSCA, RCRA, CAA, SDWA, PPA, etc.

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

Using the various EPA regulatory authorities, the Environmental Protection Agency (EPA) EPA is developing a proposed regulation for collecting uniform facility identification information under one regulation. The uniform facility information will be used to link data reported under various Federal environmental laws, and is expected to substantially reduce regulatory burden for facilities. This action will provide more meaningful access to environmental data and is the foundation for moving forward the longer-term vision of full data integration and uniform reporting.

Statement of Need:

Facilities currently subject to Federal environmental data collections must submit facility identification information with each of a variety of individual data submissions to EPA or the State. The Key Identifiers Rule is a necessary first step toward consolidation of such reporting requirements. The facilities involved must periodically supply and update varying combinations of facility identification data to different data collections. Many of these facility data elements are common, such as name, address, standard industrial classification (SIC) code, and parent company identification. Burden to continually supply such data in varying formats can be reduced by establishing one authoritative record for each facility. A new, unique identification number would be supplied to the facility and it would become the "key" to this reduced facility data reporting. Entering this key id number on any given reporting form would signal that the Agency or State has a detailed record on file.

Alternatives:

An alternative to this rule would be to amend rules authorizing each current, individual data collection to require a uniform set of facility identification data elements. This approach may provide the same data elements submitted but would not necessarily promote the establishment and maintenance of a uniform record for each facility because such forms may be completed with differing entries over time.

Anticipated Costs and Benefits:

Costs estimates are not yet available. Benefits to the facility include lower overall reporting burden and the ability to determine the status of its submission records maintained by EPA and the State. EPA and the State will increase their data management efficiency by having this common identifier for the facility in each relevant data system. This action will

also provide the foundation for later consolidated reporting initiatives.

Risks:

This rule will assist in the evaluation of risks to human health and the environment by improving the coordination of existing environmental data sources.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	09/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

Analysis:

Regulatory Flexibility Analysis

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EPA

103. FACILITY COVERAGE AMENDMENT; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Priority:

Other Significant

Legal Authority:

42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076; EPCRA 313

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

The original Toxics Release Inventory (TRI) required reporting from facilities in Standard Industrial Classification (SIC) codes 20-39. These SIC codes cover manufacturing facilities only. This requirement was imposed under the Emergency Planning and Community Right-To-Know Act (EPCRA) section 313(b)(1)(A). The Environmental Protection Agency (EPA) is considering expanding this original list. EPCRA section 313(b)(1)(B) and (b)(2) provide the Administrator with the authority to add or delete SIC codes and the discretion to add particular facilities based on a broad set of factors. EPA is currently conducting analysis to determine which SIC codes (or portions thereof) should be considered for coverage in TRI. Facilities in a broad set of industries are under consideration, including but not limited to, electric utilities, waste management facilities, mining, oil and gas production, materials recovery and recycling, and some warehousing activities.

Statement of Need:

TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across America. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases at the local level. The intent of TRI has been to share information on releases with local communities to help in their assessments of the risks. This basic local empowerment is the cornerstone of the right-to-know program.

Yet TRI collects data from only the manufacturing sector, and for only a subset of toxic chemicals that are introduced into the environment. Congress gave EPA the authority to expand TRI, both in terms of the chemicals reported and the facilities required to report, because it recognized that the American public has a right to know what is happening to the environment near their homes, schools, and businesses. Manufacturing facilities account for only a portion of the toxic chemicals released in the United States. EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to reduce this burden.

The industries under consideration for addition to TRI would conceivably add significantly to the data available to the public on toxic chemical releases. For this proposal, industries will be selected based on a number of factors including the importance of the releases to the community, the relative rank of release estimates, the relationship of activities in these industries to manufacturing, and the compatibility of these activities with current reporting requirements.

Alternatives:

Although data on releases from many of the facilities under consideration can be found, there is no centralized, publicly available, comprehensive, easily understandable, or consistently collected source of information for the public on toxic chemical releases from facilities outside of manufacturing. EPA has examined all available data sources, including information reported under the Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act, as well as other sections of EPCRA, State data collection programs, and available data provided by industry. EPA can find no information comparable to the data which TRI provides the American public. Consequently, there are only two alternatives to the expansion of TRI reporting requirements to cover additional facilities: voluntary reporting by facilities or a determination that any additional information TRI might collect from these facilities is of little or no value in terms of community right-to-know.

Anticipated Costs and Benefits:

The anticipated costs of this action are unknown at present. The addition of facilities to TRI is intended to expand upon the past success of the program in enabling all interested parties to establish credible baselines and to set realistic goals over time. The information reported in TRI increases knowledge levels of pollutants released to the environment and pathways to exposure, improving scientific understanding of the health and environmental risks of toxic chemicals; allows the public to make informed decisions on where to work and live; enhances the ability of corporate lenders and purchasers to more accurately gauge a facility's potential liability; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

Risks:

Manufacturing facilities, which are currently required to report to TRI, represent only a portion of the facilities that release toxic chemicals in the United States. Although what portion of releases these facilities represent is uncertain, the Congressional Office of Technology Assessment has estimated that the original chemical and facility coverage of TRI in 1987 resulted in data on only 5 percent of releases in the U.S. EPA believes that the public has a right to know about such releases and about what facilities are doing to manage wastes. The public can then use this data to evaluate potential risks from these facilities and to determine how to avoid these risks.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3034.

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RIN: 2070–AC71

EPA

104. • CFR REGULATORY REVIEW RELATED INITIATIVES

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

40 USC 11013 EPCRA 313

CFR Citation:

0 CFR 150 to 189; 40 CFR 372; 40 CFR 700 to 799

Legal Deadline:

None

Abstract:

On March 4, 1995, the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer, and by June 1, 1995, to identify those rules that are obsolete or unduly burdensome. The Office of Prevention Pesticides, and Toxic Substances (OPPTS) has reviewed regulations under its purview, that is, those issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Toxic Substances Control Act (TSCA), and the Emergency Planning and Community Right-to-Know Act (EPCRA). As a result of that review, OPPTS identified a number of regulations that can be eliminated from the CFR; in addition, OPPTS also identified a significant number of potential burden-reduction and streamlining opportunities through modifications to regulations and is further evaluating other regulations to determine if they can be simplified or streamlined. The Agency plans to involve the public as much as possible by soliciting comments and conducting stakeholder meetings and consultations.

Statement of Need:

There are many regulations currently on the books that pertain to pesticides and toxic chemicals. Some regulations are obsolete or are no longer applicable to the Agency's current needs, some are confusing, and many have become overly burdensome to all concerned, both the public and EPA. The goal of this project is to assess the regulations from a common-sense approach. The objectives are multifold: to identify regulations in the CFR that are confusing, contradictory, unnecessary, or not written in plain English; evaluate the underlying programs described by the regulations for streamlining possibilities; and seek opportunities to reduce reporting and recordkeeping burdens. OPPTS has identified regulations in the CFR which would benefit from modifications or which require evaluation prior to proposing specific recommendations. Current activities focus on determining the extent to which its regulations could be changed to achieve the objectives of the Regulatory Review initiative without sacrificing health or environmental protection. Changes are being considered at all levels and include, in addition to regulatory changes, procedural changes, policy changes, administrative changes, and legislative changes.

Alternatives:

Alternatives are being explored continually. Public suggestions and recommendations for deregulation activities and streamlining efforts are being evaluated to the extent they can be practicably implemented without increasing risk to the public health or environment.

Anticipated Costs and Benefits:

This is a streamlining exercise, therefore overall costs to the regulated community are expected to decrease. Benefits include reduced regulation, decreased paperwork, less burden, and increased Agency efficiency. No comprehensive analyses have been done to date. When specific regulatory objectives and alternatives are identified, costs and benefits will be evaluated.

Risks:

The principal objective of this project is to improve the infrastructure of the pesticide regulation system. Each recommendation for change is assessed for potential impact on public health and environmental protection. In considering modifying existing regulations, any alternatives must be at least as protective as current requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Tribal, Federal

Additional Information:

SAN No. 3755

A number of program activities and regulations are being evaluated for the regulatory reform initiative. As these activities are developed, they will be included in the Regulatory Agenda when appropriate. Current regulatory reform initiatives are identified in the Regulatory Agenda individually.

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RIN: 2070–AC97

EPA

105. • STREAMLINING NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM REQUIREMENTS, INCLUDING GENERAL PRETREATMENT REQUIREMENTS

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will

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revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

33 USC 1251/CWA 101; 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1317/CWA 307; 33 USC 1328/CWA 318; 33 USC 1342/CWA 402; 33 USC 1345/CWA 405

CFR Citation:

40 CFR 122; 40 CFR 403

Legal Deadline:

None

Abstract:

The Environmental Protection Agency (EPA) is revising regulations, guidance documents, and forms to streamline procedures for compliance with the National Pollutant Discharge Elimination System (NPDES) requirements. The rule and form revisions will eliminate redundant regulations, provide clarification, and remove unnecessary procedures which do not provide any environmental benefit. Revising and reducing burdensome procedures will promote efficiency and simplify the operation of the NPDES programs. Where possible, through the reliance on existing data and collection of data in electronic form, the burden on small businesses and other entities will be reduced.

Statement of Need:

EPA identified these rulemaking actions in response to the President's request to undertake a line-by-line review of the Parts of the Code of Federal Regulations relevant to the Agency's programs. These revisions should reduce the burdens associated with the NPDES Program, including pretreatment, and make the programs more efficient. EPA's June 1 "Report to the President: Eliminating and Streamlining Regulations" included commitments to streamline the NPDES Program.

Summary of the Legal Basis:

EPA has no statutory or court obligation to complete these rules.

Anticipated Costs and Benefits:

Firm cost-benefit data is not available at this time. While some of the rule revisions will include new requirements which have costs associated with them (e.g., the permit application forms and associated regulation revisions), most of the revisions will lead to cost savings. The proposals under development will consolidate application forms and clarify/streamline application procedures (e.g., minimize the need for sequential requests for additional information). The revisions are expected to reduce permit backlogs, the cost of duplicative work, and paperwork burdens and costs for State and local governments, businesses, and others that must comply with NPDES regulations.

Risks:

For the most part, EPA's streamlining efforts will address opportunities to reduce program implementation costs without jeopardizing public health or environmental protection. While the Industrial, Municipal, and Sludge Permit Application Rules will include new requirements which have costs associated with them, they should make the permit process more efficient and predictable. The revised application requirements should make it easier for the Agency and States to collect the information they need regarding the discharge of toxic contaminants and support the development of permit limits that will protect the quality of our Nation's waters.

Timetable:

Action	Date	FR Cite
NPRM NPDES and Sludge Municipal Permit Application Forms and Rules	10/00/95	
NPRM Procedures for Developing and Maintaining Approved POTW Program	12/00/95	
NPRM Round II NPDES Streamlining Rule	02/00/96	
NPRM NPDES Industrial Permit Application Form and Regulations	04/00/96	
NPRM Permit Application for Municipal Separate Storm Sewer Systems	05/00/96	
NPRM Round III NPDES Streamlining Rule	06/00/96	
Final Action Round II NPDES Streamlining Rule	08/00/96	
Final Action Procedures for Developing and Maintaining Approved POTW Program	12/00/96	
NPRM General Pretreatment for Existing and New Sources of Pollution	03/00/97	
Final Action NPDES and Sludge Municipal Permit Application Forms and Rules	06/00/97	
Final Action Permit Application for Municipal Separate Storm Sewer Systems	06/00/97	
Final Action Round III NPDES Streamlining Rule	12/00/97	
Final Action NPDES Industrial Permit Application Form and Regulations	01/00/98	
Final Action General Pretreatment for Existing and New Sources of Pollution	03/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Analysis:

Regulatory Flexibility Analysis

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EPA

106. • STREAMLINING REVISIONS TO THE NATIONAL PRIMARY DRINKING WATER REGULATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 300/SDWA 1412

CFR Citation:

40 CFR 141

Legal Deadline:

None

Abstract:

As part of the Environmental Protection Agency's (EPA's) efforts to realign regulatory development priorities for the Drinking Water Program to maximize risk reduction and to focus and improve implementation of the existing regulatory program, EPA is initiating work on several streamlining rules. First, EPA is reorganizing/reformatting Part 141 to make it easier for public water systems to understand and comply with and for States, local, and tribal governments to implement. EPA is also undertaking a comprehensive review of numerous monitoring and reporting requirements to identify opportunities to reduce the monitoring and reporting burden associated with both regulated and unregulated contaminants. Along with the comprehensive review of monitoring requirements, EPA is reexamining existing requirements that trigger increased monitoring of individual pollutants to try to raise the trigger and, thereby, reduce particular increased monitoring requirements. Finally, EPA is reviewing and streamlining existing public notification (PN) requirements which apply to systems which do not comply with drinking water standards. EPA plans to streamline PN requirements to allow States increased flexibility to design programs which will ensure notice to the public in a timely and effective manner.

Statement of Need:

EPA identified these rulemaking actions in response to the President's request to undertake a line-by-line review of the Parts of the Code of Federal Regulations relevant to the Agency's programs. These revisions should reduce the burdens associated with the National Primary Drinking Water Program and make the regulations easier to read and understand. EPA's June 1 "Report to the President: Eliminating and Streamlining Regulations" included commitments to streamline the Drinking Water Program.

Summary of the Legal Basis:

EPA has no Statutory or Court obligation to complete these rules.

Anticipated Costs and Benefits:

Firm cost-benefit data is not available at this time.

Risks:

EPA's streamlining efforts will address opportunities to reduce program implementation costs without jeopardizing public health protection.

Timetable:

Action	Date	FR Cite
NPRM Reformatting of Existing Drinking Water Regulations	03/00/96	
NPRM Requirements for Triggering Increased Drinking Water Monitoring	03/00/96	
NPRM Streamlining Drinking Water Monitoring Requirements	12/00/96	
NPRM Streamlining Drinking Water Public Notification Requirements	12/00/96	
Final Action Requirements for Triggering Increased Drinking Water Monitoring	01/00/97	
Final Action Reformatting of Existing Drinking Water Regulations	06/00/97	
Final Action Streamlining Drinking Water Monitoring Requirements	12/00/98	
Final Action Streamlining Drinking Water Public Notification Requirements	12/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

Revision of Current Requirements for Triggering Increased Drinking Water Monitoring (SAN 3565)

Reformatting of Existing Drinking Water Regulations (SAN 3563)

Comprehensive Review of Drinking Water Monitoring Requirements (SAN)

Revisions to Drinking Water Public Notification Requirements (SAN)

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RIN: 2040–AC66

EPA

107. MODIFICATIONS TO THE DEFINITION OF SOLID WASTE AND REGULATIONS OF HAZARDOUS WASTE RECYCLING: GENERAL

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6905/RCRA 1004; 42 USC 6921 to 6928/RCRA 3001 to 3008

CFR Citation:

40 CFR 261; 40 CFR 266

Legal Deadline:

None

Abstract:

The benefits include lessening the burden on the regulated community by clarifying requirements for all hazardous waste recyclers, and reducing those requirements for many recyclers. Costs will be determined as the Agency decides which recycling facilities will be under Resource Conservation and Recovery Act (RCRA) jurisdiction.

Statement of Need:

Revisions are needed to improve EPA's regulation hazardous waste recycling by: (a) eliminating disincentives for the safe recycling of hazardous waste; (b) concentrating on higher-risk materials that pose greater hazards; and (c) developing simpler definitions and regulations.

Summary of the Legal Basis:

This action is not mandated by statute or court order. However, the Agency intends to respond to several court decisions by clarifying which recyclable materials are excluded from RCRA hazardous waste management requirements.

Alternatives:

Alternatives to be considered include not modifying the current regulations. Other alternatives include different mechanisms for determining which recyclable materials are subject to RCRA, such as the degree to which the recycling process resembles ongoing manufacturing and whether the materials are transferred off-site. For recyclable materials remaining under

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RCRA, we are examining alternative management requirements and approval systems for different types of recyclers.

Risks:

This action aims at more effective risk management by streamlining and tailoring management requirements for low-risk recyclers (including eliminating requirements that are redundant with other statutes). This will allow regulatory resources to be concentrated on those recyclers who engage in activities posing a greater threat to human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

State, Tribal, Federal

Additional Information:

SAN No. 2872.

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RIN: 2050–AD18

EPA

108. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: HAZARDOUS WASTE IDENTIFICATION RULE (HWIR); WASTE

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6905, 6912(a), 6921, 6922, and 6926

CFR Citation:

40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 268

Legal Deadline:

NPRM, Judicial, November 13, 1995.
Final, Judicial, December 15, 1996.

Abstract:

Under the current Resource Conservation and Recovery Act (RCRA) "mixture" and "derived from" rules, some low-risk wastes are currently regulated by the Environmental Protection Agency's (EPA's) hazardous waste regulations. To address this problem, this deregulatory action will make modifications to the "mixture" and "derived from" rules, and establish new criteria that would exempt certain low-risk wastes from the hazardous waste regulations. In developing this action, EPA is considering the views of all members of a Federal Advisory Committee Act (FACA) committee. This action will be implemented by EPA and authorized States.

Statement of Need:

EPA is proposing to amend its regulations under RCRA for hazardous waste identification. The amendment would establish exemption criteria for low-risk listed hazardous wastes, waste mixtures, and derivatives.

Under the amendment, low-risk listed hazardous wastes, waste mixtures, and derivatives meeting the exemption criteria would no longer be subject to hazardous waste management requirements under subtitle C of RCRA.

The provisions of this proposal will reflect a balancing of the Agency's informational needs for oversight and enforcement with the practical resource considerations of the generator. This proposal would reduce the demand on scarce subtitle C landfill capacity and would not increase risk to humans or the environment, because the exempt waste would be low-risk and not warrant management under subtitle C. This proposal will also promote pollution prevention, waste minimization, and development of innovative waste treatment technology.

This notice will also contain the Agency's response to a petition for rulemaking submitted by the Chemical Manufacturers Association.

Alternatives:

A variety of alternatives for establishing the exemption criteria and the implementation requirements were identified by a FACA committee co-chaired by EPA and the States. EPA is forging a strong partnership with the States in the interest of our co-regulator, co-implementor roles. The proposal will include a basic exit option and request comment on contingent management alternatives.

Anticipated Costs and Benefits:

Draft estimates are that 60-80 million tons of waste water, and 0.25 to 0.28 million tons of nonwastewater could exit subtitle C annually. Cost savings to industry could range from $70-$80 million annually.

Risks:

This proposal would maintain current levels of risk protection.

Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM Withdrawn	10/30/92	57 FR 49280
NPRM Reproposal	11/00/95	
Final Action	12/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

State; Federal

Additional Information:

SAN No. 3328.

Reinventing Government: The rule was highlighted as one of the top regulatory reform initiatives in the President's March 16, 1995 Report, "Reinventing Environmental Regulations."

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RIN: 2050–AE07

EPA

109. REVISED STANDARDS FOR HAZARDOUS WASTE COMBUSTION FACILITIES

Priority:

Economically Significant

Legal Authority:

42 USC /RCRA 3004(a)(q); RCRA 3005(a), CAAA section 112

CFR Citation:

40 CFR 60; 40 CFR 61; 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270

Legal Deadline:

None

EPA has signed a settlement agreement to promulgate revised rules for industrial furnaces and incinerators by December 1996 and boilers by December 1999.

Abstract:

The Environmental Protection Agency's (EPA's) strategy for hazardous waste minimization and combustion and a judicial settlement agreement commit EPA to upgrade its standards for burning hazardous waste in incinerators, boilers, and industrial furnaces. These standards would be applicable during the construction and operation of these combustion facilities.

Statement of Need:

Under the Clean Air Act (CAA) Amendments of 1990, EPA is required to establish National Emission Standards for Hazardous Air Pollutants (NESHAPs) for most hazardous waste combustors (HWCs) (i.e., incinerators, cement kilns, boilers, and some types of smelting furnaces). In addition, under the Resource Conservation and Recovery Act (RCRA), EPA is required to establish standards for all HWCs as necessary to ensure protection of human health and the environment. EPA is concerned that its current RCRA standards for HWCs may not be adequately protective given that there are no emission standards for chlorinated dioxins and furans and that there have been advances both in risk assessment and control technologies since promulgation of the current standards.

Consequently, the Agency plans to establish new emissions standards for HWCs under joint CAA and RCRA. This will avoid duplicative Agency effort and piecemeal regulation of the hazardous waste management industry.

Alternatives:

Under provisions of the CAA, the Agency plans to consider the cost-effectiveness of emission limits more stringent than the minimum limits mandated by the statute. Further, the Agency plans to evaluate approaches to reduce emissions of hazardous air pollutants by improving good operating practices (e.g., controlling the way in which problematic materials such as toxic metals are introduced into the combustor).

Anticipated Costs and Benefits:

The cost and benefit analyses are currently undergoing internal Agency review.

Risks:

The risk analyses for this rulemaking are undergoing internal Agency review.

Timetable:

Action	Date	FR Cite
NPRM Industrial Furnaces and Incinerators	11/00/95	
Final Rule	12/00/96	
NPRM - Boilers	09/00/98	
Final Rule	12/00/99	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

Additional Information:

SAN No. 3333.

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RIN: 2050–AE01

EPA

110. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES; HAZARDOUS WASTE IDENTIFICATION RULE (HWIR): CONTAMINATED MEDIA

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6912(a)/RCRA 3001; 42 USC 6905; 42 USC 6921; 42 USC 6922; 42 USC 6926

CFR Citation:

40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 268

Legal Deadline:

None

Abstract:

The goal of this regulation is to establish a new regulatory framework under the Resource Conservation and Recovery Act (RCRA) for the management of contaminated media that are generated from remediating hazardous waste sites. The new regulation will reform the current standards by creating more flexibility for Agency decisionmakers in setting cleanup requirements, and by better aligning the RCRA regulations with the actual risks posed by managing contaminated media. The rule will exempt certain lower risk contaminated media from the traditional RCRA regulations and will set treatment standards for higher risk media that reflect the inherent differences between contaminated media (e.g., soils, groundwater) and newly generated hazardous wastes. The regulations will also simplify and streamline RCRA permit requirements for cleanups that involve managing hazardous materials.

Statement of Need:

Since 1980, the Environmental Protection Agency (EPA) has promulgated comprehensive regulations under subtitle C of RCRA governing the treatment, storage, disposal, and transportation of hazardous wastes. These regulations have been designed primarily to discourage hazardous waste generation, and for those wastes generated, to prevent future environmental contamination by ensuring safe management and disposal. In contrast, the primary objective of the cleanup program is to achieve environmental improvement as quickly and effectively as possible.

In 1993, EPA, States, and representatives from industry, environmental groups, and the hazardous waste treatment industry (constituting a Federal Advisory Committee (FACA)) reached a tentative agreement on a "harmonized approach" to address this issue. This approach distinguishes between "higher" and "lower" level (bright line) contaminated media based on assessment of potential human health and environmental risks. The bright line would be set at a relatively high-risk level to allow States and EPA to identify hot spots that would be subject to subtitle C requirements (land-disposal regulations and MTR). Media above bright-line concentrations would be subject to specific national treatment requirements; media below the bright line would be exempt from subtitle C if subject to enforceable site-specific management by the overseeing agency.

Alternatives:

Alternative regulatory approaches for this rule will be proposed and analyzed.

Anticipated Costs and Benefits:

Analyses of costs and benefits will be conducted as part of the economic

analysis for this rule required under Executive Order 12866.

Risks:

One of the primary objectives of this rule is to establish requirements for management of contaminated media that more accurately reflect the risks posed by such wastes. Thus, the rule is expected to result in cleanups that achieve the Agency's risk reduction objectives in a more efficient and expeditious manner. More quantitative analysis of the risks associated with this rule will be included in the economic analysis.

Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM Withdrawal	10/30/92	57 FR 49280
Reproposal	12/00/95	
Final Action	03/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 2982.

Reinventing Government: The rule was highlighted as one of the Agency's top regulatory reform initiatives in the President's March 16, 1995 report, "Reinventing Environmental Regulations." The HWIR Media rule is an important component of EPA's regulatory efforts to make the RCRA hazardous waste program more risk based and to expedite cleanups at RCRA, UST, and CERCLA sites.

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RIN: 2050–AE22

EPA

111. NEW SOURCE REVIEW (NSR) REFORM

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

Clean Air Act as amended in 1990, title I

CFR Citation:

40 CFR 51.160 to 51.166; 40 CFR 51, app S; 40 CFR 52.21; 40 CFR 52.24

Legal Deadline:

None

Abstract:

The purpose of this action is to revise the Clean Air Act new source review (NSR) regulations, which govern the preconstruction air quality review and permitting programs that are implemented by States and the Federal Government for new and modified major stationary sources of air pollution. This rulemaking seeks to deregulate, that is, exclude from major NSR program requirements those activities of sources that, with respect to air pollution, have little environmental impact. The rulemaking will encourage pollution control and pollution prevention projects at existing sources. Control technology requirements will be clarified with respect to when and how they apply to sources that are covered. The action will more clearly define the roles and requirements of sources, permitting authorities and Federal land managers in the protection of air-quality-related values in Federal Class I areas (i.e., certain national parks and wilderness areas) under the new source review regulations. State, local, and tribal permitting agencies will be given more flexibility to implement program requirements in a manner that meet their specific air quality management needs. Consequently, the rulemaking decreases the number of activities that are subject to NSR requirements and also expedites the permitting process for those sources that are subject to NSR. This action is designed to reduce the regulatory burden over all industries without respect to commercial size or capacity; therefore, it should have no detrimental impact on small businesses. Finally, this action also addresses several pending petitions for judicial review and administrative action pertaining to new source review applicability requirements and control technology review requirements. Regulations that will be affected are State implementation plan requirements for review of new sources and modifications to existing sources (40 CFR 51.160-166), the Federal prevention of significant deterioration program (40 CFR 52.21), and Federal restriction on new source construction (40 CFR 52.24) to be proposed in another rulemaking action.

Statement of Need:

In August 1992, EPA voluntarily initiated a comprehensive effort to reform the NSR process. This effort was initiated to examine complaints from the regulated community that the current regulatory scheme is too complex, needlessly delays projects, and unduly restricts source flexibility. Currently there are no applicable statutory or judicial deadlines for the NSR reform rulemaking effort. The goal of this effort is to address industries' concerns without sacrificing the environmental benefits embodied in the present approach; that is, protecting and improving local air quality, and stimulating pollution prevention and advances in control technologies.

In August 1992 and March 1993, public workshops were held to obtain ideas and comments and discuss options for reforming NSR, but not to attempt to reach consensus with the group. In July 1993, the New Source Review (NSR) Reform Subcommittee was formed under the auspices of the Clean Air Act Advisory Committee. The Subcommittee's purpose is to provide independent advice and counsel to EPA on policy and technical issues associated with reforming the NSR rules.

The Subcommittee is composed of representatives from industry, State/local air pollution control agencies, environmental organizations, EPA headquarters and regions, and other Federal agencies (Federal Land Managers, National Park Service and Forest Service), Department of Energy, and the Office of Management and Budget). Six subgroups were formed to address Class I area and control technoloy issues identified by the Subcommittee. Another two subgroups were formed at the November 1993 meeting, one to address NSR applicability issues and the other to address the impact of existing sources on Class I areas.

Summary of the Legal Basis:

There are no applicable statutory or judicial deadlines for the NSR reform rulemaking effort. However, the rule will address two outstanding settlement agreements: CMA Exhibit B and Top-down BACT. The pending settlement on WEPCO may impose a judicial deadline on the rulemaking.

Alternatives:

The Subcommittee discussed numerous options for implementing NSR reform. However, EPA's primary focus will be to consider the specific recommendations developed by the Subcommittee and, where appropriate, use them in this rulemaking effort.

Anticipated Costs and Benefits:

From a cost perspective, this rulemaking represents a decrease in costs to industry of at least $6 million per year, as compared to the preexisting program, based primarily on the fact that fewer sources will need to apply for major source permits. In addition, the cost to State and local agencies will be reduced by approximately $1.4 million per year. The Federal Government should realize a savings of approximately $116,000 per year. Additional cost reductions, which are difficult to quantify, will be realized due to the streamlining effect of the rulemaking on the permitting process, for example, the opportunity costs for shorter time periods between permit application and project completion and reduced uncertainty in planning for future source growth.

Risks:

This is a procedural rule applicable to a wide variety of source categories. Moreover, it applies to criteria pollutants for which NAAQS have been established. This action is considered environmentally neutral. However, any potential risks are considered in the NAAQS rulemaking from a national perspective.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	09/00/96	

Small Entities Affected:

None

Government Levels Affected:

State, Local, Federal

Additional Information:

SAN No. 3259.

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RIN: 2060–AE11

EPA

112. NAAQS: OZONE (REVIEW)

Priority:

Economically Significant

Legal Authority:

42 USC 7408 section 108 Clean Air Act; 42 USC 7409 Section 109 Clean Air Act

CFR Citation:

40 CFR 50.9

Legal Deadline:

Final, Statutory, December 31, 1980.

Review at 5-year intervals thereafter.

Abstract:

The Environmental Protection Agency (EPA) is reviewing and updating the air quality criteria for ozone to incorporate new scientific and technical information. Based on the revised criteria, the EPA will determine whether revisions to the standards are appropriate.

Statement of Need:

In March 1993, the EPA concluded that revision of the NAAQS was inappropriate, based on the existing air quality criteria for ozone, but decided to expedite the next review of the ozone criteria and NAAQS in light of potentially significant new information. On February 3, 1994, EPA announced an accelerated schedule for completing the new review. In litigation challenging the March 1993 decision, the EPA subsequently sought and received a voluntary remand of the decision so that it could be reconsidered in light of the new information. The EPA intends to complete the remand proceedings on the schedule announced in February. Consistent with that schedule, a draft Criteria Document was sent to the Clean Air Scientific Advisory Committee (CASAC) and made available for public review during February and March of 1994. The CASAC met in July 1994 to review the criteria document and provided oral and written comments, which are being considered by EPA in revising the draft document. Subsequent CASAC meetings were held to review the revised draft criteria document and drafts of the staff paper in March and September 1995.

Alternatives:

Section 109 of the Clean Air Act requires periodic review of the NAAQS. This review is being undertaken to satisfy the statutory requirement.

Anticipated Costs and Benefits:

The anticipated costs and benefits resulting from this rulemaking will be part of the Agency's regulatory impact analysis of this rule. The Agency has just begun this analysis; therefore, the anticipated costs and benefits are not available at this time.

Risks:

As part of this review, EPA is preparing exposure/risk analyses. These analyses are undergoing review. Therefore the results are not available at this time.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	06/00/97	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3353.

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RIN: 2060–AE57

EPA

113. NAAQS: PARTICULATE MATTER (REVIEW)

Priority:

Economically Significant

Legal Authority:

42 USC 7408 to 7409

CFR Citation:

40 CFR 50.6

Legal Deadline:

NPRM, Judicial, June 30, 1996. Final, Judicial, January 31, 1997.

Abstract:

The Environmental Protection Agency (EPA) is reviewing and updating the air quality criteria for particulate matter to incorporate new scientific and technical information that has become available since the last review. Based on the revised criteria, EPA will determine whether revisions to the standards are appropriate.

Statement of Need:

The EPA last completed a review of the particulate matter NAAQS in July 1987. Since that time a growing body of scientific information has associated particle pollution with excess-mortality and morbidity effects at levels below the existing 24-hour primary standard. Many in the scientific community believe that these effects are most likely associated with fine particles. In light of this, EPA is in the process of updating the air quality criteria for particulate matter. An external review draft of revised criteria document was reviewed by the Clean Air Scientific Advisory Committee (CASAC) in August 1995. The CASAC will meet to review the associated staff paper in November/December 1995.

Alternatives:

Section 109 of the Clean Air Act (42 USC 7409) requires periodic review of the NAAQS. This review is being undertaken to satisfy the satisfactory requirement.

Anticipated Costs and Benefits:

The anticipated costs and benefits resulting from this rulemaking will be part of the Agency's regulatory impact analysis of this rule. The Agency has just begun this analysis; therefore, the anticipated costs and benefits are not available at this time.

Risks:

Particle pollution has been associated with excess mortality and with respiratory illness at levels below existing 24-hour standards. As part of this review, EPA will examine the risk associated with particle pollution.

Timetable:

Action	Date	FR Cite
NPRM	06/30/96	
Final Action	01/31/97	

Small Entities Affected:

None

Government Levels Affected:

None

Sectors Affected:

10 Metal Mining; 12 Coal Mining; 14 Mining and Quarrying of Nonmetallic Minerals, Except Fuels; 33 Primary Metal Industries; 491 Electric Services

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3448.

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RIN: 2060–AE66

EPA

114. OPERATING PERMITS: REVISIONS (PART 70)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 7661 et seq

CFR Citation:

40 CFR 70; 40 CFR 71; 40 CFR 51

Legal Deadline:

None

Abstract:

In response to litigation on the part 70 regulations, to several problems identified through implementation of part 70, and to comments provided in response to notices of proposed rulemaking, parts 51, 70, and 71 are being revised. The changes include the following: streamlined procedures for revising stationary-source operating permits issued by State and local permitting authorities or the Environmental Protection Agency (EPA) under title V of the Clean Air Act; changes to the certification of compliance that is required to be submitted as part of the permit documentation; clarification of the title I and title V permitting requirements for certain smaller research and development facilities; and changes in procedural requirements in order to clarify the flexibility States possess in processing minor new source review actions under title I of the Act.

Statement of Need:

These revised rules will establish a simpler, more flexible system for revising operating permits. These revisions reflect the principles articulated in the President's and the Vice President's March 16, 1995 report "Reinventing Environmental Regulation." That report established as goals for environmental regulation the building of partnerships between EPA and State and local agencies, minimizing costs, providing flexibility in implementing programs, tailoring solutions to the problem, and shifting responsibility to State and local programs.

Alternatives:

The Clean Air Act requires that EPA develop regulations which set minimum standards for State operating-permit programs. The Clean Air Act also requires that EPA promulgate and administer a Federal operating-permits program for States that have not obtained EPA approval by November 15, 1995. In response to concerns expressed in response to comments on the initial notice of proposed rulemaking, the EPA sought further input from representatives from State and local permitting authorities, industry and environmental groups to learn more directly of their implementation concerns. This action incorporates many of those recommendations into a final rule.

Anticipated Costs and Benefits:

Costs were estimated in terms of the administrative burden on permitting authorities, EPA, and permitted sources. Administrative costs include a range of costs which cover the source's preparing an application through EPA's and the permitting authority's effort to complete the process. The administrative costs of implmementing these revisions to parts 70 and 71 is estimated to be approximately $33 million. In comparison, implementing the current part 70 permit revision system is estimated to be approximately $118 million in administrative burden. The actual impact of implementing the revised regulations represents a significant reduction in costs over implementing the current regulations.

Risks:

All major sources of air pollution are required to have a permit to operate by the Clean Air Act and are subject to the emission requirements of the State Implementation Plans. No adverse effect on the public health or ecosystems should result from this action.

Timetable:

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44460
NPRM Supplemental Proposal	04/27/95	60 FR 20804
NPRM	10/00/95	
FINAL	03/00/96	

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3412.

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RIN: 2060–AF70

EPA

115. • TRANSPORTATION CONFORMITY FLEXIBILITY AND STREAMLINING

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 7521(a)/CAA 176(c)

CFR Citation:

40 CFR 51; 40 CFR 93

Legal Deadline:

None

Abstract:

The Clean Air Act Amendments (CAAA) of 1990 recognized that transportation planning and air quality planning must be coordinated towards achieving the National Ambient Air Quality Standards (NAAQS). The transportation conformity rule was promulgated in November of 1993, in response to CAAA concerns. Conformity ensures that transportation planning does not (a) produce new air quality violations, (b) worsen existing violations, and (c) delay timely attainment of the NAAQS. This rulemaking is the third in a series of amendments to the original transportation conformity rule. This rulemaking will streamline the original rule to simplify the conformity process in response to conformity stakeholder concerns. Flexibility will be added for rural nonattainment areas. Difficulties associated with the build/no-build test and adding transportation projects to plans will be resolved, and non-Federal projects will have additional flexibility through these amendments.

Statement of Need:

This rulemaking will streamline the original transportation conformity rule in response to stakeholder concerns. This rulemaking will continue to ensure attainment and maintenance of the CAAA's air quality standards in order to protect public and environmental health.

Alternatives:

This rulemaking amends the original transportation conformity rule to simplify the conformity process for State and local transportation and air quality agencies. Conformity stakeholders have assisted EPA and the Department of Transportation (DOT) in formulating a new approach to reaching attainment through the conformity process. Several alternative approaches to conformity revisions have been considered by involved stakeholders. Since this rulemaking is a direct result of the stakeholder process, opting for the alternative (i.e., maintaining the original transportation conformity rule as currently written) would not address stakeholder concerns in a satisfactory manner.

Anticipated Costs and Benefits:

There are no significant direct monetary costs associated with this rulemaking as stipulated in Executive Order 12866. Benefits associated with this rulemaking include all benefits connected to attaining the NAAQS. In addition, by involving transportation and air quality agencies during initial planning processes, long-term planning will become more efficient by ensuring that transportation investments do not interfere with clean air goals.

Risks:

This rulemaking addresses risks which are associated with not attaining the NAAQS.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3740.

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RIN: 2060–AG16

EPA

116. INTEGRATED NESHAP AND EFFLUENT GUIDELINES: PULP AND PAPER

Priority:

Economically Significant

Legal Authority:

42 USC 7412; 42 USC 7414; 42 USC 7601; Clean Air Act Amendments of 1990 section 112, 114, and 301; 33 USC 1311, 1314, 1316, 1317, 1318, and 1361; Clean Water Act section 301, 304, 306, 307, 308, and 501

CFR Citation:

40 CFR 63; 40 CFR 430

Legal Deadline:

Final, Statutory, November 15, 1997.

Abstract:

The Clean Air Act (CAA) Amendments of 1990 direct the Environmental Protection Agency (EPA) to set National Emission Standards for Hazardous Air Pollutants (NESHAP) for new and existing sources under section 112 and to base these standards on maximum achievable control technology (MACT). The Clean Water Act (CWA) directs EPA to develop effluent guidelines for

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certain categories and classes of point sources. These guidelines are used for setting discharge limits for specific facilities that discharge to surface waters or municipal sewage treatment systems. For the pulp and paper industry, EPA is developing an integrated regulation that includes both effluent guidelines and air emission standards to control the release of pollutants to both the water and the air. The regulations are being developed jointly to provide greater protection to human health and the environment, to promote the concept of pollution prevention, and to enable the industry to more effectively plan compliance via a multimedia approach.

Statement of Need:

This action will limit surface water discharges of toxic, conventional, and nonconventional pollutants and emissions of hazardous air pollutants (HAPs) from pulp and paper mills. The NESHAP will limit the release of HAPs such as chloroform, formaldehyde, acetaldehyde, and methanol. The effluent guidelines will limit the discharge of dioxin, furan, and other toxic and conventional pollutants to rivers and other surface waters.

Alternatives:

Both the CAA and the CWA specify that these regulations be established on a technology basis. The CAA specifices that MACT for existing sources can be no less stringent than the average emission limitations achieved by the best-performing similar source. The CWA specifies that effluent limitations guidelines and standards be based on specific technology levels, such as the best available technology economically achievable. For the integration of air and water standards, EPA developed regulatory alternatives from combinations of process changes and pollution control technologies. The Agency considered the combined costs and impacts of these alternatives while remaining responsive to the statutory requirements under both laws.

Anticipated Costs and Benefits:

The proposed integrated air and water rules comprise effluent guidelines for all pulp and paper mills and MACT standards for the noncombustion sources at those mills. The Agency plans to propose MACT standards for the combustion sources in early 1996 and include them in the integrated air and water rules to be promulgated. For the rulemaking components that have been proposed, the Agency estimated total annualized costs of $600 million (1992 dollars). The Agency has received extensive public comments on the cost estimates; revisions are likely, but the magnitude of those revisions has not been determined.

The types of benefits associated with the proposed integrated rule include improvements to air and water quality and reduced human health risks. The estimated reductions in HAP emissions exceed 120,000 tons per year. An estimated reduction in volatile organic compound emissions of 700,000 tons per year and a reduction in total reduced sulfur emissions of 300,000 tons per year are also projected to occur as a result of the proposed integrated rule. Projected reductions in specific toxic pollutant effluent discharges are approximately 2,800 tons per year; conventional pollutant reductions of over 200,000 tons per year are projected. Some categories of the benefits can be expressed in monetary terms; they are in the range of $160 million to $980 million.

Risks:

Two types of pollutants found in pulp and paper wastestreams, dioxin and furan, are of particular concern due to their carcinogenic risk and their toxicity to aquatic life. Reducing the discharge and emission of these and other toxic pollutants reduces the exposure risks to human health and the environment.

Timetable:

For All Sources
Final Action 00/00/00
NESHAP for Combustion Sources and Effluent Guidelines - Phase II
NPRM 04/00/96
NESHAP for Nonchemical and Other Pulp and Paper Mills
NPRM 11/15/96
NESHAP for Noncombustion and Combustions Sources and Guidelines
Final 00/00/00
NESHAP for Noncombustion Sources and Effluent Guidelines -Phase 1
NPRM 12/17/93 (58 FR 66078)

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Federal

Additional Information:

SAN No. 3105 (was 2914) for NESHAP and SAN No. 2712 for Effluent Guidelines

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ADDITIONAL AGENCY CONTACT: Elaine Manning (Nonchemical and other Pulp and Paper Mills)

ADDITIONAL AGENCY CONTACT: Debra Nicoll (Effluent Guidelines)
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See also RIN 2040-AB53.

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RIN: 2060–AD03

EPA

117. NATIONAL 49-STATE LOW-EMISSION VEHICLES PROGRAM

Priority:

Economically Significant

Legal Authority:

Clean Air Act secs 202 and 301(a)

CFR Citation:

None

Legal Deadline:

None

Abstract:

This rulemaking is a voluntary emissions standards program applicable to manufacturers of light-duty vehicles and trucks beginning in model year 1997. This program would apply only to those manufacturers that chose to opt into the program. This program is designed to be an alternative national program that provides emissions reductions equivalent to the Northeast Ozone Transport Commission's (OTC's) low-emission vehicle (LEV) program.

Statement of Need:

If agreement is reached between the OTC states and the auto makers on a voluntary 49-State LEV program, this rulemaking will establish the regulations for the LEV program. Under these regulations, auto makers would be able to volunteer to comply with more stringent tailpipe standards for cars and trucks (light-duty). Once an auto maker opted into the program, EPA would enforce the standards in the same manner as any other federal motor vehicle pollution control requirement. EPA is proposing that this program would relieve the 13 states in the Northeastern part of the country (OTR) of the December, 1994, regulatory obligation to adopt their own motor vehicle programs. This rulemaking also harmonizes Federal and California motor vehicle standards and test procedures to enable auto makers to design and test vehicles to one set of standards nationwide.

Alternatives:

Under the CAA, EPA is prohibited from adopting more stringent auto tailpipe standards prior to fiscal year 2004. The OTC petitioned the Environmental Protection Agency (EPA) in 1994 and was granted approval to adopt the California Low-Emission Vehicle Program in the OTR. This rulemaking would establish a voluntary LEV program in 49 states.

Anticipated Costs and Benefits:

The annualized costs of the OTC LEV Program will be roughly $400 million. The National LEV program created in this rulemaking is expected to have an annual cost of $1.1 billion. The OTC program would only apply to 2 million vehicles sold in the OTR. The National LEV program would apply to all new vehicles sold in 49 States comprising a vehicle fleet of 12.5 million vehicles sold annually. On a per car basis, EPA expects vehicle price to increase $100. The National LEV program will provide air pollution reductions throughout the country. There are currently 38 ozone nonattainment areas outside the OTR and CA with a combined population of approximately 45 million that will benefit from this voluntary national program.

Risks:

Motor vehicles are a significant cause of smog because of emissions of volatile organic compounds (VOC) and nitrogen oxide (NOx). EPA has projected that, without the California LEV in the OTR, highway vehicles will account for roughly 38 percent of NOx and 22 percent of VOC emissions in 2005. EPA currently estimates that VOC emissions should be reduced by roughly 95 tons per day and NOx emissions by approximately 195 tons per day as a result of the National LEV program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	01/00/96	

Small Entities Affected:

None

Government Levels Affected:

State, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3646.

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RIN: 2060–AF75

EPA

118. CONTROL OF NITROGEN OXIDE AND PARTICULATE EMISSIONS FROM HEAVY-DUTY ENGINES

Priority:

Other Significant

Legal Authority:

Clean Air Act secs 202(a), 211(c), 213(a), 301(a)

CFR Citation:

None

Legal Deadline:

None

Abstract:

The primary focus of this action will be on the potential for reduced nitrogen oxide and particulate emissions from mobile sources, particularly diesel engines and fuels. Nitrogen oxides are a significant contributor to urban ozone pollution (smog), acid rain, and particulate pollution. Particulates, including those emitted directly and "secondary" particulates formed in the atmosphere, have been associated with increased death and illness rates as well as impaired visibility. In addition, this action also will investigate the potential for reducing ozone hydrocarbon emissions from mobile sources, particularly from diesel engines and fuels.

The advance notice of proposed rulemaking is intended to notify the public of the Agency's intent to investigate the feasibility of reducing emissions of nitrogen oxides and particulates from mobile sources. It is also intended to solicit involvement and input from a broad cross-section of the public, including potentially affected industries, States, regional air management organizations, public health and environmental protection interest groups, and the general public.

Statement of Need:

Ozone pollution poses a serious threat to the health and well-being of millions of Americans and a large burden to the U.S. economy. Many ozone nonattainment areas face great difficulties in reaching and maintaining attainment of the ozone health-based air quality standards in the years ahead. Recognizing this challenge, States, local governments, and others have called on the Environmental Protection Agency (EPA) to promulgate additional national measures to reduce nitrogen oxide (NOx) and hydrocarbons in order to protect the public from the serious health effects of ozone pollution. The control of particulate matter emissions from heavy-duty engines is also a priority for these stakeholders.

Alternatives:

EPA will consider alternatives for this rule as part of the response to the advance notice of proposed rulemaking (ANPRM).

Risks:

Oxides of nitrogen comprise a family of highly reactive gaseous compounds that contribute to air pollution in both urban and rural environments. NOx is directly harmful to human health and the environment, contributes to particulate pollution, and plays a critical role in the formation of atmospheric ozone. Based on studies of human populations exposed to high concentrations of particles and laboratory studies of animals and humans, there are major human health concerns associated with PM. These include deleterious effects on breathing and respiratory systems, aggravation of existing respiratory and cardiovascular disease, alterations in the body's defense systems against foreign materials, damage to lung tissue, carcinogenesis, and premature death.

Timetable:

Action	Date	FR Cite
ANPRM	08/30/95	60 FR 45580
NPRM	02/00/96	
Final Action	11/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3645.

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RIN: 2060–AF76

EPA

119. NONROAD SPARK-IGNITION ENGINES AT OR BELOW 19 KILOWATTS (25 HORSEPOWER)(PHASE 2)

Priority:

Other Significant

Legal Authority:

42 USC 7547/CAA 213

CFR Citation:

40 CFR 90

Legal Deadline:

NPRM, Judicial, April 30, 1995. Final, Statutory, November 15, 1992. Final, Judicial, April 30, 1997.

Abstract:

This action will establish the second phase of emissions standards for new nonroad spark-ignition engines at or below 19 kilowatts (25 horsepower), as required by section 213(a)(3) of the Clean Air Act as Amended. The Environmental Protection Agency (EPA) is developing the second phase of small-engine regulations through a negotiated rulemaking, with representation by engine manufacturers, equipment manufacturers, emissions control manufacturers, equipment dealers, environment and public health interests, and State air programs.

The affected engines are used in lawn, garden, and utility equipment, such as lawnmowers, string trimmers, chain saws, and small pumps and generators. The first phase was established July 3, 1995 (60 FR 34582), effective for the 1997 model year, and was very similar to the tier 1 small-engine regulations developed by California for the same engines. Regulated pollutants are hydrocarbons, carbon monoxide, and oxides of nitrogen.

Statement of Need:

Nonroad engines contribute significantly to total ozone precursor and CO emissions in areas that have failed to attain the National ambient air quality standards (NAAQS) for ozone and CO. Requirements for emissions reductions will help many areas achieve the NAAQS. The second phase will include additional controls not achievable in the timeframe of the first phase, which are necessary for continued attainment of NAAQS.

Alternatives:

Regulation of this category of engines was split into two phases on the recommendation of the regulated industry, in order to obtain some early reductions quickly while providing sufficient lead-time to develop and implement an appropriate second phase. The regulatory negotiation committee was convened for the second phase to ensure that all possible options for achieving appropriate emissions reductions from this sector were considered.

Anticipated Costs and Benefits:

The regulatory negotiation committee is developing the rule, including setting of emissions standards levels, based on a cost/benefit analysis that considers cost per ton of emissions reduced as well as cost per engine. Until that process is complete, the specific costs and benefits are unknown. The benefits of phase 1 were a 32 percent reduction in hydrocarbons and a 7 percent reduction in carbon monoxide from these engines, at a cost of $266 per ton of hydrocarbons reduced.

Risks:

Over 89 million small engines contribute to unhealthy ozone and carbon monoxide levels in nearly 100 cities across the country. An estimated 6.8 million tons of air pollution are generated from lawn and garden equipment each year. Carbon monoxide is an odorless, colorless poisonous gas. Hydrocarbons and oxides of nitrogen contribute to the formation of ground-level ozone, which is a noxious pollutant that impairs lung functioning and is a key ingredient in smog.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	04/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3361.

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EPA

FINAL RULE STAGE

120. • PESTICIDES; SELF-CERTIFICATION

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

7 USC 136 to 136y

CFR Citation:

40 CFR 152

Legal Deadline:

None

Abstract:

The Environmental Protection Agency (EPA) is evaluating self-certification as a possible approach to reinventing the registration process for pesticides. The goal of this effort is to simplify, speed up, and increase the efficiency of the registration process while maintaining protection to human health and the environment.

Statement of Need:

EPA registers pesticides for sale and use in the United States under the Federal, Insecticide, Fungicide, and Rodenticide Act (FIFRA). EPA has issued rules, notices, and guidance which specify how applicants may obtain approval for registration of pesticide products.

Against a backdrop of declining resources and a continuous workload of pesticide applications, EPA is examining many possible ways of reinventing the registration process to handle applications faster, more efficiently, and with fewer resources. One of these approaches is "self-certification," a concept in which a registrant may certify that a registration application (or part of it) complies with Agency requirements and may then obtain EPA approval for the registration after an abbreviated review or no review at all. EPA has several projects that are exploring the possible use of self-certification in different ways.

First, EPA has reinvented the process by which registrants may accomplish amendment of products by notification or nonnotification. The revised process allows a registrant to certify that an application for amendment meets EPA's criteria as a low-risk amendment. This revised process is described in PR Notice 95-2 (May 31, 1995). To formally implement this type of self-certification, EPA is revising existing rules (40 CFR 152.44 and 152.46) on notifications and nonnotifications.

Second, self-certification of acute toxicity and product chemistry data is being considered as a means of reducing the number of studies reviewed by EPA in connection with registration applications. While being done as two separate projects (acute toxicity and product chemistry), these efforts are being closely coordinated to assure consistency. One or more PR Notices will be drafted and made available for public comment before any final decisions are made in this area.

Third, possible options for self-certification of new products similar or identical to those already registered are being developed and evaluated. A draft issue paper will be made available for public comment before any final decisions are made about this kind of self-certification.

Alternatives:

Various alternatives to self-certification are being considered by EPA for reinventing or improving the registration process, including, but not limited to, sharing acute toxicity data reviews with the California Department of Pesticide Regulation, issuing guidance for acceptable acute toxicity data, exempting certain active ingredients from registration, developing computer software to standardize precautionary labeling, publishing a manual describing all labeling requirements, automating certain documents, piloting electronic labeling, making labeling policy documents publicly available, and developing internal guidance on how to process "fast track" registrations.

Anticipated Costs and Benefits:

EPA does not intend to perform cost analyses on self-certification per se, but will qualitatively evaluate the potential costs and benefits of different kinds of self-certification.

Risks:

EPA will determine whether self-certification will help or hinder protection of human health and the environment. EPA will not adopt any self-certification measure which does the latter.

Timetable:

Action	Date	FR Cite
Final Notification Rule	10/00/95	
Draft PR Notices Self-Certification of Acute Toxicity and Product Chemistry Data	12/00/95	
Final FR Notices Self-Certification of Acute Toxicity and Product Chemistry Data	11/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

Analysis:

Regulatory Flexibility Analysis

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EPA

121. • SELECTED RULEMAKINGS FOR ABATING LEAD HAZARDS

Priority:

Economically Significant

Legal Authority:

15 USC 2683; PL 102-550

CFR Citation:

40 CFR 745

Legal Deadline:

Final, Statutory, April 28, 1994. Other, Statutory, October 28, 1994.

Final Statutory, April 28, 1994 (Sections 403, 402, 404) Final Statutory, October 28, 1994 (Sections 406, 1018)

Abstract:

The Residential Lead-Based Hazard Reduction Act of 1992 requires EPA to promulgate regulations that establish standards for determining hazards associated with lead-based paint, lead-contaminated soil, and lead-contaminated dust. EPA is to (a)identify the paint conditions and lead levels in dust and soil that would result in adverse human health effects (on July 14, 1994, EPA issued guidance on section 403 to provide preliminary information while a proposal is being developed); (b) promulgate regulations (section 402) governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that contractors engaged in such activities are certified (in addition, EPA must promulgate a Model State program (section 404) which may be adopted by any State which seeks to administer and enforce a State Program); (c) promulgate regulations (section 406) requiring renovators to provide a lead hazard information brochure (developed separately by EPA) to clients before beginning work; (d) promulgate, with HUD, regulations (Section 1018) that require the following before the sale or lease of pre-1978 housing: disclosure of lead-based paint hazards, provisions of a lead-paint information brochure to the prospective buyer or renter, and for buyers, and the opportunity to conduct a lead risk assessment or inspection.

Statement of Need:

Childhood lead poisoning is a pervasive problem in the United States, with 1.7 million young children (8.9%) having more than 10 ug/dl of lead in their blood. Center for Disease Control's level of concern. Elevated blood-lead levels can lead to reduced intelligence and neurobehavioral problems in young children, as well as causing other adverse health effects in children and adults. Although there have been dramatic declines in blood-lead levels due to reductions of lead in paint, gasoline, and food sources, remaining paint in older houses remains the significant source of childhood lead poisoning. These rules are designed to reduce exposure to that source in a targeted and sensible manner.

Alternatives:

Alternatives to each of the mandated activities will be analyzed. However, in many cases (particularly regulations written under Sections 406 and 1018) the statute is very prescriptive. Under

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Section 403, the alternatives being considered include: (a) tiered standards; (b) integrated standards vs. independent standards; and (c) the possible acceptance of a usage factor in determining hazards.

Anticipated Costs and Benefits:

For rules promulgated under sections 402, 404, 406, and 1018, cost estimates have been provided with the proposed rule, and will be available with the final rule. For Section 403, costs will still need to be estimated in the draft Regulatory Impact Analysis for the proposed rule. Since benefits depend on private sector implementation of certain lead hazard abatement activities which are not mandated by any of these rules, benefits will be difficult to quantify.

Risks:

These rules are aimed at reducing the prevalence and severity of lead poisoning, particularly in children.

Timetable:

Action	Date	FR Cite
NPRM Section 406	03/02/94	59 FR 11108
NPRM Sections 402 and 404	09/02/94	59 FR 45872
NPRM Section 1018	11/02/94	59 FR 54984
Final Action Section 1018	11/00/95	
Final Action Section 406	12/00/95	
Final Action Sections 402 and 404	12/00/95	
NPRM Section 403	09/00/96	
Final Action Section 403	09/00/97	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Analysis:

Regulatory Flexibility Analysis; Regulatory Impact Analysis

Additional Information:

Lead Hazard Standards (Section 403) (RIN 2070-AC63)

Lead-Based Paint Activities Rules: Training, Accreditation and Certification Rule and Model State Plan Rule (Sections 402 and 404) (RIN: 2070-AC64)

Lead-Based Paint Disclosure Requirements at Renovation of Target Housing (Section 406) (RIN: 2070-AC65)

Lead-Based Paint Hazard Information Requirements at the Transfer of Target Housing: Joint with HUD (Section 1018) (RIN: 2070-AC75)

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EPA

122. • POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL AMENDMENTS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

15 USC 2605(e)/TSCA 6(e)

CFR Citation:

40 CFR 761

Legal Deadline:

None

Abstract:

This rulemaking will make over 50 modifications, additions, and deletions to the existing PCB management program under the Toxic Substances Control Act (TSCA). A notice of proposed rulemaking was published on December 6, 1994 and covered the manufacture, processing, distribution in commerce (including export), use (including import), disposal, and marking of PCBs.

Statement of Need:

This rulemaking is the first comprehensive review of the PCB regulations in the 17-year history of the program. The Agency has become aware of a number of instances where the existing regulations do not allow for activities which do not pose an unreasonable risk of injury to health and the environment or where they require unreasonable, unrealistic, or non-cost-effective solutions to PCB problems.

Summary of the Legal Basis:

TSCA section 6(e) bans the manufacture, processing, distribution in commerce and use (except in a totally enclosed manner) of PCBs. It also directs EPA to establish standards for disposal and marking of PCBs. However, section 6(e) allows the EPA to modify these bans, through rulemaking, where it finds no unreasonable risk of injury to health and the environment.

Alternatives:

On December 6, 1994, EPA proposed a number of alternatives to the existing statutory bans in section 6(e). The proposal also included new options and standards for disposal (including remediation) of PCBs.

Anticipated Costs and Benefits:

The EPA projects significant cost savings from authorizations for existing uses and the disposal of large-volume wastes such PCB-contaminated environmental media. In addition, the relaxation of certain administrative requirements should increase the speed of remediation of contaminated sites and accelerate the removal from use of PCBs. EPA projects minimal implementation costs and is reviewing comments which highlight areas for additional cost savings over the proposal.

Risks:

The EPA estimates that millions of tons of PCB-contaminated environmental media will be remediated under this rule, thus preventing large quantities of this long-lived, bioaccumulating chemical from entering the food chain.

Timetable:

Action	Date	FR Cite
NPRM	12/06/94	59 FR 62788
Final Action	06/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Federal

Analysis:

Regulatory Flexibility Analysis

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RIN: 2070–AD04

EPA

123. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY, PHASE I

Priority:

Economically Significant

Legal Authority:

33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation:

40 CFR 438

Legal Deadline:

NPRM, Judicial, March 31, 1995. Final, Judicial, September 30, 1996.

Dates contained in Consent Decree (NRDC v. Reilly)

Abstract:

The Environmental Protection Agency (EPA) is developing effluent limitation guidelines for facilities that generate wastewater while processing metal parts; metal products; and machinery, including manufacture, assembly, rebuilding, repair, and maintenance. The phase I regulation will cover seven industrial groups: aircraft, aerospace, hardware, ordnance, stationary industrial equipment, mobile industrial equipment, and electronic equipment. This regulation is performance-based and does not specify a method of compliance.

Statement of Need:

Discharges of wastewater from industrial facilities contain pollutants that may cause deleterious effects on surface waters and adverse impacts on human health and aquatic life. Discharges from metal products and machinery (MP&M) facilities contain priority and nonconventional metals, organics and conventional pollutants. Many of these pollutants are human carcinogens, human systemic toxicants, aquatic life toxicants, or all of the above. MP&M facilities discharge wastewater directly to surface waters of the United States or indirectly to surface waters via sewer systems and publicly owned treatment works (POTWs) and contribute to the pollution of surface waters and POTW sludges.

Summary of the Legal Basis:

The Clean Water Act requires the Environmental Protection Agency (EPA) to establish national technology-based standards to control or eliminate the discharge of pollutants into surface water and to POTWs. This proposed regulation is required under a 1992 consent decree with the Natural Resources Defense Council and must be developed according to the schedule in that decree.

Alternatives:

EPA's proposed rule described three major treatment alternatives the Agency had considered in developing its recommended approach. The three alternatives included: (a) end-of-pipe treatment controls, (b) end-of-pipe controls plus in-process controls, and (c) end-of-pipe treatment (e.g., reverse osmosis, ion exchange). The Agency proposed the second alternative with an exemption for low-flow indirect discharges of process wastewater (i.e., those discharging less than one million gallons per year to publicly owned treatment works) as its recommended approach.

Anticipated Costs and Benefits:

At the time of proposal, the MP&M Phase I Guidelines were estimated to impose a total capital cost for direct and indirect dischargers of $414 million and an estimated annualized cost of $161 million. Total monetized benefits were estimated to range from $70 million to $207 million (in 1994 dollars). The proposed MP&M phase I guidelines were estimated to result in a reduction of almost a million pounds of toxic pollutants discharged by the industry each year, thereby reducing violations of water quality standards (which were bodies across the country). The proposed limits were also estimated to reduce the metals content of municipal sludge, thereby allowing approximately 184 additional POTWs to make beneficial use of 439,000 dry metric tons of sewage sludge annually by land applying the sludge rather than incinerating or landfilling it. The expected cost savings for sewage sludge disposal is estimated to range from $39 million to $86 million (in 1994 dollars). Final cost and benefits will be determined once EPA completes its review of the public comments on the proposed rule and makes decisions on the final rule.

Risks:

EPA estimates that the proposed limitations would eliminate 2.7 cancer cases per year (from a baseline of about 11.1 cases estimated at the current discharge level); lower risk indicator for systemic, noncancer risks of illness; and lessen excursions of health-based water quality toxic effect levels.

Timetable:

Action	Date	FR Cite
NPRM	05/30/95	60 FR 28210
Final Action	09/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 2806.

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EPA

124. LAND DISPOSAL RESTRICTIONS—PHASE IV: TREATMENT STANDARDS FOR CERTAIN MINERAL PROCESSING WASTES; TC METALS; NEWLY LISTED WASTES FROM WOOD PRESERVING AND DYES AND PIGMENTS

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6905, 6912(a), 6921, 6924

CFR Citation:

40 CFR 268

Legal Deadline:

Final, Judicial, June 1996.

Abstract:

The Hazardous and Solid Waste Amendments of 1984 require the Environmental Protection Agency (EPA) to promulgate regulations establishing treatment standards that must be met before hazardous waste may be disposed of on land. The proposed

rulemaking establishes treatment standards for certain characteristic mineral processing wastes, wood preserving wastes, and TC metals. It also addresses issues arising from a September 25, 1992 decision of the U.S. Court of Appeals in *Chemical Waste Management* v. *EPA*, 976 F. 2d (D.C. Cir. 1992) on the equivalency of treatment in wastewater treatment systems regulated under the Clean Water Act to treatment of wastes under the Resource Conservation and Recovery Act (RCRA).

Statement of Need:

Land disposal of hazardous wastes can result in the contamination of groundwater and surface water and the emission of hazardous constituents to the air. Studies have indicated that these hazardous constituents can cause adverse human health and environmental effects. In addition, land disposal of untreated hazardous wastes can have significant economic effects, as demonstrated in the high costs of cleaning up past land disposal sites.

As a result of these problems, Congress, in section 3004 of RCRA, mandated that land disposal of hazardous waste is prohibited, unless the waste is treated to minimize threats to human health and the environment. In the phase IV final rule, EPA is targeting the potential risks of leaks and air emissions from surface impoundments that are part of wastewater treatment systems. Primary treatment surface impoundments and other surface impoundments that precede the biological treatment surface impoundment may pose a particular risk that untreated organic constituents could leak to groundwater. There is also a chance that hazardous constituents could be emitted into the air from an uncovered surface impoundment, thus this risk will also be addressed. In addition, EPA is satisfying its statutory mandate to promulgate treatment standards for wood preserving, toxicity characteristic metal, and mineral processing hazardous wastes.

Summary of the Legal Basis:

Portions of the rule are subject to a consent decree that requires promulgation of final treatment standards for wood preserving and toxicity characteristic metal wastes, and hazardous mineral processing wastes.

Alternatives:

In a final rule issued on May 8, 1990, EPA allowed certain hazardous wastes to be diluted rather than treated to meet the land disposal restrictions (LDR) treatment standards when they were managed in surface impoundments regulated by the Clean Water Act (CWA). This approach was taken in order to harmonize the requirements of RCRA and CWA. EPA was sued on the 1990 final rule (*Chemical Waste Management, Inc. et al. (CWM)* v. *EPA)T1. In CWM* v. *EPA*, the court held that these diluted wastes may be placed in a surface impoundment only if the underlying hazardous constituents in the waste are treated to the same extent as they would be under RCRA, such that threats to human health and the environment are minimized. As a direct result of the court decision, EPA entered into a settlement agreement which required EPA to examine whether treatment in a CWA (and CWA-equivalent) wastewater treatment surface impoundment is equivalent to treatment under RCRA LDR requirements. The Agency examined edquivalency under the two programs by looking at the potential for cross-media transfers of hazardous constituents in CWA and CWA-equivalent surface impoundments in the Phase IV proposal. It will be necessary to identify the Agency's final approach in the Phase IV final rule.

The Phase IV final rule will finalize EPA's decision on three proposed options to address the issue of whether EPA should establish RCRA controls for releases of hazardous constituents through air emissions, leaks to groundwater, and sludges from CWA and CWA-equivalent wastewater treatment surface impoundments. The proposal neutrally presented two options for addressing potential cross-media transfers. The first option was to rely on existing Clean Air Act (CAA) provisions to address air emissions, and on State programs and the RCRA industrial nonhazardous waste control mechanisms to address leaks and sludges. The second option was to rely on existing controls, but also establish LDR regulations to fill the gaps that were identified in existing regulations. As compliance alternatives for this option, EPA proposed a de minimis exclusion, and an approach for giving credit for pollution prevention activities that reduced the mass loadings of hazardous wastes to the environment. A third option, presented for completeness but believed to be inappropriate and costly, was to require that facilities comply with LDR treatment standards before placing their wastes in the wastewater treatment surface impoundments. If LDR standards were met before land disposal in the surface impoundment, then the issue of equivalency would be moot.

Futhermore, under RCRA, the Agency was instructed to promulgate treatment standards for a waste within six months of the Agency determining that it is a hazardous waste. The Agency missed this deadline in a number of cases and was sued. The Phase IV final rule is subject to a consent decree that requires the establishment of treatment standards for wood preserving and toxicity characteristic metal wastes, and for hazardous mineral processing wastes. The treatment standards for hazardous mineral processing wastes will be proposed in a supplemental rule to be issued in December, 1995.

Treatment standards for wood preserving and toxicity characteristic metal wastes, as well as for hazardous mineral processing wastes, are based upon the performance of best demonstrated available technologies (BDAT). Section 3004(m) of RCRA requires that the treatment standards ensure substantial reductions in hazardous waste toxicity and mobility, such that threats to human health and the environment arising form subsequent land disposal are minimized. Variances from these treatment standards may be granted if a petitioner can show EPA that the waste is different from the waste EPA used to set the treatment standard or that the treatment is unavailable on a waste. In addition, if treatment is unavailable on a nationwide basis, or on a case-by-case basis, EPA may postpone the effective date of the treatment standards for up to four years.

Anticipated Costs and Benefits:

The Agency's analysis of the cost of addressing cross-media transfers indicates that under Option 1, no impacts would occur because the Agency proposed to defer to other regulations. For Option 2, annual compliance costs to facilities would range from an estimated $10 to $65 million. Estimated annual compliance costs to facilities under Option 3 would range from $200 to $300 million.

The Agency estimates annual incremental compliance costs of treating wood preserving wastes to be $9.5 million. Costs to treat metal toxicity characteristic wastes to comply with the revised standards are expected to be minimal.

EPA estimates that cancer risks from leaks to groundwater at wastewater treatment systems range up to one in one thousand. In one-fifth of samples with volatile organic constituents at the point of generation, concentrations exceeded the risk-based regulatory threshold established in the RCRA Subpart CC rule to control air emissions.

Risks:

Please see the previous section titled "Anticipated Costs and Benefits" for a discussion on risks.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/91	56 FR 55160
NPRM	08/22/95	60 FR 43654
Final Action	06/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3366.

Reinventing Government: The options that were proposed for addressing cross-media transfers would encourage pollution prevention by allowing facilities to comply by reducing mass loadings of toxics to the environment through source reduction from wastestreams not directly at issue. An exemption from the options was proposed for de minimis levels of waste. Importantly, EPA seeks to preserve its partnership with States and Tribes by embracing their programs that control the cross-media transfer problems at issue. EPA also took the common-sense approach of crafting its options for cross-media transfers to fulfill its obligations and protect environmental resources without undue disruption to waste treatment systems that are already adequately protective of the environment. Additionally, the rule will focus on environmental risk by isolating for regulation those waste management scenarios that pose risks rather than imposing controls across the board. The Agency built in maximum flexibility so that those complying with the requirements can choose the most cost-effective means of limiting toxic releases or for treating wastes to meet LDR treatment standards. Furthermore, the Agency is mindful of the multi-media context of environmental problems and has designed the proposed rule to defer to existing federal programs to avoid duplication of regulation. Furthermore, this rule will reduce the paperwork burden on the regulated community by revising a number of the LDR program's administrative requirements. Other regulatory changes will eliminate outdated regulations and clarify areas of the regulations that are confusing.

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RIN: 2050–AE05

EPA

125. LAND DISPOSAL RESTRICTIONS—PHASE III: DECHARACTERIZED WASTEWATERS, CARBAMATE WASTES, AND SPENT ALUMINUM POTLINERS

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6905, 6912(a), 6921, 6924

CFR Citation:

40 CFR 268

Legal Deadline:

Final, Judicial, January 1996.

Abstract:

The Environmental Protection Agency (EPA) will be proposing rules addressing a rule pursuant to the September 25, 1992, decision of the U.S. Court of Appeals in *Chemical Waste Management* v. *EPA*, 976 F. 2d (D.C. Cir. 1992). The underlying rule at issue was signed on May 8, 1990, and published on June 1, 1990 (55 FR 22520). The phase III proposal will establish treatment standards for formerly characteristic wastes primarily managed in land-based wastewater treatment systems whose ultimate discharge is regulated under the Clean Water Act. Treatment standards will also be established for newly listed carbamates and organobromine wastes. The phase IV proposal will address whether land-based wastewater systems provide treatment that is equivalent to that conducted under the Resource Conservation and Recovery Act (RCRA) land disposal restrictions (LDR) program. Treatment standards will also be established for wood preserving and mineral-processing wastes.

Statement of Need:

Land disposal of hazardous wastes can result in the contamination of groundwater and surface water. Studies have indicated that these hazardous constituents can cause adverse human health and environmental effects. In addition, land disposal of untreated hazardous wastes can have significant economic effects, as demonstrated in the high costs of cleaning up past land disposal sites.

As a result of these problems, Congress, in section 3004 of RCRA, mandated that land disposal of hazardous waste is prohibited, unless threats to human health and the environment are minimized. In the phase III final rule, EPA is targeting the potential risks of discharges from surface impoundments that are part of wastewater treatment systems. Biological treatment surface impoundments may not treat all underlying hazardous constituents in RCRA characteristic wastes (that are diluted to remove the hazardous characteristic) to the same extent as those constituents would be treated using other technologies to achieve LDR treatment standards. In addition, characteristic wastes are often diluted and injected into deep wells, without actually being treated to minimize the potential threat of underlying hazardous constituents in that waste. These risks will be addressed by establishing LDR treatment standards that apply at the point of discharge from the impoundment or into an underground injection well (i.e., at "end-of-pipe"). In addition, EPA is promulgating treatment standards for carbamate wastes and spent aluminum potliners.

Summary of the Legal Basis:

The end-of-pipe treatment standards are subject to a consent decree that mandates that this rule be finalized by January, 1996.

Alternatives:

In a final rule issued on May 8, 1990, EPA allowed certain hazardous wastes to be diluted rather than treated to meet the LDR treatment standards when they were managed in surface impoundments regulated by the Clean Water Act (CWA). This approach was taken in order to harmonize the requirements of RCRA and CWA. EPA was sued on the 1990 final rule (*Chemical Waste Management, Inc. et*

al. (CWM) v. *EPA*). In *CWM* v. *EPA*, the court held that these diluted wastes may be placed in a surface impoundment only if the underlying hazardous constituents in the waste are treated to the same extent as they would be under RCRA, in such a way that threats to human health and the environment are minimized. As a direct result of the court decision, EPA entered into a settlement agreement which required EPA to establish treatment standards for any underlying hazardous constituents reasonably expected to be present in characteristic (i.e., ignitable, corrosive, reactive, or toxic) hazardous wastes that are diluted to remove the hazardous characteristic, that must be met at the point the waste is discharged to the water or the land, or injected into a deep well.

The phase III final rule will introduce two new LDR compliance options for deep injection wells: a de minimis exclusion for very small-volume hazardous waste streams that are mixed with other nonhazardous waste streams; and a pollution prevention option that allows facilities to reduce the mass loadings of underlying hazardous constituents to the same extent as they would be reduced by meeting the LDR treatment standards.

Furthermore, under RCRA, the Agency was instructed to promulgate treatment standards for a waste within 6 months of the Agency determining that it is a hazardous waste. The Agency missed this deadline in a number of cases. The phase III rule will promulgate treatment standards for two "newly listed" categories of hazardous wastes: wastes from carbamate production, and spent aluminum potliners.

All of the treatment standards in the phase III rule are based upon the performance of best demonstrated available technologies (BDAT). Section 3004(m) of RCRA requires that the treatment standards ensure substantial reductions in hazardous waste toxicity and mobility, in such a way that threats to human health and the environment arising form subsequent land disposal are minimized. Variances from these treatment standards may be granted if a petitioner can show EPA that the waste is different from the waste EPA used to set the treatment standard or that the treatment is inappropriate for the waste. In addition, if treatment is unavailable on a nationwide basis, or on a case-by-case basis, EPA may postpone the effective date of the treatment standards for up to 4 years.

Anticipated Costs and Benefits:

The Agency's analysis of the estimated one-time cost of establishing end-of-pipe treatment standards for characteristic wastes that are diluted and placed in treatment surface impundment is $0.9 - $2.9 million. The estimated cost for treating characteristic hazardous wastes that are diluted and injected into UIC wells is $9.2 - $13.2 million for on-site treatment and $486.5 - $805.3 million for off-site treatment. The estimated annual cost for treating carbamate wastes and spent aluminum potliners is $11.9 - $47.3 million.

Benefit estimates for surface impoundments include loadings reductions between 36 and 407 tons/year for direct discharges, and between 1,490 and 24,391 tons/year for indirect discharges. In addition, cancer risks for two constituents, aniline and acrylamide will be reduced. EPA estimates that cancer risks from leaks to groundwater from deep injection wells are below regulatory concern. It is estimated that between 100,000 and 118,000 tons of spent aluminum potliners are generated annually. Improper management of these wastes has caused many serious past damage incidents. However, data are limited with regard to current management practices and risk levels. Because the quantity of waste is very small, benefits for newly listed carbamate wastes are expected to be minimal.

Risks:

Please see the previous section titled "Anticipated Costs and Benefits" for a discussion on risks.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/91	56 FR 55160
NPRM	03/02/95	60 FR 11702
Final Action	01/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

Additional Information:

SAN No. 3365.

Reinventing Government: The phase III rule would encourage pollution prevention by allowing facilities to comply by reducing mass loadings of toxics to the environment through source reduction from wastestreams not directly at issue. An exemption was proposed for de minimis levels of waste. Importantly, EPA seeks to avoid duplicative regulations by deferring in all cases to limits established in a wastewater treatment system's CWA NPDES or pretreatment permit. LDR treatment standards would only apply in cases where the underlying upcoming EPA regulation that is currently underway. In this way, EPA is taking the common-sense approach to fulfill its obligations and protect environmental resources without undue disruption to waste treatment systems that are already adequately protective of the environment. The Agency built in maximum flexibility so that those complying with the requirements can choose the most cost-effective means of treating wastes to meet LDR treatment standards.

Furthermore, this rule will reduce the paperwork burden on the regulated community by creating minimal new recordkeeping requirements for wastewater treatment surface impoundments, and by revising some of the LDR programs's existing administrative requirements. Other regulatory changes will clarify existing areas of the regulations that are confusing.

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RIN: 2050–AD38

EPA

126. COMPLIANCE ASSURANCE MONITORING PROGRAM (PREVIOUSLY ENHANCED MONITORING PROGRAM)

Priority:

Economically Significant

Legal Authority:

Clean Air Act Amendments of 1990, sections 114(a)(3), 503(b),; 504(b)

CFR Citation:

40 CFR 64; 40 CFR 70

Legal Deadline:

NPRM, Judicial, September 30, 1993. Final, Statutory, November 1992. Final, Judicial, July 1, 1996.

Abstract:

This action is required by the 1990 Clean Air Act (the Act) Amendments to assure better compliance with existing rules. This rule will require major stationary sources who must obtain permits under title V of the Act to conduct monitoring that provides reasonable assurance of ongoing compliance of the significant emission units with applicable requirements. Affected sources will use the monitoring data in conjunction with other compliance-related data to certify compliance with emission standards and other permit conditions.

Statement of Need:

The Clean Air Act Amendments of 1990 require major stationary sources to provide ongoing monitoring and periodic certification of compliance. Current compliance data based on initial or periodic performance testing, provide only "snapshots" of the compliance status of stationary sources. Current minimal operation and maintenance monitoring of control technoloy performance, if applied, provides little assurance of continued good pollution control and little incentive for the source owner or operator to maintain or improve performance. The compliance assistance monitoring (CAM) rule would require owners or operators of emission sources to increase awareness of the operational status of pollution control technology and to act on discrepancies in that operation to reduce emissions. Certification of compliance would be based on a combination of compliance testing or other compliance data and demonstration of continued good control technology performance and appropriate and timely corrective action.

Alternatives:

The CAM program is designed to assure ongoing compliance with requirements under the Act. If owners or operators are already required to determine continuous compliance with emission limitations or standards, that satisfies the purpose of CAM and no additional assurance of compliance is necessary. If these circumstances do not exist, CAM would use a two-pronged approach to assure compliance. First, CAM would require that owners or operations have reasonable information available to them that can indicate potential problems in emission control performance. Second, CAM would require that owners or operators act on that information in a timely fashion to avoid (if preventable) or reduce (if not preventable) emission control problems that could result in excess emissions. This type of monitoring does not need to be so rigorous as to exactly determine or predict emission levels, but rather should be sufficient to allow for reasonable optimization of the method used by a source to achieve ongoing compliance with emission limitations or standards under the Act.

This approach is consistent with President Clinton's regulatory reform initiatives and EPA's Common Sense Initiative in that it focuses on preventing pollution rather than imposing additional command-and-control regulations on regulated sources. This represents a significant change in Agency direction for implementation of of the monitoring and compliance certification requirements in titles V and VII of the Act. The goal of CAM is to provide a reasonable assurance of compliance; rather than a direct connection between monitoring and certification, CAM allows for an indirect, symbiotic relationship between these two methods of assuring compliance. The result of this change will be to reduce the emphasis on assuring compliance through the threat of enforcement. Instead, CAM emphasizes assuring compliance by placing the burden on regulated sources to monitor their performance and take proactive steps to minimize emission exceedances.

Anticipated Costs and Benefits:

In keeping with Executive Order 12866, EPA will prepare a detailed regulatory impact analysis (RIA) that will provide costs and benefits associated with the CAM rule.

EPA believes that the adoption of CAM can result in tangible benefits for a facility. Although a self-monitoring program may not always be justified purely on the basis of economic benefit to a source, self-monitoring can, in some situations, reduce operating costs. For example, monitoring data can be used to increase combustion efficiency in an industrial boiler or to increase capture and reuse of solvents at a coating plant. The CAM approach will also alert owners or operators that potential control device problems may exist. The owner or operator can use this information to target control devices for routine maintenance and repair, and reduce the potential for costly breakdowns.

The Agency also believes that the CAM approach will result in tangible benefits to the general public health and welfare. A primary benefit of CAM will be a reduction in overall emissions through increased compliance with the requirements of the Act. The key elements of CAM that will provide these reductions are (a) the emphasis on monitoring that alerts owners or operators to deteriorating control conditions and (b) the requirement that steps be taken to correct those conditions. This approach emphasizes minimizing emissions by avoiding or remedying as quickly as possible situations that may involve emissions in excess of applicable requirements. In addition to the direct environmental benefit of decreased emissions, increased compliance rates will also achieve a corollary economic benefit. As a general matter, increased compliance rates with existing rules will lower the long-term overall cost of air pollution control by decreasing the need for additional regulations to obtain necessary emission reductions, especially for nonattainment areas.

Risks:

Compliance Assurance Monitoring will apply to over 50,000 emission units nationally. The establishment of CAM requirements is estimated to impact about 97 percent of the emissions of carbon monoxide, nitrogen oxide, particulate matter, sulfur dioxide, and volatile organic compounds, as well as certain hazardous air pollutants such as benzene and mercury; exact reductions which will be obtained are yet to be determined. The CAM provisions will apply to existing Clean Air Act standards only; new regulations will incorporate continuous compliance monitoring provisions. As these new rules are developed, pollution reduction will be achieved beyond those obtained through CAM.

Timetable:

Action	Date	FR Cite
NPRM	10/22/93	58 FR 54648
Supplemental Proposal	12/28/94	59 FR 66844
Final Action	07/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

Additional Information:

SAN No. 2942.

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RIN: 2060–AD18

EPA

127. NAAQS: SULFUR DIOXIDE (REVIEW)

Priority:

Economically Significant

Legal Authority:

42 USC 7409/CAA 109

CFR Citation:

40 CFR 50.4; 40 CFR 50.5

Legal Deadline:

NPRM, Judicial, November 1, 1994. Final, Judicial, April 15, 1996.

Abstract:

On November 15, 1994, the Environmental Protection Agency (EPA) published a notice announcing a proposed decision not to revise the existing 24-hour and annual primary standards. In that notice EPA sought public comment on the possible need to adopt additional regulatory measures to address short-term peak sulfur dioxide exposure and thereby further reduce the health risk to asthmatic individuals.

On March 7, 1995, EPA published the proposed requirements for implementation plans and ambient air quality surveillance for sulfur dioxide. The action proposes implementation strategies for reducing short-term high concentrations of sulfur dioxide emissions in the ambient air.

Statement of Need:

Brief exposures to elevated concentrations of sulfur dioxide causes bronchoconstriction, sometimes accompanied by symptoms (coughing, wheezing, and shortness of breath), in mild to moderate asthmatic individuals. The existing sulfur dioxide National Ambient Air Quality Standard (NAAQS) provides a substantial protection against short-term peak sulfur dioxide levels. At issue is whether additional measures are needed to further reduce the health risk to asthmatic individuals. The EPA is presently assessing the public comments on the November 1994 proposal as well as the related implementation and air quality surveillance requirements and will announce a final decision on April 15, 1996.

Alternatives:

The November 15, 1994, proposal notice sought public comment on three alternatives to further reduce the public health risk to asthmatic individuals posed by short-term peak sulfur dioxide exposures. These included: (a) a new 5-minute NAAQS; (b) a new program under section 303 of the Act; and (c) a targeted monitoring program to ensure sources likely to cause or contribute to high 5-minute peaks are in attainment with the existing standard.

Anticipated Costs and Benefits:

A draft regulatory impact analysis was completed and made available for public comment at the time of proposal.

Risks:

Exposure analyses were completed and made for public comment at the time of proposal. These analyses indicate from the national perspective that the likelihood of exposure to high 5-minute sulfur dioxide concentrations is very low. Asthmatic individuals in the vicinity of certain sources or source categories, however, may be at higher risk of exposure than the population as a whole.

Timetable:

Action	Date	FR Cite
NPRM	11/15/94	59 FR 58958
NPRM NAAQS SO2 Implementation Plans(Part 51)	03/07/95	60 FR 12492
Final Action	04/00/96	
Final NAAQS SO2 Implementation Plans (Part 51)	00/00/00	

Small Entities Affected:

None

Government Levels Affected:

State, Local, Federal

Additional Information:

SAN No. 1002 (Primary Standard) and SAN No. 3588 (Implementation)

Docket No. A-84-25.

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RIN: 2060–AA61

EPA

128. MEDICAL WASTE INCINERATORS (MWI)

Priority:

Economically Significant

Legal Authority:

Clean Air Act of 1990, section 129

CFR Citation:

40 CFR 60

Legal Deadline:

NPRM, Judicial, February 1995. Final, Statutory, November 1992. Final, Judicial, April 1996.

Abstract:

The Environmental Protection Agency (EPA) is developing new source performance standards (NSPS) for new MWIs and emission guidelines (EG) for existing MWIs under sections 111 and 129 of the Clean Air Act. The NSPS are to reflect the maximum degree of reduction in emissions that is achievable for new units. The EG may be less stringent than the standards for new units. States must submit plans for implementing and enforcing the guidelines. Section 129 requires that emission limits be established for particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, dioxins, and dibenzofurans. These standards are being developed under EPA's integrated combustion strategy, whereby EPA will regulate various forms of combustion under a coordinated plan. Two other elements of this strategy, the emission standards for municipal waste combustion and hazardous waste combustion, are summarized elsewhere in this Regulatory Plan.

EPA is working intensively with MWI owners and operators, as well as with other stakeholders, to assure that this rule is based on the best understanding of the industry, and that it affords the flexibility to achieve the necessary emission reductions in the most sensible, cost-effective ways, including the transfer of wastes to larger, more efficient regional facilities.

Statement of Need:

The medical waste incinerator rules will establish emission limits for dioxins, particulate matter, carbon monoxide, cadmium, lead, mercury, sulfuric acid, hydrochloric acid, and nitrogen oxide. These rules will establish emission limits that will reflect maximum achievable control technology (MACT), as defined by section 129, to reduce emissions of the above pollutants.

Alternatives:

The Clean Air Act specifies that the emission guidelines and the new source performance standards be based on MACT, and that MACT for existing sources can be no less stringent than the average emission limitations achieved by the best-performing 12 percent of units; and for new sources, can be no less stringent than the best-performing similar source. All control technologies for each pollutant as stringent as the floor or more stringent have been analyzed during the development of the standard.

Anticipated Costs and Benefits:

The annualized cost of the proposed standards for new incinerators will be in the range of $75 million to $215 million. The annualized cost of implementing the proposed guidelines for existing incinerators will be in the range of $350 million to $1.2 billion. The combined proposed standards and guidelines will result in reductions of dioxin emissions by more than 99 percent, as will reductions in the 90 percent to 98 percent range for particulate matter, cadmium, lead, mercury, hydrogen chloride, and carbon monoxide.

Risks:

Medical waste incinerators are among the larger sources of dioxin emissions in the country. Because of the adverse effects of dioxin emissions on the public health and ecosystems, it is one of the Agency's highest priorities to reduce the exposure to dioxin emissions.

Timetable:

Action	Date	FR Cite
NPRM	02/27/95	60 FR 10654
Final Action	04/00/96	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 2719.

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EPA

129. NSPS: MUNICIPAL WASTE COMBUSTION—PHASE II AND PHASE III, INDUSTRIAL-COMMERCIAL WASTE INCINERATORS, AND OTHER SOLID WASTE INCINERATORS

Priority:

Economically Significant

Legal Authority:

42 USC 4111/Clean Air Act Amendments of 1990, section 129

CFR Citation:

40 CFR 60

Legal Deadline:

NPRM, Statutory, November 1991, for Phase II/Large MWCs.

NPRM, Statutory, November 1992, for Phase III/Small MWCs.

NPRM, Judicial, September 1, 1994, for Municpal Waste Combustors (MWC's).

Final, Judicial, September 1, 1995, for Municipal Waste Combustors (MWC's), Extension request for 10/ 31/95.

NPRM, Judicial, March 1, 1996, for Industrial-Commercial Waste Incinerators (ICWI).

Final, Judicial, March 1, 1997, for Industrial-Commercial WasteIncinerators (ICWI).

Abstract:

The Clean Air Act Amendments of 1990 direct the Environmental Protection Agency (EPA) to set standards of performance and emission guidelines for new and existing municipal waste combustors under Sections 111 and 129; to base these standards and guidelines on maximum achievable control technology; and to include emission limits for particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, mercury, lead, cadmium, and dioxins and dibenzofurans. The standards for both large and small municipal waste combustors have been combined into one set of standards. The industrial-commercial waste incinerator standard and other solid waste incinerator standards will be managed as separate projects and separate standards will be developed. These standards are being developed under EPA's integrated combustion strategy, whereby EPA will regulate various forms of combustion under a coordinated plan. Two other elements of this strategy, the emission standards for medical waste and hazardous waste combustion, are summarized elsewhere in this Regulatory Plan.

Statement of Need:

The municipal waste combustor rules will establish emission limits for dioxins, particulate matter, cadmium, lead, mercury, SO2, HC1, and NOx. These rules will require maximum achievable control technology (MACT) as defined by section 129 to be installed on all applicable facilities to reduce emissions of the above pollutants.

Alternatives:

The Clean Air Act specifies that the emission guidelines and the new source performance standards be based on MACT and that MACT for existing sources can be no less stringent than the average emission limitations achieved by the best-performing 12 percent of units and/or new sources can be no less stringent than the average emission limitations achieved by the best-performing similar source. The EPA has reviewed all alternatives analyzed to assure they are no less stringent than the MACT "floor."

For the industrial-commercial waste incinerator standard and other solid waste incinerator standards on control alternatives have not been developed or analyzed at this time, and the potential cost and benefits are unknown. It is anticipated that the same type of controls used under the municipal waste combustor standard will be evaluated for industrial-commercial waste incinerators and other solid waste incinerators.

Anticipated Costs and Benefits:

The annualized cost for the new source performance standards for new municipal waste combustors will be less than $43 million. The annualized cost for the emission guidelines for existing municipal waste combustors will be less than $445 million. Dioxin, particulate matter, cadmium, and lead emissions will be reduced by more than 99 percent. Mercury emissions will be reduced by 85 percent, sulfuric acid and hydrochloric acid emissions by 95 percent, and nitrogen oxide (NOx) emissions by 45 percent. The quantified benefits associated with the rule and the guidelines are in excess of $266 million per year, but the benefit assessment is incomplete at this time. In particular, the current benefit estimate does not include benefits for the control of dioxin, mercury, lead, cadmium, NOx, or carbon monoxide. No evaluation of these pollutants is possible at this time.

For the industrial-commercial waste incinerator standard and the other solid

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waste incinerator standard, no control alternatives have been developed or analyzed at this time, and the potential cost is unknown. It is anticipated that the same type of controls used for the municipal waste combustor standard will be evaluated for industrial-commercial and other solid waste incinerator standards.

Risks:

Municipal waste combustors are among the larger sources of dioxin emissions in the country. Because of the adverse effects of dioxin emissions on the public health and ecosystems, it is one of the Agency's highest priorities to minimize public exposure to dioxin.

Timetable:

Action	Date	FR Cite
NPRM	09/20/94	59 FR 48198
Final Action	10/00/95	

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

State, Local, Federal

Additional Information:

SAN No. 2916.

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RIN: 2060–AD00

EPA

130. OPEN-MARKET TRADING RULE FOR OZONE PRECURSORS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

Clean Air Act, sections 182 and 187

CFR Citation:

40 CFR 51

Legal Deadline:

None

Abstract:

The Environmental Protection Agency (EPA) will issue a final policy and model rule for open-market trading of ozone smog precursors (volatile organic compounds and oxides of nitrogen) that will provide more flexibility than ever before for companies to trade emission credits without prior State or Federal approval. After issuance by EPA, any State that adopts an identical rule will receive automatic EPA approval of its rule. Once the rule is in the State implementation plan (SIP), companies could engage in emissions trades without prior regulatory approval as long as accountability is ensured in accordance with the rule. The intended benefits of an active market in emissions trading are compliance with the ozone standard at far less cost and an increased incentive to develop innovative emission-reduction technologies.

Statement of Need:

In the last 25 years great progress has been made toward achieving healthy air quality, yet more than 100 million people still live in areas that do not meet the ozone health standard. Continued reductions in ozone precursor emissions are important to protect public health, but additional emission reductions are increasingly more costly to obtain. Emissions trading is one way to lower the overall cost of achieving additional reductions. Historically, the volume of emissions trading under EPA's existing trading policies has been low, suggesting high transaction costs associated with the delays of trade-by-trade government review. Additionally, there have been significant problems of quality control, reducing the environmental effectiveness of the program. EPA's policy on open-market emissions trading is intended to establish a trading program that minimizes transaction costs and harnesses the power of the marketplace to enhance quality control.

Alternatives:

The EPA endorses several forms of emissions trading, including interfacility and intrafacility emissions bubbling under the 1986 Emissions Trading Policy Statement, and emissions budget programs which cap areawide emissions from major emitters. The open-market program is yet another form of emissions trading that can reduce the overall cost of compliance with the ozone standard.

Anticipated Costs and Benefits:

Market-based emissions trading programs allow for greater and/or faster reductions in emissions, lower the cost of pollution control, reduce the adverse impacts of regulation on industry and consumer prices, lower the human health consequences, and improve the environment by achieving early reductions, and provide incentives to develop lower-costs pollution control methods. The actual benefits of open-market trading programs depend on a number of variables, including the number of States that adopt such programs and the number of sources that participate. Estimates of costs savings from established emissions-trading programs such as the nationwide acid rain trading program, the RECLAIM program in the Los Angeles area, and the lead phasedown range from nearly 20 to over 40 percent.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	08/03/95	60 FR 39668
Final	06/00/96	
Inclusion of Model Rule		
Notice 08/25/95 (60 FR 44290)		

Small Entities Affected:

None

Government Levels Affected:

State, Local, Tribal, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3660.

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RIN: 2060–AF60

EPA

131. REVIEW OF THE FEDERAL TEST PROCEDURE FOR EMISSIONS FROM MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

Priority:

Economically Significant

Legal Authority:

PL 101-549, Sec 208

CFR Citation:

40 CFR 86

Legal Deadline:

NPRM, Judicial, January 31, 1995. Final, Statutory, May 15, 1992. Final, Judicial, April 30, 1996. Other, Judicial, May 15, 1993.

Original statutory deadline (5/15/92) is from 11/90 Clean Air Act Amendments. Other Judicial date: per U.S. District Court Consent Decree, EPA issued a preliminary technical report on 5/15/93.

Abstract:

Section 206(h) of the Clean Air Act requires the Environmental Protection Agengy (EPA) to "review and revise as necessary" the regulations governing the Federal Test Procedure (FTP) to "insure that vehicles are tested under circumstances which reflect the actual current driving conditions under which motor vehicles are used, including conditions relating to fuel, temperature, acceleration, and altitude." The driving behavior used for the FTP was adopted over 20 years ago, and accumulated research suggests that it no longer adequately represents overall vehicle emission control performance under current driving conditions.

This action revises the FTP used to design all Federal emissions test methods, as well as all federally approved methods of estimating and projecting emissions from automobiles. This revision will advance the Agency's strategic aim of using better science and better data by assuring that automobiles can be accurately tested for compliance with Federal standards, and it will also enable EPA and others to obtain accurate emission inventories and projections to assist in planning for attainment of national air quality standards.

Statement of Need:

Extensive surveys of current driving behavior conducted by the EPA indicate significant difference between actual driving behavior and the current FTP. New test cycles determined from the driving behavior surveys were used to compare emissions predicted by the FTP with emissions that occur in actual driving. The test results support the need to control emissions at high speeds, acceleration, and during air conditioner operation, modes that are not adequately controlled with the current test procedures.

Summary of the Legal Basis:

EPA is under court order to revise the FTP.

Alternatives:

The Clean Air Act specifies that the test procedures reflect actual driving conditions. Extensive research indicates that the existing procedures are severely deficient in the areas of high speeds, high accelerations, and air conditioning operation. The most appropriate method of controlling emissions during these conditions have been analyzed during the development of this rulemaking.

Anticipated Costs and Benefits:

The per vehicle cost to comply with the test procedure revisions is expected to be well under $10 and the annualized cost less than $100 million. Overall hydrocarbon emissions from light-duty vehicles and trucks are expected to be reduced by about 6 percent, carbon monoxide emission by about 18 percent, and NOx emissions by about 12 percent. On a national basis, the cost of reducing non-methane hydrocarbon and NOx emissions is expected to be about $200 per ton.

Risks:

The risks addressed by this action are those associated with not attaining the National Ambient Air Quality Standards for ozone, carbon monoxide, nitrogen oxides, and particulates. These risks have been extensively detailed as part of the individual rulemakings setting these national standards. Achievement and maintenance of attainment of the standards depend in part on accurate knowledge of the emissions characteristics of sources, including automobiles. This action will increase the accuracy of such knowledge by incorporating the latest techniques of emission measurement.

Timetable:

Action	Date	FR Cite
NPRM	02/07/95	60 FR 7404
Final Action	04/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

Additional Information:

SAN No. 3323.

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RIN: 2060–AE27

EPA

132. RISK MANAGEMENT PROGRAM FOR CHEMICAL ACCIDENTAL RELEASE PREVENTION

Priority:

Economically Significant

Legal Authority:

PL 101-549; Clean Air Act Section 112(r)

CFR Citation:

40 CFR 68

Legal Deadline:

Final, Statutory, November 15, 1993. Other, Judicial, March 29, 1996.

Court Decree - Settlement Agreement

Abstract:

Section 112(r)(7) of the Clean Air Act (CAA), as amended, required the Environmental Protection Agency (EPA) to promulgate by November 15, 1993, reasonable regulations and appropriate guidance to provide for prevention and detection of accidental releases of chemicals and for response to such releases. The regulations shall require the owner or operator of stationary sources at which a regulated substance is present to prepare and implement a risk management plan (RMP) that must include a hazard assessment that evaluates the potential effects of an accidental release of any regulated substance and must also include a five-year accident release history. The RMP must document a prevention program and document a response program that provides specific actions to be taken to protect human health and the environment in response to a release. The RMPs must be registered with EPA and must be submitted to the State in which the facility is located and to any local agency that has responsibility for planning for or responding to chemical accidents. EPA must establish a system for auditing the RMPs to ensure that plans are periodically updated.

EPA published a notice of proposed rulemaking on October 20, 1993. In

reviewing close to 1,000 comments received, the Agency recognized the need for a supplemental notice to clarify some of the issues raised by commenters and seek additional public comments on several of the issues. The supplemental notice was signed by the Administrator on February 28, 1995. The deadline for the final RMP rule is March 29, 1996, following which, regulated sources will have three years to comply with the RMP requirements.

EPA promulgated a list of substances and thresholds on January 30, 1994 (59 FR 4478), which determines which facilities must comply with the accident prevention regulations. The regulated universe includes small businesses and state/local/and tribal governments that have more than a threshold quantity of a regulated substance. In order to minimize the impact on smaller sources, EPA is planning to develop model RMPs for industry sectors that utilize similar equipment and handle a single chemical. To further reduce the burden on medium and smaller sources, EPA is planning to develop "lookup tables" for at least the most ubiquitous chemicals that facilities could use in the evaluation of their offsite consequence analysis based on worst-case scenarios.

Model RMPs and "lookup tables" will also ease the burden on State and local agencies responsible for implementing the program and who will review the adequacy and quality of the RMP.

Statement of Need:

Existing Federal regulations addressing the potential for catastrophic events related to chemical substances are focused on emergency preparedness and response. Specifically, the Emergency Planning and Community Right-to-Know Act (EPCRA) established the structure at the State and local levels to deal with emergency planning and response to chemical accidents. Several other laws and programs at the Federal level dealt with emergency response to chemical accidents: the Clean Water Act and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) created the National Oil and Hazardous Substance Pollution Contingency Plan (NCP). The NCP sets up the Federal Government's emergency response structure and procedures for responding to chemical accidents. The accidental-release prevention provisions under the CAA recognize the need for integrating emergency preparedness and response with activities to prevent accidental releases from occurring in the first place.

The proposed rule for the prevention and detection program, including RMPs for accidental-release prevention, required industry to develop an integrated, holistic approach to managing the risk posed by the presence and use of regulated substances. In the development of its risk management program, EPA has also been coordinating with the Occupational Safety and Health Administration (OSHA). EPA's proposed RMP rule adopts and builds on process safety management elements included in OSHA's chemical process safety standard required under section 304 of the CAA amendments of 1990. (OSHA published a notice of proposed rulemaking (NPRM) on July 17, 1990, 55 FR 29150, and a final rule on February 24, 1992, 57 FR 6316.) These elements include process information, process hazard analysis, standard operating procedures, training, prestartup reviews, mechanical integrity, management of change, accident investigation, safety audits, and emergency response.

Summary of the Legal Basis:

The legal basis for this rulemaking is summarized in the "Abstract" section.

Alternatives:

EPA developed its proposed rule after an extensive information-gathering effort. Three States--California, New Jersey, and Delaware--have risk-management plan requirements under State laws. EPA met with officials in all three States and held interviews with seven facilities in these States. EPA then held eight focus groups, five with facilities and three with implementing agencies, in the three States to solicit their opinions on existing and proposed regulations. Finally, EPA held a 2-day roundtable seminar associated with the risk management planning requirements. State officials, trade associations, labor unions, environmentalists, and organizations of public officials participated in the discussions.

EPA evaluated two options for the risk management program: Program Option 1, the proposed rule, included the statutorily mandated elements (hazard assessment, registration, emergency response program, and risk management plan) plus the mandated prevention program that adopted OSHA's process safety management standard. Program Option 2, based on the New Jersey risk management program, includes all listed elements but requires a greater level of documentation and more detailed requirements for many elements.

Anticipated Costs and Benefits:

Because, from an economic perspective, the RMP regulations and the list of regulated substances are inseparable, EPA prepared a regulatory impact analysis (RIA) that combines the two requirements. As indicated in the previous section, the RIA evaluated two options for the risk management program. Because the two program options cover the same elements with the only difference between the two the level of detail, it was not possible to develop separate estimates of the benefits for the two program options based on data available. Consequently, only one set of benefits estimates was developed.

EPA's proposed option is list 2 in Program Option 1, which is estimated to have an initial cost of $503 million and quantifiable annual benefits of $890 million. The proposed rule is expected to result in other, nonquantifiable benefits as well. By reducing the likelihood of accidental releases and the likelihood that any release will be catastrophic, the rule should reduce facility operating costs which may result in greater output, higher wages, and lower costs for the output. The rule will also encourage facilities to reduce the quantity of hazardous substances stored onsite and to shift to less toxic chemicals, reducing the risk to both workers and the public. Finally, the information provided to the public through the mandated RMP will be useful to both the public and governments at all levels.

Timetable:

Action	Date	FR Cite
NPRM	10/22/93	58 FR 54190
Supplemental NPRM	03/13/95	60 FR 13526
Final Action	03/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

State, Local, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 2979.

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Statement of Regulatory Priorities

The Equal Employment Opportunity Commission (EEOC) enforces six statutes prohibiting discrimination in employment. Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination on the basis of race, color, sex, religion or national origin. The Equal Pay Act of 1963, as amended, prohibits the payment of different wages to women and men working in the same establishment, performing equal work that requires equal skill, effort, and responsibility under similar working conditions, unless the pay differential is based on factor(s) other than sex. The Age Discrimination in Employment Act of 1967, as amended (ADEA), prohibits employment discrimination on the basis of age against people age 40 and older. Title I of the Americans with Disabilities Act of 1990, as amended (ADA), prohibits employment discrimination against qualified individuals with disabilities. Sections 501 and 505 of the Rehabilitation Act of 1973, as amended, prohibit Federal agencies from discrimination in employment against qualified individuals with disabilities and require agencies to accommodate the special needs of persons with disabilities. The Government Employee Rights Act of 1991 extends protections against employment discrimination to certain employees who were not previously covered.

The mission of the agency is to ensure equality of opportunity by vigorously enforcing Federal legislation prohibiting discrimination in employment. Enforcement is accomplished through investigation, conciliation, alternative methods of dispute resolution, litigation, coordination, and regulation, as well as by education, policy research, and technical assistance. In pursuing its mission of eradicating discrimination in the workplace, the Commission intends that its enforcement be certain and predictable, and that its remedies be preventive and remedial in scope.

One important step toward these ends is to make sure that employees, employers, and union representatives understand their rights and obligations under the Federal laws prohibiting employment discrimination. In accordance with the President's national regulatory principles, EEOC develops regulations necessary to inform employees and employers of their rights and obligations under the statutes it enforces. EEOC further educates the public on an ongoing and proactive basis, through interpretive guidelines, policy documents, management directives, and other public guidance programs.

EEOC is currently considering several significant actions of a regulatory nature, which would be published for public comment. The Commission is considering issuing guidelines on the requirements of title I of the ADA in the context of employer provided health insurance. Clear and comprehensive guidelines will reduce confusion and uncertainty on the part of insurers, employers, and individuals with disabilities as to the application of the ADA to various health insurance provisions and practices. In addition to helping employers understand the scope of their nondiscrimination responsibilities and ensuring that individuals with disabilities are protected from prohibited discrimination, these guidelines will provide a source of guidance for the courts, thus helping to ensure uniform enforcement of the ADA.

The Commission is also considering issuing regulatory guidance on title II of the Older Workers Benefit Protection Act of 1990, which amended the ADEA to permit knowing and voluntary unsupervised waivers of rights and claims arising under the Act. Representatives of both the employer and employee communities have strongly demonstrated their interest in the issuance of additional guidance in this area. As part of the development of a regulation on waivers under the ADEA, the Commission is planning to engage in a regulatory negotiation to seek to obtain a consensus recommendation to the Commission.

Finally, the Commission is presently reviewing its position on apprenticeship programs under the ADEA. The current interpretive guideline holds that age limitations for entry into bona fide apprenticeship programs are not affected by the ADEA. Due to changing circumstances in the work force and structural changes in the workplace, the Commission is reviewing its interpretation to determine whether it is required by the language of the statute and to assess whether it represents sound policy under today's conditions.

(Consistent with section 4(c) of Executive Order 12866, this statement was reviewed and approved by the Chairman of the agency. The statement has not been reviewed or approved by the other members of the Commission.)

EEOC

PROPOSED RULE STAGE

133. GUIDELINES ON THE APPLICATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990 TO EMPLOYER PROVIDED HEALTH INSURANCE

Priority:

Other Significant

Legal Authority:

42 USC 12111 et seq

CFR Citation:

29 CFR 1631

Legal Deadline:

None

Abstract:

The Commission proposes to issue guidelines to explain how the Americans with Disabilities Act (ADA) applies to employer provided health insurance plans. The guidelines will reexamine the issues addressed in the Commission's "Interim Enforcement Guidance on the Application of the ADA to Disability-Based Distinctions in Employer Provided Health Insurance," issued on June 8, 1993. The guidelines will also address a number of issues that were not addressed in either the Interim Enforcement Guidance or in the Commission regulations implementing title I of the ADA, including the ADA's application to corporate "wellness" programs. The proposed guidelines will be published for public comment. After consideration of the comments, the Commission will issue final guidelines.

Statement of Need:

Title I of the ADA prohibits employers with 15 or more employees from discriminating on the basis of disability in the provision of fringe benefits, including employer provided health insurance. Title V of the ADA, as applied to title I, permits employers, insurers, and plan administrators to continue to establish or observe the terms of health insurance plans, engage in risk-based underwriting, and/or use risk assessment, risk classification, or other traditional insurance practices, so long as these practices are not used as a subterfuge to evade the purposes of the ADA, 42 USC 12201(c).

Neither the statute nor its legislative history defines the term "subterfuge" or explains the application of that term to specific insurance practices or provisions. This has given rise to confusion and uncertainty on the part of insurers, employers, and individuals with disabilities, as to the requirements of the ADA in the context of employer provided health insurance. The guidelines are necessary to alleviate this confusion and uncertainty, thereby reducing potential employment discrimination and/or litigation that is based upon a misunderstanding of the law.

Summary of the Legal Basis:

The legal basis of authority for these guidelines is set forth above in Legal Authority. No aspect of this regulatory action is required by statute or court order.

Alternatives:

After careful consideration, the Commission has determined that the issuance of these guidelines is the most efficient and effective way to clarify the application of the ADA to employer provided health insurance, and to ensure uniform enforcement of the ADA in this area.

Anticipated Costs and Benefits:

Clear and comprehensive guidelines will reduce confusion and uncertainty on the part of insurers, employers, and individuals with disabilities as to the application of the ADA to various health insurance provisions and practices. This will help ensure that individuals with disabilities are protected from prohibited discrimination, and that employers understand the scope of their nondiscrimination responsibilities under the law. These guidelines will also assist courts confronting these issues to ensure uniform enforcement of the ADA.

Risks:

In the absence of these guidelines, confusion and uncertainty with respect to the application of the ADA to various health insurance provisions and practices may result in prohibited employment discrimination against individuals with disabilities. Such confusion and uncertainty may also result in unnecessary apprehension on the part of employers as to the legality of actions they may take to better manage and contain escalating health care costs.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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EEOC

134. REGULATIONS INTERPRETING TITLE II OF THE OLDER WORKERS BENEFIT PROTECTION ACT OF 1990 (OWBPA)

Priority:

Other Significant

Legal Authority:

29 USC 628

CFR Citation:

29 CFR 1625

Legal Deadline:

None

Abstract:

The Age Discrimination in Employment Act of 1967 (ADEA) was amended in 1990 by OWBPA. Title II of OWBPA sets forth the statutory requirements for a valid waiver of rights under the ADEA.

Regulations under title II would provide guidance on implementing OWBPA's requirements for unsupervised ADEA waivers. As part of the development of this regulation, the Commission will engage in a regulatory negotiation on waivers of rights and claims under the ADEA.

Statement of Need:

In 1990, Congress amended the ADEA to permit knowing and voluntary unsupervised waivers of rights and claims arising under the Act. In 1992, the Commission published a notice in the **Federal Register** seeking public comment on various ADEA issues, including the topic of waiver agreements. In response to the notice the Commission received numerous detailed comments on the waivers provisions which demonstrated a need for regulatory guidance. Over the ensuing years, representatives of employer and employee communities have expressed a continuing interest in receiving such guidance. Waiver agreements are widely used in the workplace, particularly when employers find it necessary to reduce the size of the workforce. Employees who sign waiver agreements are bargaining away important Federal rights in return for some form of consideration. Employers are offering additional benefits, sometimes quite substantial, in exchange for employee agreements to forgo potential recovery in age discrimination lawsuits. Both sides have a substantial stake in this area of the law and would benefit from regulatory guidance.

Summary of the Legal Basis:

Section 9 of the ADEA authorizes the Commission to issue such rules and regulations as it may consider necessary or appropriate for carrying out the Act. Moreover, regulatory negotiation is authorized by the Negotiated Rulemaking Act of 1990, and is consistent with the President's goal of involving stakeholders in the regulatory process.

Alternatives:

Th objective of a regulatory negotiation is to seek to obtain a consensus recommendation to the Commission. Thus, the process itself will involve consideration of various alternatives with the affected parties agreeing upon proposed regulatory positions that best serve the public interest.

Anticipated Costs and Benefits:

Clear regulatory guidance for the use of waiver agreements should lead to increased voluntary resolution of potential employment disputes, which in turn will reduce the possibility of protracted and costly litigation. At the same time, providing clear regulatory guidance on what constitutes a valid waiver agreement will ensure that persons enter into such agreements only in a knowing and voluntary manner. It is not anticipated that any costs will arise from issuing regulatory guidance.

Risks:

Regulatory guidance for drafting and implementing valid waiver agreements will lessen the risk that persons might waive important Federal civil rights in an unknowing or involuntary manner. The Commission has a substantial interest in addressing this risk. The ADEA is intended to implement the

strong public interest in attaining a workplace free of age discrimination. Individual employees serving as private attorneys general are an integral part of the ADEA enforcement scheme crafted by Congress. Thus, it is of critical import that persons who may choose to relinquish their Federal civil rights do so voluntarily and with full knowledge. Moreover, other Federal civil rights laws enforced by the Commission, for example Title VII, envision an important role for aggrieved individuals as private attorneys general. Insofar as waiver agreements may be used under statutes other than the ADEA, clear guidance will also lessen the risk of abuse in those areas.

Timetable:

Action	Date	FR Cite
ANPRM	03/27/92	57 FR 10826
ANPRM Comment Period End	07/27/92	57 FR 10826
NPRM	09/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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EEOC

135. INTERPRETATION RELATING TO APPRENTICESHIP PROGRAMS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

Priority:

Other Significant

Legal Authority:

29 USC 628

CFR Citation:

29 CFR 1625.13

Legal Deadline:

None

Abstract:

The current interpretive regulation at 29 CFR 1625.13 is being reconsidered to determine if any revision or modification is appropriate.

Statement of Need:

The Age Discrimination in Employment Act is intended, in part, to promote the employment of older workers based on ability rather than age, and to assist employers and workers in meeting problems arising from the impact of age on employment. As the agency charged with ADEA enforcement responsibility, the Commission has the authority to undertake research with a view to reducing barriers to the employment of older persons. It also has the authority to review periodically its interpretive regulations in light of applicable law and policy. The existing Commission interpretation holds that age limitations for entry into bona fide apprenticeship programs are not affected by the Act. Due to changing circumstances in the workforce and structural changes in the workplace, the Commission has decided to review its interpretation to determine whether it is required by the language of the Act and to assess the policy considerations involved, that is, to determine whether the interpretation implements sound policy under present-day conditions.

Summary of the Legal Basis:

Section 9 of the ADEA and 5 U.S.C. 301 authorize the Commission to issue such rules and regulations as it may consider necessary or appropriate for carrying out the Act. Moreover, an agency charged with furtherance of the public interest is not bound to a rigid adherence to prior positions. Columbia Broadcasting System v. FCC, 454 F.2d 1018, 1026 (D.C. Cir. 1971).

Alternatives:

The Commission is seeking public comment for the purpose of assessing the soundness of the present interpretation as a matter of both law and policy. Thus, at the conclusion of the process, the Commission could decide to retain the present interpretation, rescind the present interpretation, or rescind and replace the present interpretation.

Anticipated Costs and Benefits:

As noted above, one possible course of action would be for EEOC to change its interpretation to state that the ADEA applies to apprenticeship programs. Anticipated benefits from such a change would be a potential increase in training and employment opportunities for persons age 40 and older, an increase in the number of skilled workers, a more efficient and competitive business sector, an enlarged tax base, and a reduction in the cost of various social programs tied to unemployment. The anticipated costs of the change are minimal. However, it has been argued that the change will increase the costs of running apprenticeship programs due to older apprentices leaving the workforce before program sponsors realize sufficient returns on their training investment. It has been further argued that this increase in costs will result in the discontinuation of some apprenticeship programs and in an overall reduction in the number of apprenticeship opportunities. The Commission will carefully assess such arguments after receiving public comment.

Risks:

Under the ADEA, an employer who acts in good faith, in conformity with, and in reliance on any written interpretation of the Commission is insulated from liability. Although a reassessment is entirely a matter of agency discretion, the risk of not conducting a reassessment is that the present interpretation could unduly limit opportunities for job mobility and/or for persons to reenter the workforce.

Timetable:

Action	Date	FR Cite
NPRM	10/03/95	60 FR 51762
NPRM Comment Period End	12/04/95	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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BILLING CODE 6570-06-F

GENERAL SERVICES ADMINISTRATION (GSA)

Statement of Regulatory Priorities

The General Services Administration (GSA) establishes policy for and provides economical and efficient management of Government property and records, including construction and operation of buildings; procurement and distribution of supplies; utilization and disposal of property; transportation, traffic, and communications management; and management of the Governmentwide automatic data processing resources program.

GSA's regulatory priorities for 1995 continue to reflect the President's commitment to reform the regulatory process.

GSA will change the Federal Information Resources Management Regulation policies on delegations of procurement authority from GSA for the acquisition of Federal information processing (FIP) resources. The change will establish $100 million as the regulatory threshold for agency acquisitions of FIP resources—a continuation of GSA's trend to place greater authority in the hands of operating agencies. The higher threshold will allow agencies to assume greater responsibility for their acquisitions, while allowing GSA to focus on larger, more complex acquisitions.

Federal Property Management Regulations, Temporary Regulation D-76, Assignment and Utilization of Space, will be codified in the Code of Federal Regulations. This permanent Governmentwide regulation will improve the space delivery process for Federal customer agencies by making the process more efficient, more timely, and better able to deliver quality space that supports customer-agency needs.

The General Services Administration Acquisition Regulation (GSAR) will be changed to implement Section 1555 of the Federal Acquisition Streamlining Act of 1994, which deals with cooperative purchasing. The change will provide for use of GSA's Federal Supply Schedules upon request from a State or local government, the government of an Indian tribe, or the Commonwealth of Puerto Rico. The ability of small governmental entities to order from the Federal Supply Schedules holds out the potential for significant cost savings for these organizations.

Also indicative of the agency's resolution to develop a regulatory system that improves the agency's mission to provide products and services quickly and economically, are GSA's continuing efforts to revise the entire GSAR.

GSA will continue to monitor and review regulations and use regulatory direction only when it offers the most effective means of carrying out GSA's mission and responsibilities.

GSA

PROPOSED RULE STAGE

136. REISSUANCE OF THE GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

40 USC 486(c)

CFR Citation:

48 CFR 501; 48 CFR 502; 48 CFR 503; 48 CFR 504; 48 CFR 505; 48 CFR 506; 48 CFR 507; 48 CFR 508; 48 CFR 509; 48 CFR 510; 48 CFR 511; 48 CFR 512; 48 CFR 513; 48 CFR 514; 48 CFR 515; ...

Legal Deadline:

None

Abstract:

The General Services Administration (GSA) proposes to revise and reissue chapter 5, 48 CFR, in its entirety. The reissuance will represent the culmination of the Total Quality Management project to review GSA's acquisition regulation/directive system.

Statement of Need:

GSA plans to publish a proposal to revise the entire GSAR. The proposal will redefine the objectives of the procurement system and its regulatory base, establish very narrow standards for the scope and nature of the regulation, eliminate provisions that impede productivity or unnecessarily increase administrative costs, reduce rigid rules in favor of guiding principles, delegate authority and accountability to the lowest level consistent with competency, and reduce the overall volume of the regulation by at least 50 percent. After consideration of public comments, the entire regulation will be issued in final form.

Alternatives:

Alternatives considered include an approach that would continue to include nonregulatory internal guidance in the GSAR rather than putting the internal guidance in a separate internal directive to be distributed to contracting personnel within the agency.

Anticipated Costs and Benefits:

Issuance of the final regulation will facilitate GSA's ability to operate in a competitive environment by enabling GSA contracting offices to deliver services in a more timely, efficient, and cost-effective manner. A specific dollar savings cannot be calculated.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Sectors Affected:

All

Analysis:

Regulatory Flexibility Analysis

Procurement:

This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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GSA

137. FEDERAL SUPPLY SCHEDULE CONTRACTS—COOPERATIVE PURCHASING

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will

revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

40 USC 486(c)

CFR Citation:

48 CFR 510; 48 CFR 532; 48 CFR 538; 48 CFR 552

Legal Deadline:

None

Abstract:

The General Services Administration (GSA) proposes to make changes to the General Services Administration Acquisition Regulation (GSAR) that would implement Section 1555 of the Federal Acquisition Streamlining Act of 1994 (PL 103-355) which deals with cooperative purchasing.

Statement of Need:

Section 1555 amends subsection (b) of section 201 of the Federal Property and Administrative Services Act of 1949 (40 USC 481) to authorize the Administrator of General Services to provide for use of Federal Supply Schedules of the GSA upon request from a State or local government, the government of an Indian tribe, or the Commonwealth of Puerto Rico.

GSA plans to publish a proposal to add Subpart 538.70 to provide the policies and procedures for cooperative purchasing and to add to or revise the prescription for use of, or text of several solicitation provisions and contract clauses in other parts of the regulation, including Parts 510, 532, and 552, in order to accommodate use of the schedule contracts by State, local, and Indian tribal governments, and the Commonwealth of Puerto Rico. After consideration of public comments, the regulation will be issued in final form.

Alternatives:

Alternatives were considered regarding different aspects of the proposed change. With respect to the process for identifying entities eligible to use GSA sources of supply including Federal Supply Schedules, GSA considered and rejected the idea of using a contract clause to provide a blanket authorization to eligible entities, with provisions for governmental entities to provide evidence to support their eligibility at the request of schedule contractors. The idea was rejected for several reasons. First, it placed a greater burden on both contractors and eligible governmental entities. Instead of a one-time application to GSA, governmental entities would be required to provide evidence of eligibility with virtually every order placed against schedule contracts. In addition, schedule contractors would be unable to gauge the level of interest on the part of State, local, and Indian tribal governments in participating in the schedule contracts. In addition, every contractor would be faced with determining whether the evidence of eligibility provided by governmental entities was adequate. In addition, such an approach limits GSA's ability to control the program in order to ensure that service to executive agencies of the Federal Government is maintained. Instead, a one-time application process was determined to be the best approach. The proposal also encourages electronic submission (rather than paper copies) of the application form, as that is deemed the most cost-effective mechanism. The list of entities authorized to use GSA sources of supply will also be available electronically for use by schedule contractors.

Some consideration was given to requiring Federal Supply Schedule contractors to accept orders from State and local governments, Indian tribes, and the Commonwealth of Puerto Rico, but that approach was ultimately rejected. The foremost consideration of GSA in implementing cooperative purchasing is to ensure that the Federal Supply Schedule Program continues to be an efficient and cost-effective acquisition mechanism for executive agencies of the Federal Government, and it was felt that mandating contractor participation in cooperative purchasing could, in some instances, negatively impact the program. For that reason, it was decided to allow contractors to decide individually whether they want to open their contracts to cooperative purchasing, or to allow them not to do so. Similarly, GSA will look at each schedule and make a case-by-case determination that the schedule should be opened for ordering by State and local governments, Indian tribes, and the Commonwealth of Puerto Rico. This will allow GSA to exclude individual or classes of schedules from the program.

To militate against the potential adverse impact on dealers/ distributors, the proposal also provides for schedule contractors to maintain their dealer/distributor networks by allowing for their participation in the performance of schedule contracts.

Anticipated Costs and Benefits:

The Federal Acquisition Streamlining Act of 1994 authorizes the Administrator of GSA to require the authorized non-Federal users of the Federal Supply Schedules to reimburse GSA for any administrative costs for using the schedules. GSA is in the process of concerting the Federal Supply Schedule Program, which is currently funded through congressional appropriations, to an industrially funded operation. Non-Federal users will be assessed the same user charge as Federal users. Schedule contract prices will be included in the administrative fee.

Federal Supply Schedule contracts are negotiated as volume purchase agreements, with generally favorable pricing. The ability of small governmental entities to order from the Federal Supply Schedules holds out the potential for significant cost savings for those organizations.

Risks:

None

Timetable:

Action	Date	FR Cite
ANPRM	04/07/95	60 FR 17764
ANPRM Comment Period End	06/06/95	60 FR 17764
NPRM	10/00/95	
Final Action	01/00/96	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal

Procurement:

This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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GSA

FINAL RULE STAGE

138. IMPLEMENTATION OF FEDERAL ACQUISITION STREAMLINING ACT

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

40 USC 486(c)

CFR Citation:

48 CFR ch 5

Legal Deadline:

Final, Statutory, October 1, 1995.

Abstract:

The Federal Acquisition Streamlining Act of 1994 (PL 103-355) was enacted October 13, 1995. The Act made major changes in the laws that impact the Federal procurement process in order to streamline procedures. Primarily implementation of the Act was affected at the Federal Acquisition Regulation (FAR) level. However, the Act contains certain GSA-unique provisions which require implementation in the GSA Acquisition Regulation (GSAR). In addition, other changes in the GSAR were needed to conform agency regulation to Governmentwide regulations that were revised to implement the Act.

Statement of Need:

Certain provisions in PL 103-355 apply to GSA only and have been or will be implemented in the GSAR. For example, the authorization for GSA to establish simplified procedures for small leases of real property (see RIN 3090-AF67) and the provision in section 1555 on cooperative purchasing (see RIN 3090-AF68) which allows GSA to open Federal Supply Schedule contracts for use by State, local and Indian tribal governments and the Commonwealth of Puerto Rico. As a result of changes in the FAR, GSA also needs to revise the GSAR to conform to the FAR as revised to implement the Federal Acquisition Streamlining Act of 1994. (See RINs 3090-AF76, AF80, AF85, AF86 and AF87).

Summary of the Legal Basis:

PL 103-355

Alternatives:

Alternatives are outlined in the individual regulatory items.

Anticipated Costs and Benefits:

The rules issued implementing the Federal Acquisition Streamlining Act of 1994 facilitate GSA's ability to operate in a competitive environment by enabling GSA contracting offices to deliver services in a more timely, efficient, and cost-effective manner. A specific dollar savings cannot be calculated.

Risks:

Cannot be established at this time.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Federal

Procurement:

This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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GSA

139. AMENDMENT OF THE FIRMR PROVISIONS TO MODIFY REQUIREMENTS FOR OBTAINING DELEGATIONS OF PROCUREMENT AUTHORITY

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

40 USC 486(c); 40 USC 751(f)

CFR Citation:

41 CFR 201

Legal Deadline:

None

Abstract:

Users of the Federal Information Resources Management Regulation (FIRMR) have mentioned some confusion regarding the interpretations of provisions regarding delegation of procurement authority thresholds. Specific concerns involve the applicability of the thresholds to certain General Services Administration (GSA) programs. This rule addresses these issues by establishing new delegations thresholds for all agencies and clarifying which GSA programs do not require delegations of procurement authority.

Statement of Need:

The FIRMR currently contains regulatory thresholds that are inconsistent with Governmentwide specific agency thresholds granted by GSA. This rule will correct this inconsistency.

Summary of the Legal Basis:

GSA has statutory authority and responsibility for issuing Governmentwide guidance and regulations to ensure economy and efficiency in the acquisition, management, and use of Federal information processing (FIP) resources.

Alternatives:

GSA examined FIRMR provisions dealing with delegations thresholds to determine their adequacy. GSA also reviewed agency acquisition actions to determine the impact of FIRMR provisions. Based on the results of this review, GSA wrote to each agency in July 1995 delegating them procurement authority for FIP resources of $100,000,000. This supplement to FIRMR Interim Rule 2 of October 1994 was developed to codify $100,000,000 as the regulatory threshold for FIP resources, to be consistent with GSA's July 1995 action.

Anticipated Costs and Benefits:

The proposed amendment should streamline the acquisition process by clarifying FIRMR regulatory provisions. It was based on adequate information garnered from review and analysis of FIRMR provisions and their impact on agency procurement requests. The amendment will not have any effect on the economy.

Risks:

None

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/24/94	59 FR 53360
Final Action	11/00/95	

Small Entities Affected:

None

Government Levels Affected:

Federal

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GSA

140. FEDERAL PROPERTY MANAGEMENT REGULATIONS PART 101-17, ASSIGNMENT AND UTILIZATION OF SPACE

Priority:

Other Significant

Legal Authority:

40 USC 481; 40 USC 601; 7 USC 1924; 40 USC 490; 40 USC 531; 42 USC 3601; 42 USC 4321; 42 USC 4201; EO 12072; EO 12411; EO 12512; PL 100-678

CFR Citation:

41 CFR 101-17

Legal Deadline:

None

Abstract:

Federal Property Management Regulation Temporary Regulation D-76, Part 101-17, Assignment and Utilization of Space, was published in August 1991. It is intended that this regulation will become permanent. Its purpose is to improve space delivery process for Federal agencies by making the process more efficient, more timely, and better able to deliver quality space that supports agency mission needs. The regulation does the following: implements a new space-assignment process that emphasizes client service; establishes a new comprehensive move policy that clarifies roles and responsibilities; revises the General Services Administration (GSA) location policy to be more responsive to agency mission needs; revises the standard alterations which agencies receive upon an initial move, to recognize modern office needs; and revises the space classification definitions to eliminate ambiguity. These changes will result in a more efficient space delivery process and improve the overall efficiency of Government operations.

Statement of Need:

The purpose of this regulation is to improve the space delivery process for Federal customer agencies by making the process more efficient, more timely, and better able to deliver quality space that supports customer agencies' mission needs.

Summary of the Legal Basis:

GSA has statutory authority and responsibility for issuing Governmentwide guidance and regulations to ensure economy and efficiency in the assignment and utilization of space for its customer agencies.

Alternatives:

GSA examined the Federal Property Management Regulations (FPMR) provisions dealing with assignment and utilization of space to its customer agencies. In order to remove ambiguity, GSA also examined the new space assignment process that emphasizes customer service; the new comprehensive move policy that clarifies roles and responsibilities; a more user-friendly location policy that is more responsive to customer agencies' mission needs; the level of standard level alterations that agencies receive upon initial move and also in recognition of modern office needs; and space classification standards. Based upon the results of this review, GSA determined that it was in the best interest of the Government to issue revised Governmentwide guidance and regulations to ensure economy and efficiency in the space delivery process to our customer agencies, and to improve the overall efficiency of Government operations.

Anticipated Costs and Benefits:

The proposed regulation should improve the space delivery process for Federal customer agencies by making the process more efficient, more timely, and better able to deliver quality space that supports customer agencies' needs; thereby improving the overall efficiency of Government operations. The regulation was based on adequate information gathered from review and analysis of FPMR provisions and their impact on customer agencies' space requests. The proposed regulation will not have any major impact on the economy.

Risks:

None

Timetable:

Action	Date	FR Cite
NPRM	12/05/89	54 FR 50251
NPRM Comment Period End	01/04/90	
Extension of Expiration Date of FPMR Amendment	08/30/95	60 FR 45085
Final Action	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

Federal

Additional Information:

At the request of OMB, GSA extended FPMR Temporary Regulation D-76 for a period of 90 days (from 08/26/95 through 11/26/95) during which time action will have been taken to either extend the temporary regulation or make it permanent. During this time period, GSA will be communicating with OMB regarding such action.

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BILLING CODE 6820-34-F

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Statement of Regulatory Priorities

The National Aeronautics and Space Administration (NASA) was established by the National Aeronautics and Space Act of 1958. The purpose of NASA is to carry out the aeronautical and space activities of the United States. In order to carry out this purpose, NASA is authorized to conduct research for the solution of problems of flight within and outside the Earth's atmosphere; to develop, construct, test, and operate aeronautical and space vehicles for research purposes; to operate a space transportation system including the space shuttle, upper stages, space station, and related equipment; and to perform such other activities as may be required for the exploration of space. The term "aeronautical and space vehicles" means aircraft, missiles, satellites, and other space vehicles, together with related equipment, devices, components, and parts. NASA conducts activities required for the exploration of space with manned and unmanned vehicles and arranges for the most effective utilization of the scientific and engineering resources of the United States with other nations engaged in aeronautical and space activities for peaceful purposes.

NASA's mission, as documented in its Strategic Plan dated February 1995, is to explore, use, and enable the development of space for human enterprise; advance scientific knowledge and understanding of the Earth, the solar system, and the universe and use the environment of space for research; and research, develop, verify, and transfer advanced aeronautics, space, and related technologies.

The following are narrative descriptions of the most important regulations being planned for publication in the**Federal Register** during fiscal year 1996.

NASA is testing the MidRange Procurement Procedure (48 CFR Part 1871) from July 1, 1993, to June 30, 1997. This simplified procedure covers procurements between $25,000 and $500,000 in annual value. The test started at Marshall Space Flight Center and has been expanded to cover other NASA Centers. The test uses best value selection and seeks to reduce the time it takes to award contracts. NASA plans to permanently adopt features of the test which have been successful.

The Federal Acquisition Regulation (FAR), 48 CFR chapter 1, contains procurement regulations that apply to NASA and other Federal agencies. NASA implements and supplements FAR requirements through the NASA FAR Supplement, 48 CFR chapter 18. Consistent with recommendations of the National Performance Review (NPR), NASA is revising the NASA FAR Supplement in order to simplify, shorten, and clarify the regulation while delegating more responsibility.

NASA is working on technical amendments to refine and clarify the contractual cross-waiver of liability in NASA agreements involving launch services.

BILLING CODE 7510-01-F

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Statement of Regulatory Priorities

The National Archives and Records Administration (NARA) promulgates (a) regulations directed to other Federal agencies regarding adequate and proper documentation of the policies and transactions of the Federal Government and for ensuring proper records disposition, and (b) regulations directed to the public relating to access to and use of the historically valuable archives, donated historical materials, Nixon Presidential materials, and Presidential records in the National Archives, regional archives, Presidential libraries, and Presidential Materials Projects operated by NARA. NARA also promulgates regulations relating to the National Historical Publications and Records Commission (NHPRC) grant programs.

NARA's regulatory priorities for fiscal year 1996 will be the clarification and updating of records-management regulations concerning Federal agency recordkeeping requirements, electronic records, and audiovisual records; and the completion of the rulemaking process for the NHPRC grant program regulations.

NARA records-management regulations must provide agencies with the guidance they need to fulfill their statutory obligation to make and preserve records containing adequate and proper documentation of the agency's business. This guidance must be reviewed and updated periodically to reflect changing information technology and recordkeeping practices in agencies. NARA has determined that existing regulations on personal papers and on the removal of nonrecord and personal materials do not provide sufficient protection against improper removal of Federal records from agency control. NARA plans to expand guidance on personal papers and add a requirement for agencies to protect against the removal of Federal records by issuing written procedures for the removal of nonrecord and personal materials. NARA also sees a need to revise regulations on records creation and maintenance to emphasize their applicability to electronic records.

During fiscal year 1995, NARA began the rulemaking process to update records management regulations to provide broader coverage of audiovisual materials created by agencies today. The rule will address formats not covered in the current regulations and will help agencies to ensure that audiovisual records are properly preserved. NARA also is undertaking a revision of its records-management regulations on transfer of electronic records to the National Archives to address optical media. The agency plans to complete both rulemakings in fiscal year 1996.

NARA plans no significant rulemakings in the area of public use of archival records and materials in NARA research rooms in fiscal year 1996.

NARA

PROPOSED RULE STAGE

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141. STANDARDS FOR AGENCY RECORDKEEPING REQUIREMENTS—RECORDS, NONRECORD MATERIALS, AND PERSONAL PAPERS

Priority:

Other Significant

Legal Authority:

44 USC 2904; 44 USC 2905; 44 USC 3101; 44 USC 3102; 44 USC 3301; 44 USC 3314

CFR Citation:

36 CFR 1222

Legal Deadline:

None

Abstract:

This revision of the regulation expands the guidance on personal papers and adds a requirement for agencies to protect against the removal of Federal records by issuing written procedures for the removal of nonrecord and personal materials. It also adds a requirement that agencies document the removal of nonrecord and personal materials and certify that no Federal records were taken. Finally, this revision provides more explicit guidance on records in electronic form.

Statement of Need:

This regulation is needed to ensure that Federal records are not improperly removed from agency custody by departing officials and that agencies fully recognize the applicability of records management requirements to records in electronic form.

Summary of the Legal Basis:

This regulation reflects the legal requirements for agencies to create and maintain adequate and proper documentation, to correctly identify documentation that meets the definition of *Federal record*, and to prevent the unauthorized destruction or removal of Federal records. The National Archives and Records Administration (NARA) is required by law to issue standards and guidelines to Federal agencies regarding adequate and proper documentation of the policies and transactions of the Federal Government and for ensuring proper records disposition. The Archivist of the United States is also statutorily responsible for establishing standards for the selective retention of records of continuing value. This regulation reflects the statutory requirements and responsibilities by providing guidance on applying the legal definition of Federal records to materials created on any media including electronic, distinguishing records from nonrecord materials, identifying and maintaining personal papers, and ensuring that appropriate documentation is provided by contractors.

Alternatives:

An alternative to this regulatory change would be to state in the regulations only the statutory requirements for creation of adequate and proper documentation without regard to their applicability to electronic records and without strengthening the requirements for protection against removal of records. NARA plans to issue a records management guide on recordkeeping requirements that contains interpretation and guidance on implementing the statutory requirements and regulations; this guidance could be expanded to include provisions that would be deleted from the regulation under this approach. This alternative, however, would reduce the effectiveness of the regulation since the applicability of the regulations to electronic records and the methods for implementing statutory requirements would be contained in nonmandatory guidance.

Anticipated Costs and Benefits:

The only new costs associated with compliance with the regulation would be in Federal agency staff resources to implement the requirement to review nonrecord and personal materials that individuals wish to remove from their agency and to certify that Federal records are not included. Agencies could choose to implement the requirement by prohibiting the removal of any documentary materials, at little or no cost, or by various levels of review, where the costs would depend on the size of the agency and the number of individuals likely to request permission to remove materials. We are unable to quantify the costs at this time, but will ask agencies to estimate their costs in the notice of proposed rulemaking. The benefits that will accrue from adherence to this regulation are also not easily quantifiable; they include creation and protection of Federal records that may be needed for accountability, audit and inspection, continuity, and protection of the rights of the Government and of individuals directly affected by Government actions.

Risks:

Failure to follow these regulations could result in an inability to account for the expenditure of funds, lack of documentation of significant decisions that could have serious or wide-ranging affects on the public, lack of evidence of wrongdoing, resources wasted in "reinventing the wheel," failure to acquire useful documentation created under contract, inefficient operation of Government programs resulting from burdensome searches for needed information, and lack of documentation for future research.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	05/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected:

None

Government Levels Affected:

Federal

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RIN: 3095–AA61

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OFFICE OF PERSONNEL MANAGEMENT (OPM)

Statement of Regulatory Priorities

The Office of Personnel Management's (OPM's) priorities for the coming year will center on human resource management reforms that will enable the Federal Government to meet the challenges of downsizing, increased use of technology, delayering, decentralization, improved labor-management relationships, and other changes that are reinventing the Federal work force.

The passage of the Federal Human Resource Management Reinvention Act of 1995 is central to OPM's plans for reform. Many of its provisions will increase the opportunities for Federal agencies to use broadbanding, more demonstration projects, and performance-based pay plans, such as team incentives and goal-sharing. All of these tools are needed to lead Federal human resource management into the 21st century.

Pending passage of this legislation, OPM is using its regulatory authority whenever possible to achieve these goals.

Under its new performance management regulations, agencies may design programs that use from two ("pass/fail") to five rating levels. The new rules also encourage agencies to evaluate employees, when appropriate, on "team performances" and to consider factors other than individual ratings to grant monetary awards.

OPM expects to produce final regulations implementing provisions of the Family and Medical Leave Act of 1993. These regulations, reflecting the Administration's goal of a family-friendly workplace, will ensure that all employees are fairly treated when they need time off for medical or family needs.

OPM will continue to improve its existing human resource management systems in order to attract and keep the best possible talent, to promote fairness and diversity, and to create a government that works better and costs less.

OPM

FINAL RULE STAGE

142. • FAMILY AND MEDICAL LEAVE

Priority:

Other Significant

Legal Authority:

5 USC 6387

CFR Citation:

5 CFR 630(l)

Legal Deadline:

None

Abstract:

Sections 6381 through 6387 of Title 5, United States Code as added by Title II of the Family and Medical Leave Act of 1993 (FMLA), Public Law 103-3, Feb. 5, 1993, provide certain Federal employees a total of 12 administrative work weeks of unpaid leave during any 12-month period for: the birth of a child and care of the newborn; placement of a child with the employee for adoption or foster care; care of an employee's spouse, son, daughter, or parent with a serious health condition; or the serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.

Statement of Need:

This regulation establishes a clear and uniform Federal policy that ensures that all Federal employees are treated fairly and equitably when they need time off for medical problems or family needs.

Summary of the Legal Basis:

Sections 6381 through 6387 of Title 5, United States Code, as added by Title II of the Family and Medical Leave Act of 1993, (FMLA), Public Law 103-3, February 5, 1993, provide certain Federal employees with a total of 12 administrative workweeks of unpaid leave for certain medical and other family related matters. Section 6387 requires the Office of Personnel Management to prescribe regulations for the administration of the FMLA.

Alternatives:

None

Anticipated Costs and Benefits:

None

Risks:

None

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/23/93	58 FR 39596
Final Action	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

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BILLING CODE 6325-01-F

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Statement of Regulatory Priorities

PBGC Insurance Programs

The Pension Benefit Guaranty Corporation (PBGC) administers two insurance programs under title IV of the Employee Retirement Income Security Act of 1974, as amended (ERISA): a single-employer plan termination insurance program and a multiemployer plan insolvency insurance program.

Under the single-employer insurance program, the PBGC has two primary roles. First, when a plan with insufficient assets to pay guaranteed benefits terminates, PBGC pays participants and beneficiaries their guaranteed benefits and any unfunded nonguaranteed benefits that are payable based on recoveries from employers. Second, PBGC is responsible for providing plan sponsors and plan administrators with guidance in complying with title IV's termination rules and procedures and for administering the plan termination process (a process that all terminating single-employer plans covered by title IV must go through). To finance itself, the PBGC is also responsible for collecting premiums paid by covered pension plans and employer liability amounts arising from the termination of plans without sufficient assets to pay all plan benefits.

In order to carry out these functions, the PBGC must issue regulations interpreting a number of complicated statutory provisions. The areas covered include implementation of the termination process, establishment of procedures for the payment of premiums, and assessment and collection of employer liability.

Under the Multiemployer Insurance Program, as revised by the Multiemployer Pension Plan Amendments Act of 1980 (MPPAA), PBGC has a more limited role than under the Single-Employer Program. The primary purpose of MPPAA was to strengthen and foster the continuation of multiemployer pension plans by ensuring that employers could not avoid their obligation to share in the funding of plan benefits by withdrawing from participation in a multiemployer plan. To this end, MPPAA imposed withdrawal liability on an employer for either a partial or complete withdrawal from a plan. An employer's withdrawal liability is generally based on its allocable share of the plan's unfunded vested benefits. This liability is calculated, assessed, and collected by the multiemployer plan. Disputes arising from the assessment of liability are to be resolved first through arbitration and then, if necessary, through the courts.

PBGC's insurance function under MPPAA is limited to the provision of financial assistance (in the form of a repayable loan) to a plan that does not have sufficient assets to pay benefits currently due at the guaranteed level. Under MPPAA, guaranteed benefits are generally less than a participant's full benefit under the plan, Plan insolvency necessitating PBGC financial assistance occurs infrequently.

The multiemployer regulations fall into several general categories: (a) rules relieving potential administrative burdens imposed by the statute on multiemployer plans; (b) rules waiving or reducing employer withdrawal liability in certain limited circumstances; and (c) rules authorizing multiemployer plans to adopt their own rules in lieu of following certain of the statutory rules.

Regulatory Objectives and Priorities

PBGC regulatory objectives and priorities are developed in the context of the statutory purposes of title IV of ERISA: (a) to encourage the continuation and maintenance of voluntary private pension plans, (b) to provide for the timely and uninterrupted payment of pension benefits to participants and beneficiaries, and (c) to maintain the premiums that support the insurance programs at the lowest possible levels consistent with carrying out the PBGC's statutory obligations (ERISA section 4002(a)).

In the context of its regulatory program, the PBGC implements its statutory purposes by developing regulations that are designed (a) to assure the security of the pension benefits of workers, retirees, and beneficiaries, (b) to improve services to participants through more responsive benefit payment policies and accelerated determinations of final benefits, (c) to ensure that the several statutory provisions designed to minimize losses for participants in the event of plan termination are fully and effectively implemented and enforced, (d) to facilitate the collection of monies owed to plans and to the PBGC, while keeping the related costs as low as possible and (e) to simplify the termination process for plans as much as possible.

Legislative Initiatives

In order to assure that the PBGC can accomplish its statutory purposes, the Secretary of Labor established an interagency task force in March 1993. The task force, which was made up of representatives of PBGC; the Departments of Labor, the Treasury, and Commerce; the Office of Management and Budget; and the National Economic Council, took a comprehensive look at PBGC insurance. Based on the recommendations of the task force, the Administration sent to the Congress the Retirement Protection Act of 1993 (H.R. 3396, introduced October 28, 1993, and S. 1780, introduced November 23, 1993). On December 8, 1994, the Retirement Protection Act of 1994 was enacted.

The Retirement Protection Act (a) accelerates the funding of underfunded single-employer pension plans, (b) phases out the cap on the variable rate portion of the premium paid to PBGC by underfunded single-employer plans, (c) provides PBGC better tools to prevent employers from escaping their plan funding obligations through corporate transactions, (d) provides better information to participants in underfunded plans on plan funding status and PBGC guarantees, and (e) helps assure that workers do not lose pensions because they have lost contact with a terminating pension plan covered by PBGC.

Pursuant to the President's Executive Order 12866 of September 30, 1993, "Regulatory Planning and Review," and the "Regulatory Reform Initiative" contained in the President's memoranda of March 4, 1995, and April 21, 1995, the PBGC has reviewed all of its regulations and identified regulatory provisions that can be simplified or eliminated. The PBGC will be amending its regulations to make these changes. The PBGC will also renumber its regulations to follow the statutory numbering scheme, which will make the regulations much easier to use. In addition to these regulatory changes, the PBGC is working with the Department of Labor and the Internal Revenue Service to simplify the Annual Report (Form 5500) filing requirements for pension plans, as part of the President's June 1995 initiative, "Simplifying Pensions."

The PBGC's regulatory plan for October 1, 1995, to September 30, 1996, consists of one significant regulatory action.

PBGC

PROPOSED RULE STAGE

143. CALCULATION AND PAYMENT OF UNFUNDED NONGUARANTEED BENEFITS

Priority:

Other Significant

Legal Authority:

29 USC 1302(b)(3); 29 USC 1322(c)

CFR Citation:

29 CFR 2623; 29 CFR 2627

Legal Deadline:

None

Abstract:

The Pension Protection Act of 1987 repealed ERISA sections 4049 and 4062(c). Those provisions established new employer liability to plan participants and beneficiaries in the event of a distress termination or involuntary termination by the PBGC of a plan without sufficient assets to pay all benefit commitments; the section 4049 trust was the vehicle for collecting and distributing these liability amounts. This system proved flawed in several respects.

In the Pension Protection Act, Congress created a new scheme by which to channel employer liability recoveries to plan participants and beneficiaries (amended ERISA section 4022(c)). Under new section 4022(c), participants no longer have a direct claim for employer liability. Instead, the PBGC's claim covers both its shortfall (unfunded guaranteed benefits) and participants' losses (unfunded nonguaranteed benefits (UNBs)). In turn, the PBGC is to pay a portion of its employer liability recovery to pay UNBs to participants and beneficiaries.

Section 4022(c) contains several ambiguities and also leaves to the PBGC the development of specific rules and procedures to make this system work. Thus, a regulation is needed to implement these statutory provisions.

Statement of Need:

Section 4022(c) contains several ambiguities and also leaves to the PBGC the development of specific rules and procedures necessary to make this system work. Thus, a new regulation is needed to implement these statutory provisions.

Summary of the Legal Basis:

The PBGC has the authority to issue rules and regulations necessary to carry out the purposes of title IV of ERISA.

Alternatives:

The statute provides that the amounts of UNBs that the PBGC will pay under terminated plans be based upon the amounts that the PBGC recovers on its statutory claims for employer liability against the sponsors of those plans and the other trades or businesses under common control with the plan sponsors. However, the statute does not prescribe when the PBGC is to perform its valuation of its recovery with respect to a plan. There are two competing objectives: (1) prompt payment to participants of their UNBs and (2) precise calculation of benefit entitlements. The PBGC could promote prompt payment at the expense of precision of calculation by valuing recoveries whenever the PBGC is otherwise ready to calculate benefits under a plan. On the other hand, the PBGC could promote precision of calculation at the expense of prompt payment by deferring valuation until the collection process is finished, even if that means delaying benefit calculations.

Anticipated Costs and Benefits:

Because of the complexities involved, it may take a long time for the PBGC to determine what its recovery will be. In addition, it may be difficult to value a recovery in cases where the PBGC receives assets other than cash or readily marketable securities. Thus, the accuracy of the PBGC's computation of the amounts payable to participants would be enhanced by waiting longer to make that computation. However, long delays are not generally in the best interest of plan participants. The regulation will attempt to balance adequacy of precision in benefit determinations, avoidance of increased administrative costs, and timely payment of benefits.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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RIN: 1212–AA54

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RAILROAD RETIREMENT BOARD (RRB)

Statement of Regulatory Priorities

The Railroad Retirement Board administers a retirement program for railroad workers and their families under the Railroad Retirement Act of 1974 and an unemployment and sickness benefit program for railroad workers under the Railroad Unemployment Insurance Act. Regulations issued by the Railroad Retirement Board under these two statutes and certain Governmentwide statutes are contained in chapter II of title 20 of the Code of Federal Regulations.

The Board has been involved in a multiyear project to review, revise, and update its regulations. During this project, the Board has published final rules amending nearly all of its regulations. In addition, there are several regulations actively under consideration by the Board at this time. The Board's short-term plan is to publish final regulations to complete the total review and revision project undertaken previously.

The regulations issued by the Railroad Retirement Board are virtually all interpretive rather than legislative in nature. These regulations are designed to be informative and to assist the agency's constituents understand the benefit systems administered by the Board. In promulgating regulations, the agency is mindful of the burdens that may be imposed on the public and crafts its regulations in such a way as to impose the least possible burden on the public. In addition, through regulation, the Board makes every effort to simplify and streamline administration of the programs it administers. We believe that the Board's regulatory review program is consistent with the priorities and objectives of the Administration.

RRB

PROPOSED RULE STAGE

144. • FINALITY OF DECISIONS REGARDING RAILROAD RETIREMENT ANNUITIES

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

45 USC 231f(b)(5)

CFR Citation:

20 CFR 261

Legal Deadline:

None

Abstract:

This new part explains when the Board will reopen a claim for benefits under the Railroad Retirement Act.

Statement of Need:

The rules governing finality are presently contained in Board Orders which are not readily available to the public. The Board Order regarding finality of decisions provides that finality of certain decisions is based on a number of factors; adjudication based on these factors is difficult to administer. Also the Board Order does not contain any time limits on reopening.

Summary of the Legal Basis:

The general authority for issuance of regulations under the Railroad Retirement Act is provided for in section 7(b)(5) of the Act (45 USC 231f(b)(5)).

Alternatives:

None.

Anticipated Costs and Benefits:

There will be no additional costs or burdens imposed by this regulation over and above those imposed by the statute or existing regulation.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

Federal

Additional Information:

In the April 1995 agenda, a proposed amendment to part 261 was combined with the proposed amendment to part 211 of the Board's regulations as RIN 3220-AB10. For the October 1995 Regulatory Plan and Unified Agenda, however, it has been separated from RIN 3220-AB10, and is identified as a separate amendment.

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RIN: 3220–AB15

RRB

FINAL RULE STAGE

145. RECOVERY OF OVERPAYMENTS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

45 USC 231f(b)(5)

CFR Citation:

20 CFR 255

Legal Deadline:

None

Abstract:

The Board plans to issue a final regulation dealing with collection and waiver of overpayments under the Railroad Retirement Act. This regulation clarifies the agency's policy and practice with respect to debt collection.

Statement of Need:

The agency's policy and practice with respect to recovery and waiver of recovery of overpayments, as established through normal adjudication, has evolved beyond the current regulation and the regulation is being updated to reflect this current policy and practice.

Summary of the Legal Basis:

The general authority for issuance of regulations under the Railroad Retirement Act is provided for in section 7(b)(5) of the Act (45 USC 231f(b)(5)).

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Alternatives:

None.

Anticipated Costs and Benefits:

This regulation should result in savings in administrative costs associated with protests and appeals in debt recovery cases.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	09/19/91	56 FR 47426
NPRM Comment Period End	10/21/91	56 FR 47426
Final Action	03/00/96	

Small Entities Affected:

None

Government Levels Affected:

Federal

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RIN: 3220–AA44

BILLING CODE 7905-01-F

SMALL BUSINESS ADMINISTRATION (SBA)

Statement of Regulatory Priorities

Regulatory Streamlining

The Small Business Administration (SBA) has, over the last 2 years, made a concerted effort to serve its constituency better by eliminating regulations that no longer make sense, by reducing paperwork requirements, and by streamlining internal procedures. This Regulatory Plan is intended to highlight that ongoing initiative. The Plan responds to President Clinton's mandate that regulations be effective, consistent, sensible, and understandable.

President Clinton directed the Small Business Administration in his memorandum of March 4, 1995, to complete a page-by-page, line-by-line review of all of its existing regulations to determine which might be revised or eliminated. SBA conducted that review in part through Grassroots Regulatory Partnership Meetings held throughout the country between April 10 and April 27. These meetings brought together more than 250 small business owners, contractors, lenders, loan recipients, State agencies, Service Core of Retired Executives (SCORE) volunteers, SBA employees, and others to discuss how SBA programs can be made more efficient, less burdensome, and more "user-friendly."

As a result of the review, SBA proposes to reinvent 100 percent of the current SBA-specific regulations by December 31, 1995. SBA believes it can significantly clarify and streamline its regulations and thereby conserve resources, improve procedures, and serve its customers more effectively.

The 1995 version of title 13 CFR consists of 38 parts totalling 700 pages devoted to SBA regulations. SBA has determined it can eliminate 14 parts entirely, thereby deleting 64 pages of regulations. SBA also can substantively reinvent or consolidate another 22 parts, resulting in the elimination of 291 more pages. The remaining two parts, with 45 pages, will remain unchanged, only because they are uniform rules applying to all executive branch agencies. SBA will, therefore, reinvent all of its agency-specific regulations, eliminating a total of 355 pages, or 51 percent, of regulatory text. In addition, SBA will eliminate its entire supplement to the Federal Acquisition Regulation, 48 CFR 2209. As indicated above, SBA will complete this entire regulatory reform effort by December 31, 1995.

Significant Initiatives

Although the entire regulatory streamlining effort deserves attention in SBA's Regulatory Plan, certain of the initiatives are extremely significant. In this regard, SBA will make major changes to 13 CFR 101, which sets forth rules for administration of the Agency. Part 101 will be updated to reflect changes in the Agency's current organization, function, and lines of authority. SBA will eliminate unnecessary portions of the current organizational structure in its revision of part 101 and state new delegations of authority that have been altered by reorganization and the creation of new programs. Other administrative regulations—parts 133 and 135—will be consolidated with part 101. SBA expects to eliminate 40 percent of the regulatory text from part 101 and reinvent the remaining portion.

SBA will consolidate its business loan program and development company program regulations, presently contained in 13 CFR parts 108, 116, 120, 122, and 131. SBA will place all its business loan and development company regulations in one part to provide a more user-friendly format. In the process, SBA will eliminate duplication and outdated sections of the current regulations, deleting multiple pages of regulatory text. These changes will save time and resources for all people involved with SBA loan programs, including employees and our small business partners.

In this regard, part 120 of SBA's regulations has heretofore described various eligibility and administrative aspects of SBA's business loan program; part 122 has concentrated primarily on describing the application process and special purpose loan programs. Part 131 has delineated the loan moratorium program, and part 116 has detailed various policies of general application. The revised part 120 will consolidate all of these parts and eliminate duplication as appropriate. Presently 13 CFR part 108 governs administration of SBA's Development Company (504) program, which is intended to provide financing of a sort not available from the business loan program to small businesses interested in financing fixed assets. The 504 program uses public/private partnerships to make loans available for acquisition of land, buildings, machinery, and equipment. Certified Development Companies (CDCs), sponsored by private interests or by State or local governments, are SBA's partner in this process.

SBA will incorporate present part 108 into new part 120. In addition to substantially reducing the length of the present part 108, important substantive changes will be made. For example, the new regulation will promote better and more uniform performance by CDCs through competition. The regulation will allow existing CDCs with demonstrated experience and expertise to expand into areas of operation that are not being adequately serviced. Several additional changes will be made to simplify the regulations governing CDCs, and the consolidation of those regulations into part 120 will provide the public with a single place to look for all the regulations governing SBA's business financing programs.

SBA

PROPOSED RULE STAGE

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146. AMENDMENTS TO ADMINISTRATION REGULATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

15 USC 634(b)(6)

CFR Citation:

13 CFR 101

Legal Deadline:

None

Abstract:

These proposed amendments to 13 CFR part 101 update the rules for the administration of the Agency.

Statement of Need:

On March 4, 1995, President Clinton issued a memorandum to Federal agencies directing them to simplify their regulations and eliminate those that are unnecessary. This proposed rule would reorganize part 101, which governs the Small Business Administration's (SBA's) internal administrative procedures, into four subparts and remove portions of the existing regulations. Present parts 133 and 135 will be revised, updated, and consolidated with part 101.

Summary of the Legal Basis:

Not required by statute or court order.

Alternatives:

The revisions proposed amend administrative procedures in SBA's existing regulations.

Anticipated Costs and Benefits:

This rulemaking deals with SBA's internal administrative procedures. Its promulgation creates no cost to the Government or small businesses.

Risks:

This regulation addresses no risks to the public health and safety or to the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action Effective	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

Federal

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SBA

147. • BUSINESS LOANS

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

15 USC 636; 15 USC 697

CFR Citation:

13 CFR 108; 13 CFR 120; 13 CFR 122

Legal Deadline:

None

Abstract:

This rulemaking is designed to facilitate access by the small business community to information about SBA's business loan program and development company loan program. No costs to the government or the small businesses are associated with its promulgation. However, benefits from improving access to SBA loan programs will accrue to the general economy through the creation of jobs and increased tax revenues.

Statement of Need:

In response to President Clinton's regulatory reform initiative, this proposed rule will consolidate into one Part of SBA's regulations its business loan program and development company program regulations. In the process, SBA will eliminate duplication and outdated sections of the current regulations, deleting multiple pages of regulatory text. These changes will save time and resources for all people involved with SBA loan programs, including employees and SBA's small business partners.

Summary of the Legal Basis:

Not required by statute or court order.

Alternatives:

This rulemaking consolidates and streamline SBA's existing regulations.

Anticipated Costs and Benefits:

This rulemaking is designed to facilitate access by the small business community to information about SBA's business loan program and development company loan program. No costs to the Government or the small businesses associated with its promulgation will result. However, benefits from imporoving access to SBA loan programs will accrue to the general economy through the creation of jobs and increased tax revenues.

Risks:

This regulation addresses no risks to the public health and safety or the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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BILLING CODE 8025-01-F

SOCIAL SECURITY ADMINISTRATION (SSA)

Statement of Regulatory Priorities

The Social Security Administration (SSA) administers the retirement, survivors, and disability insurance programs under title II of the Social Security Act (the Act), and the supplemental security income (SSI) program under title XVI of the Act. For the most part, SSA's regulations do not impose burdens on the private sector or on State or local governments. Its regulations codify the requirements for entitlement to benefits under its programs.

SSAs five entries for The Regulatory Plan represent areas of major importance in benefit program administration. The first entry, Revised Medical Criteria for Determination of Disability; Musculoskeletal System, furthers the agency priority to improve our disability determination procedures. Musculoskeletal listings of impairments will be updated to make them consistent with the latest advances in medicine. Updated listings will facilitate making the correct disability determination as quickly and efficiently as possible.

Effective stewardship of social security programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. The law requires that benefits be paid to a representative payee on behalf of the beneficiary in such circumstances. Two of SSA's regulatory plan entries, Representative Payment Reforms and Representative Payment Provisions for Individuals Based on Drug Addiction and Alcoholism, carry out recent legislative provisions to assure program integrity through payment to representative payees.

In response to the Reinventing Government initiative to create a Federal Government that works better and costs less, SSA lists two regulatory initiatives. Cycling Payment of Social Security Benefits for future beneficiaries is designed to pay social security benefits on several payment dates each month instead of making all the payments on the same date, as is current practice. The current use of one payment date creates a workload spike each month for SSA, for other Federal agencies, for financial institutions, and other businesses that participate in or depend on issuance of social security benefits. It has become exceedingly difficult for customers to access SSA services on or around "check day." Spreading the issuance of benefit payments throughout the month and reducing workload spikes for SSA and others will result in better service to our customers. As a result, customers will have better access to SSA personnel and services in field facilities and through use of SSA's national 800 number teleservice network. Current beneficiaries can expect to continue to receive their benefit payments on the third of each month. The additional payment dates will be assigned to new beneficiaries as their benefit awards are processed.

The second entry related to a Reinventing Government initiative is Provide "One-Stop" Service to Aliens Applying for Social Security Cards. The goal of this initiative is to coordinate services to customers who, under current procedures, must deal with multiple Federal agencies to establish their status as alien residents of the United States. The proposed regulatory authcrity would support a pilot project with INS whereby it would transmit data to SSA electronically so that SSA can issue social security numbers to certain resident aliens.

Consistent with the President's Regulatory Reinvention Initiative, SSA is working diligently to improve program benefit regulations and to develop partnerships with large segments of the community of stakeholders interested in Social Security programs. The partnerships are expected to contribute to the successful development of SSA regulatory plan entries.

SSA

PROPOSED RULE STAGE

148. FEDERAL OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; REPRESENTATIVE PAYMENT PROVISIONS FOR INDIVIDUALS DISABLED BASED ON DRUG ADDICTION OR ALCOHOLISM (507P)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 103-296, sec 201; 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation:

20 CFR 404.2001; 20 CFR 404.2010; 20 CFR 404.2021; 20 CFR 404.2040; 20 CFR 404.2040a; 20 CFR 404.2053; 20 CFR 416.621; 20 CFR 416.640; 20 CFR 416.640a; 20 CFR 416.655

Legal Deadline:

None

Abstract:

We propose to revise our regulations to extend the representative payee requirement, which now applies only to recipients of supplemental security income (SSI) benefit payments, to Social Security disability insurance (DI) beneficiaries whose drug addiction or alcoholism is material to a finding of disability.

Statement of Need:

These regulations are needed to implement the representative payment requirements of the Social Security Independence and Program Improvements Act of 1994.

Summary of the Legal Basis:

Section 2 of P.L. 103-296 extends the representative payee requirement, which now applies only to supplemental security income recipients, to Social Security disability insurance beneficiaries.

Alternatives:

None

Anticipated Costs and Benefits:

Effective stewardship of SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. As part of the Social Security Improvements Act of 1994 Congress determined that individuals who receive social security disability insurance benefits whose drug addiction or alcoholism is material to the finding of disability must have representative payees. Preliminary estimates are that these regulations will have no effect on SSA program costs. Any administrative costs are part of legislative implementation and further our program integrity efforts.

Risks:

Since basically all these regulations do is implement the statute, we see no risks associated with them.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	09/00/96	

Small Entities Affected:

Governmental Jurisdictions, Organizations

Government Levels Affected:

State

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SSA

149. • CYCLING PAYMENT OF SOCIAL SECURITY BENEFITS (558P)

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 405(a); 42 USC 407; 42 USC 902(a)(5); 42 USC 401(j); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 421(d); 42 USC 405(i); 42 USC 909

CFR Citation:

20 CFR 404.1805; 20 CFR 404.903

Legal Deadline:

None

Abstract:

This Reinventing Government initiative would result in staggered payment to new beneficiaries over a number of payment dates throughout the month to eliminate workload spikes and allow the Social Security Administration to provide better customer service without adding staff. Current beneficiaries and all Supplemental Security Income recipients will be unaffected by these regulatory changes.

Statement of Need:

This regulation is necessary to implement a Reinventing Government initiative.

Summary of the Legal Basis:

These changes are not required by statute or court order.

Alternatives:

None

Anticipated Costs and Benefits:

Payment cycling is proposed as both an immediate and long-term strategy to help the Agency improve service and better manage its resources. By leveling workloads, it will allow the public better access to SSA's field office and toll-free 800 number services. While the proposed change in payment patterns may result in some incidental savings from management and operational efficiencies, cycling is not expected to produce significant workyear savings. Cycling will benefit the business and banking communities in that they will be better able to utilize their resources throughout the month to serve their customers. Cycling will reduce the risk to the Federal government, the financial community, and to beneficiaries by reducing the volume of financial transactions passing through the payment system at any one time in the month.

Risks:

This change in payment cycling, which will affect new beneficiaries who file claims, should pose no risks to our claimant population.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	05/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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SSA

150. • PROVIDE "ONE-STOP" SERVICE FOR ALIENS APPLYING FOR SOCIAL SECURITY CARDS (569P)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 405; 42 USC 1383

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

Aliens will apply for Social Security cards at the same time they complete Immigration and Naturalization Services (INS) paperwork. Currently, alien applicants are required to furnish almost the same information to both SSA and INS. This one-stop service will reduce the potential for issuing Social Security cards based on fraudulent INS documents, and will result in efficiencies for the Government.

Statement of Need:

This regulation is necessary to implement a Reinventing Government initiative.

Summary of the Legal Basis:

These changes are not required by statute or court order.

Alternatives:

Not yet determined

Anticipated Costs and Benefits:

While the full impact of this change has not yet been determined, it is expected to reduce fraud based on false INS documents and to result in efficiencies for the Government of approximately $18 million over 5 years.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action Effective	09/00/96	

Small Entities Affected:

None

Government Levels Affected:

Federal

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SSA

FINAL RULE STAGE

151. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MUSCULOSKELETAL SYSTEM (143F)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 902(a)(5); 42 USC 405; 42 USC 1383

CFR Citation:

20 CFR 404.1500ff, appendix 1

Legal Deadline:

None

Abstract:

Sections 1.00 and 101.00 of Appendix 1 to the disability regulations at 20 CFR 404.1501 through 404.1599 describe those musculoskeletal impairments which are considered severe enough to prevent a person from doing any gainful activity or age-appropriate activities. Comprehensive revisions to these sections are proposed to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The SSI program incorporates by reference and uses the same medical criteria as the old-age, survivors, and disability insurance program.

Statement of Need:

These regulations are necessary to update the musculoskeletal listing to reflect advances in medical knowledge, treatment, and methods of evaluating musculoskeletal impairments.

Summary of the Legal Basis:

Administrative--not required by statute or court order.

Alternatives:

None--Medical advances require that this listing be updated.

Anticipated Costs and Benefits:

These final regulations will have negligible program and administrative cost impact because, despite changes in terminology and emphasis, the proposed musculoskeletal system listings describe a level of severity comparable to the level of severity contained in the current listings.

Risks:

Since all this regulation will do is update the medical listing, we see no risks associated with these changes.

Timetable:

Action	Date	FR Cite
NPRM	12/21/93	58 FR 67574
NPRM Comment Period End	02/22/94	
Final Action	09/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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SSA

152. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; REPRESENTATIVE PAYEE REFORMS (295F)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 101-508, sec 5105

CFR Citation:

20 CFR 404.902; 20 CFR 404.2001; 20 CFR 404.2011; 20 CFR 404.2022; 20 CFR 404.2024; 20 CFR 404.2025; 20 CFR 404.2030; 20 CFR 404.2041; 20 CFR 404.2050; 20 CFR 416.601; 20 CFR 416.611; 20 CFR 416.622; 20 CFR 416.624; 20 CFR 416.625; 20 CFR 416.630; ...

Legal Deadline:

None

Abstract:

Effective stewardship at SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. Congress determined that improvements to the representative payment procedures were needed to assure program integrity as part of P.L. 101-508. Any costs associated with these regulations are reflected in the President's budget as part of legislative in implementation. They are required to further our program integrity efforts.

Statement of Need:

These regulations, which reflect certain provisions of PL 101-508, modify existing representative payee procedures by requiring the Social Security Administration to do a more extensive investigation of representative payee applicants; generally limiting to 1 month the deferral or suspension of direct payment of benefits pending selection of a payee; providing stricter standards in determining the fitness of representative payee applicants to manage benefit payments on behalf of beneficiaries; requiring SSA to repay to the beneficiary or an alternate payee, an amount equal to any misused funds resulting from SSA's negligent failure to investigate or monitor a representative payee; and requiring SSA to compile and maintain a centralized file of certain beneficiary and payee information.

These regulations are needed to reflect certain provisions of PL 101-508 (OBRA '90). Sections 205(a), 1102, and 1631(d of the Act give the Commissioners broad power to make rules and carry out these provisions.

Summary of the Legal Basis:

These regulations implement section 5105 of Public Law 101-508.

Alternatives:

None

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Anticipated Costs and Benefits:

Effective stewardship of SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. Congress determined that improvements to the representative payment procedures were needed to assure program integrity as part of P.L. 101-508. Any costs associated with these regulations are reflected in the President's budget as part of legislative implementation. They are required to further our program integrity efforts.

Risks:

Since basically all these regulations do is implement the statute, we see no risks associated with these regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/15/94	59 FR 11949
NPRM Comment Period End	05/16/94	
Final Action	03/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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BILLING CODE 4190-11-F

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Statement of Regulatory Priorities

The regulatory objectives of the Commodity Futures Trading Commission are to ensure that the commodity futures and option markets remain competitive and respond to underlying supply and demand factors by detecting and preventing threats of price manipulation, abusive trading practices, fraud, and other market disruptions, safeguarding the financial soundness of those markets, and providing for appropriate customer protection of those who trade on those markets. Futures markets that are free of manipulation and other anticompetitive forces can most effectively perform their vital economic functions of price discovery and risk transfer. To these ends, the Commission's objectives include protection of customer funds, ensuring the financial integrity of regulated intermediaries, and protection of customers from abusive trade practices.

CFTC

PROPOSED RULE STAGE

153. PROHIBITION ON VOTING BY INTERESTED MEMBERS

Priority:

Other Significant

Legal Authority:

7 USC 7a(17)

CFR Citation:

17 CFR 1.67

Legal Deadline:

None

Abstract:

The regulation will implement the provisions of section 217 of the Futures Trading Practices Act of 1992, which require contract markets to adopt rules to avoid conflicts of interest in deliberations and voting by members of the governing board and disciplinary and other oversight committees. The rulemaking will define the relationships between a named party in interest and a member of the governing board or committee that would require abstention from deliberations and voting. The rulemaking will also provide guidelines on situations that would require a member to abstain from voting on a significant action because of a substantial financial interest in the outcome of the vote, based on positions held personally or at an affiliated firm, as well as on other matters addressed by the statute. The action potentially impacts the selection and composition of contract market governing boards and committees.

Statement of Need:

The regulation will implement the provisions of section 217 of the Futures Trading Practices Act of 1992, which require contract markets to adopt rules to avoid conflicts of interest in deliberations and voting by members of the governing board and disciplinary and other oversight committees. The rulemaking will define the relationships between a named party in interest and a member of the governing board or committee that would require abstention from deliberations and voting. The rulemaking also will provide guidelines on situations that would require a member to abstain from voting on a significant action because of a substantial financial interest in the outcome of the vote, based on positions held personally or at an affiliated firm, as well as on other matters addressed by the statute. The action potentially impacts the selection and composition of contract market governing boards and committees. This rulemaking will further the regulatory objective of oversight of contract markets so as to assure that the markets remain open, competitive, and efficient.

Alternatives:

These rules are required by statutory mandate set forth in the Futures Trading Practices Act of 1992. The Commission intends to pursue this rulemaking to achieve rules that will fulfill this statutory mandate in a cost-effective manner.

Anticipated Costs and Benefits:

As a financial regulator, the Commission is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations in order to ensure that the benefits of its regulations outweigh the costs. To date, we know of no Commission regulation that adversely affected small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601-611 (1988).

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	12/00/95	
Final Action	06/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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CFTC

FINAL RULE STAGE

154. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS

Priority:

Other Significant

Legal Authority:

7 USC 6f(c)

CFR Citation:

17 CFR 1.14; 17 CFR 1.15

Legal Deadline:

None

Abstract:

On December 21, 1994, the Commission adopted, as phase 1 of the risk assessment rulemaking, final rules with respect to maintenance and filing of organizational charts, risk management policies, procedures and systems, and consolidated and consolidating financial statements. It also proposed "trigger" event reporting in the event of a 20 percent decline in a futures commission merchant's (FCM's) adjusted net capital. The Commission deferred action on the balance of the proposed rules, which related to reporting of position data and other data concerning FCM affiliates. With respect to the second phase of the rulemaking process, the Commission's staff will continue to work with other financial regulators, particularly the Securities and Exchange Commission, to design a reporting framework that is harmonized across regulatory structures and, to the extent possible, reflective

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of a consensus as to which data are most meaningful to regulators and can be provided without undue burden.

Statement of Need:

These rules, authorized by Congress in section 229 of the Futures Trading Practices Act of 1992, Public Law 102-546, 106 Stat. 3590 (1992), are intended to enhance the Commission's financial surveillance program by providing the Commission with access to information concerning the activities of affiliates of registered FCMs whose activities are reasonably likely to have a material impact on the financial or operational condition of the FCM. These adopted rules require registered FCMs to maintain certain records concerning the financial activities of such material affiliates, to file certain information with the Commission on an annual basis, and to provide additional information to the Commission upon the occurrence of specified events. The records required to be maintained and the information required to be filed routinely include an organizational chart, risk management policies, and consolidated and consolidating financial statements. In addition, notice of a 20 percent decline in an FCM's adjusted net capital is required. Proposals related to securities and commodity position data, financial instrument holdings, information regarding positions of affiliates carried by FCM's, as well as certain other "trigger" events for reporting purposes have been deferred.

The Commission views these rules as necessary to fulfill its objectives of protecting customer funds and ensuring the financial integrity of regulated intermediaries. The rules are intended to enhance the safeguards of customer funds by providing the Commission with increased access to material information concerning the operations of affiliates of the FCM whose activities may expose the FCM to financial or operational risks. The new statutory authority under which these rules were adopted recognizes that, as illustrated by the experience of the CFTC and other regulators with several recent failures of regulated brokerage firms, the operations of regulated FCMs may be materially affected by, and only understood in conjunction with, the activities of affiliated entities, many of which may be unregulated. Concomitantly, the effectiveness of ongoing financial oversight programs may depend upon access to information concerning risks to the FCM created by affiliate activity, and the efficacy of regulatory responses to financial problems at the regulated entity may be enhanced by access to information concerning relevant affiliate activity.

Alternatives:

The proposals provide alternative filing options for an FCM that is also a securities broker-dealer, or that is part of a holding company with affiliates subject to the oversight of a Federal banking agency, State insurance commission, or a foreign regulator with which the Commission has an information-sharing agreement to avoid duplicative reporting burdens. The staff has also consulted extensively with other financial regulators, and continues to do so, to explore the extent to which they may share with the Commission on a confidential basis relevant risk assessment information concerning entities subject to their supervision so as to reduce duplicative requirements.

Anticipated Costs and Benefits:

As a financial regulator, the Commission is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations in order to ensure that the benefits of its regulations outweigh the costs. To date, we know of no Commission regulation that adversely affected small entities as defined under the Regulatory Flexibility Act, 5 USC 601-611 (1988).

Timetable:

Action	Date	FR Cite
NPRM	03/01/94	59 FR 9689
NPRM Comment Period End	07/01/94	
Final Action	12/31/95	
Risk Assessment for Holding Company Systems		
Phase I	12/28/94	(59 FR 66674)
Phase II	12/31/95	

Small Entities Affected:

None

Government Levels Affected:

None

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RIN: 3038–AB01

BILLING CODE 6351-01-F

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Statement of Regulatory Priorities

The U.S. Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of death and injury associated with consumer products. To achieve this goal, the Commission:

- Participates in the development or revision of voluntary product safety standards;
- Develops mandatory product safety standards when other, less restrictive efforts are inadequate to address a safety hazard;
- Obtains repair, replacement, or refund of the purchase price for defective products which present a substantial product hazard; or
- Develops information and education campaigns about the safety of consumer products.

When deciding which of these approaches to take in any specific case, the Commission gathers the best available data about the nature and extent of the hazard presented by the product. The Commission then analyzes this information to determine the best way to reduce the hazard in each case.

The Commission's rules require the Commission to consider, among other factors, the following criteria when deciding the level of priority for any particular project:

- Frequency and severity of injury;
- Causality of injury;
- Chronic illness and future injuries;
- Cost and benefit of Commission action;
- Unforeseen nature of the risk;
- Vulnerability of the population at risk; and
- Probability of exposure to the hazard.

Additionally, if the Commission proposes a mandatory safety standard to address a risk of injury associated with a particular product, the Commission is generally required to develop the least burdensome requirements that adequately protect the public.

The Commission's statutory authority requires it to rely on voluntary standards rather than mandatory standards whenever a voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury and whenever it is likely that there will be substantial compliance with the voluntary standard. As a result, much of the Commission's work involves cooperative efforts with other participants in the voluntary standard-setting process rather than the promulgation of mandatory standards.

In fiscal year 1996, the Commission's significant rulemaking activities will involve development of options to address risks of fire associated with upholstered furniture ignited by small, open-flame sources, and development of performance requirements for bicycle helmets as directed by the Children's Bicycle Helmet Safety Act of 1994. These projects are described in detail below.

Both of these rulemaking proceedings in the Commission's 1996 regulatory plan are related to protection of vulnerable populations. Upholstered furniture fires kill and injure children, the elderly, and families and individuals with lower incomes disproportionately to the representation of these persons in the population. Children younger than 10 years old are more likely to suffer head injuries in accidents associated with bicycles. The Commission's proposed standard for bicycle helmets, which Congress directed the Commission to develop, includes a requirement to prevent the helmet from coming off the rider's head and other provisions that are specifically applicable to the safety of helmets intended for children.

The emphasis on these two rulemaking activities in the Commission's 1996 regulatory plan is consistent with the Commission's statutory mandate and its criteria for setting priorities. Additionally, the Commission's 1996 regulatory plan supports the President's goal to reduce the costs of health care by preventing injuries to those individuals who are among the most likely to be injured in accidents associated with the use of consumer products.

CPSC

PROPOSED RULE STAGE

155. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

Priority:

Economically Significant

Legal Authority:

15 USC 1293 Flammable Fabrics Act

CFR Citation:

16 CFR 1640

Legal Deadline:

None

Abstract:

On June 15, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding for development of a flammability standard for upholstered furniture. The ANPRM announced that the regulatory alternatives under consideration include issuance of a mandatory standard to address risks of death, injury, and property damage from fires associated with ignition of upholstered furniture by small open-flame sources. (Fire hazards associated with ignition of upholstered furniture by cigarettes or large open-flame sources are outside the scope of this proceeding.) The Commission staff is now conducting a field study, product testing, and other technical research to determine whether it is advisable to develop a proposed standard to address ignition of upholstered furniture by small open-flame sources. The staff is preparing a briefing package for consideration by Commissioners of the agency which they will use in deciding whether to publish a proposed standard.

Statement of Need:

In 1992, approximately 650 deaths, more than 1,700 injuries, and $200 million in property damage resulted from upholstered furniture fires in the United States.

The estimated societal cost of upholstered furniture fires in 1992 was about $3.6 billion, including about $500 million attributable to open-flame fires and $2.6 billion attributable to smoking-related fires.

Although fires involving upholstered furniture ignited by smoking materials accounted for the majority of these losses, a significant portion involves upholstered furniture ignited by open-flame sources and is not addressed by any national standard or voluntary program. Many of these fires are ignited by small open-flame sources, such as lighters or matches.

Summary of the Legal Basis:

Section 4 of the Flammable Fabrics Act (FFA) (15 USC 1193) authorizes the Commission to issue a flammability standard or other regulation for a product of interior furnishing if the Commission determines that such a standard is "needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage." No aspect of the Commission's regulatory

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proceeding is required by statute or court order.

The Commission's regulatory proceeding could lead to several results, one of which could be a mandatory standard requiring that upholstered furniture sold in the United States meet mandatory labeling requirements, or resist ignition from open-flame sources, or meet other performance criteria under test conditions specified in the standard.

Alternatives:

1. Continued deferral to the existing industry voluntary standard addressing only cigarette ignition of upholstered furniture and no standard at all addressing open-flame ignition.

2. Continued deferral to the existing industry voluntary standard addressing cigarette ignition of upholstered furniture and development of a voluntary standard to address small open-flame ignition.

3. Development of mandatory labeling requirements to address small open-flame ignition.

Anticipated Costs and Benefits:

The estimated annual cost of imposing a mandatory standard to address open-flame ignition of upholstered furniture will depend upon the test requirements imposed by the standard and the steps manufacturers must take to meet those requirements. Because the societal cost of fires involving upholstered furniture ignited by open-flame sources is about $500 million each year, the benefits of a mandatory standard to address the risk of open-flame ignition of upholstered furniture could be very significant, even if all such fires were not prevented.

Risks:

The estimated total cost to society from all residential fires associated with upholstered furniture is $3.6 billion. Societal costs associated with upholstered furniture fires are among the highest associated with any product subject to the Commission's authority. A voluntary or mandatory standard may have the potential to reduce significantly that portion of societal costs resulting from upholstered furniture fires ignited by small open-flame sources.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30735
ANPRM Comment Period End	08/15/94	59 FR 30735
Staff Sends Briefing Package to Commission	09/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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RIN: 3041–AB35

CPSC

156. SAFETY STANDARD FOR BICYCLE HELMETS

Priority:

Other Significant

Legal Authority:

5 USC 553 Administrative Procedure Act

CFR Citation:

16 CFR 1203

Legal Deadline:

NPRM, Statutory, August 15, 1994.

Abstract:

The Children's Bicycle Helmet Safety Act of 1994 directs the Commission to begin a proceeding to issue a safety standard for bicycle helmets. That legislation also directs the Commission to designate appropriate existing standards for bicycle helmets as interim safety standards.

On August 15, 1994, the Commission published a notice of proposed rulemaking to begin a proceeding for issuance of a safety standard for bicycle helmets. The proposed standard includes impact-attenuation requirements, and other requirements derived from existing voluntary standards for bicycle helmets. The proposed standard also contains requirements to prevent helmets from coming off the rider's head during an accident, and other provisions specifically applicable to helmets intended for children.

In March 1995, the Commission designated the following standards as interim safety standards for bicycle helmets: (1) American National Standards Institute (ANSI) standard Z90.4-1984, Protective Headgear for Bicyclists; (2) ASTM standards F 1447-93 or F 1447-94, Standard Specification for Protective Headgear Used in Bicycling, incorporating the relevant provisions of ASTM F 1446-93 or F 1446-94, Standard Test Methods for Evaluating the Performance Characteristics of Protective Headgear, respectively; (3) Canadian Standard Association standard Cycling Helmets, CAN/CSA-D113.2-M89; (4) Snell Memorial Foundation (Snell) 1990 Standard for Protective Headgear for Use in Bicycling (designation B-90); (5) Snell 1990 Standard for Protective Headgear for Use in Bicycling, including March 9, 1994 Supplement (designation B-90S); (6) Snell 1994 Standard for Protective Headgear for Use in Non-Motorized Sports (designation N-94); (7) Snell 1995 Standard for Protective Headgear for Use With Bicycles B-95. Bicycle helmets manufactured after March 16, 1995, must conform with the requirements of one of these interim standards until the Commission issues a final standard for bicycle helmets.

The staff has revised the proposed standard. In October 1995, the Commission is expected to decide whether to publish a final standard based on the 1994 proposal or to revise and republish a proposed standard for additional public comment.

Statement of Need:

The Commission estimates that on average, one-half million injuries associated with bicycles are treated in hospital emergency rooms each year in the United States. Additionally, about 1,000 fatalities associated with bicycles occur each year, according to the National Safety Council. A study of bicycle use and hazard patterns conducted by the Commission in 1993 indicated that almost one-third of the injuries associated with bicycles involved the head. Information available to the Commission indicates that in recent years, almost two-thirds of all deaths associated with bicycles involved head injuries.

Younger children are particularly at risk of head injury. The Commission's study showed that one-half of the injuries to children younger than 10 years of age associated with bicycles involved the head, whereas the head was involved in only about one-fifth of the bicycle injuries to older children.

Summary of the Legal Basis:

The Children's Bicycle Helmet Safety Act of 1994 (section 205 of P. L. 103-267, 108 Stat. 722, June 16, 1994) directs the Commission to begin a proceeding under provisions of section 553 of the Administrative Procedure Act (5 USC 553) to develop a standard for bicycle helmets. That legislation provides further that the standard shall include a provision to protect against the risk of a helmet coming off a rider's head and provisions to address risks of injury to children associated with riding bicycles.

The bicycle-helmet legislation also requires that bicycle helmets manufactured after March 15, 1995, must conform to one of three voluntary standards specified by that legislation or to "any other standard that the Commission determines is appropriate" until the Commission issues a final safety standard for bicycle helmets. On March 23, 1995, the Commission published a notice in the **Federal Register** to designate and codify the following standards as interim safety standards for bicycle helmets: (1) American National Standards Institute (ANSI) standard Z90.4-1984, Protective Headgear for Bicyclists; (2) ASTM (formerly American Society for Testing and Materials) standards F 1447-93 or F 1447-94, Standard Specification for Protective Headgear Used in Bicycling, incorporating the relevant provisions of ASTM F 1446-93 or ASTM F 1446-94, Standard Test Methods for Equipment and Procedures Used in Evaluating the Performance Characteristics of Protective Headgear, respectively; (3) Canadian Standards Association standard, Cycling Helmets (CAN/CSA-D113.2-M89; (4) Snell Memorial Foundation (Snell) 1990 Standard for Protective Headgear for Use in Bicycling (designation B-90); (5) Snell 1990 Standard for Protective Headgear for Use in Bicycling, including March 9, 1994 Supplement (designation B-90S); (6) Snell 1994 Standard for Protective Headgear for Use in Non-Motorized Sports (designation N-94); (7) Snell 1995 Standard for Protective Headgear for Use With Bicycles, B-95.

Alternatives:

The Children's Bicycle Helmet Safety Act requires the Commission to review the requirements of the interim standards and to establish a final mandatory standard based on those requirements. Accordingly, the Commission cannot consider deferring to an existing voluntary standard or developing a new voluntary standard.

In the **Federal Register** of August 15, 1994, the Commission published a proposed safety standard for bicycle helmets. The proposed standard included an impact protection test, chin strap strength and effectiveness tests, and construction and labeling requirements. In October 1995, the Commission will decide whether to issue a final standard based on the 1994 proposal or revise and republish a proposed standard for additional public comment.

Anticipated Costs and Benefits:

After the final standard becomes effective, helmet manufacturers may incur costs to redesign helmets to meet the requirements of the standard. However, costs of redesign would be amortized over the course of production and are expected to be negligible on a per-unit basis. Costs of testing to support certificates of compliance with the final standard are not expected to increase because the vast majority of helmet manufacturers now use third-party certification programs for conformance to one of the interim standards. Similarly, most helmet manufacturers currently label their products. If manufacturers are given sufficient lead time for any changes to labels required by the final standard, any additional costs associated with labeling required by the final standard are expected to be insignificant.

The anticipated benefits of the standard are helmets, which if worn properly are less likely to come off the head in an accident; helmets which provide adequate coverage of critical areas of the head; and helmets which provide protection more suitable to younger children. These benefits could lead to a reduction in the number of deaths and serious head injuries from accidents associated with bicycles. Consumer confusion over differing standards would also be reduced by the creation of a single, uniform standard for bicycle helmets.

Risks:

Information available to the Commission indicates that several hundred thousand head injuries each year are associated with bicycles, and that more than 650 deaths each year result from those head injuries. Many of those deaths and injuries are to children younger than 10 years of age. The standard could prevent a portion of those deaths and injuries.

Timetable:

Action	Date	FR Cite
NPRM	08/15/94	59 FR 41719
NPRM Comment Period End	10/31/94	59 FR 41719
Designation of Interim Standards	03/23/95	60 FR 15231
Staff Sends Revisions of Proposed Standard to Commission	09/14/95	
Commission Decision	10/00/95	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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BILLING CODE 6355-01-F

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Statement of Regulatory Priorities

The Federal Communications Commission (FCC) is an independent Federal regulatory agency. Established by the Communications Act of 1934 (47 U.S.C. 151 et seq.), it was created to regulate interstate and foreign communications by radio and wire, in order to make available throughout the United States the provision of rapid, efficient, nationwide and worldwide wire and radio communications at reasonable rates.

The FCC encourages continuing economic growth by paving the way for continuing advances in telecommunications. It does this by:

- Promoting competition in all communications markets, on all five lanes of the information superhighway—broadcast, cable, telephone, wireless, and satellite; and
- Defining and pursuing the public interest in telecommunications, particularly with the goal of delivering advanced communications services to all Americans.

These responsibilities, in an explosively expanding sector of the economy, have significantly increased the Commission's workload. In addition to responding to the rapid growth and attendant public interest in this sector, Congress passed 21 separate pieces of legislation from 1985 to 1994 that significantly added to the Commission's responsibilities.

The FCC is already setting out forward-looking rules of the road that are blueprints for opening up competition. For example, the FCC needs to establish standards for open network access to make sure that dominant providers do not use their technological infrastructures as bottlenecks to deny entry to others. The FCC also needs to assure that dominant telecommunications providers do not use their revenues to cross-subsidize their entry into other service markets. The FCC's rules are encouraging emerging competitors, such as telephone companies competing against cable companies in video distribution and cable companies competing against telephone companies in local telephony. Writing these rules of the road has become a significant portion of the FCC's increasing workload.

Further, the FCC is promoting competition by facilitating the introduction of new services. For example, the FCC has:

- Created rules that foster a competitive market in low-earth-orbit satellite communications services, so that American industry will build the first privately owned global satellite systems that can provide mobile voice and data communications;
- Introduced increased local telephone competition by setting rules for expanded interconnection to competitive access providers; and
- Generated potential competition in multichannel video services through vigorous application of the program access rules, by issuing the ground rules and approving applications for video dialtone systems and by devising new procedures to expedite wireless cable licenses.

One noteworthy example of new solutions is the FCC's auctions of the electromagnetic spectrum. With the support of Congress in the 1993 Budget Act, FCC has begun authorizing new services and promoting competition by auctioning the airwaves. These auctions, which got underway just over a year ago, have to date raised more than $9 billion for the Treasury. This amount is nearly 50 times the FCC budget request for fiscal year 1997.

As important as revenues are, auctions are also a faster, more efficient, and fairer way to allocate the public airwaves. The auctions permit the market, rather than bureaucrats and lobbyists, to determine who gets valuable wireless licenses. Moreover, the auctions will jump-start the competition for advanced wireless telephone and data services.

The promotion of competition will stimulate tens of billions of dollars in investment and create hundreds of thousands of jobs throughout the country. FCC auctions authorizing personal communications services will provide new competition to the cellular telephone business.

The FCC carries out the public interest in telecommunications as dictated by Federal law and interpreted by FCC rules. The FCC's public-interest responsibilities include, for example: (a) setting aside radio spectrum for public safety agencies and establishing and overseeing the Emergency Broadcast System (now called the Emergency Alert System); (b) ensuring that radio and television broadcasting are based on a network of local outlets that meet local needs; (c) ensuring a place for children's programming on broadcast television; (d) cooperating with the States to ensure that affordable phone service is provided to rural, elderly, and low-income populations; and (e) optimizing use of the public airwaves, free of interference.

Eliminating and Improving Regulations

The President's March 4, 1995, Regulatory Reinvention Initiative directs Executive Branch agencies to focus on four tasks as part of the Administration's overall regulatory reform initiative. The Commission supports this effort. It is committed to a program of continually reviewing its regulations. FCC has eliminated numerous regulations and streamlined many others. In so doing, it has sought to ensure that those regulation that are kept, and new ones that are adopted, further the development of procompetitive markets and new services, to the benefit of American consumers.

FCC ongoing reviews ensure that its rules are current, accurate, and useful to the public and that they minimize reporting burdens on regulated industries. In addition, the review program ensures the cleanup of any old rules and resolves any conflicts or overlaps with other rules. Regulatory reviews resulting in a decision to revise, eliminate, or otherwise change a current regulation are generally conducted under the notice-and-comment provisions of the Administrative Procedure Act, which provide for appropriate input from the public, regulated entities, and other interested parties.

In addition, earlier this year the then Special Counsel for Reinventing Government completed an extensive review of current FCC regulations. The Counsel's report, "Creating a Federal Communications Commission for the Information Age," recommended over 70 legislative and administrative actions that would streamline FCC processes, reduce the regulatory burden on the public, and promote full competition in the telecommunications industry.

In May 1995, the Commission submitted to Congress a package of 37 recommendations for legislative changes that would streamline or deregulate Commission functions.

Rewarding Results

The Commission is committed to the development and implementation of agency performance measures as required by the Government Performance and Results Act (GPRA), Public Law 103-62. The GPRA requires agencies to:

- Develop, with assistance from the public and stakeholders, a comprehensive mission statement and strategic plan;
- Establish objective, quantifiable, and measurable goals using quality and effectiveness indicators to measure citizen satisfaction;
- Identify output performance indicators;
- Develop annual performance plans;
- Measure actual performance against long-term goals and annual performance plans; and
- Make performance plans and actual performance results a matter of public record, submit an Annual Program Performance Report to the President and Congress, and make managers more accountable.

Similarly, Executive Order 12862 "Setting Customer Service Standards" requires agencies to:

- Establish a benchmark of "the best in the business" and use this to set long-term goals;
- Survey customers to determine the kind and quality of services desired;
- Survey customers to determine the desired level of performance;
- Measure results against expected performance and against "the best in the business"; and
- Post customer service standards for public inspection.

The FCC enlisted the services of a contractor to conduct workshops with our Customer Service Standards Task Force and our Quality Council to identify primary FCC customer groups and to develop standards that address customer concerns. These workshops produced customer service standards for our Bureaus and Offices that will:

- Identify the customers who are, or should be, served by the agency;
- Provide customers with choices in the sources of service and the means of delivery;
- Set service standards that address the needs of our customers;
- Assist our Bureaus and Offices in refining these service standards and publish brochures for our customers describing these standards; and
- Monitor customer service over time.

These standards will be utilized as performance measures and linked to performance plans developed for the GPRA. By using quality and effectiveness indicators to measure the public's satisfaction with our services, we intend to establish a benchmark of "the best in the business" for customer satisfaction.

The FCC is also voluntarily participating in the GPRA Program Performance Pilot Project to gain valuable insight into the performance measurement process, and hopefully assist the Administration in setting appropriate general guidelines for agency implementations of the GPRA. As a pilot agency, the FCC has developed and submitted to the Office of Management and Budget (OMB) its fiscal year 1994, 1995, and 1996 Program Performance Plans covering the Land Mobile Radio application processing function of the Wireless Telecommunications Bureau and the Equipment Authorization program of the Office of Engineering and Technology. Most recently, the FCC has completed and submitted its FY 1994 Program Performance Report which details how well it succeeded in meeting established targets.

Personnel Performance

The FCC has evaluated its internal personnel performance measures to determine if it needs to eliminate those based on process or punishment. Based on this review, no FCC positions appear to have performance standards of the type identified as "process-and-punishment"-oriented.

The FCC has established a Performance Management Task Force, consisting of supervisors, managers, human resources staff, and union representatives. This task force developed a survey to obtain employee views on improving the current performance appraisal system. The task force is coordinating its efforts with the Office of Personnel Management.

Creating Grassroots Partnerships

Historically, the FCC has sought feedback on proposed changes to its rules and regulations under the notice and comment provisions of the Administrative Procedures Act. It has also sought customer participation in the development of critical technological standards having an impact on America's competitive position in the international telecommunications market. A recent and ongoing example of this effort is the Advisory Committee on Advanced Television Service. Other advisory committees are created to assist the agency in developing reasonable, equitable, and enforceable regulations. A recent example of this type of advisory committee is the Public Safety Wireless Committee, formed in partnership with the Department of Commerce's National Telecommunications Information Administration.

The FCC has always sought the input of industry and government experts at the grassroots level, for example, through attending various industry conventions and meetings. In the past 18 months, the FCC has increased its efforts to foster grassroots partnerships to a level never undertaken in the past. Examples of efforts at outreach programs include the following, which represent only a small portion of the more than 400 other meetings with industry representatives and the public that the FCC Commissioners and senior staff plan to attend this year:

- Senior FCC management officials held several meetings during April and May of this year with radio, television, and cable broadcasters and representatives of the common carrier and land mobile industries to discuss subjects of current concern to them. These meetings were held in Washington, DC; Las Vegas, Nevada; Denver, Colorado; and Dallas, Texas.
- FCC's Common Carrier Bureau has held several meetings with regulatees to elicit information on how to improve internal regulatory processes. A majority of the recommendations resulting from these meetings focused on improving the timeliness and dissemination of agency decisions and documents by making them available to our customers in electronic format. The agency currently has several projects to provide access to FCC records via the Internet and electronic bulletin boards, and it is incorporating the public's suggestions into these initiatives.
- Commission staff also participated in numerous panels on current and future issues in wireless communications. Industry concerns with auctions and spectrum availability were among the topics of general discussion at the panels. The FCC is currently reviewing the recommendations received at these panel discussions and fora.

Negotiated Rulemakings

To support the Administration's efforts to promote consensual rulemakings, the Commission has identified 20 upcoming conventional rulemakings which we believe should be considered for conversion to negotiated rulemakings. The identified rulemakings comprise subjects from all areas of regulation within the FCC.

Certain prospective rulemakings, such as Cable Home Wiring and Spectrum Needs for Public Safety, represent areas of interest to the general public. Other rulemakings are in areas of FCC rules which are of interest to consumers of particular services and the regulated

industries involved. Among these latter rulemakings are the Part 24 Personal Communications Services Rewrite, and Regulatory Symmetry for Cellular and Broadband Personal Communications Services.

The FCC also has used a more informal approach to consensual rulemaking in completing work on numerous rulemaking proceedings. An example is its proposed FY 1995 Regulatory Fee Schedule. The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) requires the agency to collect annual regulatory fees. To ensure that the fee program was fair and equitable for all payees, the FCC employed a contractor to conduct "Focus Group" discussions with several of the licensees and others to determine whether there were alternative fee development methodologies to those proposed in the Commission's Notice of Proposed Rulemaking. The comments, concerns, and suggestions obtained from these focus group discussions were incorporated into the Commission's final Report and Order.

BILLING CODE 6712-01-F

FEDERAL HOUSING FINANCE BOARD (FHFB)

Statement of Regulatory Priorities

The Federal Housing Finance Board (Finance Board) is an independent agency that is statutorily charged with regulating the Federal Home Loan Bank (FHLBank) System. The FHLBank System is a Government-sponsored enterprise consisting of 12 regional "wholesale" FHLBanks that provide advances (loans) to member financial institutions for the purpose of housing finance. The Finance Board is required to prepare the following Regulatory Plan pursuant to section 4 of Executive Order 12866.

In June 1995 the Finance Board achieved a quorum for the first time in 17 months, thereby enabling it to begin moving forward on several pending and planned regulatory initiatives. The Finance Board's three major regulatory priorities for 1996 are: to ensure that the FHLBanks operate in a financially safe and sound manner; to ensure that they carry our their housing finance mission; and to reduce the regulatory burden on the FHLBanks by determining those governance authorities currently exercised by the Finance Board that may be more appropriately exercised by the FHLBanks. Within these major priorities, the Finance Board has a number of 1995-96 priority projects, three of which are expected to result in significant regulatory actions (as defined in E.O.12866) in 1996.

FHLBank Safety And Soundness Priority

The Finance Board's highest priority is to continue to ensure the safety and soundness of the FHLBank System. This priority entails the ongoing examination and supervision of the 12 FHLBanks and the FHLBank System's funding agent, the Office of Finance, and all matters relating to safety and soundness. While none of the projects within this priority is expected to result in a significant regulatory action in 1996, the following interrelated matters are the most important components of this top priority for the agency:

1. The execution of the Finance Board-adopted annual strategic plan for onsite examination of the 12 FHLBanks, the Office of Finance, and the Financing Corporation;

2. The development and adoption by the Finance Board of the agency's examination manual, which will articulate the policies and procedures to be followed by examiners in conducting examinations; and

3. A comprehensive review of the Financial Management Policy governing investments and other nonadvance financial activities of the FHLBank System.

FHLBank Housing Finance Mission Priority

The second major Finance Board regulatory priority is to continue to ensure that the FHLBanks carry out their housing finance mission. There are two significant regulatory actions through which the Finance Board intends to further this priority in fiscal year 1996: (a) the amendment of the Finance Board's existing Affordable Housing Program (AHP) regulation and (b) the possible adoption of a new regulation or guidelines governing the FHLBanks' Community Investment Program (CIP). These two initiatives are described below (RINs 3069-AA28 and 3069-AA05).

The Finance Board also intends to implement this priority by amending its existing Community Support Requirements (Community Support) regulation to establish specific community support standards applicable to credit union and insurance company members. The Federal Home Loan Bank Act (Bank Act) requires the Finance Board to adopt a regulation establishing standards of "community investment or service" that member institutions must meet in order to maintain continued access to long-term advances.

Under the existing Community Support regulation, the primary standard for evaluating the adequacy of a member's community support activities is the evaluation of the member's compliance with the Community Reinvestment Act of 1977 (CRA), as evidenced by the CRA rating assigned to the member by its Federal banking regulator. However, since the CRA does not apply to credit unions and insurance companies, these institutions do not receive CRA ratings. The amendment to the Community Support regulation is intended to address this issue. The Finance Board does not expect the amendment of the Community Support regulation to constitute a significant regulatory action.

FHLBank Corporate Governance Priority

The Finance Board's third major priority for fiscal year1996 is to devolve to the FHLBanks, to the extent permitted by current law, decisionmaking authority regarding corporate governance and business oversight issues, thereby reducing regulatory burden on the FHLBanks and permitting the Finance Board to focus upon its core safety and soundness, regulatory, and supervisory functions.

Throughout the remainder of 1995 and in 1996, the Finance Board will address a number of specific governance and oversight issues and implement those changes it believes are appropriate and that can be carried out without statutory change. Primary among these efforts will be the promulgation of a proposed and, eventually, a final rule amending the Finance Board's regulation on members of the FHLBanks System. This initiative is discussed below (RIN 3069-AA41). The Finance Board also intends to promulgate a proposed and, eventually, a final rule amending its regulation on the organization of the FHLBanks to transfer from the Finance Board to the boards of directors of the FHLBanks final authority to establish rates of pay for FHLBank officers and employees. This anticipated regulatory change will not amount to a significant regulatory action.

In addition to its regulatory and policy actions, the Finance Board will be cooperating with Congress as it attempts to develop comprehensive FHLBank System reform legislation aimed largely at further devolving corporate governance authority to the FHLBanks beyond what is possible under the current statutory scheme.

The Finance Board's corporate governance priority promotes the goals of the President's National Performance Review in two ways. First, it will "cut red tape" by reducing the number and extent of regulations that control the FHLBanks' business decisions. Second, it will "put customers first" by allowing the FHLBanks more flexibility in carrying out the purpose for which they were created: to channel money from Wall Street to individual housing lenders all across America.

FHFB

PROPOSED RULE STAGE

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157. AFFORDABLE HOUSING PROGRAM

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

12 USC 1422b(a)(1); 12 USC 1430(j)

CFR Citation:

12 CFR 960

Legal Deadline:

None

Abstract:

The Federal Housing Finance Board (Finance Board) issued a proposed rule revising its regulation governing the Affordable Housing Program (AHP) in order to simplify and clarify the AHP's requirements for the Federal Home Loan Banks (FHLBanks) and their members.

Statement of Need:

The Finance Board is revising its AHP Regulation in order to address operational issues that have arisen during the 5 years the program has been in existence. The proposed AHP amendments will help enhance the AHP's compatibility with various State and Federal housing programs that provide funds in conjunction with AHP funds. In addition, the amendments would make the AHP more responsive to local low-income housing needs in each of the 12 FHLBank districts and increase efficiency in administration of the program.

Summary of the Legal Basis:

Section 10(j) of the Federal Home Loan Bank Act requires the Finance Board to promulgate regulations governing the AHP. See 12 U.S.C. 1430(j).

Alternatives:

During the development of the proposed AHP amendments, the Finance Board considered various alternative approaches to dealing with the operational issues that have arisen over the 5 years of the AHP's existence. In addition, the Finance Board will consider all alternatives suggested by the public during the notice-and-comment process. The Finance Board expects to address these alternatives in its final AHP regulation.

Anticipated Costs and Benefits:

At this time, it is not possible to quantify the expected costs and benefits of the revised AHP regulation. In general, the Finance Board expects the revised AHP regulation to reduce the FHLBanks' administrative costs of operating the AHP.

Risks:

The revised AHP regulation does not address issues of financial risk to the FHLBanks. The advances made by the FHLBanks through the AHP, like all FHLBank advances, are governed by the Finance Board's Advances regulation, which addresses the safety and soundness issues involved in making advances. Since advances made through the AHP are overcollateralized, there is a low magnitude of risk of loss to the FHLBanks in making such advances.

Timetable:

Action	Date	FR Cite
NPRM	01/10/94	59 FR 1323
NPRM Comment Period End	03/11/94	59 FR 1323
Second NPRM	03/00/96	
Second NPRM Comment Period End	05/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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RIN: 3069–AA28

FHFB

158. • MEMBERS OF THE FEDERAL HOME LOAN BANKS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

12 USC 1422a; 12 USC 1422b; 12 USC 1424; 12 USC 1426; 12 USC 1442

CFR Citation:

12 CFR 933

Legal Deadline:

None

Abstract:

The Finance Board proposes to amend its regulation on members of the Banks to allow the 12 Federal Home Loan Banks, rather than the Finance Board, to approve applications for Bank membership.

Statement of Need:

The proposed rule would permit the FHLBanks, rather than the Finance Board, to approve applications for FHLBank membership. It would require the FHLBanks to apply most of the tests and criteria for membership currently used by the Finance Board in approving applications. The regulation, as amended, would further the Finance Board's policy to devolve to the FHLBanks as many functions of corporate governance as are practicable under the current statutory scheme.

Summary of the Legal Basis:

Section 4 of the Bank Act sets forth eligibility criteria for membership in FHLBanks, but does not require expressly that the Finance Board approve individual applications for membership. (See 12 USC 1424.) Section 2B(a)(1) of the Bank Act authorizes the Finance Board to promulgate regulations necessary to carry out the provisions of the Bank Act (see 1422b(a)(1)), including those necessary to fulfill the Finance Board's duties to ensure the safety and soundness of the FHLBank system (see 1424a(3)(A)), and to ensure that the FHLBanks carry out their housing finance mission (see 1422a(3)(B)(i)). Therefore, the Finance Board has the statutory power both to devolve to the FHLBanks approval authority regarding membership applications and to establish regulatory guidelines to govern the FHLBanks' exercise of such authority.

Alternatives:

In deciding whether to amend its regulation on members of the FHLBanks, the Finance Board considered the possibility of retaining final approval authority over FHLBank membership applications. However, the Finance Board determined that such a course would continue to cause unnecessary delay in the processing of membership applications and would maintain a layer of bureaucracy in the application process that is not necessary to ensure the safety and soundness of the FHLBank System or to ensure that the FHLBanks are carrying out their housing finance mission.

Anticipated Costs and Benefits:

The regulation on members of the FHLBanks, as amended, would not impose any additional costs on either the Finance Board, the FHLBanks, or potential FHLBank members and would render benefits to each. Applicants for membership would continue to submit application materials, but would do so pursuant to streamlined procedures. FHLBanks would continue to review membership applications, as they do currently, but would not need to prepare the materials for Finance Board review. With the elimination of the membership application review function, Finance Board staffing levels could be reduced, or staff time could be devoted to other priorities. Ultimately, this would benefit the FHLBanks, which fund Finance Board operations through the payment of annual assessments.

Risks:

The only risk to which the amendment of the regulation on members of the FHLBank System applies is the financial risk assumed by FHLBanks in accepting financial institutions as members. The amended regulation would minimize this risk by requiring that the FHLBanks apply the same safety and soundness guidelines in assessing membership applications that are applied now by the Finance Board.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected:

None

Government Levels Affected:

None

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RIN: 3069–AA41

FHFB

FINAL RULE STAGE

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159. COMMUNITY INVESTMENT PROGRAM

Priority:

Economically Significant

Legal Authority:

12 USC 1422a; 12 USC 1422b; 12 USC 1430(i)

CFR Citation:

12 CFR 961

Legal Deadline:

None

Abstract:

Section 10(i) of the Bank Act requires the FHLBanks to establish a community investment program (CIP) to make advances to FHLBank members to finance community-oriented mortgage lending. The Finance Board is contemplating proposing a regulation or developing guidelines that would address operational aspects of the CIP.

Statement of Need:

The CIP has operated for 5 years without any clarifying regulations. During this time, operational issues have arisen. A regulation or guidelines may be necessary to address these issues in order to establish a more specific framework for the operation of the CIP.

Summary of the Legal Basis:

Section 2B(a)(1) of the Bank Act authorizes the Federal Housing Finance Board (Finance Board) to promulgate regulations necessary to carry out the provisions of the Act.(See 12 U.S.C. 1422b(a)(1).) Section 10(i) of the Bank Act requires the FHLBanks to establish a CIP, pursuant to the general statutory criteria set forth in section 10(i).

Alternatives:

Because consideration of additional CIP guidance is in a very preliminary stage, including the issue of whether such guidance will be established by regulation or by guidelines, the Finance Board has not yet analyzed the alternative approaches to the issues expected to be addressed in this initiative.

Anticipated Costs and Benefits:

Because the Finance Board has not yet analyzed the alternative approaches to the issues expected to be addressed in the CIP regulation or guidelines, the Finance Board is not yet able to identify the expected costs and benefits of any such CIP regulation or guidelines.

Risks:

The CIP regulation or guidelines will not address issues of financial risk to the FHLBanks. The advances made by the FHLBanks through the CIP, like all FHLBank advances, are governed by the Finance Board's Advances regulation, which addresses the safety and soundness issues involved in making advances. Since advances made through the CIP are overcollateralized, there is a low magnitude of risk of loss to the FHLBanks in making such advances.

Timetable:

Action	Date	FR Cite
Final Action	09/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

Agency Contact:

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FEDERAL MARITIME COMMISSION (FMC)

Statement of Regulatory Priorities.

The Federal Maritime Commission's regulatory objectives are guided by the agency's basic mission. The Commission's mission is to be able to take the actions necessary to ensure that the shipping statutes it administers operate as effectively as possible to provide an efficient, economic, and nondiscriminatory ocean transportation system, in an environment free of unfair foreign maritime trade practices. Commission regulations are designed to implement each of the various statutes the agency administers in a manner consistent with this mission and in a way that minimizes regulatory costs, fosters economic efficiencies, and promotes international harmony.

Proposed legislation pending in Congress could alter significantly the regulatory scheme regarding ocean commerce. This same legislation could also affect the continued existence of the Commission. The Commission will be monitoring this legislation closely, as it obviously would affect the agency's regulatory planning and priorities, and depending on the effective date(s) of its provisions, could require regulatory action during the coming year. Until any such legislation is enacted and an implementation schedule is determinable, the principal objective or priority of the agency's current regulatory plan will be to continue to assess its major existing regulations for continuing need, effectiveness, burden on the regulated industry, fairness, and clarity. The Commission has under review, inter alia, regulations regarding passenger vessel operator financial responsibility, co-loading arrangements between non-vessel-operating common carriers, possible guidelines for Commission review of substantially anticompetitive agreements between common carriers by water in foreign commerce, and requirements for the filing of service contracts.

Review of the above-mentioned passenger vessel financial responsibility regulations represents an important regulatory action and serves as an example of the Commission's objective to regulate fairly and effectively while imposing a minimum burden on the regulated entities, following the principles stated by the President in Executive Order 12866. Passenger vessel financial responsibility regulations are issued pursuant to the provisions of Public Law 89-777, 46 U.S.C. app. 817e and 817d. These regulations set forth the procedures whereby owners or operators of vessels having berth or stateroom accommodations for 50 or more passengers and embarking at U.S. ports shall establish their financial responsibility to indemnify passengers for nonperformance of transportation to which they would be entitled and to meet any liability which may be incurred for death or injury to passengers or other persons on voyages to or from U.S. ports. The Commission's review of its current regulations in this area is for the purpose of assuring that the Commission's requirements provide adequate coverage for passenger vessel customers in regard to performance and casualty, while not imposing an undue burden or cost on the passenger vessel industry.

FMC

FINAL RULE STAGE

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160. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR NONPERFORMANCE OF TRANSPORTATION AND INQUIRY INTO ALTERNATIVE FORMS (DOCKET NOS. 94-06 AND 94-21)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

5 USC 552 to 553; PL 89-777 (46 USC app 817e); 46 USC app 841a; 46 USC app 1716

CFR Citation:

46 CFR 540.5; 46 CFR 540.9

Legal Deadline:

None

Abstract:

Action would amend financial responsibility requirements regarding nonperformance by passenger vessel operators by eliminating the $15 million unearned passenger revenue ceiling and revising the existing sliding scale for coverage. Comment also is sought on an alternative sliding scale. Action also would remove self-insurance as an option for coverage. This action has been held in abeyance pending a Notice of Inquiry into alternative methods of establishing financial responsibility.

Statement of Need:

The Federal Maritime Commission (FMC) administers section 3, Public Law 89-777, 46 USC app. 817e. Section 3 requires certain passenger vessel operators (PVOs) to establish financial responsibility for nonperformance of transportation. (Section 3 provides in pertinent part: "(a) No person in the United States shall arrange, offer, advertise, or provide passage on a vessel having berth or stateroom accommodations for fifty or more passengers and which is to embark passengers at United States ports without there first having been filed with the Federal Maritime Commission such information as the Commission may deem necessary to establish the financial responsibility of the person arranging, offering, advertising, or providing such transportation, or, in lieu thereof, a copy of a bond or other security, in such form as the Commission, by rule or regulation, may require and accept, for indemnification of passengers for nonperformance of the transportation.") The Commission's regulations implementing section 3, contained in 46 CFR 540, Subpart A, generally provide that a PVO may evidence its financial responsibility by one or more of the following methods: a guaranty, escrow arrangement, surety bond, insurance or self-insurance. The amount required must equal 110 percent of the PVO's highest unearned passenger revenue (UPR) over a 2-year period. (UPR is defined under 46 CFR 540.2(i) as: ". . . that passenger revenue received for water transportation and all other accommodations, services, and facilities relating thereto not yet performed.") The maximum coverage amount currently required is $15 million, subject to a sliding scale.

The Commission monitors activity of PVOs subject to Public Law 89-777 and by rule requires semiannual UPR reports. Additionally, the Commission periodically surveys PVOs' future U.S. cruise schedules and fare structures. Developments since the Commission's actions in Dockets Nos. 92-19 (Revision of Financial Responsibility Requirements for Non-Performance of Transportation (57 FR 51887, September 14, 1992)) and 92-50 (Financial Responsibility Requirements for Nonperformance of Transportation: Revision of Self-insurance Qualification Standards, Final Rule (57 FR 62749, December 31, 1992)) prompted the Commission to reconsider existing UPR coverage requirements with regard to the sliding scale, the ceiling, and self-insurance. One development concerns the involuntary bankruptcy of a cruise line. Another is the extent to which some PVOs' UPR now exceeds the current $15 million ceiling, leaving an estimated $700 million in passengers' deposits and prepaid fares without coverage. Further, with regard to self-insuring PVOs that are not State or Federal entities, the Commission is concerned that sufficient funds may not be available to indemnify passengers for nonperformance of transportation.

To narrow the coverage gap which has emerged, the Commission has proposed to remove the current ceiling, and to revise the sliding scale to require coverage for 110 percent of unearned passenger revenue up to $25 million per operator, and coverage of 90 percent for amounts exceeding $25 million.

The Commission also proposed to reconsider section 3 self-insurance for passenger vessel operators that are not State or Federal entities. Presently, only net worth at 110 percent of the highest unearned passenger revenue over the past 2 years must be maintained. In the event of a default, other interests with potentially superior claims on a passenger vessel operator's assets--such as a vessel's crew, shipyards, provisioners, and mortgage holders--could leave insufficient funds available to fully indemnify passengers for deposits and prepaid fares. Even if the Commission were to reinstate its former requirement for both net worth and working capital, the Commission is concerned that there still might be insufficient assets readily available to fully indemnify the traveling public. These concerns do not, however, appear to militate against accepting State or Federal entities as self-insurers.

While the proposed rule would discontinue self-insurance for commercial entities, it would afford a 1-year transitional period for commercial operators who are presently self-insured, at the end of which they would be required to provide other evidence of financial responsibility.

Industry-wide, for the approximately $1 billion in current UPR, the Commission's staff has estimated that the proposed rule would increase coverage from the current $300 million to $850 million.

It is important to note that the proposed rule only relates to passenger revenue which has not yet been earned by the involved PVO. The changes set forth in the Proposed Rule were deemed necessary to ensure that cruise passengers are adequately protected in the event of nonperformance of transportation.

Summary of the Legal Basis:

This proposal is made pursuant to section 3 of Public Law 89-777, which requires certain PVOs to establish financial responsibility for nonperformance of transportation.

Alternatives:

The proposed rule requested comments on an alternative approach of requiring 110 percent coverage for up to $25 million in UPR per operator; coverage of 75 percent for UPR between $25 million and $50 million per operator; and 50 percent coverage for UPR over $50 million per operator. The Commission also invited the PVO industry and other interested parties to suggest alternative proposals to ensure adequate financial responsibility coverage for UPR subject to section 3. Twelve comments generally critical of the proposed rule were received.

To ensure full consideration of other approaches potentially more acceptable to the industry, the Commission placed the Proposed Rule in abeyance pending an Inquiry into the viability of other approaches, Docket No. 94-21, Inquiry into Alternative Forms of Financial Responsibility for Nonperformance of Transportation (59 FR 52133, October 26, 1994) (1994 Inquiry). Two such approaches are set forth in the 1994 Inquiry. The first is the concept of voluntary associations; the second is retained but strengthened self-insurance requirements.

Anticipated Costs and Benefits:

The proposed rule represents a significant Commission action. It may not, however, ultimately be within the ambit of a "significant regulatory action" as defined under section 3(f) of Executive Order 12866. The proposed rule will probably not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The net effect of the rule would be to require an additional $700 million in financial responsibility coverage, which should not cost $100 million in today's financial markets. Moreover, inasmuch as the Commission is the sole administrator of the involved section of the underlying statute (section 3 of Public Law 89-777), the proposed rule would appear unlikely to create any inconsistency or other interference with an action taken or planned by another agency. In addition, the proposed rule would not appear to have any budgetary impact whatsoever on entitlements, grants, user fees, or loan programs or on the rights and obligations of recipients thereof. Finally, the proposed rule does not appear to raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

As background, the Commission undertook this rulemaking proposal as a consequence of its concern that some PVOs' UPR now greatly exceeds the current $15 million ceiling--in some instances by a factor of several times the current ceiling, leaving some $700 million in UPR without section 3 coverage. Under the Proposed Rule, every dollar in additional coverage obtained by a PVO will result in an additional dollar's protection to the traveling public. Ultimately, the proposed rule would reduce the exposure of the traveling public's deposits and prepaid fares to loss by 80 percent--from the current level of approximately $700 million to $138 million--with a corresponding reduction in uncovered UPR from 70 percent to 14 percent. The alternative proposal would reduce this exposure by 62 percent--from $700 million to $268 million--with a corresponding reduction in uncovered UPR from 70 percent to approximately 27 percent.

Risks:

Docket No. 94-06 does not involve risk reduction efforts involving health, public safety, or environmental concerns. The proposal does, however, contemplate a substantial reduction in potential risk exposure for passengers' deposits and prepaid fares for unperformed transportation.

Timetable:

Action	Date	FR Cite
NPRM	03/31/94	59 FR 15149
NPRM Comment Period End	05/02/94	59 FR 15149
Comment Period Extended to 06/10/94	05/05/94	59 FR 23182
Comment Period Extended to 06/24/94	06/14/94	59 FR 30567
Notice of Inquiry (Docket No. 94-21)	10/14/94	59 FR 52133
Clarification of Notice of Inquiry	11/02/94	59 FR 54878

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Action	Date	FR Cite
Comment Period End for Notice of Inquiry	11/28/94	59 FR 52133
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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BILLING CODE 6730-01-F

FEDERAL TRADE COMMISSION (FTC)

Statement of Regulatory Priorities

Regulatory Priorities

The Federal Trade Commission is an independent agency charged with protecting consumers and businesses from unfair, deceptive, and anticompetitive practices.

Although the agency pursues its mandate primarily through case-by-case enforcement of the Federal Trade Commission Act and other statutes, regulation is an important complement to this law enforcement effort, particularly with respect to consumer protection matters. Commission regulations generally are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions.

The Commission's regulatory efforts for 1995 encompassed a consideration of new regulations, modification of existing regulations, and elimination of unneeded regulations. With respect to new regulations, the Commission implemented a new rule pursuant to the Telemarketing and Consumer Fraud and Abuse Prevention Act. The Act directed the Commission to issue a rule prohibiting deceptive and abusive telemarketing acts and practices within 365 days from the date of enactment of the Act. On August 16, 1995, the Commission issued a final rule that prohibits telemarketers from misrepresenting the cost, quantity, and other aspects of offered goods or services and allows the FTC to target deceptive and abusive practices. This proceeding generated considerable interest because of the large number of companies that conduct business by means of telemarketing and because of the Rule's potential effect on their methods of doing business. The Rule becomes effective on December 31, 1995.

In the Energy Policy Act of 1992 (EPA 92), Congress directed the Commission to establish uniform labeling requirements, if practicable, for alternative fuels (i.e., automotive fuels other than gasoline and diesel, such as compressed natural gas and electricity) and for vehicles that use alternative fuels. The Commission issued a final rule on May 19, 1995 (60 FR 26926) that requires disclosure of "appropriate" cost and benefit information for nonliquid alternative fuels and alternative-fueled vehicles to enable consumers to make reasonable purchasing choices and comparisons. The labeling requirements for nonliquid alternative fuels became effective on August 21, 1995, and the labeling requirements for alternative-fueled vehicles become effective on November 20, 1995.

With respect to rule modifications, the Commission sought comment regarding possible amendments to its Care Labeling Rule (59 FR 30733 June 15, 1994). The rule requires manufacturers and importers of textile wearing apparel to attach care labels to garments (for example, "dry clean only"). The rule currently requires the instructions to be in words, but allows symbols to be used in addition to words. The FTC sought comment on the desirability of using symbols in lieu of words. Symbols could make care instructions more understandable to non-English-speaking consumers, and thus not only better serve a significant minority of American consumers, but also foster trade with Mexico and Canada, consistent with the goals of the North American Free Trade Agreement. The comment period expired on October 15, 1994, and staff's recommendation to the Commission is expected in the fall of 1995.

The FTC is also committed to eliminating unnecessary rules and regulations. To this end, the Commission is seeking information regarding the costs and benefits of various trade regulation rules and voluntary industry guides. (See 60 FR 6463, February 2, 1995). This assessment is part of the Commission's ongoing program to review all of its rules and guides at least once every 10 years to determine their effectiveness, impact, and cost, and to assess whether they should be retained, modified, or repealed. As part of this ongoing program, the Commission has issued advance notices of proposed rulemaking (ANPRMs) proposing to rescind: the Sleeping Bag Rule, Part 400; the Binocular Rule, Part 402; the Tablecloth Rule, Part 404; the Glass Fiber Curtain Rule, Part 413; the Frosted Cocktail Glass Rule, Part 417; and the Extension Ladder Rule, Part 418. See 60 FR 27240-27245 (May 21, 1995). In connection with these rules, the Commission approved notices of proposed rulemaking (NPRMs) and gave advance notice of the NPRMs to Congress as required by Section 18 of the Federal Trade Commission Act. The Commission also approved an ANPRM to commence a proceeding to rescind the Leather Belt Rule, Part 405, and forwarded it to Congress as well.

In the past year, the FTC also repealed six voluntary industry guides. See 60 FR 37334 (July 20, 1995), announcing repeal of the Mill Guides; 60 FR 40262-40265 (August 8, 1995), announcing repeal of the Mail Order Insurance, Debt Collection Deception, and Free Film Guides; 60 FR 40267 (August 8, 1995), announcing repeal of the Beauty/Barber Equipment Guides; and 60 FR 40453 (August 9, 1995), announcing repeal of the Wig Guides. The Commission voted to repeal the Shoe, Ladies' Handbag, and Luggage Guides, and to propose a consolidated guide to cover these items as well as leather belts. The Commission also revised one interpretation and repealed various other interpretations published in 16 CFR Part 14. See 60 FR 40231 (August 15, 1995).

With regard to both content and process, the FTC's ongoing and proposed regulatory actions are compatible with the President's priorities. Substantively, the actions under consideration inform and protect consumers and reduce the regulatory burdens on business. In addition, the Commission's effort under EPA 92 serves to promote environmental protection and conservation of energy resources. The Commission's 10-year program for reviewing its existing regulations and guides is also consistent with President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations. The Commission's review program corresponds as well to section 5(a) of Executive Order 12866 (58 FR 51735, September 30, 1993), which directs Executive branch agencies to develop a plan to reevaluate periodically all of their significant, existing regulations.

Procedurally, the Commission also continues to focus substantial attention on aspects of the regulatory process that Executive Order 12866 seeks to promote: identifying and weighing the costs and benefits of proposed actions and possible alternative actions, and receiving the broadest practicable array of comments from affected consumers, businesses, and the public at large. In sum, therefore, the Federal Trade Commission's regulatory actions are aimed at efficiently and fairly promoting the ability of "private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people." (Executive Order 12866, sec. I.)

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Regulatory Actions

The Commission has no actions that constitute "significant regulatory actions" under the definition in Executive Order 12866. Two of the three actions in Part II of the 1994 Regulatory Plan have concluded and are referenced in the Commission's October 1995 entry in the Unified Agenda of Federal Regulations. The third action, expected to conclude in 1995, is also referenced in the October Agenda.

BILLING CODE 5750-01-F

NUCLEAR REGULATORY COMMISSION (NRC)

Statement of Regulatory Priorities

Under the authority of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) regulates the processing and utilization of source, byproduct, and special nuclear material. The NRC's regulatory mission is to ensure that civilian uses of nuclear materials and facilities are carried out with proper regard for the protection of public health and safety, the environment, and national security. The NRC regulates the operation of nuclear power plants and fuel cycle plants; the safeguarding of nuclear materials from theft and sabotage; the safe transportation of nuclear materials; the decommissioning and return to safe use of licensed facilities that are no longer in operation; and the medical, industrial, and research applications of nuclear material.

The NRC's regulatory priorities for the next fiscal year are to ensure that:

1. Nuclear power plants and other licensed facilities are operated safely and that licensees are adequately prepared to respond to accidents;

2. The basic principles and criteria that would allow decommissioned lands and structures to be released for unrestricted use are codified; and

3. Evolutionary and advanced reactor designs may be reviewed and licensed effectively and efficiently.

The NRC is addressing its regulatory initiatives in a manner that is consistent with the President's regulatory philosophy. The NRC routinely conducts comprehensive regulatory analyses that examine the costs and benefits of contemplated regulations as part of its regulatory process. The NRC has been aggressive and innovative in expanding the scope of public and industry participation in its most significant rulemakings. For example, the NRC has conducted several public workshops and established an electronic bulletin board to facilitate participation in the rulemaking to establish radiological criteria for decommissioning. The NRC has also developed internal procedures and programs to ensure that only necessary requirements are imposed on its licensees and to review existing regulations to determine whether the requirements imposed are still necessary.

NRC

PROPOSED RULE STAGE

161. STEAM GENERATOR TUBE INTEGRITY

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 2201; 42 USC 5841

CFR Citation:

10 CFR 50

Legal Deadline:

None

Abstract:

The Nuclear Regulatory Commission (NRC) plans to develop a rule pertaining to steam generator tube integrity. The objective of the rule would be to maintain adequate assurance of steam generator tube integrity while allowing a more appropriate approach to steam generator surveillance and maintenance activities at nuclear power plants. Steam generator degradation is a significant issue affecting current pressurized water reactors.

Statement of Need:

The NRC plans to develop a rule pertaining to steam generator tube integrity (i.e., maintaining an extremely low overall probability of steam generator tube leakage that could result in core damage or exceeding allowable offsite doses). The proposed rule would allow a more flexible approach to maintaining steam generator tube integrity through a balance of preventative, inspection and repair, and mitigative measures that reflect current industry-wide operating experience. The regulatory action is intended to:

1. Improve the scope and methods for inspecting steam generator tubing;

2. Provide incentives to continue to improve inspection methods;

3. Develop plugging/repair criteria based on the most appropriate nondestructive parameters, thereby improving enforceability of the criteria and eliminating unnecessary conservatism; and

4. Reflect appropriate considerations of related systems issues.

Operating experience indicates that the current regulatory requirements need to be more stringent in some areas while in other areas they are overly conservative. To date this situation has been dealt with on a plant specific basis, when necessary. However, a generic approach to dealing with steam generator issues is necessary to effectively update inspection and repair criteria.

Summary of the Legal Basis:

The NRC is authorized to promulgate new rules. The new rule that will be developed on steam generator integrity will be in accordance with the provisions of 10 CFR Part 50.109 on backfitting.

Alternatives:

The primary alternative would be to continue with resource intensive plant-specific ad hoc licensing in the area of ensuring adequate steam generator tube integrity. Public comments provided in response to the advance notice of proposed rulemaking indicate agreement on the part of industry that rulemaking is the preferred regulatory means for addressing this issue.

Anticipated Costs and Benefits:

The regulatory action would result in a decrease in costs in some areas (e.g., steam generator tube repair costs, avoidance/delay of steam generator replacement costs), and an increase in cost in other areas (e.g., inspection costs). The regulatory action may also result in a decrease in personnel exposure. Since the proposed rule is intended to be performance based, a major benefit would be in providing a more flexible and cost-effective regulatory program pertaining to maintaining steam generator tube integrity.

Risks:

The regulatory action will result in increases in safety margins.

Timetable:

Action	Date	FR Cite
ANPRM	09/19/94	59 FR 47817
ANPRM Comment Period End	12/05/94	
NPRM	12/00/95	
Final Action	06/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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NRC

162. • REPORTING RELIABILITY AND AVAILABILITY INFORMATION FOR RISK-SIGNIFICANT SYSTEMS AND EQUIPMENT

Priority:

Other Significant

Legal Authority:

42 USC 2201; 42 USC 5841

CFR Citation:

10 CFR 050

Legal Deadline:

None

Abstract:

The proposed rule would amend the Nuclear Regulatory Commission's (NRCs) regulations to require that licensees for commercial nuclear power reactors report summary reliability and availability data for risk-significant systems and equipment to the NRC. The proposed rule would also require licensees to maintain onsite, and to make available for NRC inspection, records and documentation that provide the basis for the summary data reported to the NRC. This proposed rule is necessary to improve public health and safety, to reduce economic burden by focusing NRC and licensee attention on the most risk-significant issues, and to support generic and plant-specific regulatory actions. The proposed rule would substantially improve licensee implementation of the evaluation and goal setting aspects required by the maintenance rule and NRC's oversight of licensee's implementation of the maintenance rule.

Statement of Need:

The NRC plans to amend its regulations to require that licensees for commercial nuclear power reactors report summary reliability and availability data for risk-significant systems and equipment to the NRC. The NRC also plans to require licensees to maintain onsite, and to make available for NRC inspection, records and documentation that provide the basis for the summary data reported to the NRC. This action is necessary to substantially improve: (1) licensees' implementation of the NRC's maintenance rule, (2) the NRC's oversight of maintenance rule implementation, and (3) the NRC's ability to make risk-effective regulatory decisions. The NRC is authorized to promulgate new rules. This action will enhance both efficiency and protection of public health and safety.

Alternatives:

One alternative would be to continue the status-quo. Other alternatives include: (1) direct collection of data by NRC inspectors and (2) voluntary submittal of data by licensees.

Anticipated Costs and Benefits:

The regulatory action would increase costs for collection, reporting, and processing of reliability and availability data. These increased costs would be outweighed by substantial savings as a result of improving implementation and oversight of the NRC's maintenance rule and moving towards risk-based regulation and attendant regulatory relief.

Risks:

The regulatory action is expected to help reduce overall risk by improving implementation and oversight of the NRC's maintenance rule and helping to focus NRC and industry attention on the most risk-significant aspects of power plant operation.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	10/00/95	
Final Action	06/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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NRC

163. • REVISION OF FEE SCHEDULES; 100% FEE RECOVERY, FY 1996

Priority:

Economically Significant

Legal Authority:

42 USC 2201; 42 USC 5841

CFR Citation:

10 CFR 170; 10 CFR 171

Legal Deadline:

Final, Statutory, September 30, 1996.

Omnibus Budget Reconciliation Act of 1990

Abstract:

This proposed rule would amend the Nuclear Regulatory Commission's (NRCs) regulations regarding the licensing, inspection, and annual fees charged to NRC licensees and applicants for an NRC license. The amendments are necessary to recover approximately 100 percent of the NRC budget authority for fiscal year 1996 less the amounts appropriated from the Nuclear Waste Fund. The Omnibus Budget Reconciliation Act of 1990 (OBRA-90) requires that the NRC accomplish the 100 percent recovery through the assessment of fees.

Statement of Need:

This rulemaking will amend the licensing, inspection, and annual fees charged to NRC licensees and applicants for an NRC license. The amendments are necessary to recover approximately 100 percent of the NRC budget authority for fiscal year 1996 less the amounts appropriated from the Nuclear Waste Fund. The Omnibus Budget Reconciliation Act of 1990 (OBRA-90) requires that the NRC accomplish the 100-percent recovery through the assessment of fees. The NRC assesses two types of fees to recover its budget authority. License and inspection fees are assessed under the authority of the Independent Offices Appropriation Act to recover the costs of providing individually identifiable services to specific applicants and licensees (10 CFR part 170). OBRA-90 requires that the NRC recover the full cost to the NRC of all identifiable regulatory service that each applicant or licensee receives. The NRC recovers generic and other regulatory costs not recovered through 10 CFR Part 170 fees through the assessment of annual fees under the authority of OBRA-90 (10 CFR Part 171). Annual fee charges are consistent with the guidance in the Conference Committee Report on OBRA-90 that the NRC assess the annual charge under the principle that licensees who require the greatest expenditure of the agency's resources should pay the greatest annual fee.

Summary of the Legal Basis:

The Omnibus Budget Reconciliation Act requires that the NRC recover approximately 100 percent of its budget authority, less the amount appropriated for the Nuclear Waste Fund, for fiscal years 1991 through 1998. The Act requires that the fees for fiscal year 1996 must be collected by September 30, 1996. Therefore, the final rule is to become effective by August 1, 1996.

Alternatives:

Because this action is mandated by statute and the fees must be assessed through rulemaking, the NRC did not consider alternatives to this action.

Anticipated Costs and Benefits:

The cost to NRC licensees is the NRC fiscal year 1996 budget authority less the amount appropriated from the Nuclear Waste Fund. The dollar amount is not yet determined but is expected to be in a range close to $503.8 million.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	07/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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RIN: 3150–AF39

NRC

FINAL RULE STAGE

164. RADIOLOGICAL CRITERIA FOR DECOMMISSIONING OF NUCLEAR FACILITIES

Priority:

Other Significant

Legal Authority:

42 USC 2201; 42 USC 5841

CFR Citation:

10 CFR 020; 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 051; 10 CFR 070; 10 CFR 072

Legal Deadline:

None

Abstract:

The proposed rule would amend the Commission's regulations to codify the basic principles and radiological criteria that would allow decommissioned lands and structures to be released for unrestricted public use. In the final rule entitled, "General Requirements for Decommissioning Nuclear Facilities" (June 27, 1988; 53 FR 24018), the need and urgency for guidance with respect to residual contamination criteria were expressed. At that time, it was anticipated that an interagency working group organized by the Environmental Protection Agency (EPA) would develop necessary Federal guidance. However, in the absence of significant progress by the interagency working group, the Commission has directed that the NRC expedite rulemaking because the requirements, once final, will provide licensees with an incentive to complete site decommissioning.

The proposed rule would establish basic radiological criteria for release of lands and structures. Measurables, in the form of surface and volume radioactive concentrations and site radioactivity inventory values, would be provided in supporting regulatory guidance. These combined activities should benefit the public, industry, and the NRC, providing a risk-based framework upon which decommissioning activities and license terminations can be accomplished. The framework will ensure adequate protection of public health and safety and identify residual radioactivity criteria upon which licensees can confidently develop reasonable and responsible decommissioning plans.

Statement of Need:

The Nuclear Regulatory Commission (NRC) is proposing to amend 10 CFR 20 of its regulations to provide specific radiological criteria for the decommissioning of soils and structures. The proposed criteria would apply to the decommissioning of all facilities licensed under 10 CFR Parts 30, 40, 50, 60, 61, 70, and 72, as well as other facilities subject to the Commission's jurisdiction under the Atomic Energy Act and the Energy Reorganization Act. The NRC would apply these criteria in determining the adequacy of remediation of residual radioactivity resulting from the possession or use of source, byproduct, and special nuclear material. The proposed rule is intended to provide a clear and consistent regulatory basis for determining the extent to which lands and structures must be remediated before a site can be considered decommissioned.

The NRC has developed the basis for the residual contamination levels in light of changes in basic radiation protection standards, improvements in remediation and radiation detection technologies, decommissioning experience obtained during the past 15 years, and comments received from public workshops held as part of this rulemaking effort. This rulemaking has been closely coordinated with the EPA from both a policy standpoint and for the technical underpinnings. The EPA was a key participant in the rulemaking workshops conducted for the rulemaking. EPA is preparing a parallel rulemaking. In addition, under the framework of a Memorandum of Understanding (MOU) between NRC and EPA, EPA will make a determination that the NRC rulemaking provides a sufficient level of protection for public health and safety and for the environment. This coordination will minimize the expenditure of Federal resources, provide a consistent regulatory approach for all facilities, and avoid a duplication of effort or overlapping regulations.

Summary of the Legal Basis:

This proposed rule is being developed under the authority of the Atomic Energy Act of 1954, as amended.

Alternatives:

The NRC presently allows decommissioning on a site-specific basis using existing guidance. The NRC could continue to allow decommissioning to proceed on a case-by-case basis. However, the NRC believes that codifying radiological criteria for decommissioning would provide a more effective method of and a broadly understood set of standards to be used in protecting public health and the environment at decommissioned sites.

Anticipated Costs and Benefits:

The proposed rule would establish a clear and consistent regulatory basis for determining the extent to which lands and structures must be remediated before a site can be decommissioned. The Commission believes that inclusion

of criteria in the regulations will result in more efficient and consistent licensing actions related to the numerous and frequently complex site decontamination and decommissioning activities anticipated in the future. Therefore, the proposed rule would use NRC and licensee resources more efficiently, be applied consistently to all types of licenses, create a predictable basis for decommissioning planning, and eliminate the protracted delays in decommissioning because licensees wait for generic regulatory criteria before proceeding with decommissioning of their facilities. The proposed rule would, for the most part, codify existing regulatory practice. It is not expected to result in any significant additional cost to the industry, the government, or the public. In fact, efficiencies produced by codifying and stabilizing regulatory practice in this area should result in an overall reduction in costs associated with decommissioning nuclear facilities. It is not possible to quantify the extent of these cost reductions at this time.

Risks:

This rulemaking would ensure that decommissioning will be carried out without undue impact on public and occupational health and safety and the environment. The proposed rule ensures a stable framework to accomplish decommissioning and achieves a stable level of costs for risks averted. The proposed amendments enhance the existing regulatory framework by providing a clear and consistent regulatory basis for determining the extent to which lands and structures must be remediated before a site can be decommissioned. The Commission believes that inclusion of radiological criteria in the regulations will result in more efficient and consistent licensing actions related to the numerous and frequently complex site decontamination and decommissioning activities anticipated in the future and reduce the risk to public health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	08/22/94	59 FR 43200
NPRM Comment Period End	12/20/94	
Final Action	02/00/95	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Federal

Agency Contact:

Charleen Raddatz
Nuclear Regulatory Commission
Office of Nuclear Regulatory Research
Washington, DC 20555
Phone: 301 415-6251

RIN: 3150–AD65

NRC

165. DESIGN CERTIFICATION FOR ADVANCED BOILING WATER REACTOR (ABWR)

Priority:

Other Significant

Legal Authority:

42 USC 2201; 42 USC 5841

CFR Citation:

10 CFR 052

Legal Deadline:

None

Abstract:

The proposed rule would revise the Nuclear Regulatory Commission's (NRCs) regulations by certifying the U.S. Advanced Boiling Water Reactor (ABWR) standard design in accordance with the requirements of Part 52. If a standard design is certified, then an applicant for a combined license that references the certified design will be assured of receiving an approval for the portion of the plant that was approved in the certification rulemaking. This amendment references the design control document (DCD) and sets forth the process for changing information in the DCD. GE Nuclear Engineering is currently preparing the DCD for ABWR design, which will contain the design information that will be certified by the rule and approved by the rule (so-called Tier 1 and 2 information). The NRC is reviewing two applications for standard design certifications for two evolutionary nuclear power plant designs pursuant to Part 52 (see "Design Certification for System 80" (RIN 3150-AF15).

Statement of Need:

The NRC has reviewed and approved two applications for design certification for evolutionary standard light-water reactor designs under the Commission's regulations in 10 CFR 52. The applicants for these design certifications are GE Nuclear Energy and Asea Brown Boveri-Combustion Engineering for the ABWR and System 80+ standard designs. The NRC has published two proposed rules which when published as final rules will provide design certification for these two designs by referencing the design information in separate appendices to Part 52. The Commission's certification of approved standard designs is necessary to provide for the early resolution of licensing issues and a more predictable licensing process. Ideally, a future applicant will reference a certified design in an application for a combined license to construct and operate a nuclear power plant. Design certification by rulemaking is accomplished pursuant to Commission regulations set out in 10 CFR 52 under the authority of the Atomic Energy Act of 1954, as amended. The Energy Policy Act of 1992, signed into law on October 24, 1992, largely codifies the Commission's regulations in 10 CFR 52. The Commission believes that standardization of plant designs will enhance the safety and reliability of future nuclear power plants while requiring fewer resources in their safety reviews.

Alternatives:

The Commission's regulations in 10 CFR part 52, subpart B, provide for design certification of standard nuclear power plant designs through rulemaking. Design certification is a procedural mechanism to effect the early resolution of licensing issues and encourage the use of standardized designs. These regulations were promulgated, in part, to provide a stable and predictable process for the licensing of future nuclear power plants. There is no alternative to rulemaking for the certification of a particular design.

Anticipated Costs and Benefits:

It may not be possible to quantify the costs and benefits of these rulemakings. Much depends on the extent to which the industry pursues standardization. However, if the industry finds in its interest to proceed with the development of nuclear power, there is every reason to expect that the safety and economic benefits of standardization will far outweigh the up-front costs of design and Commission certification.

Risks:

The standards used in the review of design certification applications are, in general, the same standards in effect for current nuclear power plants. However, standardization of plant designs will enhance the safety and reliability of future nuclear power plants while requiring fewer resources in their safety reviews.

Timetable:

Action	Date	FR Cite
ANPRM	11/03/93	58 FR 58664
ANPRM Comment Period End	01/03/94	
NPRM	04/07/95	60 FR 17902
NPRM Comment Period End	08/07/95	
Final Action	03/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

Agency Contact:

Jerry N. Wilson
Nuclear Regulatory Commission
Office of Nuclear Reactor Regulation
Washington, DC 20555-0001
Phone: 301 415-3145

RIN: 3150–AE87

NRC

166. DESIGN CERTIFICATION FOR SYSTEM 80+

Priority:

Other Significant

Legal Authority:

42 USC 2201; 42 USC 5841

CFR Citation:

10 CFR 052

Legal Deadline:

None

Abstract:

The proposed rule would revise the Nuclear Regulatory Commission's (NRCs) regulations by certifying the System 80+ standard design in accordance with the requirements of Part 52. If a standard design is certified, then an applicant for a combined license that references the certified design will be assured of receiving an approval for the portion of the plant that was approved in the certification rulemaking. This amendment references the design control document (DCD) and sets forth the process for changing information in the DCD. ABB-Combustion Engineering is currently preparing the DCD for the System 80+ design, which will contain the design information that will be certified by the rule and approved by the rule (so-called Tier 1 and 2 information). The NRC is reviewing two applications for standard design certifications for two evolutionary nuclear power plant designs pursuant to part 52 (See "Design Certification for Advanced Boiling Water Reactor (ABWR)" (RIN 3150-AE87).

Statement of Need:

The NRC has reviewed and approved two applications for design certification for evolutionary standard light-water reactor designs under the Commission's regulations in 10 CFR part 52. The applicants for these design certifications are GE Nuclear Energy and Asea Brown Boveri-Combustion Engineering for the ABWR and System 80+ standard designs. The NRC has published two proposed rules which when published as final rules will provide design certification for these two designs by referencing the design information in separate appendices to part 52. The Commission's certification of approved standard designs is necessary to provide for the early resolution of licensing issues and a more predictable licensing process. Ideally, a future applicant will reference a certified design in an application for a combined license to construct and operate a nuclear power plant. Design certification by rulemaking is accomplished pursuant to Commission regulations set out in 10 CFR part 52. The Commission believes that standardization of plant designs will enhance the safety and reliability of future nuclear power plants while requiring fewer resources in their safety reviews.

Alternatives:

The Commission's regulations in 10 CFR Part 52, Subpart B, provide for design certification of standard nuclear power plant designs through rulemaking. Design certification is a procedural mechanism to effect the early resolution of licensing issues and encourage the use of standardized designs. These regulations were promulgated, in part, to provide a stable and predictable process for the licensing of future nuclear power plants. There is no alternative to rulemaking for the certification of a particular design.

Anticipated Costs and Benefits:

It may not be possible to quantify the costs and benefits of this rulemaking. Much depends on the extent to which the industry pursues standardization. However, if the industry finds in its interest to proceed with the development of nuclear power, there is every reason to expect that the safety and economic benefits of standardization will far outweigh the up-front costs of design and Commission certification.

Risks:

The standards used in the review of design certification applications are, in general, the same standards in effect for current nuclear power plants. However, standardization of plant designs will enhance the safety and reliability of future nuclear power plants while requiring fewer resources in their safety reviews.

Timetable:

Action	Date	FR Cite
ANPRM	11/03/93	58 FR 58664
ANPRM Comment Period End	01/03/94	
NPRM	04/07/95	60 FR 17924
NPRM Comment Period End	08/07/95	
Final Action	03/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

Agency Contact:

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RIN: 3150–AF15

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Part III

Department of Agriculture

Semiannual Regulatory Agenda

DEPARTMENT OF AGRICULTURE (USDA)

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR Chs. I-IV

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda, October 1995

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of significant and not-significant regulations being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Order 12866 "Regulatory Planning and Review." The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96-354.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action. Requests for copies of the agenda should include a self-addressed, stamped envelope and be directed to: Regulatory Agenda, OBPA, Office of the Secretary, Room 118-E, Jamie Whitten Building, U.S. Department of Agriculture, Washington, DC 20250, (202) 720-1272.

SUPPLEMENTARY INFORMATION: For this edition of USDA's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Dated: October 6, 1995.

Marvin J. Shapiro,

Chief, Legislative, Regulatory, and Automated Systems Division.

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
167	Standards for Products Produced Following Organic Production, Processing and Handling Methods	0581-AA40

Agricultural Marketing Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
168	Revision of Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products	0581-AA45
169	Refrigeration and Labeling Requirements for Shell Eggs	0581-AA66
170	Regulations Under the Perishable Agricultural Commodities Act	0581-AB28
171	Salmonella Recognized Laboratory Program	0581-AB38
172	Regulations and Rules of Practice Under the Plant Variety Protection Act	0581-AB39

Agricultural Marketing Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
173	Voluntary and Mandatory Egg and Egg Products Inspection	0581-AA58
174	Relating to Inspection and Grading of Burley Tobacco	0581-AB01
175	Revision of 7 CFR 29.500 Fees and Charges for Inspection and Grading of Imported Tobacco	0581-AB12
176	User Fees for Cotton Classification Services to Growers 1995 Crop	0581-AB15
177	Changes in Fees for Voluntary Federal Meat Grading and Certification Services	0581-AB34
178	Increase Seed Inspection Fees	0581-AB35
179	Grading Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; Fee Increase	0581-AB40

USDA

Consolidated Farm Service Agency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
180	Amendments to CCC Debt Settlement Regulations Regarding Waiver of Restriction on Program Eligibility and Collection of Judgments by Administrative Offset	0560-AD09
181	End-Use Certificate Program—Providing Notification of Origin to Buyers	0560-AE37
182	Implementation Procedures for Highly Erodible Land and Wetlands Conservation Provisions of the Food Security Act	0560-AE38
183	1996 Upland Cotton Program	0560-AE40
184	Amendment to the Tobacco Regulations Regarding Nested Tobacco	0560-AE41
185	National Average Loan Rates for 1996-Crop Quota and Additional Peanuts and Minimum Commodity Credit Corporation (CCC) Export- Edible Sales Price for Additional Peanuts	0560-AE43
186	1996-Crop Peanuts National Poundage Quota	0560-AE45

Consolidated Farm Service Agency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
187	Amendment to the Highly Erodible Land and Wetlands Conservation Program Regulations—Person Determinations	0560-AC86
188	Amendments to the Wetlands Regulations Regarding Abandoned Acreage and Drainage by Drainage Districts	0560-AC92
189	Farmer Programs Guaranteed Interest Assistance Program	0560-AE01
190	Farmer Program Account Servicing Policies for Section 1816 and Other Related Sections for the "1990 FACT Act"	0560-AE02
191	Implement Section 1818 (Borrower Training) of the Food Agriculture, Conservation, and Trade Act of 1990 (Fact Act)	0560-AE04
192	Guaranteed Loan Programs; Monitoring Liquid Accounts	0560-AE05
193	Implementation of Certified Lender Program	0560-AE07
194	Acquisition and Management of Real and Chattel Property	0560-AE15
195	Removal of the Prohibition Against Charging Interest on Interest on Guaranteed Loans	0560-AE16
196	Small Farmer Outreach Training and Technical Assistance Program	0560-AE17
197	Disaster Assistance	0560-AE22
198	Amendment to Conservation Program Field Regulations Regarding Jurisdiction	0560-AE30
199	Selection and Functions of Consolidated Farm Service Agency State and County Committees	0560-AE33
200	Amendments to the Farmer Account Servicing Policies	0560-AE42
201	1995-Crop Sugar Beet and Sugarcane Price Support Loan Rates	0560-AE44
202	1996-Crop Marketing Quotas and Price Support Levels for Six Kinds of Tobacco	0560-AE46
203	1996-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AE47
204	1996-Crop Marketing Quotas and Price Support Level for Flue-Cured Tobacco	0560-AE48

Consolidated Farm Service Agency—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
205	Excessive Manufacturing (Make) Allowances in State Marketing Orders for Milk	0560-AC23
206	Conservation Environmental Programs Regulations Regarding Water Quality Incentives Project; Cost Share Provisions of the Emergency Conservation Program, and Other Revisions	0560-AD16
207	Amendment to the Acreage Conservation Reserve and the Conserving Use Acreage Regulations for Producers Affected by Excessive Rainfall and Flooding	0560-AD50
208	Program Ineligibility for Noncompliance With Boll Weevil Eradication Program	0560-AD57
209	Wool and Mohair Recourse Loan Program	0560-AD75
210	Regulations for Conservation Compliance Crop Acreage Base (CAB) Adjustments	0560-AD80
211	Amendment to the Emergency Livestock Assistance Regulations Regarding Feed Allowance and Approval of Counties for Assistance	0560-AD84
212	Farm Facility Loan Program Regulations	0560-AD85
213	Common Provisions for 1995 Wheat, Feed Grain, Cotton, and Rice Programs	0560-AD86
214	Sugar and Crystalline Fructose Information and Recordkeeping Requirements	0560-AD88
215	Amendments to the Payment Limitation Regulations for 1995	0560-AD89
216	Amendment to the Peanut Loan Program Regulations—Requirement for Crop Insurance	0560-AD90

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Consolidated Farm Service Agency—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
217	Amendment to the Tobacco Loan Program Regulations—Requirement for Crop Insurance	0560-AD91
218	Amendment to the Warehouse Regulations Regarding Auction Tobacco Warehouses	0560-AD92
219	Amendment to the Tobacco Loan Program Regulations—Budget Deficit Marketing Assessments	0560-AD93
220	Measure-All Pilot Project	0560-AD98
221	Insured and Guaranteed Operating and Farm Ownership Loan and Related Instructions To Implement Sections 4, 5, 7, 8, 9, and 19 of the Agricultural Credit Improvement Act of 1992	0560-AE09
222	Loans to Indian Tribes and Tribal Corporations	0560-AE10
223	Section 14 of the Agricultural Credit Improvement Act of 1992, (Graduation) and Sections 1819 (Loan Assessment) and 1821 (Market Placement) of the Fact Act	0560-AE11
224	The Agricultural Credit Improvement Act of 1992	0560-AE13
225	Implement Sections 11 and 13 of the Agriculture Credit Improvement Act 1993 (Application Processing Timeframe)	0560-AE14
226	Decision to Liquidate	0560-AE19
227	Special Disaster Set-Aside Program; Fruit and Nut Trees	0560-AE21
228	Revisions to the Direct Farm Ownership Loan Regulation (1943-A) To Clarify Existing Policies and Procedures Pertaining to the Agency's Outreach Program for Members of Socially Disadvantaged	0560-AE23
229	Socially Disadvantaged Outreach Program	0560-AE24
230	Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994	0560-AE25
231	Part 1946 Mediation; Subpart A Agricultural Loan Mediation Program	0560-AE26
232	Amendment to Tobacco Marketing Quota Regulations Regarding the Effective Date for the Domestic Marketing Assessment	0560-AE27
233	Extension of Maturing 1994 and Subsequent Crop Year Wheat and Feed Grain Price Support Loans	0560-AE28
234	Technical Corrections to Wheat, Feed Grain, Cotton, and Rice Program Regulations	0560-AE29
235	Amendments to the Disaster Payment Program Regulations for 1990 and Subsequent Crops	0560-AE31
236	Permit CFSA To Sell or Assign Farm Loan Mortgages and Notes	0560-AE35

Consolidated Farm Service Agency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
237	Common Provisions for the 1994 Wheat, Feed Grain, Cotton, and Rice Programs	0560-AC74
238	Amendments to the Production Adjustment Regulations—Reconstitution of Bases, Allotments and Quotas	0560-AC99
239	Pilot Voluntary Production Limitation Program	0560-AD00
240	1995 Feed Grain Program	0560-AD37
241	1995 Rice Program	0560-AD38
242	1995 Upland Cotton Program	0560-AD39
243	1995 Wool and Mohair Program	0560-AD40
244	90-Day Rule	0560-AD43
245	Amendments to Regulations Regarding Payments to Persons Convicted of Controlled Substance Violations	0560-AD47
246	1994 Options Pilot Program	0560-AD48
247	1994 Wheat Farmer-Owned Reserve Program	0560-AD60
248	1994 Feed Grain Farmer-Owned Reserve Program	0560-AD61
249	1995-Crop Marketing Quota and Price Support Level for Flue-Cured Tobacco	0560-AD62
250	1995-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AD63
251	1995-Crop Marketing Quota and Price Support Levels for Six Kinds of Tobacco	0560-AD64
252	1995-Crop Marketing Quotas for Three Kinds of Tobacco	0560-AD65
253	1995-Crop Peanuts National Poundage Quota and Minimum Commodity Credit Corporation (CCC) Export-Edible Sales Price for Additional Peanuts	0560-AD66
254	1995-Crop National Average Loan Rates for Quota and Additional Peanuts	0560-AD67
255	Amendments to the Wool and Mohair Program Regulations—Payment Limitations, Marketing Assessments, and Deductions for Marketing Charges	0560-AD68
256	Technical Corrections to the Wheat, Feed Grain, Cotton and Rice Program Regulations	0560-AD72
257	1995 Wheat Loan Rate and Acreage Reduction Program	0560-AD76
258	Amendments to ASCS and CCC Debt Settlement Regulations	0560-AD78
259	Amendments to Sugar and Crystalline Fructose Marketing Allotment Regulations	0560-AD79
260	Reopening of the 1993 Tree Assistance Program	0560-AD83
261	1995 Oilseed Program	0560-AD87

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Consolidated Farm Service Agency—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
262	Amendments to the Conservation Reserve Program Regulations Regarding Early Contract Terminations, Enrolling Replacement and New Acreage, and Contract Extensions	0560-AD95
263	Amendment to the Conservation Reserve Program (CRP) Regulations—Requirements for Crop Insurance	0560-AD96
264	Requirement for Crop Insurance as a Condition for Program Eligibility	0560-AD97
265	1995 Specifications for Cotton Bale Packaging Materials	0560-AD99
266	1945-D Emergency Loan Policies, Procedures, and Authorizations—Waiver of Crop Insurance for Crops Planted for Harvest in 1992 and 1993	0560-AE08
267	Elimination of Consolidation of Loans	0560-AE12
268	Reorganization Plans Under Federal Bankruptcy Codes	0560-AE18
269	Special Disaster Set-Aside Program; Implementation	0560-AE20
270	1995-1996 Marketing Year Penalty Rates for All Kinds of Tobacco Subject to Quotas	0560-AE34
271	Cottonseed Purchase Program	0560-AE39

Animal and Plant Health Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
272	Importation of Fruits and Vegetables	0579-AA58

Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
273	Cyclical Review of 9 CFR Part 92, Phase II	0579-AA34
274	Addition of Cervidae to the Regulations Concerning Tuberculosis in Livestock	0579-AA53
275	Advance Notice of Proposed Revision of The Federal Seed Act Regulations for Imported Seed	0579-AA64
276	Definition of "Biological Products" and "Guidelines"	0579-AA65
277	User Fees, Veterinary Diagnostics	0579-AA70
278	Importation of Animals and Animal Products	0579-AA71
279	Genetically Engineered Organisms; Simplification of Requirements and Procedures	0579-AA73

Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
280	Exotic Newcastle Disease in All Birds and Poultry; Psittacosis and Ornithosis in Poultry	0579-AA22
281	Export Certification	0579-AA54
282	Animal Welfare—Standards for Marine Mammals	0579-AA59
283	User Fees—Commercial Aircraft and Vessels; Phytosanitary Certificates	0579-AA68

Animal and Plant Health Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
284	Importation of Certain Animals and Poultry and Certain Animal and Poultry Products—Prevention of Poultry Diseases	0579-AA38
285	Chicken Disease Caused by Salmonella Enteritidis	0579-AA48
286	Importation of Certain Embryos and Animal Semen	0579-AA63
287	In Vitro Tests for Serial Release in Place of Animal Potency Tests	0579-AA66

USDA

Animal and Plant Health Inspection Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
288	Import/Export User Fees	0579-AA67
289	HSTAIC Repair and Maintenance Fees	0579-AA69

Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
290	Importation of Unmanufactured Wood	0579-AA47
291	Introduction of Nonindigenous Organisms	0579-AA61

Cooperative State Research, Education, and Extension Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
292	Higher Education Challenge Grants Program; Administrative Provisions	0524-AA02
293	1890 Institution Capacity Building Grants Program; Administrative Provisions	0524-AA03
294	Higher Education Multicultural Scholars Program; Administrative Provisions	0524-AA09
295	Buildings and Facilities Program Administrative Provisions	0524-AA11
296	Rangeland Research Grants Program; Administrative Provisions	0524-AA15

Cooperative State Research, Education, and Extension Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
297	National Research Initiative Competitive Grants Program Administrative Provisions	0524-AA07
298	Small Business Innovation Research Program Administrative Provisions	0524-AA08

Cooperative State Research, Education, and Extension Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
299	Agricultural Telecommunications Program Administrative Provisions	0524-AA12
300	Administrative Manual for Federal Excess Personal Property Loaned to State Cooperative Research Activities	0524-AA13
301	Personal Property	0524-AA14

Rural Housing and Community Development Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
302	Farm Labor Housing	0575-AC03

Rural Housing and Community Development Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
303	Housing for Rural Homeless and Migrant Farmworkers; Policies, Procedures, and Authorizations	0575-AB14
304	Community Programs Guaranteed Loans	0575-AB48

USDA

Rural Housing and Community Development Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
305	Planning and Performing Construction and Other Development and Related Construction Seismic Safety	0575-AB59
306	Rural Rental and Rural Cooperative Housing Loan Policies, Procedures, and Authorizations - Point Score System To Prioritize Rural Rental Housing Loans	0575-AB93
307	Escrow of Taxes and Insurance and Changing Agency Processes and Techniques To Conform With the Private Sector	0575-AB99
308	Require All Single-Family Housing Borrowers and Nonprogram Borrowers Who Have Purchased Single-Family Residence To Pay One-Time Tax Service Fee	0575-AC00

Rural Housing and Community Development Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
309	Recapture of Section 502, Rural Housing Subsidy	0575-AA29
310	Section 502 Rural Housing Loan Policies, Procedures, and Authorizations **(Reg Plan Seq. No. 1)**	0575-AA35
311	Denying Credit to Applicants Delinquent on Any Federal Debt	0575-AA66
312	Housing Preservation Grants for Replacement of Housing	0575-AB43
313	1927-B Real Estate Title Clearance and Loan Closing	0575-AB52
314	Environmental Program	0575-AB64
315	Community Facility Loans: Internal Revenue Service Taxpayers Identification Number	0575-AB77

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Rural Housing and Community Development Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
316	Civil Rights Compliance Requirements—1940-D	0575-AA83
317	Section 502 Rural Housing Loan Policies, Procedures, and Authorizations (Deferred Mortgage Program)	0575-AA87
318	Disposition of Interests in Indian Trust Land	0575-AB17
319	Offsets of Federal Payments to FmHA Borrowers	0575-AB55
320	Section 515 Nonprofit Set-Aside Funds	0575-AB60
321	Security Servicing for Multiple-Family Housing Loans	0575-AB73
322	Debt Settlement	0575-AB80
323	Environmental Program Streamline Environmental Process	0575-AB98
324	Provide Information Regarding Lease Write-Off and Annual Lease Statements	0575-AC01
325	Servicing Cases Where Unauthorized Loan or Other Financial Assistance was Received—Multiple Family Housing	0575-AC02
326	Decision to Liquidate	0575-AC04

Rural Housing and Community Development Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
327	Planning and Performing Site Development Work	0575-AA88
328	Rural Housing Guaranteed Loans	0575-AB15
329	Section 502 Rural Housing Loan Policies, Procedures, and Authorizations (Interest Credit/Earned Income)	0575-AB16
330	Management of Hazardous Substances	0575-AB18
331	Rural Housing Voucher Program	0575-AB79

USDA

Federal Crop Insurance Corporation—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
332	Common Crop Insurance Regulations; Tobacco (Guaranteed Plan) Crop Insurance Provisions	0563-AA84
333	Common Crop Insurance Regulations; Peanut Crop Insurance Provisions	0563-AA85
334	Common Crop Insurance Regulations; Onion Crop Insurance Provisions	0563-AA87
335	Common Crop Insurance Regulations; Northern Potato Crop Insurance Provisions	0563-AA89
336	Common Crop Insurance Regulations; Sugarbeet Crop Insurance Provisions	0563-AA93
337	Common Crop Insurance Regulations; Canning and Processing Tomato Crop Insurance Provisions	0563-AA94
338	Common Crop Insurance Regulations; Fresh Market Tomato (Guaranteed Production) Crop Insurance Provisions	0563-AA95
339	General Administrative Regulations; High Risk Land Regulations	0563-AA98
340	General Administrative Regulations; Subpart D; Application for Crop Insurance	0563-AB00
341	General Administrative Regulations; Subpart U; Ineligible File - Crop Insurance Ineligibility	0563-AB01
342	Common Crop Insurance Regulations; Dry Bean Crop Insurance Provisions	0563-AB02
343	General Administrative Regulations; Nonstandard Classification System; Subpart O	0563-AB05
344	Group Risk Plan Crop Insurance Provisions; Part 407	0563-AB06
345	General Administrative Regulations; Subpart S; Regulations for Insurance Coverage by Written Agreement	0563-AB07
346	General Administrative Regulations; Subpart J; Appeal Procedure Regulations	0563-AB17
347	General Administrative Regulations; Actual Production History Coverage Program; Transitional Yields for Producers of Feed or Forage	0563-AB23
348	General Administrative Regulations: Subpart Q: Collection and Storage of Social Security Account Numbers and Employer Identification Numbers	0563-AB26
349	1996 Crop Year Plantain and Banana Insurance Program and Banana Crop Intensive Cultivation Insurance Program for Puerto Rico	0563-AB30
350	1996 Crop Year Coffee Crop Insurance Program for Puerto Rico	0563-AB33
351	1996 Crop Year Coffee Plantation Insurance Program for Puerto Rico, WP#95-008	0563-AB34
352	1996 Crop Year Fruit Crop (Avocado, Oranges, Mango, Citron, Lemon, Papaya, Passion) Insurance Program for Puerto Rico	0563-AB35
353	1996 Crop Year Fruit Trees (Avocado, Oranges, Mango, Citron, Lemon) Insurance Program for Puerto Rico	0563-AB36
354	1996 Crop Year Sugarcane Insurance Program for Puerto Rico	0563-AB40
355	1996 Crop Year Vegetable Insurance Program for Puerto Rico, WP#95-015	0563-AB41
356	Common Crop Insurance Regulations, Various Crop Provisions (Coarse Grains, Small Grains, Sunflower Seed, Cotton and ELS Cotton); General Crop Insurance Regulations	0563-AB49

Federal Crop Insurance Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
357	Common Crop Insurance Regulations; Hybrid Corn Seed Crop Insurance Provisions	0563-AA78
358	General Administrative Regulations; Subpart L, Reinsurance Agreement - Standards for Approval	0563-AB08
359	Catastrophic Risk Protection Endorsement; Part 402	0563-AB09
360	General Administrative Regulations: Subpart T; Federal Crop Insurance Reform Act of 1994; Regulations for implementation	0563-AB11
361	Noninsured Crop Disaster Assistance Program, Part 404	0563-AB13
362	General Administrative Regulations; Subpart N; Disaster Assistance Act of 1988	0563-AB20
363	Common Crop Insurance Regulations: Small Grains, Coarse Grains, Cotton and Extra Long Staple Cotton	0563-AB27
364	General Crop Insurance Regulations, Various Endorsements; Hybrid Seed Crop Insurance Regulations; and Common Crop Insurance Regulations, Sunflower Seed Crop Insurance Provisions	0563-AB28
365	General Crop Insurance Regulations; Florida Citrus Endorsement	0563-AB29
366	Common Crop Insurance Regulations; Sunflower Seed Crop Insurance Provisions	0563-AB42
367	Common Crop Insurance Regulations, Various Crop Provisions (Coarse Grains, Cotton, ELS Cotton, and Sunflower Seed); General Crop Insurance Regulations, Various Endorsements	0563-AB43

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Federal Crop Insurance Corporation—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
368	Common Crop Insurance Regulations; Rice, Fig, Almond, Raisin, Forage Production, Hybrid Sorghum Seed, Pear, Apple, Canning and Processing Sweet Corn, Dollar Plan Fresh Market Tomato,	0563-AB03
369	General Administrative Regulations; Subpart V; Supplemental and Alternative Crop Insurance Policy Approval Process	0563-AB15
370	General Administrative Regulations; Federal Jurisdiction and Statute of Limitation for Suits Based Upon Denial of Claims for Indemnity	0563-AB21
371	Common Crop Insurance Regulations; Small Grains, (Including Malting Barley), Cotton, ELS Cotton, and Coarse Grains Crop Insurance Provisions	0563-AB24
372	General Administrative Regulations; Reinsurance Agreement Standards for Approval	0563-AB44
373	General Crop Insurance Regulations; Various Endorsements; Hybrid Seed; Common Crop Insurance Regulations; Sunflower Seed	0563-AB46
374	Tobacco, Quota Plan Crop Insurance Regulations, Part 435	0563-AB47
375	Popcorn Corn Insurance Regulations, Part 447	0563-AB48
376	Common Crop Insurance Regulations; Texas Citrus Tree Crop Insurance Provisions	0563-AB50

Federal Crop Insurance Corporation—Completed Actions

Sequence Number	Title	Regulation Identifier Number
377	Sugarcane Endorsement for Part 457, Common Crop Insurance Regulations	0563-AA79
378	General Crop Insurance Regulations; Late and Prevented Planting Provisions for Various Crops	0563-AA80
379	General Crop Insurance Regulations; Lake Planting Agreement Option	0563-AA91
380	Common Crop Insurance Regulations; Dry Pea Crop Insurance Provisions	0563-AA92
381	General Administrative Regulations; Subpart R; Sanctions	0563-AB10
382	General Administrative Regulations: Subpart K; Debt Management	0563-AB14
383	Common Crop Insurance Regulations; Various Crop Insurance Policies; Coverage in Terms of Dollars Per Acre	0563-AB18
384	General Crop Insurance Regulations; Rice Endorsement	0563-AB19
385	General Crop Insurance Regulations; Various Endorsements; Hybrid Seed; and Common Crop Insurance Regulations; Sunflower Seed	0563-AB45

Grain Inspection, Packers and Stockyards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
386	Official Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems	0580-AA39
387	Fees for Official Inspection and Weighing Service	0580-AA40
388	Regulations and Statements of General Policy Under the Packers and Stockyards Act (Group 3)	0580-AA45
389	Statement of General Policy Under the Packers and Stockyard Act: Care and Handling of Livestock	0580-AA46

Grain Inspection, Packers and Stockyards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
390	Fees for Official Inspection and Weighing Services	0580-AA27
391	Regulations and Statements of General Policy Under the Packers and Stockyards Act (Group 2)	0580-AA44

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Grain Inspection, Packers and Stockyards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
392	United States Standards for Corn	0580-AA28
393	United States Standards for Barley	0580-AA29
394	Fees for Beltsville Laboratory Test Services	0580-AA41
395	U.S. Standards for Flaxseed, Mixed Grains, Oats, Rye, Sunflower Seed, and Triticale	0580-AA42
396	Regulations and Statements of General Policy Under the Packers and Stockyards Act (Group 1)	0580-AA43

Food and Consumer Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
397	Notice of New Privacy Act System of Records - Food Stamp Retailer Information	0584-AC19

Food and Consumer Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
398	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems **(Reg Plan Seq. No. 2)**	0584-AA80
399	Food Stamp Program: Emergency Assistance for Victims of Disasters	0584-AA85
400	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Part 246.10, Food Package III, Participants with Certain Medical Conditions	0584-AB09
401	Special Supplemental Food Program for Women, Infants and Children (WIC): Miscellaneous Provisions	0584-AB10
402	Child and Adult Care Food Program: Authority To Collect Overclaims	0584-AB19
403	Food Distribution Programs—Paperwork Reduction	0584-AB27
404	Food Distribution Programs—Implementation of 1990 Farm Bill	0584-AB28
405	Commodity Supplemental Food Program: Elderly-Only Sites, Administrative Funding, Referrals to Health and Social Services, Caseload Allocation Process, Priority System, and Miscellaneous	0584-AB37
406	Food Stamp Program: 1995 Quality Control Technical Amendments	0584-AB38
407	Provisions of Computer Matching and Privacy Protection Act of 1988, Amendments of 1990, and Implementation of the Disqualified Recipient Subsystem	0584-AB51
408	Food Distribution Programs—Disaster Provisions	0584-AB55
409	Food Stamp Program: Anticipating Income and Reporting Changes	0584-AB57
410	Child and Adult Care Food Program: Elimination of Whole Cow's Milk From the Infant Meal Pattern	0584-AB81
411	Food Stamp Program: Food Stamp Recipient Claim Establishment and Collection Standards **(Reg Plan Seq. No. 3)**	0584-AB88
412	Food Stamp Program: Revisions in Retail Food Store Eligibility Criteria and in Eligibility Guidance and Program Authorization **(Reg Plan Seq. No. 4)**	0584-AB90
413	Amendment to Promote Healthy Meals for Healthy Children in Schools	0584-AC01
414	Quality Control Regression Amendment	0584-AC03
415	Removal of the "Cheese Alternate Products" Requirements From the National School Lunch Program	0584-AC04
416	Food Stamp Program: Retailer Application Processing	0584-AC05
417	Summer Food Service Program: Program Meal Service During the School Year	0584-AC06
418	Amendment to Remove Formulated Grain—Fruit Product Section	0584-AC09
419	Consolidation of National School Lunch Program and School Breakfast Program Into Comprehensive School Meal Program	0584-AC10
420	Crediting of Yogurt in the School Meals Programs	0584-AC15
421	Modification of the "Vegetable Protein Products" Portion of Appendix A of 7 CFR Parts 210, 225, and 226	0584-AC18
422	Child and Adult Care Food Program: Child Nutrition and WIC Reauthorization Act Amendments	0584-AC20

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

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Food and Consumer Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
423	Miscellaneous Farm Bill Provisions Relating to the Authorization of Retail Firms and Wholesale Food Concerns	0584-AB02
424	Determination of Eligibility for Free Meals by Summer Food Service Program Sponsors and Free and Reduced Price Meals by Child and Adult Care Food Program Institutions	0584-AB17
425	Permanent Agreements/Direct Certification in National School Lunch, School Breakfast, and Special Milk Programs	0584-AB35
426	Food Distribution Program on Indian Reservations—Oklahoma Waiver Authority	0584-AB56
427	Food Stamp Program: Child Support Deduction	0584-AB58
428	Food Stamp Program: Excess Shelter Expense Limit and Standard Utility Allowances	0584-AB59
429	Food Stamp Program: Simplification of Program Rules	0584-AB60
430	Food Stamp Program: Payment of Certain Administrative Costs of State Agencies	0584-AB66
431	Food Distribution Program on Indian Reservations: Definition of Indian Tribal Household	0584-AB67
432	Food Stamp Program: Quality Control Provisions of the Mickey Leland Childhood Hunger Relief Act	0584-AB75
433	Food Stamp Program: Certification Provisions of the Mickey Leland Childhood Hunger Relief Act **(Reg Plan Seq. No. 5)**	0584-AB78
434	Food Stamp Program: Utility Reimbursement Exclusion	0584-AB79
435	National School Lunch, Special Milk, School Breakfast, Child and Adult Care Food and Summer Food Service Programs: Purchase of Food Products Produced in the U.S	0584-AB82
436	Treatment of Educational and Training Assistance	0584-AB84
437	Food Stamp Program: Revisions in Use and Disclosure of Information Provided by Retail Food Stores and Wholesale Food Concerns	0584-AB87
438	Food Stamp Program Automated Data Processing Equipment and Services; Reduction in Reporting Requirements	0584-AB92
439	Monthly Reporting on Indian Reservations Provision of Food Stamp Program Improvements Act of 1994	0584-AB98
440	Waiver Authority Under the State Processing Program	0584-AB99
441	Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Implementation of WIC Mandates of the Healthy Meals for Healthy Americans Act of 1994	0584-AC02
442	Child and Adult Care Food Program: Child Nutrition Improvement and Older American Act Amendment	0584-AC07
443	Failure to Comply With Federal, State, or Local Work Program Requirements	0584-AC08
444	FSP: Retailer Delinquent Debt Collection: Offsetting Federal Income Tax Refund	0584-AC11
445	Availability of Information and Records to the Public	0584-AC13
446	Food Stamp Program: Maximum Allotments for Hawaii, Alaska, Guam, and the Virgin Islands	0584-AC16
447	Food Stamp Program: Maximum Allotments for 48 States and DC, and Income Eligibility Standards and Deductions for 48 States and DC, Alaska, Hawaii, Guam, and Virgin Islands	0584-AC17

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food and Consumer Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
448	Special Supplemental Food Program for Women, Infants and Children (WIC): Food Cost Containment Requirements	0584-AB11
449	National School Lunch Program: Review of Free and Reduced Price Application Under the Coordinated Review Effort	0584-AB50
450	Special Supplemental Food Program for Women, Infants and Children (WIC): Infant Formula Procurement Act of 1992	0584-AB52
451	FSP: Targeting for Income and Eligibility Verification	0584-AB74
452	Food Stamp Program Regulatory Review: Alaska, Puerto Rico, Commonwealth of the Northern Mariana Islands, and Demonstration Projects	0584-AC14

Food and Consumer Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
453	Food Stamp Program: Student Eligibility	0584-AA90
454	Child and Adult Care Food Program: Prohibition of Institutionalized Adults	0584-AB21
455	Benefit Delivery Rule	0584-AB32

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Food and Consumer Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
456	Child Nutrition Programs: Revision of Infant Meal Patterns for the Child Nutrition Program	0584-AB34
457	Food Stamp Program: Resource Provision From the Mickey Leland Memorial Domestic Hunger Relief Act of 1990	0584-AB40
458	WIC Farmers' Market Nutrition Program	0584-AB43
459	Special Supplemental Food Program for Women, Infants and Children (WIC): Homelessness/Migrancy as Nutritional Risk Conditions	0584-AB53
460	National School Lunch Program, State Admin. Expense Funds and Determining Elig. for Free and Reduced Price Meals and Free Milk in Schools: Tech. Corrections to Coordinated Review Effort Rule	0584-AB63
461	Child Nutrition Programs: Nutrition Objectives for School Meals	0584-AB73
462	Food Distribution Program on Indian Reservations: Eligibility and Benefits	0584-AB83
463	Collecting Food Stamp Recipient Claims From Federal Income Tax Refunds and Federal Salaries	0584-AB89
464	Food Stamp Program: Disqualification Penalties for Intentional Program Violations	0584-AB91
465	Nutrition Objectives for School Meals—Food-Based Alternatives	0584-AB94

Food Safety and Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
466	FSIS Agenda for Change: Regulatory Review; Food Standards	0583-AB89

Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
467	Food Additives and GRAS Substances Used as Ingredients in Meat Food and Poultry Products	0583-AB02
468	Food Standards: Requirements for Processed Meat and Poultry Products Named by Use of an Expressed Nutrient Content Claim and a Standardized Term	0583-AB51
469	Pathogen Reduction; Hazard Analysis and Critical Control Points (HACCP) Systems **(Reg Plan Seq. No. 6)**	0583-AB69
470	Use of Trisodium Phosphate on Raw, Unchilled Poultry Carcasses	0583-AB80
471	Nutrition Labeling; New Product Categories and Reference Amounts	0583-AB81
472	Elimination of Prior Approval Requirements for Facilities Equipment and Certain Partial Quality Control Program **(Reg Plan Seq. No. 7)**	0583-AB93
473	Performance Standards for Certain Meat Products and Poultry Products **(Reg Plan Seq. No. 8)**	0583-AB94
474	Continuous Chilling of Split Turkey Portions	0583-AB95
475	Identification of the Origin of Sausage Casings	0583-AB98
476	Glycerine Used as a Humectant in Shelf Stable Meat Snacks	0583-AC00

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
477	Requirements for Foreign Country Import Certification and Live Animal Importation	0583-AA47
478	Nutrition Labeling: Health Claims on Meat and Poultry Products	0583-AB64
479	Trisodium Phosphate as a Post-Chill Antimicrobial Treatment for Raw Poultry	0583-AB65
480	Use of Soy Protein Concentrate and Food Starch—Modified as Binders in Cured Pork Products	0583-AB82
481	Prior Label Approval Process **(Reg Plan Seq. No. 9)**	0583-AB92
482	Sodium Citrate Buffered with Citric Acid as a Means of Extending the Shelf-Life of Cured and Uncured Meat and Poultry Products	0583-AB97

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

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Food Safety and Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
483	Nutrition Labeling of Ground Beef and Hamburger	0583-AB74

Food Safety and Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
484	Poultry Products Produced by Mechanical Separation and Products in Which Such Poultry Products Are Used	0583-AB68
485	Transporting Undenatured Poultry Feet to Other Establishments for Processing Prior to Export	0583-AB84
486	Use of the Term "Fresh" on the Labeling of Raw Poultry Products	0583-AB86
487	Reduction of Accreditation Fees for FSIS-Accredited Laboratories	0583-AB87
488	Products From Foreign Countries Eligible for Import Into the United States	0583-AB88
489	Use of Potassium Hydroxide as a Hog Scald Agent	0583-AB96
490	Termination of Designation of the State of West Virginia with Respect to the Inspection of Poultry Products	0583-AB99

Foreign Agricultural Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
491	Regulation Governing the Financing of Commercial Sales of Agricultural Commodities (PL 480, Title I)	0551-AA42

Foreign Agricultural Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
492	Direct Credit Programs (GSM-201 and GSM-301) Risk Assurance Program (GSM-101) CCC Barter Program	0551-AA34
493	Sugar Import Licensing	0551-AA39
494	Export Sales Reporting Requirements	0551-AA44
495	Limitation on Imports of Meat	0551-AA45
496	Section 22 Import Fees	0551-AA46
497	Reentry of Cotton Into the United States	0551-AA48
498	Calculation of Market Stabilization Price	0551-AA49

Foreign Agricultural Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
499	Regulations Governing Implementation of the Market Promotion Program (MPP) Overseas	0551-AA24
500	Section 22 Import Quotas	0551-AA27
501	CCC Export Credit Guarantee Program (GSM-102) and CCC Intermediate Export Credit Guarantee Program (GSM-103)	0551-AA30
502	Regulations Governing the Financing of Commercial Sales of Agricultural Commodities (P.L. 480 Title I Program)	0551-AA36
503	Regulations Governing the Financing of Commercial Sales of Agricultural Commodities (P.L. 480, Title I)	0551-AA43

Foreign Agricultural Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
504	Proposed Regulations Governing Implementation of the Cooperator Market Development Program Overseas	0551-AA26

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Foreign Agricultural Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
505	Program Criteria for the Sunflowerseed Oil Assistance Program (SOAP) and the Cottonseed Oil Assistance Program (COAP)	0551-AA31
506	Reporting Requirements Related to Tobacco Exports	0551-AA32
507	Sunflowerseed Oil Assistance Program Operations (SOAP) and Cottonseed Oil Assistance Program Operations (COAP)	0551-AA33
508	Emerging Democracies Agricultural Facility Guarantee Program	0551-AA35
509	Foreign Donation of Agricultural Commodities	0551-AA38
510	Reform of Export Bonus Program	0551-AA41

Foreign Agricultural Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
511	Export Bonus Programs	0551-AA40

Forest Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
512	Small Tracts Act Regulations	0596-AA79
513	Isolated Cabin Policy	0596-AA85
514	Solid Waste Disposal Policy	0596-AA92
515	Irrevocable Letter of Credit	0596-AA93
516	Timber Sale Performance and Payment Bond Form Revision	0596-AA94
517	Disposal of National Forest Timber; Cancellation of Timber Sale Contracts	0596-AB21
518	Species Surplus to Domestic Manufacturing Needs	0596-AB27
519	Retention of Downpayment on Timber Sale Contracts	0596-AB28
520	National Forest System Land and Resource Management Planning Forest Service Manual Chapter 1920	0596-AB31
521	Use of Fixed Anchors for Rock Climbing in Wilderness	0596-AB33
522	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations	0596-AB36
523	Exercise of Outstanding Mineral Rights	0596-AB38
524	Market-Related Term Additions	0596-AB41
525	Private Sale of Golden Eagle Passports	0596-AB44
526	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands	0596-AB45
527	Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Permit Urgent Removal of Other Timber	0596-AB48
528	Disposal of National Forest Timber: Timber Sale Contract Revisions	0596-AB52
529	National Environmental Policy Act; Revised Policy and Procedures	0596-AB54

Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
530	Management of Grazing Use Within Rangeland Ecosystems	0596-AA35
531	Hydropower Applications	0596-AA47
532	Indian Allotments on National Forest System Lands	0596-AA52
533	National Forest System Land and Resource Management Planning **(Reg Plan Seq. No. 10)**	0596-AB20
534	Federal Timber Export and Substitution Restrictions (Comprehensive Revision)	0596-AB22
535	Timber Sale Contracts; Appraisal Procedures for Determining Fair Market Value	0596-AB26
536	State and Private Forestry Assistance Stewardship Incentive Program	0596-AB32
537	Special-Use Applications and Administration of Special-Use Authorizations	0596-AB35
538	Smith River National Recreation Area	0596-AB39

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Forest Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
539	Occupancy and Use of Developed Sites and Areas of Concentrated Public Use	0596-AB43
540	Ski Area Permit Fee System	0596-AB49
541	Fee Schedules for Communication Uses on National Forest System Lands	0596-AB51

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Forest Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
542	National Forest Prohibitions; Law Enforcement Support Activities	0596-AA75

Forest Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
543	Land Uses and Prohibitions; Noncommercial Group Uses	0596-AA80
544	Indices to Determine Market-Related Term Additions	0596-AB40
545	Animal Damage Management	0596-AB47
546	Outfitting and Guiding Permits and Fees	0596-AB53

Office of Chief Financial Officer—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
547	Audits of State, Local, and Indian Tribal Governments	0505-AA09

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
548	Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations	0503-AA10

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
549	Supplemental Standards of Ethical Conduct for Employees of the Department of Agriculture	0503-AA05
550	Nonprocurement Debarment and Suspension	0503-AA12

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
551	Nonprocurement Debarment and Suspension	0503-AA11

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Rural Business and Cooperative Development Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
552	Local Technical Assistance and Planning Grants	0570-AA05
553	Rural Business Loan Streamlining **(Reg Plan Seq. No. 11)**	0570-AA09

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Rural Business and Cooperative Development Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
554	Rural Technology Development Grants	0570-AA02
555	Rural Business Enterprise Grants and Television Demonstration Grants	0570-AA08
556	1980-E Business and Industrial Loan Program—Audit Requirements	0570-AA11
557	Intermediary Relending Program Rewrite	0570-AA15
558	Rural Economic Development Loan and Grant Program	0570-AA19

Rural Business and Cooperative Development Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
559	Business and Industrial Interest Buydown	0570-AA13
560	Community Facility Loans: Recreation and Tourism	0570-AA14

Rural Business and Cooperative Development Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
561	Alcohol Fuels Credit Implementing Regulations	0570-AA01
562	Rural Business Enterprise Grants and TV Demonstration Grants; Technical Assistance and Training Grants; Non-profit National Corporations Loan and Grant Program	0570-AA12
563	Business and Industrial Loan Program	0570-AA16
564	Rural Economic Development Loan and Grant Program	0570-AA18

Rural Utilities Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
565	Electric System Planning and Design—Policies and Procedures	0572-AA48
566	Electric Standards and Specifications for Materials and Construction	0572-AA67
567	Post-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans	0572-AA71
568	Electric Systems Operations and Maintenance	0572-AA74
569	Civil Rights Policies Applicable to REA Borrowers	0572-AA75
570	Loan Documents—Bank Program	0572-AA76
571	RUS Fidelity and Insurance Requirements for Electric and Telecommunications Borrowers	0572-AA86
572	Use of General Funds Investments, Loan Guarantees, and Retirement of Capital Credits by Electric Borrowers	0572-AB01
573	RUS Approval of Sale of Capital Assets by Electric Borrowers	0572-AB02
574	Loan Deferments for Energy Resources Conservation - Electric Program	0572-AB03
575	Power Requirement Studies	0572-AB05
576	Policy on Audits of RUS Borrowers	0572-AB19
577	Streamlining the Rural Utilities Service's Water and Waste Program Regulations	0572-AB20

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Rural Utilities Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
578	Loan Account Computations, Policies, and Procedures	0572-AA65
579	Rescission of RUS Bulletins 345-13, 345-29, 345-75, and 345-178 —Telephone Program Regulations	0572-AA66
580	Long-Range Financial Forecasts of Electric Borrowers	0572-AA89
581	Accounting Requirements for RUS Telecommunications Borrowers	0572-AB10
582	Community Facility Loans - Timber-Dependent Communities	0572-AB11
583	Establish Water and Waste Disposal Regulations Within the Rural Utilities Service	0572-AB21

Rural Utilities Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
584	Loan Security Documents—Telephone Program	0572-AA30
585	Wholesale Contracts for the Purchase and Sale of Electric Power and Energy	0572-AA41
586	Margin Stabilization Plans and Revenue and Expense Deferrals	0572-AA50
587	Depreciation Rates and Procedures	0572-AA80
588	Preservation of Records Accounting Requirements for RUS Electric Borrowers	0572-AA92
589	Liquidation of Loans and Acquisition, Management and Disposal of Security Property	0572-AB13
590	Solid Waste Management Grants	0572-AB14
591	Technical Assistance and Training Grants	0572-AB15
592	Use of Consultants	0572-AB17

Rural Utilities Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
593	Revision of Telecommunication Policies and Procedures for Approval of Standards, Specifications, Contract Forms, and Drawings	0572-AA45
594	Specification for Fiber Optic Splice Closures	0572-AA62
595	REA Specification for Mechanical Fiber Optic Splices	0572-AA64
596	RUS Performance Specification for Line Concentrators	0572-AA72
597	RUS Buy American Requirement	0572-AA73
598	Specification for Pole Line Hardware	0572-AA83
599	Title Evidence Policies and Procedures	0572-AA90
600	Exemptions of RUS Controls Over Borrower Operations	0572-AA96
601	Pre-Loan Policies and Procedures for Electric Loans	0572-AA98
602	Loans for Demand-Side Management, Energy Conservation Programs, and On-Grid and Off-Grid Renewable Energy Systems	0572-AA99
603	Refinancing and Prepayment of FFB Loans	0572-AB00
604	Loan Security Documents for Electric Loans	0572-AB06
605	Credit Support of Power Supply Borrowers	0572-AB09
606	Community Facility Loans - Construct or Improve Solid Waste Facilities	0572-AB12
607	Investments, Loans and Guarantees by Electric Borrowers	0572-AB16

National Resources Conservation Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
608	Wetlands Reserve Program Interim Rule	0578-AA15

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Office of Operations—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
509	Agriculture Acquisition Regulation	0599-AA00

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Proposed Rule Stage

167. STANDARDS FOR PRODUCTS PRODUCED FOLLOWING ORGANIC PRODUCTION, PROCESSING AND HANDLING METHODS

Priority: Other Significant

Legal Authority: PL 101-624, sec 2101 to 2123; 7 USC 6501 to 6522

CFR Citation: None

Legal Deadline: NPRM, Statutory, May 28, 1992. Final, Statutory, October 1, 1993. Other, Statutory, May 28, 1991. The Organic Foods Production Act calls for the Secretary to appoint the National Organic Standards Board 180 days after enactment and convene it within 60 days thereafter.

Abstract: The Organic Foods Production Act of 1990 (OFPA) states that the Secretary shall establish an organic certification program for producers and handlers of agricultural products that have been produced using organic methods. The OFPA provides for three proposed actions by the Department of Agriculture: (a) the accreditation of State and private certifying agents for the Secretary, which includes provision for the collection of reasonable fees from producers, certifying agents, and handlers who participate in the program; (b) the establishment of a national list of natural substances prohibited, and synthetic substances allowed in organic production and handling; and (c) the development of national standards and procedures to be used in organic production, processing and handling, with the requirement that any product labeled as organically produced will have to be certified once the program is implemented (except for producers with less than $5,000 gross sales). The OFPA also calls for establishment of a National Organic Standards Board (NOSB), notices of meetings, and notices of hearings for standards for livestock products.

Timetable:

Action	Date	FR Cite
Organic Livestock Hearings	12/30/93	58 FR 69315
NPRM	12/00/95	
Procedure to Submit Names of Substances for National List Notice 03/27/95 (60 FR 15744)		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harold S. Ricker, Program Leader/National Organic Program, Transportation and Marketing Division, Department of Agriculture, Agricultural Marketing Service, Room 2947 South Building, P.O. Box 96456, Washington, DC 20090-6456
Phone: 202 720-2704

RIN: 0581–AA40

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Long-Term Actions

168. REVISION OF REGULATIONS GOVERNING THE INSPECTION AND GRADING SERVICES OF MANUFACTURED OR PROCESSED DAIRY PRODUCTS

Priority: Routine and Frequent

CFR Citation: 7 CFR 58

Timetable:

Action	Date	FR Cite
NPRM	08/10/92	57 FR 35492
NPRM Comment Period End	10/09/92	57 FR 35492

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tracy Schonrock
Phone: 202 690-0530

RIN: 0581–AA45

169. REFRIGERATION AND LABELING REQUIREMENTS FOR SHELL EGGS

Priority: Other Significant

CFR Citation: 7 CFR 56; 7 CFR 59

Timetable:

Action	Date	FR Cite
NPRM	10/27/92	57 FR 48569
NPRM Comment Period End	12/28/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice L. Lockard
Phone: 202 720-3506

RIN: 0581–AA66

170. REGULATIONS UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 46

Timetable:

Action	Date	FR Cite
NPRM	07/12/94	59 FR 35487
NPRM Comment Period End	08/11/94	
NPRM Comment Period Extended to	10/12/94	59 FR 46772

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Frazier

USDA—AMS

Long-Term Actions

Phone: 202 720-4180

RIN: 0581–AB28

171. SALMONELLA RECOGNIZED LABORATORY PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 93

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Isaac G. Sterling
Phone: 202 720-5878

RIN: 0581–AB38

172. REGULATIONS AND RULES OF PRACTICE UNDER THE PLANT VARIETY PROTECTION ACT

Priority: Other Significant

CFR Citation: 7 CFR 97.1 to 97.3; 7 CFR 97.5 to 97.7; 7 CFR 97.9; 7 CFR 97.11 to 97.12; 7 CFR 97.14 to 97.15; 7 CFR 97.19 to 97.21; 7 CFR 97.23; 7 CFR 97.1000; 7 CFR 97.104 to 97.106; 7 CFR 97.120; 7 CFR 97.130; 7 CFR 97.40 to 97.143; 7 CFR 97.175; 7 CFR 97.201; 7 CFR 97.205 to 97.222; ...

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/04/95	60 FR 17188
Interim Final Rule Comment Period End	05/04/95	60 FR 17188

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marsha Stanton
Phone: 301 504-5518

RIN: 0581–AB39

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Completed Actions

173. VOLUNTARY AND MANDATORY EGG AND EGG PRODUCTS INSPECTION

Priority: Other Significant

CFR Citation: 7 CFR 55; 7 CFR 59

Completed:

Reason	Date	FR Cite
Final Action	09/21/95	60 FR 49166

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Janice L. Lockard
Phone: 202 720-3506

RIN: 0581–AA58

174. RELATING TO INSPECTION AND GRADING OF BURLEY TOBACCO

Priority: Routine and Frequent

CFR Citation: 7 CFR 29.3053

Completed:

Reason	Date	FR Cite
Final Action	02/08/95	60 FR 7429
Final Action Effective	07/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John P. Duncan III
Phone: 202 205-0567

RIN: 0581–AB01

175. REVISION OF 7 CFR 29.500 FEES AND CHARGES FOR INSPECTION AND GRADING OF IMPORTED TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 29.500

Completed:

Reason	Date	FR Cite
Withdrawn	09/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John P. Duncan III
Phone: 202 205-0567

RIN: 0581–AB12

176. USER FEES FOR COTTON CLASSIFICATION SERVICES TO GROWERS 1995 CROP

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 28

Completed:

Reason	Date	FR Cite
Final Action	05/01/95	60 FR 21033
Final Action Effective	07/01/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: A. Lee Cliburn
Phone: 202 720-3193

RIN: 0581–AB15

177. CHANGES IN FEES FOR VOLUNTARY FEDERAL MEAT GRADING AND CERTIFICATION SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 54

Completed:

Reason	Date	FR Cite
Withdrawn	09/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry R. Meadows
Phone: 202 720-1113

RIN: 0581–AB34

178. INCREASE SEED INSPECTION FEES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 75

Completed:

Reason	Date	FR Cite
Final Action	05/01/95	60 FR 21034
Final Action Effective	05/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James P. Triplitt
Phone: 301 504-9430

RIN: 0581–AB35

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USDA—AMS

Completed Actions

179. • GRADING INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS; FEE INCREASE

Priority: Routine and Frequent

Legal Authority: 7 USC 1621 to 1627 Agricultural Marketing Act of 1946

CFR Citation: 7 CFR 58

Legal Deadline: None

Abstract: This action would increase the fees charged users of the service. The increased fees are necessary to recover the cost of dairy standards activities, Federal employees pay costs and other operating costs for inspection and grading services. The program is voluntary with all costs covered by user fees.

Timetable:

Action	Date	FR Cite
NPRM	08/07/95	60 FR 40115
NPRM Comment Period End	09/06/95	
Final Action	09/28/95	60 FR 50077

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: F. Tracy Schonrock, Chief Dairy Grading Branch, Dairy Division, Department of Agriculture, Agricultural Marketing Service, Room 2750 South Building, P.O. Box 96456, Washington, DC 20090-6456
Phone: 202 720-3171

RIN: 0581–AB40

BILLING CODE 3410-02-F

DEPARTMENT OF AGRICULTURE (USDA)

Consolidated Farm Service Agency (CFSA)

Proposed Rule Stage

180. AMENDMENTS TO CCC DEBT SETTLEMENT REGULATIONS REGARDING WAIVER OF RESTRICTION ON PROGRAM ELIGIBILITY AND COLLECTION OF JUDGMENTS BY ADMINISTRATIVE OFFSET

Priority: Other Significant

Legal Authority: 28 USC 3201; 15 USC 714b; 15 USC 714c

CFR Citation: None

Legal Deadline: None

Abstract: This action is needed to allow for the waiver of restrictions on program eligibility, as authorized by the Federal Debt Collection Procedures Act of 1990 (the Act), and to facilitate the collection of judgements by administrative offset. The Act provides that debtors who have judgement liens against their property for a debt owed to the United States are not eligible to receive grants or loans made by the United States until the debt is paid in full or otherwise satisfied. However, the Act also permits agencies to waive this restriction. In addition, the Commodity Credit Corporation is authorized to collect debts for other Federal agencies by administrative offset upon receipt of (1) a qualified offset request, (2) a Notice of Levy, or (3) a request or approval by the Department of Justice. This action would authorize ASCS to collect judgements in favor of the United States by administrative offset. This action will result in increased collection of debts owed to the Government.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD09

181. • END-USE CERTIFICATE PROGRAM—PROVIDING NOTIFICATION OF ORIGIN TO BUYERS

Priority: Other Significant

Legal Authority: 19 USC 3391(f)

CFR Citation: 07 CFR 782

Legal Deadline: None

Abstract: This action will amend the regulations for end-use certificates for wheat imported from Canada to incorporate language that will require importers to immediately advise subsequent buyers that the wheat being purchased originated in Canada and must be stored separately from U.S.-origin wheat until the wheat is loaded onto a conveyance for direct delivery to an end-user or foreign country. This is necessary to prevent the resale of such grain before the end user, exporter, or subsequent buyer is informed of its origin. This lack of notification has resulted in Canadian wheat being resold before the buyer was informed that it was of Canadian origin and thus subject to these regulations. There will be no cost to the Government.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205-5851
Fax: 202 690-2181

RIN: 0560–AE37

182. IMPLEMENTATION PROCEDURES FOR HIGHLY ERODIBLE LAND AND WETLANDS CONSERVATION PROVISIONS OF THE FOOD SECURITY ACT

Priority: Other Significant

Legal Authority: PL 101-624; PL 99-198

CFR Citation: 7 CFR 1940

Legal Deadline: None

Abstract: Subtitle B and subtitle C of title XII of the Food Security Act of 1985, Public Law 99-198, established requirements for the conservation of Wetlands and Highly Erodible Lands. These requirements were subsequently amended by the Food Agriculture Conservation and Trade Act of 1990, Public Law 101-624. The amendments, among other changes, would allow in some cases for graduated payment reductions rather than a complete loss of USDA program benefits to producers who contribute to excess soil erosion or wetlands conversion. Rural Housing and Community Development Service, Rural Business and Community Development Service, Rural Utilities Service and Consolidate Farm Service Agency proposes to revise existing regulations to reflect the amendments required by Public Law 101-624. In addition, the regulation will be reorganized and supplemented to improve understanding and ease of implementation.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	12/00/95	
Interim Final Rule	02/00/96	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Consolidated Farm Service Agency, Room 6348 South Building, Washington, DC 20250
Phone: 202 720-9744

RIN: 0560–AE38

USDA—CFSA

Proposed Rule Stage

183. • 1996 UPLAND COTTON PROGRAM

Priority: Economically Significant

Legal Authority: 7 USC 1444-2

CFR Citation: 07 CFR 1413; 07 CFR 1427

Legal Deadline:
Final, Statutory, January 1, 1995, Final ARP level.
NPRM, Statutory, November 1, 1995, Preliminary ARP level.
Final, Statutory, November 1, 1995, Loan rate.

Abstract: This action is needed to implement the 1996 Upland Cotton Program as required by legislation. The primary determinations are the loan rate and the Acreage Reduction Program level. The the cost to Government is estimated to range from $0.5 to $1.5 billion.

Timetable:

Action	Date	FR Cite
NPRM	10/10/95	60 FR 52634
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205-5851
Fax: 202 690-2181

RIN: 0560–AE41

184. • AMENDMENT TO THE TOBACCO REGULATIONS REGARDING NESTED TOBACCO

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1445

CFR Citation: 07 CFR 1464.7(b)(1)

Legal Deadline: None

Abstract: "Nested" tobacco is lower-grade tobacco included in a quantity of higher-grade tobacco that is delivered for price support at the higher grade. The current regulations provide that a producer is ineligible if the producer "knowingly" delivered nested tobacco. This action will remove the word "knowingly" from the regulations because it is very difficult to enforce, and will expand County Committees' authority to make determinations regarding refunds and/or penalties that producers might be subject to if nested tobacco is found in the marketings from a farm.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205-5851
Fax: 202 690-2181

RIN: 0560–AE43

185. • NATIONAL AVERAGE LOAN RATES FOR 1996-CROP QUOTA AND ADDITIONAL PEANUTS AND MINIMUM COMMODITY CREDIT CORPORATION (CCC) EXPORT- EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1445c-3

CFR Citation: 07 CFR 1421; 07 CFR 1446

Legal Deadline: Final, Statutory, February 15, 1996.
for price support levels only

Abstract: This action is needed to implement the peanut price support program, as required by statute. The price support levels provide a domestic price floor for quota and additional peanuts. The price support level for quota peanuts is set by statutory formula to be equal to last year's level plus any increase in production costs, but may increase by no more than 5 percent above the previous year. The support level for additional peanuts must be set at a level that ensures that CCC incurs no losses from the price support program. The minimum export-edible sales price is set at the Secretary's discretion, and has been set at $400 per ton for each of the previous 8 years. The Peanut Program, which also includes the poundage quota program, will result in a net realized loss of about $87 million.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205-5851
Fax: 202 690-2181

RIN: 0560–AE43

186. • 1996-CROP PEANUTS NATIONAL POUNDAGE QUOTA

Priority: Other Significant

Legal Authority: 7 USC 1358-1

CFR Citation: 07 CFR 729

Legal Deadline: Final, Statutory, December 15, 1995.

USDA—CFSA

Proposed Rule Stage

Abstract: The objective of the peanut quota is to balance supply with demand at a level that will assure stable supplies for domestic use and assure producers a stable income. This action is required by statute, which provides a formula for computing the national quota, based on the Secretary's estimate of the amount of peanuts required for domestic food, seed, and related uses for the 1996 marketing year, and may not be less than 1.35 million tons. The 1996 marketing year is from August 1, 1996 through July 31, 1997. The Peanut Program, which also includes the price support program and export policies, will result in a net realized loss of about $87 million.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205-5851
Fax: 202 690-2181

RIN: 0560–AE45

DEPARTMENT OF AGRICULTURE (USDA)
Consolidated Farm Service Agency (CFSA)

Final Rule Stage

187. AMENDMENT TO THE HIGHLY ERODIBLE LAND AND WETLANDS CONSERVATION PROGRAM REGULATIONS—PERSON DETERMINATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 3801; 16 USC 3811; 16 USC 3812; 16 USC 3821-23; The Food Security Act of 1985, sec 1201, as amended

CFR Citation: 7 CFR 12

Legal Deadline: None

Abstract: The objective of this action is to set a standard for a more consistent "person" determination by using an attribution method for determining benefits that shall be denied persons who are associated with the actual violators of the highly erodible land (HEL) and wetland conservation provisions. The current affiliated person rule for HEL and wetlands is difficult to administer because a strict interpretation of the rules could result in a chain of affiliated persons, all of whom would be ineligible for USDA benefits, when in fact many of the affiliated persons did not play a part in the violation. This action will provide a more equitable and understandable method for imposing sanctions on conservation compliance violations. No costs are expected as a result of this action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AC86

188. AMENDMENTS TO THE WETLANDS REGULATIONS REGARDING ABANDONED ACREAGE AND DRAINAGE BY DRAINAGE DISTRICTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 3801; 16 USC 3821-23

CFR Citation: 7 CFR 12

Legal Deadline: None

Abstract: This action is necessary to enhance the flexibility of wetlands regulations for producers without imposing any significant cost on the Government or decreasing protection of wetlands. The determinations are 1) Allow any area used for production of any crop or for long term rotation to not be considered an "abandoned" wetland, and 2) allow areas drained by a drainage district to be planted to forage crops and harvested by mechanical means. The "abandonment" determination will remove an incentive to keep land in intensive production. The drainage determination will allow production on a small number of acres that otherwise would not likely be farmed. The total acreage involved will likely be less than 50,000 acres, and no impacts on prices are expected. Producers' income could increase by up to $2.5 million per year by the end of ten years through increased efficiency. No cost to Government is expected.

Timetable:

Action	Date	FR Cite
NPRM	07/06/92	57 FR 29658
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AC92

189. FARMER PROGRAMS GUARANTEED INTEREST ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B; 7 CFR 1980 subpart D; 7 CFR 1980 subpart E; 7 CFR 1980 subpart G

Legal Deadline: None

Abstract: This regulation will provide for a government subsidy to lenders for interest rates for guaranteed Farmer Programs loans so the borrower will be paying interest rates for guaranteed loans that are similar to insured loans. This should provide an incentive for using the guaranteed loan program. The potential cost to the Government will be reduced as the Government will only pay a lender up to 90 percent of the losses on loans and only part of the interest rate rather than loaning a borrower the full amount of the loan and paying an investor the full cost of the Government borrowing the money for an insured loan. The benefit is that the borrower will be paying an interest rate for guaranteed loans that is comparable to that for insured loans.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/28/91	56 FR 8258
Final Action	09/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This entry was reported as RIN 0575-AA80 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE01

190. FARMER PROGRAM ACCOUNT SERVICING POLICIES FOR SECTION 1816 AND OTHER RELATED SECTIONS FOR THE "1990 FACT ACT"

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-624, sec 1816; 7 USC 1989; 42 USC 1480; 5 USC 301; PL 102-554, sec 10; PL 102-554, sec 23

CFR Citation: 7 CFR 1900 subpart B; 7 CFR 1924 subpart B; 7 CFR 1951 subpart S

Legal Deadline: None

Abstract: Provisions of the Food, Agriculture, Conservation and Trade Act of 1990, as they affect the Farmers Home Administration's Farmer Programs, plus relevant provisions of the Omnibus Budget Reconciliation Act of 1990. In addition, the Agricultural Credit Act of 1992 provided that in extraordinary circumstances, the State Director could extend the 60-day time period for submitting an application for Farmer Programs Loan Servicing (RIN 0575-AB42, published as an interim rule, March 23, 1993, 58 FR 15417). RIN 0575-AB42 will be combined into RIN 0575-AA91; and one final rule will be published.

Timetable:

Action	Date	FR Cite
NPRM	10/23/91	56 FR 54970
NPRM Comment Period End	11/22/91	56 FR 54970
Interim Final Rule	04/30/92	57 FR 18612
Final Action	08/01/96	
Final Action Effective	08/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: This entry was reported as RIN 0575-AA91 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE02

191. IMPLEMENT SECTION 1818 (BORROWER TRAINING) OF THE FOOD AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990 (FACT ACT)

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-624, sec 1818

CFR Citation: 7 CFR 1910 subpart A; 7 CFR 1943 subpart B; 7 CFR 1924 subpart B; 7 CFR 1941 subpart A; 7 CFR 1945 subpart D; 7 CFR 1943 subpart A; 7 CFR 1951 subpart S; 7 CFR 1980 subpart B; 7 CFR 1962 subpart A; 7 CFR 1965 subpart A

Legal Deadline: None

Abstract: Regulations are needed to set forth the curriculum and process to train Consolidated Farm Service Agency borrowers.

Timetable:

Action	Date	FR Cite
NPRM	11/25/92	57 FR 55473
NPRM Comment Period End	12/28/92	57 FR 55473
Interim Final Rule	12/30/93	58 FR 69190
Final Action	06/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This entry was reported as RIN 0575-AB13 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Office of the Regulations Analysis and Control Branch, Department of Agriculture, Consolidated Farm Service Agency, Deputy Administrator, Policy Analysis, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 720-7583

RIN: 0560–AE04

192. GUARANTEED LOAN PROGRAMS; MONITORING LIQUID ACCOUNTS

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B

Legal Deadline: None

Abstract: Lenders are currently required monitor liquidated accounts for five years. This regulation will reduce that period of time to three years. This regulation change only affects the monitoring of guaranteed loan accounts in which a final loss claim has been paid. These accounts will be monitored by lenders for three years following the liquidation for potential future recoveries.

Timetable:

Action	Date	FR Cite
NPRM	05/05/94	59 FR 23173
NPRM Comment Period End	07/05/94	59 FR 23173
Final Action	09/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This entry was reported as RIN 0575-AB29 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013

USDA—CFSA

Final Rule Stage

Phone: 202 205-5851
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RIN: 0560–AE05

193. IMPLEMENTATION OF CERTIFIED LENDER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1987; 42 USC 1480; 5 USC 301; PL 102-554

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B

Legal Deadline: Final, Statutory, October 1, 1993. Other, Statutory, April 28, 1993.
Sec 23 of Pub. L. 102-554, requires that interim regulations be published by April 28, 1993, and final regulations published by October 1, 1993.

Abstract: Lenders participating in the Guaranteed Loan Program have cited the excessive amount of paperwork and time required to apply for and receive approval on guaranteed loans as a deterrent to participation in the program. The Agency assembled a Guaranteed Overview Task Force to identify specific forms and regulations that could be eliminated or revised without increasing the risk to the Government. Fewer forms and a streamlined process will reduce operating costs for both the Consolidated Farm Service Agency and lenders. Regulations were being drafted when a law was passed requiring a Certified Lender Program, along with a simplified application process for guaranteed loans of $50,000 or less.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/24/93	58 FR 34302
Final Action	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This entry was reported as RIN 0575-AB33 prior to the reorganization of USDA.

This rule implements section 18 of the Agricultural Credit Improvement Act of 1992 which establishes a Certified Lender Program (CLP). Farm operating loans and farm ownership loans are excluded with the exception of nonfarm enterprise activity from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local offices.

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE07

194. ACQUISITION AND MANAGEMENT OF REAL AND CHATTEL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 2.23; 7 CFR 2.70; 7 CFR 1955A; 7 CFR 1955C

Legal Deadline: Final, Statutory, April 28, 1993.

Abstract: Provide additional notice to Native Americans to convey property prior to foreclosure, notify tribe of properties value and inform them of the amount of the Government's bid at a foreclosure sale. Allow surplus property to be leased with or without an option to purchase to eligible program applicants. Will implement changes required by the Agricultural Improvement Act of 1992, H.R. 6129, which was signed on October 28, 1992. Will also regulate how properties can be transferred to Indian tribes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/93	58 FR 68722
Final Action	12/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Tribal

Sectors Affected: None

Additional Information: This entry was reported as RIN 0575-AB63 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE15

195. REMOVAL OF THE PROHIBITION AGAINST CHARGING INTEREST ON INTEREST ON GUARANTEED LOANS

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B

Legal Deadline: None

Abstract: Lenders participating in the Guaranteed Loan Program have been reluctant to restructure the loans of delinquent guaranteed borrowers because of restrictive regulatory requirements. The Consolidated Farm Service Agency (CFSA) requires lenders to set aside the accrued interest portion of loans that are being restructured. Interest is only accrued on the outstanding principal. This practice is contrary to standard industry practice. Lenders normally capitalize the outstanding interest portion of the loan and reschedule or reamortize the payments based on the new principal amount. CFSA's restriction on capitalizing interest reduces the lender's return on the guaranteed loans. Also, the unique treatment of guaranteed loans requires additional bookkeeping efforts. There will be no substantial additional cost or savings with this change.

Timetable:

Action	Date	FR Cite
NPRM	03/30/94	59 FR 14769
NPRM Comment Period End	04/14/94	59 FR 14769
Final Action	11/00/95	
Final Action Effective	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This entry was reported as RIN 0575-AB70 prior to the reorganization of USDA.

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RIN: 0560–AE16

196. SMALL FARMER OUTREACH TRAINING AND TECHNICAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-624; 7 USC 2279; 7 USC 1989; 5 USC 301

CFR Citation: 7 CFR 1943 subpart C

Legal Deadline: None

Abstract: The subpart is being added to meet the objectives of the Small Farmer Outreach Training and Technical Assistance Program which will allow the Consolidated Farm Service Agency to fund cooperative and other agreements or enter into a Memorandum of Understanding with 1890 or other eligible educational institution institutions or community-based organizations. (1890 Colleges and Universities - Black Land Grant Colleges established under the 1890 Morrill Act.)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/27/94	59 FR 66441
Final Action	10/00/95	

Small Entities Affected: Organizations

Government Levels Affected: State

Additional Information: This entry was reported as RIN 0575-AB74 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205-5851
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RIN: 0560–AE17

197. DISASTER ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 5 USC 301; 42 USC 1980

CFR Citation: 7 CFR 1945 subpart A

Legal Deadline: None

Abstract: This action will amend the regulations to improve and expedite the disaster designation process that will make emergency loan (EM) assistance available in a more expeditious manner in declared/designated disaster areas to assist family farmers whose operations have sustained qualifying losses as a result of a major or natural disaster, and who wish to apply for such loan assistance. The regulation would also continue to be out of date with the current policy of basing countywide production losses on a major single enterprise only, in lieu of requiring a determination of countywide production losses in all crops. To change the regulation will bring the designation process in line with the current policy of eliminating the requirement for determining a 30 percent countywide reduction in the normal year's dollar value of all crops in a county(ies). This action will update and improve the process of current policy if there is a 30 percent or greater countywide reduction in the normal year's dollar value of a single enterprise (single crop), which is considered a major enterprise or crop in the county, or a determination that extenuating circumstances exist and warrant a designation under the Secretary of Agriculture's discretionary authority. This change will permit CFSA to automatically gather information for consideration of the Secretary's discretionary authority, and allow the Secretary to expeditiously designate the affected counties and make EM loans available to eligible family farmers.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal

Additional Information: This entry was reported as RIN 0575-AB87 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
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RIN: 0560–AE22

198. • AMENDMENT TO CONSERVATION PROGRAM FIELD REGULATIONS REGARDING JURISDICTION

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6932

CFR Citation: 07 CFR 780

Legal Deadline: None

Abstract: The Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (the Act) change the appeals procedures applicable to producers affected by Natural Resources Conservation Service (NRCS) determinations on the conservation programs authorized by Title XII of the Food Security Act of 1985. The Act provides that CFSA shall have initial jurisdiction over administrative appeals resulting from an adverse determination, including those involving technical determinations by NRCS. Producers will no longer appeal separately to NRCS. The Act requires CFSA to issue a rule with the concurrence of NRCS establishing procedures for review by NRCS of the technical determinations involved. Technical criteria used by NRCS shall be used by CFSA as the basis for any decisions regarding technical determinations. If no review is requested, NRCS technical determinations shall be the technical basis for decisions rendered by county or area committees. No additional cost to USDA. Producers may save some money by being able to avoid the costs of separate appeals.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE30

199. • SELECTION AND FUNCTIONS OF CONSOLIDATED FARM SERVICE AGENCY STATE AND COUNTY COMMITTEES

Priority: Other

Legal Authority: 16 USC 590h(b); PL 103-354

CFR Citation: 07 CFR 7

Legal Deadline: None

Abstract: In order to comply with new legislation, this action will amend the regulations to: 1) Eliminate community

USDA—CFSA

Final Rule Stage

and county committees' 3-consecutive-term limit; 2) Provide 3 to 5 county committee members for combined counties; and 3) Provide for nominations from organizations representing the interests of socially disadvantaged groups. The expected cost is about $4.6 million.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE33

200. • AMENDMENTS TO THE FARMER ACCOUNT SERVICING POLICIES

Priority: Economically Significant

Legal Authority: The Consolidated Farm and Rural Development Act,as amended

CFR Citation: 07 CFR 1900; 07 CFR 1910; 07 CFR 1924; 07 CFR 1941; 07 CFR 1943; 07 CFR 1951; 07 CFR 1955; 07 CFR 1956; 07 CFR 1962; 07 CFR 1965

Legal Deadline: None

Abstract: This action will finalize six Interim Final Rules and a Proposed Rule dating as far back as 1988 that clarified the servicing and restructuring of farm loans. It will also address the 600 comments from 104 individuals that were received.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/14/88	53 FR 35638
NPRM	10/23/91	56 FR 54970
Interim Final Rule	04/30/92	57 FR 18612
Interim Final Rule	10/15/92	57 FR 47257
Interim Final Rule	03/23/93	58 FR 15418
Interim Final Rule	05/25/93	58 FR 30104
Interim Final Rule	12/30/93	58 FR 69190
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205-5851
Fax: 202 690-2181

RIN: 0560–AE42

201. • 1995-CROP SUGAR BEET AND SUGARCANE PRICE SUPPORT LOAN RATES

Priority: Economically Significant

Legal Authority: 7 USC 1446g

CFR Citation: 07 CFR 1435

Legal Deadline: None

Abstract: This action is needed to implement the sugar price supports as required by statute. The determinations are 1) the loan rate for raw cane sugar, and 2) the loan rate for refined beet sugar. All sugar loans must be repaid by the end of the Fiscal Year. The Sugar Program is carried out at no net cost to the Government.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205-5851
Fax: 202 690-2181

RIN: 0560–AE44

202. • 1996-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVELS FOR SIX KINDS OF TOBACCO

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1312

CFR Citation: 07 CFR 723; 07 CFR 1464

Legal Deadline: Final, Statutory, March 1, 1996.
for marketing quotas.

Abstract: Marketing quotas/acreage allotments and price support are required by statute for these types of tobacco: fire-cured (Type 21), fire-cured (types 22-23), dark air-cured (types 35-36), Virginia sun-cured (type 37), cigar filler (type 46) and cigar filler and binder (types 42-44 and 53-55). Quotas and allotments are determined by statutory formula to balance supply with demand to assure stable supplies for domestic and export use. Marketing quotas are implemented if approved by producers in referenda. Producers approved quotas for the 1996 crops of fire-cured (types 21-23), dark air-cured (types 35-36), and sun-cured (type 37) in March, 1994 and March, 1995. Referenda for the other types are scheduled for March, 1996. Producers of these types have historically voted in favor of quotas. Price support levels are set by statutory formula. The Secretary may reduce the level at the request of producer associations, and may limit increases to 65 percent of the formula increase. Gross loan outlays of $3 million in FY 1997 will be offset by loan redemptions and no-net-cost assessments in FY 1997 and subsequent years for a net cost of 0.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205-5851
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RIN: 0560–AE46

203. • 1996-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1314; 7 USC 1445

CFR Citation: 07 CFR 723; 07 CFR 1464

USDA—CFSA

Final Rule Stage

Legal Deadline: Final, Statutory, February 1, 1996.
for marketing quotas.

Abstract: The burley tobacco marketing quota and price support are required by statute. Their purpose is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices considered sufficient for producers. The national quota is based on cigarette manufacturers' intentions, 3-year average exports, loan stocks adjustment, and a discretionary adjustment of plus or minus 3 percent. The quota may not be less than 90 percent of the previous year's quota except the limit may be waived if producer association inventories will likely exceed 150 percent of the reserve stock level. The price support level is based on a formula that averages market prices (2/3 weight) and a cost index (1/3 weight), plus discretion to limit any increase to 65 percent of the formula increase. Marketing quotas were approved by producers in a referendum in February, 1995. Gross loan outlays of $40 million in FY 1997 will be offset by loan repayments and no-net-cost assessments in Fy 1997 and subsequent years for a net cost of 0.

Timetable:

Action	Date	FR Cite
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205-5851
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RIN: 0560–AE47

204. • 1996-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1314; 7 USC 1445

CFR Citation: 07 CFR 723; 07 CFR 1464

Legal Deadline: Final, Statutory, December 15, 1995.
for marketing quotas.

Abstract: The flue-cured tobacco marketing quota and price support are required by statute. Their purpose is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are considered sufficient for producers. The national quota is based on cigarette manufacturers' intentions, 3-year average exports, a loan stocks adjustment, and a discretionary adjustment of plus or minus 3 percent. The quota may not be less than 90 percent of the previous year's, except the limit may be waived if producer association inventories will likely exceed 150 percent of the reserve stock level. The price support level is based on a formula that averages market prices (2/3 weight) and a cost index (1/3 eight), with discretion to limit any increase to 65 percent of the formula increase. Marketing quotas were approved by producers in a referendum in January, 1995. Gross loan outlays of $75 million in FY 1996 and 1997 will be offset by loan redemptions and no-net-cost assessments in FY 1996 and subsequent years for a net cost of 0.

Timetable:

Action	Date	FR Cite
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
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RIN: 0560–AE48

DEPARTMENT OF AGRICULTURE (USDA)
Consolidated Farm Service Agency (CFSA)

Long-Term Actions

205. EXCESSIVE MANUFACTURING (MAKE) ALLOWANCES IN STATE MARKETING ORDERS FOR MILK

Priority: Economically Significant

CFR Citation: 7 CFR 13

Timetable:

Action	Date	FR Cite
NPRM	06/19/92	57 FR 27371
NPRM Comment Period End	10/19/92	
Supplemental NPRM	01/14/94	59 FR 2307
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AC23

206. CONSERVATION ENVIRONMENTAL PROGRAMS REGULATIONS REGARDING WATER QUALITY INCENTIVES PROJECT, COST SHARE PROVISIONS OF THE EMERGENCY CONSERVATION PROGRAM, AND OTHER REVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 701

Timetable:

Action	Date	FR Cite
NPRM	01/10/94	59 FR 1293
NPRM Comment Period End	02/09/94	59 FR 1293
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD16

207. AMENDMENT TO THE ACREAGE CONSERVATION RESERVE AND THE CONSERVING USE ACREAGE REGULATIONS FOR PRODUCERS AFFECTED BY EXCESSIVE RAINFALL AND FLOODING

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1413

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/27/93	58 FR 57721
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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Fax: 202 690-2186

RIN: 0560–AD50

208. PROGRAM INELIGIBILITY FOR NONCOMPLIANCE WITH BOLL WEEVIL ERADICATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD57

209. WOOL AND MOHAIR RECOURSE LOAN PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1428

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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RIN: 0560–AD75

210. REGULATIONS FOR CONSERVATION COMPLIANCE CROP ACREAGE BASE (CAB) ADJUSTMENTS

Priority: Other Significant

CFR Citation: 7 CFR 1417

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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RIN: 0560–AD80

211. AMENDMENT TO THE EMERGENCY LIVESTOCK ASSISTANCE REGULATIONS REGARDING FEED ALLOWANCE AND APPROVAL OF COUNTIES FOR ASSISTANCE

Priority: Other Significant

CFR Citation: 7 CFR 1475

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD84

212. FARM FACILITY LOAN PROGRAM REGULATIONS

Priority: Other Significant

CFR Citation: 07 CFR 1474

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD85

213. COMMON PROVISIONS FOR 1995 WHEAT, FEED GRAIN, COTTON, AND RICE PROGRAMS

Priority: Economically Significant

CFR Citation: 07 CFR 1413

Timetable:

Action	Date	FR Cite
NPRM	01/24/95	60 FR 4571
NPRM Comment Period End	01/27/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD86

214. SUGAR AND CRYSTALLINE FRUCTOSE INFORMATION AND RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 07 CFR 1435

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD88

215. AMENDMENTS TO THE PAYMENT LIMITATION REGULATIONS FOR 1995

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 07 CFR 1497; 07 CFR 1498

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD89

216. AMENDMENT TO THE PEANUT LOAN PROGRAM REGULATIONS—REQUIREMENT FOR CROP INSURANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 07 CFR 1446

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/12/95	60 FR 35834
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD90

217. AMENDMENT TO THE TOBACCO LOAN PROGRAM REGULATIONS—REQUIREMENT FOR CROP INSURANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 07 CFR 1464

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/01/95	60 FR 21036
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD91

218. AMENDMENT TO THE WAREHOUSE REGULATIONS REGARDING AUCTION TOBACCO WAREHOUSES

Priority: Substantive, Nonsignificant

CFR Citation: 07 CFR 723; 07 CFR 737

Timetable:

Action	Date	FR Cite
NPRM	07/28/95	60 FR 38766
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD92

219. AMENDMENT TO THE TOBACCO LOAN PROGRAM REGULATIONS—BUDGET DEFICIT MARKETING ASSESSMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1464

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/20/95	60 FR 19665
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD93

220. MEASURE-ALL PILOT PROJECT

Priority: Other Significant

CFR Citation: 07 CFR 718

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD98

221. INSURED AND GUARANTEED OPERATING AND FARM OWNERSHIP LOAN AND RELATED INSTRUCTIONS TO IMPLEMENT SECTIONS 4, 5, 7, 8, 9, AND 19 OF THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1980; 7 CFR 1955

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/93	58 FR 48275
Final Action	12/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE09

222. LOANS TO INDIAN TRIBES AND TRIBAL CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1942 subpart F; 7 CFR 1823; 7 CFR 2.23; 7 CFR 2.70

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Tribal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE10

223. SECTION 14 OF THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992, (GRADUATION) AND SECTIONS 1819 (LOAN ASSESSMENT) AND 1821 (MARKET PLACEMENT) OF THE FACT ACT

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1951; 7 CFR 1980; 7 CFR 1943; 7 CFR 1945; 7 CFR 1962

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69274

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Action	Date	FR Cite
NPRM Comment Period End	02/28/94	58 FR 69274
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE11

224. THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1946; 7 CFR 1980

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/17/93	58 FR 65871
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE13

225. IMPLEMENT SECTIONS 11 AND 13 OF THE AGRICULTURE CREDIT IMPROVEMENT ACT 1993 (APPLICATION PROCESSING TIMEFRAME)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1980

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/93	58 FR 68717
Final Action	12/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE14

226. DECISION TO LIQUIDATE

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AE19

227. SPECIAL DISASTER SET-ASIDE PROGRAM; FRUIT AND NUT TREES

Priority: Other Significant

CFR Citation: 7 CFR 1945 subpart D

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE21

228. REVISIONS TO THE DIRECT FARM OWNERSHIP LOAN REGULATION (1943-A) TO CLARIFY EXISTING POLICIES AND PROCEDURES PERTAINING TO THE AGENCY'S OUTREACH PROGRAM FOR MEMBERS OF SOCIALLY DISADVANTAGED

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1943 subpart A

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE23

229. SOCIALLY DISADVANTAGED OUTREACH PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1941 subpart A; 7 CFR 1980 subpart B

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE24

230. FEDERAL CROP INSURANCE REFORM AND DEPARTMENT OF AGRICULTURE REORGANIZATION ACT OF 1994

Priority: Other Significant

CFR Citation: 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1980; 7 CFR 2.23; 7 CFR 2.70

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE25

231. PART 1946 MEDIATION; SUBPART A AGRICULTURAL LOAN MEDIATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1946 subpart A

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE26

232. • AMENDMENT TO TOBACCO MARKETING QUOTA REGULATIONS REGARDING THE EFFECTIVE DATE FOR THE DOMESTIC MARKETING ASSESSMENT

Priority: Other Significant

Legal Authority: PL 103-465

CFR Citation: 07 CFR 723

Legal Deadline: None

Abstract: The Uruguay Round Agreements Act (the Act) provides that the tobacco Domestic Marketing Assessment shall be effective only for Calendar Year 1994, beginning on the effective date of the Presidential proclamation, authorized under section 421 of the Act, establishing a tariff-rate quota pursuant to Article XXVIII of the GATT 1947 or the GATT 1994 with respect to tobacco. This action will amend the regulations to provide the new effective date, conditional on the Presidential proclamation. No Government outlay is expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415 Washington, DC 20013
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE27

233. • EXTENSION OF MATURING 1994 AND SUBSEQUENT CROP YEAR WHEAT AND FEED GRAIN PRICE SUPPORT LOANS

Priority: Other Significant

Legal Authority: 7 USC 1421 et seq

CFR Citation: 07 CFR 1421

Legal Deadline: None

Abstract: This action is needed to amend the price support provisions to allow producers with maturing wheat, corn, grain sorghum, barley, oat, and rye loans to extend such loans beyond the specified maturity date, whenever conditions, as determined by the Secretary, warrant loan extensions. No direct outlays are expected.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE28

234. • TECHNICAL CORRECTIONS TO WHEAT, FEED GRAIN, COTTON, AND RICE PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1421 et seq

CFR Citation: 07 CFR 718; 07 CFR 1413; 07 CFR 1414; 07 CFR 1415; 07 CFR 1416

Legal Deadline: None

Abstract: This action will amend the regulations as follows: 1) Set forth policy changes for acreage measurement and tolerance. Producers will not be required to destroy excess acreage except when the measured acreage exceeds tolerance. Tolerance on crops and land uses with measurement service after planting, and administrative variance will no longer apply. 2) Add one county each in Kansas and North Dakota and three counties each in Nebraska and Ohio as eligible to participate in the Options Pilot Program. 3) Revise the Voluntary Production Limitation Program regulations to provide that the sum of the planted acreage for all enrolled wheat and feed grains shall not exceed the sum of the enrolled wheat and feed grain Crop Acreage Bases (CAB's) on the farm plus any decrease in the Acreage Conservation Reserve (ACR) requirement for the same crop's CAB under the 1995 Acreage Reduction Program (ARP). The base for comparison shall be the ACR requirement for the same program crop's CAB for the 1994 ARP. 4) Clarify certain provisions in the regulations. The cost to Government will be insignificant.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/25/95	60 FR 44255
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE29

235. • AMENDMENTS TO THE DISASTER PAYMENT PROGRAM REGULATIONS FOR 1990 AND SUBSEQUENT CROPS

Priority: Economically Significant

Legal Authority: 7 USC 142 (note); PL 103-75; PL 103-230; PL 103-211

CFR Citation: 07 CFR 1477

Legal Deadline: None

Abstract: This action will amend the regulations to provide: 1) Disaster payments for 1993, 1994, and 1995 papaya that would have been harvested if the papaya plants had not been destroyed by Hurricanes Andrew or Iniki, or Typhoon Omar; 2) Disaster payments for 1993 losses of trees, shrubs, and nursery crops; 3) Regulations for the 1994 Disaster Program, covering losses resulting from natural disaster for the 1994 crop year provisions for 1993 crop losses will be updated to apply to apply to 1994 disaster losses; 4) Technical changes required by Departmental reorganization; 5) Disaster relief for aquaculture losses, except ornamental fish (as defined); 6) County committee consideration of harvesting expenses for program and nonprogram crops; 7) Disaster payments for 1994 through 1996 orchard crop losses due to freezing conditions from January 1, 1994 through March 31, 1994 if FCIC insurance was not available for affected producers. Expected cost to the Government will be from $750 million to $1 billion.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205-5851

Fax: 202 690-2186

RIN: 0560–AE31

236. • PERMIT CFSA TO SELL OR ASSIGN FARM LOAN MORTGAGES AND NOTES

Priority: Economically Significant

Legal Authority: 7 USC 1989

CFR Citation: 07 CFR 1962; 07 CFR 1965

Legal Deadline: None

Abstract: The CFSA is proposing to amend its regulations to establish a procedure for the sale and assignment of farmer program notes and mortgages. This will assist the Agency in resolving loan accounts with greater dispatch and less loss to the Government. Borrowers can benefit by receiving more generous repayment terms from the purchaser/assignee than the Agency is authorized to provide.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Stff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE35

DEPARTMENT OF AGRICULTURE (USDA)
Consolidated Farm Service Agency (CFSA)

Completed Actions

237. COMMON PROVISIONS FOR THE 1994 WHEAT, FEED GRAIN, COTTON, AND RICE PROGRAMS

Priority: Economically Significant

CFR Citation: 7 CFR 1413

Completed:

Reason	Date	FR Cite
Final Action	06/28/95	60 FR 33330

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AC74

238. AMENDMENTS TO THE PRODUCTION ADJUSTMENT REGULATIONS—RECONSTITUTION OF BASES, ALLOTMENTS AND QUOTAS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 719

Completed:

Reason	Date	FR Cite
Final Action	06/28/95	60 FR 33330

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AC99

239. PILOT VOLUNTARY PRODUCTION LIMITATION PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1413

Completed:

Reason	Date	FR Cite
Final Action	06/28/95	60 FR 33330

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD00

240. 1995 FEED GRAIN PROGRAM

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1413

Completed:

Reason	Date	FR Cite
Final Action	09/18/95	60 FR 48015

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD37

241. 1995 RICE PROGRAM

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1413; 7 CFR 1421

Completed:

Reason	Date	FR Cite
Final Action	08/18/95	60 FR 43001

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD38

242. 1995 UPLAND COTTON PROGRAM

Priority: Economically Significant

CFR Citation: 7 CFR 1413; 7 CFR 1427

Completed:

Reason	Date	FR Cite
Final Action	06/16/95	60 FR 31623

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD39

243. 1995 WOOL AND MOHAIR PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1468

Completed:

Reason	Date	FR Cite
Final Action	06/01/95	60 FR 28522

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD40

244. 90-DAY RULE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn - action previously completed.	08/29/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD43

245. AMENDMENTS TO REGULATIONS REGARDING PAYMENTS TO PERSONS CONVICTED OF CONTROLLED SUBSTANCE VIOLATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 796

Completed:

Reason	Date	FR Cite
Final Action	06/28/95	60 FR 33330

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD47

246. 1994 OPTIONS PILOT PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1413

Completed:

Reason	Date	FR Cite
Final Action	06/28/95	60 FR 33330

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD48

247. 1994 WHEAT FARMER-OWNED RESERVE PROGRAM

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1421

Completed:

Reason	Date	FR Cite
Final Action	09/18/95	60 FR 48015

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD60

248. 1994 FEED GRAIN FARMER-OWNED RESERVE PROGRAM

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1421

Completed:

Reason	Date	FR Cite
Final Action	09/18/95	60 FR 48015

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD61

249. 1995-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Completed:

Reason	Date	FR Cite
Final Action	05/08/95	60 FR 22458

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD62

250. 1995-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Completed:

Reason	Date	FR Cite
Final Action	05/26/95	60 FR 27867

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD63

251. 1995-CROP MARKETING QUOTA AND PRICE SUPPORT LEVELS FOR SIX KINDS OF TOBACCO

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 723; 7 CFR 1464

Completed:

Reason	Date	FR Cite
Final Action	07/26/95	60 FR 38229

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD64

252. 1995-CROP MARKETING QUOTAS FOR THREE KINDS OF TOBACCO

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 723

Completed:

Reason	Date	FR Cite
Final Action	07/26/95	60 FR 38229

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD65

253. 1995-CROP PEANUTS NATIONAL POUNDAGE QUOTA AND MINIMUM COMMODITY CREDIT CORPORATION (CCC) EXPORT-EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Priority: Other Significant

CFR Citation: 7 CFR 729

Completed:

Reason	Date	FR Cite
Final Action	02/08/95	60 FR 7429

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD66

254. 1995-CROP NATIONAL AVERAGE LOAN RATES FOR QUOTA AND ADDITIONAL PEANUTS

Priority: Other Significant

CFR Citation: 7 CFR 1446; 7 CFR 1421

Completed:

Reason	Date	FR Cite
Final Action	05/26/95	60 FR 27868

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD67

255. AMENDMENTS TO THE WOOL AND MOHAIR PROGRAM REGULATIONS—PAYMENT LIMITATIONS, MARKETING ASSESSMENTS, AND DEDUCTIONS FOR MARKETING CHARGES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1468

Completed:

Reason	Date	FR Cite
Final Action	05/08/95	60 FR 22460

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD68

256. TECHNICAL CORRECTIONS TO THE WHEAT, FEED GRAIN, COTTON AND RICE PROGRAM REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 718; 7 CFR 719; 7 CFR 1413; 7 CFR 1414

Completed:

Reason	Date	FR Cite
Final Action	06/28/95	60 FR 33330

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD72

257. 1995 WHEAT LOAN RATE AND ACREAGE REDUCTION PROGRAM

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1413; 7 CFR 1421

Completed:

Reason	Date	FR Cite
Final Action	09/18/95	60 FR 48015

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD76

258. AMENDMENTS TO ASCS AND CCC DEBT SETTLEMENT REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 792; 7 CFR 1403

Completed:

Reason	Date	FR Cite
Final Action	08/23/95	60 FR 43705

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD78

259. AMENDMENTS TO SUGAR AND CRYSTALLINE FRUCTOSE MARKETING ALLOTMENT REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1435

Completed:

Reason	Date	FR Cite
Withdrawn	07/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD79

260. REOPENING OF THE 1993 TREE ASSISTANCE PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1478

Completed:

Reason	Date	FR Cite
Final Action	10/18/95	60 FR 52609

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD83

261. 1995 OILSEED PROGRAM

Priority: Other Significant

CFR Citation: 07 CFR 1421

Completed:

Reason	Date	FR Cite
Final Action	09/18/95	60 FR 48015

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD87

262. AMENDMENTS TO THE CONSERVATION RESERVE PROGRAM REGULATIONS REGARDING EARLY CONTRACT TERMINATIONS, ENROLLING REPLACEMENT AND NEW ACREAGE, AND CONTRACT EXTENSIONS

Priority: Economically Significant

CFR Citation: 07 CFR 704; 07 CFR 1410

Completed:

Reason	Date	FR Cite
Final Action	08/24/95	60 FR 44005

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD95

263. AMENDMENT TO THE CONSERVATION RESERVE PROGRAM (CRP) REGULATIONS—REQUIREMENTS FOR CROP INSURANCE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 07 CFR 704; 07 CFR 1410

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 32899

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AD96

264. REQUIREMENT FOR CROP INSURANCE AS A CONDITION FOR PROGRAM ELIGIBILITY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 07 CFR 1406

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 32899

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD97

265. 1995 SPECIFICATIONS FOR COTTON BALE PACKAGING MATERIALS

Priority: Routine and Frequent

CFR Citation: 07 CFR 1427

Completed:

Reason	Date	FR Cite
Final Action	07/27/95	60 FR 38476

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AD99

266. 1945-D EMERGENCY LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS—WAIVER OF CROP INSURANCE FOR CROPS PLANTED FOR HARVEST IN 1992 AND 1993

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1945 subpart D; 7 CFR 2.23; 7 CFR 2.70

Completed:

Reason	Date	FR Cite
Withdrawn - crop insurance waiver timeframes have expired.	08/24/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE08

267. ELIMINATION OF CONSOLIDATION OF LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1951

Completed:

Reason	Date	FR Cite
Withdrawn - Regulation change would require legislative action.	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AE12

268. REORGANIZATION PLANS UNDER FEDERAL BANKRUPTCY CODES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1924; 7 CFR 1951; 7 CFR 1956; 7 CFR 1962

Completed:

Reason	Date	FR Cite
Withdrawn - due to USDA reorganization.	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 720-7583

RIN: 0560–AE18

269. SPECIAL DISASTER SET-ASIDE PROGRAM; IMPLEMENTATION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1951 subpart T

Completed:

Reason	Date	FR Cite
Final Action	09/08/95	60 FR 46753
Final Action Effective	09/18/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 690-2186

RIN: 0560–AE20

270. • 1995-1996 MARKETING YEAR PENALTY RATES FOR ALL KINDS OF TOBACCO SUBJECT TO QUOTAS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1314

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces the penalty rates for all kinds of tobacco for the 1995-96 marketing year. Legislation provides that the penalty shall be 75 percent of the previous year's average marketing price. Tobacco producers, operators, and dealers need to be informed of the penalty rate prior to the beginning of the marketing year. The penalty acts as a deterrent for violators of tobacco program regulations.

Timetable:

Action	Date	FR Cite
Final Action	06/30/95	60 FR 34231

USDA—CFSA

Completed Actions

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Staff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205-5851
Fax: 202 690-2181

RIN: 0560–AE34

271. • COTTONSEED PURCHASE PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 7 USC 1443

CFR Citation: 07 CFR 1443

Legal Deadline: None

Abstract: This action will delete regulations for the cottonseed purchase program because they are obsolete. The program was last implemented in 1969.

Timetable:

Action	Date	FR Cite
Final Action	10/04/95	60 FR 51885

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Economic and Policy Analysis Syaff, Department of Agriculture, Consolidated Farm Service Agency, Room 3741-s, P.O. Box 2415, Wash., DC 20013
Phone: 202 205-5851
Fax: 202 690-2181

RIN: 0560–AE39

BILLING CODE 3410-05-F

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Prerule Stage

272. IMPORTATION OF FRUITS AND VEGETABLES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 151 to 167; 7 USC 450; 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 319.56

Legal Deadline: None

Abstract: The Department regulates the importation of fruits and vegetables into the United States to prevent the introduction of plant pests, including insects and diseases. A review of the Department's fruits and vegetables import regulations indicates the need for a complete revision to make the regulations more effective and to increase compliance with them.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mr. Frank Cooper, Senior Operations Officer, PPQ, Port Operations, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 139, Riverdale, MD 20737-1236
Phone: 301 734-6799

RIN: 0579–AA58

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Proposed Rule Stage

273. CYCLICAL REVIEW OF 9 CFR PART 92, PHASE II

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 21 USC 136; 21 USC 136a; 31 USC 9701

CFR Citation: 9 CFR 92

Legal Deadline: None

Abstract: The Department is reviewing the regulations in 9 CFR part 92, which, among other things, govern the importation into the United States of certain animals and poultry, and certain animal and poultry products. This is in compliance with Executive Order 12866 and Departmental Regulation 1512-1, which requires agencies to periodically review regulations.

The Department is conducting this Cyclical Review in phases. Phase I, effective August 2, 1990, reorganized the regulations. The Department is now starting Phase II. Subpart F (Dogs) of 9 CFR Part 92 has been reviewed and a notice of proposed rulemaking will be published. Reviews of the other subparts will follow. If the Department determines those regulations should be changed, notices of proposed rulemaking will be published.

Timetable:

Action	Date	FR Cite
NPRM subpart F	12/00/95	
NPRM Comment Period End Subpart F	02/00/96	
Final Action Subpart F	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Roger Perkins, Staff Veterinarian, VS, National Center for Import and Export, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, MD 20737-1231
Phone: 301 734-5097

RIN: 0579–AA34

USDA—APHIS

Proposed Rule Stage

274. ADDITION OF CERVIDAE TO THE REGULATIONS CONCERNING TUBERCULOSIS IN LIVESTOCK

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 105; 21 USC 111 to 113; 21 USC 114; 21 USC 114a; 21 USC 115 to 117; 21 USC 120 to 121; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 77; 9 CFR 91

Legal Deadline: None

Abstract: Bovine tuberculosis is a contagious, infectious, and communicable disease affecting cattle, bison, and other species, including humans. The spread of bovine tuberculosis in the United States could have serious consequences for the United States cattle and bison industries, as well as for human health. Currently, the regulations concerning control and eradication programs for bovine tuberculosis in livestock only regulate cattle, bison, and swine. Recent outbreaks in the United States of bovine tuberculosis in semi-domesticated herds of cervidae (such as deer and elk) have made apparent the need to also regulate these animals in order to prevent the spread of bovine tuberculosis.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Dr. Joseph VanTiem, Senior Staff Veterinarian, VS, Cattle Diseases and Surveillance, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 36, Riverdale, MD 20737-1231
Phone: 301 734-8715

RIN: 0579–AA53

275. ADVANCE NOTICE OF PROPOSED REVISION OF THE FEDERAL SEED ACT REGULATIONS FOR IMPORTED SEED

Priority: Substantive, Nonsignificant

Reinvegting Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1581 to 1611

CFR Citation: 7 CFR 201

Legal Deadline: None

Abstract: On October 1, 1982, the Agricultural Marketing Service transferred to the Animal and Plant Health Inspection Service responsibility for administering Title III of the Federal Seed Act (FSA), which pertains to regulation of foreign commerce in seeds. Shortly afterwards, in 1983, the FSA was amended and the inspection requirements for imported seeds were considerably lessened. However, regulations under the FSA (7 CFR 201.101 to 201.230) have not been revised to reflect either the 1982 transfer of regulatory authority or the 1983 statutory amendments. Therefore, we are considering revising FSA regulations to reflect these changes. We are also considering revising FSA regulations to update or delete obsolete sections, including taxonomies of listed weeds, and simplifying inspection requirements for seed imports from Canada. We will solicit comments from the public on the current regulations and any current revisions. We have already amended the FSA regulations to update the list of prohibited weed seeds to include the seeds of all listed Federal noxious weeds. The remaining planned revisions and updates will follow.

Timetable:

Action	Date	FR Cite
ANPRM	09/13/94	59 FR 47286
ANPRM Comment Period End	10/31/94	
NPRM	03/23/95	60 FR 15257
NPRM Comment Period End	04/24/95	
Final Action	07/12/95	
Final Action Effective	08/11/95	
NPRM (Other Amendments)	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Polly Lehtonen, Botanist, PPQ, Biological Assessment/Taxonomic Support, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 133, Riverdale, MD 20737-1236
Phone: 301 734-8896

RIN: 0579–AA64

276. DEFINITION OF "BIOLOGICAL PRODUCTS" AND "GUIDELINES"

Priority: Other Significant

Legal Authority: 21 USC 151 to 159

CFR Citation: 9 CFR 101

Legal Deadline: None

Abstract: The proposed rule would update the definitions of "biological products" and "guidelines" to reflect current usage. The definition of biological products has not been amended since 1973. APHIS has received a citizen's petition from producers of veterinary biological products to update this definition to accommodate advances in scientific knowledge and to reflect current usage. Similarly, a definition of guidelines is necessary to describe the purpose of such documents as veterinary biologics memoranda, licensing considerations, and notices.

The proposal would provide guidance to producers who are making a choice to seek regulatory approval from the Food and Drug Administration for a product intended for use as an animal drug (e.g. antibiotics, hormones, feed supplements, etc.) or from APHIS for a product intended for use as a veterinary biological product (e.g. vaccines, adjuvants, immunomodulators, and diagnostics). Submission to the appropriate Federal agency would depend upon the intended use of the product for which regulatory approval is sought.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Dr. Frank Y. Tang, Biotechnologist, BCTA, BBEP, Veterinary Biologics, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 148, Riverdale, MD 20737-1237
Phone: 301 734-4833

RIN: 0579–AA65

277. USER FEES, VETERINARY DIAGNOSTICS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

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duplication, or streamline requirements.

Legal Authority: 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114; 21 USC 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 21 USC 136; 21 USC 136a

CFR Citation: 9 CFR 130

Legal Deadline: None

Abstract: The Animal and Plant Health Inspection Service (APHIS) is proposing to revise current fees for cost increases or decreases in the user fee program and to propose additional fees for goods and services which APHIS provides. The purpose is to more accurately provide for full-cost recovery of Agency activities. Fees being revised include: user fees at APHIS's animal import centers and user fees at the National Veterinary Services Laboratories (NVSL) (including the labs at the Foreign Animal Diseases Diagnostic Laboratory (FADDL)) to account for cost increases and decreases. Fees being proposed include: user fees at APHIS's animal import center and user fees for hourly services, for tests and reagents which currently do not have user fees and for other miscellaneous goods and services at NVSL and FADDL.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Thompson, Chief, BAD, Financial Systems Services Branch, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 54, Riverdale, MD 20737-1232
Phone: 301 734-5901

RIN: 0579–AA70

278. IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 147a; 7 USC 150ee; 7 USC 161 to 162; 7 USC 450; 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 21 USC 136; 21 USC 136a; 31 USC 9701; ...

CFR Citation: 9 CFR 92; 9 CFR 93; 9 CFR 94; 9 CFR 95; 9 CFR 96; 9 CFR 98

Legal Deadline: None

Abstract: APHIS would amend the animal and animal product importation regulations that currently identify entire countries as those that are either free of certain diseases or those in which the diseases exist. The proposed change would allow for regionalization of countries--i.e., disease classification of parts of a country, an entire country, or groups of countries. The rule change would also recognize levels of disease risk in regions. Although APHIS anticipates expanding these proposed provisions to apply to the importation of all regulated animals and animal products, at this time the rule changes would apply to ruminants and swine, and their products.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Dr. Hugh Metcalf, Senior Staff Veterinarian, VS, Program Evaluation and Planning, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 34, Riverdale, MD 20737-1231
Phone: 301 734-7202

RIN: 0579–AA71

279. • GENETICALLY ENGINEERED ORGANISMS; SIMPLIFICATION OF REQUIREMENTS AND PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 150aa to 150jj; 7 USC 151 to 167; 7 USC 1622n

CFR Citation: 7 CFR 340

Legal Deadline: None

Abstract: The introduction of regulated articles is required to be conducted under permit or under notification procedures acknowledged by APHIS. The latter procedures require that the regulated article meet certain eligibility criteria and performance standards. Field data reports are required to be submitted to APHIS after completion of a field test. The effect would be to simplify procedures for the introduction of certain genetically engineered organisms, requirements for certain determinations of nonregulated status, and procedures for the reporting of field tests under notification. It would allow most genetically engineered plants that are considered regulated articles to be introducted under notification procedures.

Timetable:

Action	Date	FR Cite
NPRM	08/22/95	60 FR 43567
NPRM Comment Period End	10/23/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Michael Schechtman, Branch Chief, Biotechnology Coordination, Technical Assistance, BBEP, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 146, Riverdale, MD 200737-1237
Phone: 301 734-7601

RIN: 0579–AA73

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS) — **Final Rule Stage**

280. EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY; PSITTACOSIS AND ORNITHOSIS IN POULTRY

Priority: Other Significant

Legal Authority: 21 USC 111 to 113; 21 USC 115; 21 USC 117; 21 USC 120; 21 USC 123 to 126; 21 USC 134a; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 82

Legal Deadline: None

Abstract: Exotic Newcastle Disease (also known as viscerotropic velogenic Newcastle disease and as VVND) and psittacosis or ornithosis (now generally referred to as chlamydiosis) are communicable diseases of birds and poultry. The spread of these diseases in the United States could have serious consequences for the United States poultry industry. A review of the Department's regulations to prevent the interstate spread of these diseases indicates the need for a complete revision to make the regulations more effective and to increase compliance with them.

Timetable:

Action	Date	FR Cite
NPRM	06/28/94	59 FR 33214
NPRM Comment Period End	08/29/94	
NPRM	09/30/94	59 FR 44865
NPRM Comment Period Extended	11/29/94	
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Dr. Kelly Preston, Staff Veterinarian, VS, Emergency Programs, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 41, Riverdale, MD 20737-1231
Phone: 301 734-8240

RIN: 0579–AA22

281. EXPORT CERTIFICATION

Priority: Routine and Frequent

Legal Authority: 7 USC 147a; 7 USC 2260; 21 USC 136; 21 USC 136a; 49 USC 1741

CFR Citation: 7 CFR 353; 7 CFR 354

Legal Deadline: None

Abstract: The Department is proposing to revise the "Phytosanitary Export Certification" regulations, which concern inspection and certification of plants and plant products offered for export. The proposed rule would facilitate the phytosanitary certification of American agricultural products by ensuring that a sufficient number of qualified individuals are available to carry out Federal certification activities and by implementing new certification systems in conjunction with existing phytosanitary certification. Revising the regulations would make them easier to understand, thereby increasing compliance and the effectiveness of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/16/95	60 FR 42472
NPRM Comment Period End	09/15/95	
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leonard M. Crawford, Senior Operations Officer, PPQ, Port Operations, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 139, Riverdale, MD 20737-1236
Phone: 301 734-8537

RIN: 0579–AA54

282. ANIMAL WELFARE—STANDARDS FOR MARINE MAMMALS

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 3

Legal Deadline: None

Abstract: The Department regulates the treatment of certain marine mammals under the Animal Welfare Act. The present standards for treatment of these animals have been in effect for over 10 years. During this time, advances have been made and new information has been developed with regard to the housing and care of marine mammals. The Department has given notice of its review of the present standards to determine what revisions or additions might be necessary, and has requested comments on appropriate specific standards for treatment of marine mammals. The Department is conducting negotiated rulemaking and developing proposed changes to the regulations.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/93	58 FR 39458
ANPRM Comment Period End	10/06/93	
NPRM	01/23/95	60 FR 4383
NPRM Comment Period End	02/22/95	
NPRM Comment Period Extended	02/28/95	60 FR 10810
NPRM Comment Period Extended	03/09/95	60 FR 12908
NPRM Reopened and Extended Comment Period	03/24/95	60 FR 15524
Notice, Establish a Committee	05/22/95	60 FR 27049
Correction	06/02/95	60 FR 28834
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Agency Contact: Dr. Barbara Kohn, Veterinary Medical Officer, REAC, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-7833

RIN: 0579–AA59

283. USER FEES—COMMERCIAL AIRCRAFT AND VESSELS; PHYTOSANITARY CERTIFICATES

Priority: Other Significant

Legal Authority: 7 USC 2260; 21 USC 136 to 136a; 49 USC 1741

CFR Citation: 7 CFR 354.3

Legal Deadline: None

Abstract: APHIS is amending the user fee regulations by lowering the fees charged for certain agricultural quarantine and inspection services we provide in connection with the arrival of international commercial aircraft at ports in the customs territory of the United States. APHIS would also amend the user fee regulations by raising the fees charged for export certification of plants and plant products. We have determined, based on a review of our user fees, that the fees must be adjusted to reflect the actual cost of providing these services. In addition, we are amending the user fee regulations to clarify the exemption for certain vessels which sail only between the United States and Canada.

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Timetable:

Action	Date	FR Cite
NPRM	05/24/95	60 FR 27437
NPRM Comment Period End	06/23/95	
Final Action	12/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Donna Ford, PPQ User Fees Section Head, BAD, Financial Systems Services Branch, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 54, Riverdale, MD 20737-1232
Phone: 301 734-5901

RIN: 0579–AA68

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Long-Term Actions

284. IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS—PREVENTION OF POULTRY DISEASES

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 92

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Keith Hand
Phone: 301 734-5097

RIN: 0579–AA38

285. CHICKEN DISEASE CAUSED BY SALMONELLA ENTERITIDIS

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 82

Timetable:

Action	Date	FR Cite
NPRM	08/02/93	58 FR 41048
Public Hearing	09/02/93	58 FR 46569
NPRM Comment Period Extended	09/28/93	58 FR 50527
NPRM Comment Period End	10/01/93	58 FR 41048
Public Hearing	10/07/93	58 FR 52240
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Allen Hogue
Phone: 301 734-4363

RIN: 0579–AA48

286. IMPORTATION OF CERTAIN EMBRYOS AND ANIMAL SEMEN

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 98

Timetable:

Action	Date	FR Cite
ANPRM	07/08/93	58 FR 36625
ANPRM Comment Period End	09/07/93	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Roger Perkins
Phone: 301 734-8172

RIN: 0579–AA63

287. IN VITRO TESTS FOR SERIAL RELEASE IN PLACE OF ANIMAL POTENCY TESTS

Priority: Other Significant

CFR Citation: 9 CFR 113

Timetable:

Action	Date	FR Cite
NPRM	05/17/95	60 FR 26381
NPRM Public Hearing	08/01/95	
NPRM Comment Period End	09/14/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Albert Morgan
Phone: 301 734-8245

RIN: 0579–AA66

288. IMPORT/EXPORT USER FEES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 130

Timetable:

Action	Date	FR Cite
NPRM	05/26/95	60 FR 27913
NPRM Correction, Editorial	06/07/95	60 FR 30157
NPRM Comment Period End	07/25/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Thompson, Chief
Phone: 301 734-5901

RIN: 0579–AA67

289. HSTAIC REPAIR AND MAINTENANCE FEES

Priority: Other Significant

CFR Citation: 9 CFR 92.430; 9 CFR 92.522

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Joan Montgomery
Phone: 301 734-8172

RIN: 0579–AA69

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Completed Actions

290. IMPORTATION OF UNMANUFACTURED WOOD

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 319

Completed:

Reason	Date	FR Cite
Final Action	05/25/95	60 FR 27665

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. Michael J. Shannon
Phone: 301 734-8261

RIN: 0579–AA47

291. INTRODUCTION OF NONINDIGENOUS ORGANISMS

Priority: Other Significant

CFR Citation: 7 CFR 335

Completed:

Reason	Date	FR Cite
Withdrawn - Public response indicated need to redesign its program.	06/16/95	60 FR 31647

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Dr. Matthew H. Royer
Phone: 301 436-8896

RIN: 0579–AA61

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DEPARTMENT OF AGRICULTURE (USDA)
Cooperative State Research, Education, and Extension Service (CSREES)

Proposed Rule Stage

292. HIGHER EDUCATION CHALLENGE GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3152

CFR Citation: 7 CFR 3405

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Higher Education Challenge Grants Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	11/00/95	
Final Action	03/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffery Gilmore, Higher Education Grant Programs Manager, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Rm 3914 South Agriculture Building, 14th Street & Independence Ave. SW., Washington, DC 20250-2251
Phone: 202 720-1973
Fax: 202 720-2030
Email: jgilmore@reeusda.gov

RIN: 0524–AA02

293. 1890 INSTITUTION CAPACITY BUILDING GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3318

CFR Citation: 7 CFR 3406

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and award of project grants under the 1890 Institution Capacity Building Grants Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	11/00/95	
Final Action	01/00/96	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey Gilmore, Higher Education Grant Programs Manager, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Rm 3914 South Agriculture Building, 14th Street & Independence Ave. SW., Washington DC 20250-2251
Phone: 202 720-1973
Fax: 202 720-2030
Email: jgilmore@reeusda.gov

RIN: 0524–AA03

294. HIGHER EDUCATION MULTICULTURAL SCHOLARS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3152(b)(5); PL 103-111; PL 103-330

CFR Citation: 7 CFR 3409

Legal Deadline: None

Abstract: Regulations will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals and the award of project grants under the Multicultural Scholars Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	11/00/95	
Final Action	01/00/96	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Jeffrey L. Gilmore, Higher Education Grant Programs Manager, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Rm 3914 South Agriculture Building, 14th Street & Independence Ave. SW., Washington, DC 20250-2251
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RIN: 0524–AA09

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295. BUILDINGS AND FACILITIES PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3318

CFR Citation: 7 CFR 3410

Legal Deadline: None

Abstract: We propose to establish Administrative Provisions for the Buildings and Facilities Program to institute procedures to be followed in preparing proposals, to outline requirements which grant recipients must meet, to provide instructions on how to apply for a grant, and to provide general information about post-award administration of grants under the program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louise Ebaugh, Director, Awards Management Division, Department of Agriculture, Cooperative State Research, Education, and Extension Service, AG Box 2245, Washington, DC 20250-2245
Phone: 202 401-5050
Fax: 202 401-3237
Email: lebaugh@morrill.esusda.gov

RIN: 0524–AA11

296. • RANGELAND RESEARCH GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3333

CFR Citation: 7 CFR 3401

Legal Deadline: None

Abstract: Cooperative State Research, Education, and Extension Service proposes to amend the Administrative Provisions for the Rangeland Research Grants Program to implement the requirements of the National Environmental Policy Act, revise the objectives of the program, change the agency name to reflect the Departmental reorganization, and to make a few additional minor changes.

Timetable:

Action	Date	FR Cite
NPRM	10/27/95	60 FR 55160

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louise Ebaugh, Director, Awards Management Division, Department of Agriculture, Cooperative State Research, Education, and Extension Service, AG Box 2245, Washington, DC 20250-2245
Phone: 202 401-5050
Fax: 202 401-3237
Email: lebaugh@morrill.esusda.gov

RIN: 0524–AA15

DEPARTMENT OF AGRICULTURE (USDA) — **Final Rule Stage**
Cooperative State Research, Education, and Extension Service (CSREES)

297. NATIONAL RESEARCH INITIATIVE COMPETITIVE GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 450i(B); 7 USC 450i(c)(1)(A); 7 USC 3333; 7 USC 5921

CFR Citation: 7 CFR 34H

Legal Deadline: None

Abstract: The Cooperative State Research, Education and Extension Service (CSREES) proposes to amend its regulations relating to the administration of the National Research Initiative Competitive Grants Program that prescribe the procedures to be followed annually in the solicitation of competitive grant proposals, the evaluation of such proposals, and the award of competitive research grants under this program. This action amends those regulations to clarify certain aspects of the program and to add eligibility requirements for the Agricultural Research Enhancement Awards.

Timetable:

Action	Date	FR Cite
NPRM	05/11/95	60 FR 25593
NPRM Comment Period End	08/12/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Colien Hefferan, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Ag Box 2240, Washington, DC 20250-2240
Phone: 202 401-1761
Fax: 202-401-3237
Email: chefferan@reeusda.gov

RIN: 0524–AA07

298. SMALL BUSINESS INNOVATION RESEARCH PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 638

CFR Citation: 7 CFR 3403

Legal Deadline: None

Abstract: We propose to amend the Administrative Provisions of the Small Business Innovation Research (SBIR) Program to incorporate compliance with the National Environmental Policy Act (NEPA) and changes to conform with the January 1993 issue of the SBIR Policy Directive. These changes include rewording and/or adding additional wording to further explain existing definitions and new requirements as well as the inclusion of new definitions and new requirements including the Documentation of Multiple Phase II awards. We propose to publish the SBIR Administrative Provisions as one document. This would be a practical and economical way to serve the public as well as offer one updated reference document for easy access.

Timetable:

Action	Date	FR Cite
NPRM	08/17/95	
NPRM Comment Period End	09/19/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louise Ebaugh, Director, Awards Management Division, Department of Agriculture, Cooperative State Research, Education, and Extension Service, AG Box 2245, Washington, DC 20250-2245
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Fax: 202 401-3237

USDA—CSREES — **Final Rule Stage**

Email: lebaugh@morrill.esusda.gov

RIN: 0524–AA08

DEPARTMENT OF AGRICULTURE (USDA) — **Long-Term Actions**
Cooperative State Research, Education, and Extension Service (CSREES)

299. AGRICULTURAL TELECOMMUNICATIONS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip A. Carter
Phone: 202 401-4527

RIN: 0524–AA12

300. ADMINISTRATIVE MANUAL FOR FEDERAL EXCESS PERSONAL PROPERTY LOANED TO STATE COOPERATIVE RESEARCH ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3408

Timetable:

Action	Date	FR Cite
NPRM	10/14/93	58 FR 53153
NPRM Comment Period End	11/15/93	
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Dillard
Phone: 202 720-7681

RIN: 0524–AA13

301. PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Dillard
Phone: 202 720-7681

RIN: 0524–AA14

BILLING CODE 3410-22-F

DEPARTMENT OF AGRICULTURE (USDA) — **Prerule Stage**
Rural Housing and Community Development Service (RHCDS)

302. • FARM LABOR HOUSING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1971 et seq

CFR Citation: 7 CFR 1944 subpart D; 7 CFR 1930 subpart C

Legal Deadline: None

Abstract: Make needed program changes to improve compliance FmHA Instruction 1930-C and clarify servicing instructions as they relate to oversight of program operations.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, 14th and Independence Avenue SW., Room 6348-South, Washington, DC 20250
Phone: 202 720-9744

RIN: 0575–AC03

DEPARTMENT OF AGRICULTURE (USDA) — **Proposed Rule Stage**
Rural Housing and Community Development Service (RHCDS)

303. HOUSING FOR RURAL HOMELESS AND MIGRANT FARMWORKERS; POLICIES, PROCEDURES, AND AUTHORIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1486

CFR Citation: 7 CFR 1944 subpart H (New)

Legal Deadline: Final, Statutory, March 28, 1991.

Abstract: This regulation provides for the eligibility of the rural homeless and migrant farmworkers under Section 516 Farm Labor Housing Program. Regulations are being drafted to implement this provision of the law which will provide short term occupancy housing for these individuals.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: Regulation clearance is delayed pending legislative revisions.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community

USDA—RHCDS

Proposed Rule Stage

Development Service, Room 6348
South Building, Washington, DC 20250
Phone: 202 720-9744

RIN: 0575–AB14

304. COMMUNITY PROGRAMS GUARANTEED LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart I

Legal Deadline: None

Abstract: To amend subject regulation which will provide more comprehensive guidance to applicants, landers, and agency staff regarding financial assistance for essential guaranteed community facilities loans. Justification: These regulatory changes are necessary to streamline and reduce the burden on the public. These changes will also expand the use of the Community Facilities (CF) guarantee program by providing the ability to guarantee tax- exempt loans, permitting investment bankers to be lenders, and (in general) make the program more accessible to rural lenders. Finally, these changes will reflect our new Agency structure under USDA's reorganization.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, Room 6348 South Building, Washington, DC 20250 Phone: 202 720-9744

RIN: 0575–AB48

305. PLANNING AND PERFORMING CONSTRUCTION AND OTHER DEVELOPMENT AND RELATED CONSTRUCTION SEISMIC SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7701 et seq; PL 95-124; EO 12699

CFR Citation: 7 CFR 1924 subpart A; 7 CFR 1942 subpart A; 7 CFR 1942 subpart C; 7 CFR 1948 subpart C; 7 CFR 1980 subpart E; 7 CFR 1980 subpart G; 7 CFR 1944

Legal Deadline: Final, Statutory, September 15, 1994. Other, Statutory, February 28, 1995.
Executive Order 12699 requires agencies to plan and initiate by February 1, 1993, measures to assure appropriate consideration of Seismic Safety.

Abstract: The Earthquake Hazards Reduction Act of 1977 (PL 95-124, 42 USC 7701 et seq) was passed to reduce the risk of personal injury and property damage from earthquakes through the establishment and maintenance of an effective earthquake hazards reduction program. Executive Order 12699 (EO) "Seismic Safety of Federal and Federally Assisted or Regulated New Building construction" requires all Federal agencies to ensure that new federally assisted buildings are designed and constructed in accord with appropriate seismic design and construction standards. Each agency is responsible for issuing or amending its regulations or procedures, planning for implementation through its own budget process, and regularly reviewing its regulations and procedures. The impact on National economic growth is considered to be negligible. For the typical Rural Housing and Community Development Service, Rural Business and Community Development Service, Rural Utilities Service, and Consolidate Farm Service Agency funded new building the additional cost associated with this requirement (1 to 2 percent of the total construction cost) is expected to be well worth the benefits gained.

Timetable:

Action	Date	FR Cite
NPRM	08/25/95	60 FR 44283
NPRM Comment Period End	10/24/95	60 FR 44283

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, Room 6348 South Building, Washington, DC 20250 Phone: 202 720-9744

RIN: 0575–AB59

306. RURAL RENTAL AND RURAL COOPERATIVE HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS - POINT SCORE SYSTEM TO PRIORITIZE RURAL RENTAL HOUSING LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1489

CFR Citation: 7 CFR 1944 subpart E

Legal Deadline: None

Abstract: This Regulatory action revises the point system used to prioritize rural rental housing loan requests by reducing the number of points for proposals located 20 or more miles from an urban area, by awarding points for communities with a need for rental units for larger families, by awarding points for proposals that preapplication and maket analysis requirements to require less detailed information at the preliminary eligibility and feasibility stage.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, Room 6348 South Building, Washington, DC 20250 Phone: 202 720-9744

RIN: 0575–AB93

USDA—RHCDS

Proposed Rule Stage

307. • ESCROW OF TAXES AND INSURANCE AND CHANGING AGENCY PROCESSES AND TECHNIQUES TO CONFORM WITH THE PRIVATE SECTOR

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480; 31 USC 3700

CFR Citation: 7 CFR 1806; 7 CFR 1900; 7 CFR 1944; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1965

Legal Deadline: None

Abstract: Rural Housing and Community Development Service (RHCDS) has purchased a state-of-the-art dedicated loan origination servicing system (DLOSS) which includes escrow capability. To conform to this new system, RHCDS proposes to make further amendments to the regulations to allow the agency to provide escrow services to Single Family Housing borrowers which follow industry standards. In addition, the agency proposes to amends it regulations to conform to processes and techniques currently being utilized by the private sector.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, Room 6348 South Building, 14th and Independence Avenue SW., Washington, DC 20250 Phone: 202 720-9744

RIN: 0575–AB99

308. • REQUIRE ALL SINGLE-FAMILY HOUSING BORROWERS AND NONPROGRAM BORROWERS WHO HAVE PURCHASED SINGLE-FAMILY RESIDENCE TO PAY ONE-TIME TAX SERVICE FEE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1944; 7 CFR 1951; 7 CFR 1965

Legal Deadline: None

Abstract: Rural Housing and Community Development Service (RHCDS) has purchased a state-of-the-art dedicated loan origination/ servicing system (DLOSS) which includes escrow capability. It is common industry practice to use a tax service and pass the cost of the service onto the borrower. A tax service will ensure taxes are paid timely and are based on accurate information. All SFH and NP borrowers who are purchasing a single family residence will be required to pay a one-time tax service fee, to be collected at loan closing. In addition, all existing SFH and NP borrowers will be required to pay this fee. The fee will be consistent with industry standards.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, Room 6348 South Building, 14th and Independence Avenue SW., Washington, DC 20250 Phone: 202 720-9744

RIN: 0575–AC00

DEPARTMENT OF AGRICULTURE (USDA)

Rural Housing and Community Development Service (RHCDS)

Final Rule Stage

309. RECAPTURE OF SECTION 502, RURAL HOUSING SUBSIDY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1951 subpart I

Legal Deadline: None

Abstract: The Rural Housing and Community Development Services proposes to revise the regulation for the recapture of subsidy granted on Section 502 rural housing loans. This action will simplify and automate the calculation process in conjunction with the purchase of a modern commercial off-the-shelf loan servicing system with escrow capability.

Timetable:

Action	Date	FR Cite
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, Room 6348 South Building, Washington, DC 20250 Phone: 202 720-9744

RIN: 0575–AA29

310. SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS

Regulatory Plan: This entry is Seq. No. 1 in Part II of this issue of the Federal Register.

RIN: 0575–AA35

311. DENYING CREDIT TO APPLICANTS DELINQUENT ON ANY FEDERAL DEBT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1823; 7 CFR 1910 subpart A; 7 CFR 1941 subpart A; 7 CFR 1942 subpart A; 7 CFR 1942

subpart C; 7 CFR 1942 subpart G; 7 CFR 1942 subpart H; 7 CFR 1942 subpart I; 7 CFR 1942 subpart J; 7 CFR 1942 subpart K; 7 CFR 1943 subpart A; 7 CFR 1943 subpart B; 7 CFR 1944 subpart A; 7 CFR 1945 subpart D; 7 CFR 1980 subpart B; ...

Legal Deadline: None

Abstract: OMB Circular A-129 dated November 25, 1988, recommends that the processing of applications for Federal direct loans be suspended and require private lenders to suspend processing of loan guarantee applications when an applicant is found to be delinquent on a Federal debt. The Federal Debt Collections Procedures Act of 1990 also requires that credit be denied if an outstanding judgment lien obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, is found.

Timetable:

Action	Date	FR Cite
NPRM	05/04/94	59 FR 23018
NPRM Comment Period End	07/05/94	59 FR 23018
Final Action	12/00/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, Tribal, Federal

Additional Information: Item 7 (Cont.) 1944-D, E, and J; 1948-B and C; 1951-E; 1980-E, G, and I

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, Room 6348 South Building, Washington, DC 20250 Phone: 202 720-9744

RIN: 0575–AA66

312. HOUSING PRESERVATION GRANTS FOR REPLACEMENT OF HOUSING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1490m

CFR Citation: 7 CFR 1944 subpart N

Legal Deadline: None

Abstract: The Housing Preservation Grant program will be expanded to include Housing Preservation Grant funds to be used for replacement housing. Funds will be used to provide loans or grants, not to exceed $15,000 per unit, to owners of single family housing to replace existing housing if repairs or rehabilitation of the housing is not practicable and the owner of the housing is unable to afford a loan under Section 502 for replacement housing.

Timetable:

Action	Date	FR Cite
NPRM	04/17/95	60 FR 19168
NPRM Comment Period End	06/17/95	60 FR 19168
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: Organizations

Government Levels Affected: Local

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, Room 6348 South Building, Washington, DC 20250 Phone: 202 720-9744

RIN: 0575–AB43

313. 1927-B REAL ESTATE TITLE CLEARANCE AND LOAN CLOSING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1927 subpart B; 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: None

Abstract: Attorney and title companies close Rural Housing and Community Development Service (RHCDS) and Consolidated Farm Service Agency (CFSA) loans, provide title clearances, and disburses RHCDS/CFSA loan funds. In order to protect the security of the Government in the execution of these functions, RHCDS/CFSA requires them to have in full force and effect, an acceptable liability insurance policy for errors and omissions, deductible and appropriate level of fidelity coverage in the amount prescribed by RHCDS/CFSA. If the attorney or the title company wishes to close RHCDS/CFSA loans and has a larger deductible or lower insurance liability coverage, the State Director has to obtain authorization or exception from the National Office. The process is cumbersome and requires a great amount of paperwork and time. The use of Title Insurance is encouraged to be required by State Directors. This would eliminate the need for liability insurance bond coverage, and provide better protection for the government.

Timetable:

Action	Date	FR Cite
NPRM	05/11/94	59 FR 24362
NPRM Comment Period End	07/11/94	59 FR 24362
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1995

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, Room 6348 South Building, Washington, DC 20250 Phone: 202 720-9744

RIN: 0575–AB52

314. ENVIRONMENTAL PROGRAM

Priority: Other Significant

Legal Authority: PL 91-190

CFR Citation: 7 CFR 1940

Legal Deadline: None

Abstract: Section 1940.311 of FmHA Instruction 1940-G, Environmental Program, describes certain utility systems which meet the criteria for environmental review using the format for a Class I environmental assessment. There has been some confusion as to what constitutes a "substantial increase" in withdrawal or discharge, and there has also been some confusion as to what criteria should be used when calculating a 50,000 gallon per day withdrawal from surface or groundwater. It is expected that the effect of this action will be to eliminate this unnecessary confusion, and reduce documentation and paperwork on the part of Rural Housing and Community Development Service, Rural Business and Community Development Service, and Rural Utilities Service, employees in the preparation and review of Class I environmental assessments based on these sections.

Timetable:

Action	Date	FR Cite
NPRM	03/15/95	60 FR 13928
NPRM Comment Period End	05/15/95	60 FR 1: 928
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: On March 15, 1995, the NPRM for RIN 0575-AB64 was published at 60 FR 13928 with incorrect RIN 0575-AB66.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, Room 6348 South Building, Washington, DC 20250 Phone: 202 720-9744

RIN: 0575–AB64

315. COMMUNITY FACILITY LOANS: INTERNAL REVENUE SERVICE TAXPAYERS IDENTIFICATION NUMBER

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 16 USC 1005; 5 USC 301

CFR Citation: 7 CFR 1942; 7 CFR 1948; 7 CFR 1951; 7 CFR 1980

Legal Deadline: None

Abstract: To amend subject regulations to comply with OMB Circular A-129 and simplify procedures for the Agency's field staff. Specifically, the changes will implement the requirement to use the Internal Revenue Service Taxpayers Identification number in the borrower's case number and will provide mechanism for documentation of contacts with lenders. Additionally, some sections have been modified to provide clarification of the rules.

Timetable:

Action	Date	FR Cite
NPRM	06/15/94	59 FR 30717
NPRM Comment Period End	06/15/94	59 FR 30717
Final Action	12/00/95	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, Room 6348 South Building, Washington, DC 20250 Phone: 202 720-9744

RIN: 0575–AB77

DEPARTMENT OF AGRICULTURE (USDA) Long-Term Actions
Rural Housing and Community Development Service (RHCDS)

316. CIVIL RIGHTS COMPLIANCE REQUIREMENTS—1940-D

Priority: Other Significant

CFR Citation: 7 CFR 15; 12 CFR 202; 28 CFR 42; 45 CFR 90; 41 CFR 60 to 64; 24 CFR 14

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann Phone: 202 720-9744

RIN: 0575–AA83

317. SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS (DEFERRED MORTGAGE PROGRAM)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1944 subpart A; 7 CFR 1951 subpart G

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/23/91	56 FR 41764
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann Phone: 202 720-9744

RIN: 0575–AA87

318. DISPOSITION OF INTERESTS IN INDIAN TRUST LAND

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1955; 7 CFR 1965

Timetable:

Action	Date	FR Cite
NPRM	10/19/93	58 FR 53891
NPRM Comment Period End	12/17/93	58 FR 53891
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann Phone: 202 720-9744

RIN: 0575–AB17

319. OFFSETS OF FEDERAL PAYMENTS TO FMHA BORROWERS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1951 subpart C; 7 CFR 2.23; 7 CFR 2.70

Timetable:

Action	Date	FR Cite
NPRM	05/02/94	59 FR 22548
NPRM Comment Period End	06/01/94	59 FR 22548
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Chris Goettelmann Phone: 202 720-9744

RIN: 0575–AB55

320. SECTION 515 NONPROFIT SET-ASIDE FUNDS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1940 subpart L; 7 CFR 2.23; 7 CFR 2.70

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/21/93	58 FR 38949
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Chris Goettelmann Phone: 202 720-9744

RIN: 0575–AB60

321. SECURITY SERVICING FOR MULTIPLE-FAMILY HOUSING LOANS

Priority: Other Significant

CFR Citation: 7 CFR 1965 subpart B

Timetable:

Action	Date	FR Cite
NPRM	09/04/90	55 FR 35907
NPRM Comment Period End	11/03/90	55 FR 35907
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: Federal

Agency Contact: Chris Goettelmann
Phone: 202 720-9744

RIN: 0575–AB73

322. DEBT SETTLEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1956 subpart B

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann
Phone: 202 720-9744

RIN: 0575–AB80

323. • ENVIRONMENTAL PROGRAM STREAMLINE ENVIRONMENTAL PROCESS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 96-510; PL 94-580; PL 94-469; PL 92-500

CFR Citation: 40 CFR 300; 40 CFR 260; 40 CFR 700; 40 CFR 400

Legal Deadline: None

Abstract: The objective of this action is to substantially revise the existing environmental regulation and to implement changes to streamline the environmental process for the Rural Economic and Community Development (RECD) services, also to include any changes necessitated by amendments to various environmental laws, executive orders, and regulations applicable to RECD services, to clarify wording, correct inconsistencies and where applicable, to delete obsolete material and update references in other program regulations. This revision represents an important contribution to the Department's efforts to streamline its operations and realize more efficient use of staff time. The current regulation applies to all programs formerly belonging to the Farmers Home Administration (FmHA) and to the Rural Development Administration (RDA). This proposed revision is being done on behalf of RECD and will address only those programs which were transferred by FmHA and RDA to the 3 RECD agencies: Rural Utilities Service (RUS), Rural Housing and Community Development Service (RHCDS), and Rural Business and Cooperative Development Service (RBCDS). This revision will eventually be assigned a new number and title on behalf of RECD and its three agencies. There are a number of Federal environmental statutes which govern the management of hazardous substances, materials and wastes. At the present time, RHCDS, RBCDS, RUS and Consolidated Farm Service Agency (CFSA)do not have implementing regulations for these Federal statutes. The development of implementation procedures for managing hazardous substances is necessary to insure consistency in compliance with Federal, as well as State, environmental statutes, and to develop appropriate "due diligence" policies to minimize the Agency's liability with regard to environmental cleanups of hazardous waste in loan processing/servicing and property management activities. RHCDS, RBCDS, RUS, and CFSA have approximately 3,500 inventory properties. RHCDS, RBCDS, RUS, and CFSA cannot be certain how many of these inventory properties will require hazardous waste cleanup prior to sale.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, Room 6348 South Building, 14th and Independence Avenue SW., Washington, DC 20250
Phone: 202 720-9744

RIN: 0575–AB98

324. • PROVIDE INFORMATION REGARDING LEASE WRITE-OFF AND ANNUAL LEASE STATEMENTS

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 31 USC 3711

CFR Citation: 7 CFR 1955 subpart B

Legal Deadline: None

Abstract: To ensure that lease information is reported properly in agency records, it is necessary to provide field offices on when it is appropriate to process write-offs of leases of acquired property and subsequently report these write-offs to the Internal Revenue Service. No such guidance currently exists. These changes will also reference a new annual statement of lease account which will provide current lease balances and summarize transactions applied to the lessee's account during the calendar. It will also assist the lessee in tracking lease operating expenses for income tax purposes.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, 14th and Independence Avenue SW., Room 6348-South, Washington, DC 20250
Phone: 202 720-9744

RIN: 0575–AC01

325. • SERVICING CASES WHERE UNAUTHORIZED LOAN OR OTHER FINANCIAL ASSISTANCE WAS RECEIVED—MULTIPLE FAMILY HOUSING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; PL 93-357; 42 USC 1480; 42 USC 2942

CFR Citation: 7 CFR 1951 subpart N

Legal Deadline: None

Abstract: General revision to keep the regulation current with the clarification of policy and incorporation of changes regarding automated processing of payment.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: Federal

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, 14th and Independence Avenue SW., Room 6348-South, Washington, DC 20250
Phone: 202 720-9744

RIN: 0575–AC02

326. • DECISION TO LIQUIDATE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; PL 100-387; PL 101-82

CFR Citation: 7 CFR 1980

Legal Deadline: None

Abstract: The Agency proposes to amend its regulations and appropriate Lenders Agreement, Form FmHA 449-35, to clarify the circumstances and to establish a timeframe under which the decision to liquidate will be made. The intended effect is to provide three independent criteria to serve as the basis for determining when the decision to liquidate should occur. The anticipated benefit will be that liquidate will occur more uniformly when the three criteria are met. This will provide more guidance to the lender regarding how to proceed when all other worker situations have been exhausted.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, 14th and Independence Ave., SW., Room 6348-S, Washington, DC 20250
Phone: 202 720-9744

RIN: 0575–AC04

DEPARTMENT OF AGRICULTURE (USDA)

Rural Housing and Community Development Service (RHCDS)

Completed Actions

327. PLANNING AND PERFORMING SITE DEVELOPMENT WORK

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1924 subpart C

Completed:

Reason	Date	FR Cite
Final Action	05/09/95	60 FR 24540

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann
Phone: 202 720-9744

RIN: 0575–AA88

328. RURAL HOUSING GUARANTEED LOANS

Priority: Other Significant

CFR Citation: 7 CFR 1980 subpart D; 7 CFR 2.23; 7 CFR 2.70

Completed:

Reason	Date	FR Cite
Final Action	05/22/95	60 FR 26980

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann
Phone: 202 720-9744

RIN: 0575–AB15

329. SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS (INTEREST CREDIT/EARNED INCOME)

Priority: Other Significant

CFR Citation: 7 CFR 1944 subpart A

Completed:

Reason	Date	FR Cite
Merged with RIN 0575-AA35	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann
Phone: 202 720-9744

RIN: 0575–AB16

330. MANAGEMENT OF HAZARDOUS SUBSTANCES

Priority: Other Significant

CFR Citation: 40 CFR 300; 40 CFR 260; 40 CFR 700; 40 CFR 400

Completed:

Reason	Date	FR Cite
Combined with RIN 0575-AB98	08/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann
Phone: 202 720-9744

RIN: 0575–AB18

331. RURAL HOUSING VOUCHER PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1944 subpart O

Completed:

Reason	Date	FR Cite
Withdrawn - Initiative no longer viable	08/18/95	

Small Entities Affected: Businesses

Government Levels Affected: Local, Tribal

Agency Contact: Chris Goettelmann
Phone: 202 720-9744

RIN: 0575–AB79

BILLING CODE 3410-07-F

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Proposed Rule Stage

332. COMMON CROP INSURANCE REGULATIONS; TOBACCO (GUARANTEED PLAN) CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 401.129

Legal Deadline: None

Abstract: This regulation proposes to remove the Tobacco (Guaranteed Plan) Endorsement from part 401; General Crop Insurance Regulations and add it to part 457; Common Crop Insurance Regulations. The Tobacco (Guaranteed Plan) endorsement under part 457 will contain late and prevented planting provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AA84

333. COMMON CROP INSURANCE REGULATIONS; PEANUT CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure peanuts. The provisions will be used in conjunction with the common crop insurance policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make other minor policy changes to better meet the needs of the insured. This rule proposes to remove the peanut endorsements which are currently a "stand-alone" policy located in part 425 and part 401.141 of the General Crop Insurance provisions and move them under part 457, Common Crop Insurance provisions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AA85

334. COMMON CROP INSURANCE REGULATIONS; ONION CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure onions. The provisions will be used in conjunction with the Common Crop Insurance Policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make other minor policy changes to better meet the needs of the insured. The previous onion crop insurance policy was located at 401.126 General Crop Insurance Provisions. This rule proposes that the onion policy fall under the Common Crop Insurance regulations located in part 457.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AA87

335. COMMON CROP INSURANCE REGULATIONS; NORTHERN POTATO CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure Northern potatoes. The provision will be used in conjunction with the Common Crop Insurance policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make minor policy changes to better meet the needs of the insured. This rule proposes to remove the potato policy which is currently a "stand-alone" policy located in part 422 and move it under part 457, Common Crop Insurance provisions. A separate rule proposes provisions for central-southern potatoes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AA89

USDA—FCIC

Proposed Rule Stage

336. COMMON CROP INSURANCE REGULATIONS; SUGARBEET CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure sugarbeets. The provisions will be used in conjunction with the Common Crop Insurance Policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make other minor policy changes to better meet the needs of the insured. This rule proposes to remove the Sugarbeet policy which currently is a "stand-alone" policy located in part 430 and move it under part 457; Common Crop Insurance Provisions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AA93

337. COMMON CROP INSURANCE REGULATIONS; CANNING AND PROCESSING TOMATO CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure canning and processing tomatoes. The provisions will be used in conjunction with the Common Crop Insurance Policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make other minor policy changes to better meet the needs of the insured. This rule proposes to remove the Canning and Processing tomato policy which currently is located at Part 401.114 under the general Crop Insurance Regulations and move under part 457; Common Crop Insurance Regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AA94

338. COMMON CROP INSURANCE REGULATIONS; FRESH MARKET TOMATO (GUARANTEED PRODUCTION) CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure fresh market tomatoes (guaranteed production plan). The provisions will be used in conjunction with the common crop insurance policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make other minor policy changes to better meet the needs of the insured. This rule proposes to remove the fresh market tomato (guaranteed production plan) policy which currently is a "stand-alone" policy located at part 454 and move it under part 457, common crop insurance regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AA95

339. GENERAL ADMINISTRATIVE REGULATIONS; HIGH RISK LAND REGULATIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation adds new regulations to be known as High Risk Land Regulations. The intended effect of this rule is to set forth rates apart from those prescribed by standard actuarial tables and coverage procedures for acreage on which actual or expected frequency and severity of loss does not reasonably conform to standard insurance coverage and rating determination methods.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AA98

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340. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART D; APPLICATION FOR CROP INSURANCE

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400, subpart D

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation amends the General Administrative Regulations by revising the "Collection of Information and Data (Privacy Act)" statement found on the general crop insurance application. The proposed amendments to the statement include defining "substantial beneficial interest" as those persons whose interest in the policyholder is in excess of 10 percent. Other minor changes have been made to more fully comply with provisions of the Privacy Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB00

341. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART U; INELIGIBLE FILE - CROP INSURANCE INELIGIBILITY

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: This rule proposes to establish a new subpart that describes the Corporation's intention to compile a list of those persons who have been found ineligible for participation in the Federal Crop Insurance Program because of various violations committed when either insured or reinsured by FCIC. Violations include nonpayment of premium, delinquent debt owed to FCIC, fraud misrepresentation, FCIC debarment or suspension, ineligibility determinations resulting from formal or informal administrative proceedings or from court rulings, or those arising from settlement agreements, as well as other violations of program regulations. Violations may also be declared because of violations of the conservation compliance or controlled substance provisions of the Food Security Act of 1985, as amended by the Food, Agriculture, Conservation and Trade Act of 1990. The rule also proposes to preclude a person from receiving any benefits for the applicable crop year if it is determined that a person has knowingly adopted a scheme to obtain a catastrophic or noninsured benefit under the Federal Crop Insurance Reform Act of 1994 to which the person was not entitled.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB01

342. COMMON CROP INSURANCE REGULATIONS; DRY BEAN CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure dry beans. The provisions will be used in conjunction with the Common Crop Insurance Policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make other minor policy changes to better meet the needs of the insured. This rule proposes to remove the dry bean policy which currently is a "stand-alone" policy located at part 433 and move it under part 457; Common Crop Insurance Regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB02

343. GENERAL ADMINISTRATIVE REGULATIONS; NONSTANDARD CLASSIFICATION SYSTEM; SUBPART O

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400, subpart O

Legal Deadline: None

Abstract: This regulation amends the above subpart by correcting an error in a definition, expanding the definition of "base period" to account for certain exceptions with citrus and sugarcane farming practices, and making other minor changes to the provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB05

344. GROUP RISK PLAN CROP INSURANCE PROVISIONS; PART 407

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 407

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation (FCIC) hereby proposes to issue provisions which will outline a new risk management tool to be known as the Group Risk Plan of Insurance (GRP). This plan will insure against the widespread loss of production of certain crops in a county and is intended primarily for use by those farmers whose yields tend to follow the county average yield. GRP pays only when the average yield of the entire county drops below the expected county yield for the insured crop set by the FCIC. Payment is based on the percentage of county or area wide loss below the insured's trigger yield. Specific GRP Crop Insurance Provisions will be proposed for cotton, wheat, barley, corn, grain, sorghum, soybeans, forage production, and peanuts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB06

345. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART S; REGULATIONS FOR INSURANCE COVERAGE BY WRITTEN AGREEMENT

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400, subpart S

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation (FCIC) hereby proposes regulations to allow insurance coverage by written agreement for crops in counties which have no actuarial table. Currently, FCIC provides insurance by written agreement for only program crops. By providing insurance by written agreement, FCIC will provide a risk management tool to a broader base of producers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB07

346. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART J; APPEAL PROCEDURE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400, subpart J

Legal Deadline: None

Abstract: This proposed rule will amend FCIC appeal procedures by outlining provisions that producers must follow when appealing decisions which deny them program benefits or eligibility.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB17

347. GENERAL ADMINISTRATIVE REGULATIONS; ACTUAL PRODUCTION HISTORY COVERAGE PROGRAM; TRANSITIONAL YIELDS FOR PRODUCERS OF FEED OR FORAGE

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: This rule proposes to provide a two-year authority for the Corporation to offer a transitional yield of 80 percent for producers of feed or forage for on-farm use in a livestock, dairy, or poultry operation. This transitional yield rate shall be available to the producer for the first year of the production history subsequent to the enactment of the Federal Crop Act. Thereafter, the actual production history and assigned yield provisions of the Act shall apply.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB26

349. • 1996 CROP YEAR PLANTAIN AND BANANA INSURANCE PROGRAM AND BANANA CROP INTENSIVE CULTIVATION INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Under the Federal Crop Insurance Reform Act of 1994, it is

necessary to expand catastrophic risk protection into Puerto Rico to avoid island-wide application of noninsured crop disaster assistance. This proposed action will publish the current plantain and banana policy and the banana crop intensive cultivation policy reinsured by the Federal Crop Insurance Corporation for sale in Puerto Rico.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB30

350. • 1996 CROP YEAR COFFEE CROP INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR Not yet determined

Legal Deadline: None

Abstract: Under the Federal Crop Insurance Reform Act of 1994, it is necessary to expand catastrophic risk protection coverage into Puerto Rico to avoid island-wide application of noninsured crop disaster assistance. This proposed action will publish the current coffee crop policy reinsured by the Federal Crop Insurance Corporation for sale in Puerto Rico.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB33

351. • 1996 CROP YEAR COFFEE PLANTATION INSURANCE PROGRAM FOR PUERTO RICO, WP#95-008

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR Not yet determined

Legal Deadline: None

Abstract: Under the Federal Crop Insurance Reform Act of 1994, it is necessary to expand catastrophic risk protection coverage into Puerto Rico to avoid island-wide application of noninsured crop disaster assistance. This proposed action will publish the current coffee plantation policy reinsured by the Federal Crop Insurance Corporation for sale in Puerto Rico.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB34

352. • 1996 CROP YEAR FRUIT CROP (AVOCADO, ORANGES, MANGO, CITRON, LEMON, PAPAYA, PASSION) INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR Not yet determined

Legal Deadline: None

Abstract: Under the Federal Crop Insurance Reform Act of 1994, it is necessary to expand catastrophic risk protection coverage into Puerto Rico to avoid island-wide application of noninsured crop disaster assistance. This proposed action will publish the current fruit crop policy reinsured by the Federal Crop Insurance Corporation for sale in Puerto Rico.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 548-8314

RIN: 0563–AB35

353. • 1996 CROP YEAR FRUIT TREES (AVOCADO, ORANGES, MANGO, CITRON, LEMON) INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR Not yet determined

Legal Deadline: None

Abstract: Under the Federal Crop Insurance Reform Act of 1994, it is necessary to expand catastrophic risk protection coverage into Puerto Rico to avoid island-wide application of noninsured crop disaster assistance. This proposed action will publish the current fruit tree policy reinsured by the Federal Crop Insurance Corporation for sale in Puerto Rico.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB36

354. • 1996 CROP YEAR SUGARCANE INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR Not Yet Determined

Legal Deadline: None

Abstract: Under the Federal Crop Insurance Reform Act of 1994, it is necessary to expand catastrophic risk protection coverage into Puerto Rico to avoid island-wide application of noninsured disaster assistance. This proposed action will publish the current sugarcane policy reinsured by the Federal Crop Insurance Corporation for sale in Puerto Rico.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB40

355. • 1996 CROP YEAR VEGETABLE INSURANCE PROGRAM FOR PUERTO RICO, WP#95-015

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR Not Yet Determined

Legal Deadline: None

Abstract: Under the Federal Crop Insurance Reform Act of 1994, it is necessary to expand catastrophic risk protection coverage into Puerto Rico to avoid island-wide application of noninsured crop disaster assistance. This proposed action will publish the current vegetable policy reinsured by the Federal Crop Insurance Corporation for sale in Puerto Rico.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB41

356. • COMMON CROP INSURANCE REGULATIONS, VARIOUS CROP PROVISIONS (COARSE GRAINS, SMALL GRAINS, SUNFLOWER SEED, COTTON AND ELS COTTON); GENERAL CROP INSURANCE REGULATIONS

Priority: Economically Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457.101; 7 CFR 457.104; 7 CFR 457.105; 7 CFR 457.108; 7 CFR 457.113; 7 CFR 401.109; 7 CFR 443

Legal Deadline: None

Abstract: This action will amend the Common Crop Insurance Regulations, Coarse Grains, Small Grains, Sunflower Seed, Cotton, and ELS Cotton crop insurance provisions; the General Crop Insurance Regulations, Hybrid Sorghum Seed and Rice endorsements; and the Hybrid Seed crop insurance regulations for the 1995 crop year only, to further allow producers to earn prevented planting crop insurance payments and plant a substitute crop and remain eligible for a prevented planting production guarantee.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB49

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Final Rule Stage

357. COMMON CROP INSURANCE REGULATIONS; HYBRID CORN SEED CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457.108

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposed regulations to insure Hybrid Corn Seed. The provisions will be used in conjunction with the common crop insurance policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make other minor policy changes to better meet the needs of the insured. This rule proposes to remove the Hybrid Corn Seed endorsement which is currently located at part 401 of the General Crop Insurance provisions and move it under part 457, common Crop Insurance regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/23/93	58 FR 67644
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AA78

358. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART L, REINSURANCE AGREEMENT - STANDARDS FOR APPROVAL

Priority: Other

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400, subpart L

Legal Deadline: None

Abstract: This regulation amends the General Administrative Regulations by revising the general qualifications for being awarded a Standard Reinsurance Agreement. This rule intends to provide additional information so that the Federal Crop Insurance Corporation can more accurately identify those insurance companies at financial risk.

Timetable:

Action	Date	FR Cite
NPRM	06/14/94	

Action	Date	FR Cite
NPRM Comment Period End	06/29/94	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB08

359. CATASTROPHIC RISK PROTECTION ENDORSEMENT; PART 402

Priority: Economically Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 402

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby adds a new part 402 to chapter IV of title 7 of the Code of Federal Regulations. The intended effect of this proposed action is to provide a catastrophic risk protection plan of insurance, the lowest level of coverage required to be purchased by a producer to be eligible for certain other agricultural farm program benefits, to comply with statutory mandates of the Federal Crop Insurance Act as amended by the Federal Crop Insurance Reform Act of 1994.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/06/95	60 FR 2001
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L St. NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB09

360. GENERAL ADMINISTRATIVE REGULATIONS: SUBPART T; FEDERAL CROP INSURANCE REFORM ACT OF 1994; REGULATIONS FOR IMPLEMENTATION

Priority: Economically Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400, subpart T

Legal Deadline: None

Abstract: FCIC proposes to add a new subpart T to its General Administrative Regulations. The intended effect of this rule is to notify policyholders, noninsureds, and insurance companies of the policies, procedures, general program requirements, and changes to the Federal Crop Insurance Program contained in the Federal Crop Insurance Reform Act of 1994. Promulgation of this rule will implement the reformed crop insurance program required by the Federal Crop Reform Act of 1994 and will affect the availability and issuance of insurance policies provided or reinsured by the Federal Crop Insurance Corporation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/06/95	60 FR 1996
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L. St. NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB11

361. NONINSURED CROP DISASTER ASSISTANCE PROGRAM, PART 404

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 404

Legal Deadline: None

Abstract: This rule proposes to provide a noninsured-crop disaster assistance program to protect producers of crops for which insurance is not available. The noninsured-crop disaster assistance program will provide a level of protection in most respects comparable to the catastrophic risk protection plan of insurance offered to producers on certain crops.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/18/95	60 FR 26669
Final Action.	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB13

362. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART N; DISASTER ASSISTANCE ACT OF 1988

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400, subpart N

Legal Deadline: None

Abstract: This rule proposes to revise subpart N of the General Administrative Regulations by repealing obsolete disaster guidelines and requiring the mandatory purchase of catastrophic crop insurance for program crops as a prerequisite for obtaining benefits under any commodity price subpart, production adjustment, or conservation program administered by USDA, or any farmer loan program, whether these programs are administered by FCIC or CFSA.

Timetable:

Action	Date	FR Cite
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB20

363. • COMMON CROP INSURANCE REGULATIONS: SMALL GRAINS, COARSE GRAINS, COTTON AND EXTRA LONG STAPLE COTTON

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: This regulation proposes to amend the Common Crop Insurance Regulations, applicable to the 1995 crop year only, by revising the prevented planting coverage for the Small Grains, Coarse Grains, Cotton and Extra Long Staple Cotton crop provisions. The intended effect of this regulation is to allow producers to earn both prevented planting crop insurance payments and 0/92 program payments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/12/95	60 FR 35832
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB27

364. • GENERAL CROP INSURANCE REGULATIONS, VARIOUS ENDORSEMENTS; HYBRID SEED CROP INSURANCE REGULATIONS; AND COMMON CROP INSURANCE REGULATIONS, SUNFLOWER SEED CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 401; 7 CFR 443; 7 CFR 457

Legal Deadline: None

Abstract: This regulation proposes to amend the General Crop Insurance Regulations; Hybrid Sorghum Seed Crop Insurance Regulations; and the Common Crop Insurance Regulations, Sunflower Seed Crop Insurance Provisions, applicable to the 1995 crop year only, by revising the prevented planting coverage. The intended effect of this regulation is to allow producers to earn both prevented planting crop insurance payments and 0/92 program payments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/07/95	60 FR 29959
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB28

365. • GENERAL CROP INSURANCE REGULATIONS; FLORIDA CITRUS ENDORSEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 401

Legal Deadline: None

Abstract: this regulation proposes to amend the Florida Citrus Endorsement that supplements the General Crop Insurance Policy. The intended effect of this proposed regulation is to require that the insured crop unit suffer at least Fifty percent (50%) average percent of damage before an indemnity would be due for any catastrophic risk protection policy.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/06/95	60 FR 29749
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB29

366. • COMMON CROP INSURANCE REGULATIONS; SUNFLOWER SEED CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457.108

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to amend the Sunflower Seed Crop Insurance Provisions. the intended effect of this proposed action is to clarify existing policy provisions to better meet the needs of the insured and conform to the requirements of the Federal Crop Insurance Reform Act of 1994.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037 Phone: 202 254-8314

RIN: 0563–AB42

367. • COMMON CROP INSURANCE REGULATIONS, VARIOUS CROP PROVISIONS (COARSE GRAINS, COTTON, ELS COTTON, AND SUNFLOWER SEED); GENERAL CROP INSURANCE REGULATIONS, VARIOUS ENDORSEMENTS

Priority: Economically Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 401; 7 CFR 443; 7 CFR 457

Legal Deadline: None

Abstract: This action will amend the Common Crop Insurance Regulations, (Coarse Grains, Cotton, ELS Cotton, and Sunflower Seed) Crop Insurance Provisions; the General Crop Insurance Regulations, Hybrid Sorghum Seed and Rice Endorsements and the Hybrid Seed Crop Insurance Regulations for the 1996 crop year to implement charges in prevented planting coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Specialist, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street, NW., Suite 500, Washington, DC 20037 Phone: 202 254-8314 Fax: 202 254-9478

RIN: 0563–AB43

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DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Long-Term Actions

368. COMMON CROP INSURANCE REGULATIONS; RICE, FIG, ALMOND, RAISIN, FORAGE PRODUCTION, HYBRID SORGHUM SEED, PEAR, APPLE, CANNING AND PROCESSING SWEET CORN, DOLLAR PLAN FRESH MARKET TOMATO,

Priority: Routine and Frequent

CFR Citation: 7 CFR 457

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 254-8314

RIN: 0563–AB03

369. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART V; SUPPLEMENTAL AND ALTERNATIVE CROP INSURANCE POLICY APPROVAL PROCESS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 400, subpart V

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 254-8314

RIN: 0563–AB15

370. GENERAL ADMINISTRATIVE REGULATIONS; FEDERAL JURISDICTION AND STATUTE OF LIMITATION FOR SUITS BASED UPON DENIAL OF CLAIMS FOR INDEMNITY

Priority: Routine and Frequent

CFR Citation: 7 CFR 400

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 254-8314

RIN: 0563–AB21

371. COMMON CROP INSURANCE REGULATIONS; SMALL GRAINS, (INCLUDING MALTING BARLEY), COTTON, ELS COTTON, AND COARSE GRAINS CROP INSURANCE PROVISIONS

Priority: Other Significant

CFR Citation: 7 CFR 401.101; 7 CFR 401.102; 7 CFR 457.101; 7 CFR 457.103 to 457.105; 7 CFR 457.113

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Specialist, Department of Agriculture, Federal Crop Insurance Corporation, 14th & Independence Avenue SW., Washington, DC 20250
Phone: 202 254-8314

RIN: 0563–AB44

373. • GENERAL CROP INSURANCE REGULATIONS; VARIOUS ENDORSEMENTS; HYBRID SEED; COMMON CROP INSURANCE REGULATIONS; SUNFLOWER SEED

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1501

CFR Citation: 7 CFR 457.101, 104, 105, 108, 113; 7 CFR 401.109; 7 CFR 443

Legal Deadline: None

Abstract: This action will amend the Common Crop Insurance Regulation Coarse Grains, Small Grains, Sunflower Seed, Cotton and ELS Cotton Crop Insurance provisions; the General Crop Insurance Regulations. Hybrid Sorghum Seed and Rice Endorsement on the Hybrid Seed Crop Insurance Regulations for the 1995 crop year only, to further allow producers to earn prevented planting crop insurance payments and plant a substitute crop and remain eligible for a prevented planting production guarantee.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Specialist, Department of Agriculture, Federal Crop Insurance Corporation, 14th & Independence Avenue SW., Washington, DC 20250
Phone: 202 254-8314

RIN: 0563–AB24

372. • GENERAL ADMINISTRATIVE REGULATIONS; REINSURANCE AGREEMENT STANDARDS FOR APPROVAL

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1501

CFR Citation: 7 CFR 400.169

Legal Deadline: None

Abstract: This action will provide reinsured companies with an informal reconsideration process through an administrative officer of FCIC and the right to appeal the administrative officer's administrative determination to the Board of Contract Appeals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/01/95	60 FR 20135
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 14th & Independence Avenue SW., Washington, DC 20250
Phone: 202 254-8314

RIN: 0563–AB46

374. • TOBACCO, QUOTA PLAN CROP INSURANCE REGULATIONS, PART 435

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 435

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure Tobacco, Quota Plan. The provisions will be used in conjunction with the common crop insurance policy which contains standard terms and conditions common to most crops. This rule proposes to remove the Tobacco, Quota Plan, endorsement which is currently a "stand-alone" policy located in part 435 and move it under part 457, common crop insurance provisions.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037
Phone: 202 254-8314

RIN: 0563–AB47

375. • POPCORN CORN INSURANCE REGULATIONS, PART 447

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 447

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure popcorn. The provisions will be used in conjunction with the common crop insurance policy which contains standard terms and conditions common to most crops. This rule proposes to remove the popcorn endorsement which is currently a "stand-alone" policy located in part 447 and move it under part 457, common crop insurance provisions.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Department of Agriculture, Federal Crop Insurance Corporation, 2101 L Street NW., Washington, DC 20037
Phone: 202 254-8314

RIN: 0563–AB48

USDA—FCIC

Long-Term Actions

376. • COMMON CROP INSURANCE REGULATIONS; TEXAS CITRUS TREE CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1501 et seq

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: This regulation proposes to add the Texas Citrus Tree Crop Insurance Provisions to the Common Crop Insurance Policy which contains standard terms and conditions common to most crops as well as to make other minor policy changes to better meet the needs of the insured. The Texas Citrus Tree Crop Insurance Provisions were previously located at 7 CFR part 401.134.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Specialist, Department of Agriculture, Federal Crop Insurance Corporation, 14th and Independence Avenue SW., Washington, DC 20250
Phone: 202 254-8314

RIN: 0563–AB50

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Completed Actions

377. SUGARCANE ENDORSEMENT FOR PART 457, COMMON CROP INSURANCE REGULATIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 457.116

Completed:

Reason	Date	FR Cite
Final Action	05/12/95	60 FR 25601
Final Action Effective	05/12/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 254-8314

RIN: 0563–AA79

378. GENERAL CROP INSURANCE REGULATIONS; LATE AND PREVENTED PLANTING PROVISIONS FOR VARIOUS CROPS

Priority: Routine and Frequent

CFR Citation: 7 CFR 401

Completed:

Reason	Date	FR Cite
Final Action	07/25/95	60 FR 37933
Final Action Effective	11/30/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 254-8314

RIN: 0563–AA80

379. GENERAL CROP INSURANCE REGULATIONS; LAKE PLANTING AGREEMENT OPTION

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR Part 400

Completed:

Reason	Date	FR Cite
Final Action	08/07/95	60 FR 40054

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 254-8314

RIN: 0563–AA91

380. COMMON CROP INSURANCE REGULATIONS; DRY PEA CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

CFR Citation: 7 CFR 457

Completed:

Reason	Date	FR Cite
Withdrawn - Retracted by FCIC's Research and Development Staff.	08/18/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 254-8314

RIN: 0563–AA92

381. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART R; SANCTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 400, subpart R

Completed:

Reason	Date	FR Cite
Final Action	07/20/95	60 FR 37323
Final Action Effective	07/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 254-8314

RIN: 0563–AB10

382. GENERAL ADMINISTRATIVE REGULATIONS: SUBPART K; DEBT MANAGEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 400, subpart K

USDA—FCIC

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn - There will be no changes to this regulation in next year.	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 254-8314

RIN: 0563–AB14

383. COMMON CROP INSURANCE REGULATIONS; VARIOUS CROP INSURANCE POLICIES; COVERAGE IN TERMS OF DOLLARS PER ACRE

Priority: Other Significant

CFR Citation: 7 CFR 457

Completed:

Reason	Date	FR Cite
Withdrawn	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 254-8314

RIN: 0563–AB18

384. GENERAL CROP INSURANCE REGULATIONS; RICE ENDORSEMENT

Priority: Routine and Frequent

CFR Citation: 7 CFR 401.120

Completed:

Reason	Date	FR Cite
Withdrawn	10/05/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 254-8314

RIN: 0563–AB19

385. • GENERAL CROP INSURANCE REGULATIONS; VARIOUS ENDORSEMENTS; HYBRID SEED; AND COMMON CROP INSURANCE REGULATIONS; SUNFLOWER SEED

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1501

CFR Citation: 7 CFR 401.109; 7 CFR 457.108

Legal Deadline: None

Abstract: This action will revise for the 1996 and succeeding crop years, the general crop insurance regulations for hybrid seed and the common crop insurance regulations for sunflower seed to further allow producers to earn prevented planting crop insurance payments and plant a ghost crop or alternative crop and to allow prevented planting payments to be computed on varying percentages based on action the insured takes.

Timetable:

Action	Date	FR Cite
Withdrawn - combined with RIN 0563-AB43	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Specialist, Department of Agriculture, Federal Crop Insurance Corporation, 14th & Independence Avenue SW., Washington, DC 20250
Phone: 202 254-8314

RIN: 0563–AB45

BILLING CODE 3410-08-F

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Proposed Rule Stage

386. OFFICIAL PERFORMANCE AND PROCEDURAL REQUIREMENTS FOR GRAIN WEIGHING EQUIPMENT AND RELATED GRAIN HANDLING SYSTEMS

Priority: Routine and Frequent

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 802

Legal Deadline: None

Abstract: The Federal Grain Inspection Service (FGIS) proposes to revise the regulations under the United States Grain Standards Act (USGSA), as amended, entitled Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems. FGIS proposes to incorporate by reference the applicable requirements of the National Institute of Standards and Technology (NIST) Handbook 44, "Specification Tolerance, and other Technical Requirements for Weighing and Measuring Services," 1993 edition (Handbook 44) and continue to adopt all requirements for NIST Handbook 105-1 "Specifications and Tolerances for Reference Standard Weights and Measures," 1990 revision (Handbook 105-1).

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, PO Box 96454, Room 0623 South Building, Washington, DC 20090-6454
Phone: 202 720-0292

RIN: 0580–AA39

387. FEES FOR OFFICIAL INSPECTION AND WEIGHING SERVICE

Priority: Other Significant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800

Legal Deadline: None

Abstract: The Federal Grain Inspection Service (FGIS) is proposing a change in the manner in which it collects fees for Official Inspection and Weighing services performed in the United States under the United States Grain Standard Act (USGSA), as amended.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	12/00/95	
NPRM Comment Period End	02/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, PO Box 96454, Room 0623 South Building, Washington, DC 20090-6454
Phone: 202 720-0292

RIN: 0580–AA40

USDA—GIPSA

Proposed Rule Stage

388. REGULATIONS AND STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT (GROUP 3)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 204; 7 USC 228

CFR Citation: 9 CFR 201.10; 9 CFR 201.27; 9 CFR 201.28; 9 CFR 201.29; 9 CFR 201.30; 9 CFR 201.31; 9 CFR 201.32; 9 CFR 201.33; 9 CFR 201.34

Legal Deadline: None

Abstract: All regulations and statements of general policy issued under the provisions of the Packers and Stockyards Act are being reviewed to determine which sections should be retained in their present form and which sections should be modified or removed. A notice will be published which identifies each section and proposes to either retain, modify, or remove the section. The sections included in this document pertain to the registration and bonding requirements under the provisions of the Packers and Stockyards Act.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/92	57 FR 42515
ANPRM Comment Period End	11/16/92	57 FR 42515
NPRM	08/21/95	60 FR 43411
NPRM Comment Period End	10/20/95	
Final Action	02/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This entry was reported as RIN 0590-AA10 prior to the reorganization of USDA.

Agency Contact: Harold W. Davis, Assistant Deputy Administrator, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 3039 South Building, Washington, DC 20250-2800
Phone: 202 720-7063

RIN: 0580–AA45

389. STATEMENT OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARD ACT: CARE AND HANDLING OF LIVESTOCK

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 204; 7 USC 228

CFR Citation: 9 CFR 203.20

Legal Deadline: None

Abstract: Due to concerns regarding the care and handling of livestock, the Agency initiated a program to review the services, facilities, and procedures for receiving and handling livestock at all stockyards. Over 1,400 stockyards were reviewed and problems in the care and handling of livestock were found to exist at some stockyards. As a result of these reviews, the Agency proposes to issue guidelines in the form of a statement of general policy on the care and handling of livestock at stockyards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This entry was reported as RIN 0590-AA11 prior to the reorganization of USDA.

Agency Contact: Harold W. Davis, Assistant Deputy Administrator, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 3039, South Building, Washington, DC 20250-2800
Phone: 202 720-7063

RIN: 0580–AA46

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Final Rule Stage

390. FEES FOR OFFICIAL INSPECTION AND WEIGHING SERVICES

Priority: Other Significant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800.71

Legal Deadline: None

Abstract: The Federal Grain Inspection Service (FGIS) proposes to increase its fees on average by 3.7 percent for Official Inspection and Weighing Services performed in the United States under the United States Grain Standards Act (USGSA), as amended. The USGSA provides for establishment of fees which are to cover the costs for performance of these official services. FGIS's current fee does not generate sufficient revenue to cover any of the approved FY 1992 3.7 percent federal employee raise.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/93	58 FR 3263
Interim Final Rule - Postponement of Effective Date	01/21/93	58 FR 5255
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, PO Box 96454, Room 0623 South Building, Washington, DC 20090-6454
Phone: 202 720-0292

RIN: 0580–AA27

391. REGULATIONS AND STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT (GROUP 2)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 204; 7 USC 228

CFR Citation: 9 CFR 201.49; 9 CFR 201.53; 9 CFR 201.55; 9 CFR 201.69; 9 CFR 201.70; 9 CFR 201.71; 9 CFR

USDA—GIPSA — **Final Rule Stage**

201.73; 9 CFR 201.76; 9 CFR 201.98; 9 CFR 201.100; 9 CFR 201.108(1); 9 CFR 201.200; 9 CFR 203.4; 9 CFR 203.18; 9 CFR 203.19; ...

Legal Deadline: None

Abstract: All regulations and statements of general policy issued under the provisions of the Packers and Stockyards Act are being reviewed to determine which sections should be retained in their present form and which sections should be modified or removed. A notice will be published which will identify and propose to retain, modify, or remove each section in this group.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/92	57 FR 42515
ANPRM Comment Period End	11/16/92	57 FR 42515
NPRM	06/05/95	60 FR 29506
NPRM Comment Period End	08/04/95	
Final Action	02/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This entry was reported as RIN 0590-AA09 prior to the reorganization of USDA.

Agency Contact: Harold W. Davis, Assistant Deputy Administrator, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 3039 South Building, Washington, DC 20250-2800
Phone: 202 720-7063

RIN: 0580–AA44

DEPARTMENT OF AGRICULTURE (USDA) — **Completed Actions**

Grain Inspection, Packers and Stockyards Administration (GIPSA)

392. UNITED STATES STANDARDS FOR CORN

Priority: Routine and Frequent

CFR Citation: 7 CFR 810

Completed:

Reason	Date	FR Cite
Withdrawn	08/29/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam
Phone: 202 720-0292

RIN: 0580–AA28

393. UNITED STATES STANDARDS FOR BARLEY

Priority: Routine and Frequent

CFR Citation: 7 CFR 810

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam
Phone: 202 720-0292

RIN: 0580–AA29

394. FEES FOR BELTSVILLE LABORATORY TEST SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 68

Completed:

Reason	Date	FR Cite
Final Action	07/13/95	60 FR 36028
Final Action Effective	09/11/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam
Phone: 202 720-0292

RIN: 0580–AA41

395. U.S. STANDARDS FOR FLAXSEED, MIXED GRAINS, OATS, RYE, SUNFLOWER SEED, AND TRITICALE

Priority: Routine and Frequent

CFR Citation: 7 CFR 810

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam
Phone: 202 720-0292

RIN: 0580–AA42

396. REGULATIONS AND STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT (GROUP 1)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 201.1; 9 CFR 201.17; 9 CFR 201.39; 9 CFR 201.44; 9 CFR 201.45; 9 CFR 201.61; 9 CFR 201.81; 9 CFR 201.82; 9 CFR 201.86; 9 CFR 201.94; 9 CFR 201.95; 9 CFR 201.96; 9 CFR 203.5; 9 CFR 203.12; 9 CFR 203.17; ...

Completed:

Reason	Date	FR Cite
Final Action	08/17/95	60 FR 42777
Final Action Effective	09/18/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold W. Davis
Phone: 202 720-7063

RIN: 0580–AA43

BILLING CODE 3410-EN-F

DEPARTMENT OF AGRICULTURE (USDA) — **Prerule Stage**

Food and Consumer Service (FCS)

397. • NOTICE OF NEW PRIVACY ACT SYSTEM OF RECORDS - FOOD STAMP RETAILER INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 93-579

CFR Citation: None

Legal Deadline: None

Abstract: This notice proposes to create a new Privacy Act system of records entitled "Food Stamp Retailer Information." This will enable FCS to share personal information with other Federal agencies pertaining to store owners currently participating in the Food Stamp Program, as well as those store owners who have previously participated in the program. Some of the identifying information which will be shared with other Federal agencies are the names and home addresses of owners, owners' Social Security Numbers, and dates of birth. (95-020)

Timetable:

Action	Date	FR Cite
ANPRM	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC19

DEPARTMENT OF AGRICULTURE (USDA) — **Proposed Rule Stage**

Food and Consumer Service (FCS)

398. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD DELIVERY SYSTEMS

Regulatory Plan: This entry is Seq. No. 2 in Part II of this issue of the Federal Register.

RIN: 0584–AA80

399. FOOD STAMP PROGRAM: EMERGENCY ASSISTANCE FOR VICTIMS OF DISASTERS

Priority: Other Significant

Legal Authority: 7 USC 2013 (b); 7 USC 2014 (h)

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273; 7 CFR 274; 7 CFR 280

Legal Deadline: None

Abstract: This rule would define special eligibility and issuance procedures during disasters. The rule addresses the eligibility and issuance of food stamps by the Food Stamp Program during a disaster. (86-029)

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	07/00/96	
Final Action	04/00/97	
Final Action Effective	05/00/97	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AA85

400. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): PART 246.10, FOOD PACKAGE III, PARTICIPANTS WITH CERTAIN MEDICAL CONDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: WIC Food Package III will be revised to: clarify the types of serious medical conditions warranting its use; slightly increase the maximum monthly allowance of authorized WIC formulas; define the types and forms of authorized WIC formulas; make available additional foods currently authorized in other WIC food packages, when not medically contraindicated; and specify requirements for issuing this food package.

Need for Action:

The proposed rule responds to numerous requests over the years from WIC participants, State and local agencies, health professionals and members of Congress and to a recommendation from the National Advisory Council on Maternal, Infant and Fetal Nutrition that the Department improve the design of this food package. The proposed changes in WIC Food Package III are intended to better accommodate the special dietary needs of the most nutritionally needy and medically vulnerable subgroup of WIC participants. Those who would qualify to receive this food package would be classified under the highest nutritional risk priorities of WIC participant categories. (89-505)

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	05/00/96	
Final Action	09/00/96	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB09

401. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): MISCELLANEOUS PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This proposed rule responds to a variety of program concerns, most of which have been expressed by WIC State agencies. The proposal strengthens the provision of services to participants in the areas of eligibility determination and nutrition education and increases State agency flexibility regarding the sharing of participant information with other programs.

Several minor clarifications and technical corrections are also made. Principal provisions include: (1) mandatory minimum content requirements for nutrition education participant contacts; and (2) additional flexibility for State agencies to share participant information with related programs. (89-515)

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	06/00/96	
Final Action	10/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB10

402. CHILD AND ADULT CARE FOOD PROGRAM: AUTHORITY TO COLLECT OVERCLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: Establishes the Department's authority to collect overclaims where participating institutions fail to comply with regulatory recordkeeping requirements. (87-514)

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB19

403. FOOD DISTRIBUTION PROGRAMS—PAPERWORK REDUCTION

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-147

CFR Citation: 7 CFR 250; 7 CFR 251

Legal Deadline: None

Abstract: This rule will implement the food distribution portion of the recommendations of the August 1990 task force on paperwork reduction. These recommendations were included in a report to Congress and included perpetual State/Federal agreements and longer contract duration for warehouses. (94-007)

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	01/00/96	
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB27

404. FOOD DISTRIBUTION PROGRAMS—IMPLEMENTATION OF 1990 FARM BILL

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-624

CFR Citation: 7 CFR 250; 7 CFR 251

Legal Deadline: Final, Statutory, July 30, 1992.

Abstract: This rule will revise the requirements for evaluation of State warehousing and distribution systems and conversion to commercial systems. (91-004)

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	01/00/96	
Final Action	04/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB28

405. COMMODITY SUPPLEMENTAL FOOD PROGRAM: ELDERLY-ONLY SITES, ADMINISTRATIVE FUNDING, REFERRALS TO HEALTH AND SOCIAL SERVICES, CASELOAD ALLOCATION PROCESS, PRIORITY SYSTEM, AND MISCELLANEOUS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 512(c)

CFR Citation: 7 CFR 247

Legal Deadline:
Final, Statutory, October 1, 1990, for funding provisions.
Final, Statutory, October 1, 1991, for all other provisions.

Abstract: This proposed rule would amend regulations governing the Commodity Supplemental Food Program (CSFP) to replace the current method of assigning caseload with a system that is based on the allocation of grants to the State agencies. (91-015)

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	04/00/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB37

406. FOOD STAMP PROGRAM: 1995 QUALITY CONTROL TECHNICAL AMENDMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 271.2; 7 CFR 275.3; 7 CFR 275.10; 7 CFR 275.11; 7 CFR 275.12; 7 CFR 275.13; 7 CFR 275.23

Legal Deadline: None

Abstract: The Food and Consumer Service is proposing technical changes to the Food Stamp Program's Quality Control System which will reduce the workload on State agencies and improve the efficiency of the quality control system. The proposed changes would: (1) permit State agencies to reduce their sample sizes; (2) clarify the minimum size of the Federal subsample; (3) clarify State sampling procedures; (4) change the formulas for calculating Federal subsample sizes; (5) clarify the process of conducting a quality control review of negative subsystem cases and add suspended cases, those cases that are certified for the Program but do not receive benefits, to the sample universe of cases that are reviewed under the negative subsystem; (6) change the error dollar tolerance level; (7) modify the requirements regarding a home visit in active quality control reviews; (8) provide a variance exclusion under certain circumstances for errors resulting from incorrect policy issued in written State agency policies or directives; (9) adjust the case completion standard; and (10) codify into regulations those circumstances under which Federal quality control findings or disposition for a case will be changed. (92-006)

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	
Final Action	06/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: RIN 0584-AB07 has been withdrawn, and the actions in that proposed rule have been included in this action.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB38

407. PROVISIONS OF COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1988, AMENDMENTS OF 1990, AND IMPLEMENTATION OF THE DISQUALIFIED RECIPIENT SUBSYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a) Computer Matching and Privacy Protection Act; 7 USC 2015(b) Food Stamp Act

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: In accordance with the Computer Matching and Privacy Protection Act, PL 100-503, and the Computer Matching and Privacy Protection Amendments of 1990, PL 101-508, the Food Stamp Program must extend certain protections to persons whose benefits could be adversely affected by computer matches. These protections include independent verification of computer information, notification to the affected individual and provision of an opportunity to respond to the information before an adverse action becomes effective.

In addition, this proposed rule describes requirements for State agencies to report information on individuals disqualified from the program for intentional program violations to FCS and the related FCS computer matching program known as the Disqualified Recipient Subsystem (DRS). (89-010)

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	
Final Action	09/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB51

408. FOOD DISTRIBUTION PROGRAMS—DISASTER PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-707

CFR Citation: 7 CFR 250

Legal Deadline: None

Abstract: This rule will propose to: (1) allow simultaneous distribution of commodities and food stamps during disaster; (2) allow commodity distribution to households during situations of distress. This rule will also define necessary accountability procedures. (90-0001)

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	12/00/95	
Final Action	04/00/96	

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB55

409. FOOD STAMP PROGRAM: ANTICIPATING INCOME AND REPORTING CHANGES

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 273

Legal Deadline: None

Abstract: This rule proposes several revisions in Food Stamp Program reporting and budgeting requirements. The changes in prospective budgeting and change reporting rules are intended to improve procedures for anticipating the eligibility and benefits of households whose income fluctuates unpredictably. The proposed revisions would provide a more stable level of benefits for these households by requiring them to report a change in employment status rather than a change in the amount of earnings. The rule also would allow suspension, as opposed to termination, of

prospectively budgeted households that become ineligible for one month because of income fluctuations. (93-005)

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB57

410. CHILD AND ADULT CARE FOOD PROGRAM: ELIMINATION OF WHOLE COW'S MILK FROM THE INFANT MEAL PATTERN

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1751 to 1760; 42 USC 1779

CFR Citation: 7 CFR 210; 7 CFR 220; 7 CFR 226

Legal Deadline: None

Abstract: This action proposes two amendments that would affect meal pattern requirements for infants under the National School Lunch Program, School Breakfast Program, and Child and Adult Care Food Program, Parts 210, 220, and 226 respectively. USDA is issuing this proposal in response to new scientific evidence on infant nutrition. First, this rule would prohibit consumption of whole cow's milk for infants ages 8 months through 11 months. Studies have demonstrated that it is difficult for infants to consume a balanced diet, with adequate nutrients, when whole cow's milk replaces breast milk or iron-fortified formula. Given the nutritional and medical concerns about cow's milk, this action would require that breast milk or iron-fortified formula be served for an infant's entire first year. Second, the proposal would revise the meal pattern for infants from birth through age 3 months to indicate that either 4 to 6 fluid ounces of formula or 3 to 6 fluid ounces of breast milk could be served. The current meal pattern for this age requires a minimum serving of 4 fluid ounces, however data indicate that the average amount of breast milk intake per feeding may be less than 4 ounces. This revision is important to correct the impression among day care providers who refer to the infant meal pattern for guidance, that a minimum of 4 ounces of breast milk must be offered at all feedings to all breastfed infants from birth through 3 months of age. (95-005)

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	07/00/96	
Final Action	01/00/97	
Final Action Effective	02/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB81

411. FOOD STAMP PROGRAM: FOOD STAMP RECIPIENT CLAIM ESTABLISHMENT AND COLLECTION STANDARDS

Regulatory Plan: This entry is Seq. No. 3 in Part II of this issue of the **Federal Register**.

RIN: 0584–AB88

412. FOOD STAMP PROGRAM: REVISIONS IN RETAIL FOOD STORE ELIGIBILITY CRITERIA AND IN ELIGIBILITY GUIDANCE AND PROGRAM AUTHORIZATION

Regulatory Plan: This entry is Seq. No. 4 in Part II of this issue of the **Federal Register**.

RIN: 0584–AB90

413. AMENDMENT TO PROMOTE HEALTHY MEALS FOR HEALTHY CHILDREN IN SCHOOLS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-488

CFR Citation: 7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 235; 7 CFR 245

Legal Deadline: None

Abstract: The rule proposes to (1) allow USDA to enter into an agreement with a State agency to use section 4 and 11 funds to purchase additional commodities; (2) allow USDA to withhold State Administrative Expense (SAE) funds when State agencies are seriously deficient in program administration and to withhold SAE funds from State agencies unwilling to participate in studies; (3) make most Head Start children automatically eligible for free meals; (4) allow schools serving all meals free for 3 years under the counting and claiming alternatives to procedures for an additional 2 years; (5) permit schools serving all meals free for 4 years to receive the same assistance received during the last year that applications were taken and allow some schools to extend for additional 4 years, without taking new free and reduced price applications; (6) simplify free and reduced applications; (7) remove the authority for child care centers in the Commonwealth of Puerto Rico to participate in the lunch and breakfast program. (95-002)

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	05/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AC01

414. • QUALITY CONTROL REGRESSION AMENDMENT

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 275.23

Legal Deadline: None

Abstract: Revises the statistical means by which State and Federal quality control findings are combined to arrive at the error rates upon which sanctions and enhanced funding are based. (95-006)

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AC04

416. • FOOD STAMP PROGRAM: RETAILER APPLICATION PROCESSING

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 278.1

Legal Deadline: None

Abstract: This rule would increase from 30 to 90 days the initial application processing timeframe for stores that apply for authorization. It would also allow FCS to request specific documentation to verify applicant firms' eligibility. Such information would include, but would not be limited to, business licenses, photographic identification cards, bills of sale, deeds, leases, sales contracts, certificates of incorporation, sales records, invoice records, and tax records. This documentation would be used to confirm self-reported information provided on the application form and to obtain third-party verification. (95-008)

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC05

417. • SUMMER FOOD SERVICE PROGRAM: PROGRAM MEAL SERVICE DURING THE SCHOOL YEAR

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-448; 42 USC 1769a

CFR Citation: 7 CFR 225

Legal Deadline: None

Abstract: Implements provision of PL 103-448 which permits Summer Food Service Program (SFSP) meal service to be provided at non-school sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause. Rule also simplifies the SFSP sponsor application and State monitoring requirements in order to eliminate unnecessary paperwork and reduce administrative burden for sponsors and State agencies. (95-011)

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AC06

418. • AMENDMENT TO REMOVE FORMULATED GRAIN—FRUIT PRODUCT SECTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1773; 42 USC 1779

CFR Citation: 7 CFR 220 app A

Legal Deadline: None

Abstract: Formulated grain-fruit products are specially fortified pastry type products which are currently authorized for use in the School Breakfast Program (SBP) to meet one bread/bread alternate and the fruit/vegetable requirements of the meal pattern. Originally intended to increase participation in the SBP by comprising a reimbursable meal when served with milk, subsequent additions to the meal patterns have made this impossible. In addition, these products do not make favorable contributions to a healthy diet. There is a minimum of 22% fat in the product specification, and high sugar levels are also necessary to meet the calorie minimum and produce a palatable product. These products are also low in fiber. Interest in these products from the food industry is low; only a few companies have approved grain-fruit products. These companies could reformulate their existing products into lower fat, tastier products

415. • REMOVAL OF THE "CHEESE ALTERNATE PRODUCTS" REQUIREMENTS FROM THE NATIONAL SCHOOL LUNCH PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1751 to 1760; 42 USC 1779; 42 USC 1761; 42 USC 1762a

CFR Citation: 7 CFR 210.10 (k)(3)(i); 7 CFR 210.10a (d)(2)(i); 7 CFR 210 app A; 7 CFR 225.16 (f)(3)

Legal Deadline: None

Abstract: This rule seeks comment on the proposed elimination of requirements governing the use of "Cheese Alternate Products" in the National School Lunch Program. The removal of these requirements should enable cheese substitute manufacturers more freedom in the production of this type of product while maintaining program nutrition standards through reliance on existing Food and Drug Administration rules. (95-007)

Timetable:

Action	Date	FR Cite
NPRM	09/27/95	60 FR 49807
NPRM Comment Period End	11/13/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302

USDA—FCS

Proposed Rule Stage

without the constraints of this regulation. This regulation is no longer necessary or effective in promoting participation in the SBP. (95-010)

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AC09

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419. • CONSOLIDATION OF NATIONAL SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM INTO COMPREHENSIVE SCHOOL MEAL PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-448

CFR Citation: 7 CFR 210; 7 CFR 220

Legal Deadline: Final, Statutory, May 2, 1996.

Abstract: Sec. 301 of P.L. 103-448 required the consolidation of the school lunch program and the school breakfast program into a comprehensive school meal program. In establishing the comprehensive school meal program, (a) children who are eligible for free and reduced price benefits will continue to receive such benefits; (b) the meals will continue to meet the nutritional requirements of sec. 9(a)(1) of the National School Lunch Act (NSLA) and sec. 4(e)(1) of the Child Nutrition Act (CNA); and (c) breakfast and lunch payments will continue to meet the requirements of sec. 4 and 11 of the NSLA and sec. 4 of the CNA. This regulation will consolidate the two programs by making structural changes to the framework of 7 CFR Part 210 to accommodate the incorporation of the breakfast program and by removing repetitive and obsolete provisions. Further, 7 CFR Part 220 will be removed in its entirety. (95-013)

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AC10

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420. • CREDITING OF YOGURT IN THE SCHOOL MEALS PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1758

CFR Citation: 7 CFR 210; 7 CFR 220

Legal Deadline: None

Abstract: This rule would allow yogurt to be credited as a meat/meat alternate in the National School Lunch Program and the School Breakfast Program when the school uses a food-based menu planning system. (95-021)

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AC15

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421. • MODIFICATION OF THE "VEGETABLE PROTEIN PRODUCTS" PORTION OF APPENDIX A OF 7 CFR PARTS 210, 225, AND 226

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1751 to 1760; 42 USC 1779; 42 USC 1761; 42 USC 1762a; 42 USC 1765; 42 USC 1766

CFR Citation: 7 CFR 210 app A; 7 CFR 210.10(k)(3)(i); 7 CFR 210.10a(d)(2)(i); 7 CFR 225 app A; 7 CFR 225.16(f)(3); 7 CFR 226 app A; 7 CFR 226.20(a)(2)(ii)(B); 7 CFR 226.20(a)(4)(ii)

Legal Deadline: None

Abstract: The usage level of vegetable protein products (VPP) is currently limited to a 30% substitution of meat, fish or poultry. A nutritional profile has been established which specifies fortification of certain nutrients as well as a protein quality requirement. This regulation could better serve the child nutrition programs if it is modified to allow an increased utilization of foods containing VPP. The food industry has requested that we allow 100% soy products to serve as meat alternates in the food based system, since there are no restrictions on their use under the nutrient based system. In addition, current fortification levels of iron and zinc established for the VPP used in the child nutrition programs were based on early dietary research. It is now believed that these levels may be excessive if the VPP is used at greater than a 30% level of substitution in the diet. The Department intends to propose a rule to modify the regulations governing the use of vegetable protein products in the child nutrition programs which will provide a consistent nutritional policy regardless of menu planning system used, and will remove confusing regulatory burdens from programs and industry. (95-018)

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AC18

USDA—FCS

Proposed Rule Stage

422. • CHILD AND ADULT CARE FOOD PROGRAM: CHILD NUTRITION AND WIC REAUTHORIZATION ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1758; 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This rule would propose changes to the CACFP required by CN and WIC Reauthorization Act of 1989 (P.L. 101-147) and the Healthy Meals for Healthy Americans Act of 1994 (P.L. 103-448) by: (1) providing administrative funds to family day care home sponsors for expansion into low-income rural areas; (2) reducing from 6 to 2 the required number of annual site monitoring reviews required of schools which operate OSH care centers; (3) permitting State agencies to allow 3-year applications from CACFP institutions; (4) granting income-eligible HS participants automatic CACFP eligibility without further application of eligibility determination; and (5) allowing the use of administrative funds to conduct outreach and recruitment to unlicensed day care homes. These revisions are intended to encourage Program participation in low-income and rural areas and reduce the level of administrative and financial burden at the Federal, State and local levels. (90-508)

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	06/00/96	
Final Action	11/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AC20

DEPARTMENT OF AGRICULTURE (USDA)
Food and Consumer Service (FCS)

Final Rule Stage

423. MISCELLANEOUS FARM BILL PROVISIONS RELATING TO THE AUTHORIZATION OF RETAIL FIRMS AND WHOLESALE FOOD CONCERNS

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2031; PL 101-624

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 274; 7 CFR 278

Legal Deadline: Final, Statutory, October 1, 1991.
Effective 120 days from publication of implementing rules.

Abstract: This rule would implement three provisions of the 1990 Farm Bill (PL 101-624, 104 stat 3359) which revise the Food Stamp Act of 1977, as amended (7 USC 2011 et seq.). The first provision would amend the definition of "food" to include meals sold to the homeless program participants by restaurants approved by State agencies for this purpose. Such restaurants must contract with the State and must be authorized by the Food and Consumer Service to provide meals at concessional prices to homeless participants. The second provision would allow a periodic reauthorization of retail food stores and wholesale food concerns to participate in the Food Stamp Program. The third provision revises criteria for and limits the participation in the program of co-located wholesaler/retailer firms. (91-003)

Timetable:

Action	Date	FR Cite
NPRM	10/23/91	56 FR 54799
NPRM Comment Period End	11/22/91	
Final Action	02/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB02

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424. DETERMINATION OF ELIGIBILITY FOR FREE MEALS BY SUMMER FOOD SERVICE PROGRAM SPONSORS AND FREE AND REDUCED PRICE MEALS BY CHILD AND ADULT CARE FOOD PROGRAM INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1758; PL 101-147

CFR Citation: 7 CFR 225; 7 CFR 226

Legal Deadline: Final, Statutory, July 1, 1990.

Abstract: Implements certain provisions of PL 101-147, including a requirement that applicants for free or reduced price meals need only provide the Social Security Number of the household member who signs the application and a requirement that the Program sponsor rather than the applicant total the income information provided. (90-510)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB17

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425. PERMANENT AGREEMENTS/DIRECT CERTIFICATION IN NATIONAL SCHOOL LUNCH, SCHOOL BREAKFAST, AND SPECIAL MILK PROGRAMS

Priority: Other Significant

Legal Authority: PL 101-147

CFR Citation: 7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 245

Legal Deadline: Final, Statutory, July 1, 1990.

Abstract: The Child Nutrition and WIC Reauthorization Act of 1989 made the agreement between the school and the State agency to operate the school nutrition programs a permanent

document to be amended as necessary. This law also authorized schools to certify children as eligible for free meals using information obtained directly from food stamp/AFDC offices attesting that these children are receiving food stamps or AFDC benefits. This rule implements these statutory provisions. (89-520)

Timetable:

Action	Date	FR Cite
NPRM	05/28/91	56 FR 24033
NPRM Comment Period End	07/29/91	
Final Action	02/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB35

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426. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS—OKLAHOMA WAIVER AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-98, Sec 1338; PL 95-113

CFR Citation: 7 CFR 254

Legal Deadline: None

Abstract: This interim rule will extend the Department's authority to grant waivers to serve urban places in excess of 10,000 people. This authority expired on September 30, 1985. (94-002)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	
Final Action	03/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB56

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427. FOOD STAMP PROGRAM: CHILD SUPPORT DEDUCTION

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032; PL 103-66

CFR Citation: 7 CFR 273

Legal Deadline: Other, Statutory, September 1, 1994.
Sections 13911 and 13915 of PL 103-66--effective date.

Abstract: This rule is being proposed to implement section 13921 of the 1993 Mickey Leland Childhood Hunger Relief Act which establishes a deduction for child support paid to a non-household member. (95-001)

Timetable:

Action	Date	FR Cite
NPRM	12/08/94	59 FR 63265
NPRM Comment Period End	02/06/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB58

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428. FOOD STAMP PROGRAM: EXCESS SHELTER EXPENSE LIMIT AND STANDARD UTILITY ALLOWANCES

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032; PL 103-66

CFR Citation: 7 CFR 273

Legal Deadline:
Final, Statutory, July 1, 1994, for first increase in excesshelter expense limit.
Other, Statutory, October 1, 1995, for second increase in excesshelter expense limit.
Other, Statutory, January 1, 1997, for removal of shelterexpense limit.

Abstract: This action proposes several changes in Food Stamp Program rules relating to the development and use of standard utility allowances. The changes are proposed to facilitate use of standard amounts rather than actual utility expenses in determining the benefits of food stamp households.

This rule also proposes to implement section 13912 of the Mickey Leland Childhood Hunger Relief Act which would increase and then eliminate the current limit on excess shelter expenses that may be deducted from household income. (93-006)

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60087
NPRM Comment Period End	01/23/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB59

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429. FOOD STAMP PROGRAM: SIMPLIFICATION OF PROGRAM RULES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 273

Legal Deadline: None

Abstract: This action proposes several changes in Food Stamp Program rules relating to Social Security numbers, combined allotments, residency, excluded resources, contract income, self-employment expenses, certification periods, the notice of adverse action, recertification, and suspension under retrospective budgeting. The changes are being proposed as means to simplify regulatory requirements and to increase consistency with requirements of the Aid to Families with Dependent Children (AFDC) program. (93-006)

Timetable:

Action	Date	FR Cite
NPRM	01/11/95	60 FR 2703
NPRM Comment Period End	03/13/95	
Final Action Effective	10/00/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB60

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430. FOOD STAMP PROGRAM: PAYMENT OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032; PL 103-66, sec 13961

CFR Citation: 7 CFR 277

Legal Deadline: Other, Statutory, April 1, 1994.
The Act requires funding rate reduction effective 04/01/94.

Abstract: State agencies are reimbursed by FCS at standard or enhanced Federal reimbursement level for all allowable costs incurred in the State's operation of the Food Stamp Program. This proposed rule would reduce the Federal reimbursement rate for State agencies for fraud control, system development, and immigration status verification to the standard 50 percent rate. It would also limit the time period during which State agencies may file a claim for retroactive funding, and allows the cost of certifying aid to families with dependent children to be charged to the Food Stamp Program for purposes of Federal reimbursement. (93-010)

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60079
NPRM Comment Period End	01/23/95	
Final Action	01/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB66

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431. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS: DEFINITION OF INDIAN TRIBAL HOUSEHOLD

Priority: Other Significant

Legal Authority: PL 88-525; PL 97-98, sec 1338; PL 95-113

CFR Citation: 7 CFR 253; 7 CFR 254

Legal Deadline: None

Abstract: This final rule will amend part 253 to permit households containing a Native American living in "near areas" to participate in the Food Distribution Program on Indian Reservations (FDPIR) regardless of the Native American's tribal affiliation or age. It will also amend part 254 to permit households containing a Native American to participate in FDPIR in Oklahoma regardless of the Native American's age. (82-217)

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	52 FR 39158
Interim Final Rule	01/11/94	59 FR 01447
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB67

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432. FOOD STAMP PROGRAM: QUALITY CONTROL PROVISIONS OF THE MICKEY LELAND CHILDHOOD HUNGER RELIEF ACT

Priority: Other Significant

Legal Authority: PL 103-66, sec 13951

CFR Citation: 7 CFR 273; 7 CFR 275

Legal Deadline: None

Abstract: To implement quality control changes to the Food Stamp Act required by section 13951 of the Mickey Leland Childhood Hunger Relief Act in the following areas: 1) interest on quality control claims, 2) the formula for determining quality control claim amounts, 3) variance exclusion for the application of new regulations, 4) time frames for completion of the arbitration process, 5) time frames for determining final error rates, the national average payment error rate, and the amounts of payment claims against State agencies, 6) time frames for notifying State agencies of payment claims, 7) the addition of specific criteria for a determination that "good cause" exists for not imposing a payment claim, and 8) the transfer of authority to make "good cause" determinations from FNS to the Administrative Law Judges. These provisions are nondiscretionary and will not result in an annual effect on the economy of $100 million or more, or a major increase in costs or prices for consumers, individuals, industries, Federal, State or local government agencies, or geographical regions. (93-018)

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/91	
NPRM	06/23/95	60 FR 32615
NPRM Comment Period End	08/22/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB75

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433. FOOD STAMP PROGRAM: CERTIFICATION PROVISIONS OF THE MICKEY LELAND CHILDHOOD HUNGER RELIEF ACT

Regulatory Plan: This entry is Seq. No. 5 in Part II of this issue of the **Federal Register**.

RIN: 0584–AB76

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434. FOOD STAMP PROGRAM: UTILITY REIMBURSEMENT EXCLUSION

Priority: Economically Significant

Legal Authority: 7 USC 2011 to 2032

USDA—FCS

Final Rule Stage

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: This action excludes certain utility reimbursements made by the Department of Housing and Urban Development (HUD) and Farmers Home Administration (FmHA) from income consideration in determining Food Stamp Program eligibility and benefits. (94-012)

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/16/94	59 FR 30864
Final Action Effective	08/01/94	
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB79

435. NATIONAL SCHOOL LUNCH, SPECIAL MILK, SCHOOL BREAKFAST, CHILD AND ADULT CARE FOOD AND SUMMER FOOD SERVICE PROGRAMS: PURCHASE OF FOOD PRODUCTS PRODUCED IN THE U.S

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-237

CFR Citation: 7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 225; 7 CFR 226

Legal Deadline: None

Abstract: USDA has always encouraged the domestic consumption of nutritious agricultural products through the food assistance programs. However, PL 100-237, enacted January 8, 1988, requires recipient agencies participating in the Child Nutrition and Commodity Distribution Programs to purchase, whenever possible, only food products that are produced in the U.S. The statute allows exceptions to meet unusual or ethnic food preferences and further exempted Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands. The statute allows for additional exemptions by the Secretary "for such other circumstances as the Secretary considers appropriate." FNS published an interim rule pertaining to Part 250, Food Donations, to implement this and other requirements on July 21, 1988. A final regulation was published July 22, 1993. This rule is only amending rules for food donations, not each of the affected programs. FNS intends to issue final rules to include statutory "Buy American" provisions in the regulations for the School Lunch, Milk, Breakfast, Child and Adult Care, and Summer Food Service Programs. (93-020)

Timetable:

Action	Date	FR Cite
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sheri Ackerman, Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB82

436. TREATMENT OF EDUCATIONAL AND TRAINING ASSISTANCE

Priority: Other Significant

Legal Authority: PL 101-392; PL 101-624; PL 102-237; PL 102-325

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline:
Final, Statutory, August 1, 1991, PL 101-624.
Final, Statutory, August 1, 1991, PL 101-392.
Final, Statutory, February 1, 1992, PL 102-237.
Final, Statutory, October 1, 1992, PL 102-325 - Tribal LoanProgram.
Final, Statutory, August 1, 1993, PL 102-325 - Title IX Exclusion.

Abstract: This action finalizes provisions of P.L. 101-624 governing the treatment of educational assistance as excluded income or resources. It finalizes provisions of P.L. 102-325 which prohibits Federal educational assistance provided under Title IV or Part E of Title XIII of the Higher Education Act from being considered as income and resources for food stamp purposes. It finalizes provisions of P.L. 101-392 which prohibits counting certain educational assistance funded by the Perkins Act as income or resources when determining the eligibility and benefits of student households. It finalizes provisions of P.L. 102-237 which provide that educational monies are excluded from income when they are awarded to a person enrolled at a recognized institution of post-secondary education, at a school for the handicapped, in a vocational education program, or in a program that provides for completion of a secondary school diploma or obtaining the equivalent. Also, such monies are excluded from income to the extent that they do not exceed the amount used for or made available as an allowance determined by the school, institution, program, or other grantor, for tuition, mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved), books, supplies, transportation, and other miscellaneous personal expenses (other than living expenses), of the student incidental to attending such school, institution, or program and to the extent the loans include any origination fees and insurance premiums. The provisions of the statutes become effective on the dates of the legal deadlines whether regulations have been published or not. (94-016)

Timetable:

Action	Date	FR Cite
NPRM	11/01/93	58 FR 58463
NPRM Comment Period End	01/03/94	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB84

USDA—FCS

Final Rule Stage

437. FOOD STAMP PROGRAM: REVISIONS IN USE AND DISCLOSURE OF INFORMATION PROVIDED BY RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-225; 7 USC 2018(c)

CFR Citation: 7 CFR 278.1

Legal Deadline: None

Abstract: This proposed rule sets forth changes required by provisions of the Food Stamp Program Improvements Act of 1994, PL 103-225, Title II, 108-109 (1994). The purpose of this rule is to implement these statutory changes to the Food Stamp Act of 1977, as amended. It would permit the use and disclosure of information provided by stores to State and Federal law enforcement and investigative agencies for the purposes of administering or enforcing the Food Stamp Act, and establishes penalties against persons who misuse any of the information. (94-022)

Timetable:

Action	Date	FR Cite
NPRM	05/12/95	60 FR 25625
NPRM Comment Period End	06/12/95	
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB87

438. FOOD STAMP PROGRAM AUTOMATED DATA PROCESSING EQUIPMENT AND SERVICES; REDUCTION IN REPORTING REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 277

Legal Deadline: None

Abstract: This rule proposes to increase the cost thresholds above which prior written Federal approval of State automated data processing (ADP) equipment and services acquisitions is required for Federal financial participation. The effect of the proposed changes would be a reduction in State reporting requirements. Additionally, a State request for funding would be deemed to have provisionally met the prior approval requirement if the Food and Consumer Service (FCS) does not approve, disapprove, or request additional information about the request within 60 days of the agency's letter to the State acknowledging its receipt. Finally, this rule proposes to eliminate the requirement that State agencies submit written information pertaining to the State biennial security reviews. States would be required to maintain copies of the report and pertinent supporting documentation for FCS review. (94-202)

Timetable:

Action	Date	FR Cite
NPRM	07/31/95	60 FR 38972
NPRM Comment Period End	09/29/95	
Final Action	12/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: State

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB92

439. MONTHLY REPORTING ON INDIAN RESERVATIONS PROVISION OF FOOD STAMP PROGRAM IMPROVEMENTS ACT OF 1994

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-225

CFR Citation: 7 CFR 273.21

Legal Deadline: Final, Statutory, March 25, 1994.

Abstract: Establishes special monthly reporting requirements for households living on Indian reservations. (94-013)

Timetable:

Action	Date	FR Cite
NPRM	06/06/95	60 FR 29767
NPRM Comment Period End	08/07/95	
Final Action	02/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB98

440. WAIVER AUTHORITY UNDER THE STATE PROCESSING PROGRAM

Priority: Other Significant

Legal Authority: 5 USC 301; 7 USC 612(c); 7 USC 1431(b); 7 USC 1431(e); 7 USC 1446(a-1); 7 USC 1859; 15 USC 713(c); 22 USC 1922; 42 USC 1751; 42 USC 1755; 42 USC 1758; 42 USC 1760; 42 USC 1762(a); 42 USC 3030(a); 42 USC 5179 to 5180; ...

CFR Citation: 7 CFR 250

Legal Deadline: None

Abstract: This final rule amends the Food Distribution Program regulations by giving the Food and Consumer Service authority to waive provisions contained in the Food Distribution Program regulations at 7 CFR part 250. This authority would be used to conduct, in one or more areas of the United States, demonstration projects designed to test program changes to determine whether the changes would improve the State processing of donated foods. (94-023)

Timetable:

Action	Date	FR Cite
NPRM	04/13/95	60 FR 18781
NPRM Comment Period End	05/15/95	
Final Action	10/00/95	
Final Action Effective	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department

USDA—FCS **Final Rule Stage**

of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AB99

441. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): IMPLEMENTATION OF WIC MANDATES OF THE HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This final rule implements the WIC-related reauthorization provisions mandated in Pub. L. 103-448, the Healthy Meals for Healthy Americans Act of 1994. All of the WIC-related provisions may be deemed nondiscretionary. These provisions include: counting the unborn child of an otherwise income-ineligible pregnant woman, allowing State agencies to deem income-eligible pregnant women presumptively eligible for a period not to exceed 60 days, an increase in the national breastfeeding promotion and support expenditure, and a requirement that Medicaid managed care providers be included in the programs to which WIC must make referrals. (95-004)

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AC02

442. • CHILD AND ADULT CARE FOOD PROGRAM: CHILD NUTRITION IMPROVEMENT AND OLDER AMERICAN ACT AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-147; PL 102-342; PL 102-375

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This interim rule implements changes required in the Child and Adult Care Food Program (CACFP) by the Child Nutrition and WIC Reauthorization Act of 1989 (P.L. 101-147), the Child Nutrition Improvement Act of 1992 (P.L. 102-342) and the Older Americans Act Amendments of 1992 (P.L. 102-375) by: (1) allowing the Governor of a State to designate a State administering agency for the adult day care component of the Program that is different from the State agency which administers the child care component; (2) changing the basis for making commodities available to State agencies; (3) permitting private for-profit child care centers to participate in CACFP if at least 25 percent of their enrolled children or 25 percent of their licensed capacity, whichever is less, are Title XX recipients; (4) allowing adult day care centers to participate in the CACFP if they provide day care services to qualified persons in a group setting outside their homes, or in a group living arrangement; and (5) making three specific technical adjustments in Program regulations. This interim rule also makes a discretionary change which allows households participating in the Food Distribution Program on Indian Reservations (FDPIR) to be categorically eligible as free meal recipients under the CACFP. These changes are intended to reduce the level of administrative burden at the Federal, State and local levels. (95-009)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AC07

443. • FAILURE TO COMPLY WITH FEDERAL, STATE, OR LOCAL WORK PROGRAM REQUIREMENTS

Priority: Other Significant

Legal Authority: 7 USC 2017(d) Food Stamp Act

CFR Citation: 7 CFR 271; 7 CFR 273

Legal Deadline: None

Abstract: This action proposes to amend Food Stamp Program regulations to prohibit an increase in food stamp benefits when a household's Federal, State or local welfare assistance payment decreases as a result of a penalty for failure to comply with a Federal, State or local welfare program requirement. The revision is necessary to more fully implement congressional intent that the Food Stamp Program should reinforce, not mitigate, another program's penalties. (95-012)

Timetable:

Action	Date	FR Cite
NPRM	08/08/95	60 FR 40311
NPRM Comment Period End	09/22/95	
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC08

444. • FSP: RETAILER DELINQUENT DEBT COLLECTION: OFFSETTING FEDERAL INCOME TAX REFUND

Priority: Substantive, Nonsignificant

Legal Authority: PL 98-369; PL 100-203; PL 100-485; PL 102-164

CFR Citation: 7 CFR 278.6

Legal Deadline: None

Abstract: This rule notifies the public that FCS will begin offsetting Federal income tax refunds in 1997 to collect delinquent debts against food stamp retailers. These debts represent monetary penalties which FCS assessed against retailers who have violated Food Stamp Program rules and regulations. The offset will be made from Federal income tax refunds payable to retailers who are on FCS' records as having delinquent debts. This rule implements authority granted by the Cash Management Improvements Act, as amended. (95-014)

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC11

USDA—FCS **Final Rule Stage**

445. • AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 7 CFR 295.1 to 295.10

Legal Deadline: None

Abstract: The regulatory action is necessary to update the administrative information made available to the public on how to access agency information under the Freedom of Information Act. (95-019)

Timetable:

Action	Date	FR Cite
Final Action	03/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AC13

446. • FOOD STAMP PROGRAM: MAXIMUM ALLOTMENTS FOR HAWAII, ALASKA, GUAM, AND THE VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-81

CFR Citation: None

Legal Deadline: Final, Statutory, October 1, 1995.

Abstract: This notice announces the allotments for Alaska, Hawaii, Guam, and the Virgin Islands. (95-016)

Timetable:

Action	Date	FR Cite
Final Action	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Rep, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AC16

447. • FOOD STAMP PROGRAM: MAXIMUM ALLOTMENTS FOR 48 STATES AND DC, AND INCOME ELIGIBILITY STANDARDS AND DEDUCTIONS FOR 48 STATES AND DC, ALASKA, HAWAII, GUAM, AND VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-81

CFR Citation: None

Legal Deadline: Final, Statutory, October 1, 1995.
Food Stamp Act as amended requires allotments and deductions to be adjusted every October 1.

Abstract: This notice announces the maximum allotments for the 48 States and DC, the income eligibility standards and deductions for the 48 States, DC, Alaska, Hawaii, Guam and the Virgin Islands. (95-017)

Timetable:

Action	Date	FR Cite
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AC17

DEPARTMENT OF AGRICULTURE (USDA)
Food and Consumer Service (FCS)

Long-Term Actions

448. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): FOOD COST CONTAINMENT REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 246

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/90	55 FR 9709
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sheri Ackerman
Phone: 703 305-2760

RIN: 0584–AB11

449. NATIONAL SCHOOL LUNCH PROGRAM: REVIEW OF FREE AND REDUCED PRICE APPLICATION UNDER THE COORDINATED REVIEW EFFORT

Priority: Other Significant

CFR Citation: 7 CFR 210

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman

USDA—FCS

Long-Term Actions

Phone: 202 305-2760

RIN: 0584–AB50

450. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): INFANT FORMULA PROCUREMENT ACT OF 1992

Priority: Other Significant

CFR Citation: 7 CFR 246

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sheri Ackerman
Phone: 703 305-2760

RIN: 0584–AB52

451. FSP: TARGETING FOR INCOME AND ELIGIBILITY VERIFICATION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 272

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/02/88	51 FR 07178
Final Action	09/00/97	
Final Action Effective	09/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman
Phone: 703 305-2760

RIN: 0584–AB74

452. • FOOD STAMP PROGRAM REGULATORY REVIEW: ALASKA, PUERTO RICO, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND DEMONSTRATION PROJECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 282; 7 CFR 284; 7 CFR 285

Legal Deadline: None

Abstract: This action proposes to amend Food Stamp Program rules affecting Alaska, The Commonwealth of the Northern Mariana Islands, Puerto Rico, and demonstration projects. This action is one result of a comprehensive page by page review of all existing Food Stamp Program regulations which was conducted in response to the President's efforts to reform the Federal regulatory system. The changes will eliminate prescriptive detailed processes and empower States to set their own procedures for case management and customer service; eliminate outdated and redundant regulatory requirements; and emphasize recipient responsibility for applying and reporting their circumstances properly. (95-015)

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2760

RIN: 0584–AC14

DEPARTMENT OF AGRICULTURE (USDA)
Food and Consumer Service (FCS)

Completed Actions

453. FOOD STAMP PROGRAM: STUDENT ELIGIBILITY

Priority: Other Significant

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273

Completed:

Reason	Date	FR Cite
Final Action	09/21/95	60 FR 48865

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2760

RIN: 0584–AA90

454. CHILD AND ADULT CARE FOOD PROGRAM: PROHIBITION OF INSTITUTIONALIZED ADULTS

Priority: Other

CFR Citation: 7 CFR 226

Completed:

Reason	Date	FR Cite
Withdrawn - Reconsidering program direction & streamlining program	05/01/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman
Phone: 703 305-2760

RIN: 0584–AB21

455. BENEFIT DELIVERY RULE

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 272; 7 CFR 274

Completed:

Reason	Date	FR Cite
Final Action	04/25/95	60 FR 20178
Final Action Effective	09/01/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2760

RIN: 0584–AB32

456. CHILD NUTRITION PROGRAMS: REVISION OF INFANT MEAL PATTERNS FOR THE CHILD NUTRITION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 210; 7 CFR 220; 7 CFR 226

Completed:

Reason	Date	FR Cite
Withdrawn due to increase in cost to budget.	05/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman

USDA—FCS

Completed Actions

Phone: 703 305-2760

RIN: 0584–AB34

457. FOOD STAMP PROGRAM: RESOURCE PROVISION FROM THE MICKEY LELAND MEMORIAL DOMESTIC HUNGER RELIEF ACT OF 1990

Priority: Other Significant

CFR Citation: 7 CFR 273.8

Completed:

Reason	Date	FR Cite
Final Action	08/21/95	60 FR 43347
Final Action Effective	09/20/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2760

RIN: 0584–AB40

458. WIC FARMERS' MARKET NUTRITION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 248

Completed:

Reason	Date	FR Cite
Final Action	09/27/95	60 FR 49739
Final Action Effective	10/01/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2760

RIN: 0584–AB43

459. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): HOMELESSNESS/MIGRANCY AS NUTRITIONAL RISK CONDITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Final Action	04/19/95	60 FR 19487
Final Action Effective	04/19/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2760

RIN: 0584–AB53

460. NATIONAL SCHOOL LUNCH PROGRAM, STATE ADMIN. EXPENSE FUNDS AND DETERMINING ELIG. FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS: TECH. CORRECTIONS TO COORDINATED REVIEW EFFORT RULE

Priority: Other Significant

CFR Citation: 7 CFR 210; 7 CFR 235; 7 CFR 245

Completed:

Reason	Date	FR Cite
Combined with RIN 0584-AC10	06/23/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman
Phone: 703 305-2760

RIN: 0584–AB63

461. CHILD NUTRITION PROGRAMS: NUTRITION OBJECTIVES FOR SCHOOL MEALS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 210; 7 CFR 220

Completed:

Reason	Date	FR Cite
Final Action	06/13/95	60 FR 31188
Final Action Effective	07/13/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2760

RIN: 0584–AB73

462. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS: ELIGIBILITY AND BENEFITS

Priority: Other Significant

CFR Citation: 7 CFR 253

Completed:

Reason	Date	FR Cite
Withdrawn due to other regulatory priorities.	08/18/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman
Phone: 703 305-2760

RIN: 0584–AB83

463. COLLECTING FOOD STAMP RECIPIENT CLAIMS FROM FEDERAL INCOME TAX REFUNDS AND FEDERAL SALARIES

Priority: Other Significant

CFR Citation: 7 CFR 271.2; 7 CFR 272.2; 7 CFR 273.18

Completed:

Reason	Date	FR Cite
Final Action	09/01/95	60 FR 45990

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB89

464. FOOD STAMP PROGRAM: DISQUALIFICATION PENALTIES FOR INTENTIONAL PROGRAM VIOLATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 272; 7 CFR 273

Completed:

Reason	Date	FR Cite
Final Action	08/22/95	60 FR 43513

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2760

RIN: 0584–AB91

465. NUTRITION OBJECTIVES FOR SCHOOL MEALS—FOOD-BASED ALTERNATIVES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 210; 7 CFR 220

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Completed:

Reason	Date	FR Cite
Final Action	06/13/95	60 FR 31188
Final Action Effective	07/13/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2760

RIN: 0584–AB94

BILLING CODE 3410-30-F

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS) — **Prerule Stage**

466. • FSIS AGENDA FOR CHANGE: REGULATORY REVIEW; FOOD STANDARDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 601 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 301 to 350; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is undertaking a comprehensive review of its regulatory procedures and requirements to determine which are still needed and which are to be reconsidered, streamlined, or eliminated. This review is an integral part of the FSIS initiative to improve the safety of meat and poultry products by modernizing the Agency's system of food safety regulations, and it carries out the President's directive, as part of the Reinvention of Government initiative, to conduct a page-by-page review of all FSIS regulations to identify candidates for repeal or reform. A thorough review of FSIS's regulations is needed to prepare for implementation of the recently proposed Hazard Analysis and Critical Control Points (HACCP) regulations and a new food safety strategy that will reduce reliance on command-and-control regulations and increase reliance on science-based preventive measures and performance standards to improve food safety. This review and any changes in FSIS regulations that are necessary to make them compatible with HACCP will be completed prior to implementation of HACCP.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/95	
ANPRM Comment Period End	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paula M. Cohen, Director, Regulations Development, Policy, Evaluation and Planning Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-7164

RIN: 0583–AB89

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS) — **Proposed Rule Stage**

467. FOOD ADDITIVES AND GRAS SUBSTANCES USED AS INGREDIENTS IN MEAT FOOD AND POULTRY PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to simplify the procedures by which FSIS approves food additives and Generally Recognized as Safe substances to be used as ingredients in meat food products and poultry products. The proposed rule will be developed in cooperation with the Food and Drug Administration to make the Federal regulation of food additives and other substances that may be used as ingredients in meat food and poultry products more efficient and uniform.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Judith A. Segal, Director, Policy, Evaluation and Planning Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-7773

RIN: 0583–AB02

468. FOOD STANDARDS: REQUIREMENTS FOR PROCESSED MEAT AND POULTRY PRODUCTS NAMED BY USE OF AN EXPRESSED NUTRIENT CONTENT CLAIM AND A STANDARDIZED TERM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to establish a standard of identity and composition for meat and poultry products that qualify to use nutrient content claims associated with a standardized product name, e.g., "fat-free bologna." This action stems from the nutrition labeling rulemaking which allows modified versions of certain standardized products.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 254-2565

RIN: 0583–AB51

469. PATHOGEN REDUCTION; HAZARD ANALYSIS AND CRITICAL CONTROL POINTS (HACCP) SYSTEMS

Regulatory Plan: This entry is Seq. No. 6 in Part II of this issue of the **Federal Register**.

RIN: 0583–AB69

470. USE OF TRISODIUM PHOSPHATE ON RAW, UNCHILLED POULTRY CARCASSES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations to permit the application of trisodium phosphate (TSP) on raw, unchilled poultry carcasses. TSP would be permitted as an antimicrobial agent on raw, unchilled poultry carcasses. Tests conducted by industry and FSIS have shown that the use of TSP reduces microbial populations on raw, unchilled poultry carcasses. This proposed rule is in response to a petition filed by Rhone-Poulenc, Inc., Cranbury, New Jersey.

USDA—FSIS — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Peterson, Slaughter Inspection Standards and Procedures Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-3219

RIN: 0583–AB80

471. NUTRITION LABELING; NEW PRODUCT CATEGORIES AND REFERENCE AMOUNTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations by adding three new product categories and reference amounts to the new product categories and reference amounts chart. FSIS has received requests through public comments and the labeling application process to add new product categories and reference amounts for "Beans with meat, plain or in sauce," "Appetizers," and "Major condiments." FSIS is also proposing to allow manufacturers of meal-type products packaged in volumes greater than one serving to be labeled as the fractional statement of the promoted serving size (e.g., 1/2 package, 1/4 package).

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 254-2565

RIN: 0583–AB81

472. • ELIMINATION OF PRIOR APPROVAL REQUIREMENTS FOR FACILITIES EQUIPMENT AND CERTAIN PARTIAL QUALITY CONTROL PROGRAM

Regulatory Plan: This entry is Seq. No. 7 in Part II of this issue of the **Federal Register**.

RIN: 0583–AB93

473. • PERFORMANCE STANDARDS FOR CERTAIN MEAT PRODUCTS AND POULTRY PRODUCTS

Regulatory Plan: This entry is Seq. No. 8 in Part II of this issue of the **Federal Register**.

RIN: 0583–AB94

474. • CONTINUOUS CHILLING OF SPLIT TURKEY PORTIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations to permit the chilling of split turkey portions in a continuous chiller. Under the current regulations, turkey carcasses must be intact in one piece before they may be chilled in a continuous chiller. They may not be continuously chiller if they have been split into major portions unless the carcasses have been trimmed or otherwise salvaged. This amendment would permit establishments to intentionally split dressed turkey carcasses into major portions prior to being placed into a continuous chiller. Permitting the splitting of whole turkey carcasses into major portions prior to chilling would have several benefits. First, it would improve public safety by reducing the amount of time needed

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Proposed Rule Stage

to cool the whole carcasses. A decrease in the chilling time significantly diminishes the period that the carcass portion is in the "danger zone" for microbial growth. The process itself would not cause the product to become adulterated or unwholesome. Second, it would provide the inspector with easier access to the interior of the carcass. This in turn would allow for a better visual inspection of the cavity than is possible with a whole carcass. Finally, the separated portions of the carcass would be appropriately handled immediately after splitting. The white meat portion would immediately be chilled to the proper temperature for direct sale to consumers while the dark meat portion, which is usually processed, could be directly deboned and used in further processed cooked products. This rulemaking is being initiated in response to a petition received in November 1994.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alice M. Thaler, Slaughter Inspection Standards and Procedures Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-3119

RIN: 0583–AB95

475. • IDENTIFICATION OF THE ORIGIN OF SAUSAGE CASINGS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service has been petitioned by the State of Connecticut to amend the Federal meat inspection regulations to require that natural sausage casings be labeled as to their animal origin, i.e., species of livestock from which the casing is made. The regulation change is requested so that consumers may more easily select products on the basis of animal origin as needed to conform to religious or other dietary restrictions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Cheryl Wade, Director, Food Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 254-2590

RIN: 0583–AB98

476. • GLYCERINE USED AS A HUMECTANT IN SHELF STABLE MEAT SNACKS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 317

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat inspection regulations to permit the use of food grade glycerine as a humectant in shelf stable meat snacks. It is proposing that the glycerine be used at a level not to exceed 2 percent of the formulation weight of the product. This proposed rule is in response to a petition submitted by the American Association of Meat Processors (AAMP), Elizabethtown, Pennsylvania. As a humectant, glycerine controls moisture in meat products and, at the 2 percent level, it reduces the amount of water available for microbial growth to occur. This use is Generally Recognized as Safe (GRAS) by FDA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 254-2565

RIN: 0583–AC00

DEPARTMENT OF AGRICULTURE (USDA)

Food Safety and Inspection Service (FSIS)

Final Rule Stage

477. REQUIREMENTS FOR FOREIGN COUNTRY IMPORT CERTIFICATION AND LIVE ANIMAL IMPORTATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 99-198

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This rule will respond to amendments to the Federal Meat Inspection Act by the Food Security Act of 1985. The amendments require that FSIS periodically certify residue control programs submitted by foreign countries desiring to export meat and poultry products to the United States. The amendments also provide the Secretary with the authority to issue an order prohibiting the importation of livestock for immediate slaughter that have been administered a drug or antibiotic banned for use in the United States.

USDA—FSIS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/26/88	53 FR 27998
NPRM Comment Period End	09/26/88	
Reproposal	03/09/90	55 FR 8956
Reproposal Comment Period End	04/09/90	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Skinner, Director, Foreign Programs Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-6933

RIN: 0583–AA47

478. NUTRITION LABELING: HEALTH CLAIMS ON MEAT AND POULTRY PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to permit the use of health claims that characterize the relationship of a substance to a disease-related or health-related condition on labeling of meat and poultry products. The rule will also establish a labeling application process for such health claims. This action stems from the final nutrition labeling regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/25/94	59 FR 27144
NPRM Comment Period End	07/25/94	
Final Action	11/00/95	
Final Action Effective	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 254-2565

RIN: 0583–AB64

479. TRISODIUM PHOSPHATE AS A POST-CHILL ANTIMICROBIAL TREATMENT FOR RAW POULTRY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the poultry products inspection regulations to permit the use of trisodium phosphate as a post-chill antimicrobial treatment for inspected and passed raw poultry products. FSIS has received a petition from Rhone-Poulenc, Inc., Cranbury, New Jersey, to use this substance as a processing aid in post-chill poultry slaughter operations.

Timetable:

Action	Date	FR Cite
NPRM	01/05/94	59 FR 551
NPRM Comment Period End	03/07/94	
Final Action	12/00/95	
Final Action Effective	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William O. James, Director, Slaughter Inspection Standards and Procedures Division, Department of Agriculture, Food Safety and Inspection Service, Science and Technology, Washington, DC 20250
Phone: 202 720-3219

RIN: 0583–AB65

480. USE OF SOY PROTEIN CONCENTRATE AND FOOD STARCH—MODIFIED AS BINDERS IN CURED PORK PRODUCTS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) plans to increase the permitted use level of food starch-modified and approve the use of soy protein concentrate in certain cured pork products. The technical effect of these substances when added to product is to reduce water purge (pumped brine) from the product. Both of these substances are listed in the Food and Drug Administration regulations as generally recognized as safe for use in foods in accordance with good manufacturing practice. The technical data and information supplied by the petitioners (Central Soya, Fort Wayne, IN, and the National Starch and Chemical Company, Bridgewater, NJ), have been received and it has been determined that the use of these substances is functional and suitable for the intended purpose. This rule only makes minor, technical changes to the chart of substances approved for use in meat products.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 254-2565

RIN: 0583–AB82

481. • PRIOR LABEL APPROVAL PROCESS

Regulatory Plan: This entry is Seq. No. 9 in Part II of this issue of the Federal Register.

RIN: 0583–AB92

482. • SODIUM CITRATE BUFFERED WITH CITRIC ACID AS A MEANS OF EXTENDING THE SHELF-LIFE OF CURED AND UNCURED MEAT AND POULTRY PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in

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USDA—FSIS

Final Rule Stage

the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to permit the use of sodium citrate buffered with citric acid in cured and uncured meat and poultry products. The technical effect of this buffered sodium citrate is to inhibit the growth of certain microorganisms, consequently, extending the product's shelf-life. Sodium citrate and citric acid are listed in the Food and Drug Administration regulations as generally recognized as safe for use in foods in accordance with good manufacturing practice. The technical data and information supplied by the petitioner (Alsmeyer Food Consulting, Potomac, Maryland) have been reviewed and it has been determined that the use of this substance is functional and suitable for the intended purpose. This rule only makes minor, technical changes to the chart and the table of substances approved for use in meat and poultry products.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 254-2565

RIN: 0583–AB97

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Long-Term Actions

483. NUTRITION LABELING OF GROUND BEEF AND HAMBURGER

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 317; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	05/24/94	59 FR 26916
NPRM Extension of Comment Period	07/05/94	59 FR 34396
NPRM Comment Period End	07/08/94	
NPRM Extension of Comment Period End	08/22/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Edwards
Phone: 202 254-2565

RIN: 0583–AB74

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Completed Actions

484. POULTRY PRODUCTS PRODUCED BY MECHANICAL SEPARATION AND PRODUCTS IN WHICH SUCH POULTRY PRODUCTS ARE USED

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	11/03/95	60 FR 55962
Final Action Effective	11/04/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John W. McCutcheon
Phone: 202 720-2709

RIN: 0583–AB68

485. TRANSPORTING UNDENATURED POULTRY FEET TO OTHER ESTABLISHMENTS FOR PROCESSING PRIOR TO EXPORT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	08/21/95	60 FR 43356
Final Action Effective	09/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alice Thaler, Chief
Phone: 202 720-3219

RIN: 0583–AB84

486. USE OF THE TERM "FRESH" ON THE LABELING OF RAW POULTRY PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	08/25/95	60 FR 44396
Final Action Effective	08/26/96	

Small Entities Affected: None

USDA—FSIS

Completed Actions

Government Levels Affected: State, Federal

Agency Contact: Charles Edwards
Phone: 202 254-2565

RIN: 0583–AB86

487. REDUCTION OF ACCREDITATION FEES FOR FSIS-ACCREDITED LABORATORIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 318; 9 CFR 381; 9 CFR 391

Completed:

Reason	Date	FR Cite
Final Action	04/19/95	60 FR 19491
Final Action Effective	04/19/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Jess Rajan, Chief
Phone: 202 205-0679

RIN: 0583–AB87

488. • PRODUCTS FROM FOREIGN COUNTRIES ELIGIBLE FOR IMPORT INTO THE UNITED STATES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service is amending those paragraphs of the imported products sections of the Federal meat and poultry products inspection regulations that contain the phrase, "at least equal to" by replacing that phrase with the words "equivalent to." This action will amend language in the Federal meat and poultry products inspection regulations to correctly reflect the language used in the Uruguay Round Agreements Act, which was enacted to comply with the General Agreement on Tariffs and Trade, 1994 (GATT).

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/28/95	60 FR 38667
Final Action Effective	09/26/95	
Final Action	10/23/95	60 FR 54296

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paula M. Cohen, Director, Regulations Development, Policy, Evaluation and Planning Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-7164

RIN: 0583–AB88

489. • USE OF POTASSIUM HYDROXIDE AS A HOG SCALD AGENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat inspection regulations to permit the use of potassium hydroxide as a hog scald agent. Potassium hydroxide is chemically similar to sodium hydroxide, another approved hog scald agent; however, potassium has been exchanged for the sodium. Potassium hydroxide is more soluble in water than other processing aids used in hog scald agents. As a result, hog scald agents formulated with other substances. Potassium hydroxide is affirmed as GRAS under 21 CFR 184.1631 and is approved for direct use in food as a pH control agent and processing aid. This rulemaking is being initiated in response to a petition received in March 1995. The petitioner wa s granted approval to use the process. The regulatory action is being delayed due to other priorities.

Timetable:

Action	Date	FR Cite
Final Action	10/23/95	60 FR 54295
Final Action Effective	12/22/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Michael Gabriel, Slaughter Inspection Standards and Procedures Division, Department of Agriculture, Food Safety and Inspection Service, Science and Technology, Washington, DC 20250
Phone: 202 720-3219

RIN: 0583–AB96

490. • TERMINATION OF DESIGNATION OF THE STATE OF WEST VIRGINIA WITH RESPECT TO THE INSPECTION OF POULTRY PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service is amending the poultry products inspection regulations by changing the designation of inspection from Federal to the State of West Virginia in sections 381.221 and 381.224. The State of West Virginia recently passed legislation which gives the State authority to provide inspection for poultry products produced and sold within West Virginia.

Timetable:

Action	Date	FR Cite
Final Action	09/26/95	60 FR 49494
Final Action Effective	11/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Connie L. Bacon, Acting Director, Federal State Relations, Inspection Operations, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-6313

RIN: 0583–AB99

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DEPARTMENT OF AGRICULTURE (USDA)

Prerule Stage

Foreign Agricultural Service (FAS)

491. • REGULATION GOVERNING THE FINANCING OF COMMERCIAL SALES OF AGRICULTURAL COMMODITIES (PL 480, TITLE I)

Priority: Other Significant

Legal Authority: 7 USC 1701 to 1705; 7 USC 1736a; 7 USC 1736c; 7 USC 5676; EO 1220

CFR Citation: 7 CFR 17

Legal Deadline: None

Abstract: This ANPRM requests comments on how the procedures for arranging the purchase and shipment of commodities under the Public Law 480, Title I program, or any and all parts of the program, could be improved. It also asks for comments on three specific issues which have been raised in recent years:

Could the purchase authorization be eliminated, with relevant portions placed in the regulations or the Invitations for Bids?

Should the Commodity Credit Corporation (CCC) pay suppliers directly for the costs which are financed by CCC instead of requiring the importing country to open letters of credit?

Should CCC finance commodity contracts on a cost and freight basis, under which the commodity supplier also provides the ocean transportation?

Timetable:

Action	Date	FR Cite
ANPRM	09/13/95	60 FR 47495
ANPRM Comment Period End	11/12/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, 14th and Independence Ave.,SW, Washington, DC 20250-1060
Phone: 202 720-6713

RIN: 0551–AA42

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Foreign Agricultural Service (FAS)

492. DIRECT CREDIT PROGRAMS (GSM-201 AND GSM-301) RISK ASSURANCE PROGRAM (GSM-101) CCC BARTER PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 714(c) to 714(f); 07 USC 17070; 07 USC 5602; 07 USC 5621; 07 USC 5661; 07 USC 5662; 07 USC 5676

CFR Citation: 7 CFR 1487; 7 CFR 1495; 7 CFR 1491; 7 CFR 1492

Legal Deadline: None

Abstract: The CCC is issuing a proposed rule to delete the regulations for the Direct Credit Programs (GSM-201 and GSM-301), Risk Assurance Program (GSM-101), and CCC Barter Program. CCC is proposing to delete these regulations because they are obsolete.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, 14th Street & Independence Avenue SW., Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA34

493. SUGAR IMPORT LICENSING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 1202

CFR Citation: 7 CFR 1530 subpart A; 7 CFR 1530 subpart B; 7 CFR 1530 subpart C

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking addresses some administrative changes to the sugar import licensing programs. These changes are intended to increase the regulatory efficiency, assist in verifying program compliance and provide for the adherence of the applicable sugar provisions of the North American Free Trade Agreement.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/94	59 FR 23017
ANPRM Comment Period End	07/08/94	
NPRM	12/31/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250-1000
Phone: 202 720-6713

RIN: 0551–AA39

494. • EXPORT SALES REPORTING REQUIREMENTS

Priority: Other Significant

Legal Authority: 7 USC 5712

CFR Citation: 7 CFR 20

Legal Deadline: None

Abstract: Regulation to be revised to add sunflowerseed and sunflowerseed oil to the list of commodities to be reported under the Export Sales Reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA44

USDA—FAS

Proposed Rule Stage

495. • LIMITATION ON IMPORTS OF MEAT

Priority: Other Significant

Legal Authority: PL 84-540; 7 USC 1854; EO 12188; EO 11539

CFR Citation: 7 CFR 16

Legal Deadline: None

Abstract: The Uruguay Round Agreements Act repealed the Meat Import Act of 1979. As a result, the above regulation is no longer necessary and may be expunged from the CFR.

Timetable:

Action	Date	FR Cite
NPRM	03/31/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA45

496. • SECTION 22 IMPORT FEES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 103-465

CFR Citation: 7 CFR 6.50 to 6.55; 7 CFR 6.66; 7 CFR 6.57

Legal Deadline: None

Abstract: The proposed rule would eliminate the import licensing system for sugar exempted from the Section 22 import licensing fee. The fee on raw sugar was suspended in 1985 and eliminated on January 1, 1995 as a result of the Uruguay Round Agreements. Importations of sugar for the manufacture of polyhydric alcohol have entered against licenses issued under authority of 7 CFR 1530 and not under this program. With the complete elimination of the import fee, this CFR subpart can be deleted.

Timetable:

Action	Date	FR Cite
NPRM	03/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA46

497. • REENTRY OF COTTON INTO THE UNITED STATES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 103-465

CFR Citation: 7 CFR 6.71 to 6.75

Legal Deadline: None

Abstract: The proposed rule would eliminate the requirement and procedures to obtain certificates from the Secretary of Agriculture in order to reenter U.S. cotton into the United States against an offsetting unsubsidized cotton export. This was a provision for ex-quota entry of U.S. cotton under certain circumstances because Section 22 provided for a zero quota on the reentry of cotton grown in the United States. As a result of the Uruguay Round Agreements, this provision has been eliminated from the Harmonized Tariff Schedule of the United States and the ban on the reentry of U.S. cotton has been replaced by a tariff-rate quota on cotton imported from any country.

Timetable:

Action	Date	FR Cite
NPRM	03/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA48

498. • CALCULATION OF MARKET STABILIZATION PRICE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: Presidential Proclamation 5002, 47 FR 54269

CFR Citation: 7 CFR 6.100 to 6.102

Legal Deadline: None

Abstract: The proposed rule would eliminate the requirement that the Secretary of Agriculture calculate and publish a market stabilization price for sugar to establish a basis for liquidated damages in the Sugar Re-export Programs. Since 1990, the MSP has not been used for any purpose in the re-export programs, and the Secretary has not published an MSP since 1989. The MSP was used for two separate regulatory functions since its inception, which are no longer used. Thus this CFR subpart can be deleted.

Timetable:

Action	Date	FR Cite
NPRM	03/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA49

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS)

Final Rule Stage

499. REGULATIONS GOVERNING IMPLEMENTATION OF THE MARKET PROMOTION PROGRAM (MPP) OVERSEAS

Priority: Other Significant

Legal Authority: 7 USC 1485

CFR Citation: 7 CFR 1736; 7 CFR 1485

Legal Deadline: None

Abstract: These regulations are promulgated to provide minimum requirements and criteria for parties interested in participating in the Market Promotion Program (MPP) as authorized by the Agricultural Trade Act of 1978, as amended, and how they may apply and participate.

Timetable:

Action	Date	FR Cite
NPRM	04/26/90	55 FR 17618
NPRM Comment Period End	06/26/90	
Interim Final Rule	08/16/91	56 FR 40745
Interim Final Rule Comment Period End	10/15/91	56 FR 40745
Second Interim Final Rule	11/17/93	58 FR 60549
Third Interim Final Rule	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry D. Abromovage, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA24

500. SECTION 22 IMPORT QUOTAS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 3019

CFR Citation: 7 CFR 6.20 to 6.34

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: Provides for quotas for certain dairy and other agricultural products to prevent material interference with the domestic price support program for these commodities. In the case of dairy products, controls are administered through a licensing procedure so that the quotas may be allocated in a fair and equitable manner among importers and users. A fee is charged for each license issued to recover the costs of administering the licensing system. Procedures used to implement section 22 import quotas will need to be revised as the Uruguay Round multilateral trade agreement is implemented.

Timetable:

Action	Date	FR Cite
ANPRM	06/02/94	59 FR 28495
ANPRM Comment Period End	08/01/94	
Interim Final Rule	05/02/95	60 FR 21425
Interim Final Rule	09/13/95	60 FR 47453
Interim Final Rule	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, D. C. 20250
Phone: 202 720-6713

RIN: 0551–AA27

501. CCC EXPORT CREDIT GUARANTEE PROGRAM (GSM-102) AND CCC INTERMEDIATE EXPORT CREDIT GUARANTEE PROGRAM (GSM-103)

Priority: Economically Significant

Legal Authority: 15 USC 714(b); 15 USC 714(f); 7 USC 5602; 7 USC 5622; 7 USC 5661; 7 USC 5663; 7 USC 5664; 7 USC 5676

CFR Citation: 7 CFR 1493

Legal Deadline: None

Abstract: The proposed Rule will amend regulations for CCC export credit guarantee programs by adding a new subpart D, supplier credit guarantee program. Subpart D will establish the terms and conditions by which U.S. exporters of U.S. agricultural commodities and products may obtain CCC credit guarantees for short term credits extended directly to foreign buyers

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/06/91	56 FR 25998
Final Rule	10/19/94	59 FR 52866
Proposed Rule	07/19/95	60 FR 37025
Final Rule	01/01/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA30

502. REGULATIONS GOVERNING THE FINANCING OF COMMERCIAL SALES OF AGRICULTURAL COMMODITIES (P.L. 480 TITLE I PROGRAM)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1701 to 1705; 7 USC 1736 (a); 7 USC 1736 (c); 7 USC 5676; EO 12220

CFR Citation: 7 CFR 17

Legal Deadline: None

Abstract: The Final Rule clarifies the Interim Rule published 2/1/91 in response to the 1990 food, agriculture, conservation and trade act; it changes the basis for demurrage/despatch computations and payments, expands U.S. government access to records, and clarifies certain reporting requirements. This eliminates the potential for certain conflicts of interest under the P.L. 480, Tile I program, keeps program costs as low as possible, insures fair and equitable treatment to suppliers, and reflects USDA administrative reorganization

Timetable:

Action	Date	FR Cite
NPRM	11/12/92	57 FR 53607
NPRM Comment Period End	01/13/93	
Final Action	10/15/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, 14th & Independence Ave SW., Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA36

USDA—FAS

Final Rule Stage

503. • REGULATIONS GOVERNING THE FINANCING OF COMMERCIAL SALES OF AGRICULTURAL COMMODITIES (P.L. 480, TITLE I)

Priority: Other Significant

Legal Authority: 7 USC 1701 to 1705; 7 USC 1736a; 7 USC 1736c; 7 USC 5676; EO 1220

CFR Citation: 7 CFR 17

Legal Deadline: None

Abstract: The Public Law 480, Title I Financing Regulations specify the documents which the suppliers of commodities and of ocean transportation must present to the bank to receive payment. One of these is Form CCC-106, "Advice of Vessel Approval," issued by CCC, providing the written approval for each shipment and containing details of the ocean freight contract terms. This proposed rule would eliminate the requirement that the commodity supplier present this form to be paid, since the commodity supplier has no control over the ocean transportation. It would also shorten Appendices A and B of the regulations, which specify the basic contracting and documentary requirements for CCC to finance a wide variety of commodities. The proposed rule would eliminate from Appendices A and B the sections covering 15 commodities which have not been shipped for five years or more.

Timetable:

Action	Date	FR Cite
NPRM	08/22/95	60 FR 43566
NPRM Comment Period End	09/12/95	
Interim Final Rule	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, 14th and Independence Ave. SW., Washington, DC 20250-1060
Phone: 202 730-6713

RIN: 0551–AA43

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS)

Long-Term Actions

504. PROPOSED REGULATIONS GOVERNING IMPLEMENTATION OF THE COOPERATOR MARKET DEVELOPMENT PROGRAM OVERSEAS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1550

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA26

505. PROGRAM CRITERIA FOR THE SUNFLOWERSEED OIL ASSISTANCE PROGRAM (SOAP) AND THE COTTONSEED OIL ASSISTANCE PROGRAM (COAP)

Priority: Other Significant

CFR Citation: 7 CFR 1570

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/27/91	56 FR 42222
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA31

506. REPORTING REQUIREMENTS RELATED TO TOBACCO EXPORTS

Priority: Other

CFR Citation: 7 CFR 1525

Timetable:

Action	Date	FR Cite
ANPRM	12/17/93	58 FR 65941
ANPRM Comment Period End	03/17/94	
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA32

507. SUNFLOWERSEED OIL ASSISTANCE PROGRAM OPERATIONS (SOAP) AND COTTONSEED OIL ASSISTANCE PROGRAM OPERATIONS (COAP)

Priority: Other Significant

CFR Citation: 7 CFR 1570 subpart B; 7 CFR 1570 subpart C

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA33

508. EMERGING DEMOCRACIES AGRICULTURAL FACILITY GUARANTEE PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 17; 7 CFR 1493

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/93	58 FR 11786
Interim Final Rule Effective	03/01/93	
Interim Final Rule Comment Period End	06/01/93	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA35

509. FOREIGN DONATION OF AGRICULTURAL COMMODITIES

Priority: Other

CFR Citation: 7 CFR 1499

Timetable:

Action	Date	FR Cite
NPRM	02/14/94	59 FR 6916
NPRM Comment Period End	04/15/94	
Final Action	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: Federal

Agency Contact: Robert Riston

USDA—FAS

Long-Term Actions

Phone: 202 720-6713

RIN: 0551–AA38

510. • REFORM OF EXPORT BONUS PROGRAM

Priority: Other Significant

Legal Authority: PL 103-465

CFR Citation: 7 CFR 1494; 7 CFR 1570

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking requests comments on the commodity credit corporations export bonus programs. The EEP, DEIP, SOAP, and COAP options for reform of these export bonus programs are being considered as an effort to respond to the GATT Uruguay Round Agreement that established new mandates for USDA/CCC's export subsidy programs. additionally, programs more flexible in responding to changing world market conditions and serve to fulfill policy goals for increased administrative efficiency and lower program costs.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/95	60 FR 32923
ANPRM Comment Period End	07/26/95	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250-1060 Phone: 202 720-6713

RIN: 0551–AA41

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS)

Completed Actions

511. EXPORT BONUS PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1494

Completed:

Reason	Date	FR Cite
Final Action	05/01/95	60 FR 21037
Final Action Effective	05/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston Phone: 202 720-6713

RIN: 0551–AA40

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DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS)

Proposed Rule Stage

512. SMALL TRACTS ACT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 521(c) to 521(i)

CFR Citation: 36 CFR 254, subpart C

Legal Deadline: None

Abstract: Implementation of the Agency's Small Tracts regulations has revealed an inadvertent inconsistency between the regulations at 36 CFR 254.35(f) and 254.41(a) and the legislative history of the Small Tracts Act of January 12, 1983. The regulations imply that the disposal of mineral fractions by sale can only be made in response to an application from an abutting landowner, thus discouraging the conveyance by sale to the public. The Act clearly authorizes sale of mineral fractions to the public through public sale, as well as individual applications, provided that certain conditions are met. The revisions will clarify the application of the Act to ensure that both individual applications and public sale are permissible means of disposing of qualifying tracts.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	02/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AA79

513. ISOLATED CABIN POLICY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 477 to 482; 16 USC 551

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: Agency policy is to terminate isolated cabin authorizations on National Forest System land that were constructed without advance authorization and subsequently authorized by special-use permit. These cabins are used for part- or full-time occupancy. These cabins differ from recreation residences which were established in tracts specific for this purpose and built with Agency approval and supervision. Isolated cabins originated in several ways, including encroachment and mining claims. They restrict management of the surrounding National Forest land and deprive the public the use and enjoyment of the land actually occupied and the surrounding area. The action proposed is to seek input from the public as to whether the present policy should be continued, or whether it should be revised so as to examine each isolated occupancy and determine whether, in the interest of fairness and equity, the cabin should be converted to a recreation residence. This proposal to revise current policy was originally included in proposed policy on recreation residences (RIN No. 0596-AB06).

USDA—FS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AA85

514. SOLID WASTE DISPOSAL POLICY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 497; 43 USC 931(c)

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: A proposal for solid waste disposal sites currently authorized for use on National Forest System lands is being developed to reflect changes which have occurred as a result of the Resource and Conservation Recovery Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and an increased knowledge of solid waste disposal. The proposal would prohibit the authorization of new sites and provide for the phase-out of existing sites. During the phase out period authorizations would be amended to provide resource protection. Adoption of this policy would reduce administrative costs associated with administration of solid waste disposal sites, and protect the resources of the National Forest System lands. The proposal would impact 110 sites currently authorized.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/90	55 FR 25990
ANPRM Withdrawn	07/10/90	55 FR 28258
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	
Final Action	09/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AA92

515. IRREVOCABLE LETTER OF CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472a; 16 USC 528 to 531; 16 USC 1600 et seq; 12 USC 1 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In a 1987 court decision, a letter of credit issued in lieu of surety bond was found to be unenforceable because the person who signed the letter of credit did not have authority to do so and because the bank had violated State law in regard to limits of liability. To remedy this problem, the Forest Service is proposing to issue a requirement that the bank president certify as to the authority of the person signing the letter of credit and the conformance with State and Federal statutes. An automatic extension of the expiration date would also be required.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AA93

516. TIMBER SALE PERFORMANCE AND PAYMENT BOND FORM REVISION

Priority: Other Significant

Legal Authority: 31 USC 9301 to 9309; 31 USC 223 to 225

CFR Citation: None

Legal Deadline: None

Abstract: Following a period of high-priced timber sales bid prior to 1982, the Forest Service experienced a number of contract defaults on these sales. Subsequently, the Forest Service has had difficulty collecting from some sureties on the bonds guaranteeing performance on these sales. As part of a financial security initiative affecting future sales, the Forest Service is proposing to revise the payment and performance bonds to clarify surety's obligation in regard to what is being guaranteed, when payment is due in case of default, what additional charges will be assessed if payment is not made when due and when collection action may be suspended. Other alternatives include eliminating surety bonds as a form of security, reducing surety guarantee to mid-point and periodic payment and retention of current bond forms. Upon adoption, the final revised bond forms will be issued for use by Forest Service Contracting and Fiscal Officers for future timber sale contracts. The former title, Surety Bond Form Revision, has been modified to more accurately reflect the content of the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1742
NPRM Comment Period End	03/20/89	
Second NPRM	01/00/96	
Second NPRM Comment Period End	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Final action on this entry was delayed to obtain advice of the Comptroller General. Because of the lengthy delay this action will be published as proposed once more.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AA94

517. DISPOSAL OF NATIONAL FOREST TIMBER; CANCELLATION OF TIMBER SALE CONTRACTS

Priority: Other Significant

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 223.40; 36 CFR 223.116

Legal Deadline: None

Abstract: Changes to these policies reflect recent court decisions and recent

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natural resource and environmental legislation and clarify the rights, responsibilities, and obligations of the contracting parties. The proposed policies revised the timber sale contract forms, distribute liability and risk more equitably between the parties, bring the timber sale contract into conformance with standard business practices, and clarify the responsibilities of both parties. The proposed contract revision requires amendments to current regulations, specifically contract cancellation and extension of the contract to facilitate the urgent removal of timber from non-Federal land. Urgent removal of damaged timber requires the delay of other scheduled harvests in some situations so that damaged timber on non-Federal land can be harvested more rapidly. Also included as part of the proposal is a revision of the performance bond forms.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	04/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 200090-6090
Phone: 703 235-1488

RIN: 0596–AB21

518. SPECIES SURPLUS TO DOMESTIC MANUFACTURING NEEDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 620 et seq

CFR Citation: 36 CFR 223.200

Legal Deadline: None

Abstract: This proposed rule would amend 36 CFR 223.200, to list species proposed to be surplus to domestic manufacturing needs. This proposed rule would implement a portion of section 620a(b) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 USC 620 et seq). Section 620a(a) of the Act provides that no person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United States, or sell, trade, exchange or otherwise convey such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States. Section 620a(b) of the Act provides that the prohibition contained in section (a) shall not apply to specific quantities of grades and species of unprocessed timber originating in Federal lands which the Secretary concerned determines through rulemaking to be surplus to domestic manufacturing needs.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB27

519. RETENTION OF DOWNPAYMENT ON TIMBER SALE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472(a); 16 USC 618

CFR Citation: 36 CFR 223.49

Legal Deadline: None

Abstract: The Federal Timber Sale Contract Payment Modification Act directs the Forest Service to require purchasers to make downpayments and periodic payment on timber sales. The objective of these requirements is to discourage speculative bidding on National Forest System timber sales. This rule will identify the requirements to hold downpayments until the timber sale contract is substantially completed.

Timetable:

Action	Date	FR Cite
ANPRM	02/02/94	59 FR 4879
ANPRM Comment Period End	03/04/94	
NPRM	08/00/96	
NPRM Comment Period End	09/00/96	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $10,000; Yearly Recurring Cost: $0

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB28

520. NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING FOREST SERVICE MANUAL CHAPTER 1920

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1600 et seq

CFR Citation: None

Legal Deadline: None

Abstract: The proposed manual policy would incorporate all direction for land and resource management planning into one Forest Service Manual chapter (FSM 1920). The proposed policy would clarify how the revised land and resource management planning regulations at 36 CFR 219 will be implemented. The proposal will focus on implementing forest plans: monitoring, evaluating, amending, and revising forest plans; and clarifying the relationship between forest planning and project decisionmaking. (See entry for RIN 0596-AB20.)

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	
Final Action	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB31

521. USE OF FIXED ANCHORS FOR ROCK CLIMBING IN WILDERNESS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1121; 16 USC 1131 to 1136

CFR Citation: 36 CFR 261.16; 36 CFR 293.9

Legal Deadline: None

Abstract: The sport of rock climbing is often accomplished by using fixed, rather than removable, metal bolts and anchors. These bolts are considered permanent improvements when installed. These improvements may detract from the wilderness experience and are not compatible with management of the wilderness resource. The Forest Service proposes to reduce impacts on the wilderness resource by prohibiting all use of fixed anchors in the wilderness.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	01/00/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $1,000; Base Year for Dollar Estimates: 1992

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB33

522. COLLECTION OF REIMBURSABLE COSTS FOR PROCESSING SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1764; 30 USC 181

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The objective of this proposal is to incorporate into regulation the authority contained in the Mineral Leasing Act and the Federal Land Policy and Management Act to reimburse the United States for reasonable administrative costs associated with the issuance and administration of special-use authorizations on National Forest System lands.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	02/00/96	
Final Action	03/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Cost reimbursement for processing special-use applications and administration of special-use authorizations was originally included under RIN 0596-AA36. All provisions pertaining to the special-use application and administration process have been merged with RIN 0596-AB35. Thus, this rulemaking addresses only the cost-reimbursement provisions.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB36

523. EXERCISE OF OUTSTANDING MINERAL RIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 478; 16 USC 1613; 30 USC 181; 30 USC 228; 43 USC 1740

CFR Citation: 36 CFR 228, subpart F

Legal Deadline: NPRM, Statutory, December 24, 1992.

Abstract: This subpart will set forth the rules by which the Forest Service will carry out its statutory responsibilities for the management of oil and gas operations involving outstanding mineral rights on National Forest System lands within the Allegheny National Forest. These rules will, as required by the energy bill, PL 102-486, identify that information an owner of outstanding mineral rights must submit to the Forest Service 60 days prior to beginning operations and how the Forest Service will review such information..

The Forest Service did not consider other alternatives because these regulations are mandated by law. Public costs are insignificant but public benefits could be substantial in that Forest Service and industry cooperation should be enhanced.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB38

524. MARKET-RELATED TERM ADDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 618(b)

CFR Citation: 36 CFR 223.50; 36 CFR 223.53 (New)

Legal Deadline: None

Abstract: Based on General Accounting Office Testimony Report Number T-RCED-92-58, 04/28/92, the Secretary of Agriculture agreed to reexamine the use of the Bureau of Labor Statistics unadjusted indices to determine whether wood product prices have shown a drastic decline. The Secretary of Agriculture indicated the Forest Service would develop and publish for comment a proposed rule to use an alternative method to determine whether wood prices have drastically declined and warrant granting of a Market-Related Contract Term Addition. The proposed rulemaking proposes minor changes in procedures to determine whether a drastic reduction in wood product prices has occurred.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	12/00/95	
Final Action	01/00/96	
Final Action Effective	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB41

525. PRIVATE SALE OF GOLDEN EAGLE PASSPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 551; 16 USC 472; 16 USC 4601 to 4606(a); 16 USC 1281(d); 16 USC 1246(i); 16 USC 1133(b); 31 USC 9701; PL 103-66

CFR Citation: 36 CFR 291

Legal Deadline: None

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USDA—FS

Proposed Rule Stage

Abstract: The Omnibus Reconciliation Act of 1993 authorizes the private sale of Golden Eagle Passports. The Act also directs that such sales will be subject to such terms and conditions as the Secretaries of Agriculture and Interior may jointly prescribe, including detailed guidelines for promotional advertising, compliance monitoring, and withholding the cost of sales not to exceed eight percent. The purpose of this regulation is to establish the terms and conditions for the private sale of Golden Eagle Passports.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $10,000; Yearly Recurring Cost: $10,000; Base Year for Dollar Estimates: 1994

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB44

526. APPEAL OF DECISIONS RELATING TO OCCUPANCY AND USE OF NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 251, subpart C

Legal Deadline: None

Abstract: These proposed regulations are housekeeping amendments to 36 CFR Part 251, Subpart C, to correlate with regulations at 36 CFR Part 215 and with statutory direction. For example, changes to Part 251 would clarify the application of this rule to the issuance of permits for occupancy and use of National Forest System lands. After further consideration, the Agency does not intend to proceed with timber sale set aside regulations as stated in the previous regulatory agenda since the set aside revisions are not related to special use permits. When 36 CFR Part 251, Subpart C, regulations were promulgated in 1989, NEPA analysis and documentation was not consistently applied to issuance of permits or other authorizations. Now the issuance of permits and other authorization requires application of the NEPA process prior to issuance. In addition, since these regulations were implemented, Congress has passed the Appeal Reform Act. The proposed changes to Part 251, Subpart C, are needed to make this regulation consistent with regulations at 36 CFR Part 215. Specific proposed changes to 36 CFR Part 251 include removing the second level of appeal opportunity, deleting the discretionary review option, shortening timeframes for scheduling oral presentations, and changes to conform with 36 CFR Part 215, including consistent terminology and definitions as well as removal of the automatic stay on permit issuance prior to appeal resolution.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	05/00/96	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB45

527. SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER; EXTENSION OF TIMBER SALE CONTRACTS TO PERMIT URGENT REMOVAL OF OTHER TIMBER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472a

CFR Citation: 36 CFR 223.50; 36 CFR 223.53

Legal Deadline: None

Abstract: This rule and policy change will provide for extension of National Forest System (NFS) timber sale contracts when such extension will permit the prompt removal and utilization of non-NFS owned timber damaged by catastrophic events. The change will define the responsibilities of the parties for requesting and approving such extensions and specify when such extension should be approved. This change will also allow for the use of scarce timber resources and the recovery of economic benefits from timber that might otherwise be lost because of contractual obligations to harvest undamaged timber.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	04/00/96	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB48

528. DISPOSAL OF NATIONAL FOREST TIMBER: TIMBER SALE CONTRACT REVISIONS

Priority: Other Significant

Legal Authority: PL 94-588; 16 USC 472a; 16 USC 528; 15 USC 631

CFR Citation: 36 CFR 223, subpart B

Legal Deadline: None

Abstract: This proposed policy would revise the 2400-6 and the 2400-6T timber sale contracts currently used by the Forest Service to sell National Forest System timber. The proposed timber sale contracts, included as part of the proposed policy, would reflect recent court decisions and recent natural resource and environmental legislation and would clarify the rights, responsibilities, and obligations of the contracting parties. The proposed policy would address specific ambiguities and weaknesses in the current contract that have generated costly litigation in the past between the Government and the purchaser and would address the concerns regarding timber theft and log accountability.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Action	Date	FR Cite
NPRM Comment Period End	04/00/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB52

529. • NATIONAL ENVIRONMENTAL POLICY ACT; REVISED POLICY AND PROCEDURES

Priority: Other Significant

Legal Authority: 42 USC 4371

CFR Citation: None

Legal Deadline: None

Abstract: The proposed manual and handbook policy would be revised to clarify the environmental analysis process used by the Forest Service to implement the NEPA regulations at 40 CFR 1500. The proposal will focus on better defining the process for determining when projects are categorically excluded and expanding the categories of action that can be excluded under NEPA.

Timetable:

Action	Date	FR Cite
NPRM	01/01/96	
NPRM Comment Period End	03/01/96	
Final Action	07/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090
Phone: 703 235-1488

RIN: 0596–AB54

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS)

Final Rule Stage

530. MANAGEMENT OF GRAZING USE WITHIN RANGELAND ECOSYSTEMS

Priority: Other Significant

Legal Authority: 7 USC 1011; 16 USC 472; 16 USC 551; 16 USC 572; 16 USC 580g; 16 USC 580h; 16 USC 5801; 16 USC 1600 et seq; 31 USC 9701; 43 USC 1901 to 1903; 43 USC 1751; 43 USC 1752

CFR Citation: 36 CFR 222, subpart A

Legal Deadline: None

Abstract: This rule revises National Forest System rangeland management regulations to update direction for management of domestic livestock, to place greater emphasis on stewardship of the rangeland resources, to clarify the link between the livestock grazing permit and forest plans, and to clarify the rangeland management planning and decisionmaking process. The rule addresses the context in which plans and decisions regarding rangeland management are made to ensure compliance with the National Forest Management Act (16 U.S.C. 1601(i)) and the National Environmental Policy Act (NEPA).

Timetable:

Action	Date	FR Cite
NPRM	08/16/88	53 FR 30954
NPRM Comment Period End	10/17/88	53 FR 30954
ANPRM	08/13/93	58 FR 43202
ANPRM Comment Period End	10/20/93	58 FR 43202
NPRM - Second	04/28/94	59 FR 22074
NPRM Comment Period End	07/28/94	
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AA35

531. HYDROPOWER APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 551; 43 USC 1761

CFR Citation: 36 CFR 251.54; 36 CFR 251.57

Legal Deadline: None

Abstract: A revision of Agency procedures is needed to reduce confusion regarding the role of the Forest Service in permitting hydropower uses on National Forest System lands. The goal of the directives will be to establish procedures, compatible with the procedures of the Federal Energy Regulatory Commission (FERC), for obtaining various approvals and involvement of the Forest Service in a timely manner.

In addition, the directives will establish a fee system for hydropower uses as required by Title V, Section 501 of the Federal Land Policy and Management Act of 1976. A Notice of Proposed Policy was published 6/8/84 and comments were received. The proposed policy will take those comments into account.

Timetable:

Action	Date	FR Cite
NPRM	05/22/95	60 FR 27154
NPRM Comment Period Extended	07/17/95	60 FR 36401
NPRM Comment Period End	09/05/95	
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AA47

532. INDIAN ALLOTMENTS ON NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603; 43 USC 1740; 25 USC 337

CFR Citation: 36 CFR 254, subpart D (New)

Legal Deadline: None

Abstract: This rule sets forth Forest Service procedures and role in the regulation of Indian allotments on

USDA—FS

Final Rule Stage

National Forest System land. The Indian Allotment Act, as amended, authorizes the Secretary of the Interior to make allotments of National Forest System lands to Indians for homesteading and agricultural and grazing purposes. The Forest Service has relied upon USDI rules and procedures at 43 CFR 2533 to govern its involvement in Indian allotment cases. Litigation and a decision by the Interior Board of Land Appeals require the Forest Service to set forth its own regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23473
NPRM Comment Period End	07/22/87	
Final Action	02/15/96	
Final Action Effective	03/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AA52

533. NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

Regulatory Plan: This entry is Seq. No. 10 in Part II of this issue of the **Federal Register**.

RIN: 0596–AB20

534. FEDERAL TIMBER EXPORT AND SUBSTITUTION RESTRICTIONS (COMPREHENSIVE REVISION)

Priority: Other Significant

Legal Authority: 16 USC 620 to 620j

CFR Citation: 36 CFR 223, subpart B; 36 CFR 223, subpart C; 36 CFR 223, subpart D; 36 CFR 223, subpart F; 36 CFR 261, subpart A

Legal Deadline: Final, Statutory, May 20, 1991.

Abstract: These rules are necessary to carry out the restrictions placed on the export of unprocessed timber from Federal lands and the restrictions on the direct and indirect purchasing of Federal logs to be used in substitution for the export of unprocessed timber originating from private lands. The rules are mandated by the Forest Resources Conservation and Shortage Relief Act of August 20, 1990. The Act calls for various rules to be issued. The agency anticipates several rulemakings to achieve implementation of the act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/20/90	55 FR 48572
Interim Final Rule Effective	11/20/90	
Final Action	11/00/95	
Comprehensive		
NPRM 01/29/91 (56 FR 3354)		
NPRM Comment Period End 03/15/91		
Final Action 09/08/95		
Final Action Effective 09/08/95		
Limited Scope		
NPRM 01/29/91 (56 FR 3375)		
NPRM Comment Period End 02/05/91		
Final Action 12/00/95		
Final Action Effective 12/00/95		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB22

535. TIMBER SALE CONTRACTS; APPRAISAL PROCEDURES FOR DETERMINING FAIR MARKET VALUE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1600

CFR Citation: 36 CFR 223.60

Legal Deadline: None

Abstract: This technical change to 36 CFR 223.60, in addition to the currently designated Residual Value Appraisal method of appraising National Forest timber, will provide for use of all appraisal systems, subject to approval from the Chief of the Forest Service.

Timetable:

Action	Date	FR Cite
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB26

536. STATE AND PRIVATE FORESTRY ASSISTANCE STEWARDSHIP INCENTIVE PROGRAM

Priority: Other Significant

Legal Authority: 16 USC 2101 et seq

CFR Citation: 36 CFR 230

Legal Deadline: None

Abstract: This final rule would incorporate any changes resulting from public comments on the interim rule published December 4, 1991. The interim rule established the interim procedures for administration of the Stewardship Incentive Program. The Program is intended to encourage private landowners, through cost-share assistance, to manage their forest lands for economic, environmental, and social benefits. Only two alternatives were considered in detail: (1) to implement the Program in accordance with 16 USC 2101, et seq, and (2) not to implement the Program, in which case there would be no accelerated program for multiple resource management on nonindustrial private forest lands. The overall effects of the Program over time will be environmentally beneficial by enhancing wetlands, wildlife habitat, forest health, forest productivity, and recreation. The Program will help meet future demand for commodity and noncommodity forest resources. There are no potential negative impacts anticipated for the Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/04/91	56 FR 63581
Interim Final Rule Public Comment Period End	01/21/92	
Final Action	01/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB32

537. SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1764; 31 USC 483(a); 30 USC 181; 16 USC 551

CFR Citation: 36 CFR 251(b)

USDA—FS

Final Rule Stage

Legal Deadline: None

Abstract: The Forest Service proposes to amend the regulations governing the use and occupancy of National Forest System lands to minimize application expenses, streamline and make more efficient environmental analysis of special use proposals, provide the ability to use one-time payments for easements as presently used in the marketplace, limit certain liability requirements to amounts determined by a risk assessment, make certain definitions more explicit, and clarify direction on renewal of existing special use regulations. The intended effect is to reduce costs to proponents and the agency, expedite decisionmaking, and administer authorizations in a more "user friendly" manner by removing certain requirements deemed unnecessary and/or outdated. This rulemaking responds to goals identified in the National Performance Review Regulatory Reform effort.

Timetable:

Action	Date	FR Cite
NPRM	08/14/92	57 FR 36618
NPRM Comment Period End	09/28/92	
Final Action	01/15/96	
Final Action Effective	02/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB35

538. SMITH RIVER NATIONAL RECREATION AREA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460bbb(6); 16 USC 478; 16 USC 551

CFR Citation: 36 CFR 292, subpart G

Legal Deadline: None

Abstract: This subpart will set forth the rules by which the Forest Service will carry out its statutory responsibilities for the management of mineral operations on National Forest System lands within the Smith River National Recreation Area, Six Rivers National Forest. These rules will, as required by the Smith River National Recreation Area Act (PL 102-612), promote and protect recreation opportunities but still allow for mineral operations to take place. The Forest Service did not consider other alternatives because these regulations are mandated by law. Public costs are insignificant, but the public benefits could be substantial in that Forest Service and industry cooperation should be enhanced.

Timetable:

Action	Date	FR Cite
NPRM	06/23/95	60 FR 32633
NPRM Comment Period End	08/22/95	
Interim Final Rule	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB39

539. OCCUPANCY AND USE OF DEVELOPED SITES AND AREAS OF CONCENTRATED PUBLIC USE

Priority: Other Significant

Legal Authority: 16 USC 551; 16 USC 472; 16 USC 4601 to 4606(a); 16 USC 1281(d); 16 USC 1246 (i); 16 USC 1133 (b); 31 USC 9701; PL 103-66

CFR Citation: 36 CFR 291

Legal Deadline: None

Abstract: The Omnibus Reconciliation Act of 1993 authorizes admission fees at National Recreation Areas, National Monuments, National Volcanic Monuments, National Scenic Areas, and no more than 21 areas of concentrated public use. Currently 36 CFR 291.9 does not reflect the new authority to charge fees at the 21 areas of concentrated public use. This final rule is a technical amendment to reflect this new authority. The admission fees are expected to return about five million dollars to the Treasury when fully implemented. Costs to collect the fees are estimated at $1.24 million annually. States and counties will receive 25 percent of the fee collections.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	
Final Action Effective	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $1,000,000; Yearly Recurring Cost: $1,250,000; Base Year for Dollar Estimates: 1994

Sectors Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB43

540. SKI AREA PERMIT FEE SYSTEM

Priority: Other Significant

Legal Authority: PL 99-522; 16 USC 497b

CFR Citation: 36 CFR 251.57

Legal Deadline: None

Abstract: The Forest Service proposes to revise existing procedures for determining permit fees for the use of National Forest System lands by ski areas. Permit fees for most ski areas operating on National Forest System lands are determined under the graduated rate fee system (GRFS). As applied to large ski areas, GRFS is complex and costly to administer, and has thus been the subject of several audits, administrative appeals, and lawsuits. Under the proposed policy, the Agency would determine permit fees by site-specific appraisal of the use of National Forest System land by ski areas.

Timetable:

Action	Date	FR Cite
NPRM	07/13/95	60 FR 36097
NPRM Comment Period End	09/11/95	
Interim Final Rule	03/00/96	
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB49

541. FEE SCHEDULES FOR COMMUNICATION USES ON NATIONAL FOREST SYSTEM LANDS

Priority: Other Significant

Legal Authority: 43 USC 1764

CFR Citation: None

USDA—FS — **Final Rule Stage**

Legal Deadline: None

Abstract: The Forest Service is adopting a final policy and revised fee schedule for determining annual rental charges for communication uses authorized on National Forest System lands in the Western United States. The Forest Service and the Bureau of Land Management (BLM) jointly developed the fee schedule which covers all categories of communications uses on National Forest System lands and replaces existing Regional fee schedules adopted in 1989 and modified in 1992.

Timetable:

Action	Date	FR Cite
NPRM	07/13/93	58 FR 37840
NPRM Comment Period End	10/12/93	
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB51

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS) — **Long-Term Actions**

542. NATIONAL FOREST PROHIBITIONS; LAW ENFORCEMENT SUPPORT ACTIVITIES

Priority: Other Significant

CFR Citation: 36 CFR 261; 36 CFR 262

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	08/01/88	
NPRM	02/16/94	59 FR 7880
NPRM Comment Period End	05/18/94	
Second NPRM	01/00/97	
Second NPRM Comment Period End	03/00/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AA75

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS) — **Completed Actions**

543. LAND USES AND PROHIBITIONS; NONCOMMERCIAL GROUP USES

Priority: Other Significant

CFR Citation: 36 CFR 251; 36 CFR 261

Completed:

Reason	Date	FR Cite
Final Action	08/30/95	60 FR 45258
Final Action Effective	09/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AA80

544. INDICES TO DETERMINE MARKET-RELATED TERM ADDITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 233.52

Completed:

Reason	Date	FR Cite
Withdrawn	09/11/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AB40

545. ANIMAL DAMAGE MANAGEMENT

Priority: Other Significant

CFR Citation: 7 CFR 2.51(41); 40 CFR 1508.16; 40 CFR 1508.15

Completed:

Reason	Date	FR Cite
Final Action	05/04/95	60 FR 22037
Final Action Effective	05/04/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AB47

546. OUTFITTING AND GUIDING PERMITS AND FEES

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 251

Completed:

Reason	Date	FR Cite
Final Action	06/12/95	60 FR 30830

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AB53

BILLING CODE 3410-11-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of Chief Financial Officer (OCFO) — **Long-Term Actions**

547. AUDITS OF STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3015; 7 CFR 3016; 7 CFR 3050

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Allen Johnson
Phone: 202 720-8345

RIN: 0505–AA09

BILLING CODE 3410-KS-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC) — **Final Rule Stage**

548. GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS AND OTHER NON-PROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1111

CFR Citation: 7 CFR 3019

Legal Deadline: None

Abstract: This regulation establishes the administrative requirements for Federal grants and agreements to institutions of higher education, hospitals and non-profit organizations.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Gerald Miske, Supervisory Program Analyst, Department of Agriculture, Office of the Secretary, Room 3031 South Building, 14th and Independence Ave. SW., Washington, DC 20250
Phone: 202 720-1553

RIN: 0503–AA10

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC) — **Long-Term Actions**

549. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE

Priority: Other Significant

CFR Citation: 05 CFR 2635

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary M. Whitaker
Phone: 202 720-3327

RIN: 0503–AA05

550. • NONPROCUREMENT DEBARMENT AND SUSPENSION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 41 USC 701 et seq; EO 12549

CFR Citation: 7 CFR 3017

Legal Deadline: None

Abstract: USDA proposes to amend its regulations that implement Executive Order 12549, "Debarment and Suspension." E.O. 12549 required executive agencies and departments to issue by the Office of Management and Budget (OMB), to establish governmentwide debarment and suspension system by making appropriate modifications to the coverage of the regulations and clarifying the relationship of the regulations to other USDA procedures for establishing participant eligibility for specific programs.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary W. Butler, Deputy Assistant General Counsel, Office of the General Counsel, Department of Agriculture, Office of the Secretary
Phone: 202 720-2577

RIN: 0503–AA12

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC) — **Completed Actions**

551. • NONPROCUREMENT DEBARMENT AND SUSPENSION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 12459; EO 12689; PL 103-355, sec 2455

CFR Citation: 7 CFR 3017

Legal Deadline: None

Abstract: This rule finalizes the necessary changes to the USDA rule for nonprocurement debarment and suspension, to implement fully the reciprocity provisions of the cited legal authorities.

Timetable:

Action	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

USDA—AgSEC

Completed Actions

Agency Contact: Gary W. Butler, Deputy Assistant General Counsel, Department of Agriculture, Office of the Secretary
Phone: 202 720-2577
RIN: 0503–AA11
BILLING CODE 3410-90-F

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business and Cooperative Development Service (RBCDS)

Proposed Rule Stage

552. LOCAL TECHNICAL ASSISTANCE AND PLANNING GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 7 USC 1926

CFR Citation: 7 CFR 4284; 7 CFR 1951

Legal Deadline: None

Abstract: The Rural Business and Cooperative Development Service proposes this action to add a new regulation implementing a grant program to fund local technical assistance and planning activities in rural areas for the purpose of improving economic conditions in the areas. Grants will be available to public bodies and nonprofit organizations. This action is necessary to comply with P.L. 101-624. Grants may be used for technical assistance and training for small businesses, identifying and analyzing business opportunities in rural areas, establishing business support centers, conducting local or multi-county economic development planning, coordination of economic development activities, and leadership development training of local government officials.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, Room 6348 South Building, Washington, DC 20250 Phone: 202 720-9744

RIN: 0570–AA05

553. RURAL BUSINESS LOAN STREAMLINING

Regulatory Plan: This entry is Seq. No. 11 in Part II of this issue of the **Federal Register**.

RIN: 0570–AA09

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business and Cooperative Development Service (RBCDS)

Final Rule Stage

554. RURAL TECHNOLOGY DEVELOPMENT GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1932; PL 101-624

CFR Citation: 7 CFR 4284; 7 CFR 1940; 7 CFR 1951; 7 CFR 2.23; 7 CFR 2.70

Legal Deadline: Other, Statutory, May 28, 1991.
The Extension Service had $1 million for the program in its FY '93 budget and has funds for FY '94.

Abstract: This action will add a new regulation implementing a grant program to fund the establishment and operation of centers for rural technology or cooperative development. Grants will be available to public bodies and nonprofit organizations. This action is necessary to comply with PL 101-624. An aim of this program is to stimulate nonfederal participation in economic development activities and allow grant funds to reach a broad range of rural economic development efforts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/12/94	59 FR 41386
Final Action	12/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Tribal, Federal

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Housing and Community Development Service, Room 6348 South Building, Washington, DC 20250 Phone: 202 720-9744

RIN: 0570–AA02

555. RURAL BUSINESS ENTERPRISE GRANTS AND TELEVISION DEMONSTRATION GRANTS

Priority: Other Significant

Legal Authority: PL 102-552; 7 USC 1927; 7 USC 1939 (c)

CFR Citation: 7 CFR 1942 subpart G; 7 CFR 4284 subpart B

Legal Deadline: None

Abstract: The provision of technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities; to revise the definition for small and emerging private business enterprise to agree with the program size standards established by the Small Business Administration; to clarify certain administrative regulatory guidelines in order to effect improved program administration; and also authorizes grants for educational purposes and distance learning networks.

Timetable:

Action	Date	FR Cite
RBEG Interim Final Rule Provide educational/job training instruction.	05/23/94	59 FR 26585
NPRM	08/09/94	59 FR 40478
NPRM Comment Period End	09/08/94	
Final Action	12/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

USDA—RBCDS

Final Rule Stage

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Business and Cooperative Development Service, Room 6348 South Building, Washington, DC 20250 Phone: 202 720-9744

RIN: 0570–AA08

556. 1980-E BUSINESS AND INDUSTRIAL LOAN PROGRAM—AUDIT REQUIREMENTS

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart E

Legal Deadline: None

Abstract: This action will revise the requirements for financial statements and allow borrowers to provide unaudited financial statements instead of audits.

Timetable:

Action	Date	FR Cite
NPRM	03/28/94	59 FR 14371
NPRM Comment Period End	05/27/94	59 FR 14371
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This entry was reported as RIN 0575-AB37 prior to the reorganization of USDA.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Business and Cooperative Development Service, Room 6348 South Building, Washington, DC 20250 Phone: 202 720-9744

RIN: 0570–AA11

557. INTERMEDIARY RELENDING PROGRAM REWRITE

Priority: Other Significant

Legal Authority: 7 USC 1932 note; 5 USC 301

CFR Citation: 7 CFR 1948

Legal Deadline: None

Abstract: This regulatory package is an initiative to enhance the program through revisions based on experience with operation of the program. The primary changes under consideration include the following: (1) Provide clarifications as to which requirements apply only to Rural Business and Cooperative Development Service (RBCDS) Intermediary Relending Program (IRP) loan funds and which apply to everything in the IRP revolving funds, (2) Authorize State Offices to accept and process applications, (3) Clarify conditions under which an intermediary that does not have lending experience may qualify, (4) Provide that proposed intermediaries that are delinquent on a Federal debt are not eligible, (5) Authorize loans for refinancing, (6) Provide general guidelines for interest rates and terms of loan to ultimate recipients, (7) Provide that intermediaries may receive a series of subsequent loans of up to $1 million each and raise the ceiling on loans to an ultimate recipient to $250,000, (8) Provide for a reserve for bad debts, (9) Allow intermediaries to draw up to 25 percent of their loan at loan closing, (10) Revise application requirements to eliminate some items, provide more detail and provide for streamlined subsequent loan applications, (11) Adjust the priority point scoring system, (12) Provide guidelines for RBCDS concurrence in proposed loans to ultimate recipients.

Timetable:

Action	Date	FR Cite
Interim Final Rule to raise loan limit from 2 million to 4 million	05/12/94	59 FR 24635
NPRM	01/18/95	60 FR 3566
NPRM Comment Period End	03/20/95	60 FR 3566
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: This entry was reported as RIN 0575-AB83 prior to the reorganization of USDA.

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Business and Cooperative Development Service, Room 6348 South Building, Washington, DC 20250 Phone: 202 720-9744

RIN: 0570–AA15

558. • RURAL ECONOMIC DEVELOPMENT LOAN AND GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 940c

CFR Citation: 07 CFR 1703 subpart B

Legal Deadline: None

Abstract: The current provisions that govern grant fund disbursement that were published on March 14, 1994, and October 27, 1994, need to be revised to provide more flexibility to advance grant funds to electric and telephone borrowers (the "grantees"). The agency will review on a case-by-case basis the requirements for disbursement of funds and provide for the advance of funds on an appropriate basis. This rule will greatly improve the Agency's ability to advance grant funds in a manner that is in both the government and the grantee's best interest. The Agency and current grantees believe the changes should be made effective as soon as possible to avoid financial hardships for both the grantees and the ultimate recipients who will receive loans from the revolving loan funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/96	
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $25,000; Yearly Recurring Cost: $25,000; Base Year for Dollar Estimates: 1995

Sectors Affected: None

Agency Contact: Chris Goettelmann, Chief, Regulations Analysis and Control Branch, Department of Agriculture, Rural Business and Cooperative Development Service, Room 6348 South Building, 14th and Independence Avenue SW., Washington, DC 20250 Phone: 202 720-9744

RIN: 0570–AA19

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business and Cooperative Development Service (RBCDS)

Long-Term Actions

559. BUSINESS AND INDUSTRIAL INTEREST BUYDOWN

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/02/94	59 FR 28465
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Chris Goettelmann
Phone: 202 720-9744

RIN: 0570–AA13

560. COMMUNITY FACILITY LOANS: RECREATION AND TOURISM

Priority: Other Significant

CFR Citation: 7 CFR 1980; 7 CFR 1942; 7 CFR 1948

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Chris Goettelmann
Phone: 202 720-9744

RIN: 0570–AA14

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business and Cooperative Development Service (RBCDS)

Completed Actions

561. ALCOHOL FUELS CREDIT IMPLEMENTING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart E

Completed:

Reason	Date	FR Cite
Withdrawn - all funds for program rescinded.	08/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann
Phone: 202 720-9744

RIN: 0570–AA01

562. RURAL BUSINESS ENTERPRISE GRANTS AND TV DEMONSTRATION GRANTS; TECHNICAL ASSISTANCE AND TRAINING GRANTS; NONPROFIT NATIONAL CORPORATIONS LOAN AND GRANT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1942 subpart G; 7 CFR 1942 subpart J; 7 CFR 1980 subpart G

Completed:

Reason	Date	FR Cite
Final Action	10/11/95	60 FR 52838
Final Action Effective	10/11/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Goettelmann
Phone: 202 720-9744

RIN: 0570–AA12

563. BUSINESS AND INDUSTRIAL LOAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980 subpart E

Completed:

Reason	Date	FR Cite
Final Action	05/17/95	60 FR 26350

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Chris Goettelmann
Phone: 202 720-9744

RIN: 0570–AA16

564. RURAL ECONOMIC DEVELOPMENT LOAN AND GRANT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1703 B

Completed:

Reason	Date	FR Cite
Final Action	10/27/94	59 FR 53929
Final Action Effective	11/28/94	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Chris Goettelmann
Phone: 202 720-9744

RIN: 0570–AA18

BILLING CODE 3410-07-F

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Proposed Rule Stage

565. ELECTRIC SYSTEM PLANNING AND DESIGN—POLICIES AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1724

Legal Deadline: None

Abstract: This rule will codify and update Agency policies and procedures for the planning and design of electrical systems of RUS borrowers.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

USDA—RUS

Proposed Rule Stage

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA48

566. ELECTRIC STANDARDS AND SPECIFICATIONS FOR MATERIALS AND CONSTRUCTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1728

Legal Deadline: None

Abstract: This regulation provides RUS borrowers and the public with specifications for material and equipment as a complement to the list of construction standards and specifications incorporated by reference.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA67

567. POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717, subparts A to F; 7 CFR 1717, subparts J to K

Legal Deadline: None

Abstract: This regulation will codify most basic post-loan policies and procedures common to insured and guaranteed electric loans.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA71

568. ELECTRIC SYSTEMS OPERATIONS AND MAINTENANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1730

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to codify and clarify RUS policy concerning operation and maintenance of borrower electric systems. In addition, it is proposed to add RUS policies relating to the review and evaluation of borrower systems and facilities financed with loans from RUS. These policies are presently contained in RUS Bulletin 161-5 which will be rescinded upon publication of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA74

569. CIVIL RIGHTS POLICIES APPLICABLE TO REA BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1790

Legal Deadline: None

Abstract: This action provides REA borrowers with access to the requirements of Title VI, Section 504, and the Age Discrimination Act, which apply directly to the operation of their programs and activities. REA Bulletin 20-19:320-19, entitled Nondiscrimination Among Beneficiaries of REA Programs will be rescinded upon publication of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This entry was reported as 0570-AA17 in the April 1995 Unified Agenda.

Agency Contact: F. Lamont Heppe, Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550

RIN: 0572–AA75

570. LOAN DOCUMENTS—BANK PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 941 et seq

CFR Citation: 7 CFR 1620

Legal Deadline: None

Abstract: RUS proposes to add a new part 1620 which provides information on loan documents which telephone borrowers are required to execute. New part 1620 will also include Rural Telephone Bank standard forms of loan contract, note, and mortgage. Bulletin 402-1, Mortgage Restrictions on Dividends and Other Distributions – Telephone Borrowers, will be rescinded upon publication of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA76

571. RUS FIDELITY AND INSURANCE REQUIREMENTS FOR ELECTRIC AND TELECOMMUNICATIONS BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1788

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is considering revising its regulations concerning the fidelity and insurance requirements for electric and telecommunications borrowers.

Timetable:

Action	Date	FR Cite
ANPRM	04/28/93	58 FR 25786
ANPRM Comment Period End	06/25/93	
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA86

572. USE OF GENERAL FUNDS INVESTMENTS, LOAN GUARANTEES, AND RETIREMENT OF CAPITAL CREDITS BY ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717, subpart O

Legal Deadline: None

Abstract: This rule will set forth procedures for RUS approval of a borrower's use of its own funds that are not the proceeds of RUS loans for additions to electric plan. RUS loans are secured by a first mortgage on the borrower's total electric system. RUS approvals are intended to ensure that the proposed capital additions will not adversely affect the borrower's ability to provide service consistent with the RE Act and to repay its RUS loans.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RUS is splitting the old RIN due to the fact that the four subparts of the old RIN were split into separate actions which are progressing at different rates in the regulatory process.

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250-1500
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB01

573. RUS APPROVAL OF SALE OF CAPITAL ASSETS BY ELECTRIC BORROWERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717, subpart P

Legal Deadline: None

Abstract: This rule will set forth RUS policies and procedures for the sale of capital assets by electric borrowers. RUS loans are secured by a first mortgage on the borrower's electric system. RUS approval of sales of capital assets are intended to ensure that the sale of the assets will not adversely affect the borrower's ability to provide service consistent with the RE Act, and to repay its RUS loans. These policies were last revised in 1972.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RUS is splitting the old RIN due to the fact that the four subparts of the old RIN are now separate regulatory actions which are moving at different rates in the regulatory process.

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250-1500
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB02

574. LOAN DEFERMENTS FOR ENERGY RESOURCES CONSERVATION - ELECTRIC PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717, subpart L

Legal Deadline: None

Abstract: This regulation will codify and update the current Rural Utilities Service (RUS) policy implemented through an RUS bulletin which will be rescinded when this rule is published final. This action is necessary to permit a principal payment extension of monthly billed accounts for the purpose of Energy Resources Conservation (ERC) loans. The current ERC loan program implemented in 1980 allows for the extension of only quarterly principal payments. All RUS loans approved on or after September 1, 1982, require monthly repayments while those loans approved prior to that date required quarterly repayments. This new regulation will codify the current ERC loan program and will amend it to include monthly billed accounts. Most RUS loans have a repayment period of 3.5 years.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250-1500
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB03

575. POWER REQUIREMENT STUDIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 to 950(b); PL 99-591

CFR Citation: 7 CFR 1710 E

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is proposing to update its Power Requirements currently contained in Subpart E of 7 CFR part 1710, Pre-loan Policies and Procedures for Insured and Guaranteed Electric Loans. The updates to subpart E are needed to reflect the addition to 7 CFR 1710 of Subpart H, Loans for Demand Side Management, Energy Conservation Programs, and On-Grid and Off-Grid Renewable Energy Systems. Subpart H was required by the Rural Electrification Loan Restructuring Act of 1993. Other changes to Subpart E are intended to clarify the existing language without changing its overall intent.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250-1500
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB05

576. • POLICY ON AUDITS OF RUS BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1773

Legal Deadline: None

Abstract: This rule incorporates changes to the audit regulation necessitated by the 1994 revision of Government Auditing Standards issued by the Comptroller General of the United States effective January 1, 1995 and by Statement of Auditing Standards No. 74 issued by the Auditing Standards Board of the American Institute of Certified Public Accountants.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234S, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB19

577. • STREAMLINING THE RURAL UTILITIES SERVICE'S WATER AND WASTE PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1989; 16 USC 1005; 5 USC 301

CFR Citation: 7 CFR 1680; 7 CFR 1690

Legal Deadline: None

Abstract: RUS amends the regulations utilized to administer the Water and Waste disposal loan and grant programs. The rule will combine the water and waste loan and grant regulations into one regulation. Unnecessary and burdensome requirements for entities seeking financial assistance under the programs will be eliminated.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	

USDA—RUS

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234-S, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB20

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Final Rule Stage

578. LOAN ACCOUNT COMPUTATIONS, POLICIES, AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1785; 7 CFR 1786, subpart A

Legal Deadline: None

Abstract: RUS proposes to codify, consolidate, and update the policies and procedures currently contained in RUS Bulletin 20-9:320-12.

Timetable:

Action	Date	FR Cite
NPRM	04/07/93	58 FR 18043
NPRM Comment Period End	05/07/93	
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA65

579. RESCISSION OF RUS BULLETINS 345-13, 345-29, 345-75, AND 345-178 —TELEPHONE PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: RUS withdraws and rescinds four specifications for telephone materials and equipment which are obsolete due to innovations in technology.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	54 FR 46071
NPRM Comment Period End	01/02/90	
Final Action	11/06/95	
Final Action Effective	12/06/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA66

580. LONG-RANGE FINANCIAL FORECASTS OF ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 to 950(b); PL 99-591

CFR Citation: 7 CFR 1710, subpart G

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to amend its pre-loan regulations for electric loans to clarify and revise the requirement that borrowers submit to RUS a long-range financial forecast as part of an application for a loan, loan guarantee, lien accommodation. This proposed rule is intended to strengthen credit practices and to assist borrowers in preparing, and RUS staff in reviewing loan applications.

Timetable:

Action	Date	FR Cite
NPRM	08/20/93	58 FR 44288
NPRM Comment Period End	09/20/93	58 FR 44288
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA89

581. ACCOUNTING REQUIREMENTS FOR RUS TELECOMMUNICATIONS BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1770 C

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is proposing to add a new subpart that codifies RUS' current policy on the accounting for postretirement benefits, Rural Telephone Bank stock, cushion of credit investments, Rural Economic Development loans, and satellite or cable television services.

USDA—RUS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/14/94	59 FR 47097
NPRM Comment Period End	11/14/94	
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250-1500
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB10

582. COMMUNITY FACILITY LOANS - TIMBER-DEPENDENT COMMUNITIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-427

CFR Citation: 7 CFR 1942 subpart A

Legal Deadline: None

Abstract: The revised regulations will implement Pub. L. 103-427, that ensures timber-dependent communities in the Pacific Northwest, adversely affected by the "Forest Plan for a Sustainable Economy and a Sustainable Environment," dated July 1993, qualify for certain rural development loans and grants. Pub. L. 103-427 temporarily expands population eligibility for certain development loans and grants for a limited number of rural communities in the Pacific Northwest.

Timetable:

Action	Date	FR Cite
Final Action	10/01/95	
Final Action Effective	11/01/95	
Interim Final Rule	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: This will be a joint rule promulgated by the Rural Utilities Service and the Rural Housing and Community Development Service.

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB11

583. • ESTABLISH WATER AND WASTE DISPOSAL REGULATIONS WITHIN THE RURAL UTILITIES SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 7 USC 1005; 7 USC 301

CFR Citation: 7 CFR 1680; 7 CFR 1690; 7 CFR 1691; 7 CFR 1693; 7 CFR 1694

Legal Deadline: None

Abstract: RUS amends the regulations originally published by the Farmers Home Administration (FMHA) and the Rural Development Administration (RDA). These amendments implement legislation directing the Secretary of Agriculture to establish the RUS with responsibility for the water and waste disposal programs formerly administered by FMHA and RDA.

Timetable:

Action	Date	FR Cite
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Washington, DC 20250, Room 2234-S
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB21

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Long-Term Actions

584. LOAN SECURITY DOCUMENTS—TELEPHONE PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1744

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA30

585. WHOLESALE CONTRACTS FOR THE PURCHASE AND SALE OF ELECTRIC POWER AND ENERGY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1717.300 to 1717.349

Timetable:

Action	Date	FR Cite
NPRM	09/21/90	55 FR 38930
NPRM Comment Period End	11/20/90	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA41

586. MARGIN STABILIZATION PLANS AND REVENUE AND EXPENSE DEFERRALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

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Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1767, subpart E

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA50

587. DEPRECIATION RATES AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1767, subpart C

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA80

588. PRESERVATION OF RECORDS ACCOUNTING REQUIREMENTS FOR RUS ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1767, subpart D

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA92

589. LIQUIDATION OF LOANS AND ACQUISITION, MANAGEMENT AND DISPOSAL OF SECURITY PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1696; 7 CFR 1697; 7 CFR 1951 subpart E; 7 CFR 1955 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 2.23; 7 CFR 2.70

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB13

590. SOLID WASTE MANAGEMENT GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1692; 7 CFR 1942 subpart J

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB14

591. TECHNICAL ASSISTANCE AND TRAINING GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1691; 7 CFR 1942 subpart J

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: F. Lamnot Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB15

592. • USE OF CONSULTANTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1789

Legal Deadline: None

Abstract: Legislation as part of the Omnibus Budget Reconciliation Act of 1992 (OBRA) would allow borrowers to pay for consultants hired by RUS to expedite processing of loans, lien accommodations and other actions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Legislation as part of the Omnibus Budget Reconciliation Act of 1992 (OBRA) would allow borrowers to pay for consultants hired by RUS to expedite processing of loans, lien accommodations, and other actions.

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234-S, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB17

593. REVISION OF TELECOMMUNICATION POLICIES AND PROCEDURES FOR APPROVAL OF STANDARDS, SPECIFICATIONS, CONTRACT FORMS, AND DRAWINGS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1755

Completed:

Reason	Date	FR Cite
Withdrawn	09/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA45

594. SPECIFICATION FOR FIBER OPTIC SPLICE CLOSURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1755

Completed:

Reason	Date	FR Cite
Withdrawn	09/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550

RIN: 0572–AA62

595. REA SPECIFICATION FOR MECHANICAL FIBER OPTIC SPLICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1755

Completed:

Reason	Date	FR Cite
Withdrawn	09/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550

RIN: 0572–AA64

596. RUS PERFORMANCE SPECIFICATION FOR LINE CONCENTRATORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1755

Completed:

Reason	Date	FR Cite
Withdrawn	09/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550

RIN: 0572–AA72

597. RUS BUY AMERICAN REQUIREMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1792, subpart B

Completed:

Reason	Date	FR Cite
Withdrawn	09/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA73

598. SPECIFICATION FOR POLE LINE HARDWARE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1728

Completed:

Reason	Date	FR Cite
Withdrawn	09/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550

RIN: 0572–AA83

599. TITLE EVIDENCE POLICIES AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1710; 7 CFR 1735

Completed:

Reason	Date	FR Cite
Withdrawn	09/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA90

600. EXEMPTIONS OF RUS CONTROLS OVER BORROWER OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1710.7; 7 CFR 1717

Completed:

Reason	Date	FR Cite
End Review	01/28/94	

USDA—RUS — **Completed Actions**

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA96

601. PRE-LOAN POLICIES AND PROCEDURES FOR ELECTRIC LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1710; 7 CFR 1714

Completed:

Reason	Date	FR Cite
End Review	12/20/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA98

602. LOANS FOR DEMAND-SIDE MANAGEMENT, ENERGY CONSERVATION PROGRAMS, AND ON-GRID AND OFF-GRID RENEWABLE ENERGY SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1710

Completed:

Reason	Date	FR Cite
End Review	01/04/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA99

603. REFINANCING AND PREPAYMENT OF FFB LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1786, subpart G

Completed:

Reason	Date	FR Cite
End Review	09/30/93	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB00

604. LOAN SECURITY DOCUMENTS FOR ELECTRIC LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1718

Completed:

Reason	Date	FR Cite
Final Action	07/18/95	60 FR 36882

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB06

605. CREDIT SUPPORT OF POWER SUPPLY BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1710

Completed:

Reason	Date	FR Cite
Withdrawn	09/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB09

606. COMMUNITY FACILITY LOANS - CONSTRUCT OR IMPROVE SOLID WASTE FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1942 subpart A

Completed:

Reason	Date	FR Cite
Final Action	03/01/95	60 FR 11019

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB12

607. • INVESTMENTS, LOANS AND GUARANTEES BY ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717

Legal Deadline: None

Abstract: RUS revises its policies and requirements governing restrictions on investments, loans and guarantees made by electric borrowers.

Timetable:

Action	Date	FR Cite
NPRM	02/16/95	60 FR 8981
Final Action	09/21/95	60 FR 48870
Final Action Effective	10/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234-S, Washington, DC 20250
Phone: 202 720-9550

USDA—RUS — **Completed Actions**

Fax: 202 720-4120

RIN: 0572–AB16

BILLING CODE 3410-15-F

DEPARTMENT OF AGRICULTURE (USDA)
National Resources Conservation Service (NRCS)

Completed Actions

608. WETLANDS RESERVE PROGRAM INTERIM RULE

Priority: Other Significant

CFR Citation: 7 CFR 620

Completed:

Reason	Date	FR Cite
Final Action	06/01/95	60 FR 28511

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Misso
Phone: 202 690-0848

RIN: 0578–AA15

BILLING CODE 3410-16-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of Operations (OO)

Proposed Rule Stage

609. AGRICULTURE ACQUISITION REGULATION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 401 to 453 (Revision)

Legal Deadline: None

Abstract: The Agriculture Acquisition Regulation is the Department of Agriculture's agency acquisition regulation, issued to implement or supplement the Federal Acquisition Regulation. The Agriculture Acquisition Regulation is being revised to incorporate changes required by the Federal Acquisition Streamlining Act of 1994, Executive Orders, The Federal Acquisition Regulation, and recent Office of Federal Procurement Policy Letters. The revised regulation will also incorporate changes suggested by the National Performance Review, by the Department of Agriculture's Procurement Review Task Force, and by the Department of Agriculture's Modernization of the Administrative Process Project.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: Multiple

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Joseph Daragan, Procurement Analyst, Department of Agriculture, Office of Operations, Rm 1550 South Building, Washington, DC 20250
Phone: 202 720-5729
Fax: 202 720-8972

RIN: 0599–AA00

[FR Doc. 95-26070 Filed 11-24-95; 8:45 am]

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federal register

Tuesday
November 28, 1995

Part IV

Department of Commerce

Semiannual Regulatory Agenda

DEPARTMENT OF COMMERCE (DOC)

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. II, III, VII, VIII, IX, XI

19 CFR Ch. III

37 CFR Chs. I, IV, and V

48 CFR Ch. 13

50 CFR Chs. II, III, IV, and VI

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: October 1995 regulatory agenda.

SUMMARY: In compliance with Executive Order (E.O.) 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act (Pub. L. 96-354), the Department of Commerce, in April and October of each year, publishes in the **Federal Register** an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, and rulemaking actions completed since the April 1995 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's October 1995 regulatory agenda includes regulatory activities that are expected to be conducted during the period October 1, 1995, through September 30, 1996.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Michael A. Levitt, Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230; telephone: 202-482-0846.

SUPPLEMENTARY INFORMATION: E.O. 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of August 2, 1995, the Office of Management and Budget (OMB) issued guidelines and procedures for the preparation and publication of the October 1995 Regulatory Plan and Unified Agenda of Federal Regulations. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires agencies to publish, in April and October of each year, a regulatory flexibility agenda which contains a brief description of the subject area of any rule which is likely to have a significant economic impact on a substantial number of small entities.

Reinventing Government

As part of the President's Regulatory Reform Initiative, the President directed agencies to conduct a page-by-page review of all regulations and eliminate or revise those that are outdated or otherwise in need of reform. The October 1995 agenda contains information on the Department's review of its regulations and identifies whether or not a current rule making is part of the Regulatory Reform and Reinventing Government effort. A number of regulations will be eliminated. Other regulations will be revised to reduce burden or duplication or to streamline the requirements.

Department of Commerce Regulatory Plan

For this edition of the Department of Commerce's agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Explanation of Information Contained in the Agenda

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units, such as the Bureau of Export Administration, the International Trade Administration, the National Oceanic and Atmospheric Administration (NOAA), and the Patent and Trademark Office, issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, a section on "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Act) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries which require conservation and management measures. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing can be conducted in a fishery for which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

The DOC October 1995 regulatory agenda follows.

Dated: September 13, 1995.

Ginger Lew,

General Counsel.

DOC

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
610	Standards of Ethical Conduct—Department of Commerce Supplemental Regulations	0690-AA23

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
611	Contract Clauses and Solicitation Provisions for the Commerce Automated Solicitation System	0690-AA08

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
612	Rescission of Certain Commerce Acquisition Regulations	0690-AA24

Bureau of Economic Analysis—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
613	Benchmark Survey of Selected Services Transactions With Unaffiliated Foreign Persons	0691-AA27

Bureau of Economic Analysis—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
614	Annual Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons	0691-AA26

Bureau of Economic Analysis—Completed Actions

Sequence Number	Title	Regulation Identifier Number
615	Short Form for Reporting Small Foreign Affiliates in the BE-11, Annual Survey of U.S. Direct Investment Abroad	0691-AA25

Economic Development Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
616	Simplification and Streamlining of Regulations of the Economic Development Administration **(Reg Plan Seq. No. 12)**	0610-AA47

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

DOC

General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
617	Uniform Administrative Requirement for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofits and Commercial Organizations	0605-AA09
618	Cost Principles for State, Local, and Indian Tribal Governments	0605-AA10

General Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
619	Nonprocurement Debarment and Suspension	0605-AA02

International Trade Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
620	Antidumping and Countervailing Duty Proceedings; Administrative Protective Order Procedures and Procedures for Imposing Sanctions for Violation of a Protective Order	0625-AA43
621	Antidumping Duties; Countervailing Duties **(Reg Plan Seq. No. 13)**	0625-AA45
622	Proposed Changes in Procedures for Insular Watch Program	0625-AA46

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Bureau of Export Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
623	Defense Priorities and Allocations System (DPAS)	0694-AA02
624	Implementation of Chemical Weapons Convention	0694-AB06

Bureau of Export Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
625	Revision of Foreign Boycott Provisions of Export Administration Regulations	0694-AA11
626	Transfer of Dual-Use Items From U.S. Munitions List to the Commerce Control List	0694-AA52
627	Exports to Iran; Revision of Foreign Policy Controls	0694-AA62
628	Simplification of the Export Administration Regulations **(Reg Plan Seq. No. 14)**	0694-AA67
629	Implementation of the Cuba Democracy Act	0694-AA77
630	Effect of Imported Articles on the National Security	0694-AB01
631	Exports of Sample Shipments in Mixtures Containing Precursors and Intermediate Chemicals; Revisions to Australia Group Members	0694-AB05
632	Foreign Policy Controls: Crime Control, Implements of Torture, and Arms Embargo Against Rwanda	0694-AB08
633	Transfer of Certain Remote Sensing Satellites From the U.S. Munitions List to the CCL	0694-AB09
634	Clarification of Enhanced Proliferation Control Initiative (EPCI) "Catch-All" Provision and Validated License Requirements	0694-AB10
635	Revision to the EAR; Supplement No. 2 to Part 778	0694-AB12
636	Revisions to the EAR: Establishment of a Standard Saving Clause	0694-AB15
637	Countries Eligible to Receive Supercomputers Under Special Licensing Procedures	0694-AB16
638	Revisions and Clarifications to Permissive Reexport and General License GLX	0694-AB17
639	Revisions to Licensing Policy for North Korea	0694-AB19
640	Editorial Clarification and Corrections to the Export Administration Regulations; Removal of ECCN 1C65	0694-AB23
641	Proliferation Entity List	0694-AB24
642	Administration of State Log Exports Ban	0694-AB25

DOC

Bureau of Export Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
643	Revision to the EAR: ELAIN Accepts Classification Request	0694-AB26
644	Renumbering of Export Control Classification Numbers	0694-AB27
645	Libya: Expansion of Foreign Policy Controls	0694-AB28
646	Revision to the Commerce Control List: Items Controlled for Nuclear Nonproliferation Reasons	0694-AB29
647	Expansion of General License GLX	0694-AB30
648	Exports to Iran: Imposition of Sanctions	0694-AB31
649	Revision to General License GCG (Shipments to Agencies of Cooperating Governments)	0694-AB34
650	Changes to the Commerce Control List to Accord with the New Forum List	0694-AB35

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Bureau of Export Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
651	Equipment Related to the Production of Chemical Weapons and Warfare Agents, Microorganisms, and Toxins; Revisions to Australia Group Members	0694-AA69
652	Revisions to the Export Administration Regulations; Removal of Controls on Certain On-Highway Vehicles to Iran and Syria; Corrections and Clarifications	0694-AA72
653	International Import Certificates, General License G-Temp Australia and PRC IC/DV Revisions	0694-AB07
654	Federal Republic of Yugoslavia and UNITA in Angola	0694-AB11
655	Revision to the EAR; Removal of Poland From General License GNSG and Addition of Argentina and New Zealand to GNSG	0694-AB14
656	Establishment of a New General License G-BETA for Exports of Beta Test Software	0694-AB18
657	Revision to Regulations Pertaining to Exports of Samples and Mixtures Containing Precursor and Intermediate Chemicals	0694-AB20
658	Export to Terrorist-Supporting Countries; Parts, Components, and Materials Incorporated Abroad Into Foreign-Made Products	0694-AB22
659	Editorial Correction General Software Note; Commerce Control List Interpretations 24, 25, and 26	0694-AB33

National Institute of Standards & Technology—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
660	Fastener Quality	0693-AA90

National Oceanic and Atmospheric Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
661	Advanced Notice of Proposed Rulemaking; Consideration of a Control Date for South Atlantic and Gulf of Mexico King Mackerel	0648-AI12
662	Advance Notice of Proposed Rulemaking for the American Lobster Fishery Management Plan	0648-AI14
663	Seafood Inspections and Related Services	0648-AI45
664	Take of Marine Mammals by the U.S. Navy Incidental to Military Activities in the South Atlantic of the United States	0648-AG55

National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
665	Scientific Research—Domestic and Foreign Fishing	0648-AC61

DOC

National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
666	Fishery Management Plan for the Queen Conch Fishery of Puerto Rico and the U.S. Virgin Islands	0648-AD91
667	Secretarial Amendment to the FMP for Atlantic Swordfish	0648-AE09
668	Fishery Management Plan for Corals and Reef-Associated Plants and Invertebrates for Puerto Rico and the U.S. Virgin Islands	0648-AE47
669	Amendment 21B to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands	0648-AE97
670	Amendment 5 to the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish	0648-AF01
671	Amendment 9 to the FMP for Atlantic Surf Clam and Ocean Quahog	0648-AF41
672	Regulatory Amendment Regarding Mesh Size in Trawls and Rock Sole Vessel Incentive Program Standards in Alaska Groundfish Fisheries	0648-AF57
673	Regulatory Amendment for Red Grouper in the Gulf of Mexico	0648-AF78
674	Amendment 1 to the FMP for the Scallop Fishery Off Alaska	0648-AF81
675	Fishery Management Plan for Atlantic Tunas	0648-AF86
676	Amendment 1 to the Fishery Management Plan for Atlantic Billfish	0648-AF88
677	Amendment 8 to the Pacific Coast Groundfish FMP To Implement Individual Quotas for the Fixed-Gear Sablefish Fishery (or Regulatory Amendment for Nontrawl Trip Limits)	0648-AF90
678	Amendment 8 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic	0648-AG25
679	Amendment 1 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic	0648-AG26
680	Amendment 8 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AG27
681	Amendments 8, 11, and 12 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AG29
682	Regulatory Amendment To Prohibit Use of Open Access and Limited Entry Gear on the Same Trip for the Pacific Coast Groundfish Fishery	0648-AG30
683	Regulatory Amendment Designating "Routine" Trip Limits in the Pacific Coast Groundfish Fishery	0648-AG31
684	Regulatory Amendment to Require Processing Vessels in the Pollock Fishery to Weigh Catch At Sea	0648-AG32
685	Amendment 33 to the FMP for the Groundfish Fishery of the BSAI and Amendment 37 to the FMP for Groundfish of the GOA	0648-AG41
686	General Provisions for Domestic Fisheries—Standard Definitions/ Guidelines for Council Operations/Administration: Oath, Voting, Compensation, Insurance, Unused Leave	0648-AG46
687	Regulatory Amendment To Change Recordkeeping and Reporting Requirements in Alaska Groundfish Fisheries	0648-AG54
688	New Dealer Reporting Form for Large Pelagics	0648-AG76
689	Regulatory Amendment To Impose Restrictions on Fishing Black Rockfish off Oregon	0648-AG81
690	Regulatory Amendment for Managing Pelagic Fisheries by U.S. Vessels Beyond EEZ Throughout Pacific	0648-AG85
691	Amendment 1 to the Fishery Management Plan for Atlantic Coast Red Drum	0648-AG86
692	Amendment 3 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands	0648-AG87
693	Amendment 1 to the Fishery Management Plan for Corals and Reef-Associated Plants and Invertebrates for Puerto Rico and the U.S. Virgin Islands	0648-AG88
694	Regulatory Amendment To Adjust Red Snapper Management Measures in the Gulf of Mexico for 1996 Season	0648-AG89
695	Generic Fishery Management Plan Amendment for the Definition of Traps in the Gulf of Mexico	0648-AG90
696	Regulatory Amendment for Grid Sorting	0648-AG93
697	Regulatory Amendment for the Gulf of Alaska Seamount Fisheries	0648-AG94
698	Regulatory Amendment To Provide Clarification of Separate Qualification for Halibut and Sablefish Quota Shares	0648-AG96
699	Regulatory Amendment Allowing Early Individual Fishing Quota Fishing in the Aleutian Islands Area	0648-AG97
700	Amendment 32 to the FMP for the Groundfish Fishery of the BSAI and Amendment 36 to the FMP for the Groundfish of the GOA	0648-AG99
701	Amendment 38 to the FMP for the Groundfish Fishery of the BSAI and Amendment 40 to the FMP for the Groundfish Fishery of the GOA	0648-AH00
702	Amendment 34 to the FMP for the Groundfish Fishery of the BSAI	0648-AH02
703	Amendment 26 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands and Amendment 29 to the FMP for the Groundfish Fishery of the Gulf of Alaska	0648-AH03
704	Fishery Management Plan for Scup North of Cape Hatteras	0648-AH05
705	Fishery Management Plan for Black Sea Bass North of Cape Hatteras	0648-AH06
706	Regulatory Amendment for Multiple "A" Pacific Groundfish Limited Entry Permits Per Vessel	0648-AH07
707	Regulatory Amendment To Facilitate Monitoring and Enforcement in the Pacific Coast Groundfish Fishery	0648-AH21
708	FMP Amendment 37 to the Groundfish Fishery of the BSAI	0648-AH28
709	Definition of "Safe Boarding Ladder" for Fisheries Regulations	0648-AH39
710	Amendment 6 to the Fishery Management Plan for American Lobster	0648-AH41
711	Enforcement of Permit Requirements and Other Provisions Governing the Northwestern Hawaiian Islands Bottomfish Fishery	0648-AH48

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National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
712	Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AH52
713	Striped Bass Regulations for the Exclusive Economic Zone (EEZ)	0648-AH57
714	FMP Amendment for the Groundfish Fishery of the BSAI and the FMP Amendment for the Groundfish of the GOA	0648-AH61
715	Amendment 1 to the Fishery Management Plan for Atlantic Bluefish	0648-AH63
716	Amendment 39 to the FMP for Groundfish Fishery of BSAI, Amendment 41 to the FMP for Groundfish of the GOA and Amendment 5 to the FMP for Commercial King & Tanner Crab Fisheries of the BSAI	0648-AH65
717	FMP Amendment 36 for the Groundfish Fishery of the BSAI and FMP Amendment 39 for the Groundfish of the GOA	0648-AH67
718	FMP Amendment 38 for the Groundfish Fishery of the GOA	0648-AH68
719	Amendment 7 to the Fishery Management Plan for the Northeast Multispecies Fisheries	0648-AH70
720	Amendment 8 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP)	0648-AH72
721	Amendment 3 to the Fishery Management Plan for Corals and Coral Reefs of the Southern Atlantic States	0648-AH74
722	Regulatory Adjustments to the FMP for Sharks of the Atlantic Ocean	0648-AH77
723	Plan Amendment to FMP for Sharks of the Atlantic Ocean That Would Limit Entry	0648-AH78
724	Regulatory Amendment Regarding Exercise of Rights of Northwest Treaty Indian Tribes to Harvest Groundfish	0648-AH84
725	Fishery Management Plan for the Golden Crab Fishery off the South Atlantic Region	0648-AH86
726	Proposed Rule; Amendment 7 to the Summer Flounder Fishery Management Plan	0648-AH94
727	Notice of Changes in the Management Regimes for Atlantic and Gulf Groups of King and Spanish Mackerel for the 1996-97 Fishing Year	0648-AI13
728	Amendment 2 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic	0648-AI15
729	Withdrawal of Federal Fisheries Regulations	0648-AI16
730	Consolidation of General Fishery Regulations of the United States	0648-AI17
731	Consolidation of Fisheries Regulations of Alaska	0648-AI18
732	Consolidation of Fisheries Regulations of the Pacific Coast and Western Pacific	0648-AI19
733	Consolidation of Fisheries Regulations of the Southeastern United States, Puerto Rico, and the U.S. Virgin Islands	0648-AI20
734	Consolidation of Fisheries Regulations of the Northeastern United States	0648-AI21
735	Consolidation of International Fisheries Regulations	0648-AI22
736	1996 Total Allowable Catch of Atlantic Swordfish	0648-AI23
737	Amendment 10 To the FMP for Atlantic Surf Clam And Ocean Quahog	0648-AI27
738	Consolidation of Atlantic Highly Migratory Species Regulations	0648-AI28
739	1996 Atlantic Tuna Fisheries Quotas and Effort Controls	0648-AI29
740	Regulatory Amendment to Change the Non-trawl Sablefish Regular Season in the Pacific Coast Groundfish Fishery	0648-AI30
741	Regulatory Amendment Requiring Longline Vessel Operators to Carry Observers at No Cost to U.S. Government	0648-AI31
742	Amendment 9 to the Western Pacific Crustacean Fishery Management Plan	0648-AI32
743	Regulatory Amendment to Change the Start of the Whiting Regular Season to May 15 North of 42 Degrees North Latitude	0648-AI34
744	Amendment 5 to the Atlantic Sea Scallop Fishery Management Plan	0648-AI36
745	Framework Adjustment to the Atlantic Sea Scallop Fishery Management Plan	0648-AI37
746	Regulatory Amendment to Adjust the Total Allowable Catch for Royal Red Shrimp in the Gulf of Mexico	0648-AI39
747	Amendment 1 to the North Pacific Fishery Research Plan	0648-AI40
748	General Provisions for Domestic Fisheries	0648-AE39
749	Prescription of Fishways Under Section 18 of the Federal Power Act	0648-AG53
750	Screening of Water Diversions To Protect Sacramento River Winter-Run Chinook Salmon	0648-AF80
751	Foreign Nations' Marine Mammal Program Amendments	0648-AG05
752	Designation of Critical Habitat for the Gulf of Maine Population of Harbor Porpoise	0648-AG06
753	Taking and Importing of Marine Mammals: Tuna Purse Seine Vessel Observer Expenses	0648-AG35
754	Taking and Importing of Marine Mammals; Taking of Marine Mammals Under the ATA Permit After February 28, 1994	0648-AG36
755	General Provisions; Endangered Fish or Wildlife; Threatened Fish and Wildlife; Sea Turtle Conservation Measures (Sec. 9 Protection)	0648-AG38
756	Designated Critical Habitat; Pacific Steelhead	0648-AG49
757	Designated Critical Habitat; Pacific Coho Salmon	0648-AG56
758	Designated Critical Habitat; Umpqua River Sea-Run Cutthroat Trout	0648-AG58
759	Proposed Rule To Authorize Lethal Takings of Marine Mammals by State Authorities	0648-AG79
760	Final Rule To Amend Marine Mammal Regulations to Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238	0648-AG80
761	Proposed Designation of Critical Habitat for Puget Sound Salmon Stocks	0648-AH11

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National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
762	Proposed Rule to Provide Regulations for Permits for Capture, Transport, Import and Export of Protected Species for Public Display, and for Maintaining a Captive Marine Mammal Inventory	0648-AH26
763	Proposed Rule Governing the Issuance of Permits for Marine Mammal Photography	0648-AH31
764	Shrimp Vessel Registration Requirement	0648-AH87
765	Critical Habitat Designation for Green Sea Turtles in Culebra, Puerto Rico	0648-AH88
766	Identification of Special Sea Turtle Conservation Areas and Appropriate Conservation Measures	0648-AH89
767	Sea Turtle Conservation; Commercial Shrimp Vessel Permit	0648-AI25
768	Florida Keys National Marine Sanctuary **(Reg Plan Seq. No. 15)**	0648-AD85
769	Streamlining of National Marine Sanctuary Program Regulations	0648-AF23
770	Hawaiian Islands Humpback Whale National Marine Sanctuary	0648-AH91
771	Restricting or Prohibiting Attracting Sharks in the Monterey Bay National Marine Sanctuary	0648-AH92
772	Allowance of Small-Scale Non-Intrusive Jade Collecting in Monterey Bay National Marine Sanctuary	0648-AI06
773	Ocean Thermal Energy Conversion Licensing Program	0648-AI42
774	Coastal Zone Management Program Development and Approval Regulations	0648-AI43
775	Licensing of Private Remote-Sensing Space Systems	0648-AC64
776	Natural Resource Damage Assessment and Restoration Regulations **(Reg Plan Seq. No. 16)**	0648-AE13
777	National Weather Service Modernization Criteria for Authorization Certification	0648-AF72

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

National Oceanic and Atmospheric Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
778	Regulatory Amendment To Implement Permit, Reporting, and Recordkeeping and Observer Requirements for Processing Vessels Over 125 Feet and Their Catcher Vessels; Pacific Coast Groundfish	0648-AE01
779	Regulatory Amendment on Interactive Communications in the Groundfish Fisheries of the GOA and BSAI	0648-AE78
780	Financial Disclosure of Fishery Management Council Nominees, Members, and Executive Directors	0648-AG16
781	Combined Framework Adjustment—Adjustment 7 to the Northeast Multispecies FMP, Adjustment 3 to the Atlantic Sea Scallop FMP, and Adjustment 1 to the American Lobster FMP	0648-AH37
782	Interim Final Rule To Make Certain Changes in the Limited Access Appeals Procedure	0648-AH38
783	Notice of Changes in the Management Regimes for Atlantic and Gulf Groups of King and Spanish Mackerel for the 1995-96 Fishing Year	0648-AH53
784	Weakfish Regulation for the Exclusive Economic Zone (EEZ)	0648-AH58
785	Final Rule and Approval of Catch Sharing Plan	0648-AH64
786	Amendment 3 to the Fishery Management Plan for Corals and Coral Reefs of the Gulf of Mexico	0648-AH71
787	Summer Flounder Fishery: Dealer Reporting Requirements	0648-AH95
788	Interim Final Rule Allowing Retention of IFQ Species in Specified Areas Under 50 CFR 676.16(d)	0648-AI09
789	Annual Harvest Guideline for the Northwestern Hawaiian Islands Lobster Fishery	0648-AI33
790	Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries off the Coasts of Washington, Oregon, and California	0648-AI35
791	Fishermen's Protective Act	0648-AC73
792	Fishing Vessel Capital Construction Fund Procedures—Eligibility for Safety Improvements	0648-AF22
793	Fishing Vessel Obligation Guarantee Program	0648-AF48
794	Civil Procedure Regulations	0648-AF96
795	Performance Standards for Tuna Vessel Operators	0648-AD03
796	Final Rule for Regulations Generic to Permits Issued Under Section 104 of the MMPA, and for Regulations Specific to Permits Issued for Scientific Research and Enhancement Purposes	0648-AD11
797	Regulations Governing the Take of Dolphins Incidental to Removing Oil and Gas Platforms in the Gulf of Mexico	0648-AD25
798	Taking and Importing of Marine Mammals; Dolphin Mortality Limits During Purse Seine Sets on Marine Mammals in the Eastern Tropical Pacific	0648-AF07
799	Taking and Importing of Marine Mammals; "Dolphin-Safe" Tuna Labeling	0648-AF08
800	Proposed List of Fisheries as Authorized by Public Law 103-238	0648-AG77
801	Taking and Importing of Marine Mammals: Proposed Rule Prohibiting U.S. Citizens From Encircling Marine Mammals During Tuna Fishing Operations	0648-AH04
802	Final Rule To Establish Guidelines for Nonlethally Deterring Marine Mammals From Endangering Personal Safety or Damaging Public or Private Property	0648-AH19
803	General Authorization for Scientific Research Involving Level B Harassment	0648-AH20

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National Oceanic and Atmospheric Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
804	Final Rule Establishing Leatherback Turtle Conservation Zone	0648-AH30
805	Final Rule Establishing Leatherback Turtle Conservation Zone	0648-AH97

National Oceanic and Atmospheric Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
806	Fishery Management Plan for Tilefish	0648-AF87
807	American Lobster Fishery Management Plan	0648-AI26
808	Processed Fishery Products, Processed Products Thereof & Certain Other Processed Food Products: U.S. Standards for Grades of Frozen Fish Blocks & Products Made Therefrom, Etc	0648-AA46
809	U.S. General Standards for Grades of Shrimp	0648-AA47
810	U.S. General Standards for Grades of Finfish Products	0648-AD53
811	U.S. Standards for Grades of Frozen Fish Portions	0648-AD92
812	Certificate of Legal Origin for Anadromous Fish Products	0648-AD93
813	U.S. Standards for Grades of Whole or Dressed Fish	0648-AE69
814	U.S. Standards for Grades of North American Freshwater Catfish and Products Made Therefrom	0648-AE70
815	U.S. Standards for Grades of Fish Fillets	0648-AE71
816	Amendment to Procedure Governing the Readjustment and Increase in Hourly Rates of Fees	0648-AH24
817	Procedure for Setting Quotas on Removal of Atlantic Bottlenose Dolphins From the Waters of the Gulf of Mexico and Florida's East Coast	0648-AD39
818	Sea Turtle Monitoring and Conservation Measures for Nonshrimp Fisheries	0648-AE54
819	Proposed Rule To Require Certain Fish From Mexico To Retain Heads and Tails Intact in Order To Protect the Endangered Totoaba	0648-AF32
820	Taking of Marine Mammals Incidental to Fisheries-Related Research	0648-AF50
821	Designated Critical Habitat; Johnson's Seagrass	0648-AF79
822	Direct Take of Threatened Salmon by Native Americans	0648-AG15
823	Designated Critical Habitat; Atlantic Salmon	0648-AG50
824	Protection Zones for Northern Right Whales; Response to Petition	0648-AH47
825	Proposed Rule To Govern the Transportation of Native Handicrafts	0648-AH83
826	Sea Turtle Conservation; Restriction Applicable to Shrimp Trawl Excluder Devices Restrictions	0648-AI24
827	Revision of Federal Consistency Regulations Under the Coastal Zone Management Act	0648-AD83
828	Thunder Bay National Marine Sanctuary	0648-AE41
829	Regional Marine Research Program	0648-AF20
830	NOAA Climate and Global Change Program—Proposal Submission Guidelines	0648-AG51
831	National Undersea Research Program Funding Regulations	0648-AH90

National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
832	Fishery Management Plan for Atlantic Herring	0648-AE50
833	Amendment 4 to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic	0648-AF37
834	Regulatory Amendment—Changes to Directed Fishing Regulations for Groundfish Off of Alaska	0648-AF53
835	Regulatory Adjustments to 1994-1995 Atlantic Tuna Fisheries	0648-AG14
836	Regulatory Amendment to the Individual Fishing Quota Program for Groundfish off Alaska	0648-AG45
837	Regulatory Amendment To Modify the Sablefish Non-Trawl Regular Season in the Pacific Coast Groundfish Fishery	0648-AG82
838	Regulatory Amendment for Bering Sea and Aleutian Islands Area Halibut Non-Trawl Prohibited Species Catch Management and Jig Gear Exemption	0648-AG95
839	Atlantic Shark Fishery Quota Adjustment	0648-AH09
840	Framework Adjustment 2 and 3 to the American Lobster Fishery Management Plan	0648-AH36
841	Regulatory Amendment To Change the Standard Product Recovery Rate for Pollock Deep-Skin Fillets in the Alaska Groundfish Fisheries	0648-AH40

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National Oceanic and Atmospheric Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
842	Regulatory Amendment to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Pertaining to Hogfish, Cubera Snapper, and Gray Triggerfish	0648-AH44
843	Rev. Amend. 23 to the FMP for the Groundfish Fishery of BSAI, Rev. Amend. 28 to the FMP for Groundfish of the GOA, & Rev. Amend. 4 to FMP for Commercial King/Tanner Crab Fisheries	0648-AH62
844	Framework #9 to the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AH66
845	Amendment 35 to the FMP for the Groundfish Fishery of the BSAI	0648-AH69
846	Atlantic Swordfish Fishery Quota Adjustment	0648-AH75
847	Management Measures for Commercial, Recreational, and Treaty Indian, Salmon Fisheries Off the Coasts of Washington, Oregon, and California	0648-AH79
848	Framework Adjustment 4 to the Atlantic Sea Scallop FMP	0648-AH82
849	1995 Initial Quota for Western Pacific Crustacean Fisheries	0648-AH85
850	Summer Flounder Fishery; Court-Ordered Regulation Change	0648-AH96
851	Fishery Management Plan for the Scallop Fishery off Alaska; Closure of Federal Waters To Protect Scallop Stocks	0648-AI00
852	Regulatory Amendment to Exempt Crab Catchers' Vessels From 1995 Fee Assessment Under the North Pacific Fishery Research Plan	0648-AI01
853	Framework Adjustment 5 to the Atlantic Sea Scallop Fishery Management Plan	0648-AI02
854	Framework Adjustment 6 to the Atlantic Sea Scallop Fishery Management Plan and Framework Adjustment 11 to the Northeast Multispecies Fishery Management Plan	0648-AI03
855	Consideration of a Control Date for the Gulf of Mexico Stone Crab Fishery	0648-AI07
856	Eliminate Certain Unnecessary NMFS Regulation	0648-AI08
857	Framework Adjustment 12 to the Northeast Multispecies FMP	0648-AI38
858	Use in Enforcement Proceedings of Information Collected by Voluntary Fishery Data Collectors	0648-AE40
859	Regulations Governing Processed Fishery Products	0648-AH18
860	Sea Turtle Conservation Measures; Section 10 Incidental Take Permits; Final Rule	0648-AG37
861	Flotation Devices in Bottom-Opening, Single-Grid Turtle Excluder Devices in the Southeastern United States	0648-AG71
862	Proposed Rule To Authorize the Incidental Taking of Marine Mammals During Commercial Fishing Operations as Directed by Public Law 103-238	0648-AG78
863	Restrictions on Shrimp Trawlers in Nearshore Waters Along the Texas and Louisiana Coasts	0648-AH98
864	Proposed Regulations for the Fagatele Bay National Marine Sanctuary	0648-AA74
865	Proposed Regulations for the Channel Islands National Marine Sanctuary	0648-AC03
866	Proposed Regulations for the Gulf of the Farallones National Marine Sanctuary	0648-AC05
867	The Monitor National Marine Sanctuary	0648-AC78
868	Proposed Regulations for the Northwest Straits National Marine Sanctuary	0648-AC91
869	Proposed Regulations for the Norfolk Canyon National Marine Sanctuary	0648-AC92
870	Gray's Reef National Marine Sanctuary	0648-AE42
871	Elimination of Coastal Energy Impact Program Regulations, 15 CFR Part 931	0648-AI04

National Telecommunications and Information Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
872	The Telecommunications and Information Infrastructure Grant Program	0660-AA04

National Telecommunications and Information Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
873	Transfer of Spectrum From the Federal Government to the FCC	0660-AA05

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Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
874	Communications With the Patent and Trademark Office	0651-AA70
875	Simplification of the Requirements Concerning the Filing and Processing of Trademark Applications, Intent To Use Documents, and Petitions	0651-AA78
876	Changes to Simplify and Eliminate Unnecessary Rules	0651-AA80
877	Changes in Patent Application Examination Procedures	0651-AA81
878	Revision of Patent and Trademark Fees	0651-AA82

Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
879	Cross Appeals in PTO Disciplinary Proceedings	0651-AA65
880	Changes to Implement 18-Month Publication of Patent Applications	0651-AA75
881	Rules of Practice in Patent Cases; Reexamination Proceedings	0651-AA79

Patent and Trademark Office—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
882	Trademark Procedures	0651-AA46
883	Patent Application Electronic Submission Rules	0651-AA50

Patent and Trademark Office—Completed Actions

Sequence Number	Title	Regulation Identifier Number
884	Patent Term Extension Application Requirements	0651-AA52
885	Establishing Prior Invention To Overcome Cited Patent	0651-AA67
886	Patent Appeals and Interference Rules	0651-AA71
887	Revision of Patent Cooperation Treaty Provisions	0651-AA72
888	Changes in Requirements for Addressing Trademark Applications and Trademark-Related Papers	0651-AA73
889	Revision of Patent and Trademark Fees	0651-AA74
890	Changes To Implement 20-Year Patent Term and Provisional Applications	0651-AA76

Technology Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
891	Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements	0692-AA14
892	Acquisition and Protection of Foreign Rights in Inventions	0692-AA15
893	Licensing of Foreign Patents Acquired by The Government	0692-AA16

Technology Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
894	Promotion of Private Sector Industrial Technology Partnerships	0692-AA13

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DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)
Proposed Rule Stage

610. STANDARDS OF ETHICAL CONDUCT—DEPARTMENT OF COMMERCE SUPPLEMENTAL REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 7301; 5 USC 7353; 5 USC app Ethics in Government Act; 26 USC 7214(b); EO 12674, 54 FR 15159, 3 CFR, 1989 Comp, p 215 as modified; EO 12831, 55 FR 42547, 3 CFR, 1990 Comp, p 306; 5 CFR 2635.105

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Department of Commerce with the concurrence of the Office of Government Ethics (OGE) proposes to issue supplemental standards of ethical conduct for the officers and employees of the Department. The proposed rule will supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics. 5 CFR part 2635.

The proposed rule is a necessary supplement to the standards issued by OGE because it addresses ethical issues unique to the Department. The proposed rule establishes regulations which: (1) define "Agency Designee" for purposes of the Standards of Conduct; (2) designate agency components for purposes of the gift and outside employment rules; (3) limit employees from acquiring or retaining conflicting financial interests; (4) provide rules for seeking advice concerning determinations of appearances of impropriety; and (5) establish rules for prior approval regarding outside employment and activities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Kucik, Attorney Advisor, Department of Commerce, Office of the Secretary, 14th Street & Constitution Avenue NW., Rm. 5882, Washington, DC 20230
Phone: 202 219-9132

RIN: 0690–AA23

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)
Long-Term Actions

611. CONTRACT CLAUSES AND SOLICITATION PROVISIONS FOR THE COMMERCE AUTOMATED SOLICITATION SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1301 to 1353

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Shirl Kinney
Phone: 202 482-2773

RIN: 0690–AA08

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)
Completed Actions

612. • RESCISSION OF CERTAIN COMMERCE ACQUISITION REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 251 et seq; PL 98-369; PL 98-577

CFR Citation: 48 CFR 1301 to 1353

Legal Deadline: None

Abstract: The Department of Commerce has reviewed its Commerce Organization Regulation and determined that certain portions can be removed from the Code of Federal Regulations as being internal management guidance only.

Timetable:

Action	Date	FR Cite
Final Action	09/12/95	60 FR 47309
Final Action Effective	09/12/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Shirl Kinney, Director on Acquisition Management, Department of Commerce, Office of the Secretary, Room H6424
Phone: 202 482-2773
Fax: 202 482-1711
Email: Shirl Kinney@Dir@OAM

RIN: 0690–AA24

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)
Proposed Rule Stage

613. • BENCHMARK SURVEY OF SELECTED SERVICES TRANSACTIONS WITH UNAFFILIATED FOREIGN PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svc. Survey Act

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This is the quinquennial benchmark survey of selected services transactions with unaffiliated foreign persons (BE-20), which will cover transactions in 1996. It is conducted comprehensive data on a variety of business and professional services, such as advertising; computer and data processing services; management, consulting and public relations; legal services; and telecommunications. The data are needed for compiling the balance of payments and national income and product accounts, and will be used to develop international trade policy and to support U.S. trade policy initiatives. The data will also be used in deriving universe estimates in conjunction with the annual survey of such services transactions that is conducted in nonbenchmark years. Consideration is being given to expanding the number of services covered by this benchmark survey compared with the prior (1991) benchmark.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Betty L. Barker, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, (BE-50), U.S. Department of Commerce
Phone: 202 606-9800
Fax: 202 606-5318

RIN: 0691–AA27

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)
Final Rule Stage

614. ANNUAL SURVEY OF FINANCIAL SERVICES TRANSACTIONS BETWEEN U.S. FINANCIAL SERVICES PROVIDERS AND UNAFFILIATED FOREIGN PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act; 15 USC 4908 Omnibus Trade and Competitiveness Act of 1988

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This action will create a new rule pertaining to a new survey of cross-border financial services transactions by U.S. financial services providers or intermediaries with unaffiliated foreign persons. The survey will cover transactions of U.S. commercial and investment banks, underwriters, brokers and dealers, credit card companies, mutual and pension funds, and other financial services providers or intermediaries. The annual survey will update and extend estimates made from data collected on the 1994 BE-80 Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons.

Timetable:

Action	Date	FR Cite
NPRM	08/08/95	60 FR 40336
NPRM Comment Period End	09/22/95	60 FR 40336
Final Action Effective	11/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Betty L. Barker, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, (BE-50), Washington, DC 20230
Phone: 202 606-9800

RIN: 0691–AA26

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)
Completed Actions

615. SHORT FORM FOR REPORTING SMALL FOREIGN AFFILIATES IN THE BE-11, ANNUAL SURVEY OF U.S. DIRECT INVESTMENT ABROAD

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 806.14

Completed:

Reason	Date	FR Cite
Final Action	10/25/95	60 FR 54590
Final Action Effective	11/24/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty L. Barker
Phone: 202 606-9800

RIN: 0691–AA25

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)
Final Rule Stage

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DOC—EDA — Final Rule Stage

616. SIMPLIFICATION AND STREAMLINING OF REGULATIONS OF THE ECONOMIC DEVELOPMENT ADMINISTRATION

Regulatory Plan: This entry is Seq. No. 12 in Part II of this issue of the **Federal Register**.

RIN: 0610–AA47

DEPARTMENT OF COMMERCE (DOC) — Final Rule Stage
General Administration (ADMIN)

617. UNIFORM ADMINISTRATIVE REQUIREMENT FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFITS AND COMMERCIAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 14

Legal Deadline: None

Abstract: On November 29, 1993, Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements, with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" was published in the Federal Register (58 FR 62992). In the published revised circular, OMB specified as "required action" that Federal agencies responsible for awarding and administering grants and other agreements to recipients described therein, shall adopt the language of the Circular unless other provisions are required by Federal Statute or exceptions or deviations are approved by OMB. This interim final rule adopts the provisions of the Circular and its language to the maximum extent feasible with minor language changes made to make the language apply specifically to the DOC and its operating units. This rule also contains certain policies that have been DOC policy for many years that may differ from the language of Circular A-110, but are consistent with and further implement the intent of Circular A-110 with DOC.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Phelan III, Director, Office of Executive Assistance Management, Department of Commerce, Office of Administration, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-4115

RIN: 0605–AA09

618. • COST PRINCIPLES FOR STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 6

Legal Deadline: None

Abstract: On May 17, 1995, Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," was published in the Federal Register (60 FR 26484). In the published revised circular, OMB specified as "required action" that agencies responsible for administering programs that involve cost reimbursement contracts, grants, and other agreements with governmental units shall issue codified regulations to implement the provisions of the circular and its attachments. This interim final rule adopts the provisions of Circular A-87 to the maximum extent feasible with minor language changes made to make the language apply specifically to the DOC and its operating units.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: John J. Phelan III, Director, Office of Executive Assistance Management, Department of Commerce, Office of Administration, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-4115

RIN: 0605–AA10

DEPARTMENT OF COMMERCE (DOC) — Completed Actions
General Administration (ADMIN)

619. NONPROCUREMENT DEBARMENT AND SUSPENSION

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 26

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Phelan III
Phone: 202 482-4115

RIN: 0605–AA02

DEPARTMENT OF COMMERCE (DOC) — Proposed Rule Stage
International Trade Administration (ITA)

620. ANTIDUMPING AND COUNTERVAILING DUTY PROCEEDINGS; ADMINISTRATIVE PROTECTIVE ORDER PROCEDURES AND PROCEDURES FOR IMPOSING SANCTIONS FOR VIOLATION OF A PROTECTIVE ORDER

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 1677f

CFR Citation: 19 CFR 351; 19 CFR 354

Legal Deadline: None

Abstract: The Department needs to enhance the administrative efficiency of its investigations of alleged violations of administrative protective orders (APOs) and of the process for imposing sanctions for violations, as well as the fairness of the procedures to all concerned parties. In addition, the Department needs to simplify and streamline the APO administrative process and reduce the administrative burdens on the ITA and trade practitioners. The Department is considering a variety of amendments to its existing regulations to achieve these goals. With respect to APO violations and sanctions, the Department is considering (1) expedited procedures for certain APO violations that are uncontested, inadvertent, and technical; (2) providing for warnings to be issued where a finding of a violation would lead to unjustifiably harsh sanctions; (3) where warranted, permitting the agency to dismiss a charge without prejudice without the appointment or approval of an administrative law judge; (4) providing for a sunset provision that is fairer to past violators and that eases the administrative burden; and (5) permitting a private reprimand as a sanction without requiring as a precondition that parties engage in settlement discussions. The Department expects to benefit from gains in administrative efficiency and fairness without incurring any additional costs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joan MacKenzie, Senior Attorney, Department of Commerce, International Trade Administration, Room H4621, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-1310

RIN: 0625–AA43

621. ANTIDUMPING DUTIES; COUNTERVAILING DUTIES

Regulatory Plan: This entry is Seq. No. 13 in Part II of this issue of the **Federal Register**.

RIN: 0625–AA45

622. • PROPOSED CHANGES IN PROCEDURES FOR INSULAR WATCH PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 1202, note; PL 97-446 sec 110; PL 103-465, sec 602

CFR Citation: 15 CFR 303

Legal Deadline: None

Abstract: This action invites public comment on a proposal to amend the ITA regulations which govern duty-exemption allocations and duty-refund entitlements for watch producers in U.S. Insular possessions (the Virgin Islands, Guam, and American Samoa) and the Northern Mariana Islands. The proposed amendments would modify procedures for completion and use of the "Permit to Enter Watches and Watch Movements into the Customs Territory of the United States" (Form ITA-340); make the technical changes required by the passage of the Uruguay Round Agreements Act in 1994; eliminate the mid-year report (Form ITA-321P); change the percentage creditable toward the duty-refund of for non-91/5 watch and watch movement repairs and raise one of the percentages in the formula for calculating the duty-refund; remove reference to watches and watch movements which are only ineligible for duty-free treatment due to value-limit reasons from the percentage of non-91/5 wages creditable toward the duty-refund; raise the maximum value of components for watches; and make other necessary changes to consolidate and simplify the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Faye Robinson, Program Manager, Department of Commerce, International Trade Administration, Room 4211, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-1660
Fax: 202 482-0949

RIN: 0625–AA46

DEPARTMENT OF COMMERCE (DOC) — Proposed Rule Stage
Bureau of Export Administration (BXA)

623. DEFENSE PRIORITIES AND ALLOCATIONS SYSTEM (DPAS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 50 USC app 2061 et seq; 50 USC app 468; EO 12656; EO 12742; EO 12919

CFR Citation: 15 CFR 700

Legal Deadline: None

Abstract: The Defense Priorities and Allocations System (DPAS) implements the priorities and allocations authority of title I of the Defense Production Act of 1950, as amended, and the priorities authority of section 18 of the Selective Service Act of 1948. The DPAS was published as a final rule on July 30, 1984. Based on the findings and

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Proposed Rule Stage

recommendations of an interagency sponsored study concerning the controlled materials program, and comments from both defense agency and industry users, this proposed rule would amend the DPAS to remove the controlled materials provisions and make certain revisions to its procedural requirements. These amendments will have no costs associated with them, would reduce the regulatory and information reporting burden on industry and make the DPAS more effective and efficient, would result in cost savings for defense contractors, would update certain other provisions to conform to statutory and jurisdictional changes, and would make the DPAS more compatible with current industry practices.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Richard V. Meyers, DPAS Program Manager, Department of Commerce, Bureau of Export Administration, Off of Strategic Industries Econ Security, National Security Preparedness Div., Room 3878, Washington, DC 20230
Phone: 202 482-5650

RIN: 0694–AA02

624. IMPLEMENTATION OF CHEMICAL WEAPONS CONVENTION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Bureau of Export Administration is developing regulations and procedures that specify industry obligations under the chemical weapons convention.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/94	59 FR 66291
ANPRM Comment Period End	01/23/95	59 FR 66291
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB06

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Final Rule Stage

625. REVISION OF FOREIGN BOYCOTT PROVISIONS OF EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC 1701 et seq; 50 USC app 2401 et seq; EO 12002; EO 12058; EO 12214; EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 769

Legal Deadline: None

Abstract: The Department proposes to revise the foreign boycott provisions of the Export Administration Regulations. The revisions would clarify the application of: (1) the intent provision to the reporting requirement; (2) the jurisdictional requirements relating to the implementation of letters of credit; (3) the furnishing information prohibitions to information about the nationality of directors and about blacklisted persons; (4) the shipping requirement exception to refusals to use blacklisted vessels; and (5) the import and shipping document exception to information about the nationality of carriers and residence of manufacturers or suppliers. The revisions are intended to clarify areas of confusion. In addition, the proposal would remove many references and provisions dealing with effective dates and grace periods that are no longer applicable.

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39415
NPRM Comment Period End	10/26/89	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Diamond, Team Header (Policy), Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-4550

RIN: 0694–AA11

626. TRANSFER OF DUAL-USE ITEMS FROM U.S. MUNITIONS LIST TO THE COMMERCE CONTROL LIST

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 74301(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995 (60 FR 42767)

CFR Citation: 15 CFR 799.1

Legal Deadline: None

Abstract: The former COCOM Industrial List (IL) controls so-called dual-use items, which have both civil and military uses. There is not a direct correspondence between the IL and BXA's Commerce Control List (CCL) because some IL items are controlled by the State Department in the U.S. Munitions List. In his November 15, 1990, memorandum of disapproval of H.R. 4653, the President determined that, "By June 1, 1991, the United States will remove from the U.S. Munitions List all items contained on the COCOM dual-use list unless significant U.S. national security interests would be jeopardized." This rule will implement BXA controls through the CCL on those items removed from the U.S. Munitions List as a result of the President's decision.

Timetable:

Action	Date	FR Cite
Transfer of Communications Satellites	10/23/92	57 FR 48312
Navigation and Avionics	06/23/93	58 FR 34211

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Final Rule Stage

Action	Date	FR Cite
Final Rule: Transfer of Commercial Communication Satellites	09/08/93	58 FR 47322
Transfer of Items From the USMI to the CCL; Imposition of Certain Foreign Policy Controls	10/26/93	58 FR 57549
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerold Beiter, Acting Director, Office of Strategic, Trade & Foreign Policy Controls, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-6105
Fax: 202 482-4094

RIN: 0694–AA52

627. EXPORTS TO IRAN; REVISION OF FOREIGN POLICY CONTROLS

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 771; 15 CFR 785; 15 CFR 799

Legal Deadline: None

Abstract: This interim rule amends the Export Administration Regulations by revising the special country policies and provisions, consistent with the National Defense Authorization Act (NDAA) of 1992, to establish a policy of denial for all items that require a validated license for Iran, except items subject to short supply controls.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AA62

628. SIMPLIFICATION OF THE EXPORT ADMINISTRATION REGULATIONS

Regulatory Plan: This entry is Seq. No. 14 in Part II of this issue of the **Federal Register**.

RIN: 0694–AA67

629. IMPLEMENTATION OF THE CUBA DEMOCRACY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Cuba Democracy Act required certain actions to tighten the embargo on Cuba. This includes changes in general license provisions for ship stores and new controls on medicines. These changes will complement regulations already issued by the Department of the Treasury.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AA77

630. EFFECT OF IMPORTED ARTICLES ON THE NATIONAL SECURITY

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 1862

CFR Citation: 15 CFR 705

Legal Deadline: None

Abstract: Section 232 of the Trade Expansion Act of 1962, as amended (19 USC 1862) provides for the investigation of imports of articles which threaten to impair the national security. The implementing regulation, "Effect of Imported Articles on the National Security" (15 CFR 705), prescribes procedures to be followed by the Department of Commerce to commence and conduct such an investigation. Because of recent amendments to the Act, this regulation must be revised to set forth requirements for additional action to be taken by the Secretary of Commerce upon commencing, conducting, and completing an investigation, and reporting the disposition of an investigation to the Congress, and by the President in making a determination to take action against the imports of the article.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian Nilsson, Section 232 Investigations Program Manager, Department of Commerce, Bureau of Export Administration, Off of Strategic Industries & Econ Security, Room 3878, Washington, DC 20230
Phone: 202 482-5650

RIN: 0694–AB01

631. EXPORTS OF SAMPLE SHIPMENTS IN MIXTURES CONTAINING PRECURSORS AND INTERMEDIATE CHEMICALS; REVISIONS TO AUSTRALIA GROUP MEMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 773; 15 CFR 778; 15 CFR 799

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which appears in the Export Administration Regulations (EAR). This rule amends the CCL by revising Export Control Classification Number (ECCN) 1C60. This ECCN controls dual-use precursors and intermediate chemicals useful in the production of chemical warfare agents. In addition this rule makes an editorial correction by removing ECCN

1C64E for di-isopropylcarbodiimide (C.A.S. #693-13-0) and di-cyclohexocarbodiimide (C.A.S. #538-75-Q), which was inadvertently readmitted to the Commerce Control List. The changes made by this rule are based on recent discussions in the Australia Group (AG). Finally, this rule revises the list of countries eligible to receive Australia Group (AG) benefits under U.S. regulations to include the Czech Republic and remove Turkey.

The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), as part of the Export Administration Regulations (EAR). The changes made by this rule are based on discussions in the Australia Group (AG) and suggested changes by industry. This rule amends the CCL by revising Export Control Classification Number (ECCN) 1C60 to clarify that this entry controls aqueous hydrofluoric acid. ECCN 1C60 controls dual-use precursors and intermediate chemicals useful in the production of chemical warfare agents and certain mixtures containing such chemicals. In addition, this rule adds Poland, Romania and the Slovak Republic to the list of Australia Group countries, thereby making them eligible for the license exception accorded AG members.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/19/94	59 FR 52685
Interim Final Rule Effective Date	10/19/94	
Interim Final Rule Comment Period End	11/18/94	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB05

632. FOREIGN POLICY CONTROLS: CRIME CONTROL, IMPLEMENTS OF TORTURE, AND ARMS EMBARGO AGAINST RWANDA

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2319(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule adds explanatory notes to Commerce Control List entries covering items subject to the United Nations arms embargo against Rwanda. This amendment is necessary to make each entry consistent and to explicitly reflect the reason for control.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hillary Hess, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB08

633. TRANSFER OF CERTAIN REMOTE SENSING SATELLITES FROM THE U.S. MUNITIONS LIST TO THE CCL

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule amends Export Control Classification Number 9A04A to include certain remote sensing satellite systems and components, parts, accessories, attachments and equipment associated with remote sensing satellites that do not meet the parameters described in Category XV on the U.S. Munitions List maintained by the U.S. Department of State.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hillary Hess, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB09

634. CLARIFICATION OF ENHANCED PROLIFERATION CONTROL INITIATIVE (EPCI) "CATCH-ALL" PROVISION AND VALIDATED LICENSE REQUIREMENTS

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 11912; EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations to clarify and make more effective provisions that require exporters and others to submit individual validated license applications if they "know" or are "informed" of certain proliferation activities. These changes are among those directed by the Trade Promotion Coordinating Committee, a 19-member interagency group chaired by the Secretary of Commerce. Specifically, this rule creates categories of items subject to the EPCI licensing requirements.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hillary Hess, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB10

635. REVISION TO THE EAR; SUPPLEMENT NO. 2 TO PART 778

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 11912; EO 12058; EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations list of countries that are party to the Nuclear Non-Proliferation Treaty and/or the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco). In addition, this rule makes certain editorial clarifications and corrections, and adds material inadvertently omitted. This rule adds language in the exceptions section to clarify that General License GLV does not authorize commodities controlled for nuclear non-proliferation reasons; clarifies that General License GFW does not authorize commodities controlled for nuclear non-proliferation reasons; and clarifies that General License GCT does not authorize commodities controlled for nuclear non-proliferation reasons.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB12

636. REVISIONS TO THE EAR: ESTABLISHMENT OF A STANDARD SAVING CLAUSE

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 40 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule establishes a standard saving clause (a grace period after the date of imposition of controls within which shipments that are en route to the point of export may be exported under the previously applicable authorization) when an individual validated license requirement is imposed on items and/or destinations that formerly were eligible for a general license or special license procedure.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB15

637. COUNTRIES ELIGIBLE TO RECEIVE SUPERCOMPUTERS UNDER SPECIAL LICENSING PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule will expand the list of countries eligible to receive supercomputers under the special license procedures. This rule will lessen the administrative burden on U.S. exporters.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB16

638. REVISIONS AND CLARIFICATIONS TO PERMISSIVE REEXPORT AND GENERAL LICENSE GLX

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 45 USC 466(c); Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule amends the permissive reexport provisions of the Export Administration Regulations to allow reexports of U.S.-origin commodities without obtaining prior written authorization, if, at the time of reexport, the items may be exported directly from the United States to the new country of destination under General License GLX.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB17

639. REVISIONS TO LICENSING POLICY FOR NORTH KOREA

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule further implements the October 21, 1994, U.S.-North Korea Agreed Framework. This is part of the initial steps the United States is taking in response to North Korea's decisions to freeze its nuclear program and facilities and cooperate with the United States and IAEA to verify the freeze

DOC—BXA

Final Rule Stage

and ensure safe storage of spent nuclear fuel.

This rule amends Commerce Department license policy on exports of telecommunications items to support international gateways. Export applications for such projects will be reviewed on a case-by-case basis.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB19

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640. EDITORIAL CLARIFICATION AND CORRECTIONS TO THE EXPORT ADMINISTRATION REGULATIONS; REMOVAL OF ECCN 1C65

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 7419; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule makes the following revisions and clarifications to the Export Administration Regulations: (1) Clarifies the licensing requirements for equipment and material that can be used in the production of biological agents by removing the reference to Export Control Classification Number (ECCN) 1C65 (complex media); (2) Adds to that which was inadvertently omitted on September 7, 1993 (58 FR 47049); and (3) Clarifies the missile technology and nuclear nonproliferation controls applicable to ECCN 1E01.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB23

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641. PROLIFERATION ENTITY LIST

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Department of Commerce maintains export controls to limit the proliferation of chemical or biological weapons, nuclear weapons or explosive devices, and missile systems. The Export Administration Regulations (EAR) provide that the Bureau of Export Administration (BXA) may inform exporters, individually or through amendment to the EAR, that an individual validated license is required for exports or reexports to certain entities because there exists an unacceptable risk of use in or diversion to certain nuclear end-uses, missile end-uses, or chemical or biological weapons end-uses. In addition, BXA may inform U.S. persons that an individual validated license is required to export or reexport, perform any contract, service, or employment, or otherwise support such end-uses.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB24

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642. ADMINISTRATION OF STATE LOG EXPORTS BAN

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule provides advance notice that the Department of Commerce will issue regulations implementing the ban on the export of unprocessed timber originating from non-Federal public lands in 17 western states, pursuant to the Forest Resources Conservation and Shortage Relief Act of 1990, as amended (FRCSRA). This notice defines the actions the Department proposes to take to implement the FRCSRA and requests public comments on these proposed actions.

Timetable:

Action	Date	FR Cite
ANPRM	06/07/95	60 FR 30030
ANPRM Comment Period End	07/07/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard Kritzer, Manager, Office of Chemical & Biological Controls & Treaty Compliance, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-0894

RIN: 0694–AB25

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643. • REVISION TO THE EAR: ELAIN ACCEPTS CLASSIFICATION REQUEST

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is currently on a road to automating all of the services that fall under the "license determination" umbrella. The services that fall under the umbrella of "license determinations" are: classification requests, jurisdiction requests, EXODUS (Custom Department) requests, Export Enforcement Certifications, and Advisory Opinions. The First step has been successfully accomplished; ELAIN has been successfully modified to accept classification requests. Any person or company that has already acquired a Personal Identification Number (PIN) and has been authorized by their company and the Department of Commerce to submit license applications via ELAIN, may immediately start submitting classification requests electronically.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB26

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644. • RENUMBERING OF EXPORT CONTROL CLASSIFICATION NUMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 799

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is providing notice that it is considering renumbering the Export Control Classification Numbers (ECCN) found in the Commerce List of the Export Administration Regulations. These revisions would conform the numbering of the ECCNs with the numbering system used by the European Union.

Timetable:

Action	Date	FR Cite
ANPRM	05/11/95	60 FR 25480
ANPRM Comment Period End	07/10/95	
Interim Final Rule	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB27

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645. • LIBYA: EXPANSION OF FOREIGN POLICY CONTROLS

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7450(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule will bring the licensing policy for Libya into conformance with the licensing policy for Iran and Syria. This rule will not increase the amount of Libyan reexport authorization requests submitted to the Department of Commerce, but will increase the amount of items falling under the gener policies of denial and case-by-case review.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB28

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646. • REVISION TO THE COMMERCE CONTROL LIST: ITEMS CONTROLLED FOR NUCLEAR NONPROLIFERATION REASONS

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule amends a number of Export Control Classification Numbers on the Commerce Control List to make the Nuclear Referral List (items controlled for nuclear non-proliferation reasons) more closely conform with the items contained in the annex to the "Nuclear-Related Dual-Use Equipment, Materials, and Related Technology List" published by the International Atomic Energy Agency and adhered to by the United States and other subscribing governments.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB29

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647. • EXPANSION OF GENERAL LICENSE GLX

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 771

Legal Deadline: None

Abstract: This rule expands general license GLX eligibility to certain semiconductors and semiconductor manufacturing equipment. This rule also authorizes permissive reexports under GLX.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Jerald R. Beiter, Acting Director, Off of Strategic Trade & Foreign Policy Cnts, Department of Commerce, Bureau of Export Administration, Washington, DC 20230

Phone: 202 482-6105
Fax: 202 482-4094

RIN: 0694–AB30

648. • EXPORTS TO IRAN: IMPOSITION OF SANCTIONS

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This final rule amends the EAR to reflect the imposition of new economic sanctions on Iran as a result of the issuance of Executive Order 12959 on May 6, 1995, which gave licensing authority over all exports and certain reexports to the Department of the Treasury's Office of Foreign Assets Control. This rule also removes licensing policies and contract sanctity provisions, and revokes all outstanding validated licenses and written reexport authorizations for Iran.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hillary Hess, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB31

649. • REVISION TO GENERAL LICENSE GCG (SHIPMENTS TO AGENCIES OF COOPERATING GOVERNMENTS)

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 771

Legal Deadline: None

Abstract: The Bureau of Export Admistration (BXA) is amending the Export Administration Regulations (EAR) by revising General License GCG, which authorizes certain exports to agencies of cooperating governments. These revisions will bring General License GCG, which was originally intended to apply to exports of items controlled for national security reasons, into line with subsequent statutes and agreements dealing with proliferation and regional stability concerns.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hillary Hess, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB34

650. • CHANGES TO THE COMMERCE CONTROL LIST TO ACCORD WITH THE NEW FORUM LIST

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The United States and 28 allied countries are currently negotiating to establish a new regime to replace the Coordinating Committee for Multilateral Export Controls (COCOM) which dissolved on March 31, 1994. These allied countries are also working out new control lists to replace the old COCOM lists which remain in effect until the establishment of the new regime. The new lists and the new regime should be in place sometime in FY 1996. Commerce will need to make extensive changes in the Commerce Control List when the new dual-use control list of the new regime becomes effective.

Timetable:

Action	Date	FR Cite
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerald R. Beiter, Acting Director, Office of Strategic Trade and Foreign Policy, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-6105
Fax: 202 482-4095

RIN: 0694–AB35

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Completed Actions

651. EQUIPMENT RELATED TO THE PRODUCTION OF CHEMICAL WEAPONS AND WARFARE AGENTS, MICROORGANISMS, AND TOXINS; REVISIONS TO AUSTRALIA GROUP MEMBERS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 773; 15 CFR 778; 15 CFR 799

Completed:

Reason	Date	FR Cite
Final Action	07/24/95	60 FR 38956

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440

RIN: 0694–AA69

652. REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS; REMOVAL OF CONTROLS ON CERTAIN ON-HIGHWAY VEHICLES TO IRAN AND SYRIA; CORRECTIONS AND CLARIFICATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Withdrawn	09/14/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440

RIN: 0694–AA72

653. INTERNATIONAL IMPORT CERTIFICATES, GENERAL LICENSE G-TEMP AUSTRALIA AND PRC IC/DV REVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Combined with RIN 0694-AA67	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440

RIN: 0694–AB07

654. FEDERAL REPUBLIC OF YUGOSLAVIA AND UNITA IN ANGOLA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Combined with RIN 0694-AA67	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440

RIN: 0694–AB11

655. REVISION TO THE EAR; REMOVAL OF POLAND FROM GENERAL LICENSE GNSG AND ADDITION OF ARGENTINA AND NEW ZEALAND TO GNSG

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Combined with RINs 0694-AB23 and 0694-AB29	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440

RIN: 0694–AB14

656. ESTABLISHMENT OF A NEW GENERAL LICENSE G-BETA FOR EXPORTS OF BETA TEST SOFTWARE

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Interim Final Rule	04/13/95	60 FR 18731

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe
Phone: 202 482-2440

RIN: 0694–AB18

657. REVISION TO REGULATIONS PERTAINING TO EXPORTS OF SAMPLES AND MIXTURES CONTAINING PRECURSOR AND INTERMEDIATE CHEMICALS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Merged With RIN 0694-AB05	09/14/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440

RIN: 0694–AB20

658. EXPORT TO TERRORIST-SUPPORTING COUNTRIES; PARTS, COMPONENTS, AND MATERIALS INCORPORATED ABROAD INTO FOREIGN-MADE PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Combined with RIN 0694-AA67	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440

RIN: 0694–AB22

659. • EDITORIAL CORRECTION GENERAL SOFTWARE NOTE; COMMERCE CONTROL LIST INTERPRETATIONS 24, 25, AND 26

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This regulation makes two editorial corrections to the Title 15 of the Code of Federal Regulations (CFR). First, this rule amends the General Software Note found in Supplement No. 2 to Part 799.1 of the FAR to correctly reflect that country Groups S and Z, Iran, and Syria are not eligible to receive exports of mass-marketed software under General License GTDU. This change was originally published in the Federal Register on September 14, 1992 (57 FR 41854), but inadvertently omitted from the CFR. Second, this rule removes interpretations Nos. 24, 25 and 26 from Supplement No. 1 to 799.1. BXA intended to remove these interpretations on July 15, 1992. However, due to a typographical error

DOC—BXA

Completed Actions

in the Federal Register, this change was inadvertently omitted from the Export Administration Regulations.

Timetable:

Action	Date	FR Cite
Final Action	10/17/95	60 FR 53698
Final Action Effective	10/17/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB33

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST)

Long-Term Actions

660. FASTENER QUALITY

Priority: Other Significant

CFR Citation: 15 CFR 280

Timetable:

Action	Date	FR Cite
NPRM	08/17/92	57 FR 37032
NPRM Comment Period End	11/02/92	57 FR 37032
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Belinda L. Collins
Phone: 301 975-4000

RIN: 0693–AA90

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Prerule Stage

NATIONAL MARINE FISHERIES SERVICE

661. • ADVANCED NOTICE OF PROPOSED RULEMAKING; CONSIDERATION OF A CONTROL DATE FOR SOUTH ATLANTIC AND GULF OF MEXICO KING MACKEREL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 642

Legal Deadline: None

Abstract: This notice announces that the Gulf of Mexico Fishery Management Council (Council) is considering management measures for a limited entry program for the Gulf of Mexico migratory group of king mackerel. Possible additional control participation or effort in the commercial and for-hire (charter and headboat) fisheries. A control date is intended to discourage new entry into the fishery based on economic speculation during the period required for the Councils to prepare an amendment to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). An FMP Amendment and its implementing final rule are required to institute any major changes in the mackerel management program.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/95	
ANPRM Comment Period End	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AI12

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662. • ADVANCE NOTICE OF PROPOSED RULEMAKING FOR THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq; 16 USC 5101 et seq

CFR Citation: 50 CFR 649

Legal Deadline: None
NPRM 15 days and final action 110 days from receipt from the Regional Fishery Management Council

Abstract: The advance notice of proposed rulemaking requests comments on options under consideration for lobster management. These options are: (1) withdrawing the FMP and implementing measures under the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA) or; (2) preparing a Secretarial amendment under the Magnuson Act.

Timetable:

Action	Date	FR Cite
ANPRM	09/18/95	60 FR 48086
ANPRM Comment Period End	11/02/95	
NPRM	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AI14

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663. • SEAFOOD INSPECTIONS AND RELATED SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 7 USC 1621 et seq

CFR Citation: 50 CFR 260

Legal Deadline: None

Abstract: NOAA Plans to change the way it delivers in-plant seafood inspections and related services under the Agricultural Marketing Act of 1946 (the Act). Currently, these services are provided by NOAA employees on a fee-for-service basis which enables NOAA to fully recover the service costs. NOAA is considering that some of these services would no longer be provided directly by NOAA employees, but rather be offered by private parties. NOAA plans to assure that privatized program conducted under Federal oversight will be the full equivalent of the current program.

Timetable:

Action	Date	FR Cite
ANPRM	09/22/95	60 FR 49242
ANPRM Comment Period End	11/21/95	
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James W. Brennan, NOAA Deputy General Counsel, Department of Commerce, National Oceanic and Atmospheric Administration, Room 5814, Washington, DC 20230
Phone: 202 482-3044

RIN: 0648–AI45

DOC—NOAA

Prerule Stage

664. TAKE OF MARINE MAMMALS BY THE U.S. NAVY INCIDENTAL TO MILITARY ACTIVITIES IN THE SOUTH ATLANTIC OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 228; 50 CFR 216

Legal Deadline: None

Abstract: NMFS expects the U.S. Navy to petition for regulations that would authorize a small take of marine mammals incidental to ship shock trials in oceanic waters offshore Florida or Virginia. Under the Marine Mammal Protection Act, NMFS is allowed to authorize these takings if certain findings are made and regulations are issued that include requirements for monitoring and reporting.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/96	
ANPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kenneth Hollingshead, Fishery Biologist, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2055

RIN: 0648–AG55

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Proposed Rule Stage

NATIONAL MARINE FISHERIES SERVICE

665. SCIENTIFIC RESEARCH—DOMESTIC AND FOREIGN FISHING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 611; 50 CFR 620

Legal Deadline: None

Abstract: This rule would define scientific research, exempted fishing, and exempted educational activities under the Magnuson Act, and would standardize procedures for issuance of permits for exempted activities and exempted educational activities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	02/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Mgmt., Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AC61

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666. FISHERY MANAGEMENT PLAN FOR THE QUEEN CONCH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq, Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory. NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This new Fishery Management Plan for the Queen Conch Fishery of Puerto Rico and the U.S. Virgin Islands will establish Federal management measures to rebuild the overfished queen conch resource off Puerto Rico and the U.S. Virgin Islands. Proposed measures include minimum size restrictions and bag limits for commercial and recreational fisheries.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	01/00/96	
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AD91

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667. SECRETARIAL AMENDMENT TO THE FMP FOR ATLANTIC SWORDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: NPRM. Statutory. Final, Statutory. Other, Statutory NPRM 15 days and final action 110 days after beginning of review.

DOC—NOAA

Proposed Rule Stage

Abstract: PL 101-627 (signed into law November 7, 1990) transferred full responsibility for the management of swordfish, including preparation of fishery management plans and amendments, from the regional fishery management councils to the Secretary of Commerce. The Secretary will prepare an amendment to the FMP for Atlantic swordfish that will reduce fishing mortality, prevent overfishing, rebuild an overexploited resource, and be consistent with conservation measures recommended by the International Commission for the Conservation of Atlantic Tunas. The existing FMP management measures remain in effect until superseded by Secretarial actions. Management measures to reduce overfishing may include a moratorium on issuance of new fishing permits or a limited entry system.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	03/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AE09

668. FISHERY MANAGEMENT PLAN FOR CORALS AND REEF-ASSOCIATED PLANTS AND INVERTEBRATES FOR PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory. NPRM 15 days and final action 110 days after receipt from a regional fishery management council.

Abstract: The Fishery Management Plan (FMP) for Corals and Associated Plants and Invertebrates for Puerto Rico and the U.S. Virgin Islands will address the impacts of human activities on the condition of coral reefs in Federal waters off Puerto Rico and the U.S. Virgin Islands, and related habitats, and respond to the rapidly expanding fishery for aquarium species, especially in Puerto Rico. Specifically, the FMP would: (1) prohibit the harvest of stony corals, sea fans, gorgonians, and live rock, except for scientific research, education, and habitat restoration; (2) limit harvest of other invertebrates to dip nets and slurp guns, with certain exceptions; and (3) prohibit the use of chemicals and explosives.

Timetable:

Action	Date	FR Cite
NPRM	09/18/95	60 FR 46806
NPRM Comment Period End	10/16/95	
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AE47

669. AMENDMENT 21B TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment authorizes measures pertaining to salmon bycatch in the trawl fisheries of the Bering Sea and Aleutian Islands; Salmon time/area closures.

Timetable:

Action	Date	FR Cite
NPRM	09/08/95	60 FR 46811
NPRM Comment Period End	10/20/95	
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AF01

670. AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 655

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory. NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 5 would establish a moratorium on entry of vessels to the commercial fisheries for LOLIGO and ILLEX squid and for butterfish and would establish criteria for announcing a control date for Atlantic mackerel. It would specify new procedures for setting annual quotas including TALFF. Permits would be required for commercial vessels, party and charter boats, operators and dealers. It would establish logbook and/or reporting requirements for commercial vessels, party and charter boats, and dealers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	11/00/95	
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AF01

DOC—NOAA

Proposed Rule Stage

671. AMENDMENT 9 TO THE FMP FOR ATLANTIC SURF CLAM AND OCEAN QUAHOG

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 652

Legal Deadline: NPRM, Statutory. NPRM 15 days from date amendment review begins and council is sent copy for comments.

Abstract: This amendment would manage the fishery for mahogany clams (ocean quahogs) off a portion of the coast of Maine, in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AF41

672. REGULATORY AMENDMENT REGARDING MESH SIZE IN TRAWLS AND ROCK SOLE VESSEL INCENTIVE PROGRAM STANDARDS IN ALASKA GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This regulatory amendment specifies trawl mesh size to reduce bycatch of undersized fish and reduce waste in the Alaska groundfish fisheries.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	03/00/96	
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AF57

673. REGULATORY AMENDMENT FOR RED GROUPER IN THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 641

Legal Deadline: None

Abstract: This regulatory amendment would decrease the minimum allowable size of red grouper for the commercial fishery from 20 to 18 inches for fish caught from the exclusive economic zone (EEZ) in the Gulf of Mexico. This action is based, in part, on the 1993 stock assessment for red grouper and would facilitate the commercial harvest of the entire 1995 shallow-water grouper quota (quota has not been fully caught in recent years), as established by the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The regulatory amendment is prepared by the Gulf of Mexico Council and reviewed and implemented by NMFS under FMP framework procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	01/00/96	
Final Action Effective	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AF78

674. AMENDMENT 1 TO THE FMP FOR THE SCALLOP FISHERY OFF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 673

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Region Fishery Management Council.

Abstract: This FMP amendment would authorize a scallop fishery in Federal waters off Alaska which federalizes certain state of Alaska management measures and establishes a moratorium on the entry of new vessels into the scallop fishery to control continued growth in fishing capacity.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AF81

675. FISHERY MANAGEMENT PLAN FOR ATLANTIC TUNAS

Priority: Other Significant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 285

Legal Deadline: NPRM, Statutory Final, Statutory.
NPRM 15 days and final action 110 days after beginning of review.

Abstract: This Fishery Management Plan will establish management measures for Atlantic tunas under authority of the Magnuson Act, as well as the Atlantic Tunas Convention Act, as set forth in the 1990 amendments to the Magnuson Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

DOC—NOAA

Proposed Rule Stage

Action	Date	FR Cite
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910 Phone: 301 713-7334

RIN: 0648–AF86

676. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC BILLFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 644

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory. NPRM 15 days and final action 110 days after beginning of review.

Abstract: This amendment will define overfishing for Atlantic billfish, clarify the plan objectives and the definition of optimum yield, and implement regulatory changes to reduce fishing mortality.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	03/00/96	
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910 Phone: 301 713-7334

RIN: 0648–AF88

677. AMENDMENT 8 TO THE PACIFIC COAST GROUNDFISH FMP TO IMPLEMENT INDIVIDUAL QUOTAS FOR THE FIXED-GEAR SABLEFISH FISHERY (OR REGULATORY AMENDMENT FOR NONTRAWL TRIP LIMITS)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Pacific Fishery Management Council.

Abstract: Regulations would implement Amendment 8 to the Pacific Coast Groundfish FMP to establish an individual quota system for sablefish caught with fixed gear off Washington, Oregon, and California. Alternatively a regulatory amendment may implement trip limits in the nontrawl sablefish fishery.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	03/00/97	
Final Action Effective	04/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070 Phone: 206 526-6150

RIN: 0648–AF90

678. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 642

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days from receipt from a Regional Fishery Management Council.

Abstract: Amendment 8 management measures being considered include: permits for commercial mackerel dealers; a 3,000-lb. commercial daily trip limit for Atlantic group king mackerel; extending the cobia management area to include the exclusive economic zone (EEZ) from Virginia to New York; reestablishing the boundary separating Gulf and Atlantic groups of king mackerel; a daily commercial trip limit for cobia; at-sea vessel-to-vessel transfer of Atlantic group Spanish mackerel among commercial vessels in the EEZ off Florida; providing the South Atlantic Fishery Management Council with the authority to decide on the management measures (quotas, trip limits, etc.) for Gulf group king mackerel in the seasonal fishery (November-March) in the area off the Florida east coast; and dividing the hook-and-line commercial quota of Gulf group king mackerel in the Florida west coast subzone equitably between user groups.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 813 570-5301

RIN: 0648–AG25

679. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 659

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from a Regional Fishery Management Council.

Abstract: Amendment 1 would add rock shrimp to the management unit of the Fishery Management Plan for the Shrimp Fishery of the South Atlantic; prohibit trawling for rock shrimp in designated areas; and require vessel and dealer permits.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	01/00/96	
Final Action Effective	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 813 570-5301

RIN: 0648–AG26

DOC—NOAA

Proposed Rule Stage

680. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory. NPRM 15 days and final action 110 days from receipt from a Regional Fishery Management Council.

Abstract: Amendment 8 would establish a minimum size limit of 15 inches (tail length), a bag limit, and establish a commercial trip limit for red porgy; establish similar measures for vermillion snapper; increase the minimum size limit for black sea bass and establish a zone where the use of sea bass pots would be prohibited within 30 miles of shore from approximately Frying Pan Shoals, North Carolina to Cape Roman, South Carolina; and change in the minimum size limit and bag limit for greater amberjack. Other possible measures include: changing the overfishing definition; establishing a transit zone for possession of fish traps in the Key West, Florida area, and clarifying the use of bottom longlines in the south Atlantic.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 813 570-5301

RIN: 0648–AG27

681. AMENDMENTS 8, 11, AND 12 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 641

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory. NPRM 15 days and final action 110 days from receipt from a Regional Fishery Management Council.

Abstract: Amendment 8 would implement an individual transferable quota and/or license limitation system to control access to the Gulf of Mexico red snapper fishery; include an allocation of quota shares with an appeals process; and may include restrictions on commercial transactions among permitted dealers and commercial vessels for reef fish caught in the exclusive economic zone of the Gulf of Mexico. Amendment 11 would revise the annual framework procedure; limit certain reef fish transactions by permitted vessels and permitted dealers; allow transfer of reef fish permits and fish trap endorsements upon death or disability; allow a transfer of certain fish trap endorsements; implement a new reef fish permit moratorium until December 31, 2000; allow permit transfers to other persons with vessels by qualifying permitted vessels owners; and require charter vessel and headboat permits. Amendment 12 may modify the framework procedure; allow commercial hook-and-line harvest of reef fish by shrimp trawl vessels; revise the definition of bait; modify the provisions regarding personal consumption of reef fish at sea; re-specify reef fish transport documentation requirements; reduce red snapper bag limit to zero for permitted vessels when the commercial quota is filled; remove future red snapper size limit increases for the commercial sector; establish aggregate daily bag limits; revise amberjack size and bag limits; and increase gag and black grouper size limits.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	11/00/95	
Final Action	12/00/95	
Final Action Effective	01/00/96	
Amendment 11		
NPRM	10/00/95	
NPRM Comment Period End	11/00/95	
Final Rule	12/00/95	
Final Rule Effective	01/00/96	
Amendment 12		
Final Rule Effective	10/00/95	
NPRM	11/00/95	
Final Rule	11/00/95	
NPRM Comment Period End	01/00/96	
Amendment 8		
NPRM	08/29/95 (60 FR 44825)	
NPRM Comment Period End	10/10/95	
Final Rule	11/00/95	
Final Rule Effective	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 813 570-5301

RIN: 0648–AG29

682. REGULATORY AMENDMENT TO PROHIBIT USE OF OPEN ACCESS AND LIMITED ENTRY GEAR ON THE SAME TRIP FOR THE PACIFIC COAST GROUNDFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This rule would not allow a vessel to use both open access gear and limited entry gear on the same fishing trip. Allowing both gears on the same trip causes potential problems in enforcement and determination of which trip limits apply.

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DOC—NOAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AG30

683. REGULATORY AMENDMENT DESIGNATING "ROUTINE" TRIP LIMITS IN THE PACIFIC COAST GROUNDFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This rule would enable timely inseason adjustments to trip and size limits for certain species, so that the harvest guidelines or allocations for those species are not exceeded. The species include lingcod, canary rockfish, and, in the open access fishery, all species of groundfish individually or in any combination (including species caught incidental to the California halibut or sea cucumber fishery.)

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AG31

684. REGULATORY AMENDMENT TO REQUIRE PROCESSING VESSELS IN THE POLLOCK FISHERY TO WEIGH CATCH AT SEA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: Regulatory amendment to require processor vessels participating in the pollock fishery to weigh all catch on a scale before processing or discarding.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	01/00/96	
Final Action	02/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AG32

685. AMENDMENT 33 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BSAI AND AMENDMENT 37 TO THE FMP FOR GROUNDFISH OF THE GOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days from receipt from the Regional Fishery Management Council.

Abstract: Allow processing (freezing) of non-individual fishing quota species on vessels using catcher vessel individual fishing quota and disallowing catcher vessel halibut individual fishing quota use on freezer vessels.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	02/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 902 586-7228

RIN: 0648–AG41

686. GENERAL PROVISIONS FOR DOMESTIC FISHERIES—STANDARD DEFINITIONS/ GUIDELINES FOR COUNCIL OPERATIONS/ADMINISTRATION: OATH, VOTING, COMPENSATION, INSURANCE, UNUSED LEAVE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 620; 50 CFR 601; 50 CFR 605

Legal Deadline: None

Abstract: This action would standardize definitions for: vessels-for-hire engaged in recreational fishing (VHERF), charter boat, headboat; and marine recreational and commercial fishing and fishermen. This action would also revise the Oath of Office taken by members appointed to the Regional Fishery Management Councils (Councils), revise Council members' compensation, revise procedures for voting on a motion, revise procurement section to allow Councils to purchase property insurance, and revise procedures for the payment of unused annual/sick leave upon retirement or death.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	10/00/96	
Final Action	11/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries, Conservation and Management, Department of Commerce, National

DOC—NOAA

Proposed Rule Stage

Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AG46

687. REGULATORY AMENDMENT TO CHANGE RECORDKEEPING AND REPORTING REQUIREMENTS IN ALASKA GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This regulatory amendment would revise recordkeeping and reporting requirements to establish separate reporting areas for Federal and State waters and revises requirements for reporting and recordkeeping for harvesting and processing of groundfish off Alaska; provides authority to collect information with new forms.

Timetable:

Action	Date	FR Cite
NPRM	09/08/95	60 FR 46936
NPRM Comment Period End	10/10/95	
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AG54

688. NEW DEALER REPORTING FORM FOR LARGE PELAGICS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 285; 50 CFR 630; 50 CFR 678

Legal Deadline: None

Abstract: Establishes a new dealer reporting system for ex-vessel buyers of Atlantic highly migratory species: Sharks, tunas, and swordfish. Replaces and consolidates current dealer reporting systems which differ by region and species. In addition, this rule will establish reporting requirements for operators of recreational fishing tournaments for swordfish, sharks, tunas, billfish.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	05/00/96	
Final Action	05/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AG76

689. REGULATORY AMENDMENT TO IMPOSE RESTRICTIONS ON FISHING BLACK ROCKFISH OFF OREGON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This regulatory action would impose trip limits and time/area closures on black rockfish fishing off the coast of Oregon in order to preserve declining stocks of black rockfish. Restrictions on harvest and areas fished would adversely affect fishermen in the short term, but these measures are designed to protect black rockfish and encourage the rebuilding of stocks in the long term. These measures will be developed by the State of Oregon and complement measures in state waters.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	03/00/96	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AG81

690. REGULATORY AMENDMENT FOR MANAGING PELAGIC FISHERIES BY U.S. VESSELS BEYOND EEZ THROUGHOUT PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 685

Legal Deadline: None

Abstract: This regulatory amendment would extend permit, reporting, and observer placement requirements on longline vessels of the U.S. that are fishing stocks in the management unit for the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region beyond the exclusive economic zone in the Pacific Ocean. The rule is necessary for comprehensive monitoring of all vessels fishing common stocks and possibly affecting the status of the shared stocks, other fishery interests, or protected resources so that the need for conservation and management measures can be determined.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	
Final Action	05/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90804-4213
Phone: 310 980-4001

RIN: 0648–AG85

691. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC COAST RED DRUM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 647

DOC—NOAA

Proposed Rule Stage

Legal Deadline: None

Abstract: Amendment 1 would implement management measures to rebuild the overfished Atlantic coast red drum resource.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 813 570-5301

RIN: 0648–AG86

692. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 669

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days from receipt from a Region al Fishery Management Council.

Abstract: Amendment 3 would: revise the overfishing definition for red hind to ensure better conservation of this highly utilized resource; redefine the definition of fish traps; and establish a fish trap reduction program.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 813 570-5301

RIN: 0648–AG87

693. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR CORALS AND REEF-ASSOCIATED PLANTS AND INVERTEBRATES FOR PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Amendment 1 would establish marine conservation districts to conserve representative reef areas and fishery habitat in the exclusive economic zone of the Caribbean.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	03/00/96	
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 813 570-5301

RIN: 0648–AG88

694. REGULATORY AMENDMENT TO ADJUST RED SNAPPER MANAGEMENT MEASURES IN THE GULF OF MEXICO FOR 1996 SEASON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 641

Legal Deadline: None

Abstract: This regulatory amendment may include measures to adjust the Gulf of Mexico red snapper bag limits, size limits, quotas, trip limits and/or seasonal and area openings.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	12/00/95	
Final Action Effective	01/00/96	
First Regulatory Amendment		
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	
Final Rule	04/00/96	
Final Rule Effective	05/00/96	
Second Regulatory Amendment		
NPRM	10/00/95	
NPRM Comment Period End	11/00/95	
Final Rule	12/00/95	
Final Rule Effective	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 813 570-5301

RIN: 0648–AG89

695. GENERIC FISHERY MANAGEMENT PLAN AMENDMENT FOR THE DEFINITION OF TRAPS IN THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 640; 50 CFR 641; 50 CFR 654; 50 CFR 658

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days from receipt from a Regional Fishery Management Council.

Abstract: This amendment would: (1) modify the construction specifications for a spiny lobster trap used in the exclusive economic zone (EEZ) of the Gulf of Mexico, and establish specifications for stone crab trap used in the Gulf EEZ; (2) prohibit the use of blue crab traps in the EEZ off Florida; and (3) establish geographic and reef fish bycatch restrictions for traps other than reef fish traps area in the Gulf EEZ.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	09/00/96	
Final Action	11/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

DOC—NOAA

Proposed Rule Stage

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 813 570-5301

RIN: 0648–AG90

696. REGULATORY AMENDMENT FOR GRID SORTING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: None

Abstract: Mandatory requirement for specified trawl operations to install sorting grids to facilitate more timely return to the sea of bycatch of halibut, thereby reducing halibut bycatch mortality.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	10/00/96	
Final Action	12/00/96	
Final Action Effective	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802 Phone: 907 586-7228

RIN: 0648–AG93

697. REGULATORY AMENDMENT FOR THE GULF OF ALASKA SEAMOUNT FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: None

Abstract: To provide effective management tools for monitoring groundfish catch harvested seaward of the EEZ to discourage illegal harvests in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802 Phone: 907 586-7228

RIN: 0648–AG94

698. REGULATORY AMENDMENT TO PROVIDE CLARIFICATION OF SEPARATE QUALIFICATION FOR HALIBUT AND SABLEFISH QUOTA SHARES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 676

Legal Deadline: None

Abstract: This regulatory Amendment would clarify that applicant qualification under one individual fishing quota species would not automatically qualify the applicant for qualification under other individual fishing quota species.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802 Phone: 907 586-7228

RIN: 0648–AG96

699. REGULATORY AMENDMENT ALLOWING EARLY INDIVIDUAL FISHING QUOTA FISHING IN THE ALEUTIAN ISLANDS AREA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 676

Legal Deadline: None

Abstract: To alter season opening date for sablefish in the Aleutian Islands subarea of the Bering Sea and Aleutian Islands groundfish fishery to relieve restrictions on a small number of vessels that traditionally fish in that area.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802 Phone: 907 586-7228

RIN: 0648–AG97

700. AMENDMENT 32 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BSAI AND AMENDMENT 36 TO THE FMP FOR THE GROUNDFISH OF THE GOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 676

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the regional fishery management council.

Abstract: One-time trade of groundfish quota shares between Gulf of Alaska and Bering Sea and Aleutian Islands areas regardless of vessel and block categories.

Timetable:

Action	Date	FR Cite
NPRM	10/13/95	60 FR 53331
NPRM Comment Period End	11/27/95	

DOC—NOAA

Proposed Rule Stage

Action	Date	FR Cite
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AG99

701. AMENDMENT 38 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BSAI AND AMENDMENT 40 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
NPRM 15 days and final action effective 110 days after receipt from the Regional Fishery Management Council

Abstract: These amendments would extend the inshore/offshore allocation scheme.

Timetable:

Action	Date	FR Cite
NPRM	09/18/95	60 FR 48087
NPRM Comment Period End	11/02/95	
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: RIN 0648-AG96 has been incorporated into RIN 0648-AH00.

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH00

702. AMENDMENT 34 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BSAI

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 676

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and Final Action 110 days after receipt from the Regional Fishery Management Council.

Abstract: Increase personal/vessel use limits to relieve potentially unnecessary restrictions on Individual Fishing Quota use.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	10/00/96	
Final Action	11/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH02

703. AMENDMENT 26 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AND AMENDMENT 29 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Regional Fishery Management Council.

Abstract: Authorize voluntary retention and processing of salmon taken as bycatch in the Alaska trawl fisheries for donation to food bank organizations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH03

704. FISHERY MANAGEMENT PLAN FOR SCUP NORTH OF CAPE HATTERAS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: NPRM, Statutory, November 15, 1994.

Abstract: A new fishery management plan for scup (Stenotomus chrysops) north of Cape Hatteras will be implemented. Proposed management measures are unknown at this time (January, 1995), and may include but are not limited to a minimum fish size, gear specifications, seasons, and limited access to the fishery.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9250

RIN: 0648–AH05

705. FISHERY MANAGEMENT PLAN FOR BLACK SEA BASS NORTH OF CAPE HATTERAS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 637

DOC—NOAA

Proposed Rule Stage

Legal Deadline: NPRM, Statutory, November 15, 1994.

Abstract: The draft FMP has objectives to reduce fishing mortality to assure that overfishing does not occur, protect immature black sea bass to increase spawning stock biomass, and improve yield in the fisheries. Management measures contained in the draft FMP are designed to reduce exploitation rates in the fishery from the current amount of 41 percent to 14 percent by year 8 of the FMP. Measures include: (1) Minimum fish sizes and commercial gear regulations during the first two years of implementation, (2) a moratorium on entry to the commercial fishery, (3) permit requirements for commercial, party and charter boats and dealers; (4) operator permit requirements for commercial, party and charter boats; and (5) reporting requirements for commercial vessels, party and charter boats, and dealers.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 518 281-9250

RIN: 0648–AH06

706. REGULATORY AMENDMENT FOR MULTIPLE "A" PACIFIC GROUNDFISH LIMITED ENTRY PERMITS PER VESSEL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This regulatory action would amend Pacific Coast groundfish regulations to allow multiple "A" limited entry permits per vessel. This effectively may be accomplished by attaching trip limits to the permits rather than to the vessels.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	
Final Action	11/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AH07

707. REGULATORY AMENDMENT TO FACILITATE MONITORING AND ENFORCEMENT IN THE PACIFIC COAST GROUNDFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This action would implement new regulatory provisions and modify existing regulatory provisions to facilitate monitoring of fishing activities and enforcement in the Pacific Coast groundfish fishery. It also would make miscellaneous technical clarifications to existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	03/00/96	
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AH21

708. FMP AMENDMENT 37 TO THE GROUNDFISH FISHERY OF THE BSAI

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Fishery Management Council.

Abstract: This FMP amendment would provide protection for the red king crab in trawl fisheries in a portion of Bycatch Zone 1 in the Bering Sea.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	04/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99807
Phone: 907 586-7228

RIN: 0648–AH28

709. DEFINITION OF "SAFE BOARDING LADDER" FOR FISHERIES REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 620

Legal Deadline: None

Abstract: This regulatory amendment will define safe boarding conditions including standards for a boarding ladder to support an existing requirement for fishing vessels to provide a safe boarding ladder to authorized personnel.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	02/00/96	
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: Undetermined

DOC—NOAA

Proposed Rule Stage

Government Levels Affected: Undetermined

Sectors Affected: 091 Commercial Fishing

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH39

710. AMENDMENT 6 TO THE FISHERY MANAGEMENT PLAN FOR AMERICAN LOBSTER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 649

Legal Deadline: None

Abstract: This amendment is designed to address overfishing of American lobster in four different effort management areas for this species. Measures may include effort control provisions such as trip limit-sea allocations or gear restrictions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AH41

711. ENFORCEMENT OF PERMIT REQUIREMENTS AND OTHER PROVISIONS GOVERNING THE NORTHWESTERN HAWAIIAN ISLANDS BOTTOMFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 683

Legal Deadline: None

Abstract: This regulatory action will facilitate enforcement of regulations governing permit and permit reporting requirements in the NW Hawaiian Islands Bottomfish Fishery. The regulation prohibits bottomfish fishing in the Maui Zone without a permit and requires vessels to display their official numbers. A new requirement for dealers to make their records available for inspection will support existing state requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/18/95	60 FR 43106
NPRM Comment Period End	10/16/95	
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AH48

712. AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 658

Legal Deadline: None
NPRM 15 days and final action 110 days from receipt from Regional Fishery Management Council

Abstract: Amendment 9 would address the issue of the incidental catch (bycatch) of fish in shrimp trawls. Management measures being considered include: requiring the use of NMFS-approved bycatch reduction devices (BRDs)in the shrimp trawls in the exclusive economic zone (EEZ) of the Gulf of Mexico within the 110-fathom contour; requiring the use of NMFS-approved BRDs in shrimp trawls in specified areas of the Gulf of Mexico EEZ; criteria for NMFS approval of BRDs, including specifications for exclusion of bycatch and retention of shrimp; and seasonal and area restrictions to reduce bycatch.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	04/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AH52

713. STRIPED BASS REGULATIONS FOR THE EXCLUSIVE ECONOMIC ZONE (EEZ)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-206

CFR Citation: 50 CFR 656

Legal Deadline: None

Abstract: This action would change Federal striped bass regulations in the EEZ off the Atlantic Coast to support the Atlantic States Marine Fisheries Commission's Striped Bass Management Plan's Amendment 5.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: ASMFC's Amendment 5 was completed on 3/95. This amendment relaxes State regulations restricting the take of striped bass in recognition of the recovery of striped bass stocks along the Atlantic coast. Federal action is anticipated to change the current Federal closure to striped bass fishing in the EEZ to regulation which will be less restrictive and more compatible with State regulations.

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries, Conservation & Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AH57

DOC—NOAA

Proposed Rule Stage

714. FMP AMENDMENT FOR THE GROUNDFISH FISHERY OF THE BSAI AND THE FMP AMENDMENT FOR THE GROUNDFISH OF THE GOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 676

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory. NPRM 15 days and final action 110 days after receipt from the Fishery Management Council.

Abstract: These FMP amendments would make minor changes to the Individual Fishing Quota Program to facilitate implementation of the program and would increase individual fishing quota use limits.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH61

715. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC BLUEFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 628

Legal Deadline: None

Abstract: This amendment would revise the management of the fishery and include measures which will be specified annually for commercial quotas and recreational possession limits for Atlantic Bluefish in the U.S. EEZ.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	04/00/96	
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AH63

716. AMENDMENT 39 TO THE FMP FOR GROUNDFISH FISHERY OF BSAI, AMENDMENT 41 TO THE FMP FOR GROUNDFISH OF THE GOA AND AMENDMENT 5 TO THE FMP FOR COMMERCIAL KING & TANNER CRAB FISHERIES OF THE BSAI

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 671; 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Regional Fishery Management Council.

Abstract: Amendments authorize implementation of a license limitation program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH65

717. FMP AMENDMENT 36 FOR THE GROUNDFISH FISHERY OF THE BSAI AND FMP AMENDMENT 39 FOR THE GROUNDFISH OF THE GOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from a Regional Fishery Management Council.

Abstract: This regulatory amendment deletes osmerid species from the "other species" category to protect important forage fish. Osmerid species would either be established as a separate total allowable catch category or established as a prohibited species.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH67

718. FMP AMENDMENT 38 FOR THE GROUNDFISH FISHERY OF THE GOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Regional Fishery Management Council.

Abstract: This FMP amendment makes changes to the Gulf of Alaska Pacific ocean perch rockfish rebuilding program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS,

Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH68

719. AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERIES

Priority: Economically Significant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 651

Legal Deadline: None

Abstract: Amendment 7 to the FMP is designed to implement measures that will reduce fishing mortality to a level as close as possible to zero for haddock, cod, and yellowtail flounder throughout the range of those fish stocks. The measures are expected to include seasonal area closures and total allowable catches for groundfish other than haddock, cod, and yellowtail flounder. This action is necessary to begin rebuilding of groundfish species which currently are at historically low levels of abundance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AH70

720. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 658

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory. NPRM 15 days and final action 110 days after receipt from the Fishery Management Council.

Abstract: Amendment 8 proposes to establish a framework procedure authorizing the Director, Southeast Region, National Marine Fisheries Service, to set total allowable catch for royal red shrimp in the Gulf of Mexico exclusive economic zone, up to 130 percent of the current estimate of maximum sustainable yield (392,000 pound tails) for 2 consecutive years.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AH72

721. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR CORALS AND CORAL REEFS OF THE SOUTHERN ATLANTIC STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 638

Legal Deadline: None

Abstract: Amendment 3 would establish permitting requirements for live rock aquaculture in the South Atlantic, regulate octocorals north of Florida, and prohibit anchoring of fishing vessels in the Oculina Bank Habitat Area of Particular Concern.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AH74

722. REGULATORY ADJUSTMENTS TO THE FMP FOR SHARKS OF THE ATLANTIC OCEAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 678

Legal Deadline: None

Abstract: Would allow for certain regulatory adjustments within the FMP Framework.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AH77

723. PLAN AMENDMENT TO FMP FOR SHARKS OF THE ATLANTIC OCEAN THAT WOULD LIMIT ENTRY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 678

Legal Deadline: None

Abstract: Amendment would allow for permit moratorium/limited entry into the Commercial Shark Fishery

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910

Phone: 301 713-2334

RIN: 0648–AH78

724. REGULATORY AMENDMENT REGARDING EXERCISE OF RIGHTS OF NORTHWEST TREATY INDIAN TRIBES TO HARVEST GROUNDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: Regulations would establish the framework for affected Northwest Indian tribes to exercise their treaty rights to harvest groundfish, as officially recognized for the first time by the Federal Government in 1994. Most of the harvest takes place in the EEZ and is governed by the Pacific Coast Groundfish FMP. These regulations would be modeled on similar regulations for salmon and halibut, and would include relevant definitions and descriptions of the tribes' fishing areas.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BINC15700, Bldg. 1, Seattle, WA 98115
Phone: 206 526-6150

RIN: 0648–AH84

725. FISHERY MANAGEMENT PLAN FOR THE GOLDEN CRAB FISHERY OFF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This new Fishery Management Plan for the Golden Crab Fishery of the South Atlantic Region (FMP) would manage the golden crab fishery in the exclusive economic zone off the southern Atlantic states. Possible FMP measures include: Area and season restrictions on fishing; size limits; trap escape panel requirements and other gear use measures; prohibition on harvest of females; limits on the number of fishery participants; and vessel and dealer permitting and reporting requirements. The purpose of the FMP is to control the expansion of this fishery in a manner that protects the golden crab resource while allowing for collection of biological and fishery data required to better manage this resource/fishery. The South Atlantic Fishery Management Council, which is developing the FMP, is concerned about the possible entrance into the fishery of a large number of fishermen who have been displaced from New England and Alaska fisheries; the golden crab resource is considered particularly vulnerable to overfishing. The FMP may contain a controlled fishery access program based, in part, on a demonstrated history of past golden crab landings. The advance notice of proposed rulemaking announced the Council's consideration of a control date of 4/07/95, as a possible cutoff date for determining historical fishery participation.

Timetable:

Action	Date	FR Cite
ANPRM	04/07/95	60 FR 17770
ANPRM Comment Period End	05/08/95	
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, MNFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive north, St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AH86

726. • PROPOSED RULE; AMENDMENT 7 TO THE SUMMER FLOUNDER FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 625

Legal Deadline: None

Abstract: The amendment would revise the fishing mortality rate reduction schedule for Summer Flounder.

Timetable:

Action	Date	FR Cite
NPRM	09/05/95	60 FR 46105
NPRM Comment Period End	10/02/95	
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930-2298
Phone: 508 281-9200

RIN: 0648–AH94

727. • NOTICE OF CHANGES IN THE MANAGEMENT REGIMES FOR ATLANTIC AND GULF GROUPS OF KING AND SPANISH MACKEREL FOR THE 1996-97 FISHING YEAR

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 642

Legal Deadline: None

Abstract: This rule would change the total allowable catch (TAC) for the Atlantic and Gulf migratory groups of king and Spanish mackerel for the 1996-97 fishing year under framework regulatory adjustment procedures for the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS,

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DOC—NOAA

Proposed Rule Stage

Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AI13

728. • AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 659

Legal Deadline: NPRM, Statutory.
Final, Statutory.
NPRM 15 days and final action 110 days after receipt from a Regional Fishery Management Council.

Abstract: Amendment 2 would add brown and pink shrimp to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic. It would also address incidental catch of fish in shrimp trawls. Management measures being considered include: developing specific bycatch reduction measures for all penaeid shrimp fisheries in the South Atlantic exclusive economic zone (EEZ), including requiring the use of NMFS-improved bycatch reduction devices (BRDs) in all penaeid shrimp trawls in the South Atlantic EEZ, to reduce bycatch component of weakfish and Spanish mackerel fishing mortality by 50 percent. Area1 and seasonal restrictions may also be considered to reduce bycatch.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AI15

729. • WITHDRAWAL OF FEDERAL FISHERIES REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 625; 50 CFR 628; 50 CFR 640; 50 CFR 654; 50 CFR 656; 50 CFR 662; 50 CFR 674

Legal Deadline: None

Abstract: Withdraws Federal fishery regulations that can be managed adequately replaced by state fishery management regimes or that are no longer necessary.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI16

730. • CONSOLIDATION OF GENERAL FISHERY REGULATIONS OF THE UNITED STATES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600; 50 CFR 601; 50 CFR 602; 50 CFR 605; 50 CFR 611; 50 CFR 619; 50 CFR 620

Legal Deadline: None

Abstract: Consolidates general fishery regulations under the Magnuson Act to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	01/00/97	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI17

731. • CONSOLIDATION OF FISHERIES REGULATIONS OF ALASKA

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 671; 50 CFR 672; 50 CFR 675; 50 CFR 676; 50 CFR 677

Legal Deadline: None

Abstract: Consolidates existing marine fishery regulations of Alaska to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	01/00/97	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI18

DOC—NOAA

Proposed Rule Stage

732. • CONSOLIDATION OF FISHERIES REGULATIONS OF THE PACIFIC COAST AND WESTERN PACIFIC

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 661; 50 CFR 663; 50 CFR 680; 50 CFR 681; 50 CFR 683; 50 CFR 685

Legal Deadline: None

Abstract: Consolidates existing marine fishery regulations of the Pacific Coast (except Alaska) and Western Pacific to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	01/00/97	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI19

733. • CONSOLIDATION OF FISHERIES REGULATIONS OF THE SOUTHEASTERN UNITED STATES, PUERTO RICO, AND THE U.S. VIRGIN ISLANDS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 638; 50 CFR 641; 50 CFR 645; 50 CFR 646; 50 CFR 647; 50 CFR 659; 50 CFR 669

Legal Deadline: None

Abstract: Consolidates existing marine fishery regulations of the southeastern United States, Puerto Rico, and the U.S. Virgin Islands to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	01/00/97	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI20

734. • CONSOLIDATION OF FISHERIES REGULATIONS OF THE NORTHEASTERN UNITED STATES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 625; 50 CFR 650; 50 CFR 651; 50 CFR 652; 50 CFR 655; 50 CFR 657

Legal Deadline: None

Abstract: Consolidates existing regulations for marine fisheries of the northeastern United States to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	01/00/97	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI21

735. • CONSOLIDATION OF INTERNATIONAL FISHERIES REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 951 to 961; 16 USC 1801 et seq; 16 USC 773 to 773k; 16 USC 3636(b)

CFR Citation: 50 CFR 280; 50 CFR 299; 50 CFR 300; 50 CFR 301; 50 CFR 371; 50 CFR 695

Legal Deadline: None

Abstract: Consolidates existing international fishery regulations to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI22

736. • 1996 TOTAL ALLOWABLE CATCH OF ATLANTIC SWORDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: This action will establish the total allowable catch of Atlantic swordfish for 1996.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

DOC—NOAA

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	03/00/96	
Final Action	05/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI23

737. • AMENDMENT 10 TO THE FMP FOR ATLANTIC SURF CLAM AND OCEAN QUAHOG

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 652

Abstract: Amendment would revise the overfishing definitions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9300

RIN: 0648–AI27

738. • CONSOLIDATION OF ATLANTIC HIGHLY MIGRATORY SPECIES REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 285; 50 CFR 630; 50 CFR 644; 50 CFR 678

Abstract: Consolidates existing Atlantic highly migratory species regulations to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	
Final Action	10/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI28

739. • 1996 ATLANTIC TUNA FISHERIES QUOTAS AND EFFORT CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq

CFR Citation: 50 CFR 285

Abstract: Sets fishing quotas and effort controls for 1996 Atlantic tuna fisheries.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	06/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI29

740. • REGULATORY AMENDMENT TO CHANGE THE NON-TRAWL SABLEFISH REGULAR SEASON IN THE PACIFIC COAST GROUNDFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This regulation would change the nontrawl sablefish season opening from August 6 to August to October to enable the fleet to take better advantage of alternate fishing opportunities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700 Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AI30

741. • REGULATORY AMENDMENT REQUIRING LONGLINE VESSEL OPERATORS TO CARRY OBSERVERS AT NO COST TO U.S. GOVERNMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 685

Legal Deadline: None

Abstract: The current NMFS-funded longline fishery observer program would be replaced by an industry-funded program. NMFS would certify third-party providers of observer services, and vessel owners would contract with these third parties for observer services when advised that an observer must be carried by the vessel. An Observer Plan prepared by NMFS would establish the roles and relationships of NMFS, observer providers, and vessel owners.

Timetable:

Action	Date	FR Cite
Final Action	03/00/95	
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AI31

DOC—NOAA

Proposed Rule Stage

742. • AMENDMENT 9 TO THE WESTERN PACIFIC CRUSTACEAN FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 681

Legal Deadline: None

Abstract: Amendment 9 to the Fishery Management Plan for Crustacean Fisheries of the Western Pacific Region would establish a new harvest limitation program for the lobster fishery in the Northwestern Hawaiian Islands. An annual harvest guideline would be set based on a constant harvest rate and a fixed and explicit risk of overfishing. All lobsters caught could be retained. Season and area closures, limited entry, and reporting requirements would be unchanged. Framework procedures for future regulatory changes would be set, including direct closure of the fishery by the Regional Director when he/she projects the harvest guideline will have been reached.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	02/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AI32

743. • REGULATORY AMENDMENT TO CHANGE THE START OF THE WHITING REGULAR SEASON TO MAY 15 NORTH OF 42 DEGREES NORTH LATITUDE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This regulation would shift the opening of the large-scale, "regular season" for Pacific whiting from April 15 to May 15 north of 42deg N. lat. A month delay is expected to result in better quality fish (since, in April, some are still in poor condition after spawning in the winter), greater dispersion of whiting along the coast (they migrate from south to north during the fishing season, with larger fish migrating further north), and reduced bycatch of some species, particularly chinook salmon, if the fishery occurs as it did in 1995.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	01/00/96	
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AI34

744. • AMENDMENT 5 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 650

Legal Deadline: None

Abstract: Fishing effort for this fishery would be further consolidated through either individual transferable quotas or days at sea.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AI36

745. • FRAMEWORK ADJUSTMENT TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 650

Legal Deadline: None

Abstract: This framework adjustment would keep the seven-man crew size.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9250

RIN: 0648–AI37

746. • REGULATORY AMENDMENT TO ADJUST THE TOTAL ALLOWABLE CATCH FOR ROYAL RED SHRIMP IN THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 658

Legal Deadline: None

Abstract: In accordance with the framework procedures established under Amendment 8 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, this regulatory amendment would temporarily increase the total allowable catch for royal red shrimp by 30 percent each year for two years from 392,000 pounds to 509,600 pounds

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	02/00/96	

Small Entities Affected: Undetermined

DOC—NOAA

Proposed Rule Stage

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AI39

747. • AMENDMENT 1 TO THE NORTH PACIFIC FISHERY RESEARCH PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 17 USC 1801 et seq

CFR Citation: 50 CFR 677

Legal Deadline: NPRM, Statutory.
Final, Statutory.
Within 60 days after receipt of a plan from North Pacific Council NMFS shall publish proposed regulations and within 45 days of the close of comment period, NMFS will publish final regulations.

Abstract: Amendment 1 to the Research Plan would delay full implementation of the Research Plan until 1997 and establish 1996 observer requirements for the Research Plan Fisheries.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47142
NPRM Comment Period End	11/06/95	
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The proposed rule contained RIN 0648-AD80. This document reflects a new RIN number.

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AI40

748. GENERAL PROVISIONS FOR DOMESTIC FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801-81 Magnuson Act

CFR Citation: 50 CFR 620

Legal Deadline: None

Abstract: The amendments to the Magnuson Act of November 14, 1990, added several new prohibitions such as the ban on large-scale driftnet fishing and the prohibition on assaulting observers. The regulations at 50 CFR 620 contain the prohibitions that apply generally to domestic fishing regulated under the Magnuson Act. The regulations must be amended to reflect the recent amendments to the Magnuson Act and to update and improve current language generally. The alternative would be to leave the regulatory language as it is now. This would be unacceptable because it would leave the regulation out of date and inconsistent with the current statutory language. The benefits would be to improve the current regulations and to clarify the scope of the new statutory language. There are no potential costs identified.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel LaBissonniere, Attorney, Office of General Counsel--Enforcement and Litigation, Department of Commerce, National Oceanic and Atmospheric Administration, Office of General Counsel, 8484 Georgia Avenue, Fourth Floor, Silver Spring, MD 20910
Phone: 301 427-2202

RIN: 0648–AE39

749. PRESCRIPTION OF FISHWAYS UNDER SECTION 18 OF THE FEDERAL POWER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 791a et seq

CFR Citation: 50 CFR 405 (New)

Legal Deadline: None

Abstract: The Department of the Interior and the Department of Commerce (Departments) seek advance comments on a proposed rule to implement the Departments' authority to prescribe fishways under section 18 of the Federal Power Act (FPA). The proposed rule is a procedural rule that identifies how the Departments would prescribe fishways included in Federal Energy Regulatory Commission licenses for hydropower facilities. It includes a definition of fishways that comports with the language of the National Energy Policy Act of 1992 (PL 102-496). The Departments' objectives are to codify agency practice as well as provide applicants with notice of the Departments' information needs and prescription procedures. This should eliminate unnecessary costs, confusion, and procedural burdens on hydropower project sponsors while protecting important fishery resources affected by hydropower projects.

The Departments are interested in advance comments on the proposed procedures and definitions. The no-action option will be used as a baseline for analysis. Benefits and costs of the proposal have not been quantified. However, the process of licensing hydropower facilities requires an economic and environmental analysis for each action.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/94	59 FR 45255
ANPRM Comment Period End	10/31/94	
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Hall, Chief, Anadromous Fish Habitat, Conservation Division, Department of Commerce, National Oceanic and Atmospheric Administration, NMFS - F/HP4, Silver Spring, MD 20910
Phone: 301 713-2325

RIN: 0648–AG53

750. SCREENING OF WATER DIVERSIONS TO PROTECT SACRAMENTO RIVER WINTER-RUN CHINOOK SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533 et seq

CFR Citation: 50 CFR 227; 50 CFR 222

Legal Deadline: None

Abstract: NMFS is considering proposing regulations under the Endangered Species Act that would establish screening requirements for water diversions from the Sacramento River and Delta to protect a listed species, the winter-run chinook salmon. There are over 2,000 unscreened diversions along the River and Delta. NMFS is concerned that these unscreened diversions may cause substantial losses of juvenile salmon.

Timetable:

Action	Date	FR Cite
ANPRM	10/18/93	58 FR 53703
ANPRM Comment Period End	12/18/93	
Extension of Comment Period for 90 Days	01/20/94	59 FR 3068
NPRM	03/00/96	
NPRM Comment Period End	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret C. Lorenz, Endangered Species Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AF80

751. FOREIGN NATIONS' MARINE MAMMAL PROGRAM AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24(e)(5)(v)(B)

Legal Deadline: None

Abstract: This rule will change the requirement that foreign nations make changes to their marine mammal programs within 180 days of the date such changes are effective for U.S. fishermen. This is necessary to provide more time for foreign governments to make such changes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AG05

DOC—NOAA

Proposed Rule Stage

752. DESIGNATION OF CRITICAL HABITAT FOR THE GULF OF MAINE POPULATION OF HARBOR PORPOISE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq, Endangered Species Act

CFR Citation: 50 CFR 226

Legal Deadline: None
The ESA requires critical habitat designation within one year of the listing date. The listing has not been made final to date.

Abstract: Pursuant to the Endangered Species Act (ESA) NMFS will propose to designate critical habitat for the Gulf of Maine harbor porpoise population following if the population is listed under the ESA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Proposed designation is dependent upon final determination to list the Gulf of Maine population of harbor porpoise as threatened under the Endangered Species Act. Deadlines and action dates are also dependent upon the date of final listing. This date has yet to be established.

Agency Contact: Michael Payne, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322

RIN: 0648–AG06

753. TAKING AND IMPORTING OF MARINE MAMMALS: TUNA PURSE SEINE VESSEL OBSERVER EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: NMFS proposes to amend its regulations governing the reimbursement of tuna vessel owners for the cost of carrying NMFS observers (50 CFR 216.24(f)(4)). The regulations require that a U.S.-flag tuna purse seine vessel holding a certificate of inclusion under the general permit issued to the American Tunaboat Association carry an observer when assigned by the Director, Southwest Region, NMFS. The regulations currently require that NMFS reimburse vessel operators for all costs associated with carrying the observers. The proposed rule change would require that "the vessel owner shall incur all reasonable costs directly related to the quartering and maintaining of such observers on board such vessels."

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 301 980-4001

RIN: 0648–AG35

754. TAKING AND IMPORTING OF MARINE MAMMALS; TAKING OF MARINE MAMMALS UNDER THE ATA PERMIT AFTER FEBRUARY 28, 1994

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, March 1, 1994.

Abstract: The International Dolphin Conservation Act provides that, if no major purse seine tuna fishing country enters into an agreement for a moratorium on setting on marine mammals during the course of commercial fishing operations, the total dolphin mortalities authorized under the general permit issued to the American Tunaboat Association shall not exceed the number of dolphin mortalities which occurred under the permit during the preceding year.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

DOC—NOAA

Proposed Rule Stage

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AG36

755. GENERAL PROVISIONS; ENDANGERED FISH OR WILDLIFE; THREATENED FISH AND WILDLIFE; SEA TURTLE CONSERVATION MEASURES (SEC. 9 PROTECTION)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 217; 50 CFR 220; 50 CFR 221; 50 CFR 222; 50 CFR 223; 50 CFR 224; 50 CFR 227

Legal Deadline: None

Abstract: NMFS proposes to make both technical and substantive changes to the ESA regulations. These changes would make the implementing regulations easier to understand and to enforce. NMFS also proposes to substantively change ESA regulations by prohibiting the take of threatened, as well as endangered, species. NMFS also proposes to amend the regulations to allow non-Federal parties to incidentally take threatened species with an incidental take permit.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/92	57 FR 30709
ANPRM Comment Period End	08/08/92	
NPRM	12/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Russell J. Bellmer, Chief, Endangered Species Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, SSMC #3, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AG38

756. DESIGNATED CRITICAL HABITAT; PACIFIC STEELHEAD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, February 16, 1995. Final, Statutory, February 16, 1996.
Endangered Species Act section 4(b)(3)(D)(ii)

Abstract: The regulation will propose critical habitat designation for coastal steelhead populations that are proposed for listing under the Endangered Species Act in California, Oregon, and Washington.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, F/PR8, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AG49

757. DESIGNATED CRITICAL HABITAT; PACIFIC COHO SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, October 26, 1994. Final, Statutory, July 25, 1996.
Endangered Species Act sec. 4(b)(3)(D)(ii)

Abstract: The regulation will propose critical habitat designation for coastal coho salmon populations that are proposed for listing under the Endangered Species Act in California, Oregon, and Washington.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, F/PR8, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AG56

758. DESIGNATED CRITICAL HABITAT; UMPQUA RIVER SEA-RUN CUTTHROAT TROUT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, April 1, 1994. Final, Statutory, July 8, 1995.
Endangered Species Act sec. 4(b)(3)(D)(ii)

Abstract: NMFS has issued a proposed rule to list the Umpqua River cutthroat trout in Oregon as endangered under the Endangered Species Act of 1973. NMFS has also determined that the Umpqua River cutthroat trout is a "species" as interpreted under the ESA. Upon completion of an analysis on the critical habitat for the Umpqua River cutthroat trout, NMFS plans to propose critical habitat for the species.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Interim Final Rule	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, F/PR8, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AG58

759. PROPOSED RULE TO AUTHORIZE LETHAL TAKINGS OF MARINE MAMMALS BY STATE AUTHORITIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

DOC—NOAA

Proposed Rule Stage

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: Section 120 of the MMPA as amended in 1994 provides the Secretary the discretion to authorize the intentional lethal taking of individually identifiable pinnipeds which are having a significant negative impact on salmonids that are either 1) listed under the ESA, 2) approaching a threatened or endangered status, or 3) migrate through the Ballard Locks in Seattle. The process for determining whether to implement the authority commences with a State developing and submitting an application that provides a detailed description of the interaction problem. If warranted by scientific evidence, NMFS is to establish a Pinniped-Fishery Interaction Task Force to address the situation described in the application and publish a notice in the Federal Register requesting public comment on the application. Within 60 days after establishment, and after reviewing public comments in response to the Federal Register notice, the Pinniped-Fishery Interaction Task Force is to recommend approval or denial of the proposed intentional lethal taking along with recommendations on the proposed location, time, and method of such taking, criteria for evaluating the success of the action, and the duration of the recommendations. NMFS must either approve or deny the application.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2055

RIN: 0648–AG79

760. FINAL RULE TO AMEND MARINE MAMMAL REGULATIONS TO AUTHORIZE INCIDENTAL TAKINGS OF MARINE MAMMALS BY HARASSMENT AS AUTHORIZED BY PUBLIC LAW 103-238

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

CFR Citation: 50 CFR 228; 50 CFR 216

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: On April 30, 1994, the President signed Pub. L. 103-238, the Marine Mammal Protection Act Amendments of 1994. One part of this law amended section 101(a)(5) to establish an expedited process by which citizens of the United States, who engage in a specified activity (other than commercial fishing) within a specific geographic region, can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The proposed rule, if implemented, would establish specific time limits for public notice and comment on any requests for authorization which would be granted under this rule; implement procedures for the establishment of scientific peer review groups to review an applicant's monitoring plan when the taking may affect the availability of a stock for subsistence uses; and limit authorizations to a period of 1 year.

Timetable:

Action	Date	FR Cite
NPRM	05/31/95	60 FR 28379
NPRM Comment Period End	10/16/95	60 FR 35891
Final Action	01/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2055

RIN: 0648–AG80

761. PROPOSED DESIGNATION OF CRITICAL HABITAT FOR PUGET SOUND SALMON STOCKS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq The Endangered Species Act

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, March 14, 1995. Final, Statutory, March 14, 1996.
Endangered Species Act section 4(b)(3)(D)(ii)

Abstract: NMFS will propose critical habitat for Puget Sound salmon stocks if the species is/are proposed for listing under the Endangered Species Act. These stocks include (1) Hood Canal summer chum salmon, (2) Elwha River pink salmon, (3) Lower Dungeness River pink salmon, (4) North Fork Nooksack River spring chinook salmon, (5) South Fork Nooksack River spring chinook salmon, (6) Dungeness River spring chinook salmon, (7) Baker River sockeye salmon, (8) Discovery Bay chum salmon, and (9) White River spring chinook salmon. Mud Bay/Eld Inlet chum salmon were petitioned for listing on April 4, 1994, so this stock will be included in this rule, if warranted.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-1401

RIN: 0648–AH11

762. PROPOSED RULE TO PROVIDE REGULATIONS FOR PERMITS FOR CAPTURE, TRANSPORT, IMPORT AND EXPORT OF PROTECTED SPECIES FOR PUBLIC DISPLAY, AND FOR MAINTAINING A CAPTIVE MARINE MAMMAL INVENTORY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1372 (c)

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: This proposed rule would revise and simplify criteria and procedures specific to permits for taking, transporting, importing, and exporting protected species for public display and provide convenient formats for reporting marine mammal captive holdings and transports as required by amendments made in 1994 to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Laurel Bryant, Marine Resource Management Specialist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH26

763. PROPOSED RULE GOVERNING THE ISSUANCE OF PERMITS FOR MARINE MAMMAL PHOTOGRAPHY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1372 (c)(6)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This rule will provide for the issuance of permits to take marine mammals by only level B harassment for the purpose of educational or commercial photography.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Laurel Bryant, Marine Resources Management Specialist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH31

764. SHRIMP VESSEL REGISTRATION REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 227

Legal Deadline: None
Pending settlement agreement may impose legal deadline.

Abstract: NMFS proposes to require permits on shrimp vessels operating in Federal waters. This action is required by the 11/14/94 jeopardy biological opinion.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell Bellmer, Chief, Endangered Species Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AH87

765. CRITICAL HABITAT DESIGNATION FOR GREEN SEA TURTLES IN CULEBRA, PUERTO RICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 226

Legal Deadline: None

Abstract: NMFS proposes to designate portions of Culebra, Puerto Rico, as critical habitat for the threatened green sea turtle.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Russell Bellmer, Chief, Endangered Species Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AH88

766. IDENTIFICATION OF SPECIAL SEA TURTLE CONSERVATION AREAS AND APPROPRIATE CONSERVATION MEASURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 227; 50 CFR 217; 50 CFR 222

Legal Deadline: None
Legal deadlines may be imposed by pending settlement agreement.

Abstract: NMFS proposes to identify areas requiring special sea turtle conservation measures such as limited tow times, TED restrictions, or area closures. This action is required by the 11/14/94 jeopardy biological opinion. This action includes the LGL petition for rulemaking to replace the Emergency Responce Plan.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell Bellmer, Chief, Endangered Species Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910

Phone: 301 713-1401

RIN: 0648–AH89

767. • SEA TURTLE CONSERVATION; COMMERCIAL SHRIMP VESSEL PERMIT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 652

Abstract: These quotas establish allowable harvests of surf clam an ocean quahog from the exclusive economic zone in 1996.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9300

RIN: 0648–AI25

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

768. FLORIDA KEYS NATIONAL MARINE SANCTUARY

Regulatory Plan: This entry is Seq. No. 15 in Part II of this issue of the Federal Register.

RIN: 0648–AD85

769. STREAMLINING OF NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 924; 15 CFR 925; 15 CFR 935; 15 CFR 936; 15 CFR 938; 15 CFR 940; 15 CFR 941; 14 CFR 942; 15 CFR 953; 15 CFR 944

Legal Deadline: None

Abstract: NPAA is reviewing all sanctuary regulations to eliminate duplicative language and make the regulations more concise and easier to read

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lawless, Acting Chief, Sanctuaries and Reserves Div., Office of Ocean and Coastal Resource Mgmt., Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Services, 1305 East-West Highway (N/ORM2), Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AF23

770. HAWAIIAN ISLANDS HUMPBACK WHALE NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq (National Marine Sanctuary Act); PL 102-587 (Ocean Act of 1992), subtitle C-Hawaiian; Island National Marine Sanctuary Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Regulations implement the Congressional designation of the Hawaiian Island, Humpback National Marine Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lawless, Acting Chief, Sanctuaries and Reserves Div., Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (LN/ORM4), Silver Spring, MD 20910
Phone: 301 713-3185

RIN: 0648–AH91

771. RESTRICTING OR PROHIBITING ATTRACTING SHARKS IN THE MONTEREY BAY NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1434(a)(5)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Sanctuaries and Reserves Division (SRD) is issuing an ANPR to inform the public that it is considering restricting or prohibiting attracting sharks by chum or other means in the Monterey Bay National Marine Sanctuary, and to invite written comments, advice, and recommendations. This ANPR is an optional preliminary step to notice and comment rulemaking. If SRD determines to amend the regulations, SRD must follow the appropriate procedures of notice and comment rulemaking under the Administrative Procedure Act. Further, SRD will consult, as required by the National Marine Sanctuaries Act at 16 USC 1434(a)(5), with the Pacific Fishery Management Council before it issues any Sanctuary regulations "for fishing."

Any future restrictions or prohibitions SRD places on attracting sharks by the use of chum or other means would be to ensure that Sanctuary resources or qualities would not be adversely impacted and/or to avoid conflict among various users of the Sanctuary. This is consistent with the purposes of the sanctuary designation.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/95	60 FR 10812
ANPRM Comment Period End	04/14/95	
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth Moore, Sanctuaries and Reserve Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM4), Silver Spring, MD 20910
Phone: 301 713-3145

RIN: 0648–AH92

772. • ALLOWANCE OF SMALL-SCALE NON-INTRUSIVE JADE COLLECTING IN MONTEREY BAY NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1434(a)(5)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The National Ocean Service, Sanctuaries and Reserve Division (SRD) is issuing an ANPRM to inform the public that it is considering allowing small-scale, non-intrusive jade collecting in the MBNMS, and to invite written comments, advice, and recommendations. Thare has been public interest in allowing jade collection in the MBNMS and this action will respond to and address those interests. If SRD determines to amend the regulations, it will issue a proposed rule with an additional 45-day comment period.

This action is considered not significant because the advance notice of proposed rulemaking simply presents an issue and course of action under consideration by SRD and requests comments from the public. This action will ensure that SRD takes into account all views on this issue. This action does not have an annual effect on the economy of $100 million or more, nor does it adversely effect in a material way the economy, environment, public health or safety.

Timetable:

Action	Date	FR Cite
ANPRM	08/09/95	60 FR 40540
ANPRM Comment Period End	09/08/95	
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elizabeth Moore, Sanctuaries and Reserves Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM2), Silver Spring, MD 20910
Phone: 301 713-3145

RIN: 0648–AI06

773. • OCEAN THERMAL ENERGY CONVERSION LICENSING PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: Ocean Thermal Energy Conversion Act, as amended; 42 USC 9101 et seq

CFR Citation: 15 CFR 981

Legal Deadline: None

Abstract: NOAA plans to propose the removal of 15 CFR Part 981 from the CFR.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James P. Lawless, Deputy Director, NOAA Office of Ocean and Coastal Resource Mg, Department of Commerce, National Oceanic and Atmospheric Administration, NOAA/OCRM, 1305 East-West Highway 11th Floor, Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AI42

774. • COASTAL ZONE MANAGEMENT PROGRAM DEVELOPMENT AND APPROVAL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Coastal Zone Management Act, as amended; 16 USC 1451 et seq

CFR Citation: 15 CFR 923

Legal Deadline: None

Abstract: NOAA plans to propose revising the coastal zone management program development and approval regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: James P. Lawless, Deputy Director, NOAA Office of Ocean and Coastal Resource Mg, Department of Commerce, National Oceanic and Atmospheric Administration, NOAA/OCRM, 1305 East-West Highway 11th Floor, Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AI43

OFFICE OF THE ADMINISTRATOR

775. LICENSING OF PRIVATE REMOTE-SENSING SPACE SYSTEMS

Priority: Other Significant

Legal Authority: 15 USC 5624; PL 102-555

CFR Citation: 15 CFR 960

Legal Deadline: None

Abstract: Pub. L. 102-555 amends the Land Remote Sensing Commercialization Act of 1984 to transfer the LANDSAT program from the Department of Commerce to a joint NASA/DOD office. However, title II retains the basic provisions of title IV of the previous act authorizing the Secretary of Commerce to license private operators of land remote-sensing space systems who are subject to U.S. jurisdiction. The Secretary is required to consult with the Secretaries of Defense and State, who are responsible for determining conditions to protect national security and foreign policy concerns, respectively. The recent Act removes a regulatory restriction which required operators to make the data available to all customers on the same terms and conditions.

Timetable:

Action	Date	FR Cite
ANPRM	01/18/89	54 FR 01945
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Catherine Shea, Staff Attorney, Department of Commerce, National Oceanic and Atmospheric Administration, 1325 East-West Highway, Room 18109, Silver Spring, MD 20910
Phone: 301 713-0053

RIN: 0648–AC64

776. NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION REGULATIONS

Regulatory Plan: This entry is Seq. No. 16 in Part II of this issue of the Federal Register.

RIN: 0648–AE13

777. NATIONAL WEATHER SERVICE MODERNIZATION CRITERIA FOR AUTHORIZATION CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-567; 15 USC 313 note

CFR Citation: 15 CFR 946; 15 CFR 946 app A

Legal Deadline: Final, Statutory, October 29, 1993.

Abstract: The Secretary of Commerce, in consultation with the National Research Council and the Modernization Transition Committee, and after notice and opportunity for public comment, shall publish in the Federal Register modernization criteria (including all requirements and procedures) for certifying action to automate a field office under section 706 of Public Law 102-567.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nicholas Scheller, Implementation Manager, Department of Commerce, National Oceanic and Atmospheric Administration, Room 9348, 1325 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1002

RIN: 0648–AF72

DEPARTMENT OF COMMERCE (DOC) — Final Rule Stage

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

778. REGULATORY AMENDMENT TO IMPLEMENT PERMIT, REPORTING, AND RECORDKEEPING AND OBSERVER REQUIREMENTS FOR PROCESSING VESSELS OVER 125 FEET AND THEIR CATCHER VESSELS; PACIFIC COAST GROUNDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: Regulations would implement a comprehensive data collection and regulatory program for all processing vessels longer than 125 feet and for all harvesting vessels that deliver their catch to those vessels in the groundfish fishery off Washington, Oregon, and California. This program would consist of: (1) a requirement that processing vessels carry NMFS-certified observers; (2) a requirement for a mandatory Federal permit; (3) recordkeeping and reporting requirements; and (4) a definition for "fishing trip" for processing vessels over 125 feet in length for the purpose of applying trip landing and frequency limits.

Timetable:

Action	Date	FR Cite
NPRM	11/19/92	57 FR 54552
NPRM Comment Period End	12/21/92	
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AE01

779. REGULATORY AMENDMENT ON INTERACTIVE COMMUNICATIONS IN THE GROUNDFISH FISHERIES OF THE GOA AND BSAI

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This action specifies requirements for interactive communications equipment for vessels and processors in the groundfish fisheries of the Gulf of Alaska and Bering Sea and Aleutian Islands area to enhance reporting and recordkeeping.

Timetable:

Action	Date	FR Cite
NPRM	08/31/95	60 FR 45393
NPRM Comment Period End	09/29/95	
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AE78

780. FINANCIAL DISCLOSURE OF FISHERY MANAGEMENT COUNCIL NOMINEES, MEMBERS, AND EXECUTIVE DIRECTORS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 601

Legal Deadline: None

Abstract: This rule revises regulations concerning the practices, procedures and operations of the Regional Fishery Management Councils under the Magnuson Fishery Conservation and Management Act. It increases the detail and availability of information in required financial disclosures of Councils' nominees, voting members, and Executive Directors and is intended to reduce the likelihood of financial conflicts of interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/11/94	59 FR 1557
Final Action	06/00/96	

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DOC—NOAA

Final Rule Stage

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AG16

781. COMBINED FRAMEWORK ADJUSTMENT—ADJUSTMENT 7 TO THE NORTHEAST MULTISPECIES FMP, ADJUSTMENT 3 TO THE ATLANTIC SEA SCALLOP FMP, AND ADJUSTMENT 1 TO THE AMERICAN LOBSTER FMP

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 649; 50 CFR 650; 50 CFR 651

Legal Deadline: None

Abstract: NMFS will issue this proposed rule to implement measures contained in Framework Adjustment 1 to the American Lobster Fishery Management Plan (FMP), Framework Adjustment 3 to the Atlantic Sea Scallop FMP, Framework Adjustment 7 to the Northeast Multispecies FMP, as submitted to NMFS by the New England Fishery Management Council, and which would revise a provision in each of the FMPs that requires all permit applicants to own a fishery vessel at the time they initially apply for a limited access permit. The intent of this rule is to acknowledge valid exceptions to the requirement and, subsequently, to remove an inequitable burden on those fishers entitled to the exceptions by providing them with an alternative mechanism for qualifying under the respective moratoriums.

Timetable:

Action	Date	FR Cite
NPRM	09/01/95	60 FR 45690
NPRM Comment Period End	09/16/95	
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AH37

782. INTERIM FINAL RULE TO MAKE CERTAIN CHANGES IN THE LIMITED ACCESS APPEALS PROCEDURE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 676

Legal Deadline: None

Abstract: This rule reduces the two-stage appeals process to a 1-stage process; reduces the length of time periods for appeals; and would allow for addition of catch history to the quota share pool in dispute.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/02/95	60 FR 6448
Final Action	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Comment period for the Interim Final Rule ended 03/06/95.

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 98802
Phone: 907 586-7228

RIN: 0648–AH38

783. NOTICE OF CHANGES IN THE MANAGEMENT REGIMES FOR ATLANTIC AND GULF GROUPS OF KING AND SPANISH MACKEREL FOR THE 1995-96 FISHING YEAR

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 642

Legal Deadline: None

Abstract: This rule would change the total allowable catch (TAC), establish commercial vessel trip limits, and reduce the recreational bag limit for atlantic group king mackerel; increase the TAC and allocations for Atlantic group Spanish mackerel; and change the commercial vessel trip limit for Gulf group king mackerel. These changes for the 1995-96 fishing year are being made in accordance with the framework procedures for adjusting management measures for the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic.

Timetable:

Action	Date	FR Cite
NPRM	08/03/95	60 FR 39698
NPRM Comment Period End	08/18/95	
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AH53

784. WEAKFISH REGULATION FOR THE EXCLUSIVE ECONOMIC ZONE (EEZ)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 5101 et seq

CFR Citation: 50 CFR 697

Legal Deadline: None

Abstract: This action would implement regulations in the EEZ off the Atlantic Coast to control the harvest of weakfish and support the implementation of a Coastal fisheries management plan for the species which was developed and implemented by the Atlantic States Marine Fisheries Commission.

Timetable:

Action	Date	FR Cite
NPRM	06/20/95	60 FR 32130
NPRM Comment Period End	08/15/95	
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: The weakfish stock along the Atlantic Coast is in serious decline. State actions to reduce fishing on the species are being implemented through the Atlantic States Marine Fisheries Commission (ASMFC). Federal action is needed to support ASMFC since approximately 50% of the weakfish catch comes from Federal waters.

DOC—NOAA

Final Rule Stage

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries, Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AH58

785. FINAL RULE AND APPROVAL OF CATCH SHARING PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 773

CFR Citation: 50 CFR 301

Legal Deadline: None

Abstract: Regulations governing the fishing for Pacific halibut on behalf of the International Pacific Halibut Commission for 1996. Includes a catch sharing plan for domestic fisheries off California, Oregon, and Washington

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH64

786. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR CORALS AND CORAL REEFS OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 638

Legal Deadline: None

Abstract: Amendment 3 would close the exclusive economic zone off the Florida Panhandle to live rock harvest, establish a commercial live rock harvest quota in the Gulf of Mexico, and consider allowing a personal use harvest limit in the Gulf.

Timetable:

Action	Date	FR Cite
NPRM	08/07/95	60 FR 40150
NPRM Comment Period End	09/18/95	
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AH71

787. • SUMMER FLOUNDER FISHERY: DEALER REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 625

Legal Deadline: None

Abstract: The regulatory amendment would make it easier for Federally permitted dealers to comply with existing reporting requirements and to improve monitoring of the commercial summer flounder quota.

Timetable:

Action	Date	FR Cite
NPRM	05/12/95	60 FR 21491
NPRM Comment Period End	06/01/95	
Final Action	10/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9300

RIN: 0648–AH95

788. • INTERIM FINAL RULE ALLOWING RETENTION OF IFQ SPECIES IN SPECIFIED AREAS UNDER 50 CFR 676.16(D)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 773 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 676

Legal Deadline: None

Abstract: NMFS issued an interim rule to allow vessels subject to existing recordkeeping and observer coverage requirements to fish for Sablefish and Pacific Halibut in the Individual Fishing Quota Program in a regulatory area in which persons aboard the vessel hold IFQ, even when the amount of IFQ held for the area is less than the total amount of IFQ species on board the vessel. This action is necessary to allow persons who hold IFQ for more than one IFQ regulatory area to harvest IFQ species in those areas during the same fishing trip and is intended to facilitate more efficient harvesting by IFQ holders.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/31/95	60 FR 45378
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AI09

789. • ANNUAL HARVEST GUIDELINE FOR THE NORTHWESTERN HAWAIIAN ISLANDS LOBSTER FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 681

Legal Deadline: None

Abstract: Amendment 9 to the Fishery Management Plan for Crustacean Fisheries of the Western Pacific Region would establish a harvest limitation program under which an annual harvest guideline will be established by the Southwest Regional Director, NMFS. The harvest guideline will be published in the Federal Register each year prior to the beginning of the fishery so that permit holders can decide whether to gear up for the fishery. The notice would be published by the beginning of June.

DOC—NOAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	03/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AI33

790. • MANAGEMENT MEASURES FOR COMMERCIAL, RECREATIONAL, AND TREATY INDIAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 661

Legal Deadline: None

Abstract: Annual management measures for the 1995-96 fishing year would specify allowable ocean harvest levels (including quotas), allocations, management boundaries and zones, minimum size limits, gear definitions, seasons, selective fisheries, and in-season notice procedures.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg 1, Seattle, WA 98115
Phone: 206 526-6150

RIN: 0648–AI35

791. FISHERMEN'S PROTECTIVE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 1980

CFR Citation: 50 CFR 258

Legal Deadline: None

Abstract: Reinstating regulations inadvertently dropped when the Fishermen's Guaranty Fund Program was transferred to the State Department. Revisions to program procedures deriving from an Internal Control Review completed in May 1992, will be incorporated in the regulations as well as clarifications suggested by the General Counsel. These revised procedures will reduce the risk that fraudulent claims will be paid and clarify procedures for applicants.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Cooper, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2396

RIN: 0648–AC73

792. FISHING VESSEL CAPITAL CONSTRUCTION FUND PROCEDURES—ELIGIBILITY FOR SAFETY IMPROVEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 1177

CFR Citation: 50 CFR 259

Legal Deadline: None

Abstract: To allow use of capital construction funds for approved safety improvement projects.

Timetable:

Action	Date	FR Cite
NPRM	11/18/92	57 FR 54356
NPRM Comment Period End	12/18/92	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles L. Cooper, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2396

RIN: 0648–AF22

793. FISHING VESSEL OBLIGATION GUARANTEE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 1271 to 1279

CFR Citation: 50 CFR 255

Legal Deadline: None

Abstract: This regulation will add definitions of "aquaculture" and "underutilized species."

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael L. Grable, Division Chief, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2390

RIN: 0648–AF48

794. CIVIL PROCEDURE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 to 1882; 16 USC 1531 to 1543; 16 USC 1361 to 1407; 16 USC 3371 to 3378; 16 USC 1431 to 1439; 16 USC 773 to 773k; 16 USC 951 to 961; 16 USC 1021 to 1032; 16 USC 3631 to 3644; 42 USC 9101 et seq; 30 USC 1401 et seq; 16 USC 971 to 971i; 16 USC 781 et seq; 16 USC 972 to 972b; 16 USC 916 to 916l; ...

CFR Citation: 15 CFR 904

Legal Deadline: None

Abstract: This rule will amend NOAA's regulations to make them consistent with a Federal District Court ruling on the Agency's consideration of a respondent's ability to pay when assessing a civil penalty. The amendment removes a provision which places the burden on the respondent to raise and prove inability to pay an assessed penalty when the statute involved requires NOAA to take ability to pay into account.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/02/93	58 FR 58484
Final Action	09/00/96	

Small Entities Affected: None

DOC—NOAA

Final Rule Stage

Government Levels Affected: None

Additional Information: This rule remains in interim final status pending the completion of a revision to all of part 904.

Agency Contact: Hugh Schratwieser, Attorney Adviser, Department of Commerce, National Oceanic and Atmospheric Administration, Office of the Assistant General Counsel for Enforcement and Litigation (GCEL), 8484 Georgia Ave. 4th Fl, Silver Spring, MD 20910
Phone: 301 427-2202

RIN: 0648–AF96

795. PERFORMANCE STANDARDS FOR TUNA VESSEL OPERATORS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NOAA has established a system of performance standards for operators of U.S.-flag tuna purse seine fishing vessels that catch yellowfin tuna associated with marine mammals in the eastern tropical Pacific Ocean.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	54 FR 46086
NPRM Comment Period End	12/01/89	
Interim Final Rule Effective	05/16/90	
Interim Final Rule	05/17/90	55 FR 20458
Interim Final Rule Comment Period End	09/03/90	
Final Action	10/00/95	
Final Action Effective	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AD03

796. FINAL RULE FOR REGULATIONS GENERIC TO PERMITS ISSUED UNDER SECTION 104 OF THE MMPA, AND FOR REGULATIONS SPECIFIC TO PERMITS ISSUED FOR SCIENTIFIC RESEARCH AND ENHANCEMENT PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq, Marine Mammal Protection Act; 16 USC 1531 et seq, Endangered Species Act; 16 USC 1151 et seq, Fur Seal Act

CFR Citation: 50 CFR 216; 50 CFR 215; 50 CFR 222

Legal Deadline: None

Abstract: These proposed revisions would update and consolidate existing permit regulations and comments received on proposed regulations that have been promulgated for the taking, import, export, or conduct of an otherwise prohibited activity involving protected species (i.e., marine mammals and endangered or threatened species) for purposes of scientific research, and enhancement, photography, and public display under the Marine Mammal Protection Act, the Endangered Species Act, and the Fur Seal Act. In addition, this final rule establishes regulations specific to permits issued for bona fide scientific research and enhancement purposes only. These revisions would implement amendments to the Marine Mammal Protection Act enacted in 1988 and 1994, and clarify when a permit is required and the scope and extent of permit authority under these Acts. The final rule would specify generally applicable terms and conditions, which would clarify permit requirements and review procedures, and would amend the criteria for deciding whether to issue or deny permits, and revise administrative requirements and procedures, as well as those terms and conditions specific to permits for scientific research and enhancement. These revisions are intended to provide a comprehensive regulatory foundation for these special exception permits and to make administration of the NMFS permit program more efficient, consistent and predictable. The NMFS is proposing to consolidate permit regulations into a single part of title 50.

Timetable:

Action	Date	FR Cite
NPRM	10/14/93	58 FR 53320
NPRM Comment Period End	01/28/94	58 FR 68848
Interim Final Rule	10/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Simultaneously with the publication of this Final Rule, NMFS intends to propose permit regulations specific to photography and public display.

Agency Contact: Laurel Bryant, Marine Resource Management Specialist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AD11

797. REGULATIONS GOVERNING THE TAKE OF DOLPHINS INCIDENTAL TO REMOVING OIL AND GAS PLATFORMS IN THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1371(a)(5); 16 USC 1361 et seq

CFR Citation: 50 CFR 228; 50 CFR 216

Legal Deadline: None

Abstract: NMFS has received an amended request from the American Petroleum Institute for the take of bottlenose and spotted dolphins incidental to the removal of oil and gas platforms in the Gulf of Mexico. This activity would be allowed under section 101(a)(5) of the Marine Mammal Protection Act if the Service makes certain findings and if regulations are issued that cover monitoring and reporting.

Timetable:

Action	Date	FR Cite
NPRM	06/17/93	58 FR 33425
NPRM Comment Period End	08/16/93	
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected

DOC—NOAA

Final Rule Stage

Resources, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2323

RIN: 0648–AD25

798. TAKING AND IMPORTING OF MARINE MAMMALS; DOLPHIN MORTALITY LIMITS DURING PURSE SEINE SETS ON MARINE MAMMALS IN THE EASTERN TROPICAL PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: This interim final rule will amend the current performance standards in the MMPA regulations to ensure that U.S. vessels can be legally prevented from making sets on tuna associated with dolphins in the eastern tropical Pacific Ocean once the vessels' dolphin mortality limit is reached. This rule also implements portions of the International Dolphin Conservation Act of 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/19/93	58 FR 29127
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AF07

799. TAKING AND IMPORTING OF MARINE MAMMALS; "DOLPHIN-SAFE" TUNA LABELING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216; 50 CFR 247

Legal Deadline: None

Abstract: This rule will finalize the interim final rule implementing the Dolphin Protection Consumer Information Act. The interim final rule: (1) identified fish and fish products subject to importation requirements mandated by the Marine Mammal Protection Act, as amended by the DPCIA; (2) specified the use and contents of a new NOAA form required to import into the United States certain fish and fish products potentially harvested with methods injurious to marine mammals; (3) required importers of certain fish and fish products harvested by nations that engage in high seas large-scale driftnet fishing to provide certification by a responsible government official of the harvesting nation that the items to be imported were not harvested with large-scale driftnets in certain areas of the high seas; and (4) regulated the use of labels suggesting that tuna products are "dolphin safe." This rule also implements portions of the High Seas Driftnet Fisheries Enforcement Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/19/91	56 FR 47418
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AF08

800. PROPOSED LIST OF FISHERIES AS AUTHORIZED BY PUBLIC LAW 103-238

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

CFR Citation: 50 CFR 229

Legal Deadline: NPRM, Statutory, July 28, 1994. Final, Statutory, January 1, 1996.

Abstract: The Marine Mammal Protection Act Amendments of 1994 (Pub. L. 103-238) modified the scope for classification of commercial fisheries based upon their incidental take rate of marine mammals. The amended MMPA provides for the focus of incidental takings to be on the mortality and serious injury and less upon harassment takings. In addition, the MMPA now distinguishes between incidental and intentional takings during commercial fishing operations. As a result, NMFS is proposing to amend its List of Commercial Fisheries based upon the statutory modifications.

Timetable:

Action	Date	FR Cite
NPRM	06/16/95	60 FR 31666
NPRM Comment Period End	09/14/95	60 FR 31666
Final Action	11/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vicki Cornish, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2322

RIN: 0648–AG77

801. TAKING AND IMPORTING OF MARINE MAMMALS: PROPOSED RULE PROHIBITING U.S. CITIZENS FROM ENCIRCLING MARINE MAMMALS DURING TUNA FISHING OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: NPRM, Statutory, Final, Statutory, March 1, 1994.

Abstract: This rule proposes implementation of section 307 (a)(2) of the International Dolphin Conservation Act, which makes it unlawful for any person or vessel that is subject to the jurisdiction of the United States, intentionally to set a purse seine net or to encircle any marine mammal during any tuna fishing operation, with certain exceptions.

Timetable:

Action	Date	FR Cite
NPRM	10/12/94	59 FR 51552
NPRM Comment Period End	11/14/94	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AH04

DOC—NOAA

Final Rule Stage

802. FINAL RULE TO ESTABLISH GUIDELINES FOR NONLETHALLY DETERRING MARINE MAMMALS FROM ENDANGERING PERSONAL SAFETY OR DAMAGING PUBLIC OR PRIVATE PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: On April 30, 1994, the President signed Pub. L. 103-238, the Marine Mammal Protection Act Amendments of 1994. One part of this law implemented a new section 101(a)(4) to authorize the nonlethal harassment takings by citizens of the United States to deter marine mammals from: (1) Damaging commercial fishing gear or catch; (2) damaging private property; (3) endangering public safety; or (4) damaging public property. The amendments require a list of guidelines for use in safely deterring marine mammals and provide for prohibiting certain deterrent measures that may have a significant adverse impact on marine mammals.

Timetable:

Action	Date	FR Cite
NPRM	05/05/95	60 FR 22345
NPRM Comment Period End	07/05/95	60 FR 22345
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2055

RIN: 0648–AH19

803. GENERAL AUTHORIZATION FOR SCIENTIFIC RESEARCH INVOLVING LEVEL B HARASSMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1151 et seq Fur Seal Act; 16 USC 1631 et seq Marine Mammal Protection Act

CFR Citation: 50 CFR 215; 50 CFR 216

Legal Deadline: Final, Statutory, August 30, 1994.

Abstract: This interim final rule is required by the 1994 amendments to the Marine Mammal Protection Act. These regulations establish a general authorization for bona fide scientific research on non-endangered and non-threatened marine mammals that may result in harassment with only the potential to disturb. Inclusion under the general authorization is achieved by letter of intent to the National Marine Fisheries Service and a letter of confirmation from the Service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/03/94	59 FR 50372
Interim Final Rule Comment Period End	11/17/94	59 FR 50372
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: The National Marine Fisheries Service and the U.S. Fish and Wildlife Service are discussing whether to issue this rule jointly.

Agency Contact: Laurel Bryant, Marine Resources Management Specialist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2289

RIN: 0648–AH20

804. FINAL RULE ESTABLISHING LEATHERBACK TURTLE CONSERVATION ZONE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 227; 50 CFR 217; 50 CFR 222

Legal Deadline: None

Abstract: This final rule establishes all inshore and offshore waters from Cape Canaveral, Florida to the North Carolina-Virginia border as the leatherback conservation zone. When leatherback turtle concentrations reach predetermined levels of abundance, NMFS may notify shrimpers that small areas will be temporarily closed to shrimping unless shrimp nets are equipped with NMFS-approved TEDs with modified escape openings.

Timetable:

Action	Date	FR Cite
NPRM	05/12/95	60 FR 25663
Interim Final Rule	05/12/95	60 FR 25620
NPRM Comment Period End	06/12/95	60 FR 25663
Final Action	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: NMFS published an interim rule on May 12, 1995 (60-FR-25620) to provide immediate protection for leatherback sea turtles. NMFS also published on May 12, 1995 (60-FR-25663) a proposed rule to provide a framework for permanent protection of leatherbacks.

Agency Contact: Russell Bellmer, Chief, Endangered Species Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AH30

805. • FINAL RULE ESTABLISHING LEATHERBACK TURTLE CONSERVATION ZONE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 217; 50 CFR 222; 50 CFR 227

Abstract: This final rule establishes all inshore and offshore waters from Cape Canaveral, Florida to the North Carolina-Virginia border as the Leatherback Conservation Zone. When leatherback turtle concentrations reach predetermined levels of abundance, NMFS may notify shrimpers that small areas will be temporarily closed to shrimping unless shrimp nets are equipped with NMFS-approved TEDs with modified escape openings.

Timetable:

Action	Date	FR Cite
NPRM	05/12/95	60 FR 25663
Interim Final Rule	05/12/95	60 FR 25620
NPRM Comment Period End	06/12/95	60 FR 25663
Final Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: NMFS published an interim rule on May 12, 1995 (60-FR-25620) to provide immediate protection for leatherback sea turtles. NMFS also published on May 12, 1995 (60-FR-25663) a proposed rule to provide a framework for permanent protection of leatherbacks.

Agency Contact: Russell J. Bellmer, Chief, Endangered Species Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910 Phone: 301 713-1401

RIN: 0648–AH97

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Long-Term Actions

806. FISHERY MANAGEMENT PLAN FOR TILEFISH

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	
NPRM Comment Period End	02/00/97	
Final Action	04/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg Phone: 508 281-9300

RIN: 0648–AF87

NATIONAL MARINE FISHERIES SERVICE

807. • AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 652

Abstract: These quotas establish allowable harvests of surf clam and ocean quahog from the exclusive economic zone in 1997.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	11/00/96	
Final Action	01/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930 Phone: 508 281-9300

RIN: 0648–AI26

808. PROCESSED FISHERY PRODUCTS, PROCESSED PRODUCTS THEREOF & CERTAIN OTHER PROCESSED FOOD PRODUCTS: U.S. STANDARDS FOR GRADES OF FROZEN FISH BLOCKS & PRODUCTS MADE THEREFROM, ETC

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 264A

Timetable:

Action	Date	FR Cite
NPRM	09/21/89	54 FR 38881
NPRM Comment Period End	11/06/89	
Extension of Comment Period	12/29/89	54 FR 53660
NPRM Comment Period End	01/29/90	54 FR 53660
Interim Final Rule	10/16/90	55 FR 41856
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Metz Phone: 508 281-9284

RIN: 0648–AA46

809. U.S. GENERAL STANDARDS FOR GRADES OF SHRIMP

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 265

Timetable:

Action	Date	FR Cite
NPRM	05/20/82	47 FR 21840
NPRM Comment Period End	08/18/82	47 FR 21840
NPRM	09/21/89	54 FR 38885
NPRM Comment Period End	11/06/89	
Extension of Comment Period to 01/29/90	12/29/89	54 FR 53660
Interim Final Rule	10/24/91	56 FR 55090
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Metz Phone: 508 281-9284

RIN: 0648–AA47

810. U.S. GENERAL STANDARDS FOR GRADES OF FINFISH PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 263 subparts A to E

Timetable:

Action	Date	FR Cite
ANPRM	04/15/94	59 FR 18091
ANPRM Comment Period End	08/02/94	59 FR 23095
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Metz Phone: 508 281-9284

RIN: 0648–AD53

811. U.S. STANDARDS FOR GRADES OF FROZEN FISH PORTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 264; 50 CFR 269

Timetable:

Action	Date	FR Cite
NPRM	06/11/90	55 FR 23565
NPRM Comment Period End	08/27/90	55 FR 23565
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Metz Phone: 508 281-9284

RIN: 0648–AD92

812. CERTIFICATE OF LEGAL ORIGIN FOR ANADROMOUS FISH PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alan Mager Phone: 301 427-2300

RIN: 0648–AD93

813. U.S. STANDARDS FOR GRADES OF WHOLE OR DRESSED FISH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 261

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Metz Phone: 508 281-9284

RIN: 0648–AE69

814. U.S. STANDARDS FOR GRADES OF NORTH AMERICAN FRESHWATER CATFISH AND PRODUCTS MADE THEREFROM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 267

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Metz Phone: 508 281-9284

RIN: 0648–AE70

815. U.S. STANDARDS FOR GRADES OF FISH FILLETS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 263

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Metz Phone: 508 281-9284

RIN: 0648–AE71

816. AMENDMENT TO PROCEDURE GOVERNING THE READJUSTMENT AND INCREASE IN HOURLY RATES OF FEES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 260

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rita Creitz Phone: 301 713-2355

RIN: 0648–AH24

817. PROCEDURE FOR SETTING QUOTAS ON REMOVAL OF ATLANTIC BOTTLENOSE DOLPHINS FROM THE WATERS OF THE GULF OF MEXICO AND FLORIDA'S EAST COAST

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable:

Action	Date	FR Cite
ANPRM	05/31/90	55 FR 22042
ANPRM Comment Period End	07/02/90	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann D. Terbush Phone: 301 713-2289

RIN: 0648–AD39

818. SEA TURTLE MONITORING AND CONSERVATION MEASURES FOR NONSHRIMP FISHERIES

Priority: Other Significant

CFR Citation: 50 CFR 217; 50 CFR 222; 50 CFR 227

Timetable:

Action	Date	FR Cite
ANPRM	07/10/92	57 FR 30709
ANPRM Comment Period End	08/08/92	
NPRM	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Russell Bellmer Phone: 301 713-1401

RIN: 0648–AE54

819. PROPOSED RULE TO REQUIRE CERTAIN FISH FROM MEXICO TO RETAIN HEADS AND TAILS INTACT IN ORDER TO PROTECT THE ENDANGERED TOTOABA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 227

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead Phone: 301 713-2055

RIN: 0648–AF32

820. TAKING OF MARINE MAMMALS INCIDENTAL TO FISHERIES-RELATED RESEARCH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 228; 50 CFR 216

Timetable:

Action	Date	FR Cite
ANPRM	12/09/91	56 FR 64234
ANPRM Comment Period End	01/08/92	56 FR 64234
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Kenneth Hollingshead Phone: 301 713-2055

RIN: 0648–AF50

821. DESIGNATED CRITICAL HABITAT; JOHNSON'S SEAGRASS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 226

Timetable:

Action	Date	FR Cite
NPRM	08/04/94	59 FR 39716
NPRM Comment Period End	10/13/94	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret C. Lorenz Phone: 301 713-1401

RIN: 0648–AF79

822. DIRECT TAKE OF THREATENED SALMON BY NATIVE AMERICANS

Priority: Other Significant

CFR Citation: 50 CFR 227.21

DOC—NOAA

Long-Term Actions

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack
Phone: 301 713-1401

RIN: 0648–AG15

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823. DESIGNATED CRITICAL HABITAT; ATLANTIC SALMON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 226

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack
Phone: 301 713-1401

RIN: 0648–AG50

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824. PROTECTION ZONES FOR NORTHERN RIGHT WHALES; RESPONSE TO PETITION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 222

Timetable:

Action	Date	FR Cite
ANPRM	12/27/94	59 FR 66513
ANPRM Comment Period End	02/27/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margot Bohan
Phone: 301 713-2322

RIN: 0648–AH47

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825. PROPOSED RULE TO GOVERN THE TRANSPORTATION OF NATIVE HANDICRAFTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Terbush
Phone: 301 713-2289

RIN: 0648–AH83

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826. • SEA TURTLE CONSERVATION; RESTRICTION APPLICABLE TO SHRIMP TRAWL EXCLUDER DEVICES RESTRICTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 772a et seq

CFR Citation: 50 CFR 217; 50 CFR 227

Abstract: This rule proposes to amend the regulations requiring the use of Turtle Excluder Devices (TEDs) to reduce the incidental capture and mortality of endangered and threatened sea turtles in bottom trawl fisheries. The proposed rule would provide measures to reduce the likelihood of sea turtle entanglement and capture in approved soft TEDs as follows: restrict the use of soft TEDs to certain types of trawl nets; require that approved soft TEDs only be installed by certified net shops or individuals; and eliminate the Parrish soft TED as an approved soft TED. This rule is necessary to protect sea turtles by modifying the soft TEDs certification process and eliminating problems with soft TEDs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Russell Bellmer, Chief, Endangered Species Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 181-9300

RIN: 0648–AI24

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827. REVISION OF FEDERAL CONSISTENCY REGULATIONS UNDER THE COASTAL ZONE MANAGEMENT ACT

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 930

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Margo F. Jackson
Phone: 301 713-2967

RIN: 0648–AD83

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828. THUNDER BAY NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lawless
Phone: 301 713-3155

RIN: 0648–AE41

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829. REGIONAL MARINE RESEARCH PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don Scavia
Phone: 301 713-3338

RIN: 0648–AF20

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830. NOAA CLIMATE AND GLOBAL CHANGE PROGRAM—PROPOSAL SUBMISSION GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irma DuPree
Phone: 301 427-2089

RIN: 0648–AG51

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831. NATIONAL UNDERSEA RESEARCH PROGRAM FUNDING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Henry Frey
Phone: 301 713-2448

RIN: 0648–AH90

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Completed Actions

832. FISHERY MANAGEMENT PLAN FOR ATLANTIC HERRING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 611

Completed:

Reason	Date	FR Cite
Final Action	07/24/95	60 FR 37848

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jon C. Rittgers
Phone: 508 281-9300

RIN: 0648–AE50

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833. AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 640

Completed:

Reason	Date	FR Cite
Final Action	08/14/95	60 FR 41828
Final Action Effective	09/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 813 570-5301

RIN: 0648–AF37

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834. REGULATORY AMENDMENT—CHANGES TO DIRECTED FISHING REGULATIONS FOR GROUNDFISH OFF OF ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 672; 50 CFR 675

Completed:

Reason	Date	FR Cite
Final Action	08/08/95	60 FR 40304
Final Action Effective	08/02/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AF53

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835. REGULATORY ADJUSTMENTS TO 1994-1995 ATLANTIC TUNA FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 285

Completed:

Reason	Date	FR Cite
Final Action	07/21/95	60 FR 38505
Final Action Effective	07/28/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard H. Schaefer
Phone: 301 713-2334

RIN: 0648–AG14

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836. REGULATORY AMENDMENT TO THE INDIVIDUAL FISHING QUOTA PROGRAM FOR GROUNDFISH OFF ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 676

Completed:

Reason	Date	FR Cite
Final Action	05/05/95	60 FR 22307
Final Action Effective	06/01/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AG45

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837. REGULATORY AMENDMENT TO MODIFY THE SABLEFISH NON-TRAWL REGULAR SEASON IN THE PACIFIC COAST GROUNDFISH FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 663

Completed:

Reason	Date	FR Cite
Final Action	07/03/95	60 FR 34472
Final Action Effective	08/02/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AG82

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838. REGULATORY AMENDMENT FOR BERING SEA AND ALEUTIAN ISLANDS AREA HALIBUT NON-TRAWL PROHIBITED SPECIES CATCH MANAGEMENT AND JIG GEAR EXEMPTION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 672; 50 CFR 675

Completed:

Reason	Date	FR Cite
Final Action	03/06/95	60 FR 12149
Final Action Effective	04/03/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AG95

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839. ATLANTIC SHARK FISHERY QUOTA ADJUSTMENT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 678

Completed:

Reason	Date	FR Cite
Final Action	05/01/95	60 FR 21468
Final Action Effective	05/01/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard H. Schaefer
Phone: 301 713-2334

RIN: 0648–AH09

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840. FRAMEWORK ADJUSTMENT 2 AND 3 TO THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 649

Completed:

Reason	Date	FR Cite
Final Action	05/04/95	60 FR 21994
Final Action Effective	05/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jon C. Rittgers
Phone: 508 281-9200

RIN: 0648–AH36

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841. REGULATORY AMENDMENT TO CHANGE THE STANDARD PRODUCT RECOVERY RATE FOR POLLOCK DEEP-SKIN FILLETS IN THE ALASKA GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 672; 50 CFR 675

Completed:

Reason	Date	FR Cite
Final Action	05/10/95	60 FR 24800
Final Action Effective	06/09/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AH40

842. REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC PERTAINING TO HOGFISH, CUBERA SNAPPER, AND GRAY TRIGGERFISH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 646

Completed:

Reason	Date	FR Cite
Final Action	04/20/95	60 FR 19683
Final Action Effective	05/22/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 813 570-5301

RIN: 0648–AH44

843. REV. AMEND. 23 TO THE FMP FOR THE GROUNDFISH FISHERY OF BSAI, REV. AMEND. 28 TO THE FMP FOR GROUNDFISH OF THE GOA, & REV. AMEND. 4 TO FMP FOR COMMERCIAL KING/TANNER CRAB FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 671; 50 CFR 672; 50 CFR 675; 50 CFR 676

Completed:

Reason	Date	FR Cite
Final Action	08/10/95	60 FR 40763
Final Action Effective	09/11/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AH62

844. FRAMEWORK #9 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 651

Completed:

Reason	Date	FR Cite
Final Action	04/18/95	60 FR 9364
Final Action Effective	04/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jon C. Rittgers
Phone: 508 281-9200

RIN: 0648–AH66

845. AMENDMENT 35 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BSAI

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 675

Completed:

Reason	Date	FR Cite
Final Action	07/05/95	60 FR 34904
Final Action Effective	08/01/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AH69

846. ATLANTIC SWORDFISH FISHERY QUOTA ADJUSTMENT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 630

Completed:

Reason	Date	FR Cite
Final Action	09/08/95	60 FR 46775
Final Action Effective	09/08/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard H. Schaefer
Phone: 301 713-2334

RIN: 0648–AH75

847. MANAGEMENT MEASURES FOR COMMERCIAL, RECREATIONAL, AND TREATY INDIAN, SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 661

Completed:

Reason	Date	FR Cite
Final Action	05/03/95	60 FR 21746

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AH79

848. FRAMEWORK ADJUSTMENT 4 TO THE ATLANTIC SEA SCALLOP FMP

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 650

Completed:

Reason	Date	FR Cite
Final Action	04/05/95	60 FR 17272
Final Action Effective	05/01/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew A. Rosenberg
Phone: 508 281-9250

RIN: 0648–AH82

849. 1995 INITIAL QUOTA FOR WESTERN PACIFIC CRUSTACEAN FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 681

Completed:

Reason	Date	FR Cite
Final Action	03/13/95	60 FR 13380

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero
Phone: 310 980-4001

RIN: 0648–AH85

850. • SUMMER FLOUNDER FISHERY; COURT-ORDERED REGULATION CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 625

Legal Deadline: None

Abstract: This action is taken to comply with a Consent Order issued by the U.S. District Court for the eastern district of Virginia directing NMFS to revise specified regulatory language.

Timetable:

Action	Date	FR Cite
Final Action Effective	03/15/95	
Final Action	03/16/95	60 FR 14230

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric

Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9300

RIN: 0648–AH96

851. • FISHERY MANAGEMENT PLAN FOR THE SCALLOP FISHERY OFF ALASKA; CLOSURE OF FEDERAL WATERS TO PROTECT SCALLOP STOCKS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 673

Legal Deadline: None

Abstract: NMFS issued regulations to implement a Fishery Management Plan for the scallop fishery off Alaska. The only management measure authorized under the FMP is an interim closure of Federal waters off Alaska to fishing for scallops. Federal waters will remain closed for up to 1 year or until a superseding Federal Management regime is implemented, whichever is earlier. This rule will expire on August 28, 1996.

Timetable:

Action	Date	FR Cite
NPRM	05/10/95	60 FR 24822
NPRM Comment Period End	06/19/95	
Final Action	08/15/95	60 FR 42070
Final Action Effective	08/29/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AI00

852. • REGULATORY AMENDMENT TO EXEMPT CRAB CATCHERS' VESSELS FROM 1995 FEE ASSESSMENT UNDER THE NORTH PACIFIC FISHERY RESEARCH PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 677

Legal Deadline: None

Abstract: NMFS issues a rule to exempt certain crab catcher vessels from the 1995 fee-collection program authorized pursuant to the North Pacific Fisheries Research Plan. This exemption responds to a request from the State of Alaska to conform the Research Plan to a recent change in its crab observer coverage requirements for catcher vessels participating in the Dutch Harbor and ADAK area King Crab fisheries and will avoid a "double payment" by the affected vessels of both research plan fees and costs of the state required observer coverage.

Timetable:

Action	Date	FR Cite
Final Action	08/16/95	60 FR 42470
Final Action Effective	09/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 98802
Phone: 907 586-7228

RIN: 0648–AI01

853. • FRAMEWORK ADJUSTMENT 5 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 650

Legal Deadline: None

Abstract: Prohibits limited access vessels, fishing under the days-at-sea program, from using trawl nets and requires all dredges to have a minimum number of rows of steel rings extending from the "after end" to the club stick.

Timetable:

Action	Date	FR Cite
Final Action	06/29/95	60 FR 33757
Final Action Effective	07/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9250

RIN: 0648–AI02

854. • FRAMEWORK ADJUSTMENT 6 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN AND FRAMEWORK ADJUSTMENT 11 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 650; 50 CFR 651

Legal Deadline: None

Abstract: Modifies a demarcation line in the current regulations that is used to monitor vessel activity.

Timetable:

Action	Date	FR Cite
Final Action	07/10/95	60 FR 35513
Final Action Effective	08/09/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9250

RIN: 0648–AI03

855. • CONSIDERATION OF A CONTROL DATE FOR THE GULF OF MEXICO STONE CRAB FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 654

Legal Deadline: None

Abstract: The Gulf of Mexico Fishery Management Councils is considering whether to impose additional management measures limiting entry in the stone crab fishery in the EEZ in the Gulf of Mexico off Florida, and if there is a need to impose additional management measures. Possible measures include the establishment of a limited entry program to control participation or effort in the fishery. If a limited entry program is established, the Council is considering July 24, 1995, as a possible control date. Consideration of a control date is intended to discourage new entry into the fishery based upon economic speculation during the Council's deliberation on the issues.

Timetable:

Action	Date	FR Cite
Final Action	07/24/95	60 FR 37868

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AI07

856. • ELIMINATE CERTAIN UNNECESSARY NMFS REGULATION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 1021 et seq; 16 USC 1361 et seq; 16 USC 742C; 16 USC 4001 to 4017; 16 USC 1801 et seq

CFR Citation: 50 CFR 210; 50 CFR 216; 50 CFR 250; 50 CFR 270; 50 CFR 604

Legal Deadline: None

Abstract: NMFS amended the CFR to remove regulations that are no longer needed, consistent with the President's Regulatory Reform Initiative.

Timetable:

Action	Date	FR Cite
Final Action	08/02/95	60 FR 39272
Final Action Effective	08/02/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation, and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI08

857. • FRAMEWORK ADJUSTMENT 12 TO THE NORTHEAST MULTISPECIES FMP

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 651

Legal Deadline: None

Abstract: Framework Adjustment 12 would implement additional measures to reduce harbor porpoise bycatch in the sink gillnet fishery.

Timetable:

Action	Date	FR Cite
Final Action	10/30/95	60 FR 55209

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AI38

858. USE IN ENFORCEMENT PROCEEDINGS OF INFORMATION COLLECTED BY VOLUNTARY FISHERY DATA COLLECTORS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 904; 50 CFR 11; 50 CFR 12

Completed:

Reason	Date	FR Cite
Final Action	08/02/95	60 FR 39249
Final Action Effective	08/02/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Joel LaBissonniere
Phone: 301 427-2202

RIN: 0648–AE40

859. REGULATIONS GOVERNING PROCESSED FISHERY PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 50 CFR 260

Completed:

Reason	Date	FR Cite
Withdrawn - This will be implemented by administrative procedures.	07/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rita Creitz
Phone: 310 713-2355

RIN: 0648–AH18

860. SEA TURTLE CONSERVATION MEASURES; SECTION 10 INCIDENTAL TAKE PERMITS; FINAL RULE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 227

Completed:

Reason	Date	FR Cite
Final Action	02/16/95	60 FR 8956
Final Action Effective	03/20/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Russell Bellmer
Phone: 301 713-1401

RIN: 0648–AG37

861. FLOTATION DEVICES IN BOTTOM-OPENING, SINGLE-GRID TURTLE EXCLUDER DEVICES IN THE SOUTHEASTERN UNITED STATES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 227

Completed:

Reason	Date	FR Cite
Final Action	03/24/95	60 FR 15512

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Russell J. Bellmer
Phone: 301 713-1401

RIN: 0648–AG71

862. PROPOSED RULE TO AUTHORIZE THE INCIDENTAL TAKING OF MARINE MAMMALS DURING COMMERCIAL FISHING OPERATIONS AS DIRECTED BY PUBLIC LAW 103-238

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 229

Completed:

Reason	Date	FR Cite
Final Action	08/30/95	60 FR 45086

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Vicki Cornish
Phone: 301 713-2322

RIN: 0648–AG78

863. • RESTRICTIONS ON SHRIMP TRAWLERS IN NEARSHORE WATERS ALONG THE TEXAS AND LOUISIANA COASTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 227

Abstract: NMFS places temporary restrictions on shrimp trawling activities in NMFS Shrimp Fishery Statistical Zones 18, 20, and the western portions of 17 east to Calcasieu Pass, LA. The restrictions were in response to high levels of sea turtle strandings that occurred in these areas.

Timetable:

Action	Date	FR Cite
Final Action	05/18/95	60 FR 26691

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Russell J. Bellmer, Chief, Endangered Species Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Hwy., Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AH98

864. PROPOSED REGULATIONS FOR THE FAGATELE BAY NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 941

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lawless
Phone: 301 713-3155

RIN: 0648–AA74

865. PROPOSED REGULATIONS FOR THE CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 935

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lawless
Phone: 301 713-3125

RIN: 0648–AC03

866. PROPOSED REGULATIONS FOR THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 936

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lawless
Phone: 301 713-3155

RIN: 0648–AC05

867. THE MONITOR NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 924

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lawless
Phone: 301 713-3155

RIN: 0648–AC78

868. PROPOSED REGULATIONS FOR THE NORTHWEST STRAITS NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lawless
Phone: 301 713-3155

RIN: 0648–AC91

869. PROPOSED REGULATIONS FOR THE NORFOLK CANYON NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 939

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lawless
Phone: 301 713-3155

RIN: 0648–AC92

870. GRAY'S REEF NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 938

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lawless
Phone: 301 713-3155

RIN: 0648–AE42

871. • ELIMINATION OF COASTAL ENERGY IMPACT PROGRAM REGULATIONS, 15 CFR PART 931

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 1451 et seq

CFR Citation: 15 CFR 931

Legal Deadline: None

Abstract: NOAA's Office of Ocean and Coastal Resources Management (OCRM) is issuing an immediate Final Rule removing part 931 from title 15 of the Code of Federal Regulations (part 931). Part 931 implements the Coastal Energy Impact Program (CEIP), which was established in 1976 under then-section 308 of the Coastal Zone Management Act (CZMA) to provide coastal states and units of general purpose local governments (local governments) in such States with Federal financial assistance to meet certain needs that result from specified energy development activities. In the 1990 amendments to the CZMA the CEIP was terminated and, therefore, the implementing regulations at part 931 are, for the most part, obsolete. Further, for those particular coastal States and local governments with outstanding CEIP loans, NOAA will continue to apply relevant repayment provisions of part 931 to such CEIP loan holders by providing actual and timely notice of their continued applicability, as well as copies of the pertinent provisions.

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DOC—NOAA — Completed Actions

Therefore, part 931 need no longer be retained in the Code of Federal Regulations (CFR).

This action is determined to be not significant because it will not have an annual effect on the economy of $100 million or more, does not adversely affect in a material way the economy, environment, public health or safety, does not interfer with an action of another agency, and will not raise novel legal or policy issues.

Timetable:

Action	Date	FR Cite
Final Action	07/26/95	60 FR 38240

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lawless, Acting Chief, Sanctuaries and Reserve Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM2), Silver Spring, MD 20918
Phone: 301 713-3155

RIN: 0648–AI04

DEPARTMENT OF COMMERCE (DOC)
National Telecommunications and Information Administration (NTIA)

Proposed Rule Stage

872. THE TELECOMMUNICATIONS AND INFORMATION INFRASTRUCTURE GRANT PROGRAM

Priority: Other Significant

Legal Authority: 47 USC 901 et seq

CFR Citation: None

Legal Deadline: None

Abstract: The Telecommunications and Information Infrastructure Assistance Program (TIIAP) was established within NTIA pursuant to the Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations ACT of 1994, P.L. 103-212, 107 Stat. 1175. Appropriations of $26 million were made for fiscal year 1994 to fund the planning and construction of telecommunications and information infrastructure grants under NTIA's existing grant authority. The TIIAP is part of the President's plan for telecommunications and information infrastructure development. Under the program, matching grants are awarded to enable State and local governments and nonprofit entities to help bring the capabilities of advanced telecommunications technologies to the public. In FY 1994, $24.4 million in funds were awarded for a variety of demonstration and planning projects that provide the basis for connecting schools, libraries, health care facilities, museums, and other social and community services within interactive data, voice and video telecommunications capabilities. NTIA was appropriated $64 million for year 1995 under P.L. 103-317; however, a total of $19 million was later rescinded. For FY 1996, requested appropriations are $100 million. Although authorization legislation was introduced in both the house (H.R. 2639) and the Senate (S.1883), the bills were not acted upon. NTIA anticipates that new bills will be introduced in FY 1996 to authorize the program. Once authorizing legislation is in place, NTIA expects to issue program regulations.

Timetable:

Action	Date	FR Cite
Notice of FY 1994 Funding	03/04/94	59 FR 10562
Notice of FY 1995 Funding	02/10/95	60 FR 8156
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernadette McGuire-Rivera, Ph.D., Associate Administrator, Office of Telecommunications & Info. Applications, Department of Commerce, National Telecommunications and Information Administration, Room 4096, 14th & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-5802
Email: TIIAP@NTIA.Doc.Gov

RIN: 0660–AA04

DEPARTMENT OF COMMERCE (DOC)
National Telecommunications and Information Administration (NTIA)

Long-Term Actions

873. TRANSFER OF SPECTRUM FROM THE FEDERAL GOVERNMENT TO THE FCC

Priority: Other Significant

CFR Citation: None

Timetable:

Action	Date	FR Cite
NPRM	02/09/94	59 FR 6005
NPRM Comment Period End	05/11/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard D. Parlow
Phone: 202 482-1850

RIN: 0660–AA05

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Proposed Rule Stage

874. COMMUNICATIONS WITH THE PATENT AND TRADEMARK OFFICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.1; 37 CFR 1.5; 37 CFR 1.8; 37 CFR 1.10; 37 CFR 1.3; 37 CFR 1.9; 37 CFR 5.33; 37 CFR 10.23

Legal Deadline: None

Abstract: Currently all letters and other communications intended for the Patent and Trademark Office must be addressed to "Commissioner of Patents and Trademarks," Washington, DC 20231. The proposed rule changes would: (1) provide separate mailing addresses for patents and trademarks; (2) provide a definition for "Federal holiday"; and (3) delete requirement for an "Express Mail" certificate.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Merged with 0651-AA73, changes in Requirements for Addressing Trademark Applications and Trademark-Related papers.

Agency Contact: Lawrence E. Anderson, Office of Petitions, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231
Phone: 703 305-9285

RIN: 0651–AA70

875. SIMPLIFICATION OF THE REQUIREMENTS CONCERNING THE FILING AND PROCESSING OF TRADEMARK APPLICATIONS, INTENT TO USE DOCUMENTS, AND PETITIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 1123; 35 USC 6

CFR Citation: 37 CFR 1.1; 37 CFR 1.6; 37 CFR 1.10; 37 CFR 1.8; 37 CFR 2

Legal Deadline: None

Abstract: The regulatory changes will simplify the filing and processing of trademark applications, intent-to-use documents, and petitions by eliminating some of the nonstatutory requirements now imposed by the Patent and Trademark Office. The changes will permit applicants to secure an application filing date more easily, to process their applications with fewer technical requirements and to clarify the process for petitions to the Commissioner. Many applicants now fail to receive a filing date or a trademark registration solely due to very technical requirements imposed by the Office. These requirements are not imposed by the Lanham Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lynne Beresford, Trademark Legal Administrator, Department of Commerce, Patent and Trademark Office, 2900 Crystal Drive, Arlington, VA 33303-2513
Phone: 703 308-8900

RIN: 0651–AA78

876. • CHANGES TO SIMPLIFY AND ELIMINATE UNNECESSARY RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1; 37 CFR 3; 37 CFR 5; 37 CFR 7

Legal Deadline: None

Abstract: The proposed rule changes would simplify requirements, rearrange for better context, and eliminate unnecessary rules.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hiram H. Bernstein, Senior Legal Advisor, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-9285
Fax: 703 308-6916

RIN: 0651–AA80

877. • CHANGES IN PATENT APPLICATION EXAMINATION PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.17; 37 CFR 1.113; 37 CFR 1.116; 37 CFR 1.198

Legal Deadline: None

Abstract: The proposed rule change would permit further examination of a patent application after final action for a fee.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Kunin, Deputy Assistant Commissioner for Patent Policy and Projects, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-8850
Fax: 703 305-8825

RIN: 0651–AA81

DOC—PTO — Proposed Rule Stage

878. • REVISION OF PATENT AND TRADEMARK FEES

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 41; 35 USC 1115; 35 USC 6; 35 USC 376; 35 USC 1051; 15 USC 1113; 15 USC 1123; PL 101-508; PL 102-204; PL 103-66

CFR Citation: 37 CFR 1.16; 37 CFR 1.17; 37 CFR 1.18; 37 CFR 1.19; 37 CFR 1.20; 37 CFR 1.21; 37 CFR 1.26; 37 CFR 1.445; 37 CFR 1.482; 37 CFR 1.492; 37 CFR 2.6

Legal Deadline: None

Abstract: PTO proposes to amend its rules of practice to revise patent statutory fees and most trademark fees to reflect fluctuations in the Consumer Price Index (CPI) and other nonstatutory patent fees to recover the average costs of providing the goods or services consistent with the Patent and Trademark Authorization Act of 1991 (Public Law 102-204).

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Kopson, Assistant Director, Office of Planning and Evaluation, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231
Phone: 703 305-8510
Fax: 703 305-8525

RIN: 0651–AA82

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO) — Final Rule Stage

879. CROSS APPEALS IN PTO DISCIPLINARY PROCEEDINGS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 500; 15 USC 1123; 35 USC 6; 35 USC 31; 35 USC 32; 35 USC 41

CFR Citation: 37 CFR 10.155

Legal Deadline: None

Abstract: The Patent and Trademark Office (PTO) proposes to allow cross appeals in PTO practitioner disciplinary proceedings and thereby eliminate the need to file contingent notices of appeals.

Timetable:

Action	Date	FR Cite
NPRM	07/21/93	58 FR 38994
NPRM Comment Period End	08/20/93	
Second NPRM	01/23/95	60 FR 4395
NPRM Comment Period End	02/22/95	
Final Action	12/00/95	
Final Action Effective	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen L. Bovard, Director, Office of Enrollment and Discipline, Department of Commerce, Patent and Trademark Office, Box OED, Washington, DC 20231
Phone: 703 308-5316

RIN: 0651–AA65

880. CHANGES TO IMPLEMENT 18-MONTH PUBLICATION OF PATENT APPLICATIONS

Priority: Other Significant

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1

Legal Deadline: None

Abstract: Congress is considering legislation that would mandate early publication of pending patent applications, except those under secrecy order. Early publication will require printing some information about pending patent applications 18 months after the effective filing date of each patent application. This rulemaking implements that legislation.

Timetable:

Action	Date	FR Cite
Notice of Public Hearing and Request for Public Comments	12/12/94	59 FR 63966
NPRM	08/15/95	60 FR 42352
NPRM Comment Period End	09/19/95	60 FR 42352
Final Action	12/00/95	
Final Action Effective	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rulemaking incorporates RIN 0651-AA62: Procedures for Amending Patent Applications.

Agency Contact: Stephen G. Kunin, Deputy Assistant Commissioner for Patent Policy and Projects, Department of Commerce, Patent and Trademark Office, Washington, DC 20231
Phone: 703 305-8850

RIN: 0651–AA75

881. RULES OF PRACTICE IN PATENT CASES; REEXAMINATION PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.901 to 1.907; 37 CFR 1.909; 37 CFR 1.911; 37 CFR 1.913; 37 CFR 1.915; 37 CFR 1.917; 37 CFR 1.919; 37 CFR 1.921; 37 CFR 1.923

Legal Deadline: None

Abstract: Proposed rules establish procedures for the Commissioner to reexamine U.S. patents. The rules afford third parties opportunity for greater participation.

Timetable:

Action	Date	FR Cite
NPRM	08/11/95	60 FR 41035
NPRM Comment Period End	09/22/95	60 FR 41035
Final Action	12/00/95	
Final Action Effective	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald A. Dost, Special Program Examiner, Department of Commerce, Patent and Trademark Office, Commissioner of Patents & Trademarks, Office of Petitions, Crystal Park 1, Rm. 520
Phone: 703 305-9282

RIN: 0651–AA79

DOC—PTO — Final Rule Stage

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO) — Long-Term Actions

882. TRADEMARK PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 2.24; 37 CFR 2.85(e); 37 CFR 2.102(e); 37 CFR 2.119; 37 CFR 2.146(d); 37 CFR 2.162(e); 37 CFR 2.183; 37 CFR 2.33; 37 CFR 2.111(b); 37 CFR 2.80; 37 CFR 2.187; 37 CFR 2.189

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lynne Beresford
Phone: 703 308-8900

RIN: 0651–AA46

883. PATENT APPLICATION ELECTRONIC SUBMISSION RULES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 1; 37 CFR 2

Timetable:

Action	Date	FR Cite
ANPRM	11/30/92	57 FR 56537
ANPRM Comment Period End	03/01/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Stoll
Phone: 703 305-8600

RIN: 0651–AA50

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO) — Completed Actions

884. PATENT TERM EXTENSION APPLICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.740; 37 CFR 1.785

Completed:

Reason	Date	FR Cite
Final Action	05/12/95	60 FR 25615

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Kunin
Phone: 703 305-8850

RIN: 0651–AA52

885. ESTABLISHING PRIOR INVENTION TO OVERCOME CITED PATENT

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.131

Completed:

Reason	Date	FR Cite
Final Action	05/01/95	60 FR 21043

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Kunin
Phone: 703 305-8850

RIN: 0651–AA67

886. PATENT APPEALS AND INTERFERENCE RULES

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR I

Completed:

Reason	Date	FR Cite
Final Action	03/17/95	60 FR 14488

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Fred E. McKelvey
Phone: 703 603-3336

RIN: 0651–AA71

887. REVISION OF PATENT COOPERATION TREATY PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.412; 37 CFR 1.421; 37 CFR 1.445; 37 CFR 10.9

Completed:

Reason	Date	FR Cite
Final Action	05/02/95	60 FR 21438

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Pearson
Phone: 703 308-6515
TDD: 703 305-3230

RIN: 0651–AA72

888. CHANGES IN REQUIREMENTS FOR ADDRESSING TRADEMARK APPLICATIONS AND TRADEMARK-RELATED PAPERS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.1; 37 CFR 1.8(a)(1); 37 CFR 1.10(b)

Completed:

Reason	Date	FR Cite
Withdrawn	08/24/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lynne Beresford
Phone: 703 305-9464

RIN: 0651–AA73

889. REVISION OF PATENT AND TRADEMARK FEES

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.16; 37 CFR 1.17; 37 CFR 1.18; 37 CFR 1.19; 37 CFR 1.20; 37 CFR 1.21; 37 CFR 1.26; 37 CFR 1.445; 37 CFR 1.482; 37 CFR 1.492; 37 CFR 2.6

Completed:

Reason	Date	FR Cite
Final Action	08/11/95	60 FR 41018

Small Entities Affected: None

Government Levels Affected: None

DOC—PTO — Completed Actions

Agency Contact: Robert Kopson
Phone: 703 305-8510

RIN: 0651–AA74

890. CHANGES TO IMPLEMENT 20-YEAR PATENT TERM AND PROVISIONAL APPLICATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1; 37 CFR 3

Completed:

Reason	Date	FR Cite
Final Action	04/25/95	60 FR 20195

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Kunin
Phone: 703 305-8850

RIN: 0651–AA76

DEPARTMENT OF COMMERCE (DOC) — Final Rule Stage

Technology Administration (TA)

891. RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

Priority: Other Significant

Legal Authority: 35 USC 206

CFR Citation: 37 CFR 401

Legal Deadline: None

Abstract: The change to the rule permitting electronic reporting of inventions was published in the Federal Register on August 14, 1995 (60 FR 41811).

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/95	60 FR 41811
Comment Period End	09/13/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jon Paugh, Acting Director, Technology Competitiveness, Department of Commerce, Technology Administration, Washington, DC 20230
Phone: 202 482-2100

RIN: 0692–AA14

892. • ACQUISITION AND PROTECTION OF FOREIGN RIGHTS IN INVENTIONS

Priority: Substantive, Nonsignificant

Legal Authority: EO 10096; 15 USC 3710d

CFR Citation: 37 CFR 101; 37 CFR 501

Legal Deadline: None

Abstract: 37 CFR part 101 will be abolished and 37 CFR part 501 expanded to cover Federal employee foreign rights in inventions.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John H. Raubitschek, Patent Counsel, Department of Commerce, Technology Administration, RH4613, Washington, DC 20230
Phone: 202 482-8010
Fax: 202 482-0523

RIN: 0692–AA15

893. • LICENSING OF FOREIGN PATENTS ACQUIRED BY THE GOVERNMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 9865; 35 USC 207; 35 USC 208; 35 USC 209

CFR Citation: 37 CFR 102; 37 CFR 404

Legal Deadline: None

Abstract: 37 CFR part 102 will be abolished because it conflicts with 37 CFR part 404.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John H. Raubitschek, Patent Counsel, Department of Commerce, Technology Administration, RH 4613
Phone: 202 482-8010
Fax: 202 482-0528

RIN: 0692–AA16

DEPARTMENT OF COMMERCE (DOC) — Long-Term Actions

Technology Administration (TA)

894. PROMOTION OF PRIVATE SECTOR INDUSTRIAL TECHNOLOGY PARTNERSHIPS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 1160 subpart A

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Bohannon
Phone: 202 482-1984

RIN: 0692–AA13

[FR Doc. 95-23610 Filed 11-24-95; 8:45 am]
BILLING CODE 3510-BW-F

federal register

Tuesday
November 28, 1995

Part V

Department of Defense

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE (DOD)

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Regulatory Plan and Semiannual Agenda of Regulations

AGENCY: Department of Defense (DoD).

ACTION: Publication of the consolidated regulatory plan and semiannual agenda of DoD regulatory documents.

SUMMARY: The Department of Defense (DoD) is publishing this consolidated regulatory plan and semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under E.O. 12866 "Regulatory Planning and Review" and the Office of Federal Procurement Policy Act of 1988 (41 U.S.C. 402). This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under E.O. 12866, the Federal Procurement Policy Act, and other regulatory guidance. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, or tribal interests under the criteria of E.O. 12866. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

The agenda portion of this document updates the report published on May 8, 1995, and includes regulations expected to be issued and under review over the next 12 months. The procurement-related agenda items included herein will also be used by the Office of Federal Procurement Policy to publish the "Procurement Regulatory Activity Report" required by the Office of Federal Procurement Policy Act Amendments of 1988.

The next agenda is scheduled to be published in April 1996, with the next regulatory plan scheduled for October 1996. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general regulatory plan and semiannual agenda information, contact Mr. William Pearce, telephone 703-604-4582, or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-697-2714.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Mr. Dan Cragg, Directives and Records Division, Directorate for Correspondence and Directives, Washington Headquarters Services; telephone 703-697-4111. For general information on Office of the Secretary agenda items which are procurement-related, contact Ms. Kathleen Fenk, telephone 703-602-0131, or write to Defense Acquisition Regulations Directorate, 3062 Defense Pentagon, Washington, DC 20301-3062.

For general information on Department of the Army regulations, contact Mr. Gregory Showalter, telephone 703-428-0567, or write to Commander, U.S. Army Publications and Printing Command, ATTN: ASQZ-PDS, Room 1050, Hoffman I, Alexandria, Virginia 22331-0302.

For general information on the U.S. Army Corps of Engineers regulations, contact Mr. Michael L. Davis, telephone 202-761-1785, or write to Office of the Chief of Engineers, ATTN: CECW-OR, Washington, DC 20314-1000.

For general information on Department of the Navy regulations, contact Ms. Alcinda P. Wenberg, telephone 703-602-6766, or write to Department of the Navy, Commander, Naval Information Systems Management Center, Crystal Gateway 2, Room 1500, 1225 Jefferson Davis Highway, Arlington, Virginia 22202-4311.

For general information on Department of the Air Force regulations, contact Ms. Patsy J. Conner, telephone 703-614-3488, or write to Department of the Air Force, SAF/AAIQ, 1610 Air Force Pentagon, Washington, DC 20330-1610.

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulations includes The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Department of Defense Statement of Regulatory Priorities is included in Part II. The Unified Agenda is further composed of the regulatory status reports, including procurement-related regulatory status reports, from the Office of the Secretary of Defense (OSD) and the Departments of the Army, Navy, and Air Force. Included also is the regulatory status report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of E.O. 12866 and involve water resource projects and regulation of activities in waters of the United States.

DoD issuances range from DoD Directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement Directives). The OSD agenda section contains the primary Directives under which DoD components promulgate their implementing regulations.

To ease identification and to clarify the differences among the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes component level of authority and type of issuance, in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of E.O. 12866, will continue to be the DoD single-source reporting vehicle, which will identify issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, DoD components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;

b. Paperwork Reduction Act;

c. Office of Federal Procurement Policy Act Amendments of 1988.

These DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the reports in this agenda will contain four sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; and (4) completed actions.

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in each section.

Although sensitive to the needs of the public and regulatory reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 and section 3 of E.O. 12866.

Dated: September 18, 1995.

D. O. Cooke,

Director, Administration and Management.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
895	Civil-Military Program (DoD Directive 1100aa)	0790-AF84
896	Civil-Military Program Procedures (DoD Instruction 1100bb)	0790-AF85
897	Technical Assistance for Public Participation	0790-AG14
898	Collection From Third Party Payers of Reasonable Costs of Healthcare Services; Amendment	0790-AG24

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
899	Grants and Agreements—Military Recruiting on Campus	0790-AF87
900	Provision of Early Intervention and Special Education Services for Eligible DoD Dependents in Overseas Areas (DoD Instruction 1342.12)	0790-AF89
901	Revitalizing Base Closure Communities and Community Assistance- Community Redevelopment and Homeless Assistance	0790-AG18
902	Former Spouse Payments From Retired Pay; Amendment	0790-AG22
903	Information Security Program Regulation (DoD 5200.1-R); Amendment	0790-AG23
904	University Research Initiative Support Program (URISP)	0790-AG26

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
905	Total Quality Management (DoD Directive 5000.51)	0790-AB33
906	Release of Acquisition-Related Information (DoD Directive 5230.aa)	0790-AC62
907	Pilot Program Policy	0790-AF26
908	Science, Mathematics, and Engineering (SME) Education	0790-AF27
909	National Security Education Program (NSEP) Grants to Institutions of Higher Education (DoD Instruction 1025.5)	0790-AF59
910	Teacher and Teacher's Aide Placement Assistance Program (Troops to Teachers)	0790-AF71
911	DLA Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns	0790-AF72
912	DLA Acquisition Regulation; Fuel Allocation Procedures	0790-AF73
913	Contractor's Safety for Ammunition and Explosives	0790-AG06
914	Military Recruiting at Institutions of Higher Education	0790-AG13
915	Commercial Activities Program Procedures (DoD Instruction 4100.33); Amendment	0790-AG25

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
916	Revitalizing Base Closure Communities	0790-AF61
917	Revitalizing Base Closure Communities—Base Closure Community Assistance	0790-AF62
918	Revitalizing Base Closure Communities—Base Closure Community Assistance II	0790-AF64

DOD

Office of the Secretary—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
919	Nonprocurement Debarment, and Suspension and Federal Acquisition Regulation; Debarment, Suspension, and Ineligibility (Ethics)	0790-AF68
920	Joint Ethics Regulation (JER) (DoD 5500.7-R); Amendment	0790-AF83
921	Standards of Conduct (DoD Directive 5500.7); Amendment	0790-AG12
922	Department of Defense Newspapers and Civilian Enterprise Publications (DoD Instruction 5120.4)	0790-AG16

Defense Aquisition Regulations Council—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
923	Protection of Arms, Ammunition, and Explosives (DFARS Case 95-D001)	0750-AA51

Defense Aquisition Regulations Council—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
924	Acquisition of Commercial Items (DAR Case 89-316)	0750-AA02
925	Electronic Funds Transfer (DAR Case 90-D009)	0750-AA03
926	Overhead Should Cost Reviews (DFARS Case 92-D010)	0750-AA04
927	Insurance Liability to Third Parties (DAR Case 92-D015)	0750-AA05
928	Drug-Free Workforce (DAR Case 88-083)	0750-AA06
929	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)	0750-AA07
930	Personal Services Compensation (DAR Case 91-085D)	0750-AA08
931	Demilitarization (DFARS Case 92-D024)	0750-AA09
932	Progress Payments (DFARS Case 93-D305)	0750-AA21
933	Redesignation of USD(A) (DFARS Case 93-D320)	0750-AA26
934	Personal Services Contracts (DFARS Case 94-D302)	0750-AA33
935	EUCOM Supplement (DFARS Case 94-D001)	0750-AA34
936	Specifications and Standards (DFARS Case 94-D003)	0750-AA36
937	Federally Funded Research and Development Centers (DFARS Case 94-D306)	0750-AA38
938	Manufacturing Science and Technology Program (DFARS Case 94-D307)	0750-AA39
939	Institutions of Higher Education (DFARS Case 94-D310)	0750-AA40
940	Determinations Under the Buy American Act (DFARS 94-D313)	0750-AA42
941	Limitation on Procurement of Goods (DFARS Case 94-D314)	0750-AA43
942	Hazardous Materials (DFARS Case 94-D309)	0750-AA45
943	Subcontracting Plan from Nonprofit Agencies for the Blind or Severely Disabled (DFARS Case 94-D312)	0750-AA46
944	Preference for Local Residents (DFARS Case 94-D315)	0750-AA47
945	Restructuring Costs Under Defense Contracts (DFARS Case 94-D316)	0750-AA48
946	Individual Compensation (DFARS Case 94-D318)	0750-AA49
947	Internal Restructuring Costs (DFARS Case 94-D007)	0750-AA50
948	Tank and Automotive Forging Items (DFARS Case 95-D003)	0750-AA53
949	Quality Assurance—Test	0750-AA56
950	Field Pricing Report (DFARS Case 95-D010)	0750-AA59
951	Qualification Requirements (DFARS Case 95-D011)	0750-AA60
952	Australian Memorandum of Agreement (DFARS Case 95-D013)	0750-AA61
953	Preaward Survey (DFARS Case 95-D016)	0750-AA62
954	Cost Monitoring (DFARS Case 95-D018)	0750-AA63
955	Offset Administrative Costs (DFARS Case 95-D019)	0750-AA64
956	Revised North American Free Trade Agreement Thresholds (DFARS Case 95-D022)	0750-AA65
957	Limiting Small Disadvantaged Business Premiums (DFARS Case 95-D023)	0750-AA66
958	Contractor Purchasing System Reviews (DFARS Case 95-D026)	0750-AA67
959	Indian Incentive (DFARS Case 95-D027)	0750-AA68
960	Ground and Flight Risk (DFARS Case 95-D028)	0750-AA69
961	Supercomputer (DFARS Case 95-D301)	0750-AA70
962	Alternative to Miller Act Bonds (DFARS Case 95-D305)	0750-AA71

DOD

Defense Aquisition Regulations Council—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
963	Uruguay Round (1996 Agreement) (DFARS Case 95-D306)	0750-AA72
964	Micropurchases (DFARS Case 95-D302)	0750-AA73
965	Teaming of Sole Source Contractors (DFARS Case 95-D009)	0750-AA74
966	Integrated Materiel Management (DFARS Case 95-D005)	0750-AA75
967	Multiple Best and Final Offers (DFARS Case 95-D006)	0750-AA76
968	Contract Quality Requirements (DFARS Case 95-D007)	0750-AA77
969	Precontractual Contract Administration (DFARS Case 95-D015)	0750-AA79
970	Milcon-Funded CPFF Contracts (DFARS Case 95-D024)	0750-AA80
971	Annual Automated Data Processing Equipment Lease Reviews (DFARS Case 95-D017)	0750-AA81
972	Environmentally Sound Products (DFARS Case 95-D303)	0750-AA82
973	Material Management and Accounting System Changes (DFARS Case 95-D029)	0750-AA84
974	Contract Award (Interim)(DFARS Case 95-D701)	0750-AA85
975	Contract Award (DFARS 95-D702)	0750-AA86
976	Small Business (DFARS Case 95-D706)	0750-AA87
977	Finance (DFARS Case 95-D710)	0750-AA88
978	Cost Principles (Proposed) (DFARS Case 95-D714)	0750-AA89
979	Cost Principles (Final) (DFARS Case 95-D704)	0750-AA90
980	Past Performance (DFARS Case 95-D715)	0750-AA91
981	Audits (DFARS Case 95-D705)	0750-AA93
982	Ethics (DFARS Case 95-D707)	0750-AA94
983	Truth in Negotiations Act and Related Changes (DFARS Case 95-D708)	0750-AA95
984	Vietnam Veterans (DFARS Case 95-D307)	0750-AA96
985	Flexible Contract Administration Services (DFARS Case 95-D030)	0750-AA97
986	Use of Military Assistance Program Address Codes (DFARS Case 95-D032)	0750-AA98
987	Magnitude of Construction Projects (DFARS Case 95-D031)	0750-AA99

Defense Aquisition Regulations Council—Completed Actions

Sequence Number	Title	Regulation Identifier Number
988	Timekeeping and Labor Accounting Systems (DAR Case 91-004)	0750-AA00
989	Valves and Machine Tools (DAR Case 91-320)	0750-AA01
990	Undefinitized Contractual Actions (DFARS Case 92-D033)	0750-AA10
991	Contractor Insurance/Pension Reviews (DFARS Case 92-D040)	0750-AA11
992	Organizational Conflicts of Interest (DFARS Case 92-D344)	0750-AA12
993	Production Surveillance (DFARS Case 93-D003)	0750-AA13
994	Screening Threshold (DFARS Case 93-D008)	0750-AA14
995	Sequence of Progress Payments (DFARS Case 93-D016)	0750-AA15
996	Technical Data (DAR Case 91-312)	0750-AA16
997	Debarment and Suspension (DFARS Case 93-D018)	0750-AA17
998	Lifeboat Survival System (DFARS Case 93-D308)	0750-AA18
999	Indian Tribal or Alaska Native Corporation (DFARS Case 93-D309)	0750-AA19
1000	Aircraft Fuel Cells (DFARS Case 93-D307)	0750-AA20
1001	Greatest Value Source (DFARS Case 93-D020)	0750-AA22
1002	Part 235 Clauses (DFARS Case 93-D022)	0750-AA23
1003	Services at Installations Being Closed (DFARS Case 93-D323)	0750-AA24
1004	Reduction in Defense Programs (DFARS Case 93-321)	0750-AA25
1005	Terrorist Countries (DFARS Case 93-D319)	0750-AA27
1006	Indirect Costs of Institutions of Higher Education (DFARS Case 93-D317)	0750-AA28
1007	Small and Disadvantaged Businesses and Certain Institutions of Higher Education (DFARS Case 93-D315)	0750-AA29
1008	Reflagging or Repair Work (DFARS Case 93-D313)	0750-AA30
1009	Preference for Local and Small Business (DFARS Case 93-324D)	0750-AA31
1010	North American Free Trade Agreement (NAFTA) (DFARS Case 93-D310)	0750-AA32
1011	Government Supply Sources (DFARS Case 94-D002)	0750-AA35
1012	Best Value - Stevedoring (DFARS Case 94-D005)	0750-AA37
1013	Surety Bonds (DFARS Case 94-D308)	0750-AA41
1014	Returnable Cylinders (DFARS Case 94-D004)	0750-AA44

DOD

Defense Aquisition Regulations Council—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1015	Comprehensive Subcontracting Program (DFARS Case 95-D002)	0750-AA52
1016	Competitive Prototyping (DFARS Case 95-D004)	0750-AA54
1017	Research and Development Definitions (DFARS Case 94-D008)	0750-AA55
1018	Streamlined Research and Development Procedures (Lab Demonstrations) (DFARS Case 92-D034)	0750-AA57
1019	Evaluation Preference for Small Disadvantaged Business Concerns (DFARS Case 95-D008)	0750-AA58
1020	Definitization Mods (DFARS Case 95-D012)	0750-AA83
1021	Contract Data Reporting (DFARS Case 95-D711)	0750-AA92

Department of the Army—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1022	Army Regulation 500-51, Emergency Employment of Army and Other Resources—Support to Civilian Law Enforcement	0702-AA23
1023	Army Regulation 190-9, Absentee Deserter Apprehension Program and Surrender of Military Personnel to Civilian Law Enforcement Agencies	0702-AA26
1024	Fort Lewis Regulation 350-33	0702-AA29

U.S. Army Corps of Engineers—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1025	Regulatory Programs of the Corps of Engineers	0710-AA30
1026	Regulatory Program of the Corps of Engineers—90-Day Decisions	0710-AA40

U.S. Army Corps of Engineers—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1027	Nationwide Permit Program (New Nationwide Permits for Additional Activities)	0710-AA32
1028	Regulatory Program of the Corps of Engineers—Administrative Appeals	0710-AA41

U.S. Army Corps of Engineers—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1029	Regulatory Programs of the Corps of Engineers, Part 325, Appendix D—Endangered Species Counterpart Regulations	0710-AA17
1030	Part 326, Enforcement; Class II Administrative Penalties	0710-AA25
1031	Regulatory Programs of the Corps of Engineers, Wetland Delineator Certification Program	0710-AA38

Department of the Navy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1032	Adjustments to Prices Under Shipbuilding Contracts	0703-AA34
1033	Use of Department of the Navy Aviation Facilities by Other Than United States Department of Defense Aircraft	0703-AA48
1034	Board for Correction of Naval Records	0703-AA49

DOD

Department of the Navy—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1035	Availability of Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public (Privacy Act)	0703-AA44

Department of the Air Force—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1036	Public Affairs Policies and Procedures	0701-AA18

Department of the Air Force—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1037	Personnel Review Boards	0701-AA43

Department of the Air Force—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1038	Air Force Materiel Command Federal Acquisition Regulation Supplement; Vendor Rating System	0701-AA34

Department of the Air Force—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1039	Air Force Materiel Command Contractor Performance Assessment	0701-AA33
1040	Utilization of Excess and Disposal of Surplus Real Property	0701-AA35
1041	Civil Aircraft Use of United States Air Force Airfields	0701-AA42

Office of Assistant Secretary for Health Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1042	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Case Management Services (DoD 6010.8-R)	0720-AA30

Office of Assistant Secretary for Health Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1043	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Program; Special Health Care Delivery Programs (DoD 6010.8-R)	0720-AA21

DOD

Office of Assistant Secretary for Health Affairs—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1044	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Supplemental Insurance Plans (DoD 6010.8-R)	0720-AA01
1045	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Program for the Handicapped (DoD 6010.8-R)	0720-AA04
1046	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Basic Program (DoD 6010.8-R)	0720-AA06
1047	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Former Spouse/Widow(er) and Federal Claims Collection Act (DoD 6010.8-R)	0720-AA07
1048	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Expanded Active Duty Dependents Dental Benefit Plan	0720-AA19
1049	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Hospital Payment for Ambulatory Care (DoD 6010.8-R)	0720-AA20
1050	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Six Separate Changes (DoD 6010.8-R)	0720-AA26
1051	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Provider Certification Requirements—Corporate Services Provider Class; Occupational Therapists (DoD 6010.8-R)	0720-AA27
1052	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Transplants (DoD 6010.8-R)	0720-AA28
1053	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Clarification of the CHAMPUS Definition of Experimental (DoD 6010.8-R)	0720-AA29

Office of Assistant Secretary for Health Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1054	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Mental Health Services (DoD 6010.8-R)	0720-AA23

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Proposed Rule Stage

895. CIVIL-MILITARY PROGRAM (DOD DIRECTIVE 1100AA)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 410

CFR Citation: 32 CFR 213

Legal Deadline: None

Abstract: This part establishes policy and assigns responsibilities for the establishment and implementation of Civil-Military Programs. It is DoD policy to employ DoD resources to the extent that they do not affect readiness, to contribute to meeting the domestic needs of the Nation in areas such as health and human services, education, and job training, and infrastructure building/ rehabilitation. Such activities may be as a byproduct of training, incidental to training, as a result of dedicated missions or the result of specifically authorized and funded program. Military support to civilian authorities (MSCA) is specifically excluded from Civil-Military Programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. Hickox, Department of Defense, Office of the Secretary
Phone: 703 614-0636
Fax: 703 693-5371

RIN: 0790–AF84

896. CIVIL-MILITARY PROGRAM PROCEDURES (DOD INSTRUCTION 1100BB)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 410

CFR Citation: 32 CFR 214

Legal Deadline: None

Abstract: This part provides guidance and procedures for implementing the Civil-Military Programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

DOD—OS

Proposed Rule Stage

Government Levels Affected: None

Agency Contact: A. Hickox, Department of Defense, Office of the Secretary
Phone: 703 614-0636
Fax: 703 693-5371

RIN: 0790–AF85

897. • TECHNICAL ASSISTANCE FOR PUBLIC PARTICIPATION

Priority: Substantive, Nonsignificant

Legal Authority: Sec 326, National Defense Authorization Act for FY 1995

CFR Citation: 32 CFR 203

Legal Deadline: Other, Statutory. Not later than 180 days after the date on which the Secretary of Defense announces a decision to establish the Restoration Advisory Board.

Abstract: The DoD intends to publish interim rules for providing technical assistance funding to citizens affected by the environmental restoration of DoD facilities. This request for comments discusses and solicits comments on several options the DoD is considering for providing assistance to community members of Technical Review Committee (TRCs) and Restoration Advisory Boards (RABs) to obtain technical advisors and facilitate the participation of these members and affected citizens in environmental restoration activities at their associated installations. The DoD will consider these comments in formulating an interim final rule.

Timetable:

Action	Date	FR Cite
ANPRM	05/24/95	60 FR 27460
Notice of Request for Expressions of Interest	07/10/95	60 FR 35553
ANPRM Comment Period End	07/24/95	60 FR 27460
Notice of Request for Expressions of Interest Submittal Period End	09/08/95	60 FR 35553
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 0790–AG14

898. • COLLECTION FROM THIRD PARTY PAYERS OF REASONABLE COSTS OF HEALTHCARE SERVICES; AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 10 USC 1095

CFR Citation: 32 CFR 220

Legal Deadline: None

Abstract: This proposed rule would establish a new rule under the Third Party Collection program for determining the reasonable costs of healthcare services provided by facilities of the Uniformed Services in cases in which care is provided under TRICARE Resource Sharing Agreements. For purposes of the Third Party Collection program, such services will be treated the same as other services provided by facilities of the Uniformed Services. This proposed rule also lowers the high cost ancillary threshold value from $60 to $25 for patients that come to the Uniformed Services facility for ancillary services requested by a source other than a Uniformed Services facility provider. The reasonable costs of such services will be accumulated on a daily basis.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39285
NPRM Comment Period End	10/02/95	60 FR 39285
Final Action	11/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: P. Kelly, Department of Defense, Office of the Secretary
Phone: 703 681-8910

RIN: 0790–AG24

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Final Rule Stage

899. GRANTS AND AGREEMENTS—MILITARY RECRUITING ON CAMPUS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301

CFR Citation: 32 CFR 23

Legal Deadline: None

Abstract: This Interim Rule implements section 558 of the National Defense Authorization Act for fiscal year 1995 (PL 103-337 (1994)), as it applies to grants. Section 558 states that funds available to the Department of Defense may not be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes: entry to campuses; access to students on campuses; or access to directory information pertaining to students. This rule implements the law, as it applies to grants, by requiring inclusion of an appropriate clause in DoD grants with institutions of higher education. It also extends the requirement, as a matter of policy, to DoD cooperative agreements. because they are very similar to grants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/24/95	60 FR 4544
Interim Final Rule Effective	01/24/95	60 FR 4544
Interim Final Rule Comment Period End	03/27/95	60 FR 4544
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: M. Herbst, Department of Defense, Office of the Secretary

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DOD—OS

Final Rule Stage

Phone: 703 614-0205

RIN: 0790–AF87

900. PROVISION OF EARLY INTERVENTION AND SPECIAL EDUCATION SERVICES FOR ELIGIBLE DOD DEPENDENTS IN OVERSEAS AREAS (DOD INSTRUCTION 1342.12)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 921; 20 USC 1400

CFR Citation: 32 CFR 57

Legal Deadline: None

Abstract: This part implements policy and updates responsibilities and procedures under 20 USC 921-932, 20 USC 1400 et seq., 32 CFR part 347, and 32 CFR part 71 for providing the following: (1) A free appropriate public education (FAPE) for children with disabilities who are eligible to enroll in the Department of Defense Dependents Schools (DoDDS); (2) Early intervention services for infants and toddlers birth through age 2 years who, but for their age, would be eligible to enroll in the DoDDS under 32 CFR part 71; (3) A comprehensive and multidisciplinary program of early intervention services for infants and toddlers with disabilities and their families. This part establishes a National Advisory Panel (NAP) on Education for Children with Disabilities, aged 3 to 21, inclusive and a DoD Inter-Component Coordinating Council (ICC) on Early Intervention, in accordance with DoD Directive 5105.4. This part establishes a DoD Coordinating Committee (DoD-CC) on Early Intervention, Special Education, and Medically Related Services (MRS). This part authorizes implementation instructions.

Timetable:

Action	Date	FR Cite
NPRM	05/31/95	60 FR 28362
NPRM Comment Period End	07/31/95	60 FR 28362
Public Hearing Proposed Rule	08/04/95	60 FR 36081
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: C. Rothenbacher, Department of Defense, Office of the Secretary
Phone: 703 696-4386

RIN: 0790–AF89

901. • REVITALIZING BASE CLOSURE COMMUNITIES AND COMMUNITY ASSISTANCE- COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 2687 note

CFR Citation: 32 CFR 92

Legal Deadline: None
Although no deadline for promulgating regulations was established in the statute, it was imperative that regulations be issued immediately to inform communities of the new process

Abstract: This interim rule promulgates policies and procedures, developed by both the Departments of Defense and Housing and Urban Development, for implementing the Base Closure Community Redevelopment and Homeless Assistance Act (the "Redevelopment Act"). The Department of Housing and Urban Development will be making a similar publication in 24 CFR part 586.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/08/95	60 FR 40277
Interim Final Rule Effective	08/08/95	60 FR 40277
Interim Final Rule Comment Period End	10/10/95	
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: For further information of this action and a related action, see the Department of Defense Regulatory Plan appearing in Part II of this issue of the Federal Register.

Agency Contact: R. Hertzfeld, Department of Defense, Office of the Secretary
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RIN: 0790–AG18

902. • FORMER SPOUSE PAYMENTS FROM RETIRED PAY; AMENDMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 1408

CFR Citation: 32 CFR 63

Legal Deadline: None

Abstract: This proposed rule amends part 63 of title 32 to reflect amendments to the Uniformed Services Former Spouses' Protection Act and to clarify the language in section 63.6(c)(8) concerning court orders that provide for a division of retired pay by means of a formula. Guidance implementing the amendments have been incorporated into Volume 7, Part B of the DoD Financial Management Regulation, DoD 7000.14-R, but has not been previously published in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	04/06/95	60 FR 17507
NPRM Comment Period End	06/06/95	60 FR 17507
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Malufau, Department of Defense, Office of the Secretary
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RIN: 0790–AG22

903. • INFORMATION SECURITY PROGRAM REGULATION (DOD 5200.1-R); AMENDMENT

Priority: Other

Legal Authority: EO 12356; 5 USC 301

CFR Citation: 32 CFR 159a

DOD—OS

Final Rule Stage

Legal Deadline: None

Abstract: The DoD proposes to issue this amendment to accommodate congressional language incorporated into the fiscal year 1994 Appropriations Act which specifies that new purchases of combination locks for GSA-approved security containers, vault doors, and secure rooms shall conform to Federal Specifications FF-L-2740 as well as the findings and recommendations of a senior panel established by Deputy Secretary of Defense regarding physical security measures required to adequately safeguard classified information in the possession of DoD activities.

Timetable:

Action	Date	FR Cite
Final Rule Effective	06/01/86	54 FR 26958
Final Rule	06/27/89	54 FR 26958
Final Rule Amendment	07/28/89	54 FR 31333
Final Rule Correction	11/06/89	54 FR 46610
NPRM	06/28/95	60 FR 33376
NPRM Comment Period End	08/28/95	60 FR 22276
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: W. Bell, Department of Defense, Office of the Secretary
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RIN: 0790–AG23

904. • UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM (URISP)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-160 Section 802; 10 USC 2358 note

CFR Citation: 32 CFR 209

Legal Deadline: None

Abstract: This rule is to comply with Section 802 of PL 103-160. The University Research Initiative Support Program (URISP) is required to be a competitive university research program for research and development that is relevant to the requirements of the DoD, that is set aside for colleges and universities that have received less that $2 million dollars from the DoD over the two previous fiscal years. URISP is oriented toward assisting institutions build university research infrastructure in the fields of science, engineering, and mathematics, so they may become more competitive.

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11642
NPRM Comment Period End	05/01/95	60 FR 11642
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: A. McGregor, Department of Defense, Office of the Secretary
Phone: 703 614-0205

RIN: 0790–AG26

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Long-Term Actions

905. TOTAL QUALITY MANAGEMENT (DOD DIRECTIVE 5000.51)

Priority: Routine and Frequent

CFR Citation: 32 CFR 281

Timetable:

Action	Date	FR Cite
NPRM	07/19/89	54 FR 30227
NPRM Comment Period End	08/18/89	54 FR 30227
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: F. Doherty
Phone: 703 695-2300

RIN: 0790–AB33

906. RELEASE OF ACQUISITION-RELATED INFORMATION (DOD DIRECTIVE 5230.AA)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 286h

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/12/90	55 FR 28614
Interim Final Rule Comment Period End	08/13/90	55 FR 28614
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: S. Slavsky
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RIN: 0790–AC62

907. PILOT PROGRAM POLICY

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	12/02/93	58 FR 63542
NPRM Comment Period End	01/31/94	58 FR 63543
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: R. Sylvester
Phone: 703 697-6399

RIN: 0790–AF26

908. SCIENCE, MATHEMATICS, AND ENGINEERING (SME) EDUCATION

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 118

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 65956
NPRM Comment Period End	02/15/94	58 FR 65956
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: K. Thompson
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RIN: 0790–AF27

909. NATIONAL SECURITY EDUCATION PROGRAM (NSEP) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION (DOD INSTRUCTION 1025.5)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 206

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/05/94	59 FR 26116
Interim Final Rule Effective	05/19/94	59 FR 26116
Interim Final Rule Comment Period End	07/18/94	59 FR 26116
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: S. Door
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RIN: 0790–AF59

910. TEACHER AND TEACHER'S AIDE PLACEMENT ASSISTANCE PROGRAM (TROOPS TO TEACHERS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 254

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/94	59 FR 7213
Interim Final Rule Effective	02/22/94	59 FR 7213
Interim Final Rule Comment Period End	04/18/94	
Interim Final Rule; Amendment	11/25/94	60 FR 30188
Interim Final Rule; Amendment Effective	06/08/95	60 FR 30188
Interim Final Rule; Amendment Comment Period End	08/07/95	60 FR 30188
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: R. Stein
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RIN: 0790–AF71

911. DLA ACQUISITION REGULATION; SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Priority: Routine and Frequent

CFR Citation: 48 CFR 5419; 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21954
NPRM Comment Period End	06/27/94	59 FR 21954
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: M. Reardon
Phone: 703 767-1360

RIN: 0790–AF72

912. DLA ACQUISITION REGULATION; FUEL ALLOCATION PROCEDURES

Priority: Routine and Frequent

CFR Citation: 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21956
NPRM Comment Period End	06/27/94	59 FR 21956
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: M. Reardon
Phone: 703 767-1360

RIN: 0790–AF73

913. CONTRACTOR'S SAFETY FOR AMMUNITION AND EXPLOSIVES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 184

Timetable:

Action	Date	FR Cite
NPRM	12/16/94	59 FR 64911
NPRM Comment Period End	02/14/95	59 FR 64911
Extension of Comment Period; Proposed Rule	05/15/95	60 FR 10340
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

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RIN: 0790–AG06

914. • MILITARY RECRUITING AT INSTITUTIONS OF HIGHER EDUCATION

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 503 note

CFR Citation: 32 CFR 216

Legal Deadline: None

Abstract: The Department of Defense adopts this interim rule to implement the National Defense Authorization Act for Fiscal Year 1995. It updates policy, procedures, and responsibilities for identifying and taking action against any institution of higher education that has a policy of denying, or, that effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes: Entry to campuses, access to students on campuses, or access to student directory information. No funds available to the Department of Defense (DoD) may be provided by grant or contract to any such institution. The new law allows no basis for waivers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/30/95	60 FR 28050
Interim Final Rule Effective	05/30/95	60 FR 28050
Interim Final Rule Comment Period End	07/31/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: R. Liveris, Department of Defense, Office of the Secretary
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RIN: 0790–AG13

915. • COMMERCIAL ACTIVITIES PROGRAM PROCEDURES (DOD INSTRUCTION 4100.33); AMENDMENT

Priority: Routine and Frequent

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 32 CFR 169a

Legal Deadline: None

Abstract: This part proposes to remove the requirement to place every DoD employee in a comparable position prior to converting a function with 10 full time equivalents or less to contract and adjust minor administrative corrections. It also proposes to establish procedures and criteria for use by DoD Components to determine whether DoD commercial activities should be performed by DoD personnel in-house or by contract with commercial resources.

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 417
NPRM Comment Period End	03/06/95	60 FR 417
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: E. DeHart, Department of Defense, Office of the Secretary
Phone: 703 604-5806

RIN: 0790–AG25

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Completed Actions

916. REVITALIZING BASE CLOSURE COMMUNITIES

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 90

Completed:

Reason	Date	FR Cite
Final Action	07/20/95	60 FR 37337
Final Action Effective	07/20/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: R. Hertzfeld
Phone: 703 695-1470
Fax: 703 697-6954
Email: HERTZFRE@ACQ.OSD.MIL

RIN: 0790–AF61

917. REVITALIZING BASE CLOSURE COMMUNITIES—BASE CLOSURE COMMUNITY ASSISTANCE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 91

Completed:

Reason	Date	FR Cite
Final Action	07/20/95	60 FR 37337
Final Action Effective	07/20/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: R. Hertzfeld
Phone: 703 695-1470
Fax: 703 697-6954
Email: HERTZFRE@ACQ.OSD.MIL

RIN: 0790–AF62

918. REVITALIZING BASE CLOSURE COMMUNITIES—BASE CLOSURE COMMUNITY ASSISTANCE II

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 91

Completed:

Reason	Date	FR Cite
Final Action	07/20/95	60 FR 37337
Final Action Effective	07/20/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: R. Hertzfeld
Phone: 703 695-1470
Fax: 703 697-6954
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RIN: 0790–AF64

DOD—OS

Completed Actions

919. NONPROCUREMENT DEBARMENT, AND SUSPENSION AND FEDERAL ACQUISITION REGULATION; DEBARMENT, SUSPENSION, AND INELIGIBILITY (ETHICS)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 25

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: M. Herbst
Phone: 703 614-0205

RIN: 0790–AF68

920. JOINT ETHICS REGULATION (JER) (DOD 5500.7-R); AMENDMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 84

Completed:

Reason	Date	FR Cite
Final Action	04/24/95	60 FR 20029
Final Action Effective	11/02/94	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: R. DuFresne
Phone: 703 697-5305
Fax: 703 697-1640
Email: DUFRESNR@OSDGC.OSD.MIL

RIN: 0790–AF83

921. • STANDARDS OF CONDUCT (DOD DIRECTIVE 5500.7); AMENDMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 5 USC 7301; 5 USC 7351; 5 USC 7353; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 32 CFR 83

Legal Deadline: None

Abstract: This rule prescribes standards of conduct required of all DoD employees and sets general responsibilities and enforcement procedures.

Timetable:

Action	Date	FR Cite
Final Rule Effective	08/30/93	59 FR 13213
Final Rule	03/21/94	59 FR 13213
Final Rule Comment Period End	05/20/94	59 FR 13213
Final Action Effective	11/02/94	
Final Action	04/24/95	60 FR 20029
Final Rule; Amendment Comment Period End	06/23/95	60 FR 20029

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: R. DuFresne, Department of Defense, Office of the Secretary
Phone: 703 697-5305
Fax: 703 697-1640
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RIN: 0790–AG12

922. • DEPARTMENT OF DEFENSE NEWSPAPERS AND CIVILIAN ENTERPRISE PUBLICATIONS (DOD INSTRUCTION 5120.4)

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 121; 10 USC 133

CFR Citation: 32 CFR 247

Legal Deadline: None

Abstract: This rule revises and provides DoD policy and updates procedures to meet changed circumstances for publishing DoD internal command information newspapers and civilian enterprise publications. It has minimal impact on some civilian printers who are contracted to print the publications.

Timetable:

Action	Date	FR Cite
NPRM	04/10/95	60 FR 18049
NPRM Comment Period End	06/09/95	60 FR 18049
Final Action Effective	06/21/95	60 FR 38959
Final Action	07/31/95	60 FR 38959

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: F. Theising, Department of Defense, Office of the Secretary
Phone: 703 274-4868

RIN: 0790–AG16

DEPARTMENT OF DEFENSE (DOD)
Defense Aquisition Regulations Council (DARC)

Proposed Rule Stage

923. PROTECTION OF ARMS, AMMUNITION, AND EXPLOSIVES (DFARS CASE 95-D001)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 204.202; 48 CFR 223.7200; 48 CFR 252.223

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to provide guidance on the physical security standards prescribed by Department of Defense Instruction 5100.76-M, Physical Security of Conventional Arms, Ammunition, and Explosives.

Timetable:

Action	Date	FR Cite
Case opened	01/31/95	
NPRM	08/03/95	60 FR 43756
NPRM Comment Period End	10/29/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a

DOD—DARC

Proposed Rule Stage

paperwork burden associated with this action.

Additional Information: This rulemaking was previously reported as RIN 0790-AG07.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AA51

DEPARTMENT OF DEFENSE (DOD)
Defense Aquisition Regulations Council (DARC)

Long-Term Actions

924. ACQUISITION OF COMMERCIAL ITEMS (DAR CASE 89-316)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 211.70

Timetable:

Action	Date	FR Cite
Case opened	12/06/89	
NPRM	07/11/90	55 FR 28514
NPRM Comment Period End	08/27/90	
Interim Final Rule	11/27/91	56 FR 60066
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA02

925. ELECTRONIC FUNDS TRANSFER (DAR CASE 90-D009)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 232.910

Timetable:

Action	Date	FR Cite
Case opened	05/03/90	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA03

926. OVERHEAD SHOULD COST REVIEWS (DFARS CASE 92-D010)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 215.810

Timetable:

Action	Date	FR Cite
Case opened	04/02/92	
NPRM	06/17/94	59 FR 31189
NPRM Comment Period End	08/16/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA04

927. INSURANCE LIABILITY TO THIRD PARTIES (DAR CASE 92-D015)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 228.311

Timetable:

Action	Date	FR Cite
Case opened	05/07/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA05

928. DRUG-FREE WORKFORCE (DAR CASE 88-083)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 223

Timetable:

Action	Date	FR Cite
Case opened	06/14/88	
Interim Final Rule	09/26/88	53 FR 37763
Final Rule	12/30/91	56 FR 67209
NPRM	07/23/92	57 FR 32769
Interim Final Rule	07/23/92	57 FR 32736
NPRM Comment Period End	09/21/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA06

929. INCREMENTAL FUNDING, FIXED PRICE CONTRACTS (DAR CASE 90-037)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232.7; 48 CFR 252.232

Timetable:

Action	Date	FR Cite
Case opened	09/26/90	
Interim Final Rule	09/01/93	58 FR 46091
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA07

930. PERSONAL SERVICES COMPENSATION (DAR CASE 91-085D)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 242.15

Timetable:

Action	Date	FR Cite
Case opened	12/02/91	
NPRM	12/06/94	59 FR 62704
NPRM Comment Period End	02/06/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA08

931. DEMILITARIZATION (DFARS CASE 92-D024)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 245.6; 48 CFR 245.73; 48 CFR 252.245

Timetable:

Action	Date	FR Cite
Case opened	07/22/92	
NPRM	03/16/94	59 FR 12223
NPRM Comment Period End	06/30/94	
NPRM	03/23/95	60 FR 15276
NPRM Comment Period End	05/22/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA09

932. PROGRESS PAYMENTS (DFARS CASE 93-D305)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232.501; 48 CFR 252.232

Timetable:

Action	Date	FR Cite
Case opened	11/15/93	
Interim Final Rule	11/24/93	58 FR 62045
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA21

933. REDESIGNATION OF USD(A) (DFARS CASE 93-D320)

Priority: Other

CFR Citation: 48 CFR 201

Timetable:

Action	Date	FR Cite
Case opened	12/14/93	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA26

934. PERSONAL SERVICES CONTRACTS (DFARS CASE 94-D302)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 206.102; 48 CFR 237.104

Timetable:

Action	Date	FR Cite
Case opened	01/31/94	
Interim Final Rule	01/12/95	60 FR 2888
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA33

935. EUCOM SUPPLEMENT (DFARS CASE 94-D001)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 216; 48 CFR 222; 48 CFR 225; 48 CFR 227; 48 CFR 228; 48 CFR 229; 48 CFR 232; 48 CFR 233; 48 CFR 236; 48 CFR 246; 48 CFR 252

Timetable:

Action	Date	FR Cite
Case opened	02/03/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA34

936. SPECIFICATIONS AND STANDARDS (DFARS CASE 94-D003)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 210

Timetable:

Action	Date	FR Cite
Case Opened	07/08/94	
NPRM	12/23/94	59 FR 66287

Action	Date	FR Cite
NPRM Comment Period End	02/23/95	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA36

937. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS (DFARS CASE 94-D306)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 235.017

Timetable:

Action	Date	FR Cite
Case opened	09/28/94	
Interim Final Rule	03/10/95	60 FR 13071
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA38

938. MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM (DFARS CASE 94-D307)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 235.006

Timetable:

Action	Date	FR Cite
Case opened	09/28/94	
Interim Final Rule	01/24/95	60 FR 4569
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA39

939. INSTITUTIONS OF HIGHER EDUCATION (DFARS CASE 94-D310)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 209.470; 48 CFR 252.209

Timetable:

Action	Date	FR Cite
Case opened	09/28/94	
Interim Final Rule	03/10/95	60 FR 13073
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA40

940. DETERMINATIONS UNDER THE BUY AMERICAN ACT (DFARS 94-D313)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.102

Timetable:

Action	Date	FR Cite
Case opened	09/28/94	
Interim Final Rule	07/03/95	60 FR 34470
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA42

941. LIMITATION ON PROCUREMENT OF GOODS (DFARS CASE 94-D314)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.70; 48 CFR 252.225

Timetable:

Action	Date	FR Cite
Case opened	09/28/94	
Interim Final Rule	04/19/95	60 FR 19531
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA43

942. HAZARDOUS MATERIALS (DFARS CASE 94-D309)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 223.7102; 48 CFR 223.7103; 48 CFR 252.223

Timetable:

Action	Date	FR Cite
Case opened	09/28/94	
Interim Final Rule	03/10/95	60 FR 13075
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA45

943. SUBCONTRACTING PLAN FROM NONPROFIT AGENCIES FOR THE BLIND OR SEVERELY DISABLED (DFARS CASE 94-D312)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219.703

Timetable:

Action	Date	FR Cite
Case opened	09/28/94	
Interim Final Rule	03/10/95	60 FR 13074
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA46

944. PREFERENCE FOR LOCAL RESIDENTS (DFARS CASE 94-D315)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 226.71

Timetable:

Action	Date	FR Cite
Case opened	09/28/94	
Interim Final Rule	01/31/95	60 FR 5870
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA47

945. RESTRUCTURING COSTS UNDER DEFENSE CONTRACTS (DFARS CASE 94-D316)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205; 48 CFR 242.12

Timetable:

Action	Date	FR Cite
Case opened	09/28/94	
Interim Final Rule	01/05/95	60 FR 1747
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA48

946. INDIVIDUAL COMPENSATION (DFARS CASE 94-D318)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205; 48 CFR 231.303; 48 CFR 231.603

Timetable:

Action	Date	FR Cite
Case opened	11/22/94	
Interim Final Rule	01/09/95	60 FR 2330
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA49

947. INTERNAL RESTRUCTURING COSTS (DFARS CASE 94-D007)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205

Timetable:

Action	Date	FR Cite
Case opened	12/29/94	
NPRM	01/12/95	60 FR 2925
NPRM Comment Period End	03/13/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA50

948. TANK AND AUTOMOTIVE FORGING ITEMS (DFARS CASE 95-D003)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.7103

Timetable:

Action	Date	FR Cite
Case opened	02/02/95	
NPRM	07/03/95	60 FR 34497
NPRM Comment Period End	09/01/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA53

949. • QUALITY ASSURANCE—TEST

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 10 USC 2202

CFR Citation: 48 CFR 5446; 48 CFR 5452

Legal Deadline: None

Abstract: Modify the Defense Logistics Acquisition Regulation to implement a test under which a contractor will be required to replace, repair, or provide reimbursements for items which do not conform with the specifications of the contract when such nonconformances are discovered within one year after Government acceptance.

Timetable:

Action	Date	FR Cite
Case opened	02/08/95	
NPRM	07/11/95	60 FR 35721
NPRM Comment Period End	09/11/95	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: This rulemaking was previously reported as RIN 0790-AG17.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AA56

950. • FIELD PRICING REPORT (DFARS CASE 95-D010)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 215.805

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to increase the threshold from $1 million to $10 million for requesting a field pricing report on a cost-type proposal.

Timetable:

Action	Date	FR Cite
Case opened	03/14/95	
NPRM	06/23/95	60 FR 32646
NPRM Comment Period End	08/22/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AA59

951. • QUALIFICATION REQUIREMENTS (DFARS CASE 95-D011)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 209.202

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to lower the approval level for establishing qualification requirements.

Timetable:

Action	Date	FR Cite
Case opened	03/14/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AA60

952. • AUSTRALIAN MEMORANDUM OF AGREEMENT (DFARS CASE 95-D013)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225.872

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to make the restrictions of the Buy American Act inapplicable to the acquisition of Australian manufactured defense equipment.

Timetable:

Action	Date	FR Cite
Case opened	05/03/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AA61

953. • PREAWARD SURVEY (DFARS CASE 95-D016)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 209.106

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to encourage the initial use of commercially supplied data in preaward considerations of a contractor's responsibility, before requesting the contract administration office to perform a preaward survey.

Timetable:

Action	Date	FR Cite
Case opened	05/18/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AA62

954. • COST MONITORING (DFARS CASE 95-D018)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 242.7003

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to allow contract administration offices more flexibility

in planning and executing their Cost Monitoring Programs.

Timetable:

Action	Date	FR Cite
Case opened	05/18/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA63

955. • OFFSET ADMINISTRATIVE COSTS (DFARS CASE 95-D019)

Priority: Other

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225.7303

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to clarify that U.S. contractors may recover full costs necessary to implement offset agreements on Foreign Military Sales contracts.

Timetable:

Action	Date	FR Cite
Case opened	06/01/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA64

956. • REVISED NORTH AMERICAN FREE TRADE AGREEMENT THRESHOLDS (DFARS CASE 95-D022)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225.402

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to provide that the value of an acquisition for purposes of determining the applicability of both the North American Free Trade Agreement and the Trade Agreements Act is the total estimated value of all end products subject to the Acts.

Timetable:

Action	Date	FR Cite
Case opened	06/09/95	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA65

957. • LIMITING SMALL DISADVANTAGED BUSINESS PREMIUMS (DFARS CASE 95-D023)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 219.5; 48 CFR 219.70; 48 CFR 252.219

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to limit the payment premium currently afforded to small disadvantaged businesses.

Timetable:

Action	Date	FR Cite
Case opened	06/09/95	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA66

958. • CONTRACTOR PURCHASING SYSTEM REVIEWS (DFARS CASE 95-D026)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 244.303

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to delete the detailed instructions in Appendix C on the conduct of contractor purchasing system reviews and to require a risk assessment to determine the scope of contractor purchasing system reviews.

Timetable:

Action	Date	FR Cite
Case opened	06/21/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA67

959. • INDIAN INCENTIVE (DFARS CASE 95-D027)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 226.103

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to supplement the language in the FAR on giving prime contractors an incentive for subcontracting with Indian organizations or Indian-owned economic enterprises.

Timetable:

Action	Date	FR Cite
Case opened	06/21/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA68

960. • GROUND AND FLIGHT RISK (DFARS CASE 95-D028)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 228.00; 48 CFR 252.228

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to correct deficiencies identified by a Tri-Service Process Action Team on contractor flight operations and to increase the liability of contractors for loss or damage to aircraft not in flight.

Timetable:

Action	Date	FR Cite
Case opened	06/21/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA69

961. • SUPERCOMPUTER (DFARS CASE 95-D301)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-335, Sec 8023

CFR Citation: 48 CFR 225.71

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to preclude the purchase of supercomputers which are not manufactured in the United States, unless they are needed for national security purposes and are not available from United States manufacturers.

Timetable:

Action	Date	FR Cite
Case opened	04/19/95	
Interim Final Rule	07/03/95	60 FR 34471
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA70

962. • ALTERNATIVE TO MILLER ACT BONDS (DFARS CASE 95-D305)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 228.171; 48 CFR 252.228

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to provide alternative payment protections for construction contracts between $25,000 and $100,000, pending implementation in the FAR of Section 4104(b)(2) of Public Law 103-355.

Timetable:

Action	Date	FR Cite
Case opened	07/19/95	
Interim Final Rule	08/31/95	60 FR 45376
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA71

963. • URUGUAY ROUND (1996 AGREEMENT) (DFARS CASE 95-D306)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-465

CFR Citation: 48 CFR 225.402; 48 CFR 252.225

Legal Deadline: Final, Statutory, January 1, 1996.

Abstract: Modify the Defense FAR Supplement to implement Public Law 103-465, which amends the Trade Agreements Act of 1979.

Timetable:

Action	Date	FR Cite
Case opened	08/16/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA72

964. • MICROPURCHASES (DFARS CASE 95-D302)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355, Sec 4301

CFR Citation: 48 CFR 213.601

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to provide appropriate guidance on purchases of supplies or services at or below the micro-purchase threshold.

Timetable:

Action	Date	FR Cite
Case opened	06/09/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA73

965. • TEAMING OF SOLE SOURCE CONTRACTORS (DFARS CASE 95-D009)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 206.304; 48 CFR 207.000

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to provide guidance on the use of class justifications and approvals for other than full and open competition.

Timetable:

Action	Date	FR Cite
Case opened	03/14/95	
NPRM	07/03/95	60 FR 34497
NPRM Comment Period End	09/01/95	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA74

966. • INTEGRATED MATERIEL MANAGEMENT (DFARS CASE 95-D005)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 208.7003

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to allow greater flexibility to purchase locally when such action is in the best interest of the Government. Also revises the address for submission of Army requests to obtain a waiver from an integrated materiel management manager.

Timetable:

Action	Date	FR Cite
Case opened	02/22/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA75

967. • MULTIPLE BEST AND FINAL OFFERS (DFARS CASE 95-D006)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 215.611

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to permit the head of the contracting activity to determine the appropriate level to delegate authority to approve second and subsequent rounds of best and final offers when formal source selection procedures are not being used.

Timetable:

Action	Date	FR Cite
Case opened	02/22/95	
NPRM Comment Period End	03/24/95	60 FR 15528
Interim Final Rule	05/23/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA76

968. • CONTRACT QUALITY REQUIREMENTS (DFARS CASE 95-D007)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 246.000

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to delete requirements for MIL-I-45208 and MIL-Q-9858 and replace with high-level quality requirements.

Timetable:

Action	Date	FR Cite
Case opened	03/07/95	
Interim Final Rule	06/27/95	60 FR 33144
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA77

969. • PRECONTRACTUAL CONTRACT ADMINISTRATION (DFARS CASE 95-D015)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 242.302

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to add language to establish as a contract administration function the responsibility to "Support program offices and buying activities in precontractual efforts leading to a solicitation or award."

Timetable:

Action	Date	FR Cite
Case opened	05/18/95	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA79

970. • MILCON-FUNDED CPFF CONTRACTS (DFARS CASE 95-D024)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 236.271; 48 CFR 216.306; 48 CFR 232.703

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to completely describe the MILCON Act restrictions on the use of CPFF contracts.

Timetable:

Action	Date	FR Cite
Case opened	06/09/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA80

971. • ANNUAL AUTOMATED DATA PROCESSING EQUIPMENT LEASE REVIEWS (DFARS CASE 95-D017)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 239.7303

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to eliminate the requirement for contracting officers to conduct an annual review of contractor automated data processing equipment leasing costs to allow risk management in data technology oversight.

Timetable:

Action	Date	FR Cite
Case opened	05/18/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA81

972. • ENVIRONMENTALLY SOUND PRODUCTS (DFARS CASE 95-D303)

Priority: Substantive, Nonsignificant

Legal Authority: EO 12873

CFR Citation: 48 CFR 223.000

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to establish consistency in minimum recovered material content standards.

Timetable:

Action	Date	FR Cite
Case opened	06/09/95	

Action	Date	FR Cite
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA82

973. • MATERIAL MANAGEMENT AND ACCOUNTING SYSTEM CHANGES (DFARS CASE 95-D029)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 242.72; 48 CFR 252.242

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to revise the thresholds that determine when Material Management and Accounting System (MMAS) requirements apply to contractors, and the criteria that determine the degree of MMAS disclosure and demonstration; and to clarify MMAS Standard 7 language regarding loan/payback provisions.

Timetable:

Action	Date	FR Cite
Case opened	07/27/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA84

974. • CONTRACT AWARD (INTERIM)(DFARS CASE 95-D701)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 206.302; 48 CFR 207.470; 48 CFR 215.871; 48 CFR 219.602; 48 CFR 252.219

Legal Deadline: Final, Statutory, October 13, 1994.

Abstract: Modify the Defense FAR Supplement to: (1) delete language on production special tooling and production special test equipment; (2) add a new section requiring consideration of all costs and a written determination prior to entering into any contract with a term of 18 months or more, or extending or renewing any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement; (3) revise language to specify that U.S. manufactured soft drinks are not subject to the limitation of 10 USC 2424(b)(1) and (2); and (4) delete language which implements section 804 of PL 102-484.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/95	60 FR 40106
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA85

975. • CONTRACT AWARD (DFARS 95-D702)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 209.206; 48 CFR 216.603; 48 CFR 216.703; 48 CFR 217.202; 48 CFR 217.7402; 48 CFR 217.2404; 48 CFR 217.7405; 48 CFR 246.770; 48 CFR 252.217

Legal Deadline: NPRM, Statutory, May 11, 1995. Final, Statutory, August 29. 1995.

Abstract: Modify the Defense FAR Supplement to: (1) exempt contracts within the simplified acquisition threshold from undefinitized contractual restrictions; (2) add language to require qualification requirements that were used to qualify an original production part to be used on all subsequent acquisitions of that part unless the Secretary of Defense determines that other sufficiently similar requirements exist that should be used instead, or that the original requirements were unnecessary; and (3) add language that discusses the logical process of constructing a rational warranty for a weapon system.

Timetable:

Action	Date	FR Cite
NPRM	08/07/95	60 FR 40146
NPRM Comment Period End	10/06/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA86

976. • SMALL BUSINESS (DFARS CASE 95-D706)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 219

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to revise Part 219, Small Business Concerns, to conform to the revisions made to the FAR to implement the Federal Acquisition Streamline Act of 1994.

Timetable:

Action	Date	FR Cite
Case opened	08/22/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA87

977. • FINANCE (DFARS CASE 95-D710)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 232

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to (1) remove language in 232.970 on Subcontractor Payment; (2) remove language in 232.173 on Fraud Remedies; and (3) revise the language on noncommercial item purchase financing, financing payments, and on performance-base payments.

Timetable:

Action	Date	FR Cite
Case opened	08/26/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA88

978. • COST PRINCIPLES (PROPOSED) (DFARS CASE 95-D714)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355, Sec 7202

CFR Citation: 48 CFR 231

Legal Deadline: NPRM, Statutory, May 11, 1995. Final, Statutory, August 29, 1995.

Abstract: Modify the Defense FAR Supplement to revise the cost principle on Lobbying.

Timetable:

Action	Date	FR Cite
Case opened	08/18/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA89

979. • COST PRINCIPLES (FINAL) (DFARS CASE 95-D704)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 231; 48 CFR 237; 48 CFR 242; 48 CFR 252.231; 48 CFR 252.237; 48 CFR 252.242

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to remove language that was moved to the FAR.

Timetable:

Action	Date	FR Cite
Case opened	08/18/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA90

980. • PAST PERFORMANCE (DFARS CASE 95-D715)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355

CFR Citation: 48 CFR 216.106; 48 CFR 214.201; 48 CFR 215.605; 48 CFR 242.1502; 48 CFR 242.1503

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to provide guidance on the use of past performance information in the contractor selection process.

Timetable:

Action	Date	FR Cite
Case opened	08/22/95	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA91

981. • AUDITS (DFARS CASE 95-D705)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 211; 48 CFR 215.804; 48 CFR 235.015; 48 CFR 237.7204; 48 CFR 252.215; 48 CFR 252.239

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to revise language pertaining to the authority to examine records of contractors.

Timetable:

Action	Date	FR Cite
Case opened	06/22/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA93

982. • ETHICS (DFARS CASE 95-D707)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 203.71; 48 CFR 252.203

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to remove language that has been moved to the FAR.

Timetable:

Action	Date	FR Cite
Case opened	07/17/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA94

983. • TRUTH IN NEGOTIATIONS ACT AND RELATED CHANGES (DFARS CASE 95-D708)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 203.71; 48 CFR 204.805; 48 CFR 215.8; 48 CFR 216.203; 48 CFR 232.502; 48 CFR 233.7000; 48 CFR 235.015; 48 CFR 239.7406; 48 CFR 246.770; 48 CFR 252.215; 48 CFR 252.216; 48 CFR 252.243; 48 CFR 253.204

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to (1) remove language that has been moved to the FAR; (2) remove overly prescriptive language; (3) eliminate "certification" where appropriate; (4) replace $500,000 with "the cost or pricing data threshold"; (5) revise cross-references; (6) revise the Table of Contents; (7) revise section titles to match new FAR language; and (8) remove language on work measurement systems.

Timetable:

Action	Date	FR Cite
Case opened	06/27/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA95

984. • VIETNAM VETERANS (DFARS CASE 95-D307)

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-568; PL 103-446

CFR Citation: 48 CFR 222; 48 CFR 252.222

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to revise the definitions in the clause; revise the subparagraph on listing openings to delete the word "suitable" before "employment" and before "openings"; and revise subparagraph (d) to delete "American Samoa and the Trust Territory of the Pacific Islands" from the area of applicability.

Timetable:

Action	Date	FR Cite
Case opened	09/01/95	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA96

985. • FLEXIBLE CONTRACT ADMINISTRATION SERVICES (DFARS CASE 95-D030)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 242.203

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to relax the restrictions on provision of mixed Contract Administration Services.

Timetable:

Action	Date	FR Cite
Case opened	08/18/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA97

986. • USE OF MILITARY ASSISTANCE PROGRAM ADDRESS CODES (DFARS CASE 95-D032)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 253.213

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to revise the instructions for completion of block 14 of DD Form 1155, "Ship to."

Timetable:

Action	Date	FR Cite
Case opened	08/31/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA98

987. • MAGNITUDE OF CONSTRUCTION PROJECTS (DFARS CASE 95-D031)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 236.204

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to add supplemental thresholds for identifying the magnitude of proposed construction projects.

Timetable:

Action	Date	FR Cite
Case opened	08/22/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AA99

DEPARTMENT OF DEFENSE (DOD)

Defense Aquisition Regulations Council (DARC)

Completed Actions

988. TIMEKEEPING AND LABOR ACCOUNTING SYSTEMS (DAR CASE 91-004)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 209.104; 48 CFR 232.503; 48 CFR 242; 48 CFR 253.209

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA00

989. VALVES AND MACHINE TOOLS (DAR CASE 91-320)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.7004; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA01

990. UNDEFINITIZED CONTRACTUAL ACTIONS (DFARS CASE 92-D033)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 217.740

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA10

991. CONTRACTOR INSURANCE/PENSION REVIEWS (DFARS CASE 92-D040)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 242.730

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA11

992. ORGANIZATIONAL CONFLICTS OF INTEREST (DFARS CASE 92-D344)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 209.500; 48 CFR 252.209

Completed:

Reason	Date	FR Cite
Withdrawn	06/23/95	60 FR 32646

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA12

993. PRODUCTION SURVEILLANCE (DFARS CASE 93-D003)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 242.110

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA13

994. SCREENING THRESHOLD (DFARS CASE 93-D008)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 245.608

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA14

995. SEQUENCE OF PROGRESS PAYMENTS (DFARS CASE 93-D016)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 204.71

Completed:

Reason	Date	FR Cite
Final Action	07/03/95	60 FR 34467
Final Action Effective	07/03/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA15

996. TECHNICAL DATA (DAR CASE 91-312)

Priority: Other Significant

CFR Citation: 48 CFR 211.70; 48 CFR 227; 48 CFR 252.227

Completed:

Reason	Date	FR Cite
Final Action	06/28/95	60 FR 33464
Final Action Effective	06/30/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA16

997. DEBARMENT AND SUSPENSION (DFARS CASE 93-D018)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 209.405

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA17

998. LIFEBOAT SURVIVAL SYSTEM (DFARS CASE 93-D308)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.7022; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA18

999. INDIAN TRIBAL OR ALASKA NATIVE CORPORATION (DFARS CASE 93-D309)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Tribal, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA19

1000. AIRCRAFT FUEL CELLS (DFARS CASE 93-D307)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.7021; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA20

1001. GREATEST VALUE SOURCE (DFARS CASE 93-D020)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 215.806; 48 CFR 244.202

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA22

1002. PART 235 CLAUSES (DFARS CASE 93-D022)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 235

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA23

1003. SERVICES AT INSTALLATIONS BEING CLOSED (DFARS CASE 93-D323)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 206.302; 48 CFR 222.71; 48 CFR 226.72; 48 CFR 237.74; 48 CFR 252.237

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA24

1004. REDUCTION IN DEFENSE PROGRAMS (DFARS CASE 93-321)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 249.7003; 48 CFR 252.249

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA25

1005. TERRORIST COUNTRIES (DFARS CASE 93-D319)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 209.100; 48 CFR 252.209

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA27

1006. INDIRECT COSTS OF INSTITUTIONS OF HIGHER EDUCATION (DFARS CASE 93-D317)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.303

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA28

1007. SMALL AND DISADVANTAGED BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION (DFARS CASE 93-D315)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219.301; 48 CFR 226.7000; 48 CFR 252.219; 48 CFR 252.226

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA29

1008. REFLAGGING OR REPAIR WORK (DFARS CASE 93-D313)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 247.571; 48 CFR 247.573; 48 CFR 252.247

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA30

1009. PREFERENCE FOR LOCAL AND SMALL BUSINESS (DFARS CASE 93-324D)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219; 48 CFR 226.71

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA31

1010. NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) (DFARS CASE 93-D310)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA32

1011. GOVERNMENT SUPPLY SOURCES (DFARS CASE 94-D002)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 251.102; 48 CFR 251.105; 48 CFR 252.251

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA35

1012. BEST VALUE - STEVEDORING (DFARS CASE 94-D005)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 247.2

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA37

1013. SURETY BONDS (DFARS CASE 94-D308)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 228.102

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA41

1014. RETURNABLE CYLINDERS (DFARS CASE 94-D004)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 247.305; 48 CFR 252.247

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA44

1015. COMPREHENSIVE SUBCONTRACTING PROGRAM (DFARS CASE 95-D002)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219

Completed:

Reason	Date	FR Cite
Final Action	07/10/95	60 FR 35668
Final Action Effective	07/10/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA52

1016. COMPETITIVE PROTOTYPING (DFARS CASE 95-D004)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 207.105

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA54

1017. RESEARCH AND DEVELOPMENT DEFINITIONS (DFARS CASE 94-D008)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 235.001

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29491
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA55

1018. STREAMLINED RESEARCH AND DEVELOPMENT PROCEDURES (LAB DEMONSTRATIONS) (DFARS CASE 92-D034)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 235

Completed:

Reason	Date	FR Cite
Final Action	03/27/95	60 FR 15689
Final Action Effective	03/27/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA57

1019. • EVALUATION PREFERENCE FOR SMALL DISADVANTAGED BUSINESS CONCERNS (DFARS CASE 95-D008)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 219.7001

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to state that the evaluation preference for small disadvantaged business concerns shall not be used in acquisitions for long distance telecommunications services.

Timetable:

Action	Date	FR Cite
Case opened	03/14/95	
NPRM	05/04/95	60 FR 22035
NPRM Comment Period End	07/03/95	
Final Action	08/22/95	60 FR 43563
Final Action Effective	08/22/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AA58

DOD—DARC

Completed Actions

1020. • DEFINITIZATION MODS (DFARS CASE 95-D012)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 217.7405; 48 CFR 215.406

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to add two subsections that provide guidance on definitization modifications and contracts which contain both fixed-price and cost-reimbursement line items.

Timetable:

Action	Date	FR Cite
Case opened	04/06/95	
Final Action	07/03/95	60 FR 34467
Final Action Effective	07/03/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AA83

1021. • CONTRACT DATA REPORTING (DFARS CASE 95-D711)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 253.204

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to make minimal changes to the contract data reporting system as a result of interim FAR rules on Simplified Acquisition and electronic contracting.

Timetable:

Action	Date	FR Cite
Final Action Effective	07/06/95	
Final Action	07/12/95	60 FR 35868

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AA92

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Final Rule Stage

1022. ARMY REGULATION 500-51, EMERGENCY EMPLOYMENT OF ARMY AND OTHER RESOURCES—SUPPORT TO CIVILIAN LAW ENFORCEMENT

Priority: Other

Legal Authority: 10 USC 331; 10 USC 332; 10 USC 333; 10 USC 3012

CFR Citation: 32 CFR 501

Legal Deadline: None

Abstract: This is not a major Army program revision. This revision to 32 CFR part 501 makes minor changes in the basic policies, defines emergencies, outlines command authority, outlines use of martial law in this area, defines protection of Federal property, and defines end of commitment.

Timetable:

Action	Date	FR Cite
NPRM	07/13/93	58 FR 37770
NPRM Comment Period End	08/12/93	58 FR 37770
Final Action	01/00/96	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: Manuscript was published in the Federal Register. Comment period is over. Proponent is in the process of preparing a final manuscript. After approval by the Army JAG and authentication by Administrative Assistant, document will be published as a final rule.

Agency Contact: Gregory D. Showalter, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, Commander, U.S. Army Publications and Printing Command, ATTN: ASQZ-PDS, Alexandria, VA 22331-0302
Phone: 703 428-0567

RIN: 0702–AA23

1023. ARMY REGULATION 190-9, ABSENTEE DESERTER APPREHENSION PROGRAM AND SURRENDER OF MILITARY PERSONNEL TO CIVILIAN LAW ENFORCEMENT AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 801 to 940

CFR Citation: 32 CFR 630

Legal Deadline: None

Abstract: This update revises provost marshall procedures and responsibilities for surrender of military personnel to civilian law enforcement authorities and the apprehension and return to military control of absentees.

Timetable:

Action	Date	FR Cite
NPRM	05/28/93	58 FR 31070
NPRM Comment Period End	06/28/93	58 FR 31070
Final Action	01/00/96	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Proponent is in the process of preparing the revised Army Regulation. When manuscript is complete, 32 CFR part 630 will be published as a final rule. The completed manuscript must first be approved by the Army Judge Advocate General and authenticated by the Administrative Assistant to the Secretary of the Army.

DOD—DOA

Final Rule Stage

Agency Contact: Gregory D. Showalter, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, Commander, U.S. Army Publications and Printing Command, ATTN: ASQZ-PDS, Alexandria, VA 22331-0302
Phone: 703 428-0567

RIN: 0702–AA26

1024. FORT LEWIS REGULATION 350-33

Priority: Other Significant

Legal Authority: 16 USC 470; 16 USC 1531; 18 USC 1382; 50 USC 797

CFR Citation: 32 CFR 552, subpart M

Legal Deadline: None

Abstract: This action establishes 32 CFR part 552, subpart M, Land Use Policy for Fort Lewis, Yakima Training Center, and Camp Bonneville.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/07/94	59 FR 34761
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Uninterrupted military use of training areas is vital to the maintenance of U.S. and Allied Armed Forces combat readiness. In addition, maneuver training areas may be dangerous to persons entering without warning provided during training scheduling or use permit processing.

Agency Contact: Gregory D. Showalter, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, Commander, U.S. Army Publications and Printing Command, ATTN: ASQZ-PDS, Alexandria, VA 22331-0302
Phone: 703 428-0567

RIN: 0702–AA29

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Proposed Rule Stage

1025. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 320 to 330

Legal Deadline: None

Abstract: The Corps of Engineers intends to make numerous clarifications to its existing regulations at 33 CFR 320 to 330, to consolidate all permit regulations into one document, and to reorganize 33 CFR 325 for clarity. Since the Corps Regulatory Program final regulations were published in the Federal Register on November 13, 1986 (51 CFR 41206), there has been need to clarify several of those provisions. Since 1986, the Corps has adopted two new appendices at 33 CFR 325, appendices B and C, and the Corps has also adopted revisions to the Nationwide Permit Program (33 CFR 330), Class 1 Administrative Civil Penalties (33 CFR 326), and revisions to the definition of discharge of Dredged Material and Fill Material and prior converted croplands. For clarity, the Corps intends to consolidate all these changes into one document.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	10/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, 20 Massachusetts Avenue NW., ATTN: CECW-OR, Washington, DC 20314-1000
Phone: 202 272-1782

RIN: 0710–AA30

1026. REGULATORY PROGRAM OF THE CORPS OF ENGINEERS—90-DAY DECISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325

Legal Deadline: None

Abstract: The Corps of Engineers is revising its regulations to provide that permit decisions should be made within 90 days of the issue of a public notice, unless precluded by other laws, such as the National Environmental Policy Act or the Endangered Species Act. A decision deadline would also be provided for these circumstances. This process is included in the President's Wetland Protection Plan to make sure that decisions are made without unnecessary delays. This will aid applicants in planning their projects and allows for more realistic expectations of obtaining permit decisions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	
Final Action	06/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, ATTN: CECW-OR, Washington, DC 20314-1000
Phone: 202 272-1782

RIN: 0710–AA40

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DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Final Rule Stage

1027. NATIONWIDE PERMIT PROGRAM (NEW NATIONWIDE PERMITS FOR ADDITIONAL ACTIVITIES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 330

Legal Deadline: None

Abstract: The Corps will propose new nationwide permits based on a review of activities being authorized by individual permit. The authorization of activities by nationwide permits is the most efficient and effective way to regulate minor activities with minimal impacts and thus reduce the regulatory burden of the Corps regulatory program while maintaining environmental safeguards.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, ATTN: CECW-OR, Washington, DC 20314-1000
Phone: 202 761-1782

RIN: 0710–AA32

1028. REGULATORY PROGRAM OF THE CORPS OF ENGINEERS—ADMINISTRATIVE APPEALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 331

Legal Deadline: None

Abstract: The regulation establishes an administrative appeal process for permit denials by permit applicants and wetland delineations by property owners. This process is included in the President's Wetland Protection Plan to increase fairness in the permitting process by allowing landowners to seek a speedy recourse of these decisions without having to go to court.

Timetable:

Action	Date	FR Cite
NPRM	07/19/95	60 FR 37280
NPRM Comment Period End	09/05/95	
Final Action	03/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, ATTN: CECW-OR, Washington, DC 20314-1000
Phone: 202 272-1782

RIN: 0710–AA41

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Long-Term Actions

1029. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, PART 325, APPENDIX D—ENDANGERED SPECIES COUNTERPART REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 325, app D

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson
Phone: 202 272-1782

RIN: 0710–AA17

1030. PART 326, ENFORCEMENT CLASS II ADMINISTRATIVE PENALTIES

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 326.7

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Jack T. Chowning
Phone: 202 272-1781

RIN: 0710–AA25

1031. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, WETLAND DELINEATOR CERTIFICATION PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 33 CFR 320; 33 CFR 323; 33 CFR 325; 33 CFR 328

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13654
NPRM Comment Period End	04/13/95	
Final Action	10/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Karen Kochenbach
Phone: 202 272-1784

RIN: 0710–AA38

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

Final Rule Stage

1032. ADJUSTMENTS TO PRICES UNDER SHIPBUILDING CONTRACTS

Priority: Other

Legal Authority: 10 USC 2405

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: The interim rule prescribes policies and procedures to restrict contract price adjustments under shipbuilding contracts, thus implementing by regulation the requirements of 10 USC 2405. The interim rule also defines the terminology of 10 USC 2405 and promulgates a solicitation provision and contract clause on price adjustments to shipbuilding contracts. This action is intended to clarify the meaning and ensure the consistent interpretation, implementation, and administration of the statute.

Timetable:

Action	Date	FR Cite
NPRM	11/16/89	54 FR 47689
NPRM Comment Period End	02/15/90	55 FR 3608
NPRM	06/29/90	55 FR 26708
NPRM Comment Period End	08/16/90	55 FR 33541
Public Hearing	10/26/90	55 FR 43150
Interim Final Rule	12/05/91	56 FR 63664
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard A. Moye, Senior Procurement Analyst, Department of Defense, Department of the Navy, Office of the Assistant Secretary of the Navy (Research, Development and Acquisition), Washington, DC 20350-1000
Phone: 703 602-2807

RIN: 0703–AA34

1033. USE OF DEPARTMENT OF THE NAVY AVIATION FACILITIES BY OTHER THAN UNITED STATES DEPARTMENT OF DEFENSE AIRCRAFT

Priority: Other

Legal Authority: 49 USC 1507

CFR Citation: 32 CFR 766

Legal Deadline: None

Abstract: This part establishes the policy and procedures for the use of Navy and Marine Corps aviation facilities by aircraft other than United States Department of Defense aircraft.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61561
NPRM Comment Period End	01/03/95	59 FR 61561
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Capt. J. Calhoun, Department of Defense, Department of the Navy, Office of the Chief of Naval Operations, (N885) Pentagon, Washington, DC 20350
Phone: 703 614-2710

RIN: 0703–AA48

1034. • BOARD FOR CORRECTION OF NAVAL RECORDS

Priority: Other

Legal Authority: 5 USC 301; 10 USC 1552; 10 USC 5031

CFR Citation: 32 CFR 723

Legal Deadline: None

Abstract: To update procedures for making application and the consideration of applications for the correction of Navy and Marine Corps records.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dean Pfeiffer, Department of Defense, Department of the Navy, Board For Correction of Naval Records, Washington, DC 20370-5100
Phone: 703 614-1765

RIN: 0703–AA49

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

Completed Actions

1035. AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC (PRIVACY ACT)

Priority: Other

CFR Citation: 32 CFR 701

Completed:

Reason	Date	FR Cite
Final Action	11/07/94	59 FR 55348

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doris M. Lama
Phone: 703 614-2004

RIN: 0703–AA44

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Proposed Rule Stage

1036. PUBLIC AFFAIRS POLICIES AND PROCEDURES

Priority: Other

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 837

Legal Deadline: None

Abstract: Describes Air Force Public Affairs program and how public affairs resources are to be managed to effectively reach public affairs goals.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Col. Conley, Department of Defense, Department of the Air Force, SAF/PAR, 1690 Air Force Pentagon, Washington, DC 20330-1690
Phone: 703 697-5838

RIN: 0701–AA18

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Final Rule Stage

1037. PERSONNEL REVIEW BOARDS

Priority: Other

Legal Authority: 10 USC 1034; 10 USC 1552

CFR Citation: 32 CFR 865

Legal Deadline: None

Abstract: Subpart A establishes procedures for the consideration of applications for the correction of military records. The revision clarifies various minor provisions of the subpart.

Timetable:

Action	Date	FR Cite
NPRM	07/25/94	59 FR 37953
NPRM Comment Period End	09/25/94	59 FR 37953
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. D'Orazio, Chief Examiner, Department of Defense, Department of the Air Force, AFBCMR, 1535 Command Drive, EE Wing, 3rd Floor, Andrews AFB, MD 20331-7002
Phone: 301 981-3502

RIN: 0701–AA43

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Long-Term Actions

1038. AIR FORCE MATERIEL COMMAND FEDERAL ACQUISITION REGULATION SUPPLEMENT; VENDOR RATING SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5315

Timetable:

Action	Date	FR Cite
NPRM	10/24/90	55 FR 42863
NPRM Comment Period End	11/23/90	
Second NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Capt. D. Behne
Phone: 513 257-6055

RIN: 0701–AA34

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Completed Actions

1039. AIR FORCE MATERIEL COMMAND CONTRACTOR PERFORMANCE ASSESSMENT

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 838

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: R. Summerour
Phone: 703 695-3859

RIN: 0701–AA33

1040. UTILIZATION OF EXCESS AND DISPOSAL OF SURPLUS REAL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 132-47

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gilbert Sailer
Phone: 703 696-5566

RIN: 0701–AA35

1041. CIVIL AIRCRAFT USE OF UNITED STATES AIR FORCE AIRFIELDS

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 855

Completed:

Reason	Date	FR Cite
Final Action	07/20/95	60 FR 37348

Small Entities Affected: None

Government Levels Affected: None

DOD—AF

Completed Actions

Agency Contact: R. A. Young
Phone: 703 697-5967

RIN: 0701–AA42

DEPARTMENT OF DEFENSE (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA)

Proposed Rule Stage

1042. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); CASE MANAGEMENT SERVICES (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements provisions of the 1993 National Defense Authorization Act which allows the Secretary of Defense to establish a case management program for CHAMPUS beneficiaries with extraordinary medical or psychological disorders and to allow such beneficiaries medical or psychological services, supplies, or durable medical equipment excluded by law or regulation as a CHAMPUS benefit. Under this program, waiver of benefit limits to the Basic CHAMPUS program may be authorized for beneficiaries when the provision of such services or supplies is cost-effective and clinically appropriate, as compared to historical or projected CHAMPUS/MTF utilization of health care services. It is designed to develop a cost-effective plan of care by targeting appropriate resources to meet the individual needs of the beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: D. Kamin, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 697-8975

RIN: 0720–AA30

DEPARTMENT OF DEFENSE (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA)

Final Rule Stage

1043. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE PROGRAM; SPECIAL HEALTH CARE DELIVERY PROGRAMS (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes requirements and procedures for implementation of the TRICARE program, the purpose of which is to improve the management and integration of health care delivery in military treatment facilities and CHAMPUS. In addition, it establishes rules for several special care delivery programs, including PRIMUS and NAVCARE clinics.

Timetable:

Action	Date	FR Cite
NPRM	02/08/95	60 FR 7489
NPRM Comment Period End	04/10/95	60 FR 7489
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: S. Lillie, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 695-3350

RIN: 0720–AA21

DEPARTMENT OF DEFENSE (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA)

Long-Term Actions

1044. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); SUPPLEMENTAL INSURANCE PLANS (DOD 6010.8-R)

Priority: Other

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	06/12/91	56 FR 26946
NPRM Comment Period End	07/12/91	56 FR 26946

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: S. Regensberg
Phone: 303 361-3572

RIN: 0720–AA01

1045. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROGRAM FOR THE HANDICAPPED (DOD 6010.8-R)

Priority: Routine and Frequent

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	06/10/91	56 FR 26635
NPRM Comment Period End	07/25/91	56 FR 26635

Next Action Undetermined

Small Entities Affected: Organizations

Government Levels Affected: Undetermined

Agency Contact: J. Baker
Phone: 303 361-4019

RIN: 0720–AA04

1046. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); BASIC PROGRAM (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	09/24/91	56 FR 48134
NPRM Comment Period End	10/24/91	56 FR 48134

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: J. Baker
Phone: 303 361-4019

RIN: 0720–AA06

1047. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); FORMER SPOUSE/WIDOW(ER) AND FEDERAL CLAIMS COLLECTION ACT (DOD 6010.8-R)

Priority: Routine and Frequent

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	09/24/91	56 FR 48135
NPRM Comment Period End	10/24/91	56 FR 48135

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: A. Armijo
Phone: 303 362-3630

RIN: 0720–AA07

1048. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS): EXPANDED ACTIVE DUTY DEPENDENTS DENTAL BENEFIT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	09/16/93	58 FR 48473
NPRM Comment Period End	10/18/93	58 FR 48473

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: D. Bennett
Phone: 303 361-1094

RIN: 0720–AA19

1049. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); HOSPITAL PAYMENT FOR AMBULATORY CARE (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	01/20/94	59 FR 3046
NPRM Comment Period End	03/21/94	59 FR 3046

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: S. Lillie
Phone: 703 695-3350

RIN: 0720–AA20

1050. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); SIX SEPARATE CHANGES (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	03/21/95	60 FR 14919
NPRM Comment Period End	05/22/95	60 FR 14919
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: C. Armijo
Phone: 303 361-1120

RIN: 0720–AA26

1051. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROVIDER CERTIFICATION REQUIREMENTS—CORPORATE SERVICES PROVIDER CLASS; OCCUPATIONAL THERAPISTS (DOD 6010.8-R)

Priority: Routine and Frequent

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	03/08/95	60 FR 12717
NPRM Comment Period End	05/08/95	60 FR 12717
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: T. Gilstrap
Phone: 303 361-1309

RIN: 0720–AA27

1052. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRANSPLANTS (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	03/17/95	60 FR 14403
NPRM Comment Period End	05/16/95	60 FR 14403
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: M. Maxey

Phone: 303 361-1227

RIN: 0720–AA28

1053. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); CLARIFICATION OF THE CHAMPUS DEFINITION OF EXPERIMENTAL (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule proposes to clarify the CHAMPUS definition of "experimental" and describes the process that the Office of CHAMPUS follows in determining when an experimental procedure has moved from the status of experimental to the position of nationally accepted medical practice. This clarification is necessary to ensure the CHAMPUS beneficiary and provider population understand the process of the Office of CHAMPUS (OCHAMPUS) follows prior to endorsement by CHAMPUS of a new emerging medical technology, drug, or device for which the safety and efficacy have been proven to be comparable or superior to conventional therapies.

Timetable:

Action	Date	FR Cite
NPRM	05/18/95	60 FR 26705
NPRM Comment Period End	07/17/95	60 FR 26705
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: R. Smith, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 303 361-1181

RIN: 0720–AA29

DEPARTMENT OF DEFENSE (DOD)

Office of Assistant Secretary for Health Affairs (DODOASHA)

Completed Actions

1054. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); MENTAL HEALTH SERVICES (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	03/07/95	60 FR 12419

Small Entities Affected: Organizations

Government Levels Affected: Federal

Agency Contact: D. Kamin
Phone: 703 697-8975

RIN: 0720–AA23

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Tuesday
November 28, 1995

Part VI

Department of Education

Semiannual Regulatory Agenda

DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulations and The Regulatory Plan

AGENCY: Office of the Secretary, Education.

ACTION: Publication of the Unified Agenda of Federal Regulations and The Regulatory Plan.

SUMMARY: The Secretary of Education publishes a semiannual agenda of Federal regulations issued under the authority of section 4(b) of Executive Order 12866 "Regulatory Planning and Review." The purpose of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the agency contact listed for those regulations. General questions or comments related to this agenda should be directed to Kenneth C. Depew, Division of Regulations Management, Office of the General Counsel, Department of Education, Room 5112, FB-10, 600 Independence Avenue SW., Washington, DC 20202-2241; telephone: (202) 401-8300. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 4(b) of Executive Order 12866, dated September 30, 1993, requires the Department of Education (ED) to publish, at a time and in a manner specified by the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), an agenda of all regulations under development or review. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires ED to publish, in October and April of each year, a regulatory flexibility agenda. The regulatory flexibility agenda may be combined with any other agenda that satisfies the statutory requirements (5 U.S.C. 605(a)). In compliance with the Executive order and the Regulatory Flexibility Act, the Secretary publishes this agenda.

For this edition of the Department of Education's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by the bracketed bold references, which direct the reader to the appropriate Sequence Numbers in Part II.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation of any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract, which includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(b)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- A statement of whether the rulemaking is part of the Reinventing Government effort and, if so, the effect of the rulemaking.
- The name, address, and telephone number of the contact person at the Department from whom a reader can obtain additional information regarding the planned action.

In accordance with the Secretary's Principles for Regulating, listed in the preamble to the Department's regulatory plan, the Department of Education is committed to limiting its regulations to those that improve the quality and equality of services to its customers, learners of all ages. The Department will regulate only when absolutely necessary and then in the most flexible, most equitable, least burdensome way possible.

Interested members of the public are encouraged to comment on any of the items listed in this agenda that they believe are not consistent with the Principles for Regulating.

The Department also will review all of its regulations to ensure that, if appropriate, those regulations support the National Education Goals.

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item on the agenda. The Department may elect not to pursue any of the regulatory actions listed here, and regulatory action in addition to the items listed is not precluded. Dates of future regulatory actions are subject to revision in subsequent agendas.

Dated: October 2, 1995.

Judith A. Winston,

General Counsel.

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1055	Amendment to Education Department General Administrative Regulations	1880-AA62
1056	Education Department General Administrative Regulations (EDGAR)	1880-AA70
1057	Revised Education Department General Administrative Regulations (EDGAR) Selection Criteria **(Reg Plan Seq. No. 17)**	1880-AA74
1058	Student Rights in Research, Experimental Programs, and Testing	1880-AA66
1059	Family Educational Rights and Privacy	1880-AA65
1060	Family Educational Rights and Privacy	1880-AA71

ED

Departmental Management—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1061	Department of Education Acquisition Regulation	1880-AA72

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1062	Direct Grant Programs	1880-AA68

Departmental Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1063	Direct Grant Programs	1880-AA69
1064	General Education Provisions Act (GEPA)—Enforcement: Proportionality and Equitable Offsets	1880-AA56

Departmental Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1065	Education Department General Administrative Regulations (EDGAR)	1880-AA64
1066	State-Administered Programs; State Postsecondary Review Program	1880-AA59
1067	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Thresholds)	1880-AA63
1068	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) Student Asst. Gen. Prov. and Fed. Family Education Loan Programs	1880-AA51

Office of Bilingual Education and Minority Languages Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1069	Bilingual Education Graduate Fellowship Program	1885-AA20

Office of Educational Research and Improvement—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1070	Standards for the Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement	1850-AA51

Office of Elementary and Secondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1071	Impact Aid Programs	1810-AA84

ED

Office of Elementary and Secondary Education—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1072	Indian Fellowship Programs	1810-AA81
1073	Title XIV—General Provisions	1810-AA82

Office of Elementary and Secondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1074	Drug-Free Schools and Campuses	1810-AA83
1075	Desegregation Programs	1810-AA85

Office of Elementary and Secondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1076	Improving Basic Programs Operated by Local Educational Agencies	1810-AA73
1077	Safe and Drug-Free Schools Program—Family and Community Endeavor Schools Program	1810-AA75

Office of Postsecondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1078	Student Support Services	1840-AC24
1079	National Resource Centers Program for Foreign Language and Area Studies or Foreign Language and International Studies	1840-AC27
1080	Foreign Language and Area Studies Fellowship Program	1840-AC28
1081	Higher Education Programs in Modern Foreign Language Training and Area Studies	1840-AC26
1082	Student Financial Aid Improvements (Student Assistance General Provisions, Federal Family Education Loans, Pell Grant, Perkins Loan, Work Study, & Supplemental Educ. Opportunity Grant Progs) **(Reg Plan Seq. No. 18)**	1840-AC20
1083	Student Assistance General Provisions (Default Rate Definition)	1840-AC17
1084	Federal Family Education Loan (FFEL) Program	1840-AC21
1085	William D. Ford Federal Direct Loan Program **(Reg Plan Seq. No. 19)**	1840-AC22

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Postsecondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1086	Institutional Eligibility Under the Higher Education Act of 1965, as Amended; Student Assistance General Provisions; William D. Ford Federal Direct Loan Program	1840-AC18
1087	Student Right-to-Know Act **(Reg Plan Seq. No. 20)**	1840-AB44
1088	Student Assistance General Provisions—Ability To Benefit (Guidelines To Assist Institutions in Determining Student Eligibility for Title IV, HEA Student Financial Assistance)	1840-AB84
1089	Student Assistance General Provisions - Equity in Athletics Disclosure Act	1840-AC14
1090	Federal Family Education Loan (FFEL) Program	1840-AC16
1091	William D. Ford Federal Direct Loan Program (Income Contingent Repayment)	1840-AC19

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

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Office of Postsecondary Education—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1092	Salary Offset for Federal Employees Who are Indebted to the United States Under Programs Administered by the Secretary of Education	1840-AC23

Office of Special Education and Rehabilitative Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1093	The State Vocational Rehabilitation Services Program	1820-AB12
1094	The State Vocational Rehabilitation Services Program—Evaluation Standards and Performance Indicators	1820-AB14
1095	Projects With Industry	1820-AB33

Office of Special Education and Rehabilitative Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1096	Elimination of Regulations **(Reg Plan Seq. No. 21)**	1820-AB34
1097	State Grants Program for Technology-Related Assistance for Individuals With Disabilities	1820-AB28
1098	The State Vocational Rehabilitation Services Program—Order of Selection	1820-AB13
1099	Vocational Rehabilitation Service Projects for American Indians With Learning Disabilities	1820-AB32

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Special Education and Rehabilitative Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1100	Centers for Independent Living—Evaluation Standards and Compliance Indicators	1820-AA81
1101	Client Assistance Program (CAP)	1820-AB16

Office of Vocational and Adult Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1102	State Vocational and Applied Technology Education Programs and National Discretionary Programs of Vocational Education; Adult Education; and Stewart B. McKinney Homeless Assistance Programs	1830-AA15

Office of Vocational and Adult Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1103	Adult Education Programs	1830-AA16
1104	Adult Education for the Homeless Program	1830-AA17

ED

Office of Intergovernmental and Interagency Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1105	Advisory Committee Management Regulations	1860-AA03

Office of Intergovernmental and Interagency Affairs—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1106	U.S. Exchange Visitor Program—Request for Waiver of the Two-Year Foreign Residence Requirement	1860-AA02

Office of the General Counsel—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1107	Supplemental Standards of Ethical Conduct for Employees of the Department of Education: Prior Approval for Outside Activities and Employment	1801-AA09

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)

Proposed Rule Stage

1055. AMENDMENT TO EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 75

Legal Deadline: None

Abstract: These proposed regulations--based on a recommendation under the National Performance Review--amend existing regulations by broadening the criteria the Secretary considers in determining the order in which discretionary grant applications will be selected for funding. Specifically, the proposed amendment would expand the criteria to include a grant recipient's past performance and previous use of funds, including failure to submit a performance report or submission of a report of unacceptable quality under any Department of Education grant programs. Currently the criteria include only past use of funds under the same grant programs. The proposed amendment would also clarify that the deadline date for the receipt of an application is the date that the application is received at the Department, not the postmark date. The proposed regulations would be developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ronelle Holloman, Office of the Chief Financial Officer, Grants and Contracts Service, Department of Education, 600 Independence Avenue SW., Room 3636, ROB-3, Washington, DC 20202-4248
Phone: 202 205-3501

RIN: 1880–AA62

1056. • EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 75; 34 CFR 76; 34 CFR 77

Legal Deadline: None

Abstract: These proposed regulations would reinvent key parts of EDGAR by eliminating unnecessary, obsolete, or duplicative provisions; replacing some provisions with non-regulatory guidance; and revising other sections to effect clarity and ease of use by the Department's customers.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathy Thomas, Office of the Chief Financial Officer, Grants and Contracts Services, Department of Education, 600 Independence Avenue SW., Room 3636, ROB-3, Washington, DC 20202-4248
Phone: 202 708-8287

RIN: 1880–AA70

ED—EDMAN

Proposed Rule Stage

1057. • REVISED EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR) SELECTION CRITERIA

Regulatory Plan: This entry is Seq. No. 17 in Part II of this issue of the **Federal Register**.

RIN: 1880–AA74

1058. STUDENT RIGHTS IN RESEARCH, EXPERIMENTAL PROGRAMS, AND TESTING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1232h

CFR Citation: 34 CFR 098

Legal Deadline: None

Abstract: These regulations are needed to implement section 1017 of the Goals 2000: Educate America Act (Pub. L. 103-227, 20 U.S.C. section 123h). That provision amends the Protection of Pupil Rights Amendment (PPRA) to require schools, in certain instances, to make specific educational materials available to parents for inspection. The provision also amends the PPRA to prohibit schools from requiring a student to submit to certain surveys, analyses, or evaluations without prior parental consent. The regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44696
NPRM Comment Period End	10/27/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellen Campbell, Family Policy Compliance Office, Department of Education, 600 Independence Avenue SW., Room 1366, FB-10, Washington, DC 20202-4605
Phone: 202 260-3887

RIN: 1880–AA66

1059. FAMILY EDUCATIONAL RIGHTS AND PRIVACY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1232g(a)(1); 20 USC 1232g(a)(2); 20 USC 1232g(b)(1)(A); 20 USC 1232g(b)(1)(E); 20 USC 1232g(b)(1)(J); 20 USC 1232g(b)(2); 20 USC 1232g(b)(4)(B); 20 USC 1232g(e); 20 USC 1232g(h)

CFR Citation: 34 CFR 099

Legal Deadline: None

Abstract: These proposed regulations are needed to implement section 444 of the Improving America's Schools Act of 1994, (Pub. L. 103-761). That provision amends the Family Educational Rights and Privacy Act (FERPA) to specify certain requirements with regard to the disclosure of information from education records, the right of parents to inspect and review certain records maintained on their children by State educational agencies, and the maintenance and disclosure of disciplinary information found in education records. The provision also removes, in certain law enforcement instances, the requirement that schools notify parents or students before complying with a subpoena or court order. The regulations would be developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Shirley, Family Policy Compliance Office, Department of Education, 600 Independence Avenue SW., Room 1366, FB-10, Washington, DC 20202-4605
Phone: 202 260-3887

RIN: 1880–AA65

1060. • FAMILY EDUCATIONAL RIGHTS AND PRIVACY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1232g

CFR Citation: 34 CFR 99

Legal Deadline: None

Abstract: In accordance with the Department's Principles for Regulating, these proposed regulations would modify regulatory and enforcement provisions to achieve the greatest possible flexibility and least possible burden. The proposed regulations would be based, in part, on recommendations emanating from a recent survey of Family Educational Rights and Privacy Act customers.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sharon Shirley, Department of Education, 600 Independence Avenue SW., Room 1366, FB-10, Washington, DC 20202-4605
Phone: 202 260-3887

RIN: 1880–AA71

1061. • DEPARTMENT OF EDUCATION ACQUISITION REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 3010; 40 USC 486(c)

CFR Citation: 48 CFR 34

Legal Deadline: None

Abstract: These proposed regulations would reinvent EDGAR in accordance with the Department's Principles for Regulating. The amended regulations would delete or revise certain existing regulatory provisions adequately covered by the Federal Acquisition Regulation (FAR), including FAR's changes implementing the Federal Acquisition Streamlining Act. Other proposed revisions would reflect

ED—EDMAN — **Proposed Rule Stage**

changes in the Department's organizational structure.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rich Galloway, Office of the Chief Financial Officer, Department of Education, 600 Independence Avenue SW., Room 3636, ROB-3, Washington, DC 20202-4249
Phone: 202 708-8266

RIN: 1880–AA72

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN) — **Final Rule Stage**

1062. • DIRECT GRANT PROGRAMS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3; 20 USC 3474

CFR Citation: 34 CFR 75

Legal Deadline: None

Abstract: These final regulations, based on a recommendation under the National Performance Review, authorize the Secretary to reject an application that contains a proposal exceeding the maximum award amount established in an application notice published in the Federal Register. The regulations interpret existing regulations and establish procedural rules for improving management of the Department's grant application review process.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Smith, Regulations Coordinator, Department of Education, Office of the General Counsel, 600 Independence Avenue SW., Room 5100, FB-10, Washington, DC 20202
Phone: 202 401-8300

RIN: 1880–AA68

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN) — **Long-Term Actions**

1063. • DIRECT GRANT PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3; 20 USC 3473

CFR Citation: 34 CFR 75

Legal Deadline: None

Abstract: These amendments would reduce the need for specific regulations governing individual discretionary grant programs by authorizing the Secretary to establish selection criteria based on provisions of the program statute, selection criteria in the Department of Education General Administrative Regulations (EDGAR), or both. The amendments also would clarify the Secretary's authority to establish annual funding priorities based on certain statutory provisions, including allowable activities.

Timetable:

Action	Date	FR Cite
NPRM	09/01/95	60 FR 46005
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Jacinta Ma, General Attorney Department of Education, Office ot the General Counsel, 600 Independence Avenue SW., Room 5100, FB-10, Washington, DC 20202
Phone: 202 401-8300

RIN: 1880–AA69

1064. GENERAL EDUCATION PROVISIONS ACT (GEPA)—ENFORCEMENT: PROPORTIONALITY AND EQUITABLE OFFSETS

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1221e-3(a)(1); 20 USC 1234; 20 USC 3474(a)

CFR Citation: 34 CFR 75; 34 CFR 76; 34 CFR 81; 34 CFR 83

Legal Deadline: None

Abstract: These proposed regulations clarify circumstances under which benefits to a grant or cooperative agreement and equitable offset are taken into account in determining harm to an identifiable Federal interest under the General Education Provisions Act (GEPA).

Timetable:

Action	Date	FR Cite
NPRM	06/20/95	60 FR 32552
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Theodore Sky, Senior Counsel, Office of the General Counsel, Department of Education, 600 Independence Avenue SW., Room 5364, FB-10, Washington, DC 20202-2110
Phone: 202 401-2605

RIN: 1880–AA56

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN) — **Completed Actions**

1065. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 75.125; 34 CFR 76.401(d)(b); 34 CFR 76.101; 34 CFR 76.103; 34 CFR 76.301; 34 CFR 76.734; 34 CFR 75.734; 34 CFR 81.24; 34 CFR 81.27; 34 CFR 81.33

Completed:

Reason	Date	FR Cite
Final Action	09/06/95	60 FR 64692

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronelle Holloman
Phone: 202 205-3501

RIN: 1880–AA64

1066. STATE-ADMINISTERED PROGRAMS; STATE POSTSECONDARY REVIEW PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 76; 34 CFR 667

Completed:

Reason	Date	FR Cite
Final Action	08/11/95	60 FR 41286

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Peter Wathen-Dunn
Phone: 202 401-3690

RIN: 1880–AA59

1067. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS (THRESHOLDS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 080

Completed:

Reason	Date	FR Cite
Final Action	04/19/95	60 FR 19638

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Greg Vick
Phone: 202 708-8199

RIN: 1880–AA63

1068. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS) STUDENT ASST. GEN. PROV. AND FED. FAMILY EDUCATION LOAN PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 85; 34 CFR 668; 34 CFR 682

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronelle Holloman
Phone: 202 205-3501

RIN: 1880–AA51

DEPARTMENT OF EDUCATION (ED)
Office of Bilingual Education and Minority Languages Affairs (OBEMLA) — **Proposed Rule Stage**

1069. BILINGUAL EDUCATION GRADUATE FELLOWSHIP PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 7475; PL 103-382

CFR Citation: 34 CFR 535

Legal Deadline: None

Abstract: These proposed regulations would implement statutory changes under the Improving America's Schools Act of 1994 and address the role of institutions of higher education in the program. The Graduate Fellowship Program (34 CFR Part 535) replaces the existing Bilingual Education Fellowship Program (34 CFR Part 562) and expands the program to include post-doctoral fellowships. The regulations are being developed in accordance with the Department's Principles for Regulating to ensure that the Department regulates in the most flexible, equitable, and least burdensome way possible.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joyce Brown, Education Program Specialist, Department of Education, Office of Bilingual Education and Minority Languages Affairs, 600 Independence Avenue SW., Room 5630, Switzer Bldg., Washington, DC 20202-6642
Phone: 202 205-9727

RIN: 1885–AA20

DEPARTMENT OF EDUCATION (ED)

Long-Term Actions

Office of Educational Research and Improvement (OERI)

1070. • STANDARDS FOR THE CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 6011(i); 41 USC 423

CFR Citation: 34 CFR 700

Legal Deadline: None

Abstract: These regulations set standards for the evaluation of applications for grants and cooperative agreements and proposals for contracts under affected programs of the Office of Educational Research and Improvement (OERI). Beginning in fiscal year 1996, the programs will operate on the basis of these standards, together with provisions of authorizing program statutes. This will enable the Department to eliminate existing programmatic regulations, while ensuring that evaluations of applications and proposals meet the highest professional standards. Establishment of the standards was required by OERI's authorizing legislation.

Timetable:

Action	Date	FR Cite
NPRM	06/07/95	60 FR 30160
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward J. Fuentes, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Room 600, Washington, DC 20202-5530
Phone: 202 219-1895

RIN: 1850–AA51

DEPARTMENT OF EDUCATION (ED)

Proposed Rule Stage

Office of Elementary and Secondary Education (OESE)

1071. • IMPACT AID PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 631 to 645; 20 USC 236 to 242; 20 USC 244

CFR Citation: 34 CFR 218; 34 CFR 222; 34 CFR 223

Legal Deadline: None

Abstract: These proposed amendments would revise programmatic regulations to conform to new statutory provisions. The proposed regulations would be based on the Department's Principles for Regulating and would increase flexibility for applicants and States and minimize burden on affected parties.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Wooten, Department of Education, Office of Elementary and Secondary Education, 600 Independence Avenue SW., Room 4000, Portals Bldg., Washington, DC 20202-6123
Phone: 202 260-1922

RIN: 1810–AA84

1072. • INDIAN FELLOWSHIP PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 3385b; 25 USC 2623

CFR Citation: 34 CFR 263

Legal Deadline: None

Abstract: These proposed regulations would govern the program for fiscal year 1996 and future years. The regulations are to be developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	11/11/95	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Wooten, Department of Education, Office of Elementary and Secondary Education, 600 Independence Avenue SW., Room 4000, Portals Bldg., Washington, DC 20202-6123
Phone: 202 260-1922

RIN: 1810–AA81

1073. • TITLE XIV—GENERAL PROVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1232g

CFR Citation: 34 CFR 299

Legal Deadline: None

Abstract: These general provisions regulations would govern all programs under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Improving America's Schools Act of 1994. The proposed regulations would establish uniform provisions under Title XIV of the ESEA applicable to consolidation of State and local administrative funds, maintenance of effort, and complaint procedures. The uniform provisions would minimize burdensome differences in implementing provisions in individual programs. The NPRM also includes a proposed priority for empowerment zones and enterprise communities. The proposed regulations are being developed in accordance with the Department's Principles for Regulating.

ED—OESE

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Wooten, Department of Education, Office of Elementary and Secondary Education, 600 Independence Avenue SW., Room 4000, Portals Bldg, Washington, DC 20202-6123
Phone: 202 260-1922

RIN: 1810–AA82

DEPARTMENT OF EDUCATION (ED)

Final Rule Stage

Office of Elementary and Secondary Education (OESE)

1074. • DRUG-FREE SCHOOLS AND CAMPUSES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1145g; 20 USC 3224a

CFR Citation: 34 CFR 86

Legal Deadline: None

Abstract: In accordance with the Improving America's Schools Act, these amendments to current regulations would reduce burden on certain entities by limiting applicability of the regulations to institutions of higher education. The regulations will no longer apply to local and State educational agencies.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Wooten, Department of Education, Office of Elementary and Secondary Education, 600 Independence Avenue SW., Room 4000, Portals Bldg., Washington, DC 20202-6123
Phone: 202 260-1922

RIN: 1810–AA83

1075. • DESEGREGATION PROGRAMS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 2000c to 2000c-2; 20 USC 2000-5

CFR Citation: 34 CFR 270; 34 CFR 271; 34 CFR 272

Legal Deadline: None

Abstract: These regulations will combine three sets of existing regulations and eliminate obsolete, duplicative, and unnecessary provisions.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Wooten, Department of Education, Office of Elementary and Secondary Education, 600 Independence Avenue SW., Room 4000, Portals Bldg., Washington, DC 20202-6123
Phone: 202 260-1922

RIN: 1810–AA85

DEPARTMENT OF EDUCATION (ED)

Completed Actions

Office of Elementary and Secondary Education (OESE)

1076. IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It is unknown how it will change the CFR.

CFR Citation: 34 CFR 200

Completed:

Reason	Date	FR Cite
Final Action	07/03/95	60 FR 34800

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Wendy Jo New
Phone: 202 260-0982

RIN: 1810–AA73

1077. SAFE AND DRUG-FREE SCHOOLS PROGRAM—FAMILY AND COMMUNITY ENDEAVOR SCHOOLS PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 239

Completed:

Reason	Date	FR Cite
Withdrawn	09/08/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charlotte D. Gillespie
Phone: 202 260-3954

RIN: 1810–AA75

DEPARTMENT OF EDUCATION (ED)

Proposed Rule Stage

Office of Postsecondary Education (OPE)

ED—OPE

Proposed Rule Stage

1078. • STUDENT SUPPORT SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1070a-11; 20 USC 1070a-14

CFR Citation: 34 CFR 646

Legal Deadline: None

Abstract: In accordance with the Department's Principles for Regulating, these proposed regulations would revise current regulations by incorporating statutory changes and new funding priorities and simplifying selection criteria.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Sonnergren, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 600, Portals Bldg., Washington, DC 20202 Phone: 202 708-4804

RIN: 1840–AC24

1079. • NATIONAL RESOURCE CENTERS PROGRAM FOR FOREIGN LANGUAGE AND AREA STUDIES OR FOREIGN LANGUAGE AND INTERNATIONAL STUDIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1122

CFR Citation: 34 CFR 656

Legal Deadline: None

Abstract: These proposed regulations would provide more clarity for applicants and would elicit better data for measuring performance outcomes. These regulations would govern the program for fiscal year 1996.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sara West, Program Officer, Advanced Training and Research Branch, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 600B, Portals Bldg, Washington, DC 20202-5331 Phone: 202 401-9782

RIN: 1840–AC27

1080. • FOREIGN LANGUAGE AND AREA STUDIES FELLOWSHIP PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1122

CFR Citation: 34 CFR 657

Legal Deadline: None

Abstract: These proposed regulations would reframe the evaluation criteria to provide more clarity for applicants and to elicit better data for measuring performance outcomes. These proposed regulations would govern the program for fiscal year 1996.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sara West, Program Officer, Advanced Training and Research Branch, Department of Education, Office of Postsecondary Education, 600 Independence Auenue SW., Room 600B, Portals Bldg., Washington, DC 20202-5331 Phone: 202 401-9782

RIN: 1840–AC28

1081. • HIGHER EDUCATION PROGRAMS IN MODERN FOREIGN LANGUAGE TRAINING AND AREA STUDIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 2452(b)(6)

CFR Citation: 34 CFR 662; 34 CFR 663; 34 CFR 664

Legal Deadline: None

Abstract: These proposed regulations would revise existing regulations by addressing (1) political developments abroad, (2) new policies and practices of the J. William Fulbright Foreign Scholarship Board and (3) clarification and flexibility. The proposed regulations are to be developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Scarfo, Director, Center for International Education, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 600, Portals Bldg., Washington, DC 20202 Phone: 202 401-9770

RIN: 1840–AC26

1082. • STUDENT FINANCIAL AID IMPROVEMENTS (STUDENT ASSISTANCE GENERAL PROVISIONS, FEDERAL FAMILY EDUCATION LOANS, PELL GRANT, PERKINS LOAN, WORK STUDY, & SUPPLEMENTAL EDUC. OPPORTUNITY GRANT PROGS)

Regulatory Plan: This entry is Seq. No. 18 in Part II of this issue of the **Federal Register**.

RIN: 1840–AC20

ED—OPE

Proposed Rule Stage

1083. • STUDENT ASSISTANCE GENERAL PROVISIONS (DEFAULT RATE DEFINITION)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1071 to 1087-2

CFR Citation: 34 CFR 685; 34 CFR 668

Legal Deadline: None

Abstract: These proposed regulations would define a measure (called the Direct Loan cohort rate and a weighted average cohort rate) the Secretary may use to determine if a school may continue to participate in the Direct Loan Program. The regulations would also provide the Secretary with the authority to take limitation, suspension, and termination (L, S, and T) action against a school under certain specified circumstances; streamline the current L,S, and T, procedures; and revise the exceptional mitigating circumstances under which a school may appeal its loss of eligibility to participate in the Direct Loan and FFEL Programs.

Timetable:

Action	Date	FR Cite
NPRM	09/21/95	60 FR 49178
NPRM Comment Period End	10/31/95	
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Douglas Laine, Program Specialist, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 3053, ROB-3, Washington, DC 20202-5400 Phone: 202 708-9406

RIN: 1840–AC17

1084. • FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1071 to 1087-2

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These proposed regulations are needed to further amend the FFEL Program regulations to reflect the policies and procedures of the Federal Direct Student Loan Program. Since publication of the FFEL Program regulations, the Department has worked with the student aid community, as promised, to explore issues of parity and develop proposed solutions.

Timetable:

Action	Date	FR Cite
NPRM	09/21/95	60 FR 49130
NPRM Comment Period End	10/23/95	
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Bauman, Program Specialist, Policy Training and Analysis Service, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 3053, ROB-3, Washington, DC 20202-5449 Phone: 202 708-8242

RIN: 1840–AC21

1085. • WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

Regulatory Plan: This entry is Seq. No. 19 in Part II of this issue of the **Federal Register**.

RIN: 1840–AC22

DEPARTMENT OF EDUCATION (ED)

Office of Postsecondary Education (OPE)

Final Rule Stage

1086. • INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED; STUDENT ASSISTANCE GENERAL PROVISIONS; WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1087a et seq; 20 USC 1088; 20 USC 1091; 20 USC 1094; 20 USC 1096b; 20 USC 1099b; 20 USC 1099c; 20 USC 1141

CFR Citation: 34 CFR 600; 34 CFR 668; 34 CFR 685

Legal Deadline: None

Abstract: These regulations clarify regulatory provisions and correct errors and omissions in final regulations published on November 29, 1994 and December 1, 1994.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Meredith Merrill, Program Specialist, Department of Education, Office of Postsecondary Education, 600 Indepedence Avenue SW., Room 3053, ROB-3, Washington, DC 20202-5400 Phone: 202 708-9406

RIN: 1840–AC18

1087. STUDENT RIGHT-TO-KNOW ACT

Regulatory Plan: This entry is Seq. No. 20 in Part II of this issue of the **Federal Register**.

RIN: 1840–AB44

1088. STUDENT ASSISTANCE GENERAL PROVISIONS—ABILITY TO BENEFIT (GUIDELINES TO ASSIST INSTITUTIONS IN DETERMINING STUDENT ELIGIBILITY FOR TITLE IV, HEA STUDENT FINANCIAL ASSISTANCE)

Priority: Other Significant

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

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ED—OPE — Final Rule Stage

Abstract: These regulations implement statutory requirements for institutions to determine student eligibility by administering an ability-to-benefit test, as provided by the Higher Education Amendments of 1992 (Pub. L. 102-325, enacted July 23, 1992).

Timetable:

Action	Date	FR Cite
NPRM	08/16/94	59 FR 42134
NPRM Comment Period End	10/17/94	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorraine Kennedy, Program Analyst, Student Eligibility and Verification Section, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 3053, ROB-3, Washington, DC 20202
Phone: 202 708-7888

RIN: 1840–AB84

1089. STUDENT ASSISTANCE GENERAL PROVISIONS - EQUITY IN ATHLETICS DISCLOSURE ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1099c; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations are necessary to implement a new requirement in the Higher Education Act of 1965, as added by the Improving America's Schools Act of 1994. The statute requires certain coeducational institutions of higher education to prepare--and make available to students, potential students, and the public--a report on participation rates, financial support, and other information on men's and women's intercollegiate athletic programs. The regulations have been developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	02/03/95	60 FR 6940
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Lorenzo, General Provisions Branch, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 3045, ROB-3, Washington, DC 20202
Phone: 202 708-8654

RIN: 1840–AC14

1090. • FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1071 to 1087-2

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These final regulations make technical amendments to the FFEL regulations, reconcile provisions that may conflict, reconcile various amendments and corrections, and reinstate some previously deleted provisions.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Beavan, Program Specialist, Policy Training and Analysis Service, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 3045, ROB-3, Washington, DC 20202-5449
Phone: 202 708-8242

RIN: 1840–AC16

1091. • WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM (INCOME CONTINGENT REPAYMENT)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1087a et seq

CFR Citation: 34 CFR 685

Legal Deadline: None

Abstract: These proposed regulations would improve the existing income contingent repayment plan. Proposed improvements include revisions to the income contingent repayment formula.

Timetable:

Action	Date	FR Cite
NPRM	09/20/95	60 FR 48848
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rachel Edelstein, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 3053, ROB-3, Washington, DC 20202-5400
Phone: 202 708-9406

RIN: 1840–AC19

DEPARTMENT OF EDUCATION (ED) — Long-Term Actions
Office of Postsecondary Education (OPE)

1092. • SALARY OFFSET FOR FEDERAL EMPLOYEES WHO ARE INDEBTED TO THE UNITED STATES UNDER PROGRAMS ADMINISTERED BY THE SECRETARY OF EDUCATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 5514; 31 USC 3716

CFR Citation: 34 CFR 31

Legal Deadline: None

Abstract: In accordance with the Department's Principles for Regulating, these proposed regulations would simplify procedures and make them more consistent with other collection efforts.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sally K. Kirkgasler, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 4060, ROB-3, Washington, DC, 20202
Phone: 202 708-9069

RIN: 1840–AC23

DEPARTMENT OF EDUCATION (ED) — Proposed Rule Stage
Office of Special Education and Rehabilitative Services (OSERS)

1093. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 711(e); PL 102-569

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: These proposed revisions to existing regulations are needed to implement changes made to the Rehabilitation Act of 1973 by the Rehabilitation Act Amendments of 1992 and 1993. The changes include significant revisions in definitions, new definitions, new State plan requirements, and new eligibility requirements for services. The proposed regulations would include regulatory provisions previously listed under RIN 1820-AB15. In accordance with the Department's Principles for Regulating, the proposed regulations would reduce unnecessary process requirements, give States increased flexibility in administering the program, and eliminate requirements that do not directly contribute to the achievement of the program's objectives.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Beverlee Stafford, Acting Director, Planning, Policy, and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Avenue SW., Room 3014, Switzer Building, Washington, DC 20202-2550
Phone: 202 205-8299

RIN: 1820–AB12

1094. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM—EVALUATION STANDARDS AND PERFORMANCE INDICATORS

Priority: Other Significant

Legal Authority: PL 102-569

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: These proposed revisions to existing regulations are needed because of changes in the authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569). The 1992 Amendments require the development of standards and performance indicators. The proposed regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/93	58 FR 9458
NPRM	03/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beverlee Stafford, Acting Director, Planning, Policy, and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Avenue SW., Room 3014, Switzer Building, Washington, DC 20202-2531
Phone: 202 205-8299

RIN: 1820–AB14

1095. • PROJECTS WITH INDUSTRY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 795g; 29 USC 711(c)

CFR Citation: 34 CFR 379

Legal Deadline: None

Abstract: Proposed changes to the regulations are needed to address implementation problems and to improve program effectiveness. Sections of the regulations that are to be revised include the selection criteria, application content, and grantee reporting requirements. These proposed changes are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	05/00/96	

ED—OSERS — **Proposed Rule Stage**

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beverlee Stafford, Acting Director, Planning, Policy and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Avenue SW., Room 3014, Switzer Bldg., Washington, DC 20202-2531
Phone: 202 205-8299

RIN: 1820–AB33

DEPARTMENT OF EDUCATION (ED) — Final Rule Stage
Office of Special Education and Rehabilitative Services (OSERS)

1096. • ELIMINATION OF REGULATIONS

Regulatory Plan: This entry is Seq. No. 21 in Part II of this issue of the **Federal Register**.

RIN: 1820–AB34

1097. STATE GRANTS PROGRAM FOR TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 2201 to 2217

CFR Citation: 34 CFR 345

Legal Deadline: None

Abstract: These proposed regulations are needed to implement the Technology-Related Assistance for Individuals with Disabilities Act Amendments of 1994. The regulations also would authorize the National Institute on Disability and Rehabilitation Research to provide grants to States to support systems change and advocacy activities designed to assist States in developing and implementing consumer-responsive comprehensive Statewide programs of technology-related assistance. The proposed regulations would be developed in accordance with the Department's Principles for Regulating and would not impose significant non-statutory burdens.

Timetable:

Action	Date	FR Cite
NPRM	08/09/95	60 FR 40688
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol G. Cohen, Project Officer, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Avenue SW., Room 3420, Switzer Building, Washington, DC 20202-5251
Phone: 202 205-5666

RIN: 1820–AB28

1098. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM—ORDER OF SELECTION

Priority: Other Significant

Legal Authority: 29 USC 721(a)(5)(A); PL 102-569

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: These amendments to existing regulations are needed because of changes in the authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569). The statute requires promulgation of specific regulations regarding the order of selection of eligible disabled individuals for services. The regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	07/16/93	58 FR 38482
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Beverlee Stafford, Acting Director, Planning, Policy, and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Avenue SW., Room 3014, Switzer Building, Washington, DC 20202-2550
Phone: 202 205-8299

RIN: 1820–AB13

1099. • VOCATIONAL REHABILITATION SERVICE PROJECTS FOR AMERICAN INDIANS WITH LEARNING DISABILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 711(c); 29 USC 750

CFR Citation: 34 CFR 371

Legal Deadline: None

Abstract: Proposed changes to the regulations are needed to implement section 130(b)(3) of the Rehabilitation Act of 1973, as amended, to provide greater funding continuity for tribal projects that are performing effectively by extending the normal 36-month project period for up to 24 additional months. Proposed changes are also needed to conform the purpose and outcome of the program, consistent with section 100(a)(2) of the Act, as revised by the 1992 Amendments, from placement in suitable employment to placement in gainful employment consistent with individual strengths, resources, priorities, concerns, abilities, capabilities, and informed choice. These proposed changes were developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	07/27/95	60 FR 38608
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beverlee Stafford, Acting Director, Planning, Policy, and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Avenue SW., Room 3014, Switzer Bldg., Washington, DC 20202-2550

ED—OSERS — **Final Rule Stage**

Phone: 202 205-8299

RIN: 1820–AB32

DEPARTMENT OF EDUCATION (ED) — Completed Actions
Office of Special Education and Rehabilitative Services (OSERS)

1100. CENTERS FOR INDEPENDENT LIVING—EVALUATION STANDARDS AND COMPLIANCE INDICATORS

Priority: Other Significant

CFR Citation: 34 CFR 366

Completed:

Reason	Date	FR Cite
Final Action	08/01/95	60 FR 39216

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Beverlee Stafford
Phone: 202 205-8299

RIN: 1820–AA81

1101. CLIENT ASSISTANCE PROGRAM (CAP)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 370

Completed:

Reason	Date	FR Cite
Final Action	11/02/95	60 FR 55758

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Beverlee Stafford
Phone: 202 205-8299

RIN: 1820–AB16

DEPARTMENT OF EDUCATION (ED) — Final Rule Stage
Office of Vocational and Adult Education (OVAE)

1102. STATE VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION PROGRAMS AND NATIONAL DISCRETIONARY PROGRAMS OF VOCATIONAL EDUCATION; ADULT EDUCATION; AND STEWART B. MCKINNEY HOMELESS ASSISTANCE PROGRAMS

Priority: Other

Legal Authority: 20 USC 2471; 20 USC 2325(a); 20 USC 2321(d); 20 USC 2323(b)(14); 20 USC 2341(a)(1); 20 USC 2341(d)(3)(A)(iv); 20 USC 2420(a)(3)

CFR Citation: 34 CFR 50(d)(2); 34 CFR 400.4(b); 34 CFR 400.6(a)(5); 34 CFR 403.15(a); 34 CFR 403.32(b)(10); 34 CFR 403.112(b)(1); 34 CFR 403.114(a)(1)(iv); 34 CFR 403.117(b)(1); 34 CFR 425.3(a)(3)

Legal Deadline: None

Abstract: These regulations incorporate statutory changes to the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, and the Stewart B. McKinney Homeless Assistance Act, contained in the Improving America's Schools Act of 1994, enacted October 20, 1994. These regulations include the regulatory provisions previously listed under RIN 1830-AA16 and 1830-AA17.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sharon A. Jones, Program Analyst, Department of Education, Office of Vocational and Adult Education, 600 Independence Avenue SW., Room 4050, Switzer Bldg., Washington, DC 20202-7120
Phone: 202 205-8237

RIN: 1830–AA15

DEPARTMENT OF EDUCATION (ED) — Completed Actions
Office of Vocational and Adult Education (OVAE)

1103. ADULT EDUCATION PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 460.4(c); 34 CFR 461.12(a)(13); 34 CFR 461.31(c)(3)

Completed:

Reason	Date	FR Cite
Merged with RIN 1830-AA15	09/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon A. Jones
Phone: 202 205-8237

RIN: 1830–AA16

1104. ADULT EDUCATION FOR THE HOMELESS PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 491.3(d); 34 CFR 491.5(a); 34 CFR 491.21(b)(2)

Completed:

Reason	Date	FR Cite
Merged with RIN 1830-AA15	09/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon A. Jones
Phone: 202 205-8237

RIN: 1830–AA17

DEPARTMENT OF EDUCATION (ED) — **Proposed Rule Stage**

Office of Intergovernmental and Interagency Affairs (EDSI)

1105. • ADVISORY COMMITTEE MANAGEMENT REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1233 et seq

CFR Citation: 34 CFR 11

Legal Deadline: None

Abstract: These regulations are intended to eliminate obsolete provisions in current regulations and make other revisions in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Bailey, Department of Education, Office of Intergovernmental and Interagency Affairs, 600 Independence Avenue SW., Room 3221, FB-10, Washington, DC 20202
Phone: 202 401-3677

RIN: 1860–AA03

DEPARTMENT OF EDUCATION (ED) — **Long-Term Actions**

Office of Intergovernmental and Interagency Affairs (EDSI)

1106. U.S. EXCHANGE VISITOR PROGRAM—REQUEST FOR WAIVER OF THE TWO-YEAR FOREIGN RESIDENCE REQUIREMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1182(e); 20 USC 2451 et seq

CFR Citation: 34 CFR 50

Legal Deadline: None

Abstract: By law the Department of Education may request waiver--by the Attorney General--of a requirement affecting exchange visitors under the Mutual Educational and Cultural Exchange Program. These regulations simplify and clarify procedures, criteria, and other policies governing an institution's or organization's application to the Department for a waiver on behalf of an exchange visitor employed by the institution or organization.

Timetable:

Action	Date	FR Cite
NPRM	03/01/93	58 FR 11924
Final Action	00/00/00	

Small Entities Affected: None.

Government Levels Affected: Federal

Agency Contact: Janet Johnson, Management & Research Specialist, International and Territorial Services Staff, Department of Education, Office of Intergovernmental and Interagency Affairs, 600 Independence Avenue SW., Room 2115, FB-10, Washington, DC 20202-3601
Phone: 202 401-0430

RIN: 1860–AA02

DEPARTMENT OF EDUCATION (ED) — **Completed Actions**

Office of the General Counsel (EDOGC)

1107. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF EDUCATION: PRIOR APPROVAL FOR OUTSIDE ACTIVITIES AND EMPLOYMENT

Priority: Other

CFR Citation: 34 CFR 73; 5 CFR 6301

Completed:

Reason	Date	FR Cite
Final Action	01/30/95	60 FR 5816

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan A. Winchell
Phone: 202 401-1730

RIN: 1801–AA09

[FR Doc. 95-25085 Filed 11-24-95; 8:45 am]
BILLING CODE 4000-01-F

federal register

Tuesday
November 28, 1995

Part VII

Department of Energy

Semiannual Regulatory Agenda

DEPARTMENT OF ENERGY (DOE)

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: October 1995 regulatory agenda.

SUMMARY: The Department of Energy (DOE) is publishing its October 1995 regulatory agenda pursuant to instructions of the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB).

FOR FURTHER INFORMATION CONTACT: For further information about any particular item on the regulatory agenda, please contact the individual listed under that item. For general information on DOE's regulatory agenda, please contact: Romulo L. Diaz, Jr., Room 6B-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2902 (telephone), (202) 586-0722 (fax).

SUPPLEMENTARY INFORMATION: Entries appended to this notice reflect the status of activities as of approximately September 29, 1995. They are divided into categories, first by subagencies and then according to their stage of rulemaking action: Prerule, proposed rulemaking, final rulemaking, or completed action.

For this edition of DOE's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

A draft of this regulatory agenda has been transmitted to the Chief Counsel for Advocacy of the U.S. Small Business Administration for comment, if any, pursuant to 5 U.S.C. 602(b).

Issued in Washington, DC, on October 13, 1995.

Robert R. Nordhaus,

General Counsel.

Energy Efficiency and Renewable Energy—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1108	Private/Local Alternative Fuels Fleet Program	1904-AA72

Energy Efficiency and Renewable Energy—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1109	Energy Efficiency Standards for Residential Appliances **(Reg Plan Seq. No. 22)**	1904-AA38
1110	Test Procedures for Central Air Conditioners and Heat Pumps—Amendments	1904-AA46
1111	Energy Efficiency Standards for Refrigerators, Refrigerator- Freezers, and Freezers	1904-AA47
1112	Energy Efficiency Performance Code for New Federal Residential Buildings	1904-AA53
1113	Energy Efficiency Standards for Federal Commercial Buildings	1904-AA69
1114	Test Procedures and Certification Requirements for Faucets, Showerheads, and Certain Other Fixtures; and Certification Requirements for Residential Appliances	1904-AA71
1115	National Voluntary Residential Energy Efficiency Rating Guidelines	1904-AA74

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Energy Efficiency and Renewable Energy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1116	Equivalent Petroleum-Based Fuel Economy Calculation for Electric and Hybrid Electric Vehicles	1904-AA40
1117	Test Procedures for Furnaces/Boilers, Vented Home Heating Equipment, and Pool Heaters—Amendment	1904-AA45
1118	Test Procedures for Water Heaters, Kitchen Ranges, Ovens and Microwaves, and Clothes Washers—Amendment	1904-AA52
1119	Test Procedures for Fluorescent and Incandescent Reflector Lamps	1904-AA61
1120	Alternative Fuel Provider Vehicle Acquisition Mandate, State Fleet Mandate, and the Alternative Fuel Vehicle Credit Program	1904-AA64
1121	Clarification of Existing Clothes Washer Test Procedure	1904-AA68
1122	Definitions for Certain Fluorescent and Incandescent Lamps	1904-AA70
1123	Weatherization Assistance Program—Amendment	1904-AA73
1124	Methodology and Procedures for Life Cycle Costing Under the Energy Policy Act of 1992	1904-AA80
1125	State Energy Program	1904-AA81

DOE

Energy Efficiency and Renewable Energy—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1126	State and Local Incentives Program: Alternative Fuels	1904-AA66
1127	Energy Efficiency Standards for Dishwashers, Clothes Washers, and Clothes Dryers	1904-AA67
1128	Energy Efficiency Standards for Lamp Ballasts	1904-AA75
1129	Energy Efficiency Standards for Water Heaters	1904-AA76
1130	Energy Efficiency Standards for Central Air Conditioners and Heat Pumps	1904-AA77
1131	Energy Efficiency Standards for Furnaces	1904-AA78

Energy Efficiency and Renewable Energy—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1132	Fecieral Sector Energy Savings Performance Contracting	1904-AA62
1133	Renewable Energy Production Incentive	1904-AA65
1134	Energy Efficiency Standards for Television Sets	1904-AA79

Defense and Security Affairs—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1135	Policies on Information Classification	1992-AA21

Defense and Security Affairs—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1136	Personnel Assurance Program	1992-AA14

Defense and Security Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1137	Personnel Security Assurance Program: Substance-Abuse Testing Procedures	1992-AA13
1138	Assistance to Foreign Atomic Energy Activities—Listing Updates	1992-AA20

Departmental and Others—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1139	Energy Board of Contract Appeals; Organization, Functions, and Authorities; Rules of Practice	1901-AA30
1140	Freedom of Information	1901-AA32
1141	Nuclear Safety Management **(Reg Plan Seq. No. 23)**	1901-AA34
1142	The Office of Energy Research Financial Assistance Program	1901-AA54
1143	Payments for Special Burdens and in Lieu of Taxes	1901-AA58
1144	Occupational Radiation Protection—Amendment	1901-AA59
1145	Privacy Act—Exemption of an Inspector General System of Records	1901-AA62
1146	Privacy Act Exemption of Certain Contractor Employee Reprisal Complaint and Investigation System of Records	1901-AA66

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

DOE

Departmental and Others—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1147	Radiation Protection of the Public and the Environment **(Reg Plan Seq. No. 24)**	1901-AA38
1148	Redesign and Revision of Wholesale Power and Transmission Rates	1901-AA64

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Departmental and Others—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1149	Electric Power System Permits and Reports; Applications; Administrative Procedures and Sanctions	1901-AA19
1150	Enforcement of Employee Safety Standards at Nuclear Weapons Facilities	1901-AA44
1151	Standard Contract for the Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste	1901-AA49
1152	Annotation of Land Records for Remediated Properties in the Uranium Mill Tailings Remedial Action Project (UMTRA)	1901-AA57
1153	Financial Assistance Program for Education Purposes	1901-AA61

Departmental and Others—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1154	Review of Administrative Procedures With Respect to Imports and Exports of Natural Gas	1901-AA25
1155	Nuclear Safety Management: Phase II	1901-AA42
1156	Energy Planning and Management Program	1901-AA50
1157	Privacy Act—Exemption of Certain Counterintelligence Systems of Records	1901-AA60
1158	Waste Management	1901-AA65

Office of Procurement and Assistance Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1159	Department of Energy Property Management Regulations; Miscellaneous Personal Property	1991-AA28
1160	DEAR: Financial Management Clauses	1991-AB02
1161	Debarment and Suspension	1991-AB24
1162	DEAR: Regulatory Reinvention-Phase III	1991-AB25
1163	Revisions to Organizational Conflicts of Interest	1991-AB26
1164	Federal Acquisition Streamlining Act Implementation	1991-AB27
1165	Contract Reform **(Reg Plan Seq. No. 25)**	1991-AB28

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Procurement and Assistance Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1166	Technology Transfer: DOE Management and Operating Contractors	1991-AA63
1167	Amendment to Workplace Substance Abuse Programs at DOE Sites	1991-AA90
1168	Legislative Lobbying Cost Prohibition	1991-AB08
1169	Competition for Management and Operating Contracts	1991-AB09
1170	Limits on Participation in Certain DOE Research and Development Programs	1991-AB14
1171	Financial Assistance Rules Streamlining and Simplifying Procedures	1991-AB23

DOE

Office of Procurement and Assistance Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1172	DEAR: Security Procedures	1991-AA86
1173	DEAR: Amendment to Workplace Substance Abuse Programs at DOE Sites	1991-AA97
1174	DEAR: Review of M&O Contractor Purchasing Systems	1991-AB07
1175	Small Business Subcontracting Program	1991-AB17

Office of Procurement and Assistance Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1176	Debarment and Suspension (Common Rule)	1991-AA69
1177	Acquisition of Federal Information Resources by Contract	1991-AA81
1178	DEAR: Recovered/Recycled Materials	1991-AB05
1179	Procurement Set-Asides for Small Business and Others	1991-AB11
1180	Independent Research and Development/Bid and Proposal Costs and Travel Cost Guidelines	1991-AB12
1181	Uniform Administrative Requirements for Grants With Educational Institutions, Hospitals, and Other Nonprofit Institutions	1991-AB13
1182	Revision to A-102 Common Rule To Raise Threshold for Simplified Small Purchases Under Grants	1991-AB15
1183	DEAR: Regulatory Reduction	1991-AB18
1184	Certified Cost or Pricing Threshold and Determination and Findings for Use of Cost-Reimbursement Contracts	1991-AB19
1185	Acquisition Regulation: Department of Energy Management and Operating Contracts	1991-AB20
1186	Fee Policy for Nonprofit Organizations	1991-AB21
1187	DEAR: Fines and Penalties, Government Property and Third Party Liability	1991-AB22

Office of General Counsel—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1188	Patent Waiver Regulation	1990-AA02
1189	Payment of Travel Expenses of Persons Who Are Not Government Employees	1990-AA15
1190	Conduct of Employees	1990-AA19

Office of General Counsel—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1191	Removal of Obsolete Regulations	1990-AA22

DEPARTMENT OF ENERGY (DOE)

Prerule Stage

Energy Efficiency and Renewable Energy (EE)

1108. PRIVATE/LOCAL ALTERNATIVE FUELS FLEET PROGRAM

Priority: Economically Significant

Legal Authority: 42 USC 13257 Energy Policy Act, sec 507(b)

CFR Citation: 10 CFR 490

Legal Deadline: Final, Statutory, December 15, 1996.

Alternative Final Statutory Deadline is January 1, 2000.

Abstract: The Energy Policy Act of 1992 requires DOE to initiate a rulemaking to determine whether a private and local fleet program is deemed necessary to meet the fuel displacement goals in the Act. The criteria for making this determination are mandated by the Act.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/95	
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: David Rodgers, Program Manager (EE-33), Department

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DOE—EE

Prerule Stage

of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585

Phone: 202 586-7182

Fax: 202 586-1610

RIN: 1904–AA72

DEPARTMENT OF ENERGY (DOE)

Proposed Rule Stage

Energy Efficiency and Renewable Energy (EE)

1109. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL APPLIANCES

Regulatory Plan: This entry is Seq. No. 22 in Part II of this issue of the **Federal Register**.

RIN: 1904–AA38

1110. TEST PROCEDURES FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS—AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: These revisions to the test procedures for central air conditioners and heat pumps in accordance with the Energy Policy and Conservation Act, as amended, will reorganize the document in a logical order and update the references.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Raymond, Program Leader, Appliance Standards Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9611

RIN: 1904–AA46

1111. ENERGY EFFICIENCY STANDARDS FOR REFRIGERATORS, REFRIGERATOR- FREEZERS, AND FREEZERS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, November 17, 1994.

Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to determine whether the extant standard for a covered product should be amended.

This rulemaking reviews the statutory standards for refrigerators, refrigerator-freezers and freezers to determine whether those levels need to be amended. This is the second reanalysis of the standard levels.

At the time of publication, it appears that the Department's rulemaking actions with respect to energy efficiency standards for appliances may be restricted in fiscal year 1996 by a rider attached to the Interior and Related Agencies appropriations bill. This rider, if enacted, would prohibit the Department from using fiscal year 1996 appropriations for the issuance of any proposed or final energy efficiency standards for appliances. Because of this rider and an internal review being conducted of the processes and methodologies used to develop and analyze appliance standards, the Department has not developed a revised schedule for this action.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
NPRM	07/20/95	60 FR 37338
NPRM Comment Period End	11/02/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information:

Originally this rulemaking also included central air conditioners, heat pumps and furnaces. However to allow for more manageable schedules, this rulemaking has been split into separate rulemakings. The two other rulemakings are: 1904-AA77 (central air conditioners and heat pumps) and 1904-AA78 (furnaces).

A coalition of refrigerator manufacturers, electric utilities, and energy conservation advocates negotiated intensively for two conservation standards for refrigerator-freezers. DOE is using this recommendation in its analysis. -Merged with 1904-AA38, October 1995.

Agency Contact: Edward Pollock, Program Leader, Appliance Standards Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-7140

RIN: 1904–AA47

1112. ENERGY EFFICIENCY PERFORMANCE CODE FOR NEW FEDERAL RESIDENTIAL BUILDINGS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6834 Energy Policy Act of 1992, sec 101(a)(2)

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 24, 1994.

DOE—EE

Proposed Rule Stage

Abstract: Title III of the Energy Conservation and Production Act as amended by the Energy Policy Act of 1992 (PL 102-486, October 24, 1992) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen P. Walder, Program Manager, Building Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 301 586-9209

RIN: 1904–AA53

1113. ENERGY EFFICIENCY STANDARDS FOR FEDERAL COMMERCIAL BUILDINGS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6834 Energy Policy Act of 1992, sec 101(a)(2)

CFR Citation: 10 CFR 434

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: Title III of the Energy Conservation and Product Act as amended by the Energy Policy Act of 1992 (PL 102-486, October 24, 1992) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Ronald B. Majette, Program Manager, Buildings Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-7935

RIN: 1904–AA69

1114. TEST PROCEDURES AND CERTIFICATION REQUIREMENTS FOR FAUCETS, SHOWERHEADS, AND CERTAIN OTHER FIXTURES; AND CERTIFICATION REQUIREMENTS FOR RESIDENTIAL APPLIANCES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293; 42 USC 6295

CFR Citation: 10 CFR 430.2; 10 CFR 430.32

Legal Deadline: None

Abstract: This action is intended to incorporate by reference statutory definitions, test procedures, and standards, and add sampling plans and data submissions for certification reporting requirements, labeling requirements for commercial toilets, and address fixture fittings for multiple users for faucets, showerheads, urinals and water closets. This action would also clarify the existing certification reporting requirements for all covered residential appliances.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: William W. Hui, Program Manager, Appliance Standard Division, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-7140

RIN: 1904–AA71

1115. NATIONAL VOLUNTARY RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 8236

CFR Citation: 10 CFR 437

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: DOE is required to establish by rule national voluntary guidelines for home energy rating system. The guidelines are designed to encourage uniformity with regard to systems for rating the annual energy efficiency of residential buildings. The guidelines may be used to enable and encourage the assignment of energy efficiency ratings to residential buildings and the development of criteria for attractive financial instruments for energy efficient homes.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37949
NPRM Comment Period End	10/23/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Mackie, Program Manager, EE-432, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-7892

RIN: 1904–AA74

DEPARTMENT OF ENERGY (DOE)
Energy Efficiency and Renewable Energy (EE)

Final Rule Stage

1116. EQUIVALENT PETROLEUM-BASED FUEL ECONOMY CALCULATION FOR ELECTRIC AND HYBRID ELECTRIC VEHICLES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 96-185, sec 18; PL 94-413, sec 13(c); PL 94-163, sec 503(a)(3); PL 103-272

CFR Citation: 10 CFR 474

Legal Deadline: None

Abstract: The final rule on the inclusion of electric vehicles in the Corporate Average Fuel Economy (CAFE) program was issued by DOE on April 15, 1981. It established a methodology for determining the equivalent petroleum-based fuel economy (PEF) for electric vehicles so that they could be included in a manufacturer's overall CAFE program. This methodology was based on several factors including the energy efficiency of the vehicle, the efficiency of electric generation and transmission, the fuels used to generate electricity, and the driving patterns of electric vehicles. It established a method for determining the PEF of electric vehicles that are recharged from stationary sources only. Hybrid electric vehicles, a type of electric vehicle, are electrically recharged by an on-board mobile generator. This rulemaking would establish a methodology that is necessary for calculating the CAFE credits for electric vehicles that are recharged by mobile sources, and would update the methodology for calculating the CAFE credits for electric vehicles that are recharged by stationary sources. Rulemaking authority for establishing PEF values for electric and hybrid electric vehicles is provided under Public Law 103-272 (49 USC 32904).

Timetable:

Action	Date	FR Cite
NPRM	02/04/94	59 FR 5336
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Report comparing Alternative Motor Fuels Act with existing rule completed April 1992. Second report recommending new Petroleum Equivalency Factor for NPRM completed May 1992.

Agency Contact: David Hamilton, Program Manager, Electric and Hybrid Propulsion Division, Department of Energy, Energy Efficiency and Renewable Energy, EE-321, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-2314
Fax: 202 586-1600

RIN: 1904–AA40

1117. TEST PROCEDURES FOR FURNACES/BOILERS, VENTED HOME HEATING EQUIPMENT, AND POOL HEATERS—AMENDMENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: These revisions to the test procedures for furnaces and boilers, vented home heating equipment and pool heaters in accordance with the Energy Policy and Conservation Act, as amended, would incorporate by reference ASHRAE Standard 103-1993 and would include waivers granted to manufacturers. This revision is prompted by the ASHRAE revision of Standard 103-1983 and the need to include waivers granted to manufacturers. DOE reopened the comments period on January 20, 1995, regarding new energy descriptors and a cost factor for the production and use of electricity. Based on the comments, DOE has decided to eliminate the new energy descriptor and to issue a final rule based on the existing energy descriptor.

Timetable:

Action	Date	FR Cite
NPRM	08/23/93	58 FR 44583
NPRM Comment Period End	03/21/95	60 FR 4348
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, Program Manager, Appliance Standards Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9138

RIN: 1904–AA45

1118. TEST PROCEDURES FOR WATER HEATERS, KITCHEN RANGES, OVENS AND MICROWAVES, AND CLOTHES WASHERS—AMENDMENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: In accordance with the Energy Policy and Conservation Act as amended, the test procedures for water heaters, kitchen ranges, ovens, microwaves, and clothes washers are being revised. Rulemaking issues include: with respect to water heater test procedures, inclusion of electric instantaneous water heaters and storage water heaters with less than 20 gallons volume and revision of the first hour rating; with respect to test procedures for kitchen ranges, ovens and microwaves, revision of the constant for annual cooking energy and incorporation by reference of test procedures adopted by the International Electrotechnical Commission; and with respect to clothes washer test procedures, measurements for water usage and water retention.

Timetable:

Action	Date	FR Cite
NPRM	03/23/95	60 FR 15330
NPRM Comment Period End	08/31/95	60 FR 15330
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ingrid Watson, Program Manager, Appliance Standards Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
Phone: 202 586-8119
Fax: 202 586-4617

RIN: 1904–AA52

DOE—EE

Final Rule Stage

1119. TEST PROCEDURES FOR FLUORESCENT AND INCANDESCENT REFLECTOR LAMPS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293 Energy Policy Act of 1992, sec 123(d)

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: The test procedures will require manufacturers to use an accredited laboratory and a standardized method to measure the energy efficiency of fluorescent and incandescent reflector lamps and to measure the color rendering index of fluorescent lamps. These measurements will determine whether products comply with the energy efficiency standards established by PL 102-486 sec 123.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/28/94	59 FR 49468
Interim Final Rule Effective	10/28/94	59 FR 49468
Interim Final Rule Comment Period End	12/12/94	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Terry Logee, Program Manager, Appliance Standards Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., 5E-066, Washington, DC 20585
Phone: 202 586-1689

RIN: 1904–AA61

1120. ALTERNATIVE FUEL PROVIDER VEHICLE ACQUISITION MANDATE, STATE FLEET MANDATE, AND THE ALTERNATIVE FUEL VEHICLE CREDIT PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 13251 Energy Policy Act of 1992, sec 501; 42 USC 13257(o) Energy Policy Act of 1992, sec 507(o); 42 USC 13258 Energy Policy Act of 1992, sec 508; 42 USC 13261 to 13263 Energy Policy Act of 1992, sec 511 to 513

CFR Citation: 10 CFR 490

Legal Deadline: Final, Statutory, January 1, 1994.
In addition, the statute requires final rules by 10/24/93, for electricity providers who purchase electric vehicles.

Abstract: These rules are required by the Energy Policy Act of 1992 in order to implement statutorily-imposed alternative fueled vehicle acquisition requirements that become effective by operation of law on September 1, 1995, when model year 1996 begins. These statutory requirements apply to certain alternative fuel providers and some State government vehicle fleets. The proposed rules principally cover: (1) Required interpretations necessary for affected entities to determine whether and to what extent the statutory requirements apply; (2) required procedures for exemptions and administrative remedies; and (3) a program of marketable credits to reward those who voluntarily acquire vehicles in excess of mandated requirements or before the requirements take effect, and to allow use of such credits in order to demonstrate compliance with those requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/28/95	60 FR 10970
NPRM Comment Period End	05/01/95	60 FR 10970
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Kenneth R. Katz, Program Manager, Office of Alternative Fuels, EE-33, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-6116
Fax: 202 586-1610

RIN: 1904–AA64

1121. CLARIFICATION OF EXISTING CLOTHES WASHER TEST PROCEDURE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: This rulemaking reviews testing requirements when clothes washers are offered with a warm rinse lock-out design feature. DOE has concluded that an industry interpretation of the clothes washer test procedure, while inconsistent with the underlying purpose of the test procedure, has sufficient legal basis to necessitate an amendment of the test procedure in order to avoid material understatements of actual energy consumption.

Timetable:

Action	Date	FR Cite
NPRM	05/24/95	60 FR 27442
NPRM Comment Period End	07/31/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: P. Marc LaFrance, Program Manager, Appliance Standards Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-7140

RIN: 1904–AA68

1122. DEFINITIONS FOR CERTAIN FLUORESCENT AND INCANDESCENT LAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

DOE—EE

Final Rule Stage

Legal Authority: 42 USC 6293 Energy Policy Act of 1992, sec. 123(d)

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: This action would define certain incandescent and fluorescent lamps—an action that would exempt them from efficiency standards imposed by the Energy Policy Act of 1992 and relieve these product manufacturers from any related regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	09/28/94	59 FR 49478
NPRM Comment Period End	12/12/94	59 FR 49478
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Terry Logee, Program Manager, Appliance Standards Division, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1689

RIN: 1904–AA70

1123. WEATHERIZATION ASSISTANCE PROGRAM—AMENDMENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6861

CFR Citation: 10 CFR 440

Legal Deadline: None

Abstract: Will change the formula for distributing funds among the States under the Weatherization Program. The revised formula will increase equity, among the States, of funded distributions under the program, while preserving existing State program capabilities.

Timetable:

Action	Date	FR Cite
NPRM	01/23/95	60 FR 4480
Interim Final Rule	06/05/95	60 FR 29469
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Greg Reamy, Weatherization Assistance Program, EE-532, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 426-1677

RIN: 1904–AA73

1124. • METHODOLOGY AND PROCEDURES FOR LIFE CYCLE COSTING UNDER THE ENERGY POLICY ACT OF 1992

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 8287 Energy Policy Act of 1992, Sec 152

CFR Citation: 10 CFR 436

Legal Deadline: None

Abstract: This action amends existing procedures to clarify the application of the life cycle costing methodology to water conservation in Federal buildings. Section 152 amended the legislatively mandated Federal Energy Management Program to include conservation and the efficient use of water. This rulemaking provides Federal energy managers a rational economic basis for evaluation.

Timetable:

Action	Date	FR Cite
NPRM	08/25/95	60 FR 44286
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: K. Dean Devine, PE., Sr. Engineer (EE-92), Department of Energy, Energy Efficiency and Renewable Energy
Phone: 202 586-6784
Fax: 202 586-3000

RIN: 1904–AA80

1125. • STATE ENERGY PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6321 et seq; 42 USC 7101 et seq

CFR Citation: 10 CFR 420

Legal Deadline: None

Abstract: In anticipation that Congress will direct the Department to consolidate the Institutional Conservation Program and the State Energy Conservation Program (and possibly other programs now operated separately), the Department will publish an interim final rule. The consolidated program will be known as the State Energy Program and will be based on the regulations for the State Energy Conservation Program (10 CFR part 420) as revised to effect the consolidation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Thomas Stapp, Department of Energy, Energy Efficiency and Renewable Energy, EE-531, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-2096

RIN: 1904–AA81

DEPARTMENT OF ENERGY (DOE)
Energy Efficiency and Renewable Energy (EE)

Long-Term Actions

1126. STATE AND LOCAL INCENTIVES PROGRAM: ALTERNATIVE FUELS

Priority: Other Significant

CFR Citation: 10 CFR 490

Timetable:

Action	Date	FR Cite
NPRM	03/21/95	60 FR 15020
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Marcy A. Rood (EE-33)
Phone: 202 586-8161
Fax: 202 586-1558

RIN: 1904–AA66

1127. ENERGY EFFICIENCY STANDARDS FOR DISHWASHERS, CLOTHES WASHERS, AND CLOTHES DRYERS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430

Timetable:

Action	Date	FR Cite
ANPRM	11/14/94	59 FR 56423
ANPRM Comment Period Extended	04/17/95	60 FR 5880
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: P. Marc LaFrance
Phone: 202 586-7140

RIN: 1904–AA67

1128. ENERGY EFFICIENCY STANDARDS FOR LAMP BALLASTS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430.32

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Revised NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Carl Adams
Phone: 202 586-7140

RIN: 1904–AA75

1129. ENERGY EFFICIENCY STANDARDS FOR WATER HEATERS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430.32

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Revised NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Carl Adams
Phone: 202 586-7140

RIN: 1904–AA76

1130. ENERGY EFFICIENCY STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430.32

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Edward Pollock
Phone: 202 586-7140

RIN: 1904–AA77

1131. ENERGY EFFICIENCY STANDARDS FOR FURNACES

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430.32

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Edward Pollock
Phone: 202 586-7140

RIN: 1904–AA78

DEPARTMENT OF ENERGY (DOE)
Energy Efficiency and Renewable Energy (EE)

Completed Actions

1132. FEDERAL SECTOR ENERGY SAVINGS PERFORMANCE CONTRACTING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 8287 Energy Policy Act of 1992, sec 155

CFR Citation: 10 CFR 436

Legal Deadline: Final, Statutory, April 24, 1993.

Abstract: The regulation would establish standard procedures and methods for use by all Federal agencies

DOE—EE

Completed Actions

to acquire energy savings performance contract services. The regulation would permit Federal agencies to enter into contracts under which contractors would make investments in improving the energy efficiency of Federal facilities, and the savings would be split between the contractor and the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	04/11/94	59 FR 17204
NPRM Correction	04/22/94	59 FR 19150
NPRM Comment Period End	06/10/94	59 FR 17204
Final Action	04/10/95	60 FR 18326
Final Action Effective	04/10/95	60 FR 19343

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Joan G. Stone, Financing Specialist (EE-92), Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-5772

RIN: 1904–AA62

1133. RENEWABLE ENERGY PRODUCTION INCENTIVE

Priority: Other Significant

Legal Authority: 42 USC 13317 Energy Policy Act of 1992, sec 1212

CFR Citation: 10 CFR 451

Legal Deadline: None

Abstract: Section 1212 of the Energy Policy Act requires the Department of Energy (DOE) to pay, subject to the availability of appropriations, a production incentive to the owner or operator of a "qualified renewable energy facility" for electric energy generated by the facility.

The need for Federal action was established by the Act. The specific requirements to receive payments are to be established by DOE. The incentive payments to publicly owned utilities provide a complement to the tax credits available to privately held utilities and electric power generators.

Timetable:

Action	Date	FR Cite
NPRM	05/13/94	59 FR 24982
Final Action	07/19/95	60 FR 36959

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: James Spath, Department of Energy, Energy Efficiency and Renewable Energy, Golden Field Office, Golden, CO 80401
Phone: 303 275-4706

RIN: 1904–AA65

1134. • ENERGY EFFICIENCY STANDARDS FOR TELEVISION SETS

Priority: Routine and Frequent

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The Energy Policy and Conservation Act as amended, establishes initial energy-efficiency . standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for television sets.

Television sets were originally included in a multi-product rulemaking (RIN 1904-AA38).

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Withdrawn	06/23/95	60 FR 32627

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Carl Adams, Director, Appliance Standards Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-7140

RIN: 1904–AA79

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Prerule Stage

1135. • POLICIES ON INFORMATION CLASSIFICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 12958; 42 USC 2161; 42 USC 2162

CFR Citation: 10 CFR 1045

Legal Deadline: Final, Statutory, October 16, 1995.

EO 12958 requires implementation regulation by 10/16/95

Abstract: The purpose of the proposed regulation is to disseminate the policies and procedures followed by the Department in implementing the requirements of the Atomic Energy Act for the classification and declassification of information. Also, the regulation implements the requirements of EO 12958 "Classified National Security Information" as they affect members of the public. This rule revises 10 CFR 1045.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/95	
ANPRM Comment Period End	10/16/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Laplante, Program Manager, Department of Energy, Office of Declassification (NN-521), Washington, DC 20585
Phone: 301 903-4338
Fax: 301 903-1230

RIN: 1992–AA21

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Long-Term Actions

1136. PERSONNEL ASSURANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 711

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David McConagha or Tom Stepan
Phone: 301 903-3463

RIN: 1992–AA14

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Completed Actions

1137. PERSONNEL SECURITY ASSURANCE PROGRAM: SUBSTANCE-ABUSE TESTING PROCEDURES

Priority: Other

Legal Authority: 42 USC 2161; 42 USC 2165; 42 USC 2201

CFR Citation: 10 CFR 710

Legal Deadline: None

Abstract: The Department of Energy (DOE) has established the Personnel Security Assurance Program (PSAP) through the publication of the revision to 10 CFR 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material." The PSAP was created in order to assure the reliability of individuals in certain positions, defined in Section 710.50(a), and referred to as PSAP positions for purposes of this proposed rule. The Department now proposes to amend this rule to promulgate guidelines for DOE contractors for testing for possible use of illegal drugs by their PSAP-cleared employees.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	04/08/91	
Final Action	04/25/95	60 FR 20366

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lynn Gebrowsky, Office of Nonproliferation and National Security, Department of Energy, Washington, DC 20585
Phone: 301 903-3200

RIN: 1992–AA13

1138. ASSISTANCE TO FOREIGN ATOMIC ENERGY ACTIVITIES—LISTING UPDATES

Priority: Routine and Frequent

Legal Authority: 42 USC 2077; 42 USC 2156 to 2158; 42 USC 2201; 42 USC 2273; PL 93-438, sec 104; PL 95-91, sec 301

CFR Citation: 10 CFR 810

Legal Deadline: None

Abstract: The Department of Energy is amending 10 CFR part 810 to remove Argentina, Brazil, Chile, and South Africa from the list of countries for which specific authorization by the Secretary of Energy is required before a person subject to U.S. jurisdiction can engage directly or indirectly in the production of special nuclear material outside the United States. The amendment will enable U.S. firms and individuals to assist civilian nuclear power reactor-related activities in these countries under general authorization. This will make the regulations consistent with U.S. foreign policy commitments and reflect the recent significant progress made by these four countries on matters related to nuclear nonproliferation.

Timetable:

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44381
NPRM Comment Period End	09/28/94	
Final Action	08/18/95	60 FR 43002

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Zander Hollander, Export Control Specialist (NN-43), Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-2125

RIN: 1992–AA20

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Proposed Rule Stage

1139. ENERGY BOARD OF CONTRACT APPEALS; ORGANIZATION, FUNCTIONS, AND AUTHORITIES; RULES OF PRACTICE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 601 et seq

CFR Citation: 10 CFR 1023

Legal Deadline: None

Abstract: Update statement of Board organization, functions and authorities; update rules of practice for contract appeals to provide for alternative dispute resolution (ADR) and other purposes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. Barclay Van Doren, Chairman, Board of Contract Appeals, Department of Energy, 4040 N. Fairfax Drive, Rm 1006, Arlington, VA 22203
Phone: 703 235-2700

RIN: 1901–AA30

DOE—ENDEP — Proposed Rule Stage

1140. FREEDOM OF INFORMATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 10 CFR 1004

Legal Deadline: None

Abstract: On October 23, 1991, DOE proposed to amend the procedures and principles to be applied in responding to requests for records under the Freedom of Information Act (FOIA) 5 USC 552. The proposal updated names and addresses of organizational entities, and updated guidelines for the schedule of fees associated with processing requests. A proposed section on policies clarified DOE's operation of a first-in, first-out policy in responding to FOIA requests, and the role of the Office of Hearings and Appeals was clarified. The proposal also included a statement of DOE policy on contractor records.

On December 12, 1994, DOE adopted the contractor records policy, with certain modifications. DOE expects to take final action on the remainder of the proposal in the near future.

Timetable:

Action	Date	FR Cite
Final Rule (Contractor Records)	12/12/94	59 FR 63882
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: All

Agency Contact: Gary Stern, Deputy Assistant General Counsel for Information Law, Office of GC (GC-80), Department of Energy, Office of General Counsel, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-8618

RIN: 1901–AA32

1141. NUCLEAR SAFETY MANAGEMENT

Regulatory Plan: This entry is Seq. No. 23 in Part II of this issue of the **Federal Register**.

RIN: 1901–AA34

1142. THE OFFICE OF ENERGY RESEARCH FINANCIAL ASSISTANCE PROGRAM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2051; 42 USC 5817; 42 USC 5901 et seq; 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 605

Legal Deadline: None

Abstract: Action to be taken will improve grants administration by providing a more streamlined and uniform approach to post-award requirements, yet maintain stewardship and accountability responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Jean A. Morrow, Grants Policy Analyst (ER-64), Department of Energy, Office of Energy Research, Washington, DC 20545
Phone: 301 903-2452

RIN: 1901–AA54

1143. PAYMENTS FOR SPECIAL BURDENS AND IN LIEU OF TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2208 Atomic Energy Act of 1954, sec 168

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: To revise the Department of Energy's policy on making payments for special burdens and in lieu of taxes to State and local taxing jurisdictions pursuant to the Atomic Energy Act of 1954. Prior to the 1987 issuance of DOE Order 2100.12, the Department and its predecessor agencies approved such payment requests on an ad hoc basis. To ensure all eligible taxing jurisdictions are provided appropriate opportunity to comment, the revised policy is being established through the rulemaking process. The Department anticipates no added costs by issuing the revised policy as a regulation rather than as an internal directive revision.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Local

Agency Contact: Robert W. Gordon, Financial Policy Analyst, Office of Financial Policy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4860

RIN: 1901–AA58

1144. OCCUPATIONAL RADIATION PROTECTION—AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 835

Legal Deadline: None

Abstract: 10 CFR part 835 establishes the basic requirements for DOE contractor and subcontractor activities to ensure radiation protection of occupational workers at DOE facilities. See 58 FR 65458 (December 14, 1993). The proposed amendment to Part 835 would include several items not previously covered such as sealed radioactive source accountability and control, and surface contamination values for tritium. Sealed source accountability and control requirements currently appear in DOE Notice 5400.9, and tritium surface radioactivity values in the Radiation Control (RADCON) Manual. This rulemaking stems from DOE's ongoing effort to strengthen the protection of health and safety from the nuclear and radiological hazards posed by these DOE facilities.

We are reviewing this action in the context of DOE's recently announced accelerated DOE Order Reduction Initiative. This is to ensure both consistency of approach and consultation with DOE stakeholders.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Joel Rabovsky, Health Physicist (EH-52), Health Physics

DOE—ENDEP — Proposed Rule Stage

Programs Divisions, Department of Energy, 19901 Germantown Rd., Germantown, MD 20874
Phone: 301 903-3889

RIN: 1901–AA59

1145. PRIVACY ACT—EXEMPTION OF AN INSPECTOR GENERAL SYSTEM OF RECORDS

Priority: Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: The purpose of this action is to exempt one system of records from certain subsections of the Privacy Act (5 U.S.C. 552a). The system of records is Inspection Abstract Report Files of the Office of Inspector General (DOE-83). These rules will enable the Office of the Inspector General to carry out its administrative, analytical, and investigatory duties and responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: GayLa D. Sessoms, Director, FOIA/Privacy Act Division, Office of the Executive Secretariat, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955

RIN: 1901–AA62

1146. PRIVACY ACT EXEMPTION OF CERTAIN CONTRACTOR EMPLOYEE REPRISAL COMPLAINT AND INVESTIGATION SYSTEM OF RECORDS

Priority: Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: This action would amend the Department's Privacy Act Regulations 10 CFR 1008, by adding a new system of records to the list of systems exempted from certain provisions of the Act. The proposed new system of records will be titled "Contractor Employee Reprisal Complaint and Investigation Files (DOE-88)." These exemptions are needed to enable the Office of Contractor Employee Protection to perform its administrative, analytical and investigatory duties and responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: GayLa D. Sessoms, Director, FOIA/Privacy Act Division, Office of the Executive Secretariat, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955

RIN: 1901–AA66

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Final Rule Stage

1147. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT

Regulatory Plan: This entry is Seq. No. 24 in Part II of this issue of the **Federal Register**.

RIN: 1901–AA38

1148. REDESIGN AND REVISION OF WHOLESALE POWER AND TRANSMISSION RATES

Priority: Other

Legal Authority: 16 USC 839e

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This is an action by the Bonneville Power Administration (BPA) to redesign and revise its wholesale power and transmission rates. The principal purposes of this action would be to allow BPA to recover sufficient revenues to timely meet its repayment and other cost recovery obligations, to be a reliable and competitive power supplier, to send appropriate price signals to customers, and to otherwise meet BPA ratemaking standards set forth in various statutes.

Timetable:

Transmission Rates	
Notice of Intent to Revise Rates	12/28/94 (59 FR 66946)
NPRM	02/14/95 (60 FR 8505)
Draft Record of Decision	03/00/96
Final Record of Decision	04/00/96
Wholesale Power Rates	
Notice of Intent to Revise Rates	12/28/94 (59 FR 66947)
NPRM	02/14/95 (60 FR 8496)
Draft Record of Decision	03/00/96
Final Record of Decision	04/30/96

Small Entities Affected: None

Government Levels Affected: None

Additional Information: On February 14, 1995, BPA also proposed comparable transmission terms and conditions (60 FR 8511).

This action would have been excluded from the regulatory agenda since it is being undertaken in accordance with the formal ratemaking provisions of section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (16 USC 839e(i)). This action is being included, however, in order to provide the public with the fullest notice of DOE's rulemaking activities.

For these ratemakings, BPA's final action is characterized as the "final proposal," reflected in a final record of decision filed, together with the record, with the Federal Energy Regulatory Commission for confirmation and approval.

Agency Contact: Randy Roach, Attorney/Legal Services, Department of Energy, Bonneville Power Administration - APR, P.O. Box 3621, Portland, OR 97208
Phone: 503 230-4201

RIN: 1901–AA64

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Long-Term Actions

1149. ELECTRIC POWER SYSTEM PERMITS AND REPORTS; APPLICATIONS; ADMINISTRATIVE PROCEDURES AND SANCTIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 205

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellen Russell
Phone: 202 586-9624

RIN: 1901–AA19

1150. ENFORCEMENT OF EMPLOYEE SAFETY STANDARDS AT NUCLEAR WEAPONS FACILITIES

Priority: Other Significant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
ANPRM	08/26/94	59 FR 44139
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Smith
Phone: 301 903-4669

RIN: 1901–AA44

1151. STANDARD CONTRACT FOR THE DISPOSAL OF SPENT NUCLEAR FUEL AND/OR HIGH-LEVEL RADIOACTIVE WASTE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 961

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: David Zabransky
Phone: 202 586-9198

RIN: 1901–AA49

1152. ANNOTATION OF LAND RECORDS FOR REMEDIATED PROPERTIES IN THE URANIUM MILL TAILINGS REMEDIAL ACTION PROJECT (UMTRA)

Priority: Other

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	07/14/89	54 FR 29732
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Loretta Fahy
Phone: 301 903-3895
Fax: 301 903-3877

RIN: 1901–AA57

1153. FINANCIAL ASSISTANCE PROGRAM FOR EDUCATION PURPOSES

Priority: Other Significant

CFR Citation: 10 CFR 604

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Michael Wolfe
Phone: 202 586-5462
Fax: 202 586-0019
Email: MICHAEL.WOLFE@HQ.DOE.GOV

RIN: 1901–AA61

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Completed Actions

1154. REVIEW OF ADMINISTRATIVE PROCEDURES WITH RESPECT TO IMPORTS AND EXPORTS OF NATURAL GAS

Priority: Routine and Frequent

Legal Authority: 15 USC 717b

CFR Citation: 10 CFR 590

Legal Deadline: None

Abstract: To review the administrative procedure regulations contained in 10 CFR part 590 in order to determine any amendments needed to the regulations in light of the amendment to the Natural Gas Act of 1938 made by section 201 of the Energy Policy Act of 1992. Section 201 deemed in the public interest, and required DOE to grant, most natural gas import and export applications for which DOE previously had made a public interest determination.

Timetable:

Action	Date	FR Cite
Withdrawn	08/23/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Clifford P. Tomaszewski, Director, Office of Natural Gas (FE-50), Office of Fossil Energy, Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9482

RIN: 1901–AA25

1155. NUCLEAR SAFETY MANAGEMENT: PHASE II

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 830

Legal Deadline: None

Abstract: This action would make additions to DOE's requirements concerning DOE contractor and subcontractor activities for ensuring nuclear safety at DOE facilities. These additional rulemaking requirements include nuclear facility design criteria, natural phenomenon hazards, fire protection, and criticality safety.

DOE—ENDEP

Completed Actions

Timetable:

Action	Date	FR Cite
Merged with RIN 1901–AA34	09/06/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Black, Director, Office of Nuclear Safety Policy and Standards (EH-31), Office of Environment, Department of Energy, Washington, DC. 20585
Phone: 301 903-3465

RIN: 1901–AA42

1156. ENERGY PLANNING AND MANAGEMENT PROGRAM

Priority: Other Significant

Legal Authority: PL 102-486, sec 114 Energy Policy Act of 1992

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, October 24, 1993.
Section 114 of PL 102-486 requires final regulations to be adopted by 10/24/93.

Abstract: Section 114 of PL 102-486 requires the Administrator of Western Area Power Administration (Western) to revise existing guidelines. New regulations, to be in place by 10/24/93, require each customer purchasing energy under a long-term firm power service contract with Western to implement integrated resource planning (IRP) by 10/24/95. Western's proposed rule does not consider alternatives to IRP, due to statutory mandate, although alternatives are being evaluated in the draft EIS. As part of the same rulemaking, where permitted by law, Western proposes to extend a major portion of long-term firm power sold to existing customers pursuant to contracts expiring over the next several years. Extensions of resource commitments will provide long-term resource stability necessary for effective IRP. Western is evaluating alternative lengths of contract extensions and amounts of resource commitments in the draft EIS, as well as a no-action alternative of using existing marketing criteria allocation processes for contract and resource extensions. Costs of compliance with these rules may be considerable, but utilities that have developed IRP have found the resulting benefits outweigh the expense.

Timetable:

Action	Date	FR Cite
NPRM	11/10/94	59 FR 40543
Final Action	10/20/95	60 FR 54151

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $270,000; Yearly Recurring Cost: $50,000; Base Year for Dollar Estimates: 1993

Sectors Affected: 491 Electric Services

Analysis: Draft EIS 03/31/94 (59 FR 15198)

Agency Contact: Robert C. Fullerton, Director, Division of Marketing & Rates, Western Area Power Administration, Department of Energy, 1627 Cole Boulevard, P.O. Box 3402, Golden, CO 80401-3398
Phone: 303 275-1610

RIN: 1901–AA50

1157. PRIVACY ACT—EXEMPTION OF CERTAIN COUNTERINTELLIGENCE SYSTEMS OF RECORDS

Priority: Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: This action would amend the Department's Privacy Act regulations, 10 CFR Part 1008, by adding two systems or records to the list of systems exempted from certain provisions of the Act. The two systems are Counterintelligence Administrative and Analytical Records and Reports (DOE-81) and Counterintelligence Investigative Records (DOE-84). These exemptions are needed to enable the Office of Counterintelligence to perform its administrative, analytical, and investigatory duties and responsibilities. These duties and responsibilities are carried out pursuant to Executive Order 12333, "Department of Energy Procedures for Intelligence Activities," and DOE Order 5670.3, "Counterintelligence Program."

Timetable:

Action	Date	FR Cite
NPRM	09/08/94	59 FR 46522
Final Action	07/12/95	60 FR 35835

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: GayLa D. Sessoms, Director, FOIA/Privacy Act Division, Office of the Executive Secretariat, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955

RIN: 1901–AA60

1158. WASTE MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2011 to 2297g-4

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This rule will describe the requirements for managing the different waste types resulting from DOE operations and activities and for performing related waste management functions of characterization, packaging and transportation, treatment, storage and disposal. Specific waste types covered are high-level waste, transuranic waste, low-level waste, mill tailings, mixed waste, hazardous waste, and sanitary waste.

Timetable:

Action	Date	FR Cite
Withdrawn	09/06/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule will not apply to DOE management of commercially generated spent nuclear fuel (except where such fuel is owned or in possession of DOE for R&D and other special purposes) or to geologic disposal of spent nuclear fuel or high-level waste.

Also, this rule does not apply to waste disposed in situ, or to media excavated, treated, and disposed of in the location from which it was removed. Facilities or activities licensed by the Nuclear Regulatory Commission are not covered by this rule.

Agency Contact: Michael Kleinrock, Director, Office of Environmental Activities, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-0338

RIN: 1901–AA65

DEPARTMENT OF ENERGY (DOE)
Office of Procurement and Assistance Management (PR)

Proposed Rule Stage

1159. DEPARTMENT OF ENERGY PROPERTY MANAGEMENT REGULATIONS; MISCELLANEOUS PERSONAL PROPERTY

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254

CFR Citation: 41 CFR 109

Legal Deadline: None

Abstract: Updates the Property Management Regulations regarding management of the Department's personal property. DOE Property Management Regulations will be updated to incorporate recently developed policy in the areas of High Risk personal property, math and science equipment gifts program and the transfer of personal property identified for economic development near DOE sites that are being reconfigured or closed. Revision also includes coverage on contractor self-assessment program, and expanded duties of the Organizational Property Management Officers. Many of these changes are a result of Contract Reform, streamlining and reinvention initiatives.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julia Harman, Supply Management Representative, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-1435
Fax: 202 586-9356

RIN: 1991–AA28

1160. DEAR: FINANCIAL MANAGEMENT CLAUSES

Priority: Other

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This rule revises selected financial management clauses and clarifies language in existing clauses. It will strengthen M&O contractor financial management and make the regulation easier to understand.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael L. Righi, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8175

RIN: 1991–AB02

1161. • DEBARMENT AND SUSPENSION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254; 40 USC 486

CFR Citation: 48 CFR 909.4

Legal Deadline: None

Abstract: This rule removes the current regulation at 10 CFR 1035 and recodifies the regulation at 48 CFR Part 909 to revise and streamline procedures for debarment and suspension of DOE procurement contracts. The rule also amends 10 CFR 1036 which governs DOE nonprocurement and grants program to provide consistency between DOE and E.O. 12689 regarding a contractor or awardee debarred or suspended by one Federal agency shall also be debarred or suspended from contracting with or receiving awards from all other agencies.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Cynthia Yee, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1140

RIN: 1991–AB24

1162. • DEAR: REGULATORY REINVENTION-PHASE III

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254; 40 USC 4861(c)

CFR Citation: 48 CFR 901 to 971

Legal Deadline: None

Abstract: This action represents the third phase of DOE's effort to reinvent existing regulatory material. It will eliminate unnecessary material; streamline operations; reduce constraints, prescriptive requirements and administrative processes; and make requirements outcome rather than process oriented.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kevin Smith, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8189
Fax: 202 586-0545

RIN: 1991–AB25

DOE—PR

Proposed Rule Stage

1163. • REVISIONS TO ORGANIZATIONAL CONFLICTS OF INTEREST

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 909; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: The Department is proposing to amend its regulation to conform the DOE's Organizational Conflicts of Interest (OCI) policy to the extent practical to the Governmentwide requirements of the FAR and OEPP policy letter 89-1.

Public Laws 93-577 and 93-275 establish unique requirements regarding the Department's OCI practices preventing DOE from simply following the FAR.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert Webb, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264
Fax: 202 586-0545

RIN: 1991–AB26

1164. • FEDERAL ACQUISITION STREAMLINING ACT IMPLEMENTATION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355; 42 USC 7254; 40 USC 486(a)

CFR Citation: 48 CFR 901 to 971

Legal Deadline: None

Abstract: This action will amend the Department of Energy Acquisition Regulation to conform with the FAR changes which resulted from the Federal Acquisition Streamlining Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
Final Action	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert Webb, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585.
Phone: 202 586-8264
Fax: 202 586-0545

RIN: 1991–AB27

1165. • CONTRACT REFORM

Regulatory Plan: This entry is Seq. No. 25 in Part II of this issue of the **Federal Register**.

RIN: 1991–AB28

DEPARTMENT OF ENERGY (DOE)
Office of Procurement and Assistance Management (PR)

Final Rule Stage

1166. TECHNOLOGY TRANSFER: DOE MANAGEMENT AND OPERATING CONTRACTORS

Priority: Other

Legal Authority: PL 101-189, sec 3133; 42 USC 7256(a); PL 103-160, sec 3160

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: Public Law 101-189 amended the Stevenson-Wydler Technology Innovation Act to include DOE management and operating laboratories. Subsequently, PL 103-160 expanded the definition of a laboratory to include DOE Weapon Production Facilities. DOE will need to amend DEAR 970 to standardize the implementation of its technology transfer program.

Timetable:

Action	Date	FR Cite
NPRM	05/22/95	60 FR 27069
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Howard K. Mitchell, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-8190

RIN: 1991–AA63

1167. AMENDMENT TO WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES

Priority: Other Significant

Legal Authority: 42 USC 2012 et seq, Atomic Energy Act of 1954

CFR Citation: 10 CFR 707

Legal Deadline: None

Abstract: This action will amend the Department's rule governing the use of illegal drugs at DOE sites to ensure that substance abuse programs include provisions that also address misuse and abuse of alcohol. DOE expects to mitigate the potential for harm to the environment and to the public health and safety at DOE sites by contractor employees and other individuals performing health or safety sensitive functions. Cost incurred will affect primarily cost reimbursement type

DOE—PR — **Final Rule Stage**

contracts for managing, operating, constructing, and servicing DOE facilities and certain other on-site contractors and subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	07/22/92	57 FR 32664
NPRM Comment Period End	09/21/92	57 FR 32664
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Juanita E. Smith, Special Assistant, Substance Abuse, HR-524, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9033

RIN: 1991–AA90

1168. LEGISLATIVE LOBBYING COST PROHIBITION

Priority: Other

Legal Authority: 42 USC 7256A

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: The existing Department of Energy Acquisition Regulation will be amended to preclude any misunderstandings between the Department and its contractors regarding the allowability of costs related to legislative lobbying.

Timetable:

Action	Date	FR Cite
NPRM	10/18/94	59 FR 52505
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michel L. Righi, Procurement Analyst (HR-521.1), Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-8175

RIN: 1991–AB08

1169. COMPETITION FOR MANAGEMENT AND OPERATING CONTRACTS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: Revise policy to place greater emphasis on competition for management and operating contracts. This action is part of the Department's Contract Reform initiative.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Connie Fournier, Procurement Analyst (HR-51), Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave SW., Washington, DC 20585
Phone: 202 586-8245
Fax: 202 586-0545

RIN: 1991–AB09

1170. LIMITS ON PARTICIPATION IN CERTAIN DOE RESEARCH AND DEVELOPMENT PROGRAMS

Priority: Other Significant

Legal Authority: 42 USC 13525 Energy Policy Act of 1992, sec 2306

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: To develop guidelines to implement section 2306 of the Energy Policy Act of 1992. Section 2306 imposes eligibility requirements for financial assistance awards under titles XX through XXIII of the Act.

Timetable:

Action	Date	FR Cite
NPRM	02/23/95	60 FR 10296
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert C. Marlay, Director, Office of Science Policy, (PO-81), Department of Energy, Departmental and Others, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-3900

RIN: 1991–AB14

1171. FINANCIAL ASSISTANCE RULES STREAMLINING AND SIMPLIFYING PROCEDURES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 7254; 42 USC 7256

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: This rulemaking will modify the provisions in 10 CFR 600, subparts A and C, to streamline and simplify DOE internal procedures. This action is responsive to Executive Order 12861, "Elimination of One-Half of Executive Branch Internal Regulations."

Timetable:

Action	Date	FR Cite
NPRM	08/08/95	60 FR 40323
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cheryln Seckinger, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8192

RIN: 1991–AB23

DEPARTMENT OF ENERGY (DOE)
Office of Procurement and Assistance Management (PR) — **Long-Term Actions**

1172. DEAR: SECURITY PROCEDURES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 904; 48 CFR 952

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Robert Webb
Phone: 202 586-8247

RIN: 1991–AA86

1173. DEAR: AMENDMENT TO WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES

Priority: Other

CFR Citation: 48 CFR 923.5; 48 CFR 970.2305

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard Langston
Phone: 202 586-8247

RIN: 1991–AA97

1174. DEAR: REVIEW OF M&O CONTRACTOR PURCHASING SYSTEMS

Priority: Other

CFR Citation: 48 CFR 944; 48 CFR 970

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: P. Devers Weaver
Phone: 202 586-8250

RIN: 1991–AB07

1175. • SMALL BUSINESS SUBCONTRACTING PROGRAM

Priority: Other

Legal Authority: 42 USC 7254; 40 USC 486(c); PL 102-486

CFR Citation: 48 CFR 919; 48 CFR 970

Legal Deadline: None

Abstract: This rule would amend the Department's regulations regarding requirements associated with subcontracting plans and goals.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Gwendolyn Cowan, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8159

RIN: 1991–AB17

DEPARTMENT OF ENERGY (DOE)
Office of Procurement and Assistance Management (PR) — **Completed Actions**

1176. DEBARMENT AND SUSPENSION (COMMON RULE)

Priority: Other Significant

Legal Authority: EO 12689

CFR Citation: 10 CFR 1035; 10 CFR 1036

Legal Deadline: None

Abstract: This conforms procurement debarment procedures and nonprocurement debarment procedures to have reciprocal Governmentwide effect.

Timetable:

Action	Date	FR Cite
NPRM	12/20/94	59 FR 65607
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/26/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Cynthia Yee, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1140

RIN: 1991–AA69

1177. ACQUISITION OF FEDERAL INFORMATION RESOURCES BY CONTRACT

Priority: Other

Legal Authority: 40 USC 486(c); 42 USC 7101

CFR Citation: 48 CFR 939; 48 CFR 970.39

Legal Deadline: None

Abstract: Provides procedures governing acquisition of Federal information processing resources by contract.

Timetable:

Action	Date	FR Cite
NPRM	12/02/93	58 FR 63556
NPRM Comment Period End	01/31/94	
Final Action	08/04/94	60 FR 39871
Final Action Effective	09/04/94	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no

paperwork burden associated with this action.

Agency Contact: P. Devers Weaver, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-8250

RIN: 1991–AA81

1178. DEAR: RECOVERED/RECYCLED MATERIALS

Priority: Other

Legal Authority: 42 USC 7254; 42 USC 486(c); 42 USC 6962

CFR Citation: 48 CFR 923; 48 CFR 970

Legal Deadline: None

Abstract: This action is required by section 6002 of the Resource Conservation and Recovery Act, Executive Order 12873 entitled "Federal Acquisition, Recycling, and Waste Prevention," and other authority. This action would amend the Department of Energy Acquisition Regulation to provide for the use of recovered/recycled materials by DOE management and operating contractors.

Timetable:

Action	Date	FR Cite
NPRM	01/11/95	60 FR 2727
Final Action	09/13/95	60 FR 47491
Final Action Effective	10/13/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: P. Devers Weaver, Procurement Policy Division, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-8250

RIN: 1991–AB05

1179. PROCUREMENT SET-ASIDES FOR SMALL BUSINESS AND OTHERS

Priority: Other Significant

Legal Authority: PL 102-486, sec 3021 The Energy Policy Act of 1992

CFR Citation: 48 CFR 926; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: Section 3021 of the Energy Policy Act of 1992 requires agency heads to provide for set aside award preferences for (1) small and disadvantaged businesses, (2) historically black colleges and universities, and (3) colleges and universities with 20 percent or more Hispanic or Native American students.

Timetable:

Action	Date	FR Cite
NPRM	07/11/94	59 FR 35294
Final Action	05/05/95	60 FR 22298

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert M. Webb, Procurement Analyst (HR-521.1), Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave SW., Washington, DC 20585
Phone: 202 586-8264
Fax: 202 586-0545

RIN: 1991–AB11

1180. INDEPENDENT RESEARCH AND DEVELOPMENT/BID AND PROPOSAL COSTS AND TRAVEL COST GUIDELINES

Priority: Other

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 915; 48 CFR 931; 48 CFR 942; 48 CFR 951; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: The action would make amendments to the Department of Energy Acquisition Regulation to provide guidance to contractors regarding the allowability of independent research and development/bid and proposal and travel costs. It results from the recodification of cost accounting standards into Title 48 of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/31/94	59 FR 54421
Final Action	06/07/95	60 FR 30002

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Terrence D. Sheppard, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-8174

RIN: 1991–AB12

1181. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS WITH EDUCATIONAL INSTITUTIONS, HOSPITALS, AND OTHER NONPROFIT INSTITUTIONS

Priority: Other Significant

Legal Authority: 42 USC 7254; 42 USC 7256

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: This rulemaking will modify the provisions in 10 CFR 600 dealing with educational institutions, hospitals and other nonprofit organizations to reflect changes made to the recently revised OMB Circular A-110.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/94	59 FR 53260
Final Action	10/21/94	59 FR 53260
Final Action Effective	12/21/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cherrie Seckinger, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-8192

RIN: 1991–AB13

1182. REVISION TO A-102 COMMON RULE TO RAISE THRESHOLD FOR SIMPLIFIED SMALL PURCHASES UNDER GRANTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 600.436

Legal Deadline: None

Abstract: Proposed amendment to the common grant rules for State and local Governments, to increase the small purchase threshold under grants to $100,000.

Timetable:

Action	Date	FR Cite
NPRM	10/25/94	59 FR 53706
Final Action	03/24/95	60 FR 19638

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Cherlyn Seckinger, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8192

RIN: 1991–AB15

1183. DEAR: REGULATORY REDUCTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 901 to 971

Legal Deadline: None

Abstract: The Department of Energy Acquisition Regulation is being reduced pursuant to requirements of Executive Order 12861, Elimination of One-Half of Executive Branch Internal Regulations. The DEAR provisions proposed for deletion include material that is for informational purposes only and nonregulatory in nature; recommended internal guidance; regulations that constrain the Department's procuring activities; internal nonregulatory procedures; coverage that is more restrictive than the Federal Acquisition Regulations (FAR); and coverage that is repetitive of the FAR or other regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/08/95	60 FR 30258
Final Action	09/02/95	60 FR 47304

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kevin M. Smith, Procurement Analyst (HR-521), Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8189

RIN: 1991–AB18

1184. CERTIFIED COST OR PRICING THRESHOLD AND DETERMINATION AND FINDINGS FOR USE OF COST-REIMBURSEMENT CONTRACTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 915; 48 CFR 916; 48 CFR 970

Legal Deadline: None

Abstract: To conform regulations with Federal Acquisition Act, DOE is raising the threshold for certification of cost or pricing data from $100,000 to $500,000 and deleting the requirement for a determination and findings when a cost reimbursement contract is contemplated.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/10/95	60 FR 18030
Final Action	10/10/95	60 FR 52632

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Terry Sheppard, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8174

RIN: 1991–AB19

1185. ACQUISITION REGULATION: DEPARTMENT OF ENERGY MANAGEMENT AND OPERATING CONTRACTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 7254

CFR Citation: 48 CFR 970.71

Legal Deadline: None

Abstract: This action amends the Department of Energy (DOE) Acquisition Regulation provisions applicable to subcontracting by management and operating (M&O) contractors. The rule provides for greater reliance on commercial-like subcontracting objectives, expectations, and standards; eliminates the so-called "Federal norm" that, in effect, required DOE's M&Os to follow certain Federal-oriented prescribed procedures in their award of subcontracts; and eliminates the reference concerning General Accounting Office protest jurisdiction over such subcontract awards.

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11646
Final Action	09/26/95	60 FR 49512
Final Action Effective	10/26/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: James Cavanagh (HR 525.1), Supervisory Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management
Phone: 202 586-8257

RIN: 1991–AB20

1186. FEE POLICY FOR NONPROFIT ORGANIZATIONS

Priority: Other

Legal Authority: 42 USC 2201

CFR Citation: 48 CFR 915; 48 CFR 970

Legal Deadline: None

DOE—PR

Completed Actions

Abstract: Revise current fee policy that applies to nonprofit organizations to reflect the added risks those institutions will bear when the Department's Contract Reform Initiative is implemented.

A schedule for this action currently is being developed as part of the implementation of the Department's Contract Reform Initiative.

Timetable:

Action	Date	FR Cite
Merged With RIN 1991-AB28	08/16/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael Righi, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8175

RIN: 1991–AB21

1187. DEAR: FINES AND PENALTIES, GOVERNMENT PROPERTY AND THIRD PARTY LIABILITY

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 7254; 42 USC 420; 42 USC 7256a

CFR Citation: 48 CFR 950; 48 CFR 970

Legal Deadline: None

Abstract: This action would revise current regulations regarding cost allowability of fines and penalties, third party liabilities, and damage or loss of Government property to reflect the Department's contract reform initiatives to increase contractor accountability. This action would also establish new provisions on preexisting conditions and whistleblower actions.

Timetable:

Action	Date	FR Cite
Merged With RIN 1991-AB28	08/16/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laura Fullerton, Attorney Advisor, Department of Energy, Office of General Counsel, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1900

RIN: 1991–AB22

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Proposed Rule Stage

1188. PATENT WAIVER REGULATION

Priority: Other

Legal Authority: 42 USC 2182; 42 USC 5908; PL 99-661

CFR Citation: 10 CFR 784

Legal Deadline: None

Abstract: The regulation provides procedures and standards for obtaining a waiver of the Government's rights in inventions made under DOE research and development contracts with entities that are not small businesses or nonprofit institutions, and terms and conditions of such waivers. Currently, DOE waiver policy is provided in DOE Procurement Regulations (41 CFR 9-9.109-6). This regulation places DOE patent waiver policy in Title 10 of the CFR and also provides updates, revisions and clarifications to waiver policy as contained in 41 CFR 9-9.109-6.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Michael P. Hoffman, Patent Attorney (GC-62), Department of Energy, Office of General Counsel, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-3441

RIN: 1990–AA02

1189. PAYMENT OF TRAVEL EXPENSES OF PERSONS WHO ARE NOT GOVERNMENT EMPLOYEES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 1060

Legal Deadline: None

Abstract: The regulation needs to be revised to reflect the delegation of authority from the Office of Personnel Management to pay travel expenses of certain job applicants in traveling to preemployment interviews required by the Department.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Beard, Acting Deputy Assistant General for Standards of Conduct, Department of Energy, Office of General Counsel, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-1522

RIN: 1990–AA15

1190. CONDUCT OF EMPLOYEES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7211 et seq; PL 103-160, sec 3161; EO 12674

CFR Citation: 10 CFR 1010; 5 CFR 2635

DOE—OGC

Proposed Rule Stage

Legal Deadline: None

Abstract: The DOE regulation on conduct of employees needs to be revised to reflect the issuance of the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR 2635) and the repeal of conflict-of-interest provisions formerly applicable to DOE employees.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Susan Beard, Acting Deputy Assistant General Counsel for Standards of Conduct, Department of Energy, Office of General Counsel, 1000 Independence Ave SW., Washington, DC 20585
Phone: 202 586-1522

RIN: 1990–AA19

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Completed Actions

1191. • REMOVAL OF OBSOLETE REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 210; 10 CFR 211; 10 CFR 212; 10 CFR 303; 10 CFR 305; 10 CFR 459; 10 CFR 465; 10 CFR 730; 10 CFR 761; 10 CFR 763; 10 CFR 790; 10 CFR 791; 10 CFR 792; 10 CFR 794

Legal Deadline: None

Abstract: In connection with the President's Regulatory Reinvention Initiative, the Department of Energy is engaged in a continuing and comprehensive review of its regulatory program. As part of that in depth review, the Department is removing from Title 10 of the CFR regulations for which statutory authority has expired or been superseded by subsequent legislation, as well as regulations governing nonfunctioning and unfunded programs.

Timetable:

Action	Date	FR Cite
Final Action	09/22/95	60 FR 49195

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Romulo L. Diaz, Jr., Director, Rulemaking Support (GC-75), Office of the General Counsel, Department of Energy, Office of General Counsel, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-2902

RIN: 1990–AA22

[FR Doc. 95-26071 Filed 11-24-95; 8:45 am]
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federal register

Tuesday
November 28, 1995

Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

21 CFR Ch. I

42 CFR Chs. I-V

45 CFR Subtitle A, Chs. II, III, and XIII

Unified Agenda of Regulations

AGENCY: Office of the Secretary, HHS.

ACTION: Publication of unified agenda of regulations.

SUMMARY: The President's September 30, 1993, Executive order (12866) and the Regulatory Flexibility Act of 1980 require the Department to publish an agenda of significant regulations being developed and an indication of those regulatory actions that are being analyzed for their effect on small businesses. The Department published its last agenda on May 8, 1995.

DATES: Data, information, and views due date: December 5, 1995, for initial suggestions and any date thereafter for additional suggestions.

ADDRESSES: Addresses for submitting comments and information in response to this document are listed at the end.

FOR FURTHER INFORMATION CONTACT: Ann White, Department of Health and Human Services, Washington, DC 20201, (202) 690-6824, or the contact person for a specific division or agency of the Department listed at the end of this notice.

SUPPLEMENTARY INFORMATION:

Department of Health and Human Services' Regulatory Plan

For this edition of the Department's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Background

On September 30, 1993, President Clinton issued Executive Order 12866 to make regulations less burdensome, more effective, and in greater alignment with the Administration's priorities and regulatory principles. As part of the Department of Health and Human Services efforts to effectively implement the Executive order, we published a notice in the **Federal Register**, January 20, 1994, providing a plan for periodic review of existing rules and inviting public comments to assist in determining the best priority for review.

The Executive order and the Administration's effort toward implementation have proven successful by providing real progress in reforming regulations. Building on those successes, in March of 1995, the President announced plans for more immediate, comprehensive reform.

First, the President directed each agency to undertake an exhaustive review of all regulations with an eye toward eliminating or modifying those that are obsolete or which are otherwise in need of reform. Second, the President directed each agency to change the way performance is measured—focusing on results, not process. Third, the President asked his senior executives to convene meetings in order to establish grassroots partnerships which would allow greater collaboration and participation in reinventing the regulatory process. Finally, the President requested that we further our efforts to negotiate more during the rulemaking process.

As a result of the initiative discussed above, this semiannual unified agenda reflects our efforts to reinvent rules identified as needing reform. As we embark on this effort, we continue to invite comments on our unified agenda entries and suggestions for furthering the President's regulatory reinvention strategy.

Comments should be sent to the addresses listed below, depending on the regulations addressed. Comments may be sent to the Office of the Secretary when the responsible division is not known or when the comment covers several regulatory areas crossing agency lines.

Health Care Financing Administration: Mary Ann Troanovitch, Executive for Regulations Management, Health Care Financing Administration, Room 309G, Hubert H. Humphrey Building, Washington, DC 20201; phone 202-690-7890.

Administration on Children and Families: Madeline Mocko, Director, Division of Policy and Legislation, 7th Floor, 370 L'Enfant Promenade SW., Washington, DC 20447; phone 202-401-9223.

Administration on Aging: Jack McCarthy, Executive Secretariat, Room 4753, Wilbur H. Cohen Building, 330 Independence Avenue SW., Washington, DC 20201; phone 202-619-0441.

Substance Abuse and Mental Health Services Administration: Joe Faha, 5600 Fishers Lane, Room 12-A-17, Rockville, Maryland 20857; phone 301-443-4640.

National Institutes of Health: Jerry Moore, 9000 Rockville Pike, Building 31, Room 3B-11, Bethesda, Maryland 20205; phone 301-496-4606.

Indian Health Services: Betty Penn, 5600 Fishers Lane, Twinbrook Building, Suite 450, Rockville, Maryland 20857; phone 301-443-1116.

Health Resource Services Administration: Alice Wallis, 5600 Fishers Lane, Room 14-A-12, Rockville, Maryland 20857; phone 301-443-1960.

Centers for Disease Control/Agency for Toxic Substances and Disease Registry: Galen Morris, 1600 Clifton Road NE., Building 1, Room 2050, Atlanta, Georgia 30333; phone 404-639-1548.

Agency for Health Care Policy and Research: Peggy Washburn, 6000 Executive Drive, Suite 603, Rockville, Maryland 20852; phone 301-594-1457.

Food and Drug Administration: Ed Dutra, Director, Regulatory Policy and Management Staff, (HF26), 5600 Fishers Lane, Room 12-A-17, Rockville, Maryland 20857; phone 301-443-3480.

Office of the Secretary: Jacquelyn Y. White, Deputy Executive Secretary, Office of the Executive Secretariat, Room 603H, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Claudia Cooley,

Executive Secretary to the Department.

HHS

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1192	Revisions to the Civil Money Penalty Provisions Relating to the Misuse of Certain Symbols and Emblems	0991-AA81

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1193	Civil Money Penalties (CMPs) for Certain Hospital Physician Incentive Plans	0991-AA45
1194	Uniform Administrative Requirements for Grants and Cooperative Agreements	0991-AA56
1195	Clarification of the Initial OIG Safe Harbor Provisions and Establishment of Additional Safe Harbor Provisions Under the Anti-Kickback Statute	0991-AA66
1196	Safe Harbors for Protecting Health Plans	0991-AA69
1197	Revisions to the PRO Sanctions Process	0991-AA73

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1198	Civil Money Penalties (CMPs) for Certain Practices Relating to Medicare Supplemental Policies	0991-AA53
1199	Civil Money Penalties for Physician Ownership of and Referral to Certain Health Care Entities	0991-AA65
1200	Civil Money Penalties for Notifying a Home Health Agency, or a Home or Community-Based Health Care Center or Provider, of a Standard Survey	0991-AA79
1201	Civil Money Penalties for False Information on Drug Manufacturer Price Surveys and Rebate Agreements	0991-AA80

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1202	Amendment to Grants Management Common Rule To Raise Threshold for Simplified Small Purchases	0991-AA77
1203	Proposed Amendments to Nonprocurement Debarment and Suspension Common Rule To Achieve Reciprocity With Procurement	0991-AA78

Substance Abuse and Mental Health Services Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1204	Protection and Advocacy for Individuals With Mental Illness	0930-AA02
1205	Block Grants for Prevention and Treatment of Substance Abuse (Tobacco Provisions) **(Reg Plan Seq. No. 26)**	0930-AA03

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Substance Abuse and Mental Health Services Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1206	Block Grants for Prevention and Treatment of Substance Abuse	0930-AA01

HHS

Substance Abuse and Mental Health Services Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1207	Confidentiality of Substance Abuse Patient Records	0930-AA00

Centers for Disease Control and Prevention—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1208	Respiratory Protective Devices	0920-AA00
1209	National Center for Health Statistics, Special Statistical Services; Grants for Health Education/Risk Reduction; Vaccines Information and Education—Repeal	0920-AA01

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1210	Implementation of the Equal Access to Justice Act in Agency Proceedings	0990-AA02

Food and Drug Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1211	Reinventing FDA Food Regulations	0910-AA58
1212	Food Standards of Identity, Quality, and Fill of Container; Common or Usual Name Regulations: Request for Comments on Existing Regulations **(Reg Plan Seq. No. 27)**	0910-AA67

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food and Drug Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1213	Over-the-Counter (OTC) Drug Review	0910-AA01
1214	Infant Formula: Good Manufacturing Practice, Quality Control Procedures, Quality Factors, Notification Requirements, and Records and Reports	0910-AA04
1215	Reporting of Errors and Accidents	0910-AA12
1216	Mammography Quality Standards Act of 1992 **(Reg Plan Seq. No. 28)**	0910-AA24
1217	Effective Date of Requirement for Submission of Premarket Approval Applications	0910-AA31
1218	Latex Condoms/Gloves: Expiration Date Labeling	0910-AA32
1219	Latex Warning	0910-AA34
1220	Premarket Approval of Medical Devices; Supplemental Applications	0910-AA35
1221	Hearing Aids; Professional and Patient Labeling; Conditions for Sale	0910-AA39
1222	Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding of Drugs; Proposed Amendment of Certain Requirements for Finished Pharmaceuticals	0910-AA45
1223	Animal Drug Amendments of 1994, Extra-Label Use; Implementation	0910-AA47
1224	Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents **(Reg Plan Seq. No. 29)**	0910-AA48
1225	Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution	0910-AA49
1226	Habit Forming Drugs	0910-AA50
1227	Bioavailability and Bioequivalence Requirements	0910-AA51
1228	Consolidation of Regulations	0910-AA53
1229	Revocation of Certain Regulations **(Reg Plan Seq. No. 30)**	0910-AA54
1230	Name of Selling Agent or Distributor	0910-AA56
1231	Streamlining Procedures for Changes in Production of Biologics **(Reg Plan Seq. No. 31)**	0910-AA57

HHS

Food and Drug Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1232	Dietary Supplement Regulations in Response to DSHEA	0910-AA59
1233	Protection of Human Subjects; Informed Consent **(Reg Plan Seq. No. 32)**	0910-AA60
1234	OTC Drug Labeling Review	0910-AA63
1235	Medical Device Exemptions From Premarket Notification **(Reg Plan Seq. No. 33)**	0910-AA65
1236	Substances Approved for Use in the Preparation of Meat and Poultry Products	0910-AA66

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food and Drug Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1237	New Animal Drug Approval Process; Implementation of Title I of the Generic Animal Drug and Patent Term Restoration Act	0910-AA02
1238	Current Good Manufacturing Practice for Blood and Blood Components; Notification of Consignees Receiving Blood and Blood Components at Increased Risk for Transmitting HIV Infection	0910-AA05
1239	Lead in Foods	0910-AA06
1240	Fees for Certification Services; Insulin and Color Additive Certification Programs	0910-AA07
1241	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications	0910-AA08
1242	Implementation of the Safe Medical Devices Act of 1990	0910-AA09
1243	Final Regulation to Establish Procedures for the Safe and Sanitary Processing and Importing of Fish and Fishery Products **(Reg Plan Seq. No. 34)**	0910-AA10
1244	Bottled Water	0910-AA11
1245	Medical Devices; Protective Restraints; Revocation of Exemptions From 510(k) Premarket Notification Procedures and Current Good Manufacturing Practices Regulations	0910-AA17
1246	Food Labeling Review	0910-AA19
1247	Disqualification of Clinical Investigators	0910-AA21
1248	Investigational Device Exemption; Intraocular Lenses	0910-AA22
1249	Dietary Supplement Label Review	0910-AA23
1250	Specific Requirements on Content and Format of Labeling for Human Prescription Drugs; Addition of "Geriatric Use" Subsection in the Labeling	0910-AA25
1251	Tamper-Evident Packaging Requirements for Over-the-Counter Human Drug Products	0910-AA26
1252	Certification of Drugs Composed Wholly or Partly of Insulin; Fees for Certification of Drugs Composed Wholly or Partly of Insulin	0910-AA27
1253	Electronic Signatures; Electronic Records	0910-AA29
1254	Financial Disclosure by Clinical Investigators	0910-AA30
1255	Prescription Drug Product Labeling; Medication Guide **(Reg Plan Seq. No. 35)**	0910-AA37
1256	Human Tissue Intended for Transplantation: Proposed Rule	0910-AA40
1257	Iron Containing Drugs and Supplements	0910-AA42
1258	Public Information; Communications With State and Foreign Government Officials	0910-AA46

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food and Drug Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1259	Policies Concerning Uses of Sulfiting Agents	0910-AA03
1260	Review of Warnings, Use Instructions, and Precautionary Information Under Section 314 of the National Childhood Vaccine Injury Act of 1986	0910-AA14
1261	General Biological Product Standards; Alternative Procedures and Exceptions	0910-AA16
1262	Medical Foods	0910-AA20
1263	Adverse Experience Reporting Requirements for Human Drug and Licensed Biological Products	0910-AA28
1264	Amalgam Ingredient Labeling	0910-AA33
1265	Classification of Computer Software Programs That Are Medical Devices	0910-AA41
1266	Development of Hazard Analysis Critical Control Points for the Food Industry; Request for Comments	0910-AA43
1267	Drugs Used for Treatment of Narcotic Addicts	0910-AA52

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Food and Drug Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1268	Export Requirements for Drugs for Investigational Use in Other Countries	0910-AA61
1269	Export Requirements for Medical Devices	0910-AA62

Food and Drug Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1270	Proposed Labeling for Drug Products Based on False or Fraudulent Data	0910-AA13
1271	Recordkeeping and Reporting: Electronic Products	0910-AA15
1272	Threshold of Regulation Policy for Components of Food Contact Articles	0910-AA18
1273	Medical Devices; Restricted Devices	0910-AA36
1274	Substances Prohibited for Use in Ruminant Feed	0910-AA38
1275	New Drug and Biological Product License Applications; Revisions to Existing Regulations	0910-AA44

Health Resources and Services Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1276	National Vaccine Injury Compensation Program: Revisions and Additions to the Vaccine Injury Table - II	0906-AA36

Health Resources and Services Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1277	Organ Procurement and Transplantation Network Rules **(Reg Plan Seq. No. 38)**	0906-AA32
1278	Technical Amendments to the Health Professions, Nursing, and Allied Health Training Grant Programs Under 42 CFR Parts 57 and 58	0906-AA38
1279	Removal of Obsolete Regulations of the Title VII Grant for the Construction of Teaching Facilities for Health Professions Personnel	0906-AA39

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Health Resources and Services Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1280	Health Education Assistance Loan (HEAL) Program: Lenders'/ Holders' Performance Standards	0906-AA33

Health Resources and Services Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1281	Grants for the Establishment of Departments of Family Medicine	0906-AA34
1282	Federally Supported Health Centers Assistance Act of 1992	0906-AA35
1283	National Practitioner Data Bank for Adverse Information on Physicians, Dentists, and Other Health Care Practitioners: Payment of Fees	0906-AA37

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National Institutes of Health—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1284	National Institutes of Health AIDS Research Loan Repayment Program	0925-AA02
1285	National Institutes of Health Clinical Research Loan Repayment Program for Individuals From Disadvantaged Backgrounds	0925-AA09
1286	Undergraduate Scholarship Program Regarding Professions Needed by the NIH	0925-AA10
1287	Traineeships (Termination Policies)	0925-AA11
1288	Additional DHHS Protection for Pregnant Women and Human Fetuses Involved as Subjects for Research, and Pertaining to Human In Vitro Fertilization	0925-AA14

National Institutes of Health—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1289	Grants for Research Projects	0925-AA01
1290	Hazardous Substances Basic Research and Training Grants	0925-AA03
1291	National Institutes of Health Construction Grants	0925-AA04
1292	Training Grants	0925-AA05
1293	National Institutes of Health Center Grants	0925-AA06
1294	Grants for National Alcohol Research Centers	0925-AA08

National Institutes of Health—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1295	Responsibilities of Public Health Service-Funded Institutions for Promoting Objectivity in Research	0925-AA07

Office of Assistant Secretary for Health—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1296	Standards of Compliance for Abortion-Related Services in Family Planning Service Projects	0937-AA00

Health Care Financing Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1297	Ambulance Services (BPD-813-P)	0938-AH13
1298	Changes in Coverage and Payment Policies for Physician Assistant Services (BPD-829-P)	0938-AH26

Health Care Financing Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1299	New Minimum Standards for Medicare Supplemental (Medigap) Policies (BPD-491-P)	0938-AD82
1300	"Without Fault" and Beneficiary Waiver of Recovery as It Applies to Medicare Overpayment Liability (BPD-719-P)	0938-AD95
1301	Protection of Income and Resources for Community Spouses of Institutionalized Individuals (MB-023-P)	0938-AE12
1302	Coverage of Physician Assistant, Nurse Practitioner, and Clinical Nurse Specialist Services (BPD-708-P)	0938-AF00
1303	Alternative Sanctions for Psychiatric Hospitals (HSQ-191-P)	0938-AF32
1304	Medicaid Payment for Covered Outpatient Drugs Under Rebate Agreements (MB-046-F)	0938-AF42
1305	Federally Qualified Health Center Services (Medicaid) (MB-043-P)	0938-AF90

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Health Care Financing Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1306	Revisions to Rules on Health Care Prepayment Plans (OMC-016-P)	0938-AF97
1307	Conditions of Participation for Rural Health Clinics (BPD-764-P)	0938-AG05
1308	Medicare Appeals of Individual Claims (BPD-453-P)	0938-AG18
1309	Appointment of Representatives for Medicare Appeals (BPO-120-P)	0938-AG30
1310	Enforcement Requirements for Renal Dialysis Facilities (HSQ-204-P)	0938-AG31
1311	Disclosure of Confidential PRO Information for Research Purposes (HSQ-208-P)	0938-AG33
1312	Effect of Change of Ownership on Provider and Supplier Penalties, Sanctions, and Overpayments (HSQ-215-P)	0938-AG59
1313	Medicare Program: Limitations on Medicare Coverage of Cataract Surgery (BPD-797-PN)	0938-AG65
1314	New Payment Methodology for Routine Extended Care Services Provider in a Swing Bed Hospital (BPD-805-P)	0938-AG68
1315	Salary Equivalency Guidelines for Physical Therapy, Respiratory Therapy, Speech Pathology, and Occupational Therapy (BPD-808-PN)	0938-AG70
1316	Medicaid: Optional Coverage of TB-Related Services for Individuals Infected with Tuberculosis (MB-082-P)	0938-AG72
1317	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships—Expanded to Designated Health Services (BPD-809-P)	0938-AG80
1318	Home Health Agency (HHA) Conditions of Participation (BPD-819-P) **(Reg Plan Seq. No. 38)**	0938-AG81
1319	End-Stage Renal Disease (ESRD) Conditions of Coverage (BPD-818-P) **(Reg Plan Seq. No. 39)**	0938-AG82
1320	Distinct Part Requirements for Nursing Homes and Prohibition of Financial Screening of Applicants for Nursing Home Admission (BPD-815-P)	0938-AG84
1321	Medicaid: Nominal Copayments for Institutional Services for Medicaid Recipients (MB-090-P)	0938-AG90
1322	Wage Index Used To Adjust Payment Rates for Hospice Services Under the Medicare Program (BPD-820-P)	0938-AG93
1323	Categorization and Certification Requirements for a New Subcategory of Moderate Complexity Testing (HSQ-222-P) **(Reg Plan Seq. No. 40)**	0938-AG98
1324	CLIA Program: Categorization of Waived Tests (HSQ-225-P) **(Reg Plan Seq. No. 41)**	0938-AG99
1325	Medicaid Coverage of Personal Care Services (MB-071-P)	0938-AH00
1326	Liability for Third Parties to Pay for Care and Services (MB-080-P)	0938-AH01
1327	Medicare Program: Coverage of Certified Nurse-Midwife Services (BPD-496-P)	0938-AH02
1328	Medicare Program: Uniform Electronic Cost Reporting for Skilled Nursing Facilities and Home Health Agencies (BPD-788-P)	0938-AH12
1329	Adjustment in Payment Amounts for New Technology Intraocular Lenses (BPD-831-P)	0938-AH15
1330	Schedule of Limits for Skilled Nursing Facility Inpatient Routine Service Costs (BPD-837-NC)	0938-AH18
1331	Additional Supplier Standards (BPD-838-P)	0938-AH19
1332	Delegation of Civil Money Penalties (BPO-135-FC)	0938-AH22
1333	State Plan Amendment (SPA) Reconsideration Process (MB-096-P)	0938-AH24
1334	Evidence of Lawful Permanent Residence (MB-097-P)	0938-AH25
1335	Hospice Care - Conditions of Participation (BPD-844-P)	0938-AH27
1336	Limitations on Payment for Home Oxygen Therapy Based on Inherent Reasonableness Criteria (BPD-845-PN)	0938-AH28
1337	Medicaid: Limitations on Aggregate Payments to Disproportionate Share Hospitals; Federal Fiscal Year 1997 (MB-098-N)	0938-AH30
1338	Medicaid Eligibility Quality Control, Staffing and Training, and Utilization Control: Removal of Obsolete and Restrictive Requirements (MB-099-P)	0938-AH31
1339	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 1997 Rates (BPD-847-P) **(Reg Plan Seq. No. 42)**	0938-AH34

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Health Care Financing Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1340	Deduction of Incurred Medical Expenses (Spenddown) (MB-020-F)	0938-AB07
1341	Payment for Clinical Diagnostic Laboratory Tests (BPD-309-F)	0938-AB50
1342	Effective Dates for Provider Agreements and Supplier Approvals (HSQ-139-F)	0938-AC88
1343	Changes Concerning Suspension of Medicare Payments and Determinations of Allowable Interest Expense (BPO-118-FC)	0938-AC99
1344	Prohibition on Unbundling of Hospital Outpatient Services (BPD-426-F)	0938-AD33
1345	Changes to Peer Review Organization Regulations (HSQ-135-F)	0938-AD38
1346	Revisions to the Freedom of Information Regulations (OPA-001-F)	0938-AD60
1347	Omnibus Nursing Home Reform Requirements (BPD-488-F)	0938-AD81

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Health Care Financing Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1348	HMO Organizational Structure and Services (OMC-007-F)	0938-AE25
1349	Hospital Standard for HIV Infectious Blood and Blood Products (BPD-633-F)	0938-AE40
1350	Medicare, Medicaid, and CLIA Programs: Regulations Implementing the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88) (HSQ-226-F) **(Reg Plan Seq. No. 43)**	0938-AE47
1351	Conditions of Coverage for Organ Procurement Organizations (BPD-646-F)	0938-AE48
1352	Resident Assessment in Long-Term Care Facilities (HSQ-180-F)	0938-AE61
1353	Post-Contract Beneficiary Protections and Other Provisions (OMC-003-F)	0938-AE63
1354	Employer Contributions to HMOs (OMC-004-F)	0938-AE64
1355	Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services (MB-28-F)	0938-AE72
1356	Payment for Nursing and Allied Health Science Education (BPD-685-F)	0938-AE79
1357	Coverage of Screening Pap Smears (BPD-705-F)	0938-AE98
1358	Medicare Coverage of Clinical Psychologist, Other Psychologist, and Clinical Social Worker Services—Medicare (BPD-706-F)	0938-AE99
1359	Case Management (MB-27-F)	0938-AF07
1360	Payment for Federally Qualified Health Center (FQHC) Services (BPD-728-F)	0938-AF14
1361	Partial Hospitalization Services in Community Mental Health Centers (BPD-736-IFC)	0938-AF53
1362	Medicaid: Outstationed Intake Locations for Certain Low-Income Pregnant Women, Infants and Children Under Age 19 (MB-052-F)	0938-AF69
1363	Medicare and Medicaid Programs: Requirements for Physician Incentive Plans in Prepaid Health Care Organizations (OMC-010-FC)	0938-AF74
1364	Part B Advance Payments to Physicians/Suppliers or Other Entities Furnishing Items or Services Under Medicare Part B (BPO-105-F)	0938-AF85
1365	Retroactive Enrollment and Disenrollment in Risk Health Maintenance Organizations and Competitive Medical Plans (OMC-015-F)	0938-AF98
1366	Payment for Preadmission Services (BPD-731-F)	0938-AG00
1367	Change in Provider Agreement Regulations Related to Federal Employee Health Benefits (BPD-748-F)	0938-AG03
1368	Intermediary and Carrier Functions (BPO-111-F)	0938-AG06
1369	Revised Medicaid Management Information Systems (MB-38-FN)	0938-AG10
1370	End-Stage Renal Disease (ESRD) Payment Exception Requests and Organ Procurement Costs (BPD-763-F)	0938-AG20
1371	Medicare Program: Limitations on Medicare Coverage of Intermittent Positive Pressure Breathing Machine Therapy (BPD-781-FN)	0938-AG44
1372	Telephone and Electronic Requests for Review of Part B Initial Claim Determinations (BPO-121-P)	0938-AG48
1373	Schedule of Limits on Home Health Agency Costs Per Visit (BPD-793-N)	0938-AG54
1374	Medicaid Program: Nurse-Midwife Services (MB-085-F)	0938-AG73
1375	Medicaid Program: Fees for Vaccine Administration Under Pediatric Immunization Program (MB-084-FN)	0938-AG77
1376	Revision of Medicare Hospital Conditions of Participation (BPD-745-P) **(Reg Plan Seq. No. 44)**	0938-AG79
1377	Medicare Program: Changes to the Inpatient Hospital Prospective Payment Systems and Fiscal Year 1996 Rates (BPD-825-FC)	0938-AG95
1378	Medicare Program: Revisions to Payment Policies and Adjustments to the Relative Value Units (RVUs) Under the Physician Fee Schedule for Calendar Year 1996 (BPD-827-FC) **(Reg Plan Seq. No. 45)**	0938-AG96
1379	Medicare Program: Physician Fee Schedule Update for Calendar Year 1996 & Physician Volume Performance Standard Rates of Increase for Federal Fiscal Year 1996 (BPD-828-FN)	0938-AH03
1380	Part A Premium for 1996 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement (OACT-051-N)	0938-AH06
1381	Medicare Program: Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rates Beginning January 1, 1996 (OACT-050-N)	0938-AH07
1382	Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1996 (OACT-049-N)	0938-AH08
1383	Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1995 (Medicaid Program) (MB-094-N)	0938-AH09
1384	Reporting of Interest From Zero Coupon Bonds (BPD-647-F)	0938-AH11
1385	Update of the Reasonable Compensation Equivalent Limits for Services Furnished by Physicians (BPD-816-N)	0938-AH14
1386	Criteria and Procedures for Extending Coverage to Certain Devices and Related Services (BPD-841-FC) **(Reg Plan Seq. No. 46)**	0938-AH21
1387	CLIA Program; Granting and Withdrawal of Authority to Private Nonprofit Accreditation Organizations and of CLIA Exemption Under State Laboratory Programs; Technical Corrections	0938-AH32
1388	Medicare Program; Special Enrollment Periods and Waiting Periods (BPD-752-FC)	0938-AH33

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

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Health Care Financing Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1389	Participation in CHAMPUS and CHAMPVA, Hospital Admissions for Veterans, Discharge Rights Notice, and Hospital Responsibility for Emergency Care (BPD-393-F)	0938-AC58
1390	Criteria and Procedures for Making Medical Services Coverage Decisions That Relate to Health Care Technology (BPD-432-F)	0938-AD07
1391	Medicare Coverage of Outpatient Occupational Therapy Services (BPD-425-P)	0938-AD32
1392	Medicare Secondary Payer for Disabled Individuals (BPD-482-FC)	0938-AD73
1393	Fee Schedule for Payment of Clinical Psychologist Services (BPD-495-P)	0938-AD84
1394	Survey Requirements and Alternative Sanctions for Home Health Agencies (HSQ-169-F)	0938-AE39
1395	Fire Safety Standards for Hospitals, Long-Term Care Facilities, and Intermediate Care Facilities for the Mentally Retarded (BPD-650-FC)	0938-AE97
1396	Changes to the Long-Term Care Facility Survey Process (HSQ-175-FC)	0938-AF02
1397	OBRA '90 and Miscellaneous Managed Care Technical Amendments (OMC-018-FC)	0938-AF15
1398	Presumptive Limits on Payments to HMOs, CMPs, and HCPPs (OMC-006-F)	0938-AF16
1399	Provider Reimbursement Determinations and Appeals Revisions (BPD-727-P)	0938-AF28
1400	Referral to Child Support Enforcement Agencies of Medicaid Families (MB-051-F)	0938-AF68
1401	Assessing Interest Against Medicare Secondary Payer (MSP) Debts (BPO-108-P)	0938-AF87
1402	General Criteria and Standards for Evaluating Performance of Contract Obligations (HSQ-207-NC)	0938-AG32
1403	Withdrawal of Coverage of Diagnostic Nocturnal Penile Tumescence Testing (Impotence Testing) (BPD-780-FN)	0938-AG43
1404	Noncoverage of Electrostimulation of Salivary Glands for the Treatment of Xerostomia (Dry Mouth) (BPD-782-FN)	0938-AG45
1405	Clinical Laboratory Improvement Amendment (CLIA) Fee Schedules (HSQ-219-FC)	0938-AG87
1406	Mandatory Medigap Crossover Claims Transmittal Requirements (BPD-811-P)	0938-AG94
1407	Definition of Skilled Nursing Facility (SNF) and Home Health Agency (HHA) for Coverage of Durable Medical Equipment (DME) (BPD-834-P)	0938-AH16
1408	Medicare Coverage of Liver Transplantation (BPD-835-PN)	0938-AH17
1409	Provisions That Allow Rural Primary Care Hospitals (RPCHs) to Enter Into Swing-Bed Agreements (BPD-839-P)	0938-AH20
1410	Transfer of Assets for Less Than Fair Market Value: Medicaid Program (MB-095-P)	0938-AH23

Health Care Financing Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1411	Clarifications of Medicare's Accrual Basis of Accounting Policy (BPD-366-F)	0938-AD01
1412	Optional Payment System for Low Medicare Volume Skilled Nursing Facilities (BPD-409-F)	0938-AD02
1413	Transfer of Resources for Less Than Fair Market Value (MB-10-P)	0938-AD18
1414	Payment for Durable Medical Equipment and Orthotic and Prosthetic Devices (BPD-494-F)	0938-AD65
1415	Uniform Electronic Cost Reporting System for Hospitals (BPD-689-F)	0938-AE80
1416	Allowing Certifications and Recertifications by Nurse Practitioners and Clinical Nurse Specialists for Certain Services (BPD-709-FC)	0938-AF01
1417	Medicaid Third Party Liability: Cost Effectiveness Waivers (MB-39-F)	0938-AF11
1418	Required Coverage of Nurse Practitioner Services—Medicaid (MB-41-F)	0938-AF12
1419	Physician Ownership of and Referrals to Health Care Facilities That Furnish Clinical Laboratory Services and Financial Relationship Reporting Requirements (BPD-674-FC)	0938-AF40
1420	Medicare and Medicaid Programs; Advance Directives (BPD-718-F)	0938-AF50
1421	Clarification of Resumption of Entitlement Rules for Medicare Patients with End-Stage Renal Disease (BPD-738-F)	0938-AG19
1422	Standards for Quality of Water Used in Dialysis and Revised Guidelines on Reuse of Hemodialyzer Filters for End-Stage Renal Disease Patients (BPD-766-F)	0938-AG21
1423	Community Supported Living Arrangements Services (MB-070-P)	0938-AG35
1424	Conditions for Payment for Physicians' Services in Teaching Settings (BPD-792-P)	0938-AG53
1425	Date for Filing Medicare Cost Reports (BPD-794-F)	0938-AG55
1426	Expansion of the Definition of Eye and Ear Specialty Hospitals (BPD-804-P)	0938-AG67
1427	Categorization of CLIA Tests and Personnel Modifications (HSQ-216-FC)	0938-AG71
1428	Criteria for Medicare Coverage of Lung Transplants (BPD-812-FN)	0938-AG83

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Administration for Children and Families—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1429	Foster Care, Adoption Assistance, and Child Welfare Services	0970-AA97
1430	Block Grant Programs (Low Income Home Energy Assistance Program —LIHEAP)—FY 1995 and FY 1996 Provisions	0970-AB47
1431	Administrative Flexibility Rule	0970-AB49
1432	Designation of Alternative Agency To Serve Indian Tribal Children	0970-AB52
1433	Construction of Head Start Facilities	0970-AB54
1434	Quality Standards for Head Start Programs **(Reg Plan Seq. No. 47)**	0970-AB55
1435	Head Start Fellowships Program	0970-AB56
1436	Reporting Overdue Support Information to Consumer Reporting Agencies	0970-AB57
1437	On-Site Foster Care Eligibility Reviews	0970-AB60

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Administration for Children and Families—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1438	Amendments to Developmental Disabilities Rules	0970-AB11
1439	Family Violence Prevention and Services	0970-AB18
1440	Child Abuse and Neglect State Grant Program	0970-AB23
1441	Standards for Safe Transportation	0970-AB24
1442	Standards for Purchase of Facilities	0970-AB31
1443	National Voter Registration Act of 1993 Provisions Affecting Public Assistance Agencies	0970-AB32
1444	Child Care—Revised Regulations	0970-AB33
1445	Family Preservation and Support	0970-AB34
1446	Administration of Native Americans 45 CFR Part 1336	0970-AB37
1447	Reduction of Reporting Requirements for the State Systems Advance Planning Document (APD) Process	0970-AB46
1448	Income and Resource Disregards Related to Interests of Individual Indians in Trust or Restricted Lands	0970-AB59

Administration for Children and Families—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1449	Income Eligibility Criteria for Indian Tribes	0970-AB53

Administration for Children and Families—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1450	Block Grant Programs (Low-Income Home Energy Assistance Program —LIHEAP) FY 91 and FY 92 Provisions	0970-AB15
1451	Block Grant Programs (Low-Income Home Energy Assistance Program—LIHEAP)—FY 93 and FY 94 Provisions	0970-AB16
1452	Statewide Automated Child Welfare Information System	0970-AB38
1453	Refugee Resettlement Program: Miscellaneous, Comprehensive Changes	0970-AB42
1454	Direct Payments to Indian Tribes and Tribal Organizations Under Title IV-B, Subpart 1	0970-AB44
1455	Repatriation - Advance Approval of Costs	0970-AB45
1456	AFCARS Data Element on Foster Care Payments	0970-AB58
1457	Removal of Keys Amendment Regulations	0970-AB61
1458	Removal of Obsolete Family Assistance Regulation	0970-AB62
1459	Elimination of Obsolete Block Grant Rules	0970-AB63

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Administration on Aging—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1460	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians & Native Hawaiians	0985-AA00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Proposed Rule Stage

1192. REVISIONS TO THE CIVIL MONEY PENALTY PROVISIONS RELATING TO THE MISUSE OF CERTAIN SYMBOLS AND EMBLEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1320b-10; PL 103-296, Sec 312

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This final rule will make a number of technical revisions to the civil money penalty authority relating to the misuse of certain symbols, emblems and names as a result of amendments to section 1140 of the Social Security Act. Among other revisions, this rule (1) eliminates the annual penalty cap, (2) includes the words and letters of the Department and Medicaid under the prohibition, and (3) redefines a violation with regard to bulk mailings and solicitations. In addition, this rule serves to remove references to Social Security and its programs from 42 CFR 1003. Sepearte rulemaking addressing violations of the SSA symbols, emblems and names are being developed in conjunction with this final rule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General,OMP, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-3270

RIN: 0991–AA81

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Final Rule Stage

1193. CIVIL MONEY PENALTIES (CMPS) FOR CERTAIN HOSPITAL PHYSICIAN INCENTIVE PLANS

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-509, Sec 9313(c); PL 101-239, Sec 6003(g)(3); PL 101-508, Sec 4204(a)(3); PL 101-508, Sec 4731(b)(1)

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: This final rule will prohibit a hospital from knowingly making incentive payments to a physician as an inducement to reduce or limit services provided to Medicare or Medicaid beneficiaries who are under the direct care of that physician. The rule would also set forth standards governing the imposition of CMPs for each such individual for whom payments are made.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61571
NPRM Comment Period End	01/30/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-3270

RIN: 0991–AA45

1194. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74

Legal Deadline: None

Abstract: On 11/29/93 OMB revised circular A-110 which contains administrative requirements for grants to universities, hospitals, and nonprofit organizations. 45 CFR Part 74 is being revised to implement the circular.

Timetable:

Interim Final Rule 08/25/94 (59 FR 43754)
Comment Period End 10/24/94
Final Action 10/00/95

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Charles Gale, Director, Division of Grants Policy and Oversight, Department of Health and Human Services, Office of the Secretary, Rm. 517D, HHH Bldg., 200 Independence Avenue SW., Washington, DC 20201

HHS—OS

Final Rule Stage

Phone: 202 690-6377

RIN: 0991–AA56

1195. CLARIFICATION OF THE INITIAL OIG SAFE HARBOR PROVISIONS AND ESTABLISHMENT OF ADDITIONAL SAFE HARBOR PROVISIONS UNDER THE ANTI-KICKBACK STATUTE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 100-93, Sec 2; PL 100-93, Sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This final rule serves both to clarify various aspects of the original safe harbor provisions and to add new safe harbors as authorized under section 14 of PL 100-93. Specifically, this rule modifies the original set of final safe harbor provisions (56 FR 35952, 7/9/91) to give greater clarity to that rulemaking's original intent. In addition, this rule sets forth an expanded listing of safe harbor provisions designed to protect additional payment and business practices from criminal prosecution and civil sanctions under the anti-kickback statute.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 49008
NPRM Comment Period End	11/22/93	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This final rule incorporates the safe harbor clarification provisions previously addressed in RIN 0991-AA74 and set forth in proposed rulemaking (59FR37202, July 21, 1994).

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of Inspector General, OMP, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-3270

RIN: 0991–AA66

1196. SAFE HARBORS FOR PROTECTING HEALTH PLANS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 100-93, Sec 2; PL 100-93, Sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This rule establishes additional "safe harbor" provisions, as authorized by section 14 of PL 100-93. This rule protects certain health care plans, such as health maintenance organizations, that offer incentives to enrollees or that enter into negotiated price reduction agreements with contract health care providers.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	11/05/92	57 FR 52723
Extension of Public Comment Period	01/07/93	58 FR 2989
Interim Final Rule	11/05/93	57 FR 52723
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of the Inspector General, OMP, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-3270

RIN: 0991–AA69

1197. REVISIONS TO THE PRO SANCTIONS PROCESS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1320c-5; PL 100-93, sec 6; PL 100-93, sec 8; PL 100-93, sec 10; PL 100-203, sec 4095; PL 101-508, sec 4205

CFR Citation: 42 CFR 1004

Legal Deadline: None

Abstract: This rule will revise and update the procedures governing the imposition and adjudication of sanctions predicated on recommendations of State Peer Review Organizations. These changes are necessitated by statutory revisions resulting from PL 100-93, PL 100-203, and PL 101-508. This rule will also set forth new appeal and reinstatement procedures that are presently codified in 42 CFR part 1004.

Timetable:

Action	Date	FR Cite
NPRM	02/28/94	59 FR 9452
NPRM Comment Period End	04/29/94	
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-3270

RIN: 0991–AA73

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Long-Term Actions**
Office of the Secretary (OS)

1198. CIVIL MONEY PENALTIES (CMPS) FOR CERTAIN PRACTICES RELATING TO MEDICARE SUPPLEMENTAL POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-360, Sec 428(b); PL 101-508, Sec 4204(g)(1); PL 101-508, Sec 4351; PL 101-508, Sec 4354(a)(1)(E); PL 101-508, Sec 4354(a)(2); PL 101-508, Sec 4355(a); PL 101-508, Sec 4357

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This rule would authorize CMPs against any individual or entity who knowingly and willfully use misleading or fraudulent practices in the advertisement, solicitation, offering for sale or delivery of Medicare supplemental health insurance (Medigap) policies. Penalties would also be established for failure to (1) meet Medigap policy loss-ratio requirements, (2) comply with policy simplification standards, or (3) obtain Secretarial certification of Medigap policies in States with non-approved regulatory programs. In addition, this rule would also set forth CMPs for the failure of sellers or issuers to solicit information, and to provide notice, about Medicaid status and eligibility before selling or issuing Medigap policies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA53

1199. CIVIL MONEY PENALTIES FOR PHYSICIAN OWNERSHIP OF AND REFERRAL TO CERTAIN HEALTH CARE ENTITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-239, Sec 6204; PL 101-508, Sec 4207(e); PL 101-508, Sec 4207(m)(a); PL 103-66, Sec 13562

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: This revised final rule is designed to implement civil money penalty authority for prohibited physician ownership and referral arrangements set forth in section 1877 of the Social Security Act. This rule addresses comments raised as a result of the final rule with comment period (60 FR 16580), and several technical changes to 42 CFR 1001 and 1003 resulting from Government reinvention efforts.

Timetable:

Action	Date	FR Cite
NPRM	10/20/93	58 FR 54096
NPRM Comment Period End	12/20/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of Inspector General, OMP, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA65

1200. CIVIL MONEY PENALTIES FOR NOTIFYING A HOME HEALTH AGENCY, OR A HOME OR COMMUNITY-BASED HEALTH CARE CENTER OR PROVIDER, OF A STANDARD SURVEY

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-203, Sec 4022(a); PL 100-360, Sec 411(d)(2)(A); PL 100-485, Sec 608(d)(20)(A); PL 101-508, Sec 4711(b)(a)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would set forth civil money penalties against any individual or entity that notifies, or causes to notify, a home health agency, or a home or community- based health care center or provider, of the time or date on which a standard survey is scheduled to be conducted by a State or local agency.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-3270

RIN: 0991–AA79

1201. CIVIL MONEY PENALTIES FOR FALSE INFORMATION ON DRUG MANUFACTURER PRICE SURVEYS AND REBATE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-508, Sec 4401(a)(3)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would set forth civil money penalties against any wholesaler, manufacturer or seller of outpatient drugs that fails to respond to a request for information about charges or prices, or to knowingly provide false information, in a survey by the Secretary to verify manufacturers' reported prices. In addition, this rule would set forth civil money penalties against any drug manufacturer doing business with Medicaid that, in accordance with section 1927(b)(3)(A) of the Social Security Act, fails to provide rebate agreement price information on a timely basis, and for knowingly providing false information.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-3270

RIN: 0991–AA80

HHS—OS — **Long-Term Actions**

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Completed Actions**
Office of the Secretary (OS)

1202. AMENDMENT TO GRANTS MANAGEMENT COMMON RULE TO RAISE THRESHOLD FOR SIMPLIFIED SMALL PURCHASES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 92

Completed:

Reason	Date	FR Cite
Final Action	04/19/95	60 FR 19645
Final Action Effective	05/19/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Charles Gale
Phone: 202 690-6377

RIN: 0991–AA77

1203. PROPOSED AMENDMENTS TO NONPROCUREMENT DEBARMENT AND SUSPENSION COMMON RULE TO ACHIEVE RECIPROCITY WITH PROCUREMENT

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 76

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Neil Steyskal
Phone: 202 690-5729

RIN: 0991–AA78

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Final Rule Stage**
Substance Abuse and Mental Health Services Administration (SAMHSA)

1204. PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 10801 et seq, as amended by PL 102-173

CFR Citation: 45 CFR 51

Legal Deadline: Final. Statutory, May 27. 1992.
Section 9 of P.L. 102-173, enacted on 11/27/91, sets this deadline.

Abstract: Sets requirements for funding State and State-designated systems for protecting and advocating for individuals with mental illness. By law, these requirements must be set out in regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/14/94	59 FR 64367
NPRM Comment Period End	02/13/95	
Final Action	04/00/96	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: Previously reported under RIN 0905-AD99.

Alternate Contact: Sue Martone, DLEA, SAMHSA, PHS; Room 12C-15, 5600 Fishers Lane, Rockville, MD 20857: 301-443-4640

Agency Contact: Joseph D. Faha, Director, DLEA, SAMHSA, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 12C-15 Rockville, MD 20857
Phone: 301 443-4640

RIN: 0930–AA02

1205. BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE (TOBACCO PROVISIONS)

Regulatory Plan: This entry is Seq. No. 26 in Part II of this issue of the **Federal Register**.

RIN: 0930–AA03

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Long-Term Actions**
Substance Abuse and Mental Health Services Administration (SAMHSA)

1206. BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE

Priority: Other Significant

Legal Authority: 42 USC 300-x et seq, as amended by PL 102-321

CFR Citation: 45 CFR 96

Legal Deadline: Final, Statutory, August 25, 1992.
Awards to States after January 1, 1993 cannot be made until implementing regulations are published.

Abstract: Sets requirements for block grants for prevention and treatment of substance abuse. The requirements include criteria for approval of State plans which must by statute be prescribed in regulations. These provisions would replace the existing interim final rule published March 31, 1993. Given the pending reauthorization of SAMHSA and the current Administration's FY 1996

legislative proposal to turn the block grant into a "Performance Partnership," publication of this regulation has been put on hold.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/93	58 FR 17062
Interim Final Rule Comment Period End	06/01/93	
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Tribal

Additional Information: Previously reported under RIN 0905-AD98.

Alternate Contact: Sue Martone, DLEA, SAMHSA, PHS, 5600 Fishers Lane, Room 12C-15, Rockville, MD 20852; 301-443-4640

Agency Contact: Joseph D. Faha, Director, DLEA, SAMHSA, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 12C-15, Rockville, MD 20857
Phone: 301 443-4640

RIN: 0930–AA01

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Substance Abuse and Mental Health Services Administration (SAMHSA)

Completed Actions

1207. CONFIDENTIALITY OF SUBSTANCE ABUSE PATIENT RECORDS

Priority: Other Significant

CFR Citation: 42 CFR 2

Completed:

Reason	Date	FR Cite
Final Action	05/05/95	60 FR 22296
Final Action Effective	06/05/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Joseph D. Faha
Phone: 301 443-4640

RIN: 0930–AA00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Centers for Disease Control and Prevention (CDC)

Completed Actions

1208. RESPIRATORY PROTECTIVE DEVICES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 30 CFR 11; 42 CFR 84

Completed:

Reason	Date	FR Cite
Final Action	06/08/95	60 FR 30336
Final Action Effective	07/10/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Metzler
Phone: 304 284-5713

RIN: 0920–AA00

1209. NATIONAL CENTER FOR HEALTH STATISTICS, SPECIAL STATISTICAL SERVICES; GRANTS FOR HEALTH EDUCATION/RISK REDUCTION; VACCINES INFORMATION AND EDUCATION—REPEAL

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 42 CFR 3; 42 CFR 51g; 42 CFR 110

Completed:

Reason	Date	FR Cite
Final Action	07/13/95	60 FR 36072
Final Action Effective	07/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gaylon Morris
Phone: 404 639-3243

RIN: 0920–AA01

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Departmental Management (HHSDM)

Final Rule Stage

1210. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 45 CFR 13

Legal Deadline: None

Abstract: The Equal Access to Justice Act generally requires agencies to pay attorney fees to parties prevailing against the Government in certain types of administrative proceedings. It requires each agency to issue rules implementing the Act as it applies to these proceedings. As originally enacted, the Act had a sunset clause. A statutory amendment eliminated the sunset provision and made other changes in the Act. The instant regulation would amend 45 CFR part 13 (HHS's regulation implementing the Act) to eliminate the corresponding sunset provision and to make other changes conforming with the statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	06/19/87	52 FR 23311
NPRM Comment Period End	08/17/87	
Final Action	02/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie L. Clune, Acting Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Room 5362, HHS Cohen Building, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0150

RIN: 0990–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Prerule Stage

1211. • REINVENTING FDA FOOD REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 101; 21 CFR 102; 21 CFR 103; 21 CFR 131; 21 CFR 133; 21 CFR 135; 21 CFR 136; 21 CFR 137; 21 CFR 139; 21 CFR 145; 21 CFR 146; 21 CFR 150; 21 CFR 152; 21 CFR 155; 21 CFR 156; ...

Legal Deadline: None

Abstract: In response to President Clinton's memorandum to heads of departments, and agencies entitled "Regulatory Reinvention Initiative," FDA will be initiating rulemaking to retain, revise, or revoke certain of its regulations for food. FDA will be proposing: (1) to establish a notification procedure for companies to use for independent GRAS determinations; (2) to request information on the need to retain, revise, or revoke its food standards of identity regulations and its common or usual name regulations; (3) to coordinate the food additive, GRAS, and color additive approval process with USDA when meat and poultry product uses are petitioned for; and (4) to increase the number of categorical exclusions from the requirements for environmental review.

Timetable:

Action	Date
Additional categorical exclusions for environmental impact	NPRM 09/00/96
Food Additives, Color Additives, and GRAS Petition Review	NPRM 03/00/96
Food Standards and Other Regulations for Food	ANPRM 10/00/95
Notification Procedures for Independent GRAS Determinations	NPRM 02/00/96

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: L. Robert Lake, Director, Office of Policy, Planning and Strategic Initiatives, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW. Washington, DC 20204
Phone: 202 205-4561
Fax: 202 401-7739

RIN: 0910–AA58

1212. • FOOD STANDARDS OF IDENTITY, QUALITY, AND FILL OF CONTAINER; COMMON OR USUAL NAME REGULATIONS: REQUEST FOR COMMENTS ON EXISTING REGULATIONS

Regulatory Plan: This entry is Seq. No. 27 in Part II of this issue of the Federal Register.

RIN: 0910–AA67

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Proposed Rule Stage

1213. OVER-THE-COUNTER (OTC) DRUG REVIEW

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 321p; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360a; 21 USC 371a

CFR Citation: 21 CFR 310; 21 CFR 330; 21 CFR 333; 21 CFR 334; 21 CFR 335; 21 CFR 336; 21 CFR 337; 21 CFR 338; 21 CFR 339; 21 CFR 340; 21 CFR 341; 21 CFR 342; 21 CFR 343; 21 CFR 344; 21 CFR 345; ...

Legal Deadline: None

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. NOTE: NPRM for "Antidotes, Toxic Ingestion Products" was combined with NPRM for "Emetic Products" and reproposed as "Poison Treatment Products." NPRM for "Astringent (Wet Dressings) Products" was included in the NPRM for "Skin Protectant Products." NPRM for "Diaper Rash Products" was included in NPRMs for "Antifungal," "Antimicrobial," "External Analgesic" and "Skin Protectant Products." NPRM for "Fever Blister/Cold Sore Products (External)" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Insect Bites and Stings (Relief) Products" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." "Poison Ivy/Oak/Sumac Prevention" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Mercurial (Topical) Products" was

included in revised NPRM for "Antimicrobial Products." NPRM for "Alcohol (Topical) Products" was included in revised NPRM for "Antimicrobial Products." The NPRM for "Antimicrobial Products" was updated and split into two sections: first aid products and health care products.

SMALL ENTITIES AFFECTED: The effects, if any, vary depending on the individual rulemaking. However, the Agency anticipates that the rules would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Timetable:

Acne (Topical) Products
ANPRM 03/23/82 (47 FR 12430)
NPRM 01/15/85 (50 FR 2172)
NPRM (Amendment) 08/07/91 (56 FR 37622)
Final Action 08/16/91 (56 FR 41008)

Alcohol (Oral) in OTC Drug Products
NPRM 10/21/93 (58 FR 54466)
Final Action 03/13/95 (60 FR 13590)

Alcohol (Topical) Products (To be merged w/other rulemkg)
ANPRM 05/21/82 (47 FR 22324)

Anorectal Products
ANPRM 05/27/80 (45 FR 35576)
NPRM 08/15/88 (53 FR 30756)
Final Action 08/03/90 (55 FR 31776)
Final Action (LYCD) 09/02/93 (58 FR 46746)
Final Action (Witch Hazel) 06/03/94 (59 FR 28766)

Antacid Drug Products
ANPRM 04/05/73 (38 FR 8714)
NPRM 11/12/73 (38 FR 31260)
Final Action 06/04/74 (39 FR 9862)
NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66754)
Final Action (Amendment) (Warning) 08/26/93 (58 FR 45204)
NPRM (Amendment) (Testing) 09/23/93 (58 FR 49826)
NPRM (Amendment)(Sodium Bicarb.) 02/02/94 (59 FR 5060)
Final Action (Technical Amendment) 11/25/94 (59 FR 60555)
Final Action (Amendment) (Testing) 11/00/95

Anthelmintic Products
ANPRM 09/09/80 (45 FR 59541)
NPRM 08/24/82 (47 FR 37062)
Final Action 08/01/86 (51 FR 27756)

Antibiotic First Aid Products
ANPRM 04/01/77 (42 FR 17642)
NPRM 07/09/82 (47 FR 29986)
Final Action 12/11/87 (52 FR 47312)
NPRM (Amendment) 08/18/89 (54 FR 34188)
Final Action 03/15/90 (55 FR 9721)
NPRM (Amendment) 05/11/90 (55 FR 19868)
NPRM (Amendment) 06/08/90 (55 FR 23450)
Final Action (Amendment) 10/03/90 (55 FR 40379)
Final Action (Amendment) 12/05/90 (55 FR 50171)
NPRM (Amendment) (Warning) 11/00/95

Anticaries Products
ANPRM 03/28/80 (45 FR 20666)
NPRM 09/30/85 (50 FR 39854)
NPRM 06/15/88 (53 FR 22430)
Final Action 10/06/95 (60 FR 52474)

Antidiarrheal Products
ANPRM 03/21/75 (40 FR 12924)
NPRM 04/30/86 (51 FR 16138)
Final Action 12/00/95

Antidotes, Toxic Ingestion Prdts (New Poison Treatment Prdts)
ANPRM 01/05/82 (47 FR 444)

Antiemetic Products
ANPRM 03/21/75 (40 FR 12934)
NPRM 07/13/79 (44 FR 41064)
Final Action 04/30/87 (52 FR 15886)
NPRM (Amendment) 08/26/93 (58 FR 45216)
Final Action 04/11/94 (59 FR 16981)

Antiflatulent Drug Products
NPRM 11/12/73 (38 FR 31260)
Final Action 06/04/74 (39 FR 19877)
NPRM (Amendment) 01/29/88 (53 FR 2716)
Final Action (Amendment) 12/00/95

Antifungal (Topical) Products
ANPRM 03/23/82 (47 FR 12480)
NPRM 12/12/89 (54 FR 51136)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25240)
Final Action (Amdt.)(Diaper Rash) 12/18/92 (57 FR 60430)
Final Action (Partial) 09/02/93 (58 FR 46744)
Final Action 09/23/93 (58 FR 49890)

Antimicrobial Products
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25246)

Antiperspirant Products
ANPRM 10/10/78 (43 FR 46694)
NPRM 08/20/82 (47 FR 36492)
Final Action 00/00/00

Antiseptic First Aid
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Revised) 07/22/91 (56 FR 33644)
Final Action 00/00/00

Antiseptic Products (Professional Use)
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Revised) 06/17/94 (59 FR 31402)

Aphrodisiac Products
ANPRM 10/01/82 (47 FR 43572)
NPRM 01/15/85 (50 FR 2168)
Final Action 07/07/89 (54 FR 28780)

Aspirin (Heart Labeling)
NPRM 10/20/93 (58 FR 54224)

Aspirin (Reye Syndrome)
NPRM 10/20/93 (58 FR 54228)

Astringent (Wet Dressings) Prdts (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Benign Prostatic Hypertrophy Products
ANPRM 10/01/82 (47 FR 43566)
NPRM 02/20/87 (52 FR 5406)
Final Action 02/27/90 (55 FR 6926)

Boil Ointments
ANPRM 06/29/82 (47 FR 28306)
NPRM 01/26/88 (53 FR 2198)
Final Action 11/15/93 (58 FR 60332)

Camphorated Oil Drug Products
ANPRM 09/26/80 (45 FR 63869)
Final Action 09/21/82 (47 FR 41716)

Cholecystokinetic Products
ANPRM 02/12/80 (45 FR 9286)
NPRM 08/24/82 (47 FR 37068)
Final Action 06/10/83 (48 FR 27004)
NPRM (Amendment) 08/15/88 (53 FR 30786)
Final Action (Amendment) 02/28/89 (54 FR 8320)

Corn and Callus Remover Products
ANPRM 01/05/82 (47 FR 522)
NPRM 02/20/87 (52 FR 5412)
Final Action 08/14/90 (55 FR 33258)

Cough/Cold (Anticholinergic) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 11/08/85 (50 FR 46582)

Cough/Cold (Antihistamine) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2200)
NPRM (Amendment) 08/24/87 (52 FR 31892)
Final Action 12/09/92 (57 FR 58356)
Final Action (Amendment)(Warning) 01/28/94 (59 FR 4216)

Cough/Cold (Antitussive) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/19/83 (48 FR 48576)
Final Action 08/12/87 (52 FR 30042)
NPRM (Amendment) 07/06/89 (54 FR 28442)
NPRM (Amendment) 10/02/89 (54 FR 40412)
Final Action (Amendment) 07/06/90 (55 FR 27806)
Final Action (Amendment) 10/03/90 (55 FR 40381)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27666)
NPRM (Amendment)(Ingredients) 12/09/92 (57 FR 58378)
Final Action (Amendment)(Warning) 10/20/93 (58 FR 54232)
Final Action (Amdt.)(Ingredients) 06/03/94 (59 FR 29172)

Cough/Cold (Bronchodilator) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/26/82 (47 FR 47520)
Final Action 10/02/86 (51 FR 35326)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27662)
Final Action (Amendment)(Warning) 10/20/93 (58 FR 54238)
NPRM (Amendment)(MDI) 03/09/95 (60 FR 13014)
NPRM (Amendment)(Ephedrine) 07/27/95 (60 FR 38643)
Final Action (Amendment) (MDI) 02/00/96

Cough/Cold (Combination) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 08/12/88 (53 FR 30522)
NPRM (Amendment)(DPH Combinations) 02/23/95 (60 FR 10286)
Final Action Theophylline 07/27/95 (60 FR 38636)
Final Action 03/00/96

Cough/Cold (Diphenhydramine) Products
Final Action/Enforcement Policy 12/00/95

Cough/Cold (Expectorant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 02/28/89 (54 FR 8494)
Final Action (Technical Changes) 06/30/92 (57 FR 29176)

Cough/Cold (Expectorant/Ipecac) Products
Final Action 09/14/92 (57 FR 41857)

Cough/Cold (Nasal Decongestant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2220)
NPRM (Amendment) 06/19/92 (57 FR 27658)
Final Action 08/23/94 (59 FR 43386)
NPRM (Phenylpropanolamine) 03/00/96

Dandruff, Seborrheic Dermatitis and Psoriasis Control Products
ANPRM 12/03/82 (47 FR 54646)
NPRM 07/30/86 (51 FR 27346)
Final Action 12/04/91 (56 FR 63554)
NPRM (Amendment) 04/05/93 (58 FR 17554)
Final Action 01/28/94 (59 FR 4000)

Daytime Sedatives
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 06/22/79 (44 FR 36378)

Diaper Rash Products (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39406)

Digestive Aid Products
ANPRM 01/05/82 (47 FR 454)
NPRM 01/29/88 (53 FR 2706)
Final Action 10/21/93 (58 FR 54450)

Emetic Products
ANPRM 03/21/75 (40 FR 12939)
NPRM 09/05/78 (43 FR 39544)

Exocrine Pancreatic Insufficiency Products
ANPRM 12/21/79 (44 FR 75666)
NPRM 11/08/85 (50 FR 46594)
NPRM (Reproposed) 07/15/91 (56 FR 32282)
Final Action 04/24/95 (60 FR 20162)

External Analgesic Products
ANPRM 12/04/79 (44 FR 69768)
NPRM 02/08/83 (48 FR 5852)
NPRM (Amendment) (Dandruff) 07/30/86 (51 FR 27360)
NPRM (Amendment) (Anorectal) 08/25/88 (53 FR 32592)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40818)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3370)
NPRM (Amendment) (1%Hydrocortisone) 02/27/90 (55 FR 6932)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25234)
Final Action (Diaper Rash) 12/18/92 (57 FR 60426)
Final Action 00/00/00

Fever Blister Products (Internal)
ANPRM 01/05/82 (47 FR 502)
NPRM 06/17/85 (50 FR 25156)
Final Action 06/30/92 (57 FR 29166)

Fvr Blister/Cold Sore Prdts (Ext.) (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Hair Grower and Hair Loss Prevention Products
ANPRM 11/07/80 (45 FR 73955)
NPRM 01/15/85 (50 FR 2190)
Final Action 07/07/89 (54 FR 28772)

Hormone (Topical) Products
ANPRM 01/05/82 (47 FR 430)
NPRM 10/02/89 (54 FR 40618)
Final Action 09/09/93 (58 FR 57608)

Hypo/Hyperphosphatemia Products
ANPRM 12/09/80 (45 FR 81154)
NPRM 01/15/85 (50 FR 2160)
Final Action 05/11/90 (55 FR 19852)

Ingrown Toenail Relief Products
ANPRM 10/17/80 (45 FR 69128)
NPRM 09/03/82 (47 FR 39120)
Final Action 09/09/93 (58 FR 47602)

Insect Bite & Sting (Relief) Prdts (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Insect Repellent Drug Products (Internal)
ANPRM 01/05/82 (47 FR 424)
NPRM 06/10/83 (48 FR 26986)
Final Action 06/17/85 (50 FR 25170)

Internal Analgesic Products
ANPRM 07/08/77 (42 FR 35346)
NPRM 11/16/88 (53 FR 46204)
NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66762)
NPRM (Amdt.)(Sodium Bicarbonate) 02/02/94 (59 FR 5068)
NPRM (Amendment)(Alcohol Warning) 12/00/95
Final Action (Cardio/Cerebrvasclar) 02/00/96
NPRM (Labeling-revised indications) 03/00/96
NPRM (Prof. Labeling)(Acute MI) 03/00/96

Internal Analgesic Products (Overindulgence)
Final Action 00/00/00

Internal Deodorant Products
ANPRM 01/05/82 (47 FR 512)
NPRM 06/17/85 (50 FR 25162)
Final Action 05/11/90 (55 FR 19862)

Labeling of Drug Products for OTC Use
NPRM 04/05/93 (58 FR 17553)
Final Action 01/28/94 (59 FR 3998)
NPRM (Do not mix drugs) 08/03/94 (59 FR 39499)
NPRM (Amendment) (Do not mix drugs) 10/04/95 (60 FR 52058)
NPRM (Unless a doctor tells you) 11/00/95
NPRM (Format/Examples) 02/00/96
NPRM (Calcium/Magnesium/Potassium) 03/00/96

Laxative Products
ANPRM 03/21/75 (40 FR 12902)
NPRM 01/15/85 (50 FR 2124)
NPRM (Amendment) 10/01/86 (51 FR 35136)
NPRM (Amendment) 09/02/93 (58 FR 46589)
Final Action 03/00/96

Leg Muscle Cramps (Nocturnal Relief) Products
ANPRM 10/01/82 (47 FR 43562)
NPRM 11/08/85 (50 FR 46588)
Final Action 08/22/94 (59 FR 43234)

Male Genital Desensitizer Products
ANPRM 09/07/82 (47 FR 39412)
NPRM 10/02/85 (50 FR 40260)
Final Action 06/19/92 (57 FR 27654)

Menstrual Products
ANPRM 12/07/82 (47 FR 55075)
NPRM 11/16/88 (53 FR 46194)

Mercurial (Topical) Products (To be merged w/other rulemkg)
ANPRM 01/05/82 (47 FR 436)

Nailbiting/Thumbsucking Deterrent Products
ANPRM 10/17/80 (45 FR 69122)
NPRM 09/03/82 (47 FR 39096)
Final Action 09/02/93 (58 FR 46749)

Nighttime Sleep Aid Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/14/89 (54 FR 6814)
NPRM (Amendment) 08/26/93 (58 FR 45217)
Final Action (Amendment) 04/11/94 (59 FR 16982)

NDA Labeling Exclusivity
NPRM 11/09/93 (58 FR 59622)

Ophthalmic Products
ANPRM 05/06/80 (45 FR 30002)
NPRM 06/28/83 (48 FR 29788)
Final Action 03/04/88 (53 FR 7076)
Final Action (Anti-infective) 12/18/92 (57 FR 60416)

Oral Discomfort (Relief) Products
ANPRM 05/25/82 (47 FR 22712)
NPRM 09/24/91 (56 FR 48302)

Oral Health Care Products
ANPRM 05/25/82 (47 FR 22760)
NPRM 01/27/88 (53 FR 2436)
NPRM (Amendment) (Antimicrobials) 02/09/94 (59 FR 6084)
Final Action 00/00/00

Oral Mucosal Injury Products (Merged w/Oral Health Care)
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)

Oral Wound Healing Products
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)
Final Action 07/18/86 (51 FR 26112)

Otic Products (Dry Water-Clogged Ears)
NPRM (Amendment) 02/00/96
Otic Products (Earwax)
NPRM 07/09/82 (47 FR 30012)
Final Action 08/08/86 (51 FR 28656)
Otic Products (Swimmers Ear)
NPRM 07/30/86 (51 FR 27366)
Final Action 02/15/95 (60 FR 8916)
Final Action Partial Stay 08/16/95 (60 FR 42435)
Overindulgence Remedies
ANPRM 10/01/82 (47 FR 43540)
NPRM 12/24/91 (56 FR 66742)
NPRM (Amendment)(Warning) 05/05/93 (58 FR 26886)
Overindulgence Remedies/Prevention of Inebriation
ANPRM 10/01/82 (47 FR 43540)
Final Action 07/19/83 (48 FR 32872)
Pediculicide Products
ANPRM 06/29/82 (47 FR 28312)
NPRM 04/03/89 (54 FR 13480)
Final Action 12/14/93 (58 FR 65452)
Phenylpropanolamine Products (Labeling)
NPRM 01/00/96
Poison Ivy/Oak/Sumac Prevention (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)
Poison Treatment Products
NPRM 01/15/85 (50 FR 2244)
Final Action 03/00/96
Quinine for Malaria
NPRM 04/19/95 (60 FR 19650)
Reporting of Adverse Reactions
NPRM 12/00/95
Skin Bleaching Products
ANPRM 11/03/78 (43 FR 51546)
NPRM 09/03/82 (47 FR 39108)
NPRM (Reproposed) 03/00/96
Skin Protectant Products
ANPRM 08/04/78 (43 FR 34628)
NPRM 02/15/83 (48 FR 6820)
NPRM (Amendment) (Astringent) 04/03/89 (54 FR 13490)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40808)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3362)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25204)
Final Action (Astringent) 10/21/93 (56 FR 54466)
Final Action (Witch Hazel) 06/03/94 (59 FR 28767)
Final Action (Poison Ivy) 03/00/96
Final Action 03/00/96
Smoking Deterrent Products
ANPRM 01/05/82 (47 FR 490)
NPRM 07/03/85 (50 FR 27552)
Final Action 06/01/93 (58 FR 31236)
Sodium Labeling
NPRM 04/25/91 (56 FR 19222)
Final Action 12/00/95
Status of Certain Category II and III Ingredients
NPRM 05/16/90 (55 FR 20434)
Final Action 11/07/90 (55 FR 46914)
NPRM 08/25/92 (57 FR 38568)
Final Action 05/10/93 (58 FR 27636)
Stimulant (Overindulgence) Products
NPRM (Amendment) 12/24/91 (56 FR 66758)
Stimulant Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/29/88 (53 FR 6100)
Stomach Acidifier Products
ANPRM 10/19/79 (44 FR 60316)
NPRM 01/15/85 (50 FR 2184)
Final Action 08/17/88 (53 FR 31270)
Sunscreen Products
ANPRM 08/25/78 (43 FR 38206)
NPRM 05/12/93 (58 FR 28194)
NPRM (Amendment 06/08/94 (59 FR 29706)
Sweet Spirits of Nitre
ANPRM 02/22/80 (45 FR 11846)
Final Action 06/27/80 (45 FR 43400)
Topical Drug Products Containing Benzoyl Peroxide (Labeling)
NPRM 02/17/95 (60 FR 9554)
Vaginal Contraceptive Products
ANPRM 12/12/80 (45 FR 82014)
NPRM 02/03/95 (60 FR 6892)
Vaginal Drug Products
ANPRM 10/13/83 (48 FR 46694)
Withdrawal 02/03/95 (60 FR 5226)
Vitamin/Mineral Products
ANPRM 03/16/79 (44 FR 16126)
Withdrawal 11/27/81 (46 FR 57914)
Wart Remover Products
ANPRM 10/03/80 (45 FR 65609)
NPRM 09/03/82 (47 FR 39102)
NPRM (Amendment) 03/27/87 (52 FR 9992)
Final Action 08/14/90 (55 FR 33246)
NPRM (Amendment)(Directions) 01/28/94 (59 FR 4015)
Final Action (Amdt.)(Directions) 11/23/94 (59 FR 60315)
Water Soluble Gums
NPRM 10/30/90 (55 FR 45782)
Final Action 08/26/93 (58 FR 45194)
Weight Control Products
ANPRM 02/26/82 (47 FR 8466)
NPRM 10/30/90 (55 FR 45788)
Final Action 08/08/91 (56 FR 37792)
NPRM (Amendment) 01/00/96

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AA06.

NOTE: Reinventing government applies only to the Antacid Drug Products final action.

Agency Contact: William E. Gilbertson, Director, Monograph Review Staff, Office of OTC Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-810), 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 594-5000

RIN: 0910–AA01

1214. INFANT FORMULA: GOOD MANUFACTURING PRACTICE, QUALITY CONTROL PROCEDURES, QUALITY FACTORS, NOTIFICATION REQUIREMENTS, AND RECORDS AND REPORTS

Priority: Other Significant

Legal Authority: 21 USC 350a

CFR Citation: 21 CFR 107; 21 CFR 106

Legal Deadline: None

Abstract: The agency published on December 24, 1991, a final rule implementing certain aspects of the Infant Formula Act of 1986. The rule establishes infant formula record and record retention requirements. The agency is preparing a proposed rule that will establish current good manufacturing practice regulations, quality control procedures, quality factors, notification requirements, and reports for the production of infant formulas.

Timetable:

Current Good Mfg. Practices; Qual Control Proc
NPRM 05/00/96
NPRM (Comment Period End) 08/00/96
Infant Form Cons Comp, Micro Test & Recd Retention Req
NPRM 01/26/89 (54 FR 3783)
NPRM (Comment Period End) 03/27/89
Final Rule 12/24/91 (56 FR 66566)

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AC46.

Agency Contact: Carolyn W. Miles, Nutritionist, Regulatory Branch, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-456), 200 C Street SW., Washington, DC 20204
Phone: 202 205-5372

RIN: 0910–AA04

1215. REPORTING OF ERRORS AND ACCIDENTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360i; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262 to 264

CFR Citation: 21 CFR 600; 21 CFR 606

Legal Deadline: None

Abstract: All licensed manufacturers are required to notify FDA promptly of errors or accidents in the manufacture of products that may affect the safety, purity, or potency of any distributed biological product (21 CFR 600.14). The reporting of certain errors or accidents occurring in the manufacture of blood and blood components is necessary so that FDA can respond where the public health may be endangered and provide added assurance as to the continued safety, identity, quality, purported quality, and purity of blood and blood components. FDA has determined that errors and accidents that are detected and corrected before a finished unit is removed from the unprocessed inventory and made available for release and distribution do not affect the safety of the blood supply and need not be reported to the Agency. The proposed rule would require licensed establishments, unlicensed establishments, and transfusion services to report and keep records. The cost to licensed establishments would be minimal. Since they already are required to report, licensed establishments would only have to make some changes in standard operating procedures. Unlicensed establishments are already required to keep records and conduct investigations. Under the proposed rule they would have to establish reporting procedures and report to FDA. The transfusion services would have to assure their recordkeeping and investigation procedures are sufficient and establish reporting procedures. Reporting by transfusion services is expected to be minimal.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD67.

Agency Contact: Jean M. Olson, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-630), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 594-3074

RIN: 0910–AA12

1216. MAMMOGRAPHY QUALITY STANDARDS ACT OF 1992

Regulatory Plan: This entry is Seq. No. 28 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA24

1217. EFFECTIVE DATE OF REQUIREMENT FOR SUBMISSION OF PREMARKET APPROVAL APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360e

CFR Citation: 21 CFR 868; 21 CFR 870; 21 CFR 872; 21 CFR 878; 21 CFR 882; 21 CFR 888

Legal Deadline: Final, Statutory, December 1, 1995.

Abstract: Class III devices which were on the market before 1976 were exempt from premarket approval until FDA issues a rule requiring the submission of premarket approval applications. The Safe Medical Devices Act of 1990 directed FDA to review the classification of pre-1976 class III devices for which premarket approval is not yet required, and either reclassify them into class I or class II or require premarket approval for those devices remaining in class III. There are approximately 125 pre-1976 class III devices not yet addressed. The devices covered by this proposal are devices which FDA believes may no longer be commercialy viable. FDA is providing an opportunity for manufactureres to petition for reclassification before premarket approval is required.

Timetable:

Action	Date	FR Cite
Notice	05/06/94	59 FR 23731
NPRM	09/07/95	60 FR 46718
NPRM Comment Period End	01/05/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE34.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20857
Phone: 301 594-4765

RIN: 0910–AA31

1218. LATEX CONDOMS/GLOVES: EXPIRATION DATE LABELING

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 351; 21 USC 352

CFR Citation: 21 CFR 801

Legal Deadline: None

Abstract: Latex patient examination and surgeon gloves and latex condoms are used as a barrier to transmission of diseases through bodily fluids, including AIDS. Latex deteriorates over time, reducing its utility as a barrier. The proposed rule would require manufacturers of these products to perform testing to establish an appropriate expiration date for their products and to place that date on their labeling.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE37.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road. Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA32

1219. LATEX WARNING

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 352

CFR Citation: 21 CFR 801

Legal Deadline: None

Abstract: Certain persons may be subject to severe adverse reaction upon contact with latex. Therefore, FDA would propose to require that devices containing latex have a warning in the labeling concerning the presence of latex and the potential risk. This will enable health professionals and consumers to make an informed choice concerning the use of a device.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE40.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA34

1220. PREMARKET APPROVAL OF MEDICAL DEVICES; SUPPLEMENTAL APPLICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 360e

CFR Citation: 21 CFR 814.39

Legal Deadline: None

Abstract: FDA has become aware of several situations in which a supplement to an approved premarket approval application (PMA) was not submitted for a change to the device even though FDA believed that a supplement was required. Therefore, FDA would propose to revise its regulation to clarify when a supplement is required. This would result in fewer unapproved changes in devices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE41.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA35

1221. HEARING AIDS; PROFESSIONAL AND PATIENT LABELING; CONDITIONS FOR SALE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 351; 21 USC 352; 21 USC 360d; 21 USC 371; 21 USC 360j(e)

CFR Citation: 21 CFR 801.420; 21 CFR 801.421

Legal Deadline: None

Abstract: FDA is considering revising its present regulation governing the labeling and conditions for sale of hearing aids. The present rule requires an examination by a physician before purchase of a hearing aid, but permits an informed adult to waive that requirement. There is some evidence that this waiver provision is being misused. FDA is reconsidering which types of health professionals are competent to perform hearing evaluations. FDA is also considering revisions to its professional and patient labeling to require updated information.

Timetable:

Action	Date	FR Cite
ANPRM	11/10/93	58 FR 59695
ANPRM Comment Period End	01/10/94	
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AE46.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA39

1222. CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PROCESSING, PACKING, OR HOLDING OF DRUGS; PROPOSED AMENDMENT OF CERTAIN REQUIREMENTS FOR FINISHED PHARMACEUTICALS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 351 to 352; 21 USC 355 to 357; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 210.3; 21 CFR 211.22; 21 CFR 211.68; 21 CFR 211.82; 21 CFR 211.84; 21 CFR 211.101; 21 CFR 211.103; 21 CFR 211.110; 21 CFR 211.111; 21 CFR 211.113; 21 CFR 211.115; 21 CFR 211.160; 21 CFR 211.166; 21 CFR 211.192; 21 CFR 211.220; ...

Legal Deadline: None

Abstract: FDA is proposing revisions to the current good manufacturing practice (CGMP) regulations at 21 CFR parts 210 and 211 regarding finished pharmaceuticals. The new regulations either codify current agency policies or current industry practices. Among other things, the proposal would create or clarify requirements for process and methods validation, appropriate laboratory testing procedures, and protection against contamination. The proposal is designed to update the CGMP regulations in response to technological changes and the Agency's experience with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Previously reported under RIN 0905-AE63.

Agency Contact: Thomas Kuchenberg, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1046

RIN: 0910–AA45

1223. ANIMAL DRUG AMENDMENTS OF 1994, EXTRA-LABEL USE; IMPLEMENTATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-396

CFR Citation: None

Legal Deadline: Final, Statutory, October 22, 1996.
Two years after bill was signed into law (10/22/94).

Abstract: Upon promulgation of regulations, the Animal Drug Amendments of 1994 allow licensed veterinarians to prescribe off-label use of animal and human drugs for animals under certain circumstances within limits set by FDA. If the Secretary finds there is a reasonable probability that a use may present a risk to the public, the Secretary may establish a safe level for residues of such use by order and require the development of analytical methods for detection of resultant residues. If the Secretary finds, after affording an opportunity for public comment, that a use presents a risk to public health or if no analytical method is developed, when called for, the Secretary may prohibit such use. The Secretary may also, by regulation, provide access to veterinarian records to ascertain any use or intended extra-label use that may present a risk to public health. The proposed rule will implement the statute by providing policies, procedures, and limitations on extra-label use and by setting the circumstances and conditions for Agency examination of veterinarian records.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE66.

Agency Contact: Richard L. Arkin, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-238), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1737

RIN: 0910–AA47

1224. • REGULATIONS RESTRICTING THE SALE AND DISTRIBUTION OF CIGARETTES AND SMOKELESS TOBACCO PRODUCTS TO PROTECT CHILDREN AND ADOLESCENTS

Regulatory Plan: This entry is Seq. No. 29 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA48

1225. • REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 360; 21 USC 371

CFR Citation: 21 CFR 207

Legal Deadline: None

Abstract: Revises and clarifies these regulations to reduce burden to manufacturers, packers, distributors, and to consolidate and streamline the requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard Muller, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 7500 Standish Place Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA49

1226. • HABIT FORMING DRUGS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 329

Legal Deadline: None

Abstract: Revise and clarify these regulations and to be consistent with the Drug Enforcement Administration regulation and the Controlled Substances Act; to streamline requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA50

1227. • BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 357; 21 USC 371

CFR Citation: 21 CFR 320

Legal Deadline: None

Abstract: Revisions and clarification of these requirements to eliminate duplication and inconsistencies and streamline requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erica L. Keys, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug

Evaluation and Research (HFD-362), 7500 Standish Place Rockville, MD 20855
Phone: 301 594-1046
Fax: 301 827-0901

RIN: 0910–AA51

1228. • CONSOLIDATION OF REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 371

CFR Citation: 21 CFR 200.30; 21 CFR 200.31; 21 CFR 250.10; 21 CFR 250.103; 21 CFR 250.106; 21 CFR 310.502; 21 CFR 310.504-510; 21 CFR 310.513; 21 CFR 310.525; 21 CFR 310.526

Legal Deadline: None

Abstract: FDA is proposing to consolidate into one section a list of drugs previously determined to be new drugs. This document would also remove the section now providing for these drugs. This action, which will make the regulations more concise and efficient, is being taken in response to the President's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary E. Catchings, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-366), 7500 Standish Place Rockville, MD 20855
Phone: 301 594-2041
Fax: 301 827-0901

RIN: 0910–AA53

1229. • REVOCATION OF CERTAIN REGULATIONS

Regulatory Plan: This entry is Seq. No. 30 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA54

1230. • NAME OF SELLING AGENT OR DISTRIBUTOR

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360i; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262 to 264

CFR Citation: 21 CFR 610

Legal Deadline: None

Abstract: This proposed rule proposes to allow distributors' and selling agents' names to be prominently displayed on biological product containers, package labels, and labeling, while retaining current product manufacturer labeling information. The proposed rule modifies the current requirement giving precedence to the name of the manufacturer by deleting the requirement for prominence of the name of the manufacturer. The proposed rule is intended to remove an impediment to flexible manufacturing, packaging, and distribution arrangements and to harmonize with the drug regulations (21 CFR 201).

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jean M. Olson and Tracey Forfa, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-630), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 594-3074

RIN: 0910–AA56

1231. • STREAMLINING PROCEDURES FOR CHANGES IN PRODUCTION OF BIOLOGICS

Regulatory Plan: This entry is Seq. No. 31 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA57

1232. • DIETARY SUPPLEMENT REGULATIONS IN RESPONSE TO DSHEA

Priority: Routine and Frequent

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 101

Legal Deadline: None

Abstract: On January 4, 1994, FDA published final rules relative to nutrition labeling, nutrient content claims and health claims for dietary supplements. The Dietary Supplement Health and Education Act (DSHEA) was enacted on October 25, 1995, modifying the provisions for labeling of dietary supplements. FDA is initiating rulemaking to modify its regulations for dietary supplements accordingly. One proposal would modify the nutrition labeling and ingredient declaration requirements. A second proposal would modify the provisions for nutrient content claims and health claims for the disclaimer to accompany statements of nutritional support. A third proposal would define the terms high potency and antioxident.

Timetable:

Action	Date	FR Cite
High Potency and Antioxident terms; Dietary Supplements		
NPRM	12/00/95	
Nutrition Content and Health Claims; Dietary Supplements		
NPRM	12/00/95	
Nutrition Labeling and Ingredient Labeling; Dietary Supplements		
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: F. Edward Scarbrough, Director, Office of Food Labeling, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW. Washington, DC 20204
Phone: 202 205-4561
Fax: 202 205-4594

RIN: 0910–AA59

1233. • PROTECTION OF HUMAN SUBJECTS; INFORMED CONSENT

Regulatory Plan: This entry is Seq. No. 32 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA60

1234. • OTC DRUG LABELING REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321P; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360a; 21 USC 371a

CFR Citation: 21 CFR 200

Legal Deadline: None

Abstract: As part of the Food and Drug Administration's ongoing process to improve the labeling of over-the counter (OTC) drug products, the agency will seek public comment on a standardized uniform format for OTC labeling. This action is intended to improve the communication of important information about OTC products to consumers.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ilisa B. G. Bernstein, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23) 5600 Fishers Lane, Rm. 15-74 Rockville, MD 20857
Phone: 301 827-3380
Fax: 301 443-6906

RIN: 0910–AA63

1235. • MEDICAL DEVICE EXEMPTIONS FROM PREMARKET NOTIFICATION

Regulatory Plan: This entry is Seq. No. 33 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA65

1236. • SUBSTANCES APPROVED FOR USE IN THE PREPARATION OF MEAT AND POULTRY PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 342; 21 USC 348; 21 USC 355 to 357; 21 USC 360; 21 USC 360b to 360f; 21 USC 360h to 360j; 21 USC 361; 21 USC 371; 21 USC 379e; 21 USC 381; 42 USC 216; 42 USC 262

CFR Citation: 21 CFR 71; 21 CFR 170; 21 CFR 171

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to amend its regulations governing the review of petitions for the approval of food and color additives and substances generally recognized as safe (GRAS) to provide for simultaneous review of such petitions by the Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA), when meat or poultry product uses are proposed. By agreement between USDA and FDA, such listings would eliminate the need for a separate FSIS rulemaking to allow the use in meat and poultry products of FDA-approved substances.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: George Pauli, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-200) 200 C Street SW., Washington, DC 20204
Phone: 202 418-3090

RIN: 0910–AA66

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Final Rule Stage

1237. NEW ANIMAL DRUG APPROVAL PROCESS; IMPLEMENTATION OF TITLE I OF THE GENERIC ANIMAL DRUG AND PATENT TERM RESTORATION ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 360b; 21 USC 371

CFR Citation: 21 CFR 514

Legal Deadline: Final, Statutory, November 16, 1989.
The deadline applies to the GADPTRA sections. There is no deadline relating to the other sections.

Abstract: On December 17, 1991, the Agency published a proposed revision of the existing regulations that is consistent with the current procedural regulations for human drugs where appropriate. The New Animal Drug Application (NADA) revisions articulate general requirements in regulations containing performance standards and would complement them through detailed guidelines on, among other matters, appropriate ways of meeting requirements for submission of chemistry, pharmacology, and statistical data that would better address the intricate scientific issues involved. A separate proposed rule for reporting requirements for marketed animal drugs also was published on that date. The agency intends to repropose the NADA proposed rule to incorporate some recent changes in procedure. The Agency also proposes to amend its regulations to implement Title I of the Generic Animal Drug and Patent Term Restoration Act, which established new standards for marketing approval of generic copies of animal drugs approved after 1962.

Timetable:

Action	Date	FR Cite
New Animal Drug Approval Process		
NPRM	12/17/91	(56 FR 65544)
NPRM	08/00/96	
Reporting Requirements for Marketed Animal Drugs		
NPRM	12/17/91	(56 FR 65581)
Final Action	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AA96.

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For information concerning reporting requirements for marketed animal drugs, contact William C. Keller, Director, Division of Surveillance, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, (301) 594-1722. For further information concerning generic animal drugs, contact Lonnie W. Luther, Chief, Generic Animal Drug and Quality Control Staff, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, (301) 594-1623.

Agency Contact: Andrew J. Beaulieu, Deputy Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-101), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1620

RIN: 0910–AA02

1238. CURRENT GOOD MANUFACTURING PRACTICE FOR BLOOD AND BLOOD COMPONENTS; NOTIFICATION OF CONSIGNEES RECEIVING BLOOD AND BLOOD COMPONENTS AT INCREASED RISK FOR TRANSMITTING HIV INFECTION

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 351 to 360k; 21 USC 374; 42 USC 262 to 264

CFR Citation: 21 CFR 606; 21 CFR 610

Legal Deadline: None

Abstract: The agency currently requires that all blood and blood components intended for transfusion or for the manufacture of any product be tested for antibody to human immunodeficiency virus (HIV). In instances when the blood of a donor is found to contain antibodies to HIV, some blood centers have initiated a program of voluntary "look-back" to determine the suitability of previous donations and to notify consignees of blood and blood components obtained from the donor's prior donations. Consignees may withdraw or destroy such blood and blood products, and may trace and notify recipients. A well-conducted look-back program can provide an effective mechanism for quarantine of products and for identifying, testing, and counseling recipients of transfusions determined to be at increased risk of HIV infection--those who receive blood from a donor later found to be infected with HIV. The agency is publishing a final rule to establish a mandatory look-back program. The final rule will require blood collection facilities to develop a procedure to identify and quarantine products from prior collections and to notify consignees promptly whenever a blood donor who has previously donated blood or source plasma is found to be positive for the antibody to HIV; and to keep appropriate records when such notification has been made. In addition, the final rule will require hospital transfusion services to notify recipients of blood products at increased risk for transmitting HIV and to keep appropriate records of the notification process. The purpose of the rulemaking is to ensure the notification of consignees and blood transfusion recipients and that prompt and appropriate action is taken.

Timetable:

Action	Date	FR Cite
NPRM	06/30/93	58 FR 34962
Final Action	12/00/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AC90.

Agency Contact: Sharon Carayiannis, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-630), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 594-3074

RIN: 0910–AA05

1239. LEAD IN FOODS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 336; 21 USC 342(a); 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 109; 21 CFR 182; 21 CFR 189

Legal Deadline: None

Abstract: In light of the public health concerns raised by continuing findings concerning the effects of low levels of exposure to lead, particularly exposure by pregnant women, infants, and children, the agency is undertaking a comprehensive effort to further reduce lead levels in food where controllable or avoidable sources of lead addition to food can be identified. The goal of FDA is to reduce consumers' exposure to lead in the diet to the lowest level that can be practicably obtained.

Timetable:

Lead From Ceramic Pitchers
NPRM 06/01/89 (54 FR 23485)
NPRM Comment Period End 07/31/89
Withdrawal of NPRM 00/00/00
Prohibit Use of Lead-Soldered Food Cans
NPRM 06/21/93 (58 FR 33860)
Final Action 06/27/95 (60 FR 33106)
Prohibit Use of Tin-Coated Lead Foil Capsules on Wine Bottles
NPRM 11/25/92 (57 FR 55485)
Final Action 12/00/95

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AC91.

Agency Contact: Michael E. Kashtock, Supervisory Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-306), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4681

RIN: 0910–AA06

1240. FEES FOR CERTIFICATION SERVICES; INSULIN AND COLOR ADDITIVE CERTIFICATION PROGRAMS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 356; 21 USC 379e(e)

CFR Citation: 21 CFR 80; 21 CFR 429

Legal Deadline: None

Abstract: Insulin Certification Program:

In the Federal Register of October 4, 1991 (56 FR 50248), FDA issued an interim rule effective on November 4, 1991 with opportunity for public comment, revising the fee schedule for insulin certification services. The fees are intended to recover the full costs of operation of FDA's insulin certification program, including the unfunded liability of the Civil Service Retirement Fund and appropriate overhead costs of the Public Health Service and Department of Health and Human Services. FDA is publishing a new interim rule lowering the fees, to reflect lower costs involved in administering the insulin certification program.

Color Certification Program:

In the Federal Register of November 29, 1994, FDA issued an interim rule effective December 29, 1994, which amended the color additive regulations by increasing the fees for certification services. The change in fees will allow FDA to continue to maintain an adequate color certification program as required by the Federal Food, Drug, and Cosmetic Act.

On February 13, 1995, FDA received comments from only one interested party, the International Association of Color Manufacturers (IACM). Those comments, which stated IACM's opposition to an automatic annual escalator provision in the interim rule, will be incorporated into a final rule. The final rule is expected to be published in the Federal Register by early 1996. FDA expects to eliminate the automatic annual escalator provision in response to IACM's concerns.

Timetable:

Color Additives
Interim Final Rule 11/29/94 (59 FR 60898)
Final Action 11/00/95
Insulin
Interim Final Rule 10/04/91 (56 FR 50248)
Interim Final Rule 11/00/95

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD34.

Agency Contact: David R. Petak, Director, Division of Accounting, Department of Health and Human Services, Food and Drug Administration, Office of Management (HFA-120), 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-1766
Fax: 301 443-6242

RIN: 0910–AA07

1241. PRESCRIPTION DRUG MARKETING ACT OF 1987; POLICY INFORMATION, GUIDANCE, AND CLARIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-293 Prescription Drug Marketing Act of 1987

CFR Citation: 21 CFR 203

Legal Deadline: None

Abstract: The Prescription Drug Marketing Act of 1987 (PDMA) amended the Federal Food, Drug, and Cosmetic Act to: (1) require State licensing of wholesale distributors of prescription human drugs under Federal guidelines including minimum standards for storage, handling, and recordkeeping; (2) ban the reimportation of prescription human drugs produced in the United States, except when reimported by the manufacturer or for emergency use; 3) ban the sale, trade, or purchase of drug samples; (4) ban trafficking in or counterfeiting of drug coupons; (5) mandate storage, handling, and recordkeeping requirements for drug samples; (6) require licensed practitioners to request drug samples in writing; (7) prohibit, with certain exceptions, the resale of prescription human drugs purchased by hospitals or health care facilities; and (8) set forth criminal and civil penalties for violations of these provisions. In the Federal Register of September 14, 1990 (55 FR 38012), FDA issued a final rule setting forth Federal guidelines for State licensing of wholesale drug distributors. This final rule would provide information, guidance, and clarification of those sections of PDMA that are not related to State licensing of wholesale distributors.

Timetable:

Action	Date	FR Cite
NPRM	03/14/94	59 FR 11842
NPRM Comment Period End	08/01/94	
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AD44.

Agency Contact: Lee D. Korb, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049

RIN: 0910–AA08

1242. IMPLEMENTATION OF THE SAFE MEDICAL DEVICES ACT OF 1990

Priority: Other Significant

Legal Authority: PL 101-629 Safe Medical Devices Act of 1990

CFR Citation: 21 CFR 860; 21 CFR 820; 21 CFR 807; 21 CFR 803; 21 CFR 17; 21 CFR 812; 21 CFR 7; 21 CFR 814; 21 CFR 821; 21 CFR 861; 21 CFR 895

Legal Deadline:
NPRM, Statutory, August 28, 1991, for Medical Device Tracking.
Final, Statutory, November 28, 1991, for Exemption ofHumanitarian Devices, etc.
Other, Statutory, December 1, 1991, for Classification ofTransitional Devices Notice.
Final, Statutory, August 28, 1993, for Medical Device Tracking.

Abstract: The Safe Medical Devices Act of 1990 (SMDA), enacted November 28, 1990, was intended to assure marketed devices are safe and effective, FDA learns quickly of device problems, and has authority to remove defective devices from the market. The act directs or authorizes FDA to develop these regulations: Medical Device Reporting--This rule will require healthcare facilities and distributors to report deaths and serious injuries/illnesses related to medical devices. Medical Device Tracking--This regulation requires manufacturers to track certain devices to the user. Classification of Transitional Devices--FDA issued a notice to require submission of adverse safety and effectiveness data on transitional devices. FDA will now propose to keep each device in class III, or reclassify it in class I or II. Good Manufacturing Practices for Medical Devices--FDA proposed to add preproduction design validation in existing CGMP regulations. Exemption of Humanitarian Devices--The proposed rule gives procedures for applications for certain premarket review exemptions for humanitarian devices.

Summaries of Safety and Effectiveness for Premarket Notification--The final rule sets forth information to be included in data summaries on which substantial equivalence determinations are made. Recall of Medical Devices--A proposed rule sets forth procedures for using its authority to order device recalls and notifications. Reports of Removal and Corrections--FDA

proposed procedures for manufacturers to report to FDA health-related market removals and corrections of devices. Civil Money Penalties--A final rule established procedures for a hearing to which persons are entitled before the imposition of civil money penalties. Procedural Changes in Medical Device Regulations--This final rule made revisions in regulations necessary because of procedural changes made by the SMDA. Premarket Review of Combination Products--FDA published a final rule establishing procedures for determining which FDA center will review premarket approval applications for products that are a combination of a device and a drug or biologic.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	
Assignment of Agency Component for Review of Premarket Appictns		
Notice (Public Hearing)	07/12/91	(56 FR 31951)
Final Action	11/21/91	(56 FR 31951)
Civil Money Penalties		
NPRM	05/26/93	(58 FR 30680)
Final Action	07/27/95	(60 FR 38612)
Classification of Transitional Devices		
Notice	11/14/91	(56 FR 57960)
Notice(Extension of Comment Period)	03/10/92	(57 FR 8462)
Notice (Extension of Deadline)	11/30/92	(57 FR 56586)
Final Rule (Contact Lenses)	03/04/94	(59 FR 10283)
CGMPs for Medical Devices		
ANPRM (Revisions;Request for Cmnts)	06/15/90	(55 FR 24544)
ANPRM (Suggested Changes;Availblty)	11/30/90	(55 FR 49644)
ANPRM (Extension of Comment Period)	02/14/91	(56 FR 5965)
Notice (Open Public Advsy Cmte Mtg)	04/17/91	(56 FR 15626)
NPRM	11/23/93	(58 FR 61952)
NPRM	07/24/95	(60 FR 37856)
Final Action	03/00/96	
Exemption of Humanitarian Devices		
NPRM	12/21/92	(57 FR 60491)
Final Action	12/00/95	
Medical Device Recall Authority		
NPRM	06/14/94	(59 FR 30656)
NPRM (Correction)	06/23/94	(59 FR 32489)
Final Action	12/00/95	
Medical Device Reporting		
Notice (Public Conf ;Rqst for Info)	03/28/91	(56 FR 12934)
NPRM	11/26/91	(56 FR 60024)
Final Rule (Distributor Reporting)	09/01/93	(58 FR 46514)
Final Action	11/00/95	
Medical Device Tracking		
NPRM	03/27/92	(57 FR 10702)
NPRM	05/29/92	(57 FR 22971)
Final Action	05/29/92	(57 FR 22966)
Final Action (Not Stat Eff Date	08/16/93	(58 FR 43442)
Miscellaneous Procedural Changes in Medical Device Regulations		
Final Action	12/10/92	(57 FR 58400)
Pre-Amendment Class III Devices (merged with 0905-AE34)		
Notice	05/06/94	(59 FR 23731)
Reports of Removals and Corrections of Medical Devices		
NPRM	06/04/94	(59 FR 13828)
Final Action	12/00/95	
Safe Medical Devices Act of 1990; Implementation Plans		
Notice	04/05/91	(56 FR 14111)
Summaries of Safety & Effectiveness for Premarket Notification		
Final Action	04/28/92	(57 FR 18062)
Notice (Stay of Effective Date)	06/01/92	(57 FR 23059)
Final Action	12/14/94	(59 FR 64287)
Temporary Suspension of a Premarket Approval Application		
NPRM	10/12/93	(58 FR 52729)
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD59.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA09

1243. FINAL REGULATION TO ESTABLISH PROCEDURES FOR THE SAFE AND SANITARY PROCESSING AND IMPORTING OF FISH AND FISHERY PRODUCTS

Regulatory Plan: This entry is Seq. No. 34 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA10

1244. BOTTLED WATER

Priority: Routine and Frequent

Legal Authority: 21 USC 341; 21 USC 343(g); 21 USC 343(h); 21 USC 349; 21 USC 371(a)

CFR Citation: 21 CFR 103; 21 CFR 165

Legal Deadline: Other, Statutory. Other deadline is for publication of NPRM or Notice within 180 days of EPA final action.

Abstract: In fulfillment of its mandate under the Safe Drinking Water Act, EPA is currently in the midst of reviewing and establishing standards for contaminants in public drinking water such as pathogenic bacteria, pesticides, and organic chemicals. When EPA establishes such standards for public drinking water, FDA is required to take appropriate action to amend its regulations for bottled drinking water or to state its reasons for not doing so. FDA also establishes identity standards for a food when it has determined that the standard will promote honesty and fair dealing in the interest of consumers.

Timetable:

Action	Date	FR Cite
Beverages; Bottled Water		
NPRM	01/05/93	(58 FR 393)
Final Action	11/00/95	
Microbiological Quality Standard		
NPRM	10/06/93	(58 FR 25042)
Final Action	00/00/00	
Quality Standard for Lead and Copper		
NPRM	01/05/93	(58 FR 389)
Final Action	05/25/94	(59 FR 26933)
Quality Standards for 24 Contaminants		
NPRM	08/04/93	(58 FR 41612)
Final Action	02/00/96	
Quality Standards for 35 Contaminants		
NPRM	01/05/93	(58 FR 382)
Final Action	12/01/94	(59 FR 61529)

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD65.

Agency Contact: Michael E. Kashtock, Supervisory Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-306), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4681

RIN: 0910–AA11

1245. MEDICAL DEVICES; PROTECTIVE RESTRAINTS; REVOCATION OF EXEMPTIONS FROM 510(K) PREMARKET NOTIFICATION PROCEDURES AND CURRENT GOOD MANUFACTURING PRACTICES REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 351; 21 USC 360; 21 USC 360c; 21 USC 360e; 21 USC 360y; 21 USC 371

CFR Citation: 21 CFR 880.6760; 21 CFR 890.3910

Legal Deadline: None

Abstract: FDA has become aware through various sources of numerous reports of complications including permanent physical injuries, severe psychological disabilities, other serious injuries and deaths that have been attributed to incorrect supervision, handling or application of protective restraint devices by medical or paramedical personnel. Complications associated with protective restraint devices frequently result from misuse of the devices. To address potential misuse, manufacturers should include specific directions for use, to the extent that such directions are not currently available or not attached to or kept with the garment. Revocation of the premarket notification exemptions will allow FDA to collect information about the current availability and actual employment of directions for use and to monitor the introduction into commerce of new and changed protective restraints. Revocation of the exemption from the current good manufacturing practice regulation will allow FDA to require the necessary controls over labeling. FDA is also considering educational programs to address this problem. FDA anticipates total first year costs of $930,000 for this regulation. These costs will be offset by the saving of lives and reduced product liability exposure.

Timetable:

Action	Date	FR Cite
NPRM	06/19/92	57 FR 27397
NPRM Comment Period End	08/18/92	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AD84.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA17

1246. FOOD LABELING REVIEW

Priority: Routine and Frequent

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 100; 21 CFR 101; 21 CFR 102; 21 CFR 161

Legal Deadline: None

Abstract: The Nutrition Labeling and Education Act of 1990 (NLEA) requires that most foods bear nutrition labeling. The agency issued final rules implementing most of the provisions contained in the NLEA on January 6, 1993. Subsequently, however, the agency has identified additional areas that should be the subject of rulemaking. FDA issued a proposal on January 6, 1993, to establish requirements for the identification of certain ingredients on food labels. FDA proposed on June 15, 1993, to amend its January 6, 1993, final rules on nutrient content and health claims to remove the provisions that exempted restaurant menus from the requirements for how nutrient content claims and health claims are to be made. FDA also proposed to modify the provisions that delay the effective date of these regulations for small restaurant firms for one year. The agency proposed January 4, 1994, to establish reference daily intakes based on the 9th and 10th editions of the National Research Council's Recommended Dietary Allowances. On March 14, 1994, FDA published a proposal describing the provisions for exemptions for low-volume food products of small businesses that were established by the Nutrition Labeling and Education Act Amendments of 1993. On August 18, 1993, FDA published a proposal concerning the placement of the nutrition facts panel on food labels. Finally, on July 18, 1994, FDA published proposed revised guidelines for the voluntary declaration of nutrition labeling for raw produce and fish. A final rule concerning the placement of the nutrition facts panel published on April 5, 1995.

Timetable:

Action	Date	FR Cite
Misleading Containers; Nonfunctional Slack Fill		
NPRM	01/06/93	(58 FR 2957)
Final Action	12/06/93	(58 FR 64123)
Nutrient Content Claims and Health Claims; Restaurant Foods		
NPRM	06/15/93	(58 FR 33055)
Final Action	00/00/00	
Nutrient Content, Definition of the Term, Healthy		
NPRM	01/06/93	(58 FR 2944)
Final Action	05/10/94	(59 FR 24232)
Placement of Nutrition Facts Panel		
NPRM	08/18/93	(58 FR 44091)
Final Action	04/05/95	(60 FR 17202)
Final Action Effective	05/05/95	
Final Action Correction	06/12/95	(60 FR 30788)
Protein Hydrolysates; Broth in Tuna; and/or Labeling		
NPRM (Declaration of Ingredients)	01/06/93	(58 FR 2950)
Final Action (Dec. of Ingredients)	00/00/00	
Reference Daily Intakes		
NPRM	01/04/94	(59 FR 427)
Final Action	02/00/96	
Small Business Exemption, Nutrition Labeling		
NPRM	03/14/94	(59 FR 11872)
Final Action	11/00/95	
Voluntary Guidelines for Nutrition Labeling Produce		
NPRM	07/18/94	(59 FR 36379)
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD89.

Agency Contact: F. Edward Scarbrough, Director, Office of Food Labeling, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW., Washington, DC 20204
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RIN: 0910–AA19

1247. DISQUALIFICATION OF CLINICAL INVESTIGATORS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360j(g)

CFR Citation: 21 CFR 812

Legal Deadline: None

Abstract: The rule would amend the investigational device exemption (IDE) regulations to provide for a procedure for disqualification of clinical investigators in cases of fraud or other serious violations of the regulations. Persons whose disqualification is proposed would be entitled to an opportunity for hearing.

Timetable:

Action	Date	FR Cite
NPRM	10/06/93	58 FR 52144
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD94.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA21

1248. INVESTIGATIONAL DEVICE EXEMPTION; INTRAOCULAR LENSES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 360j(g)

CFR Citation: 21 CFR 813; 21 CFR 812

Legal Deadline: None

Abstract: The rule would revoke the separate investigational device exemption regulation for intraocular lenses (IOL's). IOL's would then be subject to the same IDE regulation (21 CFR Part 812) as all other devices. The IOL-IDE regulation was originally created as an interim measure.

Timetable:

Action	Date	FR Cite
NPRM	10/06/93	58 FR 52142
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD95.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA22

1249. DIETARY SUPPLEMENT LABEL REVIEW

Priority: Routine and Frequent

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 101

Legal Deadline: NPRM, Statutory, June 15, 1993. Final, Statutory, December 31, 1993.

If final regulations on labeling of Dietary Supplements are not published by 12/31/93, the proposed regulations shall be considered the final regulations.

Abstract: With the publication of various final rules on January 6, 1993, the Agency completed action on its food labeling initiative under the Nutrition Labeling and Education Act of 1990. Rulemaking on nutrition labeling of dietary supplements was delayed due to requirements of the Dietary Supplement Act of 1992 (DSA), which amended the law to provide that the Agency would issue proposed regulations for dietary supplements by June 15, 1993, and final regulations by December 31, 1993. Three proposed regulations were developed and published on June 18, 1993: Health Claims for Dietary Supplements, Nutrient Content Claims for Dietary Supplements, and Mandatory Nutrition Labeling for Dietary Supplements. On October 14, 1993, FDA published a proposal to not authorize health claims on the labels of dietary supplements of 5 nutrient/disease relationships: (1) Dietary fiber and cancer (2) Dietary Fiber and CVD, (3) Antioxidants and Cancer, (4) Omega-3 fatty acids and CHD, (5) Zinc and immune function in the elderly. In addition, FDA also published a proposed rule to authorize the use of health claims about the relationship of folates and neural tube defects. On January 4, 1994, FDA published notices stating that it considered the proposals to be final regulations by operational statute. However, the notices also stated that FDA considers the October 14, 1993, rulemakings to be ongoing. The Agency intends to continue rulemaking with respect to folates and to issue a final rule as quickly as possible. FDA is also considering new scientific information that may support health claims for some of the nutrient-disease relationships given above. If this information is sufficient to support claims, the Agency will repropose to allow those claims.

Timetable:

Action	Date	FR Cite
Health Claims and Label Statements; Dietary Supplements		
NPRM Folic Acid and Neural Tube Def	10/14/93	(58 FR 53254)
Final Action	01/04/94	(59 FR 433)
Final Action Effective	07/01/94	
Final Action	03/00/96	
Health Claims; Diet. Fiber/Cancer, CHD; Antioxidant/CVD; Omega-3		
NPRM	10/14/93	(58 FR 53296)
Final Action	00/00/00	
Health Claims; Dietary Supplements		
NPRM	06/18/93	(58 FR 33700)
Final Action	01/04/94	(59 FR 395)
Nutrient Content Claims; Dietary Supplements		
NPRM	06/18/93	(58 FR 33731)
Final Action	01/04/94	(59 FR 378)
Nutrition Labeling; Dietary Supplements		
NPRM	06/18/93	(58 FR 33715)
Final Action	01/04/94	(59 FR 354)
Regulation of Diet. Supp.		
ANPRM	06/18/93	(58 FR 33690)
Withdrawal	12/06/94	(59 FR 62644)

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD96.

Agency Contact: F. Edward Scarbrough, Director, Office of Food Labeling, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW., Washington, DC 20204
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RIN: 0910–AA23

1250. SPECIFIC REQUIREMENTS ON CONTENT AND FORMAT OF LABELING FOR HUMAN PRESCRIPTION DRUGS; ADDITION OF "GERIATRIC USE" SUBSECTION IN THE LABELING

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 352; 21 USC 355; 42 USC 262

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: On November 1, 1990 (55 FR 46134), the Agency proposed to amend its regulations governing the content and format of labeling for human prescription drug products to require a subsection in the labeling that would include information on the use of a drug in the elderly. This proposal reflects growing recognition by FDA and others of the special concerns associated with prescription drug use in this age group. FDA believes that providing access to this information is necessary for the safe and effective use of prescription drugs in older populations. The Agency is reviewing the public comments submitted in response to the proposed rule and preparing a final rule.

Timetable:

Action	Date	FR Cite
NPRM	11/01/90	55 FR 46134
NPRM Comment Period End	12/31/90	
Final Action	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE26.

Agency Contact: Erica L. Keys, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1046

RIN: 0910–AA25

1251. TAMPER-EVIDENT PACKAGING REQUIREMENTS FOR OVER-THE-COUNTER HUMAN DRUG PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 371

CFR Citation: 21 CFR 211

Legal Deadline: None

Abstract: On January 18, 1994 (59 FR 2542), the Agency proposed to amend its tamper-resistant packaging regulations to require that all over-the-counter (OTC) human drug products marketed in two-piece, hard gelatin capsules be sealed. The proposal also solicited public comments on whether additional regulatory changes, such as packaging performance standards, may be necessary. FDA has required tamper-resistant packaging features for OTC drug products since 1982. The tamper-resistant packaging regulations were revised in 1989 in response to continuing tampering incidents. Despite the regulatory protection provided by the regulations, two-piece, hard gelatin capsules remain vulnerable to malicious tampering and were implicated in tampering incidents in 1991. This regulatory action is in response to the 1991 tampering incidents.

Timetable:

Action	Date	FR Cite
NPRM	01/18/94	59 FR 2542
NPRM Comment Period End	03/21/94	
Final Action	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE27.

Agency Contact: Tamar S. Nordenberg, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049

RIN: 0910–AA26

1252. CERTIFICATION OF DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN; FEES FOR CERTIFICATION OF DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 356; 21 USC 371

CFR Citation: 21 CFR 429.55

Legal Deadline: None

Abstract: The Food and Drug Administration intends to issue an interim rule, with opportunity for public comment, to revise the fee schedule for insulin certification services to reflect lower agency costs for the program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE28.

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049

RIN: 0910–AA27

1253. ELECTRONIC SIGNATURES; ELECTRONIC RECORDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 301 et seq; 21 USC 201 et seq

CFR Citation: 21 CFR 11

Legal Deadline: None

Abstract: FDA is preparing regulations to set forth criteria for agency acceptance of electronic records and electronic signatures in lieu of paper records and handwritten signatures. The new rules would apply to any records requirements in Chapter I of Title 21 (all program areas and industries), unless specifically exempted by future regulations. For documents required to be maintained, but not submitted to FDA, persons could use electronic records and signatures upon the effective date of a final rule. For documents submitted to FDA, persons could use electronic records and signatures if FDA has stated, in a public docket to be maintained for that purpose, that the intended receiving organization is prepared to accept the submission in electronic form. (The proposed rule does not require use of electronic records and signatures, but permits their use under certain circumstances.) This action was taken as a follow-up to the Agency's 7/21/92 advance notice of proposed rulemaking. The intended effect is to permit and foster use of new technologies in a manner that is consistent with FDA's overall mission and that preserves the integrity of the Agency's enforcement activities.

Timetable:

Action	Date	FR Cite
ANPRM	07/21/92	57 FR 32185
ANPRM Comment Period End	10/19/92	
NPRM	08/31/94	59 FR 45160
NPRM Comment Period End	11/29/94	
Final Action	05/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: Previously reported under RIN 0905-AE31.

Agency Contact: Paul J. Motise, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-323), 7500 Standish Place, Rockville, MD 20855
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RIN: 0910–AA29

1254. FINANCIAL DISCLOSURE BY CLINICAL INVESTIGATORS

Priority: Other Significant

Legal Authority: 42 USC 262; 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 360; 21 USC 371; 21 USC 372; 21 USC 373; 21 USC 374; 21 USC 375; ...

CFR Citation: 21 CFR 54; 21 CFR 312.53; 21 CFR 312.57; 21 CFR 312.64; 21 CFR 314.50; 21 CFR 314.60; 21 CFR 314.94; 21 CFR 314.200; 21 CFR 314.300; 21 CFR 320.36; 21 CFR 330.10; 21 CFR 601.2; 21 CFR 807.31; 21 CFR 807.87; 21 CFR 807.100; ...

Legal Deadline: None

Abstract: This final regulation addresses the problem of certain financial arrangements and interests of clinical investigators that have the potential to bias the outcome of clinical trials. The problem is significant because clinical research data provide the basis for FDA's evaluation of drugs, biologics and devices for marketing. The regulation requires the sponsor of a product that is the subject of a marketing application to submit either a statement certifying that the clinical investigator is not a party to any problematic financial interests and arrangements or a statement disclosing problematic interests and arrangements to which the investigator is a party. This information would enable FDA to subject the relevant clinical research data to an appropriate level of scrutiny to test its reliability. Alternatives are to prohibit investigators from holding certain financial interests altogether or to require divestiture by the investigator of a prohibited interest. The estimated costs to industry associated with preparation, submission, and retention of the information required by this final rule are well below the $100 million threshold that defines a significant regulatory action. The final rule is not expected to impose a significant resource burden on FDA because the submission of statements is limited to clinical data submitted in support of marketing applications, ruling out data from the large number of studies that do not lead to applications, and FDA estimates that sponsors will be able to certify for the majority of their clinical investigators, so that most submitted data will not require intensified scrutiny. The final rule will strengthen the FDA review process.

Timetable:

Action	Date	FR Cite
NPRM	09/22/94	59 FR 47807
NPRM Comment Period End	12/21/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: Previously reported under RIN 0905-AE32.

Agency Contact: Mary Gross, Department of Health and Human Services, Food and Drug Administration, Office of External Affairs (HF-24) 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AA30

1255. PRESCRIPTION DRUG PRODUCT LABELING; MEDICATION GUIDE

Regulatory Plan: This entry is Seq. No. 35 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA37

1256. HUMAN TISSUE INTENDED FOR TRANSPLANTATION: PROPOSED RULE

Priority: Other Significant

Legal Authority: 42 USC 216; 42 USC 243; 42 USC 264; 42 USC 271

CFR Citation: 21 CFR 1270

Legal Deadline: None

Abstract: FDA is issuing a final rule requiring certain infectious disease testing, donor screening, and recordkeeping to help prevent the transmission of AIDS and hepatitis through human tissue used in transplantation. FDA is also clarifying and modifying those requirements previously promulgated by the interim rule. In addition, FDA is amending the regulations to require the registration of those establishments engaged in procurement, processing, storage, or distribution of human tissue intended for transplantation. Also, FDA will be proposing regulations to govern the recovery, processing, storage, or distribution of human reproductive tissue.

Timetable:

Action	Date	FR Cite
Interim Rule; Opport. for Comment	12/14/93	58 FR 65514
Interim Rule; Comment Period End	03/14/94	
Final Action	01/00/96	
NPRM	04/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AE49.

Agency Contact: Paula McKeever, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-630), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 594-3074

RIN: 0910–AA40

1257. IRON CONTAINING DRUGS AND SUPPLEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 342; 21 USC 343; 21 USC 351; 21 USC 352

CFR Citation: 21 CFR 101; 21 CFR 111; 21 CFR 310

Legal Deadline: None

Abstract: On October 6, 1994, FDA published a proposal responding to three citizen petitions that were submitted in response to an increase in deaths and poisonings in small children due to accidental ingestion of iron containing drugs and dietary supplements. The petitions requested that FDA require label warning

statements for these products and special packaging to ensure the safe use of these products. Because of recent changes in the laws regulating dietary supplements brought about by the Dietary Supplement Health and Education Act (Pub. L. 103-417), FDA published a supplemental proposal on February 16, 1995, that set forth its revised legal authority a supplemental proposal that sets forth its revised legal authority.

Timetable:

Action	Date	FR Cite
NPRM	10/06/94	59 FR 51030
NPRM Correction	11/14/94	59 FR 56573
NPRM Comment Period End	12/20/94	
Supplemental NPRM	02/16/95	60 FR 8989
Supplemental NPRM Comment Period End	04/17/95	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE59.

Agency Contact: Linda Kahl, Acting Director, Division of Programs and Enforcement Policy, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-455), 200 C Street SW., Washington, DC 20204
Phone: 202 205-5365

RIN: 0910–AA42

1258. PUBLIC INFORMATION; COMMUNICATIONS WITH STATE AND FOREIGN GOVERNMENT OFFICIALS

Priority: Other

Legal Authority: 5 USC 552; 18 USC 1905; 19 USC 2531 to 2582; 21 USC 321 to 393; 42 USC 241; 42 USC 242; 42 USC 242a; 42 USC 242l; 42 USC 242n; 42 USC 243; 42 USC 262; 42 USC 263; 42 USC 263b to 263n; 42 USC 264; 42 USC 265

CFR Citation: 21 CFR 20

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to amend its regulations governing communications with officials of State and foreign governments. This proposal will permit FDA to disclose to, and receive from, these officials certain nonpublic information without being compelled to disclose the information to the public generally. This proposal addresses the nonpublic exchange of two types of information. First, it allows the disclosure of nonpublic safety, effectiveness, or quality information concerning FDA-regulated products to State government officials. Second, it allows the disclosure of draft proposed rules and other nonpublic predecisional documents concerning regulatory requirements or activities between FDA and either State or foreign government officials. This action is necessary to enhance cooperation in regulatory activities, to eliminate unfounded contradictory regulatory requirements, and to minimize redundant application of similar requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/27/95	60 FR 5530
NPRM Comment Period End	04/27/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: Previously reported under RIN 0905-AE65.

42 USC 300u-300u-5 42 USC 300aa-1

Agency Contact: Linda Horton, Director, International Policy Staff, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AA46

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Long-Term Actions

1259. POLICIES CONCERNING USES OF SULFITING AGENTS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 336; 21 USC 341; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 182.3616; 21 CFR 182.3637; 21 CFR 182.3739; 21 CFR 182.3766; 21 CFR 182.3798; 21 CFR 182.3862; 21 CFR 100; 21 CFR 130.9

Legal Deadline: None

Abstract: Acceptable evidence and information exist to show that a subgroup of asthmatics is at moderate to severe risk for a severe reaction upon exposure to sulfites. The agency's primary tool for handling a situation where population subgroups may be at increased risk from a food ingredient that is safe for most people is to use labeling to inform those persons who need or want to avoid the ingredient. The agency issued a final rule, effective January 7, 1987, that requires that when a sulfiting agent is present in a finished food at 10 parts per million or greater, the sulfiting agent must be declared on the label. In addition, FDA issued a final rule, effective August 8, 1986, prohibiting the use of sulfiting agents on raw fruits and vegetables intended to be served or sold raw to consumers (e.g., in salad bars). On December 10, 1987, FDA announced its tentative conclusion that there is no longer a basis to find that the use of sulfiting agents on "fresh" potatoes served or sold unpackaged to consumers is GRAS. On December 19, 1988, FDA proposed to affirm, with specific limitations, that certain other uses of sulfiting agents are GRAS and to establish labeling requirements for sulfiting agents in standardized foods.

On March 15, 1990 (55 FR 9826), FDA issued a final rule prohibiting the use of sulfiting agents on "fresh" potatoes (55 FR 9826) and requested data and information concerning the use of sulfiting agents on frozen potatoes (55 FR 9834).

On August 3, 1990, the United States District Court for the Middle District of Pennsylvania declared the final rule concerning fresh potatoes to be "null and void" based on perceived procedural defects in the rulemaking proceeding. The Government appealed the district court's decision. On May 22, 1991, the U.S. Court of Appeals for the Third Circuit en banc split equally. Therefore, the decision of the district

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court invalidating on procedural grounds FDA's final rule revoking the GRAS status of the use of sulfiting agents on fresh potatoes.

FDA's reproposed rule will include the GRAS status of sulfiting agents on both minimally processed (formerly fresh) and frozen potatoes was left in place.

Timetable:

Food Labeling; Declaration of Sulfiting Agents
NPRM 04/03/85 (50 FR 13306)
Final Action 07/09/86 (51 FR 25012)
Final Action Effective 01/09/87 (51 FR 25012)
GRAS Status of the Use of Sulfiting Agents on Fresh Potatoes
NPRM-To be Merged w/Frozen Potatoes 12/10/87 (52 FR 46968)
Final Action 03/15/90 (55 FR 9626)
GRAS Status of Certain Other Food Uses of Sulfiting Agents, Etc.
NPRM 12/19/88 (53 FR 51065)
Final Action 00/00/00
Revoking Use of Sulfiting Agents on Fruits & Vegetables, Etc.
NPRM 08/14/85 (50 FR 32836)
Final Action 07/09/86 (51 FR 25021)
Final Action Effective 08/09/86 (51 FR 25021)
Status of the Use of Sulfiting Agents on Shrimp
NPRM 12/19/88 (53 FR 51065)
Tentative Final Rule 00/00/00
Status of Use of Sulfit Agents on Minimally Procd & Froz Potatoes
NPRM 00/00/00

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AB52.

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Phone: 202 254-3116

RIN: 0910–AA03

1260. REVIEW OF WARNINGS, USE INSTRUCTIONS, AND PRECAUTIONARY INFORMATION UNDER SECTION 314 OF THE NATIONAL CHILDHOOD VACCINE INJURY ACT OF 1986

Priority: Other Significant

Legal Authority: PL 99-660, sec 314

CFR Citation: None

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: Section 314 of the National Childhood Vaccine Injury Act of 1986 mandated that the warnings, use instructions, and precautionary information of specified childhood vaccines be reviewed and that their adequacy in warning health care professionals of the nature and extent of dangers posed by such vaccines be determined. This precautionary information is contained in the package insert of each vaccine licensed by the agency. FDA held a public meeting to receive public comment on the adequacy of these package inserts.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting; Public Comment on Package Inserts	07/31/92	57 FR 33915
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Previously reported under RIN 0905-AD72.

A public meeting was held on 9/18/92 on section 314 Labeling Review. Presentations were made by FDA, CDC, manufacturers, parents groups, and the public on the adequacy of the current labeling.

Agency Contact: Tracey Forfa, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-630), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 594-3074

RIN: 0910–AA14

1261. GENERAL BIOLOGICAL PRODUCT STANDARDS; ALTERNATIVE PROCEDURES AND EXCEPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 262

CFR Citation: 21 CFR 610; 21 CFR 640; 21 CFR 630

Legal Deadline: None

Abstract: The Food and Drug Administration is amending its regulations governing biological products. This amendment would authorize the Director, Center for Biologics Evaluation and Research, to approve an exception or alternative to any regulation in 21 CFR governing biological products. The regulation will provide flexibility needed to accommodate rapid changes in biotechnology and to assure the continued availability of biological products.

Timetable:

Action	Date	FR Cite
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AD82.

Agency Contact: Stephen Ripley, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-630), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 594-3074

RIN: 0910–AA16

1262. MEDICAL FOODS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 341; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 350; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360ee; 21 USC 371

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Food and Drug Administration is considering development of regulations for medical foods, as defined by the Orphan Drug Act Amendments of 1988 (21 USC 360ee(b)(3)) to assure, among other things, the safety and effectiveness of these products, proper labeling of the nutrient content and purported uses, including adequate and appropriate directions for use, and quality control and good manufacturing practices.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD91.

Agency Contact: Robert Moore, Regulatory Branch, Division of Programs and Enforcement Policy, Office of Spec Nut., Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-456), 200 C Street SW., Washington, DC 20204
Phone: 202 205-5372

RIN: 0910–AA20

1263. ADVERSE EXPERIENCE REPORTING REQUIREMENTS FOR HUMAN DRUG AND LICENSED BIOLOGICAL PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374; 21 USC 216; 21 USC 262; 21 USC 263; 21 USC 263a; 21 USC 264; 21 USC 300aa-25

CFR Citation: 21 CFR 20; 21 CFR 310; 21 CFR 312; 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: The final rule will amend the adverse experience reporting regulations for human drug products and licensed biological products to make the requirements consistent with a new single unified form (FDA Form 3500A) and require the use of this new reporting form. The new form was announced as part of FDA's MedWatch program. The final rule will also revise certain definitions and reporting periods and formats as recommended by the International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH) and the World Health Organization's Council for International Organizations of Medical Sciences (CIOMS). In addition, the rule will amend the regulations governing the reporting of data from clinical studies.

Timetable:

Action	Date	FR Cite
NPRM	10/27/94	59 FR 54046
NPRM Comment Period End	01/25/95	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE29.

Agency Contact: Howard P. Muller, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049

RIN: 0910–AA28

1264. AMALGAM INGREDIENT LABELING

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 352

CFR Citation: 21 CFR 801

Legal Deadline: None

Abstract: Certain dental amalgams may contain ingredients which may cause some persons severe adverse reactions. Therefore, FDA would propose that labeling for dental amalgams must include the ingredients so that health professionals may choose the appropriate amalgam for the patient.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE39.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA33

1265. CLASSIFICATION OF COMPUTER SOFTWARE PROGRAMS THAT ARE MEDICAL DEVICES

Priority: Other Significant

Legal Authority: 21 USC 321(h); 21 USC 351; 21 USC 352; 21 USC 360(c)

CFR Citation: None

Legal Deadline: None

Abstract: FDA is announcing its intention to classify stand-alone computer software products that fit the definition of a medical device under the Federal Food, Drug, and Cosmetic Act. The Agency anticipates classifying these devices by using a risk-based approach as required under the Medical Device Amendments to the act. Under this approach low risk medical software devices would be subject only to the adulteration and misbranding provisions of the act. Moderate risk devices would additionally be subject to the registration, listing, and good manufacturing practice requirements for adverse events and complaints. High risk devices would be the only products to require premarket submissions. FDA is also seeking comment on potential criteria related to the intended uses of medical software devices that might be used in determining the level of risk.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE58.

Agency Contact: Chuck Furfine, Regulatory Review Scientist/Software Expert, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA41

1266. DEVELOPMENT OF HAZARD ANALYSIS CRITICAL CONTROL POINTS FOR THE FOOD INDUSTRY; REQUEST FOR COMMENTS

Priority: Other Significant

Legal Authority: 21 USC 321 et seq; 21 USC 342(a)(4); 21 USC 371(a); 42 USC 264

CFR Citation: None

Legal Deadline: None

Abstract: FDA announced on April 4, 1994, its plans to consider developing regulations that would establish requirements for a new comprehensive food safety assurance program for both domestically produced and imported foods that would be based on the principles of Hazard Analysis Critical Control Points (HACCP). The new food safety program would respond to new challenges, such as new food

processing and packaging technologies, new food distribution and consumption patterns, exposure to industrial chemicals and chemical waste, the increasing importation of foods, new microbial pathogens, and resource constraints. The most serious of these challenges is presented by food pathogens. The number of recognized food-borne pathogens has broadened considerably, as has awareness of long-term complications from certain food-borne illnesses--such as arthritis, heart disease, and kidney and neurological damage. To meet such challenges, FDA intends to shift the focus of its food safety assurance program away from periodic visual inspection and end-product testing and toward prevention of food safety risks and problems, utilizing the HACCP state-of-the-art preventive approach.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/94	59 FR 39888
ANPRM Comment Period End	12/02/94	
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AE60.

Agency Contact: John E. Kvenberg, Strategic Manager, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-10), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4010

RIN: 0910–AA43

1267. • DRUGS USED FOR TREATMENT OF NARCOTIC ADDICTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 355; 21 USC 371; 42 USC 241; 42 USC 257; 42 USC 290; 42 USC 300

CFR Citation: 21 CFR 291

Legal Deadline: None

Abstract: Revise these regulations to reduce burden, to streamline requirements, to consolidate various sections.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-362), 7500 Standish Place Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA52

1268. • EXPORT REQUIREMENTS FOR DRUGS FOR INVESTIGATIONAL USE IN OTHER COUNTRIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 331; 21 USC 351 to 352; 21 USC 355 to 357; 21 USC 360; 21 USC 360b; 21 USC 360aa to 360dd; 21 USC 371 to 372; 21 USC 374; 21 USC 379e; 21 USC 379g; 21 USC 381 to 382; 21 USC 393; 42 USC 216; 42 USC 241; 42 USC 242l

CFR Citation: 21 CFR 312.110

Legal Deadline: None

Abstract: FDA is considering whether to amend its regulations on investigational new drugs to streamline requirements for exports of unapproved drugs for investigational use in other countries. FDA is considering whether to exempt, or reduce requirements for exports of such drugs to highly developed countries such as Australia, Canada, Japan, and countries that are members of the European Union or the European Free Trade Area. The proposal carries out the President's and Vice President's "National Performance Review" for drugs and devices and is consistent with recent Congressional initiatives.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Horton, Director, International Policy Staff, Office of Policy (HF-23), Department of Health and Human Services, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3344

RIN: 0910–AA61

1269. • EXPORT REQUIREMENTS FOR MEDICAL DEVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 360; 21 USC 360c to 360f; 21 USC 360h to 360j; 21 USC 371; 21 USC 372; 21 USC 374; 21 USC 379e; 21 USC 381; 42 USC 393; 42 USC 216; 42 USC 241; 42 USC 2421; ...

CFR Citation: 21 CFR 812.18

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to amend its regulations for investigational devices to describe streamlined requirements for exports of unapproved medical devices. Under the proposed rule, an approved investigational device exemption (IDE) would constitute an agency determination that the export of the unapproved device is not contrary to the public health or safety. Countries could notify FDA that they do not object to the importation of unapproved devices with an approved IDE into their countries. Thus, for devices with an FDA-approved IDE, the proposal would eliminate the need for FDA to make independent determinations either that exportation is not contrary to the public health or safety or that an importing country does not object to the importation of a specific device. The proposed rule is intended to codify and to simplify export requirements for certain unapproved devices pursuant to the President's and Vice-President's

"National Performance Review," as reflected in the April 1995 report titled, "Reinventing Drug & Medical Device Regulations." It is also consistent with recent Congressional initiatives.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Horton, Director, International Policy Staff, Office of Policy (HF-23), Department of Health and Human Services, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3344

RIN: 0910–AA62

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Completed Actions

1270. PROPOSED LABELING FOR DRUG PRODUCTS BASED ON FALSE OR FRAUDULENT DATA

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 201

Completed:

Reason	Date	FR Cite
Withdrawn	08/14/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard Muller
Phone: 301 594-1049

RIN: 0910–AA13

1271. RECORDKEEPING AND REPORTING: ELECTRONIC PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 21 CFR 1000; 21 CFR 1002

Completed:

Reason	Date	FR Cite
Final Action	09/19/95	60 FR 48374

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph M. Sheehan
Phone: 301 594-4765

RIN: 0910–AA15

1272. THRESHOLD OF REGULATION POLICY FOR COMPONENTS OF FOOD CONTACT ARTICLES

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 170; 21 CFR 171; 21 CFR 174

Completed:

Reason	Date	FR Cite
Final Action	07/17/95	60 FR 36582
Final Action Effective	08/16/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward J. Machuga
Phone: 202 418-3085

RIN: 0910–AA18

1273. MEDICAL DEVICES; RESTRICTED DEVICES

Priority: Other Significant

CFR Citation: 21 CFR 801; 21 CFR 899

Completed:

Reason	Date	FR Cite
Withdrawn	08/16/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph M. Sheehan
Phone: 301 594-4765

RIN: 0910–AA36

1274. SUBSTANCES PROHIBITED FOR USE IN RUMINANT FEED

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 589.2000

Completed:

Reason	Date	FR Cite
Withdrawn - No action planned in the next 12 months.	08/08/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John P. Honstead
Phone: 301 594-1728

RIN: 0910–AA38

1275. NEW DRUG AND BIOLOGICAL PRODUCT LICENSE APPLICATIONS; REVISIONS TO EXISTING REGULATIONS

Priority: Other Significant

CFR Citation: 21 CFR 314.51; 21 CFR 314.60; 21 CFR 314.61; 21 CFR 314.71; 21 CFR 314.100; 21 CFR 314.110; 21 CFR 314.120; 21 CFR 600.3; 21 CFR 601.2; 21 CFR 601.3; 21 CFR 611

Completed:

Reason	Date	FR Cite
Withdrawn	08/14/95	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Thomas Hassall
Phone: 301 594-6740

RIN: 0910–AA44

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Proposed Rule Stage

1276. NATIONAL VACCINE INJURY COMPENSATION PROGRAM: REVISIONS AND ADDITIONS TO THE VACCINE INJURY TABLE - II

Priority: Other Significant

Legal Authority: 42 USC 216; 42 USC 300aa-14; 42 USC 300aa-1 note.

CFR Citation: 42 CFR 100

Legal Deadline: None

Abstract: The Secretary has made findings as to the illnesses and conditions that can reasonably be determined in some circumstances to be caused or significantly aggravated by certain vaccines. Based on these findings, the Secretary proposes to amend the Vaccine Injury Table by regulation pursuant to section 313 of the National Childhood Vaccine Injury Act of 1986 and section 2114(c) of the Public Health Service Act. These proposed regulations would have effect only for petitions for compensation under the National Vaccine Injury Compensation Program (VICP) filed after the new regulations become effective.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE52.

Agency Contact: Thomas E. Balbier, Jr., Director, Division of Vaccine Injury Compensation Program, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8A-35, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-6593

RIN: 0906–AA36

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Final Rule Stage

1277. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK RULES

Regulatory Plan: This entry is Seq. No. 36 in Part II of this issue of the **Federal Register**.

RIN: 0906–AA32

1278. TECHNICAL AMENDMENTS TO THE HEALTH PROFESSIONS, NURSING, AND ALLIED HEALTH TRAINING GRANT PROGRAMS UNDER 42 CFR PARTS 57 AND 58

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 293; 42 USC 293c; 42 USC 293d; 42 USC 293j; 42 USC 293k; 42 USC 293l; 42 USC 293m; 42 USC 293n; 42 USC 294; 42 USC 294b; 42 USC 294i; 42 USC 294o

CFR Citation: 42 CFR 57; 42 CFR 58

Legal Deadline: None

Abstract: This final rule amends various Public Health Service (PHS) health professions, nursing, and allied health training grant regulations, codified at 42 CFR parts 57 and 58, to bring these programs into conformity with statutory amendments made by the Health Professions Extension Amendments of 1992 to the various sections of the PHS Act under titles VII and VIII. Technical changes being made to the regulations are: (1) the renumbering of PHS section numbers and their corresponding United States Code numbers within the regulations; (2) the removal of the reference to the National Advisory Council on Health Professions Education and the requirements for the Council's review of title VII grants; (3) the removal of the reference to section 705 of the PHS Act concerning audit and inspection requirements, which is redundant to the requirements that are covered under 45 CFR part 74; (4) the removal of repealed and inactive title VII and VIII health professions, nursing, and allied health training grant program regulations; and (5) other technical changes which are clarifying or editorial changes in nature.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE54.

Agency Contact: Betty B. Hambleton, Chief, Planning, Evaluation and Legislation Branch, Office of Research & Planning/BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-67, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-1590

RIN: 0906–AA38

1279. • REMOVAL OF OBSOLETE REGULATIONS OF THE TITLE VII GRANT FOR THE CONSTRUCTION OF TEACHING FACILITIES FOR HEALTH PROFESSIONS PERSONNEL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 292 et seq

CFR Citation: 42 CFR 57.101 to 57.108; 42 CFR 57.110 to 57.112

Legal Deadline: None

Abstract: The purpose of this action is to remove regulations rendered obsolete by P.L. 102-408, which rescinded the authority for a health professions training facilities construction grant program that the now obsolete regulations governed.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charlotte Pascoe, Chief, Division of Acilities Compliance and, Recovery, Department of Health and Human Services, Health Resources and Services Administration, Room 7-31 Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-6512

RIN: 0906–AA39

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Long-Term Actions

1280. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: LENDERS'/ HOLDERS' PERFORMANCE STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 292 to 292o

CFR Citation: 42 CFR 60

Legal Deadline: NPRM, Statutory, October 13, 1993.

Abstract: This Final rule amends the existing regulations governing the HEAL Program to establish standards for lenders and holders as required by the Health Professions Education Extension Amendments of 1992 (Pub. L. 102-408). These standards would provide lenders and holders a greater incentive to work to maintain low HEAL default rates and, thus, improve the long-term solvency of the Student Loan Insurance Fund.

Timetable:

Action	Date	FR Cite
NPRM	11/16/94	59 FR 50103
NPRM Comment Period End	12/16/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD87.

Agency Contact: Michael Heningburg, Director, Division of Student Assistance, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Bldg. Room 8-48, Rockville, MD 20857
Phone: 301 443-1173

RIN: 0906–AA33

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Completed Actions

1281. GRANTS FOR THE ESTABLISHMENT OF DEPARTMENTS OF FAMILY MEDICINE

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 57, subpart R

Completed:

Reason	Date	FR Cite
Final Action Correction Notice - 7/31/95, 60 FR 38970	05/30/95	60 FR 28065

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Enrique Fernandez, M.D., M.Ed.
Phone: 301 443-6190

RIN: 0906–AA34

1282. FEDERALLY SUPPORTED HEALTH CENTERS ASSISTANCE ACT OF 1992

Priority: Other Significant

CFR Citation: 42 CFR 6

Completed:

Reason	Date	FR Cite
Final Action	05/08/95	60 FR 22530

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Libby Merrill, Legislative Analyst
Phone: 301 594-4060

RIN: 0906–AA35

1283. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS, DENTISTS, AND OTHER HEALTH CARE PRACTITIONERS: PAYMENT OF FEES

Priority: Other

CFR Citation: 45 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	05/26/95	60 FR 27898

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas C. Croft
Phone: 301 443-2300

RIN: 0906–AA37

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
National Institutes of Health (NIH)

Proposed Rule Stage

1284. NATIONAL INSTITUTES OF HEALTH AIDS RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-1

CFR Citation: 42 CFR 68

Legal Deadline: None

Abstract: Section 634 of PL 100-607 creates a new program through which health professionals can obtain federally funded repayment of educational loans by conducting AIDS research as NIH employees. The new regulations will cover this program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AD18.

Agency Contact: Marc Horowitz, Director, NIH AIDS Research Loan Repayment Program, Department of Health and Human Services, National Institutes of Health, Office of AIDS Research, 9000 Rockville Pike, Bethesda, MD 20892
Phone: 301 496-0357
Fax: 301 402-0169
Email: MOOREJ@OD31EMI.NIH.GOV

RIN: 0925–AA02

1285. NATIONAL INSTITUTES OF HEALTH CLINICAL RESEARCH LOAN REPAYMENT PROGRAM FOR INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-5

CFR Citation: 42 CFR 68a

Legal Deadline: None

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HHS—NIH

Proposed Rule Stage

Abstract: Regulations would be issued to govern the awarding of educational loan repayments under the NIH Clinical Research Loan Repayment Program for Individuals From Disadvantaged Backgrounds authorized by section 487E of the Public Health Service Act, as added by provisions of the NIH Revitalization Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE56.

Agency Contact: Marc Horowitz, Dir., Clinical Research Loan Repayment Prog., Individuals from Disadvantaged Backgrounds, Department of Health and Human Services, National Institutes of Health, Office of AIDS Research, 9000 Rockville Pike, Bethesda, MD 20892
Phone: 301 402-0852
Fax: 301 402-0169
Email: MOOREJ@OD31EMI.NIH.GOV

RIN: 0925–AA09

1286. UNDERGRADUATE SCHOLARSHIP PROGRAM REGARDING PROFESSIONS NEEDED BY THE NIH

Priority: Other

Legal Authority: 42 USC 288-4; 42 USC 216

CFR Citation: 42 CFR 68b

Legal Deadline: None

Abstract: Section 487D of the PHS Act, as added by the NIH Revitalization Act of 1993, creates a program offering scholarships, in an amount not to exceed $20,000 per year of academic study, to individuals from disadvantaged backgrounds who are enrolled as full-time students at accredited institutions pursuing academic programs appropriate for careers in professions needed by the NIH. For each year of scholarship support, the recipient agrees to service (employment), after graduation at the NIH, for one year. Additionally, the individual agrees to at least ten consecutive weeks of service (employment) at the NIH during which the individual is attending the institution and receiving the NIH scholarshipl The proposed new regulations will cover this program.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE57.

Agency Contact: Marc Horowitz, Dir., NIH AIDS Research Loan Repayment Program, Department of Health and Human Services, National Institutes of Health, Office of AIDS Research, NIH, 9000 Rockville Pike, Bethesda, MD 20892
Phone: 301 402-0852

RIN: 0925–AA10

1287. TRAINEESHIPS (TERMINATION POLICIES)

Priority: Other

Legal Authority: 42 USC 216; 42 USC 283g(d); 42 USC 284(b)(1)(C); 42 USC 286b-3; 42 USC 287c(b)

CFR Citation: 42 CFR 63

Legal Deadline: None

Abstract: Regulations governing NIH traineeships will be amended to set forth additional conditions under which awards may be terminated.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE62.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, Bldg 31, Rm 1B25, Center DR MSC 2075, Bethesda, MD 20892-2075
Phone: 301 496-4606

RIN: 0925–AA11

1288. • ADDITIONAL DHHS PROTECTION FOR PREGNANT WOMEN AND HUMAN FETUSES INVOLVED AS SUBJECTS FOR RESEARCH, AND PERTAINING TO HUMAN IN VITRO FERTILIZATION

Priority: Other

Legal Authority: 5 USC 301; 42 USC 289

CFR Citation: 45 CFR 46, supart B

Legal Deadline: None

Abstract: Current regulations which have been in effect for two decades will be revised to reflect provisions of Public Law 103-43 and recent changes in NIH and FDA policies on the involvement of women in research.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: F. William Dommel, Jr., J.D., Senior Policy Advisor, Department of Health and Human Services, National Institutes of Health, Office for Protection from Research Risks, 6100 Executive Blvd., Ste. 3801, MSC 7507, Rockville, MD 20892-7507
Phone: 301 496-7005
Fax: 301 402-2071
Email: WD3U@NIH.GOV

RIN: 0925–AA14

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
National Institutes of Health (NIH)

Final Rule Stage

1289. GRANTS FOR RESEARCH PROJECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216

CFR Citation: 42 CFR 52

Legal Deadline: None

Abstract: Regulations covering grants for research projects will be amended to show changes necessitated by

HHS—NIH

Final Rule Stage

enactment of Public Laws 99-158, 99-660, 100-607, 101-549, 101-613, 102-222, 102-321, and 102-588, and to show their applicability to various programs administered by the Centers for Disease Control and Prevention and the Food and Drug Administration previously omitted from the regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/02/94	59 FR 39312
NPRM Comment Period End	10/03/94	
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AC02.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, Room 1B25, Center DR MSC 2075, Bethesda, MD 20892-2075
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RIN: 0925–AA01

1290. HAZARDOUS SUBSTANCES BASIC RESEARCH AND TRAINING GRANTS

Priority: Other

Legal Authority: 42 USC 9660; 42 USC 216

CFR Citation: 42 CFR 65a

Legal Deadline: None

Abstract: Regulations will be promulgated concerning grants for research and training made for the purpose of understanding, assessing, and reducing the adverse effect on human health of exposure to hazardous substances. The grants are authorized by section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as added by section 209 of the Superfund Amendments and Reauthorization Act (SARA) of 1986, P.L. 99-499.

Timetable:

Action	Date	FR Cite
NPRM	03/07/95	60 FR 12525
NPRM Comment Period End	05/08/95	60 FR 12525
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD46.

Agency Contact: Dr. William A. Suk, Program Administrator, Division of Extramural Research and Training, Department of Health and Human Services, National Institutes of Health, NIEHS, P.O. Box 12233, Research Triangle Park, NC 27709
Phone: 919 541-0797

RIN: 0925–AA03

1291. NATIONAL INSTITUTES OF HEALTH CONSTRUCTION GRANTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 285a-2; 42 USC 285a-3; 42 USC 285b-3; 42 USC 285b-4; 42 USC 285d-6; 42 USC 285i; 42 USC 285m-3; 42 USC 287a-2; 42 USC 287a-3; 42 USC 300cc-41

CFR Citation: 42 CFR 52b

Legal Deadline: None

Abstract: Regulations concerning NCI construction grants will be amended to more clearly show their general applicability to all NIH extramural programs with construction grant authority. Additionally, the regulations will be amended to show new administrative and technical requirements, add new procedures for the recovery of grant funds for facilities no longer used for biomedical research, show new PHS Act section numbers, and update the listing of other HHS regulations relevant to construction grants.

Timetable:

Action	Date	FR Cite
NPRM	07/06/95	60 FR 35266
NPRM Comment Period End	09/05/95	60 FR 35266
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD49.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, Bldg. 31, Rm 1B25, Center DR MSC 2075, Bethesda, MD 20892-2075
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RIN: 0925–AA04

1292. TRAINING GRANTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 242l(b)(3); 42 USC 284(b)(1)(C); 42 USC 287c(b); 42 USC 300cc-15(a)(1); 42 USC 300cc-41(a)(3)(C); 42 USC 7403(h)(2)

CFR Citation: 42 CFR 63a

Legal Deadline: None

Abstract: New regulations concerning non-NRSA training grants authorized by various PHS Act sections and training activities authorized by section 103(h)(2) of the Clean Air Act, as amended by section 901 of the Clean Air Act Amendments of 1990, P.L. 101-549. The regulations are intended to serve as a standing set of regulations that could be adapted for future training grant programs.

Timetable:

Action	Date	FR Cite
NPRM	01/24/95	60 FR 4742
NPRM Comment Period End	03/27/95	60 FR 4742
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD56.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, Bldg. 31, Rm 1B25, Center DR MSC 2075, Bethesda, MD 20892-2075
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RIN: 0925–AA05

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HHS—NIH — Final Rule Stage

1293. NATIONAL INSTITUTES OF HEALTH CENTER GRANTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 285a-3; 42 USC 285b-4; 42 USC 285c-5; 42 USC 285d-6; 42 USC 285e-2; 42 USC 285e-3; 42 USC 285f-1; 42 USC 285g-5; 42 USC 285g-7; 42 USC 285m-3; 42 USC 285o-2; 42 USC 300cc-16; 42 USC 285a-6(c)(1)(E); 42 USC 285c-8

CFR Citation: 42 CFR 52a

Legal Deadline: None

Abstract: NIH Center Grants regulations will be amended to show their applicability to the Drug Abuse Research Centers Program authorized by PHS Act, section 464N, as added by section 123 of the ADAMHA Reorganization Act, P.L. 102-321, and several new centers authorized under the NIH Revitalization Act of 1993. Additionally, in accordance with the President's Reinventing Government effort, NIH is merging the regulations governing Grants for National Alcohol Research Centers codified at 42 CFR Part 54a with the Center Grants regulations and removing 42 CFR Part 54a from the CFR.

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 9560
NPRM Comment Period End	04/18/95	60 FR 9560
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE00. NIH plans to modify the National Alcohol Research Centers regulations to set forth changes necessitated by enactment of the ADAMHA Reorganization Act, Public Law 102-321, and other changes to update the regulations previously reported under RIN 0905-AE08. Additional Legal Authorities: 42 USC 286a-7(c)(1)(G)

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, Bldg 31, Rm 1B25, Center DR MSC 2075, Bethesda, MD 20892-2075
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RIN: 0925–AA06

1294. GRANTS FOR NATIONAL ALCOHOL RESEARCH CENTERS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 216; 42 USC 285n-2

CFR Citation: 42 CFR 54a

Legal Deadline: None

Abstract: In accordance with the President's Reinventing Government effort, regulations governing grants for alcohol abuse and alcoholism prevention, treatment, and rehabilitation services, and National Alcohol Research Centers are being merged with the regulations governing NIH center grants codified at 42 CFR Part 52. Part 54a is being removed from the CFR.

Timetable:

Action	Date	FR Cite
NPRM	08/19/94	59 FR 42793
NPRM Comment Period End	10/18/94	59 FR 42793
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE08. Merging of the National Alcohol Research Center grants regulations with the NIH center grant regulations is also reported under RIN 0925-AA06.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Bldg. 31, Rm. 3B-11, 9000 Rockville Pike, Bethesda, MD 20892
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RIN: 0925–AA08

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions
National Institutes of Health (NIH)

1295. RESPONSIBILITIES OF PUBLIC HEALTH SERVICE-FUNDED INSTITUTIONS FOR PROMOTING OBJECTIVITY IN RESEARCH

Priority: Other Significant

CFR Citation: 42 CFR 50, subpart F; 42 CFR 94

Completed:

Reason	Date	FR Cite
Final Action	07/11/95	60 FR 35810
Final Action Effective	10/01/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Dr. George J. Galasso
Phone: 301 496-5356

RIN: 0925–AA07

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Long-Term Actions
Office of Assistant Secretary for Health (OASH)

1296. STANDARDS OF COMPLIANCE FOR ABORTION-RELATED SERVICES IN FAMILY PLANNING SERVICE PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300a-4

CFR Citation: 42 CFR 59

Legal Deadline: None

Abstract: This rule would return the Family Planning Service Program, funded under Title X of the Public Health Service Act, to the compliance standards operative prior to February 2, 1988, with regard to the statutory provision prohibiting abortion as a method of family planning in projects funded under that title.

Timetable:

Action	Date	FR Cite
NPRM	02/05/93	58 FR 7464
NPRM Comment Period End	08/09/93	58 FR 34024
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Previously reported under RIN 0905-AE03.

Agency Contact: Felicia Stewart, M.D., Deputy Assistant Secretary for Population Affairs, Department of Health and Human Services, Office of Assistant Secretary for Health, East-West Towers, Suite 200, West Bldg., 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 594-4000

RIN: 0937–AA00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Prerule Stage
Health Care Financing Administration (HCFA)

1297. • AMBULANCE SERVICES (BPD-813-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1861(s)(7)

CFR Citation: 42 CFR 410.40

Legal Deadline: None

Abstract: This proposed rule would revise HCFA's policy on Medicare coverage of ambulance services. It focuses on the medical necessity for ambulance service, redefines an ambulance as an "emergency vehicle" and revises the policy on coverage of non-emergency ambulance transportation for beneficiaries with end-stage renal disease. These changes would prevent use of non-emergency vehicles and the use of ambulance transportation in non-emergency situations where the medical need has not clearly been determined. These changes require the use of emergency vehicles as ambulances and would focus on the medical treatment rather than transportation as the primary concern for furnishing ambulance services, as required by Title XVIII, Section 1861(s)(7) of the Social Security Act. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margot Blige, Office of Physician & Ambulatory Care Policy, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4642

RIN: 0938–AH13

1298. • CHANGES IN COVERAGE AND PAYMENT POLICIES FOR PHYSICIAN ASSISTANT SERVICES (BPD-829-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395k; 42 USC 1395u(b)(2); 42 USC 1395u(b)(12); 42 USC 1395x(s)

CFR Citation: 42 CFR 410.10; 42 CFR 410.74; 42 CFR 410.150; 42 CFR 414.1; 42 CFR 414.52; 42 CFR 491.2

Legal Deadline: None

Abstract: This proposed rule concerns the coverage and payment policies for services performed by physician assistants and services furnished as incident to these services. It would conform Medicare regulations to the provisions in section 6114 of the Omnibus Budget Reconciliation Act of 1989. It would provide consistent qualification requirements for physician assistants.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Pat Moore, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-8090

RIN: 0938–AH26

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage
Health Care Financing Administration (HCFA)

1299. NEW MINIMUM STANDARDS FOR MEDICARE SUPPLEMENTAL (MEDIGAP) POLICIES (BPD-491-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395ss

CFR Citation: 42 CFR 403.200; 42 CFR 403.205; 42 CFR 403.206; 42 CFR 403.210; 42 CFR 403.215; 42 CFR 403.216; 42 CFR 403.220; 42 CFR 403.222; 42 CFR 403.232; 42 CFR 403.239; 42 CFR 403.250 to 403.258

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Legal Deadline: None

Abstract: This rule would organize and codify in regulations the statutory changes to Medigap provisions made in 1987, 1988, 1989, 1990 and 1994. It will contain specific procedures for review of State regulatory plans (and individual policies) as required in OBRA '90. The new standards were enacted by OBRA '87, and '90, the Medicare Catastrophic Coverage Act of 1988, the Medicare Catastrophic Coverage Repeal Act of 1989, and the Social Security Act Amendments of 1994. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julie Walton, Office of Chronic Care & Insurance Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-08-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4622

RIN: 0938–AD82

1300. "WITHOUT FAULT" AND BENEFICIARY WAIVER OF RECOVERY AS IT APPLIES TO MEDICARE OVERPAYMENT LIABILITY (BPD-719-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395gg

CFR Citation: 42 CFR 405; 42 CFR 401; 42 CFR 466.94; 42 CFR 411.23; 42 CFR 411.28; 42 CFR 466.86; 42 CFR 473.14; 42 CFR 413.20; 42 CFR 413.153

Legal Deadline: None

Abstract: This rule would amend the Medicare regulations to clarify our interpretation of "without fault" as it applies to physician, provider, supplier and beneficiary liability for overpayments. This definition would result in greater uniformity of determinations by carriers and intermediaries. Additionally, this proposed rule would amend the Medicare regulations governing liability for overpayments to eliminate application of certain regulations of the Social Security Administration and to replace them with HCFA regulations more specific to circumstances involving Medicare overpayments. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Walczak, Health Insurance Specialist, Office of Chronic Care & Insurance Policy, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4475

RIN: 0938–AD95

1301. PROTECTION OF INCOME AND RESOURCES FOR COMMUNITY SPOUSES OF INSTITUTIONALIZED INDIVIDUALS (MB-023-P)

Priority: Other Significant

Legal Authority: 42 USC 1396r-5

CFR Citation: 42 CFR 435.630; 42 CFR 435.632; 42 CFR 435.634; 42 CFR 435.636; 42 CFR 435.638; 42 CFR 435.640; 42 CFR 435.642; 42 CFR 435.644; 42 CFR 435.646; 42 CFR 435.648

Legal Deadline: None

Abstract: These regulations would interpret section 303(a) of MCCA '88, as amended by section 608(d)(16) of the FSA (PL 100-485), section 6411(e)(3) of OBRA '89 and section 4714 of OBRA '90. Section 303(a) allocates income and resources between a spouse who is institutionalized and the spouse remaining in the community. It also provides special post-eligibility rules for institutionalized individuals who have spouses in the community. The revision would allow the community spouse to retain more income to meet living expenses.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Jennifer Ryan, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-23-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4459

RIN: 0938–AE12

1302. COVERAGE OF PHYSICIAN ASSISTANT, NURSE PRACTITIONER, AND CLINICAL NURSE SPECIALIST SERVICES (BPD-708-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395x(s)(2)(K); 42 USC 1396(d)(1)

CFR Citation: 42 CFR 410; 42 CFR 413; 42 CFR 414; 42 CFR 491

Legal Deadline: None

Abstract: This proposed rule concerns the coverage of payment for services performed by nurse practitioners and clinical nurse specialists and services furnished as an incident to those services. It would conform Medicare regulations to the provisions in section 6114 of OBRA '89, section 4155 of OBRA '90, and section 147(e) of SSA '94. In addition, under the authority of sections 1861(aa) and 1905(l) of the Social Security Act, it would revise our existing definition of "nurse practitioner" for purposes of the conditions rural health clinics must meet to qualify for payment under Medicare and Medicaid and that Federally qualified health clinics must meet to qualify for payment under Medicare.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roberta Epps, Office of Physician & Ambulatory Care Policy, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4503

RIN: 0938–AF00

1303. ALTERNATIVE SANCTIONS FOR PSYCHIATRIC HOSPITALS (HSQ-191-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395cc; 42 USC 1396a

CFR Citation: 42 CFR 488

Legal Deadline: None

Abstract: These regulations would provide an alternative to terminating a psychiatric hospital's participation in the Medicare and Medicaid programs for facilities found to be out of compliance with participation requirements. These alternative sanctions could be imposed instead of terminating a psychiatric hospital's participation in the Medicare and Medicaid programs where deficiencies do not present immediate jeopardy to the health and safety of psychiatric hospital patients.

These amendments are necessary to conform HCFA regulations to changes made by section 6020 of OBRA '89 and section 4755 of OBRA '90.

The purpose of the legislation is to encourage correction of deficiencies that do not jeopardize patient health and safety before termination becomes necessary.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Pam Vocke, Director, Division of Program Operations, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2, ME, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7089

RIN: 0938–AF32

1304. MEDICAID PAYMENT FOR COVERED OUTPATIENT DRUGS UNDER REBATE AGREEMENTS (MB-046-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1396a(a); 42 USC 1396b(i); 42 USC 1396r-8; 42 USC 1396b(a)

CFR Citation: 42 CFR 447; 42 CFR 441

Legal Deadline: None

Abstract: This rule will incorporate section 4401 of OBRA '90 to add specific requirements for Medicaid payment for covered outpatient drugs. The requirements concern: denial of Federal financial participation unless rebate agreements and drug use review are in effect; prohibiting some State plan drug access limitations for drugs covered under a rebate agreement; and the content of the rebate agreements. The drug rebate agreement was previously published in the Federal Register on February 21, 1991 (56 FR 7049). This rule will also reflect statutory revisions mandated by the Veteran's Health Care Act of 1992 and OBRA '93. The revision of the drug rebate dispute resolution process is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/19/95	60 FR 48442
NPRM Comment Period End	11/20/95	60 FR 48442
Interim Final Rule	03/01/96	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Estelle Chisholm, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, C4-15-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3286

RIN: 0938–AF42

1305. FEDERALLY QUALIFIED HEALTH CENTER SERVICES (MEDICAID) (MB-043-P)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(13); 42 USC 1396b(m); 42 USC 1396d(l); 42 USC 1396n(b)

CFR Citation: 42 CFR 440; 42 CFR 447

Legal Deadline: None

Abstract: These regulations would establish a new category of facilities known as federally Qualified Health Centers (FQHCs) and a new category of Medicaid services known as FQHC services. This new type of facility includes community health centers, migrant health centers and health care for the homeless programs, which are receiving or are eligible to receive certain grants from the Public Health Service, and health programs or facilities operated by an Indian tribe or tribal organization. These regulations would establish requirements for coverage and payment of FQHC services under the Medicaid program. These regulations would implement section 6404 of OBRA '89 and section 4704 of OBRA '90 and reflect statutory revisions mandated.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Worgo, Office of Medical Services, Department of Health and Human Services, Health Care Financing Administration, C4-15-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5919

RIN: 0938–AF90

1306. REVISIONS TO RULES ON HEALTH CARE PREPAYMENT PLANS (OMC-016-P)

Priority: Other Significant

Legal Authority: 42 USC 1395l; 31 USC 9701

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This regulation would impose a range of requirements on Health Care Prepayment Plans corresponding to certain provisions for prepaid health plans under section 1876 of the Social Security Act. The expanded regulatory requirements would increase beneficiary protections and strengthen Federal oversight of the HCFA program.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tim Love, Health Insurance Specialist, Office of Managed Care, Department of Health and Human

Services, Health Care Financing Administration, S-3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1094

RIN: 0938–AF97

1307. CONDITIONS OF PARTICIPATION FOR RURAL HEALTH CLINICS (BPD-764-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395l(a); 42 USC 1395l(b); 42 USC 1395l(d); 42 USC 1395x(aa); 42 USC 1395oo(j); 42 USC 1395ww(a)(4); 42 USC 1396a(a)(13)(E)

CFR Citation: 42 CFR 405; 42 CFR 410; 42 CFR 486

Legal Deadline: None

Abstract: This rule would update our regulations to incorporate several health care coverage and payment provisions contained in Public Laws 100-203, 101-239, and 101-508 (the OBRAs '87, '89, and '90) and would propose administrative changes that clarify policy related to sharing space between rural health centers and other entities, such as physician offices, the replacement of the provider-based cost basis system with the all-inclusive rate payment system, and the allowance of separate payment under Part B for more complex laboratory services. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Helen Klein, Office of Physician & Ambulatory Care Policy, Department of Health and Human Services, Health Care Financing Administration, C4-06-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4641

RIN: 0938–AG05

1308. MEDICARE APPEALS OF INDIVIDUAL CLAIMS (BPD-453-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395ff

CFR Citation: 42 CFR 405.732; 42 CFR 405.801; 42 CFR 405.837; 42 CFR 405.838; 42 CFR 405.839; 42 CFR 405.840

Legal Deadline: None

Abstract: This rule would conform the regulation to section 9341 of OBRA '86. Section 9341 extends to Medicare Part B claimants the right to a hearing before an Administrative Law Judge if the amount in controversy is at least $500 and to judical review, provided the amount in controversy is at least $1000. Section 9341 also limits the review of national coverage determination and prohibits judicial review of any regulation or instruction, initially issued before January 1, 1981, relating to a method of determining the amount of payment under Part B.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Olenick, Director, Division of Beneficiary and Insurance Issues, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4472

RIN: 0938–AG18

1309. APPOINTMENT OF REPRESENTATIVES FOR MEDICARE APPEALS (BPO-120-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395ff; 42 USC 405(a); 42 USC 406; 42 USC 1395ii

CFR Citation: 42 CFR 405.870; 42 CFR 405.701(c); 42 CFR 405.801(c); 42 CFR 405.871; 42 CFR 405.872

Legal Deadline: None

Abstract: This rule would clarify current regulations concerning: who can be appointed as representatives at Medicare appeal proceedings; the appointment procedure for representatives; whether a representative may be paid for his or her services; and the representative's specific responsibilities. These changes would improve the administration of the claims appeal process.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betsy Horn, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, S-1-05-15, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0973

RIN: 0938–AG30

1310. ENFORCEMENT REQUIREMENTS FOR RENAL DIALYSIS FACILITIES (HSQ-204-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395rr(h)

CFR Citation: 42 CFR 405; 42 CFR 405.2181; 42 CFR 405.2182; 42 CFR 405.2184

Legal Deadline: None

Abstract: This rule would implement section 12 of PL 100-93, which amended section 1881 of the Social Security Act by adding a new paragraph (h). Paragraph (h) (redesignated as (g) by OBRA '87) broadens the Secretary's authority to impose alternative sanctions on suppliers of end-stage renal disease services when the noncompliance of the supplier does not immediately jeopardize patient health and safety. Alternative sanctions provide HCFA with a more flexible response to facility deficiencies short of termination. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Debbie Schoenemann, Office of Survey & Certification,

Department of Health and Human Services, Health Care Financing Administration, S-2-19-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6771

RIN: 0938–AG31

1311. DISCLOSURE OF CONFIDENTIAL PRO INFORMATION FOR RESEARCH PURPOSES (HSQ-208-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320c-9

CFR Citation: 42 CFR 476.144

Legal Deadline: None

Abstract: This rule would allow Peer Review Organizations (PROs) to disclose confidential information to researchers without the consent of the individuals who would be identified. Currently, PROs can only disclose to the public nonconfidential aggregate data where no one is specifically identified. The statute, however, provides for limited disclosure in case there are circumstances the Secretary shall by regulations provide to assure adequate protection of the rights and interest of patients, health care practitioners, or providers. HCFA is now emphasizing the sharing of PRO data for educational and research purposes as evidenced by the implementation of the Uniform Clinical Data Set and the Health Care Quality Improvement Initiative. This regulatory revision will make confidential PRO information accessible to researchers while still protecting the identities of beneficiaries and practitioners from unwarranted disclosure. PRO flexibility to share information with researchers is comparable with the revised requirements in the PRO's Fourth Scope of Work contract.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Mike Rappaport, Director, Division of Systems Management, Health Standards Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S-1-09-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6759

RIN: 0938–AG33

1312. EFFECT OF CHANGE OF OWNERSHIP ON PROVIDER AND SUPPLIER PENALTIES, SANCTIONS, AND OVERPAYMENTS (HSQ-215-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395hh

CFR Citation: 42 CFR 405.1803; 42 CFR 405.1811; 42 CFR 405.1835; 42 CFR 405.1843; 42 CFR 405.1805; 42 CFR 483.151; 42 CFR 484.36; 42 CFR 489.2; 42 CFR 489.18

Legal Deadline: None

Abstract: This rule would amend regulations on provider agreements to clarify the effect a change of ownership has on penalties and sanctions incurred by Medicare providers. It would state that all Medicare penalties and sanctions are automatically assigned to a new owner. It would also extend the same principle to suppliers; i.e., we would require the new owner of a supplier to be liable for any Medicare overpayments, penalties, and sanctions incurred by or imposed the previous owner.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Irene Gibson, Deputy Director, Office of Survey & Certification, Department of Health and Human Services, Health Care Financing Administration, S-2-14-17, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6768

RIN: 0938–AG59

1313. MEDICARE PROGRAM: LIMITATIONS ON MEDICARE COVERAGE OF CATARACT SURGERY (BPD-797-PN)

Priority: Other Significant

Legal Authority: 42 USC 1395x(s)(1); 42 USC 1395y(a)(1)(A)

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces the Medicare program's proposal to define medical necessity with respect to Medicare coverage of preoperative testing for cataracts, cataract surgery, and Nd:YAG capsulotomy.

Timetable:

Action	Date	FR Cite
Proposed Notice	10/06/95	60 FR 52396
NPRM Comment Period End	12/05/95	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Karen McVearry, Technology & Special Analysis Staff, Department of Health and Human Services, Health Care Financing Administration, C4-10-07, 7500 Security Boulevard, Baltimore, MD 21297
Phone: 410 786-4643

RIN: 0938–AG65

1314. NEW PAYMENT METHODOLOGY FOR ROUTINE EXTENDED CARE SERVICES PROVIDER IN A SWING BED HOSPITAL (BPD-805-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395tt

CFR Citation: 42 CFR 413.53; 42 CFR 413.114

Legal Deadline: None

Abstract: This proposed rule would revise the regulations governing the methodology for payment of routine extended care services provided in a swing bed hospital. Medicare payment for such services would be determined prospectively based on the average rate per patient day paid by Medicare for routine care services provided in a free standing skilled nursing facility (SNF) in the region where the hospital is located. This rule would also provide that payment for these services will be the higher of the payment cost rate in effect for the current calendar year or for the payment rate received by the swing-bed hospital for the prior calendar year. In addition, this rule would revise the regulations concerning the method used to allocate hospital general routine inpatient service costs for purposes of determining payment to swing-bed hospitals.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Katie Walker, Office of Hospital Policy, Department of Health and Human Services, Health Care Financing Administration, C5-03-03, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7278

RIN: 0938–AG68

1315. SALARY EQUIVALENCY GUIDELINES FOR PHYSICAL THERAPY, RESPIRATORY THERAPY, SPEECH PATHOLOGY, AND OCCUPATIONAL THERAPY (BPD-808-PN)

Priority: Other Significant

Legal Authority: 42 USC 1395x(v)(5)

CFR Citation: 42 CFR 413.106

Legal Deadline: None

Abstract: This notice proposes revisions to the salary equivalency guidelines for Medicare payment for the reasonable costs of physical and respiratory therapy services furnished by providers under arrangements with an outside contractor. The notice also proposes initial salary equivalency guidelines for speech language pathology and occupational therapy services furnished by providers under arrangements with an outside contractor. The guidelines would be used by Medicare fiscal intermediaries to determine the maximum allowable costs of those services.

Timetable:

Action	Date	FR Cite
Proposed Notice	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jacqueline Gordon, Health Insurance Specialist, Division of Home Care and Therapy, Department of Health and Human Services, Health Care Financing Administration, C4-07-14, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4517

RIN: 0938–AG70

1316. MEDICAID: OPTIONAL COVERAGE OF TB-RELATED SERVICES FOR INDIVIDUALS INFECTED WITH TUBERCULOSIS (MB-082-P)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(10)(A)(ii); PL 103-66, Sec 13603; 42 USC 1396a

CFR Citation: 42 CFR 435.219; 42 CFR 435.201; 42 CFR 440.250; 42 CFR 436.201; 42 CFR 436.219; 42 CFR 440.164

Legal Deadline: None

Abstract: This rule would amend the existing Medicaid regulations to provide for optional Medicaid coverage of low-income individuals infected with tuberculosis (TB). These individuals would be eligible only for specified TB-related services.

The rule would incorporate and interpret provisions of section 13603 of OBRA '93.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Jennifer Ryan, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-20-14, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4459

RIN: 0938–AG72

1317. PHYSICIANS' REFERRALS TO HEALTH CARE ENTITIES WITH WHICH THEY HAVE FINANCIAL RELATIONSHIPS—EXPANDED TO DESIGNATED HEALTH SERVICES (BPD-809-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395nn

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: This proposed rule would provide that a physician who has (or has a family member who has) a financial relationship with a health care entity may not make referrals to that entity for certain services (designated health services) under the Medicare program, except under specified circumstances. This proposed rule would also deny payment to a State for expenditures for designated health services furnished on the basis of a physician referral that, all things being equal, would result in denial of payment under Medicare. The provisions of the proposed rule are based on sections 13562 and 13624 of the OBRA '93, as amended by SSA '94.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Betty Burrier, Office of Chronic Care Insurance Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-11-23, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0191

RIN: 0938–AG80

1318. HOME HEALTH AGENCY (HHA) CONDITIONS OF PARTICIPATION (BPD-819-P)

Regulatory Plan: This entry is Seq. No. 38 in Part II of this issue of the **Federal Register**.

RIN: 0938–AG81

1319. END-STAGE RENAL DISEASE (ESRD) CONDITIONS OF COVERAGE (BPD-818-P)

Regulatory Plan: This entry is Seq. No. 39 in Part II of this issue of the **Federal Register**.

RIN: 0938–AG82

1320. DISTINCT PART REQUIREMENTS FOR NURSING HOMES AND PROHIBITION OF FINANCIAL SCREENING OF APPLICANTS FOR NURSING HOME ADMISSION (BPD-815-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395i-3; 42 USC 1396r

CFR Citation: 42 CFR 409; 42 CFR 483; 42 CFR 413

Legal Deadline: None

Abstract: In this proposed rule we would define "distinct part" by specifying that a distinct part is a physically identifiable unit of an institution (that is, an entire ward wing, floor, or building) including all beds in the unit. In conjunction with this change we also propose an alternative approach for calculating medicare payments to a skilled nursing facility (SNF). This new "distinct costing" procedure would enable a participating SNF to establish a distinct costing area within the SNF for its relatively high intensity residents so that it can isolate and fully capture the routine cost of their care without resorting to the use of arbitrary certification boundaries to achieve this result. This proposed rule would also prohibit nursing homes from financially screening private pay applicants for admission. Instead, nursing homes would be permitted to charge up to a 2-month deposit before admission to ensure that sufficient funds are available to pay for care to which the individual may be entitled.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ullman, Health Insurance Specialist, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-13-15, 7500 Security Blvd, Baltimore, MD 21244
Phone: 401 786-5667

RIN: 0938–AG84

1321. MEDICAID: NOMINAL COPAYMENTS FOR INSTITUTIONAL SERVICES FOR MEDICAID RECIPIENTS (MB-090-P)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(14); 42 USC 1396o

CFR Citation: 42 CFR 447.54; 42 CFR 447.55

Legal Deadline: None

Abstract: This final rule with comment period redefines the nominal maximum deductible, coinsurance, or copayment charge that a State may impose on certain Medicaid recipients for each admission for inpatient hospital services. This revision of the copayment amount will help prevent undue hardships on Medicaid recipients who have low or no income by limiting the impact of rising health care costs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Ingrid Osburne, Health Care Specialist, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-19-24, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4461

RIN: 0938–AG90

1322. WAGE INDEX USED TO ADJUST PAYMENT RATES FOR HOSPICE SERVICES UNDER THE MEDICARE PROGRAM (BPD-820-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395f(i); 5 USC 561 to 590

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: The Medicare hospice benefit has been in effect since 1983. This proposed rule would update the wage index used to adjust payment rates to reflect local differences in area wage levels. We are undertaking development of this proposed rule through a "negotiated rulemaking" proceeding under the Negotiated Rulemaking Act of 1990. This proposed rule is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
Notice of Intent	10/14/94	59 FR 52129
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Janice Flaherty, Director, Division of Home Care & Therapy, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4637

RIN: 0938–AG93

1323. CATEGORIZATION AND CERTIFICATION REQUIREMENTS FOR A NEW SUBCATEGORY OF MODERATE COMPLEXITY TESTING (HSQ-222-P)

Regulatory Plan: This entry is Seq. No. 40 in Part II of this issue of the **Federal Register**.

RIN: 0938–AG98

1324. CLIA PROGRAM: CATEGORIZATION OF WAIVED TESTS (HSQ-225-P)

Regulatory Plan: This entry is Seq. No. 41 in Part II of this issue of the **Federal Register**.

RIN: 0938–AG99

1325. MEDICAID COVERAGE OF PERSONAL CARE SERVICES (MB-071-P)

Priority: Other Significant

Legal Authority: 42 USC 1396d(a)(24)

CFR Citation: 42 CFR 440.70; 42 CFR 440.167; 42 CFR 440.170

Legal Deadline: None

Abstract: This rule would revise the Medicaid regulations to incorporate the provisions of OBRA '93 relating to coverage of personal care services. Personal care services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded or an institution for mental disease is an optional Medicaid benefit, effective October 1, 1994. The services may be furnished both in the home and in other locations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Mary Jean Duckett, Office of Long Term Care Services, Medicaid Bureau, Department of Health

and Human Services, Health Care Financing Administration, C4-25-02, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3294

RIN: 0938–AH00

1326. LIABILITY FOR THIRD PARTIES TO PAY FOR CARE AND SERVICES (MB-080-P)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(25)(A); 42 USC 1396b(o)

CFR Citation: 42 CFR 433.135 to 152

Legal Deadline: None

Abstract: This rule would amend the regulations governing third party liability as required by OBRA '93. It would add ERISA plans, service benefit plans and health maintenance organizations to the definition of liable third parties. It would require States to prohibit any health insurer from taking into account when enrolling or making payments, that an individual is eligible for or receiving Medicaid. It would also require States to enact a law under which the State is deemed to have acquired a recipient's right to payment by a third party.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Robert Nakielny, Health Insurance Specialist, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-21-01, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4466

RIN: 0938–AH01

1327. MEDICARE PROGRAM: COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES (BPD-496-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13951; 42 USC 1395x(s); 42 USC 1395x(gg)

CFR Citation: 42 CFR 405; 42 CFR 410; 42 CFR 486

Legal Deadline: None

Abstract: This rule would specify that Medicare part B coverage includes the services of a certified nurse-midwife furnished independent of the supervision of a physician (if that practice is allowed under the State law of the State in which the service is furnished). Section 4073 of the OBRA '87, as amended by section 411(h) of the MCCA '88, established separate Medicare Part B coverage of certified nurse-midwife services furnished after June 30, 1988. Section 13554 of OBRA '93 eliminates the limitation on coverage of certified-nurse midwife services. Services provided by a certified nurse-midwife outside the maternity cycle will now be covered under this provision.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roberta Epps, Office of Physician & Ambulatory Care Policy, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 419 786-4503

RIN: 0938–AH02

1328. • MEDICARE PROGRAM: UNIFORM ELECTRONIC COST REPORTING FOR SKILLED NURSING FACILITIES AND HOME HEALTH AGENCIES (BPD-788-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395x(v)

CFR Citation: 42 CFR 413.24

Legal Deadline: None

Abstract: This proposed rule would add the requirement that, for cost reporting periods beginning on or after October 1, 1995 all skilled nursing facilities and home health agencies must submit cost reports currently required under Medicare regulations in a uniform electronic format. This proposed rule would also allow a delay or waiver of this requirement where implementation would result in financial hardship for a provider.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Talbott, Auditor, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C5-03-03, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4592

RIN: 0938–AH12

1329. • ADJUSTMENT IN PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES (BPD-831-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395k(a)(2); 42 USC 1395l; 42 USC 1395z; 42 USC 1395aa; 42 USC 2630

CFR Citation: 42 CFR 416

Legal Deadline: NPRM, Statutory, October 31, 1995.

Abstract: This rule would establish in regulations a process under which interested parties may request a review of the appropriateness of the current payment amount for IOLs furnished by Medicare participating ASCs. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cathaleen Ahern, Office of Physician & Ambulatory Care Policy, Department of Health and Human Services, Health Care Financing Administration, C4-09-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4515

RIN: 0938–AH15

1330. • SCHEDULE OF LIMITS FOR SKILLED NURSING FACILITY INPATIENT ROUTINE SERVICE COSTS (BPD-837-NC)

Priority: Other Significant

Legal Authority: 42 USC 1395f(b); 42 USC 1395x(v)(1); 42 USC 1395yy

CFR Citation: 42 CFR 413

Legal Deadline: Final, Statutory, October 1, 1995.

Abstract: This final notice with comment period sets forth an updated schedule of limits on skilled nursing facility routine service costs for which payment may be made under the Medicare program. Section 1888(a) of the Social Security Act requires that for cost reporting periods, beginning on or after October 1, 1995 and every 2 years thereafter, the Secretary update the per diem cost limits for skilled nursing facility routine service costs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Kuhl, Technical Advisor, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-11-06, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4597

RIN: 0938–AH18

1331. • ADDITIONAL SUPPLIER STANDARDS (BPD-838-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395f; 42 USC 1395g(c); 42 USC 1395n; 42 USC 1495u(b)and(p); 42 USC 1395cc(d); 42 USC 1395gg(e)and(f)

CFR Citation: 42 CFR 424.57

Legal Deadline: NPRM, Statutory, January 1, 1996.

Abstract: This rule would establish additional standards for entities seeking to qualify as Medicare suppliers for purposes of submitting claims for medical equipment and supplies. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Bonander, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-11-24, 7500 Security Boulevard, Baltimore, MD 21214
Phone: 410 786-4479

RIN: 0938–AH19

1332. • DELEGATION OF CIVIL MONEY PENALTIES (BPO-135-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405(a); 42 USC 1302; 42 USC 1395x(aa); 42 USC 1395cc; 42 USC 1395ff(c); 42 USC 1395hh; 42 USC 1395ii

CFR Citation: None

Legal Deadline: None

Abstract: This rule would outline the processes and procedures to be undertaken in the imposition of civil money penalties and the appeals process.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Cohen, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, S-03-14-17, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3345

RIN: 0938–AH22

1333. • STATE PLAN AMENDMENT (SPA) RECONSIDERATION PROCESS (MB-096-P)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1396a(a)

CFR Citation: 42 CFR 430.18; 42 CFR 430.60

Legal Deadline: None

Abstract: This proposed rule would revise and streamline the State Plan Amendment (SPA) reconsideration process. Currently, when a State requests reconsideration of a denied SPA, a hearing is held in all cases, even when the only dispute is over the interpretation of the statute. Under the proposed regulation, the State and HCFA could avoid the cost and delay of the hearing process by agreeing that the only issue is interpretation of the statute and permit the State to take the issue directly to court. The reconsidered decision would than be made without a hearing. This rule is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Tomlinson, Office of Beneficiary Services, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-23-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4463

RIN: 0938–AH24

1334. • EVIDENCE OF LAWFUL PERMANENT RESIDENCE (MB-097-P)

Priority: Other

Legal Authority: 42 USC 1396b(v)

CFR Citation: 42 CFR 435.406; 42 CFR 435.408

Legal Deadline: None

Abstract: This proposed rule would revise HCFA regulations concerning documents which are required to determine proof of satisfactory immigration status for Medicaid eligibility. It would specify that lawful permanent residence be verified by whatever document is currently in use by the Immigration and Naturalization Services (INS) for that purpose. Currently, HCFA does not specify in regulations the current documents used by INS for determining proof of lawful permanent residence. HCFA needs to publish companion regulations to conform to final SSA regulations for the supplemental security income (SSI) program to ensure consistency among INS, HCFA, and SSA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Robert Tomlinson, Office of Beneficiary Services, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-20-21, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4463

RIN: 0938–AH25

1335. • HOSPICE CARE - CONDITIONS OF PARTICIPATION (BPD-844-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395x(dd)

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This proposed rule would revise the Medicare conditions of participation for hospices to held ensure the provision of quality care through an emphasis on patient-centered outcomes. Areas of change would include, among others, assessment of patient needs, clarification of physician roles, coordination of care for hospice patients residing in nursing homes, clarification of nursing roles, patient rights, and provision of services. This rule is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/30/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Thomas Saltz, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4480

RIN: 0938–AH27

1336. • LIMITATIONS ON PAYMENT FOR HOME OXYGEN THERAPY BASED ON INHERENT REASONABLENESS CRITERIA (BPD-845-PN)

Priority: Economically Significant

Legal Authority: 42 USC 1395m(a); 42 USC 1395u(b)(8) and (9)

CFR Citation: 42 CFR 405.502(g); 42 CFR 414.210(d)

Legal Deadline: None

Abstract: This proposed notice sets forth our rationale for determining that Medicare's Part B payment allowances for home oxygen are grossly excessive and specifies the proposed change in our charge or methodology for determining home oxygen payment amounts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Proposed Notice	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William J. Long, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, C4-04-05, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5655

RIN: 0938–AH28

1337. • MEDICAID: LIMITATIONS ON AGGREGATE PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS; FEDERAL FISCAL YEAR 1997 (MB-098-N)

Priority: Other Significant

Legal Authority: 42 USC 1395r-4

CFR Citation: 42 CFR 447.297; 42 CFR 447.298

Legal Deadline: Other, Statutory, October 1995.

Abstract: This notice announces the preliminary Federal fiscal year 1997 national target and individual State allotments for Medicaid payment made to hospitals that serve a disproportionate number of Medicaid recipients and low-income patients with special needs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Richard Strauss, Health Insurance Specialist, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, Room C-4-18-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-2019

RIN: 0938–AH30

1338. • MEDICAID ELIGIBILITY QUALITY CONTROL, STAFFING AND TRAINING, AND UTILIZATION CONTROL: REMOVAL OF OBSOLETE AND RESTRICTIVE REQUIREMENTS (MB-099-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(4); 42 USC 1396a(a)(26); 42 USC 1396b(g) and (i); 42 USC 1396b(u); 42 USC 1396d(a)(16); 42 USC 1396d(h)

CFR Citation: 42 CFR 431.861; 42 CFR 431.862; 42 CFR 431.863; 42 CFR 431.864; 42 CFR 432.10; 42 CFR 456

Legal Deadline: None

Abstract: This rule would remove several obsolete sections of the Medicaid regulations that specify rules and procedures for disallowing Federal financial participation for erroneous medical assistance payments due to eligibility and beneficiary liability errors as detected through the Medicaid eligibility quality control (MEQC) program for assessment periods from 1980 through June 1990. The rule also would eliminate certain regulations that specify Federal standards for personnel administration and training programs to allow States more flexibility and reduce burden. In addition, the rule would remove most of the regulations that prescribe requirements concerning control of the utilization of all Medicaid services, including specific requirements for control of utilization in institutions. The statutory requirements for utilization control remain in effect. This effort is part of our initiative to reinvent health care regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local

Agency Contact: William Hickman, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, Room C-4-24-27A, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3235

RIN: 0938–AH31

1339. • CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 1997 RATES (BPD-847-P)

Regulatory Plan: This entry is Seq. No. 42 in Part II of this issue of the Federal Register.

RIN: 0938–AH34

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Final Rule Stage

1340. DEDUCTION OF INCURRED MEDICAL EXPENSES (SPENDDOWN) (MB-020-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 435.831; 42 CFR 436.831

Legal Deadline: None

Abstract: This final rule amends and responds to comments on a final rule with comment period published in the Federal Register on January 12, 1994. That final rule permits States flexibility to revise the process by which incurred medical expenses are considered to reduce an individual's or a family's income in order for the individual or family to become Medicaid eligible. Only States that cover the medically needy, and States that use more restrictive criteria to determine eligibility of the aged, blind, and disabled than the criteria used to determine eligibility for Supplemental Security Income (SSI) benefits, have a spenddown.

Timetable:

Action	Date	FR Cite
NPRM	09/02/83	48 FR 39959
NPRM Comment Period End	11/16/83	48 FR 39959
Interim Final Rule	01/12/94	59 FR 1659
Final Rule With Comment Period	01/12/94	59 FR 1659
Comment Period End	03/14/94	
Effective Date	03/14/94	
Final Action	03/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Trudel, Health Insurance Specialist, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-25-02, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3417

RIN: 0938–AB07

1341. PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY TESTS (BPD-309-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395l(a)(1)(D); 42 USC 1395l(a)(2)(D); 42 USC 1395l(b)(3); 42 USC 1395l(h); 42 USC 1395cc(a)(2)(A); 42 USC 1396b(i)(7)

CFR Citation: 42 CFR 414.1; 42 CFR 414.2; 42 CFR 414.5; 42 CFR 405.556; 42 CFR 431.54; 42 CFR 447.342

Legal Deadline: None

Abstract: This rule will incorporate provisions of DEFRA, COBRA, OBRA '86, OBRA '87, the Technical and Miscellaneous Revenue Act of 1988, OBRA '89, and OBRA '90 regarding payment and "assignment" for diagnostic clinical laboratory tests establishing in regulations the methods for implementing fee schedules. This rule would set forth the methods by which the fee schedules would be updated and would allow certain adjustments for exceptions to the fee schedule. It will also reflect a statutory revision mandated by OBRA '93.

Timetable:

Action	Date	FR Cite
NPRM	08/18/93	58 FR 43156
NPRM Comment Period End	10/18/93	58 FR 43156
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Spalding, Director, Division of Ambulatory Care Services, Department of Health and Human Services, Health Care Financing Administration, C-4-05-24, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4496

RIN: 0938–AB50

1342. EFFECTIVE DATES FOR PROVIDER AGREEMENTS AND SUPPLIER APPROVALS (HSQ-139-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 431; 42 CFR 442; 42 CFR 488; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: This rule establishes uniform criteria for determining the effective dates of Medicare and Medicaid provider agreements and of the approval of Medicare suppliers when the provider or supplier is subject to survey as a basis for determining participation in those programs.

Timetable:

Action	Date	FR Cite
NPRM	10/08/92	57 FR 46362
NPRM Comment Period End	12/07/92	
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Irene Givson, Deputy Director, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, S-02-14-17, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6768

RIN: 0938–AC88

1343. CHANGES CONCERNING SUSPENSION OF MEDICARE PAYMENTS AND DETERMINATIONS OF ALLOWABLE INTEREST EXPENSE (BPO-118-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320b-4; 42 USC 1395g; 42 USC 1395x(v)(1)(A); 42 USC 1395l; 42 USC 1395gg

CFR Citation: 42 CFR 405.370 to 405.377; 42 CFR 413.5; 42 CFR 413.153

Legal Deadline: None

Abstract: This rule will change the Medicare regulations to provide for the following: (1) elimination of the requirement that in case of overpayments to health care providers, the contractor makes a determination that a suspension of payment is needed to protect the program against financial loss before the payment can be suspended; (2) clarification of procedures and roles of contractors, HCFA, and the Office of Inspector General relating to suspension of payment; (3) elimination of the requirement that investment income of providers from gifts, grants, and endowments be offset against allowable interest expenses if that investment income is commingled with other funds; and (4) extension of the list of exceptions to the interest expense investment income offset provision to include investment income from deferred compensation plans and self-insurance funds.

Timetable:

Action	Date	FR Cite
NPRM	08/22/88	53 FR 31888
NPRM Comment Period End	10/21/88	53 FR 31888
Final Rule With Comment Period	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Guida, Director, Div. of Acct. Mgmnt. & Collections, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, S-2-08-28, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-7495

RIN: 0938–AC99

1344. PROHIBITION ON UNBUNDLING OF HOSPITAL OUTPATIENT SERVICES (BPD-426-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395y(a)(14); 42 USC 1395cc(a)(1)(H); 42 USC 1395cc(g); 42 USC 1395x(w)(1)

CFR Citation: 42 CFR 409; 42 CFR 410; 42 CFR 411; 42 CFR 412; 42 CFR 489; 42 CFR 1003

Legal Deadline: None

Abstract: This final rule, issued jointly by HCFA and the OIG, prohibits Medicare payment for nonphysician services furnished to a hospital outpatient by a provider or supplier other than the hospital, unless the services are furnished under an arrangement with the hospital. The hospital is obligated by its provider agreement to furnish the services directly or under an arrangement. These regulations also authorize the OIG to impose a civil money penalty, not to exceed $2,000, against any individual who knowingly and willfully presents, or causes to be presented, a bill or request for payment, for items or services furnished under Medicare, that is inconsistent with an arrangement under section 1866(a)(1)(H) of the Social Security Act or is in violation of the requirements for an arrangement. These regulations implement section 9343(c) of OBRA '86, section 4085(i)(17) of OBRA '87, and section 4157 of OBRA '90.

Timetable:

Action	Date	FR Cite
NPRM	08/05/88	53 FR 29486
NPRM Comment Period End	10/04/88	53 FR 29486
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carolyn Mullen, Office of Physician & Ambulatory Care Policy, Department of Health and Human Services, Health Care Financing Administration, C-4-11-16, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4589

RIN: 0938–AD33

1345. CHANGES TO PEER REVIEW ORGANIZATION REGULATIONS (HSQ-135-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395y(a); 42 USC 1320c; 42 USC 1396a(a)(30); 42 USC 1395cc(a)

CFR Citation: 42 CFR 400.200; 42 CFR 411.15; 42 CFR 431.630; 42 CFR 433.15; 42 CFR 462.1; 42 CFR 462.101; 42 CFR 462.102; 42 CFR 462.106; 42 CFR 462.107; 42 CFR 466.1; 42 CFR 466.71; 42 CFR 466.76; 42 CFR 466.78; 42 CFR 466.83

Legal Deadline: None

Abstract: This rule will set forth several changes to regulations that govern Peer Review Organizations (PROs) and is based on statutory changes contained in COBRA '85 and OBRA '86. In addition, several technical changes will be included as a result of experience gained with the PRO program by HCFA. This rule also implements the new quality review requirements for certain Medicaid Health Maintenance Organization contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8654
NPRM Comment Period End	05/16/88	53 FR 8654
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Harvey Brook, Deputy Director, Office of Quality Improvement Programs, Department of Health and Human Services, Health Care Financing Administration, S-1-09-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6853

RIN: 0938–AD38

1346. REVISIONS TO THE FREEDOM OF INFORMATION REGULATIONS (OPA-001-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552(b)(4); EO 12600; PL 99-570, Sec 1801; PL 99-570, Sec 1802; PL 99-570, Sec 1803; PL 99-570, Sec 1804

CFR Citation: 42 CFR 401.101 to 401.102; 42 CFR 401,110; 42 CFR 401.120 to 401.123; 42 CFR 401.124 to 401.125; 42 CFR 401.105 to 401.108; 42 CFR 401.115 to 401.116

Legal Deadline: None

Abstract: This proposed rule would supplement the existing Department of Health and Human Services (HHS) Freedom of Information Act (FOIA) regulations by establishing rules specific to HCFA. The rule would also revise existing HCFA regulations to delete language that reiterates or conflicts with HHS-FOIA regulations or that pertains to SSA. This proposed rule is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melody Hardy, Freedom of Information & Privacy Office, Department of Health and Human Services, Health Care Financing Administration. C2-01-11, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5358

RIN: 0938–AD60

1347. OMNIBUS NURSING HOME REFORM REQUIREMENTS (BPD-488-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395i-3; 42 USC 1395x; 42 USC 1396r

CFR Citation: 42 CFR 418; 42 CFR 440; 42 CFR 441; 42 CFR 482; 42 CFR 483; 42 CFR 488; 42 CFR 431

Legal Deadline: None

Abstract: This final rule responds to public comments on the February 5, 1992, proposed rule that will implement several provisions of OBRA '87 that concern services to residents of nursing homes. This rule will implement provisions that include Federal standards for evaluating State waivers of nursing facility nurse staffing requirements, use of physical and chemical restraints in nursing facilities, qualifications of facility administrators, notice of Medicaid rights to be given to persons admitted to nursing facilities, and other technical changes. This rule is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	02/05/92	57 FR 4516
NPRM Comment Period End	04/06/92	57 FR 4516
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bill Ullman, Health Insurance Specialist, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-11-06, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5667

RIN: 0938–AD81

1348. HMO ORGANIZATIONAL STRUCTURE AND SERVICES (OMC-007-F)

Priority: Other Significant

Legal Authority: 42 USC 1395mm

CFR Citation: 42 CFR 417.100; 42 CFR 417.101; 42 CFR 417.103; 42 CFR 417.104; 42 CFR 417.107; 42 CFR 417.120; 42 CFR 417.122; 42 CFR 417.123; 42 CFR 417.124; 42 CFR 417.126; 42 CFR 417.143; 42 CFR 417.152

Legal Deadline: None

Abstract: This regulation will provide organizations which operate health maintenance organizations (HMOs) that are federally qualified under title XIII of the Public Health Service Act with greater flexibility in operating other health benefit plans. It will also authorize, with certain limitations, federally qualified HMOs to offer out-of-plan physician services and require a reasonable deductible for those services. Further, this regulation would permit the HMO to use assets of the parent organization to meet fiscal soundness and insolvency protection requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/15/93	58 FR 38170
Correction Notice	09/03/93	58 FR 46925
NPRM Comment Period End	09/13/93	58 FR 38170
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maureen Miller, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S-3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1097

RIN: 0938–AE25

1349. HOSPITAL STANDARD FOR HIV INFECTIOUS BLOOD AND BLOOD PRODUCTS (BPD-633-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(e)(9)

CFR Citation: 42 CFR 482

Legal Deadline: None

Abstract: This final rule will require hospitals to notify the patient's attending physician whenever potentially HIV infectious blood has been administered, and to ask the physician to inform the patient of the need for HIV testing and counseling. If the physician is unavailable or declines to inform the patient, the hospital must notify the patient. This rule implements a recommendation of the President's Commission on AIDS.

Timetable:

Action	Date	FR Cite
NPRM	06/30/93	58 FR 34977
NPRM Comment Period End	08/30/93	58 FR 34977
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Samen, Office of Chronic Care & Insurance Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C5-13-07, 7500 Security Blvd., Baltimore, MD 21244

Phone: 410 786-5244

RIN: 0938–AE40

1350. MEDICARE, MEDICAID, AND CLIA PROGRAMS: REGULATIONS IMPLEMENTING THE CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988 (CLIA '88) (HSQ-226-F)

Regulatory Plan: This entry is Seq. No. 43 in Part II of this issue of the Federal Register.

RIN: 0938–AE47

1351. CONDITIONS OF COVERAGE FOR ORGAN PROCUREMENT ORGANIZATIONS (BPD-646-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395x

CFR Citation: 42 CFR 485; 42 CFR 405; 42 CFR 482

Legal Deadline: Final, Statutory, November 16, 1991.

Abstract: This final rule will respond to comments on the final rule with comment period which set forth changes to the conditions of coverage for organ procurement organizations (OPOs). It deals with the definition of an OPO service area; qualifications of the board of directors; establishment of performance criteria for OPOs; clarify operational policy for certification and recertification of OPOs, competition for open areas, and, appeals of the Secretary's decisions. This rule contains provisions that are part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/21/91	56 FR 28513
NPRM Comment Period End	08/21/91	56 FR 28513
Interim Final Rule With Comment Period	09/08/94	59 FR 46500
Effective Date	10/11/94	
Comment Period End	11/07/94	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Claude Mone, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, C5-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5666

RIN: 0938–AE48

1352. RESIDENT ASSESSMENT IN LONG-TERM CARE FACILITIES (HSQ-180-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395i-3; 42 USC 1396r; 42 USC 1302

CFR Citation: 42 CFR 483; 42 CFR 456.1; 42 CFR 456.600; 42 CFR 456.601; 42 CFR 456.602; 42 CFR 456.603; 42 CFR 456.608; 42 CFR 456.609; 42 CFR 456.610; 42 CFR 456.612; 42 CFR 456.651; 42 CFR 456.654; 42 CFR 483.20; 42 CFR 483.315

Legal Deadline: Final, Statutory, January 1, 1989.

Abstract: Sections 1819(b)(3) and 1919(b)(3) of the Social Security Act, as amended by PL 100-203, require skilled nursing facilities in the Medicare program and before October 1, 1990, as nursing facilities in the Medicaid program, to conduct a comprehensive, standardized assessment of each resident's capability to perform daily life functions. The assessment must also describe significant impairments in the resident's functional capacity and be based on a uniform minimum data set specified by the Secretary. Sections 1819(f)(6)(A) and 1919 (f)(6)(A) of the Act require the Secretary to specify a minimum data set of core elements and common definitions for use by nursing facilities in conducting the assessments. This rule would specify this minimum data set and establish guidelines for using it.

Timetable:

Action	Date	FR Cite
NPRM	12/28/92	57 FR 61614
NPRM Comment Period End	02/26/93	57 FR 61614
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sue Nonemaker, Health Standards Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S-2-19-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6825

RIN: 0938–AE61

1353. POST-CONTRACT BENEFICIARY PROTECTIONS AND OTHER PROVISIONS (OMC-003-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395mm

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This rule will provide Medicare beneficiaries with certain coverage for pre-existing conditions under supplemental insurance after non-renewal or termination of a Medicare health maintenance organization (HMO) or competitive medical plan (CMP) contract; provide a 30-day open enrollment period for individuals who would otherwise lose prepaid Medicare coverage as a result of termination, non-renewal or reduction in service area of a risk contract; accelerate the deadline for risk contracting HMOs and CMPs to submit adjusted community rate proposals; require all HMOs and CMPs to furnish a copy of an executed enrollment application form to Medicare applicants, and require HCPPs to comply with HMO/CMP beneficiary application procedures.

Timetable:

Action	Date	FR Cite
NPRM	03/11/94	59 FR 11230
NPRM Comment Period End	05/09/94	
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tracy Jensen, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S-3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1096

RIN: 0938–AE63

1354. EMPLOYER CONTRIBUTIONS TO HMOS (OMC-004-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300e(c); 42 USC 300e-1(l); 42 USC 300e-9

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This rule would conform existing regulations to sections 5(b) and 7 of the Health Maintenance Organization (HMO) Amendments of 1988 (PL 100-517). It would prohibit employers from financially discriminating against HMO enrollees in setting the contributions the employers make to employees' health plans.

Timetable:

Action	Date	FR Cite
NPRM	07/05/91	56 FR 30723
Comment Period End	09/03/91	56 FR 30723
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marty Abeln, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1096

RIN: 0938–AE64

1355. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT (EPSDT) SERVICES (MB-28-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(43); 42 USC 1396d(r)

CFR Citation: 42 CFR 441.50; 42 CFR 440.40

Legal Deadline: None

Abstract: Section 6403 of OBRA '89 defines in new section 1905(r) of the Social Security Act the following EPSDT services: screening services, vision services, dental services and hearing services. It also extends EPSDT services to include such other necessary health care, diagnostic services, treatment, and other measures described in section 1905(a) of the Act to correct or ameliorate defects and illnesses and conditions discovered by the screening services whether or not the services are covered under the State plan. Section 6403 also amended section 1902(a)(43) of the Act to require States to report to the Secretary certain information about EPSDT services provided under the plan during each fiscal year. This rule would set forth requirements to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/01/93	58 FR 51288
NPRM Comment Period End	11/30/93	58 FR 51288
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Robert Wardwell, Director, Office of Medical and Remedial Care Services, Department of Health and Human Services, Health Care Financing Administration, C4-14-17, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3254

RIN: 0938–AE72

1356. PAYMENT FOR NURSING AND ALLIED HEALTH SCIENCE EDUCATION (BPD-685-F)

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-239, Sec 6205; PL 101-508, Sec 4004; PL 101-508, Sec 4159; 42 USC 1395x note

CFR Citation: 42 CFR 413

Legal Deadline: NPRM, Statutory, July 1, 1990.

Abstract: This rule will set forth our policy for the payment of the costs of approved nursing and allied health science programs, an action directed by section 6205(b)(2) of OBRA '89. For the most part, the provisions set forth in this rule restate or clarify our current policies governing these costs, which have been previously set forth in the provider reimbursement manual and other documents, but have never been included in the regulations. In addition, we are amending the list of approved programs and clarify payment rules for certified registered nurse anesthetist programs. This rule will also implement section 4004 of OBRA '90 which provides that, effective with cost reporting periods beginning on or after October 1, 1990, under certain conditions, costs incurred by a hospital or educational institution related to the hospital for clinical training are treated as pass-through costs and paid on the basis of reasonable cost even though the hospital does not operate the education programs.

Timetable:

Action	Date	FR Cite
NPRM	09/22/92	57 FR 43659
NPRM Comment Period End	11/23/92	57 FR 43659
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tzvi Hefter, Director, Division of Hospital Services, Department of Health and Human Services, Health Care Financing Administration, C5-08-27, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1850

RIN: 0938–AE79

1357. COVERAGE OF SCREENING PAP SMEARS (BPD-705-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(s)(14); 42 USC 1395x(nn)

CFR Citation: 42 CFR 410.10; 42 CFR 410.15; 42 CFR 410.56

Legal Deadline: None

Abstract: This rule will establish regulations under section 6115 of OBRA '89 to govern Medicare Part B coverage of screening pap smears and related medically necessary services (including a physician's interpretation of the test results) provided to a woman for the early detection of cervical cancer.

Timetable:

Action	Date	FR Cite
NPRM	11/26/93	58 FR 62312
NPRM Comment Period End	01/24/94	58 FR 62312
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joyce Eng, Office of Physician Ambulatory Care Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C-4-02-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4619

RIN: 0938–AE98

HHS—HCFA

Final Rule Stage

1358. MEDICARE COVERAGE OF CLINICAL PSYCHOLOGIST, OTHER PSYCHOLOGIST, AND CLINICAL SOCIAL WORKER SERVICES—MEDICARE (BPD-706-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395l(c); 42 USC 1395x(hh)(2); 42 USC 1395x(ii)

CFR Citation: 42 CFR 410; 42 CFR 417; 42 CFR 424

Legal Deadline: None

Abstract: This rule will address provisions of section 6113 of OBRA '89 and section 4157 of OBRA '90. Section 6113 of OBRA '89 provides coverage for the services of clinical psychologists (CPs) and clinical social workers. It requires CPs to agree to consult with the patient's primary care or attending physician. Also, it eliminates the dollar limitation that previously applied to mental health services although the 62.5 percent limitation still applies. OBRA '89 also provides coverage for clinical social worker services, but places two limitations on separate payment, which apply to services provided to inpatients of hospitals and skilled nursing facilities that are Medicare participating. Section 4157 of OBRA '90 unbundled CP services from the definition of "inpatient hospital services."

Timetable:

Action	Date	FR Cite
NPRM	12/29/93	58 FR 68829
NPRM Comment Period End	02/28/94	58 FR 68829
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Regina Walker, Office of Chronic Care & Insurance Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C-4-08-16, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6735

RIN: 0938–AE99

1359. CASE MANAGEMENT (MB-27-F)

Priority: Other Significant

Legal Authority: 42 USC 1396d; 42 USC 1396n

CFR Citation: 42 CFR 431.51(c); 42 CFR 440.169; 42 CFR 440.250; 42 CFR 441.10; 42 CFR 441.18; 42 CFR 447.327; 42 CFR 431.54

Legal Deadline: None

Abstract: This rule will place into our regulations provisions of COBRA '85, OBRA '86, TEFRA '86, TMRA '88 and OBRA '87 dealing with case management services. These regulations will provide for optimal Medicaid coverage of case management services furnished to specific groups in specific geographic areas or political subdivisions within a State.

Timetable:

Action	Date	FR Cite
NPRM	10/15/93	58 FR 53481
NPRM Comment Period End	12/14/93	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Robert Wardwell, Director, Office of Medical and Remedial Care Services, Department of Health and Human Services, Health Care Financing Administration, C4-25-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5659

RIN: 0938–AF07

1360. PAYMENT FOR FEDERALLY QUALIFIED HEALTH CENTER (FQHC) SERVICES (BPD-728-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(aa); 42 USC 13951

CFR Citation: 42 CFR 405.2401; 42 CFR 405.2430; 42 CFR 405.2446; 42 CFR 405.2448; 42 CFR 405.2450; 42 CFR 405.2463; 42 CFR 405.2466; 42 CFR 405.2468; 42 CFR 491.5; 42 CFR 491.8

Legal Deadline: None

Abstract: This final rule will respond to comments received as a result of our publication of a final rule with comment period (57 FR 24961) which established a new category of facility known as an FQHC, the services of which are covered under the Medicare program. Those regulations also established requirements for coverage and payment of FQHC services under Medicare. They implemented section 4161(a) of PL 101-508 and section 13556 of PL 103-66. This final rule will clarify or change policy, as appropriate, based on our evaluation of public comments.

Timetable:

Action	Date	FR Cite
Effective Date	06/12/92	57 FR 24961
Final Rule with Comment Period	06/12/92	57 FR 24961
Comment Period End	08/11/92	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Bernadette Schumaker, Acting Director, Office of Physician and Ambulatory Care Policy, Department of Health and Human Services, Health Care Financing Administration, C4-11-16, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-0309

RIN: 0938–AF14

1361. PARTIAL HOSPITALIZATION SERVICES IN COMMUNITY MENTAL HEALTH CENTERS (BPD-736-IFC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395k(a)(2)(J); 42 USC 1395x(ff); 42 USC 1395cc(e)(2)

CFR Citation: 42 CFR 400; 42 CFR 410; 42 CFR 413; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: In accordance with section 4162 of OBRA '90, this rule sets forth the coverage criteria and payment methodology for partial hospitalization services furnished in community mental health centers. It also specified the requirements a community mental health center must meet in order to enter into a Medicare provider agreement to furnish partial hospitalization services. This interim final rule will respond to public comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/11/94	59 FR 6570
Effective Date	03/13/94	59 FR 6570
Comment Period End	04/12/94	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Levy, Office of Chronic Care & Insurance Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244

HHS—HCFA

Final Rule Stage

Phone: 410 786-9364

RIN: 0938–AF53

1362. MEDICAID: OUTSTATIONED INTAKE LOCATIONS FOR CERTAIN LOW-INCOME PREGNANT WOMEN, INFANTS AND CHILDREN UNDER AGE 19 (MB-052-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(55)

CFR Citation: 42 CFR 435.901; 42 CFR 435.902; 42 CFR 435.903; 42 CFR 435.904; 42 CFR 435.907; 42 CFR 436.2; 42 CFR 435.3

Legal Deadline: None

Abstract: This rule implements a statutory requirement that State Medicaid agencies must provide for receipt and initial processing of Medicaid applications filed by certain low-income pregnant women, infants, and children under age 19, at locations which are other than those used for receipt and processing of Aid to Families with Dependent Children (AFDC) applications. The statutory requirement also provides that the application form for these individuals must not be the AFDC application form.

The rule is based on section 1902(a)(55) of the Social Security Act as added by section 4602 of OBRA '90, PL 101-508.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comment Period	08/23/94	59 FR 48805
Interim Final Rule	09/23/94	59 FR 48805
Comment Period End	11/22/94	59 FR 48805
Effective Date	11/24/94	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Tomlinson, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, C4-07-22, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4531

RIN: 0938–AF69

1363. MEDICARE AND MEDICAID PROGRAMS: REQUIREMENTS FOR PHYSICIAN INCENTIVE PLANS IN PREPAID HEALTH CARE ORGANIZATIONS (OMC-010-FC)

Priority: Other Significant

Legal Authority: 42 USC 1395mm(i); 42 USC 1396b

CFR Citation: 42 CFR 417.01; 42 CFR 417.409; 42 CFR 417.495; 42 CFR 434.67; 42 CFR 1003.100 to 1003.103

Legal Deadline: None

Abstract: This rule would amend the regulations governing federally qualified health maintenance organizations (HMOs) and competitive medical plans (CMPs) contracting with the Medicare program, and certain HMOs and health insuring organizations (HIOs) contracting with States under the Medicaid program, by implementing changes made by sections 4204(a) and 4731(a) of OBRA '90 concerning physician incentive plans. The changes are intended to allow HMOs, CMPs, and HIOs the flexibility to provide reasonable financial incentives to their physicians and physician groups in order to eliminate unnecessary care while still protecting enrollees from reduced quality of care or reduced access to care.

Timetable:

Action	Date	FR Cite
NPRM	12/14/92	57 FR 59024
Comment Period End	04/13/93	58 FR 8568
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tony Hausner, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S-3-23-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1093

RIN: 0938–AF74

1364. PART B ADVANCE PAYMENTS TO PHYSICIANS/SUPPLIERS OR OTHER ENTITIES FURNISHING ITEMS OR SERVICES UNDER MEDICARE PART B (BPO-105-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395u

CFR Citation: 42 CFR 421.214

Legal Deadline: None

Abstract: This rule would amend Medicare regulations to provide advance payment to physicians, suppliers, or entities that furnish items or services under Medicare Part B. These payments could be made only when claims processing is so delayed that interest payments alone are insufficient to adequately compensate the provider, in light of cash flow needs. This change is intended to result in more efficient and economical administration of the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	07/18/94	59 FR 36415
NPRM Comment Period End	09/16/94	59 FR 36415
Final Action	12/00/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Bob Shaw, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, S-2-01-23, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7671

RIN: 0938–AF85

1365. RETROACTIVE ENROLLMENT AND DISENROLLMENT IN RISK HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS (OMC-015-F)

Priority: Other Significant

Legal Authority: 42 USC 1395mm

CFR Citation: 42 CFR 417.448; 42 CFR 417.450; 42 CFR 417.456; 42 CFR 417.460; 42 CFR 417.461; 42 CFR 417.462; 42 CFR 417.464; 42 CFR 417.584

Legal Deadline: None

Abstract: This rule will allow retroactive enrollment of up to 90 days for individuals enrolling with an eligible organization (which has a risk-sharing contract under section 1876 of the Social Security Act) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer (or the employer or former employer of the individual's spouse). The regulation implements section 4204(e) of OBRA '90. In addition, the rule will permit

the Secretary to authorize retroactive disenrollment in specific cases.

Timetable:

Action	Date	FR Cite
NPRM	12/27/93	58 FR 68366
Comment Period End	02/25/94	58 FR 68366
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne Manley, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S-3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1096

RIN: 0938–AF98

1366. PAYMENT FOR PREADMISSION SERVICES (BPD-731-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395ww(a)(4)

CFR Citation: 42 CFR 412.2(c); 42 CFR 413.40

Legal Deadline: None

Abstract: This rule confirms the provisions published in an interim final rule with comment period on January 12, 1994. In addition, this final rule responds to comments received on the interim final rule with comment period. The interim final rule implemented section 4003 of OBRA '90, entitled "Expansion of DRG Payment Window," which amended the statutory definition of "inpatient operating cost" to include certain preadmission services.

Timetable:

Action	Date	FR Cite
Effective Date	01/12/94	59 FR 1654
Interim Final Rule With Comment Period	01/12/94	59 FR 1654
Comment Period End	03/14/94	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Edwards, Director, Division of Prospective Payment System, Department of Health and Human Services, Health Care Financing Administration, C5-06-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4531

RIN: 0938–AG00

1367. CHANGE IN PROVIDER AGREEMENT REGULATIONS RELATED TO FEDERAL EMPLOYEE HEALTH BENEFITS (BPD-748-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 8904(b)

CFR Citation: 42 CFR 489

Legal Deadline: None

Abstract: This rule will amend current Medicare regulations to require that payment for inpatient hospital services furnished to retired Federal workers age 65 and older who are enrolled in a Federal Employee Health Benefits (FEHB) plan but who are not covered under Medicare Part A (Hospital Insurance) must accept as payment in full an amount that approximates as closely as possible the inpatient hospital Medicare prospective payment rate. The rule will also amend current Medicare regulations to authorize HCFA to consider termination or nonrenewal of a hospital's Medicare provider agreement for knowingly and willfully failing to accept, on a repeated basis, the Medicare rate as payment in full from an FEHB plan. This rule will implement section 7002(f) of OBRA '90, enacted November 5, 1990. This rule is part of the Department's regulatory initiative.

Timetable:

Action	Date	FR Cite
NPRM	02/10/94	59 FR 6228
NPRM Comment Period End	04/11/94	59 FR 6228
Final Action	02/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Paul Olenick, Director, Division of Beneficiary and Insurance Issues, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4472

RIN: 0938–AG03

1368. INTERMEDIARY AND CARRIER FUNCTIONS (BPO-111-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395h; 42 USC 1395u

CFR Citation: 42 CFR 421.100; 42 CFR 421.200

Legal Deadline: None

Abstract: Current regulations list functions that intermediaries and carriers must perform. All intermediaries and all carriers must perform all the enumerated functions. This rule changes the regulations to bring them into greater conformance with the Medicare statute, which gives the Health Care Financing Administration flexibility to move some functions from one contractor to another to reduce inefficiency, lower cost or achieve better program administration. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	02/22/94	59 FR 8446
NPRM Comment Period End	04/25/94	59 FR 8446
Notice to Reopen Comment Period	07/17/94	59 FR 35664
Comment Period End	10/11/94	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Bromberg, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, S-2-01-23, 2300 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7441

RIN: 0938–AG06

1369. REVISED MEDICAID MANAGEMENT INFORMATION SYSTEMS (MB-38-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396b(r)

CFR Citation: 42 CFR 433.1; 42 CFR 431.17; 42 CFR 447.10; 42 CFR 447.45; 42 CFR 74.20; 42 CFR 74.21

Legal Deadline: None

Abstract: This notice sets forth revised general functional requirements for the Medicaid Management Information System (MMIS). The MMIS consists of software and hardware used to process Medicaid claims and to retrieve and produce utilization and management information about services that are required by the Medicaid agency or Federal Government for administrative or audit purposes. The revised requirements allow States more flexibility to exercise variations in the implementation.

Timetable:

Action	Date	FR Cite
Proposed Notice	11/22/93	58 FR 61692
Comment Period End	01/21/94	
Final Action	12/00/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Richard Friedman, Director, Div. of Systems Data and Analysis, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-17-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3292

RIN: 0938–AG10

1370. END-STAGE RENAL DISEASE (ESRD) PAYMENT EXCEPTION REQUESTS AND ORGAN PROCUREMENT COSTS (BPD-763-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 413.170; 42 CFR 413.172; 42 CFR 413.174; 42 CFR 413.176; 42 CFR 413.178; 42 CFR 413.179; 42 CFR 413.180; 42 CFR 413.182; 42 CFR 413.184; 42 CFR 413.186; 42 CFR 413.188; 42 CFR 413.190; 42 CFR 413.192; 42 CFR 413.194; 42 CFR 413.196; ...

Legal Deadline: None

Abstract: These regulations specify the criteria HCFA will use to determine if a facility furnishing dialysis services to patients with end-stage renal disease qualifies for a higher payment under an exception to the prospectively determined payment rate; and the procedures used to evaluate ESRD payment exceptions requests. The rule also revised the way HCFA computes acquisition costs for organs that are transplanted into Medicare beneficiaries. The rule is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	08/26/94	59 FR 44097
NPRM Comment Period End	10/25/94	59 FR 44097
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Powell, Health Insurance Specialist, Division of End-Stage Renal Disease, Department of Health and Human Services, Health Care Financing Administration, C5-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4557

RIN: 0938–AG20

1371. MEDICARE PROGRAM: LIMITATIONS ON MEDICARE COVERAGE OF INTERMITTENT POSITIVE PRESSURE BREATHING MACHINE THERAPY (BPD-781-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(n); 42 USC 1395y(a)(1)(A)

CFR Citation: None

Legal Deadline: None

Abstract: Intermittent positive pressure breathing (IPPB) machine therapy is currently covered under Medicare as durable medical equipment for patients whose ability to breathe is severally impaired. Based on a Public Health Service recommendation, we propose to place limitations on Medicare coverage of IPPB machine therapy.

Timetable:

Action	Date	FR Cite
Proposed Notice	06/29/94	59 FR 33520
Comment Period End	08/29/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Francine Spencer, Office of Chronic Care & Insurance Policy, Department of Health and Human Services, Health Care Financing Administration, C4-04-05, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4614

RIN: 0938–AG44

1372. TELEPHONE AND ELECTRONIC REQUESTS FOR REVIEW OF PART B INITIAL CLAIM DETERMINATIONS (BPO-121-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395hh; 42 USC 1395ff

CFR Citation: 42 CFR 405.807

Legal Deadline: None

Abstract: Current Medicare regulations allow a Medicare beneficiary to appeal, in writing, decisions to deny payment for a claim under supplementary medical insurance. This rule would allow a beneficiary to appeal an initial payment determination either in writing or by telephone. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35544
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rosalind Little, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, S-01-05-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6972

RIN: 0938–AG48

1373. SCHEDULE OF LIMITS ON HOME HEALTH AGENCY COSTS PER VISIT (BPD-793-N)

Priority: Other Significant

Legal Authority: 42 USC 1395f(b); 42 USC 1395x(v)(1)(A); 42 USC 1395x(v)(1)(L); 42 USC 1395hh; PL 103-66, Sec 13564(a); 42 USC 1395cc(a)

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CFR Citation: None

Legal Deadline: None

Abstract: This notice responds to public comments on the February 14, 1995 notice with comment period (60 FR 8389) that set forth a revised schedule of limits on home health agency costs that may be paid under the Medicare program for cost reporting periods beginning on or after July 1, 1993. The revised limits replaced the per-visit limits that were set forth in our July 8, 1993 notice with comment period (58 FR 36748). The February 14 notice also provided, in accordance with the provisions of OBRA '93, that there will be no changes in the home health agency cost limits for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996.

Timetable:

Action	Date	FR Cite
Other Provisions Effective	07/01/93	60 FR 8389
Notice With Comment Period	02/14/95	60 FR 8389
Comment Period End	04/17/95	
Final Action	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael Bussacca, Health Insurance Specialist, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21207
Phone: 410 786-4602

RIN: 0938–AG54

1374. MEDICAID PROGRAM: NURSE-MIDWIFE SERVICES (MB-085-F)

Priority: Other Significant

Legal Authority: PL 103-66, Sec 13605

CFR Citation: 42 CFR 440

Legal Deadline: None

Abstract: This rule would expand coverage of nurse-midwife services under the Medicaid program by including coverage for those services the nurse-midwives perform outside the maternity cycle as allowed by State law and regulation. The provisions of this rule conform the regulations to the legislative provisions of OBRA '93.

Timetable:

Action	Date	FR Cite
NPRM	07/18/94	59 FR 36419
NPRM Comment Period End	09/16/94	59 FR 36419
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Sizelove, Office of Medical Services, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-24-02, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3255

RIN: 0938–AG73

1375. MEDICAID PROGRAM: FEES FOR VACCINE ADMINISTRATION UNDER PEDIATRIC IMMUNIZATION PROGRAM (MB-084-FN)

Priority: Other Significant

Legal Authority: PL 103-66, sec 13631; 42 USC 1396a(a)(62); 42 USC 1396s

CFR Citation: None

Legal Deadline: None

Abstract: This notice establishes a regional maximum fee that a Medicaid provider may charge for the administration of qualified pediatric vaccines under the Medicaid Pediatric Immunization Program. It also specifies the methodology used to develop this maximum fee and allows a State to pay a rate lower than the maximum fee if the State can ensure federally vaccine-eligible children adequate access to the vaccines at the lower rate. This notice implements section 1928(c)(2)(C)(ii) of the Social Security Act, as added by section 13631 of OBRA '93.

Timetable:

Action	Date	FR Cite
Effective Date	10/01/94	59 FR 50235
Notice With Comment Period	10/03/94	59 FR 50235
Comment Period End	12/12/94	
Final Action	04/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Marge Sciulli, Health Insurance Specialist, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-21-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-0691

RIN: 0938–AG77

1376. REVISION OF MEDICARE HOSPITAL CONDITIONS OF PARTICIPATION (BPD-745-P)

Regulatory Plan: This entry is Seq. No. 44 in Part II of this issue of the **Federal Register**.

RIN: 0938–AG79

1377. MEDICARE PROGRAM: CHANGES TO THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEMS AND FISCAL YEAR 1996 RATES (BPD-825-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395ww

CFR Citation: 42 CFR 412; 42 CFR 413

Legal Deadline: NPRM, Statutory, May 1995. Final, Statutory, September 1995.

Abstract: This rule would make revisions to the inpatient hospital prospective payment systems for operating costs and capital-related costs. It also would include changes in the methods amounts and factors used to determine the prospective payment rates applicable to discharges occurring during FY 1996. In addition, the rule would set forth the rate of increase limits for hospitals and hospital units excluded from the prospective payment systems. Finally, this rule would eliminate the requirement for physicians to sign an "attestation form" for each Medicare patient discharged from a hospital. This rule includes provisions that are part of HCFA's regulatory reform initiative and the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/02/95	60 FR 29202
NPRM Comment Period End	08/01/95	60 FR 29202
Final Rule With Comment Period	09/01/95	60 FR 45778
Effective Date	10/01/95	
Comment Period End	11/01/95	
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: Nancy Edwards, Director, Division of Prospective Payment Systems, Department of Health and Human Services, Health Care Financing Administration, C5-07-22, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4531

RIN: 0938–AG95

1378. MEDICARE PROGRAM: REVISIONS TO PAYMENT POLICIES AND ADJUSTMENTS TO THE RELATIVE VALUE UNITS (RVUS) UNDER THE PHYSICIAN FEE SCHEDULE FOR CALENDAR YEAR 1996 (BPD-827-FC)

Regulatory Plan: This entry is Seq. No. 45 in Part II of this issue of the **Federal Register**.

RIN: 0938–AG96

1379. MEDICARE PROGRAM: PHYSICIAN FEE SCHEDULE UPDATE FOR CALENDAR YEAR 1996 & PHYSICIAN VOLUME PERFORMANCE STANDARD RATES OF INCREASE FOR FEDERAL FISCAL YEAR 1996 (BPD-828-FN)

Priority: Other Significant

Legal Authority: 42 USC 1395w-4

CFR Citation: None

Legal Deadline: Other, Statutory, October 31, 1995.
Annual update required.

Abstract: This notice announces the calendar year 1996 updates to the Medicare physician fee schedule and the federal fiscal year 1996 performance standard rates of increase for expenditures and volume of physicians' services under the Medicare Supplementary Medical Insurance (Part B) program as required by sections 1848(d) and (f) of the Social Security Act.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terrence Kay, Director, Division of Physician Services, Office of Physician & Ambulatory Care Policy, Department of Health and Human Services, Health Care Financing Administration, C4-10-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4497

RIN: 0938–AH03

1380. PART A PREMIUM FOR 1996 FOR THE UNINSURED AGED AND FOR CERTAIN DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT (OACT-051-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395i-2; 42 USC 1395i-2a

CFR Citation: None

Legal Deadline: Other, Statutory, September 30, 1995.
Other deadline is for publication of Notice.

Abstract: This notice announces the hospital insurance premium for calendar year 1996 under the Medicare's hospital insurance program (Part A) for the uninsured aged and for certain disabled individuals who have exhausted other entitlement. The uninsured aged are those individuals who are not insured under the Social Security or Railroad Retirement Acts and do not otherwise meet the requirements for entitlement to Medicare Part A. The disabled beneficiaries are those who lose monthly Social Security cash payments because they returned to work even though their disability continues. Section 1818(d) of the Social Security Act specifies the method to be used to determine this amount.

Timetable:

Action	Date	FR Cite
Notice	10/16/95	60 FR 53631

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Wandishin, Director, Division of Hospital Insurance, Department of Health and Human Services, Health Care Financing Administration, N-3-26-00, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6389

RIN: 0938–AH06

1381. MEDICARE PROGRAM: MONTHLY ACTUARIAL RATES AND MONTHLY SUPPLEMENTARY MEDICAL INSURANCE PREMIUM RATES BEGINNING JANUARY 1, 1996 (OACT-050-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395r

CFR Citation: None

Legal Deadline: Other, Statutory, September 1995.
Other deadline is for publication of Notice.

Abstract: This notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under age 65) enrollees, in the Medicare Supplementary Insurance (SMI) program for the 12 months beginning January 1, 1996. It also announces the monthly SMI premium rate to be paid by all enrollees during the 12 months beginning January 1, 1996.

Timetable:

Action	Date	FR Cite
Notice	10/16/95	60 FR 53626

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carter Warfield, Director, Division of Supplementary Medical Insurance, Department of Health and Human Services, Health Care Financing Administration, N-3-26-00, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6396

RIN: 0938–AH07

1382. INPATIENT HOSPITAL DEDUCTIBLE AND HOSPITAL AND EXTENDED CARE SERVICES COINSURANCE AMOUNTS FOR 1996 (OACT-049-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395e

CFR Citation: None

Legal Deadline: Other, Statutory, September 15, 1995.
Other deadline is for publication of Notice.

Abstract: This notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in calendar year 1996 under Medicare's hospital insurance program (Medicare Part A). The Medicare statute

specifies the formulae to be used to determine these amounts.

Timetable:

Action	Date	FR Cite
Notice	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Wandishin, Director, Division of Hospital Insurance, Department of Health and Human Services, Health Care Financing Administration, N-3-36-24, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6389

RIN: 0938–AH08

1383. • LIMITATIONS ON AGGREGATE PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS: FEDERAL FISCAL YEAR 1995 (MEDICAID PROGRAM) (MB-094-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396r-4(f)

CFR Citation: 42 CFR 447.297; 42 CFR 447.298; 42 CFR 447.299

Legal Deadline: None

Abstract: This notice announces the final Federal fiscal year (FFY) 1995 national target and individual State allotments for Medicaid payment adjustments made to hospitals that serve a disproportionate number of Medicaid recipients and low-income patients with special needs.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Richard Strauss, Health Insurance Specialist, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-18-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-2019

RIN: 0938–AH09

1384. • REPORTING OF INTEREST FROM ZERO COUPON BONDS (BPD-647-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(v)

CFR Citation: 42 CFR 413.153

Legal Deadline: None

Abstract: This final rule requires Medicare providers to report all interest expense and income from zero coupon bonds in the cost reporting period in which the interest was accrued.

Timetable:

Action	Date	FR Cite
NPRM	12/13/93	58 FR 65150
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann Pash, Health Insurance Specialist, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C5-03-17, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4615

RIN: 0938–AH11

1385. • UPDATE OF THE REASONABLE COMPENSATION EQUIVALENT LIMITS FOR SERVICES FURNISHED BY PHYSICIANS (BPD-816-N)

Priority: Other Significant

Legal Authority: 42 USC 1395xx

CFR Citation: 42 CFR 405.482(f)

Legal Deadline: None

Abstract: This notice sets forth updated payment limits on the amount of allowable compensation for services furnished by physicians to providers that are not covered by the prospective payment system or per resident payments for graduate medical education. These services are paid for by Medicare on a reasonable cost basis. The revised reasonable compensation equivalent limits are based on updated economic index data and replace the limits that were published in the Federal Register on February 20, 1985.

Timetable:

Action	Date	FR Cite
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ward Pleines, Health Insurance Specialist, Office of Hospital Policy, Department of Health and Human Services, Health Care Financing Administration, C5-03-03, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4528

RIN: 0938–AH14

1386. • CRITERIA AND PROCEDURES FOR EXTENDING COVERAGE TO CERTAIN DEVICES AND RELATED SERVICES (BPD-841-FC)

Regulatory Plan: This entry is Seq. No. 46 in Part II of this issue of the **Federal Register**.

RIN: 0938–AH21

1387. • CLIA PROGRAM; GRANTING AND WITHDRAWAL OF AUTHORITY TO PRIVATE NONPROFIT ACCREDITATION ORGANIZATIONS AND OF CLIA EXEMPTION UNDER STATE LABORATORY PROGRAMS; TECHNICAL CORRECTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493.501; 42 CFR 493.506; 42 CFR 493.513; 42 CFR 493.515; 42 CFR 493.521

Legal Deadline: None

Abstract: This rule clarifies that a state may obtain approval from HCFA for exemption of its licensed laboratories from CLIA requirements given if it does not license all laboratories in the state. We are also making technical revisions and corrections to the final rule published July 31, 1992, that include data format requirements, laboratory performance information to be sent to us by accreditation organizations and CLIA-exempt states and the right of a state to appeal termination of its exemption for failure to pay required law.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Josephine Simmons, Chief, Laboratory Performance Branch, HSQB, HCFA, HHS, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Room 52-19-26, Baltimore, MD 21244
Phone: 410 786-3409

RIN: 0938–AH32

1388. • MEDICARE PROGRAM; SPECIAL ENROLLMENT PERIODS AND WAITING PERIODS (BPD-752-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395

CFR Citation: 42 CFR 406; 42 CFR 407; 42 CFR 408; 42 CFR 416

Legal Deadline: None

Abstract: This rule will reflect statutory changes made by OBRA's 1987, 1989, 1990 and 1993. It will provide an additional way for certain disabled individuals to qualify for special enrollment periods (SEPs); extend through 1998 the period during which disabled individuals under age 65 may take advantage of SEPs if they are covered under large group health plans; and provide that a second 24-month waiting period is not required for disability-based reentitlement if the current impairment is the same as or directly related to the impairment on which the previous period of entitlement was based.

Timetable:

Action	Date	FR Cite
Final Rule with Comment Period	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Jefferson, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., C4-07-22, Baltimore, MD 21244
Phone: 410 786-4482

RIN: 0938–AH33

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Long-Term Actions

1389. PARTICIPATION IN CHAMPUS AND CHAMPVA, HOSPITAL ADMISSIONS FOR VETERANS, DISCHARGE RIGHTS NOTICE, AND HOSPITAL RESPONSIBILITY FOR EMERGENCY CARE (BPD-393-F)

Priority: Other Significant

Legal Authority: 42 USC 1395x; 42 USC 1395cc; 42 USC 1395dd

CFR Citation: 42 CFR 488.18; 42 CFR 489.20; 42 CFR 489.24; 42 CFR 489.25; 42 CFR 489.26; 42 CFR 489.27; 42 CFR 489.53; 42 CFR 1003

Legal Deadline: None

Abstract: This final rule requires Medicare participating hospitals with emergency departments to provide upon request medical examinations and treatments for individuals with emergency medical conditions and women in labor. A participating hospital that has specialized capabilities or facilities (such as burn, shock trauma, or neonatal intensive care units) must accept an appropriate transfer if they have the capacity to treat the individual. Hospitals failing to meet those requirements may have their Medicare provider agreements terminated, and hospitals and responsible physicians may be subject to civil money penalties. Under section 9122 of COBRA '85, Medicare participating hospitals are required to accept CHAMPUS and CHAMPVA payment as payment in full for services provided to CHAMPUS and CHAMPVA beneficiaries. These regulations also implement section 9305(b) of OBRA '86, which requires Medicare hospitals to give patients a notice of their discharge rights.

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 22513
NPRM Comment Period End	08/15/88	53 FR 22513
Final Rule With Comment Period	06/22/94	59 FR 32086
Effective Date	07/22/94	
Comment Period End	08/22/94	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tzvi Hefter, Director, Division of Hospital Service, Department of Health and Human Services, Health Care Financing Administration, C5-08-27, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1304

RIN: 0938–AC58

1390. CRITERIA AND PROCEDURES FOR MAKING MEDICAL SERVICES COVERAGE DECISIONS THAT RELATE TO HEALTH CARE TECHNOLOGY (BPD-432-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395y

CFR Citation: 42 CFR 400.200; 42 CFR 405.201; 42 CFR 405.203; 42 CFR 405.205; 42 CFR 405.207; 42 CFR 405.209

Legal Deadline: None

Abstract: The final rule establishes in regulations generally applicable criteria and procedures for determining whether a service is "reasonable and necessary" under the Medicare program; it sets forth the coverage decisionmaking process; and it summarizes and provides an analysis of the public comments that we received in response to the January 30, 1989 proposed rule (54 FR 4302). The objective of the criteria and procedures set forth in this rule is to ensure that Federal funds are expended only for medical services that are appropriate to meet an individual's medical needs.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4302
NPRM Comment Period End	03/31/89	54 FR 4302
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Higbee, Technology & Special Analysis Staff, Department of Health and Human Services, Health Care Financing Administration, C4-10-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4643

RIN: 0938–AD07

1391. MEDICARE COVERAGE OF OUTPATIENT OCCUPATIONAL THERAPY SERVICES (BPD-425-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395k; 42 USC 1395l; 42 USC 1395w-4; 42 USC 1395x(s); 42 USC 1395x(p); 42 USC 1395cc(e)

CFR Citation: 42 CFR 410; 42 CFR 485; 42 CFR 486

Legal Deadline: None

Abstract: This rule would implement section 9337 of OBRA '86 which provides Medicare coverage for outpatient occupational therapy services furnished by providers and independent practitioners, identical to the coverage for outpatient physical therapy. It also would implement section 6133(a) of OBRA '89 which increased the payment limit for outpatient occupational therapy services provided by independent practitioners.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheridan Gladhill, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C-4-05-27, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1782

RIN: 0938–AD32

1392. MEDICARE SECONDARY PAYER FOR DISABLED INDIVIDUALS (BPD-482-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395y(b)

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: This rule implements the Medicare secondary payer (MSP) provision for disabled individuals who are covered under large group health plans (LGHPs). Under this provision LGHPs may not take into account that such individuals are entitled to Medicare. The rule contains procedures under which a plan can appeal a determination of nonconformance which could lead to a tax penalty. It reflects statutory revisions mandated by OBRA '86, OBRA '89, and OBRA '93, some of which also affect the MSP provisions for persons who are entitled on the basis of age or end-stage renal disease. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	03/08/90	55 FR 8491
NPRM Comment Period End	05/08/90	55 FR 8491
Final Rule With Comment	08/31/95	60 FR 45344
Effective Date	09/29/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Herbert Pollock, Office of Chronic Care & Insurance Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C-4-08-14, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4474

RIN: 0938–AD73

1393. FEE SCHEDULE FOR PAYMENT OF CLINICAL PSYCHOLOGIST SERVICES (BPD-495-P)

Priority: Other Significant

Legal Authority: 42 USC 1395k(a)(2)(B)(iii); 42 USC 1395x(hh); 42 USC 1395w-4; 42 USC 1395x(b); 42 USC 1395l(a)(1)(L); 42 USC 1395x(s)

CFR Citation: 42 CFR 414

Legal Deadline: None

Abstract: This proposed rule would establish fee schedules for payment of clinical psychologist services furnished under Medicare Part B. It implements a portion of section 4077(b) of OBRA '87 as amended. It further implements section 6113(a) of OBRA '89 and section 4157 of OBRA '90.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Elisa Tunanidas, Office of Physician & Ambulatory Care Policy, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4505

RIN: 0938–AD84

1394. SURVEY REQUIREMENTS AND ALTERNATIVE SANCTIONS FOR HOME HEALTH AGENCIES (HSQ-169-F)

Priority: Other Significant

Legal Authority: 42 USC 1395w-2; 42 USC 1395bbb

CFR Citation: 42 CFR 488; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: These rules will establish periodic, unannounced surveys of home health agencies (HHAs) and other survey requirements and also will specify a number of sanctions that could be used, when an HHA is out of compliance with Federal requirements, as an alternative or in addition to terminating an HHA's participation in the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	08/02/91	56 FR 37054
NPRM Comment Period End	10/01/91	56 FR 37054
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Pam Vocke, Director, Division of Program Operations, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, S-2-19-26, 6300 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3487

RIN: 0938–AE39

1395. FIRE SAFETY STANDARDS FOR HOSPITALS, LONG-TERM CARE FACILITIES, AND INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (BPD-650-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395x; 42 USC 1396d

CFR Citation: 42 CFR 482.41(b)(1); 42 CFR 483.70(a); 42 CFR 483.470(j)(2)(i)(C); 42 CFR 416.44(a); 42 CFR 418.100(d)

Legal Deadline: None

Abstract: This final rule with comment period revises the fire safety standards for hospitals, long term care facilities participating in Medicare and Medicaid, intermediate care facilities for the mentally retarded, ambulatory surgical centers (ASCs) and hospices. It deletes references to the 1967 and 1973, 1981, and 1985 editions of the Life Safety Code (LSC) of the National Fire Protection Association (NFPA) and requires compliance with only the 1994 edition of the LSC. This is a part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	08/01/90	55 FR 31196
NPRM Comment Period End	10/01/90	55 FR 31196
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Kenton, Division of Skilled Nursing Care, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-11-06, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5629

RIN: 0938–AE97

1396. CHANGES TO THE LONG-TERM CARE FACILITY SURVEY PROCESS (HSQ-175-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 101-239, Sec 6901(a); 42 USC 1395i-3; 42 USC 1395aa(d); 42 USC 1396r

CFR Citation: 42 CFR 442; 42 CFR 488

Legal Deadline: None

Abstract: This final rule with comment period amends the Medicare and Medicaid regulations by removing obsolete long-term care survey forms, guidelines, and procedures used by State agencies when they evaluate a Medicare skilled nursing facility or a Medicaid nursing facility for compliance with Federal certification requirements. Effective October 1, 1990, the application of new Federal participation requirements for these facilities with an increased focus on actual or potential resident outcomes has made the survey forms and process in existing regulations outdated. Retention of the outdated items could cause confusion in connection with directions State survey agencies must follow in determining facility compliance.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective Date	10/19/94	
Interim Final Rule Comment Period End	11/18/94	
Final Rule With Comment Period	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending court ruling.

Agency Contact: Pam Vocke, Director, Division of Program Operations, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, S-2-19-26, 6300 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3487

RIN: 0938–AF02

1397. OBRA '90 AND MISCELLANEOUS MANAGED CARE TECHNICAL AMENDMENTS (OMC-018-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396b(m); 42 USC 1396a(e)(2)(A)

CFR Citation: 42 CFR 434.20 to 44; 42 CFR 435.212; 42 CFR 435.362

Legal Deadline: None

Abstract: This rule will require certain health insuring organizations to be subject to the regulations governing prepaid health plans. This rule will also allow State-only funds to be paid to Medicaid contracting entities. These funds will not be considered when computing the rate at which Federal financial participation is made. Further, this rule will incorporate several technical amendments from section 4732 of OBRA '90.

Timetable:

Action	Date	FR Cite
NPRM	05/09/94	59 FR 23820
NPRM Comment Period End	07/08/94	59 FR 23820
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane McClard, Health Insurance Specialist, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S-03-02-01, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4460

RIN: 0938–AF15

1398. PRESUMPTIVE LIMITS ON PAYMENTS TO HMOS, CMPS, AND HCPPS (OMC-008-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395mm(h); 42 USC 1395x(v)(1)(A)

CFR Citation: 42 CFR 417.532(a)(3); 42 CFR 417.802; 42 CFR 417.800(c)

Legal Deadline: None

Abstract: This rule will establish presumptive limits for Medicare payments to Health Maintenance Organizations and Competitive Medical Plans, and to Health Care Prepayment Plans (HCPPs) that furnishes inpatient hospital care. It will also revise the criteria that HCFA uses to determine reasonable costs for HCPPs that do not furnish inpatient hospital care. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	02/22/94	59 FR 8435
NPRM Comment Period End	04/25/94	59 FR 8435
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. G. D'Alberto, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S-3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7610

RIN: 0938–AF16

1399. PROVIDER REIMBURSEMENT DETERMINATIONS AND APPEALS REVISIONS (BPD-727-P)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g(a); 42 USC 1395l; 42 USC 1395x(u); 42 USC 1395hh; 42 USC 1395jj; 42 USC 1395oo; 42 USC 1395ww

CFR Citation: 42 CFR 405.1801; 42 CFR 405.1889

Legal Deadline: None

Abstract: Under section 1878 of the Social Security Act, the Provider Reimbursement Review Board (PRRB) has the authority to adjudicate substantial reimbursement disputes between providers and intermediaries. This proposed rule would revise, update, and clarify various provisions of the regulations pertaining to provider appeals before intermediaries and the PRRB. This rule is part of HCFA's regulatory reform initiative.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morty Marcus, Office of Chronic Care & Insurance Policy, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4477

RIN: 0938–AF28

1400. REFERRAL TO CHILD SUPPORT ENFORCEMENT AGENCIES OF MEDICAID FAMILIES (MB-051-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396k

CFR Citation: 42 CFR 433.160; 42 CFR 433.135; 42 CFR 433.137; 42 CFR 433.151

Legal Deadline: None

Abstract: This rule will require State Medicaid agencies to refer Medicaid families with an absent parent to child support enforcement (CSE) agencies. Section 9142 of OBRA '87 required CSE agencies to provide all CSE services to such Medicaid families who have assigned to the State their rights to medical support. The purpose of these rules is to require States to make this referral to State CSE agencies to ensure that those recipients requiring CSE services receive them.

Timetable:

Action	Date	FR Cite
NPRM	09/22/93	58 FR 49272
NPRM Comment Period End	11/22/93	58 FR 49272
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Randy Graydon, Director, Division of Benenficiary Services, Department of Health and Human Services, Health Care Financing Administration, C4-22-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4451

RIN: 0938–AF68

1401. ASSESSING INTEREST AGAINST MEDICARE SECONDARY PAYER (MSP) DEBTS (BPO-108-P)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3711; 31 USC 3717; 42 USC 1395y(b)(2)(B)

CFR Citation: 42 CFR 411.40; 42 CFR 405.376

Legal Deadline: None

Abstract: This proposal would establish in HCFA rules provisions concerning interest charges on amounts owed to the Federal government when an overpayment occurs because Medicare was billed and made payment as the primary payer, rather than as the secondary payer. We also propose to clarify the date of determination that an overpayment has occurred so that all parties would have a clear understanding of the period subject to payment of interest charges.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending revisions resulting from PL 103-432.

Agency Contact: John Albert, Health Insurance Spcialist, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, S-03-02-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7457

RIN: 0938–AF87

1402. GENERAL CRITERIA AND STANDARDS FOR EVALUATING PERFORMANCE OF CONTRACT OBLIGATIONS (HSQ-207-NC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1320c; 42 USC 1320-2

CFR Citation: 42 CFR 462

Legal Deadline: None

Abstract: This notice provides general criteria and standards that will be used to evaluate the effective and efficient performance of Utilization and Quality Control Peer Review Organizations (PROs) for new contracts entered into on or after April 1, 1993, by the 53 PROs.

Timetable:

Action	Date	FR Cite
Notice With Comment Period	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen Kelso, Health Standards & Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S-1-09-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7214

RIN: 0938–AG32

1403. WITHDRAWAL OF COVERAGE OF DIAGNOSTIC NOCTURNAL PENILE TUMESCENCE TESTING (IMPOTENCE TESTING) (BPD-780-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395y(a)(i)(A)

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces the Medicare program's intent to withdraw coverage for diagnostic nocturnal penile tumescence (NPT) testing in the sleep disorder clinic and to exclude coverage for nocturnal penile tumescence testing by plethysmography and other monitoring devices in all settings. Public Health Service studies show that NPT testing is not a reliable index for evaluating impotence. Therefore, it does not meet HCFA's criteria for effectiveness.

Timetable:

Action	Date	FR Cite
Proposed Notice	01/04/94	59 FR 308
Comment Period End	03/07/94	59 FR 309
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Ulikowski, Office of Physician & Ambulatory Care Policy, Department of Health and Human Services, Health Care Financing Administration, C4-10-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5721

RIN: 0938–AG43

1404. NONCOVERAGE OF ELECTROSTIMULATION OF SALIVARY GLANDS FOR THE TREATMENT OF XEROSTOMIA (DRY MOUTH) (BPD-782-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395y(a)(1)(A)

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces the Medicare program's intent to exclude from coverage electrostimulation of the salivary glands in the treatment of xerostomia secondary to Sjogren's Syndrome. Public Health Service (PHS) studies show that there is insufficient data to establish the clinical utility of electrostimulation to evaluate its long-term effectiveness, or to identify those xerostomia patients who would benefit from this procedure. Also, PHS reports that electrostimulation is not widely accepted as a treatment for xerostomia secondary to Sjogren's Syndrome.

Timetable:

Action	Date	FR Cite
Proposed Notice	05/23/94	59 FR 26653
Comment Period End	07/22/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Francina Spencer, Office of Chronic Care & Insurance Policy, Department of Health and Human Services, Health Care Financing Administration, C4-040-05, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4614

RIN: 0938–AG45

1405. CLINICAL LABORATORY IMPROVEMENT AMENDMENT (CLIA) FEE SCHEDULES (HSQ-219-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 263a(m)

CFR Citation: 42 CFR 493.638; 42 CFR 493.649

Legal Deadline: None

Abstract: The preamble to this final rule with comment period announces updated fees that laboratories must pay as required by CLIA '88. Fee increases are necessary to meet the costs of program administration, which are to be borne by the laboratories. In addition, technical conforming changes are made to the regulations to ensure consistent and complete references. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Ed Mortimore, Survey & Certification, Department of Health and Human Services, Health Care Financing Administration, S-2-18-14, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-3509

RIN: 0938–AG87

1406. MANDATORY MEDIGAP CROSSOVER CLAIMS TRANSMITTAL REQUIREMENTS (BPD-811-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395ss

CFR Citation: 42 CFR 403.206; 42 CFR 403.212; 42 CFR 403.222; 42 CFR 403.232; 42 CFR 403.204; 42 CFR 424.68

Legal Deadline: None

Abstract: This regulation proposes to require Medicare supplemental issuers to accept from Medicare carriers direct transmittal of claims submitted for services furnished to Part B Medicare beneficiaries by participating physicians and suppliers; pay user fees associated with this claims transmittal requirement; and meet certain other requirements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director, Office of Chronic Care & Insurance Policy, Department of Health and Human Services, Health Care Financing Administration, C4-02-16, 7500 Security Bldg., Baltimore, MD 21244
Phone: 410 786-5661

RIN: 0938–AG94

1407. • DEFINITION OF SKILLED NURSING FACILITY (SNF) AND HOME HEALTH AGENCY (HHA) FOR COVERAGE OF DURABLE MEDICAL EQUIPMENT (DME) (BPD-834-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1495x(n)

CFR Citation: 42 CFR 409; 42 CFR 410

Legal Deadline: None

Abstract: This proposed rule would define skilled nursing facilities (SNF) (under Medicare and Medicaid) for purposes of Medicare coverage of DME and home health. A Medicare SNF (as defined under section 1819 of the Act) can not be considered a home under

Medicare Part B for DME and home health coverage. This proposed rule would presume that all Medicaid NFs are section 1819(a) facilities and this would not be considered a home for DME and home health coverage. This rule would identify non- Medicare nursing homes as skilled facilities based upon the receipt of skilled care by a proportion of their resident population that is at least comparable to the proportion typically found in participating Medicare SNFs. This proposed rule is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Hoyer, Director, Office of Chronic Care and Insurance Policy, Department of Health and Human Services, Health Care Financing Administration, C4-02-16, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4605

RIN: 0938–AH16

1408. • MEDICARE COVERAGE OF LIVER TRANSPLANTATION (BPD-835-PN)

Priority: Other Significant

Legal Authority: 42 USC 1395y(a)(1)(A)

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces proposed changes in Medicare's national coverage policy for liver transplantations. Currently, Medicare coverage for liver transplantation in adults is limited to seven diagnosis. This notice proposes to expand the diagnoses for which Medicare would cover a liver transplant to include all end stage liver disease except malignancies, hepatitis B, and hemochromatosis. We are also proposing a change in the criteria for approval of a facility to perform liver transplants.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lana Price, Director, Division of End Stage Renal Disease, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C5-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4533

RIN: 0938–AH17

1409. • PROVISIONS THAT ALLOW RURAL PRIMARY CARE HOSPITALS (RPCHS) TO ENTER INTO SWING-BED AGREEMENTS (BPD-839-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395i-4

CFR Citation: 42 CFR 485.645

Legal Deadline: None

Abstract: This proposed rule would revise the provisions under which Rural Primary Care Hospitals (RPCHs) are allowed to enter into swing-bed agreements. These changes are being made to conform the regulations to changes made by section 102(c) of Public Law 103-432. Changes are also being made to ensure consistent treatment of similar facilities, and to protect the health and safety of patients in RPCH swing beds.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: George Morey, Office of Hospital Policy, Department of Health and Human Services, Health Care Financing Administration, C5-08-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4653

RIN: 0938–AH20

1410. • TRANSFER OF ASSETS FOR LESS THAN FAIR MARKET VALUE: MEDICAID PROGRAM (MB-095-P)

Priority: Other Significant

Legal Authority: 42 USC 1396p(c)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: These regulations would conform the Medicaid regulations to section 1917(c) and (d) of the Social Security Act, as amended by section 13611 of OBRA 1993. Section 1917(c) of the Act addresses the treatment of transfers of assets for less than fair market value. These regulations would specify the conditions that would result in the denial of coverage for certain medical services to otherwise eligible individuals who transfer assets for less than fair market value. These regulations would also set forth the rules under which a trust must be considered in determining eligibility for Medicaid. The provisions would apply to any individual who established a trust and who is a Medicaid applicant or recipient.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Roy Trudel, Division of Eligibility Policy, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-25-02, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3417

RIN: 0938–AH23

1411. CLARIFICATIONS OF MEDICARE'S ACCRUAL BASIS OF ACCOUNTING POLICY (BPD-366-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 413.24; 42 CFR 413.100

Completed:

Reason	Date	FR Cite
Final Action	06/27/95	60 FR 33126
Final Action Effective	07/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Eppinger
Phone: 410 786-4518

RIN: 0938–AD01

1412. OPTIONAL PAYMENT SYSTEM FOR LOW MEDICARE VOLUME SKILLED NURSING FACILITIES (BPD-409-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 413.300; 42 CFR 413.302; 42 CFR 413.304; 42 CFR 413.308; 42 CFR 413.310; 42 CFR 413.312; 42 CFR 413.314; 42 CFR 413.316; 42 CFR 413.320; 42 CFR 413.321; 42 CFR 413.1; 42 CFR 413.24

Completed:

Reason	Date	FR Cite
Final Action	07/21/95	60 FR 37590
Final Action Effective	08/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Kuhl
Phone: 410 786-4597

RIN: 0938–AD02

1413. TRANSFER OF RESOURCES FOR LESS THAN FAIR MARKET VALUE (MB-10-P)

Priority: Other Significant

CFR Citation: 42 CFR 435; 42 CFR 436

Completed:

Reason	Date	FR Cite
Withdrawn New regulation (MB-095-P) under development.	01/12/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Roy Trudel
Phone: 410 786-3417

RIN: 0938–AD18

1414. PAYMENT FOR DURABLE MEDICAL EQUIPMENT AND ORTHOTIC AND PROSTHETIC DEVICES (BPD-494-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 414.220; 42 CFR 414.222; 42 CFR 414.226; 42 CFR 414.228; 42 CFR 414.229; 42 CFR 414.232

Completed:

Reason	Date	FR Cite
Final Action	07/10/95	60 FR 35402

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Long
Phone: 410 786-5655

RIN: 0938–AD65

1415. UNIFORM ELECTRONIC COST REPORTING SYSTEM FOR HOSPITALS (BPD-689-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 413.24

Completed:

Reason	Date	FR Cite
Final Action	06/27/95	60 FR 33123
Final Action Effective	07/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Talbott
Phone: 410 786-4592

RIN: 0938–AE80

1416. ALLOWING CERTIFICATIONS AND RECERTIFICATIONS BY NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS FOR CERTAIN SERVICES (BPD-709-FC)

Priority: Other Significant

CFR Citation: 42 CFR 424

Completed:

Reason	Date	FR Cite
Final Action	07/26/95	60 FR 38266

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roberta Epps
Phone: 410 786-4503

RIN: 0938–AF01

1417. MEDICAID THIRD PARTY LIABILITY: COST EFFECTIVENESS WAIVERS (MB-39-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 433.138; 42 CFR 433.139; 42 CFR 433.137

Completed:

Reason	Date	FR Cite
Final Action	07/10/95	60 FR 35498
Final Action Effective	09/08/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Richard Friedman
Phone: 410 786-3292

RIN: 0938–AF11

1418. REQUIRED COVERAGE OF NURSE PRACTITIONER SERVICES—MEDICAID (MB-41-F)

Priority: Other Significant

CFR Citation: 42 CFR 440

Completed:

Reason	Date	FR Cite
Final Action	04/21/95	60 FR 19856
Final Action Effective	05/22/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Wardwell
Phone: 410 786-5659

RIN: 0938–AF12

1419. PHYSICIAN OWNERSHIP OF AND REFERRALS TO HEALTH CARE FACILITIES THAT FURNISH CLINICAL LABORATORY SERVICES AND FINANCIAL RELATIONSHIP REPORTING REQUIREMENTS (BPD-674-FC)

Priority: Other Significant

CFR Citation: 42 CFR 411

Completed:

Reason	Date	FR Cite
Final Action	08/14/95	60 FR 41914

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Betty Burrier
Phone: 410 786-0191

RIN: 0938–AF40

1420. MEDICARE AND MEDICAID PROGRAMS; ADVANCE DIRECTIVES (BPD-718-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 417.436; 42 CFR 417.801; 42 CFR 431.20; 42 CFR 431.107; 42 CFR 434.28; 42 CFR 483.10; 42 CFR 484.10; 42 CFR 489.10; 42 CFR 489.100; 42 CFR 489.104; 42 CFR 498.3; 42 CFR 417.472; 42 CFR 489.102

Completed:

Reason	Date	FR Cite
Final Action	06/27/95	60 FR 33262

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Hoyer
Phone: 410 786-5661

RIN: 0938–AF50

1421. CLARIFICATION OF RESUMPTION OF ENTITLEMENT RULES FOR MEDICARE PATIENTS WITH END-STAGE RENAL DISEASE (BPD-738-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 406.13

Completed:

Reason	Date	FR Cite
Final Action	05/08/95	60 FR 22533
Final Action Effective	06/07/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Olenick
Phone: 410 786-4472

RIN: 0938–AG19

1422. STANDARDS FOR QUALITY OF WATER USED IN DIALYSIS AND REVISED GUIDELINES ON REUSE OF HEMODIALYZER FILTERS FOR END-STAGE RENAL DISEASE PATIENTS (BPD-766-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 405.2140; 42 CFR 405.2150

Completed:

Reason	Date	FR Cite
Final Action	09/18/95	60 FR 48039

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jackie Sheridan
Phone: 410 786-4635

RIN: 0938–AG21

1423. COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES (MB-070-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 435.3; 42 CFR 435.260; 42 CFR 440.1; 42 CFR 440.190; 42 CFR 441.400; 42 CFR 441.402; 42 CFR 441.404; 42 CFR 441.406; 42 CFR 441.408; 42 CFR 441.410; 42 CFR 441.412; 42 CFR 441.414

Completed:

Reason	Date	FR Cite
Withdrawn - Funding ceased to exist after 9/30/95	03/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Jean Duckett
Phone: 410 786-3294

RIN: 0938–AG35

1424. CONDITIONS FOR PAYMENT FOR PHYSICIANS' SERVICES IN TEACHING SETTINGS (BPD-792-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 405; 42 CFR 415; 42 CFR 400

Completed:

Reason	Date	FR Cite
Combined With RIN 0938-AG96	08/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Morse
Phone: 410 786-4520

RIN: 0938–AG53

1425. DATE FOR FILING MEDICARE COST REPORTS (BPD-794-F)

Priority: Other

CFR Citation: 42 CFR 405.376; 42 CFR 413.24

Completed:

Reason	Date	FR Cite
Final Action	06/27/95	60 FR 33137

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Katie Walker
Phone: 410 786-7278

RIN: 0938–AG55

1426. EXPANSION OF THE DEFINITION OF EYE AND EAR SPECIALTY HOSPITALS (BPD-804-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 413

Completed:

Reason	Date	FR Cite
Withdrawn - Sunset date of legislation has been reached.	08/16/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carolyn Mullen
Phone: 410 786-4589

RIN: 0938–AG67

1427. CATEGORIZATION OF CLIA TESTS AND PERSONNEL MODIFICATIONS (HSQ-216-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 493.2; 42 CFR 493.3; 42 CFR 493.5; 42 CFR 493.45; 42 CFR 493.9; 42 CFR 493.47; 42 CFR 493.18; 42 CFR 493.19; 42 CFR 493.20; 42 CFR 493.49; 42 CFR 493.25; 42 CFR 493.35; 42 CFR 493.37; 42 CFR 493.39; 42 CFR 493.43; ...

Completed:

Reason	Date	FR Cite
Final Action	04/24/95	60 FR 20035

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Judith Yost
Phone: 410 786-3531

RIN: 0938–AG71

1428. CRITERIA FOR MEDICARE COVERAGE OF LUNG TRANSPLANTS (BPD-812-FN)

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn - Public comments received did not require revisions.	08/10/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Claude Mone
Phone: 410 786-5666

RIN: 0938–AG83

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Proposed Rule Stage

1429. FOSTER CARE, ADOPTION ASSISTANCE, AND CHILD WELFARE SERVICES

Priority: Other Significant

Legal Authority: 42 USC 627; 42 USC 671; 42 USC 1320

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: NPRM, Statutory, July 1, 1995.

Abstract: This NPRM will propose requirements that implement the statutory provisions of the Social Security Act Amendments of 1994 on review of State programs under Parts B and E of the Social Security Act for conformity with State Plan requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: This action was previously reported under RIN 0980-AA08.

Agency Contact: Daniel H. Lewis, Deputy Associate Commissioner, Children's, Bureau, Adm on Children, Youth & Families, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8594

RIN: 0970–AA97

1430. BLOCK GRANT PROGRAMS (LOW INCOME HOME ENERGY ASSISTANCE PROGRAM —LIHEAP)—FY 1995 AND FY 1996 PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 8621

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: This Notice of Proposed Rulemaking will amend the DHHS block grant regulations to implement changes to the Low Income Home Energy Assistance Program (LIHEAP) statute which were made by the Human Services Amendments of 1994 (Pub. L. 103-252). Several of the provisions in the new law are self-implementing, but a few require implementing regulations. The major provisions requiring implementing regulations are: (1) Inclusion of new Assurance 16, to require grantees to submit as a part of their annual application a description of their "self-sufficiency" activities and to submit a report to DHHS on the effect of these activities; (2) Inclusion of allowable uses of DOE rules for weatherization services provided with LIHEAP funds; (3) Inclusion for requirements for submission of data on households served. In addition, other related amendments to the regulations will be included, concerning the following issues: (1) Consideration of different weighting of factors under the allocation formula for the leveraging incentive program; (2) Hearing requirements for audit disallowances; and (3) Allotments for territories. requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: Janet M. Fox, Director, Division of Energy Assistance, Office of Community Services, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9351

RIN: 0970–AB47

1431. ADMINISTRATIVE FLEXIBILITY RULE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 205.31

Legal Deadline: None

Abstract: This proposed rule adds a new section 205.31 which will provide a simple administrative process for requesting waivers of certain AFDC regulatory provisions. Such waivers will give States more flexibility to devise procedures for the effective and efficient administration of their AFDC programs. The major provisions for which waivers will be granted are: (1) the requirements for prospective budgeting of income; (2) the time period for calculating the total amount of overpayment and the determination of when the initial overpayment begins; and (3) other provisions on various disregards and self-employment business expenses.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Mack Storrs, Director, Division of AFDC Program, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9289

RIN: 0970–AB49

1432. DESIGNATION OF ALTERNATIVE AGENCY TO SERVE INDIAN TRIBAL CHILDREN

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801

CFR Citation: 45 CFR 1302

Legal Deadline: None

Abstract: This NPRM will specify a process by which an Indian tribe may identify and establish an alternative agency to provide Head Start Services if the agency previously serving the tribe is terminated.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Organizations

Government Levels Affected: Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB52

1433. CONSTRUCTION OF HEAD START FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 9801

CFR Citation: 45 CFR 1309

Legal Deadline: None

Abstract: This NPRM will establish procedures to be used by Head Start agencies in requesting to use Head Start grant funds to construct or renovate a Head Start facility.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB54

1434. QUALITY STANDARDS FOR HEAD START PROGRAMS

Regulatory Plan: This entry is Seq. No. 47 in Part II of this issue of the **Federal Register**.

RIN: 0970–AB55

1435. HEAD START FELLOWSHIPS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801

CFR Citation: 45 CFR 1311

Legal Deadline: None

Abstract: This NPRM will establish the policies and procedures to be used in selecting individuals to be part of the Head Start Fellowship Program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB56

1436. REPORTING OVERDUE SUPPORT INFORMATION TO CONSUMER REPORTING AGENCIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-432

CFR Citation: 45 CFR 302; 45 CFR 303

Legal Deadline: None

Abstract: This rule contains provisions regarding required State laws for reporting information concerning unpaid child support obligations to consumer reporting agencies. These provisions implement the requirements of section 212 of the Social Security Act Amendments of 1994, which amend title IV-D of the Social Security Act. These provisions require States to adopt procedures for periodic reporting of information to consumer reporting agencies. This regulatory package will also include technical changes to other child support regulations to support the President's Regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Interim Final Rule	10/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Marianne Upton, Branch Chief, Policy Division, Office of Child Support Enforcement, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-5373

RIN: 0970–AB57

1437. • ON-SITE FOSTER CARE ELIGIBILITY REVIEWS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 1356

Legal Deadline: None

Abstract: This NPRM will propose requirements that govern on-site eligibility reviews that the Administration for Children and Families conducts to assure State agencies' compliance with the statutory requirements under Title IV-E of the Social Security Act for eligibility of foster care providers and eligibility of the children in foster care.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Daniel H. Lewis, Deputy Associate, Commissioner, Children's Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8594

RIN: 0970–AB60

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Administration for Children and Families (ACF)

Final Rule Stage

1438. AMENDMENTS TO DEVELOPMENTAL DISABILITIES RULES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6000 et seq

CFR Citation: 45 CFR 1385; 45 CFR 1386; 45 CFR 1387; 45 CFR 1388

Legal Deadline: Final, Statutory, April 29, 1991.
Final, Statutory, October 3, 1994.

Abstract: This rule updates current rules with clarifications and new requirements to implement recent changes in the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1990 (Pub. L. 101-496) and 1994 (Pub. L. 103-230).

Timetable:

Action	Date	FR Cite
NPRM	05/18/95	60 FR 26774
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: This action was previously reported under RIN 0980-AA48.

Agency Contact: John Doyle, Director, Administration and Planning Staff, Administration on Developmental Disabilities, Department of Health and Human Services, Administration for Children and Families, 200 Independence Avenue SW., Room 315D, Washington, DC 20201
Phone: 202 690-5504

RIN: 0970–AB11

1439. FAMILY VIOLENCE PREVENTION AND SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 10407

CFR Citation: 45 CFR 1370

Legal Deadline: NPRM, Statutory, August 26, 1992. Final, Statutory, September 25, 1992.

Abstract: Would implement the requirements under the Family Violence Prevention and Services Act which provides various grants related to domestic violence.

Timetable:

Action	Date	FR Cite
NPRM	12/10/93	58 FR 64920
Final Action	12/00/95	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Margaret Washnitzer, Director, Division of State Assistance, Office of Community Services, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-2333

RIN: 0970–AB18

1440. CHILD ABUSE AND NEGLECT STATE GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5101

CFR Citation: 45 CFR 1340

Legal Deadline: None

Abstract: The primary purpose of this rule is to revise existing regulations at 45 CFR 1340 in order to implement recent amendments to the Child Abuse Prevention and Treatment Act with respect to confidentiality requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/18/94	59 FR 26046
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Emily Cooke, Acting, Director, National Center on Child, Abuse and Neglect, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8586

RIN: 0970–AB23

1441. STANDARDS FOR SAFE TRANSPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1310

Legal Deadline: None

Abstract: This rule establishes Head Start Performance Standards for the safe transportation of Head Start children, including vehicle requirements, driver qualifications and training and safety rules for children and staff while enroute and loading and unloading of vehicles.

Timetable:

Action	Date	FR Cite
NPRM	06/15/95	60 FR 31612
Final Action	06/00/96	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB24

1442. STANDARDS FOR PURCHASE OF FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1309

Legal Deadline: None

Abstract: This regulation established standards for the purchase of facilities as required by the Head Start Improvement Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61575
Final Action	01/00/96	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB31

1443. NATIONAL VOTER REGISTRATION ACT OF 1993 PROVISIONS AFFECTING PUBLIC ASSISTANCE AGENCIES

Priority: Other Significant

Legal Authority: PL 103-31

CFR Citation: 45 CFR 205.50 (a)(4); 45 CFR 206.10; 42 CFR 431.307 (a); 42 CFR 431.307 (b)

Legal Deadline: None

Abstract: Incorporates general guidance for public assistance agencies regarding registration procedures to be carried out by State Public Assistance offices. It

removes former prohibitions from distributing such materials in these offices.

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60109
Final Action	12/00/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Mack Storrs, Director, Division of AFDC Program, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9289

RIN: 0970–AB32

1444. CHILD CARE—REVISED REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 98.255; 45 CFR 98.256; 45 CFR 98.257

Legal Deadline: None

Abstract: The Administration for Children and Families will amend existing regulations which govern the administration of child care programs under Title IV-A of the Social Security Act (AFDC Child Care, Transitional Child Care, At-Risk Child Care) and the Child Care and Development Block Grant. Based on recent legislative changes, as well as comments from state and tribal program administrators, child care advocates and other interested parties, we are examining a number of specific regulatory provisions. The purpose of this regulatory package will be to implement legislative changes, reduce program differences, and promote better program coordination. We do not expect these changes to result in significant program costs; administrative savings may result.

Timetable:

Action	Date	FR Cite
NPRM	05/11/94	59 FR 24510
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Olivia M. Golden, Commissioner, Administration on Children, Youth and Families, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8572

RIN: 0970–AB33

1445. FAMILY PRESERVATION AND SUPPORT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 430 to 435

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: None

Abstract: This rule will amend the requirements under title IV-B subpart 1 for the Child and Family Services State plan and set forth the requirements the State must adhere to in the development and submission of its comprehensive five year plan under title IV-B, subpart 2, family preservation and support services. The submission of this jointly developed plan is required in order to receive both child and family services funds under subpart 1 and family preservation and support services funds under subpart 2 for fiscal years 1995 and following.

Timetable:

Action	Date	FR Cite
NPRM	10/04/94	59 FR 50646
Final Action	01/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Tribal

Agency Contact: Daniel H. Lewis, Deputy Associate Commissioner, Children's Bureau, ACYF, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8618

RIN: 0970–AB34

1446. ADMINISTRATION OF NATIVE AMERICANS 45 CFR PART 1336

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2991

CFR Citation: 45 CFR 1336

Legal Deadline: None

Abstract: This regulation amends 45 CFR part 1336 to implement legislative requirements. It will incorporate an appeals procedure affording applicants the opportunity to appeal based on organizational ineligibility or activities deemed ineligible, when determined by the ANA Commissioner. Native American organizations are expected to welcome these changes which provide for an appeal of appeals decisions and comport with amendments to the statute.

Timetable:

Action	Date	FR Cite
NPRM	04/21/95	60 FR 19994
Final Action	11/00/95	

Small Entities Affected: Organizations

Government Levels Affected: Tribal

Agency Contact: Sharon McCully, Director, Planning and Support, Department of Health and Human Services, Administration for Children and Families, 200 Independence Ave SW., Washington, DC 20201
Phone: 020 690-5780

RIN: 0970–AB37

1447. REDUCTION OF REPORTING REQUIREMENTS FOR THE STATE SYSTEMS ADVANCE PLANNING DOCUMENT (APD) PROCESS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 95.600

Legal Deadline: None

Abstract: These rules decrease the reporting burden on States and increase their flexibility within the State systems APD process by increasing the threshold under which APDs and related procurement documents need not be submitted for Federal approval. Additionally, States will no longer be required to submit biennial security plans for Federal review and approval.

Timetable:

Action	Date	FR Cite
NPRM	07/21/95	60 FR 7858
Final Action	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Bill Davis, Management Analyst, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-6404

RIN: 0970–AB46

1448. INCOME AND RESOURCE DISREGARDS RELATED TO INTERESTS OF INDIVIDUAL INDIANS IN TRUST OR RESTRICTED LANDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-66

CFR Citation: 45 CFR 233

Legal Deadline: None

Abstract: These rules incorporate statutory disregards in the AFDC program and the Adult Assistance programs in Guam, Puerto Rico and the Virgin Islands. The first provides that up to $2,000 per year of income derived from interests of individual Indians in trust or restricted lands shall not be considered in determining assistance. The second is a provision requiring that interests of individual Indians in trust or restricted lands shall not be considered a resource in determining eligibility for assistance.

Timetable:

Action	Date	FR Cite
NPRM	10/25/94	59 FR 51536
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mack A. Storrs, Director, Division of AFDC Program, Office of Family Assistance, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9289

RIN: 0970–AB59

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Long-Term Actions

1449. INCOME ELIGIBILITY CRITERIA FOR INDIAN TRIBES

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 9801

CFR Citation: 45 CFR 1305

Legal Deadline: None

Abstract: This NPRM will revise the income eligibility criteria used in enrolling Head Start children and families to allow Indian tribes, in certain situations, to enroll more children whose families do not meet Head Start's income criteria than would otherwise be possible.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Organizations

Government Levels Affected: Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB53

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Completed Actions

1450. BLOCK GRANT PROGRAMS (LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM —LIHEAP) FY 91 AND FY 92 PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 96

Completed:

Reason	Date	FR Cite
Final Action	05/01/95	60 FR 21322

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet M. Fox
Phone: 202 401-9351

RIN: 0970–AB15

1451. BLOCK GRANT PROGRAMS (LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM—LIHEAP)—FY 93 AND FY 94 PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 96

Completed:

Reason	Date	FR Cite
Withdrawn - Responsibility is transferred to ASPE.	10/01/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Janet M. Fox
Phone: 202 401-9351

RIN: 0970–AB16

1452. STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1355; 45 CFR 1356

Completed:

Reason	Date	FR Cite
Final Action	05/19/95	60 FR 26829

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Naomi B. Marr
Phone: 202 401-6960

RIN: 0970–AB38

1453. REFUGEE RESETTLEMENT PROGRAM: MISCELLANEOUS, COMPREHENSIVE CHANGES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 45 CFR 400

Completed:

Reason	Date	FR Cite
Final Action	06/28/95	60 FR 33617

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Toyo A. Biddle
Phone: 202 401-9250

RIN: 0970–AB42

1454. DIRECT PAYMENTS TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS UNDER TITLE IV-B, SUBPART 1

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1357.40

Completed:

Reason	Date	FR Cite
Final Action	06/22/95	60 FR 28735

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Tribal

Agency Contact: Michael Ambrose
Phone: 202 205-8618

RIN: 0970–AB44

1455. REPATRIATION - ADVANCE APPROVAL OF COSTS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 212

Completed:

Reason	Date	FR Cite
Final Action	04/21/95	60 FR 19882

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David B. Smith
Phone: 202 401-9255

RIN: 0970–AB45

1456. AFCARS DATA ELEMENT ON FOSTER CARE PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1355

Completed:

Reason	Date	FR Cite
Final Action	08/09/95	60 FR 40505

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel H. Lewis
Phone: 202 205-8619

RIN: 0970–AB58

1457. • REMOVAL OF KEYS AMENDMENT REGULATIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 1397

Legal Deadline: None

Abstract: Effective March 31, 1995, the Social Security Administration has responsibility for the Key Amendments as part of the independent agency legislations. We are eliminating these Deppartmental rules so that Social Security can proceed with their own regulations and guidance.

Timetable:

Action	Date	FR Cite
Final Action	05/16/95	60 FR 26000

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Madeline Mocko, Director, Office of Legislation and Budget, Department of Health and Human Services, Administration for Children and Families, 370 L'enfant Promenade SW., WWashington, DC 20447
Phone: 202 401-9223

RIN: 0970–AB61

1458. • REMOVAL OF OBSOLETE FAMILY ASSISTANCE REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 205; 45 CFR 224; 45 CFR 233; 45 CFR 238; 45 CFR 239; 45 CFR 240; 45 CFR 282

Legal Deadline: None

Abstract: This notice removes several obsolete provisions from the Code of Federal Regulations. Most involve work program activities which were superseded when State welfare agencies began their JOBS programs in 1989 and 1990.

Timetable:

Action	Date	FR Cite
Final Action	05/17/95	60 FR 26373

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maneline Mocko, Director, Office of Legislation and Budget, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9223

RIN: 0970–AB62

1459. • ELIMINATION OF OBSOLETE BLOCK GRANT RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 9912

CFR Citation: 45 CFR 1010; 45 CFR 1050; 45 CFR 1060; 45 CFR 1061; 45 CFR 1064; 45 CFR 1067; 45 CFR 1068; 45 CFR 1069; 45 CFR 1070; 45 CFR 1076

Legal Deadline: None

Abstract: This final rule removes a number of obsolete provisions from the Code of Federal Regulations. These provisions concern program activities under the former Community Services Administration (CSA) which were superseded by Community Services Block Grant Act, enacted as part of the Omnibus Budget Reconciliation Act of 1981.

Timetable:

Action	Date	FR Cite
Final Action	05/17/95	60 FR 26374

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Madeline Mocko, Director, Office of Legislation and Budget, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9223

RIN: 0970–AB63

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration on Aging (AOA)

Long-Term Actions

1460. GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING, INTRASTATE FUNDING FORMULAS; TRAINING, RESEARCH AND DISCRETIONARY PROGRAMS; VULNERABLE ELDER RIGHTS; AND GRANTS TO INDIANS & NATIVE HAWAIIANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 102-375, sec 202(a)(10); PL 102-375, sec 202(a)(14); PL 102-375, sec 305(a); PL 102-375, sec 305(a)(1); PL 102-375, sec 305(a)(2)(c); PL 102-375, sec 305(a)(2); PL 102-375, sec 305(a)(2)(D); PL 102-375, sec 305(a)(1)(E); PL 102-375, sec 305(a)(2)(E); PL 102-375, secs 305(d)(1) to 305(d)(4); PL 102-375, sec 305(a)(A)(i); PL 102-375, sec 306(a)(6)(O)(i); PL 102-375, sec 306(a)(13); PL 102-375, sec 307(a)(1); PL 102-375, sec 307(a)(C)(i)

CFR Citation: 45 CFR 1321; 45 CFR 1324; 45 CFR 1326; 45 CFR 1327; 45 CFR 1328

Legal Deadline: None
Unknown until law is reauthorized.

Abstract: The Administration on Aging (AoA) anticipates revising current rules to reflect the changes resulting from the pending reauthorization of the Older Americans Act which incorporates greater flexibility for the States. PURPOSE: The purpose of these revisions are to implement the newly enacted law. in the development and provision of community-based services.

Timetable:

Action	Date	FR Cite
Elder Rights Protection		
NPRM	11/15/94	59 FR 59056
NPRM Comment Period End	01/17/95	(59 FR 59056)
Intrastate Funding Formulas		
NPRM	10/17/94	(59 FR 12728)
Final Action	08/01/95	
OAA Amdendments in FY '96		
NPRM	08/01/96	
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal

Agency Contact: Edwin Walker, Director, Office of Program Development and Operations, Department of Health and Human Services, Administration on Aging, 330 Independence Avenue SW., Room 4733, Cohen Bldg., Washington, DC 20201
Phone: 202 619-0011

RIN: 0985–AA00

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The Regulatory Plan and the Unified Agenda of Federal Regulations

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Part IX

Department of Housing and Urban Development

Semiannual Regulatory Agenda

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

[Docket No. FR-3895-02]

Semiannual Agenda of Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual agenda, under Executive Order 12866 and the Regulatory Flexibility Act, of regulations expected to be issued and under review.

SUMMARY: In accordance with section 4(b) of Executive Order 12866 "Regulatory Planning and Review," the Department is publishing its agenda of proposed regulations already issued or expected to be issued and of currently effective rules that are under review. Also, under section 602 of the Regulatory Flexibility Act, the Department has prepared an agenda of regulations expected to be proposed or promulgated, which are likely to have a significant economic impact on a substantial number of small entities. As permitted by Executive Order 12866 and the Regulatory Flexibility Act, the two agendas are combined for publication.

FOR FURTHER INFORMATION CONTACT: Camille E. Acevedo, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410, (202) 708-2084. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review," published on October 4, 1993 (58 FR 51735), requires each agency to publish semiannually an agenda of regulations that the agency has issued or expects to issue and of currently effective regulations that are under agency review.

The Regulatory Flexibility Act, 5 U.S.C. 601-612, requires each agency to publish semiannually a regulatory agenda of rules expected to be proposed or promulgated, which are likely to have a significant economic impact on a substantial number of "small entities," meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12866 and section 605 of the Regulatory Flexibility Act each permits incorporation of the agenda required with any other prescribed agenda. Accordingly, the agenda set out below combines the information required by the Executive order and by the Regulatory Flexibility Act. In addition, the agenda contains certain information not required by either the Executive order or by the Act, which the Department considers useful both better to inform the public and to enhance the Department's own inventory control over its body of regulations.

For purposes of Executive Order 12866, "regulation" or "rule" is defined as "an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency" subject to certain exceptions. The agenda published below concentrates upon regulatory material contained or expected to be contained in the Code of Federal Regulations (CFR) (or incorporated therein by reference) following publication in the **Federal Register**. As appropriate, however, issuances in the nature of general statements of policy may be published in the **Federal Register** but not for coordination in the CFR.

The Department also is subject to certain requirements involving congressional review of rulemaking action, including publication of an agenda. Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight (the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking and Financial Services) a semiannual agenda of all rules or regulations which are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days after transmittal of the agenda. If, within that period, either committee notifies the Secretary that it intends to review any rule or regulation which appears on the agenda, the Secretary must submit to both committees a copy of the rule or regulation, in the form it is intended to be proposed, at least 15 calendar days before it is published for comment. The semiannual agenda published today is the agenda transmitted to the committees in compliance with the foregoing requirement.

The agenda items are divided first by program office. Within each program office, the agenda items are divided into four groups: (i) Prerulemaking actions, (ii) publication or other implementations of notices of proposed rulemaking, (iii) publications or other implementations of final rules, and (iv) completed actions. Within each grouping, rules are listed in chronological order by the part number of the CFR affected. Where a rule affects multiple parts of the CFR, the rule is listed by the first affected part number. Priority rules include all regulations designated for priority development by the Department.

Items listed in this agenda are from the following offices within the Department: Office of the Secretary; Office of Housing; Office of Public and Indian Housing; Office of Community Planning and Development; Office of Fair Housing and Equal Opportunity; Government National Mortgage Association; Office of Administration; and Office of the Inspector General.

For this edition of HUD's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Dated: September 14, 1995.

Nelson A. Díaz,

General Counsel.

HUD

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1461	24 CFR 1 Consolidation of Nondiscrimination Requirements (FR-3935)	2501-AC01
1462	24 CFR 10 Rulemaking Policies and Procedures—Expediting Rulemaking and Policy Implementation (FR-3292)	2501-AB43
1463	24 CFR 50 Departmental Policies, Responsibilities, and Procedures for Protection and Enhancement of Environmental Quality (FR-2206)	2501-AA30
1464	24 CFR 58 Environmental Review Procedures for Recipients and Responsible Entities Assuming HUD Responsibilities (FR-3514) **(Reg Plan Seq. No. 48)**	2501-AB67

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1465	24 CFR 0 Standards of Conduct (FR-3331)	2501-AB55
1466	24 CFR 4 Reinvention of Reform Act Requirements—Advance Disclosure and Accountability (FR-3954)	2501-AC04
1467	24 CFR 5 General HUD Program Requirements (FR-3940)	2501-AC02
1468	24 CFR 10.3 Public Housing Lease and Grievance Procedures (FR-3819)	2501-AB92
1469	24 CFR 12 Comprehensive Needs Assessments (FR-3893)	2501-AB99
1470	24 CFR 15 Testimony, Production, and Disclosure of Material and Information by HUD Employees (FR-3949)	2501-AC03
1471	24 CFR 29 Nonjudicial Foreclosure of HUD-Held Single-Family Mortgages (FR-3799)	2501-AB86
1472	24 CFR 35 Lead-Based Paint Poisoning Prevention in Certain Residential Structures (FR-3482) **(Reg Plan Seq. No. 49)**	2501-AB57
1473	24 CFR 38 Regulations Implementing Lead-Based Paint Disclosure and Warning Requirements for Sale and Rental of Housing (FR-3483)	2501-AB58
1474	24 CFR 58 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (FR-3811)	2501-AB88
1475	24 CFR 81 Regulations Implementing the Secretary's Authority Over FNMA and FHLMC (FR-3481) **(Reg Plan Seq. No. 50)**	2501-AB56
1476	24 CFR 92 HOME Investment Partnership Program (FR-3962) **(Reg Plan Seq. No. 51)**	2501-AC06
1477	24 CFR 243 Consolidated Pet Rule (FR-3942)	2501-AC07
1478	24 CFR 582 Special Needs Assistance (FR-3691)	2501-AB75
1479	24 CFR 813 Combined Income and Rent Regulations (FR-3324)	2501-AB61
1480	24 CFR 912 Definition & Other General Requirements for Assistance under the U.S. Housing Act of 1937 (FR-3029)	2501-AB68

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1481	24 CFR 882.109 Occupancy Standards under the Fair Housing Act (FR-3815)	2501-AC05

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1482	24 CFR 1 Nondiscrimination in Federally Assisted Programs of the DHUD Effectuation of Title VI of the Civil Rights Act of 1964 (FR-3761)	2501-AB82
1483	24 CFR 24 Government Debarment and Suspension and Governmentwide Requirements for a Drug-Free Workplace (FR-3065)	2501-AB24
1484	24 CFR 43 Residential Antidisplacement and Relocation Plan (FR-3449)	2501-AB52
1485	24 CFR 84 Use of Lump Sum Grants (Implementation of OMB Cir. A-110) (FR-3639)	2501-AB97
1486	24 CFR 91 Consolidated Planning, Application and Reporting Process for CPD Programs: CHAS CDBG, HOME, ESG & HOPWA (FR-3611)	2501-AB72

HUD

Office of the Secretary—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1487	24 CFR 92 HOME Investment in Affordable Housing Program (FR-2937)	2501-AB12
1488	24 CFR 92 HOME Rule—Allocation Formula Revision (FR-3836)	2501-AB94
1489	24 CFR 92 HOME Rule Amendments (FR-3840)	2501-AB95
1490	24 CFR 93 Enterprise Zone Homeownership Opportunity Grant Program (FR-3844)	2501-AB89
1491	24 CFR 500 Elimination of Obsolete Parts (FR-3922)	2501-AC00
1492	24 CFR 775 Review Criteria for Residency Preferences in Assisted Housing (FR-3726)	2501-AB78
1493	24 CFR 791.407 Allocation of Budget Authority for Housing Assistance (FR-3658)	2501-AB71
1494	24 CFR 888 Fair Market Rent for Section 8 HAPP; Amendments to Method of Calculating (FR-3694)	2501-AB76
1495	24 CFR 882 Standards and Obligations of Residency in Federally Assisted Housing (FR-3881)	2577-AB52

Office of Housing—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1496	24 CFR 3500 Agreement for Flood Plain Certificate & Related Matters—Real Estate Settlement Procedures Act (FR-3930)	2502-AG56

Office of Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1497	24 CFR 203 Single Family Mortgage Insurance—Collection of MIP (FR-3899)	2502-AG55
1498	24 CFR 242 Risk-Sharing Hospital Mortgage Insurance Program (FR-3914)	2502-AG53
1499	24 CFR 3280 Manufactured Home Construction and Safety Standards Manufactured Home Tires (FR-3943)	2502-AG54
1500	24 CFR 3500 RESPA: Disclosure of Fees Paid to Retail Lenders (Brokers) (FR-3780)	2502-AG40

Office of Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1501	24 CFR 201 Title I Property Insurance (FR-3718)	2502-AG32
1502	24 CFR 202 Home Equity Conversion Mortgage Insurance Demonstration (FR-2958)	2502-AF32
1503	24 CFR 202.12 Streamlining FHA's Mortgagee Requirements (FR-3957)	2502-AG57
1504	24 CFR 203 Single Family Mortgage Insurance—Special Forbearance Procedures (FR-3626)	2502-AG20
1505	24 CFR 206 Allowing Condominium Units to Be Eligible for Mortgage Insurance Under Section 203k (FR-3655)	2502-AG23
1506	24 CFR 207.19(f)(3)(i) Releases From Project Reserve Funds (FR-3656)	2502-AG24
1507	24 CFR 207 Streamlining of Multifamily Housing Regulations (FR-3966)	2502-AG58
1508	24 CFR 235 Refinancing Mortgages under Section 235(r) of the National Housing Act (FR-3927)	2502-AG52
1509	24 CFR 247 Termination of Tenancy for Criminal Activity (FR-3472)	2502-AG12
1510	24 CFR 251 Conversion From Coinsurance to Full Insurance (FR-3813)	2502-AG50
1511	24 CFR 290 Multifamily Property Disposition (FR-3715)	2502-AG30
1512	24 CFR 292 Sale of HUD-Held Single-Family Mortgages (FR-3814)	2502-AG42
1513	24 CFR 811 Refunding of Tax-Exempt Obligation Issued to Finance Section 8 Housing (FR-3692)	2502-AG33
1514	24 CFR 886 Supportive Housing for the Elderly and Persons with Disabilities (FR-3941)	2502-AG51
1515	24 CFR 3500 RESPA Revisions (FR-3638)	2502-AG26

Office of Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1516	24 CFR 206 Pre-Foreclosure Sale Option (FR-2682)	2502-AE72

HUD

Office of Housing—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1517	24 CFR 200 Revision of FHA Multifamily Processing (FR-3349)	2502-AF74
1518	24 CFR 203.402(f) Changes to Reimbursement for Preservation and Protection Expenditures (FR-3216)	2502-AF83
1519	24 CFR 203.650 Assignment of Mortgages—Definition (FR-3426)	2502-AF85
1520	24 CFR 203 Electronic Payment of Periodic Mortgage Insurance Premiums (FR-3766)	2502-AG37
1521	24 CFR 207 Multifamily Cooperative Refinancing and Conversion Program (FR-3753)	2502-AG34
1522	24 CFR 880 Standards and Obligations of Residency in Federally Assisted Housing (FR-3471)	2502-AG44
1523	24 CFR 216 Single Family Risk-Sharing with Government-Sponsored Enterprises (FR-3862)	2502-AG45
1524	24 CFR 217 Single Family Risk-Sharing with Private Mortgage Insurers (FR-3863)	2502-AG46
1525	24 CFR 221 Auction of FHA Multifamily Mortgages (FR-3009)	2502-AF27
1526	24 CFR 236 Mortgage Insurance and Interest Reduction Payment for Rental Projects "Excess Income" (FR-3417)	2502-AF99
1527	24 CFR 889 Supportive Housing for the Elderly (Management) (FR-3336)	2502-AF86
1528	24 CFR 890 Supportive Housing for Persons With Disabilities (Management) (FR-3337)	2502-AF87

Office of Community Planning and Development—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1529	24 CFR 000 Administrative Guidelines for CPD Programs; Sec. 102(d) Limitation on Combining Other Government Assistance With CPD Housing Assistance (FR-3135)	2506-AB74
1530	24 CFR 510 Reinvention of Community Planning Development Affordable Housing Programs (FR-3938)	2506-AB76
1531	24 CFR 570.200 Community Development Block Grants—1992 Act Changes (FR-3489)	2506-AB59

Office of Community Planning and Development—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1532	24 CFR 570 Community Development Block Grants Amendments (FR-2905)	2506-AB24
1533	24 CFR 570 Revised Regulations for CDBG Sanctions (FR-3298)	2506-AB43
1534	24 CFR 572 HOPE For Homeownership of Single Family Homes Program (HOPE 3) (FR-3857)	2506-AB71
1535	24 CFR 586 Base Closure Community Redevelopment and Homeless Program (FR-3820) **(Reg Plan Seq. No. 52)**	2506-AB72
1536	24 CFR 882 Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals (FR-3929)	2506-AB75

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Community Planning and Development—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1537	24 CFR 56 Departmental Policy for Flood Insurance Protection and Reforms (FR-3885)	2506-AB73
1538	24 CFR 570 Community Development Block Grants: Program Income, State Program (FR-3475)	2506-AB54
1539	24 CFR 572 Revision of Match Requirements for HOPE 3; Consolidation of HOPE 2 and HOPE 3 Programs (FR-3757)	2506-AB68

Government National Mortgage Association—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1540	24 CFR 390.3 Revisions to GNMA Issuer Net Worth Requirements (FR-2908)	2503-AA07

HUD

Office of Fair Housing and Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1541	24 CFR 91 Site and Neighborhood Standards for Development of HUD-Assisted Rental Housing (FR-3826)	2529-AA75
1542	24 CFR 100 Methods of Proof of Discrimination under the Fair Housing Act (FR-3534) **(Reg Plan Seq. No. 53)**	2529-AA67
1543	24 CFR 100 President's Fair Housing Council Rule (FR-3958) **(Reg Plan Seq. No. 54)**	2529-AA77

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Fair Housing and Equal Opportunity—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1544	24 CFR 115 Certification and Funding of State and Local Fair Housing Enforcement Agencies (FR-3322)	2529-AA60
1545	24 CFR 125 Fair Housing Initiatives Program (FR-3480)	2529-AA62
1546	24 CFR 135 Economic Opportunities for Low- and Very Low-Income Persons (FR-2898)	2529-AA49

Office of Fair Housing and Equal Opportunity—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1547	24 CFR 100 Definition of "Significant Facilities and Services" (FR-3502)	2529-AA66
1548	24 CFR 100 Nondiscrimination in Mortgage Lending Under the Fair Housing Act (FR-3732)	2529-AA72
1549	24 CFR 100 Property Insurance (FR-3755)	2529-AA73
1550	24 CFR 120 Community Housing Resource Board Program (FR-3593)	2529-AA71

Office of Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1551	48 CFR 24 HUD Acquisition Regulation (FR-3887)	2535-AA23

Policy Development and Research—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1552	24 CFR 570.415 Community Development Work Study Program (FR-3902)	2528-AA05

Office of Public and Indian Housing—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1553	24 CFR 000 Administrative Guidelines for PIH Regarding Sec. 102(d) Limitations on Combining Other Government Assistance ("Subsidy Layering") (FR-3100)	2577-AB53

Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1554	24 CFR 8.410 Section 8 Moderate Rehabilitation; Rent Adjustments; Annual and Special Adjustments; Comparability Studies; Rent Reduction (FR-3709)	2577-AB48

HUD

Office of Public and Indian Housing—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1555	24 CFR 901 Reform of Public Housing Management (FR-3447) **(Reg Plan Seq. No. 55)**	2577-AB30
1556	24 CFR 913.107 Public and Indian Housing Ceiling Rents (FR-3880)	2577-AB51
1557	24 CFR 941 Public/Private Partnerships for Mixed-Finance Development of Public Housing Units (FR-3919) **(Reg Plan Seq. No. 56)**	2577-AB54
1558	34 CFR 965 Streamlining Public Housing Maintenance & Operation Rules (FR-3928)	2577-AB55

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Public and Indian Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1559	24 CFR 92 Indian HOME: Revised Program Regulations (FR-3567)	2577-AB35
1560	24 CFR 571 Community Development Block Grants for Indian Tribes and Alaskan Native Villages (FR-2880)	2577-AB31
1561	24 CFR 904 Turnkey III Homeownership Program (FR-3963)	2577-AB56
1562	24 CFR 905 Performance Funding Systems; Definition of Units Month Available (FR-3747)	2577-AB49
1563	24 CFR 910 Loan Guarantees for Indian Housing (FR-3614)	2577-AB40
1564	24 CFR 941 Public Housing Development Regulations (FR-3569) **(Reg Plan Seq. No. 57)**	2577-AB37
1565	24 CFR 945 Designated Housing (FR-3964)	2577-AB57
1566	24 CFR 958 Public Housing Modernization Streamlining (FR-3967)	2577-AB59
1567	24 CFR 990 Performance Funding System—Vacancy Rule (Negotiated Rulemaking) (FR-3647)	2577-AB44
1568	24 CFR 990 Low-Income Public Housing—Performance Funding System (FR-3760)	2577-AB50
1569	24 CFR 990 Operating Subsidy Adjustment for Fraud Recoveries (FR-3965)	2577-AB58

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Public and Indian Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1570	24 CFR 200 Amendment to the Previous Participation Review Process for Public Housing Agencies & Indian Housing Authorities (FR-3645)	2577-AB42
1571	24 CFR 882 Comprehensive Revision to Section 8 Rental Certificate Program and Rental Voucher Program Regulations (FR-2294)	2577-AB14
1572	24 CFR 961 Youth Sports (FR-2993)	2577-AA98

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) **Proposed Rule Stage**
Office of the Secretary (HUDSEC)

1461. • CONSOLIDATION OF NONDISCRIMINATION REQUIREMENTS (FR-3935)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2000d-1; 42 USC 3535(d); 29 USC 794; 42 USC 5309; 42 USC 3601 to 3619

CFR Citation: 24 CFR 1; 24 CFR 2; 24 CFR 8; 24 CFR 104; 24 CFR 107; 24 CFR 108; 24 CFR 146

Legal Deadline: None

Abstract: This rule would consolidate into a single part the nondiscrimination provisions now located in seven main parts, to eliminate duplicative material. Also, appendices will be removed since the material provided in them can be provided in guidance that can be published and updated in a Federal Register notice.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Pearl, Director, Office of Program Standards & Evaluation, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-0288

RIN: 2501–AC01

HUD—HUDSEC

Proposed Rule Stage

1462. RULEMAKING POLICIES AND PROCEDURES—EXPEDITING RULEMAKING AND POLICY IMPLEMENTATION (FR-3292)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 553; 42 USC 3535(d)

CFR Citation: 24 CFR 10

Legal Deadline: None

Abstract: This rule would amend 24 CFR part 10, HUD's "rules on rules," to make possible the more timely implementation of new and changed policies of the Department in circumstances where notice and comment rulemaking is not required by law. The purposes of this rule are: to provide greater flexibility to the Department in implementing statutory and other changes to its program authorities; to avoid unnecessary rulemaking procedures; and to assure the more prompt delivery of program benefits provided for in new and amended statutes.

Timetable:

Action	Date	FR Cite
NPRM	10/14/92	57 FR 47166
NPRM Comment Period End	12/14/92	
Second NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Edward J. Murphy, Jr., Associate General Counsel for Legislation & Regulations, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-1793

RIN: 2501–AB43

1463. DEPARTMENTAL POLICIES, RESPONSIBILITIES, AND PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY (FR-2206)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4321; PL 95-557

CFR Citation: 24 CFR 50

Legal Deadline: None

Abstract: This rule streamlines existing regulations and proposes to address the following: (1) the Secretary's priorities for an interpretation of the Department's mission, by "helping people create communities of opportunities" through the promotion of good design, public amenities, and quality environments within improvements being proposed to the HUD process of environmental review and decisionmaking; (2) the Department's reorganization, which eliminates the ten Regional Offices, thereby affecting environmental responsibilities assigned to Regional and Field personnel by part 50; (3) the legislative and executive authorizations covering Federal-wide environmental policy and compliance applicable to new and existing HUD programs for which the Department retains the Federal environmental review responsibility under part 50; and (4) the updating of existing provisions of this part that need to be clarified, based on HUD's experience, since this part was originally issued. The rule would reduce regulatory burdens and procedural details consistent with environmental laws and other authorities and would assure policy consistency for all HUD programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Replaces RIN 2506-AA10

Agency Contact: Walter Prybyla, Office of Community Viability, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1767

RIN: 2501–AA30

1464. ENVIRONMENTAL REVIEW PROCEDURES FOR RECIPIENTS AND RESPONSIBLE ENTITIES ASSUMING HUD RESPONSIBILITIES (FR-3514)

Regulatory Plan: This entry is Seq. No. 48 in Part II of this issue of the **Federal Register**.

RIN: 2501–AB67

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Final Rule Stage

1465. STANDARDS OF CONDUCT (FR-3331)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 0; 5 CFR 7501

Legal Deadline: None

Abstract: This rule would be based on the Office of Government Ethics' Standards of Ethical Conduct for Employees of the Executive Branch (to be published at 5 CFR part 7501). The rule would establish standards relating to the receipt of gifts, whether from prohibited sources, because of official position, or between employees. The rule would also restrict certain financial holdings and outside activities, and set standards regarding the use of official position and time, Government property, and nonpublic information.

Timetable:

Action	Date	FR Cite
NPRM	06/30/95	60 FR 34420
NPRM Comment Period End	08/29/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Aaron Santa Anna, Assistant General Counsel for Ethics
Law Division, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-4224

RIN: 2501–AB55

HUD—HUDSEC

Final Rule Stage

1466. • REINVENTION OF REFORM ACT REQUIREMENTS—ADVANCE DISCLOSURE AND ACCOUNTABILITY (FR-3954)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3537a; 42 USC 3545

CFR Citation: 24 CFR 4; 24 CFR 12

Legal Deadline: None

Abstract: This rule amends 24 CFR parts 4 and 12 to implement the Department's reinvention of regulations process. Text that merely repeats statutory language or which lists items that may be subject to frequent amendment and, therefore, may be more appropriately addressed in published notices, is being removed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Aaron Santa Anna, Assistant General Counsel for Ethics Law Div., Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-4227

RIN: 2501–AC04

1467. • GENERAL HUD PROGRAM REQUIREMENTS (FR-3940)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 5

Legal Deadline: None

Abstract: In order to eliminate redundancy in several program regulations which repeat requirements that are applicable to several HUD programs, HUD is creating a new part 5 that will contain: (1) common definitions; (2) the list of generally applicable other Federal requirements; and (3) waiver authority (i.e. authority to waive regulatory provisions).

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Camille E. Acevedo, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2084

RIN: 2501–AC02

1468. PUBLIC HOUSING LEASE AND GRIEVANCE PROCEDURES (FR-3819)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 1437d

CFR Citation: 24 CFR 10.3; 24 CFR 966.51; 24 CFR 966.4

Legal Deadline: None

Abstract: HUD proposes to amend its regulations on eviction from public or Indian housing. If HUD determines that local law requires a pre-eviction due-process hearing in court (known as a "due process determination"), a tenant is not entitled to a hearing by the housing authority before eviction for drug-related or other criminal activity. This proposed rule would provide that HUD is not required to use notice-and-comment rulemaking procedures for issuance of a due process determination.

Timetable:

Action	Date	FR Cite
NPRM	05/16/95	60 FR 27058
NPRM Comment Period End	07/21/95	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Campbell, Director, Occupancy Div., Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0444

RIN: 2501–AB92

1469. • COMPREHENSIVE NEEDS ASSESSMENTS (FR-3893)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3545; 42 USC 3535(d); 12 USC 1715z; 42 USC 1437a; 42 USC 1437c; 42 USC 1437f

CFR Citation: 24 CFR 12; 24 CFR 219; 24 CFR 886

Legal Deadline: None

Abstract: This rule revises certain provisions in HUD's regulations covering the allocation of Flexible Subsidy assistance and Loan Management Set-Aside Section 8 assistance to certain projects assisted by HUD or whose mortgages are insured or held by HUD. Instead of awarding those funds competitively through the Notice of Funding Availability (NOFA) process, HUD will allocate those funds at its own discretion through Comprehensive Needs Assessments (CNA). The CNA approach will provide HUD with the flexibility to target limited resources to those projects most in need of repair.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Hunter, Acting Director, Planning & Procedures Div., Department of Housing and Urban Developmen', Office of the Secretary
Phone: 202 708-4162

RIN: 2501–AB99

1470. • TESTIMONY, PRODUCTION, AND DISCLOSURE OF MATERIAL AND INFORMATION BY HUD EMPLOYEES (FR-3949)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 42 USC 3535(d)

CFR Citation: 24 CFR 15

Legal Deadline: None

Abstract: This rule amends HUD's regulations regarding testimony and production of information by HUD employees. This rule includes former HUD employees within the scope of these regulations. HUD inadvertently removed them from coverage in 1987.

HUD—HUDSEC

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Weidenfeller, Deputy General Counsel for Operations, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-3529

RIN: 2501–AC03

1471. NONJUDICIAL FORECLOSURE OF HUD-HELD SINGLE-FAMILY MORTGAGES (FR-3799)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1715b; 12 USC 3771 to 3768; 42 USC 1452b; 42 USC 3535(d)

CFR Citation: 24 CFR 29

Legal Deadline: None

Abstract: This regulation supplements the statutory requirements under which HUD exercises its statutory nonjudicial power of sale with respect to any defaulted single family mortgage held by the Secretary under titles I and II of the National Housing Act or under section 312 of the Housing Act of 1964.

Timetable:

Action	Date	FR Cite
NPRM	04/07/95	60 FR 17968
NPRM Comment Period End	06/06/95	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph Bates, Director, Single Family Servicing Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2501–AB86

1472. LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES (FR-3482)

Regulatory Plan: This entry is Seq. No. 49 in Part II of this issue of the **Federal Register**.

RIN: 2501–AB57

1473. REGULATIONS IMPLEMENTING LEAD-BASED PAINT DISCLOSURE AND WARNING REQUIREMENTS FOR SALE AND RENTAL OF HOUSING (FR-3483)

Priority: Other Significant

Legal Authority: 42 USC 4852(d)

CFR Citation: 24 CFR 38

Legal Deadline: NPRM, Statutory, October 28, 1994. Final, Statutory, October 28, 1995.

Abstract: This rule is necessary to implement section 1018 of title X of the Housing and Community Development Act of 1992, which requires the Secretary of HUD and the Administrator of the Environmental Protection Agency to promulgate regulations requiring the disclosure of lead-based paint hazards and warnings respecting such hazards in the sale or lease of all housing in the United States (except elderly housing, disabled housing, and efficiency units).

Timetable:

Action	Date	FR Cite
NPRM	11/02/94	59 FR 54984
NPRM Comment Period End	01/03/95	
Final Action	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: David E. Jacobs, CIR, Director, Lead-Based Paint Abatement & Poisoning Prevention, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-1805

RIN: 2501–AB58

1474. ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES (FR-3811)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437o; 42 USC 1437x; 42 USC 3535(d); 42 USC 3547; 42 USC 4332; 42 USC 4852; 42 USC 5304(g); 42 USC 11402; 42 USC 12838; 12 USC 1707

CFR Citation: 24 CFR 58

Legal Deadline: None

Abstract: This rule implements provisions enacted in the Multifamily Housing Property Disposition Reform Act of 1994 that provide for the assumption of environmental review responsibilities by States and units of general local government, including those that are not recipients, under certain public and Indian housing programs, special projects, and the Federal Housing Administration multifamily housing finance agency risk-sharing pilot program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/13/95	60 FR 13518
Interim Final Rule Effective	04/12/95	60 FR 13518
Interim Final Rule Comment Period	05/12/95	60 FR 13518
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Broun, Director, Community Viability, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2894

RIN: 2501–AB88

1475. REGULATIONS IMPLEMENTING THE SECRETARY'S AUTHORITY OVER FNMA AND FHLMC (FR-3481)

Regulatory Plan: This entry is Seq. No. 50 in Part II of this issue of the **Federal Register**.

RIN: 2501–AB56

1476. • HOME INVESTMENT PARTNERSHIP PROGRAM (FR-3962)

Regulatory Plan: This entry is Seq. No. 51 in Part II of this issue of the **Federal Register**.

RIN: 2501–AC06

HUD—HUDSEC

Final Rule Stage

1477. • CONSOLIDATED PET RULE (FR-3942)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1701n-1

CFR Citation: 24 CFR 243; 24 CFR 842; 24 CFR 942

Legal Deadline: None

Abstract: This rule, as part of the Department's regulatory reinvention efforts, will consolidate regulations for pet ownership in HUD's various housing programs for the elderly and the disabled.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: ADDITIONAL AGENCY CONTACT: Linda Campbell, Director, Occupancy Div., PIH, (202) 708-0744

Agency Contact: Barbara Hunter, Director, Program Management Div., Asset Management and Disposition, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-4162

RIN: 2501–AC07

1478. SPECIAL NEEDS ASSISTANCE (FR-3691)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 11403; 42 USC 11348; 42 USC 1437a; 42 USC 1437c; 42 USC 3535(d)

CFR Citation: 24 CFR 582; 24 CFR 583; 24 CFR 882

Legal Deadline: None

Abstract: This rule for the Supportive Housing Program, Shelter Plus Care, and Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals amends the programs' regulations to remove the detail in those regulations regarding the application and grant award processes and indicates that a full description of the application and grant award processes will be published in the Federal Register in a notice of fund availability.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/10/94	59 FR 24252
Interim Final Rule Effective	06/09/94	
Interim Final Rule Comment Period End	07/11/94	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David R. Pollack, Director, Program Development Div., Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1234

RIN: 2501–AB75

1479. COMBINED INCOME AND RENT REGULATIONS (FR-3324)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535d

CFR Citation: 24 CFR 813; 24 CFR 905; 24 CFR 913; 24 CFR 215; 24 CFR 236

Legal Deadline: Final, Statutory, April 28, 1993.

Abstract: The provisions of this regulation ease the rent burden for working families and provide needed incentives for residents to improve their economic situations. These provisions assist families who are making the transition from welfare to gainful employment and encourage higher-income working families (who are candidates for homeownership) to remain in public housing. This regulation removes several of the structural disincentives that exist in current regulations, encourages families to become more self-sufficient, and fosters long-term upward mobility. This regulation includes implementation of an exclusion for deferred periodic payments of supplemental security income and Social Security benefits that are received in a lump sum and of several HUD discretionary income exclusions.

This regulation implements Section 103(a) of the HCD Act of 1992 (HUD Discretionary Income Exclusions).

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/05/95	60 FR 17388
Interim Final Rule Effective	05/05/95	60 FR 17388
Interim Final Rule Comment Period End	06/05/95	
Final Action	12/00/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Linda Campbell, Director, Occupancy Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0744

RIN: 2501–AB61

1480. DEFINITION & OTHER GENERAL REQUIREMENTS FOR ASSISTANCE UNDER THE U.S. HOUSING ACT OF 1937 (FR-3029)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 1437a

CFR Citation: 24 CFR 912; 24 CFR 812; 24 CFR 950; 24 CFR 701

Legal Deadline: None

Abstract: This rule will consolidate and streamline basic requirements for housing and housing assistance under the U.S. Housing Act of 1937.

Timetable:

Action	Date	FR Cite
NPRM	04/10/92	57 FR 12686
NPRM Comment Period End	06/09/92	
Final Rule	07/26/93	58 FR 39658

HUD—HUDSEC

Final Rule Stage

Action	Date	FR Cite
Final Rule Effective	08/25/93	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Barbara Hunter, Director, Program Management Div., Asset Management & Disposition, Office of Housing (Phone: 202-708-4162) and Dominic Nessi, Deputy Assistant Secretary for Native American Programs (Phone: 202-755-0032)

Agency Contact: Mary Ann Russ, Deputy Assistant Secretary for Public and Assisted Housing Operations, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0744

RIN: 2501–AB68

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Long-Term Actions

1481. • OCCUPANCY STANDARDS UNDER THE FAIR HOUSING ACT (FR-3815)

Priority: Other Significant

Legal Authority: 42 USC 3601 to 3620; 42 USC 3535(d)

CFR Citation: 24 CFR 882.109; 24 CFR 960; 24 CFR 100

Legal Deadline: None

Abstract: The Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, handicap, familial status, or national origin. Such discrimination can include policies and practices such as restrictive occupancy standards that, in effect, work to exclude certain protected groups from otherwise acceptable housing. However, the Fair Housing Act states that nothing in the Act prohibits "reasonable" Federal, State, or local codes regulating maximum occupancy of dwellings. Housing industry officials, both public and private, have urged HUD to establish rules governing occupancy standards in order to provide guidance on what constitutes a reasonable, nondiscriminatory standard to limit occupancy. This rule would establish permissible policies and standards regarding the maximum number of persons who can occupy dwellings under the Fair Housing Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Harry L. Carey, Assistant General Counsel for Fair Housing, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-0570

RIN: 2501–AC05

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Completed Actions

1482. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DHUD EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (FR-3761)

Priority: Other Significant

CFR Citation: 24 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn	08/22/95	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Bonnie M. Milstein
Phone: 202 708-2618

RIN: 2501–AB82

1483. GOVERNMENT DEBARMENT AND SUSPENSION AND GOVERNMENTWIDE REQUIREMENTS FOR A DRUG-FREE WORKPLACE (FR-3065)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 24

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Emmett N. Roden
Phone: 202 708-2350

RIN: 2501–AB24

1484. RESIDENTIAL ANTIDISPLACEMENT AND RELOCATION PLAN (FR-3449)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 43

Completed:

Reason	Date	FR Cite
Withdrawn	09/11/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Gordon H. McKay
Phone: 202 708-2685

RIN: 2501–AB52

1485. USE OF LUMP SUM GRANTS (IMPLEMENTATION OF OMB CIR. A-110) (FR-3639)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 84

Completed:

Reason	Date	FR Cite
Final Action	06/20/95	60 FR 32102
Final Action Effective	07/20/95	

Small Entities Affected: Organizations

Government Levels Affected: None

HUD—HUDSEC

Completed Actions

Agency Contact: Aliceann Muller
Phone: 202 708-0294

RIN: 2501–AB97

1486. CONSOLIDATED PLANNING, APPLICATION AND REPORTING PROCESS FOR CPD PROGRAMS: CHAS CDBG, HOME, ESG & HOPWA (FR-3611)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 91; 24 CFR 92; 24 CFR 570; 24 CFR 574; 24 CFR 575

Completed:

Reason	Date	FR Cite
Final Action Final published 03/30/95; Effective 02/06/95	01/05/95	60 FR 1878
Final Action Effective	02/06/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Joseph Smith
Phone: 202 708-1283

RIN: 2501–AB72

1487. HOME INVESTMENT IN AFFORDABLE HOUSING PROGRAM (FR-2937)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 92

Completed:

Reason	Date	FR Cite
Merged With RIN 2501-AC06 (FR-3962)	09/11/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Kolesar
Phone: 202 708-2470

RIN: 2501–AB12

1488. HOME RULE—ALLOCATION FORMULA REVISION (FR-3836)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 92

Completed:

Reason	Date	FR Cite
Merged With RIN 2501-AC06 (FR-3962)	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Kolesar
Phone: 202 708-2470

RIN: 2501–AB94

1489. HOME RULE AMENDMENTS (FR-3840)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 92

Completed:

Reason	Date	FR Cite
Merged With RIN 2501-AC06 (FR-3962)	08/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Kolesar
Phone: 202 708-2470

RIN: 2501–AB95

1490. ENTERPRISE ZONE HOMEOWNERSHIP OPPORTUNITY GRANT PROGRAM (FR-3844)

Priority: Other Significant

CFR Citation: 24 CFR 93

Completed:

Reason	Date	FR Cite
Withdrawn	07/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marion F. Connell
Phone: 202 708-0614

RIN: 2501–AB89

1491. • ELIMINATION OF OBSOLETE PARTS (FR-3922)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 500; 24 CFR 575; 24 CFR 577; 24 CFR 578; 24 CFR 579; 24 CFR 580; 24 CFR 595; 24 CFR 596; 24 CFR 598; 24 CFR 599; 24 CFR 600

Legal Deadline: None

Abstract: This rule removes from title 24 of the Code of Federal Regulations the Department's regulations that are no longer needed. The identified regulations are obsolete because either (1) the programs have been repealed or consolidated into other programs or (2) the programs are no longer funded or there are few or no recipients of funds remaining to be monitored.

Timetable:

Action	Date	FR Cite
Final Action	09/11/95	60 FR 47260
Final Action Effective	10/11/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Camille E. Acevedo, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2084

RIN: 2501–AC00

1492. REVIEW CRITERIA FOR RESIDENCY PREFERENCES IN ASSISTED HOUSING (FR-3726)

Priority: Other Significant

CFR Citation: 24 CFR 775

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laurence D. Pearl
Phone: 202 708-0288

RIN: 2501–AB78

HUD—HUDSEC

Completed Actions

1493. ALLOCATION OF BUDGET AUTHORITY FOR HOUSING ASSISTANCE (FR-3658)

Priority: Other Significant

CFR Citation: 24 CFR 791.407

Completed:

Reason	Date	FR Cite
Final Action	07/06/95	60 FR 35123
Final Action Effective	08/07/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William R. Minning
Phone: 202 708-0713

RIN: 2501–AB71

1494. FAIR MARKET RENT FOR SECTION 8 HAPP; AMENDMENTS TO METHOD OF CALCULATING (FR-3694)

Priority: Other Significant

CFR Citation: 24 CFR 888

Completed:

Reason	Date	FR Cite
Final Action	08/15/95	60 FR 42222
Final Action Effective	09/14/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald J. Benoit
Phone: 202 708-0477

RIN: 2501–AB76

1495. STANDARDS AND OBLIGATIONS OF RESIDENCY IN FEDERALLY ASSISTED HOUSING (FR-3881)

Priority: Other Significant

CFR Citation: 24 CFR 882; 24 CFR 887; 24 CFR 960; 24 CFR 966

Completed:

Reason	Date	FR Cite
Withdrawn	09/05/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryAnn Russ
Phone: 202 708-1360

RIN: 2577–AB52

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Prerule Stage

1496. • AGREEMENT FOR FLOOD PLAIN CERTIFICATE & RELATED MATTERS—REAL ESTATE SETTLEMENT PROCEDURES ACT (FR-3630)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2601; 42 USC 3535(d)

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: This interpretive rule sets forth a limited exemption from application of RESPA to assist lenders' compliance with the National Flood Insurance Reform Act of 1994 (Title V of the Riegle Community Development and Regulatory Reform Act of 1994).

Timetable:

Action	Date	FR Cite
Notice	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, RESPA Enforcement, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-4560

RIN: 2502–AG56

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Proposed Rule Stage

1497. • SINGLE FAMILY MORTGAGE INSURANCE—COLLECTION OF MIP (FR-3099)

Priority: Other Significant

Legal Authority: 12 USC 1709; 42 USC 3535(d); 12 USC 1715b; 12 USC 1715l

CFR Citation: 24 CFR 203; 24 CFR 221

Legal Deadline: None

Abstract: This rule would provide many benefits to the mortgage lenders that would reduce their servicing costs and the confusion generated by adjustments to the annual mortgage insurance premium (MIP) on cases not endorsed within the first 6 months after amortization. The rule would change the method of payment and the reconciliation schedule, and clarify the due date. The changes would result in an increase in MIP income, thereby strengthening the Federal Housing Administration insurance fund. Also, it would cut down on the costly reconciliation now done by HUD.

Specifically, this rule would provide that the FHA Commissioner can accrue MIP from the beginning of amortization of all Section 530 (of the National Housing Act) loans and risk-based loans, no matter what time frame exists between the endorsement date and the beginning of amortization. It would also amend the existing regulation by requiring that mortgagees pay the monthly installments as due on the 1st and payable on or before the 10th of the month, whether or not collected from the mortgagor. A new system is being developed which would produce a monthly notice of premiums due, and the reconciliation would be made monthly by the lender when the premium is paid. There would be no requirement for annual reconciliation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Peterson, Director, Office of Mortgage Insurance Accounting & Servicing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1046

RIN: 2502–AG55

HUD—OH

Proposed Rule Stage

1498. • RISK-SHARING HOSPITAL MORTGAGE INSURANCE PROGRAM (FR-3914)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1715z

CFR Citation: 24 CFR 242

Legal Deadline: None

Abstract: This rule implements a program under which the Secretary will be authorized to enter into risk-sharing agreements with mortgagees to facilitate the financing of hospitals. The concept of risk-sharing is one of the underpinnings of the Federal Housing Administration's (FHA's) reinvention efforts and is critical to our intensified focus on customer service. The hospital risk-sharing initiative is one component of a comprehensive risk-sharing strategy for all FHA program types to assure that FHA has a method of reducing its exposure and strengthening its financial and actuarial positions.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John U. Sepulveda, Director, Hospital Mortgage Insurance Staff, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0599

RIN: 2502–AG53

1499. • MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS MANUFACTURED HOME TIRES (FR-3943)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5401; 42 USC 5301

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA), DOT, and HUD are proposing amendments to the Federal Motor Carrier Safety Regulations and the Manufactured Home Construction and Safety Standards concerning the transportation of manufactured homes. These proposed changes are needed to clarify the respective regulations of the FHWA and HUD, and to resolve differences between Federal regulations for the overloading of tires used in the transportation of manufactured homes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Philip W. Schulte, Acting Director, Manufactured Housing & Construction Standards Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 755-7420

RIN: 2502–AG54

1500. RESPA: DISCLOSURE OF FEES PAID TO RETAIL LENDERS (BROKERS) (FR-3788)

Priority: Other Significant

Legal Authority: 12 USC 2601

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: This rule presents for public comment alternative resolutions to the issue of disclosure of certain fees earned by mortgage brokers (or "retail lenders"), specifically addressing whether there is a need for disclosure of such fees. Addressing the need for disclosure is largely related to how HUD construes secondary market transactions. The rule is being considered for final development through the negotiated rulemaking process.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47650
Notice	10/25/95	60 FR 54794
NPRM Comment Period End	11/13/95	
Notice Comment Period End	11/24/95	
Second NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, RESPA Enforcement, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-4560

RIN: 2502–AG40

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Final Rule Stage

1501. TITLE I PROPERTY INSURANCE (FR-3716)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1703

CFR Citation: 24 CFR 201

Legal Deadline: None

Abstract: This rule amends 24 CFR part 201 to implement several changes to HUD's title I manufactured-home and property-improvement loan programs. The changes are directed to expand the availability and use of both programs, and to provide affordable homeownership. For the manufactured-home loan program, the changes involve reducing the minimum downpayment required on all manufactured- home-purchase loans, lot loans, and combination loans from the present level to 5 percent of the purchase price; adding appraisal fees and recording fees and taxes to the list of fees and charges that may be financed in the loan; modifying the allowable expense-to-income ratios to reflect the increased cost of complying with HUD's new energy standards for manufactured homes; and increasing the maximum allowances for certain

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Final Rule Stage

foreclosure and repossession expenses. For the property-improvement loan program, the changes involve eliminating the requirement for equity at least equal to the loan amount on all loans over $15,000; increasing the maximum amount of an unsecured property improvement loan from $5,000 to $7,500; permitting the use of manufactured home improvement loans for site improvements under certain circumstances; and adding recording fees and taxes to the list of fees and charges that may be financed in the loan.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Coyle, Director, Title I Insurance Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-7400

RIN: 2502–AG32

1502. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION (FR-2958)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 202; 24 CFR 206

Legal Deadline: None

Abstract: This interim rule was published on August 16, 1995, which amended HUD's regulations in 24 CFR parts 203 and 206 to simplify the Home Equity Conversion Mortgage (HECM) Insurance Demonstration, and to expedite the processing of HECMs by permitting use of the Direct Endorsement program. The rule implemented the statutory disclosure amendments in section 334 of the National Affordable Housing Act. The rule also made other changes, including technical and clarifying changes, to improve and streamline the program based on the first 5 years of the demonstration.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/16/95	60 FR 42754
Interim Final Rule Effective	09/15/95	
Interim Final Rule Comment Period End	10/16/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Manuel, Acting Director, Single Family Development Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AF32

1503. • STREAMLINING FHA'S MORTGAGEE REQUIREMENTS (FR-3957)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1703; 12 USC 1709; 12 USC 1715(b); 42 USC 3535(d)

CFR Citation: 24 CFR 202.12; 24 CFR 202.11; 24 CFR 202.13; 24 CFR 202.15; 24 CFR 203.3

Legal Deadline: None

Abstract: The amendments will streamline and make Federal Housing Administration processes more flexible for mortgagees and FHA's customers and clients and have no adverse impact on the public. The modifications result from the efforts of a work group consisting of mortgagees, State and local governments, trade associations, government-sponsored enterprises, FHA staff, and other interested parties.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William M. Heyman, Director, Office of Lender Activities & Land Sales Registration, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1824

RIN: 2502–AG57

1504. SINGLE FAMILY MORTGAGE INSURANCE—SPECIAL FORBEARANCE PROCEDURES (FR-3626)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 12 USC 1715(b)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule would permit the mortgagee and the mortgagor, without obtaining the prior approval of HUD, to enter into a special forbearance agreement requiring the payment of arrearages before maturity of the mortgage. It would also eliminate the present gap in reimbursement of debenture interest that occurs if the mortgagor files a petition in bankruptcy after entering into a special forbearance agreement. The purpose of this rule change is to encourage mortgagees to make greater use of the special forbearance procedures when the mortgagor is temporarily unable to make full regular mortgage payments.

Timetable:

Action	Date	FR Cite
NPRM	01/23/95	60 FR 4391
NPRM Comment Period End	03/24/95	
Final Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Bates, Director, Single Family Servicing Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2502–AG20

1505. ALLOWING CONDOMINIUM UNITS TO BE ELIGIBLE FOR MORTGAGE INSURANCE UNDER SECTION 203K (FR-3655)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

HUD—OH

Final Rule Stage

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 1715b

CFR Citation: 24 CFR 206; 24 CFR 234

Legal Deadline: None

Abstract: This rule will add provisions to the regulations governing Federal Housing Administration (FHA) mortgage insurance on condominium units to permit insurance of mortgages on individual units in condominium projects that have not received FHA approval in advance under existing regulatory requirements. These "spot loans" would be approved under less stringent requirements than the existing requirements for mortgage insurance for condominiums, but the revised rule would require satisfaction of standards that would assure FHA adequate protection of the reduced risk involved of mortgage insurance on only a few loans in any particular project.

Timetable:

Action	Date	FR Cite
NPRM	06/23/95	60 FR 32630
NPRM Comment Period End	08/22/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Manuel, Acting Director, Single Family Housing Development Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AG23

1506. RELEASES FROM PROJECT RESERVE FUNDS (FR-3656)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 207.19(f)(3)(i); 24 CFR 221.530; 24 CFR 232.45; 24 CFR 242.75

Legal Deadline: None

Abstract: This rule will amend 24 CFR 207.19(f)(3)(i), 221.530(c)(i), 232.45, and 242.75 to revise procedures for Reserve Funds releases to the effect that HUD is not exercising HUD's authority to review and act on (approve, approve in part, or disapprove) owners' requests for releases of funds from the Reserve Fund for Replacement Accounts of projects whose mortgages are unsubsidized or which do not receive project-base rental subsidies of any kind. The rule will provide that HUD may assert its authority to act on owners' requests for Reserve Funds releases on a case-by-case basis or for all affected projects at any time and without further rulemaking or publication procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Hunter, Acting Director, Planning & Procedures Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3944

RIN: 2502–AG24

1507. • STREAMLINING OF MULTIFAMILY HOUSING REGULATIONS (FR-3966)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1701; 42 USC 3535(d)

CFR Citation: 24 CFR 207; 24 CFR 213; 24 CFR 220; 24 CFR 221; 24 CFR 231; 24 CFR 232; 24 CFR 234; 24 CFR 241; 24 CFR 244

Legal Deadline: None

Abstract: Revision will consolidate repetitive material and remove instructions and requirements more appropriate to nonregulatory formats such as handbooks, guidelines, etc. Revision will promote flexibility in line with reinvention principles to streamline requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Cheatham, Director, Office of Insured Multifamily Development, Department of Housing and Urban Development, Office of Housing
Phone: 202 755-3000

RIN: 2502–AG58

1508. • REFINANCING MORTGAGES UNDER SECTION 235(R) OF THE NATIONAL HOUSING ACT (FR-3927)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 12 USC 1715b; 12 USC 1715z

CFR Citation: 24 CFR 235

Legal Deadline: None

Abstract: This rule amends the regulations for refinancing mortgages under section 235(r) of the National Housing Act. Since the enactment of this program in 1988, mortgagees have not expressed an interest in participating in this program. Therefore, HUD seeks to enhance the program by providing for the payment by HUD, rather than by the mortgagee, of the incentive to the mortgagors and of specific refinancing costs, and by limiting the origination of these loans to the number of approved mortgagees that would make the program most attractive. This rule also eliminates obsolete regulations within 24 CFR part 235.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert E. Falkenstein, Jr., Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0614

RIN: 2502–AG52

1509. TERMINATION OF TENANCY FOR CRIMINAL ACTIVITY (FR-3472)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 247; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884

Legal Deadline: None

Abstract: This rule would state that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by persons residing in the immediate vicinity of the premises of any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control would be grounds for termination of tenancy.

Timetable:

Action	Date	FR Cite
NPRM	02/03/94	59 FR 5155
NPRM Comment Period End	04/04/94	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Hunter, Acting Director, Planning & Procedures Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3944

RIN: 2502–AG12

1510. CONVERSION FROM COINSURANCE TO FULL INSURANCE (FR-3813)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1715b; 12 USC 1715z to 9; 42 USC 3535(d)

CFR Citation: 24 CFR 251; 24 CFR 255

Legal Deadline: None

Abstract: HUD is amending its multifamily coinsurance regulations to provide coinsuring lenders with two new options in dealing with defaulted coinsured mortgages. Specifically, this interim rule permits coinsuring lender-issuers to request that HUD endorse certain defaulted mortgages for full insurance, without a GNMA takeover of the lender-issuer's entire portfolio. Additionally, this interim rule allows coinsuring lenders to advance funds to cure mortgage delinquencies on a coinsured mortgage and to reduce principal on that mortgage to a level that restores the financial viability of the project.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/19/95	60 FR 48596
Interim Final Rule Effective	10/19/95	
Interim Final Rule Comment Period End	11/20/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gwen Chandler, Acting Director, Coinsurance Management Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 401-3272

RIN: 2502–AG50

1511. MULTIFAMILY PROPERTY DISPOSITION (FR-3715)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1701z to 1712; 12 USC 1713; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 290; 24 CFR 886

Legal Deadline: Final, Statutory, March 2, 1996.

Abstract: The rule amends HUD's multifamily property disposition regulations at 24 CFR 290 and 886, subpart C, to reflect statutory amendments arising from the Multifamily Property Disposition Reform Act of 1994 affecting the foreclosure of projects with HUD-held multifamily mortgages, the disposition of HUD-owned multifamily properties, and the management of HUD-owned multifamily properties and multifamily properties with HUD-held mortgages where the Secretary of HUD is mortgagee-in-possession.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/02/95	60 FR 11844
Interim Final Rule Effective	03/02/95	
Interim Final Rule Comment Period End	05/01/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mare Harris, Director, Office of Multifamily Asset Management & Disposition, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0614

RIN: 2502–AG30

1512. SALE OF HUD-HELD SINGLE-FAMILY MORTGAGES (FR-3814)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1709; 12 USC 1715(b); 42 USC 1441; 42 USC 1551a; 42 USC 3535(d)

CFR Citation: 24 CFR 292

Legal Deadline: None

Abstract: This rule sets forth HUD's policies and procedures for the sale of HUD-held single-family mortgages. HUD is proposing to sell a large portion of its single-family mortgages to reduce losses to the FHA fund, decrease its inventory of single-family mortgages, and improve the services of these mortgages. The Department intends to sell both performing and nonperforming mortgages. In addition, all single-family mortgages would be sold without recourse and without FHA insurance. This rule also asks for public input in streamlining the regulations for the sale of HUD- held mortgages.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/31/95	60 FR 45331
Interim Final Rule Effective	10/02/95	
Interim Final Rule Comment Period End	10/30/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph Bates, Director, Single Family Servicing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2502–AE72

1513. REFUNDING OF TAX-EXEMPT OBLIGATION ISSUED TO FINANCE SECTION 8 HOUSING (FR-3692)

Priority: Other

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 811

Legal Deadline: None

Abstract: This rule would amend the Department's regulations at 24 CFR part 811 to provide the policy and procedural guidelines for section 8 bond refundings under which local agency issuers of section 11(b) tax-exempt bonds are encouraged to refinance projects at lower interest rates.

Timetable:

Action	Date	FR Cite
NPRM	04/20/95	60 FR 19695
NPRM Comment Period End	06/19/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James B. Mitchell, Director, Financial Services Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-7450

RIN: 2502–AG33

1514. • SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES (FR-3941)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701g; 42 USC 8013; 42 USC 3535(d)

CFR Citation: 24 CFR 889; 24 CFR 890; 24 CFR 885

Legal Deadline: None

Abstract: This rule sets forth the consolidated regulations for the Supportive Housing for the Elderly program and the Supportive Housing for Persons with Disabilities program, which have both previously been implemented through a series of interim rules. This rule also furthers the President's regulatory reform initiatives by consolidating the regulations to the extent possible. This consolidation will make the regulations easier to understand and to use.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Camille E. Acevedo, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2084

RIN: 2502–AG51

1515. RESPA REVISIONS (FR-3638)

Priority: Other Significant

Legal Authority: 12 USC 2601

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: On November 2, 1992, the Department published a final rule amending the regulations on the Real Estate Settlement Procedures Act (RESPA) to address new statutory provisions. Included in the 1992 rule were provisions that allowed employer-employee payments for referrals of customers to entities that provided settlement services, and in certain situations, might have encouraged steering through the use of computer loan origination (CLO) operations. Serious objections have been raised to both provisions. As a result, the Department has reviewed these provisions in the 1992 rule and has proposed modifications on both referral fees and CLOs. The two issues will be addressed in separate final rules, the first of which is expected to concern referral fees/controlled business arrangements.

Timetable:

Action	Date	FR Cite
NPRM	07/21/94	59 FR 37360
NPRM Comment Period End	09/19/94	
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Sarah Rosen, Special Assistant to the Assistant Secretary for Housing--FHC, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3600

RIN: 2502–AG26

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Completed Actions

1516. PRE-FORECLOSURE SALE OPTION (FR-2682)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 200; 24 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	05/03/95	60 FR 21936
Final Action Effective	06/02/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph C. Bates

1517. REVISION OF FHA MULTIFAMILY PROCESSING (FR-3349)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 200; 24 CFR 207; 24 CFR 213; 24 CFR 220; 24 CFR 221; 24 CFR 231; 24 CFR 232; 24 CFR 231; 24 CFR 232; 24 CFR 234; 24 CFR 236; 24 CFR 241; 24 CFR 242; 24 CFR 244

Completed:

Reason	Date	FR Cite
Withdrawn	09/11/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Cheatham
Phone: 202 708-3000

RIN: 2502–AF74

1518. CHANGES TO REIMBURSEMENT FOR PRESERVATION AND PROTECTION EXPENDITURES (FR-3216)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 203.402(f); 24 CFR 203.402(g)

Completed:

Reason	Date	FR Cite
Withdrawn	06/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Patton
Phone: 202 708-0740

RIN: 2502–AF63

1519. ASSIGNMENT OF MORTGAGES—DEFINITION (FR-3426)

Priority: Other

CFR Citation: 24 CFR 203.650

Completed:

Reason	Date	FR Cite
Withdrawn	08/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph Bates
Phone: 202 708-1672

RIN: 2502–AF85

1520. ELECTRONIC PAYMENT OF PERIODIC MORTGAGE INSURANCE PREMIUMS (FR-3766)

Priority: Other Significant

CFR Citation: 24 CFR 203; 24 CFR 204

Completed:

Reason	Date	FR Cite
Final Action	06/30/95	60 FR 34136
Final Action Effective	07/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Min-Li Chung
Phone: 202 708-0467

RIN: 2502–AG37

1521. MULTIFAMILY COOPERATIVE REFINANCING AND CONVERSION PROGRAM (FR-3753)

Priority: Other

CFR Citation: 24 CFR 207

Completed:

Reason	Date	FR Cite
Withdrawn	08/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda D. Cheatham
Phone: 202 708-3000

RIN: 2502–AG34

1522. STANDARDS AND OBLIGATIONS OF RESIDENCY IN FEDERALLY ASSISTED HOUSING (FR-3471)

Priority: Other Significant

CFR Citation: 24 CFR 880; 24 CFR 881; 24 CFR 883; 24 CFR 884; 24 CFR 885; 24 CFR 886; 24 CFR 889; 24 CFR 890; 24 CFR 215; 24 CFR 221; 24 CFR 236

Completed:

Reason	Date	FR Cite
Withdrawn	08/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Hunter
Phone: 202 708-3944

RIN: 2502–AG44

1523. SINGLE FAMILY RISK-SHARING WITH GOVERNMENT-SPONSORED ENTERPRISES (FR-3862)

Priority: Other Significant

CFR Citation: 24 CFR 216

Completed:

Reason	Date	FR Cite
Withdrawn	09/13/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John Coonts
Phone: 202 708-3046

RIN: 2502–AG45

1524. SINGLE FAMILY RISK-SHARING WITH PRIVATE MORTGAGE INSURERS (FR-3863)

Priority: Other Significant

CFR Citation: 24 CFR 217

Completed:

Reason	Date	FR Cite
Merged With RIN 2502-AG45 (FR-3862)	05/15/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Coonts
Phone: 202 708-3046

RIN: 2502–AG46

1525. AUCTION OF FHA MULTIFAMILY MORTGAGES (FR-3009)

Priority: Other

CFR Citation: 24 CFR 221

Completed:

Reason	Date	FR Cite
Withdrawn	08/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Richbourg
Phone: 202 708-3999

RIN: 2502–AF27

1526. MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS "EXCESS INCOME" (FR-3417)

Priority: Other

CFR Citation: 24 CFR 236

Completed:

Reason	Date	FR Cite
Withdrawn	08/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Hunter
Phone: 202 708-3944

RIN: 2502–AF99

1527. SUPPORTIVE HOUSING FOR THE ELDERLY (MANAGEMENT) (FR-3336)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 889

Completed:

Reason	Date	FR Cite
Merged With RIN 2502-AG51 (FR-3941)	08/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Milner
Phone: 202 708-4542

RIN: 2502–AF86

1528. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES (MANAGEMENT) (FR-3337)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 890

Completed:

Reason	Date	FR Cite
Merged With RIN 2501-AG51 (FR-3941)	08/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Milner
Phone: 202 708-4542

RIN: 2502–AF87

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Proposed Rule Stage

1529. ADMINISTRATIVE GUIDELINES FOR CPD PROGRAMS; SEC. 102(D) LIMITATION ON COMBINING OTHER GOVERNMENT ASSISTANCE WITH CPD HOUSING ASSISTANCE (FR-3135)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: This document sets forth the administrative guidelines the Office of Community Planning and Development will follow in determining, on a case-by-case basis, that the amount of assistance being provided by HUD for a specific housing project, for which other government assistance is also being made available, is not more than is necessary to make the assisted activity feasible after taking into account the other government assistance. HUD is required to make these determinations, and to so certify, under section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 for certain CPD programs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Broughman, Director, Office of Block Grants, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-3587

RIN: 2506–AB74

1530. • REINVENTION OF COMMUNITY PLANNING DEVELOPMENT AFFORDABLE HOUSING PROGRAMS (FR-3938)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1452b; 42 USC 1437e; 12 USC 1706e; 42 USC 3535(d)

CFR Citation: 24 CFR 510; 24 CFR 511; 24 CFR 590

Legal Deadline: None

Abstract: This rule proposes changes to 24 CFR parts 510, 511, and 590 to streamline and simplify the requirements for these programs:

Part 510 - Section 312 Rehabilitation Loan Program

Part 511 - Rental Rehabilitation Grant Program

Part 590 - Urban Homesteading Program

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gordon McKay, Director, Office of Affordable Housing Programs, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2685

RIN: 2506–AB76

1531. COMMUNITY DEVELOPMENT BLOCK GRANTS—1992 ACT CHANGES (FR-3489)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 570.200; 24 CFR 570.202; 24 CFR 570.500

Legal Deadline: None

Abstract: Section 207 of the 1994 Act amended an eligibility category that was established by section 807(a) of the 1992 Act for the funding of certain services needed to carry out housing activities that are eligible under the CDBG or HOME programs. HUD will propose rules that will govern which specific activities may be assisted under this authority.

Section 807(a) of the 1992 Act also makes eligible the use of CDBG funds to pay operating expenses necessary to maintain the habitability of certain housing units that have been acquired through tax foreclosure. HUD intends to publish a proposed rule that will govern which expenses and which housing units may be assisted under this authority. In addition this proposed rule will make several technical amendments to 570.201, 570.202, and 570.200.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deirdre Maguire-Zinni, Director, Entitlement Communities Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1577

RIN: 2506–AB59

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Final Rule Stage

1532. COMMUNITY DEVELOPMENT BLOCK GRANTS AMENDMENTS (FR-2905)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule streamlines and consolidates three different rules. It would close previous Inspector General findings concerning the CDBG program and make other improvements, including changing the basis for calculating the public service limitation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/17/92	57 FR 27116
Interim Final Rule Effective	07/17/92	
Interim Final Rule Comment Period End	08/17/92	
Final Action	11/00/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Deirdre Maguire-Zinni, Director, Entitlement Communities Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1577

RIN: 2506–AB24

1533. REVISED REGULATIONS FOR CDBG SANCTIONS (FR-3298)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: The purpose of this rule is to revise the existing regulations governing the imposition of sanctions in the Community Development Block Grant (CDBG) program as necessary to the Department's understanding of the impact of a recent court decision, and to clarify certain existing provisions on performance standards and the Department's review procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/12/93	58 FR 60085
NPRM Comment Period End	01/11/94	
Final Action	01/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: James R. Broughman, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1577

RIN: 2506–AB43

1534. HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM (HOPE 3) (FR-3857)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d); 42 USC 12891

CFR Citation: 24 CFR 572

Legal Deadline: None

Abstract: This rule amends the HOPE for Homeownership of Single Family Homes Program (HOPE 3) by making a number of clarifying changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/12/95	60 FR 36016
Interim Final Rule Effective	09/11/95	
Interim Final Rule Comment Period End	09/11/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frances Bush, Housing Specialist, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-3226

RIN: 2506–AB71

1535. BASE CLOSURE COMMUNITY REDEVELOPMENT AND HOMELESS PROGRAM (FR-3820)

Regulatory Plan: This entry is Seq. No. 52 in Part II of this issue of the **Federal Register**.

RIN: 2506–AB72

1536. • SECTION 8 MODERATE REHABILITATION SINGLE ROOM OCCUPANCY PROGRAM FOR HOMELESS INDIVIDUALS (FR-3929)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 11401; 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: This rule makes several changes to the program regulations to conform them with statutory and regulatory changes. The rule conforms the regulations with the March 15, 1993 interim rule by replacing the waiting list provisions with outreach efforts. The rule also conforms the regulations with amendments in the Housing and Community Development Act of 1992, and with regulatory changes to environmental review procedures in 24 CFR part 58.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Pollack, Director, Program Development, Office of Special Needs, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1234

RIN: 2506–AB75

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Completed Actions

1537. DEPARTMENTAL POLICY FOR FLOOD INSURANCE PROTECTION AND REFORMS (FR-3885)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 56

Completed:

Reason	Date	FR Cite
Withdrawn	09/11/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Walter Prybyla
Phone: 202 708-1767

RIN: 2506–AB73

1538. COMMUNITY DEVELOPMENT BLOCK GRANTS: PROGRAM INCOME, STATE PROGRAM (FR-3475)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Merged With RIN 2506-AB59 (FR-3459)	09/11/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Zita Blankenship
Phone: 202 708-1322

RIN: 2506–AB54

1539. REVISION OF MATCH REQUIREMENTS FOR HOPE 3; CONSOLIDATION OF HOPE 2 AND HOPE 3 PROGRAMS (FR-3757)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 572

Completed:

Reason	Date	FR Cite
Merged With RIN 2506-AB71 (FR-3857)	09/11/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John D. Garrity
Phone: 202 708-0324

RIN: 2506–AB68

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Completed Actions

1540. REVISIONS TO GNMA ISSUER NET WORTH REQUIREMENTS (FR-2908)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 390.3; 24 CFR 300; 24 CFR 310; 24 CFR 320; 24 CFR 330; 24 CFR 340; 24 CFR 350; 24 CFR 360; 24 CFR 370; 24 CFR 380; 24 CFR 395

Completed:

Reason	Date	FR Cite
Final Action	08/14/95	60 FR 42012
Final Action Effective	09/13/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Guy S. Wilson
Phone: 202 708-2772

RIN: 2503–AA07

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Proposed Rule Stage

1541. SITE AND NEIGHBORHOOD STANDARDS FOR DEVELOPMENT OF HUD-ASSISTED RENTAL HOUSING (FR-3826)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3608(e)(5); 42 USC 3614a; 42 USC 5304(b)(2); 42 USC 12705(b)(14)

CFR Citation: 24 CFR 91; 24 CFR 92; 24 CFR 150; 24 CFR 570; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 885; 24 CFR 889; 24 CFR 890; 24 CFR 941; 24 CFR 970; 24 CFR 983

Legal Deadline: None

Abstract: This rule revises standards for approval of sites for HUD- assisted rental housing to assure that they promote housing choice and avoid locations that foster racial, ethnic, and economic segregation. It extends the applicability of such standards to the Community Development Block Grant (CDBG) programs, and broadens the standards applied to the HOME program to include review for poverty concentration. The standards, as revised, generally will be applied not by HUD but by the local or State government or the Public Housing Agency.

The rule places these standards in a new part 150 in the chapter administered by the Assistant Secretary for Fair Housing and Equal Opportunity. The existing rules with provisions concerning site and neighborhood standards (public housing, Section 8, Section 202 and HOME programs) are proposed to be

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HUD—FHEO — Proposed Rule Stage

amended, as are the rules governing the program that is not currently covered by such requirements but that is to be covered under the new policy (CDBG).

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Laurence Pearl, Director, Office of Program Standards and Evaluation, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-0288

RIN: 2529–AA75

1542. METHODS OF PROOF OF DISCRIMINATION UNDER THE FAIR HOUSING ACT (FR-3534)

Regulatory Plan: This entry is Seq. No. 53 in Part II of this issue of the **Federal Register**.

RIN: 2529–AA67

1543. • PRESIDENT'S FAIR HOUSING COUNCIL RULE (FR-3958)

Regulatory Plan: This entry is Seq. No. 54 in Part II of this issue of the **Federal Register**.

RIN: 2529–AA77

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO) — Final Rule Stage

1544. CERTIFICATION AND FUNDING OF STATE AND LOCAL FAIR HOUSING ENFORCEMENT AGENCIES (FR-3322)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3600 to 3620; 42 USC 3535(d)

CFR Citation: 24 CFR 115; 24 CFR 111

Legal Deadline: None

Abstract: Section 810 of the Fair Housing Act provides that the Secretary shall refer complaints alleging a discriminatory housing practice to local public agencies the Secretary has certified. Currently, 24 CFR part 115 sets forth the criteria under which the Secretary will certify such State and local agencies. HUD's regulations at 24 CFR part 111 establish the requirements for the Fair Housing Assistance Program, through which HUD provides assistance to fair housing enforcement agencies. This rule proposes to consolidate parts 111 and 115, thus providing all necessary requirements in a single part and eliminating unnecessary or repetitive regulatory provisions.

Timetable:

Action	Date	FR Cite
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Lauretta Dixon, Fair Housing Assistance Program Div., Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-0455

RIN: 2529–AA60

1545. FAIR HOUSING INITIATIVES PROGRAM (FR-3480)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 125

Legal Deadline: None

Abstract: This rule would revise and streamline the existing FHIP regulation to incorporate the statutory amendments in the Housing and Community Development Act of 1992.

Timetable:

Action	Date	FR Cite
ANPRM	04/01/93	58 FR 17172
ANPRM Comment Period End	05/03/93	
NPRM	08/29/94	59 FR 44596
NPRM Comment Period End	10/28/94	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maxine Cunningham, Director, Office of Fair Housing Initiatives & Voluntary Programs, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-0800

RIN: 2529–AA62

1546. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS (FR-2898)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1450; 42 USC 3301; 12 USC 1701u; 42 USC 3535(d)

CFR Citation: 24 CFR 135

Legal Deadline: Final, Statutory, April 28, 1993.

Abstract: The regulations at 24 CFR 135 were revised substantially to incorporate the statutory amendments in the Housing and Community Development Act of 1992, to reflect certain changes in the design of the Department's programs that are subject to the section 3 regulations; to clarify the obligations of individuals and entities subject to the requirements of section 3, and to simplify the Department's administration of section 3 requirements. The final rule may make further revisions in response to public comment.

Timetable:

Action	Date	FR Cite
NPRM	10/08/93	58 FR 52534
Notice	11/09/93	58 FR 59423

HUD—FHEO — Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	12/08/93	
Notice Comment Period End	12/08/93	
Interim Final Rule	06/30/94	59 FR 33886
Interim Final Rule Effective	08/01/94	
Interim Final Rule Comment Period End	08/29/94	
Final Action	02/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: Development of this regulation has been divided between RINs 2529-AA49 and 2501-AB64.

Agency Contact: Maxine B. Cunningham, Director, Section 3 Compliance Div., Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2251

RIN: 2529–AA49

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO) — Completed Actions

1547. DEFINITION OF "SIGNIFICANT FACILITIES AND SERVICES" (FR-3502)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 100

Completed:

Reason	Date	FR Cite
Final Action	08/18/95	60 FR 43322
Final Action Effective	09/18/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Sara Pratt
Phone: 202 708-0836

RIN: 2529–AA66

1548. NONDISCRIMINATION IN MORTGAGE LENDING UNDER THE FAIR HOUSING ACT (FR-3732)

Priority: Other Significant

CFR Citation: 24 CFR 100

Completed:

Reason	Date	FR Cite
Withdrawn	08/22/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Peter Kaplan
Phone: 202 708-2904

RIN: 2529–AA72

1549. PROPERTY INSURANCE (FR-3755)

Priority: Other Significant

CFR Citation: 24 CFR 100

Completed:

Reason	Date	FR Cite
Withdrawn	08/22/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Kaplan
Phone: 202 708-2904

RIN: 2529–AA73

1550. COMMUNITY HOUSING RESOURCE BOARD PROGRAM (FR-3593)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 120

Completed:

Reason	Date	FR Cite
Merged With RIN 2501-AC00 (FR-3922)	06/07/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maxine Cunningham
Phone: 202 708-0800

RIN: 2529–AA71

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA) — Final Rule Stage

1551. HUD ACQUISITION REGULATION (FR-3887)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 48 CFR 24

Legal Deadline: None

Abstract: The HUD Acquisition Regulation is being amended to reflect the Department's new field structure and to implement procurement reforms under the Federal Acquisition Streamlining Act (FASA).

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/05/95	60 FR 46152
Interim Final Rule Effective	10/05/95	
Interim Final Rule Comment Period End	11/06/95	
Final Action	02/00/96	

Small Entities Affected: None

HUD—OA — Final Rule Stage

Government Levels Affected: None

Agency Contact: Edward L. Girovasi, Jr., Director, Policy & Evaluation Div., Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration
Phone: 202 708-0294

RIN: 2535–AA23

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Proposed Rule Stage
Policy Development and Research (PD&R)

1552. • COMMUNITY DEVELOPMENT WORK STUDY PROGRAM (FR-3902)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 5301 to 5320; 42 USC 3535(d)

CFR Citation: 24 CFR 570.415

Legal Deadline: None

Abstract: This rule would revise HUD's regulations governing the Community Development Work Study Program (CDWSP). Under the CDWSP, HUD awards grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in a community development work study program while enrolled in a full-time graduate or undergraduate Community Development Academic Program. This rule proposes to make several revisions to the CDWSP so that it can more effectively and efficiently meet its program objectives.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Hartung, Office of University Partnerships, Department of Housing and Urban Development, Policy Development and Research
Phone: 202 708-3061

RIN: 2528–AA05

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Prerule Stage
Office of Public and Indian Housing (PIH)

1553. ADMINISTRATIVE GUIDELINES FOR PIH REGARDING SEC. 102(D) LIMITATIONS ON COMBINING OTHER GOVERNMENT ASSISTANCE ("SUBSIDY LAYERING") (FR-3100)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: This notice sets forth the administrative guidelines which HUD, or in certain circumstances Housing Credit Agencies (HCAs), will follow in implementing "subsidy layering" reviews in accordance with section 102(d) of the HUD Reform Act of 1989 for public and Indian housing programs. Such reviews are necessary to ensure that the amount of assistance being provided by HUD for a specific housing project is not more than is necessary to make the assisted activity feasible after taking into account assistance from other government sources.

Timetable:

Action	Date	FR Cite
Notice	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Minning, Director, Policy and Evaluation Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AB53

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Proposed Rule Stage
Office of Public and Indian Housing (PIH)

1554. SECTION 8 MODERATE REHABILITATION; RENT ADJUSTMENTS; ANNUAL AND SPECIAL ADJUSTMENTS; COMPARABILITY STUDIES; RENT REDUCTION (FR-3709)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 8.410

Legal Deadline: None

Abstract: This rule would revise the current regulations in 24 CFR part 882 on adjusting Section 8 Moderate Rehabilitation contract rents. The rule would modify the method used by housing agencies (HAs) to determine the amount of the annual increase in the contract rents by providing for HAs to conduct comparability studies for moderate rehabilitation projects, to prevent the application of the Annual Adjustment Factors from resulting in a material difference between rents charged for assisted units and similar unassisted units. The rule also would provide for special rent adjustments to

HUD—PIH — Proposed Rule Stage

cover the costs required for an owner to address the problems of drug-related criminal activity (subject to the availability of appropriations), and for special adjustments when an exemption from real property tax expires under certain circumstances, if appropriations are available. The rule also would add insurance to the categories of cost increases that may result in a special adjustment.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51658
NPRM Comment Period End	12/01/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Madeline Hastings, Rental Assistance Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-2841

RIN: 2577–AB48

1555. REFORM OF PUBLIC HOUSING MANAGEMENT (FR-3447)

Regulatory Plan: This entry is Seq. No. 55 in Part II of this issue of the **Federal Register**.

RIN: 2577–AB30

1556. PUBLIC AND INDIAN HOUSING CEILING RENTS (FR-3880)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 450e(b); 42 USC 1437a; 42 USC 1437d; 42 USC 1437n; 42 USC 1437aa; 42 USC 1437bb; 42 USC 1437ee; 42 USC 3535(d)

CFR Citation: 24 CFR 913.107; 24 CFR 950.325

Legal Deadline: None

Abstract: This rule would permit public housing authorities (PHA's) and Indian housing agencies (IHAs) to adopt caps on rents for projects or dwelling units that are assisted under the U.S. Housing Act of 1937 and are owned and operated by a PHA/IHA. These caps on the income-based monthly rental payment will be no more than a tenant family would pay under the existing income-based formula, and no less than the average monthly amount of debt service and operating expenses attributed to units of similar size in housing projects owned and operated by the PHA/IHA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Campbell, Acting Director, Occupancy Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0970

RIN: 2577–AB51

1557. • PUBLIC/PRIVATE PARTNERSHIPS FOR MIXED-FINANCE DEVELOPMENT OF PUBLIC HOUSING UNITS (FR-3919)

Regulatory Plan: This entry is Seq. No. 56 in Part II of this issue of the **Federal Register**.

RIN: 2577–AB54

1558. • STREAMLINING PUBLIC HOUSING MAINTENANCE & OPERATION RULES (FR-3928)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437; 42 USC 1437a; 42 USC 1743d; 42 USC 3535(d); 42 USC 4821 to 4846

CFR Citation: 34 CFR 965

Legal Deadline: None

Abstract: This rule will streamline existing requirements in part 965, eliminating some provisions while simplifying other.

Timetable:

Action	Date	FR Cite
NPRM	09/25/95	60 FR 49480
NPRM Comment Period End	11/24/95	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: William C. Thorson, Director, Maintenance & Supply Div., Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-4703

RIN: 2577–AB55

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Final Rule Stage
Office of Public and Indian Housing (PIH)

1559. INDIAN HOME: REVISED PROGRAM REGULATIONS (FR-3567)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rule would streamline requirements and incorporate experience in program workings during the first two funding cycles. It will establish separate program regulations for Indian HOME and non-Indian HOME, for clarity, and will facilitate use of the program by client tribes. This rule relocates Indian HOME regulations to 24 CFR 954 and incorporates various legislative changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	

Small Entities Affected: None

HUD—PIH

Final Rule Stage

Government Levels Affected: None

Agency Contact: Dominic Nessi, Director, Office of Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 755-0032

RIN: 2577–AB35

1560. COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES (FR-2880)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 571

Legal Deadline: None

Abstract: Section 702 of the HUD Reform Act of 1989 moved the grant authority for CDBG funding to Indian tribes from Section 107 to 106 of the Housing and Community Development Act. Paragraph (b) of Section 702 includes the following provision: "The Secretary shall provide for distribution of amounts under this paragraph pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment." This rule also relocates Indian CDBG regulations to 24 CFR 953 from 24 CFR 570 and 571, and incorporates comments received on the Interim Rule.

Timetable:

Action	Date	FR Cite
NPRM	06/21/91	56 FR 28666
NPRM Comment Period End	08/20/91	
Interim Final Rule	04/07/92	57 FR 11832
Interim Final Rule Effective	06/08/92	
Interim Final Rule Comment Period End	11/18/92	
Interim Final Rule	07/27/94	59 FR 38326
Interim Final Rule Effective	10/01/94	
Interim Final Rule Comment Period End	12/27/94	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Dominic Nessi, Director, Office of Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 755-0032

RIN: 2577–AB31

1561. • TURNKEY III HOMEOWNERSHIP PROGRAM (FR-3963)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1437 to 1437ee; 42 USC 3535(d)

CFR Citation: 24 CFR 904

Legal Deadline: None

Abstract: This part is to be reinvented and major portions eliminated. No new project development is expected; therefore, reinvented regulations will be limited to management of Federal funds and limitations on public housing authorities' use of Home Buyers' funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/96	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Edward L. Moses, Deputy Assistant Secretary for Community Relations & Involvement, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 619-8201

RIN: 2577–AB56

1562. PERFORMANCE FUNDING SYSTEMS; DEFINITION OF UNITS MONTH AVAILABLE (FR-3747)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 1437aa; 42 USC 1437bb

CFR Citation: 24 CFR 905; 24 CFR 990

Legal Deadline: None

Abstract: The Department is proposing to revise the Performance Funding System to permit payment of operating subsidies for scattered-site units as they become occupied.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	07/10/65	
NPRM	05/09/95	60 FR 24597
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John T. Comerford, Director, Financial Management Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1872

RIN: 2577–AB49

1563. LOAN GUARANTEES FOR INDIAN HOUSING (FR-3614)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1715z to 1713a; 42 USC 3535(d)

CFR Citation: 24 CFR 910

Legal Deadline: Final, Statutory, April 26, 1993.

Abstract: This rule will implement a program to encourage private financing of purchases of homes by Native Americans on tribal lands. Under the program, the Secretary will guarantee eligible loans made by private lenders and will pay claims in the event of default. After foreclosure, the property must be transferred to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/18/94	59 FR 42732
Interim Final Rule Effective	09/19/94	
Interim Final Rule Comment Period End	10/17/94	
Final Action	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Tribal

Agency Contact: Dominic D. Nessi, Director, Office of Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0032

RIN: 2577–AB40

HUD—PIH

Final Rule Stage

1564. PUBLIC HOUSING DEVELOPMENT REGULATIONS (FR-3569)

Regulatory Plan: This entry is Seq. No. 57 in Part II of this issue of the **Federal Register**.

RIN: 2577–AB37

1565. • DESIGNATED HOUSING (FR-3964)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1423; 42 USC 3535(d)

CFR Citation: 24 CFR 945

Legal Deadline: None

Abstract: Relatively new regulations will be streamlined to allow local autonomy and flexibility.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryAnn Russ, Deputy Assistant Secretary for Public Assisted Housing Operations, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1496

RIN: 2577–AB57

1566. • PUBLIC HOUSING MODERNIZATION STREAMLINING (FR-3967)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1427d; 42 USC 3535(d); 42 USC 1437aa to 1437ee

CFR Citation: 24 CFR 958; 24 CFR 950

Legal Deadline: None

Abstract: Revention: This rule will be streamlined. Requirements that are applicable to HUD programs generally will be consolidated in a CFR part with broad applicability, and a cross reference will be used. Energy conservation provisions will be streamlined, and detailed procedural requirements about housing agency Board resolutions will be removed entirely. This rule also responds to comments made on the interim rule published on March 15, 1993.

Timetable:

Action	Date	FR Cite
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: Local, Tribal

Agency Contact: William Flood, Director, Modernization Div., Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1640

RIN: 2577–AB59

1567. PERFORMANCE FUNDING SYSTEM—VACANCY RULE (NEGOTIATED RULEMAKING) (FR-3647)

Priority: Other Significant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 990; 24 CFR 950

Legal Deadline: None

Abstract: This rule will contain changes to the determination of the payment of operating subsidy for vacant public housing units. The changes were developed using a negotiated rulemaking process, as directed by section 114(b) of the Housing and Community Development Act of 1992.

Timetable:

Action	Date	FR Cite
Notice of Intent	01/03/95	60 FR 304
NPRM	07/19/95	60 FR 37294
NPRM Comment Period End	08/18/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John T. Comerford, Director, Financial Management Div., Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1872

RIN: 2577–AB44

1568. LOW-INCOME PUBLIC HOUSING—PERFORMANCE FUNDING SYSTEM (FR-3760)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 990

Legal Deadline: None

Abstract: This rule eliminates descriptions in the existing rule of obsolete provisions which had been retained solely for historical purposes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John Comerford, Director, Financial Management Div., Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1872

RIN: 2577–AB50

1569. • OPERATING SUBSIDY ADJUSTMENT FOR FRAUD RECOVERIES (FR-3965)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 990

Legal Deadline: None

Abstract: This rule contains changes to the operating subsidy eligibility formula to permit public housing authorities, including Indian housing authorities, to participate in operating subsidy savings incident to collection of overpaid assistance as a result of tenant fraud.

Timetable:

Action	Date	FR Cite
Final Action	01/00/96	

Small Entities Affected: None

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HUD—PIH — Final Rule Stage

Government Levels Affected: State, Tribal

Agency Contact: John T. Comerford, Director, Financial Management Div., Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1872

RIN: 2577–AB58

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Completed Actions
Office of Public and Indian Housing (PIH)

1570. AMENDMENT TO THE PREVIOUS PARTICIPATION REVIEW PROCESS FOR PUBLIC HOUSING AGENCIES & INDIAN HOUSING AUTHORITIES (FR-3645)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 200; 24 CFR 905; 24 CFR 968

Completed:

Reason	Date	FR Cite
Final Action	07/11/95	60 FR 35619
Final Action Effective	08/10/95	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: William C. Thorson
Phone: 202 708-4703

RIN: 2577–AB42

1571. COMPREHENSIVE REVISION TO SECTION 8 RENTAL CERTIFICATE PROGRAM AND RENTAL VOUCHER PROGRAM REGULATIONS (FR-2294)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 882; 24 CFR 887; 24 CFR 982

Completed:

Reason	Date	FR Cite
Final Action	07/03/95	60 FR 34660
Final Action Effective	09/01/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Madeline Hastings
Phone: 202 708-2841

RIN: 2577–AB14

1572. YOUTH SPORTS (FR-2993)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 961; 24 CFR 905

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/95	

Small Entities Affected: Organizations

Government Levels Affected: Local

Agency Contact: Malcolm Main
Phone: 202 708-1197

RIN: 2577–AA98

[FR Doc. 95-23612 Filed 11-24-95; 8:45 am]
BILLING CODE 4210-01-F

federal register

Tuesday
November 28, 1995

Part X

Department of the Interior

Semiannual Regulatory Agenda

166-997 O - 95 - 2 Book 3

DEPARTMENT OF THE INTERIOR (DOI)

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Ch. I

30 CFR Chs. II and VII

36 CFR Ch. I

43 CFR Subtitle A, Chs. I and II

48 CFR Ch. 14

50 CFR Chs. I and IV

Semiannual Agenda of Rules Scheduled for Review or Development

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual agenda of rules scheduled for review or development.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between October 1995 and April 1996. An agenda is required by the Regulatory Flexibility Act and Executive Order 12866.

ADDRESSES: Unless otherwise indicated, all agency contacts are located at the Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: All comments and inquiries with regard to these rules should be directed to the appropriate agency contact. General comments relating to the agenda should be directed to the Office of Regulatory Affairs, Department of the Interior, at the address above or on 202-208-5271.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12866 that the Department publish an agenda of rules that have been issued or are expected to be issued and of currently effective rules that are scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that an agenda be published in April and October of each year identifying rules that will have significant economic effects on a substantial number of small entities. Rules that will have such effects are specifically identified in the agenda.

For this edition of the Department's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of today's **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference that directs the reader to the appropriate Sequence Number in Part II.

Dated: September 15, 1995.

Richard A. Stephan,

Federal Register Liaison Officer.

Assistant Secretary for Policy, Management and Budget—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1573	Principles of Ethical Conduct	1090-AA38

Assistant Secretary for Policy, Management and Budget—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1574	Natural Resource Damage Assessments; Type A—Great Lakes Environments **(Reg Plan Seq. No. 58)**	1090-AA21
1575	Natural Resource Damage Assessments; Type A—Coastal and Marine Environments **(Reg Plan Seq. No. 59)**	1090-AA23
1576	Revised Statute 2477 Rights-of-Way	1090-AA44
1577	Protection for Products of Indian Art and Craftsmanship	1090-AA45
1578	Department of the Interior Acquisition Regulation—Conflicts of Interest	1090-AA54
1579	Department of the Interior Acquisition Regulation—Foreign Acquisitions	1090-AA55

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Assistant Secretary for Policy, Management and Budget—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1580	Natural Resource Damage Assessments; Type B—Biennial Review	1090-AA29
1581	Natural Resource Damage Assessments; Type B—Nonuse Values	1090-AA43
1582	Natural Resource Damage Assessments; Additional Type A Procedures	1090-AA51

DOI

Assistant Secretary for Policy, Management and Budget—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1583	Department of the Interior Acquisition Regulations	1090-AA50
1584	Department of Interior Acquisition Regulation	1090-AA52
1585	Interior Property Management Regulations	1090-AA53

Office of the Solicitor—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1586	Subpart E—Compulsory Process and Testimony of Employees	1092-AA09

Office for Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1587	Requirements for Equal Opportunity During Construction and Operation of the Alaska Natural Gas Transportation System	1091-AA04
1588	Nondiscrimination in Activities Conducted under Permits, Rights-of-Way, Public Land Orders, and Other Federal Authorizations Granted or Leased under P.L. 93-153	1091-AA05

Office of Hearings and Appeals—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1589	Rules Applicable in Indian Affairs Hearings and Appeals	1094-AA38
1590	Rules Applicable to Indian Affairs Hearings and Appeals	1094-AA46
1591	General Rules Applicable to Proceedings on Appeal Before the Interior Board of Indian Appeals	1094-AA47

Office of Hearings and Appeals—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1592	Rules Applicable in Indian Affairs Hearings and Appeals	1094-AA39

Office of Hearings and Appeals—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1593	Notice of Interim Alternative Dispute Resolution and Opportunity for Comment	1094-AA45

United States Fish and Wildlife Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1594	Export of Ginseng Harvested in Washington State In 1995-97	1018-AD54
1595	Transport of Marine Mammals Held for Public Display	1018-AD56

DOI

United States Fish and Wildlife Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1596	Clean Vessel Act National Pumpout Symbol	1018-AC67
1597	Migratory Bird Hunting and Migratory Bird Permits	1018-AC69
1598	Export Finding for Bobcats, Lynx, and River Otters Harvested in 1994 and Subsequent Seasons	1018-AC70
1599	Seizure and Forfeiture Procedures	1018-AC89
1600	Importation of Polar Bear Trophies Taken in Canada	1018-AD04
1601	Endangered and Threatened Wildlife and Plants: U.S. Populations of Atlantic Salmon	1018-AD12
1602	Addition of Deep Fork National Wildlife Refuge to the List of Open Areas for Sport Fishing in Oklahoma	1018-AD27
1603	Endangered Species Listing: Three Aquatic Invertebrates in Comal and Hays Counties, Texas	1018-AD28
1604	Endangered and Threatened Wildlife and Plants: Establishment of Nonessential Experimental Population of Black-Footed Ferrets in Arizona	1018-AD29
1605	Public Use Regulations for Alaska Peninsula/Becharof National Wildlife Refuge Complex	1018-AD30
1606	Conferring Designated Port Status on Atlanta, GA	1018-AD33
1607	Subsistence Management Regulations for Public Lands in Alaska—Subparts C and D—1996-1997 Subsistence Taking of Fish and Wildlife Regulations	1018-AD42
1608	Addition of Ohio River National Wildlife Refuge to the List of Open Areas for Fishing in West Virginia	1018-AD43
1609	Addition of Great Bay National Wildlife Refuge to the List of Open Areas for Hunting in New Hampshire	1018-AD44
1610	Endangered and Threatened Wildlife and Plants: 25 Plants from Oahu, Hawaii	1018-AD50
1611	Endangered Species Listing Two Texas Plants	1018-AD51
1612	Endangered Species Listing: Guajoa or Rock Frog	1018-AD52
1613	Captive Bred Wildlife Registration Under the Endangered Species Act	1018-AD53
1614	Convention on International Trade in Endangered Species (CITES)	1018-AD55
1615	General Authorization to Conduct Bonafide Scientific Research Resulting Only in Level B Harassment of Marine Mammals	1018-AD57
1616	Endangered and Threatened Wildlife and Plants: Fourteen Plants from the Hawaiian Islands	1018-AD58
1617	Endangered and Threatened Wildlife and Plants: Four Plants from Interior Chaparral of Southwestern California and Northwestern Baja California, Mexico	1018-AD60

United States Fish and Wildlife Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1618	Importation, Exportation, and Transportation of Wildlife	1018-AB49
1619	Endangered and Threatened Wildlife and Plants	1018-AB66
1620	List of Migratory Birds	1018-AB72
1621	Eagle Permits	1018-AB81
1622	Endangered and Threatened Wildlife and Plants	1018-AB83
1623	Alaska Refuges Visitor Services	1018-AC02
1624	Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Changes to the Appendices	1018-AC78
1625	Endangered and Threatened Wildlife and Plants: Brother's Island Tuatara	1018-AD06
1626	Endangered and Threatened Wildlife and Plants: Critical Habitat Designation for the Western Snowy Plover	1018-AD10

United States Fish and Wildlife Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1627	Endangered and Threatened Wildlife and Plants	1018-AA85
1628	Proposed Determination of Experimental Population Status for an Introduced Population of Colorado Squawfish	1018-AB09
1629	Captive-Bred Wildlife	1018-AB10
1630	Endangered and Threatened Wildlife and Plants	1018-AB52
1631	The National Coastal Wetland Conservation Grant Program	1018-AB68
1632	Endangered and Threatened Wildlife and Plants	1018-AB73
1633	Endangered and Threatened Wildlife and Plants	1018-AB75
1634	Endangered and Threatened Wildlife and Plants	1018-AB88
1635	Endangered and Threatened Wildlife and Plants	1018-AB97

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United States Fish and Wildlife Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1636	Endangered and Threatened Wildlife and Plants: Eight Vernal Pool Plants of the Central Valley of California	1018-AC00
1637	Endangered and Threatened Wildlife and Plants	1018-AC01
1638	Endangered and Threatened Wildlife and Plants: Three Puerto Rican Trees	1018-AC04
1639	Humane and Healthful Transport Regulations	1018-AC08
1640	Endangered and Threatened Wildlife and Plants: Flat-Tailed Horned Lizard	1018-AC10
1641	Endangered and Threatened Wildlife and Plants: San Xavier Talussnail	1018-AC13
1642	Endangered and Threatened Wildlife and Plants; Reclassification of the Loch Lomond Coyote Thistle	1018-AC14
1643	Endangered and Threatened Wildlife and Plants: Critical Habitat for the Pecos Pupfish	1018-AC18
1644	Endangered and Threatened Wildlife and Plants: Alaska Breeding Population of the Steller's Eiders	1018-AC19
1645	Endangered and Threatened Wildlife and Plants: Parish's Alkali Grass	1018-AC21
1646	Endangered and Threatened Wildlife and Plants: Barton Springs Salamander	1018-AC22
1647	Endangered and Threatened Species: Sacramento Splittail	1018-AC26
1648	Incidental Take Provisions for Endangered and Threatened Migratory Birds	1018-AC29
1649	Reclassifications of Some Populations of Saltwater Crocodiles With Special Rule for Saltwater and Nile Crocodiles	1018-AC30
1650	Endangered and Threatened Wildlife and Plants: Two California Butterflies and a Snake	1018-AC32
1651	Marbeled Murrelet Critical Habitat Designation	1018-AC33
1652	Endangered and Threatened Wildlife and Plants: California Red-Legged Frog	1018-AC34
1653	Endangered and Threatened Wildlife and Plants: Spring Creek Bladderpod	1018-AC42
1654	Rights-of-Way Management on National Wildlife Refuges	1018-AC45
1655	Endangered and Threatened Wildlife and Plants: Five California Sierran Foothills Plants	1018-AC47
1656	Endangered and Threatened Wildlife and Plants: Golden Paintbrush	1018-AC52
1657	Endangered and Threatened Wildlife and Plants: Virgin Spinedace	1018-AC53
1658	Endangered and Threatened Wildlife and Plants: Intercross Progeny Policy and Definitions	1018-AC54
1659	Export of American Ginseng Harvested in 1994-1996	1018-AC55
1660	Endangered and Threatened Wildlife and Plants: Delissea Undulata (No Common Name (NCN))	1018-AC56
1661	General Provisions and General Permit Procedures	1018-AC57
1662	Endangered and Threatened Wildlife and Plants: Jaguar	1018-AC61
1663	Endangered and Threatened Wildlife and Plants: Arkansas River Shiner	1018-AC62
1664	Endangered and Threatened Wildlife and Plants: Seven Freshwater Mussels from Alabama, Florida, and Georgia	1018-AC63
1665	Endangered and Threatened Wildlife and Plants: Five Freshwater Mussels	1018-AC64
1666	Endangered and Threatened Wildlife and Plants: Two Plants From Southwestern California	1018-AC65
1667	Marine Mammal Protection Act Amendments of 1994	1018-AC68
1668	Endangered and Threatened Wildlife and Plants: Maguire Daisy	1018-AC71
1669	Endangered and Threatened Wildlife and Plants: Eggert's Sunflower	1018-AC74
1670	Endangered and Threatened Wildlife and Plants: Armored Snail	1018-AC75
1671	Endangered and Threatened Wildlife and Plants: Tropical Butterflies	1018-AC76
1672	Endangered and Threatened Wildlife and Plants: Tropical Birds	1018-AC77
1673	Refuge-Specific Hunting and Fishing Regulations	1018-AC80
1674	Endangered and Threatened Wildlife and Plants: San Diego Fairy Shrimp	1018-AC83
1675	Endangered and Threatened Wildlife and Plants: Two California Butterflies	1018-AC84
1676	Endangered and Threatened Wildlife and Plants: Cactus Ferruginous Pygmy-Owl	1018-AC85
1677	Endangered and Threatened Wildlife and Plants: Four Southwestern California Plants	1018-AC88
1678	Critical Habitat Designation for the Lost River and Shortnose Suckers	1018-AC90
1679	Endangered and Threatened Wildlife and Plants: Least Chub	1018-AC91
1680	Endangered and Threatened Wildlife and Plants: Holmgren's Milkvetch and Shem's Milkvetch	1018-AC92
1681	Endangered and Threatened Wildlife and Plants: 4 California Plants from Vernal Pools	1018-AC96
1682	Emergency Reclassification of the Snake River Spring/Summer Chinook Salmon	1018-AC97
1683	Endangered and Threatened Wildlife and Plants: Two San Francisco Plants	1018-AC98
1684	Endangered and Threatened Wildlife and Plants: 10 Plants From the California Sierra Nevada Mountains Foothills	1018-AC99
1685	Revision of Migratory Bird Hunting Regulations, 50 CFR Part 20	1018-AD01
1686	Endangered and Threatened Wildlife and Plants: Northern and Southern Populations of the Bog Turtle	1018-AD05
1687	Endangered and Threatened Wildlife and Plants: Reintroduction of a Nonessential Experimental Population of Mexican Wolves	1018-AD07
1688	Endangered and Threatened Wildlife and Plants: for California Plants and the Black Legless Lizard	1018-AD09
1689	Endangered and Threatened Wildlife and Plants: Three Southern Arizona Cienega Species	1018-AD11
1690	Endangered and Threatened Wildlife and Plants: Two San Francisco Marsh Plants	1018-AD14
1691	Marine Mammal Protection Act	1018-AD15
1692	Marine Mammal Protection Act; Lethal Take for Human Protection	1018-AD16

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United States Fish and Wildlife Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1693	Marine Mammal Protection Act; Importation of Marine Mammal Products Are Personal Effects for Non-Commercial Cultural Exchanges	1018-AD17
1694	Marine Mammal Protection Act; Unintentional Take of Marine Mammals by Harassment Only in Activities Other Than Commercial Fishing	1018-AD18
1695	Marine Mammal Protection Act; Measures to Safely Deter Marine Mammals, Including Threatened and Endangered Marine Mammals	1018-AD19
1696	Endangered and Threatened Wildlife and Plants; Special Rule for the Northern Spotted Owl	1018-AD20
1697	Marine Mammals; Incidental Take During Specified Activities	1018-AD21
1698	Taxonomic Change From Subspecies to Vertebrate Population Segment for the Virgin River Chub	1018-AD22
1699	Critical Habitat Proposal for Virgin River Fishes	1018-AD23
1700	Endangered and Threatened Wildlife and Plants: Exemption of Small Private Landowners and Low Impact Activities From Endangered Species Act Requirements for Threatened Species	1018-AD24
1701	Endangered and Threatened Wildlife and Plants: Proposed Endangered Status for 13 Plants From the Island of Hawaii	1018-AD25
1702	Migratory Birds: Take Provisions for Bald Eagles	1018-AD26
1703	Addition of Ottawa National Wildlife Refuge to List of Open Areas for Big Game Hunting in Ohio	1018-AD31
1704	Proposed Joint Counterpart Endangered Species Act Section 7 Consultation Regulations	1018-AD32
1705	Seven Plants From the Mountains of Southern California	1018-AD34
1706	Endangered and Threatened Wildlife and Plants: Pallid Manzanita	1018-AD35
1707	Endangered and Threatened Wildlife and Plants: Nine Plants From California	1018-AD36
1708	Endangered and Threatened Wildlife and Plants: Three Plants From the Channel Islands of Southern California	1018-AD37
1709	Endangered and Threatened Wildlife and Plants: Four Southwestern California Plants	1018-AD38
1710	Endangered and Threatened Wildlife and Plants: Sixteen Plant Taxa From the Northen Channel Islands, California	1018-AD39
1711	Endangered and Threatened Wildlife and Plants: Designation of Experimental Nonessential Whooping Crane Populations	1018-AD45
1712	Endangered and Threatened Wildlife and Plants: Proposed Endangered or Threatened Status for 19 Plant Species From the Island of Kauai, Hawaii	1018-AD46
1713	Endangered Species Listing: Nogal or West Indian Walnut	1018-AD47
1714	Engangered Species Listing: Cordia Bellonis (No Common Name)	1018-AD48
1715	Endangered Species Listing: three Plants from Molokai, Hawaii	1018-AD49
1716	Endangered and Threatened Wildlife and Plants: 42 South American Birds	1018-AD59

United States Fish and Wildlife Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1717	Endangered and Threatened Wildlife and Plants	1018-AB42
1718	Endangered and Threatened Wildlife and Plants	1018-AB56
1719	Release and Harvest of Captive-Bred Waterfowl	1018-AB77
1720	Migratory Bird Hunting: Hunting Regulations for Restriction of Shotshell Length and Maximum Shot Size	1018-AB80
1721	Endangered and Threatened Wildlife and Plants: Revision of the Special Rule for Nonessential Experimental Populations of Red Wolves in North Carolina and Tennessee	1018-AC03
1722	Policy on Health Certification for Translocation/Release of Animals under Service Jurisdiction	1018-AC40
1723	Endangered and Threatened Wildlife and Plants: Arabian Wolf	1018-AC43
1724	Endangered and Threatened Wildlife and Plants: Reclassification of the Bald Eagle	1018-AC48
1725	Closure of O'Malley River Area in Kodiak National Wildlife Refuge, Alaska	1018-AC49
1726	Endangered and Threatened Wildlife and Plants: Three California Insects	1018-AC50
1727	Importation of Exotic Wild Birds to the United States; Amendment of Final Rule Implementing the Wild Bird Conservation Act of 1992	1018-AC51
1728	Export of American Alligators Taken in the 1995-97 Harvest Seasons	1018-AC72
1729	Migratory Bird Hunting	1018-AC79
1730	National Wildlife Refuges: Addition of Areas Open to Hunting and Fishing	1018-AC81
1731	Seasons and Bag Limits for Subsistence Management Regulations	1018-AC82
1732	Critical Habitat Designation for the Mexican Spotted Owl	1018-AD02
1733	Addition of Cape May National Wildlife Refuge to Areas Open to Hunting in New Jersey	1018-AD03
1734	Migratory Bird Harvest Information Program, 1995-96 Hunting Season	1018-AD08

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United States Fish and Wildlife Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1735	Update of Regional Office Addresses	1018-AD40
1736	Migratory Bird Hunting: Decision on the Conditional Approval of Bismuth-Tin Shot as Nontoxic for the 1995-1996 Season	1018-AD41

National Park Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1737	Dry Tortugas National Park: Fishing; Boundary Adjustments	1024-AA96
1738	Minerals Management—Non-Federal Oil and Gas	1024-AB39
1739	National Park Service Symbols: United States Park Police Insignia	1024-AB94
1740	Rights-of-Way	1024-AC01
1741	Penalty Provisions	1024-AC06
1742	Rock Climbing	1024-AC13
1743	Yellowstone National Park—Special Revision	1024-AC18
1744	General Regulations for Areas Administered by the National Park Service	1024-AC21
1745	Glacier Bay: Regulation Applicability	1024-AC22
1746	Voyageurs National Park: Aircraft Operations	1024-AC23
1747	Conveyance of Freehold and Leasehold Interests	1024-AC27
1748	Badlands National Park—Commercial Vehicles	1024-AC30
1749	Shenandoah National Park: Backcountry and Fishing Regulations	1024-AC33
1750	Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway: Snowmobile and Snowplane Routes and Regulations	1024-AC34
1751	Applicability and Resource Protection Revisions	1024-AC38
1752	Mountain Climbing; 60-Day Preregistration Requirement	1024-AC39
1753	Appalachian National Scenic Trail: Powerless Flight	1024-AC42
1754	Procedures for State, Tribal, and Local Government Historic Preservation Programs	1024-AC44

National Park Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1755	National Natural Landmarks Program	1024-AB86
1756	Glacier Bay National Park, Alaska Fishing Regulations	1024-AB99
1757	Glacier Bay: Vessel Management Plan/Regulations	1024-AC05
1758	Native American Graves Protection and Repatriation Act Implementation	1024-AC07
1759	Visitor Services Under Section 1307 of ANILCA	1024-AC19
1760	Oregon Caves National Monument: Special Regulations	1024-AC26
1761	Cape Lookout National Seashore: Special Regulations	1024-AC29

National Park Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1762	Glacier National Park Revision	1024-AC15
1763	The Secretary of the Interior's Standards for the Treatment of Historic Properties	1024-AC24
1764	Alaska; Hunting and Trapping Regulations	1024-AC25
1765	Pictured Rocks National Lakeshore; Special Regulations	1024-AC28
1766	Gettysburg National Military Park: One-Waying of Park Roads	1024-AC35
1767	General Provisions, Definitions; Change in Organizational Titles	1024-AC43

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Bureau of Indian Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1768	Administration of the Higher Education Program	1076-AA10
1769	Leasing and Permitting	1076-AA29
1770	Individual Indian Monies	1076-AC65
1771	Navajo Partitioned Lands Grazing Regulations	1076-AC81
1772	Family and Child Education Program (FACE)	1076-AC92
1773	Indian Child Protection and Family Violence Prevention Programs	1076-AC97
1774	Range Regulations	1076-AD04
1775	Indian School Equalization Program	1076-AD09
1776	Land Acquisitions for Tribes and Individual Indians	1076-AD11
1777	Indian Tribal Justice Act	1076-AD15
1778	Tribal Self-Governance **(Reg Plan Seq. No. 60)**	1076-AD20
1779	Indian Self-Determination Act Amendments of 1994 **(Reg Plan Seq. No. 61)**	1076-AD21

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Bureau of Indian Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1780	Administration of the Indian Adult Education Programs	1076-AA15
1781	Oil, Gas, Solid Mineral, and Geothermal Mineral Agreements	1076-AA82
1782	Roads of the Bureau of Indian Affairs	1076-AB05
1783	Financial Assistance and Social Services Program	1076-AC13
1784	Preference in Employment	1076-AD05

Bureau of Indian Affairs—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1785	Grants to Tribally Controlled Community Colleges and Navajo Community College	1076-AD08

Bureau of Indian Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1786	General Forest Regulations	1076-AC44
1787	Off Reservation Land Acquisitions for Indian Tribes	1076-AC51
1788	Operation and Maintenance of Irrigation Projects	1076-AC53
1789	Sale of Forest Products, Red Lake Indian Reservation, Minnesota	1076-AC75
1790	Sale of Lumber and Other Forest Products Produced by Indian Enterprises From the Forests on Indian Reservations	1076-AC77
1791	Indian Electric Power Utilities	1076-AD03
1792	Preservation of Antiquities	1076-AD10
1793	Leasing of Osage Reservation Lands in Oklahoma for Mining Except Oil and Gas	1076-AD12
1794	Special Education	1076-AD16

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Minerals Management Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1795	Training of Lessee and Contractor Employees Engaged in Oil and Gas and Sulphur Operations in the Outer Continental Shelf	1010-AB99

Minerals Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1796	Revision of Requirements Governing Corporate Surety Bonds for Outer Continental Shelf Leases	1010-AB92
1797	Revision of Authorized Bidding Systems for Leases in the Outer Continental Shelf	1010-AB93
1798	Transportation and Processing Allowances for Oil and Gas	1010-AB94
1799	Transportation and Washing Allowances for Coal	1010-AC00
1800	Valuation of Gas Production—Federal Leases	1010-AC02
1801	Updating Documents Incorporated by Reference	1010-AC03
1802	Fees for Lease Assignments and Pipeline Rights of Way	1010-AC04
1803	Lease Extensions	1010-AC07

Minerals Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1804	Amendments to 30 CFR 250.67—Hydrogen Sulfide	1010-AB50
1805	Credit Adjustments	1010-AB73
1806	Response Plans for Facilities Seaward of the Coastline	1010-AB81
1807	Flaring or Venting Gas and Burning Liquid Hydrocarbons	1010-AB96

Minerals Management Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1808	Payor Responsibilities	1010-AB45
1809	Safety Requirements Governing Production Platforms and Pipelines	1010-AB52
1810	Valuation of Oil and Gas from Indian Leases	1010-AB57
1811	Gas Measurement and Commingling	1010-AB97
1812	Royalties, Rentals, Bonuses, and Other Monies	1010-AC01
1813	Allowances for Transportation and Processing Costs Associated with Gas Valuation	1010-AC06
1814	Release of Third Party Proprietary Information	1010-AC08
1815	Valuation of Oil From Federal and Indian Mineral Leases	1010-AC09

Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1816	Definition and Criteria for Valid Existing Rights	1029-AB42
1817	Basis for Coal Weight Determination	1029-AB68
1818	Coal Moisture	1029-AB78
1819	Prohibitions Under Section 522(e) of SMCRA	1029-AB82
1820	Indian Lands	1029-AB83

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Office of Surface Mining Reclamation and Enforcement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1821	Applicant/Violator System Permit Information	1029-AB62
1822	Coal Remining	1029-AB74
1823	Notification and Permit Processing	1029-AB80

Office of Surface Mining Reclamation and Enforcement—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1824	Abandoned Coal Refuse Sites	1029-AB70
1825	Definition of Coal	1029-AB75
1826	Affected Area (Haul Roads)	1029-AB76
1827	Contemporaneous Reclamation	1029-AB79

Bureau of Reclamation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1828	Revenues Management	1006-AA30
1829	Acreage Limitation and Water Conservation	1006-AA32

Bureau of Reclamation—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1830	Regulations for Administering Entitlements to Colorado River Water in the Lower Colorado River Basin	1006-AA24
1831	Central Valley Project of California—Purposes, Uses, and Allocation of Water Supplies	1006-AA34

Bureau of Reclamation—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1832	Acreage Limitation Administrative Fees	1006-AA33
1833	Authorized Use of Reclamation Project Water	1006-AA35

Bureau of Land Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1834	Sales of Forest Products; General—Preparation for Sale	1004-AB34
1835	Management of Designated Wilderness Area	1004-AB69
1836	Sales—Federal Land Policy and Management Act	1004-AB77
1837	Onshore Oil and Gas Operations	1004-AC09
1838	Tramroads and Logging Roads	1004-AC24
1839	Coalbed Methane Development	1004-AC27
1840	Law Enforcement—Criminal	1004-AC30
1841	Visitor Services	1004-AC42
1842	Management Areas; Designated National Area	1004-AC43
1843	Fire Management	1004-AC44
1844	Natural History Resource Management; Procedures	1004-AC45

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Bureau of Land Management—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1845	Trespass	1004-AC46
1846	Public Land Orders	1004-AC47
1847	Management of Solid Minerals Other Than Coal	1004-AC49
1848	Recreation Management; Procedures; General	1004-AC50
1849	Recreation Programs	1004-AC51
1850	Visual Resource Management	1004-AC52
1851	Special Areas; State Irrigation Districts	1004-AC53
1852	Oil and Gas Leasing; Fees, Rentals, and Royalty	1004-AC54
1853	Minerals Management	1004-AC55
1854	Desert Land Entries	1004-AC56
1855	Onshore Oil and Gas Geophysical Exploration	1004-AC57
1856	State Exchanges; National Park System Exchanges Wildlife Refuge Exchanges; Miscellaneous Exchanges	1004-AC58
1857	Bodie Bowl, California: Surface Management	1004-AC60

Bureau of Land Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1858	Onshore Oil and Gas Operations; Special Provisions; Onshore Oil and Gas Order No. 5—Measurement of Gas	1004-AB22
1859	Leases, Permits, and Easements	1004-AB51
1860	Public Availability of Minerals Resources Information	1004-AB55
1861	Administration of Rights-of-Way	1004-AC12
1862	Logical Mining Units: General; LMU Application Procedures; LMU Approval Criteria; LMU Diligence; Administration of LMU Operations	1004-AC15
1863	Waiver, Suspension, or Reduction of Rental, Royalty, or Minimum Royalty	1004-AC26
1864	Onshore Oil and Gas Order No. 8, Well Workovers, Completions, and Abandonments	1004-AC33
1865	Fire Management	1004-AC36
1866	Coal Management	1004-AC37
1867	Public Law 167; Act of July 23, 1955 (Mining Claim Use and Occupancy)	1004-AC39
1868	Mining Claims Under the General Mining Laws (Bonding)	1004-AC40
1869	Application Procedures: Execution and Filing of Forms	1004-AC41
1870	Protection and Preservation of Natural Values	1004-AC48
1871	Disposal of Reserved Minerals Under the Stock Raising Homestead Act	1004-AC59

Bureau of Land Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1872	Sales of Forest Products; Law Enforcement	1004-AB97

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1873	Transportation and Utility Systems In and Across, and Access Into, Conservation System Units in Alaska	1093-AA07

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Proposed Rule Stage

1573. PRINCIPLES OF ETHICAL CONDUCT

Priority: Other

Legal Authority: 5 USC 7301; 5 USC app (Ethics Reform Act of 1989); EO 12731

CFR Citation: 5 CFR 3501

Legal Deadline: None

Abstract: The U.S. Office of Government Ethics (OGE) has issued new standards of conduct regulations. The Department of the Interior (DOI) is preparing special conduct regulations (applies only to DOI employees) to supplement OGE's new standards of conduct. Interior's supplemental regulations, if approved by OGE, will be codified in 5 CFR Part 3501.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: On June 10, 1993, the Department published a final rule that removed portions of 43 CFR 20 that have been superseded by Standards of Conduct regulations issued by U.S. Office of Government Ethics(OGE). The remaining regulations in 43 CFR 20 are preserved until they can be recodified in 5 CFR 3501 on or before February 3, 1994. OGE recently extended this date until February 3, 1995. Draft proposed supplemental regulations have been submitted to OGE and it has agreed to extend the recodification deadline for the Department.

Agency Contact: Mason Tsai, Deputy Ethics Program Coordinator, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5916

RIN: 1090–AA38

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Final Rule Stage

1574. NATURAL RESOURCE DAMAGE ASSESSMENTS; TYPE A—GREAT LAKES ENVIRONMENTS

Regulatory Plan: This entry is Seq. No. 58 in Part II of this issue of the Federal Register.

RIN: 1090–AA21

1575. NATURAL RESOURCE DAMAGE ASSESSMENTS; TYPE A—COASTAL AND MARINE ENVIRONMENTS

Regulatory Plan: This entry is Seq. No. 59 in Part II of this issue of the Federal Register.

RIN: 1090–AA23

1576. REVISED STATUTE 2477 RIGHTS-OF-WAY

Priority: Other Significant

Legal Authority: 43 USC 1201; 43 USC 1732(b); 43 USC 1740; 43 USC 1457; 43 USC 1782(c); 16 USC 668dd; 16 USC 460k-3; 16 USC 1 to 4

CFR Citation: 43 CFR 39

Legal Deadline: None

Abstract: This proposed rule would implement the Secretary of the Interior's June 1, 1993, recommendation to Congress that the Department promulgate regulations addressing rights-of-way pursuant to R.S. 2477 across lands now administered by the Bureau of Land Management, the National Park Service, and the U.S. Fish and Wildlife Service. R.S. 2477--a provision adopted in 1866 that granted a right-of-way for the construction of highways across public land not reserved for public uses--was repealed in 1976, but valid existing rights-of-way were not terminated. This proposed rule is intended to clarify the meaning of the statute and provide a workable administrative process and standards for recognizing valid claims.

Timetable:

Action	Date	FR Cite
NPRM	08/01/94	59 FR 39216
NPRM Comment Period End	08/01/95	60 FR 4135
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7782

RIN: 1090–AA44

1577. PROTECTION FOR PRODUCTS OF INDIAN ART AND CRAFTSMANSHIP

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 305a; PL 101-644 Indian Arts and Crafts Act of 1990

CFR Citation: 25 CFR 309

Legal Deadline: None

Abstract: These regulations carry out the enforcement provisions of PL 101-644 to help ensure that American Indian and Alaska Native artists and craftspeople receive their fair share of the market by limiting unfair competition from products misrepresented as genuine Indian arts and crafts products.

Timetable:

Action	Date	FR Cite
NPRM	10/13/94	59 FR 51908
NPRM Comment Period End	02/10/95	59 FR 51908
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Geoffrey E. Stamm, Director, Indian Arts and Crafts Board, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Room 4004 MIB, Washington, DC 20240
Phone: 202 208-3773
Fax: 202 208-5196

RIN: 1090–AA45

1578. • DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION—CONFLICTS OF INTEREST

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 63 Stat 390, sec 205(c); 40 USC 486(c); 5 USC 301; PL 103-355

DOI—ASPMB

Final Rule Stage

CFR Citation: 48 CFR 1403; 48 CFR 1403.570; 48 CFR 1425; 48 CFR 1452.203-70

Legal Deadline: None

Abstract: Under the auspices of the National Performance Review, a thorough review of the DIAR was conducted. The reviewers determined that only a few DIAR sections require codification in the CFR. This action is to effect the removal of DIAR subparts related to improper business practices, personal conflicts of interest, and foreign acquisition.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary L. McGarvey, Procurement Analyst, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Office of Acquisition and, PropertyManagement, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3158
Fax: 202 208-6301
Email: MMCGarvey@IOS.DOI.GOV

RIN: 1090–AA54

1579. • DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION—FOREIGN ACQUISITIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 63 Stat 390, sec 205(c); 40 USC 486(c); 5 USC 301; PL 103-355

CFR Citation: 48 CFR 1425.203; 48 CFR 1425.205; 48 CFR 1452.225-70

Legal Deadline: None

Abstract: Under the auspices of the National Performance Review, a thorough review of the DIAR was conducted. The reviewers determined that only a few DIAR sections require codification in the CFR. This action is to effect the revision and retention of DIAR sections related to foreign acquisitions. Sections relating to evaluating offers and price adjustment proposals and the associated solicitation and contract provision will remain in the CFR.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary L. McGarvey, Procurement Analyst, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Office of Acquisition and, Property Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3158
Fax: 202 208-6301
Email: MMcGarvey@IOS.DOI.GOV

RIN: 1090–AA55

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Long-Term Actions

1580. NATURAL RESOURCE DAMAGE ASSESSMENTS; TYPE B—BIENNIAL REVIEW

Priority: Other Significant

Legal Authority: 42 USC 9651(c)

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or a discharge of oil. CERCLA requires that natural resource damage assessment regulations be promulgated and that the regulations be reviewed, and revised as appropriate, every two years. This rulemaking is the biennial review of the administrative process for conducting assessments as well as the site-specific "type B" procedures for determining injury and damages. This rulemaking will be closely coordinated with the natural resource damage assessment rulemaking being conducted by the National Oceanic and Atmospheric Administration under the Oil Pollution Act of 1990.

Timetable:

Action	Date	FR Cite
ANPRM	10/19/94	59 FR 52749
ANPRM Comment Period End	01/17/95	59 FR 52749
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Willie R. Taylor, Director, Office of Environmental Policy and Compliance, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340, MIB, 1849 C Street NW., Washintton, DC 20240
Phone: 202 208-3891

RIN: 1090–AA29

1581. NATURAL RESOURCE DAMAGE ASSESSMENTS; TYPE B—NONUSE VALUES

Priority: Other Significant

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or a discharge of oil. In 1986, the Department issued site-specific "type B" procedures for determining injury and damages. State of Ohio v. United States Department of the Interior, 880 F.2d 432 (D.C. Cir. 1989), ordered the Department to revise the type B procedures, among other things, to allow for the assessment of all reliably calculated lost economic values. This rulemaking addresses one

DOI—ASPMB

Long-Term Actions

aspect of the court remand--the reliable calculation of lost nonuse values of injured resources. On March 25, 1994, the Department issued a final rule complying with all other aspects of the court remand (59 FR 14261).

Timetable:

Action	Date	FR Cite
NPRM	05/04/94	59 FR 22097
NPRM Comment Period End	10/07/94	59 FR 32175

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willie R. Taylor, Director, Office of Environmental Policy and Compliance, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3891

RIN: 1090–AA43

1582. • NATURAL RESOURCE DAMAGE ASSESSMENTS; ADDITIONAL TYPE A PROCEDURES

Priority: Other Significant

Legal Authority: 42 USC 9651(c)

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or a discharge of oil. CERCLA calls for the promulgation of simplified "type A" assessment procedures involving minimal fieldwork for use in cases of minor releases or discharges. The Department has proposed type A procedures for use in coastal and marine environments and the Great Lakes. The Department is now considering whether and how to develop additional type A procedures.

Timetable:

Action	Date	FR Cite
Notice of Meeting	05/09/95	60 FR 24604

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willie R. Taylor, Director, Office of Environmental Policy and Compliance, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340, MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3891

RIN: 1090–AA51

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Completed Actions

1583. • DEPARTMENT OF THE INTERIOR ACQUISITION REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 63 Stat. 390, sec 205(c); 40 USC 486(c); 5 USC 301

CFR Citation: 48 CFR ch 14

Legal Deadline: None

Abstract: This final rule removed 16 parts of the Department of the Interior Acquisition Regulation. The removed material deals with internal procedures that do not have a significant effect outside the agency.

Timetable:

Action	Date	FR Cite
Final Action	06/12/95	60 FR 30791
Final Action Effective	07/12/95	60 FR 30791

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Delia Emmerich, Procurement Analyst, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3348
Fax: 202 208-6301

RIN: 1090–AA50

1584. • DEPARTMENT OF INTERIOR ACQUISITION REGULATION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 63 Stat. 390, sec 205(c); 40 USC 486(c); 5 USC 301

CFR Citation: 48 CFR ch 14

Legal Deadline: None

Abstract: This final rule will remove certain portions from the Department's Acquisition Regulation (DIAR), relocate other material, and revise certain segments. The portions being removed deal exclusively with internal procedures. The revisions will simplify and streamline operations. No new requirements are being added.

Timetable:

Action	Date	FR Cite
Final Action	10/13/95	60 FR 53278
Final Action Effective	11/13/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Delia Emmerich, Procurement Analyst, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3348
Fax: 202 208-6301

RIN: 1090–AA52

1585. • INTERIOR PROPERTY MANAGEMENT REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 41 CFR 114-1 to 114-60

DOI—ASPMB

Completed Actions

Legal Deadline: None

Abstract: The Department of the Interior has amended the internal directives and procedures governing its property management program. The Department has deleted text from the Code of Federal Regulations. This text, which does not affect the public, has been deleted because it duplicates text in other internal directives.

Timetable:

Action	Date	FR Cite
Final Action	08/04/95	60 FR 39864
Final Action Effective	09/05/95	60 FR 39864

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert E. Lomax, Senior Property Management Analyst, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C StreetN.W., Washington, DC 20240
Phone: 202 208-3337
Fax: 202 219-4244

RIN: 1090–AA53

BILLING CODE 4310-RK-F

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Solicitor (OSOL)

Long-Term Actions

1586. SUBPART E—COMPULSORY PROCESS AND TESTIMONY OF EMPLOYEES

Priority: Other

Legal Authority: 5 USC 301

CFR Citation: 43 CFR 2.80

Legal Deadline: None

Abstract: These regulations amend the Department's current regulations on employee testimony and response to subpoenas for documents. The current regulations do not provide enough guidance to allow appropriate decisions to be made as to whether testimony should be allowed or documents released. Further, the current regulations do not have a centralized review to allow for consistent decisionmaking throughout the Department. These regulations provide guidance to those requesting testimony of employees or production of documents as to what the Department must consider to make a reasonable and just decision.

Timetable:

Action	Date	FR Cite
NPRM	01/15/93	58 FR 4635
NPRM Comment Period End	02/16/93	58 FR 4635

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peg Romanik, Attorney-Advisor, Department of the Interior, Office of the Solicitor, 1849 C St. NW., MS 6531, Washington, DC 20240
Phone: 202 208-5216

RIN: 1092–AA09

BILLING CODE 4310-17-F

DEPARTMENT OF THE INTERIOR (DOI)
Office for Equal Opportunity (OEO)

Proposed Rule Stage

1587. • REQUIREMENTS FOR EQUAL OPPORTUNITY DURING CONSTRUCTION AND OPERATION OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 719

CFR Citation: 43 CFR 34

Legal Deadline: None

Abstract: The purpose of this regulatory action is to rescind the equal opportunity and affirmative action regulations at 43 CFR 34. The regulations are obsolete and no longer applicable to activities associated with the construction of the Alaska Natural Gas Transportation System. This action is also intended to reduce unnecessary, costly, burdensome and duplicative Federal Affirmative Action reporting data collection and recordkeeping requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melvin C. Fowler, Process Manager, Department of the Interior, Office for Equal Opportunity, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3455

RIN: 1091–AA04

1588. • NONDISCRIMINATION IN ACTIVITIES CONDUCTED UNDER PERMITS, RIGHTS-OF-WAY, PUBLIC LAND ORDERS, AND OTHER FEDERAL AUTHORIZATIONS GRANTED OR LEASED UNDER P.L. 93-153

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1651

CFR Citation: 43 CFR 27

Legal Deadline: None

Abstract: The purpose of this regulatory action is to rescind the nondiscrimination regulations at 43 CFR 27. The regulations have served their purpose and are obsolete and duplicative when compared to other existing and applicable Federal

DOI—OEO

Proposed Rule Stage

nondiscriminatory requirements. This action is also intended to reduce unnecessary, costly, burdensome, and duplicative Federal affirmative action reporting, data collection, and recordkeeping requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melvin C. Fowler, Process Manager, Department of the Interior, Office for Equal Opportunity, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3455

RIN: 1091–AA05

BILLING CODE 4316-RE-F

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Proposed Rule Stage

1589. RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: PL 96-274; PL 97-459; 5 USC 301

CFR Citation: 43 CFR 4.300; 43 CFR 4.301; 43 CFR 4.302; 43 CFR 4.303; 43 CFR 4.304; 43 CFR 4.305; 43 CFR 4.306; 43 CFR 4.307; 43 CFR 4.308

Legal Deadline: None

Abstract: The agency proposes to amend its regulations in 43 CFR 4.300 through 4.308 relating to Tribal Purchase of Interests Under Special Statutes in order to provide standard procedures for implementation of two recent statutes expanding tribal purchase rights and escheat requirements, namely, Pub. L. 96-274, applicable to the Standing Rock Sioux Reservation in North and South Dakota, and Pub. L. 97-459, applicable to the Devils Lake Sioux Reservation of North Dakota. The Department's current regulations in 43 CFR 4.300 through 4.308 apply to the Yakima, Warm Springs and Nez Perce Reservations. The proposed amendments to these regulations will incorporate provisions necessary for consideration of cases arising under the two statutes cited above.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Barry E. Hill, Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-3810

RIN: 1094–AA38

1590. RULES APPLICABLE TO INDIAN AFFAIRS HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 36 Stat 855, as amended; 36 Stat 856, as amended; 38 Stat 586; 42 Stat 1185, as amended; 56 Stat 1021 et seq; RS 463; RS 465; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 374; 25 USC 373a; 25 USC 373b; ...

CFR Citation: 43 CFR 4.208; 43 CFR 4.210(b); 43 CFR 4.241(a); 43 CFR 4.242(d)

Legal Deadline: None

Abstract: The agency proposes to amend and update its regulations pertaining to the hearing and disposition of Indian probate cases by: (1) allowing, under 4.208, the renunciation of a probate interest by a beneficiary as young as 18 years instead of the current 21 years; (2) amending the period under 4.210(b) within which the BIA Superintendent may file with the Administrative Law Judge all records relevant to an Indian deceased and his property to 120 days from the receipt of the notice of death from the current 90 days; (3) amending the address under 4.241(a) for the filing of a petition for rehearing to the Administrative Law Judge from the current BIA Superintendent; and (4) clarifying under 4.242(d) that and estate may be reopened at a time beyond 3 years after the date of the original final decision in the estate at the instance of a petition by a BIA official or of the Administrative Law Judge's own motion.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry E. Hill, Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-3810

RIN: 1094–AA46

1591. GENERAL RULES APPLICABLE TO PROCEEDINGS ON APPEAL BEFORE THE INTERIOR BOARD OF INDIAN APPEALS

Priority: Other Significant

Legal Authority: 36 Stat 855, as amended; 36 Stat 856, as amended; 38 Stat 586; 42 Stat 1185, as amended; 56 Stat 1021 et seq; RS 463; RS 465; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 374; 25 USC 373a; 25 USC 373b

CFR Citation: 43 CFR 4.310 to 4.340

Legal Deadline: None

Abstract: The agency proposes to amend and update its regulations in order to clarify and streamline procedures for appealing to the Interior Board of Indian Appeals from decisions issued in Indian probate matters, decisions issued under authority of 25 CFR chapter I, and such other decisions in Indian matters as may be referred to the Board. Experience working with the present regulations has shown them to be confusing. In addition, some of the Board's regulations are out-of-date and do not address areas of jurisdiction, such as Osage will contests, that have been delegated to the Board by the Secretary of the Interior. Regulatory guidance is also needed for appeals that have specific procedural rules as part of the program regulations, such as tribal acknowledgements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

DOI—OHA

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathryn A. Lynn, Chief Administrative Judge, Board of Indian Appeals, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-3816

RIN: 1094–AA47

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Final Rule Stage

1592. RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 36 Stat 855, as amended; 38 Stat 586; 42 Stat 1185, as amended; 56 Stat 1021 to 1022; RS 463; RS 465; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 373a; 25 USC 373b; 25 USC 374

CFR Citation: 43 CFR 4.207; 43 CFR 4.242; 43 CFR 4.274

Legal Deadline: None

Abstract: The agency proposes: (1) Amendment of 4.207 to permit acceptance of compromise settlements in probate of estates of Indians who died owning property in trust or restricted status when all parties are advised of all facts and are cognizant of effect of the compromise on their rights, and where no family member is coerced into the agreement. Such settlements are already provided for in disputed cases; (2) amendment of 4.242 to require petitioner for reopening of an estate which has been closed more than 3 years to show due diligence in pursuing the claim. This will place in the regulation case law developed over the past 18 years; (3) amendment of 4.274 by adding a new paragraph (c) for allowance of immediate payment of claims where appropriate for better conservation of assets of the estate, and a new paragraph (d) to permit partial distribution of an estate to provide funds for the maintenance of the family where the ultimate distribution is unlikely to be disputed.

Timetable:

Action	Date	FR Cite
NPRM	09/06/90	55 FR 36669
NPRM Comment Period End	10/09/90	55 FR 36669
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry E. Hill, Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-3810

RIN: 1094–AA39

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Long-Term Actions

1593. NOTICE OF INTERIM ALTERNATIVE DISPUTE RESOLUTION AND OPPORTUNITY FOR COMMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-552; 5 USC 301

CFR Citation: None

Legal Deadline: None

Abstract: This is not a regulatory action but a notice for publication in the Federal Register concerning the Department's interim policy on Alternative Dispute Resolution (ADR) and providing opportunity for the public to comment. This interim policy will be in effect for two years. During this interim phase, bureaus and offices of the Department will implement pilot initiatives to assess the applicability of ADR methods to a variety of disputes. At the conclusion of the interim phase, the results of these initiatives will be evaluated and a final ADR policy will be developed. This notice will establish the Department's interim policy on ADR and provide guidance on the establishment of ADR program initiatives. The use of ADR should reduce time and costs associated with resolution of disputes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/13/94	59 FR 30368
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry E. Hill, Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203
Phone: 703 235-3810

RIN: 1094–AA45

BILLING CODE 4310-79-F

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Prerule Stage

1594. • EXPORT OF GINSENG HARVESTED IN WASHINGTON STATE IN 1995-97

Priority: Other Significant

Legal Authority: 16 USC 1537

CFR Citation: 50 CFR 23.51

Legal Deadline: None

Abstract: This proposed rule would allow the export of artificially propagated ginseng from the State of Washington in accordance with the Convention on International Trade in Endangered Species (CITES) requirements.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/96	

DOI—FWS

Prerule Stage

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS-420 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2095
Fax: 703 358-2281

RIN: 1018–AD54

1595. • TRANSPORT OF MARINE MAMMALS HELD FOR PUBLIC DISPLAY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: This proposed rule will outline the procedure a public display facility will need to follow to transport marine mammals to another facility for public display without additional permits.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Kenneth Stansell, Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS-420 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-3093

RIN: 1018–AD56

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Proposed Rule Stage

1596. CLEAN VESSEL ACT NATIONAL PUMPOUT SYMBOL

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-587

CFR Citation: 50 CFR 85

Legal Deadline: None

Abstract: The Service proposes to develop regulations that will provide boaters with a national pumpout/dump station symbol. Currently there is a confusing array of state and private pumpout and dump station symbols. This program was authorized by Congress to provide incentives to public and private boating facilities to develop a system to properly handle human waste from boaters. A national pumpout/dump station symbol will provide boaters with a single nationwide symbol of pumpout and dump locations and provide a consistent message about the program nationally in education materials produced by each state.

Timetable:

Action	Date	FR Cite
NPRM	09/19/95	60 FR 48491
NPRM Comment Period End	11/20/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Lang, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS -140 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2156

RIN: 1018–AC67

1597. MIGRATORY BIRD HUNTING AND MIGRATORY BIRD PERMITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742(a) to 742 (d); 16 USC 742(e) to 742 (j)

CFR Citation: 50 CFR 20; 50 CFR 21

Legal Deadline: None

Abstract: In November 1991, the Service began a review of its regulations on migratory bird hunting and migratory bird permits. In a notice published in the Federal Register on December 1, 1993, (58 FR 63488) the issues were described and needed changes and possible alternatives were discussed. That notice also provided additional information that would facilitate public comment on the regulations being reviewed. The Service will develop regulations that will clarify the regulations in 50 CFR Parts 20 and 21 that are perceived by many individuals to be unclear, update any outdated information, and correct any technical errors.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Striegler, Deputy Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, P.O. Box 3247, Arlington, VA 22203-3247
Phone: 703 358-1949

RIN: 1018–AC69

1598. EXPORT FINDING FOR BOBCATS, LYNX, AND RIVER OTTERS HARVESTED IN 1994 AND SUBSEQUENT SEASONS

Priority: Routine and Frequent

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The Service will develop regulations that will add several states and/or tribes to the list of approved export programs for bobcat, lynx and/or river otter.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39347
NPRM Comment Period End	10/02/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Marshall Jones, Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS-420 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC70

DOI—FWS

Proposed Rule Stage

1599. SEIZURE AND FORFEITURE PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 4222 to 4241; 16 USC 4901 to 4916; 18 USC 42

CFR Citation: 50 CFR 12

Legal Deadline: None

Abstract: The Service proposes to amend regulations in 50 CFR part 12 that establish procedures relating to property seized or subject to administrative forfeiture under various laws enforced by the Service. This revision is intended to provide uniform guidance for the bonded release, appraisement, administrative proceeding, petition for remission, and disposal of items subject to forfeiture. Also these revisions are intended to provide for greater consistency of Service seizure and forfeiture procedures with those of the U.S. Customs Service.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Thomas Striegler, Deputy Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, P.O. Box 3247, Arlington, VA 22203-3247
Phone: 703 358-1949

RIN: 1018–AC89

1600. IMPORTATION OF POLAR BEAR TROPHIES TAKEN IN CANADA

Priority: Other Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service proposes regulations concerning the importation of sport-hunted trophies of polar bears legally taken by the applicant while hunting in Canada. Further, these regulations provide application requirements, permit procedures, issuance criteria; permit conditions, and a fee for each permit issued as required by the Marine Mammal Protection Act for the Service to establish and charge a reasonable fee. This rule does not discuss legal and scientific findings required by the Act's 1994 amendments that need to be made prior to issuing an import permit.

Timetable:

Action	Date	FR Cite
NPRM	01/03/95	60 FR 70
NPRM Comment Period End	03/06/95	60 FR 70
NPRM Comment Period Extended to 11/06/95	10/20/95	60 FR 54210
Final Action	10/00/95	
Polar bear trophies taken in Canada		
NPRM (Supplemental)	07/17/95	(60 FR 36382)

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Tieger, Chief, Branch of Permits, Department of the Interior, United States Fish and Wildlife Service, MS 420 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2104

RIN: 1018–AD04

1601. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: U.S. POPULATIONS OF ATLANTIC SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for a distinct population segment (in seven eastern Maine river systems) of anadromous Atlantic salmon without critical habitat, under the Endangered Species Act. Where once the Atlantic salmon occurred from the Housatonic River, Connecticut to the St. Croix River on the Maine-New Brunswick, Canada border, now most salmon populations have been extirpated and some spawning habitat is no longer accessible or is unsuitable, due to dams or water pollution. Currently, remnant populations of anadromous Atlantic salmon are restricted to several rivers in eastern Maine. This is a joint Fish and Wildlife Service/National Marine Fisheries Service rule/finding with neither agency having the lead.

Timetable:

Action	Date	FR Cite
NPRM	09/29/95	60 FR 50530
NPRM Comment Period End	12/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD12

1602. • ADDITION OF DEEP FORK NATIONAL WILDLIFE REFUGE TO THE LIST OF OPEN AREAS FOR SPORT FISHING IN OKLAHOMA

Priority: Other Significant

Legal Authority: 16 USC 469k

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: The Service proposes to add Deep Fork National Wildlife Refuge to the list of areas open for sport fishing in Oklahoma along with pertinent refuge-specific regulations for such activities. This rule is necessary because national wildlife refuges are closed until opened by rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Robert Shallenberger, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS 670 Arlington Square, 1849 C Street NW., Washington, DC 20240

DOI—FWS

Proposed Rule Stage

Phone: 703 358-1744

RIN: 1018–AD27

1603. • ENDANGERED SPECIES LISTING: THREE AQUATIC INVERTEBRATES IN COMAL AND HAYS COUNTIES, TEXAS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for three aquatic invertebrates: Peck's cave amphipod, Comal Springs riffle beetle and Comal Springs dryopid beetle. These species are known only from springs in Comal County and Hays County, Texas. They are threatened by loss of necessary aquatic habitat due to increasing groundwater withdrawal by humans throughout the aquifer that supplies the springs and by the potential for contamination of their limited range.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD28

1604. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION OF BLACK-FOOTED FERRETS IN ARIZONA

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to establish a non-essential experimental population of Black-footed ferrets in Arizona under Section 10 (j) of the Endangered Species Act. The ferrets will be reintroduced into the Aubrey Valley Management Area in Cocconino and Yavapi Counties in Arizona on State lands (42%) and Navajo Nation and private lands (58%). The non-essential experimental population designation allows for easing of Endangered Species Act restrictions and for management flexibility.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD29

1605. • PUBLIC USE REGULATIONS FOR ALASKA PENINSULA/BECHAROF NATIONAL WILDLIFE REFUGE COMPLEX

Priority: Other Significant

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 36

Legal Deadline: None

Abstract: The Service proposes regulations to implement portions of the Alaska Peninsula/Becharof National Wildlife Refuge Complex Public Use Management Plan. The rulemaking would allow the Service to manage public uses by adopting regulations addressing off-road vehicles, camping, and temporary facilities. The regulations will also provide for continued public use of the refuge complex while protecting refuge resources and resolving conflicts between refuge users.

Timetable:

Action	Date	FR Cite
NPRM	10/16/95	60 FR 53576
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Shallenberger, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS -670 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AD30

1606. • CONFERRING DESIGNATED PORT STATUS ON ATLANTA, GA

Priority: Other

Legal Authority: 16 USC 705; 16 USC 3378; 18 USC 42; 31 USC 483(a)

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service proposes to confer designated port status on Atlanta, Georgia. Designated port status would allow the direct importation and exportation of fish and wildlife, including parts and products, through Atlanta, a growing international port. The addition of Atlanta as a port is contingent upon getting contributory funding from the Atlanta airport, and a Memorandum of Agreement will be signed between the airport authority and the Service. The Secretary of the Interior is responsible for designating these ports by regulations, with the approval of the Secretary of the Treasury after notice and the opportunity for public hearing.

Timetable:

Action	Date	FR Cite
NPRM	10/13/95	60 FR 53329
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Striegler, Deputy Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AD33

1607. • SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA—SUBPARTS C AND D—1996-1997 SUBSISTENCE TAKING OF FISH AND WILDLIFE REGULATIONS

Priority: Other Significant

Legal Authority: 16 USC 3111 to 3126

CFR Citation: 50 CFR 100

Legal Deadline: None

DOI—FWS

Proposed Rule Stage

Abstract: Rules will be developed that provide for the seasonal bag limits and dates for subsistence hunting, trapping, and fishing on Federal lands in Alaska. The seasons and bag limits are developed in cooperation with State and local governmental entities to ensure that fish and wildlife populations in the State are adequately protected.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard S. Pospahala, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503
Phone: 907 786-3467

RIN: 1018–AD42

1608. • ADDITION OF OHIO RIVER NATIONAL WILDLIFE REFUGE TO THE LIST OF OPEN AREAS FOR FISHING IN WEST VIRGINIA

Priority: Other Significant

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: The Service proposes to add Ohio River Islands National Wildlife Refuge to the list of areas open for sport fishing in West Virginia along with pertinent refuge-specific regulations for such activities. National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS -670 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AD43

1609. • ADDITION OF GREAT BAY NATIONAL WILDLIFE REFUGE TO THE LIST OF OPEN AREAS FOR HUNTING IN NEW HAMPSHIRE

Priority: Other Significant

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: The Service proposes to add Great Bay National Wildlife Refuge to the list of areas open for migratory game bird hunting and big game hunting in New Hampshire along with pertinent refuge-specific regulations for such activities. National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS -670 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AD44

1610. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 25 PLANTS FROM OAHU, HAWAII

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1633 the Service must take action (list withdraw or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will propose regulations that will determine the appropriate status for a plant taxa endemic to the Island of Oahu in Hawaii. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51398
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD50

1611. • ENDANGERED SPECIES LISTING TWO TEXAS PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 10 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533 the service must take action (list, withdraw or extend the rulemaking for six months) on a proposed listing no later than one year after this proposal.

Abstract: The Service will propose regulations that will determine appropriate status for 2 plants; Zapata bladderpod and Bushy whitlow-wort, occurring in southern Texas. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD51

1612. • ENDANGERED SPECIES LISTING: GUAJOA OR ROCK FROG

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw or extend the rulemaking for six months) on a proposed listing no later than-one year after such proposal.

Abstract: The Service will propose regulations that will determine the appropriate status for the guajon or

DOI—FWS

Proposed Rule Stage

rock frog. This frog is endemico Puerto Rico and is known from the Pandura mountain range in the extreme southeastern part of the island. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51432
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered, Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street, Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD52

1613. • CAPTIVE BRED WILDLIFE REGISTRATION UNDER THE ENDANGERED SPECIES ACT

Priority: Other Significant

Legal Authority: 16 USC 1531

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Rulemaking will contain proposed: 1) guidelines for educational presentations using living wildlife (to clarify definition of educational exhibition contained in 50 CFR 17.3); and 2) criteria for adding or deleting species from list of species that are exempt from the requirement to obtain a captive-bred wildlife registration (50 CFR 17.21(g)).

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 420-Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2093
Fax: 703 358-2080

RIN: 1018–AD53

1614. • CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES (CITES)

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The Service proposes to amend the regulations that implement the Convention on International Trade in Endangered Species for the purpose of clarifying procedures for the benefit of the public.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS-420 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2095
Fax: 703 358-2080

RIN: 1018–AD55

1615. • GENERAL AUTHORIZATION TO CONDUCT BONAFIDE SCIENTIFIC RESEARCH RESULTING ONLY IN LEVEL B HARASSMENT OF MARINE MAMMALS

Priority: Other Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This proposed rule will provide a general authorization to conduct bona fide scientific research without permits provided the research results only in level B harassment. Level B harassment has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns including, but not limited to, migration, breathing, nursing, breeding, feeding or sheltering.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Margaret Tieger, Chief, Branch of Permits, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS-420 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2104
Fax: 703 358-2281

RIN: 1018–AD57

1616. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOURTEEN PLANTS FROM THE HAWAIIAN ISLANDS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, The Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for fourteen plant taxa endemic to the Hawaiian Islands: Achyranthes mutica; Ccenchrus agrimonioides; Cyanea grimesiana ssp. grimesiana; Cyperus trachysanthos; Euphorbia haeleeleana; Isodendrion lauifolium; Isodendrio longifolium; Panicum niihauense; Phyllostegia parviflora; Platanthera holochila; Sanicula purpurea; Schiedea hookeri; Schiedea kauaiensis; and Schiedea nuttallii. All plant taxa are endemic to the Hawaiian Islands and found or were found on more than one island. None of the taxa are located exclusively on Federal land. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51417
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD58

DOI—FWS

Proposed Rule Stage

1617. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR PLANTS FROM INTERIOR CHAPARRAL OF SOUTHWESTERN CALIFORNIA AND NORTHWESTERN BAJA CALIFORNIA, MEXICO

Priority: Other Significant

Legal Authority: 16 USC 1531

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for four plants Nevin's barberry, Mexican flannelbush, Vail Lake ceanothus and Dehesa beargrass. These perennial shrubs and plants are found in chaparral habitat west of the Peninsular Ranges in southwestern California and northwestern Baja California, Mexico. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51445
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD60

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Final Rule Stage

1618. IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 3371 et seq; 16 USC 1532 et seq; 16 USC 1382; 16 USC 703 et seq

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service will amend 50 CFR 14 to permit the use of the U.S. Customs Service's Automated Commercial System (ACS) for the declaration and clearance of importations and exportation of wildlife.

Timetable:

Action	Date	FR Cite
NPRM	09/14/94	59 FR 47212
NPRM (Reopening of Comment Period)	11/15/94	59 FR 58811
NPRM Comment Period End	12/15/94	59 FR 58811
NPRM (Supplemental)	03/23/95	60 FR 15277
Final Action	04/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: The ACS system is being tested in several ports of entry. The Service will amend 50 CFR 14 when the system is fully implemented by the Customs Service.

Agency Contact: John Doggett, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500, Arlington Square, Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AB49

1619. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Addax antelope
NPRM 11/05/91 (56 FR 56491)
NPRM (Reopening of Comment Period) 06/08/92 (57 FR 24220)
Final Action 00/00/00

Dama gazelle
NPRM 11/05/91 (56 FR 56491)
NPRM (Reopening of Comment Period) 06/08/92 (57 FR 24220)
Final Action 00/00/00

Ohio emerald dragonfly
Final Action 10/00/95
NPRM 00/00/00

Oryx antelope
NPRM 11/05/91 (56 FR 56491)
NPRM (Reopening of Comment Period) 06/08/92 (57 FR 24220)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB66

1620. LIST OF MIGRATORY BIRDS

Priority: Other

Legal Authority: 16 USC 704; 16 USC 712

CFR Citation: 50 CFR 10.13

Legal Deadline: None

Abstract: The List of Migratory Birds found at 50 CFR 10.13 is being revised to (1) bring the list into conformity with generally accepted taxonomy and

nomenclature--English (common) and scientific names, as reflected in four published supplements to the 6th (1983) edition of the American Ornithologists' Union Checklist of North American Birds; and (2) add species that are of regular occurrence in the United States that are not included on the current list.

Timetable:

Action	Date	FR Cite
NPRM	05/09/95	60 FR 24686
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS - 634 Arlington Square, Washington, DC 20240
Phone: 703 358-1714

RIN: 1018–AB72

1621. EAGLE PERMITS

Priority: Other Significant

Legal Authority: 16 USC 668

CFR Citation: 50 CFR 22

Legal Deadline: None

Abstract: Presently, the taking, possession, and transportation of bald or golden eagles, or their parts, nests, or eggs for the religious use of Native Americans is a permitted activity. The Service proposes to revise 50 CFR 22.22 to provide an import or export mechanism for eagle feathers legally possessed by Native Americans.

Timetable:

Action	Date	FR Cite
NPRM	06/16/94	59 FR 30892
NPRM Comment Period End	08/15/94	59 FR 30892
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas L. Striegler, Deputy Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS 550 - Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AB81

1622. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

(PR) Thelypteris inabonensis (NCN)
NPRM 07/02/93 (58 FR 35887)
Final Action 00/00/00
(PR) Thelypteris verecunda (NCN)
NPRM 07/02/93 (58 FR 35887)
Final Action 00/00/00
(PR) Thelypteris yaucoensis (NCN)
NPRM 07/02/93 (58 FR 35887)
Final Action 00/00/00
Arizona willow
NPRM 11/20/92 (57 FR 54747)
Final Action 04/28/95 (60 FR 20951)
Kodachrome pepper-grass
NPRM 11/03/92 (57 FR 49671)
Kodachrome pepper-grass (Withdrawal)
NPRM 10/06/93 (58 FR 52058)
Final Action 10/00/95

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452, Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB83

1623. ALASKA REFUGES VISITOR SERVICES

Priority: Other Significant

Legal Authority: 16 USC 460(k) et seq; 44 USC 3501 et seq

CFR Citation: 50 CFR 36

Legal Deadline: None

Abstract: The Service will propose regulations to implement section 1307 of the Alaska National Interest Lands Conservation Act (ANILCA). These regulations are needed to establish procedures for selecting and authorizing persons to provide visitor services, except guided sport fishing and hunting activities, on national wildlife refuges in Alaska. Such regulations are intended to ensure proper and uniform guidance on providing the preferences required by ANILCA in the solicitation, selection, and authorization of persons or Native Corporations to provide visitor services on refuge lands in Alaska, when such services must be limited to a level below the demand.

Timetable:

Action	Date	FR Cite
NPRM	04/25/95	60 FR 20380
NPRM Comment Period End	06/26/95	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard S. Pospahala, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503
Phone: 907 786-3467

RIN: 1018–AC02

1624. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES); CHANGES TO THE APPENDICES

Priority: Other

Legal Authority: 16 USC 1533 et seq

CFR Citation: 50 CFR 10

Legal Deadline: None

Abstract: As a member Party to CITES, the United States is expected to implement those changes in the Appendices that were adopted by two-thirds of the Parties at the November 7-8, 1994 meeting of the Conference of the Parties to CITES. These species changes to the Appendices will become effective February 16, 1995. This rulemaking was inadvertently published under RIN 1018-AD07.

Timetable:

Action	Date	FR Cite
NPRM	01/03/95	60 FR 73
NPRM Comment Period End	01/17/95	60 FR 73
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Charles W. Dane, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, MS-750 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1708

RIN: 1018–AC78

1625. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: BROTHER'S ISLAND TUATARA

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed to determine the status for the reptile, Brother's Island tuatara. This reptile is known only from North Brother's Island in Cook Strait, New Zealand. Although legally covered by an endangered classification, this species previously was considered part of the related and more widespread tuatara (Sphenodon punctatus). Both species are threatened by various factors (excessive human hunting) especially predation from introduced rats.

Timetable:

Action	Date	FR Cite
NPRM	01/26/95	60 FR 5159
NPRM Comment Period End	04/26/95	60 FR 5159
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD06

1626. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CRITICAL HABITAT DESIGNATION FOR THE WESTERN SNOWY PLOVER

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, June 1, 1995.

Abstract: The Service proposes to designate critical habitat for the Pacific coast population of the Western snowy plover. The plover was listed as a threatened species on March 5, 1993. Critical habitat for the plover is proposed in coastal areas of Washington, Oregon, and California.

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11768
Final Action	03/00/96	
Western snowy plover		
NPRM (Reopening of Comment Period)	05/15/95	(60 FR 25882)

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD10

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Long-Term Actions

1627. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Other Significant

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed to list, reclassify, or delist certain species of wildlife and plants as endangered or threatened species. When prudent, critical habitat will also be identified.

Timetable:
Inyo brown towhee (critical habitat)
NPRM 08/03/87 (52 FR 28787)
Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Originally scheduled: April 1985.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AA85

1628. PROPOSED DETERMINATION OF EXPERIMENTAL POPULATION STATUS FOR AN INTRODUCED POPULATION OF COLORADO SQUAWFISH

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to introduce Colorado squawfish (Ptychocheilus lucius) into the lower Colorado River in Arizona and to determine the population to be "nonessential experimental" population according to section 10(j) of the Endangered Species Act. The Service will propose a special rule to allow

take in accordance with State law. In the past, Colorado squawfish were more widespread in the State of Arizona, occurring in several river drainages. This action is being taken in an effort to establish an additional population within the species' historic range.

Timetable:

Action	Date	FR Cite
NPRM	08/26/87	52 FR 32143
NPRM Comment Period End	10/26/87	52 FR 32143

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 452 Arlington Square, Washington DC 20240
Phone: 703 358-2171

RIN: 1018–AB09

1629. CAPTIVE-BRED WILDLIFE

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service regulates certain activities involving non-native endangered or threatened wildlife species that are born in captivity in the United States. Currently, this is accomplished by requiring persons who wish to conduct otherwise prohibited activities with such wildlife to register with the Service to obtain a captive-bred wildlife or CBW registration. These regulations will be reviewed to determine if further action is necessary to relieve certain restrictions on the public that may have become burdensome, counterproductive, or outmoded.

Timetable:

Action	Date	FR Cite
ANPRM	01/07/92	57 FR 548
ANPRM Comment Period End	03/09/92	57 FR 548
NPRM	06/11/93	58 FR 32632
NPRM Comment Period End	09/09/93	58 FR 32632
Interim Final Rule	12/27/93	58 FR 68323
Captive-bred wildlife regulations, part 2		
NPRM 12/27/93 (58 FR 68383)		

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: On June 11, 1993, the Service published a proposed rule that would revise the captive-bred wildlife regulations and the definitions of the terms "harass" and "enhance the propagation or survival". During the 90-day comment period, extensive comments on the proposal were received. The Service has decided to eliminate education as the sole basis for justifying issuance of a captive-bred wildlife registration, and a final rule to that effect was published on December 27, 1993 (58 FR 68323). The Service will split this action into three final rules and reopen the comment period on the balance of the issues in the proposals, including the question of the value of education as it relates to endangered species permits.

Agency Contact: Marshall P. Jones, Jr., Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS - 432 Arlington Square, Washington, DC 20240
Phone: 703 358-2093

RIN: 1018–AB10

1630. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened or neither, and are based solely on the biological information available to the Department.

Timetable:

Indus River dolphin
NPRM 01/14/91 (56 FR 1464)
NPRM (Reopening of Comment Period) 10/07/91 (56 FR 50550)
Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB52

1631. THE NATIONAL COASTAL WETLAND CONSERVATION GRANT PROGRAM

Priority: Other Significant

Legal Authority: 16 USC 3954

CFR Citation: 50 CFR 84

Legal Deadline: None

Abstract: The National Coastal Wetland Conservation Grant Program was established through the Coastal Wetlands Planning, Protection and Restoration Act. Funding for this grant program is provided from a portion of the funds deposited in the Sport Fish Restoration Account of the Federal Aid program. The proposed rules for 50 CFR 84 will be used for uniform administration of this new grant program. Such rules are needed to establish procedures from the selection and uniform administration of grants funded under the Act. Since grantees are State agencies, the requirements contained in 43 CFR 12 are applicable to audits, costs, and administration of grants under this program.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Lang, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS - 140 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2156

RIN: 1018–AB68

1632. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory. Final, Statutory.

In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Peninsular bighorn sheep
NPRM 05/08/92 (57 FR 19837)
Final Action 00/00/00

Santa Cruz wallflower
NPRM 10/24/91 (56 FR 55107)
NPRM (Reopening of Comment Period) 05/26/92 (57 FR 21933)
Final Action 00/00/00

Scott's Valley spineflower
NPRM 10/24/91 (56 FR 55107)
NPRM (Reopening of Comment Period) 05/26/92 (57 FR 21933)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452, Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB73

1633. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Clubshell mussel
NPRM 06/18/92 (57 FR 27203)
Final Action 00/00/00

Coachella Valley milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 00/00/00

Fish Slough milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 00/00/00

Lane Mountain milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 00/00/00

Northern copperbelly water snake
NPRM 08/19/93 (58 FR 43860)
Final Action 00/00/00

Northern riffleshell mussel
NPRM 06/18/92 (57 FR 27203)
Final Action 00/00/00

Peirson's milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 00/00/00

Shining milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 00/00/00

Sodaville milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 00/00/00

Triple-ribbed milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB75

1634. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

(Nihoa) Amaranthus brownii (NCN)
NPRM 03/24/93 (58 FR 15828)
Final Action 00/00/00

(Nihoa) Louiu
NPRM 03/24/93 (58 FR 15828)
Final Action 00/00/00

(Nihoa) Schiedea verticillata (NCN)
NPRM 02/24/93 (58 FR 15828)
Final Action 00/00/00

(Nihau) Wahane
NPRM 12/17/92 (57 FR 59970)
Final Action 00/00/00

Bidens cuneata, delisting
NPRM 07/07/93 (58 FR 36387)
Final Action 00/00/00

Braunton's milk-vetch
NPRM 11/30/92 (57 FR 56541)
Final Action 00/00/00

Conejo dudleya
NPRM 11/30/92 (57 FR 56541)
Final Action 00/00/00

Hartweg's golden sunburst
NPRM 11/30/92 (57 FR 56549)
Final Action 00/00/00

Hawaiian hawk
NPRM 08/05/93 (58 FR 41684)
Final Action 00/00/00

Lyon's pentachaeta
NPRM 11/30/92 (57 FR 56541)
Final Action 00/00/00

Marcescent dudleya
NPRM 11/30/92 (57 FR 56541)
Final Action 00/00/00

Rio Grande silvery minnow
NPRM 03/01/93 (58 FR 11821)
Final Action 07/20/94 (59 FR 36988)

San Joaquin adobe sunburst
NPRM 11/30/92 (57 FR 56549)
Final Action 00/00/00

Santa Monica Mountains dudleya
NPRM 11/30/92 (57 FR 56541)
Final Action 00/00/00

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB88

1635. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Appalachian elktoe
NPRM 09/03/93 (58 FR 46940)
Final Action 11/23/94 (59 FR 60324)
Arroyo southwestern toad
NPRM 08/03/93 (58 FR 41378)
NPRM (Reopening of Comment Period) 09/09/93 (58 FR 47428)
Final Action 12/16/94 (59 FR 64859)
Dugong
NPRM 08/05/93 (58 FR 41688)
Final Action 00/00/00
Louisiana black bear, critical habitat
NPRM 12/03/93 (58 FR 63560)
NPRM (Reopening of Comment Period) 03/07/94 (59 FR 10607)
Final Action 00/00/00
McFarlane's four-o'clock
NPRM 08/26/93 (58 FR 45085)
Final Action 00/00/00
Pahrump poolfish
NPRM 09/22/93 (58 FR 49279)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB97

1636. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: EIGHT VERNAL POOL PLANTS OF THE CENTRAL VALLEY OF CALIFORNIA

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Colusa grass
NPRM 08/05/93 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00
Fleshy owl's grass
NPRM 08/05/93 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00
Greene's tuctoria
NPRM 08/05/93 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00
Hairy orcutt grass
NPRM 08/05/93 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00
Hoover's spurge
NPRM 08/05/93 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00
Sacramento orcutt grass
NPRM 08/05/93 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00
San Joaquin Valley orcutt grass
NPRM 08/05/93 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00
Slender orcutt grass
NPRM 08/05/83 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC00

1637. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Big-leaved crown-beard
NPRM 10/01/93 (58 FR 51302)
Final Action 00/00/00
Del Mar manzanita
NPRM 10/01/93 (58 FR 51302)
Final Action 00/00/00
Del Mar sand aster
NPRM 10/01/93 (58 FR 51302)
Final Action 00/00/00
Encinitas baccharis
NPRM 10/01/93 (58 FR 51302)
Final Action 00/00/00
Orcutt's spineflower
NPRM 10/01/93 (58 FR 51302)
Final Action 00/00/00
Short-leaved dudleya
NPRM 10/01/93 (58 FR 51302)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1943

RIN: 1018–AC01

1638. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: THREE PUERTO RICAN TREES

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Ortegon
NPRM 09/24/93 (58 FR 49960)
NPRM (Reopening of Comment Period) 11/25/94 (59 FR 60598)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC04

1639. HUMANE AND HEALTHFUL TRANSPORT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42; 15 USC 3371 to 3378

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service proposes to amend the regulations found in 50 CFR Subpart J. The current Humane and Healthful Transport regulations cover birds and mammals only. The statute requires regulations for all animals and regulations must be promulgated for reptiles, amphibians, and fish.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Susan Lieberman, CITES Policy Specialist, Department of the Interior, United States Fish and Wildlife Service, MS - 432 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2093

RIN: 1018–AC08

1640. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FLAT-TAILED HORNED LIZARD

Priority: Other Significant

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed to list the Flat-tailed horned lizard as an endangered or threatened species. When prudent, critical habitat will also be identified.

Timetable:

Action	Date	FR Cite
NPRM	11/29/93	58 FR 62624
NPRM Comment Period End	01/28/94	58 FR 62624
NPRM (Reopening of Comment Period)	02/22/94	59 FR 8450
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS - 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 258-2171

RIN: 1018–AC10

1641. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SAN XAVIER TALUSSNAIL

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, the San Xavier talussnail under the Endangered Species Act. Where prudent, critical habitat will be identified for the endangered or threatened species. Such actions are taken only upon determination that the species is endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	03/23/94	59 FR 13691
NPRM Comment Period End	05/23/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC13

1642. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; RECLASSIFICATION OF THE LOCH LOMOND COYOTE THISTLE

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which will list, reclassify, or delist, as appropriate, the Loch Lomond coyote thistle under the Endangered Species Act. Where prudent, critical habitat will be identified for the species. Such actions are taken upon determination that the species is endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	11/29/93	58 FR 62629
NPRM Comment Period End	01/28/94	58 FR 62629

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC14

1643. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CRITICAL HABITAT FOR THE PECOS PUPFISH

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be proposed that will determine the appropriate status for the Pecos pupfish and identify critical habitat.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC18

1644. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: ALASKA BREEDING POPULATION OF THE STELLER'S EIDERS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate the Alaska breeding populations of the Steller's eiders under the Endangered Species Act, and where prudent, would identify critical habitat. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	07/14/94	59 FR 35896
NPRM Comment Period End	11/14/94	59 FR 35896
Barton Springs salamander		
NPRM (Reopening of Comment Period)	06/30/95 (60 FR 34225)	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 - Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC19

1645. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PARISH'S ALKALI GRASS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate, Parish's alkali grass, under the Endangered Species Act, and where prudent, critical habitat is identified. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	03/28/94	59 FR 14378
NPRM Comment Period End	05/27/94	
NPRM (Reopening of Comment Period)	08/30/94	59 FR 44700

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452-Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC21

1646. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: BARTON SPRINGS SALAMANDER

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which will determine the appropriate status of the Barton Springs salamander under the Endangered Species Act, and where prudent, will identify critical habitat. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	02/17/94	59 FR 7968
NPRM Comment Period End	04/18/94	59 FR 7968

Barton springs salamander
NPRM (Reopening of Comment Period) 05/26/94 (59 FR 27257)
NPRM (Reopening of Comment Period) 03/10/95 (60 FR 13105)
Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC22

1647. ENDANGERED AND THREATENED SPECIES: SACRAMENTO SPLITTAIL

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate, the Sacramento splittail under the Endangered Species Act, and where prudent, will identify critical habitat. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	01/06/94	59 FR 862

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC26

1648. INCIDENTAL TAKE PROVISIONS FOR ENDANGERED AND THREATENED MIGRATORY BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 65-186; 16 USC 703 to 704; 16 USC 712; 16 USC 1531 to 1543

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service will establish a regulatory process for the authorization of the incidental taking of endangered or threatened migratory birds subject to the provisions of the Migratory Bird Treaty Act (MBTA). The proposed regulations would modify the existing regulations of the MBTA to authorize incidental take by deferring to the incidental take procedures. This provision will apply only to those species that are designated both as migratory birds and as endangered or threatened.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS -635 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC29

1649. RECLASSIFICATIONS OF SOME POPULATIONS OF SALTWATER CROCODILES WITH SPECIAL RULE FOR SALTWATER AND NILE CROCODILES

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service will develop regulations to declassify populations of the Saltwater crocodile in Australia and determine the appropriate status for the Papua New Guinea populations. Also included in this rulemaking is a special rule to allow commercial trade in skins, other parts, and products of saltwater crocodiles from Australia and Papua New Guinea populations and from Nile crocodiles in Appendix II of CITES. The combination of actions proposed will have the effect of stimulating legal and responsible trade in crocodile hides, and in this respect, constitutes removal of a barrier to trade.

Timetable:

Action	Date	FR Cite
NPRM	04/19/94	59 FR 18652
NPRM Comment Period End	07/18/94	59 FR 18652

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC30

1650. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TWO CALIFORNIA BUTTERFLIES AND A SNAKE

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing, no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Callippe silverspot butterfly, the Behren's silverspot butterfly, and the Alameda whipsnake. All three species, and the larval food plants on which the female butterflies lay their eggs are threatened by over-collection, commercial/residential development, alien plant competition, unsuitable levels of livestock grazing, trampling by hikers, livestock, and off-road vehicle use.

Timetable:

Action	Date	FR Cite
NPRM	02/04/94	59 FR 5377
NPRM Comment Period End	04/05/94	59 FR 5377

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC32

1651. MARBELED MURRELET CRITICAL HABITAT DESIGNATION

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, January 21, 1994. Final, Statutory, January 27, 1995.
On November 2, 1993, the US District Court, Western District of Washington, ordered the Secretary to propose critical habitat for the marbled murrelet no later than January 21, 1994.

Abstract: Regulations will be developed to designate critical habitat for the marbeled murrelet. Species ranges from Aleutian Archipelago in Alaska to central California. The species is listed as a threatened distinct vertebrate population segment in Washington, Oregon, and California.

Timetable:

Action	Date	FR Cite
NPRM	01/27/94	59 FR 3811
NPRM Comment Period End	04/27/94	59 FR 3811
Marbled murrelet critical habitat		
NPRM (Supplemental)	08/10/95	(60 FR 40892)

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC33

1652. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CALIFORNIA RED-LEGGED FROG

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing, no later than one year after such proposal.

Abstract: Regulations will be developed to determine the appropriate status of the California red-legged frog. Designation of critical habitat is not prudent at this time. This species occurs from Marin County south to Baja California, Mexico. Only 6 populations remain in the entire Central Valley hydrologic basin, the former stronghold of the species; extinction on the floor of the Central Valley occurred sometime before 1960.

Timetable:

Action	Date	FR Cite
NPRM	02/02/94	59 FR 4888
NPRM Comment Period End	04/04/94	59 FR 4888

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC34

1653. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SPRING CREEK BLADDERPOD

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed to determine the appropriate status for the Spring Creek bladderpod. The Spring Creek bladderpod is an annual member of the mustard family that grows on the floodplain of a limited number of streams in Tennessee.

Timetable:

Action	Date	FR Cite
NPRM	08/23/94	59 FR 43322
NPRM Comment Period End	10/24/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC42

1654. RIGHTS-OF-WAY MANAGEMENT ON NATIONAL WILDLIFE REFUGES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 29

Legal Deadline: None

Abstract: This rule will address management and maintenance of public highway rights-of-way established pursuant to revised Statute 2477 and located within the national wildlife refuge system, so as to be compatible with the purposes for which the refuge unit was established and to protect and conserve the surrounding lands and wildlife resources. Companion rules are being prepared by Bureau of Land Management and the National Park Service which will illustrate the claim for which agency rules will address management of such claims.

Timetable:

Action	Date	FR Cite
ANPRM	08/01/94	59 FR 39228
NPRM	08/01/94	59 FR 39216
ANPRM Comment Period End	09/30/94	59 FR 39228
NPRM Comment Period End	09/30/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Shallenberger, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS - 670 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AC45

1655. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FIVE CALIFORNIA SIERRAN FOOTHILLS PLANTS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate, five California plant species the Stebbins' morning-glory, Pine Hill ceanothus, Pine Hill flannelbush, El Dorado bedstraw, and Layne's butterweed under the Endangered Species Act. Where prudent, critical habitat will be identified. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	04/20/94	59 FR 18774
NPRM Comment Period End	07/19/94	59 FR 18774

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC47

1656. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: GOLDEN PAINTBRUSH

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate, the Golden paintbrush under the Endangered Species Act, and where prudent, will identify critical habitat. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	05/10/94	59 FR 24106
NPRM Comment Period End	07/04/94	59 FR 24106

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC52

1657. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: VIRGIN SPINEDACE

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate, the Virgin spinedace, a minnow endemic to the Virgin River and tributaries, under the Endangered Species Act. This species is located in southwestern Utah, northwestern Arizona, and southeastern Nevada. Where prudent, critical habitat will be identified. Such actions are taken upon the determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	05/18/94	59 FR 25875
NPRM Comment Period End	07/18/94	59 FR 25875

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC53

1658. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: INTERCROSS PROGENY POLICY AND DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service and the National Marine Fisheries Service propose to amend the regulations implementing the Endangered Species Act by adding definitions for intercross and intercross progeny (to include hybrids). Also, 50 CFR 17.11(g) and 17.12(g) will be amended by adding wording to indicate that the listing of a taxon as endangered or threatened would include all individuals that share characteristic traits of that taxon, including individuals produced under conditions of confinement. The amendments are necessary in order to proceed with the evaluation and implementation of intercrossing as a recovery technique for the Florida panther.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC54

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1659. EXPORT OF AMERICAN GINSENG HARVESTED IN 1994-1996

Priority: Routine and Frequent

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: NPRM, Statutory.

Abstract: This proposed rule will announce findings on the export of American ginseng from the 1994-96 harvest season in 21 states. The Service reviews information and data as a basis for determining whether to continue approval of export from specified states for this harvest season, or to initiate changes. Also, North Dakota has applied to export cultivated gingseng under a State program, and Michigan has submitted draft legislation and is intending to apply soon to export ginseng.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49046
NPRM Comment Period End	10/26/94	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Marshall Jones, Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS -421 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2093

RIN: 1018–AC55

1660. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: DELISSEA UNDULATA (NO COMMON NAME (NCN))

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, the Hawaiian plant, Delissea undulata (NCN) under the Endangered Species Act, and where prudent, would identify critical habitat.

Timetable:

Action	Date	FR Cite
NPRM	06/27/94	59 FR 32946
NPRM Comment Period End	08/26/94	59 FR 32946
NPRM (Reopening of Comment Period)	09/30/94	59 FR 49907

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC56

1661. GENERAL PROVISIONS AND GENERAL PERMIT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 10; 50 CFR 13; 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to amend 50 CFR part 13 which provides uniform permit procedures relating to the application, issuance, renewal, suspension, revocation and general administration of Service permits. The Service's criteria for suspension and revocation of permits and its review procedures will also be revised. Permit fee rates are amended to increase rates for the cost of processing certain permits. This change is necessary in order to recover a larger percentage of the cost of processing the permits. Several new permit fee exemptions will be added.

Timetable:

Action	Date	FR Cite
NPRM	09/05/95	60 FR 46087

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Striegler, Deputy Chiev, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS 500 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AC57

1662. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: JAGUAR

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed to extend endangered status to the jaguar in the United States portion of its range, without critical habitat. The jaguar is currently listed as an endangered species from the U.S./Mexico border southward through Central and South America. Currently no known breeding population of jaguar is known in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/13/94	59 FR 35674
NPRM Comment Period End	09/11/94	59 FR 35674

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC61

1663. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: ARKANSAS RIVER SHINER

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Arkansas River population of the Arkansas River shiner. This small minnow is endemic to the Arkansas River drainage in Arkansas, Kansas, New Mexico, Oklahoma, and Texas, but is presently almost entirely restricted to the Canadian/South Canadian River in Oklahoma, Texas, and New Mexico.

Timetable:

Action	Date	FR Cite
NPRM	08/03/94	59 FR 39532
NPRM Comment Period End	10/03/94	59 FR 39532

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC62

1664. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SEVEN FRESHWATER MUSSELS FROM ALABAMA, FLORIDA, AND GEORGIA

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for seven freshwater mussels from the Apalachicolan Region of SE Alabama, SW Georgia and north Florida. The seven species are: Chipola slabshell, Purple bankclimber, Fat three-ridge, Shiny-rayed pocketbook Gulf moccasinshell, Ochlockonee moccasinshell, and Oval pigtoe. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/03/94	59 FR 39524
NPRM Comment Period End	11/01/94	59 FR 39524
Final Action	00/00/00	
Seven freshwater mussels		
NPRM (Reopening of Comment Period)	12/12/94 (59 FR 63987)	
7 freshwater mussels from AL, FL and GA		
NPRM (Reopening of Comment Period)	04/24/95 (60 FR 20072)	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC63

1665. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FIVE FRESHWATER MUSSELS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for five freshwater mussels under the Endangered Species Act. The five species are the Cumberland elktoe, Oyster mussel, Cumberlandian combshell, Purple bean, and Rough rabbitsfoot. Where prudent, critical habitat will be identified. Such actions are taken upon the determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	07/14/94	59 FR 35900
NPRM Comment Period End	09/12/94	59 FR 35900
five freshwater mussels		
NPRM (Reopening of Comment Period)	11/16/94 (59 FR 59200)	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC64

1666. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TWO PLANTS FROM SOUTHWESTERN CALIFORNIA

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service will develop regulations that will determine the appropriate status for two plants the Cuyamaca Lake dowingia and Parish's meadowfoam. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/04/94	59 FR 39879
NPRM Comment Period End	10/31/94	59 FR 49045

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC65

1667. MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1994

Priority: Other Significant

Legal Authority: PL 103-238

CFR Citation: 50 CFR 13; 50 CFR 18

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: The Service will develop regulations that will implement the

Marine Mammal Protection Act Amendments of 1994. Permit issuance criteria will be established for the importation of polar bear parts (other than internal organs) taken in sport hunts in Canada, including polar bears taken but not imported prior to the date of enactment of the Marine Mammal Protection Act amendments. Subsequent rules will provide permitting criteria and/or procedures for activities which impact upon marine mammals, including the taking of a marine mammal by harassment in the course of scientific research, the use of marine mammals for public display, scientific research or enhancement, and for the implementation of take reduction plans. Such rules may be developed jointly by the Fish and Wildlife Service and the National Marine Fisheries Service, Department of Commerce.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Tieger, Acting Chief, Branch of Permits, Department of the Interior, United States Fish and Wildlife Service, MS -420 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2104

RIN: 1018–AC68

1668. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: MAGUIRE DAISY

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Maguire daisy. This perennial herb is restricted to desert shrub-lands in south-central Utah. Critical habitat is not being recommended at this time

Timetable:

Action	Date	FR Cite
NPRM	09/07/94	59 FR 46219
NPRM Comment Period End	11/07/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC71

1669. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: EGGERT'S SUNFLOWER

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Eggert's sunflower, a perennial member of the aster family. This species is presently known from Alabama, Tennessee, and Kentucky. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	09/09/94	59 FR 46607
NPRM Comment Period End	11/08/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC74

1670. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: ARMORED SNAIL

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Armored snail under the Endangered Species Act. Where prudent, critical habitat will be identified. This snail is known from only two creeks in the Limestone Creek drainage in Limestone County, Alabama.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC75

1671. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TROPICAL BUTTERFLIES

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service will develop regulations that will determine the appropriate status for up to 27 species of tropical butterflies.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC76

1672. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TROPICAL BIRDS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for up to 38 species of tropical birds.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC77

1673. REFUGE-SPECIFIC HUNTING AND FISHING REGULATIONS

Priority: Routine and Frequent

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: The Service will review annually, and prior to each hunting season, may amend hunting regulations for specific national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	08/16/95	60 FR 42668
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS -670 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AC80

1674. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SAN DIEGO FAIRY SHRIMP

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will propose regulations that will determine the appropriate status for the San Diego fairy shrimp. This species occurs in vernal pools within San Diego County in southwestern California, and its range extends into northwestern Baja California, Mexico. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/04/94	59 FR 39874
NPRM Comment Period End	10/26/94	59 FR 49025
San Diego fairy shrimp NPRM (Reopening of Comment Period)	01/03/95	(60 FR 69)

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC83

1675. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TWO CALIFORNIA BUTTERFLIES

Priority: Other Significant

Legal Authority: 16 USC 1533 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will propose regulations that will determine the appropriate status for two butterflies--the Laguna Mountains skipper, found in Laguna and Palomar Mountains of San Diego County, and the Quino checkerspot found in north-central and southern San Diego County and northwestern Baja California, Mexico. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/04/94	59 FR 39868
NPRM Comment Period End	10/31/94	59 FR 49045

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC84

1676. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CACTUS FERRUGINOUS PYGMY-OWL

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the cactus ferruginous pygmy-owl. The Service proposes to list the species as endangered in Arizona, with critical habitat, and as threatened in Texas.

Timetable:

Action	Date	FR Cite
NPRM	12/12/94	59 FR 63975
NPRM Comment Period End	02/10/95	59 FR 63975
NPRM (Reopening of Comment Period)	04/14/95	60 FR 19013

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United

States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC85

1677. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR SOUTHWESTERN CALIFORNIA PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed to determine the appropriate status for four plants found in southwestern California and northwestern Baja California, Mexico. These species are: Munz's onion, San Jacinto Valley crownscale, Thread-leaved brodiaea, and Spreading navarretia. These four plants occur in vernal pools and other wetlands or on clay soils and moist grasslands throughout their range. Critical habitat will be proposed for the San Jacinto Valley crownscale, only at this time.

Timetable:

Action	Date	FR Cite
NPRM	12/15/94	59 FR 64794
NPRM Comment Period End	02/13/95	59 FR 64794
NPRM (Reopening of Comment Period)	03/07/95	60 FR 12531
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC88

1678. CRITICAL HABITAT DESIGNATION FOR THE LOST RIVER AND SHORTNOSE SUCKERS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will identify critical habitat for the Lost River and Shortnose suckers, two species federally listed as endangered. Both species are endemic to the Upper Klamath River Basin of Oregon and California.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61744
NPRM Comment Period End	01/30/95	59 FR 61744
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 340 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-3171

RIN: 1018–AC90

1679. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: LEAST CHUB

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Least chub under the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC91

1680. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: HOLMGREN'S MILKVETCH AND SHEM'S MILKVETCH

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend that rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for two plants--Holmgren's milkvetch and Shem's milkvetch--under the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC92

1681. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 4 CALIFORNIA PLANTS FROM VERNAL POOLS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for four plants--Contra Costa gold fields, Few-flowered navarretia, Many-flowered navarretia, and the Lake County stone crop. These species grow in and around the margins of vernal pools and in seasonally wet areas in northern California.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	02/17/94	59 FR 65311
NPRM	12/19/94	59 FR 65311
NPRM (Reopening of Comment Period)	03/16/95	60 FR 14253
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC96

1682. EMERGENCY RECLASSIFICATION OF THE SNAKE RIVER SPRING/SUMMER CHINOOK SALMON

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service is reclassifying the Snake River spring/summer chinook salmon and the Snake River fall chinook salmon from threatened to endangered under the emergency provisions of the Endangered Species Act. This action reflects a determination by the National Marine Fisheries Service, Department of Commerce, which has jurisdiction for these species, that the species warrant emergency reclassification based on a projected decline in adult Snake River salmon abundance. This determination by the National Marine Fisheries Service was published in the Federal Register on August 18, 1994.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/02/94	59 FR 54840
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Additional Information: During the 240 days this emergency rule is in effect, National Marine Fisheries Service will initiate and complete a rulemaking (with public comment period) to extend the reclassification of Snake River spring/summer and fall chinook salmon to endangered status under the Act until such time as reclassification or delisting is warranted. The action of the Fish and Wildlife Service to amend the List in accordance with the determination by NMFS is nondiscretionary.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC97

1683. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TWO SAN FRANCISCO PLANTS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for 2 plants--San Francisco lessingia and the San Bruno Mountains manzanita. The San Francisco lessingia currently restricted to the Presidio in San Francisco County. The San Bruno manzanita is currently found only on San Bruno Mountain in San Mateo County.

Timetable:

Action	Date	FR Cite
NPRM	10/04/94	59 FR 50550
NPRM Comment Period End	12/05/94	59 FR 50550
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC98

1684. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 10 PLANTS FROM THE CALIFORNIA SIERRA NEVADA MOUNTAINS FOOTHILLS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine appropriate status for 10 plants: Chinese Camp brodiaea, Piute Mountains navarretia, Carpenteria, Springville clarkia, Kelso Creek monkeyflower, Red Hills vervain, Rawhide Hill onion, Mariposa lupine, Mariposa pussypaws, and Greenhorn adobe lily, under the Endangered Species Act. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/04/94	59 FR 50540
NPRM Comment Period End	12/05/94	59 FR 50540
NPRM (Reopening of Comment Period)	12/29/94	59 FR 67268
NPRM (Reopening of Comment Period)	02/14/95	60 FR 8342
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC99

1685. REVISION OF MIGRATORY BIRD HUNTING REGULATIONS, 50 CFR PART 20

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742a to 742d; 16 USC 742e to 742j

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service proposes to revise and update regulations governing migratory bird hunting. Changes will be proposed that will clarify and include all the specific prohibitions in Part 20 to apply to migratory game hunting during closed and open hunting seasons.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: John J. Doggett, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS 500 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AD01

1686. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: NORTHERN AND SOUTHERN POPULATIONS OF THE BOG TURTLE

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the northern population (ranges from New York to Maryland) of the bog turtle, and the southern population (ranges from southwestern Virginia to northern Georgia) as endangered due to similarity of appearance. This action is being taken because of constriction of the species' range, the declining size of remaining populations, and illegal collection. Critical habitat is not being proposed at this time.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD05

1687. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: REINTRODUCTION OF A NONESSENTIAL EXPERIMENTAL POPULATION OF MEXICAN WOLVES

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed designating a nonessential experimental population of mexican wolves, three family groups per year for five years, into the Blue Range Area (Arizona) primary wolf recovery zone and allow population expansion into secondary wolf recovery zones in the Apache and Gila National Forests in New Mexico.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD07

1688. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOR CALIFORNIA PLANTS AND THE BLACK LEGLESS LIZARD

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for five plants--Coastal dunes milk-vetch, Yadon's piperia, Hickman's potentilla, Monterey clovers, Gowen cypress, and the Black legless lizards--under the Endangered Species Act. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39326
NPRM Comment Period End	09/25/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD09

1689. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: THREE SOUTHERN ARIZONA CIENEGA SPECIES

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal

Abstract: Regulations will be developed that will determine the appropriate status for three Arizona cienega plant species: Canela Hills ladies'-tresses (without critical habitat), Huachuca water umbel and Sonora tiger salamander, with critical habitat, under the Endangered Species Act. These species are located in three counties in southern Arizona and northern Sonora, Mexico.

Timetable:

Action	Date	FR Cite
NPRM	04/03/95	60 FR 16836
Three southern Arizona cienega species		
NPRM (Reopening of Comment Period)	06/22/95 (60 FR 32483)	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD11

1690. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TWO SAN FRANCISCO MARSH PLANTS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for two San Francisco marsh plants, Suisun thistle and Soft bird's-beak, under the Endangered Species Act. These two species are restricted to either salt or brackish marshes within the greater San Francisco Bay area in northern California.

Timetable:

Action	Date	FR Cite
NPRM	06/12/95	60 FR 31000
NPRM Comment Period End	07/27/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD14

1691. MARINE MAMMAL PROTECTION ACT

Priority: Other Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service's definition of authentic Native articles of handicrafts and clothing must be revised to reflect a 1991 Alaska District Court ruling upheld on appeal in 1992, that Alaskan Natives may create and sell handicrafts and clothing made from sea otters. This regulatory action would effect this necessary change.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Peoples, Acting Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS 840 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1718

RIN: 1018–AD15

1692. MARINE MAMMAL PROTECTION ACT; LETHAL TAKE FOR HUMAN PROTECTION

Priority: Other Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: Section 101(c) of the Marine Mammal Protection Act as amended in April 1994, allows lethal take of marine mammals for human health and safety. The Secretary may seize and dispose of any carcass so taken. This regulatory action proposes to implement this statutory provision.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Peoples, Acting Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS 840 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1718

RIN: 1018–AD16

1693. MARINE MAMMAL PROTECTION ACT; IMPORTATION OF MARINE MAMMAL PRODUCTS ARE PERSONAL EFFECTS FOR NON-COMMERCIAL CULTURAL EXCHANGES

Priority: Other Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Protection Act as amended, eases import restrictions on marine mammal products if such products are personal effect items or for non-commercial cultural exchanges. This regulatory action would implement this statutory provision.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Peoples, Acting Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS 840 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1718

RIN: 1018–AD17

1694. MARINE MAMMAL PROTECTION ACT; UNINTENTIONAL TAKE OF MARINE MAMMALS BY HARASSMENT ONLY IN ACTIVITIES OTHER THAN COMMERCIAL FISHING

Priority: Other Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Protection Act as amended in April 1994, authorizes the Secretary to allow U.S. citizens to incidentally, unintentionally take small numbers of marine mammals by harassment only for periods up to one year during specified activities other than commercial fishing. This regulatory action would implement this statutory provision.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Peoples, Acting Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS 840 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1718

RIN: 1018–AD18

1695. MARINE MAMMAL PROTECTION ACT; MEASURES TO SAFELY DETER MARINE MAMMALS, INCLUDING THREATENED AND ENDANGERED MARINE MAMMALS

Priority: Other Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Act as amended in April 1994, requires the Service to develop a list of guidelines to safely deter marine mammals for which the Service has statutory management responsibility, including threatened and endangered species. Such measures of deterrence are for use in protecting: (1) fishing gear or catch; (2) private property; (3) personal human safety, or (4) public property. This regulatory action would implement these statutory provisions.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Peoples, Acting Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS 840 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1718

RIN: 1018–AD19

1696. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE FOR THE NORTHERN SPOTTED OWL

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service will propose a section 4(d) rule for the northern spotted owl under the Endangered Species Act that will define the conditions under which incidental take of the species through habitat modification would not be a violation of Section 9 of the Act. An environmental impact statement is also being prepared, and will be available for review concurrent with the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 9484
NPRM Comment Period End	05/18/95	

Northern spotted owl
NPRM (Reopening of Comment Period) 05/18/95 (60 FR 26712)
NPRM (Reopening of Comment Period) 07/17/95 (60 FR 36382)
NPRM (Reopening of Comment Period) 09/25/95 (60 FR 49358)
Comment Period Extended to 11/24/95
Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD20

1697. MARINE MAMMALS; INCIDENTAL TAKE DURING SPECIFIED ACTIVITIES

Priority: Other Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: Final, Statutory, June 15, 1995.

Abstract: Provisions contained in 50 CFR 18.122 require that the Fish and Wildlife Service develop and begin implementing a polar bear habitat conservation strategy by June 15, 1995 for Beaufort Sea incidental take regulations found at 50 CFR 18, Subpart J, to remain in effect for an additional 42 months after June 15, 1995. The revised regulations will enable the United States to enhance its implementation of the ecosystem protection provisions of the Marine Mammal Protection Act and the 1973 International Agreement on the conservation of polar bears.

Timetable:

Action	Date	FR Cite
NPRM	03/17/95	60 FR 14408
NPRM Comment Period End	05/16/95	

Marine mammals incidental take activities
NPRM (Reopening of Comment Period) 06/14/95 (60 FR 31258)
Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Peoples, Acting Chief, Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS 840 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1718

RIN: 1018–AD21

1698. • TAXONOMIC CHANGE FROM SUBSPECIES TO VERTEBRATE POPULATION SEGMENT FOR THE VIRGIN RIVER CHUB

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Recent taxonomic work concluded that specific rank is warranted for the Virgin River chub, a federally listed endangered species found in the Virgin River system of Arizona, Nevada, and Utah. Additionally, researchers concluded that the chub in the Muddy River of Nevada, is conspecific with the Virgin River chub. Previously this distinctive population of the Virgin River chub, a category 2 candidate for Federal listing, was considered a separate, unnamed subspecies of roundtail chub, and was referred to as the Moapa roundtail chub. Because of this recent taxonomic work, the Service accepts that specific rank is warranted for the Virgin River chub and proposes to change the listing of the Virgin River chub in the Virgin River from a subspecies to a vertebrate population segment in the List of Endangered and Threatened Wildlife. In addition, the Service initiates a status review of the Virgin River chub in the Muddy River to determine whether this vertebrate population warrants listing as a threatened or endangered species.

Timetable:

Action	Date	FR Cite
NPRM	07/24/95	60 FR 37866
NPRM Comment Period End	09/22/95	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Local

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD22

1699. • CRITICAL HABITAT PROPOSAL FOR VIRGIN RIVER FISHES

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes to designate critical habitat for the Virgin River Chub, the Woundfin and Virgin spinedace. The Virgin River chub and Woundfin are listed as endangered; the Virgin spinedace has been proposed for listing as threatened (May 18, 1994), but the listing has not been finalized as yet.

Timetable:

Action	Date	FR Cite
NPRM	04/05/95	60 FR 17296
NPRM Comment Period End	06/05/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: This rulemaking was inadvertently published as RIN 1018- AD22. The final rule will be published with the correct RIN 1018-AD23.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD23

1700. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: EXEMPTION OF SMALL PRIVATE LANDOWNERS AND LOW IMPACT ACTIVITIES FROM ENDANGERED SPECIES ACT REQUIREMENTS FOR THREATENED SPECIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to amend the general regulations for threatened species under Endangered Species Act by establishing a new exemption for certain small landowners and low impact activities that are presumed to individually or cumulatively have little or no lasting effect on the likelihood of survival and recovery of threatened species of fish and wildlife, and, therefore, have only minor or negligible adverse effects. This exemption would be applied to all threatened species of fish and wildlife listed in the future unless the Service concluded for a given species that the exemption was inappropriate because its individual or cumulative biological effects would not be insignificant for the species as a whole. This proposal also seeks to establish an additional general exemption for activities that are conducted in accordance with a State-authorized or -developed habitat conservation strategy for threatened species which the Service has found to comprehensively address the threats to the species and promote the species' survival and recovery.

Timetable:

Action	Date	FR Cite
NPRM	07/20/95	60 FR 37419
NPRM Comment Period End	09/18/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD24

1701. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PROPOSED ENDANGERED STATUS FOR 13 PLANTS FROM THE ISLAND OF HAWAII

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for 13 plant taxa from the Island of Hawaii, State of Hawaii. All of the 13 taxa and their habitats have been variously affected or are currently affected by several factors including competition from naturalized, introduced vegetation, habitat degradation by wild, feral, or domestic animals and habitat loss and damage from fires, predation, natural disasters, (volcanic activity).

Timetable:

Action	Date	FR Cite
NPRM	09/25/95	60 FR 49377
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD25

1702. • MIGRATORY BIRDS: TAKE PROVISIONS FOR BALD EAGLES

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 22

Legal Deadline: None

Abstract: The Service proposes to outline the permit process for take of

bald eagles under the Bald and Golden Eagle Protection Act when incidental take is authorized under the Endangered Species Act. This proposed rulemaking will outline a process where an action affecting bald eagles would first be assessed under Section 7 or 10 of the Endangered Species Act to determine whether it is likely to jeopardize the species. If take is anticipated, an Endangered Species Act incidental take statement or habitat conservation plan permit with reasonable and prudent measures to minimize that take would be developed. That statement/permit would then be reviewed by the Service for addition of any appropriate migratory bird management provisions.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS -634 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714

RIN: 1018–AD26

1703. • ADDITION OF OTTAWA NATIONAL WILDLIFE REFUGE TO LIST OF OPEN AREAS FOR BIG GAME HUNTING IN OHIO

Priority: Other Significant

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: The Service proposes to add Ottawa National Wildlife Refuge to the list of areas open for big game hunting (white-tailed deer) in Ohio along with pertinent refuge-specific regulations for such activities. Ottawa National Wildlife Refuge is situated on the southwestern side of Lake Erie in what was once part of a 300,000 acre forested wetland known as the Great Black Swamp. National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS -670 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AD31

1704. • PROPOSED JOINT COUNTERPART ENDANGERED SPECIES ACT SECTION 7 CONSULTATION REGULATIONS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 402

Legal Deadline: None

Abstract: It is the consensus among the involved agencies that Section 7 consultations should occur at the level or levels that would most efficiently address impacts to proposed or listed species and their critical habitats. Accordingly, the Fish and Wildlife Service will propose joint regulations with the Department of Commerce that will provide more streamlined Section 7 consultation process on land management planning decisions and site-specific actions implemented under the management framework established by those plans.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD32

1705. • SEVEN PLANTS FROM THE MOUNTAINS OF SOUTHERN CALIFORNIA

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will develop regulations that will determine the appropriate status for seven plants from the mountains of southern California: San Bernadino bluegrass, and California dandelion, Johnson's rock-cress, Bear Valley sandwort, Ash-grey Indian paintbrush, Southern mountain wild buckwheat, and Hidden Lake bluecurls.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD34

1706. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PALLID MANZANITA

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Pallid manzanita. This plant species is found only in dry chaparral habitat within or near the northern Diablo Range of California in Alameda and Contra Costa Counties. The species is threatened by shading and competition from native and non-native plants, fire suppression, habitat regulatory mechanisms, and stochastic events by virtue of the small isolated nature of the remaining populations. All occurrences of this species are located on state, county and private lands.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD35

1707. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: NINE PLANTS FROM CALIFORNIA

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for nine California plants: Sonoma alopecurus, Clara Hunt's milkvetch, white sedge, Vine Hill clarkia, Pitkin marsh lily, Calistoga allocarya, Napa bluegrass, Kenwood marsh checkermallow, and Showy Indian clover. These plants are found in the grasslands and mesic areas of the central coast of California. Critical habitat is not being proposed at this time.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD36

1708. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: THREE PLANTS FROM THE CHANNEL ISLANDS OF SOUTHERN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the three plants: Catalina Island mountain-mahogany, San Clemente Island woodland star, and the Santa Cruz Island rockcress. These three plants occur on the Southern California Channel Islands. Critical habitat is not being proposed at this time.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Divison of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD38

1709. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR SOUTHWESTERN CALIFORNIA PLANTS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for four California plants: San Diego thornmint, Laguna Beach liveforever, Otay tarweed and Willowy monardella. These species are found in San Diego County and northern Baja, California. Critical habitat is not being proposed at this time.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD37

1710. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SIXTEEN PLANT TAXA FROM THE NORTHEN CHANNEL ISLANDS, CALIFORNIA

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for sixteen plant taxa from California: Hoffmann's rock-cress, Santa Rosa Island manzanita, Island barberry, Soft-leaved paintbrush, Santa Rosa Island dudleya, Munchkin dudleya, Santa Cruz Island dudleya, Island bedstraw, Hoffmann's slender-flowered gilia, Island rush-rose, Island alumroot, Santa Cruz Island bushmallow, Santa Cruz Island malacothrix, Island malacothrix, Island phacelia, and Santa Cruz Island fringepod. The plant taxa and their habitats have been affected by soil loss, habitat alteration by mammals alien to the Channel Islands, direct predation by these same alien mammals, habitat alteration by native seabirds, and seabirds and vehicular traffic, overcollection for scientific or recreational purposes, and competition from other plants. All 16 taxa are endemic to the northern Channel Islands (Anacapa, Santa Cruz, Santa Rosa, and San Miguel) with the exception of one poulation of island rush-rose that occurs on the more southerly island of Santa Catalina.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD39

1711. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: DESIGNATION OF EXPERIMENTAL NONESSENTIAL WHOOPING CRANE POPULATIONS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to designate the whooping crane

population in the Rocky Mountains as an experimental nonessential population and to remove whooping crane critical habitat designations from four national wildlife refuges: Bosque del Apache in New Mexico, Monte Vista and Alamosa in Colorado, and Grays Lake in Idaho. The private lands involved are holdings inside refuge boundaries and a 1-mile buffer around Grays Lake National Wildlife Refuge. The Service further proposes to use this population, and captive-reared sandhill cranes and whooping cranes, in experiments to evaluate methods for introducing whooping cranes into the wild where migration is required.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD45

1712. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PROPOSED ENDANGERED OR THREATENED STATUS FOR 19 PLANT SPECIES FROM THE ISLAND OF KAUAI, HAWAII

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for 22 plants from the Island of Kauai, Hawaii: Alsinidendron lychoides (kauawaaenohu); Alsinidendron viscosum (no common name ((NCN)); Cyanea recta (haha); Cyanea remyi (haha); Cyanaea ea sp. nov.(ha ha) Cyrtandra cyaneoides (mapele) Delissea rivularis ('oha); Hibiscadelphus sp. nov. (hau kuahiwi); Hibiscus waimeae ssp. hannerae (koki'o ke'oke'o); Kokia kauaiensis (koki'o); Labordia tinifolia var. wahiawaensis (kamakahala); Myrsine linearfolia (kolea); Phyllostegia knudenii (NCN); Phyllostegia wawrana (NCN); Pritchardia napaliensis; (loulu); Pritchardia viscosa (loulu); Schiedea helleri (NCN); Schiedea membranacea (NCN); Viola kauaensis var. wahiawaensis (nani wai'ale'ale). Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	09/25/95	60 FR 49359
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. Laverne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD46

1713. • ENDANGERED SPECIES LISTING: NOGAL OR WEST INDIAN WALNUT

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will propose regulations that will determine the appropriate status for the Nogal or West Indian walnut. The large forest tree is known from the Islands of Hispaniola, Cuba and Puerto Rico. Critical habitat is not being proposed at this time.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD47

1714. • ENGANGERED SPECIES LISTING: CORDIA BELLONIS (NO COMMON NAME)

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will propose regulations that will determine the appropriate status for cordia bellonis (no common name) under the Endangered Species Act. This shrub is endemic to Puerto Rico. Critical habitat is not being proposed at this time.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD48

1715. • ENDANGERED SPECIES LISTING: THREE PLANTS FROM MOLOKAI, HAWAII

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will propose regulations that will determine the appropriate status for 3 plants from the Island of Molokai, Hawaii; Cyanea du bariil (haha); Lysimachia maxima (No Common Name (NCN)); and Schiedea sarmentosa (NCN).

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVern Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD49

1716. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 42 SOUTH AMERICAN BIRDS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for 42 kinds of birds found in South America, including the Galapagos Islands. All have restricted distributions and are threatened by habitat destruction and various other factors.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS -452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD59

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Completed Actions

1717. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Other Significant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
End Review	04/19/94	59 FR 18652

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief
Phone: 703 358-2171

RIN: 1018–AB42

1718. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Other Significant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	04/04/94	59 FR 15696

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AB56

1719. RELEASE AND HARVEST OF CAPTIVE-BRED WATERFOWL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 21.13; 50 CFR 21.14

Completed:

Reason	Date	FR Cite
End Review - no action warranted at this time.	09/05/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul R. Schmidt, Chief
Phone: 703 358-1838

RIN: 1018–AB77

1720. MIGRATORY BIRD HUNTING: HUNTING REGULATIONS FOR RESTRICTION OF SHOTSHELL LENGTH AND MAXIMUM SHOT SIZE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
Withdrawn - no action indicated at this time	09/06/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Keith Morehouse
Phone: 703 358-1714

RIN: 1018–AB80

1721. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: REVISION OF THE SPECIAL RULE FOR NONESSENTIAL EXPERIMENTAL POPULATIONS OF RED WOLVES IN NORTH CAROLINA AND TENNESSEE

Priority: Other Significant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	04/13/95	60 FR 18940
Final Action Effective	04/13/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC03

1722. POLICY ON HEALTH CERTIFICATION FOR TRANSLOCATION/RELEASE OF ANIMALS UNDER SERVICE JURISDICTION

Priority: Other Significant

CFR Citation: 50 CFR 21; 50 CFR 22; 50 CFR 80; 50 CFR 17; 50 CFR 18

Completed:

Reason	Date	FR Cite
End Review - No action necessary at this time.	09/12/95	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Paul R. Schmidt

DOI—FWS

Completed Actions

Phone: 703 358-1714

RIN: 1018–AC40

1723. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: ARABIAN WOLF

Priority: Other Significant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
End Review	09/12/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC43

1724. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: RECLASSIFICATION OF THE BALD EAGLE

Priority: Other Significant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	07/12/95	60 FR 36000
Final Action Effective	08/12/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC48

1725. CLOSURE OF O'MALLEY RIVER AREA IN KODIAK NATIONAL WILDLIFE REFUGE, ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 36

Completed:

Reason	Date	FR Cite
Final Action	07/19/95	60 FR 37308
Final Action Effective	08/18/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger
Phone: 703 358-1744

RIN: 1018–AC49

1726. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: THREE CALIFORNIA INSECTS

Priority: Other Significant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	12/02/94	59 FR 62254

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC50

1727. IMPORTATION OF EXOTIC WILD BIRDS TO THE UNITED STATES; AMENDMENT OF FINAL RULE IMPLEMENTING THE WILD BIRD CONSERVATION ACT OF 1992

Priority: Other Significant

CFR Citation: 50 CFR 15

Completed:

Reason	Date	FR Cite
Final Action	12/02/94	59 FR 62254

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marshall Jones
Phone: 703 358-2093

RIN: 1018–AC51

1728. EXPORT OF AMERICAN ALLIGATORS TAKEN IN THE 1995-97 HARVEST SEASONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 23

Completed:

Reason	Date	FR Cite
Final Action	08/21/95	60 FR 43405

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Marshall Jones, Chief
Phone: 703 358-2093

RIN: 1018–AC72

1729. MIGRATORY BIRD HUNTING

Priority: Economically Significant

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	09/29/95	60 FR 50746

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Paul R. Schmidt, Chief
Phone: 703 358-1714

RIN: 1018–AC79

1730. NATIONAL WILDLIFE REFUGES: ADDITION OF AREAS OPEN TO HUNTING AND FISHING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 32

Completed:

Reason	Date	FR Cite
Withdrawn	09/14/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Shallenberger
Phone: 703 358-1744

RIN: 1018–AC81

1731. SEASONS AND BAG LIMITS FOR SUBSISTENCE MANAGEMENT REGULATIONS

Priority: Other Significant

CFR Citation: 50 CFR 100

Completed:

Reason	Date	FR Cite
Final Action	06/15/95	60 FR 31542

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Richard S. Pospahala
Phone: 907 786-3467

RIN: 1018–AC82

1732. CRITICAL HABITAT DESIGNATION FOR THE MEXICAN SPOTTED OWL

Priority: Other Significant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	06/06/95	60 FR 29914
Final Action Effective	07/06/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: E. LaVerne Smith, Chief

DOI—FWS

Completed Actions

Phone: 703 358-2171

RIN: 1018–AD02

1733. ADDITION OF CAPE MAY NATIONAL WILDLIFE REFUGE TO AREAS OPEN TO HUNTING IN NEW JERSEY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 32

Completed:

Reason	Date	FR Cite
Final Action	10/11/95	60 FR 52866
Final Action Effective	10/11/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger
Phone: 703 358-1744

RIN: 1018–AD03

1734. MIGRATORY BIRD HARVEST INFORMATION PROGRAM, 1995-96 HUNTING SEASON

Priority: Routine and Frequent

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	08/18/95	60 FR 43318
Final Action Effective	09/01/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Schmidt, Chief
Phone: 703 358-1714

RIN: 1018–AD08

1735. • UPDATE OF REGIONAL OFFICE ADDRESSES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301

CFR Citation: 50 CFR 2

Legal Deadline: None

Abstract: The Service will amend the Field organization regulations. The Service's regional offices in Boston, Massachusetts and Atlanta, Georgia have relocated.

Timetable:

Action	Date	FR Cite
Final Action	08/08/95	60 FR 40301

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Pinkerton, Policy and Directives Staff, Department of the Interior, United States Fish and Wildlife Service, MS 224 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1943

RIN: 1018–AD40

1736. • MIGRATORY BIRD HUNTING: DECISION ON THE CONDITIONAL APPROVAL OF BISMUTH-TIN SHOT AS NONTOXIC FOR THE 1995-1996 SEASON

Priority: Other

Legal Authority: 16 USC 703 to 711

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service is publishing this rule to notify the public of the interim conditional approval of bismuth tin shot for the 1995-96 migratory bird hunting season. Concluded acute toxicity studies undertaken by the Bismuth Cartridge Company, and other pertinent material indicate that bismuth-tin shot is nontoxic when ingested by waterfowl.

Timetable:

Action	Date	FR Cite
Final Action	08/18/95	60 FR 43314
Final Action Effective	09/01/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS -634 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714

RIN: 1018–AD41

BILLING CODE 4310-55-F

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Proposed Rule Stage

1737. DRY TORTUGAS NATIONAL PARK: FISHING; BOUNDARY ADJUSTMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.27

Legal Deadline: None

Abstract: This proposed regulation pertains to Dry Tortugas National Park and will delete references to the taking of crayfish and conch. Information will be included to redefine the park boundary. These changes are necessary to reflect a closure of park waters to the removal of crayfish and conch and to update boundary changes mandated by congressional action in 1980 that enlarged the park area.

Timetable:

Action	Date	FR Cite
NPRM	08/05/86	51 FR 28110
NPRM Comment Period End	09/04/86	51 FR 28110
Second NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wayne Landrum, Site Manager, Department of the Interior, National Park Service, Dry Tortugas National Park, P.O. Box 6208, Key West, FL 33041
Phone: 813 695-3091

RIN: 1024–AA96

1738. MINERALS MANAGEMENT—NON-FEDERAL OIL AND GAS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1 et seq; 16 USC 230a; 16 USC 450kk; 16 USC 459d-3; 16 USC 459h-3; 16 USC 460m; 16 USC 460cc-2(i); 16 USC 460ee; 16 USC 698c; 16 USC 698f; 16 USC 3101 et seq; 43 USC 600d; 18 USC 3571; 18 USC 3581

CFR Citation: 36 CFR 9

Legal Deadline: Final, Statutory, January 29, 1989.
Section 8 of the Big Cypress National Preserve Addition Act directs the Secretary of the Interior to promulgate regulations governing nonfederal oil and gas development by 1/29/89.

Abstract: Several sections of 36 CFR part 9, subpart B contain ambiguous language which has caused confusion in interpreting the existing regulations. The NPS wants to make technical revisions to clarify requirements for both applicants and the Service. Also, the existing regulations exempt two classes of operators from compliance. Because of these exemptions, the regulations apply to only 30% of the existing operations resulting in avoidable impacts to park resources and visitor values from unregulated operations. Finally, the Service intends to propose revisions to the existing regulations to incorporate congressionally mandated requirements and timetables governing nonfederal oil and gas development in the Big Cypress National Preserve Addition. Examples of such revisions include: making the regulations applicable to all oil and gas operations within all units of the National Park System; updating terms for consistency with existing policies, practices, and laws; and removing the monetary ceiling and floor on bonds and security deposits so that bonds may be calculated and posted commensurate with reclamation costs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol McCoy, Chief, Policy and Regulations Section, Department of the Interior, National Park Service, Room 221, 12795 W. Alameda Parkway, Lakewood, CA 80225
Phone: 303 969-2096

RIN: 1024–AB39

1739. NATIONAL PARK SERVICE SYMBOLS: UNITED STATES PARK POLICE INSIGNIA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 11

Legal Deadline: None

Abstract: The National Park Service proposed rule and request for comments relates to the United States Park Police insignia. It will recognize an official United States Park Police insignia, provide for its future protection and prevent the unauthorized use of the insignia.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874
Fax: 202 208-6756
Email: Dennis Burnett@nps.gov

RIN: 1024–AB94

1740. RIGHTS-OF-WAY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 3; 16 USC 5; 16 USC 79

CFR Citation: 36 CFR 14

Legal Deadline: None

Abstract: The regulations for rights-of-way found at 36 CFR part 14, subparts A to H were promulgated as interim regulations in 1980. The regulations no longer meet the needs of the Service or of rights-of-way applicants. Final regulations need to be developed through a revision of part 14.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dick Young, Park Ranger, Department of the Interior, National Park Service, Colonial National Park, P.O. Box 210, Yorktown, VA 23690
Phone: 804 898-3400

RIN: 1024–AC01

1741. PENALTY PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 18 USC 3571

CFR Citation: 36 CFR 1.3

Legal Deadline: None

Abstract: Existing fine penalties at 36 CFR 1.3 were outdated by the Criminal Fine Improvement Act of 1987 (Pub. L. 100-185). These proposed regulations will establish penalty provisions in accordance with the Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Tiernan, Attorney-Advisor, Office of the Solicitor, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-7957

RIN: 1024–AC06

1742. ROCK CLIMBING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 2.63

Legal Deadline: None

Abstract: Rock climbing has long been an accepted recreational activity in many park areas. An explosive growth of rock climbing in recent years, along with increased impacts to park resources because of this activity, suggests that regulations and guidelines need to be developed to protect park resources while providing for a quality climbing experience. Information to address this issue will be sought from interested parties in an Advance Notice of Proposed Rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	06/11/93	58 FR 32878
ANPRM Comment Period End	09/13/93	58 FR 32878
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874

RIN: 1024–AC13

1743. YELLOWSTONE NATIONAL PARK—SPECIAL REVISION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.13

Legal Deadline: None

Abstract: Specific regulations for Yellowstone National Park were originally promulgated in the early 1970s, with only minor changes since that time. This rulemaking will completely revise this section to bring it up to date.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian O'Dea, Criminal Investigator, Department of the Interior, National Park Service, Yellowstone National Park, P.O. Box 168, Yellowstone NP, WY 82190
Phone: 307 344-2121

RIN: 1024–AC18

1744. GENERAL REGULATIONS FOR AREAS ADMINISTERED BY THE NATIONAL PARK SERVICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 20(D); 16 USC 462; 16 USC 3101

CFR Citation: 36 CFR 1

Legal Deadline: None

Abstract: The NPS is revising portions of 36 CFR 1.2, 1.4, and 13.2. Section 1.2 defines the primary scope and applicability of 36 CFR parts 1-5, and parts 7 and 13. Section 1.4 contains definitions for terms used in the text of the regulations. Section 13.2 modifies section 1.2 as it relates to National Park System units in Alaska. This revision clarifies the applicability of those NPS regulations that apply in all National Park System areas to navigable waters located within park boundaries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874

RIN: 1024–AC21

1745. GLACIER BAY: REGULATION APPLICABILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 3101 et seq

CFR Citation: 36 CFR 13.65

Legal Deadline: None

Abstract: This is an interim rule that will clarify the general applicability of National Park Service regulations to Glacier Bay National Park, clearing up a technical problem with general applicability rules.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/94	59 FR 14564
Interim Final Rule Effective	03/29/94	59 FR 14564
NPRM	01/00/96	
NPRM Comment Period End	04/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James M. Brady, Superintendent, Department of the Interior, National Park Service, Glacier Bay National Park, P.O. Box 140, Gustavus, AK 99826-0140
Phone: 907 697-2230

RIN: 1024–AC22

1746. VOYAGEURS NATIONAL PARK: AIRCRAFT OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.33

Legal Deadline: None

Abstract: This proposed rulemaking amends the current special regulations for Voyageurs National Park by adding a section designating areas open to aircraft use within the Park. This addition is necessary because National Park Service general regulations require such special regulatory designations for areas in parks open to the operation or use of aircraft. The intended effects are to increase safety, protect resources, and provide appropriate enjoyment to park users.

DOI—NPS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/02/95	60 FR 39257
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce McKeeman, Chief Ranger, Department of the Interior, National Park Service, Voyageurs National Park, HCR 9, Box 600, International Falls, MN 56649-9701
Phone: 218 283-9821

RIN: 1024–AC23

1747. CONVEYANCE OF FREEHOLD AND LEASEHOLD INTERESTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 17

Legal Deadline: None

Abstract: The National Park Service proposes to modify the regulations for sale or lease of real estate that will allow bids on sales to be accompanied by earnest money equivalent 1% of the appraised value or $1,000, whichever is greater, with the balance of the bid due within 45 days of the award; bids on leases must be accompanied by the first year's rent.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Debo, Superintendent, Department of the Interior, National Park Service, Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, OH 44141
Phone: 216 526-5256

RIN: 1024–AC27

1748. BADLANDS NATIONAL PARK—COMMERCIAL VEHICLES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k)

CFR Citation: 36 CFR 7.23

Legal Deadline: None

Abstract: The National Park Service proposes to establish a special regulation to permit the operation of local commercial vehicles on 5.8 miles of park roads between the Northeast and Interior entrances to Badlands National Park. The park currently allows limited local commercial use of these roads and this rulemaking would exempt this portion of park roads from the general prohibition on commercial vehicles in National Park areas. The Superintendent will be provided the discretion to require permits and fees for this use. The proposed rule will prohibit transportation of hazardous materials and overwidth/overweight vehicles except in limited circumstances.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Donaldson, Chief Ranger, Department of the Interior, National Park Service, Badlands National Park, P.O. Box 6, Interior, SD 57750
Phone: 605 433-5361

RIN: 1024–AC30

1749. SHENANDOAH NATIONAL PARK: BACKCOUNTRY AND FISHING REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.15

Legal Deadline: None

Abstract: The National Park Service is proposing to remove the majority of the backcountry and fishing regulations specific to Shenandoah National Park. This rule will retain only those regulations not covered by Parts 1 and 2 of 36 CFR and deemed necessary for the proper management of the park.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874

RIN: 1024–AC33

1750. GRAND TETON NATIONAL PARK AND JOHN D. ROCKEFELLER, JR. MEMORIAL PARKWAY: SNOWMOBILE AND SNOWPLANE ROUTES AND REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.22

Legal Deadline: None

Abstract: The National Park Service proposes to change the special regulations relating to the use of and designated routes for snowmobiles and snowplanes within Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway. The proposed rule will define more clearly the use of snowmobiles, snowplanes, and designated routes. This rule can eliminate the use of snowmobiles in the Potholes-Baseline Flats area at the discretion of the Superintendent and establish special regulations allowing snowmobile use on the Continental Divide Snowmobile Trail. The proposed rule will also establish a requirement for operators of snowmobiles within Grand Teton National Park to have a valid driver's license or learner's permit.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54633
NPRM Comment Period End	12/26/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874

RIN: 1024–AC34

1751. • APPLICABILITY AND RESOURCE PROTECTION REVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462

CFR Citation: 36 CFR 2

Legal Deadline: None

Abstract: A major revision of 36 CFR Part 2 was completed in 1983. This current review is to address clarification of the applicability of these regulations in National Park Service areas, and to update existing resource protection and visitor use regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Department of the Interior, National Park Service, Room 3315, MS 650, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874
Fax: 202 208-6756

RIN: 1024–AC38

1752. • MOUNTAIN CLIMBING; 60-DAY PREREGISTRATION REQUIREMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 462(k); 16 USC 3101 et seq

CFR Citation: 36 CFR 13.63

Legal Deadline: None

Abstract: The National Park Service is promulgating a regulation to require mountain climbers to register a minimum of 60 days before any climb on Mount McKinley or Mount Foraker in Denali National Park. Mountaineering in the park has increased dramatically over the past 10 years, and climbing-related injuries and deaths have correspondingly increased. By requiring advance registration, the Denali Park staff will be able to provide safety and other related climbing information to prospective mountaineers in advance of their climb. When this rule becomes final, it will replace an interim rule that became effective March 31, 1995 (60 FR 16579).

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47513
NPRM Comment Period End	11/13/95	
Final Action	02/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J.D. Swed, Supervisory Park Ranger, Department of the Interior, National Park Service, Denali National Park and Preserve, P.O. Box 9, Denali National Park, AK 99755
Phone: 907 683-2294

RIN: 1024–AC39

1753. • APPALACHIAN NATIONAL SCENIC TRAIL: POWERLESS FLIGHT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(q); 16 USC 462(k)

CFR Citation: 36 CFR 7.100

Legal Deadline: None

Abstract: The National Park Service is proposing a rule to allow hang gliding within the park. Special regulations are required for this recreational activity to take place in park areas. An interim rule was published in the Federal Register on July 14, 1995 (60 FR 36224). When this rule becomes final, it will replace the interim rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/14/95	60 FR 36224
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874
Fax: 202 208-6756

RIN: 1024–AC42

1754. • PROCEDURES FOR STATE, TRIBAL, AND LOCAL GOVERNMENT HISTORIC PRESERVATION PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 61

Legal Deadline: None

Abstract: The National Park Service proposes to revise the requirements for State and local historic preservation programs as well as the way the NPS administers these programs. The proposed changes are intended to provide more flexibility in (1) State historic preservation office staffing; (2) State Historic Preservation Review Board membership and operations; and (3) carrying out State Historic Preservation Officer responsibilities. The revision streamlines the process for certification of local governments to participate officially in the national historic preservation program. This proposed revision also officially recognizes the growing role of tribal historic preservation programs. Some of

DOI—NPS

Proposed Rule Stage

the changes are necessary because of the 1992 amendments to the National Historic Preservation Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John W. Renaud, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 343-1059
Fax: 202 343-1836

RIN: 1024–AC44

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Final Rule Stage

1755. NATIONAL NATURAL LANDMARKS PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 461 et seq

CFR Citation: 36 CFR 62

Legal Deadline: None

Abstract: This proposed rulemaking will amend the current regulations for the National Natural Landmarks Program. Proposed changes include strengthening and clarifying provisions for landowner notification, adding requirements for voluntary landowner consent for natural landmark designation, and providing for review of natural landmark nominations by the National Park System Advisory Board.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/90	55 FR 43384
NPRM	11/21/91	56 FR 58790
NPRM Comment Period End	02/19/92	56 FR 58790
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Johnston, Chief, Wildlife and Vegetation Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 343-8115

RIN: 1024–AB96

1756. GLACIER BAY NATIONAL PARK, ALASKA FISHING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 3101 et seq

CFR Citation: 36 CFR 13.65

Legal Deadline: None

Abstract: The proposed regulations will allow commercial fishing in Glacier Bay National Park as an exemption from currently existing servicewide regulations until December 31, 1997. Non-commercial consumptive fishing methods are designated, and subsistence uses are prohibited pursuant to statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/05/91	56 FR 37262
NPRM Comment Period End	11/03/91	56 FR 46589
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James M. Brady, Superintendent, Department of the Interior, National Park Service, Glacier Bay National Park, P.O. Box 140, Gustavus, AK 99826-0140
Phone: 907 697-2230

RIN: 1024–AB99

1757. GLACIER BAY: VESSEL MANAGEMENT PLAN/REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 3; 16 USC 3101; 16 USC 1361; 16 USC 1531

CFR Citation: 36 CFR 13.65

Legal Deadline: None

Abstract: Glacier Bay National Park is initiating a vessel management plan that will, during its formulation, review the existing vessel regulations for revisions.

Timetable:

Action	Date	FR Cite
NPRM	06/05/95	60 FR 29523
NPRM Comment Period End	08/25/95	60 FR 40798
Final Action	02/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James M. Brady, Superintendent, Department of the Interior, National Park Service, Glacier Bay National Park, Gustavus, AK 99826
Phone: 907 697-2230

RIN: 1024–AC05

1758. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT IMPLEMENTATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 3001 to 3013

CFR Citation: 43 CFR 10

Legal Deadline: None

Abstract: Regulations will provide Federal agencies, museums that receive Federal funds, and Indian tribes and Native Hawaiian organizations with directions on procedures and actions needed to comply with the Native American Graves Protection and Repatriation Act.

DOI—NPS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/28/93	58 FR 31122
NPRM Comment Period End	07/27/93	58 FR 31122
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Francis P. McManamon, Departmental Consulting Archeologist, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 343-4101

RIN: 1024–AC07

1759. VISITOR SERVICES UNDER SECTION 1307 OF ANILCA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 3197

CFR Citation: 36 CFR 13

Legal Deadline: None

Abstract: This proposed rule establishes procedures for granting rights and preferences in the award and renewal of competitive visitor service authorizations for visitor service providers to conduct business on certain National Park Service lands in Alaska. This rule implements section 1307 of the Alaska Lands Act (ANILCA), which protects certain visitor service providers in operation prior to January 1, 1979, and which directs that a right of preference for any future new visitor service be given to local residents and Native corporations.

Timetable:

Action	Date	FR Cite
NPRM	04/25/95	60 FR 20374
NPRM Comment Period End	09/11/95	60 FR 36082
Final Action	02/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeff Cobb, Chief, Division of Concessions, Department of the Interior, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 90225
Phone: 907 257-2594

RIN: 1024–AC19

1760. OREGON CAVES NATIONAL MONUMENT: SPECIAL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(q); 16 USC 462(k)

CFR Citation: 36 CFR 7.49

Legal Deadline: None

Abstract: The National Park Service proposes to modify restrictions on admission to Oregon Caves in Oregon Caves National Monument. This proposed regulation would allow children over a specified height and with a measurable physical ability to enter the caves, regardless of age. The present restriction states that children under the age of six are not permitted to enter the caves. A search of historical records has failed to find any extensive discussion of or justification for this particular age limit. There also appears to be little justification for using six years of age in determining who enters the caves. A child's size and endurance determine his or her cave traveling abilities more than age.

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13662
NPRM Comment Period End	05/15/95	60 FR 13662
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Craig W. Ackerman, Park Manager, Department of the Interior, National Park Service, Oregon Caves National Monument, 19000 Caves Highway, Cave Junction, OR 97523
Phone: 503 592-2100

RIN: 1024–AC26

1761. CAPE LOOKOUT NATIONAL SEASHORE: SPECIAL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k)

CFR Citation: 36 CFR 7.98

Legal Deadline: None

Abstract: The National Park Service proposes to close Portsmouth Village Airstrip to the operation of aircraft. The action is necessary to prevent aircraft accidents and eliminate a use that is incompatible with preserving the historic scene in Portsmouth Village, a historic district on the National Register of Historic Places. The primary intent of this proposed rule is to protect the flying public by closing an airstrip that does not comply with Federal Aviation Administration and North Carolina Department of Transportation safety standards.

Timetable:

Action	Date	FR Cite
NPRM	07/12/95	60 FR 35887
NPRM Comment Period End	09/11/95	60 FR 35887
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chuck Harris, Chief Ranger, Department of the Interior, National Park Service, Cape Lookout National Seashore, 131 Charles Street, Harkers Island, NC 28531
Phone: 919 728-2250

RIN: 1024–AC29

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Completed Actions

1762. GLACIER NATIONAL PARK REVISION

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 7.3

Completed:

Reason	Date	FR Cite
Final Action	07/12/95	60 FR 35839
Final Action Effective	08/11/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett
Phone: 202 208-4874

RIN: 1024–AC15

1763. THE SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 68

Completed:

Reason	Date	FR Cite
Final Action	07/12/95	60 FR 35842
Final Action Effective	08/14/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kay Weeks
Phone: 202 343-9593

RIN: 1024–AC24

1764. ALASKA; HUNTING AND TRAPPING REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 13

Completed:

Reason	Date	FR Cite
Final Action	04/11/95	60 FR 18532
Final Action Effective	05/11/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Paul Hunter
Phone: 907 257-2646

RIN: 1024–AC25

1765. PICTURED ROCKS NATIONAL LAKESHORE; SPECIAL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 7.32

Completed:

Reason	Date	FR Cite
Final Action	09/14/95	60 FR 47701
Final Action Effective	10/16/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Hach
Phone: 906 387-2607

RIN: 1024–AC28

1766. GETTYSBURG NATIONAL MILITARY PARK: ONE-WAYING OF PARK ROADS

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 7.44

Completed:

Reason	Date	FR Cite
Withdrawn No further action to be taken at this time.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett
Phone: 202 208-4874

RIN: 1024–AC35

1767. • GENERAL PROVISIONS, DEFINITIONS; CHANGE IN ORGANIZATIONAL TITLES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460l-6a(e); 16 USC 462(k)

CFR Citation: 36 CFR 1.4

Legal Deadline: None

Abstract: The National Park Service is amending and revising the General Provisions definition of Regional Director to reflect a new organizational structure. The term "Regional Director" will be deleted from the definition section and a new definition, "Field Director," will be added in alphabetical order.

Timetable:

Action	Date	FR Cite
Final Action	11/03/95	60 FR 55789
Final Action Effective	11/03/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874
Fax: 202 208-6756

RIN: 1024–AC43

BILLING CODE 4310-70-F

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Indian Affairs (BIA)

Proposed Rule Stage

1768. ADMINISTRATION OF THE HIGHER EDUCATION PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 13; PL 67-85

CFR Citation: 25 CFR 40

Legal Deadline: None

Abstract: This rule will revise established policies and provide uniform procedures to govern the higher education program administered under the authority of 25 USC 13. This rule applies only to educational grants; Bureau educational loans are governed by 25 CFR part 91. This part has been redesignated from 25 CFR part 32.

Timetable:

Action	Date	FR Cite
Public Consultation	01/23/91	
NPRM	04/00/96	
NPRM Comment Period End	07/00/96	
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: Tribal, Federal

Additional Information: This rule is being reproposed due to a court decision on the definition of "Indian."

Agency Contact: Terry Portra, Education Specialist, Department of the Interior, Bureau of Indian Affairs, MS-3530 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4871

RIN: 1076–AA10

1769. LEASING AND PERMITTING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 395; 25 USC 402; 25 USC 403; 25 USC 466

CFR Citation: 25 CFR 162

Legal Deadline: None

Abstract: This rule will reorganize the existing leasing and permitting rule into subparts and incorporate the provisions on range permits and leasing required by Public Law 103-177.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3598

RIN: 1076–AA29

1770. INDIVIDUAL INDIAN MONIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 29; 43 USC 1457

CFR Citation: 25 CFR 115

Legal Deadline: None

Abstract: This regulation will modify existing regulations governing the Individual Indian Monies Trust (IIM) Funds and establish guidelines on accepting new IIM accounts. The Federal Government has sole responsibility for the protection of Indian trust funds which have been either collected from receipts from Indian trust land or through judgment awards to tribes and/or individuals.

The Bureau of Indian Affairs has established the Office of Trust Funds Management to oversee Indian Trust Funds operations. The modified and new regulations will result in the added protection, and more efficient handling of the Indian trust funds.

Timetable:

Action	Date	FR Cite
Initial proposed rule published	08/15/94	59 FR 41948
NPRM	08/00/96	
NPRM Comment Period End	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pat Gerard, Program Analyst, Office of Trust Funds Management, Department of the Interior, Bureau of Indian Affairs, 505 Marquette NW., Suite 700, Albuquerque, NM 87102
Phone: 505 766-3223

RIN: 1076–AC65

1771. NAVAJO PARTITIONED LANDS GRAZING REGULATIONS

Priority: Other Significant

Legal Authority: 25 USC 640(d)

CFR Citation: 25 CFR 161

Legal Deadline: None

Abstract: These regulations are necessary for implementation of the livestock and grazing control provisions of 25 USC 640(d). In 1982 the Federal District Court for Arizona abolished 25 CFR 153, Grazing Regulation for the Joint Use Administrative Area and ordered the Secretary to promulgate new regulations for the control of grazing and livestock for the former Joint Use Administrative Area. Due to a lack of tribal concurrence, regulations were not promulgated for lands partitioned to the Navajo Tribe. Navajo tribal concurrence has been recently obtained; therefore, the BIA needs to move forward with publication of these regulations. Any cost associated with the implementation of these regulations will be assumed within the BIA annual budget. Cost associated with compliance of the provisions of these regulations will be borne by the Navajo Tribe or its members. There is no associated cost to the general public.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3598

RIN: 1076–AC81

1772. FAMILY AND CHILD EDUCATION PROGRAM (FACE)

Priority: Other Significant

Legal Authority: 25 USC 2; 25 USC 2003; 25 USC 2002; 25 USC 13

CFR Citation: 25 CFR 35

Legal Deadline: None

Abstract: This rule will establish new standards and procedures for applications and approval of applications under family and child education programs. The proposed standards are intended to enhance and ensure fairness in the award of funds for these programs.

DOI—BIA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/16/96	
NPRM Comment Period End	12/16/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patsy Jones, Education Specialist, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, Room 3530 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 219-1127

RIN: 1076–AC92

1773. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 13; 25 USC 200; 25 USC 3201 et seq

CFR Citation: 25 CFR 63

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing to establish regulations as mandated by the Indian Child Protection and Family Violence Prevention Act that prescribe minimum standards of character and suitability of employment for individuals whose duties and responsibilities allow them regular contact with or control over Indian children and establish the menthod for distribution of funds appropriated for Indian child protection and family violence prevention programs.

Timetable:

Action	Date	FR Cite
Tribal Consultation	08/31/94	
NPRM	09/01/95	60 FR 45982
NPRM Comment Period End	11/01/95	
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betti A. Delrow, Child Protection Coordinator, Office of Tribal Services, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., MS 4603-MIB, Washington, DC 20240
Phone: 202 208-3463

RIN: 1076–AC97

1774. RANGE REGULATIONS

Priority: Other Significant

Legal Authority: PL 103-177

CFR Citation: 25 CFR 162; 25 CFR 166

Legal Deadline: Final, Statutory, December 3, 1995.

Abstract: This rule implements the Education Trespass and Land Management portion of Public Law 103-177.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 4559, Washington, DC 20240
Phone: 202 208-3598

RIN: 1076–AD04

1775. INDIAN SCHOOL EQUALIZATION PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 13; 25 USC 2008

CFR Citation: 25 CFR 39

Legal Deadline: None

Abstract: This rule will change the definitions of some disabling conditions so that they are consistent with Department of Education definitions of some disabling conditions and adjust the way schools are reimbursed for student transportation services.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joy Martin, Chief, Branch of Administrative Services, Department of the Interior, Bureau of Indian Affairs, Room 3515 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 219-4555

RIN: 1076–AD09

1776. LAND ACQUISITIONS FOR TRIBES AND INDIVIDUAL INDIANS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 409a; 25 USC 465; 25 USC 501; 25 USC 574; 25 USC 576; 25 USC 608; 25 USC 467; 25 USC 450h; 25 USC 463e; 25 USC 451; 25 USC 464; 25 USC 487 to 489; 25 USC 573; 25 USC 610

CFR Citation: 25 CFR 151

Legal Deadline: None

Abstract: This rule will revise the regulations to comply with current statutes and Departmental policy. It will add provisions or clarify procedures for land acquisitions under Part 151 and will provide stronger and more consistent guidelines for reviewing trust applications than the current case-by-case review, which uses general criteria. The streamlined regulations will benefit tribes and individual Indians who request real property acquisition for trust status. No additional costs will be incurred by applicants or the Bureau.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alice Harwood, Realty Specialist, Department of the Interior, Bureau of Indian Affairs,

DOI—BIA

Proposed Rule Stage

Division of Real Estate Services, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3604

RIN: 1076–AD11

1777. INDIAN TRIBAL JUSTICE ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-176

CFR Citation: 25 CFR 92

Legal Deadline: None

Abstract: This rule will establish the formula used to determine the funding to be given under the Indian Tribal Justice Act. The formula, standards, and criteria are required by Section 103 of the Act. This rule will affect tribal governance and individual welfare.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	05/00/96	

Small Entities Affected: Organizations

Government Levels Affected: Tribal

Agency Contact: Carey Vicenti, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 2611 MIB, Washington, DC 20240
Phone: 202 208-4400

RIN: 1076–AD15

1778. TRIBAL SELF-GOVERNANCE

Regulatory Plan: This entry is Seq. No. 60 in Part II of this issue of the **Federal Register**.

RIN: 1076–AD20

1779. INDIAN SELF-DETERMINATION ACT AMENDMENTS OF 1994

Regulatory Plan: This entry is Seq. No. 61 in Part II of this issue of the **Federal Register**.

RIN: 1076–AD21

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Final Rule Stage

1780. ADMINISTRATION OF THE INDIAN ADULT EDUCATION PROGRAMS

Priority: Other Significant

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 46

Legal Deadline: None

Abstract: These proposed regulations are designed to provide standardized administrative procedures for administering and operating Indian adult education programs.

Timetable:

Action	Date	FR Cite
NPRM	12/30/87	12 FR 49172
NPRM Comment Period End	02/29/88	52 FR 49172
Public consultation	01/23/91	
NPRM	08/25/94	59 FR 44016
NPRM Comment Period End	01/31/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Terry Portra, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4871

RIN: 1076–AA15

1781. OIL, GAS, SOLID MINERAL, AND GEOTHERMAL MINERAL AGREEMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 2101 to 2108

CFR Citation: 25 CFR 211; 25 CFR 212

Legal Deadline: None

Abstract: The purpose of these revisions is to reflect the enactment of legislation, court decisions, changes, and reorganization with the Federal government and the evolution of usual and common business practices. The existing rule does not adequately reflect the provisions of the Federal Oil and Gas Royalty Management Act or the Surface Mining Control and Reclamation Act.

Timetable:

Action	Date	FR Cite
NPRM	10/21/87	52 FR 39332
NPRM Comment Period End	12/21/87	52 FR 39332
NPRM	11/18/91	56 FR 58734
Reproposal	11/21/91	56 FR 58734
NPRM Comment Period End	01/19/92	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Additional Information: This regulation was formerly combined with material that will now be published separately under RIN 1076-AC98.

Agency Contact: Kim Snyder, Division of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3607

RIN: 1076–AA82

1782. ROADS OF THE BUREAU OF INDIAN AFFAIRS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 47; 25 USC 318a; 23 USC 202; 23 USC 204

CFR Citation: 25 CFR 170

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing to revise 25 CFR part 170 to reflect the current Bureau of Indian Affairs and Federal Highway Administration policies for road systems on Indian reservations. This change is proposed to assure that funds are apportioned from the Highway Trust Fund for construction projects on Indian reservations roads in accordance with the relative needs of the

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Final Rule Stage

reservation, and to encourage tribal self-determination.

Timetable:

Action	Date	FR Cite
NPRM	03/24/94	59 FR 14030
NPRM Comment Period End	05/23/94	59 FR 14030
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Paul Sunwoo, Acting Chief, Division of Transportation, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 4050, MIB, Washington, DC 20240
Phone: 202 208-4359

RIN: 1076–AB05

1783. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 20

Legal Deadline: None

Abstract: The Bureau is amending existing Financial Assistance and Social Services program regulations. The proposed regulations define the extent of the programs, establish eligibility requirements and set the parameters for assistance payments. General Assistance, Child Welfare Assistance and Services to Families and Communities will be revised. Adult Care Services, Tribal Work Experience Program and Miscellaneous Assistance Programs will be added to the regulations in more detail.

Timetable:

Action	Date	FR Cite
NPRM	04/07/94	59 FR 16720
NPRM Comment Period End	06/06/94	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Betty Tippeconnic, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2721

RIN: 1076–AC13

1784. PREFERENCE IN EMPLOYMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 479

CFR Citation: 25 CFR 5

Legal Deadline: None

Abstract: The Bureau is proposing to eliminate provisions relating to preference in employment because they expired on January 5, 1990.

Timetable:

Action	Date	FR Cite
NPRM	09/06/94	59 FR 47046
NPRM Comment Period End	12/06/94	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Patrick Hamilton, Director of Personnal, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Room 320-SIB, Washington, DC 20245
Phone: 202 208-2506

RIN: 1076–AD05

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Long-Term Actions

1785. GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 1801 to 1852; 25 USC 640; 25 USC 1831

CFR Citation: 25 CFR 41

Legal Deadline: None

Abstract: This rule applies to the provision of financial assistance, technical assistance, and endowments to tribal colleges and Navajo Community College and will strengthen requirements relating to: (1) Criteria for satisfactory programs; (2) counting Indian students; (3) developing planning grants; (5) forward funding; (6) renovation and construction of facilities; and (7) preparing construction feasibility reports.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Terry Portra, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Room 3512, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4871

RIN: 1076–AD08

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Completed Actions

1786. GENERAL FOREST REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 163

Completed:

Reason	Date	FR Cite
Final Action	10/05/95	60 FR 52250

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Tribal, Federal

Agency Contact: Jim Stires
Phone: 406 657-6358

RIN: 1076–AC44

1787. OFF RESERVATION LAND ACQUISITIONS FOR INDIAN TRIBES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 25 CFR 151

Completed:

Reason	Date	FR Cite
Final Action	06/23/95	60 FR 32874
Final Action Effective	05/15/95	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Alice Harwood
Phone: 202 208-3604

RIN: 1076–AC51

1788. OPERATION AND MAINTENANCE OF IRRIGATION PROJECTS

Priority: Other Significant

CFR Citation: 25 CFR 171

Completed:

Reason	Date	FR Cite
Withdrawn no further action will be taken at this time.	08/09/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ross Mooney
Phone: 202 208-5480

RIN: 1076–AC53

1789. SALE OF FOREST PRODUCTS, RED LAKE INDIAN RESERVATION, MINNESOTA

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 25 CFR 165

Completed:

Reason	Date	FR Cite
Final Action	10/03/95	60 FR 51723

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Jim Stires
Phone: 406 657-6358

RIN: 1076–AC75

1790. SALE OF LUMBER AND OTHER FOREST PRODUCTS PRODUCED BY INDIAN ENTERPRISES FROM THE FORESTS ON INDIAN RESERVATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 25 CFR 164

Completed:

Reason	Date	FR Cite
Final Action	10/03/95	60 FR 51723

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Jim Stires
Phone: 406 657-6358

RIN: 1076–AC77

1791. INDIAN ELECTRIC POWER UTILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 175

Completed:

Reason	Date	FR Cite
Withdrawn no further action will be taken at this time.	08/09/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ross Mooney
Phone: 202 208-5480

RIN: 1076–AD03

1792. PRESERVATION OF ANTIQUITIES

Priority: Other

CFR Citation: 25 CFR 261

Completed:

Reason	Date	FR Cite
Final Action	06/23/95	60 FR 32896

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald Sutherland
Phone: 202 208-4791

RIN: 1076–AD10

1793. LEASING OF OSAGE RESERVATION LANDS IN OKLAHOMA FOR MINING EXCEPT OIL AND GAS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 214

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken at this time.	08/09/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kim Snyder
Phone: 202 208-3607

RIN: 1076–AD12

1794. SPECIAL EDUCATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 45

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken at this time.	08/09/95	

DOI—BIA

Completed Actions

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Lena Mills

Phone: 202 208-6675

RIN: 1076–AD16

BILLING CODE 4310-02-F

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Prerule Stage

1795. TRAINING OF LESSEE AND CONTRACTOR EMPLOYEES ENGAGED IN OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1332

CFR Citation: 30 CFR 250.210; 30 CFR 250.211; 30 CFR 250.212; 30 CFR 250.213; 30 CFR 250.214; 30 CFR 250.215

Legal Deadline: None

Abstract: MMS feels that the current regulations in 30 CFR 250 need to be updated to provide the flexibility to use new technology and innovative programs.

Timetable:

Action	Date	FR Cite
NPRM	08/05/94	59 FR 39991
ANPRM Comment Period End	01/00/96	
ANPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Buffington, Petroleum Engineer, Department of the Interior, Minerals Management Service, Room 4800, 381 Elden Street, Herndon, VA 22070-4817
Phone: 703 787-1147

RIN: 1010–AB99

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Proposed Rule Stage

1796. REVISION OF REQUIREMENTS GOVERNING CORPORATE SURETY BONDS FOR OUTER CONTINENTAL SHELF LEASES

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250; 30 CFR 251; 30 CFR 256

Legal Deadline: None

Abstract: This rule will amend current regulations requiring lessee surety bonds. The value of surety bonds required by current regulations for leases approved before November 27, 1993, is not adequate to protect the government from loss due to lessees' failure to comply with the terms of OCS leases. This rule embodies a comprehensive approach to the complex problems associated with the movement of smaller operators into the OCS. The potential costs are the increase in cost to obtain a higher level of bond coverage. Benefits would be the enhancement of smaller operators' ability to provide necessary surety, and to provide greater protection of the public interest by reducing the potential for losses to the government.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Room 4700, 381 Elden Street, Herndon, VA 22070
Phone: 703 787-1607

RIN: 1010–AB92

1797. REVISION OF AUTHORIZED BIDDING SYSTEMS FOR LEASES IN THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1334(a)

CFR Citation: 30 CFR 256

Legal Deadline: None

Abstract: This action will better enable MMS to set lease terms in reaction to changing oil and gas market conditions by offering leases at royalty rates that reflect lower market prices. This rule will allow modification of the minimum royalty from 12-1/2 percent of the production amount or value to an effectively lower rate that would be described in the lease terms portion of a sale's final notice. This lower rate could be designated over the life of the lease as a constant or sliding scale measure, or it could emerge as a result of the lessee's fulfillment of specified conditions (e.g., no royalties would be due until production reaches a designated level or a predetermined capital cost allowance is recovered). MMS expects to better respond to changing market conditions because of this modification and believes that this action will cause increased bidding competition for new leases. For those selected tracts offered under a reduced royalty bidding system, the proposed rule is expected to bolster domestic production and maintain or increase employment in the oil and gas sector.

Timetable:

Action	Date	FR Cite
NPRM	08/23/95	60 FR 43735
NPRM Comment Period End	10/23/95	60 FR 43795
Final Action	07/00/96	

DOI—MMS

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Room 4700, 381 Elden Street, Herndon, VA 22070
Phone: 703 787-1607

RIN: 1010–AB93

1798. TRANSPORTATION AND PROCESSING ALLOWANCES FOR OIL AND GAS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 396; 25 USC 2102; 30 USC 181; 30 USC 351; 30 USC 1001; 30 USC 1701; 30 USC 1301; 30 USC 1331; 30 USC 1801

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: A study group was formed to review regulatory requirements that became effective on March 1, 1988. This group proposed changes to the forms and submission requirements and the method for calculating assessments. The minerals industry and the general public will be requested to comment on the proposed changes to the rules on transportation and processing allowances.

Timetable:

Action	Date	FR Cite
NPRM	08/07/95	60 FR 40127
NPRM Comment Reriod End	10/06/95	60 FR 40127

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, Room 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AB94

1799. TRANSPORTATION AND WASHING ALLOWANCES FOR COAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 396; 25 USC 2101; 30 USC 181; 30 USC 351; 30 USC 1001; 30 USC 1701; 31 USC 9701; 43 USC 1301; 43 USC 1331; 43 USC 1801

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: This rule is designed to improve MMS's administration of allowances and to provide incentives for payors to comply with the reporting requirements of the regulations. It will amend the current regulatory requirements for allowance forms submission, amend the allowance payback and late payment charges for forms that are not filed on time, retain the need for regulatory approval thresholds, and propose alternative approaches to administering allowances.

Timetable:

Action	Date	FR Cite
NPRM	08/07/95	60 FR 40120
NPRM Comment Period End	10/06/95	60 FR 40120
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O.Box 25165, MS 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AC00

1800. VALUATION OF GAS PRODUCTION—FEDERAL LEASES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 396; 25 USC 2101; 30 USC 181; 30 USC 351; 30 USC 1001; 30 USC 1701; 31 USC 9701; 43 USC 1301; 43 USC 1331; 43 USC 1801

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: This rule amends regulations regarding the valuation of gas produced from Federal leases and agreements for arms-length and non arms-length contracts. Due to the variety of situations in producing and marketing gas products, MMS's purpose is to provide a valuation procedure that closely reflects market conditions and allows royalty to be based upon information readily available to the lessee. The procedure will minimize the administrative burden on industry and MMS.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: This rule was developed using the negotiated rulemaking process which included representatives of MMS, States, industry, and other interested parties. Public meetings were held in accordance with notices published in the Federal Register.

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AC02

1801. UPDATING DOCUMENTS INCORPORATED BY REFERENCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.1

Legal Deadline: None

Abstract: This rule amends the Minerals Management Service

DOI—MMS

Proposed Rule Stage

regulations by incorporating new editions of documents that have already been incorporated into the regulations by reference. The new editions will continue to ensure that lessees use the best available and safest technologies while operating on the Outer Continental Shelf.

Timetable:

Action	Date	FR Cite
NPRM	08/17/95	60 FR 42819
NPRM Comment Period End	10/16/95	60 FR 42819
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4700, Herndon, VA22070
Phone: 703 787-1600

RIN: 1010–AC03

1802. FEES FOR LEASE ASSIGNMENTS AND PIPELINE RIGHTS OF WAY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1334; 43 USC 1331 et seq

CFR Citation: 30 CFR 250.160; 30 CFR 250.163; 30 CFR 256.64

Legal Deadline: None

Abstract: This rule amends the requirements governing filing fees for pipeline right of way applications and assignments and lease transfers. By increasing the filing fees, MMS will recover the costs of processing these documents. The amendment also establishes that future changes in these filing fees will be indexed to the Consumer Price Index "U."

Timetable:

Action	Date	FR Cite
NPRM	08/11/95	60 FR 41034
NPRM Comment Period End	10/10/95	60 FR 41034
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabeella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4700, Herndon, VA 22070
Phone: 703 787-1600

RIN: 1010–AC04

1803. • LEASE EXTENSIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 4331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule will change the regulations governing extension of lease terms in response to current economic conditions, potential delays in scheduling of drilling activities, and the increased use of three-dimensional seismic to supplement drilling activity. The changes would give more flexibility to lessees.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4720, Herndon, VA 22070-4817
Phone: 703 787-1607

RIN: 1010–AC07

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Final Rule Stage

1804. AMENDMENTS TO 30 CFR 250.67—HYDROGEN SULFIDE

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.67

Legal Deadline: None

Abstract: This rule will revise the requirements for warning systems, personnel protection, hydrogen sulfide (H2S) and sulphur dioxide (SO2) detection and monitoring. A recent equipment failure at an H2S gas facility resulted in the flaring of gas containing high concentrations of H2S, which resulted in the risk of exposure to high concentrations of H2S and the discharge of large volumes of SO2. As a result of this incident, the current regulations are being revised to adequately address the flaring of gas containing H2S. Since the revisions are extensive, the rule is being reproposed.

Timetable:

Action	Date	FR Cite
NPRM	08/15/90	55 FR 33326
NPRM Comment Period End	10/15/90	55 FR 33326
NPRM	05/11/95	60 FR 25178
NPRM Comment Period End	07/10/95	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070
Phone: 703 787-1607

RIN: 1010–AB50

1805. CREDIT ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

DOI—MMS

Final Rule Stage

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: Section 10 of the Outer Continental Shelf Lands Act (OCSLA), 43 USC 1339, requires that a lessee or payor under an offshore lease submit a request to Minerals Management Service (MMS) for recoupment or refund of an overpayment (credit adjustment) within 2 years of the date of the original payment. However, current law does not provide for a time limitation on credit adjustments under onshore Federal or Indian leases similar to that provided in the OCSLA. This rule would add a new provision entitled "Limitations on Credit Adjustments" which would restrict credit adjustments without prior authorization to payments due within 5 years before the date of the adjustments. The rule provides that MMS could authorize credit adjustments with respect to payments made more than 5 years but less than 10 years before the date of the adjustments. However, credit adjustments with respect to any payment made more than 10 years before the date of the adjustment would be prohibited.

The Debt Collection Act of 1982 (DCA), 31 USC 3716, allows Federal agencies to collect outstanding claims by administrative offset. The DCA instructs each agency to prescribe regulations before collecting a claim by administrative offset, of royalties, interest, or other amounts due under Federal and Indian oil, gas, and other mineral leases.

Timetable:

Action	Date	FR Cite
NPRM	08/17/93	58 FR 43588
NPRM Comment Period End	11/01/93	58 FR 50301
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule now includes the material formerly contained in RIN 1010-AB74.

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AB73

1806. RESPONSE PLANS FOR FACILITIES SEAWARD OF THE COASTLINE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321; EO 12777

CFR Citation: 30 CFR 250

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: Regulations are being developed to implement the authority of Minerals Management Service (MMS) under the Federal Water Pollution Control Act (FWPCA) as amended by the Oil Pollution Act of 1990. These regulations will address oil spill prevention and response in State submerged lands as well as in the Outer Continental Shelf. A nonregulatory alternative will not meet the mandate of the FWPCA as amended. The expected costs will depend on the extent to which existing practices in State and Federal waters meet the new mandated requirements. The expected benefits will be an assurance that oil spill prevention and response capability are being addressed on all facilities in both State and Federal waters.

Timetable:

Action	Date	FR Cite
ANPRM	08/12/92	57 FR 36032
ANPRM Comment Period End	10/28/92	
Interim Final Rule	02/08/93	58 FR 7489
NPRM	01/13/95	60 FR 3177
NPRM Comment Period End	03/14/95	
Comment Period Extended to 5/15/95	03/14/95	60 FR 13652
Final Action	12/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070
Phone: 703 787-1607

RIN: 1010–AB81

1807. FLARING OR VENTING GAS AND BURNING LIQUID HYDROCARBONS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1334(j)

CFR Citation: 30 CFR 250.175

Legal Deadline: None

Abstract: MMS regulations do not now address burning of liquid hydrocarbons. When the rules were written, liquid hydrocarbons were not burned and there was no need to address the subject. Economic changes, coupled with an increase in well test times and distances from shore, have caused some operators to ask to burn liquid hydrocarbons. Currently, MMS is citing its mandate to conserve resources to restrict this practice. However, to have clear regulatory backing for this policy, MMS is planning to issue a proposed rulemaking. This proposed rule will give the public the opportunity to comment on the proposed restrictions on burning liquid hydrocarbons.

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 9312
NPRM Comment Period End	04/18/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Buffington, Petroleum Engineer, Department of the Interior, Minerals Management Service, Room 4700, 381 Elden Street, Herndon, VA 22070-4817
Phone: 703 787-1147

RIN: 1010–AB96

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DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Long-Term Actions

1808. PAYOR RESPONSIBILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 211

Legal Deadline: None

Abstract: Responsibilities of Minerals Management Service include the collection of royalties, bonuses, rentals, and related revenues from Federal and Indian mineral leases. These monies are, for the most part, collected from the current designated payor on the lease. However, if MMS is unable to collect from the current payor, it must pursue collections from a prior payor(s), the lessee, or an assignee of the lease. Existing regulations are unclear as to the responsibilities and liabilities of the parties involved. Therefore, MMS is proposing to amend its regulations to clarify payor, lessee, and assignee requirements and responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	04/13/94	59 FR 17504
NPRM	06/09/95	60 FR 30492
Comment Period Extended to 1/8/96	08/30/95	60 FR 45112
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AB45

1809. SAFETY REQUIREMENTS GOVERNING PRODUCTION PLATFORMS AND PIPELINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: The development of this rule resulted from the recommendation of a task force that examined many contributing causes to recent fatal accidents in the North Sea and the Gulf of Mexico. The task force identified areas where changes in regulations should be considered. This action considers changes to the regulations concerning better communication among personnel, protection of pipeline risers, safe fuel storage, and requirements of shutdown valves on depositing pipelines.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/90	55 FR 29860
ANPRM Comment Period End	09/21/90	
NPRM	05/16/94	59 FR 25377
NPRM Comment Period End	07/15/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070
Phone: 703 787-1607

RIN: 1010–AB52

1810. VALUATION OF OIL AND GAS FROM INDIAN LEASES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The rule will amend the regulations governing the valuation of gas produced from Indian leases. The primary purpose of these amendments is to ensure that Indian mineral lessors receive maximum revenues from mineral resources on their land consistent with the Department's trust responsibility and lease terms.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/94	59 FR 39712
ANPRM Comment Period End	10/03/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule is being developed using the negotiated rulemaking process which will include representatives of MMS, Indian tribes, States, and industry. Notice of public meetings will be published in the Federal Register.

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AB57

1811. GAS MEASUREMENT AND COMMINGLING

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1334; 30 USC 1711

CFR Citation: 30 CFR 250.181; 30 CFR 250.182; 30 CFR 250.184

Legal Deadline: None

Abstract: This rule would amend and update regulations applicable to gas measurement, add a provision to an existing regulation that would clarify conditions under which surface commingling of gas would be approved, and add a new section to require measurement or estimation of gas volumes used on the leases or otherwise not saved for sale.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Room 4700, 381 Elden Street, Herndon, VA 22070-4817
Phone: 703 787-1607

RIN: 1010–AB97

DOI—MMS

Long-Term Actions

1812. ROYALTIES, RENTALS, BONUSES, AND OTHER MONIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 396; 25 USC 2101; 25 USC 181; 25 USC 351; 25 USC 1701; 25 USC 9701; 25 USC 1301; 25 USC 1331; 25 USC 1801

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: This rule implements changes in Treasury regulations that require agencies to use electronic collection and deposit of funds when cost effective, practical, and consistent with statutory authority. The rule will simplify industry's payments to MMS in compliance with the new Treasury requirements.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AC01

1813. ALLOWANCES FOR TRANSPORTATION AND PROCESSING COSTS ASSOCIATED WITH GAS VALUATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 396; 25 USC 2101; 25 USC 181; 25 USC 351; 25 USC 1001; 25 USC 1701; 25 USC 9701; 25 USC 1301; 25 USC 1331; 25 USC 1801

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: This rule amends the regulations governing valuation for royalty purposes of gas produced from Federal and Indian leases. It primarily addresses allowances for transportation of gas. The amendments would clarify the methods by which gas royalties and deductions for gas transportation are calculated. The rule will also clarify changes required by Federal Energy Regulatory Commission Order 636 which has caused significant changes in the natural gas transportation industry.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, Room 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AC06

1814. • RELEASE OF THIRD PARTY PROPRIETARY INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 30 USC 181 et seq; 31 USC 9701; 43 USC 1301 et seq

CFR Citation: 30 CFR 243

Legal Deadline: None

Abstract: This revision will allow MMS to provide appellants with documents containing proprietary information upon which assessments are based and which third parties furnished to MMS. THis rule addresses only situations where MMS provides documents in administrative appeal. It does not address MMS providing any other type of document outside the administrative appeals process.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, PO Box 25165, Room 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AC08

1815. • VALUATION OF OIL FROM FEDERAL AND INDIAN MINERAL LEASES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 396 et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: This rule will improve oil valuation and reporting procedures to reflect current oil selling arrangements in the oil and gas industry.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, PO Box 25165, Room 3000, Denver, CO 80225-0165
Phone: 303 231-3780

RIN: 1010–AC09

BILLING CODE 4310-MR-F

DEPARTMENT OF THE INTERIOR (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Proposed Rule Stage

1816. DEFINITION AND CRITERIA FOR VALID EXISTING RIGHTS

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 740; 30 CFR 745; 30 CFR 761; 30 CFR 772

Legal Deadline: None

Abstract: This rule will amend the portions of the permanent program which address the circumstances which constitute valid existing rights to mine coal in areas where Congress has otherwise prohibited mining under section 522(e) of the Surface Mining Control and Reclamation Act of 1977. This revision is in response to a court decision in round III of the litigation on OSM's permanent program regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/18/91	56 FR 33152
NPRM Comment Period End	09/16/91	
Reproposal Anticipated	01/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Dennis Rice, Rules and Legislation Staff, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240
Phone: 202 208-2829

RIN: 1029–AB42

1817. BASIS FOR COAL WEIGHT DETERMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870

Legal Deadline: None

Abstract: Some processors purchase raw coal from operators on an estimated clean coal basis. The Office of Surface Mining Reclamation and Enforcement's rules require reclamation fee payment on the actual gross weight of the clean or raw coal at the time of sale, transfer or use. Records required to document the basis of a coal sale are not clearly defined. Legislative changes provide OSM the authority to audit coal preparation plants, tipples and loading facilities. Records a person operating a coal preparation plant must maintain on coal purchases are not specified in regulation. A person operating a preparation plant is not liable for fee payment on coal sales that exceed purchases. This rule would allow an operator who sells coal to a processor, who actually cleans the coal, to pay fees on the same basis on which the operator is paid by the processor. The person who operates a coal preparation plant would be liable for reclamation fee payment on all coal sold that exceeds coal purchased. Records to be maintained to document the basis for coal sales would be defined in regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/29/92	57 FR 62116
NPRM Comment Period End	03/01/93	
Comment Period Extended	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane R. Robinson, Program Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240
Phone: 202 208-2738

RIN: 1029–AB68

1818. COAL MOISTURE

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870

Legal Deadline: None

Abstract: This rule adds specific criteria an operator must use in determining an excess moisture allowance claimed under 30 CFR870.12. These criteria will codify technical guidance contained in AML Payer Letters issued since June 1988. The rule will identify acceptable methods and procedures for estimating total and inherent moisture contained in low rank coal. The criteria are based upon OSM experience and industry practices.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jane Robinson, Program Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Room 225 MIB, Washington, DC 20240
Phone: 202 208-2738

RIN: 1029–AB78

1819. PROHIBITIONS UNDER SECTION 522(E) OF SMCRA

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 761

Legal Deadline: None

Abstract: This rule will clarify the applicability of section 522 (e) of SMCRA to subsidence resulting from underground coal mining. Section 522 (e) prohibits surface coal mining operations in certain areas designated by Congress, subject to existing rights.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Broderick, Office of Title V Policy, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240
Phone: 202 208-2564

RIN: 1029–AB82

1820. • INDIAN LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 25 CFR 200; 30 CFR 700

Legal Deadline: None

Abstract: This rule will amend regulations to allow OSM to contract to the Navajo and Hopi Tribes certain functions relating to permitting, mine plan review, bonding, and other functions authorized by the Indian land provisions of SMCRA. The rule is being proposed pursuant to a settlement agreement.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

DOI—OSMRE

Proposed Rule Stage

Agency Contact: Andrew DeVito, Rules and Legislation Staff, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2617

RIN: 1029–AB83

DEPARTMENT OF THE INTERIOR (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Final Rule Stage

1821. APPLICANT/VIOLATOR SYSTEM PERMIT INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701; 30 CFR 773; 30 CFR 774; 30 CFR 778; 30 CFR 843

Legal Deadline: None

Abstract: The Office of Surface Mining Reclamation and Enforcement proposes to establish new regulations and amend existing provisions to clarify the role of the Applicant/Violator System (AVS) in the permit application process; amend the definitions of ownership and control and of transfer, assignment or sale of permit right; establish procedures for successor in interest; revise requirements for information to be submitted as part of the permit application process; and eliminate certain civil penalties as a basis for a permit block for owners and controllers of violators.

Timetable:

Action	Date	FR Cite
NPRM	06/28/93	58 FR 34652
NPRM Comment Period End	10/12/93	
Final Action	02/00/95	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Stephen Sheffield, Chief, Applicant/Violator System, Office, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Room 7424 MIB, Washington, DC 20240
Phone: 202 208-4655

RIN: 1029–AB62

1822. COAL REMINING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701; 30 CFR 773; 30 CFR 785; 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: These rules will enable permittee operations which encounter an unanticipated event resulting in a violation to obtain new permits. The authority for this would exist from October 24, 1992, through September 30, 2004. The rules will also shorten the period of liability for revegetation from 5 years to 2 in the east and midwest and from 10 years to 5 in the arid west for remining sites. The rules will ensure that remining sites do not lose their abandoned mine land eligibility. The rules are required to implement section 2503 of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	06/02/94	59 FR 28744
NPRM Comment Period End	08/01/94	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Doug Growitz, Hydrologist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240
Phone: 202 208-2561

RIN: 1029–AB74

1823. NOTIFICATION AND PERMIT PROCESSING

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201

CFR Citation: 30 CFR 773

Legal Deadline: None

Abstract: This rule would: (1) require that written findings be provided to all parties in an informal conference held during the permitting process regardless of the decision of the Regulatory Authority and (2) increase the protection afforded private landowners with property within the permit area of approved mining and reclamation permits. Preliminary information indicates that the rule may increase the costs of operations to the coal industry in certain states while protecting the property values of private homeowners.

Timetable:

Action	Date	FR Cite
NPRM	10/26/94	59 FR 53884
NPRM Comment Period End	02/27/95	59 FR 66287
Final Action	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Scott Boyce, Environmental Protection Specialist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2971

RIN: 1029–AB80

DEPARTMENT OF THE INTERIOR (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Long-Term Actions

1824. ABANDONED COAL REFUSE SITES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 1201

CFR Citation: 30 CFR 785; 30 CFR 829; 30 CFR 830; 30 CFR 845; 30 CFR 870

Legal Deadline: NPRM, Statutory, October 24, 1993.

Abstract: OSM will propose new regulations governing permitting and performance standards for on-site processing of abandoned coal refuse piles and operations for removal of abandoned coal refuse piles. The rules are required to implement Section 2503(e) of the Energy Policy Act of 1992.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Camille Sellers, Program Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2714

RIN: 1029–AB70

1825. DEFINITION OF COAL

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 700.5; 30 CFR 870

Legal Deadline: None

Abstract: This rule would define coal to mean combustible carbonaceous rock composed principally of consolidated and chemically altered plant remains. The rule would place all definitions related to coal in 30 CFR 700.5 and use the American Society for Testing and Materials ranking system to define different ranks of coal.

Timetable:

Action	Date	FR Cite
NPRM	10/07/93	58 FR 52374
NPRM Comment Period End	01/07/94	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Doug Growitz, Hydrologist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Room 640 NC, Washington, DC 20240
Phone: 202 208-2561

RIN: 1029–AB75

1826. AFFECTED AREA (HAUL ROADS)

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701

Legal Deadline: None

Abstract: The term "affected area" as defined in 30 CFR 701.5 excludes public roads, if, among other things, there is substantial public use. The rule was remanded by the Federal District Court because the definition excluded too broad a class of public roads. Suspension of that rule has caused confusion and left state regulatory authorities and OSM with imperfect guidance in a difficult area. Consistent with the Federal District Court ruling this rule will provide clarification and nationwide consistency concerning the extent to which public roads must be included in the affected area. There would be some increased costs to regulatory authorities and the coal industry since certain public roads that are not now regulated will need to be incorporated into the affected area of existing permits.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dan Stocker, Office of Title V Policy, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2802

RIN: 1029–AB76

1827. CONTEMPORANEOUS RECLAMATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 780; 30 CFR 773

Legal Deadline: None

Abstract: This rule will amend regulations to ensure that coal mine operators reclaim their operations in a contemporaneous manner using site-based contemporaneous standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Hunter, Office of Technology Development, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 343-1504

RIN: 1029–AB79

BILLING CODE 4310-05-F

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Final Rule Stage

1828. REVENUES MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 43 USC 373; 43 USC 391; 43 USC 392; 40 USC 491; 43 USC 498; 43 USC 501

CFR Citation: 43 CFR 403

Legal Deadline: None

Abstract: This rule will define requirements for the crediting/disposition of revenues. The rule notifies water districts of a review of legislation, repayment contracts, and amendments, and of current Bureau practice relating to collection and crediting/disposition. The rule also states that inappropriate direct crediting of revenues was discontinued effective January 1, 1994. Since the Bureau does not have the option to dispose of revenues other than as required by law, the intent of this review is to ensure that revenue crediting follows the requirements of law.

Timetable:

Action	Date	FR Cite
NPRM	09/12/94	59 FR 46801
NPRM Comment Period End	01/13/95	59 FR 58808
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alonzo D. Knapp, Manager, Reclamation Law, Contracts, and Repayment Office, Department of the Interior, Bureau of Reclamation, P.O. Box 25007, Denver, CO 80225-0007
Phone: 303 236-1061

RIN: 1006–AA30

DOI—RB

Final Rule Stage

1829. ACREAGE LIMITATION AND WATER CONSERVATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 553; 16 USC 590z-11; 16 USC 590y et seq; 5 USC 553; 43 USC 390-544

CFR Citation: 43 CFR 426; 43 CFR 427

Legal Deadline: NPRM, Judicial, March 10, 1995. Final, Judicial, November 15, 1995.
Deadlines were established in a contract settlement contract. On the basis of this contract, the Federal District Court vacated its previous order on this rulemaking.

Abstract: A lawsuit settlement contract, signed in September 1993, requires the Bureau of Reclamation to propose new regulations implementing the Reclamation Reform Act of 1982 on a westwide basis. The contract also requires the Bureau to prepare and EIS considering the impact of the proposed regulation and alternatives. The contract specifies that the proposed rules and draft EIS be published by December 1, 1994, and the final rules and EIS be published by August 1, 1995. These dates have been extended by the litigants to March 10, 1995, and November 15, 1995.

Timetable:

Action	Date	FR Cite
ANPRM	12/06/93	58 FR 64336
NPRM	06/26/95	60 FR 16922
Final Action	01/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Federal

Agency Contact: Rusty Schuster, Westwide Settlement Manager, Department of the Interior, Bureau of Reclamation, P.O. Box 25007, Mail Code D-5010, Denver, CO 80225-0007
Phone: 303 236-9336

RIN: 1006–AA32

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Long-Term Actions

1830. REGULATIONS FOR ADMINISTERING ENTITLEMENTS TO COLORADO RIVER WATER IN THE LOWER COLORADO RIVER BASIN

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 617; 43 USC 391; 43 USC 485; 43 USC 390

CFR Citation: 43 CFR 415

Legal Deadline: None

Abstract: Colorado River water has been apportioned for consumptive use among water users with valid water rights within the States of Arizona, California, and Nevada. This rule would amend current rules for apportioning water from the lower Colorado River basin. The principal data analyzed prior to writing the rule were the records of diversions, return flow, and consumptive use of Colorado River water. Reclamation is obligated to prepare and maintain records of this information pursuant to a 1964 decree by the U.S. Supreme Court in Arizona v. California. Reclamation determined what information is necessary and obtained approval from Office of Management and Budget for the collection of this information. Reclamation also reviewed each lower basin State's water use and projected future use and concluded that a failure by the United States to take action to eliminate diversion of water by illegal diverters would harm legal entitlement holders. Thus, the initial purpose of the rule was to establish a method to eliminate illegal diversion of Colorado River water.

The Lower Colorado Region began compiling a mailing list of known and potentially interested parties when the rule was in preliminary draft stage. The draft rule has been distributed to water users and all then-known and potentially interested parties on three occasions: May 1991, December 1992, and May 1994. The region held a series of public meetings at nine locations in Arizona, Nevada, and California from June 14-30, 1994. Advance notice of the meetings was sent to all known and potentially interested parties. The list of parties includes both traditional and nontraditional constituents. These meetings were held to tell the public why the rule is needed, summarize the major provisions, and explain how they would be able to review and comment on it when the rulemaking process advances to the stage of a proposed rule. Reclamation will expand the outreach program during the public comment period that may be extended to 6 months. A series of public hearings on the rule will be held during the public comment period and Reclamation will meet with interested water districts, cities, other water users, or public interest groups.

As a result of the outreach, Reclamation has broadened its perspective to take other interests into consideration. For example, Reclamation has agreed to do a programmatic environmental impact statement, rather than a less extensive environmental assessment, on the effect of the draft rule. Portions of the draft rule, such as criteria for water conservation plans, will be reviewed and may be revised to accommodate specific needs of water users. Provisions such as nonuse of entitlements and the leasing, marketing and banking of saved water are being revaluated based on comments from the lower basin States, water users, and environmental interests.

Reclamation is committed to fulfilling the Secretary's obligations as water master of the lower Colorado River but will keep a flexible approach in the

rulemaking process and seek to obtain a consensus among the lower basin States to the extent possible.

Timetable:

Action	Date	FR Cite
ANPRM	04/22/91	56 FR 16291
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Dale Ensminger, Repayment Specialist, Department of the Interior, Bureau of Reclamation, P.O. Box 61470, Attn: LC-4443, Boulder City, NV 89006-1470
Phone: 702 293-8659

RIN: 1006–AA24

1831. CENTRAL VALLEY PROJECT OF CALIFORNIA—PURPOSES, USES, AND ALLOCATION OF WATER SUPPLIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 553

CFR Citation: 43 CFR 432; 50 CFR 1

Legal Deadline: None

Abstract: The rule will address water for fish and wildlife, water conservation standards, water transfers, land retirement, tiered pricing, renewal of long-term contracts, and implementation of the restoration fund created by the Central Valley Improvement Act. This rule is being developed jointly by the Bureau of Reclamation and the Fish and Wildlife Service.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 39316
ANPRM Comment Period End	02/01/95	59 FR 67265
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank Dimick, Assistant Regional Director, Department of the Interior, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825-1898
Phone: 916 979-2204

RIN: 1006–AA34

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Completed Actions

1832. ACREAGE LIMITATION ADMINISTRATIVE FEES

Priority: Other Significant

CFR Citation: 43 CFR 426

Completed:

Reason	Date	FR Cite
Final Action	02/23/95	60 FR 10030
Final Action Effective	03/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alonzo Knapp
Phone: 303 236-1061

RIN: 1006–AA33

1833. AUTHORIZED USE OF RECLAMATION PROJECT WATER

Priority: Other Significant

CFR Citation: 43 CFR 425

Completed:

Reason	Date	FR Cite
Withdrawn	08/23/95	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Curtis Brown
Phone: 303 236-3289

RIN: 1006–AA35

BILLING CODE 4310-05-F

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Proposed Rule Stage

1834. SALES OF FOREST PRODUCTS; GENERAL—PREPARATION FOR SALE

Priority: Other Significant

Legal Authority: 16 USC 617

CFR Citation: 43 CFR 5400; 43 CFR 5420

Legal Deadline: None

Abstract: This rule will implement the Forest Resources Conservation and Shortage Relief Act of 1990 by prohibiting the export of unprocessed timber from western Federal timber lands and direct and indirect substitution for such timber.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Bierer, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7757

RIN: 1004–AB34

1835. MANAGEMENT OF DESIGNATED WILDERNESS AREA

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701 et seq; 16 USC 1131 et seq

CFR Citation: 43 CFR 8560

Legal Deadline: None

Abstract: This rule will amend the existing regulations to remove obsolete provisions, clarify and simplify the regulations, and add provisions on access to inholdings, rights-of-way, use of mechanized equipment by certain individuals, access by Native Americans.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rob Hellie, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240

Phone: 202 653-9183

RIN: 1004–AB69

1836. SALES—FEDERAL LAND POLICY AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701; 43 USC 1713

CFR Citation: 43 CFR 2710

Legal Deadline: None

Abstract: This rule will amend 43 CFR part 2710 to provide for improved administration of sales of public land under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Paugh, Realty Specialist, Department of the Interior, Bureau of Land Management, 2515 Warren Ave., P.O. Box 1828, Cheyenne, WY 82003
Phone: 307 775-6306

RIN: 1004–AB77

1837. ONSHORE OIL AND GAS OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 301 to 306; 25 USC 396 et seq; 43 USC 1457; 30 USC 1701 et seq; 25 USC 2102 et seq

CFR Citation: 43 CFR 3160

Legal Deadline: None

Abstract: This rule will clarify the responsibilities of the Bureau of Land Management for lands administered by the Forest Service under the Federal Onshore Oil and Gas Leasing Reform Act of 1987, providing the BLM is responsible only for Applications for Permit to Drill, related subsurface impacts, and related appeals.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Erick Kaarlela, Leader, Compliance Team, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0340

RIN: 1004–AC09

1838. TRAMROADS AND LOGGING ROADS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1732; 43 USC 1733; 43 USC 1740; 43 USC 1761 to 1771; 43 USC 1181a to 1181b

CFR Citation: 43 CFR 2810

Legal Deadline: None

Abstract: The rule will amend the regulations implementing title V of the Federal Land Policy and Management Act of 1976 with respect to tramroads and logging roads over the Oregon and California Railroad lands and Coos Bay Wagon Road lands. It will reflect current administrative requirements, facilitate environmental protection, and provide standards for recreational use.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Styduhar, Realty Specialist, Department of the Interior, Bureau of Land Management, BLM Oregon State Office, P.O. Box 2965, 1300 N.E. 44th, Portland, OR 97208-2965
Phone: 503 952-6454

RIN: 1004–AC24

1839. COALBED METHANE DEVELOPMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 13368

CFR Citation: 43 CFR 3170

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: The rule will implement section 1339 of the Energy Policy Act of 1992. It will prevent conflicts in ownership of coalbed methane from impeding development of that resource by requiring pooling of development and payment of the proceeds into an escrow account until the ownership issue is resolved by a State entity of competent jurisdiction. The rule will also allow States to avoid the Federal regulations by promulgating their own regulations that substantially comply with Federal requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 47920
NPRM Comment Period End	11/14/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: David R. Stewart, Assistant Deputy State Director for Mineral Resources, Department of the Interior, Bureau of Land Management, BLM Eastern States, 7450 Boston Boulevard, Springfield, VA 22153
Phone: 703 440-1728

RIN: 1004–AC27

1840. LAW ENFORCEMENT—CRIMINAL

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1701 et seq; 16 USC 668(a); 16 USC 670; 16 USC 707; 16 USC 1538(a); 16 USC 1540; 16 USC 3370(d)

CFR Citation: 43 CFR 9260

Legal Deadline: None

Abstract: This rule will update and combine into one subpart the law enforcement regulations of several different programs of the Bureau of Land Management.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis McLane, Chief Ranger, Division of Law Enforcement and Resource, Department of the Interior, Bureau of Land Management, 3905 Vista Avenue, Boise, ID 83705
Phone: 208 387-5127

RIN: 1004–AC30

1841. • VISITOR SERVICES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 8360

Legal Deadline: None

Abstract: This rule will remove these regulations, which will be replaced by revised part 9260--Consolidated Prohibited Acts.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ian Senio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4256
Fax: 202 208-3800
Email: Internet !WO140@attmail.com

RIN: 1004–AC42

1842. • MANAGEMENT AREAS; DESIGNATED NATIONAL AREA

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 8350

Legal Deadline: None

Abstract: This rule will remove obsolete material, move portions to part 9260--Consolidate Prohibited Acts, and simplify the remainder and convert it to Plain English.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annetta Cheek, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4256
Fax: 202 208-3800
Email: Internet !WO140@attmail.com

RIN: 1004–AC43

1843. • FIRE MANAGEMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 9210

Legal Deadline: None

Abstract: This rule will move prohibited acts provisions to part 9260--Consolidated Prohibited Acts.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annetta Cheek, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420)
Phone: 202 208-4256
Fax: 202 208-3800
Email: Internet !WO140@attmail.com

RIN: 1004–AC44

1844. • NATURAL HISTORY RESOURCE MANAGEMENT; PROCEDURES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 8200

Legal Deadline: None

Abstract: This rule will put these regulations into Plain English, move portions to non-regulatory policy, and remove prohibited acts to part 9260--Consolidated Prohibited Acts.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ian Senio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW.
Phone: 202 208-4256
Fax: 202 208-3800
Email: Internet !WO140@attmail.com

RIN: 1004–AC45

1845. • TRESPASS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 9230

Legal Deadline: None

Abstract: This rule will move prohibited acts provisions to part 9260--Consolidated Prohibited Acts.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ian Senio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AC46

1846. • PUBLIC LAND ORDERS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR app

Legal Deadline: None

Abstract: This rule will remove the Appendix listing all public land orders. This seldom-used list can be found in past issues of the Code of Federal Regulations and supplemented by annual indexes of the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Edna Taylor, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AC47

1847. • MANAGEMENT OF SOLID MINERALS OTHER THAN COAL

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3500

Legal Deadline: None

Abstract: This rule will remove repetitive introductory material and combine the common provisions of the series of regulations of leasing of specific non-coal minerals.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Edna Taylor, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4256
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RIN: 1004–AC49

1848. • RECREATION MANAGEMENT; PROCEDURES; GENERAL

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 8300

Legal Deadline: None

Abstract: This rule will remove this part, which is merely another policy provision on recreation, and which will be handled through policy statements.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Edna Taylor, Regulatory Analyst, Department of the Interior, Bureau of Land Managementa, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4256
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Email: Internet !WO140@attmail.com

RIN: 1004–AC50

1849. • RECREATION PROGRAMS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 8000

Legal Deadline: None

Abstract: This rule will remove this part, which is merely a policy provision on recreation, and which will be handled through policy statements.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Edna Taylor, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 028-4256
Fax: 202 028-3800
Email: Internet !WO140@attmail.com

RIN: 1004–AC51

1850. • VISUAL RESOURCE MANAGEMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 8400

Legal Deadline: None

Abstract: This rule will remove this part, which consists solely of a heading with no regulatory content.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Edna Taylor, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4256
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Email: Internet !WO 140@attmail.com

RIN: 1004–AC52

1851. • SPECIAL AREAS; STATE IRRIGATION DISTRICTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2780

Legal Deadline: None

Abstract: This rule will remove the establishment and operation of State irrigation districts from the regulations and relocate necessary provisions in the BLM Manual.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ian Senio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW.
Phone: 202 208-4256
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Email: Internet !WO140@attmail.com

RIN: 1004–AC53

1852. • OIL AND GAS LEASING; FEES, RENTALS, AND ROYALTY

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3100

Legal Deadline: None

Abstract: This rule will adjust royalty requirements to encourage production of economically marginal fluid minerals.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Erick Kaarlela, Compliance Team Leader, Department of the Interior, Bureau of Land Management, 1849 C Street NW.
Phone: 202 452-0340

RIN: 1004–AC54

1853. • MINERALS MANAGEMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3000

Legal Deadline: None

Abstract: This rule will reinvent the introductory regulations of minerals management by possibly relocating certain definitions.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chuck Hunt, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4256
Fax: 202 208-3800
Email: Internet !WO140@attmail.com

RIN: 1004–AC55

1854. • DESERT LAND ENTRIES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2520

Legal Deadline: None

Abstract: This rule will transfer much of the regulation on entries of desert land to the BLM Manual if the underlying statute is not repealed as no longer practical.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chuck Hunt, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
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Email: Internet !WO140@attmail.com

RIN: 1004–AC56

1855. • ONSHORE OIL AND GAS GEOPHYSICAL EXPLORATION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3150

Legal Deadline: None

Abstract: This rule will add cost recovery provisions to the regulations on onshore geophysical exploration for oil and gas.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chuck Hunt, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AC57

1856. • STATE EXCHANGES; NATIONAL PARK SYSTEM EXCHANGES WILDLIFE REFUGE EXCHANGES; MISCELLANEOUS EXCHANGES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2210; 43 CFR 2240; 43 CFR 2250; 43 CFR 2270

Legal Deadline: None

Abstract: This rule will remove these subparts, which are merely cross-references to the basic exchange regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4256
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Email: Internet !WO140@attmail.com

RIN: 1004–AC58

1857. • BODIE BOWL, CALIFORNIA: SURFACE MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 108 Stat. 4771 and 4509

CFR Citation: 43 CFR 3826

Legal Deadline: Final, Statutory, April 30, 1995.

Abstract: This proposed rule would implement the provisions of title X of the Act of October 31, 1994, entitled the Bodie Protection Act of 1994. This rule will protect an historic mining district by setting out procedures for operating mining claims and sites pursuant to ?

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4256
Fax: 202 208-3800
Email: !W0140@attmail.com

RIN: 1004–AC60

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Final Rule Stage

1858. ONSHORE OIL AND GAS OPERATIONS; SPECIAL PROVISIONS; ONSHORE OIL AND GAS ORDER NO. 5—MEASUREMENT OF GAS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 301 to 306; 25 USC 396 to 399; 43 USC 1457; 40 USC 471 et seq; 42 USC 4321; 42 USC 6508; 30 USC 1701 et seq; 25 USC 2102

CFR Citation: 43 CFR 3164.1

Legal Deadline: None

Abstract: This rule will amend Onshore Oil and Gas Order No. 5 on Measurement of Gas to provide clarifications of recordkeeping and orifice meter standards, and to provide for approval by the jurisdictional Bureau of Land Management State Office of gas measurement by electronic flow computers, using an orifice, that calculate volume using equations specified by the American Gas Association Committee Report No.3.

Timetable:

Action	Date	FR Cite
NPRM	01/06/94	59 FR 718
NPRM Comment Period Extended	04/18/94	59 FR 12570
NPRM Comment Period End	07/08/94	59 FR 29407
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erick Kaarlela, Leader, Compliance Team, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0340

RIN: 1004–AB22

1859. LEASES, PERMITS, AND EASEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1732; 43 USC 1740

CFR Citation: 43 CFR 2920

Legal Deadline: None

Abstract: This rule will amend the existing regulations to provide for improved administration of Leases, Permits and Easements under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	11/21/90	55 FR 48810
NPRM Comment Period End	01/22/91	55 FR 48810
Second NPRM	02/09/95	60 FR 7878
Second NPRM Comment Period End	04/10/95	60 FR 7878
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule is being reproposed in part. Complete final rule will be published upon consideration of public comments on partially reproposed rule.

Agency Contact: Vanessa Engle, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7776

RIN: 1004–AB51

1860. PUBLIC AVAILABILITY OF MINERALS RESOURCES INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 43 CFR 3000

Legal Deadline: None

Abstract: This rule will remove conflicts between existing mineral regulations relating to public availability of mineral resources information and the Freedom of Information Act. The rule will also remove discrepancies among the

various mineral regulations regarding public release of information.

Timetable:

Action	Date	FR Cite
NPRM	05/31/91	56 FR 24767
NPRM Comment Period End	07/31/91	56 FR 24767
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn Legnini, FOIA Coordinator, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5001

RIN: 1004–AB55

1861. ADMINISTRATION OF RIGHTS-OF-WAY

Priority: Other Significant

Legal Authority: 43 USC 1761 to 1771

CFR Citation: 43 CFR 2803

Legal Deadline: None

Abstract: The rule will establish a schedule for fair market rental for communication use rights-of-way under the Federal Land Policy and Management Act. The schedule will help reduce administrative costs related to appraisals and protests and appeals.

Timetable:

Action	Date	FR Cite
NPRM	07/12/94	59 FR 35596
NPRM Comment Period End	09/12/94	59 FR 35596
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: David Cavanaugh, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7780

RIN: 1004–AC12

1862. LOGICAL MINING UNITS: GENERAL; LMU APPLICATION PROCEDURES; LMU APPROVAL CRITERIA; LMU DILIGENCE; ADMINISTRATION OF LMU OPERATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 201 et seq

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: The rule will amend the regulations dealing with coal logical mining units (LMUs) to improve procedures for review of applications and administration of operations. The rule will place a greater emphasis on stewardship of the Federal coal resources and will be designed to ensure that coal resources are developed in a legal, efficient, economical and orderly manner with due regard for the conservation of coal reserves and other resources within the concept of ecosystem management. The rule will resolve the question whether LMU diligent development requirements can be substituted for statutory lease-specific diligent development requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/28/94	59 FR 66874
NPRM Comment Period End	02/27/95	59 FR 66874
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Bill LeSage, Mining Engineer, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0350

RIN: 1004–AC15

1863. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL, ROYALTY, OR MINIMUM ROYALTY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 1701 et seq

CFR Citation: 43 CFR 3103.4-1

Legal Deadline: None

Abstract: This rule will encourage the continuing operation of wells that produce heavy oil by providing a system by which the operators of such wells may qualify for a royalty rate reduction.

Timetable:

Action	Date	FR Cite
NPRM	03/30/95	60 FR 16424
NPRM Comment Period End	07/17/95	60 FR 31663
Final Action	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. John Bebout, Senior Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0340

RIN: 1004–AC26

1864. ONSHORE OIL AND GAS ORDER NO. 8, WELL WORKOVERS, COMPLETIONS, AND ABANDONMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 301; 25 USC 396

CFR Citation: 43 CFR 3160

Legal Deadline: None

Abstract: This rule will establish Order No. 8 to set forth the minimum performance standards when conducting completion, workover, or abandonment operations on oil and gas wells on Federal and Indian (except Osage) lands.

Timetable:

Action	Date	FR Cite
NPRM	05/06/91	56 FR 20568
NPRM Comment Period End	07/26/91	56 FR 20568
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erick Kaarlela, Leader, Compliance Team, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0340

RIN: 1004–AC33

1865. FIRE MANAGEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 315a et seq; 43 USC 1740

CFR Citation: 43 CFR 9240

Legal Deadline: None

Abstract: This rule will make emergency rehabilitation project decisions exempt from administrative appeal to minimize unnecessary delay in repairing damage caused by fire and other natural disasters, and avoiding erosion and other adverse impacts on public lands resulting from natural disasters.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Dr. Robert Clark, State Fire Management Officer (Idaho), Department of the Interior, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706-2544
Phone: 208 384-3090

RIN: 1004–AC36

1866. COAL MANAGEMENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will amend the exploration and mining operations regulations, as well as other operations-related regulations, to streamline them and to have them reflect current policy and standard industry operating practices relating to Federal coal.

Timetable:

Action	Date	FR Cite
NPRM	07/12/91	56 FR 32002
NPRM Comment Period End	10/10/91	56 FR 32002
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill LeSage, Mining Engineer, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0350

RIN: 1004–AC37

1867. PUBLIC LAW 167; ACT OF JULY 23, 1955 (MINING CLAIM USE AND OCCUPANCY)

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 22 et seq; 30 USC 612; 43 USC 1701 et seq

CFR Citation: 43 CFR 3710

Legal Deadline: None

Abstract: This rule will enumerate the restrictions on use and occupancy of unpatented mining claims and mill sites on public lands.

Timetable:

Action	Date	FR Cite
NPRM	09/11/92	57 FR 41846
NPRM Comment Period End	11/10/92	57 FR 41846
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Deery, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0350

RIN: 1004–AC39

1868. MINING CLAIMS UNDER THE GENERAL MINING LAWS (BONDING)

Priority: Other Significant

Legal Authority: 30 USC 22 et seq; 43 USC 1201; 43 USC 1734; 43 USC 1740; 43 USC 1744

CFR Citation: 43 CFR 3809

Legal Deadline: None

Abstract: This rule will require submission of financial guarantees for reclamation for all mining operations greater than casual use, create additional financial instruments for this purpose, and require operators with a record of noncompliance to file plans of operations.

Timetable:

Action	Date	FR Cite
NPRM	07/11/91	56 FR 31602
NPRM Comment Period End	09/09/91	56 FR 31602
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Deery, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0350

RIN: 1004–AC40

1869. • APPLICATION PROCEDURES: EXECUTION AND FILING OF FORMS

Priority: Other

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 1820; 43 CFR 1821

Legal Deadline: None

Abstract: This rule is an administrative final rule that will update the list of addresses of the State Offices of the Bureau of Land Management to reflect office relocations. The rule will be published from time to time as necessary when offices move.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4256
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RIN: 1004–AC41

1870. • PROTECTION AND PRESERVATION OF NATURAL VALUES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

DOI—BLM

Final Rule Stage

Legal Authority: 43 USC 1740
CFR Citation: 43 CFR 8220
Legal Deadline: None

Abstract: This administrative final rule will remove a relic paragraph with no regulatory content.

Timetable:

Action	Date	FR Cite
Final Action	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Edna Taylor, Management Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4256
Fax: 202 208-3800
Email: Internet !WO140@attmail.com

RIN: 1004–AC48

1871. • DISPOSAL OF RESERVED MINERALS UNDER THE STOCK RAISING HOMESTEAD ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 299

CFR Citation: 43 CFR 3814

Legal Deadline: Final, Statutory, October 13, 1993.

Abstract: This interim final rule will establish new procedures for mineral exploration and development under the General Mining Law of 1872 on lands where the surface was patented under the Stock Raising Homestead Act of 1916 and the mineral estate remains reserved to the Federal Government.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management, Regulatory Management Team, 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AC59

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Completed Actions

1872. SALES OF FOREST PRODUCTS; LAW ENFORCEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 5460; 43 CFR 5510; 43 CFR 9230; 43 CFR 9260

Completed:

Reason	Date	FR Cite
Final Action	09/29/95	60 FR 50448
Final Action Effective	10/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Bierer
Phone: 202 452-7757

RIN: 1004–AB97

BILLING CODE 4310-84-F

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Secretary (OS)

Proposed Rule Stage

1873. TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS IN ALASKA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 668dd et seq; 16 USC 3101 et seq; 43 USC 1201

CFR Citation: 43 CFR 36

Legal Deadline: NPRM, Judicial, April 30, 1995.

Abstract: This rule will revise regulations implementing the provisions of Title IX of the Alaska National Interest Lands Conservation Act (ANILCA). The regulations concern transportation and utility systems (TUS) in Alaska when any portion of the route of the TUS will be within any conservation system unit, national recreation area, or national conservation area. The regulations detail the procedures that must be followed to obtain Federal approval needed for a TUS. In addition, the regulations address special access, temporary access, and access to inholdings.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Russell Wilson, Paralegal, Department of the Interior, Office of the Secretary, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503
Phone: 907 257-2641

RIN: 1093–AA07

[FR Doc. 95-23613 Filed 11-24-95; 8:45 am]

BILLING CODE 4310-RK-F

federal register

Tuesday
November 28, 1995

Part XI

Department of Justice

Semiannual Regulatory Agenda

DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE

8 CFR Ch. I

21 CFR Ch. I

28 CFR Ch. I

Regulatory Agenda

AGENCY: Department of Justice.

ACTION: Regulatory agenda.

SUMMARY: The Department of Justice is publishing its October 1995 regulatory agenda pursuant to E.O. 12866 "Regulatory Planning and Review," 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. sections 601-612 (1988).

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Office of Policy Development, Department of Justice, Room 4258, 10th and Constitution Avenue NW., Washington, DC 20530, (202) 514-8059.

SUPPLEMENTARY INFORMATION: For this edition of the Department of Justice's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Dated: September 28, 1995.

Eleanor D. Acheson,

Assistant Attorney General, Office of Policy Development.

Bureau of Prisons—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1874	Release of Information	1120-AA21
1875	Postsecondary Education Programs	1120-AA25
1876	Plastic Surgery	1120-AA26
1877	Inmate Discipline (Good Conduct Time)	1120-AA34
1878	Special Food	1120-AA37
1879	Correspondence	1120-AA38
1880	Inmate Organizations	1120-AA42

Bureau of Prisons—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1881	Volunteer Community Service Projects	1120-AA03
1882	Intensive Confinement Centers	1120-AA11
1883	Research	1120-AA14
1884	Incoming Publications/Inmate Legal Activities	1120-AA15
1885	Religious Beliefs and Practices	1120-AA17
1886	English as a Second Language Program	1120-AA19
1887	Administrative Remedy Program	1120-AA20
1888	HIV Programs; Notification Provisions	1120-AA22
1889	Infectious Diseases	1120-AA23
1890	Inmate Work and Performance Pay Program	1120-AA28
1891	Fines and Costs	1120-AA29
1892	Birth Control, Pregnancy, Child Placement, Abortion	1120-AA31
1893	Literacy Program	1120-AA33
1894	Postsecondary Education Programs	1120-AA35
1895	Drug Abuse Treatment Programs: Early Release Consideration	1120-AA36
1896	Telephone Regulations and Inmate Financial Responsibility	1120-AA39
1897	Use of Force	1120-AA41
1898	Central Inmate Monitoring	1120-AA43
1899	Education Tests: Minimum Standards for Administration, Interpretation, and Use	1120-AA44
1900	Unescorted Transfers and Voluntary Surrenders	1120-AA45
1901	Inmate Personal Property	1120-AA46
1902	Scope of Rules: National Security Considerations	1120-AA47

DOJ

Bureau of Prisons—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1903	Correspondence: Restricted Special Mail Procedures	1120-AA48

Bureau of Prisons—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1904	Drug Abuse Treatment Programs	1120-AA16
1905	Classification and Program Review	1120-AA30
1906	Administrative Safeguards for Psychiatric Treatment and Medication	1120-AA40

Civil Rights Division—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1907	Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities; Children's Facilities	1190-AA34
1908	Nondiscrimination on the Basis of Disability in State and Local Government Services	1190-AA36
1909	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities	1190-AA38

Civil Rights Division—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1910	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards **(Reg Plan Seq. No. 62)**	1190-AA26

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Civil Rights Division—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1911	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities—Implementation of Title IX of the Education Amendments of 1972	1190-AA28
1912	Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance; Rescission of Limitation on Participation of the Department of Education	1190-AA30
1913	Amendment to Nondiscrimination in Federally Assisted Programs and Activities—Implementation of Title VI of the Civil Rights Act of 1964	1190-AA31
1914	Amendment to Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964	1190-AA32
1915	Unfair Immigration-Related Employment Practices	1190-AA33
1916	Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, As Amended	1190-AA35
1917	Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups	1190-AA39

Drug Enforcement Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1918	Reports of Precursor and Essential Chemical Imports and Exports	1117-AA17
1919	Definition and Registration of Disposers	1117-AA19
1920	Removal of Restrictions on Employing Certain Individuals	1117-AA28

DOJ

Drug Enforcement Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1921	Waiver of Requirements for Distribution of Prescription Drug Products That Contain List I Chemicals	1117-AA29
1922	Manufacturer Reporting	1117-AA30
1923	Exemption of Chemical Mixtures	1117-AA31
1924	Removal of Exemption for Certain Pseudoephedrine Products Marketed Under the Federal Food, Drug, and Cosmetic Act	1117-AA32
1925	Consolidation, Elimination, and Clarification of Various Regulations	1117-AA33
1926	Diversion Control Fee Account	1117-AA34

Drug Enforcement Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1927	Prescriptions for Controlled Substances, Requirements for Use of Automated Data Processing Systems	1117-AA03
1928	Information for Exports of Precursor and Essential Chemicals	1117-AA18
1929	Distribution of Chemical Import/Export Declaration	1117-AA21

Drug Enforcement Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1930	Reporting on Psychotropic Substances	1117-AA22

Drug Enforcement Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1931	Exemption of Agents and Employees; Affiliated Practitioners	1117-AA20
1932	Implementation of Domestic Chemical Diversion Act of 1993	1117-AA23
1933	Registration of Manufacturers of Controlled Substances	1117-AA24
1934	Provisional Exemption From Registration for Certain List I Chemical Handlers; Extension	1117-AA35

Executive Office for Immigration Review—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1935	Motions and Appeals in Immigration Proceedings	1125-AA01
1936	Rules Concerning Conditional Permanent Residence for Alien Entrepreneurs in Deportation Proceedings	1125-AA02

Executive Office for Immigration Review—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1937	Stipulated Requests for Deportation or Exclusion Orders; Telephonic, Video Teleconferenced Hearings	1125-AA03
1938	Citizenship Requirement for Employment	1125-AA05
1939	Administrative Naturalization	1125-AA06
1940	Immigration Court Designation	1125-AA08
1941	Board of Immigration Appeals Expansion to Permanent 12 Members	1125-AA09
1942	Application for Suspension of Deportation, Form EOIR-40	1125-AA10

DOJ

General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1943	Supplemental Standards of Ethical Conduct for Employees of the Department of Justice	1103-AA25

Immigration and Naturalization Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1944	Revised Grounds of Exclusion, Parole of Aliens into the United St ates, and Waivers of Inadmissibility for Immigrants and Nonimmigrants	1115-AB45
1945	Visa Waiver Pilot Program	1115-AB93
1946	Adjustment of Status to That of Person Admitted for Permanent Residence: Conditional Residents and Fiance(e)s	1115-AC70
1947	Physical and Mental Examination of Arriving Aliens	1115-AD10
1948	Mexican and Canadian Nonresident Alien Border Crossing Cards (BCCS)	1115-AD24
1949	J Nonimmigrants: Requirements for Admission and Maintenance of Status; Employment Authorization	1115-AD37
1950	Appellate Jurisdiction	1115-AD41
1951	Validity of Approved Petitions and Appeal Rights	1115-AD45
1952	Issuance of Travel Documents Using Form I-131	1115-AD46
1953	Citizenship Documents	1115-AD51
1954	Standardized Testing for Naturalization; Procedures for Approval of Test Providers	1115-AD52
1955	Nonimmigrant Classes; Diplomat and Government Representatives	1115-AD57
1956	Procedures for Filing a Derivative Petition (Form I-730) for a Spouse and Unmarried Children of a Refugee/Asylee	1115-AD59
1957	Executing Final Order of Exclusion or Deportation; Conforming 72-Hour Notice Provisions	1115-AD71
1958	Clarification of Filing Venue, Fees, and Filing Requirements for Certain Applications for Replacement Alien Registration Card, Form I-551	1115-AD81
1959	Fees Assessed for Defaulted Payments	1115-AD92
1960	Arrival/Departure Records; Retention of Departure Portion of the Form I-94 for Seaports	1115-AD94
1961	Inspection of Alien Crew Members; 90-day Waiver	1115-AD95
1962	Screening Requirements of Carriers	1115-AD97
1963	Automated Issuance of Form I-94 Arrival/Departure Record	1115-AD99
1964	Cost of Detention of Stowaways Seeking Asylum	1115-AE03
1965	Nonimmigrant Classes; Transits; Requirements for Admission, Extension, and Maintenance of Status	1115-AE05
1966	Control of Employment of Aliens; Centralized Employment Authorization Document Production	1115-AE06
1967	Streamlining Naturalization **(Reg Plan Seq. No. 63)**	1115-AE18
1968	Acquisition of Citizenship; Equal Treatment of Women in Conferring Citizenship to Children Born Abroad	1115-AE19

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Immigration and Naturalization Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1969	Nonimmigrant Classes; Temporary Employees	1115-AA25
1970	Arrest and Detention of Aggravated Felons	1115-AB19
1971	Nonimmigrant Classes; NATO-1, 2, 3, 4, 5, 6, and 7; Control of Employment of Aliens (Special Requirement for Admission, Extension and Maintenance of Status; NATO)	1115-AB52
1972	Field Officers; Powers and Duties; Subpoena	1115-AB63
1973	Nonimmigrant Classes; North American Free Trade Agreement (U.S.-Canada Free-Trade Agreement Amendments)	1115-AB72
1974	Control of Employment of Aliens **(Reg Plan Seq. No. 64)**	1115-AB73
1975	Termination of Temporary Resident Status	1115-AB74
1976	Temporary Protected Status	1115-AC30
1977	Application for the Exercise of Discretion Under 212c, Aggravated Felons	1115-AC35
1978	Consent To Reapply for Admission After Deportation, Removal, or Departure at Government Expense	1115-AC37
1979	Applicant Processing for Family Unity Benefits	1115-AC39
1980	Petition To Classify Alien as Immediate Relative of a United States Citizen or Preference Immigrant; Adjustment of Status to That of a Person Admitted for Permanent Residence	1115-AC43

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Immigration and Naturalization Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1981	Conditional Basis of Lawful Permanent Residence for Certain Alien Spouses and Sons and Daughters; Battered and Abused Conditional Residents	1115-AC47
1982	Treaty Aliens, E Classification	1115-AC51
1983	Release Procedures; Lawful Permanent Residents Convicted of Aggravated Felonies	1115-AC60
1984	Temporary Alien Workers Seeking Classification Under the Immigration and Nationality Act	1115-AC72
1985	Registration and Fingerprinting of Nonimmigrants Designated by the Attorney General; Removal of Certain Requirements for Nonimmigrants Bearing Iraqi and Kuwaiti Travel Documents	1115-AC83
1986	Adjustment of Status to That of Person Admitted for Permanent Residence: Interview	1115-AD12
1987	F Nonimmigrants Requirements for Admission, Maintenance of Status; Employment Authorization	1115-AD16
1988	Inspection of Persons Applying for Admission	1115-AD17
1989	Classification of Certain Scientists of the Independent States of the Former Soviet Union and Baltic States as Employment-Based Immigrants	1115-AD29
1990	Adjustment of Status; Certain Nationals of the Peoples Republic of China	1115-AD33
1991	Privilege of Communication	1115-AD50
1992	Revocation of Naturalization	1115-AD54
1993	Petitions for Employment-Based Immigrants	1115-AD55
1994	INS Forms Available From the Superintendent of Documents	1115-AD58
1995	Rules and Procedures for Adjudication of Application for Asylum or Withholding of Deportation and Employment Authorization	1115-AD64
1996	Temporary Alien Workers Seeking H Classifications for the Purpose of Obtaining Graduate Medical Education or Training	1115-AD66
1997	Requests for Additional Evidence To Support Immigrant Visa Petitions	1115-AD70
1998	Reorganization of the Immigration and Naturalization Service	1115-AD72
1999	Expansion of Direct Mail Program	1115-AD73
2000	Admission of Certain Nurses Seeking Nonimmigrant Classification Under the H-1A Category	1115-AD74
2001	Certification of Designated Outside Entities To Take Fingerprints	1115-AD75
2002	Waiver of Certain Types of Visas Unforeseen Emergency	1115-AD77
2003	Fees for Participation in Dedicated Commuter Lanes at Selected Ports of Entry; Collection of Fees Under the Dedicated Commuter Lane Program; Port Passenger Accelerated Service System, PORTPASS	1115-AD82
2004	Adjustment of Status to That of Person Admitted for Permanent Residence; Temporary Removal of Certain Restrictions on Eligibility	1115-AD83
2005	Revocations and Designation of International Airport Status for Ports of Entry for Aliens Arriving by Aircraft	1115-AD84
2006	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses	1115-AD86
2007	Establishment of Form I-551, Alien Registration Receipt Card, as the Exclusive Form of Registration for Lawful Permanent Residents	1115-AD87
2008	Waiver of the Two-Year Home Country Physical Presence Requirement for Certain Foreign Medical Graduates	1115-AD89
2009	Immigrant Petitions; Children of Widows and Widowers	1115-AD91
2010	Regulation Changes Necessitated by the Break-up of the Soviet Union and Czechoslovakia, the Unification of the Two Germanies, and the Name Change of the Democratic Republic of Vietnam	1115-AD96
2011	Preinspection Services for Aircraft, Vessels, and Trains Outside the United States (Preinspection)	1115-AD98
2012	Former Citizens of the United States Regaining United States Citizenship	1115-AE00
2013	Expanding Waiver of the Government Knowledge, U.S. History, and English Language Requirements for Naturalization for Certain Persons Over 65 Who Have Resided in the U.S. at Least 20 Years	1115-AE02
2014	Self-Petitioning for Battered and Abused Alien Spouses and Children	1115-AE04
2015	Nationality and Naturalization	1115-AE07
2016	Notice of Policy Regarding Contracts Between the Immigration and Naturalization Service and Transportation Lines	1115-AE08
2017	Notice of Policy Regarding Fines Imposed on Carriers who Bring Aliens to the United States Without Proper Documentation	1115-AE09
2018	Notice to Carriers of the INS Policy Requesting the U.S. Customs Service (USCS) to Deny or Revoke Permission to Unlade Passengers for Those That are Delinquent in INS Fines Liquidated Damages	1115-AE10
2019	Notice to Carriers of the INS Policy on the Requirements of Arrival/Departure Manifests, Form I-94, and Fines Implications Under Section 231(a)	1115-AE11
2020	Order To Show Cause and Notice of Hearing: Apprehension, Custody, and Detention	1115-AE13
2021	"Master Exhibits" Currently Available	1115-AE14
2022	Subpoena Issuance Authority	1115-AE15
2023	Disclosure of Information	1115-AE17

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

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Immigration and Naturalization Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2024	Seizure and Forfeiture of Conveyances	1115-AA95
2025	Revision of Immediate and Continuous Transit Agreements	1115-AC17
2026	Unavailability to TWOV to Citizens of the Former Socialist Federal Republic of Yugoslavia	1115-AC87
2027	Nonimmigrant Classes; B Visitor for Business or Pleasure	1115-AC89
2028	Resubmission of Rejected Applications for Legalization	1115-AD49
2029	Administrative Application for Suspension of Deportation Procedure Before a District Director	1115-AD78
2030	Border Services User Fee	1115-AE01
2031	Employer Sanctions Modifications	1115-AE21

Immigration and Naturalization Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2032	Adjustment of Status to That of Persons Admitted for Lawful Temporary or Permanent Resident Status Under Section 245a of the Immigration and Nationality Act, as Amended	1115-AC18
2033	Biennial INS User Fee Review	1115-AD06
2034	Charging of Fees for Services at Land Border Ports-of-Entry	1115-AD30
2035	Automatic Revocation of Approval of Petitions	1115-AD56
2036	Denial of Employment Authorization to Aliens Placed in Deportation or Exclusion Proceedings as a Result of Encounter While Engaged in Unauthorized Employment	1115-AD65
2037	Mailing Addresses, Various Applications	1115-AD67
2038	Administrative Deportation Procedures for Non-Lawful Permanent Residents Who Are Convicted of an Aggravated Felony	1115-AD76
2039	Immigrant Petitions; Aliens in Religious Occupations	1115-AD79
2040	Contracts With Transportation Lines; Signatory Authority	1115-AD85
2041	Organizational Structure of the Immigration and Naturalization Service	1115-AD90
2042	Enroute Inspection Travel Expense; Liability for Cruise Ships	1115-AD93
2043	Naturalization Pilot Project; Availability of Funds; Solicitation of Proposals	1115-AE12
2044	Change in Employment Authorization Filing Procedures	1115-AE16
2045	Philippine Veterans of World War II Based Upon Active Duty Service in the United States Armed Forces During Specified Periods of Hostilities	1115-AE20
2046	Adding Daytona, Florida and Memphis, Tennessee to the List of Ports of Entry Accepting Applications for Direct Transit Without Visa	1115-AE22

Legal Activities—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2047	Criminal Fines Enforcement	1105-AA16
2048	Violent Crime and Drug Emergency Areas	1105-AA29
2049	Qualifications for Chapter 13 Standing Trustees	1105-AA32
2050	Motor Vehicle Theft Prevention Program	1105-AA34
2051	Use and Examination of Materials Submitted Pursuant to the Antitrust Civil Process Act	1105-AA37
2052	Designation of Agencies to Receive and Investigate Reports Required Under the Victims of Child Abuse Act	1105-AA38
2053	Implementation of Communications Assistance for Law Enforcement Act	1105-AA39
2054	Procedures for Receipt and Consideration of Written Comments Submitted Under Subsection 2(b) of the Antitrust Procedures and Penalties Act	1105-AA40
2055	False Claims Amendments Act of 1986—Civil Investigative Demands	1105-AA42

DOJ

Legal Activities—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2056	Revision of Regulations Governing the Remission or Mitigation of Civil and Criminal Forfeitures	1105-AA23
2057	Qualifications for Trustees	1105-AA30
2058	Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 USC 330	1105-AA33
2059	Jacob Wetterling Crimes Against Children and Sexually Violent Offender Guidelines	1105-AA36
2060	Recommendations to the President on Civil Aeronautics Board Decisions	1105-AA41

Legal Activities—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2061	Production or Disclosure of Material or Information	1105-AA20
2062	Federal Claims Collection Standards (FCCS)	1105-AA31

Office of Justice Programs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2063	Arrest Policies in Domestic Violence Cases	1121-AA35

Office of Justice Programs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2064	Uniform Administrative Requirements for Grants and Cooperative Agreements to Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	1121-AA18
2065	Violent Offender Incarceration and Truth in Sentencing Incentive Grant Program	1121-AA25
2066	Victim Assistance Grant Program Guidelines	1121-AA30

Office of Justice Programs—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2067	State Criminal Alien Assistance Program	1121-AA24
2068	Criminal Justice Information Systems	1121-AA32
2069	Confidentiality of Identifiable Research and Statistical Information	1121-AA33
2070	Criminal Justice Block Grants	1121-AA34

Office of Justice Programs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2071	Drug Court Program	1121-AA26
2072	Grants to Combat Violent Crimes Against Women	1121-AA27
2073	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirement for Drugfree Workplace (Grants)	1121-AA29

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Proposed Rule Stage

1874. RELEASE OF INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 28 USC 509 to 510

CFR Citation: 28 CFR 513

Legal Deadline: None

Abstract: This document consolidates procedures for releasing requested records in the possession of the Bureau of Prisons. The rule has been developed to help ensure that the Bureau of Prisons is in compliance with the statutory requirements of the Freedom of Information Act (5 USC 552) and the Privacy Act (5 USC 552a) and to supplement Department of Justice regulations at 28 CFR 16 implementing those statutes.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA21

1875. POSTSECONDARY EDUCATION PROGRAMS

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544

Legal Deadline: None

Abstract: This document restricts eligibility for Bureau payment of tuition for inmates who are refusing participation in the Inmate Financial Responsibility Program and for inmates who have a deportation detainer.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA25

1876. PLASTIC SURGERY

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: This document revises the Bureau's regulations on plastic surgery to allow for approval ordinarily only in cases where plastic surgery is a standard medical treatment for a current condition and for the protection of WITSEC inmate identities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA26

1877. INMATE DISCIPLINE (GOOD CONDUCT TIME)

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 541

Legal Deadline: None

Abstract: This document implements provisions of the Violent Crime Control and Law Enforcement Act of 1994 which require that inmates sentenced for crimes of violence display "exemplary compliance" with institution regulations in order to earn good conduct time.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	07/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA34

1878. SPECIAL FOOD

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 547

Legal Deadline: None

Abstract: This document clarifies the Bureau's regulations on the introduction of special foods into an institution.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47648
NPRM Comment Period End	11/13/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA37

DOJ—BOP

Proposed Rule Stage

1879. CORRESPONDENCE

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 540

Legal Deadline: None

Abstract: This document changes the official responsible for approving correspondence between inmates in different federal institutions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA38

1880. • INMATE ORGANIZATIONS

Priority: Routine and Frequent

Legal Authority: 18 USC 1512; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4081; 18 USC 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 551.30 to 551.36

Legal Deadline: None

Abstract: This document generally revises the regulations governing inmate organizations. The revised provisions prohibit fund-raising activities by inmates and require the orderly disbursement of accumulated funds.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA42

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Final Rule Stage

1881. VOLUNTEER COMMUNITY SERVICE PROJECTS

Priority: Routine and Frequent

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.60

Legal Deadline: None

Abstract: This document establishes provisions for Voluntary Community Service Projects. A volunteer community service project is a project designed to provide for the public good which has been developed by local government or by a nonprofit charitable organization for approval by the Bureau. This rule provides for the voluntary participation by an inmate in a volunteer community service project. The intent of this rule is to promote the public interest and provide for the security and good order of the institution by reducing inmate idleness.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/93	58 FR 5210
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA03

1882. INTENSIVE CONFINEMENT CENTERS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 524.31 to 524.34

Legal Deadline: None

Abstract: This document establishes procedures for the operation of a specialized program combining features of a military boot camp with the traditional correctional values of the Bureau of Prisons. Inmates who successfully complete this program may be placed in community-based programs for longer periods of time than ordinarily permitted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA11

1883. RESEARCH

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 512.10 to 512.22

Legal Deadline: None

DOJ—BOP

Final Rule Stage

Abstract: This document will revise Bureau regulations in conformance with newly issued Departmental regulations on the Protection of Human Subjects. This action is necessary to provide for the establishment and operation of Bureau institutional review boards, to simplify the application process, and to clarify existing policy.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/23/94	59 FR 13860
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA14

1884. INCOMING PUBLICATIONS/INMATE LEGAL ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 28 USC 1346(b); 28 USC 2671 to 2680

CFR Citation: 28 CFR 540.71; 28 CFR 543.11

Legal Deadline: None

Abstract: This document amends Bureau regulations on Incoming Publications to require that inmates in medium security, high security, and administrative institutions may receive softcover publications only from the publisher, book club, or bookstore. A conforming amendment is made to the Bureau's regulations on Inmate Legal Activities.

Timetable:

Action	Date	FR Cite
NPRM	01/18/94	59 FR 2668
NPRM Comment Period End	03/21/94	59 FR 2668
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA15

1885. RELIGIOUS BELIEFS AND PRACTICES

Priority: Other Significant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 42 USC 1996

CFR Citation: 28 CFR 548.10 to 548.20

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on religious beliefs and practices in order to provide for the uniform implementation of a common fare religious diet menu and to simplify and update procedures relating to religious beliefs and practices.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/95	60 FR 46485
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA17

1886. ENGLISH AS A SECOND LANGUAGE PROGRAM

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544.40 to 544.44

Legal Deadline: None

Abstract: This document incorporates statutory mandatory functional literacy requirements into Bureau regulations. These functional literacy requirements provide that inmates who are not proficient in English must participate in an English as a Second Language program until they function at the eighth grade level on a nationally recognized test.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/94	59 FR 14724
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA19

1887. ADMINISTRATIVE REMEDY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 542

Legal Deadline: None

Abstract: This document revises Bureau regulations to allow for procedural changes in the processing of inmate remedy requests. These changes include slight increases in the time limits set for inmate filings and agency responses, added protections against abusive filers, the provisioning of assistance to inmates, and increased access to indexes and responses.

Timetable:

Action	Date	FR Cite
NPRM	10/03/94	59 FR 50179
NPRM Comment Period End	12/02/94	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA20

DOJ—BOP

Final Rule Stage

1888. HIV PROGRAMS; NOTIFICATION PROVISIONS

Priority: Other Significant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549.16

Legal Deadline: None

Abstract: This document amends existing regulations on HIV programs in order to adjust the reporting period for notification to the U.S. Probation Office and to describe more completely the conditions requiring notification.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA22

1889. INFECTIOUS DISEASES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: This document combines existing regulations on HIV programs with provisions applicable to correctional management of tuberculosis and hepatitis B.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/95	60 FR 52278
Interim Final Rule Comment Period End	12/04/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA23

1890. INMATE WORK AND PERFORMANCE PAY PROGRAM

Priority: Routine and Frequent

Legal Authority: 18 USC 3013; 18 USC 3571; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 3663; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4126; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 545.20 to 545.31

Legal Deadline: None

Abstract: In this document, the Bureau of Prisons is amending its rule on the Inmate Work and Performance Pay Program to make changes necessary to conform with the revised provisions of the Inmate Financial Responsibility Program and to make other minor changes, primarily of an editorial nature.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA28

1891. FINES AND COSTS

Priority: Routine and Frequent

Legal Authority: 18 USC 3565; 18 USC 3568 to 3569; 18 USC 3621; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 4201 to 4218; 18 USC 5031 to 5042; 28 USC 509 to 510

CFR Citation: 28 CFR 571.50 to 571.56

Legal Deadline: None

Abstract: This document will revise Bureau regulations to update procedures for processing a fine or costs ordered by the court with respect to an inmate convicted of an offense committed before November 1, 1987.

Timetable:

Action	Date	FR Cite
Final Action	02/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA29

1892. BIRTH CONTROL, PREGNANCY, CHILD PLACEMENT, ABORTION

Priority: Routine and Frequent

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.22 to 551.24

Legal Deadline: None

Abstract: This document removes references to restrictions on Bureau funding of an elective abortion. Removal of these references is necessary to conform to changes in legislative authority. This document also makes various editorial or organizational changes for the sake of clarity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/06/94	59 FR 62968
Final Action	03/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA31

1893. LITERACY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

DOJ—BOP

Final Rule Stage

CFR Citation: 28 CFR 544.70 to 544.76

Legal Deadline: None

Abstract: This document implements statutory provisions which make an inmate's vesting of good conduct time contingent upon the inmate's obtaining or making satisfactory progress toward obtaining a General Educational Degree or high school diploma. Additional changes to the regulations on the Bureau's literacy program are made for the sake of clarification or simplification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	
Final Action	06/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA33

1894. POSTSECONDARY EDUCATION PROGRAMS

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544.20 to 544.23

Legal Deadline: None

Abstract: This document clarifies requirements for tuition funding sources and makes various administrative changes in the operation of the program. The intent of this revision is to provide for the more efficient use of Bureau resources.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	
Final Action Effective	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA35

1895. DRUG ABUSE TREATMENT PROGRAMS: EARLY RELEASE CONSIDERATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4251 to 4255; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 550

Legal Deadline: None

Abstract: This document implements provisions of the Violent Crime Control and Law Enforcement Act of 1994 which allow for consideration of early release of eligible non-violent offenders who complete a residential drug abuse treatment program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/25/95	60 FR 27692
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA36

1896. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039

CFR Citation: 28 CFR 540

Legal Deadline: None

Abstract: This document postpones the effective date for certain provisions of the final rule on Telephone Regulations and Inmate Financial Responsibility which was published on April 4, 1994.

Timetable:

Action	Date	FR Cite
Final Action	01/00/96	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA39

1897. • USE OF FORCE

Priority: Routine and Frequent

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 552.24

Legal Deadline: None

Abstract: This document increases the frequency of staff monitoring of inmates in four-point restraints.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	
Final Action Effective	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA41

1898. • CENTRAL INMATE MONITORING

Priority: Routine and Frequent

Legal Authority: 18 USC 3521 to 3528; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 524.70 to 524.78

Legal Deadline: None

Abstract: This document revises regulations on the Bureau's central inmate monitoring system for general clarity, to remove obsolete categories, to update staff responsibilities, and to make various changes in administrative procedures.

DOJ—BOP

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	
Final Action Effective	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA43

1899. • EDUCATION TESTS: MINIMUM STANDARDS FOR ADMINISTRATION, INTERPRETATION, AND USE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 544.10 to 544.13

Legal Deadline: None

Abstract: This document rescinds existing Bureau regulations on testing requirements, as guidelines established by test publishers are adequate for the administrative processing of education tests.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA44

1900. • UNESCORTED TRANSFERS AND VOLUNTARY SURRENDERS

Priority: Other

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 522.30

Legal Deadline: None

Abstract: This document updates statutory citations and makes an editorial change in the heading of the subpart.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	
Final Action Effective	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA45

1901. • INMATE PERSONAL PROPERTY

Priority: Routine and Frequent

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 553.10 to 553.15

Legal Deadline: None

Abstract: This document revises procedures governing the transfer of inmate personal property between institutions.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	
Final Action Effective	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA46

1902. • SCOPE OF RULES: NATIONAL SECURITY CONSIDERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 501

Legal Deadline: None

Abstract: This document allows for special administrative measures which may be taken with regard to a specific inmate when necessary to avoid the risk of disclosure of classified information that could endanger national security.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/95	
Final Action	05/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA47

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Long-Term Actions

1903. • CORRESPONDENCE: RESTRICTED SPECIAL MAIL PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 540.18

Legal Deadline: None

Abstract: This document provides for restricted special mail procedures in instances where the Warden has reason to believe that the special mail may pose or may threaten physical harm to the intended recipient.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA48

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Completed Actions

1904. DRUG ABUSE TREATMENT PROGRAMS

Priority: Routine and Frequent

CFR Citation: 28 CFR 550.50 to 550.54; 28 CFR 545.11; 28 CFR 545.23; 28 CFR 545.25

Completed:

Reason	Date	FR Cite
Final Action	05/25/95	60 FR 27692
Final Action Effective	06/26/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655

RIN: 1120–AA16

1905. CLASSIFICATION AND PROGRAM REVIEW

Priority: Routine and Frequent

CFR Citation: 28 CFR 524.12

Completed:

Reason	Date	FR Cite
Final Action	06/27/95	60 FR 33320
Final Action Effective	07/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655

RIN: 1120–AA30

1906. • ADMINISTRATIVE SAFEGUARDS FOR PSYCHIATRIC TREATMENT AND MEDICATION

Priority: Routine and Frequent

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4045; 18 USC 4081; 18 USC 4082; 18 USC 4241 to 4247; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: This document adopts as final interim regulations on administrative procedural safeguards given an inmate prior to the provision of involuntary psychiatric treatment and medication.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/12/92	57 FR 53820
Final Action	09/25/95	60 FR 49444
Final Action Effective	09/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA40

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Proposed Rule Stage

1907. AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES; CHILDREN'S FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12134; 42 USC 12186; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

CFR Citation: 28 CFR 38; 36 CFR 1191

Legal Deadline: None

Abstract: This rule would amend Department regulations concerning titles II and III of the Americans with Disabilities Act of 1990 (ADA) to add a new special application section to the ADA standards for Accessible Design for children's facilities. The new section will contain guidelines based on children's dimensions and anthropometrics and would apply to newly constructed and altered facilities designed for use primarily by children.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: AGENCY CONTACT CONT: TDD (808) 514-0383

Agency Contact: John Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66118, Washington, DC 20035-6118
Phone: 800 514-0301

RIN: 1190–AA34

DOJ—CRT

Proposed Rule Stage

1908. • NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 12134; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

CFR Citation: 28 CFR 35

Legal Deadline: None

Abstract: This proposed amendment would revise the Department's regulation implementing Title II to clarify the requirement for installation of curb ramps at existing pedestrian walkways and to extend the time period for compliance beyond the current deadline of January 26, 1995. This amendment responds to public concerns about the unique and significant capital expense involved in the installation of curb ramps.

The amendment would establish a two-tier system under which public entities would be required to provide access to pedestrian walkways serving government offices, public transportation, public accommodations, places of employment, and the residences of individuals with disabilities by January 26, 2000. Access to existing pedestrian walkways in other areas would be required by January 26, 2005. The proposed rule would require public entities to included a schedule for the implementation of these requirements in their transition plans.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA36

1909. • NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12186; 5 USC 301; 28 USC 509; PL 101-336; 28 USC 510

CFR Citation: 28 CFR 36

Legal Deadline: None

Abstract: On July 26, 1991, the Department published its final rules implementing titles II and III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by public entities (title II) and in places of accommodation and commercial facilities (title III). Those regulations included accessibility guidelines but did not specifically include guidelines for facilities designed for children.

This rule amends the ADA accessibility guidelines to include guidelines based on children's dimensions and anthropometrics and applies to newly constructed and altered facilities that are designed for use primarily by children. The rule ensures that newly constructed and altered children's facilities are readily accessible to and usable by children with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA38

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Final Rule Stage

1910. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS

Regulatory Plan: This entry is Seq. No. 62 in Part II of this issue of the **Federal Register**.

RIN: 1190–AA26

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Long-Term Actions

1911. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority: Other Significant

CFR Citation: 28 CFR 42 subpart J (New)

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222
TDD: 202 307-2678
Fax: 202 307-0595

RIN: 1190–AA28

1912. PROCEDURES FOR COMPLAINTS OF EMPLOYMENT DISCRIMINATION FILED AGAINST RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE; RESCISSION OF LIMITATION ON PARTICIPATION OF THE DEPARTMENT OF EDUCATION

Priority: Other

CFR Citation: 28 CFR 42; 29 CFR 1691

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222

RIN: 1190–AA30

1913. AMENDMENT TO NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

CFR Citation: 28 CFR 42.101 to 42.112

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222
TDD: 202 307-2678
Fax: 202 307-0595

RIN: 1190–AA31

1914. AMENDMENT TO COORDINATION OF ENFORCEMENT OF NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

CFR Citation: 28 CFR 42.401 to 42.415

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222
TDD: 202 307-2678
Fax: 202 307-0595

RIN: 1190–AA32

1915. UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 44.100 to 44.305

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/91	56 FR 40247
Interim Final Rule Effective	08/14/91	56 FR 40247
Interim Final Rule Comment Period End	10/15/91	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Ho-Gonzalez
Phone: 202 616-5594
TDD: 202 616-5525
Fax: 202 616-5509

RIN: 1190–AA33

1916. PROCEDURES FOR THE ADMINISTRATION OF SECTION 5 OF THE VOTING RIGHTS ACT OF 1965, AS AMENDED

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 51

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Mark Posner
Phone: 202 307-1388
Fax: 202 307-3961

RIN: 1190–AA35

1917. • IMPLEMENTATION OF THE PROVISIONS OF THE VOTING RIGHTS ACT REGARDING LANGUAGE MINORITY GROUPS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 28 USC 509 to 510; 42 USC 1973b; 42 USC 1973j(d); 42 USC 1973aa-1a; 42 USC 1973aa-2

CFR Citation: 28 CFR 55

Legal Deadline: None

Abstract: This rule revises the Attorney General's minority language guidelines as a result of experience gained under the guidelines since they were first promulgated in 1976.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Susanna C. Lorenzo-Giguere, Attorney, Department of Justice, Civil Rights Division, P.O. Box 66128, Washington, DC 20035
Phone: 202 514-9822
Fax: 202 307-3961

RIN: 1190–AA39

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DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)

Proposed Rule Stage

1918. REPORTS OF PRECURSOR AND ESSENTIAL CHEMICAL IMPORTS AND EXPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 971

CFR Citation: 21 CFR 1310; 21 CFR 1313

Legal Deadline: None

Abstract: This rule would amend 21 CFR, parts 1310 and 1313, to require that persons importing or exporting regulated chemicals: report to DEA the actual date of importation or exportation and the actual amount of regulated chemicals imported or exported; establish a 60-day time limit on the validity of chemical import/export declarations; and clarify that the threshold levels for hydrochloric acid, anhydrous hydrochloric acid, and sulfuric acid apply to both exports and transshipments to designated countries. 21 U.S.C. 971 requires that persons provide DEA with notification of imports and exports of regulated chemicals at least 15 days in advance of the proposed transactions. Experience has shown that the actual date of import/export and amount of chemicals involved often vary significantly from the proposed date and amounts reported to DEA. The proposed changes will allow DEA to collect and maintain accurate information regarding regulated chemical imports/exports.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA 106

Agency Contact: James A. Pacella, Chief, Policy Unit, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA17

1919. DEFINITION AND REGISTRATION OF DISPOSERS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871(b); 21 USC 875; 21 USC 877

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In years past, most pharmaceutical manufacturers and wholesalers, as a service to their customers, accepted returns of outdated/damaged merchandise. Also, agencies such as DEA and state Boards of Pharmacy accepted surrendered drugs or witnessed their disposal by controlled substance registrants. Over the past several years, environmental concerns and regulations have eliminated many of the disposal options which had been available. As a result, drug producers and government agencies alike are increasingly reluctant to be involved in the disposal process. Due to these factors and the time and resources expended by DEA and manufacturers, a disposer registration has become an essential link in the legitimate distribution chain. Therefore, DEA is proposing the establishment of a new category of controlled substance registrant as a disposer.

Timetable:

Action	Date	FR Cite
NPRM	08/23/95	60 FR 43732
NPRM Comment Period End	10/23/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA 108

Agency Contact: James A. Pacella, Chief, Policy Unit, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA19

1920. REMOVAL OF RESTRICTIONS ON EMPLOYING CERTAIN INDIVIDUALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 822

CFR Citation: 21 CFR 1301.76(a)

Legal Deadline: None

Abstract: This rule removes certain restrictions on the employment by registrants of individuals convicted of a felony offense relating to controlled substances, persons denied DEA registration or who had it revoked for cause.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA28

1921. • WAIVER OF REQUIREMENTS FOR DISTRIBUTION OF PRESCRIPTION DRUG PRODUCTS THAT CONTAIN LIST I CHEMICALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 822; 21 USC 871(b)

CFR Citation: 21 CFR 1309; 21 CFR 1310

Legal Deadline: None

Abstract: This rule would amend 21 CFR, parts 1309 and 1310, to waive the requirement for registration, and allow the use of records required to be kept under FDA regulations in lieu of maintaining separate DEA records, for the distribution of drug products that are subject to regulation as List I chemicals.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration

DOJ—DEA

Proposed Rule Stage

Phone: 202 307-7297

RIN: 1117–AA29

1922. • MANUFACTURER REPORTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: This rule specifies the reporting requirements for bulk chemical manufacturers, as required by the Domestic Chemical Diversion Control Act of 1993. The rule provides that existing reports may be used to satisfy the reporting requirement.

Regulations concerning this requirement were previously proposed in the NPRM re: Implementation of the Domestic Chemical Diversion Control Act of 1993 (1117-AA23). Following industry comments, the reporting provisions were withdrawn for further consideration and consultation with industry. Based on consultations with industry new regulations are now being proposed.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7183

RIN: 1117–AA30

1923. • EXEMPTION OF CHEMICAL MIXTURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: The Domestic Chemical Diversion Control Act of 1993 removed the exemption from regulation for chemical mixtures. Chemical mixtures are now regulated, unless specifically exempted by the Administrator. In the proposed rule regarding the implementation of the Domestic Chemical Diversion Control Act of 1993, DEA proposed regulations regarding exemption of chemical mixtures. Based on industry comments, the proposed regulations were subsequently withdrawn for reassessment and consultation with industry. These proposed regulations establish the new provisions regarding the exemption of chemical mixtures. Based on extensive consultations with industry, the regulations are intended to establish the least possible burden on industry while remaining consistent with the requirements of the law.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7183

RIN: 1117–AA31

1924. • REMOVAL OF EXEMPTION FOR CERTAIN PSEUDOEPHEDRINE PRODUCTS MARKETED UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 811; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1309; 21 CFR 1310; 21 CFR 1313

Legal Deadline: None

Abstract: DEA is proposing to remove certain pseudoephedrine products from the exemption granted to drug products that are marketed under the Federal Food, Drug, and Cosmetic Act, based on evidence that the products are being diverted for the illicit manufacture of controlled substances. DEA is proposing to limit the regulation of these products to the distribution level through waiver of the registration requirement for retailers and establishment of a threshold that will not require recordkeeping and reporting for sales of personal use quantities to legitimate users. Further, the number of products to be regulated has been limited.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7183

RIN: 1117–AA32

1925. • CONSOLIDATION, ELIMINATION, AND CLARIFICATION OF VARIOUS REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 871(b)

CFR Citation: 21 CFR 1301; 21 CFR 1302; 21 CFR 1304; 21 CFR 1305; 21 CFR 1306; 21 CFR 1307; 21 CFR 1310; 21 CFR 1311; 21 CFR 1316

Legal Deadline: None

Abstract: Consistent with the White House National Performance Review initiative, DEA has conducted a review of Title 21, Code of Federal Regulations, Parts 1300 to End. In the course of this review, DEA has identified a number of areas in the regulations where steps can be taken to eliminate outdated requirements, consolidate related sections, and otherwise streamline the regulations. This action should reduce the regulations and provide a more consistent and easily understood framework of guidelines for industry to follow in complying with the requirements of the Controlled Substances Act.

DOJ—DEA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA Number 139P

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297

RIN: 1117–AA33

1926. • DIVERSION CONTROL FEE ACCOUNT

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 821; 21 USC 822; 21 USC 871(b)

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In furtherance of the DEA's 1992 final rule regarding the increase of application fees (57 FR 60148), DEA is publishing this explanation of the components of the diversion control program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA Number 140P

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297

RIN: 1117–AA34

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)

Final Rule Stage

1927. PRESCRIPTIONS FOR CONTROLLED SUBSTANCES, REQUIREMENTS FOR USE OF AUTOMATED DATA PROCESSING SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 829; 21 USC 871(b)

CFR Citation: 21 CFR 1306.21; 21 CFR 1306.22; 21 CFR 1306.26; 21 CFR 1306.31

Legal Deadline: None

Abstract: This rule will amend existing regulations concerning the maintenance and retrieval of controlled substance prescription information stored in automated data processing systems. The rule is intended to clarify and simplify existing requirements. Some of these requirements are being met in another rule concerning the facsimile transmission of prescriptions.

Timetable:

Action	Date	FR Cite
NPRM	09/05/89	54 FR 36815
NPRM Comment Period End	11/24/89	54 FR 43436
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: G. Thomas Gitchel, Chief, State and Industry Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA03

1928. INFORMATION FOR EXPORTS OF PRECURSOR AND ESSENTIAL CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 971

CFR Citation: 21 CFR 1313

Legal Deadline: None

Abstract: This rule would require regulated persons to submit information on customers for specific chemicals shipped to certain countries along with the present reporting form required by DEA (DEA Form 486; OMB No. 1117-0023). The information is being required due to the extremely high risk of diversion of such chemicals within those countries where large quantities of illicit drugs are processed or manufactured.

Timetable:

Action	Date	FR Cite
NPRM	08/12/93	58 FR 42894
NPRM Comment Period End	09/13/93	58 FR 42894
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA 107

Agency Contact: James A. Pacella, Chief, Policy Unit, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA18

1929. DISTRIBUTION OF CHEMICAL IMPORT/EXPORT DECLARATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 971

CFR Citation: 21 CFR 1313

Legal Deadline: None

Abstract: The DEA is amending its regulations concerning the disposition of Copy 3 of the Precursor and Essential Chemical Import/Export Declaration (DEA Form 486). The amendment is being made to eliminate confusion between the regulation and the instructions set forth on the reporting form.

Timetable:

Action	Date	FR Cite
NPRM	09/23/93	58 FR 49455
NPRM Comment Period End	11/22/93	58 FR 49455
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA 110

Agency Contact: James A. Pacella, Chief, Policy Unit, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537

DOJ—DEA

Final Rule Stage

Phone: 202 307-7297

RIN: 1117–AA21

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)

Long-Term Actions

1930. REPORTING ON PSYCHOTROPIC SUBSTANCES

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1304

Timetable:

Action	Date	FR Cite
NPRM	10/18/93	58 FR 53680
NPRM Comment Period End	12/17/93	58 FR 53680
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Pacella
Phone: 202 307-7297

RIN: 1117–AA22

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)

Completed Actions

1931. EXEMPTION OF AGENTS AND EMPLOYEES; AFFILIATED PRACTITIONERS

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1301

Completed:

Reason	Date	FR Cite
Final Action	07/18/95	60 FR 36640
Final Action Effective	09/18/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Pacella
Phone: 202 307-7297

RIN: 1117–AA20

1932. IMPLEMENTATION OF DOMESTIC CHEMICAL DIVERSION ACT OF 1993

Priority: Other Significant

CFR Citation: 21 CFR 1309; 21 CFR 1310; 21 CFR 1313

Completed:

Reason	Date	FR Cite
Final Action	06/22/95	60 FR 32447
Final Action Effective	08/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Pacella
Phone: 202 307-7297

RIN: 1117–AA23

1933. REGISTRATION OF MANUFACTURERS OF CONTROLLED SUBSTANCES

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1301

Completed:

Reason	Date	FR Cite
Final Action	06/20/95	60 FR 32099
Final Action Effective	07/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julie C. Gallagher
Phone: 202 307-8010

RIN: 1117–AA24

1934. • PROVISIONAL EXEMPTION FROM REGISTRATION FOR CERTAIN LIST I CHEMICAL HANDLERS; EXTENSION

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310.09

Legal Deadline: None

Abstract: DEA is extending the temporary exemption from the chemical registration requirements to allow persons who were not aware of the requirement to submit their applications on or before October 5, 1995, additional time to prepare and submit their applications.

Timetable:

Action	Date	FR Cite
Extension of Deadline by Rule - New Deadline 11/13/95	10/12/95	60 FR 53121

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297

RIN: 1117–AA35

DEPARTMENT OF JUSTICE (DOJ)
Executive Office for Immigration Review (EOIR)

Final Rule Stage

1935. MOTIONS AND APPEALS IN IMMIGRATION PROCEEDINGS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Sec. 2, Reorg. Plan No. 2 of 1950; 3 CFR. 1949 to 1953 Comp, p 1002

DOJ—EOIR

Final Rule Stage

CFR Citation: 8 CFR 1; 8 CFR 3; 8 CFR 103; 8 CFR 208; 8 CFR 212; 8 CFR 242

Legal Deadline: NPRM, Statutory, June 1991.

Abstract: Proposed regulations were published in the Federal Register on June 7, 1994 (59 FR 29386) (hereinafter referred to as the June proposed rulemaking), concerning motions and appeals in immigration proceedings and on May 13, 1994 (59 FR 24977) (hereinafter referred to as the May proposed rulemaking), concerning fees. The June proposed rulemaking was promulgated to implement section 545 of the Immigration Act of 1990, Public Law 101-649, which requires both time and number limitations on motions to reopen and reconsider and changes in the substantive and procedural aspects of motion and appeal practice. The May proposed rulemaking was promulgated to establish an alternative procedure for filing proof of fee payments with the Board of Immigration Appeals (Board).

Since the publication of these two proposed rules, the agency has further examined its current appeal procedures and has decided to establish a uniform central system for filing and tracking appeals before the Board. Under the proposed procedure, parties would file a notice of appeal from a decision of an Immigration Judge and remit the appeal fee or fee waiver petition with the notice of appeal directly to the Board. The rule would also require that motions to reopen and motions to reconsider decisions of the Board be filed directly with the Board accompanied by the appropriate fee or fee waiver petition. This rule would supersede the May and June proposed rulemakings.

This proposed centralization of the appeals procedure is fundamentally interrelated to the proposed changes of both the May and June proposed rulemakings. Therefore, the agency has determined to merge these substantive and procedural proposals into one rule and to provide an opportunity for public comment on this merged rule. The June proposed rule has been changed to clarify certain provisions and to reflect many of the commentors' concerns. The single unified proposed rule is published herein and addresses both the language of section 545(d) of the Immigration Act of 1990 and new procedural changes to the filing of appeals, motions, and their concomitant fees with the Board.

Timetable:

Action	Date	FR Cite
NPRM	06/07/94	59 FR 29386
NPRM Comment Period End	08/06/94	
Second NPRM	05/09/95	60 FR 24573
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: EOIR-102P

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA01

1936. RULES CONCERNING CONDITIONAL PERMANENT RESIDENCE FOR ALIEN ENTREPRENEURS IN DEPORTATION PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg. Plan No. 2 of 1950, sec 2; 3 CFR, 1949 to 1953 Comp, p 1002

CFR Citation: 8 CFR 3

Legal Deadline: None

Abstract: The Immigration Act of 1990 provides that an alien entrepreneur and his or her family may obtain lawful permanent residence on a conditional basis, subject to the requirements of a timely petition and interview for removal of the condition two years after obtaining such status. Termination of such status is made reviewable in deportation proceedings before an Immigration Judge. This rule sets forth the procedures that an Immigration Judge will follow in reviewing the termination by the Immigration and Naturalization Service of conditional permanent resident status of alien entrepreneurs and their families.

Timetable:

Action	Date	FR Cite
NPRM	11/12/93	58 FR 59953
NPRM Comment Period End	12/13/93	58 FR 59953
Final Action	12/00/95	
Final Action Effective	02/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA02

DEPARTMENT OF JUSTICE (DOJ)
Executive Office for Immigration Review (EOIR)

Completed Actions

1937. STIPULATED REQUESTS FOR DEPORTATION OR EXCLUSION ORDERS; TELEPHONIC, VIDEO TELECONFERENCED HEARINGS

Priority: Other

CFR Citation: 8 CFR 3

Completed:

Reason	Date	FR Cite
Final Action	05/17/95	60 FR 26351
Final Action Effective	06/16/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin
Phone: 703 305-0470

RIN: 1125–AA03

1938. CITIZENSHIP REQUIREMENT FOR EMPLOYMENT

Priority: Other

CFR Citation: 8 CFR 3

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29467
Final Action Effective	07/05/95	

Small Entities Affected: None

DOJ—EOIR

Completed Actions

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin
Phone: 703 305-0470

RIN: 1125–AA05

1939. • ADMINISTRATIVE NATURALIZATION

Priority: Other

Legal Authority: 8 USC 1103; 8 USC 1443; 8 USC 1448

CFR Citation: 8 CFR 337

Legal Deadline: None

Abstract: On February 3, 1995, at 60 FR 6647, the Department of Justice published a rule finalizing the procedures implementing an administrative naturalization process as provided for by recent changes in the immigration laws. This rule amends those procedures slightly by extending concurrent jurisdiction to administer the oath of allegiance to Immigration Judges with certain officers of the Immigration and Naturalization Service. This change will provide a more formal setting for the oath of allegiance and add to the solemnity of the occasion upon which a person becomes a citizen of the United States. In addition, it will alleviate in some measure the burden on Service personnel and resources to hold periodic naturalization ceremonies by expanding the responsibility for this duty to Immigration Judges.

Timetable:

Action	Date	FR Cite
Final Action	07/24/95	60 FR 37803
Final Action Effective	07/24/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA06

1940. • IMMIGRATION COURT DESIGNATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg. Plan No. 2 of 1950, sec 2; 3 CFR, 1949 to 1953 Comp, p. 1002

CFR Citation: 8 CFR 3; 8 CFR 103; 8 CFR 204; 8 CFR 208; 8 CFR 212; 8 CFR 236; 8 CFR 240; 8 CFR 242; 8 CFR 245; 8 CFR 292

Legal Deadline: None

Abstract: This final rule amends 8 CFR 3, 103, 204, 208, 212, 236, 240, 242, 245, and 292 by replacing the tribunal name "Office of the Immigration Judge" with the tribunal name "Immigration Court." This rule codifies current usage of the term "Immigration Court" in reference to deportation and exclusion proceedings conducted before Immigration Judges throughout the United States. The rule makes no substantive changes in Immigration Judge proceedings.

Timetable:

Action	Date	FR Cite
Final Action	06/30/95	60 FR 34089
Final Action Effective	06/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA08

1941. • BOARD OF IMMIGRATION APPEALS EXPANSION TO PERMANENT 12 MEMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg. Plan No. 2 of 1950, sec 2; 3 CFR, 1949 to 1953 Comp., p. 1002

CFR Citation: 8 CFR 3

Legal Deadline: None

Abstract: This final rule expands the Board of Immigration Appeals to twelve permanent members, including eleven Board Members and a Chairman. The rule also retains the authority of the Director of the Executive Office for Immigration Review to designate Immigration Judges as temporary additional Board Members.

Timetable:

Action	Date	FR Cite
Final Action	06/05/95	60 FR 29469
Final Action Effective	06/05/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA09

1942. • APPLICATION FOR SUSPENSION OF DEPORTATION, FORM EOIR-40

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 31 USC 9701; EO 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp, p 166; 8 CFR 2

CFR Citation: 8 CFR 103; 8 CFR 244; 8 CFR 299

Legal Deadline: None

Abstract: This final rule amends the regulations to reflect the change in responsibility for the Form I-256A, Application for Suspension of Deportation, from the Immigration and Naturalization Service to the Executive Office for Immigration Review. As a result of this change in responsibility, the form number for the Application for Suspension of Deportation has been changed from I-256A to EOIR-40. This final rule is necessary to ensure that the public uses the correct form when applying for suspension of deportation.

Timetable:

Action	Date	FR Cite
Final Action	07/20/95	60 FR 37327
Final Action Effective	07/20/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA10

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Final Rule Stage

1943. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF JUSTICE

Priority: Other

Legal Authority: 5 USC 301; 5 USC 7301; 5 USC app, Ethics in Government Act of 1978, as amended; 18 USC 207(h)(1); 18 USC 208; 28 USC 528; EO 12674; EO 12731; 5 CFR 735; 5 CFR 2634; 5 CFR 2635; 5 CFR 2641; DOJ Ord 1735.1

CFR Citation: 5 CFR 3801 (New); 28 CFR 45 (Removal)

Legal Deadline: None

Abstract: This rule would supplement the uniform Standards of Ethical Conduct for Employees of the Executive Branch for employees of the Department of Justice. This supplement is necessary because it addresses statutory requirements and issues that are unique to the Department. In addition, the rule would remove the existing Department standard-of-conduct regulations from 28 CFR part 45.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Rafael Alberto Madan, Attorney Advisor, Justice Management Division, Department of Justice, 10th & Constitution Avenue NW., Washington, DC 20530
Phone: 202 514-3452

RIN: 1103–AA25

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Proposed Rule Stage

1944. REVISED GROUNDS OF EXCLUSION, PAROLE OF ALIENS INTO THE UNITED ST ATES, AND WAIVERS OF INADMISSIBILITY FOR IMMIGRANTS AND NONIMMIGRANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1201; 8 USC 1304; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1186A; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 238; 8 CFR 103; 8 CFR 204; 8 CFR 207; 8 CFR 208; 8 CFR 209; 8 CFR 210; 8 CFR 213; 8 CFR 223a; 8 CFR 235; 8 CFR 236; 8 CFR 238; 8 CFR 239; ...

Legal Deadline: None

Abstract: This regulation provides changes to the grounds of exclusion applicable to those seeking admission to the US either on a temporary or permanent basis, and sets forth the circumstances under which discretionary waivers of excludability are available. The amendments reflect statutory changes made by section 601 of the Immigration Act of 1990, IMMACT 90, as well as subsequent technical amendments to the statute. The rule is necessary to ensure implementation of, and regulatory compliance with, the statute as enacted by Congress.

This rule also changes language in 8 CFR 209.2(b) that pertains to the adjustment of status of aliens who, though granted asylum, are determined to be inadmissible aliens pursuant to the provisions set forth in IMMACT.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1413-92

Consolidated INS Rules 1304, RIN 1115-AC01; 1235, RIN 1115-AB39; 1232, RIN 1115-AB45; and 1648, RIN 1115-AD62.

Agency Contact: Sophia Cox, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AB45

1945. VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1356; 8 USC 1187; 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 217

Legal Deadline: None

Abstract: The Visa Waiver Pilot Program allows nationals of designated countries to apply for admission to the US at land border ports as well as at air and sea ports and to enter the US for business or pleasure for up to 90 days without first obtaining a nonimmigrant visa.

INS No. 1447 permits nationals of 13 additional designated countries, Andorra, Austria, Belgium, Denmark, Finland, Iceland, Liechtenstein, Luxembourg, Monaco, New Zealand, Norway, Spain, and San Marino to apply for admission for 90 days or less as nonimmigrant visitors for business or pleasure without first obtaining a nonimmigrant visa

INS No. 1447R amends section 217 by removing Andorra, Austria, Italy, and Monaco as countries participating in the Visa Waiver Pilot Program. This action is necessary because these countries no longer meet the criteria for continued participation in the program.

INS No. 1674 provided notice of the Congressional extension of the VWPP through 9-30-96.

INS No. 1685 extends the VWPP to nationals of Ireland and also allows nationals of designated countries whose method of arrival at port-of-entry had previously precluded them from participating in the VWPP to now participate.

DOJ—INS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1447) Eff. 10-1-91; Com. Due 10-15-91	09/13/91	56 FR 46716
Public Notice (INS No. 1674) Eff. 10-25-94, Cut-off date 9-30-96	02/21/95	60 FR 9699
Interim Final Rule (INS No. 1685) Eff. 4/1/95; Com. due 5/30/95	03/28/95	60 FR 15855
NPRM (INS No. 1447R)	11/00/95	
Final Rule (INS No. 1447)	12/00/95	
Final Rule (INS No. 1685)	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1447-91, 1447R-93, 1674-94, and 1685-95.

Final action pending (INS No. 1447 and 1447R); awaiting State Department review of concurrent regulations.

Agency Contact: Ronald Hays, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-2694

RIN: 1115–AB93

1946. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE: CONDITIONAL RESIDENTS AND FIANCE(E)S

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257; 8 CFR 2

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: This regulation amends 8 CFR 245.1(b)(12) to clarify that an alien lawfully admitted for permanent residence on a conditional basis under either section 216 or section 216A of the Act remains ineligible for adjustment of status under section 245 of the Act even after the alien's status has been terminated under section 216 or section 216A of the Act respectively.

This rule also clarifies procedures for fiance(e) who marry after the 90 day period of fiance(e) admission has ended; and also clarify that persons who have had conditional residence terminated are not eligible to adjust status.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1353-91

Agency Contact: Rita A. Arthur, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC70

1947. PHYSICAL AND MENTAL EXAMINATION OF ARRIVING ALIENS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1224

CFR Citation: 8 CFR 234

Legal Deadline: None

Abstract: This regulation is to be implemented in conjunction with regulations issued by the Department of Health and Human Services, Public Health Service (PHS). The rule ensures implementation of regulatory compliance with section 601(a) of the Immigration Act of 1990, Pub. L. 101-649 (IMMACT) as it relates to the physical and mental examination of aliens arriving into the United States. The rule also serves to provide guidance for the designation of civil surgeons and the creation and implementation of a program aimed at monitoring their activities to ensure compliance with the applicable INS/PHS regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1446-92

Agency Contact: Sophia Cox, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD10

1948. MEXICAN AND CANADIAN NONRESIDENT ALIEN BORDER CROSSING CARDS (BCCS)

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1183; 8 USC 1201; 8 USC 1102; 8 USC 1201a; 8 USC 1301; 8 USC 1305; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 264; 8 CFR 299

Legal Deadline: None

Abstract: This rule would standardize guidelines for the issuance of border crossing cards on the northern and southern borders to aliens who are citizens and residents of Mexico and Canada.

This rule will have minimal impact and should standardize guidelines for issuance of BCCs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1390-92

Agency Contact: Thomas Andreotta, Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536

DOJ—INS

Proposed Rule Stage

Phone: 202 514-2694

RIN: 1115–AD24

1949. J NONIMMIGRANTS: REQUIREMENTS FOR ADMISSION AND MAINTENANCE OF STATUS; EMPLOYMENT AUTHORIZATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1184; 8 USC 1324a

CFR Citation: 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: The United States Information Agency (USIA) published regulations at 22 CFR 514 on March 19, 1993 (58 FR 15180) which made significant changes to the administration of the international educational and cultural exchange visitor category (J), including Service procedures for monitoring the authorized stay of program participants and authorizing employment for J aliens. 8 CFR 214.1, 214.2, and 274a.12 will be changed to implement these procedures and eliminate burdensome paperwork for both the Service and public.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1610-93

USIA published final ruling 3/19/93. INS awaiting inter-agency Memorandum of Understanding from USIA.

Agency Contact: Helen V. deThomas, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD37

1950. APPELLATE JURISDICTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 8 USC 1101; 8 USC 1201; 8 USC 1304; 8 USC 1356; 8 USC 1102; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228

CFR Citation: 8 CFR 3; 8 CFR 103; 8 CFR 204; 8 CFR 212; 8 CFR 236; 8 CFR 280

Legal Deadline: None

Abstract: This regulation will redefine the appellate jurisdictional roles between the Office of Administrative Appeals and the Board of Immigration Appeals. This regulation provides a common-sense approach to appellate jurisdiction of the Office of Administrative Appeals and the Board of Immigration Appeals.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1613-93

Agency Contact: Terrance M. O'Reilly, Director, Office of Administrative Appeals, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., ULLB-3rd Floor, Washington, DC 20536
Phone: 202 786-4256

RIN: 1115–AD41

1951. VALIDITY OF APPROVED PETITIONS AND APPEAL RIGHTS

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule reinstates and clarifies procedures which determine when a relative petition remains valid or becomes invalid and ceases to convey a priority date. It also reinstates and revises procedures relating to a petitioner's appellate rights by extending the period in which an appeal may be filed from 15 to 30 days. This will standardize the filing period given petitioners who file appeals with the Board of Immigration Appeals by conforming them with the 30-day filing period given applicants who appeal with the Service's Administrative Appeals Division.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1619-93

Agency Contact: Carole George and Yolanda Sanchez-K, Outreach Specialists & Adjudications Officers Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 307-3587

RIN: 1115–AD45

1952. ISSUANCE OF TRAVEL DOCUMENTS USING FORM I-131

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1304; 8 CFR 2

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 299

Legal Deadline: None

Abstract: This rule renames and redesignates Form I-131, Application for Travel Document, for multiple use by any person in the U.S. seeking a reentry permit, refugee travel document or parole documents, and boarding letters including those issued by foreign consulates abroad.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1620-93

Agency Contact: Jack Rasmussen, Senior Immigration Examiner,

DOJ—INS

Proposed Rule Stage

Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD46

1953. CITIZENSHIP DOCUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1101, note; 8 USC 1103; 8 USC 1409; 8 USC 1435; 8 USC 1443; 8 USC 1444; 8 USC 1448; 8 USC 1452; 8 USC 1453; 8 USC 1454; 8 USC 1455; 8 CFR 2; 5 USC 552; 66 Stat 173

CFR Citation: 8 CFR 341; 8 CFR 342; 8 CFR 343; 8 CFR 343a; 8 CFR 343b; 8 CFR 343c

Legal Deadline: None

Abstract: This rule will reorganize and revise those parts of the regulations regarding the issuance of various citizenship documents issued by the Service such as Certificates of Citizenship and replacement documents. It will allow for automation of the Service's procedures to give more efficient service to the public. It will also consolidate the rules regarding who may be issued such documentation so that the public may more easily determine what services are available.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1637-93

Agency Contact: Kathy Craig, Adjudication Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD51

1954. STANDARDIZED TESTING FOR NATURALIZATION; PROCEDURES FOR APPROVAL OF TEST PROVIDERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1423; 8 USC 1443; 8 USC 1447; 8 USC 1448

CFR Citation: 8 CFR 312

Legal Deadline: None

Abstract: The Immigration and Naturalization Service (Service) is proposing a change in the criteria currently used for approving testing entities to administer standardized United States government, history and written and oral English testing for persons applying to become naturalized United States citizens. Dramatic increases in the number of individuals filing to become citizens and the need to strengthen the approval criteria in order to prevent fraud necessitate this change. After implementation, this rule will provide permanent procedures for approving testing entities to administer oral and written English language and civics testing and will allow the Service to focus manpower resources of naturalization interviews warranting greater investigation.

This rule while adding a section to 8 CFR, will assist the public by controlling the authorization of local testing centers, thereby eliminating fraud which is now plaguing the system.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1275-93

Agency Contact: William R. Tollifson, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD52

1955. NONIMMIGRANT CLASSES; DIPLOMAT AND GOVERNMENT REPRESENTATIVES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule identifies the extent to which diplomats and representatives of international organizations can work outside their official capacity. The rule will be undertaken as a result of a working relationship between the INS and the Department of State.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1631-93

Agency Contact: Katharine A. Lorr, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD57

1956. PROCEDURES FOR FILING A DERIVATIVE PETITION (FORM I-730) FOR A SPOUSE AND UNMARRIED CHILDREN OF A REFUGEE/ASYLEE

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1157; 8 USC 1159; 8 USC 1182; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2; 31 USC 9701

CFR Citation: 8 CFR 207; 8 CFR 208

Legal Deadline: None

Abstract: This rule responds to the family reunification needs of refugees by establishing an equitable and consistent following-to-join policy for refugees which parallels the current

following-to-join procedures for asylees. This rule also proposes to amend asylum regulations by removing children born to or legally adopted by the principal alien and spouse after approval of the principal alien's asylum application from qualified relationship.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1639-93

Agency Contact: Carole George and Yolanda Sanchez-K, Outreach Specialists & Adjudications, Officers Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 307-3587

RIN: 1115–AD59

1957. EXECUTING FINAL ORDER OF EXCLUSION OR DEPORTATION; CONFORMING 72-HOUR NOTICE PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1227; 8 USC 1255; 8 USC 1253

CFR Citation: 8 CFR 237; 8 CFR 243

Legal Deadline: None

Abstract: This rule streamlines the regulatory process for executing a final order of exclusion by sliding forward the 72-hour waiting period, which currently falls after the Service assumes custody of the alien pursuant to a notice to surrender or arrest, to the period immediately after service of the decision upon the alien, in conformity to the current deportation procedure. The rule also eliminates the subsequent step of obtaining the alien's specific consent or request to waive the 72-hour period when the alien has already waived appeal of the Immigration Judge's exclusion or deportation order on the record of proceeding before the Immigration Judge. These revisions are necessary in order to eliminate unnecessary detention costs to the taxpayer and potential delays resulting from the current 72-hour provision.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1661-94

Agency Contact: Robert K. Bingham, Associate General Counsel, General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AD71

1958. CLARIFICATION OF FILING VENUE, FEES, AND FILING REQUIREMENTS FOR CERTAIN APPLICATIONS FOR REPLACEMENT ALIEN REGISTRATION CARD, FORM I-551

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1201; 8 USC 1201a; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1101; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186A; 8 USC 1255

CFR Citation: 8 CFR 264; 8 CFR 299; 8 CFR 204; 8 CFR 211; 8 CFR 223; 8 CFR 235; 8 CFR 251; 8 CFR 252; 8 CFR 274a; 8 CFR 316; 8 CFR 334

Legal Deadline: None

Abstract: INS No. 1671 clarifies the filing venue for Form I-90, Application by a Lawful Permanent Resident (LPR) for an Alien Registration Receipt Card, the circumstances in which that application would be exempted from the filing fee, and certain other requirements. This rule is necessary to minimize confusion over certain aspects of filing for replacement alien registration cards.

INS No. 1703 extends the validity of Form I-151 until March 20 1996 in order to allow additional time for the processing of applications filed to replace the old form I-151 cards with the current form I-551, Alien Registration Receipt Card.

Timetable:

Action	Date	FR Cite
Final Rule(INS No. 1381X) Eff. 3/20/94	09/14/94	59 FR 47063
Final Rule(INS No. 1703) Eff. 3/17/95; Cut-off 3/20/96	03/17/95	60 FR 14353
NPRM(INS No. 1671)	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1671-94 and INS No. 1703-95

Cross Reference INS No. 1381X-94, RIN 1115-AD32

8 CFR 264.1(b) and 299.1 are impacted by Espindola v. INS which is pending in the U.S. District Court for the Eastern District of Colorado.

Agency Contact: Gerard Casale, Senior Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD81

1959. FEES ASSESSED FOR DEFAULTED PAYMENTS

Priority: Other

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 5 USC 552; 5 USC 552a; 31 USC 9701; EO 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p 166; 8 CFR 2

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This document proposes to amend existing Immigration and Naturalization Service (Service) regulations to increase the fee imposed when a check submitted to the Service in payment of a fee is not honored by the bank upon which it is drawn, from $5.00 to $30.00. The purpose of the proposed change is to enable the Service to recoup the administrative costs incurred in processing all returned checks and other defaulted payments. This action will result in the Service no longer losing money as a result of bad check activity. The rule will apply to all returned checks, including Immigration User Fee payments bounce, fines, penalties, etc.. The rule is necessary in order for the INS to recover the entire cost associated with the processing of defaulted payments.

Timetable:

Action	Date	FR Cite
NPRM	09/28/95	60 FR 50145
NPRM Comment Period End	11/27/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1692-95

Agency Contact: Allen Sinsheimer, Systems Accountant, Office of Finance, Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6008, Washington, DC 20536
Phone: 202 616-7715

RIN: 1115–AD92

1960. ARRIVAL/DEPARTURE RECORDS; RETENTION OF DEPARTURE PORTION OF THE FORM I-94 FOR SEAPORTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1252

CFR Citation: 8 CFR 235; 8 CFR 231

Legal Deadline: None

Abstract: This rule will allow the alien passenger to retain the departure Form I-94 while on vessels at sea instead of turning it in and having to prepare a new one for every entry into the US after departing from contiguous territory or adjacent islands. It is necessary to reduce INS resources expended on the inspection of non-immigrant aliens traveling on cruise vessels which originated in the US. It will reduce the cost to the INS while facilitating the entry of bona fide travelers, and enhance the image of the INS with the tourism industry.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1694-95

Agency Contact: Patrice Ward, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AD94

1961. INSPECTION OF ALIEN CREW MEMBERS; 90-DAY WAIVER

Priority: Other

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1184; 8 USC 1258; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 235; 8 CFR 252

Legal Deadline: None

Abstract: Currently INS inspects all crew members on a cruise vessel that arrives for the first time in a US port-of-entry, then only inspects those crew members every 90-days with another physical presentation. The inspectors inspect every new arriving and departing crew member and obtain crew manifests on all voyages of the vessel. The use of the 90-day waiver is necessary to meet the statutory requirement of inspecting everyone arriving in the US, while concurrently attempting to address the cruise industry's growth and INS' budgetary and personnel constraints.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1695-95

Agency Contact: Patrice Ward, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AD95

1962. SCREENING REQUIREMENTS OF CARRIERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103

CFR Citation: 8 CFR 273

Legal Deadline: None

Abstract: This rule sets forth the requirements that a carrier must satisfy in order that the INS may reduce, refund, or waive a fine incurred by the carrier for the transportation of an improperly documented alien to the US. The rule notifies the public of the requirements the INS expects the carriers to implement at ports of embarkation to satisfy the INS that they have properly screened all passengers on their vessel or aircraft bound for the US. The rule also notifies the public of the circumstances under which the INS may reduce, refund, or waive fines imposed on the carrier for the boarding of improperly documented aliens.

Certain qualified carriers that have achieved an Acceptable Performance Level (APL) in the number of improperly documented aliens brought to the United States, as determined by the INS, and having a satisfactory fines payment record, will be eligible for fines mitigation, the extent of the mitigation being determined by the carrier's APL.

Timetable:

Action	Date	FR Cite
NPRM With 30-day Comment Period	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1697-95

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AD97

DOJ—INS

Proposed Rule Stage

1963. AUTOMATED ISSUANCE OF FORM I-94 ARRIVAL/DEPARTURE RECORD

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229

CFR Citation: 8 CFR 231

Legal Deadline: None

Abstract: The INS is in the process of automating the issuance and collection of the Form I-94/I-94W; arrival/departure record. This rule will provide the guidelines for carriers to issue and collect the revised document.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1699-95

Agency Contact: Ronald J. Hayes, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7223, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AD99

1964. COST OF DETENTION OF STOWAWAYS SEEKING ASYLUM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1255; 8 USC 1282; 8 USC 1283; 8 USC 1285

CFR Citation: 8 CFR 235; 8 CFR 237; 8 CFR 253

Legal Deadline: None

Abstract: The rule clarifies INS policy relating to the custody and costs of detention of stowaways, especially those seeking asylum. The rule will require carriers to remove most stowaways on the vessel or aircraft on arrival, and will allow for INS detention of asylum-seeking stowaways. The rule will also delineate carrier and INS costs for such detention.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1704-95

Agency Contact: Linda Loveless, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AE03

1965. NONIMMIGRANT CLASSES; TRANSITS; REQUIREMENTS FOR ADMISSION, EXTENSION, AND MAINTENANCE OF STATUS

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: The INS proposes to change regulations at 8 CFR 214.2(c)(2) relating to persons entitled to pass in transit to and from the UN Headquarters District. The current rules restrict aliens in transit to the UN from traveling beyond the UN Headquarters District (defined as a 25-mile radius of Columbus Circle, NY,NY). The proposed changes would allow an alien on official business in possession of a C-2 nonimmigrant visa to travel outside the UN Headquarters District unless otherwise provided by the Secretary of State. The changes also describe the term "official business" so that alien consultants to the UN may be included in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1706-95

Agency Contact: Helen V. deThomas, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE05

1966. CONTROL OF EMPLOYMENT OF ALIENS; CENTRALIZED EMPLOYMENT AUTHORIZATION DOCUMENT PRODUCTION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: This rule would provide for the centralized production of all employment authorization documents (EADs) at one or more service centers. Centralization will allow the INS to utilize new technology to produce more secure EADs. This will benefit employers, aliens with employment authorization and the INS.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: INS No. 1707-95

Agency Contact: Sharon Nichols, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3040, Washington, DC 20536
Phone: 202 514-3156

RIN: 1115–AE06

DOJ—INS

Proposed Rule Stage

1967. • STREAMLINING NATURALIZATION

Regulatory Plan: This entry is Seq. No. 63 in Part II of this issue of the **Federal Register**.

RIN: 1115–AE18

1968. • ACQUISITION OF CITIZENSHIP; EQUAL TREATMENT OF WOMEN IN CONFERRING CITIZENSHIP TO CHILDREN BORN ABROAD

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1401

CFR Citation: 8 CFR 301

Legal Deadline: None

Abstract: This interim rule implements the Immigration and Nationality Technical Corrections Act of 1994, by establishing procedures for certain United States women to confer citizenship to their foreign-born children. The purpose of the rule is to ensure that all women receive equal treatment under laws relating to nationality. Implementation of the rule would allow for the issuance of certificates of citizenship to certain foreign-born children previously ineligible to acquire citizenship from their U.S. citizen mothers.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1736-95

Agency Contact: Jane Baker, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Room 3214
Phone: 202 514-5014

RIN: 1115–AE19

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Final Rule Stage

1969. NONIMMIGRANT CLASSES; TEMPORARY EMPLOYEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1258

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: The Immigration Reform and Control Act of 1986 (IRCA) imposed sanctions against employers who hire aliens not authorized to work. Since many of the nation's agricultural employers have become dependent upon such workers to meet production and harvesting needs, Congress created the Special Agricultural Workers (SAW) Program and the Replenishment Agricultural Workers (RAW) Program to grant permanent resident status to certain agricultural workers. To clarify the process through which employers can employ nonimmigrant seasonal and temporary agricultural workers, Congress moved agricultural employment from H-2 classification into a separate H-2A class, and incorporated a labor certification process into the statute. This rule established special H-2A regulatory criteria, and supplemented the Department of Labor's rules covering the temporary agricultural labor certification process. This rule has amended Service regulations which pertain to temporary alien workers seeking classification under section 101(a)(15)(H) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
NPRM; Com. Due 10-7-86	08/08/86	51 FR 28576
Interim Final Rule Eff. 06/01/87; Com. Due 7-31-87	06/01/87	52 FR 20554
2nd Interim Final Rule	02/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1302-90

Rule contingent upon Department of Labor final regulations.

Cross reference INS No. 1008-88

Agency Contact: Helen V. deThomas, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AA25

1970. ARREST AND DETENTION OF AGGRAVATED FELONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1251; 8 USC 1252; 8 USC 1254; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 242; 8 CFR 244

Legal Deadline: None

Abstract: Changes to the current regulations are necessitated by the Anti-Drug Abuse Act of 1988 provisions relating to aliens convicted of aggravated felonies. The regulations delineate when a warrant of deportation may be used in lieu of a warrant of arrest to take an alien into custody.

Timetable:

Action	Date	FR Cite
Interim Final Rule; Eff. 6-19-90; Com. Due 7-19-90	06/19/90	55 FR 24858
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1209-90

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536

Phone: 202 514-0747

RIN: 1115–AB19

1971. NONIMMIGRANT CLASSES; NATO-1, 2, 3, 4, 5, 6, AND 7; CONTROL OF EMPLOYMENT OF ALIENS (SPECIAL REQUIREMENT FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS; NATO)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a

CFR Citation: 8 CFR 214; 8 CFR 274a; 8 CFR 248; 8 CFR 299

Legal Deadline: None

Abstract: Collaborative effort with INS, DOS, DOD and NATO on revising Service regulations relating to employment authorization for dependents of certain principal aliens in NATO status. The revision is necessary in order to expand and secure employment opportunities on the basis of reciprocity for dependents of US citizens in NATO status in NATO member countries.

Timetable:

Action	Date	FR Cite
NPRM	02/07/94	59 FR 5533
NPRM Comment Period End	03/09/94	59 FR 5533
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1328-93

Agency Contact: Katharine A. Lorr, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AB52

1972. FIELD OFFICERS; POWERS AND DUTIES; SUBPOENA

Priority: Routine and Frequent

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 287

Legal Deadline: None

Abstract: This rule permits service of a subpoena to be made by an immigration officer except when the subpoena is issued by an immigration judge on behalf of a party other than the INS. The rule permits an immigration officer to ask for a subpoena from an immigration judge. It deletes the Regional Director, Office of Professional Responsibility, as an official who may issue a subpoena and/or designate service of same. The rule specifically permits the subpoenaing of demonstrative evidence.

Timetable:

Action	Date	FR Cite
NPRM	09/26/91	56 FR 48766
NPRM Comment Period End	10/28/91	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1242-90

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536
Phone: 202 514-0747

RIN: 1115–AB63

1973. NONIMMIGRANT CLASSES; NORTH AMERICAN FREE TRADE AGREEMENT (U.S.-CANADA FREE-TRADE AGREEMENT AMENDMENTS)

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 CFR 2

CFR Citation: 8 CFR 214; 8 CFR 103; 8 CFR 212; 8 CFR 274a

Legal Deadline: None

Abstract: This regulation provides amendments to part 214 in order to bring it into conformance with procedural changes effected by INS in the past year and provisions of the North American Free Trade Agreement.

Timetable:

Action	Date	FR Cite
Interim Final Rule; Eff. 1-1-94; Com. Due 2-28-94	12/30/93	58 FR 69205
Interim Final Rule; Correction	01/13/94	59 FR 1992
Final Action	11/00/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1611-93

Cross reference INS No. 1310 and INS No. 1258.

Agency Contact: Helen V. deThomas, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AB72

1974. CONTROL OF EMPLOYMENT OF ALIENS

Regulatory Plan: This entry is Seq. No. 64 in Part II of this issue of the **Federal Register**.

RIN: 1115–AB73

1975. TERMINATION OF TEMPORARY RESIDENT STATUS

Priority: Other

Legal Authority: 8 USC 1103; 8 USC 1160; 8 CFR 2

CFR Citation: 8 CFR 210

Legal Deadline: None

Abstract: This rule amends regulations concerning termination of temporary resident status granted to an alien as a Special Agricultural Worker. This rule will ensure that affected aliens are notified of the grounds alleged for termination of status and are given an opportunity to appeal any adverse decision.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 4-5-90; Com. Due 5-7-90	04/05/90	55 FR 12629
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1260-90

Agency Contact: Kathy Craig, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AB74

1976. TEMPORARY PROTECTED STATUS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1254a; 8 USC 1254a note; 8 USC 1362; 8 USC 1324a; 8 USC 1101; 8 CFR 2; 28 USC 509; 5 USC 301; 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1201; 8 USC 1304; 31 USC 9701

CFR Citation: 8 CFR 3; 8 CFR 103; 8 CFR 240; 8 CFR 274a; 8 CFR 299

Legal Deadline: Final, Statutory, January 1, 1991.
Implementation date for TPS Program and for designation of El Salvador.

Abstract: Regulations published under this RIN implement provisions of the Immigration and Nationality Act as established by section 302 of the Immigration Act of 1990, Pub. L. 101-649, which allow for the establishment and implementation of Temporary Protected Status.

Recent regulatory actions:

INS No. 1608 provides for exceptions to deadlines for registering for TPS and updates the application process.

INS No. 1612 provides for the removal of obsolete TPS language.

INS No. 1740 relays the Service's action of granting an automatic extension until 1-31-96 of the validity of any EAD or work permit bearing an expiration date of 12-31-94, and previously issued to a Salvadoran on the basis of DED. This action should ensure ample opportunity for Salvadoran beneficiaries of DED to apply for a new EAD based on a pending asylum application.

INS No. 1729 provides for the extension of designation of Somalia for TPS through 9-17-96.

INS No. 1730 provides for the extension of designation of Bosnia-Hercegovina for TPS through 8-10-96.

INS No. 1689 provides for the extension of designation of Liberia for TPS through 3-28-96.

INS No. 1723 provides for the extension of designation of Rwanda for TPS through 6-6-96.

Timetable:

Bosnia-Hercegovina Eff. 08/11/95; Extended until 05/10/96
Notice of TPS Ext. (INS 1730) 07/31/95 (60 FR 39004)
Exceptions to Registration
TPS Final Rule (INS No. 1608-93) 11/00/95
Liberia TPS (INS No. 1689-95)
Exten. of Desig. 3/28/95 to 3/28/96 03/29/95 (60 FR 16163)
Rwanda
Exten.of Desig. 6/7/95 to 6/6/96 05/23/95 (60 FR 27790)
Salvadorans (DED); Filing deadline under "ABC" settlement (1740)
Eff. 9-27-95; Appli. due by 1-31-96 09/27/95
Extension of Work Authorization 09/27/95 (60 FR 49921)
Somalia Eff. 09/18/95; Ext. until 07/17/96
Notice of TPS Ext. (INS 1729) 07/31/95 (60 FR 39005)
8 CFR Part 240 Removal of Obsolete TPS Language (1612-93)
Proposed Rule 11/00/95

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: Additional contact: Gerald Hurwitz, EOIR, 703-756-6470.

The Attorney General may designate other countries for TPS.

INS Nos. 1608, 1662, 1723, 1612, 1729, 1730, and 1740

Agency Contact: Ronald S. Chirlin, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC30

1977. APPLICATION FOR THE EXERCISE OF DISCRETION UNDER 212C, AGGRAVATED FELONS

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This regulation implements section 511 of the Immigration Act of 1990, Pub. L. 101-649, by providing that a lawful permanent resident applying for advance permission to enter the United States under section 212(c) of the Act may not be granted such permission if he or she has been convicted of an aggravated felony and has served a term of imprisonment of at least five years.

The Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416, revised the definition of "aggravated felony", thereby requiring changes to the interim regulations. A second interim rule will be promulgated.

This rule will also provide that certain specified aliens are ineligible for discretionary relief under section 212(c) of the Act for a period of five years from the date of the barring act if the alien fails to appear for deportation, appear at an asylum hearing, or voluntarily depart.

Timetable:

Action	Date	FR Cite
Interim Final Rule, Eff. 10-3-91; Com. Due 11-4-91	10/03/91	56 FR 50033
2nd Interim Final Rule	11/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1405-91

Agency Contact: Sophia Cox, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC35

1978. CONSENT TO REAPPLY FOR ADMISSION AFTER DEPORTATION, REMOVAL, OR DEPARTURE AT GOVERNMENT EXPENSE

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1182; 8 USC 1182c; 8 USC 1184; 8 USC 1125; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2; 8 USC 1102; 8 USC 1103

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule implements section 514 of the Immigration Act of 1990 (IMMACT 90), Pub. L. 101-649, by extending from ten to twenty years the bar on reentry into the United States after deportation or removal of aliens who are convicted on one or more aggravated felonies. The change applies to admission occurring on or after January 1, 1991.

The Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416, changed the statutory definition of "aggravated felony" thereby requiring further modifications to the regulatory document. A second interim rule will therefore be promulgated.

Timetable:

Action	Date	FR Cite
Interim Final Rule, Eff. 5-21-91; Com. Due 6-20-91	05/21/91	56 FR 23212
2nd Interim Final Rule	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1410-91

Agency Contact: Sophia Cox, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC37

1979. APPLICANT PROCESSING FOR FAMILY UNITY BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1324a; 8 USC 1252; 8 USC 1254; 8 USC 1255b; 8 USC 1362; 8 USC 1101; 8 CFR 2; 8 USC 1251; 8 USC 1252 note

CFR Citation: 8 CFR 242; 8 CFR 103; 8 CFR 264; 8 CFR 274a; 8 CFR 299

Legal Deadline: Final, Statutory, October 1, 1991.
Public Law 101-649 would make Section 301 effective this date.

Abstract: This provides for application for family unity benefits (voluntary departure and employment authorization) and sets procedures for adverse decisions. For those who are eligible, relief from being a deportable alien may be received where no such relief existed before.

Timetable:

Action	Date	FR Cite
NPRM	08/30/91	56 FR 42948
NPRM Comment Period End	09/30/91	
Interim Final Rule, Eff. 10-1-91; Com. Due 3-26-92	02/25/92	57 FR 6457
Interim Final Rule Correction	04/21/92	57 FR 14627
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1414-91

Agency Contact: Jack Hartsoch, Adjudications Officer, Service Center Operations, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3040, Washington, DC 20536
Phone: 202 514-3156

RIN: 1115–AC39

1980. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR PREFERENCE IMMIGRANT; ADJUSTMENT OF STATUS TO THAT OF A PERSON ADMITTED FOR PERMANENT RESIDENCE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 9 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204; 8 CFR 245

Legal Deadline: None

Abstract: This regulation allows a citizen or lawful permanent resident petitioner, or an alien applicant for permanent resident status, to seek an exemption from the general prohibition against approval of immigration benefits based upon a marriage entered into while the beneficiary or applicant was under deportation or exclusion proceedings. This regulation allows persons who have bona fide marriages to be excused from meeting the 2 year foreign residency requirement.

Timetable:

Action	Date	FR Cite
Interim Final Rule, Eff. 6-20-91; Com. Due 7-22-91	06/20/91	56 FR 28311
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1419-91

Agency Contact: Rita Arthur, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC43

1981. CONDITIONAL BASIS OF LAWFUL PERMANENT RESIDENCE FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGHTERS; BATTERED AND ABUSED CONDITIONAL RESIDENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1154; 8 USC 1184; 8 USC 1186a; 8 CFR 2

CFR Citation: 8 CFR 216

Legal Deadline: None

Abstract: This rule amends the existing waiver provisions and establishes a third basis for waiving the joint filing requirement to remove the conditional basis of lawful permanent residence for certain alien spouses, sons, and daughters. This rule also allows battered or abused conditional residents to request removal of conditions without filing a joint petition with the abuser.

Timetable:

Action	Date	FR Cite
Interim Final Rule, Eff. 5-16-91; Com. Due 6-17-91	05/16/91	56 FR 22635
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1423-91

Agency Contact: Rita Arthur, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC47

1982. TREATY ALIENS, E CLASSIFICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1184; 8 CFR 2

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule codifies existing policy guidelines on the classification of nonimmigrant treaty aliens. The regulation is necessary to fulfill U.S. treaty obligations, avoid confusion and ensure uniform adjudication of applications, and to facilitate change of status and stay of business traders and investors.

The rule responds to the need for uniformity between the Immigration and Naturalization Service and the Department of State, which have dual jurisdiction over E treaty aliens. It will encourage trade and investment in the United States by citizens of countries with whom the United States has treaties and ensure fair and consistent adjudication and enforcement by Service field offices throughout the United States and in the reviewing courts.

Timetable:

Action	Date	FR Cite
NPRM	08/30/91	56 FR 42952
NPRM Comment Period End	10/15/91	
Final Action	10/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1427-91

Agency Contact: Katharine A. Lorr, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC51

1983. RELEASE PROCEDURES; LAWFUL PERMANENT RESIDENTS CONVICTED OF AGGRAVATED FELONIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1251; 8 USC 1252; 8 USC 1252 note; 8 USC 1252b; 8 USC 1254; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: This regulation provides the procedures to be followed in determining release conditions for lawfully admitted aliens who are in deportation proceedings and who have been convicted of aggravated felonies as defined in section 101(a)(43) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 5-21-91; Com. Due 6-20-91	05/21/91	56 FR 23214
2nd Interim Final Rule	11/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1439-91

Agency Contact: Robert A. Jacobson, Director, Deportation Branch, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3008, Washington, DC 20536
Phone: 202 514-2865

RIN: 1115–AC60

1984. TEMPORARY ALIEN WORKERS SEEKING CLASSIFICATION UNDER THE IMMIGRATION AND NATIONALITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186A; 8 USC 1187; 8 CFR 2; 8 USC 1104; 8 USC 1182; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: These regulations implement provisions of the Immigration Act of 1990 (IMMACT), Pub. L. 101-649, as they relate to temporary alien workers seeking nonimmigrant classification and admission to the US under sections 101(a)(15)(H),(L),(O), and (P) of the Immigration and Nationality Act (Act).

INS Regulation No. 1653 proposes to bring the H, O, and P Classification regulations into conformity with the employer sanctions provisions of Section 274a of the Act. It precludes foreign employers from filing petitions for O and P nonimmigrant aliens. Prospective foreign employers seeking to utilize these classifications will be required to employ the services of an established US agent in order to file a petition for an O or P nonimmigrant. The rule also would amend the H nonimmigrant regulations by requiring foreign employers seeking to petition for H-2B nonimmigrants to also utilize the services of an established US agent.

Timetable:

Action	Date	FR Cite
NPRM (INS 1653-94) Com. Due 10-14-94	08/15/94	59 FR 41843
Final Action (INS 1653-94)	11/00/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1653-94

Agency Contact: John Brown, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AC72

1985. REGISTRATION AND FINGERPRINTING OF NONIMMIGRANTS DESIGNATED BY THE ATTORNEY GENERAL; REMOVAL OF CERTAIN REQUIREMENTS FOR NONIMMIGRANTS BEARING IRAQI AND KUWAITI TRAVEL DOCUMENTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 8 USC 1103; 8 USC 1201; 8 USC 1201a; 8 USC 1301; 8 USC

DOJ—INS

Final Rule Stage

1302; 8 USC 1303; 8 USC 1304; 8 USC 1305

CFR Citation: 8 CFR 264

Legal Deadline: None

Abstract: INS No. 1606-93 provides for the removal of the requirement for the registration and fingerprinting of certain nonimmigrants bearing Iraqi and Kuwaiti travel documents who apply for admission to the United States. The rule also permits the Immigration and Naturalization Service, through the publication of a public notice in the Federal Register, to require the registration and fingerprinting of certain nonimmigrants.

This rule makes final an interim regulation which provides the Service with regulatory flexibility to respond swiftly to national security emergencies. It removes a requirement from the CFR and permits the Service to modify practice by Public Notice.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1606) Eff. 12-23-93; Com. Due 1-24-94	12/23/93	58 FR 68024
Final Action (INS No. 1606)	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1606-93

Agency Contact: Virginia Gorman, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AC83

1986. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE: INTERVIEW

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257; 8 CFR 2

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: Existing regulations require that most applicants for adjustment of status to that of permanent residence be interviewed by an immigration officer. This interim rule will amend the interview requirement to allow the Service to waive the requirement where it is determined that an interview is not necessary. This action is necessary to ease the burden of unproductive interviews on the Service and the public.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 11-2-92; Com. Due 12-2-92	11/02/92	57 FR 49374
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1373-92

Agency Contact: Gerald Casale, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536-0002
Phone: 202 514-5014

RIN: 1115–AD12

1987. F NONIMMIGRANTS REQUIREMENTS FOR ADMISSION, MAINTENANCE OF STATUS; EMPLOYMENT AUTHORIZATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1324a

CFR Citation: 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: This rule amends title 8 of the Code of Federal Regulations to clarify current regulations affecting F-1 nonimmigrant students and F-2 dependants; and to make necessary technical changes regarding regulatory citations and immigration forms. This regulation clarifies and streamlines existing policies and procedures affecting foreign students.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 7-20-92; Com. Due 9-18-92	07/20/92	57 FR 31954
2nd Interim Final Rule	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1458-92

Agency Contact: Maurice Berez, Adjudications Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD16

1988. INSPECTION OF PERSONS APPLYING FOR ADMISSION

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1353a; 8 USC 1353b; 31 USC 9701

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule provides for the reimbursement to the INS for certain direct salary costs and administrative overhead charges in its overtime billing for arriving trains and vessels under 8 USC 1353b, for all immigration inspection services rendered to crews, and for services rendered to passengers not exempt under 8 USC 1353b or 1356(g).

Timetable:

Action	Date	FR Cite
Proposed Rule Com. Due 1-21-93	12/22/92	57 FR 60741
2nd Proposed Rule	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1512-92

Agency Contact: Larry Vogel, Financial Management, Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4103, Washington, DC 20536
Phone: 202 514-3206

RIN: 1115–AD17

DOJ—INS

Final Rule Stage

1989. CLASSIFICATION OF CERTAIN SCIENTISTS OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION AND BALTIC STATES AS EMPLOYMENT-BASED IMMIGRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule implements the provisions of the Soviet Scientists Immigration Act of 1992 (PL 102-509) by providing petitioning procedures to establish eligibility as immigrants for certain qualifying scientists.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 5-27-93; Com. Due 6-28-93	05/27/93	58 FR 30699
2nd Interim Final Rule	10/19/95	60 FR 54027
2nd Interim Final Rule Effective Date	10/19/95	
2nd Interim Final Rule Comment Period End	12/18/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1602-92

Agency Contact: Michael Straus, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3228

RIN: 1115–AD29

1990. ADJUSTMENT OF STATUS; CERTAIN NATIONALS OF THE PEOPLES REPUBLIC OF CHINA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: This regulation implements the provisions of Public Law 102-404, the Chinese Student Protection Act of 1992, by providing adjustment of status procedures for certain nationals of the Peoples Republic of China. This regulation allows qualified nationals of the Peoples Republic of China to become lawful permanent residents.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 7-1-93; Com. Due 8-2-93	07/01/93	58 FR 35832
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1607-93

Agency Contact: Rita A. Arthur, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD33

1991. PRIVILEGE OF COMMUNICATION

Priority: Other

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: This rule updates the list of countries with which the United States has existing treaties requiring immediate communication with appropriate consular or diplomatic officers whenever nationals of those countries are detained in exclusion or expulsion proceedings.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/95	60 FR 16042
Interim Final Rule Effective	03/29/95	
Interim Final Rule Comment Period End	05/30/95	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1616-93

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536
Phone: 202 514-0747

RIN: 1115–AD50

1992. REVOCATION OF NATURALIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1443

CFR Citation: 8 CFR 340

Legal Deadline: None

Abstract: This rule will standardize procedures to be followed by the Service when revoking naturalization, or reopening naturalization decisions. This rule will bring Service procedures into conformance with changes brought about by the Immigration Act of 1990.

The rule specifies the administrative process by which the Attorney General may reopen and reconsider applications for naturalization pursuant to section 340(h) of the Immigration and Nationality Act. The rule will conform applicable regulations to the statutory changes made by the Immigration Act of 1990. The rule also clarifies the procedures by which the Service recommends judicial revocation of naturalization pursuant to section 340(a).

Timetable:

Action	Date	FR Cite
NPRM Com. Due 9-26-94	07/28/94	59 FR 38381
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1634-93

Agency Contact: Ronald Chirlin, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD54

DOJ—INS

Final Rule Stage

1993. PETITIONS FOR EMPLOYMENT-BASED IMMIGRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186A; 8 USC 1255; 8 CFR 2; 8 USC 1153(b)

CFR Citation: 8 CFR 204; 8 CFR 214

Legal Deadline: None

Abstract: This proposed rule will make changes to the regulations governing employment-based immigrant petitions. These regulations were promulgated in November of 1991. Since then, the Service has discovered certain provisions in the regulations which need clarification or revision. The Service also needs to incorporate certain changes made by the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/06/95	60 FR 29771
NPRM Comment Period End	08/07/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1633-93

Agency Contact: Michael W. Straus, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD55

1994. INS FORMS AVAILABLE FROM THE SUPERINTENDENT OF DOCUMENTS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 299; 8 CFR 499

Legal Deadline: None

Abstract: This rule updates the listing of INS forms, including information related to current edition dates, OMB control numbers, stock numbers for forms available from the Superintendent of documents, and general information concerning the reproduction of forms by private parties. The rule provides a direct benefit to the public by establishing standards which allow for the electronic generation of immigration forms. This effort will provide an alternative means to manually completing various applications/petitions. It will also ensure that the INS officials are aware of the standards and acceptability of certain electronically reproduced forms.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 5-17-94; Com. Due 7-18-94	05/17/94	59 FR 25555
Final Action	11/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1638-93

Agency Contact: Richard Sloan, Director, Policy Directives and Instructions Branch, Office of Policy and Planning, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536
Phone: 202 514-3048

RIN: 1115–AD58

1995. RULES AND PROCEDURES FOR ADJUDICATION OF APPLICATION FOR ASYLUM OR WITHHOLDING OF DEPORTATION AND EMPLOYMENT AUTHORIZATION

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 31 USC 9701

CFR Citation: 8 CFR 103; 8 CFR 208; 8 CFR 236; 8 CFR 242; 8 CFR 274a

Legal Deadline: None

Abstract: INS No. 1343 established procedures to be used in filing for asylum under section 208, and withholding of deportation under section 243(h) of the Immigration and Nationality Act, as amended by the Refugee Act of 1980, PL 96-212. The rule modifies the final rule on asylum adjudication published on July 27, 1990 at 55 FR 30674. It establishes seven Asylum Offices and their jurisdictions; and also indicated how asylum and withholding of deportation applications should be filed by mail with these offices instead of with Service district offices and suboffices.

Timetable:

Action	Date	FR Cite
Interim Rule (INS 1343) Eff. 10/09/91	10/01/95	56 FR 50810
Final Rule (INS 1343)	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1651-93 (Procedures for Adjudication of Applications for Asylum and for Withholding of Deportation and for Employment Authorization)

INS No. 1651A-94 (Form I-589, Request for Asylum and for Withholding of Deportation in the United States: Establishment of Compliance Date)

INS No. 1343-94 (Issuance of Charging Documents in Exclusion and Deportation Proceedings by Supervisory Asylum Officers), cross reference RIN 1115-AC67.

Agency Contact: Christine Davidson, Senior Policy Analyst, Asylum, International Affairs, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., ULLICO 3rd Floor, Washington, DC 20536
Phone: 202 633-4389

RIN: 1115–AD64

1996. TEMPORARY ALIEN WORKERS SEEKING H CLASSIFICATIONS FOR THE PURPOSE OF OBTAINING GRADUATE MEDICAL EDUCATION OR TRAINING

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1221; 8 USC 1281; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: The implementation of this regulation will preclude foreign medical graduates from taking medical residencies under the H-1B classification. Foreign medical graduates will be required to continue the past practice of utilizing the J-1 classification for this purpose. The implementation of this regulation will not preclude the admission of a nonimmigrant alien.

The rule also modifies the eligibility standards for foreign medical graduates and clarifies for businesses and the general public the requirements for their classification and admission.

Timetable:

Action	Date	FR Cite
NPRM Com. Due 9-12-94	07/14/94	59 FR 35866
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1654-94.

Agency Contact: John W. Brown, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AD66

1997. REQUESTS FOR ADDITIONAL EVIDENCE TO SUPPORT IMMIGRANT VISA PETITIONS

Priority: Other

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule amends Immigration and Naturalization Service regulations by providing a petitioner in an immigrant visa petition proceeding with a period of 12 weeks to respond to the Service's request for additional information and/or documentation.

Timetable:

Action	Date	FR Cite
NPRM Com. Due 9-19-94	07/19/94	59 FR 36729
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1659-94

Agency Contact: Maurice Berez, Adjudication Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD70

1998. REORGANIZATION OF THE IMMIGRATION AND NATURALIZATION SERVICE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 31 USC 9701; 8 CFR 2

CFR Citation: 8 CFR 100

Legal Deadline: None

Abstract: This regulation revises the existing organizational structure within the Immigration and Naturalization Service as defined in section 100.4.

Timetable:

Action	Date	FR Cite
Final Action (INS No. 1682)	10/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1682-94.

Cross reference INS No. 1691, RIN 1115-AD90.

Prior regulatory action INS No. 1501-94

Agency Contact: Janet Taylor, Program Analyst, Office of Policy and Planning, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6042, Washington, DC 20536
Phone: 202 514-1989

RIN: 1115–AD72

1999. EXPANSION OF DIRECT MAIL PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1101; 8 USC 1182; 8 USC 1255; 8 USC 1255a; 8 USC 1201; 8 USC 1201a; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1324a; 8 CFR 2; 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 245; 8 CFR 264; 8 CFR 274a; 8 CFR 245a

Legal Deadline: None

Abstract: This rule conveys changes in filing procedures for certain petitions or applications for immigration benefits under the direct mail program. Filing will be done directly with the service centers rather than with the district offices thereby facilitating more expeditious processing of applications and/or petitions. (INS 1660-94)

Timetable:

Action	Date	FR Cite
Interim Final Rule INS No. 1660 Direct Mail Prog. Expansion Eff. 7-1-94; Com. Due 8-30-94	07/01/94	59 FR 33903
Final Rule INS No. 1660 Direct Mail Prog. Expansion	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1660-94 Expansion of the Direct Mail Program

Agency Contact: Maurice Berez, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD73

2000. ADMISSION OF CERTAIN NURSES SEEKING NONIMMIGRANT CLASSIFICATION UNDER THE H-1A CATEGORY

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

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DOJ—INS

Final Rule Stage

Abstract: This rule amends existing regulations concerning admission of certain nurses seeking nonimmigrant classification under the H-1A category. This rule is necessary due to a change in the method that the National Council of State Boards of Nursing (NCLEX) uses to administer the permanent state licensure examination. With the change in testing procedures the rule will provide that nurses entering the US, on the basis of a temporary license issued by the state of intended employment, pass the NCLEX within 6 months after the date of their initial admission to the US.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 10/07/94 Com. due 12/06/94	10/07/94	59 FR 51101
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1663-94.

Cross Reference INS No. 1654-94, RIN 1115-AD66

Agency Contact: John Brown, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AD74

2001. CERTIFICATION OF DESIGNATED OUTSIDE ENTITIES TO TAKE FINGERPRINTS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1253 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This regulation would certify designated outside entities to take fingerprints of applicants for immigration benefits. The regulation would require the designated outside entities to receive training and to verify the identity of the applicants. The certification process would place the outside entities under INS oversight and protect the integrity of the fingerprinting process. This rule will improve the integrity of the fingerprint collection system and relieve resources strains on the Service.

Timetable:

Action	Date	FR Cite
NPRM	05/15/95	60 FR 25856
NPRM Comment Period End	07/14/95	60 FR 25856
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS 1666-94

Agency Contact: Pearl Chang, Adjudication Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AD75

2002. WAIVER OF CERTAIN TYPES OF VISAS UNFORESEEN EMERGENCY

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (Service) regulations which permit district directors in individual cases, to waive a nonimmigrant visa or passport requirement, under section 212(d)(4)(A) of the Immigration and Nationality Act (Act), if they are satisfied that a nonimmigrant alien is unable to present these documents because of an unforeseen emergency. The rule will clarify that carriers are liable for fines imposed under section 273(a) of the Act for bringing nonimmigrants to the United States who do not have a valid passport, nonimmigrant visa, or border crossing identification card, even if a waiver of these documents is granted by the district director at the time of entry into the United States. This rule is necessary to conform to the statutory requirement that a fine be imposed when a nonimmigrant is transported to the United States without the proper documentation.

The rule will clarify that carriers are liable for fines imposed under section 273(a) of the Act for bringing nonimmigrants to the United States who do not have the proper documentation even if a waiver of these documents is granted by the district director.

Timetable:

Action	Date	FR Cite
NPRM	04/14/95	60 FR 19001
NPRM Comment Period End	06/13/95	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1669-94

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AD77

2003. FEES FOR PARTICIPATION IN DEDICATED COMMUTER LANES AT SELECTED PORTS OF ENTRY; COLLECTION OF FEES UNDER THE DEDICATED COMMUTER LANE PROGRAM; PORT PASSENGER ACCELERATED SERVICE SYSTEM, PORTPASS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1182; 8 USC 1183; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 103; 8 CFR 235; 8 CFR 286; 8 CFR 299

Legal Deadline: None

Abstract: This rule allows for the collection of a fee at the time of application for participation in a Dedicated Commuter Lane (DCL), instead of at the time of approval of the application. The DCL program is a pilot project established at selected land border ports of entry to expedite the transborder movement of eligible, pre-screened, low-risk groups through designated traffic lanes. The rule clarifies the fee requirements for use of the DCL.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/29/95	60 FR 50386
Interim Final Rule Comment Period End	11/28/95	
Final Action	07/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1675-94

Agency Contact: Robert Mocny, Senior Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3275

RIN: 1115–AD82

2004. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE; TEMPORARY REMOVAL OF CERTAIN RESTRICTIONS ON ELIGIBILITY

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1102; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 217; 8 CFR 245

Legal Deadline: None

Abstract: This rule allows certain persons in the US to adjust status to that of a lawful permanent resident before October 1, 1997. These persons, although eligible for immigrant visa issuance abroad, have been barred from adjustment of status because they had entered the US without inspection or had violated the conditions of temporary nonimmigrant status. The rule allows prospective lawful permanent or conditional residents to avoid the difficulties and expense of travel to a US consulate or embassy abroad. It continues to penalize these violators of the immigration laws by requiring most adult applicants to pay an additional sum in excess of the standard adjustment filing fee. After adjusting status they may lawfully live and work in the US and may later be eligible to seek US citizenship through naturalization.

DOJ—INS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 10-1-94; Com. Due 12-6-94	10/07/94	59 FR 51091
Interim Final Rule Correction	10/20/94	59 FR 53020
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1676-94

Agency Contact: Rita Arthur, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD83

2005. REVOCATIONS AND DESIGNATION OF INTERNATIONAL AIRPORT STATUS FOR PORTS OF ENTRY FOR ALIENS ARRIVING BY AIRCRAFT

Priority: Other

Legal Authority: 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 100

Legal Deadline: None

Abstract: This rule removes Ranier, MN and Eagle Pass, TX from the port of entry lists for aliens arriving by vessel, land transportation or by aircraft. Future Minnesota transactions will be handled at either Sky Harbor Airport or Crane Lake Seaplane Base and future Texas transactions will be handled at Maverick County Airport.

This rule will have a minimal impact on the public and merely transfers workload from some location to other locations.

Timetable:

Action	Date	FR Cite
NPRM	03/27/95	60 FR 15703
NPRM Comment Period End	05/26/95	60 FR 15703
Final Rule	10/00/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS NO. 1677-94

Agency Contact: Andrea Sickler, Senior Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-2694

RIN: 1115–AD84

2006. NONIMMIGRANT CLASSES; S CLASSIFICATION; LAW ENFORCEMENT INITIATIVES; ALIEN WITNESSES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 274a; 8 CFR 299; 8 CFR 103

Legal Deadline: None

Abstract: Two regulatory initiatives dealing with the processing of alien witnesses have been prepared by the INS. INS No. 1683-94 provides the application and approval process for the admission of aliens in S nonimmigrant classification. It provides guidance to the various law enforcement agencies needing alien witnesses and informants to complete critical law enforcement initiatives in the United States. INS no. 1728-95 establishes a fee for the processing of Form I-854, Inter-Agency Alien Witness and Informant Record, for Law Enforcement Agency (LEA) requests for S Nonimmigrant classification for eligible alien witnesses and informants. The fee is necessary to recover the costs of the processing of requests for immigration benefits on Form I-854 and results from an analysis of the cost of these services. The fee is needed to comply with specific Federal immigration laws and Federal user fee statute and regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1683-94)	08/25/95	60 FR 44260
Interim Final Rule Correction	10/05/95	60 FR 52068
Interim Final Rule Correction	10/05/95	60 FR 52248
NPRM (INS No. 1728-95)	10/00/95	

DOJ—INS

Final Rule Stage

Action	Date	FR Cite
Interim Final Rule Comment Period End (INS No. 1683-94)	12/04/95	
Final Rule (INS No. 1683-94)	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1683-94 INS No. 1728-95

Agency Contact: Katherine Lorr, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536
Phone: 202 616-7446

RIN: 1115–AD86

2007. ESTABLISHMENT OF FORM I-551, ALIEN REGISTRATION RECEIPT CARD, AS THE EXCLUSIVE FORM OF REGISTRATION FOR LAWFUL PERMANENT RESIDENTS

Priority: Other

Legal Authority: 8 USC 1103; 8 USC 1201; 8 USC 1201a; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305

CFR Citation: 8 CFR 264

Legal Deadline: None

Abstract: The rule would remove the obsolete Form I-151, Alien Registration Receipt Card, from the listing of forms recognized by the Service as evidence of registration for lawful permanent residence in 8 CFR 264.1. (A previous final rule, published on 9/20/93 at 58 FR 48775, had already removed I-151 from the list of prescribed Service forms in 8 CFR 299.) By removing from the regulations the last reference to Form I-151 as a valid document, this rule would complete the Services declared policy of establishing the current Form I-551 as the exclusive form of registration for lawful permanent residents.

Timetable:

Action	Date	FR Cite
NPRM	05/24/95	60 FR 27449
NPRM Comment Period End	07/24/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1686-95

Agency Contact: Gerald Casale, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20356
Phone: 202 514-5014

RIN: 1115–AD87

2008. WAIVER OF THE TWO-YEAR HOME COUNTRY PHYSICAL PRESENCE REQUIREMENT FOR CERTAIN FOREIGN MEDICAL GRADUATES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2; 8 USC 1255; 8 USC 1187; 8 USC 1258

CFR Citation: 8 CFR 212; 8 CFR 245; 8 CFR 248

Legal Deadline: Final, Statutory, October 25, 1994.
Pub. L. 103-416, Section 220, statutory provisions in effect upon approval.

Abstract: This rule implements changes to INS regulations resulting from recent legislative changes instituted by the Immigration and Nationality Technical Corrections Act, Public Law 103-416. The changes allow certain foreign medical graduates who entered the US in J-1 status, and their J-2 dependent spouse and children to obtain a waiver of the 2 year home country physical presence requirement pursuant to a request by a State Department of Public Health, or its equivalent, thus allowing them to work at a health care facility in an area designated by the Secretary, Health and Human Services, as having a shortage of health care professionals. This rule will allow foreign medical graduates to change their nonimmigrant status in the US from J-1 exchange visitor to H-1B specialty occupation worker.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/18/95	60 FR 26676
Interim Final Rule Effective 05/18/95; Comm. due 07/17/95	05/18/95	60 FR 26676
Interim Final Rule Correction to Interim Rule	05/24/95	60 FR 27598
Final Rule	11/00/95	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: INS No. 1688-95

Agency Contact: Sophia Cox, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD89

2009. IMMIGRANT PETITIONS; CHILDREN OF WIDOWS AND WIDOWERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule provides procedures, criteria, and clarifying language for according immigrant status to children of widows or widowers who were not previously eligible for immigration benefits as derivative immediate relatives. It expands the definition of immediate relative to include children of an alien who qualifies as a widow or widower. Before the regulatory change alien children of a widow or widower were not included in the classification of immediate relative to accompany or follow-to-join a principal alien. This rule expands the definition of immediate relative to include children of an alien who qualifies as a widow or widower.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/31/95	60 FR 38947
NPRM Comment Period End	09/29/95	60 FR 38947
Final Rule	01/00/96	

Small Entities Affected: None

DOJ—INS

Final Rule Stage

Government Levels Affected: State, Federal

Additional Information: INS No. 1690-95

Agency Contact: Ramonia Law-Hill, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD91

2010. REGULATION CHANGES NECESSITATED BY THE BREAK-UP OF THE SOVIET UNION AND CZECHOSLOVAKIA, THE UNIFICATION OF THE TWO GERMANIES, AND THE NAME CHANGE OF THE DEMOCRATIC REPUBLIC OF VIETNAM

Priority: Other

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: The rule makes modifications to existing INS regulations to reflect changes that occurred due to the disintegration of the former Union of Soviet Socialist Republics, the dissolution of the People's Republic of Czechoslovakia, the union of the German Democratic Republic and the Federal Republic of Germany, and the name change of the Democratic Republic of Vietnam to the Socialist Republic of Vietnam. The Union of Soviet Socialist Republics is replaced by Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. Czechoslovakia is replaced with The Czech Republic and Slovakia. The Mongolian People's Republic is replaced by Mongolia. The Democratic Republic of Vietnam is replaced by the Socialist Republic of Vietnam. This rule is necessary to update 8 CFR sections 212.1 (f)(2) and (3) to reflect the current political situation of each country and should not have any adverse impact.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1696-95

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Inspections, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AD96

2011. PREINSPECTION SERVICES FOR AIRCRAFT, VESSELS, AND TRAINS OUTSIDE THE UNITED STATES (PREINSPECTION)

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule addresses preinspection in other than adjacent islands and contiguous territories and also provides the regulatory authority to preinspect trains. The Service has expanded preinspection to Ireland which is neither a contiguous territory nor an adjacent island and plans to preinspect trains in Vancouver, B.C., Canada.

Timetable:

Action	Date	FR Cite
Proposed Rule; Comments due 6/19/95	05/18/95	60 FR 26696
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1698-95

Agency Contact: Una Brien, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AD98

2012. FORMER CITIZENS OF THE UNITED STATES REGAINING UNITED STATES CITIZENSHIP

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1435; 8 USC 1443; 8 USC 1101 note; PL 103-416

CFR Citation: 8 CFR 324

Legal Deadline: Final, Statutory, March 1, 1995.
PL 103-416, section 108

Abstract: This rule allows an individual who lost his or her United States Citizenship, because of their failure to meet the retention requirements of the law, as they existed prior to repeal in 1978, to apply to the Attorney General to regain such citizenship.

Compromise was reached with the Department of State (DOS) through a memo of understanding rather than a formal rule. Instructions will go to INS field officers in the form of wires and policy statements. This compromise will eliminate the need for an addition in 8 CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1701-95

Agency Contact: Kathy Craig, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE00

DOJ—INS

Final Rule Stage

2013. EXPANDING WAIVER OF THE GOVERNMENT KNOWLEDGE, U.S. HISTORY, AND ENGLISH LANGUAGE REQUIREMENTS FOR NATURALIZATION FOR CERTAIN PERSONS OVER 65 WHO HAVE RESIDED IN THE U.S. AT LEAST 20 YEARS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1423; 8 USC 1443; 8 USC 1447; 8 USC 1448; PL 103-416

CFR Citation: 8 CFR 312

Legal Deadline: Final, Statutory, March 1, 1995.
PL 103-416, section 108

Abstract: This rule exempts persons over 65 years of age, who have been lawful permanent residents residing in the United States at least 20 years, from US history and government knowledge testing. The exemption would be the same as that which currently exists for the English language requirement. The rule would also exempt those persons unable to comply there with from all testing due to a physical or developmental disability or mental impairment. Provisions of this proposed rule have been incorporated into a policy statement expected to be released before the end of the calendar year. This agency decision has eliminated the need for an addition to 8 CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: INS No. 1702-95

Agency Contact: William Tollifson, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE02

2014. SELF-PETITIONING FOR BATTERED AND ABUSED ALIEN SPOUSES AND CHILDREN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2; PL 103-322

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule allows battered and abused spouses and children of United States Citizens and Lawful Permanent Residents to petition for immigrant classification. The consent of the abuser would not be required.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1705-95

Agency Contact: Rita Arthur, Senior Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE04

2015. NATIONALITY AND NATURALIZATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1433; 8 USC 1443; 8 USC 1448; 8 USC 1435; 8 USC 1101 note; 8 USC 1409(c); 8 USC 1444; 8 USC 1452; 8 USC 1455; 8 CFR 2; PL 103-416

CFR Citation: 8 CFR 301; 8 CFR 322; 8 CFR 324; 8 CFR 338; 8 CFR 340; 8 CFR 341; 8 CFR 351; 8 CFR 358; 8 CFR 361

Legal Deadline: Other, Statutory, October 25, 1994.
PL 103-416

Abstract: This regulation implements provisions of the Immigration and Nationality Technical Amendments Act of 1994. Various issues addressed in the rulemaking include: procedures for obtaining citizenship for children born abroad to one or more US citizens; requirements and procedures for regaining citizenship; revision to Naturalization Certificate wording to reflect that naturalization eligibility no longer requires an intent to reside in the US permanently; changes in terminology relating to expatriation; administrative and judicial determinations relating to the loss of citizenship; and condition under which US Passports and Consular Reports of Birth may be cancelled.

This regulation will enable U.S. citizen parents with children born abroad to transmit expeditious naturalization to their children through the childs U.S. citizen grandparent. Includes benefits for natural born children and adopted and orphaned children.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1712-95

Agency Contact: William Tollifson, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE07

2016. NOTICE OF POLICY REGARDING CONTRACTS BETWEEN THE IMMIGRATION AND NATURALIZATION SERVICE AND TRANSPORTATION LINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 238

Legal Deadline: None

Abstract: To encourage the payment of fines, liquidated damages, and user fees, this notice informs interested parties that the INS intends to evaluate a transportation line's fines, user fees, and liquidated damages payment record before entering into any agreements with the transportation line. INS will also evaluate existing transportation line agreements for possible cancellation, if it is determined that fines, liquidated damages, or user fees imposed against or owed by the transportation line are not paid to the INS in a timely manner. This action is necessary to ensure timely payment of a transportation line's fines, liquidated damages, and user fees. In both cases the INS will notify the affected carrier to satisfy its debts to the INS. Delinquent fines have made this policy necessary. The National Fines Office currently shows that carrier fines which have been delinquent over 30 days amount to over $5 million dollars.

Timetable:

Action	Date	FR Cite
Notice of Policy with 30 day comment period	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1708-95

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AE08

DOJ—INS

Final Rule Stage

2017. NOTICE OF POLICY REGARDING FINES IMPOSED ON CARRIERS WHO BRING ALIENS TO THE UNITED STATES WITHOUT PROPER DOCUMENTATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103

CFR Citation: 8 CFR 273

Legal Deadline: None

Abstract: The INS informs interested parties of its intention to modify its fines policy regarding fines imposed on carriers for the transportation of aliens in possession of fraudulent documentation. The INS intends to fine carriers which bring aliens in possession of fraudulent documents where the fraud is reasonably apparent. The INS also affirms its policy with regard to other issues which include: fines and Transit Without Visa (TWOV) passengers arriving with cancelled visas, used "one entry" visas, or visas issued prior to the addition of accompanying children. This policy was first stated in an INS letter to the Air Transport Association dated March 12, 1992.

Ports-of-Entry will recommend fines against those carriers that transport aliens to the United States who are in possession of reasonably apparent fraudulent documents. This will increase the amount of fines for certain carriers that transport these fraudulently documented aliens and encourage all carriers to improve their screening procedures of passenger documentation prior to their embarkation for the United States.

Timetable:

Action	Date	FR Cite
Notice of Policy with 30 day comment period	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1709-95

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AE09

2018. NOTICE TO CARRIERS OF THE INS POLICY REQUESTING THE U.S. CUSTOMS SERVICE (USCS) TO DENY OR REVOKE PERMISSION TO UNLADE PASSENGERS FOR THOSE THAT ARE DELINQUENT IN INS FINES LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58b; 19 USC 66; 19 USC 1433; 19 USC 1436; 19 USC 1459; 19 USC 1590; 19 USC 1594; 19 USC 1623; 19 USC 1624; 19 USC 1644; 49 USC app 1509

CFR Citation: 19 CFR 122

Legal Deadline: None

Abstract: To assist in the collection of monies owed by carriers, the INS will request that the US Customs Service (USCS) consider denying or revoking permits to unlade passengers for certain carriers that are delinquent in their fines, liquidated damages, and user fee payments. According to USCS regulations (19 CFR 122) USCS District Directors may deny or revoke a permit/license if specific reasons exist for denial or revocation. A denial to land by the USCS would remain in place until satisfactory arrangements were made with the INS for payment of delinquent fines, liquidated damages, or user fees.

Carriers that are delinquent in their fines, liquidated damages, or user fees, may have their permits to unlade passengers in the United States denied or revoked by the USCS upon request by the INS.

Timetable:

Action	Date	FR Cite
Notice of Policy with 30 day comment period	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AE10

2019. NOTICE TO CARRIERS OF THE INS POLICY ON THE REQUIREMENTS OF ARRIVAL/DEPARTURE MANIFESTS, FORM I-94, AND FINES IMPLICATIONS UNDER SECTION 231(A)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229

CFR Citation: 8 CFR 231

Legal Deadline: None

Abstract: This rule makes modifications to the current regulations at 8 CFR 231.1 regarding fines against carriers for violation of section 231(a) of the Act regarding the submission of

properly completed arrival/departure manifests, Forms I-94. This rule modifies the criteria the INS will use to fine carriers under section 231 of the Act.

New criteria put forth in this policy notice will clarify the requirements regarding the carrier's submission of properly completed arrival/departure manifest Forms I-94, allowing the INS and carriers to improve cooperation to achieve rapid facilitation of the traveling public.

Timetable:

Action	Date	FR Cite
Notice of Policy with 30 day comment period	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1711-95

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AE11

2020. ORDER TO SHOW CAUSE AND NOTICE OF HEARING: APPREHENSION, CUSTODY, AND DETENTION

Priority: Other

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1251; 8 USC 1252; 8 USC 1252 note; 8 USC 1252b; 8 USC 1254; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: This rule adds the position of Supervisory Special Agent (Institutional Hearing Program designated site supervisor) to the list of Immigration and Naturalization officials authorized to issue orders to show cause and warrants of arrest.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INS No. 1716-95

Agency Contact: Ira L. Frank, Senior Special Agent, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536
Phone: 202 514-0747

RIN: 1115–AE13

2021. "MASTER EXHIBITS" CURRENTLY AVAILABLE

Priority: Other

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 31 USC 9701; 8 CFR 2

CFR Citation: 8 CFR 208

Legal Deadline: None

Abstract: This notice provides the public with a list of the "Master Exhibits" currently available regarding country conditions in refugee-producing countries. These documents have been developed by non-government organizations/attorneys for use as reference materials for asylum applicants/preparers for their cases. The purpose of this notice is to inform the public of the country materials available and procedures for obtaining the materials.

Timetable:

Action	Date	FR Cite
Notice (to be published annually)	12/00/95	

Small Entities Affected: Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1643-95

Additional contact: Loraine Eide

Agency Contact: John Evans, Director, Resource Information Center, International Affairs, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., ULLICO, 3rd Floor, Washington, DC 20536
Phone: 202 633-1040

RIN: 1115–AE14

2022. SUBPOENA ISSUANCE AUTHORITY

Priority: Other

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1251; 8 USC 1252; 8 USC 1252 note; 8 USC 1252b; 8 USC 1254; 8 USC 1362; 8 USC 2

CFR Citation: 8 CFR 287

Legal Deadline: None

Abstract: This rule adds the position of Assistant Chief Patrol Agent to the list of Immigration and Naturalization Officers authorized to issue and designate service of subpoenas.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1717-95

Agency Contact: Alan R. Conroy, Assistant Chief, Border Patrol, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7232, Washington, DC 20536
Phone: 202 514-3073

RIN: 1115–AE15

2023. • DISCLOSURE OF INFORMATION

Priority: Other

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186A; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule removes the current regulatory language conditioning an alien's nonimmigrant status on his or her providing full and truthful information requested by the INS, regardless of the requested information's materiality. This rule would clarify that the nonimmigrant's stay is conditioned on, among other things, the provision of all information deemed necessary to ensure that the alien has acquired, and is maintaining, lawful nonimmigrant status during the entire period of his or her stay, or is eligible to receive any other benefit under the INA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1732-95

Agency Contact: Helen deThomas, Adjudications Examiner, Examinations,

Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE17

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Long-Term Actions

2024. SEIZURE AND FORFEITURE OF CONVEYANCES

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 274

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Susan Franklin
Phone: 202 616-2737

RIN: 1115–AA95

2025. REVISION OF IMMEDIATE AND CONTINUOUS TRANSIT AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 238

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Robert Hutnick
Phone: 202 514-2694

RIN: 1115–AC17

2026. UNAVAILABILITY TO TWOV TO CITIZENS OF THE FORMER SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA

Priority: Other

CFR Citation: 8 CFR 212

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS 1397R) Eff. 8-16-93; Com. Due 9-15-93	08/16/93	58 FR 43438
Final Rule (INS 1397R)	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Hutnick
Phone: 202 514-2694

RIN: 1115–AC87

2027. NONIMMIGRANT CLASSES; B VISITOR FOR BUSINESS OR PLEASURE

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 214; 8 CFR 274a

Timetable:

Action	Date	FR Cite
NPRM	11/05/93	58 FR 58982
NPRM Comment Period End	12/06/93	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Helen V. deThomas
Phone: 202 514-5014

RIN: 1115–AC89

2028. RESUBMISSION OF REJECTED APPLICATIONS FOR LEGALIZATION

Priority: Other

CFR Citation: 8 CFR 245a

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kathy Craig
Phone: 202 514-5014

RIN: 1115–AD49

2029. ADMINISTRATIVE APPLICATION FOR SUSPENSION OF DEPORTATION PROCEDURE BEFORE A DISTRICT DIRECTOR

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 244

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Finkelstein
Phone: 202 514-3197

RIN: 1115–AD78

2030. BORDER SERVICES USER FEE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 286

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Jaromin
Phone: 202 514-3019

RIN: 1115–AE01

2031. • EMPLOYER SANCTIONS MODIFICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: The Service is considering further changes to streamline the verification and enforcement process requirements related to the Employer Sanctions provisions of the Immigration Control and Reform Act.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1737-95

Agency Contact: Ira Frank, Special Agent, Investigations, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536
Phone: 202 514-0747

RIN: 1115–AE21

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Completed Actions

2032. ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR LAWFUL TEMPORARY OR PERMANENT RESIDENT STATUS UNDER SECTION 245A OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Priority: Other Significant

CFR Citation: 8 CFR 245a

Completed:

Reason	Date	FR Cite
Final Action	05/01/95	60 FR 21039
Final Action Effective	05/31/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: David Dixon
Phone: 202 514-2895

RIN: 1115–AC18

2033. BIENNIAL INS USER FEE REVIEW

Priority: Routine and Frequent

CFR Citation: 8 CFR 286

Completed:

Reason	Date	FR Cite
Final Action Comments due 03/14/95; no comments received.	01/13/95	60 FR 3107

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mike Natchuras
Phone: 202 616-2754

RIN: 1115–AD06

2034. CHARGING OF FEES FOR SERVICES AT LAND BORDER PORTS-OF-ENTRY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 103; 8 CFR 217; 8 CFR 235; 8 CFR 264; 8 CFR 286; 8 CFR 212; 8 CFR 2

Completed:

Reason	Date	FR Cite
Final Action	08/07/95	60 FR 40064
Final Action Effective	10/09/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marie deSoto
Phone: 202 514-2694

RIN: 1115–AD30

2035. AUTOMATIC REVOCATION OF APPROVAL OF PETITIONS

Priority: Other

CFR Citation: 8 CFR 205

Completed:

Reason	Date	FR Cite
Withdrawn by program office	07/10/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gerard Casale
Phone: 202 514-5014

RIN: 1115–AD56

2036. DENIAL OF EMPLOYMENT AUTHORIZATION TO ALIENS PLACED IN DEPORTATION OR EXCLUSION PROCEEDINGS AS A RESULT OF ENCOUNTER WHILE ENGAGED IN UNAUTHORIZED EMPLOYMENT

Priority: Other Significant

CFR Citation: 8 CFR 274a

Completed:

Reason	Date	FR Cite
Withdrawn by program office	02/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian Vaillancourt
Phone: 202 514-1189

RIN: 1115–AD65

2037. MAILING ADDRESSES, VARIOUS APPLICATIONS

Priority: Other

CFR Citation: 8 CFR 103

Completed:

Reason	Date	FR Cite
Withdrawn by program office	02/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Raymond Jaroneski
Phone: 202 514-5014

RIN: 1115–AD67

2038. ADMINISTRATIVE DEPORTATION PROCEDURES FOR NON-LAWFUL PERMANENT RESIDENTS WHO ARE CONVICTED OF AN AGGRAVATED FELONY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 242

Completed:

Reason	Date	FR Cite
Final Action	08/24/95	60 FR 43954

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Leonard Loveless
Phone: 202 514-2865

RIN: 1115–AD76

2039. IMMIGRANT PETITIONS; ALIENS IN RELIGIOUS OCCUPATIONS

Priority: Other

CFR Citation: 8 CFR 209

Completed:

Reason	Date	FR Cite
Final Action Comments due 06/27/94	06/06/95	60 FR 29751
Final Action Effective	06/06/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Straus
Phone: 202 514-5014

RIN: 1115–AD79

2040. CONTRACTS WITH TRANSPORTATION LINES; SIGNATORY AUTHORITY

Priority: Routine and Frequent

CFR Citation: 8 CFR 238

Completed:

Reason	Date	FR Cite
Final Action	06/09/95	60 FR 30457
Final Action Effective	06/09/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Una Brien
Phone: 202 514-2681

RIN: 1115–AD85

DOJ—INS

Completed Actions

2041. ORGANIZATIONAL STRUCTURE OF THE IMMIGRATION AND NATURALIZATION SERVICE

Priority: Other Significant

CFR Citation: 8 CFR 100; 8 CFR 103

Completed:

Reason	Date	FR Cite
Withdrawn - Substance consolidated into INS Nos. 1501 and 1684	07/05/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Janet Taylor
Phone: 202 514-1989

RIN: 1115–AD90

2042. ENROUTE INSPECTION TRAVEL EXPENSE; LIABILITY FOR CRUISE SHIPS

Priority: Other

CFR Citation: 8 CFR 235

Completed:

Reason	Date	FR Cite
Withdrawn by program office	07/06/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Rick Marks
Phone: 202 514-3049

RIN: 1115–AD93

2043. NATURALIZATION PILOT PROJECT; AVAILABILITY OF FUNDS; SOLICITATION OF PROPOSALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 0 CFR 00

Completed:

Reason	Date	FR Cite
Final Action - Applications due 06/05/95	04/26/95	60 FR 20507

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: William Tollifson
Phone: 202 514-5014

RIN: 1115–AE12

2044. CHANGE IN EMPLOYMENT AUTHORIZATION FILING PROCEDURES

Priority: Other

CFR Citation: 8 CFR 274a; 8 CFR 245a; 8 CFR 242; 8 CFR 240; 8 CFR 214; 8 CFR 210; 8 CFR 208; 8 CFR 103

Completed:

Reason	Date	FR Cite
Final Action	05/04/95	60 FR 21973
Final Action Effective	06/03/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jack Tabaka
Phone: 202 514-5014

RIN: 1115–AE16

2045. • PHILIPPINE VETERANS OF WORLD WAR II BASED UPON ACTIVE DUTY SERVICE IN THE UNITED STATES ARMED FORCES DURING SPECIFIED PERIODS OF HOSTILITIES

Priority: Other

Legal Authority: 8 USC 1103; 8 USC 1440; 8 USC 1443

CFR Citation: 8 CFR 329

Legal Deadline: None

Abstract: This final rule amends the date previously published in the Federal Register as the final date applications must be received by the Service in order to be considered applications for naturalization under section 405 of the Immigration and Naturalization Act of 1990. This rule is necessary to correct an oversight in the calculation of the filing deadline and to ensure that Philippine veterans of World War II who missed the originally published filing deadline are afforded the opportunity for naturalization under this provision.

Timetable:

Action	Date	FR Cite
Final Action - Correction to final rule published at 60 FR 6647	09/01/95	60 FR 45658

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1404-95

Cross Reference former RIN 1115-AC34

Agency Contact: William Tollifson, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE20

2046. • ADDING DAYTONA, FLORIDA AND MEMPHIS, TENNESSEE TO THE LIST OF PORTS OF ENTRY ACCEPTING APPLICATIONS FOR DIRECT TRANSIT WITHOUT VISA

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (the Service) regulations by adding Daytona, Florida, and Memphis, Tennessee, to the lists of ports of entry where, except for transit from one part of foreign contiguous territory to another part of the same territory, an alien must make application for admission to the United States for direct transit without visa. This change is necessary to accommodate the increase in international commerce serving Daytona, Florida, and Memphis, Tennessee.

Timetable:

Action	Date	FR Cite
Final Action	09/22/95	60 FR 49195
Final Action Effective	09/22/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1727-95

Agency Contact: Robert F. Hutnick, Assistant Chief, Inspector, Enforcment, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 616-7499

RIN: 1115–AE22

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DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Proposed Rule Stage

2047. CRIMINAL FINES ENFORCEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3013(b); 18 USC 3613; 18 USC 3663(h); 26 USC 7805

CFR Citation: 28 CFR 72

Legal Deadline: None

Abstract: The Sentencing Reform Act of 1984 makes certain tax collection provisions of the Internal Revenue Code applicable to the collection of criminal fines. This rule is intended to facilitate the collection of criminal fines by modifying the tax collection provision to better reflect the difference in the nature of tax and fine liabilities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Lynne Solien, Financial Litigation Staff, Executive Office for U.S. Attorneys, Department of Justice, Room 8500, Bicentennial Bldg., 600 E Street NW., Washington, DC 20530
Phone: 202 616-6444

RIN: 1105–AA16

2048. VIOLENT CRIME AND DRUG EMERGENCY AREAS

Priority: Other Significant

Legal Authority: PL 103-322, sec 90107 Violent Crime Cntl & Law Enf Act of 1994

CFR Citation: 28 CFR 92 (New)

Legal Deadline: NPRM, Statutory, January 11, 1995.

Abstract: This rule provides consolidated procedures for requests for designations of violent crime or drug emergency areas and appropriate Federal Assistance under section 90107 of the Violent Crime Control and Law Enforcement Act of 1994. In general, section 90107 provides that the chief executive of a State or local government may make a written request to the Attorney General that the President designate a state or part of a state to be a "violent crime or drug emergency area." This rule specifies the information to be submitted in support of such a request, sets forth the procedures to be followed by the requesters, and provides the process and criteria for Attorney General review of such requests. Section 90107 also provides the President may (1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted it under Federal law in support of State or local assistance efforts and (2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Robert Hinchman, Attorney-Advisor, Department of Justice, Office of Policy Development, Room 4256, 10th Street & Constitution Avenue NW., Washington, DC 20530
Phone: 202 514-8059
Fax: 202 514-8639

RIN: 1105–AA29

2049. QUALIFICATIONS FOR CHAPTER 13 STANDING TRUSTEES

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 28 USC 586(e)(1)

CFR Citation: 28 CFR 58

Legal Deadline: None

Abstract: United States Trustees have the authority to appoint one or more individuals to serve as chapter 13 standing trustees in a judicial district if the number of chapter 13 cases warrants the appointment. Under 28 USC section 586(b) standing trustees receive a percentage of all funds paid under chapter 13 plans to pay for their compensation and actual necessary expenses. The Director of the Executive Office for United States Trustees, by virtue of authority delegated by the Attorney General, fixes each standing trustee's percentage fee and the maximum annual compensation. 28 USC section 586(e)(1). This rule is designed to eliminate conflicts of interest, curb unnecessary expenses, and ensure financial and management accountability.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Esther I. Estryn, Deputy General Counsel, Department of Justice, Executive Office for United States Trustees, 901 E Street NW., Washington, DC 20530
Phone: 202 307-1399

RIN: 1105–AA32

2050. MOTOR VEHICLE THEFT PREVENTION PROGRAM

Priority: Other Significant

Legal Authority: PL 103-322, sec 220001, Violent Crime Cntl & Law Enf Act, 1994

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory, March 13, 1995.

Abstract: This rule develops, in cooperation with the States, a national voluntary motor vehicle theft prevention program under which the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner states that the vehicle is not normally operated under certain specified conditions. Under this program, the owner agrees to display program decals or devices on the owner's vehicle and to permit law enforcement officials in any State to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions.

Participating States and localities will authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under the specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

This rule establishes the specified conditions under which stops may be authorized by owners who state that they do not ordinarily operate their vehicles under such conditions: (1) driving a vehicle between 1:00 a.m. and 5:00 a.m.; and (2) driving a vehicle across a United States land border or into a United States port.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Robert Hinchman, Attorney-Advisor, Department of Justice, Office of Policy Development, Room 4256, 10th & Constitution Ave. NW., Washington, DC 20530
Phone: 202 514-8059
Fax: 202 514-8639

RIN: 1105–AA34

2051. • USE AND EXAMINATION OF MATERIALS SUBMITTED PURSUANT TO THE ANTITRUST CIVIL PROCESS ACT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 1313

CFR Citation: 28 CFR 49

Legal Deadline: None

Abstract: This rule revises the existing Department of Justice regulation concerning the use and examination of materials submitted pursuant to the Antitrust Civil Process Act to add references to "answers to interrogatories" and "transcripts of oral testimony" as types of materials subject to the provisions of the Act, and to add references to "agents" of the Department having the authority to use and copy such materials. These changes are necessary to conform the language of the regulation to the current provisions of the Act. The rule also makes minor changes to the spelling and capitalization of certain words used in the regulations for purposes of conformity with the Act and internal consistency.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Howard M. Blumenthal, Assistant Chief, Legal Policy Section, Department of Justice, Antitrust Division, Main Bldg., Room 3121, 10th & Constitution Ave. NW., Washington, DC 20530
Phone: 202 514-2513
Fax: 202 514-9082

RIN: 1105–AA37

2052. • DESIGNATION OF AGENCIES TO RECEIVE AND INVESTIGATE REPORTS REQUIRED UNDER THE VICTIMS OF CHILD ABUSE ACT

Priority: Other

Legal Authority: 42 USC 13031

CFR Citation: 28 CFR 81

Legal Deadline: None

Abstract: Title 42 U.S. Code section 13031 requires persons engaged in certain specified professions and activities on federal lands or facilities to report incidents of child abuse to the appropriate Federal, state, or local agency designed by the Attorney General. Title 42 USC section 13031(d) requires the Attorney General to designate an agency to receive and investigate certain reports of child abuse. For Federal lands, facilities, or federally contracted facilities where no agency qualifies for designation, the Federal Bureau of Investigation is designated as the agency to receive and investigate reports of child abuse made pursuant to 42 USC section 13031.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal, Federal

Agency Contact: George C. Burgasser, Acting Chief, Child Exploitation and Obscenity Section, Department of Justice, Criminal Division, 1001 G St., NW., Suite 310, Washington, DC 20530
Phone: 202 514-5780
Fax: 202 514-1793

RIN: 1105–AA38

2053. • IMPLEMENTATION OF COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

Priority: Other Significant

Legal Authority: PL 103-414 Communications Assistance for Law Enforcement Act

CFR Citation: 28 CFR 100

Legal Deadline: None

Abstract: The FBI intends to publish a notice of proposed rulemaking setting forth the Cost Recovery Regulations implementing the Communications Assistance for Law Enforcement Act (CALEA), which became effective October 25, 1994. The proposed Cost Recovery Regulations set forth the procedures by which telecommunications carriers may be reimbursed for all reasonable costs directly associated with the modifications performed by carriers in connection with equipment, facilities, and services installed or deployed on or before January 1, 1995.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Walter V. Meslar, Chief, Telecommunications Contracts and Audit Unit, Department of Justice, Federal Bureau of Investigation, 14800 Conference Center Dr., Suite 300, Chantilly, VA 22021
Phone: 703 814-4900

RIN: 1105–AA39

2054. • PROCEDURES FOR RECEIPT AND CONSIDERATION OF WRITTEN COMMENTS SUBMITTED UNDER SUBSECTION 2(B) OF THE ANTITRUST PROCEDURES AND PENALTIES ACT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing

DOJ—LA

Proposed Rule Stage

Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 301; 15 USC 16(d); 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 50.13

Legal Deadline: None

Abstract: This rule eliminates an unnecessary provision establishing general procedures for the receipt and consideration of comments submitted pursuant to subsection 2(b) of the Antitrust Procedures and Penalties Act, which requires the Department of Justice to seek public comments concerning proposed settlements of civil lawsuits brought by the United States under the antitrust laws. The specific procedures for submitting comments to the Department concerning proposed settlements are publicly communicated each time such comments are solicited, making the promulgation of general procedures unnecessary. It is also unnecessary to establish, by regulation, internal Department procedures for the consideration of such comments once received.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard M. Blumenthal, Assistant Chief, Legal Policy Section, Department of Justice, Antitrust Division, Main Bldg,. Room 3121, 10th & Constitution Ave. NW., Washington, DC 20530
Phone: 202 514-2513
Fax: 202 514-9082

RIN: 1105–AA40

2055. • FALSE CLAIMS AMENDMENTS ACT OF 1986—CIVIL INVESTIGATIVE DEMANDS

Priority: Other

Legal Authority: 31 USC 3733

CFR Citation: 28 CFR 28

Legal Deadline: None

Abstract: This rule implements and clarifies the provisions concerning civil investigative demands (CIDs) in Section 6(a) of the False Claims Amendments Act of 1986, 31 USC 3733. In particular, this rule 1) delegates certain delegable powers and responsibilities that the statute vests in the Attorney General to the Assistant Attorney General for the Civil Division and to the U.S. Attorneys; 2) specifies which United States employees may have access to information produced in response to CIDs; 3) clarifies that Department trial attorneys, in certain circumstances, have authority unilaterally to alter certain features of oral examinations taken pursuant to CIDs, such as date, time, and place; and 4) clarifies the statutory provision allowing Department attorneys to make "official use" of CID material in connection with cases and proceedings, by defining "official use."

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael F. Hertz, Director, Commercial Litigation Branch, Department of Justice, Civil Division, P.O. Box 261, Washington, DC 20044
Phone: 202 514-7179

RIN: 1105–AA42

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Final Rule Stage

2056. REVISION OF REGULATIONS GOVERNING THE REMISSION OR MITIGATION OF CIVIL AND CRIMINAL FORFEITURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 28 USC 509; 28 USC 510; 28 USC 515 to 518; 28 USC 524; 8 USC 1324; 15 USC 1177; 17 USC 509; 18 USC 512; 18 USC 981; 18 USC 982; 18 USC 1467; 18 USC 1955; 18 USC 1963; 18 USC 2253; 18 USC 2254

CFR Citation: 28 CFR 9

Legal Deadline: None

Abstract: This regulation amends and adopts rules that govern the processing of petitions for remission and mitigation of forfeitures by the Criminal Division, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the United States Marshals Service of the United States Department of Justice. It is intended to provide a basis for similar rules to be adopted by the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service, the United States Secret Service of the Department of the Treasury, and the United States Postal Service. The Department proposes this regulation in an effort to ameliorate the harsh results in individual forfeiture cases and to provide relief to innocent persons whose property is used by others for criminal purposes.

Timetable:

Action	Date	FR Cite
NPRM	06/29/94	59 FR 33457
NPRM Comment Period End	07/29/94	59 FR 33457
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: LEGAL AUTHORITY CONT: 18 USC 2513; 19 USC 1613; 19 USC 1618; 21 USC 853; 21 USC 881; 22 USC 401.

Agency Contact: Nancy L. Rider, Deputy Director, Asset Forfeiture Office, Department of Justice, Criminal Division, 1400 New York Avenue, Washington, DC 20530
Phone: 202 514-5522

RIN: 1105–AA23

DOJ—LA

Final Rule Stage

2057. QUALIFICATIONS FOR TRUSTEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 28 USC 586(d)

CFR Citation: 28 CFR 58

Legal Deadline: None

Abstract: United States Trustees appoint private trustees to serve in bankruptcy cases filed under title 11, United States Code. Pursuant to 28 USC section 586(d), the Attorney General is required to prescribe by rule qualifications for membership on panels from which the United States Trustees appoint trustees to serve in specific bankruptcy cases filed under chapter 7 of the Bankruptcy Code. In addition, the Attorney General is required to prescribe by rule qualifications for appointment as a standing trustee in cases filed under chapters 12 and 13 of the Bankruptcy Code. The qualifications prescribed by the Attorney General pursuant to 28 USC section 586(d) are found at 28 CFR 58.3, 58.4. This rule amends those qualifications by adding a requirement that the applicant have three years of either bankruptcy experience or experience as a fiduciary. In addition, this rule clarifies that the United States Trustees have authority not only to establish panels of trustees in the first instance, but also to revise and periodically reconstitute such panels. Finally, the rule sets forth certain technical amendments to 28 CFR Part 58.

Timetable:

Action	Date	FR Cite
NPRM	09/16/93	58 FR 48472
NPRM Comment Period End	10/18/93	58 FR 48472
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Esther I. Estryn, Deputy General Counsel, Department of Justice, Executive Office for United States Trustees, 901 E Street NW., Washington, DC 29530
Phone: 202 307-1399

RIN: 1105–AA30

2058. GUIDELINES FOR REVIEWING APPLICATIONS FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES FILED UNDER 11 USC 330

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 28 USC 586(a)(3)(A)(i)

CFR Citation: 28 CFR 58

Legal Deadline: None

Abstract: United States Trustees must comply with guidelines adopted by the Executive Office for United States Trustees in reviewing applications filed by case trustees and professionals under section 330 of title 11, United States Code. 28 USC 586(a)(3)(A)(i). This rule establishes the procedural guidelines pursuant to 28 USC 586(a)(3)(A)(i).

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martha L. Davis, General Counsel, Department of Justice, Executive Office for United States Trustees, 901 E Street NW., Washington, DC 20530
Phone: 202 307-1399

RIN: 1105–AA33

2059. JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER GUIDELINES

Priority: Other Significant

Legal Authority: PL 103-322 sec 170101, Violent Crime Cntl & Law Enf Act, 1994

CFR Citation: None

Legal Deadline: None

Abstract: Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 encourages States to establish registration systems for persons who are: (1) convicted of a criminal offense against a victim who is a minor; (2) convicted of a sexually violent offense; or (3) found to be a sexually violent predator. The establishment of such a system by a State is a condition for eligibility for full funding under section 506 of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3756). Section 170101(a)(1) directs the Attorney General to establish guidelines for the States to follow in developing conforming registration systems. These guidelines fulfill the Attorney General's responsibility under that section.

Timetable:

Action	Date	FR Cite
NPRM	04/12/95	60 FR 18613
NPRM Comment Period End	07/11/95	60 FR 18613
Comment period extended to 10/30/95.	09/14/95	60 FR 47760
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: David J. Karp, Senior Counsel, Department of Justice, Office of Policy Development, Room 4503, Main Building, Washington, DC 20530
Phone: 202 514-3273
Fax: 202 514-8639

RIN: 1105–AA36

2060. • RECOMMENDATIONS TO THE PRESIDENT ON CIVIL AERONAUTICS BOARD DECISIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; EO 12597

CFR Citation: 28 CFR 25

Legal Deadline: None

Abstract: This rule eliminates an unnecessary provision which sets forth procedures for the Department of Justice to receive public comments from private parties on recommendations by the Department to the President concerning decisions by the Department of Transportation authorizing air carriers to engage in foreign air transportation. In practice, the Department of Justice rarely provides such recommendations to the President, making the establishment of formal procedures to receive public comments concerning such recommendations unnecessary.

DOJ—LA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard M. Blumenthal, Assistant Chief, Legal Policy Section, Department of Justice, Antitrust Division, Main Bldg., Room 3121, 10th & Constitution Ave. NW., Washington, DC 20530
Phone: 202 514-2513
Fax: 202 514-9082

RIN: 1105–AA41

DEPARTMENT OF JUSTICE (DOJ) Legal Activities (LA)

Long-Term Actions

2061. PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 28 CFR 16 subparts A and D

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Janice Galli McLeod
Phone: 202 514-4453
Fax: 202 514-1009

RIN: 1105–AA20

2062. FEDERAL CLAIMS COLLECTION STANDARDS (FCCS)

Priority: Other

CFR Citation: 4 CFR 101 to 105

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert N. Ford
Phone: 202 514-5343
Fax: 202 514-1965

RIN: 1105–AA31

DEPARTMENT OF JUSTICE (DOJ) Office of Justice Programs (OJP)

Proposed Rule Stage

2063. • ARREST POLICIES IN DOMESTIC VIOLENCE CASES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3796 hh et seq

CFR Citation: 28 CFR 90.60

Legal Deadline: NPRM, Statutory, January 1995. Final, Statutory, March 1995.

Abstract: A proposed rule is being issued for grants to encourage arrest policies pursuant to the Violence Against Women Act, title IV of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, 108 Stat. 1796. This Federal discretionary grant program is to encourage States, units of local government, and Indian tribal government to treat domestic violence as a serious violation of criminal law. The regulation is being published under section 801 of the Omnibus Crime Control and Safe Streets Act, as amended, 42 USC 3752.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal

Agency Contact: Kathy Schwartz, Administrator, Violence Against Women Program Office, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Room 444, Washington, DC 20531
Phone: 202 307-6026

RIN: 1121–AA35

DEPARTMENT OF JUSTICE (DOJ) Office of Justice Programs (OJP)

Final Rule Stage

2064. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3711 et seq, as amended; 42 USC 5601 et seq, as amended; 42 USC 10601 et seq, as amended; 18 USC 4042; 18 USC 4351 to 4353; EO 12291

CFR Citation: 28 CFR 70

Legal Deadline: None

Abstract: This rule will implement OMB Circular A-110 which provides uniform administrative requirements for grants and cooperative agreements in institutions of higher education, hospitals, and other nonprofit organizations. This rule specifies terms and conditions for grants and cooperative agreements.

Timetable:

Action	Date	FR Cite
Final Rule	07/26/95	60 FR 38241
Final Rule Effective	07/26/95	
Final Action	11/00/95	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: A final rule was published on July 26, 1995.

DOJ—OJP

Final Rule Stage

Editorial and other corrections will be published in the near future.

Agency Contact: Cynthia Schwimer, Director, Financial Management and Grants Administration Division, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Room 942, Washington, DC 20531
Phone: 202 307-3186

RIN: 1121–AA18

2065. VIOLENT OFFENDER INCARCERATION AND TRUTH IN SENTENCING INCENTIVE GRANT PROGRAM

Priority: Other Significant

Legal Authority: Subtitle A title II Violent Crime Cont and Law Enf Act of 1994; PL 103-322; 108 Stat 1796

CFR Citation: 28 CFR 91

Legal Deadline: Other, Statutory, January 13, 1995.
Sec 20105 of title II of Violent Crime Cont and Law Enf Act of 1994 requires the Attorney General to issue rules and regulations re use of title II grant funds within 90 days of Act enactment.

Abstract: This regulation implements authorization for grants to States, and States organized in multistate compacts, for assistance to adult and juvenile correctional systems. The program recognizes that States and local jurisdictions have experienced substantial increases in jail, prison and juvenile confinement populations in recent years, resulting in escalating costs and serious difficulties in managing overcapacity correctional populations. Because of these constraints, correctional systems have often been unable to implement new programs, develop alternative confinement strategies, or open new facilities. This program seeks to provide funds to address the immediate needs of correctional facilities and programs.

In particular, the program emphasizes the need to make available both conventional jail and prison space for the confinement of violent offenders and to ensure that violent offenders remain incarcerated for substantial periods of time through the implementation of truth in sentencing laws. Accordingly, subtitle A directs the Attorney General to award grants to construct, develop, expand, modify, operate or improve correctional facilities and other correctional facilities that will free secure prison space for the confinement of violent offenders.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/07/94	59 FR 63015
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Larry Meacham, Corrections Program Office, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531
Phone: 202 307-3914

RIN: 1121–AA25

2066. • VICTIM ASSISTANCE GRANT PROGRAM GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 10601 et seq

CFR Citation: None

Legal Deadline: None

Abstract: The Victims of Crime Act of 1984, as amended, 42 USC 10601 et seq, authorizes Federal financial assistance to States for the purpose of compensating and assisting victims of crime, providing funds for training and technical assistance, and assisting, victims of Federal crimes. These program guidelines provide information on the administration and implementation of the VOCA victim assistance grant program as authorized in the Act, and contain information on the following: background; allocation of VOCA Victim Assistance Funds; VOCA Victim Assistance Application Process; program requirements; financial requirements; monitoring; and suspension and termination of funding. The guidelines are based on the experience gained during the first nine years of the grant program and are in accordance with VOCA. These final program guidelines supersede any guidelines issued previously by OVC.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/10/95	60 FR 24888
Final Action	11/00/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Carolyn A. Hightower, Acting Director, State Compensation and Assistance Division, Department of Justice, Office of Justice Programs, Office for Victims of Crime, 633 Indiana Avenue NW., Washington, DC 20531
Phone: 202 307-5947

RIN: 1121–AA30

DEPARTMENT OF JUSTICE (DOJ) Office of Justice Programs (OJP)

Long-Term Actions

2067. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

Priority: Other Significant

CFR Citation: 28 CFR 82

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/06/94	59 FR 50830
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Linda J. McKay
Phone: 202 514-6638

RIN: 1121–AA24

2068. • CRIMINAL JUSTICE INFORMATION SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 3711 et seq

CFR Citation: 28 CFR 20

Legal Deadline: None

Abstract: This part sets forth requirements for the collection, storage, and maintenance of criminal history information kept in connection with projects funded under the Omnibus Crime Control and Safe Streets Act, to

ensure that such information is collected, stored, and disseminated in a manner consistent with constitutional and statutory standards to insure completeness, integrity, accuracy and security and to protect individual privacy. These safeguards assist grantees by providing guidance on how to comply with statutes and common law to protect the privacy and constitutional rights of individuals on whom they maintain information and to ensure the integrity of these operating systems. This part is currently being reviewed to determine if information required under the plans can be incorporated with existing grants management compliance requirements in other provisions.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Christine Craig, Office of the General Counsel, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531
Phone: 202 307-0790

RIN: 1121–AA32

2069. • CONFIDENTIALITY OF IDENTIFIABLE RESEARCH AND STATISTICAL INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3789g(a)

CFR Citation: 28 CFR 22

Legal Deadline: None

Abstract: This part provides guidance on complying with the requirements of 42 USC 3789g(a), which requires grantees to maintain strict confidentiality in research or statistical information that is identifiable to an individual, and provides that such information may only be used for the purposes for which it was collected. Although this rule needs to be retained to protect personal privacy interests, as required by law, it will be reinvented to reflect changes in statutory authority, and to ensure that its requirements are as responsive as possible to practical implementation issues of concern to affected State and local governments and individuals.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal

Agency Contact: Christine Craig, Office of the General Counsel, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531
Phone: 202 307-0790

RIN: 1121–AA33

2070. • CRIMINAL JUSTICE BLOCK GRANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR

Legal Authority: 42 USC 3711 et seq

CFR Citation: 28 CFR 33

Legal Deadline: None

Abstract: This part defines eligibility criteria and procedures for applications and administration for State and local government block grant programs, in order to ensure effective agency stewardship of Federal funds. Although the rule needs to be retained to implement this statutory grant program, it will require reinvention in order to reflect changes in the authorizing statutory authority, and to ensure that its requirements are as responsive as possible to the practical implementation issues of concern to affected State and local governments.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Christine Craig, Office of the General Counsel, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531
Phone: 202 307-0790

RIN: 1121–AA34

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Completed Actions

2071. DRUG COURT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 93

Completed:

Reason	Date	FR Cite
Final Action	06/20/95	60 FR 32104
Final Action Effective	06/20/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Tim Murray
Phone: 202 616-5001

RIN: 1121–AA26

2072. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

Priority: Other Significant

CFR Citation: 28 CFR 90

Completed:

Reason	Date	FR Cite
Final Action	04/15/95	60 FR 19474
Final Action Effective	04/15/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Kathy Schwartz
Phone: 202 307-6206

RIN: 1121–AA27

2073. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENT FOR DRUGFREE WORKPLACE (GRANTS)

Priority: Other Significant

CFR Citation: 28 CFR 67

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cynthia J. Schwimer
Phone: 202 307-3186

RIN: 1121–AA29

[FR Doc. 95-25086 Filed 11-24-95; 8:45 am]
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Federal Register

Tuesday
November 28, 1995

Part XII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual agenda of regulations selected for review or development.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between October 1995 and October 1996, as well as those completed during the past 6 months.

FOR FURTHER INFORMATION CONTACT: Roland Droitsch, Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210, (202) 219-6197.

Note: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations.

The Regulatory Flexibility Act became effective on January 1, 1981, and applies only to regulations for which a notice of proposed rulemaking was issued on or after that date. It requires the Department of Labor to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602). Executive Order 12866 became effective September 30, 1993, and in substance, requires the Department of Labor to publish an agenda listing all the regulations it expects to have under active consideration for promulgation, proposal, or review during the coming 1-year period. The focus of all departmental regulatory activity will be on the development of effective rules that are understandable and usable to the employers and employees in all affected workplaces.

As permitted by law, the Department of Labor is combining the publication of its agendas under the Regulatory Flexibility Act and Executive Order 12866.

For this edition of the Department of Labor's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

Robert B. Reich,

Secretary of Labor.

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2074	Coordinated Enforcement of Farm Labor Protective Statutes	1290-AA11
2075	Administrative Claims Under the Federal Torts Claims Act and Related Statutes	1290-AA13

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2076	Government Contractors: Nondiscrimination and Affirmative Action Obligations (ESA/OFCCP) **(Reg Plan Seq. No. 65)**	1215-AA01
2077	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H) **(Reg Plan Seq. No. 66)**	1215-AA09
2078	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H) **(Reg Plan Seq. No. 67)**	1215-AA14
2079	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AA62
2080	Labor Standards for Federal Service Contracts	1215-AA78
2081	Standards for Waivers Under Section 503 of the Rehabilitation Act	1215-AA84
2082	Migrant and Seasonal Agricultural Worker Protection (29 CFR Part 500) **(Reg Plan Seq. No. 68)**	1215-AA93
2083	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) **(Reg Plan Seq. No. 69)**	1215-AA94
2084	Regulations to Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206	1215-AA96

DOL

Employment Standards Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2085	Benefits Under the Federal Coal Mine Safety and Health Act of 1977, as Amended Affecting the Black Lung Benefits Act **(Reg Plan Seq. No. 70)**	1215-AA99
2086	Assessment and Collection of User Fees	1215-AB06

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2087	Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act	1215-AA43
2088	Attestations by Employers for Off-Campus Work Authorization for Alien Students (F-1 Nonimmigrants)	1215-AA68
2089	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Individuals With Disabilities	1215-AA76
2090	Application of the Fair Labor Standards Act to Domestic Service	1215-AA82
2091	Procedures for Handling Discrimination Complaints Under Federal "Whistleblower" Protection Statutes	1215-AA83
2092	Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports	1215-AA90
2093	Executive Order 12933 of October 20, 1994, "Nondisplacement of Qualified Workers Under Certain Conditions"	1215-AA95
2094	Training Wage and Seasonal Industry Provisions of the Fair Labor Standards Act	1215-AB04
2095	Workers Employed in Seasonal Agricultural Services Under Section 210A of the Immigration and Nationality Act	1215-AB05

Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2096	Records To Be Kept By Employers Under the Fair Labor Standards Act	1215-AB03

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2097	Child Labor Regulations, Orders, and Statements of Interpretation (Sports Attendants)	1215-AA89
2098	Longshore and Harbor Workers' Compensation Act, Requirements for Mailing Documents and for Using the OWCP Fee Schedule for Resolving Disputes on Charges for Medical Services	1215-AA92
2099	Labor Standards for Service Contracts: Minimum Wage for Contracts Not Exceeding $2500	1215-AA98
2100	Industries in American Samoa; Wage Order	1215-AB00
2101	Application of the Employee Polygraph Protection Act of 1988	1215-AB01
2102	Civil Money Penalties - Procedures for Assessing and Contesting Penalties	1215-AB02

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2103	Airline Deregulation: Employee Benefit Program	1205-AA07
2104	Labor Certification Process for the Permanent Employment of Aliens in the United States **(Reg Plan Seq. No. 71)**	1205-AA66
2105	Job Training Partnership Act: Indian and Native American Programs	1205-AA96
2106	Disaster Unemployment Assistance Program, Amendment to Regulations	1205-AB02
2107	Amendments to the Labor Certification Process for Temporary Agricultural Employment in the United States (H-2A)	1205-AB09

DOL

Employment and Training Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2108	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System	1205-AB10

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2109	Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports, the Alaska Exception	1205-AB03
2110	Trade Adjustment Assistance for Workers—Implementation of 1988 Amendments	1205-AB05
2111	Trade Adjustment Assistance for Workers—Transitional Adjustment Assistance NAFTA-TAA	1205-AB07

Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2112	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement	1205-AA37
2113	Job Training Partnership Act: Migrant and Seasonal Farmworker Programs	1205-AA99

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2114	Senior Community Service Employment Program	1205-AA29
2115	Job Corps Allowances and Allotments	1205-AA98
2116	Federal-State Unemployment Compensation Program; Unemployment Insurance Revenue Quality Control Program	1205-AB00

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2117	Definition of Collective Bargaining Agreement (ERISA Section 3(40))	1210-AA48
2118	Removal of Obsolete Regulations and Interpretive Bulletins	1210-AA51
2119	Revision of the Form 5500 Series and Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA) **(Reg Plan Seq. No. 72)**	1210-AA52

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2120	Interpretive Bulletin on Participant Education	1210-AA50

DOL

Pension and Welfare Benefits Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2121	Adequate Consideration	1210-AA15
2122	Qualified Domestic Relations Orders	1210-AA19
2123	Civil Penalties Under ERISA Section 502(l)	1210-AA37
2124	Reporting and Disclosure Under the Employee Retirement Income Security Act of 1974	1210-AA44

Pension and Welfare Benefits Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2125	Delinquent Filer Voluntary Compliance Program	1210-AA49

Office of the American Workplace—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2126	Reporting by Labor Relations Consultants and Other Persons	1294-AA12

Office of the American Workplace—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2127	Eligibility Requirements for Candidacy for Union Office	1294-AA09
2128	Guidelines, Section 5333(b), Federal Transit Law	1294-AA14

Office of the American Workplace—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2129	Permanent Replacement of Lawfully Striking Employees by Federal Contractors	1294-AA13

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2130	Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners	1219-AA81
2131	Surface Haulage	1219-AA93
2132	Safety Standards for the Use of Roof Bolting Machines in Underground Coal Mines	1219-AA94

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2133	Noise Standard **(Reg Plan Seq. No. 73)**	1219-AA53
2134	Diesel Particulate	1219-AA74
2135	Belt Entry Use as Intake Aircourses to Ventilate Working Sections	1219-AA76
2136	Safety Standard Revisions for Underground Anthracite Mines	1219-AA96

DOL

Mine Safety and Health Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2137	First-Aid at Metal and Nonmetal Mines	1219-AA97

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2138	Underground Coal Mine Ventilation	1219-AA11
2139	Diesel-Powered Equipment for Underground Coal Mines **(Reg Plan Seq. No. 74)**	1219-AA27
2140	Hazard Communication	1219-AA47
2141	Air Quality, Chemical Substances, and Respiratory Protection Standards	1219-AA48
2142	Longwall Equipment (Including High-Voltage) **(Reg Plan Seq. No. 75)**	1219-AA75
2143	Single-Shift Sampling Notice	1219-AA82
2144	Safety Standards for Explosives at Metal and Nonmetal Mines	1219-AA84
2145	Independent Laboratory Testing	1219-AA87
2146	Requirements for Approval of Flame-Resistant Conveyor Belts	1219-AA92

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2147	Confined Spaces	1219-AA54
2148	Carbon Monoxide Monitor Approval	1219-AA72
2149	Decertification of Certified and Qualified Persons	1219-AA79
2150	Metal/Nonmetal Impoundments	1219-AA83
2151	Safety Standards for Methane in Metal and Nonmetal Mines	1219-AA90

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2152	Respirator Approval	1219-AA85

Office of the Assistant Secretary for Administration and Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2153	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor	1291-AA21

Office of the Assistant Secretary for Administration and Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2154	Department of Labor Acquisition Regulations	1291-AA20

DOL

Office of the Assistant Secretary for Administration and Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2155	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Thresholds)	1291-AA22
2156	Nonprocurement Debarment and Suspension Common Rule To Achieve Reciprocity With Procurement	1291-AA23

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2157	Steel Erection (Part 1926) (Safety Protection for Ironworking) **(Reg Plan Seq. No. 76)**	1218-AA65
2158	Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements) **(Reg Plan Seq. No. 77)**	1218-AB24
2159	Prevention of Work-Related Musculoskeletal Disorders **(Reg Plan Seq. No. 78)**	1218-AB36
2160	Comprehensive Occupational Safety and Health Programs **(Reg Plan Seq. No. 79)**	1218-AB41
2161	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium)	1218-AB45
2162	Occupational Exposure to Tuberculosis **(Reg Plan Seq. No. 80)**	1218-AB46
2163	General Working Conditions in Shipyards (Part 1915, Subpart F) (Phase II) (Shipyards: General Working Conditions)	1218-AB50
2164	Eliminating and Improving Regulations **(Reg Plan Seq. No. 81)**	1218-AB53
2165	Permissible Exposure Limits (PELS) for Air Contaminants **(Reg Plan Seq. No. 82)**	1218-AB54
2166	Revision of Certain Standards Promulgated Under Section 6(a) of the Williams-Steiger Occupational Safety and Health Act of 1970 **(Reg Plan Seq. No. 83)**	1218-AB55
2167	Grain Handling Facilities	1218-AB56

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2168	Respiratory Protection (Proper Use of Modern Respirators)	1218-AA05
2169	Scaffolds (Part 1926) (Construction: Safer Scaffolds)	1218-AA40
2170	Safety and Health Regulations for Longshoring (Part 1918) and Marine Terminals (Part 1917) (Shipyards: Protecting Longshoring Workers)	1218-AA56
2171	Scaffolds in Shipyards (Part 1915 - Subpart N) (Phase I) (Shipyards: Safer Scaffolds)	1218-AA68
2172	Access and Egress in Shipyards (Part 1915, Subpart E) (Phase I) (Shipyards: Emergency Exits and Aisles)	1218-AA70
2173	Personal Protective Equipment in Shipyards (Part 1915) (Shipyards: Goggles, Gloves, and Other PPE)	1218-AA74
2174	1,3-Butadiene (Preventing Occupational Illness: Butadiene)	1218-AA83
2175	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol, and Their Acetates Protecting Reproductive Health	1218-AA84
2176	Methylene Chloride (Preventing Occupational Illnesses: Methylene Chloride)	1218-AA98
2177	Walking Working Surfaces and Personal Fall Protection Systems (Part 1910) (Slips, Trips, and Falls Prevention) **(Reg Plan Seq. No. 84)**	1218-AB04
2178	Abatement Verification (Hazard Correction)	1218-AB40

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2179	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27
2180	Control of Hazardous Energy (Lockout)—Construction (Part 1926) (Preventing Construction Injuries/Fatalities: Lockout)	1218-AB30
2181	Powered Industrial Truck Operator Training (Industrial Truck Safety Training)	1218-AB33
2182	Indoor Air Quality in the Workplace	1218-AB37

DOL

Occupational Safety and Health Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2183	Confined Spaces for Construction (Part 1926) (Construction: Preventing Suffocation/Explosions in Confined Spaces)	1218-AB47
2184	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Phase II) (Shipyards: Fire Safety)	1218-AB51
2185	Permit Required Confined Spaces (General Industry: Preventing Suffocation/Explosions in Confined Spaces)	1218-AB52

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2186	Air Contaminants Rule for Construction, Agriculture, and Maritime (Modernization of Chemical Exposure Limits)	1218-AB26
2187	Miscellaneous Amendments to the Safety Standards for the Construction Industry (Part 1926) (Construction: Clarifications and Updates of Miscellaneous Provisions)	1218-AB48

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Long-Term Actions

2074. COORDINATED ENFORCEMENT OF FARM LABOR PROTECTIVE STATUTES

Priority: Other

Legal Authority: 29 USC 49 et seq; 29 USC 201 et seq; 29 USC 651 et seq; 29 USC 1801 et seq; 8 USC 1188(g)(2); 5 USC 301

CFR Citation: 29 CFR 42

Legal Deadline: None

Abstract: The Department intends to revise its regulations for coordinated enforcement of farm protective statutes. The rule will clarify existing regulatory language and update the regulations by making nomenclature and other technical amendments. The sections also will be reorganized for clarification. These regulations were first promulgated in 1980 to coordinate the farm labor enforcement activities of the Department's Employment and Training Administration, the Employment Standards Administration, the Occupational Safety and Health Administration, and the Office of the Solicitor of Labor (45 FR 39489). The regulations establish a National Farm Labor Coordinated Enforcement Committee, which meets quarterly, consisting of the heads of the above DOL agencies, to oversee that coordination. A Regional Farm Labor Coordinated Enforcement Committee, which meets quarterly, is established in each DOL regional office. The Regional Committee is made up of the head of each of the above Agencies' regional offices. Each Regional Committee holds at least one annual public meeting to discuss farm labor issues.

Timetable:

Action	Date	FR Cite
ANPRM	07/24/92	57 FR 32939
ANPRM Comment Period End	08/24/92	
NPRM	01/19/93	58 FR 5158
NPRM Comment Period End	02/18/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Since 1980, a number of changes have taken place in DOL's farm labor activities, such as: The Farm Labor Contractor Registration Act has been replaced by the Migrant and Seasonal Agricultural Worker Protection Act; the title of the head of the National Committee has been changed from Under Secretary to Deputy Secretary; the Immigration Reform and Control Act of 1986 has amended the Immigration and Nationality Act, authorizing DOL to enforce work contracts executed by employers of alien (H-2A) farmworkers; the role of States in operating the Employment Service under the Wagner-Peyser Act was enhanced in 1982; regional offices of the Employment Standards Administration no longer exist and the regional farm labor enforcement role is now coordinated by the Regional Administrator for Wage Hour; and the Assistant Secretary for Policy has assumed a role in farm labor programs at the national level. These and other changes necessitate updating the coordinated enforcement regulations.

Agency Contact: Ruth Samardick, Chairman, National Farm Labor Coordinated Enforcement Committee Working Group, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room S2114, FP Building, Washington, DC 20210
Phone: 202 219-6026

RIN: 1290–AA11

2075. ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORTS CLAIMS ACT AND RELATED STATUTES

Priority: Other

Legal Authority: 28 USC 2672; 31 USC 3721; 29 USC 1706(b)

CFR Citation: 29 CFR 15

Legal Deadline: None

Abstract: This regulation will revise existing regulations issued pursuant to the Federal Tort Claims Act (FTCA) and the Military Personnel and Civilian Employees' Claims Act (MPCECA) to conform to previously issued delegations of authority. The regulation will revise the existing regulation to reflect delegations of authority to regional offices of the Office of the Solicitor to process and decide FTCA claims which seek damages up to $25,000 and which delegated authority to process and decide claims in excess of $25,000 to the Counsel for Claims. It will clarify procedures for submitting and processing claims and revise outdated addresses and telephone numbers. A number of changes are also necessary to clarify the manner in which claims are submitted and the manner in which an award is calculated. The existing regulation will be amended to reflect a change in underlying statutory authority for payment of claims arising out of the operation of Job Corps Centers, to reflect an increase in maximum amount payable on such claims and to clarify the manner in which such claims are submitted.

Timetable:

Action	Date	FR Cite
NPRM	07/22/94	59 FR 37540
NPRM Comment Period End	09/20/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey L. Nesvet, Counsel for Claims, Employee Benefits Division, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room S4325, FP Building, Washington, DC 20210
Phone: 202 219-4405

RIN: 1290–AA13

DOL—OS

Long-Term Actions

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Proposed Rule Stage

2076. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS (ESA/OFCCP)

Regulatory Plan: This entry is Seq. No. 65 in Part II of this issue of the **Federal Register**.

RIN: 1215–AA01

2077. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Regulatory Plan: This entry is Seq. No. 66 in Part II of this issue of the **Federal Register**.

RIN: 1215–AA09

2078. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Regulatory Plan: This entry is Seq. No. 67 in Part II of this issue of the **Federal Register**.

RIN: 1215–AA14

2079. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 4211; 38 USC 4212; PL 93-508 Amended; PL 94-502; PL 95-520; PL 96-466; PL 101-237; EO 11758; PL 97-306; PL 98-223; PL 102-16; PL 102-127; PL 102-484

CFR Citation: 41 CFR 60-250

Legal Deadline: None

Abstract: OFCCP is planning to revise its regulations implementing 38 USC 4212 (formerly 2012) of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 to: (1) make its provisions for special disabled veterans consistent with the Americans with Disabilities Act of 1990 (ADA), (2) incorporate some legislative and other changes that have occurred, and (3) generally clarify 38 USC 4212 Affirmative Action Program (AAP) requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annie A. Blackwell, Director, Division of Policy, Planning and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
Phone: 202 219-9430

RIN: 1215–AA62

2080. LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

Priority: Economically Significant

Legal Authority: 41 USC 351 et seq; 79 Stat 1034, as amended in 86 Stat 789; 90 Stat 2358; 41 USC 38; 41 USC 39; 5 USC 301

CFR Citation: 29 CFR 4

Legal Deadline: None

Abstract: The Service Contract Act (SCA) applies to Federal contracts principally for the furnishing of services through the use of service employees and, on contracts over $2,500 where the predecessor contract was not subject to a collective bargaining agreement, requires the Department of Labor to determine prevailing wages and fringe benefits in the locality to be paid to various classifications of workers on the contract. Prevailing wage determinations issued by the Department, which become part of the Federal contract, establish the minimum compensation for employees performing on that contract. The Service Employees International Union (SEIU) sued DOL in March 1991 over DOL's methodology for determining health and welfare fringe benefits, and for not periodically updating fringe benefit levels. The District Court remanded the case to DOL for exhaustion of administrative remedies, which led to the DOL's Board of Service Contract Appeals decision that remanded the case to the Wage Hour Division to consider alternative methods of implementing the statute. DOL is developing information on the

DOL—ESA

Proposed Rule Stage

occupational mix of service contract employees utilizing procurement data in the Federal Procurement Data System, and a survey of SCA-covered contracts is expected to be completed in early 1996. This study is expected to provide information necessary to more fully develop proposed fringe benefit methodologies and will also provide data for purposes of economic impact analyses. A notice of proposed rulemaking will invite comment on alternatives for developing an appropriate SCA fringe benefit determination procedure.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA78

2081. STANDARDS FOR WAIVERS UNDER SECTION 503 OF THE REHABILITATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 706; 29 USC 793, as amended by PL 99-506; PL 100-630; PL 100-259; PL 101-336; PL 102-569; EO 11758

CFR Citation: 41 CFR 60-741

Legal Deadline: None

Abstract: OFCCP is planning to issue regulations that will set forth standards for waivers (from provisions of Section 503 of the Rehabilitation Act) sought by federal contractors for facilities that they deem totally separate from and not involved in government contract work. OFCCP is required to issue these regulations by the 1992 Rehabilitation Act amendments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annie A. Blackwell, Director, Division of Policy, Planning and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
Phone: 202 219-9430

RIN: 1215–AA84

2082. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION (29 CFR PART 500)

Regulatory Plan: This entry is Seq. No. 68 in Part II of this issue of the **Federal Register**.

RIN: 1215–AA93

2083. PROCEDURES FOR PREDETERMINATION OF WAGE RATES (29 CFR PART 1) AND LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5)

Regulatory Plan: This entry is Seq. No. 69 in Part II of this issue of the **Federal Register**.

RIN: 1215–AA94

2084. REGULATIONS TO IMPLEMENT THE FEDERAL ACQUISITION STREAMLINING ACT OF 1994, 29 CFR PARTS 4 AND 5, 41 CFR PARTS 50-201 AND 50-206

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355, 108 Stat. 3243

CFR Citation: 29 CFR 4; 29 CFR 5; 41 CFR 50 to 201; 41 CFR 50 to 206

Legal Deadline: NPRM, Statutory, May 11, 1995. Final, Statutory, October 1, 1995.

Abstract: The Federal Acquisition Streamlining Act of 1994 signed on October 13, 1994, amends several Acts administered by the Department of Labor: (1) It amends the Contract Work Hours and Safety Standards Act (CWHSSA) to limit its applicability to contracts in an amount of $100,000 or greater. (2) It amends the Davis-Bacon Act (DB) to provide waivers from the Act's prevailing wage requirements under selected laws for volunteers performing services to a State or local government or agency and for volunteers performing services to a public or private nonprofit recipient of Federal assistance. (3) It repeals section 7299 of title 10 of the U.S. Code which applied the Walsh-Healey Public Contracts Act (PCA) to contracts for construction, alteration, furnishing, or equipping of naval vessels. It also amends the PCA to eliminate the requirements that contractors on covered contracts be either manufacturers or regular dealers in the items to be supplied under the contract but retained the Secretary of Labor's authority to define the terms "regular dealer" and "manufacturer." Two separate regulatory actions are planned: (1) a notice of proposed rulemaking to implement the changes to CWHSSA and PCA (see 60 FR 46553; 9/7/95); and (2) proposed regulations governing the use of volunteers on certain federally-assisted construction projects subject to DB.

Timetable:

Action	Date	FR Cite
NPRM	09/07/95	60 FR 46553
NPRM Comment Period End	10/10/95	
NPRM Second	10/00/95	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: These legislative amendments will require revisions to Regulations, 29 CFR Parts 4 and 5 with respect to CWHSSA and DB, and Regulations, 41 CFR Part 50-201 and Part 50-206 with respect to PCA.

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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Fax: 202 219-5122

RIN: 1215–AA96

DOL—ESA

Proposed Rule Stage

2085. • BENEFITS UNDER THE FEDERAL COAL MINE SAFETY AND HEALTH ACT OF 1977, AS AMENDED AFFECTING THE BLACK LUNG BENEFITS ACT

Regulatory Plan: This entry is Seq. No. 70 in Part II of this issue of the **Federal Register**.

RIN: 1215–AA99

2086. • ASSESSMENT AND COLLECTION OF USER FEES

Priority: Other

Legal Authority: PL 97-470; 96 Stat 2583; 29 USC 1801 to 1872; Secretary's Order No. 1-93 (58 FR 21190); PL 99-603, sec 210A(f); 100 Stat 3359; 8 USC 1161(f); 52 Stat 1068, sec 11 and 14; 75 Stat 74, sec 11; 29 USC 211; 29 USC 214; 52 Stat 1066, sec 11; 63 Stat 910, sec 9; 29 USC 211(d); 80 Stat 843 to 844, sec 501 and 602

CFR Citation: 29 CFR 500.45; 29 CFR 500.52; 29 CFR 519.3; 29 CFR 519.13; 29 CFR 530.4; 29 CFR 530.102

Legal Deadline: None

Abstract: In accordance with the authority provided by Title V of the Independent Offices Appropriations Act of 1952, often referred to as the "user fee statute," and the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act of 1995 (PL 103-333), the Department is proposing to establish and collect user fees to recover the costs of providing certain services that are required by law and, without which, the recipients of the services would not legally be allowed to engage in particular employment practices. The services for which user fees are to be collected include processing applications and issuing farm labor contractor certificates of registrations under the Migrant and Seasonal Agricultural Workers Protection Act; processing applications and issuing certificates authorizing employers to employ certain students at special minimum wages under section 14(b) of the Fair Labor Standards Act; and processing applications and issuing certificates authorizing employers to employ homeworkers under section 11(d) of the Fair Labor Standards Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB06

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Final Rule Stage

2087. ENFORCEMENT OF CONTRACTUAL OBLIGATIONS FOR TEMPORARY ALIEN AGRICULTURAL WORKERS ADMITTED UNDER SECTION 216 OF THE IMMIGRATION AND NATIONALITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-603

CFR Citation: 29 CFR 501

Legal Deadline: Final, Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 contains certain labor standards requirements for foreign agricultural workers employed under the H-2A foreign agricultural worker program, as well as for U.S. workers hired by employers who utilize foreign agricultural workers. The standards relate to pay, working conditions, housing, transportation and recruitment. The Employment Standards Administration issued an interim final rule on June 1, 1987 (53 FR 20524) that incorporates the labor standards issued by the Employment and Training Administration (ETA) and sets forth procedures for enforcement of these labor standards.

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16795
NPRM Comment Period End	05/19/87	52 FR 16795
Interim Final Rule	06/01/87	52 FR 20524
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Rm S3502, FP Bldg., Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA43

2088. ATTESTATIONS BY EMPLOYERS FOR OFF-CAMPUS WORK AUTHORIZATION FOR ALIEN STUDENTS (F-1 NONIMMIGRANTS)

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-649, Sec 221(a); 104 Stat 4978 and 5027; PL 102-232

CFR Citation: 29 CFR 508

Legal Deadline: Final, Statutory, October 1, 1991.

Abstract: This rule implements regulations governing the filing and enforcement of attestations by employers seeking to use aliens admitted as students on F-1 visas (hereafter F-1 student) in off-campus work. Under the Immigration and Nationality Act (INA), as amended by the Immigration Act of 1990, employers are required to submit these attestations to DOL and the educational institution in order for such students, if otherwise qualified, to receive work authorizations from the Attorney General. The attestation process has been administered by ETA, while complaints and investigations regarding violations are handled by ESA. Statutory authority for the initial program expired on September 30, 1994, but on October 25, 1994, Public Law 103-416 revived and extended the program through September 30, 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/91	56 FR 56860
Joint Interim Final Rule	12/15/94	59 FR 64776

DOL—ESA

Final Rule Stage

Action	Date	FR Cite
Extension of Joint Interim Final Rule	06/30/95	60 FR 34132
Extension of Joint Interim Final Rule	07/31/95	60 FR 38957
Extension of Joint Interim Final Rule	09/27/95	60 FR 49753
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Bldg., Washington, DC 20210
Phone: 202 219-8305
Fax: 202 210-5122

RIN: 1215–AA68

2089. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR INDIVIDUALS WITH DISABILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 706; 29 USC 793; PL 99-506 Amended; PL 100-630; PL 100-259; PL 101-336; EO 11758; PL 102-569

CFR Citation: 41 CFR 60-741

Legal Deadline: None

Abstract: OFCCP is planning to revise its regulations implementing Section 503 of the Rehabilitation Act of 1973: (1) to make them consistent with the Americans with Disabilities Act, (2) to incorporate legislative and other changes that have occurred, and (3) to generally clarify Section 503 Affirmative Action Program requirements. Costs are undetermined. These revisions should greatly assist the public, and employers in particular, by providing a comprehensive set of up-to-date regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/21/92	57 FR 48084
NPRM Comment Period End	11/20/92	
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annie A. Blackwell, Director, Division of Policy, Planning and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
Phone: 202 219-9430

RIN: 1215–AA76

2090. APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: Sec 13(a)(15), Fair Labor Standards Act (FLSA), as amended; Sec 13(b)(21), FLSA, as amended; 29 USC 213(a)(15); 29 USC 213(b)(21) 88 Stat 62; Sec 29(b), FLSA of 1974; PL 93-259 88 Stat 76

CFR Citation: 29 CFR 552

Legal Deadline: None

Abstract: Section 13(a)(15) of the Fair Labor Standards Act (FLSA) provides an exemption from minimum wage and overtime compensation for domestic service employees engaged in providing companionship services. Section 13(b)(21) of the FLSA provides an exemption from overtime compensation for live-in domestic service employees. DOL proposed certain technical amendments to update the regulations, 29 CFR Part 552, Application of the Fair Labor Standards Act to Domestic Service, and to clarify that these exemptions are applicable to third-party employers or temporary help agencies only where the domestic service worker is jointly employed by the third-party employer or temporary help agency and the family or household using their services. (58 FR 69310) After reviewing the public comments, the Department intends to adopt the technical changes to update the regulations, including a revision necessitated by recently-enacted amendments to Title II of the Social Security Act under Public Law 103-387 (Social Security Domestic Employment Reform Act; 10/22/94, (see 60 FR 46766) and to reopen and extend the period for filing written comments on proposed revisions affecting third-party employers (Section 552.109).

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69310
NPRM Comment Period End	02/28/94	
NPRM Second	09/08/95	60 FR 46797
NPRM Comment Period Second	09/08/95	60 FR 46797
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA82

2091. PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS UNDER FEDERAL "WHISTLEBLOWER" PROTECTION STATUTES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5851; PL 102-486 sec 2902, 106 Stat 2776

CFR Citation: 29 CFR 24

Legal Deadline: None

Abstract: The Energy Policy Act of 1992, Public Law 102-486, was enacted on October 24, 1992. Among other provisions, this law amended the employee protection provisions for nuclear whistleblowers under former Section 210 of the ERA. The amendments affect only ERA whistleblower complaints and do not extend to the procedures established in 29 CFR Part 24 for handling employee whistleblower complaints under the Federal statutory employee protection provisions other than the ERA. The legislative amendments to ERA apply to whistleblower claims filed under section 211(b)(1) of the ERA as amended (42 USC section 5851(b)(1)) on or after October 24, 1992, the date of enactment of section 2902 of the Energy Policy Act of 1992 (section 2902, Public Law 102-486; 106 Stat. 2776). The Department proposes to establish modified procedures and time frames for handling ERA complaints under 29 CFR Part 24 to implement the statutory amendments.

DOL—ESA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/16/94	59 FR 12506
NPRM Comment Period End	05/16/94	
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
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RIN: 1215–AA83

2092. ATTESTATIONS BY EMPLOYERS USING ALIEN CREWMEMBERS FOR LONGSHORE ACTIVITIES IN U.S. PORTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1288(c); PL 103-198, Sec 8; PL 103-206, Sec 323

CFR Citation: 29 CFR 506

Legal Deadline: None

Abstract: Under the 1990 Amendments to the Immigration and Nationality Act (INA), DOL is responsible for implementing Section 258 of INA, which establishes certain requirements for, and places certain limitations on, foreign crewmembers performing longshore work in U.S. ports. These regulations govern the filing and enforcement of attestations by employers seeking to use foreign crewmembers, which are filed with DOL in order to be allowed by the Immigration and Naturalization Service to use these crewmembers to perform specified longshore activities. ETA administers the attestation process, while complaints and investigations regarding the attestations are handled by ESA. In two separate enactments (PL 103-198 (107 Stat. 2304) and PL 103-206 (107 Stat. 2419)), Congress recently enacted exceptions to the limitations on performance of longshore work by foreign crewmembers in the State of Alaska. The Department intends to promulgate rules as necessary to implement the statutory exception.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/95	60 FR 3950
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305

RIN: 1215–AA90

2093. EXECUTIVE ORDER 12933 OF OCTOBER 20, 1994, "NONDISPLACEMENT OF QUALIFIED WORKERS UNDER CERTAIN CONDITIONS"

Priority: Other Significant

Legal Authority: EO 12933

CFR Citation: 29 CFR 9

Legal Deadline: None
EO 12933 requires that regulations be issued within 180 days of the date the order was issued, or by April 17, 1995.

Abstract: Executive Order 12933 of October 20, 1994, requires a new clause be inserted in service contracts for maintenance of public buildings which imposes an obligation on successor contractors to offer the employees of predecessor contractors (other than managerial or supervisory personnel) a right of first refusal to employment under the follow-on contract.

Timetable:

Action	Date	FR Cite
NPRM	07/18/95	60 FR 36756
NPRM Comment Period End	09/01/95	60 FR 36756
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA95

2094. • TRAINING WAGE AND SEASONAL INDUSTRY PROVISIONS OF THE FAIR LABOR STANDARDS ACT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 101-157, sec 6; 103 Stat 938; 29 USC 210 et seq; 52 Stat 1060, sec 1; 29 USC 201; 29 USC 207

CFR Citation: 29 CFR 517; 29 CFR 526

Legal Deadline: None

Abstract: The regulations at 29 CFR Parts 517 and 526 were promulgated under the Fair Labor Standards Act. These regulations implement provisions of the Act which have expired or have been repealed by subsequent amendments. The training wage authorization under 29 CFR Part 517 expired March 31, 1993, and the partial exemptions from the Act's overtime requirements for employees in industries of a seasonal nature or for employees in industries with annual recurring seasonal peaks of operation were repealed by the 1974 amendments effective December 31, 1976. The regulations do not affect the current operations of any program and are being removed from the CFR.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB04

2095. • WORKERS EMPLOYED IN SEASONAL AGRICULTURAL SERVICES UNDER SECTION 210A OF THE IMMIGRATION AND NATIONALITY ACT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

DOL—ESA

Final Rule Stage

Legal Authority: 8 USC 1160; 8 USC 1161; 8 USC 1801 et seq

CFR Citation: 29 CFR 502; 29 CFR 503

Legal Deadline: None

Abstract: The regulations at 29 CFR Parts 502 and 503 were promulgated under section 210A of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986 (ICRA), and implement requirements of a special program for aliens in seasonal agricultural services which ended with fiscal year 1992, or September 30, 1992. The regulations do not affect the current operation of any program and are being removed from the CFR.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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RIN: 1215–AB05

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Long-Term Actions

2096. • RECORDS TO BE KEPT BY EMPLOYERS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 211; 29 USC 201 et seq; 29 USC 207(g); 52 Stat 1066, sec 11; 52 Stat 1060, sec 11; 103 Stat 944, sec 7

CFR Citation: 29 CFR 516 et seq

Legal Deadline: None

Abstract: This regulation gives guidance to employers on the information they must keep in records deemed essential for determining compliance with the monetary requirements of the Fair Labor Standards Act (FLSA) regarding payment of minimum wages and overtime compensation to covered and nonexempt employees, or for determining that certain statutory exemptions to FLSA's requirements for payment of the minimum wage or overtime (or both) may apply. This regulation was included in the Department's regulatory reinvention initiative as a candidate for possible simplification of regulatory language and streamlining of regulatory requirements to ensure that applicable standards are easily understandable and reasonable.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB03

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Completed Actions

2097. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (SPORTS ATTENDANTS)

Priority: Other Significant

Legal Authority: 29 USC 203(l); 29 USC 212

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: Section 3(1) of the Fair Labor Standards Act (FLSA), 29 USC 203(1) provides that the Secretary of Labor shall provide by regulation or by order for permissible periods and conditions of employment of 14- and 15-year olds in occupations other than manufacturing and mining if and to the extent such employment is confined to periods and to conditions which will not interfere with their schooling, health or well-being (see Child Labor Regulation No. 3, 29 CFR 570, Subpart C). The Department has proposed revisions of the hours and time of day standards for 14- and 15-year olds to enable their participation in certain kinds of professional sports activities as sports attendants (e.g., bat and ball boys/girls, etc.), certain limited occupational exemptions and procedural changes for Work Experience and Career Exploration Programs, and several other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	05/13/94	59 FR 25164
NPRM Comment Period End	07/12/94	
Final Action	04/17/95	60 FR 19336
Final Action Effective	05/17/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305

RIN: 1215–AA89

DOL—ESA

Completed Actions

2098. LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT, REQUIREMENTS FOR MAILING DOCUMENTS AND FOR USING THE OWCP FEE SCHEDULE FOR RESOLVING DISPUTES ON CHARGES FOR MEDICAL SERVICES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 901 et seq; Longshore and Harbor Workers' Compensation Act, as amended

CFR Citation: 20 CFR 702.243; 20 CFR 702.316; 20 CFR 702.224; 20 CFR 703.121; 20 CFR 702.413; 20 CFR 702.414

Legal Deadline: None

Abstract: Several sections of the regulations implementing the LHWCA will be revised to make for more effective administration. The requirement for using certified mail is being eliminated in certain circumstances; the requirement that an employer with several locations within a compensation district have only one insurance carrier is being modified; and the Office of Workers' Compensation Programs medical fee schedule would be used to establish the standard for determining what is a reasonable and customary medical charge.

Timetable:

Action	Date	FR Cite
NPRM	05/08/95	60 FR 22537
NPRM Comment Period End	07/07/95	
Final Action	10/02/95	60 FR 51346
Final Action Effective	11/01/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Joseph Olimpio, Director for Longshore and Harbor Workers' Compensation, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C4315, FP Building, Washington, DC 20210
Phone: 202 219-8721

RIN: 1215–AA92

2099. • LABOR STANDARDS FOR SERVICE CONTRACTS: MINIMUM WAGE FOR CONTRACTS NOT EXCEEDING $2500

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 351(b)(1)

CFR Citation: 29 CFR 4.7

Legal Deadline: None

Abstract: Under section 4.7 of 29 CFR Part 4, any service contract of the Federal Government in an amount less than $2,500 that is subject to the McNamara-O'Hara Service Contract Act of 1965 must contain a clause specifying that the contractor or any subcontractor shall pay the minimum wage under the Fair Labor Standards Act. This rule deletes the clause requirement to conform the regulations to a new class of Federal government purchases established by the Federal Acquisition Streamlining Act of 1994. Requirements otherwise applicable to Federal contracting are eliminated for purchases under $2,500 for the purpose of facilitating the use of government credit cards for the making of low dollar value purchases of supplies and services. The rule facilitates the streamlining objectives of the new micro-purchase authority established by the Federal Acquisition Streamlining Act of 1994.

Timetable:

Action	Date	FR Cite
NPRM	06/16/95	60 FR 31660
NPRM Comment Period End	07/17/95	
Final Action	10/03/95	60 FR 51725
Final Action Effective	10/03/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA98

2100. • INDUSTRIES IN AMERICAN SAMOA; WAGE ORDER

Priority: Routine and Frequent

Legal Authority: 52 Stat. 1062, sec 5, 6, 8; 52 Stat. 1064, sec 5, 6, 8; 29 USC 205; 29 USC 206; 29 USC 208

CFR Citation: 29 CFR 697.1; 29 CFR 697.3

Legal Deadline: None

Abstract: Under the Fair Labor Standards Act, minimum wage rates in American Samoa are set by a special industry committee appointed by the Secretary of Labor. This document puts into effect the minimum wage rates recommended for various industry categories by Industry Committee No. 21, which met in Pago Pago, American Samoa during the week of June 12, 1995.

Timetable:

Action	Date	FR Cite
Final Action	09/13/95	60 FR 47484
Final Action Effective	09/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB00

2101. • APPLICATION OF THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 100-347; 102 Stat 646; 29 USC 2001; 29 USC 2002; 29 USC 2003; 29 USC 2004; 29 USC 2005; 29 USC 2006; 29 USC 2007; 29 USC 2008; 29 USC 2009

CFR Citation: 29 CFR 801.53

Legal Deadline: None

Abstract: Pursuant to a streamlining initiative that decentralized the handling of hearing requests, this rule

DOL—ESA

Completed Actions

revises 29 CFR 801.53 to provide that such requests be made to the Wage and Hour official that issued the penalty assessment notice in care of the address of the office that originated the determination, rather than to the Wage and Hour Administrator in Washington, D.C. This clarification is necessary to conform the regulations to current agency practices.

Timetable:

Action	Date	FR Cite
Final Action	09/07/95	60 FR 46530
Final Action Effective	09/07/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 21[illegible]22

RIN: 1215–AB01

2102. • CIVIL MONEY PENALTIES - PROCEDURES FOR ASSESSING AND CONTESTING PENALTIES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 9a; 29 USC 203; 29 USC 211; 29 USC 212; 29 USC 216; Reorganization Plan No. 6 of 1950; 64 Stat 1263; 5 USC app; 88 Stat 72, sec 25, 29; 88 Stat 76, sec 25, 29; 5 USC 500; 5 USC 503; 5 USC 551; 5 USC 559; PL 101-157, sec 9; ...

CFR Citation: 29 CFR 580.6

Legal Deadline: None

Abstract: Pursuant to a streamlining initiative that decentralized the handling of hearing requests, this rule revises 29 CFR 580.6 to provide that such requests be made to the Wage and Hour official that issued the assessment notice in care of the address of the office that originated the determination, rather than to the Wage and Hour Administrator in Washington, D.C. This clarification is necessary to conform the regulations to current agency practices.

Timetable:

Action	Date	FR Cite
Final Action	04/05/95	60 FR 17221
Final Action Effective	04/05/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB02

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Proposed Rule Stage

2103. AIRLINE DEREGULATION: EMPLOYEE BENEFIT PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 1552

CFR Citation: 20 CFR 618

Legal Deadline: None

Abstract: U.S. District Court for the District of Columbia held that Section 43 of the Airline Deregulation Act was unconstitutional. On July 16, 1985, the U.S. Court of Appeals decided that the employee protection provisions of Section 43 were severable from the legislative veto provisions. The U.S. Supreme Court ruled on March 25, 1987 that the legislative veto provisions were unconstitutional but the first right-to-hire provisions were constitutional, therefore, rulemaking can proceed on the monetary benefits aspect of the employee protection provisions. In 1991 the DOT determined there were no job losses due to deregulation. In September 1993, the U.S. District Court for the District of Columbia ordered the DOT to develop broader guidelines to apply to the air carriers, which may result in a finding of job losses due to deregulation. Therefore, rulemaking is proceeding on the monetary provisions of the employee protection provisions.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Sandra T. King, Chief, Division of Program Development and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4514, FP Bldg., Washington, DC 20210
Phone: 202 219-5309

RIN: 1205–AA07

2104. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Regulatory Plan: This entry is Seq. No. 71 in Part II of this issue of the Federal Register.

RIN: 1205–AA66

2105. JOB TRAINING PARTNERSHIP ACT: INDIAN AND NATIVE AMERICAN PROGRAMS

Priority: Other Significant

Legal Authority: Title IV, sec 401 of the JTPA

CFR Citation: 20 CFR 632; 20 CFR 636

Legal Deadline: None

Abstract: The purpose of title IV, section 401 of the Job Training Partnership Act is to provide job training and employment activities to Indians and other Native Americans. Such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives for the communities and groups served by this section, including furtherance of the policy of Indian Self-Determination.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	
Final Action	02/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Tribal

Agency Contact: Paul A. Mayrand, Director, Office of Special Targeted Program, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-5500

RIN: 1205–AA96

DOL—ETA

Proposed Rule Stage

2106. DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM, AMENDMENT TO REGULATIONS

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 5177; EO 12673

CFR Citation: 20 CFR 625

Legal Deadline: None

Abstract: Experience in several recent disasters has highlighted the complexity and time-consuming nature of the monetary benefit provisions of the current regulations and brought into question other provisions of the current regulations which are perceived to be unduly restrictive and/or result in perceived inequities in some disaster situations. These issues will be addressed in two stages. First, an ANPRM was published, with a 60-day comment period, on 12/08/94 at 59 FR 63670. This ANPRM outlined provisions in the Disaster Unemployment Assistance (DUA) program regulations (20 CFR Part 625), other than the monetary benefit provisions, that have come into question and solicits public comment and suggestions relative to these provisions and on other provisions for review and potential revision in a future NPRM. Second, an interim final rule will be published with a 60-day comment period to simplify the monetary benefit provisions. This rule will eliminate cumbersome individual and agency administrative provisions, remove inconsistencies in the establishment of DUA weekly amounts, and simplify the formula to establish DUA weekly amounts so as to benefit disaster impacted individuals.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/94	59 FR 63670
ANPRM Comment Period End	02/06/95	
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	
Final Action	07/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Robert Gillham, Chief, Federal Programs Group, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Washington, DC 20210
Phone: 202 219-5312

RIN: 1205–AB02

2107. AMENDMENTS TO THE LABOR CERTIFICATION PROCESS FOR TEMPORARY AGRICULTURAL EMPLOYMENT IN THE UNITED STATES (H-2A)

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(H)(ii)(a); 8 USC 1184(c)

CFR Citation: 20 CFR 655 subpart B

Legal Deadline: None

Abstract: Based on six years of experience with the current regulations, the Department has concluded that they should be amended to clarify a number of regulatory provisions to simplify the administration of the program, and to provide additional protection to U.S. workers.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Flora Richardson, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
Phone: 202 219-4369

RIN: 1205–AB09

2108. • FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; UNEMPLOYMENT INSURANCE PERFORMANCE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 503(a)(1); 42 USC 503(a)(6); 42 USC 503(b)

CFR Citation: 20 CFR 602; 20 CFR 640; 20 CFR 650

Legal Deadline: None

Abstract: This regulation will formally establish a comprehensive system for helping ensure continuous improvement in UI operational performance. It will enunciate as the system's building blocks principles for Federal and State cooperation, key nationwide performance measures, criteria distinguishing satisfactory from unsatisfactory performance, an annual planning process, and actions which the Department may take when a State fails to perform satisfactorily. This regulation will be as brief and general as possible; detail and measures, standards, criteria and plans will be contained in implementing handbooks.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Burman Skrable, Operations Research Analyst, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S4015, FP Building, Washington, DC 20210
Phone: 202 219-5220
Fax: 202 219-8506

RIN: 1205–AB10

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Final Rule Stage

2109. ATTESTATIONS BY EMPLOYERS USING ALIEN CREWMEMBERS FOR LONGSHORE ACTIVITIES IN U.S. PORTS, THE ALASKA EXCEPTION

Priority: Other Significant

Legal Authority: PL 103-98, sec 8; PL 103-206, sec 323

CFR Citation: 29 CFR 655 subparts F and G; 29 CFR 506 subparts F and G

Legal Deadline: None

Abstract: This proposed rule is necessary because of amendments to section 258 of the Immigration and Nationality Act. Section 258 establishes a general prohibition on the prohibition of longshore work by alien crewmen. The amendment of section 258 establishes an "Alaska exception" whereby employees in Alaska would be permitted to use an alien crewmen after: (1) requesting a dispatch of U.S. longshoremen from qualified stevedoring companies and private dock operators; and (2) determining that U.S. longshore workers are not available in sufficient numbers from those resources in response to a request for dispatch.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/95	60 FR 3920
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John M. Robinson, Deputy Assistant Secretary, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4470, FP Building, Washington, DC 20210
Phone: 202 219-5257

RIN: 1205–AB03

2110. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—IMPLEMENTATION OF 1988 AMENDMENTS

Priority: Other Significant

Legal Authority: 19 USC 2320

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: The final rule implementing the 1988 Amendments to the TAA program was published in the Federal Register on January 6, 1994. Although published as final, comments were requested on several material changes, being made in the final rule which differ from the November 1988 proposed rule and on a number of other changes which were not included in the proposed rule. Comments have been received and another final rule will be published relating to these substantive changes.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Victor Trunzo, Chief, BDAS, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 219-5555

RIN: 1205–AB05

2111. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—TRANSITIONAL ADJUSTMENT ASSISTANCE NAFTA-TAA

Priority: Other Significant

Legal Authority: PL 103-182 title V

CFR Citation: 20 CFR 617

Legal Deadline: Final, Statutory, January 1, 1995.
Final regulation to be issued to the maximum extent feasible by 12/31/95.

Abstract: Title V of the North American Free Trade Agreement Implementation Act (PL 103-182) amends Chapter 2 of Title II of the Trade Act of 1974 by adding a new Transitional Adjustment Assistance Program (NAFTA-TAA) for workers who lose their jobs because of increased imports from or a shift of production to Mexico and Canada. Most of the provisions of Title V are in the form of amendments to Chapter 2, Title II, of the Trade Act. While some of the provisions are not in the form of amendments to the Trade Act, they nonetheless must be given effect in implementing the NAFTA-TAA program. A proposed rule to amend the regulations on the trade adjustment assistance program for workers was published in the Federal Register on January 17, 1995. Comments on this proposed rule are requested before March 20, 1995.

Timetable:

Action	Date	FR Cite
NPRM	01/17/95	60 FR 3472
NPRM Comment Period End	03/20/95	60 FR 3472
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Victor Trunzo, Program Manager, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 219-5555

RIN: 1205–AB07

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Long-Term Actions

2112. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING, AND ENFORCEMENT

Priority: Other Significant

Legal Authority: 29 USC 49k

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under Title V of the Job Training Partnership Act. It is anticipated that an ANPRM will be published and subsequent rulemaking may result.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: Undetermined

DOL—ETA

Long-Term Actions

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Beverly, Deputy Director, USES, Department of Labor, Employment and Training Administration, 200 Constitution Ave. NW., Rm N4470, FP Building, Washington, DC 20210
Phone: 202 219-8174

RIN: 1205–AA37

2113. JOB TRAINING PARTNERSHIP ACT: MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Priority: Other Significant

Legal Authority: Title IV, sec 402 of the JTPA

CFR Citation: 20 CFR 633; 20 CFR 636

Legal Deadline: None

Abstract: It is the purpose of title IV, section 402, of the Job Training Partnership Act to provide job training, employment opportunities, and other services for those individuals who suffer chronic seasonal unemployment and underemployment in the agriculture industry. These conditions have been substantially aggravated by continual advancements in technology and mechanization, resulting in displacement, and contribute significantly to the Nation's rural employment problem. This problem is Federal in scope. No alternative solutions are under consideration at this time. Benefits include fuller rural employment. Over $80 million is appropriated annually by Congress for this program. This rule would implement changes made by the 1992 amendments to JTPA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul A. Mayrand, Office of Special Targeted Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-5500

RIN: 1205–AA99

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Completed Actions

2114. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 301 Older Americans Act of 1965; PL 102-375

CFR Citation: 20 CFR 641; 29 CFR 89

Legal Deadline: None

Abstract: The proposed regulation will implement the Older Americans Act Amendments of 1984, 1987, and 1992, and make clarifying changes. This regulation will provide administrative and programmatic guidance and requirements for the implementation of the Senior Community Service Employment Service.

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29606
NPRM Comment Period End	08/27/85	50 FR 34725
Second NPRM	04/26/94	59 FR 21874
Second NPRM Comment Period End 5/26/94	04/26/94	59 FR 21874
Final Action	05/19/95	60 FR 26574
Final Action Effective	06/30/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Paul A. Mayrand, Director, Office of Special Targeted Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Bldg., Washington, DC 20210
Phone: 202 219-5500

RIN: 1205–AA29

2115. JOB CORPS ALLOWANCES AND ALLOTMENTS

Priority: Other

Legal Authority: 29 USC 1579(a)

CFR Citation: 20 CFR 638

Legal Deadline: None

Abstract: Job Corps is devising a new pay and allotment system which will provide students with enough money to meet their basic needs, while adding greater incentives than are available in the current system to encourage retention, performance, program completion and length of enrollment. Payroll will be conducted biweekly versus the current twice monthly procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/01/94	59 FR 54539
NPRM Comment Period End	12/01/94	
Final Action	04/14/95	60 FR 18993
Final Action Effective	04/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dana Davidson Johnson, Budget Analyst, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4656, FP Building, Washington, DC 20210
Phone: 202 219-6568

RIN: 1205–AA98

2116. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; UNEMPLOYMENT INSURANCE REVENUE QUALITY CONTROL PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302

CFR Citation: 20 CFR 602

Legal Deadline: None

Abstract: The regulation will provide explicit authority for the Revenue Quality Control (RQC) program to assess the quality of State unemployment compensation tax program operations, including the extent to which employers comply with the laws regarding the reporting and payment of unemployment insurance taxes (contributions) due. The alternatives considered were to implement the program under existing nonregulatory authority or to allow the States to develop such programs voluntarily. The cost of the program is the one or two staff years per State needed to conduct the RQC

DOL—ETA

Completed Actions

assessments, plus some time to program new data items. The benefits are more effective and efficient tax operations and better service to the system's customers, in this case the employer community. These benefits accrue as better performance information is developed for both States and Federal staff, leading to improved operations.

Timetable:

Action	Date	FR Cite
Withdrawn - Will be covered in broader regulation.	06/02/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Burman Skrable, Operations Research Analyst, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S4015, FP Building, Washington, DC 20210
Phone: 202 219-5220

RIN: 1205–AB00

DEPARTMENT OF LABOR (DOL)

Pension and Welfare Benefits Administration (PWBA)

Proposed Rule Stage

2117. DEFINITION OF COLLECTIVE BARGAINING AGREEMENT (ERISA SECTION 3(40))

Priority: Other Significant

Legal Authority: 29 USC 1002(40)

CFR Citation: 29 CFR 2510.3-40

Legal Deadline: None

Abstract: The regulation will establish standards for determining whether an employee benefit plan is established or maintained pursuant to one or more collective bargaining agreements for purposes of its exclusion from the Multiple Employer Welfare Arrangement (MEWA) definition in section 3(40) of ERISA, and thus exempted from state regulation. The regulation will clarify the scope of the exception from the MEWA definition for plans maintained under or pursuant to one or more collective bargaining agreements by providing criteria which will serve to distinguish health benefit arrangements which are maintained by legitimate unions pursuant to bona fide collective bargaining agreements from health insurance arrangements promoted and marketed under the guise of ERISA-covered plans exempt from state insurance regulation. The regulation will also serve to limit the extent to which health plans maintained pursuant to bona fide collective bargaining agreements may extend plan coverage to individuals not covered by such agreements.

Timetable:

Action	Date	FR Cite
NPRM	08/01/95	60 FR 39208
NPRM Comment Period Extended to 11/16/95	09/29/95	60 FR 50508
NPRM Comment Period End	10/02/95	60 FR 39208
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Connor, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N-5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA48

2118. • REMOVAL OF OBSOLETE REGULATIONS AND INTERPRETIVE BULLETINS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 1135; 29 USC 1021 to 1025; 29 USC 1029 to 1031; 29 USC 1107; 29 USC 1112; 29 USC 1114

CFR Citation: 29 CFR 2509; 29 CFR 2520; 29 CFR 2550

Legal Deadline: None

Abstract: PWBA plans to propose the removal from the Code of Federal Regulations certain regulations and interpretive bulletins under the Employee Retirement Income Security Act of 1974 (ERISA) that have been determined to be obsolete and unnecessary. Many of these obsolete regulations and interpretive bulletins provided transitional rules to assist plan sponsors, plan administrators, and others subject to the requirements of title I of ERISA, in coming into compliance with ERISA's requirements following ERISA's enactment in 1974.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Katherine D. Lewis, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA51

2119. • REVISION OF THE FORM 5500 SERIES AND RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

Regulatory Plan: This entry is Seq. No. 72 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA52

DEPARTMENT OF LABOR (DOL)

Pension and Welfare Benefits Administration (PWBA)

Final Rule Stage

2120. INTERPRETIVE BULLETIN ON PARTICIPANT EDUCATION

Priority: Other Significant

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2509

Legal Deadline: None

Abstract: This interpretive bulletin will provide guidance to plan sponsors, fiduciaries, participants and beneficiaries concerning the circumstances under which the provision of investment-related educational information, programs and materials to ERISA section 404(c) plan participants and beneficiaries will not rise to fiduciary liability under ERISA.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra Arnold Scham, Pension Law Specialist, Office of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5657, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA50

DEPARTMENT OF LABOR (DOL)

Pension and Welfare Benefits Administration (PWBA)

Long-Term Actions

2121. ADEQUATE CONSIDERATION

Priority: Other Significant

Legal Authority: 29 USC 1002(3)(18); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes "adequate consideration" under section 3(18) of ERISA for assets other than securities for which there is a generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/18/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Mannina, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4611, FP Building, Washington, DC 20210
Phone: 202 219-4592

RIN: 1210–AA15

2122. QUALIFIED DOMESTIC RELATIONS ORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1056(d)(3)(L); 29 USC 1135

CFR Citation: 29 CFR 2530

Legal Deadline: None

Abstract: This regulation would clarify the application of the qualified domestic relations order provisions of section 206(d)(3) of ERISA and related provisions contained in section 414(p) of the Internal Revenue Code which were added by the Retirement Equity Act of 1984.

Timetable:

Action	Date	FR Cite
ANPRM	10/21/93	58 FR 54444
Extension of Comment Period	01/12/94	58 FR 1692
ANPRM Comment Period End	02/18/94	
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Lahne, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave. NW., Rm N5669, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA19

2123. CIVIL PENALTIES UNDER ERISA SECTION 502(L)

Priority: Other Significant

Legal Authority: 29 USC 1132

CFR Citation: 29 CFR 2570.80 (Procedural); 29 CFR 2560.502(l)-1 (Substantive)

Legal Deadline: None

Abstract: Section 502(l) of ERISA requires the Secretary of Labor to assess a civil penalty against a fiduciary who breaches a fiduciary duty under, or commits a violation of, part 4 of Title I of ERISA, or any other person who knowingly participates in such breach or violation. The Department has published an interim rule setting forth the procedures for the assessment of penalties under ERISA section 502(l) and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment, as well as a proposed rule that defines the following pivotal terms contained in section 502(l): "applicable recovery amount," "breach of fiduciary responsibility or violation," "settlement agreement", and "court order." The Department intends to finalize these two regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 25284
Interim Final Rule	06/20/90	55 FR 25284
NPRM Comment Period End	08/20/90	55 FR 25284

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vicki Shteir-Dunn, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4611, FP Building, Washington, DC 20210
Phone: 202 219-8610

RIN: 1210–AA37

2124. REPORTING AND DISCLOSURE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements. •

DOL—PWBA

Long-Term Actions

Legal Authority: 29 USC 1135; 29 USC 1029; 29 USC 1143; 29 USC 1021; 29 USC 1022; 29 USC 1024; 29 USC 1025; 29 USC 1059

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: PWBA has undertaken a comprehensive review of the current reporting and disclosure framework to identify changes that will serve to assure the disclosure of useful and timely information, while eliminating any unnecessary administrative burdens and costs on plans and plan sponsors attendant to compliance with these requirements. As an initial step in this process, PWBA solicited comments, recommendations and information from the public concerning the need for regulatory and legislative changes in the disclosure area. PWBA concluded that only marginal changes to the disclosure requirements can be accomplished through the regulatory process and, therefore, reform efforts should focus on regulatory changes relating to the streamlining of the Form 5500 Series, and related annual reporting regulations, in addition to possible legislative changes to both the reporting and disclosure provisions.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/93	58 FR 68339
ANPRM Comment Period End	02/25/94	
End Review	06/30/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA44

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

Completed Actions

2125. DELINQUENT FILER VOLUNTARY COMPLIANCE PROGRAM

Priority: Other Significant

Legal Authority: 29 USC 502(c)(2)

CFR Citation: 29 CFR 2560; 29 CFR 2570

Legal Deadline: None

Abstract: Section 502(c)(2) of ERISA provides the Secretary of Labor with the authority to assess civil penalties of up to $1,000 a day against plan administrators who fail or refuse to file complete and timely annual reports (Form 5500 Series Annual Return/Reports) as required under section 101(b)(4) of ERISA and the Secretary's regulations. PWBA has maintained a program for the assessment of civil penalties for noncompliance with the annual reporting requirements. Under this program, plan administrators filing late annual reports may be assessed $50 per day for each day an annual report is filed after the date on which the annual report(s) was required to be filed, without regard to any extensions for filing. Plan administrators who fail to file an annual report may be assessed a penalty of $300 per day, up to $30,000 per year, until a complete annual report is filed. The Department may, in its discretion, waive all or part of the assessment of these civil penalties upon a showing by the administrator that there was reasonable cause for the failure to file a complete and timely annual report. The implementation of a Delinquent Filer Voluntary Compliance Program, under which administrators otherwise subject to the assessment of higher civil penalties will be permitted to pay reduced civil penalties for voluntarily complying with the annual reporting requirements under Title I of ERISA, encourages reporting compliance.

Timetable:

Action	Date	FR Cite
Final Action	04/27/95	60 FR 20874
Final Action Effective	04/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Powell, Senior Pension Investigator, Office of the Chief Accountant, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5511, FP Building, Washington, DC 20210
Phone: 202 219-8868

RIN: 1210–AA49

DEPARTMENT OF LABOR (DOL)
Office of the American Workplace (OAW)

Proposed Rule Stage

2126. REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements. •

Legal Authority: 29 USC 433; 29 USC 438

CFR Citation: 29 CFR 406.3

Legal Deadline: None

Abstract: The Office of Labor-Management Standards (OLMS) is proposing to amend Receipts and Disbursements Report (Form LM-21) to narrow the scope of reporting. A Receipts and Disbursements Report is required in the circumstances specified in Section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). It is required to be filed by any labor relations consultant, or other individual or organization, who has made or received payment as a party to an agreement or arrangement with an employer, pursuant to which he has undertaken persuader or information-supplying activities on behalf of the employer. The proposed amendment would reflect reporting guidelines established in Donovan v. The Rose Law Firm, 768 F.2d 964 (8th Cir. 1985). This judicial decision narrowed the scope of reporting to eliminate reporting of receipts and disbursements in connection with labor relations advice and services rendered to employers for whom no persuader or information-supplying activities were undertaken.

DOL—OAW

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, Department of Labor, Office of the American Workplace, 200 Constitution Avenue NW., Room N5605, FP Building, Washington, DC 20210
Phone: 202 219-7373

RIN: 1294–AA12

DEPARTMENT OF LABOR (DOL)
Office of the American Workplace (OAW)

Final Rule Stage

2127. ELIGIBILITY REQUIREMENTS FOR CANDIDACY FOR UNION OFFICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 481; 29 USC 482

CFR Citation: 29 CFR 452.38

Legal Deadline: None

Abstract: A NPRM has been issued soliciting comments on a proposed revision of the Department's regulation on the reasonableness of a union's meeting attendance requirement for union officer candidacy so that the regulation will conform to the decision of the D.C. Circuit in Doyle v. Brock, 821 F.2d 788 (1987). 29 CFR 452.38 currently provides that the reasonableness of a union rule requiring candidates to have attended a specified number of membership meetings during the period immediately preceding the election must be gauged in the light of all the circumstances of the particular case, including the impact of the rule (i.e., the number or percentage or members disqualified by its application). In Doyle, the court found that the Secretary was arbitrary and capricious in not bringing litigation against a local in connection with its meeting attendance requirement that disqualified 97 percent of the membership. The court found that the impact of the rule was sufficient to make it unreasonable without regard to any other circumstances. The NPRM was prepared after reviewing comments from the public on the previously issued ANPRM.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30834
ANPRM Comment Period End	08/15/94	
NPRM	05/17/95	60 FR 26388
NPRM Comment Period End	07/17/95	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, Department of Labor, Office of the American Workplace, 200 Constitution Avenue NW., Room N5605, FP Building, Washington, DC 20210
Phone: 202 219-7373

RIN: 1294–AA09

2128. • GUIDELINES, SECTION 5333(B), FEDERAL TRANSIT LAW

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5333(b) Federal Transit Law

CFR Citation: 29 CFR 215

Legal Deadline: None

Abstract: The Office of the American Workplace proposes to revise the guidelines concerning its procedures for administering section 5333(b) of the Federal Transit law, commonly known as section 13(l). These revised guidelines will replace the existing guidelines in their entirety. Section 5333(b) requires that certain protective arrangements for transit employees be in place as a condition of Federal financial assistance for transit projects. The proposed changes have been developed to standardize the certification process, thereby insuring certification of protective arrangements in a prompt manner after an application has been submitted, and to make the certification process more predictable for the parties involved.

Timetable:

Action	Date	FR Cite
NPRM	06/29/95	60 FR 34072
NPRM Comment Period End	07/31/95	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This effort was not part of a formal reinventing government activity, but it is designed specifically to reduce the regulatory burden and streamline requirements.

Agency Contact: Charles L. Smith, Deputy Assistant Secretary, Department of Labor, Office of the American Workplace, 200 Constitution Avenue NW., Room S2203, FP Building, Washington, DC 20210
Phone: 202 219-6045
Fax: 202 219-4315

RIN: 1294–AA14

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DEPARTMENT OF LABOR (DOL)
Office of the American Workplace (OAW)

Completed Actions

2129. PERMANENT REPLACEMENT OF LAWFULLY STRIKING EMPLOYEES BY FEDERAL CONTRACTORS

Priority: Other Significant

Legal Authority: EO 12954

CFR Citation: 29 CFR 270

Legal Deadline: None

Abstract: This regulation implements Executive Order 12954, "Ensuring the Economical and Efficient Administration and Completion of Federal Government Contracts." The Order states that it is the policy of the executive branch of the Federal Government in procuring goods and services that, to ensure the economical and efficient administration and completion of Federal Government contracts, contracting agencies shall not contract with employers that permanently replace lawfully striking employees. The regulation establishes a procedure for the Department of Labor to determine if an organizational unit of a Federal contractor has permanently replaced lawfully striking employees and, if so, whether it is appropriate to terminate the contract for convenience and/or debar the contractor.

Timetable:

Action	Date	FR Cite
NPRM	03/29/95	60 FR 16354
NPRM Comment Period End	04/28/95	
Final Action	05/25/95	60 FR 27856
Final Action Effective	06/26/95	60 FR 27856

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Charles L. Smith, Deputy Assistant Secretary, Department of Labor, Office of the American Workplace, 200 Constitution Avenue NW., Room S2203, FP Building, Washington, DC 20210
Phone: 202 219-6045

RIN: 1294–AA13

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Prerule Stage

2130. ADVISORY COMMITTEE ON THE ELIMINATION OF PNEUMOCONIOSIS AMONG COAL MINERS

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 812; 5 USC app

CFR Citation: 30 CFR 70; 30 CFR 71; 30 CFR 90

Legal Deadline: None
The Committee will terminate 180 days from the date of its appointment.

Abstract: The Federal Coal Mine Health and Safety Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis ("black lung") and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease, according to the National Institute for Occupational Safety and Health (NIOSH). On January 31, 1995, Secretary of Labor Robert Reich announced his intention to appoint an advisory committee to make recommendations for the elimination of black lung and silicosis among coal miners. The advisory committee is expected to convene in late 1995.

Timetable:

Action	Date	FR Cite
Recommendations Expected	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA81

2131. SURFACE HAULAGE

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 77

Legal Deadline: None

Abstract: Accidents involving surface haulage equipment constitute a major safety problem in the mining industry. A review of fatal mining accidents during the past 3 years shows that 30% of the deaths involved surface haulage equipment. This equipment includes large 240 ton haulage vehicles, over-the-road trucks, front-end loaders, and other equipment. Causes of surface haulage accidents include brake failures, unsafe grades, overloaded vehicles, and "blindspots." To address this problem, MSHA intends to issue an advance notice of proposed rulemaking which would request information on the safe operation of surface haulage equipment and which would focus on these and other factors linked to accidents involving surface haulage equipment.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/96	
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA93

2132. SAFETY STANDARDS FOR THE USE OF ROOF BOLTING MACHINES IN UNDERGROUND COAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: Recent fatalities in underground coal mines involving roof-bolting machines indicate the need to both modify the design of such machines and take additional precautions in their use. MSHA has evaluated roof-bolting machines currently in use focusing on potential hazards to the machine operators during the drilling and roof-bolt installation procedures. MSHA believes that machine design features may contribute to or cause accidents, and that changes in machine design and operating procedures would make operating the equipment safer for the machine operator. The Agency intends to issue an Advance Notice of Proposed Rulemaking to obtain additional information and data on mine operators' experiences with these machines. The Agency is exploring the use of negotiated rulemaking to address this issue.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA94

DOL—MSHA

Prerule Stage

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Proposed Rule Stage

2133. NOISE STANDARD

Regulatory Plan: This entry is Seq. No. 73 in Part II of this issue of the **Federal Register**.

RIN: 1219–AA53

2134. DIESEL PARTICULATE

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Several epidemiological studies have found that diesel exhaust presents potential health risks to workers. These possible health effects range from headaches and nausea to respiratory disease and cancer.

In 1988, a Secretarial advisory committee made recommendations to the Secretary of Labor concerning safety and health standards for the use of diesel-powered equipment in underground coal mines. One of the recommendations was for the Secretary of Labor to set in motion a mechanism whereby a diesel particulate standard could be set. Based on that recommendation, the Mine Safety and Health Administration (MSHA) published an advance notice of proposed rulemaking, in January 1992, seeking information relative to exposure limits, risk assessment, sampling and monitoring methods, and control feasibility. Because of the potential health risk to miners from exposure to diesel particulate, MSHA is investigating a variety of approaches that would control the exposure of miners to diesel particulate.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/92	57 FR 500
ANPRM Comment Period End	07/10/92	57 FR 7906
NPRM	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA74

2135. BELT ENTRY USE AS INTAKE AIRCOURSES TO VENTILATE WORKING SECTIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: Since 1970, Mine Safety and Health Administration (MSHA) regulations have generally prohibited belt haulage entries from being used to ventilate active working places. The intention of this prohibition is to prevent smoke from a belt conveyor fire from being coursed to miners in their workplace. Improved technology, including sophisticated atmospheric monitoring systems, has since made it possible to safely use "belt air" to ventilate active working places. This rulemaking would permit the use of belt air, provided that certain safety requirements are met. In many cases, the use of belt air may result in more efficient and effective ventilation systems, enhancing the health and safety of miners. Additionally, because this regulation will eliminate the need for mine operators to seek regulatory variances from MSHA, costs and burdens on both industry and MSHA will be reduced.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A public hearing was held in April 1990.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA76

2136. • SAFETY STANDARD REVISIONS FOR UNDERGROUND ANTHRACITE MINES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

DOL—MSHA

Proposed Rule Stage

duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: There are two major types of coal mines -- bituminous and anthracite. The mining methods used and hazards encountered in underground anthracite mines are significantly different from underground bituminous coal mines. Mining methods in anthracite mines include minimal use of mechanized equipment, slow rate of advance into the coal seam, pitching and undulating seams, and non-explosiveness of coal dust. Because of these differences, some mine operators find it difficult to comply with existing safety standards at their anthracite mines. These individual anthracite mine operators must request a variance from existing standards to change the requirements. The variance process costs time and money. Because anthracite mines are usually small operations, this burden can be significant. MSHA has received 250 variance requests from anthracite mine operators over the last 2 years. MSHA intends to issue a proposed rule to modify several existing safety standards to address more appropriately the specific conditions of the anthracite mining industry.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd, Room 631, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551

RIN: 1219–AA96

2137. • FIRST-AID AT METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Existing standards for metal and nonmetal mines require that selected supervisors be trained in first aid and that first-aid training be made available to all interested persons. The intent of this standard was to ensure that, in the event of an emergency, a person competent to administer first aid was available at the mine site during each working shift. MSHA recognizes that there are persons highly trained and competent to administer first aid other than supervisors; yet, the standard, as written, does not allow the mine operator this flexibility. MSHA, therefore, is developing a proposed rule to revise this standard to remove the requirement that selected supervisors have to be trained in first aid, and to substitute the requirement that a person trained and capable of administering first aid be available at the mine on all shifts. This proposal would be consistent with a petition for rulemaking submitted to the Secretary by a large segment of the mining industry.

Timetable:

Action	Date	FR Cite
NPRM	10/27/95	60 FR 55150
NPRM Comment Period End	12/11/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551

RIN: 1219–AA97

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Final Rule Stage

2138. UNDERGROUND COAL MINE VENTILATION

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: The final rule would revise certain provisions of MSHA's ventilation standards for underground coal mines. Proper mine ventilation provides basic protection against mine explosions involving methane gas and coal dust and against unhealthy concentrations of airborne contaminants. The application of 3 provisions of the existing rule has been stayed. The final rule would revise the stayed and other provisions to respond to the mining community and improve the protections provided to miners.

Timetable:

Action	Date	FR Cite
Extension of Administrative Stay	12/30/93	58 FR 69312
NPRM	05/19/94	59 FR 26356
NPRM Comment Period End	08/08/94	59 FR 35071
Notice of Public Hearing and Extension of Comment Period to 11/18/94	08/17/94	59 FR 42193
Final Action	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA11

2139. DIESEL-POWERED EQUIPMENT FOR UNDERGROUND COAL MINES

Regulatory Plan: This entry is Seq. No. 74 in Part II of this issue of the **Federal Register**.

RIN: 1219–AA27

DOL—MSHA

Final Rule Stage

2140. HAZARD COMMUNICATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Today's complex mining environment subjects miners to well-known hazards, such as coal mine dust and crystalline silica; to emerging hazards, including hazardous wastes burned as fuel supplements at cement kilns; and to changing hazards from the many chemicals brought onto mine property. This rule would provide miners with the means to receive necessary information on the hazards of chemicals to which they are exposed and the actions necessary to protect them from such hazards. In developing this rule, MSHA has reviewed OSHA's hazard communication standard, information collected by NIOSH, and public comments. For its final rule, MSHA intends to publish a user-friendly regulation which will facilitate compliance by mine operators, while providing increased health and safety protection to miners.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/31/88	
NPRM	11/02/90	55 FR 46400
NPRM Comment Period End	01/31/92	56 FR 48720
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standard, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA47

2141. AIR QUALITY, CHEMICAL SUBSTANCES, AND RESPIRATORY PROTECTION STANDARDS

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 58; 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: The Mine Safety and Health Administration's (MSHA's) current air quality standards for exposure to hazardous airborne contaminants were promulgated over 20 years ago. They do not fully protect today's miners, who are potentially exposed to an array of toxic chemicals, including lead, cyanide, arsenic, benzene, asbestos, and other well-documented hazards. Some miners have developed occupational illness (e.g., lead poisoning, acute cyanide poisoning, and silicosis) as a result of their exposure. This final rule would update permissible exposure limits (PELs) applicable to hazards encountered in metal and nonmetal and coal mines, revise requirements for exposure monitoring, improve precautions for handling restricted-use chemicals, provide for miner observation of monitoring, and establish provisions for medical surveillance and transfer of miners required to use respirators and miners exposed to certain carcinogens.

Timetable:

Action	Date	FR Cite
ANPRM	07/06/83	48 FR 31171
ANPRM	11/19/85	50 FR 47702
NPRM	08/29/89	54 FR 35760
NPRM Comment Period End	08/30/91	56 FR 29201
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA48

2142. LONGWALL EQUIPMENT (INCLUDING HIGH-VOLTAGE)

Regulatory Plan: This entry is Seq. No. 75 in Part II of this issue of the **Federal Register**.

RIN: 1219–AA75

2143. SINGLE-SHIFT SAMPLING NOTICE

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 842(f)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Secretaries of Labor and Health and Human Services have issued a joint proposed finding that the average concentration of respirable dust to which each miner is exposed can be measured accurately over a single shift. This joint finding would also rescind their earlier joint finding published in July 1971 and affirmed in February 1972. MSHA believes that enforcement based on single, full-shift samples will enhance mine operators' compliance with the requirement to maintain the average concentration of respirable dust in the mine atmosphere during each shift where miners work or travel at or below the applicable standard.

Timetable:

Action	Date	FR Cite
Notice of Coal Mine Respirable Dust Standard Noncompliance Determinations	02/18/94	59 FR 8356
Notice of Extension of Comment Period to 5/20/94	04/08/94	59 FR 16958
Notice of Public Hearing	06/06/94	59 FR 29348
Notice of Public Hearing	07/07/94	59 FR 34868
Notice of Extension of Comment Period; Close of Record 9/30/94	08/01/94	59 FR 38988
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA82

2144. SAFETY STANDARDS FOR EXPLOSIVES AT METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: MSHA's final rule will address changes to safety standards for the use of explosives at metal and

DOL—MSHA

Final Rule Stage

nonmetal mines. This rule arises from on-going litigation and the Agency's enforcement experience with the current explosives standards.

Timetable:

Action	Date	FR Cite
NPRM	01/05/95	60 FR 1866
NPRM Comment Period End	03/06/95	60 FR 1866
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA84

2145. INDEPENDENT LABORATORY TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 6; 30 CFR 18; 30 CFR 19; 30 CFR 20; 30 CFR 21; 30 CFR 22; 30 CFR 23; 30 CFR 24; 30 CFR 26; 30 CFR 27; 30 CFR 28; 30 CFR 29; 30 CFR 33; 30 CFR 35

Legal Deadline: None

Abstract: To ensure that only safe products are used in mines, MSHA sets approval requirements and tests products itself. This rulemaking would allow MSHA to accept testing of certain mine equipment performed by independent laboratories. It also would allow MSHA to approve products which satisfied alternative testing and evaluation requirements, provided that the alternative requirements were equivalent to MSHA's own, or could be enhanced to be equivalent. By reducing its testing activities, MSHA could direct more resources toward verifying that products in use have been manufactured in compliance with the relevant approval. This rulemaking is consistent with a recommendation of the National Performance Review.

Timetable:

Action	Date	FR Cite
NPRM	11/30/94	59 FR 61376
NPRM Comment Period End	02/21/95	59 FR 61376
Public Hearing Notice	10/10/95	60 FR 52640
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA87

2146. REQUIREMENTS FOR APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957; 30 USC 811

CFR Citation: 30 CFR 14; 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: The final rule would implement new procedures and requirements for testing and approval of flame-resistant conveyor belts to be used in underground mines. These revisions would replace the existing flame test for conveyor belts. Current regulations require that conveyor belts be flame resistant in accordance with specifications of the Secretary. As part of this rulemaking, the Agency also would promulgate conforming amendments to safety standards.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61524
NPRM Comment Period End	03/25/93	58 FR 8028
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA92

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Long-Term Actions

2147. CONFINED SPACES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77

Legal Deadline: None

Abstract: In mining operations, the majority of the fatalities associated with confined spaces occur in storage bins, hoppers, tanks, and stockpiles. The primary hazards to miners occur from being trapped by shifting piles of loose materials, falling into materials, and being struck by overhanging materials. Due to the many chemicals used and stored in mining, the toxic and physical hazards encountered in mining are identical to those confined space hazards that exist in general industry. MSHA intends to explore both regulatory and non-regulatory options to address the hazards associated with working in confined spaces at mines.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/91	56 FR 67364
ANPRM Comment Period End	05/01/92	57 FR 8102
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA54

DOL—MSHA

Long-Term Actions

2148. CARBON MONOXIDE MONITOR APPROVAL

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 12

Legal Deadline: None

Abstract: The use of carbon monoxide monitoring systems in underground coal mines can be effective in monitoring mine atmospheres to detect fires in the early stages of development. This rulemaking would address minimum performance criteria for these systems. MSHA intends to explore the use of negotiated rulemaking to address this regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA72

2149. DECERTIFICATION OF CERTIFIED AND QUALIFIED PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 42; 30 CFR 48; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77; 30 CFR 90

Legal Deadline: None

Abstract: MSHA regulations require the certification or qualification of individuals to perform certain tasks at mines. However, the Agency has no formal procedures for revoking a person's certification or qualification when evidence indicates that the individual has not adhered to required regulatory procedures. The final rule would establish generic procedures for decertification of individuals who no longer meet the requirements to be certified or qualified, or who have failed to comply with the regulations in their role as a certified or qualified person.

Timetable:

Action	Date	FR Cite
NPRM	11/02/94	59 FR 54855
NPRM Comment Period End	02/06/95	59 FR 60101
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA79

2150. METAL/NONMETAL IMPOUNDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Water, sediment, and slurry impoundments for metal and nonmetal mining and milling operations are located throughout the country, and some are within flood range of homes and well traveled roads. Failure of an impoundment could endanger lives and cause property damage. This rulemaking addresses, among other issues, proper design and construction of impoundments. MSHA intends to explore negotiated rulemaking to address this action.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA83

2151. SAFETY STANDARDS FOR METHANE IN METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: Current MSHA regulations place metal and nonmetal mines with a history of, or a potential for, methane liberation (gassy mines) into several categories. Safety standards for methane detection and prevention apply to a mine depending on its category. Recent legal decisions have narrowed the application of existing gassy mine standards, leading MSHA to conclude that the standards may need to be revised to protect adequately all miners who work in gassy mines. This action would revise the existing safety standards for methane in metal and nonmetal mines to address dangerous levels of methane in outburst cavities in abandoned, idle, and worked out areas of category II-A mines. It would further address the use of approved equipment in category III mines. The Agency is exploring the use of negotiated rulemaking to address this issue.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA90

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Completed Actions

DOL—MSHA

Completed Actions

2152. RESPIRATOR APPROVAL

Priority: Other

Legal Authority: 30 USC 811; 30 USC 957; 30 USC 961

CFR Citation: 30 CFR 11; 30 CFR 49; 30 CFR 56; 30 CFR 57; 30 CFR 58; 30 CFR 70; 30 CFR 72; 30 CFR 75

Legal Deadline: None

Abstract: Under the 1977 Mine Act, MSHA and the National Institute for Occupational Safety and Health jointly approved respirators for use in hazardous atmospheres. NIOSH's rulemaking upgrades existing provisions for Federal certification of respirators in a new 42 CFR Part 84 which replaces 30 CFR Part 11. Under the new regulations, MSHA and NIOSH continue to jointly approve respirators used for mine emergencies and mine rescue.

Timetable:

Action	Date	FR Cite
NPRM	05/24/94	59 FR 26892
NPRM Comment Period End	07/25/94	59 FR 26892
Final Action	06/08/95	60 FR 30336
Final Action Effective	07/10/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA85

DEPARTMENT OF LABOR (DOL)

Office of the Assistant Secretary for Administration and Management (OASAM)

Proposed Rule Stage

2153. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6101 et seq Age Discrimination Act of 1975

CFR Citation: 45 CFR 90

Legal Deadline: NPRM, Statutory, September 10, 1979.
45 CFR 90 requires publication of the NPRM no later than 90 days after publication of government-wide rule, and submission to HHS of final rule within 120 days of NPRM.

Abstract: The proposed regulatory action is necessary to comply with the Department's statutory and regulatory obligations under the Age Discrimination Act of 1975, as amended (the "Act"). The Act and the general, government-wide implementing rule issued by the Department of Health and Human Services (HHS) (45 CFR 90) require each Federal agency providing financial assistance to any program or activity to publish proposed regulations implementing the Act no later than 90 days after the publication date of the government-wide rule, and to submit final agency regulations to HHS no later than 120 days after publication of the NPRM. As a practical matter, while DOL has not issued proposed or final regulations under the Age Discrimination Act, it has complied with its enforcement obligations. Furthermore, discrimination on the basis of age is prohibited under Section 167 of the Job Training Partnership Act of 1982, and the implementing regulations at 29 CFR 34.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Annabelle T. Lockhart, Director, Directorate of Civil Rights, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N4123, FP Building, Washington, DC 20210
Phone: 202 219-8927

RIN: 1291–AA21

DEPARTMENT OF LABOR (DOL)

Office of the Assistant Secretary for Administration and Management (OASAM)

Long-Term Actions

2154. DEPARTMENT OF LABOR ACQUISITION REGULATIONS

Priority: Other

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 2900 to 2999

Legal Deadline: None

Abstract: Revisions to DOLAR reflect changes in the Federal Acquisition Regulations and organizational changes within DOL.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: Revision of the Department of Labor Acquisition Regulation is awaiting the final publication of revisions to the Federal Acquisition Regulation as the result of changes being implemented pursuant to passage of the Federal Acquisition Streamlining Act of 1994 enacted October 13, 1994.

Agency Contact: Melvin Goldberg, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N5425, FP Bldg., Washington, DC 20210
Phone: 202 219-9174

RIN: 1291–AA20

DEPARTMENT OF LABOR (DOL)

Office of the Assistant Secretary for Administration and Management (OASAM)

Completed Actions

2155. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS (THRESHOLDS)

Priority: Other

Legal Authority: 5 USC 301; OMB Circular A-102

CFR Citation: 29 CFR 97

Legal Deadline: None

Abstract: On March 11, 1988, a common final rule was published which implemented OMB Circular A-102, Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments. OMB and DHS prepared a proposed common rule and revised Circular A-110 to conform the grants management requirements for nongovernment grantees with government grants. The common rule already published on governmental grantees was amended to incorporate nongovernmental grants.

Timetable:

Action	Date	FR Cite
NPRM	10/25/94	59 FR 53706
NPRM Comment Period End	12/27/94	59 FR 53706
Final Action	04/19/95	60 FR 19638
Final Action Effective	04/19/95	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: OMB published in the Federal Register on November 29, 1994, the final revision to OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-profit Organizations. OMB notes that Federal agencies responsible for awarding and administering grants to and other agreements with organizations described in this Circular "shall adopt the language in the Circular unless different provisions are required by the Federal statute or are approved by OMB. DAPP/OAI formed a committee in January 1944 to implement the Circular. Committee members reached agreement on implementation in April 1994. The Office of the Solicitor reviewed and cleared the implementation plan on July 13, 1994.

Agency Contact: Melvin Goldberg, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N5425, FP Building, Washington, DC 20210
Phone: 202 219-9174

RIN: 1291–AA22

2156. NONPROCUREMENT DEBARMENT AND SUSPENSION COMMON RULE TO ACHIEVE RECIPROCITY WITH PROCUREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552 to 556; EO 12549; Federal Acquisition Streamlining Act of 1994

CFR Citation: 29 CFR 98

Legal Deadline: None

Abstract: The proposed revision to the nonprocurement common rule is issued in response to Executive Order 12689 and section 2455 of the Federal Acquisition Streamlining Act of 1994 ("the Act") which was signed into law October 13, 1994. E.O. 12689 requires agencies to establish regulations for reciprocal government-wide effect across procurement and nonprocurement areas for each agency's debarment and suspension actions, after technical differences between the procurement and nonprocurement regulations governing debarments and suspensions are resolved. Section 2455 of the Act provides that the debarment, suspension, or other exclusions of a participant in a procurement activity under the Federal Acquisition Regulation, or in a nonprocurement activity under regulations issued pursuant to E.O. 12549, shall be given reciprocal government-wide effect.

Timetable:

Action	Date	FR Cite
NPRM	12/20/94	59 FR 65616
NPRM Comment Period End	02/21/95	59 FR 65616
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Melvin Goldberg, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N5425, FP Building, Washington, DC 20210
Phone: 202 219-9174

RIN: 1291–AA23

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

2157. STEEL ERECTION (PART 1926) (SAFETY PROTECTION FOR IRONWORKING)

Regulatory Plan: This entry is Seq. No. 76 in Part II of this issue of the **Federal Register**.

RIN: 1218–AA65

2158. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES (SIMPLIFIED INJURY/ILLNESS RECORDKEEPING REQUIREMENTS)

Regulatory Plan: This entry is Seq. No. 77 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB24

2159. PREVENTION OF WORK-RELATED MUSCULOSKELETAL DISORDERS

Regulatory Plan: This entry is Seq. No. 78 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB36

2160. COMPREHENSIVE OCCUPATIONAL SAFETY AND HEALTH PROGRAMS

Regulatory Plan: This entry is Seq. No. 79 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB41

2161. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: 29 CFR 655(b); 29 CFR 657

Legal Deadline: None

Abstract: On July 19, 1993, the Oil, Chemical, and Atomic Workers International Union (OCAW) and Public Citizen's Health Research Group (HRG) petitioned for an emergency temporary standard to lower the permissible exposure limit (PEL) for hexavalent chromium compounds (CrCL) to 0.5 micrograms of hexavalent chromium per cubic meter of air (ug/ms) as an eight hour, time weighted average (TWA). The current PEL is 100 ug/m3, as an 8-hour time-weighted average. Occupational exposure to hexavalent chromium is known to cause lung cancer, bronchial asthma, nasal septum perforations, skin ulcers, and irritative dermatitis. CrVL includes chromic acid, chromates, lead chromate, and zinc chromate, all measured as Cr03. OSHA thoroughly reviewed the petition. While OSHA agrees that there is clear evidence that exposure to CrVL at the current PEL of 100 ug/m3 can result in significant risk of lung cancer and other CrVL-related illnesses, based on the Agency's analysis, OSHA finds that the currently available data are not sufficiently definitive in certain critical areas to support the need for an ETS, particularly in light of the extremely stringent statutory criteria for issuing and sustaining such action. While OSHA is denying the petition for an ETS, the Agency will issue a Section 6(b) rulemaking action to be responsible to the stakeholders' requests and to protect the 200,000-700,000 workers exposed to hazards of chromium annually.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AB45

2162. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Regulatory Plan: This entry is Seq. No. 80 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB46

2163. GENERAL WORKING CONDITIONS IN SHIPYARDS (PART 1915, SUBPART F) (PHASE II) (SHIPYARDS: GENERAL WORKING CONDITIONS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.1 et seq; 29 CFR 1915.31 et seq; 29 CFR 1915.91 et seq; 29 CFR 1915.111 et seq; 29 CFR 1915.131 et seq; 29 CFR 1915.161 et seq; 29 CFR 1915.171 et seq; 29 CFR 1915.181; 29 CFR 1910.13 et seq; 29 CFR 1910.14; 29 CFR 1910.15; 29 CFR 1910.95; 29 CFR 1910.96; 29 CFR 1910.97; 29 CFR 1910.141; ...

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landside operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation. Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts of shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards. This particular proposal will consolidate and update the provisions of 29 CFR 1910 (general industry) and 29 CFR (shipyard employment) into one comprehensive Part 1915 that will apply to all activities and areas in shipyards. The operations that are addressed in this subpart relate to housekeeping, illumination, sanitation, first aid, and lockout/tagout. About 75,000 workers are exposed annually to these hazards.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB50

2164. • ELIMINATING AND IMPROVING REGULATIONS

Regulatory Plan: This entry is Seq. No. 81 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB53

2165. • PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

Regulatory Plan: This entry is Seq. No. 82 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB54

2166. • REVISION OF CERTAIN STANDARDS PROMULGATED UNDER SECTION 6(A) OF THE WILLIAMS-STEIGER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Regulatory Plan: This entry is Seq. No. 83 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB55

2167. • GRAIN HANDLING FACILITIES

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 533

CFR Citation: 29 CFR 1910.272; 29 CFR 1911

Legal Deadline: None

Abstract: Paragraph (g) of OSHA's standard for grain handling facilities (section 1910.272) cover employee entry into bins, gilos, and tanks. Currently, paragraph (g) does not apply to certain grain storage buildings; nor to certain tanks unless entry into such tanks is made from the top of the structure. This proposed rule would amend paragraph (g) of section 1910.272 to assure and to clarify OSHA's original intent that this paragraph is applicable to all entries into structures that are made above the level of the grain.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 272 Periodicals: Publishing, or Publishing and Printing; 422 Public Warehousing and Storage; 515 Farm-product Raw Materials; 204 Grain Mill Products

Analysis: Regulatory Flexibility Analysis

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061
Fax: 202 219-7477

RIN: 1218–AB56

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Final Rule Stage

2168. RESPIRATORY PROTECTION (PROPER USE OF MODERN RESPIRATORS)

Priority: Other Significant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1918.102; 29 CFR 1926.103

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA issued an ANPRM on respirators to address 6,850-11,000 cancer fatalities and 66,500 illnesses occurring annually. Existing standards had been in place for more than 20 years and did not take into consideration the current state-of-the-art for respiratory protection. In addition, the general industry standard for respirators contains redundancies and includes several advisory provisions which should be eliminated or changed. OSHA reviewed the current standards and issued a proposal to modernize the requirements on November 15, 1994 (59 FR 58884). In developing the proposal, OSHA worked closely with the National Institute of Occupational Safety and Health (NIOSH) and the Mine Safety and Health Administration (MSHA). On April 17, 1995 (60 FR 19162), OSHA extended the comment period until May 15, 1995. Hearings began on June 6, 1995 and ended on June 20, 1995. The post-hearing comment period is scheduled to end on September 20, 1995.

On May 25, 1995 (60 FR 27707), OSHA published a notice to schedule a technical panel discussion on assigned protection factors as part of the pending rulemaking hearing.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20803
ANPRM Comment Period End	09/13/82	
Public Comment Period on Preproposal Draft Ends	11/29/85	
NPRM	11/15/94	59 FR 58884
Final Action	09/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Rm N3718, FP Bldg., Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AA05

2169. SCAFFOLDS (PART 1926) (CONSTRUCTION: SAFER SCAFFOLDS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1926.752(k)

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA issued a proposal (51 FR 42680) to address the 23 fatalities and 15,600 injuries still occurring annually from scaffolds in the construction industry. The existing OSHA standard is poorly formatted and contains unnecessary specific coverage for certain types of scaffolds. The proposal raises several significant issues including (1) the use of crossbraces as guardrails, (2) the use of

fall protection during scaffold erection and dismantling operations, and (3) the role of engineers in scaffold design.

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42680
NPRM Comment Period End	08/14/87	52 FR 20616
Record Reopened	03/29/93	58 FR 16509
Record Reopened	02/01/94	59 FR 4615
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AA40

2170. SAFETY AND HEALTH REGULATIONS FOR LONGSHORING (PART 1918) AND MARINE TERMINALS (PART 1917) (SHIPYARDS: PROTECTING LONGSHORING WORKERS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655 Occupational Safety and Health Act of 1970; 33 USC 941 Longshore and Harborworkers Compensation Act

CFR Citation: 29 CFR 1910.16; 29 CFR 1918 (Revision); 29 CFR 1917 (Revision and Corrections)

Legal Deadline: None

Abstract: Current longshoring standards have been in place since 1960. The language in many instances addresses the hazards of cargo handling involving methods long since abandoned and fails to address the serious hazards of newer methods. Since much of the current standard is out-of-date, there are problems with compliance. Settlement agreements following the 1983 Marine Terminal standard (49 FR 30886), identified problems with OSHA's existing longshoring standard. Also, the International Longshoremen's and Warehousemen's Union and the National Maritime Safety Association requested revisions to the current standard. On June 6, 1994, (59 FR 28594) OSHA issued a proposal to address the 18 fatalities and 7,593 injuries occurring annually. The proposed revised requirements will provide both employers and employees with a blueprint for modern, effective, and safe work practices in the cargo handling industry. OSHA held public hearings on this proposal and the record closed 4/30/95.

Timetable:

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 44 Water Transportation

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605 FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AA56

2171. SCAFFOLDS IN SHIPYARDS (PART 1915 - SUBPART N) (PHASE I) (SHIPYARDS: SAFER SCAFFOLDS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.71; 29 CFR 1910.28; 29 CFR 1910.29

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landside operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation.

Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts of shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular regulatory action will revise the existing shipyard employment standards covering scaffolds and will consolidate all related and applicable 29 CFR part 1910 provisions. It will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48182
NPRM Comment Period End	02/27/89	
Reopened Record Comment Period Ended 6/13/94	04/12/94	59 FR 17290
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable part 1910 provisions under consideration: 29 CFR 1910.28 - 1910.29.

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AA68

2172. ACCESS AND EGRESS IN SHIPYARDS (PART 1915, SUBPART E) (PHASE I) (SHIPYARDS: EMERGENCY EXITS AND AISLES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landside operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation.

Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular standard will revise the existing shipyard employment standards covering access and egress and will consolidate all related and applicable 29 CFR part 1910 provisions into 29 CFR part 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions. 75,000 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: Applicable part 1910 provisions under consideration: 29 CFR 1910.24-1910.27; 29 CFR 1910.36-1910.37.

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AA70

2173. PERSONAL PROTECTIVE EQUIPMENT IN SHIPYARDS (PART 1915) (SHIPYARDS: GOGGLES, GLOVES, AND OTHER PPE)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.151; 29 CFR 1915.152; 29 CFR 1915.153; 29 CFR 1915.154; 29 CFR 1915.155; 29 CFR 1915.156; 29 CFR 1915.157; 29 CFR 1915.158; 29 CFR 1915.159

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landside operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation.

Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts of shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular standard will be, in part, performance-oriented and will address current gaps in coverage, recognizing new technology, and eliminate outmoded or redundant provisions. It will consolidate 29 CFR part 1915 and applicable 29 CFR part 1910 standards into one set of provisions regarding gloves, goggles, and other personnel protective equipment.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48150
NPRM Comment Period End	02/27/89	
Reopened Record Comment Period Ends 8/22/94	07/06/94	59 FR 34586
Comment Period Ended 1/25/95	12/13/94	59 FR 64173
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable part 1910 provisions under consideration: 29 CFR 1910.132-1910.138. The public record has been reopened for 45 days to incorporate the general industry records for PPE (S-060) and personal fall protection equipment (S-057) so that final regulations for PPE used in shipyards and in general industry can be consistent where appropriate.

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Rm N3605, FP Bldg., Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AA74

2174. 1,3-BUTADIENE (PREVENTING OCCUPATIONAL ILLNESS: BUTADIENE)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000 (Table Z-1); 29 CFR 1910.1051

Legal Deadline: None

Abstract: On October 10, 1985, EPA referred 1,3-butadiene (BD) to OSHA for possible regulatory action under section 9(a) of the Toxic Substance Control Act. On April 11, 1986, OSHA responded to the EPA referral indicating that the Agency has preliminarily concluded that BD poses risk to the occupationally exposed population at the current OSHA permissible exposure limit and that the risk can be reduced or prevented through the promulgation of a revised standard. On October 1, 1986 (51 FR 35003), OSHA published an ANPRM initiating regulatory action within the meaning of section 9(a) of TSCA. Comments were submitted to OSHA by December 30, 1986. Based on the comments received in response to the ANPRM, OSHA developed a proposal which was published on August 10, 1990. Hearings were held in Washington, D.C. on January 15, 1991, and in New Orleans, Louisiana on February 20, 1991. Submission of the post-hearing comments and briefs were scheduled to end on June 22, and July 22, 1991 respectively; however, OSHA extended the dates to September 27, and October 28, 1991. The post-hearing comments and briefs were again extended and finally closed on November 26, 1991, and February 10, 1992, respectively.

Timetable:

Action	Date	FR Cite
EPA Referral	10/10/85	50 FR 41393
Request for Comments	12/27/85	50 FR 52952
Response to EPA Referral	04/11/86	51 FR 12526
ANPRM	10/01/86	51 FR 35003
ANPRM Comment Period End	12/30/86	
NPRM	08/10/90	55 FR 32736
NPRM Comment Period End	10/19/90	55 FR 32736
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3718, FP Bldg., Washington, DC 20210 Phone: 202 219-7075

RIN: 1218–AA83

2175. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL, AND THEIR ACETATES PROTECTING REPRODUCTIVE HEALTH

Priority: Other Significant

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: On May 20, 1986, the Environmental Protection Agency (EPA) issued a report to OSHA, under Section 9(a) of the Toxic Substances Control Act, stating that EPA has reasonable basis to conclude that the risk of injury to worker health from exposure to four glycol ethers during their manufacture, processing and use is unreasonable, and that this risk may be prevented or reduced to a significant extent by OSHA regulatory action. EPA gave OSHA 180 days in which to respond to its report. OSHA published its response on December 11, 1986, stating that OSHA had preliminarily concluded that occupational exposures to the subject glycol ethers at the current OSHA permissible exposure limits may present significant risks to the health of workers. OSHA published an Advance Notice of Proposed rulemaking (ANPRM) on April 2, 1987, (52 FR 10586). OSHA used the information received in response to the ANPRM, as well as other information and analysis, and published a proposal, March 23, 1993 (58 FR 15526), that would reduce the permissible exposure limits for four glycol ethers and provide protection for approximately 46,000 workers exposed to the substances.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	03/23/93	58 FR 15526
NPRM Comment Period End	06/07/93	
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3718, FP Bldg., Washington, DC 20210 Phone: 202 219-7075

RIN: 1218–AA84

2176. METHYLENE CHLORIDE (PREVENTING OCCUPATIONAL ILLNESSES: METHYLENE CHLORIDE)

Priority: Other Significant

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1052; 29 CFR 1926.1162

Legal Deadline: None

Abstract: In July 1985, OSHA was petitioned by the UAW to issue a hazard alert; issue an emergency temporary standard; and to begin work on a new permanent standard for methylene chloride. This request was based on information obtained from the EPA and the National Toxicology Program indicating that DCM is an animal carcinogen and may have the potential to cause cancer in humans. An estimated 209,479 workers are exposed to the hazards of MC annually. In November 1986, OSHA notified the UAW that its petition had been granted, in part, and denied, in part. Specifically, OSHA issued a set of guidelines for controlling occupational exposure to MC and OSHA denied that portion of the petition requesting the issuance of an emergency temporary standard. OSHA published an ANPRM on November 24, 1986 (51 FR 42257). After reviewing and analyzing the comments received in response to the ANPRM, OSHA published a proposal in the Federal Register on November 7, 1991 (56 FR 57036). The comment period closed on April 6, 1992. On June 9, 1992, OSHA published a notice of informal public hearings that were held in Washington, DC September 16-24 and in San Francisco, CA on October 14-16, 1992. The post-hearing comment period for new evidence closed on January 14, 1993, and the final date for submitting post-hearing summations and briefs was March 15, 1993. The record was reopened on March 11, 1994, for 45 days to address MC exposure in the furniture stripping industry, an NCI study relating brain cancer to occupational exposure to MC, and information regarding the use of MC as a solvent in adhesive formulation in flexible foam manufacturing.

Timetable:

Action	Date	FR Cite
ANPRM	11/24/86	51 FR 42257
ANPRM Comment Period End	02/23/87	51 FR 42257
NPRM	11/07/91	56 FR 57036
NPRM Comment Period End	04/06/92	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Rm N3718, FPBldg., Washington, DC 20210 Phone: 202 219-7075

RIN: 1218–AA98

2177. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (PART 1910) (SLIPS, TRIPS, AND FALLS PREVENTION)

Regulatory Plan: This entry is Seq. No. 84 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB04

2178. ABATEMENT VERIFICATION (HAZARD CORRECTION)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 657; 29 USC 658; 5 USC 553

CFR Citation: 29 CFR 1903

Legal Deadline: None

Abstract: A critical element of OSHA's comprehensive enforcement strategy under the Occupational Safety and Health Act is assurance that employers have abated cited hazards. A May 1991, General Accounting Office report entitled, "Options to Improve Hazard-Abatement Procedures in the Workplace," pointed out deficiencies in OSHA's abatement verification procedures and how they could be improved. The Department of Labor Inspector General, as well as OSHA's internal audits, also identified similar problems. Currently, unless an employer voluntarily complies with OSHA's request to submit documentation, OSHA has no means to require employers to submit proof of hazard abatement. From 1972 to the present, OSHA has implemented several administrative measures to induce employers to provide abatement documentation, but at least 30 percent of cited employers still do not voluntarily do so. OSHA's April 19, 1994, proposal (29 FR 18508) would require cited employers to provide hazard abatement documentations. The NPRM addresses the kinds of evidence to be required, what notice to employees is needed, potential penalties for non-reporting, possible certification forms for compliance, and other questions.

Timetable:

Action	Date	FR Cite
NPRM	04/19/94	59 FR 18508
NPRM Comment Period End	07/18/94	
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: State

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

Agency Contact: Raymond E. Donnelly, Director, General Industry Compliance Assistance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3119, FP Building, Washington, DC 20210 Phone: 202 219-8041

RIN: 1218–AB40

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Occupational Safety and Health Administration (OSHA)

2179. ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)

Priority: Other Significant

Legal Authority: 29 USC 655(b); PL 101-549 (November 15, 1990); 5 USC 552(a); 5 USC 533

CFR Citation: 29 CFR 1910.121, subpart H

Legal Deadline: None

Abstract: The Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499) established the criteria under which OSHA should develop and promulgate the Hazardous Waste Operations and Emergency Response standards. OSHA issued an interim final standard on December 19, 1986, (51 FR 45654) to comply with the law requirements. OSHA issued a permanent final rule for provisions on training to replace this interim rule on March 9, 1989 (29 CFR 1910.120).

On December 22, 1987, as part of an omnibus budget reconciliation bill (PL 100-202), section 126(d)(3) of SARA was amended to include accreditation of training programs for hazardous waste operations. OSHA issued a proposal on January 26, 1990 (55 FR 2776) addressing this issue. OSHA held a public comment period following the issuance of the proposal and held a limited reopening of the public record in June 1992 to allow additional public comment on an effectiveness of training study conducted by OSHA. OSHA has also developed nonmandatory guidelines to further address minimum training criteria.

Timetable:

Action	Date	FR Cite
NPRM	01/26/90	55 FR 2776
NPRM Comment Period End	04/26/90	55 FR 2776
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards

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Phone: 202 219-8061

RIN: 1218–AB27

2180. CONTROL OF HAZARDOUS ENERGY (LOCKOUT)—CONSTRUCTION (PART 1926) (PREVENTING CONSTRUCTION INJURIES/FATALITIES: LOCKOUT)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA was petitioned by UAW in May 1979 to issue an emergency temporary standard for locking out machinery and equipment. OSHA did not issue an emergency temporary standard, but did issue a general industry rule on September 1, 1989 (54 FR 36644). Still, OSHA has not yet issued a rule for the preventing accidents during equipment repair and maintenance for the construction industry. 4,000,000 workers annually are exposed to this hazard in the workplace. As a result, OSHA intends to issue a proposal to address this industry.

Hazards at construction sites resulting from the absence of effective lockout/tagout procedures to control hazardous energy appear to be caused by several factors, all associated with the nature of the construction industry. These factors basically related to such considerations as the types of machines and equipment found in construction; the makeup of the industry in which employment is relatively "short term," lasting only as long as the length of the current project; the presence of multiple employers having different employer/employee relationships and the temporary nature of the "in-the-field" maintenance activity. OSHA expects the proposal to address lockout-related hazards in those construction work-site areas in which the available data indicate these hazards to be major.

Timetable:

Action	Date	FR Cite
NPRM	06/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB30

2181. POWERED INDUSTRIAL TRUCK OPERATOR TRAINING (INDUSTRIAL TRUCK SAFETY TRAINING)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.178; 29 CFR 1915.120; 29 CFR 1917.43; 29 CFR 1918.77; 29 CFR 1926.602

Legal Deadline: None

Abstract: This is the second leading cause of fatalities in the private sector, behind only highway vehicle fatalities. On average, there are 107 fatalities and 38,330 injuries annually in the workplace.

The present standard has proven to be ineffective in reducing the number of accidents involving powered industrial trucks. As a result, there has been strong Congressional interest that OSHA issue a new standard to more effectively address this hazard. OSHA intends to revise the present standard to increase its effectiveness by requiring, in performance language, initial and refresher training as necessary. The frequency of the refresher training will be based upon the ability of the vehicle operator to retain the knowledge, skills and abilities to perform the job safely. OSHA will also given guidance as to what information the instruction should include. There will also be other amendments to the standard to increase its effectiveness.

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13782
NPRM Comment Period End	07/12/95	
Final Action	09/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB33

2182. INDOOR AIR QUALITY IN THE WORKPLACE

Priority: Economically Significant

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1910.1033

Legal Deadline: None

Abstract: OSHA was petitioned in March 1987 by the Action on Smoking or Health (ASH), Public Citizen, and the American Public Health Association to issue an emergency temporary standard on environmental tobacco smoke (ETS) in the workplace. In March 1992, OSHA was petitioned by the AFL-CIO to establish workplace IAQ standards. In December 1992, ASH again petitioned for rulemaking on ETS. In January 1993, Labor Secretary Lynn Martin, under the Bush Administration, directed OSHA to begin rulemaking to address the hazards of exposure to ETS.

Everyday, more than 20 million American workers face an unnecessary health threat because of poor indoor air quality (IAQ) and ETS in the workplace. Thousands of heart disease deaths, hundreds of lung cancer deaths, respiratory disease, legionnaire's disease, asthma, and other ailments are linked to this occupational hazard. More specifically, it is estimated that each year, there are approximately 700 cases of lung cancer and 13,000 deaths from heart disease among nonsmoking workers exposed to ETS. Further, America's workers are at risk of developing over a hundred thousand upper respiratory symptoms, as well as many thousands of headaches from poor indoor air quality. EPA estimates that 20 to 35 percent of all workers in modern mechanically ventilated buildings may experience air-quality problems that could result in illnesses, absenteeism, lost productivity, and discomfort.

Surveys have estimated that as many as 85 percent of the polled companies had some sort of smoking restriction in place, due to either concerns about production safety or employee health and safety. The fact that this is a national problem suggests that it should be solved at the Federal level.

OSHA published a Request for Information on September 20, 1991, to collect information to determine if a standard regulating indoor air quality is justified and feasible. Information was requested on the ventilation system performance necessary to optimize indoor air quality, techniques for improving ventilation, building maintenance programs, existing workplace indoor air policies, and local and State laws addressing indoor air quality.

After reviewing and analyzing available information, OSHA published a proposed rule on April 5, 1994. The proposal would require employers to write and implement indoor air quality compliance plans that would include inspection and maintenance of current building ventilation systems to ensure they are functioning as designed. In buildings where smoking is allowed, the proposal would require designated smoking areas that would be separate, enclosed rooms where the air would be exhausted directly to the outside. Other proposed provisions would require employers to maintain healthy air quality during renovation, remodeling and similar activities. The provisions for indoor air quality would apply to 70 million workers and more than 4.5 million nonindustrial indoor work environments, including schools and training centers, offices, commercial establishments, health care facilities, cafeterias and factory break rooms. ETS provisions would apply to all 6 million industrial and nonindustrial work environments under OSHA jurisdiction. OSHA preliminarily estimates that 5,583 to 32,502 cancer deaths and 97,700 to 577,818 coronary heart diseases related to occupational exposure to ETS will be prevented over the next 45 years. This represents 140 to 722 cancer deaths and 2,094 to 13,001 heart diseases each year. OSHA preliminarily estimates that the proposed standard will prevent 4.5 million upper respiratory problems over the next 45 years. This is approximately 105,000 upper respiratory symptoms per year. These estimates understate the prevalence of building-related symptoms since they only reflect excess risk in air conditioned buildings.

Timetable:

Action	Date	FR Cite
Request for Information	09/20/91	56 FR 47892
Comment Period End	01/21/92	
NPRM	04/05/94	59 FR 15968
NPRM Comment Period End	08/13/94	59 FR 30560
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AB37

2183. CONFINED SPACES FOR CONSTRUCTION (PART 1926) (CONSTRUCTION: PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: In January 1993, OSHA issued a general industry rule on preventing suffocation/explosions in confined spaces. (58 FR 4462) This standard did not apply to the construction industry because of differences in the nature of the worksite. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a standard to extend the protection to construction workers, appropriate to their work environment. 1,000,000 construction workers are exposed to this hazard annually.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB47

2184. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (PHASE II) (SHIPYARDS: FIRE SAFETY)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.1 et seq; 29 CFR 1915.31 et seq; 29 CFR 1915.91 et seq; 29 CFR 1915.111 et seq; 29 CFR 1915.131 et seq; 29 CFR 1915.161 et seq; 29 CFR 1915.171 et seq; 29 CFR 1915.181; 29 CFR 1910.13 et seq; 29 CFR 1910.14; 29 CFR 1910.15; 29 CFR 1910.95; 29 CFR 1910.96; 29 CFR 1910.97; 29 CFR 1910.141; ...

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, ship repair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landslide operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation. Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts

DOL—OSHA

Long-Term Actions

of shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards. This particular proposal will consolidate and update the provisions of 29 CFR 1910 and 29 CFR 1915 into one comprehensive Part 1915 that will apply to all activities and areas in shipyards. The operations that are addressed in this subpart relate to fire brigades, fire extinguishers, sprinkler systems, detection systems, alarm systems, fire watches, and emergency plans. 100,000 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB51

2185. PERMIT REQUIRED CONFINED SPACES (GENERAL INDUSTRY: PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910-146

Legal Deadline: None

Abstract: OSHA issued a final standard on preventing suffocation/explosions in confined spaces in general industry on January 14, 1993 (58 FR 4462). OSHA reached a settlement agreement with the United Steel Workers of America in June 1994. As part of this settlement agreement, OSHA issued a proposal on November 28, 1994 (59 FR 60735) proposing minimal revisions to paragraph (k) of the existing rule to clarify the standard and to make compliance easier. OSHA has proposed to state more clearly the employer's duty to ensure effective rescue capability for employees who enter permit-required confined spaces and to allow more flexibility in the point of a retrieval line attachment. OSHA is also asking whether the standard should have provisions to provide affected employees or their representatives with the opportunity to observe the evaluation of confined spaces, including atmospheric testing or monitoring, and to have access to evaluation results. Hearings are scheduled to be held September 27, 1995 - October 2, 1995.

Timetable:

Action	Date	FR Cite
NPRM	11/28/94	59 FR 60735
NPRM Comment Period End	02/27/95	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB52

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Completed Actions

2186. AIR CONTAMINANTS RULE FOR CONSTRUCTION, AGRICULTURE, AND MARITIME (MODERNIZATION OF CHEMICAL EXPOSURE LIMITS)

Priority: Other Significant

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910; 29 CFR 1926; 29 CFR 1918; 29 CFR 1915; 29 CFR 1917; 29 CFR 1928

Legal Deadline: None

Abstract: This regulatory action is in response to a recent Court ruling. OSHA issued permissible exposure limits (PELs) for hundreds of toxic substances in 1971, based on national consensus standards. New developments in technology and emerging scientific data indicated that many of the PELs were obsolete because significant risk of cancer and other chronic disease is related to current exposure limits. As a result, OSHA attempted to address the exposure limits. On January 19, 1989, OSHA published a final standard to update the PELs for general industry for the toxic substances originally covered in 1971, and other substances requested by public commenters. On June 12, 1992, (57 FR 26001) OSHA published a proposed rule to establish corresponding PELs for the construction, maritime, and agriculture industries. On July 10, 1992, the Eleventh Circuit Court for Appeals overturned OSHA's standard for general industry, citing the Agency's generic rulemaking approach as inadequate. While determining appropriate action, OSHA delayed public hearings and indefinitely extended the public comment period for the construction, agriculture and maritime industries. OSHA intends to publish a new proposal to address its inadequate PELs for general industry, construction, maritime, and agriculture.

Timetable:

Action	Date	FR Cite
NPRM	06/12/92	57 FR 26001
Comment Period Extended Indefinitely	08/18/92	57 FR 37125
Integrated with RIN 1218-AB54	08/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AB26

DOL—OSHA

Completed Actions

2187. MISCELLANEOUS AMENDMENTS TO THE SAFETY STANDARDS FOR THE CONSTRUCTION INDUSTRY (PART 1926) (CONSTRUCTION: CLARIFICATIONS AND UPDATES OF MISCELLANEOUS PROVISIONS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1916.31(a); 29 CFR 1926.28; 29 CFR 1926.1; 29 CFR 1926.16; 29 CFR 1926.1050(a); 29 CFR 1926.1053(a)(6)(i); 29 CFR 1926.1050(b)

Legal Deadline: None

Abstract: As endorsed by the Advisory Committee on Construction for Occupational Safety and Health, this OSHA standard will clarify and revise several relatively minor problems with existing construction safety standards to ease compliance with the requirements. Some examples of such problems are: (1) an inability to enforce the voluntary provisions of consensus standards, (2) a general personal protective equipment requirement that cannot be enforced unless a specific requirement exists elsewhere in the standard, (3) ambiguity about the application of certain subparts of the construction safety standards that are intended to apply to only Federal and Federally-financed or Federally-assisted construction projects and not to other projects, (4) ambiguity about the application of the stairways and ladders standards to scaffolds, (5) any other problems of a similar magnitude that are discovered during the development of the NPRM.

Timetable:

Action	Date	FR Cite
Integrated with RIN 1218-AB53	09/02/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB48

[FR Doc. 95-26778 Filed 11-24-95; 8:45 am]
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November 28, 1995

Part XIII

Department of State

Semiannual Regulatory Agenda

DEPARTMENT OF STATE (STATE)

DEPARTMENT OF STATE

22 CFR Ch. I

[Public Notice 2257]

Unified Agenda of Federal Regulations

AGENCY: Department of State.

ACTION: Semiannual publication of regulatory agenda.

SUMMARY: Consistent with the Regulatory Flexibility Act of 1980, 5 U.S.C. 602, the Office of Federal Procurement Policy Act Amendments of 1988, 41 U.S.C. 421(g), and OMB guidance to the Department of State pursuant to Executive Order 12866, the October 1995 agenda of regulations of the Department of State is set forth below. The purpose of this publication is to provide information to the public on the Department's regulatory plans. Consistent with OMB guidance, this agenda includes active continuing items from prior agendas.

FOR FURTHER INFORMATION CONTACT: Mary Beth West, Assistant Legal Adviser for Legislation and General Management, Department of State, Room 5425, 2201 C Street NW., Washington, DC 20520-6310; telephone (202) 647-5154.

Dated: October 17, 1995.

Richard M. Moose,

Under Secretary for Management.

DEPARTMENT OF STATE (STATE) — Prerule Stage

2188. • PERSONS AUTHORIZED TO ADJUDICATE NATIONALITY CLAIMS

Priority: Routine and Frequent

Legal Authority: 22 USC 211a

CFR Citation: 22 CFR 51.1; 22 CFR 51.21(b); 22 CFR 51.21(d)

Legal Deadline: None

Abstract: This regulation implements a statute authorizing designated State Department employees to issue passports and adjudicate nationality claims overseas.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carmen A. DiPlacido, Director, Office of Policy Review, Under Interagency Liasion, Department of State, Bureau of Consular Affairs
Phone: 202 647-3666
Fax: 202 647-6289

RIN: 1400–AA62

2189. • RESUMPTION OF NATIONALITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-416, sec 324(d), Immigration and Nationality Act

CFR Citation: 22 CFR 50.30

Legal Deadline: None

Abstract: This regulation implements a statute restoring U.S. citizenship to persons who failed to fulfill citizenship retention requirements.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carmen A. DiPlacido, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs
Phone: 202 647-3666
Fax: 202 647-6201

RIN: 1400–AA63

DEPARTMENT OF STATE (STATE) — Proposed Rule Stage

2190. • PART 40 - REGULATIONS PERTAINING TO BOTH NONIMMIGRANTS AND IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 40.1(d); 22 CFR 40.1(f) to 40.1(l); 22 CFR 40.1(m); 22 CFR 40.6; 22 CFR 40.9; 22 CFR 40.21(a); 22 CFR 40.22(b) and 40.22(c); 22 CFR 40.41(b) and 40.41(c); 22 CFR 40.51; 22 CFR 40.52; 22 CFR 40.63(b); 22 CFR 40.81; 22 CFR 40.93; 22 CFR 40.101(a)(5) and 40.101(b)

Legal Deadline: None

Abstract: This regulation amends several sections in accordance with the President's directive to eliminate or streamline regulations. The Department estimates publishing a proposed rule in December 1995.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	01/00/96	
Final Action	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Division Chief of Legislation and Regulation Division, Department of State, 2401 E Street NW., Washington, DC 20520-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA58

2191. • PART 42-VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 42 to 45; 22 CFR 47

Legal Deadline: None

Abstract: This regulation amends several sections in accordance with the President's directive to eliminate or streamline regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	11/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Division Chief of Legislation and Regulation Division, Department of State, 2401 E Street NW., Washington, DC 20520-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA60

STATE — Proposed Rule Stage

DEPARTMENT OF STATE (STATE) — Final Rule Stage

2192. FOREIGN PROHIBITIONS ON LONGSHORE WORK BY U.S. NATIONALS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1288(d)

CFR Citation: 22 CFR 89 (Revision)

Legal Deadline: Final, Statutory, December 31, 1995.
Legal deadline reflects the statutory requirement that the list be updated on an annual basis.

Abstract: The above-mentioned statute requires the Secretary of State to compile, and update annually through Notice-and-Comment rulemaking procedures, a list, by particular longshore activity, of countries where performance of such activity is prohibited by law, regulation, or in practice in the country concerned. According to the statute cited above, the Attorney General will use this list for enforcing restrictions on work performed by crewmembers of vessels from such countries. Compilation of the list itself does not involve any significant costs and is based upon information being provided to the Department of State by U.S. diplomatic missions overseas as well as by the public. Questions regarding the policy justification for the list and its use are best directed to the Departments of Labor, Transportation, and Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/30/91	56 FR 24338
Final Rule	12/27/91	56 FR 66970
Final Rule Effective	01/01/92	
Final Rule Correction	01/04/92	57 FR 1384
Updated List of Countries		
NPRM	11/04/92	(57 FR 52600)
NPRM Comment Period End	12/04/92	
Final Rule	12/13/93	(58 FR 65118)
Final Rule Effective	12/13/93	
NPRM	03/24/94	(59 FR 13904)
NPRM Comment Period End	04/25/94	
Final Rule	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: In accordance with the mandate to maintain annually the list of countries, the Department will issue Final Rules to amend the list as appropriate.

Agency Contact: Stephen Miller, Office of Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of State, 2201 C Street NW., Washington, DC 20520-5816
Phone: 202 647-6961

RIN: 1400–AA34

2193. VISAS; PART 41 DOCUMENTATION OF NONIMMIGRANTS UNDER THE INA, AS AMENDED

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-603, sec 313; PL 101-649, sec 201; PL 102-232, sec 303; 8 USC 1104

CFR Citation: 22 CFR 41.51; 22 CFR 41.58; 22 CFR 41.31

Legal Deadline: None

Abstract: The Immigration Act of 1990 (the Act), Pub. L. 101-649, enacted on November 29, 1990, constitutes a comprehensive revision of the United States immigration law. This law modified certain nonimmigrant visa (NIV) classifications and created others. The Immigration and Nationality Act at section 104 (8 U.S.C. 1104) grants the Secretary of State general authority over the issuance and refusal of visas and to promulgate necessary regulations. This regulation also incorporated RIN 1400-AA52, Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended; Business and Media Visas, Treaty Trader, and Treaty Investors.

Timetable:

Action	Date	FR Cite
Final Action	08/15/95	60 FR 42034
Creation of New NIV Classification (R Visa)		
Interim Final Rule	01/06/92	(57 FR 341)
Comment Period End	02/05/92	
Modification of E Visa Classification		
NPRM	09/03/91	(56 FR 43565)
Comment Period End	11/04/91	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Division Chief, Legislation and Regulation Division, Department of State, 2401 E Street, NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA36

2194. VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-603, sec 313; PL 101-649, sec 201; PL 102-232, sec 303

CFR Citation: 22 CFR 41.2(l)

Legal Deadline: None

Abstract: Section 313 of PL 99-603 amended the Immigration and Nationality Act by adding section 217 which established the nonimmigrant Visa Waiver Pilot Program (VWPP). This program waives the nonimmigrant visa requirements, to facilitate the admission of certain nonimmigrant

STATE

Final Rule Stage

alien visitors under the VWPP. Section 217, as amended by PL 101-649 and PL 102-232, revises from time to time the list of countries designated by the Secretary of State and the Attorney General, acting jointly, to participate in the Visa Waiver Pilot Program. Brunei has been added to that list.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/29/93	58 FR 40585
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cornelius D. Scully, III, Office Director, Legislation, Regulations and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1184

RIN: 1400–AA49

2195. NORTH AMERICAN FREE TRADE AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: North American Free Trade Agreement (NAFTA); NAFTA Implementation Act, sec 341 and 342

CFR Citation: 22 CFR 41.51; 22 CFR 41.52; 22 CFR 41.59 (New)

Legal Deadline: NPRM, Statutory, January 11, 1994.

Abstract: Implements chapter 16 of the North American Free Trade Agreement (NAFTA), and sections 341 and 342 of the North American Free Trade Agreement Implementation Act (the Implementation Act), signed December 8, 1993, which addressed the movement of business persons among the United States, Canada, and Mexico. This rule amends regulations concerning two nonimmigrant visa classifications, treaty traders and investors and intracompany transfers, and promulgates new regulations for a category for professionals under INA section 214(e) as amended by the Implementation Act. Regulations spell out requirements for classification as a NAFTA professional.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/93	58 FR 68526
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Chief, Division of Legislation and Regulations, Visa Office, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204

RIN: 1400–AA51

2196. • PART 41- VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41

Legal Deadline: None

Abstract: This regulation amends several sections in accordance with the President's directive to eliminate or streamline regulations.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Division Chief of Legislation and Regulation Division, Department of State, 1401 E Street NW., Washington, DC 20520-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA59

2197. • 96 OLYMPICS - VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED; APPLICATION FOR NONIMMIGRANT VISA

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.101(c); 22 CFR 41.104(e); 22 CFR 41.105(c)(3)(iv); 22 CFR 41.113(k)(3)

Legal Deadline: None

Abstract: This regulation amends or adds to 41.101(c); 41.104(e); 41.105(a)(3)(iv); and 41.113(k)(3). The revision provides special procedures for processing "Olympic families."

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Division Chief of Legislation and Regulation Division, Department of State, 2401 E Street NW., Washington, DC 20520-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA61

DEPARTMENT OF STATE (STATE)

Long-Term Actions

2198. REVISION OF REPORTING REQUIREMENTS AND ERRORS UNDER THE ITAR

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2778

CFR Citation: 22 CFR 120.10; 22 CFR 123.22; 22 CFR 124.12; 22 CFR 128; 22 CFR 130

Legal Deadline: None

Abstract: These changes are being made as part of regulatory reinvention.

STATE

Long-Term Actions

Timetable:

Action	Date	FR Cite
Published Administrative Changes to the International Traffic in Arms Regulations	10/17/89	54 FR 42496
New License Exemptions Under ITAR	06/26/90	53 FR 25981
NPRM - Amending the ITAR (Two Rules)	09/05/91	56 FR 43894
NPRM - Two Rule Changes to the ITAR	09/16/91	56 FR 46753
Amend Prohibited Destination List	10/29/91	56 FR 55630
Amend USML	01/16/92	57 FR 1886
Designate Non-Significant Military Equipment	01/16/92	57 FR 1888
NPRM - Amends USML	04/13/92	57 FR 12774
NPRM - Amends USML	04/22/92	57 FR 14671
Final Rule - Amends Section 121 of ITAR	04/27/92	57 FR 15227
NPRM - Revision of ITAR	05/07/92	57 FR 19666
NPRM	07/20/92	57 FR 32148
NPRM - Global Position Systems Receivers	09/09/92	57 FR 41077
Final Rule - Amends USML	10/23/92	57 FR 48315
NPRM - Space	12/28/92	57 FR 61589
Final Rule	07/22/93	58 FR 39280
Final Rule - Clarify U.S. Person	05/18/94	59 FR 25811
Final Rule - Rwanda Embargo	06/02/94	59 FR 28533
Final Rule - 3 Changes to ITAR	06/10/94	59 FR 16681
Final Rule - Termination of South Africa Embargo	06/20/94	59 FR 31667
Final Rule - Prohibit Lethal Items to Peru	06/23/94	59 FR 32481
Final Rule Amending Proscribed Country List	08/17/94	59 FR 42158
Final Rule Revising Encryption Controls	09/02/94	59 FR 45621
Final Rule Amending USML	09/09/94	59 FR 46548
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rose Biancanello, Deputy Director, Office of Defense and Trade Controls, Department of State, Room 200, SA-6, Washington, DC 20522-0602
Phone: 703 875-7050
Fax: 703 875-6643

RIN: 1400–AA23

2199. TRANSIT WITHOUT VISA (TWOV)

Priority: Substantive, Nonsignificant

Legal Authority: Section 212(d)(4)(C) of the Immigration & Nationality Act (INA)

CFR Citation: 22 CFR 41.2(i)

Legal Deadline: None

Abstract: Under the provision of section 212(d)(4)(C), the Secretary of State and the Attorney General acting jointly have the authority to waive nonimmigrant visa requirements for aliens in continuous and direct transit through the United States. Yugoslavia was removed from the list of countries participating in this program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/16/93	58 FR 43438
Interim Final Rule Comment Period End	09/15/93	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cornelius D. Scully, III, Office Director, Legislation, Regulations and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1184

RIN: 1400–AA48

2200. B-1 VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-649, Immigration Act of 1990

CFR Citation: 22 CFR 4131

Legal Deadline: NPRM, Statutory, October 1, 1991.

Abstract: B Visa Regulation revisions which incorporate 9FAM notes and INS OI reflect changes in interpretation of B Visa classes resulting from enactment of Immigration and Naturalization Act of 1990 and MATINA.

Timetable:

Action	Date	FR Cite
NPRM	07/26/93	58 FR 40024
NPRM Comment Period Extended to 11/23/93	09/23/93	58 FR 49456
NPRM Comment Period End	09/24/93	58 FR 49456
NPRM Comment Period Extended to 12/06/93	11/23/93	58 FR 61856
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Chief, Division of Legislation and Regulations, Department of State, 2401 E Street NW. (SA-1), Washington, DC 20522-0113
Phone: 202 663-1204

RIN: 1400–AA54

2201. • ESTABLISHING OF REGISTRY IN STATE DEPARTMENT FOR INFORMATION ABOUT EXECUTION OF INTERNATIONAL WILLS

Priority: Substantive, Nonsignificant

Legal Authority: International Legal Materials, vol XII, no.6, Nov. 1973, p 1302

CFR Citation: 22 CFR 92.81(b)(3)

Legal Deadline: None

Abstract: By resolution of the international diplomatic conference that adopted the final text of the 1973 convention on the forms of international wills, there was a recommendation that States establish an internal system to permit the optional registration of information to facilitate the discovery of international wills. The President transmitted the convention to the Senate on July 2, 1986, with the recommendation that the Senate give its advice and consent to U.S. ratification of the convention, and information about the intention to establish the Registry in the Department of State (Senate Treaty Doc. 99-29). The Senate gave advice and consent on August 2, 1991. Implementing legislation (the International Wills Act) is required before the United States can take further action to ratify the convention.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

STATE

Long-Term Actions

Additional Information: U.S. ratification of the 1973 convention providing a uniform law on the form of an international will would provide the basis for establishment of the registry.

Agency Contact: Carmen A. DiPlacido, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs, 2201 C Street NW., Washington, DC 20520-5816
Phone: 202 647-3666
Fax: 202 647-6201

RIN: 1400–AA56

2202. • REVISION OF U.S. MUNITIONS LIST

Priority: Routine and Frequent

Legal Authority: 22 USC 2778

CFR Citation: 22 CFR 121.1; 22 CFR 121.16

Legal Deadline: None

Abstract: Review and revision as appropriate of USML on compliance with AECA.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rose Biancanello, Deputy Director, Office of Defense Trade Controls, Department of State, Room 200, SA-6, Washington, DC 20522-0602
Phone: 703 875-7050
Fax: 703 875-6643

RIN: 1400–AA64

2203. • COMSAT REVIEW CATEGORY XV OF USML

Priority: Routine and Frequent

Legal Authority: 22 USC 2778

CFR Citation: 22 CFR 121.1

Legal Deadline: None

Abstract: Review of technical parameters to determine whether licensing jurisdiction is appropriate (State v. Commerce).

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rose Biancanello, Deputy Director, Office of Defense Trade Control, Department of State, Room 200, SA-6, Washington, DC 20520-0602
Phone: 703 875-7050
Fax: 703 875-6640

RIN: 1400–AA65

2204. • PERSONAL USE EXEMPTION FOR ENCRYPTION, CATEGORY XIII

Priority: Routine and Frequent

Legal Authority: 22 USC 2778

CFR Citation: 22 CFR 123.27

Legal Deadline: None

Abstract: To provide exemption for export of cryptographic products for personal use when traveling abroad.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rose Biancanello, Deputy Director, Office of Defense Trade Control, Department of State, Room 200, SA-6, Washington, DC 20520-0602
Phone: 703 875-7050
Fax: 703 875-6640

RIN: 1400–AA66

2205. • MISCELLANEOUS REGULATIONS BEING ELIMINATED OR REINVENTED AS PART OF REGULATORY REINVENTION INITIATIVE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2651a

CFR Citation: 22 CFR 2a; 22 CFR 2; 22 CFR 4; 22 CFR 9b; 22 CFR 10; 22 CFR 31; 22 CFR 33; 22 CFR 111; 22 CFR 112; 22 CFR 133; 22 CFR 171; 22 CFR 181

Legal Deadline: None

Abstract: The Department will be eliminating or modifying the above rules in response to the President's Regulatory Reinvention Initiative. The rules affected include rules concerning protection of foreign missions, notification of foreign official status, obtaining press building passes, employee responsibilities and conduct settlement of property damage and tort claims, fisherman's protective act procedures, reparations and removal of alien enemies, disposal of surplus government property in foreign areas, freedom of information, and coordination and reporting of international agreements.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Beth West, Assistant Legal Adviser, Department of State, Office of the Legal Adviser, Washington, DC 20520-0602
Phone: 202 647-5154
Fax: 202 647-6794

RIN: 1400–AA67

DEPARTMENT OF STATE (STATE)

Completed Actions

2206. SMALL PURCHASE THRESHOLD FOR GRANTEE PROCUREMENT

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 135.36

Completed:

Reason	Date	FR Cite
Final Action	04/14/95	60 FR 19638

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Robert Lloyd
Phone: 703 516-1690

RIN: 1400–AA53

STATE

Completed Actions

2207. NONPROCUREMENT DEBARMENT AND SUSPENSION; COMMON RULE TO ACHIEVE RECIPROCITY WITH PROCUREMENT

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 137.100; 22 CFR 137.105; 22 CFR 137.110; 22 CFR 137.200; 22 CFR 137.225 and app A

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Lloyd
Phone: 703 516-1690

RIN: 1400–AA55

2208. NOTARIAL AND RELATED SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 92.1(b); 22 CFR 92.2; 22 CFR 92.4; 22 CFR 92.5; 22 CFR 92.6 and 92.6(B); 22 CFR 92.7; 22 CFR 92.31; 22 CFR 92.51; 22 CFR 92.52; 22 CFR 92.55; 22 CFR 92.66

Completed:

Reason	Date	FR Cite
Final Action	10/03/95	60 FR 51719
Final Action Effective	10/03/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Carmen A. DiPlacido
Phone: 202 647-3666

RIN: 1400–AA57

[FR Doc. 95-27021 Filed 11-24-95; 8:45 am]

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federal register

Tuesday
November 28, 1995

Part XIV

Department of Transportation

Semiannual Regulatory Agenda

DEPARTMENT OF TRANSPORTATION (DOT)

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chs. I-III

23 CFR Chs. I-III

33 CFR Chs. I and IV

46 CFR Chs. I-III

48 CFR Ch. 12

49 CFR Subtitle A, Chs. I-VI

[OST Docket No. 59; Notice 95-11]

Department Regulatory Agenda; Semiannual Summary

AGENCY: Office of the Secretary, DOT.

ACTION: Department regulatory agenda.

SUMMARY: The regulations agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of and allow it to more effectively participate in the Department's regulatory activity. The public is also invited to submit comments to continuously open regulatory review dockets, suggesting items for consideration as part of the Department's ongoing review of existing regulations.

ADDRESSES: The mailing address for the initiating offices of the Department which appear in the agenda is 400 7th Street SW., Washington, DC 20590; except for the Federal Aviation Administration, which is located at 800 Independence Avenue SW., Washington, DC 20591, and the U.S. Coast Guard, which is located at 2100 2nd Street SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the agenda in general, contact: Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-4723.

Specific

For further information about any particular item on the agenda, contact the individual listed in the column headed "Agency Contact" for that item.

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- Appendix B - General Rulemaking Contact Persons
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Agenda

SUPPLEMENTARY INFORMATION:

Background

Improvement of Government regulations is a prime goal of the Clinton Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation (Department) achieve these goals and in accordance with Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual regulations agenda for publication in the **Federal Register**. The agenda summarizes all current and projected rulemaking, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated or for which action has been completed since the last agenda.

The agendas are based on reports submitted by the initiating offices in January and July each year. After these reports are consolidated for and reviewed by the Department Regulations Council, the Department's regulations agenda is prepared and published in the **Federal Register**. The Department's last agenda was published in the **Federal Register** on May 8, 1995 (60 FR 23590). The next one is scheduled for publication in the **Federal Register** in April 1996.

For this edition of the Department's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Regulatory Flexibility Act

In 1980, Congress passed the Regulatory Flexibility Act (RFA), Public Law 96-354, which requires the designation of those regulations for which a Regulatory Flexibility Analysis will be prepared; i.e., those regulations that would have a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis is required for a rulemaking which, in the heading "Small Entities Affected," indicates an effect on small businesses, governmental jurisdictions, or organizations. If a Regulatory Flexibility Analysis will be prepared for a particular rulemaking, that fact also will be noted under the heading "Analysis."

The RFA also requires that, each year, the Department publish a list of those regulations that have a significant economic impact on a substantial number of small entities and are to be reviewed under the Act during the succeeding 12 months. The agenda includes those regulations to be reviewed under the RFA or those for which review has been concluded since the last agenda. However, it should be noted that, after a preliminary assessment of the regulations listed for RFA review, it may be found that the regulations, in fact, do not have a significant economic impact on a substantial number of small entities, and a full RFA review will be unnecessary.

Economic Assessment/Evaluation

DOT requires an economic analysis for all its rulemakings. A preliminary and final economic assessment (similar to what used to be identified as a "Regulatory Impact Analysis") is required for each proposed and final regulation, respectively, that is likely to be very costly. For other rulemakings, a regulatory evaluation is prepared.

Definitions

The agenda covers all rules and regulations of the Department, including those that establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

Initiating office means an operating administration or other organizational element within the Department that formulates regulations.

Significant rulemaking is now being referred to in this agenda as an agency priority. This means a rulemaking that is very costly, controversial, or of substantial public interest; would have a major impact on another Federal agency; would have a substantial effect on State and/or local or tribal governments; would have a substantial impact on a major transportation safety problem; would initiate a substantial regulatory program or change in policy; would be substantially different from international requirements or standards; would materially alter budgetary impacts; or otherwise involves important legal or policy issues.

Office of Management and Budget (OMB)/Secretarial Review

Any rulemaking document OMB identifies as significant is subject to its review and will be classified as significant by DOT. A few rulemakings identified as agency priority by DOT, but not significant by OMB, and some rulemaking documents (e.g., extensions of compliance dates), although part of an otherwise significant rulemaking, are not subject to OMB review. All DOT agency priority rulemaking documents are subject to review by the Secretary of Transportation.

Explanation of Information on the Agenda

The format for this agenda is required by Office of Management and Budget memorandum of August 2, 1995.

First, the agenda is divided by initiating offices. Then, in accordance with the OMB memorandum, for each initiating office, the agenda is divided into five categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, (4) long-term actions, and (5) completed actions. For each entry, the agenda provides the following information: (1) The "significance" of the action; (2) a short descriptive title; (3) the legal basis for the action being taken or the regulation being reviewed; (4) the related regulatory citation in the Code of Federal Regulations; (5) an indication of any legal deadline and, if so, for what type of action (e.g., NPRM, final rule); (6) an abstract of the review or the proposed or final regulation; (7) a timetable, including the earliest expected date for a decision, on whether to issue the proposed or final regulation or complete the review and determine the corrective action to be taken. (The action taken can be revocation or revision of the regulation, or it can be a determination that no regulatory action is necessary because the regulation is found to be achieving its goals and the goals and objectives of Executive Order 12866 and the Department's Regulatory Policies and Procedures.); (8) an indication as to whether the rulemaking will affect small entities and/or levels of government and which categories of small entities or governments will be impacted; (9) if there is information that does not fit in the other categories, it will be included under a separate heading entitled "Additional Information" (which will also note any differences between OMB's "significant" and DOT's "agency priority" classification); (10) a listing, where determined, of any analyses an initiating office will prepare or has prepared for the rulemaking document; e.g., an Economic Assessment, an Environmental Impact Statement (EIS), or a Regulatory Flexibility Analysis; (11) an agency contact office or official who can provide further information, including advice on how to obtain documents referenced in the agenda; and (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the agenda and facilitate tracing further action on the issue in the **Federal Register** which may occur between agenda publications.

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it may be provided under the "Additional Information" heading. If a member of the public desires further information regarding a particular proposal or regulation, reference should be made to this docket number.

In the "Timetable" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, NPRM for Notice of Proposed Rulemaking, and FR for Final Rule. Listing a future date in this column is not an indication that a proposed or a final rule will be issued on that date; it is the earliest date on which a decision is expected to be made on whether to issue the document listed. Submittal of any proposed or final rule to the Office of Management and Budget for review under Executive Order 12866 must follow such a decision. If any document is issued, publication in the **Federal Register** would follow within a few days of completion of this review. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the agenda for the first time.

Request for Comments

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as make the agenda easier to use. We would like you, the public, to make suggestions or comments on how the agenda could be further improved.

DOT

In an effort to comply further with the spirit of Executive Order 12866 and the Regulatory Flexibility Act, we are also seeking suggestions on which existing regulations issued by an operating administration of the Department or the Office of the Secretary do you believe need to be reviewed to determine whether they should be revised or revoked. The Department is particularly interested in obtaining information on requirements that have a "significant economic impact on small entities" and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please send them, along with your explanation of why they should be reviewed, to the concerned operating administration or the Office of the Secretary.

Purpose

The Department is publishing this regulations agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity. Knowledge of the nature and scope of this activity, as well as the specific proposals and reviews being considered, should result in more effective public participation in the Department's regulatory activity. For example, awareness of the dates when notices may be issued seeking public comment should allow appropriate planning and more efficient use of the comment period. By providing the expected date for a decision on whether to issue a final rule, the Department expects that more appropriate planning by those concerned with the regulation will also be possible. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded. If further information is desired on any of the items listed in the agenda, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the agenda in general or the Department's Regulatory Policies and Procedures may be obtained from Neil R. Eisner, whose address and telephone number appear above.

Issued in Washington, DC, on October 3, 1995.

Federico Peña,

Secretary of Transportation.

Appendix A - Instructions for Obtaining Copies of Regulatory Documents

Some Administrations within the Department differ in procedures or as to inclusion on a mailing list. For the offices listed below, persons desiring to obtain a copy of a specific regulatory document to be issued that is listed in this agenda should communicate, either by telephone or by letter, with the contact person listed with the regulation at the addresses below.

United States Coast Guard (USCG)

(Name of contact person), United States Coast Guard, 2100 2nd Street SW., Washington, DC 20593.

Federal Highway Administration (FHWA)

(Name of contact person), Federal Highway Administration, 400 7th Street SW., Washington, DC 20590.

Federal Railroad Administration (FRA)

(Name of contact person), Federal Railroad Administration, 400 7th Street SW., Washington, DC 20590.

National Highway Traffic Safety Administration (NHTSA)

(Name of contact person), National Highway Traffic Safety Administration, 400 7th Street SW., Washington, DC 20590.

Federal Transit Administration (FTA)

(Name of contact person), Federal Transit Administration, 400 7th Street SW., Washington, DC 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

(Name of contact person), Saint Lawrence Seaway Development Corporation, 400 7th Street SW., Room 5424, Washington, DC 20590.

Research and Special Programs Administration (RSPA)

(Name of contact person), Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590.

Maritime Administration (MARAD)

James Saari, Secretary, Maritime Administration, 400 7th Street SW., Room 7300B, Washington, DC 20590, (202) 366-5746.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for notices and advance notices of proposed rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling (202) 267-3484 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591.

Office of the Secretary (OST)

Persons desiring to receive future copies of the Department's regulations agenda should submit their request to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, DC 20590, (202) 366-4723.

Persons who have an interest in specific regulatory documents to be issued by the Office of the Secretary should forward requests for copies of those documents to the same address. These requests should fully identify the document desired.

Appendix B - General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG - P. M. Pelcovits, Marine Safety Council, USCG Headquarters Building, Room 3406, 2100 2nd Street SW., Washington, DC 20593; telephone: (202) 267-6233.

FAA - Donald Byrne, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915A, Washington, DC 20591; telephone: (202) 267-3073.

FHWA - Thomas Holian, Office of Chief Counsel, 400 7th Street SW., Room 4223, Washington, DC 20590; telephone: (202) 366-1383.

FRA - Lisa Levine, Office of Chief Counsel, 400 7th Street SW., Room 8128, Washington, DC 20590; telephone: (202) 366-0621.

NHTSA - Walter K. Myers, Office of Chief Counsel, 400 7th Street SW., Room 5219, Washington, DC 20590; telephone: (202) 366-2992.

FTA - Nancy Zaczek, Office of Chief Counsel, 400 7th Street SW., Room 9316, Washington, DC 20590; telephone: (202) 366-4011.

SLSDC - Marc Owen, General Counsel's Office, 400 7th Street SW., Room 5424, Washington, DC 20590; telephone: (202) 366-0108.

RSPA - Edward Bonekemper, Office of Chief Counsel, 400 7th Street SW., Room 8405, Washington, DC 20590; telephone: (202) 366-4400.

MARAD - James Saari, Secretary, Maritime Administration, 400 7th Street SW., Room 7300B, Washington, DC 20590; telephone: (202) 366-5746.

BTS - David Mednick, 400 7th Street SW., Room 3430, Washington, DC 20590; telephone: (202) 366-8871.

OST - Neil Eisner, Office of Regulation and Enforcement, 400 7th Street SW., Room 10424, Washington, DC 20590; telephone: (202) 366-4723.

Appendix C - Public Rulemaking Dockets

The following is a list of Rule Docket locations for the various operating administrations where the public may review regulatory dockets and hand-deliver comments on advance notices and notices of proposed rulemaking:

USCG - Marine Safety Council, 2100 2nd Street SW., Room 3406, Washington, DC 20593. Working Hours: 8:00-3:00 (Monday-Friday).

FAA - Rules Docket (AGC-10), Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915G, Washington, DC 20591. Working Hours: 8:30-5:00.

FHWA - Docket Room, 400 7th Street SW., Room 4232, Washington, DC 20590. Working Hours: 8:30-3:30.

FRA - Docket Clerk, 400 7th Street SW., Room 8201, Washington, DC 20590. Working Hours: 8:30-5:00.

NHTSA - Docket Room, 400 7th Street SW., Room 5109, Washington, DC 20590. Working Hours: 9:30-4:00.

FTA - Docket Branch, 400 7th Street SW., Room Pl. 401, Washington, DC 20590. Working Hours: 8:30-5:00.

SLSDC - 400 7th Street SW., Room 5424, Washington, DC 20590. Working Hours: 8:15-4:45.

BTS - 400 7th Street SW., Room Pl. 401, Washington, DC 20590. Working Hours: 9:00-5:00.

RSPA - Docket Branch, 400 7th Street SW., Room 8421, Washington, DC 20590. Working Hours: 8:30-5:00.

MARAD - Docket Clerk, 400 7th Street SW., Room 7300, Washington, DC 20590. Working Hours: 8:30-5:00.

OST - Docket Branch, 400 7th Street SW., Room Pl. 401, Washington, DC 20590. Working Hours: 9:00-5:00.

DOT

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2209	+Commercial Space Transportation: Financial Responsibility Requirements for Licensed Launch Activities	2105-AA26
2210	+Proposed Policy on Peak Period Pricing of Airport Landing Fees	2105-AB63
2211	+Passenger Manifest Information	2105-AB78
2212	+Licensing Commercial Space Launch Activities **(Reg Plan Seq. No. 85)**	2105-AB85
2213	Use of Direct Final Rulemaking	2105-AC11
2214	Governmentwide Debarment and Suspension (Nonprocurement) and Requirements for Drug-Free Workplace (Grants)	2105-AC24
2215	Air Carrier Access Act: Miscellaneous Amendments	2105-AC28
2216	Use of Oxygen by Air Carrier Passengers	2105-AC29
2217	Data Collection and Prohibition Against Marketing	2105-AC30
2218	Coast Guard Board for Correction of Military Records: Procedural Regulation	2105-AC31

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2219	Direct Air Carrier Responsibility for Returning Stranded Charter Passengers	2105-AA40
2220	Air Travelers: Age Discrimination	2105-AA45
2221	Direct Flights	2105-AA73
2222	Diversion of Flights Within a Metropolitan Area	2105-AA78
2223	Simplified Aviation Exemption Procedures	2105-AA82
2224	Simplified Airline Counter-Sign Notices	2105-AA88
2225	+Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	2105-AB46
2226	+New Restrictions on Lobbying	2105-AB57
2227	Smoking Aboard Aircraft	2105-AB58
2228	+Nondiscrimination on the Basis of Handicap in Air Travel (Air Carrier Access Act)	2105-AB61
2229	+Nondiscrimination on the Basis of Handicap in Federally Assisted Programs and in Air Travel (Air Carrier Access Act)	2105-AB62

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DOT

Office of the Secretary—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2230	Aviation Charter Rules	2105-AB91
2231	+Disadvantaged Business Enterprise (DBE) Regulation; General Update	2105-AB92
2232	+Participation by Disadvantaged Business Enterprises in Airport Concessions	2105-AB99
2233	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	2105-AC02
2234	+Transportation for Individuals With Disabilities (Accessibility Guidelines)	2105-AC06
2235	Domestic Baggage Liability	2105-AC07
2236	Exemption from Property Tariff-Filing Requirements	2105-AC09
2237	Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases	2105-AC10
2238	+Transportation for Individuals With Disabilities (Misc. Amendments)	2105-AC13
2239	Disinsection of Aircraft	2105-AC14
2240	Disclosure of Change-of-Gauge Services	2105-AC17
2241	+Great Lakes Pilotage Rate Methodology	2105-AC21
2242	Procedures for Transportation Workplace Drug and Alcohol Testing: Shy Bladder and Other Clarifications	2105-AC22
2243	Electronic Filing of International Air Passenger Service Rules	2105-AC23
2244	Nonprocurement Debarment and Suspension	2105-AC25
2245	Revised Filing Procedures for OST Docket	2105-AC26
2246	Administrative and Editorial Corrections to Acquisition Regulations	2105-AC32

+ DOT-designated significant regulation.

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2247	Nondiscrimination on the Basis of Age in DOT Financial Assistance Programs	2105-AA09
2248	Policy Statement on Airline Preemption	2105-AA46
2249	Baggage Liability Notices in International Air Transportation	2105-AA84
2250	Price Advertising	2105-AB25
2251	+Statement of Enforcement Policy on Rebating	2105-AB39
2252	+Price Advertising	2105-AB50
2253	+Procedures for Transportation Workplace Drug-Testing Programs (Miscellaneous Amendments)	2105-AB71
2254	Implementation of Amendments to the Equal Access to Justice Act	2105-AB73
2255	+Accessibility of Passenger Vessels to Individuals With Disabilities	2105-AB87
2256	+Transportation for Individuals With Disabilities (Over the Road Buses)	2105-AC00

+ DOT-designated significant regulation.

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2257	+Nondiscrimination on the Basis of Handicap in Air Travel (Air Carrier Access Act)	2105-AB60
2258	+Procedures for Transportation Workplace Drug- and Alcohol-Testing Programs (Blood Testing)	2105-AB95
2259	+Limit of Liability for Deepwater Ports	2105-AC01
2260	Privacy Act Exemptions	2105-AC05
2261	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	2105-AC12
2262	+Statement of United States International Air Transportation Policy	2105-AC19
2263	Procedures for Transportation Workplace Drug and Alcohol Testing Programs (Nonevidential Alcohol Screening Devices)	2105-AC20
2264	Aviation Economic Rules	2105-AC27

+ DOT-designated significant regulation.

DOT

U.S. Coast Guard—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2265	+Facility Response Plans for Hazardous Substances (CGD 94-048) **(Reg Plan Seq. No. 86)**	2115-AE87
2266	+Tank Vessel Response Plans for Hazardous Substances (CGD 94-032) **(Reg Plan Seq. No. 87)**	2115-AE88
2267	U.S. ATON Systems: Western Rivers Marking System and Private Aids to Navigation (CGD 94-091)	2115-AF14
2268	ATON on Artificial Islands and Fixed Structures (CGD 95-052)	2115-AF15
2269	Regattas and Marine Parades: Permit Application Requirements (CGD 95-054)	2115-AF17

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2270	Regattas and Marine Parades (CGD 87-087)	2115-AC84
2271	Tank Level or Pressure Monitoring Devices (CGD 90-071)	2115-AD69
2272	+Security for Passenger Vessels and Passenger Terminals (CGD 91-012)	2115-AD75
2273	Suspension and Revocation of Licenses, Certificates of Registry, and Merchant Mariners' Documents (CGD 94-101)	2115-AD94
2274	Reporting Marine Casualties (CGD 91-216)	2115-AD98
2275	+Structural and Operational Measures To Reduce Oil Spills From Existing Tank Vessels Without Double Hulls (CGD 91-045) **(Reg Plan Seq. No. 88)**	2115-AE01
2276	+User Fees for Approvals of Equipment, Laboratories, and Servicing Facilities (CGD 92-013)	2115-AE18
2277	Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities (CGD 92-026)	2115-AE22
2278	Amendments to Hull Identification Number Regulations and New Requirements for Certificates of Origin (CGD 92-065)	2115-AE37
2279	+Escort Vessels in Certain U.S. Waters (91-202a)	2115-AE56
2280	Approval of Inflatable Personal Flotation Devices (PFDs) for Recreational Boaters (CGD 93-055)	2115-AE58
2281	Amendment to 46 CFR 14: Revise Recordkeeping of Shipping Articles and Certificates of Discharge (CGD 94-004)	2115-AE72
2282	Inland Waterways Navigation Regulations; Wrangell Narrows, AK (CGD 94-026)	2115-AE78
2283	Navigation Safety Equipment for Towing Vessels (CGD 94-020)	2115-AE91
2284	Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel: Removal of Foreign Implementation Date (CGD 95-011)	2115-AF02
2285	Adoption of Industry Standards (CGD 95-027)	2115-AF09
2286	Identification and Removal of Obsolete and Unnecessary Regulations (CGD 95-028)	2115-AF10
2287	Numbering of Undocumented Barges (CGD 93-091)	2115-AF13
2288	Advance Notice of Arrivals, Departures, and Certain Dangerous Cargoes (CGD 94-089)	2115-AF19

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2289	Tankermen (CGD 79-116)	2115-AA03
2290	+Offshore Supply Vessel Regulations (CGD 82-004 & CGD 86-074)	2115-AA77
2291	+Lifesaving Equipment—Implementation of 1983 Amendments to SOLAS 1974 (CGD 84-069)	2115-AB72
2292	Training in the Use of Automatic Radar Plotting Aids (ARPA) (CGD 85-089)	2115-AB99
2293	+Small Passenger Vessel Inspection and Certification (CGD 85-080)	2115-AC22
2294	Revision to Inflatable Life raft Approval: SOLAS 74/83 (CGD 85-205)	2115-AC51
2295	+Implementation of the Commercial Fishing-Industry Vessel Safety Act (CGD 88-079)	2115-AD12
2296	Vessel Identification System (CGD 89-050)	2115-AD35
2297	+Financial Responsibility for Water Pollution (Vessels) (CGD 91-005)	2115-AD76
2298	+Tank Vessel Response Plans (CGD 91-034)	2115-AD81
2299	+Facility Response Plans (CGD 91-036)	2115-AD82
2300	Criminal Record Reviews and Access to the National Driver Register (CGD 91-212)	2115-AD93
2301	New York Vessel Traffic Service (CGD 92-052)	2115-AE36

DOT

U.S. Coast Guard—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2302	Inland Navigation Rules; Lighting Provisions (CGD 94-011)	2115-AE71
2303	Revision of Damage Stability Requirements for New Passenger Ship Designs (CGD 94-010)	2115-AE75
2304	Aleutian Trade Act (CGD 94-025)	2115-AE77
2305	+Vessel Rebuild Determinations (CGD 94-040)	2115-AE85
2306	Radar-Observer Endorsement for Operators of Uninspected Towing Vessels (CGD 94-041)	2115-AE92
2307	Modernization of Examination Methods (CGD 94-029)	2115-AE94
2308	Recreational Inflatable Personal Flotation Device Standards (CGD 94-110)	2115-AE96
2309	Alternate Compliance Via Recognized Classification Society and U.S. Supplement to Rules (CGD 95-010)	2115-AF11
2310	International Navigation Rules (CGD 95-053)	2115-AF16
2311	Recreational Vessel Fees (CGD 95-055)	2115-AF18

+ DOT-designated significant regulation.

U.S. Coast Guard—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2312	Safety/Security Zone Regulations	2115-AA97
2313	Anchorage Area Regulations	2115-AA98
2314	Permits for the Transportation of Municipal and Commercial Wastes (CGD 89-014)	2115-AD23
2315	+Discharge-Removal Equipment for Vessels Carrying Oil (CGD 90-068)	2115-AD66
2316	+Overfill Devices (CGD 90-071a)	2115-AD87
2317	Claims Procedures Under the Oil Pollution Act of 1990 (CGD 91-035)	2115-AD90
2318	+Escort Vessels for Certain Tankers (CGD 91-202)	2115-AE10
2319	+State Access to the Oil Spill Liability Trust Fund (CGD 92-014)	2115-AE19
2320	+Federal Agency Access to the Oil Spill Liability Trust Fund (CGD 92-074)	2115-AE34
2321	Regatta Regulations	2115-AE46
2322	Drawbridge Regulations	2115-AE47
2323	Facilities Transferring Oil and Hazardous Material in Bulk (CGD 93-056)	2115-AE59
2324	Notice of Hazardous Conditions (CGD 94-027)	2115-AE82
2325	Regulated Navigation Areas	2115-AE84
2326	Immediate Reporting of Casualties (CGD 94-030)	2115-AE89

+ DOT-designated significant regulation.

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2327	Fixed Fire-Extinguishing Systems on Uninspected Vessels (CGD 74-284)	2115-AA08
2328	Safety Standards for New Self-Propelled Vessels Carrying Bulk Liquefied Gases (82-058)	2115-AA95
2329	Incorporation of Amendments to the International Convention for Safety of Life at Sea, 1974 (83-043)	2115-AB41
2330	+Licensing of Pilots—Manning of Vessels (CGD 84-060)	2115-AB67
2331	Emergency Position Indicating Radio Beacons (EPIRBs) and Visual Distress Signals for Uninspected Vessels (CGD 87-016)	2115-AC69
2332	Requirements for Marine Terminals Transferring Bulk Liquefied Hazardous Gases (CGD 88-049)	2115-AD06
2333	Regulated Navigation Area: Puget Sound and Strait of Juan de Fuca, WA; Grays Harbor, WA; Columbia River and Willamette River, OR; Yaquina Bay, OR; Umpqua River, OR; Coos Bay, OR (13-90-28)	2115-AE06
2334	Alteration of Obstructive Bridges (CGD 91-063)	2115-AE15
2335	Federal Pilotage Requirement for Foreign Trade Vessels (CGD 92-061)	2115-AE28
2336	Prince William Sound Automated Dependent Surveillance System Incorporation by Reference (93-022)	2115-AE41
2337	Regulated Navigation Area: Oliver Lock and Dam; Black Warrior River—MM 338(08-93-027)	2115-AE79
2338	Regulated Navigation Area; Mississippi River, Miles 88 to 240 Above Head of Passes (08-94-006)	2115-AE81
2339	+Establishment of Lightering Zones (CGD 93-081)	2115-AE90
2340	Pollution Prevention: MARPOL Special Areas (CGD 94-056)	2115-AE97
2341	Facsimile Filing of Commercial Instruments Related to Vessel Documentation (CGD 94-070)	2115-AE98
2342	Coast Guard Rulemaking Procedures (CGD 94-105)	2115-AE99

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U.S. Coast Guard—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2343	Temporary Speed Limits for the St. Marys River (09-94-036)	2115-AF01
2344	Removal of Obsolete and Unnecessary Regulations (CGD 95-012)	2115-AF03
2345	Amendment to Inland Waterways Navigation Regulations Establishing Speed Limits on Connecting Waters From Lake Huron to Lake Erie (09-95-002)	2115-AF04
2346	Centralization of Vessel Documentation Offices (CGD 95-014)	2115-AF05
2347	Obsolete Bulk Hazardous Materials (CGD 94-902)	2115-AF06
2348	Bulk Hazardous Materials (CGD 95-900)	2115-AF07
2349	Noxious Liquid Substances (CGD 95-901)	2115-AF08
2350	National Vessel Traffic Services Regulations (CGD 95-033)	2115-AF12
2351	Clarification of Coast Guard Rulemaking Procedures (CGD 95-057)	2115-AF20
2352	Technical Amendments: Organizational Changes (CGD 95-072)	2115-AF21

+ DOT-designated significant regulation.

Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2353	Objects Affecting Navigable Airspace	2120-AA09
2354	Airworthiness Standards; Crash-Resistant Fuel Systems	2120-AA57
2355	Review of Part 47, Aircraft Registration, and Part 49, Recording of Aircraft Titles and Security Documents	2120-AC17
2356	+Part 145 Review: Repair Stations	2120-AC38
2357	1-G Stalling Speed as a Basis for Compliance With Part 25 of the Federal Aviation Regulations	2120-AD40
2358	+Revision of Part 108, Airplane Operator Security	2120-AD45
2359	+Revision of Part 107, Airport Security	2120-AD46
2360	+Alternative Means of Compliance	2120-AD66
2361	+Cost of Services and Transfer of Fees to Part 187 From Parts 47, 49, 61, 63, 65, and 143	2120-AD91
2362	Visual Descent Points	2120-AE34
2363	+Reduced Altitude Separation	2120-AE51
2364	+Airport Land Use Compatibility Planning—Proposed Revisions	2120-AE64
2365	+Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules	2120-AE71
2366	+Mode S Transponder Requirement for Part 135 Operators	2120-AE81
2367	+Corrosion Control Program	2120-AE92
2368	Nashville, TN, Class B Airspace	2120-AE93
2369	Cincinnati, OH, Class B Airspace	2120-AE97
2370	Changes in Type Design of Helicopters	2120-AF10
2371	Orlando, FL, Class B Airspace	2120-AF17
2372	Raleigh/Durham, NC, Class B Airspace	2120-AF20
2373	+Revision of Emergency Evacuation Demonstration Procedures to Improve Participant Safety	2120-AF21
2374	Aviation Insurance	2120-AF23
2375	Normal Category Maximum Weight	2120-AF33
2376	+Controlled Rest on the Flight Deck	2120-AF54
2377	Proposed Modification of the Salt Lake City, UT, Class B Airspace	2120-AF56
2378	Proposed Modification of the Phoenix, AZ, Class B Airspace	2120-AF58
2379	+Flight Crewmember Duty Limitations and Rest Requirements	2120-AF63
2380	+Submission to Drug Tests	2120-AF64
2381	Type Certification Procedures for Changed Products	2120-AF68
2382	+Passenger Facility Charges	2120-AF69
2383	Revised Structural Loads Requirements for Transport Airplanes	2120-AF70
2384	Operational and Structural Difficulty Reports	2120-AF71
2385	Water and Hail Ingestion Standards	2120-AF75
2386	+Flight Data Recorders	2120-AF76
2387	Miscellaneous Cabin Safety Changes	2120-AF77
2388	Revision of Hydraulics Systems Airworthiness Standards to Harmonize with European Airworthiness Standards for Transport Category Airplanes	2120-AF79
2389	Bird Ingestion Standards	2120-AF84
2390	Two Approach Charts	2120-AF86
2391	Houston, Texas, Class B Airspace	2120-AF88

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Federal Aviation Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2392	Salt Lake City, Utah, Class B Airspace	2120-AF89

+ DOT-designated significant regulation.

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2393	Part 95 Instrument Flight Rules	2120-AA63
2394	Airworthiness Directives	2120-AA64
2395	Standard Instrument Approach Procedures	2120-AA65
2396	Airspace Actions	2120-AA66
2397	+Revision of Medical Standards and Certification Procedures	2120-AA70
2398	+Aircraft Flight Simulator Use in Pilot Training, Testing, and Checking and at Training Centers **(Reg Plan Seq. No. 89)**	2120-AA83
2399	+Improved Standards for Determining Rejected Takeoff and Landing Performance	2120-AB17
2400	Standards for Approval for High-Altitude Operation of Subsonic Transport Airplanes	2120-AB18
2401	Airworthiness Standards; Transport Category Rotorcraft Performance	2120-AB36
2402	Low Fuel Quantity Alerting System	2120-AB46
2403	Airworthiness Standards; Turboshaft Engine Rotor Burst Protection	2120-AB91
2404	+Passenger-Carrying and Cargo Air Operations for Compensation or Hire	2120-AC08
2405	+Flight Attendant Requirements	2120-AC32
2406	+Type and Number of Passenger Emergency Exits Required in Transport Category Airplanes	2120-AC43
2407	+Improved Survival Equipment for Inadvertent Water Landings	2120-AC72
2408	+Air Carrier Training Programs	2120-AC79
2409	+Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	2120-AC84
2410	+Drug Enforcement Assistance	2120-AD16
2411	Airworthiness Standards: Aircraft Engines; Proposal for New One-Engine-Inoperative Ratings, Definitions, and Type Certification Standards	2120-AD21
2412	+Airworthiness Standards; Occupant Protection Standards for Commuter Category Airplanes	2120-AD27
2413	Airplane Engine Cowling Retention	2120-AD34
2414	+Fatigue Evaluation of Structure	2120-AD42
2415	Allowable Carbon Dioxide Concentration in Transport Category Airplane Cabins	2120-AD47
2416	Protective Breathing Equipment; Cargo-Only Airplanes	2120-AD74
2417	Type Certificates for Some Surplus Aircraft of the Armed Forces	2120-AE41
2418	+Aging Aircraft Safety	2120-AE42
2419	+JAR/FAR Harmonization Initiatives—Systems and Equipment	2120-AE59
2420	+JAR/FAR Harmonization Initiatives—Propulsion	2120-AE60
2421	+Airworthiness Standards: Flight Rules Based on European Joint Aviation Requirements **(Reg Plan Seq. No. 90)**	2120-AE61
2422	+JAR/FAR Harmonization Initiatives—Airframe	2120-AE62
2423	+Aircraft Ground Deicing and Anti-Icing Program	2120-AE70
2424	+Civil Penalty Assessment Procedures	2120-AE84
2425	Accelerated Stalls in Commuter Category Airplanes	2120-AE86
2426	Manned Free Balloons	2120-AE87
2427	Occupant Protection in Normal and Transport Category Rotorcraft	2120-AE88
2428	+Revised Access to Type III Exits	2120-AF01
2429	+Training and Checking in Ground Icing Conditions	2120-AF09
2430	Extended Overwater Operations With a Single High-Frequency Communication System (HF) and a Single Long-Range Navigation System (LRNS)	2120-AF12
2431	Los Angeles, CA, Class B Airspace	2120-AF16
2432	Minimum Altitudes for the Use of an Autopilot	2120-AF19
2433	Advanced Simulation Plan Revisions	2120-AF29
2434	+Suspension of Certain Aircraft Operations From the Transponder With Automatic Pressure Altitude Reporting Capability Requirement	2120-AF30
2435	Notification to ATC of Deviations from ATC Clearance and Instructions in Response to Traffic Alert and Collision Avoidance System Resolution Advisories	2120-AF35
2436	Powerplant Instruments; Fuel Pressure Indication	2120-AF41
2437	+Procedures for Complaints Involving Federally-Assisted Airports	2120-AF43

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Federal Aviation Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2438	Sensitive Security Information	2120-AF49
2439	+Child Restraint Systems	2120-AF52
2440	Direct Final Rulemaking Procedure	2120-AF55
2441	Windmilling and Rotor Blocking Tests; and Vibration Tests	2120-AF57
2442	+Commuter Operations and General Certification and Operations Requirements **(Reg Plan Seq. No. 91)**	2120-AF62
2443	Rotorcraft Regulatory Changes Based on European Joint Airworthiness Requirements Proposals	2120-AF65
2444	+Policy Regarding Airport Rates and Charges	2120-AF90

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

Federal Aviation Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2445	+Fuel System Vent Fire Protection	2120-AA49
2446	Miscellaneous Amendments	2120-AA50
2447	Aircraft Engines: Fuel and Induction Systems	2120-AB76
2448	Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines	2120-AC87
2449	+Sole Radio Navigation System; Minimum Standards for Certification	2120-AD26
2450	+Child Restraint Systems	2120-AD90
2451	Persons Authorized To Perform Maintenance, Preventive Maintenance, Rebuilding, and Alterations	2120-AE57
2452	+Anti-Drug and Alcohol Misuse Prevention Programs for Employees of Foreign Air Carriers Engaged in Specified Aviation Activities	2120-AE79
2453	Stage 2 Airplane Operations in Hawaii	2120-AE83
2454	Niagara Falls	2120-AE95
2455	Flight Attendant English Language Proficiency	2120-AE98
2456	Flight Operational Quality Assurance Program	2120-AF04
2457	+Sightseeing Operations	2120-AF07
2458	Simulator Instructor—Medical Certificates	2120-AF08
2459	Tampa, FL, Class B Airspace	2120-AF18
2460	Revision of Certification Requirements: Mechanics and Repairmen	2120-AF22
2461	Revised Discrete Gust Load Design Requirement; Transport Category Airplanes	2120-AF27
2462	+Operations of Jet Aircraft in Commuter Slots at LaGuardia Airport and John F. Kennedy International Airport	2120-AF31
2463	Streamlined Enforcement Process Test Program	2120-AF36
2464	+Overflights of Units of the National Park System	2120-AF46
2465	+Mountain Flying	2120-AF67
2466	Bird Strike	2120-AF80
2467	Repair Assessment for Pressurized Fuselages	2120-AF81
2468	Revision of Gate Requirements for High-Lift Device Controls	2120-AF82
2469	Braked Roll Conditions	2120-AF83

+ DOT-designated significant regulation.

Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2470	Composite Propellers	2120-AB05
2471	+Elimination of Airport Delays	2120-AB42
2472	Maintenance Recordkeeping Requirements	2120-AD25
2473	High Intensity Radiated Fields Protection Standards for Aircraft Electrical and Electronic Systems	2120-AD32
2474	+Fatigue Test Requirements for Aging Aircraft	2120-AD43
2475	+Pilot Operating and Experience Requirements	2120-AD88
2476	+Unescorted Access Privilege	2120-AE14
2477	Access Into the Cockpit	2120-AE35
2478	Airport Runway Incursion	2120-AE38
2479	Non-Federal Navigation Facilities	2120-AE54

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Federal Aviation Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2480	Amend Part 34: Fuel Venting and Exhaust Emission Requirements for Turbine Engine-Powered Airplanes	2120-AE55
2481	Communication Systems: Removal of Fee Provisions	2120-AE68
2482	Fees for Certification Services and Approvals Performed Outside the United States	2120-AE72
2483	State Block Grant Program	2120-AE90
2484	High Density Airports; Slot Use and Loss Requirements	2120-AE94
2485	Advanced Qualification Program	2120-AF00
2486	Alteration of the Charlotte Class B Airspace Area; North Carolina	2120-AF02
2487	Revision of Certain Flight Airworthiness Standards to Harmonize With European Airworthiness Standards for Transport Category Airplanes	2120-AF25
2488	Special Flight Rules in the Vicinity of the Grand Canyon National Park	2120-AF60
2489	+Air Tour Sightseeing Operations	2120-AF61
2490	Prohibition Against Certain Flights Between the United States and the Republic of Yugoslavia (SFAR 66-2)	2120-AF72
2491	Certification and Operating Requirements SFAR 38-2	2120-AF73
2492	Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan(SFAR 67)	2120-AF74
2493	Prohibition Against Certain Flights Between the United States and the Republic of Libya (SFAR 65-1)	2120-AF85
2494	Prohibition Against Certain Flights Between the United States and the Republic of Iraq (SFAR 61-2)	2120-AF87

+ DOT-designated significant regulation.

Federal Highway Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2495	Acquisition of Real Property for Rights-of-Way	2125-AC17
2496	Highway Beautification	2125-AD24
2497	+Advanced Technology in Commercial Motor Vehicle Operations **(Reg Plan Seq. No. 92)**	2125-AD65

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

Federal Highway Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2498	Truck Length and Width Exclusive Devices	2125-AC30
2499	Periodic Inspection Requirements	2125-AC47
2500	Commercial Learner Permits and CDL Effectiveness	2125-AC54
2501	Revision of Medical Examination Form and Procedures	2125-AC63
2502	+Safety Fitness Procedures; Safety Ratings	2125-AC71
2503	Minimum Training Requirements for Operators and Training Instructors of Multiple Trailer Combination Vehicles	2125-AC92
2504	+Commercial Driver Physical Fitness as Part of the CDL Process	2125-AD20
2505	+Department of Transportation (FHWA, FTA, and FRA) Environmental Impact and Related Procedures	2125-AD32
2506	Parts and Accessorius Necessary for Safe Operation; General Amendments	2125-AD40
2507	Parts and Accessories Necessary for Safe Operation; Manufactured Home Tires	2125-AD41
2508	Antilock Brake Systems	2125-AD42
2509	Maximum Driving and Off-Duty Time; Hours of Service for Farmers and Retail Farm Suppliers	2125-AD44
2510	+Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking	2125-AD49
2511	+Hours of Service of Drivers; Supporting Document Recordkeeping	2125-AD52
2512	Federal Aid Project Agreement and Contract Procedures	2125-AD58
2513	Emergency Relief Program	2125-AD60
2514	Rules of Practice for Motor Carrier Proceedings; Investigations; Disqualifications and Penalties	2125-AD64

+ DOT-designated significant regulation.

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Federal Highway Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2515	Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (Including Supportive Services); Report Requirements	2125-AB15
2516	+Management and Monitoring Systems	2125-AC97
2517	+Training for Entry-Level Drivers of Commercial Motor Vehicles	2125-AD05
2518	+Value Engineering	2125-AD33
2519	Design Standards for Highways; A Policy on Geometric Design of Highways and Streets; Design and Construction Criteria	2125-AD38
2520	Federal Aid Project Authorization	2125-AD43
2521	Commercial Driver's License Program and Controlled Substances and Alcohol Use and Testing	2125-AD46
2522	Private Motor Carriers of Passengers: Technical Amendments	2125-AD54
2523	National Standards for Traffic Control Devices; Revision of the Manual on Uniform Traffic Control Devices	2125-AD57
2524	General Material Requirements; Warranty Clauses	2125-AD61
2525	Certification Acceptance	2125-AD62
2526	National Standards for Traffic Control Devices; Metric Conversion	2125-AD63

+ DOT-designated significant regulation.

Federal Highway Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2527	+Qualification of Drivers; Diabetes	2125-AB91
2528	+Commercial Driver's License Standards; Biometric Identifier	2125-AC24
2529	+Federal Motor Carrier Safety Regulations; General; Periodic Registration Requirements for Motor Carriers	2125-AC28
2530	Certification of Size and Weight Enforcement	2125-AC60
2531	+Qualification of Drivers; Vision	2125-AC62
2532	Parts and Accessories Necessary for Safe Operation: Intermodal Cargo Containers	2125-AC74
2533	+Federal Motor Carrier Safety Regulations; General Transportation of Hazardous Materials	2125-AC78
2534	Transportation of Hazardous Materials; Routing of Class 7 (Radioactive) Materials; Preemption Determinations	2125-AD00
2535	+Qualifications of Drivers: Hearing Deficiencies	2125-AD22
2536	Parts and Accessories Necessary for Safe Operation; Sleeper Berths on Motor Coaches	2125-AD25
2537	Parts and Accessories Necessary for Safe Operation; Lighting Devices, Reflectors, and Electrical Equipment	2125-AD27
2538	Motor Carrier Safety Assistance Program (MCSAP) Allocation Formula	2125-AD30
2539	National Standards for Traffic Control Devices; Temporary Traffic Signals	2125-AD45
2540	Zero-Base Review of the Federal Motor Carrier Safety Regulations; Technical Corrections	2125-AD55
2541	Advanced Construction of Federal Aid Projects	2125-AD59

+ DOT-designated significant regulation.

Federal Highway Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2542	+Controlled Substances and Alcohol Use and Testing; Foreign-Based Motor Carriers and Drivers	2125-AD11
2543	Utility Relocations, Adjustments, and Reimbursement	2125-AD31
2544	+Qualification of Drivers; Epilepsy	2125-AD34
2545	Quality Assurance Procedures for Construction	2125-AD35
2546	Parts and Accessories Necessary for Safe Operation: Automatic Brake Adjusters and Brake Adjustment Indicators	2125-AD37
2547	Accident Recordkeeping Requirements	2125-AD51
2548	Truck Size and Weight; Restrictions on Longer Combination Vehicles and Vehicles With Two or More Cargo-Carrying Units	2125-AD53

+ DOT-designated significant regulation.

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National Highway Traffic Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2549	Review: Lamps, Reflective Devices, and Associated Equipment	2127-AB76
2550	Review: Odometer Fraud	2127-AF53
2551	Theft Prevention—5-Year Report to Congress	2127-AF55
2552	Safety Belt Anchorages: Harmonization and Owner's Manual Requirements	2127-AF68
2553	Current and Future State of the Art Innovation for Accelerator Controls	2127-AF76
2554	Specifications for Content of Aluminum Alloys	2127-AF79
2555	Rescind Controls and Displays	2127-AF86
2556	Rescind Windshield Defrosting and Defogging Systems	2127-AF87
2557	Rescind Windshield Wiping and Washing Systems	2127-AF88

National Highway Traffic Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2558	Procedures for Considering Environmental Impacts	2127-AB79
2559	+Light Truck Average Fuel Economy Standards for MYs After 1997	2127-AF16
2560	Upgrade Performance Requirements	2127-AF36
2561	Driving Range Determination for Dual Fuel Electric Passenger Automobiles	2127-AF37
2562	Test Device Placement	2127-AF40
2563	Conversion of Vehicles to Compressed Natural Gas	2127-AF50
2564	Theft Data for Calendar Year 1994	2127-AF57
2565	Combine Vehicle Identification Requirements	2127-AF69
2566	Remove Obsolete Requirements for Head Restraints	2127-AF70
2567	Automatic Drain Valve for Air Reservoir Tanks	2127-AF72
2568	Regulatory Negotiation for Visual Headlamp Aimability Requirements	2127-AF73
2569	Alternative Geometric Visibility Requirements for Lamps	2127-AF75
2570	Rescission of Warning Devices	2127-AF77
2571	Alternative Motorcycle Headlamp Performance Requirements	2127-AF78
2572	Rescission of Non-Pneumatic Spare Tire Requirements	2127-AF80
2573	Truck Camper Loading	2127-AF81
2574	Power-Operated Windows: Roof Panels	2127-AF83
2575	Phase-in Requirements for Side Impact Protection	2127-AF84
2576	Energy-Absorbing Sun-Visors	2127-AF85
2577	Sealed Beam Headlamps	2127-AF89
2578	Rescind Headlamp Concealment Devices	2127-AF90
2579	Insurer Reporting Requirements for October 1996	2127-AF92
2580	National Minimum Drinking Age Act	2127-AF95
2581	Automotive Fuel Economy Reports	2127-AG00
2582	Exemption From Rearward Displacement Requirements	2127-AG01
2583	Whip Resistance Test for Brake Hoses	2127-AG02

+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2584	+Truck Rear Underride Protection	2127-AA43
2585	+Flammability of Interior Materials - School Buses	2127-AA44
2586	+Reduce Head Injuries Due to Contact With Upper Vehicle Interior	2127-AB85
2587	+School Bus Body Joint Strength	2127-AC19
2588	Fuel Spillage	2127-AC62
2589	+Rollover Protection	2127-AC64
2590	Brake Lining	2127-AC66
2591	Incentive Grant Criteria for Drunk-Driving-Prevention Programs (Section 410)	2127-AD01
2592	+Wheelchair Lifts	2127-AD50

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Federal Highway Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2593	Issuance, Amendment, and Revocation of Rules: Procedural Regulations	2127-AD78
2594	Dynamic Testing of Light Trucks and Vans for Side Impact	2127-AE49
2595	Radiator Safety Cap	2127-AE59
2596	Miniature and Nonfilament Light Sources	2127-AE97
2597	Redefine Replaceable Bulb Headlamps	2127-AF00
2598	Test Dummies and Requirements for Testing Child Restraint Systems	2127-AF02
2599	+Uniform Tire Quality Grading	2127-AF17
2600	Equivalent Measurements for Gaseous Fuels	2127-AF18
2601	Materials Used in Tests	2127-AF22
2602	Rigid Plastics in Windows	2127-AF28
2603	Improved Back Door Latch	2127-AF35
2604	Driving Range for Dual Energy and Natural Gas Dual Energy Passenger Automobiles	2127-AF38
2605	Increase Femur Flexion Motion of the Hybrid III Test Dummy	2127-AF41
2606	+Certification of Child Restraints for Use on Aircraft	2127-AF46
2607	Theft Data for Calendar Year 1993	2127-AF56
2608	Retroreflective Conspicuity System	2127-AF59
2609	Replaceable Light Source Information: Transfer of	2127-AF62
2610	Air Brake Systems; Air Compressor Cut-In Pressure	2127-AF63
2611	Relieving Design Restrictions to Accommodate New Light Sources	2127-AF65
2612	Seat Belt Exemption for Law Enforcement Vehicles	2127-AF66
2613	Colorfastness Requirements for Seatbelts	2127-AF67
2614	Rescind Standard for Unnecessary Design Restrictions: Wheel Nuts, Wheel Discs, and Hub Caps	2127-AF71
2615	Rescission of Reflecting Surfaces Requirements	2127-AF74
2616	State Highway Safety Pilot Program	2127-AF94
2617	+Motor Vehicle Content Labeling	2127-AG03

+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2618	+Crashworthiness Ratings	2127-AA03
2619	+Lighting Simplification—Potential Amendments on Long-Term Issues	2127-AB87
2620	+Film Transmittance of Glazing Materials	2127-AC85
2621	Seating Systems Performance	2127-AD08
2622	+Review: Passenger Car Front Seat Occupant Protection (Federal Motor Vehicle Safety Standard No. 208)	2127-AD82
2623	Seat Adjustment Position	2127-AE22
2624	Certification Requirements of Multistage Vehicles	2127-AE27
2625	+Extend Antilock Brake System to Passenger Cars	2127-AE47
2626	Consumer Information Regulation - Vehicle Stopping Distance	2127-AE61
2627	Review: Passenger-Car Back Seat Occupant Protection	2127-AE95
2628	Tires on New Trailers	2127-AF05
2629	Compressed Natural Gas (CNG) Fuel Containers	2127-AF14
2630	Compressed Natural Gas (CNG)	2127-AF29
2631	Electric Vehicle Safety	2127-AF43
2632	Cylinder Requirements	2127-AF51
2633	+Review: Side Impact Protection	2127-AF54
2634	Voluntarily-Installed Shoulder Belts	2127-AF91
2635	Heavy Duty Vehicle Brake Systems	2127-AF96
2636	Air Brake Systems: Stopping-Distance Performance	2127-AF97
2637	Antilock Warning Signals	2127-AF98
2638	Stopping Distance Performance Requirements	2127-AF99

+ DOT-designated significant regulation.

DOT

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2639	Standard 105; Hydraulic Brake	2127-AC94
2640	Review: Glass-Plastic Windshields	2127-AD29
2641	Rulemaking To Delete "Due Care" Provisions From the Occupant Crash Protection Standard	2127-AD54
2642	Emergency Exit Requirements for Non-School Buses	2127-AE25
2643	Referee Material	2127-AE58
2644	Bus Window Emergency Exit	2127-AE62
2645	Standardized Display of Certification Labels	2127-AE71
2646	Lateral Performance Requirements for Fuel System Integrity	2127-AE83
2647	Uniform Guidelines for State Highway Safety Programs	2127-AE90
2648	Insurer Reporting Requirements for October 1995	2127-AE94
2649	Test Procedures for Transmission and Key Locking Requirements	2127-AE99
2650	Air-Over-Hydraulic Brake System	2127-AF01
2651	Heavy Vehicle Burnish Procedures	2127-AF13
2652	Pneumatic Timing and Balance for Trailer Brake Systems	2127-AF23
2653	Fractional Balance Headlamp Aim	2127-AF24
2654	+Manual Cutoff Switches for Air Bags	2127-AF30
2655	Alternative Zonal Photometric Requirements for Center High-Mounted Stop Lamps (CHMSL)	2127-AF45
2656	Fuel System Containers for Compressed Natural Gas Vehicles	2127-AF47
2657	Riding in Cargo Bed of Pickup Trucks	2127-AF49
2658	High Theft Lines for Model Year 1996	2127-AF58
2659	Child Booster Seats	2127-AF61
2660	Consumer Information Regulation: Fees for Course Monitoring Tires and for Use of Traction Skid Pads	2127-AF64
2661	Brake Harmonization	2127-AF82
2662	Drug Offender's Driver's License Suspension: Technical Amendment	2127-AF93

+ DOT-designated significant regulation.

Federal Railroad Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2663	Qualification and Certification of Locomotive Engineers	2130-AA74
2664	+Passenger Equipment Standards	2130-AA95
2665	+Rail Passenger Service: Emergency Preparedness	2130-AA96
2666	+Hours of Service Electronic Recordkeeping Project **(Reg Plan Seq. No. 93)**	2130-AB04

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2667	Railroad Accident Reporting	2130-AA58
2668	Alcohol/Drug Regulations; Miscellaneous Technical Amendments and Corrections	2130-AA63
2669	+Whistle Bans at Highway-Rail Grade Crossings	2130-AA71
2670	+Track Safety Standards	2130-AA75
2671	Locomotive Conspicuity; Minimum Standards for Auxiliary External Lights	2130-AA80
2672	+Roadway Worker Protection	2130-AA86
2673	+Environmental Impact and Related Procedures (FRA, FTA, FHWA)	2130-AA93
2674	Statement of Policy Regarding Safety of Railroad Bridges	2130-AA99

+ DOT-designated significant regulation.

DOT

Federal Railroad Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2675	Local Rail Freight Assistance to States	2130-AA60
2676	+Freight Car Safety Standards: Maintenance-of-Way Equipment	2130-AA68
2677	+Generic Standards for Corridors up to 160 MPH	2130-AA88

+ DOT-designated significant regulation.

Federal Railroad Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2678	+Power Brake Regulations; Miscellaneous Revisions	2130-AA73
2679	AMTRAK Waste Disposal	2130-AA84
2680	+Locomotive Crashworthiness and Working Conditions	2130-AA89
2681	Protection of Utility Employees	2130-AA90
2682	+Selection and Installation of Grade Crossing Warning Systems	2130-AA92
2683	+Radio Communication-Advanced Train Control System	2130-AA94
2684	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems	2130-AA97
2685	FRA Hazardous Materials Penalty Guidelines	2130-AB00
2686	Miscellaneous Amendments to Federal Railroad Regulations Pursuant to Regulatory Reform	2130-AB03

+ DOT-designated significant regulation.

Federal Railroad Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2687	Event Recorders	2130-AA87

Federal Transit Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2688	Buy America	2132-AA42
2689	+Department of Transportation (FTA, FRA, FHWA) Environmental Impact and Related Procedures	2132-AA43
2690	Transportation for the Elderly and Persons With Disabilities	2132-AA46

+ DOT-designated significant regulation.

Federal Transit Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2691	+Bus Testing	2132-AA30
2692	+State Responsibility for Fixed-Guideway System Safety	2132-AA39
2693	+Management and Monitoring Systems	2132-AA47
2694	+Temporary Local Match Waiver for Sections 9 and 18	2132-AA49

+ DOT-designated significant regulation.

DOT

Federal Transit Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2695	+New Starts Criteria	2132-AA50

+ DOT-designated significant regulation.

Federal Transit Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2696	Prevention of Prohibited Drug Use in Transit Operations	2132-AA52
2697	Prevention of Alcohol Misuse in Transit Operations	2132-AA53

Research and Special Programs Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2698	Consolidation of Specifications for High-Pressure Seamless Cylinders and Rewrite of 49 CFR 173.34	2137-AA92
2699	DOT 3AL Aluminum Cylinders; Safety Problems	2137-AB51
2700	+Response Plans for Onshore Oil Pipelines	2137-AC30
2701	Underwater Abandoned Pipeline Facilities	2137-AC33
2702	Areas Unusually Sensitive To Environmental Damage	2137-AC34
2703	+Increased Inspection Requirements	2137-AC38
2704	+Emergency Flow-Restricting Devices **(Reg Plan Seq. No. 94)**	2137-AC39
2705	Periodic Amendments Regarding Hazardous Materials	2137-AC41
2706	Labeling Requirements for Poisonous Materials	2137-AC47
2707	Excess Flow Valve Customer Notification	2137-AC55
2708	Revision of Cylinder Qualification Requirements	2137-AC59
2709	Revision of Exemption, Approval, Registration, and Reporting Procedures	2137-AC63
2710	Retention of Shipping Papers	2137-AC64
2711	Pipeline Safety User Fees	2137-AC65
2712	Transportation of Hazardous Materials by Railroad; Miscellaneous Amendments	2137-AC66
2713	Applicability of the Hazardous Materials Regulations	2137-AC68
2714	Elimination of Unnecessary, Obsolete, and Duplicative Requirements	2137-AC69
2715	Ticketing Program for Hazardous Materials Violations	2137-AC70

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

Research and Special Programs Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2716	+Hazardous Materials in Intrastate Commerce **(Reg Plan Seq. No. 95)**	2137-AB37
2717	+Qualification of Pipeline Personnel	2137-AB38
2718	+Maps and Records of Pipeline Location and Characteristics; Notification of State Agencies; Pipe Inventory	2137-AB48
2719	Determining the Extent of Corrosion on Exposed Gas Pipelines	2137-AB50
2720	Transportation of Hydrogen Sulfide by Pipeline	2137-AB63
2721	Passage of Internal Inspection Devices	2137-AB71
2722	+Improvements to Hazardous Materials Identification Systems	2137-AB75
2723	+Excess Flow Valve—Performance Standards	2137-AB97
2724	Tank Cars and Cargo Tank Motor Vehicles: Attendance Requirements	2137-AC24
2725	Regulatory Review: Administrative Practices, Reporting Pipeline Incidents, Gas Pipeline Standards, and Liquefied Natural Gas Facility Standards	2137-AC28
2726	+Oil Spill Prevention and Response Plans	2137-AC31
2727	Mandatory Participation in Qualified One-Call Systems by Pipeline Operators	2137-AC57
2728	Control of Drug Use in Liquefied Natural Gas and Hazardous Liquid Pipeline Operations	2137-AC67

DOT

Research and Special Programs Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2729	Periodic Hazmat Regulations: Editorial Corrections	2137-AC72

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

Research and Special Programs Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2730	Quantity Limitations Aboard Aircraft	2137-AA85
2731	+Gas Gathering Line Definition	2137-AB15
2732	+Safeguarding Food From Contamination During Transportation	2137-AC00
2733	Design and Construction of Welded Breakout Tanks	2137-AC11
2734	+Regulatory Review: Gas Pipeline Safety Standards	2137-AC25
2735	Safety Permits—Shipper's Responsibility	2137-AC45
2736	Hazardous Liquid Gathering Line Definition	2137-AC52
2737	Regulated Gas and Hazardous Liquid Gathering Lines: Rural Areas	2137-AC53
2738	Permanent Underwater Inspections	2137-AC54
2739	Periodic Updates to Pipeline Safety Regulations	2137-AC74

+ DOT-designated significant regulation.

Research and Special Programs Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2740	Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Detection Flaws, and Other Defects of Tank Car Tanks	2137-AB40
2741	Transportation Regulations; Compatibility with the International Atomic Energy Agency	2137-AB60
2742	+Crashworthiness Protection Requirements for Tank Cars	2137-AB89
2743	Customer-Owned Service Lines	2137-AC32
2744	+Infectious Substances	2137-AC36
2745	+Hazardous Materials Registration and Fee Assessment Program	2137-AC58
2746	Alternate Standards for Open-Head Fiber Drum Packaging	2137-AC62
2747	Hazardous Substances	2137-AC71

+ DOT-designated significant regulation.

Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2748	+Cargo Preference—U.S.-Flag Vessels: Uniform Contracting Requirements for Federal Program Participants	2133-AA95
2749	+Fair and Reasonable Rates: Bulk and Packaged Preference Cargoes	2133-AB19

+ DOT-designated significant regulation.

Maritime Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2750	+Obligation Guarantees: Program Administration	2133-AB14
2751	+Guideline Rates: Less-Than-Shipload Lots of Bulk Preference Cargoes on Liner Vessels	2133-AB16

+ DOT-designated significant regulation.

DOT

Maritime Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2752	+Cargo Preference—U.S.-Flag Vessels: Monitoring Shipments of Military Household Goods and Personal Effects	2133-AB12
2753	Federal Port Controllers	2133-AB15
2754	+Cargo Preference—U.S.-Flag Vessels: Available U.S.-Flag Commercial Vessels	2133-AB17
2755	Disposal and Utilization of Surplus Federal Real Property for Development or Operation of Port Facilities	2133-AB18
2756	Removal of Obsolete Regulations	2133-AB20
2757	Seamen's Service Awards	2133-AB21
2758	Admission and Training of Midshipmen at the US Merchant Marine Academy	2133-AB22

+ DOT-designated significant regulation.

Bureau of Transportation Statistics—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2759	Modernizing the Passenger Origin-Destination Survey	2139-AA01

Bureau of Transportation Statistics—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2760	Amendments to the On-Time Disclosure Rule	2139-AA00

Bureau of Transportation Statistics—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2761	Review of Confidentiality Requirements for Schedule T-100 Domestic Market Data	2139-AA02

DEPARTMENT OF TRANSPORTATION (DOT)

Office of the Secretary (OST)

Proposed Rule Stage

2209. +COMMERCIAL SPACE TRANSPORTATION: FINANCIAL RESPONSIBILITY REQUIREMENTS FOR LICENSED LAUNCH ACTIVITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 70101 to 70119

CFR Citation: None

Legal Deadline: None

Abstract: Persons authorized to conduct commercial launch activities by a license issued by the Office of Commercial Space Transportation (OCST) are required to obtain insurance or demonstrate financial responsibility, in amounts and on terms prescribed by OCST, to protect against third-party or government property damage claims resulting from the licensed activities. Licensees and other launch participants are also required to enter into reciprocal waivers of claims arising out of licensed activities. In addition, persons engaged in commercial launch operations must provide proof of financial responsibility, or offer other assurances, adequate to protect the Government when its property or personnel are involved in such operations. This rulemaking codifies the procedures by which OCST sets appropriate levels and terms of insurance and financial responsibility required to be carried by persons subject to its authority. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/85	50 FR 19280
ANPRM Comment Period End	07/08/85	
Public Meeting Notice and Request for Comments	10/13/94	59 FR 52020
Comment Period Extended to 12/16/94	12/05/94	59 FR 62359
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

DOT—OST

Proposed Rule Stage

Analysis: Regulatory Evaluation

Additional Information: The rulemaking entitled Commercial Space Transportation: Reciprocal Waiver of Claims, RIN 2105-AB76, has been consolidated into this rulemaking.

Agency Contact: Esta Rosenberg, Attorney Advisor, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9305

RIN: 2105–AA26

2210. +PROPOSED POLICY ON PEAK PERIOD PRICING OF AIRPORT LANDING FEES

Priority: Other Significant

Legal Authority: 49 USC 1301 et seq

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The Department proposes to establish a set of guidelines to encourage the voluntary development of peak and off-peak pricing systems for airport landing fees at congested U.S. airports. The guidelines would encourage the application of economic incentive to promote more efficient use of existing airport facilities, which would reduce congestion and delays. This policy statement is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation

Agency Contact: Larry Phillips, Chief, Industry Economics and Finance Div., Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4382

RIN: 2105–AB63

2211. +PASSENGER MANIFEST INFORMATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 44909

CFR Citation: 14 CFR 243

Legal Deadline: Final, Statutory, March 16, 1991.

Abstract: In 1990, Congress mandated by statute that the Secretary of Transportation require all U.S. airlines to comply with a Passenger Manifest Collection Regulation for international flights. Comments were requested on the most cost-effective methods. Since that time, and as part of the President's Reinvention Initiative, DOT is recommending legislation to repeal this requirement because of the high costs and small benefits that would result. This rulemaking is considered significant because of substantial public interest and the congressional mandate.

Timetable:

Action	Date	FR Cite
ANPRM	01/31/91	56 FR 3810
ANPRM Correction	02/12/91	56 FR 5665
ANPRM Comment Period End	02/19/91	
NPRM	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This entry was formerly titled Aviation Security: Passenger Manifest Information.

Agency Contact: Arnold Levine, Director, Office of International Transportation and Trade, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4368

RIN: 2105–AB78

2212. +LICENSING COMMERCIAL SPACE LAUNCH ACTIVITIES

Regulatory Plan: This entry is Seq. No. 85 in Part II of this issue of the **Federal Register**.

RIN: 2105–AB85

2213. USE OF DIRECT FINAL RULEMAKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1657

CFR Citation: 49 CFR 5.21; 49 CFR 5.35

Legal Deadline: None

Abstract: The Department is considering a new rulemaking procedure to expedite the processing of noncontroversial changes to its regulations. Rules that the Secretary judges to be unlikely to result in public comment would be published as "direct final" rules. Such direct final rules would advise the public that no adverse comment is anticipated and that, unless written adverse comment or notice of intent to submit such comment is received within a specified number of days, the rule will become effective 60 days from the date of publication in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 39919
NPRM Comment Period End	10/03/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Neil Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC11

2214. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 701 et seq; 49 USC 322(a)

CFR Citation: 49 CFR 29

Legal Deadline: None

Abstract: This rule allows for submission of annual certifications by grantees. The current rule requires individual project-by-project certifications. This action would implement a National Performance

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DOT—OST

Proposed Rule Stage

Review recommendation, reduce administrative requirements and promote the automation of the grant application and award process. This action would also provide for consistency with Federal Acquisition Regulation (48 CFR 14.213) which allows annual certifications.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Paul Larson, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9161

RIN: 2105–AC24

2215. • AIR CARRIER ACCESS ACT: MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 374(a); 49 USC 374(c)

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: This action proposes additional accommodations for disabled air carrier passengers with respect to seat assignments and storage of portable electric wheelchairs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC28

2216. • USE OF OXYGEN BY AIR CARRIER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1324(a); 49 USC 1324(c)

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: The Department is considering the use of regulatory negotiation to seek consensus among air carrier, consumer, airports, equipment manufacturers, oxygen suppliers, and safety regulators concerning the use of oxygen by passengers on air carriers. The need for action stems from a current situation where all carriers do not allow passengers to bring their own oxygen aboard. Issues involve conforming with FAA hazardous materials rules and the question of providing oxygen during long layovers.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Robert Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC29

2217. • DATA COLLECTION AND PROHIBITION AGAINST MARKETING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 41 USC 418(b)

CFR Citation: 48 CFR 1213; 48 CFR 1237; 48 CFR 1252; 48 CFR 3.1

Legal Deadline: None

Abstract: This action would amend transportation acquisition regulation to require contractors who provide training services to the Department to sign a certification that the background data submitted with their contract proposal is accurate, complete, and current at the time of submission. In addition, contractors providing training services under contract to DOT would be prohibited from soliciting, advertising, or otherwise marketing other training they offer during the conduct of the contracted-for training services.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Barbara Weakley, Procurement Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4967
Fax: 202 366-7510

RIN: 2105–AC30

2218. • COAST GUARD BOARD FOR CORRECTION OF MILITARY RECORDS: PROCEDURAL REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 1552

CFR Citation: 32 CFR 52

Legal Deadline: None

Abstract: This action is being taken on the Department's initiative in order to streamline processing of these cases and to clarify the circumstances under which final decisions can be reconsidered. This rule would make it possible for the Board to expedite reconsideration and increase the resources available to meet the requirement that all cases be decided within ten months of the receipt of a completed application.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Joost, Chairman, Board of Correction of Military Records, (C-60), Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9335

RIN: 2105–AC31

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Final Rule Stage

2219. DIRECT AIR CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Legal Deadline: None

Abstract: This action proposed to make direct air carriers responsible for returning charter passengers stranded by strikes or other service interruptions, by eliminating the force majeure clause from charter contracts. However, the CAB subsequently issued an interpretive rule (ER-1387, 49 FR 33436) which was affirmed in court. (Arrow Air, Inc. v. Dole, 784 F2d 1118 (1986).) Therefore, this action is now moot; the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	
Reply Comment Period End	10/10/80	
To Be Withdrawn	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: EDR 405, Docket 37169.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA40

2220. AIR TRAVELERS: AGE DISCRIMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 376

Legal Deadline: None

Abstract: This rulemaking action was initiated by the Civil Aeronautics Board to implement the Age Discrimination Act of 1975. A draft final rule was submitted to HHS, as required by that Act, and was approved. However, in view of current airline practices with respect to travel by the elderly, and the absence of complaints of discrimination based on age, there no longer appears to be a need for further rulemaking action, and the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	09/26/79	44 FR 55383
Final Action Adopted by the Board	04/10/80	
HHS Approved Final Rule With Changes	07/13/84	
To Be Withdrawn	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SPDR-74, Docket 36639.

Agency Contact: Robert Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA45

2221. DIRECT FLIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Donald L. Pevsner petitioned the CAB to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive, and to declare use of the term to be a prima facie violation of section 411 of the Federal Aviation Act of 1958. The Department is now considering what action to take in response to the petition.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The petition is filed in Docket 41217.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA73

2222. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 253; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed to amend its rules requiring notice of contract terms for domestic travel to require that actual notice be given passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board proposed to declare it to be an unfair and deceptive practice to divert a passenger without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket. The Board considered a final rule but did not decide what action to take. DOT is terminating this proceeding as unnecessary since it appears that carriers no longer have the policies that promoted the CAB's concern.

Timetable:

Action	Date	FR Cite
NPRM	09/23/83	48 FR 43343
NPRM Comment Period End	11/07/83	
To Be Withdrawn	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: ADDITIONAL LEGAL AUTHORITIES: PL 96-354; 5 USC 601. Docket 41683, EDR 468/PSDR-81.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA78

DOT—OST

Final Rule Stage

2223. SIMPLIFIED AVIATION EXEMPTION PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 302; 14 CFR 389; 14 CFR 399

Legal Deadline: None

Abstract: A Civil Aeronautics Board rulemaking proposed to revise and simplify the requirements and procedures for applying for exemptions under section 416(b) of the Federal Aviation Act. This action has become unnecessary since the Department included most of its provisions in its rule transferring the CAB's rules to DOT. Therefore, the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39337
NPRM Comment Period End	12/04/84	
To Be Withdrawn	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PDR-88/ODR-27/PSDR-83.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA82

2224. SIMPLIFIED AIRLINE COUNTER-SIGN NOTICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 256

Legal Deadline: None

Abstract: The American Association of Airport Executives, the Airport Operators Council International, and the Air Transport Association of America petitioned the CAB to simplify its counter-sign requirements. Presently, airlines are required to display four different consumer protection notices on their ticket counters. The petitioners alleged that the current notices are hard to read and, therefore, do not provide much notice to passengers. They proposed replacing the four notices with one simplified counter sign. A CAB NPRM proposed a number of alternatives, such as a long and/or short notice, where the notices would be required to be posted, and whether a smoking notice should be included. DOT decided not to act on these "counter signs" separately, but rather to consider whether there should be a comprehensive re-examination of all forms of notice to passengers, including notices on tickets.

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30742
NPRM Comment Period End	09/17/84	
Reply Comment Period End	10/02/84	
To Be Withdrawn	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation

Additional Information: Docket 41971; EDR-474

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA88

2225. +UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Priority: Other Significant

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 18

Legal Deadline: None

Abstract: The current rule is being revised to address comments on the NPRM of 11/04/88 and Federal agency concerns on the current rule, and to update deviations from the common rule. OMB has decided not to merge into the existing rule those requirements that apply to universities, hospitals, and other nonprofit organizations; that rulemaking has been assigned the separate RIN 2105-AC02. OMB is considering the need for a common rule. This action is considered significant because it involves agencies and departments Governmentwide.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM Comment Period End	01/03/89	
To Be Withdrawn	10/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation 11/04/88 (53 FR 44716)

Additional Information: This RIN was completed in error in the 5/8/95 Agenda. In a related, nonsignificant action, (RIN 2105-AC12) the Department raised the threshold for local governments to use small-purchase procedures and to increase procurement review levels.

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-62, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AB46

2226. +NEW RESTRICTIONS ON LOBBYING

Priority: Other Significant

Legal Authority: 49 USC 322(a); 31 USC 1352

CFR Citation: 49 CFR 20

Legal Deadline: Final, Statutory, March 22, 1990.

Abstract: This regulation will implement the provisions of a new section 1352 to title 31, United States Code, that prohibits the use of appropriated funds to influence certain Federal contracting and financial transactions. Organizations that use their own funds to pay for lobbying activities are required to disclose such activity. The rule will be issued as a common rule based on guidance issued by the Office of Management and Budget on December 20, 1989 (54 FR 52305). Final action is awaiting OMB resolution of comments received on the interim final rule and possible changes to legislation restricting lobbying activities.

This action is considered significant because it involves agencies or departments governmentwide.

DOT—OST

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Comment Period End	04/27/90	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: OMB has control of development of the final rule.

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-62, Department of Transportation, Office of the Secretary, Office of Acquisition and Grant Management, Room 9401, Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AB57

2227. SMOKING ABOARD AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1386; PL 101-164

CFR Citation: 14 CFR 252

Legal Deadline: None

Although there is no judicial or statutory deadline for the Department's implementation, the statutory ban was effective 02/25/90.

Abstract: This interim final rule amends the rules governing smoking aboard aircraft to incorporate a statutory ban on smoking aboard most U.S. flight segments. The statutory ban applies to both U.S. and foreign air carriers. This rulemaking proposed to clarify the current rule and make other minor changes. The interim final rule was significant because of substantial public interest. The present action would merely finalize that already taken and is, therefore, not considered significant.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/13/90	55 FR 4991
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/13/90 (55 FR 4991)

Additional Information: The interim final rule was effective 02/25/90; the comments were due by 04/16/90.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB58

2228. +NONDISCRIMINATION ON THE BASIS OF HANDICAP IN AIR TRAVEL (AIR CARRIER ACCESS ACT)

Priority: Other Significant

Legal Authority: 49 USC 1374(a); 49 USC 1374(c)

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: An SNPRM proposed three additions to part 382 to implement the Air Carrier Access Act of 1986. The additions concern standards for boarding chairs; airport terminal transportation systems; and substitute service for persons denied the opportunity to fly because of inaccessible small aircraft. In view of other rulemaking concerning airport and small aircraft accessibility, the Department has determined that further action on these proposals is unnecessary.

Timetable:

Action	Date	FR Cite
SNPRM: Final Rule Amendments: Comment Period End 06/04/90	03/06/90	55 FR 8076
Comment Period Extended to 07/20/90	06/08/90	55 FR 23450
To Be Withdrawn	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/90 (55 FR 8076)

Additional Information: The telephone number for TDD is (202) 755-7687; a taped copy of the SNPRM is available on request.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB61

2229. +NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS AND IN AIR TRAVEL (AIR CARRIER ACCESS ACT)

Priority: Other Significant

Legal Authority: 29 USC 794

CFR Citation: 49 CFR 27; 14 CFR 382

Legal Deadline: None

Abstract: The pending final action addresses three issues: harmonizing section 504, Air Carrier Access Act (ACAA) and the American's With Disabilities Act (ADA) requirement for airport accessibility (action on this issue commenced under RIN 2105-AB62); boarding assistance on small commuter aircraft (action commenced under RIN 2105-AB60); and communicable diseases (action commenced under RIN 2105-AB60/AB62). The Department is commencing proposed action on other ACAA-related subjects under RINs 2105-AC28 and AC29.

Timetable:

Action	Date	FR Cite
NPRM	03/06/90	55 FR 8081
NPRM Comment Period End	06/04/90	
Second NPRM	09/10/93	58 FR 47681
NPRM Comment Period Extended to 01/07/94	11/30/93	58 FR 63154
Second NPRM Comment Period End	12/09/93	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/90 (55 FR 8081)

Additional Information: The telephone number for TDD is (202) 755-7687; a taped copy of the NPRM is available on request. The issue of lifts for small commuter aircraft was removed from RIN 2105-AB60 and consolidated into this proceeding.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB62

2230. AVIATION CHARTER RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 85-726, as amended

CFR Citation: 14 CFR 207 to 208; 14 CFR 212; 14 CFR 294; 14 CFR 298; 14 CFR 380; 14 CFR 389

Legal Deadline: None

Abstract: This rule governs the activities of public charter operators, a type of indirect air carrier that sells charter air transportation to consumers, and airlines that perform the direct air transportation. DOT is revising and updating the rules to recognize: (1) current usage of credit cards for payment to charter operators, and (2) certain changes in procedural practices.

Timetable:

Action	Date	FR Cite
NPRM	09/16/92	57 FR 42864
NPRM Comment Period End	10/16/92	
Comment Period Extended to 11/16/92	10/22/92	57 FR 48193
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/16/92 (57 FR 42864)

Agency Contact: C. W. McGuire, Chief, Regulatory Affairs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1037

RIN: 2105–AB91

2231. +DISADVANTAGED BUSINESS ENTERPRISE (DBE) REGULATION; GENERAL UPDATE

Priority: Other Significant

Legal Authority: Intermodal Surface Transportation Efficiency Act (ISTEA); PL 102-240; 49 USC 47017(e); 49 USC 47113

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: This proposed rule would revise the Department's regulations for the disadvantaged business enterprise program to clarify regulatory provisions and revise program elements in light of experience in administering the program since 1980 and the Administration's review of affirmative action programs. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/09/92	57 FR 58288
NPRM Comment Period Extended	03/03/93	58 FR 12207
NPRM Comment Period End	03/09/93	
NPRM Comment Period End	04/08/93	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation 12/09/92 (57 FR 58288)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB92

2232. +PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN AIRPORT CONCESSIONS

Priority: Other Significant

Legal Authority: PL 102-581; PL 97-248

CFR Citation: 49 CFR 23

Legal Deadline: Final, Statutory, April 30, 1993.

Abstract: This action would implement recent changes to the Airport and Airway Improvement Act to allow airport sponsors to count new forms of disadvantaged business enterprise (DBE) participation toward the overall goals of a DBE concession plan. These new forms include purchases from DBEs of goods and services used in operating a concession, as well as management contracts and subcontracts with DBEs. This action is significant because of substantial public interest. Final action may be combined with RIN 2105-AB92, DBE Regulation: General Update.

Timetable:

Action	Date	FR Cite
NPRM	10/06/93	58 FR 52050
NPRM Comment Period End	11/22/93	
NPRM Comment Period Extended to 12/14/93	11/30/93	58 FR 63153
Final Action	12/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Analysis: Regulatory Evaluation 10/06/93 (58 FR 52050)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB99

2233. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 19

Legal Deadline: None

Abstract: This action will implement OMB Circular A-110, providing uniform guidance for administering grants to institutions of higher education, hospitals, and other nonprofit organizations. The regulation is essentially a word-for-word issuance of the requirements in OMB Circular A-110. An interim final rule was issued because of the limited ability to change the requirements from those in the Circular.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/04/94	59 FR 15637
Comment Period End	06/03/94	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-62, Department of Transportation,

Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AC02

2234. +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES (ACCESSIBILITY GUIDELINES)

Priority: Other Significant

Legal Authority: 5 USC 552a

CFR Citation: 49 CFR 27; 49 CFR 37

Legal Deadline: None

Abstract: This action would amend the rules implementing the Americans with Disabilities Act by adopting the revised accessibility guidelines issued by the Architectural and Transportation Barriers Compliance Board, published June 20, 1994 (59 FR 31676) as interim final rules. The proposed rule herein would also conform the Department's rule implementing section 504 of the Rehabilitation Act of 1973. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31818
NPRM Comment Period End	08/19/94	
Final Action	05/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC.
Phone: 202 366-9306

RIN: 2105–AC06

2235. DOMESTIC BAGGAGE LIABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 app USC 1324; 49 app USC 1373 to 1374; 49 app USC 1381

CFR Citation: 14 CFR 254.4; 14 CFR 254.5

Legal Deadline: None

Abstract: The Department is proposing to amend its rule governing the amount by which certain U.S. air carriers may limit their liability to passengers for lost, damaged, and delayed baggage. This action is in response to a petition by Public Citizen and Aviation Consumer Action Project to increase the minimum liability limit from $1,250 to $1,850 per passenger. The Department is also requesting comment on two alternate proposals: (1) to raise the limit to $1,850 with a mechanism that automatically provides for periodic future increases, or (2) to raise the minimum liability limit to $2,000.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 49867
NPRM Comment Period End	11/29/94	
Comment Period Extended	11/29/94	59 FR 60926
Notice Summarizing Aggregated Data	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Carrier data was due 11/29/94. The comment period would end 30 days after the data has been aggregated and placed in the docket.

Agency Contact: Joanne Petrie, Senior Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC07

2236. EXEMPTION FROM PROPERTY TARIFF-FILING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 40101; 49 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 40114; 49 USC 41504; 49 USC 41701; 49 USC 41707 to 41709; 49 USC 41712; 49 USC 46101

CFR Citation: 14 CFR 221; 49 CFR 1.56(j)(2)(ii)

Legal Deadline: None

Abstract: This rulemaking grants an exemption to United States and foreign air carriers from the requirement in 14 CFR Part 221 that they file with the Department tariffs applicable to the foreign air transportation of property. This information is no longer necessary to fulfill departmental policy objectives and, because of the common practice of using freight forwarders, does not necessarily reflect actual prices paid by the public.

Timetable:

Action	Date	FR Cite
NPRM	10/24/94	59 FR 53377
NPRM Comment Period End	12/23/94	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Responsibility for this rule was transferred to OST from RSPA on 6/30/94. The NPRM of 10/24/94 inadvertently indicated the RSPA RIN 2137-AC48.

Agency Contact: John H. Kiser, Chief, Pricing and Multilateral Affairs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20509-0001
Phone: 202 366-2435

RIN: 2105–AC09

2237. DISCLOSURE OF CODE-SHARING ARRANGEMENTS AND LONG-TERM WET LEASES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40113; 49 USC 41712

CFR Citation: 14 CFR 257

Legal Deadline: None

Abstract: The Department is considering strengthening its current rules requiring airlines to notify passengers of a code-sharing arrangement. This action is being undertaken to ensure that consumers have pertinent information about airline code-sharing arrangements on domestic and international flights. Additionally, a petition filed in Docket 48710 by Donald Pevsner, requesting a complete ban on code-sharing, was denied.

Timetable:

Action	Date	FR Cite
NPRM	08/10/94	59 FR 40836
NPRM Comment Period End	10/11/94	

DOT—OST

Final Rule Stage

Action	Date	FR Cite
SNPRM Comment Period End 2/16/95	01/17/95	60 FR 3359
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Laura Trejeo, Attorney Advisor, Department of Transportation, Office of the Secretary, 400 Seventh Stteet SW., Washington, DC 20590
Phone: 202 366-9183

RIN: 2105–AC10

2238. +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES (MISC. AMENDMENTS)

Priority: Other Significant

Legal Authority: 42 USC 12101 to 12213; 49 USC 322

CFR Citation: 49 CFR 37; 49 CFR 38

Legal Deadline: None

Abstract: The Department is seeking comment in response to petitions for rulemaking to amend the Americans with Disabilities Act regulations, to create an exception to the provisions requiring transit providers to allow persons with disabilities to use every stop in the system, change the requirements affecting certain private schools that provide fixed route transportation, change the DOT technical standards concerning gaps for higher-speed people-mover vehicles, and eliminate the provision requiring paratransit systems to allow reservations 14 days in advance. Certain minor or technical clarifications will also be made. This action is significant since it involves issues of potential controversy.

Timetable:

Action	Date	FR Cite
NPRM	07/21/94	59 FR 37208
NPRM Comment Period End	10/19/94	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC13

2239. DISINSECTION OF AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40113; 49 USC 41712

CFR Citation: 14 CFR 259

Legal Deadline: None

Abstract: The Department is considering a rule that would require airlines and ticket agents (including travel agents) to notify prospective passengers if the country to which they are traveling requires the passenger cabin to be sprayed with insecticide. Currently, about 20 countries require such spraying. This rulemaking is being undertaken by departmental initiative.

Timetable:

Action	Date	FR Cite
NPRM	01/18/95	60 FR 3596
NPRM Comment Period End	03/20/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Arnold Konheim, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4849

RIN: 2105–AC14

2240. DISCLOSURE OF CHANGE-OF-GAUGE SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41712

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: To ensure that consumers are given pertinent information on the nature of change-of-gauge services, the Department is proposing to codify and augment its current disclosure requirements for itineraries with one flight number that involve a change of aircraft. The Department requested comments on the following three proposed requirements, which would apply to U.S. air carriers, foreign air carriers, and, where appropriate, ticket agents (including travel agents) doing business in the United States: (1) that transporting carriers include notice of aircraft changes in their written or electronic schedule information provided to the public, in the Official Airline Guide, and in computer reservation systems; (2) that consumers be given reasonable and timely notice before they book transportation that a particular service with a single flight number entails a change of aircraft en route, and (3) that written notice of the aircraft change be provided on or with each ticket for such service. This proposal, in part, responds to the petition of American Airlines in Docket 47546 to ban the practice of "funnel flights." The Department intends also to address the complaints of TACA International Airlines, Aviateca, and Nicaraguense de Aviacion (NICA) in Dockets 49511, 49512, and 49513, respectively, against Continental Airlines for operating funnel flights.

Timetable:

Action	Date	FR Cite
NPRM	01/19/95	60 FR 3778
NPRM Comment Period End	03/20/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Betsy L. Wolf, Senior Trial Attorney, Office of Aviation Enforcement & Proceedings, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9356

RIN: 2105–AC17

2241. +GREAT LAKES PILOTAGE RATE METHODOLOGY

Priority: Other Significant

Legal Authority: 46 USC 2103; 46 USC 6101; 46 USC 7701; 46 USC 9303; 46 USC 9304; 46 USC 3507

CFR Citation: 46 CFR 401; 46 CFR 403; 46 CFR 404

Legal Deadline: None

Abstract: The Department is amending the regulations concerning Great Lakes pilotage by revising the procedures for determining Great Lakes pilotage rates and revising the financial reporting requirements mandated for Great Lakes pilot associations. The purpose of these changes is to improve the ratemaking process. The final rule with request for comments was issued in April, 1995. A final rulemaking document responding to the comments received will be issued shortly. The Department considers this action to be significant because the setting of pilotage rates is controversial and of significant interest to the public and Congress.

Timetable:

Action	Date	FR Cite
NPRM	04/12/94	59 FR 17303
Notice of Meetings	04/20/94	59 FR 18744
NPRM Comment Period End	07/11/94	
Final Rule: Request for Comments	04/11/95	60 FR 18366
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/12/94 (59 FR 17303)

Additional Information: This had been Coast Guard RIN 2115-AE45. In the last Agenda, this item was entered as a completed action in error.

Agency Contact: Scott A. Poyer, Project Manager, National Maritime Center, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 703 235-1605

RIN: 2105–AC21

2242. • PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING: SHY BLADDER AND OTHER CLARIFICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 322; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101 to 45106

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: This rule would revise DOT drug testing procedures in so-called "shy bladder" situations. It would also remove an obsolete provision that can potentially cause confusion concerning the proper relationship of laboratories and medical review officers, add language concerning unresolved laboratory positive test results, and provide guidance concerning the role of consortia and third party administrators in the DOT drug and alcohol testing programs.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 38200
NPRM Comment Period End	09/25/95	
Final Action	12/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: The Department published a Notice: Guidance on the Role of Consortia and Third-Party Administrators in DOT Drug and Alcohol Testing Programs 7/25/95 (60 FR 38204).

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC22

2243. • ELECTRONIC FILING OF INTERNATIONAL AIR PASSENGER SERVICE RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 40101; 49 USC 40109; 49 USC 40113; 49 USC 40101 to 41112; 49 USC 40301 to 41310; 49 USC 41501 to 41511; 49 USC 41701 to 41713; 49 USC 46101 to 46102

CFR Citation: 14 CFR 221; 49 CFR 1.56(j)(2)(ii)

Legal Deadline: None

Abstract: This rule permits official filing of international air carrier rules tariffs in an electronic format. Currently they are filed in paper form. Nearly all official filings are filed for effect on less than bilateral/statutory notice, with an accompanying Special Tariff Permission Application. The carriers are thus filing each rule provision on paper twice. This rule allows a single electronic filing to replace two paper filings. About 43,000 rule pages are changed each year in 9,000 submissions.

Timetable:

Action	Date	FR Cite
NPRM	05/19/95	60 FR 26848
NPRM Comment Period End	06/19/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Responsibility for this rule was transferred to the Office of the Secretary from RSPA.

Agency Contact: John H. Kiser, Chief, Pricing and Multilaterial Affairs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20509-0001
Phone: 202 366-2435

RIN: 2105–AC23

2244. • NONPROCUREMENT DEBARMENT AND SUSPENSION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; EO 12549; EO 12689; 31 USC 6101

CFR Citation: 49 CFR 29

Legal Deadline: None

Abstract: This revision to the nonprocurement common rule is issued in response to Executive Order 12689 and section 2455 of the Federal Acquisition Streamlining Act of 1994. The Executive Order requires agencies to establish regulations for reciprocal governmentwide effect across procurement and nonprocurement debarment and suspension actions, after technical differences between the procurement and nonprocurement regulations are resolved. This regulation establishes that reciprocity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/26/95	60 FR 33036
Comment Period End	07/26/95	
Final Action	10/00/95	

DOT—OST

Final Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Paul B. Larsen, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9161

RIN: 2105–AC25

2245. • REVISED FILING PROCEDURES FOR OST DOCKET

Priority: Other

Legal Authority: 5 USC 551 et seq; 49 USC 40101 et seq

CFR Citation: 14 CFR 302

Legal Deadline: None

Abstract: The Office of the Secretary is revising its document filing requirements to conform to its new electronic docket system. Documents will be scanned into images and stored on unalterable disks. The changes will facilitate one physical scanning process and ensure that the highest quality image is captured. The rule will also reduce the required number of paper copies and provide for submission of a disk copy in one of several specified formats.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: See explanation of the centralization and computerization of DOT dockets, March 15, 1995 (60 FR 14050).

Agency Contact: Paulette Twine, Chief, Documentary Services Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9329

RIN: 2105–AC26

2246. • ADMINISTRATIVE AND EDITORIAL CORRECTIONS TO ACQUISITION REGULATIONS

Priority: Other

Legal Authority: 5 USC 301; 41 USC 418(b)

CFR Citation: 48 CFR 1201.403; 48 CFR 1201.404; 48 CFR 1215.413; 48 CFR 1252; 48 CFR 3.1; 48 CFR 1253

Legal Deadline: None

Abstract: The Transportation Acquisition Regulation is to be modified to incorporate minor editorial and administrative changes including changing the TAR matrix (clauses) to adhere to Federal Acquisition Regulation guidance for incorporating clauses and provisions in contracts and solicitations by reference to the maximum practical extent.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Elaine Wheeler, Procurement Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW. Room 9401, Washington, DC 20590
Phone: 202 366-4272
Fax: 202 366-7510

RIN: 2105–AC32

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Long-Term Actions

2247. NONDISCRIMINATION ON THE BASIS OF AGE IN DOT FINANCIAL ASSISTANCE PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 29 CFR 1691

Timetable:

Action	Date	FR Cite
NPRM	10/22/79	44 FR 60946
NPRM Comment Period End	01/21/80	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marc Brenman
Phone: 202 366-1119

RIN: 2105–AA09

2248. POLICY STATEMENT ON AIRLINE PREEMPTION

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 399

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/79	44 FR 9948
Request for Comments on Interim Rule (PSDR-56, Docket 34684)	02/15/79	44 FR 9953

Comment Period End 04/16/79
Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Paul Smith
Phone: 202 366-9285

RIN: 2105–AA46

2249. BAGGAGE LIABILITY NOTICES IN INTERNATIONAL AIR TRANSPORTATION

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 221

Timetable:

Action	Date	FR Cite
NPRM	12/18/84	49 FR 49111
NPRM Comment Period End	03/19/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joanne Petrie
Phone: 202 366-9306

RIN: 2105–AA84

DOT—OST

Long-Term Actions

2250. PRICE ADVERTISING

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 380.30(e); 14 CFR 399.84

Timetable:

Action	Date	FR Cite
Petition for Rulemaking (Dkt 43147)	05/22/85	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joanne Petrie
Phone: 202 366-9306

RIN: 2105–AB25

2251. +STATEMENT OF ENFORCEMENT POLICY ON REBATING

Priority: Other Significant

CFR Citation: 14 CFR 399.80; 14 CFR 399.85

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41353
NPRM Comment Period End	12/20/88	
Extension of Comment Period to 02/21/89	02/03/89	54 FR 5497
Correction to Comment Period Document	02/10/89	54 FR 6475

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betsy Wolf
Phone: 202 366-9356

RIN: 2105–AB39

2252. +PRICE ADVERTISING

Priority: Other Significant

CFR Citation: 14 CFR 380; 14 CFR 399

Timetable:

Action	Date	FR Cite
NPRM	07/26/89	54 FR 31052
Comment Period Extended to 9/25/89	08/23/89	54 FR 35005
NPRM Comment Period End	08/25/89	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Farbman
Phone: 202 366-9307

RIN: 2105–AB50

2253. +PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG-TESTING PROGRAMS (MISCELLANEOUS AMENDMENTS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 49 CFR 40

Timetable:

Action	Date	FR Cite
NPRM	07/13/90	55 FR 28782
NPRM Comment Period End	08/13/90	
SNPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert C. Ashby
Phone: 202 366-9306

RIN: 2105–AB71

2254. IMPLEMENTATION OF AMENDMENTS TO THE EQUAL ACCESS TO JUSTICE ACT

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 6; 48 CFR 6301; 14 CFR 14

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joanne Petrie
Phone: 202 366-9306

RIN: 2105–AB73

2255. +ACCESSIBILITY OF PASSENGER VESSELS TO INDIVIDUALS WITH DISABILITIES

Priority: Other Significant

CFR Citation: 49 CFR 37

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert C. Ashby
Phone: 202 366-9306

RIN: 2105–AB87

2256. +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES (OVER THE ROAD BUSES)

Priority: Other Significant

CFR Citation: 49 CFR 27

Timetable:

Action	Date	FR Cite
ANPRM	10/12/93	58 FR 52735
ANPRM Comment Period End	11/26/93	
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert C. Ashby
Phone: 202 366-9306

RIN: 2105–AC00

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Completed Actions

2257. +NONDISCRIMINATION ON THE BASIS OF HANDICAP IN AIR TRAVEL (AIR CARRIER ACCESS ACT)

Priority: Other Significant

Legal Authority: 49 USC 1374(a); 49 USC 1374(c)

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: This action was to amend rules implementing section 504 of the Rehabilitation Act of 1973 and the Air Carrier Access Act of 1986, to jointly require commuter air carriers and federally assisted airports to provide lifts or other equipment to board passengers with mobility limitations on commuter aircraft (primarily those with 19-30 seats). The rule was to addresses existing problems that result, in some

cases, in individuals being denied air transportation, and to harmonize requirements relating to airport facilities in the department's section 504 and Air Carrier Access Act rules. This action is being removed from the Agenda and being incorporated into the existing major rulemaking with the same title (RIN 2120-AB62) which is addressing these issues.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/90	55 FR 8078
ANPRM Comment Period Extended to 07/20/90	06/08/90	55 FR 23450
ANPRM Comment Period End	07/05/90	
Workshop Meeting Schedule	06/04/92	57 FR 23556
NPRM	09/10/93	58 FR 47681
NPRM Comment Period Extended to 01/07/94	11/30/93	58 FR 63154
NPRM Comment Period End	12/09/93	
Final Action - See RIN 2105-AB62	08/01/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: ADDITIONAL AGENCY CONTACT: Ira Laster, (202) 366-4859. The telephone number for TDD is (202) 755-7687.

Advisory Committee meetings were held 07/29/92-07/30/92, 09/16-17/92, 12/9-10/92, and 3/21 and 4/01/93. The issue of lifts and other boarding equipment has been consolidated into RIN 2105-AB62.

Agency Contact: Donald Trilling, Director, Office of Transportation Regulatory Affairs, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4220

RIN: 2105–AB60

2258. +PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG- AND ALCOHOL-TESTING PROGRAMS (BLOOD TESTING)

Priority: Other Significant

Legal Authority: Omnibus Transportation Employee Testing Act of 1991; 49 USC 1657

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: A February 1994 action adopted uniform testing procedures to be used by all DOT agencies conducting alcohol-testing programs and made changes in DOT drug-testing procedures pursuant to the Omnibus Transportation Employee Testing Act. A second action in December 1994 determined that blood testing could not be used in DOT alcohol testing. A third action extended the date by which transportation employees must use a new Federal Drug Testing Custody and Control Form. This series of actions is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59409
NPRM Comment Period End	04/14/93	
Final Rule: Uniform Testing Procedures	02/15/94	59 FR 7340
Second NPRM: Use of Blood Alcohol Testing	02/15/94	59 FR 7367
Second NPRM: Comment Period End	05/16/94	
Final Rule: Technical Amendments	08/19/94	59 FR 42996
Final Rule: Blood Testing	12/02/94	59 FR 62218
Final Action	04/19/95	60 FR 19535

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/15/94 (59 FR 7367)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB95

2259. +LIMIT OF LIABILITY FOR DEEPWATER PORTS

Priority: Other Significant

Legal Authority: 33 USC 2704

CFR Citation: 33 CFR 137

Legal Deadline: None

Abstract: This rule establishes limits of liability for deepwater ports in general and for the Louisiana Offshore Port (LOOP) specifically. This action is considered significant because it is of substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	02/08/95	60 FR 7652
NPRM Comment Period End	04/10/95	
Final Action	08/04/95	60 FR 39849

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Donald R. Trilling, Director, Office of Transportation Regulatory Affairs, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4220

RIN: 2105–AC01

2260. PRIVACY ACT EXEMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552a

CFR Citation: 49 CFR 10

Legal Deadline: None

Abstract: DOT is amending its rules implementing the Privacy Act of 1974 to exempt from certain provisions of the Act the Coast Guard's Joint Maritime Information Element Support System. This system is a multi-agency database of vessel movements around the world. Coast Guard has been selected by the other agencies to manage the database. This change insulates additional law enforcement records from access by the subjects of those records while investigations are ongoing.

Timetable:

Action	Date	FR Cite
NPRM	05/26/95	60 FR 27946
NPRM Comment Period End	06/26/95	
Final Action	08/24/95	60 FR 43982

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Robert I. Ross, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9154
Fax: 202 366-9170

RIN: 2105–AC05

2261. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 CFR 322(a)

CFR Citation: 49 CFR 18

Legal Deadline: None

Abstract: The current rule is being revised, based on a National Performance Review recommendation. The threshold for local governments to use small purchase procedures is proposed to be raised to $100,000. Procurement review levels are also being increased.

Timetable:

Action	Date	FR Cite
NPRM	10/25/94	59 FR 53706
NPRM Comment Period End	12/27/94	
Final Action	04/19/95	60 FR 19646
Final Action Effective	05/19/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This action concerns a minor amendment to part 18. It appeared with an incorrect RIN number in the 4/19/95 Federal Register (2105-AB46). The overall revision to the current rule, a significant rulemaking, is located under RIN 2105-AB46.

Agency Contact: Robert G. Taylor, Chief, Grant Management Division, M-62, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AC12

2262. +STATEMENT OF UNITED STATES INTERNATIONAL AIR TRANSPORTATION POLICY

Priority: Other Significant

Legal Authority: 49 USC 40101; 49 USC 40113; 49 USC 41102; 49 USC 41302; 49 USC 41310

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: This statement of U.S. international air transportation policy, developed by the Department of Transportation in consultation with the Department of State and other executive agencies, sets forth objectives and guidelines for use by U.S. Government officials in carrying out U.S. international air transportation policy. This action is considered significant because it establishes Administration policy with respect to international aviation.

Timetable:

Action	Date	FR Cite
Request for Comments: Proposed Policy Statement	11/07/94	59 FR 55523
Final Action	05/03/95	60 FR 21841

Small Entities Affected: None

Government Levels Affected: None

Additional Information: On January 6, 1995, the Department asked for comments on a related report prepared by OST, "A Study of International Airline Code Sharing."

Agency Contact: William Boyd, Office of International Law, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4870

RIN: 2105–AC19

2263. PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS (NONEVIDENTIAL ALCOHOL SCREENING DEVICES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 101; 49 USC 102; 49 USC 301; 49 USC 302; 49 USC 322

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: This action establishes testing procedures for non evidential alcohol screening devices. These procedures allow employees to use non-evidential saliva and breath devices to conduct DOT-mandated alcohol screening tests.

Timetable:

Action	Date	FR Cite
NPRM	01/17/95	60 FR 3371
NPRM Comment Period End	02/15/95	
Final Action	04/20/95	60 FR 19675
Final Action Effective	05/22/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Comments on amendments to sections 40.59(c), 40.63(d)(1), and 40.63(e)(2) were due on June 5, 1995.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC20

2264. • AVIATION ECONOMIC RULES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 401; 49 USC 411; 49 USC 413; 49 USC 417; 49 USC 461

CFR Citation: 14 CFR 200; 14 CFR 201; 14 CFR 203; 14 CFR 204; 14 CFR 206; 14 CFR 215; 14 CFR 232; 14 CFR 271; 14 CFR 272; 14 CFR 291; 14 CFR 294; 14 CFR 296 to 298; 14 CFR 300; 14 CFR 313; 14 CFR 324

Legal Deadline: None

Abstract: The Department has undertaken a review of its aviation economic regulations in response to the Regulatory Reinvention Initiative and is amending various rules in order to eliminate obsolete provisions and correct outdated organizational and statutory references.

Timetable:

Action	Date	FR Cite
Final Action	08/22/95	60 FR 43521
Correction	09/05/95	60 FR 46018
Final Action Effective	09/21/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action involves 23 parts of title 14 of the Code

DOT—OST

Completed Actions

of Federal Regulations. In addition to those listed above, there are 325, 372, 379, 398, and 399.

Agency Contact: Carol Woods, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9721

RIN: 2105–AC27

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Prerule Stage

2265. +FACILITY RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-048)

Regulatory Plan: This entry is Seq. No. 86 in Part II of this issue of the **Federal Register**.

RIN: 2115–AE87

2266. +TANK VESSEL RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-032)

Regulatory Plan: This entry is Seq. No. 87 in Part II of this issue of the **Federal Register**.

RIN: 2115–AE88

2267. • U.S. ATON SYSTEMS: WESTERN RIVERS MARKING SYSTEM AND PRIVATE AIDS TO NAVIGATION (CGD 94-091)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 14 USC 83; 14 USC 85; 33 USC 1233; 43 USC 1333

CFR Citation: 33 CFR 62.45; 33 CFR 62.51; 33 CFR 66.10

Legal Deadline: None

Abstract: Regulations will be revised to: (1) allow the Western Rivers Marking System to use all six flash characteristics that are in use in the US ATON system; and (2) remove some of the characteristics of the Uniform State Waterway Marking System (USWMS) so that it is similar to the US Aids to Navigation System. This change will allow the Coast Guard to provide more flash characteristics to ATON to enable the mariner to better differentiate between Federal and private aids to navigation.

Timetable:

Action	Date	FR Cite
Notice of Request for Comments	10/00/95	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation

Agency Contact: LTJG Chad Asplund, Project Manager, G-NSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1386

RIN: 2115–AF14

2268. • ATON ON ARTIFICIAL ISLANDS AND FIXED STRUCTURES (CGD 95-052)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 14 USC 85; 33 USC 1233; 43 USC 1333

CFR Citation: 33 CFR 67.05; 33 CFR 67.10

Legal Deadline: None

Abstract: Regulations will be revised to make the light flashing scheme less confusing for the mariner. This will also change the procedure for marine industry manufacturers to have their products (fog signal emitters) inspected. Industry will send their fog signal emitters to independent laboratories instead of Coast Guard District Offices. (sec. 67.05-10 & 67.10-15).

Timetable:

Action	Date	FR Cite
Notice of Request for Comments	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LTJG Chad Asplund, Project Manager, G-NSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1386

RIN: 2115–AF15

2269. • REGATTAS AND MARINE PARADES: PERMIT APPLICATION REQUIREMENTS (CGD 95-054)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100

Legal Deadline: None

Abstract: This project would expand the information required in marine event permit applications to include appropriate needed information on environmental impacts of the events. The current permit application information requirements were promulgated prior to enactment of the environmental laws with which the Coast Guard must comply prior to taking final action on the permit applications. This project would amend current regatta and marine parade regulations for required permit application information to require the applicant to provide both navigational and environmental information to the Coast Guard early in the application process. This would enable the Coast Guard to process marine event permit applications in a more timely manner while complying with its responsibilities for consideration of environmental impacts.

Timetable:

Action	Date	FR Cite
Notice of Request for Comments	10/00/95	

DOT—USCG

Prerule Stage

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Analysis: Regulatory Evaluation

Agency Contact: Carlton Perry, Project Manager, G-NAB, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF17

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Proposed Rule Stage

2270. REGATTAS AND MARINE PARADES (CGD 87-087)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100.15

Legal Deadline: None

Abstract: This proposal would amend current regatta and marine parade regulations to increase the lead time requirement for submitting regatta permit applications. The rulemaking will allow the Coast Guard adequate time to review regatta permit applications, conduct appropriate coordination, and provide necessary public notice relating to regattas and marine events. In view of comments received, an SNPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	02/04/88	53 FR 3221
NPRM Comment Period End	04/04/88	
SNPRM	10/00/95	

Small Entities Affected: Organizations

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/04/88 (53 FR 3221)

Agency Contact: Carlton Perry, Project Manager, G-NAB, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AC84

2271. TANK LEVEL OR PRESSURE MONITORING DEVICES (CGD 90-071)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703; PL 101-380

CFR Citation: 46 CFR 32

Legal Deadline: Final, Statutory, December 1, 1991.

Abstract: The Oil Pollution Act of 1990 requires the Secretary of Transportation to issue regulations concerning the use of tank level or pressure monitoring devices for leak detection. This proposal would implement the provisions of the Act.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/91	56 FR 21116
ANPRM Comment Period End	10/04/91	
Notice of Availability of Technical Feasibility Study	02/05/93	58 FR 2292
Notice of Public Meeting	11/15/94	59 FR 58810
NPRM	08/21/95	60 FR 43427
NPRM Comment Period End	11/20/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Formerly titled Overfill and Tank Level or Pressure Monitoring Devices.

Agency Contact: Randy Crenwelge, Project Manager, G-MES-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6220

RIN: 2115–AD69

2272. +SECURITY FOR PASSENGER VESSELS AND PASSENGER TERMINALS (CGD 91-012)

Priority: Other Significant

Legal Authority: 33 USC 1226

CFR Citation: 33 CFR 120; 33 CFR 128

Legal Deadline: None

Abstract: The purpose of this action is to improve security measures on passenger vessels engaged in international voyages of 24 hours or more, and on the port facilities serving these vessels. This rulemaking is significant because of substantial public interest and safety implications. It is a high-priority project and involves important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	03/25/94	59 FR 14290
NPRM Comment Period End	06/23/94	
Comment Period Reopened to 11/30/94	09/07/94	59 FR 46211
Notice of Public Hearings	09/07/94	59 FR 46211
SNPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $26,000,000; Yearly Recurring Cost: $9,000,000; Base Year for Dollar Estimates: 1994

Analysis: Regulatory Evaluation 03/25/94 (59 FR 14290)

Agency Contact: CDR Dennis Haise, Project Manager, G-MOS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6451

RIN: 2115–AD75

2273. SUSPENSION AND REVOCATION OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS (CGD 94-101)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2101; 46 USC 7701; 46 USC 7702; 46 USC 7703

CFR Citation: 46 CFR 1; 46 CFR 5

Legal Deadline: None

Abstract: Amendments to 46 CFR 5 would add (1) guidance for prehearing suspension of licenses, certificates of registry, and merchant mariners' documents (credentials); (2) two new provisions under which a merchant mariner's credentials may be suspended or revoked; and (3) a new requirement that must be satisfied before a merchant

mariner's credentials can be issued after revocation or surrender.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Jim Cratty, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6742

RIN: 2115–AD94

2274. REPORTING MARINE CASUALTIES (CGD 91-216)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 6101; 33 USC 1901 et seq

CFR Citation: 33 CFR 151; 46 CFR 4

Legal Deadline: None

Abstract: This action would add to the definition of a reportable marine casualty "significant harm to the environment." Some casualty reporting requirements are extended to include foreign tank vessels operating in U.S. waters, including the exclusive economic zone.

Timetable:

Action	Date	FR Cite
Notice of Meeting and Request for Comment, Comment Period End 02/20/95	12/20/94	59 FR 65522
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Jim Cratty, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6742

RIN: 2115–AD98

2275. +STRUCTURAL AND OPERATIONAL MEASURES TO REDUCE OIL SPILLS FROM EXISTING TANK VESSELS WITHOUT DOUBLE HULLS (CGD 91-045)

Regulatory Plan: This entry is Seq. No. 88 in Part II of this issue of the Federal Register.

RIN: 2115–AE01

2276. +USER FEES FOR APPROVALS OF EQUIPMENT, LABORATORIES, AND SERVICING FACILITIES (CGD 92-013)

Priority: Other Significant

Legal Authority: 46 USC 2110; 46 USC 664; 31 USC 9701

CFR Citation: 33 CFR 159

Legal Deadline: None

Abstract: This regulatory project would establish direct user fees for Coast Guard services relating to equipment approvals, factory inspections, acceptance of independent laboratories and acceptance of servicing, repair, and testing facilities. The proposed fees are based on average workload, personnel, and overhead costs. The fees collected will be deposited in the general funds of the U.S. Treasury as offsetting receipts for Coast Guard activities. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Mr. Jack Klingel, Project Manager, G-MES, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1044

RIN: 2115–AE18

2277. HANDLING OF EXPLOSIVES OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES (CGD 92-026)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 126

Legal Deadline: None

Abstract: This action would update regulations governing the handling of breakbulk, containerized, and dry bulk dangerous cargoes on waterfront facilities.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4127
ANPRM Comment Period End	04/13/93	
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Independent study has been completed and incorporated with comments from the public in the preparation of the proposed rulemaking.

Agency Contact: CDR Dennis Haise, Project Manager, G-MOS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6451

RIN: 2115–AE22

2278. AMENDMENTS TO HULL IDENTIFICATION NUMBER REGULATIONS AND NEW REQUIREMENTS FOR CERTIFICATES OF ORIGIN (CGD 92-065)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302; 46 USC 12501

CFR Citation: 33 CFR 181

Legal Deadline: None

Abstract: This rulemaking would expand the length of the hull identification number (HIN) to include information about a vessel and function as a vessel identification number. The rulemaking would also require manufacturers to supply a Certificate of Origin (COO) with each vessel produced to ensure documented certification of this information and establish a chain of ownership. These regulations to provide information identifying vessels and establishing evidence of vessel ownership are needed to help develop a Vessel Identification System (VIDS).

Timetable:

Action	Date	FR Cite
NPRM	05/06/94	59 FR 23651
NPRM Comment Period End	09/06/94	

Action	Date	FR Cite
Notice of Workshop; Comment Period Reopened to 01/09/95	11/09/94	59 FR 55823
SNPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Alston Colihan, Project Manager, G-NAB-6, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0984

RIN: 2115–AE37

2279. +ESCORT VESSELS IN CERTAIN U.S. WATERS (91-202A)

Priority: Other Significant

Legal Authority: PL 101-380; 46 USC 3703

CFR Citation: 33 CFR 168

Legal Deadline: None

Abstract: This regulation would designate those U.S. waters, other than Prince William Sound and Puget Sound, where tankers and other vessels must be escorted by a towing vessel or other appropriate vessel. This action is considered significant because of substantial public and State government interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/27/93	58 FR 25766
ANPRM Comment Period End	06/28/93	
Notice of Meeting and Request for Comments, Period Ends 2/13/95	12/21/94	59 FR 65741
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This rulemaking is a companion to 2115-AE10, which concerns Prince William Sound and Puget Sound.

Agency Contact: Tom Jordan, Project Manager, G-MMS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593
Phone: 202 267-0142

RIN: 2115–AE56

2280. APPROVAL OF INFLATABLE PERSONAL FLOTATION DEVICES (PFDS) FOR RECREATIONAL BOATERS (CGD 93-055)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302; 46 USC 4310

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: The Coast Guard proposes to establish approval procedures for recreational inflatable personal flotation devices (PFDs), revise the approval procedures for other kinds of recreational PFDs, and make editorial changes to the equipment approval procedures. These procedures are intended to establish an efficient approval procedure for PFDs and other equipment relying more heavily on accepted independent or recognized laboratories. The Coast Guard anticipates that recreational boaters will be more likely to wear inflatable PFDs than currently approved devices, thereby increasing use of PFDs by the boating public and saving lives.

Timetable:

Action	Date	FR Cite
ANPRM	11/09/93	58 FR 59428
Notice of Meeting	02/24/94	59 FR 9015
ANPRM Comment Period End	03/09/94	
NPRM	06/23/95	60 FR 32861
NPRM Comment Period End	10/23/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Sam Wehr, Project Manager, G-MMS-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593
Phone: 202 267-1073

RIN: 2115–AE58

2281. AMENDMENT TO 46 CFR 14: REVISE RECORDKEEPING OF SHIPPING ARTICLES AND CERTIFICATES OF DISCHARGE (CGD 94-004)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 2103; 46 USC 2113; 46 USC 3306; 46 USC 10104; 46 USC 10302; 46 USC 10320

CFR Citation: 46 CFR 14

Legal Deadline: None

Abstract: The Coast Guard proposes to eliminate the requirement for maritime operating companies to submit copies of shipping articles, certificates of discharge, and other seamen employment documents to the Coast Guard. Companies will still be required to submit information contained in the certificates of discharge, but will be allowed to submit the required information electronically.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Funding to maintain shipping articles and certificates of discharge has been eliminated beginning October 01, 1994. The amount is $460,000 per year.

Agency Contact: Justine Bunnell, Project Manager, NMC, Department of Transportation, U.S. Coast Guard, National Maritime Center, 4200 Wilson Boulevard, Suite 510, Arlington, VA 22203
Phone: 703 235-1951

RIN: 2115–AE72

2282. INLAND WATERWAYS NAVIGATION REGULATIONS; WRANGELL NARROWS, AK (CGD 94-026)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 162

Legal Deadline: None

Abstract: This rulemaking will allow single barge tows of up to 100 feet in width overall to transit Wrangell Narrows, AK. Current size restriction is 80 feet in width overall.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 47905
NPRM Comment Period End	11/14/95	
Final Action	12/00/95	

DOT—USCG

Proposed Rule Stage

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Diane Appleby, Project Manager, G-NVT-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0352

RIN: 2115–AE78

2283. NAVIGATION SAFETY EQUIPMENT FOR TOWING VESSELS (CGD 94-020)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223; 33 USC 1231

CFR Citation: 33 CFR 164

Legal Deadline: None

Abstract: This regulation will require towing vessels to carry certain navigation safety equipment such as radar, compasses, depth sounders, charts and publications. This rulemaking is necessary as part of a comprehensive initiative to improve navigation safety for towing vessels.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR Suzanne Englebert, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6490

RIN: 2115–AE91

2284. • PROGRAMS FOR CHEMICAL DRUG AND ALCOHOL TESTING OF COMMERCIAL VESSEL PERSONNEL; REMOVAL OF FOREIGN IMPLEMENTATION DATE (CGD 95-011)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 7101; 46 USC 7301; 46 USC 7701

CFR Citation: 46 CFR 16

Legal Deadline: None

Abstract: This project would remove the effective date of regulations governing drug testing onboard vessels within waters subject to a foreign jurisdiction.

Timetable:

Action	Date	FR Cite
NPRM	08/21/95	60 FR 43426
NPRM Comment Period End	10/20/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR D. Darcy, Project Manager, G-MOS-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0221

RIN: 2115–AF02

2285. • ADOPTION OF INDUSTRY STANDARDS (CGD 95-027)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 46 USC 3306; 46 USC 4104

CFR Citation: 33 CFR 154

Legal Deadline: None

Abstract: This rulemaking will revise or remove sections of 46 CFR that are obsolete, unnecessary or excessive by addressing regulations that can be replaced with proven industry standards without degrading the existing level of safety.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR R. K. Butturini, Project Manager, G-MMS-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0027

RIN: 2115–AF09

2286. • IDENTIFICATION AND REMOVAL OF OBSOLETE AND UNNECESSARY REGULATIONS (CGD 95-028)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 46 USC 3306; 46 USC 4104

CFR Citation: 46 CFR 26; 46 CFR 30 to 35

Legal Deadline: None

Abstract: This rulemaking will revise or remove sections of 46 CFR that are excessive when compared to various international standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR R. K. Butturini, Project Manager, G-MMS-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0027

RIN: 2115–AF10

2287. • NUMBERING OF UNDOCUMENTED BARGES (CGD 93-091)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12301

CFR Citation: 33 CFR 189

Legal Deadline: None

Abstract: The rulemaking would establish a mandatory numbering system, as required by law, for the numbering of undocumented barges over 100 gross tons. The numbering of undocumented barges will allow identification of owners of barges found abandoned and help to prevent future marine pollution from abandoned barges.

Timetable:

Action	Date	FR Cite
Notice of Request for Comments	10/18/94	59 FR 52646
Comment Period Ends	01/17/95	
NPRM	04/00/96	

DOT—USCG

Proposed Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation

Agency Contact: Carlton Perry, Project Manager, G-NAB, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF13

2288. • ADVANCE NOTICE OF ARRIVALS, DEPARTURES, AND CERTAIN DANGEROUS CARGOES (CGD 94-089)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223; 33 USC 1231

CFR Citation: 33 CFR 160

Legal Deadline: None

Abstract: This project will amend the requirements for notice of arrival and departure in 33 CFR 160, Subpart C. Section 160.207 will now apply to non-excepted vessels over 300 gross tons destined for or departing from all ports and places of the United States, and to all non-excepted foreign vessels, regardless of tonnage, destined for or departing from all ports and places of the Seventh District. A vessel's owner, operator, classification society, International Maritime Organization (IMO) Number, and 24-hour point of contact will become reportable under the requirements of notice in sections 160.207 through .213, with exceptions for barges carrying certain dangerous cargo. These changes will aid in the elimination of substandard ships from U.S. waters, improve emergency response, and facilitate the enforcement of requirements for Certificate of Financial Responsibility.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: CDR Dennis Haise, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6451

RIN: 2115–AF19

DEPARTMENT OF TRANSPORTATION (DOT)

U.S. Coast Guard (USCG)

Final Rule Stage

2289. TANKERMEN (CGD 79-116)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703; 46 USC 7317; 46 USC 8703; 46 USC 9101; 46 USC 9102

CFR Citation: 33 CFR 154; 33 CFR 155; 46 CFR 7; 46 CFR 12; 46 CFR 13; 46 CFR 30; 46 CFR 31; 46 CFR 35; 46 CFR 78; 46 CFR 90; 46 CFR 97; 46 CFR 98; 46 CFR 105; 46 CFR 151; 46 CFR 153; ...

Legal Deadline: None

Abstract: Rulemaking would redefine and establish more stringent qualifying criteria for individuals engaged in transporting and transferring various categories of oil and dangerous liquid cargoes. The Port and Tanker Safety Act of 1978 mandated the establishment of personnel qualification and manning standards for tank vessels. In addition, the International Convention on the Standards for Training, Certification, and Watchkeeping for Seafarers 1978 (STCW) has entered into effect and establishes international standards for tank vessel personnel qualifications. In view of the length of time since publication of the NPRM, a supplemental NPRM was issued.

Timetable:

Action	Date	FR Cite
NPRM	12/18/80	45 FR 83268
NPRM Comment Period End	03/18/81	
SNPRM; Comment Period End 01/16/90	10/17/89	54 FR 42624
Interim Final Rule	04/04/95	60 FR 17134
Interim Final Rule Comment Period End	06/30/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/18/80 (45 FR 83268)

Additional Information: Former title: Qualifications of the Person in Charge of Oil Transfer Operations: Tankerman Requirements (79-116). Public meetings were held during January and February of 1981. Docket 79-116a (RIN 2115-AD18) has been included in this project and will no longer be listed as a separate Regulatory Agenda item.

Agency Contact: Stewart Walker, Project Manager, G-MCO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0479

RIN: 2115–AA03

2290. +OFFSHORE SUPPLY VESSEL REGULATIONS (CGD 82-004 & CGD 86-074)

Priority: Other Significant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR 90; 46 CFR 125 to 136; 46 CFR 170; 46 CFR 174; 46 CFR 175

Legal Deadline: None

Abstract: These regulations would consolidate existing Offshore Safety Vessel standards and policy into a single subchapter and make specific revisions to accommodate the unique characteristics and methods of operation and the service in which the vessels are engaged. Rules specifically applicable to liftboats would be included. Because of substantial public interest in certain aspects of this proposal, it has been classified as significant.

Timetable:

Action	Date	FR Cite
ANPRM	02/14/83	48 FR 6636
Comment Period Extended to 09/12/83	06/09/83	48 FR 26631
ANPRM Comment Period End	06/14/83	
ANPRM of Consolidated RIN 2115-AC63	04/16/87	52 FR 12439

DOT—USCG

Final Rule Stage

Action	Date	FR Cite
NPRM	05/09/89	54 FR 20006
Comment Period Extended to 12/06/89	08/31/89	54 FR 36040
NPRM Comment Period End	09/06/89	
Interim Final Rule	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/09/89 (54 FR 20006)

Additional Information: Coast Guard Docket 86-074 (RIN 2115-AC63) titled Regulations for Self-Elevating Offshore Service and Support Vessels was combined with this project. Public hearing was held in New Orleans 09/13/89 in response to House subcommittee request.

Agency Contact: Jim Magill, Project Manager, G-MOS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1082

RIN: 2115–AA77

2291. +LIFESAVING EQUIPMENT—IMPLEMENTATION OF 1983 AMENDMENTS TO SOLAS 1974 (CGD 84-069)

Priority: Other Significant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 31; 46 CFR 33; 46 CFR 35; 46 CFR 70; 46 CFR 71; 46 CFR 75; 46 CFR 78; 46 CFR 91; 46 CFR 94; 46 CFR 97; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 154; 46 CFR 160; ...

Legal Deadline: None

Abstract: This project would implement the provisions of the 1983 amendments to SOLAS 1974 (Safety of Life at Sea) which came into force in July of 1986. It would also reorganize the lifesaving equipment regulations in order to simplify, clarify, and reduce redundancy. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/84	49 FR 50745
ANPRM Comment Period End	03/01/85	
NPRM	04/21/89	54 FR 16198
NPRM Comment Period End	08/21/89	
Comment Period Reopened to 01/03/90	10/05/89	54 FR 41124
Notice of Public Hearing in Seattle 10/17/89	10/05/89	54 FR 41124
Interim Final Rule	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/21/89 (54 FR 16198)

Additional Information: CFR CITATION CONT: 46 CFR 30; 46 CFR 90; 46 CFR 112; 46 CFR 125; 46 CFR 133; 46 CFR 161; 46 CFR 167; 46 CFR 168; 46 CFR 188; 46 CFR 192; 46 CFR 196; 46 CFR 199.

Agency Contact: Bob Markle, Project Manager, G-MMS-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1076

RIN: 2115–AB72

2292. TRAINING IN THE USE OF AUTOMATIC RADAR PLOTTING AIDS (ARPA) (CGD 85-089)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223; 46 USC 3703

CFR Citation: 33 CFR 164; 46 CFR 10

Legal Deadline: None

Abstract: This rulemaking was initiated to establish a requirement for training in the use of ARPA for licensed deck officers on vessels fitted with ARPA units. Existing International Maritime Organization (IMO) guidelines were used in drafting the proposed requirements. These IMO guidelines are being replaced with the implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW). As a result, the Coast Guard is withdrawing this rulemaking with the intention of initiating another rulemaking implementing the new requirements when they become effective in February 1997.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/85	50 FR 43258
ANPRM Comment Period End	12/23/85	
NPRM	03/07/90	55 FR 8155
NPRM Comment Period End	06/05/90	
To Be Withdrawn	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/07/90 (55 FR 8155)

Agency Contact: Robert S. Spears, Jr., Project Manager, NMC, Department of Transportation, U.S. Coast Guard, National Maritime Center, 4200 Wilson Boulevard, Suite 510, Arlington, VA 22203
Phone: 703 235-1864

RIN: 2115–AB99

2293. +SMALL PASSENGER VESSEL INSPECTION AND CERTIFICATION (CGD 85-080)

Priority: Other Significant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 170; 46 CFR 171; 46 CFR 173; 46 CFR 175 to 185

Legal Deadline: None

Abstract: This rulemaking would revise subchapters S and T and create a new subchapter K to reflect statutory changes, incorporate new technology, and improve safety requirements. Among the changes contemplated would be a change in inspection intervals, drydocking intervals, lifesaving equipment requirements, and fire protection requirements. This action is considered significant because it affects a broad class of vessels, and there has been substantial public interest evidenced.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4412
Notice of Hearings and Comment Period Extended to 07/31/89	04/26/89	54 FR 17997
Notice of Public Hearing Change	05/25/89	54 FR 22608
NPRM Comment Period End	05/30/89	
Notice of Intent to Publish SNPRM	09/18/89	54 FR 38410
SNPRM; Comment Period End 06/13/94	01/13/94	59 FR 1994
Notice of Public Hearing	03/25/94	59 FR 14132
Interim Final Rule	10/00/95	

DOT—USCG

Final Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/30/89 (54 FR 4412)

Additional Information: On January 13, 1994 the Coast Guard published a Supplemental Notice of Proposed Rulemaking (SNPRM) containing the proposed completed revision of the regulations governing small passenger vessels. A new Subchapter K was introduced for small passenger vessels carrying more than 150 passengers or more than 49 overnight passengers. Seven public hearings were held throughout the country and the comment period closed June 13, 1994. An Interim Final Rule (IFR) will be published adopting many of the solutions suggested in the comments. It will provide an opportunity for public comment on those solutions.

Agency Contact: LT Eric P. Christensen, Project Manager, G-MOS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1055

RIN: 2115–AC22

2294. REVISION TO INFLATABLE LIFE RAFT APPROVAL: SOLAS 74/83 (CGD 85-205)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 159; 46 CFR 160

Legal Deadline: None

Abstract: This project would establish approval requirements for inflatable liferafts meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
ANPRM; RIN 2115-AA50	06/29/81	46 FR 33341
NPRM; RIN 2115-AA50	01/11/85	50 FR 7558
Comment Period Extended to 10/14/85; RIN 2115-AA50	07/05/85	50 FR 27628
Comment Period Extended to 01/10/86; RIN 2115-AA50	09/09/85	50 FR 36639
ANPRM; RIN 2115-AA57	08/14/86	51 FR 29117
Notice of Public Meeting; RIN 2115-AA57	12/22/86	51 FR 45783
NPRM	10/18/94	59 FR 52590
NPRM Comment Period End	02/15/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Two related projects have been consolidated into this one: Inflatable Liferaft Stability (CGD 80-113), RIN 2115-AA50, and Servicing Inflatable Liferafts (CGD 81-010), RIN 2115-AA57.

Agency Contact: Mr. Kurt Heinz, Project Manager, G-MMS-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1079

RIN: 2115–AC51

2295. +IMPLEMENTATION OF THE COMMERCIAL FISHING-INDUSTRY VESSEL SAFETY ACT (CGD 88-079)

Priority: Other Significant

Legal Authority: 46 USC 4502; 46 USC 4506; 46 USC 6104(c); 46 USC 10603(b)

CFR Citation: 46 CFR 28

Legal Deadline: Final, Statutory, January 1, 1993.

Abstract: The Commercial Fishing Industry Act of 1988 requires the Secretary of Transportation to prescribe regulations for certain safety equipment and vessel operating procedures. A final rule establishing requirements for navigation, radio, firefighting, and lifesaving equipment, and fuel, ventilation, and electrical systems was published in August, 1991. Regulations have also been proposed to address vessel stability and lifesaving appliances. Additionally, an interim final rule established immersion suit requirements. Regulations for immersion suits on vessels operating on seasonally cold waters have also been proposed. This rulemaking is considered significant because of its impact on the commercial fishing industry.

Timetable:

Action	Date	FR Cite
ANPRM of Consolidated RIN 2115-AC34	07/09/87	52 FR 25890
ANPRM Correction of Consolidated RIN 2115-AC34	08/10/87	52 FR 29556
ANPRM	12/29/88	53 FR 52735
ANPRM Comment Period End	02/27/89	
ANPRM Comment Period Extended to 04/15/89	03/02/89	54 FR 8765
NPRM	04/19/90	55 FR 14924
NPRM Comment Period End	08/20/90	
Notice of Intent to Publish SNPRM	08/31/90	55 FR 35694
Final Action Except SNPRM Issues; Final Action Effective 09/15/91	08/14/91	56 FR 40364
Final Rule Correction	09/20/91	56 FR 47679
Correcting Amendments to Final Action of 08/14/91	01/06/92	57 FR 363
Interim Final Rule; Immersion Suits	08/03/92	57 FR 34188
SNPRM; To Address Stability and Other Small Fishing Vessel Issues	10/27/92	57 FR 48670
SNPRM Correction	12/03/92	57 FR 57129
SNPRM Comment Period Extended to 02/28/93	12/18/92	57 FR 60158
SNPRM Correction	01/06/93	58 FR 630
NPRM; Seasonally Cold Waters	05/20/93	58 FR 29502
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/27/92 (57 FR 48670)

Additional Information: The final rule published 08/14/91 addressed most issues raised in the NPRM. A final rule implementing provisions of the Aleutian Trade Act is being handled under RIN 2115-AE77. Stability for vessels less than 79 feet in length, survival for vessels operating near shore with less than four persons on board, and requirements for carriage of immersion suits have been addressed separately. These remaining issues will be subject of a combined final rule. Coast Guard docket 86-024 titled Uninspected Fish Processing Vessels (RIN 2115-AC34) has been incorporated into this project.

DOT—USCG

Final Rule Stage

Agency Contact: LCDR Mark D. Bobal, Project Manager, G-MOS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0836

RIN: 2115–AD12

2296. VESSEL IDENTIFICATION SYSTEM (CGD 89-050)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 12501

CFR Citation: 33 CFR 187

Legal Deadline: None

Abstract: 46 USC 12501 requires the Secretary of Transportation to establish a Vessel Identification System (VIS). This rulemaking will prescribe the manner and form for participating States to make information available for VIS; to establish guidelines for State vessel titling systems; and to establish procedures for certifying compliance with those guidelines.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/89	54 FR 38358
ANPRM Comment Period End	12/14/89	
NPRM	10/05/93	58 FR 51920
NPRM Correction	10/15/93	58 FR 53624
NPRM Comment Period End	01/03/94	
NPRM Comment Period Reopened to 03/28/94	02/24/94	59 FR 8881
Interim Final Rule	04/25/95	60 FR 20310
Interim Final Rule Comment Period End	07/24/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/05/93 (58 FR 51920)

Agency Contact: LCDR Rick Ferraro, Project Manager, G-MIR-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0386

RIN: 2115–AD35

2297. +FINANCIAL RESPONSIBILITY FOR WATER POLLUTION (VESSELS) (CGD 91-005)

Priority: Other Significant

Legal Authority: 33 USC 2716; 42 USC 9608

CFR Citation: 33 CFR 130 to 132; 33 CFR 137

Legal Deadline: None

Abstract: This rulemaking implements the provisions concerning financial responsibility for vessels in the Oil Pollution Act of 1990 and the Comprehensive Environmental Response Compensation and Liability Act. It prescribes the means by which owners and operators of vessels establish and maintain evidence of insurance or other evidence of financial responsibility sufficient to meet their potential limits of liability under these Acts. This rule is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/26/91	56 FR 49006
NPRM Comment Period End	11/25/91	
NPRM Comment Period Extended to 01/24/92	12/02/91	56 FR 61216
Notice of Availability of Draft Regulatory Impact Analysis	07/21/93	58 FR 38993
Interim Final Rule	07/01/94	59 FR 34210
Interim Final Rule Comment Period End	09/29/94	59 FR 34210
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/01/94 (59 FR 34210)

Additional Information: The Oil Pollution Act of 1990 (OPA) repealed or superseded certain oil spill liability provisions under the Federal Water Pollution Control Act (33 USC 1321), title III of the Outer Continental Shelf Lands Act Amendments of 1978 (43 USC 1814), the Trans-Alaska Pipeline Authorization Act (43 USC 1653), and the Deepwater Port Act of 1974 (33 USC 1517). The financial responsibility provisions of those Acts were replaced by a single financial responsibility regime under OPA and keyed to the broader liability of OPA. In addition to financial responsibility requirements under OPA, which is limited to oil, this project would include financial responsibility requirements under the Comprehensive Environmental Response, Compensation, and Liability Act, which concerns hazardous substances. This consolidation would allow the issuance of a single, unified Certificate of Financial Responsibility for vessels, replacing separate certificates and financial responsibility regimes under the previously mentioned Acts.

Agency Contact: Robert M. Skall, Project Manager, G-NPFC, Department of Transportation, U.S. Coast Guard, National Pollution Funds Center, 4200 Wilson Blvd, Suite 1000, Arlington, VA 22203-1804
Phone: 703 235-4704

RIN: 2115–AD76

2298. +TANK VESSEL RESPONSE PLANS (CGD 91-034)

Priority: Other Significant

Legal Authority: 33 USC 1231; 33 USC 1321(j); 33 USC 1903(b); 33 USC 2735; 46 USC 3715; PL 101-380

CFR Citation: 33 CFR 155

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: This rulemaking partially implements sections 4202(b)(4) and 5005 of the Oil Pollution Act of 1990, P.L. 101-380 (OPA-90), concerning tank vessel and facility response plans. Section 4202(b)(4) of the OPA-90 amends section 311(j)(5) of the Federal Water Pollution Control Act (FWPCA), which requires owners and operators of tank vessels and facilities to develop response plans for responding to worst-case discharges (or substantial threat thereof) of oil or hazardous substances. Section 5005 requires that response plans for tank vessels operating in Prince William Sound, Alaska, and facilities permitted under the Trans-Alaska Pipeline Authorization Act provide for additional measures of oil spill preparedness. This action is considered significant because of substantial public interest and environmental considerations. This rulemaking covers tank vessel requirements for oil-spill response plans. A separate rulemaking under RIN 2115-AE88 will address tank vessel response plans for hazardous substances. Facility response plan requirements for oil and hazardous substances will also be addressed by separate rulemakings under RINs 2115-AD82 and 2115-AE87, respectively.

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Timetable:

Action	Date	FR Cite
ANPRM	08/30/91	56 FR 43534
ANPRM Comment Period End	10/16/91	
NPRM	06/19/92	57 FR 27514
NPRM Correction	07/01/92	57 FR 29354
Notice of Meetings	07/28/92	57 FR 33287
NPRM Comment Period End	08/03/92	
Interim Final Rule	02/05/93	58 FR 7376
Interim Final Rule Correction	03/15/93	58 FR 13708
Interim Final Rule Comment Period End	04/06/93	58 FR 7376
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 02/05/93 (58 FR 7376)

Additional Information: The status of development of response plans was published 08/21/92 (57 FR 37920). A workshop notice was published 07/16/93 (58 FR 38450), and an additional day added 07/22/93 (58 FR 39272).

Agency Contact: Janet Walton, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0257

RIN: 2115–AD81

2299. +FACILITY RESPONSE PLANS (CGD 91-036)

Priority: Other Significant

Legal Authority: 33 USC 1321(j); PL 101-380

CFR Citation: 33 CFR 154

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: This rulemaking partially implements sections 4202(b)(4) and 5005 of the Oil Pollution Act of 1990, P.L. 101-380 (OPA 90), concerning tank vessel and facility response plans. Section 4202(b)(4) of OPA-90 amends section 311(j)(5) of the Federal Water Pollution Control Act (FWPCA), which requires owners and operators of tank vessels and facilities to develop response plans for responding to worst-case discharges (or substantial threat thereof) of oil or hazardous substances. Section 5005 requires that response plans for tank vessels operating in Prince William Sound, Alaska, and facilities permitted under the Trans-Alaska Pipeline Authorization Act provide for additional measures of oil spill preparedness. This action is considered significant because of substantial public interest and environmental considerations. This rulemaking covers facility requirements for oil-spill response plans. A separate rulemaking under RIN 2115-AE87 will address facility response plans for hazardous substances. Tank vessel response plan requirements for oil and hazardous substances will also be addressed by separate rulemakings under RINs 2115-AD81 and 2115-AE88, respectively.

Timetable:

Action	Date	FR Cite
ANPRM	03/11/92	57 FR 8708
ANPRM Comment Period End	04/27/92	
Interim Final Rule	02/05/93	58 FR 7330
Interim Final Rule Correction	03/12/93	58 FR 13550
Interim Final Rule Comment Period End	04/06/93	58 FR 7330
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/05/93 (58 FR 7330)

Additional Information: A workshop notice was published 07/16/93 (58 FR 38450), and an additional day added 07/22/93 (58 FR 39272).

Agency Contact: Janet Walton, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0257

RIN: 2115–AD82

2300. CRIMINAL RECORD REVIEWS AND ACCESS TO THE NATIONAL DRIVER REGISTER (CGD 91-212)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 7101; 46 USC 7109; 46 USC 7302

CFR Citation: 46 CFR 10; 46 CFR 12

Legal Deadline: None

Abstract: This action would provide the Coast Guard discretionary authority to review the criminal record of each applicant for a merchant mariner credential and require that each merchant mariner credential applicant make available information contained in the National Driver Register (NDR). The regulation would create procedures to allow an applicant for a license, Certificate of Registry, or merchant mariner document to comment upon any data received from the NDR before the data could be used against an individual merchant mariner's application. RIN-AD96, concerning national driver registry data, has been consolidated into this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	03/13/95	60 FR 13570
NPRM Comment Period End	06/12/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Jim Cratty, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6742

RIN: 2115–AD93

2301. NEW YORK VESSEL TRAFFIC SERVICE (CGD 92-052)

Priority: Other

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: The Coast Guard is expanding the geographic boundaries of VTS New York in two phases. The Interim Final Rule published 09/01/93 implemented the first expansion phase. A final rule will implement the final phase in late 1995.

Timetable:

Action	Date	FR Cite
NPRM	05/25/93	58 FR 30098
NPRM Comment Period End	07/09/93	
Interim Final Rule	09/01/93	58 FR 46081
Interim Final Rule Effective	10/18/93	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

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Final Rule Stage

Analysis: Regulatory Evaluation
09/01/93 (58 FR 46081)

Agency Contact: Irene Hoffman, Project Manager, G-NVT-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6277

RIN: 2115–AE36

2302. INLAND NAVIGATION RULES; LIGHTING PROVISIONS (CGD 94-011)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 2; 14 USC 633; 33 USC 151(a); 33 USC 2071

CFR Citation: 33 CFR 80; 33 CFR 82; 33 CFR 84; 33 CFR 87; 33 CFR 88; 33 CFR 90

Legal Deadline: None

Abstract: This rulemaking would amend certain technical lighting provisions and interpretive regulations which supplement the Inland Navigation Rules and the International Regulations for Preventing Collisions at Sea (72 COLREGS). These changes would bring certain technical rules into conformity with amendments to the 72 COLREGS scheduled to become effective in November, 1995. The Coast Guard is also proposing several interpretive regulations to clarify ambiguities in the rules.

Timetable:

Action	Date	FR Cite
NPRM	07/20/94	59 FR 37003
NPRM Correction	08/24/94	59 FR 43620
NPRM Comment Period End	09/19/94	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Final effective date will be no earlier than October 1995 to correspond with effective date of COLREGS amendments. The NPRM of 07/20/94 erroneously indicated RIN 2115-AE72.

Agency Contact: Diane Appleby, Project Manager, G-NVT-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0352

RIN: 2115–AE71

2303. REVISION OF DAMAGE STABILITY REQUIREMENTS FOR NEW PASSENGER SHIP DESIGNS (CGD 94-010)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 1333(d); 46 USC 3306; 46 USC 3703; 46 USC 5115; 50 USC 198

CFR Citation: 46 CFR 171.080(e)

Legal Deadline: None

Abstract: This proposal would revise the passenger vessel damage stability criteria in 46 CFR 171.080(e) for new domestic vessels.

Timetable:

Action	Date	FR Cite
NPRM	08/10/94	59 FR 40855
Notice of Public Hearing	08/10/94	59 FR 40855
Notice of Meeting and Comment Period Extended to 12/16/94	11/04/94	59 FR 55232
NPRM Comment Period End	12/16/94	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR R. Holzman, Project Manager, G-MMS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0143

RIN: 2115–AE75

2304. ALEUTIAN TRADE ACT (CGD 94-025)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3316; 46 USC 4502; 46 USC 4506; 46 USC 6104; 46 USC 10603; 49 app USC 1804

CFR Citation: 46 CFR 28

Legal Deadline: None

Abstract: This will create a separate project limited to implementation of the Aleutian Trade Act (ATA). It will establish safety requirements for common carriers. Regulations proposed for these vessels in a Supplemental Notice of Proposed Rulemaking published October 27, 1992 (57 FR 48670), will be modified and published separately under this rulemaking.

Timetable:

Action	Date	FR Cite
SNPRM; Comment Period End 11/14/94	09/13/94	59 FR 47034
SNPRM Comment Period Extended to 12/31/94	11/22/94	59 FR 60110
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: The rulemaking initiated under RIN 2115-AD12 addressed seven separate topics related to improving commercial fishing vessel safety, including stability, equipment, and carriage of exposure suits. It also addressed implementation of the Aleutian Trade Act provisions. This rulemaking addresses only the implementation of the Aleutian Trade Act. The remaining topics will remain under RIN 2115-AD12.

Agency Contact: LCDR Mark D. Bobal, Project Manager, G-MOS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0836

RIN: 2115–AE77

2305. +VESSEL REBUILD DETERMINATIONS (CGD 94-040)

Priority: Other Significant

Legal Authority: 14 USC 664; 31 USC 9701; 42 USC 9118; 46 USC 2103; 46 USC 2107; 46 USC 2110; 46 app USC 841a; 46 app USC 876

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: This rulemaking would define relevant terms and develop a standard to determine the character and scope of work on a vessel that will result in a determination that the vessel has been rebuilt. Initiation of this proceeding is contemplated under the North American Free Trade Agreement. It is significant because it is of substantial interest to the maritime industry and the Canadian government.

Timetable:

Action	Date	FR Cite
NPRM	04/05/95	60 FR 17290
NPRM Comment Period End	07/05/95	
Final Action	12/00/95	

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Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: A policy statement published May 10, 1994 (59 FR 24060), described the Coast Guard's regulatory standard for rebuild determinations and related practices and procedures, pending publication of a final rule.

Agency Contact: Patricia Williams, Project Manager, Department of Transportation, U.S. Coast Guard, National Vessel Documentation Center, Martinsburg, WV 25401
Phone: 800 799-8362

RIN: 2115–AE85

2306. RADAR-OBSERVER ENDORSEMENT FOR OPERATORS OF UNINSPECTED TOWING VESSELS (CGD 94-041)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 7101; 46 USC 8904

CFR Citation: 46 CFR 10; 46 CFR 15

Legal Deadline: None

Abstract: The Coast Guard is amending its regulations to require that, at the time of license renewal, each licensed master, mate, and operator of a radar-equipped uninspected towing vessel of 26 feet or more in length obtain a radar-observer endorsement. Requirements are included for interim training prior to license renewals. This rulemaking also amends the licensing requirements to add provisions for two radar-observer courses focusing on radar use on inland waters and rivers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/26/94	59 FR 53754
Interim Final Rule Effective 11/25/94	10/26/94	59 FR 53754
Interim Final Rule Comment Period End	01/24/95	
Reopening Comment Period	02/14/95	60 FR 8308
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Robert S. Spears, Jr., Project Manager, NMC, Department of Transportation, U.S. Coast Guard, National Maritime Center, 4200 Wilson Boulevard, Suite 510, Arlington, VA 22203
Phone: 703 235-1864

RIN: 2115–AE92

2307. MODERNIZATION OF EXAMINATION METHODS (CGD 94-029)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 2103; 31 USC 7101; 31 USC 7107; 31 USC 7306; 31 USC 9701; 44 USC 3507; 46 USC 2103; 46 USC 2110; 46 USC 7301; 46 USC 7302

CFR Citation: 46 CFR 10; 46 CFR 12

Legal Deadline: None

Abstract: This rule would amend 46 CFR parts 10 and 12 to allow other than written exams, and third party testing.

Timetable:

Action	Date	FR Cite
NPRM	02/23/95	60 FR 10053
NPRM Comment Period End	05/24/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Robert S. Spears, Jr., Project Manager, NMC, Department of Transportation, U.S. Coast Guard, National Maritime Center, 4200 Wilson Boulevard, Suite 510, Arlington, VA 22203
Phone: 703 235-1864

RIN: 2115–AE94

2308. RECREATIONAL INFLATABLE PERSONAL FLOTATION DEVICE STANDARDS (CGD 94-110)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302; 46 USC 4310

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This rule will add regulations for the approval of inflatable personal flotation devices (PFDs) for use on recreational boats. These new regulations will establish structural and performance standards for these inflatable PFDs, as well as the procedures for Coast Guard approval of such inflatable PFDs. Most of the technical requirements will be based on an industry consensus standard. The costs to the industry will include such items as approval testing and production testing similar to other approved lifesaving equipment, and will be optional since no one will be required to replace an existing PFD with one of these devices. Costs will be minimal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/23/95	60 FR 32836
Notice of Meeting; Request for Comments, Comment Period ends 10/23/95	08/02/95	60 FR 39268
Interim rule comment period ends	10/23/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Samuel E. Wehr, Project Manager, G-MMS-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1073

RIN: 2115–AE96

2309. • ALTERNATE COMPLIANCE VIA RECOGNIZED CLASSIFICATION SOCIETY AND U.S. SUPPLEMENT TO RULES (CGD 95-010)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1333; 46 USC 3306; 46 USC 5115

CFR Citation: 46 CFR 30 to 31; 46 CFR 70 to 71; 46 CFR 90 to 91; 46 CFR 107

Legal Deadline: None

Abstract: This rulemaking will provide owners of U.S. tank vessels, passenger vessels, cargo vessels, miscellaneous vessels and mobile offshore drilling units an alternative method to fulfill

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Final Rule Stage

the requirements for vessel design, inspection, and certification. Under the rule, the Coast Guard will issue a certificate of inspection based upon a recognized classification society's report that the vessel complies with the International Convention for the Safety of Life at Sea, as amended (SOLAS), other applicable international conventions, classification society rules, and other specified requirements. This will reduce the burden on vessel owners and operators by eliminating duplicative plan reviews and inspections by the classification society and the Coast Guard.

Timetable:

Action	Date	FR Cite
NPRM	06/22/95	60 FR 32478
NPRM Comment Period End	09/20/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Albert G. Kirchner, Jr., Project Manager, G-MMS-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0168

RIN: 2115–AF11

2310. • INTERNATIONAL NAVIGATION RULES (CGD 95-053)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1051 to 1094

CFR Citation: 33 CFR 81

Legal Deadline: None

Abstract: Administrative rulemaking to: (1) remove unnecessary Appendix A which contains the text of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS); and (2) update the list of U.S. Territories and possessions where the treaty applies. These administrative actions will have no impact on the marine industry as it does not change any requirements imposed upon them.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Diane Appleby, Project Manager, G-NVT-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0352

RIN: 2115–AF16

2311. • RECREATIONAL VESSEL FEES (CGD 95-055)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 2110; PL 102-587

CFR Citation: 33 CFR 1

Legal Deadline: None

Abstract: The Coast Guard is removing the regulations on recreational vessel fees. The statutory authority for the fees began to be repealed (in yearly phases) by section 5 of the High Seas Driftnet Fisheries Enforcement Act of 1992. The last remaining authority for recreational vessel fees ceased as of October 1, 1994 and the regulations for these fees should be removed.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carlton Perry, Project Manager, G-NAB, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF18

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Long-Term Actions

2312. SAFETY/SECURITY ZONE REGULATIONS

Priority: Routine and Frequent

CFR Citation: 33 CFR 100; 33 CFR 165

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margie G. Hegy
Phone: 202 267-0415

RIN: 2115–AA97

2313. ANCHORAGE AREA REGULATIONS

Priority: Routine and Frequent

CFR Citation: 33 CFR 110

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margie G. Hegy
Phone: 202 267-0415

RIN: 2115–AA98

2314. PERMITS FOR THE TRANSPORTATION OF MUNICIPAL AND COMMERCIAL WASTES (CGD 89-014)

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 151

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/89	54 FR 22546
Interim Final Rule Correction	06/05/89	54 FR 24078

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LTJG Lauren Kabler
Phone: 202 267-0423

RIN: 2115–AD23

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Long-Term Actions

2315. +DISCHARGE-REMOVAL EQUIPMENT FOR VESSELS CARRYING OIL (CGD 90-068)

Priority: Other Significant

CFR Citation: 46 CFR 165

Timetable:

Action	Date	FR Cite
ANPRM	08/30/91	56 FR 43534
ANPRM Comment Period End	10/16/91	
NPRM	09/29/92	57 FR 44912
NPRM Comment Period Extended to 11/16/92	10/26/92	57 FR 48489
NPRM Comment Period End	10/29/92	
Interim Final Rule	12/22/93	58 FR 67988
Interim Final Rule Effective	01/22/94	
Interim Final Rule Correction	01/26/94	59 FR 3749
Interim Final Rule Comment Period End	02/22/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LT Cliff Thomas
Phone: 202 267-1492

RIN: 2115–AD66

2316. +OVERFILL DEVICES (CGD 90-071A)

Priority: Other Significant

CFR Citation: 33 CFR 155 to 156

Timetable:

Action	Date	FR Cite
NPRM	01/12/93	58 FR 4040
NPRM Comment Period End	03/15/93	
Notice of Public Meeting	10/21/93	58 FR 54315
Interim Final Rule	10/21/94	59 FR 53286

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Randy Crenwelge
Phone: 202 267-6220

RIN: 2115–AD87

2317. CLAIMS PROCEDURES UNDER THE OIL POLLUTION ACT OF 1990 (CGD 91-035)

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 136

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/12/92	57 FR 36314
Interim Final Rule Correction	09/09/92	57 FR 41104
Interim Final Rule Comment Period End	12/10/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Burdette
Phone: 703 235-4762

RIN: 2115–AD90

2318. +ESCORT VESSELS FOR CERTAIN TANKERS (CGD 91-202)

Priority: Other Significant

CFR Citation: 33 CFR 168

Timetable:

Action	Date	FR Cite
NPRM	07/07/92	57 FR 30058
NPRM Comment Period End	09/08/92	
NPRM Comment Period Reopened to 07/24/93	03/26/93	58 FR 16391
ANPRM: Further Comments Due 5/25/93	04/27/93	58 FR 25766
Notice of Public Hearings	04/29/93	58 FR 25959
Notice of Public Hearings Correction	05/19/93	58 FR 29157
Notice of Availability of Part 1 of Study	01/10/94	59 FR 1411
Final Rule: Effective 11/17/94	08/19/94	59 FR 42962
Final Rule: Partial Suspension: Effective 11/17/94	11/01/94	59 FR 54519
Final Rule: Request for Comments: Comment Period to 01/30/95	11/01/94	59 FR 54519

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Jordan
Phone: 202 267-0142

RIN: 2115–AE10

2319. +STATE ACCESS TO THE OIL SPILL LIABILITY TRUST FUND (CGD 92-014)

Priority: Other Significant

CFR Citation: 33 CFR 133

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/13/92	57 FR 53968
Interim Final Rule Comment Period End	02/11/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Al Thuring
Phone: 703 235-4746

RIN: 2115–AE19

2320. +FEDERAL AGENCY ACCESS TO THE OIL SPILL LIABILITY TRUST FUND (CGD 92-074)

Priority: Other Significant

CFR Citation: 33 CFR 134; 33 CFR 137; 33 CFR 153

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Al Thuring
Phone: 703 235-4746

RIN: 2115–AE34

2321. REGATTA REGULATIONS

Priority: Routine and Frequent

CFR Citation: 33 CFR 100

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carlton Perry
Phone: 202 267-0979

RIN: 2115–AE46

2322. DRAWBRIDGE REGULATIONS

Priority: Routine and Frequent

CFR Citation: 33 CFR 117

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/96	

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Long-Term Actions

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alesia Steinberger
Phone: 202 267-6215

RIN: 2115–AE47

2323. FACILITIES TRANSFERRING OIL AND HAZARDOUS MATERIAL IN BULK (CGD 93-056)

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 154

Timetable:

Action	Date	FR Cite
NPRM	02/23/95	60 FR 10044
NPRM Comment Period End	05/24/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: CDR Dennis Haise
Phone: 202 267-6451

RIN: 2115–AE59

2324. NOTICE OF HAZARDOUS CONDITIONS (CGD 94-027)

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 160

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/03/94	59 FR 39458
Interim Final Rule Comment Period End	12/01/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: CDR Dennis Haise
Phone: 202 267-6451

RIN: 2115–AE82

2325. REGULATED NAVIGATION AREAS

Priority: Routine and Frequent

CFR Citation: 33 CFR 165

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margie G. Hegy
Phone: 202 267-0415

RIN: 2115–AE84

2326. IMMEDIATE REPORTING OF CASUALTIES (CGD 94-030)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 46 CFR 4

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/03/94	59 FR 39469
Interim Final Rule Comment Period End	11/01/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR P. A. Jensen
Phone: 202 267-6134

RIN: 2115–AE89

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Completed Actions

2327. FIXED FIRE-EXTINGUISHING SYSTEMS ON UNINSPECTED VESSELS (CGD 74-284)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 4104; 46 USC 4105; 46 USC 4302; 49 USC 108

CFR Citation: 46 CFR 162.029

Legal Deadline: None

Abstract: This action would have established standards and procedures for the approval of gaseous-type fixed fire-extinguishing systems aboard pleasure craft and other uninspected vessels. Most such systems use halons, which this rulemaking would have allowed (although not required). International protocols banned halons, as ozone-depleting substances, on and after January 1, 1995. Because replacements for halons are not fully evaluated yet, the Coast Guard has decided to withdraw this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	04/19/82	47 FR 16648
NPRM Comment Period End	06/03/82	
SNPRM; Comment Period End 03/11/91	01/09/91	56 FR 829
Withdrawn	07/20/95	60 FR 37419

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/09/91 (56 FR 829)

Agency Contact: Mr. K. Wahle, Project Manager, G-MMS-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1081

RIN: 2115–AA08

2328. SAFETY STANDARDS FOR NEW SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES (82-058)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 154

Legal Deadline: None

Abstract: A regulatory change is not needed because no new U.S. Flag vessels of this type are being built and no new building is anticipated in the near future. In addition, international rules for gas carriers are sufficient. The resources devoted to this project's development can be more effectively used elsewhere; therefore, this project is terminated.

Timetable:

Action	Date	FR Cite
NPRM	06/06/94	59 FR 29259

DOT—USCG

Completed Actions

Action	Date	FR Cite
NPRM Comment Period End	08/05/94	
Withdrawn	09/05/95	60 FR 46087

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Mr. T. Felleisen, Project Manager, G-MOS-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0085

RIN: 2115–AA95

2329. INCORPORATION OF AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR SAFETY OF LIFE AT SEA, 1974 (83-043)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223; 46 USC 3703

CFR Citation: 46 CFR 50; 46 CFR 52; 46 CFR 56; 46 CFR 58; 46 CFR 51; 46 CFR 111

Legal Deadline: None

Abstract: This project incorporates the provisions of chapters II-1, II-2, and V of the Safety of Life at Sea, 1974 International Convention (SOLAS 74). These provisions generally provide for acceptance of technology which is standard industry practice, such as use of plastic pipe in some places and common-rail bilge and ballast systems.

Timetable:

Action	Date	FR Cite
NPRM	09/28/90	55 FR 39638
NPRM Comment Period End	12/27/90	
Final Action	05/10/95	60 FR 24767
Final Action Effective	06/09/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/28/90 (55 FR 39638)

Additional Information: Formerly titled "Reassessment of Coast Guard Marine Engineering Regulations - Incorporation of SOLAS 74 Amendments"

Agency Contact: LCDR R. K. Butturini, Project Manager, G-MMS-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0027

RIN: 2115–AB41

2330. +LICENSING OF PILOTS—MANNING OF VESSELS (CGD 84-060)

Priority: Other Significant

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 7101; 46 USC 7109; 46 USC 7112; 46 USC 8101; 46 USC 8502; 46 USC 2103; 46 USC 3703; 46 USC 8901 to 8904

CFR Citation: 46 CFR 15.812; 46 CFR 10.700

Legal Deadline: None

Abstract: This final rule: (1) defined "coastwise seagoing vessel" for pilotage purposes; (2) described first class pilotage areas where local pilotage expertise is warranted; (3) allowed licensed individuals to serve as pilots in areas not identified as first class pilotage areas on vessels that they are otherwise qualified to control; (4) required a Federal pilot for certain vessels in excess of 1,600 gross tons; and (5) provided quick reference tables for pilotage requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/24/85	50 FR 26117
NPRM Comment Period End	12/23/85	
SNPRM	06/06/88	53 FR 20654
SNPRM; Notice of Public Hearing	08/11/89	54 FR 33045
Interim Final Rule	02/02/94	59 FR 4839
Interim Final Rule Comment Period End	03/21/94	
Final Action	04/27/95	60 FR 20651
Final Action Effective	05/30/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/02/94 (59 FR 4839)

Additional Information: This regulatory project has been split from a previously published action identified by the same title with Coast Guard Docket number 77-084 and RIN 2115-AA04, completed in 50 FR 26106. The Coast Guard initiated a comprehensive study of pilotage issues and requested public comment in 54 FR 31136.

Agency Contact: Mr. J. Bennett, Project Manager, G-MCO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0487

RIN: 2115–AB67

2331. EMERGENCY POSITION INDICATING RADIO BEACONS (EPIRBS) AND VISUAL DISTRESS SIGNALS FOR UNINSPECTED VESSELS (CGD 87-016)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4102; PL 100-540

CFR Citation: 46 CFR 25; 46 CFR 26

Legal Deadline: None

Abstract: This rulemaking was intended to require emergency position indicating radio beacons (EPIRBS) to be carried on certain uninspected passenger vessels and assistance towing vessels. The proposed EPIRB requirements would have applied to vessels operating on the high seas and on the Great Lakes beyond three miles from the coastline. The Coast Guard also proposed requiring visual distress signals on all uninspected vessels not presently required to carry them, when those vessels operate in coastal waters. The Coast Guard has decided to withdraw this project in an effort to focus its available resources on other regulatory projects.

Timetable:

Action	Date	FR Cite
NPRM	04/19/90	55 FR 14922
NPRM Comment Period End	06/15/90	
Partial Final Action Effective 04/26/93	03/10/93	58 FR 13364
Partial Final Action Correction	05/11/93	58 FR 27658
SNPRM; Comment Period End 06/17/94	02/17/94	59 FR 8100
SNPRM Correction	03/04/94	59 FR 10461
Withdrawn	10/05/95	60 FR 52359

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/10/93 (58 FR 13364)

Agency Contact: Bob Markle, Project Manager, G-MMS-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1076

RIN: 2115–AC69

DOT—USCG

Completed Actions

2332. REQUIREMENTS FOR MARINE TERMINALS TRANSFERRING BULK LIQUEFIED HAZARDOUS GASES (CGD 88-049)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 126; 33 CFR 127

Legal Deadline: None

Abstract: This project develops requirements for marine terminals transferring bulk liquefied hazardous gases (petroleum and chemical) and establishes comparable levels of safety and contingency measures for these commodities as are now required for liquefied natural gas (LNG).

Timetable:

Action	Date	FR Cite
ANPRM	09/28/88	53 FR 37792
ANPRM Comment Period End	11/28/88	
NPRM	10/05/93	58 FR 51906
NPRM Comment Period End	01/03/94	
Final Action	08/03/95	60 FR 39788
Final Rule Correction	09/26/95	60 FR 49509
Final Action Effective	01/30/96	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $12,000,000; Yearly Recurring Cost: $433,000; Base Year for Dollar Estimates: 1994

Analysis: Regulatory Evaluation 10/05/93 (58 FR 51906)

Agency Contact: Mr. Gary Chappell, Project Manager, G-MIR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1061

RIN: 2115–AD06

2333. REGULATED NAVIGATION AREA: PUGET SOUND AND STRAIT OF JUAN DE FUCA, WA; GRAYS HARBOR, WA; COLUMBIA RIVER AND WILLAMETTE RIVER, OR; YAQUINA BAY, OR; UMPQUA RIVER, OR; COOS BAY, OR (13-90-28)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1225; 33 USC 1231; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: This rulemaking project was initiated to adopt regulations requiring an emergency tow wire on tank barges while transiting certain port areas of the Pacific Northwest. The project is no longer necessary because the Coast Guard issued separate regulations on December 22, 1993, which require an emergency tow wire or tow line on all offshore oil barges. The Coast Guard is therefore terminating further rulemaking under docket number CGD13-90-028.

Timetable:

Action	Date	FR Cite
NPRM	10/24/91	56 FR 55104
NPRM Comment Period End	01/07/92	
Withdrawn	05/24/95	60 FR 27463

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/24/91 (56 FR 55104)

Agency Contact: LCDR J. Bigley, Project Officer, Department of Transportation, U.S. Coast Guard, COMMANDER (mps), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, WA 98174-1067
Phone: 206 220-7210

RIN: 2115–AE06

2334. ALTERATION OF OBSTRUCTIVE BRIDGES (CGD 91-063)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 511

CFR Citation: 33 CFR 116

Legal Deadline: None

Abstract: With the upsurge of interest in bridge alterations, it has become necessary to clarify the procedures for declaring a bridge to be an unreasonable obstruction and, most importantly, how a bridge qualifies for alteration under the Truman-Hobbs Act. This rule clarifies and updates the procedures contained in 33 CFR 116 to more clearly reflect the procedures currently in use.

Timetable:

Action	Date	FR Cite
NPRM	03/22/94	59 FR 13588
NPRM Comment Period End	05/23/94	
Final Action	04/28/95	60 FR 20900
Final Action Effective	05/30/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Larry R. Tyssens, Project Manager, G-NBR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0376

RIN: 2115–AE15

2335. FEDERAL PILOTAGE REQUIREMENT FOR FOREIGN TRADE VESSELS (CGD 92-061)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3703; 46 USC 8105; 46 USC 8502; 46 USC 8503

CFR Citation: 46 CFR 1.45; 46 CFR 1.46; 46 CFR 15.812

Legal Deadline: None

Abstract: The Coast Guard is amending the regulations to require Federal pilots for foreign trade vessels navigating at certain offshore marine oil terminals located within the U.S. navigable waters of the States of California and Hawaii, or while making intraport transits within certain designated waters of the States of New York and New Jersey, or while transiting certain designated waters of the State of Massachusetts.

Timetable:

Action	Date	FR Cite
NPRM	07/09/93	58 FR 36914
NPRM Correction	07/28/93	58 FR 40468
NPRM Comment Period End	09/07/93	
Final Action	05/10/95	60 FR 24793
Final Action Effective	06/09/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/09/93 (58 FR 36914)

Agency Contact: John Bennett, Project Manager, G-MCO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0487

RIN: 2115–AE28

DOT—USCG

Completed Actions

2336. PRINCE WILLIAM SOUND AUTOMATED DEPENDENT SURVEILLANCE SYSTEM INCORPORATION BY REFERENCE (93-022)

Priority: Other

Legal Authority: 33 USC 1231; 33 USC 2734

CFR Citation: 33 CFR 164.43

Legal Deadline: None

Abstract: Due to the development of new Digital Selective Calling (DSC) standards and Differential Global Positioning System (DGPS) standards, the existing incorporation by reference for Automated Dependent Surveillance System and Equipment Carriage Requirement has been superseded. This rulemaking will amend the incorporation by reference for 33 CFR 164.43 contained in 33 CFR 164.03.

Timetable:

Action	Date	FR Cite
NPRM	04/20/95	60 FR 19699
NPRM Comment Period End	06/19/95	
Final Action	10/03/95	60 FR 51733
Final Action Effective	11/02/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Irene Hoffman, Project Manager, G-NVT-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6277

RIN: 2115–AE41

2337. REGULATED NAVIGATION AREA: OLIVER LOCK AND DAM; BLACK WARRIOR RIVER—MM 338(08-93-027)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: This action established a Regulated Navigation Area at the Oliver Lock and Dam on the Black Warrior River, placing restrictions on downbound tows through the lock during high tail-water gauge readings. Subsequently, we rescinded the rule when it was no longer needed. The final rule for National Vessel Traffic Service Regulations, RIN 2115-AD56, published July 15, 1994 (59 FR 36316) and RIN 2115-AF12, published May 31, 1995 (60 FR 28326) removed the obsolete CFR section establishing the Regulated Navigation Area as part of our clean-up effort.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/19/94	59 FR 18486
Interim Final Rule Comment Period End	06/03/94	
Final Action	07/15/94	59 FR 36316
Final Action Effective	10/13/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LT Verne Gifford, Marine Safety Division, Eighth Coast Guard District, Department of Transportation, U.S. Coast Guard, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396
Phone: 504 589-6188

RIN: 2115–AE79

2338. REGULATED NAVIGATION AREA; MISSISSIPPI RIVER, MILES 88 TO 240 ABOVE HEAD OF PASSES (08-94-006)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231; 50 USC 191; 33 CFR 1.05 to 1(g); 33 CFR 6.04 to 1; 33 CFR 6.04 to 6; 33 CFR 160.5

CFR Citation: 33 CFR 165.803

Legal Deadline: None

Abstract: The Coast Guard extended the upper limits of the Mississippi River RNA to cover the area between river miles 88 and 240. The RNA will improve the safety of barge fleeting areas between New Orleans and Baton Rouge, Louisiana.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/28/94	59 FR 21933
Interim Final Rule Comment Period End	06/27/94	59 FR 21933
Interim Final Rule Comment Period Reopened to 11/10/94	08/12/94	59 FR 41405
Final Action	07/25/95	60 FR 37941
Final Action Effective	07/25/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LT Verne Gifford, Marine Safety Division, Eighth Coast Guard District, Department of Transportation, U.S. Coast Guard, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396
Phone: 504 589-6172

RIN: 2115–AE81

2339. +ESTABLISHMENT OF LIGHTERING ZONES (CGD 93-081)

Priority: Other Significant

Legal Authority: 46 USC 3715(b)

CFR Citation: 33 CFR 156

Legal Deadline: None

Abstract: Under the Oil Pollution Act of 1990 (OPA 90), single-hull tankers otherwise not permitted to operate within the U.S. Exclusive Economic Zone (EEZ) may enter the EEZ to lighter (offload oil to another vessel) in designated zones 60 miles or more offshore. This project establishes four lightering zones in the Gulf of Mexico, off the coasts of Corpus Christi, Galveston, Louisiana, and Mobile, and impose operating requirements on lightering in the zones. It also establishes restricted areas in which lightering will not be permitted. Except for establishing the restricted area, this project will not affect existing lightering practices for vessels permitted to operate in the EEZ under OPA 90. This action is considered significant because of its potential effects on the tank vessel industry, public interest, and its potential environmental impact.

Timetable:

Action	Date	FR Cite
ANPRM	12/02/93	58 FR 63544
Notice of Meeting	12/16/93	58 FR 65683
Comment Period Extended to 02/02/94	12/30/93	58 FR 69313
ANPRM Comment Period End	01/03/94	
NPRM	01/05/95	60 FR 1958
NPRM Comment Period End	03/06/95	
Final Action	08/29/95	60 FR 45006
Final Action Effective	08/29/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR Stephen L. Kantz, Project Manager, G-MCO-3,

Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1934

RIN: 2115–AE90

2340. POLLUTION PREVENTION: MARPOL SPECIAL AREAS (CGD 94-056)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321; 33 USC 1903

CFR Citation: 33 CFR 151; 33 CFR 155

Legal Deadline: None

Abstract: This rule implements resolutions under the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78) adopting several new Special Areas. Special Areas are oceanographical areas of the seas that, because of such factors as ecological conditions or volume of vessel traffic, deserve special measures to prevent pollution by oil, noxious liquid substances, and garbage.

Timetable:

Action	Date	FR Cite
Final Action	08/21/95	60 FR 43374
Final Action Effective	11/20/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Janet Walton, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0257

RIN: 2115–AE97

2341. FACSIMILE FILING OF COMMERCIAL INSTRUMENTS RELATED TO VESSEL DOCUMENTATION (CGD 94-070)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 14 USC 664; 31 USC 9701; 42 USC 9118; 46 USC 2103; 46 USC 2107; 46 USC 2110; 46 app USC 841a; 46 app USC 876

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: This regulation amends the vessel documentation regulations to provide for optional filing of commercial instruments by facsimile, and establishes a filing and recording handling fee for filing instruments by facsimile. Facsimile filing of commercial instruments has been identified as one way in which a centralized vessel documentation center can deliver timely services to distant vessel documentation customers and be responsive to time sensitive matters. Filing commercial instruments by facsimile should further streamline the vessel documentation process and provide the public with more timely constructive notice of these instruments.

Timetable:

Action	Date	FR Cite
NPRM	03/06/95	60 FR 12188
NPRM Comment Period End	05/05/95	
Final Action	08/07/95	60 FR 40238
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Patricia Williams, Project Manager, Department of Transportation, U.S. Coast Guard, National Vessel Documentatin Center, Martinsburg, WV 25401
Phone: 800 799-8362

RIN: 2115–AE98

2342. COAST GUARD RULEMAKING PROCEDURES (CGD 94-105)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 633

CFR Citation: 33 CFR 1.05

Legal Deadline: None

Abstract: This project revises 33 CFR subpart 1.05 to accurately reflect recent changes in Coast Guard rulemaking procedures. It also provides for a "direct final" rule process in which certain rules would be published and become final unless adverse comments were received within a given time period. These revisions will not have an economic impact on the public, and will simply conform 33 CFR Subpart 1.05 to current Coast Guard rulemaking procedures.

Timetable:

Action	Date	FR Cite
NPRM	06/17/95	60 FR 31267
NPRM Comment Period End	07/14/95	
NPRM; Comment Period Reopened to 8/31/95	08/01/95	60 FR 39130
Final Action	09/22/95	60 FR 49222
Final Action Effective	10/23/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LT Rachel Goldberg, Project Manager, G-LRA, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1534

RIN: 2115–AE99

2343. TEMPORARY SPEED LIMITS FOR THE ST. MARYS RIVER (09-94-036)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: The Coast Guard temporarily reduced the speed limit by 2 miles per hour for the St Marys River during the 1994-95 icebreaking season. These temporary changes are a precautionary measure to minimize possible damage to the environment due to movement of large commercial vessels through the ice.

Timetable:

Action	Date	FR Cite
Temporary Final Rule	01/23/95	60 FR 4378
Temporary Final Rule Effective 12/29/94 through 4/15/95	01/23/95	60 FR 4378
Final Action	02/16/95	60 FR 8942
Final Action Effective	02/16/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LT Scott J. Smith, Project Manager, Department of Transportation, U.S. Coast Guard, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199-2060
Phone: 216 522-3990

RIN: 2115–AF01

2344. • REMOVAL OF OBSOLETE AND UNNECESSARY REGULATIONS (CGD 95-012)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 46 USC 3306; 46 USC 4104

CFR Citation: 46 CFR 25; 46 CFR 28; 46 CFR 30; 46 CFR 31; 46 CFR 35; 46 CFR 37; 46 CFR 40; 46 CFR 54 to 56; 46 CFR 61; 46 CFR 72; 46 CFR 76; 46 CFR 78; 46 CFR 79; 46 CFR 95; 46 CFR 97; ...

Legal Deadline: None

Abstract: The Coast Guard's marine safety regulations are being purged of requirements that are obsolete. This project is responsive to President Clinton's March 4, 1995 memorandum which, among other regulatory improvements, calls for the elimination or revision of obsolete regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/09/95	60 FR 24748
NPRM Comment Period End	07/10/95	
Final Action	09/18/95	60 FR 48044
Correction Effective 10/1/95	09/28/95	60 FR 50120
Final Action Effective	10/18/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR R. K. Butturini, Project Manager, G-MMS-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0027

RIN: 2115–AF03

2345. • AMENDMENT TO INLAND WATERWAYS NAVIGATION REGULATIONS ESTABLISHING SPEED LIMITS ON CONNECTING WATERS FROM LAKE HURON TO LAKE ERIE (09-95-002)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 162

Legal Deadline: None

Abstract: This regulation amends the speed limits for vessels, less than 100 gross tons, operating in the nondisplacement mode on connecting waters from Lake Huron to Lake Erie. The normal speed limits in this area are determined in large part by concerns about wake damage. However, lesser wakes are created by nondisplacement vessels and it appears that normal speed limits unnecessarily impede their passage. The Coast Guard allowed nondisplacement vessels to operate at higher speeds under similar conditions during two temporary test periods from April 1,1993 to November 30, 1994, with satisfactory results.

Timetable:

Action	Date	FR Cite
NPRM	03/27/95	60 FR 15734
NPRM Comment Period End	05/26/95	
Final Action	07/11/95	60 FR 35701
Final Action Effective	07/11/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LT Katherine E. Weathers, Project Manager, Department of Transportation, U.S. Coast Guard, COMMANDER(m), Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, OH 44199-2060
Phone: 216 522-3994

RIN: 2115–AF04

2346. • CENTRALIZATION OF VESSEL DOCUMENTATION OFFICES (CGD 95-014)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 14 USC 664; 31 USC 9701; 42 USC 9118; 46 USC 2103; 46 USC 2107; 46 USC 2110; 46 app USC 841a; 46 app USC 876

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: Rulemaking announces the closure of the 14 existing regional documentation offices and the transfer of all vessel documentation functions and files to the Vessel Documentation Center in Martinsburg, WV. This rulemaking also deletes references to multiple ports of documentation and multiple ports of record currently in the CFR and replaces these references with mention of the Vessel Documentation Center.

Timetable:

Action	Date	FR Cite
Final Action	06/15/95	60 FR 31602
Final Rule Correction	07/24/95	60 FR 37923
Final Action Effective	08/01/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Patricia Williams, Project Manager, Department of Transportation, U.S. Coast Guard, National Vessel Documentation Center, Martinsburg, WV 25401
Phone: 800 799-8362

RIN: 2115–AF05

2347. • OBSOLETE BULK HAZARDOUS MATERIALS (CGD 94-902)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 33 USC 1903; 46 USC 2103; 46 USC 3306; 46 USC 3703; 49 USC 5103

CFR Citation: 46 CFR 30; 46 CFR 150; 46 CFR 151; 46 CFR 153

Legal Deadline: None

Abstract: This final rule amends the Coast Guard's tables and lists of hazardous materials carried in bulk by vessels by deleting commodities that are no longer carried in bulk.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/94	59 FR 45150
ANPRM Comment Period End	11/29/94	
Final Action	06/29/95	60 FR 34039
Final Rule Correction	07/24/95	60 FR 37923
Final Action Effective	08/28/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Curtis Payne, Project Manager, G-MOS-3, Department of

DOT—USCG

Completed Actions

Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0016

RIN: 2115–AF06

2348. • BULK HAZARDOUS MATERIALS (CGD 95-900)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1903; 46 USC 2103; 46 USC 3306; 46 USC 3703; 49 USC 5103

CFR Citation: 46 CFR 30; 46 CFR 150; 46 CFR 151; 46 CFR 153

Legal Deadline: None

Abstract: This rulemaking amends regulations on carriage of bulk hazardous materials by adding cargoes recently authorized for carriage by the Coast Guard or added to the International Maritime Organization's Chemical codes, and by making minor editorial changes and corrections.

Timetable:

Action	Date	FR Cite
Final Action	06/29/95	60 FR 34043
Final Rule Correction	08/02/95	60 FR 39267
Final Rule Correction	08/07/95	60 FR 40227
Final Rule Correction	08/11/95	60 FR 41157
Final Action Effective	08/28/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Curtis Payne, Project Manager, G-MOS-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0016

RIN: 2115–AF07

2349. • NOXIOUS LIQUID SUBSTANCES (CGD 95-901)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321(j)(1)(C); 33 USC 1903(b)

CFR Citation: 33 CFR 151

Legal Deadline: None

Abstract: This rulemaking amends the Coast Guard's noxious liquid substances regulations to include substances recently authorized for carriage by the Coast Guard or added to the International Maritime Organization's Chemical codes, and by making minor editorial changes and corrections.

Timetable:

Action	Date	FR Cite
Final Action	06/29/95	60 FR 34038
Final Action Effective	06/29/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Curtis Payne, Project Manager, G-MOS-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0016

RIN: 2115–AF08

2350. • NATIONAL VESSEL TRAFFIC SERVICES REGULATIONS (CGD 95-033)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223; 33 USC 1231

CFR Citation: 33 CFR 26; 33 CFR 161; 33 CFR 162; 33 CFR 165

Legal Deadline: None

Abstract: This rule amended the regulations to clarify certain sections and correct inaccurate geographic information. In addition, the rule deleted certain sections and added existing vessel traffic management information inadvertently omitted in a separate final rule.

Timetable:

Action	Date	FR Cite
Final Action	05/31/95	60 FR 28326
Final Action Effective	05/31/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This project clarifies and corrects portions of regulations published under RIN: 2115-AD56. Coast Guard Docket (CGD) 90-020.

Agency Contact: Irene Hoffman, Project Manager, G-NVT-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6277

RIN: 2115–AF12

2351. • CLARIFICATION OF COAST GUARD RULEMAKING PROCEDURES (CGD 95-057)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 553; 14 USC 2; 14 USC 631 to 633; 33 USC 471; 33 USC 499; 49 USC 101; 49 USC 322

CFR Citation: 33 CFR 1.05; 33 CFR 1.20

Legal Deadline: None

Abstract: The Coast Guard is revising the regulations describing its rulemaking procedures to accurately reflect the rulemaking procedures currently in use. This revision clarifies delegations of authority and removes references to hearing officers, which the Coast Guard no longer uses in its regulatory process. It also clarifies who is designated to receive service of process and requests to testify on behalf of members and employees of the Coast Guard.

Timetable:

Action	Date	FR Cite
Final Action	06/30/95	60 FR 34147
Final Action Effective	06/30/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Rulemaking broken off of RIN 2115-AE99.

Agency Contact: LT Rachel Goldberg, Project Manager, G-LRA, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6004

RIN: 2115–AF20

2352. • TECHNICAL AMENDMENTS: ORGANIZATIONAL CHANGES (CGD 95-072)

Priority: Other

Legal Authority: 14 USC 633; 46 USC 2103

CFR Citation: 46 CFR 1 to 2; 46 CFR 6; 46 CFR 25; 46 CFR 28; 46 CFR 30 to 33; 46 CFR 39; 46 CFR 75 to 78; 46 CFR 92; 46 CFR 94 to 97; 46 CFR 107 to 108; 46 CFR 175; 46 CFR 180 to 183

DOT—USCG

Completed Actions

Legal Deadline: None

Abstract: This rule revises Title 46 CFR to reflect recent agency organizational changes and makes minor corrections to the title. This regulatory project will result in no substantive changes to rules.

Timetable:

Action	Date	FR Cite
Final Action	09/29/95	60 FR 50455

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Walton, Project Manager (G-MES-2), Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0257

RIN: 2115–AF21

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Proposed Rule Stage

2353. OBJECTS AFFECTING NAVIGABLE AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1421 to 1430; 49 USC 1501; 49 USC 106(g)

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: This action would amend the standards, aeronautical studies, scope, and notice provisions concerning objects affecting navigable airspace. The notice consisted primarily of changes required by recent legislation or recommended by a government/industry task group of the National Airspace Review Advisory Committee. This action would also cover electromagnetic interference phenomenon that could create a hazard to air navigation.

Timetable:

Action	Date	FR Cite
Notice of Review	06/19/78	43 FR 26322
Review Conference	12/08/80	
National Airspace Review Begins	07/09/84	
NPRM	08/03/90	55 FR 31722
NPRM Correction	08/13/90	55 FR 32999
NPRM Correction	08/16/90	55 FR 33577
NPRM Correction	08/28/90	55 FR 35152
NPRM Correction	09/10/90	55 FR 37287
NPRM Comment Period End	12/31/90	
SNPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 08/03/90 (55 FR 31722)

Additional Information: Project ATP-85-015R.

Agency Contact: Ellen Crum, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8783

RIN: 2120–AA09

2354. AIRWORTHINESS STANDARDS; CRASH-RESISTANT FUEL SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action proposes changes to the airworthiness standards to improve the crash resistance of fuel systems on normal, utility, acrobatic, and commuter category airplanes. The FAA has determined that improved crash resistance of these fuel systems is necessary to prevent deaths and injuries due to fire in survivable crashes. The proposed design changes would limit fuel spillage near ignition sources and would provide additional time for the survivors to evacuate the airplane.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/85	50 FR 8948
ANPRM Comment Period End	07/03/85	
NPRM	02/28/90	55 FR 7280
NPRM Comment Period End	06/28/90	
SNPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/28/90 (55 FR 7280)

Additional Information: Formerly titled "Amend part 23 To Include Requirements for Crash-Resistant Fuel Systems." Project No. ACE-82-005R.

Agency Contact: Norman Vetter, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106
Phone: 816 426-5688

RIN: 2120–AA57

2355. REVIEW OF PART 47, AIRCRAFT REGISTRATION, AND PART 49, RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1401; 49 USC 1403; 49 USC 1405; 49 USC 1406; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 47; 14 CFR 49

Legal Deadline: None

Abstract: This notice would propose to update parts 47 and 49 of the Federal Aviation Regulations to reflect changes in the law, legal interpretations, other recent rulemaking actions, and the FAA's current aircraft registry practices. The intent of these proposed changes is to articulate, modernize, and simplify the existing regulations rather than alter established procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/95

Additional Information: Project Number AFS-89-201R.

Agency Contact: Sharon Ashford, Flight Standards Service, Department of Transportation, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Boulevard, Oklahoma City, Oklahoma 73125
Phone: 405 954-7038

RIN: 2120–AC17

DOT—FAA

Proposed Rule Stage

2356. +PART 145 REVIEW: REPAIR STATIONS

Priority: Other Significant

Legal Authority: 49 USC 1354; 49 USC 1355; 49 USC 1421; 49 USC 1427

CFR Citation: 14 CFR 43; 14 CFR 65; 14 CFR 145

Legal Deadline: None

Abstract: The FAA proposes to update and revise the regulations for repair stations. This action is necessary because many portions of the current repair station regulations do not reflect technical advances in aircraft maintenance practices or aircraft technology. The revisions would reorganize the repair station rules to reduce duplication of regulatory language and eliminate obsolete information. The proposal also would establish new requirements that relate to repair station ratings and classes, manual requirements, recordkeeping, and personnel. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meetings	07/24/89	54 FR 30866
Notice Correction	08/08/89	54 FR 32563
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. AFS-87-045R. This project was formerly entitled Review and Revision of Repair Station Requirements, and Repair Station and Repairmen Certification Rules.

Agency Contact: Richard Nowak, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7228

RIN: 2120–AC38

2357. 1-G STALLING SPEED AS A BASIS FOR COMPLIANCE WITH PART 25 OF THE FEDERAL AVIATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 36

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations to redefine the airplane reference stalling speed as the 1-g stalling speed in lieu of the minimum stalling speed. It would: (1) provide for a consistent, repeatable reference stalling speed; (2) ensure consistent and dependable maneuvering margins; (3) clarify the requirement for the use of 1-g stalling speeds in determining structural design speeds; (4) increase the head-on gust structural design requirement; and (5) provide for adjusted multiplying factors to maintain essentially equivalent requirements in areas where the use of minimum stalling speed has proven adequate. These changes are needed since the stalling characteristics of modern jet transports as determined by current methods can result in inconsistent reference stalling speeds. These changes may result in a higher level of safety where current methods have resulted in artificially low reference stalling speeds.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/95

Additional Information: Project No. ANM-86-041R.

Agency Contact: James Haynes, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2131

RIN: 2120–AD40

2358. +REVISION OF PART 108, AIRPLANE OPERATOR SECURITY

Priority: Other Significant

Legal Authority: 49 USC 1354; 49 USC 1356; 49 USC 1357; 49 USC 1421; 49 USC 1424; 49 USC 1511; 49 USC 106(g)

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: This action would amend part 108 of the Federal Aviation Regulations to incorporate new requirements in response to worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number ACS-87-107R.

Agency Contact: Karl Shrum, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3946

RIN: 2120–AD45

2359. +REVISION OF PART 107, AIRPORT SECURITY

Priority: Other Significant

Legal Authority: 49 USC 1354; 49 USC 1356; 49 USC 1357; 49 USC 1358; 49 USC 1421; 49 USC 106(g)

CFR Citation: 14 CFR 107

Legal Deadline: None

Abstract: This notice would propose to amend part 107 of the Federal Aviation Regulations to incorporate new requirements in response to the worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number ACS-87-106R.

Agency Contact: Robert Cammaroto, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7723

RIN: 2120–AD46

DOT—FAA

Proposed Rule Stage

2360. +ALTERNATIVE MEANS OF COMPLIANCE

Priority: Other Significant

Legal Authority: 49 USC 1341(a); 49 USC 1343(d); 49 USC 1348; 49 USC 1354(a); 49 USC 1401 to 1405; 49 USC 1421 to 1431; 49 USC 1481; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: This action would revise the Federal Aviation Regulations to provide for the granting of relief from the literal compliance with certain rules provided the applicant justifies this relief and that the FAA finds that the provisions not complied with are compensated for by factors that have an equivalent level of safety or that there will be no adverse effect on safety. This action is considered significant because of a substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number ARM-90-045R. Formerly titled "Exemption Process."

Agency Contact: Linda Williams, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9685

RIN: 2120–AD66

2361. +COST OF SERVICES AND TRANSFER OF FEES TO PART 187 FROM PARTS 47, 49, 61, 63, 65, AND 143

Priority: Other Significant

Legal Authority: 49 USC 1341; 49 USC 1343; 49 USC 1344; 49 USC 1346; 49 USC 1348; 49 USC 1354; 49 USC 1355; 49 USC 106(g)

CFR Citation: 14 CFR 47; 14 CFR 49; 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 143; 14 CFR 187

Legal Deadline: None

Abstract: This action would assess reasonable charges for certain services provided by the FAA. The charges would be set at a level approximating the cost to the Government to provide these services and would be adjusted periodically as the cost of these services change or as prescribed in the Anti-Drug Abuse Act of 1988. The cost of providing services for aircraft registration and recording and replacement of airmen certificates is not being fully recouped in accordance with the changes reflected in the Consumer Price Index of All Urban Consumers, which was published by the Bureau of Labor Statistics of the Department of Labor, or as set by the Anti-Drug Abuse Act of 1988. This rulemaking would also consolidate all service fees by placing them in part 187 of the Federal Aviation Regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/00/96

Additional Information: Project Number AFS-90-347R.

Agency Contact: Sharon Ashford, Registry Modernization Staff, Mike Monroney Aeronautical Center, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur Boulevard, Oklahoma City, Oklahoma 73125-4939
Phone: 405 954-7038

RIN: 2120–AD91

2362. VISUAL DESCENT POINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This notice would propose to incorporate visual descent point (VDP) requirements into Part 135 of the Federal Aviation Regulations (FAR). In addition, this notice would amend the VDP requirements in Part 121 of the FAR to be consistent with the VDP requirements in Part 135 of the FAR.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number AFS-91-206R.

Agency Contact: Larry Youngblut, Regulations Branch, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3755

RIN: 2120–AE34

2363. +REDUCED ALTITUDE SEPARATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471 to 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; EO 11514; 49 USC 106(g); 49 USC 1321 et seq

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: In the 1950's, a vertical separation minimum of 2,000 feet was established for use between aircraft operating above flight level 290. Reducing the 2,000-foot separation requirement to 1,000 feet would increase flight level availability, increase en route airspace capacity, enable aircraft to fly at more fuel efficient altitudes, and increase air traffic controller flexibility. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Public Meeting Notice	07/22/93	58 FR 39273
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/00/96

Additional Information: Project Number: AFS-92-279R

Agency Contact: Roy Grimes, Technical Programs Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3755

RIN: 2120–AE51

2364. +AIRPORT LAND USE COMPATIBILITY PLANNING—PROPOSED REVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1348; 49 USC 1354(a); 49 USC 1421; 49 USC 1431; 49 USC 2101 to 2103(a); 49 USC 2104(a); 49 USC 2104(b); 49 USC 2201 et seq; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 150

Legal Deadline: None

Abstract: This action would revise the requirements for developing noise exposure maps and noise compatibility programs and submitting them for FAA approval. The revisions are intended to expedite and simplify the part 150 process. Under the revised process, the mandatory set of noise abatement measures which are presently required to be considered by each airport sponsor would be limited in scope depending on the characteristics of each airport and its surrounding community. The new process would be supported by appropriate guidance, training, review, standardization, and consultation requirements. This project is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Additional Information: Project Number: AEE-90-410R.

Agency Contact: Alan V. Trickey, Policy and Regulations Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3496

RIN: 2120–AE64

2365. +PILOT, FLIGHT INSTRUCTOR, GROUND INSTRUCTOR, AND PILOT SCHOOL CERTIFICATION RULES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This action would update and revise part 61, Certification: Pilots and Flight Instructors; part 141, Pilots Schools; and part 143, Ground Instructors. In order to be more compatible with the current operating environment and evolving demands of the national airspace system, this action would update training, certification, and recency-of-experience requirements. It is considered significant because of substantial public interest in pilot and instructor certification and training issues.

Timetable:

Action	Date	FR Cite
NPRM	08/11/95	60 FR 41160
NPRM Comment Period End	12/11/95	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project No.: AFS-90-025R. RIN 2120-AD59 entitled, "Operations Over the High Seas and Within the North Atlantic Minimum Navigation Performance Specification Airspace," has been incorporated into this document (previous Project No.: AFS-89-175R). The present action was formerly entitled "Part 61, Phase II."

Agency Contact: John Lynch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3841

RIN: 2120–AE71

2366. +MODE S TRANSPONDER REQUIREMENT FOR PART 135 OPERATORS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise the Mode S transponder requirement for all aircraft operating under part 135 and certain aircraft operating under part 121 based on the expected availability of operational capabilities of Mode S ground sensors. For part 121 operators, the action would affect only those aircraft not required to have Traffic Alert and Collision Avoidance System II. An aviation rulemaking advisory committee has recommended that the FAA conduct a study of the installed Mode S ground sensor to determine the extent of the benefits derived and the costs involved in equipage. This action is a relieving action made necessary by the fact that ground sensors are not in place to support the requirement. Further, FAA is studying the need for Mode S transponders in Part 135 and certain Part 121 operations in light of the fact that transponders may not substantially increase ATC ability to view air traffic. This rulemaking is considered significant because of the substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number: AFS-92-297R. As this action merely involves a further extension of compliance date, it is not a rulemaking requiring OMB review in the context of EO 12866. However, it is significant under DOT's regulatory policies and procedures.

Agency Contact: Daniel V. Meier, Jr., Airplane Rules and Aeronautical Information Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3749

RIN: 2120–AE81

2367. +CORROSION CONTROL PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1501; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: This project would ensure that airplanes used or not used in common carriage in air transportation have a comprehensive corrosion prevention program within their maintenance or inspection programs. In April 1988, a commercial transport airplane experienced an in-flight decompression and separation of approximately 18 feet of the fuselage skin and structure at the top of the airplane. The airplane had been in service for 19 years and had flown almost 90,000 flights. The National Transportation Safety Board concluded that the failure of the airline to detect skin disbonding resulted in corrosion and metal fatigue leading to separation of the airplane's skin structure. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/96

Additional Information: Project Number: AFS-93-382R

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7355

RIN: 2120–AE92

2368. NASHVILLE, TN, CLASS B AIRSPACE

Priority: Routine and Frequent

Legal Authority: 49 USC 1348(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This notice proposes to establish Nashville Class B airspace and revoke Nashville Class C airspace in Tennessee. The Nashville Class B Airspace would consist of an area up to and including 8,000 feet mean sea level from the surface or higher within a 27-mile radius of the Nashville International Airport. This action is intended to increase the capability of the air traffic control system to separate aircraft in the terminal airspace around the Nashville International Airport.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number: ATP-93-361T

Agency Contact: Patricia Crawford, Airspace and Obstruction Evaluation Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9255

RIN: 2120–AE93

2369. CINCINNATI, OH, CLASS B AIRSPACE

Priority: Routine and Frequent

Legal Authority: 49 USC 1354(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: This action would alter the Cincinnati, OH, Terminal Control Area (TCA) to redefine the airspace around the Cincinnati/Northern International Airport. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number: ATP-93-476T

Agency Contact: Norman W. Thomas, Airspace and Obstruction Evaluation Branch, Airspace Rules & Aeronautical Info Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9230

RIN: 2120–AE97

2370. CHANGES IN TYPE DESIGN OF HELICOPTERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1432; 49 USC 1502; 49 USC 1651(b)(2); 49 USC 7272; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This action would provide an exclusion for the attachment, or removal, of external equipment for specific purposes from the existing noise certification requirements for changes in type design of helicopters.

Timetable:

Action	Date	FR Cite
NPRM	09/20/95	60 FR 48790
Correction	09/28/95	60 FR 50244
NPRM Comment Period End	11/20/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/95

Additional Information: Project Number: AEE-93-558R

Agency Contact: Kenneth Jones, Technical Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 10592 Phone: 202 267-3554

RIN: 2120–AF10

2371. ORLANDO, FL, CLASS B AIRSPACE

Priority: Routine and Frequent

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action will propose to alter the Orlando, FL, Class B airspace area. This action would maintain the altitude of the upper limit of the Class B airspace area at 10,000 feet mean sea level and redefine several existing subareas to improve safety while providing the most efficient use of the terminal airspace.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/00/96

Additional Information: Project Number: ATP-94-150T

Agency Contact: Lewis W. Still, Airspace and Obstruction Evaluation Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9250

RIN: 2120–AF17

2372. RALEIGH/DURHAM, NC, CLASS B AIRSPACE

Priority: Routine and Frequent

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action will propose to establish the Raleigh/Durham Class B airspace area and revoke the Class C airspace area in North Carolina. The purpose of the proposed establishment of a Class B airspace at Raleigh/Durham is to improve the degree of safety while providing the most efficient use of the terminal airspace.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/96

Additional Information: Project Number: ATP-93-57ST

Agency Contact: Patricia Crawford, Airspace and Obstruction Evaluation Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9250

RIN: 2120–AF20

2373. +REVISION OF EMERGENCY EVACUATION DEMONSTRATION PROCEDURES TO IMPROVE PARTICIPANT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25; 49 CFR 1.47

Legal Deadline: None

Abstract: This action would amend part 25 of the FAR by revising Appendix J, Emergency Evacuation, to allow certain alternative procedures in conducting full-scale emergency evacuation demonstrations for transport category airplanes. This is in response to recommendations from the Performance Standards Working Group of the Aviation Rulemaking Advisory Committee. The changes, which are intended to make full-scale emergency evacuation demonstrations safer for participants and to codify existing practices, would also affect manufacturers and operators of transport category airplanes. This action is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/18/95	60 FR 36932
Correction	08/25/95	60 FR 44387
NPRM Comment Period End	10/16/95	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number: ANM-94-124A

Agency Contact: Franklin Tiangsing, Regulations Branch, ANM-114, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 206 227-2121

RIN: 2120–AF21

2374. AVIATION INSURANCE

Priority: Other

Legal Authority: 49 USC 1531 to 1543; 4 USC 106(g); PL 97-449

CFR Citation: 14 CFR 198

Legal Deadline: None

Abstract: This rulemaking would revise and update the aviation insurance requirements. This action is being taken to reflect current legislative language, to be current with industry practices, to reflect industry concerns, and to recapture administrative expenses incurred. This action will clarify the language and make it conform with the current legislative language and intent.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/00/96

Additional Information: Project Number: APO-93-512R

Agency Contact: Ellie Eilenberg, Office of Policy, Plans, and Management Analysis, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3090

RIN: 2120–AF23

2375. NORMAL CATEGORY MAXIMUM WEIGHT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: The FAA announced a public meeting to discuss the use of Aviation Rulemaking Advisory Commission procedures in future harmonized rulemaking. One specific rulemaking discussed was a proposed increase in the current maximum gross weight limitation of 6,000 pounds for certification as a normal category rotorcraft. This project has been assigned to ARAC.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	02/05/94	59 FR 554
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/96

Agency Contact: Kim Smith, Rotorcraft Standards Staff, Rotorcraft Directorate, Department of Transportation, Federal Aviation Administration, ASW-110, FAA, Fort Worth, TX 76193-0110 Phone: 817 222-5128

RIN: 2120–AF33

2376. +CONTROLLED REST ON THE FLIGHT DECK

Priority: Other Significant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428 to 1430; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This proposal would allow part 121 certificate holders who operate aircraft that require three flight crewmembers, two pilots and a flight engineer, to implement a controlled rest on the flight deck program. Under the program, when cockpit workload permits, one flight crewmember at a time would be given the opportunity to sleep for a brief period of time at his or her duty station during the cruise portion of a flight. Before using the controlled rest concept, however, the certificate holder would have to obtain approval for its program from the FAA. This proposal originated as a recommendation from the Aviation Rulemaking Advisory Committee and responds to industry interest in developing a controlled rest program that is approved by the FAA. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number: AFS-92-764A

Agency Contact: Larry Youngblut, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3755

RIN: 2120–AF54

2377. PROPOSED MODIFICATION OF THE SALT LAKE CITY, UT, CLASS B AIRSPACE

Priority: Routine and Frequent

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action will propose to alter the Salt Lake City, UT, Class B airspace area by redefining several existing subareas to improve air traffic procedures. The goal of this action is to improve safety while providing the most efficient use of the terminal airspace.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/00/96

Additional Information: Project Number: ATP-94-361R

Agency Contact: Norman W. Thomas, Airspace and Obstruction Evaluation Branch, AIr Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9230

RIN: 2120–AF56

2378. PROPOSED MODIFICATION OF THE PHOENIX, AZ, CLASS B AIRSPACE

Priority: Routine and Frequent

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action will propose to alter the Phoenix, AZ, Class B airspace area by redefining several existing subareas to improve air traffic procedures. The goal of this action is to improve safety while providing the most efficient use of the terminal airspace.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number: ATP-94-623R

Agency Contact: Norman W. Thomas, Airspace and Obstruction Evaluation Branch, Rules and Aeronautical Information Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9230

RIN: 2120–AF58

2379. +FLIGHT CREWMEMBER DUTY LIMITATIONS AND REST REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428 to 1430; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend the pilot rest and duty requirements for pilots operating under Parts 121 and 135 by ensuring that pilots receive adequate rest opportunities while assigned to reserve status and by preventing lengthy duty periods that could contribute to acute and cumulative fatigue. Specifically, the rulemaking will propose a definition of rest period. This action also proposes that all commercial flying or flying under Part 91 that is done by a pilot for a certificate holder will be included in the total flight time limitations of Parts 121 or 135, as applicable. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number AFS-94-443R

Agency Contact: Larry Youngblut, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3755

RIN: 2120–AF63

2380. +SUBMISSION TO DRUG TESTS

Priority: Other Significant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1356; 49 USC 1401; 49 USC 1421; 49 USC 1422 to 1432; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 91

Legal Deadline: None

Abstract: This action would propose amendments to require aircraft crewmembers to submit to tests that show the presence of alcohol, drugs, or drug metabolites when requested by Federal, State, or local law enforcement officers investigating violations of Federal, State, or local law. The proposed amendments are intended to reduce aircraft accidents and incidents attributed to the use of drugs by crewmembers. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/00/96

Additional Information: Project Number: AFS-90-082

Agency Contact: Thomas K. Glista, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8150

RIN: 2120–AF64

2381. TYPE CERTIFICATION PROCEDURES FOR CHANGED PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1341(a); 49 USC 1343(d); 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1491 to 1406; 49 USC 1421 to 1432; 49 USC 1481; 49 USC 1502; 49 USC 1651(b)(2); 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 11; 14 CFR 21; 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the procedural regulations for the certification of changes to type certificated products. The amendments are needed to accommodate the trend toward fewer products that are of completely new design and more products with repeated changes of previously approved designs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/00/96

Additional Information: Project Number: AIR-95-053A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Lyle Davis, Office of Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9583

RIN: 2120–AF68

2382. +PASSENGER FACILITY CHARGES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1513; 49 USC 2206; 49 USC 2218

CFR Citation: 14 CFR 158

Legal Deadline: None

Abstract: This action proposes to increase the amount of compensation that a carrier may earn for collecting and remitting a passenger facility charge from eight cents to ten cents. In addition, the NPRM proposes to clarify that monthly remittances must be received by airport public agencies collecting PFCs on the last day of each month. The NPRM also proposes to amend the regulation to reflect the statutory prohibition on collection of PFCs from passengers using frequent flyer bonus awards. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number: APP-94-568P.

Agency Contact: Sheryl Scarborough, Airport Financial Assistance Division, Office of Airports Planning and Programming, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8825

RIN: 2120–AF69

2383. REVISED STRUCTURAL LOADS REQUIREMENTS FOR TRANSPORT AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1347; 49 USC 1348; 49 USC 1354(a); 49 USC 1357(d)(2); 49 USC 1372; 49 USC 1421 to 140; 49 USC 1432; 49 USC 1442; 49 USC 1443; 49 USC 1472; 49 USC 1522; 49 USC 1652(e); 49 USC 1655(c); 49 USC 2657(f); 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes to revise the structural loads design requirements of the Federal Aviation Regulations (FAR) for transport category airplanes by incorporating changes developed in cooperation with the Joint Aviation Authorities of Europe, and the U.S. and European aviation industry through the Aviation Rulemaking Advisory Committee. This action is necessary because differences between current U.S. and European requirements impose unnecessary costs on airplane manufacturers. These proposals are intended to achieve common requirements and language between the requirements of the FAR and the Joint Aviation Requirements without reducing the level of safety provided by the regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/29/95	60 FR 44998
NPRM Comment Period End	11/27/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number ANM-93-759-A.

Agency Contact: James Haynes, Airframe and Propulsion Branch, ANM-112, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 206 227-2131

RIN: 2120–AF70

2384. • OPERATIONAL AND STRUCTURAL DIFFICULTY REPORTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106; 49 USC 1354 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 127; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: This action would amend the reporting requirements for air carrier certificate holders and certificated domestic and foreign repair stations concerning failures, malfunctions, and defects of aircraft, aircraft engines, systems, and components. The proposed rule would clarify and standardize the reporting requirements for the type of information submitted to the FAA, allowing the FAA to identify trends that may affect aviation safety. This action was prompted by an internal FAA review of industry concern over the quality of the data being reported by air carriers. The objective of the proposed rule is to update and improve the reporting system to effectively collect and disseminate clear and concise information, particularly with regard to aging aircraft, to the aviation industry.

Timetable:

Action	Date	FR Cite
NPRM	08/14/95	60 FR 41992
NPRM Comment Period End	11/13/95	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number: AFS-95-237A. This is a recommendation from the Aviation Rulemaking Advisory Committee.

Agency Contact: Benjamin Burton, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3797

RIN: 2120–AF71

2385. • WATER AND HAIL INGESTION STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423 to 1426; 49 USC 106(g)

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action proposes changes to the water and hail ingestion standards for aircraft turbine engines. This proposal addresses an engine power-loss instability phenomena attributed to operation in extreme rain or hail that is not adequately addressed by current requirements. This proposal also harmonizes with requirements being drafted by the Joint Aviation Authorities (JAA). The proposed changes, if adopted, will establish one set of common requirements, thereby reducing the hardship on the United States and worldwide aviation industry, by eliminating the need for manufacturers to comply with different sets of standards when seeking validation from the FAA and JAA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/95

Additional Information: Project Number: ANE-93-734A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Thomas Boudreau, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803-5299

Phone: 617 238-7117

RIN: 2120–AF75

2386. • +FLIGHT DATA RECORDERS

Priority: Other Significant

Legal Authority: 49 USC 106; 49 USC 1346; 49 USC 1354 to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1485; 49 USC 1502; 49 USC 1511; 49 USC 1522

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: This notice would revise the Federal Aviation Regulations to require additional recorded parameters on Flight Data Recorders. This action follows a recommendation from the National Transportation Safety Board. If adopted, these amendments would allow for more comprehensive accident and incident information to be gathered, thereby potentially reducing future accidents and incidents. This rulemaking is considered significant because of anticipated costs and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/95

Additional Information: Project Number: AIR-95-267R.

Agency Contact: Frank Rock, Office of Aircraft Certification, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9567

RIN: 2120–AF76

2387. • MISCELLANEOUS CABIN SAFETY CHANGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106; 49 USC 1344(a); 49 USC 1355; 49 USC 1421; 49 USC 1423 to 1426; 49 USC 1428 to 1431

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise the airworthiness standards for transport category airplanes relating to flight attendant assist space, flight attendant assist handles, door hold open features, outside viewing means, interior compartment doors and portable oxygen equipment. With one exception, these proposals are not the result of any specific incident or recommendation, but are part of the FAA's continuing effort to upgrade the regulations to improve the overall level of safety in areas where the state-of-the-art and good design practice have indicated that such upgrades are warranted. These proposals would result in both new type design regulations as well as requirements applicable to existing designs implemented bia the operating rules.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/96

Additional Information: Project Number: ANM-90-016R.

Agency Contact: Jeff Gardlin, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2114

RIN: 2120–AF77

2388. • REVISION OF HYDRAULICS SYSTEMS AIRWORTHINESS STANDARDS TO HARMONIZE WITH EUROPEAN AIRWORTHINESS STANDARDS FOR TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423 to 1426; 49 USC 1428 to 1431; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes to amend the airworthiness standards for transport category airplanes to harmonize hydraulic systems design and test requirements with standards proposed for the European Joint Aviation Requirements. These proposals were developed in cooperation with the Joint Aviation Authorities of Europe and the US and European aviation industry through the Aviation Rulemaking Advisory Committee (ARAC). These changes are intended to benefit the public interest by standardizing certain requirements, concepts, and procedures contained in the airworthiness standards without reducing and potentially enhancing the current level of safety.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/95

Additional Information: Project Number: ANM-93-730A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Manhidner Wahi, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2112

RIN: 2120–AF79

2389. • BIRD INGESTION STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423 to 1426; 49 USC 106(g)

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action proposes changes to amend the type certification standards for aircraft turbine engines that concern bird ingestion. This proposal updates the current bird ingestion standards to reflect recent analysis defining the actual bird threat encountered by turbine engines. This proposal also harmonizes the FAA's type certification standards on this issue with requirements being drafted by the Joint Aviation Authorities (JAA). The proposed changes, if adopted, would establish one set of common requirements, and thereby reduce the regulatory hardship on the aviation industry by eliminating the need for manufacturers to comply with different sets of standards when seeking type certification from the FAA and validation from the JAA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Additional Information: Project Number: ANE-93-733A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: John Golinski, Engine and Propeller Directorate, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803-5299
Phone: 617 238-7119

RIN: 2120–AF84

2390. • TWO APPROACH CHARTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40101; 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704 to 44705; 49 USC 44707 to 44717; 49 USC 44722; 49 USC 45303

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action proposes to establish a requirement for two sets of approach charts to be available and used by the flight crewmembers during commercial operations under instrument flight rules (IFR). It responds to the National Transportation Safety Board (NTSB) finding (A-93-35) recommending that all pilots operating aircraft under 14 CFR parts 135 and 121 have access to their own set of instrument approach charts and use them during the approach and landing segment of the flight. This notice would also standardize the requirement and rule language for both parts 121 and 135.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number: AFS-95-390R.

Agency Contact: Thomas Kiley, Commuter and Air Taxi Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8086

RIN: 2120–AF86

2391. • HOUSTON, TEXAS, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action will propose to modify the Houston, Texas, Class B Airspace area. This action would maintain the altitude of the upper limit of the Class B airspace area at 10,000 feet mean sea level and redefine several existing subareas to improve safety while providing the most efficient use of the terminal airspace.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/00/96

Additional Information: Project Number: ATP-95-417T.

Agency Contact: William C. Nelson, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9295

RIN: 2120–AF88

2392. • SALT LAKE CITY, UTAH, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action will propose to modify the Salt Lake City, Utah, Class B Airspace area. This action would maintain the altitude of the upper limit of the Class B airspace area at 10,000 feet mean sea level and redefine several existing subareas to improve safety while providing the most efficient use of the terminal airspace.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/95

Additional Information: Project Number: ATP-94-361T.

Agency Contact: Norman W. Thomas, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9230

RIN: 2120–AF89

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Final Rule Stage

2393. PART 95 INSTRUMENT FLIGHT RULES

Priority: Routine and Frequent

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1510; 49 USC 106(g)

CFR Citation: 14 CFR 95

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--2500. 10/00/94 - 10/00/95.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louis C. Cusimano, General Aviation and Comaercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8212

RIN: 2120–AA63

2394. AIRWORTHINESS DIRECTIVES

Priority: Routine and Frequent

Legal Authority: 49 USC 1421; 49 USC 1423; 49 USC 106(g)

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently in order to correct known or expected safety problems on type certificated products. Total actions expected--400. 10/00/94 to 10/00/95.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jack McGrath, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9530

RIN: 2120–AA64

2395. STANDARD INSTRUMENT APPROACH PROCEDURES

Priority: Routine and Frequent

Legal Authority: 49 USC 1348; 49 USC 1354(a); 49 USC 1421; 49 USC 1510; 49 USC 106(g)

CFR Citation: 14 CFR 97

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--2,800. 10/00/94 - 10/00/95.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louis C. Cusimano, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8212

RIN: 2120–AA65

2396. AIRSPACE ACTIONS

Priority: Routine and Frequent

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 1522

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--240. 10/00/94 through 10/00/95.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Huff, Manager, Airspace Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3075

RIN: 2120–AA66

2397. +REVISION OF MEDICAL STANDARDS AND CERTIFICATION PROCEDURES

Priority: Other Significant

Legal Authority: 49 USC 1354; 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427

CFR Citation: 14 CFR 67

Legal Deadline: None

Abstract: This action would revise the medical standards and the medical certification procedures of the Federal Aviation Regulations. This action follows the completion of a comprehensive review of the medical standards which was announced in previous notices. If adopted, these revised standards for airman medical certification and associated administrative procedures will better provide for safety in the aviation system and reflect current medical knowledge, practice, and terminology. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/21/94	59 FR 53226
Notice of Public Meetings	01/04/95	60 FR 395
NPRM Comment Period End	02/21/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/21/94 (59 FR 53226)

Additional Information: The FAA contracted with the American Medical Association (AMA) on August 29, 1983, to develop a comprehensive report which was used by the FAA as part of its evaluation of Part 67 standards. AMA completed a professional review of the medical standards for civil airmen. The FAA announced the availability of the AMA report in the Federal Register on May 23, 1986 (51 FR 19040). RIN 2120-AB13 has been combined into this review. Project No. AAM-82-288R.

Agency Contact: Dennis P. McEachen, Special Projects Officer, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 493-4075

RIN: 2120–AA70

DOT—FAA

Final Rule Stage

2398. +AIRCRAFT FLIGHT SIMULATOR USE IN PILOT TRAINING, TESTING, AND CHECKING AND AT TRAINING CENTERS

Regulatory Plan: This entry is Seq. No. 89 in Part II of this issue of the **Federal Register**.

RIN: 2120–AA83

2399. +IMPROVED STANDARDS FOR DETERMINING REJECTED TAKEOFF AND LANDING PERFORMANCE

Priority: Other Significant

Legal Authority: 49 USC 1344; 49 USC 1354(a) to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135; 14 CFR 1; 14 CFR 91

Legal Deadline: None

Abstract: This action would amend parts 25, 121, and 135 of the Federal Aviation Regulations to add new standards for transport category airplanes which would provide for approval of a reduced takeoff decision speed (V1) methodology for takeoff on wet and contaminated runways. As a result of extensive review and due to the increasing emphasis on harmonizing certification standards with the Joint Aviation Authorities (JAA) of Europe, the NPRM of 11/30/87 was withdrawn and a revised one published. This rulemaking is significant because of substantial public interest in both the United States and Europe.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	52 FR 45578
NPRM Comment Period End	03/30/88	
NPRM Withdrawn	07/02/93	58 FR 36116
Second NPRM	07/08/93	58 FR 36738
Second NPRM Comment Period End	11/05/93	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/08/93 (58 FR 36738)

Additional Information: This project was formerly entitled "Standards for Approval of a Wet Runway Reduced V1 Methodology and Improved Takeoff and Landing Braking Performance." Project Number ANM-83-030R.

Agency Contact: Don Stimson, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-1129

RIN: 2120–AB17

2400. STANDARDS FOR APPROVAL FOR HIGH-ALTITUDE OPERATION OF SUBSONIC TRANSPORT AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations to specify airplane and equipment airworthiness standards for subsonic transport airplanes to be operated up to an altitude of 51,000 feet. This proposal was prompted by an increase in the number of applications received to raise the maximum certificated operating altitude for transport category airplanes. This action is intended to ensure an acceptable level of safety for airplanes operated at high altitudes.

Timetable:

Action	Date	FR Cite
NPRM	11/22/89	54 FR 48538
NPRM Comment Period End	05/21/90	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: Regulatory Evaluation 11/22/89 (54 FR 48538)

Additional Information: Project No. ANM-83-022R.

Agency Contact: Bob McCracken, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2118

RIN: 2120–AB18

2401. AIRWORTHINESS STANDARDS; TRANSPORT CATEGORY ROTORCRAFT PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This action would revise the performance requirements for transport category rotorcraft. The changes are needed to define more clearly the factors for determining takeoff distances for transport category rotorcraft and to add several other relevant standards. These changes would provide for an improved level of safety achievable because of recent technological advances in turboshaft engine design and associated rotorcraft design. The SNPRM proposed to add a minimum descent height of 15 feet.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/85	50 FR 42126
ANPRM Comment Period End	06/00/86	
NPRM	01/08/90	55 FR 698
NPRM Comment Period End	07/09/90	
SNPRM	06/29/94	59 FR 33598
SNPRM Comment Period End	08/29/94	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/08/90 (55 FR 698)

Additional Information: Project No. ASW-83-006R.

Agency Contact: Thomas Archer, Regulations Group, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, TX 76193
Phone: 817 222-5112

RIN: 2120–AB36

2402. LOW FUEL QUANTITY ALERTING SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421;

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49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require a means to alert the flight crew of potentially unsafe low fuel quantities. There have been several fuel depletion incidents involving loss of power or thrust on all engines that could have resulted in forced landings and injury or loss of life. Most of these incidents resulted from improper fuel management techniques. This proposed amendment would require new transport category airplane designs to incorporate a low fuel quantity alert system that would allow for correction of certain fuel management errors or provide the flightcrew the opportunity to make a safe landing prior to engine fuel starvation.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17890
NPRM Comment Period End	09/09/87	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/12/87 (52 FR 17890)

Additional Information: Docket No. 25213. Project No. ANM-83-039R.

Agency Contact: Neil Schalekamp, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056
Phone: 206 227-2135

RIN: 2120–AB46

2403. AIRWORTHINESS STANDARDS; TURBOSHAFT ENGINE ROTOR BURST PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations to minimize the failure hazards of high speed powerplant rotor systems used in turboshaft engines in newly designed transport category rotorcraft. Engine rotor failures have occurred resulting in the release of high energy rotor fragments or other engine component fragments. These fragments have impacted and damaged critical rotorcraft structures, systems, controls, and adjacent engines, as well as caused serious or fatal injuries to passengers and crewmembers. This proposal, if adopted, is intended to eliminate these hazards.

Timetable:

Action	Date	FR Cite
NPRM	10/17/89	54 FR 42716
Comment Period Extended to 10/16/90	03/08/90	55 FR 8474
NPRM Comment Period End	04/16/90	
NPRM Comment Period Reopened to 3/15/93	01/14/93	58 FR 4566
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/17/89 (54 FR 42716)

Additional Information: Formerly entitled "Turbine Burst Protection for Transport Category Helicopters." Project No. ASW-84-002.

Agency Contact: Mike Mathias, Regulations Group, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, TX 76193
Phone: 817 624-5123

RIN: 2120–AB91

2404. +PASSENGER-CARRYING AND CARGO AIR OPERATIONS FOR COMPENSATION OR HIRE

Priority: Other Significant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 119; 14 CFR 121; 14 CFR 125; 14 CFR 127; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations to update, clarify, and consolidate into one part, new part 119, the certification and operations specifications requirements for persons who conduct passenger-carrying or cargo-carrying air operations for compensation or hire. Significant changes included defining what must be included in operations specifications; defining "scheduled" and "domestic" operations; increasing the lead-time period for application for a certificate; defining a "wet lease" operation; including in the regulations criteria to determine who has operational control of an operation; and standardizing the requirements and qualifications for management personnel. This action is needed to establish permanent minimum safety standards following the "sunset" of the Civil Aeronautics Board on December 31, 1984, and the enactment of the Airline Deregulation Act of 1978. This action would also replace SFAR 38, as amended, which has provided interim certification and operations specifications regulation. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/12/88	53 FR 39852
NPRM Comment Period End	01/10/89	
Comment Period Reopened To 05/17/90	04/17/90	55 FR 14404
SNPRM Comment Period End 07/23/93	06/08/93	58 FR 32248
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 06/08/93 (58 FR 32248)

Additional Information: Project No. AFS-84-190R. This new part is contained in the proposed rule, RIN number: 2120-AF62, entitled, "Commuter Operations and General Certification and Operations Requirements."

Agency Contact: Gary Davis, Air Transportation Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591

DOT—FAA

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Phone: 202 267-3750

RIN: 2120–AC08

2405. +FLIGHT ATTENDANT REQUIREMENTS

Priority: Other Significant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421; 49 USC 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: The current regulations need to be revised to account for the changed operational practices stemming from airline economic deregulation. This proposal would clarify or change the number of flight attendants required when passengers are on board an airplane, including at stops. This proposal includes two new requirements: (1) a revision of the reduced number of flight attendants which, under certain conditions, a carrier is permitted to have on board a passenger-carrying airplane during stops; and (2) a requirement for a demonstration of competency by the other authorized persons who may be permitted to be substituted for required flight attendants when passengers are on board the airplane during stops. This proposal would change the current rule by clarifying and specifying the training required to be completed by these other authorized persons. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/14/89	54 FR 15134
NPRM Comment Period End	07/13/89	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/14/89 (54 FR 15134)

Additional Information: Project No. AFS-86-077R.

Agency Contact: Gary Davis, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3735

RIN: 2120–AC32

2406. +TYPE AND NUMBER OF PASSENGER EMERGENCY EXITS REQUIRED IN TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the current requirements for passenger emergency exits and adopt two new exit types into the regulations. These proposals are intended to provide more consistent standards with respect to passenger seating allowed for each exit type, and the type and number of exits required for passenger seating configurations. This notice proposed to reduce the maximum inflation time of an escape slide to reflect the current state of the art. These changes resulted from the Public Technical Conference on Emergency Evacuation of Transport Airplanes held in Seattle, Washington, on September 3-6, 1985. This rulemaking is considered significant because it involves an important cabin-safety issue.

Timetable:

Action	Date	FR Cite
NPRM	02/22/90	55 FR 6344
NPRM Comment Period End	05/21/90	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/22/90 (55 FR 6344)

Additional Information: Project No. ANM-87-006R.

Agency Contact: Franklin Tiangsing, Regulations Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2121

RIN: 2120–AC43

2407. +IMPROVED SURVIVAL EQUIPMENT FOR INADVERTENT WATER LANDINGS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1374(d); 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1485; 49 USC 1502

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, June 28, 1988.
PL 100-223, Section 303, Airport and Airway Safety and Capacity Enhancement Act of 1987.

Abstract: This action would add new requirements for water survival equipment carried aboard airplanes and rotorcraft. The requirements would apply, after specified dates, to U.S.-certificate holders that conduct common-carriage operations with airplanes and rotorcraft. This action is in response to the Airport and Airway Safety and Capacity Enhancement Act of 1987 (PL 100-223) and relates to safety recommendations by the National Transportation Safety Board. The requirements are intended to increase the likelihood of aircraft passengers surviving a crash landing in water and, thus, this rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24890
NPRM Comment Period End	11/28/88	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/30/88 (53 FR 24890)

Additional Information: Project No. AIR-85-265R.

Agency Contact: John Petrakis, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9574

RIN: 2120–AC72

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DOT—FAA

Final Rule Stage

2408. +AIR CARRIER TRAINING PROGRAMS

Priority: Other Significant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise and upgrade the parts 121 and 135 training, checking, certification, and qualification requirements, including cockpit resource management. In addition, commuter air carriers conducting part 135 commuter operations in airplanes that require two pilots would be required to meet the proposed upgraded part 121 requirements. This action is in response to recommendations of the joint Government/Industry Task Force on Flight Crew Performance and is significant because of its safety implications.

Timetable:

Action	Date	FR Cite
NPRM	12/13/94	59 FR 64272
NPRM Comment Period End	03/14/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/13/94 (49 FR 64272)

Additional Information: Project No. AFS-88-301R. Former title: "parts 121 and 135--Training, Checking, Certification, and Qualifications Requirements."

Agency Contact: Gary Davis, Regulations Branch, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3747

RIN: 2120–AC79

2409. +RETROFIT OF IMPROVED SEATS IN AIR CARRIER TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, April 28, 1988.
PL 100-223 Sec 303

Abstract: This action would require that all seats of transport category airplanes used in air carrier operations and transport category airplanes used in scheduled intrastate service comply with improved crashworthiness standards. The Airport and Airways Safety and Capacity Expansion Act of 1987 directs the Secretary of Transportation to initiate a rulemaking proceeding to consider requiring all seats onboard all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards. The intended effect of this action is to increase passenger protection and survivability in survivable impact accidents. This rulemaking is considered significant because of its safety implications and statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17650
NPRM Comment Period End	10/14/88	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/17/88 (53 FR 17650)

Additional Information: Docket 25611. Project No. AIR-88-136R.

Agency Contact: John Petrakis, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9274

RIN: 2120–AC84

2410. +DRUG ENFORCEMENT ASSISTANCE

Priority: Other Significant

Legal Authority: 49 USC 1354(a); 49 USC 1354(c); 49 USC 1374(d); 49 USC 1401; 49 USC 1402; 49 USC 1403; 49 USC 1404; 49 USC 1405; 49 USC 1406; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; ...

CFR Citation: 14 CFR 13; 14 CFR 47

Legal Deadline: Final, Statutory, September 18, 1989.

FAA Drug Enforcement Assistance Act of 1988.

Abstract: This action would revise certain requirements concerning registration of aircraft, certification of pilots, and penalties associated with registration and certification violations. This notice also announced new procedures for processing major repair and alteration forms which pertain to fuel system modifications. Actions announced in this notice respond to the FAA Drug Enforcement Assistance Act. The requirements and adopted procedures are intended to assist law enforcement agencies in their efforts to stop drug trafficking in general aviation aircraft. This rulemaking is significant because of substantial and public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/12/90	55 FR 9270
NPRM Comment Period End	05/11/90	
Comment Period Extended to 07/11/90	05/16/90	55 FR 20394
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/12/90 (55 FR 9270)

Additional Information: Project No. AFS-89-035R.

Agency Contact: Sharon Ashford, Flight Standards Service, Department of Transportation, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 MacArthur Boulevard, Oklahoma City, Oklahoma 73125
Phone: 405 954-7038

RIN: 2120–AD16

2411. AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES; PROPOSAL FOR NEW ONE-ENGINE-INOPERATIVE RATINGS, DEFINITIONS, AND TYPE CERTIFICATION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1347; 49 USC 1348; 49 USC 1354(a); 49 USC 1357(d)(2); 49 USC 1372; 49 USC 1421 to 1430; 49 USC 1432; 49 USC 1442; 49 USC 1443; 49 USC 1472; 49 USC 1510; 49 USC 1522; 49 USC 1652(e); 49 USC 1655(c); 49 USC 106(g)

CFR Citation: 14 CFR 1; 14 CFR 33

DOT—FAA

Final Rule Stage

Legal Deadline: None

Abstract: The Aerospace Industries Association of America, Inc., petitioned the FAA to provide new one-engine-inoperative ratings for rotorcraft engines and their application to rotorcraft. This action responds to that petition and defines and establishes type certification standards for new one-engine-inoperative ratings for rotorcraft engines.

Timetable:

Action	Date	FR Cite
NPRM	09/22/89	54 FR 39080
Notice of Public Hearing	10/13/89	54 FR 41986
NPRM Comment Period End	03/27/90	
SNPRM Comment Period End 3/24/95	02/07/95	60 FR 7380
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/22/89 (54 FR 39080)

Additional Information: Project No. ANE-85-001R.

Agency Contact: Donald F. Perrault, Engine and Propeller Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803
Phone: 617 273-7081

RIN: 2120–AD21

2412. +AIRWORTHINESS STANDARDS; OCCUPANT PROTECTION STANDARDS FOR COMMUTER CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for normal, utility, acrobatic, and commuter category airplanes by upgrading the requirements for both seat/restraint systems and for flammability standards for seat cushions used in commuter category airplanes. These amendments are needed to improve the occupant protection provisions for these types of airplanes. These new requirements would result in a level of safety commensurate with that provided by the seat/restraint requirements and the flammability standards for transport category airplanes. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/14/93	58 FR 38028
NPRM Correction	07/28/93	58 FR 40389
NPRM Comment Period End	11/12/93	
Reopening of Comment Period	11/04/94	59 FR 55225
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/14/93 (58 FR 38028)

Additional Information: Project No. ACE-87-014R. This project was formerly entitled "Improved Seat Safety Standards for Commuter Category Airplanes."

Agency Contact: Michael Downs, Standards Office, Small Airplane Directorate, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106
Phone: 816 426-5688

RIN: 2120–AD27

2413. AIRPLANE ENGINE COWLING RETENTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require improved cowling retention devices. A review of a number of inflight incidents where engine cowlings were lost revealed that the largest single cause of such losses was improper latching of the cowlings. If adopted, this proposal would provide additional design standards to detect improperly latched cowlings and ensure the integrity of the latching system.

Timetable:

Action	Date	FR Cite
NPRM	09/19/89	54 FR 38610
NPRM Comment Period End	03/19/90	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/19/89 (54 FR 38610)

Additional Information: Project No. ANM-87-004R.

Agency Contact: Mike McRae, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2133

RIN: 2120–AD34

2414. +FATIGUE EVALUATION OF STRUCTURE

Priority: Other Significant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would revise the fatigue requirements for damage-tolerant structures on transport category airplanes to require full-scale fatigue testing and to require that the thresholds for inspections be based on crack growth from initial flaws in the structure. These proposed changes are based on the service history of airplanes evaluated to the current damage tolerance requirements and are intended to ensure that, should serious fatigue damage occur within the operational life of the airplane, the remaining structure can withstand reasonable loads without failure until the damage is detected. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/19/93	58 FR 38642
Notice: Additional Compliance Guidance	10/19/93	58 FR 53987

Action	Date	FR Cite
NPRM Comment Period End	11/16/93	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/19/93 (58 FR 38642)

Additional Information: Project Number ANM-88-013R.

Agency Contact: Iven Connally, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 206 227-2120

RIN: 2120–AD42

2415. ALLOWABLE CARBON DIOXIDE CONCENTRATION IN TRANSPORT CATEGORY AIRPLANE CABINS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423 to 1425; 49 USC 1428 to 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action has been reestablished to review part 25 to determine if the current allowable concentration of carbon dioxide in the airplane cabin and flight deck is appropriate in light of standards established for air quality in buildings occupied by the general public and with workplace exposure limits adopted by other regulatory agencies. This rulemaking is no longer considered significant since no actual incremental costs are expected to be incurred as a result of this action.

Timetable:

Action	Date	FR Cite
NPRM	05/02/94	59 FR 22718
NPRM Comment Period End	08/30/94	
Final Action	04/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/02/94 (59 FR 22718)

Additional Information: This project was formerly entitled "Carbon Dioxide Concentration." Project ANM-87-017R. This entry was temporarily removed from the Agenda and is now reactivated to resume rulemaking.

Agency Contact: Bob McCracken, Flight Test and Systems Branch, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 206 227-2118

RIN: 2120–AD47

2416. PROTECTIVE BREATHING EQUIPMENT; CARGO-ONLY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action would revise the Federal Aviation Regulations governing portable protective breathing equipment (PBE) required for crewmembers' use in combatting in-flight fires. This action addresses concerns and issues identified by the Air Transport Association and several operators regarding required portable PBE for cargo-only operations. This action also would clarify the Federal Aviation Regulations governing required portable PBE in passenger compartments. Originally this rulemaking was considered significant. However, because there is no substantial public interest, this rulemaking is no longer significant.

Timetable:

Action	Date	FR Cite
NPRM	03/29/93	58 FR 16584
NPRM Comment Period End	05/28/93	
SNPRM: Comment Period End 05/11/94	04/11/94	59 FR 17166
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/11/94 (59 FR 17166)

Additional Information: Project Number AFS-90-324R.

Agency Contact: Gary Davis, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3747

RIN: 2120–AD74

2417. TYPE CERTIFICATES FOR SOME SURPLUS AIRCRAFT OF THE ARMED FORCES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 1651(b)(2); 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: Following World War II, a substantial number of surplus military airplanes were offered for sale to the public in order to meet an increased demand for civilian-use aircraft not being met by the civil aircraft industry. The current regulation permits both type and airworthiness certification for surplus military aircraft based on the particular aircraft's safety record and condition. As military aircraft have become increasingly complex and sophisticated, that practice is no longer acceptable. This action would remove the regulations for issuing type certificates for these surplus aircraft and eliminate references to obsolete standards. Surplus military aircraft would still be certificated in the normal, utility, acrobatic, commuter, transport, and restricted categories upon compliance with the applicable regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/21/94	59 FR 19114
NPRM Comment Period End	06/20/94	
NPRM Comment Period Reopened: Comment Period End 08/26/94	07/07/94	59 FR 34779
Interim Final Rule	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/21/94 (59 FR 19114)

Additional Information: Project Number AIR-91-354R.

Agency Contact: Brian Yanez, Policy and Procedures Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-6561

RIN: 2120–AE41

2418. +AGING AIRCRAFT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1501; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); EO 11514

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: Other, Statutory, April 24, 1992.
Aging Aircraft Safety Act of 1991; action must be initiated by 04/24/92.

Abstract: This action would require air carriers of certain aircraft used in air transportation to demonstrate that the aircraft's maintenance has been adequate to ensure the highest degree of safety. Based on the comments received to the notice of proposed rulemaking, the FAA is considering other actions in lieu of the operational limit requirement, certain reporting requirements, and maintenance check requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/05/93	58 FR 51944
NPRM Comment Period End	02/02/94	
NPRM Comment Period Extended to 03/04/94	02/08/94	59 FR 5741
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/05/93 (58 FR 51944)

Additional Information: Project Number AFS-92-029R.

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7355

RIN: 2120–AE42

2419. +JAR/FAR HARMONIZATION INITIATIVES—SYSTEMS AND EQUIPMENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1344; 49 USC 1354(c); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations to the Director, Aircraft Certification Service, regarding the airworthiness standards for standard and commuter category airplanes and engines in part 23 of the Federal Aviation Regulations. Upon further evaluation, the FAA considers this rulemaking effort nonsignificant. The proposed revisions would simply reduce the regulatory burden on U.S. and European airplane manufacturers by relieving them of the need to show compliance with different standards each time they seek certification approval of an airplane in a different country.

Timetable:

Action	Date	FR Cite
NPRM	07/22/94	59 FR 37620
NPRM Comment Period End	11/21/94	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/22/94 (59 FR 37620)

Additional Information: Project No.: ACE-94-288A. Refer to Regulatory Plan entry for RIN 2120-AE61.

Agency Contact: John Colomy, Aircraft Certification Service, Small Planes Directorate, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106 Phone: 816 426-6930

RIN: 2120–AE59

2420. +JAR/FAR HARMONIZATION INITIATIVES—PROPULSION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations to the Director, Aircraft Certification Service, regarding the Airworthiness standards for standard and commuter category airplanes and engines in part 23 of the Federal Aviation Regulations. Upon further evaluation, the FAA considers this rulemaking effort nonsignificant. The proposed revisions would simply reduce the regulatory burden on U.S. and European airplane manufacturers by relieving them of the need to show compliance with different standards each time they seek certification approval of an airplane in a different country.

Timetable:

Action	Date	FR Cite
NPRM	06/30/94	59 FR 33822
NPRM Comment Period End	10/28/94	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/30/94 (59 FR 33822)

Additional Information: Project No.: ACE-94-287A. Refer to Regulatory Plan entry RIN 2120-AE61.

Agency Contact: John Colomy, Aircraft Certification Service, Small Planes Directorate, Department of

DOT—FAA

Final Rule Stage

Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106
Phone: 816 426-6930

RIN: 2120–AE60

2421. +AIRWORTHINESS STANDARDS: FLIGHT RULES BASED ON EUROPEAN JOINT AVIATION REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 90 in Part II of this issue of the **Federal Register**.

RIN: 2120–AE61

2422. +JAR/FAR HARMONIZATION INITIATIVES—AIRFRAME

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations to the Director, Aircraft Certification Service, regarding the airworthiness standards for standard and commuter category airplanes and engines in part 23 of the Federal Aviation Regulations. Upon further evaluation, the FAA considers this rulemaking effort nonsignificant. The proposed revisions would simply reduce the regulatory burden on U.S. and European airplane manufacturers by relieving them of the need to show compliance with different standards each time they seek certification approval of an airplane in a different country.

Timetable:

Action	Date	FR Cite
NPRM	07/08/94	59 FR 35196
NPRM Comment Period End	11/07/94	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/08/94 (59 FR 35196)

Additional Information: Project Number: ACE-94-285A. Refer to Regulatory Plan entry RIN 2120-AE61.

Agency Contact: John Colomy, Aircraft Certification Service, Small Planes Directorate, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106
Phone: 816 426-6930

RIN: 2120–AE62

2423. +AIRCRAFT GROUND DEICING AND ANTI-ICING PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1422; 49 USC 1427; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action establishes a requirement for part 121 certificate holders to develop an FAA-approved ground deicing/anti-icing program and to comply with that program any time conditions are such that frost, ice, or snow could adhere to the aircraft's wings, control surfaces, or propellers. This action is necessary because several accidents and the recent International Conference on Airplane Ground Deicing indicate that, under present procedures, the pilot in command may be unable to effectively determine whether critical airplane components are free of all frost, ice, or snow prior to attempting a takeoff. The action provides an added level of safety to flight operations in adverse weather conditions, and is considered significant because of its safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/23/92	57 FR 32846
NPRM Comment Period End	08/07/92	
Interim Final Rule	09/29/92	57 FR 44924
Interim Final Rule Effective	11/01/92	
Interim Final Rule Correction	11/09/92	57 FR 53385
Interim Final Rule Comment Period End	04/15/93	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/29/92 (57 FR 44924)

Additional Information: Project Number: AFS-92-280-R.

A proposed advisory circular providing guidance on the program elements that should be included in an air carrier's approved ground deicing and anti-icing program was published September 29, 1992, requesting comments (57 FR 44944).

Various documents of this proceeding were erroneously published under RIN 2120-AE51.

Agency Contact: Larry Youngblut, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3755

RIN: 2120–AE70

2424. +CIVIL PENALTY ASSESSMENT PROCEDURES

Priority: Other Significant

Legal Authority: 49 USC 1354(a); 49 USC 1354(c); 49 USC 1374(d); 49 USC 1401 to 1406; 49 USC 1421 to 1432; 49 USC 1471 to 1473; 49 USC 1481; 49 USC 1482; 49 USC 1484 to 1489; 49 USC 1523; 49 USC 1655(c); 49 USC 1808 to 1810; 49 USC 2157(e); 49 USC 2157(f); 49 USC 2216; ...

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This action would revise the procedures for the assessment of civil penalties for violations of the Federal Aviation Regulations and other provisions. The procedures proposed would implement the requirements of the FAA Civil Penalty Administrative Assessment Act of 1992, as they modify the procedures for adjudicating a civil penalty against a person acting in the capacity of a pilot, flight engineer, mechanic, or repairman. This action is considered significant because of substantial public interest.

DOT—FAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/05/94	59 FR 40192
NPRM Comment Period End	10/04/94	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/05/94 (59 FR 40192)

Additional Information: Project Number: AGC-93-076R

Agency Contact: Mardi Ruth Thompson, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3073

RIN: 2120–AE84

2425. ACCELERATED STALLS IN COMMUTER CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: The FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to eliminate the certification requirement to demonstrate an accelerated entry stall for commuter category airplanes. The proposed rule would have removed an unwarranted hazard during flight demonstrations required for airplane type certification, and would not compromise passenger safety. This hazard was a direct result of the high power-to-weight ratios of new commuter airplanes. The FAA has proposed a similar requirement in the Airworthiness Standards; Flight Proposals Based on European Joint Aviation Requirements, Docket No. 27807, Notice No. 94-22 (59 FR 37878), published on July 25, 1994.

Timetable:

Action	Date	FR Cite
NPRM	06/07/93	58 FR 32034
NPRM Comment Period End	09/07/93	
Withdrawal Notice	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/07/93 (58 FR 32034)

Additional Information: Project No. ACE-92-683A.

Agency Contact: J. Lowell Foster, Small Airplane Directorate, ACE-112, Department of Transportation, Federal Aviation Administration, 601 East Twelfth Street, Room 1544, Kansas City, MO 64106
Phone: 816 426-5688

RIN: 2120–AE86

2426. MANNED FREE BALLOONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423

CFR Citation: 14 CFR 31

Legal Deadline: None

Abstract: This action would amend the test requirements for burners used on manned free balloons. The current test requirements do not test the burner's most critical operating conditions. This amendment reduces the costs to balloon manufacturers seeking certification, and increases the current level of safety by requiring more realistic tests.

Timetable:

Action	Date	FR Cite
NPRM	12/07/93	58 FR 64450
NPRM Comment Period End	02/07/94	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/07/93 (58 FR 64450)

Additional Information: Project Number: ACE-92-021R

Agency Contact: J. Lowell Foster, Central Region Headquarters, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106
Phone: 816 426-5688

RIN: 2120–AE87

2427. OCCUPANT PROTECTION IN NORMAL AND TRANSPORT CATEGORY ROTORCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1426; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: The Federal Aviation Administration (FAA) established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991) to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations to the Director, Aircraft Certification Service, regarding the airworthiness standards for occupant protection in normal and transport category rotorcraft in parts 27 and 29 of the Federal Aviation Regulations. Any rulemaking action will depend on the committee's report. Proposed occupant protection requirements would eliminate the unnecessary cost burden that would be imposed by separate European and U.S. standards. The proposed standard is harmonized with the European Joint Airworthiness Authority. While it was being worked through the advisory committee, final wording was developed which is noncontroversial. Therefore, this project is no longer considered significant.

Timetable:

Action	Date	FR Cite
NPRM	04/11/94	59 FR 17156
NPRM Comment Period End	07/11/94	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/11/94 (59 FR 17156)

Additional Information: Project Number: ASW-93-771A

Agency Contact: James H. Major, Regulations Group, ASW-111, Rotorcraft Directorate, Department of Transportation, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0111
Phone: 817 624-5117

RIN: 2120–AE88

DOT—FAA

Final Rule Stage

2428. +REVISED ACCESS TO TYPE III EXITS

Priority: Other Significant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This action would adjust recently adopted requirements for access to type III emergency exits in transport category airplanes with 60 or more passenger seats. The adjustments would reflect new data from tests conducted at the FAA's Civil Aeromedical Institute and are intended to improve the ability of occupants to evacuate an airplane under emergency conditions. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/30/95	60 FR 5794
NPRM Comment Period End	05/01/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ANM-93-005R

Agency Contact: Gary Killion, Transport Airplane and Engine Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2114

RIN: 2120–AF01

2429. +TRAINING AND CHECKING IN GROUND ICING CONDITIONS

Priority: Other Significant

Legal Authority: 49 USC 1354(a); 49 USC 1355(a); 49 USC 1421 to 1431; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This proposed amendment would require parts 125 and 135 certificate holders to provide pilot training or testing in ground deicing/anti-icing procedures and to check the airplane for contamination by frost, ice, or snow during ground icing conditions. The proposal is intended to provide an added level of safety to flight operations in adverse weather conditions under parts 125 and 135. This rulemaking is significant because it affects a substantial portion of the aviation industry.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 49164
NPRM Comment Period End	10/06/93	
Interim Final Rule	12/30/93	58 FR 69620
Advisory Circular Published	12/30/93	58 FR 69631
Interim Final Rule: Effective Date	01/31/94	58 FR 69620
Interim Final Rule Comments Due	04/15/94	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 12/30/93 (58 FR 69620)

Additional Information: Project Number: AFS-93-459R

Agency Contact: Larry Youngblut, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3755

RIN: 2120–AF09

2430. EXTENDED OVERWATER OPERATIONS WITH A SINGLE HIGH-FREQUENCY COMMUNICATION SYSTEM (HF) AND A SINGLE LONG-RANGE NAVIGATION SYSTEM (LRNS)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355(a); 49 USC 1421 to 1431; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise the Federal Aviation Regulations for certain overwater operations for air carriers, commercial operators, and general aviation operators of large and turbine-powered multiengine airplanes. This action would authorize air carriers and commercial operators to use a single high-frequency communication system (HF) and a single LRNS for extended overwater routes detailed in their operation specifications. This proposal is needed to give the FAA greater flexibility in responding to advances in aviation technology and changes in the operational environment and to allow operators to conduct extended overwater operations without carrying unnecessary communication and navigation equipment.

Timetable:

Action	Date	FR Cite
NPRM	10/05/93	58 FR 51938
NPRM Comment Period End	10/20/93	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/05/93 (58 FR 51938)

Additional Information: Project Number: AFS-93-130R

Agency Contact: Dan Meier, Project Development Branch, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3749

RIN: 2120–AF12

2431. LOS ANGELES, CA, CLASS B AIRSPACE

Priority: Routine and Frequent

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action proposed to alter the Los Angeles, CA, Class B airspace area. This action would lower certain ceilings while raising others to provide more visual flight rules altitudes to circumnavigate the Los Angeles Class B airspace and to provide for better containment of arrival turbojets. This action is intended to improve safety while providing the most efficient use of the terminal airspace.

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60244
NPRM Comment Period End	01/23/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

DOT—FAA

Final Rule Stage

Analysis: Regulatory Evaluation 11/22/94 (59 FR 60244)

Additional Information: Project Number: ATP-94-035T RIN number 2120-AF38 was inadvertently used when this rulemaking was published in the Federal Register on November 22, 1994. The correct RIN number is 2120-AF16.

Agency Contact: Norman W. Thomas, Airspace and Obstruction Evaluation Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9250

RIN: 2120–AF16

2432. MINIMUM ALTITUDES FOR THE USE OF AN AUTOPILOT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend the regulations governing the use of approved flight control guidance systems with automatic capability (autopilot). The current regulations prohibit the use of an autopilot at altitudes less than 500 feet above ground level during the takeoff and initial climb phases of flight. The FAA proposes to amend the regulations to permit air carriers to take advantage of technological improvements in the capabilities of autopilot systems and thus enhance safety by decreasing pilot workload during the critical takeoff phase of flight.

Timetable:

Action	Date	FR Cite
NPRM	12/09/94	59 FR 63868
NPRM Comment Period End	01/09/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/09/94 (59 FR 63868)

Additional Information: Project Number: AFS-92-608R

Agency Contact: Richard A. Temple, Technical Programs Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-5824

RIN: 2120–AF19

2433. ADVANCED SIMULATION PLAN REVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This proposal would revise certain requirements of the Advanced Simulation Plan for air carriers to allow certain initial training for second-in-command pilots to be conducted in simulators; to redefine some of the experience and training required for an upgrade from second-in-command to pilot-in-command; and to remove the current 1-year employment requirement for instructor and check airmen used in advanced simulation training programs.

Timetable:

Action	Date	FR Cite
NPRM	02/14/95	60 FR 8490
NPRM Comment Period End	03/16/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: AFS-94-005R. Correction to rule published 03/09/95 60 FR 13008.

Agency Contact: Gary Davis, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8096

RIN: 2120–AF29

2434. +SUSPENSION OF CERTAIN AIRCRAFT OPERATIONS FROM THE TRANSPONDER WITH AUTOMATIC PRESSURE ALTITUDE REPORTING CAPABILITY REQUIREMENT

Priority: Other Significant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1356; 49 USC 1401; 49 USC 1421 to 1432; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2120 to 2126; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action would extend and modify SFAR 62, issued December 5, 1990, which suspends the Mode C transponder requirement for operations to and from certain specific airports located within 30 miles of a Class B airspace primary airport. The operations and routings approved under SFAR 6 include routes within 2 nautical miles of the specified airports and at altitudes that were not excluded from the Mode C transponder requirement. Airports that are served primarily by aircraft required to install Traffic Alert and Collision Avoidance Systems are not included in this exception. This rulemaking was accomplished in 1990 because the scheduled radar system upgrades, required to provide Mode C transponder coverage, have not been placed into full service in all Class B sites. The present action would extend the current exclusions to those airports that have not received the improved radar coverage, and amend the exclusions provided airports that have received improved radar coverage through operational verification of the new radar systems.

Timetable:

Action	Date	FR Cite
NPRM	08/25/94	59 FR 43994
NPRM Correction	09/14/94	59 FR 47210
NPRM Comment Period Extended to 11/25/94	09/28/94	59 FR 49360

DOT—FAA

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	10/11/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/25/94 (59 FR 43994)

Additional Information: Project Number: ATP-93-474R. As this action merely involves extension of a suspension of a requirement, it is not a rulemaking requiring OMB review in the context of EO 12866. However, it is significant under DOT's regulatory policies and procedures.

Agency Contact: Aaron Boxer, Air Traffic Branch, TCP-230, Airspace Rules and Aeronautical Info. Div., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9241

RIN: 2120–AF30

2435. NOTIFICATION TO ATC OF DEVIATIONS FROM ATC CLEARANCE AND INSTRUCTIONS IN RESPONSE TO TRAFFIC ALERT AND COLLISION AVOIDANCE SYSTEM RESOLUTION ADVISORIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1356; 49 USC 1401; 49 USC 1421; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2126; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action would codify authority previously granted to pilots in command during the initial testing of TCAS to deviate from an air traffic control clearance or instruction in non-emergency situations in response to a traffic alert and collision avoidance system (TCAS) resolution advisory (RA). The FAA has consistently encouraged pilots to comply with TCAS RAs. The language contained in current regulations suggests that deviation from an ATC clearance is only authorized in an emergency situation. This rulemaking action proposed to add the TCAS RA as a reason to deviate from a clearance, and would require that whenever a pilot deviates from an ATC clearance or instruction, ATC would be advised as soon as possible.

Timetable:

Action	Date	FR Cite
NPRM	04/29/94	59 FR 22142
NPRM Comment Period End	05/31/94	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/29/94 (59 FR 22142)

Agency Contact: Ellen Crum, Air Traffic Branch, ATP-230, Airspace Rules and Aeronautical Info. Div., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW.
Phone: 202 267-9859

RIN: 2120–AF35

2436. POWERPLANT INSTRUMENTS; FUEL PRESSURE INDICATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would amend the certification requirement for fuel pressure indicators on pump-fed engines to permit other regulatory alternatives to warn pilots of imminent fuel pressure loss. A fuel pressure indicator is not the only means currently available in the marketplace to warn the pilot of a fuel pump failure. The proposed change would allow manufacturers to utilize new technology to improve operation, economy, and engine life.

Timetable:

Action	Date	FR Cite
NPRM	12/28/94	59 FR 67114
NPRM Comment Period End	02/27/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/28/94 (59 FR 67114)

Additional Information: Project No: ACE-94-266A This is a recommendation of the Aviation Rulemaking Advisory Committee, received February 15, 1994; accepted March 8, 1994.

Agency Contact: J. Lowell Foster, Standards Office, ACE-112, Airplane Certification Service, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106
Phone: 816 426-5688

RIN: 2120–AF41

2437. +PROCEDURES FOR COMPLAINTS INVOLVING FEDERALLY-ASSISTED AIRPORTS

Priority: Other Significant

Legal Authority: 49 USC 1354(a) to 1354(c); 49 USC 1374(d); 49 USC 1401 to 1406; 49 USC 1421 to 1432; 49 USC 1471 to 1473; 49 USC 1481 to 1483; 49 USC 1484 to 1489; 49 USC 1523; 49 USC 1655(c); 49 USC 1808 to 1810; 49 USC 2157(e) to 2157(f); 49 USC 2216; 49 USC 2218; 49 USC 2219; 49 USC 106(g)

CFR Citation: 14 CFR 13; 14 CFR 16

Legal Deadline: None

Abstract: This action would establish rules of practice for the filing of complaints and adjudication of compliance matters involving federally assisted airports. This action is intended to expedite substantially the handling and disposition of airport-related complaints, and to provide an efficient process for the agency to resolve disputes between air carriers and airport proprietors regarding whether airport fees and charges comply with Federal requirements. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/09/94	59 FR 29880
Proposed Policy Notice	06/09/94	59 FR 29874
NPRM Comment Period End	08/08/94	
NPRM Comment Period Extended to 09/15/94	08/10/94	59 FR 41192
Proposed Policy Comment Period Extended to 09/15/94	08/10/94	59 FR 41194
NPRM Partial Withdrawal and Comment Period Extended	09/16/94	59 FR 47568
Proposed Policy Notice Comment Period Extended	09/16/94	59 FR 47668
NPRM Comment Period Extended to	12/01/94	
Proposed Policy Notice Comment Period End	12/01/94	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/09/94 (59 FR 29880)

Additional Information: A notice of public meeting was published June 29, 1994 (59 FR 33567), in connection with the proposed policy notice. Intent to issue a supplemental notice was published September 16, 1994 (59 FR 47668). The NPRM-proposed special procedures for handling of airport fee complaints (subpart J) were withdrawn and will be handled in separate rulemaking under a new RIN.

Agency Contact: Barry Molar, Airport Law Branch, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3473

RIN: 2120–AF43

2438. SENSITIVE SECURITY INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1356 to 1358; 49 USC 1358(a); 49 USC 1358(b); 49 USC 1358(c); 49 USC 1358(d); 49 USC 1421; 49 USC 106(g); 49 USC 322

CFR Citation: 14 CFR 107 to 109; 14 CFR 121; 14 CFR 191

Legal Deadline: None

Abstract: The FAA proposes to strengthen the rules protecting information from release to unauthorized persons. This rule would specify all sensitive security information that must be protected and would require air carriers, airport operators, indirect air carriers, foreign air carriers, and individuals to be responsible for protecting it from disclosure to unauthorized persons.

Timetable:

Action	Date	FR Cite
NPRM	12/06/94	59 FR 62956
NPRM Comment Period End	02/06/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/06/94 (59 FR 62956)

Additional Information: Project No.: ACS-94-221R

Agency Contact: Eugene Cunningham, Office of Aviation Security Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8701

RIN: 2120–AF49

2439. +CHILD RESTRAINT SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428 to 1430; 49 USC 106(g)

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action proposes to amend the Federal Aviation Regulations by withdrawing approval for the use of booster seats and vest and harness-type child restraint systems on aircraft. Recent research shows that these systems are a hazard to children in the event of an accident. This rule would increase safety for children on board aircraft. The FAA has already taken action, by way of press releases, pamphlets, and advisories to U.S. airlines, to notify the public and the aviation industry that these seats should no longer be used on aircraft. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Availability of Study	09/27/94	59 FR 49276
NPRM	06/09/95	60 FR 30690
NPRM Comment Period End	07/10/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/09/95 (60 FR 30690)

Additional Information: Project Number: AFS-94-526R

Agency Contact: Donell Pollard, Air Transportation Division, AFS-200, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9685

RIN: 2120–AF52

2440. DIRECT FINAL RULEMAKING PROCEDURE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1341(a)

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: This notice responds to the President's Executive Order on Regulatory Planning and Review, the Vice President's National Performance Review, and the Administration's Civil Aviation Initiative. It proposes to implement a new and more efficient procedure for adopting non-controversial or consensual rules. This "direct final rulemaking" procedure involves issuing a rule with a statement that the FAA anticipates no public comment. If the FAA receives no adverse or negative comment, or notice of intent to file such a comment within a specified time period, the the rule will become effective on a designated date. If the FAA does receive such a comment or notice of intent, a notice of withdrawal of the direct final rule will be published in the Federal Register, and a notice of proposed rulemaking will be published with a new comment period. This new procedure is expected to reduce significantly the time needed to publish routine or non-controversial final rules.

DOT—FAA

Final Rule Stage

DOT—FAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/04/94	59 FR 50676
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/04/94 (59 FR 50676)

Agency Contact: Donald P. Byrne, Assistant Chief Counsel for Regulations, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3073

RIN: 2120–AF55

2441. WINDMILLING AND ROTOR BLOCKING TESTS; AND VIBRATION TESTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 106(g)

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action proposes changes to the windmilling and vibration airworthiness standards for the issue of type certificates, and changes to type certificates, for aircraft engines. This proposal resulted from an effort to harmonize FAA requirements with European (JAA) requirements to create one set of common requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/06/95	60 FR 12360
NPRM Comment Period End	06/05/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/95 (60 FR 12360)

Additional Information: Project Number: ANE-93-738R

Agency Contact: John Golinski, Engine & Propeller Standards Staff, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803 Phone: 617 238-7119

RIN: 2120–AF57

2442. +COMMUTER OPERATIONS AND GENERAL CERTIFICATION AND OPERATIONS REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 91 in Part II of this issue of the Federal Register.

RIN: 2120–AF62

2443. ROTORCRAFT REGULATORY CHANGES BASED ON EUROPEAN JOINT AIRWORTHINESS REQUIREMENTS PROPOSALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This action proposes changes to the type certification requirements for both normal and transport category aircraft. These changes are based on standards that are being incorporated by the European Joint Aviation Authorities for the Joint Aviation Requirements (JAR) 27 and 29. These proposed changes are intended to harmonize the Federal Aviation Regulations rotorcraft type certification requirements and the European JAR.

Timetable:

Action	Date	FR Cite
NPRM	12/28/94	59 FR 67068
NPRM Comment Period End	03/28/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/28/94 (59 FR 67068)

Additional Information: Project Number: ASW-94-536A. RIN Number 2120-AC27 was inadvertently used when this rulemaking was published in the Federal Register on December 28, 1994. The correct RIN Number is 2120-AF65.

Agency Contact: Carroll Wright, Rotorcraft Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 2601 Meacham Blvd., Fort Worth, TX 76193-0111 Phone: 817 222-5120

RIN: 2120–AF65

2444. • +POLICY REGARDING AIRPORT RATES AND CHARGES

Priority: Other Significant

Legal Authority: 49 USC 47129

CFR Citation: None

Legal Deadline: None

Abstract: This statement of policy was required by Congress as part of the DOT authorization Act of 1994. The statement announces DOT and FAA policy on the fees charged by Federally-assisted airports to air carriers and other aeronautical users. While the policy statement was issued in February 1995, the department requested further comments and will be issuing a supplemental statement to address the comments received. This policy statement is considered significant due to substantial industry interest.

Timetable:

Action	Date	FR Cite
Policy Statement Comments Due 5/4/95	02/03/95	60 FR 6906
SNPRM Comment Period End 10/23/95	09/08/95	60 FR 47012
Supplemental Statement	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Department issued a final rule 2/3/95 (60 FR 6919), RIN 2105-AC18, Rules of Practice for Proceedings Concerning Airport Fees. This rulemaking had its origins in two related notices on the subject of Federal policy on airport rates and charges.

A notice of meeting was published 9/12/95 (60 FR 47433).

Agency Contact: Barry Molar, Manager, Airports Law Branch, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3473

RIN: 2120–AF90

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Long-Term Actions

2445. +FUEL SYSTEM VENT FIRE PROTECTION

Priority: Other Significant

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38078
ANPRM Comment Period End	01/25/85	
NPRM	02/02/95	60 FR 6632
NPRM Comment Period End	06/02/95	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Mike McRae Phone: 206 227-2116

RIN: 2120–AA49

2446. MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 21; 14 CFR 65; 14 CFR 107; 14 CFR 121; 14 CFR 135; 14 CFR 145

Timetable:

Action	Date	FR Cite
NPRM	10/03/83	48 FR 45214
NPRM Comment Period End	12/02/83	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Casciano Phone: 202 267-9683

RIN: 2120–AA50

2447. AIRCRAFT ENGINES: FUEL AND INDUCTION SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 33

Timetable:

Action	Date	FR Cite
ANPRM	02/28/86	51 FR 7224
ANPRM Comment Period End	04/29/86	
NPRM	10/20/92	57 FR 47934
NPRM Comment Period End	02/17/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Locke Easton Phone: 617 273-7088

RIN: 2120–AB76

2448. INSTALLATION OF CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 25

Timetable:

Action	Date	FR Cite
ANPRM	05/02/89	54 FR 18824
ANPRM Comment Period End	10/30/89	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Mike McRae Phone: 206 227-2133

RIN: 2120–AC87

2449. +SOLE RADIO NAVIGATION SYSTEM; MINIMUM STANDARDS FOR CERTIFICATION

Priority: Other Significant

CFR Citation: 14 CFR 91

Timetable:

Action	Date	FR Cite
ANPRM	01/22/90	55 FR 2206
ANPRM Comment Period End	05/22/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James Crowling Phone: 202 267-5215

RIN: 2120–AD26

2450. +CHILD RESTRAINT SYSTEMS

Priority: Other Significant

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donell Pollard Phone: 202 267-8096

RIN: 2120–AD90

2451. PERSONS AUTHORIZED TO PERFORM MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 14 CFR 43

Timetable:

Action	Date	FR Cite
NPRM	07/18/95	60 FR 36926
NPRM Comment Period End	09/18/95	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ed Ortiz Phone: 202 267-3806

RIN: 2120–AE57

2452. +ANTI-DRUG AND ALCOHOL MISUSE PREVENTION PROGRAMS FOR EMPLOYEES OF FOREIGN AIR CARRIERS ENGAGED IN SPECIFIED AVIATION ACTIVITIES

Priority: Other Significant

CFR Citation: 14 CFR 121; 14 CFR 129

Timetable:

Action	Date	FR Cite
ANPRM	12/15/92	57 FR 59473
ANPRM Comment Period End	02/16/93	
ANPRM Comment Period Extended to 04/01/93	02/18/93	58 FR 8917

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julie B. Murdoch Phone: 202 267-6584

RIN: 2120–AE79

2453. STAGE 2 AIRPLANE OPERATIONS IN HAWAII

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 91

Timetable:

Action	Date	FR Cite
NPRM	05/11/95	60 FR 25554

Action	Date	FR Cite
NPRM Comment Period End	08/09/95	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan V. Trickey
Phone: 202 267-3496

RIN: 2120–AE83

2454. NIAGARA FALLS

Priority: Other

CFR Citation: 14 CFR 93

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melodie M. DeMarr
Phone: 202 267-9247

RIN: 2120–AE95

2455. FLIGHT ATTENDANT ENGLISH LANGUAGE PROFICIENCY

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Timetable:

Action	Date	FR Cite
ANPRM	04/18/94	59 FR 18456
ANPRM Comment Period End	07/18/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donell Pollard
Phone: 202 267-3735

RIN: 2120–AE98

2456. FLIGHT OPERATIONAL QUALITY ASSURANCE PROGRAM

Priority: Other

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dan Meier
Phone: 202 267-3789

RIN: 2120–AF04

2457. +SIGHTSEEING OPERATIONS

Priority: Other Significant

CFR Citation: 14 CFR 91; 14 CFR 135

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dan Meier
Phone: 202 267-3749

RIN: 2120–AF07

2458. SIMULATOR INSTRUCTOR—MEDICAL CERTIFICATES

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 121; 14 CFR 135

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Toula
Phone: 202 267-3718

RIN: 2120–AF08

2459. TAMPA, FL, CLASS B AIRSPACE

Priority: Routine and Frequent

CFR Citation: 14 CFR 71

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewis W. Still
Phone: 202 267-9250

RIN: 2120–AF18

2460. REVISION OF CERTIFICATION REQUIREMENTS: MECHANICS AND REPAIRMEN

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 65; 14 CFR 66

Timetable:

Action	Date	FR Cite
NPRM	08/17/94	59 FR 42430
NPRM Comment Period End	10/17/94	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie Vipond
Phone: 202 267-3269

RIN: 2120–AF22

2461. REVISED DISCRETE GUST LOAD DESIGN REQUIREMENT; TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 25

Timetable:

Action	Date	FR Cite
NPRM	09/16/94	59 FR 47756
NPRM Comment Period End	12/15/94	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James R. Haynes
Phone: 206 227-2112

RIN: 2120–AF27

2462. +OPERATIONS OF JET AIRCRAFT IN COMMUTER SLOTS AT LAGUARDIA AIRPORT AND JOHN F. KENNEDY INTERNATIONAL AIRPORT

Priority: Other Significant

CFR Citation: 14 CFR 93

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Lane
Phone: 202 267-3491

RIN: 2120–AF31

2463. STREAMLINED ENFORCEMENT PROCESS TEST PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 13

Timetable:

Action	Date	FR Cite
Test and Evaluation Program Established, Comment Period Ends 10/25/94	08/26/94	59 FR 44266
Test and Evaluation Correction	09/09/94	59 FR 46533
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian Reed
Phone: 202 267-5998

RIN: 2120–AF36

2464. +OVERFLIGHTS OF UNITS OF THE NATIONAL PARK SYSTEM

Priority: Other Significant

CFR Citation: 14 CFR 91; 14 CFR 135

Timetable:

Action	Date	FR Cite
ANPRM	03/17/94	59 FR 12740
ANPRM Correction	04/01/94	59 FR 15350
ANPRM Comment Period End	06/15/94	
ANPRM Comment Period Extended to 07/15/94	06/20/94	59 FR 31883
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David L. Bennett
Phone: 202 267-3473

RIN: 2120–AF46

2465. +MOUNTAIN FLYING

Priority: Other Significant

CFR Citation: 14 CFR 91

Timetable:

Action	Date	FR Cite
NPRM	04/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Barton
Phone: 202 267-8194

RIN: 2120–AF67

2466. • BIRD STRIKE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 1344; 49 USC 1354(a); 49 USC 1421; 49 USC 1423 to 1426; 49 USC 1428 to 1431

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to revise the bird strike requirements of part 25 of the Federal Aviation Regulations. These changes are intended to harmonize the bird strike requirement of the FAR and the Joint Aviation Requirements. The proposed changes would revise sections 25.631, 25.571(e), and 25.775(b).

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ANM-93-762A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Manhidner Wahi, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2112

RIN: 2120–AF80

2467. • REPAIR ASSESSMENT FOR PRESSURIZED FUSELAGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423 to 1426; 49 USC 1428 to 1431

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 129

Legal Deadline: None

Abstract: This proposed rulemaking would require incorporation of repair assessment guidelines for external fuselage pressure boundary into the FAA approved maintenance programs of each operator of certain transport category airplane models. The purpose of the repair assessment guidelines is to establish a damage-tolerance based supplemental inspection program for repairs to detect damage, which may develop in a repaired area, before that damage degrades the load carrying capability of the structure below the levels required by the applicable airworthiness standards.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ANM-93-772A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Dayton Curtis, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2109

RIN: 2120–AF81

2468. • REVISION OF GATE REQUIREMENTS FOR HIGH-LIFT DEVICE CONTROLS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423 to 1426; 49 USC 1428 to 1421

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This proposed rulemaking would revise the requirements concerning gated positions on the control used by the pilot to select the position of an airplane's high-lift devices. It would update the current standards to take into account the multiple configurations of the high-lift devices provided on current airplanes to perform landings and go-around maneuvers. This rulemaking would also harmonize these standards with those being proposed for the European Joint Aviation Requirements (JAR).

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ANM-94-463A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Don Stimson, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Rind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-1129

RIN: 2120–AF82

2469. • BRAKED ROLL CONDITIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423 to 1426; 49 USC 1428 to 1431

DOT—FAA — Long-Term Actions

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This proposed rulemaking would amend the requirements for landing gear braking on transport category airplanes to require that the airplane be designed to withstand main landing gear maximum braking forces during ground operations. This action would ensure that the landing gear and fuselage are capable of withstanding the dynamic loads associated with the maximum dynamic braking condition, and would also relieve a burden on industry by eliminating differences between the Federal Aviation Regulations (FAR) and European Joint Aviation Requirements (JAR).

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ANM-94-462A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Iven Connally, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2120

RIN: 2120–AF83

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Completed Actions

2470. COMPOSITE PROPELLERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1421; 49 USC 1423; 49 USC 106(g)

CFR Citation: 14 CFR 35

Legal Deadline: None

Abstract: This notice would have revised part 35 of the Federal Aviation Regulations to add requirements for composite propellers to include environmental effects in fatigue evaluation, bird impact, and lightning protection. This rulemaking action has been tasked to the Aviation Rulemaking Advisory Committee (ARAC). The FAA is withdrawing this rulemaking until a recommendation is received from ARAC.

Timetable:

Action	Date	FR Cite
Withdrawn	07/07/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Formerly entitled "Fatigue Evaluation, Bird Impact, and Lightning Protection for Propellers of Composite Construction." Project No. ANE-83-002R.

Agency Contact: Marty Buckman, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803
Phone: 617 273-7079

RIN: 2120–AB05

2471. +ELIMINATION OF AIRPORT DELAYS

Priority: Other Significant

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 2402; 49 USC 2424; 49 USC 106(g)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This proposed rule is designed to alleviate increased delays throughout the air traffic system and is considered significant because of its involvement with important Department of Transportation policies.

Timetable:

Action	Date	FR Cite
NPRM	08/20/84	49 FR 33082
NPRM Comment Period End	09/04/84	
Final Action	12/20/85	50 FR 52180

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/20/84 (49 FR 33082)

Additional Information: Docket No. 24206.

Agency Contact: David L. Bennett, Manager, Airspace and Air Traffic Law Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3491

RIN: 2120–AB42

2472. MAINTENANCE RECORDKEEPING REQUIREMENTS

Priority: Other

Legal Authority: 49 USC 1354(a); 49 USC 1421 to 1430; 49 USC 1502

CFR Citation: 14 CFR 91; 14 CFR 121

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations regarding the airworthiness standards for transport category airplanes and engines in parts 25, 33, and 35 of the Federal Aviation Regulations (FAR) and parallel provisions in parts 121 and 135 of the FAR. The FAA is withdrawing this rulemaking until a recommendation is received from the Aviation Rulemaking Advisory Committee.

Timetable:

Action	Date	FR Cite
Withdrawn	07/07/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AFS-92-625R.

Agency Contact: Bill Henry, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3804

RIN: 2120–AD25

DOT—FAA — Completed Actions

2473. HIGH INTENSITY RADIATED FIELDS PROTECTION STANDARDS FOR AIRCRAFT ELECTRICAL AND ELECTRONIC SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 23; 14 CFR 25; 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations regarding the airworthiness standards for transport category airplanes and engines in parts 25, 33, and 35 of the Federal Aviation Regulations (FAR) and parallel provisions in parts 121 and 135 of the FAR. The FAA is withdrawing this rulemaking until a recommendation is received from the Aviation Rulemaking Advisory Committee.

Timetable:

Action	Date	FR Cite
Withdrawn	07/07/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AIR-89-180R. This project was formerly entitled "Requirements for Aircraft Protection in High Energy Radiated Electromagnetic Fields."

Agency Contact: William J. (Joe) Sullivan, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9554

RIN: 2120–AD32

2474. +FATIGUE TEST REQUIREMENTS FOR AGING AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations regarding the airworthiness standards for transport category airplanes and engines in parts 25, 33, and 35 of the Federal Aviation Regulations (FAR) and parallel provisions in parts 121 and 135 of the FAR. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Terminated - This project has been replaced by RIN 2120-AE42.	07/07/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ANM-90-004R.

Agency Contact: Dick Kirsch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9565

RIN: 2120–AD43

2475. +PILOT OPERATING AND EXPERIENCE REQUIREMENTS

Priority: Other Significant

Legal Authority: 49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action established minimum experience levels for cockpit crew pairing. It also established guidelines for initial operating experience and specified operating restrictions when the second in command has fewer than 100 hours of flight time. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/23/93	58 FR 15730
NPRM Comment Period End	06/21/93	
Final Action	04/27/95	60 FR 20858
Final Action Effective	08/28/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/23/93 (58 FR 15730); Regulatory Evaluation 04/27/95 (60 FR 20858)

Additional Information: Project Number AFS-91-004R.

Agency Contact: Larry Youngblut, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8096

RIN: 2120–AD88

2476. +UNESCORTED ACCESS PRIVILEGE

Priority: Other Significant

Legal Authority: 49 USC 1354(a); 49 USC 1356; 49 USC 1357; 49 USC 1358 to 1421; 49 USC 106(g)

CFR Citation: 14 CFR 107; 14 CFR 108

Legal Deadline: Final, Statutory, April 24, 1992.
Aviation Security Improvement Act of 1990

Abstract: This action establishes regulations to implement criminal history records checks for air carrier and airport security employees. This rulemaking is considered significant because of substantial congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/13/92	57 FR 5352
NPRM Comment Period Extended to 05/15/92	03/12/92	57 FR 8834
Public Meetings Notice	04/09/92	57 FR 12396
SNPRM: Comment Period End 12/17/92	09/18/92	57 FR 43294
Final Action	10/03/95	60 FR 51854
Final Action Effective	01/31/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/03/95 (60 FR 51854)

Additional Information: Project Number ACS-91-076R.

Agency Contact: Linda Valencia, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8701

RIN: 2120–AE14

2477. ACCESS INTO THE COCKPIT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action was to revise part 121 of the Federal Aviation Regulations by allowing air traffic control specialists to ride on the cockpit jumpseat in nonpassenger-carrying air carrier operations. Originally this rulemaking was considered significant. However, because there is no substantial public interest, this rulemaking is no longer significant.

Timetable:

Action	Date	FR Cite
Terminated	07/07/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AFS-91-207R. This rulemaking effort has been resolved as an internal policy agreement between the Office of Flight Standards and the Office of Air Traffic.

Agency Contact: Donell Pollard, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8096

RIN: 2120–AE35

2478. AIRPORT RUNWAY INCURSION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1432; 49 USC 106(g)

CFR Citation: 14 CFR 139

Legal Deadline: None

Abstract: This action would have amended part 139 of the Federal Aviation Regulations by incorporating additional requirements regarding distance-remaining markers and other signs at airports. This rulemaking action has been tasked to the Aviation Rulemaking Advisory Committee (ARAC). The FAA is withdrawing this rulemaking until a recommendation is received from ARAC.

Timetable:

Action	Date	FR Cite
Withdrawn	07/07/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AAS-91-205R. This project was tasked to the Aviation Rulemaking Advisory Committee (ARAC) in October 1995.

Agency Contact: Robert David, Assistant Executive Director, Office of Airport and Safety Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3085

RIN: 2120–AE38

2479. NON-FEDERAL NAVIGATION FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1343; 49 USC 1346; 49 USC 1348; 49 USC 1354(a); 49 USC 1355; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472(c); 49 USC 1502; 49 USC 1522; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 171

Legal Deadline: None

Abstract: This action would have amended part 171 to require the same specifications for non-Federal facilities as are required for FAA facilities. The amendment would have consolidated subparts which would allow for easier use and access.

Timetable:

Action	Date	FR Cite
Withdrawn	07/07/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ASM-92-254R The FAA is conducting further research into the issues pertaining to this project. If the FAA determines that future rulemaking would be appropriate, the project will be returned to the Agenda.

Agency Contact: Ronald Jennings, Technical Standards Branch, Systems Maintenance Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7911

RIN: 2120–AE54

2480. AMEND PART 34: FUEL VENTING AND EXHAUST EMISSION REQUIREMENTS FOR TURBINE ENGINE-POWERED AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857(f); 49 USC 106(g); 49 USC 1348(c); 49 USC 1354(a); 49 USC 1421; 49 USC 1423

CFR Citation: 14 CFR 34

Legal Deadline: None

Abstract: This action amends part 34 of the Federal Aviation Regulations to make corrections to sections 34.71 and 34.89 which were published incorrectly.

Timetable:

Action	Date	FR Cite
NPRM	04/13/94	59 FR 17640
NPRM Comment Period End	06/13/94	
Final Action	06/29/95	60 FR 34076
Final Action Effective	07/31/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/13/94 (59 FR 17640)

Additional Information: Project No.: AEE-92-266R.

Agency Contact: Laurie Fisher, Policy and Regulatory Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3561

RIN: 2120–AE55

2481. COMMUNICATION SYSTEMS: REMOVAL OF FEE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1341(c); 49 USC 1346; 49 USC 1348(b); 49 USC 1354(a); 49 USC 1355; 31 USC 483(a)

CFR Citation: 14 CFR 189

Legal Deadline: None

Abstract: This action modifies part 189 of the Federal Aviation Regulations to remove the outdated fee provision. Due to enhanced commercial communications, FAA has determined that the need to accept (and charge fees for) messages addressing such topics as lost baggage, hotel reservations, crew assignments, and other commercial matters no longer exists. The change is not intended to affect FAA's transmissions relating to flight safety, flight plans, and weather.

Timetable:

Action	Date	FR Cite
NPRM	06/09/94	59 FR 29934
NPRM Correction	08/02/94	59 FR 39395
NPRM Comment Period End	09/07/94	
Final Action	08/02/95	60 FR 39614
Final Action Effective	09/18/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/09/94 (59 FR 29934)

Additional Information: Project Number: ATP-92-292R.

Agency Contact: Ellen Crum, Air Traffic Rules and Procedure Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9859

RIN: 2120–AE68

2482. FEES FOR CERTIFICATION SERVICES AND APPROVALS PERFORMED OUTSIDE THE UNITED STATES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1341; 49 USC 1343; 49 USC 1344; 49 USC 1346; 49 USC 1348; 49 USC 1354; 49 USC 1355; 31 USC 483(a)

CFR Citation: 14 CFR 187

Legal Deadline: None

Abstract: This action amends the existing fee schedule appearing in part 187 for certification of airmen and air agencies performed outside the U.S., e.g., certification of pilots, flight engineers, and mechanics. This action provides fees for all activities authorized by statute and ways to estimate fees that permit full recovery of the Federal Aviation Administration's costs.

Timetable:

Action	Date	FR Cite
NPRM	06/30/94	59 FR 33832
NPRM Comment Period End	08/01/94	
Final Action	04/19/95	60 FR 19628
Final Action Effective	05/19/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/30/94 (59 FR 33832); Regulatory Evaluation 04/19/95 (60 FR 19628)

Additional Information: Project No.: AFS-92-262R. This action was previously titled Part 187--Fees.

Agency Contact: Emily White, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3651

RIN: 2120–AE72

2483. STATE BLOCK GRANT PROGRAM

Priority: Other

Legal Authority: 49 USC 2201; 49 USC 2227

CFR Citation: 14 CFR 156

Legal Deadline: None

Abstract: This action would have amended the regulations which implement the recent reauthorization by Congress of the State block grant pilot program under the Airport Improvement Program. The amendment to the regulations provides guidance to the participating States regarding administrative procedures for the 4-year extension of the pilot program.

Timetable:

Action	Date	FR Cite
Withdrawn	07/07/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: APP-93-513R. The FAA is withdrawing this rulemaking as there will no longer be a rule change associat d with this program unless Congres expands the program, which expires in 1996.

Agency Contact: Mark Beisse, Office of Airport Planning and Programming, Airports Financial Assistance Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8826

RIN: 2120–AE90

2484. HIGH DENSITY AIRPORTS; SLOT USE AND LOSS REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 2451 et seq; 49 USC 106(g)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action amended the use-or-lose provisions in section 93.227 to exempt certain holidays from the use-or-lose requirements for air carrier and commuter slot holders.

Timetable:

Action	Date	FR Cite
NPRM	07/28/94	59 FR 38508
NPRM Comment Period End	09/26/94	
Final Action	11/15/94	59 FR 58770
Final Action Effective	11/15/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/28/94 (59 FR 38508); Regulatory Evaluation 11/15/94 (59 FR 58770)

Additional Information: Project Number: AGC-93-464R

Agency Contact: Lorelei Dinges, Regulations Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3491

RIN: 2120–AE94

2485. ADVANCED QUALIFICATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1354(a); 49 USC 1303; 49 USC 1344; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2126; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 91; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action extends SFAR 58, which established a voluntary, alternative method for the training, evaluation, certification, and qualification requirements of flight crewmembers, flight attendants, aircraft dispatchers, instructors, evaluators and other operations personnel subject to the training and qualification requirements of 14 CFR 121 and 135. The FAA developed this alternative method in response to recommendations made by representatives from the Government, airlines, aircrew professional organizations, and airline industry organizations. The SFAR is designed to improve aircrew performance and allows certificate holders to develop innovative training programs that incorporate the most recent advances in training methods and techniques.

Timetable:

Action	Date	FR Cite
NPRM	08/16/95	60 FR 42764
NPRM Comment Period End	09/05/95	
Final Action	10/03/95	60 FR 51850

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: AFS-93-120R. The FAA will extend this SFAR, which expires October 1995.

Agency Contact: John Allen, Air Carrier Training Office, Department of Transportation, Federal Aviation Administration, P. O. Box 20034, Dulles International Airport
Phone: 703 661-0273

RIN: 2120–AF00

2486. ALTERATION OF THE CHARLOTTE CLASS B AIRSPACE AREA; NORTH CAROLINA

Priority: Routine and Frequent

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; 49 USC 106(g); EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action alters the Charlotte Terminal Control Area (TCA) by maintaining the upper limit of the TCA at 10,000 feet mean sea level and redefining several existing subareas to improve the capability of the air traffic control system to separate aircraft in the terminal airspace around the Charlotte/Douglas International Airport.

Timetable:

Action	Date	FR Cite
NPRM	03/02/94	59 FR 10040
NPRM Comment Period End	05/02/94	
NPRM Correction: Comment Period Extended to 06/02/94	05/12/94	59 FR 24673
Final Action	05/17/95	60 FR 26594
Final Action Effective	07/20/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/02/94 (59 FR 10040); Regulatory Evaluation 05/17/95 (60 FR 26594)

Additional Information: Project Number: ATP-93-399T. A correction was published 6/1/95 (60 FR 28657).

Agency Contact: Patricia P. Crawford, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9255

RIN: 2120–AF02

2487. REVISION OF CERTAIN FLIGHT AIRWORTHINESS STANDARDS TO HARMONIZE WITH EUROPEAN AIRWORTHINESS STANDARDS FOR TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g)

CFR Citation: 14 CFR 1; 14 CFR 25

Legal Deadline: None

Abstract: The Federal Aviation Administration amended part 25 of the Federal Aviation Regulations (FAR) to harmonize certain flight requirements with standards proposed for the European Joint Aviation Requirements (JAR)-25. This action responds to a petition from the Aerospace Industries Association of America, Inc., and the Association Europeenne des Constructeurs de Material Aerospatial. These changes are intended to benefit the public interest by standardizing certain requirements, concepts, and procedures contained in the airworthiness standards of the FAR and JAR.

Timetable:

Action	Date	FR Cite
NPRM	04/22/94	59 FR 19296
NPRM Comment Period End	07/21/94	
Final Action	06/09/95	60 FR 30744
Final Action Effective	07/10/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/22/94 (59 FR 19296)

Additional Information: Project Number: ANM-92-761A

Agency Contact: Donald K. Stimson, Flight Test and Systems Branch, ANM-111, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-1320

RIN: 2120–AF25

2488. SPECIAL FLIGHT RULES IN THE VICINITY OF THE GRAND CANYON NATIONAL PARK

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1356; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2126; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action extends, for 2 years, the effectiveness of SFAR 50-2, which contains procedures governing the operation of aircraft in the airspace above the Grand Canyon National Park. SFAR 50-2 originally established the flight regulations for a period of 4 years to allow the National Park Service (NPS) time to complete studies concerning aircraft overflight impacts on the Grand Canyon, and to forward its recommendations to the FAA. The NPS study, completed in September 1994, recommended alternatives, such as use of quiet aircraft, additional flight-free zones, altitude restrictions, operating specifications, noise budgets, and time limits. This action allows the FAA sufficient time to thoroughly review the NPS recommendations as to their impact on the safety of air traffic at the Grand Canyon National Park, and to take the appropriate rulemaking action.

Timetable:

Action	Date	FR Cite
NPRM	04/12/95	60 FR 18700
NPRM Comment Period End	05/12/95	
NPRM Correction	05/25/95	60 FR 27707
Final Action	06/15/95	60 FR 31608
Final Action Effective	06/15/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ATP-95-017R

Agency Contact: Ellen Crum, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9859

RIN: 2120–AF60

2489. +AIR TOUR SIGHTSEEING OPERATIONS

Completed:

Reason	Date	FR Cite
Terminate - Duplicate of RIN 2120-AF07.	07/07/95	

RIN: 2120–AF61

2490. • PROHIBITION AGAINST CERTAIN FLIGHTS BETWEEN THE UNITED STATES AND THE REPUBLIC OF YUGOSLAVIA (SFAR 66-2)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1344; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1432; 49 USC 1471 to 1473; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2126; 49 USC 106(g)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This final rule replaced the flight prohibition implemented by the FAA in SFAR 66-1, which was made effective on August 26, 1993, and expired August 26, 1994. This action prohibits the landing in, takeoff from, or overflight of the territory of the United States by any aircraft on a flight from or to the territory of the Federal Republic of Yugoslavia. This SFAR expires June 2, 1997.

Timetable:

Action	Date	FR Cite
Final Action	05/31/95	60 FR 28476
Final Action Effective	05/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark W. Bury, International Affairs and Legal Policy Staff, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3515

RIN: 2120–AF72

2491. • CERTIFICATION AND OPERATING REQUIREMENTS SFAR 38-2

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40101; 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This amendment extends the termination date for SFAR 38-2, which contains the certification and operating requirements for persons transporting passengers or cargo for compensation or hire. This SFAR will be rescinded if a final rule is issued codifying the certification and operating requirements.

Timetable:

Action	Date	FR Cite
Final Action Effective	06/01/95	
Final Action	06/06/95	60 FR 29753

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: AFS-95-315R.

Agency Contact: Gary Davis, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3747

RIN: 2120–AF73

2492. • PROHIBITION AGAINST CERTAIN FLIGHTS WITHIN THE TERRITORY AND AIRSPACE OF AFGHANISTAN(SFAR 67)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1344; 49 USC 1352 to 1354; 49 USC 1354(a); 49 USC 1355; 49 USC 1401; 49 USC 1421 to 1432; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2126

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action extends the prohibition of flight operations within the territory and airspace of Afghanistan by any US air carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA, or by an operator using an aircraft registered in the United States unless the operator is a foreign air carrier.

Timetable:

Action	Date	FR Cite
Final Action	05/15/95	60 FR 25980

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number: AGC-95-363R. This extension of the expiration date is to 5/10/96 and is effective 5/10/95.

Agency Contact: Mark W. Bury, International Affairs and legal Policy Staff, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3515

RIN: 2120–AF74

DOT—FAA — Completed Actions

2493. • PROHIBITION AGAINST CERTAIN FLIGHTS BETWEEN THE UNITED STATES AND THE REPUBLIC OF LIBYA (SFAR 65-1)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1344; 49 USC 1352 to 1354; 49 USC 1354(a); 49 USC 1355; 49 USC 1401; 49 USC 1421 to 1432; 49 USC 1471 to 1473; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2126

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This final rule replaces the flight prohibition implemented by the FAA in SFAR 65-1, which was made effective on April 20, 1992, and expired April 16, 1993. This action prohibits the landing in, takeoff from, or overflight of the territory of the United States by any aircraft on a flight from or to the territory of Libya. This SFAR remains in effect until further notice.

Timetable:

Action	Date	FR Cite
Final Action	09/20/95	60 FR 48643

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number: AGC-95-423R.

Agency Contact: Mark W. Bury, International Affairs and Legal Policy Staff, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3515

RIN: 2120–AF85

2494. • PROHIBITION AGAINST CERTAIN FLIGHTS BETWEEN THE UNITED STATES AND THE REPUBLIC OF IRAQ (SFAR 61-2)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1432; 49 USC 1471 to 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2126

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This final rule replaces the flight prohibition implemented by the FAA in SFAR 61, which was made effective on November 9, 1990, and expired on November 9, 1991. This action prohibits the landing in, takeoff from, or overflight of the territory of the United States by any aircraft on a flight from or to the territory of Iraq. This SFAR remains in effect until further notice.

Timetable:

Action	Date	FR Cite
Final Action	09/21/95	60 FR 49138

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Project Number: AGC-95-425R.

Agency Contact: Jeffrey A. Klang, International Affairs and Legal Policy Staff, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3515

RIN: 2120–AF87

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA) — Prerule Stage

2495. ACQUISITION OF REAL PROPERTY FOR RIGHTS-OF-WAY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 315; PL 100-17, sec 126; PL 100-17, sec 146; 42 USC 4601 et seq

CFR Citation: 23 CFR 172; 23 CFR 710; 23 CFR 712; 23 CFR 713; 23 CFR 720; 23 CFR 740; 23 CFR 620; 23 CFR 635; 23 CFR 645

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) is proposing to revise and consolidate several right-of-way regulations to improve the organization of the subject matter and update the content. This action will also implement sections 126 and 146 (airspace and donations) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation

Additional Information: Two related rulemaking actions are: (1) a proposed rule entitled "Right-of-Way" which appeared in a prior Agenda under RIN 2125-AB58 and (2) a proposed rule entitled "Property Management; Disposals and Airspace" which appeared in a prior Agenda under RIN 2125-AB60. Those entries have been consolidated into this rulemaking.

Agency Contact: Marshall Schy, Chief, Policy Development Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2021

RIN: 2125–AC17

2496. HIGHWAY BEAUTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 131; 23 USC 315; 49 USC 1651

CFR Citation: 23 CFR 750, subpart B; 23 CFR 750, subpart E; 23 CFR 750, subpart G

Legal Deadline: None

Abstract: The revision of these subparts will reduce their complexity, recognize the existence of State laws, regulations, and organizations implementing 23 USC 131, and emphasize the position of the State as the initial, primary, and principal focal point regarding the requirement of effective control. Potential costs should be reduced, albeit minimally. The principal benefit will be to give the

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States greater ability, in the context of the broad requirements of 23 USC 131, to respond to concepts and issues relevant to the States. We are reviewing these regulations and we intend to focus on changes necessitated by ISTEA.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Robert P. Harter, Realty Specialist, Special Programs and Evaluation Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington DC 20590 Phone: 202 366-2026

RIN: 2125–AD24

2497. • +ADVANCED TECHNOLOGY IN COMMERCIAL MOTOR VEHICLE OPERATIONS

Regulatory Plan: This entry is Seq. No. 92 in Part II of this issue of the **Federal Register**.

RIN: 2125–AD65

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA) — Proposed Rule Stage

2498. TRUCK LENGTH AND WIDTH EXCLUSIVE DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 315; PL 97-424, sec 411; PL 97-424, sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA requested public comment on how, under section 411(h) and 416(b) of the Surface Transportation Act of 1982 (STA) (PL 97-424, 96 Stat. 2097), the Secretary may determine which safety or efficiency-enhancing devices are to be excluded when measuring the length and width of vehicles for compliance with federally mandated dimensions. The present system of employing rulemaking proceedings is too time-consuming and cumbersome to meet the needs of industry and is needlessly burdensome for FHWA. Therefore, a new approach will be proposed.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/89	54 FR 52951
ANPRM Comment Period Extended to 06/01/90	03/21/90	55 FR 10468
ANPRM Comment Period End	03/26/90	
ANPRM Docket Reopened; Comment Period Extended to 08/21/90	06/22/90	55 FR 25673
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation

Agency Contact: Max Pieper, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4029

RIN: 2125–AC30

2499. PERIODIC INSPECTION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31131; 49 USC 31137; 49 USC 31142

CFR Citation: 49 CFR 396

Legal Deadline: None

Abstract: The FHWA is proposing to rescind the periodic inspection requirements for commercial motor vehicles (CMVs). Under the President's Regulatory Reinvention Initiative and the FHWA's Zero-Based Regulatory Review, the FHWA has examined the effectiveness of the periodic inspection requirements established in response to the Motor Carrier Safety Act of 1984 (The Act) and determined that the requirements can be rescinded without reducing safety. The periodic inspection requirements have not provided any greater assurance of the safety of operation of CMVs than the driver vehicle inspection and systematic repair and inspection requirements, which were in existence prior to the passage of the Act. This action would not relieve motor carriers of their responsibility to ensure that CMVs subject to their control are in safe and proper operating conditions at all times. It is the intent of this action to eliminate unnecessary regulations and achieve performance-based inspection, repair, and maintenance requirements under the Federal Motor Carrier Safety Regulations.

Timetable:

Action	Date	FR Cite
Notice: Request for Comments	03/16/89	54 FR 11020
Final Rule: Delay in Compliance Date	12/08/89	54 FR 50722
Notice: State Inspection Programs	12/08/89	54 FR 50726
Petition: Comments Invited Through 07/02/90	05/02/90	55 FR 18355
Notice: State Inspection Programs	09/23/91	56 FR 47982
Denial of Petition	07/02/92	57 FR 29457
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Larry W. Minor, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2981

RIN: 2125–AC47

2500. COMMERCIAL LEARNER PERMITS AND CDL EFFECTIVENESS

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-570; 49 USC 3102; 49 USC 31136; 49 CFR 1.48

CFR Citation: 49 CFR 383; 49 CFR 384; 49 CFR 386; 49 CFR 395

Legal Deadline: None

Abstract: To reconcile the training needs of the motor carrier industry

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with the requirements of the Commercial Driver's License (CDL) program and the Commercial Motor Vehicle Safety Act of 1986, the FHWA is proposing additional minimum Federal standards for State-issued learner's permits that allow drivers to be trained in the operation of commercial motor vehicles (CMVs). Among the alternatives under consideration: Applicants for Commercial Driver Instruction Permits (CDIPs) might need to possess drivers' licenses and undergo record checks analogous to those now required for CDLs; CDIP transactions might be entered in the Commercial Driver's License Information System (CDLIS); and CDIP holders might be explicitly subject to the same disqualifications as CDL holders. Since driver training is nationwide in scope, the FHWA is proposing options that would allow a State to issue a CDIP to a driver trainee. In addition, the FHWA is proposing to amend existing regulations to incorporate interpretations made since the original CDL regulations were issued. This will also address some issues currently under consideration for increased effectiveness of the CDL program.

Timetable:

Action	Date	FR Cite
NPRM	08/22/90	55 FR 34478
NPRM Comment Period End	10/22/90	
NPRM Comment Period Extended to 11/30/90	10/23/90	55 FR 42741
SNPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/22/90 (55 FR 34478)

Additional Information: Because other regulatory changes have been made since the NPRM was published in 1990, the FHWA intends to issue a supplemental NPRM to solicit comments on including additional requirements consistent with changes in the CDL program.

Agency Contact: David Goettee, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001

RIN: 2125–AC54

2501. REVISION OF MEDICAL EXAMINATION FORM AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: This rulemaking action will seek information for the redesign of the existing medical examination form as well as amend the examination procedures to reflect the latest medical and technological advances.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation

Additional Information: This action was formerly titled "Qualification of Drivers; Medical Examination Form."

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AC63

2502. +SAFETY FITNESS PROCEDURES; SAFETY RATINGS

Priority: Other Significant

Legal Authority: 49 USC app 2512; 49 USC 104; 49 USC 504; 49 USC 521(b)(5)(A); 49 USC 3102; 49 USC app 1814; PL 101-500

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: This action will amend the Federal Motor Carrier Safety Regulations to implement provisions of the Motor Carrier Safety Act of 1990 (section 15 of PL 101-500). This enactment prohibits a motor carrier that receives an "unsatisfactory" safety rating from operating commercial motor vehicles to transport hazardous materials in quantities for which vehicle placarding is required or to transport more than 15 passengers, including the driver. The prohibition is effective 45 days after receipt of an unsatisfactory rating and remains in effect until a satisfactory or conditional rating is secured. This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/16/91	56 FR 40801
Notice: Request for Comments	09/14/94	59 FR 47203
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 08/16/91 (56 FR 40801)

Additional Information: The interim final rule was effective upon publication 08/16/91. Statutory prohibition became effective January 1, 1991.

Agency Contact: William Hill, Office of Motor Carrier Standards, Safety and Technology, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6347

RIN: 2125–AC71

2503. MINIMUM TRAINING REQUIREMENTS FOR OPERATORS AND TRAINING INSTRUCTORS OF MULTIPLE TRAILER COMBINATION VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 4007(b)(2); Intermodal Surface Transportation Efficiency Act (ISTEA)

CFR Citation: 49 CFR 383

Legal Deadline: Final, Statutory, December 18, 1993.

Abstract: This action will establish minimum training requirements for operators of multiple trailer combination vehicles and the instructors who train these operators. The training would include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary of Transportation.

Timetable:

Action	Date	FR Cite
ANPRM	01/15/93	58 FR 4638
ANPRM Comment Period End	03/16/93	
NPRM	11/00/95	

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Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Robert Redmond, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5014

RIN: 2125–AC92

2504. +COMMERCIAL DRIVER PHYSICAL FITNESS AS PART OF THE CDL PROCESS

Priority: Other Significant

Legal Authority: 49 USC app 2704(a)(8); 49 USC app 2505; 49 USC app 3102

CFR Citation: 49 CFR 391; 49 CFR 383; 49 CFR 1.48; 49 CFR 391.11; 49 CFR 391.45

Legal Deadline: None

Abstract: The FHWA is proposing to include the certification of fitness to operate a CMV in the commercial driver's license (CDL) process. Incorporating the commercial driver fitness determination into State administered CDL procedures could allow elimination of the requirement that CMV drivers carry a separate medical certificate. The CDL would be evidence that the CMV driver is physically fit as well as operationally qualified to operate CMVs safely. This action addresses the driver's physical qualifications as they relate to the CDL process; it does not address whether those standards are correct or should be changed. The FHWA has determined that the negotiated rulemaking process will be used to provide a proposed rule. Action is being taken to obtain a convener/facilitator to contact prospective participants to represent affected parties and the convener/facilitator will oversee the process. After the FHWA has secured a contract with a convener/facilitator, a notice of intent to establish a negotiated rulemaking committee will be published in the Federal Register with time allowed for comments. The FHWA expects to proceed with the negotiated rulemaking process by October 1995.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/94	59 FR 36338
ANPRM Comment Period End	11/14/94	
Regulatory Negotiation Process	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: The FHWA considers this a significant action due to anticipated substantial public interest.

Agency Contact: Teresa Doggett, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2990

RIN: 2125–AD20

2505. +DEPARTMENT OF TRANSPORTATION (FHWA, FTA, AND FRA) ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4321; 23 USC 109; 23 USC 128; 23 USC 138; 23 USC 315; PL 102-240; 49 USC 303(c); 49 USC 1602(d); 49 USC 1604(h); 49 USC 1604(i); 49 USC 1610

CFR Citation: 23 CFR 771; 49 CFR 622; 40 CFR 1500 to 1508; 49 CFR 1.48(b); 49 CFR 1.51

Legal Deadline: None

Abstract: The Federal Highway Administration and the Federal Transit Administration currently have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures". The agencies first issued an environmental regulation together in 1980. The joint regulation was amended in 1987 and again in 1991. Even though FHWA and FTA have joint regulations, each agency's guidance for implementing those regulations is procedurally different. This causes difficulties and inconsistencies for sponsors of transportation projects, particularly where joint FHWA and FTA funds are involved. In the ISTEA, the Congress recognized the importance of providing uniformity and consistency between FHWA and FTA environmental procedures. This is needed to accommodate the increased funding flexibility for surface transportation provided by ISTEA. Because of an increased emphasis on intermodal planning and proposals to advance a high speed rail program, the proposed, new joint regulations will include the Federal Railroad Administration (FRA). The proposed regulations will therefore be applied to all three modal administrations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Analysis: Regulatory Evaluation

Additional Information: Section 134(h)(4) of title 23, United States Code and section 8(h)(4) of the Federal Transit Act, as amended, direct the Secretary of Transportation to initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements for highway projects. This action is considered significant because of public, congressional, and environmental concerns and because it involves several interested departmental modes.

Agency Contact: Harold Peaks, Senior Staff Specialist, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1598

RIN: 2125–AD32

2506. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; GENERAL AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 390; 49 CFR 392; 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to amend part 393 of the Federal Motor Carrier Safety Regulations (FMCSRs), Parts and Accessories Necessary for Safe Operation. The proposed amendments are intended to : remove obsolete and redundant regulatory language; respond to several petitions for rulemaking; provide improved definitions of vehicle types and vehicle components; resolve inconsistencies between part 393 and the FHWA's periodic inspection criteria of appendix G to subchapter B; resolve inconsistencies between part 393 and the National Highway Traffic Safety Administration's Federal Motor Vehicle Safety Standards (49 CFR 571); and codify certain FHWA interpretations of the requirements of part 393.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Larry W. Minor, Mechanical Engineer, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD40

2507. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; MANUFACTURED HOME TIRES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502; 42 USC 5403; 42 USC 3535(d)

CFR Citation: 49 CFR 393.75; 24 CFR 3280.904; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA and HUD are proposing amendments to the Federal Motor Carrier Safety Regulations (FMCSRs) and the Manufactured Home Construction and Safety Standards concerning the transportation of manufactured homes. The FHWA and HUD propose to adopt mutually consistent and readily enforceable regulations that promote the safe and effective transportation of manufactured homes. These changes would clarify FHWA and HUD respective regulations to resolve differences between Federal regulations for the overloading of tires used in the transportation of manufactured homes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Larry Minor, Mechanical Engineer, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD41

2508. ANTILOCK BRAKE SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: This rulemaking requests comments on the intent of the FHWA to initiate a rulemaking concerning requirements for antilock brake systems (ABS) on commercial motor vehicles engaged in interstate commerce. The National Highway Traffic Safety Administration (NHTSA) has proposed requiring certain newly manufactured vehicles to be equipped with ABS. The FHWA intends to initiate a rulemaking addressing requirements for motor carriers to maintain the ABS on those vehicles which would be subject to the NHTSA's final rule and address certain other ABS issues related to vehicles subject to the Federal Motor Carrier Safety Regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: The NHTSA ABS rulemaking is RIN 2127-AA00 and RIN 2127-AE75.

Agency Contact: Larry W. Minor, Mechanical Engineer, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD42

2509. MAXIMUM DRIVING AND OFF-DUTY TIME; HOURS OF SERVICE FOR FARMERS AND RETAIL FARM SUPPLIERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-311

CFR Citation: 49 CFR 395.3

Legal Deadline: None

Abstract: The Hazardous Materials Transportation Authorization Act of 1994 requires the Secretary of Transportation to initiate a rulemaking proceeding to determine whether or not the requirements of section 395.3 of Title 49, Code of Federal Regulations, relating to hours of service, may be waived for farmers and retail farm suppliers when such farmers and retail farm suppliers are transporting crops or farm supplies for agricultural purposes within a 50 mile radius of their distribution point or farm. Based on the information received in response to this notice, the FHWA intends, in compliance with the Regulatory Flexibility Act, to carefully consider the economic impacts of these potential changes on small entities.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/94	59 FR 63322
ANPRM Comment Period End	02/06/95	
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Philip J. Roke, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5884

RIN: 2125–AD44

2510. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; MOTOR VEHICLE MARKING

Priority: Other Significant

Legal Authority: 49 USC 104; 49 USC 504; 49 USC 521(b)(5)(A); 49 USC 31502; 49 USC 5113; 49 USC 31136; 49 USC 31144; 49 USC 5113

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: The FHWA is proposing to revise its regulations dealing with the identification and marking of commercial motor vehicles (CMVs). Five changes are being proposed which would: (1) Apply the marking requirements to all CMVs operated in interstate commerce, including those common and contract motor carriers of property or passengers authorized by the Interstate Commerce Commission(ICC); (2) require motor carriers to mark both sides of each CMV with a specific legal name or name under which it does business (DBA name); (3) require motor carriers to mark each CMV with the city and State of its principal place of business; (4) require all new motor carriers to file Form MCS-150 within 30 days after beginning operations: and (5) move sec. 385.21, and sec. 385.23 and the appendix to part 385 to a new section in part 390. The States would also be allowed and encouraged to use United States Department of Transportation (USDOT) identification numbers to identify intrastate motor carriers. The proposed changes would improve the identification of motor carriers and CMVs, aid enforcement, and enhance data collection and analysis.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Phillip J. Forjan, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6817

RIN: 2125–AD49

2511. +HOURS OF SERVICE OF DRIVERS; SUPPORTING DOCUMENT RECORDKEEPING

Priority: Other Significant

Legal Authority: PL 103-311

CFR Citation: 49 CFR 395.8

Legal Deadline: NPRM, Statutory, August 1995. Final, Statutory, February 1996.

Abstract: A record of duty status (49 CFR 395.8) is required to be prepared for each day a driver operates a commercial motor vehicle in interstate commerce. All motor carriers are required to maintain the record of duty status for at least 6 months along with all documents that support the accuracy of the record of duty status (sec. 395.8(k)). The Hazardous Materials Transportation Authorization Act of 1994 (Pub. L. 103-311) mandates the Federal Highway Administration (FHWA) to specify what documents must be maintained to support the accuracy of the record of duty status. This rule will implement the statutory mandate that requires the agency to describe the type of supporting documents to be generated and maintained, as well as specify the quantity and length of time to maintain the supporting documents.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Miller, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC
Phone: 202 366-1790

RIN: 2125–AD52

2512. • FEDERAL AID PROJECT AGREEMENT AND CONTRACT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 110; 23 USC 121(c); 23 USC 315

CFR Citation: 23 CFR 630; 23 CFR 635; 49 CFR 1.48

Legal Deadline: None

Abstract: This action presents FHWA policies and procedures related to the formal agreement between a State highway agency and the FHWA required for Federal-aid projects. Changes are proposed to provide more flexibility in the format of the agreement document, to shorten its length, and to incorporate provisions reflecting recent changes in Federal statute. This action also proposes to amend FHWA's regulation on contract procedures by incorporating into it provisions regarding overruns in contract time for Federal-aid projects that are currently set forth in the project agreement regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Jack Wasley, Federal-Aid Program Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4658

RIN: 2125–AD58

2513. • EMERGENCY RELIEF PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 120(e); 23 USC 125; 23 USC 315

CFR Citation: 23 CFR 668; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA proposes to amend its regulation on the emergency relief program in order to incorporate changes made in 23 U.S.C. 120 and 125 by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). The time period in which the Federal share payable for certain eligible emergency repairs is 100 percent would be extended from 90 days to 180 days; the limit for total obligations for ER projects in any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands would be increased from $5

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million to $20 million; and the term "Federal-aid highway systems" would be replaced with the term "Federal-aid highways" to conform with terminology now used to describe highways eligible for Federal-aid ER assistance. In addition, various statements clarifying eligible uses of ER funding would be incorporated into the regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry L. Poston, Office of Engineering, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0450

RIN: 2125–AD60

2514. • RULES OF PRACTICE FOR MOTOR CARRIER PROCEEDINGS; INVESTIGATIONS; DISQUALIFICATIONS AND PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 104; 49 USC 307

CFR Citation: 49 CFR 301; 49 CFR 302; 49 CFR 303; 49 CFR 304; 49 CFR 385; 49 CFR 386

Legal Deadline: None

Abstract: The FHWA proposes to amend its rules of practice for motor carrier safety, hazardous materials, and other enforcement proceedings, motor carrier safety ratings, driver qualification proceedings and its schedule of penalties for violations of the FMCSRs and the Hazardous Materials Regulations. The FHWA further proposes to add provisions on investigative authority and procedures and general motor carrier responsibilities. These rules would increase the efficiency of the procedures, enhance due process and the awareness of the public and regulated community, and accommodate recent programmatic changes. The rules will apply to all motor carriers, other business entities and individuals involved in motor carrier safety and hazardous materials administrative actions on the effective date of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Paul Brennan, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0834

RIN: 2125–AD64

DEPARTMENT OF TRANSPORTATION. (DOT)
Federal Highway Administration (FHWA)

Final Rule Stage

2515. EQUAL EMPLOYMENT OPPORTUNITY ON FEDERAL AND FEDERAL-AID CONSTRUCTION CONTRACTS (INCLUDING SUPPORTIVE SERVICES); REPORT REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 112; 23 USC 117; 23 USC 140; 23 USC 315

CFR Citation: 23 CFR 230

Legal Deadline: None

Abstract: This rulemaking was initiated in 1982 to amend FHWA regulations on recordkeeping and reporting requirements for on-the-job training on Federal-aid construction contracts. The FHWA intends to issue a new notice of proposed rulemaking proposing additional changes to this subpart as well as other subparts in part 230 of title 23 of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/22/82	47 FR 52470
NPRM Comment Period End	12/22/82	
To Be Withdrawn	12/00/95	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 11/22/82 (47 FR 52470)

Additional Information: The recordkeeping and reporting requirements for the On-The-Job Training (OJT) Program included in Federal-aid contracts will be addressed during an accelerated review and update of all civil rights regulations. This effort will include updating the OJT Program and will address recordkeeping and reporting requirements. This effort is to start in December 1995 and be completed by November 1997.

Agency Contact: Linda Brown, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1593

RIN: 2125–AB15

2516. +MANAGEMENT AND MONITORING SYSTEMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 303; 23 USC 315; 23 USC 135; 23 USC 134

CFR Citation: 23 CFR 500; 49 CFR 614

Legal Deadline: Final, Statutory, December 18, 1992.

Abstract: 23 U.S.C. 303 requires the Secretary of Transportation to issue regulations for State development, establishment, and implementation of systems for managing: highway pavement of Federal-aid highways; bridges on and off Federal-aid highways; highway safety; traffic congestion; public transportation facilities and equipment; and intermodal transportation facilities and systems. The Secretary also must issue guidelines and requirements for the State development, establishment, and implementation of a traffic monitoring system for highways and public transportation facilities and equipment. States must be implementing each management system in Federal fiscal year 1995, or the Secretary may withhold up to 10 percent of funds apportioned under title 23, U.S.C., or

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under the Federal Transit Act for any fiscal year beginning after September 30, 1995. The primary purpose of these systems is to improve the efficiency of, and protect the investment in, existing and future transportation infrastructure. The systems will provide additional information needed to make informed decision for optimum utilization of limited resources.

The economic impact of the regulations is expected to be minimal. The regulations will be issued jointly with the Federal Transit Administration (RIN 2132-AA47). This regulation is considered significant because of substantial State and local government, congressional, and public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/03/92	57 FR 23460
ANPRM Comment Period End	08/03/92	
NPRM	03/02/93	58 FR 12096
Request for Comments	03/24/93	58 FR 15816
NPRM Comment Period End	05/03/93	
Interim Final Rule	12/01/93	58 FR 63442
Interim Final Rule; Correction	12/07/93	58 FR 64374
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Evaluation 12/01/93 (58 FR 63442)

Additional Information: The interim final rule was effective on 1/3/94; comments were due by 1/31/94. The issue of replacement of sections 511.1 through 511.10, formerly a part of this RIN, has been removed and consolidated into RIN 2125-AD21.

Agency Contact: Tony Solury, Community Planner, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5003

RIN: 2125–AC97

2517. +TRAINING FOR ENTRY-LEVEL DRIVERS OF COMMERCIAL MOTOR VEHICLES

Priority: Other Significant

Legal Authority: PL 102-240, sec 4007

CFR Citation: 49 CFR 383

Legal Deadline: NPRM, Statutory, December 18, 1992. Final, Statutory, December 18, 1993. Other, Statutory, January 18, 1994.
Other deadline is for a report to Congress.

Abstract: This action is in response to section 4007 of the Motor Carrier Act of 1991 (title IV of the Intermodal Surface Transportation Efficiency Act of 1991). The Department has initiated a rulemaking on the need to require training of all entry-level drivers of commercial motor vehicles. The Agency intends to submit a report to Congress in the fall of 1995 on the effectiveness of private-sector efforts to ensure adequate training of all entry-level drivers. This report will include a cost-benefit study of requiring training of entry-level drivers. Public comments will be solicited on the report. This rulemaking action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/21/93	58 FR 33874
ANPRM Comment Period End	08/20/93	
Report to Congress	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ron Finn, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0647

RIN: 2125–AD05

2518. +VALUE ENGINEERING

Priority: Economically Significant

Legal Authority: 23 USC 106(d); 23 USC 302; 23 USC 307; 23 USC 315

CFR Citation: 23 CFR 627; 49 CFR 18

Legal Deadline: None

Abstract: In this action, the FHWA proposes the application of value engineering (VE) in the design and construction of Federal-aid highway projects funded under the grant-in-aid process. This proposal would require State highway agencies (SHAs) to establish and administer VE programs, outline minimum VE program requirements and provide guidance on establishing, administering and monitoring such programs. This action is considered necessary to implement the provisions of 23 USC 106(d), which provides that the Secretary may require a value engineering or other cost reduction analysis of plans, specifications, and estimates for proposed projects on any Federal-aid highway. This rulemaking is considered economically significant because FHWA has determined that a savings of more than $100 million per year is likely to occur as a result of the implementation of the regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/16/94	59 FR 59182
NPRM Comment Period End	01/17/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Keith Borkenhagen, Value Engineering Coordinator, Department of Transportation, Federal Highway Administration
Phone: 202 366-4630

RIN: 2125–AD33

2519. DESIGN STANDARDS FOR HIGHWAYS; A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS AND STREETS; DESIGN AND CONSTRUCTION CRITERIA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None

Abstract: The standards, policies and standard specifications that have been approved by the FHWA for application of projects located on the National Highway System (NHS) are incorporated by reference in 23 CFR Part 625. The American Association of State Highway and Transportation Officials (AASHTO) has revised "A Policy of Geometric Design of Highways and Streets" to incorporate the latest information on geometric design and to change the numeric values used in the policy exclusively

to metric units. Through this rulemaking, the FHWA is proposing to incorporate this revised AASHTO publication into the regulations on design standards for highways, thus adopting controlling metric criteria for use in the design of projects on the NTS.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: RIN 2125-AD23 "Design Standards for Highways, Interim Selected Metric Values for Geometric Design; Design and Construction Criteria," has been consolidated into this action. By notice published June 27, 1994 (59 FR 33037), FHWA announced its decision to delay implementation of any national metric sign conversion until after 1996, or until further indication of the intent of Congress on this subject is received.

Agency Contact: Seppo I. Sillan, Chief, Geometric And Roadside Design Branch, Department of Transportation, Federal Highway Administration Phone: 202 366-1327

RIN: 2125–AD38

2520. FEDERAL AID PROJECT AUTHORIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 106; 23 USC 118; 23 USC 315

CFR Citation: 23 CFR 630; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: This action presents FHWA policies and procedures related to authorization of Federal-aid highway projects. Changes are proposed to provide more flexibility in establishing funding arrangements, to further clarify the authorization process, and to reflect recent modifications in Federal statutes.

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 9306
NPRM Comment Period End	04/18/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation

Agency Contact: Jack Wasley, Federal-Aid Program Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4658

RIN: 2125–AD43

2521. COMMERCIAL DRIVER'S LICENSE PROGRAM AND CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31136; 49 USC 31301 et seq; 49 USC 31502; 49 USC 3102; 49 USC 31101 et seq; 49 USC 504

CFR Citation: 49 CFR 382; 49 CFR 383; 49 CFR 391; 49 CFR 392; 49 CFR 1.48

Legal Deadline: None

Abstract: The Federal Highway Administration is making technical and conforming amendments to its alcohol and drug testing rules and its regulations implementing the commercial driver's license program. The testing rules require employers to test drivers who are required to obtain commercial driver's licenses (CDLs) for the illegal use of alcohol and controlled substances. The amendments are necessary to correct minor errors in the final rule, codify final dispositions of waivers of the commercial driver's license program, and implement provisions in the Hazardous Materials Transportation Authorization Act of 1994 and other DOT rules.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This action amends prior drug and alcohol testing rules issued under the following RINs: 2125-AA79; 2125-AC85; 2125-AD06; 2125-AB68. FHWA issued a Notice of Intent and request for comments on 03/10/9, (60 FR 13306). Comments are due 05/10/95.

Agency Contact: David Miller, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington DC 20590 Phone: 202 366-1790

RIN: 2125–AD46

2522. • PRIVATE MOTOR CARRIERS OF PASSENGERS: TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5901; 49 USC 31132; 49 USC 31136; 49 USC 31502; 49 USC 31504; 49 USC 31133

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: This action makes a technical amendment to 49 CFR part 390 to indicate that the Office of Management and Budget has approved the recordkeeping requirements in the final rule that made private motor carriers of passengers subject to the Federal Motor Carrier Safety Regulations. (This final rule was published on February 23, 1994, at 59 FR 8748.)

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action amends a prior rulemaking listed under RIN 2125-AB62. Since this is purely a technical action which does not make a substantive change to the final rule published at 59 FR 8748, the FHWA believes that prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(B).

Agency Contact: Dan Hartman, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AD54

2523. • NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; REVISION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 217; 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 1.32; 23 CFR 655.601; 23 CFR 655.602; 23 CFR 655.603; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA announced its intent to rewrite and reformat the MUTCD published on January 10, 1992, at 57 FR 1134. This effort is currently underway and as work progresses, many changes and modifications are being identified. This action will invite comments on these proposed changes to the MUTCD. These changes are intended to expedite traffic, promote uniformity, and improve safety as well as provide a clearer understanding of the principles contained in the MUTCD.

Timetable:

Action	Date	FR Cite
NPRM	06/12/95	60 FR 31008
NPRM Comment Period End	09/11/95	
Comment Period Extended to 3/11/96	09/21/95	60 FR 49136
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda L. Brown, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2192

RIN: 2125–AD57

2524. • GENERAL MATERIAL REQUIREMENTS; WARRANTY CLAUSES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 112; 23 USC 113; 23 USC 114; 23 USC 117; 23 USC 128; 23 USC 315; PL 102-240, sec 10

CFR Citation: 23 CFR 635

Legal Deadline: None

Abstract: The FHWA is revising its regulation that generally prohibits the use of guaranty and warranty clauses on Federal-aid construction contracts. This action will permit greater use of warranties in Federal-aid highway construction contracts within prescribed limits.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/25/95	60 FR 44171
Comment Period End	10/24/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: The FHWA has determined that prior notice and opportunity for comment are unnecessary under 5 USC 553(b)(3)(B), because this action, in amending the FHWA's regulation on guaranty and warranty clauses in Federal-aid highway construction contracts to permit States to include such clauses, does not impose any new obligation or requirement on the States or highway contractors.

Agency Contact: James Daves, Office of Engineering, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-0355

RIN: 2125–AD61

2525. • CERTIFICATION ACCEPTANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 101(e); 23 USC 117; 23 USC 315

CFR Citation: 23 CFR 640

Legal Deadline: None

Abstract: The FHWA is adopting an interim policy for certification acceptance (CA) which modifies the current FHWA policy published in the Federal Register on October 12, 1978, as amended. This interim policy streamlines and simplifies the existing procedures for CA applications to be consistent with the new program provisions in the Intermodal Surface Transportation Efficiency Act of 1991. The modifications simplify the current regulations by eliminating unnecessary and prescriptive requirements. The new policy will allow State highway agencies (SHAs) to use the CA alternate procedures to supplement the administrative flexibility provided in the ISTEA for non-Interstate projects.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/13/95	60 FR 47480
Comments Due	12/12/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The FHWA has determined that prior notice of this action to the public is unnecessary and contrary to the public interest because the changes being adopted in this rulemaking involve streamlining and providing more administrative flexibility in the use of the regulation.

Agency Contact: Donald J. Marttila, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4637

RIN: 2125–AD62

2526. • NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; METRIC CONVERSION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 105; 23 USC 109(d); 23 USC 114(a); 23 USC 135; 23 USC 217; 23 USC 307; 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is, with one exception concerning speed limit equivalents, adopting two American Association of State Highway Transportation Officials' (AASHTO) publications as its policy for the design of traffic control devices for use on all roads open to public travel. The FHWA does not intend to take any implementation actions to convert sign messages to metric units until after 1996. However, it will proceed with changing sign sizes and other dimensions to metric units. The FHWA's Metric Conversion Policy provides that newly authorized Federal-aid construction contracts must be only in metric units by September 30, 1996. It is the intent of this rulemaking to

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assure the States and other FHWA partners that the metric conversions used to formulate their plans are consistent nationwide.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The FHWA initiated a phased five year plan to convert its activities and business operations to the metric system of weights and measures as required by the Metric Conversion Act of 1975 (Pub. L. 94-168, 89 Stat. 1007), as amended by sec. 5164 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418, 102 Stat. 1107, 1451).

Agency Contact: Ernest Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-9064

RIN: 2125–AD63

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Long-Term Actions

2527. +QUALIFICATION OF DRIVERS; DIABETES

Priority: Other Significant

CFR Citation: 49 CFR 391.41(b)(3)

Timetable:

Action	Date	FR Cite
ANPRM	11/25/87	52 FR 45204
ANPRM Comment Period End	12/28/87	52 FR 45204
ANPRM Comment Period Extended to 02/01/88	01/04/88	53 FR 42
NPRM	10/05/90	55 FR 41028
NPRM Comment Period Extended to 01/03/91	11/01/90	55 FR 46080
NPRM Comment Period End	12/04/90	
Notice of Intent to Issue Waivers: Comment Request	10/21/92	57 FR 48011
Final Action To Accept Waivers	07/29/93	58 FR 40690

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra L. Zywokarte Phone: 202 366-2981

RIN: 2125–AB91

2528. +COMMERCIAL DRIVER'S LICENSE STANDARDS; BIOMETRIC IDENTIFIER

Priority: Other Significant

CFR Citation: 49 CFR 383

Timetable:

Action	Date	FR Cite
ANPRM	05/15/89	54 FR 20875
ANPRM Comment Period End	07/14/89	54 FR 20875
Information Notice Published	03/08/91	56 FR 9925

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Nathan Root Phone: 202 366-8759

RIN: 2125–AC24

2529. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; PERIODIC REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS

Priority: Other Significant

CFR Citation: 49 CFR 390

Timetable:

Action	Date	FR Cite
ANPRM	07/17/89	54 FR 29912
ANPRM Comment Period End	09/15/89	
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip Roke Phone: 202 366-5884

RIN: 2125–AC28

2530. CERTIFICATION OF SIZE AND WEIGHT ENFORCEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 23 CFR 657

Timetable:

Action	Date	FR Cite
ANPRM	12/16/93	58 FR 65830
ANPRM Comment Period Extended to 05/18/94	03/15/94	59 FR 11956
ANPRM Comment Period End	03/16/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Kathy Busby Phone: 202 366-4026

RIN: 2125–AC60

2531. +QUALIFICATION OF DRIVERS; VISION

Priority: Other Significant

CFR Citation: 49 CFR 391

Timetable:

Action	Date	FR Cite
ANPRM	02/28/92	57 FR 6793
ANPRM Comment Period End	04/28/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Sandra L. Zywokarte Phone: 202 366-2981

RIN: 2125–AC62

2532. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION: INTERMODAL CARGO CONTAINERS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 393; 49 CFR 1.48

Timetable:

Action	Date	FR Cite
ANPRM	08/23/93	58 FR 44485
ANPRM Comment Period End	11/22/93	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

DOT—FHWA — Long-Term Actions

Agency Contact: Peter C. Chandler Phone: 202 366-5763

RIN: 2125–AC74

2533. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL TRANSPORTATION OF HAZARDOUS MATERIALS

Priority: Other Significant

CFR Citation: 49 CFR 390.3; 49 CFR 397

Timetable:

Action	Date	FR Cite
NPRM	06/17/93	58 FR 33418
NPRM Comment Period End	08/16/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Singer Phone: 202 366-4009

RIN: 2125–AC78

2534. TRANSPORTATION OF HAZARDOUS MATERIALS; ROUTING OF CLASS 7 (RADIOACTIVE) MATERIALS; PREEMPTION DETERMINATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 397; 49 CFR 1.48

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/92	57 FR 44129

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela K. Deadrick Phone: 202 366-2159

RIN: 2125–AD00

2535. +QUALIFICATIONS OF DRIVERS: HEARING DEFICIENCIES

Priority: Other Significant

CFR Citation: 49 CFR 391; 49 CFR 1.48

Timetable:

Action	Date	FR Cite
ANPRM	12/15/93	58 FR 65634
ANPRM Comment Period Extended to 04/05/94	02/04/94	59 FR 5376
ANPRM Comment Period End	02/14/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sandra Zywokarte Phone: 202 366-2987

RIN: 2125–AD22

2536. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; SLEEPER BERTHS ON MOTOR COACHES

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 393; 49 CFR 1.48

Timetable:

Action	Date	FR Cite
ANPRM	01/12/94	59 FR 1706
ANPRM Comment Period End	03/14/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Richard Singer Phone: 202 366-2994

RIN: 2125–AD25

2537. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; LIGHTING DEVICES, REFLECTORS, AND ELECTRICAL EQUIPMENT

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 393

Timetable:

Action	Date	FR Cite
ANPRM	01/19/94	59 FR 2811
ANPRM Comment Period End	03/21/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Richard Singer Phone: 202 366-4009

RIN: 2125–AD27

2538. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM (MCSAP) ALLOCATION FORMULA

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 350

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/03/94	59 FR 5262
Interim Final Rule Effective	03/07/94	
Interim Final Rule Comment Period End	04/04/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Linda Taylor Phone: 202 366-6308

RIN: 2125–AD30

2539. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; TEMPORARY TRAFFIC SIGNALS

Priority: Substantive, Nonsignificant

CFR Citation: 23 CFR 655

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/04/95	60 FR 363

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael E. Robinson Phone: 202 366-2193

RIN: 2125–AD45

2540. • ZERO-BASE REVIEW OF THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS; TECHNICAL CORRECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4917; 49 USC 104; 49 USC 501 et seq; 49 USC 5101 et seq; 49 USC 5113; 49 USC 5901 et seq; 49 USC 31101; 49 USC 31102; 49 USC 31103; 49 USC 31104; 49 USC 31108; 49 USC 31131 et seq; 49 USC 31161; 49 USC 31301 et seq; 49 USC 31501 et seq

CFR Citation: 49 CFR 325; 49 CFR 350; 49 CFR 382; 49 CFR 385; 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 395; 49 CFR 396; 49 CFR 397; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is making technical corrections to keep the Federal Motor Carrier Safety Regulations accurate and up to date. This rulemaking action is one part of the FHWA's Zero Base Regulatory Review.

Timetable:

Action	Date	FR Cite
Final Rule Effective 7/28/95	07/28/95	60 FR 38739

Next Action Undetermined

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Long-Term Actions

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Chandler, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5763

RIN: 2125–AD55

2541. • ADVANCED CONSTRUCTION OF FEDERAL AID PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 105; 23 USC 106; 23 USC 109; 23 USC 110; 23 USC 113; 23 USC 115; 23 USC 118; 23 USC 120(e); 23 USC 121(c); 23 USC 125; 23 USC 134; 23 USC 315; 23 USC 320

CFR Citation: 23 CFR 630; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is amending its regulation on advance construction of Federal-aid highway projects to incorporate changes made by the Dire Emergency Supplemental Appropriations Act, 1992, Pub. L. 102-302, 106 Stat. 248, and to provide more flexible funding arrangements for the States.

Timetable:

Action	Date	FR Cite
Comment Period End	07/14/95	
Interim Final Rule	07/19/95	60 FR 36991
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Max Inman, Office of Fiscal Services, Department of Transportation, Federal Highway Administration, 400 Seventh Street, Washington, DC 20590
Phone: 202 366-2853

RIN: 2125–AD59

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Completed Actions

2542. +CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING; FOREIGN-BASED MOTOR CARRIERS AND DRIVERS

Priority: Other Significant

Legal Authority: 23 USC 315; 49 USC 31136; 49 USC 3102; 49 USC 31306

CFR Citation: 49 CFR 382

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: This action extends the applicability of alcohol and controlled substances testing requirements to foreign-based drivers of motor carriers under the Omnibus Transportation Employee Testing Act of 1991. The FHWA needs information concerning foreign government laws and regulations that may conflict with the proposed rules. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/15/92	57 FR 59536
ANPRM Comment Period End	02/16/93	
NPRM	02/15/94	59 FR 7528
NPRM Comment Period End	04/18/94	
Final Action	09/22/95	60 FR 49322
Final Action Effective	10/23/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/22/95 (60 FR 49322)

Additional Information: In the previous agenda, this RIN was listed as a completed action in error due to confusion regarding a similarly titled RIN which was published in the Federal Register under RIN 2125-AC50.

Agency Contact: David Miller, Transportation Specialist, Standards Development Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AD11

2543. UTILITY RELOCATIONS, ADJUSTMENTS, AND REIMBURSEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 101; 23 USC 109; 23 USC 111; 23 USC 116; 23 USC 123; 23 USC 315

CFR Citation: 23 CFR 645, subpart A; 23 CFR 1.23; 23 CFR 1.27; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: This regulation presents FHWA policies and procedures related to the use of Federal-aid highway funds for the relocation and adjustment of utility facilities, and the accommodation of utility facilities on the right-of-way of Federal-aid and direct Federal highway projects. This final rule updates monetary limits in the existing regulation and updates program terminology to reflect revisions enacted by the Intermodal Surface Transportation Efficiency Act of 1991.

Timetable:

Action	Date	FR Cite
NPRM	05/17/94	59 FR 25579
NPRM Comment Period End	07/18/94	
Final Action	07/05/95	60 FR 34846
Final Action Effective	08/04/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/17/94 (59 FR 25579)

Agency Contact: C. Paul Scott, Federal-Aid Program Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4104

RIN: 2125–AD31

2544. +QUALIFICATION OF DRIVERS; EPILEPSY

Priority: Other Significant

Legal Authority: 49 USC 3102; 49 USC app 2505

CFR Citation: 49 CFR 391.41(b)(8)

Legal Deadline: None

Abstract: The FHWA considered revising the driver qualification requirements related to the epilepsy standard found in 49 CFR Part 391.41(b)(8). The FHWA believed that a review of the standard was necessary to assess the effect advances in medical science and technology may have on the standard. This action was considered significant because of substantial public interest. Also under development was a notice seeking comments on the FHWA's intent to initiate a three-year study to permit the FHWA to collect data on the driving experience of a group of drivers who have epilepsy. This action (i.e. waiver program) was terminated in light of the recent decision of the U.S. Court of Appeals for the D.C. Circuit in Advocates for Highway and Auto Safety v. FHWA, No. 92-1411, August 2, 1994.

In that case, the FHWA rule allowing commercial drivers with impaired vision in one eye to apply for waivers from the Federal vision standard was struck down because the Court held that the agency lacked the data necessary to support its determination that the vision waiver program "is consistent with the safe operation of commercial motor vehicles."

DOT—FHWA

Completed Actions

Timetable:

Action	Date	FR Cite
Action Terminated Due to Court Decision.	08/02/94	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Sandra Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration
Phone: 202 366-2987

RIN: 2125–AD34

2545. QUALITY ASSURANCE PROCEDURES FOR CONSTRUCTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 109; 23 USC 114

CFR Citation: 23 CFR 637

Legal Deadline: None

Abstract: The FHWA has revised its regulations found at 23 CFR part 637, which establish general requirements for quality assurance procedures for sampling and testing materials and construction in Federal-aid highway projects. The former regulations were written around the traditional approach of the State performing all of the quality assurance sampling and testing; the regulations did not address the use of contractor testing. As a result, a number of questions arose in certain States and in the FHWA's Federal Lands Highway Office, where contractors are used in quality assurance and quality control programs. After careful study of the use of contractor-performed testing, an internal FHWA committee found that contractor sampling and testing can be used in acceptance systems, provided that adequate checks and balances are in place to protect the public investment in highway projects. The revisions in this action implement the committee's recommendations, providing guidance on the use of contractor-supplied test results in acceptance plans and qualifications of laboratories and testing personnel.

Timetable:

Action	Date	FR Cite
NPRM	07/12/94	59 FR 35493
NPRM Comment Period End	09/12/94	
Final Action	06/29/95	60 FR 33712
Final Action Effective	07/31/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Michael Rafalowski, Highway Engineer, Department of Transportation, Federal Highway Administration
Phone: 202 366-1571

RIN: 2125–AD35

2546. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION: AUTOMATIC BRAKE ADJUSTERS AND BRAKE ADJUSTMENT INDICATORS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 3102; 49 USC 31136

CFR Citation: 49 CFR 393

Legal Deadline: None

Abstract: This action requires automatic brake adjusters (ABAs) on hydraulically-braked commercial motor vehicles (CMVs) and air-braked CMVs manufactured on or after October 20, 1993, and October 20, 1994, respectively, and air-brake adjustment indicators on air-braked CMVs with external adjustment mechanisms manufactured on or after October 20, 1994. This is needed for consistency between the Federal Motor Carrier Safety Regulations (FMCSRs) and Federal Motor Vehicle Safety Standards (FMVSSs) Nos. 105 and 121.

Timetable:

Action	Date	FR Cite
NPRM	08/03/94	59 FR 39518
NPRM Comment Period End	10/03/94	
Final Action	09/06/95	60 FR 46236
Final Action Effective	10/06/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Deborah Freund, Department of Transportation, Federal Highway Administration
Phone: 202 366-2981

RIN: 2125–AD37

2547. ACCIDENT RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31132; 49 USC 31133; 49 USC 31136; 49 USC 31502; 49 USC 31504

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: This action makes technical amendments to add language to the definition of the term accident in 49 CFR 390.5 which was inadvertantly omitted from a previous final rule and to indicate that the Office of Management and Budget has approved the accident recordkeeping requirements as amended by this action.

Timetable:

Action	Date	FR Cite
Final Action	08/28/95	60 FR 44439

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Peter C. Chandler, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590

DOT—FHWA

Completed Actions

Phone: 202 366-2981

RIN: 2125–AD51

2548. • TRUCK SIZE AND WEIGHT; RESTRICTIONS ON LONGER COMBINATION VEHICLES AND VEHICLES WITH TWO OR MORE CARGO-CARRYING UNITS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 1023; PL 102-240, sec 4006; 23 USC 127; 23 USC 315; 49 USC 31111; 49 USC 31112; 49 USC 31113; 49 USC 31114; 49 USC 31115

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: This action corrects the final rule imposing a freeze on the operation of longer combination vehicles (LCVs) on the Interstate System and vehicles with two or more cargo carrying units on the National Network (NN) published June 13, 1994. (60 FR 15212). In appendix A the NN listing for Virginia, Iowa and Kentucky are being corrected. Appendix C is being amended to correct the maximum vehicle weight in Michigan and Montana, access and route information in Oklahoma, add a new vehicle and correct a route in Oregon, and correct the offtracking formula in South Dakota. Minor corrections are also being made in other provisions in the final rule.

Timetable:

Action	Date	FR Cite
Final Action	03/22/95	60 FR 15212
Final Action Effective	03/22/95	
Final Rule, Technical Amendment	03/31/95	60 FR 16571

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action will make technical corrections to a prior rulemaking listed under RIN 2125-AC86. Since this action merely makes corrections to two of the appendices to 23 CFR part 658 and does not add new requirements to the regulations, the FHWA has determined that an opportunity for public notice and comment is unnecessary. 5 U.S.C. 553(b)(3)(B).

Agency Contact: Tom Klimek, Team Leader -- Size and Weight Team, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2212

RIN: 2125–AD53

DEPARTMENT OF TRANSPORTATION (DOT)

National Highway Traffic Safety Administration (NHTSA)

Prerule Stage

2549. REVIEW: LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Standard 108 requires passenger cars sold after October 1, 1985, to be equipped with center high-mounted stop lamps (CHMSLs). NHTSA undertook a staff evaluation of the safety effectiveness, benefits, and cost of CHMSLs. A preliminary report was published in March 1987 and an interim report in August 1989.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/85	
Preliminary Evaluation Report Published	03/20/87	52 FR 9609
Interim Evaluation Report Published	08/04/89	54 FR 32153
Interim Evaluation Report Comments Reviewed and Docketed	02/21/90	
End Review	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The evaluation report indicated that cars equipped with center high-mounted stop lamps were 17 percent less likely to be struck in the rear while braking than cars without the lamps.

Agency Contact: Charles J. Kahane, Acting Chief, Standards Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560

RIN: 2127–AB76

2550. REVIEW: ODOMETER FRAUD

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 580

Legal Deadline: None

Abstract: This review involves analysis of the incident rates and costs of odometer fraud and an assessment of state and Federal efforts to combat odometer fraud. Congress has directed the agency to conduct this review.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/95	
End Review	06/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Acting Chief, Standards Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560

RIN: 2127–AF53

2551. THEFT PREVENTION—5-YEAR REPORT TO CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33112; 49 USC 33113(b)

CFR Citation: 49 CFR 541

Legal Deadline: Other, Statutory, October 25, 1997.
The Anti Car Theft Act of 1992 was enacted on October 25, 1992.

Abstract: The standard requires certain passenger motor vehicles have identifying numbers or symbols to be placed on major parts to reduce the incidence of motor vehicle thefts by facilitating the tracking and recovering

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Prerule Stage

of parts from stolen vehicles. Five years after enactment of the Anti Car Theft Act of 1992, the Secretary of Transportation shall submit to congress a report on the effects of the standard on motor vehicle thefts and recoveries.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/95	
End Review	10/25/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Acting Chief, Standards Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560

RIN: 2127–AF55

2552. • SAFETY BELT ANCHORAGES: HARMONIZATION AND OWNER'S MANUAL REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency proposes to harmonize requirements for seat belt assembly anchorages with the current Economic Commission of Europe regulation. Specifically, the agency is considering altering the speed at which the test load is applied and the amount of time that the test load is held at its maximum value. This action also proposed removing obsolete owner's manual requirements.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/95

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF68

2553. • CURRENT AND FUTURE STATE OF THE ART INNOVATION FOR ACCELERATOR CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.124

Legal Deadline: None

Abstract: The agency is requesting comments in anticipation of a complete overhaul of the standard to accommodate current, new technology, and future accelerator control strategies and systems. The agency will also seek information on the most appropriate means to proceed with this overhaul.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF76

2554. • SPECIFICATIONS FOR CONTENT OF ALUMINUM ALLOYS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.304

Legal Deadline: None

Abstract: The agency is requesting public comment on the desirability of modifying the material content specifications for the two aluminum alloys listed in the standard. This modification would be consistent with the specifications of the Aluminum Association, Inc.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Samuel Daniel, General Engineer, Special Projects Staff, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4921
Fax: 202 366-4329

RIN: 2127–AF79

2555. • RESCIND CONTROLS AND DISPLAYS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.101

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rescind this standard. The agency has tentatively concluded that market forces will continue current practices.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF86

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Prerule Stage

2556. • RESCIND WINDSHIELD DEFROSTING AND DEFOGGING SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.103

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rescind this standard. The agency has tentatively concluded that market forces will continue current practices.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF87

2557. • RESCIND WINDSHIELD WIPING AND WASHING SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.104

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rescind this standard. The agency has tentatively concluded that market forces will continue current practices.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF88

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Proposed Rule Stage

2558. PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq (National Environmental Policy Act-NEPA)

CFR Citation: 49 CFR 520

Legal Deadline: None

Abstract: NHTSA's regulation will be reviewed and reissued, as necessary, where it conflicts with or is duplicative of the regulations of Council on Environmental Quality (CEQ), 40 CFR parts 1500-1508, and with DOT Order 5610.1C, each of which implements the National Environmental Policy Act (NEPA), 42 USC 4321, et seq.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Paul Atelsek, Attorney Advisor, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992

RIN: 2127–AB79

2559. +LIGHT TRUCK AVERAGE FUEL ECONOMY STANDARDS FOR MYS AFTER 1997

Priority: Economically Significant

Legal Authority: 49 USC 32902

CFR Citation: 49 CFR 533

Legal Deadline: Final, Statutory, March 1996.

Abstract: The agency is developing a proposal for light truck average fuel economy standards for model years after 1997 and is requesting comments to assist the agency in developing the proposal. This action is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace. The Energy Policy and Conservation Act requires NHTSA to set fuel economy standards for each model year. Standards have been established only through MY 1997.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/94	59 FR 16324
ANPRM Comment Period End	08/04/94	
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846

RIN: 2127–AF16

2560. UPGRADE PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: This action announces the agency's plan to consider upgrading the standard by making the current crash requirements more stringent and by broadening the standard's focus to include mitigation concepts related to fuel system components and environmental and aging tests related to components. This action also requests comments on the agency's plan to explore a three-phase approach to upgrading the standard, data, methods, and strategies which may assist in the agency's regulatory decisions in defining specific requirements and test procedures for upgrading the standard.

Timetable:

Action	Date	FR Cite
Request for Comments: Comment Period End 02/12/93	12/14/92	57 FR 59041
ANPRM	04/12/95	60 FR 18566
ANPRM Comment Period End	06/12/95	
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This action will respond to RIN 2127-AE83.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF36

DOT—NHTSA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Request for Comments: Comment Period End 11/21/94	09/22/94	59 FR 48589
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AF37

2561. DRIVING RANGE DETERMINATION FOR DUAL FUEL ELECTRIC PASSENGER AUTOMOBILES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32901; 49 USC 32905; 49 USC 32906

CFR Citation: 49 CFR 538

Legal Deadline: None

Abstract: The agency has requested comments to assist in developing a proposal for a minimum driving range for dual-fueled electric passenger automobiles or hybrid electric vehicles.

Timetable:

Action	Date	FR Cite
Request for Comments Due 2/10/95	12/27/94	59 FR 66504
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF40

2562. TEST DEVICE PLACEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30111; 49 USC 30168

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to petitions for rulemaking, this action is requesting comments on what changes, if any, are needed to the roof crush compliance testing. Petitions were granted.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Flanigan, General Engineer, Special Project Staff, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4931

RIN: 2127–AF50

2563. CONVERSION OF VEHICLES TO COMPRESSED NATURAL GAS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.303

Legal Deadline: None

Abstract: The agency is considering specifications for converting vehicles to run on compressed natural gas. These requirements would be used in lieu of crash testing, which the standard requires.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Flanigan, General Engineer, Special Project Staff, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4931

RIN: 2127–AF50

2564. THEFT DATA FOR CALENDAR YEAR 1994

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104(b)(4)

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action will publish the final theft data on passenger motor vehicles that occurred in calendar year 1994. The theft data will indicate the overall vehicle theft rate in 1994. Publication of this data fulfill the agency's obligation to periodically obtain accurate and timely data and publish the information for review and comment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590

Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF57

2565. • COMBINE VEHICLE IDENTIFICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.115; 49 CFR 565

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to combine Part 565 into Standard No. 115. This action will not change the requirements, but make it easier for users to find all of the requirements in one place and simplify the administration of the VIN requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF69

2566. • REMOVE OBSOLETE REQUIREMENTS FOR HEAD RESTRAINTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.202

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to delete obsolete requirements for compliance testing using dynamic measurements approach. These changes will not adversely affect safety.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF70

2567. • AUTOMATIC DRAIN VALVE FOR AIR RESERVOIR TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 20166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requesting information about devices that remove water and other contaminants from air brake systems. These devices include automatic drain valves and air dryers. It if appears from the agency's analysis of the comments that such devices are a cost-effective method of improving heavy vehicle safety, the agency will publish a notice of proposed rulemaking to require such equipment.

Timetable:

Action	Date	FR Cite
Request for Comments: Comment Period End 09/24/95	07/24/95	60 FR 37864
Correction Published	08/17/95	60 FR 42830
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Dr. Patricia Breslin, Direcotr, Office of Vehicles Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF72

2568. • REGULATORY NEGOTIATION FOR VISUAL HEADLAMP AIMABILITY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: This action proposes to establish a Negotiated Rulemaking Advisory Committee under the Negotiated Rulemaking Act of 1990 and the Federal Advisory Committee Act to develop recommended specifications for altering the U.S. lower headlamp beam pattern to be more sharply defined. Such a pattern would facilitate visual aimability of headlamps and might be the basis for a world-wide lower beam pattern. The Committee would develop its recommendations through a negotiation process. The Committee would be composed of persons who represent the interests affected by the rule such as domestic and foreign manufacturers of motor vehicles, headlamps, and headlamp aimers, motor vehicle inspection facilities, consumers, and State and Federal governments.

Timetable:

Action	Date	FR Cite
Notice to Conduct a Regulatory Negotiation	06/09/95	60 FR 30506
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action terminates RIN 2127-AF24. The agency announced the establishment of the advisory committee for regulatory negotiation and notice of the first meeting (07/14/95 (60 FR 36253)). On August 16, 1995 (60 FR 42496) the schedule of the Advisory Committee meetings was published.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AF73

2569. • ALTERNATIVE GEOMETRIC VISIBILITY REQUIREMENTS FOR LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing an alternative geometric visibility requirement for lamps installed in passenger cars. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicles Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
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RIN: 2127–AF75

2570. • RESCISSION OF WARNING DEVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.125

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rescind the warning device standard for all motor vehicles. The agency cannot justify the existence or show the benefit to society by retaining the standard. The standard is referenced by Federal Highway Administration for Motor Carrier Use Regulations. FHWA has stated that an industry standard would be as suitable for this purpose. The Society of Automotive Engineers is updating its standard to reflect the performance stated in the federal standard. FHWA will then use the SAE standard.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicles Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
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RIN: 2127–AF77

2571. • ALTERNATIVE MOTORCYCLE HEADLAMP PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to permit optional photometric performances for motorcycle and motor-driven cycle headlamps. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	09/26/95	60 FR 49541
NPRM Comment Period End	11/27/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/26/95 (60 FR 49541)

Agency Contact: Dr. Patricia Breslin, Diretor, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF78

2572. • RESCISSION OF NON-PNEUMATIC SPARE TIRE REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.129

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rescind the new non-pneumatic spare tires requirements for passenger cars. To the knowledge of the agency, these spare tires have not been produced, none are being planned for production in the future and, therefore the standard is not needed.

Timetable:

Action	Date	FR Cite
NPRM	09/26/95	60 FR 49541
NPRM Comment Period End	11/27/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/26/95 (60 FR 49541)

Agency Contact: Dr. Patricia Breslin, Diretor, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590

Phone: 202 366-0842
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RIN: 2127–AF80

2573. • TRUCK CAMPER LOADING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.126; 49 CFR 575

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to combine the requirements in Standard No. 126 into the Consumer Information Regulations, Part 575. This will enable the consumer to locate all truck camper loading requirements in one place.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF81

2574. • POWER-OPERATED WINDOWS: ROOF PANELS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to amend the test procedure used to demonstrate compliance by adding an alternative testing specification for non-contact automatic reversal system, in order to provide a more meaningful and realistic method for evaluating the compliance of such systems which do not rely on contact to sense an obstruction. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AF83

2575. • PHASE-IN REQUIREMENTS FOR SIDE IMPACT PROTECTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.214

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to eliminate obsolete dates in the phase-in requirements in the standard.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF84

2576. • ENERGY-ABSORBING SUN-VISORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to remove unenforceable requirements for energy-absorbing sun-visors. The dynamic requirements of the agency's new Upper Interior Head Protection rule, to be applicable to both passenger cars and light trucks (<=8,500 pounds) will eliminate the need for the current S3.4 Sun Visor padding requirement, which is not a performance standard.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF85

2577. • SEALED BEAM HEADLAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to remove the sealed beam headlamp requirements in the standard. Manufacturers will no longer have to petition for rulemaking to change the specifications of sealed beam lamps.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
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RIN: 2127–AF89

2578. • RESCIND HEADLAMP CONCEALMENT DEVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.112

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rescind this standard. The requirements will be simplified and incorporated in the lighting standard no. 108.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/00/96

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF90

2579. • INSURER REPORTING REQUIREMENTS FOR OCTOBER 1996

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 33112

CFR Citation: 49 CFR 544

Legal Deadline: None

Abstract: The agency is proposing to update its lists of passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences. Each insurer included on the agency's final list must file a report for the 1993 calendar year not later than October 25, 1996. As long as they remain listed, they must submit reports by each subsequent October 25.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF92

2580. • NATIONAL MINIMUM DRINKING AGE ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 158

CFR Citation: 23 CFR 1208

Legal Deadline: None

Abstract: The agency is proposing to streamline the regulation implementing the National Minimum Drinking Age Act and bring it up to date. Several provisions relate to penalties that took place in 1986 and 1987 and are no longer relevant. These provisions will be eliminated. Other provisions will be amended to clarify the meaning of the regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: James Fell, Action Office Director, Office of Alcohol and State Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6979

RIN: 2127–AF95

2581. • AUTOMOTIVE FUEL ECONOMY REPORTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 32907

CFR Citation: 49 CFR 537

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to remove obsolete reporting requirements. These submission requirements include factors such as "breakover angles" for light trucks and essentially are never used by NHTSA. Revising this Part would reduce the costs to the industry of reporting to NHTSA and could be reduced without substantially affecting NHTSA's legitimate data needs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

DOT—NHTSA

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329

RIN: 2127–AG00

2582. • EXEMPTION FROM REARWARD DISPLACEMENT REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.204

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to exempt vehicles under 8,500 pounds gross vehicle weight rating (GVWR) from compliance with the rearward displacement requirements of FMCSS No. 204 if they comply with Standard 208 air bag requirements. Standard 208 specifies performance requirements for vehicle occupants and all passenger vehicles below 8,500 pounds GVWR will have air bags by MY 1999, passing this dynamic test should provide the necessary impact protection, in a serious impact. This exemption will save certification costs and second stage manufacturers would benefit from any change.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG01

2583. • WHIP RESISTANCE TEST FOR BRAKE HOSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to modify the whip test fixture requirement currently used when testing brake hoses. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington DC 20590
Phone: 202 366-0842
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RIN: 2127–AG02

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Final Rule Stage

2584. +TRUCK REAR UNDERRIDE PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: On January 8, 1981 (46 FR 2136), the agency published a notice of proposed rulemaking on rear underride crashes relative to small vehicles colliding with the rear of a heavy vehicle (a vehicle with a gross vehicle weight rating (GVWR) greater than 10,000 pounds). Rear underride occurs when the front of the smaller vehicle slides under ("underrides") the rear end of the larger vehicle. The agency received over 100 comments on the proposal, some of which raised issues about possible alternatives to the proposal and about the burdens of the proposal on small businesses. The SNPRM sought to retain the safety benefits of the earlier proposal while meeting the concerns about potential small business impacts. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/08/81	46 FR 2136
NPRM Comment Period End	04/08/81	46 FR 2136
SNPRM: Comment Period End 03/04/92	01/03/92	57 FR 252
SNPRM Comment Period Reopened to 05/08/92	04/09/92	57 FR 12289
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/03/92 (57 FR 252)

Additional Information: Docket No. 1-11. NPRM, Notice 8.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842

DOT—NHTSA

Final Rule Stage

Fax: 202 366-4329

RIN: 2127–AA43

2585. +FLAMMABILITY OF INTERIOR MATERIALS - SCHOOL BUSES

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.302

Legal Deadline: None

Abstract: Advance Notice of Proposed Rulemaking requested comments regarding possible upgrade of Standard 302 to reduce the risk of fire to school bus occupants. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44627
ANPRM Comment Period End	01/03/89	53 FR 44627
Request for Comments: Comment Period End 04/29/91	02/26/91	56 FR 7826
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
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RIN: 2127–AA44

2586. +REDUCE HEAD INJURIES DUE TO CONTACT WITH UPPER VEHICLE INTERIOR

Priority: Economically Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201; 49 CFR 571.205; 49 CFR 571.206; 49 CFR 571.214

Legal Deadline: NPRM, Statutory, January 31, 1993. Final, Statutory, February 28, 1995.

Abstract: This action requires passenger cars, trucks, buses, and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less, to provide protection when an occupant's head strikes upper interior components, including pillars, side rails, headers, and the roof, during a crash. This amendment adds procedures and performance requirements for a new in-vehicle component test. Insofar as this rulemaking applies to passenger cars, it is required by the NHTSA Authorization Act of 1991. This action is considered significant because of safety and cost implications.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/88	53 FR 31712
ANPRM Comment Period End	10/18/88	
Notice of Intent	06/05/92	57 FR 24008
NPRM	02/08/93	58 FR 7506
NPRM Comment Period End	04/09/93	
Final Rule	08/18/95	60 FR 43031
Petitions Due	09/18/95	
Action on Petitions	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/18/95 (60 FR 43031)

Additional Information: This entry was formerly titled: Side-Impact Protection, Head/Neck Protection, and Occupant Ejection Mitigation. The agency published on 10/20/93 (58 FR 54099) a notice of a public hearing and reopened the comment period until 12/01/93. This title has since been revised the second time.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
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RIN: 2127–AB85

2587. +SCHOOL BUS BODY JOINT STRENGTH

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.221

Legal Deadline: None

Abstract: This action proposed to clarify and expand procedures for testing school bus body joint strength; to revise the exemption provided for maintenance access panels on school bus bodies; and to extend the scope of the standard to include all school buses, including those of GVWR of 10,000 pounds or less. This rulemaking is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/87	52 FR 23314
ANPRM Comment Period End	08/03/87	52 FR 23314
Comment Period Extended to 10/15/87	08/12/87	52 FR 29873
NPRM	03/15/91	56 FR 11142
NPRM Comment Period End	05/14/91	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/15/91 (56 FR 11142)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
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RIN: 2127–AC19

2588. FUEL SPILLAGE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 552; 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to require vehicles equipped with a crossover line connecting dual fuel tanks to comply with requirements that would reduce the likelihood of fuel spillage. Petition was granted. Comments have been requested on the difference between the agency's proposed test procedures and requirements and those of the Society of Automotive Engineers.

DOT—NHTSA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/17/94	59 FR 25590
NPRM Comment Period End	07/18/94	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/17/94 (59 FR 25590)

Additional Information: This entry was formerly titled Fuel System Integrity, Fuel Spillage.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
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RIN: 2127–AC62

2589. +ROLLOVER PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575

Legal Deadline: NPRM, Statutory, May 31, 1992. Final, Statutory, March 3, 1994.
NHTSA may issue either an ANPRM or NPRM.

Abstract: As part of its comprehensive efforts to address the problem of light vehicle rollover, the agency is proposing a new consumer information regulation that will require that passenger cars, and light multipurpose passenger vehicles and trucks be labeled with information about their resistance to rollover. This action is considered significant as it concerns a matter of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/03/92	57 FR 242
ANPRM Comment Period End	04/03/92	
NPRM	06/28/94	59 FR 33254
NPRM Correction	07/26/94	59 FR 38038
NPRM Comment Period Extended to 10/21/94	08/26/94	59 FR 44121
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/28/94 (59 FR 33254)

Additional Information: A notice of availability of a planning document for this rulemaking was published 09/29/92 (57 FR 44721).

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
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RIN: 2127–AC64

2590. BRAKE LINING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Petitions from R. Grabowsky and American Trucking Association (ATA) requested initiation of rulemaking concerning brake linings (all vehicles and aftermarket). Mr. Grabowsky petitioned relative to stability, friction level, fade, wear, and identification of linings. ATA petitioned relative to friction level and identification of linings for heavy vehicles only. Petitions concerned both performance levels and test procedures, and were granted.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
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RIN: 2127–AC66

2591. INCENTIVE GRANT CRITERIA FOR DRUNK-DRIVING-PREVENTION PROGRAMS (SECTION 410)

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 1205; 44 USC 3501

CFR Citation: 23 CFR 1313

Legal Deadline: None
NHTSA was required to publish a final rule by November 18, 1989.

Abstract: This interim final rule is to provide guidance to the States before the end of fiscal year (1994) with respect to the criterion for a supplemental grant for States that consider drivers under the age of 21 years, who operate a vehicle while having a BAC of 0.02 or greater to be driving while intoxicated. The agency requested comments on this interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/09/94	59 FR 40470
Interim Rule Comment Period End 10/11/94	08/09/94	59 FR 40470
Reopen Comment Period End 05/23/95	03/24/95	60 FR 15479
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation 08/09/94 (59 FR 40470)

Additional Information: An interim final rule was published on 06/30/92 (57 FR 29003) to change Part 1313 to conform to Section 2004 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). At the same time, the agency published a request for comments. On 10/06/92, PL 102-388 was signed, making technical corrections to section 410. On 04/23/93 (58 FR 21649), a final rule was published, responding to the comments received on the 06/30/92 notice.

Agency Contact: Marlene Markison, Chief, Program Support, Office of Regional Operations, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St. SW., Washington, DC 20590
Phone: 202 366-0166

RIN: 2127–AD01

DOT—NHTSA

Final Rule Stage

2592. +WHEELCHAIR LIFTS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This action would establish new requirements for wheelchair lifts used on motor vehicles. This is significant due to substantial public interest in transportation of the handicapped.

Timetable:

Action	Date	FR Cite
NPRM	02/26/93	58 FR 11562
NPRM Comment Period End	04/27/93	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/26/93 (58 FR 11562)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AD50

2593. ISSUANCE, AMENDMENT, AND REVOCATION OF RULES: PROCEDURAL REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 32302; 49 USC 32502; 49 USC 32705; 49 USC 32711

CFR Citation: 49 CFR 553.39

Legal Deadline: None

Abstract: The agency is proposing to amend one provision of the procedural regulations that apply to the issuance, amendment, and revocation of rules under NHTSA's statutory authority. The provision addresses the time within which affected persons may seek judicial review of a final rule if a petition for agency reconsideration of that rule has been filed.

Timetable:

Action	Date	FR Cite
NPRM	10/31/90	55 FR 45825
NPRM Correction	11/08/90	55 FR 47028
NPRM Comment Period End	12/17/90	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/31/90 (55 FR 45825)

Agency Contact: Kenneth Weinstein, Assistant Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263

RIN: 2127–AD78

2594. DYNAMIC TESTING OF LIGHT TRUCKS AND VANS FOR SIDE IMPACT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.214

Legal Deadline: NPRM, Statutory, May 31, 1992. Final, Statutory, August 5, 1994.
Action must be completed within 26 months of ANPRM publication.

Abstract: This action extends the dynamic testing requirements to light trucks, multipurpose passenger vehicles, and buses with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less. This will require that each of these vehicles must protect its occupant in a full-scale dynamic crash test in which the vehicle is struck on either side by a moving deformable barrier simulating another vehicle.

Timetable:

Action	Date	FR Cite
ANPRM	06/05/92	57 FR 24009
ANPRM Comment Period End	08/04/92	
NPRM	06/15/94	59 FR 30756
NPRM Comment Period End	08/15/94	
Final Rule	07/28/95	60 FR 38749
Petitions Due	08/28/95	
Action on Petitions	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/28/95 (60 FR 38749)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AE49

2595. RADIATOR SAFETY CAP

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has requested comments on the feasibility of and necessity for rulemaking to require the installation of thermal locking radiator caps or other devices on motor vehicles with water-cooled engines to prevent scalding injuries. Although the notice referred only to thermal locking radiator caps, comments were solicited on any device or technology designed to prevent such scalding injuries. Petition was granted.

Timetable:

Action	Date	FR Cite
Request for Comments: Comment Period End 08/09/93	06/10/93	58 FR 32503
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AE59

2596. MINIATURE AND NONFILAMENT LIGHT SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

DOT—NHTSA

Final Rule Stage

Legal Deadline: None

Abstract: The agency has proposed to relieve design restrictions that may inadvertently prevent the implementation of certain new-technology light sources in signal lamps.

Timetable:

Action	Date	FR Cite
NPRM	04/08/94	59 FR 16788
NPRM Comment Period End	06/07/94	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/08/94 (59 FR 16788)

Additional Information: This action answers a petition for rulemaking under RIN 2127-AF20, the issues of which have been consolidated, herein. The title of RIN 2127-AF20: Specifications for Light Emitting Diode.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AE97

2597. REDEFINE REPLACEABLE BULB HEADLAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency published a request for comments in 1993. Based on comments received, this action is proposing to permit replaceable lenses on integral beam and replaceable bulb headlamps that incorporate on-board headlamp aimers, provided that such headlamps meet more rigorous environmental tests. The benefit of headlamps with replaceable lenses is that the lens or reflector could be replaced in the event of breakage of either without the present necessity to replace both components if only one is damaged. Petition was granted.

Timetable:

Action	Date	FR Cite
Request for Comments: Comment Period End 09/27/93	08/12/93	58 FR 42924
NPRM	11/21/94	59 FR 59975
NPRM Comment Period End	02/21/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/21/94 (59 FR 59975)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF00

2598. TEST DUMMIES AND REQUIREMENTS FOR TESTING CHILD RESTRAINT SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: This action adds a greater array of sizes and weights of test dummies for use in compliance tests and improves the safety of child restraint system by providing for evaluation of their performance in a more thorough manner.

Timetable:

Action	Date	FR Cite
NPRM	03/16/94	59 FR 12225
NPRM Comment Period End	05/16/94	
Final Rule	07/06/95	60 FR 35126
Petitions Due	08/07/95	
Action on Petitions	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/06/95 (60 FR 35126)

Additional Information: The effective date for add-on (portable) child restraint systems is January 3, 1996. The effective date for built-in systems is September 1, 1996.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF02

2599. +UNIFORM TIRE QUALITY GRADING

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575.104

Legal Deadline: None

Abstract: This action proposes to improve the Uniform Tire Quality Grading Standard (UTQGS) to revise treadwear testing procedures to maintain the base course wear rate of course monitoring tires at its current value. That revision should eliminate treadwear grade inflation, reduce testing expenses, and reduce the adverse environmental consequences of operating testing convoys; create a new traction grading category of "AA" in addition to the current traction grades of A, B, C to differentiate those tires with the highest traction characteristics from lower performing tires; and replace the temperature resistance grade with a rolling resistance/fuel economy grade. This change would provide a measure of a key fuel economy characteristic of tires, and responds to the President's Climate Change Action Plan. This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/25/94	59 FR 19686
ANPRM Comment Period End	06/24/94	
NPRM	05/24/95	60 FR 27472
Comment Period Extended to 08/14/95	07/05/95	60 FR 34961
Comment Period Extended to 09/01/95	08/16/95	60 FR 42896
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

DOT—NHTSA

Final Rule Stage

Analysis: Regulatory Evaluation 05/24/95 (60 FR 27472)

Additional Information: On July 5, 1995 (60 FR 34961) a supplemental notice of proposed rulemaking was published extending the comment period and announcing a public meeting. On July 14, 1995 (60 FR 36255) a correction to the supplemental notice of proposed rulemaking and change in date of the public meeting was published. At the request of commenters at the public meeting and petitioners, the agency on August 16, 1995 (60 FR 42496) extended the comment period to September 1,,1995.

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4797
Fax: 202 366-4329

RIN: 2127–AF17

2600. EQUIVALENT MEASUREMENTS FOR GASEOUS FUELS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32901; 49 USC 32905; 49 USC 32906

CFR Citation: 49 CFR 538

Legal Deadline: None

Abstract: Under the corporate average fuel economy program, certain incentives are provided for the manufacture of alternative fuel vehicles, including dual fuel vehicles. Among other things, dual fuel passenger automobiles which meet a minimum driving range qualify for special treatment in the calculation of fuel economy. In order to implement a new statutory requirement, this notice is proposing to amend the existing regulation concerning minimum driving range.

Timetable:

Action	Date	FR Cite
NPRM	12/19/94	59 FR 65295
NPRM Comment Period End	02/17/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/19/94 (59 FR 65295)

Additional Information: This action is being combined with action 2127-AF38.

Agency Contact: Henrietta Spinner, Program Analyst, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4802

RIN: 2127–AF18

2601. MATERIALS USED IN TESTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, this action substitutes SAE J576 JUL91 for the currently incorporated J576c as the referenced standard on plastics materials, to substitute ASTM D 1003-92 for ASTM D 1003-61 in the test procedures, to allow alternative processing techniques, sample sizes and thickness tolerance to those presently specified in the lighting standard.

Timetable:

Action	Date	FR Cite
NPRM	11/02/94	59 FR 54881
NPRM Comment Period End	01/03/95	
Final Rule: Effective 3/1/96	09/05/95	60 FR 46064
Petitions Due	10/15/95	
Action on Petitions	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/05/95 (60 FR 46064)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF22

2602. RIGID PLASTICS IN WINDOWS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: In response to a petition for rulemaking, this action proposes to permit the installation of a new item of motor vehicle glazing, Item 4A - Rigid Plastic for Use in Side Windows Rearward of the "C" Pillar, in hatchbacks and station wagons. The agency is seeking to provide greater flexibility for manufacturers to develop and use more aerodynamic, lighter weight glazing designs, resulting in lower fuel consumption.

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13688
NPRM Comment Period End	05/15/95	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/14/95 (60 FR 13688)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF28

2603. IMPROVED BACK DOOR LATCH

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.206

Legal Deadline: None

Abstract: This action extends the existing side door requirements to back doors of passenger cars and multipurpose passenger vehicles, including hatchbacks, station wagons, sport utility vehicles, and passenger vans. The purpose is to reduce the likelihood of occupants being ejected from vehicles in crashes and to reduce the fatalities and serious injuries resulting from such ejections.

DOT—NHTSA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Request for Comments Due 3/28/94	01/27/94	59 FR 3924
NPRM	08/30/94	59 FR 44691
NPRM Comment Period End	10/31/94	
Final Rule: Effective 9/01/97	09/28/95	60 FR 50124
Petitions Due	10/30/95	
Action on Petitions	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/28/95 (60 FR 50124)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF35

2604. DRIVING RANGE FOR DUAL ENERGY AND NATURAL GAS DUAL ENERGY PASSENGER AUTOMOBILES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32901; 49 USC 32905; 49 USC 32906

CFR Citation: 49 CFR 538

Legal Deadline: None

Abstract: Under the corporate average fuel economy program, certain incentives are provided for the manufacture of alternative fuel vehicles, including dual fuel vehicles. Among other things, dual fuel passenger automobiles which meet a minimum driving range qualify for special treatment in the calculation of fuel economy. This action is proposing to amend the existing regulation concerning minimum driving range.

Timetable:

Action	Date	FR Cite
NPRM	12/19/94	59 FR 65295
NPRM Comment Period End	02/17/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/19/94 (59 FR 65295)

Additional Information: This action is being combined with 2127-AF18.

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AF38

2605. INCREASE FEMUR FLEXION MOTION OF THE HYBRID III TEST DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: In response to petitions for rulemaking, this action is proposing to provide a more precise characterization of the femur motion range to assure uniform flexion between right and left femurs and between dummies made by different manufacturers. Petitions were granted.

Timetable:

Action	Date	FR Cite
NPRM	06/30/95	60 FR 34213
NPRM Comment Period End	08/29/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/30/95 (60 FR 34213)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF41

2606. +CERTIFICATION OF CHILD RESTRAINTS FOR USE ON AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: This action and a companion proposed rule issued by the Federal Aviation Administration (FAA) address the use of child harnesses and backless child restraints in aircraft. The agency proposes to permit those restraints to be certified for use in both motor vehicles and aircraft. Under the current FAA regulations, aircraft-certified child restraints may be used on aircraft. However, because testing has raised concerns about the safety of using harnesses and backless child restraint systems on the types of seats found in aircraft, FAA is publishing an action that would prohibit the use of booster seats, and vest-and harness- type child restraint systems on aircraft even if they are certified for aircraft use. This action is considered significant because of the substantial public interest in issues involving child seats on aircraft and because of special interest to another model Administration.

Timetable:

Action	Date	FR Cite
NPRM	06/09/95	60 FR 30696
NPRM Comment Period End	07/10/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/09/95 (60 FR 30696)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF46

2607. THEFT DATA FOR CALENDAR YEAR 1993

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104(b)(4)

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action requests comments on preliminary data about passenger motor vehicle thefts that occurred in calendar year 1993 including theft rates for existing passenger motor vehicle lines manufactured in model year (my) 1993. Publication of the final data will fulfill the agency's statutory obligation to periodically obtain accurate and timely data and to publish the information for review and comment.

Timetable:

Action	Date	FR Cite
Request for Comments Due 11/13/95	09/12/95	60 FR 47429
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF56

DOT—NHTSA

Final Rule Stage

2608. RETROREFLECTIVE CONSPICUITY SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: This action proposes that the rear of truck tractors be equipped with retroreflective sheeting similar to that required for the rear of heavy trailers. The agency tentatively concludes that the addition of such a conspicuity treatment would result in a reduction of deaths, injuries, and property costs.

Timetable:

Action	Date	FR Cite
NPRM	06/12/95	60 FR 30820
NPRM Comment Period End	09/11/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/12/95 (60 FR 30820)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1810
Fax: 202 366-4329

RIN: 2127–AF59

2609. • REPLACEABLE LIGHT SOURCE INFORMATION: TRANSFER OF

Priority: Other

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 564; 49 CFR 571.108

Legal Deadline: None

Abstract: This action proposes to amend the standard on lighting to facilitate the transfer by the agency of all dimensional and specification information on HB Type replaceable light sources for headlamps to Docket No. 93-11. This docket has been established as the information docket specified in part 564 for replaceable light source information. This action is intended to simplify the lighting standard while ensuring consistent regulatory treatment of all headlamp replaceable light sources.

Timetable:

Action	Date	FR Cite
NPRM	03/16/95	60 FR 14247
NPRM Comment Period End	05/15/95	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/16/95 (60 FR 14247)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF62

2610. • AIR BRAKE SYSTEMS; AIR COMPRESSOR CUT-IN PRESSURE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, this action proposes to require the minimum air compressor cut-in pressure be an automatic activation of the air compressor whenever the pressure in the air brake system drops below 100 psi. This would ensure that new truck tractors provide trailers with sufficient air pressure for release of the trailer parking brakes and provide adequate service braking.

Timetable:

Action	Date	FR Cite
NPRM	06/13/95	60 FR 31135
NPRM Comment Period End	08/14/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/13/95 (60 FR 31135)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF63

2611. • RELIEVING DESIGN RESTRICTIONS TO ACCOMMODATE NEW LIGHT SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108; 49 CFR 564

Legal Deadline: None

Abstract: This action proposes to allow high intensity discharge (HID) light sources to be used in replaceable bulb headlamp systems, in addition to their presently-allowed use in integral beam headlamp systems. If the life of the light source approaches that of the vehicle, as is the case with HIDs, interchangeability will no longer be so important. Therefore, this action also proposes to allow a manufacturer to submit fewer items of dimensional information if it can demonstrate that

the average rated laboratory life of its light source is not less than 2,000 hours.

Timetable:

Action	Date	FR Cite
NPRM	06/19/95	60 FR 31939
NPRM Comment Period End	08/18/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/19/95 (60 FR 31939)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF65

2612. • SEAT BELT EXEMPTION FOR LAW ENFORCEMENT VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, this action proposes to provide greater flexibility to design safety belt systems that are better suited for restraining prisoners being transported in the rear seats of law enforcement vehicles.

Timetable:

Action	Date	FR Cite
NPRM	06/13/95	60 FR 31132
NPRM Comment Period End	08/14/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/13/95 (60 FR 31132)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF66

2613. • COLORFASTNESS REQUIREMENTS FOR SEATBELTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.209

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, this action proposes to delete the colorfastness requirements for seat belt assemblies. The agency tentatively concludes that the manufacturers' concerns about public acceptance are sufficient by themselves to ensure that manufacturers will make their belts colorfast.

Timetable:

Action	Date	FR Cite
NPRM	06/19/95	60 FR 31946
NPRM Comment Period End	08/18/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/19/95 (60 FR 31946)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF67

2614. • RESCIND STANDARD FOR UNNECESSARY DESIGN RESTRICTIONS: WHEEL NUTS, WHEEL DISCS, AND HUB CAPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.211

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, this action is proposing to rescind this standard. The agency has tentatively concluded that this standard is unnecessarily design- restrictive. Moreover, to the extent that there are safety concerns in this area, the agency believes they are more appropriately addressed by State laws concerning vehicle use than by Federal motor vehicle safety standard.

Timetable:

Action	Date	FR Cite
NPRM	06/19/95	60 FR 31947
NPRM Comment Period End	08/03/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/19/95 (60 FR 31947)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF71

2615. • RESCISSION OF REFLECTING SURFACES REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.107

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, this action proposes to rescind this standard. The agency has tentatively concluded that due to market forces and product liability concerns, the manufacturers will continue to minimize glare causing reflections from vehicle surfaces within the field of view of the driver. Eliminating the standard will remove the need to certify compliance with it. NHTSA believes that the standard can be rescinded without affecting safety.

Timetable:

Action	Date	FR Cite
NPRM	06/26/95	60 FR 32935
Comment Period Extended to 8/25/95	07/25/95	60 FR 37986
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/26/95 (60 FR 32935)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF74

2616. • STATE HIGHWAY SAFETY PILOT PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1200; 23 CFR 1205

Legal Deadline: None

Abstract: The FHWA and NHTSA announce a pilot program in FY 96, under the agency's Section 402 State and Community Highway Safety Grant Program, to permit states to use simplified procedures when they apply for highway safety grants and the waiver of certain procedures for states that have elected to participate in the pilot program.

Timetable:

Action	Date	FR Cite
Notice of Waiver Interim Final Rule	09/12/95 10/00/95	60 FR 47418

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: John Donaldson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834

RIN: 2127–AF94

2617. • +MOTOR VEHICLE CONTENT LABELING

Priority: Other Significant

Legal Authority: 49 USC 32304

CFR Citation: 49 CFR 583

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published on July 21, 1994 (59 FR 39724) this action amends the Automobile Parts Content Labeling Law by reducing the burdens associated with making content calculations which will result in more accurate information. This action was considered significant due to public interest and the relationship to other Federal programs and agencies, particularly those related to international trade.

Timetable:

Action	Date	FR Cite
Final Rule: Effective 10/16/95	09/15/95	60 FR 47878
Petitions Due	10/16/95	
Action on Petitions	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/15/95 (60 FR 47878)

Agency Contact: Orron Kee, Chief, Motor Vehicle Regulations Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AG03

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Long-Term Actions

2618. +CRASHWORTHINESS RATINGS

Priority: Other Significant

CFR Citation: 49 CFR 5

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7025
Comment Period Extended to 10/22/81	04/02/81	46 FR 19947
NPRM Comment Period End	04/22/81	46 FR 7025
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hackney
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AA03

2619. +LIGHTING SIMPLIFICATION—POTENTIAL AMENDMENTS ON LONG-TERM ISSUES

Priority: Other Significant

CFR Citation: 49 CFR 571.108

Timetable:

Action	Date	FR Cite
ANPRM	10/22/85	50 FR 42735
ANPRM Comment Period: Extended to 03/06/86	01/14/86	51 FR 1542
ANPRM Comment Period End	01/21/86	
NPRM	12/29/87	52 FR 49038
NPRM Comment Period End	03/28/88	
Second SNPRM	05/09/89	54 FR 20084
Correction to Second SNPRM	05/19/89	54 FR 21727
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AB87

2620. +FILM TRANSMITTANCE OF GLAZING MATERIALS

Priority: Other Significant

CFR Citation: 49 CFR 571.205

Timetable:

Action	Date	FR Cite
ANPRM	07/20/89	54 FR 30427
Petition for Rulemaking Granted	07/20/89	54 FR 30427
ANPRM Comment Period End	09/18/89	54 FR 30427
NPRM	01/22/92	57 FR 2496
NPRM Comment Period End	03/23/92	
NPRM Comment Period Extended to 05/22/92	03/25/92	57 FR 10327
NPRM Correction	04/09/92	57 FR 12286

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AC85

2621. SEATING SYSTEMS PERFORMANCE

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571.207

Timetable:

Action	Date	FR Cite
ANPRM	10/04/89	54 FR 40896
ANPRM Comment Period End	12/04/89	54 FR 40896
Request for Comments: Comment Period End 01/22/93	11/23/92	57 FR 54958

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Patricia Breslin
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AD08

2622. +REVIEW: PASSENGER CAR FRONT SEAT OCCUPANT PROTECTION (FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 208)

Priority: Other Significant

CFR Citation: 49 CFR 571.208

Timetable:

Action	Date	FR Cite
Begin Review	01/17/90	55 FR 1586
Interim Evaluation Report	07/08/92	57 FR 30293
End Review	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane
Phone: 202 366-2560

RIN: 2127–AD82

2623. SEAT ADJUSTMENT POSITION

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571.210

Timetable:

Action	Date	FR Cite
NPRM	12/04/91	56 FR 63473
NPRM Correction	12/17/91	56 FR 65541
NPRM Comment Period End	02/03/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AE22

2624. CERTIFICATION REQUIREMENTS OF MULTISTAGE VEHICLES

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 567; 49 CFR 568; 49 CFR 1.50

Timetable:

Action	Date	FR Cite
NPRM	12/03/91	56 FR 61392
NPRM Comment Period End	01/31/92	
NPRM Comment Period Extended to 03/02/92	02/03/92	57 FR 3983

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AE27

2625. +EXTEND ANTILOCK BRAKE SYSTEM TO PASSENGER CARS

Priority: Other Significant

CFR Citation: 49 CFR 571.105; 49 CFR 571.135

Timetable:

Action	Date	FR Cite
ANPRM	01/04/94	59 FR 281
ANPRM Comment Period End	03/07/94	
ANPRM Comment Period Extended to 04/06/94	03/08/94	59 FR 10779

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AE47

2626. CONSUMER INFORMATION REGULATION - VEHICLE STOPPING DISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 575.101

Timetable:

Action	Date	FR Cite
NPRM	11/23/92	57 FR 54962
NPRM Comment Period End	01/07/93	
Final Rule	06/16/95	60 FR 32918
Petitions Due	07/26/95	
Action on Petitions	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henrietta Spinner
Phone: 202 366-4797
Fax: 202 366-4329

RIN: 2127–AE61

2627. REVIEW: PASSENGER-CAR BACK SEAT OCCUPANT PROTECTION

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571.208

Timetable:

Action	Date	FR Cite
Begin Review	07/01/93	
End Review	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane

Phone: 202 366-2560

RIN: 2127–AE95

2628. TIRES ON NEW TRAILERS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571.120

Timetable:

Action	Date	FR Cite
ANPRM	06/01/95	60 FR 28561
ANPRM Comment Period End	09/29/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF05

2629. COMPRESSED NATURAL GAS (CNG) FUEL CONTAINERS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571.303

Timetable:

Action	Date	FR Cite
NPRM	12/29/93	58 FR 68846
NPRM Comment Period End	01/28/94	
Partial Final Rule: Effective 03/27/95	09/26/94	59 FR 49010
SNPRM Comment Period End 02/17/95	12/19/94	59 FR 65299

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Woodford
Phone: 202 366-4931

RIN: 2127–AF14

2630. COMPRESSED NATURAL GAS (CNG)

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571.303

Timetable:

Action	Date	FR Cite
Request for Comments: Comment Period Ends 07/05/94	05/06/94	59 FR 23662

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Flanigan
Phone: 202 366-4931
Fax: 202 366-4329

RIN: 2127–AF29

2631. ELECTRIC VEHICLE SAFETY

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 1.50; 49 CFR 501.8

Timetable:

Action	Date	FR Cite
Request for Comments: Comment Period End 11/29/94	09/30/94	59 FR 49901

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Woodford
Phone: 202 366-4931
Fax: 202 366-4329

RIN: 2127–AF43

2632. CYLINDER REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571.304

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Woodford
Phone: 202 366-4931
Fax: 202 366-4329

RIN: 2127–AF51

2633. +REVIEW: SIDE IMPACT PROTECTION

Priority: Other Significant

CFR Citation: 49 CFR 571.214

Timetable:

Action	Date	FR Cite
Begin Review	10/01/94	
End Review	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane
Phone: 202 366-2560

RIN: 2127–AF54

2634. • VOLUNTARILY-INSTALLED SHOULDER BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to permit an optional test procedure for the anchorages of a voluntarily-installed shoulder belt on a motor vehicle safety belt. Currently, if a shoulder belt is voluntarily-installed, only the lap belt anchorages are subject to a performance test. Petition is pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF91

2635. • HEAVY DUTY VEHICLE BRAKE SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: In response to several petitions for reconsideration of a final rule published on March 10, 1995 (60 FR 13216) the agency is considering whether to modify the requirements for medium and heavy vehicles equipped with an antilock brake system (ABS). Petitions are pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway

Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF96

2636. • AIR BRAKE SYSTEMS: STOPPING-DISTANCE PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to several petition for reconsideration of a final rule published on March 10, 1995 (60 FR 13286) the agency is considering whether to modify the stopping distance braking performance requirements for heavy vehicles. Petitions are pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF97

2637. • ANTILOCK WARNING SIGNALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to several petitions for reconsideration of a final rule published on March 10, 1995 (60 FR 13216) the agency is considering whether to modify the antilock warning lamp requirement. Petitions are pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF98

2638. • STOPPING DISTANCE PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: In response to several petitions for reconsideration to a final rule published on March 10, 1995 (60 FR 13297) the agency is considering whether to modify the stopping distance requirements for trucks, buses, and multipurpose vehicles (MPVs) with a gross vehicle weight rating (GVWR) of over 10,000 pounds. Petitions are pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF99

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Completed Actions

2639. STANDARD 105; HYDRAULIC BRAKE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: The Highway Safety Act of 1991 required the agency to publish by December 31, 1993, an ANPRM concerning potential improvements in its braking standards, such as a requirement for antilock brake systems in passenger vehicles (RIN 2127-AE47). The purpose of antilock brakes is to enhance the driver's control of the vehicle during emergency braking. Antilock brakes are currently available on many passenger cars and most light trucks. The accident statistics for cars and light trucks were reviewed in support of the rulemaking process and because of public interest in antilock brakes.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/90	
End Review	02/09/95	60 FR 7814

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Preliminary evaluation report on light trucks was docketed 12/15/93. The report indicated that rear-wheel antilock brakes for light trucks significantly reduced the risk of nonfatal run-off-road crashes. Preliminary evaluation report on passenger cars indicated that four-wheel antilock brakes significantly reduced multivehicle crashes on wet roads and fatal pedestrian crashes, but run-off-road crashes increased. The overall net effect on fatal as well as nonfatal crashes was close to zero. This was published 2/9/95 (60 FR 7814).

Agency Contact: Charles J. Kahane, Acting Chief, Standards Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560

RIN: 2127–AC94

2640. REVIEW: GLASS-PLASTIC WINDSHIELDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: This review addressed the costs, benefits, and operational performance of glass-plastic windshields regulated by Federal Motor Vehicle Safety Standard No. 205. NHTSA Technical Report DOT HS 808 062, published in November 1993 did not show significant injury reductions for glass-plastic windshields. Durability problems and costs of the windshields were found to be greater than has been anticipated by NHTSA. The study did not support rulemaking to mandate the currently optional type of glazing.

Timetable:

Action	Date	FR Cite
Begin Review	08/01/89	
End Review	01/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Acting Chief, Standards Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560

RIN: 2127–AD29

2641. RULEMAKING TO DELETE "DUE CARE" PROVISIONS FROM THE OCCUPANT CRASH PROTECTION STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In 1986, NHTSA added a provision to Standard No. 208, Occupant Crash Protection, allowing vehicles that fail one or more of the injury criteria in the standard to still be considered as complying with the standard if the manufacturer could show it had exercised "due care" in the design and construction of the vehicle. The Motor Vehicle Safety Act requires all safety standards to be expressed in "objective terms." Further, the courts have held that compliance with safety standards must be determined by objective measurements and without recourse to any subjective determinations. The inherently subjective nature of a "due care" determination precludes the use of that concept as an aspect of compliance with the safety standards. Therefore, the "due care" provisions would be proposed to be deleted from the crash protection standard. The agency is terminating this rulemaking because it does not plan to take action in this area in the immediate future.

Timetable:

Action	Date	FR Cite
Action Terminated	06/23/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Edward Glancy, Senior Attorney Advisor, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992

RIN: 2127–AD54

2642. EMERGENCY EXIT REQUIREMENTS FOR NON-SCHOOL BUSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.217

Legal Deadline: None

Abstract: This action permits non-school buses to meet either the current non-school bus requirements or the upgraded school bus requirements for the number of emergency windows and exit doors.

Timetable:

Action	Date	FR Cite
NPRM	11/02/92	57 FR 49441
NPRM Comment Period End	01/04/93	
Final Action	05/09/95	60 FR 24562
Final Action Effective	05/09/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/09/95 (60 FR 24562)

Additional Information: This action was answered with RIN-2127-AE62.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation; National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AE25

2643. REFEREE MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.106; 49 CFR 571.116

Legal Deadline: None

Abstract: In response to a petition, this action specifies a new referee material to be used in the compatibility testing of brake hoses and brake fluids. The present referee material will become commercially unavailable.

Timetable:

Action	Date	FR Cite
NPRM	10/30/92	57 FR 49162
NPRM Comment Period End	12/14/92	
Final Action	06/08/95	60 FR 30196
Final Action Effective	07/10/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/08/95 (60 FR 30196)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AE58

2644. BUS WINDOW EMERGENCY EXIT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.217

Legal Deadline: None

Abstract: In response to a rulemaking petition, this action allows windows that slide into the bus body panel to be used to meet emergency exit requirements. Also, manufacturers are allowed to install either two sliding emergency exit windows or an emergency exit door as the first means of satisfying the updated requirements for additional emergency exits on school buses.

Timetable:

Action	Date	FR Cite
NPRM	12/01/93	58 FR 63321
NPRM Correction	12/22/93	58 FR 67909
NPRM Comment Period End	01/31/94	
Final Action	05/09/95	60 FR 24562
Final Action Effective	05/09/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/09/95 (60 FR 24562)

Additional Information: This action was answered with RIN-2127-AE25.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AE62

2645. STANDARDIZED DISPLAY OF CERTIFICATION LABELS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 567; 49 CFR 571.115

Legal Deadline: None

Abstract: In response to a petition for rulemaking, NHTSA considered whether to amend the certification regulation to require the standardized display of a permanent metal vehicle manufacturer's label for all motor vehicles weighing more than 4,536 kg (10,000) pounds. Comments did not show that a significant problem exists or if a problem did exist that it may be attributed to the deliberate removal of certification labels by unscrupulous operators, or the inadvertent failure to install labels by final stage manufacturers, circumstances that would not be addressed by the proposed rule. Also, metal certification labels would be more costly to prepare and install than the labels currently being used. After reviewing comments, NHTSA terminated this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49038
NPRM Comment Period End	11/25/94	
Action Terminated	06/23/95	60 FR 32647

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/26/94 (59 FR 49038)

Agency Contact: Dr Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AE71

2646. LATERAL PERFORMANCE REQUIREMENTS FOR FUEL SYSTEM INTEGRITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: In response to a petition granted for rulemaking, the agency is considering whether to permit the certification of the lateral moving barrier crash requirement of FMVSS No. 301, Fuel System Integrity, with the side crash test conducted in compliance with FMVSS No. 214, Side Impact Protection.

Timetable:

Action	Date	FR Cite
Request for Comments: Comment Period End 02/12/93	12/14/92	57 FR 59041
Request for Comments: Comment Period Extended to 03/05/93	02/05/93	58 FR 7266
Incorporated into RIN 2127-AF36	04/12/95	60 FR 18566

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action has been incorporated into RIN 2127-AF36.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842

RIN: 2127–AE83

2647. UNIFORM GUIDELINES FOR STATE HIGHWAY SAFETY PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 1205

CFR Citation: 23 CFR 1204

Legal Deadline: None

Abstract: The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102-240) requires the Secretary to ensure that the uniform guidelines for State highway safety programs include each of six key areas (Speed Control, Occupant Protection, Driving While Impaired, Motorcycle Safety, School Bus Safety, and Police Traffic Services). This action adopts guidelines on three of these programs: Speed Control, Occupant Protection and Roadway Safety. This action also revises six of the existing guidelines to reflect new issues and to emphasize program methodology and approaches that have proven to be successful in these program areas. Finally, this action removes the guidelines from the Code of Federal Regulations. The guidelines, as revised, will be published in a separate document made available to the states.

Timetable:

Action	Date	FR Cite
Request for Comments: Comment Period Ends 02/28/94	01/14/94	59 FR 2320
Final Action	07/18/95	60 FR 36641
Final Action Effective	08/17/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is a joint action with Federal Highway Administration.

Agency Contact: Marlene Markison, Office of Regional Operations, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0166

RIN: 2127–AE90

2648. INSURER REPORTING REQUIREMENTS FOR OCTOBER 1995

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33112

CFR Citation: 49 CFR 544

Legal Deadline: None

Abstract: This action publishes an update to its list of passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences. Each insurer listed must file a report for the 1992 calendar year not later than October 25, 1995. As long as they remain on the list, they must submit reports each subsequent October 25.

Timetable:

Action	Date	FR Cite
NPRM	01/19/95	60 FR 3830
NPRM Comment Period End	03/20/95	
Final Action	06/27/95	60 FR 33145
Final Action Effective	07/27/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/27/95 (60 FR 33145)

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AE94

2649. TEST PROCEDURES FOR TRANSMISSION AND KEY LOCKING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.114

Legal Deadline: None

Abstract: In response to a petition for rulemaking, this action makes a temporary change in the requirement that vehicles with automatic transmissions be equipped with a transmission lock that prevents key removal unless the transmission is locked in park as a direct result of removing the key. The purpose of this requirement is to prevent rollaway crashes caused by unattended children pulling the transmission lever out of park.

Timetable:

Action	Date	FR Cite
NPRM	03/14/94	59 FR 11750
NPRM Comment Period End	05/13/94	
Final Action	06/07/95	60 FR 30006
Final Action Effective	07/07/95	
Correction Published	08/11/95	60 FR 41028

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/07/95 (60 FR 30006)

Additional Information: Due to apparent confusion concerning the scope of the requirement and the effect of that confusion on transmission designs, the requirement will be changed until September 1, 1996. Until that time, the transmission lock will only be required to prevent key removal when the transmission is fully engaged in a detent position other than park (e.g., reverse, neutral, drive). After that date, the requirements will revert to their previous form, prohibiting key removal in all positions other than park.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AE99

2650. AIR-OVER-HYDRAULIC BRAKE SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has included a definition of air-over-hydraulic brake subsystem. Such a definition will clarify the classification and compliance requirements for this brake system.

Timetable:

Action	Date	FR Cite
NPRM	07/11/94	59 FR 35298
NPRM Comment Period End	09/09/94	
Final Action	07/18/95	60 FR 36741
Final Action Effective	08/17/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/18/95 (60 FR 36741)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF01

2651. HEAVY VEHICLE BURNISH PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: NHTSA has terminated this rulemaking. The agency has determined that it would be unnecessary to extend the period during which a manufacturer may choose between two burnish procedures since manufacturers

have been certifying compliance to the brake standards based on the "new" more representative burnish procedure since September 1994.

Timetable:

Action	Date	FR Cite
NPRM	08/30/93	58 FR 45476
Interim Final Rule	08/30/93	58 FR 45459
NPRM Comment Period End	09/29/93	
Action Terminated	05/15/95	60 FR 25880

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/30/93 (58 FR 45459)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF13

2652. PNEUMATIC TIMING AND BALANCE FOR TRAILER BRAKE SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has included new requirements regarding pneumatic timing and balance for trailer brake systems. The control line pressure differential requirements will effect converter dollies and trailers designed to tow another vehicle equipped with air brakes. The agency believes this will improve the braking compatibility of such vehicles by allowing the use of a relay valve known as a spool-type low opening valve.

Timetable:

Action	Date	FR Cite
NPRM	07/13/94	59 FR 35672
NPRM Correction	08/24/94	59 FR 43528
NPRM Comment Period End	09/12/94	
Final Action	07/28/95	60 FR 38762
Correction Published	08/17/95	60 FR 42804
Final Action Effective	08/28/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/28/95 (60 FR 38762)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF23

2653. FRACTIONAL BALANCE HEADLAMP AIM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency considered whether to permit fractional-balance-type optical aiming as an acceptable method for headlamp aimability performance. The concerns stated by the petitioner will be addressed through a negotiated rulemaking process (RIN 2127-AF73). This action is terminated.

Timetable:

Action	Date	FR Cite
Action Terminated	06/09/95	60 FR 30506

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF24

2654. +MANUAL CUTOFF SWITCHES FOR AIR BAGS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This action allows manufacturers the option of installing a manual device that motorists could use to deactivate the front passenger-side air bag in vehicles in which infant restraints can be used in the front seat only. This action was considered significant because of congressional mandate that the agency require the installation of both driver and passenger air bags by the late 1990s.

Timetable:

Action	Date	FR Cite
NPRM	10/07/94	59 FR 51158
NPRM Comment Period End	12/06/94	
Final Action	05/23/95	60 FR 27233
Final Action Effective	06/22/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/23/95 (60 FR 27233)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF30

2655. ALTERNATIVE ZONAL PHOTOMETRIC REQUIREMENTS FOR CENTER HIGH-MOUNTED STOP LAMPS (CHMSL)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30111; 49 USC 30115; 49 USC 30162

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, this action allows the photometric conformance of rear center highmounted stop lamps to be determined by a grouping of test points. This action is consistent with the agency's requirements for other lamps and will lessen the testing burden for manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	11/25/94	59 FR 60596
Correction	01/13/95	60 FR 3304
NPRM Comment Period End	01/24/95	

Action	Date	FR Cite
Final Action	04/20/95	60 FR 19681
Final Action Effective	05/22/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/20/95 (60 FR 19681)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF45

2656. FUEL SYSTEM CONTAINERS FOR COMPRESSED NATURAL GAS VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30155; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.304

Legal Deadline: None

Abstract: NHTSA responses to petitions for reconsideration to the final rule published September 26, 1994 (59 FR 49010) that established performance requirements applicable to compressed natural gas (CNG) fuel containers. That final rule specified burst test safety factors of up to 3.33 for use in evaluating the strength of carbon fiber containers. In an initial notice responding to the petitions published December 28, 1994 (59 FR 66773) a single, lower safety factor of 2.25 was adopted, subject to further consideration of that issue. This action reaffirms that decision and responds to other issues raised by the petitioners.

Timetable:

Action	Date	FR Cite
Final Rule Effective Date 03/27/95	12/28/94	59 FR 66773
Final Action	07/24/95	60 FR 37836
Final Action Effective	08/23/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/24/95 (60 FR 37836)

Agency Contact: Gary Woodford, Engineer, Special Projects Staff, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4931
Fax: 202 366-4329

RIN: 2127–AF47

2657. RIDING IN CARGO BED OF PICKUP TRUCKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575.106

Legal Deadline: None

Abstract: This action terminates rulemaking in response to a petition asking the agency to require manufacturers of pickup trucks to place some kind of warning or recommendation on the cargo beds and in the owner's manual stating the dangers of passengers riding in the cargo area of these vehicles. Pickup manufacturers have agreed to include in their owners' manuals clear and specific warnings about the dangers of riding in cargo areas of vehicles and to join with the agency, vehicle dealers, and other interested organizations in a broad-based effort to educate the public about the dangers associated with riding in the cargo area of vehicles. The agency has concluded that no regulatory action is needed at this time.

Timetable:

Action	Date	FR Cite
Action Terminated	08/02/95	60 FR 39308

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Kratzke, Attorney Advisor, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5203
Fax: 202 366-4329

RIN: 2127–AF49

2658. HIGH THEFT LINES FOR MODEL YEAR 1996

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action announces the high-theft lines that are subject to the parts marking requirements of the theft prevention standard and high theft-lines that are exempted from the parts marking for model year 1996.

Timetable:

Action	Date	FR Cite
Final Action	07/14/95	60 FR 36231
Final Action Effective	07/14/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Gray, Chief, Motor Vehicle Theft Group, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF58

2659. CHILD BOOSTER SEATS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to a petition for reconsideration of a final rule published on July 21, 1994 (59 FR 37167), this action amends the labeling requirements for a type of belt-positioning seat known as a dual-purpose booster (a booster that can be used with either a lap or a lap/shoulder belt when used with a shield-type component to restrain the upper torso of a child seated in the booster, but only with a lap/shoulder belt when used without the shield).

Timetable:

Action	Date	FR Cite
Final Action	05/10/95	60 FR 24797
Final Action Effective	08/08/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/10/95 (60 FR 24797)

Additional Information: This action was inadvertently published under RIN 2127-AE61. Manufacturers may voluntarily comply with the amendments promulgated by this action on or after June 9, 1995.

DOT—NHTSA — **Completed Actions**

Agency Contact: Dr. Patricia Breslin, Director, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF61

2660. • CONSUMER INFORMATION REGULATION: FEES FOR COURSE MONITORING TIRES AND FOR USE OF TRACTION SKID PADS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30123

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: This action amends the consumer information regulation on uniform tire quality grading by establishing fees for the purpose of treadwear course monitoring tires and for the use of the skid pads at the agency's Uniform Tire Quality Grading Test Facility in San Angelo, TX.

Timetable:

Action	Date	FR Cite
NPRM	03/24/95	60 FR 15529
NPRM Comment Period End	05/23/95	
Final Action	08/02/95	60 FR 39269
Final Action Effective	09/01/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/24/95 (60 FR 15529)

Agency Contact: Clive Van Orden, Chief, Equipment and Imports Division, Office of Vehicle Safety Compliance, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2830

RIN: 2127–AF64

2661. • BRAKE HARMONIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.135

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published on February 2, 1995 (60 FR 6411) this action is making several minor changes in the standard's test conditions and several technical corrections to the text.

Timetable:

Action	Date	FR Cite
Final Action	07/24/95	60 FR 37844
Final Action Effective	08/23/95	
Correction Published	08/28/95	60 FR 44548

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/24/95 (60 FR 37844)

Agency Contact: Dr. Particia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF82

2662. • DRUG OFFENDER'S DRIVER'S LICENSE SUSPENSION: TECHNICAL AMENDMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-516; PL 102-143

CFR Citation: 23 CFR 1212

Legal Deadline: None

Abstract: This regulatory action redelegates the entire responsibility for administering the Drug Offender's Driver's license suspension process from both the National Highway Traffic Safety Administration and the Federal Highway Administration to the Federal Highway Administration alone. By this redelegation process, the agency is streamlining the certification process and eliminating the duplication of government efforts.

Timetable:

Action	Date	FR Cite
Final Action	09/28/95	60 FR 50099

Small Entities Affected: None

Government Levels Affected: State

Additional Information: A joint NHTSA/FHWA final rule published on 08/12/92 (57 FR 35989), RIN 2127-AE10, established the procedures the States must follow to notify the NHTSA and the FHWA of their intention to enact legislation or a resolution opposing legislation under this program. NHTSA was responsible for reviewing State laws and resolutions to determine compliance and FHWA is responsible for administering the penalty provisions. Because all States have laws and resolutions, the NHTSA role is completed and responsibility for administering this program is delegated to FHWA alone.

Agency Contact: Gary Butler, Highway Safety Specialist, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AF93

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA) — **Prerule Stage**

2663. QUALIFICATION AND CERTIFICATION OF LOCOMOTIVE ENGINEERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 20135; 49 USC 21301 to 21311; 49 USC 30301 to 30308

CFR Citation: 49 CFR 240

Legal Deadline: None

Abstract: FRA has been petitioned to reconsider several aspects of its final rule on locomotive engineer qualifications. Some technical changes requested in those petitions were warranted and the interim final rule was issued to resolve these issues. Two issues involving coverage of the rule to service vehicles need more public discussion prior to resolution. A proposed rule will be issued to afford an opportunity for public comment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/09/93	58 FR 18982
Interim Final Rule Effective	05/10/93	
Open Meeting	10/00/95	
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/09/93 (58 FR 18982)

Additional Information: This rulemaking will amend the final rule issued on 06/19/91 (56 FR 28228).

Agency Contact: Alan Nagler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0631

RIN: 2130–AA74

2664. +PASSENGER EQUIPMENT STANDARDS

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20133; 49 USC 20111 to 20113; 49 USC 20301 to 21311; PL 103-440, sec 215

CFR Citation: 49 CFR 238

Legal Deadline:
NPRM, Statutory, November 2, 1997, Initial regulations.
Final, Statutory, November 2, 1999, Final regulations.

Abstract: Pursuant to the Federal Railroad Safety Authorization Act of 1994, FRA is proposing to prescribe regulations establishing minimum passenger equipment standards for the safety of cars used by railroad carriers to transport passengers. This is considered significant due to public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dan Alpert, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0635

RIN: 2130–AA95

2665. +RAIL PASSENGER SERVICE: EMERGENCY PREPAREDNESS

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20133; 49 USC 20111 to 20113; 49 USC 20301 to 20306; 49 USC 21301 to 21302; 49 USC 21304 to 21311; PL 103-440, sec 215

CFR Citation: 49 CFR 239

Legal Deadline: Final, Statutory, November 2, 1997.
NPRM, Statutory, November 2, 1997, Initial regulations.
Final, Statutory, November 2, 1999, Final regulations.

Abstract: Pursuant to the Federal Railroad Safety Authorization Act of 1994, FRA is proposing to prescribe regulations establishing minimum emergency preparedness standards for the safety of cars used by railroad carriers to transport passengers. This is considered significant due to public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David H. Kasminoff, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0635

RIN: 2130–AA96

2666. • +HOURS OF SERVICE ELECTRONIC RECORDKEEPING PROJECT

Regulatory Plan: This entry is Seq. No. 93 in Part II of this issue of the **Federal Register**.

RIN: 2130–AB04

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA) — **Proposed Rule Stage**

2667. RAILROAD ACCIDENT REPORTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 21301 to 21311

CFR Citation: 49 CFR 225

Legal Deadline: None

Abstract: This proposed action is based on comments and suggestions from the public regarding methods of improving FRA's injury and accident reporting

system. This action is no longer considered significant since further evaluation indicated minimal safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	03/14/90	55 FR 9469
Hearing Notice	03/14/90	55 FR 9532
ANPRM Comment Period End	05/25/90	
NPRM	08/15/94	59 FR 42880
Public Hearing Change	09/28/94	59 FR 49376
Notice of Public Regulatory Conference	11/18/94	59 FR 59744
Notice of Public Regulatory Conference Change	12/27/94	59 FR 66501
NPRM Comment Period End	03/10/95	
Notice of a Decision to Issue a SNPRM	07/03/95	60 FR 34498
SNPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Open meetings were held in Washington, D.C. 6/13/91, 8/12/91, 10/22/91, and 8/18/92. A public hearing was held in Washington DC on October 5-6, 1994, in Kansas City, MO on October 19, 1994, and in Portland, OR on November 3, 1994. Public regulatory Conference held January 30, 1995- February 3, 1995 in Washington DC.

Agency Contact: Marina C. Appleton, Trial Attorney, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0628

RIN: 2130–AA58

2668. ALCOHOL/DRUG REGULATIONS; MISCELLANEOUS TECHNICAL AMENDMENTS AND CORRECTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 20107; 49 USC 20111 to 20113; 49 USC 20140; 49 USC 21301; 49 USC 21304; PL 103-272 (July 5, 1994)

CFR Citation: 49 CFR 219; 49 CFR 217; 49 CFR 1.49(m)

Legal Deadline: None

Abstract: The action would make technical amendments/corrections to regulations concerning the control of alcohol and drug use in railroad operations.

Timetable:

Action	Date	FR Cite
Final Corrective Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Final Rule suspending pre-employment alcohol testing, promulgated with all DOT modes, and published by FRA on 5/10/95. Final rule amending procedures for post-accident toxicological testing published 4/19/95, (60 FR 19538).

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0635

RIN: 2130–AA63

2669. +WHISTLE BANS AT HIGHWAY-RAIL GRADE CROSSINGS

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20153; 49 USC 20111 to 20113; 49 USC 21301 to 21311

CFR Citation: 49 CFR 234; 49 CFR 1.49(f); 49 CFR 1.49(g); 49 CFR 1.49(m)

Legal Deadline: NPRM, Statutory, November 2, 1996. Final, Statutory, November 2, 1998.

Abstract: FRA is preparing an NPRM governing the use of train whistles at grade crossings. FRA will be soliciting comments and suggestions from the public and the railroad industry regarding this action. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Kyle Mulhall, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0635

RIN: 2130–AA71

2670. +TRACK SAFETY STANDARDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20111 to 20113; 49 USC 20142; 49 USC 20301 to 20311

CFR Citation: 49 CFR 213

Legal Deadline: Final, Statutory, September 1, 1995.

Abstract: The track regulations have not been comprehensively reviewed in the past decade. This regulatory action will consist of a revision of existing track safety standards, as mandated by Congress in the Rail Safety Enforcement and Review Act (PL 102-365). With this revision FRA will also respond to a Brotherhood of Maintenance of Way petition regarding numerous changes to the existing track standards. FRA will also incorporate input from research on internal rail defects and continuous welded rail. This action is significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	11/16/92	57 FR 54038
Public Workshop Notice and Schedule	01/05/93	58 FR 338
Correction: Workshop Notice	01/19/93	58 FR 4975
Correction: Workshop Notice	02/18/93	58 FR 8928
ANPRM Comment Period End	03/12/93	
NPRM	10/30/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Evaluation

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of Transportation, Federal Railroad

Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0635

RIN: 2130–AA75

2671. LOCOMOTIVE CONSPICUITY; MINIMUM STANDARDS FOR AUXILIARY EXTERNAL LIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 20143; 49 USC 21301 to 21311

CFR Citation: 49 CFR 229

Legal Deadline:
Other, Statutory, December 31, 1992, Interim final rule.
Final, Statutory, June 30, 1995, Final rule.

Abstract: The interim rule (IR-2), published on May 13, 1994, amends an FRA interim rule (IR-1) published on February 3, 1993, by relaxing the standards IR-1 contained concerning auxiliary external lights on locomotives. The lighting arrangements in IR-1 were deemed acceptable interim locomotive conspicuity measures. FRA encouraged the installation and use of such lighting arrangements as are now widely used and available. IR-2 contains detailed and specific performance standards regarding color, intensity, operation, mounting location and flash rate for ditch lights, crossing lights, strobe lights and oscillating lights. Lighting devices installed in conformance to the specifications in IR-1 and IR-2 will not be immediately rendered obsolete when FRA issues final standards in this area. This action is intended to increase the visibility of locomotives to motorists in order to reduce collisions between vehicles and locomotives at highway-rail grade crossings.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/03/93	58 FR 6899
Interim Final Rule Comment Period End	04/01/93	
Second Interim Final Rule Comment Period End 07/01/94	05/13/94	59 FR 24960
Second Interim Final Rule Correction	08/04/94	59 FR 39705
NPRM	08/28/95	60 FR 44457
NPRM Comment Period End	10/27/95	
Final Action	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/13/94 (59 FR 24960)

Agency Contact: Kyle M. Mulhall, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0635

RIN: 2130–AA80

2672. +ROADWAY WORKER PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 20142; 49 USC 21301 to 21311; PL 103-440, sec 208

CFR Citation: 49 CFR 214

Legal Deadline: Final, Statutory, September 1, 1995.

Abstract: This action was originally contained in our comprehensive track safety standards revision, RIN 2130-AA75. FRA is placing it in Part 214 as it is more directly related to worker safety than to track standards. The regulation is intended to establish minimum mandatory requirements to provide roadway workers with on-track safety. The rule is considered significant because of substantial public interest and safety considerations. This rulemaking represents FRA's first negotiated rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	11/16/92	57 FR 54038
ANPRM Comment Period End	05/04/93	
Negotiations Begin	01/23/95	
Negotiations End	07/28/95	
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: On August 17, 1994 (59 FR 42200), FRA published a notice proposing to form a negotiated rulemaking advisory committee and invited requests for representation, to be received by September 16, 1994. On January 5, 1995 (60 FR 1761), FRA published a notice of the establishment of an advisory committee and announced the first committee meeting. A schedule of further Advisory Committee meetings was published 2/15/95 (60 FR 8619), 5/8/95 (60 FR 22542) and 8/15/95 (60 FR 42214). The Committee met on the following dates: February 16 to 17, 1995 ; March 7 to 8, 1995; March 23 to 24, 1995; April 3 to 4, 1995; April 19 to 21, 1995; May 16 to 17, 1995, and August 30-31, 1995. The Advisory Committee submitted its report to Secretary Pena and Administrator Molitoris on June 17, 1995.

Agency Contact: Cynthia Walters, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0621

RIN: 2130–AA86

2673. +ENVIRONMENTAL IMPACT AND RELATED PROCEDURES (FRA, FTA, FHWA)

Priority: Other Significant

Legal Authority: 49 USC 322; 42 USC 4332

CFR Citation: 49 CFR 267; 49 CFR 622; 23 CFR 771

Legal Deadline: None

Abstract: The Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) currently have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures," that outlines requirements for complying with the National Environmental Policy Act and related laws and regulations. The Federal Railroad Administration (FRA) has "Procedures for Considering Environmental Impacts" (45 FR 40854, June 16, 1980) which serve the same purposes. FTA and FHWA are revising their regulation to serve program needs. In order to achieve consistency in environmental analysis for surface transportation modes and to update its existing environmental procedures which were issued in 1980, the FRA will join with FTA and FHWA in developing an environmental regulation that applies to all three modal Administrations. This action is considered significant because of public, congressional, and environmental concerns and because it involves several departmental modes. The FTA RIN is 2132-AA43; the FHWA RIN is 2125-AD32.

DOT—FRA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Economic Assessment

Agency Contact: William R. Fashouer, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC.
Phone: 202 366-0616

RIN: 2130–AA93

2674. STATEMENT OF POLICY REGARDING SAFETY OF RAILROAD BRIDGES

Priority: Other

Legal Authority: 49 USC 20103; 49 USC 21301 to 21311; 49 USC 20142; PL 103-44, sec 208

CFR Citation: 49 CFR 213

Legal Deadline: None

Abstract: FRA proposes to publish a policy statement containing maintenance guidelines based on certain common, basic principles that characterize effective bridge management practices. The guidelines are meant to be advisory in nature. They will not have the force of regulations under which FRA ordinarily issues violations and assesses civil penalties.

Timetable:

Action	Date	FR Cite
Statement of Interim Policy regarding the safety of rail bridges	04/27/95	60 FR 20654
Comment Period Ends	06/26/95	
Final Policy Statement	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy L. Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0621

RIN: 2130–AA99

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Final Rule Stage

2675. LOCAL RAIL FREIGHT ASSISTANCE TO STATES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 22101

CFR Citation: 49 CFR 266

Legal Deadline: None

Abstract: This action was to revise the procedures and requirements for the receipt of financial assistance contained in part 266. These changes were to establish deadlines for submission of project applications for those seeking Federal funding to provide local rail freight assistance and impose consequences for failure to expend approved funding. However, as the Department has not proposed a reauthorization for this program's funding, this action is being withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	11/30/90	55 FR 49648
NPRM Comment Period End	12/31/90	55 FR 49648
To Be Withdrawn	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 401 Railroads

Analysis: Regulatory Evaluation 11/30/90 (58 FR 49648)

Agency Contact: Laurence Fitzgerald, Program Analyst, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1677

RIN: 2130–AA60

2676. +FREIGHT CAR SAFETY STANDARDS: MAINTENANCE-OF-WAY EQUIPMENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 21301 to 21311

CFR Citation: 49 CFR 215

Legal Deadline: None

Abstract: The Federal Railroad Administration is proposing to amend the freight car safety standards by making all maintenance-of-way vehicles subject to the standards with the exception of stenciled cars not used in revenue service and restricted to a speed of less than 20 miles per hour. This action is considered significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
NPRM	03/10/94	59 FR 11238
NPRM Comment Period End	04/11/94	
NPRM Comment Period Extended to 11/28/94	09/28/94	59 FR 49374
NPRM Comment Period Extended to 2/27/95	12/29/94	59 FR 67266
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/10/94 (59 FR 11238)

Agency Contact: Billie Stultz, Deputy Assistant Chief Counselfor Safety, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0628

RIN: 2130–AA68

2677. +GENERIC STANDARDS FOR CORRIDORS UP TO 160 MPH

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 21301 to 21311; 49 USC 26103; PL 103-440, sec 203(a)(2)

CFR Citation: 49 CFR 209 to 245

Legal Deadline: None

DOT—FRA

Final Rule Stage

Abstract: Consistent with the Secretary of Transportation's Strategic Plan, which highlights his vision to develop high speed rail in select corridors,and as mandated by the Swift Rail Development Act of 1994, FRA has incorporated, and intends to incorporate, high speed rail issues within the following rulemakings: Power brake ((RIN 2130-AA 73); Track (RIN 2130-AA75); Passenger Equipment Standards (RIN 2130-AA95); and Rail Passenger Service: Emergency Preparedness Rules (RIN 2130-AA96). In future rulemakings, FRA will address specific safety standards within the high speed rail context. At this time, however, FRA has concluded that there is no need to continue to retain an agenda entry for generic standards. Should FRA conclude that a comprehensive rule dealing with all aspects of high speed rail is necessary, FRA will initiate such a rulemaking. Because it no longer plans to address the subject in that way in the near future, however, FRA sees no reason to retain this entry. Accordingly, this entry will not appear again, and those interested in relevant regulatory developments in the high speed area should focus their attention on the rulemakings cited above.

Timetable:

Action	Date	FR Cite
To Be Terminated	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Daniel Smith, Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0635

RIN: 2130–AA88

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Long-Term Actions

2678. +POWER BRAKE REGULATIONS; MISCELLANEOUS REVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 49 CFR 232; 49 CFR 231; 49 CFR 229

Timetable:

Action	Date	FR Cite
ANPRM	12/31/92	57 FR 62546
ANPRM Comment Period End	03/31/93	
NPRM	09/16/94	59 FR 47676
NPRM Comment Period End	01/18/95	59 FR 52953

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Herrmann
Phone: 202 366-0628

RIN: 2130–AA73

2679. AMTRAK WASTE DISPOSAL

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph R. Pomponio
Phone: 202 366-0616

RIN: 2130–AA84

2680. +LOCOMOTIVE CRASHWORTHINESS AND WORKING CONDITIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 49 CFR 229

Timetable:

Action	Date	FR Cite
Open Meeting Notice	07/22/94	59 FR 37528

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Kyle M. Mulhall
Phone: 202 366-0628

RIN: 2130–AA89

2681. PROTECTION OF UTILITY EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 218

Timetable:

Action	Date	FR Cite
Amendment to Final Rule	03/01/95	60 FR 11047
Amendment to Final Rule Suspended	05/15/95	
Comment Period Reopened	05/15/95	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kyle M. Mulhall
Phone: 202 366-0443

RIN: 2130–AA90

2682. +SELECTION AND INSTALLATION OF GRADE CROSSING WARNING SYSTEMS

Priority: Other Significant

CFR Citation: 49 CFR 234

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11649
NPRM Comment Period End	05/16/95	
Public Hearings	06/06/95	
Public Hearings	06/07/95	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Mark Tessler
Phone: 202 366-0628

RIN: 2130–AA92

DOT—FRA

Long-Term Actions

2683. +RADIO COMMUNICATION-ADVANCED TRAIN CONTROL SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 49 CFR 220

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cynthia Walters
Phone: 202 366-0621

RIN: 2130–AA94

2684. MAINTENANCE, INSPECTION, AND TESTING OF GRADE-CROSSING SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 49 CFR 234; 49 CFR 1.49(f); 49 CFR 1.49(g); 49 CFR 1.49(m)

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Mark H. Tessler
Phone: 202 366-0628

RIN: 2130–AA97

2685. FRA HAZARDOUS MATERIALS PENALTY GUIDELINES

Priority: Other

CFR Citation: 49 CFR 209; 49 CFR 1.49(m); 49 CFR 1.49(s); 49 CFR 1.49(gg)

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas A. Phemister
Phone: 202 366-0628

RIN: 2130–AB00

2686. • MISCELLANEOUS AMENDMENTS TO FEDERAL RAILROAD REGULATIONS PURSUANT TO REGULATORY REFORM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 21301 to 21311

CFR Citation: 49 CFR 212; 49 CFR 230; 49 CFR 233; 49 CFR 235; 49 CFR 251

Legal Deadline: None

Abstract: In conformity with the President's call for regulatory reform, FRA has identified several regulatory items that it intends to reinvent. FRA has concluded that five areas of its regulations should be amended or eliminated. Subpart D and the appendices of Part 212 (State Participation) will be eliminated as obsolete. Part 230 (Safety Appliances) will be amended to allow greater flexibility in the Locomotive Inspection Waiver process. Part 233 (Signal Reporting Requirements) will be modified to afford greater filing flexibility in signal system reporting requirements. Part 235 (Discontinuance or Modification of Signal Systems) will be revamped to allow an exclusion from signal system discontinuance approval requirements. Part 251 (Loans) will be eliminated in its entirety due to the repeal of its statutory authority. In addition, FRA identified other improvements that will be made in regulatory arenas that are currently the subject of separate rulemakings, and separate agenda entries.

Timetable:

Action	Date	FR Cite
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Other CFR parts affected by FRA reinvention are: Part 213(See RIN 2130-AA75), Part 219 (See RIN 2130-AA63), Part 220 (See RIN 2130- AA94), Part 223 (See RIN 2130-AA89, RIN 2130-AA95), Part 225 (See RIN 2130-AA58), Part 229 (See RIN 2130-AA89), Part 232 (See RIN 2130-AA73), Part 234 (See RIN 2130-AA97), and Part 240 (See RIN 2130-AA74).

Agency Contact: Grady Cothen, Deputy Associate Administrator for Safety, Standards and Program Development, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0897

RIN: 2130–AB03

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Completed Actions

2687. EVENT RECORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 20137; 49 USC 20111 to 20113; 49 USC 21301 to 21311

CFR Citation: 49 CFR 218; 49 CFR 229

Legal Deadline: None

Abstract: FRA issued a final rule on July 8, 1993 (58 FR 36605). Petitions for reconsideration were filed, together with requests for clarification and interpretation. FRA granted certain of those petitions, and a revised final rule was prepared to enhance the availability of event recorder data for post-accident review; to provide greater latitude for the location of event recorders; and to simplify the requirements for removing an event recorder from service.

Timetable:

Action	Date	FR Cite
Final Action	05/26/95	60 FR 27900
Final Action Effective	05/26/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This new RIN replaces old RIN 2130-AA53.

DOT—FRA

Completed Actions

Agency Contact: Thomas A. Phemister, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0628

RIN: 2130–AA87

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Proposed Rule Stage

2688. BUY AMERICA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 5323(j)

CFR Citation: 49 CFR 661

Legal Deadline: Final, Statutory, May 30, 1992.

Abstract: The Intermodal Surface Transportation Efficiency Act of 1991 amended section 165(a) of the Surface Transportation Assistance Act of 1982 (now 49 USC 5323(j)) by adding "iron" to the list of products subject to "Buy America" provisions. FTA will publish a document to amend the regulation accordingly and will also delete certain provisions of the rule to streamline administration of the Buy America regulation.

Timetable:

Action	Date	FR Cite
NPRM	09/12/95	60 FR 47442
NPRM Comment Period End	11/13/95	
Final Action	01/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: FTA recently published two notices, non-regulatory in nature, relating to FTA's Buy America regulation. First, FTA published an immediate public interest waiver exempting micro-purchases from requirements of Buy America, thus alleviating administrative burdens on FTA recipients and staff. (3/15/95, 60 FR 14174) Further, FTA published a notice of waiver from Buy America requirements for small purchases by FTA grantees and made with capital and planning assistance and for all purchases by FTA grantees made with operating assistance. It proposed to add iron to the list of products subject to the Buy America requirement. (7/24/95, 60 FR 37930) The goal of this public interest waiver is to eliminate some of the procurement delays, "red tape," and paperwork from FTA grantees' procurement processes.

Agency Contact: Rita Daguillard, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936

RIN: 2132–AA42

2689. +DEPARTMENT OF TRANSPORTATION (FTA, FRA, FHWA) ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5304(e)

CFR Citation: 49 CFR 622; 23 CFR 771

Legal Deadline: Final, Statutory, May 18, 1992.

Abstract: The Federal Transit Administration and the Federal Highway Administration currently have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures". The agencies first issued an environmental regulation together in 1980. The joint regulation was amended in 1987 and again in 1991. Even though FTA and FHWA have joint regulations, each agency's guidance for implementing those regulations is procedurally different. This causes difficulties and inconsistencies for sponsors of transportation projects, particularly where joint FTA and FHWA funds are involved. In the ISTEA, the Congress recognized the importance of providing uniformity and consistency between FTA and FHWA environmental procedures. This is needed to accommodate the increased funding flexibility for surface transportation provided by ISTEA. Because of an increased emphasis on intermodal planning and proposals to advance a high-speed rail program, the proposed, new joint regulations will include the Federal Railroad Administration (FRA). The proposed regulations will therefore be applied to all three modal Administrations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation

Additional Information: Section 134(h)(4) of title 23, United States Code and section 8(h)(4) of the Federal Transit Act, as amended (now 49 USC 5304(e)), direct the Secretary of Transportation to initiate a a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969, to comparable requirements for highway projects. This action is considered significant because of public, congressional, and environmental concerns and because it involves several departmental modes. The corresponding FHWA RIN is 2125-AD32; for FRA, RIN 2130-AA93.

Agency Contact: Scott Biehl, Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0952

RIN: 2132–AA43

2690. TRANSPORTATION FOR THE ELDERLY AND PERSONS WITH DISABILITIES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

DOT—FTA — Proposed Rule Stage

Legal Authority: 49 USC 5301(d)

CFR Citation: 49 CFR 609

Legal Deadline: None

Abstract: The regulation sets forth requirements regarding transportation for the elderly and persons with disabilities mandated by 49 USC 5301(d), formerly section 16 of the Federal Transit Act, as amended. The regulation also sets forth accessibility standards for rapid and light rail vehicles that predate passage of the Americans with Disabilities Act of 1990 (ADA) and DOT's implementing regulations (49 CFR Parts 27,37, and 38). The Federal Transit Administration will revise part 609 to acknowledge new ADA provisions emanating from Federal transit laws.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Richard Wong, Attorney Advisor, Legislation and Rulemaking Division, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011

RIN: 2132–AA46

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Final Rule Stage

2691. +BUS TESTING

Priority: Other Significant

Legal Authority: 49 USC 5323(c)

CFR Citation: 49 CFR 665

Legal Deadline: None

Abstract: This regulation implements a statutory provision that requires any new bus model purchased after September 30, 1989, to be tested at a facility established by the Secretary in Altoona, PA. This regulation is significant because of the large amount of public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 22716
NPRM Comment Period End	07/24/89	
Interim Final Rule	08/23/89	54 FR 35158
Interim Final Rule: Comment Period Reopened	11/30/89	54 FR 49297
Interim Final Rule: Second	10/09/90	55 FR 41174
Interim Final Rule Extending Interim Procedures	09/13/91	56 FR 46572
Interim Final Rule New Vehicle Types	07/28/92	57 FR 33394
Interim Final Rule Partial Effectiveness Postponed	10/13/92	57 FR 46814
Interim Final Rule Comment Period Reopened to 01/29/93	01/07/93	58 FR 2989
Interim Final Rule Partial Effectiveness Postponed	02/23/93	58 FR 10989
Notice of Meeting	02/26/93	58 FR 11549
Interim Final Rule Small Vehicle Testing, Phase-in of Effective Date	11/03/93	58 FR 58732
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/28/92 (57 FR 33394)

Additional Information: Former section 12(b) of the FT Act, as amended (now 49 USC 5302(a)(9)), defines a "new bus model" as a bus model which has not been used in mass transportation service in the United States before the date of production of such model, or a bus model which has been used in such service, but which is being produced with a major change in configuration or components. A third interim final rule, published on 07/28/92, added two new categories of buses required to be tested. On 10/13/92 FTA published a notice postponing the application of the interim final rule for these vehicle types until 02/10/93. The FTA's fourth interim final rule, issued on 11/3/93, established four subcategories of small vehicles to facilitate the phase-in of testing. The final rule will add the two tests mandated by ISTEA, brake performance and emissions, to the seven tests currently performed at the bus testing facility. In addition, the final rule will clarify the partial testing with regard to what constitutes a "major change" on a bus that has been fully tested, but is later produced with a change in configuration or component.

Agency Contact: Richard Wong, Attorney-Advisor, Department of Transportation, Federal Transit Administration, Office of Chief Counsel, Room 9316, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936

RIN: 2132–AA30

2692. +STATE RESPONSIBILITY FOR FIXED-GUIDEWAY SYSTEM SAFETY

Priority: Other Significant

Legal Authority: 49 USC 5330

CFR Citation: 49 CFR 659

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: Congress directed the FTA to issue a rule requiring States to oversee the safety of rail fixed guideway systems not regulated by Federal Railroad Administration. This rulemaking would improve the safety of rail fixed-guideway systems.

Section 5330 describes the responsibilities of the State and the agency the State designates to provide oversight. The oversight agency must require each affected transit agency to create a system safety program plan, which the oversight agency must review and approve. The oversight agency must also investigate accidents and hazardous conditions. Once a hazardous condition has been discovered, the oversight agency must require the transit agency to correct or eliminate it.

If a State has not met these requirements or has not made adequate efforts to comply with them, the Secretary may withold up to five

DOT—FTA — Final Rule Stage

percent of a fiscal year's apportionment under FTA's formula programs for urbanized areas attributable to the state or an affected urbanized area in the State. This is significant since it will require states to oversee the safety of rail fixed-guideway systems, something the Federal government has never before required.

Timetable:

Action	Date	FR Cite
Public Hearing Notice	06/11/92	57 FR 24768
ANPRM	06/25/92	57 FR 28572
ANPRM Comment Period End	08/24/92	
NPRM	12/09/93	58 FR 64856
NPRM Comment Period End	02/07/94	
Hearing Notice: Comment Period End 3/8/94	02/28/94	59 FR 9460
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 12/09/93 (58 FR 64856)

Agency Contact: Nancy Zaczek, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011

RIN: 2132–AA39

2693. +MANAGEMENT AND MONITORING SYSTEMS

Priority: Other Significant

Legal Authority: PL 102-240, sec 1034; 23 USC 303

CFR Citation: 49 CFR 614; 23 CFR 626; 23 CFR 500

Legal Deadline: Final, Statutory, December 18, 1992.

Abstract: The Intermodal Surface Transportation Efficiency Act mandates the FTA and FHWA to issue regulations for State development and implementation of systems for managing: (1) highway pavement of Federal-aid highways; (2) bridges on and off Federal-aid highways; (3) highway safety; (4) traffic congestion; (5) public transportation facilities and equipment; (6) intermodal transportation facilities and systems. States must be implementing each management system in Federal fiscal year 1995 or the Secretary may withhold up to 10 percent of funds apportioned under Title 23, U.S.C., or under 49 USC chapter 53 (mass transportation), for any fiscal year beginning after September 30, 1995. The primary purpose of these systems is to improve the efficiency of, and protect the investment in, existing and future transportation infrastructure. The systems will provide additional information needed to make informed decisions for optimum utilization of limited resources. The economic impact of the regulation is expected to be minimal. This regulation is issued jointly with the Federal Highway Administration (RIN 2125-AC97). The regulation is considered significant because of substantial State and local government, public, and congressional interest. The interim final rule was effective January 3, 1994; comments were due by January 31, 1994.

Timetable:

Action	Date	FR Cite
ANPRM	06/03/92	57 FR 23460
ANPRM Comment Period End	08/03/92	
NPRM	03/02/93	58 FR 12096
Request for Comments	03/24/93	58 FR 15816
NPRM Comment Period End	05/03/93	
Interim Final Rule	12/01/93	58 FR 63442
Interim Final Rule Correction	12/07/93	58 FR 64374
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 12/01/93 (58 FR 63442)

Agency Contact: Ron Jensen-Fisher, Senior Community Planner, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0257

RIN: 2132–AA47

2694. +TEMPORARY LOCAL MATCH WAIVER FOR SECTIONS 9 AND 18

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 102-240, sec 1054; PL 102-388; PL 102-302

CFR Citation: 49 CFR 671

Legal Deadline: None

Abstract: The rulemaking was mandated by the 1992 Dire Emergency Supplemental Appropriations Act and 1993 Department of Transportation and Related Appropriations Act. The rule allowed recipients to ask for a temporary waiver in 1992 and 1993 of the local match required under sections 9 and 18 of the Federal Transit Act, as amended. An interim final rule, which announced the availability of the program and establishes the procedures for applying for that program, was employed, since this matter was extremely time-sensitive and of substantial public interest. The only remaining matter, technical in nature, is to publish a final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/11/93	58 FR 42690
Interim Final Rule Effective	09/10/93	
Interim Final Rule Comment Period End	10/12/93	
Final Action	10/00/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation 08/11/93 (58 FR 42690)

Additional Information: The comment period ended on October 12, 1993, and the FTA anticipates issuing a final rule based on the interim final rule. A policy statement providing general guidance on local share issues was published on July 10, 1992 (57 FR 30880).

Agency Contact: Nancy Zaczek, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011

RIN: 2132–AA49

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Long-Term Actions

2695. +NEW STARTS CRITERIA

Priority: Other Significant

CFR Citation: 49 CFR 611

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ron Jensen-Fisher
Phone: 202 366-0096

RIN: 2132–AA50

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Completed Actions

2696. • PREVENTION OF PROHIBITED DRUG USE IN TRANSIT OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5331

CFR Citation: 49 CFR 653

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: The Federal Transit Administration is amending its drug rule to exempt volunteers and eliminate the citation requirement in the non-fatal, post-accident testing provision applicable to non-rail vehicles. This rule will ease administrative burdens and clarify certain provisions in the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	02/06/95	60 FR 7100
NPRM Comment Period End	04/07/95	
Final Action	08/02/95	60 FR 39618
Final Action Effective	09/01/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: This rulemaking amends the existing drug rule which was published on February 15, 1994 (59 FR 7531). The previous number was RIN 2132-AA37. On March 6, 1995, FTA published a technical amendment to its anti-drug rule to clarify the existing rule at 60 FR 12296.

Agency Contact: Judy Meade, Program Manager, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2896
TDD: 202 366-2979

RIN: 2132–AA52

2697. • PREVENTION OF ALCOHOL MISUSE IN TRANSIT OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5331

CFR Citation: 49 CFR 654

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: The Federal Transit Administration is amending its alcohol testing rules to exempt volunteers and eliminate the citation requirement in the non-fatal, post-accident testing provision applicable to non-rail vehicles. This rule will ease the administrative burdens and clarify certain provisions in the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	02/06/95	60 FR 7100
NPRM Comment Period End	04/07/95	
Final Action	08/02/95	60 FR 39618
Final Action Effective	09/01/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: This rulemaking amends the existing alcohol rule which was published on February 15, 1994 (59 FR 7531). The previous number was RIN 2132-AA38. On March 6, 1995, FTA published a technical amendment to its alcohol rule intended to clarify the existing rule at 60 FR 12298. Further, on May 10, 1995, the Department issued a final rule at 60 FR 24765, suspending FTA's pre-employment alcohol testing requirements.

Agency Contact: Judy Meade, Program Manager, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2896
TDD: 202 366-2979

RIN: 2132–AA53

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Proposed Rule Stage

2698. CONSOLIDATION OF SPECIFICATIONS FOR HIGH-PRESSURE SEAMLESS CYLINDERS AND REWRITE OF 49 CFR 173.34

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking involves a proposal to revise the requalification requirements for cylinders and consolidate and revise the specifications for high-pressure seamless cylinders. (Project No. 305-83).

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

DOT—RSPA

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Formerly entitled Review: Consolidation of Specifications for High-Pressure Seamless Cylinders.

Agency Contact: Gopala Vinjamuri, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4545

RIN: 2137–AA92

2699. DOT 3AL ALUMINUM CYLINDERS; SAFETY PROBLEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: Certain DOT 3AL cylinders made of aluminum alloy 6351 were discovered developing cracks during service and occasionally leaks developed resulting in loss of contents. The ANPRM was to alert and inform all persons possessing these cylinders of the problems, identify those cylinders at risk, and suggest steps to minimize risks.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/87	52 FR 26027
ANPRM Comment Period End	08/10/87	52 FR 26027
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Docket No. HM-176A

Agency Contact: Charles Hochman, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4545

RIN: 2137–AB51

2700. +RESPONSE PLANS FOR ONSHORE OIL PIPELINES

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 194

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: This interim final rule establishes regulations requiring response plans for certain onshore oil pipelines. Those regulations are mandated by the Federal Water Pollution Control Act as amended by the Oil Pollution Act of 1990 (Pub. L. 101-380). The purpose of these requirements is to improve response capabilities and minimize the impact of onshore oil spills from pipelines.

This rule is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/93	58 FR 244
Interim Final Rule Comment Period End 02/19/93	01/05/93	58 FR 244
Notice of Public Meeting on 6/28/94 to Discuss Issues	06/15/94	59 FR 30755
Public Meeting Comment Period End	08/01/94	
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/05/93 (58 FR 244)

Additional Information: Docket No. PS-130.

Agency Contact: Jim Taylor, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8860

RIN: 2137–AC30

2701. UNDERWATER ABANDONED PIPELINE FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: This action would result in regulations specifying procedures for operators to report on underwater pipelines abandoned prior to October 24, 1992.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 02/00/96

Agency Contact: L.E. Herrick, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-5523

RIN: 2137–AC33

2702. AREAS UNUSUALLY SENSITIVE TO ENVIRONMENTAL DAMAGE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: This notice would propose criteria for identifying areas unusually sensitive to environmental damage from a hazardous liquid pipeline release. The criteria are needed to carry out statutory requirements.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting on 6/28/94 to Discuss Issues	06/15/94	59 FR 30755
Public Meeting and Supplemental Notice	06/22/94	59 FR 32178
Public Meeting Comment Period End	08/01/94	
Public Workshop	06/14/95	60 FR 27948
Extended comment period end	06/26/95	
Comment Period Extended to 8/25/95	07/10/95	60 FR 35549
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Was originally Docket PS-130B "Environmentally

Sensitive Areas," for part 194. Changed to address Part 195. Another public workshop has been scheduled for October 17, 1995. Notice was published 8/29/95 (60 FR 44824).

Agency Contact: Christina Sames, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4561

RIN: 2137–AC34

2703. +INCREASED INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: This rulemaking would require gas and hazardous liquid pipelines in high-density, environmentally sensitive, or navigable waterway areas to be inspected by internal inspection devices or equivalent means. The regulations shall prescribe circumstances under which the inspection shall be conducted. This action is is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/96

Additional Information: Public Workshop 10/18/96. Notice was published 8/29/95, (60 FR 44821).

Agency Contact: L. M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4559

RIN: 2137–AC38

2704. +EMERGENCY FLOW-RESTRICTING DEVICES

Regulatory Plan: This entry is Seq. No. 94 in Part II of this issue of the **Federal Register**.

RIN: 2137–AC39

2705. PERIODIC AMENDMENTS REGARDING HAZARDOUS MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: RSPA plans to make minor changes to its hazardous materials regulations on an on-going basis. This periodic (usually annual) rulemaking provides a mechanism to update and correct noncontroversial and technical requirements in response to petitions for rulemaking, industry complaints, technological developments and RSPA's enforcement experience.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-166Y. RSPA intends to maintain this RIN for actions that it will periodically issue. After publication, it will provide CFR cites for a period of time so that it will be possible to differentiate specific actions.

Agency Contact: Joan McIntyre, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4488

RIN: 2137–AC41

2706. LABELING REQUIREMENTS FOR POISONOUS MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174 to 177

Legal Deadline: None

Abstract: This action considers changes to certain labeling provisions of the Hazardous Materials Regulations to require the use of a POISON label on packages containing materials meeting the toxicity criteria for poisonous materials in Division 6.1, Packing Group III.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/93	58 FR 59224
ANPRM Comment Period End	01/10/94	
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Docket No. HM-217.

Agency Contact: Beth Romo, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh St. SW., Washington, DC 20590-0001
Phone: 202 366-4488

RIN: 2137–AC47

2707. EXCESS FLOW VALVE CUSTOMER NOTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: This action would require operators of natural gas distribution systems to notify their customers, with lines in which excess flow valves are not required by law, of the availability of excess flow valves, safety benefits of these valves, and the costs of installation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Docket No. PS-118A

Agency Contact: M. Israni, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4571

RIN: 2137–AC55

2708. REVISION OF CYLINDER QUALIFICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: This action would revise the existing cylinder periodic inspection, testing, and requalification requirements contained in the Hazardous Materials Regulations. By clarifying regulatory language, incorporating legal interpretations, and recognizing reliable industry practices that have developed over time, this action would provide guidance to the regulated public and improve the enforceability of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket HM-220

Agency Contact: Theresa Gwynn, Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4488

RIN: 2137–AC59

2709. REVISION OF EXEMPTION, APPROVAL, REGISTRATION, AND REPORTING PROCEDURES

Priority: Other

Legal Authority: 33 USC 1321; 49 USC 5101 to 5127

CFR Citation: 49 CFR 106; 49 CFR 107; 49 CFR 171

Legal Deadline: None

Abstract: This action proposes to make necessary revisions to update and clarify the rulemaking, exemption, and approval processes. In addition, this action would codify interpretations of several terms concerning hazardous materials transportation jurisdiction (e.g., "in commerce").

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47723
NPRM Comment Period End	11/28/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-207C.

Agency Contact: J. Antonielli, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-8553

RIN: 2137–AC63

2710. RETENTION OF SHIPPING PAPERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177

Legal Deadline: None

Abstract: This action proposes to amend the Hazardous Materials Regulations by requiring shippers and carriers to retain a copy of the hazardous material shipping paper or an electronic image of the shipping paper for a period of one year after the hazardous material is no longer in transportation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-207B.

Agency Contact: Jackie Smith, Transportation Regulation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4488

RIN: 2137–AC64

2711. PIPELINE SAFETY USER FEES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60301

CFR Citation: 49 CFR 190

Legal Deadline: None

Abstract: This action announces proposed changes in procedures for administering user fee assessments for natural gas, liquefied natural gas, and hazardous liquid pipeline facilities, and requests comments on those changes. The proposed changes are needed to clarify definitions and procedures for fee assessment.

Timetable:

Action	Date	FR Cite
Notice of Agency Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa Kokoszka, Management and Program Analyst, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4554

RIN: 2137–AC65

2712. • TRANSPORTATION OF HAZARDOUS MATERIALS BY RAILROAD; MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 174; 49 CFR 179

Legal Deadline: None

Abstract: Miscellaneous changes to rail requirements based on petitions from industry and other agencies and RSPA initiative.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beth Romo, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590-0001
Phone: 202 366-8553

RIN: 2137–AC66

2713. • APPLICABILITY OF THE HAZARDOUS MATERIALS REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106 to 107; 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking proposes clarification of the applicability of the Hazardous Materials Regulations, 49 CFR Parts 171-180, thereby clarifying

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the relationship among Federal, State, and local tribal agencies in the regulation of hazardous materials transportation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: Docket No. HM-207F.

Agency Contact: Nancy Machado, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Room 8405, Washington, DC 20590
Phone: 202 366-4400
Fax: 366-7041

RIN: 2137–AC68

2714. • ELIMINATION OF UNNECESSARY, OBSOLETE, AND DUPLICATIVE REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106 to 107; 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking responds to the President's directive to all heads of departments and agencies to review and eliminate all unnecessary, obsolete and duplicative regulations. The regulations identified in this action are being proposed to be deleted because they meet the criteria established by the President.

Timetable:

Action	Date	FR Cite
NPRM	10/13/95	60 FR 53321
NPRM Comment Period End	12/18/95	
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: J. Gale, Department of Transportation, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590
Phone: 202 366-4488

RIN: 2137–AC69

2715. • TICKETING PROGRAM FOR HAZARDOUS MATERIALS VIOLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106 to 107; 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking proposes establishment of a ticketing program for hazardous materials violations which would result in imposition of reduced penalties for those violations which have less effect on safety than others for which civil penalty proceedings are initiated.

Timetable:

Action	Date	FR Cite
NPRM	08/21/95	60 FR 43430
NPRM Comment Period End	10/20/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Edward H. Bonekemper, III, Assistant Chief Counsel for Hazardous, Materials Safety, Department of Transportation, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590
Phone: 202 366-4400

RIN: 2137–AC70

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA) — Final Rule Stage

2716. +HAZARDOUS MATERIALS IN INTRASTATE COMMERCE

Regulatory Plan: This entry is Seq. No. 95 in Part II of this issue of the **Federal Register**.

RIN: 2137–AB37

2717. +QUALIFICATION OF PIPELINE PERSONNEL

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: Training and qualification standards have been proposed for personnel involved in the operation and maintenance of gas and hazardous liquid pipelines. Special consideration would be given to operators of small gas systems to alleviate the burden of compliance. This rulemaking is considered significant because of substantial State and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/87	52 FR 9189
ANPRM Comment Period End	05/07/87	52 FR 9189
NPRM	08/03/94	59 FR 39506
NPRM Comment Period Extended to 10/31/94	09/07/94	59 FR 46219
Public Meeting Notice	09/07/94	59 FR 46219
NPRM Comment Period End	10/03/94	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/03/94 (59 FR 39506)

Additional Information: Docket No. PS-94. Formerly entitled: Pipeline Operator Qualifications. The proposals regarding certification of personnel and emergency response in "Proposals for Pipeline Safety," RIN 2137-AB27, have been consolidated into this rulemaking.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2036

RIN: 2137–AB38

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2718. +MAPS AND RECORDS OF PIPELINE LOCATION AND CHARACTERISTICS; NOTIFICATION OF STATE AGENCIES; PIPE INVENTORY

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, November 1, 1989.
Deadline pertains to pipe inventory and State agency information.

Abstract: Maintenance of appropriate information about pipelines is essential for emergency response, compliance with safety standards, and other purposes. This action proposes to equalize as far as possible the requirements that gas and liquid operators keep maps and records to show the location and other characteristics of pipelines. Operators would also be required to keep an inventory of pipe and annually report mileage and other facts. In addition, operators would be required to provide certain information to State agencies upon request. This is a significant action because of congressional and State concerns about the need for appropriate public officials to have pipeline information.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

RIN: 2137–AB48

2719. DETERMINING THE EXTENT OF CORROSION ON EXPOSED GAS PIPELINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Corrosion is a major cause of gas and hazardous liquid pipeline accidents. A safety standard applicable to liquid pipelines requires operators to examine exposed pipe for evidence of external corrosion and, if harmful corrosion is found, to investigate further to determine the extent of the corrosion. As part of a continuing policy to adopt similar requirements for gas and liquid pipelines where appropriate for safety, this action proposes that exposed gas pipelines with evidence of harmful corrosion be investigated to determine the extent of the corrosion.

Timetable:

Action	Date	FR Cite
NPRM	06/27/89	54 FR 27041
NPRM Comment Period End	09/25/89	54 FR 27041
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/27/89 (54 FR 27041)

Additional Information: Docket No. PS-107. National Transportation Safety Board Recommendation P.87-3 provides a basis for this action.

Agency Contact: C. Sames, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4561

RIN: 2137–AB50

2720. TRANSPORTATION OF HYDROGEN SULFIDE BY PIPELINE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: In a few reported instances, excessive amounts of hydrogen sulfide were introduced into natural gas pipelines. High concentrations of hydrogen sulfide are very detrimental to steel pipelines and extremely toxic. This action examined the need to establish a maximum allowable concentration and other control measures. Based upon public comments and the views of its gas pipeline advisory committee, RSPA has decided that the proposed rule should be reevaluated.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/89	54 FR 24361
ANPRM Comment Period End	09/05/89	54 FR 24361
NPRM	03/18/91	56 FR 11490
NPRM Comment Period End	06/17/91	
To Be Withdrawn	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/18/91 (56 FR 11490)

Additional Information: Docket No. PS-106. As a result of public comments, this action will be withdrawn. Some of the proposals in this action will be included in a later rulemaking.

Agency Contact: M. Israni, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571

RIN: 2137–AB63

2721. PASSAGE OF INTERNAL INSPECTION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking established minimum Federal safety standards requiring that new and replacement gas transmission and hazardous liquid pipelines be designed to accommodate the passage of internal inspection devices. This rulemaking is mandated by PL 100-561. In response to petitions for reconsideration of the final rule, an NPRM was issued.

Timetable:

Action	Date	FR Cite
NPRM	11/20/92	57 FR 54745
NPRM Comment Period End	01/19/93	57 FR 54745
Final Rule	04/12/94	59 FR 17275
NPRM	09/30/94	59 FR 49896
NPRM Correction	10/19/94	59 FR 52863
NPRM Comment Period End	10/31/94	
Final Rule Effective Date	05/12/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

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Analysis: Regulatory Evaluation. 04/12/94 (59 FR 17275)

Additional Information: Docket No. PS-126. The integrity testing proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, was consolidated, in part, in this rulemaking.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2036

RIN: 2137–AB71

2722. +IMPROVEMENTS TO HAZARDOUS MATERIALS IDENTIFICATION SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172

Legal Deadline:
Final, Statutory, June 16, 1992, complete rulemaking on central reporting system and computerized telecommunications data center.
Final, Statutory, May 16, 1993, complete rulemaking oncontinually monitored telephone systems.
Final, Statutory, May 16, 1993, final rule on improving system for placarding vehicles transporting hazardous materials.

Abstract: This rulemaking proposes incremental improvements to the hazardous materials identification system addressing placarding and identification number marking displays on transport vehicles, fumigated materials marking requirements, and carrier requirements for notification of incidents. This rulemaking is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	06/09/92	57 FR 24532
ANPRM Comment Period Extended to 10/09/92	08/05/92	57 FR 34542
ANPRM Comment Period End	08/10/92	
NPRM	08/15/94	59 FR 41848
Public Hearing Notice	08/15/94	59 FR 41848
NPRM Correction	08/26/94	59 FR 44230
Correction to 08/26/94 Correction	08/30/94	59 FR 44795
NPRM Comment Period End	12/02/94	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/15/94 (59 FR 41848)

Additional Information: Docket HM-206. Formerly entitled "Improving Hazardous Materials Identification: Placarding; Reporting/Tracking; and Continually Monitored Telephone Systems."

Agency Contact: J. Potter/H. Engrum, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4488

RIN: 2137–AB75

2723. +EXCESS FLOW VALVE—PERFORMANCE STANDARDS

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: Service line breaks due to excavation damage and other causes continue to be a threat to public safety, despite the precautions being taken through one-call damage prevention programs and line surveys for corrosion or leaks. Excess flow valves would be required on new and renewed service lines to stop the flow of gas in the event of a line break. This rulemaking is considered significant because it involves a substantial change in regulations and concerns a matter of substantial public and congressional interest. A final rule specifying performance standards for EFV's is being prepared.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/90	55 FR 52188
ANPRM Comment Period End	03/20/91	
NPRM	04/21/93	58 FR 21524
NPRM Notice of meeting and extension of comment period to 7/6/93	06/15/93	58 FR 33064
NPRM Comment Period End	06/21/93	
NPRM Comment Period Extended to 10/03/94	08/02/94	59 FR 39319
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/21/93 (58 FR 21524)

Additional Information: Docket No. PS-118.

Agency Contact: M. Israni, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571

RIN: 2137–AB97

2724. TANK CARS AND CARGO TANK MOTOR VEHICLES: ATTENDANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 174; 49 CFR 177

Legal Deadline: None

Abstract: This action proposes to establish standards to allow the use of electronic surveillance and monitoring equipment (signalling systems) for unloading tank cars and loading cargo tank motor vehicles, and to revise other unloading requirements for tank cars. This action would recognize recent technological innovations and improve safety during the loading/unloading of bulk quantities of hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	09/14/92	57 FR 42466
NPRM Comment Period End	12/14/92	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/14/92 (57 FR 42466)

Additional Information: Docket No. HM-212.

Agency Contact: Jennifer Karim, Department of Transportation, Research and Special Programs Administration 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4488

RIN: 2137–AC24

DOT—RSPA — Final Rule Stage

2725. REGULATORY REVIEW: ADMINISTRATIVE PRACTICES, REPORTING PIPELINE INCIDENTS, GAS PIPELINE STANDARDS, AND LIQUEFIED NATURAL GAS FACILITY STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 190; 49 CFR 191; 49 CFR 192; 49 CFR 193

Legal Deadline: None

Abstract: Administrative practices and various gas pipeline and liquefied natural gas facility requirements would be amended to eliminate burdensome requirements without reducing safety. This action would reduce regulatory impediments to economic growth.

Timetable:

Action	Date	FR Cite
NPRM	11/06/92	57 FR 53085
NPRM Comment Period End	12/07/92	57 FR 53085
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/06/92 (57 FR 53085)

Additional Information: Docket No. PS-125. Proposals in "Regulatory Review: Liquefied Natural Gas Facilities," RIN 2137-AC29, were consolidated into this rulemaking. This docket will be terminated, and issues raised by commenters herein will be addressed in new update dockets as part of the President's Regulatory Reinvention Initiative.

Agency Contact: M. Cooney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-6223

RIN: 2137–AC28

2726. +OIL SPILL PREVENTION AND RESPONSE PLANS

Priority: Other Significant

Legal Authority: 33 USC 1321(j)(5)

CFR Citation: 49 CFR 130

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: This action establishes response plans for certain transportation containers such as cargo tanks and tank car tanks. These regulations are required by the Oil Pollution Act of 1990 (PL 101-380). The purpose of these regulations is to improve response capabilities and minimize the impact of onshore oil spills. This rule is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/02/93	58 FR 6864
Interim Final Rule; Correction	02/17/93	58 FR 8820
Interim Final Rule; Public Hearing Notice; Comments Due 06/03/93	04/20/93	58 FR 21260
Interim Final Rule; Comment Period End 7/30/93	06/16/93	58 FR 33302
Interim Final Rule; Agenda for Public Meeting	06/22/93	58 FR 33918
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/16/93 (58 FR 33302)

Additional Information: Docket Nos. HM-214 and PC-1. All rulemaking now under Docket No. PC-1. Formerly entitled "Oil and Hazardous Substances: Spill Prevention, Containment, and Response Plans."

Agency Contact: Diane LaValle, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4488

RIN: 2137–AC31

2727. MANDATORY PARTICIPATION IN QUALIFIED ONE-CALL SYSTEMS BY PIPELINE OPERATORS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This action would require operators of gas and hazardous liquid pipelines to participate in qualified one-call damage prevention systems.

Timetable:

Action	Date	FR Cite
NPRM	03/20/95	60 FR 14714
NPRM Comment Period End	05/19/95	
Final Action	03/15/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Docket No. PS-101A.

Agency Contact: C. Sames, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4561

RIN: 2137–AC57

2728. • CONTROL OF DRUG USE IN LIQUEFIED NATURAL GAS AND HAZARDOUS LIQUID PIPELINE OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 et seq

CFR Citation: 49 CFR 199

Legal Deadline: None

Abstract: An action to modify the effective date of regulations covering drug testing of persons located outside the United States who perform pipeline safety operations.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. PS-102, Amendment 13.

Agency Contact: Catrina Pavlik, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6199

RIN: 2137–AC67

DOT—RSPA — Final Rule Stage

2729. • PERIODIC HAZMAT REGULATIONS: EDITORIAL CORRECTIONS

Priority: Other

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106 to 180

Legal Deadline: None

Abstract: Published annually, this action corrects typographical and editorial errors and makes minor regulatory changes. This facilitates the correction of errors immediately prior to the annual updating of the CFR.

Timetable:

Action	Date	FR Cite
Final Rule	09/21/95	60 FR 49106
Final Rule Effective	10/01/95	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RSPA intends to provide CFR cites for each action taken under this RIN for a period of time so that it will be possible to track and differentiate specific actions.

Agency Contact: Joan McIntyre, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AC72

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Long-Term Actions

2730. QUANTITY LIMITATIONS ABOARD AIRCRAFT

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 175

Timetable:

Action	Date	FR Cite
ANPRM	04/06/84	49 FR 13717
ANPRM Comment Period End	09/01/84	49 FR 13717
NPRM	02/13/85	50 FR 6013
NPRM Comment Period End	05/30/85	50 FR 6013
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Jennifer Antonielli
Phone: 202 366-4488

RIN: 2137–AA85

2731. +GAS GATHERING LINE DEFINITION

Priority: Other Significant

CFR Citation: 49 CFR 192.3

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48505
NPRM Comment Period End	11/25/91	
SNPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard D. Huriaux
Phone: 202 366-4595

RIN: 2137–AB15

2732. +SAFEGUARDING FOOD FROM CONTAMINATION DURING TRANSPORTATION

Priority: Other Significant

CFR Citation: 49 CFR 1

Timetable:

Action	Date	FR Cite
ANPRM	02/20/91	56 FR 6934
ANPRM Comment Period Extended to 04/29/91	03/21/91	56 FR 11982
ANPRM Comment Period End	03/26/91	
NPRM	05/21/93	58 FR 29698
Public Hearings Notice	05/21/93	58 FR 29698
NPRM Comment Period End	10/18/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. Richards/J. Gale
Phone: 202 366-0656

RIN: 2137–AC00

2733. DESIGN AND CONSTRUCTION OF WELDED BREAKOUT TANKS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 195

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. Garnett
Phone: 202 366-2036

RIN: 2137–AC11

2734. +REGULATORY REVIEW: GAS PIPELINE SAFETY STANDARDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 49 CFR 192

Timetable:

Action	Date	FR Cite
NPRM	08/31/92	57 FR 39572
NPRM Comment Period End	09/30/92	
Notice of Request for Information	11/09/93	58 FR 59431
Extension of Comment Period on Request for Information	12/27/93	58 FR 68382
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. Garnett
Phone: 202 366-2392

RIN: 2137–AC25

2735. SAFETY PERMITS—SHIPPER'S RESPONSIBILITY

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 171

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Helen Engrum
Phone: 202 366-4488

RIN: 2137–AC45

DOT—RSPA — Long-Term Actions

2736. HAZARDOUS LIQUID GATHERING LINE DEFINITION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 49 CFR 195

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Huriaux
Phone: 202 366-4595

RIN: 2137–AC52

2737. REGULATED GAS AND HAZARDOUS LIQUID GATHERING LINES: RURAL AREAS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 192; 49 CFR 195

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Huriaux
Phone: 202 366-4595

RIN: 2137–AC53

2738. PERMANENT UNDERWATER INSPECTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 192; 49 CFR 195

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: L.E. Herrick
Phone: 202 366-5523

RIN: 2137–AC54

2739. • PERIODIC UPDATES TO PIPELINE SAFETY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 190 to 199

Legal Deadline: None

Abstract: This action proposes to establish a permanent rulemaking to allow periodic updates and corrections of the pipeline safety regulations that are of a non-controversial nature.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: RSPA intends to maintain this RIN for actions that it will periodically issue. After a rule is published, a cite for the rule will be listed in this section so that it will be possible to track and differentiate specific actions.

Agency Contact: Richard D. Huriaux, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4565

RIN: 2137–AC74

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Completed Actions

2740. DETECTION AND REPAIR OF CRACKS, PITS, CORROSION, LINING FLAWS, THERMAL DETECTION FLAWS, AND OTHER DEFECTS OF TANK CAR TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173

Legal Deadline: NPRM, Statutory, September 30, 1993. Final, Statutory, August 25, 1995.

Abstract: This rule clarifies existing inspection requirements for tank car tanks; adds new inspection requirements for thermal protection on tank car tanks; permits the use of new inspection techniques for tank cars transporting low vapor pressure commodities in lieu of periodic hydrostatic retests; and establishes minimum in-service tank thickness requirements.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/87	52 FR 46510
ANPRM Comment Period End	02/11/88	52 FR 46510
ANPRM Comment Period Extended to 05/13/88	02/18/88	53 FR 4862
NPRM	09/16/93	58 FR 48485
NPRM Comment Period End	03/16/94	
Final Action	09/21/95	60 FR 49048
Final Action Effective	07/01/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/21/95 (60 FR 49048)

Additional Information: Docket HM-201.

This rule was combined with Crashworthiness Protection requirements for tank cars (RIN 2137-AB89).

Agency Contact: P. Olekszyk (FRA), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0897

RIN: 2137–AB40

2741. TRANSPORTATION REGULATIONS; COMPATIBILITY WITH THE INTERNATIONAL ATOMIC ENERGY AGENCY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: This rulemaking aligns the Hazardous Materials Regulations (HMR) with the International Atomic Energy Agency (IAEA) Regulations for the Safe Transport of Radioactive Materials Safety Series No. 6. This action is

necessary to implement practices and procedures that will improve safety in the transportation of radioactive materials and to facilitate international commerce.

Timetable:

Action	Date	FR Cite
Request for Comments: Comment Period End 12/23/88	11/21/88	53 FR 46973
NPRM	11/14/89	54 FR 47454
NPRM Comment Period Extended to 05/11/90	02/08/90	55 FR 4445
Final Action	09/28/95	60 FR 50292
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/28/95 (60 FR 50248)

Additional Information: Docket HM-169A

The Nuclear Regulatory Commission issued a final rule on September 28, 1995, at 60 FR 50248, using RIN 3150-AC41.

Agency Contact: John Gale, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4488

RIN: 2137–AB60

2742. +CRASHWORTHINESS PROTECTION REQUIREMENTS FOR TANK CARS

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173

Legal Deadline: NPRM, Statutory, September 30, 1993. Final, Statutory, August 25, 1995.

Abstract: This rulemaking revises the Hazardous Materials Regulations by improving the crashworthiness of tank cars and restricting the continued use in hazardous materials service of tank cars that no longer meet current safety requirements. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/15/90	55 FR 20242
ANPRM Comment Period End	08/21/90	
SANPRM	08/29/90	55 FR 35327
SANPRM Comment Period End	01/04/91	
NPRM	10/08/93	58 FR 52574
NPRM Comment Period End	02/07/94	
Final Action	09/21/95	60 FR 49048
Final Action Effective	07/01/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/21/95 (60 FR 49048)

Additional Information: Docket HM-175A. Formerly entitled, "Specifications for Tank Car Tanks."

This RIN was combined with another rulemaking, RIN 2137-AB40.

Agency Contact: E. Martin, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4488

RIN: 2137–AB89

2743. CUSTOMER-OWNED SERVICE LINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: Final, Statutory, October 24, 1993.

Abstract: The gas pipeline safety standards do not require operators to maintain customer-owned lines that connect customer buildings or houses to operator-maintained lines. These customer-owned lines, often called "yard lines," are subject to the same safety problems as operator-maintained lines. This action requires operators who do not maintain yard lines to advise customers with such lines of the potential hazards of not maintaining the lines, and the requirements and resources available for maintenance.

Timetable:

Action	Date	FR Cite
NPRM	02/03/94	59 FR 5168
SNPRM	03/21/94	59 FR 13300
NPRM Comment Period End	04/04/94	
SNPRM Comment Period End	05/05/94	
Final Action	08/14/95	60 FR 41821
Correction	08/18/95	60 FR 43028

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/03/94 (59 FR 5168)

Additional Information: Docket No. PS-135. This action was previously entitled "Yard Lines."

Agency Contact: L. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4559

RIN: 2137–AC32

2744. +INFECTIOUS SUBSTANCES

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: This action amends the Hazardous Materials Regulations concerning infectious substances, particularly medical waste containing infectious substances. This action is necessary to ensure the safe transportation of these materials and provide regulatory relief from certain requirements in those instances where other Federal regulations achieve an adequate level of safety. The rulemaking is considered significant because it is of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/93	58 FR 12207
ANPRM Comment Period End	04/20/93	
Compliance Date Extended to 10/01/94	12/20/93	58 FR 66302
Compliance Date Extended for Other Infectious Substances to 01/01/95	09/22/94	59 FR 48762
Compliance Date Extended for RMW & Animal-Infectious to 10/01/95	09/22/94	59 FR 48762
NPRM	12/21/94	59 FR 65860
NPRM Comment Period End	03/21/95	
Final Action	09/20/95	60 FR 48780
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/20/95 (60 FR 48780)

Additional Information: Docket HM-181G. March 17, 1993. Docket No. HM-181G.

Agency Contact: E. Martin/J. Antonielli, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4488

RIN: 2137–AC36

2745. +HAZARDOUS MATERIALS REGISTRATION AND FEE ASSESSMENT PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107

Legal Deadline: None

Abstract: In this final rule, RSPA is maintaining the current registration fee of $250 per person offering or transporting certain categories and quantities of hazardous materials. RSPA is also adopting an exception from the registration requirement for foreign affairs.

Timetable:

Action	Date	FR Cite
NPRM	01/30/95	60 FR 5822
Final Action	05/23/95	60 FR 27231
Final Action Effective	07/01/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/95

Additional Information: Docket HM-208B. A public hearing was held February 16, 1995.

Agency Contact: Joan McIntyre, Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4488

RIN: 2137–AC58

2746. ALTERNATE STANDARDS FOR OPEN-HEAD FIBER DRUM PACKAGING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173; 49 CFR 178

Legal Deadline: Final, Statutory, October 1, 1995.
Section 122 of Pub. L. 103-311 requires that rulemaking action be completed by October 1, 1995.

Abstract: This action examined whether there are standards, other than the performance-based standards adopted under Docket HM-181, that will provide an equivalent or greater level of safety to the HM-181 standards, that open-head fiber drums can meet for the transportation of liquid hazardous materials. The agency found that there are no known alternative standards that provide an equal or greater level of safety. Therefore, this rulemaking was closed without any alternative standards being proposed.

Timetable:

Action	Date	FR Cite
ANPRM	10/07/94	59 FR 51157
ANPRM Comment Period End	12/12/94	
Supplemental ANPRM Comment Period End 3/13/95	01/25/95	60 FR 4879
Final Action	09/29/95	60 FR 50714

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket HM-221.

Agency Contact: J. Potter/D. LaValle, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4488

RIN: 2137–AC62

2747. • HAZARDOUS SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172

Legal Deadline: None

Abstract: Revises Hazardous Materials Regulations' list of Hazardous Substances to make them current with EPA list as required by Section 306 of CERCLA.

Timetable:

Action	Date	FR Cite
Final Action	08/02/95	60 FR 39608

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Gale, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AC71

DEPARTMENT OF TRANSPORTATION (DOT)

Maritime Administration (MarAd)

Proposed Rule Stage

2748. +CARGO PREFERENCE—U.S.-FLAG VESSELS: UNIFORM CONTRACTING REQUIREMENTS FOR FEDERAL PROGRAM PARTICIPANTS

Priority: Other Significant

Legal Authority: 46 app USC 1241(b)

CFR Citation: 46 CFR 381

Legal Deadline: None

Abstract: MARAD is proposing amendments to its cargo preference regulations intended to ensure that U.S.-flag carriers of preference cargoes be allowed to carry such cargoes subject to standard commercial contract and contract tender terms that would allow them to avoid economic harm from discriminatory practices. This action is needed to eliminate charter party terms that are at variance with generally accepted commercial terms and which discriminate against U.S.-flag carriers of agricultural commodity preference cargoes. This is significant because it involves other agencies and is of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight

Analysis: Regulatory Evaluation 12/00/95

Agency Contact: Ted Bembenek, Jr., Director, Office of Cargo Preference,

DOT—MarAd — Proposed Rule Stage

Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4610

RIN: 2133–AA95

2749. • +FAIR AND REASONABLE RATES: BULK AND PACKAGED PREFERENCE CARGOES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1114(b); 46 app USC 1241(b)

CFR Citation: 46 CFR 382

Legal Deadline: None

Abstract: In an effort to encourage the development of a modern and efficient U.S. flag bulk fleet and to help lower government-wide cargo preference program costs, MARAD is considering changes in its methodology for the determination of fair and reasonable rates. MARAD has identified three alternative methodologies which it might consider. Fair and reasonable rate determinations are now provided to U.S. government shippers of preference cargo, thereby creating ceiling rates which limit government costs and the revenue U.S. flag operators receive for ocean cargo transportation. This is significant due to substantial industry and government interest. Common carrier liner services are being considered in a rulemaking RIN 2133-AB16.

Timetable:

Action	Date	FR Cite
ANPRM	04/19/95	60 FR 19559
ANPRM Comment Period End	06/19/95	
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael P. Ferris, Director, Office of Costs and Rates, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2324

RIN: 2133–AB19

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MarAd) — Final Rule Stage

2750. +OBLIGATION GUARANTEES: PROGRAM ADMINISTRATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1114(b); 46 app USC 1271 et seq

CFR Citation: 46 CFR 298; 49 CFR 1.66

Legal Deadline: None

Abstract: This action would amend regulations implementing title XI of the Merchant Marine Act, 1936, so as to improve administration of the "obligation guarantees" program applicable to financing assistance for all types of vessel construction and shipyard modernization and improvement. An interim final rule implemented extension of the Secretary of Transportation's statutory authority to guarantee obligations issued for this financing assistance. (See RIN 2133-AB09.) The rulemaking herein is considered significant because of substantial public interest in financial assistance for the U.S. shipbuilding industry.

Timetable:

Action	Date	FR Cite
NPRM	04/26/95	60 FR 20592
NPRM Comment Period End	05/26/95	
NPRM Comment Period Extended 6/13/95	05/30/95	60 FR 28077
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight

Analysis: Regulatory Evaluation 11/00/95

Agency Contact: Mitchell D. Lax, Director, Office of Ship Financing, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5744

RIN: 2133–AB14

2751. +GUIDELINE RATES: LESS-THAN-SHIPLOAD LOTS OF BULK PREFERENCE CARGOES ON LINER VESSELS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1114(b); 46 app USC 1241(b)

CFR Citation: 46 CFR 383

Legal Deadline: None

Abstract: At the request of the U.S. Department of Agriculture (USDA) and the Agency for International Development (AID), the major U.S. government shipping agencies, MARAD is providing those agencies with guideline rates for bagged and packaged agriculture commodities carried on liner vessels. MARAD already provides guideline rates to USDA and AID for such commodities carried on bulk vessels under similar regulations at 46 CFR Part 382. This amendment to 46 CFR 383 extends the scope of the rule to include bagged or packaged agricultural commodities in parcels of 5,000 tons or greater carried on vessels in liner service. It is significant because it would affect other Federal agencies which have requested that MARAD provide them with such guideline rates.

Timetable:

Action	Date	FR Cite
NPRM	04/26/95	60 FR 20069
NPRM Comment Period End	06/23/95	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 11/00/95

DOT—MarAd — Final Rule Stage

Agency Contact: Michael P. Ferris, Director, Office of Cost and Rates Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2324

RIN: 2133–AB16

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MarAd) — Completed Actions

2752. +CARGO PREFERENCE—U.S.-FLAG VESSELS: MONITORING SHIPMENTS OF MILITARY HOUSEHOLD GOODS AND PERSONAL EFFECTS

Priority: Other Significant

Legal Authority: 46 app USC 1114(b); 46 app USC 1241(a)

CFR Citation: 46 CFR 381; 49 CFR 1.66

Legal Deadline: None

Abstract: This action would have amended the cargo preference regulations to allow MARAD to discharge its responsibility for administration of the cargo preference laws of the United States and to report to Congress with respect to the movement of household goods and personal effects of Government employees. It would have required DOD to submit information about the carriage of preference cargoes to MARAD. MARAD needs to receive periodic information from DOD detailing shipments of military household goods and personal effects to monitor compliance with cargo preference requirements. The need for this rulemaking has been obviated by an agreement with DOD to provide MARAD with the information needed.

Timetable:

Action	Date	FR Cite
Withdrawn	09/27/95	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight

Agency Contact: James J. Roberts, Chief, Division of Military Cargoes, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5527

RIN: 2133–AB12

2753. FEDERAL PORT CONTROLLERS

Priority: Substantive, Nonsignificant

Legal Authority: 50 app USC 2071

CFR Citation: 46 CFR 345 to 347

Legal Deadline: None

Abstract: This action amends the Federal Port Controller (FPC) regulations (46 CFR 346) and allows the FPC standby service agreements to become operational upon the deployment of the armed forces of the United States, or other requirements of the nation's defense. This action makes these port readiness regulations consistent regarding activation, and benefits the defense capabilities by assuring that the authority to activate the FPC Agreement and the Priority Use and Allocation regulations are the same. A conforming amendment is being made to 49 CFR 345 and the authority sections of 345 to 347 are being amended to reflect repeal of a statute and its reenactment in different form.

Timetable:

Action	Date	FR Cite
NPRM	11/18/94	59 FR 59742
NPRM Comment Period End	01/17/95	
Final Action	07/28/95	60 FR 38735
Final Action Effective	08/28/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: James Carman, Acting Chief, Division of Ports, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4357

RIN: 2133–AB15

2754. +CARGO PREFERENCE—U.S.-FLAG VESSELS: AVAILABLE U.S.-FLAG COMMERCIAL VESSELS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1114(b); 46 app USC 1122(d); 46 app USC 1241

CFR Citation: 46 CFR 381

Legal Deadline: None

Abstract: This amendment to the cargo preference regulations of the Maritime Administration (MARAD) provides that during the 1995 shipping season when the St. Lawrence Seaway is in use, MARAD will consider the legal requirement for the carriage of bulk agricultural commodity preference cargoes on privately-owned "available" U.S.-flag commercial vessels to have been satisfied where the cargo is initially loaded at a Great Lakes port on one or more U.S.-flag or foreign-flag vessels, transferred to a U.S.-flag commercial vessel at a Canadian transshipment point outside the St. Lawrence Seaway, and carried on that U.S.-flag vessel to a foreign destination. It allows Great Lakes ports to compete for agricultural commodity preference cargoes during an entire season trial period. MARAD issued a final rule in August, 1994 that adopted this policy for the 1994 shipping season in progress since April, 1994. However, this did not allow for a true trial period for MARAD evaluation purposes. It is significant because it affects other Federal agencies and is of great interest to the maritime industry.

Timetable:

Action	Date	FR Cite
NPRM	02/01/95	60 FR 6067
NPRM Comment Period End	03/03/95	
Final Action	05/09/95	60 FR 24560

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 05/09/95

Additional Information: The content of this regulation is the same as in former RIN 2133-AB13 and extends the policy stated therein to the 1995 Great Lakes shipping season.

DOT—MarAd — Completed Actions

Agency Contact: John E. Graykowski, Deputy Maritime Administrator, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washinton, DC 20590
Phone: 202 366-1718

RIN: 2133–AB17

2755. • DISPOSAL AND UTILIZATION OF SURPLUS FEDERAL REAL PROPERTY FOR DEVELOPMENT OR OPERATION OF PORT FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-160

CFR Citation: 46 CFR 387; 49 CFR 1.66(z)

Legal Deadline: None

Abstract: Section 2927 of the National Defense Authorization Act for Fiscal Year 1994 (P.L. 103-160) amended section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(q)). It authorized the Administrator of the General Services Administration, after consultation with the Secretary of Defense, to prescribe regulations for the assignment to the Secretary of Transportation, for disposal, surplus real property located at a military installation closed or realigned pursuant to a base closure law which has been recommended by the Secretary of Transportation as being needed for the development or operation of a port facility. P.L. 103-160 gave the Administrator, or the Secretary of Defense, the discretion to assign such real property to the Secretary, including buildings, fixtures and equipment located thereon. The Secretary has delegated the disposal authority to the Maritime Administrator. This rule prescribes procedural regulations for disposal of such surplus real property by the Maritime Administration for the development or operation of a port facility consistent with the GSA's controlling final rule.

Timetable:

Action	Date	FR Cite
Final Action	08/16/95	60 FR 43466
Correction	08/23/95	60 FR 43720

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: James Carman, Acting Chief, Division of Ports, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 203 366-4357

RIN: 2133–AB18

2756. • REMOVAL OF OBSOLETE REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 46 app USC 1114(b)

CFR Citation: 46 CFR 201; 46 CFR 206; 46 CFR 246; 46 CFR 253; 46 CFR 275; 46 CFR 276; 46 CFR 285; 46 CFR 290

Legal Deadline: None

Abstract: In connection with the President's Regulatory Reinvention Initiative, MARAD has conducted a page-by-page review of all its regulations now in force for the purpose of eliminating or revising those that are outdated or otherwise in need of reform. This final action removes regulations appearing in eight parts of Title 46 of the Code of Federal Regulations that are obsolete and noncontroversial.

Timetable:

Action	Date	FR Cite
Final Action	07/28/95	60 FR 38734

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edmund T. Sommer, Chief, Division of Regulations and Administrative Law, Department of Transportation, Maritime Administration, Room 7221, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5181

RIN: 2133–AB20

2757. • SEAMEN'S SERVICE AWARDS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 2002 et seq

CFR Citation: 46 CFR 350

Legal Deadline: None

Abstract: This rule prescribes the procedure for obtaining seamen's service awards that are authorized by statute and are to be issued by the Secretary of Transportation.

Timetable:

Action	Date	FR Cite
Final Action	09/27/95	60 FR 49804

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Thomas, Maritime Industry Analyst, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2646

RIN: 2133–AB21

2758. • ADMISSION AND TRAINING OF MIDSHIPMEN AT THE US MERCHANT MARINE ACADEMY

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1295(b)

CFR Citation: 46 CFR 310

Legal Deadline: None

Abstract: This rule reflects changes in statute with respect to appointments to the US Merchant Marine Academy of persons from American Samoa and Panama. It also affects the authority of the Secretary of Transportation to recover the cost of education at the Academy from persons who fail to fulfill certain conditions of their service obligations.

Timetable:

Action	Date	FR Cite
Final Action	08/28/95	60 FR 44438

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Crawford Ellerbe, Academy Program Analyst, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2643

RIN: 2133–AB22

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS) — Prerule Stage

2759. MODERNIZING THE PASSENGER ORIGIN-DESTINATION SURVEY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41708; 49 USC 41709

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: Historically, the source document for the Passenger Origin-Destination Survey was the auditor's coupon of the ticket. Until recently, these coupons provided all the information that was needed for the Survey. In the last few years, the carriers have begun using trip passes in conjunction with the tickets, thereby eliminating some of the data that is required to be reported in the Survey. Other innovations used by the industry, such as funnel flights and code-sharing, have impacted the Survey and obscured some of the data that is required to be reported, such as change of planes and junction points. This rulemaking will explore whether there are alternative sources for the data and modernize the collection system to keep pace with the industry.

Timetable:

Action	Date	FR Cite
ANPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rulemaking is now being administered by the Bureau of Transportation Statistics (BTS) since the Office of Aviation Information has been transferred to BTS from RSPA. (Formerly RIN 2137-AB92)

Agency Contact: Jack Calloway, Chief, Regulations Division, Department of Transportation, Bureau of Transportation Statistics, K-25, Room 4125, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4383

RIN: 2139–AA01

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS) — Final Rule Stage

2760. • AMENDMENTS TO THE ON-TIME DISCLOSURE RULE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40101; 49 USC 40114; 49 USC 41702; 49 USC 41708; 49 USC 41712; 5 USC 553(e)

CFR Citation: 14 CFR 234; 14 CFR 302.38

Legal Deadline: None

Abstract: This action proposes to reinstate the exclusion of flights delayed or cancelled because of mechanical problems from air carriers on-time flight reports.

Timetable:

Action	Date	FR Cite
NPRM	05/26/95	60 FR 29514
NPRM Comment Period End	08/05/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernie Stankus, Systems Accountant, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4387
Fax: 202 366-3383

RIN: 2139–AA00

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS) — Completed Actions

2761. REVIEW OF CONFIDENTIALITY REQUIREMENTS FOR SCHEDULE T-100 DOMESTIC MARKET DATA

Priority: Other

Legal Authority: 49 USC 40101; 49 USC 40113; 49 USC 41708; 49 USC 41709

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: Domestic data filed in Schedule T-100 "U.S. Air Carrier Traffic and Capacity Data by Nonstop Segment and On-Flight Market" are released to the public immediately after edit. This rulemaking was to explore whether the policy of immediate release should be modified for sensitive domestic market data to include a period of confidentiality. Since the requesting office has determined that the public interest would be best served by liberal access to Schedule T-100 data, this rulemaking has been terminated.

Timetable:

Action	Date	FR Cite
Action Terminated	08/24/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rulemaking is now being administered by the Bureau of Transportation Statistics (BTS), since the Office of Aviation Information has been transferred to BTS from RSPA. (Formerly RIN 2137-AC49)

Agency Contact: Jack Calloway, Chief, Regulations Division (K-25), Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4383

RIN: 2139–AA02

[FR Doc. 95-26072 Filed 11-24-95; 8:45 am]
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Tuesday
November 28, 1995

Part XV

Department of the Treasury

Semiannual Regulatory Agenda

DEPARTMENT OF THE TREASURY (TREAS)

DEPARTMENT OF THE TREASURY

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda

AGENCY: Department of the Treasury.

ACTION: Semiannual agenda and fiscal year 1996 regulatory plan.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order (E.O.) 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication by the Department of a semiannual agenda of regulations. E.O. 12866 also requires the publication by the Department of a regulatory plan for fiscal year 1996.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific entry in the agenda or plan, contact the "Agency Contact" identified in the item relating to that regulation.

SUPPLEMENTARY INFORMATION: The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda format developed by the Regulatory Information Service Center (RISC). For this edition of the regulatory agenda of the Department of the Treasury, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference that directs the reader to the appropriate Sequence Number in Part II.

Dated: September 26, 1995.

J. Benjamin H. Nye,

Executive Secretary.

Departmental Offices—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2762	17 CFR 404 Amendments Under the Government Securities Act; Large Position Reporting	1505-AA53
2763	31 CFR 500.704 Administrative Hearings	1505-AA59
2764	17 CFR 404 Amendments to the Government Securities Act Regulations; Recordkeeping Rules for Noticed Financial Institution Broker-Dealers	1505-AA70

Departmental Offices—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2765	31 CFR 411 Color Illustration of U.S. Currency	1505-AA69
2766	12 CFR 1805 (New) Community Development Financial Institutions Program; Bank Enterprise Award Program Regulations **(Reg Plan Seq. No. 96)**	1505-AA71

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Departmental Offices—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2767	17 CFR 404 Revisions to the Government Securities Act Regulations; Risk Assessment Rule for Specialized Government Securities Broker-Dealers	1505-AA47
2768	31 CFR 19 Debarment and Suspension Common Rule To Achieve Reciprocity With Procurement	1505-AA57
2769	31 CFR 413 Closure of Streets	1505-AA68

Financial Crimes Enforcement Network—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2770	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Definitions	1506-AA03
2771	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Requirement That Financial Institutions Carry Out Anti-Money-Laundering Programs	1506-AA05
2772	31 CFR 103 Amendment to the Bank Secrecy Act Regulations Affecting Tribal and State-Licensed Gaming Establishments	1506-AA07
2773	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Delegation of Authority To Assess Civil Money Penalties on Depository Institutions	1506-AA08
2774	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Registration Requirement for Certain Non-Bank Financial Institutions	1506-AA09

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Financial Crimes Enforcement Network—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2775	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Mandatory Exemption of Certain Transactions From Currency Transaction Reporting Requirements	1506-AA11
2776	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Discretionary Exemption of Certain Transactions From Currency Transaction Reporting Requirements	1506-AA12
2777	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Requirement To Report Suspicious Transactions	1506-AA13
2778	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Requirement To Report the Cross-Border Transportation of Certain Negotiable Instruments	1506-AA15

Financial Crimes Enforcement Network—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2779	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Notice of Exemption of Certain Transactions From Currency Transaction Reporting Requirements	1506-AA10

Financial Crimes Enforcement Network—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2780	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Designation of Single Recipient for Suspicious Transaction Reports	1506-AA14

Financial Crimes Enforcement Network—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2781	31 CFR 103 Amendment to Bank Secrecy Act Regulations Relating to Recordkeeping for Funds For Transmittals of Funds	1506-AA16
2782	31 CFR 103 Amendment to Bank Secrecy Act Regulations Relating to Orders for Transmittals of Funds by Financial Institutions	1506-AA17

Financial Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2783	31 CFR 225 Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties	1510-AA36
2784	31 CFR 203 Treasury Tax and Loan Depositaries	1510-AA37
2785	31 CFR 205 Rules and Procedures for Funds Transfers	1510-AA38
2786	31 CFR 202 Depositaries and Financial Agents of the Government	1510-AA42
2787	31 CFR 240 Indorsement and Payment of Checks Drawn on the United States Treasury	1510-AA45
2788	31 CFR 206 Management of Federal Agency Receipts, Disbursements, and Operation of the Cash Management Improvements Fund	1510-AA47
2789	31 CFR 281 Foreign Exchange Operations	1510-AA48
2790	31 CFR 224 Federal Process Agents of Surety Companies	1510-AA49
2791	31 CFR 235 Issuance of Settlement Checks for Forged Checks Drawn on Designated Depositaries	1510-AA50
2792	31 CFR 245 Claims on Account of Treasury Checks	1510-AA51
2793	31 CFR 256 Payments Under Judgment and Private Relief Acts	1510-AA52

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Financial Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2794	31 CFR 210 Federal Government Participation in the Automated Clearing House	1510-AA17
2795	31 CFR 209 Payment to Financial Institutions for Credit to Accounts of Employees and Beneficiaries	1510-AA30

Financial Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2796	31 CFR 247 Regulations Governing FedSelect Checks	1510-AA44
2797	31 CFR 203 Treasury Tax and Loan Depositaries	1510-AA46

Bureau of Alcohol, Tobacco and Firearms—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2798	27 CFR 7 Standards of Identity for Malt Beverages	1512-AA95
2799	27 CFR 252 Exportation of Liquors	1512-AA98
2800	27 CFR 7 Alcoholic Content Labeling for Malt Beverages	1512-AB17
2801	27 CFR 4 Use of Term "Reserve" on Wine Labels	1512-AB25
2802	27 CFR 4.25a(d) to 4.25a(e) Multistate Appellations of Origin for Contiguous States	1512-AB28
2803	27 CFR 4.40 Procedures for Revoking Previously Approved Certificates of Label Approval, Exemptions From Label Approval, or Distinctive Liquor Bottle Approvals	1512-AB34
2804	27 CFR 25 Revision of Brewery Regulations and Issuance of Regulations For Taverns on Brewery Premises (Brewpubs)	1512-AB37
2805	27 CFR 5.26 Registration of Formulas and Statements of Process For Domestically Produced Alcoholic Beverages	1512-AB40
2806	27 CFR 290 Exportation of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax	1512-AB03

Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2807	27 CFR 9 American Viticultural Areas	1512-AA07
2808	27 CFR 197 Nonbeverage Drawback	1512-AA20
2809	27 CFR 4 Winegrape Varietal Designations	1512-AA67
2810	27 CFR 4 Grape Wine Designation—Gamay Beaujolais	1512-AB08
2811	27 CFR 24.246 New Wine Treating Materials and Processes	1512-AB26
2812	27 CFR 4 Alteration of Labels on Containers of Distilled Spirits, Wine, Beer	1512-AB32
2813	27 CFR 53 Firearms and Ammunition Excise Taxes	1512-AB33
2814	27 CFR 55 Implementation of Public Law 103-322, the Violent Crime Control and Law Enforcement Act of 1994 **(Reg Plan Seq. No. 97)**	1512-AB35
2815	27 CFR 70.511 to 70.526 27 CFR Part 70—Conference and Practice Requirements for the Bureau of Alcohol, Tobacco, and Firearms	1512-AB11

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Bureau of Alcohol, Tobacco and Firearms—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2816	27 CFR 25.205 Production of Beer for Personal or Family Use at Brew-on-Premises Facilities	1512-AB18

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Bureau of Alcohol, Tobacco and Firearms—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2817	27 CFR 6 Revision of the Trade Practice Regulations	1512-AB10
2818	27 CFR 178 Brady Bill Regulations	1512-AB23
2819	27 CFR 47.52 Importation of Arms and Ammunition and Implements of War	1512-AB36

Comptroller of the Currency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2820	12 CFR 9 Fiduciary Powers of National Banks and Collective Investment Funds; Regulation Review	1557-AB12
2821	12 CFR 1 Investment Securities; Regulation Review	1557-AB37
2822	12 CFR 26 Management Official Interlocks; Regulation Review	1557-AB39
2823	12 CFR 31 Extensions of Credit to National Bank Insiders; Regulation Review	1557-AB40
2824	12 CFR 23 Leasing; Regulation Review	1557-AB45
2825	12 CFR 24 Community Development Corporation and Project Investments; Regulation Review	1557-AB46
2826	12 CFR 22 Loans in Areas Having Special Flood Hazards; Regulation Review	1557-AB47
2827	12 CFR Not yet determined Interstate Deposit Production Offices	1557-AB50
2828	12 CFR 25 Community Reinvestment Act Regulation	1557-AB51
2829	12 CFR 12 Government Securities Sales Practices	1557-AB52

Comptroller of the Currency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2830	12 CFR 4 Description of Office, Procedures, Public Information; Regulation Review	1557-AA67
2831	12 CFR 3 Capital Rules	1557-AB14
2832	12 CFR 20 International Operations and Federal Branches and Agencies; Regulation Review	1557-AB26
2833	12 CFR 34 Real Estate Lending and Appraisals; Regulation Review	1557-AB48

Comptroller of the Currency—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2834	12 CFR 30 Standards for Safety and Soundness	1557-AB17
2835	12 CFR 21 Minimum Security Devices and Procedures, Reports of Crimes and Suspected Crimes and Bank Secrecy Compliance	1557-AB19
2836	12 CFR 5 Rules, Policies, and Procedures for Corporate Activities; Regulation Review	1557-AB27
2837	12 CFR 7 Interpretive Rulings; Regulation Review	1557-AB38
2838	12 CFR 8 Assessment of Fees; National Banks; District of Columbia Banks	1557-AB41
2839	12 CFR 12 Recordkeeping and Confirmation Requirements for Securities Transactions; Regulation Review	1557-AB42
2840	12 CFR 19 Uniform Rules of Practice and Procedure; Regulation Review	1557-AB43
2841	12 CFR 2 Disposition of Credit Life Insurance Income; Regulation Review	1557-AB49

Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2842	12 CFR 25 Community Reinvestment Act Regulation	1557-AB32
2843	12 CFR 35 Agricultural Loan Loss Amortization; Regulation Review	1557-AB44

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United States Customs Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2844	19 CFR 7.8 U.S. Insular Possessions—Duty-Free Treatment	1515-AB14
2845	19 CFR 142 Publication of Filer Codes	1515-AB27
2846	19 CFR 133 Parallel Imports and Other Trademarked Goods	1515-AB49
2847	19 CFR 12 Textiles and Textile Products Subject to Textile Trade Agreements	1515-AB54
2848	19 CFR 10 Andean Trade Preference	1515-AB59
2849	19 CFR 113 Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers	1515-AB60
2850	19 CFR 159 Liquidation; Extension; Suspension	1515-AB66
2851	19 CFR 12 Detention, Seizure, and Forfeiture of "Bootleg" Sound Recording and Music Videos of Live Musical Performances	1515-AB74
2852	19 CFR 151 Detention of Merchandise	1515-AB75
2853	19 CFR 12 Interest On Underpayments and Overpayments of Customs Duties Fees and Interest	1515-AB76
2854	19 CFR 162 Recordkeeping Requirements	1515-AB77
2855	19 CFR 10 Use of Containers Designated as Instruments of International Traffic in Point-to-Point Local Traffic	1515-AB79
2856	19 CFR 134 Country-of-Origin Marking	1515-AB82
2857	19 CFR 118 Centralized Examination Stations; Immediate Suspension or Permanent Revocation as Operator Upon Indictment for Any Felony	1515-AB83
2858	19 CFR 142 Reconciliation	1515-AB85

United States Customs Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2859	19 CFR 102 (New) Rules of Origin	1515-AB19
2860	19 CFR 133 Disclosure of Information to Intellectual Property Rights Owners	1515-AB28
2861	19 CFR 12 Rules for Determining the Country of Origin of a Good for Purposes of Annex 311 of the North American Free Trade Agreement	1515-AB34
2862	19 CFR 4 Preliminary Vessel Entry and Permits To Lade and Unlade	1515-AB37
2863	19 CFR 24 Fees Assessed for Defaulted Payments	1515-AB38
2864	19 CFR 12 Importer Certification Regarding Country of Origin of Textiles and Textile Products	1515-AB43
2865	19 CFR 12 Enforcement of ITC Exclusion Orders	1515-AB44
2866	19 CFR 12 North American Free Trade Agreement—Submission of Certificates of Eligibility for Textile and Apparel Goods Under the Tariff Preference Level Provisions	1515-AB50
2867	19 CFR 10 Treatment of Reusable Shipping Devices Arriving From Canada or Mexico	1515-AB51
2868	19 CFR 123 Examination of Baggage	1515-AB56
2869	19 CFR 103 Disclosure or Production of Customs Information Pursuant to Legal Process	1515-AB58
2870	19 CFR 162 Seizure of Merchandise	1515-AB62
2871	8 CFR 100 Customs/INS Service Field Organizations; Revocations and Designations of International Airport Status for Customs Services and Ports of Entry for Aliens Arriving by Aircraft	1515-AB64
2872	19 CFR 10 Warehouse Withdrawals; Aircraft Fuel Supplies; Pipeline Transportation in Bond of Merchandise	1515-AB67
2873	19 CFR 134 Country-of-Origin Marking for Watches	1515-AB68
2874	19 CFR 12 Rules of Origin for Textile and Apparel Products	1515-AB71
2875	19 CFR 162 Search Warrants	1515-AB72
2876	19 CFR 132 Export Certificates for Beef Subject to Tariff-Rate Quota	1515-AB73
2877	19 CFR 12 UNESCO Cultural Property Convention Signatories	1515-AB78
2878	19 CFR 4 Removal of Cambodia and Vietnam From List of "Non-Entrant" Countries	1515-AB81

United States Customs Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2879	19 CFR 4 Harbor Maintenance Fee	1515-AA57
2880	19 CFR 24 Donated Cargo Exemption From Harbor Maintenance Fee	1515-AA87
2881	19 CFR 113 Automated Surety Interface	1515-AB25

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United States Customs Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2882	19 CFR 191 Substitution Unused Merchandise Drawback	1515-AB48
2883	19 CFR 134 Country-of-Origin Marking Requirements for Frozen Produce Packages	1515-AB61

United States Customs Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2884	19 CFR 10 Voluntary Restraint Arrangements—Steel	1515-AB04
2885	19 CFR 101 Standards for the Establishment of Customs Services	1515-AB18
2886	19 CFR 146 Petroleum Refineries in Foreign Trade Subzones	1515-AB20
2887	19 CFR 141 Identifying Merchandise Subject to Antidumping or Countervailing Duty Orders	1515-AB32
2888	19 CFR 10 North American Free Trade Agreement	1515-AB33
2889	19 CFR 4 Filing of Export Certificates	1515-AB46
2890	19 CFR 101 Test Programs	1515-AB47
2891	19 CFR 10 Express Consignments: Formal and Informal Entries of Merchandise; Administrative Exemptions	1515-AB53
2892	19 CFR 10 Temporary Importation Bonds; Anticipatory Breach, Assessment Amounts, Petitions for Relief	1515-AB65
2893	19 CFR 10 Termination of the Bahamas as a Designated Country Member of an Association of Countries Under the GSP	1515-AB69
2894	19 CFR 10 Replacement of CF 7505 and CF 7506 by CF 7501	1515-AB80
2895	19 CFR 4 Technical Corrections Regarding Customs Organization	1515-AB84

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2896	25 USC 7805 Grantor Trust Reporting Requirements	1545-AS37
2897	26 USC 0041 Definition of Qualified Research and Computation of Research Credit Under Section 41 of the Code, After 1986 Act and 1989 Act	1545-AO51
2898	26 USC 0042(h) Available Unit Rule	1545-AT60
2899	26 USC 0061 Amendment to the Regulations Under Section 61 To Conform the Treatment of Bond Premium Income to the Constant Yield Method	1545-AL92
2900	26 USC 0072 Loans Treated as Distributions	1545-AE41
2901	26 USC 0079 Section 79, Table I, Update	1545-AN54
2902	26 USC 0104 Personal Injury Damages	1545-AT29
2903	26 USC 0162(k) Continuation Coverage Requirements of Group Health Plans	1545-AI93
2904	26 USC 0168(i)(5) Changes in Use Under Section 168(i)(5)	1545-AJ38
2905	26 USC 0170(f)(8) Deductibility, Substantiation, and Disclosure of Certain Charitable Contributions	1545-AS95
2906	26 USC 0179A Determination of Section 30 Credit and Section 179A Deduction	1545-AR66
2907	26 USC 0263A Rules for Farmers	1545-AQ91
2908	26 USC 0263A Production of Creative Property	1545-AQ92
2909	26 USC 0263A Foreign Taxpayers	1545-AQ93
2910	26 USC 0263A Method Change Rules for the Uniform Capitalization Rules	1545-AQ94
2911	26 USC 0274 Receipt Threshold for Traveling Expenses	1545-AT84
2912	26 USC 0280B Demolition of Structures Definitions	1545-AR63
2913	26 USC 0337(d) Corporate Inversion Transactions	1545-AS91
2914	26 USC 0351(e) Section 351e: Diversification	1545-AT43
2915	26 USC 0361(a)(3) Fringe Benefit Sourcing Under Section 861	1545-AO72
2916	26 USC 0367 Section 361 Outbound Transfers of Property to Foreign Corporations	1545-AM97
2917	26 USC 0367 Certain Outbound Transfers of Domestic Stock or Securities (Corporate Inversions)	1545-AT42
2918	26 USC 0381 Carryovers of Methods of Accounting	1545-AT38
2919	26 USC 0403 Nondiscrimination and Other Rules Applicable to Section 403(b) Annuities	1545-AI90
2920	26 USC 0411 Allocation of Accrued Benefits Between Employer and Employee Contributions	1545-AT82
2921	26 USC 0417 Disclosure Guidelines for QJSA Waiver	1545-AQ36
2922	26 USC 0419 Treatment of Funded Welfare Benefit Plans	1545-AG14
2923	26 USC 0446 Hybrid Instruments	1545-AR13

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Internal Revenue Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2924	26 USC 0453 Installment Obligations Received From Liquidating Corporations	1545-AB43
2925	26 USC 0460 Definition of a Long-Term Contract	1545-AQ30
2926	26 USC 0468B Escrow Funds and Other Similar Funds	1545-AR82
2927	26 USC 0472 Definition of an Item for LIFO	1545-AT39
2928	26 USC 0482 Intercompany Transfer Pricing for Services	1545-AR32
2929	26 USC 0584 Merger or Division of Common Trust Funds—Section 584	1545-AQ64
2930	26 USC 0672 Income Taxation of Trusts and Estates	1545-AJ20
2931	26 USC 0731(c)(7) Partnership Distributions of Marketable Securities	1545-AT19
2932	26 USC 0736 Payments to a Retiring Partner or a Deceased Partner's Successor in Interest	1545-AT31
2933	26 USC 0743 Adjustments Following Sales of Partnership Interests	1545-AS39
2934	26 USC 0860E REMIC Regulations	1545-AR88
2935	26 USC 0861 Recomputation of Allocation and Apportionment of Deduction for State Income Taxes	1545-AP86
2936	26 USC 0863 Transportation Income Source Rules	1545-AJ68
2937	26 USC 0863 Sourcing Rule Applicable to Certain Insurance Income	1545-AQ37
2938	26 USC 0863 Section 863 Regulations	1545-AT40
2939	26 USC 0864 Tiered Partnership Rules	1545-AO26
2940	26 USC 0864 Integrated Financial Transaction	1545-AR20
2941	26 USC 0865 Source Rules for Personal Property Sales	1545-AJ83
2942	26 USC 0865 Determination of Source of Loss Resulting From Sale of Stock - Section 865	1545-AT41
2943	26 USC 0872(b) Income Tax—Reciprocal Exemptions for Certain Transportation Income	1545-AJ57
2944	26 USC 0881 Bank Exclusion From Portfolio Interest	1545-AQ39
2945	26 USC 0883(c)(3) Clarification of Section 883(c) Publicly Traded Exception	1545-AR77
2946	26 USC 0884 Final Regulations Under Section 1.884-2	1545-AQ73
2947	26 USC 0897 Income Tax—Partnership Rules Regarding Taxation of Foreign Investment in United States Real Property Interests	1545-AL77
2948	26 USC 0897(c)(3) FIRPTA Cleanup	1545-AJ72
2949	26 USC 0904(f) Clarification of Treatment of Separate Limitation Losses	1545-AM11
2950	26 USC 0931 Exclusion of Possession Source Income From Gross Income of Certain Individuals	1545-AS42
2951	26 USC 0932 Coordination of U.S. and Virgin Islands Income Taxes	1545-AS41
2952	26 USC 0936 OBRA 1993 Section 936 Reg	1545-AS43
2953	26 USC 0953(d) Foreign Insurance Company—Domestic Election	1545-AO25
2954	26 USC 0955 Subpart F Stapling Amendments	1545-AM46
2955	26 USC 0956A Earnings Invested in Excess Passive Assets	1545-AS47
2956	26 USC 0960 Coordination of Pre-1987 Deemed Paid Taxes	1545-AT85
2957	26 USC 0986 Determination of Foreign Taxes and Foreign Corporations' Earnings and Profits	1545-AN37
2958	26 USC 1041 Stock Redemption Incident to Divorce	1545-AT24
2959	26 USC 1059A Amendment of Regulations Under IRC Section 1059A	1545-AS89
2960	26 USC 1245 Partnerships and Depreciation Recapture	1545-AT32
2961	26 USC 1248 Section 1248 - Gain from Sale or Exchange of Stock in Foreign Corporations	1545-AC31
2962	26 USC 1248 Gains From Certain Sales or Exchanges in Certain Foreign Corporations	1545-AL89
2963	26 USC 1254 Income Tax—Gain From Disposition of Interest in Oil, Gas, Geothermal, or Other Mineral Properties by S Corporations and Their Shareholders	1545-AM98
2964	26 USC 1276 Disposition Gain Representing Accrued Market Discount Treated as Ordinary Income; Deferral of Interest Deduction Allocable to Accrued Market Discount	1545-AH82
2965	26 USC 1295 QEF Shareholder Election	1545-AM41
2966	26 USC 1377 Income Tax—Definitions and Special Rules Pertaining to S Corporations	1545-AE94
2967	26 USC 1441 General Revision of Section 1441 Regulations	1545-AO27
2968	26 USC 1445 Section 1445 Regulation Revisions Due to 1993 Tax Act	1545-AS51
2969	26 USC 1491 Regulations Under Sections 1491, 1492, and 1494	1545-AN39
2970	26 USC 1502 Section 1.1502-47 Regulations—Supplemental	1545-AR89
2971	26 USC 1502 Member Stock Transactions	1545-AT51
2972	26 USC 1503 Applications of Section 1503(d) to Partnerships and Other Items	1545-AR26
2973	26 USC 2104 Situs of Partnership Interests Held by a Nonresident Alien for Estate Tax Purposes	1545-AP07
2974	26 USC 3306 Treatment of Certain Deferred Compensation and Salary Reduction Arrangements	1545-AF97
2975	26 USC 4003 Luxury Excise Tax Changes Under OBRA 1993	1545-AS34
2976	26 USC 4082 Diesel Fuel Excise Tax; Dye Injection Systems and Markers	1545-AT18
2977	26 USC 4091 Excise Tax on Aviation Fuel	1545-AL43
2978	26 USC 4671 Chemical Tax Under Section 4461 and Imported Substance Tax Under Section 4671	1545-AL73
2979	26 USC 6038 Information Reporting and Record Maintenance Under Section 6038C	1545-AP10

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Internal Revenue Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2980	26 USC 6103(n) Disclosure of Returns and Return Information	1545-AT48
2981	26 USC 6114 Revision of Section 6114 Regulations	1545-AT00
2982	26 USC 6231 Selection of Tax Matters Partner for Limited Liability Companies	1545-AS09
2983	26 USC 7503 Update of List of Legal Holidays for Purposes of Time for Performance of Acts	1545-AT22
2984	26 USC 7805 Extension of Statute of Limitations in John Doe Summons Disputes	1545-AM67
2985	26 USC 7805 Suspension of Running of Period of Limitations During Proceeding To Enforce Designated Summons	1545-AQ01
2986	26 USC 7805 Technical Corrections for Chapter 14	1545-AR49
2987	26 USC 7805 Disclaimer of Interests and Power	1545-AR52
2988	26 USC 7805 Automatic Extension of Time for Filing Individual Tax Returns	1545-AS04
2989	26 USC 7805 Automatic Extension of Time for Filing Individual Tax Returns	1545-AS05
2990	26 USC 7805 Arbitrage Restriction on Tax-Exempt Bonds	1545-AS49
2991	26 USC 7805 Intangible Amortization	1545-AS77
2992	26 USC 7805 Reissuance of Qualified Tender Bonds	1545-AT09
2993	26 USC 7805 Pass Through Items of S Corporation to Its Shareholders	1545-AT52
2994	26 USC 7805 Treatment of Underwriters in Section 351 and Section 721	1545-AT55
2995	26 USC 7805 Excise Tax on Heavy Trucks, Truck Trailers and Semitrailers, and Tractors	1545-AT63
2996	26 USC 7805 Timing of Notice and Consent Requirements	1545-AT75
2997	26 USC 7805 Effective Date of Temporary Backup Withholding Regulations	1545-AT77
2998	26 USC 7805 ERISA Sec. 204(h) Notice	1545-AT78
2999	26 USC 7805 ERISA Sec. 204(h) Notice	1545-AT79
3000	26 USC 7872 Regulations on Income Tax Under the Tax Reform Act of 1984, Relating to Below-Market Loans	1545-AH72

Internal Revenue Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3001	05 USC 0552 Statement of Procedural Rules—Part 601.702	1545-AR99
3002	26 USC 0101(a) The Treatment of Accelerated Death Benefits Under Sections 101, 7702 and 7702A of the Internal Revenue Code	1545-AQ70
3003	26 USC 0141 Definition of "Private Activity Bond", "Qualified Bond"	1545-AM01
3004	26 USC 0162(M) Million-Dollar Cap on Deduction for Executive Compensation	1545-AS23
3005	26 USC 0163 Earnings Stripping Payments	1545-AO24
3006	26 USC 0165 Section 165	1545-AP33
3007	26 USC 0170 Substantiation of Contributions Made by Payroll Deduction	1545-AS27
3008	26 USC 0170(f)(8) Self-Employment Tax Treatment of Members of Certain Limited Liability Companies	1545-AS94
3009	26 USC 0280G Golden Parachute Payments	1545-AH49
3010	26 USC 0305(c)(1) Treatment of Premiums on Stock Callable at the Option of the Issuer	1545-AQ42
3011	26 USC 0337(d) Guidance in Notice 89-37, Which Treats the Receipt of a Corporate Partner's Stock by the Corporate Partner as a Circumvention of General Utilities Repeal	1545-AP52
3012	26 USC 0337(d) YOC Heating	1545-AT15
3013	26 USC 0338 Deemed Purchase Price When Certain Stock Purchases Are Treated as Asset Acquisitions	1545-AF29
3014	26 USC 0338 Amendment of Section 1.338-5T Regulations	1545-AO73
3015	26 USC 0358 Income Tax—Triangular Reorganizations, Basis and Other Consequences	1545-AB21
3016	26 USC 0367 Amendment of the Income Tax Regulations Under Section 367 of the Code (Transfers to Foreign Corporations) To Reflect Section 131 of the Tax Reform Act of 1984 (P.L. 98-369)	1545-AK74
3017	26 USC 0367 Transfers of Stock or Securities by U.S. Persons to Foreign Corporations	1545-AP81
3018	26 USC 0367 Certain Outbound Transfers; Domestic Stock or Securities (Corporate Inversions)	1545-AT44
3019	26 USC 0367(b) Income Tax—Part 1—Stock Transfer Rules	1545-AI32
3020	26 USC 0367(e) Certain Corporate Distributions to Foreign Corporations	1545-AL35
3021	26 USC 0402(c) Twenty Percent Withholding on Eligible Rollover Distribution	1545-AR01
3022	26 USC 0404A Income Tax—Deduction for Certain Foreign Deferred Compensation Plans	1545-AD81
3023	26 USC 0411 Allocation of Accrued Benefits Between Employer and Employee Contributions	1545-AT83
3024	26 USC 0414(q) Definition of "Highly Compensated Employee"	1545-AQ74
3025	26 USC 0417 Valuation of Plan Distribution	1545-AT27
3026	26 USC 0469 Rules for Certain Rental Real Estate Activities	1545-AS38
3027	26 USC 0469(l) Limitations on Passive Activity Losses and Credits—Self-Charged Items	1545-AN64

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Internal Revenue Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3028	26 USC 0475(a) Mark-to-Market Upon Disposition	1545-AS85
3029	26 USC 0482 Section 482, Cost Sharing Regulations	1545-AM00
3030	26 USC 0482 Taxation of Global Trading	1545-AP01
3031	26 USC 0704(c) Recognition of Pre-Contribution Gain or Loss	1545-AR93
3032	26 USC 0737 Section 737 Distributions	1545-AR48
3033	26 USC 0860F Extension of Time for Real Estate Mortgage Investment Conduits To Provide Reporting Information	1545-AP73
3034	26 USC 0861 Charitable Contributions	1545-AP30
3035	26 USC 0861 Allocation and Apportionment of Research and Experimental Expenditures	1545-AT49
3036	26 USC 0864 Allocation and Apportionment of Interest Expense and Certain Other Expenses	1545-AM20
3037	26 USC 0864(d) Treatment of Related Person Factoring Income; Certain Investments in United States Property; and Stock Redemptions Through Related Corporations	1545-AH85
3038	26 USC 0882 Computation of Interest Expense Deduction	1545-AL84
3039	26 USC 0884 Amendments to the Branch Profits Tax Under Sections 884 and 864	1545-AQ58
3040	26 USC 0892 Income of Foreign Governments and International Organizations	1545-AL93
3041	26 USC 0897 Nonrecognition of Corporate Distributions and Reorganizations Under the Foreign Investment in Real Property Tax Act	1545-AK79
3042	26 USC 0898 Conforming Taxable Years of CFCs and FPHCs: 1989 Change	1545-AO22
3043	26 USC 0904 Resourcing Income To Prevent Avoidance of Foreign Tax Credit Limitation Rules Relating to Foreign Losses	1545-AN87
3044	26 USC 0904(d)(5) Application of Section 904 to Income Subject to Separate Limitations and Section 864(e) Affiliated Group Expert Allocation Rules	1545-AQ43
3045	26 USC 0905 Income Tax—Taxpayer's Obligation To File a Notice of Redetermination of Foreign Tax and Civil Penalties for Failure to File	1545-AC09
3046	26 USC 0936 Income Tax—Definition of Qualified Possession Source Investment Income for Purposes of Puerto Rico and Possession Tax Credit	1545-AC10
3047	26 USC 0936 Section 936 Regulations	1545-AR18
3048	26 USC 0936(d)(4) CBI Investments of Section 936 Funds	1545-AM91
3049	26 USC 0953(c) Insurance Income	1545-AJ70
3050	26 USC 0964 Earnings and Profits of Controlled Foreign Corporations	1545-AM90
3051	26 USC 0964 Use of GAAP Earnings as E&P of Foreign Corporations	1545-AQ55
3052	26 USC 0985 Rules for a QBU Changing From the Profit-and-Loss Method to DASTM	1545-AR28
3053	26 USC 0985 Change From the Dollar Approximate Separate Transactions Method (DASTM) to the Profit-and-Loss Method of Accounting	1545-AS68
3054	26 USC 0987 Computation of a Branch's Taxable Income Taxation of Exchange Gain or Loss on Branch Remittances	1545-AM12
3055	26 USC 0988 Mark-to-Market Method of Accounting Under Section 988	1545-AP78
3056	26 USC 1001 Modifications of Debt Instruments	1545-AR04
3057	26 USC 1058 Certain Payments Made Pursuant to a Securities Lending Transaction	1545-AP71
3058	26 USC 1258 Conversion Transactions	1545-AS87
3059	26 USC 1291 Treatment of Shareholders of Passive Foreign Investment Companies	1545-AC06
3060	26 USC 1291(d)(2) Passive Foreign Investment Companies	1545-AI33
3061	26 USC 1296 Passive Foreign Investment Companies - Special Rules for Foreign Banks and Securities Dealers	1545-AS46
3062	26 USC 1441 Withholding on Items of Income Covered by an Income Tax Convention	1545-AH86
3063	26 USC 1441 Withholding of Tax on Nonresident Aliens	1545-AN75
3064	26 USC 1446 Temporary Regulation on Withholding Tax on Payments From Partnerships to Foreign Partners	1545-AL32
3065	26 USC 2056A QDOT Security Requirements	1545-AT64
3066	26 USC 2653(b) Estate Tax—Generation Skipping Transfer Tax	1545-AJ11
3067	26 USC 3402 Electronic Filing of Form W-4	1545-AR67
3068	26 USC 3402(R) Withholding on Distributions of Indian Gaming Profits to Tribal Members	1545-AT11
3069	26 USC 4001 Retail Excise Taxes on Certain Luxury Items	1545-AP24
3070	26 USC 4081 Diesel Fuel Excise Tax	1545-AR92
3071	26 USC 4611 Tax on Petroleum	1545-AJ23
3072	26 USC 4682 Exports of Ozone-Depleting Chemicals	1545-AQ23
3073	26 USC 4941 Excise Tax on Self-Dealing by Private Foundations	1545-AT03
3074	26 USC 6033 Amendment of Section 1.6033-2(g)(5) Relating to Returns by an Integrated Auxiliary of a Church	1545-AI52
3075	26 USC 6039E Information From Passport and Immigration Applicants	1545-AJ93
3076	26 USC 6050I Cash Reporting by Court Clerks	1545-AT06
3077	26 USC 6051 IRC Section 6051	1545-AN57

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Internal Revenue Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3078	26 USC 6061 Voice Signatures	1545-AQ68
3079	26 USC 6109 Authority of the FCIC To Require Employer Identification Numbers for Certain Taxpayers	1545-AQ49
3080	26 USC 6109 Amendment to Section 6109 Regulations	1545-AS83
3081	26 USC 6109 Authority of the Secretary of Agriculture To Share Employer Identification Numbers	1545-AT21
3082	26 USC 6205 Interest-Free Adjustments	1545-AQ61
3083	26 USC 6231(a)(7) Selection of Tax Matters Partner for Limited Liability Companies	1545-AQ47
3084	26 USC 6302 Railroad Unemployment Repayment Tax	1545-AN40
3085	26 USC 6302 Federal Tax Deposits by Electronic Funds Transfer	1545-AS79
3086	26 USC 6302 Deposits of Excise Tax	1545-AT25
3087	26 USC 6662 Imposition of Accuracy-Related Penalty	1545-AS24
3088	26 USC 7409 Political Activity Injunction	1545-AO77
3089	26 USC 7520 Actuarial Tables Exceptions	1545-AR56
3090	26 USC 7701 Environmental Settlement Funds—Classification 7701	1545-AT02
3091	26 USC 7701(b) Special Rules for S Corps Under 301.7701(b)-7	1545-AS88
3092	26 USC 7704 Certain Publicly Traded Partnerships Treated as Corporations	1545-AL57
3093	26 USC 7805 Certain Elections Under the Omnibus Budget Reconciliation Act of 1993	1545-AS14
3094	26 USC 7805 Information Reporting for Discharges of Indebtedness	1545-AS21
3095	26 USC 7805 Disclosure of Return Information to the U.S. Customs Service	1545-AS52
3096	26 USC 7805 Seals of Office in Connection With IRC Section 7514	1545-AS61
3097	26 USC 7805 Hedging Transactions by Members of Consolidated Groups	1545-AS75
3098	26 USC 7805 Debt Instruments With OID; Annuity Contracts	1545-AS76
3099	26 USC 7805 Nonbank Trustee Net Worth Requirements	1545-AS92
3100	26 USC 7805 Reissuance of Qualified Tender Bonds	1545-AT10
3101	26 USC 7805 Modifications of Bad Debt	1545-AT14
3102	26 USC 7805 Methods of Signing	1545-AT23
3103	26 USC 7805 Straddles - Miscellaneous Issues	1545-AT46
3104	26 USC 7805 Backup Withholding	1545-AT76

Internal Revenue Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3105	26 USC 0025 Reissuance of Mortgage Credit Certificates (Cross-Reference to Temporary Regulations)	1545-AR76
3106	26 USC 0044(e) Disabled Access Credit	1545-AT72
3107	26 USC 0072 Ten Percent Additional Tax on Early Distribution From Qualified Plans	1545-AN16
3108	26 USC 0126 Exclusion From Income of Certain Cost-Sharing Payments Under Government Programs	1545-AT73
3109	26 USC 0163 Qualified Residence Interest	1545-AL67
3110	26 USC 0168 Lease Term; Exchanges of Tax-Exempt Use Property	1545-AT33
3111	26 USC 0337(d) Scope of General Utilities Repeal	1545-AN21
3112	26 USC 0338 Section 338(h)(10) and Insurance Companies	1545-AS56
3113	26 USC 0412 Revising the Definition of the Full Funding Limitation for Purposes of the Minimum Funding Requirement for Pension Plans	1545-AL53
3114	26 USC 0465 Guidance on What Constitutes an Interest Other Than That of a Creditor	1545-AO32
3115	26 USC 0468 Guidance on Section 468	1545-AT59
3116	26 USC 0469 Application of Passive Activity Loss and Credit Limitations to Trusts, Estates, and Their Beneficiaries	1545-AN62
3117	26 USC 0471 Inventories by Dealers in Securities Section 1.471-5	1545-AS57
3118	26 USC 0864(c)(6) Treatment of Deferred Payments and Appreciation Arising Out of Business Conducted Within the United States	1545-AM53
3119	26 USC 0902 Deemed Paid Credit Under Section 902 Determined on Accumulated Basis	1545-AL98
3120	26 USC 0954 Amendment to Subpart F Definitions	1545-AR31
3121	26 USC 1275 Contingent and Variable Debt Instruments	1545-AQ86
3122	26 USC 1275(d) Debt Instruments With Original Issue Discount: Anti-Abuse Rule	1545-AS35
3123	26 USC 1502 Consolidated Alternative Minimum Tax	1545-AN73
3124	26 USC 2032A Estate Tax-Valuation of Certain Farm, Etc., Real Property	1545-AT66
3125	26 USC 2039 Estate Tax—Annuity Exclusion Repeal	1545-AP60

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Internal Revenue Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3126	26 USC 2055(e)(13) Reformation of Charitable Transfers-Definition of Guaranteed Annuity and Lead Unitrust Interest	1545-AT65
3127	26 USC 3221 Exception From Supplemental Tax	1545-AT56
3128	26 USC 3406 Information Reporting and Backup Withholding	1545-AL99
3129	26 USC 3508 Treatment of Real Estate Agents and Direct Sellers as Nonemployees for Employment Tax Purposes—Reporting Requirements With Respect to Direct Sellers	1545-AE62
3130	26 USC 4251 Communications Tax Regulations	1545-AP67
3131	26 USC 6114 6114 Reporting Requirements Waived	1545-AP35
3132	26 USC 7518 Interim Fishing Vessel Capital Construction Fund Procedures	1545-AS69
3133	26 USC 7805 Guidance for Air Cargo Carriers	1545-AT30
3134	26 USC 7805 Certain Fringe Benefits	1545-AT45
3135	26 USC 7805 Effect of the Family and Medical Leave Act on the Operation of Cafeteria Plans	1545-AT47
3136	26 USC 7805 Property Distributed in Kind and Treatment of Multiple Trusts	1545-AT68
3137	26 USC 7805 Amortization-Goodwill Intangibles 197	1545-AT70
3138	26 USC 7805 To Add Provisions Relating to Start-Up Expenditures	1545-AT71

Internal Revenue Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3139	26 USC 0061 Allowances Received by Members of the Armed Forces in Connection With Moves to New Permanent Duty Stations	1545-AS98
3140	26 USC 0083 Revision of Section 83 Deduction Rules	1545-AN55
3141	26 USC 0162 Lobbying Expense Deductions—Dues	1545-AS18
3142	26 USC 0162 Allocation of Expenses to Lobbying	1545-AS26
3143	26 USC 0179A Recapture—Clean Fuel/Electric Vehicles	1545-AR23
3144	26 USC 0216 Distributions by Cooperative Housing Association	1545-AO91
3145	26 USC 0269B Rules for Treatment of Foreign Corporation Whose Stock Is Stapled to the Stock of a Domestic Corporation	1545-AN20
3146	26 USC 0337(D) Combining Transactions	1545-AT20
3147	26 USC 0417 Valuation of Plan Distribution	1545-AT28
3148	26 USC 0461 Effective Dates of the Economic Performance Requirements	1545-AT16
3149	26 USC 0595(d) Treatment of Income and Expenses With Respect to Foreclosed Property by Certain Mutual Savings Institutions	1545-AS78
3150	26 USC 0672 Income Taxation of Trust and Estate	1545-AT67
3151	26 USC 0679 Foreign Grantor Trusts	1545-AO75
3152	26 USC 0752 Partnership Liabilities	1545-AR62
3153	26 USC 0842 Taxation of Foreign Insurance Companies Doing Business in the United States, Including the Explication of the Minimum Net Investment Income Calculation	1545-AN31
3154	26 USC 0842(b) Foreign Insurance Companies	1545-AL82
3155	26 USC 0863 Special Rules for Determining Source	1545-AQ81
3156	26 USC 0863 Special Rules for Determining Sources of Prizes and Awards	1545-AT53
3157	26 USC 0863 Special Rules for Determining Sources of Prizes and Awards	1545-AT54
3158	26 USC 0884 Proposed Regulations Under Section 1.884-3	1545-AQ72
3159	26 USC 0894 Dividend Withholding—Luxembourg Corporations	1545-AQ54
3160	26 USC 0905 Section 905(b) Regulations	1545-AP36
3161	26 USC 0924 FSC Transfer Pricing Rules, Distributions, Dividends Received, Deduction, and Other Special Rules for FSC	1545-AI16
3162	26 USC 0932 Source Rules Within the Virgin Islands	1545-AL40
3163	26 USC 0952 Subpart F—Use of Deficits	1545-AJ71
3164	26 USC 0954 Subpart F Definitions	1545-AM15
3165	26 USC 0960 Deemed-Paid Credit Under Section 960, Determined on Accumulated Basis	1545-AQ34
3166	26 USC 0964 Effect of Acquisitive Reorganizations on Earnings and Profits Pools	1545-AO71
3167	26 USC 0993 DISC Regulations	1545-AM05
3168	26 USC 0995 Income Tax—Tax Reform Act of 1984 Relating to Interest Charge DISCs	1545-AG71
3169	26 USC 1244 Section 1244, Information Statement	1545-AS97
3170	26 USC 1361 Income Tax—Definition of S Corporation	1545-AE86

TREAS

Internal Revenue Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3171	26 USC 1502 Consolidated Groups and Controlled Groups—Intercompany Transactions and Related Rules	1545-AL63
3172	26 USC 1502 Member Stock Transactions (Temporary)	1545-AT50
3173	26 USC 1502 Intercompany Transactions and Related Rules	1545-AT58
3174	26 USC 1504 Income Tax—Includibility in an Affiliated Group of Subsidiaries Formed To Comply With Foreign Laws	1545-AC58
3175	26 USC 2056 Alien Spouse Marital Deduction	1545-AM85
3176	26 USC 2056A QDOT Security Requirements	1545-AS67
3177	26 USC 3406 Backup Withholding Under Section 3406	1545-AE20
3178	26 USC 3406 Clarifying Amendments to Section 35a.3406-1 Regarding Backup Withholding Due to an Incorrect TIN	1545-AM51
3179	26 USC 4081 Diesel Fuel Tax—Gasohol	1545-AS10
3180	26 USC 6046A 6046A - Returns as to Interests in Foreign Partnerships	1545-AK75
3181	26 USC 6048 Section 6048 Regulations	1545-AR25
3182	26 USC 6081 Extension of Time To File	1545-AR85
3183	26 USC 6302 Deposits of Excise Tax	1545-AT26
3184	26 USC 6662 Revise Disclosure Standard for Accuracy-Related Penalty Regulations	1545-AS58
3185	26 USC 7425 Redemptions of Real Property Under IRC 7425—Excess Expenses	1545-AL20
3186	26 USC 7701 Taxable Mortgage Pools	1545-AP98
3187	26 USC 7701 Regulations Dealing With Conduit Arrangements	1545-AS40
3188	26 USC 7701 Environmental Settlement Funds - Classification	1545-AT34
3189	26 USC 7805 Income Tax—Presumption of Jeopardy in the Case of Illegal Activity Cash	1545-AE30
3190	26 USC 7805 Procedure and Administration Regulations—Payment of Taxes by Check or Money Order and Liability of Financial Institutions for Unpaid Taxes	1545-AI24
3191	26 USC 7805 Liability of Third Parties Paying or Providing for Wages, Suit, and Its Extension and Maximum Amount Recoverable	1545-AS22
3192	26 USC 7805 REMIC Variable Interest Rates	1545-AS54
3193	26 USC 7805 Lobbying Expenses	1545-AS65
3194	26 USC 7805 Definition of "Club"	1545-AS71
3195	26 USC 7805 Accuracy-Related Penalty; Reasonable Cause and Good Faith Exception (GATT)	1545-AT13
3196	26 USC 7805 Methods of Signing	1545-AT57

Office of Thrift Supervision—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3197	12 CFR 543 Community Reinvestment Act Hearing Procedures	1550-AA83
3198	12 CFR 500 Regulatory Review	1550-AA85
3199	12 CFR 563 Flood Insurance	1550-AA86
3200	12 CFR 543 Regulatory Review: Corporate Governance	1550-AA87
3201	12 CFR 545 Regulatory Review: Subsidiaries	1550-AA88
3202	12 CFR 545 Regulatory Review: Insurance	1550-AA89
3203	12 CFR 545 Regulatory Review: Adjustable Rate Mortgages	1550-AA90
3204	12 CFR 545 Regulatory Review: Lending Regulations	1550-AA91
3205	12 CFR 545 Regulatory Review: Federal Preemption	1550-AA92

Office of Thrift Supervision—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3206	12 CFR 563 Suspicious Activity Reports and Other Statements	1550-AA62
3207	12 CFR 567 Risk-Based Capital Requirements, Small Business Loan Recourse Obligations	1550-AA81
3208	12 CFR 565 Risk-Based Capital Guidelines: Originated Mortgage Servicing Rights	1550-AA84

TREAS

Office of Thrift Supervision—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3209	12 CFR 563 Small and Medium-Sized Business and Farm Loan Documentation Exemption for Qualifying Associations	1550-AA61
3210	12 CFR 563 Classification of Assets	1550-AA65
3211	12 CFR 567 Risk-Based Capital Standards—Recourse Obligations	1550-AA70
3212	12 CFR 563 Capital Distributions	1550-AA72
3213	12 CFR 543 "De Novo" Applications for a Federal Savings Association Charter	1550-AA76
3214	12 CFR 566 Liquidity	1550-AA77
3215	12 CFR 563 Loans to One Borrower	1550-AA78
3216	12 CFR 509 Uniform Rules of Practice and Procedure	1550-AA79

Office of Thrift Supervision—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3217	12 CFR 563 Safety and Soundness Standards	1550-AA54
3218	12 CFR 510 Release of Unpublished Information	1550-AA66
3219	12 CFR 563e Community Reinvestment Act	1550-AA69
3220	12 CFR 567 Regulatory Capital: Common Stockholders' Equity	1550-AA71
3221	12 CFR 509 Uniform Rules of Practice and Procedure; Ex Parte Communications	1550-AA80
3222	12 CFR 563 Loans in Areas Having Special Flood Hazards	1550-AA82

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

Proposed Rule Stage

2762. AMENDMENTS UNDER THE GOVERNMENT SECURITIES ACT; LARGE POSITION REPORTING

Priority: Other Significant

Legal Authority: 15 USC 780-5(f)

CFR Citation: 17 CFR 404; 17 CFR 405

Legal Deadline: None

Abstract: These rules would provide a mechanism for the maintaining and reporting of information about large positions in to-be-issued or recently issued Treasury securities. The rules will define what constitutes a large position and how positions should be aggregated across affiliates and subsidiaries, and the recordkeeping and reporting requirements. The scope of the reporting requirement would extend to any entity whose positions in the covered securities would meet the definition of a large position.

Timetable:

Action	Date	FR Cite
ANPRM	01/24/95	60 FR 4576
ANPRM Comment Period End	05/24/95	60 FR 20065
NPRM	10/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ken Papaj, Director. Government Securities Regulations Staff, Department of the Treasury. Bureau of the Public Debt, Room 515, 999 E Street NW., Washington, DC 20239-0001
Phone: 202 219-3632

RIN: 1505–AA53

2763. ADMINISTRATIVE HEARINGS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 50 USC app 1 to 44. Trading With the Enemy Act; 22 USC 6001 to 6010, The Cuban Democracy Act of 1992

CFR Citation: 31 CFR 500.704; 31 CFR 515.704

Legal Deadline: None

Abstract: The Foreign Assets Control Regulations, 31 CFR part 500, and the Cuban Assets Control Regulations, 31 CFR part 515, are being amended to provide for detailed procedures governing administrative hearings, as provided in section 1710(c) of the Cuban Democracy Act of 1992 (the CDA). Because the CDA amends section 16 of the Trading with the Enemy Act to permit the imposition of civil monetary penalties and civil forfeiture, subpart G is revised to establish the procedures governing administrative hearings. The regulations impose no obligations or duties, but rather make available administrative hearing procedures for those persons wishing to appeal the assessment of a civil administrative penalty issued under parts 500 or 515.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	03/00/96	

TREAS—DO

Proposed Rule Stage

Action	Date	FR Cite
Interim Final Rule	05/00/96	
Final Action	05/00/96	
Final Action Effective	06/00/96	
Begin Review	06/00/96	
End Review	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Benjamin J. Bornstein, Attorney-Advisor, Department of the Treasury, MT Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-2410

RIN: 1505–AA59

2764. • AMENDMENTS TO THE GOVERNMENT SECURITIES ACT REGULATIONS; RECORDKEEPING RULES FOR NOTICED FINANCIAL INSTITUTION BROKER-DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 780-5(b)

CFR Citation: 17 CFR 404

Legal Deadline: None

Abstract: The Department, under the authority granted it by the Government Securities Act of 1986 (GSA), will amend the recordkeeping rules for financial institutions that have filed notice or are required to file notice as Government securities brokers or dealers. The rule amendment will clarify any ambiguity resulting from the interplay of the GSA rules and the rules of the bank regulatory agencies with respect to recordkeeping requirements for the Government securities transactions of financial institutions that are subject to the GSA recordkeeping rules.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kerry Lanham, Government Securities Specialist, Government Securities Regulations Staff, Department of the Treasury, Bureau of the Public Debt, Room 515, 999 E Street NW., Washington, DC 20239-0001
Phone: 202 219-3632

RIN: 1505–AA70

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

Final Rule Stage

2765. • COLOR ILLUSTRATION OF U.S. CURRENCY

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 504

CFR Citation: 31 CFR 411

Legal Deadline: None

Abstract: To permit color illustration of U.S. currency while maintaining the safeguards needed to prevent counterfeiting of United States currency.

Timetable:

Action	Date	FR Cite
NPRM	06/26/95	60 FR 32929
NPRM Comment Period End	08/25/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Mulligan, Attorney-Advisor, Department of the Treasury, Office of Chief Counsel, U.S. Secret Service, 1800 G Street NW., Room 842, Washington, DC 20223
Phone: 202 435-5771

RIN: 1505–AA69

2766. • COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM; BANK ENTERPRISE AWARD PROGRAM REGULATIONS

Regulatory Plan: This entry is Seq. No. 96 in Part II of this issue of the **Federal Register**.

RIN: 1505–AA71

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

Completed Actions

2767. REVISIONS TO THE GOVERNMENT SECURITIES ACT REGULATIONS; RISK ASSESSMENT RULE FOR SPECIALIZED GOVERNMENT SECURITIES BROKER-DEALERS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 404; 17 CFR 405

Completed:

Reason	Date	FR Cite
Final Action	04/26/95	60 FR 20396
Final Action Effective	06/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kerry Lanham
Phone: 202 219-3632

RIN: 1505–AA47

2768. DEBARMENT AND SUSPENSION COMMON RULE TO ACHIEVE RECIPROCITY WITH PROCUREMENT

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 19

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Murphy
Phone: 202 622-0450

RIN: 1505–AA57

2769. • CLOSURE OF STREETS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 321; 18 USC 3056; 3 USC 202

CFR Citation: 31 CFR 413

Legal Deadline: None

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TREAS—DO

Completed Actions

Abstract: Closed to public vehicular traffic the following streets in order to secure the perimeter of the White House: (i) the segment of Pennsylvania Avenue NW., between Madison Place and Seventeenth Street and; (ii) State Place and the segment of South Executive Avenue that connects into State Place.

Timetable:

Action	Date	FR Cite
Final Action	05/26/95	60 FR 27882
Final Action Effective	05/26/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eric G. Harnischfeger, Special Agent, Department of the Treasury, Office of Government Liaison and Public Affairs, U.S. Secret Service, Washington, DC 20223
Phone: 202 435-5708

RIN: 1505–AA68

BILLING CODE 4810-25-F

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN)

Proposed Rule Stage

2770. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DEFINITIONS

Priority: Other

Legal Authority: 12 USC 1829b Bank Secrecy Act; 12 USC 1951 to 1959; 31 USC 5311 to 5330

CFR Citation: 31 CFR 103

Legal Deadline: NPRM, Statutory, March 23, 1995.
Section 408 of PL 103-325 requires money-transmitting businesses to register by March 23, 1995.

Abstract: This NPRM will propose to clarify and reorganize the definitions used in the Bank Secrecy Act regulations. Existing CFR section 103.11 would be subdivided into several sections. A separate section containing the definition of financial institutions will propose changes to the definition of non-bank financial institutions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, FinCEN, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA03

2771. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REQUIREMENT THAT FINANCIAL INSTITUTIONS CARRY OUT ANTI-MONEY-LAUNDERING PROGRAMS

Priority: Other Significant

Legal Authority: 31 USC 5318

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This regulation would require financial institutions subject to the Bank Secrecy Act (BSA) to implement BSA compliance and anti-money-laundering programs and procedures. These programs and procedures would include, among other things, customer identification procedures, enhanced recordkeeping, and related training of financial institution personnel.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Peter G. Djinis, Associate Director, Office of Regulatory Policy and Enforcement, FinCEN, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA05

2772. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS AFFECTING TRIBAL AND STATE-LICENSED GAMING ESTABLISHMENTS

Priority: Other Significant

Legal Authority: 31 USC 5312(a)(2) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: Existing regulations do not specifically subject Indian gaming establishments to the same reporting, recordkeeping, and other Bank Secrecy Act requirements as State-licensed casinos. This NPRM would provide for consistent treatment of tribal and State-licensed gaming establishments.

Timetable:

Action	Date	FR Cite
NPRM	08/03/95	60 FR 39665
NPRM Comment Period End	11/02/95	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, FinCEN, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA07

2773. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DELEGATION OF AUTHORITY TO ASSESS CIVIL MONEY PENALTIES ON DEPOSITORY INSTITUTIONS

Priority: Other Significant

Legal Authority: 31 USC 5321(e) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM proposes to delegate to the appropriate Federal banking regulatory agencies the authority to assess civil money penalties on depository institutions for violations of the Bank Secrecy Act. The regulation would prescribe the parameters of the delegated authority.

TREAS—FINCEN

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, FinCEN, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA08

2774. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REGISTRATION REQUIREMENT FOR CERTAIN NON-BANK FINANCIAL INSTITUTIONS

Priority: Other Significant

Legal Authority: 31 USC 5330

CFR Citation: 31 CFR 103

Legal Deadline: NPRM, Statutory, March 23, 1995.
Section 408 of PL 103-325 requires money transmitting businesses to register by March 23, 1995.

Abstract: This NPRM will identify money-transmitting and other businesses that must register with the Secretary, and will prescribe procedures for registration.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, FinCEN, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA09

2775. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—MANDATORY EXEMPTION OF CERTAIN TRANSACTIONS FROM CURRENCY TRANSACTION REPORTING REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 5313(d) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM would exempt depository institutions from the currency transaction reporting obligations of 31 USC 5313 with respect to transactions with certain businesses.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, FinCEN, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA11

2776. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DISCRETIONARY EXEMPTION OF CERTAIN TRANSACTIONS FROM CURRENCY TRANSACTION REPORTING REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 5313(e) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None
31 USC 5313(e)(6) permits a phase-in of discretionary exemptions over a 2-year period ending September 23, 1996.

Abstract: This NPRM proposes to exempt depository institutions from the currency transaction reporting obligations of 31 USC 5313 with respect to transactions with certain customers.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, FinCEN, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA12

2777. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REQUIREMENT TO REPORT SUSPICIOUS TRANSACTIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 5318(g) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM proposes to require financial institutions, as well as their directors, officers, employees and agents, to report transactions in which there is a suspected violation of law. The regulation would provide guidelines for determining when a transaction should be considered suspicious and procedures for making reports. The regulation would prohibit financial institutions that report suspicious transactions from notifying the persons involved in such transactions that reports were filed.

Timetable:

Action	Date	FR Cite
NPRM	10/15/95	
NPRM Comment Period End	10/31/95	

Small Entities Affected: None

Government Levels Affected: None

TREAS—FINCEN — **Proposed Rule Stage**

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, FinCEN, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA13

2778. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REQUIREMENT TO REPORT THE CROSS-BORDER TRANSPORTATION OF CERTAIN NEGOTIABLE INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5312(a)(3) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM proposes to require reporting of cross-border transportation of certain negotiable instruments.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, FinCEN, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA15

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN) — **Final Rule Stage**

2779. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—NOTICE OF EXEMPTION OF CERTAIN TRANSACTIONS FROM CURRENCY TRANSACTION REPORTING REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 5313(d) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This notice of exemption will exempt depository institutions from the currency transaction reporting obligations of 31 USC 5313 with respect to transactions with other depository institutions and Government entities.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, FinCEN, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA10

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN) — **Long-Term Actions**

2780. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DESIGNATION OF SINGLE RECIPIENT FOR SUSPICIOUS TRANSACTION REPORTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 31 CFR 103

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis
Phone: 202 622-0400

RIN: 1506–AA14

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN) — **Completed Actions**

2781. • AMENDMENT TO BANK SECRECY ACT REGULATIONS RELATING TO RECORDKEEPING FOR FUNDS FOR TRANSMITTALS OF FUNDS

Priority: Other Significant

Legal Authority: 12 USC 18296 Bank Secrecy Act; 12 USC 1951 to 1959; 31 USC 5311 to 5330

CFR Citation: 31 CFR 103

Legal Deadline: Final, Statutory, December 31, 1993.
Title XV, PL 102-550

Abstract: This rule issued jointly by the Treasury and the Federal Reserve Board requires banks and nonbank financial institutions to collect and retain information about wire transmittals of funds in the amount of $3,000 or more and to verify the identity of non-account holders that are parties to such wire transmittals of funds.

Timetable:

Action	Date	FR Cite
ANPRM	10/31/89	54 FR 45769
ANPRM Comment Period End	01/02/90	
NPRM	10/15/90	55 FR 41696
NPRM Comment Period End	11/29/90	
Comment Period Extended to 01/15/91	12/05/90	55 FR 50192
Second NPRM	08/31/93	58 FR 46014
Second NRPM Comment Period End	10/04/93	58 FR 46014
Final Action	01/03/95	60 FR 220
Final Action Effective	01/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA16

2782. • AMENDMENT TO BANK SECRECY ACT REGULATIONS RELATING TO ORDERS FOR TRANSMITTALS OF FUNDS BY FINANCIAL INSTITUTIONS

Priority: Other Significant

Legal Authority: 12 USC 18296 Bank Secrecy Act; 12 USC 1951 to 1959; 31 USC 5311 to 5330

CFR Citation: 31 CFR 103

Legal Deadline: Final, Statutory, December 31, 1993.
Title XV, PL 102-550

Abstract: This rule requires the first financial institution in a wire transfer chain to pass on certain information about the wire transfer and the parties to it, and requires each intermediary financial institution to pass on similar information, if received.

Timetable:

Action	Date	FR Cite
ANPRM	10/31/89	54 FR 45769
ANPRM Comment Period End	01/02/90	
NPRM	10/15/90	55 FR 41696
NPRM Comment Period End	11/29/90	
NPRM Comment Period Extended	12/05/90	55 FR 50192
Second NPRM to 01/15/91	08/31/93	58 FR 46014
Second NPRM Comment Period Extended	10/04/93	58 FR 46014
Final Action	01/03/95	60 FR 220
Final Action Effective	01/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA17

BILLING CODE 4820-02-F

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS) — **Proposed Rule Stage**

2783. ACCEPTANCE OF BONDS SECURED BY GOVERNMENT OBLIGATIONS IN LIEU OF BONDS WITH SURETIES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 321; 31 USC 9301; 31 USC 9303; 12 USC 391

CFR Citation: 31 CFR 225

Legal Deadline: None

Abstract: This regulation was last updated in 1978. Since that time, several significant changes have taken place in pledging securities. The most significant has been the advent of book-entry securities. There have been no identified costs to government, business or individuals. The benefit of this revision will be the addition of flexibility to federal agencies to design operating procedures that consider the unique characteristics of their operations, systems, policies, legislation, regulations and expectations of their customers and programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Donald Clark, Financial Program Specialist, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7106

RIN: 1510–AA36

2784. TREASURY TAX AND LOAN DEPOSITARIES

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 6302(h); 31 USC 321; 31 USC 323; 31 USC 3122; 31 USC 3301; 31 USC 3302; 31 USC 3720; 12 USC 90; 12 USC 265; 12 USC 391

CFR Citation: 31 CFR 203

Legal Deadline: None

Abstract: This revision of 31 CFR part 203 will reflect the development and implementation of the Electronic

Federal Tax Payment System. This new system will replace the current Treasury Tax and Loan Depositary system. Benefits of the new system will accrue from the conversion of the current paper-based collection mechanism to an electronic collection mechanism through the phase-out of the Federal Tax Deposit coupons.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	01/00/96	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: FMS previously characterized this revision to 31 CFR part 203 as an "economically significant" regulatory action and included it in Treasury's Regulatory Plan. As this project developed, it became clear that the economic effects of the new payment system are not attributable to the rule, but are a direct result of the implementation of the requirements of the North American Free Trade Agreement Implementation Act (see 26 USC 6302(h)). Accordingly, this regulation is no longer considered "economically significant" and has been deleted from the Regulatory Plan.

Agency Contact: Donald Clark, Financial Program Specialist, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7106

RIN: 1510–AA37

2785. RULES AND PROCEDURES FOR FUNDS TRANSFERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 31 USC 321; 31 USC 3335; 31 USC 6501; 31 USC 6503

CFR Citation: 31 CFR 205

Legal Deadline: None

Abstract: This regulation governs the transfer of Federal Assistance Funds to state governments and implements the Cash Management Improvement Act of 1990, as amended. Revisions to the regulation will address concerns raised by both states and Federal agencies about intergovernmental financing. Rules and procedures for funds transfers will be revised to provide more options and greater flexibility.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Donald Clark, Financial Program Specialist, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7106

RIN: 1510–AA38

2786. DEPOSITARIES AND FINANCIAL AGENTS OF THE GOVERNMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 265; 12 USC 266; 12 USC 1464(k); 12 USC 1789a; 12 USC 3102; 12 USC 90; 12 USC 1767; 12 USC 1452(d); 12 USC 2013; 12 USC 2122

CFR Citation: 31 CFR 202

Legal Deadline: None

Abstract: This regulatory action revises regulations governing (1) the designation of depositaries and financial agents of the Government and their authorization to accept deposits of public money and perform other specific services; and (2) the securing of public moneys in those depositaries. The revision removes references to financial institution insurance provided by the Federal Savings and Loan Insurance Corporation, which no longer exists, clarifies existing language regarding the valuation of collateral securities, and updates authorities for the regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Donald Clark, Financial Program Specialist, Cash Management Planning & Policy Division, Department of the Treasury, Financial Management Service, 401 14th Street SW., Room 420, Washington, DC 20227
Phone: 202 874-7106

RIN: 1510–AA42

2787. INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 12 USC 391; 31 USC 321; 31 USC 3328; 31 USC 3331; 31 USC 3343; 31 USC 3711; 31 USC 3716; 31 USC 3717; 31 USC 3334; 31 USC 3712; 31 USC 3328 note; 31 USC 3702 note; 318 US 363 (1943)

CFR Citation: 31 CFR 240

Legal Deadline: None

Abstract: This rule amends existing regulations governing the indorsement and payment of checks drawn on the United States Treasury. The changes are intended both to fix the time by which the Department of the Treasury can decline payment on Treasury checks and to provide financial institutions with a date certain for final payments. The revisions will also provide greater clarity by defining previously undefined terms and by ensuring symmetry with current Treasury regulations governing Federal payments utilizing the Automated Clearing House method. The revisions provide that the Department of the Treasury may instruct Federal Reserve Banks to intercept benefit payment checks to deceased payees and to return, unpaid, those checks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	11/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Ronald Brooks, Senior Program Analyst, Financial Information, Department of the Treasury, Financial Management Service, Room 725-D, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-8480

RIN: 1510–AA45

2788. MANAGEMENT OF FEDERAL AGENCY RECEIPTS, DISBURSEMENTS, AND OPERATION OF THE CASH MANAGEMENT IMPROVEMENTS FUND

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 31 USC 321; 31 USC 3301; 31 USC 3302; 31 USC 3321; 31 USC 3327; 31 USC 3328; 31 USC 3332; 31 USC 3335; 31 USC 3335 note; 31 USC 3720; 31 USC 6501; 31 USC 6503 note

CFR Citation: 31 CFR 206

Legal Deadline: None

Abstract: This revision to 31 CFR Part 206 implements section 402 of the Government Management Reform Act of 1994, PL 103-356, which requires that all Federal wage, salary and retirement payments be disbursed by electronic funds transfer (EFT), unless another disbursement method is determined to be appropriate under the waiver standards promulgated by the Department of the Treasury. This mandatory EFT provision only applies to recipients of Federal wage, salary and retirement payments who begin to receive such payments on or after January 1, 1995. The revision to 31 CFR Part 206 will establish appropriate group waiver standards and provide for the efficient, effective and orderly implementation of the Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Aurora Kassalow, Financial Program Specialist, Cash Management Policy Planning Division, Department of the Treasury, Financial Management Service, 401 14th St SW., Room 420, Washington, DC 20227
Phone: 202 874-5742

RIN: 1510–AA47

2789. • FOREIGN EXCHANGE OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3513; 31 USC 321; 31 USC 3301; 31 USC 3302; 31 USC 3303; EO 10488; EO 10900; 22 USC 2363

CFR Citation: 31 CFR 281

Legal Deadline: None

Abstract: This regulation governs the administration of the purchase, custody, deposit, transfer, sale and reporting of foreign exchange (including credits and currencies) by executive departments and agencies. Currently, this regulation allows the purchase of foreign currency to the maximum of the estimated requirements for a thirty day period. This revision will restrict departments and agencies to a 5 to 7 day supply of funds in the operating account unless they have obtained a specific waiver of this requirement from the Department of the Treasury.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	11/00/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Riedl, Senior Advisor, Department of the Treasury, Financial Management Service, Room 5A19, PGCII, 3700 East West Highway, Hyattsville, MD 20782
Phone: 202 874-8918

RIN: 1510–AA48

2790. • FEDERAL PROCESS AGENTS OF SURETY COMPANIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 9301 to 9309

CFR Citation: 31 CFR 224

Legal Deadline: None

Abstract: This amendment is intended to update the regulation. The regulation currently requires surety companies to report their Federal process agent appointments to the Department of the Treasury. In practice, the Department of the Treasury no longer monitors Federal process agent appointments. Therefore, the revision eliminates this requirement.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorothy Martin, Manager, Surety Branch, Department of the Treasury, Financial Management Service, 3700 East West Highway, Room 6F04, Hyattsville, MD 20782
Phone: 202 874-6850

RIN: 1510–AA49

2791. • ISSUANCE OF SETTLEMENT CHECKS FOR FORGED CHECKS DRAWN ON DESIGNATED DEPOSITARIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3343

CFR Citation: 31 CFR 235

Legal Deadline: None

TREAS—FMS — **Proposed Rule Stage**

Abstract: This revision proposes to amend 31 CFR part 235, which governs the issuance of settlement checks for checks drawn on designated depositaries of the United States by accountable officers of the United States that have been negotiated and paid on a forged or unauthorized indorsement. These amendments are intended to clarify the type of claim for which settlement checks will be issued under this section. The change will differentiate between a forgery claim and a nonreceipt inquiry. The revisions accommodate the concerns of disbursing agents regarding the necessary steps involved in the settlement check process. A better understanding of the process should result in settlement checks being issued in a more timely manner.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	11/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie Murray, Customer Liaison Specialist, Department of the Treasury, Financial Management Service, 3700 East West Highway, Room 800-D, Hyattsville, MD 20782
Phone: 202 874-8445

RIN: 1510–AA50

2792. • CLAIMS ON ACCOUNT OF TREASURY CHECKS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 321; 31 USC 3328; 31 USC 3331; 31 USC 3702; 31 USC 3702 note; 31 USC 3328 note

CFR Citation: 31 CFR 245

Legal Deadline: None

Abstract: 31 CFR part 245 governs the issuance of replacement checks for checks drawn on the United States when (1) the original check has been lost, stolen, destroyed or mutilated or defaced to such an extent that it is rendered non-negotiable; (2) the original check has been negotiated and paid on a forged or unauthorized indorsement; and (3) the original check has been cancelled pursuant to 31 CFR part 240. The regulation is being revised to update the regulation definitions to make them consistent with the language of the proposed revisions to the definitions in 31 CFR part 240. Making the definitions of 31 CFR part 245 consistent with the definitions found in 31 CFR part 240 will provide for a better understanding of the claims process for Federal agencies, financial institutions and any persons or entities to which a check may be issued.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	11/00/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie Murray, Customer Liaison Specialist, Department of the Treasury, Financial Management Service, 3700 East West Highway, Room 800-D, Hyattsville, MD 20782
Phone: 202 874-8445

RIN: 1510–AA51

2793. • PAYMENTS UNDER JUDGMENT AND PRIVATE RELIEF ACTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 28 USC 2414; 31 USC 1304

CFR Citation: 31 CFR 256

Legal Deadline: None

Abstract: This regulation governs the procedure for securing payment for money judgments against the United States. The proposed revision will update the procedure for making claims. This will benefit claimants and others in understanding the claims process. This regulation currently sets a threshold for judgment claims greater than $100,000, and judgment claims equal to or less than $100,000. The change would eliminate the $100,000 threshold distinction for processing a claim. This change in the regulation would make it consistent with current practices for claimants securing money judgments against the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernice Mays, Chief, Program Accounting Section, Credit Accounting Branch, Department of the Treasury, Financial Management Service, 3700 East West Highway, Room 6D32, Hyattsville, MD 20782
Phone: 202 874-8740

RIN: 1510–AA52

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Final Rule Stage

2794. FEDERAL GOVERNMENT PARTICIPATION IN THE AUTOMATED CLEARING HOUSE

Priority: Other Significant

Legal Authority: 31 USC 3720; 31 USC 3335; 31 USC 321; 5 USC 5525; 31 USC 3322; 31 USC 3332; 31 USC 3321; 31 USC 3301; 31 USC 3302; 12 USC 391

CFR Citation: 31 CFR 210

Legal Deadline: None

Abstract: This revision of 31 CFR part 210 will attempt reconciliation of Government Automated Clearing House (ACH) regulations and private industry rules as set forth by the National Automated Clearing House Association. The revision will broaden the use of the ACH method through establishing the Government as an ACH receiver.

TREAS—FMS — **Final Rule Stage**

Also, the provision will pursue a totally electronic environment by establishing a regulatory framework for automation of all related parts of the ACH process.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 50112
Extension of Comment Period	11/25/94	59 FR 60576
NPRM Comment Period End	11/29/94	
Comment Period End	01/03/95	59 FR 60576
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Berenice Reed, Financial Program Specialist, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 408D, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6799

RIN: 1510–AA17

2795. PAYMENT TO FINANCIAL INSTITUTIONS FOR CREDIT TO ACCOUNTS OF EMPLOYEES AND BENEFICIARIES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 321; 31 USC 3322; 31 USC 3332

CFR Citation: 31 CFR 209

Legal Deadline: None

Abstract: This proposed revision is a separate action from the revision to 31 CFR part 209 published December 12, 1992, in a notice of proposed rulemaking. This revision proposes to remove part 209 in its entirety. This part governs the regular remittance to financial institutions of Treasury checks which are for credit to the accounts of employees and beneficiaries. Regulations at 31 CFR part 210, implemented July 1, 1994, require that financial institutions receive Government Automated Clearing House transactions through electronic means. This regulatory change made a separate part 209 regarding checks unnecessary. In addition, proposed revisions to 31 CFR part 210, Federal Government Participation in the Automated Clearing House, make substantive changes that supersede the savings allotment provisions of part 209, because savings allotment and recurring benefit payments formerly made under the terms of part 209 are made by the Automated Clearing House method under the terms of part 210.

Timetable:

Action	Date	FR Cite
NPRM	12/04/92	57 FR 57400
NPRM Comment Period End	01/04/93	57 FR 57400
NPRM	08/04/93	58 FR 41449
Comment Period End	09/03/93	58 FR 41449
NPRM	01/04/95	60 FR 416
Comment Period End	02/03/95	60 FR 416
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Berenice Reed, Financial Program Specialist, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 408D, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6799

RIN: 1510–AA30

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Completed Actions

2796. REGULATIONS GOVERNING FEDSELECT CHECKS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 31 CFR 247

Completed:

Reason	Date	FR Cite
Final Action	05/16/95	60 FR 25990
Final Action Effective	06/15/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary Garner
Phone: 202 874-6751

RIN: 1510–AA44

2797. TREASURY TAX AND LOAN DEPOSITARIES

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 203

Completed:

Reason	Date	FR Cite
Withdrawn	06/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald Clark
Phone: 202 874-7106

RIN: 1510–AA46

BILLING CODE 4810-35-F

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Proposed Rule Stage

ALCOHOL

2798. STANDARDS OF IDENTITY FOR MALT BEVERAGES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 7

Legal Deadline: None

Abstract: A coalition of consumer organizations has petitioned ATF to establish a standard of identity for the labeling of malt liquor. Currently there are no standards of identity for any malt beverages. ATF is considering regulatory action relating to a standard of identity or the use of the term Malt Liquor for designating a Malt Beverage. ATF is also considering the recognition of other terms for designating malt beverages.

Timetable:

Action	Date	FR Cite
ANPRM	04/19/93	58 FR 21126
ANPRM Comment Period End	07/19/93	
ANPRM Comment Period Extended	07/19/93	58 FR 38542
ANPRM Comment Period Extended End	09/17/93	
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AA95

2799. EXPORTATION OF LIQUORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 252

Legal Deadline: None

Abstract: ATF is proposing recodification of 27 CFR part 252 to eliminate obsolete or unnecessary rules and forms and streamline export processing, while providing adequate protection for the revenue.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40887
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	10/15/92	57 FR 47320
ANPRM Comment Period Extended End	12/07/92	
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AA98

2800. ALCOHOLIC CONTENT LABELING FOR MALT BEVERAGES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 7

Legal Deadline: None

Abstract: A 10/28/92 Decision in the U.S. District Court for the District of Colorado held that the Federal Alcohol Administration Act prohibition against the statement of Alcoholic content on malt beverage labels is unconstitutional under the first amendment. ATF issued an interim rule on 4/19/93 which permits the optional labeling of malt beverages with their alcoholic content. The Supreme Court heard oral arguments in the appeal of this court decision on 11/30/94. The Supreme Court decided this case on April 19, 1995, in favor of Coors, and unanimously found the FAA Act prohibition against labeling malt beverages with their alcohol content unconstitutional. ATF will issue an NPRM on the subject of malt beverage labeling to request information on tolerances, type size, placement, and whether such an alcoholic content labeling requirement should be mandatory.

Timetable:

Action	Date	FR Cite
NPRM	04/19/93	58 FR 21233
Interim Final Rule	04/19/93	58 FR 21228
NPRM Comment Period End	07/19/93	
NPRM Comment Period Extended	07/19/93	58 FR 38543
NPRM Comment Period Extended End	09/17/93	
NPRM	03/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB17

2801. USE OF TERM "RESERVE" ON WINE LABELS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: ATF is considering amending the regulations to include a definition for the term "reserve" when used on wine labels.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/94	59 FR 12566
ANPRM Comment Period Extended	06/14/94	59 FR 30560
ANPRM Comment Period End	06/15/94	
ANPRM Comment Period Extended End	07/15/94	
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB25

TREAS—BATF

Proposed Rule Stage

2802. MULTISTATE APPELLATIONS OF ORIGIN FOR CONTIGUOUS STATES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.25a(d) to 4.25a(e)

Legal Deadline: None

Abstract: ATF is issuing temporary regulations to liberalize the requirements for using a multistate appellation of origin on a wine label. At the same time, ATF is issuing an NPRM requesting comments on the temporary rule and addressing additional issues in response to comments received on the previous notice.

Timetable:

Action	Date	FR Cite
NPRM	12/14/93	58 FR 65295
NPRM Comment Period End	01/13/94	
NPRM Comment Period Extended	01/18/94	59 FR 2548
NPRM Comment Period Extended End	03/21/94	
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: David Brokaw, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB28

2803. PROCEDURES FOR REVOKING PREVIOUSLY APPROVED CERTIFICATES OF LABEL APPROVAL, EXEMPTIONS FROM LABEL APPROVAL, OR DISTINCTIVE LIQUOR BOTTLE APPROVALS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205; 26 USC 5301; 26 USC 7805

CFR Citation: 27 CFR 4.40; 27 CFR 4.50; 27 CFR 5.56; 27 CFR 5.51; 27 CFR 5.55; 27 CFR 7.31; 27 CFR 7.41; 27 CFR 13 (New); 27 CFR 19.633; 27 CFR 19.641

Legal Deadline: None

Abstract: This notice of proposed rulemaking proposes to establish regulatory procedures to revoke previously approved certificates of label approval, exemptions from label approval, or distinctive liquor bottle approvals. These revocation procedures are necessary where label approvals, etc., have been approved in error. Adoption of these procedures will allow ATF to revoke, in an orderly and efficient manner, label approvals, exemptions from label approval, or distinctive liquor bottle approvals which have been approved in error and will provide for appeals by industry members.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47506
NPRM Comment Period End	12/12/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert White, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB34

2804. • REVISION OF BREWERY REGULATIONS AND ISSUANCE OF REGULATIONS FOR TAVERNS ON BREWERY PREMISES (BREWPUBS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 27 USC 5401 to 5417

CFR Citation: 27 CFR 25

Legal Deadline: None

Abstract: ATF intends to streamline regulations applying to breweries. ATF will eliminate obsolete regulatory provisions. A formula system for manufactured beer products will replace statements of process attached to the brewers notice. The annual notice for small brewers to pay reduced rate of tax will be eliminated. Separate regulations for brewpubs will be added to Part 25.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles N. Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB37

2805. • REGISTRATION OF FORMULAS AND STATEMENTS OF PROCESS FOR DOMESTICALLY PRODUCED ALCOHOLIC BEVERAGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 81c; 19 USC 1311; 26 USC 5001; 26 USC 5002; 26 USC 5004 to 5006; 26 USC 5008; 26 USC 5010; 26 USC 5041; 26 USC 5061; 26 USC 5062; 26 USC 5066; 26 USC 5081; 26 USC 5101; 26 USC 5111 to 5113; 27 USC 205; ...

CFR Citation: 27 CFR 5.26; 27 CFR 5.28; 27 CFR 19.187; 27 CFR 19.324; 27 CFR 19.331; 27 CFR 19.378; 27 CFR 24.80 to 24.83; 27 CFR 24.127; 27 CFR 24.201; 27 CFR 24.211; 27 CFR 25.67; 27 CFR 25.71(b)(2); 27 CFR 70.421; 27 CFR 70.423 to 428; 27 CFR 250.56

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations to require the registration, rather than approval, of formulas and statements of process for certain domestically produced wines, distilled spirits, and malt beverages. ATF believes that the proposed regulations will provide greater flexibility to the industry by enabling proprietors to commence production operations in a more expeditious manner.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

TREAS—BATF — Proposed Rule Stage

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB40

TOBACCO PRODUCTS

2806. EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 290

Legal Deadline: None

Abstract: ATF is proposing the recodification of 27 CFR part 290 to eliminate obsolete or unnecessary rules and forms and streamline export processing, while providing adequate protection for the revenue.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40889
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	01/08/93	58 FR 3247
ANPRM Comment Period Extended End	03/09/93	
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB03

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Final Rule Stage

ALCOHOL

2807. AMERICAN VITICULTURAL AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: Establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Timetable:

Action	Date	FR Cite
NPRM	08/31/92	57 FR 39536
NPRM Comment Period End	09/30/92	
NPRM Comment Period Extended	10/01/92	57 FR 45357
NPRM Comment Period Extended End	10/30/92	
Final Action	12/00/95	

Cucamonga Valley, CA (contact Marj Ruhf)
NPRM 12/02/94 (59 FR 61853)
NPRM Comment Period End 01/31/95
Final Rule 03/31/95 (60 FR 16576)
Final Rule Effective 05/01/95
Mendocino Ridge, CA (contact David Brokaw)
NPRM 11/00/95
Puget Sound, WA (contact David Brokaw)
NPRM 05/22/95 (60 FR 27060)
Comment Period End 07/06/95
Final Rule 10/04/95 (60 FR 51896)
Puget Sound, WA(contact David Brokaw)
Final Rule Effective 10/04/95
San Francisco Bay, CA (contact David Brokaw)
NPRM 12/00/95
St. Helena, CA (contact Robert White)
NPRM 11/04/94 (59 FR 55226)
NPRM Comment Period End 02/02/95
Final Rule 09/11/95 (60 FR 47053)
Final Rule Effective 10/11/95
Yorkville Highlands, CA (contact Marj Ruhf)
NPRM 12/00/95

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: See Timetable, American Viticultural Areas, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AA07

2808. NONBEVERAGE DRAWBACK

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 5131

CFR Citation: 27 CFR 197

Legal Deadline: None

Abstract: To update, clarify, simplify, and recodify the regulations relating to drawback of tax on distilled spirits used in the manufacture of non-beverage products.

Timetable:

Action	Date	FR Cite
NPRM	07/29/87	52 FR 28286
NPRM Comment Period End	10/29/87	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SMALL ENTITIES CONT: This regulation affects approximately 500 small entities.

Agency Contact: Steve Simon, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AA20

2809. WINEGRAPE VARIETAL DESIGNATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: This proposal would establish a list of winegrape varietal names which may be used as the type

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designation on American wine labels. Establishment of this list will standardize labeling terminology and make labels less confusing for consumers to read. They will also assist in more accurate identification of wines labeled with the grape variety used.

Timetable:

Action	Date	FR Cite
NPRM	02/04/86	51 FR 4392
NPRM Comment Period End	04/07/86	
NPRM Comment Period Extended	04/08/86	51 FR 11944
NPRM Comment Period Extended End	07/07/86	
NPRM	09/03/92	57 FR 40380
NPRM Comment Period End	10/05/92	
NPRM Comment Period Extended	10/26/92	57 FR 48487
NPRM Comment Period Extended End	12/28/92	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AA67

2810. GRAPE WINE DESIGNATION—GAMAY BEAUJOLAIS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: Gamay Beaujolais has been used as a term to identify certain wines made from Pinot noir or Napa Gamay grapes. Since Gamay Beaujolais is not the name of a grape variety, its usage on wine labels has been questioned. A notice of proposed rulemaking was published in the Federal Register on 4/5/94. Comment period was closed on 7/5/94. This rulemaking project was formerly included in rulemaking for winegrape varietal designation, RIN 1512-AA67.

Timetable:

Action	Date	FR Cite
NPRM	04/05/94	59 FR 15878
NPRM Comment Period End	07/05/94	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James Hunt, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB08

2811. NEW WINE TREATING MATERIALS AND PROCESSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5382; 26 USC 5368; 26 USC 5388

CFR Citation: 27 CFR 24.246; 27 CFR 24.248

Legal Deadline: None

Abstract: This regulation will allow winemakers to use new wine treating materials and processes in the production, cellar treatment, and finishing off wine, if such materials and processes are found by the wine industry to be in accordance with "good commercial practice." No alternatives are being considered. No cost is associated with this action. This action will benefit winemakers by giving them more tools to produce quality wine and will benefit consumers by ensuring that more quality wine is available for purchase.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 49870
NPRM Comment Period End	11/29/94	
Reopening of Comment Period	01/18/95	60 FR 3598
Reopening of Comment Period End	03/20/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert White, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB26

2812. ALTERATION OF LABELS ON CONTAINERS OF DISTILLED SPIRITS, WINE, BEER

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205(e); 26 USC 5301; 26 USC 7805

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: Proposed regulations will make it unlawful to relabel a distilled spirits, wine, or malt beverage container if the effect of such action is to remove from the container or label any information code placed on the product by the producer for tracing purposes.

Timetable:

Action	Date	FR Cite
NPRM	01/13/95	60 FR 3171
NPRM Comment Period End	03/14/95	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel J. Hiland, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB32

FIREARMS

2813. FIREARMS AND AMMUNITION EXCISE TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 4181

CFR Citation: 27 CFR 53

Legal Deadline: None

Abstract: Regulations will simplify the deposit rules for firearms and ammunition manufacturers excise taxes by revising the method for making deposits of these taxes.

Timetable:

Action	Date	FR Cite
NPRM	06/28/95	60 FR 33664
Interim Final Rule	06/28/95	60 FR 33665

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Action	Date	FR Cite
NPRM Comment Period End	09/26/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tami Light, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB33

2814. IMPLEMENTATION OF PUBLIC LAW 103-322, THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

Regulatory Plan: This entry is Seq. No. 97 in Part II of this issue of the **Federal Register**.

RIN: 1512–AB35

PROCEDURAL

2815. 27 CFR PART 70—CONFERENCE AND PRACTICE REQUIREMENTS FOR THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 70.511 to 70.526

Legal Deadline: None

Abstract: To document the adoption of certain conference and practice rules from IRS regulations in 26 CFR part 600 to ATF regulations in 27 CFR part 70. Currently the conference and practice regulations for ATF are still found in 26 CFR part 600 which is administered by IRS. By this final rule Sections 601.521 through 601.525 are adopted in whole and applicable sections of 601.501 through 601.509 are adopted in part and placed in 27 CFR part 70 which is administered by ATF.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Bryce, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8220
Fax: 202 927-8602

RIN: 1512–AB11

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF) — **Long-Term Actions**

2816. PRODUCTION OF BEER FOR PERSONAL OR FAMILY USE AT BREW-ON-PREMISES FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 25.205; 27 CFR 25.206

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB18

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF) — **Completed Actions**

2817. REVISION OF THE TRADE PRACTICE REGULATIONS

Priority: Other Significant

CFR Citation: 27 CFR 6; 27 CFR 8; 27 CFR 10; 27 CFR 11

Completed:

Reason	Date	FR Cite
Final Action	04/26/95	60 FR 20402
Final Action Effective	05/26/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ruhf
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB10

2818. BRADY BILL REGULATIONS

Priority: Other Significant

CFR Citation: 27 CFR 178

Completed:

Reason	Date	FR Cite
Final Action	02/27/95	60 FR 10782

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB23

2819. IMPORTATION OF ARMS AND AMMUNITION AND IMPLEMENTS OF WAR

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 47.52

Completed:

Reason	Date	FR Cite
Final Action	09/15/95	60 FR 47866
Final Action Effective	09/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pearl Baylor
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB36

BILLING CODE 4810-31-F

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC) — **Proposed Rule Stage**

2820. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 24(Seventh); 12 USC 92a; 12 USC 93a; 12 USC 481; 15 USC 78c(a)(34)(B); 15 USC 78q; 15 USC 78q-1; 15 USC 78w

CFR Citation: 12 CFR 9

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating or modifying regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting an overall review of its rules regarding fiduciary powers of national banks and collective investment funds. The OCC would update and clarify its rules, codify recent court decisions, codify administrative decisions, streamline processes, and eliminate any unnecessary regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Dean E. Miller, Senior Advisor for Fiduciary Responsibilities, (202) 874-4447, 250 E Street SW., Washington, DC 20219. The former regulatory projects concerning ratable distributions and collateralization of trust funds awaiting investment or distribution will be addressed in the Part 9 Regulation Review Project. The OCC expects the Part 9 Regulation Review Project to continue as the sole project under RIN 1557-AB12.

Agency Contact: Andrew Gutierrez, Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090

RIN: 1557–AB12

2821. INVESTMENT SECURITIES; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1 et seq; 12 USC 24(Seventh); 12 USC 93a

CFR Citation: 12 CFR 1; 12 CFR 7

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting an overall review of its rules regarding investment securities. The OCC would update and clarify its rules, codify recent court decisions and administrative decisions, incorporate statutory changes, streamline processes, and eliminate any unnecessary regulatory burden. The OCC will work to insure that its changes do not erode public protection or bank safety and soundness.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kay Bondehagen, Assistant Deputy Chief Counsel, Department of the Treasury, Comptroller of the Currency, Office of the Chief Counsel, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5200

RIN: 1557–AB37

2822. MANAGEMENT OFFICIAL INTERLOCKS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 3207; 12 USC 93a

CFR Citation: 12 CFR 26

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review program, is reviewing all its rules and eliminating regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting a comprehensive review of the Management Interlocks regulations. The OCC would update and clarify its regulation in order to eliminate any provisions that impose unnecessary regulatory burdens relative to the anticompetitive concerns that underlie the regulation. The OCC also intends to amend its regulation to conform to the changes brought about by the Riegle Community Development and Regulation Improvement Act of 1994 (CDRI).

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Management Interlocks Small Market Share Exemption		
NPRM	06/09/94	(59 FR 29740)
Management Interlocks; Regulation Review		
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Small Market Share Exemption proposal is affected directly by CDRI Section 338. Need for further action will be considered as an element of the Part 26 Regulation Review.

Agency Contact: Mark Tenhundfeld, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090

RIN: 1557–AB39

2823. EXTENSIONS OF CREDIT TO NATIONAL BANK INSIDERS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 375a(4); 12 USC 375b(3); 12 USC 1817(k); 12 USC 1972(2)(G)(ii)

CFR Citation: 12 CFR 31

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating or modifying regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting an overall review of its rules regarding loans to insiders. The OCC would also update these rules as needed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090

RIN: 1557–AB40

2824. LEASING; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1; 12 USC 24(Seventh and Tenth); 12 USC 93a

CFR Citation: 12 CFR 23

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating or modifying regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting an overall review of its rules regarding lease financing transactions. The OCC would update and clarify its regulation in order to eliminate any provisions that impose unnecessary regulatory burdens. The OCC will work to ensure that its revisions to this part do not adversely affect a bank's ability to compete in the financial services market or erode bank safety and soundness.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: Morris Morgan, Credit and Management Policy, Chief National Bank Examiner's Office, (202) 874-5170, 250 E Street, SW, Washington, DC 20219.

Agency Contact: Jacqueline Lussier, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090

RIN: 1557–AB45

2825. COMMUNITY DEVELOPMENT CORPORATION AND PROJECT INVESTMENTS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 24(Eleventh); 12 USC 93a; 12 USC 161; 12 USC 481; 12 USC 1818

CFR Citation: 12 CFR 24

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review program, is reviewing all its rules and eliminating regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting a comprehensive review of Part 24 to eliminate unnecessary regulatory burdens while maintaining safety and soundness, and to define more adequately activities permissible for national banks under 12 USC 24 (Eleventh).

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kay Bondehagen, Assistant Deputy Chief Counsel, Department of the Treasury, Comptroller of the Currency, Office of the Chief Counsel, 250 E Street SW., Washington, DC 20291
Phone: 202 874-5200

RIN: 1557–AB46

2826. LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 93a; 42 USC 4012a; 42 USC 4014a; 42 USC 4104b; 42 USC 4106; 42 USC 4128

CFR Citation: 12 CFR 22

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is reviewing its rules, policies, and procedures governing loans in areas having special flood hazards. The OCC would update and clarify its regulation in order to eliminate any provisions that impose unnecessary regulatory burdens. In addition, this rulemaking would implement the National Flood Insurance Reform Act of 1994 (as contained in Title V of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law No. 103-324, September 23, 1994).

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Flood Insurance Reform Act Changes		
NPRM	00/00/00	
Regulation Review		
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Jacqueline Lussier, Senior Attorney, Legislative & Regulatory Activities Division, (202) 874-5090, 250 E Street, SW., Washington, DC 20219.

Agency Contact: Carol V. Workman, Compliance Specialist, Department of the Treasury, Comptroller of the Currency, Compliance -- Consumer Protection, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-4428

RIN: 1557–AB47

2827. • INTERSTATE DEPOSIT PRODUCTION OFFICES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1835a

CFR Citation: 12 CFR Not yet determined

Legal Deadline: Other, Statutory, June 1, 1997.
Regulation must be effective.

Abstract: The OCC, as part of a joint agency rulemaking effort with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision, is promulgating a new regulation required by section 109 of the Reigle-Neal Interstate Banking and Branching Efficiency Act of 1994, Pub. L. 103-328, 108 Stat. 2338 (12 USC 1835a). The statute is intended to insure that out-of-State banks do not use their new interstate branching authority primarily for the purpose of deposit production.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kevin Lee, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Community and Consumer Law Division, 250 E Street, SW., Washington, DC 20219
Phone: 202 874-5750

RIN: 1557–AB50

2828. • COMMUNITY REINVESTMENT ACT REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 21; 12 USC 22; 12 USC 26; 12 USC 27; 12 USC 30; 12 USC 36; 12 USC 93a; 12 USC 161; 12 USC 215; 12 USC 481; 12 USC 1814; 12 USC 1816; 12 USC 1828(c); 12 USC 2901 to 2907

CFR Citation: 12 CFR 25

Legal Deadline: None

Abstract: The OCC, with the other Federal financial regulators, has revised the Community Reinvestment Act Regulations to provide clearer guidance to financial institutions on how their CRA performance will be assessed. Additionally, the agencies are considering making a technical correction and minor technical changes to clarify the transition rules.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
Technical Changes / Corrections	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Matthew Roberts, Director, Department of the Treasury, Comptroller of the Currency, Community and Consumer Law Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5750
Fax: 202 874-5322

RIN: 1557–AB51

2829. • GOVERNMENT SECURITIES SALES PRACTICES

Priority: Other Significant

Legal Authority: 15 USC 780-3; 15 USC 780-5

CFR Citation: 12 CFR 12

Legal Deadline: None

Abstract: The OCC, in conjunction with the FRB and FDIC, is considering issuing rules regarding the responsibilities of banks that are Government securities brokers or dealers when making recommendations to their customers concerning Government securities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maryann Nash, Senior Attorney, Securities and Corporate Practices, Department of the Treasury, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219
Phone: 202 874-4505

RIN: 1557–AB52

DEPARTMENT OF THE TREASURY (TREAS) — Final Rule Stage
Comptroller of the Currency (OCC)

2830. DESCRIPTION OF OFFICE, PROCEDURES, PUBLIC INFORMATION; REGULATION REVIEW

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 5 USC 552; 12 USC 93a; 12 USC 161; 12 USC 481; 12 USC 482; 12 USC 1818; 12 USC 1821(o); 12 USC 1821(t); 12 USC 1833e; 15 USC 78l to 78w; 18 USC 641; 18 USC 1905; 18 USC 1906; 31 USC 9701

CFR Citation: 12 CFR 4; 12 CFR 10; 12 CFR 11; 12 CFR 18; 31 CFR 1

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all of its rules regarding description of office and availability of information. The OCC will update its description of office, and will clarify its rules on public access to information. The OCC will also propose new rules regarding the release of non-public documents and testimony in certain legal proceedings, as well as review other listed regulations for needed administrative and technical changes.

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Timetable:

Action	Date	FR Cite
NPRM	03/27/95	60 FR 15705
NPRM Comment Period End	05/26/95	60 FR 15705
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Revised RIN 1557-AA67 pertains to a total review of 12 CFR 4. This total revision will include former projects relating to 12 CFR 4.11 (former RIN 1557-AA67) and 12 CFR 4.19 (former RIN 1557-AA57); which will no longer be separate projects. ADDITIONAL AGENCY CONTACT: Daniel Cooke, Attorney, Legislative & Regulatory Activities Division, (202)874-5090, 250 E Street, SW., Washington, DC 20219.

Agency Contact: Andrew Gutierrez, Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090

RIN: 1557–AA67

2831. CAPITAL RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1828 Note; 12 USC 1828(n); 12 USC 1831n Note; 12 USC 1835; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: Final, Statutory, June 19, 1993.
Statutory deadline only applicable to interest rate risk rulemaking.

Abstract: As part of the OCC's ongoing efforts to develop and refine capital standards to ensure the safety and soundness of the national banking system and to implement statutory requirements, the OCC is proposing to amend various provisions of the capital rules for national banks. Specifically, these changes include: (1) rule on expanded matrix; (2) rule on interest rate risk; (3) rule on OECD membership; (4) mortgage servicing rights; (5) market risk; (6) three rules on recourse arrangements ((a) low level recourse; (b) recourse arrangements and direct credit substitutes; and (c) small business loans).

Timetable:

Collateralized Transactions	
NPRM 08/18/93	(58 FR 43822)
Final Rule 12/28/94	(59 FR 66642)
Concentrations/Nontraditional Activities	
NPRM 02/22/94	(59 FR 8420)
Final Rule 12/15/94	(59 FR 64561)
Deferred Tax Assets	
NPRM 12/20/93	(58 FR 68065)
NPRM 12/23/93	(58 FR 68065)
Final Rule 02/10/95	(60 FR 7903)
Final Rule 02/10/95	(60 FR 7903)
Expanded Matrix	
NPRM 09/01/94	(59 FR 45243)
Final Rule 09/05/95	(60 FR 46170)
Interest Rate Risk	
ANPRM 08/10/92	(57 FR 35507)
NPRM 09/14/93	(58 FR 48206)
Final Rule 08/02/95	(60 FR 39490)
Market Risk	
NPRM 07/25/95	(60 FR 38082)
Final Rule 04/00/96	
Mortgage Servicing Rights	
Interim Rule 08/01/95	(60 FR 39226)
Final Rule 12/00/95	
Net Unrealized Gains & Losses	
NPRM 04/18/94	(59 FR 18328)
Final Rule 11/25/94	(59 FR 60552)
Netting of Derivatives	
NPRM 05/20/94	(59 FR 26456)
Final rule 12/28/94	(59 FR 66645)
OECD Membership	
NPRM 10/14/94	(59 FR 52100)
Final Rule 11/00/95	
Recourse: Low-Level Recourse	
Final Rule 04/10/95	(60 FR 17986)
Recourse: Recourse and Direct Credit Substitutes	
Combined ANPRM/NPRM 05/25/94	(59 FR 27116)
Final Rule 03/00/96	
Recourse: Small Business Loans	
Interim Rule with Comment Request 09/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Roger Tufts, Senior Economic Advisor, or Christina Benson, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 874-5270, 250 E Street SW., Washington DC 20219.

Agency Contact: Ronald Shimabukuro, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090

RIN: 1557–AB14

2832. INTERNATIONAL OPERATIONS AND FEDERAL BRANCHES AND AGENCIES; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1 et seq; 12 USC 24(Seventh); 12 USC 93a; 12 USC 161; 12 USC 602; 12 USC 3101 et seq; 12 USC 3901 et seq

CFR Citation: 12 CFR 20; 12 CFR 28; 12 CFR 5

Legal Deadline: Final, Statutory, September 29, 1995.
Sec. 107(b) of the Riegle-Neal Interstate Act, P.L. 103-328, 12 USC 3104 note, requires the OCC to revise, by September 28, 1995, its regulations governing the types of deposits (cont)

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting an overall review of its rules regarding national banks' international activities in Part 20 and the activities of Federal branches and agencies of foreign banks in the United States in Part 28. The OCC will update and clarify its rules, streamline processes, and eliminate any unnecessary regulatory burden. The OCC will work to insure that its changes do not erode public protection or bank safety and soundness.

Timetable:

Action	Date	FR Cite
NPRM	07/05/95	60 FR 34907
NPRM Comment Period End	09/05/95	60 FR 34907
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LEGAL DEADLINE CONT: that may be accepted by uninsured Federal branches of foreign banks.

Agency Contact: Raija Bettauer, Counselor for International Activities, Department of the Treasury, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219
Phone: 202 874-0680

RIN: 1557–AB26

TREAS—OCC

Final Rule Stage

2833. REAL ESTATE LENDING AND APPRAISALS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 93a; 12 USC 371; 12 USC 1701j-3; 12 USC 1828(o); 12 USC 3331 et seq

CFR Citation: 12 CFR 34

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting an overall review of its rules regarding real estate lending. The OCC would update and clarify its rules, codify administrative decisions, incorporate statutory changes, streamline processes, and eliminate any unnecessary regulatory burden. The OCC will work to insure that its changes do not erode public protection or bank safety and soundness.

Timetable:

Action	Date	FR Cite
NPRM	07/07/95	60 FR 35353
NPRM Comment Period End	09/05/95	
Final Action	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Tenhundfeld, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090

RIN: 1557–AB48

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Long-Term Actions

2834. STANDARDS FOR SAFETY AND SOUNDNESS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 30

Timetable:

Action	Date	FR Cite
ANPRM	07/15/92	57 FR 31336
ANPRM Comment Period End	09/16/92	57 FR 31336
NPRM	11/18/93	58 FR 60802
NPRM Comment Period End	01/03/94	58 FR 60802
Final Action	00/00/00	
Standards for Safety and Soundness		
NPRM 07/10/95	(60 FR 35674)	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Emily R. McNaughton
Phone: 202 874-5170

RIN: 1557–AB17

2835. MINIMUM SECURITY DEVICES AND PROCEDURES, REPORTS OF CRIMES AND SUSPECTED CRIMES AND BANK SECRECY COMPLIANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 21

Timetable:

Action	Date	FR Cite
NPRM	07/03/95	60 FR 34476
NPRM Comment Period End	09/01/95	60 FR 34476
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert S. Pasley
Phone: 202 874-4800

RIN: 1557–AB19

2836. RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 5; 12 CFR 16

Timetable:

Action	Date	FR Cite
NPRM	11/29/94	59 FR 61033
NPRM Comment Period End	01/30/95	59 FR 61034
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stuart Feldstein
Phone: 202 874-5090

RIN: 1557–AB27

2837. INTERPRETIVE RULINGS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 7; 12 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	03/03/95	60 FR 11924
NPRM Comment Period End	05/02/95	60 FR 11924
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stuart Feldstein
Phone: 202 874-5090

RIN: 1557–AB38

TREAS—OCC — Long-Term Actions

2838. ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA BANKS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 8

Timetable:

Assessments Review
NPRM 00/00/00
Trust Fees
Interim Rule 11/18/94 (59 FR 59640)
Final Rule 00/00/00

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Madsen
Phone: 202 874-5130

RIN: 1557–AB41

2839. RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 12

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzette Greco
Phone: 202 874-5210

RIN: 1557–AB42

2840. UNIFORM RULES OF PRACTICE AND PROCEDURE; REGULATION REVIEW

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 19

Timetable:

Suspension and Debarment of Accountants
NPRM 00/00/00
Uniform Rules – Adm. istrative Adjudication Process
NPRM 06/23/95 (60 FR 32882)
Final Rule 00/00/00
Uniform Rules – Ex Parte
NPRM 12/12/94 (59 FR 63936)
Final Rule 06/08/95 (60 FR 30183)

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel Cooke
Phone: 202 874-5090

RIN: 1557–AB43

2841. DISPOSITION OF CREDIT LIFE INSURANCE INCOME; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stuart E. Feldstein
Phone: 202 874-5090

RIN: 1557–AB49

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC) — Completed Actions

2842. COMMUNITY REINVESTMENT ACT REGULATION

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 25

Completed:

Reason	Date	FR Cite
Final Action	05/04/95	60 FR 22156

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Matthew Roberts
Phone: 202 874-5750

RIN: 1557–AB32

2843. AGRICULTURAL LOAN LOSS AMORTIZATION; REGULATION REVIEW

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 35

Completed:

Reason	Date	FR Cite
Final Action	05/24/95	60 FR 27401
Final Action Effective	01/01/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew Gutierrez
Phone: 202 874-5090

RIN: 1557–AB44

BILLING CODE 4810-33-F

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS) — Proposed Rule Stage

2844. U.S. INSULAR POSSESSIONS—DUTY-FREE TREATMENT

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 7.8

Legal Deadline: None

Abstract: Rule setting forth in detail the criteria which must be met to obtain duty-free treatment for products imported from U.S. insular possessions.

Timetable:

Action	Date	FR Cite
NPRM	07/27/93	58 FR 40095
NPRM Comment Period End	09/27/93	
New NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Craig Walker, Attorney-Advisor, Department of the Treasury, United States Customs Service, Special Classification Branch, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 482-6980

RIN: 1515–AB14

2845. PUBLICATION OF FILER CODES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 142; 19 CFR 143

Legal Deadline: None

Abstract: Provides for the publication of a list of filer codes and the identity of individuals, licensed Customs brokers or importers assigned the specific number. Publication will improve control for various components of the trade community and reduce numerous problems for Customs relating to entry processing requirements, but could also provide a means to access commercial import information heretofore treated as confidential by Customs.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4115
ANPRM Comment Period End	03/15/93	
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Hegland, Attorney, Entry Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 482-7040

RIN: 1515–AB27

2846. PARALLEL IMPORTS AND OTHER TRADEMARKED GOODS

Priority: Substantive, Nonsignificant

Legal Authority: 17 USC 101; 17 USC 601; 17 USC 602; 17 USC 603; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 133

Legal Deadline: None

Abstract: Amendment to provide for restrictions on the importation of certain foreign-made articles bearing genuine trademarks identical to or substantially indistinguishable from a valid, recorded U.S. trademark where the imported articles and the articles bearing the authorized U.S. trademark are materially and physically different.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karl Wm. Means, Attorney, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960

RIN: 1515–AB49

2847. TEXTILES AND TEXTILE PRODUCTS SUBJECT TO TEXTILE TRADE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 7 USC 1854

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment to the country of origin standards and documentary requirements applicable to textiles and textile products subject to section 204 of the Agricultural Act of 1956. Amendment involves simplification of regulatory text, has no substantive effect on the U.S. textile import program as administered by Customs and is intended to ensure that the wording of the Customs Regulations is consistent with the product coverage of section 204.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dick Crichton, Operations Officer, Office of Trade Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0162

RIN: 1515–AB54

2848. ANDEAN TRADE PREFERENCE

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1624; 19 USC 3203

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amendment to implement the duty preference provisions of the Andean Trade Preference Act.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol Argentine, Import Specialist, Office of Field Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0021

RIN: 1515–AB59

2849. ACCREDITATION OF COMMERCIAL TESTING LABORATORIES; APPROVAL OF COMMERCIAL GAUGERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1499; 19 USC 1624

CFR Citation: 19 CFR 113; 19 CFR 151

Legal Deadline: None

Abstract: Amendment to set forth procedures for the accreditation of commercial laboratories and the approval of commercial gaugers and the suspension and revocation of such accreditations and the approvals. Amendments are pursuant to authority of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carolyn E. Damon, Laboratory Director, Office of Laboratories & Scientific Services, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 312 353-2338

RIN: 1515–AB60

2850. LIQUIDATION; EXTENSION; SUSPENSION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1500; 19 USC 1504; 19 USC 1624

CFR Citation: 19 CFR 159

Legal Deadline: None

Abstract: Document would amend the Customs Regulations to implement amendments to section 504 of the Tariff Act of 1930, as amended, which pertains to limitations on the liquidation of entries, that were contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. Amendments would allow the reconciliation of entries to be treated as if they were entry summaries, subject to normal liquidation requirements; authorize the electronic transmittal of notices of extension and suspension of liquidation; extend the time period in which customs must liquidate a suspended entry after the suspension is removed; remove the application of the four-year limitation to suspended entries; and provide that customs must also inform sureties when an entry is suspended or extended.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan J. Stevenson, Attorney, Entry Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-7040

RIN: 1515–AB66

2851. • DETENTION, SEIZURE, AND FORFEITURE OF "BOOTLEG" SOUND RECORDING AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 17 USC 101; 17 USC 601; 17 USC 602; 17 USC 603; 31 USC 9701

CFR Citation: 19 CFR 12; 19 CFR 24; 19 CFR 133

Legal Deadline: None

Abstract: Amendment to provide for the detention, seizure, and forfeiture of unauthorized (bootleg) copies of sound recordings and music videos of live musical performances recorded outside of and imported into the United States, as provided by section 513(a) of the Uruguay Round Agreements Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George F. McCray, Attorney - Advisor, Intellectural Property Rights Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960

RIN: 1515–AB74

2852. • DETENTION OF MERCHANDISE

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1499; 19 USC 1624

CFR Citation: 19 CFR 151

Legal Deadline: None

Abstract: Amendment to provide for procedures regarding the detention of merchandise that is undergoing Customs examination. Amendment will reflect Customs Modernization Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney - Advisor, Penalties Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6950

RIN: 1515–AB75

2853. • INTEREST ON UNDERPAYMENTS AND OVERPAYMENTS OF CUSTOMS DUTIES FEES AND INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 1202; 19 USC 1505; 19 USC 1623; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 12; 19 CFR 113

Legal Deadline: None

Abstract: Amendment to reflect the provisions of section 505 of the Tariff Act of 1930 as amended by section642(c) of the North American Free Trade Agreement Implementation Act, regarding the assessment of interest due to underpayments or overpayments to Customs of duties and fees pertaining to imported merchandise, including interest thereon. Amendment will also pertain to the payment of interest due to underpayments or overpayments of fees and other charges, including interest thereon, that are not expressly covered by the terms of 19 USC 1505, but to which the same principles should apply. Interest, per the amendment, would accrue from the date the duties, fees, or other charges are deposited, or are required to be deposited, with Customs rather than from the date appearing on the bill for payment subsequently issued by Customs.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donnette Rimmer, Attorney-Advisor, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960

RIN: 1515–AB76

2854. • RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1624; 19 USC 1508; 19 USC 1509; 19 USC 1510

CFR Citation: 19 CFR 162; 19 CFR 163 (New)

Legal Deadline: None

Abstract: Amendment to reflect statutory amendments contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act covering recordkeeping, examination of books and witnesses, regulatory audit procedures, and judicial enforcement.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cindy Covell, Supervisory Regulatory Auditor, Office of Regulatory Audit, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0736

RIN: 1515–AB77

2855. • USE OF CONTAINERS DESIGNATED AS INSTRUMENTS OF INTERNATIONAL TRAFFIC IN POINT-TO-POINT LOCAL TRAFFIC

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1322; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amendment to provide that certain containers which are designated as instruments of international traffic are deemed to remain in international traffic regardless of the fact that the containers may engage in point-to-point local traffic within the United States provided that such containers engage in at least one international movement within 365 days of the date on which they are admitted to the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Glen Vereb, Attorney-Advisor, Carrier Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6940

RIN: 1515–AB79

2856. • COUNTRY-OF-ORIGIN MARKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Amendment to ease the requirement that whenever words appear on an imported article indicating the name of a geographic location other than the true country of origin of the article, the country-of-origin marking always must appear in close proximity to those words. Amendment would require the country of origin to be in close proximity to the name of the other geographic location on the imported article only if the name of the other geographic location would mislead or deceive the ultimate purchaser as to the actual country of origin of the imported article.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Tonucci, Attorney-Advisor, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6980

RIN: 1515–AB82

2857. • CENTRALIZED EXAMINATION STATIONS; IMMEDIATE SUSPENSION OR PERMANENT REVOCATION AS OPERATOR UPON INDICTMENT FOR ANY FELONY

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1499; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 118

Legal Deadline: None

Abstract: Amendment to enable Customs port directors to immediately suspend operations at a Centralized Examination Station (CES) whenever the operator, entity or other person exercising substantial ownership or control over the operator is indicted for, convicted of, or has committed acts which would constitute any felony. Amendment would also state specifically that the failure of a CES operator to follow the terms of the CES written agreement constitutes a ground for proposed permanent revocation of the CES and cancellation of the written agreement to operate the facility.

TREAS—CUSTOMS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Walfish, Operations Officer, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-1167

RIN: 1515–AB83

2858. • RECONCILIATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1484; 19 USC 1500; 19 USC 1624

CFR Citation: 19 CFR 142; 19 CFR 159

Legal Deadline: None

Abstract: Amendment to allow those elements of an entry, other than those elements relating to the admissibility of the merchandise, that are undetermined at the time an entry summary or an import activity summary is required to be submitted, to be provided to Customs at a later date.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Durant, Director, Tariff Classification Appeals Division, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 482-6990

RIN: 1515–AB85

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Final Rule Stage

2859. RULES OF ORIGIN

Priority: Other Significant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 46 USC app 3

CFR Citation: 19 CFR 102 (New); 19 CFR 4.80b(a); 19 CFR 10.12(e); 19 CFR 10.14(b); 19 CFR 10.171(c); 19 CFR 10.191(b)(3); 19 CFR 134.1(b), (d), and (e); 19 CFR 134.35; 19 CFR 177.22(a)

Legal Deadline: None

Abstract: Rule setting forth uniform rules governing the determination of the country of origin of imported merchandise.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48448
NPRM Comment Period End	01/09/92	56 FR 61214
New NPRM	05/05/95	60 FR 22312
Additional NPRM	07/12/95	60 FR 35878
New NPRM Comment Period End	07/19/95	60 FR 29520
Additional NPRM Comment Period End	08/28/95	60 FR 35878
Final Action	11/00/95	
To Be Combined With RIN 1515-AB34	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra L. Gethers, Branch Chief, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 482-6980

RIN: 1515–AB19

2860. DISCLOSURE OF INFORMATION TO INTELLECTUAL PROPERTY RIGHTS OWNERS

Priority: Substantive, Nonsignificant

Legal Authority: 17 USC 101; 17 USC 601; 17 USC 602; 17 USC 603; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 133

Legal Deadline: None

Abstract: Provides intellectual property rights owners with information regarding importations so that they may pursue injunctive relief or other civil remedies against the party involved in infringing transactions.

Timetable:

Action	Date	FR Cite
NPRM	08/23/93	58 FR 44476
NPRM Comment Period End	10/22/93	
New NPRM	07/14/95	60 FR 36249
New NPRM Comment Period End	09/12/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karl Means, Attorney, Intellectual Property Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960

RIN: 1515–AB28

2861. RULES FOR DETERMINING THE COUNTRY OF ORIGIN OF A GOOD FOR PURPOSES OF ANNEX 311 OF THE NORTH AMERICAN FREE TRADE AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202, Gen Note 20, Harmonized Tariff Schedule of the US; 19 USC 1624; PL 103-182

CFR Citation: 19 CFR 12; 19 CFR 102; 19 CFR 134

Legal Deadline: Final, Statutory, January 1, 1994.

Abstract: Amendment establishes the rules for determining when the country of origin of a good is one of the parties to the North American Free Trade Agreement for purposes of Annex 311 of that Agreement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/03/94	59 FR 110
Correction	02/03/94	59 FR 5082
Interim Final Rule Comment Period End	04/04/94	
Proposed Changes to Interim Final Rule	05/05/95	60 FR 22312

TREAS—CUSTOMS

Final Rule Stage

Action	Date	FR Cite
Comment Period End for Proposed Changes to Interim Final Rule	06/05/95	60 FR 29520
Comment Period End for Proposed Changes to Interim Final Rule	06/05/95	
Additional NPRM	07/12/95	60 FR 35878
Additional NPRM Comment Period End	08/28/95	
Additional NPRM Comment Period End	08/28/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra L. Gethers, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6980

RIN: 1515–AB34

2862. PRELIMINARY VESSEL ENTRY AND PERMITS TO LADE AND UNLADE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1431; 19 USC 288; 19 USC 1433; 19 USC 1434; 19 USC 1446; 19 USC 1448; 19 USC 1450; 19 USC 1624; 46 USC app 3; 46 USC app 91

CFR Citation: 19 CFR 4

Legal Deadline: None

Abstract: Amendment to the Customs Regulations concerns the preliminary entry of vessels arriving in ports of the United States and the granting of permits for the lading and unlading of merchandise from those vessels. Amendment would allow preliminary entry without mandatory boarding in all cases and allow Customs to electronically issue permits to lade or unlade merchandise pursuant to an authorized data interchange system.

Timetable:

Action	Date	FR Cite
NPRM	03/18/94	59 FR 12878
NPRM Comment Period End	04/18/94	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lou Samenfink, Chief, Cargo Control Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0042

RIN: 1515–AB37

2863. FEES ASSESSED FOR DEFAULTED PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 19 USC 1202; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amendment authorizes the assessment of a $30 fee for any defaulted payment resulting from a check or other monetary instrument returned unpaid by a financial institution, including Automated Clearinghouse defaulted payments, which were presented for duties, taxes and other charges incurred in connection with any commercial or noncommercial importation or other Customs transaction whether or not backed by a Customs bond.

Timetable:

Action	Date	FR Cite
NPRM	03/23/94	59 FR 13664
NPRM Comment Period End	05/23/94	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Baker, Officer, Office of the Comptroller, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0620

RIN: 1515–AB38

2864. IMPORTER CERTIFICATION REGARDING COUNTRY OF ORIGIN OF TEXTILES AND TEXTILE PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment to require that an importer of textiles or textile products submit to Customs a certification stating that he has used reasonable care to ascertain the true country of origin of the imported merchandise and to verify the accuracy of the declaration prepared by the manufacturer, producer or exporter and filed by the importer with the entry.

Timetable:

Action	Date	FR Cite
NPRM	03/30/94	59 FR 14806
NPRM Comment Period End	05/31/94	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dick Crichton, Operations Officer, Office of Trade Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0162

RIN: 1515–AB43

2865. ENFORCEMENT OF ITC EXCLUSION ORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1337; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment regarding unfair competition to reflect Customs authority to enforce seizure and forfeiture orders issued by the United States International Trade Commission (ITC). These orders would be issued for articles which had previously been denied entry pursuant to an ITC exclusion order.

Timetable:

Action	Date	FR Cite
NPRM	05/19/94	59 FR 26151

TREAS—CUSTOMS

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	07/18/94	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vicki Allums, Attorney, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960

RIN: 1515–AB44

2866. NORTH AMERICAN FREE TRADE AGREEMENT—SUBMISSION OF CERTIFICATES OF ELIGIBILITY FOR TEXTILE AND APPAREL GOODS UNDER THE TARIFF PREFERENCE LEVEL PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment to require submission of a Certificate of Eligibility in connection with the entry of non-originating textile and apparel goods from Canada or Mexico for which preferential tariff treatment is claimed under the tariff preference level provisions of the North American Free Trade Agreement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/94	59 FR 31519
Interim Rule Effective	06/20/94	
Interim Final Rule Comment Period End	08/19/94	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dick Crichton, Operations Officer, Office of Trade Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0162

RIN: 1515–AB50

2867. TREATMENT OF REUSABLE SHIPPING DEVICES ARRIVING FROM CANADA OR MEXICO

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amendment to allow certain foreign-manufactured shipping devices arriving from Canada or Mexico to be released under specified conditions, without entry and payment of duty at the time of arrival and without the devices being serially numbered or marked, if they are always transported on or within either intermodal and similar containers or containers which are themselves vehicles or vehicle appurtenances and accessories.

Timetable:

Action	Date	FR Cite
NPRM	11/01/94	59 FR 54537
NPRM Comment Period End	01/03/95	59 FR 54537
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louis Hryniw, Supervisory Auditor, Office of Regulatory Audit, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-1100

RIN: 1515–AB51

2868. EXAMINATION OF BAGGAGE

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1461; 19 USC 1462; 19 USC 1496; 19 USC 1624

CFR Citation: 19 CFR 123; 19 CFR 148

Legal Deadline: None

Abstract: Amendment to more clearly reflect Customs statutory authority to open and examine baggage and vehicles without the permission of the owners of the baggage and vehicles.

Timetable:

Action	Date	FR Cite
NPRM	11/10/94	59 FR 56014
NPRM Comment Period End	01/09/95	59 FR 56014
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lars-Erik Hjelm, Attorney, Office of the Chief Counsel, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-6900

RIN: 1515–AB56

2869. DISCLOSURE OR PRODUCTION OF CUSTOMS INFORMATION PURSUANT TO LEGAL PROCESS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 5 USC 552; 5 USC 552a; 18 USC 1905; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 103

Legal Deadline: None

Abstract: Amendment to clarify the procedures to be followed when subpoenas or other demands of courts and other authorities, except Congress, are issued to compel the disclosure or production of Customs documents or information for use in Federal, State, local and foreign proceedings.

Timetable:

Action	Date	FR Cite
NPRM	09/06/94	59 FR 46007
NPRM Comment Period End	11/07/94	59 FR 46007
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Senoria Clarke, Attorney, Office of the Chief Counsel, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-6900

RIN: 1515–AB58

TREAS—CUSTOMS

Final Rule Stage

2870. SEIZURE OF MERCHANDISE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1595a(c); 19 USC 1624

CFR Citation: 19 CFR 162

Legal Deadline: None

Abstract: The document would amend the Customs Regulations to reflect the clarification of customs seizure authority contained in the Customs Modernization Act. Among its other provisions, the Modernization Act amended section 596(c) of the Tariff Act of 1930 to clarify and codify Customs authority to seize and forfeit merchandise found to be imported in violation of the law. The Customs Modernization Act distinguishes between circumstances under which such merchandise shall be seized and those in which seizure is permissive.

Timetable:

Action	Date	FR Cite
NPRM	05/03/95	60 FR 21778
NPRM Comment Period End	07/03/95	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Todd Schneider, Attorney, Penalties Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6950

RIN: 1515–AB62

2871. CUSTOMS/INS SERVICE FIELD ORGANIZATIONS; REVOCATIONS AND DESIGNATIONS OF INTERNATIONAL AIRPORT STATUS FOR CUSTOMS SERVICES AND PORTS OF ENTRY FOR ALIENS ARRIVING BY AIRCRAFT

Priority: Routine and Frequent

Legal Authority: 8 USC 1103; 5 USC 301; 19 USC 58b; 19 USC 66; 19 USC 1433; 19 USC 1436; 19 USC 1459; 19 USC 1590; 19 USC 1594; 19 USC 1623; 19 USC 1624; 19 USC 1644; 49 USC app 1509

CFR Citation: 8 CFR 100; 19 CFR 122

Legal Deadline: None

Abstract: Document would amend the Customs and Immigration and Naturalization Service regulations pertaining to their respective field organizations. Customs would revoke the international airport designations for Ranier International Seaplane Base located in Ranier, Minnesota, and the Eagle Pass Municipal Airport located in Eagle Pass, Texas. Immigration and Naturalization Service would remove Ranier, Minnesota, and Eagle Pass, Texas, from the port of entry lists for aliens arriving by vessel, land transportation, or by aircraft.

Timetable:

Action	Date	FR Cite
NPRM	03/27/95	60 FR 15703
NPRM Comment Period End	05/26/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Darlene Langum Wilder, Customs Officer, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0530

RIN: 1515–AB64

2872. WAREHOUSE WITHDRAWALS; AIRCRAFT FUEL SUPPLIES; PIPELINE TRANSPORTATION IN BOND OF MERCHANDISE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 1557; 19 USC 1551; 19 USC 1552; 19 USC 1553; 19 USC 1553a

CFR Citation: 19 CFR 10; 19 CFR 18

Legal Deadline: None

Abstract: Document implements certain statutory amendments to the Customs laws regarding recordkeeping for merchandise transported by pipeline and duty-free withdrawals from Customs bonded warehouses of aircraft turbine fuel. These statutory amendments are contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. The document also clarifies the procedures applicable to aircraft turbine fuel which is withdrawn from a Customs bonded warehouse for certain duty-free use and is commingled with other lots of fuel before being so used.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Rosoff, Chief, Entry Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-7040

RIN: 1515–AB67

2873. COUNTRY-OF-ORIGIN MARKING FOR WATCHES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Amendment to prescribe specific rules regarding the country-of-origin marking of watches to ensure that the marking is conspicuous and legible.

Timetable:

Action	Date	FR Cite
ANPRM	03/20/95	60 FR 14705
ANPRM Comment Period End	05/04/95	60 FR 14705
To Be Withdrawn	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Burton Schlissel, Attorney, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6980

RIN: 1515–AB68

2874. • RULES OF ORIGIN FOR TEXTILE AND APPAREL PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1481; 19 USC 1484; 19

USC 1498; 19 USC 1508; 19 USC 1624; 19 USC 2701; 19 USC 3592; 19 USC 3314; 7 USC 1854

CFR Citation: 19 CFR 12; 19 CFR 102; 19 CFR 10

Legal Deadline: Final, Statutory, July 1, 1995.

Abstract: Amendment to implement the provisions of section 334 of the Uruguay Round Agreements Act regarding the country of origin of textile and apparel products. Except for the purpose of identifying products of Israel, the rules will govern the determination of the country of origin of imported textile and apparel products for purposes of laws enforced by Customs. Amendment also implements the provisions of section 334 of the Uruguay Round Agreements Act regarding the treatment of components that are cut to shape in the United States from foreign fabric, exported for assembly, and returned to the United States. Amendment also implements previously enacted provisions regarding the treatment of articles assembled or produced in a Carribbean Basin Initiative beneficiary country wholly from U.S.-produced components, materials, or ingredients.

Timetable:

Action	Date	FR Cite
NPRM	05/23/95	60 FR 27378
NPRM Comment Period End	06/22/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Robins, Attorney, Textile Classification Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-7029

RIN: 1515–AB71

2875. • SEARCH WARRANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 19 USC 66; 19 USC 1595; 19 USC 1624; 19 USC 1589a

CFR Citation: 19 CFR 162

Legal Deadline: None

Abstract: Amendment to remove regulation limiting the authority of Customs officers to whom search warrants are issued. Regulation is inconsistent with the current state of the law.

Timetable:

Action	Date	FR Cite
NPRM	07/12/95	60 FR 35881
NPRM Comment Period End	09/11/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lars-Erik Hjelm, Attorney, Office of Chief Counsel, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-6900

RIN: 1515–AB72

2876. • EXPORT CERTIFICATES FOR BEEF SUBJECT TO TARIFF-RATE QUOTA

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1484; 19 USC 1508; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 132

Legal Deadline: None

Abstract: Amendment to set forth the form and manner by which an importer makes a declaration that valid export certificate is in effect for imported beef which is the subject of a tariff-rate quota and the product of a participating country, as defined in regulations of the United States Trade Representative.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/01/95	60 FR 39108
Interim Final Rule Effective	08/01/95	
Interim Final Rule Comment Period End	10/02/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Cooper, Operations Officer, Quota Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-5401

RIN: 1515–AB73

2877. • UNESCO CULTURAL PROPERTY CONVENTION SIGNATORIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 2612

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment republishes the list of signatory nations to the 1970 United Nations Educational, Scientific, and Cultural Organization Convention as the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donnette Rimmer, Attorney-Advisor, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960

RIN: 1515–AB78

2878. • REMOVAL OF CAMBODIA AND VIETNAM FROM LIST OF "NON-ENTRANT" COUNTRIES

Priority: Routine and Frequent

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1431; 19 USC 1433; 19 USC 1434; 19 USC 1624; 46 USC app 3; 46 USC app 91; 46 USC app 121; 46 USC app 128

CFR Citation: 19 CFR 4

Legal Deadline: None

Abstract: Document removes Cambodia and Vietnam from the list of "non-entrant" countries so that foreign vessels entering the United States from these countries are now subject to a lesser special tonnage tax assessment. Cambodia and Vietnam were removed from "non-entrant" status by the National Security Council as of April 27, 1995.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Whiting, Customs Law Specialist, Department of the Treasury, United States Customs Service, Carrier Rulings Branch, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6940

RIN: 1515–AB81

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Long-Term Actions

2879. HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 4; 19 CFR 24; 19 CFR 146; 19 CFR 178

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/87	52 FR 10198
Interim Final Rule Public Comment Period End	08/28/87	
Comments Being Analyzed	02/08/88	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Patricia Barbare
Phone: 202 927-0034

RIN: 1515–AA57

2880. DONATED CARGO EXEMPTION FROM HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 24

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/92	57 FR 607

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Barbare
Phone: 202 927-0034

RIN: 1515–AA87

2881. AUTOMATED SURETY INTERFACE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 113

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5680
NPRM Comment Period End	03/23/93	
NPRM Comment Period Extended to 04/22/93	03/30/93	58 FR 16632

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diane Hundertmark
Phone: 202 927-0355

RIN: 1515–AB25

2882. SUBSTITUTION UNUSED MERCHANDISE DRAWBACK

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 191

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Rosoff
Phone: 202 482-7040

RIN: 1515–AB48

2883. COUNTRY-OF-ORIGIN MARKING REQUIREMENTS FOR FROZEN PRODUCE PACKAGES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 134

Timetable:

Action	Date	FR Cite
ANPRM	02/02/95	60 FR 6464
ANPRM Comment Period End	03/20/95	60 FR 6464

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Cohen
Phone: 202 482-6980

RIN: 1515–AB61

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Completed Actions

2884. VOLUNTARY RESTRAINT ARRANGEMENTS—STEEL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 19 CFR 10

Completed:

Reason	Date	FR Cite
Closed Without Further Regulations	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Crowe
Phone: 202 927-0164

RIN: 1515–AB04

2885. STANDARDS FOR THE ESTABLISHMENT OF CUSTOMS SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 101

Completed:

Reason	Date	FR Cite
Project Closed Without Regulations	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bradley Lund
Phone: 202 927-0192

RIN: 1515–AB18

2886. PETROLEUM REFINERIES IN FOREIGN TRADE SUBZONES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 146

Completed:

Reason	Date	FR Cite
Final Action	04/27/95	60 FR 20628
Final Action Effective	10/24/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louis Hryniw
Phone: 202 927-0677

RIN: 1515–AB20

2887. IDENTIFYING MERCHANDISE SUBJECT TO ANTIDUMPING OR COUNTERVAILING DUTY ORDERS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 141

Completed:

Reason	Date	FR Cite
Project Closed Without Regulations	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Esau
Phone: 202 927-1500

RIN: 1515–AB32

2888. NORTH AMERICAN FREE TRADE AGREEMENT

Priority: Other Significant

CFR Citation: 19 CFR 10; 19 CFR 12; 19 CFR 24; 19 CFR 123; 19 CFR 134; 19 CFR 162; 19 CFR 174; 19 CFR 177; 19 CFR 178; 19 CFR 181; 19 CFR 191

Completed:

Reason	Date	FR Cite
Final Action	09/06/95	60 FR 56384
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joyce Metzger
Phone: 202 927-0792

RIN: 1515–AB33

2889. FILING OF EXPORT CERTIFICATES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 4

Completed:

Reason	Date	FR Cite
Final Action	07/12/95	60 FR 35837
Final Action Effective	08/11/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Whiting
Phone: 202 482-6940

RIN: 1515–AB46

2890. TEST PROGRAMS

Priority: Other Significant

CFR Citation: 19 CFR 101

Completed:

Reason	Date	FR Cite
Final Action	03/16/95	60 FR 14211
Final Action Effective	04/17/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Durant
Phone: 202 482-6990

RIN: 1515–AB47

2891. EXPRESS CONSIGNMENTS: FORMAL AND INFORMAL ENTRIES OF MERCHANDISE; ADMINISTRATIVE EXEMPTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 10; 19 CFR 101; 19 CFR 111; 19 CFR 123; 19 CFR 128; 19 CFR 141; 19 CFR 143; 19 CFR 145; 19 CFR 148; 19 CFR 159

Completed:

Reason	Date	FR Cite
Final Action	04/14/95	60 FR 18983
Final Action Effective	05/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Rosoff
Phone: 202 482-7040

RIN: 1515–AB53

2892. TEMPORARY IMPORTATION BONDS; ANTICIPATORY BREACH, ASSESSMENT AMOUNTS, PETITIONS FOR RELIEF

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 10

Completed:

Reason	Date	FR Cite
Final Action	03/20/95	60 FR 14630
Final Action Effective	04/19/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeremy Baskin
Phone: 202 482-6950

RIN: 1515–AB65

2893. • TERMINATION OF THE BAHAMAS AS A DESIGNATED COUNTRY MEMBER OF AN ASSOCIATION OF COUNTRIES UNDER THE GSP

Priority: Routine and Frequent

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Document amends the Customs Regulations pertaining to the Generalized System of Preferences (GSP) direct importation requirement by adding the Bahamas to the list of countries whose membership in an association of countries for GSP purposes has been terminated by the President.

Timetable:

Action	Date	FR Cite
Final Action	04/12/95	60 FR 18542
Final Action Effective	04/12/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa Crosby, Trade Compliance Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0163

RIN: 1515–AB69

2894. • REPLACEMENT OF CF 7505 AND CF 7506 BY CF 7501

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 1555; 19 USC 1556; 19 USC 1562; 19 USC 1311; 19 USC 1565; 19 USC 1646a

CFR Citation: 19 CFR 10; 19 CFR 19; 19 CFR 54; 19 CFR 125; 19 CFR 141; 19 CFR 144

Legal Deadline: None

Abstract: Amendment to eliminate references to Customs Form 7505, Warehouse Withdrawal for Consumption and Customs Form 7506, Warehouse Withdrawal Conditionally Free of Duty, to reflect Customs elimination of the two forms. Customs Form 7501, Entry Summary, will be used in lieu of the eliminated forms.

Timetable:

Action	Date	FR Cite
Final Action	10/06/95	60 FR 52294
Final Action Effective	10/06/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Raymond Janiszewski, Office of Trade Compliance, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0380

RIN: 1515–AB80

2895. • TECHNICAL CORRECTIONS REGARDING CUSTOMS ORGANIZATION

Priority: Other

Legal Authority: 19 USC 66; 19 USC 1624

CFR Citation: 19 CFR 4; 19 CFR 19; 19 CFR 24; 19 CFR 101; 19 CFR 103; 19 CFR 111; 19 CFR 112; 19 CFR 113; 19 CFR 118; 19 CFR 122; 19 CFR 127; 19 CFR 141; 19 CFR 142; 19 CFR 146; 19 CFR 174; ...

Legal Deadline: None

Abstract: Document reflects Customs new organizational structure.

Timetable:

Action	Date	FR Cite
Interim Final Rule - Effective 09/30/95	09/27/95	60 FR 50008

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry Laderberg, Operations Officer, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0415

RIN: 1515–AB84

BILLING CODE 4820-02-F

DEPARTMENT OF THE TREASURY (TREAS) Internal Revenue Service (IRS) — Proposed Rule Stage

2896. GRANTOR TRUST REPORTING REQUIREMENTS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide rules pertaining to the grantor trust reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-79-93

Drafting attorney: Steven Schneider (202) 622-3060.

Reviewing attorney: Arthur Ernst (202) 622-3060.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

Agency Contact: Steven Schneider, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4524

RIN: 1545–AS37

2897. DEFINITION OF QUALIFIED RESEARCH AND COMPUTATION OF RESEARCH CREDIT UNDER SECTION 41 OF THE CODE, AFTER 1986 ACT AND 1989 ACT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; PL 101-239, sec 7110

CFR Citation: 26 CFR 602; 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide clarification on the computation of the research credit under section 41 of the Code as a result of amendments to section 41 by the Tax Reform Act of 1986 and the Revenue Reconciliation Act of 1989.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-016-90.

Drafting attorney: Lisa Shuman (202) 622-3120.

Reviewing attorney: Christine Ellison (202) 622-3120.

Agency Contact: Lisa Shuman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3120
Fax: 202 622-4743

RIN: 1545–AO51

2898. • AVAILABLE UNIT RULE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0042(h)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will provide guidance regarding the available unit rule of section 42(g)(2)(D)(ii) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-29-95

Drafting attorney: David Selig (202) 622-3040.

Reviewing attorney: James Ranson (202) 622-3040.

Agency Contact: David Selig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3040
Fax: 202 622-4524

RIN: 1545–AT60

2899. AMENDMENT TO THE REGULATIONS UNDER SECTION 61 TO CONFORM THE TREATMENT OF BOND PREMIUM INCOME TO THE CONSTANT YIELD METHOD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide a method for determining how to include bond premium into income. The method is the constant yield method.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-70-88.

Drafting attorney: William Cejudo (202) 622-3940.

Drafting attorney: Jeffrey Maddrey (202) 622-3920.

Reviewing attorney: Andrew Kittler (202) 622-3940.

Reviewing attorney: Bernita Thigpen (202) 622-3920.

Agency Contact: William Cejudo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3920

RIN: 1545–AL92

2900. LOANS TREATED AS DISTRIBUTIONS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 72

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the application of rules for determining the income tax treatment to be accorded loans to participants or beneficiaries from qualified employer plans. The loan rules are provided in section 72(p) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-106-82.

Drafting attorney: Vernon S. Carter (202) 622-6070.

Reviewing attorney: Michael Thrasher (202) 622-6000.

Agency Contact: Vernon S. Carter, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AE41

2901. SECTION 79, TABLE I, UPDATE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 79

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will update the table used to determine the cost amount of group-term life insurance to be included in gross income.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-82-89.

Drafting attorney: Betty Clary (202) 622-6070.

Reviewing attorney: James Brokaw (202) 622-6070.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AN54

2902. PERSONAL INJURY DAMAGES

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would provide guidance to taxpayers with regard to what types of compensation are excluded from gross income under section 104(a)(2) as damages received on account of personal injuries or sickness.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-13-95

Drafting attorney: Sheldon Iskow (202) 622-4920.

Reviewing attorney: Mike Montemurro (202) 622-4920.

Agency Contact: Sheldon Iskow, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4920

RIN: 1545–AT29

2903. CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 106(b); 26 USC 162(i)(2); 26 USC 162(k); 26 USC 4980B

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: None

Abstract: These regulations will provide guidance relating to the requirement that a group health plan provide continuation coverage to individuals who would otherwise lose coverage as a result of certain events.

Timetable:

Action	Date	FR Cite
NPRM	06/15/87	52 FR 22716
NPRM Comment Period End	08/14/87	52 FR 22716
Hearing	11/04/87	
Second NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-143-86.

Drafting attorney: Russell Weinheimer (202) 622-6060.

Review attorney: Mark Schwimmer (202) 622-6060.

Treasury attorney: Mark Hamelburg (202) 622-1341.

Agency Contact: Russell Weinheimer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AI93

2904. CHANGES IN USE UNDER SECTION 168(I)(5)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 168

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules relating to the treatment of changes in use of property subject to section 168, as amended by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-86-86.

Drafting attorney: Kathleen Reed (202) 622-3110.

Reviewing attorney: Susan Reaman (202) 622-3110.

Agency Contact: Kathleen Reed, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3110

RIN: 1545–AJ38

2905. DEDUCTIBILITY, SUBSTANTIATION, AND DISCLOSURE OF CERTAIN CHARITABLE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 170(f)(8)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations provide guidance regarding the allowance of certain charitable contribution deductions, the substantiation requirements for charitable contributions of $250 or more, and the disclosure requirements for quid pro quo contributions in excess $75.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 39896
Hearing	11/01/95	60 FR 39896
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-44-94

Drafting attorney: Jefferson K. Fox (202) 622-4930.

Reviewing attorney: Karin Gross (202) 622-4930.

Treasury attorney: Catherine Livingston (202) 622-1343.

Agency Contact: Jefferson K. Fox, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4930

RIN: 1545–AS95

2906. DETERMINATION OF SECTION 30 CREDIT AND SECTION 179A DEDUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 179A; 26 USC 30

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will assist taxpayers in determining what costs are eligible for the section 30 credit and for the section 179A deduction and how to compute this credit and this deduction.

Timetable:

Action	Date	FR Cite
ANPRM	06/09/93	58 FR 32317
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-43-93

Drafting attorney: Winston Douglas (202) 622-3110.

Reviewing attorney: Susan Reaman (202) 622-3110.

Agency Contact: Winston Douglas, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3110

RIN: 1545–AR66

2907. RULES FOR FARMERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules provide general rules regarding the application of the uniform capitalization rules to taxpayers engaged in farming.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-65-91.

Drafting attorney: Jan Skelton (202) 622-4970.

Reviewing attorney: Don Barnes (202) 622-4970.

Agency Contact: Jan Skelton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ91

2908. PRODUCTION OF CREATIVE PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules provide general rules regarding the application of the uniform capitalization rules to creative properties.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-66-91.

Drafting attorney: Jan Skelton (202) 622-4970.

Reviewing attorney: Don Barnes (202) 622-4970.

Agency Contact: Jan Skelton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ92

2909. FOREIGN TAXPAYERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These rules provide guidance regarding the application of the uniform capitalization rules to foreign taxpayers.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/87	52 FR 10118
ANPRM Comment Period End	05/29/87	52 FR 10118
Hearing	12/08/87	
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-67-91.

Drafting attorney: Jeffery G. Michell (202) 622-4970.

Reviewing attorney: Don Barnes (202) 622-4970.

Agency Contact: Jeffery G. Mitchell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ93

2910. METHOD CHANGE RULES FOR THE UNIFORM CAPITALIZATION RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These rules provide guidance regarding the method change requirement of section 263A.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/87	52 FR 10118
ANPRM Comment Period End	05/29/87	52 FR 10118
Hearing	12/08/87	
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-68-91.

Drafting attorney: Cheryl L. Oseekey (202) 622-4970.

Reviewing attorney: Don Barnes (202) 622-4970.

Agency Contact: Cheryl L. Oseekey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ94

2911. • RECEIPT THRESHOLD FOR TRAVELING EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will amend existing regulations section 1.274-5T(c)(2)(iii) to adjust threshold for substantiating traveling expenses by receipt or other documentary evidence.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-36-95

Drafting attorney: G. Channing Horton (202) 622-4920.

Reviewing attorney: George B. Baker (202) 622-4920.

Agency Contact: G. Channing Horton, Attorney-Advisor (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AT84

2912. DEMOLITION OF STRUCTURES DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 280B

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will provide definitions of the terms "structure" and "loss sustained on account of demolition" for purposes of section 280B of the Code.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-39-93

Drafting attorney: Bernard Harvey (202) 622-3110.

Reviewing attorney: Peter Friedman (202) 622-3110.

Agency Contact: Bernard Harvey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3110
Fax: 202 622-4524

RIN: 1545–AR63

2913. CORPORATE INVERSION TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 337(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Treatment of corporate inversion transaction where subsidiary issues disproportionate number of new shares (shares with a value in excess of the value of the parent stock received by the subsidiary) to the shareholder of the inverted parent, thereby diluting the parent corporation's pre-inversion value.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-35-94

Drafting attorney: Kirsten L. Simpson (202) 622-7790.

Reviewing attorney: Ken Cohen (202) 622-7790.

Treasury attorney: David Weisbach (202) 622-1129.

Agency Contact: Kirsten L. Simpson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-7790

RIN: 1545–AS91

2914. • SECTION 351E: DIVERSIFICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805; 26 USC 351(e)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Determination of when transfers of stocks and securities do not result in diversification.

Timetable:

Action	Date	FR Cite
NPRM	08/10/95	60 FR 40794
NPRM Comment Period End	11/08/95	60 FR 40794
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-19-95.

Drafting attorney: Andrew M. Eisenberg (202) 622-7790.

Reviewing attorney: John N. Geracimos (202) 622-7790.

Treasury attorney: David Weisbach (202) 622-1129

Agency Contact: Andrew M. Eisenberg, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7790
Fax: 202 622-6834

RIN: 1545–AT43

2915. FRINGE BENEFIT SOURCING UNDER SECTION 861

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 861

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address the clarification that an allocation of income of an individual for the performance of services both within and without the United States is appropriately made only on the time basis.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-107-90.

Drafting attorney: Robert W. Lorence (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Unassigned.

Agency Contact: Robert W. Lorence, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AO72

2916. SECTION 361 OUTBOUND TRANSFERS OF PROPERTY TO FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The income tax regulations under section 367(a) will be amended to reflect the changes made to that section by the Technical and Miscellaneous Corrections Act of 1988. Section 367(a)(5) now provides that a transfer of assets to a foreign corporation in an exchange described in section 361 is subject to section 367(a)(1) unless certain ownership requirements and other conditions are met. The regulations will provide guidance regarding the application of this section. The change in the statute was necessitated by the repeal of "General Utilities."

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-089-89.

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Bernard T. Bress (202) 622-3850.

Treasury attorney: Unassigned.

Agency Contact: Philip Tretiak, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AM97

2917. • CERTAIN OUTBOUND TRANSFERS OF DOMESTIC STOCK OR SECURITIES (CORPORATE INVERSIONS)

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 0367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will incorporate the principles of Notice 94-46 into the Internal Revenue Code. This regulation will provide rules governing the transfer of domestic stock or securities to a foreign corporation under section 367(a).

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-009-95.

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Bernard Bress (202) 622-3850.

Treasury attorney: Joni Walser (202) 622-1752.

Agency Contact: Philip Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service,

1111 Constitution Ave. NW.,
Washington, DC 20224
Phone: 202 622-3860
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RIN: 1545–AT42

2918. • CARRYOVERS OF METHODS OF ACCOUNTING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance to taxpayers with respect to carryovers of methods of accounting in certain corporate acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-013-93

Drafting attorney: Grant Gabriel (202) 622-4970.

Reviewing attorney: Tom Luxner (202) 622-4970.

Agency Contact: Grant Gabriel, Attorney-Adviser (Tax), Department of the Treasury, Internal Revenue Service, 1111 Contitution Ave. NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AT38

2919. NONDISCRIMINATION AND OTHER RULES APPLICABLE TO SECTION 403(B) ANNUITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 403(b)(12); 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the nondiscrimination and other rules applicable to tax-sheltered section 403(b) annuities.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-163-86.

Drafting attorney: Richard M. Lent (202) 622-6030.

Reviewing attorney: Nancy Marks (202) 622-6000.

Agency Contact: Richard M. Lent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AI90

2920. • ALLOCATION OF ACCRUED BENEFITS BETWEEN EMPLOYER AND EMPLOYEE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Modification of Reg. Section 1.411(c)-1 to reflect GATT provisions affecting the allocation of accrued benefits between employer and employee contributions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-35-95

Drafting attorney: Janet Laufer (202) 622-6060.

Reviewing attorney: Mark Schwimmer (202) 622-6060.

Agency Contact: Janet Laufer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6060
Fax: 202 622-4617

RIN: 1545–AT82

2921. DISCLOSURE GUIDELINES FOR QJSA WAIVER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance on information required to be disclosed on spousal consent forms waiving rights to a QJSA.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-100-91.

Drafting attorney: Terri Harris (202) 622-6070.

Reviewing attorney: Nancy Marks (202) 622-6070.

Agency Contact: Terri Harris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AQ36

2922. TREATMENT OF FUNDED WELFARE BENEFIT PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 419; 26 USC 419A; 26 USC 1239 (d); 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the treatment of contributions made by an employer to a welfare benefit plan.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-66-84.

Drafting attorney: Janet Laufer (202) 622-6060.

Reviewing attorney: Mark Schwimmer (202) 622-6060.

Agency Contact: Janet Laufer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AG14

2923. HYBRID INSTRUMENTS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 446

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides accounting rules for hybrid financial instruments that contain a significant debt component. The regulation provides accounting rules for hybrid financial instruments that contain a significant debt component.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-70-92.

Drafting attorney: Alan Munro (202) 622-3950.

Reviewing attorney: Alice Bennett (202) 622-3950.

Treasury attorney: David Weisbach (202) 622-1129.

Agency Contact: Alan Munro, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AR13

2924. INSTALLMENT OBLIGATIONS RECEIVED FROM LIQUIDATING CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 453

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting gain in respect of installment obligations received as liquidating distributions from corporations under a plan of complete liquidation. Additionally includes rules regarding the allocation of consideration received in a multiple asset sale if a disposition of any one of the properties would qualify for installment sale treatment.

Timetable:

Action	Date	FR Cite
NPRM	01/13/84	49 FR 1742
NPRM Comment Period End	03/16/84	49 FR 1742
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-38-95.

Drafting attorney: George Wright (202) 622-4950.

Reviewing attorney: Doug Fahey (202) 622-4950.

Treasury attorney: P. Val Strehlow (202) 622-0869.

Agency Contact: George Wright, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4950

RIN: 1545–AB43

2925. DEFINITION OF A LONG-TERM CONTRACT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 460(h)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will address the definition of a "long-term contract" for purposes of IRC section 460. This definition is necessary for taxpayers to determine whether their activities must be accounted for under IRC section 460 in determining their taxable income.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-58-91.

Drafting attorney: Leo F. Nolan II (202) 622-4970.

Reviewing attorney: Eric Pleet (202) 622-4970.

Agency Contact: Leo F. Nolan II, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ30

2926. ESCROW FUNDS AND OTHER SIMILAR FUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Further guidance relating to certain escrow funds and other similar funds.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-017-93

Drafting attorney: Michael L. Gompertz (202) 622-4910.

Reviewing attorney: Debra Carlisle (202) 622-4910.

Agency Contact: Michael L. Gompertz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AR82

2927. • DEFINITION OF AN ITEM FOR LIFO

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance to taxpayers with respect to the definition of an "item" for purposes of LIFO computations and the LIFO inventory price index methods.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-014-93

Drafting Attorney: Grant Gabriel (202) 622-4970.

Reviewing Attorney: Don Barnes (202) 622-4970.

Agency Contact: Grant Gabriel, Attorney-Advisor (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AT39

2928. INTERCOMPANY TRANSFER PRICING FOR SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will address the transfer pricing of services between related parties.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-051-92.

Drafting attorney: Sim S. Seo (202) 622-3870.

Reviewing attorney: George Sellinger (202) 874-1490.

Treasury attorney: Warren Crowdus (202) 622-1779.

Agency Contact: Sim S. Seo, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AR32

2929. MERGER OR DIVISION OF COMMON TRUST FUNDS—SECTION 584

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 584

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendment of section 1.584-4 of the regulations relating to the diversification requirement for mergers or divisions of common trust funds.

Timetable:

Action	Date	FR Cite
NPRM	08/10/95	60 FR 40796
NPRM Comment Period End	11/18/95	60 FR 40796
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-29-92.

Drafting attorney: H. Grace Kim (202) 622-3060.

Reviewing attorney: Arthur H. Ernst (202) 622-3060.

Treasury attorney: David Weisbach (202) 622-1129.

Agency Contact: Brian J. O'Connor, Attorney-Advisor, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AQ64

2930. INCOME TAXATION OF TRUSTS AND ESTATES

Priority: Other Significant

Legal Authority: 26 USC 672; 26 USC 673

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding taxation of certain grantor trusts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-108-86.

Drafting attorney: James Quinn (202) 622-3060.

Reviewing attorney: Grace Kim (202) 622-3060.

Agency Contact: James Quinn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AJ20

2931. PARTNERSHIP DISTRIBUTIONS OF MARKETABLE SECURITIES

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 731(c)(7)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Partnerships distributions of marketable securities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-2-95.

Drafting attorney: William Kostak (202) 622-3080.

Reviewing attorney: William O'Shea (202) 622-3070.

Agency Contact: William M. Kostak, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AT19

2932. PAYMENTS TO A RETIRING PARTNER OR A DECEASED PARTNER'S SUCCESSOR IN INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0736; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance for the treatment under section 736(b)(3) of certain payments to a retiring partner or to a deceased partner's successor in interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-17-95

Drafting attorney: Terri A. Belanger (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3070.

Agency Contact: Terri A. Belanger, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AT31

2933. ADJUSTMENTS FOLLOWING SALES OF PARTNERSHIP INTERESTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 743; 26 USC 751; 26 USC 755

CFR Citation: 26 CFR 743; 26 CFR 751; 26 CFR 755

Legal Deadline: None

Abstract: The regulations provide guidance with respect to adjustments relating to book/tax disparities when partnership interests are sold.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: PS-002-94

Drafting attorney: Brian M. Blum (202) 622-3050.

Reviewing attorney: David R. Haglund (202) 622-3050.

Agency Contact: Brian M. Blum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AS39

2934. REMIC REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 860E; 26 USC 860G

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will provide guidance to REMICS and to their investors concerning the operation, formation, and taxation of the entity and the investors.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-31-93

Drafting attorney: William P. Cejudo (202) 622-3920.

Reviewing attorney: Marshall Feiring (202) 622-3960.

Treasury attorney: P. Val Strehlow (202) 622-0869.

Agency Contact: William P. Cejudo, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3920

RIN: 1545–AR88

2935. RECOMPUTATION OF ALLOCATION AND APPORTIONMENT OF DEDUCTION FOR STATE INCOME TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 861; 26 USC 862; 26 USC 863

CFR Citation: 26 CFR 1.861-8

Legal Deadline: None

Abstract: These regulations will address acceptable methods of recomputing allocation and apportionment of deduction for state income taxes after recomputation of state tax liability.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-009-91.

Drafting attorney: David F. Chan (202) 622-3820.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Carol Doran-Klein (202) 622-7262.

Agency Contact: David F. Chan, Legislative Assistant, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3820
Fax: 202 622-4476

RIN: 1545–AP86

2936. TRANSPORTATION INCOME SOURCE RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the source of income attributable to transportation which begins or ends in the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-947-86.

Drafting attorney: Patricia A. Bray (202) 622-3840.

Reviewing attorney: Steven Musher (202) 622-3840.

Treasury attorney: David Sutherland (202) 622-1754.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AJ68

2937. SOURCING RULE APPLICABLE TO CERTAIN INSURANCE INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will source insurance product income comprising amounts paid or credited to foreign policy holders of qualified and failed insurance annuity contracts sold by US insurance companies through foreign branches.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-0093-91.

Drafting attorney: Mary Gillmarten (202) 622-3870.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Mary Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AQ37

2938. • SECTION 863 REGULATIONS

Priority: Other Significant

Legal Authority: 26 USC 0863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To amend regulations under section 863 governing the source of income for property produced in one jurisdiction and sold in another.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IL-003-95

Drafting attorney: Anne Shelburne (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Unassigned.

Agency Contact: Anne Shelburne, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AT40

2939. TIERED PARTNERSHIP RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address whether a foreign partner in a tiered partnership arrangement is engaged in a trade or business in the United States by virtue of membership in that tiered partnership where the second tier partnership meets the requirements of being in U.S. trade or business.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-063-90.

Drafting attorney: Ramon Camacho (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: Unassigned.

Agency Contact: Ramon Camacho, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AR20

2940. INTEGRATED FINANCIAL TRANSACTION

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 864(e)

CFR Citation: 26 CFR 1.861-10(c)

Legal Deadline: None

Abstract: The regulation addresses whether matched book sale and repurchase transactions conducted by securities dealers qualify as integrated financial transactions under section 1.861-10(c).

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-001-93.

Drafting attorney: Karl T. Walli (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: Unassigned.

Agency Contact: Karl T. Walli, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AR20

2941. SOURCE RULES FOR PERSONAL PROPERTY SALES

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 865

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the source of income from sales of personal property. The regulation will set forth rules for sales by U.S. residents and non-residents and specify special rules for depreciable personal property, intangibles, sales connected with an office or other fixed place of business, and sales of a foreign affiliate by a U.S. corporation.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-946-86.

Drafting attorney: Carol P. Tello (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Unassigned.

Agency Contact: Carol P. Tello; Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AJ83

2942. • DETERMINATION OF SOURCE OF LOSS RESULTING FROM SALE OF STOCK - SECTION 865

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 0865

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations will provide rules for determining the source of loss realized on the sale of stock.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IL-004-95

Drafting Attorney: Seth Goldstein (202) 622-3850.

Reviewing Attorney: Barbara Felker (202) 622-3850.

Treasury Attorney: Carol Doran-Klein (202) 622-1762.

Agency Contact: Seth Goldstein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AT41

2943. INCOME TAX—RECIPROCAL EXEMPTIONS FOR CERTAIN TRANSPORTATION INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 883; 26 USC 872

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules with respect to whether a foreign country will be considered to grant a reciprocal Aircraft/Shipping exemption to U.S. corporations for purposes of section 883 of the Code, or to U.S. citizens for purposes of section 872 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-948-86.

Drafting attorney: Patricia A. Bray (202) 622-3840.

Reviewing attorney: Steven Musher (202) 622-3840.

Treasury attorney: David Sutherland (202) 622-1754.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AJ57

2944. BANK EXCLUSION FROM PORTFOLIO INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 881

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Exception to 30 percent withholding on portfolio interest does not apply to banks. This regulation will address what a bank is for purposes of section 881(c)(3)(A).

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-080-91.

Drafting attorney: Leslie B. Van Der Wal (202) 622-3850.

Reviewing attorney: Unassigned.

Treasury attorney: Unassigned.

Agency Contact: Leslie B. Van Der Wal, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AQ39

2945. CLARIFICATION OF SECTION 883(C) PUBLICLY TRADED EXCEPTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 883

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would clarify the rules regarding the publicly traded exception to section 883(c)(1) of the code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-0048-93

Drafting attorney: Patricia A. Bray (202) 622-3840.

Reviewing attorney: Steven A. Musher (202) 622-3840.

Treasury attorney: David Sutherland (202) 622-1754.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AR77

2946. FINAL REGULATIONS UNDER SECTION 1.884-2

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 884

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will finalize temporary regulations that provide special rules for termination or incorporation of a U.S. trade or business or liquidation or reorganization of a foreign corporation or its domestic subsidiary.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-027-92.

Drafting attorney: Sharon Bomgardner (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Sharon Bomgardner, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AQ73

2947. INCOME TAX—PARTNERSHIP RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN UNITED STATES REAL PROPERTY INTERESTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 897(g); 26 USC 897(e)(2); 26 USC 1445(e)(5)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide rules for foreign partners disposing of an interest in a partnership holding United States real property interests, to determine the amount of gain or loss from such disposition for purposes of section 897(a).

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-384-88.

Drafting attorney: Robert Lorence (202) 622-3880.

Reviewing attorney: Charles Besecky (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Robert Lorence, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AL77

2948. FIRPTA CLEANUP

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 897; 26 USC 1445

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Reporting requirements for 5 percent shareholders; equity kickers; establish securities market definition; other related issues.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-785-87.

Drafting attorney: Gwendolyn A. Stanley (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Gwendolyn A. Stanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AJ72

2949. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1203 of the Tax Reform Act of 1986 amends section 904(f) by adding paragraph (5) at the end thereof which requires that foreign source losses with respect to any income category first offset a taxpayer's other foreign source income before such losses offset the taxpayer's U.S. source income. The regulation will provide rules for the allocation of foreign source losses.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-338-89.

Drafting attorney: Willard W. Yates (202) 622-3870.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: Joni Walser (202) 622-1752.

Agency Contact: Willard W. Yates, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AM11

2950. EXCLUSION OF POSSESSION SOURCE INCOME FROM GROSS INCOME OF CERTAIN INDIVIDUALS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document contains temporary Income Tax Regulations relating to the determination of bona fide residency of individuals of the U.S. Virgin Islands.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-069-93.

Drafting attorney: Lilo A. Hester (202) 874-1490.

Reviewing attorney: George Sellinger (202) 874-1490.

Treasury attorney: Unassigned.

Agency Contact: Lilo A. Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Suite 3319, Washington, DC 20024
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AS42

2951. COORDINATION OF U.S. AND VIRGIN ISLANDS INCOME TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 932; 26 USC 931

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document contains temporary Income Tax Regulations relating to the determination of bona fide residency of individuals of American Samoa, the Northern Mariana Islands, Guam and the Virgin Islands. This action is necessary because changes to the applicable tax law were made by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-070-93

Drafting attorney: Lilo A. Hester (202) 874-1490.

Reviewing attorney: George M. Sellinger (202) 874-1490

Treasury attorney: Unassigned.

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Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AS41

2952. OBRA 1993 SECTION 936 REG

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 936(a)(4)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will prescribe rules for electing the 60% wage limitation on the section 936 credit for computing the limitation, and will prescribe rules for electing affiliated group status as well as rules to prevent tax avoidance using such affiliated status.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-073-93

Drafting attorney: Mary Gillmarten (202) 622-3870.

Reviewing attorney: Jacob Feldman (202) 622-3870.

Treasury attorney: unassigned (202) 622-1950.

Agency Contact: Mary Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AS43

2953. FOREIGN INSURANCE COMPANY—DOMESTIC ELECTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 953(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide substantive and procedural rules regarding the election under section 953(d) to treat certain controlled foreign corporations engaged in the insurance business as domestic corporations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-765-89.

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: Steven Musher (202) 622-3840.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AO25

2954. SUBPART F SHIPPING AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address statutory changes under the Tax Reform Act of 1986, with respect to foreign base company shipping income and amounts invested in and withdrawn from foreign base company shipping operations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-654-88.

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: Phyllis Marcus (202) 622-3840.

Treasury attorney: Unassigned.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AM46

2955. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 956A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the treatment of earnings in excess passive assets.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-067-93

Drafting attorney: Kristine K. Schlaman (202) 622-3840.

Reviewing attorney: Steven Musher (202) 622-3840.

Treasury attorney: Patricia Brown (202) 622-1781.

Agency Contact: Kristine K. Schlaman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AS47

2956. • COORDINATION OF PRE-1987 DEEMED PAID TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will state cooordination rules for computing deemed paid taxes on distributions and deemed distributions of foreign corporations' earnings and profits from the same pre-1987 year.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IL-037-95

Drafting attorney: Irwin Halpern (202) 622-3850.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: Carol Doran Klein (202) 622-1762.

Agency Contact: Irwin Halpern, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AT85

2957. DETERMINATION OF FOREIGN TAXES AND FOREIGN CORPORATIONS' EARNINGS AND PROFITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules for translating foreign

earnings and profits and taxes into dollars, as well as timing and computation rules relating to the taxation of exchange gain or loss on previously taxed income that is distributed through a chain of controlled foreign corporations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-107-89.

Drafting attorney: Jacob Feldman (202) 622-3870.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: Unassigned.

Agency Contact: Jacob Feldman, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AN37

2958. STOCK REDEMPTION INCIDENT TO DIVORCE

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance regarding whether transfers of property to third parties on behalf of a spouse or former spouse qualify for section 1041 no-gain treatment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-011-95

Drafting Attorney: Susie Bird (202) 622-4960.

Reviewing Attorney: William A. Jackson (202) 622-4960.

Agency Contact: Susie Bird, Attorney-Adviser (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AT24

2959. AMENDMENT OF REGULATIONS UNDER IRC SECTION 1059A

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will amend the regulations under section 1059A to reflect changes in the section 482 regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-009-94.

Drafting attorney: W. Edward Williams (202) 874-1490.

Reviewing attorney: George M. Sellinger (202) 874-1490.

Treasury attorney: Unassigned.

Agency Contact: W. Edward Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Washington, DC 20024
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AS89

2960. PARTNERSHIPS AND DEPRECIATION RECAPTURE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on how partnerships shall allocate depreciation recapture income.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-15-95

Drafting attorney: Deborah A. Harrington (202) 622-3050.

Reviewing attorney: Claire E. Toth (202) 622-3050.

Treasury attorney: John Rooney (202) 622-1335.

Agency Contact: Deborah A. Harrington, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AT32

2961. SECTION 1248 - GAIN FROM SALE OR EXCHANGE OF STOCK IN FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1248; 26 USC 751

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would amend existing regulations with respect to the section 1248 amount attributable to stock of lower tier subsidiaries and stock in less developed country corporations. The regulations would also provide rules for determining the section 1248 amount due to certain dispositions on which gain is not recognized. The regulations would also expand the foreign tax credit available with respect to the section 1248 amount attributable to third-tier subsidiaries.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-42-86.

Drafting attorney: Unassigned.

Reviewing attorney: Elizabeth Karzon (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Charles P. Besecky, Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AC31

2962. GAINS FROM CERTAIN SALES OR EXCHANGES IN CERTAIN FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary regulations that amend the regulations under section 1248 to partially suspend the application of section 1248(e) and to limit the application of section 1248(f) to those situations in which gain is not required.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-039-87.

Drafting attorney: David F. Bergkuist (202) 622-3860.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Unassigned.

Agency Contact: David F. Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AL89

2963. INCOME TAX—GAIN FROM DISPOSITION OF INTEREST IN OIL, GAS, GEOTHERMAL, OR OTHER MINERAL PROPERTIES BY S CORPORATIONS AND THEIR SHAREHOLDERS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 1254; 26 USC 751

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will determine the tax treatment by S corporations and their shareholders from the disposition of certain oil, gas, geothermal, or other mineral properties. Gain subject to recapture under section 1254 will be accorded ordinary income treatment. The regulations also will determine the tax treatment of sales of shares of stock in an S corporation that holds oil, gas, geothermal, or other mineral properties.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-7-89

Drafting attorney: James A. Quinn (202) 622-3060.

Reviewing attorney: Arthur H. Ernst (202) 622-6060.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

Agency Contact: James A. Quinn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AM98

2964. DISPOSITION GAIN REPRESENTING ACCRUED MARKET DISCOUNT TREATED AS ORDINARY INCOME; DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED MARKET DISCOUNT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1276; 26 USC 1278

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the treatment of gain realized on the disposition of any Market Discount Bond as ordinary income. These regulations will also prescribe the extent to which a deduction for interest allocable to accrued market discount is deferred.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-21-85.

Drafting attorney: William Cejudo (202) 622-3920.

Drafting attorney: Jeffrey Maddrey (202) 622-3940.

Reviewing attorney: Bernita Thigpen (202) 622-3920.

Reviewing attorney: Andrew Kittler (202) 622-3940.

Treasury attorney: P. Val Strehlow (202) 622-0869.

Agency Contact: William Cejudo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3920

RIN: 1545–AH82

2965. QEF SHAREHOLDER ELECTION

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 1295

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address QEF shareholder election as it applies to section 1295.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-579-88

Drafting attorney: Joseph S. Henderson (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Unassigned.

Agency Contact: Joseph S. Henderson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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Fax: 202 622-4476

RIN: 1545–AM41

2966. INCOME TAX—DEFINITIONS AND SPECIAL RULES PERTAINING TO S CORPORATIONS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 1377

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will define and interpret special rules contained in Section 1377 of the Code, including pro rata share, the election to terminate a year and post-termination period.

Timetable:

Action	Date	FR Cite
NPRM	07/12/95	60 FR 35882
NPRM Comment Period End	10/10/95	60 FR 35882
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-268-82.

Drafting attorney: Brian J. O'Connor (202) 622-3060.

Reviewing attorney: H. Grace Kim (202) 622-3060.

Treasury attorney: John Rooney (202) 622-1335.

Agency Contact: Brian J. O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
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RIN: 1545–AE94

2967. GENERAL REVISION OF SECTION 1441 REGULATIONS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: General revision of section 1441 withholding regulations to accommodate changes to the tax law since these rules were issued.

Timetable:

Action	Date	FR Cite
ANPRM	04/25/90	55 FR 17455
NPRM	06/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: INTL-062-90.

Drafting attorney: Robert Lorence (202) 622-3880.

Reviewing attorney: Christine Halphen (202) 622-3810.

Treasury attorney: Carol Doran Klein (202) 622-1762 and

Ann Fisher (202) 622-1755.

Agency Contact: Robert Lorence, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AO27

2968. SECTION 1445 REGULATION REVISIONS DUE TO 1993 TAX ACT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The withholding rates in sections 1.1445-5 and 1.1445-8 need to be increased from 34% to 35% to reflect the amendment to sections 1445(c)(1) and (e)(2).

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-008-94

Drafting attorney: Gwendolyn Stanley (202) 622-3860.

Reviewing attorney: Charles Besecky (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Gwendolyn Stanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AS51

2969. REGULATIONS UNDER SECTIONS 1491, 1492, AND 1494

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1491; 26 USC 1492; 26 USC 1494

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of these regulations is to provide guidance to taxpayers regarding both the types of outbound property transfers that are subject to the tax imposed by section 1491 and the types of outbound property transfers that are exempt from the tax by reasons of section 1492.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: INTL-102-89.

Drafting attorney: Gwendolyn A. Stanley (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Gwendolyn A. Stanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AN39

2970. SECTION 1.1502-47 REGULATIONS—SUPPLEMENTAL

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the proper computation of the foreign tax credit limitation amount for life/non-life consolidated returns.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-025-93

Drafting attorney: Mary Gillmarten (202) 622-3870.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: Unassigned.

Agency Contact: Mary Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AR89

2971. • MEMBER STOCK TRANSACTIONS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules disallow loss and exclude gain for certain dispositions and other transactions involving stock of the common parent of a consolidated group. The rules prevent taxpayers from recognizing certain gains and losses on common parent stock that would not be recognized if a consolidated group were treated as a single entity.

Timetable:

Action	Date	FR Cite
NPRM	07/12/95	60 FR 36755
NPRM Comment Period End	10/16/95	60 FR 36755
Hearing	11/16/95	60 FR 36755
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-24-95.

Drafting attorney: David Kessler (202) 622-7770.

Reviewing attorney: Victor Penico (202) 622-7750.

Treasury attorney: David Weisbach (202) 622-1129.

Agency Contact: Victor Penico, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750
Fax: 202 622-6834

RIN: 1545–AT51

2972. APPLICATIONS OF SECTION 1503(D) TO PARTNERSHIPS AND OTHER ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Determination of when and how section 1503(d), treatment of dual consolidated losses, will apply to partnerships.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-037-92.

Drafting attorney: Joan M. Thomsen (202) 622-3840.

Reviewing attorney: Steven A. Musher (202) 622-3840.

Treasury attorney: Unassigned.

Agency Contact: Joan M. Thomsen, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AR26

2973. SITUS OF PARTNERSHIP INTERESTS HELD BY A NONRESIDENT ALIEN FOR ESTATE TAX PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 2104; 26 USC 2105

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: This regulation will determine the amount of partnership interests that will have a United States situs for estate tax purposes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-079-90.

Drafting attorney: Leslie A. Cracraft (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Leslie A. Cracraft, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AP07

2974. TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 6302 (c)

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Proposal would provide rules concerning the treatment of certain deferred compensation and salary reduction arrangements under section 3121 (v) and section 3306 (r) of the Internal Revenue Code of 1954, thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret those sections of the Code.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-142-87.

Drafting attorney: David Pardys (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Treasury attorney: Elizabeth Buchbinder (202) 622-1352.

Agency Contact: David Pardys, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6040

RIN: 1545–AF97

2975. LUXURY EXCISE TAX CHANGES UNDER OBRA 1993

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4003

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations implement the exemption from luxury tax for accessories for handicapped individuals and other matters.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PS-75-93

Drafting attorney: Edward Madden (202) 622-3130.

Reviewing attorney: Richard Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Edward Madden, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AS34

2976. DIESEL FUEL EXCISE TAX; DYE INJECTION SYSTEMS AND MARKERS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 4082

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: Diesel fuel excise tax;rules relating to the use of dye injection systems and markers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-6-95.

Drafting attorney: Frank K. Boland (202) 622-3130.

Reviewing attorney: Richard A. Kocak (202) 622-3130.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

Agency Contact: Frank K. Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
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Fax: 202 622-4524

RIN: 1545–AT18

2977. EXCISE TAX ON AVIATION FUEL

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4091 to 4093

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: This regulation provides rules on aviation fuel taxes under the Revenue Act of 1987, the Technical and Miscellaneous Revenue Act of 1988, and OBRA 1993.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: PS-3-88.

Drafting attorney: Frank Boland (202) 622-3130.

Reviewing attorney: Dick Kocak (202) 622-3130.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AL43

2978. CHEMICAL TAX UNDER SECTION 4461 AND IMPORTED SUBSTANCE TAX UNDER SECTION 4671

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4671; 26 USC 4661

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: These proposed regulations relate to taxable chemicals and taxable imported substances.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-71-88.

Drafting attorney: Ruth Hoffman (202) 622-3130.

Reviewing attorney: Jeff Nelson (202) 622-3130.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AL73

2979. INFORMATION REPORTING AND RECORD MAINTENANCE UNDER SECTION 6038C

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 7801; 26 USC 6038(c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will implement the directives of section 6038C.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-102-90.

Drafting attorney: Richard Hoge (202) 622-3870.

Reviewing attorney: Karl Walli (202) 622-3870.

Treasury attorney: Karl Walli (202) 622-6409.

Agency Contact: Richard C. Hoge, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AP10

2980. • DISCLOSURE OF RETURNS AND RETURN INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6103

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This document amends existing regulation 26 CFR 301.6103(n)-1 and would add officers and employees of the Justice Department having tax administration duties to those persons and agencies authorized to disclose returns and return information in connection with the procurement of property and services for tax administration purposes. Currently, such disclosures by the Justice Department are limited to the Tax Division.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DL-040-95

Drafting attorney: Donald Squires (202) 622-4570.

Reviewing attorney: Joseph Urban (202) 622-4570.

Agency Contact: Donald Squires, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224

Phone: 202 622-4570

RIN: 1545–AT48

2981. REVISION OF SECTION 6114 REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To revise the final regulations under section 6114 to require reporting for certain recipients of fixed or determinable annual or periodic income when no reporting is presently required.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-052-94.

Drafting attorney: David F. Bergkuist (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: David F. Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AT00

2982. SELECTION OF TAX MATTERS PARTNER FOR LIMITED LIABILITY COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6230(i); 26 USC 6230(k); 26 USC 7805(a)

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide (1) who an LLC may designate as its tax matters partner for a specific taxable year, (2) how the designation is made and (3) how the designation is terminated.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: PS-34-92

Drafting attorney: D. Lindsay Russell (202) 622-3050.

Reviewing attorney: Dianna K. Miosi (202) 622-3050.

Treasury attorney: John Rooney (202) 622-1335.

Agency Contact: D. Lindsay Russell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AS09

2983. UPDATE OF LIST OF LEGAL HOLIDAYS FOR PURPOSES OF TIME FOR PERFORMANCE OF ACTS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations will update existing regulations section 301.7503-1 to include Dr. Martin Luther King, Jr.'s birthday in the table of holidays and to change the date of Veterans Day to November 11.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-36-91

Drafting attorney: Judith Lintz (202) 622-4940.

Reviewing attorney: Rudolf Planert (202) 622-4940.

Agency Contact: Judith A. Lintz, Attorney-Adviser (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AT22

2984. EXTENSION OF STATUTE OF LIMITATIONS IN JOHN DOE SUMMONS DISPUTES

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Under the Tax Reform Act of 1986, statutes of limitations are suspended in certain cases in which there is no resolution of a third-party recordkeeper's response to a summons. Section 7609(e)(2) was amended by the Technical and Miscellaneous Revenue Act of 1988 so that the suspension applies to all John Doe summonses, whether or not the summoned party is a third-party recordkeeper as defined in IRC section 7609(a)(3). The new regulations will make changes to 26 CFR 301.7609 to conform with the 1986 and 1988 amendments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-723-88.

Drafting attorney: Jerome D. Sekula (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

Agency Contact: Jerome D. Sekula, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3640

RIN: 1545–AM67

2985. SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS DURING PROCEEDING TO ENFORCE DESIGNATED SUMMONS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to taxpayers with regard to the changes made to section 6503 by the Omnibus Budget Reconciliation Act of 1990. Under those changes, the period of limitations for assessment with respect to a corporation is suspended when a court proceeding is instituted to enforce or quash a designated summons or related summons issued within 30 days of the issuance of the designated summons.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: GL-026-91.

Drafting attorney: Jerome D. Sekula (202) 622-3640.

Reviewing attorney: Robert A. Miller (202) 622-3640.

Agency Contact: Jerome D. Sekula, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3640

RIN: 1545–AQ01

2986. TECHNICAL CORRECTIONS FOR CHAPTER 14

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 25

Legal Deadline: None

Abstract: The regulation relates to the special valuation rules of the Generation Skipping Transfer Tax under sections 2701, 2702, 2703 and 2704 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-8-93.

Drafting attorney: Dale Carlton (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Agency Contact: Dale Carlton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AR49

2987. DISCLAIMER OF INTERESTS AND POWER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 25

Legal Deadline: None

Abstract: These regulations contain amendments regarding the disclaimer of jointly owned property.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-002-91

Drafting attorney: Dale Carlton (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Agency Contact: Dale Carlton, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AR52

2988. AUTOMATIC EXTENSION OF TIME FOR FILING INDIVIDUAL TAX RETURNS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1.6081-4

Legal Deadline: None

Abstract: The regulating describes how individual taxpayers for taxable year beginning.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-41-93

Drafting Attorney: Margaret Owens (202) 622-4940.

Reviewing Attorney: Norlyn Miller (202) 622-4940.

Agency Contact: Margaret Owens, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AS04

2989. AUTOMATIC EXTENSION OF TIME FOR FILING INDIVIDUAL TAX RETURNS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1.6081-4

Legal Deadline: None

Abstract: The regulation describes how individual taxpayer for taxable year beginning.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-41-93

Drafting attorney: Margaret Owens (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Agency Contact: Margaret Owens, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AS05

2990. ARBITRAGE RESTRICTION ON TAX-EXEMPT BONDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 148(f); 26 USC 148(i); 26 USC 149(d)(7); 26 USC 150

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project clarifies and revises certain provisions of the final arbitrage regulations published in June 1993.

Timetable:

Action	Date	FR Cite
NPRM	05/10/94	59 FR 24094
Hearing	10/12/95	60 FR 42819
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: FI-7-94.

Drafting attorney: Loretta J. Finger (202) 622-3980.

Reviewing attorney: Michael G. Bailey (202) 622-3980.

Agency Contact: Loretta J. Finger, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AS49

2991. INTANGIBLE AMORTIZATION

Priority: Other Significant

Legal Authority: 26 USC 7805; PL 103-66

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: An advance notice of proposed rulemaking invited written comments from the public on issues that the IRS may address in proposed regulations under section 197 and section 167, relating to the amortization of goodwill and certain other intangibles. This notice was intended to help develop guidance to assist taxpayers in applying the rules relating to section 197. Based on internal analysis of the written comments proposed regulations are now in development.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/94	59 FR 32670
ANPRM Comment Period End	08/23/94	
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-29-94

Drafting attorney: John Huffman (202) 622-3110.

Reviewing attorney: Susan Reaman (202) 622-3110.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: John Huffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Consitution Ave. NW., Washington, DC 20224
Phone: 202 622-3110

RIN: 1545–AS77

2992. REISSUANCE OF QUALIFIED TENDER BONDS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1.150

Legal Deadline: None

Abstract: The proposed regulations provide rules for determining whether certain events will cause "qualified tender bonds" to be treated as retired and reissued for purposes of applying sections 103, 141-150, 1394, and 7871 and whether banks have acquired tax exempt bonds under section 265.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Additional Information: FI-58-94.

Drafting attorney: Nancy Lashnits (202) 622-3980.

Reviewing attorney: Lon Smith (202) 622-3980.

Agency Contact: Nancy Lashnits, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington DC 20224
Phone: 202 622-3980

RIN: 1545–AT09

2993. • PASS THROUGH ITEMS OF S CORPORATION TO ITS SHAREHOLDERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation deals with the pass through of items of an S corporation to its shareholders, the character of those items, and the basis limitation on losses and deductions taken into account by the shareholders.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PS-261-82

Drafting attorney: Deane Burke (202) 622-3080.

Reviewing attorney: Donna Young (202) 622-3080.

Treasury attorney: Seth Green (202) 622-0865.

Agency Contact: Deane M. Burke, Attorney-Advisor, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3080

RIN: 1545–AT52

2994. • TREATMENT OF UNDERWRITERS IN SECTION 351 AND SECTION 721

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 351; 26 USC 721

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates to underwriters who will be ignored for purposes of section 351 and section 721.

Timetable:

Action	Date	FR Cite
NPRM	08/10/95	60 FR 40792
NPRM Comment Period End	11/18/95	60 FR 40792
Hearing	01/17/96	60 FR 40792
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-26-95.

Drafting attorney: Susan Edlavitch (202) 622-7750.

Drafting attorney: Brian O'Connor (202) 622-3060.

Reviewing attorney: Nelson Crouch (202) 622-7750.

Agency Contact: Susan T. Edlavitch, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW , Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AT55

2995. • EXCISE TAX ON HEAVY TRUCKS, TRUCK TRAILERS AND SEMITRAILERS, AND TRACTORS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations relate to the retailers excise tax on certain heavy vehicles.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-17-86

Drafting attorney: Edward Madden (202) 622-3130.

Reviewing attorney: Jeffrey Nelson (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Edward Madden, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AT63

2996. • TIMING OF NOTICE AND CONSENT REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide relief to employers on timing of notice and consent requirements under sections 411(a) and 417.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-24-93

Drafting attorney: Judith E. Alden (202) 622-6030.

Agency Contact: Judith Alden, Department of the Treasury, Internal Revenue Service
Phone: 202 622-6030

RIN: 1545–AT75

2997. • EFFECTIVE DATE OF TEMPORARY BACKUP WITHHOLDING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 31; 26 CFR 35a

Legal Deadline: None

Abstract: To provide effective date for temporary regulations on backup withholding.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: IA-33-95

Drafting attorney: Renay France (202) 622-4910.

Reviewing attorney: John Coulter (202) 622-4910.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
P[1] one: 202 622-4910

RIN: 1545–AT77

2998. • ERISA SEC. 204(H) NOTICE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 2

Legal Deadline: None

Abstract: The regulations provide guidance on the requirement of section 204(h) of ERISA that advance notice be given to qualified plan participants of an amendment that provides for a significant reduction in the rate of future benefit accruals.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: EE-34-95

Drafting attorney: Betty Clary (202) 622-6070.

Reviewing attorney: Alan Tawshunsky (202) 622-6070.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AT78

2999. • ERISA SEC. 204(H) NOTICE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 2

Legal Deadline: None

Abstract: The regulations provide guidance on the requirement of section 204(h) of ERISA that advance notice be given to qualified plan participants of an amendment that provides for a significant reduction in the rate of future benefit accruals.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: EE-34-95

Drafting attorney: Betty Clary (202) 622-6070.

Reviewing attorney: Alan Tawshunsky (202) 622-6070.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AT79

3000. REGULATIONS ON INCOME TAX UNDER THE TAX REFORM ACT OF 1984, RELATING TO BELOW-MARKET LOANS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 7872

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance to taxpayers who enter into certain below-market interest rate loan transactions. The regulations explain what type of transactions are treated as loans and what type of loans are subject to the provisions of section 7872. If the loan is subject to section 7872, the below-market loan will be recharacterized as an arm's length market-interest rate loan coupled with a payment by the lender to the borrower in an amount generally equal to the amount of imputed interest. The regulations provide rules for determining the amount and the character of the imputed transfers.

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33553
NPRM Comment Period End	10/20/85	50 FR 33553
Hearing	01/09/86	50 FR 46460
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-165-84.

Drafting attorney: David B. Silber (202) 622-3930.

Reviewing attorney: William Coppersmith (202) 622-3930.

Agency Contact: David B. Silber, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3930

RIN: 1545–AH72

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Final Rule Stage

3001. STATEMENT OF PROCEDURAL RULES—PART 601.702

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 301

CFR Citation: 26 CFR 601.702

Legal Deadline: None

Abstract: The document contains final rules amending the Statement of Procedural Rules (SPR) (26 CFR 601.702). Some amendments reflect procedures heretofore only made available to the public in the Internal Revenue Manual, which is maintained in Internal Revenue Service reading rooms. The SPR also reflects changes in the title and nomenclature and changes of addresses to be contacted for Freedom of Information requests. The rules affect persons requesting records from the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
Statement of Procedural Rules	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DL-041-95

Drafting attorney: Margo L. Stevens (202) 622-4570.

Agency Contact: Margo L. Stevens, Attorney, Department of the Treasury, Internal Revenue Service
Phone: 202 622-4570

RIN: 1545–AR99

3002. THE TREATMENT OF ACCELERATED DEATH BENEFITS UNDER SECTIONS 101, 7702 AND 7702A OF THE INTERNAL REVENUE CODE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 101(a); 26 USC 7702; 26 USC 7702A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding the exclusion of accelerated death benefits from gross income and the treatment of accelerated death benefits under section 7702 and 7702A of the Internal Revenue Code. The regulations also provide rules relating to the cash value taken into account in determining whether a contract qualifies as a life insurance contract for purposes of the Code.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59319
NPRM Comment Period End	02/26/93	57 FR 59324
Hearing	03/19/93	57 FR 59324
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-25-92.

Drafting attorney: Ann H. Logan (202) 622-3970.

Reviewing attorney: Stephen D. Hooe (202) 622-3970.

Treasury attorney: Beth Brooke (202) 622-1332

Agency Contact: Ann H. Logan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3970

RIN: 1545–AQ70

3003. DEFINITION OF "PRIVATE ACTIVITY BOND", "QUALIFIED BOND"

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 141; 26 USC 142; 26 USC 145; 26 USC 1344; 26 USC 148; 26 USC 150

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides a definition of the term "private activity bond".

Timetable:

Action	Date	FR Cite
NPRM	12/30/94	59 FR 67658
NPRM Comment Period End	05/01/95	59 FR 67658
Hearing	06/08/95	59 FR 67658
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Additional Information: FI-72-88.

Drafting Attorney: Loretta J. Finger (202) 622-3980.

Reviewing Attorney: Mike Bailey (202) 622-3980.

Agency Contact: Loretta J. Finger, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AM01

3004. MILLION-DOLLAR CAP ON DEDUCTION FOR EXECUTIVE COMPENSATION

Priority: Other Significant

Legal Authority: 26 USC 162(m)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the $1,000,000 deduction limit of section 162(m).

Timetable:

Action	Date	FR Cite
NPRM	12/20/93	58 FR 66310
NPRM Comment Period End	02/18/94	
NPRM	12/02/94	59 FR 61844
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-61-93

Drafting attorneys: Charles Deliee and Robert Misner

(202)622-6060

Agency Contact: Robert Misner, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AS23

3005. EARNINGS STRIPPING PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation addresses the deductibility of interest under section 163 being limited when paid by a corporation to related persons not subject to U.S. tax.

Timetable:

Action	Date	FR Cite
NPRM	06/18/91	56 FR 27907
Hearing	09/25/91	56 FR 27927
Final Action	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-870-89.

Drafting attorney: Jacob Feldman (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: David Sutherland (202) 622-1754.

Agency Contact: Jacob Feldman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AO24

3006. SECTION 165

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 165(f)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will finalize all outstanding proposed and temporary regulations under section 1.165-5.

Timetable:

Action	Date	FR Cite
NPRM	01/21/93	58 FR 5316
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-115-90.

Drafting attorney: Carl M. Cooper (202) 622-3840.

Reviewing attorney: Phyllis E. Marcus (202) 622-3840.

Treasury attorney: Unassigned.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AP33

3007. SUBSTANTIATION OF CONTRIBUTIONS MADE BY PAYROLL DEDUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 170

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provides guidance regarding the substantiation of charitable contributions made through payroll deduction in accordance with section 13172 of the Omnibus Budget Reconciliation Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	05/27/94	59 FR 27515
Hearing	11/10/94	52 FR 27458
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-74-93

Drafting Attorney: Jefferson K. Fox (202) 622-4930.

Reviewing Attorney: Karin Gross (202) 622-4930.

Agency Contact: Jefferson K. Fox, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4930

RIN: 1545–AS27

3008. SELF-EMPLOYMENT TAX TREATMENT OF MEMBERS OF CERTAIN LIMITED LIABILITY COMPANIES

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation described the self-employment tax treatment of members of limited liability companies.

Timetable:

Action	Date	FR Cite
NPRM	12/29/94	59 FR 67253
NPRM Comment Period End	03/29/95	60 FR 7488
Final Action	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: EE-45-94.

Drafting attorney: Marie Cashman (202) 622-6040.

Reviewing attorney: Jerry E. Holmes (202) 622-6040.

Treasury attorney: Mark Hamelburg (202) 622-1341.

Agency Contact: Marie Cashman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6040

RIN: 1545–AS94

3009. GOLDEN PARACHUTE PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 280G

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to restrictions on golden parachute payments. The regulations will provide guidance to taxpayers, who must comply with section 280G, by delineating the circumstances under which payments may be considered excess parachute payments.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19390
NPRM Comment Period End	07/05/89	54 FR 19390

Action	Date	FR Cite
Hearing	11/21/89	54 FR 39548
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-30-90.

Drafting attorney: Robert Misner (202) 622-6060.

Agency Contact: Robert Misner, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AH49

3010. TREATMENT OF PREMIUMS ON STOCK CALLABLE AT THE OPTION OF THE ISSUER

Priority: Other Significant

Legal Authority: 26 USC 305(c)(1)

CFR Citation: 26 CFR 1.305-5(b)(1); 26 CFR 1.305-5(b)(2)

Legal Deadline: None

Abstract: In section 11322(a) of Pub. L. 101-508, Congress amended section 305(c) of the Code to modify the treatment of preferred stock issued with a redemption premium. The amendment to section 305(c) applies the economic accrual rules that are applicable to debt instruments issued with OID to certain preferred stock issued with a redemption premium if the stock will be redeemed, or it can reasonably be assumed that the stock will be redeemed, on a fixed date. The regulations under 305(c) will be amended to provide for the economic accrual, rather than the ratable inclusion, of redemption premiums, in accordance of OID principles.

Timetable:

Action	Date	FR Cite
NPRM	06/22/94	59 FR 22160
NPRM Comment Period End	10/24/94	59 FR 22160
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-008-91.

Drafting attorney: Kirsten L. Simpson (202) 622-7790.

Reviewing attorney: William Alexander (202) 622-7780.

Treasury attorney: Clarissa Potter (202) 622-0999.

Agency Contact: Kirsten L. Simpson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-7790

RIN: 1545–AQ42

3011. GUIDANCE IN NOTICE 89-37, WHICH TREATS THE RECEIPT OF A CORPORATE PARTNER'S STOCK BY THE CORPORATE PARTNER AS A CIRCUMVENTION OF GENERAL UTILITIES REPEAL

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 337(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will implement the guidance provided in Notice 89-37, 1989-1 C.B. 679, on the treatment of the receipt of a corporation partner's stock by other corporation partner in exchange for appreciated property from the other corporation partner.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	01/20/92	57 FR 59327
NPRM	12/15/92	57 FR 59324
Final Action	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: CO-91-90.

Drafting attorney: Brendan O'Hara (202) 622-7530.

Reviewing attorney: Vicki Hyche (202) 622-7530.

Agency Contact: Brendan O'Hara, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7530

RIN: 1545–AP52

3012. YOC HEATING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805; 26 USC 338

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project proposes rules under section 338 regarding the treatment of the transfer of target assets to the purchasing corporation or another member of the same affiliated group as the purchasing corporation after a qualified stock purchase of target stock, if a section 338 election is not made.

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 9309
NPRM Comment Period End	05/19/95	60 FR 9309
Hearing	06/07/95	60 FR 9309
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-62-94.

Drafting Attorney: Steven Flanagan (202) 622-7790.

Reviewing Attorney: William Alexander (202) 622-7790

Treasury Attorney: David Weisbach (202) 622-1129

Agency Contact: Steven Flanagan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7790

RIN: 1545–AT15

3013. DEEMED PURCHASE PRICE WHEN CERTAIN STOCK PURCHASES ARE TREATED AS ASSET ACQUISITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 338

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will prescribe rules for computing the basis of stock purchased in certain stock acquisitions and for allocating this basis among the assets of the corporation whose stock was thus acquired.

Timetable:

Action	Date	FR Cite
NPRM	07/29/86	51 FR 23790

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TREAS—IRS

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	09/02/86	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-191-82.

Drafting attorney: Andrew Eisenberg (202) 622-7790.

Reviewing attorney: William Alexander (202) 622-7780.

Agency Contact: Andrew Eisenberg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-7790

RIN: 1545–AF29

3014. AMENDMENT OF SECTION 1.338-5T REGULATIONS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 338

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address problems that have surfaced in the section 1.338-5T regulations since their publication, issues raised by the repeal of the General Utilities doctrine, as well as issues presented by the passage of section 338(h)(16) in 1988.

Timetable:

Action	Date	FR Cite
NPRM	01/20/94	59 FR 3045
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-177-90.

Drafting attorney: Kenneth D. Allison (202) 622-3860.

Reviewing attorney: Charles Besecky (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Kenneth D. Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AO73

3015. INCOME TAX—TRIANGULAR REORGANIZATIONS, BASIS AND OTHER CONSEQUENCES

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 358; 26 USC 1032; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for adjusting the basis of a controlling corporation in the stock of a controlled corporation as the result of certain triangular reorganizations involving the stock of the controlling corporation. The regulations also provide in certain circumstances for nonrecognition of gain to the controlled corporation on its use of controlling corporation stock in such reorganizations. The regulations also provide a special rule for adjusting the controlling corporation's basis in the stock of the controlled corporation when certain parties to the reorganization are members of a consolidated group

Timetable:

Action	Date	FR Cite
NPRM	12/23/94	59 FR 66280
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-993-71.

Drafting attorney: Rose Williams (202) 622-7550.

Reviewing attorney: David Madden (202) 622-7540.

Treasury attorney: Michael Thomson (202) 622-1334.

Agency Contact: Rose Williams, Assistant to the Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-7550

RIN: 1545–AB21

3016. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 367 OF THE CODE (TRANSFERS TO FOREIGN CORPORATIONS) TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Income Tax Regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporation will not be considered to be a corporation, for purposes of certain nonrecognition provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the active conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17990
Final Action	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-610-86.

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Bernard Bress (202) 622-3850.

Treasury attorney: Unassigned.

Agency Contact: Philip Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AK74

3017. TRANSFERS OF STOCK OR SECURITIES BY U.S. PERSONS TO FOREIGN CORPORATIONS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations will replace, when finalized, the temporary income tax regulations under section 1.367(a)-1T(c)(2) and section 1.367(a)-3T. They provide guidance on the application of section 367(a) to transfers of stock or securities by U.S. persons to foreign corporations. This regulation has been broken out of a larger regulation project (listed under INTL-610-86, RIN 1545-AK74) that will amend the remainder of the temporary income tax regulations under section 367(a).

Timetable:

Action	Date	FR Cite
NPRM	08/26/91	56 FR 41993
Hearing	11/22/91	56 FR 41992
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-54-91.

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Bernard Bress (202) 622-3850.

Treasury attorney: Joni Walser (202) 622-1752.

Agency Contact: Philip Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AP81

TREAS—IRS

Final Rule Stage

3018. • CERTAIN OUTBOUND TRANSFERS; DOMESTIC STOCK OR SECURITIES (CORPORATE INVERSIONS)

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 0367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will incorporate the principles of Notice 94-46 into the Internal Revenue Code. This regulation will provide rules governing the transfer of domestic stock or securities to a foreign corporation under section 367(a).

Timetable:

Action	Date	FR Cite
Temporary Regulation	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-009-95

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Bernard Bress (202) 622-3850.

Treasury attorney: Joni Walser (202) 622-1752.

Agency Contact: Philip Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AT44

3019. INCOME TAX—PART 1—STOCK TRANSFER RULES

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 367 (b)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The extent to which a foreign corporation shall be considered to be a corporation in connection with an exchange described in sections 332, 351, 354, 355, 356 or 361.

Timetable:

Action	Date	FR Cite
NPRM	08/26/91	56 FR 41993
NPRM Comment Period End	10/25/91	56 FR 41993
Hearing	11/22/91	56 FR 41992
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-178-86.

Drafting attorney: Irwin Halpern (202) 622-3850.

Reviewing attorney: Bernard Bress (202) 622-3850.

Treasury attorney: Joni Walser (202) 622-1752.

Agency Contact: Irwin Halpern, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AI32

3020. CERTAIN CORPORATE DISTRIBUTIONS TO FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal deals with whether gain should be recognized under section 367(e)(2) on distributions in liquidation under section 332 to foreign corporations.

Timetable:

Action	Date	FR Cite
NPRM	01/16/90	55 FR 1472
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-704-87.

Drafting attorney: Willard Yates (202) 622-3850.

Reviewing attorney: Bernard Bress (202) 622-3850.

Treasury attorney: Unassigned.

Agency Contact: Willard Yates, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AL35

3021. TWENTY PERCENT WITHHOLDING ON ELIGIBLE ROLLOVER DISTRIBUTION

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 402(c); 26 USC 403(b); 26 USC 3405(b)

CFR Citation: 26 CFR 1; 26 CFR 31

Legal Deadline: None

Abstract: This project provides a cross-reference notice of proposed rulemaking providing guidance to implement statutory changes enacted by the Unemployment Compensation Amendments of 1992 (UCA). The UCA expands the types of distribution from qualified plans and section 403(b) plans that are eligible for tax-free rollover. Also, the UCA requires qualified plans and 403(b) plans to provide employees with a direct rollover option. Also the UCA imposes a mandatory 20 percent

income tax withholding upon any eligible rollover distribution that the employee does not elect to have paid in a direct rollover.

Timetable:

Action	Date	FR Cite
NPRM	10/22/92	57 FR 48194
NPRM Comment Period End	12/28/92	57 FR 48194
Hearing	01/15/93	57 FR 48193
Final Action	10/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: EE-43-92.

Drafting attorney: Judith Alden (202) 622-6030.

Reviewing attorney: Majorie Hoffman (202) 622-6030.

Agency Contact: Judith Alden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AR01

3022. INCOME TAX—DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 404A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the limitations on deductions and adjustments to earnings and profits (or accumulated profits) with respect to certain foreign deferred compensation plans.

Timetable:

Action	Date	FR Cite
NPRM	05/07/93	58 FR 27219
NPRM Comment Period End	05/07/93	58 FR 27219
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-14-81.

Drafting attorney: Robin Ehrenberg (202) 622-6080.

Reviewing attorney: Michael A. Thrasher (202) 622-6000.

Agency Contact: Robin Ehrenberg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6080

RIN: 1545–AD81

3023. • ALLOCATION OF ACCRUED BENEFITS BETWEEN EMPLOYER AND EMPLOYEE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Modification of Reg. Section 1.411(c)-1 to reflect GATT provisions affecting the allocation of accrued benefits between employer and employee contributions.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-35-95

Drafting attorney: Janet Laufer (202) 622-6060.

Reviewing attorney: Mark Schwimmer (202) 622-6060.

Agency Contact: Janet Laufer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution, Ave. NW., Washington, DC 20224
Phone: 202 622-6060
Fax: 202 622-4617

RIN: 1545–AT83

3024. DEFINITION OF "HIGHLY COMPENSATED EMPLOYEE"

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 414(q)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed and temporary regulations define the term "highly compensated employee" under section 414(q) of the Code.

Timetable:

Action	Date	FR Cite
NPRM	02/19/88	
NPRM Comment Period End	04/19/88	53 FR 4999
Partially Closed by TD 8548	06/27/94	59 FR 32911
Final Action	03/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: EE-32-92.

Drafting attorney: Patricia McDermott (202) 622-6030.

Reviewing attorney: Nancy J. Marks (202) 622-6000.

Treasury attorney: Mark Iwry (202) 622-2647.

Temporary and proposed regulations under sections 414(g) and and 414(s) were published February 19, 1988 (53 FR 4965); and final regulations under section 414(s) were published September 19, 1991 (56 FR 47659), under project EE-129-86. The regulations under section 414(q) were split off from project EE-129-86. It is anticipated that final regulations under section 414(q) will be published in the future under project EE-32-92.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AQ74

3025. VALUATION OF PLAN DISTRIBUTION

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 417

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance to employees in determining the present value of an employee's benefit in a qualified defined benefit plan.

Timetable:

Action	Date	FR Cite
NPRM	04/05/95	60 FR 17286
NPRM Comment Period End	07/05/95	60 FR 17286
Hearing	07/25/95	60 FR 17286
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-12-95

Drafting Attorney: Linda Marshall (202) 622-6030.

Reviewing Attorney: Nan Marks (202) 622-6000.

Treasury Attorney: Harlan Weller (202) 622-1001.

Agency Contact: Linda Marshall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AT27

3026. RULES FOR CERTAIN RENTAL REAL ESTATE ACTIVITIES

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 469

CFR Citation: 26 CFR 469

Legal Deadline: None

Abstract: Proposed regulations provide guidance for new section 469(c)(7) concerning special rules for taxpayers in real property business. Section 469(c)(7) was enacted by OBRA 93.

Timetable:

Action	Date	FR Cite
NPRM	01/10/95	60 FR 2557
Hearing	05/11/95	60 FR 2557
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-80-93.

Drafting attorney: William M. Kostak (202) 622-3080.

Reviewing attorney: Donna M. Young (202) 622-3070.

Agency Contact: William M. Kostak, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AS38

3027. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS—SELF-CHARGED ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0469 (l)

CFR Citation: 26 CFR 1.469-7

Legal Deadline: None

Abstract: The regulation will address the treatment of self-charged items of income and expense in connection with transactions between passthrough entities and owners of interests in those entities.

Timetable:

Action	Date	FR Cite
NPRM	04/05/91	56 FR 14034
Hearing	09/06/91	56 FR 14040
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: PS-039-89.

Drafting attorney: Ann Veninga (202) 622-3080.

Reviewing attorney: Donna M. Young (202) 622-3070.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Ann Veninga, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3080
Fax: 202 622-4524

RIN: 1545–AN64

3028. MARK-TO-MARKET UPON DISPOSITION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 475(a); 26 USC 475(b)(2); 26 USC 475(e); 26 USC 860G(e)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations to address the relationship between mark-to-market accounting and accrual of stated interest, discount and premium, and between mark-to-market accounting and the tax treatment of bad debts. Proposed regulations also provide securities are to be marked to market upon disposition by a dealer and provide rules relating to acquisitions of securities by a dealer. The exemption from marking to market in certain securitization transactions, and the identification requirement for obtaining exemption. Proposed regulations also provide guidance relating to the exclusion of REMIC residual interests from the definition of security and to the relationship between the mark-to-market provisions and the integrated transaction rules in the proposed regulations on debt instruments with contingent payments.

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 397
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-42-94

Drafting attorney: Robert Williams (202) 622-3960.

Reviewing attorney: Michael Novey (202) 622-3900.

Treasury attorney: Mary Heath (202) 622-0868.

Agency Contact: Robert Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3960

RIN: 1545–AS85

3029. SECTION 482, COST SHARING REGULATIONS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 482

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Transfer of intangibles between affiliates; intercompany pricing issues.

Timetable:

Action	Date	FR Cite
NPRM	01/30/92	57 FR 3571
Hearing	08/31/92	57 FR 33663
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-372-88.

Drafting attorney: Lisa L. Sams (202) 622-3840.

Reviewing attorney: Steven Musher (202) 622-3840.

Treasury attorney: Warren Crowdus (202) 622-1779.

Agency Contact: Lisa L. Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service,

1111 Constitution Avenue NW.,
Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AM00

3030. TAXATION OF GLOBAL TRADING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864; 26 USC 482; 26 USC 863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations to improve the taxation of global trading.

Timetable:

Action	Date	FR Cite
NPRM	08/28/90	55 FR 35152
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-070-90.

Drafting attorney: Ahmad A. Pirasteh (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: Patricia Brown (202) 622-1781.

Agency Contact: Ahmad A. Pirasteh, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AP01

3031. RECOGNITION OF PRE-CONTRIBUTION GAIN OR LOSS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 704(c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The final regulations will address the determination of pre-contribution gain or loss under section 704(c)(1)(B) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	01/09/95	60 FR 2352
Final Action	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-51-93

Drafting attorney: Stephen Coleman (202) 622-3060.

Reviewing attorney: Thomas J. Hines (202) 622-3060.

Agency Contact: Stephen Coleman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AR93

3032. SECTION 737 DISTRIBUTIONS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 737

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Final regulations under section 737 relating to the recognition of pre-contribution gain in the case of certain distributions to the contributing partner.

Timetable:

Action	Date	FR Cite
NPRM	01/09/95	60 FR 2352
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-76-92.

Drafting attorney: Stephen Coleman (202) 622-3060.

Reviewing attorney: Thomas J. Hines (202) 622-3060.

Treasury attorney: David Weisbach (202) 622-1129.

Agency Contact: Stephen Coleman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AR48

3033. EXTENSION OF TIME FOR REAL ESTATE MORTGAGE INVESTMENT CONDUITS TO PROVIDE REPORTING INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 860F; 26 USC 6049

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposed regulation would extend the deadline for REMICs or issuers of CDOs to furnish reporting information.

Timetable:

Action	Date	FR Cite
NPRM	09/30/91	56 FR 49525
Hearing	12/05/91	56 FR 49526
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-38-91.

Drafting attorney: Kenneth P. Christman (202) 622-3950.

Reviewing attorney: Marshall D. Feiring (202) 622-3960.

Treasury attorney: Val P. Strehlow (202) 622-0869.

Agency Contact: Kenneth P. Christman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AP73

3034. CHARITABLE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 861

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed section 1.861-8(e) would provide new guidance regarding the allocation of charitable deductions to U.S. or foreign source income. A taxpayer would allocate such a deduction solely to U.S. source income if he designated the contribution for U.S. use and reasonably believed that it would be so used. He would allocate such a deduction solely to foreign source income if he knows or has reason to know that it would be used solely outside the United States or that it must necessarily be so used. In all other cases, he would ratably apportion such a deduction.

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10395
Hearing	08/01/91	56 FR 23823
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-116-90.

Drafting attorney: Carl M. Cooper (202) 622-3840.

Reviewing attorney: Charles C. Saverude (202) 622-3800.

Treasury attorney: P. Ann Fisher (202) 622-1755.

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RIN: 1545–AP30

3035. • ALLOCATION AND APPORTIONMENT OF RESEARCH AND EXPERIMENTAL EXPENDITURES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0861

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides rules regarding the allocation and apportionment of research and experimental expenditures for purposes of determining taxable income from sources within and without the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/24/95	60 FR 27453
Hearing	09/08/95	60 FR 27453
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-023-95

Drafting attorney: Carl Cooper (202) 622-3840.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Bruce Cohen (202) 622-0871.

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RIN: 1545–AT49

3036. ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND CERTAIN OTHER EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of proposed rulemaking by cross-reference to temporary regulations providing rules for affiliated group allocation and apportionment of expenses other than interest that are not traceable to specific income-producing activities or property of corporations.

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10397
Hearing	06/21/91	56 FR 21640
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-952-86.

Drafting attorney: David F. Bergkuist (202) 622-3860.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Carol Doran-Klein (202) 622-1762.

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RIN: 1545–AM20

3037. TREATMENT OF RELATED PERSON FACTORING INCOME; CERTAIN INVESTMENTS IN UNITED STATES PROPERTY; AND STOCK REDEMPTIONS THROUGH RELATED CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864 (d); 26 USC 956; 26 USC 304; 26 USC 7805; 26 USC 864 (d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These rules will relate to the treatment of income derived by foreign corporations from factoring the receivables of related persons, rules relating to certain investments in U.S. property and stock redemptions through related corporations.

Timetable:

Action	Date	FR Cite
NPRM	06/14/88	53 FR 22186
NPRM Comment Period End	08/15/88	53 FR 22186
Hearing	02/09/89	53 FR 49895
Final Action	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-49-86.

Drafting attorney: Jeffrey L. Vinnik (202) 622-3840.

Reviewing attorney: Steven Musher (202) 622-3840.

Treasury attorney: Carol Dunahoo (202) 622-0726.

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RIN: 1545–AH85

3038. COMPUTATION OF INTEREST EXPENSE DEDUCTION

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 882

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will revise the rules for the computation of the interest expense deduction of a foreign corporation.

Timetable:

Action	Date	FR Cite
NPRM	04/24/92	57 FR 15038
NPRM Comment Period End	10/14/92	
Final Action	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-309-88.

Drafting attorney: Karl T. Walli (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870

Treasury attorney: Unassigned.

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RIN: 1545–AL84

3039. AMENDMENTS TO THE BRANCH PROFITS TAX UNDER SECTIONS 884 AND 864

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 884; 26 USC 864

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will revise the "asset-use" test under section 864 to exclude stock. This regulation will explain what percentage of an interest in a partnership, trust or estate is a U.S. asset under section 884. In addition, this regulation amends the definition of "branch interest" under section 884.

Timetable:

Action	Date	FR Cite
NPRM	09/11/92	57 FR 41707
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-003-92.

Drafting attorney: Gwendolyn A. Stanley (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: P. Ann Fisher (202) 622-1755.

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RIN: 1545–AQ58

3040. INCOME OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 892 (c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of Proposed Rulemaking by cross-reference to temporary regulations regarding the taxation of income of foreign governments and international organizations.

Timetable:

Action	Date	FR Cite
NPRM	06/27/88	53 FR 24100
NPRM Comment Period End	08/26/88	53 FR 24100
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-285-88.

Drafting attorney: David A. Juster (202) 622-3850.

Reviewing attorney: Bernard T. Bress (202) 622-3850.

Treasury attorney: Unassigned.

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RIN: 1545–AL93

3041. NONRECOGNITION OF CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 897

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules concerning the effect of certain distributions including dividends, redemptions, distributions pursuant to reorganizations, and liquidations on corporations and their shareholders under the Foreign Investment in Real Property Tax Act. Proposal would also provide rules for determining the extent to which nonrecognition would apply to certain transfers of real property interests and the extent to which certain reorganizations will be treated as sales of property at fair market value.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16233
Hearing	03/01/89	54 FR 1189
Final Action	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-491-87.

Drafting attorney: Leslie A. Cracraft (202) 622-3860.

Reviewing attorney: Charles P. Besecky (202) 622-3860.

Treasury attorney: David Sutherland (202) 622-1754.

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RIN: 1545–AK79

3042. CONFORMING TAXABLE YEARS OF CFCS AND FPHCS: 1989 CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 898; 26 USC 902

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance to taxpayers concerning new section 898 of the Internal Revenue Code, added to the Code by the Omnibus Budget Reconciliation Act of 1989. Section 898 requires the taxable years of certain specified foreign corporations to conform to the taxable years of their majority U.S. shareholders.

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 290
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-848-89.

Drafting attorney: Michael E. Hara (202) 622-3840.

Reviewing attorney: Charlie C. Saverude (202) 622-3800.

Treasury attorney: Carol Doran Klein (202) 622-1762.

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RIN: 1545–AO22

3043. RESOURCING INCOME TO PREVENT AVOIDANCE OF FOREIGN TAX CREDIT LIMITATION RULES RELATING TO FOREIGN LOSSES

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 904; 26 USC 1504

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of the regulation is to require a taxpayer to resource the income of any member of an affiliated group of corporations, or, alternatively to modify the consolidated return regulations, to the extent necessary in order to prevent avoidance of the purposes of the foreign tax credit rules.

Timetable:

Action	Date	FR Cite
NPRM	05/17/94	59 FR 25584
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-6-90.

Drafting attorney: Kenneth D. Allison (202) 622-3860.

Reviewing attorney: Charles P. Besecky (202) 622-3860.

Treasury attorney: Carol Doran-Klein (202) 622-1762.

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RIN: 1545–AN87

3044. APPLICATION OF SECTION 904 TO INCOME SUBJECT TO SEPARATE LIMITATIONS AND SECTION 864(E) AFFILIATED GROUP EXPERT ALLOCATION RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 904(d)(5); 26 USC 864(e)(7)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations modify proposed income tax regulations relating to affiliated group expense allocation rules of section 864(e)(5) and (6). In addition, the regulations propose changes to the section 904(d) final foreign tax credit limitation regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/14/92	57 FR 20660
Final Action	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-001-92.

Drafting attorney: Caren S. Shein (202) 622-3850.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

Treasury attorney: Carol Doran Klein (202) 622-1762.

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RIN: 1545–AQ43

3045. INCOME TAX—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 905 (c); 26 USC 6689

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. The regulations provide special rules for redetermining the taxpayer's United States tax liability when the dollar value of the foreign currency fluctuates between the time for which the foreign tax credit is originally claimed and the time for which the foreign tax credit is redetermined. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	53 FR 23659
Final Action	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-61-86.

Drafting attorney: Caren Shein (202) 622-3850.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

Treasury attorney: Carol Doran Klein (202) 622-1762.

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RIN: 1545–AC09

3046. INCOME TAX—DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO AND POSSESSION TAX CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 936(d)(2)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules with respect to what constitutes qualified possession source investment income for purposes of the Puerto Rico and possession tax credit.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2726
Final Action	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-44-86.

Drafting attorney: W. Edward Williams (202) 874-1490.

Reviewing attorney: Christine Halphen (202) 622-3810.

Treasury attorney: Warren Crowdus (202) 622-1779.

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RIN: 1545–AC10

3047. SECTION 936 REGULATIONS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 936(h)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will simplify the computation of combined taxable income for companies making an election under section 936(h) of the Code; it will revise the determination of the deemed sales price for purposes of the leasing rules applicable to such corporations.

Timetable:

Action	Date	FR Cite
NPRM	01/12/94	59 FR 1690
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-68-92.

Drafting attorney: Mary Gillmarten (202) 622-3870.

Reviewing attorney: Jacob Feldman (202) 622-3870.

Treasury attorney: Carol Doran Klein (202) 622-1762.

Agency Contact: Mary Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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RIN: 1545–AR18

3048. CBI INVESTMENTS OF SECTION 936 FUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 936(d)(4)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Will define investments made in qualified Caribbean Basin countries that give rise to interests or dividends available for the section 936 credit.

Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 21963
Hearing	07/12/91	56 FR 21963
Final Action	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-088-89.

Drafting attorney: W. Edward Williams (202) 874-1490.

Reviewing attorney: Christine Halphen (202) 622-3810.

Treasury attorney: Unassigned.

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RIN: 1545–AM91

3049. INSURANCE INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 953

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation defines related person insurance income; and sets forth rules regarding the amount of related person insurance income to be included in gross income. In addition, the regulation defines insurance income under section 953(a), prescribes rules of allocation and apportionment of deductions, and prescribes rules for the interaction of subchapter L and subchapter N.

Timetable:

Action	Date	FR Cite
NPRM	04/17/91	56 FR 15540
Hearing	06/21/91	56 FR 15570
Final Action	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-939-86.

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: Steven Musher (202) 622-3840.

Treasury attorney: Carol Dunahoo (202) 622-0726.

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RIN: 1545–AJ70

3050. EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 964

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will develop procedures for foreign corporations or U.S. shareholders to make tax elections in computing functional currency earnings and profits under the 1986 Code.

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2535
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-087-89.

Drafting attorney: M. Grace Fleeman (202) 622-3850.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

Treasury attorney: Unassigned.

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RIN: 1545–AM90

3051. USE OF GAAP EARNINGS AS E&P OF FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 964; 26 USC 952

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations are proposed as part of Treasury's ongoing simplification efforts. The proposed regulations would modify the computation of earnings and profits (E&P) of foreign corporations by allowing taxpayers to account for inventory costs using capitalization methods used for financial accounting purposes rather than the uniform capitalization rules required by section 263A. The proposed regulations would also permit reliance on financial accounting conventions in computing depreciation for foreign corporations deriving less than 20% of gross income from U.S. sources and maintaining assets with tax bases not materially different from financial book bases. Use of these simplified rules may result in an accounting method change which would ordinarily require the filing of Form 3115 (Application for Change in Accounting Method). However, the proposed regulations waive this filing requirement if its conditions are met.

Timetable:

Action	Date	FR Cite
NPRM	07/01/92	57 FR 29246
Final Action	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-018-92.

Drafting attorney: M. Grace Fleeman (202) 622-3850.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

Treasury attorney: Unassigned.

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RIN: 1545–AQ55

3052. RULES FOR A QBU CHANGING FROM THE PROFIT-AND-LOSS METHOD TO DASTM

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for a qualified business unit ("QBU") changing from the profit and loss method of accounting to DASTM and also rules for any adjustments required due to the change in method.

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 300
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-045-92.

Drafting attorney: Jacob Feldman (202) 622-3870.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: Unassigned.

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RIN: 1545–AR28

3053. CHANGE FROM THE DOLLAR APPROXIMATE SEPARATE TRANSACTIONS METHOD (DASTM) TO THE PROFIT-AND-LOSS METHOD OF ACCOUNTING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 985

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules for qualified business units ("QBU's") whose currency is no longer hyperinflationary including any necessary adjustment.

Timetable:

Action	Date	FR Cite
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-066-92.

Drafting attorney: Jacob Feldman (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

Treasury attorney: Unassigned.

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RIN: 1545–AS68

3054. COMPUTATION OF A BRANCH'S TAXABLE INCOME TAXATION OF EXCHANGE GAIN OR LOSS ON BRANCH REMITTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Branch rules on how to translate branch income. Taxation of exchange gain or loss on branch remittances.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48457
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-965-86.

Drafting attorney: Richard Hoge (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

Treasury attorney: Unassigned.

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RIN: 1545–AM12

3055. MARK-TO-MARKET METHOD OF ACCOUNTING UNDER SECTION 988

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 989(c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations allow taxpayers to elect to account for exchange gains and losses under a mark-to-market method of accounting. The proposed regulation also addresses other matters including dual currency bonds, contingent payment bonds denominated in a nonfunctional

currency, hyperinflationary instruments and certain hedging transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/17/92	57 FR 9217
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-015-91.

Drafting attorney: Ramon Camacho (202) 622-3870.

Reviewing attorney: Jacob Feldman (202) 622-3870.

Treasury attorney: Unassigned.

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RIN: 1545–AP78

3056. MODIFICATIONS OF DEBT INSTRUMENTS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 1001

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document relates to the treatment of modifications of debt instruments as realization events under section 1001 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	12/02/92	57 FR 57034
Hearing	02/17/93	57 FR 57033
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-31-92.

Drafting attorney: Tom Kelly (202) 622-3940.

Reviewing attorney: James Malloy (202) 622-3900.

Agency Contact: Tom Kelly, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3940

RIN: 1545–AR04

3057. CERTAIN PAYMENTS MADE PURSUANT TO A SECURITIES LENDING TRANSACTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 861; 26 USC 871; 26 USC 881; 26 USC 894; 26 USC 1058; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations concern the source, character and income tax treaty treatment of substitute interest and dividend payments made pursuant to a transfer of securities described in section 1058(a) or a substantially similar transaction between a U.S. person and a foreign person. To determine the source and character of cross-order substitute payments, a substitute payment will be treated as interest or dividend income received with respect to the transferred security. Where a treaty looks to U.S. law to define a payment subject to a withholding tax, a substitute payment will be treated as interest or dividend income with respect to the transferred security.

Timetable:

Action	Date	FR Cite
NPRM	01/09/92	57 FR 860
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-106-89.

Drafting attorney: Ramon Camacho (202) 622-3870.

Reviewing attorney: Karl Walli (202) 622-3870.

Treasury attorney: Unassigned.

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RIN: 1545–AP71

3058. CONVERSION TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1258; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation allow taxpayers to net gains and losses from positions in the same conversion transaction in certain cases for purposes of section 1258(a).

Timetable:

Action	Date	FR Cite
NPRM	12/27/94	59 FR 66498
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-43-94

Drafting attorney: Alan B. Munro (202) 622-3950.

Reviewing attorney: Alice M. Bennett (202) 622-3950.

Treasury attorney: John J. Rooney (202) 622-1335.

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RIN: 1545–AS87

3059. TREATMENT OF SHAREHOLDERS OF PASSIVE FOREIGN INVESTMENT COMPANIES

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 0446; 26 USC 1291; 26 USC 1293; 26 USC 1295; 26 USC 1297

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates to the treatment of shareholders of passive foreign investment companies.

Timetable:

Action	Date	FR Cite
NPRM	04/01/92	57 FR 11024
NPRM Comment Period End	07/30/92	57 FR 11024
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-656-87.

Drafting attorney: Gayle Novig (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Patricia Brown (202) 622-1781.

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3880

RIN: 1545–AC06

3060. PASSIVE FOREIGN INVESTMENT COMPANIES

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 1294; 26 USC 1297(b)(1); 26 USC 1291(d)(2)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance to passive foreign investment companies and their shareholders that are United States persons about the time, manner and other requirements for making certain elections.

Timetable:

Action	Date	FR Cite
NPRM	03/02/88	53 FR 6781
Final Action	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-941-86.

Drafting attorney: Carolyn Fanaroff (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Patricia Brown (202) 622-1781.

Agency Contact: Carolyn Fanaroff, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AI33

3061. PASSIVE FOREIGN INVESTMENT COMPANIES - SPECIAL RULES FOR FOREIGN BANKS AND SECURITIES DEALERS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 1296(b)(2)(A); 26 USC 1296(b)(3)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance for qualifying foreign banks and securities dealers for the exception to passive income characterization for purposes of the income and asset tests of the PFIC provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/28/95	60 FR 20922
Hearing	09/11/95	60 FR 39902
Final Action	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-0065-93.

Drafting attorney: Ramon Camacho (202) 622-3870

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Patricia Brown (202) 622-1781.

Agency Contact: Ramon Camacho, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AS46

3062. WITHHOLDING ON ITEMS OF INCOME COVERED BY AN INCOME TAX CONVENTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1441

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: These regulations relate to the withholding on certain items of income subject to a reduced rate of, or exemption from, U.S. tax under an income tax convention to which the United States is a party. These regulations would amend the existing regulations to provide a certification requirement for obtaining reduced rates of, or exemption from, U.S. withholding tax on payments of fixed or determinable annual or periodical income and certain other income.

Timetable:

Action	Date	FR Cite
NPRM	09/10/84	49 FR 35511
NPRM Comment Period End	11/09/84	49 FR 35511
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-176-86.

Drafting attorney: Lilo A. Hester (202) 874-1490.

Reviewing attorney: George M. Sellinger (202) 874-1490.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Lilo A. Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Suite 3319, Washington, DC 20024
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AH86

3063. WITHHOLDING OF TAX ON NONRESIDENT ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 864(c)(6) of the Code, added in 1986, had the unintended effect of allowing nonresident alien individuals to elect out of all withholding on pension payments from qualified plans. The regulation corrects this inadvertent loophole and requires withholding on such payments.

Timetable:

Action	Date	FR Cite
NPRM	02/05/90	55 FR 3750
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-660-89.

Drafting attorney: Carol P. Tello (202) 622-3880.

Reviewing attorney: Unassigned.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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RIN: 1545–AN75

3064. TEMPORARY REGULATION ON WITHHOLDING TAX ON PAYMENTS FROM PARTNERSHIPS TO FOREIGN PARTNERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1446

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation explains under what circumstances withholding is required under section 1446. It also explains the timing of withholding and how to pay over the withheld amounts to the Internal Revenue Service. Section 1446 was substantially amended by the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
Temporary Regulation	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-938-86.

Drafting attorney: Ronald Gootzeit (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Unassigned.

Agency Contact: Ronald Gootzeit, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AL32

3065. • QDOT SECURITY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 2056A

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: The proposed regulation provides guidance regarding qualification of a trust as a qualified domestic trust.

Timetable:

Action	Date	FR Cite
NPRM	08/22/95	60 FR 43574
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-25-94

Drafting attorney: Susan B. Hurwitz (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Agency Contact: Susan Hurwitz, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3090

RIN: 1545–AT64

3066. ESTATE TAX—GENERATION SKIPPING TRANSFER TAX

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 2653; 26 USC 2662; 26 USC 2663

CFR Citation: 26 CFR 26; 26 CFR 26a

Legal Deadline: None

Abstract: The regulations will provide rules relating to the effective date provisions, return requirements, definitions, and certain special rules for the tax on generation skipping transfers.

Timetable:

Action	Date	FR Cite
NPRM	03/15/88	53 FR 8469
NPRM Comment Period End	05/16/88	53 FR 8469
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-128-86.

Drafting attorney: James F. Hogan (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Agency Contact: James F. Hogan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AJ11

3067. ELECTRONIC FILING OF FORM W-4

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The statute and existing regulations require employees to furnish employers with withholding exemption certificates (Forms W-4). The regulation would permit employees to file Forms W-4 electronically under certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	12/21/94	59 FR 65740
NPRM Comment Period End	02/21/95	59 FR 65740
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: EE-45-93

Drafting attorney: Russ Weinheimer (202) 622-6060.

Reviewing attorney: Mark Schwimmer (202) 622-6060.

Agency Contact: Russ Weinheimer, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AR67

3068. WITHHOLDING ON DISTRIBUTIONS OF INDIAN GAMING PROFITS TO TRIBAL MEMBERS

Priority: Other Significant

Legal Authority: 26 USC 3402(r); 26 USC 7805; 26 USC 3402(p)(2)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Implements income tax withholding requirement on distributions of profits to Indian tribe members from certain Indian gaming activities, under new IRC section 3402(r).

Timetable:

Action	Date	FR Cite
NPRM	12/22/94	59 FR 65982
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Tribal

Additional Information: EE-60-94.

Drafting attorney: Rebecca Wilson (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

Agency Contact: Rebecca Wilson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6040

RIN: 1545–AT11

3069. RETAIL EXCISE TAXES ON CERTAIN LUXURY ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC-7805; 26 USC 4004

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations relate to the retailers excise taxes on certain luxury items.

Timetable:

Action	Date	FR Cite
NPRM	01/02/91	56 FR 36
NPRM Comment Period End	03/04/91	56 FR 36
Hearing	04/29/91	56 FR 11979
Final Action	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-094-90.

Drafting attorney: Edward Madden (202) 622-3130.

Reviewing attorney: Jeffrey Nelson (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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RIN: 1545–AP24

3070. DIESEL FUEL EXCISE TAX

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 4081; 26 USC 6427

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations relate to the diesel fuel excise tax effective January 1, 1994. Determination of taxable events; person liable for the tax; exemptions including dying; and the rules for ultimate vendors who claim credit or refund.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/93	58 FR 45081
NPRM	11/30/93	58 FR 63131
NPRM Comment Period End	01/31/94	58 FR 63131
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: PS-52-93

Drafting attorney: Frank Boland (202) 622-3130.

Reviewing attorney: Richard Kocak (202) 622-3130.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington DC 20224
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RIN: 1545–AR92

3071. TAX ON PETROLEUM

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 4611; 26 USC 4612

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: The regulations relate to tax on petroleum under section 4611 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	06/25/93	58 FR 21963
Hearing	03/03/94	59 FR 5161
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-158-86.

Drafting attorney: Ruth Hoffman (202) 622-3130.

Reviewing attorney: Dick Kocak (202) 622-3130.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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RIN: 1545–AJ23

3072. EXPORTS OF OZONE-DEPLETING CHEMICALS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 4682(d)(3)

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: These regulations relate to the exemption from tax for exports of ozone-depleting chemicals.

Timetable:

Action	Date	FR Cite
NPRM	01/15/93	58 FR 4625
NPRM Comment Period End	03/16/93	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-89-91.

Drafting attorney: Ruth Hoffman (202) 622-3130.

Reviewing attorney: Dick Kocak (202) 622-3130.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

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RIN: 1545–AQ23

3073. EXCISE TAX ON SELF-DEALING BY PRIVATE FOUNDATIONS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 53

Legal Deadline: None

Abstract: These amendments to section 53.4941(d)-2(f) are intended to clarify the service's position that generally, the payment of indemnification and insurance by a private foundation for a foundation manager in situations arising from the performance of services on behalf of the private foundation are not self-dealing and are not considered when determining reasonable compensation of the foundation manager.

Timetable:

Action	Date	FR Cite
NPRM	01/03/95	60 FR 82
NPRM Comment Period End	04/03/95	60 FR 82
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-56-94.

Drafting attorney: Terri Harris (202) 622-6070.

Reviewing attorney: Paul Accettura (202) 622-6070.

Treasury attorney: Cathy Livingston (202) 622-0998.

This entry was split from RIN 1545-AI52.

Agency Contact: Terri Harris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AT03

3074. AMENDMENT OF SECTION 1.6033-2(G)(5) RELATING TO RETURNS BY AN INTEGRATED AUXILIARY OF A CHURCH

Priority: Other Significant

Legal Authority: 26 USC 7805; PL 91-172, Sec 101 (d) (1)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will revise the definition of integrated auxiliary of a church in section 1.6033-2(g)(5) of the Treasury Regulations to be consistent with Rev. Proc. 86-23, 1986-1 CB 564.

Timetable:

Action	Date	FR Cite
NPRM	12/15/94	59 FR 64633
NPRM Comment Period End	03/15/95	59 FR 64633
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-41-86.

Drafting attorney: Terri Harris (202) 622-6070.

Reviewing attorney: Paul Accettura (202) 622-6070.

Agency Contact: Terri Harris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AI52

3075. INFORMATION FROM PASSPORT AND IMMIGRATION APPLICANTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6039E

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will prescribe the information to be gathered by the State Department and Immigration and Naturalization Service on passport and green card applicants and the penalties to be imposed on such applicants if they do not supply the information.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61373
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-978-86.

Drafting attorney: Ricardo A. Cadenas (202) 874-1490.

Reviewing attorney: George Sellinger (202) 874-1490.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Ricardo A. Cadenas, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Suite 3319, Washington, DC 20024
Phone: 202 874-1490
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RIN: 1545–AJ93

3076. CASH REPORTING BY COURT CLERKS

Priority: Other Significant

Legal Authority: 26 USC 6050I; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: Other, Statutory, December 13, 1994.
Sec. 20415 of the Violent Crime Control and Law Enforcement Act of 1994 required issuance of temporary regulations by 12-13-94.

Abstract: This regulation relates to the information reporting requirements of court clerks upon receipt of more than $10,000 in cash as bail for any individual charged with a specific criminal offense.

Timetable:

Action	Date	FR Cite
NPRM	12/15/94	59 FR 64635
Final Action	10/00/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: IA-57-94.

Drafting attorney: Susie Bird (202) 622-4960.

Reviewing attorney: Steve Toomey (202) 622-4960.

Agency Contact: Susie K. Bird, Attorney-Advisor (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AT06

3077. IRC SECTION 6051

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 6051; 26 USC 6071

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Project will modify existing regulations to require employers who file a final form 941 to file form W-2 and W-3 at the same time the employer is required to file the final Form 941.

Timetable:

Action	Date	FR Cite
NPRM	12/22/94	59 FR 65982
Hearing	05/08/95	60 FR 15526
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-083-89.

Drafting attorney: Jean Casey (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Treasury attorney: Kevin Knopf (202) 622-2329.

Agency Contact: Jean Casey, Attorney, Department of the Treasury, Internal

Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6040

RIN: 1545–AN57

3078. VOICE SIGNATURES

Priority: Other Significant

Legal Authority: 26 USC 6061; 26 USC 6012

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will enable the Service to accept a voice signature in lieu of a handwritten signature. This will allow the Service to test the feasibility of voice signatures for one year with certain taxpayers who live in the geographic area of the Cincinnati district office. The regulations also address the effect of a taxpayer using a voice signature.

Timetable:

Action	Date	FR Cite
NPRM	01/13/93	58 FR 4125
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-39-95.

Drafting attorney: Celia Gabrysh (202) 622-4940.

Reviewing attorney: Rudolf Planert (202) 622-4940.

Agency Contact: Celia Gabrysh, Atorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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RIN: 1545–AQ68

3079. AUTHORITY OF THE FCIC TO REQUIRE EMPLOYER IDENTIFICATION NUMBERS FOR CERTAIN TAXPAYERS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 25 CFR 301

Legal Deadline: None

Abstract: This document will withdraw the notice of proposed rulemaking published in the Federal Register on August 31, 1992.

Timetable:

Action	Date	FR Cite
NPRM	08/31/92	57 FR 39379
NPRM Comment Period End	09/30/92	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-4-92.

Drafting attorney: Beverly Baughman (202) 622-4940.

Reviewing attorney: George Baker (202) 622-4920.

Treasury attorney: Evelyn Elgin (202) 622-1338.

Agency Contact: Beverly Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AQ49

3080. AMENDMENT TO SECTION 6109 REGULATIONS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 6109

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will amend I.R.C. section 6109 regarding tax identification numbers.

Timetable:

Action	Date	FR Cite
NPRM	06/08/95	60 FR 30211
Hearing	09/28/95	60 FR 30211
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-0024-94

Drafting attorney: Lilo A. Hester (202) 874-1490.

Reviewing attorney: Christine Halphen (202) 622-3810.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Lilo A. Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Washington, DC 20024
Phone: 202 874-1490

RIN: 1545–AS83

3081. AUTHORITY OF THE SECRETARY OF AGRICULTURE TO SHARE EMPLOYER IDENTIFICATION NUMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6109

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: P.L. 103-296 (The Social Security Independence and Program Improvements Act of 1994) amended section 6109(f) of the Internal Revenue Code to authorize the Secretary of Agriculture to share Employer Identification Numbers with other U.S. agencies or instrumentalities for certain law enforcement purposes. These regulations are needed to enable the Department of Agriculture to issue its own implementing regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/10/95	60 FR 24811
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-7-95

Drafting attorney: Robert Basso (202) 622-4940.

Reviewing attorney: Rudolf Planert (202) 622-4940.

Agency Contact: Robert Basso, Attorney-Advisor (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AT21

3082. INTEREST-FREE ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6205

CFR Citation: 26 CFR 31.6205-1(a)(3); 26 CFR 31.6205-1(b); 26 CFR 31.6205-1(c); 26 CFR 31.6205-1(d)

Legal Deadline: None

Abstract: Under section 6205(a)(1) of the Code if less than the correct amount of tax imposed under the FICA, the RRTA, or the income tax withholding provisions is paid with respect to any payment of wages or compensation, proper adjustments; with respect to both the tax and amount to be

deducted, must be made without interest in such manner and in such times as the Secretary may by regulations prescribe. The proposed amendments would add language to clarify that an interest-free adjustment can be made in certain situations in which th error is ascertained before the appropriate return is filed. The proposed amendments are intended to apply only to situations in which no return was filed because the employer improperly failed to treat its workers as employees.

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	57 FR 58423
NPRM Comment Period End	02/08/93	57 FR 58423
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-12-92.

Drafting Tax Law Specialist: Karin Loverud (202) 622-6060.

Reviewing attorney: Mary Oppenheimer (202) 622-6010.

Agency Contact: Karin Loverud, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AQ61

3083. SELECTION OF TAX MATTERS PARTNER FOR LIMITED LIABILITY COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6320(i); 26 USC 6230(k); 26 USC 7805(a)

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide (1) who an LLC may designate as its tax matters partner for a specific taxable year, (2) how the designation is made, and (3) how the designation is terminated.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: PS-34-92.

Drafting attorney: Lindsay Russell (202) 622-3050.

Reviewing attorney: Dianna K. Miosi (202) 622-3050.

Treasury attorney: John Rooney (202) 622-1334.

Agency Contact: Lindsay Russell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AQ47

3084. RAILROAD UNEMPLOYMENT REPAYMENT TAX

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6302

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The new regulations will restore the authority of the Service to require quarterly payments of the Railroad Unemployment Repayment Tax. The authority was inadvertently eliminated under section 7106 of TAMRA.

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 28374
NPRM Comment Period End	07/12/93	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-079-89.

Drafting attorney: Jean Casey (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Treasury attorney: Kevin Knopf (202) 622-2329.

Agency Contact: Jean Casey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6040

RIN: 1545–AN40

3085. FEDERAL TAX DEPOSITS BY ELECTRONIC FUNDS TRANSFER

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 6302(h)

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 40

Legal Deadline: NPRM, Statutory, July 6, 1994.

Abstract: Proposes to adopt as final regulations temporary regulations that describe taxpayers that must make deposits of taxes by means of electronic funds transfer, the types of taxes that must be deposited and when the deposits must commerce.

Timetable:

Action	Date	FR Cite
NPRM	07/11/94	59 FR 35418
Hearing	09/12/94	59 FR 35418
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-003-94

Drafting attorney: Vincent G. Surabian (202) 622-4940.

Reviewer attorney: Norlyn Miller (202) 622-4940.

Treasury attorney: Mary Heath (202) 622-0868.

Agency Contact: Vincent G. Surabian, Attorney-Adviser (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AS79

3086. DEPOSITS OF EXCISE TAX

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 6302

CFR Citation: 26 CFR 40

Legal Deadline: None

Abstract: Safe harbor rules relating to additional deposit of excise taxes required by section 6302(e) and (f).

Timetable:

Action	Date	FR Cite
NPRM	08/29/95	60 FR 44788
Final Action	05/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: PS-8-95

Drafting attorney: Ruth E. Hoffman (202) 622-3130.

Reviewing attorney: Jeffrey M. Nelson (202) 622-3130.

Agency Contact: Ruth E. Hoffman, Attorney, Department of the Treasury,

Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AT25

3087. IMPOSITION OF ACCURACY-RELATED PENALTY

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of Proposed Rulemaking that provides guidance on the imposition of the accuracy-related penalty under sections 6662(e) and (h) and section 6664(c) for transactions between persons described in section 482 and net section 482 transfer pricing adjustments.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-021-91.

Drafting attorney: Carolyn Fanaroff (202) 622-3880.

Reviewing attorney: George M. Sellinger (202) 874-1490.

Treasury attorney: Warren Crowdus (202) 622-1779.

Agency Contact: Carolyn D. Fanaroff, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AS24

3088. POLITICAL ACTIVITY INJUNCTION

Priority: Other Significant

Legal Authority: 26 USC 7409; 26 USC 6852; 26 USC 4955

CFR Citation: 26 CFR 53; 26 CFR 301

Legal Deadline: None

Abstract: The regulation will provide the procedures necessary to provide a two-tiered test on political expenditures of section 501(c)(3) organizations and/or agreement to the expenditures by organization managers, to enjoin and/or make termination assessments in the case of a certain political expenditure by a section 501(c)(3) organization.

Timetable:

Action	Date	FR Cite
NPRM	12/13/94	59 FR 64359
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-48-90.

Drafting attorney: Cynthia Morton (202) 622-6070.

Reviewing attorney: Paul Accettura (202) 622-6070.

Agency Contact: Cynthia Morton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AO77

3089. ACTUARIAL TABLES EXCEPTIONS

Priority: Other Significant

Legal Authority: 26 USC 7520

CFR Citation: 26 CFR 1.7520-3; 26 CFR 20.7520-3; 26 CFR 25.7520-3

Legal Deadline: None

Abstract: The regulations will provide for deviation from use of actuarial tables that are prescribed in regulations under section 7520 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	06/10/94	59 FR 30180
NPRM Comment Period End	08/09/94	59 FR 30180
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-26-93

Drafting attorney: William L. Blodgett (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Agency Contact: William L. Blodgett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3090
Fax: 202 622-4524

RIN: 1545–AR56

3090. ENVIRONMENTAL SETTLEMENT FUNDS—CLASSIFICATION 7701

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations address the classification for Federal tax purposes of an organization established as a trust pursuant to State law that has as its primary purpose the remediation of a hazardous waste site pursuant to an order of the Environmental Protection Agency (EPA) or comparable State or local governmental entity.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 39903
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-54-94

Drafting Attorney: James A. Quinn (202) 622-3060.

Reviewing Attorney: J. Thomas Hines (202) 622-3060.

Agency Contact: James A. Quinn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC
Phone: 202 622-3060

RIN: 1545–AT02

3091. SPECIAL RULES FOR S CORPS UNDER 301.7701(B)-7

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701(b)

CFR Citation: 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulation will provide rules that will permit a dual resident S Corp shareholder, who has claimed a treaty benefit, to be treated as a U.S. resident for purposes of section 1361(a)(1) of the Code.

Timetable:

Action	Date	FR Cite
NPRM	04/27/92	57 FR 15272

TREAS—IRS

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	06/26/92	57 FR 15272
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-40-94

Drafting attorney: David A. Juster (202) 622-3850.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: P. Ann Fisher (202) 622-1755.

This regulation project was previously part of INTL-121-90

RIN: 1545-AP35.

Agency Contact: David A. Juster, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AS88

3092. CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the classification of publicly traded partnerships.

Timetable:

Action	Date	FR Cite
NPRM	05/02/95	60 FR 21475
Hearing	07/31/95	60 FR 21475
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-13-88.

Drafting attorney: Christopher T. Kelley (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3070.

Agency Contact: Christopher Kelley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AL57

3093. CERTAIN ELECTIONS UNDER THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provides guidance to the public relating to the time and manner of making certain elections enacted as part of the Omnibus Budget Reconciliation Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	12/27/93	58 FR 68336
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-62-93

Drafting Attorney: George Bradley (202) 622-8104.

Reviewing Attorney: Linda Kroening (202) 622-4800.

Agency Contact: George Bradley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6316

RIN: 1545–AS14

3094. INFORMATION REPORTING FOR DISCHARGES OF INDEBTEDNESS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The proposed regulations provide rules for information reporting on discharges of indebtedness by certain government and financial entities.

Timetable:

Action	Date	FR Cite
NPRM	12/27/93	58 FR 68337
NPRM Comment Period End	03/30/94	58 FR 68337
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-63-93

Drafting attorney: Michael Schmit (202) 622-4960.

Reviewing attorney: Steve Toomey (202) 622-4960.

Agency Contact: Michael Schmit, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6316

RIN: 1545–AS21

3095. DISCLOSURE OF RETURN INFORMATION TO THE U.S. CUSTOMS SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; PL 103-182, sec 522

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The proposed regulations specify the procedure by which return information may be disclosed to the U.S. Customs Service as authorized by section 6103(l)(14) of the Code and describe the conditions and restrictions on the use and redisclosure of that information. The regulations limit the return information to be disclosed to that relevant to the purpose authorized by the statute, i.e. ascertaining the correctness of entries in Customs audits and describe several aspects of this purpose to which requested return information may relate. The regulations also provide for Customs' use and redisclosure of the information to the extent necessary to collect amounts due and owing as a result of those audits. The regulations will result in some administrative costs to the IRS in retrieving the requested data and is expected to result in increased revenues through more effective enforcement of the Customs laws.

Timetable:

Action	Date	FR Cite
NPRM	03/11/94	59 FR 11566
NPRM Comment Period End	05/10/94	59 FR 11566
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DL-21-94.

Drafting attorney: Donald Squires (202) 622-4570.

Reviewing attorney: Joseph Urban (202) 622-4570.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

TREAS—IRS

Final Rule Stage

Agency Contact: Donald Squires, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4570

RIN: 1545–AS52

3096. SEALS OF OFFICE IN CONNECTION WITH IRC SECTION 7514

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would amend the available seals used by Internal Revenue districts.

Timetable:

Action	Date	FR Cite
NPRM	01/03/95	60 FR 83
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-019-93

Drafting Attorney: Robert A. Walker (202) 622-3640.

Reviewing Attorney: Robert A. Miller (202) 622-3640.

Agency Contact: Robert A. Walker, Docket Attorney (General Litigation), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3640

RIN: 1545–AS61

3097. HEDGING TRANSACTIONS BY MEMBERS OF CONSOLIDATED GROUPS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805; 26 USC 1502; 26 USC 6001

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations relate to the character and timing of gain or loss hedging transactions entered into by members of a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	07/18/94	59 FR 36394
NPRM Comment Period End	09/26/94	59 FR 36394
Hearing	10/18/94	59 FR 36394
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-34-94.

Drafting attorney: Jo Lynn Ricks (202) 622-3920.

Reviewing attorney: Mike Novey (202) 622-3267.

Treasury attorney: David Weisbach (202) 622-1129.

Treasury attorney: Mary Heath (202) 622-0868.

Agency Contact: Jo Lynn Ricks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington DC 20224
Phone: 202 622-3920

RIN: 1545–AS75

3098. DEBT INSTRUMENTS WITH OID; ANNUITY CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1275(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations determine which annuity contracts issued by banks are debt instruments for purposes of OID regs.

Timetable:

Action	Date	FR Cite
NPRM	04/07/95	60 FR 17731
NPRM Comment Period End	07/18/95	60 FR 17731
Hearing	08/08/95	60 FR 17731
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-33-94.

Drafting attorney: Jeffrey Maddrey (202) 622-3940.

Reviewing attorney: Andrew Kittler (202) 622-3940.

Agency Contact: Andrew Kittler, Senior Technical Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3940

RIN: 1545–AS76

3099. NONBANK TRUSTEE NET WORTH REQUIREMENTS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will revise regulations that will provide rules for insuring adequacy of net worth for nonbank trustees.

Timetable:

Action	Date	FR Cite
NPRM	12/06/94	59 FR 62644
NPRM Comment Period End	01/05/95	59 FR 62644
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: EE-38-94

Drafting attorney: Judith E. Alden (202) 622-6030.

Reviewing attorney: Nancy J. Marks (202) 622-6000.

Treasury attorney: Elizabeth Buchbinder (202) 622-1352.

Agency Contact: Judith E. Alden, Attorney, Department of the Treasury, Internal Revenue Service, 1111Constiution Ave. NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AS92

3100. REISSUANCE OF QUALIFIED TENDER BONDS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1.150

Legal Deadline: None

Abstract: The proposed regulation provides rules for determining whether certain events will cause "qualified tender bonds" to be treated as retired and reissued for purposes of applying sections 103, 141-150, 1394, and 7871 and whether banks have acquired tax-exempt bonds under section 265.

TREAS—IRS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Additional Information: FI-58-94.

Drafting attorney: Nancy Lashnits (202) 622-3980.

Reviewing attorney: Lon Smith (202) 622-3980.

Agency Contact: Nancy M. Lashnits, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AT10

3101. MODIFICATIONS OF BAD DEBT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will provide guidance to taxpayers that modify the terms of a debt instrument after deducting an amount for partial worthlessness.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-59-94.

Drafting attorney: Craig Wojay (202) 622-3018.

Reviewing attorney: Bernita Thigpen (202) 622-3491.

Agency Contact: Craig Wojay, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3018

RIN: 1545–AT14

3102. METHODS OF SIGNING

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance to the public for filing returns, statements, or other documents electronically with an electronic signature.

Timetable:

Action	Date	FR Cite
NPRM	07/21/95	60 FR 37621
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-10-95

Drafting attorney: Celia Gabrysh (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Agency Contact: Celia Gabrysh, Attorney-Adviser (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6316

RIN: 1545–AT23

3103. • STRADDLES - MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project holds equity swaps to be straddles.

Timetable:

Action	Date	FR Cite
NPRM	05/02/95	60 FR 21482
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-21-95.

Drafting attorney: Robert Williams (202) 622-3960.

Reviewing attorney: Alice Bennett (202) 622-3960.

Treasury attorney: Clarissa Potter (202) 622-0999.

Agency Contact: Robert Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224,
Phone: 202 622-3960
Fax: 202 622-4425

RIN: 1545–AT46

3104. • BACKUP WITHHOLDING

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 35a; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: To provide rules relating to the requirement to backup withhold on certain reportable payments.

Timetable:

Action	Date	FR Cite
NPRM	09/27/90	55 FR 39427
NPRM Comment Period End	01/25/91	55 FR 39427
Final Action	10/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: IA-31-95.

Drafting attorney: Renay France (202) 622-4910.

Reviewing attorney: John Coulter (202) 622-4910.

Treasury attorney: E. Wagner (202) 622-1778.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20024
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RIN: 1545–AT76

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Long-Term Actions

3105. REISSUANCE OF MORTGAGE CREDIT CERTIFICATES (CROSS-REFERENCE TO TEMPORARY REGULATIONS)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/22/93	58 FR 67744
NPRM Comment Period End	02/22/94	59 FR 807
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: L. Michael Wachtel
Phone: 202 622-3980

RIN: 1545–AR76

3106. • DISABLED ACCESS CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0044(e)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will explain who is eligible for the credit and what types of expenditures will qualify for the credit.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: PS-94-91

Drafting attorney: Robert Pitzer (202) 622-3110.

Reviewing attorney: Susan Reaman (202) 622-3110.

Agency Contact: Mark Pitzer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3040
Fax: 202 622-4524

RIN: 1545–AT72

3107. TEN PERCENT ADDITIONAL TAX ON EARLY DISTRIBUTION FROM QUALIFIED PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Rebecca Wilson
Phone: 202 622-6040

RIN: 1545–AN16

3108. • EXCLUSION FROM INCOME OF CERTAIN COST-SHARING PAYMENTS UNDER GOVERNMENT PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0126; 26 USC 1255

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations implement sections 126 and 1255, which were added to the Code by section 543 of the Revenue Act of 1978 and amended by section 105(a)(7) of the Technical Corrections Act of 1979. Section 126 provides an exclusion from income of a portion (or all) of certain cost-sharing payments made to a person under any programs described in section 126(a) which is determined by the Secretary of Agriculture to be made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife, and is determined by the Secretary of Treasury or his delegate as not increasing substantially the annual income derived from the property. Section 1255 provides recapture provisions for early disposition of section 126 property.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-222-78

Drafting attorney: A. Michael Santoro (202) 622-3120.

Reviewing attorney: Christine Ellison (202) 622-3120.

Agency Contact: A. Michael Santoro, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3120

RIN: 1545–AT73

3109. QUALIFIED RESIDENCE INTEREST

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon L. Hall
Phone: 202 622-4930

RIN: 1545–AL67

3110. LEASE TERM; EXCHANGES OF TAX-EXEMPT USE PROPERTY

Priority: Other Significant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	04/21/95	60 FR 19868
Hearing	08/02/95	60 FR 10868
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John M. Aramburu
Phone: 202 622-4960

RIN: 1545–AT33

3111. SCOPE OF GENERAL UTILITIES REPEAL

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stephen R. Cleary
Phone: 202 622-7530

RIN: 1545–AN21

3112. SECTION 338(H)(10) AND INSURANCE COMPANIES

Priority: Other Significant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Geisler
Phone: 202 622-3970

RIN: 1545–AS56

3113. REVISING THE DEFINITION OF THE FULL FUNDING LIMITATION FOR PURPOSES OF THE MINIMUM FUNDING REQUIREMENT FOR PENSION PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Marshall
Phone: 202 622-6030

RIN: 1545–AL53

3114. GUIDANCE ON WHAT CONSTITUTES AN INTEREST OTHER THAN THAT OF A CREDITOR

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey Erickson
Phone: 202 622-3080

RIN: 1545–AO32

3115. • GUIDANCE ON SECTION 468

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0468

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance on the application of special rules for mining and solid waste reclamation and closing costs.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-28-95

Drafting attorney: Mary A. Berman (202) 622-3120.

Reviewing attorney: Joseph Makurath (202) 622-3120.

Agency Contact: Mary A. Berman, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3120

RIN: 1545–AT59

3116. APPLICATION OF PASSIVE ACTIVITY LOSS AND CREDIT LIMITATIONS TO TRUSTS, ESTATES, AND THEIR BENEFICIARIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Katherine Mellody
Phone: 202 622-3090

RIN: 1545–AN62

3117. INVENTORIES BY DEALERS IN SECURITIES SECTION 1.471-5

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Nicholos G. Bogos
Phone: 202 622-3920

RIN: 1545–AS57

3118. TREATMENT OF DEFERRED PAYMENTS AND APPRECIATION ARISING OUT OF BUSINESS CONDUCTED WITHIN THE UNITED STATES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kristine K. Schlaman
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AM53

3119. DEEMED PAID CREDIT UNDER SECTION 902 DETERMINED ON ACCUMULATED BASIS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/06/95	60 FR 2049
NPRM Comment Period End	04/10/95	60 FR 2049
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Caren S. Shein
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AL98

3120. AMENDMENT TO SUBPART F DEFINITIONS

Priority: Other Significant

CFR Citation: 26 CFR 1.954-2(b); 26 CFR 1.954-2(g); 26 CFR 1.954-2(h)

Timetable:

Action	Date	FR Cite
NPRM	09/07/95	60 FR 46548
Hearing	01/04/96	60 FR 46548
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Valerie A. Mark
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AR31

3121. CONTINGENT AND VARIABLE DEBT INSTRUMENTS

Priority: Other Significant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/16/94	59 FR 64884
NPRM Comment Period End	03/16/95	59 FR 64884
Hearing	03/16/95	60 FR 64884
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William E. Blanchard
Phone: 202 622-3950

RIN: 1545–AQ86

3122. DEBT INSTRUMENTS WITH ORIGINAL ISSUE DISCOUNT: ANTI-ABUSE RULE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	02/02/94	59 FR 4878
NPRM Comment Period End	04/04/94	59 FR 4878
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William E. Blanchard
Phone: 202 622-3950

RIN: 1545–AS35

3123. CONSOLIDATED ALTERNATIVE MINIMUM TAX

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/92	57 FR 62251
Final Action	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Martin Scully
Phone: 202 622-4960

RIN: 1545–AN73

3124. • ESTATE TAX-VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 2032A; 26 USC 2013(f); 26 USC 1040; 26 USC 1016(c)

CFR Citation: 26 CFR 1; 26 CFR 20

Legal Deadline: None

Abstract: Special use valuation of certain farm closely held business real property is available to qualifying estates. The regulation will contain definitions and rules relating to the various requirements which an estate must satisfy and will provide rules covering the imposition and payment of the "Additional Estate Tax" should a qualified heir fail to meet the post-death requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-209-81

Drafting attorney: Deborah Ryan (202) 622-3090.

Reviewing attorney: Frances Schafer (202) 622-3090.

Agency Contact: Deborah Ryan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3090
Fax: 202 622-4524

RIN: 1545–AT66

3125. ESTATE TAX—ANNUITY EXCLUSION REPEAL

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 20

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William L. Blodgett
Phone: 202 622-3090

RIN: 1545–AP60

3126. • REFORMATION OF CHARITABLE TRANSFERS-DEFINITION OF GUARANTEED ANNUITY AND LEAD UNITRUST INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 2055(e)(13)

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: This regulation will address: (1) Defining commencement under the 90-day rule; (2) Defining what is a reformable interest; (3) Reforming a remainder interest in a trust.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-70-89

Drafting attorney: Esther Woodworth (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Agency Contact: Esther Woodworth, Attorney-Advisor, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3090
Fax: 202 622-4524

RIN: 1545–AT65

3127. • EXCEPTION FROM SUPPLEMENTAL TAX

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide guidance to railroad employees in applying the exception to supplemental annuity tax with respect to employees covered by a supplemental pension plan.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: EE-22-95.

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Mary F. Oppenheimer (202) 622-6010.

Treasury attorney: Kevin Knopf (202) 622-2329.

Agency Contact: Linda Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AT56

3128. INFORMATION REPORTING AND BACKUP WITHHOLDING

Priority: Other Significant

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 35a

Timetable:

Action	Date	FR Cite
NPRM	02/29/88	53 FR 05991
Hearing	06/15/89	54 FR 11236
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Teresa B. Hughes
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AL99

3129. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS AS NONEMPLOYEES FOR EMPLOYMENT TAX PURPOSES—REPORTING REQUIREMENTS WITH RESPECT TO DIRECT SELLERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	51 FR 619
NPRM Comment Period End	03/10/86	51 FR 619
Hearing	06/18/86	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alfred Kelley

Phone: 202 622-6040

RIN: 1545–AE62

3130. COMMUNICATIONS TAX REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 49

Timetable:

Action	Date	FR Cite
ANPRM	07/31/92	57 FR 33918
NPRM	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Bernard Weberman
Phone: 202 622-4524

RIN: 1545–AP67

3131. 6114 REPORTING REQUIREMENTS WAIVED

Priority: Other Significant

CFR Citation: 26 CFR 301; 26 CFR 602

Timetable:

Action	Date	FR Cite
NPRM	04/27/92	57 FR 15272
NPRM Comment Period End	06/26/92	57 FR 15272

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: David A. Juster
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AP35

3132. INTERIM FISHING VESSEL CAPITAL CONSTRUCTION FUND PROCEDURES

Priority: Other Significant

CFR Citation: 26 CFR 3

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Agency Contact: David Selig
Phone: 202 622-3040
Fax: 202 622-4524

RIN: 1545–AS69

3133. • GUIDANCE FOR AIR CARGO CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 49

Legal Deadline: None

Abstract: This project is intended to provide guidance to carriers of air cargo regarding their responsibility to collect the tax provided by section 4271 of the Code. Specifically, the regulation should provide clarification of the meaning of the term "amount paid for the transportation of property by air."

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-14-95.

Drafting attorney: Bernard Weberman (202) 622-3130.

Reviewing attorney: Edward Madden (202) 622-3130.

Agency Contact: Patrick S. Kirwan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AT30

3134. • CERTAIN FRINGE BENEFITS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of this project is to change the section 132 regulations to conform with the amendment to section in the Energy Policy Act of 1992.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: EE-73-92.

Drafting attorney: Dean Morley (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Agency Contact: Dean Morley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Room 5333
Phone: 202 622-6040
Fax: 202 622-4631

RIN: 1545–AT45

3135. • EFFECT OF THE FAMILY AND MEDICAL LEAVE ACT ON THE OPERATION OF CAFETERIA PLANS

Priority: Other Significant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation contains proposed additions to the Income Tax regulations under section 125 of the Internal Revenue Code, relating to cafeteria plans, to answer a number of questions that have been raised about how the requirements under the Family and Medical Leave Act of 1993, PL 103-3, affect the operations of cafeteria plans.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-20-95.

Reviewing attorney: Harry Beker (202) 622-6080.

Treasury attorney: Mark Hamelburg (202) 622-1341.

Agency Contact: Catherine Fuller, Paralegal Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, CC:EBEO:6
Phone: 202 622-6080
Fax: 202 622-3912

RIN: 1545–AT47

3136. • PROPERTY DISTRIBUTED IN KIND AND TREATMENT OF MULTIPLE TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the tax consequences when property is distributed in kind from a trust or estate, including rules specifying what gain is recognized upon distribution, who recognizes such gain, and what the basis of the distributed property is in the hands of the distributee.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Laura Howell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AT68

3137. • AMORTIZATION-GOODWILL INTANGIBLES 197

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; PL 103-66

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This temporary regulation is intended to provide guidance to taxpayers on the manner of electing retroactive treatment for amortization of intangibles acquired after July 25, 1991, and the rules for implementing such election.

Timetable:

Action	Date	FR Cite
NPRM	03/15/94	59 FR 11957

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-55-93

Drafting attorney: John Huffman (202) 622-3110.

Reviewing attorney: Susan Reaman (202) 622-3110.

Agency Contact: John Huffman, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3110

RIN: 1545–AT70

3138. • TO ADD PROVISIONS RELATING TO START-UP EXPENDITURES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to taxpayers electing to amortize start-up expenditures relating to the creation or acquisition of an active trade or business.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-36-81

Drafting attorney: David Selig (202) 622-3040.

Reviewing attorney: James Ranson (202) 622-3040.

Agency Contact: David Selig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3040
Fax: 202 622-4524

RIN: 1545–AT71

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Completed Actions

3139. ALLOWANCES RECEIVED BY MEMBERS OF THE ARMED FORCES IN CONNECTION WITH MOVES TO NEW PERMANENT DUTY STATIONS

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8607	08/07/95	60 FR 40075

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn E. Brookens
Phone: 202 622-4920

RIN: 1545–AS98

3140. REVISION OF SECTION 83 DEDUCTION RULES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8599	07/19/95	60 FR 36995

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Charles T. Deliee
Phone: 202 622-6060

RIN: 1545–AN55

3141. LOBBYING EXPENSE DEDUCTIONS—DUES

Priority: Other Significant

CFR Citation: 26 CFR 1.162(e)

Completed:

Reason	Date	FR Cite
Final Action TD 8602	07/21/95	60 FR 37568

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Kelley
Phone: 202 622-4920

RIN: 1545–AS18

3142. ALLOCATION OF EXPENSES TO LOBBYING

Priority: Other Significant

CFR Citation: 26 CFR 1.162(e)

Completed:

Reason	Date	FR Cite
Final Action TD 8602	07/21/95	60 FR 37568

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Kelley
Phone: 202 622-4920

RIN: 1545–AS26

3143. RECAPTURE—CLEAN FUEL/ELECTRIC VEHICLES

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8606	08/03/95	60 FR 39649

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joanne Johnson
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AR23

3144. DISTRIBUTIONS BY COOPERATIVE HOUSING ASSOCIATION

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	08/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa Shuman
Phone: 202 622-3120

RIN: 1545–AO91

3145. RULES FOR TREATMENT OF FOREIGN CORPORATION WHOSE STOCK IS STAPLED TO THE STOCK OF A DOMESTIC CORPORATION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Bray
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AN20

3146. COMBINING TRANSACTIONS

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Keith E. Stanley
Phone: 202 622-7530

RIN: 1545–AT20

3147. VALUATION OF PLAN DISTRIBUTION

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8591	04/05/95	60 FR 17216
Final Action Effective	04/05/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Marshall
Phone: 202 622-6030

RIN: 1545–AT28

3148. EFFECTIVE DATES OF THE ECONOMIC PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8593	04/13/95	60 FR 18742
Final Action Effective	04/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Atkinson
Phone: 202 622-4910

RIN: 1545–AT16

3149. TREATMENT OF INCOME AND EXPENSES WITH RESPECT TO FORECLOSED PROPERTY BY CERTAIN MUTUAL SAVINGS INSTITUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	08/17/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Arnold Golub
Phone: 202 622-3950

RIN: 1545–AS78

3150. • INCOME TAXATION OF TRUST AND ESTATE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0672; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding taxation of certain grantor trusts.

Timetable:

Action	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-018-93

Drafting attorney: James Quinn (202) 622-3060.

Reviewing attorney: J. Thomas Hines (202) 622-3060.

Agency Contact: James A. Quinn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AT67

3151. FOREIGN GRANTOR TRUSTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph Henderson
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AO75

3152. PARTNERSHIP LIABILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	04/03/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary A. Berman
Phone: 202 622-3050

RIN: 1545–AR62

3153. TAXATION OF FOREIGN INSURANCE COMPANIES DOING BUSINESS IN THE UNITED STATES, INCLUDING THE EXPLICATION OF THE MINIMUM NET INVESTMENT INCOME CALCULATION

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	08/17/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Katherine A. Hossofsky
Phone: 202 622-3477
Fax: 202 622-4425

RIN: 1545–AN31

3154. FOREIGN INSURANCE COMPANIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Gillmarten
Phone: 202 622-3870
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RIN: 1545–AL82

3155. SPECIAL RULES FOR DETERMINING SOURCE

Priority: Other Significant

CFR Citation: 26 CFR 1.863-1(d)

Completed:

Reason	Date	FR Cite
Final Action TD 8615	08/25/95	60 FR 44274

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David F. Bergkuist
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AQ81

3156. • SPECIAL RULES FOR DETERMINING SOURCES OF PRIZES AND AWARDS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 0863(a)

CFR Citation: 26 CFR 1.863-1(d)

Legal Deadline: None

Abstract: The regulations provide rules for determining the source of certain prizes, awards, and grants.

Timetable:

Action	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-027-95.

Drafting attorney: David Bergkuist (202) 622-3860.

Reviewing attorney: Charles Besecky (202) 622-3860.

Treasury attorney: Warren Crowdus (202) 622-1779.

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AT53

3157. • SPECIAL RULES FOR DETERMINING SOURCES OF PRIZES AND AWARDS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 0863(a)

CFR Citation: 26 CFR 1.863-1(d)

Legal Deadline: None

Abstract: The regulations provide rules for determining the source of certain prizes, awards, and grants.

Timetable:

Action	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-027-95.

Drafting attorney: David Bergkuist (202) 622-3860.

Reviewing attorney: Charles Besecky (202) 622-3860.

Treasury attorney: Warren Crowdus (202) 622.1779.

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AT54

3158. PROPOSED REGULATIONS UNDER SECTION 1.884-3

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Bomgardner

Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AQ72

3159. DIVIDEND WITHHOLDING—LUXEMBOURG CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph S. Henderson
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Fax: 202 622-4476

RIN: 1545–AQ54

3160. SECTION 905(B) REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carl M. Cooper
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Fax: 202 622-4476

RIN: 1545–AP36

3161. FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED, DEDUCTION, AND OTHER SPECIAL RULES FOR FSC

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard L. Chewning
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AI16

3162. SOURCE RULES WITHIN THE VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ricardo A. Cadenas
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AL40

3163. SUBPART F—USE OF DEFICITS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Valerie A. Mark
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AJ71

3164. SUBPART F DEFINITIONS

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8618	09/07/95	60 FR 46500

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa G. Sams
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AM15

3165. DEEMED-PAID CREDIT UNDER SECTION 960, DETERMINED ON ACCUMULATED BASIS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caren S. Shein
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AQ34

3166. EFFECT OF ACQUISITIVE REORGANIZATIONS ON EARNINGS AND PROFITS POOLS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caren S. Shein
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AO71

3167. DISC REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie B. Van Der Wal
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AM05

3168. INCOME TAX—TAX REFORM ACT OF 1984 RELATING TO INTEREST CHARGE DISCS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Bergkuist
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AG71

3169. SECTION 1244, INFORMATION STATEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8594	04/28/95	60 FR 20898

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kirsten Simpson
Phone: 202 622-7790

RIN: 1545–AS97

3170. INCOME TAX—DEFINITION OF S CORPORATION

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8600	07/21/95	60 FR 37578
Final Action Effective	07/21/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Laura Howell
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AE86

3171. CONSOLIDATED GROUPS AND CONTROLLED GROUPS—INTERCOMPANY TRANSACTIONS AND RELATED RULES

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	08/23/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Hirschhorn
Phone: 202 622-7770

RIN: 1545–AL63

3172. • MEMBER STOCK TRANSACTIONS (TEMPORARY)

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules disallow less and exclude gain for certain dispositions and other transactions involving stock of the common parent of a consolidated group. The rules prevent taxpayers from recognizing certain gains and losses on common parent stock that would not be recognized if a consolidated group were treated as a single entity.

Timetable:

Action	Date	FR Cite
Final Action TD 8598	07/12/95	60 FR 36669
Final Action Effective	07/12/95	60 FR 36669

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-24-95.

Drafting attorney: David Kessler (202) 622-7770.

Reviewing attorney: Victor Penico (202) 622-7750.

Treasury attorney: David Weisbach (202) 622-7710.

Agency Contact: Victor Penico, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750
Fax: 202 622-6834

RIN: 1545–AT50

3173. • INTERCOMPANY TRANSACTIONS AND RELATED RULES

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance relating to the treatment of intercompany transactions and distributions between members of a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	04/15/94	59 FR 18011
NPRM Comment Period End	07/18/94	59 FR 18011
Final Action TD 8597	07/12/95	60 FR 36671

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-11-91.

Drafting attorney: Roy Hirschhorn (202) 622-7770.

Reviewing attorney: Edward S. Cohen (202) 622-7760.

Treasury attorney: David Weisbach (202) 622-1129.

Treasury attorney: Seth Green (202) 622-0865.

Agency Contact: Roy Hirschhorn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7770

RIN: 1545–AT58

3174. INCOME TAX—INCLUDIBILITY IN AN AFFILIATED GROUP OF SUBSIDIARIES FORMED TO COMPLY WITH FOREIGN LAWS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Allison
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AC58

3175. ALIEN SPOUSE MARITAL DEDUCTION

Priority: Other Significant

CFR Citation: 26 CFR 20; 26 CFR 25

Completed:

Reason	Date	FR Cite
Final Action TD 8612	08/22/95	60 FR 43531
Final Action Effective	08/22/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Hurwitz
Phone: 202 622-3090

RIN: 1545–AM85

3176. QDOT SECURITY REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 20

Completed:

Reason	Date	FR Cite
Final Action TD 8613	08/22/95	60 FR 43554

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Hurwitz
Phone: 202 622-3090

RIN: 1545–AS67

3177. BACKUP WITHHOLDING UNDER SECTION 3406

Priority: Other Significant

CFR Citation: 26 CFR 31

Completed:

Reason	Date	FR Cite
Final Action TD 8409	04/15/92	57 FR 13028

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Renay France
Phone: 202 622-4910

RIN: 1545–AE20

3178. CLARIFYING AMENDMENTS TO SECTION 35A.3406-1 REGARDING BACKUP WITHHOLDING DUE TO AN INCORRECT TIN

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Completed:

Reason	Date	FR Cite
Final Action TD 8409	04/15/92	57 FR 13028

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Renay France
Phone: 202 622-4910

RIN: 1545–AM51

3179. DIESEL FUEL TAX—GASOHOL

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 48.4081

Completed:

Reason	Date	FR Cite
Final Action TD 8609	08/07/95	60 FR 40079

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Frank Boland
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AS10

3180. 6046A - RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Bomgardner
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AK75

3181. SECTION 6048 REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Project closed or suspended. Guidance unnecessary or currently low priority.	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph S. Henderson
Phone: 202 622-3880
Fax: 202 622-4479

RIN: 1545–AR25

3182. EXTENSION OF TIME TO FILE

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	09/06/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Owens
Phone: 202 622-4940

RIN: 1545–AR85

3183. DEPOSITS OF EXCISE TAX

Priority: Other Significant

CFR Citation: 26 CFR 40

Completed:

Reason	Date	FR Cite
Final Action TD 8616	08/29/95	60 FR 44758
Final Action Effective	08/01/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Ruth E. Hoffman
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AT26

3184. REVISE DISCLOSURE STANDARD FOR ACCURACY-RELATED PENALTY REGULATIONS

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8617	09/01/95	60 FR 45661

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rochelle Hodes
Phone: 202 622-4940

RIN: 1545–AS58

3185. REDEMPTIONS OF REAL PROPERTY UNDER IRC 7425—EXCESS EXPENSES

Priority: Other Significant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action TD 8596	06/02/95	60 FR 28719

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert A. Walker
Phone: 202 622-4208

RIN: 1545–AL20

3186. TAXABLE MORTGAGE POOLS

Priority: Other Significant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action TD 8610	08/07/95	60 FR 40086
Final Action Effective	09/06/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Arnold P. Golub
Phone: 202 622-3950

RIN: 1545–AP98

3187. REGULATIONS DEALING WITH CONDUIT ARRANGEMENTS

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8611	08/11/95	60 FR 40997

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elissa Shendalman
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AS40

3188. ENVIRONMENTAL SETTLEMENT FUNDS - CLASSIFICATION

Priority: Other Significant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Closed Without Regulations	08/21/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James A. Quinn
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AT34

3189. INCOME TAX—PRESUMPTION OF JEOPARDY IN THE CASE OF ILLEGAL ACTIVITY CASH

Priority: Other Significant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action TD 8605	08/03/95	60 FR 39652

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerome D. Sekula
Phone: 202 622-3640

RIN: 1545–AE30

3190. PROCEDURE AND ADMINISTRATION REGULATIONS—PAYMENT OF TAXES BY CHECK OR MONEY ORDER AND LIABILITY OF FINANCIAL INSTITUTIONS FOR UNPAID TAXES

Priority: Other Significant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action TD 8595	04/28/95	60 FR 20899

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert A. Walker
Phone: 202 622-3640

RIN: 1545–AI24

3191. LIABILITY OF THIRD PARTIES PAYING OR PROVIDING FOR WAGES, SUIT, AND ITS EXTENSION AND MAXIMUM AMOUNT RECOVERABLE

Priority: Other Significant

CFR Citation: 26 CFR 31

Completed:

Reason	Date	FR Cite
Final Action TD 8604	08/01/95	60 FR 39109

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert A. Walker
Phone: 202 622-3640

RIN: 1545–AS22

3192. REMIC VARIABLE INTEREST RATES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8614	08/17/95	60 FR 42785

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Cejudo
Phone: 202 622-3920

RIN: 1545–AS54

3193. LOBBYING EXPENSES

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8602	07/21/95	60 FR 37568

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Kelley
Phone: 202 622-4920

RIN: 1545–AS65

3194. DEFINITION OF "CLUB"

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8601	07/19/95	60 FR 36993

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael L. Gompertz
Phone: 202 622-4910

RIN: 1545–AS71

TREAS—IRS

Completed Actions

3195. ACCURACY-RELATED PENALTY; REASONABLE CAUSE AND GOOD FAITH EXCEPTION (GATT)

Priority: Other Significant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8617	09/01/95	60 FR 45661

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rochelle Hodes
Phone: 202 622-4940

RIN: 1545–AT13

3196. • METHODS OF SIGNING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: The temporary regulations clarify that the IRS may prescribe the specific method of signing any return, statement, or other document. The regulations also provide that the IRS may require a return preparer to use a method of signing other than a pen-to-paper signature or a facsimile signature stamp.

Timetable:

Action	Date	FR Cite
Final Action TD 8603	07/21/95	60 FR 37589

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-10-95

Drafting attorney: Celia Gabrysh (202) 622-4940.

Agency Contact: Celia Gabrysh, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AT57

BILLING CODE 4830-01-F

DEPARTMENT OF THE TREASURY (TREAS)

Office of Thrift Supervision (OTS)

Proposed Rule Stage

3197. • COMMUNITY REINVESTMENT ACT HEARING PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 2901 et seq

CFR Citation: 12 CFR 543

Legal Deadline: None

Abstract: The OTS intends to rewrite its regulatory provisions concerning the determination of whether CRA protests are considered substantial. The intended effect of the rule is to give OTS additional discretion, paralleling that of the other Federal banking agencies, over whether to conduct oral hearings.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John M. Flannery, Senior Attorney, Regulations & Legislation Divisions, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7293

RIN: 1550–AA83

3198. • REGULATORY REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 301; 5 USC 375b; 5 USC 552; 5 USC 559; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467; 12 USC 1467a; 12 USC 1468; 12 USC 11701j-3; 12 USC 1817; 12 USC 1828; 12 USC 2901 et seq; ...

CFR Citation: 12 CFR 500; 12 CFR 504; 12 CFR 510; 12 CFR 515; 12 CFR 529; 12 CFR 533; 12 CFR 543; 12 CFR 545; 12 CFR 552; 12 CFR 556; 12 CFR 562; 12 CFR 563; 12 CFR 563d; 12 CFR 563g; 12 CFR 567; ...

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Review Initiative, OTS has completed a page-by-page review of all agency regulations to determine whether each regulation is necessary, imposes the least burden possible consistent with safety and soundness, and is written in a clear, straightforward manner. The OTS has issued a notice of proposed rulemaking based upon the results of this review.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44442
NPRM Comment Period End	10/27/95	60 FR 44442
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Valerie J. Lithotomos, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6439

RIN: 1550–AA85

3199. • FLOOD INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4012a; 42 USC 4104a; 42 USC 4104b; 42 USC 4106; 42 USC 4128

CFR Citation: 12 CFR 563; 12 CFR 572

Legal Deadline: None

Abstract: The OTS and the other Federal banking agencies are considering issuing a notice of proposed rulemaking to ensure that institutions comply with relevant provisions of the National Flood Insurance Reform Act of 1994. The Act requires that the agencies promulgate regulations concerning (i) mandatory flood insurance purchase requirements,

TREAS—OTS

Proposed Rule Stage

(ii) notice requirements, and (iii) escrow requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Clark, Program Manager, Compliance Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5628

RIN: 1550–AA86

3200. • REGULATORY REVIEW: CORPORATE GOVERNANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 2901 et seq

CFR Citation: 12 CFR 543; 12 CFR 552

Legal Deadline: None

Abstract: The OTS is currently reviewing its corporate governance regulations, for both mutual and stock savings associations, in order to determine which regulations can be eliminated or improved, reducing regulatory burden for the thrift industry.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary Jo Johnson, Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5739

RIN: 1550–AA87

3201. • REGULATORY REVIEW: SUBSIDIARIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 559; 12 USC 375b; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 563; 12 CFR 571

Legal Deadline: None

Abstract: This rulemaking will involve the review and reform of the OTS's existing subsidiary regulations and related policy with a view toward streamlining and reducing burden. The entities to be affected by the regulation are (i) service corporations and their joint ventures, (ii) subsidiaries, (iii) operating subsidiaries, (iv) finance subsidiaries, (v) pass-through entities, and (vi) special purpose corporations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Debra S. Merkle, Policy Analyst, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5688

RIN: 1550–AA88

3202. • REGULATORY REVIEW: INSURANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1828

CFR Citation: 12 CFR 545; 12 CFR 556; 12 CFR 563; 12 CFR 571

Legal Deadline: None

Abstract: The OTS is reviewing its regulations on (i) usurpation of a savings association's corporate opportunity to engage in the insurance business, (ii) hazard insurance coverage, and (iii) loan services and fees. The OTS intends to delete duplicative regulations, eliminate unnecessary requirements and consolidate appropriate provisions.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Francis Raue, Policy Analyst, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5750

RIN: 1550–AA89

3203. • REGULATORY REVIEW: ADJUSTABLE RATE MORTGAGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 375b; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 563

Legal Deadline: None

Abstract: The OTS is reviewing its adjustable rate mortgage regulations to (i) clarify coverage, (ii) ensure consistency (internally and with the other Federal banking agencies), (iii) establish parity in coverage between its adjustable rate mortgage and disclosure requirements, and (iv) where possible, reduce regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John M. Flannery, Senior Attorney, Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7293

RIN: 1550–AA90

TREAS—OTS — Proposed Rule Stage

3204. • REGULATORY REVIEW: LENDING REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 559; 12 USC 375b; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1701j-3; 12 USC 1817; 12 USC 1828; 12 USC 3806; 15 USC 1693 to 1693r; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 556; 12 CFR 563; 12 CFR 571

Legal Deadline: None

Abstract: The OTS is reviewing its lending regulations with a view toward making the regulations more concise and less burdensome for both federally and state-chartered savings associations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Magrini, Project Manager for Credit Policy, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5744

RIN: 1550–AA91

3205. • REGULATORY REVIEW: FEDERAL PREEMPTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1701j-3; 12 USC 1735f-7a; 12 USC 1828

CFR Citation: 12 CFR 545; 12 CFR 590; 12 CFR 591

Legal Deadline: None

Abstract: OTS plans to review all of the federal preemption provisions contained in its regulations. The provisions will be updated to provide more specific guidance. This will reduce regulatory burden by eliminating uncertainty and the need for extensive legal research.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Evelyne Bonhomme, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7052

RIN: 1550–AA92

DEPARTMENT OF THE TREASURY (TREAS) — Final Rule Stage
Office of Thrift Supervision (OTS)

3206. SUSPICIOUS ACTIVITY REPORTS AND OTHER STATEMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: The OTS has issued a notice of proposed rulemaking to implement a new interagency suspicious activity referral process and update the underlying reporting regulation. The reporting process would be less burdensome on savings associations and service corporations while improving access to such information by Federal law enforcement agencies.

Timetable:

Action	Date	FR Cite
NPRM	07/17/95	60 FR 36366
NPRM Comment Period End	09/15/95	60 FR 36366
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Osterloh, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6639

RIN: 1550–AA62

3207. RISK-BASED CAPITAL REQUIREMENTS, SMALL BUSINESS LOAN RECOURSE OBLIGATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1835; 12 USC 1848; 12 USC 4808

CFR Citation: 12 CFR 567

Legal Deadline: Final, Statutory, March 22, 1995.

Abstract: The OTS has issued an interim final rule with request for comment that revises its risk-based capital standards as required by sections 208 and 350 of the Riegle Community Development and Regulatory Improvement Act of 1994. The rule modifies the risk-based capital treatment of small business loans and leases of personal property with recourse in accordance with the new statutory requirement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/31/95	60 FR 45618
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Osterloh, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of

TREAS—OTS — Final Rule Stage

Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6639

RIN: 1550–AA81

3208. • RISK-BASED CAPITAL GUIDELINES: ORIGINATED MORTGAGE SERVICING RIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831o; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1828

CFR Citation: 12 CFR 565; 12 CFR 567

Legal Deadline: None

Abstract: The Federal banking agencies have issued an interim final rule with request for comment to amend their capital adequacy standards to treat originated mortgage servicing rights (OMSRs) in the same manner as purchased mortgage servicing rights (PMSRs) for regulatory capital purposes. The rule was developed in response to the Financial Accounting Standards Board's Statement No. 122, which eliminates the accounting distinction between OMSRs and PMSRs by requiring OMSRs to be capitalized as balance sheet assets. This treatment was previously required only for PMSRs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/01/95	60 FR 39226
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John F. Connolly, Program Manager, Capital Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6465

RIN: 1550–AA84

DEPARTMENT OF THE TREASURY (TREAS) — Long-Term Actions
Office of Thrift Supervision (OTS)

3209. SMALL AND MEDIUM-SIZED BUSINESS AND FARM LOAN DOCUMENTATION EXEMPTION FOR QUALIFYING ASSOCIATIONS

Priority: Other

CFR Citation: 12 CFR 563

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/13/93	58 FR 28346
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Laurie Nicoli
Phone: 202 906-7452

RIN: 1550–AA61

3210. CLASSIFICATION OF ASSETS

Priority: Other

CFR Citation: 12 CFR 563

Timetable:

Action	Date	FR Cite
NPRM	07/20/93	58 FR 38731
NPRM Comment Period End	08/19/93	58 FR 38731
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Magrini
Phone: 202 906-5744

RIN: 1550–AA65

3211. RISK-BASED CAPITAL STANDARDS—RECOURSE OBLIGATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 567

Timetable:

Action	Date	FR Cite
ANPRM Asset Securitizations	05/25/94	59 FR 27116
NPRM Recourse Arrangements and Direct Credit Substitutes	05/25/94	59 FR 27116
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John F. Connolly
Phone: 202 906-6465

RIN: 1550–AA70

3212. CAPITAL DISTRIBUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 563

Timetable:

Action	Date	FR Cite
NPRM	12/05/94	59 FR 62356
NPRM Comment Period End	02/03/95	59 FR 62356
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Edward J. O'Connell
Phone: 202 906-5694

RIN: 1550–AA72

3213. "DE NOVO" APPLICATIONS FOR A FEDERAL SAVINGS ASSOCIATION CHARTER

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 543; 12 CFR 552; 12 CFR 571

Timetable:

Action	Date	FR Cite
NPRM	03/06/95	60 FR 12103
NPRM Comment Period End	05/05/95	60 FR 12103
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Valerie J. Lithotomos
Phone: 202 906-6439

RIN: 1550–AA76

3214. LIQUIDITY

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 566

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Francis Raue
Phone: 202 906-5750

RIN: 1550–AA77

3215. LOANS TO ONE BORROWER

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 563

TREAS—OTS — Long-Term Actions

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/28/95	60 FR 15861
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Magrini
Phone: 202 906-5744

RIN: 1550–AA78

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Completed Actions

3217. SAFETY AND SOUNDNESS STANDARDS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 563

Completed:

Reason	Date	FR Cite
Final Action	07/10/95	60 FR 35674
Final Action Effective	08/09/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Magrini
Phone: 202 906-5744

RIN: 1550–AA54

3218. RELEASE OF UNPUBLISHED INFORMATION

Priority: Other

CFR Citation: 12 CFR 510

Completed:

Reason	Date	FR Cite
Final Action	05/30/95	60 FR 28027
Final Action Effective	07/20/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Valerie J. Lithotomos
Phone: 202 906-6439

RIN: 1550–AA66

3219. COMMUNITY REINVESTMENT ACT

Priority: Other Significant

CFR Citation: 12 CFR 563e

Completed:

Reason	Date	FR Cite
Final Action : Several of the regulations removed effective 07-01-97	05/04/95	60 FR 22156
Final Action Effective	01/01/95	

3216. UNIFORM RULES OF PRACTICE AND PROCEDURE

Priority: Other

CFR Citation: 12 CFR 509

Timetable:

Action	Date	FR Cite
NPRM	06/23/95	60 FR 32882
NPRM Comment Period End	08/22/95	60 FR 32882
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Osterloh
Phone: 202 906-6639

RIN: 1550–AA79

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Theresa Stark
Phone: 202 906-7054

RIN: 1550–AA69

3220. REGULATORY CAPITAL: COMMON STOCKHOLDERS' EQUITY

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 567

Completed:

Reason	Date	FR Cite
Final Action	08/15/95	60 FR 42025
Final Action Effective	10/01/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John F. Connolly
Phone: 202 906-6465

RIN: 1550–AA71

3221. UNIFORM RULES OF PRACTICE AND PROCEDURE; EX PARTE COMMUNICATIONS

Priority: Other

CFR Citation: 12 CFR 509

Completed:

Reason	Date	FR Cite
Final Action	05/30/95	60 FR 28033
Final Action Effective	07/01/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Osterloh
Phone: 202 906-6639

RIN: 1550–AA80

3222. • LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Priority: Other

Legal Authority: 12 USC 375b; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1828; 12 USC 3806; 42 USC 4012a; 42 USC 4104a; 42 USC 4104b; 42 USC 4106; 42 USC 4128

CFR Citation: 12 CFR 563

Legal Deadline: Final, Statutory, June 20, 1995.

Abstract: The Federal banking agencies have issued a joint final rule amending their regulations concerning loans in areas having special flood hazards. The final rule requires depository institutions to use a Standard Flood Hazard Determination Form in determining whether real property offered as collateral for a loan is located in a special flood hazard area.

Timetable:

Action	Date	FR Cite
Final Action	07/06/95	60 FR 35286
Final Action Effective	01/02/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Clark, Program Manager, Compliance Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5628

RIN: 1550–AA82

[FR Doc. 95-26073 Filed 11-24-95; 8:45 am]
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Federal Register

Tuesday
November 28, 1995

Part XVI

Department of Veterans Affairs

Semiannual Regulatory Agenda

DEPARTMENT OF VETERANS AFFAIRS (VA)

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Ch. I

Agenda of Federal Regulations

AGENCY: Department of Veterans Affairs.

ACTION: Publication of agenda of regulations.

SUMMARY: This agenda announces the regulations that the Department of Veterans Affairs (VA) will have under development or review during the 12-month period beginning October 1995. The purpose in publishing the Department's regulatory agenda is to allow all interested persons the opportunity to participate in VA's regulatory planning.

ADDRESSES: Interested persons are invited to comment on the entries listed in the agenda by contacting the individual agency contact listed for each entry or by writing to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Gloria Armstrong or Christy Fick, (202) 565-7625.

SUPPLEMENTARY INFORMATION: This document is issued pursuant to Executive Order 12866 "Regulatory Planning and Review" (and implementing guidance) and the Regulatory Flexibility Act which require that executive agencies semiannually publish in the **Federal Register** an agenda of regulations under development or review. For this edition of VA's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Dated: September 14, 1995.

Thomas O. Gessel,

Director, Office of Regulations Management.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3223	Aid to States for Care of Veterans in State Homes and Grants to States for Construction or Acquisition of State Home Facilities	2900-AE87

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3224	Disposition of Veteran's Personal Funds and Effects on Facility Upon Death, or Discharge, or Unauthorized Absence, and of Funds and Effects Found on Facility	2900-AB61
3225	Adult Day Health Care Program; Community Residential Care Program; and Contract Program for Veterans With Alcohol and Drug Dependence Disorders	2900-AH61
3226	Informed Consent for Patient Care	2900-AH72
3227	Schedule for Rating Disabilities—The Orthopedic System	2900-AE91
3228	Schedule for Rating Disabilities—Mental Disorders	2900-AF01
3229	Schedule for Rating Disabilities—Neurological Conditions and Convulsive Disorders	2900-AF23
3230	Schedule for Rating Disabilities—Digestive System	2900-AF24
3231	Reduction of Debt Through the Performance of Work-Study Services	2900-AF29
3232	Veterans' Education; Suspension and Discontinuance of Payments	2900-AF85
3233	Veterans' Education; Suspension and Discontinuance of Payments Under the Post-Vietnam Era Veterans' Educational Assistance Program	2900-AG04
3234	Reservists' Education; Suspension and Discontinuance of Payments Under the Montgomery GI Bill—Selected Reserve	2900-AG05
3235	Veterans Education: Increase in Rates Payable Under the Montgomery GI Bill Active Duty, 1994-95	2900-AH14
3236	Individual Unemployability	2900-AH21
3237	Loan Guaranty: Authority To Close VA-Guaranteed Loans on an Automatic Basis, Withdrawal of Automatic Processing Authority and Elimination of Late Reporting Waivers	2900-AH23
3238	Veterans Education: Implementation of the Veterans Benefits Improvement Act of 1994	2900-AH31
3239	Veteran Education: Course Measurement and Effective Date for Graduate Courses	2900-AH39
3240	SC for Dental Disabilities	2900-AH41
3241	Medical Evidence	2900-AH42
3242	Vision	2900-AH43
3243	Evidence Dependency and Age	2900-AH51
3244	Claims Based on Tobacco Use During Active Service	2900-AH58
3245	Abandoned Claims	2900-AH65

VA

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3246	Department of Veterans Affairs Acquisition Regulation (VAAR): Part 801, Veterans Affairs Acquisition Regulation System	2900-AH28
3247	Rules of Practice: Medical Opinions; Appeal Processing and Submission of Additional Evidence	2900-AG90

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3248	Confidentiality of Certain Medical Records	2900-AE28
3249	Health Professionals' Educational Assistance Program	2900-AF87
3250	Schedule for Rating Disabilities—The Cardiovascular System **(Reg Plan Seq. No. 98)**	2900-AE40
3251	Schedule for Rating Disabilities—The Endocrine System	2900-AE41
3252	Educational Assistance for Members of the Selected Reserve	2900-AE43
3253	Schedule for Rating Disabilities—The Muscular System	2900-AE83
3254	Schedule for Rating Disabilities—The Respiratory System	2900-AE94
3255	Schedule for Rating Disabilities—Systemic Conditions	2900-AE95
3256	Schedule for Rating Disabilities—The Skin	2900-AF00
3257	Schedule for Rating Disabilities—Diseases of the Ear and Other Sense Organs	2900-AF22
3258	Reservists' Education; Commencing Date of Award of Educational Assistance	2900-AF74
3259	Amendments to Training and Rehabilitation Programs	2900-AG00
3260	Veterans' Education; Implementation of the Veterans' Benefits Act of 1992 and the National Defense Authorization Act for 1993	2900-AG22
3261	Veterans' Training Under the Service Members Occupational Conversion and Training Act	2900-AG56
3262	Fibromyalgia	2900-AH05
3263	Determination of Incompetency and Competency	2900-AH10
3264	Eligibility Reporting Requirements **(Reg Plan Seq. No. 99)**	2900-AH18
3265	Delegation of Authority to Provide Relief on Account of Administrative Error	2900-AH19
3266	Veterans Education: The Veterans Benefits Improvement Act of 1994 and Post-Vietnam Era Veterans Educational Assistance Program	2900-AH33
3267	Compensation for Disability Resulting From Hospitalization, Treatment, Examination, or Vocational Rehabilitation	2900-AH44
3268	Examinations	2900-AH48
3269	Servicemen's and Veterans' Group Life Insurance	2900-AH50
3270	United States Government Life Insurance	2900-AH52
3271	Soldiers' and Sailors' Civil Relief	2900-AH53
3272	Veterans Mortgage Life Insurance	2900-AH54
3273	National Service Life Insurance	2900-AH55
3274	Reservists' Education: Technical Amendment to the Montgomery GI Bill—Selected Reserve Program	2900-AH59
3275	Veterans and Dependents Education: Revision and Rescission of Obsolete and Duplicate Regulations	2900-AH60
3276	Revision and Rescission of Obsolete and Duplicate Regulations Governing Post-Vietnam Era Veterans Educational Assistance	2900-AH64
3277	Duty Period	2900-AH70
3278	Vet Ed: Effective Date for the Award of Educational Assistance	2900-AH76
3279	Department of Veterans Affairs Acquisition Regulation—Loan Guaranty and Vocational Rehabilitation and Counseling Programs	2900-AG65
3280	Department of Veterans Affairs Acquisition Regulation—Service Contracting and Contract Clauses	2900-AG67
3281	Department of Veterans Affairs Acquisition Regulation (VAAR): Administrative Changes	2900-AH27
3282	Department of Veterans Affairs Acquisition Regulation (VAAR): Part 847, Transportation	2900-AH56
3283	Department of Veterans Affairs Acquisition Regulation (VAAR) Senior Procurement Executive and Procurement Executive	2900-AH62
3284	Burial and Headstone or Marker Eligibility	2900-AH11
3285	Headstone and Marker Inscription Policy	2900-AH45
3286	State Cemetery Grants: Aid to States for Establishment, Expansion and Improvement of Veterans Cemeteries	2900-AH46
3287	Delegation of Authority to Order Paid Advertising for Use in Recruitment	2900-AH74
3288	Part-Time Career Employment Program	2900-AH75
3289	Delegation of Subpoena Authority and Description of Means of Service	2900-AH00

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

VA

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3290	CHAMPVA Regulations	2900-AE64
3291	Payments for Outpatients and Ancillary Medical Services Provided by Non-VA Providers	2900-AH66
3292	Treatment of Research—Related Injuries to Human Subjects	2900-AH68
3293	Loan Guaranty: Title Evidence Requirements and Occupancy Requirements for Conveyance of Properties to VA	2900-AE20
3294	Acceptance of Partial Payments; Indemnification of Default	2900-AE60
3295	Revised Definition of Net Value and Revised Criteria for Pre-Foreclosure Debt Waivers	2900-AG20
3296	Veterans' Education; Veterans' Benefits Act of 1992 and the National Defense Authorization Act of 1993 in the Post-Vietnam Era Veterans' Educational Assistance Program	2900-AG23
3297	Loan Guaranty Flood Insurance Requirements	2900-AH63
3298	Loan Guaranty: Electronic Payment of Funding Fee	2900-AH73
3299	Appeals Regulations; Rules of Practice	2900-AE78
3300	Rules of Practice; Hearings	2900-AG07
3301	Appeals Regulations: Rules of Practice; Board of Veterans' Appeals Administrative Procedures Improvement Act of 1994	2900-AH16
3302	Nondiscrimination on the Basis of Sex Under Federally Assisted Education Programs and Activities	2900-AB51
3303	Operation of Child Care Centers at VA Facilities	2900-AD48

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3304	Contract Program for Veterans With Alcohol and Drug Dependency Disorders	2900-AG58
3305	VA Homeless Providers Grant and Per Diem Program	2900-AG91
3306	Employee Fiduciaries	2900-AB50
3307	1. Veterans Services Officer (VSO) To Select and Appoint or Recommend for Appointment the Person or Legal Entity To Receive Benefits in a Fiduciary Capacity 2. Direct Payment	2900-AB75
3308	1. Payment to the Wife or Husband of an Incompetent Veteran 2. Legal Custodian	2900-AB76
3309	Apportionment of Benefits to Dependents; Payment of Cost of Veteran's Maintenance in Institution; Recommendation for Payment	2900-AC10
3310	Full Disclosure of Beneficiary's Income and Assets	2900-AD35
3311	Schedule for Rating Disabilities—The Gynecological System	2900-AE72
3312	Schedule for Rating Disabilities—The Hemic and Lymphatic System	2900-AF02
3313	Line of Duty	2900-AF03
3314	Reservists' Education; The Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 and the Montgomery GI Bill—Selected Reserve	2900-AF33
3315	Loan Guaranty: Implementation of Public Laws 102-547, 103-66, 103-78, 103-325, 103-353, and 103-446	2900-AG14
3316	Reservists' Education; Implementation of the Veterans' Benefits Act of 1992 and the National Defense Authorization Act of 1993	2900-AG24
3317	Revision of Decisions	2900-AG32
3318	Dependents' and Veterans' Education: Mitigating Circumstances and Other Miscellaneous Amendments	2900-AG63
3319	Disability or Death Due to Hospitalization, Etc	2900-AG84
3320	Evidence Requirements	2900-AG85
3321	Chronic Fatigue Syndrome	2900-AG86
3322	Reservists' Education: Implementation of the Department of Defense Authorization Act for 1994	2900-AG96
3323	Further Increases in Rates Payable in the Educational Assistance Test Program	2900-AG98
3324	Claims Based on Exposure to Ionizing Radiation (Lymphomas Other Than Hodgkin's Disease and Cancer of the Rectum)	2900-AG99
3325	Disease Subject to Presumptive Service Connection (Radiation Risk Activity)	2900-AH04
3326	Claims Based on Exposure to Ionizing Radiation (Radiogenic Diseases)	2900-AH07
3327	Veterans Education: Qualifying for the Montgomery GI Bill - Active Duty Through Service in the Selected Reserves	2900-AH08
3328	Special Monthly Compensation Ratings	2900-AH09
3329	Veterans Education: Time Limits for Matriculation	2900-AH13
3330	Reservist Education: Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve	2900-AH15
3331	Reductions and Discontinuances (Federal Employee's Compensation)	2900-AH20
3332	National Service Life Insurance (NSLI) Health Requirements	2900-AH22
3333	Veterans Education: Establishing Eligibility Under Montgomery GI Bill (Active Duty)	2900-AH25
3334	Reductions and Discontinuances (Federal Employees' Compensation)	2900-AH29

VA

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3335	Reservists Education: Implementation of the Veterans Benefits Improvement Act of 1994	2900-AH32
3336	Redesignation of Authority Citation and Other References	2900-AH34
3337	Veterans Benefits Improvement Act of 1994	2900-AH36
3338	Special Allowance Payable Under Section 156 of PL 97-377	2900-AH37
3339	Examinations	2900-AH38
3340	Retired Reservist Service Group Life Insurance	2900-AH40
3341	Reinstatement of Benefits Eligible Based Upon Terminated Marital Relationships	2900-AH67
3342	Rules of Practice: Waiver of Consideration of Evidence by Agency of Original Jurisdiction	2900-AH47
3343	Rules of Practice—Advancement on the Docket	2900-AH57
3344	Contract Appeals Board Regulations	2900-AH69
3345	Board of Contract Appeals: Rules of the Board	2900-AH71
3346	FOIA: Receipt of Electronically Transmitted Facsimile Request or Appeal; Time Limit on Right of Administrative Appeal; and No Record as Adverse Determination	2900-AF62
3347	Contact Person for Missing Children: Official Mail Program	2900-AG75
3348	Waiver: Erroneous Payment of Pay and Allowances	2900-AG94
3349	Interest	2900-AH24

DEPARTMENT OF VETERANS AFFAIRS (VA)

Prerule Stage

VETERANS HEALTH ADMINISTRATION

3223. AID TO STATES FOR CARE OF VETERANS IN STATE HOMES AND GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOME FACILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1741; 38 USC 1742; 38 USC 1743; 38 USC 8131; 38 USC 8132; 38 USC 8133; 38 USC 8134; 38 USC 8135; 38 USC 8136; 38 USC 8137

CFR Citation: 38 CFR 17.165; 38 CFR 17.166; 38 CFR 17.167; 38 CFR 17.183

Legal Deadline: None

Abstract: Several laws have been enacted since the last revision and update of the regulations governing the State Home Per Diem Program. Among them is Public Law 100-322, which provided that the Secretary, Department of Veterans Affairs, is to evaluate per diem rates annually and increase them as appropriate; the rates may not exceed the percentage increase in VA general hospitals. Numerous other changes and updates are needed to (1)assist the States in recognition of State homes; (2) provide various options for operating State homes, such as contracting or leasing and clarify of States' responsibilities for providing financial support for the operation; and (3) opening of beds, after completing construction in which VA provided up to 65 percent of the cost. Timeframes for opening beds and clarification of assurance of financial support need to be documented. Current regulations will be updated and revised to accomplish these purposes. Additionally updates are necessary for the State Home Construction Program. Public Law 102-585 amends the time for conditional grant approvals, prohibits obligation of funds for rescinded projects during the same fiscal year, defines the date the recapture period begins, and provides for retroactive per diem payment after completion of recognition inspection. Further, the Life Safety Code requires updating to the 1993 edition and various other technical and editorial changes need to be made.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/95	
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen Greve, Chief, State Home Construction Prgm, Department of Veterans Affairs, Veterans Health Administration (114B), 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-7166

RIN: 2900–AE87

DEPARTMENT OF VETERANS AFFAIRS (VA) — Proposed Rule Stage

VETERANS HEALTH ADMINISTRATION

3224. DISPOSITION OF VETERAN'S PERSONAL FUNDS AND EFFECTS ON FACILITY UPON DEATH, OR DISCHARGE, OR UNAUTHORIZED ABSENCE, AND OF FUNDS AND EFFECTS FOUND ON FACILITY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 8501; 38 USC 8502; 38 USC 8503; 38 USC 8504; 38 USC 8506; 38 USC 8507; 38 USC 8508; 38 USC 8509; 38 USC 8510; 38 USC 8520; 38 USC 8521; 38 USC 8522; 38 USC 8523; 38 USC 8524; 38 USC 8525; ...

CFR Citation: 38 CFR 12.0 to 12.24

Legal Deadline: None

Abstract: Section 208 of Public Law 94-581 provides that unclaimed property or funds and effects left by a dependent or survivor of a veteran receiving medical care at a Department of Veterans Affairs (VA) facility as a CHAMPVA beneficiary will be disposed of in the same or similar manner as such property left by a veteran. Also, estates of dependents or survivors of a veteran who dies intestate and without legal heirs while a patient in any VA facility or any hospital, while being furnished care or treatment therein by VA, will escheat to the U.S. Government. Some of these regulations have not been updated since 1948; therefore, editorial changes will be made, which will not affect policy.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roscoe Butler, Medical Administration Program Specialist, Policies and Procedures (161B1), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-7436

RIN: 2900–AB61

3225. • ADULT DAY HEALTH CARE PROGRAM; COMMUNITY RESIDENTIAL CARE PROGRAM; AND CONTRACT PROGRAM FOR VETERANS WITH ALCOHOL AND DRUG DEPENDENCE DISORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501

CFR Citation: 38 CFR 17.51e(c)(2); 38 CFR 17.51j(a)(2); 38 CFR 17.53b(a)(1)(i); 38 CFR 17.53c(a)(1)(i)

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to update references to material incorporated by reference in regulations concerning the Adult Day Health Care Program, the Community Residential Care Program and the Contract Program for Veterans with Alcohol and Drug Dependence Disorders. These regulations incorporate by reference various editions of the National Fire Protection Association Life Safety Code (NFPA 101, Life Safety Code and NFPA 101A, Guide on Alternative Approaches to Life Safety). References will be made to the 1995 editions.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47133
NPRM Comment Period End	11/13/95	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Karen Boies, Ph.D., Deputy Assoc. Director for Addictive, Disorders, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-7314

RIN: 2900–AH61

3226. • INFORMED CONSENT FOR PATIENT CARE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 7331; 38 USC 7332; 38 USC 7333

CFR Citation: 38 CFR 17.34

Legal Deadline: None

Abstract: VA proposes to amend its regulations concerning informed consent for patient care. It is proposed to describe the requirements for obtaining and documenting informed consent. It is also proposed to describe the types of treatments or procedures for which the patient's signature on a VA authorized form would be required and to establish a list and priority of surrogates authorized to act on behalf of patients who lack decisionmaking capacity. Further, it is proposed to establish an internal decisionmaking process for patients who lack decisionmaking capacity and have no authorized surrogate. This action is intended to protect patient rights and to ensure that the patient (or the patient's surrogate or representative) receives sufficient information to make an informed health care decision.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ruth-Ann Phelps, Ph.D., Health Systems Specialist, Department of Veterans Affairs, Veterean Health Administration, Department of Veterans Administration, 810 Vermont Ave. NW., Washington, DC 20420
Phone: 202 273-5813

RIN: 2900–AH72

VETERANS BENEFITS ADMINISTRATION

3227. SCHEDULE FOR RATING DISABILITIES—THE ORTHOPEDIC SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the orthopedic system.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/90	55 FR 53315
ANPRM Comment Period End	02/26/91	
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AE91

VA — Proposed Rule Stage

3228. SCHEDULE FOR RATING DISABILITIES—MENTAL DISORDERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.125; 38 CFR 4.126; 38 CFR 4.127; 38 CFR 4.128; 38 CFR 4.129; 38 CFR 4.130; 38 CFR 4.131; 38 CFR 4.132

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate mental disorders.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20170
ANPRM Comment Period End	07/01/91	
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, MD, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF01

3229. SCHEDULE FOR RATING DISABILITIES—NEUROLOGICAL CONDITIONS AND CONVULSIVE DISORDERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.120; 38 CFR 4.121; 38 CFR 4.122; 38 CFR 4.123; 38 CFR 4.124; 38 CFR 4.124a

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the neurological system.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20169
ANPRM Comment Period End	07/01/91	
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, MD, Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF23

3230. SCHEDULE FOR RATING DISABILITIES—DIGESTIVE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.114

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the digestive system.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20168
ANPRM Comment Period End	07/01/91	
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF24

3231. REDUCTION OF DEBT THROUGH THE PERFORMANCE OF WORK-STUDY SERVICES

Priority: Other Significant

Legal Authority: PL 102-16

CFR Citation: 38 CFR 1.929

Legal Deadline: None

Abstract: There is a section of PL 102-16 which is designed to eliminate some VA debts. The Secretary of Veterans Affairs is given the authority to enter into an agreement with an individual who has incurred an overpayment of VA educational or rehabilitation benefits. Pursuant to the agreement the individual may reduce the resulting debt through performance of work-study services. The law gives VA considerable latitude in administering this program. The regulation will state the way in which VA will implement this provision of law.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AF29

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3232. VETERANS' EDUCATION; SUSPENSION AND DISCONTINUANCE OF PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3690

CFR Citation: 38 CFR 21.4133; 38 CFR 21.4134; 38 CFR 21.4135; 38 CFR 21.4146; 38 CFR 21.4152; 38 CFR 21.4202; 38 CFR 21.4207; 38 CFR 21.4208; 38 CFR 21.4210; 38 CFR 21.4211; 38 CFR 21.4212; 38 CFR 21.4213; 38 CFR 21.4214; 38 CFR 21.4215; 38 CFR 21.4216

Legal Deadline: None

Abstract: Under certain conditions VA can suspend or discontinue payments of educational assistance to individuals even though the course in which they are enrolled is approved for VA training. Current regulations provide for a review of the circumstances at the local VA facility and another de novo review at VA Central Office. The proposal would gather in one place the procedures which VA follows in deciding whether to suspend or discontinue payments; would make a part of the Code of Federal Regulations the rules at the hearing which may be conducted in making this decision; and would eliminate the de novo Central Office review.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: June Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AF85

3233. VETERANS' EDUCATION; SUSPENSION AND DISCONTINUANCE OF PAYMENTS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3690

CFR Citation: 38 CFR 21.5130; 38 CFR 21.5200

Legal Deadline: None

Abstract: VA will propose regulations which will gather in one place the procedures VA follows in deciding whether to suspend or discontinue payments. This will require revisions to the regulations governing the Post-Vietnam Era Veterans' Educational Assistance Program so that references to the sections concerned with suspension and discontinuance of educational assistance will be correct.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AG04

3234. RESERVISTS' EDUCATION; SUSPENSION AND DISCONTINUANCE OF PAYMENTS UNDER THE MONTGOMERY GI BILL—SELECTED RESERVE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3690

CFR Citation: 38 CFR 21.7633; 38 CFR 21.7635; 38 CFR 21.7658

Legal Deadline: None

Abstract: VA will propose regulations which will gather in one place the procedures VA follows in deciding whether to suspend or discontinue payments of educational assistance. This will require revisions to the regulations governing the Montgomery GI Bill, Selected Reserve so that references to the sections concerned with the suspension and discontinuance of educational assistance will be correct.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AG05

3235. VETERANS EDUCATION: INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL ACTIVE DUTY, 1994-95

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3015

CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137

Legal Deadline: None

Abstract: By statute, veterans and servicemembers pursuing a program of education under the Montgomery GI Bill, Active Duty are entitled to receive an increase in the monthly rate of basic educational assistance, effective October 1 of each year. The increase to take effect on October 1, 1994, is one-half the increase in the consumer price index (U) from June 1993 to June 1994, or 1.25 percent. These amended regulations will implement the increase due October 1, 1994, for the Montgomery GI Bill, Active Duty.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Shaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AH14

3236. INDIVIDUAL UNEMPLOYABILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.16

Legal Deadline: None

Abstract: This action will amend the Schedule for Rating Disabilities as it addressed the issue of individual unemployability, in order to establish a more objective standard for making unemployability determinations.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorna Weston, Consultant (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH21

3237. LOAN GUARANTY: AUTHORITY TO CLOSE VA-GUARANTEED LOANS ON AN AUTOMATIC BASIS, WITHDRAWAL OF AUTOMATIC PROCESSING AUTHORITY AND ELIMINATION OF LATE REPORTING WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 3702(d)(3); 38 USC 3702(e)

CFR Citation: 38 CFR 36.4348; 38 CFR 36.4349; 38 CFR 36.4303(a); 38 CFR 36.4303(d); 38 CFR 36.4335(a)

Legal Deadline: None

Abstract: VA is proposing to amend its loan guaranty regulations regarding criteria used to approve nonsupervised lenders to process VA-guaranteed loans on the automatic basis. The Department is considering changes in the following requirements for lender participation in the automatic authority program: lender experience, working capital, lines of credit, and VA-approved underwriter eligibility and training. The Department is also considering changes in the regulation regarding annual recertification of lenders and standards for withdrawal of automatic authority. VA is also proposing to amend the requirements pertaining to lenders' reporting of VA-guaranteed loans to the Secretary within 60 days following full disbursement. The revised regulation will provide that if the lender does not report the loan within 60 days, the late report must be accompanied by a statement signed by a corporate officer of the lending institution, certifying that the loan is current and offering an explanation for the late reporting. This change will eliminate the current requirement for VA regional office to go through the formality of making a decision on whether or not to waive the requirement and instead either issue the guaranty or not, as appropriate under the circumstances.

Timetable:

Action	Date	FR Cite
NPRM	03/31/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Caden, Assistant Director, Loan Policy, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7368

RIN: 2900–AH23

3238. VETERANS EDUCATION: IMPLEMENTATION OF THE VETERANS BENEFITS IMPROVEMENT ACT OF 1994

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-466; PL 103-337

CFR Citation: 38 CFR 21.3333; 38 CFR 21.4137; 38 CFR 21.4152; 38 CFR 21.4155; 38 CFR 21.4200; 38 CFR 21.4201; 38 CFR 21.4252; 38 CFR 21.4256; 38 CFR 21.4260; 38 CFR 21.4279; 38 CFR 21.7020; 38 CFR 21.7045; 38 CFR 21.7120; 38 CFR 21.4820; 38 CFR 21.4822

Legal Deadline: None

Abstract: The Veterans Benefits Improvement Act of 1994 and the National Defense Authorization Act for Fiscal Year 1995 contain provisions that affect the various education programs VA administers. This includes making flight training a permanent part of many of these programs and providing for approval of courses leading to alternate teacher certification. This proposal will acquaint the public with the way in which VA will implement these programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AH31

3239. VETERAN EDUCATION: COURSE MEASUREMENT AND EFFECTIVE DATE FOR GRADUATE COURSES

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-446; PL 103-337

CFR Citation: 38 CFR 21.4273; 38 CFR 21.7131

Legal Deadline: None

Abstract: The Veterans Benefits Act of 1992 contains many provisions that affect the educational programs VA administers. The National Defense Authorization Act for fiscal year 1993 contains a provision that affects the eligibility of voluntarily discharged individuals for the Montgomery GI Bill, Active Duty. This proposal includes revised regulations governing the Montgomery GI Bill, Active Duty needed to implement a portion of those Acts and, thus, will acquaint the public with the way VA intends to administer certain provisions of those Acts.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AH39

3240. SC FOR DENTAL DISABILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.381

Legal Deadline: None

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VA

Proposed Rule Stage

Abstract: This action will clarify the term "reasonable period of service" (Manio v. Brown)

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorna Weston, Consultant (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Ave. NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH41

3241. MEDICAL EVIDENCE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.1000

Legal Deadline: None

Abstract: This action will clarify the definition of "medical evidence on file at time of death" (Hayes v. Brown).

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorna Weston, Consultant (211B), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH42

3242. VISION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.75

Legal Deadline: None

Abstract: This action will amend the vision portion of the rating schedule to provide current medical terminology, clarify ambiguous evaluation criteria, and add medical conditions not presently in the rating schedule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Ave. NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH43

3243. • EVIDENCE DEPENDENCY AND AGE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.204

Legal Deadline: None

Abstract: This action is taken to make regulatory the discretionary authority of Public Law 103-446 to accept the claimants' statements as part of certain relationships.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Thornberry, Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH51

3244. • CLAIMS BASED ON TOBACCO USE DURING ACTIVE SERVICE

Priority: Economically Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.304

Legal Deadline: None

Abstract: This proposed rule will establish criteria for determining service connection of disability/death due to the use of tobacco products during active service.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH58

3245. • ABANDONED CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.109; 38 CFR 3.155

Legal Deadline: None

Abstract: This action is taken to make clear the time after which VA considers a claim abandoned.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Thornberry, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH65

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3246. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION (VAAR): PART 801, VETERANS AFFAIRS ACQUISITION REGULATION SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501

CFR Citation: 48 CFR 801

VA

Proposed Rule Stage

Legal Deadline: None

Abstract: This rule will revise the dollar thresholds specified in VAAR 801.602-70, legal/technical review requirements to be met prior to contract execution. Many of the dollar thresholds are unrealistically low, given the economy and the volume of contractual actions VA contracting officers execute. These dollar thresholds hinder the ability of VA contracting officers to execute many of the documents and award contracts in a timely manner. This rule is consistent with the Department's goal of enhancing its competitiveness in the health care industry and this Administration's commitment to streamline the bureaucracy.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michelle Ranes (95A), Senior Procurement Analyst, Department of Veterans Affairs, Ofc. of Acquisition & Material Management, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-4424

RIN: 2900–AH28

BOARD OF VETERANS APPEALS

3247. RULES OF PRACTICE: MEDICAL OPINIONS; APPEAL PROCESSING AND SUBMISSION OF ADDITIONAL EVIDENCE •

Priority: Other Significant

Legal Authority: 38 USC 501(a); 38 USC 5107; 38 USC 7102; 38 USC 7104(a); 38 USC 7105; 38 USC 7105A; 38 USC 7109

CFR Citation: 38 CFR 19.9; 38 CFR 19.36; 38 CFR 20.3; 38 CFR 20.800; 38 CFR 20.801; 38 CFR 20.802; 38 CFR 20.901; 38 CFR 20.903; 38 CFR 20.1304

Legal Deadline: None

Abstract: The Board of Veterans' Appeals will revise its Rules of Practice to clarify the Board's authority to secure medical opinions from the Veterans Health Administration; to authorize the Board to obtain information during the appellate process without remand; to provide that an appellant must generally submit any additional evidence prior to the time the case is assigned to a Board Member; and to reorganize certain rules.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller, Chief Counsel (01C), Department of Veterans Affairs, Board of Veterans' Appeals, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AG90

DEPARTMENT OF VETERANS AFFAIRS (VA)

Final Rule Stage

VETERANS HEALTH ADMINISTRATION

3248. CONFIDENTIALITY OF CERTAIN MEDICAL RECORDS

Priority: Other Significant

Legal Authority: 38 USC 7332

CFR Citation: 38 CFR 1.460-499

Legal Deadline: None

Abstract: These regulations address the confidentiality of VA records pertaining to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), and sickle cell anemia treatment, rehabilitation, education, training, evaluation and research information.

Timetable:

Action	Date	FR Cite
NPRM	07/26/93	58 FR 39706
NPRM Comment Period End	09/07/93	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: NOTE: This rule was incorrectly listed as completed in the October 1993 Unified Agenda.

Agency Contact: Celia Winter, Medical Administration Specialist, Medical Administration Service (161F), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6274

RIN: 2900–AE28

3249. HEALTH PROFESSIONALS' EDUCATIONAL ASSISTANCE PROGRAM

Priority: Other

Legal Authority: PL 96-330; 38 USC 76; PL 101-366; PL 102-405

CFR Citation: 38 CFR 17.613; 38 CFR 17.614; 38 CFR 17.615; 38 CFR 17.616; 38 CFR 17.617; 38 CFR 17.618; 38 CFR 17.607(c)

Legal Deadline: None

Abstract: VA is amending its medical regulations by adding new sections to implement the provisions of Pub. L. 101-366. Section 205 of that law creates the "Stipend Program for Members of the Selected Reserve" codified at 38 U.S.C., chapter 76, subchapter V. Public Law 102-405, section 202, changes the minimum period of service obligation from 1 year to 2 years for all students receiving awards.

Timetable:

Action	Date	FR Cite
NPRM	07/29/92	57 FR 33471
NPRM Comment Period End	09/28/92	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dolores Swearingen-Archer, Ph.D., Acting Director, Associated Health, Professions Education Program Svc (143A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-4837

RIN: 2900–AF87

VA

Final Rule Stage

VETERANS BENEFITS ADMINISTRATION

3250. SCHEDULE FOR RATING DISABILITIES—THE CARDIOVASCULAR SYSTEM

Regulatory Plan: This entry is Seq. No. 98 in Part II of this issue of the Federal Register.

RIN: 2900–AE40

3251. SCHEDULE FOR RATING DISABILITIES—THE ENDOCRINE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.119

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the endocrine system.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/90	55 FR 6658
ANPRM Comment Period End	04/27/90	55 FR 6658
NPRM	01/22/93	58 FR 5691
NPRM Comment Period End	03/23/93	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AE41

3252. EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

Priority: Other Significant

Legal Authority: PL 101-189; PL 101-237; PL 102-16; PL 102-484; PL 102-568; PL 103-66; PL 103-160; PL 103-446

CFR Citation: 38 CFR 21.7520; 38 CFR 21.7540; 38 CFR 21.7576; 38 CFR 21.7612; 38 CFR 21.7620; 38 CFR 21.7622; 38 CFR 21.7624; 38 CFR 21.7631; 38 CFR 21.7635; 38 CFR 21.7636; 38 CFR 21.7639; 38 CFR 21.7640; 38 CFR 21.7642; 38 CFR 21.7645; 38 CFR 21.7653; ...

Legal Deadline: None

Abstract: The Veterans Education and Employment Amendments of 1989, the National Defense Authorization Act for Fiscal Years 1990 and 1991, the Veterans Education and Employment Programs Amendments, the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, the Veterans' Benefits Act of 1992, the National Defense Authorization Act for Fiscal Year 1993, the National Defense AUthorization Act for Fiscal Year 1994, the Omnibus Budget Reconciliation Act of 1993, and the Veterans' Benefits Improvement Act of 1994 all contain provisions that significantly changed the Montgomery GI Bill, Selected Reserve. These acts expanded this program by adding new types of permissible training such as apprenticeship and on-the-job training, cooperative training, and flight training. Furthermore, the eligibility provisions were significantly liberalized, and the rates of payment were increased. This final rule will restate statutory requirements and set forth VA's statutory interpretations.

Timetable:

Action	Date	FR Cite
NPRM	09/02/94	59 FR 45644
NPRM Comment Period End	11/01/94	59 FR 45645
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RIN 2900-AE47 has been merged with this RIN.

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AE43

3253. SCHEDULE FOR RATING DISABILITIES—THE MUSCULAR SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.73

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the muscular system.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/90	55 FR 46950
ANPRM Comment Period End	01/07/91	
NPRM	06/16/93	58 FR 33235
NPRM Comment Period End	07/16/93	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AE89

3254. SCHEDULE FOR RATING DISABILITIES—THE RESPIRATORY SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.96; 38 CFR 4.97

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the respiratory system.

Timetable:

Action	Date	FR Cite
ANPRM	01/08/91	56 FR 667
ANPRM Comment Period End	03/11/91	
NPRM	01/19/93	58 FR 4962
NPRM Comment Period End	03/22/93	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, MD, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AE94

VA

Final Rule Stage

3255. SCHEDULE FOR RATING DISABILITIES—SYSTEMIC CONDITIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.88; 38 CFR 4.88a

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate systemic conditions.

Timetable:

Action	Date	FR Cite
ANPRM	01/25/91	56 FR 2884
ANPRM Comment Period End	03/26/91	
NPRM	04/30/93	58 FR 26083
NPRM Comment Period End	06/29/93	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AE95

3256. SCHEDULE FOR RATING DISABILITIES—THE SKIN

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.118

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate skin conditions.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20171
ANPRM Comment Period End	07/01/91	
NPRM	01/19/93	58 FR 4969
NPRM Comment Period End	03/22/93	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol McBrine, M.D., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF00

3257. SCHEDULE FOR RATING DISABILITIES—DISEASES OF THE EAR AND OTHER SENSE ORGANS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.75; 38 CFR 4.76; 38 CFR 4.77; 38 CFR 4.78; 38 CFR 4.79; 38 CFR 4.80; 38 CFR 4.83; 38 CFR 4.84; 38 CFR 4.85; 38 CFR 4.86; 38 CFR 4.87

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate impairments of the eye, ear, and other sense organs.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20170
ANPRM Comment Period End	07/01/91	
NPRM	04/12/94	59 FR 17295
NPRM Comment Period End	06/13/94	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF22

3258. RESERVISTS' EDUCATION; COMMENCING DATE OF AWARD OF EDUCATIONAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2136

CFR Citation: 38 CFR 21.7631

Legal Deadline: None

Abstract: In response to the final report of the Commission to Assess Veterans' Education Policy, VA stated it would make various changes in response to the Commission's recommendations. These regulatory changes will include amendments to adjust the beginning dates of awards of educational assistance. This proposed action will implement the commitments VA made in its response with respect to the Montgomery GI Bill, Selected Reserve.

Timetable:

Action	Date	FR Cite
NPRM	05/02/95	60 FR 21486
NPRM Comment Period End	07/03/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

VA

Final Rule Stage

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AF74

3259. AMENDMENTS TO TRAINING AND REHABILITATION PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 102-568

CFR Citation: 38 CFR 21.40; 38 CFR 21.260; 38 CFR 21.6005; 38 CFR 21.6042; 38 CFR 21.6050; 38 CFR 21.6052; 38 CFR 21.6054; 38 CFR 21.6056; 38 CFR 21.6058; 38 CFR 21.6420; 38 CFR 21.6501; 38 CFR 21.6503; 38 CFR 21.6505; 38 CFR 21.6507; 38 CFR 21.6523; ...

Legal Deadline: None

Abstract: The Veterans' Benefits Act of 1992 extends the termination date for the program of vocational training for certain pensioners through December 31, 1995; makes permanent the programs protecting health care benefits for pensioners who lose their benefits due to income from work or training and the special counseling and employment services program for veterans with total disability ratings because of individual unemployability. In addition the law authorizes a 10 percent increase in subsistence allowance for participants in the vocational rehabilitation program, and extends eligibility for vocational rehabilitation to veterans with service-connected disability of 10 percent under certain conditions. The change also includes revisions to implement regulatory reform.

Timetable:

Action	Date	FR Cite
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Graffam, Veterans Claims Examiner (281), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Ave. NW., Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AG00

3260. VETERANS' EDUCATION; IMPLEMENTATION OF THE VETERANS' BENEFITS ACT OF 1992 AND THE NATIONAL DEFENSE AUTHORIZATION ACT FOR 1993

Priority: Other Significant

Legal Authority: PL 102-484; PL 102-568

CFR Citation: 38 CFR 21.3145; 38 CFR 21.4131; 38 CFR 21.4135; 38 CFR 21.4233; 38 CFR 21.4234; 38 CFR 21.4252; 38 CFR 21.4253; 38 CFR 21.4254; 38 CFR 21.4265; 38 CFR 21.4267; 38 CFR 21.4270; 38 CFR 21.4271; 38 CFR 21.4272; 38 CFR 21.4273; 38 CFR 21.4280; ...

Legal Deadline: None

Abstract: The Veterans' Benefits Act of 1992 contains many provisions that affect the educational programs VA administers. Among these is a change in the rate of payment made to individuals who are pursuing independent study, a change in the eligibility rules for veterans and servicemembers receiving educational assistance under the Montgomery GI Bill, Active Duty. The National Defense Authorization Act for fiscal year 1993 also contains provisions which affect the Montgomery GI Bill, Active Duty. For example, certain individuals who have voluntarily separated from the military are given an opportunity to become eligible for the Montgomery GI Bill, Active Duty. These regulations will implement these Acts with respect to the Montgomery GI Bill, Active Duty and Dependents' Educational Assistance.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AG22

3261. VETERANS' TRAINING UNDER THE SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT

Priority: Other Significant

Legal Authority: PL 102-484

CFR Citation: 38 CFR 21.4800; 38 CFR 21.4802; 38 CFR 21.4810; 38 CFR 21.4812; 38 CFR 21.4820; 38 CFR 21.4822; 38 CFR 21.4823; 38 CFR 21.4824; 38 CFR 21.4830; 38 CFR 21.4832; 38 CFR 21.4834; 38 CFR 21.4840; 38 CFR 21.4842; 38 CFR 21.4844; 38 CFR 21.4850

Legal Deadline: None

Abstract: The Service Members Occupational Conversion and Training Act of 1992 established a job training program for recently discharged veterans. That act authorizes the Secretary of Defense to delegate some of the responsibility for implementing it to either the Secretary of Veterans Affairs or the Secretary of Labor, or both. The Secretary of Defense has done this. These regulations will acquaint the public with the way in which VA will implement the responsibilities which have been delegated to the Secretary of Veterans Affairs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/95	60 FR 5848
Final Action	01/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AG56

3262. FIBROMYALGIA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: This action will add a diagnostic code and criteria for a rheumatologic condition characterized by pain and tender points.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 272-7210

RIN: 2900–AH05

3263. DETERMINATION OF INCOMPETENCY AND COMPETENCY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.353

Legal Deadline: None

Abstract: This action provides that concurrence of the VSO is no longer required before the Rating Board makes a decision regarding competency of the veteran.

Timetable:

Action	Date	FR Cite
NPRM	05/04/95	60 FR 22016
NPRM Comment Period End	07/03/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH10

VA

Final Rule Stage

3264. ELIGIBILITY REPORTING REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 99 in Part II of this issue of the **Federal Register**.

RIN: 2900–AH18

3265. DELEGATION OF AUTHORITY TO PROVIDE RELIEF ON ACCOUNT OF ADMINISTRATIVE ERROR

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 512(a)

CFR Citation: 38 CFR 2.7

Legal Deadline: None

Abstract: This action will make explicit the implied delegation of authority to deny equitable relief claims that was noted in OGC Prec. 11-94.

Timetable:

Action	Date	FR Cite
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge, Consultant (211B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH19

3266. VETERANS EDUCATION: THE VETERANS BENEFITS IMPROVEMENT ACT OF 1994 AND POST-VIETNAM ERA VETERANS EDUCATIONAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-446

CFR Citation: 38 CFR 21.5021; 38 CFR 21.5150; 38 CFR 21.5200; 38 CFR 21.5250

Legal Deadline: None

Abstract: The Veterans Benefits Improvement Act of 1994 contains provisions that affect the Post-Vietnam Era Veterans Educational Assistance Program (VEAP). This includes making flight training a permanent part of this program and providing for approval of courses leading to alternative teacher certification. These revised regulations will acquaint the public with the way in which VA will implement those provisions.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AH33

3267. COMPENSATION FOR DISABILITY RESULTING FROM HOSPITALIZATION, TREATMENT, EXAMINATION, OR VOCATIONAL REHABILITATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.358

Legal Deadline: None

Abstract: This action is taken to reflect that the former rule regarding payment under 38 USC 1151 precluded payment under certain circumstances and remove these prohibitions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/95	60 FR 14222
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge (211B), Consultant, Department of Veterans Affairs, Veterans Benefits Administration (211B), 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH44

3268. EXAMINATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.326

VA — Final Rule Stage

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations as to when a VA medical examination will be authorized and when a compensation or pension claim may be raised without a VA examination. Recent legislation and regulatory changes have expanded the number of situations in which a claim may be based without a VA examination. The intended effect of the proposal is to rewrite the examination rule for clarity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/11/95	60 FR 52863
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge, Consultant, Department of Veterans Affairs, Veterans Benefits Administration (211B), 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH48

3269. • SERVICEMEN'S AND VETERANS' GROUP LIFE INSURANCE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 38 USC 1965 to 1977

CFR Citation: 38 CFR 9.1 to 9.36

Legal Deadline: None

Abstract: Servicemen's and Veterans' Group Life Insurance regulations are being amended to eliminate those provisions that are simply restatements of statutes or are obsolete and unnecessary. Additionally, some regulations are being rewritten for clarity.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Poole, Chief, Insurance Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 215 951-5718

RIN: 2900–AH50

3270. • UNITED STATES GOVERNMENT LIFE INSURANCE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 38 USC 1940 to 1963; 38 USC 1981 to 1988

CFR Citation: 38 CFR 6.2 to 6.211

Legal Deadline: None

Abstract: United States Government Life Insurance regulations are being amended by eliminating provisions that simply restate statutory law or are obsolete and unnecessary. Some provisions are being revised for clarity.

Timetable:

Action	Date	FR Cite
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Poole, Chief, Insurance Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 215 951-5718

RIN: 2900–AH52

3271. • SOLDIERS' AND SAILORS' CIVIL RELIEF

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 50 USC app 540 to 548

CFR Citation: 38 CFR 7.2 to 7.33

Legal Deadline: None

Abstract: Regulations pertaining to this program are being amended by eliminating obsolete provisions that no longer apply and revising text so that it is more understandable.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Poole, Chief, Insurance Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 215 951-5718

RIN: 2900–AH53

3272. • VETERANS MORTGAGE LIFE INSURANCE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 38 USC 2106

CFR Citation: 38 CFR 8a.1 to 8a.7

Legal Deadline: None

Abstract: Rules relating to Veterans Mortgage Life Insurance are being amended by eliminating regulations that are simply restatements of statutes, or are obsolete and unnecessary. Regulations are also being rewritten for clarity.

Timetable:

Action	Date	FR Cite
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Poole, Chief, Insurance Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 215 951-5718

RIN: 2900–AH54

3273. • NATIONAL SERVICE LIFE INSURANCE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501; 38 USC 1901 to 1929; 38 USC 1981 to 1988

CFR Citation: 38 CFR 8.0 to 8.119

Legal Deadline: None

Abstract: Regulations relating to National Service Life Insurance are being amended by eliminating

VA — Final Rule Stage

provisions that simply restate statutory law or are obsolete and unnecessary. Additionally, some regulations are being rewritten for clarity.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Poole, Chief, Insurance Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 215 951-5718

RIN: 2900–AH55

3274. • RESERVISTS' EDUCATION: TECHNICAL AMENDMENT TO THE MONTGOMERY GI BILL—SELECTED RESERVE PROGRAM

Priority: Other

Legal Authority: 10 USC 16131; 10 USC 16132; 10 USC 16133; 10 USC 16134; 10 USC 16135; 10 USC 16136; 10 USC 16137

CFR Citation: 38 CFR 21.4005; 38 CFR 21.4020; 38 CFR 21.4022; 38 CFR 21.4134; 38 CFR 21.4151; 38 CFR 21.4153; 38 CFR 21.4201; 38 CFR 21.4206; 38 CFR 21.4207; 38 CFR 21.4209; 38 CFR 21.4250; 38 CFR 21.4251; 38 CFR 21.4263; 38 CFR 21.5040; 38 CFR 21.5741; ...

Legal Deadline: None

Abstract: The National Defense Authorization Act for fiscal year 1993 reorganized a portion of title 10 U.S. Code by moving sections 2131 through 2137, placing them within chapter 1606, and redesignating them as sections 16131 through 16137. This final rule will conform the authority citations in 38 CFR to the new designations in the law.

Timetable:

Action	Date	FR Cite
Final Action	03/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AH59

3275. • VETERANS AND DEPENDENTS EDUCATION: REVISION AND RESCISSION OF OBSOLETE AND DUPLICATE REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 512(e); 38 USC 510; 38 USC 3680; 38 USC 3501; 38 USC 3681; 38 USC 3520; 38 USC 3536; 38 USC 3541; 38 USC 3561; 38 USC 3533; 38 USC 3684; 38 USC 5113; 38 USC 3532; 38 USC 3565; 38 USC 3687; ...

CFR Citation: 38 CFR 21.1020; 38 CFR 21.1021; 38 CFR 21.1022; 38 CFR 21.1025; 38 CFR 21.1040; 38 CFR 21.1041; 38 CFR 21.1042; 38 CFR 21.1043; 38 CFR 21.1044; 38 CFR 21.1045; 38 CFR 21.3021; 38 CFR 21.3025; 38 CFR 21.3032; 38 CFR 21.3042; 38 CFR 21.3044; ...

Legal Deadline: None

Abstract: VA has determined that some of the sections in 38 CFR part 21 are obsolete, duplicative, or unnecessary, and that other sections contain paragraphs or sections that are obsolete, duplicative, or unnecessary. Moreover, there are sections in part 21, subpart D that more properly belong in part 21, subpart C. This rule will revise and rescind these obsolete, duplicative, and unnecessary sections, paragraphs, and sentences and will restate paragraphs currently in part 21, subpart D so that they will appear in part 21, subpart C.

Timetable:

Action	Date	FR Cite
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and, Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AH60

3276. • REVISION AND RESCISSION OF OBSOLETE AND DUPLICATE REGULATIONS GOVERNING POST-VIETNAM ERA VETERANS EDUCATIONAL ASSISTANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 3201; 38 USC 3241; 38 USC 3680; 38 USC 3492

CFR Citation: 38 CFR 21.5020; 38 CFR 21.5064; 38 CFR 21.5074; 38 CFR 21.5135; 38 CFR 21.5141; 38 CFR 21.5200; 38 CFR 21.5292; 38 CFR 21.5300

Legal Deadline: None

Abstract: VA and the Department of Defense have determined that some of the sections in 38 CFR part 21, subpart G are obsolete, duplicative, or unnecessary. This final rule will revise and rescind these obsolete, duplicative, and unnecessary sections, paragraphs, and sentences.

Timetable:

Action	Date	FR Cite
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AH64

3277. • DUTY PERIOD

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.6

Legal Deadline: None

Abstract: This action is taken to clarify the rule as to when attendance at a military academy preparatory school constitutes qualifying service for VA benefits purposes.

Timetable:

Action	Date	FR Cite
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

VA

Final Rule Stage

Agency Contact: Paul Trowbridge, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH70

3278. • VET ED: EFFECTIVE DATE FOR THE AWARD OF EDUCATIONAL ASSISTANCE

Priority: Other

Legal Authority: 38 USC 3018B

CFR Citation: 38 CFR 21.7131

Legal Deadline: None

Abstract: The provisions of 38 U.S.C. allow a veteran who was voluntarily separated from active military, naval, or air service under either 10 U.S.C. 1174a or 1175 before October 23, 1992, to elect to receive educational assistance under the Montgomery GI Bill, Active Duty. He or she was given until October 23, 1993, to make the election. The provisions of 38 U.S.C. 3018B also require the veteran to submit $1,200 to the Department of Veterans Affairs (VA) as a condition of receiving the educational assistance. The statute does not contain a deadline for paying the $1,200. This document amends the VA's Vocational Rehabilitation and Education regulations to explain that an individual who made the election before October 23, 1993, must still submit the $1,200 to VA as a condition of receiving educational assistance under the Montgomery GI Bill, Active Duty.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Programs Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AH76

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3279. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—LOAN GUARANTY AND VOCATIONAL REHABILITATION AND COUNSELING PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 871

Legal Deadline: None

Abstract: This change will increase the amount which property holders and management brokers may spend for emergency repairs. Title changes and deletion of duplicative coverage are also being made.

Timetable:

Action	Date	FR Cite
NPRM	02/14/94	59 FR 6942
NPRM Comment Period End	04/15/94	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michelle Nolta (95A), Senior Procurement Analyst, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-4424

RIN: 2900–AG65

3280. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—SERVICE CONTRACTING AND CONTRACT CLAUSES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 837; 48 CFR 852

Legal Deadline: None

Abstract: This change will implement a class deviation from Federal Acquisition Regulation (FAR) section 37.401(c) and FAR Clause 52.237-7.

Timetable:

Action	Date	FR Cite
NPRM	10/22/93	58 FR 54548
NPRM Comment Period End	12/20/93	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Wanza Lewis (95A), Senior Procurement Analyst, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-4424

RIN: 2900–AG67

3281. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION (VAAR): ADMINISTRATIVE CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501

CFR Citation: 48 CFR 801; 48 CFR 814; 48 CFR 833; 48 CFR 836; 48 CFR 852

Legal Deadline: None

Abstract: This rule will correct and update office names and designations due to administrative changes within the Department. It will also correct monetary thresholds for scarce/specialized medical contracts, reviews which are listed in error, and small purchase thresholds, to be consistent with Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michelle Ranes, Senior Procurement Analyst, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-4424

RIN: 2900–AH27

VA

Final Rule Stage

3282. • DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION (VAAR): PART 847, TRANSPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 40 USC 486(c); 31 USC 3528; 31 USC 3322; 5 USC 605B

CFR Citation: 48 CFR 847; 41 CFR 101-41.304-2

Legal Deadline: None

Abstract: VA is amending the VAAR to increase the regulatory threshold for converting Commercial Bills of Lading to Government Bills of Lading from $100 to $250. This amendment will make the regulatory threshold consistent with the exception granted by the General Services Administration. In addition, other nonsubstantive changes are incorporated.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michelle Nolta (95A), Procurement Analyst, Department of Veterans Affairs, Office of Acquisition and Materiel Mgmt., 810 Vermont Ave. NW., Washington, DC 20420
Phone: 202 565-4424

RIN: 2900–AH56

3283. • DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION (VAAR) SENIOR PROCUREMENT EXECUTIVE AND PROCUREMENT EXECUTIVE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 802; 48 CFR 803; 48 CFR 806

Legal Deadline: None

Abstract: This amendment will establish delegations of authority to the Assistant Secretary for Management and to the Deputy Assistant Secretary for Acquisition and Materiel Management and correct the titles of the Director, Office of Procurement and Supply, and the Deputy Director, Acquisition and Materiel Management.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Wanza Lewis (95A), Senior Procurement Analyst, Department of Veterans Affairs, Ofc. of Acquisition and Material Management, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-4424

RIN: 2900–AH62

NATIONAL CEMETERY SYSTEM

3284. BURIAL AND HEADSTONE OR MARKER ELIGIBILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 102-547; PL 103-240

CFR Citation: 38 CFR 1.620; 38 CFR 1.631

Legal Deadline: None

Abstract: This final rule adds the new category of Reservist and National Guard Members and Their Eligible Dependents to 38 CFR, sections 1.620 and section 1.631, to conform with Public Laws 102-547 and 103-240, respectively. The rule is published as final to provide information to the public on expanded headstone or marker eligibility and eligibility for burial in a national cemetery. Therefore, there is no public comment period. The rule is not subject to the requirements of either the Administrative Procedures Act or EO 12866 because it is a restatement of statute. No costs are associated with publication of the final rule. The effective date for Public Law 102-547 is October 28, 1993, and that for Public Law 103-240 is May 4, 1994. NOTE: In light of the VA-wide regulatory reform effort, this rule may be withdrawn at some future date. VA is determining whether or not to remove eligibility criteria from 38 CFR that simply restate the statute contained in 38 U.S.C.

Timetable:

Action	Date	FR Cite
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ken Greenberg, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5179
Fax: 202 273-6695

RIN: 2900–AH11

3285. HEADSTONE AND MARKER INSCRIPTION POLICY

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501; 38 USC 2306

CFR Citation: 38 CFR 1.630; 38 CFR 1.632

Legal Deadline: None

Abstract: The proposed rule revises 38 CFR, section 1.630 to implement Department of Veterans Affairs (VA) regulations on its inscription policy for use on Government-provided headstones or markers. The amendment formalizes and updates previous and current policies to reflect changes in VA's Simplified Inscription Policy based on inscription information authorized at Government (specific valor awards) or at private (additional inscription items) expense. The rule is published as proposed in the Federal Register to provide information to the public on expanded inscription policy for Government-furnished headstones and markers. A 60-day public comment period is provided. This action is subject to the requirements of the Administrative Procedures Act and E.O.

VA — Final Rule Stage

12866 as the rule is an interpretation of statute as approved by the then-Administrator now Secretary of Veterans Affairs in 1974. The proposed rule will not have a significant economic impact on a substantial number of small entities and only individual VA beneficiaries could be directly affected.

Timetable:

Action	Date	FR Cite
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ken Greenberg, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5179
Fax: 202 273-6695

RIN: 2900–AH45

3286. STATE CEMETERY GRANTS: AID TO STATES FOR ESTABLISHMENT, EXPANSION AND IMPROVEMENT OF VETERANS CEMETERIES

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 2408

CFR Citation: 38 CFR 39.1; 38 CFR 39.2; 38 CFR 39.3; 38 CFR 39.7; 38 CFR 39.8; 38 CFR 39.9

Legal Deadline: None

Abstract: The proposed rule revises 38 CFR, part 39, to amend Department of Veterans Affairs (VA) regulations for the State Cemetery Grants Program to implement and update information on program requirements and the application process for participants. The amendment formalizes new standards and provides guidance on how States may obtain funding for grants to expand, establish, or improve State veterans cemeteries. The rule is published as proposed in the Federal Register to provide information to the public on how to apply for Federal funding for Sstate veterans cemeteries. A 60-day public comment period is provided. It is subject to the requirements of the Administrative Procedures Act and E.O. 12866 because the rule is an interpretation of statute. The proposed rule will have a significant economic impact on a substantial number of small entities; only those States that apply for funding may be direct beneficiaries.

Timetable:

Action	Date	FR Cite
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Ken Greenberg, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5179
Fax: 202 273-6695

RIN: 2900–AH46

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3287. • DELEGATION OF AUTHORITY TO ORDER PAID ADVERTISING FOR USE IN RECRUITMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 302(b)(2); 44 USC 3702

CFR Citation: 38 CFR 2.4 (Revision)

Legal Deadline: None

Abstract: This regulatory action amends the delegation of authority to order paid advertising for use in recruitment by updating organizational titles, providing clarity, and authorizing further delegations.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gloria C. Oliver, Chief, Recruitment and Examining Division, Department of Veterans Affairs, Human Resources Management (054), 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-8231
Fax: 202 565-8866
Email: olivglo@s101vac02.vaco.va.gov.

RIN: 2900–AH74

3288. • PART-TIME CAREER EMPLOYMENT PROGRAM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 3401; 5 USC 3402

CFR Citation: 38 CFR 1.891 to 1.897

Legal Deadline: None

Abstract: This revision removes the reporting requirements for a manual report by field stations under the Part-Time Career Employment Program and makes minor editorial revisions. The program will be reviewed through regular employment reports generated by the automated personnel system and personnel management reviews.

Timetable:

Action	Date	FR Cite
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellen Kollar, Personnel Staffing Specialist, Title 5 Staffing Division, Department of Veterans Affairs, Human Resources Managment (054C), 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-8848
Fax: 202 565-8866

RIN: 2900–AH75

OFFICE OF THE GENERAL COUNSEL

3289. DELEGATION OF SUBPOENA AUTHORITY AND DESCRIPTION OF MEANS OF SERVICE

Priority: Other Significant

Legal Authority: 38 USC 501; 38 USC 1711

CFR Citation: 38 CFR 2.1

Legal Deadline: None

Abstract: This action will clarify authority for the use of subpoena power and means of service.

VA — Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/10/95	60 FR 40756
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry Tapp, Attorney (023A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6334

RIN: 2900–AH00

DEPARTMENT OF VETERANS AFFAIRS (VA) — Long-Term Actions

3290. CHAMPVA REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17.54 to 17.54f

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Susan K. Schmetzer
Phone: 303 331-7552
Fax: 303 331-7800

RIN: 2900–AE64

VETERANS HEALTH ADMINISTRATION

3291. • PAYMENTS FOR OUTPATIENTS AND ANCILLARY MEDICAL SERVICES PROVIDED BY NON-VA PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1703

CFR Citation: 38 CFR 17.50f(h) (Revision); 38 CFR 17.50g(New)

Legal Deadline: None

Abstract: This rule will amend part 17.50f(h) to change payment methodology for ancillary medical care service from usual and customary to Medicare's Fee Schedule for Physicians' Services. Part 17.50g will be added to fully describe the payment methodology for outpatient and ancillary medical care services provided by non-VA providers. Payments under this fee schedule would be based on national uniform relative value units,based on the resources used in furnishing a service and adjusted for local economic conditions. Use of this fee schedule will enable VA to overcome payment discrepancies between geographic localities and various specialties and will relate payments to the value of the procedure that is identified on a claim by a current procedural terminology code. VA payment would be consistent with payment for similar medical services provided by other government agencies.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty J. Wiseman, Medical Administrative Specialist, Department of Veterans Affairs, Policies and Procedures (161b1), 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-7659
Fax: 202 565-7761

RIN: 2900–AH66

3292. • TREATMENT OF RESEARCH—RELATED INJURIES TO HUMAN SUBJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501

CFR Citation: 38 CFR 16

Legal Deadline: None

Abstract: VA proposes to amend its regulations to provide (or pay for the provision of) necessary medical treatment to human subjects injured as a result of participation in VA research. All participants in research approved by a VA Research and Development Committee and conducted by VA employees would be eligible for such treatment, even if the research was funded from sources other than the VA research appropriation. Experience suggests that the incidence of research-related injury is low, and therefore the additional costs of this policy will be minimal.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ted Lorei, Staff Assistant - Research and Development, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-7181
Fax: 202 565-5159

RIN: 2900–AH68

3293. LOAN GUARANTY: TITLE EVIDENCE REQUIREMENTS AND OCCUPANCY REQUIREMENTS FOR CONVEYANCE OF PROPERTIES TO VA

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4320

Timetable:

Action	Date	FR Cite
NPRM	08/06/90	55 FR 31847
NPRM Comment Period End	10/05/90	55 FR 35325
NPRM Comment Period Extended	10/05/90	55 FR 35325
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy
Phone: 202 273-7344

RIN: 2900–AE20

3294. ACCEPTANCE OF PARTIAL PAYMENTS; INDEMNIFICATION OF DEFAULT

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 4202; 38 CFR 4275; 38 CFR 4301; 38 CFR 4315; 38 CFR 4323

Timetable:

Action	Date	FR Cite
NPRM	03/02/94	59 FR 9944
NPRM Comment Period End	05/02/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy
Phone: 202 273-7344

RIN: 2900–AE60

3295. REVISED DEFINITION OF NET VALUE AND REVISED CRITERIA FOR PRE-FORECLOSURE DEBT WAIVERS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4301; 38 CFR 36.4323

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VA

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	09/22/93	58 FR 49251
NPRM Comment Period End	10/22/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Len Levy
Phone: 202 273-7344

RIN: 2900–AG20

3296. VETERANS' EDUCATION; VETERANS' BENEFITS ACT OF 1992 AND THE NATIONAL DEFENSE AUTHORIZATION ACT OF 1993 IN THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.5023; 38 CFR 21.5058; 38 CFR 21.5145; 38 CFR 21.5232; 38 CFR 21.5250; 38 CFR 21.5270

Timetable:

Action	Date	FR Cite
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer
Phone: 202 273-7187

RIN: 2900–AG23

VETERANS BENEFITS ADMINISTRATION

3297. • LOAN GUARANTY FLOOD INSURANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 40122; 42 USC 1364; 42 USC 1365; 42 USC 4128

CFR Citation: 38 CFR 36.4222; 38 CFR 36.4326; 38 CFR 36.4402; 38 CFR 36.4500; 38 CFR 36.4512; 38 CFR 36.4600

Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its loan guaranty regulations to comply with certain provisions of the National Flood Insurance Reform Act of 1994, title V of Public Law 103-325. These amendments strengthen requirements for procuring and maintaining flood insurance on properties which secure loans guaranteed or made by VA and which are located in areas identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards. The amendments also include new procedural requirements for VA to follow in making, servicing, or selling loans, which Public Law 103-325 requires all "Federal agency lenders" to incorporate into regulations.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Caden, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7368

RIN: 2900–AH63

3298. • LOAN GUARANTY: ELECTRONIC PAYMENT OF FUNDING FEE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 36.4312

Legal Deadline: None

Abstract: VA is proposing to require that all funding fee collections be made electronically through the Automated Clearing House (ACH) program. The ACH program is designed to provide VA-approved lenders the opportunity to use their mainframe and personal computers to authorize electronically the payment of VA funding fees instead of sending checks and the funding fee transmittal form by mail.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Juith Caden, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7368

RIN: 2900–AH73

3299. APPEALS REGULATIONS; RULES OF PRACTICE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 19.3 (Revision); 38 CFR 19.10; 38 CFR 19.15 (Revision; 38 CFR 19.39; 38 CFR 20.3; 38 CFR 20.101 (Revision); 38 CFR 20.102 (Revision); 38 CFR 20.201 (Revision); 38 CFR 20.605 (Revision); 38 CFR 20.609 (Revision); 38 CFR 20.903 (Revision); 38 CFR 20.1000; 38 CFR 20.1001; 38 CFR 20.1002; 38 CFR 20.1100 (Revision); ...

Timetable:

Action	Date	FR Cite
NPRM	02/03/92	57 FR 4131
NPRM Comment Period End	03/04/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AE78

3300. RULES OF PRACTICE; HEARINGS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.3; 38 CFR 20.700; 38 CFR 20.702; 38 CFR 20.703; 38 CFR 20.704; 38 CFR 20.707; 38 CFR 20.710; 38 CFR 20.711; 38 CFR 20.713; 38 CFR 20.714; 38 CFR 20.716; 38 CFR 20.717; 38 CFR 20.1003; 38 CFR 2.1; 38 CFR 19.75

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AG07

3301. APPEALS REGULATIONS: RULES OF PRACTICE; BOARD OF VETERANS' APPEALS ADMINISTRATIVE PROCEDURES IMPROVEMENT ACT OF 1994

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 19; 38 CFR 20

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

VA

Long-Term Actions

Government Levels Affected: Undetermined

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AH16

3302. NONDISCRIMINATION ON THE BASIS OF SEX UNDER FEDERALLY ASSISTED EDUCATION PROGRAMS AND ACTIVITIES

Priority: Other Significant

CFR Citation: 38 CFR 18

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: R. Lamont Johnson
Phone: 202 482-6715

RIN: 2900–AB51

3303. OPERATION OF CHILD CARE CENTERS AT VA FACILITIES

Priority: Other

CFR Citation: 38 CFR 17

Timetable:

Action	Date	FR Cite
NPRM	12/27/89	54 FR 53078
NPRM Comment Period End	01/26/90	54 FR 53078
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Alan T. Maurer
Phone: 202 273-5846

RIN: 2900–AD48

DEPARTMENT OF VETERANS AFFAIRS (VA)

Completed Actions

3304. CONTRACT PROGRAM FOR VETERANS WITH ALCOHOL AND DRUG DEPENDENCY DISORDERS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17.53(b)(1)(i); 38 CFR 17.53c(a)(1)(i)

Completed:

Reason	Date	FR Cite
Withdrawn	05/11/95	60 FR 25191

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Boies, Ph.D (111C)
Phone: 202 535-7316

RIN: 2900–AG58

3305. VA HOMELESS PROVIDERS GRANT AND PER DIEM PROGRAM

Priority: Other Significant

CFR Citation: 38 CFR 17.700

Completed:

Reason	Date	FR Cite
Final Action	02/27/95	60 FR 4653
Final Action Effective	02/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger J. Casey (111C)
Phone: 202 565-7311

RIN: 2900–AG91

3306. EMPLOYEE FIDUCIARIES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 0.735-21

Completed:

Reason	Date	FR Cite
Withdrawn	04/06/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald Weaver
Phone: 202 275-5249

RIN: 2900–AB50

3307. 1. VETERANS SERVICES OFFICER (VSO) TO SELECT AND APPOINT OR RECOMMEND FOR APPOINTMENT THE PERSON OR LEGAL ENTITY TO RECEIVE BENEFITS IN A FIDUCIARY CAPACITY 2. DIRECT PAYMENT

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 13.55; 38 CFR 13.56

Completed:

Reason	Date	FR Cite
Withdrawn	04/06/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald Weaver
Phone: 202 275-5249

RIN: 2900–AB75

3308. 1. PAYMENT TO THE WIFE OR HUSBAND OF AN INCOMPETENT VETERAN 2. LEGAL CUSTODIAN

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 13.57; 38 CFR 13.58

Completed:

Reason	Date	FR Cite
Withdrawn	04/06/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald Weaver
Phone: 202 275-5249

RIN: 2900–AB76

3309. APPORTIONMENT OF BENEFITS TO DEPENDENTS; PAYMENT OF COST OF VETERAN'S MAINTENANCE IN INSTITUTION; RECOMMENDATION FOR PAYMENT

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 13.70; 38 CFR 13.71; 38 CFR 13.74

Completed:

Reason	Date	FR Cite
Withdrawn	04/06/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Ronald C. Weaver
Phone: 202 275-5249

RIN: 2900–AC10

3310. FULL DISCLOSURE OF BENEFICIARY'S INCOME AND ASSETS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 13.58(b)(2)(iii); 38 CFR 13.59(a); 38 CFR 13.100(a)(1); 38 CFR 13.102(b); 38 CFR 13.104(a)

VA

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn	04/06/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald Weaver
Phone: 202 275-5249

RIN: 2900–AD35

3311. SCHEDULE FOR RATING DISABILITIES—THE GYNECOLOGICAL SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 4.116; 38 CFR 4.116(a)

Completed:

Reason	Date	FR Cite
Final Action	04/21/95	60 FR 19851
Final Action Effective	05/22/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D.
Phone: 202 273-7210

RIN: 2900–AE72

3312. SCHEDULE FOR RATING DISABILITIES—THE HEMIC AND LYMPHATIC SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 4.117

Completed:

Reason	Date	FR Cite
Final Action	09/22/95	60 FR 49225
Final Action Effective	10/23/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D.
Phone: 202 273-7210

RIN: 2900–AF02

3313. LINE OF DUTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 3.1; 38 CFR 3.301

Completed:

Reason	Date	FR Cite
Final Action	05/24/95	60 FR 27407
Final Action Effective	11/01/90	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorna Weston
Phone: 202 273-7210

RIN: 2900–AF03

3314. RESERVISTS' EDUCATION; THE PERSIAN GULF CONFLICT SUPPLEMENTAL AUTHORIZATION AND PERSONNEL BENEFITS ACT OF 1991 AND THE MONTGOMERY GI BILL—SELECTED RESERVE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7636

Completed:

Reason	Date	FR Cite
Withdrawn - merged with 2900-AE43	07/26/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer
Phone: 202 273-7187

RIN: 2900–AF33

3315. LOAN GUARANTY: IMPLEMENTATION OF PUBLIC LAWS 102-547, 103-66, 103-78, 103-325, 103-353, AND 103-446

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4203; 38 CFR 36.4223; 38 CFR 36.4231; 38 CFR 36.4232; 38 CFR 36.4243; 38 CFR 36.4254; 38 CFR 36.4302; 38 CFR 36.4306; 38 CFR 36.4311; 38 CFR 36.4312; 38 CFR 36.4320; 38 CFR 36.4336

Completed:

Reason	Date	FR Cite
Final Action	07/26/95	60 FR 38256
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Caden
Phone: 202 273-7368

RIN: 2900–AG14

3316. RESERVISTS' EDUCATION; IMPLEMENTATION OF THE VETERANS' BENEFITS ACT OF 1992 AND THE NATIONAL DEFENSE AUTHORIZATION ACT OF 1993

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7520; 38 CFR 21.7550; 38 CFR 21.7620; 38 CFR 21.7631; 38 CFR 21.7635; 38 CFR 21.7636; 38 CFR 21.7639; 38 CFR 21.7642; 38 CFR 21.7645; 38 CFR 21.7670; 38 CFR 21.7672; 38 CFR 21.7673; 38 CFR 21.7700; 38 CFR 21.7720; 38 CFR 21.7722

Completed:

Reason	Date	FR Cite
Withdrawn - merged with 2900-AE43	07/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer
Phone: 202 273-7187

RIN: 2900–AG24

3317. REVISION OF DECISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.105(a)

Completed:

Reason	Date	FR Cite
Withdrawn	03/03/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don England
Phone: 202 273-7210

RIN: 2900–AG32

3318. DEPENDENTS' AND VETERANS' EDUCATION: MITIGATING CIRCUMSTANCES AND OTHER MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.4136; 38 CFR 21.4137; 38 CFR 21.4234; 38 CFR 21.4253; 38 CFR 21.4262; 38 CFR 21.7042; 38 CFR 21.7139

VA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	06/21/95	60 FR 32271
Final Action Effective	07/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer
Phone: 202 273-7187

RIN: 2900–AG63

3319. DISABILITY OR DEATH DUE TO HOSPITALIZATION, ETC

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.800(a)

Completed:

Reason	Date	FR Cite
Withdrawn	05/11/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge
Phone: 202 273-7210

RIN: 2900–AG84

3320. EVIDENCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 3.202(c); 38 CFR 3.204(b); 38 CFR 3.205(a); 38 CFR 3.207(b); 38 CFR 3.209; 38 CFR 3.210; 38 CFR 3.211

Completed:

Reason	Date	FR Cite
Final Action	09/07/95	60 FR 46531
Final Action Effective	09/07/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Thornberry
Phone: 202 273-7210

RIN: 2900–AG85

3321. CHRONIC FATIGUE SYNDROME

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 4.88

Completed:

Reason	Date	FR Cite
Final Action	07/19/95	60 FR 37012
Final Action Effective	07/19/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D.
Phone: 202 273-7210

RIN: 2900–AG86

3322. RESERVISTS' EDUCATION: IMPLEMENTATION OF THE DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR 1994

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7540; 38 CFR 21.7670; 38 CFR 21.7722

Completed:

Reason	Date	FR Cite
Merged With RIN 2900-AE43	08/08/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer
Phone: 202 273-7187

RIN: 2900–AG96

3323. FURTHER INCREASES IN RATES PAYABLE IN THE EDUCATIONAL ASSISTANCE TEST PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.5820; 38 CFR 21.5822

Completed:

Reason	Date	FR Cite
Final Action	09/07/95	60 FR 46538
Final Action Effective	09/07/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer
Phone: 202 273-7187

RIN: 2900–AG98

3324. CLAIMS BASED ON EXPOSURE TO IONIZING RADIATION (LYMPHOMAS OTHER THAN HODGKIN'S DISEASE AND CANCER OF THE RECTUM)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 3.311

Completed:

Reason	Date	FR Cite
Final Action	10/13/95	60 FR 53276
Final Action Effective	10/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorna Weston
Phone: 202 273-7210

RIN: 2900–AG99

3325. DISEASE SUBJECT TO PRESUMPTIVE SERVICE CONNECTION (RADIATION RISK ACTIVITY)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 3.309

Completed:

Reason	Date	FR Cite
Final Action	06/14/95	60 FR 31250
Final Action Effective	11/02/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorna Weston
Phone: 202 273-7210

RIN: 2900–AH04

3326. CLAIMS BASED ON EXPOSURE TO IONIZING RADIATION (RADIOGENIC DISEASES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 3.311

Completed:

Reason	Date	FR Cite
Final Action	02/21/95	60 FR 9627
Final Action Effective	09/01/94	

Small Entities Affected: None

VA

Completed Actions

Government Levels Affected: None
Agency Contact: Steve Thornberry
Phone: 202 273-7210
RIN: 2900–AH07

3327. VETERANS EDUCATION: QUALIFYING FOR THE MONTGOMERY GI BILL - ACTIVE DUTY THROUGH SERVICE IN THE SELECTED RESERVES

Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 21.7042; 38 CFR 21.7044
Completed:

Reason	Date	FR Cite
Merged With RIN 2900-AH25	07/13/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: June C. Schaeffer
Phone: 202 273-7187
RIN: 2900–AH08

3328. SPECIAL MONTHLY COMPENSATION RATINGS

Priority: Other Significant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 38 CFR 3.350
Completed:

Reason	Date	FR Cite
Final Action	03/09/95	60 FR 12866
Final Action Effective	03/09/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Paul Trowbridge
Phone: 202 273-7210
RIN: 2900–AH09

3329. VETERANS EDUCATION: TIME LIMITS FOR MATRICULATION

Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 21.4252
Completed:

Reason	Date	FR Cite
Withdrawn - No change will be made to this regulation	11/03/94	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: June Schaeffer
Phone: 202 273-7187
RIN: 2900–AH13

3330. RESERVIST EDUCATION: INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL—SELECTED RESERVE

Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 21.7636
Completed:

Reason	Date	FR Cite
Merged With RIN 2900-AE43	07/13/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: June C. Schaeffer
Phone: 202 273-7187
RIN: 2900–AH15

3331. REDUCTIONS AND DISCONTINUANCES (FEDERAL EMPLOYEE'S COMPENSATION)

Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 3.500(e)
Completed:

Reason	Date	FR Cite
Withdrawn - Covered under RIN 2900-AH29	02/20/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Lorna Weston
Phone: 202 273-7210
RIN: 2900–AH20

3332. NATIONAL SERVICE LIFE INSURANCE (NSLI) HEALTH REQUIREMENTS

Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 8.23
Completed:

Reason	Date	FR Cite
Withdrawn	10/01/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Gregory Hosmer (29)
Phone: 215 951-5710
RIN: 2900–AH22

3333. VETERANS EDUCATION: ESTABLISHING ELIGIBILITY UNDER MONTGOMERY GI BILL (ACTIVE DUTY)

Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 21.7042
Completed:

Reason	Date	FR Cite
Final Action	04/24/95	60 FR 20035
Final Action Effective	12/18/89	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: June C. Schaeffer
Phone: 202 273-7187
RIN: 2900–AH25

3334. REDUCTIONS AND DISCONTINUANCES (FEDERAL EMPLOYEES' COMPENSATION)

Priority: Substantive, Nonsignificant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 38 CFR 3.500
Completed:

Reason	Date	FR Cite
Final Action	02/21/95	60 FR 9626
Final Action Effective	02/21/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Lorna Weston
Phone: 202 273-7210
RIN: 2900–AH29

3335. RESERVISTS EDUCATION: IMPLEMENTATION OF THE VETERANS BENEFITS IMPROVEMENT ACT OF 1994

Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 21.7520; 38 CFR 21.7700; 38 CFR 21.7620
Completed:

Reason	Date	FR Cite
Merged With RIN 2900-AE43	07/13/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: June C. Schaeffer
Phone: 202 273-7187
RIN: 2900–AH32

VA

Completed Actions

3336. REDESIGNATION OF AUTHORITY CITATION AND OTHER REFERENCES

Priority: Other
CFR Citation: 38 CFR 21.4005; 38 CFR 21.4009; 38 CFR 21.4020; 38 CFR 21.4022; 38 CFR 21.4134; 38 CFR 21.4136; 38 CFR 21.4137; 38 CFR 21.4151; 38 CFR 21.4201; 38 CFR 21.4206; 38 CFR 21.4207; 38 CFR 21.4209; 38 CFR 21.4251; 38 CFR 21.4263; 38 CFR 21.7042; ...
Completed:

Reason	Date	FR Cite
Merged With RIN 2900-AH59	08/08/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: June C. Schaeffer
Phone: 202 273-7187
RIN: 2900–AH34

3337. VETERANS BENEFITS IMPROVEMENT ACT OF 1994

Priority: Substantive, Nonsignificant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 38 CFR 2.67; 38 CFR 3.5; 38 CFR 3.8; 38 CFR 3.100; 38 CFR 3.106; 38 CFR 3.251; 38 CFR 3.261; 38 CFR 3.262; 38 CFR 3.272; 38 CFR 3.400; 38 CFR 3.702; 38 CFR 3.1600
Completed:

Reason	Date	FR Cite
Final Action	04/11/95	60 FR 18354
Final Action Effective	11/02/94	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Paul Trowbridge
Phone: 202 273-7210
RIN: 2900–AH36

3338. SPECIAL ALLOWANCE PAYABLE UNDER SECTION 156 OF PL 97-377

Priority: Substantive, Nonsignificant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 38 CFR 3.812
Completed:

Reason	Date	FR Cite
Final Action	04/27/95	60 FR 20642
Final Action Effective	04/27/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Paul Trowbridge
Phone: 202 273-7210
RIN: 2900–AH37

3339. EXAMINATIONS

Priority: Other Significant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 38 CFR 3.157; 38 CFR 3.326; 38 CFR 3.327; 38 CFR 3.352
Completed:

Reason	Date	FR Cite
Final Action	05/24/95	60 FR 27409
Final Action Effective	11/02/94	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Paul Trowbridge
Phone: 202 273-7210
RIN: 2900–AH38

3340. RETIRED RESERVIST SERVICE GROUP LIFE INSURANCE

Priority: Other
CFR Citation: 38 CFR 9.1; 38 CFR 9.2
Completed:

Reason	Date	FR Cite
Withdrawn	09/27/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Jeanne Derrick
Phone: 215 951-5711
RIN: 2900–AH40

3341. • REINSTATEMENT OF BENEFITS ELIGIBLE BASED UPON TERMINATED MARITAL RELATIONSHIPS

Priority: Substantive, Nonsignificant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
Legal Authority: 38 USC 501(a)
CFR Citation: 38 CFR 3.55
Legal Deadline: None
Abstract: This rule will amend 38 CFR 3.55 to make it conform to section 103 of Public Law 102-568.
Timetable:

Action	Date	FR Cite
Final Action	10/11/95	60 FR 52862
Final Action Effective	10/11/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Paul Trowbridge, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210
RIN: 2900–AH67

3342. RULES OF PRACTICE: WAIVER OF CONSIDERATION OF EVIDENCE BY AGENCY OF ORIGINAL JURISDICTION

Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 20.1304(c)
Completed:

Reason	Date	FR Cite
Final Action	05/15/95	60 FR 25850
Final Action Effective	05/15/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Steven Keller (01C)
Phone: 202 565-5978
RIN: 2900–AH47

3343. • RULES OF PRACTICE—ADVANCEMENT ON THE DOCKET

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 7107(a)
CFR Citation: 38 CFR 20.900(c) (Revision)
Legal Deadline: None
Abstract: The Board of Veterans' Appeals is amending its appeals regulations and rules of practice to provide that a case may be advanced on the docket in the case of administrative error or change in

administrative procedure which results in significant delay in docketing the appeal. The intended effect of this amendment is to provide relief for appellants whose cases have been significantly delayed because of administrative error.

Timetable:

Action	Date	FR Cite
Final Action	10/04/95	60 FR 51922
Final Action Effective	10/04/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller, Chief Counsel (01C), Department of Veterans Affairs, Board of Veterans' Appeals, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AH57

3344. • CONTRACT APPEALS BOARD REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 321; 41 USC 322; 38 USC 501

CFR Citation: 38 CFR 1.770 to 1.776; 38 CFR 2.5; 38 CFR 2.62 to 2.65a

Legal Deadline: None

Abstract: This action removes the Department of Veterans Affairs (VA) regulations concerning appeals from decisions of contracting officers. These regulations concerned appeals to the VA Contract Appeals Board (VACAB). Prior to 1978, contract disputes were resolved by the VACAB. However, the VACAB was superseded and subsumed into the VA Board of Contract Appeals (VABCA). The VACAB's functions were to be phased out. The last VACAB appeal was docketed in 1986, and the phase-out has been completed. Hence, the VACAB regulations are no longer needed.

Timetable:

Action	Date	FR Cite
Final Action	09/18/95	60 FR 48029
Final Action Effective	09/18/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pat Sheridan (09), Counsel to the Chairman, Department of Veterans Affairs, Board of Contract Appeals, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6743

RIN: 2900–AH69

3345. • BOARD OF CONTRACT APPEALS: RULES OF THE BOARD

Priority: Other

Legal Authority: PL 103-355

CFR Citation: 38 CFR 1.783

Legal Deadline: None

Abstract: This rule amends the rules of the VA Board of Contract Appeals concerning optional small claims (expedited) and accelerated procedures. The maximum jurisdictional amount of $10,000 is changed to $50,000 for cases in which an appellant may elect to have an appeal processed under the small claims (expedited) procedures. Also, the maximum jurisdictional amount of $50,000 is changed to $100,000 for cases in which an appellant may elect to have an appeal processed under the accelerated procedures. These amendments merely reflect statutory changes.

Timetable:

Action	Date	FR Cite
Final Action	09/18/95	60 FR 48028
Final Action Effective	09/18/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Pat Sheridan (09), Counsel to the Chairman, Department of Veterans Affairs, Board of Contract Appeals, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6743

RIN: 2900–AH71

3346. FOIA: RECEIPT OF ELECTRONICALLY TRANSMITTED FACSIMILE REQUEST OR APPEAL; TIME LIMIT ON RIGHT OF ADMINISTRATIVE APPEAL; AND NO RECORD AS ADVERSE DETERMINATION

Priority: Other

CFR Citation: 38 CFR 1.519; 38 CFR 1.553; 38 CFR 1.557

Completed:

Reason	Date	FR Cite
Withdrawn	06/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Epps
Phone: 202 565-8265
Fax: 202 565-8267

RIN: 2900–AF62

3347. CONTACT PERSON FOR MISSING CHILDREN: OFFICIAL MAIL PROGRAM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 1.701; 38 CFR 1.702; 38 CFR 1.703; 38 CFR 1.705

Completed:

Reason	Date	FR Cite
Final Action	09/19/95	60 FR 48387

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roslynd Stewart
Phone: 202 565-8949
Fax: 202 565-8267

RIN: 2900–AG75

3348. WAIVER: ERRONEOUS PAYMENT OF PAY AND ALLOWANCES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 1.963(a)

Completed:

Reason	Date	FR Cite
Final Action	10/13/95	60 FR 53275
Final Action Effective	10/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Mulhern
Phone: 202 273-5570

RIN: 2900–AG94

3349. INTEREST

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 1.919

Completed:

Reason	Date	FR Cite
Withdrawn	01/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Mulhern
Phone: 202 273-5570

RIN: 2900–AH24

[FR Doc. 95-23614 Filed 11-24-95; 8:45 am]
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Part XVII

Advisory Council on Historic Preservation

Semiannual Regulatory Agenda

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ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Ch. VIII

Unified Agenda of Federal Regulations

AGENCY: Advisory Council on Historic Preservation.

ACTION: Publication of unified agenda.

SUMMARY: The following Advisory Council on Historic Preservation regulations are scheduled for development. They are submitted herein for publication in the Unified Agenda of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: See person listed below for specific agenda information.

Advisory Council on Historic Preservation.

Robert D. Bush,

Executive Director.

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP) — Proposed Rule Stage

3350. PROTECTION OF HISTORIC PROPERTIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 470

CFR Citation: 36 CFR 800

Legal Deadline: None

Abstract: The Advisory Council is in the process of revising its regulations in light of its responsibilities under 16 USC 470 and the 1992 amendments to the National Historic Preservation Act, PL 102-575, and in accordance with the National Performance Review's streamlining initative.

Timetable:

Action	Date	FR Cite
NPRM	10/03/94	59 FR 50396
NPRM Comment Period End	01/03/95	59 FR 50396
SNPRM	12/00/95	
SNPRM Comment Period End	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adina Kanefield, Staff Attorney, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., Suite 809, Washington, DC 20004
Phone: 202 606-8672

RIN: 3010–AA04

[FR Doc. 95-23615 Filed 11-24-95; 8:45 am]
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Part XVIII

Agency for International Development

Semiannual Regulatory Agenda

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Ch. II

Federal Regulations; AID Regulatory Agenda Semiannual Summary

AGENCY: Agency for International Development, IDCA.

ACTION: Publication of the semiannual agenda of Federal regulations and regulatory plan.

SUMMARY: The Agency for International Development (AID) is publishing this agenda as required by Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735, October 4, 1993) and the Regulatory Flexibility Act. This agenda reports the status of those regulations currently under review and gives AID's plan for the issuance of proposed regulations during the next 12 months. It is expected that the information provided in this agenda will enable the public to be more aware of and to participate more effectively in AID's regulatory process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda or the review list in general, contact: Genease E. Pettigrew, Chief, Information Support Services Division, Office of Administrative Services, Bureau for Management, Agency for International Development, Washington, DC 20523; telephone (202) 736-4743.

Specific: For further information about any particular item on the agenda, contact the individual listed as the contact for that item.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. The Regulatory Flexibility Act applies only to regulations for which a notice of proposed rulemaking was issued on or after September 19, 1980. AID is required to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities." The Executive order became effective on September 30, 1993, and it is required that AID publish a listing of all the regulations it expects to have under active consideration for promulgation, proposal, or review during the coming 1-year period.

Dated: September 20, 1995.

Larry Byrne,

Assistant Administrator for Management.

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Proposed Rule Stage

3351. • RULES ON SOURCE, ORIGIN, AND NATIONALITY FOR COMMODITIES AND SERVICES FINANCED BY AID

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 228

Legal Deadline: None

Abstract: This regulation establishes rules for determining whether commodities are eligible for financing with AID program funds based on their source and origin (i.e., where they were shipped from and where they were mined, grown, or produced). It also establishes requirements concerning nationality of suppliers and contractors that determine whether an individual or organization is eligible to supply commodities or provide services under AID program-funded contracts, regardless of whether the contracts are entered into by AID, or by another entity which receives funding from AID.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, Room 1600 I, SA-14, Washington, DC 20523-1423
Phone: 703 875-1534
Fax: 703 875-1243

RIN: 0412–AA28

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Final Rule Stage

3352. ADMINISTRATION OF GRANTS AND COOPERATIVE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 226

Legal Deadline: None

Abstract: This regulation will implement the Governmentwide uniform administrative requirements for grants and agreements with institutions of higher education, hospitals and other nonprofit organizations issued by the Office of Management and Budget.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/95	60 FR 3743
Final Action	10/00/95	
Final Action Effective	11/00/95	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, Room 1600 I, SA-14, Washington, DC 20523-1435
Phone: 703 875-1534

RIN: 0412–AA21

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Completed Actions

3353. DEBARMENT AND SUSPENSION COMMON RULE TO ACHIEVE RECIPROCITY WITH PROCUREMENT

Priority: Other

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 208

Legal Deadline: None

Abstract: This regulation will implement the Governmentwide rules governing debarment and suspension for nonprocurement actions to achieve reciprocity with procurement.

Timetable:

Action	Date	FR Cite
NPRM	12/20/94	59 FR 65606
NPRM Comment Period End	02/21/95	
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, Room 1600 I, SA-14, Washington, DC 20523-1435
Phone: 703 875-1534

RIN: 0412–AA24

3354. COLLECTION OF DEBTS BY TAX REFUND OFFSET

Priority: Other

Legal Authority: 22 USC 2381; 31 USC 3720A

CFR Citation: 22 CFR 213

Legal Deadline: None

Abstract: Regulations will allow Agency to recover debts through use of offset of tax refunds.

Timetable:

Action	Date	FR Cite
NPRM	01/12/95	60 FR 2911
NPRM Comment Period End	02/13/95	60 FR 2911
Final Action	08/09/95	60 FR 40456
Final Action Effective	08/09/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Jan Miller, Agency for International Development, 320 21st Street NW., Room 6881 NS, GC/LD, Washington, DC 20523
Phone: 202 647-6380

RIN: 0412–AA25

3355. • TRANSFER OF FOOD COMMODITIES FOR USE IN DISASTER RELIEF, ECONOMIC DEVELOPMENT, AND OTHER ASSISTANCE: BOOKING GUIDELINES

Priority: Other

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 211

Legal Deadline: None

Abstract: This regulation provides that AID may issue guidelines setting forth standard practices to be followed by cooperating sponsors for booking ocean freight under P.L. 480 title II food donation programs.

Timetable:

Action	Date	FR Cite
Final Action	07/09/95	60 FR 36990
Final Action Effective	08/18/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Goldman, Chief, Transportation Division, Office of Procurement, Agency for International Development, Room 1442, SA-14, Washington, DC 20523-1419
Phone: 703 875-1300

RIN: 0412–AA27

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Part XIX

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulations

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Submission of Unified Agenda of Federal Regulations.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities which may be conducted by the Agency during the next 12 months. This regulatory agenda may be revised by the Agency during the coming months as a result of action taken by the Board.

ADDRESSES: Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact James J. Raggio, General Counsel, (202) 272-5434 (voice) or (202) 272-5449 (TDD).

Lawrence W. Roffee,

Executive Director, Architectural and Transportation Barriers Compliance Board.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Prerule Stage

3356. AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: RECREATIONAL FACILITIES AND OUTDOOR DEVELOPED AREAS

Priority: Other Significant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for recreational facilities and outdoor developed areas.

Timetable:

Action	Date	FR Cite
Notice of Intent To Form Advisory Committee	02/03/93	58 FR 6949
Notice of Appointment of Advisory Committee Members	06/10/93	58 FR 32511
ANPRM	09/21/94	59 FR 48542
ANPRM Comment Period End	12/20/94	
Notice of Intent To Conduct Regulatory Negotiation	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA16

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Proposed Rule Stage

3357. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES: CHILDREN'S ENVIRONMENTS

Priority: Other Significant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for children's environments.

Timetable:

Action	Date	FR Cite
ANPRM	02/03/93	58 FR 6924
ANPRM Comment Period End	06/01/93	58 FR 17175
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA17

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Final Rule Stage

3358. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES, STATE AND LOCAL GOVERNMENT FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities to include additional requirements for judicial, legislative, and regulatory facilities; detention and correctional facilities; residential housing; and public rights-of-way.

Timetable:

Action	Date	FR Cite
NPRM	12/21/92	57 FR 60612
NPRM Comment Period End	03/22/93	
Interim Final Rule	06/20/94	59 FR 31676
Final Action	09/00/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Elizabeth A. Stewart, Attorney, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA13

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Long-Term Actions

3359. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR TRANSPORTATION VEHICLES

Priority: Other Significant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1192

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles to include additional requirements for ferries, excursion boats, and other vehicles.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA11

3360. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities to include additional requirements for boat and ferry docks.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA12

[FR Doc. 95-23616 Filed 11-24-95; 8:45 am]
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Part XX

Commission on Civil Rights

Semiannual Regulatory Agenda

COMMISSION ON CIVIL RIGHTS (CCR)

COMMISSION ON CIVIL RIGHTS

45 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: U.S. Commission on Civil Rights.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations the U.S. Commission on Civil Rights will have under development during the 6-month period from October 1, 1995, through March 31, 1996. The purpose for publishing this agenda is to give notice of any regulatory activity by the Commission in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information on any items in the agenda, contact: Miguel A. Sapp, Acting Solicitor, U.S. Commission on Civil Rights, Room 632, 624 Ninth Street NW., Washington, DC 20425, (202) 376-8351.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E.O. 12866, and no regulatory impact analysis is required. The Commission has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public nor will the regulations have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required.

Miguel A. Sapp,

Acting Solicitor.

COMMISSION ON CIVIL RIGHTS (CCR) — Long-Term Actions

3361. COMMISSION ON CIVIL RIGHTS—UPDATE AND REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1975 to 1975f; 5 USC 552(a); 5 USC 552(b)

CFR Citation: 45 CFR 701; 45 CFR 702; 45 CFR 703; 45 CFR 705

Legal Deadline: None

Abstract: The regulation updates and revises most of the Commission's current regulations, specifically 45 CFR 701, 702, 703, and 705. 45 CFR 701 identifies the organization and functions of the Commission. 45 CFR 702 specifies the rules on hearings, reports, and meetings of the Commission. 45 CFR 703 identifies the operations and functions of the Commission's State advisory committees. 45 CFR 705 states the Commission's obligations under the Privacy Act.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Miguel A. Sapp, Solicitor, Commission on Civil Rights, 624 Ninth Street NW., Suite 632, Washington, DC 20425
Phone: 202 376-8351

RIN: 3035–AA02

3362. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE COMMISSION ON CIVIL RIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7301; 5 USC app, Ethics in Government Act of 1978; EO 12674, 54 FR 15159; 3 CFR, 1989 Comp, p 215, as modified by EO 12731, 55 FR 42547; 3 CFR 1990 Comp, p 306; 5 CFR 2635.105; 5 CFR 2635.803

CFR Citation: 45 CFR 706

Legal Deadline: None

Abstract: The Commission on Civil Rights with the concurrence of the Office of Government Ethics proposes to issue regulations for the officers and employees of the Commission that supplement the Standards of Ethical Conduct for Employees of the Executive Branch.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Miguel A. Sapp, Solicitor, Commission on Civil Rights, 624 Ninth Street NW., Suite 632, Washington, DC 20425
Phone: 202 376-8351

RIN: 3035–AA04

[FR Doc. 95-27486 Filed 11-24-95; 8:45am]
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Part XXI

Corporation for National and Community Service

Semiannual Regulatory Agenda

VOL 60 ISS 228 NO 1995 UMI

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Ch. XXV

Executive Order 12866 "Regulatory Planning and Review"; Semiannual Agenda of Regulations

AGENCY: Corporation for National and Community Service.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations that the Corporation will have under development, revision, or review during the next year. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to provide the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Corporation regulations or this semiannual agenda, contact Norman Franklin, Director, Administration Services, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525, (202) 606-5000, ext. 403.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The Corporation for National and Community Service has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required under 5 U.S.C. 602.

Dated: October 20, 1995.

Shirley S. Sagawa,

Managing Director.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Long-Term Actions

3363. NATIONAL SERVICE TRUST

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 2525 to 2529

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/94	59 FR 30709
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry Russell
Phone: 202 606-5000

RIN: 3045–AA09

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Completed Actions

3364. NONPROCUREMENT DEBARMENT AND SUSPENSION COMMON RULE TO ACHIEVE RECIPROCITY WITH PROCUREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12501 et seq

CFR Citation: 45 CFR 2542

Legal Deadline: None

Abstract: Regulations issued to comply with Executive Order 12689 and section 2455 of the Federal Acquisition Streamlining Act of 1994.

Timetable:

Action	Date	FR Cite
NPRM	12/20/94	59 FR 65607
NPRM Comment Period End	02/21/95	59 FR 65607
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Kenefick, Director, Grants and Contracts, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000

RIN: 3045–AA11

3365. • FINAL AMENDMENT TO GRANTS MANAGEMENT COMMON RULE TO RAISE THRESHOLD FOR SIMPLIFIED SMALL PURCHASES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4950 et seq; 42 USC 12501 et seq

CFR Citation: 45 CFR 2541

Legal Deadline: None

Abstract: This rule raises the dollar threshold for simplified procedures for small purchases by State and local grantees.

Timetable:

Action	Date	FR Cite
Final Action	04/19/95	60 FR 19638
Final Action Effective	05/19/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Michael Kenefick, Director, Grants and Contracts, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000

RIN: 3045–AA12

3366. • SOLICITATION AND ACCEPTANCE OF DONATED PROPERTY AND SERVICES

Priority: Other

Legal Authority: 42 USC 1265g(a)

CFR Citation: 45 CFR 2544

Legal Deadline: None

Abstract: The Government is issuing regulations pursuant to the National Community Service Act of 1990, as amended.

CNCS — Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	05/31/95	60 FR 28355

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Feldman, Director of Private Sector Initiatives, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000

RIN: 3045–AA13

[FR Doc. 95-26779 Filed 11-24-95; 8:45 am]

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The Regulatory Plan and the Unified Agenda of Federal Regulations

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Part XXII

Environmental Protection Agency

Semiannual Regulatory Agenda

ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-5320-5]

Regulatory Agenda

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's regulatory agenda is published each April and October. It serves as a semiannual summary of current and planned rulemakings, reviews of existing regulations, and Agency actions completed since the previous publication of the agenda. By providing the public with current and advance information about regulatory actions scheduled to take place within the following year, the Agency hopes to encourage public participation in the regulatory process. The rules and schedules presented here reflect EPA's plans based on the best current information. However, the public should understand that legislative and budgetary proposals now under consideration by the Congress may affect the Agency's authority to undertake or capacity to complete any activity listed in this agenda within the schedule presented.

ADDRESSES: To be placed on the agenda mailing list, either write to USEPA/NCEPI at P.O. Box 42419, Cincinnati, Ohio 45242, or fax your request to (513) 489-8695. If you need confirmation that your request was received, you may call (513) 489-8190.

If you have suggestions to improve this publication, comments on rules that substantially impact small entities, or need general information about the agenda, contact Angela Suber, Regulatory Development Branch (2136), EPA, 401 M Street SW., Washington, DC 20460, (202) 260-7205.

FOR FURTHER INFORMATION CONTACT: If you need detailed information about a particular entry, the name, address, and telephone number of the agency contact who is most familiar with the subject matter is listed for each action.

SUPPLEMENTARY INFORMATION:

Reinventing Environmental Regulation

The Environmental Protection Agency is committed to reinventing environmental regulation to provide greater protection at less cost. To further this goal, EPA has initiated a comprehensive review of its existing regulations. EPA has reexamined the Code of Federal Regulations (CFR) to identify rules that are obsolete or no longer applicable or which could be modified to reduce compliance costs while still protecting human health and the environment. On June 1, the Agency identified and initiated action to remove from the CFR those actions that are obsolete and identified those that are scheduled for modification or for further study. Over a quarter of the actions listed in this agenda are actions the Agency has or expects to streamline within the next 6 months either by eliminating existing CFR text or revising text to reduce burden, duplication, or specific requirements. At the same time, EPA is subjecting its paperwork requirements to rigorous reexamination. The Agency has set a target of reducing reporting and recordkeeping burdens on the public by 25 percent. Toward this end, the Agency is responding to the President's instruction to reduce reporting requirements by half wherever legal and appropriate.

Additionally, EPA is building and enhancing partnerships with the regulated community through increased stakeholder outreach and involvement. The Agency is seeking to increase participation by the private sector and other governmental entities in its efforts to improve its regulatory programs. Last March, the President announced a program of 25 substantial actions EPA will take to carry out its mission of environmental protection in more flexible and publicly responsive ways. These initiatives include such varied steps as expanding the use of market incentives to promote environmentally responsible behavior, addressing the most stringent regulation and enforcement to problems posing the highest public risks, and experimenting with novel solutions to the real environmental problems posed by an industry or locality when generally applicable mandates may prove ineffective or inefficient in a specific application. This edition of the agenda describes the actions EPA is taking to meet the goals described above.

How the Agenda Is Organized

For this edition of EPA's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II. Each entry indicates in the "Priority" section if the action is published in the 1995 Regulatory Plan. This means that this action is a priority for the Agency and has been or will be reviewed by OMB under Executive Order 12866. Actions that do not indicate that they are part of The Regulatory Plan may also be subject to OMB review if they are deemed "significant" as defined in the Executive order.

Each agenda entry includes the title, legal authority, CFR reference, legal deadline, abstract, timetable, any analysis under way, and an Agency contact person for each action listed. A new question on whether the action is part of the Reinventing Government effort has also been added for each entry.

The agenda is organized by statute and ordered numerically within each statute. Entries within each statute are divided into five categories: (1) Prerule, (2) proposed rule, (3) final rule, (4) long-term actions (i.e., actions under preparation that will not be published until after the 1-year horizon for this agenda), and (5) completed actions (i.e., regulations that EPA is deleting from the agenda because the Agency has completed, withdrawn, or postponed them indefinitely). Detailed information on each of these categories is presented below. A bullet (•) preceding an entry indicates that this is the first time this entry appears in an agenda.

I. Prerulemakings

Prerulemaking actions are activities intended to determine whether to initiate rulemaking. These activities include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking, significant studies or analyses of the possible need for regulatory action, requests for public comment on the need for regulatory action, or important preregulatory policy proposals.

II. Proposed and Final Rules

This section includes all substantial EPA regulations. To focus the public's attention on the most timely actions, EPA lists regulations in this category of the agenda that are within a year of proposal or promulgation. The listings, however, generally exclude (a) specialized categories of actions (e.g., EPA approvals of State plans and other actions that do not apply nationally) and (b) routine actions (e.g., pesticide tolerances and minor amendments to existing rules).

The Agency has attempted to list all regulations and regulatory reviews except those considered as minor, routine, or repetitive actions. There is no legal significance to the inadvertent omission of an item from the listing. The agenda reflects dates for actions on each item; these dates are estimates that should not be construed as an Agency commitment to act on or by the date shown. The Administrator of EPA will review the items contained in this agenda over the next 6 months. Items in this agenda may be deleted, or new items may be added as a result of that review.

EPA also seeks to enhance public participation in development of proposed rules by potentially affected stakeholders. We therefore invite expressions of interest to be directed to the contact person listed for each rule.

III. Long-Term Actions

This section includes actions with publication dates beyond the next 12 months. Please note that the Agency will continue to work with the public to develop partnerships and information necessary to support these rulemakings with long-term publication dates.

IV. Completed Actions

This section contains actions that appeared in the previous agenda but which EPA is deleting because they are completed or no longer under consideration for rulemaking. If an action appears in the completed section, it may not appear in future agendas, unless the Agency decides to initiate action again, and then it will appear as a new entry.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires the identification of those regulations which are likely to have a "significant economic impact on a substantial number of small entities" (i.e., small governments, small businesses, and small nonprofit organizations). Under the requirements of the Act, such regulations are subject to a "regulatory flexibility analysis." This analysis must consider the likely economic impacts on small entities, as well as any significant alternatives to the rule which accomplish the objectives of applicable statutes and which minimize significant economic impacts of the rulemaking on small entities.

In April 1992, EPA adopted a policy which exceeds the requirements of the RFA (this policy applies to rulemakings that were initiated on or after April 9, 1992). For rulemakings subject to this policy, EPA will perform a regulatory flexibility analysis if the rule is likely to have *any* economic impact on *any* small entity. For rulemakings *not* subject to this policy (i.e., initiated prior to April 9, 1992), a regulatory flexibility analysis will be conducted only if the rulemaking will meet the RFA's standard of having a "significant impact on a substantial number of small entities."

Each rulemaking listed in this agenda indicates in the "Analysis" section whether EPA expects to conduct a regulatory flexibility analysis. If EPA • believes small entities will be affected by a rulemaking, this is indicated under the "Small Entities Affected" and/or the "Government Levels Affected" section of the summary for each listed rule. EPA invites public comment regarding EPA's assessment of which of the listed rulemakings are appropriate for regulatory flexibility analysis. (See "Small Entities Index to the Environmental Protection Agency Agenda" at the end of this document. It lists the regulatory actions EPA believes may have effects on small businesses, small governmental jurisdictions, or small organizations.)

The RFA requires that existing regulations with significant economic impact on a substantial number of small entities are to be reviewed within 10 years of promulgation of the regulations. While, as described above, EPA is currently reexamining all of its existing regulations, the Agency recognizes that many rules will require detailed study before they may be appropriately modified or retained. As part of that process, as well as under the requirements of the Regulatory Flexibility Act, EPA invites public comment identifying any existing EPA rules believed to have a significant economic impact on a substantial number of small entities. Comments should be provided in the following format:

- Title
- Authorizing statute and CFR citation
- Description of economic effects on small entities, especially on the commenting person or organization
- Recommendations for changes

Any additional detailed comments or data are welcome.

When EPA completes its review of an existing rule, it will indicate in the agenda whether that rulemaking will be continued without change or will be amended or rescinded consistent with the stated objectives of applicable statutes to minimize any significant economic impact of the regulations upon a substantial number of small entities.

Dated: October 20, 1995.

David M. Gardiner,

Assistant Administrator, Office of Policy, Planning, and Evaluation.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3367	SAN No. 3154. Pesticide Tolerance Decisions under the Delaney Clause	2070-AC55
3368	SAN No. 3430. Pesticides: Tolerance Program Revisions	2070-AC74
3369	SAN No. 3735. The 10-Acre Limitation for Pesticide Small-Scale Field Testing	2070-AC99
3370	Data Consolidation Initiative; Key Identifiers Reporting **(Reg Plan Seq. No. 102)**	2070-AD01
3371	SAN No. 2687. Pesticide Data Requirements for Registration (Revision)	2070-AC12
3372	SAN No. 3222. Pesticides and Groundwater State Management Plan Regulation	2070-AC46
3373	SAN No. 3636. Pesticide Labeling Claims	2070-AC85

EPA

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3374	SAN No. 2725. FIFRA Books and Records of Pesticide Production and Distribution (Revision)	2070-AC07
3375	SAN No. 3731. Modifications to Pesticide Worker Protection Standard	2070-AC93
3376	SAN No. 3318. Exemption of Sterilant Pesticide Products From Regulation Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)	2070-AC58

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3377	SAN No. 3734. Pesticides; Revision of Notification Procedure	2070-AC98
3378	Pesticides; Self-Certification **(Reg Plan Seq. No. 120)**	2070-AD00
3379	SAN No. 3739. Cross-Contamination of Pesticide Products	2070-AD03
3380	SAN No. 2684. Regulation of Plant-Produced Pesticides Under FIFRA and FFDCA	2070-AC02
3381	SAN No. 3135. Pesticide Flammability Labeling Requirements for Total Release Foggers	2070-AC60
3382	SAN No. 2371. Restricted Use Criteria for Pesticides in Groundwater	2070-AB60
3383	SAN No. 1640. Worker Protection Standards; Pesticide Hazard Communication	2070-AC34
3384	SAN No. 2338. Reporting Requirements for Risk/Benefit Information (Revision)	2070-AB50
3385	SAN No. 2720. Policy or Procedures for Notification to the Agency of Stored Pesticides With Cancelled or Suspended Registration	2070-AC08
3386	SAN No. 2351. Classification of Certain Pesticides for Restricted Use Due to Groundwater Concerns	2070-AC33
3387	SAN No. 3732. Exceptions to Pesticide Worker Protection Standard	2070-AC95
3388	SAN No. 3733. Scope and Clarification of the WPS Exceptions Process	2070-AC96
3389	SAN No. 3432. Pesticide Management and Disposal	2070-AC81
3390	SAN No. 3320. Regulatory Relief for Low-Risk Pesticides	2070-AC67

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3391	SAN No. 2444. Pesticide Tolerances; Portion of Food Commodities To Be Analyzed for Pesticide Residues	2070-AC45
3392	SAN No. 3199. Interpretation of Raw Agricultural Commodity	2070-AC54
3393	SAN No. 3113. Endangered Species Protection Program	2070-AC42
3394	SAN No. 2659. Pesticide Management and Disposal: Standards for Pesticide Containers and Containment	2070-AB95
3395	SAN No. 2639. Child-Resistant Packaging Regulations (Revision)	2070-AB96
3396	SAN No. 3736. Pesticide Export Policy	2070-AD02

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3397	SAN No. 3429. Pesticide Worker Protection Standard; Training Provisions for Workers	2070-AC69
3398	SAN No. 3558. Worker Protection Standard: Revision of Crop Advisor Requirements	2070-AC82
3399	SAN No. 2337. Procedures To Make Restricted Use Pesticides Available to Noncertified Persons for Use by Certified Applicators	2070-AB48
3400	SAN No. 2446. Certification of Pesticide Applicators (Revision)	2070-AB75
3401	SAN No. 3141. Revision to Crop Grouping Regulations	2070-AC52

EPA

Toxic Substances Control Act (TSCA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3402	SAN No. 3301. TSCA Chemical Use Inventory Project	2070-AC61
3403	SAN No. 3034. Facility Coverage Amendment; Toxic Chemical Release Reporting; Community Right-to-Know **(Reg Plan Seq. No. 103)**	2070-AC71
3404	SAN No. 3388. Deletion of Isopropyl Alcohol; Toxic Chemical Release Reporting; Community Right-to-Know	2070-AC77
3405	SAN No. 2425. Responses to Petitions Received To Add to or Delete Chemicals From the List of Toxic Chemicals Subject to Toxic Release Reporting Under EPCRA Section 313	2070-AC00
3406	SAN No. 3243. Lead Hazard Standards	2070-AC63
3407	SAN No. 3480. Development of Guidance as Mandated by Executive Order 12873, Section 503 on "Environmentally Preferable Products"	2070-AC78
3408	CFR Regulatory Review Related Initiatives **(Reg Plan Seq. No. 104)**	2070-AC97
3409	SAN No. 3494. Proposed Decisions on Test Rules	2070-AB07
3410	SAN No. 2563. ATSDR Substances Test Rule	2070-AB79
3411	SAN No. 2865. Multi-Chemical Endpoint(s) Test Rule; Developmental and Reproductive Toxicity, and Neurotoxicity	2070-AC27
3412	SAN No. 2865. Multichemical Endpoint Test Rule; Chemical Fate and Environmental Effects	2070-AC36
3413	SAN No. 3504. Hazardous Air Pollutants Test Rule	2070-AC76
3414	SAN No. 1923. Follow-Up Rules on Existing Chemicals	2070-AA58
3415	SAN No. 2245. Negotiated Consent Order and Test Rule Procedures	2070-AB30
3416	SAN No. 3047. Amendments to the Asbestos-Containing Materials in Schools Rule	2070-AC62
3417	SAN No. 3559. Notice of TSCA Section 4 Reimbursement Period and TSCA Section 12(b) Export Notification Period Sunset Dates for TSCA Section 4 Substances	2070-AC84
3418	SAN No. 3557. Lead-Based Paint Activities, Training, and Certification: Renovation and Remodeling	2070-AC83

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Toxic Substances Control Act (TSCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3419	SAN No. 3007. Chemical List Expansion; Emergency Planning and Community Right-To-Know Act Section 313	2070-AC47
3420	SAN No. 3499. Lead-Based Paint Hazard Information Requirements at the Transfer of Target Housing (Section 1018); Joint Rule With the Dept. of HUD	2070-AC75
3421	SAN No. 3244. Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule	2070-AC64
3422	SAN No. 3242. Lead-Based Paint Disclosure Requirements at Renovation of Target Housing	2070-AC65
3423	SAN No. 2249. Amendments to the Asbestos Worker Protection Rule	2070-AC66
3424	SAN No. 3508. TSCA Requirements for the Disposal of Lead-Based Paint Abatement Waste	2070-AC72
3425	Selected Rulemakings for Abating Lead Hazards **(Reg Plan Seq. No. 121)**	2070-AD06
3426	SAN No. 3493. Final Decisions on Test Rules	2070-AB94
3427	SAN No. 1976. Follow-Up Rules on Non-5(e) New Chemical Substances	2070-AA59
3428	SAN No. 3495. Chemical-Specific Significant New Use Rules (SNURs) To Extend Provisions of Section 5(e) Orders	2070-AB27
3429	SAN No. 2247. Generic Significant New Use Rule (SNUR) for Acrylate Compounds	2070-AB56
3430	SAN No. 2326. Rulemaking Concerning Certain Microbial Products ("Biotechnology") Under the Toxic Substances Control Act (TSCA)	2070-AB61
3431	SAN No. 2150. Polychlorinated Biphenyls (PCBs): Applications for Exemptions From the Ban on Manufacturing, Processing, and Distribution	2070-AB20
3432	SAN No. 2878. Polychlorinated Biphenyls (PCBs) Disposal Amendments	2070-AC01
3433	SAN No. 2779. Use of Acrylamide for Grouting	2070-AC17
3434	SAN No. 3021. Polychlorinated Biphenyls (PCBs) Transformer Reclassification Rule	2070-AC39
3435	Polychlorinated Biphenyls (PCBs) Disposal Amendments **(Reg Plan Seq. No. 122)**	2070-AD04
3436	SAN No. 2178. Section 8(a) Preliminary Assessment Information Rules	2070-AB08
3437	SAN No. 1139. Section 8(d) Health and Safety Data Reporting Rules	2070-AB11
3438	SAN No. 3118. TSCA Section 8(e); Notice of Clarification and Solicitation of Public Comment	2070-AC80

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Toxic Substances Control Act (TSCA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3439	SAN No. 2847. Mandatory Pollution Prevention Reporting for Toxic Release Inventory (TRI)	2070-AC24
3440	SAN No. 3631. Evaluation of Products for Lead-Based Paint Activities	2070-AC88
3441	Regulatory Investigation Under the Toxic Substances Control Act (TSCA) To Reduce Lead (Pb) Consumption and Use	2070-AC21
3442	SAN No. 2146. Regulatory Investigation of Formaldehyde	2070-AB14
3443	SAN No. 2560. Procedures and Criteria for Termination of Polychlorinated Biphenyls (PCBs) Disposal Permits	2070-AB81
3444	SAN No. 2844. Regulatory Investigation of Dioxin in Pulp and Paper Mill Sludge	2070-AC05
3445	SAN No. 3148. Revised Asbestos Model Accreditation Plan	2070-AC51
3446	SAN No. 1923. Significant New Use Rules on National Program Chemicals; Asbestos, Lead, and Refractory Ceramic Fibers	2070-AC37

Toxic Substances Control Act (TSCA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3447	SAN No. 2760. Premanufacture Notification (PMN) Rule Amendments	2070-AC14

Clean Water Act (CWA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3448	SAN No. 3662. Water Quality Standards Regulation—Revision	2040-AC56
3449	SAN No. 3700. Streamlining Revisions to the Water Quality Planning and Management Regulations **(Reg Plan Seq. No. 100)**	2040-AC65

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Clean Water Act (CWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3450	SAN No. 3497 and SAN No. 3442 (RIN 2040-AC46) Amendments to Round I Final Sewage Sludge Use and Disposal Rule - Phase I (Includes Continuous Emission Monitoring and Other Incinerator Requirements)	2040-AC29
3451	SAN No. 3504. Establishment of Numeric Criteria for Priority Toxic Pollutants and Toxicity for the State of California	2040-AC44
3452	SAN No. 3581. Leather Tanning and Finishing Effluent Guidelines - Pretreatment Standards for Existing and New Sources	2040-AC48
3453	SAN No. 3618. Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AC54
3454	SAN No. 3497. Amendments to Round I Final Sewage Sludge Use and Disposal Rule - Phase II	2040-AC53
3455	Streamlining National Pollutant Discharge Elimination System Requirements, Including General Pretreatment Requirements **(Reg Plan Seq. No. 105)**	2040-AC69
3456	SAN No. 3762. NPDES Streamlining Rule—Round II	2040-AC70
3457	SAN No. 3768. NPDES Streamlining Rule (Phase III)	2040-AC80
3458	SAN No. 3786. NPDES Streamlining Rule—Round III	2040-AC84
3459	SAN No. 3625. Streamlined Procedures for Developing and Maintaining Approved Publicly-Owned Treatment Works Pretreatment Programs	2040-AC57
3460	SAN No. 3722. Amendment to Effluent Guidelines and Standards for Ore Mining and Dressing Point Source Category, New Source Performance Standards	2040-AC74
3461	SAN No. 3617. Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AC63
3462	SAN No. 3666. Clarification of the Application Requirements for States Wanting to Designate Drinking Water Intake Zones, Thereby Prohibiting the Discharge of Vessel Sewage Within Those Zones	2040-AC61

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Clean Water Act (CWA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3463	SAN No. 2501. NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal	2040-AB39
3464	SAN No. 3234. Revision of NPDES Industrial Permit Application Requirements and Form 2C - Wastewater Discharge Information	2040-AC26
3465	SAN No. 3664. Storm Water Permit Application Regulations for Municipal Separate Storm Sewers	2040-AC59
3466	SAN No. 2804. Clean Water Act Section 404 Program Definition of the Waters of the United States—Isolated Waters and Artificial Waters	2040-AB74
3467	SAN No. 2737. Revisions to Ocean Dumping Regulations for Dredged Material	2040-AB62
3468	SAN No. 3783. Ocean Dumping Testing Requirements Clarification	2040-AC81

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Clean Water Act (CWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3469	SAN No. 3562. Formerly titled "Clarification of Standing Amendments to Requirements for Authorized State Permit Programs Under Section 402 of the Clean Water Act	2040-AC43
3470	SAN No. 1427. Effluent Guidelines and Standards for the Pharmaceutical Manufacturing Category	2040-AA13
3471	SAN No. 2747. Effluent Guidelines and Standards for the Coastal Subcategory of the Oil and Gas Extraction Category	2040-AB72
3472	SAN No. 2805. Effluent Guidelines and Standards for the Centralized Waste Treatment Industry	2040-AB78
3473	SAN No. 2806. Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phase I **(Reg Plan Seq. No. 123)**	2040-AB79
3474	SAN No. 3391. Effluent Guidelines and Standards for Pesticide Formulating, Packaging, and Repackaging	2040-AC21
3475	SAN No. 3727. Modification of Secondary Treatment Requirements for Discharges Into Marine Waters; Change to Eligibility for Different Averaging Period	2040-AC72
3476	SAN No. 3679. Guidelines Establishing Test Procedures for the Analysis of 2,3,7,8-Substituted Dibenzo-P-Dioxins and Dibenzo Furans Under the Clean Water Act	2040-AC64
3477	SAN No. 3621. Marine Sanitation Device: Establishment of Drinking Water Intake Zones in Two Portions of the Hudson River, New York State	2040-AC51
3478	SAN No. 3224. Comparison of Dredged Material to Reference Sediment	2040-AC14
3479	SAN No. 2820. Shore Protection Act, Section 4103(b) Regulations	2040-AB85

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Clean Water Act (CWA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3480	SAN No. 3448. Standards for the Use or Disposal of Sewage Sludge (Round II)	2040-AC25
3481	SAN No. 2712. Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category	2040-AB53
3482	SAN No. 3209. Effluent Guidelines and Standards for the Industrial Laundries Category	2040-AB97
3483	SAN No. 3204. Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category	2040-AB98
3484	SAN No. 3489. Effluent Guidelines and Standards for Landfills and Incinerators	2040-AC23
3485	SAN No. 3496. Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phase II	2040-AC30
3486	SAN No. 3444. Criteria and Standards Reflecting Best Technology Available (BTA) for Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act	2040-AC34
3487	SAN No. 3661. Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance	2040-AC55
3488	SAN No. 3702. Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act	2040-AC75
3489	SAN No. 3701. Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act	2040-AC76
3490	SAN No. 3766. Water Quality Standards to Replace Portions of Existing State Water Quality Standards; i.e., State Antidegradation Policy for Pennsylvania	2040-AC78
3491	SAN No. 3767. Reformatting of Effluent Guidelines and Standards in 40 CFR Parts 405 through 471	2040-AC79

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Clean Water Act (CWA)—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3492	SAN No. 3663. Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution	2040-AC58
3493	SAN No. 3785. Comprehensive NPDES Stormwater Phase II Regulations	2040-AC82

Clean Water Act (CWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3494	SAN No. 3582. Guidelines Establishing Whole Effluent Toxicity (WET) Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AC49
3495	SAN No. 3567. 301(k) Innovative Technology Time Extensions	2040-AC42
3496	SAN No. 3517. Water Quality Standards To Replace Portions of Florida's Existing State Water Quality Standards, i.e., State Antidegradation Policy	2040-AC37
3497	SAN No. 3665. Amendment to Requirements for National Pollutant Discharge Elimination System (NPDES) Permits for Storm Water Discharges (Phase II)	2040-AC60
3498	SAN No. 3442. Continuous Emission Monitoring and Other Pollutant Limitation and Monitoring Regulations for Sewage Sludge Incinerators	2040-AC46

Atomic Energy Act (AEA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3499	SAN No. 1727. Environmental Protection Standards for Low-Level Radioactive Waste	2060-AA04
3500	SAN No. 2073. Environmental Protection Agency Radiation Site Cleanup Regulation	2060-AB31

Atomic Energy Act (AEA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3501	SAN No. 3232. Criteria for the Certif. and Determination of the Waste Isolation Pilot Plant's Compliance w/Environmental Stnds. for the Mgmt. and Disposal of Spent Nuclear Fuel, High-Level, & Transuranic	2060-AE30
3502	SAN No. 3602. Protective Action Guidance for Drinking Water	2060-AF39
3503	SAN No. 3321 (was 2073). Federal Radiation Protection Guidance for Exposure of the General Public	2060-AE61

Atomic Energy Act (AEA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3504	SAN No. 3568. Environmental Radiation Protection Standards for Yucca Mountain, Nevada	2060-AF38

Safe Drinking Water Act (SDWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3505	SAN No. 3440. National Primary Drinking Water Regulations for Lead and Copper (Revision)	2040-AC27
3506	SAN No. 3563. Reformatting of Drinking Water Regulations	2040-AC41
3507	SAN No. 3565. Revision of Current Requirements for Triggering Increased Drinking Water Monitoring	2040-AC52
3508	Streamlining Revisions to the National Primary Drinking Water Regulations **(Reg Plan Seq. No. 106)**	2040-AC66
3509	SAN No. 3726. Analytical Methods for Regulated Drinking Water Contaminants	2040-AC77

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Safe Drinking Water Act (SDWA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3510	SAN No. 3784. Underground Injection Control Program Streamlining Rule	2040-AC83

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Safe Drinking Water Act (SDWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3511	SAN No. 3445. Drinking Water Microbial and Disinfection By-Product Monitoring Rule (Formerly Called the "Information Collection Disinfection Byproducts Rule")	2040-AC24

Safe Drinking Water Act (SDWA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3512	SAN No. 2281. National Primary Drinking Water Regulations: Radionuclides	2040-AA94
3513	SAN No. 2340. National Primary Drinking Water Regulations: Groundwater Disinfection	2040-AA97
3514	SAN No. 2807. National Primary Drinking Water Regulations: Arsenic	2040-AB75
3515	SAN No. 2772/2304. National Primary Drinking Water Regulations: 25 Contaminants From Drinking Water Priority List (Phase VIA) - Disinfection Byproducts Rule and Enhanced Surface Water Treatment Rule	2040-AB82
3516	SAN No. 3176. National Primary Drinking Water Regulations: Sulfate	2040-AC07
3517	SAN No. 3238. National Primary Drinking Water Standards (NPDWRs) for Aldicarb	2040-AC13
3518	SAN No. 3509. National Primary Drinking Water Regulations: 25 Contaminants From Drinking Water Priority List (Phase VI-B)—Organic and Inorganic Contaminants	2040-AC22
3519	SAN No. 2778. Management of Class V Injection Wells Under Part C of the Safe Drinking Water Act	2040-AB83
3520	SAN No. 3761. Streamlining Drinking Water Monitoring Requirements	2040-AC73

Safe Drinking Water Act (SDWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3521	SAN No. 3359. Drinking Water Primacy Withdrawal Regulation (Revision)	2040-AC19
3522	SAN No. 2784. Revisions to SDWA; Underground Injection Control Program Regulations for Class II (Oil and Gas-Related) Wells	2040-AB77

Resource Conservation and Recovery Act (RCRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3523	SAN No. 2390. Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities **(Reg Plan Seq. No. 101)**	2050-AB80

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Resource Conservation and Recovery Act (RCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3524	SAN No. 3425. Facility Response Planning for Delegated Offshore Facilities	2050-AE18
3525	SAN No. 3668. Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards	2050-AE28

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Resource Conservation and Recovery Act (RCRA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3526	SAN No. 2872. Modifications to the Definition of Solid Waste and Regulations of Hazardous Waste Recycling: General **(Reg Plan Seq. No. 107)**	2050-AD18
3527	SAN No. 3328. Identification and Listing of Hazardous Wastes: Hazardous Waste Identification Rule (HWIR); Waste **(Reg Plan Seq. No. 108)**	2050-AE07
3528	SAN No. 3134. Spent Solvents Listing Determination	2050-AD84
3529	SAN No. 3151. Chlorinated Aliphatics Listing Determination	2050-AD85
3530	SAN No. 3064. Identification and Listing of Hazardous Waste: Petroleum Refining Process Wastes	2050-AD88
3531	SAN No. 3333. Revised Standards for Hazardous Waste Combustion Facilities **(Reg Plan Seq. No. 109)**	2050-AE01
3532	SAN No. 3334. Cement Kiln Dust	2050-AE02
3533	SAN No. 2982. Identification and Listing of Hazardous Wastes; Hazardous Waste Identification Rule (HWIR): Contaminated Media **(Reg Plan Seq. No. 110)**	2050-AE22
3534	SAN No. 3147. Hazardous Waste Manifest Regulation	2050-AE21
3535	SAN No. 3235. Rule Identifying When Military Munitions Become Hazardous Wastes and Management Standards for Such Wastes	2050-AD90
3536	SAN No. 2827. RCRA Subtitle C Indian Program Authorization	2050-AD07
3537	SAN No. 3150. Field Filtering of Groundwater Samples	2050-AD86
3538	SAN No. 2751. RCRA Subtitle D Solid Waste Facilities; State/Tribal Permit Program—Determination of Adequacy	2050-AD03
3539	SAN No. 3545. Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials	2050-AE23

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Resource Conservation and Recovery Act (RCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3540	SAN No. 3428. Alternatives for Groundwater Monitoring and Delay of Generald Compliance Date for Small Municipal Solid Waste Landfills Located in Either Dry or Remote Areas	2050-AE15
3541	SAN No. 3546. Alternatives for Groundwater Monitoring and Delay of General Compliance Date for Small Municipal Solid Waste Landfills Located in Either Dry or Remote Areas	2050-AE24
3542	SAN No. 3042. Hazardous Waste Management System: Post-Closure Requirements	2050-AD55
3543	SAN No. 3065. Listing Determination for Hazardous Wastes - Organobromines Chemical Industry	2050-AD79
3544	SAN No. 3427. New and Revised Testing Methods Approved for RCRA Subtitle C, in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846), Third Edition, Update III	2050-AE14
3545	SAN No. 3179. RCRA Subtitle D Corporate Financial Test and Guarantee	2050-AD77
3546	SAN No. 3416. Revisions To Criteria Applicable to Solid Waste Disposal Facilities That May Accept CESQG Hazardous Wastes Excluding Municipal Solid Waste Landfills	2050-AE11
3547	SAN No. 3066/3068/3069. Listing Determination of Wastes Generated During the Manufacture of Azo, Anthraquinone, and Triarylmethane Dyes and Pigments	2050-AD80
3548	SAN No. 3114. Imports and Exports of Hazardous Waste: Implementation of the OECD Decision for Recyclable Wastes	2050-AD87
3549	SAN No. 3315. RCRA Expanded Public Participation	2050-AD97
3550	SAN No. 3366. Land Disposal Restrictions—Phase IV: Treatment Standards for Certain Mineral Processing Wastes; TC Metals; Newly Listed Wastes From Wood Preserving and Dyes and Pigments **(Reg Plan Seq. No. 124)**	2050-AE05
3551	SAN No. 3365. Land Disposal Restrictions—Phase III: Decharacterized Wastewaters, Carbamate Wastes, and Spent Aluminum Potliners **(Reg Plan Seq. No. 125)**	2050-AD38
3552	SAN No. 2761. Financial Test for Local Governments That Own/Operate Municipal Solid Waste Landfills	2050-AD04
3553	SAN No. 3032. Guideline for Federal Procurement of Paper and Paper Products Containing Recovered Materials	2050-AD41

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Resource Conservation and Recovery Act (RCRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3554	SAN No. 2634. Revisions to the Oil Pollution Prevention Regulation	2050-AC62
3555	SAN No. 3426. Regulations To Control Imports and Exports of Hazardous and Other Wastes	2050-AE13
3556	SAN No. 3547. New and Revised Testing Methods Approved for RCRA Subtitle C Hazardous Waste Testing Manual, SW-846, Third Edition, Update IV	2050-AE25
3557	SAN No. 2524. No-Migration Variance for Prohibited Hazardous Waste Land Disposal	2050-AC44
3558	SAN No. 2780. Causes for Permit Modifications to Hazardous Waste Management Facilities	2050-AD05
3559	SAN No. 3189. Final Determination of the Applicability of the Toxicity Characteristic Rule to Underground Storage Tanks Contaminated Media and Debris	2050-AD69
3560	SAN No. 3201. Regulatory Determination on Remaining Wastes From the Combustion of Fossil Fuels	2050-AD91
3561	SAN No. 3237. Hazardous Waste Management System; Modification of the Hazardous Waste Program; Mercury-Containing Lamps	2050-AD93
3562	SAN No. 2647. RCRA Subtitle C Financial Test Criteria (Revision)	2050-AC71
3563	SAN No. 3094. Extension of States' Interim Authorization Option To Carry Out Post-HSWA Regulations	2050-AD57
3564	SAN No. 3433. Underground Storage Tanks Containing Hazardous Substances - Financial Responsibility Requirements	2050-AC15

Resource Conservation and Recovery Act (RCRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3565	SAN No. 3710. Liquids in Landfills: Proposed Rulemaking to Grant a Petition	2050-AE30
3566	SAN No. 2870. Modifications of the Hazardous Waste Recycling Regulations: Universal Wastes	2050-AD19
3567	SAN No. 2826. New and Revised Testing Methods Approved for RCRA Subtitle C Hazardous Waste Testing Manual SW-846, Third Edition, Update II	2050-AD06
3568	SAN No. 2622. Hazardous Waste Management System, Amendment to Subpart C Rulemaking Petitions: Use of Groundwater Data in Delisting Decisions	2050-AC65
3569	SAN No. 3384. Comprehensive Guideline for Procurement of Products Containing Recovered Materials	2050-AE16
3570	SAN No. 3149. Underground Storage Tanks—Lender Liability	2050-AD67

Clean Air Act (CAA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3571	SAN No. 3553. Requirements for Preparation, Adoption, and Submittal of Ozone State Implementation Plans	2060-AF34
3572	SAN No. 3389. Fuels and Fuel Additives Waiver Application Criteria	2060-AE68

Clean Air Act (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3573	SAN No. 2909. Revisions to the New Source Review Regulations	2060-AD13
3574	SAN No. 3111. Prohibition of Leaded Gasoline for Highway Use	2060-AD55
3575	SAN No. 3259. New Source Review (NSR) Reform **(Reg Plan Seq. No. 111)**	2060-AE11
3576	SAN No. 3263. Performance Warranty and Inspection/Maintenance Test Procedures	2060-AE20
3577	SAN No. 3262. Inspection/Maintenance Recall Requirements	2060-AE22
3578	SAN No. 3302. Consolidated Emission Reporting	2060-AE32
3579	SAN No. 3353. NAAQS: Ozone (Review) **(Reg Plan Seq. No. 112)**	2060-AE57
3580	SAN No. 3354. State Implementation Plan Completeness Criteria	2060-AE58
3581	SAN No. 3375. Addendum to the General Preamble for Title I of the Clean Air Act Amendments; Serious PM-10 Nonattainment Areas and PM-10 Nonattainment Area Attainment Date Waivers	2060-AE62
3582	SAN No. 3448. NAAQS: Particulate Matter (Review) **(Reg Plan Seq. No. 113)**	2060-AE66
3583	SAN No. 3500. Application of Mandatory Sanctions Under Title V of the Clean Air Act	2060-AE96
3584	SAN No. 3407. Method 301: Field Validation of Pollution Measurement Methods for Various Medias	2060-AF00

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Clean Air Act (CAA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3585	SAN No. 3474. Ammonia Test Method, 40 CFR Part 51, Appendix M	2060-AF22
3586	SAN No. 3472. Technical Corrections to Appendix A of 40 CFR Part 60, Appendix B of Part 61, Appendix A or Part 63, and Part 60	2060-AF24
3587	SAN No. 3549. NESHAP: Petroleum Refineries - FCC Units, Reformers and Sulfur Plants	2060-AF28
3588	SAN No. 3082. NESHAP: Ferroalloy Industry	2060-AF29
3589	SAN No. 3569. Federal Implementation Plan To Control Emissions From Two Power Stations Located on Navajo Nation Lands	2060-AF42
3590	SAN No. 3570. Acid Rain Program: Revisions to the Administrative Appeal Regulations Under Title IV of the Clean Air Act	2060-AF43
3591	SAN No. 3572. Acid Rain Program: Revisions to Applicability, Exemptions, Allocations, and Small Diesel Refineries	2060-AF45
3592	SAN No. 3573. Acid Rain Program: Deletion of Certain Units	2060-AF46
3593	SAN No. 3574. Acid Rain Program: Revisions to the Permits Regulations Under Title IV of the Clean Air Act To Make Technical Corrections	2060-AF47
3594	SAN No. 3576. Control of Air Pollution From Aircraft and Aircraft Engines; Emission Standards and Test Procedures	2060-AF50
3595	SAN No. 3412. Operating Permits: Revisions (Part 70) **(Reg Plan Seq. No. 114)**	2060-AF70
3596	SAN No. 3649. Amendments to Method 24 (Water-Based Coatings)	2060-AF72
3597	SAN No. 3637. Federal Implementation Plan (FIP) To Control Emissions From Sources Located on the Fort Hall Indian Reservation	2060-AF84
3598	SAN No. 3643. Sales Volume Limit Provisions for Small-Volume Manufacture Certification for Clean Fuel and Conventional Vehicle Conversions and Related Provisions	2060-AF87
3599	NESHAP for Perchloroethylene Dry Cleaning Facilities: Amendments	2060-AF90
3600	SAN No. 3598. Amendment of Enhanced Inspection/Maintenance Performance Standard	2060-AG07
3601	SAN No. 3599. Fourier Transform Infrared Spectroscopy (FTIR) Extractive Test Method - Self-Validating Procedure and CEM Performance Specification	2060-AG08
3602	SAN No. 3538. Compliance Application Guidance for 40 CFR 194	2060-AG09
3603	SAN No. 3675. Determining Conformity of General Federal Actions to State or Federal Implementation Plans (for Attainment and Unclassifiable Areas)	2060-AG10
3604	SAN No. 3568 Previously listed under RIN 2060-AF38. Environmental Radiation Protection Standards for Yucca Mountain	2060-AG14
3605	SAN No. 3740. Transportation Conformity Flexibility and Streamlining **(Reg Plan Seq. No. 115)**	2060-AG16
3606	SAN No. 3725. Reformulated Gasoline Oxygen Cap Modification	2060-AG17
3607	SAN No. 3756. Protection of Stratospheric Ozone: Reconsideration of Ban on Fire Extinguishers Containing HCFCs	2060-AG19
3608	SAN No. 3743. Amendments to Appendix M of Part 51, Appendix B of Part 61, Appendix A of Part 63, and Part 60	2060-AG21
3609	SAN No. 3744. Amendment to Standards of Performance for New Stationary Sources; Monitoring Requirements	2060-AG22
3610	SAN No. 3748. Consolidated Federal Air Rule for the Synthetic Organic Chemical Manufacturing Industry	2060-AG28
3611	SAN No. 3750. Regulation Review/Burden Reduction	2060-AG30
3612	SAN No. 3674. Amendments to the Final Rules NESHAP for Chromium Electroplating and NESHAP for Commercial Sterilization	2060-AG36
3613	SAN No. 1004. NAAQS: Nitrogen Dioxide (Review)	2060-AC06
3614	SAN No. 3470. Next Revision to the Guideline on Air Quality Modeling	2060-AF01
3615	SAN No. 3106. NSPS for Sulfur Dioxide (SO2) - Revision	2060-AD04
3616	SAN No. 3753. Revision to NSPS: Nonmetallic Minerals Processing	2060-AG33
3617	SAN No. 3105 (was 2914) for NESHAP and SAN No. 2712 for Effluent Integrated NESHAP and Effluent Guidelines: Pulp and Paper **(Reg Plan Seq. No. 116)**	2060-AD03
3618	SAN No. 3215. NESHAP: Mineral Wool Production Industry	2060-AE08
3619	SAN No. 3229. NESHAP: Oil and Natural Gas Production	2060-AE34
3620	SAN No. 3228. NESHAP for Formaldehyde-Based Resins	2060-AE36
3621	SAN No. 3303. NESHAP: Phosphoric Acid Manufacturing	2060-AE40
3622	SAN No. 3345. NESHAP: Steel Pickling, HC1 Process	2060-AE41
3623	SAN No. 3343. NESHAP—Iron Foundries and Steel Foundries	2060-AE43
3624	SAN No. 3304. NESHAP: Phosphate Fertilizers Production	2060-AE44
3625	SAN No. 3340. NESHAP: Primary Copper Smelters	2060-AE46
3626	SAN No. 3123. NESHAP: Wool Fiberglass Manufacturing Industry	2060-AE75
3627	SAN No. 3072. NESHAP: Primary Aluminum Plants	2060-AE76
3628	SAN No. 3078. NESHAP: Secondary Aluminum Industry	2060-AE77

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Clean Air Act (CAA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3629	SAN No. 3079. NESHAP: Portland Cement Manufacturing	2060-AE78
3630	SAN No. 3451. NESHAP: Pharmaceuticals Production	2060-AE83
3631	SAN No. 3449. NESHAP: Chlorine Production	2060-AE85
3632	SAN No. 3338. NESHAP: Flexible Polyurethane Foam Production	2060-AE86
3633	SAN No. 3467. NESHAP: Primary Lead Smelters	2060-AE97
3634	SAN No. 3469. NESHAP: Manufacture of Tetrahydrobenzaldehyde	2060-AE99
3635	SAN No. 2547. National Emission Standard for Radon Emissions from Phosphogypsum Stacks	2060-AF04
3636	SAN No. 3378. NESHAP: Manufacturers of Acrylic/Modacrylic Fibers	2060-AF06
3637	SAN No. 3465. NESHAP: Polycarbonates Production	2060-AF09
3638	SAN No. 3466. Delisting of Source Categories Under 112(c): Stainless and Non-Stainless Steel Manufacturing and Electric Arc Furnace (EAF) Operation	2060-AF11
3639	SAN No. 3377. Publicly Owned Treatment Works (POTW) NESHAP	2060-AF26
3640	SAN No. 3550. NESHAP: Baker's Yeast Manufacturing Industry	2060-AF30
3641	SAN No. 3551. Amendments to General Provisions for 40 CFR 63	2060-AF31
3642	SAN No. 3046. Decision on the Petition To Remove Caprolactam From the List of Hazardous Air Pollutants	2060-AF33
3643	SAN No. 3552. Regional Haze Protection	2060-AF32
3644	SAN No. 3281. National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings	2060-AE35
3645	SAN No. 3351. VOC Regulation for Architectural Coatings	2060-AE55
3646	SAN No. 3659. Aerosol Spray Paints Rule	2060-AF61
3647	SAN No. 3658. National VOC Emission Standards for Consumer Products	2060-AF62
3648	SAN No. 2869. Revised Light-Duty Durability Procedures for Model Year 1999 and Later	2060-AE06
3649	SAN No. 3646. National 49-State Low-Emission Vehicles Program **(Reg Plan Seq. No. 117)**	2060-AF75
3650	SAN No. 3645. Control of Nitrogen Oxide and Particulate Emissions From Heavy-Duty Engines **(Reg Plan Seq. No. 118)**	2060-AF76
3651	SAN No. 3139. Amendment Concerning the Location of Selective Enforcement Audits of Foreign Manufactured Vehicles and Engines	2060-AD90
3652	SAN No. 3091. "Substantially Similar" Definition for Diesel Fuels	2060-AD77
3653	SAN No. 3361. Nonroad Spark-Ignition Engines At or Below 19 Kilowatts (25 Horsepower)(Phase 2) **(Reg Plan Seq. No. 119)**	2060-AE29
3654	SAN No. 3352. NSPS: Nitrogen Oxide Emissions from Fossile-Fuel Fired Steam Generating Units - Revision	2060-AE56
3655	SAN No. 3575 (combined with SAN 3571) This action resulted from Acid Rain Phase II Nitrogen Oxides Reduction Program	2060-AF48
3656	SAN No. 3715. Protection of Stratospheric Ozone: Listing of Global Warming Potentials for Ozone-Depleting Substances	2060-AG35
3657	SAN No. 3555. Amendment to the MVAC Rule To Include All Refrigerants	2060-AF35
3658	SAN No. 3556. Protection of Stratospheric Ozone: Supplemental Rule Regarding a Recycling Standard Under Section 608	2060-AF36
3659	SAN No. 3560. Amendment to the Refrigerant Recycling Rule To include All Refrigerants	2060-AF37
3660	Amendment to the Refrigerant Recycling Rule To Modify the Sales Restrictions of Split Systems	2060-AF81
3661	Protection of Stratospheric Ozone: Direct Final Rule Extending Reclamation Requirements of the Section 608 Refrigerant Recycling Rule	2060-AF97
3662	SAN No. 3673. Protection of Stratospheric Ozone: Reconsideration of Section 608 Sales Restriction	2060-AG20
3663	SAN No. 3640. Supplemental Rule To Require Certain Products Made With HCFCs To Bear Warning Label	2060-AF93
3664	SAN No. 3525 (generic) Update of the Acceptablity List Under the Significance New Alternatives Policy (SNAP) Program	2060-AG12

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Clean Air Act (CAA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3665	SAN No. 2942. Compliance Assurance Monitoring Program (Previously Enhanced Monitoring Program) **(Reg Plan Seq. No. 126)**	2060-AD18
3666	SAN No. 2961. Locomotive Emission Standards	2060-AD33
3667	SAN No. 3009/3357. Acid Rain Opt-In Regulations	2060-AD43
3668	SAN No. 3369. Federal Operating Permit Rules	2060-AD68

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Clean Air Act (CAA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3669	SAN No. 3018. Regulation of Fuels and Fuel Additives: Certification Requirements for Deposit Control Gasoline Additives	2060-AD71
3670	SAN No. 2939. Regulations Governing Awards Under Section 113(f) of the Clean Air Act	2060-AD81
3671	SAN No. 3264. Inspection/Maintenance Program Requirements—Onboard Diagnostic Checks	2060-AE19
3672	SAN No. 3146. NESHAPS Pertaining to Facilities Other Than Commercial Nuclear Power Reactors Licensed by the Nuclear Regulatory Commission (NRC) or by NRC Agreement States	2060-AE39
3673	SAN No. 3457. On-Board Diagnostics Service Information Available	2060-AE93
3674	SAN No. 3380. NSPS: Synthetic Organic Chemicals Manufacturing Industry - Wastewater	2060-AE94
3675	SAN No. 3506. Addition of Methods 204, 204A - 204F for Measurement of VOC Emissions From Stationary Sources	2060-AF02
3676	SAN No. 2915. Methods for Measurement of Visible Emissions - The addition of Methods 203A, 203B, and 203C to Appendix M of Part 51	2060-AF83
3677	SAN No. 3638. Revision of EPA's Radiological Emergency Response Plan	2060-AF85
3678	NSPS Appendix A - Reference Methods; Amendments to Method 24 for the Determination of Volatile Matter Contents, Water Content, Density, Volume and Weight Solids of Surface Coatings	2060-AG00
3679	SAN No. 3650. Ambient Air Quality Surveillance, Recension of NAMS Ambient Air Quality Monitoring Requirements for Lead	2060-AG23
3680	SAN No. 3745. Revision to Definition of Volatile Organic Compounds - Exclusion of HFC 4310me and HCFC 225 ca and cb	2060-AG24
3681	SAN No. 3306. Revision to the Definition of Volatile Organic Compound - Exclusion of Perchloroethylene	2060-AG25
3682	SAN No. 3446. Revisions to Part 35, Subpart A Section 105 Air Grant Regulations	2060-AF03
3683	SAN No. 3087. Indian Tribes: Air Quality Planning and Management	2060-AF79
3684	SAN No. 1002 (Primary Standard) and SAN No. 3588 (Implementation) NAAQS: Sulfur Dioxide (Review) **(Reg Plan Seq. No. 127)**	2060-AA61
3685	SAN No. 2535. NSPS: Municipal Solid Waste Landfills	2060-AC42
3686	SAN No. 2719. Medical Waste Incinerators (MWI) **(Reg Plan Seq. No. 128)**	2060-AC62
3687	SAN No. 2916. NSPS: Municipal Waste Combustion—Phase II and Phase III, Industrial-Commercial Waste Incinerators, and Other Solid Waste Incinerators **(Reg Plan Seq. No. 129)**	2060-AD00
3688	SAN No. 2892. NESHAP: Asbestos Processing (Delisting)	2060-AB51
3689	SAN No. 2932. Guidance for the Implementation of Section 112(g)—Modifications	2060-AD06
3690	SAN No. 2965. NESHAP for Wood Furniture Manufacturing	2060-AD57
3691	SAN No. 3077. NESHAP: Printing/Publishing Industry	2060-AD95
3692	SAN No. 3166. NESHAP: Polymers and Resins, Group I	2060-AD96
3693	SAN No. 3074. NESHAP: Surface Coating Operations in Shipbuilding and Ship Repair	2060-AD98
3694	SAN No. 3159. NESHAP for Off-Site Waste and Recovery Operations	2060-AE05
3695	SAN No. 3187. NESHAP: Polymers and Resins, Group IV	2060-AE37
3696	SAN No. 3341. NESHAP—Cyanide Chemical Manufacturing	2060-AE45
3697	SAN No. 3479. Amendments to Parts 63 and 70 To Establish Provisions for Determining Potential to Emit	2060-AE63
3698	SAN No. 2937. Field Citation Program	2060-AD82
3699	SAN No. 3613. New Source Performance Standards (NSPS) and Emission Guidelines for Industrial and Commercial Waste Incinerators	2060-AF91
3700	SAN No. 3459. Criteria and Procedures for Determining Transportation Conformity in Attainment Areas	2060-AE90
3701	SAN No. 3029: Aerospace SAN 3728; Shipbuilding SAN 3729; Wood Control Technology Guidelines (CTG)	2060-AD05
3702	SAN No. 3660. Open-Market Trading Rule for Ozone Precursors **(Reg Plan Seq. No. 130)**	2060-AF60
3703	SAN No. 3541. On-Board Diagnostics: Revision to Requirements for Storage of Engine Conditions Associated With Extinguishing a Malfunction Indicator Light	2060-AF20
3704	SAN No. 2665. Amendments to Regulations Governing the Importation of Nonconforming Vehicles	2060-AC58
3705	SAN No. 3097. Nonconformance Penalties for 1998 Model Year Emission Standards for Heavy-Duty Engines and Vehicles	2060-AE07
3706	SAN No. 3323. Review of the Federal Test Procedure for Emissions From Motor Vehicles and Motor Vehicle Engines **(Reg Plan Seq. No. 131)**	2060-AE27
3707	SAN No. 3597. Regulation of Fuel and Fuel Additives: Certification Requirements for Deposit Control Additives	2060-AG06
3708	SAN No. 3350. Emission Standards for Gasoline Spark-Ignition and Diesel Compression-Ignition Marine Engines	2060-AE54
3709	SAN No. 2888. Acid Rain Nitrogen Oxides Control Regulation	2060-AD45

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

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Clean Air Act (CAA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3710	SAN No. 3468. Establishment of Lesser Quantity Emission Rates for Hazardous Air Pollutants	2060-AE98
3711	SAN No. 3516. Radiation Waste Management Regulations	2060-AF41
3712	SAN No. 3540. Technical Amendments to Evaporative Emission Procedure	2060-AF49
3713	SAN No. 3741. Service Information Availability	2060-AG13
3714	SAN No. 3373/2993. Radionuclide Major Source Definition	2060-AD60
3715	SAN No. 3346. NESHAP: Integrated Iron and Steel	2060-AE48
3716	SAN No. 3326. NESHAP: Reinforced Plastic Composites Production	2060-AE79
3717	SAN No. 3408. NESHAP: Polyether Polyols Production	2060-AE81
3718	SAN No. 3452. NESHAP: Miscellaneous Organic Chemical Production	2060-AE82
3719	SAN No. 3450. NESHAP: Production of Agricultural Chemicals	2060-AE84
3720	SAN No. 3548. NESHAP: Nylon 6 Production	2060-AF27
3721	SAN No. 3746. National Emission Standard for Hazardous Air Pollutants for Paint Stripper Users	2060-AG26
3722	SAN No. 3747. NESHAP for Boat Manufacturing	2060-AG27
3723	SAN No. 3749. NESHAP for Tire Manufacturing	2060-AG29
3724	SAN No. 3752. NESHAP for Aerosol Can Production	2060-AG32
3725	SAN No. 3754. Petroleum Solvent Dry Cleaners MACT Standard	2060-AG34
3726	SAN No. 3751. New Source Performance Standards and Emission Guidelines for Other Solid Waste Incinerators	2060-AG31
3727	SAN No. 2637. Alternative Test Procedure for the Voluntary Aftermarket Part Certification Program	2060-AC50
3728	SAN No. 2940 SAN No. 2940. Regulations Governing Prior Notice of Citizen Suits Brought Under Section 304 of the Clean Air Act	2060-AD80
3729	SAN No. 3571. Acid Rain Program: Revised Group 1, Phase II, NOx Emission Limitations	2060-AF44

Clean Air Act (CAA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3730	SAN No. 3314. Addition of Test Method 205 to Appendix M of 40 CFR Part 51	2060-AE33
3731	SAN No. 2997. National Emissions Standards for Hazardous Air Pollutants as It Applies to Nuclear Power Reactors Licensed by the Nuclear Regulatory Commission	2060-AE38
3732	SAN No. 3347. Protection of Stratospheric Ozone: Mobile Air-Conditioning Recover-Only Standard; Supplemental Rule	2060-AE52
3733	SAN No. 3259. New Source Review (NSR) Reform Rulemaking	2060-AF21
3734	SAN No. 3473. Test Method 302, Appendix M, 40 CFR Part 51	2060-AF23
3735	Acid Rain Program: Technical Amendments for Continuous Emissions Monitoring	2060-AF58
3736	SAN No. 3613. New Source Performance Standards and Emission Guidelines—Industrial and Commercial Waste Incinerators	2060-AF82
3737	SAN No. 3257. Ambient Air-Quality Surveillance Siting Criteria for Open Path Analyzers	2060-AF88
3738	SAN No. 3614. Standards of Performance for New Stationary Sources: Industrial-Commercial-Institutional Steam Generating Units - Revision	2060-AF92
3739	NOx Emissions From Certain Coal-Fired Utility Boilers Under Title IV of the Clean Air Act Amendments of 1990	2060-AF96
3740	SAN No. 3542. Revised Regulatory Requirements for Air Quality Modeling (Supplement C)	2060-AG04
3741	SAN No. 3544. Revisions to the Permits Regulations Under Title IV of the Clean Air Act Concerning Reduced Utilization Plans and Allowance Surrender for Reduced Utilization	2060-AG05
3742	SAN No. 3610. Transportation Conformity Amendments: Transition to the Control Strategy Period	2060-AG15
3743	SAN No. 3603. User Fees for Radon Proficiency Programs Rule - Amendment	2060-AG18
3744	SAN No. 3016. Revise Capture Efficiency Guidelines	2060-AD84
3745	SAN No. 3379. NSPS: Starch Production Facilities	2060-AE65
3746	SAN No. 3382. New Source Performance Standards for Cold-Cleaning Operations	2060-AF08
3747	SAN No. 2719. NSPS: Medical Waste Incinerators	2060-AE73
3748	SAN No. 3168. NESHAP: Petroleum Refining - Other Sources Not Distinctly Listed	2060-AD94
3749	SAN No. 3075. NESHAP for the Aerospace Manufacturing and Rework Industry	2060-AE02
3750	SAN No. 3193. NESHAP: Secondary Lead Smelting	2060-AE04
3751	SAN No. 3342. NESHAP: Wood Treatment Industry	2060-AE47
3752	SAN No. 3453. NESHAP: Combustion Sources in the Sulfite Pulping Industry	2060-AE80
3753	SAN No. 3478. Transportation Conformity Rule Amendments: Miscellaneous Revisions	2060-AF25
3754	SAN No. 3610. Transportation Conformity Amendments: Miscellaneous Revisions	2060-AF95
3755	SAN No. 3623. Inspection/Maintenance Flexibility Amendments	2060-AF94

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Clean Air Act (CAA)—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3756	SAN No. 3623. Inspection/Maintenance Flexibility Amendments	2060-AG11
3757	SAN No. 3104. Standards for Tank Vessel Loading Operations	2060-AD02
3758	SAN No. 3037. Report to Congress and Prioritized Category List for Regulation of VOC Emissions From Consumer and Commercial Products	2060-AE24
3759	SAN No. 3300. Air Pollutant Emission Regulations for Spark-Ignited Nonroad Engines 25 Horsepower and Below - Phase I	2060-AF78
3760	SAN No. 3462. Protection of Stratospheric Ozone: Administrative Changes to the Final Rule To Phase Out Ozone-Depleting Chemicals	2060-AE70
3761	SAN No. 3460. Protection of Stratospheric Ozone: Supplemental Rule To Amend Leak Repair Provisions, Equipment Standards and Scope of Chemicals to Be Recycled Under Section 608 of the Amended CAA	2060-AE92
3762	Protection of Stratospheric Ozone: Direct Final Rule Extending Reclamation Requirements Past May 15th	2060-AF80
3763	SAN No. 3603. User Fees for Radon Proficiency Programs Rule - Amendment	2060-AF40

Superfund (CERCLA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3764	SAN No. 3423. Reportable Quantity Adjustments for Carbamates	2050-AE12
3765	SAN No. 3439. National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed and Final Rules	2050-AD75
3766	SAN No. 3215. Amendments to the Emergency Planning and Community Right-To-Know Act, Sections 302 Through 312	2050-AE17

Superfund (CERCLA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3767	SAN No. 2979. Risk Management Program for Chemical Accidental Release Prevention **(Reg Plan Seq. No. 132)**	2050-AD26
3768	SAN No. 3054. Administrative Reporting Exemptions for Certain Radionuclide Releases	2050-AD46
3769	SAN No. 3036. Amendments to the Extremely Hazardous Substances List Under Section 302 of the Emergency Planning and Community Right-To-Know Act	2050-AD50

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Superfund (CERCLA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3770	SAN No. 2394. Reporting Exemptions for Federally-Permitted Releases of Hazardous Substances	2050-AB82
3771	SAN No. 3050. Deletion of Saccharin From the List of Hazardous Wastes Under RCRA and the List of Hazardous Substances Under CERCLA	2050-AD45
3772	SAN No. 3424. Reportable Quantity Adjustment for Radon-222	2050-AE20
3773	SAN No. 3422. Response Action Contractor Indemnification	2050-AE19

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Superfund (CERCLA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3774	SAN No. 3000. Designation Under CERCLA and Reportable Quantity Adjustments for Clean Air Act Hazardous Air Pollutants; Reportable Quantity Adjustments of Hazardous Wastes	2050-AD33
3775	SAN No. 2976. Amendment to the NCP Appendix: OSWER Procedures for Contract Laboratory Program (CLP) Investigations	2050-AD34

General—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3776	SAN No. 3671. Final Guidelines for Carcinogen Risk Assessment	2080-AA06
3777	SAN No. 3670. Proposed Guidelines for Ecological Risk Assessment	2080-AA07
3778	SAN No. 3624. Guidelines for Neurotoxicity Risk Assessment	2080-AA08
3779	SAN No. 3577. Grants and Cooperative Agreements With State, Local, and Indian Tribal Governments	2030-AA34
3780	SAN No. 3486. Rules of Practice for Enforcement Actions Not Governed by the Administrative Procedure Act	2020-AA23
3781	SAN No. 3578. Revision to Submission of Invoices Clause	2030-AA35
3782	SAN No. 3580. Incorporation of Class Deviation into EPAAR	2030-AA37
3783	SAN No. 3629. EPA Mentor-Protege Program	2030-AA40
3784	SAN No. 3628. Confidential Business Information Provisions and Clauses	2030-AA41
3785	SAN No. 3098. Implementation of Procurement Integrity	2030-AA25
3786	SAN No. 3255. Source Selection Procedures	2030-AA29
3787	SAN No. 2662. Amendments to Part 22 Consolidated Procedural Rules	2020-AA13

General—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3788	Final Guidelines for Reproductive Toxicity Risk Assessment	2080-AA05
3789	SAN No. 2702. Comprehensive Environmental Response Compensation and Liability Act (CERCLA) Cost Recovery	2050-AC98
3790	SAN No. 3436. Uniform Administration Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	2030-AA32
3791	SAN No. 3579. EPA Policies for Information Resources Management	2030-AA36
3792	SAN No. 3587. Merger of 40 CFR Parts 15 and 32 Into a Single Regulation	2030-AA38
3793	SAN No. 3240. Public Information and Confidentiality Regulations	2020-AA21
3794	SAN No. 3367. Amend Subpart H Supplemental Rules To Ensure 40 CFR Part 22 Rule Conforms to the New Federal Facility Compliance Act	2020-AA22
3795	SAN No. 2512. Administrative Hearing Procedures for Class II Penalties Under CERCLA and Emergency Planning and Community Right-to-Know Act	2050-AC39

General—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3796	SAN No. 3765. Comprehensive Environmental Response Compensation and Liability Act (CERCLA) Cost Recovery	2020-AA25

General—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3797	SAN No. 3584. Enhanced Monitoring Program	2020-AA24

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General—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3798	SAN No. 3438. Award Fee	2030-AA31
3799	SAN No. 3600. Governmentwide Debarment and Suspension (Non Procurement)	2030-AA39
3800	SAN No. 3620. EPAAR Amendment: Revisions to Delegations of Authority in EPA's Internal Procedures for Acquisition	2030-AA42
3801	SAN No. 3601. Use of Options	2030-AA43

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3367. PESTICIDE TOLERANCE DECISIONS UNDER THE DELANEY CLAUSE

Priority: Other Significant

Legal Authority: 21 USC 348/FFDCA 409; 21 USC 346a/FFDCA 408

CFR Citation: 40 CFR 185; 40 CFR 186; 40 CFR 180

Legal Deadline: Other, Judicial, September 30, 1995.
Variable. Court-ordered deadlines beginning September 1995.

Abstract: The Agency will make decisions whether to revoke processed food and raw food tolerances for a number of pesticide carcinogens because of the Delaney clause. The Delaney clause prohibits chemicals in processed foods that induce cancer in man or animals. These decisions are required by a settlement agreement between EPA and the Natural Resources Defense Council et al, and will be in compliance with a decision by the Ninth Circuit Court of Appeals which ruled that the Federal Food, Drug and Cosmetic Act requires a strict interpretation schedule set out in the consent order approved by the Court.

Timetable:

Appendix I (Group A)
NPRM 07/01/94 (59 FR 33941)
Final Action 12/31/95
Appendix I (Group B/D)
NPRM 01/18/95 (60 FR 3602)
Final Action 07/18/96
Appendix I (Group C)
NPRM 09/15/95
Final Action 03/15/97
Appendix II (Group E)
NPRM 12/31/95
Appendix II (Group F)
NPRM 04/30/96
Appendix II (Group G)
NPRM 04/30/97

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3154.

Agency Contact: Jean M. Frane, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7501C, Washington, DC 20460
Phone: 703 305-5944

RIN: 2070–AC55

3368. PESTICIDES: TOLERANCE PROGRAM REVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 346 to 346(a); 21 USC 348; 21 USC 371

CFR Citation: 40 CFR 177; 40 CFR 180; 40 CFR 185; 40 CFR 186

Legal Deadline: None

Abstract: EPA is reassessing the pesticide tolerance-setting process with the goal of improving public health protection provided by the tolerance process, increasing public confidence in the safety of the food supply, clarifying and simplifying the process for all affected parties, and utilizing the most cost-efficient methods for implementation and compliance.

Timetable:

Pesticides; Tolerance Program Revisions
Tolerance Policy Document 04/00/96

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3430.

Agency Contact: Christine Gillis, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7501C, Washington DC 20460
Phone: 703 305-7102

RIN: 2070–AC74

3369. • THE 10-ACRE LIMITATION FOR PESTICIDE SMALL-SCALE FIELD TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136c

CFR Citation: 40 CFR 172

Legal Deadline: None

Abstract: EPA will propose a modification to its pesticide experimental use permit (EAP) regulations that will permit field testing of new pesticides or existing pesticides for new uses on a greater number of acres without an experimental use permit. Currently such testing is limited to 10 acres cumulative total per pesticide under a presumption that this limited testing poses no adverse effects, and therefore does not warrant the Agency's oversight under the EUP program. This action would reduce burdens on pesticide producers who currently must obtain an experimental use permit for greater than 10 acres testing. Little impact would be expected on small businesses, because they rarely engage in pesticide field testing of new chemicals or new uses.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

EPA—FIFRA

Proposed Rule Stage

Government Levels Affected: State, Tribal

Additional Information: SAN No. 3735.

Agency Contact: Jim Tompkins, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., 401 M St SW., 7505C, Washington DC 20460
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RIN: 2070–AC99

3370. • DATA CONSOLIDATION INITIATIVE; KEY IDENTIFIERS REPORTING

Regulatory Plan: This entry is Seq. No. 102 in Part II of this issue of the **Federal Register**.

RIN: 2070–AD01

3371. PESTICIDE DATA REQUIREMENTS FOR REGISTRATION (REVISION)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136a; 7 USC 136w

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: This amendment will update the existing data requirements (40 CFR 158) for evaluating the registerability of pesticide products. Reasons for the revisions include recent health and environmental concerns (e.g., groundwater contamination, worker exposure and neurotoxicity) advancements in testing technology, and new ecological risk testing approaches. The revisions will clarify all data requirements to reflect current practice. Procedural and explanatory sections of 40 CFR 158 will be amended to make them consistent with the revised data requirements and new use indexing implemented pursuant to 1988 FIFRA amendments.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2687.

Agency Contact: Amy Rispin, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7501c, Washington, DC 20460
Phone: 703 305-5989

RIN: 2070–AC12

3372. PESTICIDES AND GROUNDWATER STATE MANAGEMENT PLAN REGULATION

Priority: Economically Significant

Legal Authority: 7 USC 136a(d); 7 USC 136i(e); 7 USC 136j

CFR Citation: 40 CFR 152.170

Legal Deadline: None

Abstract: The regulation will designate certain individual pesticides to be subject to EPA approved State Management Plans (SMPs) as a condition of legal sale and use. This regulation would establish SMPs as a new regulatory requirement for those pesticides; absent an EPA-approved state plan specifying risk-reduction measures, use of the chemical would be prohibited. The rule would also specify procedures and deadlines for development, approval and implementation of SMPs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3222.

Agency Contact: Arden Calvert, Environmen al Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7501C, Washington, DC 20460
Phone: 703 305-7099

RIN: 2070–AC46

3373. PESTICIDE LABELING CLAIMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136/FIFRA 2; 7 USC 136a/FIFRA 3; 7 USC 136w/FIFRA 25

CFR Citation: 40 CFR 156.10

Legal Deadline: None

Abstract: EPA proposes to modify its labeling regulations that currently prohibit various kinds of false or misleading statements to allow, in the Agency's discretion, certain types of claims to appear on pesticide labeling. The rule would not specify criteria or claims that would be permitted. Permitted statements would be addressed through the registration program. By permitting certain types of claims or information on labels that currently is prohibited, EPA expects that pesticide users will be able to make better informed choices about products that are lower risk or more efficient or have environmentally preferable characteristics. This rule would not be proposed until after non-regulatory criteria or specific allowable types of claims are developed, and would be coordinated as needed with an ongoing Consumer Labeling Initiative addressing consumer pesticides and other chemicals.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3636.

Agency Contact: Melissa L. Chun, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7505W, Washington, DC 20460
Phone: 703 308-8318

RIN: 2070–AC85

3374. FIFRA BOOKS AND RECORDS OF PESTICIDE PRODUCTION AND DISTRIBUTION (REVISION)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136f/FIFRA 8

CFR Citation: 40 CFR 169

Legal Deadline: None

Abstract: This action would amend the recordkeeping requirements for registrants and applicants for

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Proposed Rule Stage

registration under FIFRA Section 8. It will also examine recordkeeping affected by the 1988 amendments to FIFRA and amend 40 CFR 169, as necessary.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2725.

Agency Contact: Steve Howie, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 2225A, Washington, DC 20460
Phone: 703 308-8383

RIN: 2070–AC07

3375. • MODIFICATIONS TO PESTICIDE WORKER PROTECTION STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136w

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: Since the issuance of the 1992 WPS and the January 1, 1995 implementation, farmworker groups have expressed an interest in enhancing specific protection measures, while grower groups, the National Association of State Departments of Agriculture and others have expressed an interest in addressing practical, operational concerns. The Agency received various requests and comments in the form of letters, petitions, and individual and public meetings to address the concerns with the WPS. As a result, there may be a need to make further changes of a minor nature to the WPS rule. EPA will take such actions as rules, policy statements or other documents as appropriate. The following are currently planned: Language and size requirements for Warning Signs; and Decontamination Requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3731.

Agency Contact: Cathy Kronopolus, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW (7506C), Washington DC 20460
Phone: 703 305-7666
Fax: 703 308-2962

RIN: 2070–AC93

3376. EXEMPTION OF STERILANT PESTICIDE PRODUCTS FROM REGULATION UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136w/FIFRA 25

CFR Citation: 40 CFR 152.20

Legal Deadline: None

Abstract: EPA will propose to exempt from regulation under FIFRA sterilant products used to control microorganisms on treated environmental surfaces. EPA currently regulates sterilant products as pesticides; concurrently FDA regulates chemical germicides used as sterilants for medical devices under the Federal Food, Drug and Cosmetic Act (FFDCA). Under a Memorandum of Understanding signed June 4, 1993 and amended June 20, 1994 EPA and FDA agreed to eliminate this redundant regulatory jurisdiction. By exempting sterilants under FIFRA, sole jurisdiction will reside with FDA.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3318.

Agency Contact: Michele E. Wingfield, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7505c, Washington DC 20460
Phone: 703 305-7470

RIN: 2070–AC58

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3377. • PESTICIDES; REVISION OF NOTIFICATION PROCEDURE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136a

CFR Citation: 40 CFR 152.44; 40 CFR 152.46

Legal Deadline: None

Abstract: This rule streamlines and accelerates the review of certain registration amendments by allowing EPA to notify registrants directly of types of registration amendments that may be accomplished through notification and non-notification. EPA believes this streamlining change will speed up the registration process while maintaining protection of the public health and the environment. The rule changes are procedural. The revised rule also clarifies when sale and distribution of a product changed by notification are permitted.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 3734.

Agency Contact: Jeff Kempter, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., 7505C, Washington DC 20460
Phone: 703 305-5448

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RIN: 2070–AC98

3378. • PESTICIDES; SELF-CERTIFICATION

Regulatory Plan: This entry is Seq. No. 120 in Part II of this issue of the **Federal Register**.

RIN: 2070–AD00

3379. • CROSS-CONTAMINATION OF PESTICIDE PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136a

CFR Citation: 40 CFR 158.167

Legal Deadline: None

Abstract: EPA is evaluating its current policy on allowable limits on cross-contamination of pesticide products. EPA's current policy is that any amount of a pesticide active ingredient in another pesticide product must be reported to EPA as part of the registration process. This zero tolerance is a problem in particular in the area of bulk repackaging of pesticides, because pesticide producers have difficulty in anticipating when when their product might be subject to cross-contamination as it moves from the production facility to bulk facilities. EPA is attempting to clarify situation in which the producer will be required to report cross-contamination. The expected output of this exercise will be clear guidance to the regulated community as to the levels of contamination that will be allowed for pesticides in other pesticide products. EPA is using a risk- based approach to determining acceptable levels of cross- contamination; the levels the Agency will establish, should in most cases, protect users and the environment from adverse effects. The adverse effect that can occur at the lowest levels in most cases phytotoxicity.

Timetable:

Action	Date	FR Cite
Final Action	01/01/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3739.

Agency Contact: Jim Jones, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7505W, 401 M St SW., Washington DC 20460
Phone: 703 308-8799
Fax: 703 308-8369

RIN: 2070–AD03

3380. REGULATION OF PLANT-PRODUCED PESTICIDES UNDER FIFRA AND FFDCA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136 et seq; 21 USC 346a et seq

CFR Citation: 40 CFR 152.20; 40 CFR 180; 40 CFR 174

Legal Deadline: None

Abstract: EPA will make clear that the substances that plants produce to protect themselves against pests and disease are pesticides under FIFRA. The Agency designates these substances along with the genetic material necessary to produce them, as "plant-pesticides." The Agency will clarify that the focus of EPA's regulation will be on these substances rather than on the plants that produce the pesticidal substance. The Agency will define the categories of plant-pesticides that would be regulated and those that would be exempt under FIFRA and FFDCA. For those plant-pesticides that would be subject to Agency requirements, the Agency will outline the process by which these pesticides will be regulated and the information that would be needed in the Agency's review.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60496
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2684.

Agency Contact: Bernice Slutsky, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW (7101), Washington, DC 20460
Phone: 202 260-6900

RIN: 2070–AC02

3381. PESTICIDE FLAMMABILITY LABELING REQUIREMENTS FOR TOTAL RELEASE FOGGERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136/FIFRA 2; 7 USC 136a/FIFRA 3

CFR Citation: 40 CFR 156.10

Legal Deadline: None

Abstract: This rule would require that pesticide total release foggers be labeled with additional flammability precautionary statements (including possibly a graphic symbol), and more precise use directions. Total release foggers have been implicated in a number of fires and explosions because of their flammable propellants. The labeling of these products has been determined to be inadequate to mitigate this potential hazard.

Timetable:

Action	Date	FR Cite
NPRM	04/15/94	59 FR 18058
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3135.

Agency Contact: Jim Downing, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7505W, Washington, DC 20460
Phone: 703 308-8641

RIN: 2070–AC60

3382. RESTRICTED USE CRITERIA FOR PESTICIDES IN GROUNDWATER

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136a /FIFRA 3

CFR Citation: 40 CFR 152.170

Legal Deadline: None

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Abstract: This rule amends the existing Restricted Use Classification (RUC) regulations to add criteria pertaining to pesticides' groundwater contamination potential. Restricted pesticides may only be used by trained and certified applicators. Once promulgated, criteria will serve as the basis for subsequent rule-making (RIN 2070-AC33) to actually classify selected pesticides.

Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 22076
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2371.

Agency Contact: Christine Gillis, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7501C, Washington, DC 20460
Phone: 703 305-5131

RIN: 2070–AB60

3383. WORKER PROTECTION STANDARDS; PESTICIDE HAZARD COMMUNICATION

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136w /FIFRA 25

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: This rule would require the provision of hazard information to agricultural workers covered by the Worker Protection Standard. The requirements as proposed were designed to be substantially equivalent to the Hazard Communication Standard promulgated by the Occupational Safety and Health Administration (OSHA). Specific hazard information would be made available to agricultural workers and pesticide handlers concerning the pesticides to which they are exposed.

Timetable:

Action	Date	FR Cite
NPRM	08/21/92	57 FR 38167
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 1640.

Agency Contact: Kevin Keaney, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7506c, Washington, DC 20460
Phone: 703 305-7666

RIN: 2070–AC34

3384. REPORTING REQUIREMENTS FOR RISK/BENEFIT INFORMATION (REVISION)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136d/FIFRA6

CFR Citation: 40 CFR 153; 40 CFR 159

Legal Deadline: None

Abstract: Section 6(a)(2) of FIFRA requires pesticide registrants to report to EPA additional factual information regarding unreasonable adverse effects of their products. By statutory definition, "unreasonable risk" includes risk and benefit information. In 1992 EPA proposed to revise its 1979 enforcement policy on section 6(a)(2) by expanding upon the types of information which must be reported. This final rule includes modifications to the 1992 proposals made by EPA in response to comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
Final Action Interpretive and Policy Rule	08/23/78	43 FR 37611
Final Action Enforcement Policy	07/12/79	44 FR 40716
Final Action Codified Interpretive Rule	09/20/85	50 FR 38115
NPRM	09/24/92	57 FR 44290
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2338.

Agency Contact: James V. Roelofs, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7501C, Washington, DC 20460
Phone: 703 305-7102

RIN: 2070–AB50

3385. POLICY OR PROCEDURES FOR NOTIFICATION TO THE AGENCY OF STORED PESTICIDES WITH CANCELLED OR SUSPENDED REGISTRATION

Priority: Other Significant

Legal Authority: 7 USC 136/FIFRA 6

CFR Citation: 40 CFR 168

Legal Deadline: None

Abstract: This policy will clarify the requirements of section 6(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The policy will provide procedures for certain persons who possess cancelled or suspended pesticides to notify the EPA and State and local officials of (1) such possessions; (2) the quantity possessed; and (3) the place the pesticide is stored.

Timetable:

Action	Date	FR Cite
NPRM	03/28/91	56 FR 13042
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 2720.

Agency Contact: David Stangel, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2225-A), Washington, DC 20460
Phone: 202 569-4162

RIN: 2070–AC08

3386. CLASSIFICATION OF CERTAIN PESTICIDES FOR RESTRICTED USE DUE TO GROUNDWATER CONCERNS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136a(d); 136i(e); 136j

CFR Citation: 40 CFR 152.170

Legal Deadline: None

Abstract: This rule will apply previously established criteria (see RIN 2070-AB60) to select pesticides for restricted use classification (RU) due to ground-water concerns. Once promulgated, classified pesticides will be restricted to use by trained and certified operators.

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Timetable:

Action	Date	FR Cite
NPRM	05/31/91	56 FR 22076
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2351.

Agency Contact: Chris Gillis, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7501C, Washington, DC 20460
Phone: 703 305-5131

RIN: 2070–AC33

3387. • EXCEPTIONS TO PESTICIDE WORKER PROTECTION STANDARD

Priority: Routine and Frequent

Legal Authority: 7 USC 136w

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: EPA administers an exceptions process for restricted entry intervals (REIs) under the pesticide Worker Protection Standard. Under this process, persons may request the Agency to modify the REIs for agricultural workers. REIs define the time after application of a pesticide before workers are allowed to reenter treated areas. EPA issues a notice of receipt of the petition in the Federal Register, and announces its decision in a Federal Register notice. TYpically requests for exception involve reducing the REI, and requesters submit information on the risks and benefits of the requested modification, with the objective of maintaining worker protection while allowing growers needed flexibility where REIs may have substantial impacts upon crop production needs or costs. Typically exceptions are time-limited. Currently the following exceptions are under review: Delaware exception for chlorothalonil on melons and squashes

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3732.

Agency Contact: Cathy Kronopolus, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW (7506C), Washington DC 20460
Phone: 703 305-7666
Fax: 703 308-2962

RIN: 2070–AC95

3388. • SCOPE AND CLARIFICATION OF THE WPS EXCEPTIONS PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(w)

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: The Scope and Clarification of the WPS Exceptions Process will involve will involve an analysis of the existing scope of the WPS exceptions process, an opportunity for public comment on the analysis, and consideration of whether the scope should be expanded. In addition, guidance will be issued to clarify the types of information needed for each individual exception request in order for the Agency to be able to make a risk/benefit decision.

Timetable:

Action	Date	FR Cite
Worker Protection Standard Exceptions Process		
Scope and Clarification Document	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3733.

Agency Contact: Michael Walsh, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW (7506C)
Phone: 703 305-7666
Fax: 703 308-2962

RIN: 2070–AC96

3389. PESTICIDE MANAGEMENT AND DISPOSAL

Priority: Other Significant

Legal Authority: 7 USC 136 et seq

CFR Citation: 40 CFR 165

Legal Deadline: None

Abstract: This action develops procedures for mandatory and voluntary recall actions under section 19(b) of FIFRA and would establish criteria for acceptable storage and disposal plans which registrants may submit to this Agency to become eligible for reimbursement of storage costs. This action establishes procedures for indemnification of owners of suspended and cancelled pesticides for disposal.

Timetable:

Action	Date	FR Cite
NPRM	05/05/93	58 FR 26856
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3432.

Agency Contact: David Stangel, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2225-A), Washington DC 20460
Phone: 202 569-4162

RIN: 2070–AC81

3390. REGULATORY RELIEF FOR LOW-RISK PESTICIDES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136w(b)/FIFRA 25(b)

CFR Citation: 40 CFR 152

Legal Deadline: None

Abstract: Pesticides which are substances or mixtures intended to control or mitigate pests, are regulated under FIFRA and are required to be registered prior to sale or distribution in the United States. Some pesticides may also be widely used in foods or for other non-pesticidal purposes. These pesticides are considered innocuous or are otherwise of a character that do not require registration. EPA proposes to exempt appropriate pesticides (to be cited in the proposal) from registration and develop criteria for future pesticides that may qualify for exemption from FIFRA requirements.

Timetable:

Action	Date	FR Cite
List of Other Pesticides and Criteria		
NPRM 09/15/94 (59 FR 47289)		
Final Action 10/00/95		

Small Entities Affected: None

Government Levels Affected: None

EPA—FIFRA — Final Rule Stage

Additional Information: SAN No. 3320.
Agency Contact: Robert Brennis, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 7505C, Washington, DC 20460
Phone: 703 305-7501
RIN: 2070–AC67

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Long-Term Actions
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3391. PESTICIDE TOLERANCES; PORTION OF FOOD COMMODITIES TO BE ANALYZED FOR PESTICIDE RESIDUES

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 180
Timetable:

Action	Date	FR Cite
NPRM	09/29/93	58 FR 50888
Final Action	00/00/00	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Jean Frane
Phone: 703 305-5944
RIN: 2070–AC45

3392. INTERPRETATION OF RAW AGRICULTURAL COMMODITY

Priority: Other
CFR Citation: 40 CFR 180.1; 40 CFR 180; 40 CFR 185
Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Jean Frane
Phone: 703 305-5944
RIN: 2070–AC54

3393. ENDANGERED SPECIES PROTECTION PROGRAM

Priority: Economically Significant
CFR Citation: Not yet determined
Timetable:

Action	Date	FR Cite
Proposed Notice	07/03/89	54 FR 27984
Final Notice	00/00/00	

Small Entities Affected: Businesses
Government Levels Affected: State, Federal
Agency Contact: Larry Turner
Phone: 703 305-5007
RIN: 2070–AC42

3394. PESTICIDE MANAGEMENT AND DISPOSAL: STANDARDS FOR PESTICIDE CONTAINERS AND CONTAINMENT

Priority: Other Significant
CFR Citation: 40 CFR 165; 40 CFR 156
Timetable:

Action	Date	FR Cite
NPRM (Container Design, Residue Removal, Bulk Containment)	02/11/94	59 FR 6712
Final Action	10/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions
Government Levels Affected: State, Local, Federal
Agency Contact: Janice Jensen
Phone: 703 305-7706
RIN: 2070–AB95

3395. CHILD-RESISTANT PACKAGING REGULATIONS (REVISION)

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 157
Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses
Government Levels Affected: None
Agency Contact: Rosalind L. Gross
Phone: 703 308-8354
RIN: 2070–AB96

3396. • PESTICIDE EXPORT POLICY

Priority: Other Significant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
Legal Authority: 7 USC 136f/FIFRA 25; 7 USC 136o; 7 USC 136w
CFR Citation: 40 CFR 168; 40 CFR 169
Legal Deadline: None

Abstract: EPA is considering revisions to its pesticide export policy. EPA believes that certain modifications are necessary because (1) EPA's current policy has resulted in too many export notices on pesticides of little or no concern to other governments; (2) the increasing numbers of export notices undermines the effectiveness of the international Prior Informed Consent (PIC) procedures, an international information and exchange and chemical management program developed by the Food and Agriculture Organizations and the United National Environment Programme (UNEP); (3) the costs of implementing the existing program on the U.S. government, other governments, and industry, should be reduced. EPA is considering several revisions: (1) Exempting certain products, through a FIFRA section 25(b) rule, from the foreign purchaser acknowledgement statement requirement. (2) Requiring exporters of registered pesticides on the U.S. and international PIC lists to submit export notices. (3) Changing the content of the notices and the manner and frequency of transmission. EPA is also considering integration of its pesticide export program with other export notification schemes, i.e., its export requirements under the Toxic Substances Control Act, the international Prior Informed Consent Procedures, and the export notification program of the European Union.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/97	

Small Entities Affected: Businesses
Government Levels Affected: None
Analysis: Regulatory Flexibility Analysis
Additional Information: SAN No. 3736.
Agency Contact: Deborah J. Hartman, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW., 7501C, Washington DC 20460
Phone: 703 305-7100
Fax: 703 305-6244
Email: hartman.deborah@epamail.epa.gov
RIN: 2070–AD02

EPA—FIFRA — Long-Term Actions

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3397. PESTICIDE WORKER PROTECTION STANDARD; TRAINING PROVISIONS FOR WORKERS

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 170
Completed:

Reason	Date	FR Cite
Final Action	05/03/95	60 FR 21944

Small Entities Affected: Businesses
Government Levels Affected: State, Federal
Agency Contact: Jeanne Heying
Phone: 703 305-7164
RIN: 2070–AC69

3398. WORKER PROTECTION STANDARD: REVISION OF CROP ADVISOR REQUIREMENTS

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 170
Completed:

Reason	Date	FR Cite
Final Action	05/03/95	60 FR 21948

Small Entities Affected: Businesses
Government Levels Affected: State, Federal
Agency Contact: Donald Eckerman
Phone: 703 305-5062
RIN: 2070–AC82

3399. PROCEDURES TO MAKE RESTRICTED USE PESTICIDES AVAILABLE TO NONCERTIFIED PERSONS FOR USE BY CERTIFIED APPLICATORS

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 171
Completed:

Reason	Date	FR Cite
Withdrawn	09/20/95	

Small Entities Affected: Businesses
Government Levels Affected: State, Federal
Agency Contact: Robert Bielarski
Phone: 703 305-7371
RIN: 2070–AB48

3400. CERTIFICATION OF PESTICIDE APPLICATORS (REVISION)

Priority: Other Significant
CFR Citation: 40 CFR 171
Completed:

Reason	Date	FR Cite
Withdrawn	09/20/95	

Small Entities Affected: Businesses, Governmental Jurisdictions
Government Levels Affected: State, Tribal, Federal
Agency Contact: John MacDonald
Phone: 703 305-7370
RIN: 2070–AB75

3401. REVISION TO CROP GROUPING REGULATIONS

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 180
Completed:

Reason	Date	FR Cite
Final Action	05/17/95	60 FR 26626

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Hoyt Jamerson
Phone: 703 308-8783
RIN: 2070–AC52

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage
Toxic Substances Control Act (TSCA)

3402 TSCA CHEMICAL USE INVENTORY PROJECT

Priority: Other Significant
Legal Authority: 15 USC 2607(a)
CFR Citation: 40 CFR 710
Legal Deadline: None

Abstract: This action would require chemical manufacturers to report to EPA the industrial and consumer end uses of chemicals they produce. Currently, EPA requires chemical manufacturers to report the names of the chemicals they produce, as well as the locations of manufacturing facilities and the quantities produced. About 4,000 facilities reported data on about 8,000 unique chemicals during the last reporting cycle under the TSCA Inventory Update Rule (IUR). Data obtained would be used by EPA and others to: Better understand the potential for chemical exposures and then screen the chemicals now in commerce and identify those of highest concern; Establish priorities and goals for their chemical assessment, risk management and prevention programs and monitor their progress; Encourage pollution prevention by identifying potentially safer substitute chemicals for uses of potential concern; and Enhance the effectiveness of chemical risk communication efforts. EPA has held meetings with representatives of the chemical industry, environmental groups, environmental justice leaders, labor groups, State governments and other Federal agencies to insure public involvement in the (cont.) of the Chemical Use Inventory project.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined
Government Levels Affected: Undetermined
Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3301.

of the Chemical Use Inventory project. EPA plans to hold additional meetings with stakeholders to further discuss technical issues associated with the development of a chemical use inventory.

Agency Contact: Ward Penberthy, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., Washington, DC 20460
Phone: 202 260-1664

RIN: 2070–AC61

3403. FACILITY COVERAGE AMENDMENT; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Regulatory Plan: This entry is Seq. No. 103 in Part II of this issue of the **Federal Register**.

RIN: 2070–AC71

3404. DELETION OF ISOPROPYL ALCOHOL; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 11013/EPCRA 313

CFR Citation: 40 CFR 372.65

Legal Deadline: None

Abstract: Isopropyl alcohol (IPA) itself does not meet the toxicity criteria for listing on the Toxic Release Inventory (TRI). It is the strong acid process itself which is associated with an increased cancer incidence. The proposed action would remove IPA from the list of chemicals for which reporting is required under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313. Because IPA is not manufactured by the strong-acid process and thus there are no releases of IPA reportable under section 313, deletion of IPA from the list would eliminate erroneous IPA reports.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3388.

Agency Contact: Susan B. Hazen, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., Washington DC 20460
Phone: 202 260-1024

RIN: 2070–AC77

3405. RESPONSES TO PETITIONS RECEIVED TO ADD TO OR DELETE CHEMICALS FROM THE LIST OF TOXIC CHEMICALS SUBJECT TO TOXIC RELEASE REPORTING UNDER EPCRA SECTION 313

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 11013/SARA (EPCRA) 313

CFR Citation: 40 CFR 372

Legal Deadline: Other, Statutory, 00/00/00.
Within 180 days of receipt of these petitions, the Agency must either initiate rulemaking or provide an explanation in the Federal Register for the denial.

Abstract: These actions grant or deny petitions received to add or delete chemicals from the list of toxic chemicals under Section 313 of the Emergency Planning and Community Right to Know Act, EPCRA. The actions cover individual chemicals or groups of chemicals for which petitions have been received.

Timetable:

Acetone (delete)
NPRM 09/30/94 (59 FR 49888)
Final 06/16/95 (60 FR 31643)
Alloys–Chromium, Nickel, and Copper in Alloys (modify)
Response 06/00/96
Ammonium Sulfate/Ammonia (delete/modify)
NPRM 03/30/90 (55 FR 12144)
Final 06/30/95 (60 FR 34172)
Copper Pigments (delete)
NPRM 06/06/94 (59 FR 29252)
Final 04/11/95 (60 FR 18361)
Di(2-ethylhexyl) Adipate (DEHA) (delete)
Response 08/01/95 (60 FR 39132)
Diethylphthlate (delete)
Response 11/00/95
Ethylene Glycol (delete)
Response 11/00/95
Hydrochloric Acid (modify)
Response 11/00/95
Manganese in Slags (delete)
Response (denial) 08/25/95
Metallic Copper (modify)
Response 02/00/96
Monosodium and disodium arsenate (delete)
Response (denial) 04/20/95 (60 FR 19702)
Phosphates and Phosphorous Acid
NPRM 06/00/96
Polymeric Diphenylmethane Diisocyanate
Response 02/00/96
Sulfuric Acid
NPRM 07/26/91 (56 FR 34156)
Final 06/30/95 (60 FR 34182)
Zinc Oxide (delete)
Response 11/00/95

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2425.

Note regarding the reinventing government effort: The following actions are not part of the reinventing government effort: Manganese in Slags (denial), Monosodium and Disodium Arsenate (denial), Zinc Oxide, Polymeric Diphenylmethane Diisocyanate, and Metallic Copper.

Agency Contact: Susan B. Hazen, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW (7408), Washington, DC 20460
Phone: 202 260-1024

RIN: 2070–AC00

3406. LEAD HAZARD STANDARDS

Priority: Other Significant

Legal Authority: 15 USC 2683

CFR Citation: 40 CFR 745

Legal Deadline: Final, Statutory, April 28, 1994.

Abstract: The Residential Lead-Based Paint Hazard Reduction Act of 1992 requires EPA to promulgate regulations which identify lead-based paint hazards, lead-contaminated soil, and lead-contaminated dust. EPA is to identify the paint conditions and lead levels in dust and soil that would result in adverse human health effects. On July 14, 1994, EPA issued guidance on this topic to provide information while a proposal is being developed.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	09/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3243.

Previously listed under RIN 2070-AC53.

Agency Contact: Doreen Cantor, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., Washington DC 20460
Phone: 202 260-1777

RIN: 2070–AC63

3407. DEVELOPMENT OF GUIDANCE AS MANDATED BY EXECUTIVE ORDER 12873, SECTION 503 ON "ENVIRONMENTALLY PREFERABLE PRODUCTS"

Priority: Other Significant

Legal Authority: EO 12873

CFR Citation: None

Legal Deadline: None
EO requests proposal by April 18, 1994.

Abstract: As mandated by Executive Order 12873, OPPTS is developing guidance to direct Federal agencies in their procurement of "Environmentally Preferable Products."

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3480.

Agency Contact: Eun-Sook Goidel, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., Washington, DC 20460
Phone: 202 260-3296

RIN: 2070–AC78

3408. • CFR REGULATORY REVIEW RELATED INITIATIVES

Regulatory Plan: This entry is Seq. No. 104 in Part II of this issue of the **Federal Register**.

RIN: 2070–AC97

3409. PROPOSED DECISIONS ON TEST RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: Other, Statutory, 00/00/00.
NPRM must be published within one year of ITC designation.

Abstract: EPA is proposing to require testing, or will obtain testing through negotiated enforceable consent agreements (ECAs) or publish a notice which provides the reasons for not doing so. These chemicals have been designated for priority testing consideration by the ITC, recommended for testing consideration (for which the 12-month statutory requirement does not apply), or they have been identified for testing consideration by other EPA program offices and through EPA review processes.

Timetable:

IRIS II Chemicals (ITC List 28)
NPRM 06/00/96
OSHA Chemicals with Insuf. Skin Absorption Data (ITC List 32)
NPRM or ECA 03/00/96
OSHA Chemicals with No Skin Absorption Data (ITC List 31)
NPRM or ECA 03/00/96
OSHA Chemicals with No Skin Absorption Data (ITC List 35)
NPRM or ECA 03/00/96

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3494.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AB07

3410. ATSDR SUBSTANCES TEST RULE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603/TSCA 4; 42 USC 9604(i)/CERCLA 104(i)

CFR Citation: 40 CFR 795 to 799

Legal Deadline: None

Abstract: EPA is using its authority under TSCA section 4 to require health effects testing on 11 chemical substances to fulfill data needs identified by the Agency for Toxic Substances and Disease Registry (ATSDR), the National Toxicology Program (NTP) and EPA pursuant to CERCLA section 104(i). ATSDR is charged with developing "Toxicological Profiles" for hazardous substances most commonly found at Superfund NPL sites and which pose a significant potential threat to health. This involves identifying data gaps and needs, and developing a testing program to meet identified needs. ATSDR's data needs were reviewed by NTP and EPA to avoid duplicative testing. Other Federal agencies were given an opportunity to indicate their interest in testing specific endpoints for chemicals on the list.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2563.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AB79

3411. MULTI-CHEMICAL ENDPOINT(S) TEST RULE; DEVELOPMENTAL AND REPRODUCTIVE TOXICITY, AND NEUROTOXICITY

Priority: Other Significant

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799.5050

Legal Deadline: None

Abstract: A multi-chemical endpoint test rule will require the testing of many chemicals for a specific effect or endpoint, e.g., neurotoxicity. This type of rule is an alternative to single chemical rules which require testing of one chemical for many effects. The multi-chemical endpoint rule approach will obtain a significant amount of testing while conserving on Agency resources. The multi-chemical rule for

developmental and reproductive toxicity testing will require testing of twelve chemicals for developmental and/or reproductive effects; the multi-chemical rule for neurotoxicity testing will obtain base set neurotoxicity testing of certain production solvents. These rules may be amended in the future to require the same testing for other chemicals. Also, future multi-chemical rules will require testing of additional endpoints and chemicals. The testing requirements for each chemical in a multi-chemical rule will be listed in a single table by chemical under section 799.5050. This table will be amended with each publication of a new multi-chemical rule.

Timetable:

Multi-Chemical Rule for Developmental and Reproductive Toxicity
NPRM 03/04/91 (56 FR 9092)
Reproposal 06/00/96
Multi-Chemical Rule for Neurotoxicity
Stay 06/27/94 (59 FR 33184)
ECA (for 7 Substances) 01/23/95 (60 FR 4[illegible]15)
Final Revocation 01/23/95 (60 FR 4514)

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2865.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AC27

3412. MULTICHEMICAL ENDPOINT TEST RULE; CHEMICAL FATE AND ENVIRONMENTAL EFFECTS

Priority: Other Significant

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799.5055

Legal Deadline: None

Abstract: Multi-chemical endpoint test rules require the testing of many chemicals for a specific effect or endpoint, e.g., chemical fate and environmental effects (formerly identified in this Agenda as "persistent bioaccumulators") . They are an alternative to single chemical rules which require testing of one chemical for many effects. A multi-chemical endpoint rule for chemical fate and environmental effects will include chemicals that EPA expects will persist and bioaccumulate in the environment. In the past, chemicals such as dioxins, dichlorodiphenyltrichloroethane, and the polychlorinated biphenyls that persist (do not degrade), bioaccumulate (may enter the human food chain), and may be toxic have created widespread environmental concerns. EPA has evaluated chemicals on the Toxic Sub stances Control Act (TSCA) inventory for these characteristics and has identified chemicals for chemical fate and environmental effects testing for additional evaluation of their potential risks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2865.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AC36

3413. HAZARDOUS AIR POLLUTANTS TEST RULE

Priority: Other Significant

Legal Authority: 15 USC 2603;/TSCA 4; 42 USC 7412, 7403;/CAA 112 & 103

CFR Citation: 40 CFR 789 to 795

Legal Deadline: None
Section 112 of the CAA indirectly imposes deadlines on this test rule, inasmuch as the test data is needed to carry out programs and activities that have statutory deadlines.

Abstract: A multi-chemical endpoint test rule will require the testing of many chemicals for a specific effect or endpoint. This type of rule is an alternative to single chemical rules which require testing of one chemical for many effects. The multi-chemical endpoint rule approach will obtain testing while conserving Agency resources. EPA is proposing health effects testing under TSCA section 4 in support of programs and activities required under section 112 of the Clean Air Act (CAA), governing Hazardous Air Pollutants (HAPs). Section 112 of the CAA directs EPA to determine the risk to health and the environment remaining after application of a technology-based standard to major and area sources. Section 112 also sets forth a mechanism for revising and modifying the statutory list of 189 HAPs under section 112(b), requirements for an accidental release control program, requirements for an urban air toxics program, a mechanism for ranking of hazards for offsets, and requirements for Great Waters studies. In order to implement these and other programs and requirements under section 112, EPA must identify the health and environmental effects of potential concern from exposure to HAPs, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs. In addition, under section 103(d), EPA is required to conduct a research program on the short- and long-term effects of air pollutants on human health.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3504.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AC76

3414. FOLLOW-UP RULES ON EXISTING CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2604/TSCA 5; 15 USC 2607/TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has established a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support planned or ongoing risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 8 to require reporting of appropriate needed information by the manufacturers, importers and/or processors of these chemicals. Individual proposed or final rules will be published on at least the chemicals listed below.

Timetable:

Benzidene-based Chemical Substances
NPRM 08/30/95 (60 FR 45119)
Chloranil
NPRM 05/12/93 (58 FR 27980)
Final Action 06/00/96
Heavy Metal-Based Pigments in Aerosol Spray Paints
NPRM 06/00/96
2-Ethoxyethanol, 2-Methoxyethanol, & 2-methoxyethanol Acetate
NPRM 04/00/96
2,4-Pentanedione
NPRM 09/27/89 (54 FR 39548)
Final Action 04/00/96

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 1923.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., 401 M St. SW., Washington DC 20024
Phone: 202 260-8130

RIN: 2070–AA58

3415. NEGOTIATED CONSENT ORDER AND TEST RULE PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 790

Legal Deadline: None

Abstract: This action will amend the testing consent order and test rule development process to increase efficiency. The consent order process was adopted by the Agency in June 1986. Based on experience to date, the Agency needs to make changes in the process to reduce the resources required for consent order negotiation. This rule would propose appropriate procedural changes. Obsolete provisions will be eliminated for test rule development activities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/85	50 FR 20652
Interim Final Rule	06/30/86	51 FR 23706
Interim Final Rule (Technical Modification)	09/01/89	54 FR 36311
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2245.
Includes SAN No. 2657.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AB30

3416. AMENDMENTS TO THE ASBESTOS-CONTAINING MATERIALS IN SCHOOLS RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605; 2607(c); 2647

CFR Citation: 40 CFR 763 subpart E

Legal Deadline: None

Abstract: EPA is proposing to amend the Asbestos-Containing Materials in Schools Rule in order to provide clarifications regarding several definitions, air clearance monitoring techniques, and response actions. For the first time, this rulemaking will be chaired by an EPA Regional office.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3047.

Agency Contact: Brion Cook, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., Washington DC 20460
Phone: 202 260-1878

RIN: 2070–AC62

3417. NOTICE OF TSCA SECTION 4 REIMBURSEMENT PERIOD AND TSCA SECTION 12(B) EXPORT NOTIFICATION PERIOD SUNSET DATES FOR TSCA SECTION 4 SUBSTANCES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2603 and 2611

CFR Citation: 40 CFR 707; 40 CFR 790; 40 CFR 791; 40 CFR 799

Legal Deadline: None

Abstract: EPA is developing a list of substances that are or have been subject to TSCA section 4 testing action regarding which required testing under rules or Enforceable Consent Orders have been completed. EPA will identify sunset, or termination dates that will identify:

(1) The end of section 4 reporting requirements (40 CFR 790)

(2) The end of the reimbursement period under which persons subject to test rules are subject to an obligation to reimburse test sponsors (40 CFR 791)

(3) The end of the period during which export notification requirements under TSCA section 12(b) are triggered.

Additionally, the notice will solicit comment on the method used by EPA to calculate the sunset dates for multi-chemical test rules.

Timetable:

Action	Date	FR Cite
Solicitation	11/00/95	
Final Action	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3559.

Agency Contact: Frank D. Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE.
Phone: 202 260-8130

RIN: 2070–AC84

EPA—TSCA — Proposed Rule Stage

3418. LEAD-BASED PAINT ACTIVITIES, TRAINING, AND CERTIFICATION: RENOVATION AND REMODELING

Priority: Economically Significant

Legal Authority: PL 102-550, sec 402(c)(3)

CFR Citation: 40 CFR 745

Legal Deadline: Final, Statutory, October 1996.

Abstract: Under TSCA title IV, section 402(c)(2) EPA is currently conducting a study to determine whether the activities of individuals engaged in renovation and remodeling activities result in lead exposure levels that may affect the health of workers, building occupants or the environment is at risk, the Agency must proceed to develop regulations under Section 402(c)(3). These regulations would require that individuals engaged in renovation and remodeling activities acquire training and obtain certification. These training and certification requirements would be similar to those that the Agency is developing for individuals performing lead-based paint abatement under Section 402(a) of TSCA, Title IV.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3557.

Agency Contact: Brion Cook, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE. Phone: 202 260-1878

RIN: 2070–AC83

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Toxic Substances Control Act (TSCA)

3419. CHEMICAL LIST EXPANSION; EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT SECTION 313

Priority: Other Significant

Legal Authority: 42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076/EPCRA 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The original Toxics Release Inventory (TRI) chemical list consisted of 320 chemicals and chemical categories. In an effort to provide the public with a broader picture of chemicals that will have to submit information for the Toxics Release Inventory in their communities, EPA is expanding the original TRI chemical list. On January 12, 1994 (59 FR 1788), EPA published a proposed rule to add 313 chemicals and chemical categories to the TRI chemical list. Of the 313 chemicals and chemical categories proposed, there are approximately 160 pesticide active ingredients. The chemicals and chemical categories being proposed were selected from numerous other regulatory lists and meet the criteria for human health and environmental toxicity and in addition are extremely toxic to aquatic organisms, EPCRA section 313(d)(2). In addition, the chemicals passed a production volume screen to ensure that reports would be received if the substance is added to the TRI chemical list. Part of this activity included the review of 17 chemicals, previously described in RIN 2070-AC40, 16 of which are from a list of hazardous air pollutants subject to the requirements of the Clean Air Act Amendments of 1990, and one of which was considered for addition due to its extreme aquatic toxicity. Of these 17 chemicals, nine were included in the proposed rule. Linked to this rule is a possible small-source exemption that will provide some measure of relief to the reporting community. This exemption will allow facilities releasing small amounts of listed chemicals to be exempt from full TRI reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/12/94	59 FR 1788
Final Rule	11/30/94	59 FR 61432
Final Action Deferred Chemicals	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3007.

Agency Contact: Susan B. Hazen, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M ST SW (7408), Washington, DC 20460 Phone: 202 260-1024

RIN: 2070–AC47

3420. LEAD-BASED PAINT HAZARD INFORMATION REQUIREMENTS AT THE TRANSFER OF TARGET HOUSING (SECTION 1018); JOINT RULE WITH THE DEPT. OF HUD

Priority: Other Significant

Legal Authority: PL 102-550, sec 1018

CFR Citation: 40 CFR 745; 24 CFR 35

Legal Deadline: Final, Statutory, October 28, 1994.

Abstract: This is a joint HUD/EPA regulation requiring the following before the sale or lease of pre-1978 housing: (1) disclosure of lead-based paint hazards, (2) provisions of a lead paint information brochure to the prospective buyer or renter and for buyers, (3) the opportunity to conduct a lead risk assessment or inspection.

Timetable:

Action	Date	FR Cite
NPRM	11/02/94	59 FR 54984
Final Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3499.

Agency Contact: Doreen Cantor, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, (7404), Washington, DC 20460 Phone: 202 260-1777

RIN: 2070–AC75

EPA—TSCA — Final Rule Stage

3421. LEAD-BASED PAINT ACTIVITIES RULES; TRAINING, ACCREDITATION, AND CERTIFICATION RULE AND MODEL STATE PLAN RULE

Priority: Economically Significant

Legal Authority: PL 102-550, sec 402; PL 102-550, sec 404; Title IV of TSCA

CFR Citation: 40 CFR 745

Legal Deadline: Final, Statutory, April 28, 1994.

Abstract: The Residential Lead-based Paint Hazard Reduction Act of 1992 mandates EPA to promulgate regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that contractors engaged in such activities are certified. In addition, EPA must promulgate a Model State program which may be adopted by any State which seeks to administer and enforce a State Program.

Timetable:

Action	Date	FR Cite
NPRM	09/02/94	59 FR 45872
Final Action	10/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3244.

Agency Contact: Brion Cook, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., Washington DC 20460 Phone: 202 260-1878

RIN: 2070–AC64

3422. LEAD-BASED PAINT DISCLOSURE REQUIREMENTS AT RENOVATION OF TARGET HOUSING

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-550, sec 406

CFR Citation: 40 CFR 745; 24 CFR 35

Legal Deadline: Final, Statutory, October 28, 1994.

Abstract: Section 406 of the Residential Lead-based Paint Hazard Reduction Act of 1992 requires EPA to develop two products: (1) a lead hazard information pamphlet, to be developed in consultation with HUD and CDC; and (2) an EPA regulation requiring renovators to provide the information pamphlet to clients before beginning work.

Timetable:

Action	Date	FR Cite
NPRM	03/02/94	59 FR 11108
Final Action	12/00/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3242.

Agency Contact: Doreen Cantor, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., Washington DC 20460 Phone: 202 260-1777

RIN: 2070–AC65

3423. AMENDMENTS TO THE ASBESTOS WORKER PROTECTION RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605; 15 USC 2607(c)

CFR Citation: 40 CFR 763 subpart G

Legal Deadline: None

Abstract: EPA is proposing to amend the Asbestos Abatement Projects, Worker Protection Rule (WPR), by incorporating certain revisions to the Occupational Safety and Health Administration (OSHA) asbestos workplace standards issued since EPA's WPR was promulgated in 1987. The proposal would generally extend the coverage provided under the OSHA Asbestos Standard for Construction to State and local government employees who are not covered by OSHA or EPA-approved State plans. It would also extend coverage provided under OSHA's Asbestos Standard for general industry for brake and clutch repair to such employees, and would clarify that they include prisoners and students employed by the State and/or local government. EPA also proposes to delegate authority to grant or deny State exclusions under the WPR to EPA Regional Administrators and to add compliance and enforcement requirements for State exclusions. In addition, EPA is proposing to amend the Asbestos-Containing Materials in Schools Rule by relocating certain worker protection provisions in the WPR. EPA plans to further update this rule to make it consistent with the most recent OSHA rule.

Timetable:

Action	Date	FR Cite
NPRM	11/01/94	59 FR 54746
Final Action	06/00/96	
NPRM (2)	12/00/96	
Final Action (2)	12/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2249.

Agency Contact: Doreen Cantor, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., Washington DC 20460 Phone: 202 260-1777

RIN: 2070–AC66

3424. TSCA REQUIREMENTS FOR THE DISPOSAL OF LEAD-BASED PAINT ABATEMENT WASTE

Priority: Economically Significant

Legal Authority: 15 USC 2601 to 2671; 42 USC 6901 to 6992

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: Currently, waste derived from lead-based paint (LBP) abatements is managed under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. Other Federal agencies (Department of Housing and Urban Development, Department of Human Health Services) and several states and advocacy groups have expressed concern that the costs associated with the disposal of large volume architectural components (e.g., doors and windows) may interfere with abatement activities. EPA's Office of Prevention, Pesticides and Toxic Substances and the Office of Solid

Waste have initiated a joint rulemaking to address the disposal of these architectural components. This rulemaking would develop disposal standards for these components under the Toxic Substances Control Act (TSCA) Title IV, (the definition of abatement under TSCA Title IV, section 401(1)(B), includes disposal). The TSCA regulations would establish appropriate disposal standards for LBP architectural components and identify recycling and incineration activities that would be controlled or prohibited.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3508.

Agency Contact: Brion Cook, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., Washington DC 20024
Phone: 202 260-1878

RIN: 2070–AC72

3425. • SELECTED RULEMAKINGS FOR ABATING LEAD HAZARDS

Regulatory Plan: This entry is Seq. No. 121 in Part II of this issue of the Federal Register.

RIN: 2070–AD06

3426. FINAL DECISIONS ON TEST RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: EPA is requiring testing via rules, or will obtain testing through enforceable consent agreements (ECAs) or publish a notice which provides the reasons for not doing so for chemicals listed herein. These chemicals have been designated for priority testing consideration by the ITC or recommended for testing consideration (for which the 12-month statutory requirement does not apply). The list also includes chemicals or categories of chemicals which have been identified for testing consideration by other EPA offices and through EPA review processes.

Timetable:

Action	Date	FR Cite
Alkyl (C 12-C 14) Glycidyl Ethers		
ECA	12/00/95	
Aryl Phosphates (ITC List 2)		
ANPRM	12/29/83	(48 FR 57452)
NPRM	01/17/92	(57 FR 2138)
Final Action (ECA)	03/00/96	
Brominated Flame Retardants		
NPRM	06/25/91	(56 FR 29140)
Final Action (ECA)	06/00/96	
DiBbasic Esters (CPSC)		
Final Action (ECA)	06/00/96	
Hexamethylene Diisoyanate (ITC List 22)		
NPRM	05/17/89	(54 FR 21240)
Final Action	06/00/96	
IRIS I Chemicals (ITC List 27)		
Final Action	06/00/96	
Mesityl Oxide		
Withdrawal of Test Rule	03/00/96	
Silicon-Based Glycidyl Ethers		
FINAL Action (ECA)	06/00/96	
TAME (OAR Request)		
Final Action (ECA)	03/21/95	(60 FR 14910)
White Phosphorus (ITC List 34)		
Final Action (ECA)	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3493.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AB94

3427. FOLLOW-UP RULES ON NON-5(E) NEW CHEMICAL SUBSTANCES

Priority: Routine and Frequent

Legal Authority: 15 USC 2604/TSCA 5; 15 USC 2607/TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to regulate the commercial development of new chemicals that have completed premanufacture notice (PMN) review, where activities described in the PMN did not present an unreasonable risk but uncontrolled manufacture, import, processing, distribution, use, or disposal outside the activities described in the PMN may present an unreasonable risk. EPA will issue Significant New Use Rules (SNURs) requiring 90-day notification to EPA from any manufacturer, importer, or processor who would engage in activities that are designated as significant new uses. Under the Expedited Follow-up Rule (EFUR) which became effective on October 12, 1989, EPA will identify such new chemicals and publish them in a batch SNUR 3-4 times per year. Chemicals that were subject to a proposed SNUR before the effective date of the EFUR or do not qualify under the EFUR, may be regulated individually by notice and comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
Alkyl, Sulfonic Acid, Ammonium Salt (84-1056)		
NPRM	06/11/86	(51 FR 21199)
Final Action	12/00/95	
Aluminum Cross-linked Sodium Carboxymethylcellulose		
NPRM	06/11/93	(58 FR 32628)
Final Action	12/00/95	
Diphenyl-2,4,6-Trimethylbenzol Phosphine Oxide (87-586)		
NPRM	02/02/88	(53 FR 2857)
Final Action	12/00/95	
1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)		
NPRM	12/08/87	(52 FR 46496)
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 1976.

Agency Contact: James Alwood, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., 401 M St SW., Washington DC 20024
Phone: 202 260-1857

RIN: 2070–AA59

3428. CHEMICAL-SPECIFIC SIGNIFICANT NEW USE RULES (SNURS) TO EXTEND PROVISIONS OF SECTION 5(E) ORDERS

Priority: Routine and Frequent

Legal Authority: 15 USC 2604/TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: When the Agency determines that uncontrolled manufacture, import, processing, distribution, use or disposal of a premanufacture notification notice (PMN) substance may present an unreasonable risk, it may issue a section 5(e) consent order to limit these activities. However, such orders apply only to the PMN submitter. Once the new substance is entered on the Toxic Substances Control Act (TSCA) chemical inventory, others can manufacture, import or process the substance without controls. Therefore, EPA extends the controls to apply to others by designating manufacture, import or processing of the substances for uses without the specified controls as significant new uses. Under the Expedited Follow-Up Rule, which became effective on October 10, 1989 (54 FR 31314), EPA routinely publishes batch SNURs containing routine section 5(e) and non-5(e) SNURs. However, certain activities, such as modifications, withdrawals, revocations, and SNURs upon which comments are received in the direct final publication process, are subject to notice and comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
Aromatic Amino Ether (P90-1840)		
NPRM	06/06/94	(59 FR 29255)
Final Action	12/00/95	
Batch SNUR: 84-660/-704, 84-105/-106 & -107, 85-433		
NPRM	05/27/93	(58 FR 30744)
Final Action	12/00/95	
Polyalkylene Polyamine		
NPRM	12/19/94	(59 FR 65248)
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3495.

Agency Contact: James Alwood, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW (7405), Washington, DC 20460
Phone: 202 260-1857

RIN: 2070–AB27

3429. GENERIC SIGNIFICANT NEW USE RULE (SNUR) FOR ACRYLATE COMPOUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2694/TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: The generic acrylate significant new use rule may require any person who proposes to manufacture, import, or process an acrylate/methacrylate subject to the category definition contained within the proposed rule to notify EPA at least 90 days in advance of the initiation of manufacture or processing for a significant new use. The significant new use rule will apply to a subset of acrylates added to the inventory after the effective date of the rule. It will no longer be necessary to issue routine 5(e) orders or chemical specific SNURs for those acrylates covered by the rule.

Timetable:

Action	Date	FR Cite
NPRM	11/22/93	58 FR 61649
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 2247.

Agency Contact: James Alwood, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St. SW (7405), Washington, DC 20460
Phone: 202 260-1857

RIN: 2070–AB56

3430. RULEMAKING CONCERNING CERTAIN MICROBIAL PRODUCTS ("BIOTECHNOLOGY") UNDER THE TOXIC SUBSTANCES CONTROL ACT (TSCA)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2604/TSCA 5

CFR Citation: 40 CFR 700; 40 CFR 720; 40 CFR 721

Legal Deadline: None

Abstract: EPA is proposing a regulation under the Toxic Substances Control Act (TSCA) for the oversight of certain microbial products of biotechnology. The proposed rule would be issued under the authority of Section 5 of TSCA, which generally requires that new chemical substances must be reviewed by EPA before they are introduced into commerce.

The proposed rule will contain mechanisms for exemption as well as actual proposed exemptions, guidance on how the TSCA Inventory will be used, and EPA's approach to Research and Development with biotechnology microorganisms.

Timetable:

Action	Date	FR Cite
NPRM	09/01/94	59 FR 45526
Final Action	06/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2326.

(PMN for Certain Biotech Products)

Agency Contact: Paul Campanella, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW (7405), Washington, DC 20460
Phone: 202 260-3725

RIN: 2070–AB61

3431. POLYCHLORINATED BIPHENYLS (PCBS): APPLICATIONS FOR EXEMPTIONS FROM THE BAN ON MANUFACTURING, PROCESSING, AND DISTRIBUTION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2605TSCA 6(e)(3)(B)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA) provides that the Administrator may grant, by rule, exemptions from the prohibitions on the manufacturing, processing, and distribution in commerce of PCBs upon finding: 1) that granting the exemption will not pose an unreasonable risk of injury to health or the environment; and 2) that good faith efforts have been made to develop a PCB substitute which does not pose an unreasonable risk of injury to health or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/06/94	59 FR 62875
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2150.

Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW; (7404), Washington, DC 20460
Phone: 202 260-3933

RIN: 2070–AB20

3432. POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL AMENDMENTS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605(e)(1)(A)/TSCA 6(e)

CFR Citation: 40 CFR 761, subparts C, D, E, G

Legal Deadline: None

Abstract: The ANPRM solicited comments on alternate disposal methods for non-liquid PCBs and invites public input on modifications to the PCB disposal regulations. In February 1990, several parties petitioned EPA under Section 21 of TSCA to amend the regulations at 40 CFR 761, which govern the disposal of PCBs, and issue an interpretive rule or declaratory order construing the existing PCB disposal regulations. In responding to the petition, EPA agreed to initiate a regulatory investigation to determine whether or not to amend the disposal regulations. After analyzing the comments received in response to the ANPRM, a proposed rule was drafted to address alternative disposal methods for newly identified scenarios such as large volume solids; mixed wastes such as PCB/radioactive wastes; and other issues, such as disposal of household wastes, small capacitors, and used paints. This notice solicited comments on a modification to the disposal regulations which would allow for the recognition of PCB waste management activities under other Federal or State authorities. After analyzing comments received in response to the NPRM, a final rule will be drafted promulgating more than 50 changes, additions and deletions to the current regulations. Finally, this rule incorporates a reproposal of the April 6, 1990 proposed rule (cont)

Timetable:

Action	Date	FR Cite
ANPRM	06/10/91	56 FR 26738
NPRM	12/06/94	59 FR 62788
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2878.

ABSTRACT CONT: (55 FR 12866), which intended to clarify questions on whether the analysis of PCBs is to be conducted "on a dry weight basis."

Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., Washington, DC 20460
Phone: 202 260-3933

RIN: 2070–AC01

3433. USE OF ACRYLAMIDE FOR GROUTING

Priority: Other Significant

Legal Authority: 15 USC 2605/TSCA 6

CFR Citation: 40 CFR 764

Legal Deadline: None

Abstract: On October 2, 1991, EPA proposed a regulation of acrylamide and NMA grouts based on the unreasonable risk associated with their usage. EPA's rule would prohibit the manufacture, distribution in commerce, and use of acrylamide grout.

Timetable:

Action	Date	FR Cite
NPRM	10/02/91	56 FR 49863
Final Action	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2779.

Agency Contact: Robert C. McNally, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW (7405), Washington, DC 20460
Phone: 202 260-3945

RIN: 2070–AC17

3434. POLYCHLORINATED BIPHENYLS (PCBS) TRANSFORMER RECLASSIFICATION RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605/TSCA 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: This rule would relax the regulatory requirements for reclassifying PCB transformers to a lower regulatory status by modifying the current reclassification requirements of 50 degree centigrade temperature and 90-day testing. Results of a preliminary analysis indicate that many transformers never reach the required temperature, but still reduce PCB concentrations and that safety risks to employees and to the general public occur in mandating the continued adherence to the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/18/93	58 FR 60970
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3021.

Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW (7404), Washington, DC 20460
Phone: 202 260-3933

RIN: 2070–AC39

3435. • POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL AMENDMENTS

Regulatory Plan: This entry is Seq. No. 122 in Part II of this issue of the **Federal Register**.

RIN: 2070–AD04

3436. SECTION 8(A) PRELIMINARY ASSESSMENT INFORMATION RULES

Priority: Routine and Frequent

Legal Authority: 15 USC 2607a/TSCA 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and designated mixtures subject to the requirements of the Toxic Substances Control Act Section 8(a) Preliminary Assessment Information Rule (40 CFR part 712). These chemicals have been identified

by the Office of Pollution Prevention and Toxics, other EPA offices, and other federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee. Manufacturers and importers are required to submit exposure-related data (EPA Form No. 7710-35) on the chemicals. These data will be used to monitor the levels of production, import and/or processing of these substances and the avenues of human and environmental exposure to these substances. These data will also support risk assessment and test rule decisions.

Timetable:

Action	Date	FR Cite
Final Action 35th ITC List	07/05/95	60 FR 34879
Final Action 37th ITC List	12/00/95	
Final Action 38th ITC List	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2178.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St SW; (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AB08

3437. SECTION 8(D) HEALTH AND SAFETY DATA REPORTING RULES

Priority: Routine and Frequent

Legal Authority: 15 USC 2607(d)/TSCA 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None

Abstract: These rules require manufacturers, importers and processors to submit unpublished health and safety data on chemicals added to the requirements of the Toxic Substances Control Act Section 8(d) Health and Safety Data Reporting Rule. These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee.

Timetable:

Action	Date	FR Cite
Final Action 35th ITC List	07/05/95	60 FR 34879
Final Action 37th ITC List	12/00/95	
Final Action 38th ITC List	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 1139.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M St. SW; (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AB11

3438. TSCA SECTION 8(E); NOTICE OF CLARIFICATION AND SOLICITATION OF PUBLIC COMMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2607(e)/TSCA 8(e)

CFR Citation: None

Legal Deadline: None

Abstract: The TSCA section 8(e) "Notice of Clarification and Solicitation of Public Comment" would amend certain aspects of the 1978 TSCA section 8(e) Statement of Interpretation and Enforcement Policy (1978 Policy Statement). The 1978 Policy Statement describes the types of information that EPA considers reportable under section 8(e), the "substantial risk" reporting provision of TSCA, and describes the procedures for reporting such information to EPA. This clarification effort derives from a review of the existing section 8(e) guidance done in the context of questions raised by companies considering participating in the Section 8(e) Compliance Audit Program (CAP). As a result of this review, EPA determined that parts of the 1978 Policy Statement concerning the reportability of information on "widespread and previously unsuspected distribution in environmental media" and "emergency incidents of environmental contamination" needed some refinement. The subject Federal Register action solicited comment on refined reporting guidance concerning widespread and previously unsuspected distribution in environmental media and provides additional circumstances where information is not reportable because it is considered known to the Administrator; refined reporting guidance on emergency incidents of environmental contamination will be developed as appropriate, by the Office of Solid Waste and Emergency Response. Finally, the notice solicited comments on changes to the section 8(e) reporting deadline, and reaffirmed the standards for claims of confidentiality for information contained in a notice of substantial risk under section 8(e).

Timetable:

Action	Date	FR Cite
NPRM	07/13/93	58 FR 37735
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3118.

Note: This action will not revise CFR text because it it not included in the CFR. It will, however, streamline requirements.

Agency Contact: Richard Hefter, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, SE., Washington, DC 20460
Phone: 202 260-3470

RIN: 2070–AC80

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Toxic Substances Control Act (TSCA)

Long-Term Actions

3439. MANDATORY POLLUTION PREVENTION REPORTING FOR TOXIC RELEASE INVENTORY (TRI)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 372

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48475
Supplementary NPRM	10/00/96	
Finalization of Form R	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Susan B. Hazen
Phone: 202 260-1024

RIN: 2070–AC24

3440. EVALUATION OF PRODUCTS FOR LEAD-BASED PAINT ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Doreen Cantor
Phone: 202 260-1777

RIN: 2070–AC88

3441. REGULATORY INVESTIGATION UNDER THE TOXIC SUBSTANCES CONTROL ACT (TSCA) TO REDUCE LEAD (PB) CONSUMPTION AND USE

Priority: Other Significant

CFR Citation: 40 CFR 721; 40 CFR 750; 40 CFR 745

Timetable:

Action	Date	FR Cite
ANPRM	05/13/91	56 FR 22096
Fishing Sinkers		
NPRM	03/09/94	(59 FR 11122)
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Doreen Cantor
Phone: 202 260-1777

RIN: 2070–AC21

3442. REGULATORY INVESTIGATION OF FORMALDEHYDE

Priority: Other

CFR Citation: 40 CFR 765

Timetable:

Action	Date	FR Cite
ANPRM	05/23/84	49 FR 21870
NPRM	00/00/00	
Termination for Apparel Workers		
Section 9(d) Notice	03/19/84	(49 FR 21870)

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Kover
Phone: 202 260-8130

RIN: 2070–AB14

3443. PROCEDURES AND CRITERIA FOR TERMINATION OF POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL PERMITS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 761

Timetable:

Action	Date	FR Cite
NPRM	11/02/90	55 FR 46470
Final Action	12/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tony Baney
Phone: 202 260-3933

RIN: 2070–AB81

3444. REGULATORY INVESTIGATION OF DIOXIN IN PULP AND PAPER MILL SLUDGE

Priority: Other Significant

CFR Citation: 40 CFR 744

Timetable:

Action	Date	FR Cite
NPRM	05/10/91	56 FR 21802
Response letter to EDF & NWF	12/14/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert McNally
Phone: 202 260-3945

RIN: 2070–AC05

3445. REVISED ASBESTOS MODEL ACCREDITATION PLAN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 763, app C to subpart E

Timetable:

Action	Date	FR Cite
NPRM	05/13/92	57 FR 20438
Interim Final Rule	02/03/94	59 FR 5236
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brion Cook
Phone: 202 260-1878

RIN: 2070–AC51

3446. SIGNIFICANT NEW USE RULES ON NATIONAL PROGRAM CHEMICALS; ASBESTOS, LEAD, AND REFRACTORY CERAMIC FIBERS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 704; 40 CFR 721

Timetable:

Asbestos	
NPRM	12/00/96
Lead	
ANPRM	09/28/94 (59 FR 49484)
NPRM	12/00/96
Refractory Ceramic Fiber	
NPRM	03/21/94 (59 FR 13294)
Final Action	12/00/96

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Doreen Cantor
Phone: 202 260-1777

RIN: 2070–AC37

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Toxic Substances Control Act (TSCA)

Completed Actions

3447. PREMANUFACTURE NOTIFICATION (PMN) RULE AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 720 to 723

Completed:

Reason	Date	FR Cite
Final Action	03/29/95	60 FR 16298

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary Cushmac
Phone: 202 260-4443

RIN: 2070–AC14

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Water Act (CWA)

Prerule Stage

3448. WATER QUALITY STANDARDS REGULATION—REVISION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1313/CWA 303(c)

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: Water quality standards set by States and Indian Tribes establish the water quality goals for surface waters of the US. They are the foundation for protecting public health and welfare and the ecological integrity of the nation's waters. Water quality standards regulations govern the development, review, and revision of water quality standards under section 303 of the Clean Water Act by States and Indian Tribes and the review and approval of those standards by EPA. The regulations are being revised to reflect the experience gained in the program by EPA, States and Tribes. All major components of the Water Quality Standards Program will be reviewed for potential regulatory and implementation improvements to provide increased State/Tribal flexibility and further strengthen the Standards Program as a key element of watershed based programs. This includes the process for establishing and revising use classifications; establishing and revising numeric and narrative criteria, including chemical specific criteria, nutrient criteria, wildlife criteria, and biological criteria; expansion and clarification of the antidegradation policy; more explicit requirements for optional policies such as mixing zones and variances.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	
NPRM	03/00/97	
Final Action	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3662.

Agency Contact: Rob Wood, Environmental Protection Agency, Water, (4305), Washington, DC 20460
Phone: 202 260-9536

RIN: 2040–AC56

3449. STREAMLINING REVISIONS TO THE WATER QUALITY PLANNING AND MANAGEMENT REGULATIONS

Regulatory Plan: This entry is Seq. No. 100 in Part II of this issue of the **Federal Register**.

RIN: 2040–AC65

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Water Act (CWA)

Proposed Rule Stage

3450. AMENDMENTS TO ROUND I FINAL SEWAGE SLUDGE USE AND DISPOSAL RULE - PHASE I (INCLUDES CONTINUOUS EMISSION MONITORING AND OTHER INCINERATOR REQUIREMENTS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251; 33 USC 1345

CFR Citation: 40 CFR 503

Legal Deadline: None

Abstract: EPA is amending the Round I Final Sewage Sludge Use and Disposal Regulations in two phases (i.e., Phase One and Phase Two). Phase I will respond to minor comments received on the Final Sewage Sludge Use and Disposal Round I Rule (Part 503), correct some publication errors, and include some technical amendments. This action will modify the existing regulations to make the portion governing sewage sludge incinerators self implementing and allow the regulated community of less than 200 incinerators flexibility in selecting among appropriate requirements. The proposed changes should not have any adverse impact on State,local, or tribal government or small businesses since no additional requirements are being imposed. Phase Two will address litigation issues and will be proposed later.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54771
NPRM Comment Period End	12/26/95	
Final Action	06/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3497 and SAN No. 3442 (RIN 2040-AC46)

Agency Contact: Maria Gomez-Taylor, Environmental Protection Agency, Water, (4304), Washington, DC 20460 Phone: 202 260-1639

RIN: 2040–AC29

3451. ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS AND TOXICITY FOR THE STATE OF CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; 33 USC 1313

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: Several municipal entities and one industry in California sued the California State Water Resources Control Board (SWRCB) in State court over whether the SWRCB's water quality control plans for inland surface waters and enclosed bays and estuaries were adopted in compliance with authorizing State law. The court issued its final decision in March, 1994; the Court agreed with the plaintiffs and found that the plans could not remain in effect. The SWRCB has been ordered to rescind its plans. In the absence of approved State criteria, the Clean Water Act requires EPA to promulgate water quality criteria for priority toxic pollutants. EPA Region IX will promulgate water quality criteria for priority toxic pollutants for the State of California.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3504.

Agency Contact: Diane Frankel, Environmental Protection Agency, Water, EPA - Region IX, 75 Hawthorne Street, San Francisco, CA 95105 Phone: 415 744-2004

RIN: 2040–AC44

3452. LEATHER TANNING AND FINISHING EFFLUENT GUIDELINES - PRETREATMENT STANDARDS FOR EXISTING AND NEW SOURCES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 425

Legal Deadline: None

Abstract: This action is in response to an industry trade association petition for rulemaking. This is a minor technical amendment of previously promulgated pretreatment standards for existing sources (PSES) and for new sources (PSNS) to allow local POTWs to change (or delete) the upper pH limitation for plants in three subcategories.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3581.

Agency Contact: Donald F. Anderson, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7189

RIN: 2040–AC48

3453. GUIDELINES ESTABLISHING WHOLE EFFLUENT TOXICITY WEST COAST TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1316

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This rule will amend 40 CFR part 136, by adding new West Coast test procedures for the analysis of pollutants under section 304(h) of the Clean Water Act. This list of approved biological test methods would be amended by adding methods for measuring chronic toxicity in estuarine and marine species exposed to pollutants in effluents and receiving waters. State, local and tribal governments and small businesses on the West Coast are already using variations of these methods in NPDES permits. This rule will not have a significant impact on State, local or Tribal governments or small businesses on the West Coast.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	12/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3618.

Agency Contact: Debra Denton, Environmental Protection Agency, Water, 75 Hawthorne Street (W-5-1), San Francisco, CA 94105-3901 Phone: 415 744-1919

RIN: 2040–AC54

3454. AMENDMENTS TO ROUND I FINAL SEWAGE SLUDGE USE AND DISPOSAL RULE - PHASE II

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251/CWA 101

CFR Citation: 40 CFR 503

Legal Deadline: None

Abstract: EPA is amending the Round I Final Sewage Sludge Use and Disposal Regulations in two phases (i.e., Phase One and Phase Two). Phase Two will address issues raised during litigation on specific requirements in the final rule (part 503) and modify technical and implementation requirements. Some of the issues that may be addressed in this action include: pollutant limits for molybdenum and chromium, total hydrocarbon (THC) operational requirements for sewage sludge incinerators, and the ratio of hexavalent chromium to total chromium for incineration. The proposed changes will impact Federal, State, local and tribal governments as well as small businesses. EPA expects that these changes will increase flexibility and thus reduce the regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	06/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3497.

Agency Contact: Maria Gomez-Taylor, Environmental Protection Agency, Water, (4304), Washington, DC 20460 Phone: 202 260-1639

RIN: 2040–AC53

3455. • STREAMLINING NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM REQUIREMENTS, INCLUDING GENERAL PRETREATMENT REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 105 in Part II of this issue of the **Federal Register**.

RIN: 2040–AC69

3456. • NPDES STREAMLINING RULE—ROUND II

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1312/CWA 302; 33 USC 1316/CWA 306; 33 USC 1318/CWA 308; 33 USC 1342/CWA 402; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 125

Legal Deadline: None

Abstract: On February 21, 1995, President Clinton issued a directive requesting that Federal agencies review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, the Office of Wastewater Management plans to issue a comprehensive rulemaking package revising certain NPDES requirements in parts 122, 123 and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures which do not provide any environmental benefits. Some of these revisions include: 1) consolidating regulatory definitions; 2) removal of Part 124 Subpart F non-adversary panel hearings; 3) possible removal of storm water group application requirements; 4) streamlining permit termination procedures; and 5) possibly revising Part 124 evidentiary hearing procedures.

This rulemaking is expected to affect entities who operate the NPDES program or who are regulated by it. This includes small businesses and State and local governments. Most of these effects are expected to be deregulatory or streamlining in nature.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
Final Action	08/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3762.

Agency Contact: Thomas Charlton, Environmental Protection Agency, Water, (4203) Phone: 202 260-6960 Fax: 202 260-1460

RIN: 2040–AC70

3457. • NPDES STREAMLINING RULE (PHASE III)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251/CWA 101; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124

Legal Deadline: None

Abstract: On February 21, 1995, President Clinton issued a directive requesting that Federal agencies review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, the Office of Wastewater Management plans to issue several rulemaking packages to revise NPDES requirements in parts 122, 123 and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures. Revisions under consideration include adding additional permit modifications that can be considered minor modifications at 122.63, and changes to requirements concerning EPA's review of State permits. Other revisions may be considered as work on this rule progresses. This rulemaking is expected to affect entities who implement the NPDES program or who are regulated by it. This includes small businesses and State and local governments. Most of these effects are expected to be deregulatory or streamlining in nature.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	12/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3768.

Agency Contact: Thomas Charlton, Environmental Protection Agency, Water, (4203), Washington, DC 20460 Phone: 202 260-6960 Fax: 202 260-1460

RIN: 2040–AC80

3458. • NPDES STREAMLINING RULE—ROUND III

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1312/CWA 302; 33 USC 1314/CWA 304; 33 USC 1316/CWA

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306; 33 USC 1318/CWA 308; 33 USC 1342/CWA 402; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124

Legal Deadline: None

Abstract: On February 21, 1995, President Clinton issued a directive requesting that Federal agencies review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, EPA plans to issue several rulemaking packages to revise NPDES requirements in parts 122, 123, and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures. Revisions under consideration in this rule include adding additional permit modifications that can be considered minor modifications at 122.63, and changes to requirements concerning EPA's review of State permits. Other revisions may be considered as work on this rule progresses. This rulemaking is expected to affect entities which implement the NPDES program or are regulated by it. This includes small businesses and State and local governments. Most of these effects are expected to be deregulatory or streamlining in nature.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	12/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3786.

Agency Contact: Thomas Charlton, Environmental Protection Agency, Water, (4203), Washington, DC 20460 Phone: 202 260-6960 Fax: 202 260-1460

RIN: 2040–AC84

3459. STREAMLINED PROCEDURES FOR DEVELOPING AND MAINTAINING APPROVED PUBLICLY-OWNED TREATMENT WORKS PRETREATMENT PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1314/CWA 304

CFR Citation: 40 CFR 403

Legal Deadline: None

Abstract: Under the current regulations, many changes to approved publicly owned treatment works (POTW) pretreatment program are not effective until formally approved by EPA or the State. The formal approval procedures require two public notices of program changes. The entire approved POTW pretreatment program is also made a part of the National Pollutant Discharge Elimination System (NPDES) permit of the POTW that administers the pretreatment program. This means that the POTW's NPDES permit must be modified when the pretreatment program is revised. There are State and EPA backlogs of pretreatment program changes for approval. The double notice procedure is expense and normally elicits little public comment.

Under the new regulations, the POTW's NPDES permit will include only certain significant elements of the approved POTW pretreatment program. EPA or the State will need to approve changes to the POTW pretreatment program only where the program is made less restrictive or when EPA or the State requests approval. In many cases, only a single public notice of a change to the POTW pretreatment program will be required.

The new regulations will reduce the administrative burden and cost associated with approving and maintaining approved pretreatment programs without affecting environmental protection. Impacts on State, local and tribal governments and small businesses are expected to be positive. The rule is deregulatory.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3625.

Agency Contact: Jeff Smith, Environmental Protection Agency, Water, (4203), Washington, DC 20460 Phone: 202 260-5586

RIN: 2040–AC57

3460. • AMENDMENT TO EFFLUENT GUIDELINES AND STANDARDS FOR ORE MINING AND DRESSING POINT SOURCE CATEGORY, NEW SOURCE PERFORMANCE STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1316/CWA 306

CFR Citation: 40 CFR 440

Legal Deadline: None

Abstract: This proposed rule amends the applicability of best practicable control technology (BPT), best available technology economically achievable (BAT), and new source performance standards (NSPS) for Subpart J-Copper, Lead, Zinc, Gold, Silver, and Molybdenum Ores Subcategory of the Ore Mining and Dressing Point Source Category,40 CFR Part 440 with respect to the site of the A-J Gold Mine Project located near Juneau, Alaska.

This proposal excludes dewatered tailings from coverage for the frothe-flotation process alone, or in conjunction with other processes (40 CFR 440.100(2)). Process wastewaters separated from the dewatered tailings and mine drainage wastewater would continue to be covered by the Subpart. This proposed revision of the applicability is being done by revising the definition of process wastewater to exclude dewatered tailing at the A-J Project site which exhibits certain extreme topographical and climatic conditions not considered in the previous rulemaking. The conditions which exist at this project location limit the diversion of natural stream-flow and runoff around the tailings impoundment. The tailings impoundment is a significant part of the technology basis considered in the above rule to contain the process wastewater from the mine and mill process. Because of the topography in the A-J Project location, a dam to contain the tailings and treat the various wastewater sources must be constructed across the entire valley floor which results in the inability to divert natural stream-flow and runoff without causing potentially unacceptable non-water quality environmental impacts not considered in the previous rulemaking. In addition, because of the inability to divert stream-flow, the entire receiving water body must be contained within the impoundment and any discharge must also meet water quality standards without any mixing zone. This notice of proposed rulemaking also solicits information and data on whether there are any other potential sites with these conditions and what criteria could be used to identify sites for which the revised definition would be applicable.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3722.

Agency Contact: Ronald G. Kirby, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7168

RIN: 2040–AC74

3461. GUIDELINES ESTABLISHING OIL AND GREASE TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1316/CWA 304(h)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This proposed regulation amends the Guidelines establishing Test Procedures for the Analysis of Pollutants under section 304(h) of the Clean Water Act to replace existing gravimetric test procedures for the conventional pollutants, Oil and Grease (40 CFR 401.16) with EPA Method 1664 in order to assist in the Chlorofluorocarbon (CFC) phaseout requirements of the Clean Air Act Amendments of 1990. Method 1664 uses normal hexane (n-hexane) as the extraction solvent in place of 1,1,2-trichloro-1,2, 2-tribluoroethane (CFC-113; Freon-113), which is used in current 40 CFR 136 approved methods for the determination of oil and grease. Presently approved methods are EPA Method 413.1 in "Methods for Chemical Analysis of Water and Wastes" (EPA-600/4-79-020) and Method 5520B in "Standard Methods for the Examination of Water and Wastewater, 18th edition." This proposal would withdraw approval of Methods 413.1 and 5520B because these methods allow the use of CFC-113. Method 1664 is also being proposed for the determination of total petroleum hydrocarbons.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	10/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3617.

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, (4304), Washington, DC 20460 Phone: 202 260-7134

RIN: 2040–AC63

3462. CLARIFICATION OF THE APPLICATION REQUIREMENTS FOR STATES WANTING TO DESIGNATE DRINKING WATER INTAKE ZONES, THEREBY PROHIBITING THE DISCHARGE OF VESSEL SEWAGE WITHIN THOSE ZONES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1322/CWA 312

CFR Citation: 40 CFR 140

Legal Deadline: None

Abstract: Section 312 of the Clean Water Act entitled "Marine Sanitation Devices" was established in the Federal Water Pollution Control Act of 1972 to regulate discharges of vessel sewage. EPA is developing a technical amendment to clarify the regulations implementing section 312. This proposed regulatory amendment to 40 CFR Part 140.4(b) would clarify the information required in a State application requesting EPA to designate State-specified surface water as a drinking water intake zone, thereby making it unlawful for vessels to discharge sewage within that zone. This amendment would provide guidance to EPA Regions and States on the specific information necessary for the designation of a drinking water intake zone.

This amendment will have no impact on small businesses and would only affect those State's choosing to request designation of no discharge zones. The amendment will not impact local and tribal governments. (The Clean Water Act section 518 does not include Tribes under "Treatment as States" in regards to section 312 of the Clean Water Act). State and local governments and public water supply systems should benefit from improved water quality near their drinking water intakes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3666.

Agency Contact: Deb Lebow, Environmental Protection Agency, Water, (4504F), Washington, DC 20460 Phone: 202 260-6419

RIN: 2040–AC61

3463. NPDES WASTEWATER PERMIT APPLICATION FORMS AND REGULATORY REVISIONS FOR MUNICIPAL DISCHARGES AND SEWAGE SLUDGE USE OR DISPOSAL

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1342/CWA 402; 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1318/CWA 308; 33 USC 1345/CWA 405; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 122.21(j)

Legal Deadline: None

Abstract: The purpose of this action is to revise and consolidate existing

application forms and requirements for Publicly Owned Treatment Works (POTWs) and other Treatment Works Treating Domestic Sewage (TWTDS), and to streamline the application process for these facilities. The Agency seeks to establish a unified process that minimizes the need for additional information from applicants while providing permit writers the necessary information, including toxics data, to ensure that permits adequately address concerns of permittees and environmental protection. The Agency seeks to allow the use of existing data and to avoid unnecessary reporting. The Agency is also considering how to utilize electronic data submission. Although these forms will increase the burden on permittees not already required to provide these data, many permittees are already required to submit these data. The Agency is minimizing the need for information from small entities, including tribal facilities. The burden on States would be minimized and even reduced because of improvements to the application forms.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	06/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2501.

Agency Contact: George Utting, Environmental Protection Agency, Water, (4203), Washington, DC 20460 Phone: 202 260-9530

RIN: 2040–AB39

3464. REVISION OF NPDES INDUSTRIAL PERMIT APPLICATION REQUIREMENTS AND FORM 2C - WASTEWATER DISCHARGE INFORMATION

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1342/CWA 402

CFR Citation: 40 CFR 122.21(g)

Legal Deadline: None

Abstract: All existing manufacturing, commercial, mining, and silvicultural operations will be required to submit this revised application in order to obtain a National Pollutant Discharge Elimination System (NPDES) permit. The existing industrial application form has not been revised since 1984 and must be updated to reflect statutory and regulatory changes in the NPDES program, advances in scientific methods and an increased emphasis on toxic control. The purpose of this action is to revise and consolidate existing application forms and requirements for industries, and to streamline the permit application process for these facilities. The Agency seeks to establish a unified process that minimizes the need for additional information from applicants while providing permit writers the necessary information, including toxics data, to ensure that permits adequately address concerns of permittees and environmental protection. The Agency seeks to allow the use of existing data and to avoid unnecessary reporting. The Agency is also considering how to utilize electronic data submission. Although these forms will increase the burden on permittees not already required to provide these data, many other permittees are already required to submit data. The Agency is minimizing the need for information from small entities, including tribal facilities. The burden on States would be minimized and even reduced because of improvements to the application forms.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3234.

Agency Contact: Brian Bell, Environmental Protection Agency, Water, (4203), Washington, DC 20460 Phone: 202 260-6057

RIN: 2040–AC26

3465. STORM WATER PERMIT APPLICATION REGULATIONS FOR MUNICIPAL SEPARATE STORM SEWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1342/CWA 402(p)

CFR Citation: 40 CFR 122.26

Legal Deadline: None

Abstract: This regulation revision will modify the municipal separate stormsewer system NPDES permit application requirements originally established under 40 CFR 122.26 in 1990. This revision will, at a minimum, streamline the storm water sampling requirements and illicit connection screening requirements for all regulated municipalities in the NPDES storm water permitting program. In addition, this regulation revision will clarify permit application requirements during re-application for permits by previously permitted municipalities. This action is de-regulatory in nature and should have a positive impact on local governments. Local governments will be required to submit less information and will undergo less burden in applying for a storm water discharge permit.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	06/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3664.

Agency Contact: Bill Swietlik, Environmental Protection Agency, Water, (4203), Washington, DC 20460 Phone: 202 260-9529

RIN: 2040–AC59

3466. CLEAN WATER ACT SECTION 404 PROGRAM DEFINITION OF THE WATERS OF THE UNITED STATES—ISOLATED WATERS AND ARTIFICIAL WATERS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1344/CWA 404

CFR Citation: 40 CFR 232

Legal Deadline: None

Abstract: This joint action by EPA and Department of Army (Army) would clarify two aspects of the regulatory definition of "waters of the United States" under the Clean Water Act (CWA). First, EPA and Army are proposing to clarify CWA jurisdiction over isolated waters and wetlands by adding to the regulatory definition four examples of isolated waters and wetlands, the "use, degradation, or destruction of which would or could affect interstate commerce." Second, the agencies are proposing to clarify that five specific categories of artificial waters created out of dry land are generally not considered to be waters of the United States and, therefore, not subject to permit requirements. This action is consistent with existing agency guidance interpreting the regulatory definition of "waters of the United States" and, therefore, will not change the agencies' interpretation of the definition as it is currently applied to CWA regulatory programs. The purpose of this action is merely to incorporate this existing guidance within EPA's and Army's regulatory definitions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2804.

Agency Contact: Hazel Groman, Environmental Protection Agency, Water, (4502F), Washington, DC 20460 Phone: 202 260-8798

RIN: 2040–AB74

3467. REVISIONS TO OCEAN DUMPING REGULATIONS FOR DREDGED MATERIAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1401 et seq/MPRSA 2 et seq

CFR Citation: 40 CFR 225; 40 CFR 227; 40 CFR 228

Legal Deadline: None

Abstract: This rulemaking would revise the regulations applicable to the ocean dumping of dredged material. Issuance of these regulations is necessary to respond to the decision in National Wildlife Federation vs. Costle, 629 F. 2d. 118 (DC Circuit 1980) and to incorporate program experience gained since 1977. The revisions will make necessary technical changes and will improve the clarity of the regulations, with supporting technical guidance on disposal site selection, site management, and site monitoring. These revisions will clarify issues that have caused delays in the evaluation of permit applications. The regulations will improve environmental assessments of permit applications, and improve the protection of benthic communities in the vicinity of a dump site. The regulations will affect local governments if they run their Port Authority and are requesting a permit to dispose of dredged material in the ocean.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2737.

Agency Contact: John Heisler, Environmental Protection Agency, Water, (4504F), Washington, DC 20460 Phone: 202 260-8448

RIN: 2040–AB62

3468. • OCEAN DUMPING TESTING REQUIREMENTS CLARIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1401 et seq

CFR Citation: 40 CFR 220 to 229

Legal Deadline: None

Abstract: This action would amend the testing provisions of the ocean dumping regulations. Those regulations utilize biological testing to evaluate the suitability of material proposed for ocean dumping. The proposed action will clarify the language of the existing regulations and will help reduce potential uncertainties about testing requirements. The activities are being taken for the purpose of improving the clarity of the regulations and will not make substantive changes in the current testing procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3783.

Agency Contact: Jonathan E. Amson, Environmental Protection Agency, Water, (4504F), Washington, DC 20460 Phone: 202 260-9125 Fax: 202 260-9920

RIN: 2040–AC81

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

Clean Water Act (CWA)

3469. AMENDMENTS TO REQUIREMENTS FOR AUTHORIZED STATE PERMIT PROGRAMS UNDER SECTION 402 OF THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251/CWA 303

CFR Citation: 40 CFR 123.25

Legal Deadline: None

Abstract: At present, not all States provide standing to citizens to challenge final State-issued NPDES permits in State courts. This rulemaking would amend EPA's existing regulations governing the approval of State programs to issue NPDES permits. These regulations are found at 40 CFR Part 123. The rulemaking would insert an explicit requirement that State law must grant any "interested person" in that State "standing" to bring an action in State Court to challenge NPDES permits issued by the State. The new provision would make it clear that a State must provide standing in State courts to the same extent that standing is granted to citizens in Federal courts when EPA issues an NPDES permit. This approach would ensure that as EPA moves away from permit-by-permit oversight of State programs, there remains direct accountability on a permit-by-permit basis to the public.

Timetable:

Action	Date	FR Cite
NPRM	03/17/95	60 FR 14588
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3562. Formerly titled "Clarification of Standing Requirement for State NPDES Programs"

Agency Contact: Bob Klepp, Environmental Protection Agency, Water, (4203), Washington, DC 20460 Phone: 202 260-5805

RIN: 2040–AC43

3470. EFFLUENT GUIDELINES AND STANDARDS FOR THE PHARMACEUTICAL MANUFACTURING CATEGORY

Priority: Other Significant

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 439

Legal Deadline: NPRM, Judicial, February 28, 1995. Final, Judicial, August 31, 1996.
Dates contained in Consent Decree (NRDC v. Reilly).

Abstract: The Agency will review and revise as appropriate the effluent limitation guidelines and standards for the pharmaceutical manufacturing industry. A major part of the review will consider the inclusion of limitations on toxic and non-conventional volatile organic pollutants. The 1983 proposal covering New Source Performance Standards (NSPS) for conventional pollutants will also be reevaluated.

Timetable:

Action	Date	FR Cite
NPRM (NSPS)	10/27/83	48 FR 49832
NPRM	05/02/95	60 FR 21592
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 1427.

Agency Contact: Frank Hund, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7182

RIN: 2040–AA13

3471. EFFLUENT GUIDELINES AND STANDARDS FOR THE COASTAL SUBCATEGORY OF THE OIL AND GAS EXTRACTION CATEGORY

Priority: Other Significant

Legal Authority: 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501; 33 USC 1311/CWA 301

CFR Citation: 40 CFR 435, subpart D

Legal Deadline: NPRM, Judicial, January 31, 1995. Final, Judicial, July 31, 1996.
Dates contained in Consent Decree (NRDC v. Reilly).

Abstract: EPA is developing effluent limitation guidelines based on Best Available Technology (BAT), Best Conventional Technology (BCT), and New Source Performance Standards (NSPS) for coastal oil and gas extraction facilities. This regulation will apply to the facilities involved in exploration, development and production operations.

Timetable:

Action	Date	FR Cite
Notice	11/08/89	54 FR 46919
NPRM	02/17/95	60 FR 9428
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2747.

Agency Contact: Allison Wiedeman, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7179

RIN: 2040–AB72

3472. EFFLUENT GUIDELINES AND STANDARDS FOR THE CENTRALIZED WASTE TREATMENT INDUSTRY

Priority: Other Significant

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 437

Legal Deadline: NPRM, Judicial, December 15, 1994. Final, Judicial, September 15, 1996.
Dates contained in Consent Decree (NRDC v. Reilly).

Abstract: Centralized Waste Treatment (CWT) facilities receive hazardous and non-hazardous waste from off-site for treatment or recovery (excluding solvent recovery). EPA is developing effluent limitations based on Best Available Technology (BAT), Best Practicable Control Technology (BPT), New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES), and Pretreatment Standards for New Sources (PSNS). This rule was formerly titled "Waste Treatment, Phase I."

EPA—CWA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/27/95	60 FR 5464
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2805.

Agency Contact: Debra DiCianna, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7141

RIN: 2040–AB78

3473. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY, PHASE I

Regulatory Plan: This entry is Seq. No. 123 in Part II of this issue of the **Federal Register**.

RIN: 2040–AB79

3474. EFFLUENT GUIDELINES AND STANDARDS FOR PESTICIDE FORMULATING, PACKAGING, AND REPACKAGING

Priority: Other Significant

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 455

Legal Deadline: NPRM, Judicial, March 31, 1994. Final, Judicial, March 31, 1996.

Abstract: EPA is developing effluent guidelines and standards for facilities that formulate, package, or repackage registered pesticide products, excluding the active ingredient sodium hypochlorite (bleach).

Timetable:

Action	Date	FR Cite
NPRM	04/14/94	59 FR 17850
Final Action	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3391.

Agency Contact: Shari Zuskin, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7130

RIN: 2040–AC21

3475. • MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS FOR DISCHARGES INTO MARINE WATERS; CHANGE TO ELIGIBILITY FOR DIFFERENT AVERAGING PERIOD

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251/CWA 303

CFR Citation: 40 CFR 125, subpart G

Legal Deadline: None

Abstract: EPA is proposing to amend the regulations that implement section 301(h) of the Clean Water Act. Section 301(h) provides an opportunity for modifications of secondary treatment requirements for publicly owned treatment works (POTWs) that discharge to marine waters. This proposed rule would amend one specific section of the section 301(h) regulations in order to respond to a petition from Anchorage and other Alaskan municipalities, challenging the August 1994 301(h) regulations.

In response to public comments, the August 1994 regulations allowed applicants to request longer than monthly averaging, to calculate compliance with removal of 30 percent of biochemical oxygen demanding material (BOD). The longer averaging period was not available to plants that met the 30 percent BOD removal requirement on a monthly-average basis for the calendar year prior to the promulgation of the regulations. The lawsuit challenged the restriction on a POTW's eligibility to apply for flexibility regarding the averaging period tht can be used for calculating compliance with the 30 percent BOD removal requirement. The proposed rule would delete the restriction and thus broaden a POTW's ability to take advantage of flexibility provisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3727.

Agency Contact: Virginia Fox-Norse, Environmental Protection Agency, Water, (4505F), Washington, DC 20460 Phone: 202 260-9129

RIN: 2040–AC72

3476. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF 2,3,7,8-SUBSTITUTED DIBENZO-P-DIOXINS AND DIBENZO FURANS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251/CWA 101 et seq; 33 USC 1314(h)/CWA 304; 33 USC 1361(a)/CWA 501

CFR Citation: 40 CFR 136; 40 CFR 122; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25

Legal Deadline: None

Abstract: This regulatory action would amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR part 136 to approve EPA Method 1613 for the deter nination of 2,3,7,8-substituted diber.zo-p-dioxins and dibenzo furans (CDDs/CDFs). Method 1613 is necessary to extend minimum levels of quantitation of CDDs/CDFs into the low part-per-quadrillion (PPQ) range to support the development of effluent limitations guidelines and for compliance monitoring under the Clean Water Act National Pollutant Discharge Elimination System (NPDES) program and pretreatment program. This regulation approves a test procedure to be used in measuring 2,3,7,8, substituted dibenzo-p-dioxins and dibenzo furans under the National Pollutant Discharge Elimination System unless the Regional Administrator approves an alternate test procedure.

Timetable:

Action	Date	FR Cite
NPRM	02/07/91	56 FR 5090
Final Action	07/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3679.

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, (4303), Washington, DC 20460

EPA—CWA

Final Rule Stage

Phone: 202 260-7134

RIN: 2040–AC64

3477. MARINE SANITATION DEVICE: ESTABLISHMENT OF DRINKING WATER INTAKE ZONES IN TWO PORTIONS OF THE HUDSON RIVER, NEW YORK STATE

Priority: Routine and Frequent

Legal Authority: CWA sec 312(f)(4)(B)

CFR Citation: 40 CFR 140.4(b)(1)

Legal Deadline: None

Abstract: Under current regulations, vessels are allowed to discharge from on-board toilets if equipped with a Coast Guard certified marine sanitation device. Section 312(f)(4)(B) of the Clean Water Act directs EPA to prohibit these discharges around intakes for public water supply in response to State petitions. Action on the NY petition for zones in the Hudson River will create the first drinking water intake zones established under this part of the Act. In these zones, vessel discharges of sewage will be completely prohibited. This means that recreational and commercial boats which have on-board toilets will have to either pump-out their sewage from holding tanks to pump-out and disposal facilities, or discharge in accordance with federal marine sanitation device standards outside of the zones.

Timetable:

Action	Date	FR Cite
NPRM	07/05/95	60 FR 34940
Final Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3621.

Agency Contact: Phil Sweeney, Environmental Protection Agency, Water, USEPA, Region II, 290 Broadway, NY, NY 10007-1866 Phone: 212 637-3765

RIN: 2040–AC51

3478. COMPARISON OF DREDGED MATERIAL TO REFERENCE SEDIMENT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1344/CWA 404

CFR Citation: 40 CFR 230

Legal Deadline: None

Abstract: This action would revise the testing provisions of the Clean Water Act section 404(b)(1) Guidelines to provide for comparisons between dredged material proposed for discharge and reference sediment. "Reference sediment" would be defined as sediment that reflects conditions at the disposal site had no dredged material disposal ever occurred there. Because the disposal site itself is currently used as the point of comparison, this action would make a technical improvement in assessing cumulative impacts and make dredged material testing under section 404 consistent with that conducted for ocean disposal which currently employs a reference sediment approach. This action is not expected to have a significant impact on state, local, or tribal governments or small business, as the action will be limited to Corps projects and permit applications for which dredged material testing is necessary.

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 419
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3224.

Agency Contact: John Goodin, Environmental Protection Agency, Water, (4502F), Washington, DC 20460 Phone: 202 260-9910

RIN: 2040–AC14

3479. SHORE PROTECTION ACT, SECTION 4103(B) REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2601/Shore Protection Act of 1988 (PL 100-6-88),4103(b)

CFR Citation: 40 CFR 237

Legal Deadline: None

Abstract: This rule will implement the Shore Protection Act (SPA) and is designed to prevent the deposit of municipal and commercial waste into U.S. Coastal Waters. The regulations may require the adoption by each responsible party of a manual identifying procedures to prevent, report, and clean up deposits of waste into coastal waters. Municipalities and businesses involved with the vessel transportation and shore side handling of these wastes would be affected by this rule.

State governments in the business of transporting municipal or commercial waste by vessel would have to comply with the minimum waste handling standards. Currently no Tribes are known to be involved in waste handling of this type, therefore none would be affected by this rule. In regards to small businesses, EPA has provided guidance on development of operation and maintenance manuals and encourages the use and documentation of existing industry practices that meet or exceed the EPA proposed minimum waste handling standards. All indications are that this regulation as proposed would have a minimal economic impact. This regulation will result in reduction of municipal and commercial wastes deposited in coastal waters.

Timetable:

Action	Date	FR Cite
NPRM	08/30/94	59 FR 44798
Final Action	12/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2820.

Agency Contact: Deb Lebow, Environmental Protection Agency, Water, (4504F), Washington, DC 20460 Phone: 202 260-6419

RIN: 2040–AB85

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Water Act (CWA)

Long-Term Actions

3480. STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE SLUDGE (ROUND II)

Priority: Other Significant

CFR Citation: 40 CFR 503

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/01	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: Maria Gomez-Taylor Phone: 202 260-1639

RIN: 2040–AC25

3481. EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY

Priority: Economically Significant

CFR Citation: 40 CFR 430; 40 CFR 431

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 66078
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Debra Nicoll Phone: 202 260-5386

RIN: 2040–AB53

3482. EFFLUENT GUIDELINES AND STANDARDS FOR THE INDUSTRIAL LAUNDRIES CATEGORY

Priority: Other Significant

CFR Citation: 40 CFR 441

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Susan Burris Phone: 202 260-5379

RIN: 2040–AB97

3483. EFFLUENT GUIDELINES AND STANDARDS FOR THE TRANSPORTATION EQUIPMENT CLEANING CATEGORY

Priority: Other Significant

CFR Citation: 40 CFR 442

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: Gina Matthews Phone: 202 260-6036

RIN: 2040–AB98

3484. EFFLUENT GUIDELINES AND STANDARDS FOR LANDFILLS AND INCINERATORS

Priority: Other Significant

CFR Citation: 40 CFR 437

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	
Final Action	03/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: Samantha Hopkins Phone: 202 260-7149

RIN: 2040–AC23

3485. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY, PHASE II

Priority: Other Significant

CFR Citation: 40 CFR 438

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final Action	12/00/99	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Mark Ingle Phone: 202 260-7191

RIN: 2040–AC30

3486. CRITERIA AND STANDARDS REFLECTING BEST TECHNOLOGY AVAILABLE (BTA) FOR COOLING WATER INTAKE STRUCTURES UNDER SECTION 316(B) OF THE CLEAN WATER ACT

Priority: Other Significant

CFR Citation: 40 CFR 125; 40 CFR 401

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
Final Action	05/00/01	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Nagle Phone: 202 260-2656

RIN: 2040–AC34

3487. WATER QUALITY STANDARDS; ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS; STATES' COMPLIANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 131

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/04/95	60 FR 22229
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Jackie Romney Phone: 202 260-9528

RIN: 2040–AC55

3488. • GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF TRACE METALS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251/CWA 303; 33 USC 1314(h)/CWA 304; 33 USC 1361(a)/CWA 501

CFR Citation: 40 CFR 136 amended; 40 CFR 122; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25

Legal Deadline: None

Abstract: This regulatory action would propose to amend the "Guidelines

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Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR Part 136 to approve new EPA methods for the determination of trace metals at EPA's water quality criteria levels. These methods are necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. Water quality-based permits are necessary when technology-based controls do not allow a particular water body to meet the state's designated water quality standard. Sine the methods currently approved under 40 CFR Part 136 were designed to meet technology-based permitting needs, and since these technology- based levels are as much as 280 times higher than water quality-based criteria for metals, approval of new EPA test procedures is necessary.

This action will not have a significant economic impact on state, local, or tribal governments or small businesses. This regulation would approve a test procedure to be used in measuring trace metals under the National Pollution Discharge Elimination System unless the Regional Administrator approves an alternative procedure.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3702.

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7134

RIN: 2040–AC75

3489. • GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF CYANIDE UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251/CWA 303; 33 USC 1314(h)/CWA 304; 33 USC 1361(a)/CWA 501

CFR Citation: 40 CFR 136 as amended; 40 CFR 122; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25

Legal Deadline: None

Abstract: This regulatory action would amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR Part 136 to approve new procedures for the analysis of cyanide under the Clean Water Act.

Total cyanide is a toxic (priority) pollutant as defined in the Clean Water Act and listed at 40 CFR 423, Appendix A. The term "total cyanide" refers to all forms of cyanide, including those forms that are readily bioavailable such as free and weekly bound cyanide and those forms that are less bioavailable because the cyanide is strongly bound to a metal ion. Method 335.1, Cyanides Amendable to Chlorination (CATC), is currently approved for the measurement of free and weekly complexed forms of cyanides. Methods 335.2 and 335.3 are currently approved for measurement of total cyanides.

Subsequent to approval of Methods 335.1 and 335.3 under 40 CFR Part 136, it has been shown that these methods may not accurately reflect actual cyanide concentrations found in wastewaters. Additionally, the approved analytical methods call for hour-long distillation, chlorination requiring an hour, and two separate aliquots of a given sample distilled and analyzed independently to determine the CATC levels. In order to improve the accuracy and reduce the costs of cyanide measurements, EPA plans to develop and propose new test procedures for the determination of cyanides.

This action will not have a significant economic impact on state, local or tribal governments or small businesses. This regulation approves a test procedure to be used in measuring cyanide under the National Pollution Discharge Elimination System unless the Regional Administrator approves an alternative test procedure.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3701.

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7134

RIN: 2040–AC76

3490. • WATER QUALITY STANDARDS TO REPLACE PORTIONS OF EXISTING STATE WATER QUALITY STANDARDS; I.E., STATE ANTIDEGRADATION POLICY FOR PENNSYLVANIA

Priority: Other Significant

Legal Authority: 33 USC 1251/CWA 303

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: EPA Region III disapproved portions of Pennsylvania's water quality standards in June 1994. The Clean Water Act requires EPA to promptly promulgate replacement standards when a State fails to revise State standards for comply. This rulemaking would establish Federal standards to remedy provisions of the State's antidegradation policy which do not meet Federal requirements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3766.

Agency Contact: Evelyn S. MacKnight, Environmental Protection Agency, Water, Region III, 841 Chestmut Building, Philadelphia, PA 19107 Phone: 215 597-4491 Fax: 215 597-3359

RIN: 2040–AC78

3491. • REFORMATTING OF EFFLUENT GUIDELINES AND STANDARDS IN 40 CFR PARTS 405 THROUGH 471

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251/CWA 303; 33 USC 1311/CWA 301; 33 USC 1314(b), (c), (e), and (g)/CWA 304; 33 USC 1316(b) and (c)/CWA 306; 33 USC 1317(c)/CWA 307

CFR Citation: 40 CFR 405 to 471 as amended

Legal Deadline: None

Abstract: This regulatory action would re-format the existing Effluent Limitation Guidelines and Standards found in 40 CFR Parts 405 through 471 without making any changes to the requirements therein. The purpose of this action is to streamline the CFR and establish a format that is easier for Federal, State, and local regulators and the regulated community to read and understand. This action does not require State, local, or tribal governments or the regulated community to do anything beyond what is currently required. This rule, will, therefore, not impose any economic burden.

Timetable:

Action	Date	FR Cite
NPRM	05/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3767.

Agency Contact: Jan Goodwin, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7152 Fax: 202 260-7185

RIN: 2040–AC79

3492. STREAMLINING THE GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 403

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	
Final Action	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Louis Eby Phone: 202 260-6814

RIN: 2040–AC58

3493. • COMPREHENSIVE NPDES STORMWATER PHASE II REGULATIONS

Priority: Other Significant

Legal Authority: CWA 402

CFR Citation: 40 CFR 122; 40 CFR 124

Legal Deadline: NPRM, Judicial, September 1, 1997. Final, Judicial, March 1, 1999.

Abstract: EPA will be proposing charges to the stormwater regulations for Phase II dischargers. Phase II dischargers generally include all point source discharges of stormwater from commercial, retail, and institutional facilities and from municipal separate storm sewer systems serving populations of less than 100,000. Data collected under section 305(b) of the CWA indicates that benefits will be derived from addressing these discharges under the Phase II program. Urban stormwater runoff is a real cause of water quality use impairment. EPA has invited its stakeholders to participate in the development of the Comprehensive Phase II rule under the Federal Advisory Committee Act (FACA). This FACA group will assist in the development of the rule. Currently all Phase II dischargers are required to have stormwater permits by 2001. EPA will be considering limiting the universe of Phase II sources and may recommend control options that are less burdensome than permits.

Timetable:

Action	Date	FR Cite
NPRM	09/00/97	
Final Action	03/00/99	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3785.

Agency Contact: Pamela Mazakas, Environmental Protection Agency, Water, (4203), Washington, DC 20460 Phone: 202 260-6599 Fax: 202 260-1460

RIN: 2040–AC82

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Water Act (CWA) — Completed Actions

3494. GUIDELINES ESTABLISHING WHOLE EFFLUENT TOXICITY (WET) TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 136

Completed:

Reason	Date	FR Cite
Final Action	10/16/95	60 FR 53529

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Margaret Heber Phone: 202 260-7144

RIN: 2040–AC49

3495. 301(K) INNOVATIVE TECHNOLOGY TIME EXTENSIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 40 CFR 122; 40 CFR 124; 40 CFR 125

Completed:

Reason	Date	FR Cite
Final Action	06/29/95	60 FR 33926

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Traci Brown Phone: 202 260-8487

RIN: 2040–AC42

EPA—CWA

Completed Actions

3496. WATER QUALITY STANDARDS TO REPLACE PORTIONS OF FLORIDA'S EXISTING STATE WATER QUALITY STANDARDS, I.E., STATE ANTIDEGRADATION POLICY

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 131

Completed:

Reason	Date	FR Cite
Withdrawn - No further action planned.	10/01/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Fritz Wagener
Phone: 404 347-3555

RIN: 2040–AC37

3497. AMENDMENT TO REQUIREMENTS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS FOR STORM WATER DISCHARGES (PHASE II)

Priority: Other Significant

CFR Citation: 40 CFR 122.26

Completed:

Reason	Date	FR Cite
Final Action	08/07/95	60 FR 40230

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Bill Swietlik
Phone: 202 260-9529

RIN: 2040–AC60

3498. CONTINUOUS EMISSION MONITORING AND OTHER POLLUTANT LIMITATION AND MONITORING REGULATIONS FOR SEWAGE SLUDGE INCINERATORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 503

Completed:

Reason	Date	FR Cite
Merged With RIN 2040-AC29, SAN 3497	09/21/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Wendy Bell
Phone: 202 260-9534

RIN: 2040–AC46

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Atomic Energy Act (AEA)

Proposed Rule Stage

3499. ENVIRONMENTAL PROTECTION STANDARDS FOR LOW-LEVEL RADIOACTIVE WASTE

Priority: Other Significant

Legal Authority: 42 USC 2201/AEA 274; 15 USC 2625

CFR Citation: 40 CFR 193

Legal Deadline: None

Abstract: Under 40 CFR 193, the Agency intends to set generally applicable standards for the management and disposal of low-level radioactive wastes under the purview of the Atomic Energy Act, as amended.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/83	48 FR 39563
NPRM	02/00/96	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 1727.

Agency Contact: Tara Chhay Cameron, Environmental Protection Agency, Air and Radiation, (6602J), Washington, DC 20460
Phone: 202 233-9310

RIN: 2060–AA04

3500. ENVIRONMENTAL PROTECTION AGENCY RADIATION SITE CLEANUP REGULATION

Priority: Economically Significant

Legal Authority: 42 USC 2201/AEA 161; 42 USC 2021/AEA 274; Reorganization Plan No. 3 of 1970; 42 USC 2011-2296

CFR Citation: 40 CFR 196

Legal Deadline: None

Abstract: The Agency is developing regulations to set standards limiting the amount of radiation that members of the public may receive from a contaminated site if released from federal control or from a Nuclear Regulatory Commission (NRC) license or an agreement state license. This rule will propose to eliminate the uncertainty associated with determining what level of cleanup is needed to protect human health and the environment, where cleanup is required under regulatory authorites other than this rule by eliminating the uncertainties this rule will streamline the cleanup process. The rule is only one part of an overall regulatory approach that EPA, NRC, and the Department of Energy (DOE), are developing to address the risk from radioactively contaminated material. The rule will propose a dose limit that is protective of human health and the environment, and will establish a standard that allows a cleaned up federal or NRC regulated site to be released for public use. This rule will not mandate the cleanup of any sites, nor will it provide criteria for selecting remedies when cleanup is appropriate. The decision whether to clean up a site for release to the public, to manage wastes on site and not release the site to the public, or to continue operations, will continue to be made on site-specific basis by the same agencies, under the same cleanup programs, that are currently making these decisions.

EPA—AEA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	10/21/93	58 FR 54474
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 2073.

Agency Contact: Amy Newman, Environmental Protection Agency, Air and Radiation, (6603J), Washington, DC 20460
Phone: 202 233-9340
Fax: 202 233-9650

RIN: 2060–AB31

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Atomic Energy Act (AEA)

Final Rule Stage

3501. CRITERIA FOR THE CERTIF. AND DETERMINATION OF THE WASTE ISOLATION PILOT PLANT'S COMPLIANCE W/ENVIRONMENTAL STNDS. FOR THE MGMT. AND DISPOSAL OF SPENT NUCLEAR FUEL, HIGH-LEVEL, & TRANSURANIC

Priority: Other Significant

Legal Authority: PL 102-579 Waste Isolation Pilot Plant Land Withdrawal Act

CFR Citation: 40 CFR 194

Legal Deadline: NPRM, Statutory, October 30, 1993. Final, Statutory, October 20, 1994.

Abstract: The Agency is developing final criteria for certifying and determining whether the Department of Energy (DOE) Waste Isolation Pilot Plant (WIPP) complies with disposal standards set forth in 40 CFR part 191 (Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Wastes). EPA is required to promulgate these criteria under the 1992 Waste Isolation Pilot Plant Land Withdrawal Act (WIPP LWA). These criteria will be used by the Agency in ascertaining whether the WIPP disposal system complies with the disposal standards.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/93	58 FR 8029
NPRM	01/30/95	60 FR 5766
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3232.

Agency Contact: Criteria and Standards Division, Environmental Protection Agency, Air and Radiation, Office of Radiation and Indoor Air, Mail Code 6602J, Washington, DC 20460
Phone: 202 233-9025
Fax: 202 233-9626

RIN: 2060–AE30

3502. PROTECTIVE ACTION GUIDANCE FOR DRINKING WATER

Priority: Other Significant

Legal Authority: 42 USC 2021(h)/AEA(h)/Reorganization Plan No. 3 of 1970; PL 96-295, sec 304; EO 12241

CFR Citation: 41 CFR 351

Legal Deadline: None

Abstract: This action will result in Federal protective action guidance (PAG) for State and local officials to use in the event of a nuclear accident to protect the general public from the adverse health affects associated with the ingestion of drinking water that is contaminated with radioactive material. As soon as the draft guidance is developed it will be submitted to the PAG Subcommittee of the Federal Radiological Preparedness Coordinating Committee (FRPCC) for review and comment. Members of the PAG subcommittee include representatives from DOE, DOD, FEMA, NRC, HHS, USDA, DOT, and the Conference of Radiation Control Program Directors (CRCPD). When a consensus among the representatives is reached, the guidance is recommended to the full FRPCC for endorsement. After that endorsement is obtained a notice of the availability of a revised EPA 400-R-92-001, "Manual of Protective Action Guides and Protective Actions for Nuclear Incidents" will be published in the Federal Register.

Timetable:

Action	Date	FR Cite
Submission to FRPCC for endorsement	05/30/96	
Notice of Availability	09/30/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3602.

Agency Contact: Lisa Ratcliff, Office of Radiation and Indoor Air, Environmental Protection Agency, Air and Radiation, 6602J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9448

RIN: 2060–AF39

3503. FEDERAL RADIATION PROTECTION GUIDANCE FOR EXPOSURE OF THE GENERAL PUBLIC

Priority: Other Significant

Legal Authority: 42 USC 2021(h)/AEA 274(h)/Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This action will update and replace existing Presidential guidance for all Federal agencies in the formulation of radiation standards for protection of the public from ionizing radiation that was issued in 1960.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/86	51 FR 22264
NPRM	12/23/94	59 FR 66414
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3321 (was 2073).

Agency Contact: Allan Richardson, Environmental Protection Agency, Air and Radiation, (6602J), Washington, DC 20460, 202-233-9213 or
Phone: 202 254-3826

RIN: 2060–AE61

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

Atomic Energy Act (AEA)

3504. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR YUCCA MOUNTAIN, NEVADA

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 2060-AG14	10/13/95	

RIN: 2060–AF38

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Safe Drinking Water Act (SDWA)

3505. NATIONAL PRIMARY DRINKING WATER REGULATIONS FOR LEAD AND COPPER (REVISION)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300/SDWA 1401

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: EPA will propose revisions to the National Primary Drinking Water Regulations for Lead and Copper published June 7, 1991. The basic lead and copper regulations will remain intact, however, EPA will propose minor revisions to refine specific requirements and improve implementation of the rule. Some of these revisions are deregulatory in nature, in that they will lessen monitoring requirements for public water systems which have consistently shown very low levels of lead and copper at the tap. EPA also plans to propose changes that will provide many community water systems more flexibility in the delivery of lead public education requirements, and allow States to invalidate inappropriate samples. Other proposed revisions would promote consistent national implementation by clarifying the monitoring requirements that apply in different circumstances. Finally, EPA plans to respond to a remand in American Water Works Association v. EPA, 40 F.3D 1266 (DC Circuit 1994), on portions of the Lead and Copper regulation by proposing a revised definition of "control" as it applies to lead service line replacement and to explain more fully the Agency's decision to exempt transient non-community water systems from coverage under the rule. Nationally, EPA estimates the proposed changes will not affect the cost or benefits of the Lead and Copper Rule significantly. State governments and some local governments may experience a minor increase in costs as a result of these revisions. Many local and tribal governments and small businesses that operate public water systems should experience a decrease in annual costs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3440.

Agency Contact: Judy Lebowich, Environmental Protection Agency, Water, (4604), Washington, DC 20460 Phone: 202 260-7595

RIN: 2040–AC27

3506. REFORMATTING OF DRINKING WATER REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: This rule reformats the current drinking water regulations to make them easier to understand and follow. This rule is not intended to change any of the regulatory requirements. The rule affects state, local and tribal governments in that it makes the rules easier to implement and thus facilitates their jobs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
Final Action	06/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3563.

Agency Contact: Carl Kessler, Environmental Protection Agency, Water, (4603), Washington, DC 20460 Phone: 202 260-3995

RIN: 2040–AC41

3507. REVISION OF CURRENT REQUIREMENTS FOR TRIGGERING INCREASED DRINKING WATER MONITORING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: The Safe Drinking Water Act requires EPA to establish National Primary Drinking Water Regulations for specific contaminants. The rules are to include analytical methods by which the contaminants can be measured. Monitoring requirements are also imposed by regulation. Monitoring frequencies can be increased or decreased by certain monitoring results. Regulations which have been promulgated already contain levels for triggering increased monitoring which are problematic, either because laboratories have difficulty detecting consistently at those levels or because the levels are well below those which might pose a health concern. This rule would revise the current trigger levels for increased monitoring for drinking water contaminants. Proposed revisions are the result of extensive discussions with State officials to define the problem(s) and identify potential solutions. While the proposal is still under development, requirements for some synthetic organic contaminants are likely to be relaxed. All states with primacy would be responsible for overseeing the implementation of the rule, including enforcement of monitoring requirements. Local and tribal governments which own water systems would be responsible for implementing the requirements of the rule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
Final Action	01/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3565.

Agency Contact: Bruce Macler, Environmental Protection Agency, Water, Region IX, 75 Hawthorne Street, San Francisco, CA 94105 Phone: 415 744-1884

RIN: 2040–AC52

3508. • STREAMLINING REVISIONS TO THE NATIONAL PRIMARY DRINKING WATER REGULATIONS

Regulatory Plan: This entry is Seq. No. 106 in Part II of this issue of the **Federal Register**.

RIN: 2040–AC66

EPA—SDWA

Proposed Rule Stage

3509. • ANALYTICAL METHODS FOR REGULATED DRINKING WATER CONTAMINANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: EPA approves analytical methods for analyzing regulated drinking water contaminants. EPA approved methods include EPA methods, Standard Methods (methods evaluated and recommended for use by the America Public Health Association (APHA)), American Society for Testing and Materials (ASTM) Methods, United States Geological Survey (USGS) Methods and others. Periodically, the Agency updates and revises methods to incorporate newer technologies. Standard setting organizations such as APHA, ASTM, and USGS also routinely revise and update methods.

In this regulatory effort, EPA proposes to approve new methods or newer versions of existing methods and at the same time withdraw approval of older outdated methods. The new additional methods to be proposed for approval will include immunoassays. Immunoassays detect target compounds using an antibody which binds only to that substance. These assays are increasingly applied to environmental analysis because of their selectivity, accuracy, speed, low limit of detection and economy.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
Final Action	03/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3726.

Agency Contact: Dr. Jitendra Saxena, Environmental Protection Agency, Water, (4603), Washington, DC 20460 Phone: 202 260-9579

RIN: 2040–AC77

3510. • UNDERGROUND INJECTION CONTROL PROGRAM STREAMLINING RULE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR 144; 40 CFR 146

Legal Deadline: None

Abstract: On March 16, 1995 President Clinton issued a directive to reduce existing paperwork burdens by 25%. To help meet this 25% reduction goal, the UIC program will try to reduce approximately 90,000 hours of the paperwork burden on State and injection well operators. The UIC program plans to reduce the frequency of a number of regularly scheduled reports by 50%. The Program will include these reductions in the overall 25% reduction. In order to meet the 25% reduction EPA will consider the following changes: (1) reduction in monitoring and reporting frequency, and (2) reduction in requirements for state reviews of lifetime permits.

Timetable:

Action	Date	FR Cite
NPRM	03/00/95	
Final Action	03/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3784.

Agency Contact: Denny Cruz, Environmental Protection Agency, Water, (4602), Washington, DC 20460 Phone: 202 260-7776 Fax: 202 260-0732

RIN: 2040–AC83

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Safe Drinking Water Act (SDWA)

Final Rule Stage

3511. DRINKING WATER MICROBIAL AND DISINFECTION BY-PRODUCT MONITORING RULE (FORMERLY CALLED THE "INFORMATION COLLECTION DISINFECTION BYPRODUCTS RULE")

Priority: Other Significant

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: EPA has negotiated two rules regulating disinfectants, disinfection byproducts, and microbial contaminants. As part of the negotiation, EPA also committed to promulgating a Microbial and Disinfection By-Product Monitoring Rule to provide more occurrence and technology treatment data. The data will enable EPA to promulgate the Enhanced Surface Water Treatment Rule and will enable the negotiators to meet again to consider long term standards. This action fulfills that commitment. Public surface water systems serving 100,000 or more people and groundwater systems serving 50,000 or more people are required to generate data, with the most extensive data requirements levied on systems serving 100,000 people or more. Governments are not affected by this rule unless they operate a public water system.

Timetable:

Action	Date	FR Cite
NPRM	02/10/94	59 FR 6332
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3445.

Agency Contact: Tom Grubbs, Environmental Protection Agency, Water, (4603), Washington, DC 20460 Phone: 202 260-7270

RIN: 2040–AC24

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Safe Drinking Water Act (SDWA)

Long-Term Actions

3512. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADIONUCLIDES

Priority: Economically Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM	07/18/91	56 FR 33050
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Dave Huber Phone: 202 260-9566

RIN: 2040–AA94

3513. NATIONAL PRIMARY DRINKING WATER REGULATIONS: GROUNDWATER DISINFECTION

Priority: Economically Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Bruce Macler Phone: 415 744-1884

RIN: 2040–AA97

3514. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ARSENIC

Priority: Economically Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Heather Shank-Givens Phone: 202 260-0063

RIN: 2040–AB75

3515. NATIONAL PRIMARY DRINKING WATER REGULATIONS: 25 CONTAMINANTS FROM DRINKING WATER PRIORITY LIST (PHASE VIA) - DISINFECTION BYPRODUCTS RULE AND ENHANCED SURFACE WATER TREATMENT RULE

Priority: Other Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	07/29/94	59 FR 38668
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Stig Regli Phone: 202 260-7379

RIN: 2040–AB82

3516. NATIONAL PRIMARY DRINKING WATER REGULATIONS: SULFATE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	12/20/94	59 FR 65578
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Jan Auerbach Phone: 202 260-7575

RIN: 2040–AC07

3517. NATIONAL PRIMARY DRINKING WATER STANDARDS (NPDWRS) FOR ALDICARB

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Heather Shank-Givens Phone: 202 260-0063

RIN: 2040–AC13

3518. NATIONAL PRIMARY DRINKING WATER REGULATIONS: 25 CONTAMINANTS FROM DRINKING WATER PRIORITY LIST (PHASE VI-B)—ORGANIC AND INORGANIC CONTAMINANTS

Priority: Economically Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: David Huber Phone: 202 260-9566

RIN: 2040–AC22

EPA—SDWA

Long-Term Actions

3519. MANAGEMENT OF CLASS V INJECTION WELLS UNDER PART C OF THE SAFE DRINKING WATER ACT

Priority: Other Significant

CFR Citation: 40 CFR 144; 40 CFR 145; 40 CFR 146

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44652
Final Action	11/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Lee Whitehurst Phone: 202 260-5532

RIN: 2040–AB83

3520. • STREAMLINING DRINKING WATER MONITORING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300/SDWA 1445

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: The current drinking water monitoring requirements vary by contaminant (e.g., inorganic vs. organic), the source of the supply (i.e., surface water vs. ground water) and by system size. After an initial series of samples, the sampling frequency increases or decreases based on the results of the initial series. Because there are numerous permutations to the possible frequencies at any one sampling point, the requirements are difficult to understand. And because the requirements presume all systems are contaminated, many systems have conducted expensive monitoring without finding any contamination.

EPA intends to simplify and improve the cost effectiveness of the current requirements by reducing the number of variables upon which the sampling frequencies turn, by providing greater latitude for state discretion in customizing the sampling frequencies to local circumstances (i.e., vulnerability to contamination), by consolidating subsections wherever possible, and by clarifying ambiguous language. EPA will also consider adopting a process under which states may design alternative monitoring frameworks based on goal oriented criteria in the federal regulations and EPA guidance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3761.

Agency Contact: Mike Muse, Environmental Protection Agency, Water, (4604), Washington, DC 20460 Phone: 202 260-3874 Fax: 202 260-4656

RIN: 2040–AC73

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Safe Drinking Water Act (SDWA)

Completed Actions

3521. DRINKING WATER PRIMACY WITHDRAWAL REGULATION (REVISION)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 142

Completed:

Reason	Date	FR Cite
Final Action	06/28/95	60 FR 33658

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Judy Lebowich Phone: 202 260-7595

RIN: 2040–AC19

3522. REVISIONS TO SDWA; UNDERGROUND INJECTION CONTROL PROGRAM REGULATIONS FOR CLASS II (OIL AND GAS-RELATED) WELLS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 144; 40 CFR 146

EPA—SDWA

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn no further action planned	09/21/95	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal, Federal

Agency Contact: Jeffrey Smith
Phone: 202 260-5586

RIN: 2040–AB77

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Prerule Stage

Resource Conservation and Recovery Act (RCRA)

3523. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Regulatory Plan: This entry is Seq. No. 101 in Part II of this issue of the **Federal Register**.

RIN: 2050–AB80

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Resource Conservation and Recovery Act (RCRA)

3524. FACILITY RESPONSE PLANNING FOR DELEGATED OFFSHORE FACILITIES

Priority: Other Significant

Legal Authority: 33 USC 1321/Clean Water Act; EO 12777

CFR Citation: 40 CFR 112

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: Some offshore oil storage facilities have insufficient response planning and lack the necessary private response resources to respond to worst case oil discharges that affect waters of the United States.

The Oil Pollution Act of 1990 (OPA) requires all oil facilities to prepare, submit and implement plans for responding to worst case oil discharges. This action would implement OPA requirements for offshore non-transportation related facilities located landward of the low water mark. In this rule, EPA plans to extend the applicability of its facility response plan rule for onshore facilities (July 1, 1994) to these offshore facilities. In a 2/3/94 Memorandum of Understanding, the Department of Interior/Minerals Management Service delegated authority to regulate these offshore facilities to EPA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	04/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 131 Crude Petroleum and Natural Gas

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3425.

Agency Contact: Bobbie Lively-Diebold, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G)
Phone: 703 356-8774

RIN: 2050–AE18

3525. HAZARDOUS WASTE MANAGEMENT SYSTEM: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE; RECYCLED USED OIL MANAGEMENT STANDARDS

Priority: Other Significant

Legal Authority: 42 USC 9601(37); 42 USC 9614(c); 42 USC 6905; 42 USC 6912(a); 42 USC 6921through 6927, 6930, 6934, and 6974

CFR Citation: 40 CFR 279

Legal Deadline: None

Abstract: This action is being taken in response to a Court remand of mixture provisions contained in the Used Oil Management Standards. The remanded provisions exempt mixtures of used oil and characteristic hazardous waste (e.g., spent mineral spirits) from the Land Disposal Restrictions. The effect of the existing LDR exemption is to encourage mixing of used oil and characteristic hazardous waste and, consequently, to discourage segregation and recycling the used oil and spent solvents as separate waste streams. Mixtures of used oil and spent solvents are virtually always burned. This stay of the mixture provisions and proposed rule would address the applicability of the LDR to decharacterized mixtures of used oil and characteristic hazardous waste. We expect that any changes resulting from the proposed rule will have minimal impact on state/local/tribal governments and small businesses (e.g., service stations, quick lubes).

Timetable:

Action	Date	FR Cite
Administrative Stay	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3668.

Agency Contact: Eydie Pines, Environmental Protection Agency, Solid Waste and Emergency Response, SE.
Phone: 202 260-3509

RIN: 2050–AE28

EPA—RCRA

Proposed Rule Stage

3526. MODIFICATIONS TO THE DEFINITION OF SOLID WASTE AND REGULATIONS OF HAZARDOUS WASTE RECYCLING: GENERAL

Regulatory Plan: This entry is Seq. No. 107 in Part II of this issue of the **Federal Register**.

RIN: 2050–AD18

3527. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: HAZARDOUS WASTE IDENTIFICATION RULE (HWIR); WASTE

Regulatory Plan: This entry is Seq. No. 108 in Part II of this issue of the **Federal Register**.

RIN: 2050–AE07

3528. SPENT SOLVENTS LISTING DETERMINATION

Priority: Other Significant

Legal Authority: 42 USC 6905/RCRA 1005; 42 USC 6912/RCRA 2002; 42 USC 6921/RCRA 3001; 42 USC 6922/RCRA 3002; 42 USC 6926/RCRA 3006; 42 USC 9602/RCRA 6002; 33 USC 1361/FWPCA 1361; 33 USC 1321/FWPCA 1321

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, March 31, 1996. Final, Statutory, February 8, 1986. Final, Judicial, May 31, 1997.

Abstract: This action addresses the potential human health and environmental risks posed by certain used solvents and waste residues from their recovery, and determines whether these wastes should be listed as hazardous wastes under RCRA. As part of this effort, EPA is also considering opportunities for pollution prevention and recycling. This action will be implemented by States authorized under RCRA. Impacts on local and tribal governments are not expected, and small business impacts are undetermined at this time.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
Final Action	05/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3134.

Agency Contact: Ron Josephson, Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington, DC 20460
Phone: 202 260-4770

RIN: 2050–AD84

3529. CHLORINATED ALIPHATICS LISTING DETERMINATION

Priority: Other Significant

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6922/RCRA 3001; 42 USC 9602/CERCLA 102; 33 USC 1321/FWPCA 311; 33 USC 1321/FWPCA 501

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, November 30, 1995. Final, Judicial, October 31, 1996.

Abstract: This action addresses the potential risks posed by wastes from the production of 25 chlorinated aliphatics, and determines whether these wastes should be listed as hazardous wastes under RCRA to control these risks. Any new wastes listed as hazardous will also be added to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and small business impacts are undetermined. This action is currently on hold pending further settlement discussions with litigants.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3151.

Agency Contact: Anthony Carrell, Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington, DC 20460
Phone: 202 260-6607

RIN: 2050–AD85

3530. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: PETROLEUM REFINING PROCESS WASTES

Priority: Other Significant

Legal Authority: 42 USC 6921/RCRA 3001

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, October 31, 1995. Final, Judicial, October 31, 1996.

Abstract: This action addresses the potential human health and environmental risks posed by 14 waste streams from petroleum refining processes, and determines whether these wastes should be listed as hazardous wastes under RCRA. If listed under RCRA, these wastes would also be added to the CERCLA list of hazardous substances. As part of this action, the Agency is considering opportunities for source reduction, recycling, reclamation or reuse in other manufacturing processes. This action will be implemented by EPA and authorized States under RCRA. Impacts on local and tribal governments are unknown and small business impacts are not expected.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3064.

Agency Contact: Maximo (Max) Diaz, Jr., Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington, DC 20460
Phone: 202 260-4770

RIN: 2050–AD88

3531. REVISED STANDARDS FOR HAZARDOUS WASTE COMBUSTION FACILITIES

Regulatory Plan: This entry is Seq. No. 109 in Part II of this issue of the **Federal Register**.

RIN: 2050–AE01

3532. CEMENT KILN DUST

Priority: Other Significant

Legal Authority: 42 USC 6921/RCRA 3001(b)(3)(A)(iii); RCRA 8002(o)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: EPA prepared a Cement Kiln Dust Report and submitted it to Congress. The report studies the sources and volumes of cement kiln

dust, current and alternative waste management practices and their costs and economic impacts, documents damages to human health and the environment from cement kiln dust disposal, and discusses existing state and Federal regulation of these wastes. EPA used this information, after an opportunity for public comment, to make a final regulatory determination. In the determination the Agency decided that regulation under RCRA Subtitle C was warranted to protect the public from human health risks and to prevent environmental damage resulting from current disposal of this waste.

Under the terms of a consent decree, the Cement Kiln Dust Report to Congress was completed by December 31, 1993; the Regulatory Determination was completed on January 31, 1995. The Agency now plans to develop specific tailor-made regulations that are appropriate for the management of CKD.

EPA is currently considering a proposed enforceable agreement, which was presented to the Agency by the U.S. cement industry on March 22, 1995. Under this proposal, cement manufacturing facilities would manage their CKD according to specified management practices and EPA would enforce the terms of the agreement against non-complying companies directly without the existence of a regulation to implement the practices.

The enforceable agreement represents a new approach and raises a number of legal and technical issues which EPA is currently evaluating. No final decision has been made by EPA regarding the viability of the proposal. If the agreement turns out not to be viable, the Agency will resume development of a specific tailor-made regulation for CKD.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/06/94	59 FR 709
Regulatory Determination	02/07/95	60 FR 7366
NPRM	06/00/96	
Final Action	06/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3334.

Agency Contact: William Schoenborn, Environmental Protection Agency, Solid Waste and Emergency Response, (5302W), Washington DC, 20460 Phone: 703 308-8483

RIN: 2050–AE02

3533. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES; HAZARDOUS WASTE IDENTIFICATION RULE (HWIR): CONTAMINATED MEDIA

Regulatory Plan: This entry is Seq. No. 110 in Part II of this issue of the **Federal Register**.

RIN: 2050–AE22

3534. HAZARDOUS WASTE MANIFEST REGULATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6922/RCRA 3002(a)(5); 42 USC 6974/RCRA 7004(a)

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271

Legal Deadline: None

Abstract: The purpose of this rule is to amend the existing Uniform Hazardous Waste Manifest rule to make it truly "uniform" across the country. Presently what is supposed to be a "uniform" manifest is instead a patchwork of varying State manifests. Interstate shipments become quite burdensome when industry must deal with several different forms with varied requirements. This is compounded since States have difficulty tracking and verifying interstate loads. EPA is developing a proposed rule, as part of regulatory negotiation, to make the form more uniform and less burdensome, while still addressing state data needs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	10/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3147.

Agency Contact: Rick Westlund, Environmental Protection Agency, Solid Waste and Emergency Response, (2136), Washington, DC 20460 Phone: 202 260-2745

RIN: 2050–AE21

3535. RULE IDENTIFYING WHEN MILITARY MUNITIONS BECOME HAZARDOUS WASTES AND MANAGEMENT STANDARDS FOR SUCH WASTES

Priority: Other Significant

Legal Authority: 42 USC 6924(y)/RCRA 3004(y)

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 270

Legal Deadline: NPRM, Statutory, April 6, 1993. Final, Statutory, October 6, 1994.

Abstract: EPA will issue a rule clarifying when military munitions (including chemical munitions) become hazardous wastes subject to Federal hazardous waste storage, treatment, and disposal rules. The rule will assure transportation and storage of such wastes are safe and protective of human health and the environment. The rule is likely to address munitions in the military stockpile to be demilitarized, burning of excess propellants, emergency responses involving both military and non-military explosives, and unexploded ordnance on firing ranges. State National Guard units as well as Federal DOD, DOE, and DOT (Coast Guard) units will be subject to these rules. EPA and EPA-authorized States will implement the standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3235.

Agency Contact: Ken Shuster, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460 Phone: 703 308-8759

RIN: 2050–AD90

3536. RCRA SUBTITLE C INDIAN PROGRAM AUTHORIZATION

Priority: Other Significant

Legal Authority: 42 USC 6926(b)/3006(b)

CFR Citation: 40 CFR 271; 40 CFR 270

Legal Deadline: None

Abstract: The RCRA statute is silent on approval of Tribal hazardous waste programs. This regulatory action would clarify that Indian Tribes may become authorized for the RCRA Subtitle C hazardous waste program and will also make available to Tribes RCRA grant funds to assist in implementation of authorized hazardous waste programs. Currently, authorization and grant funding is only available to States. The action would establish criteria which a Tribe must meet for authorization. This rule furthers EPA's recognition of Tribal sovereignty and furthers the Agency's goal of delegating environmental programs to Tribes. This action will impact the amount of grants given to States since the level of funding will remain constant but the number of grantees is anticipated to increase. It will also impact the Tribes by allowing them an increased role in environmental regulation on Indian Country.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 2827.

Agency Contact: Virginia Phillips, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460 Phone: 703 308-8761

RIN: 2050–AD07

3537. FIELD FILTERING OF GROUNDWATER SAMPLES

Priority: Substantive, Nonsignificant

Legal Authority: RCRA 4010

CFR Citation: 40 CFR 258.51(b)

Legal Deadline: None

Abstract: The RCRA Subtitle D Solid Waste Disposal Facility Criteria, among other provisions, require owners/operators of municipal solid waste landfills to monitor groundwater to detect a release from their landfills. The Criteria ban the filtering of groundwater samples in the field because filtering potentially removes some of the contamination found in the solid phase of the samples. Since promulgation of the Criteria, a number of States and industry groups have stated that it is important to field filter groundwater samples for metals to avoid potential false indications of a landfill release to groundwater. The commenters maintain that the analytical results using filtered samples are sufficiently protective and are as effective as unfiltered samples required in the Criteria. This proposed rule seeks comment on the appropriateness of allowing States/Tribes with EPA-approved permit programs to lift the ban on a site-specific basis.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 3150.

Agency Contact: Andrew Teplitzky, Environmental Protection Agency, Solid Waste and Emergency Response, (5306W), Washington, DC 20460 Phone: 703 308-8300

RIN: 2050–AD86

3538. RCRA SUBTITLE D SOLID WASTE FACILITIES; STATE/TRIBAL PERMIT PROGRAM—DETERMINATION OF ADEQUACY

Priority: Other Significant

Legal Authority: 42 USC 6945/RCRA 4005; 42 USC 6912/RCRA 2002

CFR Citation: 40 CFR 239

Legal Deadline: None

Abstract: This action known as the "State/Tribal Implementation Rule" or "STIR", will delegate to States and Indian Tribes the authority to control the human health and environmental risks associated with municipal solid waste (MSW) landfill management, particularly groundwater contamination. The STIR will do so by establishing criteria and procedures for EPA to use to determine whether State and tribal MSW landfill permit programs are adequate to ensure compliance with the Solid Waste Disposal Facility Criteria. While the Disposal Facility Criteria automatically apply to all MSW landfills, States and tribes with permit programs deemed adequate under the STIR can provide some flexibility on design standards and other requirements to landfill owners and operators who meet the Criteria's performance standards. In providing this flexibility, the STIR offers an opportunity to reduce the regulatory burden on State, tribal and local governments and on landfill owners and operators.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Additional Information: SAN No. 2751.

Agency Contact: Mia Zmud, Environmental Protection Agency, Solid Waste and Emergency Response, (5306W), Washington, DC 20460 Phone: 703 308-7263

RIN: 2050–AD03

3539. REVISIONS TO THE COMPREHENSIVE GUIDELINE FOR PROCUREMENT OF PRODUCTS CONTAINING RECOVERED MATERIALS

Priority: Other Significant

Legal Authority: 42 USC 6912(a)/RCRA 6002(e)

CFR Citation: 40 CFR 247

Legal Deadline: None

Abstract: RCRA section 6002 requires EPA to issue guidelines for procuring recycled products. EPA is to designate items that are made with recovered materials and to recommend practices for government procurement. Once designated, procuring agencies are required to purchase these items with the highest percentage of recovered materials practicable. On May 1, 1995, under RCRA and Executive Order 12873, "Federal Acquisition, Recycling, and Waste Prevention," EPA designated 19 items in a Comprehensive Procurement Guideline (CPG) (60 FR 21370). EPA also issued purchasing recommendations in a related Recovered Materials Advisory Notice

EPA—RCRA — Proposed Rule Stage

(RMAN) (60 FR 21386). The Order requires EPA to update the CPG and issue RMANs annually. The Agency consolidated EPA's five existing procurement guidelines (for paper and paper products, retread tires, re-refined lubricating oil, building insulation, and cement and concrete containing fly ash) into the CPG and RMAN. This action would propose the first update to the CPG, in which additional items would be designated, and additional recommendations would be discussed in the RMAN.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	09/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3545.

Agency Contact: Beverly Goldblatt, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460 Phone: 703 308-7278

RIN: 2050–AE23

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Resource Conservation and Recovery Act (RCRA)

3540. ALTERNATIVES FOR GROUNDWATER MONITORING AND DELAY OF GENERALD COMPLIANCE DATE FOR SMALL MUNICIPAL SOLID WASTE LANDFILLS LOCATED IN EITHER DRY OR REMOTE AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6905, 6912(a), 6921, 6922, 6924, 6934, and 6938

CFR Citation: 40 CFR 261; 40 CFR 266

Legal Deadline: NPRM, Judicial, December 13, 1994. Final, Judicial, June 13, 1996.

Abstract: This action addresses the potential human health and environmental impacts from the use of slag residues (slags) resulting from high temperature metals recovery (HTMR) treatment of specified hazardous wastes (i.e., electric arc furnace dust, steel finishing pickle liquor, and electroplating sludges). This action would reclassify these slags as nonhazardous when they meet certain exclusion levels and are managed and used in a certain manner.

Timetable:

Action	Date	FR Cite
NPRM	12/29/94	59 FR 67256
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3428.

Agency Contact: Narendra K. Chaudhari, Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington DC 20460 Phone: 202 260-4787

RIN: 2050–AE15

3541. ALTERNATIVES FOR GROUNDWATER MONITORING AND DELAY OF GENERAL COMPLIANCE DATE FOR SMALL MUNICIPAL SOLID WASTE LANDFILLS LOCATED IN EITHER DRY OR REMOTE AREAS

Priority: Other Significant

Legal Authority: RCRA 4010

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: On October 9, 1991 the Agency promulgated final solid waste disposal facility criteria (40 CFR Part 258), setting in place national minimum standards for municipal solid waste landfills (MSWLFs). In that rulemaking, the Agency provided an exemption from ground-water monitoring for small MSWLF units located in dry or remote locations. The Agency provided this relief as it sought to balance the protection of human health and the environment with the practicable capability of these small community landfill owners and operators. In 1993, the U.S. court of Appeals for the District of Columbia Circuit vacated this ground-water monitoring exemption. This rule would provide States and Tribes with EPA-approved permit programs the flexibility to determine alternative ground-water monitoring requirements, on a site-specific basis, for small MSWLFs that are located in either dry or remote areas. Under this proposal, approved States and Tribes may consider site-specific alternatives to conventional ground-water monitoring, such as installation of soil moisture detection devices, that are relatively low in cost and are still capable of detecting contamination. Through the use of ground-water monitoring alternatives, the Agency estimates potential annual national cost savings of between $5.9 million to $22.2 million. This proposed rule also solicits comment on a delay of the general compliance date of the MSWLF criteria for qualifying small MSWLFs located in dry or remote locations.

Timetable:

Action	Date	FR Cite
NPRM	08/10/95	60 FR 40799
Final Action on Delay of Compliance Date	10/06/95	60 FR 52337
Final Action on Alternatives	10/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3546.

Agency Contact: Andrew Teplitzky, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460 Phone: 703 308-8300

RIN: 2050–AE24

3542. HAZARDOUS WASTE MANAGEMENT SYSTEM: POST-CLOSURE REQUIREMENTS

Priority: Other Significant

Legal Authority: 42 USC 6926/RCRA 3006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 124

Legal Deadline: None

Abstract: Under the current RCRA regulations, a facility that needs post-closure care must obtain a permit. In many cases, the post-closure permit is an appropriate mechanism for the regulatory agency to use to address the environmental needs at the facility. In other cases, however, a permit may not be appropriate. And, in some cases, the facility's post-closure care needs may have already been addressed through other legal mechanisms, such as enforcement actions or Superfund actions. In these cases, subsequent issuance of a post-closure permit would not provide any environmental benefit, although, under the current regulations, it is still required. This rule would remove the requirements to issue a permit to address post-closure care in all cases. A permit would remain an option, but EPA Regions and authorized States would be able to use other mechanisms as well, depending on the circumstances at the facility. States authorized to implement the RCRA program are currently required to adopt authority to compel corrective action at permitted facilities. They are not required to have similar authority at interim status facilities, though many States do. As a result, the corrective action program is implemented by the State, at some facilities, and by the EPA Regions at other. This rule would require States to adopt, as part of their authorized RCRA programs, authority to address corrective action at interim status facilities. This would result in a more consistent implementation of the corrective action program in the States.

Timetable:

Action	Date	FR Cite
NPRM	11/08/94	59 FR 55778
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No: 3042.

Agency Contact: Barbara Foster, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460 Phone: 703 308-7057

RIN: 2050–AD55

EPA—RCRA — Final Rule Stage

3543. LISTING DETERMINATION FOR HAZARDOUS WASTES - ORGANOBROMINES CHEMICAL INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6922/RCRA 3001; 42 USC 9602/CERCLA 102; 33 USC 1361/CERCLA 311; 33 USC 1321/CERCLA 501

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, April 30, 1994. Final, Judicial, April 30, 1996.

Abstract: This action proposes to list as a hazardous waste under RCRA one additional waste stream generated during the production of organobromine compound chemicals used as fire retardants. These wastes would then have to be disposed in special hazardous waste landfills.

Timetable:

Action	Date	FR Cite
NPRM	05/11/94	59 FR 24530
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3065.

Agency Contact: Anthony Carrell, Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington, DC 20460 Phone: 202 260-6607

RIN: 2050–AD79

3544. NEW AND REVISED TESTING METHODS APPROVED FOR RCRA SUBTITLE C, IN "TEST METHODS FOR EVALUATING SOLID WASTE, PHYSICAL/CHEMICAL METHODS" (SW-846), THIRD EDITION, UPDATE III

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6912/RCRA 2002; 42 USC 6921/RCRA 3001; 42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005; 42 USC 6926/RCRA 3006

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270

Legal Deadline: None

Abstract: This action will revise certain testing methods and add other new testing methods that are approved or required under Subtitle C of RCRA. These new and revised methods will be added to EPA's solid waste testing guidance ("Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA publication SW-846). The revision to the manual is necessary to provide improved and more complete analytical methods for RCRA-relating testing. This action will assist States and Tribal governments in implementing the RCRA program. Impacts on small businesses and local governments are not expected.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37974
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3427.

Agency Contact: Kim Kirkland, Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington DC 20460 Phone: 202 260-6722

RIN: 2050–AE14

3545. RCRA SUBTITLE D CORPORATE FINANCIAL TEST AND GUARANTEE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6907/RCRA 1008; 42 USC 6944/RCRA 4004; 42 USC 6949a/RCRA 4010

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: On October 9, 1991 the Agency promulgated revised criteria for municipal solid waste landfills (MSWLFs) which included financial assurance requirements to ensure that adequate funds are readily available to cover the costs of closure, post-closure care, and corrective action associated with MSWLFs without incurring government response costs. The proposal would add a corporate financial test to the financial assurance

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mechanisms currently available to owners and operators of RCRA Subtitle D MSWLFs. EPA estimates that the rule would save owners and operators of MSWLFs approximately $45 million annually by allowing the use of a financial test rather than more expensive mechanisms such as surety bonds or letters of credit. Finally, the rule would revise the domestic asset requirement of the subtitle C corporate financial test. The rule would have no impacts on local governments but could be implemented by state or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	10/12/94	59 FR 51523
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3179.

Agency Contact: Dale Ruhter, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460 Phone: 703 308-8192

RIN: 2050–AD77

3546. REVISIONS TO CRITERIA APPLICABLE TO SOLID WASTE DISPOSAL FACILITIES THAT MAY ACCEPT CESQG HAZARDOUS WASTES EXCLUDING MUNICIPAL SOLID WASTE LANDFILLS

Priority: Other Significant

Legal Authority: 42 USC 6907, 6944, 6949/RCRA 4010, 1008, 2002, and 4004; 33 USC 1345

CFR Citation: 40 CFR 257

Legal Deadline: NPRM, Judicial, May 15, 1995. Final, Judicial, July 1, 1996.

Abstract: EPA will revise existing Criteria for facilities that may receive hazardous household wastes (HHW) or Conditionally Exempt Small Quantity Generator (CESQG) hazardous wastes. In October 1991, EPA promulgated the Municipal Solid Waste Landfill Criteria, thereby satisfying part of the statutory mandate. EPA is under a settlement agreement with the Sierra Club to fulfill the remainder of the statutory mandate by promulgating regulations pertaining to the disposal of CESQG hazardous wastes at solid waste disposal facilities. Depending on actual practices at specific facilities, these regulations might be applicable to commercial and private industrial waste facilities and construction and demolition waste facilities managing non-hazardous wastes. States will be responsible for implementing the rule, although a number of States already have comparable requirements and will not have an increased workload.

Timetable:

Action	Date	FR Cite
NPRM	06/12/95	60 FR 30964
Final Action	07/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3416.

Agency Contact: Paul F. Cassidy, Environmental Protection Agency, Solid Waste and Emergency Response, (5304W), Washington DC 20460 Phone: 703 308-8600

RIN: 2050–AE11

3547. LISTING DETERMINATION OF WASTES GENERATED DURING THE MANUFACTURE OF AZO, ANTHRAQUINONE, AND TRIARYLMETHANE DYES AND PIGMENTS

Priority: Other Significant

Legal Authority: 42 USC 6921/RCRA 3001

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, November 30, 1994. Final, Judicial, November 30, 1995.
Two waste streams are subject to later deadlines: Proposed, 11/3 0/95; Final, 06/30/96.

Abstract: This action addresses the potential human health and environmental risks posed by wastes from the manufacture of dyes and pigments, and determines whether these wastes should be listed as hazardous wastes under RCRA to control any unacceptable risks. As part of this effort, EPA is also considering opportunities for pollution prevention and recycling. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and small business impacts are undetermined at this time. Two waste streams are subject to later deadlines for proposed and final action. This action is currently on hold pending the outcome of a court challenge to the proposal. Litigants have challenged EPA's decision to publish data claimed as Confidential Business Information.

Timetable:

Action	Date	FR Cite
NPRM	12/22/94	59 FR 66072
Additional NPRM	11/00/95	
Final Action	11/00/95	
Additional Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3066/3068/3069.

Agency Contact: Wanda Levine, Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington, DC 20460 Phone: 202 260-7458

RIN: 2050–AD80

3548. IMPORTS AND EXPORTS OF HAZARDOUS WASTE: IMPLEMENTATION OF THE OECD DECISION FOR RECYCLABLE WASTES

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2656; 42 USC 6901/RCRA 3001

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 266

Legal Deadline: None

Abstract: On March 30, 1992, the Organization for Economic Cooperation and Development (OECD) adopted the Council's Final Decision on the Control of Transfrontier Movements of Wastes Destined for Recovery Operations. The United States, a member of the OECD, supported the Decision, which is legally binding. The Decision established a graduated system of procedural controls for the export and import of wastes for recovery, depending on whether a waste is included in the green, amber, or red lists. Green wastes are subject only to controls imposed in normal international commercial shipments. Amber and red wastes that are considered hazardous are subject to additional controls regarding: notification to and consent from the exporting, importing, and transit countries; contracts; tracking documents; and recordkeeping. The Agency is codifying these provisions in an interim final rule which would replace the current RCRA export/import regulations for hazardous waste destined for recovery within the OECD. These changes do not affect the RCRA export/import regulations for hazardous wastes moving to or from Canada and Mexico for treatment or disposal within the OECD or moving for treatment, disposal or recovery purposes to other countries outside the OECD.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3114.

Agency Contact: Susan Nogas, Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington, DC 20460 Phone: 202 260-4534

RIN: 2050–AD87

3549. RCRA EXPANDED PUBLIC PARTICIPATION

Priority: Other Significant

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912/RCRA 2002; 42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005; 42 USC 6927/RCRA 3007; 42 USC 6974

CFR Citation: 40 CFR 270.41; 40 CFR 270.42; 40 CFR 270.10

Legal Deadline: None

Abstract: EPA would like to encourage greater levels of public participation in the RCRA permitting process. Current regulations provide limited opportunities for public participation; therefore, EPA has proposed requirements to provide earlier and more extensive opportunities for public involvement in permitting activities for all RCRA facilities.

Timetable:

Action	Date	FR Cite
NPRM	06/02/94	59 FR 28680
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAN No. 3315.

Agency Contact: Patricia Buzzell, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460 Phone: 703 308-8632

RIN: 2050–AD97

3550. LAND DISPOSAL RESTRICTIONS—PHASE IV: TREATMENT STANDARDS FOR CERTAIN MINERAL PROCESSING WASTES; TC METALS; NEWLY LISTED WASTES FROM WOOD PRESERVING AND DYES AND PIGMENTS

Regulatory Plan: This entry is Seq. No. 124 in Part II of this issue of the **Federal Register**.

RIN: 2050–AE05

3551. LAND DISPOSAL RESTRICTIONS—PHASE III: DECHARACTERIZED WASTEWATERS, CARBAMATE WASTES, AND SPENT ALUMINUM POTLINERS

Regulatory Plan: This entry is Seq. No. 125 in Part II of this issue of the **Federal Register**.

RIN: 2050–AD38

3552. FINANCIAL TEST FOR LOCAL GOVERNMENTS THAT OWN/OPERATE MUNICIPAL SOLID WASTE LANDFILLS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6907, 6944 and 6949a/RCRA 1008, 4004, and 4010

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: The criteria for Municipal Solid Waste Landfills require landfill owners/operators to assure that they can cover the costs of closure and post-closure care of their landfills and the costs of cleaning up any known releases from their landfills. This rule would allow local governments to meet all or part of their financial assurance requirements based on their financial strength. EPA estimates that the local government financial test would save local governments $138 million annually. Small local governments and Tribal governments that own or operate landfills would share in this savings.

Timetable:

Action	Date	FR Cite
NPRM	12/27/93	58 FR 68353
Final Action	01/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: SAN No. 2761.

Agency Contact: George Garland, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460 Phone: 703 308-7272

RIN: 2050–AD04

3553. GUIDELINE FOR FEDERAL PROCUREMENT OF PAPER AND PAPER PRODUCTS CONTAINING RECOVERED MATERIALS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a)/RCRA 6002

CFR Citation: 40 CFR 247

Legal Deadline: None

Abstract: RCRA section 6002 establishes a buy-recycled program for Federal agencies, state and local agencies using Federal funds to buy items, and for contractors purchasing items under government contracts. It uses governments' purchasing power to develop markets for materials collected by municipal and commercial recycling programs. RCRA requires EPA to issue guidelines for government agencies and contractors to use when purchasing recycled products. EPA designates items that are made with recovered materials and recommends recovered material content levels or other methods for agencies to use when purchasing the items. Government agencies and contractors are required to purchase EPA-designated items containing the highest percentage of recovered materials practicable. On June 22, 1988, EPA issued a final procurement guideline which designated paper and paper products

EPA—RCRA — Final Rule Stage

and contained recovered materials content recommendations for these items. On April 20, 1994, EPA proposed to consolidate the paper designation into a Comprehensive Procurement Guideline and the recommendations into a Recovered Materials Advisory Notice. In this action, EPA will issue proposed revised recommendations for paper and paper products.

Timetable:

Action	Date	FR Cite
Advisory Notice	03/15/95	60 FR 14182
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3032.

Agency Contact: Dana Arnold, Environmental Protection Agency, Solid Waste and Emergency Response, (5306W), Washington, DC 20460 Phone: 202 308-7279

RIN: 2050–AD41

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Resource Conservation and Recovery Act (RCRA)

Long-Term Actions

3554. REVISIONS TO THE OIL POLLUTION PREVENTION REGULATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 112

Timetable:

Action	Date	FR Cite
NPRM	10/22/91	56 FR 54612
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: Kevin Mould Phone: 703 603-8728

RIN: 2050–AC62

3555. REGULATIONS TO CONTROL IMPORTS AND EXPORTS OF HAZARDOUS AND OTHER WASTES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 266

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Julie Lyddon Phone: 202 260-7944

RIN: 2050–AE13

3556. NEW AND REVISED TESTING METHODS APPROVED FOR RCRA SUBTITLE C HAZARDOUS WASTE TESTING MANUAL, SW-846, THIRD EDITION, UPDATE IV

Priority: Other

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Kim Kirkland Phone: 202 260-6722

RIN: 2050–AE25

3557. NO-MIGRATION VARIANCE FOR PROHIBITED HAZARDOUS WASTE LAND DISPOSAL

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 268

Timetable:

Action	Date	FR Cite
NPRM	08/11/92	57 FR 35940
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Chris Rhyne Phone: 703 308-8658

RIN: 2050–AC44

3558. CAUSES FOR PERMIT MODIFICATIONS TO HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 270.41

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ken Amaditz Phone: 703 308-7056

RIN: 2050–AD05

3559. FINAL DETERMINATION OF THE APPLICABILITY OF THE TOXICITY CHARACTERISTIC RULE TO UNDERGROUND STORAGE TANKS CONTAMINATED MEDIA AND DEBRIS

Priority: Other Significant

CFR Citation: 40 CFR 261

Timetable:

Action	Date	FR Cite
NPRM	02/12/93	58 FR 8504
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Heffelfinger Phone: 703 308-8881

RIN: 2050–AD69

3560. REGULATORY DETERMINATION ON REMAINING WASTES FROM THE COMBUSTION OF FOSSIL FUELS

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
Notice of Data Availability	02/12/93	58 FR 8273

EPA—RCRA — Long-Term Actions

Action	Date	FR Cite
Regulatory Determination (Phase I Four Fossil Fuel Wastes)	08/09/93	58 FR 42466
Regulatory Determination (Phase II Remaining Wastes)	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dan Derkics Phone: 703 308-8409

RIN: 2050–AD91

3561. HAZARDOUS WASTE MANAGEMENT SYSTEM; MODIFICATION OF THE HAZARDOUS WASTE PROGRAM; MERCURY-CONTAINING LAMPS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 261

Timetable:

Action	Date	FR Cite
NPRM	07/27/94	59 FR 38288
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Kristina Meson Phone: 202 260-5736

RIN: 2050–AD93

3562. RCRA SUBTITLE C FINANCIAL TEST CRITERIA (REVISION)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 280; 40 CFR 761

Timetable:

Action	Date	FR Cite
NPRM	07/01/91	56 FR 30201
Final Action (3rd Party Liability; Closure/Post Closures)	09/16/92	57 FR 42832
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dale Ruhter Phone: 703 308-8192

RIN: 2050–AC71

3563. EXTENSION OF STATES' INTERIM AUTHORIZATION OPTION TO CARRY OUT POST-HSWA REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 271.24

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/18/92	57 FR 60129
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wayne Roepe Phone: 703 308-8630

RIN: 2050–AD57

3564. UNDERGROUND STORAGE TANKS CONTAINING HAZARDOUS SUBSTANCES - FINANCIAL RESPONSIBILITY REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 280

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: Mark Barolo Phone: 703 308-8874

RIN: 2050–AC15

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Resource Conservation and Recovery Act (RCRA)

Completed Actions

3565. • LIQUIDS IN LANDFILLS: PROPOSED RULEMAKING TO GRANT A PETITION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6921/RCRA 3001

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 271

Legal Deadline: None

Abstract: On November 18, 1992, the Agency promulgated a final rule on liquids in landfills. That rule satisfied a statutory requirement in the Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984 regarding the landfill disposal of containerized liquids. Specifically, the statute required EPA to issue a rule that prohibited the disposal in hazardous waste landfills of liquids that have been absorbed in materials that biodegrade.

This proposed rulemaking, which provides increased flexibility to the regulated community, would add an additional test to demonstrate that a sorbent is non-biodegradable.

EPA is promulgating this amendment as a direct final rule without prior proposal because EPA views this as minor technical modification that merely broadens the scope of the testing. A detailed rationale for the amendment is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this propose rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action.

Timetable:

Action	Date	FR Cite
Final Action	07/11/95	60 FR 35703

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3710.

Agency Contact: David Eberly, Environmental Protection Agency, Solid Waste and Emergency Response, 5303W Phone: 703 308-8645

RIN: 2050–AE30

EPA—RCRA

Completed Actions

3566. MODIFICATIONS OF THE HAZARDOUS WASTE RECYCLING REGULATIONS: UNIVERSAL WASTES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 261; 40 CFR 273

Completed:

Reason	Date	FR Cite
Final Action	05/11/95	60 FR 25492

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Kristina Meson
Phone: 202 260-8551

RIN: 2050–AD19

3567. NEW AND REVISED TESTING METHODS APPROVED FOR RCRA SUBTITLE C HAZARDOUS WASTE TESTING MANUAL SW-846, THIRD EDITION, UPDATE II

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270

Completed:

Reason	Date	FR Cite
Final Action (pH Method)	04/04/95	60 FR 17001

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Charles Sellers and Kim Kirkland
Phone: 202 260-4761

RIN: 2050–AD06

3568. HAZARDOUS WASTE MANAGEMENT SYSTEM, AMENDMENT TO SUBPART C RULEMAKING PETITIONS: USE OF GROUNDWATER DATA IN DELISTING DECISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 260.22

Completed:

Reason	Date	FR Cite
Withdrawn - No further action planned	10/01/95	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Narendra Chaudhari
Phone: 202 260-4787

RIN: 2050–AC65

3569. COMPREHENSIVE GUIDELINE FOR PROCUREMENT OF PRODUCTS CONTAINING RECOVERED MATERIALS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 247

Completed:

Reason	Date	FR Cite
Final Action	05/01/95	60 FR 21370

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Goldblatt
Phone: 703 308-7278

RIN: 2050–AE16

3570. UNDERGROUND STORAGE TANKS—LENDER LIABILITY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 280

Completed:

Reason	Date	FR Cite
Final Action	09/07/95	60 FR 46692

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Heffelfinger
Phone: 703 308-8881

RIN: 2050–AD67

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Air Act (CAA)

Prerule Stage

3571. REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF OZONE STATE IMPLEMENTATION PLANS

Priority: Substantive, Nonsignificant

Legal Authority: PL 95-95; PL 101-549

CFR Citation: 40 CFR 51; 40 CFR 81

Legal Deadline: None

Abstract: The action identifies the requirements for preparation, adoption and submittal of ozone state implementation plans under a potentially new ozone national ambient air quality standard.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/96	
NPRM	06/00/97	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3553.

Agency Contact: Denise Gerth, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning & Standards, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-5550

RIN: 2060–AF34

3572. FUELS AND FUEL ADDITIVES WAIVER APPLICATION CRITERIA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7545/CAA 211

CFR Citation: 40 CFR 86

Legal Deadline: None

EPA—CAA

Prerule Stage

Abstract: This rulemaking will establish regulatory criteria and procedures for making determinations on fuel and fuel additive waiver applications under section 211(f)(4) of the Clean Air Act.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/96	
NPRM	06/00/97	
Final Action	06/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 291 Petroleum Refining; 371 Motor Vehicles and Motor Vehicle Equipment

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3389.

Agency Contact: Joseph Sopata, Environmental Protection Agency, Air and Radiation, 6406J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9034

RIN: 2060–AE68

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Air Act (CAA)

Proposed Rule Stage

3573. REVISIONS TO THE NEW SOURCE REVIEW REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4111/Clean Air Act Amendments of 1990, section 110(n)(3)

CFR Citation: 40 CFR 51.160 to 51.166; 40 CFR 52.24; 40 CFR 52.10

Legal Deadline: None

Abstract: EPA plans to amend its new source review rules to comply with the more stringent requirements in the Clean Air Act as amended in 1990 for preconstruction review of new and modified major sources in areas that have been designated by EPA as failing to attain one or more of the national ambient air quality standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2909.

In order to expedite the completion of the nonattainment new source review (NSR) rulemaking, this action has been split from the broader NSR rulemaking (RIN 2060-AE11).

Agency Contact: Mike Sewell, New Source Review Section, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711
Phone: 919 541-0873

RIN: 2060–AD13

3574. PROHIBITION OF LEADED GASOLINE FOR HIGHWAY USE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7545

CFR Citation: 40 CFR 80

Legal Deadline: Final, Statutory, December 31, 1995.

Abstract: After December 31, 1995, it shall be unlawful for any person to sell, offer for sale, supply, offer for supply, dispense, transport, or introduce into commerce, for use as fuel in any motor vehicle any gasoline which contains lead or lead additives.

Timetable:

Action	Date	FR Cite
Direct Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3111.

Agency Contact: Paula Chen, Environmental Protection Agency, Air and Radiation, (6406J), Washington, DC 20460
Phone: 202 233-9031

RIN: 2060–AD55

3575. NEW SOURCE REVIEW (NSR) REFORM

Regulatory Plan: This entry is Seq. No. 111 in Part II of this issue of the **Federal Register**.

RIN: 2060–AE11

3576. PERFORMANCE WARRANTY AND INSPECTION/MAINTENANCE TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7541; 42 USC 7601

CFR Citation: 40 CFR 51; 40 CFR 85

Legal Deadline: None

Abstract: This action establishes a new short test procedure for use in I/M programs required by the Clean Air Act Amendments of 1990. Vehicles that are tested and failed using this procedure and that meet eligibility requirements established by the act would be eligible for free warranty repair from the manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
Final Action	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3263.

Agency Contact: Eugene J. Tierney, Chief, Inspection/Maintenance Section, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4456

RIN: 2060–AE20

3577. INSPECTION/MAINTENANCE RECALL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7511 (A)(2)(b) and (A)(2)(b)(2)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This action specifies requirements for enhanced I/M

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programs to establish a program to ensure compliance with recall notices. This is pursuant to the Clean Air Act Amendments of 1990.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 3262.

Agency Contact: Eugene J. Tierney, Chief, Inspecion/Maintenance Section, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4456

RIN: 2060–AE22

3578. CONSOLIDATED EMISSION REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7511; 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: Emission statements and periodic inventories are new programs addressed in the 1990 Amendments to the Clean Air Act that call for emissions reporting. In addition, requirements for the annual reporting of emissions from stationary sources are contained in 40 CFR 51.321 - 51.323. Each of these programs requires either sources or states to report emissions and other supporting data. The data reporting intervals, type of pollutant source, pollutant type, and geographic coverage varies for the three programs. This rule will address the streamlining and consolidation of reporting requirements of each of these programs. The emissions data made available by these programs will also provide a mechanism for tracking emissions.

Rule is on hold pending action on the "One-Stop" Data Reporting Rule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Public Compliance Cost: Initial Cost: $2,000,000; Yearly Recurring Cost: $12,000,000; Base Year for Dollar Estimates: 1993

Sectors Affected: Multiple

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3302.

Agency Contact: David Misenheimer, Environmental Protection Agency, Air and Radiation, Emission, Modeling and Analysis, MD-14, Research Triangle Park, NC 27711
Phone: 919 541-5473

RIN: 2060–AE32

3579. NAAQS: OZONE (REVIEW)

Regulatory Plan: This entry is Seq. No. 112 in Part II of this issue of the **Federal Register**.

RIN: 2060–AE57

3580. STATE IMPLEMENTATION PLAN COMPLETENESS CRITERIA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401(b)(1); 42 USC 7407(d); 42 USC 7410(k)(1); 42 USC 7410(k)(4); 42 USC 7470 to 79; 42 USC 7501 to 7508; 42 USC 7601(a)

CFR Citation: 40 CFR 51 app V (Revision)

Legal Deadline: None

Abstract: EPA is amending the SIP Completeness Criteria to establish completeness criteria for commitments in light of EPA's conditional approval authority under section 110(k)(4) of the Act. Additionally, EPA is proposing to remove the parallel processing exception from the completeness criteria. Finally, EPA is proposing to revise the definition of "official submittal" from a State in Section 51.103. This action will classify which elements of the completeness criteria pertain to committal SIPs and it will implement EPA's intent that parallel progressing requests not be treated as official submittals from a State.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3354.

Agency Contact: Phyllis Wright, Environmental Protection Agency, Air and Radiation, (MD-11), Research Triangle Park, NC 27711
Phone: 919 541-5369

RIN: 2060–AE58

3581. ADDENDUM TO THE GENERAL PREAMBLE FOR TITLE I OF THE CLEAN AIR ACT AMENDMENTS; SERIOUS PM-10 NONATTAINMENT AREAS AND PM-10 NONATTAINMENT AREA ATTAINMENT DATE WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: Title I of the Clean Air Act

CFR Citation: 40 CFR 52

Legal Deadline: None

Abstract: This addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 principally describes EPA's preliminary views on how the Agency should interpret various provisions of title I with regard to requirements for PM-10 serious nonattainment area State Implementation Plans (SIPs). Although the guidance includes various statements that States must take certain actions, these statements are made pursuant to EPA's preliminary interpretations, and thus do not bind States and the Public as a matter of law. This addendum is an advance notice of how EPA generally intends to take action on SIP submissions and to interpret various PM-10 related title I provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3375.

Agency Contact: Charlene Spells, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-5255

RIN: 2060–AE62

3582. NAAQS: PARTICULATE MATTER (REVIEW)

Regulatory Plan: This entry is Seq. No. 113 in Part II of this issue of the **Federal Register**.

RIN: 2060–AE66

3583. APPLICATION OF MANDATORY SANCTIONS UNDER TITLE V OF THE CLEAN AIR ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401, et seq (Clean Air Act)

CFR Citation: 40 CFR 71

Legal Deadline: Final, Statutory, May 15, 1995.

Abstract: Section 502 of the Clean Air Act mandates the Administrator to apply sanctions, identified in section 179(b), in those cases where a State Implementation Plan has not been submitted, or has been disapproved, or is not being adequately administered or enforced, or has passed the point of expiration of interim approval. Two kinds of sanctions are included in section 179: a requirement for 2-to-1 emission offsets, and the withdrawal of Federal highway funds. This action will streamline the process of deciding the order of application of these sanctions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Additional Information: SAN No. 3500.

Agency Contact: Scott Voorhees, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-12, Research Triangle Park, NC 27711
Phone: 919 541-5348

RIN: 2060–AE96

3584. METHOD 301: FIELD VALIDATION OF POLLUTION MEASUREMENT METHODS FOR VARIOUS MEDIAS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq, as amended PL 101-549; 42 USC 7410 et seq, as amended by PL 101-549

CFR Citation: 40 CFR 60; 40 CFR 63

Legal Deadline: None

Abstract: After promulgation of Method 301, questions were raised about the statistical calculations and clarifying the procedure for determining the quality of the data.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3407.

Agency Contact: Gary McAlister, Environmental Protection Agency, Air and Radiation, Emission Measurement Branch (MD-19), Research Triangle Park, NC 27302
Phone: 919 541-1062

RIN: 2060–AF00

3585. AMMONIA TEST METHOD, 40 CFR PART 51, APPENDIX M

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: A test method for determining the concentration of ammonia in stack gas is currently being developed. The States may allow it to be used by sources to demonstrate compliance with State regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3474.

Agency Contact: Rima Dishakjian, Environmental Protection Agency, Air and Radiation, Source Characterization Group A, (MD-19),, Research Triangle Park, NC 27711
Phone: 919 541-0443

RIN: 2060–AF22

3586. TECHNICAL CORRECTIONS TO APPENDIX A OF 40 CFR PART 60, APPENDIX B OF PART 61, APPENDIX A OR PART 63, AND PART 60

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 60; 40 CFR 61; 40 CFR 63

Legal Deadline: None

Abstract: Technical corrections will be made to EPA methods in appendices to 40 CFR 60, 61, and 63, and to associate testing regulations in 40 CFR 60.ts to continuous monitors.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3472.

Agency Contact: Foster Curtis, Environmental Protection Agency, Air and Radiation, Source Charaterization Group, MD-19, Research Triangle Park, NC 27711
Phone: 919 541-1063

RIN: 2060–AF24

3587. NESHAP: PETROLEUM REFINERIES - FCC UNITS, REFORMERS AND SULFUR PLANTS

Priority: Other Significant

Legal Authority: 42 USC 7401, et seq, as amended by PL 101-549, 104 Stat. 2399

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Title III of the Clean Air Act amendments of 1990 requires EPA to develop emission standards for hazardous air pollutants (HAPS). EPA proposed NESHAP rules for petroleum refineries on June 30, 1994 (RIN 2060-AD94) and is under court order to promulgate final rules by June 30, 1995. This action covers three process vents not covered under RIN 2060-AD94. These are the catalyst regeneration vents from fluid catalytic cracking units (FCCU) and catalytic reformers and the tail gas vents from sulfur recovery plants.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 291 Petroleum Refining

Additional Information: SAN No. 3549.

Agency Contact: Bob Lucas, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711

Phone: 919 541-0884

RIN: 2060–AF28

3588. NESHAP: FERROALLOY INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857, et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 1997.

Abstract: Title III of the Clean Air Act of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that some plants in the ferroalloy manufacturing industry may be major sources for one or more hazardous air pollutants. As a consequence, a regulation (emission standards) is being developed for the ferroalloy manufacturing industry to be promulgated by November 15, 1997.

Timetable:

Action	Date	FR Cite
NPRM	05/31/96	
Final Action	05/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3082.

Agency Contact: Conrad Chin, Environmental Protection Agency, Air and Radiation, Industrial Studies Branch (MD-13), Resear Triangle Park, NC 27711
Phone: 919 541-1512

RIN: 2060–AF29

3589. FEDERAL IMPLEMENTATION PLAN TO CONTROL EMISSIONS FROM TWO POWER STATIONS LOCATED ON NAVAJO NATION LANDS

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA proposes to federalize standards from the Arizona and New Mexico State Implementation Plans (SIPS) applicable to the Navajo generating station and the Four Corners Plant, respectively. Where necessary, EPA's proposed emission standards modify the standards extracted from the States' regulatory programs to ensure comprehensive emission control and Federal consistency.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: Undetermined

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3569.

Agency Contact: Kenneth Bigos (A-5), Environmental Protection Agency, Air and Radiation, Region 9, 75 Hawthorne Street, San Francisco, CA 94105
Phone: 415 744-1240

RIN: 2060–AF42

3590. ACID RAIN PROGRAM: REVISIONS TO THE ADMINISTRATIVE APPEAL REGULATIONS UNDER TITLE IV OF THE CLEAN AIR ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7601

CFR Citation: 40 CFR 78.1

Legal Deadline: None

Abstract: Revisions to clarify whether administrative appeals are prerequisite for judicial review of final actions by the administrator under the Acid Rain Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3570.

Agency Contact: Dwight C. Alpern, Environmental Protection Agency, Air and Radiation, 6204J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9151

RIN: 2060–AF43

3591. ACID RAIN PROGRAM: REVISIONS TO APPLICABILITY, EXEMPTIONS, ALLOCATIONS, AND SMALL DIESEL REFINERIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7651 et seq

CFR Citation: 40 CFR 72; 40 CFR 73

Legal Deadline: None

Abstract: This regulatory revision would streamline several portions of the Acid Rain Program rules and make minor revisions to the small diesel allowance program. Based on experience implementing the Acid Rain Program, EPA would make the process for exempting new units and retired units easier. EPA would also allow units to be deleted from the tables of affected units if those units could be demonstrated to be unaffected or if the units will not be constructed. The eligibility provision and allowance calculation equation for small diesel refineries will be corrected.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 491 Electric Services; 29 Petroleum Refining and Related Industries

Additional Information: SAN No. 3572.

Agency Contact: Kathy Barylski, Environmental Protection Agency, Air and Radiation, 6204J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9074

RIN: 2060–AF45

3592. ACID RAIN PROGRAM: DELETION OF CERTAIN UNITS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7651, et seq

CFR Citation: 40 CFR 73.10

Legal Deadline: None

Abstract: The Acid Rain Program requires affected utility units to hold allowances sufficient to cover emissions of SO2, have an Acid Rain Permit under part 72, and meet appropriate monitoring requirements under part 75. Many affected units are listed in 40 CFR 73.10 tables 2 and 3. In the process of implementing the Acid Rain Program, EPA has learned that several units listed in the tables should not be affected by the Acid Rain Program requirements. This action would delete specific named units from the tables.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Interim Final Rule	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3573.

Agency Contact: Kathy Barylski, Environmental Protection Agency, Air and Radiation, 6204J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9074

RIN: 2060–AF46

3593. ACID RAIN PROGRAM: REVISIONS TO THE PERMITS REGULATIONS UNDER TITLE IV OF THE CLEAN AIR ACT TO MAKE TECHNICAL CORRECTIONS

Priority: Other Significant

Legal Authority: 42 USC 7601, 7651g

CFR Citation: 40 CFR 72

Legal Deadline: None

Abstract: This action would make technical corrections in order to improve issuance of Phase I acid rain permits and facilitate approval of State or local permitting authorities' Phase II acid rain permitting programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	03/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3574.

Agency Contact: Dwight C. Alpern, Environmental Protection Agency, Air and Radiation, 6204J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9151

RIN: 2060–AF47

3594. CONTROL OF AIR POLLUTION FROM AIRCRAFT AND AIRCRAFT ENGINES; EMISSION STANDARDS AND TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: CAA 231

CFR Citation: 40 CFR 87

Legal Deadline: None

Abstract: This action proposes to establish CO and NOx standards for aircraft gas turbine engines with equal to or greater than 26.7 kilonewtons rated thrust. These standards, which most of the affected engines are already achieving, will be added to current federal aircraft engine standards for HC emission so as to align federal standards with the standards established by the international community.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3576.

Agency Contact: Bryan Manning, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Rd., Ann Arbor, MI 48105
Phone: 313 741-7832

RIN: 2060–AF50

3595. OPERATING PERMITS: REVISIONS (PART 70)

Regulatory Plan: This entry is Seq. No. 114 in Part II of this issue of the **Federal Register**.

RIN: 2060–AF70

3596. AMENDMENTS TO METHOD 24 (WATER-BASED COATINGS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The determination of volatile organic compounds (VOCs) content ofa surface coating by reference method 24 involves determination of its water content, and calculation of its VOC content as the difference of the two measurements (volatile content minus water content). Method 24 is inherently less precise for water-based coatings than it is for solvent-based coatings and the imprecision increases as water content increases. This action will amend Method 24 by adding a direct measurement procedure for measuring VOC content of water-based coatings. This amendment will improve the precision of method 24 for water-based coatings.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3649.

Agency Contact: Candace Sorrell, Environmental Protection Agency, Air and Radiation, (MD-19), Research Triangle Park, NC 27711
Phone: 919 541-1064

RIN: 2060–AF72

3597. FEDERAL IMPLEMENTATION PLAN (FIP) TO CONTROL EMISSIONS FROM SOURCES LOCATED ON THE FORT HALL INDIAN RESERVATION

Priority: Other Significant

Legal Authority: Clean Air Act title I

CFR Citation: None

Legal Deadline: None

Abstract: EPA will propose federal rulemaking for sources located on fee lands to implement the intent of the Clean Air Act (CAA) Title I program to bring about attainment of the PM-10 NAAQS both on and off the Fort Hall Indian Reservation.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3637.

Agency Contact: Steve Body (AT-082), Environmental Protection Agency, Air and Radiation, Region 10, 1200 Sixth Avenue, Seattle, WA 98101
Phone: 206 553-0782

RIN: 2060–AF84

3598. SALES VOLUME LIMIT PROVISIONS FOR SMALL-VOLUME MANUFACTURE CERTIFICATION FOR CLEAN FUEL AND CONVENTIONAL VEHICLE CONVERSIONS AND RELATED PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: CAA section 202,203,247, 301(a)

CFR Citation: 40 CFR 85; 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action proposes to temporarily raise the 10,000 vehicle sales volume limit for vehicle converters seeking certification under the small volume manufacturers provisions. In addition, several other related technical amendments to the Clean Fuel Fleet and California Pilot Programs would be proposed. This action is accompanied by a direct final rule for same proposed related technical amendments and a withdrawal notice for the current sales volume limit provisions under the Small Volume Manufacturer Program for Clean-fuel Vehicle Conversions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3643.

Agency Contact: Bryan Manning, Environmental Protection Agency, Air and Radiation, National Fuel & Emissions Vehicle Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 741-7832

RIN: 2060–AF87

3599. NESHAP FOR PERCHLOROETHYLENE DRY CLEANING FACILITIES: AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401, 7412, 7414, 7416, 7601

CFR Citation: 40 CFR 63 subpart M

Legal Deadline: Other, Judicial, October 1995.
It is anticipated that a consent decree will be issued by 10/95, requiring proposal by April 1996 and promulgation by 11/96.

Abstract: The Agency is proceeding to enter into a consent decree with the International Fabricare Institute (IFI). IFI litigated on several issues that involved the NESHAP. A settlement agreement was reached and the Agency has agreed to amend the standard. As part of the settlement, the Agency will be "grandfathering" transfer machines installed between proposal and promulgation, as existing sources.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

SAN No. 3642

Agency Contact: George Smith, Environmental Protection Agency, Air and Radiation, ESD, Combustion Group, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-1549

RIN: 2060–AF90

3600. AMENDMENT OF ENHANCED INSPECTION/MAINTENANCE PERFORMANCE STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act

CFR Citation: 40 CFR 51, subpart S

Legal Deadline: None

Abstract: This action is a technical amendment to the enhanced inspection/ maintenance (I/M) performance standard included in the November 5, 1992 I/M rule (40 CFR part 51, subpart S). The amendment is in response to a court ruling and will have no net effect on existing requirements for state and local I/M programs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3598.

Agency Contact: Eugene J. Tierney, Chief, I/M Section, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4456

RIN: 2060–AG07

3601. FOURIER TRANSFORM INFRARED SPECTROSCOPY (FTIR) EXTRACTIVE TEST METHOD - SELF-VALIDATING PROCEDURE AND CEM PERFORMANCE SPECIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 63 app A; 40 CFR 60 app F

Legal Deadline: None

Abstract: A generic test procedure that any industry can follow using FTIR analysis will be developed. This procedure would also require validation testing similar to Method 301 since the Method is not source-specific. Generic procedures for using an FTIR as a continuous emission monitor would include several alternatives for sampling which would differ depending on the source.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3599.

Agency Contact: Rima Dishakjian, Environmental Protection Agency, Air and Radiation, Source Characterization Group A (MD-19), Research Triange Park, NC 27711
Phone: 919 541-0443

RIN: 2060–AG08

3602. COMPLIANCE APPLICATION GUIDANCE FOR 40 CFR 194

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-579; Land Withdrawal Act

CFR Citation: 40 CFR 191; 40 CFR 194

Legal Deadline: None

Abstract: The Compliance Application Guidance (previously titled Format and Content Guide) will be a guidance document for 40 CFR 194 compliance criteria. These criteria are being developed pursuant to the Waste Isolation Pilot Plant (WIPP) Land Withdrawal Act and EPA's radioactive waste disposal standards (40 CFR 191). The compliance criteria are proceeding separately in the regulatory process. These criteria include a number of requirements that will be used by EPA to determine if the Department of Energy's (DOE) application to open the WIPP complies with 40 CFR 191. The Format and Content Guide for 40 CFR 194 will 1) provide more detailed information on the completeness requirements discussed in the criteria, and it will 2) be used by EPA to judge if DOE has submitted in its application the information required by 40 CFR 194. There may be overlap in this Format and Content Guide and RCRA information needs.

Timetable:

Action	Date	FR Cite
Notice of Availability of Draft Guidance	10/00/95	
Final Action	11/00/95	
Notice of Availability of Final Guidance	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3538.

Agency Contact: Tom Peake, Environmental Protection Agency, Air and Radiation, 401 M Street SW., 6602J, Washington, DC 20460
Phone: 202 233-9765

RIN: 2060–AG09

3603. DETERMINING CONFORMITY OF GENERAL FEDERAL ACTIONS TO STATE OR FEDERAL IMPLEMENTATION PLANS (FOR ATTAINMENT AND UNCLASSIFIABLE AREAS)

Priority: Economically Significant

Legal Authority: 42 USC 7401/et seq

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: NPRM, Judicial, December 7, 1995. Final, Judicial, April 14, 1996.

Abstract: The purpose of this rule is to supplement a previous regulation published on November 30, 1993, which applies to determining conformity of general Federal actions to State or Federal implementation plans ("general conformity"). The previous regulation applies to geographic areas of the country designated (for air quality purposes) as nonattainment or maintenance areas. A nonattainment area is one which is not attaining one or more National Ambient Air Quality Standards (NAAQS). A maintenance area is one which now attains the NAAQS and was redesignated as a maintenance area after the 1990 Clean Air Act Amendments (CAAA). States must follow a maintenance plan for such areas which ensure that the area will continue to attain the NAAQS for a specified period of time.

The purpose of conformity regulations is to ensure that actions taken by Federal entities do not cause or contribute to a violation of the NAAQS and thereby undermine the State Implementation Plan (SIP) for that area.

The rule EPA is now proposing would apply the concept of conformity to geographic areas of the country which are designated as attainment or unclassifiable areas (i.e., those areas of the country not currently covered by the existing general conformity regulations).

This proposed rule will establish the criteria and procedures governing the determination of conformity for all Federal actions occurring in attainment or unclassifiable areas, except Federal highway and transit actions ("transportation conformity"). Transportation conformity requirements are being established in a separate rulemaking action.

Timetable:

Action	Date	FR Cite
NPRM	12/07/95	
Final Action	04/14/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3675.

Agency Contact: Gary Blais, Environmental Protection Agency, Air and Radiation, 401 M Street SW., MC 6301, Washington, DC 20460
Phone: 202 260-4491

RIN: 2060–AG10

3604. • ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR YUCCA MOUNTAIN

Priority: Other Significant

Legal Authority: Clean Air Act, section 407

CFR Citation: 40 CFR 197

Legal Deadline: Final, Statutory, August 1, 1996.

Abstract: The Agency is developing the standards which will set the acceptable levels of radiation exposure in the general environment around the potential repository to be located at Yucca Mountain, Nevada. These standards will protect human health and the environment from exposure to radioactive wastes disposed of in the Yucca Mountain repository.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3568 Previously listed under RIN 2060-AF38.

Agency Contact: Ray Clark, Environmental Protection Agency, Air and Radiation, 401 M Street SW., Mail Code: 6602J, Washington, DC 20460
Phone: 202 233-9198
Fax: 202 233-9626
Email: CLARK.RAY@EPAMAIL.EPA.GOV

RIN: 2060–AG14

3605. • TRANSPORTATION CONFORMITY FLEXIBILITY AND STREAMLINING

Regulatory Plan: This entry is Seq. No. 115 in Part II of this issue of the **Federal Register**.

RIN: 2060–AG16

3606. • REFORMULATED GASOLINE OXYGEN CAP MODIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7545; 42 USC 7601(a)

CFR Citation: 40 CFR 80.41(g)

Legal Deadline: None

Abstract: The final rule for reformulated gasoline limits the amount of oxygen allowed under VOC controlled gasoline subject to the simple model to 2.7 percent by weight. States may petition to the Administrator to increase the maximum allowable oxygen content to 3.5 provided that there have been no ozone exceedances during the prior three years within covered areas in that State. Since the complex model for reformulated gasoline does not show a negative impact on NOx of increased oxygen content (the primary argument for restricting oxygen content), it is reasonable to change this simple model

requirement. The EPA is therefore re-opening this portion of the final rule for reformulated gasoline to take comments on alternative methods for states to request an increase in the allowable oxygen content.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3725.

Agency Contact: Christine Brunner, Environmental Protection Agency, Air and Radiation, NVFEL, 2565 Plymouth Rd., Ann Arbor, MI 48105
Phone: 313 668-4287

RIN: 2060–AG17

3607. • PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION OF BAN ON FIRE EXTINGUISHERS CONTAINING HCFCS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq sec 610(d)

CFR Citation: 40 CFR 82 subpart C

Legal Deadline: None

Abstract: EPA will reconsider the exception for the use of class II substances in portable fire extinguishers under the Nonessential Products Ban. The current regulations provide an exemption until an alternative substance is "commercially available." At the time the regulations were promulgated (December 30, 1993), EPA was aware of several potential substances under development and testing. These substances are continuing to be tested tested and developed. EPA believes that once these substances are available, they will be able to replace the use of both halon and HCFCs in portable fire extinguishers.

EPA intends to reconsider the expiration of the exemption to provide better guidance to the regulated community. The regulated community is concerned with the use of the term "commercially available" in the regulatory text. Therefore, EPA will propose revising the language by providing a date-certain exemption. EPA believes it can provide this type of certainty to the regulated community without compromising the goals of protecting public health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
Final Action	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3756.

Agency Contact: Cindy Newberg, Environmental Protection Agency, Air and Radiation, Mailcode 6205J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9729
TDD: 202 233-9577

RIN: 2060–AG19

3608. • AMENDMENTS TO APPENDIX M OF PART 51, APPENDIX B OF PART 61, APPENDIX A OF PART 63, AND PART 60

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7410-12; 42 USC 7414; 42 USC 7416

CFR Citation: 40 CFR 60; 40 CFR 61

Legal Deadline: None

Abstract: This action will revise the format of emission test methods in Parts 51, 60, 61, and 63 of Title 40 to follow the outline established by the Emission Monitoring Management Council to create uniformity among program test methods.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3743.

Agency Contact: Foston Curtis, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-19, Research Triangle Park, NC 27711
Phone: 919 541-1063
Fax: 919 541-1039

RIN: 2060–AG21

3609. • AMENDMENT TO STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES; MONITORING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act, section 407

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This action proposes to clarify and update requirements for source owners and operators who must install and use continuous stack or duct opacity monitoring equipment. This action also proposes amendments regarding design and performance validation requirements for continuous opacity monitoring system (COMS) equipment in appendix B, PS-1. These amendments to subpart A and PS-1 will not change the affected facilities' applicable emission standards or requirement to monitor. The amendments will: (1) clarify owner and operator and monitor vender obligations, (2) reaffirm and update COMS design and performance requirements, and (3) provide EPA and affected facilities with equipment assurances for carrying out effective monitoring. The specifications shall apply to all COMS's installed or replaced after the date of promulgation. Following promulgation, a source owner, operator, or manufacturer will be subject to these performance specifications if installing a new COMS, relocating a COMS, replacing a COMS, recertifying a COMS that has undergone substantial refurbishing, or has been specifically required to recertify the COMS with these revisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3744.

Agency Contact: Solomon Ricks, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-19, Research Triangle Park, NC 27711
Phone: 919 541-5242
Fax: 919 541-1039

RIN: 2060–AG22

3610. • CONSOLIDATED FEDERAL AIR RULE FOR THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURING INDUSTRY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 60; 40 CFR 61; 40 CFR 63

Legal Deadline: None

Abstract: On March 16, 1995, President Clinton and Vice President Gore issued a report entitled, "Reinventing Environmental Regulation," that identified 25 initiatives to improve the current regulatory system and to initiate innovative pilot programs designed to move toward a new system of environmental management. One of these initiatives, consolidated federal air rules, is intended to eliminate duplicative, near duplicative, and overlapping federal air pollution requirements that apply to a source, resulting in a regulation that will be simpler to implement and comply with than the underlying individual rules.

The Chemical Manufacturer's Association, representing the Synthetic Organic Chemical Manufacturing Industry (SOCMI) and the Air Pollution Regulatory Authorities of Louisiana and Texas (where many chemical plants are located) have agreed to work with the Environmental Protection Agency (EPA) on a pilot project to explore solutions to crafting a consolidated rule that would combine and simplify various aspects of existing federal air rules that apply to the chemical industry.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Sectors Affected: 286 Industrial Organic Chemicals

Additional Information: SAN No. 3748.

Agency Contact: Rick Colyer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5262
Fax: 919 541-3470

RIN: 2060–AG28

3611. • REGULATION REVIEW/BURDEN REDUCTION

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Clean Air Act, section 407

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On March 16, 1995, President Clinton issued a report entitled, "Reinventing Environmental Regulation," that identified 25 initiatives to improve the current regulatory system. This action is part of the regulatory review process to reduce unnecessary recordkeeping and reporting requirements. Existing rules are being reviewed for excess and/or duplicative requirements. The Agency will publish a list of those regulations that will be revised or amended to reduce unnecessary recordkeeping and reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/31/95	
Final Action	06/30/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3750.

Agency Contact: Dave Markwordt, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-0837
Fax: 919 541-0942

RIN: 2060–AG30

3612. • AMENDMENTS TO THE FINAL RULES NESHAP FOR CHROMIUM ELECTROPLATING AND NESHAP FOR COMMERCIAL STERILIZATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63 subpart N

Legal Deadline: None

Abstract: This action proposes an amendment to the final rules for chromium electroplating and commercial sterilization. The amendment would allow States to defer nonmajor sources in both source categories from the Title V permit requirements for five years (December 1999). Also, this action includes and exemption from the Title V permit requirements for a segment of the chromium electroplating source category.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: Multiple

Additional Information: SAN No. 3674.

Agency Contact: Lalit Banker, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5420

RIN: 2060–AG36

3613. NAAQS: NITROGEN DIOXIDE (REVIEW)

Priority: Other Significant

Legal Authority: 42 USC 7408/CAA 108; 42 USC 7409/CAA 109

CFR Citation: 40 CFR 50.11

Legal Deadline: NPRM, Judicial, October 2, 1995. Final, Judicial, October 1, 1996.

Abstract: Based on the revised air quality criteria, EPA will determine whether revisions to the standards are appropriate.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

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Additional Information: SAN No. 1004.

Agency Contact: John Haines, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, AQSSD/HESG, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-5533

RIN: 2060–AC06

3614. NEXT REVISION TO THE GUIDELINE ON AIR QUALITY MODELING

Priority: Substantive, Nonsignificant

Legal Authority: Section 110(a)(2) of the 1990 Clean Air Act amendments; Section 165(e) of the 1990 Clean Air Act amendments; Section 172(a) and (c) of the 1990 Clean Air Act amendments; Section 301(a)(1) of the 1990 Clean Air Act amendments; Section 320 of the 1990 Clean Air Act amendments

CFR Citation: 40 CFR 51.112; 40 CFR 51.160; 40 CFR 51.166; 40 CFR 52.21

Legal Deadline: None

Abstract: This action proposes revisions to the regulatory requirements for air quality models. Such models are used to predict ambient concentrations of pollutants for programs ranging from Prevention of Significant Deterioration (PSD) to State Implementation Plans (SIPs) for controlling air pollution sources. The Guideline fulfills a Clean Air Act mandate for EPA to specify models for air management purposes. This proposed rulemaking enhances the Guideline with new and/or improved techniques.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
Final Action	03/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3470.

Agency Contact: Joseph A. Tikvart, Environmental Protection Agency, Air and Radiation, Air Quality Modeling Group (MD-14), Research Triangle Park, NC 27711
Phone: 919 541-5562

RIN: 2060–AF01

3615. NSPS FOR SULFUR DIOXIDE (SO2) - REVISION

Priority: Other Significant

Legal Authority: 42 USC 7411/CAA 111; Clean Air Act Amendments of 1990, sec 403

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, November 1993.

Abstract: Subpart D of 40 CFR part 60 applies to large electric utility steam generating facilities. EPA is required to revise this NSPS, pursuant to Section 403 of the Clean Act Amendments of 1990. This section requires the SO2 emission limitations be revised to reflect changes in Section 111 which repeal the percent reduction requirements. The revised emission limitations are to result in emissions compliance with the existing NSPS. No regulatory schedule has been developed.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3106.

Agency Contact: Jim Eddinger, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5426

RIN: 2060–AD04

3616. • REVISION TO NSPS: NONMETALLIC MINERALS PROCESSING

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7411

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: Section 111(b)(1)(B) requires EPA to "at least every 8 years, review and, if appropriate, revise" NSPS. Comments and suggested revisions have been received from the National Stone Association (NSA) on this NSPS. The main concerns of NSA are some emission testing requirements and notification requirements. This revision will address NSA's concerns as well as other comments on this NSPS.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Sectors Affected: 144 Sand and Gravel; 142 Crushed and Broken Stone, Including Riprap; 145 Clay, Ceramic, and Refractory Minerals; 149 Miscellaneous Nonmetallic Minerals, Except Fuels

Additional Information: SAN No. 3753.

Agency Contact: Bill Neuffer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5435
Fax: 919 541-5600

RIN: 2060–AG33

3617. INTEGRATED NESHAP AND EFFLUENT GUIDELINES: PULP AND PAPER

Regulatory Plan: This entry is Seq. No. 116 in Part II of this issue of the **Federal Register**.

RIN: 2060–AD03

3618. NESHAP: MINERAL WOOL PRODUCTION INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 4 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: The Clean Air Act, as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emissions standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the mineral wool production industry may reasonably be anticipated to emit several of the 189 HAPs listed in Section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the mineral wool production industry to promulgate emission standards within 7 years of enactment of the Clean Air Act Amendments.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
Final Action	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3215.

Agency Contact: Mary K. Johnson, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5025

RIN: 2060–AE08

3619. NESHAP: OIL AND NATURAL GAS PRODUCTION

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.
This standard must be promulgated within seven years of enactment of the Clean Air Act.

Abstract: Hazardous air pollutants (HAPs) known to be emitted from oil and gas production facilities include benzene, toluene, ethyl benzene, and xylene isomers (collectively referred to as BTEX), along with 2,2,4-trimethylpentane and n-hexane. Potential HAP emission sources are glycol dehydrator reboilers (stand-alone and co-located); condensate, and produced water storage vessels; and equipment leaks at natural gas processing plants and off-shore production platforms.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	01/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 3229.

Agency Contact: Martha Smith, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-2421

RIN: 2060–AE34

3620. NESHAP FOR FORMALDEHYDE-BASED RESINS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Title III of the amended Clean Air Act requires development of emission standards for all major sources, and selected area sources, emitting any of the 189 hazardous air pollutants identified in Section 112(b) of the Act. Amino, acetal, and phenelic resins productions have been listed as categories of major sources based on documented emissions of phenol and/or formaldehyde. The purpose of the Formaldehyde-based Resin project is to initiate the regulatory process for sources engaged in the production of amino, acetal, and phenolic resins, and to ultimately develop a NESHAP based on candidate Maximum Achievable Control Technology. This standard is a 7-year standard, required to be promulgated by November 1997.

Timetable:

Action	Date	FR Cite
NPRM	09/30/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 282 Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers, Except Glass

Additional Information: SAN No. 3228.

Agency Contact: Peter J. Hofmann, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Research Triangle Park, NC 27711, MD-13
Phone: 919 541-3713

RIN: 2060–AE36

3621. NESHAP: PHOSPHORIC ACID MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.
Clean Air Act Amendments of 1990

Abstract: The CAAA required EPA to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the CAAA and, to establish dates for the promulgation of emission standards for each of the listed categories of HAP emission sources and develop emission standards for each source of HAPs such that the schedule is met. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the phosphoric acid manufacturing industry may reasonably be anticipated to emit several of the 189 HAPs listed in Section 112(b) of the CAAA. As a consequence, the source category is included on the initial list of HAP-emitting categories scheduled for standards promulgation within 10 years of enactment of the CAAA. The purpose of this action is to pursue a regulatory development program such that emission standards may be proposed and promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3303.

Agency Contact: David F. Painter, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, (MD-13), Research Triangle Park, NC 27711

Phone: 919 541-5515

RIN: 2060–AE40

3622. NESHAP: STEEL PICKLING, HC1 PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act, sec 112 as amended, November 1990

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.
EPA is required to promulgate national emission standards for 50% of the source categories listed in Sec. 112e) by Nov. 15, 1997. EPA plans to promulgate this standard by November 30, 1996.

Abstract: Hydrochloric acid (HC1) and chlorine are among the pollutants listed as hazardous air pollutants in Section 112 of the Clean Air Act, as amended in November of 1990. Steel pickling processes that use HC1 solution and HC1 regeneration processes have been identified by the EPA as potentially significant sources of HC1 and chlorine air emissions and, as such, a source category for which national emission standards may be warranted.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
Final Action	03/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3345.

Agency Contact: James H. Maysilles, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, ESD/ISB (mail code MD-13), Research Triangle Park, NC 27711
Phone: 919 541-3265

RIN: 2060–AE41

3623. NESHAP—IRON FOUNDRIES AND STEEL FOUNDRIES

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act, sec 112 as amended November 1990

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.
EPA is required to promulgate standards for all of the source categories listed in Section 112(e) by November 15, 2000. EPA plans to promulgate this standard by the required date.

Abstract: Iron foundries and steel foundries have been identified by the EPA as potentially significant sources of air emissions of manganese compounds, lead compounds, and other substances that are among the pollutants listed as hazardous air pollutants in Section 112 of the Clean Air Act, as amended in November of 1990. As such, these industries may be source categories for which national emission standards may be warranted.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3343.

Agency Contact: James H. Maysilles, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, ESD/ISB (mail code MD-13), Research Triangle Park, NC 27711
Phone: 919 541-3265

RIN: 2060–AE43

3624. NESHAP: PHOSPHATE FERTILIZERS PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.
Clean Air Act Amendments of 1990

Abstract: EPA is required to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the CAAA and, to establish dates for the promulgation of emission standards for each of the listed categories of HAP emission sources and develop emission standards for each source of HAPs such that the schedule is met. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the phosphate fertilizer production industry may reasonable be anticipated to emit several of the 189 HAPs listed in Section 112(b) of the CAAA. As a consequence, the source category is included on the initial list of HAP-emitting categories scheduled for standards promulgation within 10 years of enactment of the CAAA. The purpose of this action is to pursue a regulatory development program such that emission standards may be proposed and promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3304.

Agency Contact: David F. Painter, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5515

RIN: 2060–AE44

3625. NESHAP: PRIMARY COPPER SMELTERS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act, sec 112 as amended November 1990

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.
EPA is required to promulgate 50% of the source categories listed in Section 112(e) by 11/15/97. Primary copper smelter is one of the source categories included in the 50%.

Abstract: The primary copper smelter industry is known to emit a number of the hazardous air pollutants listed in Section 112 of the Clean Air Act, as amended November 1990. Most smelters have extensive control systems for oxides of sulfur and HAPs. However, fugitive emissions may cause several smelters to exceed major source levels.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3340.

Agency Contact: Eugene P. Crumpler, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711
Phone: 919 541-0881

RIN: 2060–AE46

3626. NESHAP: WOOL FIBERGLASS MANUFACTURING INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 4 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: The Clean Air Act (CAA), as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emissions standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the wool fiberglass manufacturing industry may reasonably be anticipated to emit several of the 189 HAPs listed in Section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the wool fiberglass manufacturing industry to promulgate emission standards within 7 years of enactment of the CAA amendments.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Sectors Affected: 327 Concrete, Gypsum, and Plaster Products

Additional Information: SAN No. 3123.

Agency Contact: William J. Neuffer, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5435

RIN: 2060–AE75

3627. NESHAP: PRIMARY ALUMINUM PLANTS

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that plants in the Primary Aluminum industry may be major sources for one or more hazardous air pollutants. As a consequence, a regulatory development program is being conducted such that emission standards will be proposed and promulgated by November 15, 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 333 Primary Smelting and Refining of Nonferrous Metals

Additional Information: SAN No. 3072.

Agency Contact: Steve Fruh, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-2837

RIN: 2060–AE76

3628. NESHAP: SECONDARY ALUMINUM INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: The Act requires EPA to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the Act, to promulgate a schedule establishing a date for the promulgation of emission standards for each of the listed categories of HAP emission sources, and develop emission standards for each source of HAPs such that the schedule is met. The standards are to be technology based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the secondary aluminum industry may reasonably be anticipated to emit several of the 189 HAPs listed in Section 112(b) of the Act. As a consequence, the source category is included on the initial list of HAP emitting categories and is on the list of categories scheduled for standards promulgation within seven years of enactment of the Act. The purpose of this action is to pursue a regulatory development program such that emission standards may be proposed and promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	08/30/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Sectors Affected: 334 Secondary Smelting and Refining of Nonferrous Metals

Additional Information: SAN No. 3078.

Agency Contact: Juan E. Santiago, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, ESD/MICG (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-1084

RIN: 2060–AE77

3629. NESHAP: PORTLAND CEMENT MANUFACTURING

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that some plants in the Portland cement manufacturing industry may be major sources for one or more hazardous air pollutants. As a consequence, a regulation (emission standards) is being developed for the Portland cement manufacturing industry, to be promulgated by November 15, 1997. Cement kilns which burn RCRA hazardous waste would be subject to a separate rule being developed by the EPA Office of Solid Waste.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
Final Action	02/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Sectors Affected: 324 Cement, Hydraulic

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3079.

Agency Contact: Joseph P. Wood, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5446

RIN: 2060–AE78

3630. NESHAP: PHARMACEUTICALS PRODUCTION

Priority: Other Significant

Legal Authority: Clean Air Act as Amended in 1990, section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: This regulation would control emissions of hazardous air pollutants from production of pharmaceuticals. Pharmaceuticals production was included on the initial list of categories of sources that was published by EPA in July 1992. Emissions from process vents, equipment leaks, storage tanks, and wastewater systems will be addressed by this regulation for both new and existing facilities.

Timetable:

Action	Date	FR Cite
NPRM	09/30/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 283 Drugs

Additional Information: SAN No. 3451.

Agency Contact: Randy McDonald, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5402

RIN: 2060–AE83

3631. NESHAP: CHLORINE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act as amended, section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Section 112 of the Clean Air Act (CAA), as amended November 1990, requires the EPA to regulate categories of major and area sources of hazardous air pollutants (HAPs) listed in Section 112(b). The EPA has determined that sources that manufacture chlorine may reasonably be anticipated to emit several of the 189 HAP's listed (including chlorine, carbon tetrachloride and mercury) in quantities sufficient to designate them as a major source. As a consequence, chlorine production is among the HAP-emitting source categories selected for regulation and is in the group of categories for which final rules are scheduled to be promulgated by November 15, 1997 (58 FR 63941, December 3, 1993).

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3449.

Agency Contact: Iliam D. Rosario, Environmental Protection Agency, Air and Radiation, ESD/MG/MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5308

RIN: 2060–AE85

3632. NESHAP: FLEXIBLE POLYURETHANE FOAM PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990, section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Title III of the amended Clean Air Act (CAA) requires development of emission standards for all major sources, and selected area sources, emitting any of the 189 hazardous air pollutants identified in Section 112(b) of the CAA. Flexible polyurethane foam production has been listed as a category of major sources based on documented emissions of methylene chloride and 2,4-toluene diisocyanate. This action will explore alternatives for controlling the release of HAP's from the following emission sources located at both slabstock and molded polyurethane foam production facilities: process vents, storage, equipment leaks and other fugitive sources, and transfer operations. Ultimately, a NESHAP will be developed based on candidate Maximum Achievable Control Technology. This is a 7-year standard, required to be promulgated by November 1997.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	06/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Sectors Affected: 306 Fabricated Rubber Products, Not Elsewhere Classified; 308 Miscellaneous Plastics Products

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3338.

Agency Contact: David Svendsgaard, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, ESD (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-2380

RIN: 2060–AE86

3633. NESHAP: PRIMARY LEAD SMELTERS

Priority: Substantive, Nonsignificant

Legal Authority: CAA section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Primary lead smelters are a major source category of hazardous air pollutants. Potential emissions include compounds of lead, and other metallic HAPs as well as organic HAPs. Emission standards would establish maximum achievable control technology requirements for affected process units and fugitive dust sources. This industry is comprised of two companies which operate three smelters in two states.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 333 Primary Smelting and Refining of Nonferrous Metals

Additional Information: SAN No. 3467.

Agency Contact: Kevin Cavender, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-2364

RIN: 2060–AE97

3634. NESHAP: MANUFACTURE OF TETRAHYDROBENZALDEHYDE

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 112(d)

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: The purpose of this action is to develop a MACT standard for the production of Tetrahydrobenzaldehyde. (Referred to in the initial Source Category List as Butadiene Dimers). The emissions sources that will be controlled are process vents (e.g. reactors); storage; equipment leaks and other fugitive sources; transfer operations; and wastewater operations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 286 Industrial Organic Chemicals

Additional Information: SAN No. 3469.

Agency Contact: John M. Schaefer, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-0296

RIN: 2060–AE99

3635. NATIONAL EMISSION STANDARD FOR RADON EMISSIONS FROM PHOSPHOGYPSUM STACKS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401/CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA has granted a petition for reconsideration for the portion of the rule which deals with allowing certain amounts of phosphogypsum for research and development. This regulatory proceeding would result in a proposed rule which would change that limit for use.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2547.

Agency Contact: Fran Jonesi, Environmental Protection Agency, Air and Radiation, (6602J), Washington, DC 20460
Phone: 202 233-9229

RIN: 2060–AF04

3636. NESHAP: MANUFACTURERS OF ACRYLIC/MODACRYLIC FIBERS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: This NESHAP will control hazardous air pollutant emissions from facilities that manufacture acrylic or modacrylic fibers. Principal pollutants identified are vinyl acetate and acrylonitrile. The majority of emissions occur during the polymerization reaction. There are only two major sources in the United States that will be affected by this regulation.

Timetable:

Action	Date	FR Cite
NPRM	07/05/96	
Final Action	07/05/97	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 282 Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers, Except Glass

Additional Information: SAN No. 3378.

Agency Contact: Lynn Hutchinson, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5624

RIN: 2060–AF06

3637. NESHAP: POLYCARBONATES PRODUCTION

Priority: Other Significant

Legal Authority: 42 USC 7401/CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: This NESHAP will control hazardous air pollutant (HAP) emissions from the production of polycarbonate resins.

Timetable:

Action	Date	FR Cite
NPRM	09/30/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3465.

Agency Contact: Mark Morris, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5416

RIN: 2060–AF09

EPA—CAA

Proposed Rule Stage

3638. DELISTING OF SOURCE CATEGORIES UNDER 112(C): STAINLESS AND NON-STAINLESS STEEL MANUFACTURING AND ELECTRIC ARC FURNACE (EAF) OPERATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401/CAA 112

CFR Citation: None

Legal Deadline: None

Abstract: An analysis of information obtained from each source in both categories supports a determination that neither category includes a "major" source. Consequently, both source categories will be removed from the source category list pursuant to section 112(c) of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAN No. 3466.

Agency Contact: Phil Mulrine, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5289

RIN: 2060–AF11

3639. PUBLICLY OWNED TREATMENT WORKS (POTW) NESHAP

Priority: Other Significant

Legal Authority: Clean Air Act, sec 112(e)(5) and 112(n)(3)

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1995.

Abstract: This rule will specify maximum achievable control technology for publicly owned treatment works (POTW)- also known as sewage/wastewater treatment plants, or water reclamation facilities. Hazardous air pollutant emissions from the headworks, primary and secondary treatment, solids handling, and other operations will be considered in developing the rule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
Final Action	03/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Local

Additional Information: SAN No. 3377.

Agency Contact: Bob Lucas, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-0884

RIN: 2060–AF26

3640. NESHAP: BAKER'S YEAST MANUFACTURING INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: Section 112 of the Act requires major sources of hazardous air pollutants to achieve a maximum degree of emission reduction based on the maximum achievable control technology (MACT). This regulatory action will establish this level of control for both new and existing sources in the baker's yeast manufacturing industry. This industry is currently comprised of 11 sources of 5 different manufacturers located in 8 different states. The only known HAP emission from this source is acetaldehyde. It is produced as a by-product during the fermentation process. It is likely that regulatory options will be based on improved process control to reduce formation of this by-product.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 209 Miscellaneous Food Preparations and Kindred Products

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3550.

Agency Contact: Lynn E. Hutchinson, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5624

RIN: 2060–AF30

3641. AMENDMENTS TO GENERAL PROVISIONS FOR 40 CFR 63

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549; Section 112, Clean Air Act

CFR Citation: 40 CFR 63.1

Legal Deadline: Other, Judicial, 00/00/00.
Court schedule being developed.

Abstract: The General Provisions were promulgated on March 16, 1994 (59 FR 12408). The General Provisions create the technical and administrative framework and establish general procedures and criteria for implementing MACT standards. On May 16, 1994, six litigants filed petitions for EPA to review certain provisions of the General Provisions. As a result of the litigation, it is anticipated that a number of technical and administrative amendments to the General Provisions will be proposed.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	11/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Sectors Affected: Multiple

Additional Information: SAN No. 3551.

Agency Contact: James Szykman, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, ESD-PPSG (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-0164

RIN: 2060–AF31

3642. DECISION ON THE PETITION TO REMOVE CAPROLACTAM FROM THE LIST OF HAZARDOUS AIR POLLUTANTS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 112(b)(3).

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action will address the Agency's decision on the petition to remove caprolactam from the list of hazardous air pollutants under section 112(b)(3)(C) of the Clean Air Act amendments.

EPA—CAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3046.

Statutory decision to delist 02/20/95

Agency Contact: Nancy Pate, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711
Phone: 919 541-5347

RIN: 2060–AF33

3643. REGIONAL HAZE PROTECTION

Priority: Other Significant

Legal Authority: Clean Air Act section 169A

CFR Citation: 40 CFR 51.300 to 51.306

Legal Deadline: NPRM, Statutory, May 1997.

Abstract: Mandatory Federal Class I areas throughout the United States are being impaired by regional haze. Section 169A of the Clean Air Act requires the Environmental Protection Agency to issue regulations to protect these Class I areas from man-made visibility impairment. These regulations would require States to show reasonable progress toward reducing the effects of regional haze on these sensitive areas. Since 1980, technical knowledge of the causes of visibility impairment (i.e., emissions of sulfur dioxide, nitrogen oxides, certain organic compounds, and particulate matter) has progressed so that innovative programs can be developed to address regional pollution. This rulemaking will require regional (multi-state) planning to address regional visibility in groupings of Class I areas. Control activities will be balanced with review of cost and visibility/environmental benefits analysis.

Timetable:

Action	Date	FR Cite
NPRM	06/30/96	
Final Action	01/31/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 491 Electric Services

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3552.

Agency Contact: Bruce Polkowsky, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-5532

RIN: 2060–AF32

3644. NATIONAL VOLATILE ORGANIC COMPOUND EMISSION STANDARDS FOR AUTOMOBILE REFINISH COATINGS

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990, sec 183(e)

CFR Citation: 40 CFR 59

Legal Deadline: Final, Statutory, March 1997.

Abstract: Section 183(e) requires EPA to study the emissions of volatile organic compounds (VOC) from consumer and commercial products, list those categories of products that account for at least 80 percent of the total VOC emissions from consumer and commercial products in areas classified as nonattainment for ozone, divide the list into four groups, and regulate one group every 2 years using best available controls (BAC). Based on the criteria described in the consumer and commercial product study (March 1995), and category listing (March 1995), EPA has determined that VOC emissions from automobile refinish coatings should be regulated by March 1997. Automobile refinish coatings can be generally classified as primers and topcoats, each consisting of several different types. the proposed rule divides automobile refinish coatings into 6 categories, and contains VOC content limits for each category. Automobile refinish coatings are used by body shops and by "do-it yourselfers." However, the proposed rule does not directly affect these small businesses. Rather, the rule would apply to coating manufacturers and importers, and would limit the VOC content of coatings that are produced for sale in the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	01/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3281.

Agency Contact: Mark Morris, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5416

RIN: 2060–AE35

3645. VOC REGULATION FOR ARCHITECTURAL COATINGS

Priority: Other Significant

Legal Authority: Clean Air Act of 1990, section 183(E)

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: This regulation will control volatile organic compound (VOC) emissions from architectural coatings. These coatings are applied to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs. Traditional VOC limitations, market-based approaches, and phased-in approaches are all being considered.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 3351.

Docket Number A-92-18

Agency Contact: Ellen Ducey, Environmental Protection Agency, Air and Radiation, Research Triangle Park, NC 27711
Phone: 919 541-5408

RIN: 2060–AE55

3646. AEROSOL SPRAY PAINTS RULE

Priority: Other Significant

Legal Authority: Clean Air Act, section 183(e)

CFR Citation: None

Legal Deadline: NPRM, Statutory, March 1996. Final, Statutory, March 1997.

Abstract: Section 183(e) of the Clean Air Act of 1990 (the Act) requires that

the EPA study volatile organic compound (VOC) emissions from consumer and commercial products. The objectives of this study are to determine the potential of consumer and commercial products to contribute to ozone levels which violate the national ambient air quality standards (NAAQS) for ozone; and to establish criteria for regulating consumer and commercial products under section 183(e). Upon completion of the study, the EPA must submit a report to Congress that documents the results of the study.

Aerosol spray paints have been identified as being the largest single emitter of VOC emissions, considering all categories of consumer products. Therefore, the EPA has determined that aerosol spray paints is one of the source categories to be regulated under section 183(e) of the Act. For spray paints, EPA considers a VOC to be any organic compound in the coating that volatilizes during air-drying or bake-film forming. This includes solvents and propellants, as well as other volatiles used to dissolve resins and additives. Options for VOC reductions from aerosol spray paints include reformulation and limits on the VOC content. VOC content of the paints, and

Timetable:

Action	Date	FR Cite
NPRM	05/31/96	
Final Action	05/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3659.

Agency Contact: Paul Almodovar, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-0283

RIN: 2060–AF61

3647. NATIONAL VOC EMISSION STANDARDS FOR CONSUMER PRODUCTS

Priority: Other Significant

Legal Authority: Clean Air Act, section 183(e)

CFR Citation: None

Legal Deadline: NPRM, Statutory, March 1996. Final, Statutory, March 1997.

Abstract: Section 183(e) of the Clean Air Act requires that EPA list those categories of consumer and commercial products (CCPs) that account for at least 80 percent of volatile organic compounds (VOC) from all CCPs in ozone nonattainment areas. The list is to be divided into 4 groups by priority. The EPA is to regulate one group of categories every 2 years until all 4 groups are regulated. The first group must be regulated no later than 2 years after the EPA publishes the list and regulatory schedule.

The EPA has listed for regulation a group of 24 products which are currently regulated by California and several other States. The rule would set VOC content limits for the 24 categories of products. These limitations are currently being met by product manufacturers marketing products in California and other States. A Federal rule would provide consistency and would assist other States in achieving VOC reductions toward their 15-percent rate-of-progress requirements. This rule is supported by both the States and by the consumer products industry.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3658.

Agency Contact: Bruce Moore, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5460

RIN: 2060–AF62

3648. REVISED LIGHT-DUTY DURABILITY PROCEDURES FOR MODEL YEAR 1999 AND LATER

Priority: Other Significant

Legal Authority: 42 USC 7521/CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action will establish procedures under which vehicle manufacturers will demonstrate durability of their emission control systems during certification of passenger cars and light-duty trucks beginning with the 1999 model year. Under separate actions, EPA has promulgated revised light-duty durability procedures for certification of model years 1994 through 1998, procedures that are necessary to implement revised useful life levels mandated by the Clean Air Act Amendments of 1990. The long term durability program will translate into ongoing efforts by the EPA and vehicle manufacturers to develop durability procedures that will more accurately predict the emissions deterioration of vehicles in actual use.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2869.

Agency Contact: Jim McCargar, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, Michigan 48105
Phone: 313 668-4244

RIN: 2060–AE06

3649. NATIONAL 49-STATE LOW-EMISSION VEHICLES PROGRAM

Regulatory Plan: This entry is Seq. No. 117 in Part II of this issue of the **Federal Register**.

RIN: 2060–AF75

3650. CONTROL OF NITROGEN OXIDE AND PARTICULATE EMISSIONS FROM HEAVY-DUTY ENGINES

Regulatory Plan: This entry is Seq. No. 118 in Part II of this issue of the **Federal Register**.

RIN: 2060–AF76

3651. AMENDMENT CONCERNING THE LOCATION OF SELECTIVE ENFORCEMENT AUDITS OF FOREIGN MANUFACTURED VEHICLES AND ENGINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7525/CAA 206(b)

CFR Citation: 40 CFR 86 subpart G (Revision); 40 CFR 86 subpart K (Revision)

Legal Deadline: None

Abstract: This action would consider an amendment to the existing regulations to include ports of entry as a location for EPA selection of foreign produced vehicles and engines for SEA emissions testing at laboratories in the U.S. While the regulations do not specify EPA authority to conduct such port selections, the increased flexibility provided by port selections warrants amending the regulations. Presently, EPA must travel overseas to conduct SEA audits of foreign manufactured vehicles and engines, even though most manufacturers now have access to laboratory facilities in the U.S. The benefits include a reduction in Agency cost since fewer overseas trips would be necessary. Also, EPA would be able to conduct more audits of foreign manufactured vehicles and engines.

Separate from the provisions proposed in this NPRM for amendments to allow port selection for SEAs, EPA is also proposing to make two other amendments to 40 CFR Part 86. The first would amend current Selective Enforcement Auditing regulations to change the minimum annual limit of Selective Enforcement Audits per manufacturer to two (2) per year. Currently, the minimum annual limit is one audit per manufacturer. Under the proposed amendments EPA would be able to perform a second audit on those manufacturers that might otherwise be limited to one audit.

The second additional proposed amendment to Part 86 would delete from Subparts A and E references to the Agency representation in certain types of administrative hearings. The two provisions state that the Office of General Counsel will represent the Agency in administrative procedures governing hearings on certification for light-duty vehicles, light-duty trucks, heavy-duty engines and motorcycles. The Agency is proposing to delete these two provisions in order to be consistent with other hearing procedures in Part 86.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3139.

Agency Contact: John Guy, Environmental Protection Agency, Air and Radiation, (6405-J), Washington, DC 20460
Phone: 202 233-9250

RIN: 2060–AD90

3652. "SUBSTANTIALLY SIMILAR" DEFINITION FOR DIESEL FUELS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7545/CAAA 211(f)

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: Section 211(f)(1)(A) of the Clean Air Act prohibits for use in light-duty vehicles, fuels and fuel additives which are not "substantially similar" to fuels or additives used to certify vehicles to emissions standards. Section 211(f)(1)(B) expands these prohibitions to all motor vehicles. Since the term "substantially similar" is not defined in the Act, the intent of this rulemaking is to interpret the term "substantially similar" in regard to diesel fuel and diesel fuel additives and thus make more explicit which products are prohibited by section 211(f)(1)(B). The definition of "substantially similar" enables manufacturers to determine whether their fuels or fuel additives are covered by, or excluded from, the section 211(f)(1)(B) prohibitions.

Timetable:

Action	Date	FR Cite
ANPRM	05/30/91	56 FR 24362
NPRM	02/00/96	
Final Action	02/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3091.

Agency Contact: James W. Caldwell, Environmental Protection Agency, Air and Radiation, 401 M Street SW., Mail Code 6406J, Washington, DC 20460
Phone: 202 233-9303

RIN: 2060–AD77

3653. NONROAD SPARK-IGNITION ENGINES AT OR BELOW 19 KILOWATTS (25 HORSEPOWER)(PHASE 2)

Regulatory Plan: This entry is Seq. No. 119 in Part II of this issue of the **Federal Register**.

RIN: 2060–AE29

3654. NSPS: NITROGEN OXIDE EMISSIONS FROM FOSSILE-FUEL FIRED STEAM GENERATING UNITS - REVISION

Priority: Economically Significant

Legal Authority: Clean Air Act Amendments of 1990, sec 407(c)

CFR Citation: 40 CFR 60.40

Legal Deadline: NPRM, Statutory, January 1, 1993. NPRM, Judicial, October 31, 1995. Final, Statutory, January 1, 1994. Final, Judicial, December 31, 1996.

Abstract: The current NSPS for electric utility and nonutility steam generating units were promulgated in 1979 and 1986, respectively. A major feature of the NSPS is NOx control through the use of low NOx burners or overfired air. Section 407 of the Clean Air Act requires the EPA to revise existing NSPS for NOx emissions from fossil-fuel fired steam generating units, including both electric utility and nonutility units. These revised standards are to reflect improvements in methods for the reduction of NOx emissions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 491 Electric Services; 20 Food and Kindred Products

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3352.

Agency Contact: James A. Eddinger, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5426
Fax: 919 541-0072

RIN: 2060–AE56

3655. ACID RAIN PHASE II NITROGEN OXIDES REDUCTION PROGRAM

Priority: Economically Significant

Legal Authority: Section 407 of the Clean Air Act Amendments of 1990

CFR Citation: 40 CFR 76 (Revision)

Legal Deadline: Final, Statutory, January 1, 1997.

Abstract: Title IV of the Act authorizes EPA to establish the Acid Rain Program to reduce the adverse effects of acidic deposition. Specifically, the Act mandates a 10 million ton reduction in SO2, to be achieved in two phases through the use of an innovative emissions of NOx. On April 13, 1995, EPA promulgated a rule establishing emission limits for emissions of NOx from Group 1 boilers (o.50 lb/mmBtu for dry bottom wall-fired boilers and 0.45 lb/mmBtu for tangentially fired boilers). Compliance with the rule would be achieved in two phases: Phase I affected units were required to meet the applicable limits by 1996, while Phase II affected units by 2000. Section 407 also provides for revisions to the Group 1 emission limitations established in the April 13, 1995 rule for Phase II affected units, and for the establishment of emission limits for Group 2 boilers (wet bottom wall-fired boilers, cyclones, units applying cell burner technology, and all other types of utility boilers not classified as dry bottom wall-fired and tangentially fired boilers).

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3575 (combined with SAN 3571) This action resulted from merging RIN 2060-AF44 (SAN 3571) with RIN 2060-AF48 (SAN 3575).

Agency Contact: Peter Tsirigotis, Environmental Protection Agency, Air and Radiation, 6204J, 401 M Street SW., Washington, Dc 20460
Phone: 202 233-9133
Fax: 202 233-9595

RIN: 2060–AF48

3656. • PROTECTION OF STRATOSPHERIC OZONE: LISTING OF GLOBAL WARMING POTENTIALS FOR OZONE-DEPLETING SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: Section 602 of Title VI of the Clean Air Act Amendments of 1990

CFR Citation: None

Legal Deadline: Final, Statutory, August 30, 1995.

Abstract: Under a consent agreement to complete statutory obligations under Title VI of the Clean Air Act Amendments of 1990 (CAA), EPA must list the global warming potentials for ozone-depleting substances. As stated in the CAA, the listing of global warming potentials, "shall not be construed to be the basis of any additional regulation." EPA is proposing global warming potentials for class I and class II controlled substances as they are listed in the 'Scientific Assessment of Ozone Depletion: 1994' that was published by the United Nations Environment Program (UNEP) in early 1995.

Timetable:

Action	Date	FR Cite
NPRM	10/06/95	60 FR 52357
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Additional Information: SAN No. 3715.

Agency Contact: Tom Land, Environmental Protection Agency, Air and Radiation, 401 M Street SW., (6205J), Washington, DC 20460
Phone: 202 233-9185

RIN: 2060–AG35

3657. AMENDMENT TO THE MVAC RULE TO INCLUDE ALL REFRIGERANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; Title VI, Section 609

CFR Citation: 42 CFR 82, subpart B

Legal Deadline: Final, Statutory, November 15, 1994.
Both the venting prohibition and the MVAC "refrigerant" definition expand to cover all refrigerants, beginning 11/15/95, according to sections 608 and 609 of the Clean Air Act.

Abstract: This action would facilitate fulfillment of two statutory requirements; the extension of the no-venting prohibition to all refrigerants under section 608 and the section 609 requirement that the term "refrigerant," after November 15, 1995, include substitute refrigerants. The action would extend the applicable current requirements of the motor vehicle air-conditioning rule to the substitute refrigerants. This would require recovery and recycling of these refrigerants, in addition to the class I and class II refrigerants already covered under the MVAC rule. It would also require approved recycling equipment and specific certifications of equipment and technicians. The MVAC "refrigerant" definition was expanded to cover all refrigerants, beginning November 15, 1995, according to sections 608 and 609 of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: 75 Automotive Repair, Services, and Parking

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3555.

Agency Contact: Christine Dibble, Environmental Protection Agency, Air and Radiation, 401 M Street SW., 6205J, Washington, DC 20460
Phone: 202 233-9147

RIN: 2060–AF35

3658. PROTECTION OF STRATOSPHERIC OZONE: SUPPLEMENTAL RULE REGARDING A RECYCLING STANDARD UNDER SECTION 608

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq, section 608

CFR Citation: 40 CFR 82, subpart F

Legal Deadline: Other, Statutory, May 15, 1995.
The current rule sunsets the reclamation standard after May 15, 1995. Industry is requesting a change to that sunset, which would require a final rule by that 5/15/95 date.

Abstract: The current rule sunsets the requirement that a reclamation standard be met, as of May 1, 1995. Several members of the regulated community have approached EPA requesting that the requirement not be sunsetted or that it be replaced with a somewhat less stringent standard. This amendment will incorporate a level of continued required reclamation and/or recycling standard that the majority of the affected industry agrees is beneficial in order to encourage compliance.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3556.

Agency Contact: Debbie Ottinger, Environmental Protection Agency, Air and Radiation, 401 M Street SW., 6205J, Washington, DC 20460
Phone: 202 233-9149

RIN: 2060–AF36

3659. AMENDMENT TO THE REFRIGERANT RECYCLING RULE TO INCLUDE ALL REFRIGERANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-54, section 608 of the Clean Air Act Amendments of 1990; 42 USC 7401 et seq Section 608 CAA

CFR Citation: 40 CFR 82, subpart F

Legal Deadline: Final, Statutory, November 15, 1994.
The venting prohibition is extended to all refrigerants as of 11/15/95; rules are necessary to inform the regulated community of the means by which to prevent venting. recovery/recycling.

Abstract: This action would facilitate fulfillment of the statutory mandate to apply the venting prohibition to substitute refrigerants. The action would provide regulations covering recovery/recycling equipment, recovery/recycling practices, and applicable certifications that would be required to accomplish compliance with the no-venting prohibition. Requirements would parallel those of the current section 608 regulations, expanding applicability, where appropriate, to all refrigerants.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3560.

Agency Contact: Debbie Ottinger, Environmental Protection Agency, Air and Radiation, 401 M Street SW., 6205J, Washington, DC 20460
Phone: 202 233-9149

RIN: 2060–AF37

3660. AMENDMENT TO THE REFRIGERANT RECYCLING RULE TO MODIFY THE SALES RESTRICTIONS OF SPLIT SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq, section 608

CFR Citation: 40 CFR 82 subpart F

Legal Deadline: None

Abstract: This rule will include the reconsideration of the sales restriction as it relates to split systems. The Agency was petitioned to reconsider the part of the sales restriction that included the sale of pre-charged split systems. It restricted such sales to certified technicians. Since then, EPA stayed that portion of the sales restriction in response to the petition. It will include the determination of the Agency related to the reconsideration. It addresses environmental problems of ozone-depletion resulting from emissions of CFCs, HCFCs, and other ozone-depleting substances. Through restricting sales of certain precharged items to persons certified as technicians, emissions to the atmosphere are decreased. The impact on small businesses and governments would be negligible, since persons can become certified if the EPA determination is full restriction. Most businesses and governments will have at least one certified technician on board.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

SAN No. 3639.

Agency Contact: Debbie Ottinger, Environmental Protection Agency, Air and Radiation, 401 M Street SW., Mail Code 6205J, Washington, DC 20460
Phone: 202 233-9149

RIN: 2060–AF81

3661. PROTECTION OF STRATOSPHERIC OZONE: DIRECT FINAL RULE EXTENDING RECLAMATION REQUIREMENTS OF THE SECTION 608 REFRIGERANT RECYCLING RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq, section 608

CFR Citation: 40 CFR 82 subpart F

Legal Deadline: None
Due to the regulatory sunset date, this direct final rule must be promulgated before 5/15/95. EPA hopes to promulgate as early as possible.

Abstract: At industry request, EPA is developing more flexible recycling and recovery standards. Industry also requested that the May 15th sunset date not be sunsetted. WHile we are developing the more flexible regulations, it is necessary to put forth a direct final rule to extend the reclamation standard past the May 15 date. EPA plans to propose the flexible standards in April or May of this year.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

SAN No. 3673

Agency Contact: Debbie Ottinger, Environmental Protection Agency, Air and Radiation, Mail Code 6205J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9149

RIN: 2060–AF97

EPA—CAA

Proposed Rule Stage

3662. • PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION OF SECTION 608 SALES RESTRICTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; Clean Air Act section 608

CFR Citation: 40 CFR 82 subpart F

Legal Deadline: None

Abstract: The rule will include the reconsideration of the sales restriction as it relates to split systems. The Agency was petitioned to reconsider the part of the sales restriction that included the sale of pre-charged split systems. It restricted such sales to certified technicians. Since then, EPA stayed that portion of the sales restriction in response to the petition. This rule will include the determination of the Agency related to the reconsideration. It addresses environmental problems of ozone depletion resulting from emissions of CFCs, HCFCs, and other ozone-depleting substances. Through restricting sales of certain pre-charged items to persons certified as technicians, emissions to the atmosphere are decreased. The impact on small businesses and governments would be negligible, since persons can become certified if the EPA determination is a full restriction. Most businesses and governments will have at least one certified technician on board.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 358 Refrigeration and Service Industry Machinery; 52 Building Materials, Hardware, Garden Supply, and Mobile Home Dealers

Additional Information: SAN No. 3673.

Agency Contact: Mavis Sanders, Environmental Protection Agency, Air and Radiation, 401 M Street SW., Mail 6205J, Washington, DC 20460
Phone: 202 233-9737
Fax: 202 233-9577

RIN: 2060–AG20

3663. SUPPLEMENTAL RULE TO REQUIRE CERTAIN PRODUCTS MADE WITH HCFCS TO BEAR WARNING LABEL

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq, section 611

CFR Citation: 40 CFR 82 subpart F

Legal Deadline: None

Abstract: EPA has been petitioned by Friends of the Earth to expand our labeling requirements to include products containing or manufactured with HCFCs. We are bound by statute to respond by 180 days (mid-May). If EPA grants the petition, the proposed rulemaking will be the response.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3640.

Deadline is based on the statutory 180-day response time to petitions.

Agency Contact: Mavis Sanders, Environmental Protection Agency, Air and Radiation, 6205J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9737

RIN: 2060–AF93

3664. • UPDATE OF THE ACCEPTABLITY LIST UNDER THE SIGNIFICANCE NEW ALTERNATIVES POLICY (SNAP) PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414, 7601, 7671 / Clean Air Act section 612

CFR Citation: 40 CFR 9 and 82

Legal Deadline: None

Abstract: Section 612 of the Clean Air Act requires EPA to identify alternatives to Class I and II ozone depleting substances and to publish lists of acceptable and unacceptable substitutes. Producers of substitutes must notify EPA at least 90 days before alternatives are introduced into interstate commerce. Unlike acceptable alternatives (see Notices), substitutes which are deemed by EPA to be unacceptable or acceptable subject to use restrictions must go through notice and comment rulemaking. Substitute lists are updated intermittently depending on the volume of notifications.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/92	57 FR 1984
NPRM	05/12/93	58 FR 28094
Final Rule	03/18/94	59 FR 13044
Notice - 1	08/26/94	59 FR 44240
NPRM - 1	09/26/94	59 FR 49108
Notice - 2	01/13/95	60 FR 3318
Final Rule - 1	06/13/95	60 FR 31092
Notice - 3	07/28/95	60 FR 38729
NPRM - 2	10/02/95	60 FR 51383
Notice - 4	10/00/95	
NPRM - 3	11/00/95	
Final Action - 2	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3525 (generic)

Agency Contact: Sally Rand, Environmental Protection Agency, Air and Radiation, 6205J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9739

RIN: 2060–AG12

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Air Act (CAA)

Final Rule Stage

3665. COMPLIANCE ASSURANCE MONITORING PROGRAM (PREVIOUSLY ENHANCED MONITORING PROGRAM)

Regulatory Plan: This entry is Seq. No. 126 in Part II of this issue of the **Federal Register**.

RIN: 2060–AD18

3666. LOCOMOTIVE EMISSION STANDARDS

Priority: Economically Significant

Legal Authority: 42 USC 7547

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, November 15, 1995.

Abstract: The Clean Air Act Amendments of 1990 require EPA to promulgate emission standards for railroad locomotives. It is likely that railroad locomotives are significant contributors of pollution in some areas of the country for some pollutants. This rulemaking may allow for uniform control of locomotive emissions on the national level.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2961.

Agency Contact: Peter Huthchins, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-8340

RIN: 2060–AD33

3667. ACID RAIN OPT-IN REGULATIONS

Priority: Other Significant

Legal Authority: PL 101-549; Clean Air Act Amendments of 1990, title IV

CFR Citation: 40 CFR 74

Legal Deadline: Final, Statutory, May 15, 1992.

Abstract: Section 410 of the Clean Air Act Amendments allows sources not affected by Title IV to "opt-in" to the Title IV Acid Rain SO2 Allowance Trading Program. The regulation will provide the necessary procedures for sources other than electric utility generators to opt into the Acid Rain Program.

Timetable:

Action	Date	FR Cite
Combustion Sources		
NPRM	09/24/93	(58 FR 50088)
Final	11/00/95	
Process Sources		
NPRM	12/00/95	
Final	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Local

Additional Information: SAN No. 3009/3357.

Agency Contact: Adam Klinger, Environmental Protection Agency, Air and Radiation, (6204J), Washington, DC 20460
Phone: 202 233-9122

RIN: 2060–AD43

3668. FEDERAL OPERATING PERMIT RULES

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990, title V

CFR Citation: 40 CFR 71

Legal Deadline: None

Abstract: Title V of the Clean Air Act Amendments of 1990 requires EPA to promulgate regulations setting forth requirements for States to develop and implement operating permits programs for major stationary sources of air pollutants regulated under the Clean Air Act. These regulations were promulgated on July 21, 1992 (57 FR 32250). Title V also requires EPA to establish a federal permit program where States fail to submit an appropriate State program, fail to adequately implement an approved program, or fail to issue good Title V permits to individual sources. These regulations also address issuance of permits to outer continental shelf sources, acid rain sources and sources located on Tribal lands. This program is established by regulation promulgated in this notice. EPA will approve applications and issue Federal operating permits, as well as enforce the program.

Timetable:

Action	Date	FR Cite
NPRM	04/27/95	60 FR 20804
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3369.

Agency Contact: Candace Carraway, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711
Phone: 919 541-3189

RIN: 2060–AD68

3669. REGULATION OF FUELS AND FUEL ADDITIVES: CERTIFICATION REQUIREMENTS FOR DEPOSIT CONTROL GASOLINE ADDITIVES

Priority: Economically Significant

Legal Authority: 42 USC 7414; 42 USC 7545; 42 USC 7601(a)

CFR Citation: 40 CFR 80

Legal Deadline: Final, Judicial, March 29, 1996.
Final, Statutory, November 15, 1992.
Other, Judicial, October 15, 1994, Consent decree for interimprogram.
Final, Judicial, June 30, 1995, Consent decree for full program.

Abstract: Section 211(1) of the Clean Air Act (CAA) Amendments of 1990 requires all gasoline sold to the consumer in the United States beginning January 1, 1995 to contain additives to control the formation of motor vehicle engine and fuel system deposits. To accomplish the statute's objectives, EPA proposed a detergent additive certification program which would require testing to demonstrate the effective performance and proper concentration of detergent additives in gasoline. The certification tests were to be vehicle-based test procedures already in use by industry and (at time of the proposal) in the process of being standardized by the American Society for testing and Materials (ASTM). To meet the statute's January 1, 1995 implementation date, while providing sufficient time for finalization of the ASTM test procedures as well as adequate lead time for industry to comply with the certification test requirements, EPA decided to finalize the detergent additive program in two phases. Accordingly, an interim program was finalized in October, 1994, and went into effect on January 1, 1995. The interim program requires all gasoline to contain effective deposit control additives but does not include specific testing and performance requirements. The final rule currently under development will implement

detergent additive certification testing and performance standards, and is anticipated to become effective April 1, 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/06/93	58 FR 64213
Interim Final Rule	11/01/94	59 FR 54678
Final Action	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Sectors Affected: 291 Petroleum Refining; 421 Trucking and Courier Services, Except Air; 554 Gasoline Service Stations; 289 Miscellaneous Chemical Products

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3018.

Agency Contact: Jeffery A. Herzog, U.S. EPA (SRPB), Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105-2425
Phone: 313 668-4227
Fax: 313 741-7816

RIN: 2060–AD71

3670. REGULATIONS GOVERNING AWARDS UNDER SECTION 113(F) OF THE CLEAN AIR ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7413(f)

CFR Citation: 40 CFR 65

Legal Deadline: None

Abstract: Section 113(f) of the Clean Air Act granted to the Administrator authority to pay an award to any person who furnishes information or services which lead to a criminal conviction or a civil penalty for any violation of Title I, III, IV, V, or VI of the Act enforced under section 113. Section 113(f) authorizes the Administrator to prescribe, by regulation, additional criteria for eligibility for such an award. EPA intends that the rule set forth such additional criteria. The rule also describes criteria for assessing the value of information and services when considering paying an award, and what is needed to adequately petition the Administrator for consideration of payment. The rule will also address confidentiality matters; some citizens provide information or services on a confidential basis. Furthermore, to implement the goal of the program, the rule will provide direction for providing information or services to the Agency.

Timetable:

Action	Date	FR Cite
NPRM	05/03/94	59 FR 22795
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2939.

Agency Contact: Cary Secrest, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2242-A), Washington, DC 20460
Phone: 202 564-8661

RIN: 2060–AD81

3671. INSPECTION/MAINTENANCE PROGRAM REQUIREMENTS—ONBOARD DIAGNOSTIC CHECKS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401, Clean Air Act Amendments of 1990

CFR Citation: 40 CFR 51; 40 CFR 85

Legal Deadline: None

Abstract: This action establishes requirements for checking onboard diagnostic systems as part of the Inspection/Maintenance program pursuant to Clean Air Act Amendments of 1990. This action will establish test procedures and State Implementation Plan requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/18/95	60 FR 43092
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 3264.

Agency Contact: Eugene J. Tierney, Chief, Inspection Maintenance Section, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4456

RIN: 2060–AE19

3672. NESHAPS PERTAINING TO FACILITIES OTHER THAN COMMERCIAL NUCLEAR POWER REACTORS LICENSED BY THE NUCLEAR REGULATORY COMMISSION (NRC) OR BY NRC AGREEMENT STATES

Priority: Other Significant

Legal Authority: 42 USC 7607(d)(7)(B)

CFR Citation: 40 CFR 61 subpart I

Legal Deadline: None

Abstract: In accordance with section 112(d)(9) of the Clean Air Act Amendments of 1990 (CAAA), EPA is considering whether or not to issue a final rule to rescind Subpart I of 40 CFR Part 61, as it applies to facilities licensed by the Nuclear Regulatory Commission (NRC) or NRC Agreement States which are not engaged in the generation of nuclear power (57 FR 56877, December 1, 1992). Section 112(d)(9) gives EPA the authority to decline to regulate NRC-licensees after the Administrator makes a determination, by rule, and in consultation with the Nuclear Regulatory Commission (NRC), that the regulatory program established by the NRC pursuant to the Atomic Energy Act provides an ample margin of safety to protect the public health. Several issues have arisen since EPA issued the proposal rescission which must be resolved before EPA can make the requisite legal finding pursuant to Section 112(d)(9). EPA has decided that it will not issue the final rescission until after NRC's program is strengthened and provides an ample margin of safety to protect the public health.

Timetable:

Action	Date	FR Cite
Final Action	01/31/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3146.

Agency Contact: Gale Bonanno, Attorney Advisor, Environmental Protection Agency, Air and Radiation, 401 M Street SW., ORIA - 6602J, Washington, DC 20460, 202-233-9219
or
Phone: 202 233-9773

RIN: 2060–AE39

3673. ON-BOARD DIAGNOSTICS SERVICE INFORMATION AVAILABLE

Priority: Other Significant

Legal Authority: CAA 202(m)

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action would define service information to be made available to the automotive aftermarket. This information is necessary to repair and service automobiles.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: 371 Motor Vehicles and Motor Vehicle Equipment; 754 Automotive Services, Except Repair

Additional Information: SAN No. 3457.

Agency Contact: Cheryl Adelman, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4434

RIN: 2060–AE93

3674. NSPS: SYNTHETIC ORGANIC CHEMICALS MANUFACTURING INDUSTRY - WASTEWATER

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990

CFR Citation: 40 CFR 60

Legal Deadline: NPRM, Judicial, August 31, 1994.

Abstract: This rule will develop a new source performance standard to control air emissions of volatile organic compounds from wastewater treatment operations at the synthetic chemical manufacturing industry.

Timetable:

Action	Date	FR Cite
NPRM	09/12/94	59 FR 46780
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Sectors Affected: 28 Chemicals and Allied Products

Additional Information: SAN No. 3380.

Agency Contact: Bob Lucas, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 2711
Phone: 919 541-0884

RIN: 2060–AE94

3675. ADDITION OF METHODS 204, 204A - 204F FOR MEASUREMENT OF VOC EMISSIONS FROM STATIONARY SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: The Reasonably Available Control Technology (RACT) fix up rule requires States to adopt enforceable VOC rules. An accurate technique for determining capture efficiency (CE) had not been available in the past. This action would add seven methods to determine VOC emissions from stationary sources. These methods can be used to determine CE when used in various combinations.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39297
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3506.

Agency Contact: Candace Sorrell, Environmental Protection Agency, Air and Radiation, Source Characterization Group A (MD-19), Research Triangle Park, NC 27711
Phone: 919 541-1064

RIN: 2060–AF02

3676. METHODS FOR MEASUREMENT OF VISIBLE EMISSIONS - THE ADDITION OF METHODS 203A, 203B, AND 203C TO APPENDIX M OF PART 51

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401(b)(1); 42 USC 7410; 42 USC 7470 to 7479; 42 USC 7501 to 7508; 42 USC 7601(a)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This rulemaking adds Test Methods 203A, 203B, and 203C to 40 CFR Part 51, Appendix M (entitled "Example Test Methods for State Implementation Plans"). These methods describe procedures for estimating the opacity of visible emissions. States have requested that EPA promulgate these methods so that they can use them in State Implementation Plans in enforcing visible emissions regulations from Stationary Sources.

Timetable:

Action	Date	FR Cite
NPRM	11/22/93	51 FR 61639
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2915.

Agency Contact: Roy Huntley, Environmental Protection Agency, Air and Radiation, (MD-14), Research Triangle Park, NC 27711
Phone: 919 541-1060

RIN: 2060–AF83

3677. REVISION OF EPA'S RADIOLOGICAL EMERGENCY RESPONSE PLAN

Priority: Other Significant

Legal Authority: PL 96-295,sec304; EO 12777

CFR Citation: None

Legal Deadline: None

Abstract: The U.S. Environmental Protection Agency (EPA) Radiological Emergency Response Plan (RERP) establishes a framework for timely, coordinated EPA action to protect public health and safety and the environment in response to a peacetime radiological incident. The original EPA RERP was approved in 1986. This new revision updates authorities, responsibilities, capabilities, and procedures for implementing effective radiological emergency response actions by EPA Offices. The RERP presents the EPA organizational structure and concept of operations for responding to radiological incidents as a participant in a Federal multi-agency response using the Federal Radiological Emergency Response Plan (FRERP) and the Federal Response Plan (FRP), and independently using the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This revision incorporates recent changes to the FRERP and NCP, and many other policy updates. In short, this revision ensures that EPA maintains a comprehensive strategy to provide organized, effective assistance to State

and local governments in the event of a radiological emergency.

Timetable:

Action	Date	FR Cite
Notice of Availability	09/30/95	
Revise Radiological Emergency Response Plan	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3638.

Agency Contact: Jonathan D. Edwards, Environmental Protection Agency, Air and Radiation, 401 M St SW Mailcode 6602J, Washington, DC 20460
Phone: 202 233-9366

RIN: 2060–AF85

3678. NSPS APPENDIX A - REFERENCE METHODS; AMENDMENTS TO METHOD 24 FOR THE DETERMINATION OF VOLATILE MATTER CONTENTS, WATER CONTENT, DENSITY, VOLUME AND WEIGHT SOLIDS OF SURFACE COATINGS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This action would remedy the present in efficiencies in Method 24 with respect to ultraviolet radiation cured coatings by making the appropriate additions and revisions to this method.

Timetable:

Action	Date	FR Cite
NPRM	01/09/95	60 FR 2369
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

SAN No. 3419

Agency Contact: Candace Sorrell, Environmental Protection Agency, Air and Radiation, Emission Measurement Branch (MD-19), Research Triange Park, NC 27711
Phone: 919 541-1064

RIN: 2060–AG00

3679. • AMBIENT AIR QUALITY SURVEILLANCE, RECENSION OF NAMS AMBIENT AIR QUALITY MONITORING REQUIREMENTS FOR LEAD

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7409; 42 USC 7601(a); 42 USC 7410; 42 USC 7613; 42 USC 7619; 1857G(a) Sec. 15(c)(2)

CFR Citation: 40 CFR 50G; 40 CFR 53; 40 CFR 58

Legal Deadline: None

Abstract: Because of the success in the reduction of ambient lead levels due to the elimination of lead in gasoline and the shift towards focusing on point sources, the Office of Air Quality Planning and Standards (OAQPS) is revising the Part 58 Air Monitoring Regulations for Lead which would allow lead national ambient monitoring stations (NAMS) monitors to be discontinued. At the same time monitoring around point sources will be encouraged, for sources with emissions greater than 5 tons/year. This action is at the direct request of numerous State and local agencies whose NAMS lead monitors are recording values at the minimum detectable (MDL) of the methodology. Since small point sources are so variable in their emissions/impacts, that to prevent over-estimating ambient lead levels, complete sampling coverage is recommended. Complete sampling is defined as continuous or daily sampling. To provide complete everyday sampling at lead point sources at the same relative cost as the current procedure (one sample every 6 days followed by individual filter analysis), the regulation will be modified to allow: (1)use 2 or 3 high-volume samplers at each location; (2)sample for 48 instead of 24 hours; (3)use a convenient continuous sampling schedule, i.e., noon-to-noon or 9a.m.-9a.m., etc.; (4) follow the AREAL approved procedure for compositing up to 8 filters in a single analysis; and (5) report monthly averages which will be averaged together to produce the quarterly concentration to compare with the standard. This rule serves as both a regulation and as a guideline for State and local agencies in establishing and maintaining their ambient air monitoring networks. Much of the language within this rule has not changed since it was originally written in 1979, with a few exception. Because this rule provides guidance as well as regulatory requirements, there are several sections of text that should be updated to reflect current ambient air monitoring information and references.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3650.

Agency Contact: Neil Berg, Jr., Environmental Protection Agency, Air and Radiation, Monitoring and Quality Assurance Group, MD-14, Research Triangle Park, NC 27711
Phone: 919 541-5520
Fax: 919 541-1903

RIN: 2060–AG23

3680. • REVISION TO DEFINITION OF VOLATILE ORGANIC COMPOUNDS - EXCLUSION OF HFC 4310ME AND HCFC 225 CA AND CB

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 to 7671q

CFR Citation: 49 CFR 51.100(s)

Legal Deadline: None

Abstract: The definition of volatile organic compound (VOC) at 40 CFR 51.100(s) is being revised to add HFC 43-10me and HCFC 225ca and cb to the list of compounds having negligible photochemical reactivity. This will have the effect of removing these compounds from regulation as VOC.

Timetable:

Action	Date	FR Cite
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3745.

Agency Contact: William Johnson, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-5245
Fax: 919 541-0824

RIN: 2060–AG24

3681. • REVISION TO THE DEFINITION OF VOLATILE ORGANIC COMPOUND - EXCLUSION OF PERCHLOROETHYLENE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 to 7671q

CFR Citation: 40 CFR 51.100(s)

Legal Deadline: None

Abstract: The definition of volatile organic compound (VOC) at 40 CFR 51.100(s) is being revised to add perchloroethylene to the list of compounds having negligible photochemical reactivity. This will have the effect of removing perchloreothylene from regulation as a VOC.

Timetable:

Action	Date	FR Cite
NPRM	10/26/92	57 FR 48490
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 721 Laundry, Cleaning, and Garment Services

Additional Information: SAN No. 3306.

Agency Contact: William Johnson, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, SE., Research Triangle Park, NC 27711
Phone: 919 541-5245

RIN: 2060–AG25

3682. REVISIONS TO PART 35, SUBPART A SECTION 105 AIR GRANT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 105

CFR Citation: 40 CFR 35, subpart A

Legal Deadline: None
In order to assure that state, local, and tribal agencies are still eligible to receive a section 105 air grant in FY 1995, the interim final rule must be in place before October 1, 1994.

Abstract: The purpose of this action is to revise the current air grant regulations contained in 40 CFR 35, subpart A, so that they are consistent to the changes made to section 105 as a result of enactment of the 1990 Clean Air Act. The Act also directed EPA to reexamine and revise, as necessary, certain aspects of the air grant cost-sharing relationship that must now be revised to reflect the impact of: (1) the Title V permit fee provisions contained in 40 CFR 20 and (2) a recent OGC opinion prohibiting the use of Title V fees to help meet the nonfederal contribution requirements of the section 105 air grant program. This revision includes the introduction of a provision to allow recipients to receive (upon demonstration to, and approval by, the Administrator) a waiver from certain cost-sharing requirements for a limited time.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 3446.

Agency Contact: William Houck, Environmental Protection Agency, Air and Radiation, (6101), Washington, DC 20460
Phone: 202 260-1754

RIN: 2060–AF03

3683. INDIAN TRIBES: AIR QUALITY PLANNING AND MANAGEMENT

Priority: Other Significant

Legal Authority: 42 USC 7405/CAA 105

CFR Citation: 40 CFR 35

Legal Deadline: Final, Statutory, April 15, 1992.

Abstract: The Clean Air Act of 1990 requires EPA to promulgate regulations identifying those provisions of the CAA for which it is appropriate to treat tribes in the same manner as States. For the provisions specified, a Tribe may develop and implement one or more of its own air quality programs. In addition to specifying the CAA provisions for which it is appropriate to treat Tribes in the same manner as States, the rule also establishes the requirements that Indian Tribes must meet if they choose to seek such treatment, and provides for awards of Federal financial assistance to the Tribes.

Timetable:

Action	Date	FR Cite
NPRM	08/25/94	59 FR 43956
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Tribal

Additional Information: SAN No. 3087.

Agency Contact: Christine Parker, Environmental Protection Agency, Air and Radiation, Mail Code 6102, Washington, DC 20460
Phone: 202 260-6584

RIN: 2060–AF79

3684. NAAQS: SULFUR DIOXIDE (REVIEW)

Regulatory Plan: This entry is Seq. No. 127 in Part II of this issue of the **Federal Register**.

RIN: 2060–AA61

3685. NSPS: MUNICIPAL SOLID WASTE LANDFILLS

Priority: Economically Significant

Legal Authority: 42 USC 7411/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The purpose of this action is to develop standards for regulating non-methane organic compounds (NMOC) emissions from new and modified municpal solid waste (MSW) landfills under Section 111(b). Section 111(d) requires States to develop emission standards for existing landfills based on EPA guidelines. The intended effect of the standards and guidelines is to require certain municipal solid waste landfills to control emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

EPA is working with landfill owners and operators, including local governments and private owners,, to produce a regulation based on common-sensee techniques, providing maximum flexibility for owners and operators, and achieving the desired emissions reductions in the most cost-effective way. The rule focuses on only the largest soures of emissions, thereby avoiding regulation of small landfills where controls would be inefficient and onerous. The rule also provides complete flexibility to design a control system based on the particular, seite-specific conditions at each landfill.

EPA—CAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/30/91	56 FR 24468
Notice of Availability	06/21/93	58 FR 33790
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2535

Agency Contact: Martha Smith, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-2421

RIN: 2060–AC42

3686. MEDICAL WASTE INCINERATORS (MWI)

Regulatory Plan: This entry is Seq. No. 128 in Part II of this issue of the **Federal Register**.

RIN: 2060–AC62

3687. NSPS: MUNICIPAL WASTE COMBUSTION—PHASE II AND PHASE III, INDUSTRIAL-COMMERCIAL WASTE INCINERATORS, AND OTHER SOLID WASTE INCINERATORS

Regulatory Plan: This entry is Seq. No. 129 in Part II of this issue of the **Federal Register**.

RIN: 2060–AD00

3688. NESHAP: ASBESTOS PROCESSING (DELISTING)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412/CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Judicial, January 15, 1995. Final, Judicial, November 15, 1995.

Abstract: The asbestos processing source category was listed as an area source to be regulated under the Clean Air Act (57 FR 31590). The purpose of this action was to determine whether additional regulation of the asbestos processing source category was needed, and, if needed, to develop maximum achievable control technology (MACT) or generally achievable control technology (GACT) standards for the asbestos processing source category. This source category is comprised of the milling, manufacturing, and fabrication subcategories of the asbestos NESHAP (40 CFR 61). Pollutants to be regulated include asbestos and other HAPs emitted in major amounts by these subcategories. On the basis of new information received during the information collection process, OAR has proposed to remove this source category from the list of source categories to be regulated under section 112. Information on this proposed action can be found in 60 FR 4624.

Timetable:

Action	Date	FR Cite
NPRM	01/24/95	60 FR 4624
Final Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2892.

Agency Contact: Susan Fairchild-Zapata, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5167

RIN: 2060–AB51

3689. GUIDANCE FOR THE IMPLEMENTATION OF SECTION 112(G)—MODIFICATIONS

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990, sec 112(g)

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, May 1992.

Abstract: Guidance in the form of a rulemaking is being developed in accordance with the requirements of section 112(g) of the Clean Air Act Amendments of 1990 for modified, constructed and reconstructed major sources of hazardous air pollutants (HAPs). This regulatory document will include guidance for the following: minimum elements that must be contained in state rules for implementing section 112(g); a ranking for determinations of offsets; case-by-case MACT determinations that apply to constructed and reconstructed major sources or to existing sources which cannot offset emission increases above de minimis levels.

Timetable:

Action	Date	FR Cite
NPRM	04/01/94	59 FR 15504
Final Action	05/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2932.

Agency Contact: Kathy Kaufman, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711
Phone: 919 541-0102

RIN: 2060–AD06

3690. NESHAP FOR WOOD FURNITURE MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994. Final, Judicial, November 15, 1995.

Abstract: This regulation would control emissions of hazardous air pollutants from wood furniture manufacturing plants. The Agency has negotiated a framework upon which the proposed rule is based using a Federal Advisory Committee. The preamble to the proposed rule announced that EPA has also negotiated a framework for "reasonably available control technology" for volatile organic compounds (VOC) concurrently with the NESHAP. That information will be published separately in a Control Techniques Guideline (CTG). The preamble also announced a proposed test method for the NESHAP for this industry and solicited comments.

Timetable:

Action	Date	FR Cite
NPRM	12/06/94	59 FR 62652
Final Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2965.

Agency Contact: Paul Almodovar, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, N.C. 27711
Phone: 919 541-0283

RIN: 2060–AD57

EPA—CAA

Final Rule Stage

3691. NESHAP: PRINTING/PUBLISHING INDUSTRY

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Judicial, March 1, 1995. Final, Statutory, November 15, 1994. Final, Judicial, March 15, 1996.

Abstract: This regulation will control hazardous air pollutant emissions from publication rotogravure, package/product rotogravure, and wide-web flexographic printing facilities.

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13664
Correction Notice	04/03/95	60 FR 16920
Final Action	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3077.

Agency Contact: David Salman, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-0859

RIN: 2060–AD95

3692. NESHAP: POLYMERS AND RESINS, GROUP I

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994.

Abstract: The regulation under development would control emissions of hazardous air pollutants (HAPs) from the manufacture of butyl rubber, epichlorohydrin elastomer, ethylene propylene rubber, Hypalon (TM), neoprene, nitrite butadiene rubber, polybutadiene rubber, polysulfide rubber and styrene butadiene rubber and latex. Emissions from process vents, equipment leaks, wastewater and storage will be addressed by this regulation for both new and existing sources.

Timetable:

Action	Date	FR Cite
NPRM	06/12/95	60 FR 30801
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3166.

Agency Contact: Leslie Evans, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5410

RIN: 2060–AD96

3693. NESHAP: SURFACE COATING OPERATIONS IN SHIPBUILDING AND SHIP REPAIR

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994. Final, Judicial, November 15, 1995.

Abstract: This regulation would control emissions of hazardous air pollutants from shipbuilding and ship repair operations related to painting. The preamble to the proposed regulation also announced proposed limits for volatile organic compounds that represent best available control measures (BACM), a requirement of section 183(b)(4) of the act. The final regulation will not include a reference to, BACM. A separate concurrent notice will be issued instead.

Timetable:

Action	Date	FR Cite
NPRM	12/06/94	59 FR 62681
Final Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3074.

Agency Contact: Mohamed Serageldin, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-2379

RIN: 2060–AD98

3694. NESHAP FOR OFF-SITE WASTE AND RECOVERY OPERATIONS

Priority: Other Significant

Legal Authority: Clean Air Act, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Judicial, November 15, 1995.

Abstract: This rule (formerly titled "Solid Waste Treatment, Storage, and Disposal Facilities") will specify maximum achievable control technology (MACT) for facilities that treat, store, dispose of, recycle, recover and/or refine waste and recoverable materials received from off-site. These facilities include commercial waste treatment facilities, used oil refining, solvent recovery plants, and waste transfer stations.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/93	58 FR 66336
NPRM	10/13/94	59 FR 51913
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3159.

Agency Contact: Michele Aston, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5032

RIN: 2060–AE05

3695. NESHAP: POLYMERS AND RESINS, GROUP IV

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Judicial, March 15, 1995. Final, Judicial, March 15, 1996.

Abstract: This action will control emissions of hazardous air pollutants (HAPs) from the manufacturer of Acrylonitrile Butadiene Styrene (ABS) Resin, Styrene Acrylonitrile (SAN) Resin, Methyl Methacrylate Acrylonitrile Butadiene Styrene (MABS) Resin, Methyl Methacrylate Butadiene Styrene (MBS) Resin, Polystyrene, Poly (ethylene terephthalate) (PET) Resin, and Nitrile Resin Production. Emissions from process vents, equipment leaks, wastewater and storage will be addressed by this regulation for both new and existing sources.

Timetable:

Action	Date	FR Cite
NPRM	03/29/95	60 FR 16090
Final Action	03/00/96	

Small Entities Affected: None

EPA—CAA

Final Rule Stage

Government Levels Affected: State, Federal

Additional Information: SAN No. 3187.

Agency Contact: Leslie Evans, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Research Triangle Park, NC 27711
Phone: 919 541-5410

RIN: 2060–AE37

3696. NESHAP—CYANIDE CHEMICAL MANUFACTURING

Priority: Other Significant

Legal Authority: Clean Air Act, sec 112 as amended November 1990

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Cyanide compounds are among the pollutants listed as hazardous air pollutants in Section 112 of the Clean Air Act Amendments of 1990. As a consequence, the EPA has determined that sources that manufacture cyanide compounds may reasonable be anticipated to emit cyanide compounds in quantities sufficient to qualify them as major sources. Three source categories that either produce hydrogen cyanide or use it in the production of other chemicals, specifically cyanuric chloride and sodium cyanide, are on the initial list of HAP emitting source categories selected for regulation. The results of an initial assessment of the three source categories conducted by the Agency indicated that the facilities comprising each of the three source categories qualify as SOCMI sources. An interim final notice will be prepared proposing the addition of the cyanide chemical manufacturing source categories to the list of SOCMI processes to be regulated under the Hazardous Organic NESHAP.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3341.

Agency Contact: Philip B. Mulrine, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, ESD/ISB, Research Triangle Park, NC 27711
Phone: 919 541-5289

RIN: 2060–AE45

3697. AMENDMENTS TO PARTS 63 AND 70 TO ESTABLISH PROVISIONS FOR DETERMINING POTENTIAL TO EMIT

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Under authority of sections 112 and 114 of the Clean Air Act (Act) Amendments of 1990, provisions are being developed to enable stationary sources to establish federally enforceable controls to limit the "potential to emit" hazardous air pollutants (HAP). These provisions would help sources determine whether they are subject to new Federal air toxics regulations under section 112 and permitting requirements under title V of the Act that apply to sources with the potential to emit air pollutants above a certain threshold. In addition these regulations include provisions that would provide relief to small sources of air pollutants.

This action proposes to amend regulations already established to implement the new Federal air toxics program under section 112, including the General Provisions, and the Federal operating permit program under title V.

This action resulted from splitting of RINs 2060-AC98

In addition, the interim final rule would provide new mechanisms for establishing permanent, federally enforceable limits on a source-specific basis through State rules or programs that are approved by the EPA for this purpose. This rule would: streamline the process for sources to receive approval of emission controls as federally enforceable; reduce the recordkeeping, reporting, and other compliance burdens on section 112 affected sources; and avoid overregulation of facilities that are not true "major sources" of HAPs.

The provisions for determining potential to emit would amend regulations already established to implement the new Federal air toxics program under section 112, including the General Provisions.

This action resulted from splitting of RINs 2060-AC98 and 2060-2918.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3479.

Agency Contact: Tim Smith, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 2771
Phone: 919 541-4718

RIN: 2060–AE63

3698. FIELD CITATION PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7413(d)/CAAA 113(d)

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: The Clean Air Act Amendments gives EPA the authority to issue on-the-spot field citations for minor violations of the Clean Air Act, with penalties of up to $5,000 per day of violation. Section 113(d) of the Act requires the field citation program to be implemented through regulations which provide the informal hearing procedures. These hearing procedures are not required to be as rigorous as those imposed by the Administrative Procedures Act (APA), but nevertheless must provide due process. Agency guidance providing appropriate penalties for specific minor violations will be prepared for EPA employees and made available to the regulated community. Training on the issuance of field citations will also be developed.

Timetable:

Action	Date	FR Cite
NPRM	05/03/94	59 FR 22776
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2937.

Agency Contact: Jane Engert, Environmental Protection Agency, Air and Radiation, (EN-341W), Washington, DC 20460
Phone: 703 308-8677

RIN: 2060–AD82

EPA—CAA

Final Rule Stage

3699. NEW SOURCE PERFORMANCE STANDARDS (NSPS) AND EMISSION GUIDELINES FOR INDUSTRIAL AND COMMERCIAL WASTE INCINERATORS

Priority: Other Significant

Legal Authority: Clean Air Act section 129

CFR Citation: 40 CFR 60

Legal Deadline: NPRM, Statutory, November 15, 1993. NPRM, Judicial, March 1, 1996. Final, Statutory, November 15, 1994. Final, Judicial, March 1, 1997. Other, Judicial, December 20, 1994.
:ANPRM

Abstract: Section 129 of the Clean Air Act Amendments requires the Agency to finalize New Source Performance Standards (NSPS) and Emission Guidelines (EG) for Industrial and Commercial Waste Incinerators (ICWIs). The Agency is under court order to propose NSPS and EG by March 1, 1996 and finalize by March 1, 1997. The Agency has little information on what ICWI sources may be or where they are located. The Agency believes that most incinerators basically operate the same and that the controls for most incinerators are similar. Therefore, unless information is received that leads to consideration of alternative limits, the EPA anticipates using data and information used to develop the Municipal Waste Combustor NSPS and EG to develop the NSPS and EG for ICWIs.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	12/28/94	59 FR 66850
Final Action	03/15/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3613.

Agency Contact: George Smith, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-1549

RIN: 2060–AF91

3700. CRITERIA AND PROCEDURES FOR DETERMINING TRANSPORTATION CONFORMITY IN ATTAINMENT AREAS

Priority: Other Significant

Legal Authority: 42 USC 7521(a)

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: Final, Judicial, November 7, 1995.

Abstract: This rule would require that transportation plans, programs, and projects funded or approved under title 23 U.S.C. or the Federal Transit Act be found to conform to the State Implementation Plan in certain attainment areas. The concurrence of the Department of Transportation will be required. The preamble to the transportation conformity final rule (which applies to nonattainment and maintenance areas), published November 24, 1993, announced EPA's intent to propose conformity requirements for urbanized attainment areas which have exceeded 85% of the ozone, CO, NO2, PM-10 annual, or PM-10 24-hr standard. Among other things, this rule would act as a planning tool for areas experiencing growth in their ambient air quality levels so that they can design their transportation activities in ways that will ensure that the areas remain in attainment of the national standard.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3459.

Agency Contact: Kathryn Sargeant, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4441

RIN: 2060–AE90

3701. CONTROL TECHNOLOGY GUIDELINES (CTG)

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act, sec 183(a)

CFR Citation: Not applicable

Legal Deadline: Final, Statutory, November 1993.

Abstract: The Clean Air Act required EPA to issue control technology guidelines (CTG's) for 13, including two specifically named, source categories by November 15, 1993. The CTG's address volatile organic compounds (VOC) that are precursors to ozone formation. A CTG covering two of the source categories - chemical plant distillation and reactor process vents - was published by that date. Meanwhile, the States were required to develop rules for the CTG source categories by November 15, 1994. The EPA decided to issue Alternative Control Techniques (ACT) documents for the remaining source categories to help the States. ACT's differ from CTG's in that they are information documents only; they do not contain recommended control levels. ACT's were issued for volatile organic liquid storage, batch operations, wastewater operations, cleanup solvents, lithographic printing, coating of plastic parts, shipbuilding and repair coating operations, wood furniture coatings, and autobody refinishing. In addition, hazardous air pollutant rules are being developed for three of the CTG source categories under Section 112 of the Clean Air Act. These three source categories are aerospace manufacture, wood furniture manufacture, and shipbuilding and repair. CTG-related requirements are being addressed in concert with these hazardous air pollutant rulemakings. EPA also plans to write a national rule to limit the amount of VOC contained in coatings sold to autobody refinishing shops.

Timetable:

Action	Date	FR Cite
Final Notice and Document (Shipbuilding)	11/00/95	
Final Notice and Document (Aerospace)	03/00/96	
Final Notice and Document (Wood Furniture)	03/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3029: Aerospace SAN 3728; Shipbuilding SAN 3729; Wood Furniture SAN 3730

Agency Contact: Susan Wyatt, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5605

RIN: 2060–AD05

EPA—CAA

Final Rule Stage

3702. OPEN-MARKET TRADING RULE FOR OZONE PRECURSORS

Regulatory Plan: This entry is Seq. No. 130 in Part II of this issue of the Federal Register.

RIN: 2060–AF60

3703. ON-BOARD DIAGNOSTICS: REVISION TO REQUIREMENTS FOR STORAGE OF ENGINE CONDITIONS ASSOCIATED WITH EXTINGUISHING A MALFUNCTION INDICATOR LIGHT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521/CAA 202(m)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Federal On-Board Diagnostic (OBD) final rulemaking section 86.094-17(d), requires that, "If a malfunction has previously been detected, the MIL may be extinguished if the malfunction does not reoccur during three subsequent sequential trips during which engine speed is within 375 rpm, engine load is within 10 percent, and the engine's warm-up status is the same as that under which the malfunction was first detected, and no new malfunctions have been detected." California has adopted the same requirement, but has limited its applicability to fuel system and engine misfire malfunctions while the federal requirement applies to all malfunctions. California allows MIL illumination associated with all other malfunctions to be extinguished after undergoing three subsequent trips without recurrence of the malfunction regardless of undergoing similar engine conditions. In the interest of minimizing the differences between Federal OBD and California OBD II requirements, and because recent information made available to the Agency suggests that limiting similar conditions data storage to misfire and fuel system malfunctions is most appropriate, we intend to issue this rulemaking to require the same similar conditions data storage as required by the OBD II rulemaking.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAN No. 3541.

Agency Contact: Todd Sherwood, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4405

RIN: 2060–AF20

3704. AMENDMENTS TO REGULATIONS GOVERNING THE IMPORTATION OF NONCONFORMING VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7522/CAA 203; 42 USC 7525/CAA 206; 42 USC 7541/CAA 207; 42 USC 7542/CAA 208; 42 USC 7601/CAA 301; 42 USC 7522/CAA 203; 42 USC 7550/CAA 216; 42 USC 7601/CAA 301

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action will amend the regulations in 40 CFR part 85, Subpart P to allow entry into the U.S. of vehicles which are originally sold in Canada and which are identical to their U.S. counterparts, without obtaining a certificate of conformity from EPA. This action is in response to a petition for review of import rules. The final rule also addresses certain other issues in part 85, subpart P and subpart R, including: 1) formalizing a longstanding EPA policy regarding the importation of owned vehicles that are proven to be identical to a vehicle certified for sale in the U.S., 2) establishing new emission standards applicable to imported nonconforming vehicles, 3) clarifying the regulatory language that concerns exclusions and exemptions from meeting Federal emission requirements, and 4) providing several minor clarifications to the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/24/94	59 FR 13912
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2665.

Agency Contact: Len Lazarus, Environmental Protection Agency, Air and Radiation, (6405-J), Washington, DC 20460
Phone: 202 233-9281

RIN: 2060–AC58

3705. NONCONFORMANCE PENALTIES FOR 1998 MODEL YEAR EMISSION STANDARDS FOR HEAVY-DUTY ENGINES AND VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7525/CAA 206

CFR Citation: 40 CFR 86.1105

Legal Deadline: None

Abstract: This action will address the availability of nonconformance penalties (NCPs) and specific upper limits and penalty rates for 1998 and later emission standards for heavy-duty vehicles (HDVs) and engines (HDEs). The availability of NCPs will allow a manufacturer of HDVs and HDEs whose vehicle engines fail to conform to certain applicable emission standards, but do not exceed designated upper limits, to be issued a certificate of conformity upon payment of a monetary penalty. The issues involving NCPs, the administration of NCPs, and production compliance audits are addressed.

Timetable:

Action	Date	FR Cite
NPRM	08/22/94	59 FR 43074
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3097.

Agency Contact: Leo Breton, Environmental Protection Agency, Air and Radiation, (6405J), Washington, DC 20460
Phone: 202 233-9245

RIN: 2060–AE07

3706. REVIEW OF THE FEDERAL TEST PROCEDURE FOR EMISSIONS FROM MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

Regulatory Plan: This entry is Seq. No. 131 in Part II of this issue of the Federal Register.

RIN: 2060–AE27

3707. REGULATION OF FUEL AND FUEL ADDITIVES: CERTIFICATION REQUIREMENTS FOR DEPOSIT CONTROL ADDITIVES

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act 211(1), 211(c), 114

CFR Citation: 40 CFR 80

EPA—CAA

Final Rule Stage

Legal Deadline: None

Abstract: This final rule implements the certification requirements for deposit control additives. The control of engine and fuel supply deposits is expected to result in reduced vehicle emissions and improved fuel economy.

Timetable:

Action	Date	FR Cite
NPRM	12/06/93	58 FR 64213
Final Action	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 291 Petroleum Refining; 517 Petroleum and Petroleum Products; 461 Pipelines, Except Natural Gas; 421 Trucking and Courier Services, Except Air; 554 Gasoline Service Stations; 289 Miscellaneous Chemical Products

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3597.

Agency Contact: Jeff Herzog, Environmental Protection Agency, Air and Radiation, National Vehicle and Fuel Emissions Lab, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4227

RIN: 2060–AG06

3708. EMISSION STANDARDS FOR GASOLINE SPARK-IGNITION AND DIESEL COMPRESSION-IGNITION MARINE ENGINES

Priority: Economically Significant

Legal Authority: PL 101-549, Sec 222; 42 USC 7547

CFR Citation: 40 CFR 91

Legal Deadline: NPRM, Judicial, September 30, 1994. Final, Judicial, November 22, 1995.

Abstract: This action will implement emission standards and test procedures for currently unregulated marine engines. Section 213 of the Clean Air Act (CAA) as amended requires the EPA to conduct a study to determine whether emissions of carbon monoxide (CO), oxides of nitrogen (NOx), and volatile organic compounds (VOCs) from nonroad engines and vehicles contribute to levels of ambient ozone and CO in more than one area not in compliance with the National Ambient Air Quality Standards (NAAQS) for these pollutants. EPA has determined (59 FR 31306) that emissions from such sources significantly contribute to nonattainment of the NAAQS for ozone and CO in more than one area. Since the Agency made this positive determination, section 213 requires EPA to promulgate regulations that will result in reductions in emissions from non-road sources. Consequently, EPA is this proposal to reduce emissions from marine engines.

Timetable:

Action	Date	FR Cite
NPRM	11/09/94	59 FR 55930
Final Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 3350.

Agency Contact: Deanne North, Environmental Protection Agency, Air and Radiation, National Vehicle & Fuel Emissions Lab, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4331

RIN: 2060–AE54

3709. ACID RAIN NITROGEN OXIDES CONTROL REGULATION

Priority: Economically Significant

Legal Authority: PL 101-549, sec 407; Clean Air Act Amendments of 1990, Title IV

CFR Citation: 40 CFR 76

Legal Deadline:

NPRM, Statutory, May 15, 1992, for Group I boilers.
Final, Judicial, October 31, 1993, for Group I boilers.
NPRM, Statutory, January 1, 1996, for Group II boilers.
Final, Statutory, January 1, 1997, for Group II boilers.

Abstract: This regulatory action establishes NOx emission limitations for Phase I tangentially fired and dry bottom wall-fired boilers (Group I - Section 407(b)(1)) which must be met by January 1, 1995. Emissions limits for all other types of boilers Group II, Section 407(b)(2)), including cyclones and wet bottom wall-fired units, will be effective in 2000 and will be set in a later rulemaking. Boilers from both groups that are listed under Phase II will be subject to their relevant emissions limits after 2000. In addition, the rule will determine conditions of applications for emission averaging and alternative emission limits for both groups of boilers. The final action (59 FR 13538) on Group I Phase I Boilers was vacated by the U.S. Court of Appeals on 11/22/94. An interim final action is expected in April of 1995.

Timetable:

Group I Phase I Boilers	
NPRM	11/25/92 (57 FR 228)
Final Action	03/22/94 (59 FR 13538)
Interim Final Action	11/00/95
Group I Phase II Boilers	
NPRM	01/00/96
Group II Boilers	
Final Action	01/00/97

Small Entities Affected: Undetermined

Government Levels Affected: Local

Additional Information: SAN No. 2888.

Agency Contact: Larry Kertcher, Environmental Protection Agency, Air and Radiation, (6204J), Washington, DC 20460
Phone: 202 233-9180

RIN: 2060–AD45

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Long-Term Actions

Clean Air Act (CAA)

3710. ESTABLISHMENT OF LESSER QUANTITY EMISSION RATES FOR HAZARDOUS AIR POLLUTANTS

Priority: Other Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Amy B. Vasu
Phone: 919 541-0107

RIN: 2060–AE98

3711. RADIATION WASTE MANAGEMENT REGULATIONS

Priority: Other Significant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ambika Bathija
Phone: 202 233-9445

RIN: 2060–AF41

3712. TECHNICAL AMENDMENTS TO EVAPORATIVE EMISSION PROCEDURE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 86

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Alan Stout
Phone: 313 741-7805

RIN: 2060–AF49

3713. • SERVICE INFORMATION AVAILABILITY

Priority: Other Significant

Legal Authority: 42 USC 7521(m)

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This rule will require manufacturers of automobiles to provide necessary information needed to make use of emission control diagnostic systems as well as that needed to make emission-related diagnosis and repairs to any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines. This will allow independent service repair garages, individual owners, part manufacturers, etc to have access to emission control information to better service automobiles and insure clean air compliance requirements.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3741.

Agency Contact: David Dickinson, Environmental Protection Agency, Air and Radiation, 401 M Street SW., Washington, DC 20008
Phone: 202 233-9256
Fax: 202 233-9596
Email: Dickinson.David@EPA.Gov.Com

RIN: 2060–AG13

3714. RADIONUCLIDE MAJOR SOURCE DEFINITION

Priority: Other Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gale Bonanno
Phone: 202 233-9219

RIN: 2060–AD60

3715. NESHAP: INTEGRATED IRON AND STEEL

Priority: Economically Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	11/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Mulrine
Phone: 919 541-2421

RIN: 2060–AE48

3716. NESHAP: REINFORCED PLASTIC COMPOSITES PRODUCTION

Priority: Other Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Madeleine Strum
Phone: 919 541-2383

RIN: 2060–AE79

3717. NESHAP: POLYETHER POLYOLS PRODUCTION

Priority: Other Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Svendsgaard
Phone: 919 541-2380

RIN: 2060–AE81

3718. NESHAP: MISCELLANEOUS ORGANIC CHEMICAL PRODUCTION

Priority: Other Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Randy McDonald
Phone: 919 541-5402

RIN: 2060–AE82

3719. NESHAP: PRODUCTION OF AGRICULTURAL CHEMICALS

Priority: Other Significant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
Final Action	11/15/97	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lalit Banker
Phone: 919 541-5420

RIN: 2060–AE84

3720. NESHAP: NYLON 6 PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Morris
Phone: 919 541-5416

RIN: 2060–AF27

3721. • NATIONAL EMISSION STANDARD FOR HAZARDOUS AIR POLLUTANTS FOR PAINT STRIPPER USERS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act requires EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in Section 112(b) of the Act and to establish and meet dates for promulgation of - emission standards for each of the listed categories of HAP emission sources. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The EPA has determined that paint stripping operations emits at least one of the HAPS listed in Section 112(b) of the Act, specifically methylene chloride. As a result, the source category is included on the initial list of HAP - emitting categories scheduled for promulgation within ten years of enactment of the Clean Air Act Amendments of 1990. The purpose of this action is to begin a regulatory development program such that any emission standards may be promulgated according to the mandated schedule. It is unknown now whether this action will impact small businesses.

Timetable:

Action	Date	FR Cite
NPRM	11/15/99	
Final Action	11/15/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3746.

Agency Contact: Vickie Boothe, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-0164
Fax: 919 541-0072

RIN: 2060–AG26

3722. • NESHAP FOR BOAT MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549/CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants emitted by the boat manufacturing industry. The most abundant pollutant emitted by this industry is styrene, which is listed as a hazardous air pollutant in the 1990 Clean Air Act. Styrene is classified as a possible human carcinogen. The Agency will study the various hazardous air pollutants emitted by the industry and will evaluate pollution prevention techniques which can reduce emissions from these pollutants. Some of the pollution prevention techniques will result in both lower emissions and a cost savings to the manufacturer. There are likely many small businesses in the boat manufacturing industry, but at this time it is not known how many of these small businesses will be subject to the rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 373 Ship and Boat Building and Repairing; 449 Services Incidental to Water Transportation

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3747.

Agency Contact: Madelein Strum, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-2383
Fax: 919 541-5689

RIN: 2060–AG27

3723. • NESHAP FOR TIRE MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: Section 112 of Clean Air Act

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act requires EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPS) listed in Section 112(b) of the Act and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emission sources. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The EPA has determined that tire production operations emit at least one of the HAPs listed in Section 112(b) of the Act, specifically benzene, hexane, and toluene. As a result, the source category is included on the list of HAP - emitting categories scheduled for promulgation within 10 years of enactment of the Clean Air Act Amendments of 1990. The purpose of this action is to begin a regulatory development program such that any emission standards may be promulgated according to the mandated schedule. It is unknown now whether this action will impact small businesses.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	11/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3749.

Agency Contact: Fred Dimmick, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5624
Fax: 919 541-0942

RIN: 2060–AG29

3724. • NESHAP FOR AEROSOL CAN PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act required EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPS) listed in Section 112(b) of the Act and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emission sources. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The EPA has determined that the aerosol can production operation emits at least one of the HAPs listed in Section 122(b) of the Act, specifically chlorinated solvents. As a result, the source category is included on the list of HAP-emitting categories scheduled for promulgation within 10 years of enactment of the Clean Air Act Amendments of 1990. The purpose of this action is to begin a regulatory development program such that any emission standards may be promulgated according to the mandated schedule. It is unknown now whether this action will impact small businesses.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	11/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3752.

Agency Contact: Fred Dimmick, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5625
Fax: 919 541-0942

RIN: 2060–AG32

3725. • PETROLEUM SOLVENT DRY CLEANERS MACT STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act requires EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in Section 112(b) of the Clean Air Act Amendments and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emission sources. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The EPA has determined that the petroleum solvent dry cleaning industry emits several HAPs listed in Section 112(b) of the Act; these HAPs are: chlorobeneze, cumene, ethyl benzene, polycyclic organic matter, toluene, and xylene. As a result, the source category is included on the initial list of HAP-emitting categories scheduled for promulgation within 10 years of enactment of the Clean Air Act Amendments of 1990. The purpose of this action is to begin a regulatory development program such that any emission standards may be promulgated according to the mandated schedule. It is anticipated that this action will impact small business.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3754.

Agency Contact: Fred Dimmick, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5625
Fax: 919 541-0942

RIN: 2060–AG34

3726. • NEW SOURCE PERFORMANCE STANDARDS AND EMISSION GUIDELINES FOR OTHER SOLID WASTE INCINERATORS

Priority: Other Significant

Legal Authority: Clean Air Act section 129

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: Section 129 of the Clean Air Act of 1990 requires the Agency to promulgate New Source Performance Standards (NSPS) and Emission Guidelines (EG) for solid waste incinerators. Section 129 specifically required the Administrator to publish a schedule for regulating Other Solid Waste Incinerators (OSWI). A notice in the Federal Register was published on November 2, 1993 that announced that the Administrator would promulgate OSWI standards by November 15, 2000. The notice also listed what classes of incinerators would be covered by the OSWI standards. Because it is believed that these OSWI emit significant amounts of air pollution that cause public health and environmental problems, the Administrator intends to promulgate the NSPS and EG of OSWI in accordance with section 129. Standards will be set for the following pollutants: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead cadmium, mercury, and dioxins and dibenzofurans.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/94	59 FR 66850
NPRM	12/01/99	
Final Action	12/01/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3751.

Agency Contact: George Smith, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-1549
Fax: 919 541-0072

RIN: 2060–AG31

3727. ALTERNATIVE TEST PROCEDURE FOR THE VOLUNTARY AFTERMARKET PART CERTIFICATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 85

Timetable:

Action	Date	FR Cite
NPRM	08/08/89	54 FR 32598

Action	Date	FR Cite
NPRM (Supplemental)	01/30/91	56 FR 3746
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: John L. Wehrly
Phone: 313 668-4286

RIN: 2060–AC50

3728. REGULATIONS GOVERNING PRIOR NOTICE OF CITIZEN SUITS BROUGHT UNDER SECTION 304 OF THE CLEAN AIR ACT

Priority: Other

CFR Citation: 40 CFR 54

Timetable:

Action	Date	FR Cite
NPRM	02/10/93	58 FR 7870
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Abdalla
Phone: 202 564-2413

RIN: 2060–AD80

3729. ACID RAIN PROGRAM: REVISED GROUP 1, PHASE II, NOX EMISSION LIMITATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 76 (Revision)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Tsirigotis
Phone: 202 233-9133

RIN: 2060–AF44

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Air Act (CAA)

Completed Actions

3730. ADDITION OF TEST METHOD 205 TO APPENDIX M OF 40 CFR PART 51

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 51

Completed:

Reason	Date	FR Cite
Final Action	05/30/95	60 FR 28052

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Rima Dishakjian
Phone: 919 541-0443

RIN: 2060–AE33

3731. NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS AS IT APPLIES TO NUCLEAR POWER REACTORS LICENSED BY THE NUCLEAR REGULATORY COMMISSION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 61 supbart I

Completed:

Reason	Date	FR Cite
Final Action	09/05/95	60 FR 46206

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Fran Jonesi
Phone: 202 233-9229

RIN: 2060–AE38

3732. PROTECTION OF STRATOSPHERIC OZONE: MOBILE AIR-CONDITIONING RECOVER-ONLY STANDARD; SUPPLEMENTAL RULE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 82 subpart B

Completed:

Reason	Date	FR Cite
Final Action	05/02/95	60 FR 21682

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Christine Dibble
Phone: 202 233-9147

RIN: 2060–AE52

3733. NEW SOURCE REVIEW (NSR) REFORM RULEMAKING

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 2060-AE11.	09/21/95	

RIN: 2060–AF21

3734. TEST METHOD 302, APPENDIX M, 40 CFR PART 51

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 51

Completed:

Reason	Date	FR Cite
Withdrawn - Agency does not plan to develop action.	09/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rima Dishakjian
Phone: 919 541-0443

RIN: 2060–AF23

3735. ACID RAIN PROGRAM: TECHNICAL AMENDMENTS FOR CONTINUOUS EMISSIONS MONITORING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 75

Completed:

Reason	Date	FR Cite
Final Action	05/17/95	60 FR 26510

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Saile
Phone: 202 233-9156

RIN: 2060–AF58

3736. NEW SOURCE PERFORMANCE STANDARDS AND EMISSION GUIDELINES—INDUSTRIAL AND COMMERCIAL WASTE INCINERATORS

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 2060-AF91	09/27/95	

RIN: 2060–AF82

3737. AMBIENT AIR-QUALITY SURVEILLANCE SITING CRITERIA FOR OPEN PATH ANALYZERS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 58

Completed:

Reason	Date	FR Cite
Final Action	10/06/95	60 FR 52315

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lee Ann B. Byrd
Phone: 919 541-5367

RIN: 2060–AF88

3738. STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES: INDUSTRIAL-COMMERCIAL-INSTITUTIONAL STEAM GENERATING UNITS - REVISION

Priority: Other Significant

CFR Citation: 40 CFR 60 subpart D

Completed:

Reason	Date	FR Cite
Final Action	05/30/95	60 FR 28061

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George F. Smith
Phone: 919 541-1549

RIN: 2060–AF92

3739. NOX EMISSIONS FROM CERTAIN COAL-FIRED UTILITY BOILERS UNDER TITLE IV OF THE CLEAN AIR ACT AMENDMENTS OF 1990

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 76

Completed:

Reason	Date	FR Cite
Final Action	04/13/95	60 FR 18751

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Tsirigotis
Phone: 202 233-9707

RIN: 2060–AF96

3740. REVISED REGULATORY REQUIREMENTS FOR AIR QUALITY MODELING (SUPPLEMENT C)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 51.112; 40 CFR 51.160; 40 CFR 51.166; 40 CFR 51 (app W); 40 CFR 52.21

Completed:

Reason	Date	FR Cite
Final Action	08/09/95	60 FR 40465

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Coulter
Phone: 919 541-0832

RIN: 2060–AG04

3741. REVISIONS TO THE PERMITS REGULATIONS UNDER TITLE IV OF THE CLEAN AIR ACT CONCERNING REDUCED UTILIZATION PLANS AND ALLOWANCE SURRENDER FOR REDUCED UTILIZATION

Priority: Other Significant

CFR Citation: 40 CFR 72.33; 40 CFR 72.43; 40 CFR 72.92

Completed:

Reason	Date	FR Cite
Final Action	04/11/95	60 FR 18462

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dwight C. Alpern
Phone: 202 233-9151

RIN: 2060–AG05

3742. • TRANSPORTATION CONFORMITY AMENDMENTS: TRANSITION TO THE CONTROL STRATEGY PERIOD

Priority: Other Significant

Legal Authority: 42 USC 7521(a)

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: These amendments would extend the time before the conformity status of the transportation plan lapses in ozone nonattainment areas whose state implementation plans due November 15, 1994, have been found incomplete. These amendments would also clarify some ambiguous language and make technical corrections which havealready been articulated in EPA guidance

Timetable:

Action	Date	FR Cite
NPRM	02/08/95	60 FR 7449
Final Action	08/07/95	60 FR 40098

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3610.

Agency Contact: Kathryn Sargeant, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4441

RIN: 2060–AG15

3743. •USER FEES FOR RADON PROFICIENCY PROGRAMS RULE - AMENDMENT

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 2060-AF40	09/21/95	

RIN: 2060–AG18

3744. REVISE CAPTURE EFFICIENCY GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Withdrawn - No further action planned; guidance previously released.	09/29/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Candace Sorrell
Phone: 919 541-1064

RIN: 2060–AD84

3745. NSPS: STARCH PRODUCTION FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Withdrawn - EPA plans to withdraw proposal and will not promulgte.	09/21/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: William H. Maxwell

Phone: 919 541-5430

RIN: 2060–AE65

3746. NEW SOURCE PERFORMANCE STANDARDS FOR COLD-CLEANING OPERATIONS

Priority: Other Significant

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Withdrawn - EPA plans to withdraw proposal and will not promulgate.	09/21/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Dan Brown
Phone: 919 541-5305

RIN: 2060–AF08

3747. NSPS: MEDICAL WASTE INCINERATORS

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 2060-AC62.	09/29/95	

RIN: 2060–AE73

3748. NESHAP: PETROLEUM REFINING - OTHER SOURCES NOT DISTINCTLY LISTED

Priority: Other Significant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	08/18/95	60 FR 43244

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James F. Durham
Phone: 919 541-5672

RIN: 2060–AD94

3749. NESHAP FOR THE AEROSPACE MANUFACTURING AND REWORK INDUSTRY

Priority: Other Significant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	09/01/95	60 FR 45948

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Vickie Boothe
Phone: 919 541-5426

RIN: 2060–AE02

3750. NESHAP: SECONDARY LEAD SMELTING

Priority: Other Significant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	05/31/95	60 FR 32589

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: George Streit
Phone: 919 541-2364

RIN: 2060–AE04

3751. NESHAP: WOOD TREATMENT INDUSTRY

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Withdrawn - No further action planned.	09/21/95	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Eugene P. Crumpler
Phone: 919 541-0881

RIN: 2060–AE47

3752. NESHAP: COMBUSTION SOURCES IN THE SULFITE PULPING INDUSTRY

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Withdrawn - Project was merged into the Kraft Pulp Combustion NESHAP.	09/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Telander
Phone: 919 541-5427

RIN: 2060–AE80

3753. TRANSPORTATION CONFORMITY RULE AMENDMENTS: MISCELLANEOUS REVISIONS

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 2060-AF95	09/18/95	

RIN: 2060–AF25

3754. TRANSPORTATION CONFORMITY AMENDMENTS: MISCELLANEOUS REVISIONS

Priority: Other Significant

CFR Citation: 40 CFR 51; 40 CFR 93

Completed:

Reason	Date	FR Cite
Interim Final Rule	08/29/95	60 FR 44762

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Kathryn Sargeant
Phone: 313 668-4441

RIN: 2060–AF95

3755. INSPECTION/MAINTENANCE FLEXIBILITY AMENDMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 51 subpart S

Completed:

Reason	Date	FR Cite
Final Action	09/18/95	60 FR 48029

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Eugene Tierney
Phone: 313 668-4456

RIN: 2060–AF94

3756. • INSPECTION/MAINTENANCE FLEXIBILITY AMENDMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 to 7671q/CAA 182

EPA—CAA

Completed Actions

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This action revises the motor vehicle Inspection/Maintenance (I/M) Program Requirements. It creates a less stringent enhanced I/M performance standard which allows areas that can meet the 1990 Clean Air Act requirements for Reasonable Further Progress and attainment to implement an I/M program that falls below the originally promulgated enhanced I/M performance standard.

Timetable:

Action	Date	FR Cite
NPRM	04/28/95	60 FR 20934
Final Action	09/18/95	60 FR 48029

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3623.

Agency Contact: Eugene J.Tierney, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, Michigan 48105
Phone: 313 668-4456

RIN: 2060–AG11

3757. STANDARDS FOR TANK VESSEL LOADING OPERATIONS

Priority: Economically Significant

CFR Citation: 40 CFR 90

Completed:

Reason	Date	FR Cite
Final Action	09/19/95	60 FR 48388

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: David Markwordt
Phone: 919 541-0837

RIN: 2060–AD02

3758. REPORT TO CONGRESS AND PRIORITIZED CATEGORY LIST FOR REGULATION OF VOC EMISSIONS FROM CONSUMER AND COMMERCIAL PRODUCTS

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Data	FR Cite
Final Action	03/23/95	60 FR 15264

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Bruce Moore
Phone: 919 541-5460

RIN: 2060–AE24

3759. AIR POLLUTANT EMISSION REGULATIONS FOR SPARK-IGNITED NONROAD ENGINES 25 HORSEPOWER AND BELOW - PHASE I

Priority: Other Significant

CFR Citation: 40 CFR 90

Completed:

Reason	Date	FR Cite
Final Action	07/03/95	60 FR 34582

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Debbie Wood
Phone: 313 741-7900

RIN: 2060–AF78

3760. PROTECTION OF STRATOSPHERIC OZONE: ADMINISTRATIVE CHANGES TO THE FINAL RULE TO PHASE OUT OZONE-DEPLETING CHEMICALS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 84 subpart A

Completed:

Reason	Date	FR Cite
Final Action	05/10/95	60 FR 24970

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Land
Phone: 202 233-9185

RIN: 2060–AE70

3761. PROTECTION OF STRATOSPHERIC OZONE: SUPPLEMENTAL RULE TO AMEND LEAK REPAIR PROVISIONS, EQUIPMENT STANDARDS AND SCOPE OF CHEMICALS TO BE RECYCLED UNDER SECTION 608 OF THE AMENDED CAA

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 82 subpart F

Completed:

Reason	Date	FR Cite
Final Action	08/08/95	60 FR 40420

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Cindy Newberg
Phone: 202 233-9729

RIN: 2060–AE92

3762. PROTECTION OF STRATOSPHERIC OZONE: DIRECT FINAL RULE EXTENDING RECLAMATION REQUIREMENTS PAST MAY 15TH

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 82 subpart F

Completed:

Reason	Date	FR Cite
Final Action	03/17/95	60 FR 14608

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Debbie Ottinger
Phone: 202 233-9149

RIN: 2060–AF80

3763. USER FEES FOR RADON PROFICIENCY PROGRAMS RULE - AMENDMENT

Priority: Other Significant

CFR Citation: 40 CFR 195; 40 CFR 700 (Revision)

Completed:

Reason	Date	FR Cite
Technical Amendment to 40 CFR Parts 195 and 700	08/14/95	60 FR 41813

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: James W. Long
Phone: 202 233-9433
Fax: 202 233-9652
Email: Long.James@EPAMail.EPA.GOV

RIN: 2060–AF40

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Superfund (CERCLA)

Proposed Rule Stage

3764. REPORTABLE QUANTITY ADJUSTMENTS FOR CARBAMATES

Priority: Substantive, Nonsignificant

Legal Authority: PL 96-510, sec 102(a); PL 99-499

CFR Citation: 40 CFR 302

Legal Deadline: None

Abstract: EPA has listed carbamate waste streams as hazardous wastes under the Resource Conservation and Recovery Act (RCRA). RCRA listed wastes, by statute, automatically become hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and are assigned a one pound statutory reportable quantity (RQ) unless EPA adjusts them. These substances also become subject to reporting requirements under the Emergency Planning and Community Right to Know Act (EPCRA) with a one pound threshold. EPA, in this action, will propose RQ adjustments for the carbamates. Most RQ adjustments are expected to be greater than one pound. Raising the RQs for these substances would decrease the burden on 1) the regulated community for complying with the reporting requirements under CERCLA and EPCRA; 2) Federal, State, and local authorities for program implementation; and 3) Federal, State, or local authorities, if they release hazardous substances at the RQ level or greater.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3423.

Agency Contact: Jack Arthur, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington DC 20460
Phone: 703 603-8732

RIN: 2050–AE12

3765. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES: PROPOSED AND FINAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9605/CERCLA 105; 42 USC 9605(a)(8)(b)/CERCLA 105 (a)(8)(B)

CFR Citation: 40 CFR 300.425

Legal Deadline: None

Abstract: This action proposes to revise the sites included on the National Priorities List (NPL) of uncontrolled waste sites in the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substance releases and to delete sites that have been cleaned up.

Timetable:

Action	Date	FR Cite
NPRM Proposal 17	08/23/94	59 FR 43314
Final Action Final 13	12/16/94	59 FR 65206
NPRM Proposal 18	02/13/95	60 FR 8212
Final Action Final 14	04/25/95	60 FR 20330
Final Action (Southern Shipbuilding)	05/26/95	60 FR 27896
NPRM Proposal 19	10/02/95	60 FR 51390
NPRM Proposal 20	03/00/96	
Final 16	05/00/96	
Final 15	Final Action 09/29/95 (60 FR 50435)	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3439.

Statute provides for an annual update.

Agency Contact: Terry Keidan, Environmental Protection Agency, Solid Waste and Emergency Response, (5204G), Washington, DC 20460
Phone: 703 603-8852

RIN: 2050–AD75

3766. AMENDMENTS TO THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT, SECTIONS 302 THROUGH 312

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 99-499

CFR Citation: 40 CFR 355; 40 CFR 370

Legal Deadline: None

Abstract: This proposal will include a modification to the chemical inventory reporting forms under Section 312 of the Emergency Planning and Community Right-to-Know Act, as well as modifications to other sections (302-312) of the law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3215.

Agency Contact: John Ferris, Environmental Protection Agency, Solid Waste and Emergency Response, (5101)
Phone: 202 260-4043

RIN: 2050–AE17

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Superfund (CERCLA)

Final Rule Stage

3767. RISK MANAGEMENT PROGRAM FOR CHEMICAL ACCIDENTAL RELEASE PREVENTION

Regulatory Plan: This entry is Seq. No. 132 in Part II of this issue of the **Federal Register**.

RIN: 2050–AD26

3768. ADMINISTRATIVE REPORTING EXEMPTIONS FOR CERTAIN RADIONUCLIDE RELEASES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9602 to 9604; 42 USC 9615; 33 USC 1321; 33 USC 1361

EPA—CERCLA — Final Rule Stage

CFR Citation: 40 CFR 302.6(c); 40 CFR 355.40(a)(2)(vi)

Legal Deadline: None

Abstract: This rule affects the requirement in Superfund and the Emergency Planning and Community Right-to-Know Act that facilities immediately report to state, local and federal authorities the release of a hazardous substances in an amount that equals or exceeds a "reportable quantity." In 1989, the Environmental Protection Agency (EPA) set reportable quantities for radionuclides (a category of hazardous substances) by regulation. In that same rule, EPA also established four exemptions to the general reporting requirement, to exclude from it certain releases of naturally occurring radionuclides for which the government does not need reports. These exemptions are for releases from: (1) large land holdings; (2) disturbances of land for purposes other than mining; (3) the dumping of coal and coal ash at utility and industrial facilities with coal-fired boilers; and (4) coal and ash piles at those facilities.

Later, a court ruled that the Agency had promulgated the four exemptions without giving the public opportunity to comment. The Agency subsequently provided the opportunity for public notice and comment on these exemptions. Based on those comments, the Agency is now seeking further comments on the possibility of broadening the exemptions. Depending upon the Agency's analysis of comments received, it could either reaffirm or modify the exemptions. Modification of the exemptions would further reduce the burden on facilities which must report, and on the State and local authorities which must receive and evaluate reports to determine whether reported releases pose a threat to human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/30/92	57 FR 56726
Supplemental Notice	08/04/95	60 FR 40042
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Sectors Affected: 49 Electric, Gas, and Sanitary Services; 16 Heavy Construction Other Than Building Construction-Contractors; 01 Agricultural Production-Crops; 10 Metal Mining; 12 Coal Mining; 14 Mining and Quarrying of Nonmetallic Minerals, Except Fuels; 15 Building Construction-General Contractors and Operative Builders; 33 Primary Metal Industries; 40 Railroad Transportation; 44 Water Transportation; Multiple

Additional Information: SAN No. 3054.

Agency Contact: Jack Arthur, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington, DC 20460 Phone: 703 603-8732

RIN: 2050–AD46

3769. AMENDMENTS TO THE EXTREMELY HAZARDOUS SUBSTANCES LIST UNDER SECTION 302 OF THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 99-499/SARA title III

CFR Citation: 40 CFR 355

Legal Deadline: None

Abstract: EPA is adjusting the reportable quantities (RQs) for approximately 230 chemicals on the extremely hazardous substance (EHS) list under section 302 of the Emergency Planning and Community Right-to-Know Act. This modification is to make these RQs consistent with the methodology under section 103 of the Comprehensisve Environmental Response, Compensation and Liability Act (CERCLA). EPA is also correcting errors found in studies used to place the chemicals on the EHS list. The original list became final in the Federal Register on April 22, 1987 (52 FR 13378).

Timetable:

Action	Date	FR Cite
NPRM	10/12/94	59 FR 51816
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Additional Information: SAN No. 3036.

Agency Contact: John Ferris, Environmental Protection Agency, Solid Waste and Emergency Response, (5101), Washington, DC 20460 Phone: 202 260-4043

RIN: 2050–AD50

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Long-Term Actions

Superfund (CERCLA)

3770. REPORTING EXEMPTIONS FOR FEDERALLY-PERMITTED RELEASES OF HAZARDOUS SUBSTANCES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 117; 40 CFR 302; 40 CFR 355

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 27268
Supplemental Notice	07/11/89	54 FR 29306
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Arthur Phone: 703 603-8732

RIN: 2050–AB82

3771. DELETION OF SACCHARIN FROM THE LIST OF HAZARDOUS WASTES UNDER RCRA AND THE LIST OF HAZARDOUS SUBSTANCES UNDER CERCLA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 40 CFR 261.33(f); 40 CFR 261; 40 CFR 302.4

EPA—CERCLA — Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wanda L. Levine Phone: 202 260-7458

RIN: 2050–AD45

3772. REPORTABLE QUANTITY ADJUSTMENT FOR RADON-222

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 302

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Arthury Phone: 703 603-8732

RIN: 2050–AE20

3773. RESPONSE ACTION CONTRACTOR INDEMNIFICATION

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Barbara McDonough Phone: 202 260-6674

RIN: 2050–AE19

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions

Superfund (CERCLA)

3774. DESIGNATION UNDER CERCLA AND REPORTABLE QUANTITY ADJUSTMENTS FOR CLEAN AIR ACT HAZARDOUS AIR POLLUTANTS; REPORTABLE QUANTITY ADJUSTMENTS OF HAZARDOUS WASTES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 302.4; 40 CFR 117.3; 40 CFR 355

Completed:

Reason	Date	FR Cite
Final Action	06/12/95	60 FR 30926

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Jack Arthur Phone: 703 603-8732

RIN: 2050–AD33

3775. AMENDMENT TO THE NCP APPENDIX: OSWER PROCEDURES FOR CONTRACT LABORATORY PROGRAM (CLP) INVESTIGATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 300

Completed:

Reason	Date	FR Cite
Withdrawn - No further action planned	09/05/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hans Crump Phone: 703 603-8821

RIN: 2050–AD34

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

General

3776. FINAL GUIDELINES FOR CARCINOGEN RISK ASSESSMENT

Priority: Other

Legal Authority: None. This rule is for guidance only.

CFR Citation: None

Legal Deadline: None

Abstract: The Agency will use these guidelines to evaluate suspect carcinogens in line with the policies and procedures established in the statutes administered by the EPA. These guidelines revise and replace EPA Guidelines for Carcinogen Risk Assessment published at 51 FR 33992, September 24, 1986. These guidelines provide EPA staff and decision-makers with the directions and perspectives necessary to develop and use risk assessments. The guidelines also provide the general public with basic information about the Agency's approaches to risk assessment.

To develop guidelines the Agency must find a balance between consistency and innovation. Consistent risk assessments provide consistent bases to support regulatory decision-making. On other hand, innovation is necessary so the Agency will base its decisions on current scientific thinking. In balancing these and other science policies, the Agency relies on input from the general scientific community through established scientific peer review processes. The guidelines incorporate basic principles and science policies based on evaluation of the currently available information. The revisions place increased emphasis on the role of carcinogenic mechanisms in risk assessment and clearer explication of underlying assumptions in risk assessment.

These Guidelines will have minimal to no impact on small businesses or state, local, and tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	08/27/86	51 FR 33992
Reproposal	10/00/95	
Implementation Policy	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3671.

Agency Contact: William P. Wood, Environmental Protection Agency, Office of Research and Development, Risk Assessment Forum (8101), Washington, DC 20460
Phone: 202 260-6743

RIN: 2080–AA06

3777. PROPOSED GUIDELINES FOR ECOLOGICAL RISK ASSESSMENT

Priority: Other

Legal Authority: None. This rule is for guidance only.

CFR Citation: None

Legal Deadline: None

Abstract: The proposed Guideline for Ecological Risk Assessment is intended to guide Agency evaluations of ecological risks in line with the policies and procedures established in the statutes administered by EPA. These Guidelines set forth principles and procedures to guide EPA scientists in the conduct of Agency risk assessments and to inform Agency decision makers and the public about these procedures. In particular, the Guidelines expand on the general ecological risk assessment process described in the Agency report"Framework for Ecological Risk Assessment," (EPA/630/R-92/001) and covers a broad range of ecological concerns. The Guideline stresses the need for sound initial planning of the ecological risk assessment as well as appropriate characterization of the risks, including identification of the major assumptions, uncertainties, and limitations of the assessment.

These guidelines will have minimal to no impact on small businesses or state, local and tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3670.

Agency Contact: William P. Wood, Environmental Protection Agency, Office of Research and Development, Risk Assessment Forum (8101), Wasington, DC 20460
Phone: 202 260-6743

RIN: 2080–AA07

3778. • GUIDELINES FOR NEUROTOXICITY RISK ASSESSMENT

Priority: Other Significant

Legal Authority: None. This rule is for guidance only.

CFR Citation: None

Legal Deadline: None

Abstract: These proposed Guidelines for Neurotoxicity Risk Assessment (hereafter "Guidelines") are intended to guide Agency evaluation of suspect neurotoxicants in line with the policies and procedures established in the statutes administered by the EPA. These Guidelines set forth principles and procedures to guide EPA scientists in the conduct of Agency risk assessments and to inform Agency decision makers and the public about these procedures. In particular, the Guidelines emphasize that risk assessments will be conducted on a case-by-case basis, giving full consideration to all relevant scientific information. This case-by-case approach means that Agency experts study scientific information on each chemical under review and use the most scientifically appropriate interpretation to assess risk. The Guidelines also stress that this information will be fully presented in Agency risk assessment documents, and that Agency scientists will identify the strengths and weaknesses of each assessment by describing uncertainties, assumptions, and limitations, as well as the scientific basis and rationale for each assessment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3624.

Agency Contact: William P. Wood, Environmental Protection Agency, Office of Research and Development, (8101), Washington, DC 20460
Phone: 202 260-6743

RIN: 2080–AA08

3779. GRANTS AND COOPERATIVE AGREEMENTS WITH STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251et seq;; 42 USC 7401et seq;; 42 USC 300(f) et seq;; 7 USC 136et seq;; 15 USC 2601et seq;; 42 USC 9601et seq;; 20 USC 4011et seq;; 33 USC 1401et seq; OMB Circular A102

CFR Citation: 40 CFR 31

Legal Deadline: None

Abstract: This is a revision to a common rule designed to establish uniform administrative rules for Federal grants and cooperative agreements and subawards to State, local, and Indian tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 3577.

Agency Contact: Richard Mitchell or Ellen Haffa, Environmental Protection Agency, Administration and Resource Management, (PM-216F), Washington, DC 20460
Phone: 202 260-5268

RIN: 2030–AA34

3780. RULES OF PRACTICE FOR ENFORCEMENT ACTIONS NOT GOVERNED BY THE ADMINISTRATIVE PROCEDURE ACT

Priority: Other

Legal Authority: 33 USC 1319/CWA 309; 33 USC 1321/CWA 311; 42 USC 9609/CERCLA 109; 42 USC 7413/CAA 113; 42 USC 11045/EPCRA 325

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: This action will consolidate and harmonize in a single regulation the various procedural guidances and regulations which EPA presently employs in response to Congressional direction to provide streamlined procedure for the assessment of certain administrative penalties. Although the substantive requirements of various statutes differ, each authorizes the Administrator to assess civil penalties without recourse to the Administrative Procedure Act.

Timetable:

Action	Date	FR Cite
NPRM	07/01/91	56 FR 29996
Reproposal	11/00/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3486.

Agency Contact: Robert Kinney, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2243A), Washington, DC 20460
Phone: 202 564-3712

RIN: 2020–AA23

3781. REVISION TO SUBMISSION OF INVOICES CLAUSE

Priority: Other

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1532; 48 CFR 1552

Legal Deadline: None

Abstract: This action will revise EPA's invoicing requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3578.

Agency Contact: Larry Wyborski, Environmental Protection Agency, Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 202 260-6482

RIN: 2030–AA35

3782. INCORPORATION OF CLASS DEVIATION INTO EPAAR

Priority: Other

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1506; 48 CFR 1537; 48 CFR 1552

Legal Deadline: None

Abstract: The Agency has approved a number of class deviations (e.g. changes to reporting requirements and monthly progress reports) to the EPAAR since its promulgation in April 1994. This proposed rule would incorporate most of the class deviations to the EPAAR.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3580.

Agency Contact: Edward Chambers, Environmental Protection Agency, Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 202 260-6028

RIN: 2030–AA37

3783. EPA MENTOR-PROTEGE PROGRAM

Priority: Other

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1544; 48 CFR 1552

Legal Deadline: None

Abstract: This proposed rule will amend EPA's Acquisition Regulation (EPAAR) to establish a Mentor-Protege Program. Participating prime contractors serving as Mentors will provide technical and managerial support to Protege small disadvantaged business subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3629.

Agency Contact: Edward Chambers, Environmental Protection Agency, Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 202 260-6028

RIN: 2030–AA40

3784. CONFIDENTIAL BUSINESS INFORMATION PROVISIONS AND CLAUSES

Priority: Other

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1535; 48 CFR 1552; 40 CFR 2

Legal Deadline: None

Abstract: This action proposes to amend the EPA Acquisition Regulation by revising the prescription for use of solicitation provisions and contact clauses regarding collection, use, access, treatment, and disclosure of confidential business information, and adding solicitation provisions and contract clauses on confidential business information.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3628.

Agency Contact: Louise Senzel, Environmental Protection Agency, Administration and Resource Management, (3802F), Washington, DC 20460
Phone: 202 260-6204

RIN: 2030–AA41

3785. IMPLEMENTATION OF PROCUREMENT INTEGRITY

Priority: Other

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1503

Legal Deadline: None

Abstract: The proposed rule will implement Federal Acquisition Regulation (FAR) guidance concerning procurement integrity.

EPA—GENERAL

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3098.

Agency Contact: Larry Wyborski, Environmental Protection Agency, Administration and Resource Management, (3802F), Washington, DC 20460
Phone: 202 260-6482

RIN: 2030–AA25

3786. SOURCE SELECTION PROCEDURES

Priority: Other

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1515

Legal Deadline: None

Abstract: This action will revise EPA's source selection procedures.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3255.

Agency Contact: Louise Senzel, Environmental Protection Agency, Administration and Resource Management, (3802F), Washington, DC 20460
Phone: 202 260-6204

RIN: 2030–AA29

3787. AMENDMENTS TO PART 22 CONSOLIDATED PROCEDURAL RULES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136l; 15 USC 2615(a); 15 USC 2647; 33 USC 1319(g); 33 USC 1415(a); 33 USC 1418; 42 USC 6912; 42 USC 7413(d)(1); 42 USC 7601; 42 USC 7607(a); 42 USC 9609; 42 USC 11045; 42 USC 300g-3(b)

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: The Agency is proposing amendments to the Consolidated Rules of Practice under 40 CFR Part 22 which are the procedural rules used in administrative hearings and practice. These amendments will include technical corrections as well as substantive amendments. The proposed substantive amendments pertain to the handling and use of Confidential Business Information, burdens of proof, motion practice, cross appeals. and more.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2662.

Agency Contact: Helene Ambrosino, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2211), Washington, DC 20460
Phone: 202 260-0239

RIN: 2020–AA13

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

General

3788. FINAL GUIDELINES FOR REPRODUCTIVE TOXICITY RISK ASSESSMENT

Priority: Other

Legal Authority: None. This rule is for guidance only.

CFR Citation: None

Legal Deadline: None

Abstract: These proposed Guidelines for Reproductive Toxicity Risk Assessment (hereafter "Guidelines") are intended to guide Agency evaluation of suspect reproductive toxicants in line with the policies and procedures established in the statutes administered by the EPA. These Guidelines set forth principles and procedures to guide EPA scientists in the conduct of Agency risk assessments and to inform Agency decision makers and the public about these procedures. In particular, the Guidelines emphasize that risk assessments will be conducted on a case-by-case basis, giving full consideration to all relevant scientific information. This case-by-case approach means that Agency experts study scientific information on each chemical under review and use the most scientifically appropriate interpretation to assess risk. The Guidelines also stress that this information will be fully presented in Agency risk assessment documents, and that Agency scientists will identify the strengths and weaknesses of each assessment by describing uncertainties, assumptions, and limitations, as well as the scientific basis and rationale for each assessment. They incorporate current scientific thinking and sound science policies based on evaluation of the currently available information.

Timetable:

Action	Date	FR Cite
Proposed Guidelines for Females	06/30/88	53 FR 24834
Proposed Guidelines for Males	06/30/88	53 FR 24850
Final Guidelines for Males and Females	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William P. Wood, Environmental Protection Agency, Office of Research and Development, Risk Assessment Forum (8101), Washington, DC 20460
Phone: 202 260-6743

RIN: 2080–AA05

EPA—GENERAL

Final Rule Stage

3789. COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT (CERCLA) COST RECOVERY

Priority: Economically Significant

Legal Authority: 42 USC 9605 and 9615 /CERCLA 105 and 115

CFR Citation: 40 CFR 300; 40 CFR 308

Legal Deadline: None

Abstract: This rule would (1) establish a new methodology for calculating EPA's indirect cost, thus allowing for full recovery of indirect costs; (2) list categories of documentation of response actions which EPA will maintain, thus adopting unified cost recovery documentation standards for the entire Agency; (3) clarify CERCLA statute of limitations for cost recovery actions; and (4) specify when prejudgment interest begins to accrue.

Timetable:

Action	Date	FR Cite
NPRM	08/06/92	57 FR 34742
Final Action	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2702.

Agency Contact: Lisa Comer, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2244), Washington, DC 20460
Phone: 703 603-9068

RIN: 2050–AC98

3790. UNIFORM ADMINISTRATION REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: OMB Circular A-110

CFR Citation: 40 CFR 30

Legal Deadline: None

Abstract: The proposed rule provides standards for obtaining consistency and uniformity among Federal agencies in the administration of grants and cooperative agreements with institutions of higher education, hospitals, and other nonprofit organizations, consistent with OMB Circular A-110.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3436.

Agency Contact: Richard Mitchell, Environmental Protection Agency, Administration and Resource Management, (3903F), Washington, DC 20460
Phone: 202 260-6077

RIN: 2030–AA32

3791. EPA POLICIES FOR INFORMATION RESOURCES MANAGEMENT

Priority: Other

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1552

Legal Deadline: None

Abstract: Proposed Rule will amend EPA Acquisition Regulation (EPAAR) to relocate references to applicable IRM directives from EPAAR to Internet, and to incorporate new directives.

Timetable:

Action	Date	FR Cite
NPRM	07/11/95	60 FR 35719
Final Action	01/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3579.

Agency Contact: Edward Chambers, Environmental Protection Agency, Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 202 260-6028

RIN: 2030–AA36

3792. MERGER OF 40 CFR PARTS 15 AND 32 INTO A SINGLE REGULATION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 7401 et seq; 33 USC 1251/CWA 303; EO 11738; EO 12549

CFR Citation: 40 CFR 15; 40 CFR 32

Legal Deadline: None

Abstract: This proposed rule will merge existing statutory and discretionary listing procedures under 40 CFR part 15 into the uniform governmentwide suspension and debarment procedures at 40 CFR part 32, thus eliminating duplicate provisions in the rules and providing clarity for the public and private sector.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47135
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3587.

Agency Contact: Robert F. Meunier, Environmental Protection Agency, Administration and Resource Management, (3902F), Washington, DC 20460
Phone: 202 260-8030

RIN: 2030–AA38

3793. PUBLIC INFORMATION AND CONFIDENTIALITY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 7 USC 136 et seq; 33 USC 1251 et seq; 42 USC 300f et seq; 42 USC 6901 et seq; 42 USC 7401 et seq; 42 USC 9601 et seq; 42 USC 11001 et seq; 15 USC 2601 et seq; 42 USC 4912; 33 USC 1414; 21 USC 346; 15 USC 2005

CFR Citation: 40 CFR 2; 40 CFR 57; 40 CFR 122; 40 CFR 123; 40 CFR 145; 40 CFR 233; 40 CFR 260; 40 CFR 270; 40 CFR 271; 40 CFR 281; 40 CFR 350; 40 CFR 403; 40 CFR 85; 40 CFR 86

Legal Deadline: None

Abstract: EPA regulations at 40 CFR part 2, subpart B, provide procedures for handling and disclosing information claimed as CBI. Although these

EPA—GENERAL

Final Rule Stage

regulations have succeeded in protecting business information, changes in Agency workload, practice, and statutory authority have outstripped the ability of these regulations to cut down on unnecessary procedures, expedite activities involving confidential business information, and simplify the regulations. In addition, EPA would consolidate confidentiality provisions from other Parts of 40 CFR.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60446
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 3240.

Agency Contact: Donald A. Sadowsky, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, Office of General Counsel (2379), Washington, DC 20460
Phone: 202 260-5469

RIN: 2020–AA21

3794. AMEND SUBPART H SUPPLEMENTAL RULES TO ENSURE 40 CFR PART 22 RULE CONFORMS TO THE NEW FEDERAL FACILITY COMPLIANCE ACT

Priority: Other

Legal Authority: 42 USC 6961(b)(2)

CFR Citation: 40 CFR 22.37(g)

Legal Deadline: None

Abstract: In October 1992, Congress passed the FFCA which amended the Resource Conservation and Recovery Act (RCRA). The FFCA provided EPA with administrative order authority. When issuing these orders, EPA will use the 40 CFR section 22 hearing procedures. In the part 22 procedures, Sections 31 and 32, the Environmental Appeals Board (EAB) issues a final order. However, in the FFCA, Congress stated that no order would be final until the Federal agency has an opportunity to confer with the Administrator. As the procedures are currently structured, the Federal agency only gets the opportunity to confer after appealing to the EAB. Thus, there is a direct contradiction between the rules promulgated and the FFCA. We would propose an amendment to state that, in the case of a Federal agency, an EAB order is not final for purposes of the FFCA.

Timetable:

Action	Date	FR Cite
NPRM	03/22/95	60 FR 15208
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3367.

Agency Contact: Sally Dalzell, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2232), Washington, DC 20460
Phone: 202 260-9808

RIN: 2020–AA22

3795. ADMINISTRATIVE HEARING PROCEDURES FOR CLASS II PENALTIES UNDER CERCLA AND EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

Priority: Other

Legal Authority: 42 USC 9609/11045

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: This rule will govern the conduct of administrative hearings for all penalties to be assessed under CERCLA Section 109 and SARA Section 325. The rule provides the procedures for these penalty assessments. The action is expected to have a negligible economic impact on consumers, industries, or governmental agencies, but will provide the benefit of uniform procedures for assessing penalties.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/89	54 FR 21174
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2512.

Agency Contact: Clarence Featherson, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2272), Washington, DC 20460
Phone: 202 260-2868

RIN: 2050–AC39

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Long-Term Actions

General

3796. • COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT (CERCLA) COST RECOVERY

Priority: Economically Significant

Legal Authority: 42 USC 9665 to 9857/CERCLA 115; 33 USC 1321(c)(2)/CERCLA 107

CFR Citation: 40 CFR 308

Legal Deadline: None

Abstract: This rule would establish a new methodology for allocating EPA's indirect costs to individual Superfund sites for cost recovery. The proposed methodology would allocate 100% of recoverable indirect costs to sites for potential recovery, compared to the current methodology which allocates approximately 33% of indirect costs to sites.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3765.

Agency Contact: Lisa Comer, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (5502G), Washington, DC 20460
Phone: 703 603-9068

RIN: 2020–AA25

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

General

3797. ENHANCED MONITORING PROGRAM

Completed:

Reason	Date	FR Cite
Duplicate of RIN 2060-AD08	09/25/95	

RIN: 2020–AA24

3798. AWARD FEE

Priority: Other

CFR Citation: 48 CFR 1516; 48 CFR 1552

Completed:

Reason	Date	FR Cite
Final Action	08/21/95	60 FR 43402

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Louise Senzel
Phone: 202 260-6204

RIN: 2030–AA31

3799. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NON PROCUREMENT)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 32

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert F. Meunier
Phone: 202 260-8030

RIN: 2030–AA39

3800. EPAAR AMENDMENT: REVISIONS TO DELEGATIONS OF AUTHORITY IN EPA'S INTERNAL PROCEDURES FOR ACQUISITION

Priority: Other

CFR Citation: 48 CFR 1502; 48 CFR 1503; 48 CFR 1505; 48 CFR 1509; 48 CFR 1510; 48 CFR 1513; 48 CFR 1514; 48 CFR 1515; 48 CFR 1522; 48 CFR 1525; 48 CFR 1537; 48 CFR 1542

Completed:

Reason	Date	FR Cite
Final Action	05/04/95	60 FR 21994

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Larry Wyborski
Phone: 202 260-6482

RIN: 2030–AA42

3801. USE OF OPTIONS

Priority: Other

CFR Citation: 48 CFR 1517.202

Completed:

Reason	Date	FR Cite
Final Action	03/08/95	60 FR 12712

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Paul Schaffer
Phone: 202 260-9032

RIN: 2030–AA43

[FR Doc. 95-26780 Filed 11-24-95; 8:45 am]
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Tuesday
November 28, 1995

Part XXIII

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or Commission) is publishing its semiannual regulatory agenda pursuant to Executive Order 12866, 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. chapter 6. The agenda lists all regulations that are scheduled for review or development during the next 12 months or that have been finalized since the publication of the last agenda.

FOR FURTHER INFORMATION CONTACT: Ellen J. Vargyas, Legal Counsel, Office of the Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507; telephone (202) 663-4637.

SUPPLEMENTARY INFORMATION: The Commission has identified ten regulations for inclusion in this regulatory agenda. There are seven current or projected rulemakings which are presently under development or review. In addition, the agenda includes a final rule revising a procedural regulation and two final rules removing obsolete text from the Code of Federal Regulations. For this edition of EEOC's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**.

Signed in Washington, DC, this 11th day of September 1995.

For the Commission.

Gilbert F. Casellas,

Chairman.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3802	Guidelines on the Application of the Americans With Disabilities Act of 1990 to Employer Provided Health Insurance **(Reg Plan Seq. No. 133)**	3046-AA53
3803	Regulations Interpreting Title II of the Older Workers Benefit Protection Act of 1990 (OWBPA) **(Reg Plan Seq. No. 134)**	3046-AA58
3804	Interpretation Relating to Apprenticeship Programs Under the Age Discrimination in Employment Act (ADEA) **(Reg Plan Seq. No. 135)**	3046-AA59

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3805	Supplemental Standards of Ethical Conduct for Employees of the Equal Employment Opportunity Commission	3046-AA61

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3806	Procedures—The Age Discrimination in Employment Act	3046-AA54
3807	Procedures on Interagency Coordination of Equal Employment Opportunity Issuances	3046-AA55
3808	Procedures for Handling Complaints of Employment Discrimination Under the Government Employee Rights Act of 1991	3046-AA56
3809	Federal Sector Equal Employment Opportunity	3046-AA57

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3810	Removal of 29 CFR Part 1613, Obsolete Federal Sector Equal Employment Opportunity Rule	3046-AA60
3811	Procedural Regulations for Title VII of the Civil Rights Act of 1964 and Title I of the Americans with Disabilities Act of 1990	3046-AA62

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Proposed Rule Stage

3802. GUIDELINES ON THE APPLICATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990 TO EMPLOYER PROVIDED HEALTH INSURANCE

Regulatory Plan: This entry is Seq. No. 133 in Part II of this issue of the **Federal Register**.

RIN: 3046–AA53

3803. REGULATIONS INTERPRETING TITLE II OF THE OLDER WORKERS BENEFIT PROTECTION ACT OF 1990 (OWBPA)

Regulatory Plan: This entry is Seq. No. 134 in Part II of this issue of the **Federal Register**.

RIN: 3046–AA58

3804. INTERPRETATION RELATING TO APPRENTICESHIP PROGRAMS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

Regulatory Plan: This entry is Seq. No. 135 in Part II of this issue of the **Federal Register**.

RIN: 3046–AA59

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Final Rule Stage

3805. • SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 7301; 5 USC app; EO 12674; EO 12731; 5 USC 5514

CFR Citation: 29 CFR 1600; 5 CFR 7201; 29 CFR 1650

Legal Deadline: None

Abstract: With the concurrence of the U.S. Office of Government Ethics (OGE), EEOC is issuing supplemental ethical standards for EEOC employees. These standards supplement OGE's Standards of Conduct for Employees of the Executive Branch. The OGE regulations and the EEOC supplemental regulations supersede subparts A through D of 29 CFR 1600, which are therefore being deleted. Subpart E of 29 CFR 1600, concerning debt collection, is being moved and redesignated as subpart A of 29 CFR 1650.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA61

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Long-Term Actions

3806. PROCEDURES—THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 628, sec 115, Civil Rights Act of 1991

CFR Citation: 29 CFR 1626

Legal Deadline: None

Abstract: Section 115 of the Civil Rights Act of 1991 deleted references to the Portal to Portal Act from the private suit provisions of the Age Discrimination in Employment Act (ADEA) and replaced them with a requirement that suit be filed no later than 90 days after termination of proceedings or dismissal of a charge by EEOC. Accordingly, section 1626.7(a) is being deleted and section 1626.15(b) is being revised because they were both based upon the Portal to Portal Act. New sections are being added concerning termination of EEOC proceedings and the issuance of notices of the new 90-day limitation period.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA54

3807. PROCEDURES ON INTERAGENCY COORDINATION OF EQUAL EMPLOYMENT OPPORTUNITY ISSUANCES

Priority: Substantive, Nonsignificant

Legal Authority: EO 12067

CFR Citation: 29 CFR 1690

Legal Deadline: None

Abstract: Executive Order 12067 requires the Equal Employment Opportunity Commission and other Federal agencies to informally and formally coordinate with each other when they develop rules, policies, procedures, and other issuances affecting equal employment opportunity. 29 CFR part 1690 sets forth specific procedures for this interagency coordination. These amendments to 29 CFR part 1690 will update the coordination process to suit the broad range of materials now being presented to EEOC for review, and also formalize existing practices as to the sequence of review between the EEOC under Executive Order 12067; the Department of Justice under Executive Order 12250; and the Office of Management and Budget under Executive Order 12866 and the Paperwork Reduction Act.

EEOC

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Ellen J. Vargyas, Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4637
TDD: 202 663-7026

RIN: 3046–AA55

3808. PROCEDURES FOR HANDLING COMPLAINTS OF EMPLOYMENT DISCRIMINATION UNDER THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991

Priority: Substantive, Nonsignificant

Legal Authority: 2 USC 1219 to 1220, Government Employee Rights Act of 1991; 42 USC 2000e et seq, Title VII of the Civil Rights Act; 29 USC 621 et seq, Age Discrimination in Employment Act; 42 USC 12112 to 12114, Americans With Disabilities Act

CFR Citation: 29 CFR 1603

Legal Deadline: None

Abstract: Under title VII of the Civil Rights Act of 1964, the ADEA and the ADA, certain staff members of State and local elected officials were exempt from protection against employment discrimination. Section 321 of the Government Employee Rights Act of 1991 extends employment discrimination protections to the employment of persons who have been chosen or appointed by a State or local elected public official to serve on his or her personal staff, to serve the elected official on the policymaking level, or to serve as an immediate advisor with respect to the exercise of the constitutional or legal powers of the official's office.

Section 320 of the Government Employee Rights Act of 1991 extends protection to certain presidential appointees who were not otherwise protected under the ADEA, title VII, or the ADA. Section 320 does not cover individuals whose appointment is made by and with the advice and consent of the Senate, advisory committee members or members of the uniformed services. These are procedural regulations for processing such complaints of discrimination by previously exempt or uncovered individuals.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA56

3809. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-569, The Rehabilitation Act Amendments of 1992; 42 USC 2000e-16; 29 USC 633a; 29 USC 794a

CFR Citation: 29 CFR 1614

Legal Deadline: None

Abstract: The proposed amendments to this regulation implement the Rehabilitation Act Amendments of 1992. Those amendments provide that the standards used to determine if title I of the Americans With Disabilities Act has been violated will apply to complaints of nonaffirmative action employment discrimination under the Rehabilitation Act. The Commission may also make other changes to the Federal Sector complaint processing regulations as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA57

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Completed Actions

3810. • REMOVAL OF 29 CFR PART 1613, OBSOLETE FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY RULE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 2000e-16; 29 USC 633a; 29 USC 794a

CFR Citation: 29 CFR 1613; 29 CFR 1614

Legal Deadline: None

Abstract: This action removed part 1613, which had been superseded by part 1614. It also revised 29 CFR 1614.501(a) to delete a cross reference to part 1613, which no longer exists.

Timetable:

Action	Date	FR Cite
Final Action	08/21/95	60 FR 43371
Final Action Effective	08/21/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA60

3811. • PROCEDURAL REGULATIONS FOR TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT OF 1990

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000e to 2000e(17); 42 USC 12111 to 12117

CFR Citation: 29 CFR 1601.70; 29 CFR 1601.71

Legal Deadline: None

Abstract: EEOC is revising its procedural regulations governing title VII and the ADA to rescind a delegation of authority to its Director of Program Operations. The delegation of authority permitted the Director of Program Operations to designate state and local agencies that qualify as Fair Employment Practices Agencies under section 706 of title VII and to determine if a previous designation should be withdrawn. This authority will now be exercised by the Commission.

Timetable:

Action	Date	FR Cite
Final Action	09/06/95	60 FR 46219
Final Action Effective	09/06/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA62

[FR Doc. 95-23617 Filed 11-24-95; 8:45 am]

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Completed Actions

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Part XXIV

Federal Emergency Management Agency

Semiannual Regulatory Agenda

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Unified Regulatory Agenda

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Regulatory agenda.

SUMMARY: The Federal Emergency Management Agency publishes its regulatory agenda in April and October to inform interested parties of progress on FEMA regulations. The agenda lists regulations that we expect to develop or review during the period October 1, 1995, to April 30, 1996.

ADDRESSES: For information about specific regulations, please contact the person listed as the agency contact in the agenda.

FOR FURTHER INFORMATION CONTACT: For general information on FEMA's regulatory agenda, contact H. Crane Miller, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3340.

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review" directs each executive agency to publish only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need. Publication of an agenda of regulations is called for semiannually in order to give the public adequate notice of agency rulemaking activities; also, publication of a regulatory agenda concerning rules likely to be significant regulatory actions must be published.

In fulfillment of the requirements of Executive Order 12866, this agenda describes current and projected regulatory actions and rules that we expect to develop or review during the period October 1, 1995, to April 30, 1996. This agenda also contains information on regulations completed or withdrawn since the last FEMA regulatory agenda was published May 8, 1995, 60 FR 24044 to 24048.

Public comment on the agenda, including comments by State and local governments, is invited and should be submitted to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472; FAX (202) 646-4536. Please refer to the title and the Regulation Identifier Number (RIN) of the rule about which you are inquiring or commenting.

The agenda is not limited to significant regulatory actions and contains information concerning FEMA regulations to be developed, reviewed, or published in the next 6 months except for routine flood elevation determinations, listings of eligible communities under the National Flood Insurance Program and the National Crime Insurance Program, listings of suspended communities and similar designations under the National Flood Insurance Program, and FEMA organizational and management matters.

Dated: September 28, 1995.

Spence W. Perry,

Acting General Counsel.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3812	National Flood Insurance Program; Audit Program Revision	3067-AC40
3813	National Flood Insurance Program; Insurance Rates	3067-AC42

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3814	Disaster Assistance; Public Assistance Eligibility	3067-AC12
3815	Establish Flood Insurance Rate Zone AR	3067-AC17
3816	Exemption from Garnishment for Temporary Housing Assistance	3067-AC39
3817	Flood Mitigation Assistance Program	3067-AC44

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3818	National Defense Executive Reserve Guidance	3067-AB51
3819	FEMA; Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	3067-AC08
3820	Enforcement of Nondiscrimination on the Basis of Disability in Programs Receiving Federal Financial Assistance	3067-AC18
3821	Environmental Considerations/Categorical Exclusions (CATEX)	3067-AC21
3822	National Flood Insurance Program; Assistance to Private-Sector Property Insurers	3067-AC26
3823	Disaster Assistance; Individual and Family Grant Program	3067-AC28
3824	Group Flood Insurance Policy for Individual and Family Grant Program	3067-AC35

FEMA

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3825	Disaster Assistance; Restoration of Damaged Facilities	3067-AC36
3826	Review of Determinations Regarding Required Purchase of Flood Insurance	3067-AC38
3827	Environmental Considerations/Categorical Exclusions	3067-AC41

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3828	Standard Flood Hazard Determination Form	3067-AC34

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Proposed Rule Stage

3812. • NATIONAL FLOOD INSURANCE PROGRAM; AUDIT PROGRAM REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4081

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: Revises manner in which FEMA's audits are conducted under the National Flood Insurance Program's Write Your Own Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roland E. Holland, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3439

RIN: 3067–AC40

3813. • NATIONAL FLOOD INSURANCE PROGRAM; INSURANCE RATES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4015

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: Increases the National Flood Insurance Program (NFIP) chargeable rates, which apply to all structures located in communities participating in the Emergency Program of the NFIP and to certain communities in the Regular Program of the NFIP.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles M. Plaxico, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3422

RIN: 3067–AC42

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Final Rule Stage

3814. DISASTER ASSISTANCE; PUBLIC ASSISTANCE ELIGIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would remove permanent beach and related restoration work that occurs within coastal high hazard areas from eligibility for funding under the Stafford Act, 42 USC 5121 et seq, as amended.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Greg Ormsby, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3684

RIN: 3067–AC12

3815. ESTABLISH FLOOD INSURANCE RATE ZONE AR

Priority: Other Significant

Legal Authority: 42 USC 4002; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 60; 44 CFR 61; 44 CFR 65

Legal Deadline: NPRM, Statutory, October 28, 1994.

Abstract: This rule would establish criteria for determining a community's eligibility for Zone AR designation (areas of special flood hazard resulting

FEMA — Final Rule Stage

from the disaccreditation of a flood protection system that was previously credited with providing 100-year flood protection) and for mapping special flood hazard areas as Zone AR. The rule would also establish flood insurance rates and floodplain management requirements to be applied in areas designated as Zone AR.

Timetable:

Action	Date	FR Cite
NPRM	04/01/94	59 FR 15351
NPRM Comment Period End	05/16/94	
Interim Final Rule	10/25/94	59 FR 53592
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: William R. Locke, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-2717

RIN: 3067–AC17

3816. • EXEMPTION FROM GARNISHMENT FOR TEMPORARY HOUSING ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206.101

Legal Deadline: None

Abstract: Establishes that all financial assistance provided under the Disaster Housing Program is exempt from garnishment, seizure, encumbrance, levy, execution, pledge, attachment, release, or waiver.

Timetable:

Action	Date	FR Cite
NPRM	08/23/95	60 FR 43740
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laurence W. Zensinger, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4262

RIN: 3067–AC39

3817. • FLOOD MITIGATION ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1366

CFR Citation: 44 CFR 78

Legal Deadline: Final, Statutory, March 22, 1995.

Abstract: This interim final rule implements section 553 of the National Flood Insurance Reform Act of 1994, to provide grants to States and communities for planning assistance and for mitigation projects that reduce the risk of flood damages to structures insurable under the National Flood Insurance Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Donna M. Dannels, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3662

RIN: 3067–AC44

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Long-Term Actions

3818. NATIONAL DEFENSE EXECUTIVE RESERVE GUIDANCE

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC 404; 50 USC app 2061 et seq; EO 12656

CFR Citation: 44 CFR 337

Legal Deadline: None

Abstract: Provides guidance and procedures for those Federal departments and agencies delegated authority under Executive Order 12919 to sponsor reserve units under the National Defense Executive Reserve Program.

Timetable:

Action	Date	FR Cite
NPRM	11/28/94	59 FR 60760
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Linda Matticks, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-2703

RIN: 3067–AB51

3819. FEMA; UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1111; 31 USC 503

CFR Citation: 44 CFR 13

Legal Deadline: None

Abstract: FEMA proposes to adopt revisions to "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," previously published at 53 FR 8078, 3/11/88, 44 CFR 13.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Charles F. McNulty, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-2976

RIN: 3067–AC08

FEMA — Long-Term Actions

3820. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 44 CFR 7

Legal Deadline: None

Abstract: This proposed rule would require all recipients of Federal financial assistance from the Federal Emergency Management Agency to ensure nondiscrimination against qualified individuals with disabilities in all FEMA programs and activities. It would establish standards for what constitutes discrimination on the basis of mental or physical disability, define "individual with disabilities" and "qualified individual with disabilities," and would establish a complaint mechanism for resolving allegations of discrimination.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Clive, Equal Rights Officer, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3340

RIN: 3067–AC18

3821. ENVIRONMENTAL CONSIDERATIONS/CATEGORICAL EXCLUSIONS (CATEX)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; EO 11991

CFR Citation: 44 CFR 10

Legal Deadline: None

Abstract: This interim rule amends 44 CFR part 10 by adding certain purchases of flooded properties to the list of actions that are categorically excluded from reviews under the National Environmental Policy Act (NEPA).

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/07/94	59 FR 953
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Hirsch, Associate General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4099

RIN: 3067–AC21

3822. NATIONAL FLOOD INSURANCE PROGRAM; ASSISTANCE TO PRIVATE-SECTOR PROPERTY INSURERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5102

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: This interim final rule amends the interim final rule, National Flood Insurance Program, Assistance to Private Sector Property Insurers, published at 59 FR 26965 on 5/23/94.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/29/94	59 FR 38571
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles M. Plaxico, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3422

RIN: 3067–AC26

3823. DISASTER ASSISTANCE; INDIVIDUAL AND FAMILY GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4012a

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule, retroactive to September 23, 1994, requires Individual and Family Grant recipients who receive Federal disaster assistance for flood damage to real or personal property, or both, to purchase and maintain flood insurance on the property until they move to another address, under section 582(c) of the National Flood Insurance Reform Act of 1994.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/07/95	60 FR 7130
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laurence W. Zensinger, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4262

RIN: 3067–AC28

3824. GROUP FLOOD INSURANCE POLICY FOR INDIVIDUAL AND FAMILY GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5174; 42 USC 5178

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule establishes a Group Flood Insurance Policy to be issued by the National Flood Insurance Program when Federal disaster assistance for flood damage to real or personal property, or both, is provided under the Individual and Family Grant Program following a major disaster declaration by the President.

Timetable:

Action	Date	FR Cite
NPRM	03/15/95	60 FR 13945
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laurence W. Zensinger, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4262

RIN: 3067–AC35

3825. DISASTER ASSISTANCE; RESTORATION OF DAMAGED FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq; 42 USC 5172

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule would limit to 60 days after a disaster the period during which a community may adopt more

FEMA — Long-Term Actions

stringent building codes and standards than existed before the disaster and under which FEMA will pay for restoration of damaged facilities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Craig S. Wingo, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3026

RIN: 3067–AC36

3826. • REVIEW OF DETERMINATIONS REGARDING REQUIRED PURCHASE OF FLOOD INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4012a(e)(3)

CFR Citation: 44 CFR 65

Legal Deadline: None

Abstract: Establishes procedures and process for FEMA to review its determinations of whether a building or mobile home is located in an identified special flood hazard area.

Timetable:

Action	Date	FR Cite
NPRM	06/15/95	60 FR 31442
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Michael K. Buckley, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-2756

RIN: 3067–AC38

3827. • ENVIRONMENTAL CONSIDERATIONS/CATEGORICAL EXCLUSIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5159; 42 USC 4321 et seq

CFR Citation: 44 CFR 10

Legal Deadline: None

Abstract: Amends 44 CFR part 10 to revise the categories of actions or categorical exclusions that normally would not require an environmental impact statement or environmental assessment.

Timetable:

Action	Date	FR Cite
NPRM	08/03/95	60 FR 39694
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rick Shivar, Office of Policy & Assessment, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3610

RIN: 3067–AC41

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Completed Actions

3828. STANDARD FLOOD HAZARD DETERMINATION FORM

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 62

Completed:

Reason	Date	FR Cite
Final Action	07/06/95	60 FR 35276
Final Action Effective	07/06/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael K. Buckley
Phone: 202 646-2756

RIN: 3067–AC34

[FR Doc. 95-25088 Filed 11-24-95; 8:45 am]
BILLING CODE 6718-01-F

federal register

Tuesday
November 28, 1995

Part XXV

Federal Mediation and Conciliation Service

Semiannual Regulatory Agenda

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FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS)

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Ch. XII

Unified Agenda of Federal Regulations

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Publication of regulatory agenda.

SUMMARY: The Federal Mediation and Conciliation Service is publishing its semiannual regulatory agenda as required by Executive Order 12866 "Regulatory Planning and Review."

FOR FURTHER INFORMATION CONTACT: Eileen B. Hoffman, Federal Mediation and Conciliation Service, 2100 K Street NW., Washington, DC 20427, (202) 606-5444.

Dated: September 15, 1995.

Floyd L. Wood,

Deputy Director.

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) — Completed Actions

3829. REVISION TO A-102 COMMON RULE TO RAISE THRESHOLD FOR SIMPLIFIED SMALL PURCHASES UNDER GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 1470

Completed:

Reason	Date	FR Cite
Final Action	04/19/95	60 FR 19638
Final Action Effective	05/19/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Eileen B. Hoffman

Phone: 202 606-5444

RIN: 3076–AA03

[FR Doc. 95-24134 Filed 11-24-95; 8:45 am]

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federal register

Tuesday
November 28, 1995

Part XXVI

General Services Administration

Semiannual Regulatory Agenda

GENERAL SERVICES ADMINISTRATION (GSA)

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 1, 101, 105, 201, 301, 302, 303, and 304

48 CFR Ch. 5

Unified Agenda of Federal Regulations

AGENCY: General Services Administration (GSA).

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those that were completed since April 1995. This agenda was developed under the guidelines in an Office of Management and Budget memorandum dated August 2, 1995. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. GSA also invites interested persons to recommend existing significant regulations for review to determine whether they should be modified or eliminated.

FOR FURTHER INFORMATION CONTACT: Rodney P. Lantier, Chief, Directives and Correspondence Management Branch, (202) 501-2647.

SUPPLEMENTARY INFORMATION:

GSA's Regulatory Plan

For this edition of GSA's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Marlene Johnson,

Associate Administrator for Management Services and Human Resources.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3830	Reissuance of the General Services Administration Acquisition Regulation (GSAR) **(Reg Plan Seq. No. 136)**	3090-AE90
3831	Qualifications of Employees Working on Building Service Contracts	3090-AF46
3832	Federal Supply Schedule Contracts—Cooperative Purchasing **(Reg Plan Seq. No. 137)**	3090-AF68
3833	Amendment of FIRMR Provisions Regarding Local Telecommunications Service	3090-AF81
3834	Amendment to Revise the FIRMR to Reflect FAR and Other Changes	3090-AF82
3835	Amendment to Revise FIRMR Provisions to Reflect GSA Organizational Changes	3090-AF84

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3836	Disclosure and Use of Proprietary Information	3090-AF47
3837	Implementation of Federal Acquisition Streamlining Act **(Reg Plan Seq. No. 138)**	3090-AF51
3838	Miscellaneous Changes	3090-AF80
3839	General Services Administration Acquisition Regulation; Implementation of FAC 90-31 (GSAR 5-403)	3090-AF85
3840	Federal Travel Regulation (FTR) Amendment (Unassigned), Acceptance of Payment From a Non-Federal Source for Travel Expenses	3090-AE19
3841	Update of Transportation Documentation and Audit Regulations	3090-AE77
3842	Federal Travel Regulation (FTR) Amendment (Unassigned), Use of Government Aircraft and Government-Negotiated Rental Agreement Automobiles	3090-AE82
3843	FTR Amendment (Unassigned), Last Move Home Benefit for Veterans Affairs Medical Center Directors and Members of the Immediate Family of a Deceased Employee	3090-AF63
3844	Federal Travel Regulation (FTR) Amendment (Unassigned), Increase in Maximum Reimbursement Limitations for Real Estate Sale and Purchase Expenses	3090-AF73
3845	Federal Travel Regulation (FTR) Amendment (Unassigned), Relocation Income Tax (RIT) Allowance Tables	3090-AF78
3846	Federal Travel Regulation (FTR) Amendment (Unassigned), Maximum Per Diem Rates	3090-AF79
3847	Amendment of the FIRMR Provisions To Modify Requirements for Obtaining Delegations of Procurement Authority **(Reg Plan Seq. No. 139)**	3090-AE71
3848	Implement Requirements for Energy-Efficient Computers	3090-AF03
3849	Amendment of FIRMR Provisions To Ensure Currency and Relevancy	3090-AF31
3850	Amend FIRMR Procedures To Allow Agencies To Screen and Reassign All Excess FIP Resources	3090-AF32
3851	Amendment of FIRMR Provisions Regarding Multi-Agency Use of Contracts for FIP Resources	3090-AF57
3852	Amendment of FIRMR Provisions Regarding the Standard and Optional Forms Program	3090-AF72
3853	Amendment To Revise FIRMR Inventory Provisions	3090-AF74
3854	Amendment of FIRMR Provisions Regarding GSA's Local Telecommunications Program	3090-AF83
3855	Federal Property Management Regulations Part 101-17, Assignment and Utilization of Space **(Reg Plan Seq. No. 140)**	3090-AD42

GSA

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3856	Smoking	3090-AF02

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3857	Warranty Clause for Multiple Award Schedule Contracts	3090-AF45
3858	Nondiscrimination on the Basis of Race, Color, National Origin, and, Where Applicable, Sex	3090-AC49
3859	Enforcement of Nondiscrimination on the Basis of Handicap in Federally-Assisted Programs	3090-AE32
3860	Office Copying Machines	3090-AF08
3861	Criteria for Reporting Excess Personal Property	3090-AF39

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3862	Miscellaneous Changes to the GSAR (CHGE 62)	3090-AF60
3863	Noriprocurement Debarment and Suspension Common Rule To Achieve Reciprocity With Procurement	3090-AF65
3864	General Services Administration Acquisition Regulation; Leasing Real Property (CHGE 60)	3090-AF66
3865	General Services Administration Acquisition Regulation; Leasing Real Property (CHGE 65)	3090-AF67
3866	Contracting Officer Warrant Program (CHGE 64)	3090-AF69
3867	General Services Administration Acquisition Regulation; Electronic Data Interchange (EDI) Orders	3090-AF70
3868	Implementation of Industrial Funding for Federal Supply Schedules (CHGE 61)	3090-AF75
3869	Implementing Federal Acquisition Circular (FAC) 90-29 (CHGE 66)	3090-AF76
3870	GSAR-Small Business (CHGE 63)	3090-AF77
3871	General Services Administration Board of Contract Appeals, Rules of the General Services Administration Board of Contract Appeals	3090-AF62
3872	Removal of Federal Supply Schedule Ordering Instructions	3090-AF09
3873	Use of Contractor for Express Small Package Transportation	3090-AF20
3874	Limiting Carrier Payments to One Address	3090-AF42
3875	Reporting Requirements for Foreign Gifts and Decorations	3090-AF61
3876	Accident and Incident Reporting and Investigation	3090-AF71
3877	Terms and Conditions in Surplus Real Property Disposition Instruments	3090-AF00
3878	Utilization and Disposal of Real Property; Port Facilities	3090-AF34

GENERAL SERVICES ADMINISTRATION (GSA)

Proposed Rule Stage

OFFICE OF ACQUISITION POLICY

3830. REISSUANCE OF THE GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR)

Regulatory Plan: This entry is Seq. No. 136 in Part II of this issue of the **Federal Register**.

RIN: 3090–AE90

3831. QUALIFICATIONS OF EMPLOYEES WORKING ON BUILDING SERVICE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: The proposed rule would require that the contracting officer require each contractor performing a GSA contract to ensure that each prospective employee, who will perform work in buildings and/or facilities under GSA control, provide GSA with a copy of criminal history records from each state in which they have resided and a past employment record for the past 10 years. Such records shall be provided to GSA prior to employment by the contractor to perform work in buildings and/or facilities under GSA control.

GSA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF46

3832. FEDERAL SUPPLY SCHEDULE CONTRACTS—COOPERATIVE PURCHASING

Regulatory Plan: This entry is Seq. No. 137 in Part II of this issue of the **Federal Register**.

RIN: 3090–AF68

INFORMATION TECHNOLOGY SERVICE

3833. • AMENDMENT OF FIRMR PROVISIONS REGARDING LOCAL TELECOMMUNICATIONS SERVICE

Priority: Routine and Frequent

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: This rule will simplify the acquisition of local telecommunications service. It will give Federal agencies procurement authority to acquire local dial tone services when a regulated utility whose tariffs are established by law is the only source of supply for such services.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Doris Farmer, ADP/Telecommunications Analyst, Center for IT Policy & Regulations Mgt., General Services Administration, Information Technology Service, Washington, DC 20405
Phone: 202 501-3194
TDD: 202 501-0652
Fax: 202 208-1757
Email: DORIS.FARMER@GSA.GOV

RIN: 3090–AF81

3834. • AMENDMENT TO REVISE THE FIRMR TO REFLECT FAR AND OTHER CHANGES

Priority: Routine and Frequent

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: This rule will revise the FIRMR to make it consistent with recent FAR changes to implement FASA and various administrative changes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Doris Farmer, ADP/Telecommunications Analyst, Center for IT Policy & Regulations Mgt., General Services Administration, Information Technology Service, Washington, DC 20405
Phone: 202 501-3194
TDD: 202 501-0657
Fax: 202 208-1757
Email: DORIS.FARMER@GSA.GOV

RIN: 3090–AF82

3835. • AMENDMENT TO REVISE FIRMR PROVISIONS TO REFLECT GSA ORGANIZATIONAL CHANGES

Priority: Other

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: Various sections of the FIRMR are being revised to reflect new GSA organizational symbols. These changes result from an internal GSA reorganization.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Doris Farmer, ADP/Telecommunications Analyst, Center for IT Policy & Regulations Mgt., General Services Administration, Information Technology Service, Washington, DC 20405
Phone: 202 501-3194
TDD: 202 501-0657
Fax: 202 208-1757
Email: DORIS.FARMER@GSA.GOV

RIN: 3090–AF84

GENERAL SERVICES ADMINISTRATION (GSA) — Final Rule Stage

OFFICE OF ACQUISITION POLICY

3836. DISCLOSURE AND USE OF PROPRIETARY INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 503; 48 CFR 515; 48 CFR 552

Legal Deadline: None

Abstract: This proposed rule to the General Services Administration Acquisition Regulation (GSAR) would authorize the release of proprietary information to nongovernment employees in certain circumstances and prescribe a new contract clause entitled "Restrictions on Disclosure of Information" for use in service contracts when the contractor will be authorized access to or use of proprietary information in the performance of a contract.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	08/11/93	58 FR 42715
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF47

3837. IMPLEMENTATION OF FEDERAL ACQUISITION STREAMLINING ACT

Regulatory Plan: This entry is Seq. No. 138 in Part II of this issue of the **Federal Register**.

RIN: 3090–AF51

3838. • MISCELLANEOUS CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501; 48 CFR 504; 48 CFR 507; 48 CFR 508; 48 CFR 509; 48 CFR 513; 48 CFR 514; 48 CFR 516; 48 CFR 519; 48 CFR 528; 48 CFR 536; 48 CFR 549; 48 CFR 552; 48 CFR 553

Legal Deadline: None

Abstract: This rule will make a number of miscellaneous revisions to GSAR coverage including updates to reflect GSA organizational changes, deletion of model determinations and findings as unnecessary, deletion of GSA forms as unnecessary, and increases some dollar thresholds associated with internal procedures.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF80

3839. • GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; IMPLEMENTATION OF FAC 90-31 (GSAR 5-403)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 514; 48 CFR 525; 48 CFR 542

Legal Deadline: None

Abstract: This rule will conform to the Federal Acquisition Regulation (FAR) as amended by Federal Acquisition Circular (FAC) 90-31 which implemented several sections of the Federal Acquisition Streamlining Act of 1994.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, Washington, DC 20405
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RIN: 3090–AF85

FEDERAL SUPPLY SERVICE

3840. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR TRAVEL EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; EO 11609, 36 FR 13747, 3 CFR 1971 to 1975 Comp, p 586; 31 USC 1353; 40 USC 486(c)

CFR Citation: 41 CFR 301-1; 41 CFR 304-1

Legal Deadline: None

Abstract: This amendment finalizes the interim rule governing the acceptance of payment for travel, subsistence and related expenses from a non-Federal source. This rule supersedes Interim Rule 4, published at 57 FR 53283, November 9, 1992, with request for comments. The economic impact of this amendment is favorable on all Federal agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/92	57 FR 53283
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulatory Policy Branch (FBXR), Transportation Management Division, General Services Administration, Federal Supply Service, Washington, DC 20406
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RIN: 3090–AE19

3841. UPDATE OF TRANSPORTATION DOCUMENTATION AND AUDIT REGULATIONS

Priority: Other

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: This regulation will update the policy and procedures governing the audit of payments for domestic and foreign freight transportation services furnished for the account of the United States.

GSA — Final Rule Stage

GSA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/18/94	59 FR 8151
NPRM Comment Period End	04/19/94	
Interim Final Rule	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John W. Sandfort, Chief, Policy, Procedures, and Liaison Branch (FWPA), General Services Administration, 18th & F Streets NW., Washington, DC 20405
Phone: 202 219-3164

RIN: 3090–AE77

3842. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), USE OF GOVERNMENT AIRCRAFT AND GOVERNMENT-NEGOTIATED RENTAL AGREEMENT AUTOMOBILES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; 31 USC 1353; 40 USC 486(c); EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp, p 586

CFR Citation: 41 CFR 301-1; 41 CFR 301-2; 41 CFR 301-3

Legal Deadline: None

Abstract: This amendment finalizes the interim rule implementing OMB Circular A-126, revised May 26, 1992, 57 FR 22150, to allow authorization of Federal civilian employee travel by Government aircraft in the conduct of official business. The amendment also modifies the FTR to reflect that the Government car rental program is governed by a negotiated car rental agreement instead of contract. The estimated economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/18/92	57 FR 54305
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulatory Policy Branch (FBXR), Transportation Management Division, General Services Administration, Federal Supply Service, Washington, DC 20406
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RIN: 3090–AE82

3843. FTR AMENDMENT (UNASSIGNED), LAST MOVE HOME BENEFIT FOR VETERANS AFFAIRS MEDICAL CENTER DIRECTORS AND MEMBERS OF THE IMMEDIATE FAMILY OF A DECEASED EMPLOYEE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; 5 USC 5721 to 5734; 5 USC 5741 to 5742; 20 USC 905(a); 31 USC 1353; 40 USC 486(c); EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp, p 586; EO 12466, 49 FR 7349, 3 CFR, 1984 Comp, p 165; EO 12522, 50 FR 26337, 3 CFR, 1985 Comp, p 375

CFR Citation: 41 CFR 301-1; 41 CFR 302-1; 41 CFR 303

Legal Deadline: None

Abstract: This amendment implements provisions of the Jerry Litton Post Office Building Act (PL 103-338), October 6, 1994, which provides "last move home" benefits to members of the immediate family of a Senior Executive Service (SES) career appointee who dies while in service and would otherwise have been eligible for "last move home" benefits. The Act also provides "last move home" benefits for Veterans Affairs medical center directors who are now SES career appointees, but who transferred prior to November 18, 1988, when medical center directors were not in the SES. This amendment also revises FTR provisions to clarify that personal funds and personal frequent flyer mileage may be used to upgrade to first-class transportation accommodations. The estimated annual economic impact of this amendment on all Federal agencies has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	01/01/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulatory Policy Branch (FBXR), Transportation Management Division, General Services Administration, Federal Supply Service, Washington, DC 20406
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RIN: 3090–AF63

3844. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), INCREASE IN MAXIMUM REIMBURSEMENT LIMITATIONS FOR REAL ESTATE SALE AND PURCHASE EXPENSES

Priority: Routine and Frequent

Legal Authority: 5 USC 5721 to 5734; 20 USC 905(a); EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975, Comp, p 586

CFR Citation: 41 CFR 302-6

Legal Deadline: Final, Statutory, October 1, 1995.

Abstract: This amendment increases the maximum reimbursement limitations for allowable real estate sale and purchase expenses incident to a change of official station. The economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action	10/01/95	
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulatory Policy Branch (FBXR), Transportation Management Division, General Services Administration, Federal Supply Service, Washington, DC 20406
Phone: 703 305-5745
Fax: 703 305-7946

RIN: 3090–AF73

3845. • FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), RELOCATION INCOME TAX (RIT) ALLOWANCE TABLES

Priority: Routine and Frequent

Legal Authority: 5 USC 5721 to 5734; 20 USC 905(a); EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp, p 586; EO 12466, 49 FR 7349, 3 CFR, 1984 Comp, p 165

CFR Citation: 41 CFR 302-11

Legal Deadline: None

Abstract: This amendment provides the annual update to the Federal, State, and Puerto Rico tax tables used in computing relocation income tax allowance payments for Federal employees. The estimated economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	
Final Action Effective	01/01/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Chief, Regulatory Policy Branch (FBXR), Transportation Management Division, General Services Administration, Federal Supply Service, Washington, DC 20406
Phone: 703 305-5745
Fax: 703 305-7946

RIN: 3090–AF78

3846. • FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), MAXIMUM PER DIEM RATES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5702; 5 USC 5707; EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp, p 586

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: Pursuant to the 1995 meal and lodging cost survey, Appendix A at the end of 41 CFR 301 is revised to reflect changes in the listing formerly published in 59 FR 65682, December 20, 1994. The economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	
Final Action Effective	01/01/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Vella J. Cloyd, Chief, Program Analysis Branch (FBXP), Transportation Management Division, General Services Administration, Federal Supply Service, Washington, DC 20406
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RIN: 3090–AF79

INFORMATION TECHNOLOGY SERVICE

3847. AMENDMENT OF THE FIRMR PROVISIONS TO MODIFY REQUIREMENTS FOR OBTAINING DELEGATIONS OF PROCUREMENT AUTHORITY

Regulatory Plan: This entry is Seq. No. 139 in Part II of this issue of the **Federal Register**.

RIN: 3090–AE71

3848. IMPLEMENT REQUIREMENTS FOR ENERGY-EFFICIENT COMPUTERS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: Executive Order (E.O.) 12845 required executive agencies to ensure that by October 18, 1993, all acquisitions of microcomputers meet Environmental Protection Agency's "Energy Star" specification for energy efficiency. E.O. 12845 requires agencies to report any exemptions to this requirement to GSA for consolidation in an annual report to the President. An interim rule will be issued to provide specific information on energy efficiency requirements in acquisition and to further implement E.O. 12845.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/07/94	59 FR 952
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stewart Randall, Management Analyst, Center for IT Policy & Regulations Mgt., General Services Administration, Information Technology Service, 18th & F Streets NW., Washington, DC 20405
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RIN: 3090–AF03

3849. AMENDMENT OF FIRMR PROVISIONS TO ENSURE CURRENCY AND RELEVANCY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: EO 12866 requires Executive agencies to periodically review existing regulations to determine whether they should be modified or eliminated. GSA reviewed the FIRMR in line with this requirement and prepared this rule to remove, clarify, or make more flexible various FIRMR provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/06/94	59 FR 62695
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Judy Steele, Procurement Analyst, Center for IT Policy & Regulations Mgt., General Services Administration, Information Technology Service, Washington, DC 20405
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RIN: 3090–AF31

3850. AMEND FIRMR PROCEDURES TO ALLOW AGENCIES TO SCREEN AND REASSIGN ALL EXCESS FIP RESOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: Currently, the FIRMR requires Governmentwide screening by GSA of Federal Information Processing (FIP) resources with an original acquisition cost of $1 million or more. This amendment will delegate authority to the agencies to screen all FIP resources. GSA will provide an

electronic bulletin board to facilitate screening of resources originally valued at $1 million or more. This proposed change is expected to improve Government efficiency by streamlining the screening process.

Timetable:

Action	Date	FR Cite
NPRM	05/04/95	60 FR 22019
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stewart Randall, Management Analyst, Center for IT Policy & Regulations Mgt., General Services Administration, Information Technology Service, Washington, DC 20405
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RIN: 3090–AF32

3851. AMENDMENT OF FIRMR PROVISIONS REGARDING MULTI-AGENCY USE OF CONTRACTS FOR FIP RESOURCES

Priority: Routine and Frequent

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: This amendment addresses agencies' concerns regarding the appropriate statutory and regulatory requirements agencies must follow when acquiring Federal information processing resources through another agency's contracts. The provisions of this amendment originally appeared in a notice of proposed rulemaking in the December 7, 1993, Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	12/07/93	58 FR 64389
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judy Steele, Procurement Analyst, Center for IT Policy & Regulations Mgt., General Services Administration, Information Technology Service, Washington, DC 20405
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RIN: 3090–AF57

3852. AMENDMENT OF FIRMR PROVISIONS REGARDING THE STANDARD AND OPTIONAL FORMS PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: This rule revises FIRMR provisions to simplify the management of Standard and Optional Forms, especially the process for obtaining exceptions for the use of these forms.

Timetable:

Action	Date	FR Cite
NPRM	06/01/95	60 FR 28560
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stewart Randall, Management Analyst, Center for IT Policy & Regulations Mgt., General Services Administration, Information Technology Service, 18th & F Streets NW., Washington, DC 20405
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RIN: 3090–AF72

3853. AMENDMENT TO REVISE FIRMR INVENTORY PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: NPRM, Statutory, April 30, 1995. Final, Statutory, September 30, 1995.

Abstract: The Federal Acquisition Streamlining Act of 1994 requires the General Services Administration to compile data regarding the procurement of Federal information processing resources. This rule will revise the FIRMR to reflect this statutory requirement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Doris Farmer, ADP/Telecommunications Analyst, Center for IT Policy & Regulations Mgt., General Services Administration, Information Technology Service, Washington, DC 20405
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RIN: 3090–AF74

3854. • AMENDMENT OF FIRMR PROVISIONS REGARDING GSA'S LOCAL TELECOMMUNICATIONS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: GSA's consolidated local telecommunications program is being transferred to the FTS 2000 Program. This rule amends the FIRMR to reflect that change.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Doris Farmer, ADP/Telecommunications Analyst, Center for IT Policy & Regulations Mgt., General Services Administration, Information Technology Service, Washington, DC 20405
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RIN: 3090–AF83

PUBLIC BUILDINGS SERVICE

3855. FEDERAL PROPERTY MANAGEMENT REGULATIONS PART 101-17, ASSIGNMENT AND UTILIZATION OF SPACE

Regulatory Plan: This entry is Seq. No. 140 in Part II of this issue of the Federal Register.

RIN: 3090–AD42

3856. SMOKING

Priority: Other

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-20.105-3

Legal Deadline: None

Abstract: Passive environmental tobacco smoke has been classified as a Class A human carcinogen by EPA. Current FPMRs ban smoking in GSA-controlled buildings, except in designated smoking areas determined by the occupant agency head. In view of EPA's classification of passive smoke as a carcinogen, legislation has been introduced in the Congress to ban smoking in Federal buildings and an Executive order is being considered to also ban smoking in the executive branch. Upon enactment of legislation or issuance of an Executive order, GSA will revise current policy to address the EPA findings.

There should be no costs associated with the implementation of a proposed rule other than the posting of new signs prohibiting smoking.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph I. Gerber, Director, Regional Customer Team 2, Public Buildings Service, General Services Administration, 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-0971

RIN: 3090–AF02

GENERAL SERVICES ADMINISTRATION (GSA) — Long-Term Actions

OFFICE OF ACQUISITION POLICY

3857. WARRANTY CLAUSE FOR MULTIPLE AWARD SCHEDULE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 546; 48 CFR 552

Legal Deadline: None

Abstract: This proposed change to the General Services Administration Acquisition Regulation (GSAR) would revise section 546.704 to provide guidance to contracting officers concerning the use of warranties in multiple award schedule (MAS) solicitations and resultant contracts; revise the text of the Warranty-Multiple Award Schedule clause at 552.246-73 to provide for greater consistency with the MAS policy of buying commercial products under commercial conditions; and to make other miscellaneous changes in Parts 546 and 552.

Timetable:

Action	Date	FR Cite
NPRM	06/23/94	59 FR 32405
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy, General Services Administration, Washington, DC 20405
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RIN: 3090–AF45

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3858. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, AND, WHERE APPLICABLE, SEX

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 476; 42 USC 2000d-1; 20 USC 1681

CFR Citation: 41 CFR 101-6.2

Legal Deadline: None

Abstract: The General Services Administration proposes this regulation to implement all of the above cited Federal laws. These statutes prohibit discrimination, in whole or in part, so that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program activity receiving Federal assistance from the General Services Administration. In addition, the objectives of the regulation are to streamline certain administrative procedural requirements by consolidating prohibitions of discrimination into one regulation and to make requirements clear and convenient for applicants and recipients to comply with, as well as making the regulation manageable for GSA to administer.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: James M. Taylor, Program Manager, Office of Equal Employment Opportunity, General Services Administration, 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-0767

RIN: 3090–AC49

3859. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY-ASSISTED PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 41 CFR 101-8.3

Legal Deadline: None

Abstract: The General Services Administration (GSA) proposes this regulation to implement the above cited law. This regulation would amend GSA's regulation for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: James M. Taylor, Program Manager, Office of Equal Employment Opportunity, General Services Administration, 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-0767

RIN: 3090–AE32

FEDERAL SUPPLY SERVICE

3860. OFFICE COPYING MACHINES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-25

Legal Deadline: None

Abstract: Amend the Federal Property Management Regulations to direct all prospective customers to select the most appropriate and economical procurement method through the use of life-cycle cost techniques.

Timetable:

Action	Date	FR Cite
NPRM	07/26/93	58 FR 39720
NPRM Comment Period End	08/25/93	58 FR 39720
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Nicholas Economou, Director, FSS Acquisition Management Center (FCO), General Services Administration, Federal Supply Service, Washington, DC 20406
Phone: 703 305-6936

RIN: 3090–AF08

3861. CRITERIA FOR REPORTING EXCESS PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-42; 41 CFR 101-43; 41 CFR 101-44; 41 CFR 101-45

Legal Deadline: None

Abstract: This regulation establishes revised criteria for reporting excess personal property to GSA, redefines terms, and updates addresses associated with reporting excess personal property. There should be no significant costs to the public as a result of this regulatory action. The rule will provide Federal agencies relief from certain reporting requirements and make identification of property which is to be reported easier for both the reporting and requisitioning activities.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Deidre Huber, Director, Property Management Division (FBP), General Services Administration, Federal Supply Service, Washington, DC 20406
Phone: 703 305-7240

RIN: 3090–AF39

GENERAL SERVICES ADMINISTRATION (GSA)

Completed Actions

3862. MISCELLANEOUS CHANGES TO THE GSAR (CHGE 62)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 502; 48 CFR 506; 48 CFR 513; 48 CFR 552

Completed:

Reason	Date	FR Cite
Final Action	05/02/95	60 FR 21467
Final Action Effective	05/08/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby
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RIN: 3090–AF60

3863. NONPROCUREMENT DEBARMENT AND SUSPENSION COMMON RULE TO ACHIEVE RECIPROCITY WITH PROCUREMENT

Priority: Other Significant

CFR Citation: 41 CFR 105-68

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33036

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby
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RIN: 3090–AF65

3864. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; LEASING REAL PROPERTY (CHGE 60)

Priority: Other Significant

CFR Citation: 48 CFR 552; 48 CFR 570

Completed:

Reason	Date	FR Cite
Final Action	04/18/95	60 FR 19362
Final Action Effective	04/18/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 3090–AF66

3865. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; LEASING REAL PROPERTY (CHGE 65)

Priority: Other Significant

CFR Citation: 48 CFR 501; 48 CFR 503; 48 CFR 505; 48 CFR 506; 48 CFR 507; 48 CFR 519; 48 CFR 552; 48 CFR 570

Completed:

Reason	Date	FR Cite
Final Action	08/17/95	60 FR 42793
Final Action Effective	08/17/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby
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RIN: 3090–AF67

3866. CONTRACTING OFFICER WARRANT PROGRAM (CHGE 64)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 501

Completed:

Reason	Date	FR Cite
Final Action	08/07/95	60 FR 40107
Final Action Effective	08/09/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 3090–AF69

3867. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; ELECTRONIC DATA INTERCHANGE (EDI) ORDERS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 538; 48 CFR 552

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated Into RIN 3090-76	08/17/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby
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RIN: 3090–AF70

3868. • IMPLEMENTATION OF INDUSTRIAL FUNDING FOR FEDERAL SUPPLY SCHEDULES (CHGE 61)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 538; 48 CFR 552

Legal Deadline: None

Abstract: This rule amends the GSAR to modify the prescription for the Contractor's Report of Orders Received clause to reflect the new title of the clause and to add a prescription for the new Industrial Funding Fee clause. GSA's Federal Supply Service (FSS) will include the new Industrial Funding Fee clause in FSS solicitations and contracts. The clause provides instructions for remittance of an industrial funding fee based on quarterly sales reported by contractors under FSS contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/27/94	59 FR 66545
NPRM Comment Period End	01/26/95	
Final Action	04/18/95	60 FR 19360
Final Action Effective	04/18/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, Washington, DC 20405
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RIN: 3090–AF75

3869. • IMPLEMENTING FEDERAL ACQUISITION CIRCULAR (FAC) 90-29 (CHGE 66)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 503; 48 CFR 504; 48 CFR 505; 48 CFR 507; 48 CFR 510; 48 CFR 512; 48 CFR 513; 48 CFR 514; 48 CFR 515; 48 CFR 523; 48 CFR 528; 48 CFR 529; 48 CFR 532; 48 CFR 536; 48 CFR 543; ...

Legal Deadline: None

Abstract: This rule promulgates changes in FAC 90-29 which amended the FAR to address the use of electronic commerce/electronic data interchange in Government contracting and to implement the new simplified acquisition procedures and Federal Acquisition Computer Network (FACNET) requirements of the Federal Acquisition Streamlining Act of 1994.

Timetable:

Action	Date	FR Cite
Final Action	08/17/95	60 FR 42801
Final Action Effective	08/17/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF76

3870. • GSAR-SMALL BUSINESS (CHGE 63)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 519; 48 CFR 552

Legal Deadline: None

Abstract: This rule amends the GSAR to remove a provision regarding small business concern representation which is a deviation to the FAR. The deviation is not needed since Federal Acquisition Circular (FAC) 90-23 amended FAR 52.219-1. Miscellaneous revisions are made in regulations on small business and small disadvantaged business concerns to reflect current GSA organizational changes.

Timetable:

Action	Date	FR Cite
Final Action	08/03/95	60 FR 39661
Final Action Effective	08/04/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (VP), General Services Administration, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF77

3871. GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS, RULES OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 6101

Completed:

Reason	Date	FR Cite
Final Action	04/04/95	60 FR 17023
Final Action Effective	05/04/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Wilbur T. Miller
Phone: 202 501-0891

RIN: 3090–AF62

3872. REMOVAL OF FEDERAL SUPPLY SCHEDULE ORDERING INSTRUCTIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 41 CFR 101-26

Completed:

Reason	Date	FR Cite
Final Action	04/18/95	60 FR 19360
Final Action Effective	04/18/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Nicholas Economou
Phone: 703 305-6936

RIN: 3090–AF09

3873. USE OF CONTRACTOR FOR EXPRESS SMALL PACKAGE TRANSPORTATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 41 CFR 101-40

Completed:

Reason	Date	FR Cite
Final Action	02/07/95	60 FR 7129

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jeffrey Thurston
Phone: 703 305-5745

RIN: 3090–AF20

3874. LIMITING CARRIER PAYMENTS TO ONE ADDRESS

Priority: Other Significant

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Withdrawn per instructions from Defense Finance & Accounting Service	06/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John W. Sandfort
Phone: 202 219-3164

RIN: 3090–AF42

3875. REPORTING REQUIREMENTS FOR FOREIGN GIFTS AND DECORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-49

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Deidre Huber
Phone: 703 305-7240

RIN: 3090–AF61

3876. ACCIDENT AND INCIDENT REPORTING AND INVESTIGATION

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-37

Completed:

Reason	Date	FR Cite
Final Action	01/18/95	60 FR 3547
Final Action Effective	01/18/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Peter Zuidema
Phone: 703 305-9800

RIN: 3090–AF71

3877. TERMS AND CONDITIONS IN SURPLUS REAL PROPERTY DISPOSITION INSTRUMENTS

Priority: Other

CFR Citation: 41 CFR 101-47.203-9; 41 CFR 101-47.307-2; 41 CFR 101-47.312

Completed:

Reason	Date	FR Cite
Withdrawn	06/29/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Marjorie L. Lomax
Phone: 202 501-0052

RIN: 3090–AF00

3878. UTILIZATION AND DISPOSAL OF REAL PROPERTY; PORT FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-47.203-5; 41 CFR 101-47.204-1; 41 CFR 101-47.303-2; 41 CFR 101-47.308-2; 41 CFR 101-47.308-10; 41 CFR 101-47.4905; 41 CFR 101-47.4906

Completed:

Reason	Date	FR Cite
Final Action	07/11/95	60 FR 35706
Final Action Effective	07/11/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Stanley C. Langfeld
Phone: 202 501-1737

RIN: 3090–AF34

[FR Doc. 95-25089 Filed 11-24-95; 8:45 am]

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Tuesday
November 28, 1995

Part XXVII

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Semiannual agenda of regulations.

SUMMARY: NASA's 1995 regulatory plan provides a narrative description of the most important regulations being planned for publication in the **Federal Register** during the fiscal year 1996. NASA's regulatory agenda describes those regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of a knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESSES: Director, Management Assessment Division (Code JM), Office of Management Systems and Facilities, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Margaret M. Herring, (202) 358-2264.

SUPPLEMENTARY INFORMATION: OMB guidelines dated August 2, 1995, "October 1995 Regulatory Plan and Unified Agenda of Federal Regulations," and Executive Order 12866 "Regulatory Planning and Review" require a regulatory plan and a regulatory agenda of those regulations under development and review be published in the **Federal Register** each October. This edition of the Unified Agenda of Federal Regulations includes The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. NASA's Statement of Regulatory Priorities is included in Part II.

Dated: September 12, 1995.

Timothy M. Sullivan,

Director, Management Assessment Division.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3879	Addition of Coverage to NASA FAR Supplement on NASA Ombudsman Program	2700-AC15
3880	Grants and Cooperative Agreements to State and Local Governments	2700-AC16
3881	NASA FAR Supplement; Rewrite of NASA Policy on Contractor Qualifications, Cost Accounting Standards Administration, and Contract Cost Principles and Procedures	2700-AC17
3882	Modification of Test of Midrange Procurement Procedures	2700-AC18

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3883	Tracking and Data Relay Satellite System (TDRSS); Use and Reimbursement Policy for Non-U.S. Government Users	2700-AA29
3884	Uniform Administrative Requirements for Grants and Cooperative Agreements	2700-AA95
3885	New Restrictions on Lobbying	2700-AB06
3886	NASA Research Grant Handbook Directive 93-1	2700-AB30
3887	Increasing Contractor Liability	2700-AB41
3888	Procedures for NASA Drug Testing and Alcohol Testing Programs	2700-AB46
3889	Crime Control for Child Care Programs	2700-AB49
3890	Cross-Waiver of Liability	2700-AB51
3891	Procurement Plan Contents Regarding Strategies To Encourage Cost Realism	2700-AB53
3892	Restrictions on Printing and Duplication by Contractors	2700-AB58
3893	Drug and Alcohol Testing for Contractor Employees	2700-AB68
3894	Statement of Organization and General Information	2700-AB71
3895	Assignment of Copyright in Software	2700-AB72
3896	Deviation from FAR 31.205-18	2700-AB78
3897	NASA FAR Supplement; Contractor Cost Reporting	2700-AB79
3898	NASA FAR Supplement; Undefinitized Contract Action	2700-AB80
3899	NASA FAR Supplement Directive (NFSD) 89-20	2700-AB85
3900	NASA FAR Supplement Rewrite	2700-AB86
3901	Deviation to FAR clause 52.232-12, Advance Payment, That Will Amend the Language in Alternate V to the Clause	2700-AB87
3902	Electronic Funds Transfer	2700-AB88
3903	Allowability of Facilities Capital Cost of Money (FCCM) for Educationals and Nonprofits	2700-AB89
3904	Termination Liability	2700-AB90
3905	Increased Signature Levels for Approvals	2700-AB91
3906	Minor Clarifying Changes to Existing Award Fee Coverage	2700-AB92
3907	Revisions to Existing Coverage on Contract Audit Followup Procedures	2700-AB93

NASA

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3908	Contracting and Subcontracting Policies and Procedures To Achieve Goals for Small Disadvantaged Businesses	2700-AB94
3909	Quality Assurance	2700-AB97
3910	Contract Adjustment Board	2700-AB98
3911	NASA Research Grant Handbook, Inventory Listings; Reporting Period and Due Date	2700-AC03
3912	NASA Federal Acquisition Regulation (FAR) Supplement, Government-Owned/Contractor-Held Property; Reporting Period and Due Date	2700-AC04
3913	Cooperative Agreements for Profit-Making Organizations	2700-AC07
3914	Duty-Free Entry of Space Articles	2700-AC12

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3915	NASA FAR Supplement Coverage on Uncompensated Overtime	2700-AB40
3916	Mentor-Protege Program	2700-AB52
3917	Revision to NASA FAR Supplement Coverage on Precontract Costs	2700-AB82
3918	NASA FAR Supplement Directive (NFSD) 89-18	2700-AB83
3919	NASA FAR Supplement Directive (NFSD) 89-19	2700-AB84
3920	Changes to NASA Grant Regulations To (1) Add Educational Grants and (2) Change Threshold for Incremental Funding	2700-AB95
3921	Nonprocurement Debarment and Suspension To Achieve Reciprocity With Procurement	2700-AB99
3922	Equal Access to Justice Act in Agency Proceedings	2700-AC00
3923	Nonprocurement Debarment and Suspension	2700-AC06
3924	Delegation of Authority for Foreign Contracts	2700-AC08
3925	Use of NASA Airfield Facilities by Aircraft Not Operated for the Benefit of the Federal Government	2700-AC09
3926	Revision to NASA Supplement Coverage on Advance Notification of Significant Procurement Actions	2700-AC13
3927	Indemnification under Public Law 85-804	2700-AC14

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Final Rule Stage

3879. • ADDITION OF COVERAGE TO NASA FAR SUPPLEMENT ON NASA OMBUDSMAN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2473(c)(1); PL 103-355

CFR Citation: 48 CFR 1803; 48 CFR 1815; 48 CFR 1852

Legal Deadline: Final, Statutory, October 1, 1995.

Abstract: To improve communications with interested parties, NASA plans to establish an Ombudsman Program. This rule sets forth a clause for identification of the NASA and Center ombudsmen to be included in solicitations and contracts. The clause is also to serve as the basis for a statement to be included in "Commerce Business Daily" announcements. In addition, the rule amends NASA's coverage on procurement integrity to include the NASA and Center ombudsmen as individuals authorized access to proprietary and source selection information.

Timetable:

Action	Date	FR Cite
NPRM	05/25/95	60 FR 27710
NPRM Comment Period End	07/24/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph LeCren, Procurement Analyst, National Aeronautics and Space Administration, Office of Procurement, Code HC, NASA Headquarters, Washington, DC 20546 Phone: 202 358-0444

RIN: 2700–AC15

3880. • GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2451; 31 USC 6301 to 6308

CFR Citation: 14 CFR 1273

Legal Deadline: None

Abstract: This rule is NASA's adoption of the Common Rule, under Office of Management and Budget Circular No. A-102, on grants and cooperative agreements to state and local governments.

NASA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/29/95	60 FR 33694
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Richard Kall, Procurement Analyst, National Aeronautics and Space Administration, Office of Procurement, Code HK, NASA Headquarters, Washington, DC 20546 Phone: 202 358-0449

RIN: 2700–AC16

3881. • NASA FAR SUPPLEMENT; REWRITE OF NASA POLICY ON CONTRACTOR QUALIFICATIONS, COST ACCOUNTING STANDARDS ADMINISTRATION, AND CONTRACT COST PRINCIPLES AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1809; 48 CFR 1830; 48 CFR 1831

Legal Deadline: None

Abstract: This is a proposed revision of the NASA FAR Supplement in order to rewrite NASA policy on Contractor Qualifications, Cost Accounting Standards Administration, and Contract Cost Principles and Procedures. The changes are intended to streamline the regulation. This regulation is part of the overall project described under RIN 2700-AB86.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37983
NPRM Comment Period End	09/25/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David Beck, Procurement Analyst, National Aeronautics and Space Administration, Office of Procurement, Code HK, NASA Headquarters, Washington, DC 20546 Phone: 202 358-0482

RIN: 2700–AC17

3882. • MODIFICATION OF TEST OF MIDRANGE PROCUREMENT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1871

Legal Deadline: None

Abstract: The Office of Federal Procurement Policy approved a test of NASA's MidRange Procurement Procedures in 1993. This rule changes the procedures to reflect the Federal Acquisition Streamlining Act and minor changes as a result of an additional year of testing the procedures.

Timetable:

Action	Date	FR Cite
Temporary Rule	10/00/95	
Expiration of Temporary Rule	06/30/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Tom Deback, Procurement Analyst, National Aeronautics and Space Administration, Office of Procurement, NASA Headquarters, Code HK, Washington, DC 20546 Phone: 202 358-0431

RIN: 2700–AC18

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Long-Term Actions

3883. TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS); USE AND REIMBURSEMENT POLICY FOR NON-U.S. GOVERNMENT USERS

Priority: Other

CFR Citation: 14 CFR 1215

Timetable:

Action	Date	FR Cite
Final Action for CY 1993 Rate Change	05/15/92	57 FR 20746
Final Action for CY 1994 Rate Change	09/28/93	58 FR 50515
Final Action for CY 1995 Rate Change	10/31/94	59 FR 54385
Final Action for CY 1996 Rate Change	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene Ferrick Phone: 202 358-2030

RIN: 2700–AA29

3884. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Priority: Other

CFR Citation: 14 CFR 1270

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 214
Begin Review	04/01/91	
Second NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Richard Kall Phone: 202 358-0459

RIN: 2700–AA95

3885. NEW RESTRICTIONS ON LOBBYING

Priority: Other

CFR Citation: 14 CFR 1271

NASA

Long-Term Actions

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6748
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: David K. Beck Phone: 202 358-0482

RIN: 2700–AB06

3886. NASA RESEARCH GRANT HANDBOOK DIRECTIVE 93-1

Priority: Other

CFR Citation: 14 CFR 1260

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Kall Phone: 202 358-0459

RIN: 2700–AB30

3887. INCREASING CONTRACTOR LIABILITY

Priority: Other

CFR Citation: 48 CFR 18

Timetable:

Action	Date	FR Cite
NPRM	02/17/94	59 FR 7966
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck Phone: 202 358-0482

RIN: 2700–AB41

3888. PROCEDURES FOR NASA DRUG TESTING AND ALCOHOL TESTING PROGRAMS

Priority: Other

CFR Citation: 14 CFR 1272 (New)

Timetable:

Action	Date	FR Cite
NPRM	07/06/93	58 FR 36159
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Joan S. Peterson Phone: 202 358-1216

RIN: 2700–AB46

3889. CRIME CONTROL FOR CHILD CARE PROGRAMS

Priority: Other

CFR Citation: 14 CFR 1231

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Joan S. Peterson Phone: 202 358-1216

RIN: 2700–AB49

3890. CROSS-WAIVER OF LIABILITY

Priority: Other

CFR Citation: 14 CFR 1266

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jay Steptoe Phone: 202 358-2432

RIN: 2700–AB51

3891. PROCUREMENT PLAN CONTENTS REGARDING STRATEGIES TO ENCOURAGE COST REALISM

Priority: Other

CFR Citation: 48 CFR 1807

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/10/94	59 FR 11200
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Deborah O'Neill Phone: 202 358-0440

RIN: 2700–AB53

3892. RESTRICTIONS ON PRINTING AND DUPLICATION BY CONTRACTORS

Priority: Other

CFR Citation: 48 CFR 1808; 48 CFR 1852

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/08/93	58 FR 47219
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Thomas L. Deback Phone: 202 358-0431

RIN: 2700–AB58

3893. DRUG AND ALCOHOL TESTING FOR CONTRACTOR EMPLOYEES

Priority: Other

CFR Citation: 48 CFR 1823; 48 CFR 1852

Timetable:

Action	Date	FR Cite
NPRM	07/13/93	58 FR 37697
NPRM Comment Period End	09/13/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: David K. Beck Phone: 202 358-0482

RIN: 2700–AB68

3894. STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

Priority: Other

CFR Citation: 14 CFR 1201

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret M. Herring
Phone: 202 358-2264

RIN: 2700–AB71

3895. ASSIGNMENT OF COPYRIGHT IN SOFTWARE

Priority: Other

CFR Citation: 48 CFR 1827; 48 CFR 1852

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck
Phone: 202 358-0482

RIN: 2700–AB72

3896. DEVIATION FROM FAR 31.205-18

Priority: Other

CFR Citation: 48 CFR 1816; 48 CFR 1831; 48 CFR 1852

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/02/94	59 FR 22521
Interim Final Rule	06/10/94	59 FR 29963
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren
Phone: 202 358-0444

RIN: 2700–AB78

3897. NASA FAR SUPPLEMENT; CONTRACTOR COST REPORTING

Priority: Other

CFR Citation: 48 CFR 1804; 48 CFR 1842; 48 CFR 1852

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/09/94	59 FR 23800
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: William T. Childs
Phone: 202 358-0454

RIN: 2700–AB79

3898. NASA FAR SUPPLEMENT; UNDEFINITIZED CONTRACT ACTION

Priority: Other

CFR Citation: 48 CFR 1843

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/09/94	59 FR 23802
Interim Final Rule	06/10/94	59 FR 29963
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Thomas L. Deback
Phone: 202 358-0431

RIN: 2700–AB80

3899. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-20

Priority: Other

CFR Citation: 48 CFR 18

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck
Phone: 202 358-0482

RIN: 2700–AB85

3900. NASA FAR SUPPLEMENT REWRITE

Priority: Other

CFR Citation: 48 CFR 18

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: David K. Beck
Phone: 202 358-0482

RIN: 2700–AB86

3901. DEVIATION TO FAR CLAUSE 52.232-12, ADVANCE PAYMENT, THAT WILL AMEND THE LANGUAGE IN ALTERNATE V TO THE CLAUSE

Priority: Other

CFR Citation: 48 CFR 1832; 48 CFR 1852

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren
Phone: 202 358-0444

RIN: 2700–AB87

3902. ELECTRONIC FUNDS TRANSFER

Priority: Other

CFR Citation: 48 CFR 1832; 48 CFR 1852

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren
Phone: 202 358-0444

RIN: 2700–AB88

3903. ALLOWABILITY OF FACILITIES CAPITAL COST OF MONEY (FCCM) FOR EDUCATIONALS AND NONPROFITS

Priority: Other

CFR Citation: 48 CFR 1815; 48 CFR 1831

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Anne Guenther
Phone: 202 358-0447

RIN: 2700–AB89

3904. TERMINATION LIABILITY

Priority: Other

CFR Citation: 48 CFR 1852

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren
Phone: 202 358-0444

RIN: 2700–AB90

3905. INCREASED SIGNATURE LEVELS FOR APPROVALS

Priority: Other

CFR Citation: 48 CFR 1816; 48 CFR 1831; 48 CFR 1832; 48 CFR 1837

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Reginald Walker
Phone: 202 358-0443

RIN: 2700–AB91

3906. MINOR CLARIFYING CHANGES TO EXISTING AWARD FEE COVERAGE

Priority: Other

CFR Citation: 48 CFR 1816

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Anne Guenther
Phone: 202 358-0447

RIN: 2700–AB92

3907. REVISIONS TO EXISTING COVERAGE ON CONTRACT AUDIT FOLLOWUP PROCEDURES

Priority: Other

CFR Citation: 48 CFR 1842

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren
Phone: 202 358-0444

RIN: 2700–AB93

3908. CONTRACTING AND SUBCONTRACTING POLICIES AND PROCEDURES TO ACHIEVE GOALS FOR SMALL DISADVANTAGED BUSINESSES

Priority: Other

CFR Citation: 48 CFR 1815; 48 CFR 1819; 48 CFR 1852; 48 CFR 1870

Timetable:

Action	Date	FR Cite
NPRM	10/07/94	59 FR 51154
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Carol Saric
Phone: 202 358-0476

RIN: 2700–AB94

3909. QUALITY ASSURANCE

Priority: Other

CFR Citation: 48 CFR 1846; 48 CFR 1870

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: William T. Childs
Phone: 202 358-0454

RIN: 2700–AB97

3910. CONTRACT ADJUSTMENT BOARD

Priority: Other

CFR Citation: 14 CFR 1209

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela J. Werner

NASA — Long-Term Actions

Phone: 202 358-2085

RIN: 2700–AB98

3911. NASA RESEARCH GRANT HANDBOOK, INVENTORY LISTINGS; REPORTING PERIOD AND DUE DATE

Priority: Other

CFR Citation: 14 CFR 1260

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/01/94	59 FR 38900
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Dussault
Phone: 202 358-0463

RIN: 2700–AC03

3912. NASA FEDERAL ACQUISITION REGULATION (FAR) SUPPLEMENT, GOVERNMENT-OWNED/CONTRACTOR-HELD PROPERTY; REPORTING PERIOD AND DUE DATE

Priority: Other

CFR Citation: 48 CFR 1845; 48 CFR 1852

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/01/94	59 FR 38937
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Larry G. Pendleton
Phone: 202 358-0487

RIN: 2700–AC04

3913. COOPERATIVE AGREEMENTS FOR PROFIT-MAKING ORGANIZATIONS

Priority: Other

CFR Citation: 14 CFR 1274

Timetable:

Action	Date	FR Cite
NPRM	06/27/95	60 FR 33163
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Deback
Phone: 202 358-0431

RIN: 2700–AC07

3914. • DUTY-FREE ENTRY OF SPACE ARTICLES

Priority: Other

Legal Authority: PL 103-465

CFR Citation: 14 CFR 1217

Legal Deadline: None

Abstract: Technical amendments to revise and clarify the use of NASA's authorities to bring items into the customs territory of the United States and to certify certain articles for duty-free entry, in accordance with revisions made in the Uruguay Round of the General Agreement on Tariffs and Trade.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John F. Hall, Jr., Senior Attorney, National Aeronautics and Space Administration, Office of the General Counsel, Code GS, NASA Headquarters, Washington, DC 20546
Phone: 202 358-2432
Fax: 202 358-4355
Email: jhall@GCNSL.HQ.NASA.GOV

RIN: 2700–AC12

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Completed Actions

3915. NASA FAR SUPPLEMENT COVERAGE ON UNCOMPENSATED OVERTIME

Priority: Other

CFR Citation: 48 CFR 1815; 48 CFR 1837; 48 CFR 1852

Completed:

Reason	Date	FR Cite
Final Action	03/29/95	60 FR 16063
Final Action Effective	04/28/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: William Childs
Phone: 202 358-0454

RIN: 2700–AB40

3916. MENTOR-PROTEGE PROGRAM

Priority: Other

CFR Citation: 48 CFR 1819; 48 CFR 1852

Completed:

Reason	Date	FR Cite
Final Action	03/24/95	60 FR 15497
Final Action Effective	03/24/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Deborah O'Neill
Phone: 202 358-0440

RIN: 2700–AB52

3917. REVISION TO NASA FAR SUPPLEMENT COVERAGE ON PRECONTRACT COSTS

Priority: Other

CFR Citation: 48 CFR 1831; 48 CFR 1852

Completed:

Reason	Date	FR Cite
Final Action	06/05/95	60 FR 29504
Final Action Effective	07/05/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren
Phone: 202 358-0444

RIN: 2700–AB82

NASA — Completed Actions

3918. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-18

Priority: Other

CFR Citation: 48 CFR 18

Completed:

Reason	Date	FR Cite
Final Action	03/29/95	60 FR 16058
Final Action Effective	03/31/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck
Phone: 202 358-0482

RIN: 2700–AB83

3919. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-19

Priority: Other

CFR Citation: 48 CFR 18

Completed:

Reason	Date	FR Cite
Final Action	08/09/95	60 FR 40508
Final Action Effective	07/31/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck
Phone: 202 358-0482

RIN: 2700–AB84

3920. CHANGES TO NASA GRANT REGULATIONS TO (1) ADD EDUCATIONAL GRANTS AND (2) CHANGE THRESHOLD FOR INCREMENTAL FUNDING

Priority: Other

CFR Citation: 14 CFR 1260

Completed:

Reason	Date	FR Cite
Final Action	03/29/95	60 FR 16045
Final Action Effective	03/29/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom O'Toole
Phone: 202 358-0478

RIN: 2700–AB95

3921. NONPROCUREMENT DEBARMENT AND SUSPENSION TO ACHIEVE RECIPROCITY WITH PROCUREMENT

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 2700-AC06.	08/16/95	

RIN: 2700–AB99

3922. EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Priority: Other

CFR Citation: 14 CFR 1262

Completed:

Reason	Date	FR Cite
Final Action	03/08/95	60 FR 12668

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sara Najjar-Wilson
Phone: 202 358-2465

RIN: 2700–AC00

3923. NONPROCUREMENT DEBARMENT AND SUSPENSION

Priority: Other

CFR Citation: 14 CFR 1265

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Thomas J. Whelan, Jr.
Phone: 202 358-0475

RIN: 2700–AC06

3924. DELEGATION OF AUTHORITY FOR FOREIGN CONTRACTS

Priority: Other

CFR Citation: 48 CFR 1825

Completed:

Reason	Date	FR Cite
Final Action	07/21/95	60 FR 37598
Final Action Effective	07/21/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Deborah O'Neill
Phone: 202 358-0440

RIN: 2700–AC08

3925. USE OF NASA AIRFIELD FACILITIES BY AIRCRAFT NOT OPERATED FOR THE BENEFIT OF THE FEDERAL GOVERNMENT

Priority: Other

CFR Citation: 14 CFR 1204

Completed:

Reason	Date	FR Cite
Final Action	07/21/95	60 FR 37567
Final Action Effective	07/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Dingee
Phone: 202 358-2326

RIN: 2700–AC09

3926. • REVISION TO NASA SUPPLEMENT COVERAGE ON ADVANCE NOTIFICATION OF SIGNIFICANT PROCUREMENT ACTIONS

Priority: Other

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1805

Legal Deadline: None

Abstract: NASA is adding a requirement regarding the notification to the NASA Administrator of significant procurement actions. These actions include contractor selections for competitive procurements valued at $25 million or more and noncompetitive contract awards valued at $100 million or more. The purpose of this notification process is to ensure that the Administrator has knowledge of these actions in case of congressional or public inquiries.

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NASA

Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	03/17/95	60 FR 14378
Final Action Effective	03/17/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Deborah O'Neill, Procurement Analyst, National Aeronautics and Space Administration, Office of Procurement, Code HK, NASA Headquarters, Washington, DC 20546 Phone: 202 358-0440

RIN: 2700–AC13

3927. • INDEMNIFICATION UNDER PUBLIC LAW 85-804

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1802; 48 CFR 1850; 48 CFR 1852

Legal Deadline: None

Abstract: This rule amends the NASA policy and approval process on indemnifying contractors. This revision is part of NASA's efforts to simplify its regulations under RIN 2700-AB86. The streamlined policy relies more on Federal-wide policies.

Timetable:

Action	Date	FR Cite
Final Action	04/10/95	60 FR 18032
Final Action Effective	04/10/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Harold Nelson, Procurement Analyst, National Aeronautics and Space Administration, Office of Procurement, Code HS, NASA Headquarters, Washington, DC 20546 Phone: 202 358-0436

RIN: 2700–AC14

[FR Doc. 95-23618 Filed 11-24-95; 8:45 am]
BILLING CODE 7510-01-F

federal register

Tuesday
November 28, 1995

Part XXVIII

National Archives and Records Administration

Semiannual Regulatory Agenda

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Unified Agenda of Federal Regulations

AGENCY: National Archives and Records Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since April 1995. This agenda was developed under the guidelines in OMB's Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions, dated August 2, 1995. NARA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA's regulatory plans and to provide a systematic means of monitoring regulatory activity in NARA. Some of the regulations listed in the agenda are considered significant under Executive Order 12866 "Regulatory Planning and Review."

FOR FURTHER INFORMATION CONTACT: Mary Ann Hadyka, Regulatory Contact, Policy and Planning Division, (301) 713-6730.

SUPPLEMENTARY INFORMATION: For this edition of the National Archives and Records Administration's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Dated: September 13, 1995.

John W. Carlin,

Archivist of the United States.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3928	NARA Facilities	3095-AA06
3929	Audiovisual Records Management	3095-AA18
3930	Federal Records Centers	3095-AA27
3931	Domestic Distribution of United States Information Agency Materials in the Custody of the National Archives	3095-AA55
3932	Maintenance of Magnetic Computer Tape	3095-AA57
3933	Standards for Agency Recordkeeping Requirements—Records, Nonrecord Materials, and Personal Papers **(Reg Plan Seq. No. 141)**	3095-AA61
3934	Disposition of Federal Records	3095-AA65
3935	NARA Privacy Act and FOIA Regulations	3095-AA66
3936	Records Declassification	3095-AA67
3937	NARA Reproduction Services	3095-AA68
3938	Researcher Registration in the Washington Metropolitan Area	3095-AA69
3939	Transfer of Electronic Records	3095-AA70

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3940	National Historical Publications and Records Commission; Grant Procedures	3095-AA43
3941	Preservation and Protection of and Access to the Presidential Historical Materials of the Nixon Administration, Amendment of Public Access Regulations	3095-AA59
3942	NARA Policy on Outside Employment	3095-AA60
3943	Location of Records and Hours of Use; Suitland Research Room	3095-AA64

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3944	Vital Records	3095-AA51
3945	Electronic Mail Systems	3095-AA58
3946	Transfer of Records to Federal Records Centers	3095-AA62
3947	NARA Reproduction Fee Schedule	3095-AA63

3928. NARA FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2110

CFR Citation: 36 CFR 1280

Legal Deadline: None

Abstract: NARA is updating its regulations on the use of NARA facilities and property to remove obsolete material and to clarify existing provisions, and to add provisions for the new facility in College Park, Maryland (Archives II).

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Mary Ann Hadyka, Regulatory Contact, Policy and IRM Services, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6730
Fax: 301 713-7270

RIN: 3095–AA06

3929. AUDIOVISUAL RECORDS MANAGEMENT

Priority: Other Significant

Legal Authority: 44 USC 2104(a); 44 USC 2904; 44 USC 3101

CFR Citation: 36 CFR 1228; 36 CFR 1232

Legal Deadline: None

Abstract: NARA is revising and expanding the regulations pertaining to audiovisual records management and the transfer of permanent audiovisual records to NARA from Federal agencies. The revisions are necessary in order to provide for new audiovisual media that are used in the creation of Federal records and to reflect the transfer to the Department of Commerce's National Technical Information Services of the centralized audiovisual distribution services formerly performed by the National Audiovisual Center.

Timetable:

Action	Date	FR Cite
Final Action Organizational Name Change	05/14/93	58 FR 28506
NPRM	09/28/95	60 FR 50158
NPRM Comment Period End	11/27/95	
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jean Keeting, Chief, Policy and Outreach Branch, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7100
Fax: 301 713-6850

RIN: 3095–AA18

3930. FEDERAL RECORDS CENTERS

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2907; 44 USC 3103

CFR Citation: 36 CFR 1228

Legal Deadline: None

Abstract: NARA is updating regulations in subpart I of part 1228 relating to transfer of records to Federal records centers to clarify provisions, update addresses, and remove outdated material. NARA is adding the Pittsfield Federal Records Center to the list of records centers in 36 CFR 1228.150 and 36 CFR 1253.6. The center, located at 100 Dan Fox Drive in Pittsfield, Massachusetts is designated for storage of long-term records of Federal agencies. NARA is adding a new procedure under 36 CFR 1228.152 (e) stipulating that new accessions of Top Secret records will only be accepted at the Washington National Records Center.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Debra Leahy, Deputy Director, Field Operations Division, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7210
Fax: 301 713-7205

RIN: 3095–AA27

3931. DOMESTIC DISTRIBUTION OF UNITED STATES INFORMATION AGENCY MATERIALS IN THE CUSTODY OF THE NATIONAL ARCHIVES

Priority: Other Significant

Legal Authority: PL 101-246, sec 202

CFR Citation: 36 CFR 1256

Legal Deadline: None

Abstract: This rule will establish procedures for making available USIA produced motion pictures, films, videotapes, and other materials when the materials become eligible for domestic dissemination.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Michael J. Kurtz, Assistant Archivist, Office of the National Archives, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7000
Fax: 301 713-6915

RIN: 3095–AA55

3932. MAINTENANCE OF MAGNETIC COMPUTER TAPE

Priority: Other Significant

Legal Authority: 44 USC 2904; 44 USC 3101; 44 USC 3102; 44 USC 3105

CFR Citation: 36 CFR 1234.28

Legal Deadline: None

Abstract: NARA will revise 36 CFR 1234.28 to address the increasing diversity of digital storage media used

to store electronic records. The current regulation contains several specifications that are applicable only to open reel magnetic tape. NARA will replace these specifics with general guidelines applicable to a variety of media. This regulation applies to Federal agencies which maintain Federal records on digital media.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Fynette Eaton, Acting Director, Center for Electronic Records, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6630
Fax: 301 713-6911

RIN: 3095–AA57

3933. STANDARDS FOR AGENCY RECORDKEEPING REQUIREMENTS—RECORDS, NONRECORD MATERIALS, AND PERSONAL PAPERS

Regulatory Plan: This entry is Seq. No. 141 in Part II of this issue of the Federal Register.

RIN: 3095–AA61

3934. • DISPOSITION OF FEDERAL RECORDS

Priority: Other Significant

Legal Authority: 44 USC 2101 et seq; 44 USC 2901 et seq; 44 USC 3101 et seq

CFR Citation: 36 CFR 1228.32; 36 CFR 1228.54

Legal Deadline: None

Abstract: NARA is amending its regulations to require reimbursement for all temporary records maintained in Federal records centers that have exceeded the authorized disposal date.

Timetable:

Action	Date	FR Cite
NPRM	09/26/95	60 FR 49532
NPRM Comment Period End	11/27/95	
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Debra Leahy, Deputy Director, Field Operations Division, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7210
Fax: 301 713-7205

RIN: 3095–AA65

3935. • NARA PRIVACY ACT AND FOIA REGULATIONS

Priority: Other

Legal Authority: 44 USC 2104(a); 5 USC 552; 44 USC 2101 to 2118; EO 12600

CFR Citation: 36 CFR 1202; 36 CFR 1250; 36 CFR 1254

Legal Deadline: None

Abstract: NARA plans to update its Privacy Act and FOIA regulations governing NARA-created (administrative) records and its FOIA regulations governing records accessioned into the National Archives of the United States to reflect organizational and procedural changes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
NPRM Comment Period End	02/00/96	
Final Action	03/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Hadyka, Regulatory Contact, Policy and IRM Services, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6730
Fax: 301 713-7270

RIN: 3095–AA66

3936. • RECORDS DECLASSIFICATION

Priority: Other Significant

Legal Authority: 44 USC 2101 to 2118; 5 USC 552; EO 12600; EO 12958; EO 12356

CFR Citation: 36 CFR 1254; 36 CFR 1260

Legal Deadline: None

Abstract: NARA plans to revise its regulations on mandatory review and declassification of its archival holdings to reflect the provision of EO 12958, Classified National Security Information. The revised regulations will affect Federal agencies as well as the public.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	02/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, Policy and IRM Services, National Archives and Records Administration, National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6730
Fax: 301 713-7270

RIN: 3095–AA67

3937. • NARA REPRODUCTION SERVICES

Priority: Other

Legal Authority: 44 USC 2101 to 2118

CFR Citation: 36 CFR 1254

Legal Deadline: None

Abstract: NARA is updating its regulations regarding refunds by mail of unused amounts on debit cards used by researchers for self service copiers in the National Archives Building, the Washington National Records Center and the National Archives at College Park. In addition, this update shall include the hours of operation for the cashiers office at the National Archives at College Park location.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
NPRM Comment Period End	03/00/96	
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sonia R. Rudo, National Archives Trust Fund Branch, National Archives and Records

Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6405
Fax: 301 713-7311

RIN: 3095–AA68

3938. • RESEARCHER REGISTRATION IN THE WASHINGTON METROPOLITAN AREA

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2111

CFR Citation: 36 CFR 1254

Legal Deadline: None

Abstract: NARA is updating its regulations to require all researchers in the Washington Metropolitan area to have valid researcher cards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	12/00/95	
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon K. Fawcett, Director, User Services Division, National Archives and Records Administration, National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6770
Fax: 301 713-6920

RIN: 3095–AA69

3939. • TRANSFER OF ELECTRONIC RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2107

CFR Citation: 36 CFR 1228.188

Legal Deadline: None

Abstract: NARA is updating its regulations relating to transfer of electronic records to the National Archives. The revision will clarify timing of transfers of electronic records and provide updated requirements for transfer media and data formats.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	01/00/96	
Final Action	02/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Fynnette Eaton, Acting Director, Center for Electronic Records, National Archives and Records Administration, National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6630
Fax: 301 713-6911

RIN: 3095–AA70

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Final Rule Stage

3940. NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION; GRANT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2501 to 2506

CFR Citation: 36 CFR 1206

Legal Deadline: None

Abstract: To update the program descriptions; to revise appointment procedures for state historical advisory boards; to cite audit requirements of OMB Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations" ; and to notify grantees of the lobbying certification requirement for grants of $100,000 or more; and to incorporate OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Nonprofit Organizations."

Timetable:

Action	Date	FR Cite
NPRM	09/08/95	60 FR 46798
Interim Final Rule - Implementation of OMB Circular A-110	10/16/95	60 FR 53514
NPRM Comment Period End	11/08/95	60 FR 46798
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Nancy Sahli, Program Director, National Historical Publications and Records Comm., National Archives and Records Administration, Washington, DC 20408
Phone: 202 501-5610
Fax: 202 501-5601

RIN: 3095–AA43

3941. PRESERVATION AND PROTECTION OF AND ACCESS TO THE PRESIDENTIAL HISTORICAL MATERIALS OF THE NIXON ADMINISTRATION, AMENDMENT OF PUBLIC ACCESS REGULATIONS

Priority: Other Significant

Legal Authority: 44 USC 2104; 44 USC 2111

CFR Citation: 36 CFR 1275

Legal Deadline: None

Abstract: NARA proposes to amend procedures for preserving and protecting the Presidential historical materials of the Nixon administration and for providing public access to these materials. The proposed amendments would clarify various terms that appear in 36 CFR part 1275; clarify the nature of the archival processing being conducted on the Nixon Presidential Materials; and provide for the reproduction of the Nixon White House tape recordings.

Timetable:

Action	Date	FR Cite
NPRM	03/25/94	59 FR 14128

NARA

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	05/24/94	59 FR 14128
Final Action	06/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Amy Krupsky, Office of General Counsel, National Archives and Records Administration, Washington, DC 20408
Phone: 202 501-5535
Fax: 202 501-5955

RIN: 3095–AA59

3942. NARA POLICY ON OUTSIDE EMPLOYMENT

Priority: Other

Legal Authority: 5 USC 7301; EO 12674; EO 12731

CFR Citation: 5 CFR 7600

Legal Deadline: None

Abstract: The new Office of Government Ethics regulations in 5 CFR part 2635 require agencies to reissue their internal regulations on outside employment by agency personnel as a supplement to the OGE regulations. NARA will reissue its internal regulations on outside employment as 5 CFR part 7600. These regulations will affect only NARA employees.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	
Final Action Effective	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Runkel, Acting General Counsel/Designated Ethics Official, National Archives and Records Administration, The National Archives, Washington, DC 20408
Phone: 202 501-5535
Fax: 202 501-5955

RIN: 3095–AA60

3943. • LOCATION OF RECORDS AND HOURS OF USE; SUITLAND RESEARCH ROOM

Priority: Other

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1253

Legal Deadline: None

Abstract: This rule changes the hours of use at the Suitland Research Room and updates information on other NARA facilities outside the Washington, DC, area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/08/95	60 FR 40416
Interim Final Rule Comment Period End	10/10/95	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Hadyka, Regulatory Contact, Policy and IRM Services, National Archives and Records Administration, National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6730
Fax: 301 713-7270

RIN: 3095–AA64

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Completed Actions

3944. VITAL RECORDS

Priority: Other Significant

CFR Citation: 36 CFR 1236

Completed:

Reason	Date	FR Cite
Final Action	06/07/95	60 FR 29989
Final Action Effective	06/07/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jean Keeting
Phone: 301 713-7100
Fax: 301 713-6850

RIN: 3095–AA51

3945. ELECTRONIC MAIL SYSTEMS

Priority: Other Significant

CFR Citation: 36 CFR 1220; 36 CFR 1222; 36 CFR 1234

Completed:

Reason	Date	FR Cite
Final Action	08/28/95	60 FR 44635
Final Action Effective	09/27/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: James Hastings
Phone: 301 713-7096

RIN: 3095–AA58

3946. TRANSFER OF RECORDS TO FEDERAL RECORDS CENTERS

Priority: Other

CFR Citation: 36 CFR 1228.150; 36 CFR 1228.152(f); 36 CFR 1253.6

Completed:

Reason	Date	FR Cite
Merged With RIN 3095-AA27	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Debra Leahy
Phone: 301 713-7210

RIN: 3095–AA62

3947. NARA REPRODUCTION FEE SCHEDULE

Priority: Other

CFR Citation: 36 CFR 1258

Completed:

Reason	Date	FR Cite
Final Action	05/19/95	60 FR 26827
Final Action Effective	03/06/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Hadyka
Phone: 301 713-6730
Fax: 301 713-7270

RIN: 3095–AA63

[FR Doc. 95-24135 Filed 11-24-95; 8:45 am]
BILLING CODE 7515-01-F

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Part XXIX

National Foundation on the Arts and the Humanities

Federal Council on the Arts and the Humanities

Semiannual Regulatory Agenda

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FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES (FCAH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities

45 CFR Ch. XI

Unified Agenda of Regulations

AGENCY: Federal Council on the Arts and the Humanities, NFAH.

ACTION: Publication of the unified agenda of regulations.

SUMMARY: Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, and Executive Order 12866 "Regulatory Planning and Review," dated September 30, 1993, the Federal Council on the Arts and the Humanities is required to publish, in April and October of each year, an agenda of proposed regulations that the Council has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Michael S. Shapiro, General Counsel, Federal Council on the Arts and the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 606-8322.

Juan Mestas,

Deputy Chairman, National Endowment for the Humanities.

FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES (FCAH) — Long-Term Actions

3948. INDEMNITIES UNDER THE ARTS AND ARTIFACTS INDEMNITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 971 to 977

CFR Citation: 45 CFR 1160

Legal Deadline: None

Abstract: The Arts and Artifacts Indemnity Act authorizes the Federal Council on the Arts and the Humanities to enter into indemnification agreements for exhibitions of items determined by the Federal Council to be of educational, cultural, historical, or scientific value, the exhibition of which is certified by the Director of the United States Information Agency as being in the national interest. The regulations permit the indemnification of eligible items from outside the United States while on exhibition in the United States. However, under current regulations, U.S.-owned loans may be indemnified only when exhibited abroad.

The Federal Council is considering an amendment that would permit the indemnification of eligible items from the United States while in this country in connection with an exhibition of eligible items from outside of the United States. The proposal is not intended to bring about a major shift in emphasis of the current policy or practice of the indemnity program. Specifically, exhibitions consisting solely of domestic items on exhibition within the United States would continue to be ineligible for indemnification.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alice M. Whelihan, Indemnity Administrator, Federal Council on the Arts and the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 682-5442

RIN: 3134–AA00

[FR Doc. 95-24136 Filed 11-24-95; 8:45 am]
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Part XXX

National Foundation on the Arts and the Humanities

Institute of Museum Services

Semiannual Regulatory Agenda

INSTITUTE OF MUSEUM SERVICES (IMS)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services

45 CFR Ch. XI

Unified Agenda of Regulations

AGENCY: Institute of Museum Services, NFAH.

ACTION: Publication of the semiannual agenda.

SUMMARY: Pursuant to Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 605), the Institute of Museum Services publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Ms. Mamie Bittner, Congressional Liaison and Public Affairs Officer, Institute of Museum Services, Washington, DC 20506, or call (202) 606-8536.

Diane B. Frankel,

Director, Institute of Museum Services.

INSTITUTE OF MUSEUM SERVICES (IMS) — Final Rule Stage

3949. TECHNICAL AMENDMENTS FOR COMPETITIVE GRANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 960 to 968

CFR Citation: 45 CFR 1180

Legal Deadline: None

Abstract: The Institute of Museum Services issues proposed amendments to regulations relating to its General Operating Support and Conservation Project Support grant programs. The regulations as amended implement the Museum Services Act. The amendments make technical and other changes in the eligibility conditions, use of funds, audit requirements, and amount of awards and remove unneeded provisions.

Timetable:

Action	Date	FR Cite
NPRM	03/06/95	60 FR 12186
NPRM Comment Period End	05/01/95	
Final Action	11/00/95	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Mamie Bittner, Public Information Officer, Institute of Museum Services, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 606-8536

RIN: 3137–AA06

INSTITUTE OF MUSEUM SERVICES (IMS) — Completed Actions

3950. TECHNICAL AMENDMENT TO REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 45 CFR 1180

Completed:

Reason	Date	FR Cite
Final Action	11/08/94	59 FR 55593

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Mamie Bittner
Phone: 202 606-8536

RIN: 3137–AA05

3951. • FINAL AMENDMENT TO GRANTS MANAGEMENT COMMON RULE TO RAISE THRESHOLD FOR SIMPLIFIED SMALL PURCHASES

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 961 to 968

CFR Citation: 45 CFR 1180

Legal Deadline: None

Abstract: This rule will raise threshold for simplified small purchases.

Timetable:

Action	Date	FR Cite
Final Action	04/19/95	60 FR 19638
Final Action Effective	05/19/95	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Rebecca Danvers, Program Director, Institute of Museum Services, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 606-8536

RIN: 3137–AA07

[FR Doc. 95-26781 Filed 11-24-95; 8:45 am]
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Part XXXI

National Foundation on the Arts and the Humanities

National Endowment for the Arts

Semiannual Regulatory Agenda

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Ch. XI

Semiannual Agenda of Regulations

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Publication of the semiannual agenda.

SUMMARY: Pursuant to Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 605), the National Endowment for the Arts publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Christensen, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 682-5418.

Laurence Baden,

Deputy Chairman for Management, National Endowment for the Arts.

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Prerule Stage

3952. COLLECTION OF CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-365; 31 USC 3711; 31 USC 3716 to 3718; 5 USC 5514; 5 USC 552a; 31 USC 3701

CFR Citation: 45 CFR 1150

Legal Deadline: None

Abstract: The proposed rule amends the National Endowment for the Arts regulation for collecting debts. Principally, the amendments implement the Debt Collection Act of 1982 (PL 97-365) and the 1983 amendments (PL 97-452), both of which amended the Federal Claims Collection Act of 1966 (31 USC 3711, 3716 to 3718) to authorize, among other things, charging of interest penalties and administrative costs, and the use of administrative offset, private collection agencies, and credit agencies by the Government. The amendments also implement Governmentwide regulations issued by the Department of Justice and the General Accounting Office (49 FR 8889) and Office of Personnel Management (49 FR 27470).

Timetable:

Action	Date	FR Cite
ANPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: RIN 3135-AA04 was merged with RIN 3135-AA01 on 01/29/91.

Agency Contact: Karen K. Christensen, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 682-5418

RIN: 3135–AA01

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Long-Term Actions

3953. NONDISCRIMINATION ON THE BASIS OF AGE

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1156

Timetable:

Action	Date	FR Cite
NPRM	10/02/79	44 FR 56725
NPRM Comment Period End	11/15/79	
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Karen K. Christensen
Phone: 202 682-5418

RIN: 3135–AA03

3954. COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen K. Christensen
Phone: 202 682-5418

RIN: 3135–AA08

3955. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES; EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1140

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	
ANPRM Comment Period End	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Karen K. Christensen
Phone: 202 682-5418

RIN: 3135–AA10

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Completed Actions

3956. NONPROCUREMENT DEBARMENT AND SUSPENSION; COMMON RULE TO ACHIEVE RECIPROCITY WITH PROCUREMENT

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1154

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen K. Christensen
Phone: 202 682-5418

RIN: 3135–AA12

[FR Doc. 95-23619 Filed 11-24-95; 8:45 am]
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Part XXXII

National Foundation on the Arts and the Humanities

National Endowment for the Humanities

Semiannual Regulatory Agenda

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NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Ch. XI

Unified Agenda of Regulations

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Publication of the unified agenda of regulations.

SUMMARY: Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, and Executive Order 12866 "Regulatory Planning and Review," dated September 30, 1993, the National Endowment for the Humanities is required to publish, in April and October of each year, an agenda of proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Michael S. Shapiro, General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 606-8322.

Juan Mestas,

Deputy Chairman, National Endowment for the Humanities.

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Long-Term Actions

3957. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1110; 45 CFR 1173

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret Horne
Phone: 202 606-8399

RIN: 3136–AA11

3958. IMPLEMENTATION OF TITLE IX OF THE EDUCATION ACT AMENDMENTS OF 1972

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 1171

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Horne
Phone: 202 606-8399

RIN: 3136–AA14

3959. STANDARDS OF CONDUCT OF EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1105

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David C. Fisher
Phone: 202 606-8322

RIN: 3136–AA16

3960. PRIVACY ACT REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1115

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David C. Fisher
Phone: 202 606-8322

RIN: 3136–AA18

3961. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS WITH STATE AND LOCAL GOVERNMENTS (THRESHOLDS)

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1174

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David J. Wallace
Phone: 202 606-8494

RIN: 3136–AA19

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Completed Actions

3962. DEBARMENT AND SUSPENSION COMMON RULE TO ACHIEVE RECIPROCITY WITH PROCUREMENT

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1169

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David C. Fisher
Phone: 202 606-8322

RIN: 3136–AA20

[FR Doc. 95-24137 Filed 11-24-95; 8:45 am]
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Part XXXIII

National Science Foundation

Semiannual Regulatory Agenda

NATIONAL SCIENCE FOUNDATION (NSF)

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Regulatory Agenda

AGENCY: National Science Foundation.

ACTION: Regulatory agenda.

SUMMARY: The National Science Foundation is publishing its October 1995 regulatory agenda pursuant to Executive Order 12866 "Regulatory Planning and Review" (3 CFR 1993 Comp., p. 638), the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Office of Management and Budget Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions (August 2, 1995).

FOR FURTHER INFORMATION CONTACT: For further information on a particular item, call or write the individual identified as agency contact. General comments or inquiries about this agenda may be directed to John Chester, Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306-1060.

Dated: August 30, 1995.

John Chester,

Assistant General Counsel.

NATIONAL SCIENCE FOUNDATION (NSF) — Long-Term Actions

3963. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NATIONAL SCIENCE FOUNDATION

Priority: Other

CFR Citation: 5 CFR 5301

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles S. Brown
Phone: 703 306-1060

RIN: 3145–AA20

3964. REPEAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NATIONAL SCIENCE FOUNDATION AND RULES OF PRACTICE FOR THE FOUNDATION

Priority: Other

CFR Citation: 45 CFR 680; 45 CFR 681; 45 CFR 682; 45 CFR 683; 45 CFR 684

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles S. Brown
Phone: 703 306-1060

RIN: 3145–AA29

NATIONAL SCIENCE FOUNDATION (NSF) — Completed Actions

3965. NONPROCUREMENT DEBARMENT AND SUSPENSION; COMMON RULE TO ACHIEVE RECIPROCITY WITH PROCUREMENT

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 620

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anita Eisenstadt
Phone: 703 306-1060

RIN: 3145–AA28

[FR Doc. 95-23620 Filed 11-24-95; 8:45 am]

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Part XXXIV

Office of Federal Housing Enterprise Oversight

Semiannual Regulatory Agenda

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO)

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

12 CFR Ch. XVII

Semiannual Agenda

AGENCY: Office of Federal Housing Enterprise Oversight.

ACTION: Semiannual agenda of regulations expected to be issued.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication of a semiannual agenda of regulations.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Deputy General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552, (202) 414-3800.

Dated: September 15, 1995.

Aida Alvarez,

Director, Office of Federal Housing Enterprise Oversight.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Proposed Rule Stage

3966. RISK-BASED CAPITAL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4611; 12 USC 4513(b)(1)

CFR Citation: 12 CFR ch 17

Legal Deadline: Final, Statutory, December 1, 1994.

Abstract: Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102-550, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 USC 4501 et seq., gives the Office of Federal Housing Enterprise Oversight (OFHEO) the responsibility for developing a risk-based capital regulation for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises). To discharge this responsibility, OFHEO must develop and implement a risk-based capital "stress test" that determines the amount of capital that an Enterprise must hold initially to maintain positive capital throughout a ten-year period of economic stress (stress period).

An advance notice of proposed rulemaking solicited public comment on a variety of issues prior to the publication of a proposed rule. The comment period ended on May 9, 1995. OFHEO will consider the comments in developing its proposed regulation. The proposed regulation will include a discussion of the basis for calculating appropriate default and severity rates to apply during the stress period. The proposed regulation will also discuss OFHEO's housing price index which will be proposed to be used to calculate the seasoning of mortgages. A subsequent second proposed regulation will include the details of all other aspects of the risk-based capital stress test.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/95	60 FR 7468
ANPRM Comment Period End	05/09/95	60 FR 7468
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA02

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Final Rule Stage

3967. RELEASING INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 12 USC 4513; 12 USC 4526; 12 USC 4639; EO 12600

CFR Citation: 12 CFR 1710

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) issued a proposed rule to set forth the basic policies of OFHEO regarding information it maintains and the procedures for obtaining access to such information. The rule contains regulations of OFHEO implementing the Freedom of Information Act (FOIA) and establishes a schedule of fees that will be charged for the processing of document requests under the FOIA. In addition, the proposed rule sets forth procedures to be followed with respect to testimony and the production of documents in legal proceedings in which OFHEO is not a named party as well as procedures for service of process upon OFHEO in any legal proceeding. After reviewing and considering public comments, OFHEO intends to issue a final rule in February 1996.

Timetable:

Action	Date	FR Cite
NPRM	05/11/95	60 FR 25162
NPRM Comment Period End	07/10/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA01

3968. MINIMUM CAPITAL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4513(b)(1); 12 USC 4514; 12 USC 4612; 12 USC 4614

CFR Citation: 12 CFR 1750

Legal Deadline: Final, Statutory, December 1, 1994.

OFHEO — Final Rule Stage

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) issued a proposed regulation setting forth minimum capital levels for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises). The proposed regulation defines the necessary terms and sets forth the methodology for computing minimum capital levels. The proposed regulation establishes procedures for the filing of quarterly minimum capital level reports by the Enterprises. In addition, the proposed regulation establishes procedures under which OFHEO will make capital classifications of the Enterprises. After considering public comments on the proposed regulation, OFHEO intends to issue a final regulation in February 1996.

Timetable:

Action	Date	FR Cite
NPRM	06/08/95	60 FR 30201
NPRM Comment Period End	08/07/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA03

[FR Doc. 95-24138 Filed 11-24-95; 8:45 am]

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November 28, 1995

Part XXXV

Office of Government Ethics

Semiannual Regulatory Agenda

OFFICE OF GOVERNMENT ETHICS (OGE)

OFFICE OF GOVERNMENT ETHICS

5 CFR Ch. XVI

Semiannual Regulatory Agenda, October 1995

AGENCY: Office of Government Ethics.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Office of Government Ethics (OGE) substantive and procedural regulations are scheduled for development or review during the period from October 1, 1995, through September 30, 1996. This agenda fulfills OGE's responsibility to publish a semiannual regulatory agenda under Executive Order 12866 "Regulatory Planning and Review" and has been prepared in accordance with guidance received from the Office of Management and Budget. None of the OGE regulations in this October 1995 agenda will have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. chapter 6. In addition, none of the listed OGE regulatory actions is procurement-related. Furthermore, the Office of Government Ethics rulemakings are not included in The Regulatory Plan.

This publication in the **Federal Register** does not impose a binding obligation on the Office of Government Ethics with respect to any particular item on its agenda. The dates shown for the future steps of each action are estimates and not commitments to act by the date shown. Moreover, other OGE regulatory actions, in addition to the entries listed, are not precluded.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917; telephone: 202-523-5757, extension 1110; FAX: 202-523-6325.

Approved: September 25, 1995.

Stephen D. Potts,

Director, Office of Government Ethics.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3969	Privacy Act Rules	3209-AA18
3970	Standards of Ethical Conduct for Employees of the Executive Branch	3209-AA04
3971	Limitations on Outside Employment and Prohibition of Honoraria; Confidential Reporting of Payments to Charities in Lieu of Honoraria	3209-AA13
3972	Interpretation, Exemptions, and Waiver Guidance Concerning 18 USC 208 (Acts Affecting a Personal Financial Interest)	3209-AA09

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3973	Public Financial Disclosure, Conflicts of Interest, and Certificates of Divestiture for Executive Branch Officials	3209-AA06
3974	Executive Agency Ethics Training Programs	3209-AA07
3975	Post-Employment Conflict of Interest Restrictions	3209-AA14

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3976	Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees	3209-AA00
3977	Executive Agency Supplemental Financial Disclosure Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA16
3978	Executive Agency Supplemental Standards of Ethical Conduct Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA15
3979	Interpretation of 18 USC 209, the Constraint Against Private Supplementation of Salaries of Executive Branch Officials and Employees	3209-AA12

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3980	Implementation of the Equal Access to Justice Act	3209-AA19

OFFICE OF GOVERNMENT ETHICS (OGE)

Proposed Rule Stage

3969. PRIVACY ACT RULES

Priority: Other Significant

Legal Authority: 5 USC 552a; 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2606 (New)

Legal Deadline: None

Abstract: This proposed rule would establish for the Office of Government Ethics (OGE) regulatory procedures to implement the Privacy Act of 1974, including requests for access and amendment and appeals, and would reference certain OGE systems of records (which will also be updated and revised).

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Heather N. Sigrist, Attorney Advisor, Office of Government Ethics, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 523-5757

RIN: 3209–AA18

3970. STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

Priority: Other Significant

Legal Authority: 5 USC 7301; 5 USC 7351; 5 USC 7353; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2635

Legal Deadline: None

Abstract: Regulation implementing certain provisions of Executive Order 12674 on Principles of Ethical Conduct, as modified by EO 12731, and the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Effective February 3, 1993, this new ethical conduct standards regulation superseded executive branch employee conduct and gifts rules, as well as pertinent portions of agency-specific conduct regulations issued thereunder. For certain existing agency regulatory standards setting forth financial interest prohibitions and prior approval for outside employment/activities, an extended grace period is in effect until January 3, 1996, or until individual concerned agencies issue supplemental regulations, with Office of Government Ethics concurrence.

Timetable:

Action	Date	FR Cite
NPRM	07/23/91	56 FR 33778
NPRM Comment Period End	09/20/91	
Final Overall Regulation on Standards of Ethical Conduct	08/07/92	57 FR 35006
Correction	10/27/92	57 FR 48557
Correction	11/04/92	57 FR 52583
5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/94	59 FR 4779
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/95	60 FR 6390
NPRM on Widely Attended Gatherings	06/15/95	60 FR 31415
NPRM on Gifts From Political Organizations	04/00/96	
NPRM on Participation in Professional Associations	04/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stuart D. Rick, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 523-5757

RIN: 3209–AA04

3971. LIMITATIONS ON OUTSIDE EMPLOYMENT AND PROHIBITION OF HONORARIA; CONFIDENTIAL REPORTING OF PAYMENTS TO CHARITIES IN LIEU OF HONORARIA

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12671

CFR Citation: 5 CFR 2636

Legal Deadline: None

Abstract: Regulation implemented, effective January 1, 1991, the prohibition on honoraria (now declared unconstitutional by the courts as to most rank and file executive branch employees), as well as the new limitations on outside employment as provided in the 1989 Ethics Reform Act revisions to the Ethics in Government Act, as amended. A separate provision (not yet effective) of the regulation will govern reports by certain executive branch officials of payments, in lieu of honoraria, donated on their behalf to charities. The regulation will be amended in light of the above-noted litigation and any other pertinent developments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/17/91	56 FR 1721
Deferral of Effective Date of 5 CFR 2636.205	05/10/91	56 FR 21589
Deferral of Effective Date of 5 CFR 2636.205	10/11/91	56 FR 51319
Revision of Honorarium Definition in 5 CFR 2636.203(a)	01/08/92	57 FR 601
Deferral of Effective Date of 5 CFR 2636.205	02/14/92	57 FR 5369
Technical Correction to Interim Final Rule	12/30/93	58 FR 69176
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Make 5 CFR 2636.205 Effective and Revise Section	12/00/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stuart D. Rick, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 523-5757

RIN: 3209–AA13

3972. INTERPRETATION, EXEMPTIONS, AND WAIVER GUIDANCE CONCERNING 18 USC 208 (ACTS AFFECTING A PERSONAL FINANCIAL INTEREST)

Priority: Other Significant

Legal Authority: 18 USC 208; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2640 (New)

Legal Deadline: None

OGE

Proposed Rule Stage

Abstract: Proposed regulation will interpret section 208(a) of title 18, U.S.C., which prohibits officers and employees of the executive branch from officially participating personally and substantially in a particular matter in which there is a personal financial interest or a financial interest of a related person or organization (absent a waiver under 18 U.S.C. 208(b)). It will also list and describe interests which are considered to be too remote or too inconsequential to affect the integrity of the services of executive branch officers or employees, in accordance with 18 U.S.C. 208(b)(2). Such interests will be exempt from the restrictions of 18 U.S.C. 208(a), generally requiring disqualification. The proposed regulation will also provide guidance to executive branch agencies as to the kinds of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from an employee and which, therefore, may be waived from the general rule of disqualification under 18 U.S.C. 208(a) pursuant to 18 U.S.C. 208(b)(1). In addition, guidance will be provided concerning the issuance of waivers to special Government employee advisory committee members pursuant to 18 U.S.C. 208(b)(3). A separate interim final rule has been published exempting certain Financial interests arising from Federal Government executive branch employment as well as from Social Security or veterans' benefits, from the general prohibition in Section 208(a).

Timetable:

Action	Date	FR Cite
Govt. Interests and Social Security or veterans' benefits exemptions	08/28/95	60 FR 44706
NPRM	09/11/95	60 FR 47208
NPRM Comment Period End	11/13/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marilyn L. Glynn, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 523-5757

RIN: 3209–AA09

OFFICE OF GOVERNMENT ETHICS (OGE)

Final Rule Stage

3973. PUBLIC FINANCIAL DISCLOSURE, CONFLICTS OF INTEREST, AND CERTIFICATES OF DIVESTITURE FOR EXECUTIVE BRANCH OFFICIALS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 26 USC 1043

CFR Citation: 5 CFR 2634.1001 to 2634.1004

Legal Deadline: None

Abstract: Regulation implementing a provision of the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended by Pub. L. 101-280, providing for tax deferral if sale of property by an executive branch official (or related person) is deemed necessary to comply with conflict of interest requirements pursuant to a certificate of divestiture issued by the Office of Government Ethics.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/18/90	55 FR 14407
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Norman B. Smith, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 523-5757

RIN: 3209–AA06

3974. EXECUTIVE AGENCY ETHICS TRAINING PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2638.701 to 2638.704

Legal Deadline: None

Abstract: Regulation specifying the responsibilities of executive branch agencies and their designated agency ethics officials to develop and implement orientation and annual ethics training courses and to distribute appropriate guidance materials to their employees under sections 301(b) and (c) of E.O. 12674, as modified by E.O. 12731.

Timetable:

Action	Date	FR Cite
NPRM	09/18/90	55 FR 38335
NPRM Comment Period End	11/17/90	
Final Rule on Executive Agency Ethics Training Programs	04/07/92	57 FR 11886
Correction	04/27/92	57 FR 15219
Amendment	12/10/92	57 FR 58399
Correction	12/28/92	57 FR 61612
Interim Amendments to Liberalize Certain Training Requirements	03/16/94	59 FR 12145
Interim Final Rule Comment Period End	05/16/94	59 FR 12145
Final Amendments to Liberalize Certain Training Requirements	02/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John C. Condray, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 523-5757

RIN: 3209–AA07

3975. POST-EMPLOYMENT CONFLICT OF INTEREST RESTRICTIONS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 18 USC 207; EO 12674; EO 12731

CFR Citation: 5 CFR 2641; 5 CFR 2637 (Continuation)

Legal Deadline: None

Abstract: Interpretive regulation giving guidance for the executive branch on the various substantive restrictions of the current version of the post-Government employment conflict of interest statute 18 U.S.C. 207, which became effective January 1, 1991, pursuant to title I of the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Parts of the regulation, dealing with procedures for waivers by the Office of Government Ethics of certain senior official constraints (based on executive agency hardship), designated senior employees, and separate agency designations, have already been published in the Federal Register; such designations are periodically updated by the Office of Government Ethics. The Office of Governments Ethics also has continued to publish in the CFR the interpretive regulation, 5 CFR part 2637 (but now without the no-longer-effective former Senior Employee and old agency component designation listings), under the lifetime bar of the prior version of the post-employment law which still applies to executive branch employees who left the Government before January 1, 1991. Once a complete current post-employment law regulation is published, the old part 2637 regulation will be removed from the CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/01/91	56 FR 3951
Designation of Senior Employees and Separate Agency Components	01/28/92	57 FR 3115
Designation of Additional Separate Agency Component	04/07/92	57 FR 11673
Amendment to Prior Post-employment Regulation (Part 2637)	12/31/92	57 FR 62467
Amendment to Interim Final Rule (Part 2641)	06/21/93	58 FR 33755
Technical Amendment to Authority Citation of 5 CFR Part 2637	12/30/93	58 FR 69176
Technical Amendments to Interim Final Rule	07/07/94	59 FR 34755
Agency separate component designations update	12/00/95	
Interim Final Rule	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Julia Loring Eirinberg, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 523-5757

RIN: 3209–AA14

OFFICE OF GOVERNMENT ETHICS (OGE)

Long-Term Actions

3976. FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE FOR EXECUTIVE BRANCH EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 26 USC 1043; EO 12674; EO 12731

CFR Citation: 5 CFR 2634

Legal Deadline: None

Abstract: Regulation revising the executive branch public and confidential financial disclosure report systems for high-level officials and certain mid-level employees, respectively, in light of the changes to the Ethics in Government Act effected by the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. These disclosure provisions apply to public reports filed since January 1, 1991. Subpart I of the regulation, effective October 5, 1992, superseded prior executive branchwide and agency-specific regulations and established a revised system of confidential reporting, modeled generally on the public reporting system, for executive branch agency mid-level employees with sensitive duties and special Government employees.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43359
Interim Final Rule	04/07/92	57 FR 11800
Correction	05/22/92	57 FR 21854
Correction	12/31/92	57 FR 62605
Revised Interim Final Rule	07/21/93	58 FR 38911
Proposed Amendment to Interim Final Rule	09/01/93	58 FR 46096
Technical Amendments to Interim Final Rule	11/30/93	58 FR 63023
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: G. Sid Smith, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 523-5757

RIN: 3209–AA00

3977. EXECUTIVE AGENCY SUPPLEMENTAL FINANCIAL DISCLOSURE REGULATIONS ISSUED JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7301; 5 USC app (Ethics in Government Act of 1978); 26 USC 1043; EO 12674; EO 12731; 5 CFR 2634.103

CFR Citation: 5 CFR 2634; 5 CFR ch XXI et seq

Legal Deadline: None

Abstract: The supplemental executive agency financial disclosure regulations, once issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, supplement for each individual agency concerned the new OGE executive branch financial disclosure regulations, as codified in 5 CFR part 2634. The supplemental regulations, as they are issued in accordance with sections 201(d) and 301(a) of EO 12674, as modified by EO 12731, will set forth those agency-specific provisions as are needed under particular laws and regulations for certain agencies in order to complement the executive

branchwide financial disclosure provisions.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	
FDIC Employees (5 CFR Ch. XXII)		
Interim Final Rule	07/26/93	(58 FR 39625)

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: G. Sid Smith, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 523-5757

RIN: 3209–AA16

3978. EXECUTIVE AGENCY SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT REGULATIONS ISSUED JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7301; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731; 5 CFR 2635.105

CFR Citation: 5 CFR 2635; 5 CFR ch XXI et seq

Legal Deadline: None

Abstract: The supplemental executive agency standards of ethical conduct regulations, once issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, supplement for each individual agency concerned the new OGE executive branch standards of ethical conduct, as codified at 5 CFR part 2635. The supplemental regulations, as they are issued in accordance with section 201(a) and 301(a) of EO 12674, as modified by EO 12731, set forth those agency-specific provisions under applicable law and regulation, such as regulatory restrictions on holding certain financial interests and designation of departmental subunits, which are needed for certain agencies to round out the executive branchwide ethical standards for employees of particular departments and agencies.

Timetable:

Action	Date	FR Cite
5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/94	59 FR 4779
NASA Employees (5 CFR Ch. LIX)	09/28/94	59 FR 49335
FRTIB Employees (5 CFR Ch. LXXXIV)	10/06/94	59 FR 50816
Education Employees (5 CFR Ch. LIII)	01/30/95	60 FR 5816
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/95	60 FR 6390
USPS Employees (5 CFR Ch.LX)	03/27/95	60 FR 15700
Eximbank Employees (5 CFR Ch. LII)	04/07/95	60 FR 17625
FDIC Employees (5 CFR Ch.XXII)	04/25/95	60 FR 20171
Treasury Employees (5 CFR Ch.XXI)	05/05/95	60 FR 22249
FCA Employees (5 CFR Ch.XXXI)	06/12/95	60 FR 30778
FCSIC Employees (5 CFR Ch.XXX)	06/12/95	60 FR 30773
HUD Employees (5 CFR Ch.LXV)	06/30/95	60 FR 34420
OPIC Employees (5 CFR Ch.XXXIII)	07/21/95	60 FR 37555
USPS Employees (5CFR Ch. LX)	09/11/95	60 FR 47240
Final Action	12/00/97	
CFTC Employees (5 CFR Ch. XLI)		
Final Rule	10/12/93	(58 FR 52637)
DoD Employees (5 CFR Ch. XXVI)		
Interim Final Rule	09/10/93	(58 FR 47619)
FDIC Employees (5 CFR Ch. XXII)		
NPRM	07/12/94	(59 FR 35480)
FTC Employees (5 CFR Ch. XLVII)		
Interim Final Rule	05/27/93	(58 FR 30695)
IAF Employees (5 CFR Ch. LXIII)		
Final Rule	01/27/94	(59 FR 3771)
ICC Employees (5 CFR Ch. XL)		
Final Rule	08/06/93	(58 FR 41989)
NRC Employees (5 CFR Ch. XLVIII)		
Final Rule	04/13/94	(59 FR 17457)
OMB Employees (5 CFR Ch. LXXVII)		
Final Rule	03/07/95	(60 FR 12396)
OPIC Employees (5 CFR Ch. XXXIII)		
Interim Final Rule	06/17/93	(58 FR 33319)
PRC Employees (5 CFR Ch. XLVI)		
Final Rule	08/12/93	(58 FR 42839)
Treasury Employees (5 CFR Ch. XXI)		
NPRM	08/03/93	(58 FR 41193)

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stuart D. Rick, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 523-5757

RIN: 3209–AA15

3979. INTERPRETATION OF 18 USC 209, THE CONSTRAINT AGAINST PRIVATE SUPPLEMENTATION OF SALARIES OF EXECUTIVE BRANCH OFFICIALS AND EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2639 (New)

Legal Deadline: None

Abstract: Proposed regulation to interpret section 209 of title 18, U.S.C., prohibiting the private supplementation of the Government salary of executive branch officers and employees.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
NPRM Comment Period End	02/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen J. McCleary, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 523-5757

RIN: 3209–AA12

3980. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT

Priority: Other Significant

Legal Authority: 5 USC 504; 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2610

Legal Deadline: None

Abstract: This rulemaking corrected one typographical error in adopting as final the interim rule of the Office of Government Ethics (OGE), implementing for OGE the Equal Access to Justice Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/28/92	57 FR 33267
Final Action	07/28/95	60 FR 38665
Final Action Effective	09/26/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Janet K. Roell, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 523-5757

RIN: 3209–AA19

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Part XXXVI

Office of Management and Budget

Semiannual Regulatory Agenda

OFFICE OF MANAGEMENT AND BUDGET (OMB)

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III and 48 CFR Ch. 99

Federal Regulations; OMB Circulars, OFPP Policy Letters, and CASB Cost Accounting Standards Included in the Semiannual Agenda of Federal Activities

AGENCY: Office of Management and Budget.

ACTION: Publication of semiannual agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities for OMB Circulars, Office of Federal Procurement Policy (OFPP) Policy Letters, and Cost Accounting Standards Board (CASB) Cost Accounting Standards.

OMB Circulars and OFPP Policy Letters are published in accordance with OMB's internal procedures for implementing Executive Order No. 12866 (October 4, 1993; 58 FR 51735). OMB policy guidelines are issued under authority derived from several sources including: Subtitles I, II, and V of title 31, United States Code; Executive Order No. 11541; and other specific authority as cited. OMB Circulars and OFPP Policy Letters communicate guidance, instructions, and information of a continuing nature to executive branch agencies. As such, most OMB Circulars and OFPP Policy Letters are not regulations. Nonetheless, because these issuances are typically of public interest, they are generally published in the **Federal Register** in both proposed (for public comment) and final stages. For this reason, they are presented below in the standard format of "prerule," "proposed rule," and "final rule" stages.

CASB Cost Accounting Standards are issued under authority derived from 41 U.S.C. 422. Cost Accounting Standards are rules governing the measurement, assignment, and allocation of costs to contracts with the United States Government.

For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President's budget and legislative programs and directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact John B. Arthur, (202) 395-3060, at the above address.

Dated: October 11, 1995.

Office of Management and Budget.

John B. Arthur,

Associate Director for Administration.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3981	Audit Followup (Circular No. A-50)	0348-AB09
3982	Performance of Commercial Activities (Circular No. A-76)	0348-AA45
3983	Reporting Requirements in Connection With the Prevention, Control and Abatement of Environmental Pollution at Existing Federal Facilities (Circular No. A-106)	0348-AB32
3984	Cost Principles for Non-Profit Organizations (Circular No. A-122)	0348-AB01
3985	Cost Accounting Standards Administration	0348-AB25

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3986	Cost Principles for Educational Institutions (OMB Circular A-21)	0348-AB23
3987	A Guide for Writing and Administering Performance Statements of Work for Service Contracts (OFPP Pamphlet No. 4)	0348-AA34
3988	Proposed Rescission of OMB Circular No. A-88	0348-AB07
3989	Policies on Management of Federal Information Resources (Circular No. A-130)	0348-AA76
3990	Audits of Institutions of Higher Education and Other Non-Profit Institutions (Circular No. A-133)	0348-AB22
3991	Recognition and Pricing of Changing Capital Asset Values Resulting From Mergers and Business Combinations	0348-AB20
3992	Cost Accounting Standards Board Disclosure Statement Form (CASB DS-1)	0348-AB24
3993	Subcontracting Plans	0348-AB31

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3994	Cost Principles for State and Local Governments (Circular No. A-87)	0348-AA83
3995	Management Accountability and Control (Circular No. A-123)	0348-AB02

OMB

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3996	Audits of State and Local Governments (Circular No. A-128)	0348-AA90
3997	Proposed Rescission of OMB Circular No. A-73	0348-AB27
3998	Proposed Rescission of OMB Circular No. A-105	0348-AB29
3999	Subcontracting Plans for Companies Supplying Commercial Items	0348-AB30

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Proposed Rule Stage

3981. AUDIT FOLLOWUP (CIRCULAR NO. A-50)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC app 3, the Inspector General Act of 1978, as amended

CFR Citation: None

Legal Deadline: None

Abstract: Circular A-50 establishes policies and procedures to be used by Federal agencies in the review of audit reports. This action is part of the Reinventing Government effort.

Timetable:

Action	Date	FR Cite
Proposed Revision	04/00/96	
Final Revision	09/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Suzanne Murrin, Management Analyst, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-6911

RIN: 0348–AB09

3982. PERFORMANCE OF COMMERCIAL ACTIVITIES (CIRCULAR NO. A-76)

Priority: Other Significant

Legal Authority: 31 USC 503(b); 31 USC 1111; 41 USC 405(a), sec. 6(a), The OFPP Act, as amended; EO 8248, sec. 2, as amended; Reorganization Plan No. 2 of 1970; EO 11541, sec. 1, as amended; EO 12615, sec. 2

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-76, last revised in August 1983, sets forth the policy of acquiring commercial products and services from the private sector. The Circular's Supplemental Handbook provides guidance on the development of performance work statements and on comparing the cost of Government performance with contractor performance. The Supplemental Handbook to Circular A-76 is currently under review to incorporate changes including those recommended by the President's Council for Management Improvement. This revision is part of the Reinventing Government effort.

Timetable:

Action	Date	FR Cite
Proposed Revision	10/00/95	
Final Revision	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David C. Childs, Policy Analyst, Office of Management and Budget, Budget Review Division, Washington, DC 20503
Phone: 202 395-6104
Fax: 202 395-7230

RIN: 0348–AA45

3983. • REPORTING REQUIREMENTS IN CONNECTION WITH THE PREVENTION, CONTROL AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT EXISTING FEDERAL FACILITIES (CIRCULAR NO. A-106)

Priority: Other

Legal Authority: 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: This circular provided procedures to be followed by Federal agencies in developing reports and plans pertaining to the control of environmental pollution from existing Federal facilities. This circular will be rescinded and, for ongoing data requirements, agencies will report under E.O. 12088, "Federal Compliance With Pollution Control Standards" using their own in-house data systems. This action is part of the Reinventing Government effort.

Timetable:

Action	Date	FR Cite
Notice of Proposed Rescission	10/00/95	
Rescission	01/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kevin Neyland, Office of Management and Budget, Natural Resources Division, Washington, DC 20503
Phone: 202 395-3703

RIN: 0348–AB32

3984. COST PRINCIPLES FOR NON-PROFIT ORGANIZATIONS (CIRCULAR NO. A-122)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 3111

CFR Citation: None

Legal Deadline: None

Abstract: This circular establishes cost principles for non-profit organizations. The 1994 proposed revision on interest allowability will be finalized at the same time as a proposed revision is published on additional unallowable costs and changes to the equipment capitalization threshold.

Timetable:

Action	Date	FR Cite
Proposed Revision	09/26/94	59 FR 49090
Final Revision	10/06/95	60 FR 52516
Second Proposed Revision	10/06/95	60 FR 52522

OMB — Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Hoogeveen App, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993

RIN: 0348–AB01

3985. COST ACCOUNTING STANDARDS ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 422

CFR Citation: 48 CFR 99

Legal Deadline: None

Abstract: The Cost Accounting Standards Board is proposing to revise its rules concerning cost accounting practice changes.

Timetable:

Action	Date	FR Cite
ANPRM	04/25/95	60 FR 20252
ANPRM Comment Period End	07/10/95	60 FR 20252
NPRM	11/00/95	
NPRM Comment Period End	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Rudolph Schuhbauer, Project Director, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-3254

RIN: 0348–AB25

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Final Rule Stage

3986. COST PRINCIPLES FOR EDUCATIONAL INSTITUTIONS (OMB CIRCULAR A-21)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: This Circular establishes cost accounting principles and specifies the allowability of costs charged to federally-funded sponsored agreements. The proposal makes certain standards of the Cost Accounting Standards Board applicable to awards made to institutions, and may amend other provisions of the Circular.

Timetable:

Action	Date	FR Cite
Two Proposed Revisions	02/06/95	60 FR 7104
Final Revision	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Hoogeveen App, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993

RIN: 0348–AB23

3987. A GUIDE FOR WRITING AND ADMINISTERING PERFORMANCE STATEMENTS OF WORK FOR SERVICE CONTRACTS (OFPP PAMPHLET NO. 4)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 405(a)

CFR Citation: None

Legal Deadline: None

Abstract: The OFPP performance-based service contracting team is developing a best practices/lessons learned guidebook which will be done by Nov. 15, 1995. At that time, OFPP Pamphlet No. 4 will be rescinded.

Timetable:

Action	Date	FR Cite
To Be Withdrawn	11/15/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Linda Mesaros, Management Analyst, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-4821

RIN: 0348–AA34

3988. PROPOSED RESCISSION OF OMB CIRCULAR NO. A-88

Priority: Other

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: This Circular provides policies for: (a) establishing indirect cost rates; (b) auditing; (c) correcting systems deficiencies; and (d) resolving questioned cost. This Circular will be rescinded.

Timetable:

Action	Date	FR Cite
Notice of Proposed Rescission	02/06/95	60 FR 7105
Rescission	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Hoogeveen App, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993

RIN: 0348–AB07

3989. POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (CIRCULAR NO. A-130)

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 3504; 5 USC 552a; 40 USC 759; 40 USC 487; EO 12046; EO 12472

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-130, "Management of Federal Information Resources," issued December 12, 1985, establishes policy for the management of Federal information resources, and provides certain procedural and analytic guidelines for implementing specific aspects of these policies. OMB

OMB — Final Rule Stage

is reviewing the Circular for consistency with the Computer Security Act of 1987 (PL 100-235) and the Computer Matching and Privacy Protection Act of 1988. On June 25, 1993, OMB completed the first of three revisions to the Circular. On July 15, 1994, OMB completed the second of three revisions to the Circular. On April 3, 1995, OMB proposed changes to the computer security Appendix of the Circular for agency and public comment. This revision is part of the Reinventing Government effort.

Timetable:

Action	Date	FR Cite
Begin Review	01/04/88	
Advance Proposal of Changes	01/04/89	54 FR 214
Comment Period End	04/10/89	
Second Advance Proposal To Replace Circular	06/15/89	54 FR 25554
Third Advance Proposal To Replace Circular	03/04/91	56 FR 9026
Proposal To Replace Circular	04/29/92	57 FR 18296
First Phase Revision Final	06/25/93	58 FR 36068
Second Phase Revision Proposed	09/10/93	58 FR 47790
Second Phase Revision Final	07/25/94	59 FR 37905
Third Phase Revision Proposed	04/03/95	60 FR 16970
Third Phase Revision Final	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter N. Weiss, Senior Policy Analyst, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503
Phone: 202 395-4814

RIN: 0348–AA76

3990. AUDITS OF INSTITUTIONS OF HIGHER EDUCATION AND OTHER NON-PROFIT INSTITUTIONS (CIRCULAR NO. A-133)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: This circular establishes requirements for audits of institutions of higher education and other nonprofit institutions.

Timetable:

Action	Date	FR Cite
Proposed Revision	03/17/95	60 FR 14594
Final Revision	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheila Conley, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993

RIN: 0348–AB22

3991. RECOGNITION AND PRICING OF CHANGING CAPITAL ASSET VALUES RESULTING FROM MERGERS AND BUSINESS COMBINATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 422

CFR Citation: 48 CFR 9900

Legal Deadline: None

Abstract: This rule deals with the measurement and assignment of the costs resulting from the recognition of changing capital asset values established subsequent to mergers and business combinations by Government contractors.

Timetable:

Action	Date	FR Cite
ANPRM	05/24/94	59 FR 26774
ANPRM Comment Period End	07/25/94	59 FR 26774
NPRM	03/08/95	60 FR 12725
NPRM Comment Period End	05/08/95	60 FR 12725
Final Action	11/00/95	
Final Action Effective	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rein Abel, Director of Research, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-3254

RIN: 0348–AB20

3992. COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT FORM (CASB DS-1)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 422

CFR Citation: 48 CFR 99

Legal Deadline: None

Abstract: The Cost Accounting Standards Board (CASB), proposes to revise its Disclosure Statement Form (CASB DS-1).

Timetable:

Action	Date	FR Cite
ANPRM	04/04/94	59 FR 15695
ANPRM Comment Period End	06/20/94	59 FR 15695
NPRM	11/29/94	59 FR 60948
NPRM Comment Period End	02/13/95	59 FR 60948
Final Action	11/00/95	
Final Action Effective	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Rein Abel, Director of Research, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-3254

RIN: 0348–AB24

3993. • SUBCONTRACTING PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 637(d); PL 103-355, sec 1091; 41 USC 405

CFR Citation: 48 CFR 19.7

Legal Deadline: None

Abstract: OFPP proposes to issue a draft Policy Letter that covers subcontracting plans. This Policy Letter supersedes and cancels OFPP Policy Letter 80-1, 80-2, Supplement No. 1 to 80-2, and 80-4.

Timetable:

Action	Date	FR Cite
Proposed Policy Letter	09/26/95	60 FR 49644
Final Policy Letter	02/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

OMB

Final Rule Stage

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Linda Mesaros, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-4821
Fax: 202 395-5105

RIN: 0348–AB31

OFFICE OF MANAGEMENT AND BUDGET (OMB)

Completed Actions

3994. COST PRINCIPLES FOR STATE AND LOCAL GOVERNMENTS (CIRCULAR NO. A-87)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: This review updated the Circular and is part of the Reinventing Government effort.

Timetable:

Action	Date	FR Cite
Second Proposed Revision	08/19/93	58 FR 44212
Final Action	05/17/95	60 FR 26484
Final Action Effective	09/01/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Gilbert Tran, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993

RIN: 0348–AA83

3995. MANAGEMENT ACCOUNTABILITY AND CONTROL (CIRCULAR NO. A-123)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3512, the Federal Manager's Financial Integrity Act

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular A-123 implements the Federal Managers' Financial Integrity Act (FMFIA) and establishes policies and procedures for internal control reviews. This revision was part of the Reinventing Government effort.

Timetable:

Action	Date	FR Cite
Proposed Revision	03/13/95	60 FR 13484
Final Action	06/29/95	60 FR 33876

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Cindy Salavantis, Policy Analyst, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-6911

RIN: 0348–AB02

3996. AUDITS OF STATE AND LOCAL GOVERNMENTS (CIRCULAR NO. A-128)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7501 et seq, Single Audit Act; 31 USC 503 et seq, CFOs Act; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: This Circular establishes requirements for audits of State and local governments.

Timetable:

Action	Date	FR Cite
Withdrawn	09/19/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheila Conley, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993

RIN: 0348–AA90

3997. PROPOSED RESCISSION OF OMB CIRCULAR NO. A-73

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC app 3, the Inspector General Act of 1978, as amended

CFR Citation: None

Legal Deadline: None

Abstract: Rescinded OMB Circular A-73, "Audits of Federal Operations and Programs" on May 22, 1995. Circular was unnecessary because it articulated what are now common audit practices throughout the Federal Government. This action was part of the Reinventing Government effort.

Timetable:

Action	Date	FR Cite
Notice of Proposed Rescission	03/07/95	60 FR 12581
Final Rescission	05/22/95	
Final Action	05/22/95	60 FR 12581
Final Action Effective	05/22/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzanne Murrin, Management Analyst, Office of Management and Budget, 725 17th Street NW., Room 6025, Washington, DC 20503
Phone: 202 395-6911

RIN: 0348–AB27

3998. PROPOSED RESCISSION OF OMB CIRCULAR NO. A-105

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: OMB has rescinded Circular A-105 "Standard Federal Regions". The circular was issued in 1974 to standardize the Federal Government's regional headquarters structure in ten regions with corresponding regional cities. The Circular was rescinded on June 8, 1995. This action is part of the Reinventing Government effort.

Timetable:

Action	Date	FR Cite
Proposed Rescission	03/22/95	60 FR 15171
Final Action	06/08/95	60 FR 15171

OMB

Completed Actions

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Steve Mertens, Program Examiner, Office of Management and Budget, Federal Services Branch, Transportation, Commerce, Justice and Services Division
Phone: 202 395-5090

RIN: 0348–AB29

3999. • SUBCONTRACTING PLANS FOR COMPANIES SUPPLYING COMMERCIAL ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 637(d); PL 103-355, sec 1091; 41 USC 405

CFR Citation: 48 CFR 19.7

Legal Deadline: None

Abstract: OFPP proposes to issue a final Policy Letter that establishes policies on the requirement for subcontracting plans for companies supplying commercial items. This Policy Letter reduces the burden of government-unique requirement on contractors that supply commercial items.

Timetable:

Action	Date	FR Cite
Proposed Policy Letter	02/07/95	60 FR 7229
Final Policy Letter	09/26/95	60 FR 49642
Final Policy Letter Effective	10/26/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Linda Mesaros, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-4821
Fax: 202 395-5105

RIN: 0348–AB30

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Part XXXVII

Office of Personnel Management

Semiannual Regulatory Agenda

OFFICE OF PERSONNEL MANAGEMENT (OPM)

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Personnel Management (OPM) regulations are scheduled for development or review from October 1, 1995, through September 30, 1996. This agenda carries out OPM's responsibilities to publish a semiannual agenda under E.O. 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. chapter 6). This publication in the **Federal Register** does not impose a binding obligation on the Office of Personnel Management about any specific item on the agenda. Additional regulatory action is not precluded.

FOR FURTHER INFORMATION CONTACT: Robert T. Coco, (202) 606-1822.

SUPPLEMENTARY INFORMATION: For this edition of OPM's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

U.S. Office of Personnel Management.

James B. King,

Director.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4000	Availability of Official Information	3206-AG92
4001	Career and Career-Conditional Appointment Under Special Authorities	3206-AG90
4002	Performance Appraisal for the Senior Executive Service	3206-AG91

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4003	Other Than Full-time Employment (Part-time, Seasonal, and Intermittent)	3206-AG89
4004	Summer Employment	3206-AG21
4005	Agency Relationships With Organizations Representing Federal Employees and Other Organizations	3206-AG38
4006	Promotion and Internal Placement; Accelerated Qualifications	3206-AG19
4007	Executive, Management, and Supervisory Development	3206-AF96
4008	Restoration to Duty From Military Service or Compensable Injury	3206-AG02
4009	Repayment of Student Loans	3206-AE51
4010	Presidential Management Intern Program	3206-AG17
4011	Training	3206-AF99
4012	Pay Administration: Miscellaneous Changes	3206-AH11
4013	Pay Under the General Schedule: Interim Geographic Adjustments	3206-AH09
4014	Prevailing Rate Systems: Clarification of Responsibilities of Participating Organizations	3206-AG99
4015	Prevailing Rate Systems: Redefinition of Certain Federal Wage System Wage Areas	3206-AH00
4016	Prevailing Rate System: Redefinition of the Ocean, NJ, Nonappropriated Fund Wage Area	3206-AH01
4017	Prevailing Rate Systems: Redefinition of the Philadelphia, PA, Nonappropriated Fund Wage Area	3206-AH02
4018	Prevailing Rate Systems: Redefinition of the Guaynabo-San Juan, Puerto Rico, Nonappropriated Fund Wage Area	3206-AH03
4019	Prevailing Rate Systems: Abolishment of the Marin-Sonoma, CA, Nonappropriated Fund Wage Area	3206-AH04
4020	Prevailing Rate Systems: Abolishment of Certain Special Wage Schedules for Printing Positions	3206-AH05
4021	Severance Pay: Miscellaneous	3206-AH12
4022	Lump-Sum Payments for Annual Leave	3206-AF38
4023	Pay Administration Under the FLSA	3206-AG70
4024	Cost-of-Living Allowance in Nonforeign Areas; Winter 1995 Surveys	3206-AH06
4025	Cost-of-Living Allowance in Nonforeign Areas: Winter 1996 Surveys	3206-AH07
4026	Cost-of-Living Allowance in Nonforeign Areas: Summer 1994 Surveys	3206-AH08
4027	Separate Maintenance Allowance for Duty at Johnston Island	3206-AG72
4028	Suitability—Suitability Disqualification/Rating Actions	3206-AC19
4029	Investigations	3206-AB92
4030	Retirement; CSRS and FERS Amendments Relating to Health Care Professionals	3206-AG57
4031	Retirement; Credit for Military Service	3206-AG58
4032	Retirement; Determinations of Marital Status for Survivor Annuities	3206-AG60
4033	Retirement; Court Orders Awarding Survivor Annuities; Correcting or Supplementing the First Order Dividing Marital Property	3206-AG28
4034	Retirement; FERS Elections of Coverage	3206-AG96

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Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4035	Federal Employees Group Life Insurance Program: Miscellaneous Changes	3206-AG63
4036	Federal Employees Health Benefits Program (FEHBP); Opportunities To Enroll and Change Enrollment	3206-AG32
4037	Prevailing Rate Systems; Survey Responsibility Changes	3206-AG98

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4038	Federal Employees Health Benefits Acquisition Regulations: Filing Claims; Addition of Contract Clause	3206-AG30
4039	Claims Collections Standards; Debt Collection Act of 1982; Salary Offset	3206-AG64
4040	Personnel Records	3206-AF85
4041	Time-In-Grade Restrictions	3206-AG06
4042	Use of Private Sector Temporaries	3206-AE80
4043	Amendment to Selective Service Registration Requirements	3206-AD68
4044	Career and Career-Conditional Employment	3206-AG22
4045	Career and Career Conditional Employment	3206-AG81
4046	Job Listings; Full Consideration of Displaced Defense Employees	3206-AF36
4047	Interagency Placement Program	3206-AG11
4048	Temporary Assignments of Employees Between Federal Agencies, State, Local, and Indian Tribal Governments, Institutions of Higher Learning, and Other Eligible Organizations	3206-AG61
4049	Merit Promotion Placement	3206-AG54
4050	Reduction in Force; Retreat Rights	3206-AG77
4051	Supplemental Standards of Ethical Conduct for Employees of the Office of Personnel Management	3206-AG87
4052	Prevailing Rate Systems; Abolishment of Marquette, MI Nonappropriated Fund Wage Area	3206-AG82
4053	Prevailing Rate System; Technical Correction and Clarification	3206-AG83
4054	Prevailing Rate Systems; Redefinition of Guaynabo-San Juan, PR, Nonappropriated Fund Wage Area	3206-AG93
4055	Voluntary Separation Incentive Repayment Waivers	3206-AG20
4056	Pay Administration; Availability Pay for Criminal Investigators	3206-AG47
4057	Severance Pay; Panama Canal Commission Employees	3206-AF89
4058	Pay Administration Under the FLSA; Compliance	3206-AA40
4059	Family and Medical Leave **(Reg Plan Seq. No. 142)**	3206-AH10
4060	Personnel Security and Related Programs	3206-AC21
4061	Political Activity—Federal Employees Residing in Designated Localities	3206-AF78
4062	Retirement Coverage for D.C. Financial Control Board Employees	3206-AG78
4063	Retirement; Alternative Form of Annuity	3206-AG16
4064	Retirement; Debt Collection	3206-AE72
4065	Retirement; FERS Basic Annuity	3206-AE73
4066	Federal Employees' Group Life Insurance Program; Merging of Parts of CFR Pertaining to Life Insurance (FEGLI)	3206-AF32
4067	FEGLI; Assignment of Life Insurance Coverage	3206-AG68
4068	FEGLIP: Living Benefits	3206-AG79
4069	Federal Employees Health Benefits Program (FEHBP); Limitation on Physician Charges and FEHBP Payments; Omnibus Budget Reconciliation Act (OBRA) of 1993 Provision	3206-AG31
4070	Federal Employees Health Benefits Program; Payment of Premiums for Periods of Leave Without Pay or Insufficient Pay	3206-AG66
4071	Federal Employees Health Benefits Program: HMO Plan Applications	3206-AG97
4072	Solicitation of Federal Civilian and Uniformed Service Personnel for Contributions for Private Voluntary Organizations	3206-AG50
4073	Federal Employees Health Benefits Program: Acquisition Regulation; Truth in Negotiation Act and Related Changes	3206-AH14
4074	FEHBP; Interest Assessment on Audit Findings	3206-AG35

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

OPM

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4075	Performance Management Reform	3206-AF57
4076	Classification Simplification	3206-AG27
4077	Federal Employees Health Benefits Program (FEHBP); Preemption	3206-AF70
4078	Debarments, Civil Monetary Penalties, and Assessments Imposed Against Providers	3206-AD76
4079	Federal Employees Health Benefits (FEHBP) Acquisition Regulation; Preemption of Taxes	3206-AF95

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4080	Temporary Schedule C Positions	3206-AF56
4081	Employment of Individual Experts and Consultants	3206-AF37
4082	Career and Career Conditional Employment	3206-AG55
4083	Bringing Nonpermanent Excepted Positions Into the Competitive Service	3206-AG62
4084	Performance Management Flexibility	3206-AG23
4085	Retirement; Child Abuse Accountability Act Implementation	3206-AG42
4086	Incentive Awards; Pay and Leave Administration	3206-AG15
4087	Pay Under the General Schedule; Locality Pay Areas for 1997	3206-AG88
4088	Prevailing Rate Systems; New York, New York, FWS Wage Area	3206-AG26
4089	Prevailing Rate Systems; Change of Lead Agency Responsibility for the New York, NY, Wage Area for Pay-Setting Purposes	3206-AG52
4090	Prevailing Rate Systems; Abolishment of New York, NY, Special Wage Schedules for Printing Positions	3206-AG53
4091	Prevailing Rate Systems; Birmingham, Alabama, FWS Wage Area, Change of Lead Agency Responsibility	3206-AG56
4092	Technical and Conforming Corrections and Clarifications to Prevailing-Rate Pay Administration Rules	3206-AG69
4093	Prevailing Rate Systems; Abolishment of Clinton, NY, Nonappropriated Fund Wage Area	3206-AG74
4094	Prevailing Rate Systems Abolishment of Atlanta, GA Special Wage Schedules for Printing Positions	3206-AG76
4095	Recruitment and Relocation Bonuses and Retention Allowances	3206-AF86
4096	Cost-of-Living Allowances (Nonforeign Areas)	3206-AG71
4097	Cost-of-Living Allowances Nonforeign Areas (591)	3206-AG73
4098	Absence and Leave; Use of Restored Annual Leave	3206-AG45
4099	Absence and Leave; SES Annual Leave Accumulation	3206-AG48
4100	Absence and Leave; Sick Leave for Adoption	3206-AG43
4101	Agency Administrative Grievance System	3206-AG37
4102	Retirement; CSRS and FERS; Determinations of Marital Status for Survivor Annuities	3206-AG29
4103	Retirement; Disability Retirement	3206-AF24
4104	Retirement; Court Orders Awarding Survivor Annuities; Correcting or Supplementing the First Order Dividing Marital Property	3206-AG59
4105	Retirement, FERS; Coverage	3206-AF92
4106	Federal Employees Group Life Insurance Program; Living Benefits	3206-AG65
4107	Federal Employees Health Benefits Program; Filing Claims; Disputed Claims Provisions	3206-AF18
4108	Federal Employees Health Benefits Program; Procedures for Direct Pay of Premiums	3206-AG33
4109	Federal Employees Health Program	3206-AG67
4110	Governmentwide Debarment and Suspension (Nonprocurement)	3206-AG51
4111	Processing Garnishment Orders for Child Support and/or Alimony	3206-AG84

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Prerule Stage

4000. • AVAILABILITY OF OFFICIAL INFORMATION

Priority: Other

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 5 CFR 294

Legal Deadline: None

Abstract: The proposed rulemaking will make minor changes to Subpart A of 5 CFR 294, Availability of Official Information Act. The rulemaking will provide additional information on the definition of terms used in the search and review process, update office addressees, and clarify that any written request that meets the specified

OPM

Prerule Stage

marking and content requirements will be recognized as an official FOIA request. These changes are designed to benefit the public by providing updated information on where to direct FOIA requests, and improve the wording of the regulation to fully and accurately meet the provisions of the FOIA. There will be no significant change to the existing operational procedures in place at OPM.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie Crawford, Ofc of Information Technology, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
Phone: 202 418-3200

RIN: 3206–AG92

4001. • CAREER AND CAREER-CONDITIONAL APPOINTMENT UNDER SPECIAL AUTHORITIES

Priority: Other

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3304(d); 5 USC 8151; 5 USC 11219; EO 10577; EO 12034; EO 12721; 22 USC 2506; 22 USC 3651; 22 USC 3652

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: OPM plans to revise a group of special appointment authorities to clarify requirements and eliminate obsolete provisions.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Edwards, Employment Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
Phone: 202 606-0830

RIN: 3206–AG90

4002. • PERFORMANCE APPRAISAL FOR THE SENIOR EXECUTIVE SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 4315

CFR Citation: 5 CFR 430(c)

Legal Deadline: None

Abstract: Proposed revision of SES regulations in 5 CFR 430, Subpart C, will focus on: 1) changes which increase agency flexibility to develop SES appraisal systems tailored to their needs; 2) elimination of language which merely repeats statutory provisions; and, 3) simplification of agency submission requirements for approval of their SES appraisal systems.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: William C. Collins, Office of Executive Resources, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2246

RIN: 3206–AG91

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Proposed Rule Stage

4003. • OTHER THAN FULL-TIME EMPLOYMENT (PART-TIME, SEASONAL, AND INTERMITTENT)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 3401; 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 110

Legal Deadline: None

Abstract: Proposal would give agencies and employees more flexibility by clarifying agency authority to schedule part-time employees on a pay period rather than a weekly basis. The proposal would also define job sharing, a form of part-time employment and would eliminate duplicative material. In addition, in keeping with the NPR initiative to eliminate duplicative appointing authorities, the proposal would combine the on-call and seasonal authorities into a single seasonal authority and would expand that authority to give agencies more flexibility to handle reasonably predictable workload fluctuations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Raleigh Neville, Ellen Russell, Employment Service, Office of Personnel Management, 1900 E St NW., Washington, DC 20415-0001
Phone: 202 606-0830
Fax: 202 606-2329

RIN: 3206–AG89

4004. SUMMER EMPLOYMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 338.202(b)(2); 5 CFR 213.3101(c); 5 CFR 213.3101(e); 5 CFR 213.3101(f); 5 CFR 338.2029(e)

Legal Deadline: None

Abstract: The Office of Personnel Management abolished the Federal Personnel Manual (FPM) December 31, 1993. In support of the Reinventing Government effort, OPM will revise or eliminate text in the CFR that refers to summer employment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elnora Wright, Employment Service, Staffing Management Service Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-1248

RIN: 3206–AG21

4005. AGENCY RELATIONSHIPS WITH ORGANIZATIONS REPRESENTING FEDERAL EMPLOYEES AND OTHER ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1104; 5 USC 71; 5 USC 7135; 5 USC 7301; EO 11491

CFR Citation: 5 CFR 251

Legal Deadline: None

Abstract: Regulations governing agency relations with managerial, supervisory, professional, and other organizations that are not labor organizations. The regulations are being issued as part of the implementation of the FPM sunset. The regulations incorporate certain provisions that existed in former FPM chapters 251 and 252.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51371
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hal Fibish, Labor-Management Relations Division, Office of Personnel Management, Human Resources Systems Service, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1170

RIN: 3206–AG38

4006. PROMOTION AND INTERNAL PLACEMENT; ACCELERATED QUALIFICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 3329; EO 10577

CFR Citation: 5 CFR 316; 5 CFR 335; 5 CFR 338

Legal Deadline: None

Abstract: The President's National Performance Review (NPR) has made recommendations for a flexible and responsive Federal hiring system. Consistent with these recommendations, OPM plans to give agencies greater flexibility to design internal selection systems consistent with merit principles and other applicable statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Edwards, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AG19

4007. EXECUTIVE, MANAGEMENT, AND SUPERVISORY DEVELOPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3397; 5 USC 4100

CFR Citation: 5 CFR 317; 5 CFR 412

Legal Deadline: None

Abstract: Changes in the regulation to: (1) incorporate revision to the Government Employees Training Act (GETA) that is contained in the Federal Workforce Restructuring Act of 1994; and (2) to incorporate any requirements in Federal Personnel Manual (FPM) Chapter 412 that need to be continued following abolishment of the Chapter under FPM sunset.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Constance Maravell, Office of Executive Resources, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1832

RIN: 3206–AF96

4008. RESTORATION TO DUTY FROM MILITARY SERVICE OR COMPENSABLE INJURY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8151; 38 USC 4301

CFR Citation: 5 CFR 353

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim regulations on the restoration rights of Federal employees who leave their employment to perform duty with the uniformed services. These regulations complement the Uniformed Services Employment and Reemployment Rights Act of 1994 now codified in Chapter 43 of Title 38, United States Code. The new law clarifies, expands, and strengthens the rights and benefits of applicants and employees, alters the appeals procedures of Federal employees and provides Department of Labor assistance to Federal employees in assisting their reemployment rights. The law also required OPM to place certain returning employees when their former agency's determine that it is "impossible or unreasonable" to reemploy them. Although the sections have been renumbered and in some cases renamed, there is no substantive change in the regulations governing the restoration rights of employees who sustain compensable injuries.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Raleigh Neville, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AG02

4009. REPAYMENT OF STUDENT LOANS

Priority: Routine and Frequent

Legal Authority: 5 USC 5379

CFR Citation: 5 CFR 537

Legal Deadline: None

Abstract: OPM plans to issue proposed and final regulations that will permit agencies to repay all or part of an outstanding student loan in order to recruit or retain highly qualified professional technical or administrative personnel. This is a provision contained in the National Defense Authorization Act for Fiscal Year 1991, Pub. L. 101-510. Agencies may pay up to a maximum of $6,000 per employee in a calendar year, or $40,000 overall. In return, the employee must agree to remain with the agency for at least 3 years.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellie Miller, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AE51

4010. PRESIDENTIAL MANAGEMENT INTERN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: EO 12364

CFR Citation: 5 CFR 362

Legal Deadline: None

Abstract: Federal Personnel Manual (FPM) chapter 362 provides policy and guidance to agencies on the Presidential Management Intern Program. This Chapter is provisionally retained under the FPM Sunset until December 31, 1994. We are developing new regulations for the program to maintain Government-wide uniformity in certain program policies and procedures. Topics that will be covered under new regulations include eligibility, selection, appointment, promotion, pay and benefits, extensions, conversion, termination and resignation. Without regulations, agencies will have only the general guidance from the Executive order to assist them. Other procedural guidance from FPM Chapter 362 will be issued in an information handbook or manual.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/95	60 FR 11017
Interim Final Rule Effective Date	03/01/95	60 FR 11017
NPRM	10/17/95	60 FR 53716
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Smith, Office of Executive Resources, Office of Personnel Management, 1900 E St. NW 1400WB, Washington, DC 20415-0001
Phone: 703 802-0322

RIN: 3206–AG17

4011. TRAINING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 41

CFR Citation: 5 CFR 410

Legal Deadline: None

Abstract: Changes in the regulations to: (1) incorporate revisions to the Government Employees Training Act (GETA) contained in the Federal Workforce Restructuring Act of 1994; (2) incorporate any requirements in Federal Personnel Manual (FPM) chapter 410 that need to be continued following abolishment of the chapter under FPM sunset; and (3) incorporate authority granted to agency heads in FPM Letter 410-34 (provisionally retained) to designate Presidential appointees, other than agency heads, for training. Other procedural guidance from chapter 410 will be issued in an information handbook or manual.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Lombard, Office of Labor Relations & Workforce Perf., Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-0001
Phone: 202 606-2431
Fax: 202 606-0824
Email: J. Lombard@opm.gov

RIN: 3206–AF99

4012. • PAY ADMINISTRATION: MISCELLANEOUS CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5304; 5 USC 5365; 5 USC 5753; 5 USC 5527; 5 USC 5596; 5 USC 5941; 5 USC 5754

CFR Citation: 5 CFR 531; 5 CFR 536; 5 CFR 550; 5 CFR 551; 5 CFR 591

Legal Deadline: None

Abstract: This proposed regulation amends 5 CFR 531, 536, 550, 551, 575, and 591 with miscellaneous technical and conforming changes.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bryce Baker, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1413
Fax: 202 606-0824

RIN: 3206–AH11

4013. • PAY UNDER THE GENERAL SCHEDULE: INTERIM GEOGRAPHIC ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: Federal Employees Pay Comparability Act of 1990; PL 101-509

CFR Citation: 5 CFR 531(a)

Legal Deadline: None

Abstract: The proposed regulation revises the interim geographic adjustment (IGA) regulations under 5 CFR 531, Subpart A, by removing the Los Angeles-Riverside-Orange County, CA CMSA and the New York-Northern New Jersey-Long Island, NY CMSA from the list of IGA areas. The locality pay percentages in these areas now exceeds the 8 percent IGA rate.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeanne Jacobson, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AH09

4014. • PREVAILING RATE SYSTEMS: CLARIFICATION OF RESPONSIBILITIES OF PARTICIPATING ORGANIZATIONS

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The proposed regulation is to clarify responsibilities of Federal agencies for providing certain technical and survey sampling services necessary to conduct Federal Wage System local wage surveys.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Allen, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AG99

4015. • PREVAILING RATE SYSTEMS: REDEFINITION OF CERTAIN FEDERAL WAGE SYSTEM WAGE AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans to redefine several Federal Wage System wage areas for pay-setting purposes. OPM is engaged in an ongoing project to review the geographic definitions of selected wage areas. Based on recent review of wage and survey area boundaries, this regulation proposes redefining and/or renaming ten (10) wage areas.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Allen, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AH00

4016. • PREVAILING RATE SYSTEM: REDEFINITION OF THE OCEAN, NJ, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The regulation redefines the Ocean, NJ, nonappropriated fund (NAF) wage area. This change is made necessary by declining NAF Federal Wage System employment in the wage area.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Steet NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AH01

4017. • PREVAILING RATE SYSTEMS: REDEFINITION OF THE PHILADELPHIA, PA, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The proposed regulation redefines the Philadelphia, PA. nonappropriated fund (NAF) wage area. This change is made necessary by the declining NAF Federal Wage system employment in the wage area.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AH02

4018. • PREVAILING RATE SYSTEMS: REDEFINITION OF THE GUAYNABO-SAN JUAN, PUERTO RICO, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: This proposed regulation redefines the Guaynabo-San Juan, Puerto Rico, nonappropriated fund (NAF) wage area. Salinas Municipality which has Army and Air Force Exchange Service NAF employees, would be added to this wage area.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AH03

4019. • PREVAILING RATE SYSTEMS: ABOLISHMENT OF THE MARIN-SONOMA, CA, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: This proposed regulation redefines the Marin-Sonoma, CA, nonappropriated fund (NAF) wage area. This change is made necessary by declining NAF Federal Wage System employment in the wage area.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AH04

4020. • PREVAILING RATE SYSTEMS: ABOLISHMENT OF CERTAIN SPECIAL WAGE SCHEDULES FOR PRINTING POSITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: This proposed regulation abolishes the Federal Wage System special wage schedules for printing positions in the Los Angeles, San Diego, San Francisco, and Seattle-Everett-Tacoma wage areas.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Published in the Federal Register as RIN 3206-AG53.

Agency Contact: Paul Shields, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AH05

4021. • SEVERANCE PAY: MISCELLANEOUS

Priority: Routine and Frequent

Legal Authority: 5 USC 5595

CFR Citation: 5 CFR 550(g)

Legal Deadline: None

Abstract: The proposed regulation makes changes in the severance pay regulations to clarify policy and make miscellaneous technical corrections.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Derby, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1413
Fax: 202 606-0824

RIN: 3206–AH12

4022. LUMP-SUM PAYMENTS FOR ANNUAL LEAVE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5553

CFR Citation: 5 CFR 550(l)

Legal Deadline: None

Abstract: The Technical and Miscellaneous Civil Service Amendments Act of 1992 (Pub. L. 102-378, October 2, 1992) created a new provision, 5 U.S.C. 5553, to provide OPM with regulatory authority for administering lump-sum payments for annual leave.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	04/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: JoAnn Perrini, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0824

RIN: 3206–AF38

4023. PAY ADMINISTRATION UNDER THE FLSA

Priority: Routine and Frequent

Legal Authority: 29 USC 204(f)

CFR Citation: 5 CFR 551

Legal Deadline: None

Abstract: Proposed revisions to regulations would delete nonexistent sections under Subpart B, update antiquated references, simplify regulatory language, and add special exemption categories stemming from court decisions, such as computer specialists under professional exemption criteria.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey D. Miller, Ofc of Mgmt Systems & Effectiveness, Program Development Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2530
TDD: 202 606-2663

RIN: 3206–AG70

4024. • COST-OF-LIVING ALLOWANCE IN NONFOREIGN AREAS; WINTER 1995 SURVEYS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: Proposed and final rules to implement the results of the February 1995 surveys of living costs in Alaska. These surveys are used to adjust cost-of-living allowances paid to Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Hearne, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2838
Fax: 202 606-4264

RIN: 3206–AH06

4025. • COST-OF-LIVING ALLOWANCE IN NONFOREIGN AREAS: WINTER 1996 SURVEYS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: Proposed and final rules to implement the results of the February 1996 surveys of living costs in the nonforeign areas: Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands. These surveys are used to adjust cost-of-living allowances paid to Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Hearne, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2838
Fax: 202 606-4264

RIN: 3206–AH07

4026. • COST-OF-LIVING ALLOWANCE IN NONFOREIGN AREAS: SUMMER 1994 SURVEYS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: Proposed and final rules to implement the results of the Summer, 1996 surveys of living costs in certain nonforeign areas: Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands. These surveys are used to adjust cost-of-living allowances paid to Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Hearne, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2838
Fax: 202 606-4264

RIN: 3206–AH08

4027. SEPARATE MAINTENANCE ALLOWANCE FOR DUTY AT JOHNSTON ISLAND

Priority: Routine and Frequent

Legal Authority: 5 USC 5942a

CFR Citation: 5 CFR 591(d)

Legal Deadline: None

Abstract: The proposed regulations would make the non-foreign separate maintenance allowance (SMA) rates on Johnston Island (a nonforeign area) the same as the SMA rates established by the State Department standardized regulations for foreign areas.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger Knadle, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858

RIN: 3206–AG72

4028. SUITABILITY—SUITABILITY DISQUALIFICATION/RATING ACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7301; EO 10577; EO 11222

CFR Citation: 5 CFR 731(b) to (c)

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, some of them will be published in pamphlets for users and other more significant items will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we foresee no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Interim Final Rule	09/16/94	59 FR 47527
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Lafferty, Deputy Associate Director, Investigations Service, Office of Personnel Management, P.O. Box 886, Washington, DC 20044-0886
Phone: 202 376-3800

RIN: 3206–AC19

4029. INVESTIGATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 5 CFR 736

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, some of them will be published in pamphlets for users and other more significant items will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (0MB) has determined that these regulations are significant and require OMB review prior to publication. However, we foresee no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Begin Review	10/01/93	
Interim Final Rule	09/16/94	59 FR 47527
Interim Final Rule Effective Date	10/17/94	
NPRM	04/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Lafferty, Deputy Associate Director, Investigations Service, Office of Personnel Management, P.O. Box 886, Washington, DC 20044-0886

Phone: 202 376-3800

RIN: 3206–AB92

4030. RETIREMENT; CSRS AND FERS AMENDMENTS RELATING TO HEALTH CARE PROFESSIONALS

Priority: Other

Legal Authority: 5 USC 8347(a); 5 USC 8461(g)

CFR Citation: 5 CFR 831; 5 CFR 841; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the special retirement provisions applicable to certain health care professionals employed by the Veterans Health Service and other designated agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E St. NW., Washington DC 20415
Phone: 202 606-0299

RIN: 3206–AG57

4031. RETIREMENT; CREDIT FOR MILITARY SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); 38 USC 4331

CFR Citation: 5 CFR 8347(a); 5 CFR 8461(g); 5 CFR 842.306; 5 CFR 842.307

Legal Deadline: None

Abstract: These regulations implement changes in the treatment of certain military service under CSRS and FERS required under the Uniformed Services Employment and Reemployment Act of 1994 (USERA).

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard T. Newland, Jr., Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299

RIN: 3206–AG58

4032. RETIREMENT; DETERMINATIONS OF MARITAL STATUS FOR SURVIVOR ANNUITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831; 5 CFR 842; 5 CFR 843

Legal Deadline: None

Abstract: These regulations would establish the standards of evidence that OPM will require to prove entitlement to a survivor annuity as the surviving spouse of a deceased employee or retiree.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299

RIN: 3206–AG60

4033. RETIREMENT; COURT ORDERS AWARDING SURVIVOR ANNUITIES; CORRECTING OR SUPPLEMENTING THE FIRST ORDER DIVIDING MARITAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 838

Legal Deadline: None

Abstract: These regulations would establish standards for determining which supplemental or correcting court orders are not "modifications" and the procedures applicable to such orders. They also provide for the continuation of the former spouse's survivor coverage and the reduction in the retiree's annuity until the State court decides the extent of the former spouse's rights to retirement benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Group, Office of Retirement Policy Development, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299

RIN: 3206–AG28

4034. • RETIREMENT; FERS ELECTIONS OF COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); PL 99-335, sec 301(d)(3)

CFR Citation: 5 CFR 846

Legal Deadline: None

Abstract: These regulations implement Title III of the Federal Employees Retirement System Act of 1986, as amended, dealing with the election of FERS coverage by employees under the Civil Service Retirement System and certain other employees. The regulations contain regulatory and interpretative rules concerning employees' eligibility to elect FERS coverage, procedures for electing FERS coverage, and basic benefits based on the service for employees who elect FERS coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/87	52 FR 19235
Interim Final Rule	09/13/93	58 FR 47821
NPRM	03/00/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
Phone: 202 606-2299

RIN: 3206–AG96

OPM — Proposed Rule Stage

4035. FEDERAL EMPLOYEES GROUP LIFE INSURANCE PROGRAM: MISCELLANEOUS CHANGES

Priority: Other

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: These regulations include a group of changes to FEGLI regulations that will clarify procedures for signing and witnessing designations of beneficiary, accepting designations of beneficiary by facsimile, accepting DNA evidence to establish paternity, etc.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AG63

4036. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP); OPPORTUNITIES TO ENROLL AND CHANGE ENROLLMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: The primary purpose of these regulations is to clarify and simplify the rules governing the opportunities to enroll or change enrollment and thereby improve our service to our customers, the individuals enrolled and eligible to enroll in the FEHBP. The regulations: (1) organize the opportunities to enroll and change enrollment into separate categories for employees, annuitants, former spouses enrolled under Spouse Equity provisions, and individuals enrolled under Temporary Continuation of Coverage; (2) further group these opportunities together based on similar characteristics, such as opportunities based on a change of employment status, or a loss of health benefits coverage; (3) standardize as much as possible the requirements for each opportunity, for example permitting individuals to enroll or change enrollment within the period beginning 31 days before and ending 60 days after the qualifying event.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Myers, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AG32

4037. • PREVAILING RATE SYSTEMS; SURVEY RESPONSIBILITY CHANGES

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans to change lead agency responsibilities and survey order months for several Federal Wage System wage areas. These changes present effective alternatives to burdensome prevailing rate survey workload requirements for the Dept. of Defense and the Dept. of Veterans Affairs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Angela Graham Humes, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AG98

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Final Rule Stage

4038. FEDERAL EMPLOYEES HEALTH BENEFITS ACQUISITION REGULATIONS: FILING CLAIMS; ADDITION OF CONTRACT CLAUSE

Priority: Other

Legal Authority: 5 USC 8913; 40 USC 486(c)

CFR Citation: 48 CFR 1604; 48 CFR 1652

Legal Deadline: None

Abstract: Regulations to add a new contract clause to clarify the circumstances under which OPM may render a decision regarding a covered individual who asks OPM to review a health benefits plan's denial of a claim. This clause would also clarify that OPM need not be a party when there is a court review of the denial of a claim.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/95	60 FR 16056
Interim Final Rule Comment End	05/30/95	60 FR 16056
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret Sears, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E St NW., Washington, DC 20415

OPM — Final Rule Stage

Phone: 202 606-0004
Fax: 292 606-0633

RIN: 3206–AG30

4039. CLAIMS COLLECTIONS STANDARDS; DEBT COLLECTION ACT OF 1982; SALARY OFFSET

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 952; PL 95-454; 5 USC 5514

CFR Citation: 5 CFR 179

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is revising the regulations it issued on July 11, 1994, that govern the collection of debts owed to OPM by Federal employees. These regulations implement the debt collection procedures provided under section 5 of the Debt Collection Act of 1982.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Loring, Office of the Chief Financial Officer, Office of Financial Management, Office of Personnel Management, 1900 E St NW., Washington, DC
Phone: 202 606-5028

RIN: 3206–AG64

4040. PERSONNEL RECORDS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 4315; EO 12107; 5 USC 1103; 5 USC 1104; 5 USC 1302; EO 9830; 5 USC 2951; 5 USC 3301; EO 12107

CFR Citation: 5 CFR 293

Legal Deadline: None

Abstract: The regulatory changes will: (1) simplify the requirements for maintaining employee personnel records, (2) clarify agency responsibility for personnel recordkeeping as delegated by the regulation, and (3) give greater latitude to agencies in establishing and maintaining employee medical and performance records.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Dorothy Vernon, Human Resources Systems Service, Personnel Records and Systems, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1976

RIN: 3206–AF85

4041. TIME-IN-GRADE RESTRICTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: As part of its vision for a flexible and responsive hiring system, the President's National Performance Review (NPR) has recommended elimination of the time-in-grade restriction that required employees to serve 1 year in grade for eligibility to be promoted above the GS-5 level. The National Partnership Council (NPC) made a similar recommendation. These regulations would implement the NPR and NPC recommendations.

Timetable:

Action	Date	FR Cite
NPRM	06/15/94	59 FR 30717
NPRM Comment Period End	01/10/95	60 FR 2546
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Edwards, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 292 606-2329

RIN: 3206–AG06

4042. USE OF PRIVATE SECTOR TEMPORARIES

Priority: Other

Legal Authority: 5 USC 552; 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 300(e)

Legal Deadline: None

Abstract: OPM plans to revise the rule based on comments it will receive from Federal Agencies, temporary help service firms, and other interested parties.

Timetable:

Action	Date	FR Cite
NPRM	09/08/95	60 FR 46780
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Ellen Russell, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-2329

RIN: 3206–AE80

4043. AMENDMENT TO SELECTIVE SERVICE REGISTRATION REQUIREMENTS

Priority: Routine and Frequent

Legal Authority: 5 USC 3328

CFR Citation: 5 CFR 300(g)

Legal Deadline: None

Abstract: OPM will issue revised proposed and final rules delegating authority to agencies to determine whether a Federal job applicant's failure to register with the Selective Service was knowing and willful. This change was authorized by an amendment to 5 U.S.C. 3328, which imposes the selective service registration requirement as a condition of employment in Federal executive agencies. The delegation will permit faster agency decisions for interested job seekers and reduce paperwork.

Timetable:

Action	Date	FR Cite
NPRM	04/29/88	53 FR 15400
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Action suspended pending decision by the

OPM

Final Rule Stage

President on DOD recommendations regarding termination of the selective service registration requirement.

Agency Contact: Larry Lorenz, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AD68

4044. CAREER AND CAREER-CONDITIONAL EMPLOYMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3304

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: These proposals would drop the time limit on reinstatement eligibility and link career tenure to completion of probation.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Interim rule effective date 01/01/95

Agency Contact: Leota Edwards, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AG22

4045. • CAREER AND CAREER CONDITIONAL EMPLOYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; EO 10777

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: Proposal would permit Federal agencies (that employed family members overseas) to waive a portion of the 52-week service requirement for noncompetitive appointment when family members are forced to return to the United States because of military drawdowns. Proposal would also streamline regulation.

Timetable:

Action	Date	FR Cite
NPRM	08/23/95	60 FR 43724
Interim Final Rule	11/00/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Ellen Russell, Employment Services, Office of Personnel Management, 1900 E St NW., Washington, DC 20415-0001
Phone: 202 606-0830
Fax: 202 606-2329

RIN: 3206–AG81

4046. JOB LISTINGS; FULL CONSIDERATION OF DISPLACED DEFENSE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3329; PL 102-484, sec 4432

CFR Citation: 5 CFR 330; 5 CFR 335

Legal Deadline: None

Abstract: As required by the statute, this regulation would require agencies to report to OPM their announcements of competitive service vacancies for which they will accept applications from outside their own work force. This regulation also would require agencies to give full consideration to job applications of displaced Defense employees for vacancies in the competitive, excepted, and Senior Executive Service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/93	58 FR 18139
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Edwards, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AF36

4047. INTERAGENCY PLACEMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3310; 5 USC 3315; 5 USC 3327; 5 USC 3502; 5 USC 3503; 5 USC 8151; 5 USC 8337(h); 5 USC 8457(b); EO 10577; EO 12828

CFR Citation: 5 CFR 330; 5 CFR 332; 5 CFR 351

Legal Deadline: None

Abstract: These interim regulations implement the new Interagency Placement Program which supersedes OPM's previous Displaced Employee Program and Interagency Placement Assistance Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/27/94	59 FR 32871
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diane Bohling, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0960

RIN: 3206–AG11

4048. TEMPORARY ASSIGNMENTS OF EMPLOYEES BETWEEN FEDERAL AGENCIES, STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS, INSTITUTIONS OF HIGHER LEARNING, AND OTHER ELIGIBLE ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 33

CFR Citation: 5 CFR 334

Legal Deadline: None

Abstract: Changes in the regulations to incorporate revisions to the Intergovernmental Personnel Act (IPA) contained in the Defense Authorization Act for Fiscal Year 1995; and incorporate any requirements in Federal Personnel Manual (FPM) Chapter 334 that need to be continued following abolishment of the Chapter under FPM Sunset. Other procedural guidance from FPM Chapter 334 will be issued in an information handbook or manual.

OPM

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Lombard, Workforce Training Service, Marketing and Information Policy Team, Office of Personnel Management, 1400 Wilson Blvd., Arlington, VA 22209
Phone: 703 312-7298

RIN: 3206–AG61

4049. MERIT PROMOTION PLACEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 3329; EO 10577

CFR Citation: 5 CFR 335

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is issuing interim regulations to continue existing requirements under which agencies conduct merit promotion and internal placement programs in the competitive service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/94	59 FR 67121
Final Action	12/00/95	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Edwards, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AG54

4050. • REDUCTION IN FORCE; RETREAT RIGHTS

Priority: Other

Legal Authority: 5 USC 3502(a)

CFR Citation: 5 CFR 351

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim retention regulations that clarify existing policy on employees' "Retreat" rights. These interim regulations also clarify existing policy concerning the content of specific written reduction in force notices, and issuance of a Certification of Expected Separation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/25/95	60 FR 44253
Final Action Effective	03/01/96	
Final Action	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Thomas A. Glennon or Ed McHugh, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AG77

4051. • SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE OFFICE OF PERSONNEL MANAGEMENT

Priority: Routine and Frequent

Legal Authority: 5 USC 552(a); 5 USC 7301

CFR Citation: 5 CFR 4501; 5 CFR 1001

Legal Deadline: None

Abstract: Supplements for OPM employees the Executive Branch standards of ethical conduct.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Gregg, Office of the General Counsel, Office of Personnel Management, 1900 E St. NW. Phone: 202 606-1700

RIN: 3206–AG87

4052. • PREVAILING RATE SYSTEMS; ABOLISHMENT OF MARQUETTE, MI NONAPPROPRIATED FUND WAGE AREA

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM will be issuing final regulations to abolish the Marquette, MI, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and add Dickinson County, MI, and Marquette County, MI, as areas of application to the Lake, IL, NAF wage area for paysetting purposes. No employee's wage rate will be reduced as a result of this change.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/10/95	60 FR 35467
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AG82

4053. • PREVAILING RATE SYSTEM; TECHNICAL CORRECTION AND CLARIFICATION

Priority: Routine and Frequent

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans to issue several revisions that will correct printing errors and omissions, as well as, clarify existing regulations on various pay administration matters affecting prevailing rate employees. Examples include: definitions of change to lower grade, promotion, and highest previous rate; application of pay retention to wage employees; and similar pay matters.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	07/14/95	60 FR 36238
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AG83

OPM

Final Rule Stage

4054. • PREVAILING RATE SYSTEMS; REDEFINITION OF GUAYNABO-SAN JUAN, PR, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans regulatory actions to redefine the Guaynabo-San Juan, Puerto Rico, nonappropriated fund (NAF) wage area. Salinas Municipality, which has Army and Air Force Exchange Service NAF employees, would be added to this wage area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/04/95	60 FR 51881
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Human Resources Systems Service, Ofc of Compensation Policy, Office of Personnel Management, 1900 E St. NW, Phone: 202 606-2848

RIN: 3206–AG93

4055. VOLUNTARY SEPARATION INCENTIVE REPAYMENT WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-226

CFR Citation: 5 CFR 550

Legal Deadline: None

Abstract: Public Law 103-226 authorizes OPM to waive repayment of a voluntary separation incentive payment if a former employee who accepted the incentive payment is reemployed by an executive agency of the Government of the United States within 5 years of separation. OPM, at the request of the agency head, may waive repayment of the incentive payment if the individual possesses unique abilities and is the only qualified applicant. These regulations explain how to request repayment waivers.

Timetable:

Action	Date	FR Cite
NPRM	11/09/94	59 FR 55807
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betty Pickering, Employment Service, Federal Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415 Phone: 202 606-0960

RIN: 3206–AG20

4056. PAY ADMINISTRATION; AVAILABILITY PAY FOR CRIMINAL INVESTIGATORS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5304; 5 USC 5305; 5 USC 5341; 5 USC 5348; 5 USC 6101

CFR Citation: 5 CFR 550

Legal Deadline: None

Abstract: Regulations on implementation of availability pay, a new form of premium pay for criminal investigators who are required to work, or be available to work substantial amounts of unscheduled overtime duty based on the needs of the employing agency.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/23/94	59 FR 66149
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kevin Kitchelt, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415 Phone: 202 606-2858 Fax: 202 606-0824

RIN: 3206–AG47

4057. SEVERANCE PAY; PANAMA CANAL COMMISSION EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5595

CFR Citation: 5 CFR 550(g)

Legal Deadline: None

Abstract: To amend the severance pay regulations to address the rights of employees who are employed by the Panama Canal Commission when the United States transfers full responsibility for the management, operation, and maintenance of the Panama Canal to the Republic of Panama; and to make other miscellaneous revisions.

Timetable:

Action	Date	FR Cite
NPRM	07/07/95	60 FR 35342
NPRM Comment Period End	09/05/95	60 FR 35342
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Derby, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415 Phone: 202 606-1413

RIN: 3206–AF89

4058. PAY ADMINISTRATION UNDER THE FLSA; COMPLIANCE

Priority: Other

Legal Authority: 29 USC 204(f); 5 USC 1103(a)(5)

CFR Citation: 5 CFR 551(f)

Legal Deadline: None

Abstract: Proposed new regulation covering the FLSA Compliance Program and simplifying the FLSA claims handling process.

Timetable:

Action	Date	FR Cite
NPRM	01/10/95	60 FR 2549
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey D. Miller, Ofc of Merit Sys. Oversight & Effectiveness, Program Development Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415 Phone: 202 606-2530 Fax: 202 606-2663

RIN: 3206–AA40

4059. • FAMILY AND MEDICAL LEAVE

Regulatory Plan: This entry is Seq. No. 142 in Part II of this issue of the Federal Register.

RIN: 3206–AH10

4060. PERSONNEL SECURITY AND RELATED PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7312; 50 USC 403; EO 10450; EO 10577

OPM

Final Rule Stage

CFR Citation: 5 CFR 732

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, some of them will be published in pamphlets for users and other more significant items will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we see no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Interim Final Rule	09/16/94	59 FR 47527
Interim Final Rule Effective Date	10/17/94	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Lafferty, Deputy Associate Director, Investigations Service, Office of Personnel Management, P. O. Box 886, Washington, DC 20044-0886 Phone: 202 376-3800

RIN: 3206–AC21

4061. POLITICAL ACTIVITY—FEDERAL EMPLOYEES RESIDING IN DESIGNATED LOCALITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7325

CFR Citation: 5 CFR 733

Legal Deadline: Final, Statutory, February 3, 1994.

Abstract: OPM has issued interim regulations pursuant to 5 U.S.C. 7325, as amended by the Hatch Act Reform Amendments of 1993, to continue in effect OPM's existing exemptions from the political activity provisions of the Hatch Act for employees residing in certain municipalities. There are no new budgetary effects, impacts such as benefits and costs, or interagency or intergovernmental effects.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/04/94	59 FR 5313
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jo-Ann Chabot, Office of the General Counsel, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415 Phone: 202 606-1920 Fax: 202 606-0082

RIN: 3206–AF78

4062. • RETIREMENT COVERAGE FOR D.C. FINANCIAL CONTROL BOARD EMPLOYEES

Priority: Other

Legal Authority: PL 104-8

CFR Citation: 5 CFR 831; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the District of Columbia Financial Responsibility and Management Assistance Act of 1995. They establish standards by which some former Federal employees may carry civil service retirement coverage to employment with the D.C. Financial Control Board.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001 Phone: 202 606-0299

RIN: 3206–AG78

4063. RETIREMENT; ALTERNATIVE FORM OF ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8343a; 5 USC 8420a

CFR Citation: 5 CFR 831(v); 5 CFR 842(g)

Legal Deadline: None

Abstract: These regulations are needed to change the date for expiration of the alternative form of annuity (AFA) for most retirees as a result of Pub. L. 103-66. They also revise the list of critical medical conditions considered as prima facie evidence of a life threatening condition for AFA.

Timetable:

Action	Date	FR Cite
NPRM	11/04/94	59 FR 55211
Interim Final Rule	10/25/95	60 FR 54585
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415 Phone: 202 606-0299

RIN: 3206–AG16

4064. RETIREMENT; DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 835(e)

Legal Deadline: None

Abstract: These regulations will amend the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) regulations by consolidating existing regulations in three different subparts of the CSRS regulations and 5 CFR 845 in the FERS regulations to eliminate duplication of the provisions governing debt collection. This item is for subpart E of the new part 835, which will address collections of Government claims from payments made by OPM.

Timetable:

Action	Date	FR Cite
NPRM	10/05/92	57 FR 45753
NPRM	10/05/92	57 FR 45753
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Office of Retirement and Insurance Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415 Phone: 202 606-0299

RIN: 3206–AE72

OPM

Final Rule Stage

4065. RETIREMENT; FERS BASIC ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 842(b) to (g)

Legal Deadline: None

Abstract: These final regulations will amend FERS Basic Annuity regulations governing Eligibility (subpart B), Credit for Service (subpart C), Computations (subpart F), and Alternative Forms of Annuity (subpart G). These regulations have been published at various times in interim final form, and have been affected by statutory changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/87	52 FR 2061
Interim Final Rule	01/16/87	52 FR 2067
Interim Final Rule	02/11/87	52 FR 4473
Interim Final Rule	02/11/87	52 FR 4479
Interim Final Rule	05/14/87	52 FR 18193
Interim Final Rule	04/08/88	53 FR 11635
Interim Final Rule	02/09/90	55 FR 4595
Final Rule	12/27/90	55 FR 53136
Interim Final Rule	02/19/91	56 FR 6549
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299

RIN: 3206–AE73

4066. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM; MERGING OF PARTS OF CFR PERTAINING TO LIFE INSURANCE (FEGLI)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870; 5 CFR 871; 5 CFR 872; 5 CFR 873

Legal Deadline: None

Abstract: Regulations to merge and consolidate the four parts of the Code pertaining to FEGLI in order to simplify and facilitate understanding of the FEGLI Program.

Timetable:

Action	Date	FR Cite
NPRM	05/13/95	60 FR 21759
NPRM Comment Period End	07/03/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AF32

4067. FEGLI; ASSIGNMENT OF LIFE INSURANCE COVERAGE

Priority: Other

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: Regulations to implement section 4 of Public Law 103-336 effective October 3, 1994. This section of law permits Federal employees to make an irrevocable assignment of their Federal Employees' Group Life Insurance coverage to another person, firm, or trust. The regulations set forth the rights and obligations of the insured and the assignee, and the guidelines and procedures required to effect the assignment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/04/95	60 FR 51881
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Sears, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AG68

4068. • FEGLIP: LIVING BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8716; PL 103-409

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: Regulations to put into effect the provisions of PL 103-409 which allows benefits under FEGLI to be paid out to insured individuals who are terminally ill.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/95	60 FR 31391
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Office of Personnel Management, 1900 E St NW.
Phone: 202 606-0004

RIN: 3206–AG79

4069. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP); LIMITATION ON PHYSICIAN CHARGES AND FEHBP PAYMENTS; OMNIBUS BUDGET RECONCILIATION ACT (OBRA) OF 1993 PROVISION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to implement the OBRA of 1993 which sets a limit on the charges and FEHBP benefit payments for certain physician services received by a retired enrolled individual.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/18/95	60 FR 26667
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert G. Iadicicco, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AG31

OPM

Final Rule Stage

4070. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; PAYMENT OF PREMIUMS FOR PERIODS OF LEAVE WITHOUT PAY OR INSUFFICIENT PAY

Priority: Other

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations that establish a requirement that Federal agencies counsel employees entering nonpay status, or whose pay is insufficient to cover their FEHB premium payments, of the options of continuing or terminating their FEHB coverage, and if continuing, of paying premiums directly on a current basis or incurring a debt to be withheld from future salary. These regulations are intended to ensure employees are fully aware of these alternatives.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert G. Iadicicco, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AG66

4071. • FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: HMO PLAN APPLICATIONS

Priority: Other

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulation clarifies the policy under which OPM invites applications from comprehensive medical plans (HMOs) to participate in the FEHB Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/05/94	59 FR 62283
NPRM	03/02/95	60 FR 15074
NPRM Comment Period End	05/22/95	60 FR 15074
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Faith Hannon, Retirement and Insurance Service, Office of Personnel Management, 1900 E St. NW.
Phone: 202 606-0727
Fax: 202 606-0633

RIN: 3206–AG97

4072. SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICE PERSONNEL FOR CONTRIBUTIONS FOR PRIVATE VOLUNTARY ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: EO 12353; EO 12404; 5 USC 1101

CFR Citation: 5 CFR 950

Legal Deadline: None

Abstract: OPM is responding to the need for clarification and simplification of the current procedures for charitable solicitation of Federal employees in the workplace. Changes are proposed to improve procedural operations and accountability, and set forth ground rules under which organizations may receive contributions through the Combined Federal Campaign.

Timetable:

Action	Date	FR Cite
NPRM	02/16/95	60 FR 8961
NPRM Comment Period End	04/17/95	60 FR 8961
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff C. Lee, Assistant Counsel Extragovermental Affairs, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2564

RIN: 3206–AG50

4073. • FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: ACQUISITION REGULATION; TRUTH IN NEGOTIATION ACT AND RELATED CHANGES

Priority: Other

Legal Authority: 5 USC 8913; 40 USC 486(c); PL 103-355

CFR Citation: 48 CFR 1602; 48 CFR 1608; 48 CFR 1615; 48 CFR 1652

Legal Deadline: None

Abstract: Regulation to amend the Federal Employees Health Benefits Acquisition Regulation (FEHBAR) to implement those portions of the Federal Acquisition Streamlining Act of 1994 (FAS) that make specific changes to the Truth in Negotiations Act (TINA) or that impact other areas of the FEHBAR affecting contract pricing.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary Ann Mercer, Retirement and Insurance Service, Office of Personnel Management, 1900 E St. NW., Washingtong, DC 20415-0001
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AH14

4074. FEHBP; INTEREST ASSESSMENT ON AUDIT FINDINGS

Priority: Other

Legal Authority: 5 USC 8913; 48 USC 486(c)

CFR Citation: 48 CFR 1652.215-70

Legal Deadline: None

Abstract: Final regulations to clarify the assessment of interest on monies due the Federal Employees Health Benefits (FEHB) Program when a comprehensive medical plan (CMP) submits defective cost or pricing data to support its community rate. The regulation is necessary because a few FEHB Program carriers are misinterpreting OPM's current regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/05/94	59 FR 62345
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer, Retirement and Insurance Service, Retirement Policy and Information

OPM — Final Rule Stage

Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633
RIN: 3206–AG35

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Long-Term Actions

4075. PERFORMANCE MANAGEMENT REFORM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 43; 5 USC 45

CFR Citation: 5 CFR 430; 5 CFR 451

Legal Deadline: None

Abstract: Regulatory changes to comply with legislative reforms in support of the National Performance Review (NPR) recommendations that decentralize performance management and incentive awards programs to the agencies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doris Hausser, Chief, Performance Management and Incentive Awards Division, OLRWP, Office of Personnel Management, Human Resource Systems Service, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2720

RIN: 3206–AF57

4076. CLASSIFICATION SIMPLIFICATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 51

CFR Citation: 5 CFR 511

Legal Deadline: None

Abstract: Legal and regulatory changes needed for simplification of the current General Schedule (white collar) position classification system.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	
Final Action	07/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert G. Iadicicco, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AF70

4077. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP); PREEMPTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulation to clarify the scope of the FEHBP statutory preemption of taxes, fees, and other monetary payments imposed by States, the District of Columbia, the Commonwealth of Puerto Rico, and any political subdivisions or other governmental authorities and to dispel any confusion regarding the applicability of the preemption to both the FEHBP carriers and the enrollees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/89	54 FR 43939
NPRM	02/04/93	58 FR 7052
NPRM	02/04/93	58 FR 7052
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. David Cope, Asst. Inspector General for Policy, Office of the Inspector General, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2851

RIN: 3206–AD76

4078. DEBARMENTS, CIVIL MONETARY PENALTIES, AND ASSESSMENTS IMPOSED AGAINST PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8902a

CFR Citation: 5 CFR 890(j)

Legal Deadline: None

Abstract: These regulations will implement title I of Pub. L. 100-654, the "Federal Employees Health Benefits Amendments Act of 1988," which authorizes OPM to debar health care providers who are culpable of certain offenses from participation in the FEHBP, and to levy monetary penalties and assessments against individuals who have submitted false claims to FEHBP carriers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/89	54 FR 43939
NPRM	02/04/93	58 FR 7052
NPRM	02/04/93	58 FR 7052
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. David Cope, Asst. Inspector General for Policy, Office of the Inspector General, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2851

RIN: 3206–AD76

4079. FEDERAL EMPLOYEES HEALTH BENEFITS (FEHBP) ACQUISITION REGULATION; PREEMPTION OF TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913; 40 USC 486(c)

CFR Citation: 48 CFR 1629; 48 CFR 1631; 48 CFR 1652

Legal Deadline: None

Abstract: Regulations to clarify the scope of the Federal Employees Health Benefits (FEHB) Program statutory preemption of taxes, fees, and other monetary payments imposed by States, the District of Columbia, the Commonwealth of Puerto Rico, and any political subdivisions or other governmental authorities; and to provide guidance for the FEHB Program carriers to identify them.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	
Final Action	07/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert G. Iadicicco, Retirement and Insurance Service, Insurance Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AF95

OPM — Long-Term Actions

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Completed Actions

4080. TEMPORARY SCHEDULE C POSITIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 5 CFR 213

Completed:

Reason	Date	FR Cite
Final Action	10/16/95	60 FR 53503
Final Action Effective	11/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Edwards
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AG55

4081. EMPLOYMENT OF INDIVIDUAL EXPERTS AND CONSULTANTS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 304

Completed:

Reason	Date	FR Cite
Final Action	09/10/95	60 FR 45647
Final Action Effective	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tracy Spencer
Phone: 202 606-0830

RIN: 3206–AF37

4082. CAREER AND CAREER CONDITIONAL EMPLOYMENT

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 315

Completed:

Reason	Date	FR Cite
Final Action Completed	08/07/95	60 FR 35119
Final Action Effective	08/07/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sylvia Cole
Phone: 202 606-0950

RIN: 3206–AF56

4083. BRINGING NONPERMANENT EXCEPTED POSITIONS INTO THE COMPETITIVE SERVICE

Priority: Routine and Frequent

CFR Citation: 5 CFR 316

Completed:

Reason	Date	FR Cite
Final Action	08/10/95	60 FR 39101
Final Action Effective	08/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Paige
Phone: 202 606-0830

RIN: 3206–AG62

4084. PERFORMANCE MANAGEMENT FLEXIBILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 5 CFR 351; 5 CFR 430; 5 CFR 451; 5 CFR 531

Completed:

Reason	Date	FR Cite
Final Action	08/23/95	60 FR 43836
Final Action Effective	09/22/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Colchao
Phone: 202 606-2720

RIN: 3206–AG23

4085. RETIREMENT; CHILD ABUSE ACCOUNTABILITY ACT IMPLEMENTATION

Priority: Other

CFR Citation: 5 CFR 838

Completed:

Reason	Date	FR Cite
Final Action	10/27/95	60 FR 54938

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman
Phone: 202 606-0299

RIN: 3206–AG42

4086. INCENTIVE AWARDS; PAY AND LEAVE ADMINISTRATION

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 531(b); 5 CFR 550(a); 5 CFR 551(d); 5 CFR 591(b); 5 CFR 630(b); 5 CFR 451(a); 5 CFR 531(d); 5 CFR 550(d); 5 CFR 550(h)

Completed:

Reason	Date	FR Cite
Final Action	06/27/95	60 FR 33097
Final Action Effective	07/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bryce Parker

Phone: 202 606-1413
Fax: 202 606-0824

RIN: 3206–AG15

4087. • PAY UNDER THE GENERAL SCHEDULE; LOCALITY PAY AREAS FOR 1997

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5304

CFR Citation: 5 CFR 531(f)

Legal Deadline: NPRM, Statutory, November 30, 1995.

Abstract: The proposed regulation would amend 5 CFR 531, subpart F, by removing five metropolitan areas from the "Rest of U.S." locality pay area and establish them as new locality pay areas for the January 1997 locality payments. The Federal Salary Counsel recommended the five new areas at its July, 31,1995 meeting. The Pay Agent must identify the locality pay areas for January 1997 by November 30, 1995.

Timetable:

Action	Date	FR Cite
NPRM	10/16/95	60 FR 53545
Final Action	00/00/96	60 FR 53545

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jeanne Jacobson, office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AG88

4088. PREVAILING RATE SYSTEMS; NEW YORK, NEW YORK, FWS WAGE AREA

Completed:

Reason	Date	FR Cite
Duplicate of RIN 3206-AG52	09/14/95	

RIN: 3206–AG26

4089. PREVAILING RATE SYSTEMS; CHANGE OF LEAD AGENCY RESPONSIBILITY FOR THE NEW YORK, NY, WAGE AREA FOR PAY-SETTING PURPOSES

Priority: Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	07/14/95	60 FR 36203
Final Action Effective	08/14/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Angela Graham Humes
Phone: 202 606-2848

RIN: 3206–AG52

4090. PREVAILING RATE SYSTEMS; ABOLISHMENT OF NEW YORK, NY, SPECIAL WAGE SCHEDULES FOR PRINTING POSITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	05/08/95	60 FR 22455
Final Action Effective	06/07/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields
Phone: 202 606-2848

RIN: 3206–AG53

4091. PREVAILING RATE SYSTEMS; BIRMINGHAM, ALABAMA, FWS WAGE AREA, CHANGE OF LEAD AGENCY RESPONSIBILITY

Priority: Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	07/14/95	60 FR 36203
Final Action Effective	08/14/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Angela Graham Humes
Phone: 202 606-2848

RIN: 3206–AG56

4092. TECHNICAL AND CONFORMING CORRECTIONS AND CLARIFICATIONS TO PREVAILING-RATE PAY ADMINISTRATION RULES

Completed:

Reason	Date	FR Cite
Duplicate of RIN 3206-AG83	09/15/95	

RIN: 3206–AG69

4093. • PREVAILING RATE SYSTEMS; ABOLISHMENT OF CLINTON, NY, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM is issuing final regulations to abolish the Clinton, NY, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and add Clinton County, NY, as an area of application to the Oneida, NY, NAF wage area for pay-setting purposes. No employee's wage rate will be reduced as a result of this change.

Timetable:

Action	Date	FR Cite
Final Action	07/14/95	60 FR 36204
Final Action Effective	08/14/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Human Resources Systems Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
Phone: 202 606-2848

RIN: 3206–AG74

4094. • PREVAILING RATE SYSTEMS ABOLISHMENT OF ATLANTA, GA SPECIAL WAGE SCHEDULES FOR PRINTING POSITIONS

Priority: Routine and Frequent

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM issued final regulations to abolish the Federal Wage System special wage schedule for printing positions in the Atlanta, GA, wage area. Printing employees in Atlanta will now be paid rates from the regular Atlanta, GA, wage schedule.

Timetable:

Action	Date	FR Cite
Final Action	08/10/95	60 FR 40744
Final Action Effective	09/11/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara L. Fudge, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-0001

Phone: 202 606-2848

RIN: 3206–AG76

4095. RECRUITMENT AND RELOCATION BONUSES AND RETENTION ALLOWANCES

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 575(a) to (c)

Completed:

Reason	Date	FR Cite
Final Action	06/28/95	60 FR 33323
Final Action Effective	07/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeanne Jacobson
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AF86

4096. COST-OF-LIVING ALLOWANCES (NONFOREIGN AREAS)

Completed:

Reason	Date	FR Cite
Duplicate of RIN 3206-AG73	09/15/95	

RIN: 3206–AG71

4097. • COST-OF-LIVING ALLOWANCES NONFOREIGN AREAS (591)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: This proposal would modify the methodology for adjusting cost-of-living allowance rates (COLAs) paid to GS, Postal, and other selected Federal employees in nonforeign areas to permit measuring living costs at a single income level. The proposed regulation would also permit payment of COLAs to employees detailed to foreign posts who receive foreign post differentials while on detail.

Timetable:

Action	Date	FR Cite
NPRM	05/17/95	
NPRM Comment Period End	06/12/95	
Final Action	09/08/95	60 FR 46749
Final Action Effective	10/10/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Hearne, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2838
Fax: 202 606-4264

RIN: 3206–AG73

4098. ABSENCE AND LEAVE; USE OF RESTORED ANNUAL LEAVE

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 630(c)

Completed:

Reason	Date	FR Cite
Final Action	05/08/95	60 FR 22455
Final Action Effective	06/07/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Herzberg
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AG45

4099. ABSENCE AND LEAVE; SES ANNUAL LEAVE ACCUMULATION

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 630(c)

Completed:

Reason	Date	FR Cite
Final Action	06/28/95	60 FR 33327
Final Action Effective	07/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jo Ann Perrini
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AG48

4100. ABSENCE AND LEAVE; SICK LEAVE FOR ADOPTION

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 630(d)

Completed:

Reason	Date	FR Cite
Final Action	05/22/95	60 FR 26977
Final Action Effective	06/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Herzberg
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AG43

4101. AGENCY ADMINISTRATIVE GRIEVANCE SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 771

Completed:

Reason	Date	FR Cite
Final Action	09/08/95	60 FR 47039
Final Action Effective	10/09/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary D. Wahlert
Phone: 202 606-2920

RIN: 3206–AG37

4102. RETIREMENT; CSRS AND FERS; DETERMINATIONS OF MARITAL STATUS FOR SURVIVOR ANNUITIES

Completed:

Reason	Date	FR Cite
Duplicate of RIN 3206-AG60	09/15/95	

RIN: 3206–AG29

4103. RETIREMENT; DISABILITY RETIREMENT

Priority: Routine and Frequent

CFR Citation: 5 CFR 831(e); 5 CFR 844(b)

Completed:

Reason	Date	FR Cite
Withdrawn	09/05/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. T. Newland, Jr.
Phone: 202 606-0299

RIN: 3206–AF24

4104. RETIREMENT; COURT ORDERS AWARDING SURVIVOR ANNUITIES; CORRECTING OR SUPPLEMENTING THE FIRST ORDER DIVIDING MARITAL PROPERTY

Completed:

Reason	Date	FR Cite
Duplicate of RIN 3206-AG28	09/15/95	

RIN: 3206–AG59

4105. RETIREMENT, FERS; COVERAGE

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 842(a)

OPM

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	12/14/94	59 FR 64281
Final Action Effective	01/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman
Phone: 202 606-0299

RIN: 3206–AF92

4106. FEDERAL EMPLOYEES GROUP LIFE INSURANCE PROGRAM; LIVING BENEFITS

Completed:

Reason	Date	FR Cite
Duplicate of RIN 3206-AG79	09/15/95	

RIN: 3206–AG65

4107. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; FILING CLAIMS; DISPUTED CLAIMS PROVISIONS

Priority: Other

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Final Action	06/01/95	60 FR 28511
Final Action Effective	07/03/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Sears
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AF18

4108. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; PROCEDURES FOR DIRECT PAY OF PREMIUMS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Final Action	06/01/95	60 FR 28511
Final Action Effective	07/03/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Sears
Phone: 202 606-0004

RIN: 3206–AG33

4109. FEDERAL EMPLOYEES HEALTH PROGRAM

Completed:

Reason	Date	FR Cite
Duplicate of RIN 3206-AG32	09/15/95	

RIN: 3206–AG67

4110. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 970

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Murray Meeker
Phone: 202 606-1920

RIN: 3206–AG51

4111. • PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1673; 42 USC 659; 42 USC 661 to 662; EO 12105

CFR Citation: 5 CFR 581

Legal Deadline: None

Abstract: This regulation publishes the list of designated officials responsible for facilitating the service of legal process on members of the Uniformed Services and other Federal employees in the Executive Branch.

Timetable:

Action	Date	FR Cite
Final Action	07/10/95	60 FR 35468

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Murray Meeker, Office of the General Counsel, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1920

RIN: 3206–AG84

[FR Doc. 95-26075 Filed 11-24-95; 8:45 am]
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federal register

Tuesday
November 28, 1995

Part XXXVIII

Panama Canal Commission

Semiannual Regulatory Agenda

PANAMA CANAL COMMISSION (PANAMA)

PANAMA CANAL COMMISSION

35 CFR Ch. I

Unified Agenda of Federal Regulations

AGENCY: Panama Canal Commission.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Panama Canal Commission. This information will allow the public to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For information about a particular regulatory project, contact the person listed in the subheading "Agency Contact" for that project. For general information, contact Michael Rhode, Jr., Secretary, Panama Canal Commission, International Square, 1825 I Street NW., Suite 1050, Washington, DC 20006-5402, (202) 634-6441 TDD; or John L. Haines, Jr., Esquire, General Counsel, Panama Canal Commission, Unit 2300, APO AA 34011-2300, 011/507-272-7511.

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, require that executive agencies publish in the **Federal Register** a semiannual notice of regulations which are under development or review or for which action has been completed. The Panama Canal Commission agenda contains certain regulations which are limited in public impact, but they are included to increase public awareness of Commission activities and to allow for increased public participation in the Agency's regulatory review and development process. This agenda was prepared pursuant to guidelines established by the Office of Management and Budget.

Dated: August 31, 1995.

Michael Rhode, Jr.,

Secretary, Panama Canal Commission.

PANAMA CANAL COMMISSION (PANAMA) — Final Rule Stage

4112. DANGEROUS CARGOES; RADIO COMMUNICATION

Priority: Other Significant

Legal Authority: 22 USC 3811; EO 12215

CFR Citation: 35 CFR 101; 35 CFR 103; 35 CFR 105; 35 CFR 107; 35 CFR 109; 35 CFR 111; 35 CFR 113; 35 CFR 115; 35 CFR 117; 35 CFR 119; 35 CFR 121; 35 CFR 123; 35 CFR 113.49(b) (Revision)

Legal Deadline: None

Abstract: The Panama Canal Commission is proposing to make the following change and clarification:

35 CFR 113.49(b): Explosive cargo to be used for other than official U.S. Government purposes may not be loaded or offloaded at facilities of the Panama Canal Commission. Explosive anchorages prescribed in sections 101.8(a)(2)(3) and 101.8(c)(2), respectively, may be used upon approval of the Marine Safety Advisor, or his designee and concurrence of Canal Ops Captain.

The Commission also proposes to make minor technical changes and clarifications to: 35 CFR 111.3(m); 35 CFR 113.4; 35 CFR 113.28(c); 35 CFR 113.30; 35 CFR 123.4(a); and others listed in the abstract of 3207-AA26 in the April 1993 Unified Agenda.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	
Final Action	06/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. George T. Hull, Marine Director, Panama Canal Commission, Marine Bureau, Unit 2300, APO AA 34011-2300
Phone: 202 634-6441

RIN: 3207–AA26

4113. PANAMA CANAL COMMISSION ACQUISITION REGULATION

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 35

Legal Deadline: None

Abstract: The interim final rule will update the Panama Canal Commission Acquisition Regulation to conform to changes in the Federal Acquisition Regulation and to incorporate minor changes to internal operating procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/95	
Final Action	10/00/95	
Final Action Effective	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: Phone number for James N. Doyle in Panama, Republic of Panama, is 011/507 272-7511.

Agency Contact: James N. Doyle, Assistant Procurement Executive, Panama Canal Commission, Unit 2300, APO AA 34011-2300
Phone: 202 634-6441

RIN: 3207–AA30

4114. RADIO COMMUNICATION

Priority: Other Significant

Legal Authority: 22 USC 3811; EO 12215; 45 FR 36043

CFR Citation: 35 CFR 123.4(a) (Revision)

Legal Deadline: None

Abstract: The Panama Canal Commission is proposing to make the following changes and clarification to 35 CFR 123.4(a): CHARLIE--Estimated draft upon arrival, and estimated transit draft if scheduled to work cargo or take bunker prior to transiting, in meters, fore and aft, in Tropical Fresh Water.

Timetable:

Action	Date	FR Cite
Final Action	09/00/95	
Final Action Effective	10/00/95	

Small Entities Affected: None

PANAMA — Final Rule Stage

Government Levels Affected: Federal

Agency Contact: Capt. George T. Hull, Marine Director, Panama Canal Commission, Marine Bureau, Unit 2300, APO AA 34011-2300
Phone: 202 634-6441

RIN: 3207–AA34

4115. HEALTH, SANITATION, AND COMMUNICABLE DISEASE SURVEILLANCE

Priority: Other Significant

Legal Authority: 22 USC 3811; EO 12215

CFR Citation: 35 CFR 61.155

Legal Deadline: None

Abstract: The Panama Canal Commission is proposing to amend 35 CFR 61.155 by adding a new paragraph to clarify disinsecting requirements. The new paragraph reads as follows: "(e) The disinfecting required under paragraph (a) of this section shall not be required when the index of Aedes aegypti in Panama exceeds the 1.0 limit established by the World Health Organization (WHO)."

Timetable:

Action	Date	FR Cite
Final Action	09/00/95	
Final Action Effective	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. M. Ebernez, Director of Admeasurement, Panama Canal Commission, Unit 2300, APO AA 34011-2300
Phone: 202 634-6441

RIN: 3207–AA35

[FR Doc. 95-23621 Filed 11-24-95; 8:45 am]
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Part XXXIX

Peace Corps

Semiannual Regulatory Agenda

PEACE CORPS (PEACE)

PEACE CORPS

22 CFR Ch. III

Regulatory Agenda

AGENCY: Peace Corps.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations the Peace Corps will have under development during the 12-month period from October 1, 1995, through September 30, 1996. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Peace Corps' regulations or this semiannual agenda, contact Brian J. Sexton, General Counsel, Peace Corps, 1990 K Street NW., Washington, DC 20526, (202) 606-3114.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601-612, executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year. The regulations being considered by the Peace Corps are not "significant" rules within the meaning of Executive Order 12866, and no regulatory impact analysis is required. In addition, the Peace Corps has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required. The Agency has also determined that the regulations will not impose compliance costs or reporting burdens on the public.

Dated: September 15, 1995.

Brian J. Sexton,

General Counsel.

PEACE CORPS (PEACE) — Proposed Rule Stage

4116. RESPONSIBILITIES AND ETHICAL STANDARDS FOR PEACE CORPS EMPLOYEES

Priority: Other

Legal Authority: 5 USC 7301; 5 USC app, Ethics in Government Act of 1978; EO 12674; 5 CFR 2635.105; 5 CFR 2635.403; 5 CFR 2635.803

CFR Citation: 22 CFR 307

Legal Deadline: None

Abstract: The Peace Corps, in compliance with the Office of Government Ethics, is issuing its own agency-specific regulations for employees of the Peace Corps. These regulations are in addition to the Supplemental Standards of Ethical Conduct for Peace Corps Employees, which supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kirby Mullen, Associate General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA12

PEACE CORPS (PEACE) — Long-Term Actions

4117. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504—HANDICAPPED DISCRIMINATION PROHIBITION

Priority: Other

Legal Authority: 29 USC 794

CFR Citation: 22 CFR 312

Legal Deadline: None

Abstract: The regulation implements section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination on the basis of handicap in programs or activities conducted by executive agencies or the Postal Service.

Timetable:

Action	Date	FR Cite
NPRM	10/08/91	56 FR 50684
NPRM Comment Period End	12/09/91	56 FR 50684

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Brian J. Sexton, General Counsel, Peace Corps, Room 8302, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA03

4118. CLAIMS COLLECTION

Priority: Other

Legal Authority: 31 USC 3701 to 3719; 5 USC 5514; 22 USC 2503(b); 31 USC 3720A

CFR Citation: 22 CFR 309

Legal Deadline: None

Abstract: The section of the claims collection regulation regarding salary offset is under revision to remove unnecessary references to the Department of Defense and the United States Postal Service.

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

PEACE — Long-Term Actions

Government Levels Affected: State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Leroy Larkins, Claims Officer, Peace Corps, Fiscal Services Division, Room 6316, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3044

RIN: 0420–AA08

4119. SUPPLEMENTAL STANDARDS OF CONDUCT FOR PEACE CORPS EMPLOYEES

Priority: Other

Legal Authority: EO 12674; 5 CFR 2635.105

CFR Citation: 22 CFR 307; 5 CFR 67 (New)

Legal Deadline: None

Abstract: The Office of Government Ethics has issued Governmentwide standards of conduct which pertain to all executive branch employees, including Peace Corps employees. The Peace Corps incorporates these standards and pursuant to section 2635.105 of the executive standards is issuing its own Supplemental Agency Regulations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kirby Mullen, Associate General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA09

4120. ELIGIBILITY AND STANDARDS FOR PEACE CORPS VOLUNTEER SERVICE RE: PROCEDURES—APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 75 Stat 612, secs 4(b), 5(a), and 22; 22 USC 2504; EO 12137, May 16, 1979; International Security & Development Coop. Act of 1981, sec 601; 95 Stat 1519 and 1540; 42 USC 5057(c)(1) Domestic Volunteer Service Act, sec 417(c)(1)

CFR Citation: 22 CFR 305

Legal Deadline: None

Abstract: The Peace Corps is reviewing its Eligibility and Standards for Peace Corps Service, specifically with regard to establishing and publishing an appeals procedure for administrative and medical deselection.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kirby Mullen, Associate General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA10

4121. VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Priority: Other

Legal Authority: 22 USC 2503; 5 USC 553 and 554

CFR Citation: 22 CFR 306; 45 CFR 1225

Legal Deadline: None

Abstract: The Peace Corps is promulgating its own regulations regarding the Volunteer Discrimination Complaint Procedure to replace the current cross-reference to ACTION's regulations applicable to Peace Corps Volunteers, which appear in 45 CFR part 1225.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kirby Mullen, Associate General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA11

PEACE CORPS (PEACE) — Completed Actions

4122. NONPROCUREMENT DEBARMENT AND SUSPENSION COMMON RULE TO ACHIEVE RECIPROCITY WITH PROCUREMENT

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 310

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kirby Mullen
Phone: 202 606-3114

RIN: 0420–AA13

[FR Doc. 95-24139 Filed 11-24-95; 8:45 am]

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Part XL

Pension Benefit Guaranty Corporation

Semiannual Regulatory Agenda

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation (PBGC).

ACTION: Agenda of regulations.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that PBGC expects to have under development or review during the next 12 months. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESSES: Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, (202) 326-4024. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 98-354, 5 U.S.C. 601, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

This edition of the Unified Agenda of Federal Regulations includes The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Pension Benefit Guaranty Corporation's Statement of Regulatory Priorities is included in Part II.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4123	Mergers and Transfers Between Multiemployer Plans	1212-AA69
4124	Financial Assistance to Multiemployer Plans	1212-AA74
4125	Disclosure and Amendment of Records Under the Privacy Act	1212-AA63
4126	Submission of Premium-Related Information	1212-AA66
4127	Guaranteed Benefits	1212-AA76
4128	Reinvention	1212-AA83
4129	Calculation and Payment of Unfunded Nonguaranteed Benefits (**Reg Plan Seq. No. 143**)	1212-AA54
4130	Amendments to Valuation of Plan Benefits (REA, SEPPAA, and PPA)	1212-AA55
4131	Miscellaneous Statutory Amendments	1212-AA79
4132	Reportable Event Requirements	1212-AA80
4133	Missing Participants	1212-AA81
4134	Standard Terminations	1212-AA82

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4135	Payment of Premiums	1212-AA58
4136	Reorganizing and Renumbering of Regulations	1212-AA75
4137	Financial and Actuarial Information Reporting	1212-AA78

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4138	Funds for Administrative Expenses of Section 4049 Trusts	1212-AA65
4139	Payment of Benefits in PBGC-Trusteed Plans	1212-AA35

PBGC

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4140	Tax Refund Offset	1212-AA72
4141	Annuity Contracts Distributed by Terminating Plans	1212-AA57
4142	Notice of State Guaranty Coverage of Annuities	1212-AA73
4143	Disclosure to Participants	1212-AA77

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Proposed Rule Stage

4123. MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1411

CFR Citation: 29 CFR 2672

Legal Deadline: None

Abstract: ERISA section 4231 sets basic guidelines for mergers and transfers between multiemployer plans, including a provision for a 120-day notice to the PBGC. The PBGC's regulation on Mergers and Transfers Between Multiemployer Plans contains implementing rules. Neither the statute nor the regulation makes clear whether or how the merger and transfer rules apply where one or more of the plans involved is terminated. This regulation would amend 29 CFR part 2672 to clarify its application to mergers and transfers involving one or more terminated multiemployer plans and to specify the criteria that a merger or transfer involving terminated plans must satisfy in order to protect participants and beneficiaries in the affected plans, as well as the PBGC, from risk of loss as a result of the merger or transfer. The regulation would also liberalize the 120-day notice requirement for all multiemployer mergers and transfers so that such transactions can proceed more expeditiously.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024

RIN: 1212–AA69

4124. FINANCIAL ASSISTANCE TO MULTIEMPLOYER PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1431

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: ERISA section 4261(a) provides that the PBGC shall pay financial assistance to insolvent multiemployer plans described in sections 4245(f) and 4281(d) who submit an application for the payment of assistance. The PBGC's regulation on Powers and Duties of Plan Sponsor of Plan Terminated by Mass Withdrawal (29 CFR part 2675) specifies the information that plans described in section 4281(d) (i.e., a plan terminated by the withdrawal of all employers) are required to submit in their application for financial assistance; however, the PBGC has not prescribed regulations specifying the information that a plan subject to section 4245(f) (i.e., a plan that has not terminated by the withdrawal of all employers) is required to file. This regulation would, among other things, (1) specify the information for applications for financial assistance from plans described in section 4245(f); (2) incorporate and revise, as appropriate, the requirements in 29 CFR part 2675 that relate to applications for financial assistance for plans described in section 4281(d); and (3) specify the obligation of the sponsor of a plan that has applied for financial assistance to maintain and make available to the PBGC plan records and other information necessary for the PBGC to determine the plan's eligibility for financial assistance and where assistance has been provided, that such funds have been used solely for the purposes of paying guaranteed benefits and reasonable administrative expenses.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024

RIN: 1212–AA74

4125. DISCLOSURE AND AMENDMENT OF RECORDS UNDER THE PRIVACY ACT

Priority: Other

Legal Authority: 5 USC 552a

CFR Citation: 29 CFR 2607

Legal Deadline: None

Abstract: The PBGC is dividing one of its systems of records that are subject to the Privacy Act into two systems, and therefore proposing to amend its regulations to describe accurately the pertinent exemption from statutory provisions under the systems of records as so modified. In addition, the PBGC is proposing amendments to reflect its current organization and to increase its standard copying fee (which has not been modified since 1975). The proposed rule also will include several editorial changes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Campbell, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024

RIN: 1212–AA63

4126. SUBMISSION OF PREMIUM-RELATED INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1306; 29 USC 1307

CFR Citation: 29 CFR 2610

Legal Deadline: None

Abstract: The PBGC's regulation on Payment of Premiums (29 CFR part 2610) currently requires plan administrators to retain, for six years, all records necessary to support or validate premium payments and to make those records available to the PBGC, upon request, for inspection and photocopying. The PBGC intends to propose amendments to provide for the submission to the PBGC of information in those records and for the supplementation of information submitted in premium filings. By improving the PBGC's ability to tailor its decisionmaking to the variety of situations presented by the administration of premium requirements, the PBGC expects these changes to increase the agency's efficiency and effectiveness.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024

RIN: 1212–AA66

4127. GUARANTEED BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322

CFR Citation: 29 CFR 2613

Legal Deadline: None

Abstract: Under ERISA section 4022, the PBGC guarantees the payment of certain nonforfeitable benefits under single-employer plans that terminate without sufficient assets to fund such benefits. Part 2613 of the PBGC's regulations describes the benefits that are guaranteed, the limitations on the guarantee, and the manner in which guaranteed benefits are paid.

This regulation would amend part 2613 to make it clear the PBGC determines whether a participant is entitled to a guarantee of his or her benefit under a terminated plan based on the participant's age, length of service, disability, or death as of the plan's termination date, rather than as of the day before that date.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4116

RIN: 1212–AA76

4128. • REINVENTION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3)

CFR Citation: 29 CFR 2601 to 2677

Legal Deadline: None

Abstract: Consistent with the President's Regulatory Reinvention Initiative, the PBGC has reviewed all of its regulations to determine whether they can be simplified or updated. The PBGC intends to make appropriate changes to its regulations to reflect the results of this review.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marc L. Jordan, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179
Fax: 202 326-4112

RIN: 1212–AA83

4129. CALCULATION AND PAYMENT OF UNFUNDED NONGUARANTEED BENEFITS

Regulatory Plan: This entry is Seq. No. 143 in Part II of this issue of the **Federal Register**.

RIN: 1212–AA54

4130. AMENDMENTS TO VALUATION OF PLAN BENEFITS (REA, SEPPAA, AND PPA)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341

CFR Citation: 29 CFR 2619

Legal Deadline: None

Abstract: The Retirement Equity Act of 1984 ("REA") requires plans to provide certain benefits, prohibits the elimination of benefit options and certain early retirement benefits and retirement type subsidies, and mandates the range of interest rates that may be used in calculating the amount of a non-consensual lump sum benefit. The Tax Reform Act of 1986 ("TRA '86") slightly modified the interest rate restrictions and extended them to the calculation of all lump sum benefits.

These rules necessitate several amendments to the PBGC's valuation of benefits regulation (29 CFR part 2619).

The PBGC also plans to amend the regulation to reflect changes in the termination rules made by the Single-Employer Pension Plan Amendments Act of 1986 (SEPPAA) and the Pension Protection Act of 1987 (PPA).

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4116

RIN: 1212–AA55

4131. MISCELLANEOUS STATUTORY AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1301 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Statutory amendments to various provisions of ERISA have modified rules that underlie certain PBGC regulations. The PBGC has undertaken several projects that address the effects of a number of these amendments. This rulemaking will address others. In particular, it will amend the regulations to reflect changes made by the Retirement Protection Act of 1994 that are not the subject of other PBGC rulemakings. These include amendments to the rules for determining the variable rate portion of the premium payable by certain single-employer plans (see ERISA section 4006(a)(3)) and to the rules under which the PBGC issues notices of noncompliance with standard termination requirements (see ERISA section 4041(b)(2)).

Timetable:

Action	Date	FR Cite
Notice of Intent (Negotiated Rulemaking)	08/11/95	60 FR 41033
Notice of First Meeting (Negotiated Rulemaking)	09/26/95	60 FR 49531
Notice of Establishment of Negotiated Rulemaking Advisory Committee	10/05/95	60 FR 52135
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024

RIN: 1212–AA80

4132. REPORTABLE EVENT REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1343

CFR Citation: 29 CFR 2615 subpart A

Legal Deadline: None

Abstract: The Retirement Protection Act of 1994 amended the reportable event requirements in ERISA section 4043 by: (1) applying to contributing sponsors (as well as plan administrators) the requirement to notify the PBGC of a reportable event within 30 days after a person knows or has reason to know of its occurrence; (2) specifying four additional types of events for which notice is required (except as waived by the PBGC); and (3) requiring that, under limited circumstances, a contributing sponsor must notify the PBGC in advance of the occurrence of an event specified in the RPA or prescribed by PBGC regulations. This rule will amend the PBGC's reportable event regulations to implement these statutory changes. The rulemaking will also consider when notice should be required in various situations that may indicate the need to terminate a plan.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marc L. Jordan, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024

RIN: 1212–AA79

4133. MISSING PARTICIPANTS

Priority: Other Significant

Legal Authority: 29 USC 1302(b); 29 USC 1350

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: ERISA section 4050, added by the Retirement Protection Act of 1994, provides for a procedure whereby the plan administrator of a terminating single-employer plan could give the PBGC information about any missing participant and either transfer the participant's benefits to the PBGC or annuitize the benefits, and the PBGC would pay the benefits, or give the participant the information needed to obtain payment of the annuity, if and when the participant was located or reappeared. The PBGC is required to issue implementing regulations covering the amount to be paid by the plan to the PBGC and by the PBGC to the participant, as well as what steps plan administrators are to take in searching for participants. The purpose of the proposed regulations is to provide standards and procedures for carrying out the new missing participants provision.

Timetable:

Action	Date	FR Cite
NPRM	08/24/95	60 FR 44158
Notice of Intent Comment/ Application Period End	09/15/95	

PBGC — **Proposed Rule Stage**

Action	Date	FR Cite
NPRM Comment Period End	10/10/95	
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024

RIN: 1212–AA81

4134. • STANDARD TERMINATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341

CFR Citation: 29 CFR 2617

Legal Deadline: None

Abstract: The PBGC's standard termination regulations (29 CFR part 2617) provide rules and procedures plan administrators must follow to terminate a defined benefit pension plan that has sufficient assets to pay all benefit obligations to participants at the time of termination. The PBGC is reviewing experience under this regulation to determine whether the procedures and time periods for processing a standard termination are appropriate.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	
NPRM Comment Period End	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
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RIN: 1212–AA82

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — **Final Rule Stage**

4135. PAYMENT OF PREMIUMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1306; 29 USC 1307

CFR Citation: 29 CFR 2610

Legal Deadline: None

Abstract: Under sections 4006 and 4007 of ERISA, the PBGC has issued its regulation governing the payment of premiums for pension plans subject to Title IV of ERISA (29 CFR part 2610). PBGC studies of ways to simplify premium calculation and filing and to improve premium processing and accounting by PBGC have yielded suggestions for changes in that regulation. As a result, the PBGC has issued a proposed regulation to implement certain changes, relating mainly to filing due dates, treatment of short plan years, simplification of the alternative calculation method, and premium payment requirements for large plans (including what plans are considered large plans for this purpose). The purpose of the changes would be primarily to simplify the premium payment system for plans and the PBGC.

Timetable:

Action	Date	FR Cite
NPRM	04/10/92	57 FR 12666
NPRM Comment Period End	05/26/92	
NPRM Comment Period Extended to 11/16/92	09/17/92	57 FR 42910
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024

RIN: 1212–AA58

4136. REORGANIZING AND RENUMBERING OF REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1301 et seq

CFR Citation: 29 CFR ch XXVI; 29 CFR ch XL

Legal Deadline: None

Abstract: This rule will reorganize and renumber the PBGC's regulations to track the statutory provisions to which they relate so as to make it easier for the public to locate regulations implementing particular statutory provisions. The other agencies with significant regulatory responsibilities in the pension area (the Internal Revenue Service and the Department of Labor) already track statutory provisions in numbering their regulations, and practitioners are therefore accustomed to searching for pension regulations under statute-based numbering systems.

Timetable:

Action	Date	FR Cite
Notice of Intent to Renumber Regulations	07/08/94	59 FR 35067
Notice of Intent Comment Period End	09/06/94	
Final Action	02/00/96	
Final Action Effective	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marc L. Jordan, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024

RIN: 1212–AA75

PBGC — **Final Rule Stage**

4137. FINANCIAL AND ACTUARIAL INFORMATION REPORTING

Priority: Other Significant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1310

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: ERISA section 4010, added by the Retirement Protection Act of 1994, requires that contributing sponsors of certain underfunded single-employer plans and members of their controlled groups provide the PBGC, annually by a date specified in PBGC regulations, with: (1) records, documents, or other information that PBGC regulations specify as necessary to determine the liabilities and assets of plans covered by the termination insurance program, and (2) copies of their financial statements and other financial information as PBGC regulations may prescribe. This rule will include the implementing regulations anticipated by section 4010. The rulemaking will address many of the same types of information as would be addressed in the PBGC's separate rulemaking on plan funding information (see RIN 1212-AA70), and the PBGC has therefore decided not to proceed at this time with that separate rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	07/06/95	60 FR 35308
NPRM Comment Period End	09/05/95	
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank H. McCulloch, Senior Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4026

RIN: 1212–AA78

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — **Long-Term Actions**

4138. FUNDS FOR ADMINISTRATIVE EXPENSES OF SECTION 4049 TRUSTS

Priority: Substantive, Nonsignificant

CFR Citation: 29 CFR 2626

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Gabriel
Phone: 202 326-4023

RIN: 1212–AA65

4139. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 29 CFR 2624

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter H. Gould
Phone: 202 326-4116

RIN: 1212–AA35

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — **Completed Actions**

4140. TAX REFUND OFFSET

Priority: Other

Legal Authority: 29 USC 1302(b)(3); 31 USC 3701; 31 USC 3720A

CFR Citation: 29 CFR 2606; 29 CFR 2609

Legal Deadline: None

Abstract: Tax refund offset (i.e., referral of debts to the Internal Revenue Service to be offset against Federal tax refunds) may be an effective tool for collecting debts such as premium payment deficiencies, benefit overpayments, and employer liability. The PBGC rule enables it to participate in the Federal tax refund offset program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/06/94	59 FR 62571
Interim Final Rule Effective	01/05/95	59 FR 62571
Interim Final Rule Comment Period End	02/06/95	
Final Action	08/04/95	60 FR 39848
Final Action Effective	08/04/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024

RIN: 1212–AA72

4141. ANNUITY CONTRACTS DISTRIBUTED BY TERMINATING PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b); 29 USC 1341(b)

CFR Citation: 29 CFR 2617

Legal Deadline: None

Abstract: ERISA section 4041(b) requires terminating plans to provide benefits that are payable in annuity form by purchasing and distributing to plan participants (or beneficiaries) irrevocable commitments from an insurer to pay the annuity benefits. Once the final distribution of assets in accordance with section 4041(b) is completed, PBGC's guarantee under ERISA section 4022 is extinguished.

Under ERISA section 4041(b), the only specific requirement dealing with irrevocable commitments distributed upon plan termination is that they be purchased from a licensed insurance company. (Such purchases are, of course, subject generally to the fiduciary provisions of Title I of ERISA.) Publicity about financial problems within the insurance industry and, specifically, about the serious problems of a few insurers, has sparked concerns about the security of pension annuities that are being, or will be, paid by an insurer pursuant to an irrevocable commitment. PBGC (with the Department of Labor) has been studying this issue.

As part of this ongoing study, PBGC issued an ANPRM in order to solicit comments and suggestions from the public.

Timetable:

Action	Date	FR Cite
ANPRM	06/21/91	56 FR 28642
Withdrawn - DOL Interpretive Bulletin 95-1 addresses issues	09/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles W. Vernon, Assistant General Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4125

RIN: 1212–AA57

4142. NOTICE OF STATE GUARANTY COVERAGE OF ANNUITIES

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341; 29 USC 1344

CFR Citation: 29 CFR 2617

Legal Deadline: None

Abstract: Under title IV of ERISA, a single-employer plan covered by the termination insurance program may terminate in a "standard termination" if the plan has assets sufficient to provide for all benefit liabilities under the plan. The termination process is complete, and the PBGC's guarantee is extinguished, once the plan administrator distributes benefit liabilities by purchasing "irrevocable commitments" (annuity contracts) from an insurer or by distributing benefits in any other permitted form (generally a lump sum cash payment). The recent and highly publicized financial difficulties of certain insurers have focused public attention on the risks faced by participants whose benefits under terminating plans are to be provided through irrevocable commitments issued by such insurers. Under certain circumstances, state guaranty associations may provide some or all of the benefits otherwise lost. Nevertheless, some participants may not know (1) which state guaranty association(s) (if any) cover(s) their annuities, (2) the amount of coverage by the guaranty association(s), and (3) that a change in state of residence can alter their coverage. This regulation would require plan administrators to provide certain information to participants about state guaranty coverage.

Timetable:

Action	Date	FR Cite
Merged With RIN 1212-AA83 (Standard Terminations)	09/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles W. Vernon, Assistant General Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4125

RIN: 1212–AA73

4143. DISCLOSURE TO PARTICIPANTS

Priority: Other Significant

Legal Authority: 29 USC 1302(b); 29 USC 1311

CFR Citation: 29 CFR 2627

Legal Deadline: None

Abstract: The Retirement Protection Act of 1994 added section 4011 of ERISA, which requires plan administrators of certain underfunded plans to provide notice to plan participants and beneficiaries of the plan's funding status and the limits on the PBGC's guarantee should the plan terminate while underfunded. The PBGC regulations interpret the new statutory provision and prescribe the time, form, and manner in which the notice is to be provided. The purpose of the regulations is to ensure that participants and beneficiaries in underfunded plans are provided with meaningful, understandable, and timely information about their plan's funding status and their potential exposure in the event their plan terminates.

Timetable:

Action	Date	FR Cite
NPRM	03/28/95	60 FR 16026
NPRM Comment Period End	04/27/95	60 FR 16026
Final Action	06/30/95	60 FR 34412
Final Rule Correction	07/09/95	60 FR 36998
Final Action Effective	07/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024

RIN: 1212–AA77

[FR Doc. 95-26076 Filed 11-24-95; 8:45 am]
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federal register

Tuesday
November 28, 1995

Part XLI

Railroad Retirement Board

Semiannual Regulatory Agenda

RAILROAD RETIREMENT BOARD (RRB)

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Agenda of regulations under development or review.

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next 12 months and regulations that are scheduled to be reviewed in that period.

ADDRESSES: 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, (312) 751-4513.

SUPPLEMENTARY INFORMATION: For this edition of the Railroad Retirement Board's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Regulations that are routine in nature or pertain solely to internal agency management have not been included in the agenda. Current regulations that are proposed to be modified based on a completed review of the regulations are listed in the agenda.

Dated: September 15, 1995.

By Authority of the Board.
Beatrice Ezerski,
Secretary to the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4144	Employers' Contributions and Contribution Reports	3220-AA79
4145	Determining Disability	3220-AA99
4146	Creditable Railroad Compensation	3220-AB10
4147	Representative Payment	3220-AB14
4148	Finality of Decisions Regarding Railroad Retirement Annuities **(Reg Plan Seq. No. 144)**	3220-AB15
4149	Railroad Employers' Reports and Responsibilities	3220-AB16
4150	Evidence Required for Payment	3220-AB17

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4151	Recovery of Overpayments **(Reg Plan Seq. No. 145)**	3220-AA44
4152	Reduction and Non-Payment of Annuities by Reason of Work	3220-AA61
4153	Collection of Debts	3220-AB09

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4154	Employers Under the Railroad Retirement Act; Employers Under the Railroad Unemployment Insurance Act	3220-AA51
4155	Employees Under the Railroad Retirement Act	3220-AA52
4156	Voluntary Quit	3220-AA75
4157	Requests for Reconsideration and Appeals Within the Board	3220-AB03
4158	Determining Disability	3220-AB18

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4159	Computing Employee, Spouse, and Divorced Spouse Annuities	3220-AA58
4160	Initial Determinations Under the Railroad Unemployment Insurance Act and Reviews of and Appeals From Such Determinations	3220-AB06
4161	General Administration	3220-AB07

RRB

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4162	Application for Annuity or Lump Sum	3220-AB08
4163	Sickness Benefits	3220-AB11
4164	General Administration	3220-AB12
4165	Contributions Under Special Transition Rule for Public Commuter Railroads	3220-AB13

RAILROAD RETIREMENT BOARD (RRB) — Proposed Rule Stage

4144. EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

Priority: Other Significant

Legal Authority: 45 USC 362(l); 45 USC 358(a)(19)

CFR Citation: 20 CFR 345

Legal Deadline: None

Abstract: These regulations define how a contribution rate is determined in the case of merger, sale, or partition of two or more rail employers and describe generally how experience-rated contribution rates are determined under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	08/18/95	60 FR 43300
NPRM Comment Period End	10/17/95	60 FR 43300
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
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RIN: 3220–AA79

4145. DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231a; 45 USC 231f

CFR Citation: 20 CFR 220.114

Legal Deadline: None

Abstract: Section 114 of part 220 is being amended to expand the Board's description of the manner in which symptoms, including pain, are evaluated for purposes of determining disability.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47122
NPRM Comment Period End	11/13/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
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RIN: 3220–AA99

4146. CREDITABLE RAILROAD COMPENSATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 211

Legal Deadline: None

Abstract: This regulation explains when the Board will correct a record of compensation after the four-year limit provided for in section 9 of the Railroad Retirement Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: In the April 1995 Agenda, RIN 3220-AB10 indicated that parts 211 and 261 would be amended jointly. Parts 211 and 261 have been identified as separate amendments for the October 1995 Regulatory Plan and Unified Agenda. The RIN for part 261 is 3220-AB15.

Agency Contact: Michael C. Litt, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
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RIN: 3220–AB10

4147. • REPRESENTATIVE PAYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 355; 45 USC 231k

CFR Citation: 20 CFR 348

Legal Deadline: None

Abstract: This regulation provides guidelines regarding the selection, payment, responsibilities, and monitoring of representative payees under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street
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RIN: 3220–AB14

RRB

Proposed Rule Stage

4148. • FINALITY OF DECISIONS REGARDING RAILROAD RETIREMENT ANNUITIES

Regulatory Plan: This entry is Seq. No. 144 in Part II of this issue of the Federal Register.

RIN: 3220–AB15

4149. • RAILROAD EMPLOYERS' REPORTS AND RESPONSIBILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 209

Legal Deadline: None

Abstract: This regulation permits employers to destroy payroll records kept for purposes of crediting compensation under the Railroad Retirement Act after 5 years and explains when payroll records may be used to establish compensation under the Railroad Retirement Act in lieu of the prescribed report.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
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RIN: 3220–AB16

4150. • EVIDENCE REQUIRED FOR PAYMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 219

Legal Deadline: None

Abstract: The Railroad Retirement Board amends its regulations to permit the use of noncertified and facsimile copies of records or documents needed to establish eligibility for benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
Fax: 312 751-7102

RIN: 3220–AB17

RAILROAD RETIREMENT BOARD (RRB)

Final Rule Stage

4151. RECOVERY OF OVERPAYMENTS

Regulatory Plan: This entry is Seq. No. 145 in Part II of this issue of the Federal Register.

RIN: 3220–AA44

4152. REDUCTION AND NON-PAYMENT OF ANNUITIES BY REASON OF WORK

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 230

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to amend 20 CFR Part 230 to explain how annuity deductions on account of work are assessed in accordance with current law.

Timetable:

Action	Date	FR Cite
NPRM	08/16/95	60 FR 42482
NPRM Comment Period End	09/25/95	60 FR 43999
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
Fax: 312 751-7102

RIN: 3220–AA61

4153. COLLECTION OF DEBTS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f(b)(5); 31 USC 3716; 31 USC 3720A

CFR Citation: 20 CFR 366; 20 CFR 367

Legal Deadline: None

Abstract: The Board amends parts 366 and 367 of its regulations which provide for the collection of debts by tax refund offset, and by administrative offset, respectfully. The amendments will enable the Board to use these methods to collect debts from business organizations as well as individuals.

Timetable:

Action	Date	FR Cite
NPRM	08/17/95	60 FR 42818
NPRM Comment Period End	09/18/95	60 FR 42818
Final Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
Fax: 312 751-7102

RIN: 3220–AB09

RAILROAD RETIREMENT BOARD (RRB)

Long-Term Actions

RRB

Long-Term Actions

4154. EMPLOYERS UNDER THE RAILROAD RETIREMENT ACT; EMPLOYERS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 202; 20 CFR 301

Legal Deadline: None

Abstract: The Board is considering revisions to existing parts 202 and 301 of the Board's regulations defining entities covered as employers under the Railroad Retirement and Railroad Unemployment Insurance Acts to reflect case-by-case adjudications that have occurred since the regulations were originally adopted. The Board will seek input from rail employers and rail labor on the need to revise the regulations as well as on the revisions to be made. In addition, any revisions will be referred for review and comment to the Internal Revenue Service, which administers a companion statute, the Railroad Retirement Tax Act.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 318
NPRM Comment Period End	02/06/89	54 FR 318
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 40 Railroad Transportation

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
Fax: 312 751-7102

RIN: 3220–AA52

4155. EMPLOYEES UNDER THE RAILROAD RETIREMENT ACT

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 203

Legal Deadline: None

Abstract: The Board is considering revising existing part 203 of the Board's regulations defining individuals covered as employees under the Railroad Retirement Act to reflect case-by-case adjudications that have occurred since the regulations were originally adopted. The Board will seek input from rail employers and rail labor on the need to revise the regulations as well as on the revisions to be made. In addition, any revisions will be referred for review and comment to the Internal Revenue Service, which administers a companion statute, the Railroad Retirement Tax Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 40 Railroad Transportation

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
Fax: 312 751-7102

RIN: 3220–AA51

4156. VOLUNTARY QUIT

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 328

Legal Deadline: None

Abstract: A new part 328 is added to explain when unemployment insurance benefits are not payable because the employee voluntarily left employment.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
Fax: 312 751-7102

RIN: 3220–AA75

4157. REQUESTS FOR RECONSIDERATION AND APPEALS WITHIN THE BOARD

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f(b)(5); 45 USC 231g; 45 USC 355

CFR Citation: 20 CFR 260

Legal Deadline: None

Abstract: The RRB is amending its regulations to provide for its field offices to make timeliness determinations on requests for reconsideration of decisions of the RRB's various adjudicating units.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
Fax: 312 751-7102

RIN: 3220–AB03

4158. • DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 220

Legal Deadline: None

Abstract: The Board amends its regulations to update and revise its standards for determining occupational disability under the Railroad Retirement Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street
Phone: 312 751-4513
Fax: 312 751-7102

RIN: 3220–AB18

RAILROAD RETIREMENT BOARD (RRB)

Completed Actions

4159. COMPUTING EMPLOYEE, SPOUSE, AND DIVORCED SPOUSE ANNUITIES

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 226; 20 CFR 232

Completed:

Reason	Date	FR Cite
Final Action	05/05/95	60 FR 22261
Final Action Effective	05/05/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
Fax: 312 751-7102

RIN: 3220–AA58

4160. INITIAL DETERMINATIONS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT AND REVIEWS OF AND APPEALS FROM SUCH DETERMINATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 320

Completed:

Reason	Date	FR Cite
Final Action	06/01/95	60 FR 28534
Final Action Effective	06/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
Fax: 312 751-7102

RIN: 3220–AB06

4161. GENERAL ADMINISTRATION

Completed:

Reason	Date	FR Cite
Duplicate of RIN 3220-AB12	08/30/95	

RIN: 3220–AB07

4162. APPLICATION FOR ANNUITY OR LUMP SUM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 217

Completed:

Reason	Date	FR Cite
Final Action	05/04/95	60 FR 21982
Final Action Effective	05/04/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
Fax: 312 751-7102

RIN: 3220–AB08

4163. SICKNESS BENEFITS

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 335

Completed:

Reason	Date	FR Cite
Final Action	08/07/95	60 FR 40073
Final Action Effective	08/07/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
Fax: 312 751-7102

RIN: 3220–AB11

4164. GENERAL ADMINISTRATION

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 200.4

Completed:

Reason	Date	FR Cite
Final Action	06/07/95	60 FR 29983
Final Action Effective	06/07/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
Fax: 312 751-7102

RIN: 3220–AB12

4165. • CONTRIBUTIONS UNDER SPECIAL TRANSITION RULE FOR PUBLIC COMMUTER RAILROADS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 45 USC 362(i); 45 USC 362(l)

CFR Citation: 20 CFR 344

Legal Deadline: None

Abstract: The Railroad Retirement Board amends its regulations to remove 20 CFR Part 344 regarding the computation and payment of contributions under the Railroad Unemployment Insurance Act for commuter railroads as that part is obsolete.

Timetable:

Action	Date	FR Cite
Final Action	05/04/95	60 FR 21981
Final Action Effective	05/04/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
Fax: 312 751-7102

RIN: 3220–AB13

[FR Doc. 95-24140 Filed 11-24-95; 8:45 am]
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Federal Register

Tuesday
November 28, 1995

Part XLII

Selective Service System

Semiannual Regulatory Agenda

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SELECTIVE SERVICE SYSTEM (SSS)

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 U.S.C. app. 451 *et seq.*). This information will allow the public to participate in the System's decisionmaking at an early stage.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, Virginia 22209-2425; telephone (703) 235-2050.

SUPPLEMENTARY INFORMATION: The agenda is published in accord with the requirements of E.O. 12866. Selective Service regulations appear in 32 CFR chapter XVI.

Dated: September 8, 1995.

Gil Coronado,

Director of Selective Service.

SELECTIVE SERVICE SYSTEM (SSS)

Long-Term Actions

4166. SELECTIVE SERVICE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 451 et seq, Military Selective Service Act

CFR Citation: 32 CFR ch XVI

Legal Deadline: None

Abstract: Various sections of 32 CFR chapter XVI will be revised to increase clarity of expression or change procedures for registrant processing.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Henry N. Williams, General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209-2425
Phone: 703 235-2050

RIN: 3240–AA01

[FR Doc. 95-23622 Filed 11-24-95; 8:45 am]
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federal register

Tuesday
November 28, 1995

Part XLIII

Small Business Administration

Semiannual Regulatory Agenda

SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Publication of the semiannual agenda of regulations under review or development by the Small Business Administration (SBA).

SUMMARY: This is SBA's 33rd semiannual agenda of regulations. Although SBA is not a regulatory agency, it has attempted to draft agendas that met both the criteria and the spirit of the regulatory review process. This agenda is published pursuant to Executive Order 12866, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and Public Law 96-354, effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, SBA encourages the public to contact the individual agency official listed for the particular item.

For information concerning SBA's overall Regulatory Review and Development Program or general semiannual agenda questions, contact Martin D. Teckler, Deputy General Counsel, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 205-6642.

SUPPLEMENTARY INFORMATION: This SBA agenda highlights the agency's ambitious program to streamline its present and prospective regulatory activity. In response to President Clinton's regulatory review initiative, SBA completed a page-by-page, line-by-line review of all its existing regulations to determine which should be revised or eliminated. As a result, SBA proposes to reduce the overall length of its regulations by over 50 percent while making them more effective, consistent, and understandable.

The SBA agenda contains many regulations that are limited in public impact, but they are included to increase public knowledge of all SBA regulatory activities and allow for increased public participation in the review and development process. Public comments on SBA's previous agendas have been general, and all were positive. They were not directed at specific content nor were any changes suggested or recommended.

The SBA agenda format has three parts. Part I, Proposed Rules, includes rulemakings that will be proposed during the 12-month period covered by the agenda. Part II, Final Rules, includes proposed rules that will be finalized during the period covered by the agenda. Part III, Completed Actions, includes regulations completed or withdrawn and reviews completed since the preceding agenda. This edition of the Unified Agenda of Federal Regulations includes The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The SBA's Statement of Regulatory Priorities is included in Part II.

Publication of the agenda does not impose any binding obligation on SBA with regard to any specific item in the agenda. Additional regulatory action not listed on the agenda is not precluded.

The SBA's regulations will be developed in a manner that promotes growth in the economy while imposing no unnecessary regulatory burdens on the public. The SBA's regulatory streamlining initiative promotes this goal by improving the Agency's ability to provide services quickly and at minimum cost to its small business customers.

Dated: September 25, 1995.

Philip Lader,

Administrator.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4167	Nondiscrimination in Federally Assisted Programs	3245-AB36
4168	Nondiscrimination in Financial Assistance Programs	3245-AB37
4169	Amendments to Administration Regulations **(Reg Plan Seq. No. 146)**	3245-AC20
4170	Minority Small Business and Capital Ownership Development Program; Eligibility and Contractual Assistance	3245-AC30
4171	Small Business Size Regulations	3245-AC31
4172	Surety Bond Guarantee; Regulations	3245-AC60
4173	Small Business Size Standards; Adjustment and Collection Agencies	3245-AC64
4174	Small Business Size Standards; Health Care Services Industries	3245-AC68
4175	Veterans' Program	3245-AC95
4176	Supplemental Standards of Ethical Conduct for Employees of the Small Business Administration	3245-AC96
4177	Women-Owned Business Definition and Protest and Appeal Process	3245-AC98
4178	Small Business Size Standards; Establishment of Size Standards	3245-AD07
4179	Surety Bond Guarantee; Multiyear Guaranty Authority	3245-AD15
4180	Business Loan Policy; Care and Preservation of Collateral (CPCs)	3245-AD21
4181	Small Business Investment Company Leverage	3245-AD29
4182	Business Loans-Alter Ego; Development Companies—Alter Ego	3245-AD31
4183	Export Working Capital Program	3245-AD43
4184	Business Loans: Microloans	3245-AD48
4185	Loans to State and Local Development Companies; Section 504 Loans Program Amendments	3245-AD60
4186	Small Business Size Standards; Conference Planners	3245-AD63
4187	Elimination of Parts 106, 109, 110, 111, 128, 129, 144 of Chapter 1 of Title 13, and Part 2209 of Title 48 of CFR	3245-AD65
4188	Freedom of Information and Privacy Act of 1974	3245-AD66
4189	Policies of General Application/Standards for Conducting Business with SBA	3245-AD67

SBA

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4190	Nondiscrimination by Recipients of SBA Assistance and SBA	3245-AD68
4191	Small Business Size Standards	3245-AD69
4192	Minority Enterprise Development/Small Disadvantaged Business	3245-AD70
4193	Disaster - Physical Disaster and Economic Injury Loans	3245-AD71
4194	Policies of General Application/Administrative Tort Claims	3245-AD72
4195	Debt Collection	3245-AD73
4196	Surety Bond Guarantee	3245-AD74
4197	Business Loans **(Reg Plan Seq. No. 147)**	3245-AD75
4198	Small Business Investment Companies	3245-AD76
4199	Standards of Conduct and Other Employee Responsibilities	3245-AD77
4200	Government Contracting Assistance	3245-AD78
4201	Rules of Procedure Governing Cases Before the Office of Hearings and Appeals	3245-AD79
4202	Program Fraud Civil Remedies Act Regulations	3245-AD80

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4203	Certificate of Competency	3245-AA74
4204	Business Loans	3245-AB99
4205	Small Business Size Standards; Advertising Services Industries	3245-AC78
4206	Small Business Size Regulation	3245-AC87
4207	Amendments to the Amount of Flood Insurance Coverage Required of Recipients of Certain SBA Assistance	3245-AD28
4208	Small Business Size Standards (Ostensible Subcontractor Rule)	3245-AD45
4209	Prepayment of Certain Debentures	3245-AD51
4210	Loans to State and Local Development Companies; Computer-Generated Facsimiles of SBA Forms	3245-AD52
4211	Small Business Size Regulations; Nonmanufacturer Rule	3245-AD57
4212	Physical Disaster and Economic Injury Loan (Agriculture)	3245-AD59

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4213	Loans to State and Local Development Companies; Section 502 Loan Program	3245-AB35
4214	User Fees for SBA Programs	3245-AB44
4215	Small Business Size Standards for Natural Gas Distribution	3245-AB94
4216	Regulations for the Implementation of New 301(d) SBIC Funding Authority and Terms Contained in Public Law 101-162	3245-AC09
4217	Business Loans Policy; SBA Guaranty	3245-AD22
4218	Loans to State and Local Development Companies; Premier Certified Lenders Program	3245-AD54
4219	Policies of General Application	3245-AD61

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4220	Small Business Development Centers	3245-AB17
4221	Small Business Size Standards; Computer Services Industries	3245-AC11
4222	Small Business Size Standards; Combination Electric and Gas and Other Utility Services	3245-AC57
4223	Loans to State and Local Development Companies; Accredited Lenders Program for Certified Development Companies	3245-AD16
4224	Small Business Size Standards; Equipment Rental and Leasing	3245-AD26

SBA

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4225	Disaster Waiver of Judgment Lien Restriction	3245-AD36
4226	Small Business Size Standards; Simplification	3245-AD38
4227	Amendment to Grants Management Common Rule	3245-AD41
4228	Nonprocurement Debarment and Suspension Common Rule	3245-AD46
4229	Business Loan Policy and Business Loans Facsimiles of SBA Forms	3245-AD49
4230	Small-Business Investment Companies Accounting and Financial Reporting Standards	3245-AD50
4231	Small-Business Size Standards; Handicapped Workshop Participation in Small Business Set-Aside Contracts	3245-AD53
4232	Business Loans; Microloans; Two-State Rule	3245-AD55
4233	Policies of General Application	3245-AD58

SMALL BUSINESS ADMINISTRATION (SBA)

Proposed Rule Stage

4167. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Priority: Other

Legal Authority: 15 USC 634(b)(6); 42 USC 2000d-1

CFR Citation: 13 CFR 112

Legal Deadline: None

Abstract: Technical amendment to SBA's current regulation to clarify that if recipients of assistance under any of SBA's programs are found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Brenda J. Smith, Acting Assistant Administrator for, Equal Employment Opportunity & Compliance, Small Business Administration, 409 Third Street SW., 4th Floor, Washington, DC 20416
Phone: 202 205-6750

RIN: 3245–AB36

4168. NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS

Priority: Other

Legal Authority: 15 USC 634(b)(6); PL 85-536; 15 USC 633; 15 USC 634; 15 USC 687; 15 USC 1691; 20 USC 1681 et seq; 29 USC 794

CFR Citation: 13 CFR 113

Legal Deadline: None

Abstract: Technical amendment to SBA's current regulation to clarify that if a beneficiary of one of SBA's financial assistance programs is found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance or accelerating a loan.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Brenda J. Smith, Acting Assistant Administrator for, Equal Employment Opportunity & Compliance, Small Business Administration, 409 Third Street SW., 4th Floor, Washington, DC 20416
Phone: 202 205-6750

RIN: 3245–AB37

4169. AMENDMENTS TO ADMINISTRATION REGULATIONS

Regulatory Plan: This entry is Seq. No. 146 in Part II of this issue of the **Federal Register**.

RIN: 3245–AC20

4170. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM; ELIGIBILITY AND CONTRACTUAL ASSISTANCE

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661, sec 1207; PL 100-656; PL 101-37; PL 101-574

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This rule is an amendment to the program regulations governing appeals of denials of program admission, graduation, and termination actions, and denials of requests for waiver of the requirement that, subject to certain conditions, an 8(a) contract must be performed by the contractor to which it was awarded.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Herbert L. Mitchell, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6410

RIN: 3245–AC30

4171. SMALL BUSINESS SIZE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); PL 100-590

SBA

Proposed Rule Stage

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule contains revisions to the size regulations to address employee leasing arrangements, altering the jurisdiction of OHA, and other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Catherine Thomas, Program Manager, Size Determination Program, Office of Procurement Policy and Liaison, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6460

RIN: 3245–AC31

4172. SURETY BOND GUARANTEE; REGULATIONS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 687b; 15 USC 694a; 15 USC 694b; 5 USC app 1; PL 100-590

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: The entire program regulations will be revised and reorganized to include substantive policy and procedural modifications which will be implemented. This revision is intended to eliminate inconsistencies, clarify procedures, reflect program experience and industry changes, and result in more efficient program operation. Planned regulatory changes include regulations pertaining to both the prior approval and preferred programs, fees, and premiums and claims for losses.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: RIN 3245-AC97 has been merged into this entry.

Agency Contact: Dorothy D. Kleeschulte, Assistant Administrator for Surety Guarantees, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6540

RIN: 3245–AC60

4173. SMALL BUSINESS SIZE STANDARDS; ADJUSTMENT AND COLLECTION AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(a); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise the size standard for the Adjustment and Collection Agencies. The current size standard is $5 million in gross receipts. The proposal will also address the issue of receipts calculated on a net income or gross income basis.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AC64

4174. SMALL BUSINESS SIZE STANDARDS; HEALTH CARE SERVICES INDUSTRIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(a); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise some or all of the 11 size standards within the health care services industries. The current size standard of $5 million in average annual receipts applies to each health care industry.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AC68

4175. VETERANS' PROGRAM

Priority: Other Significant

Legal Authority: PL 93-237; 15 USC 634(b)(6)

CFR Citation: 13 CFR 116.2; 13 CFR 116.3

Legal Deadline: None

Abstract: PL 93-237 requires that SBA provide special consideration to veterans, their survivors or dependents in the administration of Agency programs. This rule will amend the current definition of veteran and special consideration.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Leon Bechet, Director, Office of Veterans Affairs, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416
Phone: 202 205-6773

RIN: 3245–AC95

4176. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE SMALL BUSINESS ADMINISTRATION

Priority: Other Significant

Legal Authority: 15 USC 684; 15 USC 637(a)(18); 15 USC 637(a)(19); EO 12674

CFR Citation: 5 CFR ch XLIV

Legal Deadline: None

SBA

Proposed Rule Stage

Abstract: The Small Business Administration and the Office of Government Ethics are jointly issuing this proposed rule which is designed to establish uniform standards of ethical conduct for the officers and employees of the SBA. This proposed rule will be published at 5 CFR ch XLIV and will supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics (57 FR 35006; Aug. 7, 1992). This proposed rule is necessary to supplement the standards issued by OGE because it addresses ethical issues which are unique to SBA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robinson S. Nunn, Chief Counsel for Ethics, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AC96

4177. WOMEN-OWNED BUSINESS DEFINITION AND PROTEST AND APPEAL PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 631; 15 USC 632(a); 15 USC 634(b)(6); 15 USC 656; EO 12138

CFR Citation: 13 CFR 126

Legal Deadline: None

Abstract: Executive Order 12138 created a national women's business enterprise policy and prescribed arrangements for developing, coordinating, and implementing a national program for women's business enterprise. This EO states that each department and agency of the executive branch "shall take appropriate action to facilitate, preserve, and strengthen" women-owned businesses. SBA is proposing these regulations to establish a definition of "women-owned business" and to provide a process to expeditiously resolve challenges to a self-certification of a women-owned business.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Juanita Weaver, Deputy Director for Women's Business Ownership, Small Business Administration, 409 Third Street SW., Room 6250, Washington, DC 20416
Phone: 202 205-6673

RIN: 3245–AC98

4178. SMALL BUSINESS SIZE STANDARDS; ESTABLISHMENT OF SIZE STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(c); PL 102-366

CFR Citation: 13 CFR 121

Legal Deadline: NPRM, Statutory, March 4, 1993. Final, Statutory, March 4, 1993.

Abstract: Rule to establish procedures for the development of small business size standards by other Federal agencies and for SBA's review of those standards.

Timetable:

Action	Date	FR Cite
Notice	10/13/93	58 FR 52929
Notice	10/13/93	58 FR 52929
NPRM	10/01/95	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AD07

4179. SURETY BOND GUARANTEE; MULTIYEAR GUARANTY AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: See Additional Information.

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: Legislation has been enacted to allow small business access to Office of Surety Guarantee funds on a revolving basis instead of availability per annual budget. Regulatory changes will result.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This rule will be published upon enactment of legislation which has been proposed to Congress.

Agency Contact: Dorothy D. Kleeschulte, Assistant Administrator, Office of Surety Guarantees, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6540

RIN: 3245–AD15

4180. BUSINESS LOAN POLICY; CARE AND PRESERVATION OF COLLATERAL (CPCS)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 631; 41 USC 403(11)

CFR Citation: 13 CFR 120.200

Legal Deadline: None

Abstract: Section 5(b)(4) of the Small Business Act sets a limit of $1,000 on the amount of CPC which can be obtained without competitive bid. This section was based on procurement legislation which was in effect at the time the Act was drafted (40 years ago). Since then, the amount contained in procurement regulations has steadily increased. It is currently $25,000. Unfortunately, the Small Business Act was never amended and remains at $1,000. This unrealistic limit greatly impedes the field offices' ability to perform their required tasks efficiently. To correct this oversight and to prevent a recurrence, the end of the second sentence of the Small Business Act will be amended to read ": . . or the amount thereof does not exceed the small purchase threshold as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 USC 403(11)." The Agency will use SOP 50 50 1 to set limits on amounts within the small purchase threshold.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Arnold Rosenthal, Acting Assistant Administrator, Office of Portfolio Management, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6481

RIN: 3245–AD21

SBA

Proposed Rule Stage

4181. SMALL BUSINESS INVESTMENT COMPANY LEVERAGE

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 681 et seq; 15 USC 687(c); 15 USC 683; 15 USC 687d; 15 USC 687g; 15 USC 687b; 15 USC 687m

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This proposed regulation would exempt non-leveraged Licensees from certain regulations primarily intended to safeguard SBA's interests as a creditor of, guarantor of, and/or investor in, Leveraged Licensees.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert D. Stillman, Associate Administrator for Investment, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416
Phone: 202 205-6510

RIN: 3245–AD29

4182. BUSINESS LOANS-ALTER EGO; DEVELOPMENT COMPANIES—ALTER EGO

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 687(c); 15 USC 695; 15 USC 696; 15 USC 697a; 15 USC 697b; 15 USC 697c; 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h)

CFR Citation: 13 CFR 108; 13 CFR 120

Legal Deadline: None

Abstract: This rule would allow certain passive businesses to be eligible for SBA financial assistance under both the SBA's development company and 7(a) business loan programs if the real estate (or personal property) it holds would be used by an eligible small business concern in which any owner of at least 20 percent of the passive business owns at least 20 percent of the small business concern. The rule would also eliminate many requirements and restrictions which limit the use of real estate holding entities in SBA's business loan and development company programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	12/00/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: John Cox, Assistant Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AD31

4183. EXPORT WORKING CAPITAL PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 636(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 122

Legal Deadline: None

Abstract: The entire Export Revolving Line of Credit program regulations will be revised and reorganized to include policy and procedural modifications resulting from a pilot program ending September 30, 1995. The revision is intended to result in more efficient and effective program operation. Planned regulatory changes include regulations pertaining to fees, interest rates, use of proceeds and percentage of loan guarantee.

Timetable:

Action	Date	FR Cite
NPRM	10/01/95	
NPRM Comment Period End	11/01/95	
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Jeanne Sclater, Assistant Administrator, Office of International Trade, Small Business Administration, 409 Third Street SW., Suite 8500, Washington, DC 20416
Phone: 202 205-6720

RIN: 3245–AD43

4184. BUSINESS LOANS: MICROLOANS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 122

Legal Deadline: None

Abstract: Rules regarding provision of assistance to micro lenders.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John R. Cox, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., Suite 8300, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AD48

SBA

Proposed Rule Stage

4185. • LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES; SECTION 504 LOANS PROGRAM AMENDMENTS

Priority: Other

Legal Authority: 15 USC 687(c); 15 USC 695; 15 USC 696; 15 USC 697

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: This rule is technical in nature and is intended to conform the 504 program regulations to reflect practices developed to expedite delivery of the program.

Timetable:

Action	Date	FR Cite
NPRM	09/08/95	60 FR 46789
NPRM Comment Period End	10/10/95	
Final Action Effective	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LeAnn Oliver, Acting Director, Office of Rural Affairs and Economic Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AD60

4186. • SMALL BUSINESS SIZE STANDARDS; CONFERENCE PLANNERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to exclude certain forms of pass-through revenues from the computation of gross annual revenues for businesses engaged in providing conference planning services.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AD63

4187. • ELIMINATION OF PARTS 106, 109, 110, 111, 128, 129, 144 OF CHAPTER 1 OF TITLE 13, AND PART 2209 OF TITLE 48 OF CFR

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 106; 13 CFR 109; 13 CFR 110; 13 CFR 111; 13 CFR 128; 13 CFR 129; 13 CFR 144; 48 CFR 2209

Legal Deadline: None

Abstract: Elimination of parts regarding lease guarantees, prepayment rules for SBICs and CDCs, investigations, small business investment companies, pollution control, grants for small business research, management assistance, discounted prepayment of disaster home loans, and contractor's qualifications as obsolete, unnecessary and duplicative.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David R. Kohler, Associate General Counsel for General Law, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AD65

4188. • FREEDOM OF INFORMATION AND PRIVACY ACT OF 1974

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 44 USC et seq; 5 USC 552(a); 18 USC 5203(a)(1); 31 USC 1 et seq; 31 USC 67 et seq; EO 12600; 15 USC 634(b)(6)

CFR Citation: 13 CFR 102

Legal Deadline: None

Abstract: In response to President Clinton's Governmentwide Regulatory Reform initiative, the Small Business Administration has completed a page-by-page, line-by-line review of all of its existing regulations to determine which might be revised or eliminated. This proposed rule would eliminate over 25 percent of Part 102, principally by deleting duplicative language and rewriting the remainder in plain language. The rule includes other changes to improve the procedural efficiency of Part 102.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Cheri C. Wolff, Chief Counsel for General Litigation, Office of General Counsel, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6643

RIN: 3245–AD66

4189. • POLICIES OF GENERAL APPLICATION/STANDARDS FOR CONDUCTING BUSINESS WITH SBA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 637; 15 USC 642

CFR Citation: 13 CFR 103

Legal Deadline: None

Abstract: In response to President Clinton's Regulatory Reform initiative, the SBA has completed a page-by-page, line-by-line review of its regulations in order to determine which might be revised or eliminated. This proposed rule would reorganize and streamline the entire part 103, which governs standards one must meet to to conduct business with SBA. It makes the standards more understandable to those who are regulated and easier for SBA to enforce.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	

SBA

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary Fox, Chief Counsel for Special Litigation, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6643

RIN: 3245–AD67

4190. • NONDISCRIMINATION BY RECIPIENTS OF SBA ASSISTANCE AND SBA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 42 USC 2000d-1; 20 USC 1681 to 1686; 29 USC 794; 42 USC 6101 et seq

CFR Citation: 13 CFR 112; 13 CFR 113; 13 CFR 117; 13 CFR 136

Legal Deadline: None

Abstract: In response to President Clinton's Governmentwide Regulatory Reform initiative, the SBA has completed a page-by-page, line-by-line review of all its existing regulations to determine which might be revised or eliminated. This proposed rule would consolidate into one part, four existing parts of SBA's regulations pertaining to compliance by SBA and recipients of SBA assistance with the various applicable civil rights laws of the United States. This consolidation of parts 112, 113, 117 and 136 avoids unnecessary duplication in the regulations and leaves one regulation involving civil rights compliance.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Cheri Wolff, Chief Counsel for General Litigation, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6643

RIN: 3245–AD68

4191. • SMALL BUSINESS SIZE STANDARDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 632; 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This proposed rule would amend SBA's regulations governing its size standards program. It is designed to streamline the size standards operation by streamlining and clarifying existing regulatory language and by eliminating unnecessary, irrelevant or obsolete provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John W. Klein, Chief Counsel for Procurement, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AD69

4192. • MINORITY ENTERPRISE DEVELOPMENT/SMALL DISADVANTAGED BUSINESS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 15 USC 637(a); 15 USC 637(d)

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This proposed rule would amend both eligibility requirements for and contractual assistance provisions within the SBA's minority enterprise development program. It is designed to streamline the operation of the MED program, to ease certain restrictions perceived to be burdensome on program participants, to clarify certain eligibility requirements, and to delete obsolete regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John W. Klein, Chief Counsel for Procurement, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AD70

4193. • DISASTER - PHYSICAL DISASTER AND ECONOMIC INJURY LOANS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f)

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: This proposed rule would reorganize the entire part 123 covering the disaster loan program to make it more clear and easier to use.

SBA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Stephens, Associate General Counsel for SBIC Litigation, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6489

RIN: 3245–AD71

4194. • POLICIES OF GENERAL APPLICATION/ADMINISTRATIVE TORT CLAIMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(1); 15 USC 634(b)(6); 28 USC 2672

CFR Citation: 13 CFR 114

Legal Deadline: None

Abstract: This proposed rule would reorganize the entire part 114 covering administrative claims under the Tort Claims Act to make it more clear and easier to use. It would also amend the part to streamline the review and adjustment of claims and provide for the use of alternative dispute resolution in appropriate cases.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jeff Lane, Office of General Counsel, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6879

RIN: 3245–AD72

4195. • DEBT COLLECTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 31 USC 3720A

CFR Citation: 13 CFR 140

Legal Deadline: None

Abstract: This proposed rule would revise several sections of part 140 to consolidate certain sections and to reword certain sections so as to make them simpler and more understandable to the public.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary Fox, Chief Counsel for Special Litigation, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6643

RIN: 3245–AD73

4196. • SURETY BOND GUARANTEE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 687b; 15 USC 687c; 15 USC 694a; 15 USC 694b; 5 USC app 1; PL 100-590; PL 101-574

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: This proposed rule revises part 115 governing the surety bond program to eliminate redundant provisions, consolidate and reorganize sections where appropriate, clarify ambiguous language and propose substantive changes.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara Brannan, Office of Surety Guarantees, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6540

RIN: 3245–AD74

4197. • BUSINESS LOANS

Regulatory Plan: This entry is Seq. No. 147 in Part II of this issue of the **Federal Register**.

RIN: 3245–AD75

4198. • SMALL BUSINESS INVESTMENT COMPANIES

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 661

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This regulation involves a complete revision of the regulations governing the small business investment company program. Substantial revisions and streamlining will occur.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Don Christenson, Associate Administrator for Investment, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416
Phone: 202 205-6510

RIN: 3245–AD76

SBA

Proposed Rule Stage

4199. • STANDARDS OF CONDUCT AND OTHER EMPLOYEE RESPONSIBILITIES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 7301; 15 USC 634; 15 USC 637(a)(18); 15 USC 637(a)(19); 15 USC 645(a)

CFR Citation: 13 CFR 105

Legal Deadline: None

Abstract: This proposed rule eliminates provisions that are superseded by the Office of Government Ethics uniform standards of conduct for Executive branch employees and reorganizes the remaining provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robinson S. Nunn, Chief Counsel for Ethics, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6787

RIN: 3245–AD77

4200. • GOVERNMENT CONTRACTING ASSISTANCE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-515; PL 100-202; 15 USC 634(b)(6); 15 USC 634(b)(8); 15 USC 634(b)(15); 31 USC 9701; 31 USC 9702

CFR Citation: 13 CFR 125

Legal Deadline: None

Abstract: This proposed rule reorganizes and simplifies present part 125. It eliminates seven sections that were unnecessary, duplicative, or obsolete. The remaining five sections were rewritten for clarity and ease of use.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John W. Klein, Chief Counsel for Special Programs, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AD78

4201. • RULES OF PROCEDURE GOVERNING CASES BEFORE THE OFFICE OF HEARINGS AND APPEALS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 5 USC 504

CFR Citation: 13 CFR 134

Legal Deadline: None

Abstract: This proposed rule would revise, reorganize, simplify and unify into new part 134 all of present part 134, all of part 132, and those provisions in part 124 that pertain to proceedings before the office arising out of certain aspects of the Agency's 8(a) program, size determinations, and SIC code designations.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary Fox, Chief Counsel for Special Litigation, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6852

RIN: 3245–AD79

4202. • PROGRAM FRAUD CIVIL REMEDIES ACT REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3801; 31 USC 3812

CFR Citation: 13 CFR 142

Legal Deadline: None

Abstract: This proposed rule reorganizes and clarifies present part 142 to make more clear and easier to use.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	
NPRM Comment Period End	12/01/95	
Final Action Effective	12/31/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Cheri Wolff, Chief Counsel for General Litigation, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6855

RIN: 3245–AD80

SMALL BUSINESS ADMINISTRATION (SBA)

Final Rule Stage

4203. CERTIFICATE OF COMPETENCY

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); PL 99-591; PL 99-661

CFR Citation: 13 CFR 125.5

Legal Deadline: None

Abstract: Overall revision to Certificate of Competency regulations. Additionally, this rule will include guidelines for application of subcontracting limitations imposed by PL 99-591 and PL 99-661.

Timetable:

Action	Date	FR Cite
NPRM	08/21/92	57 FR 37909
NPRM Comment Period End	10/20/92	
Final Action Effective	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: RIN 3245-AB62 has been merged with this rulemaking action.

Agency Contact: Thomas A. Dumaresq, Associate Administrator for Government Contracting, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6460

RIN: 3245–AA74

4204. BUSINESS LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h); 31 USC 3717(e)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This rule would allow SBA to recover its collection costs from borrowers who have failed to satisfy their loan agreements and to assess additional penalties permitted by law.

Timetable:

Action	Date	FR Cite
NPRM	08/28/89	54 FR 35499
NPRM Comment Period End	09/27/89	54 FR 35499
NPRM	05/19/93	58 FR 29152
NPRM	05/19/93	58 FR 29152
Interim Final Rule	11/00/95	
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: A second notice of proposed rulemaking was published May 19, 1993 (58 FR 29152). However, the second NPRM only addressed Business Loans (13 CFR 120).

Agency Contact: John Cox, Assistant Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AB99

4205. SMALL BUSINESS SIZE STANDARDS; ADVERTISING SERVICES INDUSTRIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule proposes to increase the size standard for four advertising services industries from $3.5 million in annual receipts (defined to include all revenue in whatever form received or accrued from whatever source) to $6 million in annual receipts (excluding amounts remitted to other firms).

Timetable:

Action	Date	FR Cite
NPRM	08/25/92	57 FR 38452
NPRM Comment Period End	09/24/92	
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AC78

4206. SMALL BUSINESS SIZE REGULATION

Priority: Other Significant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c); PL 101-574

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Rule to establish procedures for requesting/granting waivers of the nonmanufacturer rule on specific solicitations, based on contracting officer determinations.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 48981
NPRM Comment Period End	10/21/93	58 FR 48981
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Thomas Dumaresq, Associate Administrator for Government Contracting, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6460

RIN: 3245–AC87

4207. AMENDMENTS TO THE AMOUNT OF FLOOD INSURANCE COVERAGE REQUIRED OF RECIPIENTS OF CERTAIN SBA ASSISTANCE

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f); PL 102-395; PL 103-75

CFR Citation: 13 CFR 116

Legal Deadline: None

Abstract: Under the proposed rule, flood insurance would be required in an amount equal to the lesser of (1) the sum of all liens on the property (including any SBA lien) plus, if the SBA assistance is unsecured, the outstanding balance of the SBA assistance or (2) the insurable value of the property, but in no event would the required insurance exceed the maximum flood insurance available under the National Flood Insurance Act of 1968.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Bernard Kulik, Assistant Administrator for Disaster Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6734

RIN: 3245–AD28

SBA

Final Rule Stage

4208. SMALL BUSINESS SIZE STANDARDS (OSTENSIBLE SUBCONTRACTOR RULE)

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Ostensible subcontractor and affiliation rule.

Timetable:

Action	Date	FR Cite
NPRM	01/23/95	60 FR 4389
NPRM Comment Period End	03/24/95	60 FR 4389
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., Suite 8100, Washington, DC 20416
Phone: 202 205-6840

RIN: 3245–AD45

4209. PREPAYMENT OF CERTAIN DEBENTURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 109

Legal Deadline: Final, Statutory, November 23, 1995.

Abstract: Rules regarding prepayment of certain debentures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/23/94	59 FR 60305
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: LeAnn Oliver, Acting Director, Office of Rural Affairs and Economic Development, Small Business Administration, 409 Third Street SW., Suite 8300, Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AD51

4210. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES; COMPUTER-GENERATED FACSIMILES OF SBA FORMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: Permits development companies to use computer generated facsimiles of SBA forms.

Timetable:

Action	Date	FR Cite
NPRM	03/24/95	60 FR 15525
Final Action Effective	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LeAnn Oliver, Acting Director, Office of Rural Affairs and Economic Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AD52

4211. • SMALL BUSINESS SIZE REGULATIONS; NONMANUFACTURER RULE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c); PL 102-486

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This proposed rule would require a dealer (nonmanufacturer) to provide the product of a domestic small business manufacturer on a small business set-aside and 8(a) contract (the nonmanufacturer rule) awarded under the Government's new simplified acquisition procedures, unless a waiver to that requirement is granted by SBA. The nonmanufacturer rule is applicable to all 8(a) procurements and small business set-asides.

Timetable:

Action	Date	FR Cite
NPRM	05/26/95	60 FR 27924
NPRM Comment Period End	07/26/95	60 FR 27924
Final Action Effective	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AD57

4212. • PHYSICAL DISASTER AND ECONOMIC INJURY LOAN (AGRICULTURE)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f)

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: This proposed rule would make clear that businesses primarily engaged in agriculture are not eligible for such assistance and that such assistance may not be used to further

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the alleviation of physical or economic injury to property associated with agricultural enterprise caused by a disaster.

Timetable:

Action	Date	FR Cite
NPRM	06/13/95	60 FR 31121
NPRM Comment Period End	07/13/95	
Final Action Effective	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Kulik, Associate Administrator for Disaster Assistance, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416
Phone: 202 205-6734

RIN: 3245–AD59

SMALL BUSINESS ADMINISTRATION (SBA) — Long-Term Actions

4213. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES; SECTION 502 LOAN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: The regulations governing the section 502 loan program will be revised to include the same project eligibility provisions which currently appear in the 503/504 regulations. Additionally, the revised regulations will reflect that the focus of the 502 loan program is to facilitate and encourage lending in rural areas, which is one of SBA's current priorities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: The language in the abstract has been revised to more accurately represent the proposed changes.

Agency Contact: LeAnn Oliver, Acting Director, Office of Rural Affairs and Economic Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AB35

4214. USER FEES FOR SBA PROGRAMS

Priority: Routine and Frequent

Legal Authority: 15 USC 687(c); 15 USC 687d; 15 USC 687g; 15 USC 694a; 15 USC 694b; 5 USC app 1; 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 631; 15 USC 637(b); 15 USC 636(i); 15 USC 636(j); PL 93-113

CFR Citation: 13 CFR 101; 13 CFR 107; 13 CFR 115; 13 CFR 121; 13 CFR 124; 13 CFR 125; 13 CFR 129

Legal Deadline: None

Abstract: Establishment or modification of user fees for the following: use of SBA's Office of Advocacy database; guaranty of debentures issued by Small Business Investment Companies; guaranty of surety bonds, appeals of size determinations and standard industrial classification code designations; application to the Minority Small Business (Section 8(a)) Program; SBA's Office of Women's Business Ownership, and SBA's Office of Veterans Affairs; and application for a Certificate of Competency.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: The promulgation of regulations pertaining to user fees will be determined in fiscal year 1994.

Agency Contact: Martin D. Teckler, Deputy General Counsel, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6642

RIN: 3245–AB44

4215. SMALL BUSINESS SIZE STANDARDS FOR NATURAL GAS DISTRIBUTION

Priority: Routine and Frequent

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 99-591; PL 99-661

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: SBA is imposing a size standard of 500 employees for the recently deregulated natural gas distribution industry firms which now compete for Federal natural gas contracts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/25/88	53 FR 47663
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AB94

4216. REGULATIONS FOR THE IMPLEMENTATION OF NEW 301(D) SBIC FUNDING AUTHORITY AND TERMS CONTAINED IN PUBLIC LAW 101-162

Priority: Other Significant

Legal Authority: 15 USC 681 et seq, as amended; PL 100-590; PL 101-162

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule changes the present regulations governing the Small Business Investment Company (SBIC) program in order to implement amendments made to the Small Business Investment Act (15 USC 661 et seq) by Public Laws 100-590 and 101-162 with regard to funds invested in private capital, provisions followed by SBA to buy down leverage in 301(d) SBICs and to set the interest rate on preferred securities purchased by SBA after November 20, 1988.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/10/90	55 FR 28166
Final Action	00/00/00	

Small Entities Affected: Businesses

SBA — Long-Term Actions

Government Levels Affected: Federal

Agency Contact: Ronald C. Cibolski, Director, Office of Investment, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6510

RIN: 3245–AC09

4217. BUSINESS LOANS POLICY; SBA GUARANTY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 631

CFR Citation: 13 CFR 120.200

Legal Deadline: None

Abstract: In a previous ruling, the Office of General Counsel stated that the Small Business Act limited the Agency's guaranty to loans only. For this reason, when a participating lender servicing a liquidation account finds a term buyer for assets acquired through foreclosure, the Agency is forced to expend funds to purchase the guaranty and establish the account as an immediate participation even if such action is not in the government's best interest. The first sentence of section 5(b)(7) of the Small Business Act will be amended to read "...dealing with or realizing on loans made under the provisions of this Act and receivables relating thereto or emanating therefrom...." The Agency will use SOP 50 51 1 to establish operating parameters for the loan servicing offices.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/96	
Final Action	12/00/97	
Final Action Effective	12/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Arnold Rosenthal, Acting Assistant Administrator, Office of Portfolio Management, Small Business Administration, 409 Third Street SW., Suite 8000, Washington, DC 20416
Phone: 202 205-6481

RIN: 3245–AD22

4218. • LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES; PREMIER CERTIFIED LENDERS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 687(c); 15 USC 695; 15 USC 696; 15 USC 697(a); 15 USC 697(b); 15 USC 697(c)

CFR Citation: 13 CFR 108

Legal Deadline: Final, Statutory, April 22, 1995.

Abstract: This rule implements section 217 of Pub. L. 103-403, which added a new section 508 to the Small Business Act authorizing SBA to establish a premier certified lenders program for certified development companies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/26/95	60 FR 20392
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: LeAnn Oliver, Director, Office of Rural Affairs and Economic Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AD54

4219. • POLICIES OF GENERAL APPLICATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 631; 15 USC 661; EO 11988; EO 11990; 15 USC 636(b)

CFR Citation: 13 CFR 116

Legal Deadline: None

Abstract: The proposed rule would raise from $500,000 to $1.5 million the ceiling for SBA loan assistance that SBA officials with properly delegated authority may determine is not subject to the full review and decisionmaking process to determine adverse effects or incompatible development on wetlands or in a floodplain required by EO 11988 and EO 11990.

Timetable:

Action	Date	FR Cite
NPRM	08/17/95	60 FR 42617
NPRM Comment Period End	09/18/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Kulik, Associate Administrator for Disaster Assistance, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416
Phone: 202 205-6734

RIN: 3245–AD61

SMALL BUSINESS ADMINISTRATION (SBA) — Completed Actions

4220. SMALL BUSINESS DEVELOPMENT CENTERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 96-302; PL 98-395; PL 103-81

CFR Citation: 13 CFR 130

Legal Deadline: None

Abstract: Comprehensive regulations governing the Small Business Development Center Program.

Timetable:

Action	Date	FR Cite
NPRM	11/28/94	59 FR 60723
NPRM Comment Period End	12/28/94	
Final Action	06/13/95	60 FR 31054
Final Action Effective	06/13/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Johnnie L. Albertson, Associate Administrator for Small Business Development Centers, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6766

RIN: 3245–AB17

SBA

Completed Actions

4221. SMALL BUSINESS SIZE STANDARDS; COMPUTER SERVICES INDUSTRIES

Priority: Other Significant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule revises the size standard for computer-integrated systems design, computer programming services, and other computer-related services to $14.5 million in average annual receipts.

Timetable:

Action	Date	FR Cite
NPRM	08/13/91	56 FR 38364
NPRM Comment Period End	10/15/91	
Interim Final Rule	06/23/92	57 FR 27906
Final Action	04/10/94	59 FR 16513
Final Action Effective	04/10/94	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AC11

4222. SMALL BUSINESS SIZE STANDARDS; COMBINATION ELECTRIC AND GAS AND OTHER UTILITY SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(a); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise the size standard for the three industries in SIC Industry Group 493. The current size standard is $3.5 million in average annual receipts.

Timetable:

Action	Date	FR Cite
Withdrawn	08/17/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AC57

4223. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES; ACCREDITED LENDERS PROGRAM FOR CERTIFIED DEVELOPMENT COMPANIES

Priority: Other Significant

Legal Authority: 15 USC 687(c); 15 USC 695; 15 USC 696; 15 USC 697a; 15 USC 697b; 15 USC 697c

CFR Citation: 13 CFR 108

Legal Deadline: Final, Statutory, April 22, 1995.

Abstract: This proposed rule will revise the regulations governing the 503 Development Company Loan Program. The proposed regulations will allow for designation of experienced development companies as Accredited Lenders to undertake loan processing, servicing and collection functions, and responsibilities with respect to SBA development company loans with quick response time assured by SBA in approving applications. This designation is comparable to the Certified Lenders Program for the general business loan program of SBA.

Timetable:

Action	Date	FR Cite
Final Action Effective	04/22/95	
Final Action	04/26/95	60 FR 20391

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: LeAnn Oliver, Acting Director, Office of Rural Affairs and Economic Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AD16

4224. SMALL BUSINESS SIZE STANDARDS; EQUIPMENT RENTAL AND LEASING

Priority: Other Significant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(c)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise the size standards for equipment rental and leasing under SIC codes 7352, 7353, and 7359. The present size standard for these industries is $3.5 million.

Timetable:

Action	Date	FR Cite
Withdrawn	08/17/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AD26

4225. DISASTER WAIVER OF JUDGMENT LIEN RESTRICTION

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f); PL 102-395; PL 103-75; PL 101-647

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: The proposed rule applies only to disaster assistance and would enable SBA to waive, for good cause shown, the restriction in the Federal Debt Collection Procedures Act of 1990 prohibition debtors on whose property the U.S. has an outstanding judgment lien from receiving certain assistance from the Federal Government.

Timetable:

Action	Date	FR Cite
Final Action	05/08/95	60 FR 22495
Final Action Effective	05/08/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Bernard Kulik, Associate Administrator for Disaster Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6734

RIN: 3245–AD36

SBA

Completed Actions

4226. SMALL BUSINESS SIZE STANDARDS; SIMPLIFICATION

Priority: Economically Significant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(c)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rulemaking constitutes the residual portion of a regulatory initiative that resulted in issuance of a final rule adjusting receipts-based size standards for inflation, published on April 7, 1994 (59 FR 16513). The present proposal is to reduce the current number of size standards in order to simplify the size program and the size status determination process.

Timetable:

Action	Date	FR Cite
Withdrawn	08/17/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AD38

4227. AMENDMENT TO GRANTS MANAGEMENT COMMON RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 143.36

Legal Deadline: None

Abstract: This revision to the grants management common rule revises the dollar threshold for the use of simplified procedures governing purchase of goods and services by State and local government grantees.

Timetable:

Action	Date	FR Cite
NPRM	10/25/94	59 FR 53706
NPRM Comment Period End	12/27/94	
Final Action	04/19/95	60 FR 19638
Final Action Effective	04/19/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Calvin Jenkins, Acting Associate Administrator for Administration, Small Business Administration, 409 Third Street SW., Suite 5000, Washington, DC 20416
Phone: 202 205-6630

RIN: 3245–AD41

4228. NONPROCUREMENT DEBARMENT AND SUSPENSION COMMON RULE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); EO 12549

CFR Citation: 13 CFR 145

Legal Deadline: None

Abstract: Common rule to give reciprocal governmentwide effect to both nonprocurement and procurement debarment and suspensions.

Timetable:

Action	Date	FR Cite
NPRM	12/20/94	59 FR 65607
NPRM Comment Period End	02/21/95	
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John W. Klein, Chief Counsel for Special Programs, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AD46

4229. BUSINESS LOAN POLICY AND BUSINESS LOANS FACSIMILES OF SBA FORMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 120; 13 CFR 122

Legal Deadline: None

Abstract: Rule permits the use of facsimiles of SBA forms by participating lenders.

Timetable:

Action	Date	FR Cite
NPRM	03/03/95	60 FR 11941
NPRM Comment Period End	04/03/95	60 FR 11941
Final Action	08/17/95	60 FR 42779

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John R. Cox, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., Suite 8300, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AD49

4230. SMALL-BUSINESS INVESTMENT COMPANIES ACCOUNTING AND FINANCIAL REPORTING STANDARDS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: Accounting and Financial Standards for Small Business Investment Companies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/07/95	60 FR 7392
Final Action	04/06/95	60 FR 17438

Small Entities Affected: Businesses

Government Levels Affected: Federal

SBA

Completed Actions

Agency Contact: Carol Fendler, Office of Investment, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416
Phone: 202 205-7559

RIN: 3245–AD50

4231. SMALL-BUSINESS SIZE STANDARDS; HANDICAPPED WORKSHOP PARTICIPATION IN SMALL BUSINESS SET-ASIDE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Eligibility for public and private organizations in small business set asides.

Timetable:

Action	Date	FR Cite
Final Action	03/24/95	60 FR 15477
Final Action Effective	03/24/95	60 FR 15477
Correction	04/14/95	60 FR 18981

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., Suite 8000, Washington, DC 20416
Phone: 202 205-6840

RIN: 3245–AD53

4232. • BUSINESS LOANS; MICROLOANS; TWO-STATE RULE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(m)

CFR Citation: 13 CFR 122

Legal Deadline: None

Abstract: Under the microloan program, the SBA lends funds to qualified intermediaries which relend amounts of $25,000 or less to eligible small business concerns. This final regulation authorizes the Associate Administrator for Financial Assistance to allow a microloan intermediary to operate across State lines.

Timetable:

Action	Date	FR Cite
NPRM	05/05/95	60 FR 22311
Final Action	08/17/95	60 FR 42781
Final Action Effective	08/17/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John R. Cox, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AD55

4233. • POLICIES OF GENERAL APPLICATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); PL 103-403

CFR Citation: 13 CFR 116

Legal Deadline: Final, Statutory, April 22, 1995.

Abstract: This rule implements the requirement in PL 103-403 that SBA promulgate regulations which require certification by any recipient of financial assistance under the Small Business Act that the recipient is not delinquent on a court order or other formal agreement requiring payment of child support.

Timetable:

Action	Date	FR Cite
Final Action	05/26/95	60 FR 27870
Final Action Effective	05/26/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Cox, Associate Adminstrator for Financial Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AD58

[FR Doc. 95-25091 Filed 11-24-95; 8:45 am]
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federal register

Tuesday
November 28, 1995

Part XLIV

Social Security Administration

Semiannual Regulatory Agenda

SOCIAL SECURITY ADMINISTRATION (SSA)

SOCIAL SECURITY ADMINISTRATION

Office of the Commissioner

20 CFR Ch. III

Semiannual Unified Regulatory Agenda

AGENCY: Office of the Commissioner, SSA.

ACTION: Publication of unified agenda of regulations.

SUMMARY: Executive Order 12866 entitled "Regulatory Planning and Review," issued September 30, 1993, and the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) require each Federal agency to publish (in April and October of each year) a brief description of all regulatory actions then under development or review, expected to be under development or review for the next 12 months, or completed since the previous publication of the agenda. Our last agenda of regulations was published on May 8, 1995.

FOR FURTHER INFORMATION CONTACT: For further information about a specific regulatory action, contact the person identified as the agency contact for that action. Comments or inquiries of a general nature should be directed to Ronald J. Sribnik, Regulations Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235; telephone (410) 965-2850.

SUPPLEMENTARY INFORMATION: For this edition of the Social Security Administration's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

The Social Security Administration has responsibility for the old-age, survivors, and disability insurance programs under title II of the Social Security Act (the Act) and the supplemental security income program under title XVI of the Act. We are not a regulatory agency. For the most part, SSA's regulations do not impose burdens on the private sector or on State or local governments. Our regulations document the rules under which we make eligibility determinations and set forth both the responsibilities of the Agency towards the public and beneficiary's rights and responsibilities under the programs we administer.

Our regulatory efforts can be placed into one of the following three categories: 1) legislative implementation; 2) program improvements to provide better service to SSA customers; and 3) improvements or clarifications to fulfill commitments made as part of the President's Regulatory Reinvention Initiative.

We continue to seek legislative improvements for the programs we administer. However, because of the complexity of our programs, statutory language is rarely detailed enough to govern the actions of agency adjudicative decisionmakers. Supporting regulations are often required. In some instances, the Congress directs SSA to issue implementing regulations. For other legislative provisions, SSA regulations provide program information to applicants for benefits, current beneficiaries, and their legal counsels. Several SSA regulatory items which appear on the Unified Agenda for the first time implement provisions of the Social Security Independence and Program Improvements Act of 1994.

Providing world-class service to our customers is a principal objective of the Social Security Administration. Our regulatory program supports this overarching Agency goal. One of the areas in which we are working hard to deliver high quality service is our disability determination process. Several of our agenda items support improvements to disability program administration. We plan to update many of the medical listings of impairments used in the disability determination process to make them consistent with the latest advances in medicine. Updated listings will facilitate making the correct disability determination as quickly and efficiently as possible. Also, some of the regulatory items support SSA's Disability Redesign Plan. The Disability Redesign aims to streamline our disability determination process and provide better service to applicants for disability benefits.

SSA's regulatory program supports the President's Reinventing Government (REGO II) initiative to create a Federal Government that works better and costs less. We list four regulations which would carry out REGO II initiatives.

Cycling Payment of Social Security Benefits for future beneficiaries is designed to pay social security benefits on several payment dates each month instead of making all the payments on the same date, as is our current practice. The current use of one payment date creates a workload spike each month for SSA, for other Federal agencies, and for financial institutions and other businesses which participate in or depend on issuance of social security benefits. It has become exceedingly difficult for our customers to access our services on or around "check day." Spreading the issuance of payments throughout the month and reducing workload spikes for SSA and others will result in better service to our customers. As a result, our customers will have better access to SSA personnel and services in our field facilities and through use of our national 1-800 teleservice network. Current beneficiaries can expect to continue to receive their benefit payments on the third of each month. The additional payment dates will be assigned to new beneficiaries as their benefit awards are processed.

Two other agenda items support the following REGO II initiatives: Providing "One-Stop" Service for Aliens Applying for Social Security Cards and Promoting "One-Stop" Benefit Applications. The goal of each of these initiatives and the supporting regulations is to streamline service to our customers by improving the efficiency of current processes.

Consistent with the President's Regulatory Reinvention Initiative, we are working diligently to improve our program benefit regulations and to develop partnerships with large segments of the community of stakeholders interested in Social Security programs. Our aim is to clarify or improve over 50 percent of the Code of Federal Regulations pages for which we are responsible. The remainder of our Unified Agenda items are such improvements and clarifications.

The October 1995 regulatory agenda for the Social Security Administration follows.

Dated: September 27, 1995.

Ronald J. Sribnik,

SSA Regulations Officer.

SSA

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4234	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Fees for Representation of Claimants (296P)	0960-AD23
4235	Supplemental Security Income for the Aged, Blind, and Disabled; Reimbursement for VR Services Furnished During Certain Months of Nonpayment (315F)	0960-AD39
4236	Conduct of Representatives Under Title II or Title XVI (431P)	0960-AD73
4237	Fees for Federal Administration of State Supplementary Payments in the SSI Program (376P)	0960-AD75
4238	Valuation of Certain In-Kind Support and Maintenance (ISM) Where There is a Cost-of-Living Adjustment in SSI Benefits (454F)	0960-AD82
4239	Supplemental Security Income for the Aged, Blind, or Disabled; Evidence of Lawful Admission for Permanent Residence in the United States (468F)	0960-AD90
4240	Federal OASDI and SSI for the Aged, Blind, and Disabled; Representative Payment Provisions for Individuals Disabled Based on Drug Addiction or Alcoholism (507P) **(Reg Plan Seq. No. 148)**	0960-AD98
4241	Definition of United States Resident; Evidence of Citizenship (515P)	0960-AE05
4242	OASDI; Nonpayment of Benefits to Incarcerated Individuals and Individuals Confined in Criminal Cases, Pursuant to Conviction or by Court Order Based on Findings of Insanity (531P)	0960-AE16
4243	Income Exclusions in the SSI Program (502P)	0960-AE22
4244	Authority To Impose Civil Money Penalties (532P)	0960-AE23
4245	Assigning SSNs to Undocumented Aliens Who Are Representative Payees or SSI Deemors (549P)	0960-AE26
4246	Cycling Payment of Social Security Benefits (558P) **(Reg Plan Seq. No. 149)**	0960-AE31
4247	Provide "One-Stop" Service for Aliens Applying for Social Security Cards (569P) **(Reg Plan Seq. No. 150)**	0960-AE36

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4248	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Musculoskeletal System (143F) **(Reg Plan Seq. No. 151)**	0960-AB01
4249	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Evaluation Guides for Determining Substantial Gainful Activity (SGA) (147F)	0960-AB73
4250	Supplemental Security Income Program; Continuation of Full Benefit Standard for Certain Persons Temporarily Institutionalized (198F)	0960-AC55
4251	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Representative Payee Reforms (295F) **(Reg Plan Seq. No. 152)**	0960-AD22
4252	Supplemental Security Income for the Aged, Blind, and Disabled; Exclusion From Income and Resources of Victims' Compensation Payments and State Relocation Assistance (311F)	0960-AD36
4253	Statement of Earnings and Benefit Estimate (415F)	0960-AD74
4254	Extension of Time Period for Not Counting as Resources, Funds Received for Repair or Replacement of Damaged or Destroyed Excluded Resources in the SSI Program (486F)	0960-AD87
4255	Federal OASDI and SSI for the Aged, Blind, and Disabled; Signature Requirements for State Agency Medical and Psychological Consultants in Disability Determinations (465F)	0960-AD88
4256	Technical Changes to Title XVI (466F)	0960-AD89
4257	Waiver of Recovery of Overpayments; Notice of Appeal and Waiver Rights and Right to a Pre-Recoupment Oral Hearing Before Denial of Waiver (491F)	0960-AD99
4258	Coverage Provisions of Social Security Independence and Domestic Employment Reform Act of 1994 (503F)	0960-AE00
4259	Repeal of Facility of Payment Provision (508F)	0960-AE02
4260	Guaranteed Family Maximums (510F)	0960-AE03
4261	Government Pension Offset, Windfall Elimination Provision, and Annual Earnings Report (514F)	0960-AE04
4262	Old-Age, Survivors, and Disability Insurance Benefits; Replacing Social Security Number Cards (543F)	0960-AE18
4263	Social Security Programs: Fraud and Abuse; Establishment of New Part 498 To Address Civil Money Penalties, Assessment and Exclusions (563F)	0960-AE33

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

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Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4264	Old-Age, Survivors, and Disability Insurance Program; Medical Criteria for Evaluating Mental Disorders for Adults (222F)	0960-AC74
4265	Code of Conduct for Administrative Law Judges and Administrative Appeals Judges of the Social Security Administration (341P)	0960-AD54
4266	Election of Benefits Based on Age by Disabled Widow, Widower, and Surviving Divorced Spouse Beneficiaries (343P)	0960-AD56
4267	Reliable Information Which Is Currently Available for Determining Benefit Amounts in the Supplemental Security Income Program (382F)	0960-AD65
4268	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Hemic and Lymphatic System, and Malignant Neoplastic Diseases (399P)	0960-AD67
4269	Reliable Information Which is Currently Available for Determining Benefit Amounts in the Supplemental Security Income Program (NEWMAN) (434P)	0960-AD77
4270	Revised Medical Criteria for Determination of Disability, Endocrine System and Obesity and Related Criteria (436P)	0960-AD78
4271	Benefits for Spouses, Divorced Spouses, and Children (455P)	0960-AD83
4272	Temporary Increase in Sponsorship Period for Aliens Under the SSI Program (457P)	0960-AD84
4273	Prevention of Adverse Effects on Eligibility and Benefit Amount When Spouse or Parent Absent Due to Active Military Service (462P)	0960-AD86
4274	Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income, Acceptable Medical Sources (469P)	0960-AD91
4275	Old-Age, Survivors, and Disability Insurance Program; Contributions for Support (475P)	0960-AD92
4276	Computation of SSI Benefits for the First Three Months of Payment (476P)	0960-AD93
4277	Definition of "Largest Benefit Amount" for Purposes of Determining the Earnings Record on Which a Person Who Is Simultaneously Entitled to Child's Insurance Benefits (481P)	0960-AD95
4278	Federal OASDI and SSI for the Aged, Blind, and Disabled; Benefit Reforms for Individuals Disabled Based on Drug Addiction or Alcoholism (496F)	0960-AD96
4279	SSI Eligibility for Students Temporarily Abroad (505P)	0960-AE01
4280	Supplemental Security Income for the Aged, Blind, and Disabled; Income and Resources, Deeming of Parental Income and Resources When Children Are Hospitalized (522P)	0960-AE08
4281	Old-Age, Survivors, and Disability Insurance; Overpayment Debt Collection Procedures (523P)	0960-AE09
4282	Determinations and Administrative Review Process—Applicability of Administrative Res Judicata (526P)	0960-AE11
4283	SSA Acquisition Regulations (527F)	0960-AE12
4284	Misuse of Symbols, Emblems, or Names in Reference to the Social Security Administration (530P)	0960-AE15
4285	Supplemental Security Income; Plans for Achieving Self-Support (506I)	0960-AE17
4286	Lump Sum Death Payment and Living in the Same Household (548P)	0960-AE20
4287	When You Are a Full-Time Elementary or Secondary School Student (552P)	0960-AE21
4288	Freedom of Information and Availability of Information Regulations for Independent SSA (546F)	0960-AE24
4289	Requirements for Awards and Subawards to Institutions of Higher Education; Certain Grants and Agreements with States, Local, and Indian Tribal Governments (547F)	0960-AE25
4290	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) (554F)	0960-AE27
4291	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and Indian Tribal Governments (555F)	0960-AE28
4292	Restrictions on Lobbying in Connection With the Award of Grants, Contracts, and Cooperative Agreements (556F)	0960-AE29
4293	Revision of Authority Citations (562F)	0960-AE32
4294	Privacy and Disclosure of Official Records and Information (566F)	0960-AE34
4295	Reduction of Disability Benefits—Workers' Compensation/Public Disability Benefits (567P)	0960-AE35
4296	Promote One-Stop Benefit Application (572P)	0960-AE38

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4297	Old-Age, Survivors, and Disability Insurance Program; Applicability of Government Pension to Certain Federal Employees (188F)	0960-AC46
4298	Supplemental Security Income Program; Treatment of Augmented Veterans' Benefits (231F)	0960-AC82

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Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4299	SSI Program; Reduction in Time When Income and Resources of Separated Couples Must Be Treated as Jointly Available for Purposes of SSI Eligibility and Benefits (254F)	0960-AC98
4300	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Updating Nomenclature (264F)	0960-AD11
4301	Against Equity and Good Conscience (348P)	0960-AD62
4302	OASDI and SSI; Testing Modifications to the Disability Determination Procedures (359F)	0960-AD63
4303	Procedures for Handling Earnings Reports (418F)	0960-AD70
4304	Who May Protect a Potential Claimant's Filing Date or Application for Supplemental Security Income Benefits (408P)	0960-AD76
4305	Federal Old-Age, Survivors, and Disability Insurance; Evidence Required To Presume a Person Is Dead (443F)	0960-AD79
4306	Revised Medical Criteria for Determination of Disability, Growth Impairments (444P)	0960-AD80
4307	Application of State Law in Determining Child Relationship (485P)	0960-AD97
4308	OASDI and SSI for the Aged, Blind, and Disabled; Administrative Review Process, Decisions by Adjudication Officers (541F)	0960-AE06
4309	OASDI and SSI for the Aged, Blind, and Disabled; Administrative Review Process, Prehearing Proceedings, and Decisions by Attorney-Advisors (524F)	0960-AE10
4310	Supplemental Security Income for the Aged, Blind, and Disabled; Requiring Nursing Homes To Report SSI Recipient Admissions Within 2 Weeks to the Social Security Administration (528P)	0960-AE13
4311	Migration of Certain Department of Health and Human Services Regulations Into the Social Security Administration's Regulations (529F)	0960-AE14
4312	Determining Disability and Blindness; Extension of Expiration Date for Adult Mental Disorders Listings (559F)	0960-AE19

SOCIAL SECURITY ADMINISTRATION (SSA)

Proposed Rule Stage

4234. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; FEES FOR REPRESENTATION OF CLAIMANTS (256P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-508, Sec 5106

CFR Citation: 20 CFR 404.1703; 20 CFR 404.1713; 20 CFR 404.1720; 20 CFR 404.1715 to 404.1717; 20 CFR 404.1725; 20 CFR 416.1503; 20 CFR 416.1513; 20 CFR 416.1520; 20 CFR 416.1515 to 416.1517; 20 CFR 416.1525

Legal Deadline: None

Abstract: We propose to amend the regulations to reflect section 5106(a) of Pub. L. 101-508 which modifies the manner in which past-due benefits are calculated and the process by which SSA approves fees charged by persons representing claimants before the Agency.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AD23

4235. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; REIMBURSEMENT FOR VR SERVICES FURNISHED DURING CERTAIN MONTHS OF NONPAYMENT (315F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-508, Sec 5037

CFR Citation: 20 CFR 416.1321; 20 CFR 416.1331; 20 CFR 416.1338; 20 CFR 416.1402; 20 CFR 416.2201

Legal Deadline: None

Abstract: These regulations reflect section 5037 of Pub. L. 101-508, which amends section 1615 of the Act, to provide for reimbursement for VR services furnished during certain months of nonpayment of Supplemental Security Income benefits. Prior to these amendments there was no provision in the law for such reimbursement.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47126
NPRM Comment Period End	11/13/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235

SSA

Proposed Rule Stage

Phone: 410 965-8471

RIN: 0960–AD39

4236. CONDUCT OF REPRESENTATIVES UNDER TITLE II OR TITLE XVI (431P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405(a); 42 USC 406; 42 USC 902(a)(5); 42 USC 1383(d)(1); 42 USC 1383(d)(2)

CFR Citation: 20 CFR 404.1700ff; 20 CFR 416.1500ff

Legal Deadline: None

Abstract: We proposed to amend our regulations to establish standards of conduct and responsibility for persons serving as representatives of claimants seeking a right or benefit under titles II or XVI of the Social Security Act. These regulations are part of SSA's Disability Redesign.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Richard M. Bresnick, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AD73

4237. FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY PAYMENTS IN THE SSI PROGRAM (376P)

Priority: Other

Legal Authority: 42 USC 1302; 42 USC 1382(e); 42 USC 1383; PL 93-66, sec 212

CFR Citation: 20 CFR 416.2010; 20 CFR 416.2090

Legal Deadline: None

Abstract: Section 13731 of Pub. L. 103-66 (the Omnibus Budget Reconciliation Act of 1993) enacted August 10, 1993, requires the Commissioner to assess each State an administration fee for processing the State's mandatory and optional supplementary payments. The fee will be charged for all State supplementary payments issued on or after October 1, 1993. Also, the Commissioner may charge a State an additional services fee if, at the request of the State, the Commissioner provides services beyond the level customarily provided in the administration of such payments.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AD75

4238. VALUATION OF CERTAIN IN-KIND SUPPORT AND MAINTENANCE (ISM) WHERE THERE IS A COST-OF-LIVING ADJUSTMENT IN SSI BENEFITS (454F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-66, sec 13735

CFR Citation: 20 CFR 416.420; 20 CFR 416.1130(a)

Legal Deadline: None

Abstract: This final regulation will reflect the amendment to section 1611(c) of the Act, effective January 1, 1995, that the current Federal benefit rate be used in determining the value of certain in-kind support and maintenance for the first 2 months after there is a cost-of-living adjustment in SSI benefits.

Timetable:

Action	Date	FR Cite
NPRM	08/09/95	60 FR 40542
NPRM Comment Period End	10/10/95	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AD82

4239. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, OR DISABLED; EVIDENCE OF LAWFUL ADMISSION FOR PERMANENT RESIDENCE IN THE UNITED STATES (468F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1382c(a)(1)(B); 42 USC 1382c(e); 42 USC 1383

CFR Citation: 20 CFR 416.1615

Legal Deadline: None

Abstract: On September 20, 1993, the Immigration and Naturalization Service (INS) published a regulatory change concerning the documents which certify the alien status of a lawful permanent resident within the United States. The change which establishes INS Form I-551, Alien Registration Receipt Card, as the definitive evidence of lawful permanent resident status is effective September 20, 1994. Since aliens who apply for SSI benefits as lawful permanent residents must submit evidence of this status, we are revising the title XVI regulations to reflect the change in the INS regulations. INS delayed the effective date of its regulation until March 1996.

Timetable:

Action	Date	FR Cite
NPRM	08/30/95	60 FR 45110
NPRM Comment Period End	10/30/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235

SSA

Proposed Rule Stage

Phone: 410 965-1713

RIN: 0960–AD90

4240. FEDERAL OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; REPRESENTATIVE PAYMENT PROVISIONS FOR INDIVIDUALS DISABLED BASED ON DRUG ADDICTION OR ALCOHOLISM (507P)

Regulatory Plan: This entry is Seq. No. 148 in Part II of this issue of the **Federal Register**.

RIN: 0960–AD98

4241. DEFINITION OF UNITED STATES RESIDENT; EVIDENCE OF CITIZENSHIP (515P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1381a; 42 USC 1382; 42 USC 1382(f); 42 USC 1382c(f); 42 USC 1382j; 42 USC 1383

CFR Citation: 20 CFR 416.1180; 20 CFR 416.1603; 20 CFR 416.1610

Legal Deadline: None

Abstract: Two of these regulations changes will place current operating instructions in the regulations. One will define more precisely the concept of "living within the geographical limits of the United States." Another will state the requirements for religious records as proof of U.S. citizenship. We will also amend section 416.1180, because there is an obvious error in the wording.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE05

4242. OASDI; NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES, PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY (531P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402(x); 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404.468

Legal Deadline: None

Abstract: The regulation will implement section 4 of P.L. 103-387 which modifies and expands the current prisoner nonpayment provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AE16

4243. • INCOME EXCLUSIONS IN THE SSI PROGRAM (502P)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 416.1124; 20 CFR 416.1161

Legal Deadline: None

Abstract: These proposed supplemental security income (SSI) regulations update existing regulations to reflect the statutory amendment of the exclusion from income of Alaska Longevity Bonus payments. They also update existing regulations to reflect the statutory exclusion from income of hostile fire pay received by an SSI claimant or recipient and to reflect current operating procedure of excluding hostile fire pay when determining the countable income of an ineligible spouse or ineligible parent. In addition, they update existing regulations to reflect the current operating procedure of excluding impairment-related work expenses, and interest on an appreciation in the value of excluded burial funds and interest on excluded burial space purchase agreements, when determining the countable income of an ineligible spouse or ineligible parent.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AE22

4244. • AUTHORITY TO IMPOSE CIVIL MONEY PENALTIES (532P)

Priority: Other

Legal Authority: 42 USC 902(a)(5);

CFR Citation: 20 CFR 498.100 to 498.103; 20 CFR 498.106; 20 CFR 498.108 to 498.110; 20 CFR 498.126 to 498.128; 20 CFR 498.132

Legal Deadline: None

Abstract: We propose to add new rules that would establish the authority to impose civil money penalties against third parties, medical professionals, Old-Age, Survivors, and Disability Insurance (OASDI) beneficiaries, supplemental security income (SSI) recipients and other individuals and entities who engage in fraudulent schemes to enroll ineligible individuals in the OASDI and SSI programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	05/00/96	

Small Entities Affected: None

SSA — Proposed Rule Stage

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AE23

4245. • ASSIGNING SSNS TO UNDOCUMENTED ALIENS WHO ARE REPRESENTATIVE PAYEES OR SSI DEEMORS (549P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1320b

CFR Citation: 20 CFR 422.104

Legal Deadline: None

Abstract: These regulations implement a decision made by the Agency to assign SSNs to undocumented aliens who are representative payees or SSI deemors who do not have the evidence described in section 422.107(e). This will enhance SSA's ability to enforce provisions that apply to representative payees and SSI deemors.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE26

4246. • CYCLING PAYMENT OF SOCIAL SECURITY BENEFITS (558P)

Regulatory Plan: This entry is Seq. No. 149 in Part II of this issue of the **Federal Register**.

RIN: 0960–AE31

4247. • PROVIDE "ONE-STOP" SERVICE FOR ALIENS APPLYING FOR SOCIAL SECURITY CARDS (569P)

Regulatory Plan: This entry is Seq. No. 150 in Part II of this issue of the **Federal Register**.

RIN: 0960–AE36

SOCIAL SECURITY ADMINISTRATION (SSA) — Final Rule Stage

4248. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MUSCULOSKELETAL SYSTEM (143F)

Regulatory Plan: This entry is Seq. No. 151 in Part II of this issue of the **Federal Register**.

RIN: 0960–AB01

4249. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; EVALUATION GUIDES FOR DETERMINING SUBSTANTIAL GAINFUL ACTIVITY (SGA) (147F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 98-460, sec 10; PL 99-643; PL 100-203; PL 101-508

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: These final regulations will clarify how the Social Security Administration evaluates a person's work activity. These regulations also will increase the monthly earnings amount that constitutes services for trial work period purposes and change the rules to allow the value of any subsidy or impairment-related work expenses to be deducted in determining that monthly earnings amount. These regulations also reflect statutory changes with respect to the trial work period and the re-entitlement period.

Timetable:

Action	Date	FR Cite
NPRM	03/06/95	60 FR 12166
NPRM Comment Period End	05/15/95	60 FR 12166
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandy Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AB73

4250. SUPPLEMENTAL SECURITY INCOME PROGRAM; CONTINUATION OF FULL BENEFIT STANDARD FOR CERTAIN PERSONS TEMPORARILY INSTITUTIONALIZED (198F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 100-203, sec 9115; PL 99-643, sec 3

CFR Citation: 20 CFR 416.211; 20 CFR 416.413; 20 CFR 416.414; 20 CFR 416.1149; 20 CFR 416.1167; 20 CFR 416.1325; 20 CFR 416.2040; 20 CFR 416.410; 20 CFR 416.412; 20 CFR 416.640; 20 CFR 416.1147

Legal Deadline: None

Abstract: These regulations conform to statutory amendments which require continued payment for up to three months based on the full payment rate to certain persons eligible for SSI payments under sections 1619 or 1611 of the Social Security Act who enter certain medical or psychiatric institutions. Without the provisions, SSI benefits would be reduced or suspended.

SSA — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/28/92	57 FR 44519
NPRM Comment Period End	11/27/92	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Blvd., Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AC55

4251. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; REPRESENTATIVE PAYEE REFORMS (295F)

Regulatory Plan: This entry is Seq. No. 152 in Part II of this issue of the **Federal Register**.

RIN: 0960–AD22

4252. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; EXCLUSION FROM INCOME AND RESOURCES OF VICTIMS' COMPENSATION PAYMENTS AND STATE RELOCATION ASSISTANCE (311F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-508, sec 5031; PL 101-508, sec 5035; PL 103-66, sec 13732

CFR Citation: 20 CFR 416.1124; 20 CFR 416.1161(a); 20 CFR 416.1204(a); 20 CFR 416.1210; 20 CFR 416.1229 (New); 20 CFR 416.1239 (New)

Legal Deadline: None

Abstract: These regulations will provide for the exclusion from income and from resources (for nine months) in the Supplemental Security Income Program payments received by a person from a State established fund to aid victims of crime and payments received as State or local government relocation assistance.

Timetable:

Action	Date	FR Cite
NPRM	08/26/94	59 FR 44093
NPRM Comment Period End	10/25/94	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RIN 0960-AD37 has been merged with this action.

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1753

RIN: 0960–AD36

4253. STATEMENT OF EARNINGS AND BENEFIT ESTIMATE (415F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1320b-13

CFR Citation: 20 CFR 404.811; 20 CFR 404.812 (New); 20 CFR 422.125

Legal Deadline: None

Abstract: Section 1143(c) of the Social Security Act requires that by not later than September 30, 1995, we must furnish a social security account statement to each eligible individual who has attained age 60 by October 1, 1994, is not receiving social security benefits, and for whom we can determine a current mailing address. During fiscal year 1995 through 1999, we must furnish such a statement to eligible individuals attaining age 60 in the fiscal year they turn age 60. Similarly, beginning no later than October 1, 1999, we must provide such a statement annually to eligible individuals age 25 or over. In these regulations, we provide who will be sent a statement, who will not be sent a statement, how we will determine addresses, and the contents of the statements. We have not yet compiled all the costs. These regulations will benefit the public by implementing section 1143(c) which will help individuals verify that we have entered their correct earnings into our records and by showing the benefits to which such individuals may become entitled.

Timetable:

Action	Date	FR Cite
NPRM	01/19/95	60 FR 3787
NPRM Comment Period End	03/20/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-8471

RIN: 0960–AD74

4254. EXTENSION OF TIME PERIOD FOR NOT COUNTING AS RESOURCES, FUNDS RECEIVED FOR REPAIR OR REPLACEMENT OF DAMAGED OR DESTROYED EXCLUDED RESOURCES IN THE SSI PROGRAM (486F)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.1232

Legal Deadline: None

Abstract: In the past several years, portions of the United States have experienced natural disasters that have had unprecedented effects on supplemental security income (SSI) recipients. In August 1992, Hurricane Andrew devastated south Florida causing damage estimated in excess of $18 billion. Because of the extent of the devastation, many SSI recipients in the area were unable to use insurance payments to repair or replace their damaged property within the timeframes provided by regulations at that time. With the expiration of existing timeframes, the payments would have counted as a resource for SSI purposes. On March 17, 1994, the Social Security Administration (SSA) published interim-final regulations which provided victims of Hurricane Andrew with an additional 12-month time period if needed in which to

repair or replace their property. These final regulations will provide SSA with the flexibility to consider these types of occurrences and provide individuals with additional time to repair or replace damaged or destroyed excluded resources when certain criteria are met.

Timetable:

Action	Date	FR Cite
NPRM	05/17/95	60 FR 26387
NPRM Comment Period End	07/17/95	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AD87

4255. FEDERAL OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; SIGNATURE REQUIREMENTS FOR STATE AGENCY MEDICAL AND PSYCHOLOGICAL CONSULTANTS IN DISABILITY DETERMINATIONS (465F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405(a); 42 USC 421; 42 USC 1302; 42 USC 1382c; 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 404.1615; 20 CFR 416.1015

Legal Deadline: None

Abstract: We revised sections 404.1615 and 416.1015 of the current regulations regarding the certifications required on disability determination forms. Current regulations require that, unless the disability determination is made by a State agency disability hearing officer, disability hearing officer, disability determinations will be made by a team consisting of a State agency medical or psychological consultant and a State agency disability examiner, even when the determination is made on technical, nonmedical grounds. We propose to remove the requirement that a medical or psychological consultant make the determination jointly with the disability examiner when there is no medical evidence to be evaluated.

Timetable:

Action	Date	FR Cite
NPRM	10/26/94	59 FR 53769
NPRM Comment Period End	12/27/94	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AD88

4256. TECHNICAL CHANGES TO TITLE XVI (466F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382j

CFR Citation: 20 CFR 416.1236; 20 CFR 416 app

Legal Deadline: None

Abstract: We are amending the supplemental security income regulations by making technical changes to update the appendix at the end of Subpart K which lists exclusions from income in statutes other than the Social Security Act and to update the lists of statutory exclusions from resources contained in Subpart L.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AD89

4257. WAIVER OF RECOVERY OF OVERPAYMENTS; NOTICE OF APPEAL AND WAIVER RIGHTS AND RIGHT TO A PRE-RECOUPMENT ORAL HEARING BEFORE DENIAL OF WAIVER (481F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 404(a) to 404(d); 42 USC 405(a); 42 USC 1302; 42 USC 402(i); 42 USC 402(j); 42 USC 402(o); 42 USC 402(p); 42 USC 402(v); 42 USC 416(i)(2); 42 USC 423(b); 42 USC 428(a)

CFR Citation: 20 CFR 404.502a; 20 CFR 404.506; 20 CFR 404.907; 20 CFR 404.930; 20 CFR 410.561; 20 CFR 410.561a; 20 CFR 410.623; 20 CFR 410.630

Legal Deadline: NPRM, Judicial, October 13, 1995. Final, Judicial, April 13, 1997.

Abstract: In these proposed regulations we state policy resulting from the 1974 court decision in Buffington, et al. v. Weinberger, No 734-73C2 (W.D. Wash. October 22, 1974), and the Supreme Court decision in Califano v. Yamasaki, 442 U.S. 682 (1979). The effects are to publish in regulations pursuant to the court order the rights of overpaid individuals to certain procedures currently afforded individuals under court oversight.

Timetable:

Action	Date	FR Cite
NPRM	06/02/95	60 FR 28767
NPRM Comment Period End	08/01/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD99

4258. COVERAGE PROVISIONS OF SOCIAL SECURITY INDEPENDENCE AND DOMESTIC EMPLOYMENT REFORM ACT OF 1994 (503F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402(v); 42 USC 405(a); 42 USC 409; 42 USC 410; 42 USC 411; 42 USC 429(a); 42 USC 430; 42 USC 431; 42 USC 902(a)(5); 42 USC 418

CFR Citation: 20 CFR 404.1004; 20 CFR 404.1012; 20 CFR 404.1018; 20 CFR 404.1018b; 20 CFR 404.1020; 20 CFR 404.1034; 20 CFR 404.1036; 20 CFR 404.1042; 20 CFR 404.1055; 20 CFR 404.1056; 20 CFR 404.1057; 20 CFR 404.1068; 20 CFR 404.1206; 20 CFR 404.1210; 20 CFR 404.1038 (New)

Legal Deadline: None

Abstract: Pub. L. 103-296, the Social Security Independence and Program Improvement Act of 1994, contains the following coverage provisions (along with numerous other provisions) in a section called Miscellaneous Program Improvements: Sec. 303. Expansion of State option to exclude service of election officials or election workers from coverage. Sec. 305. Authorization for all States to extend coverage to State and local police officers and firefighters under existing coverage agreements. Sec. 319. Coverage under FICA of Federal employees transferred temporarily to international organizations; and Sec. 320. Extension of the FICA tax exemption and certain tax rules to individuals who enter the United States under a visa issued under section 101 of the Immigration and Nationality Act. In addition, Pub. L. 103-387, the Social Security Domestic Employment Reform Act of 1994, made several changes with respect to the coverage of domestic services. Final rules will be published to reflect these two statutes.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE00

4259. REPEAL OF FACILITY OF PAYMENT PROVISION (508F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 403

CFR Citation: 20 CFR 404.402(b); 20 CFR 404.458

Legal Deadline: None

Abstract: This regulation will reflect section 309 of P.L. 103-296 which repeals the facility of payment provision under which Social Security benefits subject to the family maximum would not be redistributed in certain cases and provides that the reduction for the family maximum will be made prior to a temporary suspension for work when the non-working auxiliary resides in a separate household from the working auxiliary.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AE02

4260. GUARANTEED FAMILY MAXIMUMS (510F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 403(a)

CFR Citation: 20 CFR 404.403

Legal Deadline: None

Abstract: This regulation will reflect effect section 310 of P.L. 103-296 which provides that the guaranteed primary insurance amount is to be used in establishing the maximum family benefit for workers who had previously been entitled to disability insurance benefits and became reentitled to retirement or disability benefits on or after December 1995.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AE03

4261. GOVERNMENT PENSION OFFSET, WINDFALL ELIMINATION PROVISION, AND ANNUAL EARNINGS REPORT (514F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402; 42 USC 405; 42 USC 415

CFR Citation: 20 CFR 404.213; 20 CFR 404.408a; 20 CFR 404.452

Legal Deadline: None

Abstract: This regulation will reflect the provisions of sections 307, 308 and 314 of Pub. L. 103-296. Under section 307, the windfall elimination provision is to be disregarded with respect to benefits payable for amounts after December 1994 in computing (1) the social security benefits of a person who receives a foreign totalization benefit that includes U.S. employment and (2) any U.S. totalization benefit.

Under section 308, the government pension offset and the windfall elimination provision will not be applied to the benefits of a person who is entitled to a military pension that is based on noncovered military reserve

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duty after 1956 and before 1988. With respect to benefits payable for months after December 1994.

Under section 314, we will extend from 3 months to 4 months the additional time a beneficiary may be granted to file an annual earnings report with respect to such reports for taxable years ending on or after December 31, 1994.

Timetable:

Action	Date	FR Cite
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Jack Schanberger, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-8471

RIN: 0960–AE04

4262. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS; REPLACING SOCIAL SECURITY NUMBER CARDS (543F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 422.103

Legal Deadline: None

Abstract: These final rules will support our pilot test for replacing social security number cards when we receive a request by telephone. We will test replacing the card based on information furnished by telephone, without requiring additional documentation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/22/95	60 FR 32444
Interim Final Rule Comment Period End	08/21/95	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-8471

RIN: 0960–AE18

4263. • SOCIAL SECURITY PROGRAMS: FRAUD AND ABUSE; ESTABLISHMENT OF NEW PART 498 TO ADDRESS CIVIL MONEY PENALTIES, ASSESSMENT AND EXCLUSIONS (563F)

Priority: Other

Legal Authority: 42 USC 1320b

CFR Citation: 20 CFR 498.100 to 498.103; 20 CFR 498.106; 20 CFR 498.108 to 498.110; 20 CFR 498.126 to 498.128; 20 CFR 498.132

Legal Deadline: None

Abstract: This final rule establishes a new part 498 which will serve as a repository for SSA's existing civil money penalty regulations and address new monetary penalty authorities provided under Public Law 103-296, the SSIPIA of 1994. In the first phase of this consolidation, the SSA will relocate its existing regulations for misuse of Social Security words, names, and symbols to part 498. In addition, the SSA's existing regulations will be updated in this final rule to reflect technical changes made by the SSIPIA.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AE33

SOCIAL SECURITY ADMINISTRATION (SSA)

Long-Term Actions

4264. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; MEDICAL CRITERIA FOR EVALUATING MENTAL DISORDERS FOR ADULTS (222F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1382c

CFR Citation: 20 CFR 404.1500ff, app 1; 20 CFR 404.1520a; 20 CFR 404.1526; 20 CFR 416.920a; 20 CFR 416.928

Legal Deadline: None

Abstract: These amendments revise the medical evaluation criteria for mental disorders for the Social Security and Supplemental Security Income disability programs. The revisions will reflect advances in medical treatment and in methods of evaluating certain mental impairments and will provide up-to-date medical criteria for use in the evaluation of disability claims based on mental disorders.

Timetable:

Action	Date	FR Cite
NPRM	07/18/91	56 FR 33130
NPRM Comment Period End	09/18/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AC74

4265. CODE OF CONDUCT FOR ADMINISTRATIVE LAW JUDGES AND ADMINISTRATIVE APPEALS JUDGES OF THE SOCIAL SECURITY ADMINISTRATION (341P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 12674 as modified by EO 12731;; 42 USC 405

CFR Citation: 20 CFR 422.215

Legal Deadline: None

Abstract: These regulations would establish a Code of Conduct for OHA Administrative Law Judges and Administrative Appeals Judges.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-8471

RIN: 0960–AD54

4266. ELECTION OF BENEFITS BASED ON AGE BY DISABLED WIDOW, WIDOWER, AND SURVIVING DIVORCED SPOUSE BENEFICIARIES (343P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 404.335; 20 CFR 404.336; 20 CFR 404.337

Legal Deadline: None

Abstract: We propose to amend our regulations to permit the election of benefits based on age by widows, widowers and surviving divorced spouses (hereinafter, collectively widows) who are at least age 60 and who are already entitled to widow's benefits based on disability. This proposal would allow the widow to choose which of the two types of widow's benefits is more advantageous. The estimated increase in benefit payments is less than $500,000 per year for fiscal years 1992-1995.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AD56

4267. RELIABLE INFORMATION WHICH IS CURRENTLY AVAILABLE FOR DETERMINING BENEFIT AMOUNTS IN THE SUPPLEMENTAL SECURITY INCOME PROGRAM (382F)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1382(a) to 1382(c); 42 USC 1382(e); 42 USC 1382a; 42 USC 1382f; 42 USC 1383

CFR Citation: 20 CFR 416.420

Legal Deadline: NPRM, Judicial, March 16, 1993.

Abstract: Pursuant to the Court order in Gould, et al. v. Sullivan, No. C2-87-964 (S.D. Ohio, October 2, 1992), we proposed a rule for determining benefits in the SSI program. Under section 1611(c)(4)(A) of the Social Security Act, if the Secretary determines that reliable information is currently available concerning the income and other circumstances of an individual for a month, the Secretary may use that information to determine an individual's SSI benefit amount for that month. This discretionary method of determining SSI benefit amounts is an exception to the use of information from a prior month, known as retrospective monthly accounting (RMA), as provided in section 1611(c)(1) of the Act. The proposed rule explained that the Secretary has determined that no information exists which is reliable and currently available to use in computing SSI benefit amounts pursuant to section 1611(c)(4).

Timetable:

Action	Date	FR Cite
NPRM	03/16/93	58 FR 14191
NPRM Comment Period End	05/17/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AD65

4268. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; HEMIC AND LYMPHATIC SYSTEM, AND MALIGNANT NEOPLASTIC DISEASES (399P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500ff, app 1

Legal Deadline: None

Abstract: Sections 7.00 and 107.00 (hemic and lymphatic system), and 13.00 and 113.00 (malignant neoplastic diseases) of appendix 1 to Subpart P of Part 404 of the Disability Regulations (404.1501 through 404.1599) describe those impairments which are considered severe enough to prevent a person from engaging in any gainful activity, or in the case of a child under age 18, age-appropriate activities. We are proposing revisions to these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment. The Supplemental Security Income program incorporates and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

SSA

Long-Term Actions

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AD67

4269. RELIABLE INFORMATION WHICH IS CURRENTLY AVAILABLE FOR DETERMINING BENEFIT AMOUNTS IN THE SUPPLEMENTAL SECURITY INCOME PROGRAM (NEWMAN) (434P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1382(a) to 1382(c); 42 USC 1383

CFR Citation: 20 CFR 416.420

Legal Deadline: None

Abstract: The Social Security Act (the Act) provides that if the Commissioner of Social Security (the Commissioner) determines that reliable information is currently available concerning the income of an individual, the Commissioner may use that information to determine an individual's current month's supplemental security income (SSI) benefit amount. This method of determining SSI benefit amounts is an exception to the use of income from a prior month, known as retrospective monthly accounting (RMA). The Commissioner has determined that no reliable information exists which is currently available for determining SSI benefit amounts for a current month using any method other than RMA. These rules are applicable only in California pursuant to a court order issued in Newman v. Shalala.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AD77

4270. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, ENDOCRINE SYSTEM AND OBESITY AND RELATED CRITERIA (436P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1500ff, app 1

Legal Deadline: None

Abstract: Sections 9.00 and 109.00 of appendix 1 to subpart P of part 404 of the Disability Regulations (404.1501 through 404.1599) describe those impairments which are considered severe enough to prevent a person from engaging in any gainful activity, or in the case of a child under age 18, age-appropriate activities. We are proposing to revise the criteria in these sections to reflect advances in medical knowledge, treatment, and methods of evaluating endocrine impairments. The Supplemental Security Income program incorporates and uses the same medical criteria as the Old-Age, Survivors and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AD78

4271. BENEFITS FOR SPOUSES, DIVORCED SPOUSES, AND CHILDREN (455P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402; 42 USC 403(a); 42 USC 403(b); 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 428(a); 42 USC 428(b); 42 USC 428(c); 42 USC 428(d); 42 USC 428(e); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.331; 20 CFR 404.332; 20 CFR 404.341; 20 CFR 404.357; 20 CFR 404.361; 20 CFR 404.366

Legal Deadline: None

Abstract: This regulation will make technical changes to several sections. Most of the changes correct problems with wording which occurred during the 1980 recodification.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD83

4272. TEMPORARY INCREASE IN SPONSORSHIP PERIOD FOR ALIENS UNDER THE SSI PROGRAM (457P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-152, sec 7

CFR Citation: 20 CFR 416.1160; 20 CFR 416.1204

Legal Deadline: None

Abstract: Section 7 of Pub. L. 103-152 amended section 1621 of the Social Security Act to temporarily increase the sponsorship period for aliens under the SSI program from 3 years to 5 years following the alien's date of lawful admission to the U.S. The increase in the sponsorship period is effective January 1, 1994. Beginning October 1, 1996, the 3-year sponsorship period will be reinstated. We will amend our regulations to conform to the statutory changes. Any costs/savings are associated with the legislation and not with the regulations themselves.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD84

4273. PREVENTION OF ADVERSE EFFECTS ON ELIGIBILITY AND BENEFIT AMOUNT WHEN SPOUSE OR PARENT ABSENT DUE TO ACTIVE MILITARY SERVICE (462P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-66, sec 13733

CFR Citation: 20 CFR 416.1160ff

Legal Deadline: None

Abstract: These proposed regulations reflect the provisions of section 13733 of Pub. L. 103-66 which allows us to consider, absent evidence to the contrary, an ineligible parent or spouse who is absent from a deeming household due solely to an active duty military assignment, to be living in the same household as the eligible individual for deeming purposes. This will prevent possible adverse SSI effects which could otherwise result when a military deemor is absent from the household.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AD86

4274. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME, ACCEPTABLE MEDICAL SOURCES (469P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1513; 20 CFR 416.913

Legal Deadline: None

Abstract: We propose to add speech and language pathologists to the list of acceptable medical sources in our current regulations. These sources will assist us in establishing the existence of speech and language impairments. We also propose to make other changes in our regulations to clarify what we mean by an acceptable medical source.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AD91

4275. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; CONTRIBUTIONS FOR SUPPORT (475P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402(d)(3); 42 USC 416(b)(3); 42 USC 405(a); 42 USC 1302

CFR Citation: 20 CFR 404.366

Legal Deadline: None

Abstract: To provide more uniformity in our decision making, we are amending our rules on the contributions for support that must be provided by the insured to certain categories of claimants for child's benefits.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-8471

RIN: 0960–AD92

4276. COMPUTATION OF SSI BENEFITS FOR THE FIRST THREE MONTHS OF PAYMENT (476P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.320

Legal Deadline: None

Abstract: SSI eligibility and payment are calculated by taking into account income received by the applicant/recipient. Two calculations must be made for each month. The first is the eligibility computation and is based on the current (payment) month's income. The second is the eligibility computation, which, under retrospective monthly accounting, is based (usually) on the income of a prior month called the budget month. Generally the budget month is 2 months prior to the payment month. The transitional computation for the first 3 months of SSI payment is an exception to the general rule described above. While the eligibility computation continues to apply to the current month's income, the budget month on which each of the first 3 months' payments are based is the first month of eligibility. This policy was intended to facilitate the transition into 2 month retrospective accounting cycle and to avoid penalizing the recipient for income received prior to initial SSI

eligibility. However, the policy also has the effect of counting income which is only received in one month more than one time. In Jones v. Shalala the Ninth Circuit Court of Appeals ruled that SSA's transitional computation for the first 3 months of eligibility is not permissible because it will result in the triple counting of nonrecurring income received only in the first month of eligibility. The proposed policy addresses the triple countying of nonrecurring income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AD93

4277. DEFINITION OF "LARGEST BENEFIT AMOUNT" FOR PURPOSES OF DETERMINING THE EARNINGS RECORD ON WHICH A PERSON WHO IS SIMULTANEOUSLY ENTITLED TO CHILD'S INSURANCE BENEFITS (481P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402(d); 42 USC 402(k); 42 USC 902(a)(5); 42 USC 405(a)

CFR Citation: 20 CFR 404.304; 20 CFR 404.353b; 20 CFR 404.407d

Legal Deadline: None

Abstract: Section 202(k)(2)(A) of the Act (42 U.S.C. 402(k)(2)(A)) contains the statutory requirements for determining the earnings record on which SSA will pay a person, who is simultaneously entitled to child's insurance benefits on the earnings records of more than one worker. Generally, the child's benefits will be paid on the earnings record that yields the highest primary insurance amount (PIA). However, under certain circumstances, the child's benefits will be paid on the earnings record that yields a lower PIA if that record produces the "largest benefit" to which the child could be entitled under section 202(d) without the application of the reduction under the "family maximum" provisions. In implementing section 202(k)(2)(A), SSA has determined the "largest benefit" under section 202(k)(2)(A) by comparing the original benefit amount (i.e., 50 percent of the PIA of a living worker and 75 percent of the PIA of a deceased worker) calculated on the dependent and/or survivor claim of the child on the earnings record of each worker without applying any reductions or deductions. The United States District Court for the Northern District of Alabama in Agee v. Sullivan rejected this interpretation and held that SSA must compare the amounts payable to the child under each earnings record after considering all applicable deductions and reductions other than the reduction under the family maximum provisions. Legal support for both interpretations can be found in the statutory language and legislative history of section 202(k)(2)(A). We have found current regulations implementing section 202(k)(2)(A) to be ambiguous. We propose to amend these regulations to reflect the longstanding SSA interpretation, rather than the interpretation adopted by the district court in the Agee decision.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD95

4278. FEDERAL OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; BENEFIT REFORMS FOR INDIVIDUALS DISABLED BASED ON DRUG ADDICTION OR ALCOHOLISM (496F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.315; 20 CFR 404.316; 20 CFR 404.321; 20 CFR 404.332; 20 CFR 404.335; 20 CFR 404.337; 20 CFR 404.350; 20 CFR 404.352; 20 CFR 404.402; 20 CFR 404.470; 20 CFR 404.480; 20 CFR 404.902; 20 CFR 404.1535; 20 CFR 404.1536; 20 CFR 404.1537; ...

Legal Deadline: Final, Statutory, February 11, 1995.
Section 201 of Public Law 103-296.

Abstract: The Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296) contains provisions affecting the payment of benefits under titles II and XVI of the Social Security Act to individuals whose drug addiction or alcoholism is a contributing factor material to the determination of disability. These final rules implement certain provisions related to limitations on benefit payments and the nonpayment and termination of benefits to these individuals.

Timetable:

Action	Date	FR Cite
Notice of Intent with Request for Comments	10/17/94	59 FR 52380
Interim Final Rule	02/10/95	60 FR 8140
Interim Final Rule Comment Period End	04/11/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AD96

4279. SSI ELIGIBILITY FOR STUDENTS TEMPORARILY ABROAD (505P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.202; 20 CFR 416.270 (New)

Legal Deadline: None

Abstract: These regulatory changes are required by section 204 of P.L. 103-296, the Social Security Independence and Program Improvements Act of 1994. This provision allows individuals who leave the United States temporarily as part of an educational program that is not available in the United States, that is designed for gainful employment, and that is sponsored by a school, college, or university in the United States, to continue receiving SSI benefits for up to 1 year if they were eligible for SSI benefits for the month they left the country.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AE01

4280. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; INCOME AND RESOURCES, DEEMING OF PARENTAL INCOME AND RESOURCES WHEN CHILDREN ARE HOSPITALIZED (522P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1382c(f)(2); 42 USC 1383(d)

CFR Citation: 20 CFR 416.1165; 20 CFR 416.1167; 20 CFR 416.1202

Legal Deadline: None

Abstract: Current SSI regulations reflect the concept that deeming (the process of considering another persons income to be your own) applies only in household situations. Currently, children in medical care facilities are not subject to parental deeming because they are not considered to be in the same household as their parents. While maintaining the concept of "household" for deeming purposes, these proposed rules will expand upon current policy from the household and, as a result, subject to parental deeming. This extends the current policy that is applicable to children away at school to children in medical care facilities. That is, a child who is born in or enters a medical care facility and who is subject to the control of a parent will be considered temporarily absent from the parental household. During this absence, deeming will apply.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AE08

4281. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; OVERPAYMENT DEBT COLLECTION PROCEDURES (523P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-387

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation will implement section 5 of Pub. L. 103-387, the Social Security Domestic Employment Act of 1994 which authorizes SSA to use certain delinquent debt collection procedures available to other Federal agencies, but which were not available to SSA under the Debt Collection Act of 1982. The procedures include reporting delinquent debtors to credit agencies, contracting with private debt collection agencies, and recovering debts by administrative offset of other Federal payments to which the debtor may be entitled. The procedures may be applied only if the overpayment was paid to a person after he or she attained age 18, the debt is not recoverable by other means provided by the Social Security Act, and the debtor is no longer a beneficiary. Authority to use such debt collection procedures sunsets September 30, 1999.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AE09

4282. DETERMINATIONS AND ADMINISTRATIVE REVIEW PROCESS—APPLICABILITY OF ADMINISTRATIVE RES JUDICATA (526P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405(a) to 405(b); 42 USC 405(d) to 405(h); 42 USC 421(d); 42 USC 902(a)(5); 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 404.903; 20 CFR 404.950; 20 CFR 404.957; 20 CFR 416.1403; 20 CFR 416.1450; 20 CFR 416.1457

Legal Deadline: None

Abstract: This regulation implements section 5107 of Pub. L. 101-508 which provides that SSA may not deny a new application on the basis that the claimant did not timely appeal an earlier determination, if the claimant relied upon incorrect, incomplete or misleading information provided by SSA in deciding not to appeal. In addition, the regulation explains in more detail our res judicata policy.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE11

4283. SSA ACQUISITION REGULATIONS (527F)

Priority: Other

Legal Authority: 45 USC 301; 40 USC 486(c)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The regulation will establish the acquisition rules for the newly independent SSA. The regulation will largely duplicate the HHS acquisition regulation, except for modifications to reflect SSA and its organizational structure. Program and administrative costs are expected to be minimal.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-8471

RIN: 0960–AE12

4284. MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO THE SOCIAL SECURITY ADMINISTRATION (530P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 312

CFR Citation: 20 CFR 422.527

Legal Deadline: None

Abstract: This regulation will implement section 312 of P.L. 103-296 which expands the current deterrents against misleading mailings and advertisements about Social Security and Medicare.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandy Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AE15

4285. SUPPLEMENTAL SECURITY INCOME; PLANS FOR ACHIEVING SELF-SUPPORT (506I)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 203; 42 USC 1383b(d)

CFR Citation: 20 CFR 416.1180; 20 CFR 416.1181; 20 CFR 416.1182; 20 CFR 416.1224; 20 CFR 416.1225; 20 CFR 416.1226

Legal Deadline: None

Abstract: These regulations revise our rules on plans to achieve self-support (PASS) to take into account the time period an individual will need for completion of his or her PASS and other factors determined to be appropriate.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Secuarity Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE17

4286. • LUMP SUM DEATH PAYMENT AND LIVING IN THE SAME HOUSEHOLD (548P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405(a); 42 USC 416; 42 USC 902(a)(5); 42 USC 402; 42 USC 403; 42 USC 423; 42 USC 428

CFR Citation: 20 CFR 404.2; 20 CFR 404.3; 20 CFR 404.347; 20 CFR 404.390; 20 CFR 404.392; 20 CFR 404.393; 20 CFR 404.394; 20 CFR 404.395; 20 CFR 404.612; 20 CFR 404.615; 20 CFR 404.765

Legal Deadline: None

Abstract: We propose to revise our rules on "living in the same household" (LISH) and the lump-sum death payment (LSDP) to bring them into accord with legislation that restricted the payment of the LSDP. This revision will include the removal from our regulations of several outdated sections and paragraphs. We also propose to incorporate into our rules the policy established previously in a Social Security Ruling (SSR) that interpreted the definition of LISH to allow for extended separations that are based solely on medical reasons.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dan Bridgewater, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-8470

RIN: 0960–AE20

4287. • WHEN YOU ARE A FULL-TIME ELEMENTARY OR SECONDARY SCHOOL STUDENT (552P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402; 42 USC 403; 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 428; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.350; 20 CFR 404.351; 20 CFR 404.352; 20 CFR 404.353; 20 CFR 404.367; 20 CFR 404.369

Legal Deadline: None

Abstract: We propose to revise our rules on full-time elementary or secondary school students to include students enrolled in home schooling or independent study programs authorized by State or local law, e.g., political subdivision, tribal government, or the District of Columbia. Current rules cover only students in traditional institutional educational settings; however, many States (or other jurisdictions) provide for home schooling and independent study programs considered equivalent to traditional schools. We also propose to clearly show that nonpayment provisions apply to certain prisoners and certain other inmates of publicly funded institutions who otherwise would meet student benefit requirements. In addition, we propose to remove outdated rules on student benefits relating to months before August 1982.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dan Bridgewater, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-8470

RIN: 0960–AE21

4288. • FREEDOM OF INFORMATION AND AVAILABILITY OF INFORMATION REGULATIONS FOR INDEPENDENT SSA (546F)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1306; 5 USC 552; 5 USC 552(a); 8 USC 1360; 18 USC 1905; 26 USC 6103; 31 USC 9701; 30 USC 923(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations migrate the HHS Freedom of Information Regulations and the SSA availability of information regulations into a new 20 CFR part 402.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-8471

RIN: 0960–AE24

4289. • REQUIREMENTS FOR AWARDS AND SUBAWARDS TO INSTITUTIONS OF HIGHER EDUCATION; CERTAIN GRANTS AND AGREEMENTS WITH STATES, LOCAL, AND INDIAN TRIBAL GOVERNMENTS (547F)

Priority: Other

Legal Authority: 5 USC 301; 31 USC 7505

CFR Citation: 20 CFR 435.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 74 into a new SSA regulation at 20 CFR 435 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-8471

RIN: 0960–AE25

4290. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS) (554F)

Priority: Other

Legal Authority: 5 USC 301; 41 USC 403(11); 41 USC 701 et seq

CFR Citation: 20 CFR 436.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 76 into a new SSA regulation at 20 CFR part 436 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-8471

RIN: 0960–AE27

4291. • UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS AND INDIAN TRIBAL GOVERNMENTS (555F)

Priority: Other

Legal Authority: 5 USC 301

CFR Citation: 20 CFR 437.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 92 into a new SSA regulation at 20 CFR part 437 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore. MD 21235
Phone: 410 965-8471

RIN: 0960–AE28

4292. • RESTRICTIONS ON LOBBYING IN CONNECTION WITH THE AWARD OF GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS (556F)

Priority: Other

Legal Authority: 5 USC 301; 31 USC 1352

CFR Citation: 20 CFR 438.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 93 into a new SSA regulation at 20 CFR part 438 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-8471

RIN: 0960–AE29

4293. • REVISION OF AUTHORITY CITATIONS (562F)

Priority: Other

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1360; 26 USC 9701 to 9708; 31 USC 3720A; 42 USC 433; 42 USC 1310; 42 USC 1306; 42 USC 1320b; 42 USC 901 to 904; 42 USC 401 to 407; 42 USC 409 to 418; 42 USC 421 to 425; 42 USC 427 to 432; 42 USC 1381 to 1383b

CFR Citation: 20 CFR 401.100 to 401.600; 20 CFR 401.1 to 404.2127; 20 CFR 416.101 to 416.227; 20 CFR 422.1 to 422.607; 20 CFR 423.1 to 423.9

Legal Deadline: None

Abstract: The authority citations for the Social Security Administration (SSA) regulations in 20 CFR parts 401, 404, 416, 422, and 423 of the Code of Federal Regulations (CFR) are being revised. As of March 31, 1995, new regulatory authority was given to the Commissioner of Social Security by the Social Security Independence and Program Improvements Act of 1994 (the Independence Act). The authority citations are being revised to reflect this change in authority and other changes in the law.

Timetable:

Action	Date	FR Cite
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dan Bridgewater, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-9470

RIN: 0960–AE32

4294. • PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION (566F)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 552a; 26 USC 6103; 30 USC 923; 42 USC 405(a); 42 USC 1302; 42 USC 1306

CFR Citation: 20 CFR 402.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS privacy regulation at 45 CFR part 5b into a new SSA regulation at 20 CFR part 401 which now includes SSA's regulations on disclosure.

Timetable:

Action	Date	FR Cite
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-8471

RIN: 0960–AE34

4295. • REDUCTION OF DISABILITY BENEFITS—WORKERS' COMPENSATION/PUBLIC DISABILITY BENEFITS (567P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402 to 405; 42 USC 422 to 425; 42 USC 427; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.408

Legal Deadline: None

Abstract: We propose to revise our rules on reduction of Social Security benefits based on disability on account of receipt of workers' compensation or public disability benefits provided under Federal (other than Social Security), State, or local laws or plans. We will clarify how we subtract medical, legal, or related expenses from settlement agreements and how we subsequently prorate the reduction of SSA disability benefits. We also propose to update provisions that have not been changed since 1984 and to remove many outdated, unnecessary computation examples. This revision should result in better understanding and smoother administration of this portion of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dan Bridgewater, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-9470

RIN: 0960–AE35

4296. • PROMOTE ONE-STOP BENEFIT APPLICATION (572P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR Not yet determined

Legal Deadline: None

Abstract: Under this process we will explore the development of a controlled, confidential electronic process by which employees at large companies can quickly file for retirement and/or Medicare through their company personnel office. This option would allow workers to apply for a company pension, social security, and health benefits all at one time and in one place. SSA is currently assessing the interest of companies and organizations in participating in such a process.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Martin Sussman, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1767

RIN: 0960–AE38

SOCIAL SECURITY ADMINISTRATION (SSA)

Completed Actions

4297. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; APPLICABILITY OF GOVERNMENT PENSION TO CERTAIN FEDERAL EMPLOYEES (188F)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 404.408a

Completed:

Reason	Date	FR Cite
Discontinued	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger
Phone: 410 965-8471

RIN: 0960–AC46

4298. SUPPLEMENTAL SECURITY INCOME PROGRAM; TREATMENT OF AUGMENTED VETERANS' BENEFITS (231F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 416.1123

Completed:

Reason	Date	FR Cite
Final Action	11/17/94	59 FR 59362

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane Heaton
Phone: 410 965-8470

RIN: 0960–AC82

4299. SSI PROGRAM; REDUCTION IN TIME WHEN INCOME AND RESOURCES OF SEPARATED COUPLES MUST BE TREATED AS JOINTLY AVAILABLE FOR PURPOSES OF SSI ELIGIBILITY AND BENEFITS (254F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 416.120(c); 20 CFR 416.305; 20 CFR 416.430; 20 CFR 416.432; 20 CFR 416.532(c); 20 CFR 416.554; 20 CFR 416.1130(c); 20 CFR 416.1147; 20 CFR 416.1801(c); 20 CFR 416.1802(b); 20 CFR 416.1806; 20 CFR 416.1811; 20 CFR 416.1830(a); 20 CFR 416.1832(c); 20 CFR 416.1832(d)

Completed:

Reason	Date	FR Cite
Final Action	03/30/95	60 FR 16373

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short
Phone: 410 965-6243

RIN: 0960–AC98

4300. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; UPDATING NOMENCLATURE (264F)

Priority: Other

CFR Citation: 20 CFR 404; 20 CFR 410; 20 CFR 416; 20 CFR 422

Completed:

Reason	Date	FR Cite
Discontinued	09/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandy Bond
Phone: 410 965-1794

RIN: 0960–AD11

4301. AGAINST EQUITY AND GOOD CONSCIENCE (348P)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 404.509; 20 CFR 410.561d; 20 CFR 416.554

Completed:

Reason	Date	FR Cite
Discontinued	09/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner
Phone: 410 965-1762

RIN: 0960–AD62

4302. OASDI AND SSI; TESTING MODIFICATIONS TO THE DISABILITY DETERMINATION PROCEDURES (359F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 404.906; 20 CFR 416.1406

Completed:

Reason	Date	FR Cite
Final Action	04/24/95	60 FR 20023

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner
Phone: 410 965-1762

RIN: 0960–AD63

4303. PROCEDURES FOR HANDLING EARNINGS REPORTS (418F)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 422.115; 20 CFR 422.120

Completed:

Reason	Date	FR Cite
Final Action	08/16/95	60 FR 42431

Small Entities Affected: Businesses

Government Levels Affected: Local, Federal

Agency Contact: Jack Schanberger
Phone: 410 965-8471

RIN: 0960–AD70

4304. WHO MAY PROTECT A POTENTIAL CLAIMANT'S FILING DATE OR APPLICATION FOR SUPPLEMENTAL SECURITY INCOME BENEFITS (408P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 416.315ff

Completed:

Reason	Date	FR Cite
Discontinued	09/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar
Phone: 410 965-1759

RIN: 0960–AD76

4305. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; EVIDENCE REQUIRED TO PRESUME A PERSON IS DEAD (443F)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 404.720

Completed:

Reason	Date	FR Cite
Final Action	04/17/95	60 FR 19163

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner
Phone: 410 965-1762

RIN: 0960–AD79

4306. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, GROWTH IMPAIRMENTS (444P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 404.1500ff, app 1

Completed:

Reason	Date	FR Cite
Discontinued	09/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short
Phone: 410 965-6243

RIN: 0960–AD80

4307. APPLICATION OF STATE LAW IN DETERMINING CHILD RELATIONSHIP (485P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 404.354; 20 CFR 404.355; 20 CFR 404.356

Completed:

Reason	Date	FR Cite
Discontinued	02/22/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger
Phone: 410 965-8471

RIN: 0960–AD97

4308. OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; ADMINISTRATIVE REVIEW PROCESS, DECISIONS BY ADJUDICATION OFFICERS (541F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 404.943; 20 CFR 416.1443

Completed:

Reason	Date	FR Cite
Final Action	09/13/95	60 FR 47469

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short
Phone: 410 965-6243

RIN: 0960–AE06

4309. OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; ADMINISTRATIVE REVIEW PROCESS, PREHEARING PROCEEDINGS, AND DECISIONS BY ATTORNEY-ADVISORS (524F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 404.942; 20 CFR 404.943; 20 CFR 416.1442; 20 CFR 416.1443

Completed:

Reason	Date	FR Cite
Final Action	06/30/95	60 FR 34126

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short

Phone: 410 965-6243

RIN: 0960–AE10

4310. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; REQUIRING NURSING HOMES TO REPORT SSI RECIPIENT ADMISSIONS WITHIN 2 WEEKS TO THE SOCIAL SECURITY ADMINISTRATION (528P)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 416.701

Completed:

Reason	Date	FR Cite
Discontinued	05/10/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Harry J. Short
Phone: 410 965-6243

RIN: 0960–AE13

4311. MIGRATION OF CERTAIN DEPARTMENT OF HEALTH AND HUMAN SERVICES REGULATIONS INTO THE SOCIAL SECURITY ADMINISTRATION'S REGULATIONS (529F)

Priority: Other

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Discontinued	05/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short
Phone: 410 965-6243

RIN: 0960–AE14

4312. • DETERMINING DISABILITY AND BLINDNESS; EXTENSION OF EXPIRATION DATE FOR ADULT MENTAL DISORDERS LISTINGS (559F)

Priority: Routine and Frequent

Legal Authority: 42 USC 902(a)(5); 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: The Social Security Administration issues listings of impairments to evaluate disability and blindness under the Social Security and Supplemental Security Income (SSI) programs. This rule extends the expiration date for the adult mental disorders listings. We have made no revisions to the medical criteria in the listings; they remain the same as they now appear in the Code of Federal Regulations. This extension will ensure that we continue to have medical evaluation criteria in the listings to adjudicate claims for disability based on mental impairments at step three of our sequential evaluation process.

Timetable:

Action	Date	FR Cite
Final Action	08/23/95	60 FR 43709

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AE19

[FR Doc. 95-25092 Filed 11-24-95; 8:45 am]

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Part XLV

Tennessee Valley Authority

Semiannual Regulatory Agenda

TENNESSEE VALLEY AUTHORITY (TVA)

TENNESSEE VALLEY AUTHORITY

18 CFR Ch. XIII

Regulatory Agenda

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Regulatory agenda.

SUMMARY: As a nonregulatory agency, TVA originates few regulations. However, TVA has one regulation under development. TVA is therefore publishing a regulatory agenda in voluntary compliance with Executive Order No. 12866.

FOR FURTHER INFORMATION CONTACT: For further information, please contact the persons listed.

Edward S. Christenbury,
General Counsel.

TENNESSEE VALLEY AUTHORITY (TVA) — Long-Term Actions

4313. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED EDUCATIONAL PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1682; 16 USC 831 to 831dd

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation implements 20 USC 1681 which assures nondiscrimination on the basis of sex in educational programs or activities receiving financial assistance from Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Provost, Manager, Tennessee Valley Authority, Office of Small and Disadvantaged Business Utilization and Federally Assisted Programs, 1101 Market Street EB 2B, Chattanooga, TN 37402-2801
Phone: 423 751-6269

RIN: 3316–AA13

TENNESSEE VALLEY AUTHORITY (TVA) — Completed Actions

4314. ADOPTION OF PROCEDURES—PROGRAM FRAUD CIVIL REMEDIES ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 831 to 831dd; 31 USC 1352

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: In accordance with the requirements of section 319 of Public Law 101-121, the Tennessee Valley Authority is required to apply certain requirements of the Program Fraud Civil Remedies Act to the imposition and collection of civil penalties under section 319 for violations of its restrictions on lobbying and its disclosure requirements. These regulations establish administrative procedures for imposition and collection of civil penalties in accordance with the Program Fraud Civil Remedies Act.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles L. Young, Senior Attorney, Office of the General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, TN 37902-1499
Phone: 423 632-7304

RIN: 3316–AA18

[FR Doc. 95-25093 Filed 11-24-95; 8:45 am]
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Federal Register

Tuesday
November 28, 1995

Part XLVI

United States Information Agency

Semiannual Regulatory Agenda

UNITED STATES INFORMATION AGENCY (USIA)

UNITED STATES INFORMATION AGENCY

22 CFR Ch. V

Unified Agenda of Federal Regulations

AGENCY: United States Information Agency.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the United States Information Agency (USIA) plans for the next 12 months. USIA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of USIA's regulatory plans and to provide a systematic means of monitoring regulatory activity in USIA. None of the regulations listed in the agenda are considered major under Executive Order 12866 "Regulatory Planning and Review."

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, Office of General Counsel, (202) 619-6531.

Stanley S. Colvin,

Assistant General Counsel.

UNITED STATES INFORMATION AGENCY (USIA) — Final Rule Stage

4315. INSURANCE REQUIREMENTS; THE EXCHANGE VISITOR PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(J); 8 USC 1182; 8 USC 1258; 22 USC 1431 to 1442; 22 USC 2451 to 2460; Reorganization Plan No. 2 of 1977; EO 12048 of March 27, 1978; USIA Delegation Order No. 85.5 (50 FR 27393)

CFR Citation: 22 CFR 514.14(c)

Legal Deadline: None

Abstract: The Agency issued a final rule on March 19, 1993, which included a requirement that all exchange visitors and their spouses and dependents on J visas have insurance to cover themselves for sickness and accidents, effective September 1, 1994. In response to concerns raised by the public, the Agency is amending the types of insurance allowed under the Exchange Visitor Program regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/07/94	59 FR 34760
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, Office of the General Counsel, 301 4th Street SW., Room 700, Washington, DC 20547 Phone: 202 619-6531

RIN: 3116–AA05

UNITED STATES INFORMATION AGENCY (USIA) — Completed Actions

4316. DEBARMENT AND SUSPENSION COMMON RULE TO ACHIEVE RECIPROCITY WITH PROCUREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); EO 12689; Sec 2455 of Federal Acquisition Streamlining Act of 1994

CFR Citation: 22 CFR 513

Legal Deadline: None

Abstract: Executive Order 12689, signed August 16, 1989, calls for agency debarment and suspension actions under procurement or nonprocurement activities to have reciprocal Governmentwide effect. The common rule reflects the requirements contained in the Executive order.

Timetable:

Action	Date	FR Cite
Final Action	06/26/95	60 FR 33037
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Georgia K. Hubert, Chief, Policy and Procedures Staff, United States Information Agency, Office of Contracts, 330 C Street SW., Room 1611, Washington, DC 20547 Phone: 202 205-5404

RIN: 3116–AA07

4317. AMENDMENT OF 22 CFR PART 514.44—WAIVER OF TWO-YEAR HOME COUNTRY PHYSICAL PRESENCE REQUIREMENTS (IMPLEMENT PL 103-416)

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(J); 8 USC 1182(e); 8 USC 1184; 22 USC 1431 to 1442; 22 USC 2451 to 2460

CFR Citation: 22 CFR 514.44

Legal Deadline: None

Abstract: Public Law 103-416 enacted an additional basis for granting a waiver of the two-year home country physical presence requirement (8 USC 212(e)) as applied to foreign medical graduates who come to the United States for graduate medical training or education on the J visa. This enactment allows a State Department of Public Health, or its equivalent, to apply for a waiver to allow foreign medical graduates to work in medically underserved areas in the United States.

Timetable:

Action	Date	FR Cite
Final Action	10/12/95	60 FR 53122

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: William G. Ohlhausen, Assistant General Counsel, United States Information Agency, Office of the General Counsel, 301 4th Street SW., Room 700, Washington, DC 20547

Phone: 202 619-6972

RIN: 3116–AA08

[FR Doc. 95-23623 Filed 11-24-95; 8:45 am]

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Tuesday
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Part XLVII

Department of Defense General Services Administration National Aeronautics and Space Administration

Federal Acquisition Regulation;
Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Agenda

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in compliance with Executive Order 12866 "Regulatory Planning and Review." This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The Federal Acquisition Regulation (FAR) Secretariat has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Fayson, FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR and prescribe the FAR system. Revisions to the FAR are made through periodic issuance of Federal Acquisition Circulars (FACs).

Dated: October 16, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4318	FAR Case 91-118, Payment by Electronic Fund Transfer	9000-AG49
4319	FAR Case 92-24, Employee Stock Ownership Plans	9000-AG53
4320	FAR Case 93-18, Definition of Bid and Proposal Costs	9000-AG58
4321	FAR Case 93-26, Business Meals	9000-AG59
4322	FAR Case 92-34, FAR Certifications	9000-AG61
4323	FAR Case 93-19, Contingent Fee	9000-AG64

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4324	FAR Case 94-771; Micro-Purchase Procedures	9000-AG26
4325	FAR Case 94-753; Travel Costs	9000-AG27
4326	FAR Case 92-54, Environmentally Preferable Products	9000-AG40
4327	FAR Case 92-50, Double-Sided Copy	9000-AG41
4328	FAR Case 93-307, Ozone Executive Order	9000-AG42
4329	FAR Case 95-9 Quick Closeout Procedures	9000-AG57
4330	FAR Case 94-712, Multiyear Contracting	9000-AG63

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4331	FAR Case 89-12, Pay-As-You-Go Pension Costs	9000-AC90
4332	FAR Case 89-23, Procurement Integrity	9000-AD01
4333	FAR Case 89-42, Liquidated Damages	9000-AD20
4334	FAR Case 89-93, Implementation of the Anti-Lobbying Statute	9000-AD76
4335	FAR Case 90-52, Evaluation Factors	9000-AE21
4336	FAR Case 91-31, Contract Award-Sealed Bidding	9000-AE41
4337	FAR Case 91-27, Performance and Payment Bonds	9000-AE47
4338	FAR Case 91-28, Indian-Owned Enterprises	9000-AE52
4339	FAR Case 91-18, Multiyear Contracting	9000-AE65
4340	FAR Case 91-106, Child Care Services	9000-AF31

FAR

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4341	FAR Case 92-301, Federal Courts Administration Act	9000-AF35
4342	FAR Case 92-616, Service of Protest	9000-AF36
4343	FAR Case 93-606, Implementation of MOU Between the USA and the EEC on Government Procurement and Sanctions Imposed on the European Economic Community	9000-AF39
4344	FAR Case 93-301, Made in America Labels; FAR Case 93-306, Unfair Trade Practices	9000-AF40
4345	FAR Case 92-45, Interest Clause Revisions	9000-AF44
4346	FAR Case 92-19, Subcontracting Plans	9000-AF45
4347	FAR Case 92-51, Inherently Governmental Functions	9000-AF46
4348	FAR Case 91-95, Postponement of Bid Openings or Closing Dates	9000-AF48
4349	FAR Case 93-305, Small Business Innovation Research Rights in Data	9000-AF54
4350	FAR Case 91-102, Inconsistencies—Termination for Convenience	9000-AF55
4351	FAR Case 92-615, Debarment and Suspension Certificate	9000-AF57
4352	FAR Case 93-310, Implementation of the North American Free Trade Agreement (NAFTA) Implementation Act	9000-AF60
4353	FAR Case 91-91, Prompt Payment Act	9000-AF61
4354	FAR Case 91-108, Javits-Wagner-O'Day Program	9000-AF71
4355	FAR Case 91-109, Architect-Engineer Services	9000-AF72
4356	FAR Case 92-2, Subcontract Proposal Audits	9000-AF74
4357	FAR Case 92-10, Nonprofit Institutions Clause Prescription	9000-AF77
4358	FAR Case 92-14, Insurance—Liability to Third Persons	9000-AF78
4359	FAR Case 92-17, Overhead Should-Cost Reviews	9000-AF79
4360	FAR Case 92-27, Quality Assurance Nonconformance	9000-AF80
4361	FAR Case 92-40, Contractors' Purchasing Systems Reviews and Subcontractor Consent	9000-AF82
4362	FAR Case 92-48, Fluctuating Exchange Rates	9000-AF83
4363	FAR Case 92-604, Nonallowability of Excise Taxes on Nondeductible Contributions to Deferred Compensation Plans	9000-AF85
4364	FAR Case 93-5, Employee Compensation Costs	9000-AF97
4365	FAR Case 93-6, Legislative Lobbying Costs	9000-AF98
4366	FAR Case 93-20, Records Retention	9000-AF99
4367	FAR Case 93-22, Travel Costs	9000-AG00
4368	FAR Case 93-615, Use of Convict Labor	9000-AG02
4369	FAR Case 94-602, GSBCA Rules	9000-AG03
4370	FAR Case 91-78, Small Business Subcontracting Reporting	9000-AG04
4371	FAR Case 92-31, Quality Assurance Actions, Electronic Screening	9000-AG06
4372	FAR Case 92-39, Master Subcontracting Plans	9000-AG07
4373	FAR Case 92-302, Small Business Competitiveness Demonstration Program	9000-AG10
4374	FAR Case 93-304, Defense Production Act Amendments	9000-AG11
4375	FAR Case 94-3: Termination Inventory Schedules	9000-AG13
4376	FAR Case 94-9, Interdivisional Transfers	9000-AG14

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Sequence Number	Title	Regulation Identifier Number
4377	FAR Case 88-70, U.S.-Canada Free-Trade Agreement Implementation Act of 1988	9000-AC80
4378	FAR Case 90-54, Defective Pricing	9000-AE23
4379	FAR Case 91-39, Voluntary Refunds	9000-AE68
4380	FAR Case 92-46, Prompt Payment Overseas	9000-AF41
4381	FAR Case 91-104, Electronic Contracting	9000-AF50
4382	FAR Case 91-57, Disposal of Government Property	9000-AF62
4383	FAR Case 91-93, Special Tooling Under Fixed-Price Contracts	9000-AF66
4384	FAR Case 92-33, Price Competition Exemption	9000-AF81
4385	FAR Case 91-111, Commercially Available Government-Furnished Material	9000-AF95
4386	FAR Case 91-114, Use of Government Facilities on a No-Charge Basis	9000-AF96
4387	FAR Case 92-44, Reconditioned Material	9000-AG08
4388	FAR Case 94-802, Officials Not to Benefit (Ethics)	9000-AG15
4389	FAR Case 94-803, Whistleblower Protections for Contractor Employees (Ethics)	9000-AG16
4390	FAR Case 94-804, Procurement Integrity (Ethics)	9000-AG17

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4391	FAR Case 94-770, Simplified Acquisition Procedures/FACNET	9000-AG18
4392	FAR Case 94-720, Certified Cost for Pricing Data Threshold	9000-AG19
4393	FAR Case 94-751, Penalties on Unallowable Indirect Costs	9000-AG20
4394	FAR Case 94-754; Implementation of Various Cost Principle Provisions	9000-AG21
4395	FAR Case 94-801, Debarment and Suspension and Ineligibility (Ethics)	9000-AG22
4396	FAR Case 94-740; Consolidation and Revision of the Authority To Examine Records	9000-AG24
4397	FAR Case 94-700; Repeal of Requirement for Secretarial/Agency Head Determinations Regarding Use of Cost Type or Incentive Contracts	9000-AG25
4398	FAR Case 94-730; Protests, Disputes, and Appeals	9000-AG28
4399	FAR Case 94-752; Contractor Overhead Certification	9000-AG29
4400	FAR Case 94-721; Truth in Negotiation	9000-AG30
4401	FAR Case 94-710; Special Contracting Methods	9000-AG32
4402	FAR Case 94-750; Entertainment, Gift, and Recreation Costs for Contractor Employees	9000-AG33
4403	FAR Case 94-761; Assignment of Claims	9000-AG34
4404	FAR Case 94-762; Subcontractor Payments	9000-AG35
4405	FAR Case 94-764; Performance-Based Payments	9000-AG36
4406	FAR Case 94-780, Small Business	9000-AG37
4407	FAR Case 94-790, Acquisition of Commercial Items	9000-AG38
4408	FAR Case 94-701; Contract Award Implementation	9000-AG39
4409	FAR Case 95-601, Addition of 3 European Community Countries	9000-AG43
4410	FAR Case 94-791, Subcontracts for Commercial Items	9000-AG47
4411	FAR Case 94-711, Task and Delivery Order Contracts	9000-AG50
4412	FAR Case 94-731, Reimbursement of Protest Costs	9000-AG52
4413	FAR Case 94-765, Fraud Remedies	9000-AG54
4414	FAR Case 95-10, FAR Guiding Principles	9000-AG55
4415	FAR Case 94-766; Service Contract Funding	9000-AG56
4416	FAR Case 95-606, Publicizing Contract Actions	9000-AG60
4417	FAR Case 94-5, Trade Sanctions-Germany	9000-AG62

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Proposed Rule Stage

4318. FAR CASE 91-118, PAYMENT BY ELECTRONIC FUND TRANSFER

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 32.9; 48 CFR 52.232

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are considering changes to the FAR to amend Subpart 32.9 and to add solicitation provisions and contract clauses at 52.232 to implement guidance to address the use of electronic fund transfers for Federal contract payments.

Timetable:

Action	Date	FR Cite
NPRM	10/03/95	60 FR 51766
NPRM Comment Period End	12/04/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG49

4319. • FAR CASE 92-24, EMPLOYEE STOCK OWNERSHIP PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing changes to the cost principles in the FAR to address employee stock ownership plans (ESOPs). The purpose is to ensure uniform treatment on the allowability of costs of all ESOPs irrespective of whether the ESOP is structured as a pension plan or as deferred compensation, including making the interest costs of leveraged ESOPs expressly unallowable. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Sts. NW., Washington, DC 20405
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RIN: 9000–AG53

4320. • FAR CASE 93-18, DEFINITION OF BID AND PROPOSAL COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To revise the definition of bid and proposal (B&P) costs to clarify that B&P costs related to all types of funding instruments (e.g., contracts, grants, cooperative agreements, and other similar types of agreements) are allowable costs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	08/21/95	60 FR 43508
NPRM Comment Period End	10/20/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AG58

4321. • FAR CASE 93-26, BUSINESS MEALS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To clarify when the costs of meals for contractor employees are allowable. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	08/21/95	60 FR 43508
NPRM Comment Period End	10/20/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat)
Phone: 202 501-4755
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RIN: 9000–AG59

4322. • FAR CASE 92-34, FAR CERTIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 3; 48 CFR 4; 48 CFR 8; 48 CFR 9; 48 CFR 25; 48 CFR 36; 48 CFR 42; 48 CFR 47; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to eliminate unnecessary requirements for offerors and contractors to provide certified information to the Government. A revision to Standard Form 129, Solicitation Mailing List Application, is associated with this proposed rule. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	10/26/95	60 FR 54920
NPRM Comment Period End	12/26/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AG64

4323. • FAR CASE 93-19, CONTINGENT FEE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-38

Legal Deadline: None

Abstract: This rule amends the FAR to limit the allowability of contingent fees. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AG61

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Final Rule Stage

4324. FAR CASE 94-771; MICRO-PURCHASE PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 1.603-3; 48 CFR 3.104-4; 48 CFR 4.800; 48 CFR 13.101; 48 CFR 13.105; 48 CFR 13.106; 48 CFR 13.502; 48 CFR 13.601; 48 CFR 13.603; 48 CFR 25.100

Legal Deadline: Final, Statutory, October 1, 1995.

Abstract: A final rule is being issued pursuant to the Federal Acquisition Streamlining Act of 1994 to implement the new micro-purchase requirements of the Act. This regulatory action is subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/15/94	59 FR 64786
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG26

4325. FAR CASE 94-753; TRAVEL COSTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 31.205-46

Legal Deadline: Final, Statutory, October 1, 1995.

Abstract: This rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103-355 (the Act). The Federal Acquisition Regulatory Council is considering amending the Federal Acquisition Regulation (FAR) as a result of changes to 41 USC 22 by Section 2191 of the Act. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. However, the proposed rule would permit contractors to propose alternative rates to those prescribed in the FTR/JTR.

Timetable:

Action	Date	FR Cite
NPRM	12/14/94	59 FR 64542
NPRM Comment Period End	02/13/95	
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG27

4326. FAR CASE 92-54, ENVIRONMENTALLY PREFERABLE PRODUCTS

Priority: Other Significant

Legal Authority: 42 USC 6901; EO 12873

CFR Citation: 48 CFR 7.1; 48 CFR 10.0; 48 CFR 11.004; 48 CFR 15.605; 48 CFR 23.201; 48 CFR 23.203; 48 CFR 23.4; 48 CFR 23.7; 48 CFR 36.6; 48 CFR 42.302; 48 CFR 52.210-5 to 52.210-7; 48 CFR 52.223-4; 48 CFR 52.223-8 to 52.223-10

Legal Deadline: Other, Statutory. Rule published as interim rulemaking in Federal Acquisition Circular 90-27. Legal deadline effective 180 days after 10/20/93.

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the FAR to incorporate policies for the acquisition of environmentally preferable and energy-efficient products and services. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/31/95	60 FR 28492
Final Action	10/01/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
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RIN: 9000–AG40

4327. FAR CASE 92-50, DOUBLE-SIDED COPY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 4.000; 48 CFR 4.3; 48 CFR 52.204-4

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the FAR to encourage contractors to maximize the use of double-sided copying on recycled paper when submitting documents related to an acquisition. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/31/95	60 FR 28492
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
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RIN: 9000–AG41

FAR

Final Rule Stage

4328. FAR CASE 93-307, OZONE EXECUTIVE ORDER

Priority: Substantive, Nonsignificant

Legal Authority: EO 12843

CFR Citation: 48 CFR 23.8; 48 CFR 52.223-11; 48 CFR 52.223-12

Legal Deadline: Other, Statutory. Rule published as interim rulemaking in Federal Acquisition Circular 90-27. Legal deadline effective 120 days after 10/20.93.

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule which amends the FAR to provide policy for the acquisition of items that contain, use, or are manufactured with ozone-depleting substances. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/31/95	60 FR 28492
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG42

4329. • FAR CASE 95-9 QUICK CLOSEOUT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 42.708(a); 48 CFR 52.216-7; 48 CFR 52.216-13

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Counsel and the Defense Acquisition Regulation's Council are proposing to amend the FAR to ensure maximum use of quick closeout procedure. This regulatory action was not subject to OMB review under E.O. 12866 on April 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 38196
NPRM Comment Period End	09/25/95	
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AG57

4330. • FAR CASE 94-712, MULTIYEAR CONTRACTING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: Final, Statutory, October 1, 1995.

Abstract: This rule provides authority for certain agencies to conduct certain multiyear contracting.

Timetable:

Action	Date	FR Cite
NPRM	03/16/95	60 FR 14340
NPRM Comment Period End	05/15/95	
Final Action	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AG63

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Long-Term Actions

4331. FAR CASE 89-12, PAY-AS-YOU-GO PENSION COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to revise the cost allowability criteria for pension costs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 13022
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755

Fax: 202 501-4067

RIN: 9000–AC90

4332. FAR CASE 89-23, PROCUREMENT INTEGRITY

Priority: Other Significant

Legal Authority: 41 USC 423

CFR Citation: 48 CFR 1; 48 CFR 3; 48 CFR 4; 48 CFR 9; 48 CFR 15; 48 CFR 37; 48 CFR 43; 48 CFR 52

Legal Deadline: Other, Statutory, July 16, 1989.
Other deadline is for an interim final rule.

Abstract: To amend the FAR to implement the procurement integrity requirements of section 27 of the Office of Federal Procurement Policy Act.

Timetable:

Action	Date	FR Cite
NPRM	03/27/89	54 FR 12556
Interim Final Rule	05/11/89	54 FR 20488
Suspension of Interim Final Rule	12/08/89	54 FR 50718
Interim Final Rule - 2nd Publication	09/06/90	55 FR 36782
Interim Final Rule Effective	09/06/90	
Amendment to Interim Final Rule	11/30/90	55 FR 49852
Amendment to Interim Final Rule Effective	12/30/90	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
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RIN: 9000–AD01

4333. FAR CASE 89-42, LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-656, Sec 304

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: Amends the FAR to require a prime contractor to pay liquidated damages upon a lack of good faith effort to meet its small business subcontracting goals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/21/89	54 FR 30703
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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Fax: 202 501-4067

RIN: 9000–AD20

4334. FAR CASE 89-93, IMPLEMENTATION OF THE ANTI-LOBBYING STATUTE

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-121, Sec 319

CFR Citation: 48 CFR 3; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to implement section 319 of PL 101-121, which added a new section 1352 to title 31 USC entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions." Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, or cooperative agreement, in excess of $100,000, or a loan or Federal commitment to insure or guarantee a loan, in excess of $150,000, must disclose lobbying with other than appropriated funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/90	55 FR 3190
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4067

RIN: 9000–AD76

4335. FAR CASE 90-52, EVALUATION FACTORS

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-661, Sec 924(a)

CFR Citation: 48 CFR 15.605

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to amend FAR 15.605 to state that quality shall be considered in planning every source selection and, if appropriate, included as an evaluation factor. This change will better implement the requirements of Pub. L. 99-661, sec. 924(a).

Timetable:

Action	Date	FR Cite
NPRM	11/07/90	55 FR 46930
NPRM Comment Period End	01/07/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AE21

4336. FAR CASE 91-31, CONTRACT AWARD-SEALED BIDDING

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to revise the provision 52.214-19 to include the language regarding unbalanced bidding now contained in the provisions at 52.214-10 and 52.215-16. This will make the language in all three provisions consistent.

Timetable:

Action	Date	FR Cite
NPRM	06/27/91	56 FR 29539
NPRM Comment Period End	08/26/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AE41

4337. FAR CASE 91-27, PERFORMANCE AND PAYMENT BONDS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 28; 48 CFR 52

Legal Deadline: None

Abstract: To amend parts 28 and 52 to standardize policies governing bonding. The principal revisions include adding standard clauses when performance or payment bonds are required, and a standard form, Performance and Payment Bonds--Other Than Construction.

Timetable:

Action	Date	FR Cite
NPRM	07/09/91	56 FR 31278
NPRM Comment Period End	09/09/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AE47

4338. FAR CASE 91-28, INDIAN-OWNED ENTERPRISES

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-442, Sec 7

CFR Citation: 48 CFR 26; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to allow contractors to recover certain costs of subcontracting with Indian organizations and Indian-owned economic enterprises.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/22/91	56 FR 41728
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AE52

4339. FAR CASE 91-18, MULTIYEAR CONTRACTING

Priority: Other

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 17; 48 CFR 52

Legal Deadline: None

Abstract: To revise FAR part 17 and corresponding coverage in part 52 to provide special provisions for use in multiyear contracts whereas the FAR now requires contracting officers to develop provisions for use in multiyear solicitations and contracts on an as needed basis. The intent of these changes is to reduce the administrative burden on contracting officers by supplying needed provisions and clauses that were required but not provided.

Timetable:

Action	Date	FR Cite
NPRM	05/03/91	56 FR 20507
NPRM Comment Period End	07/02/91	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AE65

4340. FAR CASE 91-106, CHILD CARE SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-647, sec 231; PL 102-190, sec 1094

CFR Citation: 48 CFR 37.101; 48 CFR 37.103

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are amending the Federal Acquisition Regulation to add a definition of child care services and to require contracting officers to ensure that contracts for child care services include requirements for criminal history background checks of employees in accordance with 42 U.S.C. 13041. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/94	59 FR 67050
Next Action Undetermined		

Small Entities Affected: Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF31

4341. FAR CASE 92-301, FEDERAL COURTS ADMINISTRATION ACT

Priority: Other Significant

Legal Authority: PL 102-572

CFR Citation: 48 CFR 33.201; 48 CFR 33.202; 48 CFR 33.204; 48 CFR 33.207; 48 CFR 33.208; 48 CFR 33.210; 48 CFR 33.211; 48 CFR 33.214; 48 CFR 42.302; 48 CFR 52.233-1

Legal Deadline: Other, Statutory, October 29, 1992.
This RIN implements PL 102-572, sec 907(a) which was enacted on October 29, 1992.

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to revise Federal Acquisition Regulation Part 33 and the clause at 52.233-1 to implement the Administrative Disputes Resolution Act (PL 101-552) and the Federal Courts Administration Act of 1992 (PL 102-572). This revision will encourage the use of Alternative Dispute Resolution techniques and will resolve problems that have arisen under currently existing Contract Disputes Act resolution procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/10/94	59 FR 11350
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: RIN 9000-AE96 was merged with this RIN and published as an interim rule in Federal Acquisition Circular 90-20.

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RIN: 9000–AF35

4342. FAR CASE 92-616, SERVICE OF PROTEST

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 33.102; 48 CFR 52.233-2

Legal Deadline: None

Abstract: This revision amends the solicitation provision at 52.233-2, Service of Protest, to make it clear that the jurisdiction of the General Services Board of Contract Appeals is limited to protest regarding automatic data processing acquisitions conducted under 40 U.S.C. 759.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF36

4343. FAR CASE 93-606, IMPLEMENTATION OF MOU BETWEEN THE USA AND THE EEC ON GOVERNMENT PROCUREMENT AND SANCTIONS IMPOSED ON THE EUROPEAN ECONOMIC COMMUNITY

Priority: Other Significant

Legal Authority: EO 12849

CFR Citation: 48 CFR 14.201-6; 48 CFR 15.407; 48 CFR 17.203(h); 48 CFR 25.109; 48 CFR 25.202; 48 CFR 25.205; 48 CFR 25.4; 48 CFR 25.10; 48 CFR 52.214-34; 48 CFR 52.214-35; 48 CFR 52.225-8; 48 CFR 52.225-9; 48 CFR 52.225-15 to 52.225-19

Legal Deadline: Other, Statutory, May 25, 1993.
RIN is based on publication of interim rule.

Abstract: The Department of Defense, General Services Administration, and National Aeronautics and Space Administration have agreed to an interim rule implementing the Memorandum of Understanding Between the United States of America and the European Economic Community on Government Procurement (MOU) and implementing the sanctions imposed by the President on the European Community (EC) prohibiting the award of certain contracts for EC products, services, and construction.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/28/93	58 FR 31140
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF39

4344. FAR CASE 93-301, MADE IN AMERICA LABELS; FAR CASE 93-306, UNFAIR TRADE PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-558, sec 201; PL 102-558, sec 202

CFR Citation: 48 CFR 9.403; 48 CFR 9.406-2; 48 CFR 9.407-2

Legal Deadline: Other, Statutory, October 28, 1992.
Based on interim rule with implementation date July 28, 1993.

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to interim rules amending Federal Acquisition Regulation (FAR) 9.403, 9.406, and 9.407 to implement sections 201 and 202 of the Defense Production Act (Pub. L. 102-558). Section 201 directs that the FAR be amended to address the responsibility of contractors who engage in unfair trade practices as defined in section 201. Section 202 directs that the FAR be amended to address the responsibility of persons that intentionally affix a label bearing a fraudulent "Made in America" inscription to a product sold in or shipped to the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/10/94	59 FR 11371
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF40

4345. FAR CASE 92-45, INTEREST CLAUSE REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 32.610; 48 CFR 32.613; 48 CFR 32.614-1; 48 CFR 52.232-17

Legal Deadline: None

Abstract: FAR 32.610(b)(2), 32.613(h)(3), 32.614-1(c), and the clause at 52.232-17 are amended to make it clear that the Cost Accounting Standards clauses at 52.230-2 and 52.230-3 provide for the use of different interest rates under different circumstances.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF44

4346. FAR CASE 92-19, SUBCONTRACTING PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 19.705-2(d); 48 CFR 19.708(b)(1); 48 CFR 52.219-9

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing amending the Federal Acquisition Regulation (FAR) to expand the circumstances described in FAR 19.705-2(d) when subcontracting plans may be required and negotiated with more than the apparently successful offeror and to prescribe in FAR 19.708 an Alternate II to the clause at 52.219-9, Small Business and Small Disadvantaged Business Subcontracting Plan, to be used when contracting by negotiation and subcontracting plans are required with initial proposals. The intent of this proposal is to ensure that small and small disadvantaged business concerns are being afforded the maximum practical subcontracting opportunities consistent with statutory requirements and acquisition objectives.

Timetable:

Action	Date	FR Cite
NPRM	04/06/94	59 FR 16388
NPRM Comment Period End	06/06/94	59 FR 16388
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AF45

4347. FAR CASE 92-51, INHERENTLY GOVERNMENTAL FUNCTIONS

Priority: Other Significant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 7.000; 48 CFR 7.103; 48 CFR 7.105; 48 CFR 7.5; 48 CFR 10.002; 48 CFR 37.102; 48 CFR 37.113

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing changes to the Federal Acquisition Regulation (FAR) to implement Office of Federal Procurement Policy (OFPP) Letter 92-1, Inherently Governmental Functions. The rule provides a definition of, and internal Government responsibilities and procedures relating to, inherently governmental functions.

Timetable:

Action	Date	FR Cite
NPRM	06/08/94	59 FR 29696
NPRM Comment Period End	08/08/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF46

4348. FAR CASE 91-95, POSTPONEMENT OF BID OPENINGS OR CLOSING DATES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 14.402-3(c); 48 CFR 15.411(a); 48 CFR 15.412(b); 48 CFR 52.214-7(h); 48 CFR 52.215-10

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing a change to FAR 14.402-3, 15.412, and the clauses at 52.214-7, Late Submissions, Modifications, and Withdrawals of Bids, and 52.215-10, Late Submissions, Modifications, and Withdrawals of Proposals, to clarify the time of receipt of bids/proposals when

an emergency or unanticipated event interrupts government processes for receiving mail at a Government installation on the date specified for receipt of bids/proposals.

Timetable:

Action	Date	FR Cite
NPRM	11/09/93	58 FR 59618
NPRM Comment Period End	01/10/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF48

4349. FAR CASE 93-305, SMALL BUSINESS INNOVATION RESEARCH RIGHTS IN DATA

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 52.227-20

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule that amends the Federal Acquisition Regulation (FAR) under the clause Rights in Data-Small Business Innovation Research Program, to increase the small business concern's data rights retention period from 2 to 4 years. This amendment implements Section 15(f) of the revised Small Business Innovation Research (SBIR) Program Policy Directive, published by the Small Business Administration (SBA) in the Federal Register at 58 FR 6144, January 26, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/10/94	59 FR 11386

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF54

4350. FAR CASE 91-102, INCONSISTENCIES—TERMINATION FOR CONVENIENCE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 52.249-2(e), 48 CFR 52.249-2(i)

Legal Deadline: None

Abstract: The Civilian Agency Acquisition and the Defense Acquisition Regulations Councils are proposing changes to paragraphs (e) and (i) of the clause entitled "Termination for Convenience of the Government (Fixed-Price)" to clarify existing language and eliminate unnecessary language. Paragraph (e) is being revised to clarify that incremental payments may be involved in some instances such as a partial termination action; and paragraph (i) is being revised to clarify the two instances when the contractor forfeits its right of appeal.

Timetable:

Action	Date	FR Cite
NPRM	12/09/93	58 FR 64826
NPRM Comment Period End	02/07/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF55

4351. FAR CASE 92-615, DEBARMENT AND SUSPENSION CERTIFICATE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 9.407-2(a)(3); 48 CFR 52.209-5

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing a revision to the FAR provision at 52.209-5 dealing with debarment and suspension by adding "tax evasion" to the list of currently enumerated offenses for which the offeror must certify. Conforming changes are being made in FAR subpart 9.4 to specifically add "tax evasion" as a debarment or suspension cause.

Timetable:

Action	Date	FR Cite
NPRM	12/01/93	58 FR 63494
NPRM Comment Period End	01/31/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF57

4352. FAR CASE 93-310, IMPLEMENTATION OF THE NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) IMPLEMENTATION ACT

Priority: Economically Significant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 5.202(a); 48 CFR 14; 48 CFR 15; 48 CFR 25; 48 CFR 52.225

Legal Deadline: Other, Statutory, January 1, 1994.
Deadline is for an interim rule.

Abstract: The Department of Defense, General Services Administration, and National Aeronautics and Space Administration have agreed to a revised interim rule implementing the North American Free Trade Agreement (NAFTA) Implementation Act, Pub. L. 103-182. FAR Case 88-70 was folded into this case in March, 1995.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/94	59 FR 544

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AF60

4353. FAR CASE 91-91, PROMPT PAYMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 32.102(d); 48 CFR 32.902; 48 CFR 32.903; 48 CFR 32.904; 48 CFR 32.905; 48 CFR 32.906(a); 48 CFR 32.907-1; 48 CFR 32.910; 48 CFR 52.232-5; 48 CFR 52.232-8(b); 48 CFR 52.232-25; 48 CFR 52.232-26; 48 CFR 52.232-27; 48 CFR 52.232-28

Legal Deadline: None

Abstract: Revises FAR for compliance with OMB Circular A-125, Prompt Payment Act.

Timetable:

Action	Date	FR Cite
NPRM	05/06/94	59 FR 23776
NPRM Comment Period End	07/05/94	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AF61

4354. FAR CASE 91-108, JAVITS-WAGNER-O'DAY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 8.001(a)(2)(ii) & (iii); 48 CFR 8.001(c); 48 CFR 8.003; 48 CFR 51.101(c); 48 CFR 51.102(a); 48 CFR 51.102(c)(3); 48 CFR 52.208-00

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing amendments to the FAR to clarify that the Government's obligation to purchase from statutorily mandated sources of supply also applies when contractors purchase the supply items for Government use.

Timetable:

Action	Date	FR Cite
NPRM	03/28/94	59 FR 14454
NPRM Comment Period End	05/27/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF71

4355. FAR CASE 91-109, ARCHITECT-ENGINEER SERVICES

Priority: Other Significant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 36.601-3; 48 CFR 36.601-4

Legal Deadline: None

Abstract: The Office of Federal Procurement Policy has directed revision of the Federal Acquisition Regulation to clarify the description of services considered to be architect-engineer services.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF72

4356. FAR CASE 92-2, SUBCONTRACT PROPOSAL AUDITS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.806-3(a)(3) to 15.806-3(a)(6)

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation to amend policies on audits of defective pricing proposals.

Timetable:

Action	Date	FR Cite
NPRM	03/28/94	59 FR 14457
NPRM Comment Period End	05/27/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF74

4357. FAR CASE 92-10, NONPROFIT INSTITUTIONS CLAUSE PRESCRIPTION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.804-8(e) to 15.804-8(f); 48 CFR 52.215-27; 48 CFR 52.215-39

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the policies on clauses for reversion of pension costs.

Timetable:

Action	Date	FR Cite
NPRM	04/06/94	59 FR 16389
NPRM Comment Period End	06/06/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF77

4358. FAR CASE 92-14, INSURANCE—LIABILITY TO THIRD PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 28.311-1 to 28.311-3; 48 CFR 52.228-6 to 52.228-7; 48 CFR 52.245-7; 48 CFR 52.245-10

Legal Deadline: None

Abstract: The FAR language proposed for deletion at 28.311-1 applies only to cost reimbursement contracts for research and development awarded to state agencies or charitable institutions that claim partial or total immunity from tort liability. The Councils believe the current language is obsolete.

Timetable:

Action	Date	FR Cite
NPRM	04/06/94	59 FR 16392
NPRM Comment Period End	06/06/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF78

4359. FAR CASE 92-17, OVERHEAD SHOULD-COST REVIEWS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.810; 48 CFR 15.810-1; 48 CFR 15.810-2; 48 CFR 15.810-3

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the policies on should-cost studies.

Timetable:

Action	Date	FR Cite
NPRM	04/06/94	59 FR 16388
NPRM Comment Period End	06/06/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF79

4360. FAR CASE 92-27, QUALITY ASSURANCE NONCONFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 46.101; 48 CFR 46.103(c) to 46.103(e); 48 CFR 46.407(c)(1); 48 CFR 46.407(d); 48 CFR 46.407(f)

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation concerning quality assurance to include definitions of the terms "critical nonconformance," "major nonconformance," and "minor nonconformance" and make other conforming amendments as a result of recommendations made by the DOD IG.

Timetable:

Action	Date	FR Cite
NPRM	03/28/94	59 FR 14466
NPRM Comment Period End	05/27/94	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF80

4361. FAR CASE 92-40, CONTRACTORS' PURCHASING SYSTEMS REVIEWS AND SUBCONTRACTOR CONSENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 44.302(a); 48 CFR 52.244-2(a)(4); 48 CFR 52.244-2(b)(1)

Legal Deadline: None

Abstract: These revisions to 44.302(a) and 52.244-2 are a result of recommendations submitted in response to the FARC's request for industry's views and are as follows: (1) The threshold for performing CPSR's was raised from $10 million to $25 million to recognize the effects of inflation on this threshold. The raised threshold will reduce the administrative burden on both the contractor and Government by reducing the number of reviews. (2) The $10,000 threshold in the clause was raised to $25,000 for notification to the contracting officer on proposed subcontracts involving fabrication, purchase, rental, installation, or other acquisition of special test equipment or any items of facilities to recognize increased cost of equipment and effects of inflation. (3) We also raised the threshold at 52.244-2(b)(1) requiring additional information on certain subcontracts from $10,000 to $25,000. This increase recognizes rising hourly wage rates and contract costs.

Timetable:

Action	Date	FR Cite
NPRM	04/06/94	59 FR 16393
NPRM Comment Period End	06/06/94	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AF82

4362. FAR CASE 92-48, FLUCTUATING EXCHANGE RATES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 25.5; 48 CFR 25.501; 48 CFR 25.502; 48 CFR 52.225-00

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are amending the Federal Acquisition Regulation to add guidance on the use of foreign currency.

Timetable:

Action	Date	FR Cite
NPRM	04/06/94	59 FR 16391
NPRM Comment Period End	06/06/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF83

4363. FAR CASE 92-604, NONALLOWABILITY OF EXCISE TAXES ON NONDEDUCTIBLE CONTRIBUTIONS TO DEFERRED COMPENSATION PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-41(b)(6)

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation concerning cost allowability criteria for cost of certain taxes.

Timetable:

Action	Date	FR Cite
NPRM	04/06/94	59 FR 16393
NPRM Comment Period End	06/06/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF85

4364. FAR CASE 93-5, EMPLOYEE COMPENSATION COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 22.101-2; 48 CFR 31.001; 48 CFR 31.205-6; 48 CFR 42.302(a)(1); 48 CFR 42.1300 to 42.1306

Legal Deadline: None

Abstract: Cost allowability criteria for employee compensation costs are amended.

Timetable:

Action	Date	FR Cite
NPRM	10/11/94	59 FR 51399
NPRM Comment Period End	12/12/94	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF97

4365. FAR CASE 93-6, LEGISLATIVE LOBBYING COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-22; 48 CFR 31.205-30

Legal Deadline: None

Abstract: The allowability criteria for contractor legislative lobbying costs are amended.

Timetable:

Action	Date	FR Cite
NPRM	09/16/94	59 FR 47776
NPRM Comment Period End	11/15/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF98

4366. FAR CASE 93-20, RECORDS RETENTION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.201-2

Legal Deadline: None

Abstract: The allowability criteria for contract costs are amended to clarify availability of records issues.

Timetable:

Action	Date	FR Cite
NPRM	09/16/94	59 FR 47776
NPRM Comment Period End	11/15/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF99

4367. FAR CASE 93-22, TRAVEL COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-46

Legal Deadline: None

Abstract: The allowability criteria for contractor travel costs are amended.

Timetable:

Action	Date	FR Cite
NPRM	09/16/94	59 FR 47777
NPRM Comment Period End	11/15/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AG00

4368. FAR CASE 93-615, USE OF CONVICT LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 22.201; 48 CFR 52.222-3

Legal Deadline: None

Abstract: The rule proposes to revise the FAR coverage at 22.201, 22.202, and 52.222-3 to remove all references to 18 USC 4082(c)(2), include the stipulation required by Executive Order 11755, as amended, in the clause at 52.222-3 for the convenience of users of the FAR, and add the Commonwealth of the Northern Mariana Islands to the covered jurisdictions as required by Executive Order 12608.

Timetable:

Action	Date	FR Cite
NPRM	09/06/94	59 FR 46020
NPRM Comment Period End	11/07/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AG02

4369. FAR CASE 94-602, GSBCA RULES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 33.105(a)(2)(ii); 48 CFR 33.105(c); 48 CFR 33.105(f)(1)(i); 48 CFR 33.105(f)(3)

Legal Deadline: None

Abstract: The revised coverage reduces the number of days allowed for notices to the board of confirmation and a listing of all personnel and agencies receiving notice from 5 days to 3 days. The FAR revision also reduces from 15 to 10 days the time allowed after filing of the protest for the agency to submit its answer to the board setting forth its defenses to the protest and its findings, actions, and recommendations in the matter. Lastly, the revision inserts new language regarding application to the board for an award of costs.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AG03

4370. FAR CASE 91-78, SMALL BUSINESS SUBCONTRACTING REPORTING

Priority: Other Significant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 53.219

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend FAR 53.219 to authorize the addition of a column to the Standard Form 295, Summary Subcontract Report, to report the number of subcontracts awarded to small business concerns, small disadvantaged business concerns, and women-owned small business enterprises.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49037
NPRM Comment Period End	11/25/94	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AG04

4371. FAR CASE 92-31, QUALITY ASSURANCE ACTIONS, ELECTRONIC SCREENING

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 46.101

Legal Deadline: None

Abstract: This rule revises 46.101, Definitions, to include definitions of the terms "latent defect" and "patent defect." The case implements a DODIG mediation agreement on Audit Report 92-099, Quality Assurance Actions Resulting from Electronic Component Screening.

Timetable:

Action	Date	FR Cite
NPRM	09/08/94	59 FR 46386
NPRM Comment Period End	11/07/94	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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Phone: 202 501-4755

RIN: 9000–AG06

4372. FAR CASE 92-39, MASTER SUBCONTRACTING PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 19.704(b); 48 CFR 52.219-9

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the FAR to permit master subcontracting plans to be written for a 3-year period and to emphasize that it is incumbent upon contractors to maintain and update master plans.

Timetable:

Action	Date	FR Cite
NPRM	09/08/94	59 FR 46385
NPRM Comment Period End	11/07/94	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AG07

4373. FAR CASE 92-302, SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-366

CFR Citation: 48 CFR 19.1001; 48 CFR 19.1005, 48 CFR 19.1006

Legal Deadline: None

Abstract: Amends the Federal Acquisition Regulation to specify that agencies may reinstate the use of small business set-asides as necessary to meet assigned goals, but only within the organizational unit(s) that failed to meet the small business goals, and revises the description of Architect and Engineering services as a designated industry group. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/94	59 FR 67047
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AG10

4374. FAR CASE 93-304, DEFENSE PRODUCTION ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-558; 50 USC 2091

CFR Citation: 48 CFR 34.1; 48 CFR 52.234-0

Legal Deadline: Final, Statutory, July 26, 1993.

Abstract: FAR is amended to add policy and procedures for testing and qualification of industrial resources developed under Title III, Defense Production Act (DPA) Amendments of 1992 (PL 102-558). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/94	59 FR 67047
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AG11

4375. FAR CASE 94-3: TERMINATION INVENTORY SCHEDULES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 49.105; 48 CFR 49.206-3; 48 CFR 49.303-2; 48 CFR 52.249-2; 48 CFR 52.249-3; 48 CFR 52.249-5; 48 CFR 52.249-6; 48 CFR 52.249-11

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing changes concerning termination of contracts to preclude excessive delays in processing terminations for the convenience of the Government. The proposed change will require contractors to prepare and submit termination inventory schedules within 120 days from the effective date of termination, unless otherwise extended by the Termination Contracting Officer (TCO). This will enable the TCO to initiate early inventory screening and final disposition, thereby substantially reducing the time required to achieve termination settlement.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61734
NPRM Comment Period End	01/30/95	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AG13

4376. FAR CASE 94-9, INTERDIVISIONAL TRANSFERS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-26

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the Federal Acquisition Regulation (FAR). The cost principle criteria for cost of interdivisional transfers are amended to permit interdivisional transfers at price rather than cost under criteria that more closely approximate those applied to subcontracts eligible for exemption or waiver of cost or pricing data. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/31/95	60 FR 28503

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AG14

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

4377. FAR CASE 88-70, U.S.-CANADA FREE-TRADE AGREEMENT IMPLEMENTATION ACT OF 1988

Priority: Economically Significant

CFR Citation: 48 CFR 25; 48 CFR 52

Completed:

Reason	Date	FR Cite
Case Merged With RIN 9000-AF60	06/23/94	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
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RIN: 9000–AC80

4378. FAR CASE 90-54, DEFECTIVE PRICING

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 15.804-7

Completed:

Reason	Date	FR Cite
Withdrawn	10/22/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
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RIN: 9000–AE23

4379. FAR CASE 91-39, VOLUNTARY REFUNDS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 32.6; 48 CFR 42.13

Completed:

Reason	Date	FR Cite
Withdrawn	10/25/93	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
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RIN: 9000–AE68

4380. FAR CASE 92-46, PROMPT PAYMENT OVERSEAS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 32.901; 48 CFR 52.232-25; 48 CFR 52.232-26

Completed:

Reason	Date	FR Cite
Final Action	03/10/94	59 FR 11379

Small Entities Affected: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
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RIN: 9000–AF41

4381. FAR CASE 91-104, ELECTRONIC CONTRACTING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 2.101; 48 CFR 4.201; 48 CFR 4.3; 48 CFR 4.802; 48 CFR 5.102; 48 CFR 5.207(c)(2)(xvi); 48 CFR 7.3; 48 CFR 8.4; 48 CFR 9.206; 48 CFR 12.103(e); 48 CFR 13; 48 CFR 14; 48 CFR 15; 48 CFR 52; 48 CFR 53; ...

Completed:

Reason	Date	FR Cite
Interim Final Rule	07/03/95	60 FR 34732

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
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RIN: 9000–AF50

4382. FAR CASE 91-57, DISPOSAL OF GOVERNMENT PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 45.603; 48 CFR 45.611(b); 48 CFR 52.245-2(j); 48 CFR 52.245-4(e); 48 CFR 52.245-5(j); 48 CFR 52.245-7; 48 CFR 52.245-11(l)

Completed:

Reason	Date	FR Cite
Withdrawn	07/21/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
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RIN: 9000–AF62

4383. FAR CASE 91-93, SPECIAL TOOLING UNDER FIXED-PRICE CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 45.306-1(c); 48 CFR 45.306-5; 48 CFR 52.245-2(c)(2) to 52.245-2(c)(3); 48 CFR 52.247-17

Completed:

Reason	Date	FR Cite
Withdrawn	07/21/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755

RIN: 9000–AF66

4384. FAR CASE 92-33, PRICE COMPETITION EXEMPTION

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 15.804-1(a)(1) to 15.804-1(a)(2); 48 CFR 15.804-2(d); 48 CFR 15.804-3(b)

Completed:

Reason	Date	FR Cite
Withdrawn	03/27/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
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RIN: 9000–AF81

4385. FAR CASE 91-111, COMMERCIALLY AVAILABLE GOVERNMENT-FURNISHED MATERIAL

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 45.303-1

Completed:

Reason	Date	FR Cite
Withdrawn	06/21/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AF95

4386. FAR CASE 91-114, USE OF GOVERNMENT FACILITIES ON A NO-CHARGE BASIS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 45.106; 48 CFR 52.245-2 to 52.245-5; 48 CFR 52.245-7; 48 CFR 52.245-10; 48 CFR 52.245-13; 48 CFR 52.245-0; 48 CFR 52.245-00

Completed:

Reason	Date	FR Cite
Withdrawn	06/21/95	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF96

4387. FAR CASE 92-44, RECONDITIONED MATERIAL

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 10.010; 48 CFR 10.011; 48 CFR 52.210-5; 48 CFR 52.210-7

Completed:

Reason	Date	FR Cite
Withdrawn	09/05/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755

RIN: 9000–AG08

4388. FAR CASE 94-802, OFFICIALS NOT TO BENEFIT (ETHICS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 3.102-1; 48 CFR 3.102-2; 48 CFR 52.203-1

Completed:

Reason	Date	FR Cite
Final Action	07/21/95	60 FR 37773
Final Action Effective	09/19/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG15

4389. FAR CASE 94-803, WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES (ETHICS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 3.9

Completed:

Reason	Date	FR Cite
Final Action	07/21/95	60 FR 37774
Final Action Effective	09/19/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG16

4390. FAR CASE 94-804, PROCUREMENT INTEGRITY (ETHICS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 3.104-9; 48 CFR 52.203-8; 48 CFR 52.203-9

Completed:

Reason	Date	FR Cite
Final Action	07/21/95	60 FR 37773
Final Action Effective	09/19/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG17

4391. FAR CASE 94-770, SIMPLIFIED ACQUISITION PROCEDURES/FACNET

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 2 to 6; 48 CFR 8 to 9; 48 CFR 13; 48 CFR 15 to 16; 48 CFR 22 to 23; 48 CFR 25; 48 CFR 27 to 29; 48 CFR 32; 48 CFR 36, 48 CFR 41 to 47; 48 CFR 49; 48 CFR 52; 48 CFR 53

Completed:

Reason	Date	FR Cite
Final Action	07/03/95	60 FR 34741

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG18

4392. FAR CASE 94-720, CERTIFIED COST FOR PRICING DATA THRESHOLD

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 14.201-7; 48 CFR 14.214; 48 CFR 15.804-2; 48 CFR 15.813; 48 CFR 52.214-27; 48 CFR 52.214-28; 48 CFR 52.215-23 to 25; 48 CFR 52.215-32; 48 CFR 52.215-37; 48 CFR 52.215-25; 48 CFR 52.215-32; 48 CFR 52.215-37

Completed:

Reason	Date	FR Cite
Final Action Merged With RIN 9000-AG30 in FAC 90-32.	09/18/95	60 FR 48208
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755

Fax: 202 501-4067

RIN: 9000–AG19

4393. FAR CASE 94-751, PENALTIES ON UNALLOWABLE INDIRECT COSTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 31.110; 48 CFR 42.709 to 42.709-6; 48 CFR 52.242

Completed:

Reason	Date	FR Cite
Final Action	08/16/95	60 FR 42657
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG20

4394. FAR CASE 94-754; IMPLEMENTATION OF VARIOUS COST PRINCIPLE PROVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 31.205-1; 48 CFR 31.205-6; 48 CFR 31.205-22; 48 CFR 31.205-43; 48 CFR 31.603; 48 CFR 31.703; 48 CFR 37.113; 48 CFR 42.703; 48 CFR 42.705-1; 48 CFR 52.237

Completed:

Reason	Date	FR Cite
Final Action	08/16/95	60 FR 42659
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG21

4395. FAR CASE 94-801, DEBARMENT AND SUSPENSION AND INELIGIBILITY (ETHICS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 9.105-1; 48 CFR 9.207; 48 CFR 9.401; 48 CFR 9.403; 48 CFR 9.404; 48 CFR 9.405; 48 CFR 9.405-2; 48 CFR 22.1025; 48 CFR 28.203-7; 48 CFR 44.202-2; 48 CFR 44.303; 48 CFR 52.209-6

Completed:

Reason	Date	FR Cite
Final Action	06/26/95	60 FR 33064
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG22

4396. FAR CASE 94-740; CONSOLIDATION AND REVISION OF THE AUTHORITY TO EXAMINE RECORDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 4.702; 48 CFR 4.703; 48 CFR 14.201-7; 48 CFR 15.106-1; 48 CFR 15.805-5; 48 CFR 25.000; 48 CFR 25.901; 48 CFR 50.307; 48 CFR 52.214-26; 48 CFR 52.215-1; 48 CFR 52.215-2

Completed:

Reason	Date	FR Cite
Final Action	08/16/95	60 FR 42649
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG24

4397. FAR CASE 94-700; REPEAL OF REQUIREMENT FOR SECRETARIAL/AGENCY HEAD DETERMINATIONS REGARDING USE OF COST TYPE OR INCENTIVE CONTRACTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 7.102; 48 CFR 11.002; 48 CFR 16.301-3; 48 CFR 16.403; 48 CFR 19.000

Completed:

Reason	Date	FR Cite
Final Action	07/21/95	60 FR 37777
Final Action Effective	09/19/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG25

4398. FAR CASE 94-730; PROTESTS, DISPUTES, AND APPEALS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 33.1; 48 CFR 33.2; 48 CFR 39.002; 48 CFR 42.15; 48 CFR 50.303; 48 CFR 50.303-2; 48 CFR 52.233-1 to 52.233-3

Completed:

Reason	Date	FR Cite
Final Action	09/18/95	60 FR 48206

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG28

4399. FAR CASE 94-752; CONTRACTOR OVERHEAD CERTIFICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 42.703-1; 48 CFR 42.703-2; 48 CFR 52.242-4

Completed:

Reason	Date	FR Cite
Final Action	08/16/95	60 FR 42663
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG29

4400. FAR CASE 94-721; TRUTH IN NEGOTIATION

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 1.105; 48 CFR 4.803; 48 CFR 12.504; 48 CFR 14.201-7; 48 CFR 14.214; 48 CFR 15; 48 CFR 16; 48 CFR 31.205-26; 48 CFR 33.207; 48 CFR 36.402; 48 CFR 45; 48 CFR 46; 48 CFR 49; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	09/18/95	60 FR 48206

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG30

4401. FAR CASE 94-710; SPECIAL CONTRACTING METHODS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 1.601; 48 CFR 7.103; 48 CFR 17.1; 48 CFR 17.5; 48 CFR 37.2; 48 CFR 49.603-1 to 49.603-4; 48 CFR 52.217-1; 48 CFR 52.217-2

Completed:

Reason	Date	FR Cite
Final Action	09/26/95	60 FR 49720

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG32

4402. FAR CASE 94-750; ENTERTAINMENT, GIFT, AND RECREATION COSTS FOR CONTRACTOR EMPLOYEES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 31.205-13; 48 CFR 31.205-14

Completed:

Reason	Date	FR Cite
Final Action	08/16/95	60 FR 42662
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG33

4403. FAR CASE 94-761; ASSIGNMENT OF CLAIMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 32.801; 48 CFR 32.803; 48 CFR 32.806

Completed:

Reason	Date	FR Cite
Final Action	09/26/95	60 FR 49729
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG34

4404. FAR CASE 94-762; SUBCONTRACTOR PAYMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 28.1; 48 CFR 32.112 to 32.112-2; 48 CFR 52.228-12

Completed:

Reason	Date	FR Cite
Final Action	09/18/95	60 FR 48206

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG35

4405. FAR CASE 94-764; PERFORMANCE-BASED PAYMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 32; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	09/26/95	60 FR 49707
Final Action Effective	10/01/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG36

4406. FAR CASE 94-780, SMALL BUSINESS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 4; 48 CFR 5; 48 CFR 6; 48 CFR 7; 48 CFR 8; 48 CFR 9; 48 CFR 14; 48 CFR 15; 48 CFR 16; 48 CFR 17; 48 CFR 19; 48 CFR 20; 48 CFR 25; 48 CFR 44; 48 CFR 52; ...

Completed:

Reason	Date	FR Cite
Final Action	09/18/95	60 FR 48258
Final Action Effective	10/01/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG37

4407. FAR CASE 94-790, ACQUISITION OF COMMERCIAL ITEMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 2.101; 48 CFR 3.404; 48 CFR 3.5; 48 CFR 5.203; 48 CFR 6; 48 CFR 7; 48 CFR 9; 48 CFR 10; 48 CFR 11; 48 CFR 12; 48 CFR 44; 48 CFR 46; 48 CFR 52; 48 CFR 53

Completed:

Reason	Date	FR Cite
Final Action	09/18/95	60 FR 48206

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG38

4408. FAR CASE 94-701; CONTRACT AWARD IMPLEMENTATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 4.601; 48 CFR 5; 48 CFR 6; 48 CFR 14; 48 CFR 15; 48 CFR 17; 48 CFR 25; 48 CFR 36; 48 CFR 51; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	08/16/95	60 FR 42652
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG39

4409. FAR CASE 95-601, ADDITION OF 3 EUROPEAN COMMUNITY COUNTRIES

Priority: Other Significant

CFR Citation: 48 CFR 25.401; 48 CFR 25.1001; 48 CFR 52.225-15; 48 CFR 52.225-17 to 52.225-19

Completed:

Reason	Date	FR Cite
Final Action	05/31/95	60 FR 28501
Final Action Effective	05/31/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG43

4410. FAR CASE 94-791, SUBCONTRACTS FOR COMMERCIAL ITEMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 12.403; 48 CFR 52.212-5; 48 CFR 52.244-6

Completed:

Reason	Date	FR Cite
Final Action this RIN was merged with 9000-AG38 in FAC 90-32.	09/18/95	60 FR 48206

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG47

4411. FAR CASE 94-711, TASK AND DELIVERY ORDER CONTRACTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 16.5; 48 CFR 52.216-18 to 52.216-22; 48 CFR 52.216-27; 48 CFR 52.216-28

Completed:

Reason	Date	FR Cite
Final Action	09/26/95	60 FR 49723
Final Action Effective	10/01/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG50

4412. FAR CASE 94-731, REIMBURSEMENT OF PROTEST COSTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 1.602-3; 48 CFR 32.602; 48 CFR 32.603; 48 CFR 33.102; 48 CFR 33.104; 48 CFR 33.105; 48 CFR 52.233-3

Completed:

Reason	Date	FR Cite
Final Action	09/18/95	60 FR 48206
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG52

4413. • FAR CASE 94-765, FRAUD REMEDIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 32

Legal Deadline: Final, Statutory, October 1, 1995.

Abstract: This final rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103-355 (the Act) to implement requirements for fraud remedies. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	05/12/95	60 FR 25794
NPRM Comment Period End	07/11/95	
Final Action	09/26/95	60 FR 49728
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG54

4414. • FAR CASE 95-10, FAR GUIDING PRINCIPLES

Priority: Other

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 1.1

Legal Deadline: None

Abstract: The FARC agreed on a final rule to amend the FAR to incorporate the Statement or Guiding Principles. This regulatory action was not subject to OMB review under EO 12866, dated 09/30/93.

Timetable:

Action	Date	FR Cite
Final Action	07/03/95	60 FR 34733
Final Action Effective	07/03/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Street NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG55

4415. • FAR CASE 94-766; SERVICE CONTRACT FUNDING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 32.703-3; 48 CFR 37.106

Legal Deadline: Final, Statutory, October 1, 1995.

Abstract: This final rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994 (the Act) to implement a new authority for funding of service contracts of certain executive branch agencies. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	07/21/95	60 FR 42662
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG56

4416. • FAR CASE 95-606, PUBLICIZING CONTRACT ACTIONS

Priority: Other

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 5.207(b)

Legal Deadline: None

Abstract: To revise FAR 5.207(b)(4) concerning preparation and transmittal of synopses. This revision deletes the requirement for the FIPS Number in CBD synopses and in lieu thereof, requests GPO Billing Account Code Information.

Timetable:

Action	Date	FR Cite
Final Action	09/18/95	60 FR 48206
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG60

4417. • FAR CASE 94-5, TRADE SANCTIONS-GERMANY

Priority: Substantive. Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 25.1001; 48 CFR 52.225-18; 48 CFR 52.225-19

Legal Deadline: None

Abstract: To amend the FAR to reflect the termination of the Trade Sanctions on the Federal Republic of Germany that had been imposed in May 1993.

Timetable:

Action	Date	FR Cite
Final Action	05/31/95	60 FR 28502
Final Action Effective	05/31/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
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RIN: 9000–AG62

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Part XLVIII

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

COMMODITY FUTURES TRADING COMMISSION (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Publication of regulatory flexibility agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

ADDRESSES: Comments should be sent to: Gerald P. Smith, Special Assistant to the Executive Director, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418-5160.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

5 U.S.C. 602(a). The Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year, irrespective of their potential impact on small entities.[1]

The Commission's agenda represents its best estimate of significant rules which will be considered over the next 12 months.[2] In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

For this edition of the Commission's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

The Commission's October 1995 regulatory flexibility agenda is set forth below.

Issued in Washington, DC, on October 10, 1995, by the Commission.

Jean A. Webb,

Secretary of the Commission.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4418	Procedures for Involuntary Bulk Transfers or Liquidations of Customer Accounts	3038-AA77
4419	Prohibition on Voting by Interested Members **(Reg Plan Seq. No. 153)**	3038-AB03

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4420	Risk Assessment for Holding Company Systems **(Reg Plan Seq. No. 154)**	3038-AB01
4421	Account Identification for Orders Submitted on Behalf of Multiple Customer Accounts	3038-AB08
4422	Ethics Training for Registrants	3038-AB09

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

[1] The Commission has published its definition of small entity to be used by the Commission in connection with rulemaking proceedings. 47 FR 18618 (April 30, 1982). Pursuant to those definitions, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. *See* 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic impact on a substantial number of small entities. Accordingly, listing of a rule in this regulatory flexibility agenda should not in any event be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda, which includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and meaningful opportunity to participate in and comment on the formulation of new or revised regulations.

[2] In addition to publishing the regulatory flexibility agenda, the Commission also makes available to the public, on a monthly basis, a calendar and, on a weekly basis, an advisory, which lists rules that the Commission is considering or will consider in the near future.

CFTC

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4423	Ethics Training for Registrants: Proficiency Training for Providers	3038-AB10

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4424	Review of Commission Disclosure Requirements Concerning Commodity Pool Operators	3038-AA74
4425	Section 4(c) Contract Market Transactions	3038-AB06

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Proposed Rule Stage

4418. PROCEDURES FOR INVOLUNTARY BULK TRANSFERS OR LIQUIDATIONS OF CUSTOMER ACCOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6d; 7 USC 6f; 7 USC 6g; 7 USC 6k; 7 USC 12a

CFR Citation: 17 CFR 1.68

Legal Deadline: None

Abstract: The CFTC will undertake a rulemaking proceeding to establish requirements concerning procedures to be followed by futures commission merchants and introducing brokers when bulk transfers or liquidations of customer accounts are made due to cessation or suspension of business or other special circumstances affecting the registrant.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment Period End	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581 Phone: 202 418-5439

RIN: 3038–AA77

4419. PROHIBITION ON VOTING BY INTERESTED MEMBERS

Regulatory Plan: This entry is Seq. No. 153 in Part II of this issue of the **Federal Register**.

RIN: 3038–AB03

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Final Rule Stage

4420. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS

Regulatory Plan: This entry is Seq. No. 154 in Part II of this issue of the **Federal Register**.

RIN: 3038–AB01

4421. ACCOUNT IDENTIFICATION FOR ORDERS SUBMITTED ON BEHALF OF MULTIPLE CUSTOMER ACCOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7; 7 USC 7a; 7 USC 7b; 7 USC 8; 7 USC 12a; 7 USC 12c

CFR Citation: 17 CFR 1.35

Legal Deadline: None

Abstract: These rule amendments permit consolidated futures orders for multiple accounts to be placed and executed on contract markets without individual customer identification at time of entry or execution. Depending on the accounts, the person placing the order would identify accounts and either pre-file an allocation plan or certify certain facts.

Timetable:

Action	Date	FR Cite
NPRM	05/03/93	58 FR 26270
NPRM Comment Period End	06/17/93	
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane C. Andresen, Attorney Advisor, Divison of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581 Phone: 202 418-5492

RIN: 3038–AB08

4422. ETHICS TRAINING FOR REGISTRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1a; 7 USC 6d; 7 USC 6e; 7 USC 6g; 7 USC 6m; 7 USC 6p; 7 USC 12a; 7 USC 21

CFR Citation: 17 CFR 3.34

Legal Deadline: None

Abstract: The Commission is proposing amendments to its rule governing ethics training for registrants to provide additional guidance relative to ethics

CFTC — Final Rule Stage

training providers. The proposed amendments would: (1) allow a person to provide ethics training if he certifies to a registered futures association that he is not subject to statutory disqualification from registration under the Commodity Exchange Act (Act), barred from service on self-regulatory organization governing boards or committees, or subject to a pending proceeding or investigation with respect to possible violations of the Act or rules or orders promulgated thereunder; (2) prohibit certain representations with respect to a person's status as an ethics training provider; (3) prohibit an ethics training provider from using that fact to qualify as an expert witness in an adjudicatory proceeding before the Commission or from proffering evidence of that fact to qualify as an expert witness in any adjudicatory proceeding to which the Commission is a party; (4) allow wider use of ethics training presentation by interactive means and video tape; and (5) require ethics training providers to furnish records of attendees to a registered futures association.

Timetable:

Action	Date	FR Cite
NPRM	07/22/94	59 FR 37446
NPRM Comment Period End	09/20/94	
Final Action	11/00/95	
Final Action Effective	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5439

RIN: 3038–AB09

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Long-Term Actions

4423. • ETHICS TRAINING FOR REGISTRANTS: PROFICIENCY TRAINING FOR PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1a; 7 USC 6d; 7 USC 6e; 7 USC 6g; 7 USC 6m; 7 USC 6p; 7 USC 12a; 7 USC 21

CFR Citation: 17 CFR 3.34

Legal Deadline: None

Abstract: The CFTC may consider proposing additional amendments to its rules governing ethics training for registrants to require that persons who seek to provide ethics training must: (1) present satisfactory evidence that they meet a proficiency testing requirement established by a registered futures association; and (2) possess a minimum of three years relevant experience. The CFTC may also consider proposing to amend rule 3.34 to eliminate the provision which permits state-accredited entities to provide ethics training without being subject to the requirements pertaining to other providers under the rule.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Myra R. Silberstein, Attorney/Advisor, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5443

RIN: 3038–AB10

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Completed Actions

4424. REVIEW OF COMMISSION DISCLOSURE REQUIREMENTS CONCERNING COMMODITY POOL OPERATORS

Priority: Other Significant

CFR Citation: 17 CFR 4.21; 17 CFR 4.31; 17 CFR 4.10; 17 CFR 1.55; 17 CFR 4.41; 17 CFR 30.6

Completed:

Reason	Date	FR Cite
Final Action	07/25/95	60 FR 38146
Final Action Effective	08/24/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara S. Gold
Phone: 202 418-5450

RIN: 3038–AA74

4425. SECTION 4(C) CONTRACT MARKET TRANSACTIONS

Priority: Other Significant

CFR Citation: 17 CFR 35; 17 CFR 36

Completed:

Reason	Date	FR Cite
Final Action	10/02/95	60 FR 51323
Final Action Effective	11/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellyn S. Roth
Phone: 202 418-5120

RIN: 3038–AB06

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Tuesday
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Part XLIX

Consumer Product Safety Commission

Semiannual Regulatory Agenda

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of regulatory flexibility and unified agendas.

SUMMARY: The Regulatory Flexibility Act (RFA) requires each Federal agency to publish, twice each year, a regulatory flexibility agenda listing the rules expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of small entities, including small businesses, small organizations and small governmental units. In this document, the Commission publishes its semiannual regulatory flexibility agenda.

Additionally, Executive Order 12866 requires each agency to publish an agenda of regulatory actions expected to be under development or review by the agency during the next year and provides that such an agenda may be combined with an agency's regulatory flexibility agenda published in accordance with the RFA.

DATES: The Commission welcomes comments on each subject area of the agenda, particularly from small entities. Written comments concerning the agenda should be received in the Office of the Secretary by December 31, 1995.

ADDRESSES: Comments on the regulatory flexibility agenda should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504-0800, or delivered to the Office of the Secretary, Room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Comments should be captioned "Regulatory Flexibility Agenda."

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0980. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the RFA (5 U.S.C. 602) requires each agency to publish, twice each year, a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated which is likely to have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the nature of the rule and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking. The regulatory flexibility agenda shall also contain the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities. Additionally, Executive Order 12866 requires each agency to publish, twice each year, a regulatory agenda of regulations under development or review during the next year and states that such an agenda may be combined with the agenda published in accordance with the RFA.

The regulatory flexibility agenda published below lists the regulatory activities expected to be under development or review during the next 12 months. It includes all such activities, whether or not they may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, DC 20207.

Consumer Product Safety Commission Regulatory Plan

For this edition of the Commission's regulatory agenda, the regulatory actions selected by the Commission for inclusion in The Regulatory Plan appear in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Dated: September 19, 1995.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4426	Petition HP 95-1 Requesting Development of a Safety Standard for Protective Batting Helmets	3041-AB43
4427	Petition HP 93-1 Requesting Development of a Rule To Ban Certain Back Yard Play Sets	3041-AB47
4428	Petition HP 95-3 Requesting Rule to Ban Sulfuric Acid Drain Cleaners	3041-AB53

CPSC

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4429	Labeling Requirements for Packages of Charcoal	3041-AB16
4430	Flammability Standard for Upholstered Furniture **(Reg Plan Seq. No. 155)**	3041-AB35
4431	Baby Walkers	3041-AB40
4432	Safety Standard for Bicycle Helmets **(Reg Plan Seq. No. 156)**	3041-AB42

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4433	Amendment of Flammability Standards for Children's Sleepwear	3041-AB27
4434	Multiple Tube Mine and Shell Fireworks	3041-AB39

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4435	Requirements for the Special Packaging of Household Substances; Revision of Test Protocol for Child-Resistant Packaging	3041-AA22
4436	Household Substances Containing Methylene Chloride; Status as Hazardous Substances; Proposed Rule	3041-AA59
4437	Safety Requirements for 5-Gallon Plastic Buckets	3041-AB37
4438	Petition CP 94-1 Requesting Development of Safety Standard for Portable Electric Heaters	3041-AB45
4439	Rule To Require Child-Resistant Packaging of Naproxen	3041-AB46
4440	Petition HP 95-2 Requesting Issuance of a Rule To Ban Acetone Packaged for Household Use in One-Gallon Containers	3041-AB51
4441	Rule to Exempt Certain Dietary Supplements Containing Iron From Requirements for Child-Resistant Packaging	3041-AB52

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Prerule Stage

4426. PETITION HP 95-1 REQUESTING DEVELOPMENT OF A SAFETY STANDARD FOR PROTECTIVE BATTING HELMETS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 16 CFR 00

Legal Deadline: None

Abstract: A petition from the Academy of Facial Plastic and Reconstructive Surgery requests the Commission to develop a safety standard for protective batting helmets intended for children younger than 15 years of age. The standard requested by the petition would require all protective batting helmets subject to its provisions to be manufactured with a face guard that conforms to Standard F 910 published by ASTM (formerly the American Society for Testing and Materials). On November 1, 1994, the Commission published a notice in the Federal Register inviting comments on the petition from interested parties. On July 14, 1995, the the Commission voted to defer a decision on the petition until until additional information becomes available about circumstances surrounding facial injuries associated with baseball and softball. The Commission's decision to grant or deny the petition is expected in April, 1996.

Timetable:

Action	Date	FR Cite
Notice to Solicit Comments	11/01/94	59 FR 54548
Comment Period Ends	01/03/95	
Commission Decision	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Kyle, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0468

RIN: 3041–AB43

4427. PETITION HP 93-1 REQUESTING DEVELOPMENT OF A RULE TO BAN CERTAIN BACK YARD PLAY SETS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: 00 CFR 00

CPSC — Prerule Stage

Legal Deadline: None

Abstract: A petition from the New York City Department of Consumer Affairs requests the Commission to develop a rule to ban certain back yard play sets. The petition asserts that back yard play sets present unreasonable risks of injury to children if they do not meet the requirements of a voluntary standard for home playground equipment published by ASTM (formerly the American Society for Testing and Materials); are not accompanied with adequate information about ground surfacing; or lack specific features described in the petition. The staff is preparing a briefing package for consideration by the Commissioners of the agency which they will use in deciding whether to grant or deny the petition. If the Commission grants the petition, it will publish an advance notice of proposed rulemaking to begin the rulemaking proceeding requested by the petition.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	12/00/95	
Commission Decision	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Troy Whitfield, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0494

RIN: 3041–AB47

4428. • PETITION HP 95-3 REQUESTING RULE TO BAN SULFURIC ACID DRAIN CLEANERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: A petition from Roger L. Wabeke requests the Commission to issue a rule under the Federal Hazardous Substances Act to ban sulfuric acid drain cleaners intended for household use. In his petition Mr. Wabeke states that he has investigated several accidents which resulted from the explosion and eruption of hot, concentrated sulfuric acid used to clean clogged drain pipes. The petition asserts that sulfuric acid is too dangerous for sale to the general public. The Commission staff will prepare a briefing package for consideration by the Commissioners of the agency which they will use in deciding whether to grant or deny the petition.

Timetable:

Action	Date	FR Cite
Commission Decision	02/00/96	
Staff Sends Briefing Package to Commission	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Suzanne Barone, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & HealthSciences, Washington, DC 20207
Phone: 301 504-0477

RIN: 3041–AB53

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Proposed Rule Stage

4429. LABELING REQUIREMENTS FOR PACKAGES OF CHARCOAL

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1262(b) Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: On August 10, 1995, the Commission proposed to amend requirements for labeling of packages of charcoal intended for household use. Existing regulations require packages of charcoal intended for household use to be labeled with the following statement enclosed within a ruled border: "WARNING: Do Not Use for Indoor Heating or Cooking Unless Ventilation is Provided for Exhausting Fumes to Outside. Toxic Fumes May Accumulate and Cause Death." The proposed amendment would change the labeling statement to: "CARBON MONOXIDE HAZARD - Burning charcoal indoors can kill you. It gives off carbon monoxide, which has no odor. NEVER burn charcoal inside homes, vehicles, or tents." The proposed amendment also requires the label to include a warning symbol consisting of an exclamation mark enclosed within a triangle, the word "WARNING" and a pictogram showing the places where charcoal should not be burned. The Commission proposed this amendment to make the warning label more noticeable and more easily understood.

Timetable:

Action	Date	FR Cite
NPRM	08/10/95	
NPRM Comment Period End	10/24/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sharon White, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC 20207
Phone: 301 504-0468

RIN: 3041–AB16

4430. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

Regulatory Plan: This entry is Seq. No. 155 in Part II of this issue of the **Federal Register**.

RIN: 3041–AB35

4431. BABY WALKERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: On August 2, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding which may result in the issuance of mandatory design or performance requirements for baby walkers. A baby walker is a device that supports a child so that the child can use his or her feet to move about before or while learning to walk. Typically, a baby walker consists of a fabric seat which has leg openings and is mounted to a rigid plastic deck. The deck is attached to a base which usually is mounted on wheels to allow mobility. In 1994, an estimated 25,500 children younger than 15 months of age were were treated in emergency rooms for injuries associated with baby walkers. The majority of these injuries resulted from falls down down stairs or steps. Among the regulatory options under consideration by the Commission are mandatory performance or design requirements to reduce the likelihood that a child will be able to maneuver a baby walker into a position where it can fall down stairs or steps. In November, 1995, the staff is scheduled to send a briefing package concerning baby walkers to the Commission.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 39309
ANPRM Comment Period End	10/03/94	59 FR 39309
Staff Sends Briefing Package to the Commission	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Jacobson, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC 20207
Phone: 301 504-0477

RIN: 3041–AB40

CPSC — Proposed Rule Stage

4432. SAFETY STANDARD FOR BICYCLE HELMETS

Regulatory Plan: This entry is Seq. No. 156 in Part II of this issue of the **Federal Register**.

RIN: 3041–AB42

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Final Rule Stage

4433. AMENDMENT OF FLAMMABILITY STANDARDS FOR CHILDREN'S SLEEPWEAR

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1193 Flammable Fabrics Act; 15 USC 2079(b) Consumer Product Safety Act

CFR Citation: 16 CFR 1615; 16 CFR 1616

Legal Deadline: None

Abstract: The flammability standards for children's sleepwear are applicable to children's sleepwear garments in sizes 0 through 14, and to fabrics intended for use in such garments. The standards were issued to eliminate or reduce unreasonable risks of deaths and burn injuries to children associated with ignition of sleepwear garments. On October 25, 1994, the Commission published proposed amendments of the standards to exempt tight-fitting sleepwear garments and garments for infants from the requirements of the standards. On October 11, 1995, the staff sent a briefing package to the Commissioners of the agency which they will use in deciding whether to issue final amendments of the standard.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4111
ANPRM Comment Period End	03/13/93	58 FR 4111
NPRM	10/25/94	59 FR 53616
NPRM Comment Period End	01/09/95	59 FR 53616
Staff Sends Briefing Package to Commission	10/11/95	
Commission Decision	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terrance R. Karels, Project Manager, Consumer Product Safety Commission, Directorate for Economic Analysis, Washington, DC 20207
Phone: 301 504-0962

RIN: 3041–AB27

4434. MULTIPLE TUBE MINE AND SHELL FIREWORKS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: On July 1, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding which may lead to amendment of existing regulations applicable to multiple tube mine and shell fireworks devices. These products are comprised of several vertical tubes with a common fuse. Some have a horizontal base; others do not. Each tube is loaded with propellant and one or more shells or mines. When the fuse is ignited, the tubes fire sequentially, producing audible reports or a display of stars or other visual effects or both. The Commission has received reports of two deaths and two burn injuries involving multiple tube mine and shell fireworks devices which became unstable and tipped over after they were ignited. On July 5, 1995, the Commission proposed an amendment of regulations applicable to fireworks to establish a performance test for the stability of multiple tube mine and shell devices that have any tube with an inner diameter of 1.5 inches or greater. The test requires that a fireworks device subject to the proposed amendment shall have a minimum tip angle of 60 degrees. In February, 1996, the staff is scheduled to transmit a briefing package to the Commissioners of the agency which they will use in deciding whether to issue the proposed amendment as a final rule.

Timetable:

Action	Date	FR Cite
ANPRM	07/01/94	59 FR 33928
ANPRM Comment Period End	08/03/94	59 FR 33928
NPRM	07/05/95	60 FR 34922
NPRM Comment Period End	09/18/95	60 FR 34922
Staff Sends Briefing Package to Commission	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

CPSC — Final Rule Stage

Agency Contact: Michael Babich, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC 20207
Phone: 301 504-0477
RIN: 3041–AB39

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Completed Actions

4435. REQUIREMENTS FOR THE SPECIAL PACKAGING OF HOUSEHOLD SUBSTANCES; REVISION OF TEST PROTOCOL FOR CHILD-RESISTANT PACKAGING

Priority: Other Significant
CFR Citation: 16 CFR 1700.20
Completed:

Reason	Date	FR Cite
Final Action	07/21/95	60 FR 37710
Final Action Effective	01/21/98	

Small Entities Affected: Businesses
Government Levels Affected: Undetermined
Agency Contact: Michael Bogumill
Phone: 301 504-0400
RIN: 3041–AA22

4436. HOUSEHOLD SUBSTANCES CONTAINING METHYLENE CHLORIDE; STATUS AS HAZARDOUS SUBSTANCES; PROPOSED RULE

Priority: Substantive, Nonsignificant
CFR Citation: 16 CFR 1500.12(a)(2)
Completed:

Reason	Date	FR Cite
Rulemaking Terminated	07/07/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Laureen Burton
Phone: 301 504-0994
RIN: 3041–AA59

4437. SAFETY REQUIREMENTS FOR 5-GALLON PLASTIC BUCKETS

Priority: Other Significant
CFR Citation: 16 CFR 1307; 16 CFR 1500.12(a)(2)
Completed:

Reason	Date	FR Cite
Final Action - Rulemaking Terminated	06/05/95	60 FR 29518
Final Action Effective	06/05/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Celestine Trainor
Phone: 301 504-0468
RIN: 3041–AB37

4438. PETITION CP 94-1 REQUESTING DEVELOPMENT OF SAFETY STANDARD FOR PORTABLE ELECTRIC HEATERS

Priority: Substantive, Nonsignificant
CFR Citation: None
Completed:

Reason	Date	FR Cite
Petition Denied	09/19/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Edward Krawiec
Phone: 301 504-0508
RIN: 3041–AB45

4439. RULE TO REQUIRE CHILD-RESISTANT PACKAGING OF NAPROXEN

Priority: Substantive, Nonsignificant
CFR Citation: 16 CFR 1700.14; 16 CFR 1500.12(a)(2)
Completed:

Reason	Date	FR Cite
Final Action	07/28/95	60 FR 38671
Final Action Effective	02/06/96	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Michael Bogumill
Phone: 301 504-0400
RIN: 3041–AB46

4440. PETITION HP 95-2 REQUESTING ISSUANCE OF A RULE TO BAN ACETONE PACKAGED FOR HOUSEHOLD USE iN ONE-GALLON CONTAINERS

Priority: Substantive, Nonsignificant
CFR Citation: 00 CFR 00
Completed:

Reason	Date	FR Cite
Petition Withdrawn	09/18/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Celestine Trainor
Phone: 301 504-0468
RIN: 3041–AB51

4441. • RULE TO EXEMPT CERTAIN DIETARY SUPPLEMENTS CONTAINING IRON FROM REQUIREMENTS FOR CHILD-RESISTANT PACKAGING

Priority: Substantive, Nonsignificant
Legal Authority: 5 USC 553(e) Administrative Procudure Act; 15 USC 1471 Poison Prevention Packaging Act
CFR Citation: 16 CFR 1700.14(a)(13)
Legal Deadline: None
Abstract: On April 7, 1995, the Commission proposed to amend regulations codified at 16 CFR 1700.14(a)(13) to exempt certain iron-containing dietary supplements from requirements for child- resistant packaging issued under the Poison Prevention Packaging Act. The products subject to the proposed exemption are those that have no more than the equivalent of 0.12 per cent elemental iron. The staff is preparing a briefing package for consideration by the Commissioners of the agency which they will use in deciding whether to issue the proposed amendment as a final rule.
Timetable:

Action	Date	FR Cite
NPRM	04/07/95	60 FR 17660
NPRM Comment Period End	06/21/95	60 FR 17660
Final Action	10/17/95	60 FR 53699
Final Action Effective	10/17/95	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Michael Bogumill, Consumer Product Safety Commission, Washington, DC 20207
Phone: 301 504-0400
RIN: 3041–AB52
[FR Doc. 95-24141 Filed 11-24-95; 8:45 am]
BILLING CODE 6355-01-F

CPSC — Completed Actions

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November 28, 1995

Part L

Farm Credit Administration

Semiannual Regulatory Agenda

FARM CREDIT ADMINISTRATION (FCA)

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Regulations

AGENCY: Farm Credit Administration.

ACTION: Departmental unified agenda of regulations and review list.

SUMMARY: The Farm Credit Administration (FCA), as an independent regulatory agency in compliance with Executive Order 12866, sets forth the following agenda of regulations which it will have under development and review during the period of October 1995 through April 1996.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. FCA regulations, which apply to Farm Credit banks and associations and certain other federally chartered entities, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

The FCA, as an independent regulatory agency, is exempt from certain provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of the Executive Order 12866.

Dated: September 15, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4442	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Non-Dollar Debt)	3052-AB68

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4443	Loan Policies and Operations (General Financing Agreement)	3052-AB09
4444	Eligibility and Scope of Financing; Loan Policies and Operations; General Provisions; Definitions; Nondiscrimination in Lending (Eligibility)	3052-AB10
4445	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions; Disclosure to Shareholders; Capital Adequacy (Capital - Phase II)	3052-AB48
4446	Loan Policies and Operations (Borrower Rights - Phase I)	3052-AB52
4447	Loan Policies and Operations; Loans in Areas Having Special Flood Hazards (Flood Insurance)	3052-AB57
4448	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Capital—Phase III)	3052-AB58
4449	Loan Policies and Operations; Lending Authorities, Loan Purchases and Sales, and Disclosure of Loan Information (Secondary Market Participations)	3052-AB59
4450	Organization; Loan Policies and Operations; General Provisions; Definition (Regulatory Review and Deletions)	3052-AB61
4451	Disclosure to Shareholders (Quarterly Report)	3052-AB62
4452	Loan Policies and Operations (Loan Underwriting Standards)	3052-AB64
4453	Loan Policies and Operations (Uninsured Voluntary and Involuntary Accounts)	3052-AB65
4454	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Global Debt)	3052-AB66
4455	Loan Policies and Operations (Other Financing Institutions)	3052-AB67

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4456	Referral of Crimes and Suspected Crimes (Criminal Referral)	3052-AB33
4457	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Disclosure to Shareholders (Director Elections)	3052-AB60

FCA

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4458	Federal Agricultural Mortgage Corporation Risk-Based Capital Regulation	3052-AB56
4459	Leasing Authorities	3052-AB63

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4460	Disclosure to Shareholders; Association Annual Meeting Information Statement	3052-AB37
4461	Organization; General Provisions; Disclosure to Shareholders; Technical Assistance and Financially Related Services; Member Insurance (Related Services)	3052-AB43
4462	Supplemental Standards of Ethical Conduct for Employees of the Farm Credit Administration (Ethics)	3052-AB50
4463	Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations, General Provisions (Regulatory Burden)	3052-AB53

FARM CREDIT ADMINISTRATION (FCA) — Prerule Stage

4442. • FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (NON-DOLLAR DEBT)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2013; 12 USC 2122; 12 USC 2153; 12 USC 2154; 12 USC 2160; 12 USC 2252

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Would authorize Farm Credit System institutions to issue debt in foreign currency.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Michael J. LaVerghetta, Senior Financial Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22101-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB68

FARM CREDIT ADMINISTRATION (FCA) — Proposed Rule Stage

4443. LOAN POLICIES AND OPERATIONS (GENERAL FINANCING AGREEMENT)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would clarify existing policies and procedures for the establishment of a funding relationship between the Farm Credit banks and their affiliated direct lending institutions. Would provide uniform guidelines upon which the general financing agreements shall be developed and executed, and eliminate FCA prior approval.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44438
NPRM Comment Period End	12/05/88	53 FR 44438
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Eric Howard, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090

FCA — Proposed Rule Stage

Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB09

4444. ELIGIBILITY AND SCOPE OF FINANCING; LOAN POLICIES AND OPERATIONS; GENERAL PROVISIONS; DEFINITIONS; NONDISCRIMINATION IN LENDING (ELIGIBILITY)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2073; 12 USC 2075; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2129; 12 USC 2143; 12 USC 2243; 12 USC 2252; 42 USC 3601 et seq

CFR Citation: 12 CFR 613; 12 CFR 614; 12 CFR 618; 12 CFR 619; 12 CFR 626

Legal Deadline: None

Abstract: Would clarify existing policies and procedures with respect to borrower eligibility and scope of financing as provided for in the Farm Credit Act 1971, as amended.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47103
NPRM Comment Period End	12/11/95	60 FR 47103

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: John J. Hays, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB10

4445. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; GENERAL PROVISIONS; DISCLOSURE TO SHAREHOLDERS; CAPITAL ADEQUACY (CAPITAL - PHASE II)

Priority: Other Significant

Legal Authority: 12 USC 2013; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2146; 12 USC 2154; 12 USC 2160; 12 USC 2202b

CFR Citation: 12 CFR 615; 12 CFR 618; 12 CFR 620

Legal Deadline: None

Abstract: Would amend regulations to address directives and surplus requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/27/95	60 FR 38521
NPRM Comment Period End	10/25/95	60 FR 38521
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498

Agency Contact: Dennis K. Carpenter, Senior Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB48

4446. LOAN POLICIES AND OPERATIONS (BORROWER RIGHTS - PHASE I)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would revise the regulation dealing with the 10-day notification to borrowers that is required when there is a change in the interest rate.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498

Agency Contact: Robert S. Child, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB52

4447. LOAN POLICIES AND OPERATIONS; LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS (FLOOD INSURANCE)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: Other, Statutory, June 20, 1995.
Statutory deadline of June 20, 1995 for coordinated adoption with other Federal financial institution regulators of FEMA Standard Flood Hazard Determination Form.

Abstract: Would develop flood insurance regulations required by title V--National Flood Insurance Reform of the Riegle Community Development and Regulatory Improvement Act of 1994.

Timetable:

Action	Date	FR Cite
Final Action on Determination Form	07/06/95	60 FR 35286
NPRM	10/18/95	60 FR 53962
NPRM Comment Period End	12/18/95	
Effective Date of Determination Form	01/02/96	60 FR 35286

FCA — Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Robert G. Magnuson, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB57

4448. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (CAPITAL—PHASE III)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2154; 12 USC 2154a; 12 USC 2252; 12 USC 2154 note; PL 100-233, sec 301

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Would revise the current capital regulations taking into consideration safety and soundness concerns and similar regulations of other commercial bank regulators.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Dennis K. Carpenter, Senior Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB58

4449. LOAN POLICIES AND OPERATIONS; LENDING AUTHORITIES, LOAN PURCHASES AND SALES, AND DISCLOSURE OF LOAN INFORMATION (SECONDARY MARKET PARTICIPATIONS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614.4000; 12 CFR 614.4010; 12 CFR 614.4030; 12 CFR 614.4040; 12 CFR 614.4336; 12 CFR 614.4367

Legal Deadline: None

Abstract: Would amend regulations on lending authorities, loan purchases and sales, and disclosure of loan information with respect to participation in the agricultural secondary market by System banks and associations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Eric Howard, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB59

4450. • ORGANIZATION; LOAN POLICIES AND OPERATIONS; GENERAL PROVISIONS; DEFINITION (REGULATORY REVIEW AND DELETIONS)

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2209; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279aa; 12 USC 2279aa-5(e)

CFR Citation: 12 CFR 611; 12 CFR 614; 12 CFR 618; 12 CFR 619

Legal Deadline: None

Abstract: Would review regulations to determine unnecessary, outdated, duplicative or burdensome requirements that can be deleted or revised.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Linda C. Sherman, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB61

4451. • DISCLOSURE TO SHAREHOLDERS (QUARTERLY REPORT)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2252; 12 USC 2254; 12 USC 2279aa-11; PL 100-233, sec 424

CFR Citation: 12 CFR 620

Legal Deadline: None

Abstract: Would revise the current regulation to address the regulatory burden comments regarding the distribution requirements of the quarterly report to shareholders.

FCA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Robert G. Magnuson, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB62

4452. • LOAN POLICIES AND OPERATIONS (LOAN UNDERWRITING STANDARDS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4012a; 42 USC 4104a; 42 USC 4104b; 42 USC 4106; 42 USC 4128; 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2071; 12 USC 2073; 12 USC 2074; ...

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would clarify existing loan underwriting guidance and provide flexibility where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: John J. Hays, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB64

4453. • LOAN POLICIES AND OPERATIONS (UNINSURED VOLUNTARY AND INVOLUNTARY ACCOUNTS)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2013; 12 USC 2073

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would revise current regulation by providing additional guidance on use of uninsured voluntary and involuntary accounts by Farm Credit System institutions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Robert G. Magnuson, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB65

4454. • FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (GLOBAL DEBT)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2013; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2146; 12 USC 2154; 12 USC 2160; 12 USC 2202b; ...

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Would authorize Farm Credit System institutions to issue dollar-denominated debt in foreign markets and authorize the use of fiscal agents other than the Federal Reserve System.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Laurie A. Rea, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB66

4455. • LOAN POLICIES AND OPERATIONS (OTHER FINANCING INSTITUTIONS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would revise existing policies and procedures for the establishment of a funding relationship between Farm Credit System banks and other financing institutions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Eric Howard, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498

FCA — Proposed Rule Stage

TDD: 703 883-4444

RIN: 3052–AB67

FARM CREDIT ADMINISTRATION (FCA) — Final Rule Stage

4456. REFERRAL OF CRIMES AND SUSPECTED CRIMES (CRIMINAL REFERRAL)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2243; 12 USC 2252; 12 USC 2254

CFR Citation: 12 CFR 617

Legal Deadline: None

Abstract: Would revise regulations covering the referral of crimes and suspected crimes by implementing the uniform process and referral form developed by the Bank Fraud Working Group.

Timetable:

Action	Date	FR Cite
NPRM	10/13/92	57 FR 46819
NPRM Comment Period End	11/12/92	57 FR 46819
Resolicitation of Comments Regarding Criminal Referral	06/20/94	59 FR 31562
Comment Period End Regarding Criminal Referral	08/19/94	
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Eric Howard, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB33

4457. • FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; DISCLOSURE TO SHAREHOLDERS (DIRECTOR ELECTIONS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2018; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2146; 12 USC 2154; ...

CFR Citation: 12 CFR 615; 12 CFR 620

Legal Deadline: None

Abstract: Would allow greater flexibility in the method by which directors are elected, consistent with cooperative principles.

Timetable:

Action	Date	FR Cite
NPRM	06/09/95	60 FR 30470
NPRM Comment Period End	07/10/95	60 FR 30470
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: John J. Hays, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB60

FARM CREDIT ADMINISTRATION (FCA) — Long-Term Actions

4458. FEDERAL AGRICULTURAL MORTGAGE CORPORATION RISK-BASED CAPITAL REGULATION

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzanne J. McCrory
Phone: 703 883-4280
TDD: 703 883-4444

RIN: 3052–AB56

4459. • LEASING AUTHORITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2252

CFR Citation: 12 CFR Not yet determined

Legal Deadline: None

Abstract: Would develop comprehensive leasing regulations for all Farm Credit System institutions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Robert G. Magnuson, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB63

4460. DISCLOSURE TO SHAREHOLDERS; ASSOCIATION ANNUAL MEETING INFORMATION STATEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 620

Completed:

Reason	Date	FR Cite
Final Action	04/24/95	60 FR 20011
Final Action Effective	05/24/95	60 FR 27684

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laurie A. Rea
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB37

4461. ORGANIZATION; GENERAL PROVISIONS; DISCLOSURE TO SHAREHOLDERS; TECHNICAL ASSISTANCE AND FINANCIALLY RELATED SERVICES; MEMBER INSURANCE (RELATED SERVICES)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 611; 12 CFR 618; 12 CFR 620

Completed:

Reason	Date	FR Cite
Final Action	06/30/95	60 FR 34090
Final Action Effective	08/08/95	60 FR 42029

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda C. Sherman
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB43

4462. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FARM CREDIT ADMINISTRATION (ETHICS)

Priority: Other

CFR Citation: 12 CFR 601; 5 CFR 4101

Completed:

Reason	Date	FR Cite
Final Action	09/13/95	60 FR 47453
Final Action Effective	09/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eric Howard
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB50

4463. LOAN POLICIES AND OPERATIONS; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS, GENERAL PROVISIONS (REGULATORY BURDEN)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 614; 12 CFR 615; 12 CFR 618

Completed:

Reason	Date	FR Cite
Final Action	04/24/95	60 FR 20008
Final Action Effective	05/24/95	60 FR 27401

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eric Howard
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB53

[FR Doc. 95-23624 Filed 11-24-95; 8:45 am]
BILLING CODE 6705-01-F

federal register

Tuesday
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Part LI

Farm Credit System Insurance Corporation

Semiannual Regulatory Agenda

FARM CREDIT SYSTEM INSURANCE CORPORATION (FCSIC)

FARM CREDIT SYSTEM INSURANCE CORPORATION

12 CFR Ch. XIV

Unified Agenda of Regulations

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Departmental unified agenda of regulations and review list.

SUMMARY: The Farm Credit System Insurance Corporation (Corporation), in compliance with Executive Order 12866, sets forth the following agenda of regulations which it will have under development and review during the period of October 1995 through April 1996.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102-0826, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. Corporation regulations, which apply to Farm Credit banks and associations, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

The Corporation, as an independent regulatory agency, is exempt from certain provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including the Corporation in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of the Executive Order 12866.

Dated: September 15, 1995.

Floyd Fithian,

Secretary, Farm Credit System Insurance Corporation Board.

Final Rule Stage

Sequence Number		Title	Regulation Identifier Number
4464	Supplemental Standards of Ethical	Conduct for Employees of the Farm Credit System Insurance Corporation	3055-AA03

Long-Term Actions

Sequence Number		Title	Regulation Identifier Number
4465	Enforcement of Nondiscrimination	on the Basis of Handicap	3055-AA01
4466	Referral of Known and Suspected	Criminal Violations	3055-AA02

FARM CREDIT SYSTEM INSURANCE CORPORATION (FCSIC) — Final Rule Stage

4464. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FARM CREDIT SYSTEM INSURANCE CORPORATION

Priority: Other

Legal Authority: 5 USC 7301; 5 USC 7353; 5 USC app; 12 USC 2277a-7; 12 USC 2277a-8; EO 12674; EO 12731

CFR Citation: 5 CFR 4001; 12 CFR 1401

Legal Deadline: None

Abstract: Issued supplemental regulations to 5 CFR part 2635, governing uniform standards of ethical conduct for Executive Branch employees. The supplemental regulations address ethical issues unique to the Farm Credit System Insurance Corporation and are necessary to successfully implement its ethics program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/12/95	60 FR 30773
Final Action	10/00/95	
Supplemental Interim Final Rule		
Comment Period End 07/12/95 (60 FR 30773)		
Effective Date 07/12/95		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Federal Register Liaison: Cindy R. Nicholson, Paralegal Specialist, 703-883-4125.

Agency Contact: Wendy R. Laguarda, Senior Attorney and Deputy Ethics Official, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, VA 22102-0826
Phone: 703 883-4234
TDD: 703 883-4444

RIN: 3055–AA03

FARM CREDIT SYSTEM INSURANCE CORPORATION (FCSIC) — Long-Term Actions

4465. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP

Priority: Other

CFR Citation: 12 CFR 1406

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joy E. Strickland
Phone: 703 883-4020
TDD: 703 883-4444

RIN: 3055–AA01

4466. REFERRAL OF KNOWN AND SUSPECTED CRIMINAL VIOLATIONS

Priority: Other

CFR Citation: 12 CFR 1417

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane M. Virga
Phone: 703 883-4020
TDD: 703 883-4444

RIN: 3055–AA02

[FR Doc. 95-23625 Filed 11-24-95; 8:45 am]
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Part LII

Federal Communications Commission

Semiannual Regulatory Agenda

FEDERAL COMMUNICATIONS COMMISSION (FCC)

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulations; October 1995

AGENCY: Federal Communications Commission.

ACTION: Publication of the Unified Agenda of Federal Regulations.

SUMMARY: Twice a year, the Commission publishes a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. The Agenda also provides the CFR citations and legal authorities which govern these proceedings. The Regulatory Flexibility Act (94 Stat. 1167; 5 U.S.C. 605) includes notations on the applicability of the Regulatory Flexibility Act to each item. The Unified Agenda will be published in the **Federal Register** in April and October of each year.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Camp, Office of Managing Director, (202) 418-0442.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in the FCC rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared an agenda of important proceedings now in progress. OMB will publish the Unified Agenda in the **Federal Register** in April and October of each year.

Regulatory Plan

For this edition of FCC's regulatory agenda, the most important regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

The following terms may be helpful in understanding the status of the proceedings included in this report:

Docket Number - assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry concerning the matter under consideration. The Commission has used docket numbers since January 1, 1978. Docket numbers consist of the last two digits of the calendar year in which the docket was established, plus a sequential number, which begins at 1 with the first docket initiated during a calendar year (e.g., Docket 80-1 or Docket 83-1). The abbreviation for the responsible Bureau usually precedes the docket number, as in "MM Docket 79-164," which indicates that the responsible Bureau is the Mass Media Bureau. A docket number consisting of only five digits (e.g., Docket 29622) indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI) - issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Further Notice of Inquiry (FNOI)

Notice of Proposed Rulemaking (NPRM) - issued by the Commission when it is proposing a specific change to the FCC Rules and Regulations. Before any changes are actually made, interested parties may submit written comments on the proposals.

Further Notice of Proposed Rulemaking (FNPRM)

Memorandum Opinion and Order (MO&O) - issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or deny a petition for reconsideration of a decision.

Rulemaking (RM) Number - assigned to a proceeding after the appropriate Bureau/Office has reviewed a petition for rulemaking but before the Commission has taken action on the petition.

Report and Order (R&O) - issued by the Commission to state a new or amended rule or state that the FCC Rules will not be changed.

William F. Caton,
Acting Secretary,
Federal Communications Commission.

CABLE SERVICES BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4467	Cable Television Rate Regulation	3060-AF41
4468	Cable Act: Cost of Service	3060-AF48
4469	Customer Service Standards	3060-AF69
4470	Small Systems	3060-AF71
4471	Telephone Company Provision of Video Dialtone	3060-AF83
4472	Cable Home Wiring	3060-AG02

CABLE SERVICES BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4473	Cable Act: Must Carry/Retransmission Consent	3060-AF39

FCC

COMMON CARRIER BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4474	Telephone Company/Cable Television Cross-Ownership Rules Sections 63.54-63.56	3060-AE40
4475	Expanded Interconnection With Local Telephone Company Facilities	3060-AF04
4476	Transport Rate Structure and Pricing	3060-AF06
4477	Rules and Policies Regarding Calling Number Identification Services (CC Docket 91-281)	3060-AF07
4478	In the Matter of Intelligent Networks	3060-AF08
4479	Reform of the Interstate Rate of Return Represcription and Enforcement Processes	3060-AF12
4480	Administration of the North American Numbering Plan	3060-AF50
4481	The Use of N11 Codes and Other Abbreviated Dialing Arrangements	3060-AF51
4482	In the Matter of Billed Party Preference for 0+ InterLATA Calls	3060-AF60
4483	Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board	3060-AF85
4484	Telephone Number Portability	3060-AG01

COMMON CARRIER BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4485	Price Cap Performance Review For Local Exchange Carriers (CC Docket No. 94-1)	3060-AF76

COMPLIANCE AND INFORMATION BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4486	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System	3060-AF21
4487	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines	3060-AF65

OFFICE OF ENGINEERING AND TECHNOLOGY—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4488	Digital LMSS in L-Band Spectrum	3060-AE68
4489	Digital Audio Broadcasting	3060-AE81
4490	Standards for ISM Equipment	3060-AE97
4491	Streamline of Equipment Authorization Process	3060-AF29
4492	RF Exposure Standard	3060-AF32
4493	Cable System Compatibility With TV Receivers and VCRs	3060-AF38
4494	Wind Profiler Radar Systems	3060-AF45
4495	Pioneer's Preference Rules	3060-AF53
4496	Millimeter Wave Spectrum Allocation	3060-AF61
4497	Digital Equipment Deregulation	3060-AF73
4498	MSS Spectrum Allocation	3060-AF75

OFFICE OF ENGINEERING AND TECHNOLOGY—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4499	Personal Communications Services	3060-AE65
4500	Narrowband (900 MHz) PCS	3060-AF54

FCC

INTERNATIONAL BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4501	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures	3060-AD70
4502	Deregulation of International Receive-Only Earth Stations	3060-AF33
4503	Satellite Communications	3060-AF42
4504	Regulation of International Accounting Rates, CC Dkt 90-337, Second Further Notice of Proposed Rulemaking	3060-AF86
4505	Market Entry and Regulation of Foreign-Affiliated Entities	3060-AF87
4506	Streamlining the Section 214 International Authorizing Process and Tariff Requirements	3060-AF88
4507	Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the L-Band	3060-AF89
4508	Amendment to the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems	3060-AF90
4509	Preemption of Local Zoning Regulation of Satellite Earth Stations	3060-AF92
4510	Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band	3060-AF93
4511	Redesignation of the 27.5-29.5 Frequency Band	3060-AF94

MASS MEDIA BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4512	Broadcast EEO: Reconsideration	3060-AD73
4513	Advanced Television Service (MM Docket 87-268)	3060-AE24
4514	Comparative Renewal Criteria	3060-AE27
4515	Transfer of Control of Non-Stock Entities	3060-AE31
4516	Broadcast Station Operator Requirements	3060-AF63
4517	Children's Television Programming (MM Docket 93-48)	3060-AF77
4518	Commercial Practices of Broadcast Television Networks and Affiliates (MM Docket Nos. 95-40, 95-90 and 95-92)	3060-AF78
4519	Review of the Commission's Regulations Governing Television Broadcasting	3060-AF79
4520	Filing of Television Network Affiliation Contracts	3060-AF80
4521	Rules Governing Broadcast Television Advertising	3060-AF81
4522	Attribution of Broadcast Interests	3060-AF82

OFFICE OF MANAGING DIRECTOR—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4523	Assessment and Collection of Regulatory Fees for FY 1996	3060-AG05

OFFICE OF MANAGING DIRECTOR—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4524	Assessment and Collection of Regulatory Fees for FY 1995	3060-AF67

WIRELESS TELECOMMUNICATIONS BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4525	Revision of Part 24 of the Commission's Rules Pertaining to Personal Communications Service	3060-AF59

FCC

WIRELESS TELECOMMUNICATIONS BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4526	Frequency Coordination-Alternatives and Options to the Present Frequency Coordination System	3060-AE60
4527	Amendment of Part 80 of the Commission's Rules Concerning VHF Maritime Operations	3060-AF14
4528	Rulemaking to Amend Part 1 and Part 21 to Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service	3060-AF26
4529	Refarming	3060-AF35
4530	Wide Area SMR Licensing	3060-AF47
4531	Implementation of Sections 3(n) and 332 of the Communications Act —Regulatory Treatment of Mobile Services	3060-AF49
4532	Regulatory Treatment of Mobile Services	3060-AF52
4533	Interconnection Obligations Pertaining to Commercial Mobile Radio Services	3060-AF58
4534	Reorganization of Parts 1, 2, 21 and 94 to Establish a New Part 101 Governing Terrestrial Microwave Radio Services	3060-AF95
4535	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; 800 MHz SMR Competitive Bidding Rules	3060-AF98
4536	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; Narrowband PCS Competitive Bidding Rules	3060-AF99
4537	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; IVDS Competitive Bidding Rules	3060-AG00

WIRELESS TELECOMMUNICATIONS BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4538	Domestic Public Fixed Radio Services	3060-AF27
4539	Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services	3060-AF57

FEDERAL COMMUNICATIONS COMMISSION (FCC)
CABLE SERVICES BUREAU

Long-Term Actions

4467. CABLE TELEVISION RATE REGULATION

Priority: Other Significant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	01/04/93	58 FR 48
NPRM	01/04/93	58 FR 48
1st R&O	05/21/93	58 FR 29736
MO&O and FNPRM	08/18/93	58 FR 43816
1st Order on Recon, 2nd R&O	09/02/93	58 FR 46718
3rd FNPRM	09/02/93	58 FR 46737
Third R&O	11/30/93	58 FR 63087
2nd Order on Recon, 4th R&O,5thNPRM	04/15/94	59 FR 17943
3rd Order on Recon	04/15/94	59 FR 17961
5th Order on Recon & FNPRM	10/13/94	59 FR 51869
4th Order on Recon	10/21/94	59 FR 53113
6th Order on Recon, 5th R&O	12/06/94	59 FR 62614
7th NPRM	12/06/94	59 FR 62614
7th Order on Recon	01/25/95	60 FR 4863
8th Order on Recon	03/17/95	60 FR 14373
9th Order on Recon	03/27/95	60 FR 10512
6th R&O, 11th Order on Recon	07/12/95	60 FR 35854

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Nancy Stevenson
Phone: 202 416-0801

RIN: 3060–AF41

4468. CABLE ACT: COST OF SERVICE

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	07/30/93	58 FR 40762
R&O	04/15/94	59 FR 17975
2nd NPRM	04/15/94	59 FR 18066
MO&O	10/14/94	59 FR 52087

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Margo Domon
Phone: 202 416-1187

RIN: 3060–AF69

4469. CUSTOMER SERVICE STANDARDS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61038
R&O	04/19/93	53 FR 21107

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Margo Domon
Phone: 202 416-1187

RIN: 3060–AF69

FCC—CABLE

Long-Term Actions

4470. SMALL SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
R&O	05/21/93	58 FR 29736
FNPRM	08/18/93	58 FR 43853
MO&O	08/18/93	58 FR 43853
2nd Order on Recon/4th R&O	04/15/94	59 FR 17943
5th Order on Recon/FNPRM	10/13/94	59 FR 59519
4th Order on Reconsideration	10/21/94	59 FR 53113
5th R&O/6th Order on Recon/7th NPRM	12/06/94	59 FR 62614
7th Order on Reconsideration	01/25/95	60 FR 4863
6th R&O/11th Order on Recon	07/12/95	60 FR 3854

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Thomas Power
Phone: 202 416-0877

RIN: 3060–AF71

4471. • TELEPHONE COMPANY PROVISION OF VIDEO DIALTONE

Priority: Other Significant

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 63

Legal Deadline: None

Abstract: This proceeding considers extent to which title II and title VI of the Communications Act of 1934 apply to telephone companies offering video programming.

Timetable:

Action	Date	FR Cite
4th FNPRM	02/16/95	60 FR 8996

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Larry Walke, Attorney, Federal Communications Commission
Phone: 202 416-0847

RIN: 3060–AF83

4472. • CABLE HOME WIRING

Priority: Other Significant

Legal Authority: 47 USC 544(i)

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: In the cable home wiring reconsideration proceeding, the Com nission is examining issues related to the cable home wiring. These include, but are not limited to whether: (a) to establish subscriber rights to cable home wiring prior to termination of service, (b) to move the demarcation point for multiple dwelling units, (c) to apply the cable home wiring rules to "loop-through" cable wiring confirmations, (d) to include passive equipment within the definition of cable home wiring, and (e) to provide persons other than the subscriber or the cable operator with rights to cable home wiring under certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	11/17/92	57 FR 54209
R&O	03/02/93	58 FR 11970

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lynn Crakes, Federal Communications Commission
Phone: 202 416-0943

RIN: 3060–AG02

FEDERAL COMMUNICATIONS COMMISSION (FCC)
CABLE SERVICES BUREAU

Completed Actions

4473. CABLE ACT: MUST CARRY/RETRANSMISSION CONSENT

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Completed:

Reason	Date	FR Cite
Final Action	11/04/94	59 FR 62330
Final Action Effective	01/04/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ron Parver
Phone: 202 416-0898

RIN: 3060–AF39

FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMMON CARRIER BUREAU

Long-Term Actions

4474. TELEPHONE COMPANY/CABLE TELEVISION CROSS-OWNERSHIP RULES SECTIONS 63.54-63.56

Priority: Other Significant

CFR Citation: 47 CFR 63.54; 47 CFR 63.55; 47 CFR 63.56; 47 CFR 63.57; 47 CFR 63.58

Timetable:

Action	Date	FR Cite
NOI	09/15/87	52 FR 34818
FNOI/NPRM	09/29/88	53 FR 38042
First R&O	12/17/91	56 FR 65445
FNPRM/SFNOI	12/17/91	56 FR 65464
Recommendations to Congress	08/14/92	
Reconsideration of First R&O	09/09/92	57 FR 41109
Second R&O	09/09/92	57 FR 41106
SFNPRM	09/09/92	57 FR 41118
Recon of 2nd R&O	12/12/94	59 FR 63909
Third R&O	12/12/94	59 FR 63971
Fourth FNPRM	01/20/95	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Adam Kupetsky
Phone: 202 418-1578

RIN: 3060–AE40

FCC—CCB

Long-Term Actions

4475. EXPANDED INTERCONNECTION WITH LOCAL TELEPHONE COMPANY FACILITIES

Priority: Other Significant

CFR Citation: 47 CFR 69; 47 CFR 61; 47 CFR 64

Timetable:

Action	Date	FR Cite
NPRM & NOI	07/26/91	56 FR 34159
ANPRM	09/20/91	56 FR 44053
ANPRM Comment Period End	11/06/91	56 FR 34159
R&O and NPRM	11/18/92	57 FR 54323
2nd NPRM	12/01/92	57 FR 56888
MO&O	12/31/92	57 FR 62481
NPRM Comment Period End	03/09/93	57 FR 58767
2nd MO&O	09/17/93	58 FR 48752
2nd MO&O and 3rd NPRM	09/17/93	58 FR 48756
3rd R&O	06/27/94	59 FR 32925
MO&O	08/01/94	59 FR 38922
Carriers required to file collocation tariffs on	09/01/94	
Effective Date	12/15/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Schlicting
Phone: 202 418-1580

RIN: 3060–AF04

4476. TRANSPORT RATE STRUCTURE AND PRICING

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 61; 47 CFR 69

Timetable:

Action	Date	FR Cite
NPRM	11/22/91	56 FR 57301
NPRM Comment Period End	01/22/92	
FNPRM	11/17/92	57 FR 54205
R&O	11/20/92	57 FR 54717
First MO&O on Recon. of R&O	08/03/93	58 FR 41184
Second MO&O on Reconsideration	08/18/93	58 FR 45266
Second R&O	01/31/94	59 FR 10300
Supp. NPRM	12/15/94	60 FR 2068
Third MO&O on Recon	12/15/94	60 FR 4107

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Matt Harthun
Phone: 202 418-1590

RIN: 3060–AF06

4477. RULES AND POLICIES REGARDING CALLING NUMBER IDENTIFICATION SERVICES (CC DOCKET 91-281)

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.1600 to 64.1604

Timetable:

Action	Date	FR Cite
NPRM	09/26/91	56 FR 57300
FNPRM	04/18/94	59 FR 18349
R&O	04/18/94	59 FR 18318
Second R&O	06/02/95	60 FR 28775

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Specht
Phone: 202 418-2378

RIN: 3060–AF07

4478. IN THE MATTER OF INTELLIGENT NETWORKS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64

Timetable:

Action	Date	FR Cite
NOI	11/21/91	56 FR 65721
NPRM	08/03/93	58 FR 48623

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rose Crellin
Phone: 202 418-1571

RIN: 3060–AF08

4479. REFORM OF THE INTERSTATE RATE OF RETURN REPRESCRIPTION AND ENFORCEMENT PROCESSES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 65; 47 CFR 69

Timetable:

Action	Date	FR Cite
NPRM	07/14/92	57 FR 31994
NPRM Comment Period End	10/13/92	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William A. Kehoe III
Phone: 202 418-0850

RIN: 3060–AF12

4480. ADMINISTRATION OF THE NORTH AMERICAN NUMBERING PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 151; 47 CFR 154; 47 CFR 201 to 205; 47 CFR 403

Timetable:

Action	Date	FR Cite
NOI	11/10/92	57 FR 53462
NPRM	05/10/94	59 FR 24103
R&O	07/28/95	60 FR 58737

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Specht
Phone: 202 418-2378

RIN: 3060–AF50

4481. THE USE OF N11 CODES AND OTHER ABBREVIATED DIALING ARRANGEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 1.415; 47 CFR 1.419

Timetable:

Action	Date	FR Cite
NPRM	05/29/92	57 FR 22681

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marion Gordon
Phone: 202 418-2337

RIN: 3060–AF51

4482. IN THE MATTER OF BILLED PARTY PREFERENCE FOR 0+ INTERLATA CALLS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.703(c)(Revision)

Timetable:

Action	Date	FR Cite
NPRM	05/08/92	57 FR 24574
NPRM Comment Period End	08/27/92	
Further NPRM	06/06/94	59 FR 30754

FCC—CCB

Long-Term Actions

Action	Date	FR Cite
Further NPRM Comment Period End	09/14/94	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Adrien Auger
Phone: 202 418-0960
Fax: 202 418-0236

RIN: 3060–AF60

4483. • AMENDMENT OF PART 36 OF THE COMMISSION'S RULES AND ESTABLISHMENT OF A JOINT BOARD

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 403; 47 USC 410(c)

CFR Citation: 47 CFR 36

Legal Deadline: None

Abstract: Action seeks comment on proposals for reforming the Universal Service Fund (which gives local exchange carriers with greater-then-average costs in the local loop assistance that helps keep local rates reasonable) and the Dial Equipment Minutes Weighting Program (which helps very small local exchange carriers cover their local switching costs). The proposals concern several approaches to these assistance mechanisms for promoting universal service. The Notice refers the proposed changes to the Federal-State Joint Board in this proceeding for a recommended decision.

Timetable:

Action	Date	FR Cite
NPRM	07/13/94	
ANPRM	08/30/94	
ANPRM Comment Period End	12/02/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Dupont, Senior Attorney, Federal Communications Commission
Phone: 202 418-0850
Fax: 202 418-0167
Email: ddupont@fcc.gov

RIN: 3060–AF85

4484. • TELEPHONE NUMBER PORTABILITY

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 218; 47 USC 332

CFR Citation: 47 CFR 61; 47 CFR 64; 47 CFR 69

Legal Deadline: None

Abstract: The Commission adopted a notice of proposed rulemaking (NPRM) seeking comments on a wide variety of policy and technical issues concerning the portability of telephone numbers. Number portability is the ability of end users to retain their telephone numbers when they switch to a new service provider, a new location, or a new service. Through this NPRM, the Commission is examining the overall benefits, technical feasibility, and implementation costs of number portability in its various forms.

Timetable:

Action	Date	FR Cite
NPRM	07/13/95	60 FR 39136

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Matthew J. Harthun, Attorney Addvisor, Policy & Programming Planning Division, Federal Communications Commission, Room 544
Phone: 202 418-1590
Fax: 202 418-1413

RIN: 3060–AG01

FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMMON CARRIER BUREAU

Completed Actions

4485. • PRICE CAP PERFORMANCE REVIEW FOR LOCAL EXCHANGE CARRIERS (CC DOCKET NO. 94-1)

Priority: Economically Significant

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 303; 47 USC 403; 5 USC 553

CFR Citation: 47 CFR 61.3; 47 CFR 61.45; 47 CFR 61.47; 47 CFR 61.48

Legal Deadline: None

Abstract: The Commission reviewed and made several revisions to its price cap regulation for Local Exchange Carriers. In particular, the Commission increased the minimum productivity or X-factor from 3.3 to 4.0 percent, increased the number of X-factor options from two, revised its sharing requirements and exogenous cost rules, and required Local Exchange Carriers to make a one-time rate reduction. The Commission also stated that it would address several other issues in a further notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	02/16/94	
NPRM Comment Period End	05/17/94	
Final Action	04/07/95	60 FR 19526

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Spaeth, Attorney, Tariff Div, Common CarrierBureau, Room 518, Federal Communications Commission
Phone: 202 418-1530
Fax: 202 418-1567

RIN: 3060–AF76

FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMPLIANCE AND INFORMATION BUREAU

Long-Term Actions

4486. IN THE MATTER OF AMENDMENT OF PART 73, SUBPART G, OF THE COMMISSION'S RULES REGARDING THE EMERGENCY ALERT SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 11; 47 CFR 73; 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	10/09/91	
NPRM/FNPRM	09/17/92	57 FR 53874
FNPRM	12/28/94	59 FR 67104
R&O	12/28/94	59 FR 67090

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Frank Lucia
Phone: 202 418-1220

RIN: 3060–AF21

4487. IN THE MATTER OF THE COMMISSION'S FORFEITURE POLICY STATEMENT AND AMENDMENT OF SECTION 1.80 OF THE RULES TO INCORPORATE THE FORFEITURE GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	02/23/95	60 FR 10056
NPRM Comment Period End	03/17/95	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Magalie Salas
Phone: 202 418-1150

RIN: 3060–AF65

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF ENGINEERING AND TECHNOLOGY

Long-Term Actions

4488. DIGITAL LMSS IN L-BAND SPECTRUM

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	03/05/90	55 FR 08964
First R&O/FNPRM	06/11/93	58 FR 34920
R&O	07/06/95	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Tom Mooring
Phone: 202 776-1620

RIN: 3060–AE68

4489. DIGITAL AUDIO BROADCASTING

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NOI	08/21/90	55 FR 34940
FNOI/NPRM	11/06/92	57 FR 57049
FNPRM/R&O	01/18/95	60 FR 8309

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Lynn Remly
Phone: 202 776-1623

RIN: 3060–AE81

4490. STANDARDS FOR ISM EQUIPMENT

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 18

Timetable:

Action	Date	FR Cite
NOI	11/06/91	56 FR 58863
Item Postponed	07/15/92	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Rick Engelman
Phone: 202 776-1626

RIN: 3060–AE97

4491. STREAMLINE OF EQUIPMENT AUTHORIZATION PROCESS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	06/09/94	59 FR 31966

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Rick Engelman
Phone: 202 776-1626

RIN: 3060–AF29

4492. RF EXPOSURE STANDARD

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	04/08/93	58 FR 19393

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Robert Cleveland
Phone: 202 739-0716

RIN: 3060–AF32

4493. CABLE SYSTEM COMPATIBILITY WITH TV RECEIVERS AND VCRS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NOI	01/29/93	58 FR 7205
Technical Report	10/31/93	
NPRM	12/01/93	58 FR 65153
R&O	05/04/94	59 FR 25339

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

FCC—OET

Long-Term Actions

Agency Contact: Alan Stillwell
Phone: 202 739-0700

RIN: 3060–AF38

4494. WIND PROFILER RADAR SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	58 FR 19644
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Sean White
Phone: 202 776-1624

RIN: 3060–AF45

4495. PIONEER'S PREFERENCE RULES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	10/21/93	58 FR 57578
First R&O	01/28/94	59 FR 8413
Second R&O/FNPRM	03/01/95	60 FR 13396
R&O	06/08/95	60 FR 32116
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Rodney Small
Phone: 202 776-1622

RIN: 3060–AF53

4496. MILLIMETER WAVE SPECTRUM ALLOCATION

Priority: Economically Significant

CFR Citation: 47 CFR 2; 47 CFR 15; 47 CFR 21

Timetable:

Action	Date	FR Cite
NPRM	11/08/94	59 FR 61304
Public Notice	06/23/95	60 FR 35166
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Michael Marcus
Phone: 202 739-0700
Email: EMARCUS

RIN: 3060–AF61

4497. DIGITAL EQUIPMENT DEREGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	02/07/95	60 FR 15116
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Reed
Phone: 202 776-1627

RIN: 3060–AF73

4498. MSS SPECTRUM ALLOCATION

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	01/31/95	60 FR 11644
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sean White
Phone: 202 776-1624

RIN: 3060–AF75

FEDERAL COMMUNICATIONS COMMISSION (FCC) OFFICE OF ENGINEERING AND TECHNOLOGY

Completed Actions

4499. PERSONAL COMMUNICATIONS SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2; 47 CFR 22; 47 CFR 90

Completed:

Reason	Date	FR Cite
Withdrawn -Proceeding now under by Wireless Telecommunications Bureau	05/12/95	60 FR 27423

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Fred Thomas
Phone: 202 776-1619

RIN: 3060–AE65

4500. NARROWBAND (900 MHZ) PCS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2; 47 CFR 22; 47 CFR 90

Completed:

Reason	Date	FR Cite
Merged Into Doc 90-314 - Handled by Wireless Telecom Bureau	10/31/94	59 FR 55209

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Mooring
Phone: 202 776-1620

RIN: 3060–AF54

FEDERAL COMMUNICATIONS COMMISSION (FCC) INTERNATIONAL BUREAU

Long-Term Actions

4501. STREAMLINING THE COMMISSION'S RULES AND REGULATIONS FOR SATELLITE APPLICATION AND LICENSING PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 47 CFR 25

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Paula Ford
Phone: 202 739-0735

RIN: 3060–AD70

4502. DEREGULATION OF INTERNATIONAL RECEIVE-ONLY EARTH STATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 25

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13433
NPRM Comment Period End	05/27/93	58 FR 13433
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Fern Jarmulnek
Phone: 202 739-0735

RIN: 3060–AF33

4503. SATELLITE COMMUNICATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 25; 47 CFR 93; 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	01/19/94	
NPRM Comment Period End	06/06/94	
Final Rule	10/14/94	59 FR 53294
Begin Review	12/01/94	-
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Karl Kensinger
Phone: 202 739-0742

RIN: 3060–AF42

4504. • REGULATION OF INTERNATIONAL ACCOUNTING RATES, CC DKT 90-337, SECOND FURTHER NOTICE OF PROPOSED RULEMAKING

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 64.1001

Legal Deadline: None

Abstract: Order on whether conditioning Section 214 applications or allowing some flexibility in non-discretionary accounting rates, divison of tolls or proportionate return policies would be appropriate means of lowering accounting rates in countries with facilities-based competition.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	02/05/92	58 FR 3522
NPRM	11/27/92	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maureen C McLaughlin, Attorney Advisor, Federal Communications Commission, 2000 M St
Phone: 202 418-1493
Fax: 202 887-0134
Email: mmclaugh@FTC.gov

RIN: 3060–AF86

4505. • MARKET ENTRY AND REGULATION OF FOREIGN-AFFILIATED ENTITIES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303(r)

CFR Citation: 47 CFR 63

Legal Deadline: None

Abstract: The Commission seeks to adopt rules governing the entry of foreign carriers into the U.S. international facilities-based service marketplace. The Commission proposes to add as an additional public interest factor in examining Section 214 applications from foreign-affiliated carriers whether there is, or will be, effective market access available in the foreign carrier's primary markets for U.S. carriers to provide services similar to those the foreign carrier seeks to provide in the U.S. The Commission also proposes a specified level of foreign carrier ownership in a U.S. carrier at which the proposed entry standard would apply. The Commission asks whether it should adopt effective market access as an element of Section 310(b)(4) public interest analysis.

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11644
NPRM Comment Period End	05/12/95	60 FR 15118
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Troy Tanner, Attorney Advisor, Federal Communications Commission, 2000 M St, Room 833
Phone: 202 418-1468
Fax: 202 418-2824
Email: ttanner@fcc.gov

RIN: 3060–AF87

4506. • STREAMLINING THE SECTION 214 INTERNATIONAL AUTHORIZING PROCESS AND TARIFF REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154; 47 USC 203

CFR Citation: 47 CFR 634761471

Legal Deadline: None

Abstract: The Commission proposes to eliminate unnecessary regulatory burdens on international common carriers. The Commission proposes to: (1) issue global international Section

214 authorizations to facilities-based carriers for the provision of international services; (2) make essential information readily available to all carriers and users; (3) reduce paperwork obligations; and (4) streamline tariff requirements on international nondominant carriers.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37980
NPRM Comment Period End	09/07/95	60 FR 37980

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Helene Schrier, Attorney Advisor, Federal Communications Commission, 2000 M St, Room 845
Phone: 202 418-1466
Fax: 202 418-2824
Email: hschrier@fcc.gov

RIN: 3060–AF88

4507. • ESTABLISHING RULES AND POLICIES FOR THE USE OF SPECTRUM FOR MOBILE SATELLITE SERVICE IN THE L-BAND

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 316; 47 USC 403

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission seeks to develop a record and to solicit comments on the proposed policies. The proposed policies are designed to ensure that sufficient spectrum is available to operate a viable and independent U.S. licensed mobile satellite service system in the L-band. The proposed policies, to the extent possible, also seek to make any additional spectrum coordinated internationally available for mobile-satellite service systems. The proposed policies impose no additional burdens. In order to be effective, these rules must apply to all licenses and thus there is no significant alternative.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Paula Ford, Staff Attorney, Federal Communications Commission, 2000 M St, Room 502A
Phone: 202 739-0735
Fax: 202 887-6126
Email: pford@fcc.gov

RIN: 3060–AF89

4508. • AMENDMENT TO THE COMMISSION'S REGULATORY POLICIES GOVERNING DOMESTIC FIXED SATELLITES AND SEPARATE INTERNATIONAL SATELLITE SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303(r); 47 USC 721(c)

CFR Citation: 47 CFR 25

Legal Deadline: None

Abstract: The Commission proposes to eliminate the distinction between the transborder policy and separate international satellite policy and to treat all U.S. licensed geostationary fixed satellites under a single regulatory scheme. As a result, all U.S. licensed fixed satellites will be permitted to provide domestic and international services on a co-primary basis. The proposed action is expected to increase competition in fixed satellite services by increasing the amount of satellite capacity available for both domestic and international services and eliminate regulations that impair business' ability to meet their customers' needs.

Timetable:

Action	Date	FR Cite
NPRM	04/25/95	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John M Coles, attorney, Federal Communications Commission, 2000 M St, Rm 514
Phone: 202 739-0731
Fax: 202 887-6126

RIN: 3060–AF90

4509. • PREEMPTION OF LOCAL ZONING REGULATION OF SATELLITE EARTH STATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 165(j); 47 USC 303(r)

CFR Citation: 47 CFR 25104

Legal Deadline: None

Abstract: The Commission is proposing to change its existing rule on preemption of local zoning regulation of satellite earth stations. The proposals include establishing review procedures, rebuttable presumptions of invalidity and clarification of rule.

Timetable:

Action	Date	FR Cite
ANPRM	05/15/95	60 FR 28077
ANPRM Comment Period End	08/15/95	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rosalee Chiorce, Staff Attorney, Federal Communications Commission, 2000 M St, Rm 516
Phone: 202 739-0730
Fax: 202 887-6126

RIN: 3060–AF92

4510. • ESTABLISHMENT OF RULES AND POLICIES FOR THE DIGITAL AUDIO RADIO SATELLITE SERVICE IN THE 2310-2360 MHZ FREQUENCY BAND

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 151(i); 47 USC 154(j); 47 USC 157; 47 USC 309(j)

CFR Citation: 47 CFR 25; 47 CFR 87

Legal Deadline: None

Abstract: The Commission is proposing rules to govern satellite digital audio radio service in the 2310-2360 MHz frequency bands.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/95	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rosalee Chiarce, Staff Attorney, Federal Communications Commission, 2000 M St, Rm 516
Phone: 202 739-0730
Fax: 202 887-6126

RIN: 3060–AF93

4511. • REDESIGNATION OF THE 27.5-29.5 FREQUENCY BAND

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 301; 47 USC 302

CFR Citation: 47 CFR 25; 47 CFR 21; 47 CFR 1; 47 CFR 2

Legal Deadline: None

Abstract: The Commission seeks to adopt a sharing plan for satellite and terrestrial services in the 27.5-29.5 GHz frequency bands. In a negotiated rulemaking conducted in 1994, the parties could not reach a consensus regarding the sharing of this band. In this proceeding, the Commission will adopt licensing policies and procedures, and other qualification requirements, so that the Local Multipoint Distribution Services, Fixed-Satellite Services, and feeder links for Mobile Satellite Systems can all be accommodated within the 27.5-29.5 GHz band. The action will permit a variety of innovative communication services to be made available to the public.

Timetable:

Action	Date	FR Cite
ANPRM	07/13/95	60 FR 43740
ANPRM Comment Period End	09/07/95	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jennifer M. Gilsenan, Staff attorney, Federal Communications Commission, 2000 M St., Rm 511
Phone: 202 739-0736
Fax: 202 887-6126

RIN: 3060–AF94

FEDERAL COMMUNICATIONS COMMISSION (FCC)
MASS MEDIA BUREAU

Long-Term Actions

4512. BROADCAST EEO: RECONSIDERATION

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 73.2080

Timetable:

Action	Date	FR Cite
NPRM	10/31/86	51 FR 43854
R&O	04/16/87	52 FR 26683

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Judy Herman
Phone: 202 739-0770

RIN: 3060–AD73

4513. ADVANCED TELEVISION SERVICE (MM DOCKET 87-268)

Priority: Economically Significant

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
Tentative Decision/FNOI	09/01/88	53 FR 38747
R&O	08/24/90	55 FR 39275
FNPRM	10/24/91	56 FR 58207
Second R&O & FNPRM	04/09/92	57 FR 21744
Third R&O & FNPRM	09/17/92	57 FR 53588
FNPRM4/NOI3	07/28/95	60 FR 42130

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Roger Holberg, (202) 776-1653
Phone: 202 776-1653

RIN: 3060–AE24

4514. COMPARATIVE RENEWAL CRITERIA

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 73.3525; 47 CFR 73.3584

Timetable:

Action	Date	FR Cite
FNOI/NPRM	06/23/88	53 FR 31894
Policy Statement	03/30/89	54 FR 22595
FNOI/FNPRM	08/16/90	54 FR 35357

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: David Horowitz
Phone: 202 776-1653

RIN: 3060–AE27

4515. TRANSFER OF CONTROL OF NON-STOCK ENTITIES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
NOI	03/16/89	54 FR 15957

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: David Horowitz
Phone: 202 776-1653

RIN: 3060–AE31

4516. BROADCAST STATION OPERATOR REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 73; 47 CFR 74

Timetable:

Action	Date	FR Cite
NPRM	11/10/94	59 FR 64378

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gordon Godfrey
Phone: 202 776-1669

RIN: 3060–AF63

4517. • CHILDREN'S TELEVISION PROGRAMMING (MM DOCKET 93-48)

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 303; 47 USC 303(b)

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: Congress enacted the Children's Television Act of 1990 (CTA) to "increase the amount of educational and informational broadcast television programming for

children." The CTA directs the Commission to review, in any application for license renewal, whether a television broadcast licensee has "served the educational needs of children through the licensee's overall programming specifically designed to serve such needs."

The Commission adopted rules implementing the CTA in 1991. In 1993, the Commission initiated this proceeding by adopting a Notice of Inquiry to examine whether its rules should be revised to identify more clearly the levels and types of programming necessary adequately to serve children's educational needs. Based on an informal review of more than 320 license renewal applications, we did not believe that the level of educational programming performance was consistent with the CTA's long-term objectives, and concluded this fact might be largely attributale to broadcasters' uncertainty regarding the scope of their obligation. In June 1994, we also convened an en banc hearing on the subject of children's television programming.

Based on comments responding to the Notice of inquiry and submitted in conjunction with the en banc hearing, the Commission adopted a Notice of Proposed Rule Making (NPRM) in April 1995 to propose changes to its rules. These proposals are designed to improve the information available to parents and the local community regarding educational television programming, and to revise our definition of "educational and informational" programming to give licensees clearer guidance regarding the types of programming required by the CTA. In addition, the Commission is evaluating other options, including monitoring broadcaster performance, establishing a safe-harbor processing guideline or a programming standard, and allowing stations to meet a quantitative guideline or standard by sponsoring programs shown on other stations.

Timetable:

Action	Date	FR Cite
Notice of Inquiry	03/03/93	58 FR 14367
Notice of Proposed Rulemaking	04/05/95	60 FR 20586

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kim Matthews, Federal Communications Commission
Phone: 202 776-1653

RIN: 3060–AF77

4518. • COMMERCIAL PRACTICES OF BROADCAST TELEVISION NETWORKS AND AFFILIATES (MM DOCKET NOS. 95-40, 95-90 AND 95-92)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: These three notices of proposed rulemaking (NPRMs) form a reexamination of the Commission's rules governing the relationship between broadcast television networks and their affiliates. There are eight rules consideration in these three proceedings.

The first NPRM considers changes to the requirement that stations file their network affiliation agreements with the Commission

The second NPRM considers changes to five rules that regulate network/affiliate programming practices. The first rule requires an affiliate to be able to reject programming. The second rule prohibits networks from optioning an affiliate's time. The third rule prohibits a station from affiliating exclusively with a network. The fourth rule prohibits a station from having exclusive rights to network programming. The fifth rule prohibits a station from affiliating with an entity that operates more than one network.

The third NPRM considers changes to two rules regulating broadcast television advertising. The first advertising rule prohibits a broadcast television network from influencing or controlling the rates its affiliates set for the sale of their non-network advertising time. The second advertising rule prohibits a broadcast television network form representing any of its affiliates in the sale of nonnetwork advertising time.

The basic purpose in each of these proceedings is to address whether the rules under consideration continue to promote the public interest in light of changes in the video marketplace. As a result, these proceedings ask questions with a view to either modifying or eliminating the rules if changes in the video marketplace warrant them.

Timetable:

Action	Date	FR Cite
NPRM	06/14/95	60 FR 34959
NPRM	06/15/95	60 FR 35369

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Kieschnick, Federal Communications Commission
Phone: 202 739-0770

RIN: 3060–AF78

4519. • REVIEW OF THE COMMISSION'S REGULATIONS GOVERNING TELEVISION BROADCASTING

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 303(i); 47 USC 303(r)

CFR Citation: 47 CFR 73.3555

Legal Deadline: None

Abstract: This proceeding considers changes to the Commission's rules governing the ownership of television stations and the joint ownership of television and radio stations. There are five basic issues considered in the proceeding. First, how many television stations should an entity be allowed to own across the nation. Second, how many television stations should an entity be allowed to own within a given "market." Third, how should the commission count satellite stations for the purposes of applying the national ownership limits. Fourth, should an entity be allowed to own both radio and television stations within a given "market." And fifth, should the holder of a leased marketing agreement with another station be considered to have an attributal interest in that station. In addressing these basic issues, the proceeding must also resolve what constitutes a station's "market" for the purposes of applying the different ownership rules, and how should UHF and VHF stations be counted.

Timetable:

Action	Date	FR Cite
NOI	07/11/91	56 FR 40847
NPPM	05/14/92	57 FR 28163
FNPRM	12/15/94	60 FR 6490
R&O	03/07/95	60 FR 15688

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Kieschnick, Federal Communications Commission
Phone: 202 739-0764

RIN: 3060–AF79

4520. • FILING OF TELEVISION NETWORK AFFILIATION CONTRACTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 73.3613(a)

Legal Deadline: None

Abstract: This proceeding considers changes to the requirement that stations file their network affiliation agreements with the commission.

Timetable:

Action	Date	FR Cite
NPRM	04/05/95	60 FR 19564

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert Keischnick, Federal Communications Commission
Phone: 202 739-0764

RIN: 3060–AF80

4521. • RULES GOVERNING BROADCAST TELEVISION ADVERTISING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 301; 47 USC 303(r); 47 USC 313; 47 USC 314

CFR Citation: 47 CFR 73.658(h); 47 CFR 73.658(i)

Legal Deadline: None

Abstract: This proceeding considers changes to two rules regulating broadcast television advertising. The first advertising rule prohibits a broadcast television network from influencing or controlling the rates its affiliates set for the sale of their non-network advertising time. The second advertising rule prohibits a broadcast television network from representing any of its affiliates in the sale of non-network advertising time.

Timetable:

Action	Date	FR Cite
NPRM	06/14/95	60 FR 34959

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Gordon, Federal Communications Commission
Phone: 202 776-1653

RIN: 3060–AF81

4522. • ATTRIBUTION OF BROADCAST INTERESTS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 310

CFR Citation: 47 CFR 73.3555

Legal Deadline: None

Abstract: In this proceeding, the Commission is considering revisions to the mass media attribution rules, by which we define what constitues a "cognizable interest" for purposes of applying our ownership restrictions to specific situations. We are evaluating changes to our attribution rules relating to such areas as stockholding benchmarks and partnership interests, and are also reviewing our "cross-interest policy." We also comment on how to treat, for attribution purposes, interests in new business forms such as limited companies.

Timetable:

Action	Date	FR Cite
NPRM	12/15/94	60 FR 6483

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Mania K. Baghdadi, Federal Communications Commission
Phone: 202 776-1653

RIN: 3060–AF82

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF MANAGING DIRECTOR

Proposed Rule Stage

4523. • ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 1996

Priority: Other

Legal Authority: 47 USC 159

CFR Citation: 47 CFR 1.1151 et seq

Legal Deadline: None

Abstract: The Commission is developing a Notice of Proposed Rulemaking in order to implement section 9 of the Communications Act, which requires the Commission to recover the costs of certain of its activities by assessing and collecting annual regulatory fees from the beneficiaries of those activities. The item will address how the Commission plans to implement the fee requirement for FY 1996.

Timetable:

Action	Date	FR Cite
NPRM	02/23/96	
Final Action	06/03/96	
Final Action Effective	09/03/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Peter W. Herrick, Acting, Associate Managing Director, for Program Analysis, Federal Communications Commission
Phone: 202 418-0443
Fax: 202 418-2826

RIN: 3060–AG05

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF MANAGING DIRECTOR

Completed Actions

4524. ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 1995

Priority: Other

CFR Citation: 47 CFR 1.1151 et seq

Completed:

Reason	Date	FR Cite
Final Action	06/29/95	60 FR 34004

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Peter W. Herrick
Phone: 202 418-0443
Fax: 202 418-2826

RIN: 3060–AF67

FEDERAL COMMUNICATIONS COMMISSION (FCC)
WIRELESS TELECOMMUNICATIONS BUREAU

Proposed Rule Stage

4525. REVISION OF PART 24 OF THE COMMISSION'S RULES PERTAINING TO PERSONAL COMMUNICATIONS SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 302; 47 USC 303(r)

CFR Citation: 47 CFR 24

Legal Deadline: None

Abstract: By this NPRM, the Commission proposes to establish final rules for the processing of applications and licensing for Personal Communications Services (PCS). Specifically, we are proposing rules that will apply to PCS license applicants who have successfully bid for spectrum or have filed applications that are determined not to be mutually exclusive with any other application, and are therefore, not subject to competitive bidding. Within this scope, we propose rules to govern the "long-form" application process, initial licensing, construction, operation and technical requirements, unused-spectrum recovery, unserved-area licensing procedures, assignments and transfers, and license renewal procedures.

Timetable:

Action	Date	FR Cite
7th R&O	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Steve Markendorff/Sally Novak, Chief, Broadband Commercial Radio Brand, Chief, Legal Branch, Federal Communications Commission
Phone: 202 418-1320

RIN: 3060–AF59

FEDERAL COMMUNICATIONS COMMISSION (FCC)
WIRELESS TELECOMMUNICATIONS BUREAU

Long-Term Actions

4526. FREQUENCY COORDINATION-ALTERNATIVES AND OPTIONS TO THE PRESENT FREQUENCY COORDINATION SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	08/02/89	54 FR 35359
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Gene Thomson
Phone: 202 428-0680

RIN: 3060–AE60

4527. AMENDMENT OF PART 80 OF THE COMMISSION'S RULES CONCERNING VHF MARITIME OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 80

Timetable:

Action	Date	FR Cite
NOI/NPRM	11/05/92	57 FR 57717
First R&O	04/26/95	60 FR 34198
FNPRM	04/26/95	60 FR 35507
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Roger Noel
Phone: 202 632-7175

RIN: 3060–AF14

4528. RULEMAKING TO AMEND PART 1 AND PART 21 TO REDESIGNATE THE 27.5-29.5 GHZ BAND AND TO ESTABLISH RULES AND POLICIES FOR LOCAL MULTI-POINT DISTRIBUTION SERVICE

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 25; 47 CFR 21

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	58 FR 6400
NPRM Comment Period End	04/15/93	
Third NPRM	07/13/95	60 FR 43740
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Magnotti
Phone: 202 634-1773

RIN: 3060–AF26

4529. REFARMING

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	01/08/92	57 FR 54034
R&O	06/15/95	60 FR 37152
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Kathryn Hosford
Phone: 202 632-6497

RIN: 3060–AF35

FCC—WTB

Long-Term Actions

4530. WIDE AREA SMR LICENSING

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 33062
FNPRM	10/20/94	59 FR 6011
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: D'Wana Speight
Phone: 202 428-0620

RIN: 3060–AF47

4531. IMPLEMENTATION OF SECTIONS 3(N) AND 332 OF THE COMMUNICATIONS ACT —REGULATORY TREATMENT OF MOBILE SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 20; 47 CFR 22; 47 CFR 24; 47 CFR 25; 47 CFR 80; 47 CFR 87; 47 CFR 90; 47 CFR 95

Timetable:

Action	Date	FR Cite
NPRM	10/14/93	58 FR 53169
NPRM Comment Period End	11/23/93	
First R&O	01/10/94	59 FR 01285
Second R&O	04/19/94	59 FR 18493
Further NPRM	05/31/94	59 FR 28042
Comment Period End	07/05/94	
Third R&O	08/09/94	59 FR 59945
Fourth R&O	10/20/94	59 FR 61828
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Jane Phillips, David Siehl or Stan Wiggins
Phone: 202 418-1310

RIN: 3060–AF49

4532. REGULATORY TREATMENT OF MOBILE SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	09/23/93	58 FR 53169
First R&O	01/10/94	59 FR 1285
FNPRM	04/20/94	59 FR 28042
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: David Furth
Phone: 202 418-0620

RIN: 3060–AF52

4533. INTERCONNECTION OBLIGATIONS PERTAINING TO COMMERCIAL MOBILE RADIO SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 20

Timetable:

Action	Date	FR Cite
NPRM	06/09/94	59 FR 35664
NOI	07/01/94	
NPRM Comment Period End	09/29/94	
ANPRM	04/04/95	60 FR 20949
ANPRM Comment Period End	07/14/95	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Pam Megna or Jeffery Steinberg
Phone: 202 418-1310

RIN: 3060–AF58

4534. • REORGANIZATION OF PARTS 1, 2, 21 AND 94 TO ESTABLISH A NEW PART 101 GOVERNING TERRESTRIAL MICROWAVE RADIO SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 21; 47 CFR 94

Legal Deadline: None

Abstract: Commission proposes to simplfy rules for the common carrier and private operational fixed services and consolidate those rules into a new Part 101. The new consolidation will result in major benefits and eliminate significant burdens on the public.

Timetable:

Action	Date	FR Cite
NPRM	12/09/94	60 FR 2722
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Robert James, Federal Communications Commission
Phone: 202 418-0680

RIN: 3060–AF95

4535. • IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; 800 MHZ SMR COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: Report and Order establishing competitive bidding rules for 800 MHz SMR.

Timetable:

Action	Date	FR Cite
NPRM	04/04/94	59 FR 60111
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kathleen Ham, Federal Communications Commission, 2025 M St, Rm 5322
Phone: 202 418-0660

RIN: 3060–AF98

4536. • IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; NARROWBAND PCS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 24

Legal Deadline: None

Abstract: Report and Order and FNPRM to modify the competitive bidding rules for participation by designated entities in narrowband PCS.

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Long-Term Actions

Timetable:

Action	Date	FR Cite
3rd MO&O	08/16/94	59 FR 44058

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kathleen Ham, Chief, Auctions Division, Federal Communications Commission, 2025 M St, Rm 5322
Phone: 202 418-0660

RIN: 3060–AF99

4537. • IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; IVDS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 95

Legal Deadline: None

Abstract: FNPRM to modify the competitive bidding rules for participation of designated entities in IVDS.

Timetable:

Action	Date	FR Cite
R&O	04/25/94	59 FR 24947

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sue McNeil, Legal Advisor, Federal Communications Commission, 2025 M St, Rm 5322
Phone: 202 418-0660
Fax: 202 634-7651

RIN: 3060–AG00

FEDERAL COMMUNICATIONS COMMISSION (FCC)
WIRELESS TELECOMMUNICATIONS BUREAU

Completed Actions

4538. DOMESTIC PUBLIC FIXED RADIO SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 21

Completed:

Reason	Date	FR Cite
Merged With Docket 94-148 - New Part 101	12/09/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela Gerr
Phone: 202 634-1798

RIN: 3060–AF27

4539. EQUAL ACCESS AND INTERCONNECTION OBLIGATIONS PERTAINING TO COMMERCIAL MOBILE RADIO SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Merged with Interconnection obligations pertaining to CMRS	04/05/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Barbara Esbin
Phone: 202 418-1520

RIN: 3060–AF57

[FR Doc. 95-25094 Filed 11-24-95; 8:45 am]
BILLING CODE 6712-01-F

federal register

Tuesday
November 28, 1995

Part LIII

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is hereby publishing items for the October 1995 regulatory agenda. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. Unless otherwise noted, the address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with both the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and the FDIC statement of policy entitled "Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 76858, December 28, 1979; 49 FR 7288, February 28, 1984).

The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), and the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI) contain reforms that significantly restructure the regulation of financial institutions. As a consequence, many of the regulations included in this agenda are in response to FIRREA, FDICIA, and CDRI. The FDIC is continuing to develop regulations implementing the most recent legislative requirements. These include the requirement in section 303 of CDRI that the Federal banking regulators conduct a review of all their regulations and written policies to streamline them, remove inconsistencies, improve efficiency, reduce unnecessary costs, and make uniform all regulations and guidelines implementing common statutory or supervisory policies. Specifically, proposed changes to the FDIC's regulations will be noted in future semiannual agendas as they emerge from these reviews.

Interested persons may petition the FDIC for the issuance, amendment, or repeal of any regulation by submitting a written petition to the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

Dated: September 15, 1995.
Federal Deposit Insurance Corporation.
Jerry L. Langley,
Executive Secretary.

Prerule Stage

Sequence Number		Title	Regulation Identifier Number
4540	12 CFR ch III	Eligibility for Deposit Insurance; Being Engaged in the Business of Receiving Deposits Other Than Trust Funds and Related Items	3064-AB40

Proposed Rule Stage

Sequence Number		Title	Regulation Identifier Number
4541	12 CFR 325	Capital Maintenance—Recourse Arrangements and Direct Credit Substitutes	3064-AB31
4542	12 CFR 340	Restrictions on Sale of Assets by the FDIC	3064-AB37
4543	12 CFR 308	Program Fraud Civil Remedies	3064-AB41
4544	12 CFR 353	Reports of Apparent Crimes Affecting Insured Nonmember Banks	3064-AB63
4545	12 CFR 339	Loans in Areas Having Special Flood Hazards	3064-AB66
4546	12 CFR 360	Receivership Rules	3064-AB69

Final Rule Stage

Sequence Number		Title	Regulation Identifier Number
4547	12 CFR 359	Golden Parachute and Indemnification Payments	3064-AB11
4548	12 CFR 366	Contractor Ethics	3064-AB39
4549	12 CFR 363	Independent Audits and Reporting Requirements	3064-AB47
4550	12 CFR 308	Uniform Rules of Practice and Procedure	3064-AB49

FDIC

Final Rule Stage (Continued)

Sequence Number		Title	Regulation Identifier Number
4551	12 CFR 325	Capital Maintenance—OECD Countries	3064-AB54
4552	12 CFR 346	Foreign Banks	3064-AB62
4553	12 CFR 325	Capital Maintenance; Risk-Based Capital Standards: Market Risk	3064-AB64
4554	12 CFR 309	Disclosure of Information	3064-AB67
4555	12 CFR 364	Standards of Safety and Soundness	3064-AB68

Long-Term Actions

Sequence Number		Title	Regulation Identifier Number
4556	12 CFR 308	Censure, Suspension, and Debarment of Independent Public Accountants	3064-AA64
4557	12 CFR 354	Deposit Liabilities	3064-AA92
4558	12 CFR 357	Determination of Economically Depressed Regions	3064-AB08
4559	12 CFR 327	Assessments—Assessment Base	3064-AB46

Completed Actions

Sequence Number		Title	Regulation Identifier Number
4560	5 CFR 2635	Supplemental Requirements for Standards of Conduct	3064-AA08
4561	12 CFR 303	Standards for Safety and Soundness	3064-AB13
4562	12 CFR 325	Capital Maintenance—Interest Rate Risk	3064-AB22
4563	12 CFR 360	Receivership Rules—National Depositor Preference	3064-AB25
4564	12 CFR 345	Community Reinvestment	3064-AB27
4565	12 CFR 325	Capital Maintenance—Risk-Based Capital Standards; Derivative Transactions	3064-AB43
4566	12 CFR 339	Flood Hazard Insurance	3064-AB51
4567	12 CFR 308	Uniform Rules of Practice and Procedure	3064-AB52
4568	12 CFR 325	Capital Maintenance—Small Business Obligations Transferred With Recourse	3064-AB57
4569	12 CFR 327	Assessments—BIF Rate Schedule	3064-AB58
4570	12 CFR 327	Assessments—SAIF Rate Schedule	3064-AB59
4571	12 CFR 325	Capital Maintenance—PMSRs/OMSRs	3064-AB61
4572	12 CFR 327	Assessments	3064-AB65

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Prerule Stage

4540. ELIGIBILITY FOR DEPOSIT INSURANCE; BEING ENGAGED IN THE BUSINESS OF RECEIVING DEPOSITS OTHER THAN TRUST FUNDS AND RELATED ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1819

CFR Citation: 12 CFR ch III

Legal Deadline: None

Abstract: Being "engaged in the business of receiving deposits other than trust funds" is a necessary condition for consideration of an application for deposit insurance and for continued insurance after an application has been granted. However, the FDIC has never defined by way of regulation or policy statement what constitutes being "engaged in the business of receiving deposits other than trust funds." The FDIC is now considering a rulemaking to do that; this regulatory action will assist the FDIC in that effort.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melinda West Schwartzstein, Review Examiner, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6919

RIN: 3064–AB40

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Proposed Rule Stage

4541. CAPITAL MAINTENANCE—RECOURSE ARRANGEMENTS AND DIRECT CREDIT SUBSTITUTES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: The FDIC, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision ("Agencies") are revising their risk-based capital standards to address the regulatory capital treatment of recourse arrangements and direct credit substitutes that expose banks, bank holding companies, and thrifts to credit risk. One portion of the NPRM addressing the risk-based capital treatment of low-level recourse transactions is required to be published as a separate final rule by CDRI.

In addition, the Agencies published, in an ANPRM, a preliminary proposal to use credit ratings to match the risk-based capital assessment more closely to an institution's relative risk of loss in certain asset securitizations. The Agencies are also seeking comment on the need for a similar system for unrated asset securitizations and on how such a system would be designed. The Agencies intend that any final rules adopted in connection with these regulatory actions that result in increased risk-based capital requirements would apply only to transactions that are consummated after the effective dates of such final rules.

Timetable:

Credit Ratings
- ANPRM 05/25/94 (59 FR 27116)
- ANPRM Comment Period End 07/25/94
- NPRM 02/00/96

Recourse/Direct Credit Substitutes
- NPRM 05/25/94 (59 FR 27116)
- NPRM Comment Period End 07/25/94
- Final Action 06/00/96

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert F. Storch, Chief, Accounting Section, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8906

RIN: 3064–AB31

4542. RESTRICTIONS ON SALE OF ASSETS BY THE FDIC

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1849; PL 103-204

CFR Citation: 12 CFR 340

Legal Deadline: None

Abstract: This regulatory action implements provisions in the Resolution Trust Corporation Completion Act of 1993 that require assets held by the FDIC in the course of liquidating federally insured depository institutions not to be sold to persons who, in ways specified in the Act, contributed to the demise of the institution.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph Fellerman, Senior Liquidation Specialist (Credit), Division of Depositor and Asset Services, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6879

RIN: 3064–AB37

4543. PROGRAM FRAUD CIVIL REMEDIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; PL 103-204

CFR Citation: 12 CFR 308

Legal Deadline: None

Abstract: The Program Fraud Civil Remedies Act ("PFCRA") requires specified Federal agencies to follow certain procedures to recover penalties and assessments against persons who file false claims and statements. The Resolution Trust Corporation Completion Act (PL 103-204) subjects the FDIC to the requirements of the PFCRA. An interagency task force was established by the President's Council on Integrity and Efficiency to develop model regulations for implementing the PFCRA. This regulatory action adopts, with minor variations, the model regulations set forth by the Council's task force.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark A. Mellon, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6919

RIN: 3064–AB41

4544. • REPORTS OF APPARENT CRIMES AFFECTING INSURED NONMEMBER BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 248; 12 USC 625; 12 USC 1818; 12 USC 1844; 12 USC 1881 to 1884; 12 USC 3401 to 3422

CFR Citation: 12 CFR 353

Legal Deadline: None

Abstract: This regulatory action implements a new interagency suspicious activity referral process and updates and clarifies various portions of the underlying reporting regulation. It reduces the reporting burden while enhancing access to such information by both the federal law enforcement and the federal financial institutions supervisory agencies.

Timetable:

Action	Date	FR Cite
NPRM	09/14/95	60 FR 47719
NPRM Comment Period End	11/13/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol A. Mesheske, Chief, Special Activities Section, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 898-6750

RIN: 3064–AB63

4545. • LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-325

CFR Citation: 12 CFR 339

Legal Deadline: None

Abstract: The OCC, FRB, FDIC, OTS, and NCUA are jointly sponsoring this regulatory action regarding loans in areas having special flood hazards. This regulation is required by CDRI.

FDIC — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53962
NPRM Comment Period End	12/18/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Mellon, Senior Attorney, Federal Deposit Insurance Corporation, Washington, DC 24029
Phone: 202 898-3854

RIN: 3064–AB66

4546. • RECEIVERSHIP RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1821; PL 101-73

CFR Citation: 12 CFR 360

Legal Deadline: None

Abstract: This rulemaking defines (1) spot and other short-term foreign exchange agreements and (2) repurchase agreements on qualified foreign government securities to be qualified financial contracts "QFCs" under the FDI Act, 12 USC 1811 et seq. The promulgation of this rule is not intended to exclude other agreements which otherwise may qualify as QFCs. The FDI Act provides special rules for the treatment of QFCs in the event that the FDIC is appointed receiver or conservator for an insured depository institution in default. Parties to QFCs are permitted to liquidate, terminate, and net their agreements.

Timetable:

Action	Date	FR Cite
NPRM	09/21/95	60 FR 48935
NPRM Comment Period End	11/20/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Powers Silvertsen, Assistant General Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 736-0112

RIN: 3064–AB69

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Final Rule Stage

4547. GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1828

CFR Citation: 12 CFR 359

Legal Deadline: None

Abstract: This rulemaking limits golden parachute and indemnification payments made to institution-affiliated parties by depository institutions and depository institution holding companies. The limitations apply to insured depository institutions in a troubled condition, and to affiliated depository institution holding companies either if the holding company itself is troubled, or if it seeks to make a golden parachute payment to an institution-affiliated party of a troubled subsidiary insured depository institution.

Timetable:

Action	Date	FR Cite
NPRM	10/07/91	56 FR 50529
NPRM Comment Period End	12/06/91	
Second NPRM	03/29/95	60 FR 16069
Second NPRM Comment Period End	05/30/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey M. Kopchik, Counsel, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429
Phone: 202 898-3872

RIN: 3064–AB11

4548. CONTRACTOR ETHICS

Priority: Other

Legal Authority: 12 USC 1819; 12 USC 1822

CFR Citation: 12 CFR 366

Legal Deadline: None

Abstract: This regulatory action establishes standards regarding conflicts of interest and ethical responsibilities for independent contractors doing business with the FDIC. The rule is required by the Resolution Trust Corporation Completion Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	06/24/94	59 FR 32661
NPRM Comment Period End	08/23/94	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lantelme, Assistant General Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 736-0120

RIN: 3064–AB39

4549. INDEPENDENT AUDITS AND REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831; PL 103-325

CFR Citation: 12 CFR 363

Legal Deadline: None

Abstract: This regulatory action implements section 314 of the CDRI. It provides relief from certain duplicative reporting requirements for sound, well-managed institutions with over $9 billion in assets which are subsidiaries of multibank holding companies. It also provides that the FDIC will notify a large insured institution in writing if it decides a review by an independent public accountant of the institution's quarterly financial reports is required. This regulatory action also includes several minor technical amendments to the guidelines and interpretations concerning compliance with the audit requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/15/95	60 FR 8583
NPRM Comment Period End	04/17/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doris L. Marsh, Examination Specialist, Division of

FDIC — Final Rule Stage

Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8905

RIN: 3064–AB47

4550. UNIFORM RULES OF PRACTICE AND PROCEDURE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1972

CFR Citation: 12 CFR 308

Legal Deadline: None

Abstract: The Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the FDIC, the Office of Thrift Supervision, and the National Credit Union Administration are jointly proposing this regulatory action to clarify provisions that have given rise to confusion and to increase the efficiency and fairness of administrative hearings. The changes are primarily technical in nature.

Timetable:

Action	Date	FR Cite
NPRM	06/23/95	60 FR 32882
NPRM Comment Period End	08/22/95	
Final Action	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrea Winkler, Counsel, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3764

RIN: 3064–AB49

4551. CAPITAL MAINTENANCE—OECD COUNTRIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; PL 102-203; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This regulatory action modifies the definition of the OECD-based group of countries in the FDIC's risk-based capital guidelines. Claims on the governments and banks of this group generally receive lower risk weights than corresponding claims on the governments and banks of non-OECD based countries. This amendment is based on an announcement by the Basle Committee on Banking Supervision that, subject to national consultation, the Basle Committee plans to introduce a change to the Basle Accord in 1995. The effect of this modification would be to exclude from the OECD-based group of countries which are eligible for the lower risk weights any country that has rescheduled its external sovereign debt within the previous five years.

Timetable:

Action	Date	FR Cite
NPRM	02/15/95	60 FR 8582
NPRM Comment Period End	03/17/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AB54

4552. • FOREIGN BANKS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-328

CFR Citation: 12 CFR 346

Legal Deadline: Final, Statutory, September 29, 1995.

Abstract: This rulemaking implements section 107 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (PL 103-328), which provides that the FDIC restrict the amounts and types of initial deposits of less than $100,000 which could be accepted by an uninsured state-licensed branch of a foreign bank. This rulemaking is intended to afford equal competitive opportunity to foreign and domestic banks.

Timetable:

Action	Date	FR Cite
NPRM	07/13/95	60 FR 36074
NPRM Comment Period End	09/11/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles V. Collier, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6850

RIN: 3064–AB62

4553. • CAPITAL MAINTENANCE; RISK-BASED CAPITAL STANDARDS: MARKET RISK

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; PL 102-233; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: The Office of the Comptroller of the Currency, the Federal Reserve System, and the FDIC are jointly amending their risk-based capital requirements to incorporate a measure for market risk. The amendments generally apply only to institutions that have (1) total assets exceeding $5 billion and either on-balance-sheet trading activities representing at least 3 percent of total assets or a volume of off-balance-sheet trading activities with notional amounts exceeding $5 billion, or (2) total assets of $5 billion or less and a volume of trading activities representing at least 10% of total assets. Capital charges for market risk will be calculated by such institutions using either their own internal value-at-risk model(s), or, alternatively, risk measurement techniques developed by supervisors. The effect of this measure is to require certain institutions to hold hold capital based on the measure of their market risk exposure.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 38082
NPRM Comment Period End	09/18/95	
Final Action	04/30/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Stark, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6972

RIN: 3064–AB64

4554. • DISCLOSURE OF INFORMATION

Priority: Other

Legal Authority: 5 USC 552

FDIC — Final Rule Stage

CFR Citation: 12 CFR 309

Legal Deadline: None

Abstract: This rulemaking accommodates changes in the organizational structure of the FDIC, provides clearer guidance to requesters of information on how to obtain records under the Freedom of Information Act, and allows the FDIC to charge appropriate fees for records.

Timetable:

Action	Date	FR Cite
NPRM	07/06/95	60 FR 35148
NPRM Comment Period End	09/05/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul A. Jeddeloh, Senior Program Attorney, Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-7161

RIN: 3064–AB67

4555. • STANDARDS OF SAFETY AND SOUNDNESS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-242; PL 103-325; 12 USC 1831p-1

CFR Citation: 12 CFR 364

Legal Deadline: None

Abstract: The FDIC, the Office of the Comptroller of the Currency, the Federal Reserve System, and the Office of Thrift Supervision, jointly proposed asset quality and earnings standards to be added to the Interagency Guidelines Establishing Standards for Safety and Soundness, appearing as an appendix to each of the agencies' standard for safety and soundness regulations. The agencies may require an insured depository institution to file a compliance plan for failure to meet these asset quality and earnings standards when adopted in final form.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35688
NPRM Comment Period End	08/24/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert W. Walsh, Manager, Planning and Program Development, Division of Supervision, Federal Deposit Insurance Corporation, WAshington, DC 20429
Phone: 202 898-6911

RIN: 3064–AB68

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Long-Term Actions

4556. CENSURE, SUSPENSION, AND DEBARMENT OF INDEPENDENT PUBLIC ACCOUNTANTS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 308

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doris L. Marsh
Phone: 202 898-8905

RIN: 3064–AA64

4557. DEPOSIT LIABILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 354

Timetable:

Action	Date	FR Cite
NPRM	11/25/88	53 FR 47723
NPRM Comment Period End	01/24/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan J. Kaplan
Phone: 202 898-3734

RIN: 3064–AA92

4558. DETERMINATION OF ECONOMICALLY DEPRESSED REGIONS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 357

Timetable:

Action	Date	FR Cite
NPRM	12/18/92	57 FR 60140
NPRM Comment Period End	02/16/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alice Weicher
Phone: 202 898-7096

RIN: 3064–AB08

4559. ASSESSMENTS—ASSESSMENT BASE

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 327

Timetable:

Action	Date	FR Cite
ANPRM	10/05/94	59 FR 50710
ANPRM Comment Period End	02/02/95	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Farrell
Phone: 703 516-5546

RIN: 3064–AB46

4560. SUPPLEMENTAL REQUIREMENTS FOR STANDARDS OF CONDUCT

Priority: Other

Legal Authority: 5 USC app Ethics in Government Act of 1978; 12 USC 1819; 26 USC 1043; EO 12674; EO 12731; PL 103-204

CFR Citation: 5 CFR 2635; 5 CFR 3201; 12 CFR 336

Legal Deadline: None

Abstract: A rule published by the Office of Government Ethics ("OGE") at 5 CFR 2635 replaced all agency ethics rules, including the FDIC's. OGE's rule permits supplemental rules on certain conflicts of interest unique to each agency. The FDIC has published such supplemental regulations at 5 CFR 3201 relating to extensions of credit, restrictions on holding the securities of federally insured depository institutions, restrictions on the purchase of the property of failed federally insured depository institutions, interest in FDIC decisions, and related matters. This supplemental rule incorporates provisions from the FDIC Employee Responsibilities and Conduct regulation (12 CFR 336). This rulemaking is pursuant to section 19(a) of the Resolution Trust Corporation Completion Act.

Timetable:

Action	Date	FR Cite
NPRM	07/12/94	59 FR 35480
NPRM Comment Period End	09/12/94	
Final Action	04/25/95	60 FR 20171
Final Action Effective	05/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Katherine A. Corigliano, Assistant Executive Secretary (Ethics), Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-7272

RIN: 3064–AA08

4561. STANDARDS FOR SAFETY AND SOUNDNESS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-242, sec 132

CFR Citation: 12 CFR 303; 12 CFR 308; 12 CFR 364

Legal Deadline: Final, Statutory, August 1, 1993.
Final regulations must be promulgated by 08/01/93, with an effective date no later than 12/01/93.

Abstract: Section 132 of FDICIA requires Federal financial institutions regulators, including the FDIC, to prescribe by regulation certain safety and soundness standards for insured depository institutions and depository institution holding companies. Standards must be prescribed in three principal areas: (1) operational and managerial; (2) asset quality and earnings; and (3) employee compensation. Under this regulatory action, an insured depository institution or depository institution holding company that fails to meet any of the prescribed standards, will be required to submit and implement an acceptable plan to achieve compliance. Failure to submit or implement such a plan within the time allowed will result in an order to correct the deficiency.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/92	57 FR 31336
ANPRM Comment Period End	09/14/92	
NPRM	11/18/93	58 FR 60802
NPRM Comment Period End	01/03/94	
Final Action	07/10/95	60 FR 35674
Final Action Effective	08/09/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert W. Walsh, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6911

RIN: 3064–AB13

4562. CAPITAL MAINTENANCE—INTEREST RATE RISK

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 3907; 12 USC 3909; PL 102-233; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: Final, Statutory, June 19, 1993.

Abstract: This rule implements that part of section 305 of FIRREA which requires each Federal banking agency to revise its risk-based capital standards for insured depository institutions to ensure that those standards take adequate account of interest rate risk. This regulatory action is being pursued jointly with the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System.

Timetable:

Action	Date	FR Cite
ANPRM	08/10/92	57 FR 35507
ANPRM Comment Period End	10/09/92	
NPRM	09/14/93	58 FR 48206
NPRM Comment Period End	10/29/93	
Final Action	08/02/95	60 FR 39490
Final Action Effective	09/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Stark, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6972

RIN: 3064–AB22

4563. RECEIVERSHIP RULES—NATIONAL DEPOSITOR PREFERENCE

Priority: Other

Legal Authority: 12 USC 1821

CFR Citation: 12 CFR 360

Legal Deadline: None

Abstract: On August 10, 1993, Congress amended section 11(d)(11) of the FDI Act to establish priorities for paying claims against failed institutions. The priorities are as follows: (1) administrative expenses of the receiver, (2) deposit liabilities, (3) other general or senior liabilities, (4) subordinated debts, (5) shareholders' obligations. This regulatory action clarifies the requirements of the statute regarding the expenses that may be included as administrative expenses of the receiver.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/13/93	58 FR 43069
Interim Final Rule Effective Date	08/13/93	
Interim Final Rule Comment Period End	10/12/93	
Final Action	07/10/95	60 FR 35487
Final Action Effective	07/10/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen N. Graham, Associate Director, Division of Liquidation, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-7377

RIN: 3064–AB25

4564. COMMUNITY REINVESTMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 95-128

CFR Citation: 12 CFR 345

Legal Deadline: None

Abstract: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the FDIC, and the Office of Thrift Supervision developed new regulations and standards for procedures assessing a financial institution's performance under the Community Reinvestment Act (CRA). The agencies' goal is to reform CRA regulations and supervision in order to improve performance, clarify standards, and make CRA performance assessments more objective.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/93	58 FR 44138
NPRM	12/21/93	58 FR 67466
NPRM Comment Period End	03/24/94	59 FR 5138
Second NPRM	10/07/94	59 FR 51232
Second NPRM Comment Period End	11/21/94	
Final Action 12 CFR 345.3 through 345.7, and 345.51	05/04/95	60 FR 22156
Final Action Effective	07/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice Smith, Associate Director, Division of Compliance and Consumer Affairs, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6777

RIN: 3064–AB27

4565. CAPITAL MAINTENANCE—RISK-BASED CAPITAL STANDARDS; DERIVATIVE TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: The FDIC, the OCC, and the FRB are amending their risk-based capital standards to implement a revision to the Basle Accord. The effect of this revision is twofold. First, long-dated interest rate and exchange rate contracts are subject to higher conversion factors and new conversion factors are set forth that specifically apply to derivative contracts related to equities, precious metals, and other commodities. Second, institutions are permitted to recognize a reduction in potential future credit exposure for transactions subject to qualifying bilateral netting arrangements.

Timetable:

Action	Date	FR Cite
NPRM	10/19/94	59 FR 52714
NPRM Comment Period End	12/05/94	
Final Action	09/05/95	60 FR 46170
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Stark, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6972

RIN: 3064–AB43

4566. FLOOD HAZARD INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-325

CFR Citation: 12 CFR 339

Legal Deadline: None

Abstract: This regulatory action requires depository institutions to use the Standard Flood Hazard Determination Form in determining whether real property offered as collateral for a loan is located in a special flood hazard area. The FDIC's regulation was published jointly with the Office of the Comptroller of the Currency, the Federal Reserve System, the Office of Thrift Supervision, the Farm Credit Administration, and the National Credit Union Administration.

Timetable:

Action	Date	FR Cite
Final Action	07/06/95	60 FR 35286
Final Action Effective	01/02/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara L. Boehm, Consumer Affairs Specialist, Division of Compliance and Consumer Affairs, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3539

RIN: 3064–AB51

4567. UNIFORM RULES OF PRACTICE AND PROCEDURE

Priority: Other

Legal Authority: 5 USC 504; 5 USC 554 to 557; 12 USC 1815; 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1828; 12 USC 1829; 15 USC 781

CFR Citation: 12 CFR 308

Legal Deadline: None

Abstract: This amendment clarifies that the rules relating to ex parte communications do not apply to intra-agency communications, which are governed by a separate provision of the Administrative Procedure Act. The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Office of Thrift Supervision, and the National Credit Union Administration have all separately proposed similar changes.

Timetable:

Action	Date	FR Cite
NPRM	11/29/94	59 FR 60921
NPRM Comment Period End	12/29/94	
Final Action	05/10/95	60 FR 24761
Final Action Effective	06/09/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrea Winkler, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3764

RIN: 3064–AB52

4568. CAPITAL MAINTENANCE—SMALL BUSINESS OBLIGATIONS TRANSFERRED WITH RECOURSE

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-325

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking has the effect of lowering the capital

requirement on certain small business obligations transferred with recourse. It implements section 208 of CDRI.

Timetable:

Action	Date	FR Cite
Final Action	08/31/95	60 FR 45606
Comments on this interim rule are due by 8/30/95.		
Final Action Effective	08/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429 Phone: 202 898-7049

RIN: 3064–AB57

4569. ASSESSMENTS—BIF RATE SCHEDULE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1441; 12 USC 1817 to 1819

CFR Citation: 12 CFR 327

Legal Deadline: None

Abstract: This rule establishes a new assessment rate schedule of 4-31 basis points for institutions whose deposits are subject to assessment by the Bank Insurance Fund ("BIF"). The new schedule applies beginning on the first day of the month after the month in which the BIF achieves the designated reserve ratio ("DRR") of 1.25 percent of total deposits. Further this rule widens the assessment rate spread from 8 basis points to 27 basis points. Finally, the rule establishes a procedure for adjusting the rate schedule semiannually by means of an adjustment factor of plus or minus 5 basis points as necessary to maintain the DRR at 1.25 percent.

Timetable:

Action	Date	FR Cite
NPRM	02/16/95	60 FR 9270
NPRM Comment Period End 04/17/95	02/16/95	60 FR 9270
Final Action	08/16/95	60 FR 42680
Final Action Effective	09/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frederick S. Carns, Chief, Financial Markets Section, Division of Research, Federal Deposit Insurance Corporation, Washington, DC 20429 Phone: 202 898-3930

RIN: 3064–AB58

4570. ASSESSMENTS—SAIF RATE SCHEDULE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1441; 12 USC 1817 to 1819

CFR Citation: 12 CFR 327

Legal Deadline: None

Abstract: This rule retains the existing assessment rate schedule of 23-31 basis points, depending on risk classification, for institutions whose deposits are subject to assessment by the Savings ASsociation Insurance Fund.

Timetable:

Action	Date	FR Cite
NPRM	02/16/95	60 FR 9266
NPRM Comment Period End	04/17/95	
Final Action	08/16/95	60 FR 42741
Final Action Effective	09/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James R. McFadyen, Senior Financial Analyst, Division of Research and Statistics, Federal Deposit Insurance Corporation Phone: 202 898-7027

RIN: 3064–AB59

4571. • CAPITAL MAINTENANCE—PMSRS/OMSRS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This regulatory action amends the capital adequacy standards for banks, bank holding companies, and savings associations to treat originated mortgage servicing rights ("OMSRs") the same as purchased mortgage servicing rights ("PMSRs") for regulatory capital purposes. The rule was developed together with the Federal Reserve System, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision, in response to the Financial Accounting Standards Board's issuance of Statement No. 122, "Accounting for Mortgage Servicing Rights," which eliminates the distinction between OMSRs and PMSRs by requiring OMSRs to be capitalized as balance sheet assets, a treatment previously required only for PMSRs.

Timetable:

Action	Date	FR Cite
Final Action	08/01/95	60 FR 39226
Final Action Effective	08/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429 Phone: 202 898-3731

RIN: 3064–AB61

4572. • ASSESSMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1441; 12 USC 1817 to 1819

CFR Citation: 12 CFR 327

Legal Deadline: None

Abstract: This regulatory action changes assessment procedures in three ways. First, it delays the collection date for the first quarterly assessment for the first semiannual period. Second, it gives insured institutions the option of prepaying the first quarterly payment during the prior December. The FDIC's purpose in making these two changes is to relieve certain institutions of the regulatory burden of having to make an extra assessment payment in 1995, while at the same time affording flexibility to other institutions to make such a payment if they so desire. Third, the rulemaking replaces the interest rate applied to underpayments and overpayments of assessments with a new, more sensitive rate derived from the three-month Treasury bill discount rate, making the rate more sensitive to market conditions.

Timetable:

Action	Date	FR Cite
NPRM	08/10/95	60 FR 40776
NPRM Comment Period End	09/11/95	
Final Action	09/29/95	60 FR 50400
Final Action Effective	09/29/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Long, Assistant Director, Division of Finance, Federal Deposit Insurance Corporation, Washington, DC 20429 Phone: 703 516-5546

RIN: 3064–AB65

[FR Doc. 95-23626 Filed 11-24-95; 8:45 am]

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Federal Register

Tuesday
November 28, 1995

Part LIV

Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with guidance issued by the Office of Management and Budget (OMB), the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. Of the 23 rulemakings listed, 15 are current or projected rulemakings, and 8 are completed actions.

DATES: The dates provided represent goals, not commitments, and may be revised due to shifts in workload, changes in priorities, or extensive public comments. See the various dates listed for each specific rulemaking.

ADDRESSES: Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Person listed for each specific rulemaking.

Lois D. Cashell,

Secretary.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4573	Promoting Wholesale Competition Through Open Access Nondiscriminatory Transmission Service by Public Utilities	1902-AB65

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4574	Administrative Determination of Full Avoided Costs, Sales of Power to Qualifying Facilities and Interconnection Facilities	1902-AB00
4575	Revisions to the Certification Statement and Regulations and to the Basic Financial Statements of FERC Annual Reports for Electric Utilities, Licensees, and Natural Gas Companies	1902-AB20
4576	Modification of Steam-Electric Plant Schedules, Hydroelectric Plant Schedules, and Pumped Storage Plant Schedules in the FERC Form No. 1	1902-AB21
4577	Elimination of Unneeded Pages in the FERC Form No. 1	1902-AB33
4578	Revision of the Commission's Preservation of Records Regulations for Public Utilities, Licensees, Natural Gas Companies, and Oil Pipeline Companies	1902-AB34
4579	Elimination of Unnecessary Filing Requirements From the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees	1902-AB35
4580	Recovery of Stranded Costs by Public Utilities and Transmitting Utilities	1902-AB56
4581	Treatment of Responses to FERC Form No. 580 Interrogatories	1902-AB57
4582	Revision of Fuel Cost-Adjustment Clause Regulation Relating to Fuel Purchases From Company-Owned or Controlled Source	1902-AB58
4583	Alternative Power Pooling Institutions Under the Federal Power Act	1902-AB59
4584	Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs	1902-AB62
4585	Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies	1902-AB64
4586	Real-Time Information Networks; Notice of Technical Conference and Request for Comments	1902-AB66
4587	Minimum Filing Requirements for FERC Form No. 6, Annual Report for Oil Pipelines	1902-AB67

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4588	Administrative Dispute Resolution	1902-AB24
4589	Streamlining of Regulations Pertaining to Parts II and III of the Federal Power Act and the Public Utility Regulatory Policies Act of 1978	1902-AB32
4590	Charges and Fees for Hydroelectric Projects	1902-AB38
4591	Electronic Filing of FERC Form No. 1 and Delegation to Chief Accountant	1902-AB48
4592	Project Decommissioning at Relicensing	1902-AB50
4593	Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act	1902-AB54

FERC

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4594	Use of Reserved Authority in Hydropower Licenses to Ameliorate Cumulative Impacts	1902-AB55
4595	Release of Firm Capacity on Interstate Natural Gas Pipelines	1902-AB63

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Proposed Rule Stage

4573. • PROMOTING WHOLESALE COMPETITION THROUGH OPEN ACCESS NONDISCRIMINATORY TRANSMISSION SERVICE BY PUBLIC UTILITIES

Priority: Routine and Frequent

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 43 USC 7101 to 7352

CFR Citation: 18 CFR 35

Legal Deadline: None

Abstract: The Commission proposes to require public utilities to offer transmission access to others on a basis comparable to utilities' own use of transmission systems. (Docket No. RM95-8-000)

Timetable:

Action	Date	FR Cite
NPRM	04/07/95	60 FR 17662
NPRM Comment Period End	10/04/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Withnell, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426
Phone: 202 208-2063

RIN: 1902–AB65

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Long-Term Actions

4574. ADMINISTRATIVE DETERMINATION OF FULL AVOIDED COSTS, SALES OF POWER TO QUALIFYING FACILITIES AND INTERCONNECTION FACILITIES

Priority: Routine and Frequent

CFR Citation: 18 CFR 292

Timetable:

Action	Date	FR Cite
NPRM	03/22/88	53 FR 9331
NPRM Comment Period End	06/14/88	53 FR 9331
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel L. Larcamp
Phone: 202 208-2088

RIN: 1902–AB00

4575. REVISIONS TO THE CERTIFICATION STATEMENT AND REGULATIONS AND TO THE BASIC FINANCIAL STATEMENTS OF FERC ANNUAL REPORTS FOR ELECTRIC UTILITIES, LICENSEES, AND NATURAL GAS COMPANIES

Priority: Other

CFR Citation: 18 CFR 41; 18 CFR 158

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James G. Baird
Phone: 202 219-2613

RIN: 1902–AB20

4576. MODIFICATION OF STEAM-ELECTRIC PLANT SCHEDULES, HYDROELECTRIC PLANT SCHEDULES, AND PUMPED STORAGE PLANT SCHEDULES IN THE FERC FORM NO. 1

Priority: Other

CFR Citation: 18 CFR 41

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph M. Harkins
Phone: 202 219-2617

RIN: 1902–AB21

4577. ELIMINATION OF UNNEEDED PAGES IN THE FERC FORM NO. 1

Priority: Other

CFR Citation: 18 CFR 141

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Audrey C. Wong
Phone: 202 219-3017

RIN: 1902–AB33

4578. REVISION OF THE COMMISSION'S PRESERVATION OF RECORDS REGULATIONS FOR PUBLIC UTILITIES, LICENSEES, NATURAL GAS COMPANIES, AND OIL PIPELINE COMPANIES

Priority: Other

CFR Citation: 18 CFR 125; 18 CFR 225; 18 CFR 356

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Lynch
Phone: 202 219-3012

RIN: 1902–AB34

4579. ELIMINATION OF UNNECESSARY FILING REQUIREMENTS FROM THE COMMISSION'S UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES

Priority: Other

CFR Citation: 18 CFR 101

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James G. Baird
Phone: 202 219-2613

RIN: 1902–AB35

4580. RECOVERY OF STRANDED COSTS BY PUBLIC UTILITIES AND TRANSMITTING UTILITIES

Priority: Routine and Frequent

CFR Citation: 18 CFR 35

Timetable:

Action	Date	FR Cite
NPRM	07/11/94	59 FR 35274
NPRM Comment Period End	12/09/94	59 FR 41739
Supplemental NPRM	04/07/95	60 FR 17662
NPRM Comment Period End	08/07/95	
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah Leahy
Phone: 202 208-2039

RIN: 1902–AB56

4581. TREATMENT OF RESPONSES TO FERC FORM NO. 580 INTERROGATORIES

Priority: Other

CFR Citation: 18 CFR 141; 18 CFR 388

Timetable:

Action	Date	FR Cite
NPRM	12/01/93	58 FR 63312
NPRM Comment Period End	03/04/94	59 FR 1690
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Cohen
Phone: 202 208-2046

RIN: 1902–AB57

4582. REVISION OF FUEL COST-ADJUSTMENT CLAUSE REGULATION RELATING TO FUEL PURCHASES FROM COMPANY-OWNED OR CONTROLLED SOURCE

Priority: Routine and Frequent

CFR Citation: 18 CFR 35

Timetable:

Action	Date	FR Cite
NPRM	10/01/93	58 FR 51259
NPRM Comment Period End	11/01/93	58 FR 51259
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wayne W. Miller
Phone: 202 208-0466

RIN: 1902–AB58

4583. ALTERNATIVE POWER POOLING INSTITUTIONS UNDER THE FEDERAL POWER ACT

Priority: Other

CFR Citation: 18 CFR ch 1

Timetable:

Action	Date	FR Cite
Notice of Inquiry (NOI)	11/02/94	59 FR 54851
NOI Comment Period End	03/02/95	59 FR 54851
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Janice MacPherson
Phone: 202 208-0921

RIN: 1902–AB59

4584. FILING AND REPORTING REQUIREMENTS FOR INTERSTATE NATURAL GAS COMPANY RATE SCHEDULES AND TARIFFS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 18 CFR 154

Timetable:

Action	Date	FR Cite
NPRM	01/13/95	60 FR 3111
NPRM Comment Period End	04/13/95	60 FR 3111
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard A. White
Phone: 202 208-0491

RIN: 1902–AB62

4585. REVISIONS TO UNIFORM SYSTEM OF ACCOUNTS, FORMS, STATEMENTS, AND REPORTING REQUIREMENTS FOR NATURAL GAS COMPANIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 18 CFR 158; 18 CFR 201; 18 CFR 250; 18 CFR 260; 18 CFR 284

Timetable:

Action	Date	FR Cite
NPRM	01/13/95	60 FR 3141
NPRM Comment Period End	04/13/95	60 FR 3141
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey A. Braunstein
Phone: 202 208-2114

RIN: 1902–AB64

4586. • REAL-TIME INFORMATION NETWORKS; NOTICE OF TECHNICAL CONFERENCE AND REQUEST FOR COMMENTS

Priority: Other

Legal Authority: 5 USC 301 to 305; 5 USC 551 to 557; 15 USC 79; 16 USC 791a to 828c; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 141; 18 CFR 388

Legal Deadline: None

Abstract: The Commission held a technical conference and requested comments on real-time information networks to ensure transmission customers access to the same information on transmission system use as public utilities. (Docket No. RM95-9-000)

Timetable:

Action	Date	FR Cite
ANPRM	04/07/95	60 FR 17726
ANPRM Comment Period End	07/06/95	60 FR 31428
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Cohen, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426
Phone: 202 208-0321

RIN: 1902–AB66

4587. • MINIMUM FILING REQUIREMENTS FOR FERC FORM NO. 6, ANNUAL REPORT FOR OIL PIPELINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717w; 15 USC 3301 to 3432; 16 USC 791a to 825r; 16 USC 2601 to 2645; 42 USC 7101 to 7352; 49 USC 60502; 49 USC 1 to 85 (app)

CFR Citation: 18 CFR 357; 18 CFR 382

Legal Deadline: None

Abstract: The Commission proposes to exempt from Filing Form No. 6, Annual Report of Oil Pipelines, those pipelines whose jurisdictional operating revenues are at or below $100,000 for each of the preceding calendar years, and to exempt certain oil pipelines from paying annual charges. (Docket No. RM95-12-000)

Timetable:

Action	Date	FR Cite
NPRM	06/14/95	60 FR 31262
NPRM Comment Period End	07/14/95	60 FR 31262
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harris S. Wood, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426
Phone: 202 208-0224

RIN: 1902–AB67

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Completed Actions

4588. ADMINISTRATIVE DISPUTE RESOLUTION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 551 to 557; 5 USC 571 to 583; 15 USC 717 to 717z; 15 USC 3301 to 3432; 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352; 49 USC 60502; 49 USC 1 to 85 (app)

CFR Citation: 18 CFR 343; 18 CFR 385

Legal Deadline: None

Abstract: The Commission has amended its regulations to implement the Administrative Dispute Resolution Act of 1990 (ADRA). The Commission adopted a policy endorsing the use of alternative dispute resolution methods in its proceedings under the provisions of the ADRA. Such methods will be used in lieu of litigation to resolve disputes in Commission proceedings. (Docket No. RM91-12-000.)

Timetable:

Action	Date	FR Cite
Notice of Inquiry	04/24/91	56 FR 18789
Notice of Inquiry Comment Period End	06/24/91	56 FR 18789
NPRM	11/18/94	59 FR 59715
NPRM Comment Period End	02/01/95	59 FR 59715
Final Action Final Rule	04/19/95	60 FR 19494
Final Action Effective	05/19/95	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: David N. Cook, Deputy General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426
Phone: 202 208-0955

RIN: 1902–AB24

4589. STREAMLINING OF REGULATIONS PERTAINING TO PARTS II AND III OF THE FEDERAL POWER ACT AND THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717w; 15 USC 3301 to 3432; 16 USC 791a to 825r; 16 USC 830 to 837h; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 4321 to 4361; 42 USC 7101 to 7352; 49 USC 60502; 49 USC 1 to 85 (app)

CFR Citation: 18 CFR 2; 18 CFR 34; 18 CFR 35; 18 CFR 41; 18 CFR 131; 18 CFR 292; 18 CFR 294; 18 CFR 382; 18 CFR 385

Legal Deadline: None

Abstract: The Commission revised and clarified regulations regarding: rate filings by public utilities; issuances of securities and assumptions of liabilities; and procedural and technical rules governing qualifying facilities. The final rule streamlines the Commission's processing of its

workload and reduces regulatory burdens on the electric utility and qualifying facility industries. (Docket No. RM92-12-000.)

Timetable:

Action	Date	FR Cite
NPRM	11/24/92	57 FR 55176
NPRM Comment Period End	01/15/93	57 FR 55176
Final Rule	01/25/95	60 FR 4831
Final Rule Effective	02/24/95	
Final Action Effective	05/02/95	
Final Action Order on Rehearing and Clarification	05/08/95	60 FR 22503

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andre Goodson, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426
Phone: 202 208-2167

RIN: 1902–AB32

4590. CHARGES AND FEES FOR HYDROELECTRIC PROJECTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 717 to 717w; 16 USC 791 to 828c; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352; 49 USC 60502; 49 USC 1 to 85 (app)

CFR Citation: 18 CFR 11; 18 CFR 381

Legal Deadline: None

Abstract: The Commission revised its regulations governing the assessment of annual charges for the administration of Part I of the Federal Power Act. (Docket No. RM93-7-000.)

Timetable:

Action	Date	FR Cite
NPRM	02/03/94	59 FR 5142
NPRM Comment Period End	04/04/94	59 FR 5142
Final Action Final Rule, Order No. 576	03/22/95	60 FR 15040
Final Action Effective	04/21/95	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Barry Smoler, Deputy Assistant General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426
Phone: 202 208-1269

RIN: 1902–AB38

4591. ELECTRONIC FILING OF FERC FORM NO. 1 AND DELEGATION TO CHIEF ACCOUNTANT

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 551 to 557; 15 USC 79; 15 USC 717 to 717z; 15 USC 3301 to 3432; 16 USC 791 to 828c; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352; 49 USC 60502; 49 USC 1 to 85 (app)

CFR Citation: 18 CFR 141; 18 CFR 375; 18 CFR 385

Legal Deadline: None

Abstract: The Commission amended its regulations to provide for delegations to the Chief Accountant of authority to act on requests for waiver of the FERC Form No. 1 and the FERC Form No. 1-F filing requirements. In addition, the Commission amended its regulations to provide for the electronic filing of FERC Form No. 1. (Docket No. RM93-20-000.)

Timetable:

Action	Date	FR Cite
NPRM	07/29/93	58 FR 40606
Final Rule, Order 564	01/13/94	59 FR 1917
Final Rule Effective	02/14/94	59 FR 1917
Final Rule, Order 574	01/05/95	60 FR 1716
Final Rule Effective	02/06/95	60 FR 1716
Final Action Effective	03/23/95	
Final Action Order on Reconsideration	03/28/95	60 FR 15868

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Mattingly, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426
Phone: 202 208-2070

RIN: 1902–AB48

4592. PROJECT DECOMMISSIONING AT RELICENSING

Priority: Other

Legal Authority: 15 USC 717 to 717w; 15 USC 3301 to 3432; 16 USC 792 to 825y; 16 USC 2601 to 2645; 42 USC 4321 to 4361; 42 USC 7101 to 7352

CFR Citation: 18 CFR 2

Legal Deadline: None

Abstract: The Commission adopted a policy statement that addresses its authority to issue or deny new hydropower licenses at the time of relicensing, and its authority over the decommissioning of a licensed project when no new license is sought or a new license is rejected or denied, as well as pre-retirement planning and funding. The Commission stated that it has the authority to deny new licenses to hydroelectric projects when existing licenses expire. Such action would occur if the Commission concluded that the project, no matter how conditioned, could no longer meet the comprehensive development standard of the Federal Power Act. In the great majority of cases, decommissioning is likely to result from a license holder's desire to abandon an uneconomical facility rather than the Commission deciding it should be closed. The Commission also concluded that its authority over decommissioning extends to determining what project features, beyond the turbines and generators, should be removed, if the project is decommissioned. In issuing future licenses, the Commission may require that funding for decommissioning be provided in certain circumstances. (Docket No. RM93-23-000.)

Timetable:

Action	Date	FR Cite
Notice of Inquiry	09/21/93	58 FR 48991
NOI Comment Period End	02/18/94	58 FR 59423
Policy Statement	01/04/95	60 FR 339
Policy Statement Effective	01/09/95	
Final Action Effective	02/09/95	
Final Action Order on Request for Reconsideration and Rehearing	02/23/95	60 FR 10015

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Joanne Leveque, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426
Phone: 202 208-0961

RIN: 1902–AB50

4593. INQUIRY CONCERNING THE COMMISSION'S PRICING POLICY FOR TRANSMISSION SERVICES PROVIDED BY PUBLIC UTILITIES UNDER THE FEDERAL POWER ACT

Priority: Other

Legal Authority: 15 USC 717 to 717w; 15 USC 3301 to 3432; 16 USC 792 to 825y; 16 USC 2601 to 2645; 42 USC 4321 to 4361; 42 USC 7101 to 7352

CFR Citation: 18 CFR 2

Legal Deadline: None

Abstract: The Commission issued a Policy Statement to announce a general policy on the pricing of transmission services provided by public utilities and transmitting utilities under the Federal Power Act. (Docket No. RM93-19-000.)

Timetable:

Action	Date	FR Cite
Notice of Inquiry (NOI)	07/07/93	58 FR 36400
NOI Comment Period End	01/24/94	58 FR 61684
Policy Statement Effective	10/26/94	59 FR 55031
Policy Statement	11/03/94	59 FR 55031
Final Action Effective	05/22/95	
Final Action Order on Reconsideration and Clarification	05/26/95	60 FR 27878

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah Leahy, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426
Phone: 202 208-2039

RIN: 1902–AB54

4594. USE OF RESERVED AUTHORITY IN HYDROPOWER LICENSES TO AMELIORATE CUMULATIVE IMPACTS

Priority: Other

Legal Authority: 15 USC 717 to 717w; 15 USC 3301 to 3432; 16 USC 792 to 825y; 16 USC 2601 to 2645; 42 USC 4321 to 4361; 42 USC 7101 to 7352

CFR Citation: 18 CFR 2

Legal Deadline: None

Abstract: The Commission adopted a policy statement with respect to the use of reserved authority in licenses for hydropower projects to ameliorate the cumulative impacts of such projects in the same river basin. The policy statement says that if it is not possible to explore all aspects of the cumulative environmental impact of a project at relicensing, the Commission will reserve the right to address them at a later date. The Commission will define the reserved authority as narrowly and precisely as possible. Licensees will be provided notice of any proposed use of the reserved authority and an opportunity for a hearing before the Commission acts. (Docket No. RM93-25-000.)

Timetable:

Action	Date	FR Cite
Notice of Proposed Policy Statement	09/21/93	58 FR 48994
Comment Period End	01/05/94	58 FR 59423
Policy Statement	12/28/94	59 FR 66714
Policy Statement Effective	01/27/95	59 FR 66714
Final Action Effective	02/09/95	
Final Action Order on Reconsideration and Rehearing	02/23/95	60 FR 10015

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Barry Smoler, Deputy Assistant General Counsel, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426
Phone: 202 208-1269

RIN: 1902–AB55

4595. RELEASE OF FIRM CAPACITY ON INTERSTATE NATURAL GAS PIPELINES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 717 to 717w; 15 USC 3301 to 3432; 42 USC 7101 to 7532; 43 USC 1331 to 1356

CFR Citation: 18 CFR 284

Legal Deadline: None

Abstract: The Commission amended its capacity release regulations to permit firm shippers of natural gas to release capacity for up to 31 days without having to comply with the Commission's advance posting and bidding requirements. (Docket No. RM95-5-000.)

Timetable:

Action	Date	FR Cite
NPRM	01/19/95	60 FR 3783
NPRM Comment Period End	02/21/95	60 FR 3783
Final Rule	04/04/95	60 FR 16979
Final Rule effective	05/04/95	
Final Action Order on Rehearing	06/08/95	60 FR 30186
Final Action Effective	07/10/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Goldenberg, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington DC 20426
Phone: 202 208-2294

RIN: 1902–AB63

[FR Doc. 95-23627 Filed 11-24-95; 8:45 am]
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Tuesday
November 28, 1995

Part LV

Federal Housing Finance Board

Semiannual Regulatory Agenda

FEDERAL HOUSING FINANCE BOARD (FHFB)

FEDERAL HOUSING FINANCE BOARD

12 CFR Ch. IX

Agenda of Federal Regulations

AGENCY: Federal Housing Finance Board.

ACTION: Publication of agenda items.

SUMMARY: The Federal Housing Finance Board (Finance Board) hereby publishes items for the Unified Agenda of Federal Regulations. These items reflect the status of the regulatory agenda of the Finance Board as of October 1, 1995.

The Finance Board is an independent agency in the executive branch of Government and is the regulator of the Federal Home Loan Bank System and the Financing Corporation. The Finance Board has an ongoing need to adopt various regulations dealing with its internal administration and the Federal Home Loan Bank System.

ADDRESSES: Executive Secretariat, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2837.

FOR FURTHER INFORMATION CONTACT: Brandon B. Straus, Attorney-Advisor, Office of General Counsel, Room 326, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2589.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulations includes The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Federal Housing Finance Board's Statement of Regulatory Priorities is included in Part II.

By the Federal Housing Finance Board.

Elaine L. Baker,

Executive Secretary.

FEDERAL HOUSING FINANCE BOARD (FHFB) — Proposed Rule Stage

4596. AFFORDABLE HOUSING PROGRAM

Regulatory Plan: This entry is Seq. No. 157 in Part II of this issue of the **Federal Register**.

RIN: 3069–AA28

4597. PRACTICE BEFORE THE BOARD OF DIRECTORS

Priority: Other

Legal Authority: 12 USC 1422b; 5 USC 504; 5 USC 554 to 557

CFR Citation: 12 CFR 914

Legal Deadline: None

Abstract: The Finance Board is proposing to adopt a regulation setting forth the rules for adjudicatory proceedings before the Finance Board.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Guy, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2536

RIN: 3069–AA31

4598. PRICING OF COMMUNITY INVESTMENT PROGRAM ADVANCES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422b; 12 USC 1430

CFR Citation: 12 CFR 935

Legal Deadline: None

Abstract: The Finance Board is proposing to amend its regulations to establish guidelines for pricing Community Investment Program advances.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brandon B. Straus, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589

RIN: 3069–AA32

4599. AFFORDABLE HOUSING MAXIMUM SUBSIDY LIMITATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422b; 12 USC 1430(j)

CFR Citation: 12 CFR 960.9

Legal Deadline: None

Abstract: The Finance Board has adopted an interim rule which amends its Affordable Housing Program (AHP) regulation by revising the maximum subsidy requirements applicable to projects receiving subsidized advances or other assistance from the Federal Home Loan Banks under the AHP.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/07/93	58 FR 17968
NPRM	03/00/96	
NPRM Comment Period End	05/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon B. Like, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930

RIN: 3069–AA34

4600. MODIFICATION OF COMMUNITY SUPPORT REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1430(g)

CFR Citation: 12 CFR 936

Legal Deadline: None

Abstract: The Finance Board issued an advance notice of proposed rulemaking requesting public comment to assist the Finance Board in amending its Community Support regulations to provide standards for the community support requirements for insurance company and credit union members of the Federal Home Loan Bank System.

Timetable:

Action	Date	FR Cite
ANPRM	09/02/93	58 FR 46469
ANPRM Comment Period End	12/31/93	58 FR 58305
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brandon B. Straus, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589

RIN: 3069–AA35

4601. • MEMBERS OF THE FEDERAL HOME LOAN BANKS

Regulatory Plan: This entry is Seq. No. 158 in Part II of this issue of the **Federal Register**.

RIN: 3069–AA41

4602. • SELECTION AND COMPENSATION OF FEDERAL HOME LOAN BANK EMPLOYEES

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1432(a)

CFR Citation: 12 CFR 932

Legal Deadline: None

Abstract: The Finance Board is proposing to amend its regulation on Organization of the Federal Home Loan Banks to transfer to the Banks specific responsibilities for selection and compensation of Bank employees.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Guy, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2536
Fax: 202 408-2580

RIN: 3069–AA42

4603. • FEDERAL HOME LOAN BANK DIVIDENDS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1436

CFR Citation: 12 CFR 932

Legal Deadline: None

Abstract: The Finance Board intends to amend its regulations to establish the standards and conditions under which the Federal Home Loan Banks may pay dividends without prior Finance Board approval.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas D. Sheehan, Director, Office of Policy and Research, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2870

RIN: 3069–AA46

FEDERAL HOUSING FINANCE BOARD (FHFB) — Final Rule Stage

4604. COMMUNITY INVESTMENT PROGRAM

Regulatory Plan: This entry is Seq. No. 159 in Part II of this issue of the **Federal Register**.

RIN: 3069–AA05

4605. PAPERWORK REDUCTION ACT—COLLECTION OF INFORMATION CONTROL NUMBERS

Priority: Other

Legal Authority: 44 USC 3506

CFR Citation: 12 CFR 908

Legal Deadline: None

Abstract: The Finance Board will adopt a new part 908 to its general regulations that will display its current information control numbers issued by the Office of Management and Budget for the Finance Board's forms that require the collection of data.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David A. Guy, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2536

RIN: 3069–AA25

4606. ADVANCES TO NONMEMBER MORTGAGEES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422a(a)(3); 12 USC 1422b(a)(1); 12 USC 1430b

CFR Citation: 12 CFR 935

Legal Deadline: None

Abstract: The Federal Housing Finance Board adopted an interim regulation amending its regulation on Federal Home Loan Bank advances to establish revised and new requirements governing advances to nonmember

mortgagees and to implement provisions of the Housing and Community Development Act of 1992 regarding special advances to qualified nonmember mortgagees that are state housing finance agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/93	58 FR 29474
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah F. Silberman, Deputy General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2570

RIN: 3069–AA27

4607. CLAIMS REGULATION

Priority: Other

Legal Authority: 12 USC 1422b; 12 USC 1438(b); 12 USC 1833e; 31 USC 3711(e); 31 USC 3721

CFR Citation: 12 CFR 902

Legal Deadline: None

Abstract: The Finance Board is proposing to issue a regulation governing the procedures and standards for the administrative collection, compromise, and termination of agency collection, and the referral of claims to the General Accounting Office of the Department of Justice for litigation of civil claims. The regulation also establishes the Finance Board's procedures and standards governing claims filed against the Finance Board by employees for loss or damage to personal property.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Guy, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2536

RIN: 3069–AA30

4608. MODIFICATION OF DEFINITION OF DEPOSITS IN BANKS OR TRUST COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422b; 12 USC 1431(g)

CFR Citation: 12 CFR 931.5

Legal Deadline: None

Abstract: The Finance Board issued a proposed rule amending the definition of "deposits in banks or trust companies" in section 931.5 of its regulations in order to include sales of Federal funds to banks in the category of investments that are eligible to fulfill the Federal Home Loan Banks' liquidity requirement contained in section 11(g) of the Federal Home Loan Bank Act.

Timetable:

Action	Date	FR Cite
NPRM	09/29/93	58 FR 50867
NPRM Comment Period End	11/29/93	58 FR 50867
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brandon B. Straus, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589

RIN: 3069–AA33

4609. AMENDMENT OF AFFORDABLE HOUSING PROGRAM AND COMMUNITY SUPPORT REQUIREMENTS REGULATIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1429; 12 USC 1430(a); 12 USC 1430(g); 12 USC 1430(j)

CFR Citation: 12 CFR 936; 12 CFR 960

Legal Deadline: None

Abstract: The Federal Housing Finance Board issued a proposed rule amending the definitions of "very low-income household" and "low- or moderate-income household" in its Affordable Housing Program (AHP) and Community Support Requirements (CSR) regulations. The proposed rule also adds a definition of "adjustment for family size" to the AHP and CSR regulations as well as removes the definition of "median income" from the AHP and CSR regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/05/93	58 FR 58988
NPRM Comment Period End	01/04/94	58 FR 58988
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brandon B. Straus, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589

RIN: 3069–AA38

4610. • AMENDMENT OF AFFORDABLE HOUSING PROGRAM REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1430(j)

CFR Citation: 12 CFR 960

Legal Deadline: None

Abstract: The Finance Board adopted a final rule amending its Affordable Housing Program (AHP) regulation to permit the Federal Home Loan Banks to set aside a limited amount of AHP funds for assistance to first-time homebuyers and, with the Board's prior approval, other homeownership goals of the Presidents National Homeownership strategy.

Timetable:

Action	Date	FR Cite
NPRM	07/28/95	60 FR 38768
NPRM Comment Period End	08/28/95	60 FR 38768
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brandon B. Straus, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589
Fax: 202 408-2580

RIN: 3069–AA43

4611. • COMMUNITY SUPPORT REQUIREMENTS; RESTRICTIONS ON ACCESS TO NEW LONG-TERM ADVANCES

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1429; 12 USC 1430(a); 12 USC 1430(g)

CFR Citation: 12 CFR 936

Legal Deadline: None

Abstract: The Finance Board is amending its regulation on Community Support Requirements to clarify and streamline the procedures governing restriction of access to new long-term advances for Federal Home Loan Bank members that fail to meet community support requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice A. Kaye, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2505
Fax: 202 408-2580

RIN: 3069–AA44

4612. • AFFORDABLE HOUSING PROGRAM APPLICATION SUBSIDY LIMITS

Priority: Routine and Frequent

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1430(j)

CFR Citation: 12 CFR 960

Legal Deadline: None

Abstract: The Finance Board is amending its Affordable Housing Program (AHP) Regulation to permit the Federal Home Loan Banks to establish uniform limits on the amount of AHP subsidy available to Bank members under a Bank's AHP.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon B. Like, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580

RIN: 3069–AA45

FEDERAL HOUSING FINANCE BOARD (FHFB)

Completed Actions

4613. BANK REQUEST FOR INFORMATION

Priority: Other

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1442

CFR Citation: 12 CFR 934.15

Legal Deadline: None

Abstract: Section 719 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. 101-73, 103 Stat. 422, amended section 22 of the Federal Home Loan Bank Act (12 USC 1442) and mandates that the Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve System, Office of Thrift Supervision, Comptroller of the Currency, National Credit Union Administration, and the Treasury Department share examination reports or other records or data, in confidence, with the Federal Home Loan Banks at their request. The agency has finalized a regulation establishing a procedure regarding the confidentiality of these examination reports and other records or data while in the possession of a Federal Home Loan Bank.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/07/90	55 FR 50545
Final Action	08/17/95	60 FR 42779
Final Action Effective	08/17/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Guy, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2536

RIN: 3069–AA06

4614. • REPEAL OF THE NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND HOUSING OPPORTUNITY ALLOWANCE PROGRAM REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 12 USC 1422b

CFR Citation: 12 CFR 937; 12 CFR 939

Legal Deadline: None

Abstract: The Finance Board repealed two regulations that it determined are no longer necessary, relating to its former Housing Opportunity Allowance Program and its administration of federally assisted programs.

Timetable:

Action	Date	FR Cite
Final Action	07/19/95	60 FR 36966
Final Action Effective	07/19/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brandon B. Straus, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589
Fax: 202 408-2580

RIN: 3069–AA39

4615. • REVISION OF BOARD OF DIRECTORS REPORTING REQUIREMENTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 552; 12 USC 1422a; 12 USC 1422b

CFR Citation: 12 CFR 900; 12 CFR 922

Legal Deadline: None

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Completed Actions

Abstract: The Finance Board is amending its regulation on Board of Directors Responsibility and Conduct to eliminate certain certification and disclosure requirements applicable to the Finance Board Directors appointed by the President, in order to avoid duplicative and burdensome reporting requirements.

Timetable:

Action	Date	FR Cite
Final Action	09/22/95	60 FR 49198

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Guy, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2536
Fax: 202 408-2580

RIN: 3069–AA40

[FR Doc. 95-26078 Filed 11-24-95; 8:45 am]
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federal register

Tuesday
November 28, 1995

Part LVI

Federal Maritime Commission

Semiannual Regulatory Agenda

FEDERAL MARITIME COMMISSION (FMC)

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Regulatory Plan and Unified Agenda

AGENCY: Federal Maritime Commission.

ACTION: Regulatory Plan and Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to section 4(b) of E.O. 12866 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission anticipates having under consideration, during the period from October 1, 1995, to September 30, 1996, actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: Joseph C. Polking, Secretary, 800 North Capitol Street NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 4(b) of Executive Order 12866 also requires agencies to publish a regulatory agenda. The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The following is the Commission's unified regulatory agenda. The agenda does not necessarily include all petitions for rulemakings which are under staff review.

In addition, the Commission maintains a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda. This will be made available to the public, including the press and interested persons.

For this edition of the Commission's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Joseph C. Polking,

Secretary.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4616	Amendments to Rules Governing Access to Domestic Offshore Carrier Annual Financial Reports	3072-AB89

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4617	Coloading Practices and Possible Section 16 Exemption for Coloading (Docket Nos. 93-22 and 94-26)	3072-AB75
4618	Financial Responsibility Requirements for Nonperformance of Transportation and Inquiry Into Alternative Forms (Docket Nos. 94-06 and 94-21) **(Reg Plan Seq. No. 160)**	3072-AB80
4619	Information Form and Post-Effective Reporting Requirements for Agreements Among Ocean Common Carriers Subject to the Shipping Act of 1984 (Docket No. 94-31)	3072-AB85
4620	Service Contract Filing Requirements—Miscellaneous Revisions (Docket No. 95-08)	3072-AB86
4621	Automated Tariff Filing and Information System (Docket No. 95-13)	3072-AB87
4622	Marine Terminal Tariff Provisions Regarding Liability of Vessel Agents; Petition for Rulemaking (Petition P3-95)	3072-AB90

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4623	Financial Reporting Requirements and Rate-of-Return Methodology in the Domestic Offshore Trades (Docket No. 94-07)	3072-AB78
4624	Publishing and Filing of Tariffs and Service Contract Essential Terms in Paper Format (Docket No. 95-01)	3072-AB84
4625	Household Goods Forwarders Association of America, Inc.; Petition for Exemption (Docket No. P2-95)	3072-AB88

FEDERAL MARITIME COMMISSION (FMC) — Proposed Rule Stage

4616. • AMENDMENTS TO RULES GOVERNING ACCESS TO DOMESTIC OFFSHORE CARRIER ANNUAL FINANCIAL REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 46 USC app 817; 46 USC app 841(a); 46 USC app 844; 46 USC app 845

CFR Citation: 46 CFR 552

Legal Deadline: None

Abstract: Action would amend regulations governing financial reporting requirements applicable to vessel-operating common carriers by water in the domestic offshore trades to allow access to the annual statements of financial and operating data filed with the Commission by domestic offshore carriers.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne M. McAloon, Bureau of Economic and Agreement Analysis, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5790
Fax: 202 523-3782

RIN: 3072–AB89

FEDERAL MARITIME COMMISSION (FMC) — Final Rule Stage

4617. COLOADING PRACTICES AND POSSIBLE SECTION 16 EXEMPTION FOR COLOADING (DOCKET NOS. 93-22 AND 94-26)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552 and 553; 46 USC app 1707; 46 USC app 1716; PL 102-582, 106 Stat 4910

CFR Citation: 46 CFR 514.15; 46 CFR 580.5; 46 CFR 581.1; 46 CFR 581.3

Legal Deadline: None

Abstract: Action redefines "coloading" to limit the term to the combining of cargo under an agreement between non-vessel-operating common carriers (NVOCCs) and makes other changes involving coloading, including prohibiting coloaded cargo from being carried under a service contract. This action has been held in abeyance pending a Notice of Inquiry which is exploring whether current coloading practices are consistent with statutory requirements, and if not, whether an exemption should be initiated.

Timetable:

Action	Date	FR Cite
NPRM	11/24/93	58 FR 62077
NPRM Comment Period End	03/11/94	59 FR 5974
Notice of Inquiry (Docket No. 94-26)	11/09/94	59 FR 55826
Comment Period End for NOI (Docket No. 94-26)	12/27/94	
NOI Comment Period Extended to 01/23/95	12/28/94	59 FR 66880
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5740
Fax: 202 523-5738

RIN: 3072–AB75

4618. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR NONPERFORMANCE OF TRANSPORTATION AND INQUIRY INTO ALTERNATIVE FORMS (DOCKET NOS. 94-06 AND 94-21)

Regulatory Plan: This entry is Seq. No. 160 in Part II of this issue of the **Federal Register**.

RIN: 3072–AB80

4619. INFORMATION FORM AND POST-EFFECTIVE REPORTING REQUIREMENTS FOR AGREEMENTS AMONG OCEAN COMMON CARRIERS SUBJECT TO THE SHIPPING ACT OF 1984 (DOCKET NO. 94-31)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 572

Legal Deadline: None

Abstract: Action would change the type of information required of ocean common carriers when filing certain agreements pursuant to the Shipping Act of 1984, and would require members of such agreements to submit periodic reports on their operations. Certain other types of agreements no longer would face an information filing requirement and would not have to file operating reports.

Timetable:

Action	Date	FR Cite
NPRM	12/05/94	59 FR 62372
Comment Period Extended to 02/17/95	02/02/95	60 FR 6482
NPRM Comment Period End	02/03/95	59 FR 62372
Final Action	01/00/96	
Final Action Effective	02/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5740
Fax: 202 523-5738

RIN: 3072–AB85

4620. • SERVICE CONTRACT FILING REQUIREMENTS—MISCELLANEOUS REVISIONS (DOCKET NO. 95-08)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 553; 46 USC app 1702; 46 USC app 1707; 46 USC app 1716

CFR Citation: 46 CFR 514

Legal Deadline: None

Abstract: Action would provide an optional abbreviated service contract form and require service contracts to include certain identifying information

concerning the signatories, reducing duplication and costs and facilitating automation of the Commission's service contract records.

Timetable:

Action	Date	FR Cite
NPRM	05/23/95	60 FR 27248
NPRM Comment Period End	06/22/95	
Final Action	11/00/95	
Final Action Effective	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5796
Fax: 202 523-5830

RIN: 3072–AB86

4621. • AUTOMATED TARIFF FILING AND INFORMATION SYSTEM (DOCKET NO. 95-13)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552 to 553; 31 USC 9701; 46 USC app 804; 46 USC app 812; 46 USC app 814 to 817(a); 46 USC app 820; 46 USC app 833a; 46 USC app 841a; 46 USC app 843 to 845b; 46 USC app 847; 46 USC app 1702 to 1712; 46 USC app 1714 to 1716; 46 USC app 1718; 46 USC app 1721 to 1722; PL 101-92, sec 2(b)

CFR Citation: 46 CFR 514

Legal Deadline: None

Abstract: Action would amend FMC's rules pertaining to the Automated Tariff Filing and Information System to clarify that no individual may file or retrieve ATFI data until a User Registration Form and supporting documents, together with the proper fee, are submitted to the Commission and he/she receives a logon ID and password. Action would also amend rules to permit the on-line downloading of daily subscriber data.

Timetable:

Action	Date	FR Cite
NPRM	08/30/95	60 FR 45126
NPRM Comment Period End	09/19/95	
Final Action	10/00/95	
Final Action Effective	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doris J. Spencer, Director, Office of Information Resources and Management, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5835
Fax: 202 523-3782

RIN: 3072–AB87

4622. • MARINE TERMINAL TARIFF PROVISIONS REGARDING LIABILITY OF VESSEL AGENTS; PETITION FOR RULEMAKING (PETITION P3-95)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 46 USC app 1709; 46 USC app 1716; 46 USC app 815; 46 USC app 816; 46 USC app 820; 46 USC app 841a

CFR Citation: 46 CFR 514

Legal Deadline: None

Abstract: This petition for rulemaking seeks establishment of a rule which would declare unlawful any marine terminal tariff provision that holds the vessel agent liable for terminal charges of its disclosed principal.

Timetable:

Action	Date	FR Cite
Comment Period End 08/14/95	07/12/95	60 FR 35906
Notice of Filing of Petition	07/12/95	60 FR 35906
Comment Period Extended to 09/15/95	08/15/95	60 FR 42159
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5740
Fax: 202 523-5738

RIN: 3072–AB90

FEDERAL MARITIME COMMISSION (FMC)

Completed Actions

4623. FINANCIAL REPORTING REQUIREMENTS AND RATE-OF-RETURN METHODOLOGY IN THE DOMESTIC OFFSHORE TRADES (DOCKET NO. 94-07)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 46 USC app 817(a); 46 USC app 841a; 46 USC app 844; 46 USC app 845

CFR Citation: 46 CFR 552.1; 46 CFR 552.2; 46 CFR 552.5; 46 CFR 552.6

Legal Deadline: None

Abstract: Proposed action would amend regulations governing financial reporting requirements and rate of return methodology applicable to vessel-operating common carriers in the domestic offshore trades. The "weighted average cost of capital" methodology would replace the "comparable earnings test" in determining the reasonableness of a carrier's return-on-rate base. Additionally, rules pertaining to the treatment of insurance expenses, deferred taxes, and the Capital Construction Fund would be amended.

Timetable:

Action	Date	FR Cite
NPRM	04/07/94	59 FR 16592
NPRM Comment Period End	06/06/94	
Reply Comments Requested	11/04/94	59 FR 55232
Comment Period Extended to 01/06/95	12/05/94	59 FR 62372
Reply Comments Due	12/05/94	
Final Action	09/05/95	60 FR 46047
Final Action Effective	10/05/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard R. Speigel, Industry Economist, Bureau of Economics and Agreement Analyis, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5845
Fax: 202 523-3782

RIN: 3072–AB78

4624. PUBLISHING AND FILING OF TARIFFS AND SERVICE CONTRACT ESSENTIAL TERMS IN PAPER FORMAT (DOCKET NO. 95-01)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 553; 46 USC app 816; 46 USC app 841(a); 46 USC app 843 to 845(b); 46 USC app 847; 46 USC app 1707; 46 USC app 1709; 46 USC app 1716

CFR Citation: 46 CFR 515; 46 CFR 550; 46 CFR 580; 46 CFR 581

Legal Deadline: None

Abstract: Action would remove as unnecessary regulations requiring marine terminal operators and common carriers by water to file their tariffs and/or service contracts in paper format, since the Commission's rules now require electronic tariff filing in its Automated Tariff Filing and Information system.

Timetable:

Action	Date	FR Cite
NPRM	01/12/95	60 FR 2923
NPRM Comment Period End	02/13/95	
Final Action	05/23/95	60 FR 27228
Final Action Effective	05/23/95	
Correction to Final Rule	06/12/95	60 FR 30791

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5796
Fax: 202 523-5830

RIN: 3072–AB84

4625. • HOUSEHOLD GOODS FORWARDERS ASSOCIATION OF AMERICA, INC.; PETITION FOR EXEMPTION (DOCKET NO. P2-95)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 46 USC app 841a; 46 USC app 1716

CFR Citation: 46 CFR 514; 46 CFR 583

Legal Deadline: None

Abstract: Action exempts non-vessel-operating common carriers by water from the tariff filing requirement of part 514 and the bonding requirements of part 583 to the extent that they transport used household goods and personal effects of Federal civilian employees pursuant to a solicitation issued and administered by the General Services Administration. The exemption will remove duplicative requirements and result in lower costs.

Timetable:

Action	Date	FR Cite
Notice of Filing of Petition	04/26/95	60 FR 20494
Comment Period End	05/25/95	
Final Action	08/28/95	60 FR 44436
Final Action Effective	08/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5740
Fax: 202 523-5738

RIN: 3072–AB88

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Tuesday
November 28, 1995

Part LVII

Federal Reserve System

Semiannual Regulatory Agenda

FEDERAL RESERVE SYSTEM (FRS)

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period October 1, 1995, through April 1, 1996. The next semiannual agenda will be published in April 1996.

DATES: Comments about the form or content of the agenda may be submitted any time during the next 6 months.

ADDRESSES: Comments should be addressed to William W. Wiles, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its October 1995 agenda as part of the October 1995 Unified Agenda of Federal Regulations, which is coordinated by the Office of Management and Budget under Executive Order 12866. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next 6 months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further. Matters begun and completed between issues of the agenda have not been included.

A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous agenda and which the Board has not completed.

Barbara R. Lowrey,

Associate Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4626	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System	7100-AB86
4627	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control	7100-AB39
4628	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control	7100-AB41
4629	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0835)	7100-AB77
4630	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control	7100-AB87
4631	Regulation: K—International Banking Operations	7100-AB88
4632	Regulation: K—International Banking Operations	7100-AB89
4633	Regulation: L—Management Official Interlocks	7100-AB90
4634	Regulation: U—Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks	7100-AB65

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4635	Regulation: B—Equal Credit Opportunity (Docket Number: R-0876)	7100-AB99
4636	Regulation: E—Electronic Fund Transfers (Docket Number: R-0830)	7100-AA77
4637	Reg.: H—Membership of Sta. Banking Institutions in the F.R.S.; Reg.: K—International Banking Operations; and Reg.: Y—Bank Holding Companies and Change in Bank Control (Docket No.:R-0885)	7100-AC00
4638	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0849)	7100-AB92
4639	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Numbers: R-0884 and R-0886)	7100-AC01
4640	Regulation: K—International Banking Operations (Docket Number: R-0754)	7100-AB31
4641	Regulation: K—International Banking Operations (Docket Number: R-0862)	7100-AB58
4642	Regulation: K—(International Banking Operations) (Docket Number: R-0896)	7100-AC02
4643	Regulation: L—Management Official Interlocks (Docket Number: R-0825)	7100-AB72
4644	Regulation: M—Consumer Leasing (Docket Number: R-0892)	7100-AB74
4645	Regulation: S—Reimbursement for Providing Financial Records; Recordkeeping Requirements for Certain Financial Records (Docket Number: R-0888)	7100-AC03
4646	Regulation: T—Credit by Brokers and Dealers (Docket Number: R-0772)	7100-AB28

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4647	Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0868)	7100-AB95
4648	Regulation: DD—Truth in Savings (Docket Number: R-0836 and Docket Number: R-0869)	7100-AB80
4649	Federal Reserve Bank Book-Entry Securities Transfer Services (Docket Number: R-0866)	7100-AB97
4650	Federal Reserve Payments System Risk Policy (Docket Number: R-0889)	7100-AC04
4651	Risk-Based Capital Standards: Interest Rate Risk (Docket Number: R-0802)	7100-AB50
4652	Rules of Practice for Hearings (Docket Number: R-0878)	7100-AC05
4653	Standards for Safety and Soundness (Docket Number: R-0766)	7100-AB52
4654	Ten Percent Revenue Limit on Bank-Ineligible Activities of Subsidiaries of Bank Holding Companies (Docket Number: R-0841)	7100-AB82

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4655	Regulation: E—Electronic Fund Transfers (Docket Number: R-0859)	7100-AB91
4656	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0845)	7100-AB85
4657	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0870)	7100-AB93
4658	Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0851)	7100-AB94
4659	Regulation: Z—Truth in Lending (Docket Number: R-0858)	7100-AB96
4660	Regulation: BB—Community Reinvestment (Docket Number: R-0822)	7100-AB75
4661	Internal Appeals Process (Docket Number: R-0867)	7100-AB98

FEDERAL RESERVE SYSTEM (FRS) — Proposed Rule Stage

4626. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4001 et seq

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: The National Flood Insurance Reform Act of 1994 (title V of the Riegle Community Development and Regulatory Improvement Act of 1994) includes a number of amendments to the Flood Disaster Protection Act of 1973. The amendments are intended to improve compliance with existing flood insurance purchase requirements, including provisions concerning forced placement of policies, escrowing of insurance premiums, standard determination forms, notification requirements, penalties of noncompliance, and compliance examination requirements. All State member banks, including small institutions, will be subject to the amended provisions.

Under the statute, the Federal banking agencies are to consult and coordinate on the development of implementing regulations through the Federal Financial Institutions Examination Council. The Board, in conjunction with the other banking agencies, adopted a final rule in July 1995 requiring use of the standard determination form developed by the Federal Emergency Management Agency (60 FR 35286, July 6, 1995; Docket Number: R-0882).

Within the next two months it is expected that the Board will approve requesting public comment on a proposed rule developed jointly by the banking agencies to implement the provisions of that statute concerning flood insurance purchase, escrow of flood insurance premiums, and notification requirements.

Timetable:

Action	Date	FR Cite
Board may consider amendments to Regulation H by	10/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lawranne Stewart, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3513

RIN: 7100–AB86

4627. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831m

CFR Citation: 12 CFR 208; 12 CFR 225

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Legal Deadline: Final, Statutory, January 3, 1993.

Abstract: During 1992, the Board's staff consulted with the other Federal banking agencies regarding the implementation of section 112, the bank auditing requirements, of the Federal Deposit Insurance Corporation Improvement Act of 1991. The section includes requirements for insured commercial banks to receive audits of their annual reports by independent public accountants, requirements for banks and their auditors to report certain information to the Board, and requirements for independent audit committees for banks. In some cases, these requirements can be satisfied by comparable arrangements at the bank holding company level. The Act generally exempts insured depository institutions from these requirements when their total assets are less than $150 million, unless a higher threshold is chosen by the Federal Deposit Insurance Corporation (FDIC).

The FDIC, the agency with primary responsibility for implementing this mandate through regulations, finalized its regulation in May 1993, which applied to all FDIC-insured banks and thrifts. The FDIC's regulation applied these requirements to depository institutions with total assets of $500 million or more. The FDIC, as well as the Board, issued implementing examiner guidelines in October 1993 and January 1994, respectively.

The Board has joint rulemaking authority with the other banking agencies regarding the enforcement provisions of section 112. It is expected that the Board and the other agencies will develop a notice of proposed rulemaking for public comment by year-end.

Timetable:

Action	Date	FR Cite
Board may consider amendments to Regulations H and Y by	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald A. Edwards, Jr., Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2741

RIN: 7100–AB39

4628. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831n; 12 USC 1833d

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: Final, Statutory, December 19, 1992.

Abstract: During 1992 and 1993, the Board's staff consulted with the other Federal banking agencies regarding the implementation of section 121, the bank accounting requirements, of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). These requirements include the implementation of disclosures of the fair market value of assets, liabilities, and certain projects, which may result in the revision of reporting requirements for banks and bank holding companies. The accounting provisions of the Act do not include exemptions for small institutions. Thus, any changes to regulations and reporting requirements would likely affect smaller State member banks.

The Federal Financial Institutions Examination Council (FFIEC) requested public comment on proposed reporting requirements, and the comment period expired on June 14, 1993. Furthermore, the FFIEC proposed on March 9, 1994, new Call Report items for derivative instruments, including new information on their market values. The comment period for this proposal expired on May 9, 1994, and the FFIEC included new information about market values of derivative instruments in its Call report requirements for March 1995. Market value information about on- and off-balance-sheet financial instruments is also reported in the banks' annual financial statements filed with the Board and the other Federal banking agencies pursuant to FDICIA section 112. Following final action by the FFIEC, the Board may consider requesting public comment by year-end on changes to its regulations in order to implement certain aspects of section 121.

Timetable:

Action	Date	FR Cite
Board may consider amendments to Regulations H and Y by	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gerald A. Edwards, Jr., Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2741

RIN: 7100–AB41

4629. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0835)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831i

CFR Citation: 12 CFR 208, app A; 12 CFR 225, app A

Legal Deadline: None

Abstract: In May 1994, the Board issued for public comment two proposals on the capital treatment of recourse arrangements and direct credit substitutes. The first proposal: (1) formally defines recourse and direct credit substitutes; (2) reduces the risk-based capital charge for low-level recourse arrangements to the maximum amount of possible loss under the recourse obligation up to the effective capital charge; and (3) requires the same risk-based capital charge for first loss direct credit substitutes as is currently applied to recourse transactions (59 FR 27115, May 25, 1994).

Subsequent to the issuance of this proposal, the Congress mandated, under section 350 of the Riegle Community Development and Regulatory Improvement Act of 1994, that the Board issue regulations limiting, as of March 22, 1995, the amount of risk-based capital an insured depository institution is required to hold for assets transferred with recourse to the maximum amount of recourse for which the institution is contractually liable. The portion of the Board's proposal dealing with low-level recourse transactions satisfies the minimum requirements of section 350, and, accordingly, in February 1995, the Board adopted that portion of the proposal (60 FR 8177, February 13, 1995).

The second proposal, an advance notice of proposed rulemaking, sought public comment on an approach to assessing risk-based capital on banking organizations' risk exposures associated with certain asset securitizations. Under this approach, the capital charge would be based upon the relative risk of loss. The Board will continue to consider the advanced notice of proposed rulemaking, as well as the outstanding issues addressed in the first proposal, and is expected to take further action within the next five months. Small entities would be affected by the final rule and the two proposals only to the extent that they engage in extending recourse arrangements or direct credit substitutes; it is not expected that the proposals will have a significant economic impact.

Timetable:

Action	Date	FR Cite
Board requested comment	05/25/94	59 FR 27115
Board adopted one aspect of the proposal	02/13/95	60 FR 8177
Further Board action within the next five months	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas R. Boemio, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2982

RIN: 7100–AB77

4630. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 321; 12 USC 1828; 12 USC 1831u; 12 USC 1842

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: Sections 101, 102, and 103 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 establish conditions under which bank holding companies and national banks will be permitted to engage in interstate banking and branching through acquisitions, mergers, and establishment of de novo branches. Under section 9 of the Federal Reserve Act, the limitations and conditions on branching by national banks also are applicable to State member banks. Section 101 of the Riegle-Neal Act also permits a bank to receive deposits and provide certain other services as agent for any affiliated depository institution without the bank being considered to be a branch of the affiliated depository institution.

The Board is considering whether it is necessary to amend its Regulations H and Y to reflect the statutory changes.

The statutory changes reduce restrictions currently applicable to bank holding companies and State member banks of all sizes, including small institutions, and will not significantly increase regulatory burden on small banks.

Timetable:

Action	Date	FR Cite
Board is expected to act on a proposed rule by	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lawranne Stewart, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3513

RIN: 7100–AB87

4631. REGULATION: K—INTERNATIONAL BANKING OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3105(k)

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: By year-end, the Board will consider issuing for public comment a proposed amendment to Regulation K to implement the provision of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 that amended the International Banking Act of 1978 by adding a new subsection regarding the management of shell branches. The relevant subsection prohibits foreign banks from using their U.S. branches or agencies to manage types of activities through offshore shell branches that could not be managed by a U.S. bank at its foreign branches or subsidiaries. It is not anticipated that the proposal will have a significant economic impact on a substantial number of small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board will consider proposal by	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Crossen, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3281

RIN: 7100–AB88

4632. REGULATION: K—INTERNATIONAL BANKING OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1841 et seq; 12 USC 3101 et seq

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: The Riegle-Neal Interstate Banking and Branching Act of 1994 contains provisions affecting foreign banks with U.S. operations, including, among other matters, interstate banking and branching and the selection of home states by foreign banks. Within the next two months, the Board is expected to consider issuing for public comment amendments to Regulation K to implement the statutory changes with respect to interstate expansion by bank merger. It is not expected that any rulemaking will have a significant economic impact on a substantial number of small banks.

Timetable:

Action	Date	FR Cite
The Board is expected to consider amendments to Regulation K by	10/00/95	

Small Entities Affected: None

FRS — Proposed Rule Stage

Government Levels Affected: None

Agency Contact: Douglas M. Ely, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-5289

RIN: 7100–AB89

4633. REGULATION: L—MANAGEMENT OFFICIAL INTERLOCKS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-325

CFR Citation: 12 CFR 212

Legal Deadline: None

Abstract: Regulation L implements provisions of the Depository Institutions Management Interlocks Act (DIMIA), which regulates management interlocks among depository institutions. Section 338 of the Riegle Community Development and Regulatory Improvement Act of 1994 amended certain sections of DIMIA. Specifically, section 338 extends the grandfather provision allowing prohibited management interlocks that began prior to November 10, 1978, to continue until November 1998. The section requires that the regulatory agencies review all grandfathered interlocks to determine whether the interlock meets the criteria set forth in section 338 to qualify for an extension. Section 338 also amended DIMIA with respect to the regulatory agencies' authority to create exemptions to DIMIA through general regulation. The section sets forth criteria that the regulatory agencies must consider before exempting an interlock on a case-by-case basis. However, current legislation pending before the Congress would reverse these changes.

Depending on the outcome of the currently pending legislation, the Board, with the other regulatory agencies, will issue an appropriate proposal for public comment by year-end. It is not anticipated that any proposal would have a significant impact on a substantial number of small institutions.

Timetable:

Action	Date	FR Cite
Board action expected by	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tina Woo, Staff Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3890

RIN: 7100–AB90

4634. REGULATION: U—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78h Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 221

Legal Deadline: None

Abstract: The Board is conducting a periodic review of Regulation U, which generally regulates bank extensions of credit that are secured by publicly traded stock. The review will consider whether any provisions of the regulation are in need of updating and whether any substantive changes are necessary because of developments in the banking and securities markets. It is expected that amendments will be proposed for public comment before the end of 1995. It is not anticipated that the revisions will have a significant economic impact on the overall lending activities of a substantial number of small banks.

Timetable:

Action	Date	FR Cite
Board may propose amendments to Regulation U by	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Homer, Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2781

RIN: 7100–AB65

FEDERAL RESERVE SYSTEM (FRS) — Final Rule Stage

4635. • REGULATION: B—EQUAL CREDIT OPPORTUNITY (DOCKET NUMBER: R-0876)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1691

CFR Citation: 12 CFR 202

Legal Deadline: None

Abstract: In April 1995, the Board issued for public comment a proposed amendment to Regulation B to eliminate the general prohibition on collecting data relating to an applicant's race, color, sex, religion, and national origin, giving creditors the option to ask applicants to provide the information on a voluntary basis (60 FR 20436, April 26, 1995). This amendment would allow data collection only; creditors still would be prohibited from considering an applicant's race, color, sex, religion, and national origin in their credit decisions.

Compliance with the proposed amendment is voluntary and would not be expected to have a significant economic impact on small institutions. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	04/26/95	60 FR 20436
Further Board action by	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheilah Goodman, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AB99

FRS — Final Rule Stage

4636. REGULATION: E—ELECTRONIC FUND TRANSFERS (DOCKET NUMBER: R-0830)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693b

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: The Board is conducting a review of Regulation E, which implements the Electronic Fund Transfer Act and establishes the basic rights, liabilities, and responsibilities of consumers who use electronic fund transfer services and of financial institutions that offer these services (whether or not these institutions hold the consumer's account). The review is part of the Board's Regulatory Planning and Review Program, which provides for the periodic review of Board regulations to determine whether a regulation should be eliminated, simplified, updated, or otherwise revised.

In February 1994, the Board approved issuing for public comment a revised Regulation E that includes, among other things, simplified language and format (59 FR 10684, March 7, 1994). As part of the proposal, the scope of several exemptions would be expanded. A small institution exemption would apply to institutions with assets under $100,000; currently the exemption applies to institutions with assets under $25,000. Also under the proposal, the staff commentary to Regulation E would be significantly improved to facilitate compliance. As a whole, the proposed changes to Regulation E would likely reduce regulatory burden within the limits of a very specific statute, without sacrificing consumer benefits. The proposals are not expected to have a significant economic impact on small institutions.

Following review of the public comments, the Board is expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board approved requesting public comment	03/07/94	59 FR 10684
Further Board action by	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Adrienne D. Hurt, Managing Counsel, Financial Services Section, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AA77

4637. • REG.: H—MEMBERSHIP OF STA. BANKING INSTITUTIONS IN THE F.R.S.; REG.: K—INTERNATIONAL BANKING OPERATIONS; AND REG.: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NO.:R-0885)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; 12 USC 1831p-1; 12 USC 3105; ...

CFR Citation: 12 CFR 208.20; 12 CFR 211.8; 12 CFR 211.24(f); 12 CFR 225.4(g)

Legal Deadline: None

Abstract: In July 1995, the Board approved issuing for public comment proposed revisions to its regulations on reporting of suspicious activities by the domestic and foreign banking organizations supervised by the Federal Reserve, including the reporting of suspicious financial transactions such as suspected violations of the Bank Secrecy Act (60 FR 34481, July 3, 1995). The rules implement a new interagency suspicious activity referral process. The rules also reduce substantially the burden on banking organizations (including small institutions) in reporting suspicious activities while enhancing access to such information by the Federal law enforcement agencies, the Federal financial institutions supervisory agencies and the Department of the Treasury. It is not anticipated that the proposal will have a significant adverse economic impact on small institutions.

Following review of the public comments, the Board is expected to take further action within the next month in coordination with the other Federal financial institutions supervisory agencies.

Timetable:

Action	Date	FR Cite
Board approved request for comment	07/03/95	60 FR 34481
Further Board action by	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Herbert A. Biern, Deputy Associate Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2620

RIN: 7100–AC00

4638. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0849)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831i; ...

CFR Citation: 12 CFR 208, app A; 12 CFR 208, app B; 12 CFR 225, app A

Legal Deadline: None

Abstract: In October 1994, the Board, in conjunction with the Office of the Comptroller of the Currency, issued for public comment a proposal that would amend its risk-based capital guidelines for State member banks and bank holding companies by modifying the criteria used to define the Organization for Economic Cooperation and Development (OECD)-based group of countries (59 FR 52100, October 14, 1994). Under the guidelines, claims on the OECD-based group of countries are eligible for lower risk weight treatment. The OECD-based group of countries would continue to be defined as countries that are full members of the OECD (or that have concluded special lending arrangements with the International Monetary Fund (IMF) associated with the IMF's General Arrangement to Borrow), but would exclude any country within this group that has rescheduled its external sovereign debt within the previous five years. The proposed amendment is

based on a recent announcement by the Basle Supervisors' Committee that it intends to revise the Basle Accord definition of the OECD-based group of countries. The proposed revision is not expected to have a significant economic impact on a substantial number of small business entities.

Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested public comment	10/14/94	59 FR 52100
Further Board action by	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Motyka, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3621

RIN: 7100–AB92

4639. • REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBERS: R-0884 AND R-0886)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; 12 USC 1831p-1; 12 USC 3105; ...

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: In July 1995, the Board published for comment proposed amendments to its risk-based capital guidelines for State member banks and bank holding companies (60 FR 38081, July 25, 1995; Docket No. R-0884). The proposed amendments would incorporate a measure for market risk in foreign exchange and commodity activities and in the trading of debt and equity instruments. Institutions would calculate market risk capital charges using either their own internal models or techniques developed by supervisors. The amendments are consistent with proposed international market risk standards and with similar standards being developed by the other Federal bank regulatory agencies.

The Board also requested comment on an alternative "pre-commitment" approach for setting market risk capital requirements (60 FR 38142, July 25, 1995; Docket No. R-0886). Under this approach, an institution would specify the amount of capital it chose to allocate to support market risk over a specified period of time. The Board could provide incentives for institutions to allocate sufficient market risk capital by methods such as public disclosure of market risk capital levels or penalties when losses exceed allocated capital. The market risk capital proposals would affect only institutions with relatively large trading activities, and therefore would have little or no effect on small entities. Following review of the public comments, the Board is expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment on R-0884	07/25/95	60 FR 38081
Board requested comment on R-0886	07/25/95	60 FR 38142
Further Board action by	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Houpt, Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3358

RIN: 7100–AC01

4640. REGULATION: K—INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0754)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3105; 12 USC 3108

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: In January 1993, following review of the public comments, the Board issued a final rule implementing sections 202-204 and 206 of title II of the Federal Deposit Insurance Corporation Improvement Act of 1991, which, among other things, require prior approval of the Board for the establishment of branches, agencies, commercial lending companies, and representative offices by foreign banks in the United States (58 FR 6348, January 28, 1993). It is not expected that the final rule will have a significant economic impact on small institutions.

The Board also requested additional public comment on those portions of the final rule that deal with representative offices of foreign banks. Comments were sought on the definition of representative office and on the standards that should govern the activities that a representative office may conduct. Following review of the public comments, the Board is expected to take further action by year-end 1995.

Timetable:

Action	Date	FR Cite
Board issued an interim rule	04/15/92	57 FR 12992
Board issued a final rule and request for comment	01/28/93	58 FR 6348
Further Board action by	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann Misback, Managing Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3788

RIN: 7100–AB31

4641. REGULATION: K—INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0862)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 211

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: In December 1994, the Board issued for public comment proposed criteria to implement a portion of section 202(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 with respect to the criteria to be used in evaluating the operations of foreign banks that the Board has determined are not subject to comprehensive supervision or regulation on a consolidated basis (59 FR 64171, December 18, 1994). The proposed criteria would not have a significant economic impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board, in consultation with the Secretary of the Treasury, will consider a final rule.

Timetable:

Action	Date	FR Cite
Board requested public comment	12/13/94	59 FR 64171
Further Board action by	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandy Richardson, Managing Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-6406

RIN: 7100–AB58

4642. • REGULATION: K—(INTERNATIONAL BANKING OPERATIONS) (DOCKET NUMBER: R-0896)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 221 et seq; 12 USC 1841 et seq; 12 USC 3101 et seq

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: In September 1995, the Board issued for public comment proposed amendments to Regulation K to provide additional general consent authority for de novo investments in foreign companies by U.S. banking organizations that are strongly capitalized and well managed (60 FR 49350, September 25, 1995). This expanded general consent authority is designed to permit U.S. banking organizations meeting these requirements to make certain investments without the need for prior approval or review. In order to strike a reasonable balance between reduced regulatory burden and continued Board oversight, the amendments would impose aggregate limits on the total amount of general consent investments that may be made in the course of a year. In addition, certain investments or activities would not be eligible for the expanded authority. The proposed rule would require an investor making use of the expanded authority to provide the Board with a post-investment notice. In addition, for those investments requiring prior notice to the Board, the proposed rule would streamline the processing of such notices. The proposed rule is not expected to have a significant adverse economic impact on a substantial number of small entities. The proposed rule will affect only those U.S. banking organizations with foreign operations or that are engaged in foreign investment activities. The expanded general consent authority would be further limited only to such U.S. banking organizations that qualify under the strongly-capitalized and well-managed requirements. Following review of the public comments, the Board is expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	09/25/95	60 FR 49350
Further Board action by	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra L. Richardson, Managing Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-6406

RIN: 7100–AC02

4643. REGULATION: L—MANAGEMENT OFFICIAL INTERLOCKS (DOCKET NUMBER: R-0825)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3207

CFR Citation: 12 CFR 212

Legal Deadline: None

Abstract: Regulation L implements provisions of the Depository Institution Management Interlock Act (DIMIA), which regulates management interlocks among depository institutions. Among DIMIA's prohibitions are provisions barring management interlocks between depository organizations with offices in the same community or metropolitan statistical area (MSA). In November 1993, the Board approved soliciting comment on an amendment to Regulation L that would permit interlocks otherwise prohibited under the community or MSA provisions if the institutions involved hold in the aggregate less than 20 percent of the deposits in the community or MSA (59 FR 7909, February 17, 1994). The amendment should benefit smaller organizations by giving them access to a larger pool of potential management officials. It is not expected that the proposal will have a significant adverse economic impact on a substantial number of depository institutions.

Current legislation pending before the Congress would make the proposed amendment statutory. Further Board action will be determined following any Congressional action on the proposal.

Timetable:

Action	Date	FR Cite
Board requested public comment	02/17/94	59 FR 7909
Further Board action following any Congressional action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas M. Corsi, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3275

RIN: 7100–AB72

4644. REGULATION: M—CONSUMER LEASING (DOCKET NUMBER: R-0892)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1604

CFR Citation: 12 CFR 213

Legal Deadline: None

Abstract: The Board is undertaking a complete review of Regulation M, under the Board's Regulatory Planning and Review Program. The Program calls for the periodic review of Board regulations to determine whether a regulation should be eliminated, simplified, updated or otherwise revised. To gather information needed for this review and to ensure the participation of interested parties at the beginning of the process, in November 1993, the Board approved issuing for public comment and advance notice of the proposed rulemaking, soliciting comment, generally, on revisions to the regulation, while also soliciting comment on specific issues dealing with early termination penalties, advertising, and segregation of disclosure terms from other information. In August 1995, following

review of the comments, the Board approved the issuance of a proposed rule revising Regulation M (60 FR 48752, September 20, 1995). The Riegle Community Development and Regulatory Improvement Act amendment to the Consumer Leasing Act to allow an alternative disclosure scheme for rádio advertisements is a part of the proposal. It is not anticipated that the proposed revisions will have a significant economic impact on a substantial number of small entities. Following review of the public comments, the Board is expected to take further action within the next six months.

Timetable:

Action	Date	FR Cite
Board approved requesting comment	11/19/93	58 FR 61035
Board approved issuance of a proposed rule	09/20/95	60 FR 48752
Further Board action within the next six months	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Adrienne D. Hurt, Managing Counsel, Financial Services Section, Federal Reserve System
Phone: 202 452-2412

RIN: 7100–AB74

4645. • REGULATION: S—REIMBURSEMENT FOR PROVIDING FINANCIAL RECORDS; RECORDKEEPING REQUIREMENTS FOR CERTAIN FINANCIAL RECORDS (DOCKET NUMBER: R-0888)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1829b; 12 USC 1951 to 1959; 31 USC 5311 to 5330

CFR Citation: 12 CFR 219; 12 CFR 103.33

Legal Deadline: None

Abstract: In January 1995, the Department of the Treasury and the Board jointly adopted a final rule that requires enhanced recordkeeping related to certain funds transfers and transmittals of funds by financial institutions (the joint rule). Also in January 1995, the Treasury adopted a companion rule, known as the travel rule, that requires financial institutions to include in transmittal orders certain information that must be maintained under the joint rule. The joint rule sets forth definitions of terms used in both rules. The original effective date of these rules was January 1, 1996. Subsequent to adoption of these rules, several banks have expressed concerns that compliance with the joint rule and the travel rule would be complicated if the parties to an international transfer were defined differently in the Bank Secrecy Act regulations than they are defined in the Uniform Commercial Code Article 4A. In response to these concerns, in August 1995, the Board approved issuing for public comment proposed amendments to the joint rule's definitions and technical conforming changes to the substantive provisions to conform the meanings of the definitions of the parties to an international transfer to their meanings under Article 4A of the Uniform Commercial Code (60 FR 44144, August 24, 1995). The proposed amendments are intended to reduce confusion of banks and nonbank financial institutions (including small institutions) as to the applicability of the joint rule and the travel rule and to reduce the cost of complying with the rules' requirements. Due to the uncertainties resulting from these proposed amendments, the Treasury and the Board have deferred the effective date of the joint rule until April 1, 1996.

Following review of the public comments, the Board is expected to take final action by year-end. It is not anticipated that the proposal will have a significant adverse economic impact on small institutions.

Timetable:

Action	Date	FR Cite
Board requested comment	08/24/95	60 FR 44144
Final Board action by	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elaine Boutilier, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-2418

RIN: 7100–AC03

4646. REGULATION: T—CREDIT BY BROKERS AND DEALERS (DOCKET NUMBER: R-0772)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78h Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220

Legal Deadline: None

Abstract: The Board is conducting a periodic review of Regulation T, which regulates extensions of credit by and to brokers and dealers. In August 1992, the Board approved a general request for comments to aid in its review (57 FR 37109, August 18, 1992). In July 1994, the Board proposed amendments in two specific areas of Regulation T (Docket Number R-0840; RIN 7100-AB78). Those amendments were adopted in October 1994.

In June 1995, the Board proposed additional amendments that further reflect the comments submitted in response to the Board's Advance Notice of Proposed Rulemaking (60 FR 33673, June 29, 1995).

Many of the proposed amendments feature increased reliance on rules of the Securities and Exchange Commission and self-regulatory organizations. Others would make Regulation T consistent with Regulations G and U, the regulations covering securities credit by lenders other than broker-dealers. It is not anticipated that the revisions would have a significant economic impact on the overall lending activities of a substantial number of small brokerage firms.

Following review of the public comments, the Board is expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board issued advance notice and request for comment	08/18/92	57 FR 37109
Board requested comment on amendments	06/29/95	60 FR 33763
Further Board action by	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Homer, Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2781

RIN: 7100–AB28

4647. REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0868)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1831(i); 12 USC 1843(c)(8); 12 USC 1844(b); 12 USC 3106; 12 USC 3108; 12 USC 3907; 12 USC 3909; 12 USC 3310; 12 USC 3331 to 3351

CFR Citation: 12 CFR 225.125(g)

Legal Deadline: None

Abstract: Section 225.25(b)(4) of the Board's Regulation Y authorizes bank holding companies to act as investment adviser to registered investment companies. Bank holding companies that provide such services are subject to certain restrictions set forth in the Board's interpretation regarding investment adviser activities. In December 1994, the Board approved issuing for public comment a proposal to amend the limitations in the investment adviser interpretation to permit bank holding companies that advise an investment company to purchase, in a fiduciary capacity, securities of the investment company if the purchase is specifically authorized by the terms of the instrument creating the fiduciary relationship, by court order, or by the law of the jurisdiction under which the trust is administered (59 FR 67654, December 30, 1994).

It is not anticipated that amending the investment adviser interpretation will have a significant impact on a substantial number of small institutions as it will relax an existing restriction. Following review of the public comments, the Board is expected to take final action by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	12/30/94	59 FR 67654
Further Board action by	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas M. Corsi, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3275

RIN: 7100–AB95

4648. REGULATION: DD—TRUTH IN SAVINGS (DOCKET NUMBER: R-0836 AND DOCKET NUMBER: R-0869)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4301 et seq

CFR Citation: 12 CFR 230

Legal Deadline: None

Abstract: Sections 261 to 275 of the Federal Deposit Insurance Corporation Improvement Act of 1991 require depository institutions to provide a schedule of terms, rates, and fees for deposit accounts offered by the institution. The law also sets forth rules for advertisements for deposit accounts.

In January 1995, the Board issued for public comment proposed amendments to Regulation DD that would produce an annual precentage yield (APY) that reflects the timing of interest payments as well as the timing of compounding. The proposal also solicits comment on an alternative method of calculating the APY (an internal rate of return formula) 60 FR 5142, January 26, 1995). The January 1995 proposal is an outgrowth of a May 1994 proposal that would have affected institutions' compounding and crediting practices in addition to changing the APY (59 FR 24378, May 11, 1994). The Board also adopted in January 1995 an interim rule that permits institutions and deposit brokers advertising noncompounding multiyear time accounts that require interest payouts at least annually to disclose an APY equal to the interest rate (60 FR 5128, January 26, 1995; Docket No. R-0836). Public comment on the approach was solicited in a July 1994 notice extending the comment period for the May 1994 proposal (59 FR 35271, July 11, 1994). The economic impact on small institutions will depend upon the variety of deposit products offered, the extent of the disclosures, and the options for compliance offered by the final rule.

The Congress is considering legislation that would require substantial revisions to Regulation DD, including eliminating the APY. Further action by the Board is deferred, pending action by the Congress on Truth in Savings legislation.

Timetable:

Action	Date	FR Cite
Board requested comment	05/11/94	59 FR 24378
Board extended comment period	07/11/94	59 FR 35271
Board adopted an interim rule	01/26/95	60 FR 5128
Board requested further comment	01/26/95	60 FR 5142
Further Board action following any Congressional action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Ahrens, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AB80

4649. FEDERAL RESERVE BANK BOOK-ENTRY SECURITIES TRANSFER SERVICES (DOCKET NUMBER: R-0866)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 221 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In January 1995, the Board requested public comment on the effects of opening the Fedwire on-line book-entry securities transfer service earlier in the day, on new service capabilities related to earlier opening, and on establishment of a firm closing time for the service (60 FR 123, January 3, 1995). An earlier opening time could benefit the financial markets by facilitating international transactions, providing increased liquidity, and reducing risk. Participation in the proposed early-hour service would be voluntary; therefore, the service should not have a significant economic effect on a substantial number of small entities.

In August 1995, following review of the public comments, the Board adopted a firm closing time of 3:15 p.m. (ET) for transfer originations and 3:30 p.m. (ET) for reversals, effective January 2, 1996 (60 FR 42410, August 15, 1995).

Following further review of the public comments, the Board is expected to

take further action regarding earlier opening and new service capabilities by July 1996.

Timetable:

Action	Date	FR Cite
Board requested comment	01/03/95	60 FR 123
Board adopted firm closing time	08/15/95	60 FR 42410
Further Board action by	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa Hoskins, Project Leader, Federal Reserve System, Division of Reserve Bank, Operations and Payment Systems
Phone: 202 452-3437

RIN: 7100–AB97

4650. • FEDERAL RESERVE PAYMENTS SYSTEM RISK POLICY (DOCKET NUMBER: R-0889)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 221 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In August 1995, the Board approved requesting public comment on a policy to control access to Federal Reserve Bank automated clearing house (ACH) services by entities other than the depository institutions whose Federal Reserve accounts will be debited (60 FR 42413, August 15, 1995). The proposed policy is intended to help ensure the safety and soundness of the ACH system.

The proposed policy could have a significant economic impact on a substantial number of small depository institutions that use Federal Reserve ACH services or third-party ACH service providers. The proposal would require those institutions to originate ACH credit transfers, set credit limits for those customers, and transmit those limits to a monitoring facility operated by either the Federal Reserve or the third-party service provider. Following review of the public comments, the Board is expected to take further action by April 1996.

Timetable:

Action	Date	FR Cite
Board requested comment	08/15/95	60 FR 42413
Further Board action by	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Scott E. Knudson, Senior Financial Services Analyst, Federal Reserve System, Division of Reserve Bank Operations and Payment Systems
Phone: 202 452-3959

RIN: 7100–AC04

4651. RISK-BASED CAPITAL STANDARDS: INTEREST RATE RISK (DOCKET NUMBER: R-0802)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1823(j); 12 USC 3105; 12 USC 3310; 12 USC 3331 to 3351; 12 USC 3906 to 3909; 15 USC 78(b)

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: Final, Statutory, June 19, 1993.

Abstract: Section 305 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) requires each Federal banking agency to revise its risk-based capital standards for the depository institutions it regulates in order to ensure that those standards take adequate account of interest rate risk (IRR), concentration of credit risk, and the risks of nontraditional activities.

In March 1993, following a review of comments received from an advance notice of proposed rulemaking issued in 1992 and after staff discussions with the other agencies, the Board approved for public comment a notice of proposed rulemaking for IRR. In September 1994, the Riegle Community Development and Regulatory Improvement Act of 1994 amended section 305 of FDICIA by adding a new subparagraph instructing the banking agencies to "take into account the size and activities of the institutions and do not cause undue reporting burdens." Following review of the public comments and the recently enacted legislation, the Board approved a final rule in June 1995 amending its risk-based capital standards to consider explicitly "a bank's exposure to declines in the economic value of its capital due to changes in interest rates" when evaluating capital adequacy (60 FR 39490, August 2, 1995). It is not expected that the rule will have a significant economic impact on small institutions.

Also in June 1995, the Board approved requesting public comment on a proposed Joint Agency Policy Statement regarding the measurement and assessment of interest rate risk (60 FR 39495, August 2, 1995). The proposed Policy Statement describes a measurement framework comprised of exemption screens, a supervisory model, and use of a bank's own internal model.

Small banks would be exempted from the proposed Policy Statement and associated reporting requirements in order to lessen regulatory burden on small, well-managed banks.

Following review of the public comments, the Board is expected to take further action within the next 6 months.

Timetable:

Action	Date	FR Cite
Board requested public comment on an ANPRM	08/10/92	57 FR 35507
Board approved requesting comment on proposed rulemaking	09/14/93	58 FR 48206
Board approved final rule implementing section 305	08/02/95	60 FR 39490
Board approved requesting comment on proposed Joint Agency Policy Statement	08/02/95	60 FR 39495
Further Board action by	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James Embersit, Manager, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-5249

RIN: 7100–AB50

4652. • RULES OF PRACTICE FOR HEARINGS (DOCKET NUMBER: R-0878)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 554 to 557; 12 USC 248; 12 USC 1817(j); 12 USC 1818; 12 USC 1847

CFR Citation: 12 CFR 263, subpart A

Legal Deadline: None

Abstract: Section 916 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 required the Federal financial institutions regulatory agencies to develop uniform rules and procedures for administrative hearings. The agencies each adopted final Uniform Rules in August 1991. Based on their experience since then, the agencies have identified sections of the Uniform Rules that should be modified. In June 1995, amendments to those provisions were published for comment (60 FR 32882, June 23, 1995). In addition to technical modification or clarifications, the proposals also make some substantive changes relating to the scope of document discovery and the examination of witnesses by multiple counsel for a party. The proposed amendments will not have a significant economic impact on a substantial number of small entities. They affect only those persons and entities who are the subject of litigated enforcement actions by the Board.

Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	06/23/95	60 FR 32882
Further Board action by	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Katherine Wheatley, Assistant General Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3779

RIN: 7100–AC05

4653. STANDARDS FOR SAFETY AND SOUNDNESS (DOCKET NUMBER: R-0766)

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-242

CFR Citation: 12 CFR ch II

Legal Deadline: Final, Statutory, December 1, 1993..

Abstract: Section 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) directs each Federal banking agency to prescribe standards regarding operations, management, asset quality, earnings, stock valuation (to the extent feasible), and employee compensation. In July 1992, the Board requested public comment on an interagency advance notice of proposed rulemaking (57 FR 31336, July 15, 1992). After considering the public's comments, a notice of proposed rulemaking was developed that contains broad principle-based standards that leave the method for meeting such standards largely in the province of management.

A draft notice of proposed rulemaking was approved by the Board in April 1993, and an interagency notice was published in November 1993 (58 FR 60802, November 18, 1993).

In September 1994, the Riegle Community Development and Regulatory Improvement Act of 1994 modified section 132 by: (1) providing the agencies with the option to promulgate standards as guidelines rather than regulations; (2) removing bank holding companies from the scope of section 132; and (3) giving each agency discretion to prescribe standards relating to earnings, asset quality, and stock valuation that it deems appropriate.

Although the legislative changes allow the standards to be issued as guidelines, the enforcement provisions relating to compliance plans must be issued as regulations. Accordingly, in February 1995, following review of the public comments, the Board adopted a final rule and guidelines for section 132 taking into account these changes. The final rule is not expected to have a significant economic impact on small institutions.

The Board also approved for comment proposed guidelines for asset quality and earnings that represent broader, more comprehensive standards than the rigid ratios or minimums originally mandated by section 132. The final rule and guidelines and proposed guidelines were published in a joint agency notice in July 1995 (60 FR 35673 and 35688, July 10, 1995).

Following review of the public comments, the Board is expected to take further action on the proposed asset quality and earnings guidelines by year-end.

Timetable:

Action	Date	FR Cite
Board requested public comment	07/15/92	57 FR 31336
Board issued notice of proposed rulemaking	11/18/93	58 FR 60802
Board adopted rule and guidelines	07/10/95	60 FR 35678
Board requested comment on additional guidelines	07/10/95	60 FR 35688
Further Board action by	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger T. Cole, Deputy Associate Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2618

RIN: 7100–AB52

4654. TEN PERCENT REVENUE LIMIT ON BANK-INELIGIBLE ACTIVITIES OF SUBSIDIARIES OF BANK HOLDING COMPANIES (DOCKET NUMBER: R-0841)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 377

CFR Citation: None

Legal Deadline: None

Abstract: Section 20 of the Glass-Steagall Act prohibits a member bank from being affiliated with a company that is "engaged principally" in underwriting and dealing in securities that a bank may not underwrite and deal in directly ("ineligible securities"). In July 1994, the Board issued for public comment a proposal to provide an alternative to the current indexed revenue test used to measure compliance with the "engaged principally" standard (59 FR 35516, July 12, 1994). The current test limits to 10 percent revenue earned from ineligible securities activities relative to the total revenue of a bank holding company subsidiary engaged, to a limited extent, in underwriting and dealing in ineligible securities ("section 20 subsidiary"). Comments were solicited on whether asset values or sales volume data, or a combination of both measures, should be used as a new alternative test. In 1993, the Board solicited comment on a proposed test based on asset values, then deferred a decision to adopt such a test. The current proposal would allow section 20 subsidiaries additional flexibility in the conduct of their securities

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operations and arises due to the Board's increased experience in reviewing and monitoring the activities and operations of these subsidiaries. The proposal would not have a significant economic impact on small entities nor on a substantial number of bank holding companies.

Following review of the public comments, the Board is expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	07/12/94	59 FR 35516
Further Board action by	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Corsi, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3275

RIN: 7100–AB82

FEDERAL RESERVE SYSTEM (FRS) — Completed Actions

4655. REGULATION: E—ELECTRONIC FUND TRANSFERS (DOCKET NUMBER: R-0859)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: In December 1994, the Board published for comment an interim rule amending Regulation E to eliminate the requirement that an electronic terminal receipt disclose a number or code that uniquely identifies the consumer, the consumer's account, or the access device (59 FR 61787, December 2, 1994). This requirement posed a significant security risk for consumers and financial institutions by making information accessible to criminals that they then used to withdraw funds from consumers' accounts. By deleting the requirement for a unique identifier, the Board enabled institutions to truncate card and account numbers. With a truncated number, it becomes less feasible for a criminal to duplicate a card with an account number that matches the consumer's number. The amendment will reduce fraud without compromising the consumer's ability to identify transactions at ATMs. By helping to prevent fraud, the proposed amendment will have a positive economic effect on small entities and will reduce regulatory burden for many state member banks by removing the restriction on required disclosures.

In March 1995, following review of the public comments, the Board adopted a final rule in substantially the form proposed (60 FR 15032, March 22, 1995).

Timetable:

Action	Date	FR Cite
Board adopted interim rule with request for comment	12/02/94	59 FR 61787
Board adopted final rule	03/22/95	60 FR 15032

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane Jensen Gell, Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2084

RIN: 7100–AB91

4656. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0845)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(c); 12 USC 371(d); 12 USC 461; 12 USC 601; 12 USC 611; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831i; 12 USC 1843(c)(8); 12 USC 1972(i); 12 USC 3105; 12 USC 3106; ...

CFR Citation: 12 CFR 208, app A; 12 CFR 225, app A

Legal Deadline: None

Abstract: In August 1994, the Board approved issuing for public comment a proposal to amend the risk-based capital treatment of certain derivative transactions (59 FR 43508, August 24, 1994). The effect of the proposal would be twofold. First, the proposal would revise and expand the set of conversion factors used to calculate the potential future exposure of derivative contracts. Under this part of the proposal, long-dated interest and exchange rate contracts would be subject to new, higher conversion factors, and new conversion factors would be applied to equity, precious metal, and other commodity derivative contracts. The second part of the proposal would recognize effects of bilateral netting arrangements in the calculation of potential future exposure for derivative contracts subject to qualifying netting arrangements. It is not expected that this proposal will have a significant economic impact on a substantial number of small business entities.

In August 1995, following review of the public comments, the Board adopted the rule substantially as proposed (60 FR 46170, September 5, 1995). However, in response to comments received, the Board has lowered the proposed conversion factor for commodity contracts with remaining maturities of one year or less from 12 percent to 10 percent and has revised the calculation of potential future exposure to recognize greater reductions in potential future exposure for certain derivative contracts subject to bilateral netting arrangements.

Timetable:

Action	Date	FR Cite
Board approved request for comment	08/24/94	59 FR 43508
Board adopted proposal	09/05/95	60 FR 46170

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger Cole, Deputy Associate Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2618

RIN: 7100–AB85

FRS — Completed Actions

4657. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0870)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831i

CFR Citation: 12 CFR 208, app A; 12 CFR 225, app A

Legal Deadline: Final, Statutory, March 22, 1995.

Abstract: In January 1995, the Board approved issuing for public comment a proposal to amend its risk-based and leverage capital guidelines for State member banks and its risk-based capital guidelines for bank holding companies to reduce the capital requirement for small business obligations transferred with recourse by qualified banking organizations (60 FR 6042, February 1, 1995). This proposal would implement section 208 of the Riegle Community Development and Regulatory Improvement Act of 1994.

Under the proposal, qualifying institutions that transfer small business obligations with recourse would be required to maintain capital only against the amount of recourse retained, provided certain criteria are met. The total outstanding amount of recourse retained on transfers of small business obligations receiving the preferential capital treatment generally could not exceed 15 percent of an institution's total risk-based capital. It is not expected that this proposal would have a significant economic impact on a substantial number of small banking organizations.

In August 1995, following review of the public comments, the Board adopted the proposal (60 FR 45612, August 31, 1995). The final rule does not, as proposed, amend the leverage capital guidelines for State member banks to require that the off-balance sheet amount of retained recourse on small business loans sold with recourse be included in the calculation of the leverage ratio. The Board has concluded that the leverage ratio should continue to be based primarily on the amount of average total on-balance sheet as reported in the Call Report.

Timetable:

Action	Date	FR Cite
Board requested comment	02/01/95	60 FR 6042
Board adopted proposal	08/31/95	60 FR 45612

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas R. Boemio, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2982

RIN: 7100–AB93

4658. REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0851)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1972(1)

CFR Citation: 12 CFR 225.7

Legal Deadline: None

Abstract: In October 1994, the Board issued for public comment a proposed exception to the anti-tying restrictions of section 106 of the Bank Holding Company Act and the Board's Regulation Y (59 FR 53761, October 26, 1994). The proposal would establish by regulation a "safe harbor" permitting a bank to offer a discount on any product or package of products if a customer maintains a combined balance in deposits and other products specified by the bank. The Board previously granted a similar exception by order to Fleet Financial Group, Inc., Providence, Rhode Island.

The proposal is not expected to have a significant economic impact on small institutions.

In April 1995, following review of the public comments, the Board adopted the proposal substantially as proposed (60 FR 20186, April 25, 1995).

Timetable:

Action	Date	FR Cite
Board requested comment	10/26/94	59 FR 53761
Board adopted proposal	04/25/95	60 FR 20186

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Greg Baer, Managing Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3236

RIN: 7100–AB94

4659. REGULATION: Z—TRUTH IN LENDING (DOCKET NUMBER: R-0858)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3806; 12 USC 1604; 12 USC 1637(c)(5)

CFR Citation: 12 CFR 226

Legal Deadline: Final, Statutory, March 22, 1995.

Abstract: Sections 151 to 154 of the Riegle Community Development and Regulatory Improvement Act of 1994 amend the Truth in Lending Act to impose on creditors disclosure requirements about the potential cost of reverse mortgage transactions and disclosure requirements and substantive limitations on home mortgage transactions with high rates or high fees. To implement sections 151 to 154, in December 1994 the Board published for comment amendments to Regulation Z (59 FR 61832, December 2, 1994). The types of mortgages that trigger these new requirements are not typically offered by small institutions; thus, the requirements would not have a significant economic impact on those institutions.

In March 1995, following review of the public comments, the Board adopted the amendments in substantially the form proposed (60 FR 15463, March 24, 1995).

Timetable:

Action	Date	FR Cite
Board requested public comment	12/02/94	59 FR 61832
Board adopted amendments	03/24/95	60 FR 15463

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane Ahrens, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AB96

FRS

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4660. REGULATION: BB—COMMUNITY REINVESTMENT (DOCKET NUMBER: R-0822)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 321; 12 USC 325; 12 USC 1814; 12 USC 1816; 12 USC 1828

CFR Citation: 12 CFR 228

Legal Deadline: None

Abstract: In December 1993, the Board and the other financial supervisory agencies proposed for public comment amendments to the regulations implementing the Community Reinvestment Act (CRA). The proposed regulations would replace the existing regulations. The purpose of the proposal was to develop more objective and enforceable regulatory requirements while reducing regulatory burden. To do this, the proposal called for a new set of tests of banks' CRA-related performance based on their lending, services, and investments in low- and moderate-income communities. It would also have required the collection of new data for larger banks but would have provided for a streamlined assessment of the performance of smaller banks.

In October 1994, following review of the public comments, the Board and the other agencies issued a revised proposal for comment (59 FR 51232, October 7, 1994). One significant element of the revised proposal was the addition of a requirement that larger banks collect data on the race and gender of the owners of small farms and businesses who receive or, in some instances, unsuccessfully apply for credit. In order to coordinate collection of those data with collection of data already required by the Home Mortgage Disclosure Act, technical conforming amendments were simultaneously proposed by the Board for its Regulation C (Home Mortgage Disclosure).

In May 1995, following review of the public comments, the Board and the other agencies adopted a final revised Regulation BB (60 FR 22155, May 4, 1995). The Regulation is similar to the 1994 proposal in most respects but did not include any provision for collection of race and gender data regarding small business and small farm credit applicants. In addition, the Board approved final revisions to Regulation C substantially as proposed (60 FR 22223, May 4, 1995). All insured depositories are subject to the regulation. It is the purpose of this regulatory action to reduce regulatory burden, particularly on smaller institutions, and it is not expected to have a significant economic impact on a substantial number of small banks.

Timetable:

Action	Date	FR Cite
Board requested public comment	12/21/93	58 FR 67465
Board requested public comment on a revised proposal	10/07/94	59 FR 51232
Board adopted proposals	05/04/95	60 FR 22155

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Glenn E. Loney, Associate Director, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3585

RIN: 7100–AB75

4661. INTERNAL APPEALS PROCESS (DOCKET NUMBER: R-0867)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4806

CFR Citation: None

Legal Deadline: Final, Statutory, March 22, 1995.

Abstract: Section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 requires the Federal banking agencies to adopt an independent internal appeals process. In December 1994, the Board requested public comment on procedures similar to those currently in use by the Federal Reserve Banks (59 FR 67297, December 29, 1994). The procedures are available to any institution supervised by the Federal Reserve that wishes to appeal a material supervisory determination. Under the procedures, an institution wishing to appeal can have that appeal heard by a disinterested person or persons at the Reserve Bank, with a further right of appeal to the Reserve Bank President and to the Board of Governors. The procedures set forth deadlines to ensure that all appeals are heard and decided expeditiously. It is not expected that the procedures will have a significant economic impact on small institutions.

In March 1995, following review of the public comments, the Board adopted final guidelines substantially as proposed (60 FR 16470, March 30, 1995).

Timetable:

Action	Date	FR Cite
Board requested public comment	12/29/94	59 FR 67297
Board adopted guidelines	03/30/95	60 FR 16470

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Greg Baer, Managing Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3236

RIN: 7100–AB98

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Tuesday
November 28, 1995

Part LVIII

Federal Trade Commission

Semiannual Regulatory Agenda

FEDERAL TRADE COMMISSION (FTC)

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), and section 610(c) of the Regulatory Flexibility Act, 5 U.S.C. 610(c). Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff based upon information now available, and each projected date reflects an assessment by the FTC staff of the likelihood that the specified event will occur during the coming year. No final determination by the staff or the Commission respecting the need for or the substance of a trade regulation rule, including the results of pending rulemakings that are consistent with the Reinventing Government Initiative, or any other procedural option should be inferred from the notation of projected events in this agenda.

In most instances, the dates of future events are listed by month, not by a specific day. Acquisition of new information, change of circumstances, or changes in the law may alter the information set forth in this agenda. Several agenda items concern rulemaking proceedings that may affect a substantial number of small businesses as that term is used in the Regulatory Flexibility Act. Whether the likely economic impact on such entities is significant will depend upon the outcome of the particular proceeding.

This edition of the Unified Agenda of Federal Regulations includes The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. FTC's Statement of Regulatory Priorities is included in Part II.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the agency contact person listed for each particular proceeding.

By direction of the Commission.

Donald S. Clark,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4662	Rules and Regulations Under the Wool Products Labeling Act of 1939	3084-AA50
4663	Rules and Regulations Under the Fur Products Labeling Act	3084-AA51
4664	Rules and Regulations Under the Textile Fiber Products Identification Act	3084-AA52
4665	The Used Car Rule	3084-AA56
4666	Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation	3084-AA60
4667	Trade Regulation Rule for the Incandescent Lamp (Light Bulb) Industry	3084-AA61
4668	Trade Regulation Rule Concerning Misbranding and Deception as to Leather Content of Waist Belts	3084-AA62
4669	Trade Regulation Rule on Franchising and Business Opportunity Ventures	3084-AA63

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4670	Premerger Notification Rules and Report Form	3084-AA23
4671	Games of Chance in the Food Retailing and Gasoline Industries Rule	3084-AA24
4672	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986	3084-AA48
4673	The Care Labeling Rule	3084-AA54
4674	Deception as to Non-Prismatic and Partially Prismatic Instruments Being Prismatic Instruments	3084-AA65
4675	Advertising and Labeling of Sleeping Bags	3084-AA66
4676	Quick Freeze Spray Rule	3084-AA67
4677	Fiberglass Curtain Rule	3084-AA68
4678	Deceptive Advertising and Labeling as to Size of Tablecloths and Related Products	3084-AA69
4679	Deceptive Advertising and Labeling as to Length of Extension Ladders	3084-AA70

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4680	Cooling-Off Rule	3084-AA53
4681	Labeling Standards for Recycled Oil Containers	3084-AA64

FTC

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4682	Amended Federal Deposit Corporation Improvement Act	3084-AA44
4683	Regulatory Review	3084-AA47

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4684	The Credit Practices Rule	3084-AA55
4685	Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles	3084-AA57
4686	Telemarketing Rule	3084-AA59

FEDERAL TRADE COMMISSION (FTC) — Prerule Stage

4662. RULES AND REGULATIONS UNDER THE WOOL PRODUCTS LABELING ACT OF 1939

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 68 Wool Products Labeling Act of 1939

CFR Citation: 16 CFR 300

Legal Deadline: None

Abstract: The Wool Products Labeling Act of 1939 (Wool Act) requires covered wool products to be marked with (1) the generic names and percentages by weight of the constituent fibers present in the wool product; (2) the name under which the manufacturer or another responsible USA company does business, or in lieu thereof, the registered identification number (RN) of such a company; and (3) the name of the country where the wool product was processed or manufactured. Pursuant to Section 6(a) of the Wool Act, "the Commission is authorized and directed to make rules and regulations for the manner and form of disclosing information required by this Act ... and to make such further rules and regulations under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement." These implementing rules and regulations are set forth at 16 CFR 300. As part of its systematic review of all current Commission regulations and guides, the Commission requested comments on, among other things, the economic impact of and the continuing need for, these rules, possible conflict between the rules and State, local and other federal laws, and the effect on the rules of any technological, economic, or other industry changes.

Timetable:

Action	Date	FR Cite
Begin Reg Flex Review	05/06/94	59 FR 23645
Extension of Comment Period	09/12/94	59 FR 46778
Comment Period End	10/15/94	
Recommendation to Commission	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bret S. Smart, Federal Trade Commission, Los Angeles Regional Office, 11000 Wilshire Bouldvard, Ste. 13209, Los Angeles, CA 90024
Phone: 310 575-7890

RIN: 3084–AA50

4663. RULES AND REGULATIONS UNDER THE FUR PRODUCTS LABELING ACT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 69 Fur Products Labeling Act

CFR Citation: 16 CFR 301

Legal Deadline: None

Abstract: The Fur Products Labeling Act (Fur Act) requires covered furs and fur products to be labeled, invoiced, and advertised to show (1) the name(s) of the animal that produced the fur(s); (2) where such is the case, that the fur is used fur or contains used fur; (3) where such is the case, that the fur is bleached, dyed, or otherwise artificially colored; and (4) the name of the country of origin of any imported furs used in the fur product. Pursuant to Section 8(b) of the Fur Act, "The Commission is authorized and directed to prescribe rules and regulations governing the manner and form of disclosing information required by this Act and such further rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act." These implementing rules are set forth at 16 CFR 301. As part of its systematic review of all current Commission regulations and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, these rules, possible conflict between the rules and state, local and other federal laws, and the effect on the rules of any technological, economic, or other industry changes.

Timetable:

Action	Date	FR Cite
Begin Reg Flex Review	05/06/94	59 FR 23645
Extension of Comment Period	09/12/94	59 FR 46778
Comment Period End	10/15/94	
Recommendations to Commission	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Bret S. Smart, Federal Trade Commission, Los Angeles Regional Office, 11000 Wilshire Boulevard, Ste. 13209, Los Angeles, CA 90024
Phone: 310 575-7890

RIN: 3084–AA51

4664. RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 70 Textile Fiber Products Identification Act

CFR Citation: 16 CFR 303

Legal Deadline: None

Abstract: The Textile Fiber Products Identification Act (Textile Act) requires wearing apparel and other covered household textile articles to be marked with (1) the generic names and percentages by weight of the constituent fibers present in the textile fiber product; (2) the name under which the manufacturer or another responsible USA company does business, or in lieu thereof, the registered identification number (RN) of such a company; and (3) the name of the country where the textile product was processed or manufactured. Pursuant to Section 7(c) of the Textile Act, "the Commission is authorized and directed to make such rules and regulations, including the establishment of generic names of manufactured fibers, under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement." These implementing rules are set forth at 16 CFR 303. As part of its systematic review of all current Commission regulations and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, these rules, possible conflict between the rules and State, local and other Federal laws, and the effect on the rules of any technological, economic, or other industry changes. Although this rulemaking was commenced prior to the Reinventing Government Initiative, it has been included as part of that Initiative because further proceedings in connection with this matter will be consistent with that Initiative.

Timetable:

Action	Date	FR Cite
Begin Reg Flex Review	05/06/94	59 FR 23646
Extension of Comment Period	09/12/94	59 FR 46779
Comment Period End	10/15/94	
Recommendations to Commission	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Bret S. Smart, Federal Trade Commission, Los Angeles Regional Office, 11000 Wilshire Boulevard, Ste. 13209, Los Angeles, CA 90024
Phone: 310 575-7890

RIN: 3084–AA52

4665. THE USED CAR RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 45 to 58

CFR Citation: 16 CFR 455

Legal Deadline: None

Abstract: The purpose of the Used Car Rule, which became effective on May 9, 1985, is to prevent and discourage oral misrepresentations and omissions of material facts by used car dealers concerning warranty coverage. The Rule provides a uniform method for written disclosure of warranty information on a window sticker called a "Buyers Guide." The Rule requires sellers to disclose on the Buyers Guide the basic terms and conditions of any warranty offered in connection with the sale of a used car, including the duration of coverage, the percentage of total repair costs to be paid by the dealer, and the systems covered by the warranty. The Rule also requires certain other disclosures that must be printed on the Buyers Guide, including: a suggestion that consumers ask the dealer if a pre-purchase inspection is permitted; a warning against reliance on spoken promises that are not confirmed in writing; and a list of the 14 major systems of an automobile and the major problems that may occur in these systems. The Rule also provides that the Buyers Guide disclosures are to be incorporated by reference into the sales contract, and are to govern in the event of an inconsistency between the Buyers Guide and the sales contract. As part of the Commission's ongoing project to review all rules periodically, the Commission has published a Federal Register Notice seeking public comment on the cost and benefits and other impacts of the Rule. The purpose of the review is to determine whether the Commission should consider amending, repealing, or retaining the Rule as is. Pursuant to the Regulatory Flexibility Act, the Commission also solicited comments on the Rule's impact on small business, and on whether the Rule should be amended to minimize any significant impact upon small economic entities. Although this rulemaking was commenced prior to the Reinventing Government Initiative it has been included as part of that Initiative because further proceedings in connection with this matter will be consistent with that Initiative.

Timetable:

Action	Date	FR Cite
Begin Reg Flex and Periodic Review	05/06/94	59 FR 23647
Comment PeriodEnd	07/06/94	
Recommendations to Commission	08/21/95	
Commission Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Brent Mickum IV, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3132

RIN: 3084–AA56

4666. TRADE REGULATION RULE CONCERNING THE LABELING AND ADVERTISING OF HOME INSULATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 460

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation ("R-Value Rule") became effective on September 29, 1980. The Rule is designed to assist consumers in evaluating and comparing the thermal performance characteristics of competing home insulation products. Specifically, the Rule requires manufacturers of home insulation products to provide information about the product's degree of resistance to the flow of heat (R-Value). The Rule also establishes uniform standards for testing, information disclosure and substantiation of product performance claims. As part of its systematic review of all current Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule, possible conflicts between the Rule and state, local and other federal laws, and the effect on the Rule of any technological, economic, or other industry changes.

Timetable:

Action	Date	FR Cite
Request for Comments	04/06/95	60 FR 17492
Comment Period End	06/06/95	
Recommendations to the Commission	11/00/95	
Final Commission Action	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kent C. Howerton, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3013

RIN: 3084–AA60

4667. TRADE REGULATION RULE FOR THE INCANDESCENT LAMP (LIGHT BULB) INDUSTRY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 409

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule for the Incandescent Lamp (Light Bulb) Industry became effective on January 25, 1971. The Rule is designed to assist consumers in making informed purchases of light bulbs for specific needs. Specifically, the Rule requires the disclosures of, in accordance with uniform specifications, the electrical power consumed (expressed as average initial wattage), the light output (expressed as average initial lumens), and the average laboratory life (expressed in hours) on light bulb packages. In addition, the average initial wattage and design voltage must appear on the bulbs themselves. As part of its systematic review of all current Commission rules and guides, the Commission has requested comments on, among other things, the economic impact of, and the continuing need for, this Rule, possible conflicts between the Rule and state, local and other federal laws, and the effect on the Rule of any technological, economic, or other industry changes. In addition, the Commission requested comment as to whether it should modify provisions of the Rule that duplicate or overlap with provisions in the Appliance Labeling Rule. Although this rulemaking was commenced prior to the Reinventing Government Initiative, it has been included as part of that Initiative because further proceedings in connection with this matter will be consistent with that Initiative.

Timetable:

Action	Date	FR Cite
Request for Comments	04/06/95	60 FR 17491
Comment Period End	08/07/95	
Recommendations to the Commission	11/00/95	
Commission Action	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kent C. Howerton, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3013

RIN: 3084–AA61

4668. TRADE REGULATION RULE CONCERNING MISBRANDING AND DECEPTION AS TO LEATHER CONTENT OF WAIST BELTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41-58

CFR Citation: 16 CFR 405

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule Concerning Misbranding and Deception as to Leather Content of Waist Belts (Leather Belt Rule) makes it an unfair method of competition and an unfair and deceptive act or practice to misrepresent a belt's leather content or the type of animal hide or skin from which the belt is made. The Rule also prohibits the sale or distribution of belts without adequate disclosures as to their leather content or type of animal hide or skin if the appearance of the product would deceive consumers. As part of its systematic review of all current Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule, possible conflicts between the Rule and state, local and other federal laws, and the effect on the Rule of any technological, economic, or other industry changes. The Commission received ten comments on the Leather Belt Rule. After reviewing the comments, the Commission announced that, in order to avoid unnecessary duplication, it had decided to publish an ANPR seeking comment on whether the Rule should be three separate industry guides for various leather products into one set of guides. These new consolidated guides also would cover leather belts.

Timetable:

Action	Date	FR Cite
Request for Comments	03/27/95	60 FR 15725
Comment Period End	05/26/95	
Recommendations to the Commission	07/21/95	
ANPRM	09/18/95	60 FR 48070
ANPRM Comment Period End	10/18/95	
NPRM	12/00/95	
Final Commission Action	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lemuel Dowdy, Edwin Rodriquez, Federal Trade Commission, Division of Enforcement,

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Bureau of Consumer Protection, Washington, DC 20580
Phone: 202 326-2981

RIN: 3084–AA62

4669. TRADE REGULATION RULE ON FRANCHISING AND BUSINESS OPPORTUNITY VENTURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 to 58

CFR Citation: 16 CFR 436

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule on Franchising and Business Opportunity Ventures (Franchise Rule) became effective on October 21, 1979. The Rule is designed to reduce deceptive and unfair practices in the sale of franchises and business opportunities by requiring the pre-sale disclosure of material information about the franchise. For example, the Rule requires franchisors to disclose their business background and litigation history, as well as the number of failed and terminated franchise units. The Rule also requires the disclosure of material terms of the franchise relationship, such as recurring fees and termination and renewal rights. The Rule further requires the franchisor to provide an audited financial statement for the past three fiscal years. Finally, the Rule requires any franchisor who makes earnings representations to provide the prospective franchisee with an earnings claims document that substantiates those claims. As part of its systematic review of all current Commission rules and guides, the Commission is requesting comments about the overall costs and benefits of the Rule and what effects, if any, have changes in relevant technology, economic conditions, and industry practices had on the Rule. The Commission may also consider other areas of the Rule, as appropriate.

Timetable:

Action	Date	FR Cite
Request for Comments	04/15/95	
Comment Period End	08/11/95	
Public Workshop	09/12/95	
Recommendations to the Commission	01/00/96	
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Steven Toporoff, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3135

RIN: 3084–AA63

FEDERAL TRADE COMMISSION (FTC) — Proposed Rule Stage

4670. PREMERGER NOTIFICATION RULES AND REPORT FORM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801 to 803

Legal Deadline: None

Abstract: The Premerger Notification Rules and the Antitrust Improvements Act Notification and Report Form were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. These rules are continually reviewed in order to improve the program's effectiveness and reduce the paperwork burden on the business community. The Commission proposed modifications to the Premerger Notification and Report form during fiscal year 1994. In September 1985, the Commission proposed to amend the Rule's treatment of acquisitions of goods or realty made in the ordinary course of business. The Commission will reconsider what action, if any, to take on possible amendments regarding such acquisitions. In addition, on August 9, 1995, the Commission published a final rule that removed 16 CFR part 800, the transitional rule addressing the treatment of acquisitions consummated before, and notification filed on or before September 5, 1978.

Timetable:

Action	Date	FR Cite
Begin Review	09/30/81	
Begin Review	09/30/81	
NPRM – Ordinary Course	09/24/85	50 FR 38742
NPRM - HSR Form Changes	06/14/94	59 FR 30545
NPRM - Ordinary Course	07/28/95	60 FR 38930
Part 800 Repealed	08/09/95	60 FR 40704
NRM - HSR Form Changes	11/00/95	
NRM - Ordinary Course	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Sipple, Assistant Director, Pre-Merger Notification, Federal Trade Commission, Bureau of Competition, Washington, DC 20580
Phone: 202 326-2862

RIN: 3084–AA23

4671. GAMES OF CHANCE IN THE FOOD RETAILING AND GASOLINE INDUSTRIES RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 419

Legal Deadline: None

Abstract: The Commission's trade regulation rule concerning games of chance became effective on October 17, 1969. The Rule establishes requirements for food and gasoline retailers in conducting and advertising games of chance by requiring disclosure of odds-of-winning and prize information in broadcast and print advertisements, as well as in point of

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sale information. In January, 1983, the Commission granted a temporary partial exemption to allow supermarkets and gas stations to advertise their games on radio and television without disclosing full information on prizes and odds-of-winning. In addition, the Commission also published an Advance Notice of Proposed Rulemaking on whether to make the broadcast exemption permanent. Finally, the Commission proposed to reduce the recordkeeping requirements of the Rule from three years to one year in keeping with the goals of the Paperwork Reduction Act, and requested public comment on other possible areas where amendments to the Rule may be appropriate. The Rule benefits consumers by allowing contestants to enter games of chance with full knowledge of all material information to enable equal competition for prizes. The major costs to industry are the possible burdensomeness of the electronic media disclosure and recordkeeping provisions of the Rule, both of which have been reconsidered. The Commission issued an NPRM on July 7, 1988 to consider amendments that would reduce the burden of the Rule's recordkeeping and disclosure requirements. The presiding officer reopened the record for additional public comment on July 26, 1995.

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	08/19/69	34 FR 13302
ANPRM	01/04/83	48 FR 265
Temporary Partial Exemption	01/10/83	48 FR 1046
NPRM	07/07/88	53 FR 25503
Reopened Record	07/26/95	60 FR 38474
Staff Report	11/00/95	
Presiding Officer's Report	12/00/95	
Commission Consideration of Staff Recommendations	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John M. Mendenhall, Federal Trade Commission, Cleveland Regional Office, Suite 520A, 668 Euclid Ave., Cleveland, Ohio 44114
Phone: 216 522-4207

RIN: 3084–AA24

4672. REGULATIONS UNDER THE COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 4401

CFR Citation: 16 CFR 307

Legal Deadline: None

Abstract: The Comprehensive Smokeless Tobacco Act of 1986 requires health warnings on all packages and advertising for smokeless tobacco. The Commission published an NPR on February 14, 1995 seeking public comment on whether the regulations governing the rotation schedule for utilitarian objects should be amended. The comment period expired on April 14, 1995. On a separate point, the Coalition on Smoking OR Health petitioned the Commission to enforce the Smokeless Tobacco Act by requiring smokeless tobacco health warnings on sponsored racing cars, banners, flags, and other related objects bearing smokeless tobacco product brand names, logos, or selling messages. On October 26, 1993, the Commission issued an NPR, proposing a requirement that sponsored auto racing vehicles and all other event-related objects that bear the brand name or selling message of smokeless tobacco products display health warning labels. Staff is preparing its recommendations to the Commission.

Timetable:

Action	Date	FR Cite
NPRM (Promotional Items)	01/15/93	54 FR 4875
NPRM (Racing Cars)	11/04/93	58 FR 58810
Comment Period End (Racing Cars)	02/01/94	
NPRM (Utilitarian Items)	02/14/95	60 FR 8312
Comment Period End (Utilitarian Items)	04/14/95	
Final Staff Recommendation (Promotional Items)	11/00/95	
Final Staff Recommendation (Racing Cars)	11/00/95	
Final Staff Recommendations (Utilitarian Items)	11/00/95	
Commission Action (Promotional Items)	02/00/96	
Commission Action (Utilitarian Items)	02/00/96	
Commission Action (Racing Cars)	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Phillip Priesman, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-2484

RIN: 3084–AA48

4673. THE CARE LABELING RULE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 423

Legal Deadline: None

Abstract: The Care Labeling Rule requires manufacturers and importers of textile wearing apparel to attach cleaning instructions stating what regular care is needed for the ordinary use of the product. If dry cleaning is recommended, the label must state at least one type of solvent that may be used, (unless all commercially available types of solvent can be used) and must contain a warning against the use of any part of the normal dry cleaning procedure that would harm the product. The Rule also requires that the manufacturer or importer possess, prior to sale, a reasonable basis for the care instructions. The Rule currently requires that care instructions be stated in "appropriate terms." It also states that "any appropriate symbols may be used on care labels or care instructions, in addition to the required appropriate terms so long as the terms fulfill the requirements of this regulation." Although the Rule does not specifically state that the instructions must be in English, they usually are. The Commission has solicited comment on whether it is desirable to allow the use of symbols in lieu of language on care labels; on whether, and under what circumstances, it is desirable to require washing instructions as well as dry cleaning instructions; and in general, on the costs and benefits and regulatory and economic impact of an amended Care Labeling rule. Although this rulemaking was commenced prior to the Reinventing Government Initiative,

it has been included as part of that Initiative because further proceedings in connection with this matter will be consistent with the Initiative.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30733
ANPRM Comment Period End	10/15/94	
Recommendation to Commission	10/00/95	
Commission Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Constance Vecellio, Care Labeling Rule Coordinator, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-2966

RIN: 3084–AA54

4674. • DECEPTION AS TO NON-PRISMATIC AND PARTIALLY PRISMATIC INSTRUMENTS BEING PRISMATIC INSTRUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 57

CFR Citation: 16 CFR 402

Legal Deadline: None

Abstract: The Binocular Rule, promulgated in 1964, requires a clear and conspicuous disclosure on any advertising or packaging for non-prismatic or partially prismatic binoculars that the instruments are not fully prismatic. Fully prismatic binoculars rely on a prism within the instrument to reverse the visual image entering the lens so that it appears right-side up to the user. Other binoculars rely partially or entirely on mirrors to reverse the visual image. To prevent consumer deception, the Rule proscribed the use of the term "binocular" to describe anything other than a fully prismatic instrument, unless the term was modified to indicate the true nature of the item. Under the Rule, non- prismatic instruments could be identified as binoculars only if they incorporated a descriptive term such as "binocular-nonprismatic," "binocular-mirror prismatic," or "binocular- nonprismatic mirror." It appears that most binoculars manufactured today are fully prismatic. Generally, the only non-prismatic binoculars available are either toys or opera glasses. Staff does not believe that consumers shopping for binoculars would be deceived into purchasing either a toy or an opera glass, even without the disclosure mandated by the Rule. The Commission published an ANPR seeking public comment on whether the Rule should be repealed. Based on the comments and staff analysis, the Commission decided to initiate a rulemaking to repeal the rule and published a NPR on September 18, 1995.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/95	60 FR 27240
ANPRM Comment Period End	06/22/95	
NPRM	09/18/95	60 FR 48065
NPRM Comment Period End	10/18/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip S. Priesman, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-4284

RIN: 3084–AA65

4675. • ADVERTISING AND LABELING OF SLEEPING BAGS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 57

CFR Citation: 16 CFR 400

Legal Deadline: None

Abstract: The Sleeping Bag Rule, promulgated by the Commission on October 11, 1963, regulates the use of the term "cut size" of materials from which a sleeping bag is made to describe the size of a sleeping bag in advertising, labeling, or marking. The Commission is reviewing the Sleeping Bag Rule as part of a periodic review to seek information about the costs and benefits of its rules and guides and their regulatory and economic impact. This information assists the Commission in identifying rules and guides that warrant modification or rescission. On April 19, 1993, the Commission requested public comments on the Sleeping Bag Rule. The Commission received only one comment stating that there was a continuing need for the Rule to deter deceptive practices. The Commission also conducted an informal inquiry and inspected sleeping bags at several national chain stores. The inquiry found no violations of the Rule on either the sleeping bag packaging materials or the labels affixed to the product itself. Additionally, the Commission has no record of receiving any complaints regarding non-compliance with the Rule, or of initiating any law enforcement actions alleging violations of the Rule's requirements. Finally, the Uniform Packaging and Labeling Regulation, which has been adopted by 47 states, regulates the labeling of sleeping bags, and appears to provide that these items must be labeled with their finished size. Based on this review, the Commission has determined that there may no longer be a need to continue the Sleeping Bag Rule. The Comission solicited comment on whether it should initiate a rulemaking proceeding to repeal the Rule. Based on the comments, the Commission decided to initiate a rulemaking to repeal the Rule and published a NPR on September 18, 1995.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/95	60 FR 27240
ANPRM Comment Period End	06/22/95	
NPRM	09/18/95	60 FR 48063
NPRM Comment Period End	10/18/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John A. Crowley, Division of Service Industry Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3280

RIN: 3084–AA66

4676. • QUICK FREEZE SPRAY RULE

Priority: Substantive, Nor significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 41-58

CFR Citation: 16 CFR 417

Legal Deadline: None

Abstract: The Quick Freeze Spray Rule was promulgated by the Commission on February 20, 1969. The Rule requires a clear and conspicuous warning on aerosol spray products used for frosting beverage glasses. These products contain a compound known as Fluorocarbon 12 (Dichlorodifluoromethane), which is also used as a coolant for automobile air conditioners and refrigerators. The warning states that the contents should not be inhaled because inhalation could cause death or injury. Although the product is not harmful when used as directed, there had been several instances where death had occurred when individuals inhaled the quick-freeze spray for its intoxicating effects. Accordingly, the Commission concluded that it was in the public interest to caution consumers who might not be aware of the lethal effects of inhaling the product. The Commission has proposed to repeal the Rule because the products are no longer produced and because the product's active ingredient is banned under the Clean Air Act. The Commission received no comments in response to the ANPR that was published in the Federal Register. The Commission therefore decided to initiate a rulemaking proceeding to repeal the Rule and published a NPR on September 18, 1995.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/95	60 FR 27244
ANPRM Comment Period End	06/22/95	
NPRM	09/18/95	60 FR 48073
NPRM Comment Period End	10/18/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Brent Mickum IV, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3132

RIN: 3084–AA67

4677. • FIBERGLASS CURTAIN RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 41-58

CFR Citation: 16 CFR 413

Legal Deadline: None

Abstract: The Fiberglass Curtain Rule was promulgated by the Commission on July 28, 1967. The Rule requires marketers of fiberglass curtains or draperies and fiberglass curtain or drapery cloth to disclose that skin irritation may occur from handling these materials and from contact with clothing or other articles that have been washed with glass fiber products or in a container used for washing glass fiber products unless the container has been cleaned and the fibers removed. At the time the Rule was promulgated, members of the public had experienced skin irritation after washing or handling glass fiber curtains and draperies and glass fiber curtain and drapery fabrics. The Commission concluded that it was in the public interest to disclose to consumers that skin irritation could occur from handling these products and from body contact with clothing or other articles that had been washed with these products or in a container previously used for washing these products. The Commission has proposed to repeal the Rule because fiberglass fabric has been replaced by polyester and modacrylics in the drapery industry and fiberglass fabrics are now used almost exclusively for specialized industrial use. The Commission received no comments in response to the ANPR that was published in the Federal Register. The Commission decided therefore to initiate a rulemaking proceeding to repeal the Rule and published a NPR on September 18, 1995.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/95	60 FR 27243
ANPRM Comment Period End	06/22/95	
NPRM	09/18/95	60 FR 48071
NPRM Comment Period End	10/18/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edwin Rodriquez, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3147

RIN: 3084–AA68

4678. • DECEPTIVE ADVERTISING AND LABELING AS TO SIZE OF TABLECLOTHS AND RELATED PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 57

CFR Citation: 16 CFR 404

Legal Deadline: None

Abstract: The Tablecloth Rule was promulgated by the Commission on October 1, 1963. The Rule regulates the use of the term "cut size" of materials from which a tablecloth is made to describe the size of a tablecloth in advertising, labeling or marking. The Commission reviewed the Tablecloth Rule as part of a periodic review to seek information about the costs and benefits of its rules and guides and their regulatory and economic impact. This information assists the Commission in identifying rules and guides that warrant modification or rescission. The Commission requested public comments on the Tablecloth Rule on April 19, 1993. The Commission received only one comment stating that there was a specific need for the Rule to deter deceptive practices. One other comment recommended rescission of the Rule because the general prohibitions of the FTC Act covering false and deceptive advertising apply to the tablecloth industry and thus the Rule creates unnecessary administrative costs for the government, industry members and consumers. The Commission also conducted an informal survey and inspected tablecloths at several national chain stores. The Commission found no violations of the Rule on tablecloth packaging materials or the labels affixed to the product itself. In addition, the Commission has no record of receiving any complaints regarding non-compliance with the Rule, or of initiating any law enforcement actions alleging violations of the Rule's

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requirements. Finally, the Uniform Packaging and Labeling Regulation, which has been adopted by 47 states, regulates the labeling of tablecloths, and appears to provide that these items must be labeled with their finished size. Based on this review, the Commission determined that there may no longer be a need to continue the Rule. The Commission published an ANPR soliciting comment on whether a rulemaking proceeding should be initiated to repeal the Rule. Based on the comments, the Commission decided to initiate a rulemaking proceeding and on September 18, 1995, published a NPR.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/95	60 FR 27242
ANPRM Comment Period End	06/22/95	
NPRM	09/18/95	60 FR 48067
NPRM Comment Period End	10/18/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John A. Crowley, Division of Service Industry Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3280

RIN: 3084–AA69

4679. • DECEPTIVE ADVERTISING AND LABELING AS TO LENGTH OF EXTENSION LADDERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 57

CFR Citation: 16 CFR 404

Legal Deadline: None

Abstract: The Extension Latter Rule was promulgated by the Commission on October 11, 1963. The Commission reviewed the Extension Ladder Rule as part of a periodic review to seek information about the costs and benefits of its rules and guides and their regulatory and economic impact. This information assists the Commission in identifying rules and guides that warrant modification or rescission. The Commission requested public comments on the Extension Ladder Rule on April 19, 1993. Six comments were received, one from an individual, four from manufacturers or suppliers of ladders and one from a trade association. A number of comments noted an overlap in coverage between the Extension Ladder Rule and the ANSI standard A14, which governs the labeling of ladders. Other comments questioned the need for the continuation of the Rule because the general prohibitions of Section 5 of the FTC Act covering false and deceptive advertising apply to the ladder industry, and thus the Rule creates unnecessary administrative costs for the government, industry members and consumers. Commission staff also engaged in an informal review of industry practices by examining the marking of length on extension ladders at several chain stores. That review indicated general compliance with the Rule. In addition, a check of the Commission's records failed to find any complaints regarding non-compliance with the Rule, or any initiation of law enforcement actions alleging violations of the Rule's requirements. The Commission issued an ANPRM seeking comment on whether it should initiate a proceeding to repeal the Rule. Based on the comments, the Commission decided to initiate such a proceeding and on September 18, 1995, published an NPRM.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/95	60 FR 27242
ANPRM Comment Period End	06/22/95	
NPRM	09/18/95	60 FR 48075
NPRM Comment Period End	10/18/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John A. Crowley, Division of Service Industry Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3280

RIN: 3084–AA70

FEDERAL TRADE COMMISSION (FTC) — Final Rule Stage

4680. COOLING-OFF RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 45 to 58

CFR Citation: 16 CFR 429

Legal Deadline: None

Abstract: The Cooling-Off Rule requires that a consumer be given a three-day right to cancel certain sales greater than $25.00 that occur at a place other than a seller's place of business. The Rule also requires a seller to notify buyers orally of the right to cancel; to provide buyers with a dated receipt or copy of the contract containing the name and address of the seller and notice of cancellation rights; and to provide buyers with forms which buyers may use to cancel the contract. On April 15, 1994, as a part of its Regulatory Review program, regulatory identifier number 3084-AA47, the Commission published a notice seeking public comment on whether the Rule should be amended to minimize any undue burdens of the Rule on the entities it affects. The Commission also sought comments concerning the Rule's application to temporary business locations, and whether the current exemptions for specific products sold at certain types of temporary places of business should be expanded to include other products. The Commission also proposed a non-substantive amendment to the definition of "business day" in the Rule. Although this rulemaking was commenced prior to the Reinventing Government Initiative, it has been included as part of that Initiative because further proceedings in connection with this matter will be consistent with the Initiative.

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Timetable:

Action	Date	FR Cite
Begin Reg Flex and Periodic Review	04/15/94	59 FR 18007
Comment PeriodEnd	06/14/94	
Recommendations to the Commission	08/24/95	
Final Commission Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lemuel W. Dowdy, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-2981

RIN: 3084–AA53

4681. • LABELING STANDARDS FOR RECYCLED OIL CONTAINERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6363(d)

CFR Citation: 16 CFR 311

Legal Deadline: Final, Statutory, October 25, 1995.

Abstract: Section 383 of the Energy Policy and Conservation Act of 1975 directs the FTC to promulgate a rule prescribing test procedures and labeling standards applicable to containers of recycled oil. The Commission is required to prescribe the Rule within 90 days after the National Institute of Standards and Technology reports to the Commission the test procedures to determine the substantial equivalency of processed used oil with new oil distributed for a particular end use. NIST has reported relevant test procedures to the Commission, and the Commission has published a notice in the Federal Register soliciting comments on a proposed Rule that would implement the statutory directive. The proposed Rule would permit a manufacturer to label processed used engine oil as substantially equivalent to new oil only if that determination has been based on the test procedures prescribed in the Rule. The Commission's notice invites interested persons to submit written comments addressing any issue they believe may bear upon the proposed Rule, including its costs and benefits. After reviewing comments, the Commission will publish a final Rule in the Federal Register.

Timetable:

Action	Date	FR Cite
Request for Comments	08/28/95	60 FR 44712
Comment Period End	09/28/95	
Final Commission Action	10/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neil Blickman/Laura Koss, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3038

RIN: 3084–AA64

FEDERAL TRADE COMMISSION (FTC) — Long-Term Actions

4682. AMENDED FEDERAL DEPOSIT CORPORATION IMPROVEMENT ACT

Priority: Substantive, Nonsignificant.

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Carole Reynolds
Phone: 202 326-3230

RIN: 3084–AA44

4683. REGULATORY REVIEW

Priority: Other

CFR Citation: 16 CFR 18 et seq

Timetable:

Action	Date	FR Cite
Rule Review Continuing	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kent Howerton
Phone: 202 326-3013

RIN: 3084–AA47

FEDERAL TRADE COMMISSION (FTC) — Completed Actions

4684. THE CREDIT PRACTICES RULE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq; 5 USC 601 et seq

CFR Citation: 16 CFR 444

Legal Deadline: None

Abstract: The Regulatory Flexibility Act, 5 USC section 601 et seq., (RFA) requires that an agency rule be reviewed within ten years of the publication of the rule as a final rule. In addition, the Commission has determined, as part of its oversight responsibilities, to review trade regulation rules at least once every ten years. These reviews seek information about the costs and benefits of the Commission's rules and about their regulatory and economic impact. The FTC's Trade Regulation Rule on Credit Practices, 16 CFR 444, published as a final rule in 1984, was reviewed last year under both the RFA and Commission procedures. Based on the comments received, the Commission found that the Rule did not have a significant economic impact upon a substantial number of small entities. The Commission also determined that none of the other issues raised in the comments merited revision of the Rule. The Commission therefore terminated the review and retained the Rule in its present form.

Timetable:

Action	Date	FR Cite
Begin Reg Flex Review	04/15/94	59 FR 18009
Comment Period End	06/14/94	
Recommendations to Commission	03/01/95	
End Review	05/10/95	60 FR 24805

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra M. Wilmore, Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3169

RIN: 3084–AA55

4685. LABELING REQUIREMENTS FOR ALTERNATIVE FUELS AND ALTERNATIVE FUELED VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13232(a)

CFR Citation: 16 CFR 309

Legal Deadline: NPRM, Statutory, April 25, 1994. Final, Statutory, May 9, 1995.

Abstract: The Energy Policy Act of 1992 (EPA 92) directed the Commission to establish uniform labeling requirements, to the extent practicable, for alternative fuels (i.e., vehicle fuels other than gasoline and diesel, such as compressed natural gas and electricity) and for vehicles that use alternative fuels. On May 19, 1995, the Commission published the Alternative Fuel Rule which requires disclosure of appropriate cost and benefit information to enable consumers to make reasonable purchasing choices and comparisons between nonliquid alternative fuels and alternative fueled vehicles. The labeling requirements for nonliquid alternative fuels became effective on August 21, 1995. The labeling requirements for alternative fueled vehicles become effective on November 20, 1995.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective Date	10/19/94	
Interim Final Rule Comment Period End	11/18/94	
Final Action	05/19/95	60 FR 26926
Final Action Effective	11/20/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Neil Blickman, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3038

RIN: 3084–AA57

4686. TELEMARKETING RULE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 6101

CFR Citation: 16 CFR 310

Legal Deadline: Final, Statutory, August 1995.

Abstract: The Commission implemented a new rule pursuant to the Telemarketing and Consumer Fraud and Abuse Prevention Act. The Act directed the Commission to issue a rule prohibiting deceptive and abusive telemarketing acts and practices within 365 days from the date of enactment of the Act. On August 16, 1995, the Commission issued a final rule that prohibits telemarketers from misrepresenting the cost, quantity and other aspects of offered goods or services and allows the FTC to target deceptive and abusive practices. The Rule becomes effective on December 31, 1995.

Timetable:

Action	Date	FR Cite
NPRM	02/14/95	60 FR 8313
Comment Period End	03/31/95	
Final Staff Recommendation	07/15/95	
Final Action	08/23/95	60 FR 43841
Final Action Effective	12/31/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Judith M. Nixon, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3173

RIN: 3084–AA59

[FR Doc. 95-24143 Filed 11-24-95; 8:45 am]

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federal register

Tuesday
November 28, 1995

Part LIX

Interstate Commerce Commission

Semiannual Regulatory Agenda

INTERSTATE COMMERCE COMMISSION (ICC)

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 420; Sub-No. 29]

Semiannual Regulatory Flexibility Agenda

AGENCY: Interstate Commerce Commission.

ACTION: Publication of regulatory flexibility agenda.

SUMMARY: The Interstate Commerce Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of: (1) Current and projected rulemakings and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that, during the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

Accordingly, a list of proceedings appears below containing information about subject areas in which the Commission is currently conducting rulemaking proceedings or in which it may institute such proceedings in the near future. The list also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda represents the Commission's best estimate of rules which will be considered over the next 12 months. However, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Commission is publishing its October 1995 regulatory flexibility agenda as part of the Unified Agenda of Federal Regulations. The Unified Agenda of Federal Regulations is coordinated by the Office of Management and Budget (OMB) pursuant to Executive Order 12866. Notwithstanding any limitations on executive branch control over our authority to conduct rulemakings, the Commission is participating in the program voluntarily to assist OMB.

Decided: September 11, 1995.
By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,
Secretary.

INTERSTATE COMMERCE COMMISSION (ICC) — Prerule Stage

4687. • PETITION FOR RULEMAKING—INVOICELESS BILLING TRANSACTIONS, EX PARTE NO. 55 (SUB-NO. 95)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10321; 49 USC 11144; 5 USC 553

CFR Citation: 49 CFR 1051; 49 CFR 1220

Legal Deadline: None

Abstract: The Commission is examining whether restrictions against invoiceless bills between shippers and carriers should be removed or modified. In this context, invoiceless billing means a system in which payments are made with no paper or electronic freight bill being issued by the carrier.

Timetable:

Action	Date	FR Cite
ANPRM	08/09/95	60 FR 40548
ANPRM Comment Period End	10/10/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5610
TDD: 202 927-5721
Fax: 202 927-6419

RIN: 3120–AC03

INTERSTATE COMMERCE COMMISSION (ICC) — Proposed Rule Stage

4688. RATE GUIDELINES—NONCOAL PROCEEDINGS, EX PARTE NO. 347 (SUB-NO. 2)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10301; 49 USC 10321; 49 USC 10326; 49 USC 10701a; 49 USC 10704; 49 USC 10707; 49 USC 11701; 5 USC 553

CFR Citation: None

Legal Deadline: None

Abstract: Proposal to adopt maximum rate reasonableness guidelines for captive noncoal commodities. Request for comments on alternative guidelines for small shippers including small coal shippers.

Timetable:

Action	Date	FR Cite
Notice of Proposed Policy Statement	05/22/86	51 FR 18811
Notice of Intent To Participate Due	06/02/86	
Comments Due	07/21/86	
Begin Review	07/24/87	
End Review	09/30/87	
NPRM	10/00/95	
NPRM Comment Period End	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ellen D. Hanson, Deputy General Counsel, Interstate Commerce Commission, 12th & Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-7312

RIN: 3120–AB41

4689. • EX PARTE NO. 55 (SUB-NO. 96), PASSENGER OPERATIONS BY MEXICAN MOTOR CARRIERS—IMPLEMENTATION OF NORTH AMERICAN FREE TRADE AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10922; 49 USC 10923; 49 USC 10927

CFR Citation: 49 CFR 1043.1; 49 CFR 1160.1(h); 49 CFR 1160.3(a); 49 CFR 1160.4; 49 CFR 1160.5(a)(6)

Legal Deadline: Final, Statutory, December 18, 1995.

Abstract: Effective December 18, 1995 the Commission will accept and process applications filed by Mexican property carriers for operating authority to provide service across the United States-Mexico international boundary line to and from points in Arizona, California, New Mexico, and Texas. The purpose of this proceeding is to announce implementation of the provisions of the second phase of the North American Free Trade Agreement (NAFTA) relating to land transportation and to promulgate rules and develop the application form required to carry out the implementation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
NPRM Comment Period End	10/00/95	
Final Action	12/18/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Chief, Litigation and Investigations, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5540

RIN: 3120–AC04

INTERSTATE COMMERCE COMMISSION (ICC) — Long-Term Actions

4690. EXEMPTION OF DEMURRAGE FROM REGULATION, EX PARTE NO. 462

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 1033

Timetable:

Action	Date	FR Cite
ANPRM	12/18/85	50 FR 51565
ANPRM Comment Period End	01/17/86	50 FR 51565
NPRM	04/22/92	57 FR 14689
Extension of Public Comment Period to 07/21/92	05/13/92	57 FR 20442
NPRM Comment Period End	05/22/92	57 FR 14689
Extension of Public Comment Period to 09/21/92	07/27/92	57 FR 33166
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar
Phone: 202 927-5660

RIN: 3120–AB35

4691. CLASS EXEMPTION FOR THE CONSTRUCTION OF CONNECTING TRACKS UNDER 49 USC 10901, EX PARTE NO. 392 (SUB-NO. 2)

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 1150

Timetable:

Action	Date	FR Cite
NPRM	07/24/86	51 FR 26563
NPRM Comment Period End	08/25/86	
NPRM	09/16/92	57 FR 42733
NPRM Comment Period End	10/16/92	57 FR 42733
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar
Phone: 202 927-5660

RIN: 3120–AB43

4692. RAILROAD CONSOLIDATION PROCEDURES: CLASS EXEMPTION FOR TRANSACTIONS SUBJECT TO THE STATUTORY CONSOLIDATION PROVISION, EX PARTE NO. 282 (SUB-NO. 15)

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 1180

Timetable:

Action	Date	FR Cite
NPRM	07/14/92	57 FR 31165
NPRM Comment Period End	08/30/92	57 FR 31165
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar
Phone: 202 927-5660

RIN: 3120–AB77

ICC — Long-Term Actions

4693. REVISION OF TARIFF REGULATIONS—INDEXES, EX PARTE NO. MC-211

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 1312

Timetable:

Action	Date	FR Cite
ANPRM	01/05/93	58 FR 3529
ANPRM Comment Period End	03/08/93	58 FR 3529
NPRM	08/05/93	58 FR 42277
NPRM Comment Period End	09/08/93	58 FR 42277
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lawrence C. Herzig
Phone: 202 927-5160

RIN: 3120–AB83

4694. RAIL GENERAL EXEMPTION AUTHORITY—EXEMPTION OF PAINTS, ENAMELS, LACQUERS, SHELLACS, ETC., EX PARTE NO. 346 (SUB-NO. 33)

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 1039

Timetable:

Action	Date	FR Cite
NPRM	10/21/93	58 FR 54318
NPRM Comment Period End	11/22/93	58 FR 54318
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar
Phone: 202 927-5660

RIN: 3120–AB95

4695. RAIL GENERAL EXEMPTION AUTHORITY—EXEMPTION OF NON-FERROUS RECYCLABLES AND RAILROAD RATES ON RECYCLABLE COMMODITIES, EX PARTE NO. 346 (SUB-NO. 36)

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 1039; 49 CFR 1145

Timetable:

Action	Date	FR Cite
NPRM	08/24/94	59 FR 43529
Comment Period Extended to 10/24/94	09/15/94	59 FR 47292
NPRM Comment Period End	09/23/94	59 FR 43529
Comment Period Extended to 11/07/94	10/26/94	59 FR 53775
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beryl Gordon
Phone: 202 927-5610

RIN: 3120–AC01

INTERSTATE COMMERCE COMMISSION (ICC) — Completed Actions

4696. RAIL GENERAL EXEMPTION AUTHORITY—EXEMPTION OF HYDRAULIC CEMENT, EX PARTE NO. 346 (SUB-NO. 34)

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 1039

Completed:

Reason	Date	FR Cite
Final Action	07/26/95	60 FR 38280
Final Action Effective	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar
Phone: 202 927-5660

RIN: 3120–AB96

4697. IMPLEMENTATION OF SECTION 4 OF THE NEGOTIATED RATES ACT, EX PARTE NO. MC-219

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 1002; 49 CFR 1011; 49 CFR 1130

Completed:

Reason	Date	FR Cite
Final Action	01/10/95	60 FR 2543
Final Action Effective	02/10/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence R. Herzig
Phone: 202 927-5180

RIN: 3120–AB98

4698. RAIL GENERAL EXEMPTION AUTHORITY—EXEMPTION OF FERROUS RECYCLABLES, EX PARTE NO. 346 (SUB-NO. 35)

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 1039

Completed:

Reason	Date	FR Cite
Final Action - Rule being reconsidered	05/19/95	60 FR 26839
Final Action Effective	06/19/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beryl Gordon
Phone: 202 927-5610

RIN: 3120–AC00

4699. ELECTRONIC FILING OF SURETY BOND TRUST FUND AGREEMENTS, INSURANCE CERTIFICATES AND CANCELLATIONS, EX PARTE NO. MC-223

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 1043; 49 CFR 1084

Completed:

Reason	Date	FR Cite
Final Action	03/31/95	60 FR 16808
Final Action Effective	05/03/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Burke
Phone: 202 927-5520

RIN: 3120–AC02

[FR Doc. 95-24144 Filed 11-24-95; 8:45 am]
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federal register

Tuesday
November 28, 1995

Part LX

National Credit Union Administration

Semiannual Regulatory Agenda

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Semiannual agenda of regulations.

SUMMARY: Pursuant to its ongoing policy of reviewing regulations, NCUA is publishing a list of current and projected rulemakings, reviews of existing regulations, and completed actions as of September 15, 1995. NCUA will also include this agenda in the Unified Agenda of Federal Regulations.

DATES: This information is current as of September 15, 1995.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

FOR FURTHER INFORMATION CONTACT: For each regulation listed, the person(s) named in the listing at the above address, unless otherwise noted, or listed telephone number.

SUPPLEMENTARY INFORMATION: The purpose of this agenda is to enable credit unions and the public to follow regulatory development and review at NCUA and to enable interested parties to more effectively participate in that process. The agenda is divided into three parts: (1) Actions completed since the last agenda; (2) actions proposed but not completed; and (3) actions planned but not yet proposed by the NCUA Board.

The agenda is published pursuant to NCUA Interpretive Ruling and Policy Statement Number 87-2 ("Developing and Reviewing Government Regulations," 54 FR 35231; September 18, 1987). Executive Order 12866, signed by President Clinton on September 30, 1993, now requires independent executive agencies such as NCUA to publish a regulatory agenda. This agenda will be included in the Office of Management and Budget's next publication of its Unified Agenda of Federal Regulations.

Approved by the NCUA Board on September 19, 1995.

Becky Baker,

Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4700	Credit Union Service Contracts/Correspondent Services/Credit Union Service Organizations	3133-AA95
4701	Share Insurance and Appendix	3133-AB15
4702	Requirements for Insurance	3133-AB31
4703	Part 708—Mergers of Federally Insured Credit Unions; Voluntary Termination or Conversion of Insured Status	3133-AB70
4704	Part 705—Community Development Revolving Loan Program for Credit Unions	3133-AB71
4705	Investment and Deposit Activities	3133-AB73
4706	Loan Participation	3133-AB77

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4707	Excerpts From the Uniform Standards of Professional Appraisal Practice Applicable to Federally Related Transactions	3133-AB20
4708	Organization and Operations of Federal Credit Unions-Loan Incentives—Prohibited Fee Exception	3133-AB60
4709	Corporate Credit Unions	3133-AB67
4710	Part 701—Organization and Operations of Federal Credit Unions	3133-AB72
4711	Fees Paid by Federal Credit Unions	3133-AB78
4712	Union Rules of Practice and Procedure	3133-AB79
4713	Appraisals	3133-AB80

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4714	Golden Parachute and Indemnification Payments	3133-AB28

NCUA

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4715	Mergers or Conversions of Federally Insured Credit Unions: NCUA Approval	3133-AB65
4716	Employee Benefits	3133-AB68
4717	Loans in Areas Having Special Flood Hazards	3133-AB69
4718	Loans in Areas Having Special Flood Hazards	3133-AB74
4719	Final Interpretive Ruling and Policy Statement 95-1 Supervisory Review Committee (IRPS 95-1)	3133-AB75
4720	Addition of Specific Exemptions Under the Privacy Act	3133-AB76

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Proposed Rule Stage

4700. CREDIT UNION SERVICE CONTRACTS/CORRESPONDENT SERVICES/CREDIT UNION SERVICE ORGANIZATIONS

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.27

Legal Deadline: None

Abstract: The proposed rule clarifies the limits on the authority for an FCU to provide services and activities to other credit unions. In response to comments, staff is preparing a proposed revision which would permit, and set safety and soundness standards for, correspondent credit union services between credit unions, as well as address the issues of shared branching and request comments for other related issues.

Timetable:

Action	Date	FR Cite
ANPRM	11/15/89	54 FR 48110
ANPRM Comment Period End	02/20/90	54 FR 48110
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Martin S. Conrey, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AA95

4701. SHARE INSURANCE AND APPENDIX

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1781; 12 USC 1789

CFR Citation: 12 CFR 745, subpart A

Legal Deadline: None

Abstract: On May 15, 1990, the FDIC issued final rules on deposit insurance (55 FR 20111). The FDIC rules differ in some respects from NCUA's current rules and/or policies. NCUA staff will be analyzing the changes and clarifications to deposit insurance coverage rules made by the FDIC, in order to determine whether changes in NCUA's insurance regulations are warranted. Staff is also reviewing the entire section for a general update.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard S. Schulman, Associate General Counsel, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB15

4702. REQUIREMENTS FOR INSURANCE

Priority: Other

Legal Authority: 12 USC 1766(a); 12 USC 1781 to 1790

CFR Citation: 12 CFR 701.26; 12 CFR 701.21

Legal Deadline: None

Abstract: The proposed rule reorganizes part 741 in order to clarify which of the NCUA regulations currently apply to State-chartered, NCUSIF-insured credit unions. The proposed changes are informational, rather than substantive.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39274
NPRM Comment Period End	10/02/95	
Interim Final Rule	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Groth, State Program Officer, Office of Examination and Insurance, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6360

RIN: 3133–AB31

4703. PART 708—MERGERS OF FEDERALLY INSURED CREDIT UNIONS; VOLUNTARY TERMINATION OR CONVERSION OF INSURED STATUS

Priority: Other

Legal Authority: 12 USC 1785(c)

CFR Citation: 12 CFR 708

Legal Deadline: None

Abstract: The NCUA Board will propose that proposed merger plans address the six statutory criteria contained in section 205(c) of the Federal Credit Union Act which the Board is required to consider before granting or withholding approval of a proposed merger involving at least one federally insured credit union.

NCUA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB70

4704. PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM FOR CREDIT UNIONS

Priority: Other

Legal Authority: PL 97-35; 42 USC 9822; PL 101-144; 12 USC 1766(k)

CFR Citation: 12 CFR 705

Legal Deadline: None

Abstract: NCUA is drafting proposed amendments to clarify issues and relieve regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB71

4705. • INVESTMENT AND DEPOSIT ACTIVITIES

Priority: Other

Legal Authority: 12 USC 1757(7); 12 USC 1757(8); 12 USC 1757(15); 12 USC 1757(17); 12 USC 1766(a); 12 USC 1789(11)

CFR Citation: 12 CFR 703

Legal Deadline: None

Abstract: Staff is reviewing part 703 to determine what changes need to be made to ensure that Federal credit union investment activities remain safe and sound.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kimberly Iverson, Program Officer, Office of Examination and Insurance, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6360
Fax: 703 518-6499

RIN: 3133–AB73

4706. • LOAN PARTICIPATION

Priority: Other

Legal Authority: 12 USC 1757; 12 USC 1766

CFR Citation: 12 CFR 701.22

Legal Deadline: None

Abstract: The proposed rule would amend NCUA's regulation on loan participations to broaden loan participation authority by removing the requirement that the participation agreement precede loan disbursement.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39273
NPRM Comment Period End	10/02/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540

RIN: 3133–AB77

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Final Rule Stage

4707. EXCERPTS FROM THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE APPLICABLE TO FEDERALLY RELATED TRANSACTIONS

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1789; PL 101-73

CFR Citation: 12 CFR 722, app A

Legal Deadline: None

Abstract: The interim common rule, issued jointly with other Federal financial institution regulators (FRB, OTS, RTC, OCC, and FDIC), is designed to ensure that reliable appraisals are rendered in connection with federally related transactions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/90	55 FR 53610
NPRM	03/07/95	60 FR 13388
NPRM Comment Period End	05/12/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The Federal financial institutions working group is nearing completion on a final rule.

Agency Contact: Michael J. McKenna, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB20

4708. ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS-LOAN INCENTIVES—PROHIBITED FEE EXCEPTION

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.21(c)(8)

Legal Deadline: None

Abstract: National Credit Union Rules and Regulations prohibit officials and certain employees of federally insured credit unions from receiving either incentive pay or outside compensation for certain activities related to credit union lending. The NCUA Board is proposing to amend the regulations to make them clear, to authorize lending-related compensation in certain situations where it is currently

NCUA — Final Rule Stage

prohibited, and to prohibit it in other situations.

Timetable:

Action	Date	FR Cite
ANPRM	03/15/94	59 FR 11937
ANPRM Comment Period End	05/16/94	59 FR 11937
NPRM	04/20/95	60 FR 19690
NPRM Comment Period End	06/19/95	
Interim Final Rule	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa Henderson, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB60

4709. CORPORATE CREDIT UNIONS

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 704

Legal Deadline: None

Abstract: The proposed rule would strengthen the capital of corporate credit unions, reduce the risk of their investments, and improve asset-liability management. It would return corporate credit unions to their primary functions of serving as liquidity centers and service providers and would protect the safety and soundness of the corporate credit union system.

Timetable:

Action	Date	FR Cite
NPRM	04/26/95	60 FR 20438
NPRM Comment Period End	08/25/95	60 FR 27240
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. Allen Carver, Director, Office of Corporate Credit Unions, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6640
Fax: 703 518-6439

RIN: 3133–AB67

4710. • PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Priority: Other

Legal Authority: 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789; 12 USC 1798

CFR Citation: 12 CFR 701

Legal Deadline: None

Abstract: NCUA is planning to propose an amendment regarding the authority of Federal credit unions to add senior citizen/retiree groups formed solely for the purpose of acquiring credit unions service to a Federal credit unions field of membership. NCUA staff also plans to propose amendments to clarify operational issues.

Timetable:

Action	Date	FR Cite
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB72

4711. • FEES PAID BY FEDERAL CREDIT UNIONS

Priority: Other

Legal Authority: 12 USC 1755; 31 USC 3717

CFR Citation: 12 CFR 701.6

Legal Deadline: None

Abstract: The NCUA Board is considering a restructuring of the operating fee scale for natural person Federal credit unions. It is proposing that all such credit unions with assets of $500,000 and less be exempt from paying any operating fee. In addition it is proposing that all natural person Federal credit unions with assets over $500,000 but equal to of less than $750,000 pay a minimum operating fee of $100.

Timetable:

Action	Date	FR Cite
NPRM	06/26/95	60 FR 32925
NPRM Comment Period End	08/25/95	
Final Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ronald M. Aaron, Deputy Director, Office of Chief Financial Officer, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6570

RIN: 3133–AB78

4712. • UNION RULES OF PRACTICE AND PROCEDURE

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1784; 12 USC 1786; 12 USC 1787; 42 USC 4012a

CFR Citation: 12 CFR 747

Legal Deadline: None

Abstract: The Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board of Governors), Federal Deposit Insurance Corporation (FDIC), Office of Thrift Supervision (OTS), and National Credit Union Administration (NCUA) are proposing changes to the Uniform Rules and Practice and Procedure for Administrative Hearings (Uniform Rules) and to their agency specific rules of administrative practice and procedure (Local Rules). The proposal is intended to clarify certain provisions and to increase the efficiency and fairness of administrative hearings.

Timetable:

Action	Date	FR Cite
NPRM	06/23/95	60 FR 32882
NPRM Comment Period End	08/22/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Widerman, Trial Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB79

NCUA — Final Rule Stage

4713. • APPRAISALS

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1789; PL 101-73

CFR Citation: 12 CFR 722

Legal Deadline: None

Abstract: The NCUA Board is proposing amendments to its regulation regarding the appraisal of real estate, adopted pursuant to title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. The proposed amendments simplify compliance with regulatory requirements for credit unions by changing provisions of the appraisal regulation that govern: the publication of the Uniform Standards of Professional Appraisal Practice; minimum appraisal standards; appraisals to address safety and soundness concerns; unavailable information; additional appraisal standards developed by the credit union; and appraiser independence. The proposed amendments should reduce costs without affecting the reliability of appraisals used in connection with federally related transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/13/95	60 FR 13388
NPRM Comment Period End	05/12/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB80

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Long-Term Actions

4714. GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

Priority: Other

CFR Citation: 12 CFR 701.34

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Meltzer
Phone: 703 518-6540

RIN: 3133–AB28

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Completed Actions

4715. MERGERS OR CONVERSIONS OF FEDERALLY INSURED CREDIT UNIONS: NCUA APPROVAL

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1785; 12 USC 1786; 12 USC 1789

CFR Citation: 12 CFR 708a

Legal Deadline: None

Abstract: The final rule applies to all mergers and conversions of federally insured credit unions converting to any institution that is not NCUSIF insured. It sets forth requirements to ensure that such transactions take place only pursuant to an informed vote of the credit union's members/owners, to prevent self-dealing and other abuses by individuals involved in the transactions and to ensure that these transactions do not present safety and soundness risks to the National Credit Union Administration Share Insurance Fund and the credit union system.

Timetable:

Action	Date	FR Cite
NPRM	06/30/94	59 FR 33702
NPRM Comment Period End	08/01/94	
Interim Final Rule	09/23/94	59 FR 48790
Final Action	03/08/95	60 FR 12659
Final Action Effective	04/01/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Mary Rupp, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB65

4716. EMPLOYEE BENEFITS

Priority: Other

Legal Authority: 12 USC 1761b(12); 12 USC 1766a

CFR Citation: 12 CFR 701.19

Legal Deadline: None

Abstract: Proposed rule withdrawn. NCUA plans to issue a Letter of credit to Credit Unions.

Timetable:

Action	Date	FR Cite
Withdrawn	08/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martin S. Conrey, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB68

4717. LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1789; 12 USC 4012a; 12 USC 4106; PL 103-325

CFR Citation: 12 CFR 760

Legal Deadline: Final, Statutory, September 23, 1995.

Abstract: The final rule amends NCUA's flood insurance regulations to direct federally insured credit unions to use the Federal Emergency Management Agency's Standard Flood Hazard Determination form when determining whether real property securing a loan is located in a special flood hazard area.

NCUA — Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	07/06/95	60 FR 35286
Final Action Effective	01/02/96	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Jeffrey S. Mooney, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB69

4718. • LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Priority: Other

Legal Authority: 12 USC 1757; 12 USC 1789; 42 USC 4012a; 42 USC 4104a; 42 USC 4104b; 42 USC 4106; 42 USC 4128

CFR Citation: 12 CFR 760.12

Legal Deadline: None

Abstract: The final rule amends NCUA's flood insurance regulations to direct federally insured credit unions to use the Federal Emergency Management Agency's Standard Flood Hazard Determination form when determining whether real property securing a loan is located in a special food hazard area.

Timetable:

Action	Date	FR Cite
Final Action	07/06/95	60 FR 35286
Final Action Effective	01/02/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey S. Mooney, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6563
Fax: 703 518-6569

RIN: 3133–AB74

4719. • FINAL INTERPRETIVE RULING AND POLICY STATEMENT 95-1 SUPERVISORY REVIEW COMMITTEE (IRPS 95-1)

Priority: Other

Legal Authority: PL 103-325

CFR Citation: None

Legal Deadline: None

Abstract: Section 309 of the Riegle Community Development and Regulatory Improvement Act (Act) of 1994 requires the NCUA establish an independent intra-agency appellate process to review material supervisory determinations.

Timetable:

Action	Date	FR Cite
Final Action	03/20/95	60 FR 14795
Final Action Effective	03/22/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hattie Ulan, Special Counsel to the General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB75

4720. • ADDITION OF SPECIFIC EXEMPTIONS UNDER THE PRIVACY ACT

Priority: Other

Legal Authority: 12 USC 1766(a); 12 USC 1789(a)(7)

CFR Citation: 12 CFR 790

Legal Deadline: None

Abstract: The NCUA Board has adopted these amendments as proposed. The amendments reflect the addition of the (j)(2) and (k)(2) exemptions of the Privacy Act to the NCUA regulations that describe exempt systems of records, and link the "Office of Inspector General (OIG) Investigative Records--NCUA," system NCUA-20, to these Privacy Act Exemptions.

Timetable:

Action	Date	FR Cite
NPRM	04/10/95	60 FR 18036
NPRM Comment Period End	05/10/95	
Final Action	06/19/95	60 FR 31911
Final Action Effective	07/19/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alexandria B. Keith, Counsel to the Inspector General, Office of Inspector General, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6352
Fax: 703 518-6349

RIN: 3133–AB76

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Part LXI

National Indian Gaming Commission

Semiannual Regulatory Agenda

NATIONAL INDIAN GAMING COMMISSION (NIGC)

NATIONAL INDIAN GAMING COMMISSION

25 CFR Ch. III

Semiannual Regulatory Agenda

AGENCY: National Indian Gaming Commission.

ACTION: Publication of semiannual regulatory agenda.

SUMMARY: The National Indian Gaming Commission is today publishing an agenda of its open and anticipated rulemaking actions. The agenda is a general announcement to the public intended to provide advance notice of rulemaking actions in which the public may wish to participate. The Commission invites questions and public comment on individual agenda entries.

FOR FURTHER INFORMATION CONTACT: Fred W. Stuckwisch, National Indian Gaming Commission, 1441 L Street NW., Washington, DC 20005, (202) 632-7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish semiannual regulatory agendas in the **Federal Register** in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E.O. 12866, and no regulatory impact analysis is required. The Commission also has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required.

Harold A. Monteau,

Chairman, National Indian Gaming Commission.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4721	Review of Petitions for Certificate of Self-Regulation Under the Indian Gaming Regulatory Act	3141-AA04
4722	Procedures Under the National Environmental Policy Act	3141-AA06
4723	Practice Before the Commission	3141-AA07
4724	Appeals	3141-AA08
4725	Enforcement	3141-AA09

4721. REVIEW OF PETITIONS FOR CERTIFICATE OF SELF-REGULATION UNDER THE INDIAN GAMING REGULATORY ACT

Priority: Other Significant

CFR Citation: 25 CFR 581

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Michael Cox
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA04

4722. PROCEDURES UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT

Priority: Other Significant

CFR Citation: 25 CFR 518

Timetable:

Action	Date	FR Cite
NPRM	04/09/93	58 FR 18353
NPRM Comment Period End	06/30/93	58 FR 27967

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Terry Heide
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA06

4723. • PRACTICE BEFORE THE COMMISSION

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2706(b)(10)

CFR Citation: None

Legal Deadline: None

Abstract: This rule will establish guidelines and procedures for attorneys and nonattorneys who represent tribes or private companies before the Commission.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Michael D. Cox, General Counsel, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA07

4724. • APPEALS

Priority: Other Significant

Legal Authority: 25 USC 2706

CFR Citation: 25 CFR 524; 25 CFR 539; 25 CFR 577

Legal Deadline: None

Abstract: This rule will amend the current appeal regulations and combine them into one part.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Michael D. Cox, General Counsel, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA08

4725. • ENFORCEMENT

Priority: Other Significant

Legal Authority: 25 USC 2713

CFR Citation: 25 CFR 573

Legal Deadline: None

Abstract: This rule will modify the existing enforcement regulations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Michael D. Cox, General Counsel, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA09

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Part LXII

National Labor Relations Board

Semiannual Regulatory Agenda

NATIONAL LABOR RELATIONS BOARD (NLRB)

NATIONAL LABOR RELATIONS BOARD

29 CFR Ch. I

Unified Agenda of Federal Regulations

AGENCY: National Labor Relations Board.

ACTION: Regulatory agenda.

SUMMARY: The National Labor Relations Board is publishing its semiannual regulatory agenda pursuant to section 4(b) of Executive Order 12866. The agenda contains all regulations which are currently scheduled for review or development during the next 12 months.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Acting Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570; telephone (202) 273-1940.

SUPPLEMENTARY INFORMATION: The Board identified six rulemakings for inclusion in the agenda. Two are under consideration and have not yet been published, one has been published as an ANPRM and an NPRM, two have been published as NPRMs, and one has been published as an NPRM and a Final Rule (on a 1-year experimental basis).

Dated, Washington, DC, October 19, 1995.
By direction of the Board.

John J. Toner,

Acting Executive Secretary.

NATIONAL LABOR RELATIONS BOARD (NLRB) — Proposed Rule Stage

4726. MISCONDUCT RULES

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 102.44

Legal Deadline: None

Abstract: The Board is currently reviewing its regulations governing misconduct by attorneys or other party representatives at hearings in order to determine whether to broaden the rules to cover misconduct outside of hearings and to establish certain procedures for processing allegations of misconduct.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Acting Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570
Phone: 202 273-1940

RIN: 3142–AA00

4727. REPRESENTATION CASE PROCEDURES

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 102.60 et seq

Legal Deadline: None

Abstract: The Board is undergoing a review of its current representation case rules in order to eliminate any that are antiquated and to streamline its procedures so as to minimize litigation and enhance the possibility of stipulated election agreements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Acting Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570
Phone: 202 273-1940

RIN: 3142–AA01

4728. APPROPRIATENESS OF REQUESTED SINGLE LOCATION BARGAINING UNITS IN REPRESENTATION CASES

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 103

Legal Deadline: None

Abstract: The Board published an advance notice of proposed rulemaking and a notice of proposed rulemaking on the issue of the appropriateness of requested single location bargaining units in representation cases. The Board is seeking to promulgate a rule or rules to limit to the extent possible the necessity to adjudicate the appropriateness of petitioned-for single facility units in each case.

Timetable:

Action	Date	FR Cite
ANPRM	06/02/94	59 FR 28501
ANPRM Comment Period End	07/29/94	
NPRM	09/28/95	60 FR 50146
NPRM Comment Period End	11/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Acting Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570
Phone: 202 273-1940

RIN: 3142–AA05

NATIONAL LABOR RELATIONS BOARD (NLRB) — Final Rule Stage

4729. MODIFICATIONS TO ROLE OF NLRB ALJS INCLUDING: USE OF ALJS AS SETTLEMENT JUDGES; DISCRETION OF ALJS TO DISPENSE WITH BRIEFS, HEAR ORAL ARGUMENT IN LIEU OF BRIEFS, AND ISSUE BENCH DECISIONS

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 102.35; 29 CFR 102.42; 29 CFR 102.45

Legal Deadline: None

Abstract: As part of its ongoing review of ways to expedite its unfair labor practice proceedings, the Board modified its rules, on a one-year experimental basis, to permit the assignment of Administrative Law Judges to serve as settlement judges, and to give its ALJs the discretion, in appropriate cases, to dispense with post-hearing briefs or proposed findings and conclusions, to hear oral argument, and to issue bench decisions. The rule changes became effective February 1, 1995, and will expire on January 31, 1996, absent renewal by the Board.

Timetable:

Action	Date	FR Cite
NPRM	09/08/94	59 FR 46375
NPRM Comment Period End	10/07/94	59 FR 46375
Final Rule	12/22/94	59 FR 65942
Final Action	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Acting Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570
Phone: 202 273-1940

RIN: 3142–AA04

NATIONAL LABOR RELATIONS BOARD (NLRB) — Long-Term Actions

4730. NOTICE OF PROPOSED RULEMAKING AND NOTICE OF ORAL ARGUMENT

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 103.40; 29 CFR 103.41; 29 CFR 103.42; 29 CFR 103.43

Legal Deadline: None

Abstract: The Board published a notice of proposed rulemaking and notice of oral argument in order to address the statutory duties of labor organizations under the Supreme Court's decision in Communications Workers v. Beck, 487 U.S. 735 (1988).

Timetable:

Action	Date	FR Cite
NPRM	09/22/92	57 FR 43635
NPRM Comment Period End	10/22/92	57 FR 43635
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Acting Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570
Phone: 202 273-1940

RIN: 3142–AA02

4731. CODIFICATION OF STANDARDIZED REMEDIAL PROVISIONS IN BOARD DECISIONS REGARDING OFFERS OF REINSTATEMENT, MAKE-WHOLE REMEDIES, COMPUTATION OF INTEREST, AND POSTING OF NOTICES

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 103.101; 29 CFR 103.102; 29 CFR 103.103; 29 CFR 103.104

Legal Deadline: None

Abstract: The Board issued a notice of proposed rulemaking to require that interest on backpay and other monetary awards in unfair labor practice proceedings be compounded daily in order to compensate discriminatees for the delay in receiving their wages, and to promote prompt payment of legal obligations. The notice also proposed to amend the Board's rules to incorporate certain remedial provisions frequently appearing in Board decisions.

Timetable:

Action	Date	FR Cite
NPRM	03/05/92	57 FR 7897
NPRM Comment Period End	04/30/92	57 FR 7897
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Acting Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570
Phone: 202 273-1940

RIN: 3142–AA03

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Part LXIII

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

NUCLEAR REGULATORY COMMISSION (NRC)

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual publication of NRC regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual regulatory agenda in accordance with Public Law 96-354 "The Regulatory Flexibility Act" and Executive Order 12866 "Regulatory Planning and Review." The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on May 8, 1995 (60 FR 24374).

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Service Branch. Comments may also be hand delivered to the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda.

The agenda and any comments received on any rule listed in the agenda are available for public inspection and copying for a fee at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555-0001. Single copies of the NRC agenda can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. Customers may call (202) 512-2249.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact Michael Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone (301) 415-7163. Persons outside the Washington, DC, metropolitan area may call, toll-free: (800) 368-5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: The information contained in this semiannual publication is updated to reflect any action which has occurred on rules since publication of the last NRC semiannual agenda on May 8, 1995 (60 FR 24374). Within each group, the rules are ordered according to the Regulation Identifier Number (RIN).

The information in this agenda has been updated through September 15, 1995. The date for the next scheduled action under the heading "Timetable" is the date the rule is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. The regulatory agenda is intended to provide the public early notice and opportunity to participate in the NRC rulemaking process. However, the NRC may consider or act on any rulemaking even though it is not included in the regulatory agenda.

Rulemakings Approved by the Executive Director for Operations (EDO)

The EDO initiated a procedure for review of the regulations being prepared by staff offices that report to him to ensure that staff resources are allocated most effectively to achieve NRC's regulatory priorities. This procedure requires EDO approval before staff resources may be expended on the development of any new rulemaking. Furthermore, all existing rules must receive EDO approval prior to the commitment of additional resources.

The NRC agenda lists rulemaking actions. Of these, no rulemaking items are considered to be priority or major as defined in section 3(f) of Executive Order 12866.

Five rules potentially will have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act.

For this edition of the NRC's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Dated at Rockville, Maryland, this 14th day of September 1995.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.

Prerule Stage

Sequence Number		Title	Regulation Identifier Number
4732		Shutdown and Low-Power Operations	3150-AE97

NRC

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4733	Clarification of Reporting of Defects and Noncompliance for Materials Facilities	3150-AE18
4734	Standardized Plant Designs, Early Review of Site Suitability Issues; Clarifying Amendments	3150-AE25
4735	Codes and Standards for Nuclear Power Plants	3150-AE26
4736	Decommissioning of Nuclear Power Reactors	3150-AE96
4737	Steam Generator Tube Integrity **(Reg Plan Seq. No. 161)**	3150-AF04
4738	Fitness for Duty	3150-AF12
4739	Constraint Level for Air Emissions of Radionuclides	3150-AF31
4740	Safeguards for Spent Nuclear Fuel or High-Level Radioactive Waste	3150-AF32
4741	Reporting Reliability and Availability Information for Risk-Significant Systems and Equipment **(Reg Plan Seq. No. 162)**	3150-AF33
4742	Deliberate Misconduct by Unlicensed Persons Regarding Applications	3150-AF35
4743	One-Time Extension of Certain By-product, Source, and Special Nuclear Material Licenses	3150-AF38
4744	Revision of Fee Schedules; 100% Fee Recovery, FY 1996 **(Reg Plan Seq. No. 163)**	3150-AF39

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4745	Disposal of High-Level Radioactive Wastes in Geologic Repositories; Design Basis Events	3150-AD51
4746	Fracture Toughness Requirements for LWR Pressure Vessels	3150-AD57
4747	License Renewal for Nuclear Power Plants; Scope of Environmental Effects	3150-AD63
4748	Radiological Criteria for Decommissioning of Nuclear Facilities **(Reg Plan Seq. No. 164)**	3150-AD65
4749	Revision of Specific Exemptions	3150-AD83
4750	Reactor Site Criteria; Including Seismic and Earthquake Engineering Criteria for Nuclear Power Plants	3150-AD93
4751	Radiography and Radiation Safety Requirements for Radiographic Operations	3150-AE07
4752	Criteria for the Release of Patients Administered Radioactive Material	3150-AE41
4753	Design Certification for Advanced Boiling Water Reactor (ABWR) **(Reg Plan Seq. No. 165)**	3150-AE87
4754	Clarification of Decommissioning Funding Requirements	3150-AE95
4755	Design Certification for System 80+ **(Reg Plan Seq. No. 166)**	3150-AF15
4756	Termination or Transfer of Licensed Activities: Recordkeeping Requirements	3150-AF17
4757	Production and Utilization Facilities; Emergency Planning and Preparedness Exercise Requirements	3150-AF20
4758	Procedures for Submission of Petitions for Rulemaking	3150-AF23
4759	Physical Security Plan Format Changes	3150-AF27

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4760	Addition of Radon-222 and Technetium-99 Values to Table S-3 and Revisions Resulting From Consideration of Higher-Burnup Fuel	3150-AA31
4761	Criteria for an Extraordinary Nuclear Occurrence	3150-AB01
4762	Elimination of Inconsistencies Between NRC Regulations and EPA HLW Standards	3150-AC03
4763	Availability of Official Records	3150-AC07
4764	Comprehensive Quality Assurance in Medical Use and a Standard of Care	3150-AC42
4765	Reasserting NRC's Sole Authority for Approving On-Site Low-Level Waste Disposal in Agreement States	3150-AC57
4766	Codes and Standards for Nuclear Power Plants (ASME Code, Section XI, Division 1, Subsection IWE and Subsection IWL)	3150-AC93
4767	Requirements for Possession of Industrial Devices Containing Byproduct Material	3150-AD34
4768	Requirements Concerning the Accessible Air Gap for Generally Licensed Devices	3150-AD82
4769	Distribution of Source and Byproduct Material: Licensing and Reporting Requirements	3150-AE33
4770	Acceptability of Plant Performance for Severe Accidents; Scope of Consideration in Safety Regulations	3150-AE38
4771	Clarification of Assessment Requirements for Siting Criteria and Performance Objectives	3150-AE40
4772	Administration of Byproduct Material or Radiation to Patients Who May Be Pregnant	3150-AE44

NRC

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4773	Disposal by Release Into Sanitary Sewerage	3150-AE90
4774	Nuclear Power Reactor Physical Protection Requirements Update	3150-AF11
4775	Fitness for Duty (Scope Change)	3150-AF13
4776	Power Reactor Facilities Under a Possession Only License	3150-AF16
4777	Domestic Licensing of Special Nuclear Material—Revision	3150-AF22
4778	Performance-Oriented Requirements for Fire Protection of Nuclear Power Facilities	3150-AF29
4779	Protection of and Access to Classified Information for Licensee, Certificate Holder and Other Personnel	3150-AF37

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4780	Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors	3150-AA86
4781	Revised Rules of Practice for Domestic Licensing Proceedings	3150-AB66
4782	Update of Transportation Regulations To Incorporate New Licensing Information	3150-AC41
4783	Night Firing Qualifications for Security Guards at Nuclear Power Plants	3150-AC88
4784	Acceptance of Products Purchased for Use in Nuclear Power Plant Structures, Systems, and Components	3150-AD10
4785	Import and Export of Radioactive Wastes	3150-AD36
4786	Discrimination on the Basis of Sex	3150-AD50
4787	Emergency Planning for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS)	3150-AE17
4788	Removal of Criticality Alarm Requirements for Fresh Fuel	3150-AE43
4789	Safety Requirements for Reactor Coolant Pump Seals	3150-AE53
4790	Interim Storage of Spent Fuel in an Independent Spent Fuel Storage Installation; Site-Specific License to a Qualified Applicant	3150-AE64
4791	Radiation Protection Requirements; Amended Definitions and Criteria	3150-AE80
4792	Land Ownership Requirements for Low-Level Waste Sites	3150-AE88
4793	Performance-Based Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors	3150-AF00
4794	Procurement of Commercial Grade Items by Nuclear Power Plant Licensees	3150-AF01
4795	Nuclear Power Plant License Renewal; Proposed Revisions	3150-AF05
4796	Technical Specifications	3150-AF06
4797	Revision of Fee Schedules; 100% Fee Recovery, FY 1995	3150-AF07
4798	Administration of Radiation and Radioactive Materials to Patients	3150-AF10
4799	NRC Licensee Renewal/Reinvestigation Program	3150-AF21
4800	Performance Requirements for Radiography Equipment	3150-AF28
4801	Physical Protection Requirements for Storage of Spent Fuel	3150-AF30
4802	Changes to NRC Addresses and Telephone Numbers	3150-AF34
4803	Changes to Nuclear Power Plant Security Requirements Associated with Containment Access Control	3150-AF36

NUCLEAR REGULATORY COMMISSION (NRC) — Prerule Stage

4732. SHUTDOWN AND LOW-POWER OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by adding regulatory requirements for shutdown and low power operations of commercial nuclear power stations. Specific operational areas addressed by the proposed rule include: 1) outage planning and control; 2) availability of equipment needed for key safety functions; 3) decay heat removal capability during a fire; and 4) water level indication in pressurized water reactors when in reduced inventory.

Prior to its analysis of comments received and a public meeting held on April 7, 1995, the staff determined that the rule, regulatory analysis and regulatory guide would be rewritten. The rewritten rule would specify minimum requirements for safety during shutdown operation, require a contingency plan to address a failure to satisfy these requirements, and require controls that manage both the minimum requirements and the contingency plan.

NRC — Prerule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/19/94	59 FR 52707
NPRM Comment Period End	01/03/95	
Second NPRM	12/00/95	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Kalman, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555
Phone: 301 415-1308

RIN: 3150–AE97

NUCLEAR REGULATORY COMMISSION (NRC) — Proposed Rule Stage

4733. CLARIFICATION OF REPORTING OF DEFECTS AND NONCOMPLIANCE FOR MATERIALS FACILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5846

CFR Citation: 10 CFR 021

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning the reporting of defects and noncompliance to clarify the applicability of these provisions to materials and fuel cycle licensees. Because of the wide diversity in the types of licensees covered under these regulations, the requirements have been misinterpreted by some licensees. The proposed rule would clearly define the applicability of these provisions to the different types of licensees and would take into account the differences between different classes of licensees. The proposed rule is being developed in response to an NRC internal audit and also to a parallel review of these regulations as they apply to materials licensees.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clark Prichard, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6203

RIN: 3150–AE18

4734. STANDARDIZED PLANT DESIGNS, EARLY REVIEW OF SITE SUITABILITY ISSUES; CLARIFYING AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050; 10 CFR 052; 10 CFR 140

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by deleting Appendices M, N, O, and Q from 10 CFR Part 50. The NRC is also proposing to make clarifying changes to 10 CFR Parts 52 and 140 to make clear that licensees are required to submit accurate and complete information to the NRC, and that its Price-Anderson requirements apply to combined license holders.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Geary S. Mizuno, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555
Phone: 301 415-1639

RIN: 3150–AE25

4735. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5846

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to (1) eliminate the 120-month update requirements for licensees' inservice inspection (ISI) and inservice testing (IST) programs; (2) establish baseline regulatory requirements that would: incorporate by reference the American Society of Mechanical Engineers (ASME) Code for Operation and Maintenance of Nuclear Power Plants (the OM Code), maintain the 1989 Edition of Section III and Section XI of the ASME Boiler and Pressure Vessel Code (the BPV Code), require certain licensees to complete one final update to their ISI and IST programs, and delete the existing supplementary requirements for IST of containment isolation valves; (3) allow alternatives to the regulations and ASME Code rules under certain circumstances such as the temporary corrective measures identified in a new Appendix A to the regulations, and clarify the ISI and IST requirements for nuclear plant components not required to be constructed in accordance with ASME Code Class 1; 2, or 3; (4) identify safety-significant Code changes that would be required to be implemented by licensees; and (5) establish a new regulatory guide that would document NRC review and acceptance of OM Code Cases.

Eliminating the 120-month update requirements from the existing regulations would permit licensees to continue using their existing ISI and IST programs; however, certain licensees that have not yet updated the 1989 Edition of Section XI of the ASME BPV Code would be required to

implement one final update of their ISI and IST programs when their current intervals expire. The proposed rule would incorporate by reference the ASME OM Code into the regulations.

The proposed rule would allow alternatives to the regulations and ASME Code rules under certain circumstances. For example, the NRC staff has developed an alternative to the requirements of Section XI of the ASME BPV Code that specifies guidance for performing temporary corrective measures for service-induced degradation of ASME Code Class 3 piping, which has been added as an appendix to the rule. Other alternatives that the staff has found acceptable will be identified in the rule or in a regulatory guide.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: If a licensee elects to implement the alternatives listed in the regulatory guide, a request pursuant to 10 CFR 50.55a(a)(3) must be submitted. All safety-significant code changes that the staff determines to be cost beneficial for the safe operation of the nuclear power plants will be specifically imposed in the regulations. One example in the current rulemaking is the requirement that licensees implement Section XI, Appendix VIII, "Performance Demonstration for Ultrasonic Examination System," which provides rules for performance demonstration for ultrasonic examination procedures, equipment, and personnel used to detect and size flaws in nuclear power plant components, which will be imposed on an expedited schedule to improve the quality of ISI.

The proposed amendment contains changes to the implementation structure of 10 CFR 50.55a, establishes alternative rules (to be contained in the rule or listed in a regulatory guide) which may be implemented by licensees on a voluntary basis (and may require prior NRC approval), and identifies safety-significant code changes that should be implemented by licensees.

Agency Contact: Frank Cherny, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6786

RIN: 3150–AE26

4736. DECOMMISSIONING OF NUCLEAR POWER REACTORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations on the decommissioning procedures that lead to the termination of an operating license for a nuclear power plant and release of the property for unrestricted use. The proposed amendments would clarify ambiguities that have arisen in the past and codify practices which have been used for other licensees on a case-by-case basis.

Timetable:

Action	Date	FR Cite
NPRM	07/20/95	60 FR 37374
NPRM Comment Period End	10/18/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bradley Jones, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555
Phone: 301 415-1628

RIN: 3150–AE96

4737. STEAM GENERATOR TUBE INTEGRITY

Regulatory Plan: This entry is Seq. No. 161 in Part II of this issue of the **Federal Register**.

RIN: 3150–AF04

4738. FITNESS FOR DUTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 26

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's fitness for duty regulations. This proposed rule would also address the petition for rulemaking from Virginia Electric and Power Company (PRM-26-1), and address the Regulatory Review Group items on audit frequency and annual submittal of data. The Virginia Electric and Power Company requested that the Commission amend its fitness-for-duty requirements to change the frequency that licensees are required to audit their fitness-for-duty programs from annually to biennially. The Commission and the EDO approved the staff proposals in SECY-92-308, but asked that the staff resubmit the SECY paper to address a backfit analysis. The staff proposals presented in SECY-92-308 have been revised. The revised Commission paper is scheduled to be returned to the Commission in October 1995.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mohan C. Thadani, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555
Phone: 301 415-1485

RIN: 3150–AF12

4739. CONSTRAINT LEVEL FOR AIR EMISSIONS OF RADIONUCLIDES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 020

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to provide a constraint level for air emissions of radionuclides of 10 mrem/yr, similar to the program developed pursuant to 10 CFR part 50, appendix I, for power reactors. The rulemaking would apply to NRC licensees other than power reactor licensees. This action is part of an ongoing effort to develop a basis for rescission of the Environmental Protection Agency's regulations in 40 CFR part 61.

Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charleen T. Raddatz, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6215

RIN: 3150–AF31

4740. • SAFEGUARDS FOR SPENT NUCLEAR FUEL OR HIGH-LEVEL RADIOACTIVE WASTE

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 060; 10 CFR 072; 10 CFR 073; 10 CFR 075

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to clarify safeguards requirements for spent nuclear fuel or high-level radioactive waste stored at independent spent fuel storage installations, power reactors that have permanently ceased reactor operations, monitored retrievable storage installations, and geologic repository operations areas. This rule would allow general licensees the option of implementing the proposed safeguards requirements for spent nuclear fuel stored in approved casks at operating power reactor sites. This action is necessary to reduce the regulatory uncertainty regarding the safeguards requirements for the storage of spent nuclear fuel and high-level radioactive waste without reducing the level of protection for public health and safety.

Timetable:

Action	Date	FR Cite
NPRM	08/15/95	60 FR 42079
NPRM Comment Period End	11/13/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Telford, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6229

RIN: 3150–AF32

4741. • REPORTING RELIABILITY AND AVAILABILITY INFORMATION FOR RISK-SIGNIFICANT SYSTEMS AND EQUIPMENT

Regulatory Plan: This entry is Seq. No. 162 in Part II of this issue of the **Federal Register**.

RIN: 3150–AF33

4742. • DELIBERATE MISCONDUCT BY UNLICENSED PERSONS REGARDING APPLICATIONS

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 060; 10 CFR 061; 10 CFR 070; 10 CFR 072; 10 CFR 150

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by revising its regulations to put applicants for NRC licenses and other unlicensed persons doing work for applicants on notice that they may be subject to enforcement action under the Commission's existing regulations regarding deliberate misconduct. The current regulations require that all information submitted to the Commission be complete and accurate. This proposed rulemaking would correct an apparent oversight from when the Deliberate Misconduct rule was adopted in 1991 and make that rule apply to applicants and to their employees, contractors, and subcontractors, including consultants.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tony DiPalo, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6191

RIN: 3150–AF35

4743. • ONE-TIME EXTENSION OF CERTAIN BY-PRODUCT, SOURCE, AND SPECIAL NUCLEAR MATERIAL LICENSES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 070

Legal Deadline: None

Abstract: The proposed rule would authorize, on a one-time basis, a five-year extension of certain byproduct, source, and special nuclear material licenses. The provisions of the licenses, under the extension, would provide the same authorizations and limits on licensee activities as they do now. The proposed rule would specify those licenses whose license expiration dates are not extended.

Timetable:

Action	Date	FR Cite
NPRM	09/08/95	60 FR 46784
NPRM Comment Period End	10/10/95	
Final Action	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Pelchat, Nuclear Regulatory Commission, Region II, 101 Marietta Street NW., Atlanta, GA 30323
Phone: 404 331-5083

RIN: 3150–AF38

4744. • REVISION OF FEE SCHEDULES; 100% FEE RECOVERY, FY 1996

Regulatory Plan: This entry is Seq. No. 163 in Part II of this issue of the **Federal Register**.

RIN: 3150–AF39

NUCLEAR REGULATORY COMMISSION (NRC) — Final Rule Stage

4745. DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES; DESIGN BASIS EVENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 060

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to clarify preclosure regulatory requirements for high-level waste geologic repositories. Several issues associated with preclosure regulatory requirements have been raised due to different interpretations of the rulemaking record for 10 CFR Part 60. These involve: (1) the lack of clearly prescribed requirements for the establishment of a preclosure controlled area intended to protect public health and safety in the event of a postulated radionuclide release; and (2) the definition of structures, systems, and components important to safety for which certain design and quality assurance criteria apply. In order to meet the milestones mandated by the Nuclear Waste Policy Act of 1983, as amended, and milestones pertaining to DOE's production schedule in the Mission Plan amendments, guidance is needed from NRC on these matters to enable DOE to proceed with the development of a proposed design for a geologic repository.

Timetable:

Action	Date	FR Cite
NPRM	03/22/95	60 FR 15180
NPRM Comment Period End	06/20/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard A. Weller, Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, DC 20555
Phone: 301 415-7287

RIN: 3150–AD51

4746. FRACTURE TOUGHNESS REQUIREMENTS FOR LWR PRESSURE VESSELS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning fracture toughness requirements to resolve issues that have resulted from technological improvements and from other factors. The "Pressurized Thermal Shock (PTS) rule" (10 CFR 50.61), was modified in 1991 to be consistent with the embrittlement correlations given in Regulatory Guide 1.99, Revision 2. However, the need for further clarifications to the PTS rule has been identified.

Appendix G to 10 CFR Part 50 provides fracture toughness requirements for ferritic materials of pressure-retaining components of the reactor coolant boundary of light-water nuclear power reactors.

Appendix H to 10 CFR Part 50 contains requirements for RPV material surveillance programs that are intended to monitor fracture toughness property changes in RPV materials due to irradiation embrittlement.

Timetable:

Action	Date	FR Cite
NPRM	10/04/94	59 FR 50513
NPRM Comment Period End	01/03/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Al Taboada, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6014

RIN: 3150–AD57

4747. LICENSE RENEWAL FOR NUCLEAR POWER PLANTS; SCOPE OF ENVIRONMENTAL EFFECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 051

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to establish new requirements for environmental review of applications for renewal of nuclear power plant operating licenses. The proposed rule would define the number and scope of environmental issues which would need to be addressed as part of a license renewal application.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/90	55 FR 29964
ANPRM Comment Period End	10/22/90	
NPRM	09/17/91	56 FR 47016
NPRM Comment Period End	03/16/92	56 FR 59898
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald P. Cleary, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6263

RIN: 3150–AD63

4748. RADIOLOGICAL CRITERIA FOR DECOMMISSIONING OF NUCLEAR FACILITIES

Regulatory Plan: This entry is Seq. No. 164 in Part II of this issue of the **Federal Register**.

RIN: 3150–AD65

4749. REVISION OF SPECIFIC EXEMPTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 009

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations pertaining to specific Privacy Act exemptions. This proposed rule would add exemption (j)(2) of the Privacy Act to the regulations that describe exempt systems of records. These amendments would make NRC's regulations consistent with the majority of statutorily appointed Inspectors General and would clearly link each system of records to the specific exemptions(s) of the Privacy Act under which each system is exempt.

Timetable:

Action	Date	FR Cite
NPRM	07/26/95	60 FR 38282
NPRM Comment Period End	09/05/95	
Final Action	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Russell A. Powell, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555
Phone: 301 415-7169

RIN: 3150–AD83

NRC — Final Rule Stage

4750. REACTOR SITE CRITERIA; INCLUDING SEISMIC AND EARTHQUAKE ENGINEERING CRITERIA FOR NUCLEAR POWER PLANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050; 10 CFR 052; 10 CFR 100

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to update the criteria used in decisions regarding power reactor siting, including geologic, seismic, and earthquake engineering considerations for future nuclear power plants. The proposed rule would allow NRC to benefit from experience gained in the application of the procedures and methods set forth in the current regulation and to incorporate the rapid advancements in the earth sciences and earthquake engineering. The proposed rule primarily consists of two separate changes, namely, the source term and dose considerations, and the seismic and earthquake engineering considerations of reactor siting.

The Commission is also proposing to deny the remaining issue in a petition for rulemaking filed by Free Environment, Inc., et al. (PRM-50-20).

Timetable:

Action	Date	FR Cite
NPRM	10/20/92	57 FR 47802
NPRM Comment Period End	05/12/95	60 FR 10810
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leonard Soffer, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6574

RIN: 3150–AD93

4751. RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 034

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations on licenses for radiography and radiation safety requirements for radiographic operations. The proposed rule would revise 10 CFR Part 34 to clarify the requirements in section 34.27 and conform Part 34 with the approach developed by the Conference of Radiation Control Program Directors, Inc. (Part E of the "Suggested State Regulations for Control of Radiation"), and the State of Texas in Part 31 of the Texas Regulations for Control of Radiation. Comments and suggestions from regulatory groups, users, and manufacturers will be considered in the overall revision. The NRC will also consult Canadian atomic energy control regulations that relate to radiography. The proposed rule is necessary because of frequent misinterpretations of the provisions of Part 34 and the need to clarify the requirements of 10 CFR 34.27. The staff is currently preparing an options paper which will examine the issues, set priorities, and provide direction for the proposed rulemaking. This proposed rule would also respond to a petition for rulemaking from International Union of Operating Engineers - Local No. 2 (PRM-34-4).

Timetable:

Action	Date	FR Cite
NPRM	02/28/94	59 FR 9429
NPRM Comment Period End	05/31/94	
Final Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Donald Nellis, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6257

RIN: 3150–AE07

4752. CRITERIA FOR THE RELEASE OF PATIENTS ADMINISTERED RADIOACTIVE MATERIAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 020; 10 CFR 035

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to revise the patient release criteria contained in 10 CFR 35.75, and the applicability of the dose limits for members of the public in 10 CFR 20.1301.

The Commission has received three petitions for rulemaking, PRM-20-20,

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PRM-35-10, and PRM-35-11 to amend its regulations regarding radiation exposure that individuals may receive from patients who have been medically administered radioactive materials, and the criteria under which this patient may be released from confinement. The petitioners believe that the current requirements of Parts 20 and 35 would cause patients to be confined unnecessarily beyond the time needed for medical reasons.

Timetable:

Action	Date	FR Cite
NPRM	06/15/94	59 FR 30724
NPRM Comment Period End	08/29/94	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stewart Schneider, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6225

RIN: 3150–AE41

4753. DESIGN CERTIFICATION FOR ADVANCED BOILING WATER REACTOR (ABWR)

Regulatory Plan: This entry is Seq. No. 165 in Part II of this issue of the Federal Register.

RIN: 3150–AE87

4754. CLARIFICATION OF DECOMMISSIONING FUNDING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 070; 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations for nonreactor licensees on the expiration and termination of licenses. These amendments are intended to clarify that financial assurance must be in place and updated when the licensee decides to cease operation and begin decommissioning. These amendments would explicitly describe the implementation and timing requirements for licensees who have been in timely renewal since the promulgation of the 1988 decommissioning funding rules and for licensees who cease operations without adequate funding arrangements in place.

Timetable:

Action	Date	FR Cite
NPRM	06/22/94	59 FR 32138
NPRM Comment Period End	09/20/94	
Final Action	10/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Thomas, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6230

RIN: 3150–AE95

4755. DESIGN CERTIFICATION FOR SYSTEM 80+

Regulatory Plan: This entry is Seq. No. 166 in Part II of this issue of the Federal Register.

RIN: 3150–AF15

4756. TERMINATION OR TRANSFER OF LICENSED ACTIVITIES: RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 70; 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations pertaining to the disposition of certain records when a licensee terminates licensed activities or licensed activities are transferred to another licensee. The proposed rule would require a licensee to transfer records necessary to evaluate offsite consequences and to decommission the facility effectively to the new licensee if licensed activities will continue at the same location and to forward records, such as waste disposal and dose records, to the NRC once the license is terminated.

Timetable:

Action	Date	FR Cite
NPRM	12/28/94	59 FR 66814
NPRM Comment Period End	03/28/95	
Final Action	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary L. Thomas, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6230

RIN: 3150–AF17

4757. PRODUCTION AND UTILIZATION FACILITIES; EMERGENCY PLANNING AND PREPAREDNESS EXERCISE REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations governing domestic licensing of production and utilization facilities, as necessary, to facilitate greater flexibility in the licensee's activities associated with the annual "off-year" exercise. This exercise is conducted to evaluate major portions of licensees' emergency response capabilities. The proposed amendment would preserve the existing requirement that each licensee, at each site, exercise biennially with participation by States and local governments within the plume exposure pathway emergency planning zone (EPZ). The proposed rule would also require licensees to continue enabling State and local governments in plume exposure pathway EPZs to participate in exercises and in drills in the interval between exercises. This proposed rule also addresses a petition for rulemaking submitted by the Virginia Electric and Power Company (PRM-50-58).

Timetable:

Action	Date	FR Cite
NPRM	04/14/95	60 FR 19002

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Action	Date	FR Cite
NPRM Comment Period End	07/13/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6534

RIN: 3150–AF20

4758. PROCEDURES FOR SUBMISSION OF PETITIONS FOR RULEMAKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 002

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations pertaining to petitions for rulemaking. The proposed rule would create three categories of petitions, which are not explicitly included in the current regulations. The proposed rule would improve the openness of the rulemaking process by defining review priorities and to facilitate more expeditious review and disposition by the NRC of petitions with detailed supporting information. The proposed rule would not change any existing provisions regarding petitions for rulemaking. The proposed rule would offer an alternative within the petition process to allow petitioners to submit more detailed supporting information than is required under the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/28/95	60 FR 15878
NPRM Comment Period End	06/12/95	
Final Action	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: T. Y. Chang, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6450

RIN: 3150–AF23

4759. PHYSICAL SECURITY PLAN FORMAT CHANGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 050; 10 CFR 070

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to remove an unnecessary security plan format requirement. This action would allow applicants for power reactor and fuel cycle licenses to submit their physical security plans in a format that would provide for a quicker and more efficient review.

Timetable:

Action	Date	FR Cite
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carrie Brown, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington DC 20555
Phone: 301 415-8092

RIN: 3150–AF27

NUCLEAR REGULATORY COMMISSION (NRC) — Long-Term Actions

4760. ADDITION OF RADON-222 AND TECHNETIUM-99 VALUES TO TABLE S-3 AND REVISIONS RESULTING FROM CONSIDERATION OF HIGHER-BURNUP FUEL

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 51

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	
Second NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley Turel
Phone: 301 415-6234

RIN: 3150–AA31

4761. CRITERIA FOR AN EXTRAORDINARY NUCLEAR OCCURRENCE

Priority: Other

CFR Citation: 10 CFR 140

Timetable:

Action	Date	FR Cite
NPRM	04/09/85	50 FR 13978
NPRM Comment Period End	09/06/85	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry Tovmassian
Phone: 301 415-6231

RIN: 3150–AB01

4762. ELIMINATION OF INCONSISTENCIES BETWEEN NRC REGULATIONS AND EPA HLW STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 60

Timetable:

Action	Date	FR Cite
NPRM	06/19/86	51 FR 22288
NPRM Comment Period End	08/18/86	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sher Bahadur
Phone: 301 415-6237

RIN: 3150–AC03

4763. AVAILABILITY OF OFFICIAL RECORDS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61013
NPRM Comment Period End	03/08/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine M. Holzle
Phone: 301 415-1560

RIN: 3150–AC07

4764. COMPREHENSIVE QUALITY ASSURANCE IN MEDICAL USE AND A STANDARD OF CARE

Priority: Other

CFR Citation: 10 CFR 35

Timetable:

Action	Date	FR Cite
ANPRM	10/02/87	52 FR 36949
ANPRM Comment Period End	12/31/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Tse
Phone: 301 415-6233

RIN: 3150–AC42

4765. REASSERTING NRC'S SOLE AUTHORITY FOR APPROVING ON-SITE LOW-LEVEL WASTE DISPOSAL IN AGREEMENT STATES

Priority: Other

CFR Citation: 10 CFR 150

Timetable:

Action	Date	FR Cite
NPRM	08/22/88	53 FR 31880
NPRM Comment Period End	10/21/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph J. Mate
Phone: 301 415-6202

RIN: 3150–AC57

4766. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS (ASME CODE, SECTION XI, DIVISION 1, SUBSECTION IWE AND SUBSECTION IWL)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 050

Timetable:

Action	Date	FR Cite
NPRM	01/07/94	59 FR 979
NPRM Comment Period End	04/25/94	59 FR 14373
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wallace E. Norris
Phone: 301 415-6796

RIN: 3150–AC93

4767. REQUIREMENTS FOR POSSESSION OF INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL

Priority: Other Significant

CFR Citation: 10 CFR 031; 10 CFR 032

Timetable:

Action	Date	FR Cite
NPRM	12/27/91	56 FR 67011
NPRM Comment Period End	03/12/92	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Joseph J. Mate
Phone: 301 415-6202

RIN: 3150–AD34

4768. REQUIREMENTS CONCERNING THE ACCESSIBLE AIR GAP FOR GENERALLY LICENSED DEVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 031; 10 CFR 032

Timetable:

Action	Date	FR Cite
NPRM	11/27/92	57 FR 56287
NPRM Comment Period End	03/29/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen McGuire
Phone: 301 415-6204

RIN: 3150–AD82

4769. DISTRIBUTION OF SOURCE AND BYPRODUCT MATERIAL: LICENSING AND REPORTING REQUIREMENTS

Priority: Other

CFR Citation: 10 CFR 030; 10 CFR 040

Timetable:

Action	Date	FR Cite
ANPRM	10/28/92	57 FR 48749
ANPRM Comment Period End	01/26/93	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Catherine R. Mattsen
Phone: 301 415-6264

RIN: 3150–AE33

4770. ACCEPTABILITY OF PLANT PERFORMANCE FOR SEVERE ACCIDENTS; SCOPE OF CONSIDERATION IN SAFETY REGULATIONS

Priority: Other

CFR Citation: 10 CFR 050

Timetable:

Action	Date	FR Cite
ANPRM	09/28/92	57 FR 44513
ANPRM Comment Period End	12/28/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard Soffer
Phone: 301 415-6574

RIN: 3150–AE38

4771. CLARIFICATION OF ASSESSMENT REQUIREMENTS FOR SITING CRITERIA AND PERFORMANCE OBJECTIVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 060

Timetable:

Action	Date	FR Cite
NPRM	07/09/93	58 FR 36902
NPRM Comment Period End	10/07/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Delligatti
Phone: 301 415-6620

RIN: 3150–AE40

4772. ADMINISTRATION OF BYPRODUCT MATERIAL OR RADIATION TO PATIENTS WHO MAY BE PREGNANT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 035

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Samuel Z. Jones
Phone: 301 415-6198

RIN: 3150–AE44

4773. DISPOSAL BY RELEASE INTO SANITARY SEWERAGE

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 020

Timetable:

Action	Date	FR Cite
ANPRM	02/25/94	59 FR 9146
ANPRM Comment Period End	05/26/94	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Powers
Phone: 301 415-6212

RIN: 3150–AE90

4774. NUCLEAR POWER REACTOR PHYSICAL PROTECTION REQUIREMENTS UPDATE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 073

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra Frattali
Phone: 301 415-6261

RIN: 3150–AF11

4775. FITNESS FOR DUTY (SCOPE CHANGE)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 26

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mohan C. Thadani
Phone: 301 415-1485

RIN: 3150–AF13

4776. POWER REACTOR FACILITIES UNDER A POSSESSION ONLY LICENSE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 50

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carl Feldman
Phone: 301 415-6194

RIN: 3150–AF16

4777. DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL—REVISION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 070

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Nilsen
Phone: 301 415-6209

RIN: 3150–AF22

4778. PERFORMANCE-ORIENTED REQUIREMENTS FOR FIRE PROTECTION OF NUCLEAR POWER FACILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 050

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Moni Dey
Phone: 301 415-6443

RIN: 3150–AF29

4779. • PROTECTION OF AND ACCESS TO CLASSIFIED INFORMATION FOR LICENSEE, CERTIFICATE HOLDER AND OTHER PERSONNEL

Priority: Other Significant

Legal Authority: 42 USC 2165; 42 USC 2201; 42 USC 2273; 42 USC 5841; EO 12829; EO 12958; EO 10865

CFR Citation: 10 CFR 010; 10 CFR 025; 10 CFR 095

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations conforming NRC policy for access to and protection of National Security Information and Restricted Data to new national policies for the protection of this type of information. The existing regulations were promulgated before the October 31, 1994, approval of the National Industrial Security Program Operating Manual (NISPOM) by the Deputy Secretary of Defense and the April 17, 1995, approval of Executive Order 12958, "Classified National Security Information" by the President. The NISPOM establishes a uniform Government policy for the protection of classified National Security Information and Restricted Data within industrial facilities under a contractural or other (e.g., license) legal relationship with the Government. Executive Order 12958 revises the government-wide requirements for classification and protection of National Security Information. President Clinton is also in the process of approving another new Executive Order, "Access to Classified Information," which would revise the government-wide requirements for access to National Security Information. The current 10 CFR Parts 10, 25, and 95 are not fully compliant with the requirements of the NISPOM and the new Executive Orders. Some areas of inconsistency are revised accountability requirements for secret information, revised requirements for review of foreign ownership, control and influence considerations, new locking mechanism requirements, etc. These regulations must be amended to ensure their consistency with established national policy for the protection of classified information.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane G. Kidd, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555
Phone: 301 415-7403

RIN: 3150–AF37

NUCLEAR REGULATORY COMMISSION (NRC) Completed Actions

4780. PRIMARY REACTOR CONTAINMENT LEAKAGE TESTING FOR WATER-COOLED POWER REACTORS

Priority: Other

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would update and revise the 1973 criteria for preoperational and periodic pressure testing for leakage of primary containment boundaries of water-cooled power reactors. The Commission has decided to proceed with a new approach to the rulemaking and withdraw this proposed rule. A notice of withdrawal was included in the proposed rule that presents the new approach for public comment (See RIN 3150-AF00).

Timetable:

Action	Date	FR Cite
Withdrawn	02/21/95	60 FR 9634

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Moni Dey, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6443

RIN: 3150–AA86

4781. REVISED RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841; 05 USC 552

CFR Citation: 10 CFR 0; 10 CFR 1; 10 CFR 2; 10 CFR 9; 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would shorten and simplify existing Commission procedural rules applicable to domestic licensing proceedings by comprehensively restating, revising, and reorganizing the statement of those rules to reflect current practice. The changes The Commission has determined that this rule is unnecessary and is withdrawing this proposed rule.

Timetable:

Action	Date	FR Cite
Withdrawn	06/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lee S. Dewey, Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, DC 20555
Phone: 301 415-6390

RIN: 3150–AB66

4782. UPDATE OF TRANSPORTATION REGULATIONS TO INCORPORATE NEW LICENSING INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 71

Legal Deadline: None

Abstract: The final rule, in conjunction with a corresponding rule change by the U.S. Department of Transportation, updates the United States Federal regulations for the safe transportation of radioactive material to incorporate new licensing information developed since 1972. The rule also responds to the need for a: 1) new crush test; 2) new deep immersion test; and 3) new limit on low specific activity material shipments.

Timetable:

Action	Date	FR Cite
NPRM	06/08/88	53 FR 21550
DOT NPRM Published	11/14/89	54 FR 47454
NPRM Comment Period End	02/09/90	54 FR 13528
Final Action	09/28/95	60 FR 50248

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Cook, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555
Phone: 301 415-8521

RIN: 3150–AC41

4783. NIGHT FIRING QUALIFICATIONS FOR SECURITY GUARDS AT NUCLEAR POWER PLANTS

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to ensure that security force effectiveness at nuclear power plants is not dependent on the time of day. The Commission is considering a performance-based regulatory approach to rulemaking, if necessary, and is therefore withdrawing this proposed rule.

Timetable:

Action	Date	FR Cite
Withdrawn	05/10/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Telford, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6229

RIN: 3150–AC88

4784. ACCEPTANCE OF PRODUCTS PURCHASED FOR USE IN NUCLEAR POWER PLANT STRUCTURES, SYSTEMS, AND COMPONENTS

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) was published to request public comment on the need for additional regulatory requirements and to obtain an improved understanding of alternatives to regulatory requirements. Based upon comment analysis, the staff recommended to the Commission that this rule be withdrawn. The Commission has approved withdrawal of this rulemaking.

In a separate but related rulemaking (RIN 3150-AF01), a final rule amending 10 CFR Part 21, "Procurement of Commercial Grade Items by Nuclear Power Licensees," is in process. The purpose of this rulemaking action is to revise NRC's requirements to permit broader use of commercial grade items.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/89	54 FR 9229
ANPRM Comment Period End	07/05/89	
Withdrawn	09/19/95	60 FR 48427

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Au, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555
Phone: 301 415-6181

RIN: 3150–AD10

4785. IMPORT AND EXPORT OF RADIOACTIVE WASTES

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 110

Legal Deadline: None

Abstract: The final rule amends the Commission's licensing requirements to strengthen the Commission's control over radioactive waste coming into and leaving the United States by requiring specific NRC licensing of radioactive waste imports and exports. The final rule conforms U.S. policies with the decision of the General Conference of the International Atomic Energy Agency in September 1990, approving a voluntary Code of Practice to guide Nation States in the development and harmonization of policies and laws on the transboundary shipments of radioactive waste.

Timetable:

Action	Date	FR Cite
Final Action	07/21/95	60 FR 37556
Final Action Effective	08/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald D. Hauber, Nuclear Regulatory Commission, Office of International Programs, Washington, DC 20555
Phone: 301 415-2344

RIN: 3150–AD36

4786. DISCRIMINATION ON THE BASIS OF SEX

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002; 10 CFR 019

Legal Deadline: None

Abstract: The final rule would amend the Commission's regulations dealing with discrimination against persons who, on the grounds of sex, are excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity licensed by the NRC. The Commission has determined that this rule is unnecessary and is withdrawing the final rulemaking.

Timetable:

Action	Date	FR Cite
Withdrawn	05/10/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Au, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555

Phone: 301 415-6181

RIN: 3150–AD50

4787. EMERGENCY PLANNING FOR INDEPENDENT SPENT FUEL STORAGE FACILITIES (ISFSI) AND MONITORED RETRIEVABLE STORAGE FACILITIES (MRS)

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 072

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to provide, as directed by the Nuclear Waste Policy Act of 1982, for the emergency planning licensing requirements for independent Spent Fuel Storage Facilities and Monitored Retrievable Storage Facilities.

Timetable:

Action	Date	FR Cite
Final Action	06/22/95	60 FR 32430
Final Action Effective	09/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael T. Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6534

RIN: 3150–AE17

4788. REMOVAL OF CRITICALITY ALARM REQUIREMENTS FOR FRESH FUEL

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 070

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to eliminate the need for licensees to request an exemption from provisions that require criticality monitors for new reactor fuel. The Commission is reevaluating the need for this proposed rule. Any action required as a result of this evaluation will be considered in the development of the proposed rule entitled, "Domestic Licensing of Special Nuclear Material - Revision to Part 70".

Timetable:

Action	Date	FR Cite
Withdrawn	05/10/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry E. Jackson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6656

RIN: 3150–AE43

4789. SAFETY REQUIREMENTS FOR REACTOR COOLANT PUMP SEALS

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require that pressurized-water reactor licensees improve, in a cost-effective manner, assurance of reactor core coolability when reactor coolant pump (RCP) seal integrity may not be sufficiently assured during certain postulated off-normal events, for example, station blackout (10 CFR 50.2 and 50.63), loss of essential service water (SW), or loss of component cooling water. The The Commission has determined that this rule is unnecessary and is withdrawing this proposed rule.

Timetable:

Action	Date	FR Cite
Withdrawn	05/10/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Syed K. Shaukat, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6592

RIN: 3150–AE53

4790. INTERIM STORAGE OF SPENT FUEL IN AN INDEPENDENT SPENT FUEL STORAGE INSTALLATION; SITE-SPECIFIC LICENSE TO A QUALIFIED APPLICANT

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002; 10 CFR 072

Legal Deadline: None

Abstract: The final rule amends the Commission's procedures under which the Director of Nuclear Materials Safety and Safeguards can issue a site-specific license to a qualified applicant for the interim storage of spent fuel in an independent spent fuel storage installation (ISFSI) following satisfactory completion of NRC safety and environmental reviews and after any public hearing on the application. The final rule is administrative in nature and eliminates the need for express Commission authorization for each ISFSI license, but will not effect the scope of NRC review on ISFSI license application or change the present opportunity for public hearing provided for in the NRC's rules of practice.

Timetable:

Action	Date	FR Cite
Final Action	04/28/95	60 FR 20879
Final Action Effective	05/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. William Reamer, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555
Phone: 301 415-1640

RIN: 3150–AE64

4791. RADIATION PROTECTION REQUIREMENTS; AMENDED DEFINITIONS AND CRITERIA

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 019; 10 CFR 020

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations by (1) deleting the definition "Controlled area" to make it clear that any area to which access is restricted for the purpose of radiological protection is a restricted area as defined in the regulation; (2) revising the definition of "Occupational dose" to delete reference to the "restricted area;" (3) revising the definition of unrestricted area to be consistent with the deletion of controlled area; (4) revising the provision in 10 CFR Part 19 entitled, "Instruction to Workers," so that radiation protection training will be provided to all persons with the potential to be occupationally exposed; and (5) restoring a provision to 10 CFR Part 20 to provide that whenever licensees are required to report exposure s of individual members of the public to the NRC, then those individuals are to receive copies of the report.

Timetable:

Action	Date	FR Cite
Final Action	07/13/95	60 FR 36038
Final Action Effective	08/14/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan K. Rocklein, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6220

RIN: 3150–AE80

4792. LAND OWNERSHIP REQUIREMENTS FOR LOW-LEVEL WASTE SITES

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 061

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) was published to request public comment on allowing a licensee to own land that is used for a low-level waste disposal site. The Commission has determined that this notice is unnecessary and is withdrawing this ANPRM.

Timetable:

Action	Date	FR Cite
Withdrawn	07/18/95	60 FR 36744

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6196

RIN: 3150–AE88

4793. PERFORMANCE-BASED PRIMARY REACTOR CONTAINMENT LEAKAGE TESTING FOR WATER-COOLED POWER REACTORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to provide a performance-based option for leakage rate testing of containments of light-water-cooled nuclear power plants. This option will be available for voluntary adoption by licensees, in lieu of compliance with the current prescriptive requirements contained in Appendix J of 10 CFR Part 50. This action is intended to improve the focus of the body of regulations by eliminating prescriptive requirements that are marginal to safety and to provide licensees greater flexibility for cost-effective implementation methods of regulatory safety objectives.

Timetable:

Action	Date	FR Cite
NPRM	02/21/95	60 FR 9634
NPRM Comment Period End	05/08/95	
Final Action	09/26/95	60 FR 49495

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Moni Dey, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6443

RIN: 3150–AF00

4794. PROCUREMENT OF COMMERCIAL GRADE ITEMS BY NUCLEAR POWER PLANT LICENSEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 021

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to include a generic process for dedication of commercial grade items for safety-related use and to clarify that the entity performing the dedication of a commercial grade item is responsible for discovering, evaluating, and reporting deficiencies as required by NRC regulations.

The final rule grants in part and denies in part the petition for rulemaking (PRM-21-2) from the Nuclear Energy Institute and completes action on the petition.

Timetable:

Action	Date	FR Cite
NPRM	10/24/94	59 FR 53372
NPRM Comment Period End	01/09/95	
Final Action	09/19/95	60 FR 48369

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: M. L. Au, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6181

RIN: 3150–AF01

4795. NUCLEAR POWER PLANT LICENSE RENEWAL; PROPOSED REVISIONS

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 54

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to change the requirements that an applicant for renewal of a nuclear power operating license must meet. The final rule clarifies the required information that must be submitted to the NRC for review so that the NRC can determine whether those requirements have in fact been met, and change the administrative requirements that a holder of a renewed license must meet.

Timetable:

Action	Date	FR Cite
Final Action	05/08/95	60 FR 22461

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Nelson, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555
Phone: 301 415-1053

RIN: 3150–AF05

4796. TECHNICAL SPECIFICATIONS

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to incorporate criteria for better defining the content of technical specifications. The four criteria were defined in the Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors published on July 23, 1993 (58 FR 39132).

Timetable:

Action	Date	FR Cite
Final Action	07/19/95	60 FR 36953
Final Action Effective	08/18/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William D. Reckley, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555
Phone: 301 415-1314

RIN: 3150–AF06

4797. REVISION OF FEE SCHEDULES; 100% FEE RECOVERY, FY 1995

Priority: Other

Legal Authority: 31 USC 9701; 42 USC 2201; 42 USC 2213; 42 USC 2214; 42 USC 5841

CFR Citation: 10 CFR 170; 10 CFR 171

Legal Deadline: Final, Statutory, August 1, 1995.
Omnibus Budget Reconciliation Act of 1990

Abstract: The Nuclear Regulatory Commission has revised the licensing, inspection, and annual fees charted to its applicants and licensees. This action is necessary to implement the Omnibus Budget Reconciliation Act of 1990, which mandates that the NRC recover approximately 100% of its budget authority in Fiscal Year 1995 less amounts appropriated from the Nuclear Waste Fund.

Timetable:

Action	Date	FR Cite
Final Action	06/20/95	60 FR 32218
Final Action Effective	07/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. James Holloway, Jr., Nuclear Regulatory Commission, Office of the Controller, Washington, DC 20555
Phone: 301 415-6213

RIN: 3150–AF07

4798. ADMINISTRATION OF RADIATION AND RADIOACTIVE MATERIALS TO PATIENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to clarify that the administration of radiation or radioactive materials to any patient, even a patient not supposed to receive an administration, is regulated by the NRC's provisions governing the medical use of byproduct material and is not within the scope of the regulations concerning NRC's standards for protection against radiation. The final rule is necessary to indicate clearly that this has been the NRC's policy. This final rule does not represent a change in policy.

Timetable:

Action	Date	FR Cite
NPRM	01/25/95	60 FR 4872
NPRM Comment Period End	04/10/95	
Final Action	09/20/95	60 FR 48623

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen A. McGuire, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6204

RIN: 3150–AF10

4799. NRC LICENSEE RENEWAL/REINVESTIGATION PROGRAM

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 2165; 31 USC 483a; 31 USC 9701; 50 USC 401

CFR Citation: 10 CFR 011; 10 CFR 025

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to eliminate the five year expiration date for licensee "U" and "R" special nuclear material access authorizations and "Q" and "L" access authorizations. The final rule requires the licensee to submit NRC renewal application paperwork only for an individual who has not been reinvestigated by the Department of Energy or another Federal agency within the five-seven year span permitted in the regulations.

Timetable:

Action	Date	FR Cite
Final Action	05/17/95	60 FR 26355
Final Action Effective	06/16/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Dunleavy, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555
Phone: 301 415-7404

RIN: 3150–AF21

4800. PERFORMANCE REQUIREMENTS FOR RADIOGRAPHY EQUIPMENT

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 034

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations pertaining to performance requirements for radiography equipment. The final amendment permits a licensee to use an engineering analysis in place of a performance testing criteria concerning a torque test for drive cables that is impossible to meet given the design of radiographic equipment.

Timetable:

Action	Date	FR Cite
Final Action	05/31/95	60 FR 28323
Final Action Effective	06/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. Bruce Carrico, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555
Phone: 301 415-7893

RIN: 3150–AF28

4801. PHYSICAL PROTECTION REQUIREMENTS FOR STORAGE OF SPENT FUEL

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 072; 10 CFR 073

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations for the physical protection of spent fuel stored under a specific license. This proposed rule is the same rule as the proposed rule entitled, "Safeguards for Spent Nuclear Fuel or High-Level Radioactive Waste" (RIN 3150-AF32). Therefore, this proposed rule is being incorporated into 3150-AF32.

Timetable:

Action	Date	FR Cite
Incorporated into RIN 3150-AF32	08/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6261

RIN: 3150–AF30

4802. • CHANGES TO NRC ADDRESSES AND TELEPHONE NUMBERS

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002; 10 CFR 019; 10 CFR 020; 10 CFR 030; 10 CFR 032; 10 CFR 040; 10 CFR 050; 10 CFR 051; 10 CFR 060; 10 CFR 061; 10 CFR 070; 10 CFR 071; 10 CFR 072; 10 CFR 073; 10 CFR 074; ...

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to indicate the current addresses, telephone numbers, and organizational titles within the NRC. These changes reflect the agency's consolidation of headquarters employees to Rockville, Maryland.

Timetable:

Action	Date	FR Cite
Final Action	05/09/95	60 FR 24549
Final Action Effective	05/09/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael T. Lesar, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555
Phone: 301 415-7163

RIN: 3150–AF34

4803. • CHANGES TO NUCLEAR POWER PLANT SECURITY REQUIREMENTS ASSOCIATED WITH CONTAINMENT ACCESS CONTROL

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations by changing nuclear power plant security requirements associated with controlling the access of personnel and materials into reactor containment during periods of high traffic such as refueling and major maintenance based upon staff review experience gained in security program implementation and input from the public and industry. This amendment relieves nuclear power plant licensees of the requirement to control access to reactor containments during these periods separately. Deletion of this requirement would decrease the regulatory burden for the licensees without degradation of physical security.

Timetable:

Action	Date	FR Cite
Final Action	09/07/95	60 FR 46497
Final Action Effective	10/10/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6261

RIN: 3150–AF36

[FR Doc. 95-23629 Filed 11-24-95; 8:45 am]
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Part LXIV

Resolution Trust Corporation

Semiannual Regulatory Agenda

RESOLUTION TRUST CORPORATION (RTC)

RESOLUTION TRUST CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Resolution Trust Corporation.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The Resolution Trust Corporation (RTC) is publishing items for the October 1995 regulatory agenda. The agenda contains information about the RTC's current and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. Except as indicated, the address for all staff identified in the agenda is Resolution Trust Corporation, 801 17th Street NW., Washington, DC 20434-0001.

SUPPLEMENTARY INFORMATION: The RTC was created on August 9, 1989, as an instrumentality of the United States by title V of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). Under FIRREA, the RTC was given powers to adopt such rules, regulations, standard policies, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out its mission. Twice each year, the RTC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda complies with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Interested persons may petition the RTC for the issuance, amendment, or repeal of any regulations by submitting a written petition to the Secretary, Resolution Trust Corporation, Washington, DC 20434. Petitioners should include complete and concise statements of their interest in the subject matter and why the petitions should be granted.

Dated: September 15, 1995.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Secretary.

RESOLUTION TRUST CORPORATION (RTC) — Prerule Stage

4804. • SUSPENSION AND EXCLUSION OF REGISTERED CONTRACTORS AND RESCISSION OF CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1441a(b)(10); 12 USC 1441a(b)(12); 12 USC 1441a(n)

CFR Citation: 12 CFR 1618

Legal Deadline: None

Abstract: The regulation contained in 12 C.F.R. Part 1618 prescribes standards and procedures pertaining to the suspension or exclusion from RTC contracting of contractors, subcontractors and related entities and key employees of contractors and/or rescission of awarded contracts or contractors who have violated section 1441a(n) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and the regulations at 12 C.F.R. Part 1606 and for unsatisfactory contract performance. The regulation also informs contractors, subcontractors, related entities and key employees regarding their rights to notice and an opportunity to be heard on RTC suspension and exclusion actions.

Timetable:

Action	Date	FR Cite
ANPRM	10/30/91	56 FR 30836
ANPRM Comment Period End	10/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrea Q. Bernardo, Section Chief, Enforcement & Compliance Section, Contractor Ethics Branch, Resolution Trust Corporation, 801 17th Street, NW., Rm. 453, Washington, DC 20434
Phone: 202 416-2026
Fax: 202 416-2083
Email: ABERNARDO@RTC.gov

RIN: 3205–AA25

RESOLUTION TRUST CORPORATION (RTC) — Long-Term Actions

4805. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 1605

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/12/93	58 FR 8220
Interim Final Rule Effective	02/12/93	58 FR 8220
Interim Final Rule Comment Period End	03/15/93	58 FR 8220

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Rosholt
Phone: 202 416-6952

RIN: 3205–AA20

4806. CLAIMS BASED UPON ACTS OR OMISSIONS OF THE RECEIVER

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 1635

Timetable:

Action	Date	FR Cite
NPRM	09/22/94	59 FR 48577
NPRM Comment Period End	10/24/94	59 FR 48577

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Munsell St. Clair

Phone: 202 736-3034

RIN: 3205–AA24

[FR Doc. 95-23634 Filed 11-24-95; 8:45 am]

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Part LXV

Securities and Exchange Commission

Semiannual Regulatory Agenda

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SECURITIES AND EXCHANGE COMMISSION (SEC)

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33-7215, 34-36230, 35-26372, 39-2334, IC-21358, IA-1520; File No. S7-28-95]

Regulatory Flexibility Agenda

AGENCY: Securities and Exchange Commission.

ACTION: Publication of regulatory flexibility agenda.

SUMMARY: The Securities and Exchange Commission is publishing an agenda of its rulemaking actions pursuant to the Regulatory Flexibility Act. Information in the agenda is believed to be accurate as of September 15, 1995, the date on which the Commission's staff completed compilation of the data. To the extent possible, however, rulemaking actions by the Commission since that date have been reflected in the agenda. The Commission invites questions and public comment on the agenda and on the individual agenda entries.

DATES: Public comments are due by December 30, 1995.

ADDRESSES: Persons wishing to submit written comments should file three copies of their comments with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Room 6184, Stop 6-9, Washington, DC 20549. All submissions should refer to File No. S7-28-95 and will be available for public inspection and copying at the Commission's Public Reference Room, Room 1026, at the same address.

FOR FURTHER INFORMATION CONTACT: Anne H. Sullivan, Office of the General Counsel, 202-942-0954.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980)) requires each Federal agency, during April and October of each year, to publish in the **Federal Register** an agenda identifying rules which the agency expects to propose or adopt that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602(a)). The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda and that an agency is not required to consider or act on any matter which is included in the agenda (5 U.S.C. 602(d)). The agenda includes new entries, entries carried over from previous publications, and rulemaking actions which have been completed (or withdrawn) since publication of the last agenda.

The following abbreviations for the acts administered by the Commission are used throughout the agenda:

"Securities Act" - Securities Act of 1933

"Exchange Act" - Securities Exchange Act of 1934

"PUHCA" - Public Utility Holding Company Act of 1935

"Investment Company Act" - Investment Company Act of 1940

"Investment Advisers Act" - Investment Advisers Act of 1940

The Commission's regulatory flexibility agenda is set forth below. The Commission invites public comment on the agenda and on the individual agenda entries.

Dated: September 14, 1995.

By the Commission.

Jonathan G. Katz,

Secretary.

DIVISION OF CORPORATION FINANCE—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4807	Safe Harbor for Forward-Looking Statements	3235-AG35
4808	Form S-4: Elimination of General Instruction G	3235-AG22
4809	Extension of Reporting Requirements for Certain Issuers of Debt Securities	3235-AG33
4810	Regulation S	3235-AG34

DIVISION OF CORPORATION FINANCE—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4811	Disclosure of Security Ratings	3235-AG20
4812	Ownership Reports and Trading by Officers, Directors, and Principal Security Holders	3235-AF66
4813	Disclosure of Legal Proceedings Involving Management, Promoters, Control Persons and Others	3235-AG32
4814	Abbreviated Financial Statements	3235-AG49
4815	Streamlining and Consolidation of Executive and Director Compensation Disclosure	3235-AG50
4816	Exemption for Certain California Limited Issues	3235-AG51
4817	Solicitations of Interest Prior to an Initial Public Offering	3235-AG52
4818	Streamlining Disclosure Requirements Relating to Significant Business Acquisitions and Requiring Quarterly Reporting of Unregistered Equity Sales	3235-AG47
4819	Relief From Reporting by Small Issuers	3235-AG48
4820	Revision of Holding Period Requirements in Rule 144	3235-AG53

SEC

DIVISION OF CORPORATION FINANCE—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4821	Asset-Backed Securities Disclosure	3235-AF74
4822	Small Issue Exemptive Rule and Registration Forms for Certain Rights Offerings	3235-AD44
4823	Forms for Information Filed by Exempt Foreign Private Issuers	3235-AD72
4824	International Tender and Exchange Offers	3235-AD97

DIVISION OF CORPORATION FINANCE—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4825	Prospectus Delivery; Securities Transactions Settlement	3235-AG40

DIVISION OF INVESTMENT MANAGEMENT—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4826	Investment Advisers: Registration and Annual Supplement Forms	3235-AD21
4827	Unit Investment Trusts: Simplification of Registration Statements and Advertising Rules	3235-AA47
4828	Certain Investment Company Registration Forms	3235-AE46
4829	Amendments to Proxy Rules for Registered Investment Companies	3235-AG54
4830	Proposed Definition of "Small Entity" for Purposes of the Regulatory Flexibility Act	3235-AG62
4831	Performance Advertising by Unit Investment Trusts	3235-AG63
4832	Shareholder Report and Financial Statement Revisions	3235-AG64
4833	Exemption for Finance Subsidiaries of Certain Banks and Insurance Companies	3235-AE95
4834	Assignments of Advisory Contracts: Temporary Exemptions	3235-AF57
4835	Custody of Investments by a Registered Management Investment Company	3235-AF70
4836	Mergers of Certain Affiliated Investment Companies	3235-AG31
4837	Improving Descriptions of Risk by Mutual Funds and Other Investment Companies	3235-AG43
4838	Exemption of Certain Purchase or Sale Transactions Between an Investment Company and Certain Affiliated Persons Thereof	3235-AG57
4839	Bonding of Officers and Employees of Registered Management Investment Companies	3235-AG58
4840	Distribution of Shares by Registered Open-End Management Investment Company	3235-AG59
4841	Mutual Fund Prospectuses Provided to Participants in Certain Defined Contribution Plans	3235-AG60
4842	Exemption of Acquisition of Securities During the Existence of Underwriting Syndicates	3235-AG61
4843	Amendments to Form N-SAR, Semiannual Report of Registered Investment Companies	3235-AF93
4844	Deregistration Form Amendments	3235-AG29
4845	Insurance Products: New Form N-6 for Registration of Separate Accounts Offering Variable Life Insurance Contracts	3235-AG37
4846	Insurance Products: Rule Regarding Mortality and Expense Risk Charges	3235-AG38
4847	Insurance Products: Rule for Deductions of Amounts Reflecting an Insurance Company's Increase in Federal Tax Liability for Premium Payments on Variable Life Insurance Contracts	3235-AG39
4848	PUHCA: Exemption for Certain Acquisitions of Foreign Utility Companies	3235-AF78
4849	Status of Subsidiary Companies Formed to Hold Interests in Foreign Utility Companies	3235-AF79

DIVISION OF INVESTMENT MANAGEMENT—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4850	Suitability of Investment Adviser Advice; Quarterly Account Statements	3235-AG06
4851	Disclosure by Investment Advisers Regarding Soft Dollar Practices	3235-AG36
4852	Tax-Exempt Money Market Fund Rule Proposals	3235-AE17
4853	Money Market Fund Prospectuses	3235-AG55
4854	Money Market Fund Quarterly Reporting	3235-AG56
4855	Exemptions for Certain Investment Companies to Impose Deferred Sales Loads	3235-AE97

SEC

DIVISION OF INVESTMENT MANAGEMENT—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4856	Custody of Investment Company Assets Outside the United States	3235-AE98
4857	Expedited Procedure for Exemptive Orders	3235-AF56
4858	Custody of Investment Company Assets With Futures Commission Merchants and Commodity Clearing Organizations	3235-AF97
4859	Requirements Relating to Codes of Ethics With Respect to Registered Investment Companies; Records to be Maintained by Investment Advisers	3235-AG27
4860	Status of Investment Advisory Programs Under the Investment Company Act of 1940	3235-AG07
4861	PUHCA: Subsidiaries Performing Services or Construction or Selling Goods	3235-AF87
4862	PUHCA: Annual Report of Mutual and Subsidiary Service Companies	3235-AG05
4863	PUHCA: Exemption for Transactions With Foreign Associates	3235-AG19
4864	Exemption of Issuance and Sale of Securities by Public Utility and Nonutility Subsidiary Companies of Registered Public Utility Holding Companies	3235-AG45
4865	Exemption of Acquisition by Registered Public Utility Holding Companies of Securities of Nonutility Companies; Exemption of Capital Contribution and Advances	3235-AG46

DIVISION OF INVESTMENT MANAGEMENT—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4866	Off-the-Page Prospectuses for Open-End Management Investment Companies	3235-AF58
4867	Certain Research and Development Companies	3235-AF69
4868	Exemption From Disqualification for Certain Affiliated Persons	3235-AF89
4869	Exemption from Certain Filing Requirements for Certain Affiliated Persons of Investment Advisers	3235-AF81

DIVISION OF INVESTMENT MANAGEMENT—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4870	Registration Fees for Certain Investment Companies	3235-AC25
4871	Accounting Treatment of Investment Company Expenses Paid Through Brokerage Commission	3235-AF94
4872	Investment Company Risk Disclosure	3235-AG30
4873	Investment Company Books and Records Requirements	3235-AE94
4874	Exemption of Issuance and Sale of Securities by Public Utility and Non-Utility Subsidiary Companies of Registered Public Utility Holding Companies	3235-AF49
4875	Rule 90: Pricing of Intrasystem Sales of Goods, Services, and Construction	3235-AG23

DIVISION OF MARKET REGULATION—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4876	Stabilizing To Facilitate a Distribution	3235-AE11
4877	Definitions Principally Relating to International Transactions	3235-AE15
4878	Distributions of Securities: Limitations on Trading and Stabilizing	3235-AF54
4879	Market Risk Haircuts for Instruments Subject to Interest Rate Risk	3235-AG18
4880	Exemption for Designated Foreign Government Securities for Purposes of Futures Trading	3235-AG65
4881	Proposed Amendments to Tender Offer Rules: Soliciting Dealer's Fees	3235-AG44
4882	Nationally Recognized Statistical Rating Organizations	3235-AG41

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DIVISION OF MARKET REGULATION—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4883	Customer Protection Reserves and Custody of Securities	3235-AD60
4884	Net Capital Requirements for Brokers or Dealers	3235-AD79
4885	Definition of "Short Sale"	3235-AE41
4886	Disclosure of Mark-ups: New Rule 15c2-13	3235-AG12
4887	Theoretical Pricing To Determine Haircuts on Options	3235-AG14
4888	Form BD Amendments	3235-AG25
4889	Prohibition on Market-Makers Trading Ahead of Customer Limit Orders	3235-AG21
4890	Proposed Amendments to Transfer Agent Rules	3235-AG24
4891	Large Trader Reporting System	3235-AE42

DIVISION OF MARKET REGULATION—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4892	Initiation or Resumption of Quotations Without Specific Information	3235-AD94
4893	Securities Transactions Exempt From Transaction Fees	3235-AE52
4894	Proposed Rule 12f-2, "Extending Unlisted Trading Privileges"	3235-AG28
4895	Notice by SROs Regarding Statutory Disqualifications	3235-AE39

OFFICES AND OTHER PROGRAMS—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4896	Disclosure of Market and Credit Risk Exposures Including Derivatives, Structured Notes, Commodity Contracts, and Other Similar Instruments	3235-AG42

OFFICES AND OTHER PROGRAMS—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4897	Rules of Practice	3235-AF91

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF CORPORATION FINANCE

Proposed Rule Stage

4807. SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 230.175

Legal Deadline: None

Abstract: The Commission issued a concept release in October 1994 regarding disclosure of forward-looking information and the effectiveness of the safe harbor provisions for that type of disclosure. The concept release requested public comments and announced that public hearings would be held. The Division is reviewing public testimony and comment letters in order to evaluate the safe harbor provisions and recommend to the Commission, if appropriate and consistent with the protection of investors, proposed amendments to these provisions in order to more effectively encourage the dissemination of forward-looking information.

Timetable:

Action	Date	FR Cite
ANPRM	10/19/94	59 FR 52723
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Budge, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG35

SEC—DIVISION OF CORPORATION FINANCE

Proposed Rule Stage

4808. FORM S-4: ELIMINATION OF GENERAL INSTRUCTION G

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 77e; 15 USC 77f; 15 USC 77h; 15 USC 77j; 15 USC 77q; 15 USC 77s

CFR Citation: 17 CFR 230.406; 17 CFR 230.464; 17 CFR 230.473; 17 CFR 230.475a; 17 CFR 230.477; 17 CFR 239.25

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose eliminating General Instruction G from Form S-4 in view of the exemption from registration for securities issued in bank holding company formations recently enacted as part of the Riegle Community Development and Regulatory Improvement Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Peggy Fisher, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-1762

RIN: 3235–AG22

4809. EXTENSION OF REPORTING REQUIREMENTS FOR CERTAIN ISSUERS OF DEBT SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77nnn

CFR Citation: 17 CFR 260

Legal Deadline: None

Abstract: In June 1994, the Commission published a release soliciting comment as to whether it is advisable to expand reporting requirements to issuers of debt securities that are traded in the over-the-counter market under certain circumstances where the issuer is not otherwise subject to periodic reporting requirements. The Division is considering whether to recommend that the Commission issue proposals to require certain obligors on debt securities to file reports with the Commission containing current information regarding their obligations.

Timetable:

Action	Date	FR Cite
ANPRM	06/07/94	59 FR 29398
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Babits, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG33

4810. REGULATION S

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.901 et seq

Legal Deadline: None

Abstract: In connection with the issuance of an interpretive release relating to Regulation S, the Commission solicited comment as to whether Regulation S should be amended to impose additional restrictions on its use to impede attempts to use the regulation to evade the registration requirements of the Securities Act of 1933. The Division will consider the comments received in considering its recommendation for further Commission action.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/95	60 FR 35563
ANPRM Comment Period End	09/08/95	
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul M. Dudek, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2990

RIN: 3235–AG34

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF CORPORATION FINANCE

Final Rule Stage

4811. DISCLOSURE OF SECURITY RATINGS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77e to 77g; 15 USC 77j to 77k; 15 USC 77q; 15 USC 77s(a); 15 USC 78m; 15 USC 78w(a)

CFR Citation: 17 CFR 228.10; 17 CFR 228.202; 17 CFR 229.10; 17 CFR 229.202; 17 CFR 230.134; 17 CFR 230.430A; 17 CFR 230.436; 17 CFR 249.308

Legal Deadline: None

Abstract: The Commission issued a release proposing new rules regarding disclosure with respect to security ratings in prospectuses under the Securities Act and material changes in security ratings on Form 8-K under the Exchange Act. The proposals would require disclosure of ratings obtained by or on behalf of an issuer from a Nationally Recognized Statistical Rating Organization (NRSRO) for registered securities or any rating (whether or not assigned by an NRSRO) that is used by a participant in an offering of securities.

Timetable:

Action	Date	FR Cite
NPRM	09/07/94	59 FR 46304
NPRM Comment Period End	12/06/94	
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian Miller, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-1997

RIN: 3235–AG20

4812. OWNERSHIP REPORTS AND TRADING BY OFFICERS, DIRECTORS, AND PRINCIPAL SECURITY HOLDERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78n(d); 15 USC 78p(a); 15 USC 78p(b); 15 USC 78p(c); 15 USC 78w(a)

SEC—DIVISION OF CORPORATION FINANCE

Final Rule Stage

CFR Citation: 17 CFR 240.16a-1 to 240.16a-11; 17 CFR 240.16b-1 to 240.16b-11

Legal Deadline: None

Abstract: The Commission has proposed amendments to rules under section 16 of the Exchange Act designed to streamline reporting by a public company's officers, directors and significant shareholders of transactions in the company's securities.

Timetable:

Action	Date	FR Cite
NPRM	08/17/94	59 FR 42449
Additional NPRM Comment Period for All Proposals Extended to 11/01/94	09/22/94	59 FR 48579
NPRM Comment Period End	10/17/94	
Additional NPRM Comment Period for All Proposals Extended to 12/05/95	10/11/95	60 FR 53832
Correcting Release	10/20/95	60 FR 54823
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth M. Murphy, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2848

RIN: 3235–AF66

4813. DISCLOSURE OF LEGAL PROCEEDINGS INVOLVING MANAGEMENT, PROMOTERS, CONTROL PERSONS AND OTHERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 228.401; 17 CFR 229.401; 17 CFR 239.90; 17 CFR 240.13d-101; 17 CFR 240.13e-100; 17 CFR 240.14d-100

Legal Deadline: None

Abstract: The Commission has proposed amendments that would expand disclosure requirements relating to legal proceedings involving management, promoters, control persons and others by enlarging the classes of legal proceedings that are subject to disclosure and by extending the period during which disclosure is required from the current five to ten years.

Timetable:

Action	Date	FR Cite
NPRM	11/07/94	59 FR 55385
NPRM Comment Period End	01/06/95	
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James R. Budge, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG32

4814. • ABBREVIATED FINANCIAL STATEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78w

CFR Citation: 17 CFR 230.435; 17 CFR 230.502; 17 CFR 239.9; 17 CFR 239.10; 17 CFR 239.11; 17 CFR 239.12; 17 CFR 239.13; 17 CFR 239.16; 17 CFR 239.16b; 17 CFR 239.18; 17 CFR 239.25; 17 CFR 239.31; 17 CFR 239.32; 17 CFR 239.33; 17 CFR 239.34; ...

Legal Deadline: None

Abstract: The Commission proposed amendments to allow the use of abbreviated financial statements in annual reports delivered to shareholders pursuant to the proxy rules. Comment also was solicited on additional approaches to streamlining annual reports to shareholders. Rule changes also were proposed to allow the use of abbreviated financial statements in other disclosure documents, including prospectuses, that are required to be delivered to investors.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35604
NPRM Comment Period End	10/10/95	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: CFR Citations Cont: 17 CFR 239.37; 17 CFR 239.38; 17 CFR 239.39; 17 CFR 239.40; 17 CFR 239.41; 17 CFR 239.90; 17 CFR 240.13e-3; 17 CFR 240.13e-4;17 CFR 240.13e-102; 17 CFR 240.14a-3; 17 CFR 240.14a-6;17 CFR 240.14a-101; 17 CFR 240.14c-3; 17 CFR 240.14c-8;17 CFR 240.14d-1; 17 CFR 240.14d-6; 17 CFR 240.14d-102; 17 CFR 240.14d-103; 17 CFR 249.310; 17 CFR 249.310b; 17 CFR 239.34.

Agency Contact: Elizabeth M. Murphy, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG49

4815. • STREAMLINING AND CONSOLIDATION OF EXECUTIVE AND DIRECTOR COMPENSATION DISCLOSURE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c(b); 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 228.402; 17 CFR 229.402; 17 CFR 240.14a-101; 17 CFR 249.310; 17 CFR 249.310b

Legal Deadline: None

Abstract: The Commission proposed amendments that would permit registrants to provide in the Form 10-K some of the executive compensation disclosure that is currently required in the proxy statement furnished to shareholders. In addition, amendments to the format of disclosure regarding director compensation were proposed in order to improve the presentation.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35633
NPRM Comment Period End	09/08/95	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth M. Murphy, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG50

SEC—DIVISION OF CORPORATION FINANCE

Final Rule Stage

4816. • EXEMPTION FOR CERTAIN CALIFORNIA LIMITED ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c(b); 15 USC 77s

CFR Citation: 17 CFR 230.144; 17 CFR 230.1001(New)

Legal Deadline: None

Abstract: In order to reduce regulatory burdens associated with certain offers and sales of securities, the Commission proposed a new exemption from its registration requirements for limited offerings of up to $5 million that are exempt from qualification under recently enacted California State securities law.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35638
NPRM Comment Period End	09/08/95	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James R. Budge, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG51

4817. • SOLICITATIONS OF INTEREST PRIOR TO AN INITIAL PUBLIC OFFERING

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77b; 15 USC 77c; 15 USC 77d; 15 USC 77e; 15 USC 77s

CFR Citation: 17 CFR 230.135d(New); 17 CFR 230.254; 17 CFR 232.101; 17 CFR 230.100

Legal Deadline: None

Abstract: The Commission published for comment a proposed rule that would allow issuers contemplating initial public offerings to solicit indications of investor interest in their companies prior to the filing of a registration statement under the Securities Act of 1933. The proposed rule would allow an issuer to assess potential investor interest in the company before incurring possibly significant costs associated with the preparation of offering disclosure documents. The proposals are intended to reduce the regulatory impediments and cost of accessing public markets consistent with investor protection interests.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35648
NPRM Comment Period End	09/08/95	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James R. Budge, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG52

4818. • STREAMLINING DISCLOSURE REQUIREMENTS RELATING TO SIGNIFICANT BUSINESS ACQUISITIONS AND REQUIRING QUARTERLY REPORTING OF UNREGISTERED EQUITY SALES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77b; 15 USC 77c; 15 USC 77d; 15 USC 77s; 15 USC 78c(b); 15 USC 78d; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78w

CFR Citation: 17 CFR 210.3-05; 17 CFR 228.310; 17 CFR 239.25; 17 CFR 239.34; 17 CFR 249.308; 17 CFR 249.308a; 17 CFR 249.308b; 17 CFR 249.310; 17 CFR 249.310b; 17 CFR 230.901 to 230.904

Legal Deadline: None

Abstract: In connection with its review of problematic practices relating to Regulation S, the Commission published for comment rule revisions that would reduce the need for reliance on Regulation S by eliminating certain impediments to registered offerings of securities under the Securities Act of 1933 by streamlining requirements with respect to financial statements of significant acquisitions. Also, rule revisions were proposed that would require registrants to report on a quarterly basis recent sales of equity securities that have not been registered under the Securities Act.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35656
NPRM Comment Period End	09/08/95	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Annemarie Tierney, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2990

RIN: 3235–AG47

4819. • RELIEF FROM REPORTING BY SMALL ISSUERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 230.157; 17 CFR 240.0-10; 17 CFR 240.12g-1; 17 CFR 240.12g-4; 17 CFR 240.12h-3; 17 CFR 249.323(a); 17 CFR 260.0-7

Legal Deadline: None

Abstract: The Commission issued proposals designed to reduce burdens on small business by doubling the asset threshold that subjects companies to registration and periodic reporting under the Securities Exchange Act of 1934 (the Exchange Act) from $5 million to $10 million.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35642
NPRM Comment Period End	09/08/95	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard K. Wulff, Office of Small Business Policy, Division of Corporate Finance, Securities and Exchange Commission
Phone: 202 942-2950

RIN: 3235–AG48

4820. • REVISION OF HOLDING PERIOD REQUIREMENTS IN RULE 144

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77b(11); 15 USC 77d(1),(4); 15 USC 77s

CFR Citation: 17 CFR 230.144

Legal Deadline: None

Abstract: The Commission proposed amendments to the holding period requirements contained in Rule 144(d) and (k) to permit resales of "restricted" securities after a 1-year, rather than a 2-year, holding period, if the sale complies with all of the other provisions of Rule 144. Securities held by nonaffiliated shareholders could be resold without restriction after a holding period of 2, rather than 3 years. In addition, the Commission requested comment on whether Rule 144 should be revised to address new trading strategies, such as equity swaps, and is reminding persons subject to reporting under section 16 of the Securities Exchange Act of 1934 (the Exchange Act) that reporting of these transactions is required under the current rules.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35645
NPRM Comment Period End	09/08/95	
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard K. Wulff, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950

RIN: 3235–AG53

SEC—DIVISION OF CORPORATION FINANCE

Final Rule Stage

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF CORPORATION FINANCE

Long-Term Actions

4821. ASSET-BACKED SECURITIES DISCLOSURE

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 229; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael H. Mitchell
Phone: 202 942-2900

RIN: 3235–AF74

4822. SMALL ISSUE EXEMPTIVE RULE AND REGISTRATION FORMS FOR CERTAIN RIGHTS OFFERINGS

Priority: Substantive; Nonsignificant

CFR Citation: 17 CFR 230.801(New)

Timetable:

Action	Date	FR Cite
NPRM	06/14/91	56 FR 27564
NPRM Comment Period End	09/09/91	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul M. Dudek
Phone: 202 942-2990

RIN: 3235–AD44

4823. FORMS FOR INFORMATION FILED BY EXEMPT FOREIGN PRIVATE ISSUERS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 240.12g3-2(b); 17 CFR 249

Timetable:

Action	Date	FR Cite
NPRM	06/06/91	56 FR 27612
NPRM Comment Period End	09/09/91	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul M. Dudek
Phone: 202 942-2990

RIN: 3235–AD72

4824. INTERNATIONAL TENDER AND EXCHANGE OFFERS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 200; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 260

Timetable:

Action	Date	FR Cite
ANPRM	06/12/90	55 FR 23751
ANPRM Comment Period End	09/21/90	
NPRM	06/14/91	56 FR 27582
NPRM Comment Period End	09/09/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Gregg Corso
Phone: 202 942-2920

RIN: 3235–AD97

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF CORPORATION FINANCE

Completed Actions

4825. PROSPECTUS DELIVERY; SECURITIES TRANSACTIONS SETTLEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78c; 15 USC 78j; 15 USC 78l; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 228.503; 17 CFR 228.601; 17 CFR 229.502; 17 CFR 229.503; 17 CFR 229.601; 17 CFR 229.801; 17 CFR 230.402; 17 CFR 230.424; 17 CFR 230.430A; 17 CFR 230.434; 17 CFR 230.439; 17 CFR 230.457; 17 CFR 230.461; 17 CFR 230.462; 17 CFR 239.9; ...

Legal Deadline: None

Abstract: The Commission has adopted amendments to its rules and forms and a new rule under the Securities Act of 1933 in order to implement two solutions to prospectus delivery issues arising in connection with the change to T+3 securities transaction settlement. The amendments and rule are based on recommendations submitted by representatives of financial intermediaries. In addition, the Commission amended an exemption from T+3 clearance and settlement for purchases and sales of securities pursuant to a firm commitment offering. Such exemption is now limited to offerings of asset-backed securities and structured securities and

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provides an extended settlement time frame to firm commitment offerings under certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 10724
NPRM Comment Period End	03/31/95	
Final Action	05/11/95	60 FR 26604
Final Action Effective	06/07/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: CFR CITATIONS CONT: 17 CFR 239.10; 17 CFR 239.11; 17 CFR 239.12; 17 CFR 239.13; 17 CFR 239.18; 17 CFR 239.31; 17 CFR 239.32; 17 CFR 239.33; 17 CFR 240.15c2-8; 17 CFR 240.15c6-1

Agency Contact: Anita Klein, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900

RIN: 3235–AG40

SECURITIES AND EXCHANGE COMMISSION (SEC) — Proposed Rule Stage
DIVISION OF INVESTMENT MANAGEMENT

4826. INVESTMENT ADVISERS: REGISTRATION AND ANNUAL SUPPLEMENT FORMS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o(b)(1); 15 USC 78w(a); 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-6A; 15 USC 80b-11

CFR Citation: 17 CFR 275; 17 CFR 279

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission revise Form ADV, the investment adviser registration form, and related rules to: (1) request information related to the Commission's enforcement authority, (2) enhance disclosure of information about the advisory relationship provided to clients and prospective clients, and (3) require annual amendment of the form.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Karen J. Garnett, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0728

RIN: 3235–AD21

4827. UNIT INVESTMENT TRUSTS: SIMPLIFICATION OF REGISTRATION STATEMENTS AND ADVERTISING RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-8; 15 USC 77g; 15 USC 77j

CFR Citation: 17 CFR 239.16; 17 CFR 274.12

Legal Deadline: None

Abstract: The Commission has reproposed for public comment Form N-7, a new form for registering unit investment trusts (UITs) and their securities under the Investment Company Act and the Securities Act. Adoption of Form N-7 would: (1) codify the disclosure requirements for UITs into one form; (2) codify the disclosure standards that have been developed for UITs; and (3) shorten and simplify the prospectus used in connection with the sale of units in both the initial offering and in the secondary market maintained by the sponsor. The requirement for audited financial statements would be eliminated under certain circumstances. Under the reproposal, the requirement that registrants include certain third-party financial statements in the registration statement would be extended to insurers as well as guarantors of portfolio securities of the trust. The Division of Investment Management was also considering a recommendation to the Commission of a rule proposal that would standardize yields advertised by certain unit investment trusts. The Division is now considering this matter under a separate rulemaking proposal.

Timetable:

Action	Date	FR Cite
NPRM	05/23/85	50 FR 21282
Comment Period End	07/31/85	
Reproposing Release	03/17/87	52 FR 8268
NPRM Comment Period End	05/18/87	
NPRM	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Anthony Bosch, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0528

RIN: 3235–AA47

4828. CERTAIN INVESTMENT COMPANY REGISTRATION FORMS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 230.482; 17 CFR 239.15; 17 CFR 274.11; 17 CFR 239.23; 17 CFR 239.15A; 17 CFR 274.11A; 17 CFR 239.17a; 17 CFR 274.11b; 17 CFR 239.17b; 17 CFR 274.11c

Legal Deadline: None

Abstract: The Division of Investment Management is reviewing the requirements of Form N-1A, the registration form for all open-end management investment companies registering under the Securities Act and the Investment Company Act. The review will focus on ways to update and improve the disclosure requirements of the form. The Division will also be addressing the incorporation by reference rules in the investment company registration forms.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Martha Platt, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0725

RIN: 3235–AE46

SEC—DIVISION OF INVESTMENT MANAGEMENT — Proposed Rule Stage

4829. • AMENDMENTS TO PROXY RULES FOR REGISTERED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78n; 15 USC 78w; 15 USC 80a-20(a); 15 USC 80A-39(a)

CFR Citation: 17 CFR 240.14a-101; 17 CFR 274.11A; 17 CFR 274.11a-1; 17 CFR 274.11b

Legal Deadline: None

Abstract: The Commission is considering proposing for public comment amendments to the proxy rules specifically applicable to the proxy statements of management investment companies registered under the Investment Company Act of 1940 and the Securities Exchange Act of 1934. The proposed amendments are intended to clarify and to refine the proxy rules, which were substantially revised by amendments adopted in the fall of 1994.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kathleen Clarke, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG54

4830. • PROPOSED DEFINITION OF "SMALL ENTITY" FOR PURPOSES OF THE REGULATORY FLEXIBILITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 601 et seq

CFR Citation: 17 CFR 270.0-10

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission issue a release requesting public comment on a proposed amendment to Rule 0-10 under the Investment Company Act of 1940. The proposal would amend the definition of the term "Small Entity".

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jonathan F. Cayne, Office of Disclosure and Investment Adviser, Regulation,Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0577

RIN: 3235–AG62

4831. • PERFORMANCE ADVERTISING BY UNIT INVESTMENT TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 230.482; 17 CFR 239.16; 17 CFR 270.34b-1

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission issue a release requesting public comment on a proposal that would standardize yields advertised by certain unit investment trusts (UITs). The proposal would amend Form S-6, the form used by UITs to register under the Securities Act of 1933 (1933 Act), rule 482 under the 1933 Act, which governs investment company sales materials not accompanied or preceded by a prospectus (advertisements), and rule 34b-1 under the Investment Company Act of 1940, which governs sales materials that accompany or follow the delivery of a statutory prospectus (sales literature). The proposal would require UITs to use a standardized formula for calculating yield in their prospectuses, advertisements, and sales literature.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This item was previously part of item 3235-AA47, Unit Investment Trusts: Simplification of Registration Statements.

Agency Contact: Anthony Bosch, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0528

RIN: 3235–AG63

4832. • SHAREHOLDER REPORT AND FINANCIAL STATEMENT REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77f; 15 USC 77j; 15 USC 80a-29

CFR Citation: 17 CFR 210; 17 CFR 270.30d-1

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose revisions to the shareholder report and financial statement requirements for investment companies to improve the quality of updates and simplify investment company financial statement presentation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathleen K. Clarke, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG64

4833. EXEMPTION FOR FINANCE SUBSIDIARIES OF CERTAIN BANKS AND INSURANCE COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3a-5

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose amendments to rule 3a-5 to permit finance subsidiaries of U.S. banks and insurance companies to rely on the rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Holly Hill-Little, Office of Regulatory Policy, Division of

Investment Management, Securities and Exchange Commission
Phone: 202 942-0978

RIN: 3235–AE95

4834. ASSIGNMENTS OF ADVISORY CONTRACTS: TEMPORARY EXEMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.15a-4

Legal Deadline: None

Abstract: The Division is considering whether to recommend that the Commission propose to amend rule 15a-4 to permit an adviser conditionally to serve at the prior contract's fee during a short interim period, prior to shareholder approval of the new contract and following an "unforeseeable" or "uncontrollable" assignment of the advisory contract, e.g., triggered by an acquisition of the parent company of the adviser where the fund and adviser are not informed sufficiently in advance to obtain shareholder approval.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth R. Krentzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0687

RIN: 3235–AF57

4835. CUSTODY OF INVESTMENTS BY A REGISTERED MANAGEMENT INVESTMENT COMPANY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose amendments to rule 17f-2 under the Investment Company Act, which governs the circumstances under which the securities and similar investments of a registered management investment company may be maintained in the custody of such company.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0692

RIN: 3235–AF70

4836. MERGERS OF CERTAIN AFFILIATED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-17(a)

CFR Citation: 17 CFR 270.17a-8

Legal Deadline: None

Abstract: Rule 17a-8 presently allows a merger, consolidation, or purchase or sale of substantially all of the assets involving registered investment companies which may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers. The Division of Investment Management is considering whether to recommend to the Commission that it expand the applicability of the rule to other affiliate relationships.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0692

RIN: 3235–AG31

4837. • IMPROVING DESCRIPTIONS OF RISK BY MUTUAL FUNDS AND OTHER INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 230.482; 17 CFR 239.15A; 17 CFR 274.11A; 17 CFR 239.14; 17 CFR 274.11a-1

Legal Deadline: None

Abstract: The Commission issued a concept release seeking public comment on the ways in which investment company risk disclosure can be improved. Currently open-end and closed-end companies are required to provide narrative risk disclosure in their prospectuses. The concept release requests comment on both narrative and quantitative methods for providing information to investors about the risks of investment companies. This replaces RIN 3235-AG30.

Timetable:

Action	Date	FR Cite
ANPRM	03/29/95	60 FR 17172
Extension of Comment Period	06/28/95	60 FR 33375
ANPRM Comment Period End	07/28/95	
NPRM	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roseanne Harford, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0689

RIN: 3235–AG43

4838. • EXEMPTION OF CERTAIN PURCHASE OR SALE TRANSACTIONS BETWEEN AN INVESTMENT COMPANY AND CERTAIN AFFILIATED PERSONS THEREOF

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-37; 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.17a-7

Legal Deadline: None

Abstract: Rule 17a-7 permits purchase and sale transactions of portfolio securities among affiliated funds. The staff of the Division of Investment Management is evaluating whether to recommend that the Commission propose amendments to the pricing conditions of the rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Elizabeth R. Krentzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG57

4839. • BONDING OF OFFICERS AND EMPLOYEES OF REGISTERED MANAGEMENT INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-17(g); 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: 17 CFR 270.17g-1

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments to modernize and clarify the provisions of rule 17g-1, which governs the bonding of officers and employees of registered management investment companies.

Timetable:

Action	Date	FR Cite
NPRM	02/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth R. Krentzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0687

RIN: 3235–AG58

4840. • DISTRIBUTION OF SHARES BY REGISTERED OPEN-END MANAGEMENT INVESTMENT COMPANY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-12(b); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.12b-1

Legal Deadline: None

Abstract: Rule 12b-1 governs the payment of asset-based sales loads by registered open-end management investment companies. The staff of the Division of Investment Management is considering whether to recommend that the Commission propose an amendment to rule 12b-1 to eliminate the requirement that a company's shareholders approve a plan for distribution financing under the rule prior to the public offering of the company's shares.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Holly Hill-Little, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0978

RIN: 3235–AG59

4841. • MUTUAL FUND PROSPECTUSES PROVIDED TO PARTICIPANTS IN CERTAIN DEFINED CONTRIBUTION PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-1 et seq; 15 USC 77a et seq

CFR Citation: 17 CFR 239.15A; 17 CFR 274.11A

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission issue a release requesting public comment on proposed amendments to Form N-1A. The proposal would permit mutual funds that are offered as investment options in participant-directed defined contribution plans to modify the disclosure requirements for prospectuses provided to plan participants.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jonathan F. Cayne, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0577

RIN: 3235–AG60

4842. • EXEMPTION OF ACQUISITION OF SECURITIES DURING THE EXISTENCE OF UNDERWRITING SYNDICATES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-10(f); 15 USC 80a-30(a); 15 USC 80a-37

CFR Citation: 17 CFR 270.10f-3

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is evaluating whether to recommend that the Commission propose amendments to rule 10f-3, which permits an investment company, during the existence of an underwriting syndicate, to purchase securities underwritten by certain fund affiliates that are members of the underwriting syndicate. The Division is evaluating the rule in light of changes in the securities industry since 1979, the last time the rule was substantively amended. The Division also is considering whether the rule should be amended to cover foreign and U.S. Government securities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: David M. Goldenberg, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-4525

RIN: 3235–AG61

4843. AMENDMENTS TO FORM N-SAR, SEMIANNUAL REPORT OF REGISTERED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 249.330; 17 CFR 274.101

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission amend Form N-SAR, the semi-annual

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report for registered investment companies, to update the items of the form.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carolyn Miller, Office of Financial Analysis, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0510

RIN: 3235–AF93

4844. DEREGISTRATION FORM AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-37(a)

CFR Citation: 17 CFR 274.218; 17 CFR 270.8F-1

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending to the Commission amendments for Form N-8F, the deregistration form used by those registered investment companies defined in rule 8f-1 under the Investment Company Act. The proposed amendments to Form N-8F would seek to simplify and expedite the deregistration process for investment companies by (1) reorganizing the information reported on the Form, (2) deleting any questions that are unnecessary and adding questions that are frequently asked by the Division, and (3) clarifying the meaning and scope of items.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Sarah A. Wagman, Office of Investment Company Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0654

RIN: 3235–AG29

4845. INSURANCE PRODUCTS: NEW FORM N-6 FOR REGISTRATION OF SEPARATE ACCOUNTS OFFERING VARIABLE LIFE INSURANCE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The staff of the Office of Insurance Products is planning to recommend that the Commission propose a new Form N-6 to be used for separate accounts offering variable life insurance contracts to register under both the Investment Company Act and the Securities Act. Currently, most insurance company separate accounts are organized as unit investment trusts (UITs) and register their interests on Form S-6. Form S-6 was developed for UITs generally, and not specifically for insurance company separate accounts that offer interests in variable life insurance contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kevin M. Kirchoff, Office of Insurance Products, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0672

RIN: 3235–AG37

4846. INSURANCE PRODUCTS: RULE REGARDING MORTALITY AND EXPENSE RISK CHARGES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-1 et seq; 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The staff of the Office of Insurance Products is planning to recommend that the Commission repropose for public comment a rule under the Investment Company Act for variable annuity separate accounts that would codify standards the staff has developed in processing applications seeking exemptions to deduct certain risk charges from account assets. If adopted, the proposed rule would eliminate the need for individual exemptive orders in connection with these matters.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kevin M. Kirchoff, Office of Insurance Products, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0672

RIN: 3235–AG38

4847. INSURANCE PRODUCTS: RULE FOR DEDUCTIONS OF AMOUNTS REFLECTING AN INSURANCE COMPANY'S INCREASE IN FEDERAL TAX LIABILITY FOR PREMIUM PAYMENTS ON VARIABLE LIFE INSURANCE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-1 et seq; 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The staff of the Office of Insurance Products is planning to recommend that the Commission propose for public comment a rule under the Investment Company Act for insurance company separate accounts that fund variable life insurance contracts. The rule would codify standards the staff has developed in processing applications from insurance companies and their separate accounts seeking exemptions to deduct from premium payments an amount approximately equal to the increase in the Federal tax liability of the insurance company resulting from the receipt of those premium payments. If adopted, the proposed rule would eliminate the need for individual exemptive orders in connection with these matters.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected: None

Government Levels Affected: None

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Agency Contact: Kevin M. Kirchoff, Office of Insurance Products, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0672

RIN: 3235–AG39

4848. PUHCA: EXEMPTION FOR CERTAIN ACQUISITIONS OF FOREIGN UTILITY COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79(t); 15 USC 79(n)

CFR Citation: 17 CFR 250.55; 17 CFR 259.5s0 (Revision)

Legal Deadline: None

Abstract: The proposed rule is intended to provide a safe harbor for the acquisition of one or more foreign utility companies by a registered holding company.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13719
NPRM Comment Period End	04/14/93	
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David LaRoche, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0559

RIN: 3235–AF78

4849. STATUS OF SUBSIDIARY COMPANIES FORMED TO HOLD INTERESTS IN FOREIGN UTILITY COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79(t)

CFR Citation: 17 CFR 250.56

Legal Deadline: None

Abstract: The proposed rule clarifies that a subsidiary of a registered holding company which is engaged exclusively in the business of owning an interest in one or more foreign utility companies shall be deemed to be a foreign utility company.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13719
NPRM Comment Period End	04/14/93	
NPRM	03/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David LaRoche, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0559

RIN: 3235–AF79

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF INVESTMENT MANAGEMENT — Final Rule Stage

4850. SUITABILITY OF INVESTMENT ADVISER ADVICE; QUARTERLY ACCOUNT STATEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80b-6; 15 USC 80b-4

CFR Citation: 17 CFR 275.204-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission make explicit the duty that investment advisers make only suitable recommendations to their clients. The Division is also considering whether to recommend that the Commission require certain investment advisers that exercise investment discretion with respect to client accounts to have a reasonable belief that the custodians of these accounts are sending quarterly account statements to the clients.

Timetable:

Action	Date	FR Cite
NPRM	03/16/94	59 FR 13464
NPRM Comment Period End	05/23/94	
Final Action	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Garnett, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0728

RIN: 3235–AG06

4851. DISCLOSURE BY INVESTMENT ADVISERS REGARDING SOFT DOLLAR PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80b-4; 15 USC 80b-6(4); 15 USC 80b-11(a); 15 USC 78bb(e)(2)

CFR Citation: 17 CFR 275; 17 CFR 279

Legal Deadline: None

Abstract: The Commission has proposed to require investment advisers to provide an annual report to clients regarding their "soft dollar" practices. This action was previously included as part of 3235-AD21.

Timetable:

Action	Date	FR Cite
NPRM	02/14/95	60 FR 9750
NPRM Comment Period End	05/19/95	
Final Action	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen J. Garnett, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0728

RIN: 3235–AG36

4852. TAX-EXEMPT MONEY MARKET FUND RULE PROPOSALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-2(a)(41); 15 USC 80a-6(c); 15 USC 80a-33(b)(1); 15 USC 80a-34(b); 15 USC 80a-38(a); 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77s; 15 USC 78m; 15 USC 78n; 15 USC 78w; 15 USC 80a-37

CFR Citation: 17 CFR 230.482; 17 CFR 239.15A; 17 CFR 270.34b-1; 17 CFR 274.11A; 17 CFR 274.11c; 17 CFR 270.2a-7; 17 CFR 210.12-12; 17 CFR 230.134; 17 CFR 274.101

Legal Deadline: None

SEC—DIVISION OF INVESTMENT MANAGEMENT — Final Rule Stage

Abstract: The Commission proposed for comment modifications to Rule 2a-7 which address issues raised by developments in the money markets. Rule 2a-7 is applicable to tax exempt funds.

Timetable:

Action	Date	FR Cite
NPRM	12/29/93	58 FR 68585
NPRM Comment Period End	04/06/94	
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Martha Platt, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0725

RIN: 3235–AE17

4853. • MONEY MARKET FUND PROSPECTUSES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 239.15A; 17 CFR 239.17a; 17 CFR 274.11a; 17 CFR 239.14; 17 CFR 274.11a-1

Legal Deadline: None

Abstract: The Commission proposed for comment amendments to Forms N-1A and N-3 applicable to money market funds. The amendments would permit money market funds to significantly shorten and simplify money market fund and separate account prospectuses. More detailed information would continue to be available in the Statement of Additional Information. Such amendments are also intended to reduce the cost to funds of preparing, printing, and distributing prospectuses. The proposals would also make conforming rule and form amendments and revisions to staff guides to Form N-1A and Form N-3.

Timetable:

Action	Date	FR Cite
NPRM	07/26/95	60 FR 38454
NPRM Comment Period End	09/27/95	
Final Action	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previously reported as RIN 3235-AF95.

Agency Contact: Martha Platt, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0725

RIN: 3235–AG55

4854. • MONEY MARKET FUND QUARTERLY REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78m; 15 USC 78o(d); 15 USC 78w(a); 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-30; 15 USC 80a-37; 15 USC 80a-44

CFR Citation: 17 CFR 270.30b3-1

Legal Deadline: None

Abstract: The Commission proposed a new rule under the Investment Company Act of 1940 that would require money market funds to file quarterly reports with the Commission identifying, describing and providing valuation information for each security in the portfolios. The reports would be filed electronically through the Commission's EDGAR system. This information would enhance the Commission's ability to monitor money market fund compliance with the Federal securities laws.

Timetable:

Action	Date	FR Cite
NPRM	07/26/95	60 FR 38454
NPRM Comment Period End	09/27/95	
Interim Final Rule	01/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Martha H. Platt, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0725

RIN: 3235–AG56

4855. EXEMPTIONS FOR CERTAIN INVESTMENT COMPANIES TO IMPOSE DEFERRED SALES LOADS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-22; 15 USC 80a-37; 15 USC 77a et seq

CFR Citation: 17 CFR 270.6c-10; 17 CFR 239.15A

Legal Deadline: None

Abstract: The Commission proposed amendments to rule 6c-10 which would allow certain open-end management investment companies to impose deferred sales loads other than contingent deferred sales loads, including sales loads payable in installments. The Commission also proposed amendments to the Form N-1A registration statement to modify the prospectus disclosure requirements to reflect the changes made in the proposed rule amendments.

Timetable:

Action	Date	FR Cite
NPRM	02/23/95	60 FR 11890
NPRM Comment Period End	04/17/95	
Final Action	11/00/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Proposals and rules described in this item were published under RIN 3235-AD18.

Agency Contact: Holly Hill-Little, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0978

RIN: 3235–AE97

4856. CUSTODY OF INVESTMENT COMPANY ASSETS OUTSIDE THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-5

Legal Deadline: None

Abstract: The Commission has proposed amendments to rule 17f-5 that would revise the findings that currently must be made in establishing foreign custody arrangements to focus exclusively on the safekeeping of investment company assets, permit a company's board of directors to delegate its responsibilities under the rule to evaluate these arrangements, and expand the class of foreign banks and securities depositories that could serve as investment company custodians.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39592
Final Action	01/00/96	

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Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth R. Krentzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0687

RIN: 3235–AE98

4857. EXPEDITED PROCEDURE FOR EXEMPTIVE ORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37; 15 USC 78d-1

CFR Citation: 17 CFR 270.0-5

Legal Deadline: None

Abstract: The Commission proposed for public comment amendments to rule 0-5 under the Investment Company Act and rule 30-5, Delegation of Authority to the Director of the Division of Investment Management, under the Exchange Act. The amendments to rule 0-5 would establish an expedited review procedure for certain exemptive applications and would allow the Commission to declare certain inactive applications to be abandoned. The Commission withdrew the proposed amendments to Rule 30-5 from this item and adopted them in another context.

Timetable:

Action	Date	FR Cite
NPRM	03/31/93	58 FR 16799
Correction to NPRM	04/09/93	58 FR 18352
NPRM Comment Period End	06/29/93	
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David M. Goldenberg, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-4525

RIN: 3235–AF56

4858. CUSTODY OF INVESTMENT COMPANY ASSETS WITH FUTURES COMMISSION MERCHANTS AND COMMODITY CLEARING ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-6

Legal Deadline: None

Abstract: The Commission has proposed a rule that would permit registered management investment companies to use certain futures commission merchants and commodity clearing organizations as custodians of their assets in connection with investment company commodity transactions.

Timetable:

Action	Date	FR Cite
NPRM	06/01/94	59 FR 28286
NPRM Comment Period End	08/01/94	59 FR 28286
Final Action	12/00/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Allan J. Oster, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0650

RIN: 3235–AF97

4859. REQUIREMENTS RELATING TO CODES OF ETHICS WITH RESPECT TO REGISTERED INVESTMENT COMPANIES; RECORDS TO BE MAINTAINED BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-17(j); 15 USC 80a-37; 15 USC 80b-4; 15 USC 80b-6(4); 15 USC 80b-11(a)

CFR Citation: 17 CFR 270.17j-1; 17 CFR 275.204-2

Legal Deadline: None

Abstract: The Commission has proposed amendments to Rule 17j-1 under the Investment Company Act, Rule 204-2 under the Investment Advisers Act, and investment company registration forms under the Investment Company Act and the Securities Act of 1933. The amendments to Rule 17j-1 would enhance oversight of personal investment activities of investment company personnel by boards of directors and would require access persons to report to their employers all securities owned by them at the time they become access persons. Additional amendments would make the scope of the rule more consistent with its purpose. Amendments to Rule 204-2 under the Investment Advisers Act would expand the list of securities exempt from the recordkeeping requirements of that rule. The amendments to fund registration forms would require investment companies to provide disclosure in their registration statements relating to codes of ethics and to file copies of their codes of ethics with the Commission as exhibits to their registration statements.

Timetable:

Action	Date	FR Cite
NPRM	09/14/95	60 FR 47844
NPRM Comment Period End	11/13/95	
Final Action	02/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David M. Goldenberg, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-4525

RIN: 3235–AG27

4860. STATUS OF INVESTMENT ADVISORY PROGRAMS UNDER THE INVESTMENT COMPANY ACT OF 1940

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270; 17 CFR 274

Legal Deadline: None

Abstract: The Commission published for public comment revised proposed Rule 3a-4 under the Investment Company Act of 1940, which would provide a nonexclusive safe harbor from the definition of investment company for certain programs under which investment advisory services are provided to clients. The Commission also proposed Form N-3a4 under the Investment Company Act, which would be filed with the Commission by sponsors of programs relying on Rule 3a-4.

Timetable:

Action	Date	FR Cite
NPRM	07/27/95	60 FR 39574
NPRM Comment Period End	10/02/95	
Final Action	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rochelle Kauffman-Plesset, Office of the Chief Counsel, Division of Investment Management, Securities and Exchange Commission

SEC—DIVISION OF INVESTMENT MANAGEMENT

Final Rule Stage

Phone: 202 942-0660

RIN: 3235–AG07

4861. PUHCA: SUBSIDIARIES PERFORMING SERVICES OR CONSTRUCTION OR SELLING GOODS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79t

CFR Citation: 17 CFR 250.87

Legal Deadline: None

Abstract: The Commission proposed an amendment to rule 87 to require Commission approval before a registered holding company or its subsidiaries may render services to an associate exempt wholesale generator or a foreign utility company. Additionally, registered holding associate companies and their subsidiaries may not accept services from exempt wholesale generators or foreign utility companies without Commission approval.

Timetable:

Action	Date	FR Cite
NPRM	09/23/93	58 FR 51508
NPRM Comment Period End	11/30/93	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Markian Melnyk, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0592

RIN: 3235–AF87

4862. PUHCA: ANNUAL REPORT OF MUTUAL AND SUBSIDIARY SERVICE COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79(m); 15 USC 79(n); 15 USC 79(o); 15 USC 79(t)(a)

CFR Citation: 17 CFR 259.313

Legal Deadline: None

Abstract: The proposed amendment to the annual report of mutual and subsidiary service companies will simplify the accounting system maintained by the service companies and would more clearly disclose financial accounting and operational information required by the Commission.

Timetable:

Action	Date	FR Cite
NPRM	09/20/94	59 FR 48183
NPRM Comment Period End	11/21/94	
Final Action	08/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Miller, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0549

RIN: 3235–AG05

4863. PUHCA: EXEMPTION FOR TRANSACTIONS WITH FOREIGN ASSOCIATES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79m(b)

CFR Citation: 17 CFR 250.83(d)

Legal Deadline: None

Abstract: The proposal would extend an existing exemption from the standards of section 13(b) to transactions involving services, sales and construction contracts, with foreign associate companies. The proposal would also consider whether the rule would protect against a diversion of management and expertise away from the needs of the system's core utility operations in a companion rulemaking involving a proposed amendment to rule 87. This rulemaking was previously included in RIN No. 3235-AF68.

Timetable:

Action	Date	FR Cite
NPRM	11/16/92	57 FR 54025
NPRM Comment Period End	01/15/93	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Markian Melnyk, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0592

RIN: 3235–AG19

4864. • EXEMPTION OF ISSUANCE AND SALE OF SECURITIES BY PUBLIC UTILITY AND NONUTILITY SUBSIDIARY COMPANIES OF REGISTERED PUBLIC UTILITY HOLDING COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79c; 15 USC 79f(b); 15 USC 79i(c)(3); 15 USC 79t; 15 USC 79l

CFR Citation: 17 CFR 250.45; 17 CFR 250.52

Legal Deadline: None

Abstract: The proposed amendment to Rule 52 would broaden the scope of the rule to exempt all types of securities issued and sold by any subsidiary company of a registered holding company, subject to satisfying the other conditions of the rule. A conforming change to Rule 45 is also proposed to conditionally exempt from the requirement of prior Commission approval any guarantee by a subsidiary company of debt securities issued by any other subsidiary company.

Timetable:

Action	Date	FR Cite
NPRM	06/28/95	60 FR 33640
NPRM Comment Period End	09/26/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bonnie Wilkinson, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-7121
Fax: 202 942-9595

RIN: 3235–AG45

4865. • EXEMPTION OF ACQUISITION BY REGISTERED PUBLIC UTILITY HOLDING COMPANIES OF SECURITIES OF NONUTILITY COMPANIES; EXEMPTION OF CAPITAL CONTRIBUTION AND ADVANCES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79c; 15 USC 79f(b); 15 USC 79i(c)(3); 15 USC 79t; 15 USC 79l

CFR Citation: 17 CFR 250.45(b); 17 CFR 250.52(b)

Legal Deadline: None

Abstract: Proposed Rule 58 and related amendments to Rule 45(b) and Rule

SEC—DIVISION OF INVESTMENT MANAGEMENT

Final Rule Stage

52(b) would exempt from the requirement of prior Commission approval under the Public Utility Holding Company Act of 1935 the acquisition by a registered holding company, or any subsidiary company, of any securities of an energy-related company, subject to certain investment limitations and reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/28/95	60 FR 33642
NPRM Comment Period End	09/26/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bonnie Wilkinson, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-7121
Fax: 202 942-9595

RIN: 3235–AG46

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Long-Term Actions

4866. OFF-THE-PAGE PROSPECTUSES FOR OPEN-END MANAGEMENT INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 230.482

Timetable:

Action	Date	FR Cite
NPRM	03/19/93	58 FR 16141
NPRM Comment Period End	05/23/93	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth R. Krentzman
Phone: 202 942-0687

RIN: 3235–AF58

4867. CERTAIN RESEARCH AND DEVELOPMENT COMPANIES

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 270.3a-8

Timetable:

Action	Date	FR Cite
NPRM	07/15/93	58 FR 38095
NPRM Comment Period End	10/13/93	58 FR 38095
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth R. Krentzman
Phone: 202 942-0687

RIN: 3235–AF69

4868. EXEMPTION FROM DISQUALIFICATION FOR CERTAIN AFFILIATED PERSONS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 270.9a-1

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth R. Krentzman
Phone: 202 942-0687

RIN: 3235–AF89

4869. EXEMPTION FROM CERTAIN FILING REQUIREMENTS FOR CERTAIN AFFILIATED PERSONS OF INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 270.30f-1

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth R. Krentzman
Phone: 202 942-0687

RIN: 3235–AF81

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Completed Actions

4870. REGISTRATION FEES FOR CERTAIN INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-37; 15 USC 80a-39; 15 USC 80a-24

CFR Citation: 17 CFR 270.24f-1; 17 CFR 270.24f-2

Legal Deadline: None

Abstract: The Commission has adopted amendments to Rules 24f-1 and 24f-2 under the Investment Company Act of 1940, the rules that permit certain investment companies to register securities sold in excess of the number of shares included in a registration statement and to register an indefinite number of securities under the Securities Act of 1933. The Commission also adopted a new Form 24f-2 for filing annual notices filed under Rule 24f-2. The amendments and the new form clarify the application of certain provisions of rule 24f-2 and make the rule's filing deadlines more flexible under certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	02/01/95	60 FR 7146
NPRM Comment Period End	03/24/95	
Final Action	09/01/95	60 FR 74041
Final Action Effective	10/10/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen J. Garnett, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0728

RIN: 3235–AC25

4871. ACCOUNTING TREATMENT OF INVESTMENT COMPANY EXPENSES PAID THROUGH BROKERAGE COMMISSION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-8; 15 USC 77g; 15 USC 77j

CFR Citation: 17 CFR 210; 17 CFR 274

Legal Deadline: None

Abstract: The Commission has adopted final rule and form amendments to require investment companies to reflect as expenses the cost of services provided to the company that are paid for by a broker-dealer in exchange for the allocation of transactions to that broker-dealer. The amendments require such costs to be reflected in expenses in fund financial statements and in fund performance and expense data.

Timetable:

Action	Date	FR Cite
NPRM	08/17/94	59 FR 42187
NPRM Comment Period End	10/17/94	
Final Action	07/21/95	60 FR 38918
Final Action Effective	09/01/95	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Karen Garnett, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0728

RIN: 3235–AF94

4872. INVESTMENT COMPANY RISK DISCLOSURE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 230.482; 17 CFR 239.15A; 17 CFR 274.11A; 17 CFR 239.14; 17 CFR 274.11a-1

Legal Deadline: None

Abstract: The Commission issued a concept release regarding the ways in which investment company risk disclosure can be improved. Currently, open-end and closed-end management investment companies are required to provide narrative risk disclosure in their prospectuses. The concept release requests comment on both narrative and quantitative methods for providing information to investors regarding the risks presented by funds. This item has been replaced by 3235-AG43, the number under which it was published.

Timetable:

Action	Date	FR Cite
Withdrawn	03/29/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roseanne Harford, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0689

RIN: 3235–AG30

4873. INVESTMENT COMPANY BOOKS AND RECORDS REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-31(a); 15 USC 80a-37(a); 15 USC 80a-39

CFR Citation: 17 CFR 270.31a-1; 17 CFR 270.31a-2

Legal Deadline: None

Abstract: The staff undertook a comprehensive review of the books and records requirements under the Investment Company Act to update certain requirements relating to the portfolio transaction records of investment companies. In particular, the staff considered recommending to the Commission that current requirements under rules 31a-1 and 31a-2 be revised to enhance identification of securities in investment company portfolios. The primary objective of the proposals would be to improve the staff's abilities to conduct meaningful and efficient examinations of investment companies. The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider this item within the next 12 months, but the Commission may consider the item at some subsequent time.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter L. Smith, Office of Inspections, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0523

RIN: 3235–AE94

4874. EXEMPTION OF ISSUANCE AND SALE OF SECURITIES BY PUBLIC UTILITY AND NON-UTILITY SUBSIDIARY COMPANIES OF REGISTERED PUBLIC UTILITY HOLDING COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79c; 15 USC 79f(b); 15 USC 79i(c)(3); 15 USC 79t; 15 USC 79l

CFR Citation: 17 CFR 250.45; 17 CFR 250.52

Legal Deadline: None

Abstract: The amendments are intended to ease the regulatory and paperwork burden associated with Commission approval for routine financings by registered holding companies and their subsidiary companies.

Timetable:

Action	Date	FR Cite
NPRM	07/07/92	57 FR 31156
NPRM Comment Period End	10/13/92	
Final Action Rule amended	06/28/95	60 FR 33634
Final Action Effective	06/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bonnie Wilkinson, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-9595

RIN: 3235–AF49

4875. RULE 90: PRICING OF INTRASYSTEM SALES OF GOODS, SERVICES, AND CONSTRUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79c; 15 USC 79f(b); 15 USC 79i(c)(3); 15 USC 79m; 15 USC 79t

CFR Citation: 17 CFR 250.90; 17 CFR 250.82; 17 CFR 250.92

Legal Deadline: None

Abstract: The proposed amendment to Rule 90 would require service, sales and construction contracts among companies in a registered holding company system to be performed at cost or at market if the market price for comparable services, construction or goods is lower than cost. This proposal is being withdrawn. No further action is anticipated.

Timetable:

Action	Date	FR Cite
NPRM	12/22/94	59 FR 67248
NPRM Comment Period End	03/23/95	
Withdrawn	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Markian Melnyk, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0592

RIN: 3235–AG23

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF MARKET REGULATION

Proposed Rule Stage

4876. STABILIZING TO FACILITATE A DISTRIBUTION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78i(a)(6); 15 USC 78j(b); 15 USC 78q(a); 15 USC 78w(a); 15 USC 78dd(a)

CFR Citation: 17 CFR 240.10b-7

Legal Deadline: None

Abstract: The Commission has proposed amendments to Exchange Act Rule 10b-7, which regulates stabilizing activities to facilitate distribution. The proposed amendments would permit the stabilizing price in a distribution of a foreign security to reflect the price of the security in the foreign market that is the principal market for such security, if the stabilizing activity otherwise complies with the rule. Adjustments of stabilizing bids based on exchange rate fluctuations between the currencies of the markets on which the security is being stabilized would also be permitted. The amendments would also deem foreign stabilizing transactions during a distribution of a foreign security in the United States made in compliance with comparable foreign regulations not to be in violation of Rule 10b-7.

Timetable:

Action	Date	FR Cite
NPRM	01/09/91	56 FR 814
NPRM Comment Period End	02/25/91	
SNPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy J. Sanow, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0772

RIN: 3235–AE11

4877. DEFINITIONS PRINCIPALLY RELATING TO INTERNATIONAL TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78b; 15 USC 78c(b); 15 USC 78w(a)

CFR Citation: 17 CFR 240.3b-10

Legal Deadline: None

Abstract: The Commission has published for public comment Exchange Act Rule 3b-10, which would define certain terms relevant to the increasing internationalization of world securities markets. The Commission believes that it would be advisable and appropriate to adopt general definitions of terms rather than adopting identical definitions in the context of individual rulemaking proposals.

Timetable:

Action	Date	FR Cite
NPRM	01/09/91	56 FR 820
NPRM Comment Period End	02/25/91	
SNPRM	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy J. Sanow, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0772

RIN: 3235–AE15

4878. DISTRIBUTIONS OF SECURITIES: LIMITATIONS ON TRADING AND STABILIZING

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78i(a); 15 USC 78j(b); 15 USC 78m(e); 15 USC 78o(c)

CFR Citation: 17 CFR 240.10b-6; 17 CFR 240.10b-7; 17 CFR 240.10b-8

Legal Deadline: None

Abstract: The Commission has issued a concept release regarding a review of Rules 10b-6, 10b-7, and 10b-8. Rule 10b-6 prohibits persons engaged in a distribution of securities from bidding for or purchasing, or inducing others to purchase, such securities, any security of the same class and series as those securities, or any right to purchase any such security, until they have completed their participation in the distribution. Rule 10b-7 governs stabilizing activities to facilitate distributions of securities and Rule 10b-8 governs certain activities during distributions of securities through rights. This review examines both the domestic application of those rules as well as the extraterritorial effect of their application on multinational securities distributions. This review also addresses such issues as distribution and stabilization practices in the U.S. and abroad, and the impact of the rules on activities in foreign jurisdictions.

Timetable:

Action	Date	FR Cite
ANPRM	04/26/94	59 FR 21681
ANPRM Comment Period End	08/12/94	
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy J. Sanow, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0772

RIN: 3235–AF54

4879. MARKET RISK HAIRCUTS FOR INSTRUMENTS SUBJECT TO INTEREST RATE RISK

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

SEC—DIVISION OF MARKET REGULATION

Proposed Rule Stage

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission has proposed for comment amendments to Exchange Act Rule 15c3-1, the net capital rule, concerning the rule's market risk percentage deductions for certain interest rate related instruments. Under the proposal, haircuts on investment grade nonconvertible debt securities, certain mortgage-backed securities, interest rate swaps, and certain other interest rate-related derivative instruments would be determined by inclusion in an integrated grid, where offsetting would be permitted between the different types of instruments.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/93	58 FR 27486
ANPRM Comment Period End	12/12/93	
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger G. Coffin, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-3159

RIN: 3235–AG18

4880. • EXEMPTION FOR DESIGNATED FOREIGN GOVERNMENT SECURITIES FOR PURPOSES OF FUTURES TRADING

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77(c) to 77(d); 15 USC 77(s); 15 USC 77(ttt); 15 USC 78(c); 15 USC 78(i); 15 USC 78(j); 15 USC 78 (l) to 78(q); 15 USC 78(s); 15 USC 78(w); 15 USC 78(x); 15 USC 79(q); 15 USC 79(t); 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; ...

CFR Citation: 17 CFR 240.3a12-8 (Revision)

Legal Deadline: None

Abstract: The Commission proposes for comment an amendment to rule 3a12-8 that would designate debt obligations issued by Mexico as exempted securities for the purpose of marketing and trading futures contracts on those securities in the United States.

Timetable:

Action	Date	FR Cite
NPRM	09/18/94	60 FR 48072
NPRM Comment Period End	10/18/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: 15 USC 77(g); 15 USC 77(j); 15 USC 77 (eee); 15 USC 77(ggg); 15 USC 77(nnn); 15 USC 77(sss); 15 USC 78(d); 15 USC 78(ff); 15 USC 80a-20; 15 USC 80a-23; 15 USC 80b-4; 15 USC 80b-11

Agency Contact: James T. McHale, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0190
Fax: 202 942-9695

RIN: 3235–AG65

4881. • PROPOSED AMENDMENTS TO TENDER OFFER RULES: SOLICITING DEALER'S FEES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78m; 15 USC 78n

CFR Citation: 17 CFR 240.13e-4; 17 CFR 240.14d-10

Legal Deadline: None

Abstract: The Commission is publishing for comment proposed amendments to its issuer and third party tender offer rules to clarify the application of the rules' "best-price" provisions to soliciting dealer's fees. The proposals would prohibit a tender offeror from paying a soliciting dealer's fee to any person for the tender shares held as principal. The proposals, if adopted, would not affect the ability of any person to receive a fee for soliciting security holders who then tender into the offer. The purpose of the proposed amendments is to ensure that some security holders do not receive, for tendering their own shares, consideration that is higher than the price paid to other tendering security holders. The release also discusses conflict-of-interest issues raised when broker-dealers receive fees for soliciting the tender of shares.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carlene Kim, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4180

RIN: 3235–AG44

4882. NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Securities and Exchange Commission (Commission) has solicited recommendations on the Commission's role in using the ratings of nationally recognized statistical rating organizations (NRSROs). Because of the expanded use of credit ratings in the Commission's rules, the Commission believes that it is appropriate to examine the process employed by the Commission to designate rating agencies as NRSROs and the nature of the Commission's oversight role with respect to NRSROs.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/94	59 FR 46314
ANPRM Comment Period End	12/06/94	
NPRM	08/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger G. Coffin, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-3159

RIN: 3235–AG41

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF MARKET REGULATION

Final Rule Stage

4883. CUSTOMER PROTECTION RESERVES AND CUSTODY OF SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o(c)(3); 15 USC 78w

CFR Citation: 17 CFR 240.15c3-3

Legal Deadline: None

Abstract: The Commission has proposed an amendment to Exchange Act Rule 15c3-3, the customer protection rule, that would allow broker-dealers to provide, in addition to the instruments currently listed in the rule, certain other securities as the collateral in securities borrowings.

Timetable:

Action	Date	FR Cite
NPRM	03/15/89	54 FR 10680
NPRM Comment Period End	05/01/89	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger G. Coffin, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-3159

RIN: 3235–AD60

4884. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission has proposed amendments to Exchange Act Rule 15c3-1, the net capital rule, that could raise the minimum net capital requirement for certain introducing broker-dealers, for other classes of broker-dealers that never receive customer securities, and for broker-dealers that make markets in securities. These proposed increases to the minimum net capital requirements are in addition to final amendments to the net capital rule adopted December 2, 1992 that, among other things, raised the minimum net capital required of clearing broker-dealers, broker-dealers exempt from rule 15c-3 under paragraph (k)(2)(i) of that rule and certain introducing broker-dealers.

Timetable:

Action	Date	FR Cite
NPRM	12/02/92	57 FR 57027
Interim Final Rule	12/02/92	57 FR 56973
NPRM Comment Period End	02/05/93	
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger G. Coffin, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-3159

RIN: 3235–AD79

4885. DEFINITION OF "SHORT SALE"

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78b; 15 USC 78j(a); 15 USC 78dd(a)

CFR Citation: 17 CFR 240.3b-3; 17 CFR 240.10a-1

Legal Deadline: None

Abstract: The Division of Market Regulation has recommended that the Commission amend Exchange Act Rule 10a-1, which prohibits short sales under certain circumstances. The proposals would provide an exception to permit specialists to equalize the opening price of a foreign security on a U.S. exchange with its price in the principal foreign market, to exclude from application of the rule transactions in nonconvertible corporate bonds effected on an exchange, and to codify a no-action position relating to certain liquidations of index arbitrage positions. The proposed amendments redesignate certain current provisions of Rule 10a-1. The amendments, if adopted, also would clarify the definition of ownership of a security provided by Exchange Act Rule 3b-3.

Timetable:

Action	Date	FR Cite
NPRM	06/09/92	57 FR 24415
NPRM Comment Period End	08/10/92	
Interim Final Rule	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: M. Blair Corkran, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0772

RIN: 3235–AE41

4886. DISCLOSURE OF MARK-UPS: NEW RULE 15C2-13

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78l

CFR Citation: 17 CFR 240.15c2-13

Legal Deadline: None

Abstract: The Commission has proposed Exchange Act Rule 15c2-13 which would require brokers, dealers, and municipal securities dealers to: (1) disclose their mark-ups and mark-downs in connection with riskless principal transactions in municipal securities; and (2) disclose that a particular municipal security is not rated by a nationally recognized statistical rating organization, if such is the case. The mark-up proposal has been deferred indefinitely. The proposal with respect to unrated municipal securities has been deferred until the MSRB amends its confirmation rule to include the requirement to disclose that a municipal security has not been rated by an NRSRO.

Timetable:

Action	Date	FR Cite
NPRM	03/17/94	59 FR 12767
Comment Period Extended	06/28/94	59 FR 33236
NPRM Comment Period End	07/15/94	
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Janet Russell-Hunter, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0073

RIN: 3235–AG12

4887. THEORETICAL PRICING TO DETERMINE HAIRCUTS ON OPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

SEC—DIVISION OF MARKET REGULATION

Final Rule Stage

Legal Deadline: None

Abstract: The Commission has proposed for comment amendments to Exchange Act Rule 15c3-1 that would allow broker-dealers to use a theoretical pricing model when calculating capital charges for listed options and related positions. Haircuts for options and related positions, when computed using this model, would more accurately reflect the risk inherent in broker-dealers' option positions. The proposed amendments are intended to provide capital charges that better protect broker-dealers against market risk.

Timetable:

Action	Date	FR Cite
NPRM	03/21/94	59 FR 13275
NPRM Comment Period End	06/16/94	
Final Action	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger G. Coffin, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-3159

RIN: 3235–AG14

4888. FORM BD AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78e; 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 249.501

Legal Deadline: None

Abstract: The Commission has proposed for public comment amendments to Form BD, the uniform broker-dealer registration form under the Securities Exchange Act of 1934. The amendments to Form BD respond to design updates to the Central Registration Depository (CRD) system and are intended, among other things, to facilitate retrieval of more precise detail reporting of disciplinary information from the redesigned CRD system through computer searches by subject category. In addition, the amendments propose new items to Form BD that are designed to obtain more accurate information with respect to U.S. broker-dealers that have foreign owners, broker-dealers that are affiliated with U.S. or foreign banks, and broker-dealers that conduct securities activities on the premises of financial institutions.

Timetable:

Action	Date	FR Cite
NPRM	01/12/95	60 FR 4040
NPRM Comment Period End	02/18/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry R. Young, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0073

RIN: 3235–AG25

4889. PROHIBITION ON MARKET-MAKERS TRADING AHEAD OF CUSTOMER LIMIT ORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78i; 15 USC 78k

CFR Citation: 17 CFR 240.15c5-1

Legal Deadline: None

Abstract: The Securities and Exchange Commission has proposed a rule setting standards for market makers in handling customer limit orders in NASDAQ National Market System securities. The rule would prohibit a market maker from trading for its own account, directly, or indirectly, at a price at which the market maker could execute a customer limit order it is holding, without executing the customer's limit order at the limit price or a price more favorable to the customer, under the specific terms and conditions by which the order is accepted by the market maker. The NASD has adopted a rule imposing substantially identical requirements upon market makers as the proposed rule. The Commission is deferring action on the proposed rule pending its review of the operation of the NASD rule.

Timetable:

Action	Date	FR Cite
NPRM	09/29/94	59 FR 50866
NPRM Comment Period End	11/29/94	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ethan Corey, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0172

RIN: 3235–AG21

4890. PROPOSED AMENDMENTS TO TRANSFER AGENT RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78q-1

CFR Citation: 17 CFR 240.17Ad-2(a); 17 CFR 240.17Ad-2(c); 17 CFR 240.17Ad-2(e)(1); 17 CFR 240.17Ad-2(e)(2); 17 CFR 240.17Ad-10; 17 CFR 240.17Ad-12

Legal Deadline: None

Abstract: The Securities and Exchange Commission has proposed amendments to certain transfer agent rules regarding turnaround time, recordkeeping, and safekeeping of funds. The proposed amendments to the transfer agent rules are designed to minimize disruptions, particularly in the National Clearance and Settlement System for securities, that may be caused by poor turnaround performance, substandard or inaccurate recordkeeping practices, and inadequate safekeeping procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 63662
NPRM Comment Period End	02/04/95	
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ester Saverson Jr., Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0165

RIN: 3235–AG24

4891. LARGE TRADER REPORTING SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c to 77d; 15 USC 77s; 15 USC 77ttt; 15 USC 78c to 78d; 15 USC 78i to 78j; 15 USC 78l to 78p; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 79q; 15 USC 79t; 15 USC 80a-29; 15 USC 80a-37

SEC—DIVISION OF MARKET REGULATION

Final Rule Stage

CFR Citation: 17 CFR 240.13h-1

Legal Deadline: None

Abstract: The Commission has published for comment reproposed Exchange Act Rule 13h-1, which would require large traders to disclose accounts to the Commission, and would require broker-dealers to maintain and report large trader transaction records to the Commission.

Timetable:

Action	Date	FR Cite
NPRM	02/17/94	59 FR 7917
NPRM Comment Period End	04/18/94	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Alton Harvey, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4167

RIN: 3235–AE42

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF MARKET REGULATION

Completed Actions

4892. INITIATION OR RESUMPTION OF QUOTATIONS WITHOUT SPECIFIC INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78w; 15 USC 78c; 15 USC 78j(b); 15 USC 78o(c); 15 USC 78q(a); 15 USC 78w(a)

CFR Citation: 17 CFR 240.15c2-11

Legal Deadline: None

Abstract: In the Unified Agenda of Federal Regulations published on May 8, 1995, the Commission stated its intention to withdraw this item from the published Agenda because it did not expect to consider the item within the next 12 months, with the provision that it might be considered at some subsequent point. This item is withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	06/03/91	56 FR 25056
NPRM Comment Period End	07/03/91	
Withdrawn	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ivette Lopez, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0765

RIN: 3235–AE52

4893. SECURITIES TRANSACTIONS EXEMPT FROM TRANSACTION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78a et seq; 15 USC 77c et seq

CFR Citation: 17 CFR 240.31-1; 17 CFR 240.31-1(g)

Legal Deadline: None

Abstract: In the Unified Agenda of Federal Regulations published on May 8, 1995, the Commission stated its intention to withdraw this item from the published agenda because it did not expect to consider the item within the next 12 months, with the provision that it might be considered at some subsequent point. This item is withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	04/25/91	56 FR 19158
NPRM Comment Period End	01/01/92	
Withdrawn	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy J. Sanow, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0772

RIN: 3235–AD94

4894. PROPOSED RULE 12F-2, "EXTENDING UNLISTED TRADING PRIVILEGES"

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78l(f)

CFR Citation: 17 CFR 240.12f-1; 17 CFR 240.12f-2; 17 CFR 240.12f-3; 17 CFR 240.12f-5; 17 CFR 240.12f-6

Legal Deadline: None

Abstract: The Unlisted Trading Privilege Act of 1994 (UTP Act) as enacted on October 22, 1994, streamlined the regulatory process for exchange trading of securities not listed on the subject exchange, i.e., via extensions of unlisted trading privileges (UTP). The UTP Act also requires the U.S. Securities & Exchange Commission to prescribe by rule whether exchanges should be required to wait before trading a security that is listed on another exchange and is the subject of an initial public offering (listed IPO security). The rulemaking was completed on April 2 1995, and also included amendments to rule 12f-5.

Timetable:

Action	Date	FR Cite
NPRM	02/02/95	60 FR 7718
NPRM Comment Period End	03/13/95	
Final Action	04/21/95	60 FR 20891
Final Action Effective	04/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betsy Prout, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0170

RIN: 3235–AG28

4895. NOTICE BY SROS REGARDING STATUTORY DISQUALIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78f; 15 USC 78o; 15 USC 78o-3; 15 USC 78o-4; 15 USC 78q; 15 USC 78q-1; 15 USC 78g; 15 USC 78w

CFR Citation: 17 CFR 240.19h-1

Legal Deadline: None

Abstract: In the Unified Agenda of Federal Regulations published on May 8, 1995, the Commission stated its intention to withdraw this item from the published agenda because it did not expect to consider the item within the next 12 months, with the provision that it might be considered at some subsequent point. This item is withdrawn.

SEC—DIVISION OF MARKET REGULATION — **Completed Actions**

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard E. Pullano, Office of Oversight, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0073

RIN: 3235–AE39

SECURITIES AND EXCHANGE COMMISSION (SEC)
OFFICES AND OTHER PROGRAMS — **Proposed Rule Stage**

4896. DISCLOSURE OF MARKET AND CREDIT RISK EXPOSURES INCLUDING DERIVATIVES, STRUCTURED NOTES, COMMODITY CONTRACTS, AND OTHER SIMILAR INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 229; 17 CFR 210

Legal Deadline: None

Abstract: The Office of the Chief Accountant is considering recommending that the Commission propose rules to require registrants to provide disclosures about derivative activities and exposures to market and credit risk.

Timetable:

Action	Date	FR Cite
NPRM	12/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell Mallett, Office of the Chief Accountant, Securities and Exchange Commission
Phone: 202 942-4400

RIN: 3235–AG42

SECURITIES AND EXCHANGE COMMISSION (SEC)
OFFICES AND OTHER PROGRAMS — **Completed Actions**

4897. RULES OF PRACTICE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77h-1; 15 USC 77j; 15 USC 77s; 15 USC 77u; 15 USC 78c(b); 15 USC 78d-1; 15 USC 78d-2; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78o-3

CFR Citation: 17 CFR 200; 17 CFR 201; 17 CFR 202; 17 CFR 203; 17 CFR 209; 17 CFR 228; 17 CFR 229; 17 CFR 230; 17 CFR 232; 17 CFR 240; 17 CFR 250; 17 CFR 260; 17 CFR 270; 17 CFR 275

Legal Deadline: Final, Statutory, October 15, 1991.
A statutory deadline applies to the rules regarding temporary cease and desist and disgorgement. No deadline applies to any of the other rules.

Abstract: The Commission has adopted comprehensive revisions to its Rules of Practice. This revision stems from the work of the Task Force on Administrative Proceedings, which examined the rules and procedures governing Commission administrative proceedings. Following passage of the Securities Enforcement Remedies and Penny Stock Reform Act, the Task Force expanded its work to include developing recommendations to implement the Commission's new powers under the Act. Among the major elements of the revised Rules of Practice are: new procedures for temporary cease-and-desist order proceedings; new rules governing the collection and distribution of disgorgement required by Commission order; a streamlined discovery process; an expanded role for prehearing conferences; an expanded availability of summary disposition of matters of law; and production of documents, pursuant to subpoena, prior to the start of a hearing. The Commission has also established guidelines for the completion of key phases of contested adjudications; required periodic case status reports; and will disclose more information about its adjudicatory docket.

Timetable:

Action	Date	FR Cite
NPRM	11/22/93	58 FR 61752
NPRM Comment Period End	01/06/94	
NPRM Comment Period Extended to 02/04/94	01/11/94	59 FR 1509
Final Action	06/09/95	60 FR 32738
Final Action Effective	07/24/95	
Technical Amendments and Corrections	09/07/95	60 FR 46498

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew Z. Glickman, Office of Counseling and Regulatory Policy, Office of the General Counsel, Securities and Exchange Commission
Phone: 202 942-0870

RIN: 3235–AF91

[FR Doc. 95-24146 Filed 11-24-95; 8:45 am]
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federal register

Tuesday
November 28, 1995

Part LXVI

Thrift Depositor Protection Oversight Board

Semiannual Regulatory Agenda

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD (OB)

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

12 CFR Ch. XV

Unified Regulatory Agenda

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Publication of agenda items.

SUMMARY: The Thrift Depositor Protection Oversight Board, established pursuant to section 21A(a)(1) of the Federal Home Loan Bank Act, as amended, 12 U.S.C. 1441a(a)(1), is hereby publishing items for the October 1995 Unified Agenda of Federal Regulations.

ADDRESSES: Comments should be addressed to the Secretary, Thrift Depositor Protection Oversight Board, 808 17th Street NW., Washington, DC 20232.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated below.

Dated: August 31, 1995.
Thrift Depositor Protection Oversight Board.
Dietra L. Ford,
Executive Director.

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD (OB) — Proposed Rule Stage

4898. SUPPLEMENTAL REGULATIONS ON EMPLOYEE STANDARDS OF CONDUCT

Priority: Substantive, Nonsignificant

Legal Authority: EO 12674; 12 USC 1441a(a)(13); 12 USC 1441a(n)(2)

CFR Citation: 5 CFR 4601

Legal Deadline: None

Abstract: The Oversight Board is required by statute to promulgate regulations governing conflict of interest, ethical responsibilities, and post-employment restrictions applicable to members, officers, and employees that are no less stringent than those applicable to the Federal Deposit Insurance Corporation. Pursuant to this requirement the Board may issue regulations supplementing the ethical conduct standards issued by the Office of Government Ethics, which superseded much of the Oversight Board's existing rule on February 3, 1993. The Office of Government Ethics has extended the Oversight Board's existing conduct standards dealing with prohibited financial interests and prior approval for outside employment and activities until January 3, 1996, or until issuance of a supplemental regulation, whichever occurs first.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	
NPRM Comment Period End	12/00/95	
Final Action	12/00/95	
Final Action Effective	01/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Thrift Depositor Protection Oversight Board, 808 17th Street NW., Washington, DC 20232
Phone: 202 416-2606

RIN: 3203–AA08

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD (OB) — Final Rule Stage

4899. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1441a

CFR Citation: 12 CFR 1505

Legal Deadline: Final, Statutory, February 5, 1990.

Abstract: The final rule issued by the Office of Government Ethics establishing uniform standards of ethical conduct for officers and employees of the Government, effective February 3, 1993, superseded most of the Thrift Depositor Protection Oversight Board's interim final rule.

The Office of Government Ethics has extended the Oversight Board's existing conduct standards dealing with prohibited financial interests and prior approval for outside employment and activities until January 3, 1996, or until issuance of a supplemental regulation, whichever occurs first.

Timetable:

Action	Date	FR Cite
NPRM	01/09/90	55 FR 820
NPRM Comment Period End	02/08/90	
Interim Final Rule	02/14/90	55 FR 5358
To Be Repealed	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Thrift Depositor Protection Oversight Board, 808 17th Street NW., Washington, DC 20232
Phone: 202 416-2606

RIN: 3203–AA03

4900. EXEMPTION OF SYSTEM OF RECORDS FROM PRIVACY ACT PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552a; 12 USC 1441a(a)(2); 12 USC 1441a(a)(13)

CFR Citation: 12 CFR 1503.13

Legal Deadline: None

Abstract: Addition to the Privacy Act rule of the Oversight Board of the specific exemption that may be promulgated pursuant to 5 USC 552a(k)(5).

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61342
NPRM Comment Period End	01/25/93	57 FR 61342
Final Action	11/00/95	
Final Action Effective	12/00/95	

OB — Final Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Thrift Depositor Protection Oversight Board, 808 17th Street NW., Washington, DC 20232
Phone: 202 416-2606

RIN: 3203–AA09

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD (OB) — Completed Actions

4901. MINIMUM STANDARDS OF COMPETENCE, EXPERIENCE, INTEGRITY, AND FITNESS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1441a(a)(13); 12 USC 1441a(n)(6)

CFR Citation: None

Legal Deadline: None

Abstract: Existing procedures and standards are codified at 12 CFR 1505.40 and 12 CFR 1506. Existing standards will remain in effect through the termination of the Resolution Trust Corporation, not later than December 31, 1995.

Timetable:

Action	Date	FR Cite
Withdrawn	08/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Thrift Depositor Protection Oversight Board, 808 17th Street NW., Washington, DC 20232
Phone: 202 416-2606

RIN: 3203–AA07

[FR Doc. 95-23630 Filed 11-24-95; 8:45 am]
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INDEX TO ENTRIES THAT MAY AFFECT SMALL ENTITIES

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for **The Regulatory Plan** and the **Unified Agenda of Federal Regulations.**

The following index lists the regulatory actions in this joint publication that agencies believe may have effects on small businesses, small governmental jurisdictions, or small organizations. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulations in Part II of this issue.

Small Businesses

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4	Food Stamp Program: Revisions in Retail Food Store Eligibility Criteria and in Eligibility Guidance and Program Authorization
6	Pathogen Reduction; Hazard Analysis and Critical Control Points (HACCP) Systems
7	Elimination of Prior Approval Requirements for Facilities Equipment and Certain Partial Quality Control Program
8	Performance Standards for Certain Meat Products and Poultry Products
9	Prior Label Approval Process
166	Revision of Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products
176	User Fees for Cotton Classification Services to Growers 1995 Crop
190	Farmer Program Account Servicing Policies for Section 1816 and Other Related Sections for the "1990 FACT Act"
191	Implement Section 1818 (Borrower Training) of the Food Agriculture, Conservation, and Trade Act of 1990 (Fact Act)
193	Implementation of Certified Lender Program
194	Acquisition and Management of Real and Chattel Property
195	Removal of the Prohibition Against Charging Interest on Interest on Guaranteed Loans
197	Disaster Assistance
222	Loans to Indian Tribes and Tribal Corporations
224	The Agricultural Credit Improvement Act of 1992
228	Revisions to the Direct Farm Ownership Loan Regulation (1943-A) To Clarify Existing Policies and Procedures Pertaining to the Agency's Outreach Program for Members of Socially Disadvantaged
229	Socially Disadvantaged Outreach Program
235	Permit CFSA To Sell or Assign Farm Loan Mortgages and Notes
266	1945-D Emergency Loan Policies, Procedures, and Authorizations -- Waiver of Crop Insurance for Crops Planted for Harvest in 1992 and 1993
275	Advance Notice of Proposed Revision of The Federal Seed Act Regulations for Imported Seed
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302	Farm Labor Housing
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397	Notice of New Privacy Act System of Records - Food Stamp Retailer Information
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475	Identification of the Origin of Sausage Casings
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487	Reduction of Accreditation Fees for FSIS-Accredited Laboratories
494	Export Sales Reporting Requirements
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506	Reporting Requirements Related to Tobacco Exports
514	Solid Waste Disposal Policy
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519	Retention of Downpayment on Timber Sale Contracts
522	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations
526	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands
540	Ski Area Permit Fee System
554	Rural Technology Development Grants
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559	Business and Industrial Interest Buydown
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661	Advanced Notice of Proposed Rulemaking; Consideration of a Control Date for South Atlantic and Gulf of Mexico King Mackerel
677	Amendment 8 to the Pacific Coast Groundfish FMP To Implement Individual Quotas for the Fixed-Gear Sablefish Fishery (or Regulatory Amendment for Nontrawl Trip Limits)
679	Amendment 1 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic
683	Regulatory Amendment Designating "Routine" Trip Limits in the Pacific Coast Groundfish Fishery
692	New Dealer Reporting Form for Large Pelagics
694	Regulatory Amendment To Adjust Red Snapper Management Measures in the Gulf of Mexico for 1996 Season
701	Amendment 38 to the FMP for the Groundfish Fishery of the BSAI and Amendment 40 to the FMP for the Groundfish Fishery of the GOA
719	Amendment 7 to the Fishery Management Plan for the Northeast Multispecies Fisheries
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726	Proposed Rule; Amendment 7 to the Summer Flounder Fishery Management Plan
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Executive Order 12866 entitled "Regulatory Planning and Review" (October 4, 1993; 58 FR 51735) directs agencies to assess the effects of Federal regulations on State, local, and tribal governments. In addition, Executive Order 12875 entitled "Enhancing the Intergovernmental Partnership" (October 26, 1993; 58 FR 58093) directs agencies to reduce the imposition of unfunded mandates upon State, local, and tribal governments. In keeping with these efforts, agencies include in their submissions for **The Regulatory Plan** and the **Unified Agenda of Federal Regulations** information on whether their regulatory actions have an effect on various levels of government.

The following index lists the regulatory actions in this joint publication that agencies believe may have effects on State, local, tribal, or Federal levels of government. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulations in Part II of this issue.

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DEPARTMENT OF AGRICULTURE

Consolidated Farm Service Agency

7 CFR Part 723

RIN 0560–AE27

Tobacco Marketing Quotas, Acreage Allotments, and Production Adjustment

AGENCY: Consolidated Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: Section 1106 of the Omnibus Budget Reconciliation Act of 1993 (1993 Act) amended the Agricultural Adjustment Act of 1938 (1938 Act) to add section 320C which sets out, for tobacco, certain "domestic marketing assessment" (DMA) provisions that generally required a "domestic manufacturer of cigarettes" (as defined in the 1938 Act) to pay certain assessments and to make certain additional tobacco purchases if, for any calendar year beginning with the 1994 calendar year, domestic tobacco constituted less than 75 percent of the total tobacco used by the manufacturer to produce cigarettes in the United States. Implementing rules were published in the **Federal Register** on January 11, 1994, and June 1, 1994. This rule provides, as specified in Section 422 of the Uruguay Round Agreements Act (URAA), that the DMA is limited to the 1994 calendar year as a result of the Tariff Rate Quota (TRQ) proclaimed by the President on September 12, 1995, in accordance with Article 28 of the General Agreement on Tariffs and Trade (GATT).

EFFECTIVE DATE: November 29, 1995.

FOR FURTHER INFORMATION CONTACT: Joe Lewis, Jr., Consolidated Farm Service Agency (CFSA), United States Department of Agriculture, PO Box 2415, Washington, DC 20013–2415, telephone (202) 720–0795.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the CFSA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of this rule.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

Executive Order 12372

This activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this final rule are not retroactive, except to the extent indicated below, and preempt State laws to the extent that such laws are inconsistent with the provisions of this final rule. Before any legal action is brought regarding determinations made under provisions of 7 CFR part 723, the administrative appeal provisions must be exhausted.

Paperwork Reduction Act

This final rule does not contain new or revised information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*) The current information collection requirements were approved by OMB and assigned control number 0560–0058.

Background and Discussion

Provisions of the 1993 Act imposed certain assessments and other obligations on certain manufacturers of cigarettes in the event that, beginning with calendar year 1994, the tobacco used by the manufacturer over the course of a calendar year for cigarettes produced in the United States was not at least 75 percent domestic tobacco. Because of a GATT dispute concerning tobacco, there have been ongoing negotiations under GATT Article 28 toward establishing a tobacco TRQ. The URAA was enacted on December 8, 1994, and section 422 of the URAA provides that the DMA provisions of the 1993 Act will be limited to the 1994 calendar year in the event that a TRQ is proclaimed by the President in connection with the Article 28 tobacco negotiations. The President issued such a proclamation on September 12, 1995 (60 FR 47663). Accordingly, this final rule provides that the DMA requirements of 7 CFR part 723 are limited to the 1994 calendar year because the President has taken the action which triggers the limitation. Since this final rule implements a mandatory provision of law, it has been determined that it is in the public interest that the modification of 7 CFR part 723 be issued as a final rule without prior public comment.

List of Subjects in 7 CFR Part 723

Acreage allotments, Assessments, Marketing quotas, Penalties, Reporting and recordkeeping requirements, Tobacco.

For the reasons set forth in the preamble, 7 CFR part 723 is amended as follows:

PART 723 —TOBACCO

1. The authority citation for 7 CFR part 723 continues to read as follows:

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 1377–1379, 1421, 1445–1 and 1445–2.

2. Part 723 is amended by adding a new § 723.509 to subpart E to read as follows:

§ 723.509 Limitation of subpart to 1994 production.

Notwithstanding any other provision of this subpart, the requirements and provisions of this subpart shall not apply to cigarettes produced after December 31, 1994.

Signed at Washington, DC, on November 21, 1995.

Bruce R. Weber,

Administrator, Consolidated Farm Service Agency.

[FR Doc. 95–29171 Filed 11–28–95; 8:45 am]

BILLING CODE 3410–05–P

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 810

RIN 0580–AA14

United States Standards for Corn

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is revising the United States Standards for Corn to: report test weight (TW) to the nearest tenth of a pound; eliminate the count limit on stones and reduce the U.S. Sample grade aggregate weight tolerance from more than 0.2 percent by weight to more than 0.1 percent by weight; and offer stress crack testing as official criteria.

The objective of these revisions is to ensure that the corn standards are serving their intended purpose to facilitate the marketing of corn.

EFFECTIVE DATE: September 1, 1996.

Availability: Stress crack testing will be available January 1, 1996.

FOR FURTHER INFORMATION CONTACT: George Wollam, USDA, GIPSA, room 0623, South Building, P.O. Box 96454, Washington, D.C. 20090–6454; telephone (202) 720–0292; FAX (202) 720–4628.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Department is issuing this rule in conformance with Executive Order 12866.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. The United States Grain Standards Act (Act) provides in section 87g that no State or subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act Certification

James R. Baker, Administrator, GIPSA, has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities. Further, the regulations are applied equally to all entities.

Background

During October 1993, the Federal Grain Inspection Service (FGIS), which is now part of GIPSA, prepared a discussion paper concerning the U.S. Standards for Corn. This paper addressed a number of issues relating to the corn standards and served as a starting point for discussions with producers, trade associations, processors, handlers, and merchandisers to better understand their views on changes needed to improve existing standards. It was distributed throughout the grain industry. FGIS received positive response from the grain industry.

On February 22, 1995, GIPSA proposed in the **Federal Register** (60 FR 9790) to revise the United States Standards for corn to: (1) report TW to the nearest tenth of a pound; (2) eliminate the count limit on stones and reduce the U.S. Sample grade aggregate weight tolerance from more than 0.2 percent by weight to more than 0.1 percent by weight; and (3) offer stress crack testing as official criteria. Furthermore, GIPSA sought comments not only on the proposal to offer stress crack testing as official criteria, but also on the reporting method.

GIPSA officials discussed the proposed revisions to the corn standards at the Grain Quality Workshops and presented the stress crack testing proposal at the Grain Quality Conference organized by the University of Illinois.

Comment Review

During the 60-day comment period, GIPSA received fifteen comments: four from grain handlers, three from corn producers, three from corn processors, two from official inspection agencies, two from foreign buyers, and one from academia.

On the basis of these comments received during the comment period and other available information, GIPSA has decided to enact the changes as proposed.

TW Per Bushel

TW per bushel is the weight per Winchester bushel (2,150.42 cubic inches) as determined using an approved device according to procedures prescribed in FGIS instructions. TW for corn is determined before the removal of broken corn and foreign material and certificated in whole and half pounds with a fraction of a half pound disregarded. Upon request, TW for corn is reported to the nearest tenth of a pound in addition to the official certification method.

Reporting TW in corn to the nearest tenth of a pound will bring TW reporting requirements in line with the reporting requirements for other factors such as damaged kernels total and broken corn and foreign material. Another consideration is that nearly all TW results are currently rounded down. For example, under the current reporting method, a scale reading 53.99 pounds per bushel is certified as 53.5 pounds per bushel, which meets the TW grade limit for U.S. No. 3 corn. If the results, however, were rounded to the nearest tenth of a pound, the resultant 54.0 pounds per bushel would meet the grade limit for U.S. No. 2 corn. Usually, the current practice of rounding down causes TW to be underrepresented throughout the marketing channel. Furthermore, the rounding of TW results to the nearest tenth of a pound will not significantly affect the assigned grade since, in most cases, the rounded result will fall within the grade requirement.

Nine commentors supported the proposed change stating that reporting TW to the nearest tenth of a pound is in the best interest of corn producers, will have a positive impact on net farm income, and rounding down in half pound increments has been particularly unfair and sent a negative signal to producers.

Two commentors opposed this change stating that the current rounding method is working satisfactorily; GIPSA has not confirmed that it will have a net beneficial impact on the market or that the current reporting method inhibits the efficient transmission of information on quality; and they are concerned about the reproducibility of results at the tenth of a pound level.

Commentors in support of the proposed action indicate that reporting TW to the nearest tenth pound per bushel will benefit both producers and the general corn market. Further, statistical information provided in the proposed action indicated that the reproducibility of TW results is similar to or better than the reproducibility of other factors reported to the nearest tenth. Therefore, the reproducibility of TW results was considered prior to the proposal.

Based on this information, comments received, and other available information, GIPSA is revising § 810.102, Definition of other terms, by revising section (d), Test weight per bushel, to report TW in corn to the nearest tenth of a pound per bushel.

Stone Count

GIPSA proposed to eliminate the count limit on stones and reduce the U.S. Sample grade aggregate weight tolerance from more than 0.2 percent by weight to more than 0.1 percent by weight. Presently, eight or more stones with an aggregate weight in excess of 0.2 percent of the sample are required to assign the Sample Grade designation. This determination is performed before the removal of broken corn and foreign material.

Ten commentors supported the proposed change stating that eliminating the stone count limit and reducing the aggregate weight percent from 0.2 to 0.1 will not have a negative impact on growers, provides a positive signal to foreign buyers, addresses the needs of corn millers without adversely affecting corn farmers, and emphasizes the importance of quality by clearly showing that reducing contamination is desirable.

One opponent stated that elimination of stone count limits is undesirable because having one 15-gram stone in a 1,000-gram sample could make a lot "Sample Grade" and one stone is incidental and may be the only stone in the entire lot.

Stones have harmful effects on corn quality and millability. In addition, several corn industry representatives have requested that the count limit on stones be eliminated to encourage the delivery of high quality corn. GIPSA believes that eliminating the stone count limit and reducing the aggregate weight tolerance will facilitate the marketing of corn.

Based on this information, comments received, and other available information, GIPSA is revising § 810.404, Grades and grade requirements for corn, by revising the definition of U.S. Sample Grade by eliminating the count limit on stones and reducing the aggregate weight criteria from more than 0.2 percent by weight to more than 0.1 percent by weight.

Stress Crack Testing Service

GIPSA proposed to offer corn stress crack testing using the Illinois Crop Improvement Association, Identity Preserved Grain Laboratory (IPGL), method as official criteria under the authority of the Act and sought comments on the reporting method for results.

As described by the IPGL, stress crack tests are performed on random subsamples. The kernels are inspected visually on a backlighted lightboard and separated into four categories: no or zero stress cracks; one or single stress cracks; two or double stress cracks; and more than two or multiple stress cracks. The percentage of kernels falling into each category is used to calculate the percentage of total stress cracks and stress crack index as follows:

% TSC = [% single SC + % double SC + % multiple SC]

SCI = [(% single SC) + (% double SC × 3) + (% multiple SC × 5)]

Where SC = stress cracks:

SCI = stress crack index; and

TSC = total stress cracks.

The stress crack index is an indication of the multiplicity of stress cracks in each kernel. The weighting factors indicate that corn kernels with double and multiple stress cracks are more susceptible to breakage than kernels with single stress cracks.

This testing service will be optional and GIPSA will recover the cost of providing this service through the applicable inspection fees as set forth in § 800.71(a) of the regulations.

Corn which contains stress-cracked kernels tends to break apart and, as a result, is undesirable in the corn dry milling, wet milling, and food manufacturing processes. Also, stress cracked kernels indicate that corn has been dried at an excessively high temperature.

Starch recovery, which is an essential component of the wet milling process, is also lower from kernels possessing many stress cracks. To the food manufacturer, stress cracks are of concern because of the adverse effect on soaking, which is an essential component of the manufacturing process.

Cracked corn is also more difficult to store since it is more readily attacked by microorganisms and is difficult to aerate uniformly. Cracked corn can also contribute to increased elevator dust levels and, thus, negatively impact elevator safety and the environment.

Twelve commentors supported this proposal stating that GIPSA can make a significant contribution to market efficiency by offering a standardized stress crack testing service and testing could provide an incentive for improving drying methods which could improve corn quality.

Three commentors opposed this proposal stating that: it is not clear that stress crack testing will improve quality or enhance safety; direct correlation between stress cracks and end-use value have yet to be proven; inexperienced users could make misleading or inappropriate interpretations based on official results; corn processors and grain elevator managers will adopt new discount schedules; the test is currently available from private laboratories; processors are only interested in total stress cracks, not the four categories (single, double, multiple, and total); and GIPSA will not be able to recover the full cost of developing and offering the test.

Several commentors suggested that GIPSA provide educational efforts to inform affected producers, allow testing based on 50 kernels rather than 100 kernels, and permit applicants to specify certification of results to meet their needs.

GIPSA selected the IPGL test method because it meets the basic requirement for online testing. It is quick, easy, and cost effective. In addition, this method is well developed, has been in use successfully for several years, and will impose a minimal cost to the inspection system.

Based on comments received and other available information, GIPSA is offering stress crack testing as an official criteria under the authority of the Act. Total percent stress cracks will be reported. Upon request, stress crack categories (single, double, and multiple) will also be reported. This testing service will be optional. GIPSA will recover the cost of providing this service through the applicable inspection fees as set forth in § 800.71(a) of the regulations.

Miscellaneous Changes

GIPSA proposed to revise the format of the grading chart in § 810.404, Grades and Grade Requirements for Corn, to improve the readability of the grading chart. However, information received from participants in GIPSA's quality control and proficiency training programs and employee suggestion hotline indicate the present chart format is easier to understand than the proposed chart or other recently revised

charts and should not be changed. Based on this information, GIPSA has decided not to adopt the proposed format change.

Final Action

On the basis of these comments and other available information, GIPSA has decided to revise the corn standards as proposed except for revising the format of the grading chart. Pursuant to section 4(b)(1) of the United States Grain Standards Act (7 U.S.C. 76(b)(1)), no standards established or amendments or revocations of standards are to become effective less than one calendar year after promulgation, unless in the judgment of the Administrator, the public health, interest, or safety requires that they become effective sooner. Pursuant to that section of the Act, GIPSA has determined that it is in the public interest that the revisions become effective September 1, 1996. This effective date will coincide with the beginning of the 1996 crop year and facilitate domestic and export marketing of corn. Stress crack testing service is provided as official criteria and is not included in the U.S. Standards for Corn. Consequently, this official service will be available on January 1, 1996.

List of Subjects in 7 CFR Part 810

Exports, Grain.

For reasons set out in the preamble, 7 CFR part 810 is amended as follows:

PART 810—OFFICIAL UNITED STATES STANDARDS FOR GRAIN

1. The authority citation for part 810 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2067 as amended (7 U.S.C. 71 *et. seq.*)

Subpart A—General Provisions

2. Section 810.102(d) is revised to read as follows:

§ 810.102 Definition of other terms.

* * * * *

(d) *Test weight per bushel.* The weight per Winchester bushel (2,150.42 cubic inches) as determined using an approved device according to procedures prescribed in FGIS instructions. Test weight per bushel in the standards for corn, mixed grain, oats, sorghum, and soybeans is determined on the original sample. Test weight per bushel in the standards for barley, flaxseed, rye, sunflower seed, triticale, and wheat is determined after mechanically cleaning the original sample. Test weight per bushel is recorded to the nearest tenth pound for corn, rye, triticale, and wheat. Test weight per bushel for all other grains, if applicable, is recorded in whole and half pounds with a fraction of a half pound disregarded. Test weight per bushel is not an official factor for canola.

* * * * *

Subpart D—United States Standards for Corn

3. Section 810.404 is revised to read as follows:

§ 810.404 Grades and grade requirements for Corn.

Grade	Minimum test weight per bushel (pounds)	Maximum limits of		
		Damaged kernels		Broken corn and foreign material (percent)
		Heat damaged kernels (percent)	Total (percent)	
U.S. No. 1	56.0	0.1	3.0	2.0
U.S. No. 2	54.0	0.2	5.0	3.0
U.S. No. 3	52.0	0.5	7.0	4.0
U.S. No. 4	49.0	1.0	10.0	5.0
U.S. No. 5	46.0	3.0	15.0	7.0

U.S. Sample Grade

U.S. Sample grade is corn that:

(a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; or

(b) Contains stones with an aggregate weight in excess of 0.1 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (Crotalaria spp.), 2 or more castor beans (Ricinus communis L.), 4 or more particles of an unknown foreign substance(s)or a commonly recognized harmful or toxic substance(s), 8 or more cockleburs (Xanthium spp.), or similar seeds singly or in combination, or animal filth in excess of 0.20 percent in 1,000 grams; or

(c) Has a musty, sour, or commercially objectionable foreign odor; or

(d) Is heating or otherwise of distinctly low quality.

Dated: November 14, 1995.

James R. Baker,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 95–29118 Filed 11–28–95; 8:45 am]

BILLING CODE 3410–EN–P

Agricultural Marketing Service

7 CFR Parts 1150, 1205, 1207, 1209, 1210, 1211, 1220, 1230, 1250, 1260, and 1270

[PY–95–004]

Procedure for the Conduct of Referenda in Various Research and Promotion Programs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule will remove individual subparts from the Code of Federal Regulations (CFR) covering procedures for the conduct of referenda in research and promotion programs administered by the Agricultural Marketing Service. This action will eliminate recurring CFR printing costs to the programs.

EFFECTIVE DATE: November 29, 1995.

FOR FURTHER INFORMATION CONTACT: Angie Clonts, Standardization Branch, Poultry Division, AMS, USDA, P.O. Box 96456, Room 3944–S, Washington, DC 20090–6456; telephone (202) 720–3506.

SUPPLEMENTARY INFORMATION: This action is authorized under the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501–4513); the Cotton Research and Promotion Act (7 U.S.C. 2101–2118); the Potato Research and Promotion Act, as amended (7 U.S.C. 2611–2627); the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6101–6112); the Watermelon Research and Promotion Act, as amended (7 U.S.C. 4901–4916); the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6001–6013); the Soybean Promotion, Research, and Consumer Information Act (7 U.S.C. 6301–6311); the Pork Promotion, Research, and Consumer Information Act (7 U.S.C. 4801–4819); the Egg Research and Consumer Information Act, as amended (7 U.S.C. 2701–2718) the Beef Promotion and Research Act of 1985 (7 U.S.C. 2901–2911); and the National Wool Act of 1954 (7 U.S.C. 1781–1787).

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The acts named above except for the Beef Promotion and Research Act of 1985 (7 U.S.C. 2901–2911) and the National Wool Act of 11954 (7 U.S.C. 1781–1787) provide that administrative proceedings must be exhausted before parties may file suit in court. A person subject to a research and promotion order or plan (hereinafter referred to as order) may file a petition with the Secretary of Agriculture (Secretary) stating that the order or any provision of the order, or any obligation imposed in connection with the order, is not in accordance with law and requesting a modification of the order or an exemption from the order. The petitioner is afforded the opportunity for a hearing on the petition. After the hearing the Secretary will make a ruling on the petition. The acts provide that the district courts of the United States in any district in which a person who is a petitioner resides or carries on business are vested with jurisdiction to review the Secretary's ruling on the petition. If a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

The acts under which this rule is authorized provide for the conduct of referenda by the Department so that members of the applicable industry designated to pay assessments to fund activities of the various research and promotion programs may either approve or disapprove initiation and/or continuation of a program or certain amendments to a research and promotion order or plan. The Department is solely responsible for developing procedures for referenda, thus ensuring the integrity of the process.

Regulatory Impact Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Since this action is administrative in nature, the Administrator of AMS has determined that this rule will have no economic impact on small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection requirements contained in the orders and regulations covered by the acts have previously been approved by OMB. This action will not impact any of the information collection requirements.

Background

In response to the President's Regulatory Review Initiative of March 4, 1995, AMS conducted an indepth review of its regulations. A report on this initiative was submitted to the Office of Budget, Policy, and Analysis on May 3, 1995. As part of the report, AMS identified procedures for the conduct of referenda for certain research and promotion programs which could be removed from the Code of Federal Regulations, one of which, the Floral Research and Consumer Information Order, (7 CFR part 1290) was removed July 20, 1995 (60 FR 37327). Also, Subpart-Procedures for Conduct of Referenda in Connection with a Fluid Milk Promotion Program (1160.600–609), and Subpart-Procedure for the Conduct of Referenda in connection with the Honey Research, Promotion, and Consumer Information Order (1240.200–207) will be retained pending scheduling of continuance referenda in early 1996. Each of the programs has published procedures, totaling 53 CFR pages, which delineate the administrative processes used by AMS for conducting referenda. The provisions generally vary only by identification of the commodity, eligible voter, and organization to conduct the referenda. Since referenda are conducted infrequently prior to or following initiation of a program, it is not cost-effective to incur annual printing costs for the pages currently in the CFR. Instead, the rules will be published in the **Federal Register** in sufficient time to conduct a referendum. The rules will not, however, be codified in the CFR.

Pursuant to the provisions in U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice or to engage in further public procedure prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) No changes in the procedures are proposed; (2) removal of the procedures is a technical action; and (3) rules will be published in the **Federal Register** in sufficient time to conduct a referendum.

List of Subjects

7 CFR Part 1150

Dairy products, reporting and recordkeeping requirements, Research.

7 CFR Part 1205

Advertising, Agricultural research, Cotton, Reporting and recordkeeping requirements.

7 CFR Part 1207

Advertising, Agricultural research, Potatoes, Reporting and recordkeeping requirements.

7 CFR Part 1209

Advertising, Agricultural research, Marketing agreements, Mushrooms, Reporting and recordkeeping requirements.

7 CFR Part 1210

Administrative practice and procedure, Advertising, Agricultural research, Reporting and recordkeeping requirements, Watermelons.

7 CFR Part 1211

Advertising, Agricultural research, Imports, Marketing agreements, Pecans, Promotion, Reporting and recordkeeping requirements.

7 CFR Part 1220

Agricultural research, Reporting and recordkeeping requirements, Soybeans.

7 CFR Part 1230

Administrative practice and procedure, Advertising, Agricultural research, Meat and meat products, Reporting and recordkeeping requirements.

7 CFR Part 1250

Administrative practice and procedure, Advertising, Agricultural research, Eggs and egg products, Reporting and recordkeeping requirements.

7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural research, Beef and beef products, Imports, Marketing agreements, Meat and meat products, Reporting and recordkeeping requirements.

7 CFR Part 1270

Administrative practice and procedures, Advertising, Agricultural research, Mohair, Wool.

For the reasons set forth in the preamble, 7 CFR parts 1150, 1205, 1207, 1209, 1210, 1211, 1220, 1230, 1250, 1260, and 1270 are amended to read as follows:

PART 1150—DAIRY PROMOTION PROGRAM

1. The authority citation for part 1150 is revised to read as follows:

Authority: 7 U.S.C. 4501–4513.

§§ 1150.200–1150.212 (Subpart) [Removed]

2. In part 1150, Subpart-Procedure for Conduct of Referenda in Connection with the Dairy Promotion and Research Order, §§ 1150.200 through 1150.212 and the subpart heading are removed.

PART 1205—COTTON RESEARCH AND PROMOTION

3. The authority citation for Part 1205 is revised to read as follows:

Authority: 7 U.S.C. 2101–2118.

§§ 1205.200–1205.210 (Subpart) [Removed]

4. In part 1205, Subpart-Procedure for the Conduct of Referenda in Connection With Cotton Research and Promotion Orders, §§ 1205.200 through 1205.210 and the subpart heading are removed.

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

5. The authority citation for part 1207 is revised to read as follows:

Authority: 7 U.S.C. 2611–2627.

§§ 1207.200–1207.207 (Subpart) [Removed]

6. In part 1207, Subpart—Procedure for the Conduct of Referenda in Connection With Potato Research and Promotion Plan, §§ 1207.200 through 1207.207 and the subpart heading are removed.

PART 1209—MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION ORDER

7. The authority citation for part 1209 is revised to read as follows:

Authority: 7 U.S.C. 6101–6112.

§§ 1209.300—1209.307 (Subpart C) [Removed]

8. In part 1209, Subpart C—Procedure for the Conduct of Referenda in Connection With the Mushroom Promotion, Research, and Consumer Information Order, §§ 1209.300 through 1209.307 and the subpart heading are removed.

PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

9. The authority citation for part 1210 continues to read as follows:

Authority: 7 U.S.C. 4901–4916.

§§ 1210.200–1210.207 (Subpart) [Removed]

10. In part 1210, Subpart—Procedure for the Conduct of Referenda in Connection With the Watermelon Research and Promotion Plan, §§ 1210.200 through 1210.207 and the subpart heading are removed.

PART 1211—PECAN PROMOTION AND RESEARCH PLAN

11. The authority citation for part 1211 is revised to read as follows:

Authority: 7 U.S.C. 6001–6013.

§§ 1211.300–1211.310 (Subpart D) [Removed]

12. In part 1211, Subpart D—Procedure for the Conduct of Referenda in Connection With the Pecan Promotion and Research Plan, §§ 1211.300 through 1211.310 and the subpart heading are removed.

PART 1220—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

13. The authority citation for part 1220 continues to read as follows:

Authority: 7 U.S.C. 6301–6311.

§§ 1220.501–1220.537 (Subpart E) [Removed]

14. In part 1220, Subpart E—Procedure for the Conduct of Referenda §§ 1220.501 through 1220.537 and the subpart heading are removed.

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

15. The authority citation for part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

§§ 1230.601–1230.640 (Subpart E) [Removed]

16. In part 1230, Subpart E—Procedure for the Conduct of Referendum, §§ 1230.601 through 1230.640 and their undesignated centerheadings and the subpart heading are removed.

PART 1250—EGG RESEARCH AND PROMOTION

17. The authority citation for part 1250 continues to read as follows:

Authority: 7 U.S.C. 2701–2718.

§§ 1250.200–1250.207 (Subpart) [Removed]

18. In part 1250, Subpart—Procedure for the Conduct of Referenda in Connection With Egg Research and Promotion Order, §§ 1250.200 through 1250.207 and the subpart heading are removed.

PART 1260—BEEF PROMOTION AND RESEARCH

19. The authority citation for part 1260 is revised to read as follows:

Authority: 7 U.S.C. 2901–2911.

§§ 1260.401–1260.441 (Subpart C) [Removed]

20. In part 1260, Subpart C—Procedure for the Conduct of Referendum, §§ 1260.401 through 1260.441 and their undesignated centerheadings and the subpart heading are removed.

PART 1270—WOOL AND MOHAIR ADVERTISING AND PROMOTION

21. The authority citation for part 1270 is revised to read as follows:

Authority: 7 U.S.C. 1781–1787.

§§ 1270.1–1270.18 [Removed]

22. In part 1270, Subpart—Procedure for the Conduct of Referendums, §§ 1270.1 through 1270.18 and the subpart heading are removed.

Dated: November 20, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–29117 Filed 11–28–95; 8:45 am]

BILLING CODE 3410–02–P

Commodity Credit Corporation

7 CFR Part 1446

RIN 0560–AD90

Peanuts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts without change the provisions of the interim rule published in the **Federal Register** (60 FR 35834) on July 12, 1995, which added to the peanut price support regulations in 7 CFR part 1446, a reference to crop insurance requirements contained in 7 CFR part 400 which affect the eligibility of peanut producers for price support benefits. Under the provisions of part 400, producers generally must obtain crop insurance for all crops in which they have an interest in the county where the peanuts are produced. The crop insurance requirements of part 400, which implement provisions of the Federal Crop Insurance Reform Act of 1994 (1994 Act), are in addition to all existing eligibility requirements for price support for peanuts contained in part 1446 and elsewhere.

EFFECTIVE DATE: November 29, 1995.

FOR FURTHER INFORMATION CONTACT: Gary S. Fountain, Tobacco and Peanuts Division, Consolidated Farm Service Agency, U.S. Department of Agriculture, PO Box 2415, Washington, DC 20013–2415; telephone (202) 720–9106.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Federal Assistance Program

The title and number of the Federal assistance program, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies is: Commodity Loans and Purchases—10.051.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since neither the Commodity Credit Corporation nor the Consolidated Farm Service Agency (CFSA) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Paperwork Reduction Act

This final rule does not change the CFSA information collection requirements that were previously approved by OMB and assigned control numbers 0560–0006 and 0560–0014. The catastrophic risk protection insurance coverage requirements are included in the information collection package that has been approved by OMB and assigned control number 0563–0003.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this final rule does not have significant Federalism implications which warrant the preparation of a Federalism Assessment. The requirements and procedures contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this rule are not retroactive and preempt State laws to the extent that such laws are inconsistent with the provisions of this rule. Before any judicial action may be brought regarding determinations made under provisions of 7 CFR part 1446, the administrative remedies in 7 CFR part 780 must be exhausted.

Environmental Evaluation

This action is not expected to have any significant impact on the quality of the human environment, health or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

The 1994 Act, enacted on October 13, 1994, requires that persons who seek price support benefits for peanuts, and certain other farm program benefits, must, if insurance is available, acquire at least the catastrophic level of protection for all insurable crops of "economic significance", in which they have an interest, that are grown in the same county as the crop for which price support or any other benefit is sought. A crop of "economic significance" is defined in the 1994 Act to be a crop that has contributed, or is expected to contribute, 10 percent or more of the total expected value of all crops grown by the person.

The provisions of the 1994 Act are administered by the Federal Crop Insurance Corporation (FCIC). FCIC has issued, by an interim rule published on January 6, 1995 (60 FR 1996), regulations which implement the 1994 Act. The FCIC rule is codified in 7 CFR part 400. Related rules are codified in 7 CFR part 402.

Price support for peanuts is made available under the Agricultural Act of 1949, 7 USC 1421 *et seq.* The peanut price support regulations are found at 7 CFR part 1446.

List of Subjects in 7 CFR Part 1446

Loan programs—Agriculture, Peanuts, Price support programs, Reporting and recordkeeping requirements, Warehouses.

Following publication of the interim rule, the public was afforded 30 days to submit written comments and data. No comments or data were received.

Accordingly, under the authority of 7 U.S.C. 1359a, 1375, 1421 *et seq.*; 15 U.S.C. 714b and 714c, the interim rule that added to the peanut price support regulations in 7 CFR part 1446, as published in the **Federal Register** on July 12, 1995, at 60 FR 35834, is hereby adopted without change as a final rule.

Signed at Washington, DC, on November 22, 1995.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95–29169 Filed 11–28–95; 8:45 am]

BILLING CODE 3410–05–P

FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 1995–21]

Communications Disclaimer Requirements

AGENCY: Federal Election Commission.

ACTION: Final rule correction.

SUMMARY: The Federal Election Commission is publishing a correction to the final rules governing disclaimers on campaign communications that were published in the **Federal Register** on Oct. 5, 1995. 60 FR 52069. The correction deletes a reference to phone banks in the preamble to the rules, thereby removing the inference that the Commission determined phone banks to be considered general public political advertising for purposes of these rules.

DATES: Further action, including the publication of a document in the **Federal Register** announcing the effective date, will be taken after the

final disclaimer rules have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d). The disclaimer rules were transmitted to Congress on Oct. 2, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Federal Election Campaign Act (the "Act") at 2 U.S.C. 441d(a) requires a disclaimer on communications by any person that expressly advocate the election or defeat of a clearly identified federal candidate, or solicit contributions, through any form of general public political advertising. On Oct. 5, 1995, the Commission published in the **Federal Register** revisions to the implementing regulations, which are found at 11 CFR 110.11. 60 FR 52069.

In the discussion before adopting these revisions, the Commission considered including phone banks in the list of communications that require a disclaimer, but could not reach a majority decision to do so by the required four affirmative votes. See 2 U.S.C. 437c(c). Consequently, this proposal was not included in the final rules.

Accordingly, the term "phone bank" does not appear anywhere in the text of the final rules. 60 FR 52072. Also, the Explanation and Justification ("E&J") that accompanied the final rules correctly explained the Commission's action both in its discussion of phone banks (60 FR 52070) and in the discussion of so-called "push poll" activity. 60 FR 52071–72. (The term "push poll" is generally used to refer to phone bank activities or written surveys that provide false or misleading information about a candidate under the guise of conducting a legitimate poll.)

However, the E&J's discussion of new disclaimer requirements for certain "exempt activities," that is, activities by a candidate or political party committee that are exempt from the Act's contribution and expenditure limits under 11 CFR 100.8(b)(10), (16), (17), or (18), inadvertently retained a statement from an earlier document to the effect that exempt phone banks would require a disclaimer. The Commission is deleting this language from the E&J to insure that no one is misled by this inconsistency.

Correction of Publication

Accordingly, the publication of final regulations on October 5, 1995 (60 FR 52069), which were the subject of FR Doc. 95–24749, is corrected as follows:

Explanation and Justification (Preamble) (Corrected)

On p. 52070, in the third column, in the second full paragraph, in lines 14 and 15, "phone banks and" should be removed.

Danny Lee McDonald,

Chairman, Federal Election Commission.

[FR Doc. 95–29141 Filed 11–28–95; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 641

[Docket No. 950810206–5268–03; I.D. 071395A]

RIN 0648–AG29

Reef Fish Fishery of the Gulf of Mexico; Amendment 8

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement certain provisions of Amendment 8 to the Fishery Management Plan for the Reef Fish Fishery of the Gulf of Mexico (FMP). Amendment 8 initiates a limited entry program for the commercial red snapper sector of the reef fish fishery in the Gulf of Mexico. Initial participants in the limited entry program will receive shares of the commercial quota of red snapper based on specified criteria. The percentage shares of the commercial quota equate to individual transferable quotas (ITQs). In addition, NMFS clarifies the regulations regarding commercial permit requirements, and informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this rule and publishes the OMB control numbers for those collections. The intended effect of this rule is to manage the commercial red snapper sector of the reef fish fishery to preserve its long-term economic viability.

EFFECTIVE DATE: April 1, 1996; except that the amendments to 15 CFR part 902 and 50 CFR 641.2, 641.7(s), 641.24(g), and the additions 50 CFR 641.7(ee) and 641.10 heading and paragraph (c), are effective November 24, 1995.

ADDRESSES: Requests for copies of the final regulatory flexibility analysis (FRFA) should be sent to Robert Sadler, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Comments regarding the collection-of-information requirements contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813-570-5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 641 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Based on a preliminary evaluation of Amendment 8 at the beginning of formal agency review, NMFS disapproved three of its measures after determining that they were inconsistent with the provisions of the Magnuson Act and other applicable law. NMFS published a proposed rule to implement the remaining measures of Amendment 8 and to clarify existing regulations regarding commercial permit requirements (60 FR 44825, August 29, 1995). The rationale for the remaining measures of Amendment 8 and for the clarification of existing regulations, as well as the reasons for the disapproval of the three Amendment 8 measures at the beginning of formal agency review, are contained in the preamble of the proposed rule and are not repeated here. On October 13, 1995, NMFS approved the remaining measures of Amendment 8; this final rule implements those approved measures.

Comments and Responses

A minority report signed by three Council members was submitted with Amendment 8. In addition, written comments during the comment period were received from 34 entities, including individual representatives of four commercial seafood associations (fishing associations), two state government agencies, and 28 members of the public. Seventeen of the comments supported the proposed rule and/or Amendment 8, including 12 from persons holding red snapper endorsements on their reef fish vessel permits. Sixteen of the comments opposed the proposed rule and/or Amendment 8, including three from endorsement holders. Three of the

comments opposing the proposed rule were identical in content. Specific responses follow each comment, and are separated by general category.

Information Used in Amendment 8

Comment: The minority report claimed that an ITQ program is unnecessary, because the fishery conditions that the program proposes to correct do not actually exist. The report argues that both recreational and commercial user groups have concluded that the scientific stock assessment is flawed, because it is based on allegedly erroneous information and that the stock is in the best condition they can recall in their fishing experience. The report also stated that the authors have no confidence in the reliability of the recreational landings data collected under the Marine Recreational Fishery Statistical Survey.

Response: The NMFS stock assessment has undergone extensive peer review and was found by the Southeast Fisheries Science Center (Center) to be based on the best available scientific information. The Center also reviewed Amendment 8 and concluded that the amendment is based on the best available scientific information. The stock assessment does indicate some recovery of the red snapper stock condition during the period under Federal management; however, the assessment also indicates that the stock is still overfished and that continuing harvest restrictions are required for the FMP's long-term stock rebuilding program.

NMFS agrees, however, with the need to continually update the stock assessment database used in formulating management decisions. Appropriate updates to the database will be made as data become available.

Comment: A fishing association representative noted that the Council's Scientific and Statistical Committee (SSC) previously had voted for no new regulatory actions (i.e., discontinuance of the current red snapper permit endorsement program at the end of 1995 and no ITQ program beginning in 1996) based on the lack of a feasibility study at that time. The commenter questioned the need for an ITQ program after noting the SSC position. The commenter did acknowledge that the SSC had subsequently concluded that sufficient evaluation had been completed for the Council to select one of the identified management program alternatives (i.e., ITQs, license limitations, or no new regulatory action).

Response: NMFS does not dispute the comment, but notes that the SSC vote for no regulatory action was based on an earlier version of Amendment 8.

Comment: The minority report and one commenter stated that the erroneous information created an unfair and inequitable commercial/recreational allocation ratio of 51/49 for red snapper. These commenters also objected to the FMP's provision that requires closure of the annual commercial fishery for the rest of the fishing year once the annual commercial quota is projected to be met, while potentially allowing recreational fishermen to exceed their allocation. The commenters claim that this penalizes the commercial sector to the benefit of the recreational sector and stated that Amendment 8 would continue this inequitable distribution of the allocation, particularly when the stock is recovered and total allowable catch (TAC) may safely be increased.

Response: The FMP provides for a commercial/recreational allocation ratio of 51/49 for red snapper, and has a requirement that the commercial sector be closed for the remainder of the year once the annual commercial quota is met or is projected to be met. These measures were found to be fair and equitable and consistent with the national standards based on the best available information, as originally set forth in Amendment 1. These provisions are not modified under Amendment 8 or its implementing regulations. Changes to either the allocation ratio or closure provision, therefore, are not actions within the scope of Amendment 8 and would require an additional FMP amendment.

Comment: One of the commenters stated that Amendment 8 violates National Standard 2, since NMFS did not use available social assessments, and the Council and NMFS did not adequately consider the "human factor," or social and economic effects.

Response: NMFS does not agree. The Council conducted extensive analyses and used all available data sources in developing Amendment 8, including the most current landings data, economic, social, and biological information. Amendment 8 includes a social impact assessment, and also references extensive Council deliberations on avoiding social impacts.

Comment: The minority report also stated that the ITQ program is based on the NMFS concept that such a program will improve the economic conditions of the industry.

Response: The Council selected ITQs as the preferred option, principally because it should result in the largest increase in net economic benefits, achieve optimum yield (OY), and address many of the major problems in the fishery. In particular, the approved measures of the Amendment 8 ITQ program are expected to resolve the problems of a harvest capability that is larger than necessary to produce the commercial quota in an economically efficient manner. The ITQ program also is expected to resolve the problems associated with the derby fishery, including depressed prices, fishing in dangerous weather conditions, and increased total costs of production. In approving Amendment 8, NMFS agreed with the Council's rationale and objectives for the ITQ program.

Historical Captains

Comment: A representative of a commercial fishing association expressed concern regarding historical captains being included as initial shareholders. The commenter recommended that only persons who qualified for red snapper permit endorsements should be initial recipients of ITQ shares and noted that vessel owners provide the vessels and have the principal legal responsibility for their operation.

Response: Initial shareholders in the ITQ system include vessel owners or operators, depending on whose earned income qualified for the reef fish permit, and historical captains. The Council concluded that the unique status of historical captains as independent contractors who operated vessels under share agreements warranted their inclusion as initial shareholders. Unlike earned income qualifying operators, however, the initial share of a historical captain is divided with the vessel owner, based on the terms of the share agreement. NMFS finds no basis for disapproval of the Council's allocation of initial shares to historical captains.

Additional Issues Related to National Standards

Comment: The minority report and three of the commenters claimed that the ITQ system was unfair and inequitable because initially entitled fishery participants would be allocated excessive shares or because allocated shares would not be issued to all historical participants or in appropriate allocation ratios. One of the commenters stated that the ITQ system was unfair and inequitable, but did not provide specific rationale as the basis for this comment.

Response: Amendment 8 addresses the allocation issues raised by these comments. For example, Amendment 8 lists the factors that the Council took into account in establishing the ITQ system to limit access to the fishery and to achieve optimum yield (OY)

including: Present participation in the fishery; historical fishing practices in, and dependence on, the fishery; the economics of the fishery; the capability of fishing vessels used in the fishery to engage in other fisheries; and the cultural and social framework relevant to the fishery.

The ITQ system provides for issuance of initial shares that more closely track the actual harvest during the qualifying years than the current endorsement system. For example, the endorsement provisions established a trip limit of 2,000 lb (907 kg) for fishermen with endorsements on their permits (i.e., caught at least 5,000 lb (2,268 kg) in any 2 of the 3 years between 1990–1992). Vessels without an endorsement were limited to a 200 lb (91 kg) trip limit. In effect, the endorsement system provided only two levels of harvest based on applicants meeting a minimum threshold. Persons who landed substantively more than the threshold were not provided a larger trip limit than those who landed only 5,000 lb (2,268 kg). This system resulted in inequities, as stated in several of the comments.

In contrast, the initial ITQ shares to be issued under Amendment 8 will correspond to the actual harvests accepted by NMFS under Amendment 9 during the qualifying period for shares. Moreover, the overall benefits of the ITQ system to the economic integrity of the fishery are expected to accrue over time. For example, the allowance for ITQ share transfers to any U.S. citizen or permanent resident alien starting October 1, 1997, will provide access to those ineligible for an initial share. This should result in significantly increased flexibility regarding who may participate in the fishery.

Amendment 8 explicitly reflects the requirements of NMFS' Guidelines for Fishery Management Plans; Subpart B—National Standards (National Standard Guidelines) regarding the application of National Standard 4 (allocation of fishing privileges) (see 50 CFR 602.14(c)(3)(i)). Specifically, Amendment 8 states that to be "fair and equitable," an allocation should be rationally connected with the achievement of OY or with the furtherance of an FMP objective; otherwise, the inherent advantaging of one group to the detriment of another would be without adequate justification. Also, Amendment 8 indicates that an allocation of fishing privileges may impose hardship on one group if this hardship is outweighed by the total benefits received by another group. Although the ITQ program will not prevent any person who is a U.S. citizen or permanent resident alien from entering the red snapper fishery, those persons who receive an initial allocation of harvesting privileges (initial shares) will have a competitive advantage over subsequent participants by not having to pay for those privileges. Any such competitive advantage would be constrained by the mandatory 4-year evaluation period, which the Council believes was necessary to minimize windfall profit and speculation.

According to the National Standard Guidelines, an allocation of fishing privileges must be designed to avoid creating conditions that foster the acquisition by any person of an inordinate share of fishing privileges or control by buyers and sellers that would not otherwise exist (see 50 CFR 602.14(c)(3)(iii)). Although the National Standard Guidelines do not specifically define an "excessive share," they imply conditions of monopoly or oligopoly. The Council does not believe that a monopoly will occur and expects that owners/operators will remain the dominant entities in the fishery. Therefore, the Council recommended no limit on ownership of ITQ shares. It is anticipated that this will not lead to overall market control of the fishery. Also, the Council can recommend, and NMFS approve and implement, a different allocation scheme by FMP amendment at any time if it meets the requirements of the Magnuson Fishery Conservation and Management Act and other applicable law.

NMFS acknowledges the Amendment 8 discussion of these allocation issues and agrees with the Council that the ITQ program is consistent with National Standard 4 requirements that allocations of fishing privileges be fair and equitable and be carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share.

Effects of ITQ System on Red Snapper Resource Status

Comment: The minority report states that the ITQ system does not promote conservation. One commenter opposed the ITQ system indicating that it may contribute to overfishing. Another commenter stated that he would benefit from a relatively high ITQ share, but that he opposed the ITQ system because possible unlawful and unreported landings (landings without ITQ coupons) would result in exceeding the red snapper annual quota because these landings would go unrecorded. He argued that these circumstances would cause overfishing of the red snapper resource and undermine the long-term rebuilding of this overfished species.

Response: NMFS disagrees with these comments. The current red snapper management program provision for an automatic commercial fishery closure once the commercial quota is met was intended to ensure that the quota is not exceeded, thereby ensuring the recovery of the overfished red snapper resource under its rebuilding program. However, red snapper discarded during closed fishery periods are not counted against the commercial quota; some of these closed fishery periods have been considerably long such as the one that occurred after the April 15, 1995, fishery closure. Since the ITQ program is expected to minimize closed fishery periods, it should correspondingly reduce unaccounted for incidental catch mortality of red snapper. Reducing the magnitude of this fishing morality during fishery closures is expected to allow a larger proportion of the red snapper harvested to be retained and counted against the commercial quota that occurs currently. Accordingly, the ITQ program should both reduce the total fishing mortality of red snapper as well as provide a more accurate estimate of it. The slower-paced fishery that is anticipated under the ITQ program will be easier for NMFS to monitor, particularly with fewer fishermen operating over a longer season. Also, ITQ program participants will have an interest in ensuring the continued viability of the fishery and the ITQ program, and are expected to assist in reported illegal activities or under-reporting. Overall, these ITQ program results should significantly enhance conservation benefits.

Industry Opinions on Amendment 8

Comment: Two representatives of fishing associations noted that most public comments at the Council meetings opposed ITQs. One of these commenters noted the various votes of the Council's Red Snapper and Reef Fish Advisory Panels against ITQs. The minority report and one fishing association representative stated that the majority of the red snapper industry opposes Amendment 8. They argued that approval of Amendment 8 and its implementing rule is inconsistent with what they perceive to be NMFS' policy that no proposed ITQ program would be implemented over industry objections.

Response: NMFS disagrees with these comments and believes that a majority of the fishing industry participants supports the ITQ program. As with any controversial action, some commenters opposed Amendment 8. However, the ITQ system appears to be supported by a majority of the fishery participants as providing for better red snapper fishery management including ensuring more reliable monitoring of catches with regards to quotas, avoiding increasingly short fishing seasons and low ex-vessel prices, and improving the enforceability of the management measures. Public commenters that expressed an opinion at area hearings held by the Council in December 1994 supported, in general, the ITQ program (23 in favor, 19 opposed). A stronger majority opinion (15 in favor, 9 opposed) was evidenced at the hearings by commenters who hold a red snapper endorsement on their reef fish vessel permit and who have caught the bulk of the commercial harvest since 1993, when the endorsement provisions were implemented. More recent indications of industry views on the Amendment 8 ITQ program were reflected in the public comments received on the proposed rule that supported the program by a slight margin (17–16), with a much larger margin of support (12 to 3) among commenters with a red snapper endorsement on their reef fish vessel permit. Public support for the ITQ program is expected to increase as more participants become familiar with it and with the benefits to the fishery expected to result from its implementation. Those benefits are expected to accrue over time. Finally, NMFS has not issued a policy regarding the approval and implementation of limited entry programs, including ITQ systems, except for guidance to the Regional Fishery Management Councils contained in the National Standard Guidelines at 50 CFR part 602 regarding the consistency of management measures assigning fishing privileges with National Standard 4. However, NMFS has indicated to the Councils that it is their responsibility to develop and recommend controlled access systems only if there is considerable support from the industries involved. NMFS believes that the controlled access system under Amendment 8 does have this considerable support from the affected industries.

Enforcement Issues

Comment: The minority report and five of the comments cited enforcement concerns. These comments stated that, with current NMFS enforcement capability and recent budget cuts, the ITQ system would be unenforceable.

Response: NMFS does not agree that the ITQ program will be unenforceable. First, NMFS anticipates cooperation from all the Gulf coastal states who have indicated that they will implement regulations for their waters consistent with those in the exclusive economic zone. Specifically, Texas and Florida provided comments in support of Amendment 8 and indicated a capability to enact compatible regulations in waters under their jurisdiction. Alabama, Louisiana, and Mississippi provided similar comments that were received after the end of the comment period, but before NMFS took final action to approve the remaining measures of Amendment 8. Thus, in making its decision to approve and implement the remaining measures of Amendment 8, NMFS obtained reasonable assurance from all the affected states that they will be able to issue compatible state regulations effective on or about the time that Amendment 8 is fully implemented (April 1, 1996). This cooperation will greatly enhance enforcement of the regulations. NMFS also has committed the resources for additional Federal enforcement agents.

Second, the Council and NMFS believe that the ITQ system will be more self-policing than the current management system (permit endorsements with trip limits) because ITQ holders will have a vested interest in seeing that all red snapper landings conform with the ITQ program requirements. ITQ shares will have a value to the holder proportionate to the size of the total commercial quota. Fishermen who hold ITQ shares will have a greater incentive to report to enforcement officials (NMFS Enforcement, the Coast Guard, or state enforcement agencies) any illegal/unreported landings outside the ITQ program (e.g., landings without use of ITQ share coupons), since such landings would eventually result in adverse effects on the stock condition with the likely result of quota reductions.

Comment: Two of the commenters indicated that fishermen may illegally sell red snapper to restaurants without using their ITQ shares, thus allowing them to catch large quantities of red snapper outside of the ITQ program.

Response: NMFS acknowledges that illegal activity is possible with or without ITQs. Nevertheless, NMFS has determined that such activity can be kept to a minimum with compatible state regulations, which will greatly increase the probability of any fisherman being detected landing fish illegally and thereby risking his/her right to participate in the ITQ program.

Comment: One of the commenters stated that ITQ shareholders have an interest in helping the ITQ system succeed and, therefore, may report violations and keep enforcement costs down. That commenter stated that the additional requirement of ITQ coupons should help enforcement officers to detect chronic violators.

Response: NMFS agrees.

Use of Qualifying Years (1990–92)

Comment: Another commenter stated that the qualifying years (1990–92) were atypical of his historic dependence on the fishery, as he stopped fishing due to the derby fishery during that time.

Response: The collection of past landings data under Amendment 9 covers all red snapper landings information for the period when data were readily available (i.e., 1990 through 1992). Data were not readily available before 1990, and the vessel permit endorsement provisions, including trip limits, were implemented in 1993. As a result, the years 1990–92 constitute the best available qualifying period for determining eligibility for the ITQ system. The Council, after extensive deliberations and consideration of longer qualifying periods, determined that the 1990–92 period was the most appropriate for determining historical dependence on the fishery. No reliable information or data were provided at Council-held public hearings or during NMFS-held comment periods on Amendment 8 and the proposed rule that convinced the Council or NMFS that this qualifying period was unfair or inappropriate. Based on these considerations, NMFS agreed with the Council's decision about the qualifying period in approving certain measures of both Amendments 8 and 9.

Comment: One of the commenters stated that the Amendment 8 proposed rule is inconsistent with the National Standards because it denies access to the red snapper fishery by those who did not have red snapper catches during the years 1990–92; those fishermen will not receive an initial allocation.

Response: The rationale for selecting the 1990–92 qualifying period was discussed above. Regarding access to the red snapper resource, a major feature of the ITQ program is allowance of new entrants to participate by buying existing ITQ shares. Hence, the program allows wider participation than the permit endorsement system it will replace.

The choice of the eligibility period (1990–92) to determine access also is consistent with the Council's established control date for the fishery. The published notice of the control date stated that anyone entering the Gulf of Mexico commercial reef fish fishery after November 7, 1989, could not be assured of future access to the reef fish fishery if a management regime were developed and implemented that

limited the number of participants in the fishery.

Comment: One of the commenters requested that NMFS further review all landings data submitted for the ITQ program-qualifying period.

Response: NMFS does not agree that the additional review of qualifying landings data, as requested by the commenter, is necessary. The red snapper landings data for the 1990–92 qualifying period submitted to NMFS by the cutoff date (established under Amendment 9) were carefully reviewed by NMFS before being accepted as a basis for calculating individual percentage shares of the commercial quota. Persons submitting data showing landings during the 1990–92 eligibility period were given an opportunity to review NMFS' landings figures. Finally, Amendment 8 establishes a Council advisory panel to consider written requests from persons who contest their tentative allocations of shares or determinations of historical captain status.

Congressional Action and User Fees

Comment: The minority report and two fishing association representatives stated that Amendment 8 should not be approved because it would be "in defiance of the Congressional mandate to develop appropriate guidelines for ITQs." The minority report also stated that Amendment 8 should not be approved, since the user fee schedule currently being considered in a proposed amendment to the Magnuson Act is unknown. According to the minority report, the user fee issue would have a bearing on industry's evaluation of the effects of the proposed rule.

Response: NMFS acknowledges the possibility that an amendment to the Magnuson Act or other Congressional action could affect continuation of the ITQ system under Amendment 8. NMFS also acknowledges the potential importance of user fees to persons involved in fishery business decisions. However, what final action Congress will take in amending the Magnuson Act regarding the establishment of ITQ programs or the application of user fees in fisheries management is unknown. Until such time as the Magnuson Act is amended, it authorizes the development and implementation of ITQ programs for fisheries under Federal management.

Costs of Implementing the ITQ System

Comment: Four of the commenters, including a representative of a fishing association, complained about the high costs of implementing and enforcing the ITQ system. One comment indicated that costs should be one of the factors considered before implementing ITQs.

Response: The regulatory impact review (RIR) prepared by the Council estimates that Amendment 8 will increase annual administration and enforcement costs on a continuing basis between $659,000 and $1,749,000, depending on the level of law enforcement efforts. However, it further indicates that annual benefits include increased revenues of $2.5 to $4.1 million and a decrease in the total cost of harvesting. While the RIR clearly points out that costs of the ITQ system are higher than for other management systems considered, the ITQ system should provide the largest increase in net economic benefits to the fishery of any of the management options for red snapper considered by the Council.

Duration of Implementing Regulations

Comment: One of the commenters supported the ITQ system and the 4-year evaluation period, noting that an evaluation might give the Council an opportunity to develop a more comprehensive ITQ system after the 4-year period. Another commenter supported the ITQ system and a 4-year evaluation as a flexible approach that will benefit the fishery in terms of achieving the goals of Amendment 8. That commenter stated that 4 years was an appropriate time period for monitoring and evaluation, without imposing an unnecessarily long time period that encourages windfall profits.

Response: NMFS agrees with these comments and has approved the Council's proposed measure to evaluate the ITQ system no later than 4 years after initial implementation.

Comment: The minority report stated that the proposed 4-year evaluation period would preclude the industry from making business decisions. One of the commenters stated that the time limitation creates uncertainty in the ITQ system. Another commenter stated that the mandatory evaluation is not needed, because the Council already has the authority to evaluate the ITQ system and make changes as appropriate. Another commenter expressed a preference for an indefinite duration for the ITQ program.

Response: The 4-year evaluation period was selected by the Council after consideration of various time periods. The Council was aware of the potential that fewer economic benefits might result from having an ITQ program with a fixed time period compared to a system of indefinite duration, but decided that a 4-year evaluation period was necessary to minimize windfall profits and speculation while still allowing a sufficiently long period to test the effectiveness of the program.

NMFS agrees with the Council's decision to select a 4-year ITQ program period with an evaluation of its effectiveness at that time. This approach will allow the Council and NMFS to terminate the program at that time if it does not produce the expected benefits. The mandatory evaluation, while unavoidably creating a degree of uncertainty in the industry, is needed in order that the Council may identify and propose necessary changes to the ITQ program for achieving the greatest possible level of benefits.

Comment: One of the commenters also objected to treating fish as private property, and stated that the ITQ program is a bad idea and should not be approved.

Response: NMFS disagrees. The ITQ system will remain in effect for 4 years from the date the system is implemented, while the effectiveness of the system is monitored and evaluated. Based on the evaluation, the system will be modified, or terminated. This temporary harvest privilege is not a transfer of the resource, but a revocable license to take a specified amount of the resource. There are no private property rights to wild fish before they have been reduced to one's possession.

Comment: One commenter suggested that each permit holder be issued transferable ITQ coupons in an allotted percentage based on their previous records of red snapper landings, and be given 1 year to use their coupons.

Response: This suggestion is already provided for by the provisions of the ITQ program. The Regional Director will provide each shareholder with ITQ coupons in various denominations on an annual basis, the total of which equals his or her ITQ share.

Comment: Two of the commenters responded to the request in the proposed rule for specific comments on the possibility of a quota overrun if the states do not enact compatible regulations. Those two comments indicated that each state should enact specific compatible regulations for waters under their jurisdiction, since large quantities of landings are made from state waters off Texas and Louisiana.

Response: NMFS shares the concerns expressed by these comments about the adverse effects of a quota overrun and a fishery closure before all ITQ coupons are used, if compatible state regulations are not enacted to prevent catch by non-permitted vessels in state waters. As noted above, NMFS has received reasonable assurance that all Gulf coastal states will enact or have in place in a timely manner regulations to require that vessels landing red snapper possess a Federal permit, no matter where the red snapper are harvested or possessed. This should preclude any non-ITQ harvest.

Comment: One of the commenters suggested that a rule allowing permitted vessels without ITQ shares to sell red snapper harvested in state waters would encourage violations of the ITQ program.

Response: NMFS agrees. The implementing regulations specify that red snapper in or from the EEZ, or on board a permitted reef fish vessel, may not be possessed without sufficient ITQ coupons on board. One of the permit conditions is that permitted vessels comply with the ITQ provisions, no matter where the red snapper are harvested or possessed. This would minimize violations, since the states have provided assurance that they will require that red snapper landings be from federally permitted vessels only.

A federally permitted reef fish dealer would be allowed to receive red snapper only from a permitted vessel with ITQ coupons on board, regardless of where the red snapper were harvested. These provisions are intended to encourage effective monitoring and enforcement of the ITQ system.

Comment: One of the commenters questioned the meaning of "excessive effort capacity" in the proposed rule. Another commenter indicated that the ITQ system would force him to discharge two or three of his three to four employees from his vessel. The ITQ system, therefore, would be economically disadvantageous, particularly in areas with high unemployment and when fishermen are ineligible for unemployment benefits.

Response: The term "excessive effort capacity" indicates the ability of red snapper fishermen to catch the annual quota in increasingly shorter time periods, resulting in fewer net economic benefits. Regarding the comment, NMFS acknowledges that some decrease in employment is expected to result from a reduction of effort capacity that optimizes net economic benefits of the fishery. While this may disadvantage some sectors, as stated in the comment, the net benefits to the entire fishery are increased.

Comments in Support of the Proposed Rule

Comment: Seventeen of the commenters supported the ITQ system. Eleven supported the ITQ system because of problems with vessel crew safety and the short season due to the endorsement system. Seven also supported the ITQ system to avoid other problems associated with a derby fishery, such as low ex-vessel prices, and one noted that the commercial fishery is unable to achieve OY under the existing endorsement provisions. That commenter opposed the views of the minority report and urged NMFS to implement the ITQ system as soon as possible.

Response: NMFS acknowledges these supportive comments and the identified program benefits.

Additional Issues Outside the Scope of the Proposed Rule

Comment: One of the commenters suggested that sale of red snapper harvested in state waters be counted against the recreational harvest, not the commercial quota.

Response: This provision is not currently in the FMP or Amendment 8, and is outside the scope of the proposed rule.

Comment: Three commenters noted that an ITQ system would not help the red snapper fishery, because imports comprise most of the total red snapper market. Another stated that imports should be considered before implementing ITQs.

Response: The Magnuson Act currently does not govern imported fish, which may be legally landed in compliance with the Lacey Act and other applicable Federal laws. Moreover, inclusion of imported red snapper in the ITQ system is outside the scope of the proposed rule.

Comment: One of the comments requested consideration of a small incidental catch of red snapper for boats operating out of Florida ports.

Response: This requested action was not included in Amendment 8 or the proposed rule and, therefore, is outside the scope of this rule.

Comment: One of the commenters stated that the penalty fee schedule should be provided in the proposed rule.

Response: NOAA has made its Civil Administrative Penalty Schedule available (59 FR 19160, April 22, 1994). That schedule is outside the scope of the proposed rule and Amendment 8. The schedule, however, will be revised as any additional regulations are implemented.

Comment: One of the commenters expressed no opinions on the proposed rule but requested that hardship appeals be considered.

Response: The hardship appeals provisions proposed in Amendment 8 were disapproved by NMFS during its preliminary review of the amendment for the reasons stated in the preamble of the proposed rule. These provisions were not included in the proposed rule and, therefore, are not included in the final rule. Therefore, this comment is considered outside the scope of the proposed rule.

Comment: One of the commenters suggested that, instead of the ITQ program, fishermen be allowed to fish 10 days a month.

Response: A split season was not included in Amendment 8 or the proposed rule. Therefore, this comment is outside the scope of this rule.

Changes From the Proposed Rule

Specific dates are added as follows: (1) In § 641.10 introductory text, for the termination of the period during which NMFS and the Council will evaluate the ITQ system; (2) in § 641.10(c)(2)(iv), for the submission of requests for transfers of landings records; (3) in § 641.10(c)(4)(iii), for the submission of appeals; and (4) in § 641.10(c)(5), for the initial restrictions regarding transfers of shares.

In § 641.10(a)(3), information is added as to how a person who does not have an ITQ share may obtain a list of shareholders.

The ITQ coupon system is simplified and clarified as follows. Since ITQ coupons will be used on board vessels rather than by individual fishermen, references in the proposed rule to the "Fisherman" part of coupons are changed to "Vessel" part. In § 641.10(b)(3), when a coupon is transferred, the name of the recipient and the signature of the seller are no longer required. In lieu thereof, if the transfer is by sale, the price paid for the coupon must be entered on the coupon. To aid in monitoring the lawful use of coupons, § 641.10(b)(5) is revised to require entry on the "Vessel" part of each coupon of the permit number of the dealer to whom red snapper are transferred. Sections 641.10(b)(6) and (b)(7) are modified to clarify that, after being landed, red snapper must be accompanied by appropriate amounts of properly completed "Fish House" parts of ITQ coupons, even when such red snapper are offloaded at a facility other than a dealer's; for example, when offloaded to a dealer's truck. In § 641.10(b)(7), the requirement to enter the dealer's permit number on the "Fish House" part of a coupon is removed.

Classification

The Director, Southeast Region, NMFS, determined that Amendment 8 is necessary for the conservation and management of the reef fish fishery of the Gulf of Mexico and that it is consistent with the Magnuson Act and

other applicable laws, with the exception of those measures that were disapproved at the beginning of formal agency review based on a preliminary evaluation of Amendment 8. (See the proposed rule (60 FR 44825, August 29, 1995) for a discussion of the disapproved measures.)

This action has been determined to be not significant for purposes of E.O. 12866.

The Council prepared an initial regulatory flexibility analysis (IRFA) as part of its regulatory impact review of Amendment 8. The IRFA described the impacts that the proposed rule would have on small entities, if adopted. Those impacts were summarized in the proposed rule. NMFS prepared an FRFA, which adopts the IRFA without substantive change. A copy of the FRFA is available (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

This rule contains a new, one-time collection of information and three new continuing collections, namely: (1) The one-time submission of a request for appeal of tentative share allocations and of determinations of historical captain status; (2) the submission by fishermen and dealers of ITQ coupons; (3) requests for transfer of ITQ shares; and (4) monthly dealer reports when red snapper are received. These collections of information have been approved by OMB under OMB control numbers 0648–0297, 0648–0298, 0648–0299, and 0648–0301, respectively. The public reporting burdens for these collections of information are estimated to average 90, 0.5, 15, and 15 minutes per response, respectively.

This rule requires permits for dealers who receive red snapper harvested by permitted vessels from state waters adjoining the EEZ in the Gulf of Mexico. Previously, dealer permits were required only for those dealers receiving red snapper harvested in the EEZ. The collection of information for dealer permit applications is currently approved under OMB Control No. 0648-0205. The public reporting burden for this collection was estimated at 5 minutes per response and is unchanged by the revision.

This rule also involves the collection of information under Amendment 9 of landings records during the period 1990 through 1992. That collection is currently approved under OMB Control No. 0648-0281 and its public reporting burden is estimated at 2 hours per response.

Each of the above reporting burden estimates includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding any of these reporting burden estimates, or any other aspects of the collections of information, including suggestions for reducing the burdens, to NMFS and OMB (see **ADDRESSES**).

The publication of the OMB control numbers for approved collection-of-information requirements at 15 CFR part 902 does not constitute a substantive rule because it does not affect the activities of fishermen. The correction of the definition of "Science and Research Director" at 50 CFR 641.2, the addition of the prohibition at 50 CFR 641.7(s), which complements an existing requirement, and the clarification of the permit requirements at 50 CFR 641.7(ee) and 641.24(g) do not constitute substantive rules because they do not change existing requirements. Thus, pursuant to 5 U.S.C. 553(d), there is no need to delay the effective date of these provisions. The addition to the regulations at 50 CFR 641.10(c) contains administrative procedures necessary for timely implementation of the ITQ system. Each potential initial shareholder in the ITQ system was advised of these procedures in the proposed rule and by letter dated September 14, 1995. Delay in effectiveness of the administrative procedures would unnecessarily delay commencement of the ITQ system. Accordingly, the Assistant Administrator for Fisheries, NOAA, finds that, pursuant to 5 U.S.C. 553(d)(3), good cause exists to waive the 30-day delay in effective date of 50 CFR 641.10(c). To allow time for the determination of initial ITQ shares and for the distribution of ITQ coupons, NMFS makes the provisions of this final rule requiring ITQ coupons for the possession of red snapper in the commercial fishery effective on April 1, 1996.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 22, 1995.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902 and 50 CFR part 641 are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In part 902, paragraph (b) table, effective November 24, 1995 in the entries for 50 CFR in the right column, corresponding to entry 641.5 in the left column, the entry "–0013 and –0016." is removed and "–0013, –0016, and –0301." is added in its place; and in the left column, in numerical order "641.10" is added, and in the right column, in corresponding position, the entry "–0297, –0298, and –0299." is added.

50 CFR Chapter VI

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

3. The authority citation for part 641 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In § 641.1, paragraph (b) is revised to read as follows:

§ 641.1 Purpose and scope.

* * * * *

(b) This part governs conservation and management of reef fish in the Gulf of Mexico EEZ, except that §§ 641.5 and 641.25 also apply to reef fish from adjoining state waters and § 641.4(a)(2) and (q) also apply in the manner stated therein to red snapper from adjoining state waters. The Gulf of Mexico EEZ extends from the U.S./Mexico border to the intercouncil boundary between the South Atlantic and Gulf of Mexico Fishery Management Councils, as specified at 50 CFR 601.11(c). "EEZ" in this part refers to the EEZ in the Gulf of Mexico, unless the context clearly indicates otherwise.

5. In § 641.2, effective November 24, 1995, the definition of "Science and Research Director" is revised to read as follows:

§ 641.2 Definitions.

* * * * *

Science and Research Director means the Science and Research Director, Southeast Fisheries Science Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149, telephone: 305-361-5761; or a designee.

* * * * *

6. In § 641.4, the first sentence of paragraph (a)(2) and the third sentence of paragraph (i) are revised and paragraph (q) is added to read as follows:

§ 641.4 Permits and fees.

(a) * * *

(2) * * * A dealer who receives from a fishing vessel reef fish harvested from the EEZ, or red snapper from adjoining state waters harvested by or possessed on board a vessel with a permit issued under this section, must obtain an annual dealer permit. * * *

* * * * *

(i) * * * In addition, a copy of the dealer's permit must accompany each vehicle that is used to pick up from a fishing vessel reef fish harvested from the EEZ or red snapper from adjoining state waters harvested by or possessed on board a vessel with a permit issued under this section. * * *

* * * * *

(q) *Permit conditions.* (1) As a condition of a vessel permit issued under this section, without regard to where red snapper are harvested or possessed, a permitted vessel—

(i) Must comply with the red snapper individual transferable quota requirements of § 641.10(b).

(ii) May not transfer red snapper at sea or receive red snapper at sea.

(iii) Must maintain red snapper with head and fins intact through landing, and the exceptions to that requirement contained in § 641.21(b)(3) and (b)(4) do not apply to red snapper. Such red snapper may be eviscerated, gilled, and scaled but must otherwise be maintained in a whole condition.

(2) As a condition of a dealer permit issued under this section, without regard to where red snapper are harvested or possessed, a permitted dealer must comply with the red snapper individual transferable quota requirements of § 641.10(b).

7. In § 641.5, paragraph (d)(3) is redesignated as paragraph (d)(4), paragraph (d)(2) is revised, and paragraph (d)(3) is added to read as follows:

§ 641.5 Recordkeeping and reporting.

* * * * *

(d) * * *

(2) In any month that a red snapper is received, a dealer must report total poundage of red snapper received during the month, in whole or eviscerated weight, the average monthly price paid for red snapper by market size, and the proportion of total poundage landed by each gear type. The "Fish House" parts of red snapper individual transferable coupons, received during the month in accordance with § 641.10(b), must be submitted with the report to the Science and Research Director postmarked not later than 5 days after the end of the month.

(3) For reef fish other than red snapper, when requested by the Science and Research Director, a dealer must provide the following information from his/her record of reef fish received: Total poundage of each species received during the requested period, average monthly price paid for each species by market size, and proportion of total poundage landed by each gear type.

* * * * *

8. In § 641.7, effective November 24, 1995, paragraph (s) is revised and paragraph (ee) is added; and, effective April 1, 1996, paragraphs (g), (r), and (bb) are revised and paragraphs (ff) through (kk) are added to read as follows:

§ 641.7 Prohibitions.

* * * * *

(g) Possess a finfish without its head and fins intact, as specified in § 641.21(b); or a red snapper without its head and fins intact, as specified in § 641.4(q)(1)(iii).

* * * * *

(r) Transfer reef fish at sea, as specified in § 641.24(f); or transfer or receive red snapper at sea, as specified in § 641.4(q)(1)(ii).

(s) Purchase, barter, trade, or sell, or attempt to purchase, barter, trade, or sell, a reef fish—

(1) Harvested from the EEZ by a vessel that does not have a valid Federal permit, or

(2) Possessed under the bag limits—as specified in § 641.24(g).

* * * * *

(bb) Receive from a fishing vessel, by purchase, trade, or barter, reef fish harvested from the EEZ, or red snapper from adjoining state waters harvested by or possessed on board a vessel with a Federal permit, without a dealer permit, as specified in § 641.4(a)(2).

* * * * *

(ee) Falsify information required for administration of the individual transferable quota (ITQ) system specified in § 641.10.

(ff) Transfer an ITQ coupon by sale without the sale price completed thereon, as specified in § 641.10(b)(3).

(gg) Possess red snapper in or from the EEZ, or on board a federally permitted vessel, in an amount exceeding the total of the ITQ coupons on board or without the vessel permit on board, as specified in § 641.10(b)(4).

(hh) Fail to—

(1) Sign and date the "Vessel" part of ITQ coupons;

(2) Enter on the "Vessel" part the permit number of the dealer to whom red snapper are transferred; or

(3) Submit such coupon parts with the logbook forms for that fishing trip—as specified in § 641.10(b)(5).

(ii) Transfer red snapper harvested from the EEZ, or possessed by a permitted vessel, to a dealer who does not have a Federal permit, or fail to give a dealer the "Fish House" part of ITQ coupons, as specified in § 641.10(b)(6).

(jj) As a permitted dealer—

(1) Receive red snapper from a vessel that does not have a reef fish permit;

(2) Fail to receive the "Fish House" part of ITQ coupons in denominations at least equal to the eviscerated weight of red snapper received; or

(3) Fail to properly complete the "Fish House" parts of ITQ coupons—as specified in § 641.10(b)(7).

(kk) Fail to make ITQ coupons available to an authorized officer, as specified in § 641.10(b)(5) and (b)(7).

9. Effective November 24, 1995, § 641.10 consisting of paragraph (c) is added to subpart A; effective April 1, 1996, the introductory text and paragraphs (a) and (b) are added to read as follows:

§ 641.10 Red snapper individual transferable quota (ITQ) system.

The ITQ system established by this section will remain in effect through March 31, 2000, during which time NMFS and the Gulf of Mexico Fishery Management Council (Council) will evaluate the effectiveness of the system. Based on the evaluation, the system may be modified, extended, or terminated.

(a) *Percentage shares.* (1) Initial percentage shares of the annual commercial quota of red snapper are assigned to persons in accordance with the procedure specified in Amendment 8 to the Fishery Management Plan for the Reef Fish Fishery of the Gulf of Mexico (FMP) and in paragraphs (c)(1) through (c)(4) of this section. Each person is notified by the Regional Director of his or her initial percentage shares. If additional shares become available to NMFS, such as by forfeiture pursuant to subpart F of 15 CFR part 904 for rule violations, such shares will be proportionately reissued to shareholders based on their shares as of November 1, after the additional shares become available. If NMFS is required to issue additional shares, such as may

be required in the resolution of disputes, existing shares will be proportionately reduced. This reduction of shares will be based on shares as of November 1 after the required addition of shares.

(2) All or a portion of a person's percentage shares may be transferred to another person who is a U.S. citizen or permanent resident alien. (See paragraph (c)(5) of this section for restrictions on the transfer of shares in the initial months under the ITQ system.) Transfer of shares must be reported on a form available from the Regional Director. The Regional Director will confirm, in writing, the registration of each transfer. The effective date of each transfer is the confirmation date provided by the Regional Director. The confirmation of registration date will normally be not later than 3 working days after receipt of a properly completed transfer form. However, reports of share transfers received by the Regional Director from November 1 through December 31 will not be recorded or confirmed until after January 1. A fee is charged for each transfer of percentage shares. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service provided by NOAA to non-Federal recipients. The fee may not exceed such costs and is specified with each transfer form. The appropriate fee must accompany each transfer form.

(3) On or about January 1 each year, the Regional Director will provide each red snapper shareholder with a list of all red snapper shareholders and their percentage shares, reflecting share transfers as indicated on properly completed transfer forms received through October 31. Updated lists may be obtained at other times, and by persons who are not red snapper shareholders, by written request to the Regional Director.

(b) *ITQs.* (1) Annually, as soon after November 15 as the following year's red snapper commercial quota is established, the Regional Director will calculate each red snapper shareholder's ITQ in terms of eviscerated weight. Each ITQ is the product of the red snapper commercial quota, in whole weight, for the ensuing fishing year, the factor for converting whole weight to eviscerated weight, and each red snapper shareholder's percentage share, reflecting share transfers reported on forms received by the Regional Director through October 31.

(2) The Regional Director will provide each red snapper shareholder with ITQ coupons in various denominations, the total of which equals his or her ITQ, and a copy of the calculations used in determining his or her ITQ. Each coupon will be coded to indicate the initial recipient.

(3) An ITQ coupon may be transferred. If the transfer is by sale, the seller must enter the sale price on the coupon.

(4) Except when the red snapper bag limit applies, red snapper in or from the EEZ or on board a vessel that has been issued a reef fish permit under § 641.4 may not be possessed in an amount, in eviscerated weight, exceeding the total of ITQ coupons on board. (See § 641.24(a) for applicability of the bag limit.)

(5) Prior to termination of a trip, the operator's signature and the date signed must be written in ink on the "Vessel" part of ITQ coupons totaling at least the eviscerated weight of the red snapper on board. An owner or operator of a vessel must separate the "Vessel" part of each such coupon, enter thereon the permit number of the dealer to whom the red snapper are transferred, and submit the "Vessel" parts with the logbook forms for that fishing trip. An owner or operator of a vessel must make available to an authorized officer all ITQ coupons in his or her possession upon request.

(6) Red snapper harvested from the EEZ or possessed by a vessel with a permit issued under § 641.4 may be transferred only to a dealer with a permit issued under § 641.4. The "Fish House" part of each ITQ coupon must be given to such dealer, or the agent or employee of such dealer, in amounts totaling at least the eviscerated weight of the red snapper transferred to that dealer.

(7) A dealer with a permit issued under § 641.4 may receive red snapper only from a vessel that has on board a reef fish permit issued under § 641.4. A dealer, or the agent or employee of a dealer, must receive the "Fish House" part of ITQ coupons totaling at least the eviscerated weight of the red snapper received. Immediately upon receipt of red snapper, the dealer, or the agent or employee of the dealer, must enter the permit number of the vessel received from and date and sign each such "Fish House" part. The dealer must submit all such parts as required by § 641.5(d)(2). A dealer, agent, or employee must make available to an authorized officer all ITQ coupons in his or her possession upon request.

(c) *Procedures for implementation*—(1) *Initial shareholders.* The following persons are initial shareholders in the red snapper ITQ system:

(i) Either the owner or operator of a vessel with a valid permit on August 29, 1995, provided such owner or operator had a landing of red snapper during the period 1990 through 1992. If the earned income of an operator was used to qualify for the permit that is valid on August 29, 1995, such operator is the initial shareholder rather than the owner. In the case of an owner, the term "person" includes a corporation or other legal entity; and

(ii) A historical captain. A historical captain means an operator who—

(A) From November 6, 1989, through 1993, fished solely under verbal or written share agreements with an owner, and such agreements provided for the operator to be responsible for hiring the crew, who was paid from the share under his or her control;

(B) Landed from that vessel at least 5,000 lb (2,268 kg) of red snapper per year in 2 of the 3 years 1990, 1991, and 1992;

(C) Derived more than 50 percent of his or her earned income from commercial fishing, that is, sale of the catch, in each of the years 1989 through 1993; and

(D) Landed red snapper prior to November 7, 1989.

(2) *Initial shares.* (i) Initial shares are apportioned to initial shareholders based on each shareholder's average of the top 2 years' landings in 1990, 1991, and 1992. However, no person who is an initial shareholder under paragraph (c)(1) of this section will receive an initial percentage share that will amount to less than 100 lb (45.36 kg), whole weight, of red snapper (90 lb (41 kg), eviscerated weight).

(ii) The percentage shares remaining after the minimum shares have been calculated under paragraph (c)(2)(i) of this section are apportioned based on each remaining shareholder's average of the top 2 years' landings in 1990, 1991, and 1992. In a case where a landing is associated with an owner and a historical captain, such landing is apportioned between the owner and historical captain in accordance with the share agreement in effect at the time of the landing.

(iii) The determinations of landings of red snapper during the period 1990 through 1992 and historical captain status are made in accordance with the data collected under Amendment 9 to the FMP. Those data identify each red snapper landing during the period 1990 through 1992. Each landing is associated with an owner and, when an operator's earned income was used to qualify for the vessel permit at the time of the landing, with such operator. Where appropriate, a landing is also associated with a historical captain. However, a red snapper landings record during that period that is associated solely with an owner may be retained by that owner or transferred as follows:

(A) An owner of a vessel with a valid reef fish permit on August 29, 1995, who transferred a vessel permit to another vessel owned by him or her will retain the red snapper landings record for the previous vessel.

(B) An owner of a vessel with a valid reef fish permit on August 29, 1995, will retain the landings record of a permitted vessel if the vessel had a change of ownership to another entity without a substantive change in control of the vessel. It will be presumed that there was no substantive change in control of a vessel if a successor in interest received at least a 50 percent interest in the vessel as a result of the change of ownership whether the change of ownership was—

(*1*) From a closely held corporation to its majority shareholder;

(*2*) From an individual who became the majority shareholder of a closely held corporation receiving the vessel;

(*3*) Between closely held corporations with a common majority shareholder; or

(*4*) From one to another of the following: Husband, wife, son, daughter, brother, sister, mother, or father.

(C) In other cases of transfer of a permit through change of ownership of a vessel, an owner of a vessel with a valid reef fish permit on August 29, 1995, will receive credit for the landings record of the vessel before his or her ownership only if there is a legally binding agreement for transfer of the landings record.

(iv) Requests for transfers of landings records must be submitted to the Regional Director and must be postmarked not later than December 14, 1995.The Regional Director may require documentation supporting such request. After considering requests for transfers of landings records, the Regional Director will advise each initial shareholder or applicant of his or her tentative allocation of shares.

(3) *Notification of status.* The Regional Director will advise each owner, operator, and historical captain for whom NMFS has a record of a red snapper landing during the period 1990 through 1992, including those who submitted such record under Amendment 9 to the FMP, of his or her tentative status as an initial shareholder and the tentative landings record that will be used to calculate his or her initial share.

(4) *Appeals.* (i) A special advisory panel, appointed by the Council to function as an appeals board, will consider written requests from persons who contest their tentative status as an initial shareholder, including historical captain status, or tentative landings record. In addition to considering written requests, the board may allow personal appearances by such persons before the board.

(ii) The panel is only empowered to consider disputed calculations or determinations based on documentation submitted under Amendment 9 to the FMP regarding landings of red snapper during the period 1990 through 1992, including transfers of such landings records, or regarding historical captain status. In addition, the panel may consider applications and documentation of landings not submitted under Amendment 9 if, in the board's opinion, there is justification for the late application and documentation. The board is not empowered to consider an application from a person who believes he or she should be eligible because of hardship or other factors.

(iii) A written request for consideration by the board must be submitted to the Regional Director, postmarked not later than December 27, 1995, and must contain documentation supporting the allegations that form the basis for the request.

(iv) The board will meet as necessary to consider each request that is submitted in a timely manner. Members of the appeals board will provide their individual recommendations for each appeal to the Council, which will in turn submit its recommendation to the Regional Director. The board and the Council will recommend whether the eligibility criteria, specified in Amendment 8 to the FMP and paragraphs (c)(1) and (c)(2) of this section, were correctly applied in each case, based solely on the available record including documentation submitted by the applicant. The Council will also base its recommendation on the recommendations of the board. The Regional Director will decide the appeal based on the above criteria and the available record, including documentation submitted by the applicant and the recommendation of the Council. The Regional Director will notify the appellant of his decision and the reason therefor, in writing, normally within 45 days of receiving the Council's recommendation. The Regional Director's decision will constitute the final administrative action by NMFS on an appeal.

(v) Upon completion of the appeal process, the Regional Director will issue share certificates to initial shareholders.

(5) *Transfers of shares.* The following restrictions apply to the transfer of shares:

(i) The transfer of shares is prohibited through September 30, 1996.

(ii) From October 1, 1996, through September 30, 1997, shares may be transferred only to other persons who are initial shareholders and are U.S. citizens or permanent resident aliens.

10. In § 641.24, effective November 24, 1995, paragraph (g) is revised; and, effective April 1, 1996, paragraphs (a)(2) and (a)(3) are redesignated as paragraphs (a)(3) and (a)(4), respectively, in newly redesignated paragraph (a)(4), the reference to "paragraph (a)(2)(ii)(C)" is revised to read "paragraph (a)(1)(ii)(C)", and paragraph (a)(2) is added to read as follows:

§ 641.24 Bag and possession limits.

(a) * * *

(2) In addition, the bag limit for red snapper applies to a person on board a vessel with a permit specified in § 641.4 when that vessel does not have ITQ coupons on board.

* * * * *

(g) *Sale.* A reef fish harvested in the EEZ by a vessel that does not have a valid permit, as required by § 641.4(a)(1), or possessed under the bag limits specified in paragraph (b) of this section, may not be purchased, bartered, traded, or sold, or attempted to be purchased, bartered, traded, or sold.

[FR Doc. 95–29102 Filed 11–24–95; 12:10 am]

BILLING CODE 3510–22–F

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Wage and Hour Division

29 CFR Part 508

[RIN 1205–AA88 and RIN 1215–AA]

Attestations by Employers for Off-Campus Work Authorization for Foreign Students (F–1 Nonimmigrants)

AGENCIES: Employment and Training Administration, Labor; and Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Joint interim final rule.

SUMMARY: The Department of Labor (DOL) amends regulations relating to attestations by employers seeking to use nonimmigrant foreign (F–1) students in off-campus work. Pursuant to a previous

interim final rule, existing attestations expire at the close of November 1995. The rule published today amends the regulations to extend the period of applicability of attestations through September 30, 1996, the expiration date for the F–1 program.

EFFECTIVE DATE: November 30, 1995.

FOR FURTHER INFORMATION CONTACT: On 20 CFR part 655, subpart J, and 29 CFR part 508, subpart J, contact Ms. Flora T. Richardson, Chief, Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N–4456, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202–219–5263 (this is not a toll-free number).

On 20 CFR part 655, subpart K, and 29 CFR part 508, subpart K, contact Mr. Thomas Shierling, Office of Enforcement Policy, Immigration Team, Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S–3510, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202-219–7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Immigration Act of 1990 (IMMACT) sec. 221 and Immigration and Nationality Act secs. 101(a)(15)(F) and 214 create a pilot program, of limited duration, allowing a nonimmigrant foreign student admitted on an F–1 visa to work off-campus if: (1) he/she has completed one academic year as such a nonimmigrant and is maintaining good academic standing at the institution; (2) he/she will not be employed off-campus for more than 20 hours per week during the academic term (but may be employed full-time during vacation periods and between terms); and (3) the employer provides an attestation to the Department of Labor (DOL) and to the educational institution that it unsuccessfully recruited for the position for at least 60 days and will pay the higher of the actual wage at the worksite or the prevailing wage for the occupation in the area of employment. The employer submits such attestations to DOL and the educational institution for foreign students to receive work authorization, if otherwise qualified. The attestation process is administered by the Employment and Training Administration. Complaints and investigations regarding violations of employer attestations are handled by the Wage and Hour Division, Employment Standards Administration. If DOL determines an employer made a materially false attestation or failed to pay wages in accordance with an attestation, the employer, after notice and opportunity for a hearing, may be disqualified from employing F–1 students under the program.

An interim final rule, requesting comments, was published November 6, 1991. 56 FR 56860. The interim final rule provided that the employer's attestation may remain in effect, unless withdrawn or invalidated, through no later than September 30, 1994, the original statutory termination date for the pilot. Public Law 103–416 extended the program to September 30, 1996. Since the enactment of the program extension, DOL periodically has extended existing attestations, currently through November 30, 1995. Analysis of the comments is ongoing. The rule published today extends existing attestations through the program's expiration date, September 30, 1996. Should the program be extended by Congress beyond that date, the Department expects to publish a final rule.

Absent today's amendment, all previously valid attestations would expire at the close of November 30, 1995, and no new attestations could be filed. Without this amendment, F–1 students would not have work authorization under this program. New attestations filed after the effective date of today's rule also are valid through September 30, 1996 unless withdrawn or invalidated. Toda ''s rule alleviates hardships for covered students and employers, and the limited extension gives DOL additional opportunity to complete analysis of comments on the interim final rule.

For these reasons, DOL for good cause finds a proposed rule is impracticable and contrary to the public interest (5 U.S.C. 553(b)(B)); and finds good cause to make the rule effective immediately (5 U.S.C. 553(d)(3)). The rule is not significant under E.O. 12866. The rule was not preceded by a proposed rule and, thus, is not covered by the Regulatory Flexibility Act. When the interim final rule was published, however, DOL notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b), that the rule did not have a significant economic impact on a substantial number of small entities. The program is not in the *Catalog of Federal Domestic Assistance.*

List of Subjects

20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Crewmembers, Employment, Enforcement, Forest and forest products, Guam, Health professions, Immigration, Labor, Longshore work, Migrant labor, Nurse, Penalties, Registered nurse, Reporting and recordkeeping requirements, Specialty occupation, Students, Wages.

29 CFR Part 508

Administrative practice and procedure, Aliens, Employment, Enforcement, Immigration, Labor, Penalties, Reporting and recordkeeping requirements, Specialty occupation, Students, Wages.

Text of Joint Interim Final Rule

The text of the joint interim final rule appears below:

1. Section ____.900(b)(2)(i) is amended by removing the date "November 30, 1995" and adding in lieu thereof the date "September 30, 1996".

2. Section ____.900(d) is amended by removing the date "November 30, 1995" and adding in lieu thereof the date "September 30, 1996".

3. Section ____.900 is amended by revising paragraph (e), to read as follows:

§ ____.900 Purpose, procedure and applicability of subparts J and K of this part.

* * * * *

(e) *Revalidation of employer attestations in effect on November 30, 1995.* Any employer's attestation which was valid on November 30, 1995, is revalidated effective on November 30, 1995, and shall remain valid through September 30, 1996, unless withdrawn or invalidated.

4. Section ____.910(b)(2)(i) is amended by removing the phrase "through November 30, 1995" and adding in lieu thereof the phrase "through September 30, 1996".

5. Section ____.910(e) is amended by removing from the first sentence the phrase "after November 30, 1995" and adding in lieu thereof the phrase "after September 30, 1996"; and by removing from the penultimate sentence the phrase "prior to November 30, 1995" and adding in lieu thereof the phrase "prior to September 30, 1996".

6. Section ____.940(d)(1)(i)(B) is amended by removing the date "November 30, 1995" and adding in lieu thereof the date "September 30, 1996".

7. Section ____.940(h)(1) is amended by removing the date "November 30, 1995" and adding in lieu thereof the date "September 30, 1996".

8. Section ____.940(h)(3) is amended by removing the date "November 30, 1995" and adding in lieu thereof the date "September 30, 1996".

Adoption of Joint Interim Final Rule

The agency-specific adoption of the Joint Interim Final Rule, which appears at the end of the common preamble, appears below:

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

1. Part 655 of chapter V of title 20, Code of Federal Regulations, is amended as follows:

PART 655—TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

a. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(H) (i) and (ii), 1182 (m) and (n), 1184, 1188, and 1288(c); 29 U.S.C. 49 *et seq.*; sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); and 8 CFR 214.2(h)(4)(i).

Section 665.00 issued under 8 U.S.C. 1101(a)(15)(H)(ii), 1184, and 1188; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subparts A and C issued under 8 U.S.C. 1101(a)(15)(H)(ii)(b) and 1184; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184, and 1188; and 29 U.S.C. 49 *et seq.*

Subparts D and E issued under 8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m), and 1184; 29 U.S.C. 49 *et seq.*; and sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note).

Subparts F and G issued under 8 U.S.C. 1184, and 1288(c); and 29 U.S.C. 49 *et seq.*

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184; and 29 U.S.C. 49 *et seq.*

Subparts J and K issued under 29 U.S.C. 49 *et seq.*; and sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

b. Part 655 is amended as set forth in the Joint Interim Final Rule, which appears at the end of the common preamble.

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

2. Part 508 of chapter V of title 29, Code of Federal Regulations, is amended as follows:

PART 508—ATTESTATIONS FILED BY EMPLOYERS UTILIZING F–1 STUDENTS FOR OFF-CAMPUS WORK

a. The authority citation for part 508 continues to read as follows:

Authority: 29 U.S.C. 49 *et seq.*; and sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

b. Part 508 is amended as set forth in the Joint Interim Final Rule, which appears at the end of the common preamble.

Signed at Washington, DC, this 21st day of November, 1995.

Raymond Uhalde,

Deputy Assistant Secretary for Employment and Training.

John R. Fraser,

Acting Administrator, Wage and Hour Division, Employment Standards Administration.

[FR Doc. 95–28967 Filed 11–28–95; 8:45 am]

BILLING CODE 4510–30–P; 4510–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018–AD27

Addition of Deep Fork National Wildlife Refuge to the List of Open Areas for Sport Fishing in Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) adds Deep Fork National Wildlife Refuge to the list of areas open for sport fishing in Oklahoma along with pertinent refugee-specific regulations for such activities. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resources.

EFFECTIVE DATE: This rule is effective December 29, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240; Telephone (703) 358–2029, X–5242.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking opens Deep Fork National Wildlife Refuge to sport fishing.

In the July 13, 1995, issue of the **Federal Register**, 60 FR 36200, the Service published a proposed rulemaking and invited public comment. No comments were received during the 60-day public comment period.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, Section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when the Secretary determines that such uses are compatible with the purposes for which each refuge was established. The Director of the U.S. Fish and Wildlife Service (Director), administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established.

Opening Package

In preparation for this opening, the refuge included in its "opening package" for Regional review and approval from the Washington Office the following documents: a management plan for recreational fishing; an environmental assessment; a Finding of No Significant Impact (FONSI); a Section 7 statement, pursuant to the Endangered Species Act, that this opening is not likely to adversely affect a listed species or its critical habitat; and refuge-specific regulations to administer the fishing program. From a review of the totality of these documents, the Service has determined that the opening of the Deep Fork National Wildlife Refuge to sport fishing is compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSAA and the RRA, the Service also determined that this opening for sport fishing is

compatible and consistent with the primary purposes for which the refuge was established. The Service has also determined that there are sufficient funds to administer the fishing program. A brief description of the fishing program is as follows:

Deep Fork National Wildlife Refuge

The legislature of Oklahoma passed H.B. 1904 on May 17, 1990, authorizing the Fish and Wildlife Service (Service) to acquire and develop a national waterfowl refuge in Okmulgee County, Oklahoma. Accordingly, Deep Fork National Wildlife Refuge was established on June 30, 1993, under the authority of the Emergency Wetlands Resources Act of 1986 (P.L. 99–645, 100 Stat. 3582). The refuge acreage totals 6,801 currently; however, an established acquisition boundary will eventually include 16,104 acres. The refuge is located along the Deep Fork River in Oklahoma.

The purposes of the refuge are to contribute to the conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions (16 U.S.C. § 3901(b)) (Emergency Wetlands Resources Act of 1986).

The Deep Fork National Wildlife Refuge is located in the Deep Fork River Basin, upstream from Eufaula Reservoir. The majority of the area contains palustrine forested wetlands. Numerous sloughs exist along the river channel. Some of the sloughs exceed four feet in depth.

The numerous wetlands along the Deep Fork River are rich in diversity of wildlife. A total of 147 species of birds (8 game and 139 non-game) occur in the bottomland forest and the associated wetlands. The Deep Fork River provides feeding and spawning habitat for a variety of fish native to east central Oklahoma. Channel catfish, blue catfish, flathead catfish, crappie, white bass, and largemouth bass are the most important economically.

Sport fishing was addressed in the environmental assessment for land acquisition as a desirable activity and was listed in the Oklahoma legislation authorizing the Service to establish the refuge. Opening the area to sport fishing will aid in meeting the general refuge objective of wildlife oriented recreation. There is significant demand in the local community for sport fishing, and it is anticipated that there will be approximately 3,500 use-days of sport fishing annually at the refuge.

Bank fishing will be allowed on the refuge year-around. Fishing will be permitted on the sloughs separated from the river from March 1 through September 30 with pole and line only. Use of firearms is prohibited. The public will be allowed to bank fish along the Deep Fork River within the refuge boundary. They will also be permitted to launch small hand-powered boats or canoes from the bank. Improved boat ramps will not be available. Signs will be placed at major access points showing the fishing regulations. In addition, maps and printed refuge-specific regulations will be available. The refuge views this initial sport fishing program as "interim," as further acquisition within the refuge boundary will require revisions and amendments to the plan in the future.

Species available, but not limited to, include channel catfish, flathead catfish, blue catfish, crappie, white bass, and largemouth bass. The Oklahoma Department of Wildlife Conservation has established daily possession limits and means of taking to protect individual species. Refuge-specific regulations are consistent with state regulations and will be observed on the refuge.

Paperwork Reduction Act

The information collection requirements for part 32 are found in 50 CFR part 25 and have been approved by the Office of Management and Budget under Public Law 104–13 and assigned clearance number 1018–0014. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Economic Effect

This rulemaking is not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) has revealed that the rulemaking will not have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. While the fishing program could increase the fishing licenses purchased and boost sales of fishing gear and tackle, the impact is not as significant as other surrounding areas. Also, opening the refuge to fishing and the addition of the refuge to local fishing waters will be only proportionally relevant to small entities. Therefore, this rule will have minimal effect on such entities.

Federalism

This rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among their various levels. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient Federalism implications to warrant preparing a Federalism Assessment.

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared for this opening. Based upon the Environmental Assessment, the Service issued a Finding of No Significant Impact with respect to the opening. A Section 7 evaluation was prepared pursuant to the Endangered Species Act with a finding that no adverse impact would occur to any identified threatened or endangered species or their habitats.

Primary Author: Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, Fishing, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

Accordingly, part 32 of chapter I of Title 50 of the *Code of Federal Regulations* is amended as set forth below:

PART 32—[AMENDED]

1. The authority citation for part 32 continues to read as follows;

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

§ 32.7 [Amended]

2. Section 32.7 *List of refuge units open to hunting and/or fishing* is amended by adding the alphabetical listing of "Deep Fork National Wildlife Refuge" under the state of Oklahoma.

3. Section 32.55 *Oklahoma* is amended by adding the alphabetical listing of Deep Fork National Wildlife Refuge to read as follows:

§ 32.55 Oklahoma.

* * * * *

Deep Fork National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved.]

B. Upland Game Hunting. [Reserved.]

C. Big Game Hunting. [Reserved.]

D. Sport Fishing. Sport fishing for channel catfish, flathead catfish, blue catfish, crappie, white bass, large mouth bass and other species is permitted on designated areas of the refuge in accordance with State regulations and pursuant to the following special refuge conditions:

1. Bank fishing is permitted year-round on the Deep Fork River. Bank fishing with pole and line is permitted from March 1 through September 30 on the sloughs separated from the Deep Fork River.

2. Boats may be launched on the refuge from access points designated in the refuge leaflet. Only small boats or canoes will be permitted on the refuge.

3. The use of firearms is prohibited.

* * * * *

Dated: October 25, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–29100 Filed 11–28–95; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 112495A]

Groundfish of the Gulf of Alaska; Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catches of Pacific cod by these vessels in the Central Regulatory Area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the allocation of Pacific cod specified for the inshore component in this area has been reached.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), November 29, 1995, until 12 midnight A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii)(B), the allocation of Pacific cod for the inshore component in the Central Regulatory Area was established by the Final 1995 Harvest Specifications of Groundfish (60 FR 8470, February 14, 1995) as 41,085 metric tons (mt).

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(c)(3), that the allocation of Pacific cod total allowable catch (TAC) specified for the inshore component in the Central Regulatory Area in the GOA, has been reached. Therefore, NMFS is requiring that further catches of Pacific cod by operators of vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area in the GOA, be treated as prohibited species in accordance with § 672.20(e).

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 24, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29177 Filed 11–24–95; 3:21 pm]

BILLING CODE 3510–22–F

50 CFR Parts 672 and 675

[Docket No. 900833–1095; I.D. 111795B]

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Bycatch Rate Standards for the First Half of 1996

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Pacific halibut and red king crab bycatch rate standards; request for comments.

SUMMARY: NMFS announces Pacific halibut and red king crab bycatch rate standards for the first half of 1996. Publication of these bycatch rate standards is necessary under regulations implementing the vessel incentive program. This action is necessary to implement the bycatch rate standards for trawl vessel operators who participate in the Alaska groundfish trawl fisheries. The intent of this action is to reduce prohibited species bycatch rates and promote conservation of groundfish and other fishery resources.

DATES: Effective 12:01 am, Alaska local time (A.l.t.), January 20, 1996, through 12 midnight, A.l.t., June 30, 1996. Comments on this action must be received at the following address no later than 4:30 p.m., A.l.t., December 28, 1995.

ADDRESSES: Comments should be mailed to Ronald J. Berg, Chief, Fisheries Management Division, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel; or be delivered to 709 West 9th Street, Federal Building, Room 401, Juneau, AK.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, 907–586–7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) and Gulf of Alaska (GOA) are managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMPs are implemented by regulations for the U.S. fishery at 50 CFR parts 672, 675, and 676. General regulations that also pertain to the U.S. fisheries appear at 50 CFR part 620.

Regulations at §§ 672.26 and 675.26 implement a vessel incentive program to reduce halibut and red king crab bycatch rates in the groundfish trawl fisheries. Under the incentive program, operators of trawl vessels may not exceed Pacific halibut bycatch rate standards specified for the BSAI and GOA midwater pollock and "other trawl" fisheries, and the BSAI yellowfin sole and 'bottom pollock' fisheries. Vessel operators also may not exceed red king crab bycatch rate standards specified for the BSAI yellowfin sole and "other trawl" fisheries in Bycatch Limitation Zone 1 (defined in § 675.2). The fisheries included under the incentive program are defined in regulations at §§ 672.26(b) and 675.26(b).

Regulations at §§ 672.26(c) and 675.26(c) require that halibut and red king crab bycatch rate standards for each fishery included under the incentive program be published in the **Federal Register**. The standards are in effect for specified seasons within the 6-month periods of January 1 through June 30, and July 1 through December 31. Given that the GOA and BSAI groundfish fisheries are closed to trawling from January 1 to January 20 of each year (§§ 672.23(e) and 675.23(d), respectively), the Regional Director is promulgating bycatch rate standards for the first half of 1996 effective from January 20, 1996, through June 30, 1996.

At its September 1995 meeting, the Council reviewed halibut and red king crab bycatch rates experienced by vessels participating in the fisheries under the incentive program during 1992–1995. The Council also reviewed individual vessel performance during 1994 and 1995 relative to specified bycatch rate standards. Based on this and other information presented below, the Council recommended halibut and red king crab bycatch rate standards for the first half of 1996. These standards are unchanged from those specified for the first half of 1994 and 1995. The Council's recommended bycatch rate standards are listed in Table 1.

TABLE 1.—BYCATCH RATE STANDARDS, BY FISHERY AND QUARTER (QT), FOR THE FIRST HALF OF 1996 FOR PURPOSES OF THE VESSEL INCENTIVE PROGRAM IN THE BSAI AND GOA

Fishery and quarter	1996 bycatch rate standard
Halibut bycatch rate standards (kilogram (kg) of halibut/metric ton (mt) of groundfish catch	
BSAI Midwater pollock:	
Qt 1	1.0
Qt 2	1.0
BSAI Bottom pollock:	
Qt 1	7.5
Qt 2	5.0
BSAI Yellowfin sole:	
Qt 1	5.0
Qt 2	5.0
BSAI Other trawl:	
Qt 1	30.0
Qt 2	30.0
GOA Midwater pollock:	
Qt 1	1.0
Qt 2	1.0
GOA Other trawl:	
Qt 1	40.0
Qt 2	40.0
Zone 1 red king crab bycatch rate standards (number of crab/mt of groundfish catch)	
BSAI yellowfin sole:	
Qt 1	2.5
Qt 2	2.5
BSAI Other trawl:	
Qt 1	2.5
Qt 2	2.5

As required by §§ 672.26(c) and 675.26(c), the Council's recommended bycatch rate standards for January through June are based on the following information:

(A) Previous years' average observed bycatch rates;

(B) Immediately preceding season's average observed bycatch rates;

(C) The bycatch allowances and associated fishery closures specified under §§ 672.20(f) and 675.21;

(D) Anticipated groundfish harvests;

(E) Anticipated seasonal distribution of fishing effort for groundfish; and

(F) Other information and criteria deemed relevant by the Director of the Alaska Region, NMFS (Regional Director).

The recommended 1996 standards are based largely on anticipated seasonal fishing effort for groundfish species and 1992–1995 halibut and red king crab bycatch rates observed in the trawl fisheries included under the incentive program. The Council anticipates that the 1996 prohibited species bycatch allowances, groundfish harvests, and seasonal distribution of fishing effort will be similar to 1995. Under this assumption, additional information considered by the Council when recommending the 1996 bycatch rate standards is discussed in the **Federal Register** publication of the bycatch rate standards for the first half of 1995 (60 FR 2905, January 12, 1995).

Bycatch Rate Standards for Pacific Halibut

As in past years, the halibut bycatch rate standard recommended for the BSAI and GOA midwater pollock fisheries (1 kg halibut/mt of groundfish) is higher than the bycatch rates normally experienced by vessels participating in these fisheries. The recommended standard is intended to encourage vessel operators to maintain off-bottom trawl operations and limit further bycatch of halibut in the pollock fishery when halibut bycatch restrictions at §§ 672.20(f)(3)(i) and 675.21(c)(1)(iii) prohibit directed fishing for pollock by vessels using nonpelagic trawl gear.

The recommended halibut bycatch rate standards for the BSAI "bottom pollock" fishery continue to approximate the average annual rates observed on trawl vessels participating in this fishery during the past 5 years. During the first and second quarters of 1995, the average halibut bycatch rates in this fishery were 1.95 and 6.82 kg halibut/mt groundfish, respectively. As in past years, the directed fishing allowances specified for the 1996 pollock roe or "A" season likely will be reached before the end of the "A" season on April 15. Directed fishing for pollock is prohibited from the end of the pollock "A" season (April 15) until the beginning of the pollock "B" season (August 15), except by vessels fishing under the Community Development Quota (CDQ) program (50 CFR 675.27).

Data available on halibut bycatch rates in the yellowfin sole fishery during the first and second quarters of 1995 showed an average bycatch rate of about 3.67 and 4.00 kg halibut/mt of groundfish, respectively. As in past years, the Council has presumed that a bycatch rate standard of 5.0 kg halibut/mt of groundfish for the yellowfin sole fishery will continue to encourage vessel operators to take action to avoid excessively high bycatch rates of halibut.

A 30 kg halibut/mt of groundfish bycatch rate standard was recommended for the BSAI "other trawl" fishery. This standard is unchanged since 1992. The Council recommended a 40 kg halibut/mt of groundfish bycatch rate standard for the GOA "other trawl" fishery, which is unchanged from 1994. The reasons for these bycatch rate standards are discussed in the January 12, 1995, publication of bycatch rate standards (60 FR 2905). Observer data collected from the 1995 BSAI "other trawl" fishery show first and second quarter halibut bycatch rates of 11 and 17 kg halibut/mt of groundfish, respectively. Observer data collected from the 1995 GOA "other trawl" fishery show first and second quarter halibut bycatch rates of 17 and 64 kg halibut/mt of groundfish, respectively. At its September 1995 meeting, the Council's Advisory Panel had recommended the halibut bycatch rate standard for the GOA "other trawl" fishery be increased to 50 kg halibut/mt groundfish in consideration of the average second quarter rate experienced by that fishery in 1995. However, the Council recommended that the bycatch rate standards remain unchanged from 40 kg halibut/mt groundfish to maintain a stronger incentive for GOA trawl vessels to take action to avoid unacceptably high bycatch rates. Unlike the second quarter of 1995, the average bycatch rates experienced by vessels participating in the GOA and BSAI "other trawl" fisheries generally have been lower than the Council's recommended bycatch rate standards for these fisheries. The Council determined that its recommended halibut bycatch rate standards for the "other trawl" fisheries would continue to provide an incentive to vessel operators to avoid unusually high halibut bycatch rates while participating in these fisheries and contribute towards an overall reduction in halibut bycatch rates experienced in the Alaska trawl fisheries. Furthermore, these standards would provide some leniency to those vessel operators that choose to use large mesh trawl gear in the BSAI rock sole fishery (a component fishery of the BSAI "other trawl" fishery) as a means to reduce groundfish discard amounts. The bycatch rates of halibut and crab could increase for those vessels using this gear type, but observer data do not exist on which to base a revised bycatch rate standard for these operations. The Council recommended maintaining the current bycatch rate standard for the BSAI "other trawl" fishery until observer data becomes available that would provide a basis for bycatch rate standards for vessels using large mesh trawl gear.

Bycatch Rate Standards for Red King Crab

The Council's recommended red king crab bycatch rate standard for the BSAI yellowfin sole and "other trawl" fisheries in Zone 1 of the Bering Sea subarea is 2.5 crab/mt of groundfish during the first half of 1996. This standard is unchanged since 1992. A discussion of the justification for this bycatch rate standard is presented in the January 12, 1995, publication of bycatch rate standards for the first half of 1995 (60 FR 2905). The red king crab bycatch rates experienced by the yellowfin sole and the "other trawl" fisheries in Zone 1 during the first quarter of 1995 averaged about 0.30 and 0.32 crab/mt of groundfish, respectively. The bycatch rates of red king crab experienced in these two fisheries during the second quarter of 1995 were reduced significantly (0.02 and 0 crab/mt groundfish, respectively). This reduction was attributed primarily to closure of Zone 1 to the yellowfin sole fishery on April 4, 1995, and to the Pacific cod trawl fishery on March 30, 1995, due to the attainment of Zone 1 *C. bairdi* Tanner crab bycatch allowances. The BSAI also was closed to the rock sole/flathead sole/other flatfish fisheries on February 21 until March 30 and April 17 until July 1 due to the attainment of seasonal halibut bycatch allowances. The total bycatch of red king crab by vessels participating in the 1995 yellowfin sole and "other trawl" fisheries is estimated at about 30,000 crab, or about 15 percent of the 200,000 red king crab bycatch limit established for the trawl fisheries in Zone 1. The 1995 bycatch amounts of red king crab are reduced substantially from those experienced in 1995 (244,634 crab). This reduction is due primarily to an emergency rule closure in 1995 of an area within Zone 1 to reduce red king crab bycatch rates in the trawl fisheries (60 FR 4866, January 25, 1995). At its September 1995 meeting, the Council adopted an amendment to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area that, if approved by NMFS, would implement a similar trawl closure on a permanent basis. For 1996, NMFS intends to pursue the Council's recommendation for a trawl closure to reduce red king crab bycatch rates through an inseason closure action. NMFS expects that the 1996 red king crab bycatch rates in Zone 1 will be similar to those experienced in 1995. In anticipation that red king crab bycatch allowances will not be exceeded in 1996 and that the red king crab bycatch limit will restrict bycatch amounts to specified levels, the Council maintained the 2.5 red king crab/mt of groundfish bycatch rate standard.

The Regional Director has determined that Council recommendations for bycatch rate standards are appropriately based on the information and considerations necessary for such determinations under §§ 672.26(c) and 675.26(c). Therefore, the Regional Director concurs in the Council's determinations and recommendations for halibut and red king crab bycatch rate standards for the first half of 1996 as set forth in Table 1. These bycatch rate standards may be revised and published in the **Federal Register** when deemed appropriate by the Regional Director pending his consideration of the information set forth at §§ 672.26(c)(2)(v) and 675.26(c)(2)(v).

As required in regulations at §§ 672.26(a)(2)(iii) and 675.26(a)(2)(iii), the 1996 fishing months are specified as the following periods for purposes of calculating vessel bycatch rates under the incentive program:

Month 1: January 1 through February 3;
Month 2: February 4 through March 2;
Month 3: March 3 through March 30;
Month 4: March 31 through April 27;
Month 5: April 28 through June 1;
Month 6: June 2 through June 29;
Month 7: June 30 through August 3;
Month 8: August 4 through August 31;
Month 9: September 1 through September 28;
Month 10: September 29 through November 2;
Month 11: November 3 through November 30; and
Month 12: December 13 through December 31.

Classification

This action is taken under 50 CFR 672.26 and 675.26 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 22, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29104 Filed 11–28–95; 8:45 am]
BILLING CODE 3510–22–P

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50 CFR Part 675

[Docket No. 950830223–5273–02; I.D. 082395C]

RIN 0648–AE97

Groundfish of the Bering Sea and Aleutian Islands Area; Chinook Salmon Savings Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is implementing Amendment 21b to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). This amendment prohibits the use of trawl gear in specified areas of the Bering Sea and Aleutian Islands management area (BSAI) until April 15 of a fishing year if and when 48,000 chinook salmon are taken as bycatch by trawl vessels in the BSAI during the period from January 1 until April 15 of that fishing year. This action is necessary to limit chinook salmon bycatch in the trawl fisheries and is intended to promote the objectives of the FMP.

EFFECTIVE DATE: January 1, 1996.

ADDRESSES: Copies of Amendment 21b and the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) prepared for Amendment 21b are available from the North Pacific Fishery Management Council, 605 W. 4th Avenue, Anchorage, AK 99510; telephone: 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Sally Bibb, 907–586–7228.

SUPPLEMENTARY INFORMATION: Fishing for groundfish by U.S. vessels in the exclusive economic zone of the BSAI is managed by NMFS according to the FMP prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act). The FMP is implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 675 and 676. General regulations that also pertain to U.S. fisheries are codified at 50 CFR part 620.

Chinook salmon are caught incidentally in trawl fisheries in the BSAI management area. They are a prohibited species in the trawl fisheries and must be discarded after being counted by a NMFS-certified observer.

Chinook salmon bycatch in the domestic BSAI trawl fisheries exceeded 20,000 fish in 1987, 1988, and 1989, and exceeded 40,000 fish in 1991, 1992, 1993, and 1994. Chinook salmon bycatch in 1995 is estimated to be approximately 20,000 fish through September 23.

Concern about bycatch in the groundfish trawl fisheries exists because incidental harvests reduce the amount of chinook salmon available for escapement and subsistence, commercial, and recreational fisheries. From about 50 percent to over 90 percent of the chinook salmon bycatch in the BSAI is believed to originate from Western Alaska. Minimum escapement goals for several systems in the Yukon River, Kuskokwim River, and portions of Bristol Bay were not met in the mid- and late-1980's. Although escapement has improved in recent years, these goals are only being met through careful management of directed fisheries by time, area, and gear restrictions, and through increased abundance of chinook salmon. In addition, chinook salmon is one of the major food items of the Yup'ik Eskimo and Athabaskan Indians of Western and Interior Alaska and plays an important role in supporting the indigenous cultures and mixed, subsistence-cash socioeconomic systems of these peoples. Finally, commercial and recreational chinook salmon fishing provides a primary source of income in Western Alaska communities.

A proposed rule to implement Amendment 21b to the FMP was published in the **Federal Register** on September 8, 1995 (60 FR 46811). Public comment on the proposed rule was invited through October 20, 1995. A notice of availability for Amendment 21b was published in the **Federal Register** on August 21, 1995 (60 FR 45392). Comments on Amendment 21b were accepted through October 24, 1995. Five letters containing nine comments were received within the comment period. These comments are summarized in the "Response to Comments" section below.

Amendment 21b was approved by NMFS on November 20, 1995, under section 304(b) of the Magnuson Act. Upon reviewing the reasons for Amendment 21b and the comments on the proposed rule to implement it, NMFS has determined that this final rule creating a Chinook Salmon Savings Area (CHSSA) is necessary for fishery conservation and management. These measures are unchanged from the proposed rule.

Three non-contiguous areas of the BSAI comprised of nine ½° latitude by 1° longitude blocks constitute the CHSSA. The CHSSA will be monitored for incidental catches of chinook salmon in the trawl fisheries during the period from January 1 until April 15 of each fishing year. If an annual prohibited species catch (PSC) limit is reached in the BSAI during that period, the CHSSA will then be closed to vessels using trawl gear. If closed, the CHSSA will reopen April 15 for the remainder of the year, regardless of the amount of chinook salmon bycatch.

The CHSSA are:

(1) The area defined by straight lines connecting the following coordinates in the order listed:

56° 30′ N., 171° 00′ W.;
56° 30′ N., 169° 00′ W.;
56° 00′ N., 169° 00′ W.;
56° 00′ N., 171° 00′ W.; and
56° 30′ N., 171° 00′ W.

(2) The area defined by straight lines connecting the following coordinates in the order listed:

54° 00′ N., 171° 00′ W.;
54° 00′ N., 170° 00′ W.;
53° 00′ N., 170° 00′ W.;
53° 00′ N., 171° 00′ W.; and
54° 00′ N., 171° 00′ W.

(3) The area defined by straight lines connecting the following coordinates in the order listed:

56° 00′ N., 165° 00′ W.;
56° 00′ N., 164° 00′ W.;
55° 00′ N., 164° 00′ W.;
55° 00′ N., 165° 00′ W.;
54° 30′ N., 165° 00′ W.;
54° 30′ N., 167° 00′ W.;
55° 00′ N., 167° 00′ W.;
55° 00′ N., 166° 00′ W.;
55° 30′ N., 166° 00′ W.;
55° 30′ N., 165° 00′ W.; and
56° 00′ N., 165° 00′ W.

Further explanation of, and reasons for, this rule are contained in the preamble to the proposed rule (60 FR 46811, September 8, 1995).

Response to Comments

Five letters containing nine comments were received within the comment period. The following paragraphs provide a summary and response to comments.

Comment 1: The bycatch simulation model used to predict the biological and economic impacts of the alternatives is outdated and inappropriate. The model did not incorporate recent regulatory actions such as trawl closures, the pollock "B" season delay, and the Catcher Vessel Operational Area. In addition, the use of historical salmon bycatch rate information to predict future salmon bycatch patterns is misleading due to the difficulty of sampling to estimate salmon bycatch and to uncertainty associated with the historical data.

Response: The draft EA/RIR/FRFA was developed over a 3-year period from 1992 to 1995. The bycatch simulation model was used to analyze alternatives in early drafts and, consequently, was based on management measures and historical data available at that time. Additional alternatives, including the 8- and 9-block closure areas, were included in the analysis in 1994 and 1995. At that time, the bycatch simulation model was outdated and new data were not readily available to update the model. As a result, these additional alternatives were not analyzed using the model. The Council's preferred alternative was the 9-block closure.

In addition, the bycatch simulation model projects closures on the basis of historical bycatch rate data since 1990. A closure would not be projected by the model if the bycatch limit in question exceeded bycatch amounts in the years used in the model. For example, the model would not project closure of any area of the BSAI as a result of a 48,000 chinook salmon bycatch limit because this amount exceeds historical bycatch in any year since 1990. Therefore, even if the bycatch simulation model had been updated for new management measures and data, no closure would have been projected as a result of the preferred alternative.

The EA/RIR/FRFA does not base the economic analysis on the results of the bycatch simulation model. Rather, the analysis is based on geographical analysis of the location and timing of historic catch and bycatch data. The analysis identifies times and areas of high chinook salmon bycatch and compares the proportion of estimated chinook salmon bycatch and total groundfish catch from the trawl fisheries for pollock and Pacific cod in these areas. The CHSSA were selected because they represented areas with a relatively high proportion of the overall chinook salmon bycatch in comparison with the proportion of total groundfish catch.

Although historical chinook salmon bycatch indicates that it is unlikely that the CHSSA would close, the analysis does recognize the importance of these areas in that between 20 percent and 49 percent of groundfish harvested in the pollock and cod trawl fisheries between 1990 and 1993 were harvested in the CHSSA.

The response to Comment 4 addresses concerns about the adequacy of observer sampling data as a basis for estimating salmon bycatch amounts.

Comment 2: The bycatch simulation model does not address impacts of a closure on halibut and Tanner crab bycatch in the cod fishery.

Response: The bycatch simulation model does project changes in halibut and Tanner crab bycatch that would occur if areas close and fishing effort moves to adjacent areas. However, for the reasons discussed above, the bycatch simulation model was not used to analyze the impacts of Amendment 21b. If the model had been used, it would have projected that the 48,000 chinook salmon bycatch limit would not have been reached and, therefore, that this alternative would have no affect on halibut and Tanner crab bycatch.

The geographical based information summarized in figures, maps, and text contained in the EA/RIR/FRFA addressed the distribution of groundfish catch and chinook salmon bycatch in the pollock and cod fisheries. This information did not address halibut and Tanner crab bycatch in CHSSA or adjacent areas.

Comment 3: Closure of a smaller area north of Unimak Island could reduce salmon bycatch by 25 percent at all levels of salmon abundance, while only redistributing about 6 percent of the "A"-season pollock effort. This closure is preferable to the proposed CHSSA.

Response: The EA/RIR/FRFA confirms that the areas north of Unimak Island, identified as the "horseshoe" and "Unimak" blocks, have historically contributed substantially to the chinook salmon bycatch amounts. However, other areas along the 200-m contour, and the remaining blocks included in the CHSSA, also have experienced high chinook salmon bycatch in one or more years. The variability associated with historical chinook salmon bycatch, in the same area from year to year and in adjacent areas in the same year, indicate the difficulty in predicting where salmon bycatch problems will occur in the future. NMFS believes that closure of the CHSSA in response to high bycatch amounts will provide a better ability to limit bycatch for the remainder of the year than would closure of a smaller area. In addition, the Council considered trade-offs between potential groundfish catch and chinook salmon bycatch in selecting the CHSSA as their preferred alternative.

Comment 4: The procedures used to estimate historical chinook salmon in past years are neither precise nor accurate. The CHSSA cannot be enforced until NMFS reforms its chinook salmon bycatch estimation procedures.

Response: NMFS disagrees. NMFS conducted a comparison of whole haul and partial haul sampling (including basket sampling) data. Results showed that partial haul sampling produced accurate estimates of bycatch. Although the variance of the estimate increased as the sample size decreased, no bias was detected. The same analysis showed that regulations requiring retention of salmon until counted by an observer (§ 675.20(c)(6)) failed to obtain accurate numbers overall. Accurate counts were highly linked to the presence of an observer. NMFS concludes that the most accurate salmon bycatch estimates are those derived from direct observer sampling, and that increasing precision can be obtained by increasing sample sizes. NMFS believes that the CHSSA can be enforced using existing methods for estimating chinook salmon bycatch.

Comment 5: Historical chinook salmon bycatch is not a valid basis for predicting locations of high salmon bycatch in the future. Therefore, NMFS should use "hot spot authority" to close areas of high chinook salmon bycatch.

Response: NMFS disagrees. NMFS has the authority to close an area to fishing due to high bycatch rates. However, in practice, NMFS cannot collect accurate in-season bycatch data fast enough to make timely closures of high bycatch areas. Therefore, NMFS recommends that the Council identify areas of historically high bycatch rates and use a prohibited species catch limit to trigger closure of these areas.

Comment 6: Limits in chinook salmon bycatch could have been accomplished through co-management using the voluntary Salmon Research Foundation initiative.

Response: The Council considered the alternative of "status quo," which would have allowed continued development of voluntary salmon bycatch limitations initiatives like the Salmon Research Foundation. However, the Council chose to recommend a chinook salmon prohibited species catch limit that triggers closure of the CHSSA, recognizing the potential negative impact the action would have on the voluntary program initiated by the Salmon Research Foundation. NMFS acknowledges the laudable work conducted by the Salmon Research Foundation to address the salmon bycatch problem. However, NMFS concurs in the Council's recommendation, given that not all trawl vessels participated in the Foundation's voluntary program. In addition, the future effectiveness of the Foundation's program would be largely dependent on the unknown ability of competing trawl industry groups to engage in widespread cooperation and voluntary participation in the Foundation's program. Amendment 21b provides a more certain mechanism for limiting chinook salmon bycatch in the future.

Comment 7: Any trigger that closes an area is more likely to be reached in years of increased chinook salmon abundance when there is less need to constrain bycatch than in years of low chinook abundance.

Response: NMFS agrees that there is more of a need to constrain chinook salmon bycatch in years of low abundance and the EA/RIR/FRFA shows that low bycatch has been followed, in

the next year, by low returns to the Nushagak River. However, projecting chinook salmon abundance in future years is currently not possible. In addition, it would be difficult for NMFS to establish whether low chinook salmon bycatch was occurring due to low salmon abundance or changes in trawl fishing behavior. Therefore, it does not appear that existing information about the relationship between salmon bycatch and salmon abundance supports the development of a workable, abundance-based bycatch management program.

Comment 8: Trigger and closure management actions should be very well justified on a cost/benefit basis and narrowly tailored in scope before qualifying for approval. This action has the potential of imposing extreme costs on the pollock and Pacific cod trawl fleet, while providing little benefit to the salmon fisheries of western Alaska.

Response: Current levels of chinook salmon bycatch are not considered a conservation problem. The primary objective of Amendment 21b is to avoid the levels of high chinook salmon bycatch that occurred in the late 1970s and early 1980s. The 48,000 chinook salmon bycatch limit is greater than any annual chinook salmon bycatch estimate since 1980, except 1991. NMFS believes that closures of the CHSSA likely will occur only in years of unusually high chinook salmon bycatch. Although closure of the CHSSA would affect the pollock or Pacific cod trawl fisheries, NMFS believes it is important to have a mechanism in place to limit future increases in chinook salmon bycatch.

The EA/RIR/FRFA does show a relationship between high chinook salmon bycatch amounts and returns to the Nushagak River in the next year. Although information is incomplete about chinook abundance throughout western Alaska and the relationship between bycatch amounts and returns to western Alaska, the Council and NMFS believes that limits on chinook salmon bycatch will provide benefits for chinook salmon escapement and commercial, recreational, and subsistence fisheries.

Comment 9: The U.S. Fish and Wildlife Service supports the proposed action to limit chinook salmon bycatch in the BSAI trawl fisheries.

Response: NMFS concurs.

Classification

The Director, Alaska Region, NMFS, has determined that Amendment 21b to the FMP is necessary for the conservation and management of the BSAI fisheries and that it is consistent with the Magnuson Act and other applicable laws.

The Council prepared a FRFA as part of the RIR, which indicates that this rule could have a significant economic impact on a substantial number of small entities. A summary of this determination is included in the proposed rule (60 FR 46811, September 8, 1995). A copy of the EA/RIR/FRFA may be obtained from the Council (see **ADDRESSES**).

This rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Dated: November 22, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 675 is amended as follows:

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

1. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In section 675.22, paragraph (i) is added to read as follows:

§ 675.22 Time and area closures.

* * * * *

(i) *Chinook Salmon Savings Areas.* When the Regional Director determines that 48,000 chinook salmon (*Oncorhynchus tshawytscha*) have been caught by vessels using trawl gear during the time period from January 1 until April 15 in the Bering Sea and Aleutian Islands management area, NMFS will prohibit fishing with trawl gear for the remainder of that period within the following three areas:

(1) The area defined by straight lines connecting the following coordinates in the order listed:

56° 30′ N., 171° 00′ W.;
56° 30′ N., 169° 00′ W.;
56° 00′ N., 169° 00′ W.;
56° 00′ N., 171° 00′ W.; and
56° 30′ N., 171° 00′ W.

(2) The area defined by straight lines connecting the following coordinates in the order listed:

54° 00′ N., 171° 00′ W.;
54° 00′ N., 170° 00′ W.;
53° 00′ N., 170° 00′ W.;
53° 00′ N., 171° 00′ W.; and
54° 00′ N., 171° 00′ W.

(3) The area defined by straight lines connecting the following coordinates in the order listed:

56° 00′ N., 165° 00′ W.;
56° 00′ N., 164° 00′ W.;
55° 00′ N., 164° 00′ W.;
55° 00′ N., 165° 00′ W.;
54° 30′ N., 165° 00′ W.;
54° 30′ N., 167° 00′ W.;
55° 00′ N., 167° 00′ W.;
55° 00′ N., 166° 00′ W.;
55° 30′ N., 166° 00′ W.;
55° 30′ N., 165° 00′ W.; and
56° 00′ N., 165° 00′ W.

[FR Doc. 95–29178 Filed 11–28–95; 8:45 am]
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Proposed Rules

Federal Register
Vol. 60, No. 229
Wednesday, November 29, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 703

Investment and Deposit Activities

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The regulation governing the investment and deposit activities of natural person credit unions was last revised effective July 30, 1993. Recent events and significant changes in the investment products available in the marketplace have prompted a review of the rules regarding credit unions' investment and deposit activities. The proposed regulation clarifies a number of areas, adds restrictions on some securities which have been determined to be too risky for credit unions, broadens authority in certain areas, and requires that a credit union's staff and board of directors fully understand the potential risk characteristics of its investment options.

DATES: Comments must be received on or before March 28, 1996.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. Post comments on NCUA's electronic bulletin board by dialing (703) 518–6480. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: David M. Marquis, Director, Office of Examination and Insurance, (703) 518–6360, or Daniel Gordon, Senior Investment Officer, (703) 518–6620, or at the above address.

SUPPLEMENTARY INFORMATION:

Background

The Federal Credit Union Act (the Act) permits federal credit unions to purchase investments that, in general, have little default risk (*e.g.*, securities of the U.S. Treasury, government agencies, and government-sponsored enterprises). However, rapid changes in financial markets have altered the once simple characteristics of many of these investments. The innovations have increased the potential interest rate, market, and liquidity risk of credit union investments, putting a greater burden on credit union board to understand and manage such risks.

To estimate credit union understanding of investment risks, NCUA conducted a study of approximately 300 credit unions with investments in collateralized mortgage obligations (CMOs) and Real Estate Mortgage Investment Conduits (REMICs)[1] in excess of capital. The study revealed that management in more than a third of the credit unions did not understand the risks of CMOs, that more than a quarter of the credit unions were taking unacceptable risks, and that almost half did not have acceptable asset-liability management policies. From this and other evidence, NCUA concluded that investment policies with well-defined parameters and enhanced monitoring and reporting of investment risks are needed to strengthen credit union investment risk management.

The proposed rule recognizes that credit union investment risk is largely interest rate, rather than credit (default) risk, and that a regulation designed to prohibit particular securities can fail to reflect the changing financial environment. It is based on the belief that the responsibility for making investment decisions rests with the credit union board, not NCUA, and that credit unions which assume more potential risk should meet higher standards.

The proposed rule allows a credit union to operate on one of three levels. At the most conservative level, a credit union could invest in fully-insured certificates of deposit (CDs) and shares and deposits in corporate credit unions. If limited to these investments, the credit union would not be required to approve CMO prepayment models, conduct CMO testing, develop a divestiture plan for failed CMOs, establish a trading policy, report on trading activities, prepare a monthly report showing the fair value of each investment, calculate the impact on its portfolio of a 300 basis point parallel shift in interest rates, obtain independent valuations of each investment, or evaluate credit risk.

At the next level, a credit union could invest in potentially more risky securities in an amount up to capital and would have to comply with most of the proposed rule's policy and reporting requirements. However, it would not be required to evaluate the impact on its portfolio of a 300 basis point shift in rates.

Finally, at the most sophisticated level, a credit union investing in potentially more risky securities in an amount exceeding capital would be subject to all of the policy and reporting requirements, including calculating the impact of a 300 basis point shift in rates.

NCUA sought input from various sources during the process of revising Part 703. In six "focus group" meetings, NCUA staff met with board members, CEOs, and CFOs of credit unions of various sizes and with representatives of trade organizations. The focus groups provided valuable input on the proposed rule. As a result of the meetings, a number of changes were made, including the following: (1) Clarification was provided that the knowledge and skills of individuals making investment decisions could be documented in position descriptions instead of being set out in the investment policy; (2) The amount of information required to be provided in the monthly investment report was reduced, and provision was made for an investment or asset-liability management committee, rather than the board, to receive the full report; (3) Selling broker-dealers were permitted to provide monthly valuations of securities, and some discretionary investment authority was permitted to be delegated to an outside party; and (4) Time periods for notifying NCUA of nonconforming investments and preparing a divestiture plan were expanded.

Section 703.1 Scope

The proposed rule deletes some sentences in the Scope section, as unnecessary. In addition, it adds the provision that Part 703 does not apply to corporate credit unions. Corporate credit unions are subject to the same laws and rules as natural person credit

[1] Hereafter, in this supplementary information section, "CMO" means "CMOs and REMICs."

unions, except where those laws and rules are inconsistent with Part 704 of the NCUA regulations, 12 CFR Part 704, which specifically governs corporate credit unions. Although Part 704 contains a detailed investment section, it does not cover all aspects of corporate credit union investment activities. Accordingly, corporate credit unions are subject to certain provisions of Part 703. This occasionally has caused confusion, however, as it is not always clear when a general law or rule is "inconsistent" with Part 704. Part 704 is currently being revised, and plans are for it to incorporate all of the applicable NCUA rules governing investment activities, even if this means duplicating portions of Part 703. Therefore, proposed Section 703.1 clarifies that Part 703 is not applicable to corporate credit unions.

Section 703.2 Definitions

NCUA is proposing to add a number of new definitions, to redefine certain already-defined terms, and to delete several definitions.

The proposed rule treats amortizing securities and securities with embedded options as investments that have the potential to present significant interest rate risk. The proposed rule does not prohibit credit unions from purchasing such investments, but it does subject a credit union holding these and other potentially risky investments in an amount greater than capital to additional measures of interest rate risk. To ensure consistency, the proposed rule provides definitions of "amortizing security" and "embedded option."

The proposed rule substitutes the term "custodial agreement" for the current regulation's "bailment for hire contract," using an almost identical definition. Based on questions that have been received, it appears that the current term may no longer widely be used.

The dollar amount of capital is used as a threshold in a number of places in the proposed rule. Therefore, a definition of capital has been provided. The allowance for loan losses is excluded from capital for the purposes of Part 703 since the balance in this account has already been allocated to specific loan losses and is not available to absorb investment losses. Capital for the purpose of determining CAMEL ratios includes the allowance for loan losses.

The proposed rule discusses securities in terms of fair value rather than market price to conform to guidance in recent statements of the Financial Accounting Standards Board (FASB). Market price is the best evidence of fair value; if a market price is not available, fair value may be estimated based on the market price of a security with similar characteristics or on valuation techniques, including calculating the present value of estimated future cash flows using an appropriate discount rate, option pricing, or matrix pricing.

"Industry-recognized information provider" refers to an entity which provides information regarding investments, but which is not, for instance, a broker or dealer. An example of such an entity is Bloomberg, L.P., an electronic service which provides market information to subscribers, who must lease a specialized terminal to access the information. Other examples are the Wall Street Journal and other bona fide newspapers, news magazines, or business or financial publications or electronic services of general and regular circulation.

The proposed rule provides separate definitions for "investment" and "security," as the terms are not used interchangeably. "Investment" is a broad category that includes securities, deposits, and shares in credit unions.

The proposed rule simplifies the definition of "repurchase transaction," because the current definition has proved confusing. The safekeeping element of the current definition has been moved to proposed section 703.3(b)(8).

The term "counterparty" in the proposed definition of "reverse repurchase transaction" has been substituted for "purchaser" in the current definition. This reflects current market terminology.

The proposed rule deletes some sentences in the definitions of "standby commitment" and "stripped mortgage-backed security," as being unnecessarily detailed.

Definitions are provided for the following new terms used in the proposed rule: "business day," "commercial mortgage related security," "delivery versus payment," "interest rate swap," "investment characteristic," "maturity," "mortgage related security," "mortgage servicing," "municipal security," "official," "option," "pair-off transaction," "parallel shift," "prepayment model," "regular-way settlement," "securities loan," "small business related security," "street name," "total return," "U.S. government agency," "U.S. government-sponsored enterprise," and "when issued trading."

The proposed rule deletes the following definitions, as the terms are no longer used: "cash forward agreement" and "maturity date."

Section 703.3 Investment Policies and Practices

Policies

Section 703.3(a) of the proposed rule requires that the board of a federal credit union establish written investment policies consistent with the Federal Credit Union Act, the NCUA Rules and Regulations governing investments, and other applicable laws and regulations. The policy must address the purposes and objectives of the credit union's investment activities. The policy must provide a clear statement of the credit union's investment goals. A credit union's primary goals may be to minimize risk, provide liquidity, and generate a reasonable rate of return. The emphasis placed on each goal will vary based on individual credit union constraints or needs.

The policy must also list authorized investments for the credit union, by issuer and characteristics. Characteristics of an investment include its maturity, index, cap, floor, coupon rate, coupon formula, index, call provision, and average life. For example, a policy statement may authorize investments issued or guaranteed by the U.S. Treasury, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association. The policy statement could also stipulate that no investment may have a maturity of more than 5 years, or that only investments with a fixed coupon, or those indexed, without caps, to 3-month LIBOR or the 3-month Treasury rate, will be permitted. The complexity of amortizing securities may cause the board to exclude any securities or deposits with amortizing cash flows.

The policy is also required to address interest rate risk management. A credit union's interest rate risk management policy should be related to its existing and potential cost of funds. In addition, for credit unions holding securities with potential interest rate risk, the policy may state that total return or average price cannot vary by more than a certain percentage of capital for a specific parallel shift in interest rates. The policy may state that capital should not be permitted to decline below a specific minimum level when the portfolio is subjected to a particular interest rate shock. Consistent with NCUA's intent to place more responsibility with credit union boards, the proposed rule does not specify particular limits. The policy should be tailored to a credit union's activity level and portfolio sophistication. Less complex institutions will have a less complicated policy statement.

The board must also develop prudent concentration limits for all investments, including deposits in Section 107(8) institutions and shares and deposits in corporate credit unions. Concentrations can result from single or related issuers, lack of geographical distribution, holdings of obligations with similar characteristics, such as mortgage-backed bonds, zero coupon bonds, and bonds linked to the same index, holdings of bonds having the same trustee, and holdings of securitized loans having the same originator, packager, or guarantor. Concentrations can increase a credit union's vulnerability to unforeseen market, credit, and liquidity risks. Each credit union must evaluate concentration risk in relation to its financial condition and its ability to analyze the risks of all investments.

Of all securities available in recent years, credit unions have purchased more inappropriate CMOs than they have any other type of instrument. For this reason, NCUA has decided to retain specific testing requirements for CMOs. These are set forth at proposed section 703.4(e). To control the "cherry picking" that has accompanied such testing (selecting the prepayment model that will allow a particular CMO to pass the tests), the proposed rule requires potential purchasers of CMOs to identify in their investment policies the specific prepayment models that will be used in the tests. Each credit union has the flexibility to choose the prepayment models it believes are the best measures of potential risk, as long as the models are reasonable and supportable.

Liquidity risk is the risk that a credit union will have insufficient liquid assets to meet immediate cash demands. The board must assess the potential for such demands, document how it arrived at this assessment, and establish a liquidity policy that will enable it to meet the demands. A credit union may use either a simple estimate, based upon the history of prior cash flows, or a more sophisticated approach.

Credit risk is the risk of default. The board must establish a policy to manage this risk, if the credit union entertains any. While it is not impermissible to rely on credit ratings, boards should be aware that ratings may fail to timely reflect a creditor's deteriorating ability to repay its obligations. A credit union without the ability to fully evaluate credit risk may choose to limit its investments to those that are fully guaranteed or insured by the U.S. government and its agencies.

The board has the fiduciary responsibility to ensure that any person authorized to make investment decisions has the knowledge and experience necessary to carry out this function. The proposed rule requires that the board establish criteria for such persons, either in the investment policy or by approving appropriate position descriptions.

The proposed rule requires that the policy statement indicate approved broker-dealers and limits on the amounts and types of transactions for each broker. Although the rule does not require that the credit union approve more than one broker-dealer, reliance on a single individual or firm could be disadvantageous to the credit union. A credit union might choose to approve one broker-dealer for the full range of its investment activities and another for only certain of the investments authorized by policy. For example, the credit union may permit one broker, with more limited knowledge, to sell to the credit union only Treasury securities with less than 1 year maturity, while permitting another, with more knowledge and ability, to sell longer term securities or securities with embedded options issued by U.S. government agencies, as well as Treasury securities. The details for these authorizations should be established by policy.

The proposed rule expands the requirements for credit union policies regarding the safekeeping of investments. The policy statement should include the amount and type of investments that can be safekept. The proposed rule does not require more than one safekeeping agent. Thus, all of a credit union's investments may be held by one safekeeper if this authorization is set forth in the policy statement.

Most credit unions do not engage in trading, because it requires a great deal of sophistication, market knowledge, and strong controls. Credit unions that choose to enhance their income through this method may do so, provided they have established appropriate policies and controls.

Practices

In addition to expanding the requirements for the establishment of investment policies, the proposed rule requires that credit unions follow certain practices designed to ensure that officials and employees involved with investment activities have adequate information regarding investments to make appropriate decisions to manage and control risk.

Section 703.3(b)(1) of the proposed regulation requires that a federal credit union classify its securities as held-to-maturity, available-for-sale, or trading, in accordance with generally accepted accounting principles (GAAP) and consistent with the federal credit union's documented intent and ability regarding the security. Deposits and shares in Section 107(8) institutions and corporate credit unions are not securities and therefore are not subject to these classifications.

It is NCUA's view that a credit union should not hold an investment unless its board of directors, chief financial officer, investment committee, and investment manager understand the risks reflected in the policy statement. Proposed Section 703.3(b)(2)(a) requires that any official or employee of a federal credit union who has discretionary investment authority be able to demonstrate an understanding of the risk characteristics of investments and investment transactions under that authority. The board must recognize its responsibilities in this area. Directors must be able to fully understand the risks associated with investment products that are authorized by policy. While not a specific requirement, NCUA recommends that in credit unions with more sophisticated portfolios, one or more board members serve on the asset-liability management and/or investment committees.

The NCUA examiner may request that individuals with investment authority demonstrate their understanding of that authority. If they are not able to do so, the credit union may be required to alter its policy statement or take other appropriate action.

To ensure the board maintains control over the credit union's investment activities, proposed Section 703.3(b)(2)(B) establishes a general prohibition against delegating discretionary control of investment authority to an outside party. However, proposed Section 703.3(b)(2)(C) allows a credit union to delegate such control to an investment advisor who is registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940. Registration imposes a number of requirements designed to ensure that an adviser acts in the client's best interest. Nevertheless, to ensure that the transactions being made by the adviser are consistent with the credit union's policies and objectives, a credit union must establish specific, detailed parameters and reporting procedures when delegating investment authority.

Proposed Section 703.3(b)(2)(D) limits the total of a credit union's delegation of investment authority and investment in mutual funds and other investment companies to 100 percent of capital.

Proposed Section 703.3(b)(3) requires that the board be notified when an investment has fallen outside board-approved policy parameters. For instance, if the credit union has established a minimum issuer credit rating of B, and during the course of holding an investment, the issuer's rating falls to B/C, the board must be notified and some decision regarding the investment or policy made and documented in the minutes.

Proposed Section 703.3(b)(4) addresses the reporting of interest rate risk. It requires a federal credit union to prepare a monthly report showing the characteristics of each investment in the portfolio and the net increase or decrease in the fair value or total return of each security, and the portfolio, in sufficient detail to ensure that all of the securities, and the portfolio as a whole, remain within board policy. The change in fair value of held-to-maturity securities must be included because losses from such securities reflect future losses of income. Where the credit union has an active asset-liability management or investment committee, the report may be provided to such committee, with a summary to the board. Where the credit union does not have such a committee, the full report must be provided to the board.

A credit union that chooses to keep all of its investments in CDs and corporate credit union shares and deposits would not be required to price these investments and therefore would not be subject to this reporting requirement. Only those credit unions that have marketable securities would be required to report this information. Credit unions that purchase securities with greater potential risk may have additional reporting requirements.

Section 703.3(b)(4)(ii)(C) sets forth the securities that NCUA has determined represent greater potential risk. They are: (1) Securities that amortize; (2) securities with embedded options; (3) securities with maturities greater than 3 years; and (4) securities where contract rates are related to more than one index or are inversely related to, or multiples of, an index. If the total of securities that have any one of these characteristics is greater than capital, proposed Section 703.3(b)(4)(iii) requires that the credit union calculate the potential impact, on the fair value and/or total return of each security in the portfolio and the portfolio as a whole, of parallel shifts of plus and minus 300 basis points. The purpose of this analysis is to determine the impact of potential shifts in interest rates on the credit union's future capital position. Current investment decisions must be made in the context of this analysis. Credit unions that do not want to conduct this analysis can restrict the total of these potentially risky investments to less than capital. For purposes of this rule, adjustable rate securities with a final maturity of 3 years or more are considered securities which represent greater potential risk.

This interest rate shock test reflects a trade-off between ensuring a credit union board's full awareness of the risks of its portfolio and reducing the burden on small and medium-sized credit unions. The rule could have included long-term CDs and term investments in corporate credit unions in the list of investments that trigger the test, since such investments can present a high degree of interest rate risk. The rule also could have required a credit union holding even one of the triggering securities to subject its portfolio to a 300 basis point shock, because of the potential for greater interest rate risk. The rule also could have required more complex interest rate tests. Since financial markets do not change in parallel shifts, a 300 basis point parallel shift is inadequate to truly evaluate potential risk. More accurate tests would consider factors such as twists in the yield curve, lags, changes in volatility, the reinvestment rate of cash flows, and institutional factors affecting prepayment patterns. Finally, NCUA could have required credit unions to subject their entire balance sheets, including loans and shares, to an interest rate shock test, since testing only the investment portfolio yields an incomplete picture of the interest rate risk on a credit union's balance sheet. The NCUA Board determined, however, that more complex or additional tests would be too burdensome for small and medium-sized credit unions. However, it is NCUA's judgment that holders of large portfolios of more complex securities cannot manage interest rate risk adequately without conducting additional testing, and examiners will anticipate that additional evaluations be done.

NCUA is proposing to permit credit unions the choice of using either changes in the fair value or total return to establish risk parameters and assess return. Changes in fair value can provide an approximation of risk exposure and return. However, credit unions may prefer to calculate and report total return since it is a more comprehensive measure. Managers with more sophisticated portfolios will likely calculate total return. The method used for calculating total return should be documented for review purposes.

A credit union should always compare prices among broker-dealers for similar securities. In some instances, the price a credit union has paid or received for a security has been significantly different from the market price because the credit union conducted transactions with only one broker, who knew that the credit union was not verifying the price with another source. Proposed Section 703.3(b)(5)(i) requires that prior to purchase or sale a credit union obtain a price quote from a second broker or from an industry-recognized information provider. The information provider can be a pricing service or simply a newspaper with a financial section. These latter sources provide only indicative prices, however, and generally are not sufficient to ensure the credit union has received the best price quote. Where a credit union wishes to purchase a security that cannot be competitively priced, it should obtain a price on a comparable security. It is understood that the prices received from broker-dealers will generally not be in writing; however, the credit union should maintain documentation of who was called, the date and time of the call, and the quoted price or spread to the relevant Treasury security.

Proposed Section 703.3(b)(5)(ii) requires a monthly review of the fair value of each security in a credit union's portfolio. This information is generally provided by broker-dealers or safekeepers. Although such information may not be as accurate as a real bid, the NCUA Board recognizes that obtaining real bids on a monthly basis is impractical and burdensome. To ensure some independent verification of these prices, however, Section 703.3(b)(5)(iii) requires that at least semiannually the credit union obtain a price on each security from another broker or an industry-recognized information provider. A credit union may eliminate the burden of valuing securities by restricting its portfolio to CDs and shares and deposits in corporate credit unions. In addition, a credit union can lessen its burden of valuing securities by restricting its portfolio to securities whose market prices are readily available.

Proposed Section 703.3(b)(6) provides that credit unions must perform credit analyses of issuing entities unless the investment is issued or fully guaranteed by the U.S. government or its agencies or enterprises or is insured by the Federal Deposit Insurance Corporation or NCUA. The NCUA Board recognizes that it is often difficult for credit unions to perform a detailed credit analysis. Therefore, the proposed rule establishes a minimum issuer rating for financial institutions of B/C (or equivalent) or better. Credit unions should ensure that the rating is the issuer rating and not the issue rating. The issuer rating takes into consideration the entire operation, while an issue rating will take into consideration any credit supports accompanying an instrument.

Credit unions are not necessarily excused from performing their own, independent credit analyses. Credit ratings are slow to adjust to rapid changes in the financial viability of an issuer. The extent of the credit analysis necessary is dependent upon the amount of the investment in relation to the credit union's total investments and capital. An analysis should include, at a minimum, a review of ratings and financial trends, including the capital to asset ratio, earnings, and loan losses.

Credit unions should perform a credit analysis for investments above the insured amount in financial institutions that are not rated, including corporate credit unions. The NCUA Board specifically seeks comment on the issue of performing credit analyses on corporate credit unions.

NCUA has observed substantial problems with broker-dealers. While most of the decisions on the choice of a broker-dealer should be left to the credit union's board, a minimum level of analysis should be conducted prior to selection. Section 703.3(b)(7) of the proposed rule requires that, at the least, the broker-dealer be a Section 107(8) institution or registered with the Securities and Exchange Commission (SEC). There will be many unscrupulous brokers who satisfy this requirement but still should not be used by credit unions. However, the requirement will exclude some brokers who sell only CDs and are not required to register with the SEC. The proposed rule also requires that credit unions also conduct an analysis of the financial condition and reputation of the broker-dealer and sales representative.

Section 703.3(b)(8) addresses safekeeping. For control purposes, the proposed rule requires that securities be maintained independently of the broker. This is a change from the current regulation, which requires that only securities involved in repurchase transactions be held by an independent third party.

There have been some problems in recent years with the failure of some brokers, and credit unions have been required to devote substantial resources to recover securities from some safekeepers. Because of the potential that some safekeepers may not be appropriate, this section requires that the credit union review an independent audited statement for the safekeeper.

NCUA is also proposing that the purchase and sale of investments be "delivery versus payment." This method of settlement guarantees that the investment will not be paid for until it is received by the safekeeping institution.

Trading policies and practices are not specifically addressed in the current regulation. According to the latest call report data, very few credit unions engage in trading activities. Activity in this area could increase, however, and if not properly controlled, could pose a significant risk. The details, in proposed section 703.3(b)(9), are from Letter to Credit Unions No. 89, dated April 1987. NCUA has determined that, for convenience, these requirements should be included in the regulation.

Proposed Section 703.3(b)(10) requires that documentation be maintained through the examination and audit cycles. There have been instances where credit unions failed to maintain enough documentation for the examiner/auditor to properly analyze the security or determine the relationship of the investment decisions to the credit union's policies. Credit unions must maintain sufficient information to demonstrate that they have exercised prudent judgment in making investment decisions.

Section 703.4 Authorized Activities

Current Section 703.4(a) permits a credit union to contract for the purchase or sale of a security provided that the delivery of a security is to be made within 30 days from the trade date. This accommodates the settlement of U.S. government and agency securities. Section 703.4(b) permits a credit union to enter into a cash forward agreement to purchase or sell a security provided that the period from the trade date to the settlement date does not exceed 120 days. If the credit union is the purchaser, it must have written cash flow projections evidencing its ability to purchase the security. This was designed to accommodate the settlement of mortgage-backed securities. NCUA is proposing to delete these specific time frames and simply provide for a credit union to contract for the purchase or sale of a security provided that delivery of the security is by "regular-way" settlement.

The current regulation has created some problems distinguishing between regular delivery and forward commitments. The proposed regulation will permit a credit union to contract for the purchase of a security no matter when it settles, as long as the settlement date is within the normal time frame for that type of security. Currently, regular-way settlement for Treasury securities is the next business day after the trade date and for agency securities and secondary market mortgage-backed securities is the third business day. For new mortgage-backed securities, regular-way settlement can be considerably longer. Under the proposed rule, where delivery of an investment extends beyond regular-way settlement, the investment will be considered an unauthorized forward commitment.

The NCUA Board notes that proposed section 703.5(c) prohibits when issued trading. This is not intended to prohibit a credit union from contracting to purchase securities in the period between the announcement of an offering and the issuance of the securities. Rather, it is designed to prohibit a credit union from contracting to purchase securities during that time and then selling those securities before settlement. NCUA specifically seeks comment on how the removal of the authority for credit unions to enter into cash forward agreements and engage in when issued trading affects the ability of credit unions to enter into certain transactions, such as dollar rolls, which have been permitted for credit unions.

Proposed section 703.4(b) simplifies the language authorizing credit union investment in repurchase transactions. Repurchase transactions can be viewed as relatively safe secured borrowing and lending. However, credit unions can incur losses on such investments if they do not exercise proper care in controlling and valuing their collateral. Repurchase transactions may be considered unsecured transactions if the purchaser does not take the appropriate steps to perfect an interest in the collateral. Credit unions should review NCUA Interpretive Ruling and Policy Statement (IRPS) 85–2 for a detailed discussion of the controls that should be followed when engaging in repurchase transactions.

Section 703.4(j) of the current regulation provides that a federal credit union may invest in a mutual fund, provided that the investment and investment transactions of the funds are legally permissible for federal credit unions under the Act and NCUA regulations. Proposed section 703.4(d) broadens this authority by permitting investment in an investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940. A mutual fund is the most common type of registered investment company, but credit unions have been authorized by opinion letter to invest in other types, such as money market mutual funds and

unit investment trusts. The regulatory language has been changed to clarify that these other types are permissible investments for credit unions.

The proposed rule retains the requirement that the investments and investment transactions of the investment company must be permissible for credit unions and clarifies that this limitation must be set out in the company's prospectus and/or statement of additional information. For several years, NCUA has struggled with how much detail a prospectus/statement must contain in order for a credit union to determine that the investments and transactions are permissible for credit unions. Last year, NCUA issued Letter to Credit Unions No. 155, which attempted to provide guidance in this area for investments in mutual funds.

The Letter stated that NCUA was taking the position that a credit union could invest in a mutual fund "only when the prospectus indicates that the fund's authority is *strictly* limited to investments and investment transactions that are legal for federal credit unions." The Letter provided the example of a fund authorized to purchase CMOs, without restriction; it stated that the fund would be an impermissible investment for credit unions because the prospectus/statement would have to declare that only CMOs passing the HRST could be purchased. The Letter was intended to set forth the position that statements about a fund being "a legal investment for federal credit unions" or "legal under the Federal Credit Union Act and NCUA Rules and Regulations" were insufficient. A prospectus/statement of additional information was to set forth the specific investments and investment transactions authorized for the fund, in sufficient detail that credit unions and examiners could see that fund management clearly understood the limits of credit union investment authority and that the activities of the fund were within that authority.

The Letter has led to more questions concerning the level of detail required in a prospectus, such as, for example, whether a prospectus must address the actions a fund will take if a CMO fails the stress tests upon retesting. Since it is not NCUA's intent that a mutual fund prospectus recite all of Part 703, and it is difficult to draw a line about what must be specifically included, the proposed rule provides that one method of establishing that a fund is a permissible investment for federal credit unions is for the prospectus simply to assert that the fund is "a legal investment for federal credit unions" or "legal under the Federal Credit Union Act and NCUA Rules and Regulations." A credit union that has invested in a mutual fund should monitor the activities of the fund to determine that they do not exceed the limits of credit union authority. The NCUA Board specifically requests comments on this issue. To the extent that a provision of Letter 155 is inconsistent with this rule, that provision would be superseded by this rule.

Section 704.4(e) of the proposed rule addresses the high risk securities test (HRST) for CMOs. The most significant change is the application of the entire test to variable as well as fixed rate CMOs. A number of credit unions have been unaware of the risks associated with variable rate CMOs. They owned securities linked to lagging market indexes, frequently the 11th District Cost of Funds (COFI) . The weighted average lives of these securities extended 20 years or more following the last interest rate increase, and the securities suffered substantial price deterioration. Under the proposed regulation, both variable rate and fixed rate CMOs would be subject to all three tests. However, credit unions should still be aware of the limitations of the HRST, particularly as applied to variable rate securities based on lagging indexes. When testing a variable rate CMO, the credit union must be aware that a "thumbs up" on the HRST may not mean it passes the tests imposed by this rule. The credit union must review the results of each part of the test (average life, average life sensitivity, and price sensitivity) to ensure compliance.

There has been some confusion regarding the applicability of the current regulation when a CMO has passed the HRST for one prepayment model, but failed for another. NCUA does not want to specify which of the prepayment models a credit union must use to evaluate the risks associated with the CMO. However, as discussed earlier, the proposed rule requires that the credit union board specify, in its policy statement, an approved list of prepayment models that will be used when purchasing or retesting a CMO. At the time of purchase, a CMO will be required to pass the HRST for all the prepayment models listed in the policy statement. At any subsequent retesting date, the CMO must pass the HRST for the majority of the prepayment models specified in the policy statement and used in the purchase decision.

This provides a credit union's board of directors with several options: (1) Where the policy specified the use of the median prepayment estimate alone, the subsequent failure of the HRST upon retest, using the same median, would make the security impermissible. (2) Where the policy specified three specific prepayment models, for example, the CMO could fail the HRST for one prepayment model and still be held by the credit union. Where five prepayment models were specified, the CMO could fail two and still be held. (3) Where the policy specified the use of a median prepayment model in addition to proprietary models, the CMO would not be subject to divestiture unless it failed a majority of the prepayment models used rather than the median alone.

A majority cannot be interpreted as half of the prepayment models. If the credit union specifies only two prepayment models in its policy statement, then the CMO must pass the HRST for both prepayment models if the security is to remain in the portfolio and not be subject to the divestiture requirement of proposed Section 703.7.

Proposed Section 703.4(f) addresses federal credit union investments in corporate credit union capital shares and deposits. In a slight rewording of the current rule, it provides that such investments are permissible except where the NCUA Board has provided notice that the corporate credit union is not operating in compliance with the NCUA regulations governing corporate credit unions. This should address concerns regarding investing credit unions' knowledge of corporate compliance. The proposed rule also limits credit union investment in the capital shares of a corporate credit union to a total of one percent of the investing credit union's assets, due to the potential risk associated with such investments. Membership capital share deposits, as defined in Section 704.2 of the NCUA Rules and Regulations, 12 CFR 704.2, are currently the only type of capital shares corporate credit unions are authorized to offer. The NCUA Board specifically requests comment regarding the appropriateness of this one percent limit.

Proposed section 703.4(g) establishes minimum credit ratings for municipal bonds. Credit unions would be limited to purchasing bonds rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization. In the existing rule there is no limitation on credit quality, exposing credit unions to potentially unacceptable risk.

The prior rule was silent as to the types of indexes to which variable rate instruments could be tied. The proposed rule limits permissible indexes to those tied to domestic interest rates only. There is no correlation between a credit union's cost of funds and, for instance, foreign currencies or equity prices.

This will prohibit credit unions from purchasing investments linked to the Standard & Poor's 500 and other equity indexes, either as speculative investments or to match against Individual Retirement Accounts (IRAs) offered to members. NCUA recognizes that this may present a hardship to credit unions who wish to offer such accounts; however, the potential risk associated with credit unions purchasing investments that are not linked to interest rates supports this restriction. NCUA considered requiring a credit union to match equity-linked investments to shares but rejected this alternative because of the difficulty of ensuring that such investments were actually matched in this manner.

Section 703.5 Prohibitions.

The proposed rule adds prohibitions against purchasing or selling option and interest rate swap contracts and engaging in pair off transactions. These activities all have been prohibited by opinion letter. The proposed rule also prohibits the purchase of stripped mortgage-backed securities and CMO residuals. Currently, credit unions are permitted to purchase these securities for hedging purposes. NCUA has found that credit unions holding these securities generally have been unable to demonstrate that they were using them as a hedge. The high risk of these securities justifies their prohibition. The Board notes, however, that a CMO with the characteristics of a stripped mortgage-backed security is permissible if it meets the CMO stress tests in this regulation. The proposed prohibition against when issued trading is discussed above, in conjunction with cash forward agreements.

The Riegle Community Development and Regulatory Improvement Act of 1994 amended the definition of "mortgage related security," as defined in Section 3(a)(41) of the Securities and Exchange Act of 1934, to include securities backed by commercial mortgages. Federal credit unions are authorized to invest in mortgage related securities pursuant to section 107(15)(B) of the Act. Thus, the Riegle Act provided statutory authority for federal credit union investment in securities backed by commercial mortgages. However, it is NCUA's view that this authority is not self-implementing, that is, it requires action of the NCUA Board to become effective. This proposed rule would clarify that credit unions are not permitted to invest in commercial mortgage related securities. The NCUA Board is declining to implement the statutory authority at this time because the market for these securities is undeveloped, and the potential timing of cash flows from these securities is not widely disseminated.

In addition to amending the definition of mortgage related security, the Riegle Act amended the Act by adding section 107(15)(C), which provides the statutory authority for federal credit unions to invest in small business related securities as defined in Section 3(a)(53) of the Securities and Exchange Act of 1934. These are privately issued securities backed by loans to small businesses. Again, this statutory authority is not self-implementing, and the proposed rule clarifies that credit unions are not permitted to invest in these types of securities. As with commercial mortgage related securities, the market for small business related securities is undeveloped. The NCUA Board notes that this does not prohibit credit unions from purchasing investments in securities issued or guaranteed by the Small Business Administration.

The proposed rule also clarifies that credit unions may not purchase mortgage servicing rights directly, as there is no express or incidental authority for such purchase. This prohibition does not affect the right of a credit union to retain servicing rights of loans that are sold, whether the loans have been made by the credit union or purchased to complete a pool for sale or pledge on the secondary market.

Section 703.6 Pledging Securities

Proposed section 703.6 establishes a new section which addresses the pledging of securities. Although a reverse repurchase transaction can be characterized as a sale and repurchase of securities, it is considered a secured borrowing for purposes of the proposed rule. The proposed rule clarifies the authority of federal credit unions to participate in securities lending and subjects securities lending and collateralized borrowing to several provisions which currently apply only to reverse repurchase transactions.

A credit union engaging in reverse repurchase transactions and securities lending must ensure that it has adequately investigated the financial stability and character of any counterparty with which it deals. IRPS 85–2, discussed above in the context of repurchase transactions, sets out the controls that should be followed when engaging in reverse repurchase transactions. These controls should also be followed when lending securities.

Section 703.7 Divestiture Requirements

The NCUA Board is proposing to codify specific divestiture requirements for investments which do not meet the requirements of the proposed rule. When an investment is downgraded below the minimum credit requirements of proposed sections 703.3(b)(6)(ii) and 703.4(g), or fails the HRST, proposed Section 703.7 requires that the credit union either sell the investment or develop a plan that supports the intention to hold it. While awaiting response from the regional director to a proposed plan to hold a downgraded or failed investment, a credit union must continue to manage and monitor the investment as required by this part. NCUA retains the right to require immediate divestiture when an investment constitutes a significant threat to the continued sound operation of the credit union. To the extent that a requirement of Letter to Credit Unions No. 169 is inconsistent with this rule, it would be superseded by this rule.

Section 703.8 Prohibited Fees

The language in proposed section 703.8 is currently found at Section 703.5(l). No changes were made, but the material has been put into a separate section to ensure that it is not overlooked. It should be noted that the prohibition against committee members receiving pecuniary consideration in the making of investments means that a broker-dealer or consultant may not serve as a voting member of an investment or asset-liability management committee. It should also be noted that this provision does not exclude credit union employees involved in making investments or deposits from receiving salary for those activities.

Section 703.9 Grandfather Provisions

The NCUA Board anticipates that any final rule addressing Part 703 will be made effective 30 days after it is published in the **Federal Register**. The proposed rule provides that credit unions holding investments that will become impermissible when the final rule takes effect will be allowed to continue holding those investments. The proposed rule also sets out grandfather provisions that have been established in conjunction with prior regulatory changes.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that the proposed rule, if made final, will not have a significant economic impact on

small credit unions (those under $1 million in assets).

Such credit unions generally do not purchase potentially risky investments and hence would not be subject to the majority of the policy and reporting requirements of the proposed rule. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that several requirements of the proposed rule constitute collections of information under the Paperwork Reduction Act. The requirements are: (1) To establish a written investment policy; (2) to perform an annual review of the written investment policy; (3) to provide notification to the federal credit union's board of directors of investments that do not fall within the guidelines of the established policy; (4) to prepare a written report of investments monthly; (5) to obtain price quotes on securities prior to purchase or sale; (6) to complete and document a monthly review of the fair value of each security; (7) to obtain a semiannual independent assessment of the fair value of securities held; (8) to complete a credit analysis of the issuing entity prior to purchasing an investment if the principal and interest is not fully guaranteed by the U.S. government, its agencies, or enterprises or is not fully insured by NCUA or the FDIC; (9) to obtain individual confirmation statements for each investment purchased or sold; (10) to obtain and reconcile a monthly statement of investments held in safekeeping; (11) to prepare a monthly written report of the fair value and/or total return at the trade date of all trading securities and purchase and sale transactions and the resulting gain or loss on an individual basis; (12) to complete and document the retesting of CMOs on a quarterly basis; (13) to provide written notice to the Regional Director of CMOs that fail the High Risk Security Test; and (14) to prepare and provide to the Regional Director a written divestiture plan if the federal credit union does not immediately sell the failed CMO.

It is NCUA's view that the time a federal credit union spends developing a responsible and reasonable policy, notifying the federal credit union's board of directors of investments that do not fall within the guidelines of the established policy, obtaining individual confirmation statements for each investment purchased or sold, and obtaining and reconciling a monthly statement of investments held in safekeeping are not burdens created by this regulation, but rather are usual and customary practices in the normal operations of a federal credit union. The paperwork burdens created by this rule are the remaining requirements outlined above.

NCUA estimates that it should take an average of 2.5 hours to review the investment policy annually and 2 hours per month to prepare the written report of investments. Since this requirement applies to all 7,400 federal credit unions, 196,100 burden hours would be required to comply with these two requirements. NCUA estimates that 370 federal credit unions would have to comply with the requirement to report investments that fall outside board policy after purchase. It is expected that this would take 15 minutes per year, resulting in a total of 92.5 burden hours. NCUA estimates that 5,624 federal credit unions would be required to obtain price quotes prior to the purchase or sale of securities, projected to take 2 hours per year, to review the fair value of each security monthly, projected to take 12 hours per year, and to independently assess the fair value of its securities semiannually, projected to take 2 hours per year. The burden for these requirements totals 89,984 hours. NCUA estimates that 705 federal credit unions would be required to complete a credit analysis. It is estimated that this analysis would take 25 hours, resulting in a total of 17,625 burden hours. NCUA estimates that 74 federal credit unions would be required to prepare a written report of the trading account activity, an activity that is expected to take 12 hours per year, imposing a total burden of 888 hours. NCUA estimates that 1,850 federal credit unions would have to comply with the quarterly retesting of CMOs. It is projected that this requirement would take a credit union 2 hours per year to perform, making to total burden 3,700 hours. NCUA estimates that 370 federal credit unions would be required to prepare written notices and divestiture plans regarding downgraded or failed investments. It is expected that a notice and plan would take 3 hours, making a total burden of 1,110 hours. In total, the burden created by the proposed rule is 309,499.5 hours. A significant portion of the paperwork required by the proposed rule is already being completed by credit unions. It is NCUA's view that the additional requirements are necessary in order for a credit union to understand the risks presented by a substantial portion of its balance sheet.

The Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget (OMB) require that the public be provided an opportunity to comment on information collection requirements, including an agency's estimate of the burden of the collection of information.

The NCUA Board invites comment on: (1) Whether the collection of the information is necessary for the proper performance of the functions of NCUA, including whether the information will have practical utility; (2) the accuracy of NCUA's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collection of information. Send comments to Attn: Milo Sunderhauf, OMB Reports Management Branch, New Executive Office Building, Rm. 10202, Washington, DC 20530. Comments should be postmarked by January 29, 1996.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. Since the proposed rule applies only to federal credit unions, it has no effect on state interests.

List of Subjects in 12 CFR Part 703

Credit unions, Investments.

By the National Credit Union Administration Board on November 16, 1995.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, NCUA proposes to revise 12 CFR Part 703 to read as follows:

PART 703—INVESTMENT AND DEPOSIT ACTIVITIES

Sec.

703.1 Scope.
703.2 Definitions.
703.3 Investment policies and practices.
703.4 Authorized activities.
703.5 Prohibitions.
703.6 Pledging securities.
703.7 Divestiture requirements.
703.8 Prohibited fees.
703.9 Grandfather provisions.

Authority: 12 U.S.C. 1757(7), 1757(8), 1757(15).

§ 703.1 Scope.

Sections 107(7), 107(8) and 107(15) of the Federal Credit Union Act ("Act"), 12 U.S.C. 1757(7), 1757(8), 1757(15), set forth those securities, deposits, and other obligations in which federal credit unions may invest. This part interprets several of the provisions of Sections 107(7), 107(8), and 107(15)(B) and (C). This part does not apply to: investments in loans to members and related activities, which are governed by §§ 701.21, 701.22, and 701.23 of this chapter; the purchase of real estate-secured loans pursuant to Section 107(15)(A) of the Act, which is governed by § 701.23 of this chapter; investment in credit union service organizations, which is governed by § 701.27 of this chapter; investment in fixed assets, which is governed by § 701.36 of this chapter; or investments by corporate credit unions, which is governed by part 704 of this chapter.

§ 703.2 Definitions.

Adjusted trading means any method or transaction used to defer a loss whereby a federal credit union sells a security to a counterparty at a price above its current fair value and simultaneously purchases or commits to purchase from the counterparty another security at a price above its current fair value.

Amortizing security means a security where the principal is reduced by contractual payments.

Average life means the weighted average time to principal repayment with the amount of the principal paydowns (both scheduled and unscheduled) as the weights.

Bankers' acceptance means a time draft that is drawn on and accepted by a bank, and that represents an irrevocable obligation of the bank.

Business day means a day other than a Saturday, Sunday, or federal holiday.

Capital means the total of all undivided earnings, regular reserves, other reserves (excluding the allowance for loan losses), net income, and accumulated unrealized gains (losses) on available-for-sale securities.

Collateralized mortgage obligation (CMO) means a multi-class bond issue collateralized by whole loan mortgages or mortgage-backed securities.

Commercial mortgage related security means a mortgage related security where the mortgages are secured by real estate upon which is located a commercial structure.

Corporate credit union means a credit union that meets the definition of "corporate credit union" contained in part 704 of this chapter.

Custodial agreement means a contract whereby a third party, for a fee, agrees to exercise ordinary care in protecting the securities held in safekeeping for its customers.

Delivery versus payment, in the context of the purchase and sale of securities, means that payment for a security occurs simultaneously with its delivery.

Embedded option means a characteristic of an investment which gives the issuer or the holder of the investment the right to change features such as rate and principal payment schedule. Embedded options include, but are not limited to, caps, floors, calls, and prepayment provisions. These options can result in the principal and/or interest cash flows of an investment varying in response to changes in interest rates.

Eurodollar deposit means a deposit in a foreign branch of a United States depository institution.

Facility means the home office of a federal credit union or any suboffice thereof, including, but not necessarily limited to, credit union service center, wire service, telephonic station, or mechanical teller station.

Fair value means the price at which a security can be bought or sold in a current, arms length transaction between willing parties, other than in a forced or liquidation sale.

Federal funds transaction means a transaction among depository institutions involving the transfer of immediately available funds resulting from credits to deposit balances at Federal Reserve banks or from credits to new or existing deposit balances due from a correspondent depository institution.

Futures contract means a contract for the future delivery of commodities, including certain government securities, sold on commodities exchanges.

Immediate family member means a spouse or other family member living in the same household.

Index means an interest rate which is regularly reported in a publication or electronic service of national circulation.

Industry-recognized information provider means an organization which obtains compensation by providing information to investors and receives no compensation for the purchase or sale of investments.

Interest rate swap means a contract to exchange streams of interest payments based upon a specified dollar amount at specified dates in the future.

Investment means any security, obligation, account, deposit, or other item authorized for purchase by a federal credit union under Sections 107(7), 107(8), or 107(15)(B) or (C) of the Federal Credit Union Act, or this part, other than loans to members.

Investment characteristic means a feature of an investment such as its maturity, index, cap, floor, coupon rate, coupon formula, index, call provision, or average life.

Maturity means the date the last principal amount of a security is scheduled to come due and shall not mean the call date or the average life of the security.

Mortgage related security means a security as defined in Section 3(a)(41) of the Securities and Exchange Act of 1934, *i.e.*, a privately-issued security backed by mortgages secured by real estate upon which is located a dwelling, mixed residential and commercial structure, residential manufactured home, or commercial structure.

Mortgage servicing means performing tasks to protect a mortgage investment, including collecting the installment payments, managing the escrow accounts, monitoring and dealing with delinquencies, and overseeing foreclosures and payoffs.

Municipal security means a security as defined in Section 107(7)(K) of the Act.

Official means any member of the board of directors, credit committee, or supervisory committee.

Option means a contract which provides the right, but not the obligation, to buy or sell a security at a fixed price on or before a specified date in the future.

Pair-off transaction means a security purchase transaction that is closed or sold at, or prior to, the settlement date.

Parallel shift means an equal basis point change at every point along a given yield curve.

Prepayment model means a reasonable and supportable forecast of mortgage prepayments in alternative interest rate scenarios. Models are available from securities broker-dealers and industry-recognized information providers. These models are used in tests to forecast the weighted average life, change in weighted average life, and price sensitivity of CMOs/REMICs and mortgage-backed securities.

Real estate mortgage investment conduit (REMIC) means a nontaxable entity formed for the sole purpose of holding a fixed pool of mortgages secured by an interest in real property and issuing multiple classes of interests in the underlying mortgages.

Regular-way settlement means delivery of a security from a seller to a buyer within the specified number of days established for that type of security. For example, regular-way settlement for transactions in U.S. government securities is one business day after the trade date and in agency securities is three business days after the trade date.

Repurchase transaction means a transaction in which a federal credit union agrees to purchase a security from a counterparty and to resell the same or any identical security to that counterparty at a specified future date and at a specified price.

Residual interest means the remainder cash flows from a CMO/REMIC, or other mortgage-backed security transaction,

after payments due bondholders and trust administrative expenses have been satisfied.

Reverse repurchase transaction means a transaction in which a federal credit union agrees to sell a security to a counterparty and to repurchase the same or any identical security from that counterparty at a specified future date and at a specified price.

Section 107(8) institution means an institution in which a federal credit union is authorized to make deposits pursuant to Section 107(8) of the Act, *i.e.*, an institution that is insured by the Federal Deposit Insurance Corporation or is a state bank, trust company or mutual savings bank operating in accordance with the laws of a state in which the federal credit union maintains a facility.

Securities loan means a transaction in which a federal credit union agrees to lend a security to a counterparty.

Security means a share, participation, or other interest in property or in an enterprise of the issuer or an obligation of the issuer that:

(1) Either is represented by an instrument issued in bearer or registered form or, if not represented by an instrument, is registered in books maintained to record transfers by or on behalf of the issuer;

(2) Is of a type commonly dealt in on securities exchanges or markets or, when represented by an instrument, is commonly recognized in any area in which it is issued or dealt in as a medium for investment; and

(3) Either is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations.

Senior management employee means the credit union's chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President, or Assistant Treasurer/Manager) and the chief financial officer (Comptroller).

Settlement date means the date originally agreed to by a federal credit union and a vendor for settlement of the purchase or sale of a security.

Short sale means the sale of a security not owned by the seller.

Small business related security means a security as defined in Section 3(a)(53) of the Securities and Exchange Act of 1934, *i.e.*, a security, rated in one of the four highest rating categories by a nationally recognized statistical rating organization, that represents ownership of one or more promissory notes or leases of personal property which evidence the obligation of a small business concern. It does not mean a security issued or guaranteed by the Small Business Administration.

Standby commitment means a commitment to either buy or sell a security, on or before a future date, at a predetermined price. The seller of the commitment is required to either accept delivery of a security (in the case of a commitment to buy) or make delivery of a security (in the case of a commitment to sell), in either case, at the option of the buyer of the commitment.

Street name, for a security, means registered in the name of a broker-dealer. Customer-owned securities held by a safekeeper normally are registered in street name to facilitate transfer when the security is sold. The customer remains the beneficial owner of the security.

Stripped mortgage-backed security means a security that represents either the principal- or interest-only portion of the cash flows of an underlying pool of mortgages or mortgage-backed securities.

Total return means, for a specific holding period, the sum of interest and principal payments, the income earned on the reinvestment of these cash flows, and the change in fair value.

Trade date means the date a federal credit union originally agrees, orally or in writing, to purchase or sell a security.

U.S. government agency means an instrumentality of the U.S. government, including the Commodity Credit Corporation, the Export-Import Bank, the Federal Farm Credit Bank, the Farm Credit System Financial Assistance Corporation, the Federal Financing Bank, the Federal Housing Administration, the Financing Corporation, the Government National Mortgage Association, the Maritime Administration, the Overseas Private Investment Corporation, the Resolution Funding Corporation, the Small Business Administration, the Tennessee Valley Authority, and the Veterans Administration.

U.S. government-sponsored enterprise means an entity originally established or chartered by the federal government to serve public purposes specified by the U.S. Congress but whose obligations are not explicitly guaranteed by the full faith and credit of the U.S. government. Such enterprises include the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the Student Loan Marketing Association.

When issued trading means the buying and selling of securities in the period between the announcement of an offering and the issuance and payment date of the securities.

Yankee dollar deposit means a deposit in a United States branch of a foreign bank licensed to do business in the state in which it is located, or a deposit in a state-chartered, foreign controlled bank.

Zero coupon bond means a debt obligation that makes no periodic interest payments but instead is sold at a discount from its face value. The holder of a zero coupon bond realizes the rate of return through the gradual appreciation of the security, which is redeemed at face value on a specified maturity date.

§ 703.3 Investment policies and practices.

(a) The board of directors of each federal credit union shall establish written investment policies consistent with the Act, this part, and other applicable laws and regulations, and review them at least annually. At a minimum, the policies shall address the following:

(1) Purposes and objectives of the credit union's investment activities;

(2) Authorized investments, by issuer and characteristics;

(3) Interest rate risk management, if not addressed in the credit union's asset-liability management policies;

(4) Concentration limits;

(5) Approved CMO/REMIC prepayment models, subject to the requirements of § 703.4(e)(3);

(6) Liquidity risk management, if not addressed in the credit union's asset-liability management policies;

(7) Credit risk management, if applicable, including approved issuers, or criteria for issuers, and limits on the amounts that may be invested with each issuer;

(8) Persons to whom investment authority has been delegated, the knowledge and experience required of such persons, and the extent of their authority. This requirement may be met by the board's approval of position descriptions which address the same criteria;

(9) Approved securities broker-dealers and limits on the amounts and types of transactions to be executed with each broker-dealer. Limits to be considered should include safekeeping arrangements, repurchase transactions, securities lending and borrowing, other transactions with credit risk, and total credit risk with an individual broker-dealer;

(10) Approved safekeeping entities and limits on the amounts and types of investments that may be safekept with each entity; and

(11) Trading policies, if the credit union engages in trading, including persons who have purchase and sale authority, trading account size limitations, allocation of cash flow to trading accounts, stop loss or sale provisions, dollar size limitations of specific types, quantity and maturity to be purchased, limits on the length of time an investment may be inventoried in the trading account, appropriate segregation of duties, and other internal controls.

(b) Federal credit unions must comply with the following investment practices:

(1) *Reporting.* A federal credit union must classify a security as held-to-maturity, available-for-sale, or trading, in accordance with generally accepted accounting principles (GAAP) and consistent with the federal credit union's documented intent and ability regarding the security.

(2) *Investment authority.* (i) Any official or employee of a federal credit union who has discretionary investment authority must be able to demonstrate an understanding of the risk characteristics of investments and investment transactions under that authority. Only officials, employees, and members of a federal credit union may be voting members of the credit union's investment and/or asset-liability management committees. The ultimate responsibility for supervising a federal credit union's investment activities rests with the board of directors.

(ii) Except as provided in paragraphs (b)(2)(iii) through (v) of this section, a federal credit union must retain discretionary control over the purchase and sale of investments and may not delegate such control to a person other than an official or employee of the credit union. Control is not considered delegated when a federal credit union is required to authorize a recommended purchase or sale transaction prior to its execution and the federal credit union, in practice, reviews such recommendations and authorizes such transactions.

(iii) A federal credit union may delegate discretionary control of its investment portfolio, within established parameters, to a person other than an official or employee of the credit union, provided that the person is an investment adviser registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940 (15 U.S.C. 80b). A federal credit union is prohibited from compensating an investment adviser on a per transaction basis or based on capital gains, capital appreciation, net income, performance relative to an index, or any other incentive basis.

(iv) The aggregate of a federal credit union's delegation of investment control, under paragraph (b)(2)(iii) of this section, and investment in investment companies, under § 703.4(d), is limited to 100 percent of capital at time of delegation and/or purchase.

(v) When a credit union has delegated discretionary investment control, it no longer has the ability to control its own securities, and all holdings for which such control has been delegated must be reported as available-for-sale.

(3) *Investments outside board policy.* The board of directors of a federal credit union must be notified as soon as possible, but no later than the next regularly scheduled board meeting, of any investment which falls outside of board policy after purchase. Board action regarding the investment must be documented in the minutes of the board meeting.

(4) *Interest rate risk.* (i) In the management of interest rate risk, a federal credit union must use a process that is commensurate with the scope, size, and complexity of the risk assumed. Market factors and characteristics of an investment which affect risk exposures must be evaluated prior to purchase and adequately measured, monitored, and controlled while the investment is held in the portfolio.

(ii) At least monthly, a federal credit union must prepare a written report setting forth:

(A) As applicable, the characteristics of each investment in the portfolio;

(B) The net increase or decrease in the fair value or total return of each security since the date of purchase and for the last month, with summary information on the whole portfolio for the last month;

(C) The sum of the fair values of all fixed and variable rate securities that have one or more of the following characteristics:

(*1*) Amortizing features;

(*2*) Embedded options;

(*3*) Maturities greater than 3 years; or

(*4*) Contract rates that are related to more than one index or are inversely related to, or multiples of, an index.

(iii) Where the amount calculated in paragraph (b)(4)(ii)(C) of this section is greater than the federal credit union's capital, the report described in paragraph (b)(4)(ii) of this section must provide a reasonable and supportable estimate of:

(A) The potential impact on the fair value and/or total return of each security in the portfolio and the portfolio as a whole, in percentage and dollar terms, of an immediate and sustained parallel shift in market interest rates of plus and minus 300 basis points; and

(B) The potential impact on capital, in percentage and dollar terms, of the dollar value calculated in paragraph (b)(4)(iii)(A) of this section.

(iv) Where a federal credit union does not have an asset-liability management or investment committee, each member of the board of directors must receive a copy of the report described in paragraphs (b)(4)(ii) and (iii) of this section. Where a federal credit union has such a committee, each member of the committee must receive a copy of the report, and each member of the board of directors must receive a summary of the information contained therein.

(5) *Valuation of securities.* (i) Prior to purchasing or selling a security, a federal credit union must obtain and document, on the trade date, either:

(A) Price quotes for the security, or a security with substantially similar characteristics, from at least two securities broker-dealers; or

(B) A price quote on the security from an industry-recognized information provider.

(ii) At least monthly, a federal credit union must review and document the fair value of each security held in portfolio.

(iii) At least semiannually, a federal credit union must obtain and document an independent assessment of the fair value of each security held in portfolio. This may be accomplished by obtaining either:

(A) At least one timely price quote on the security, or a security with substantially similar characteristics, from a securities broker-dealer other than the one from which it was purchased; or

(B) A price quote on the security from an industry-recognized information provider.

(6) *Credit risk.* (i) A federal credit union must conduct and document a credit analysis of the issuing entity prior to purchasing an investment and must update such analysis at least semiannually as long as the investment is held in portfolio. At a minimum, this analysis should consist of a review of the investment's prospectus and, if rated, its credit rating.

(ii) If an issuer is a financial institution which is rated by a nationally recognized statistical rating organization, it must have an issuer rating of B/C (or equivalent) or higher.

(iii) The requirements of paragraphs (b)(6)(i) and (ii) of this section do not apply in the case of investments that are:

(A) Issued or fully guaranteed as to principal and interest by the U.S. government, U.S. government agencies,

or U.S. government-sponsored enterprises; or

(B) Fully insured (including accumulated interest) by the National Credit Union Administration or the Federal Deposit Insurance Corporation.

(7) *Securities broker-dealers.* (i) A federal credit union may transact business with a securities broker-dealer provided that such broker-dealer either is registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or is a bank whose broker-dealer activities are regulated by a federal financial institution regulatory agency.

(ii) In determining whether to transact business with a securities broker-dealer, a federal credit union must consider the following factors:

(A) The ability of the broker-dealer and its subsidiaries or affiliates to fulfill commitments as evidenced by capital strength, liquidity, and operating results. This evidence should be gathered from current financial data, annual reports, credit reports, and other sources of financial information.

(B) The broker-dealer's general reputation for financial stability and fair and honest dealings with customers. Other depository institutions that are past or current customers of the broker-dealer should be contacted.

(C) Information available from state or federal securities regulators and securities industry self-regulatory organizations, such as the National Association of Securities Dealers, about any formal enforcement actions against the broker-dealer, its affiliates, or associated personnel.

(D) The background of any broker-dealer's sales representative upon whose advice the credit union may rely to determine his or her experience or expertise.

(iii) A federal credit union must review the audited financial condition of approved broker-dealers at least annually.

(8) *Control of investments.* (i) A federal credit union's purchased investments and repurchase collateral must be in the credit union's possession, recorded as owned by the credit union through the Federal Reserve Book-Entry System, or held by a board-approved safekeeper under a written custodial agreement.

(ii) A federal credit union must obtain an individual confirmation statement for each investment purchased or sold.

(iii) A federal credit union may not leave purchased investments and repurchase collateral in safekeeping with the selling broker-dealer, except that where the broker-dealer is a bank or corporate credit union, the investments or collateral may be safekept in a separately identifiable department or division of the bank or corporate credit union.

(iv) A credit union must receive a safekeeping receipt for each investment held in safekeeping. An investment may be held in street name, provided that the credit union and/or the safekeeper maintain documentation establishing that the credit union is the beneficial owner of the investment.

(v) A federal credit union must obtain and reconcile monthly a statement of purchased investments and repurchase collateral held in safekeeping and must review the financial condition of approved safekeepers at least annually.

(vi) All purchases and sales of investments must be delivery versus payment.

(9) *Trading.* (i) Any federal credit union engaging in trading must be able to demonstrate that it has sufficient resources, knowledge, systems, and procedures to handle the risks of such activity.

(ii) At least monthly, the board of directors or board-appointed investment committee must be provided a written report setting forth the fair value and/or total return at the trade date of all trading securities and purchase and sale transactions and the resulting gain or loss on an individual basis.

(iii) Any security purchased for trading purposes must be recorded at fair value on the trade date.

(10) *Documentation.* Documentation regarding an investment transaction must be maintained as long as the investment is held and until the documentation has been both audited and examined. At a minimum, documentation should include, where appropriate, credit ratings, bids and prices for periodic updates, a prospectus or description of the security from an industry-recognized information provider, and all the tests and reports required by the federal credit union's investment policy and this part. Documentation used in approving a broker-dealer or safekeeper must be maintained as long as the broker-dealer or safekeeper is on a federal credit union's approved list and until it has been both audited and examined.

§ 703.4 Authorized activities.

(a) *Contracting for securities.* A federal credit union may contract for the purchase or sale of a security provided that the delivery of the security is by regular-way settlement.

(b) *Repurchase transactions.* A federal credit union may enter into a repurchase transaction provided the collateral securing the transaction is a permissible investment for federal credit unions and the transaction is priced to reflect accrued interest, the risk of the securities, and the term of the transaction.

(c) *Federal funds transactions.* A federal credit union may sell federal funds to Section 107(8) institutions and credit unions, provided that the interest or other consideration received from the financial institution is at the market rate for federal funds transactions.

(d) *Investment companies.* (1) A federal credit union may invest in an investment company, such as a mutual fund or unit investment trust, which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a), provided that the portfolio of such management company is restricted by its investment policy, changeable only if authorized by shareholder vote, solely to investments and investment transactions that are permissible for federal credit unions.

(2) An investment company's investment policy is established by its prospectus and any statement of additional information incorporated therein.

(3) For the purposes of this part, an investment company's portfolio is deemed to be restricted solely to investments and investment transactions that are permissible for federal credit unions when its investment policy states that the investments and investment transactions of the company are limited to those authorized for federal credit unions under the Federal Credit Union Act and National Credit Union Administration Rules, Regulations, and Interpretive Ruling and Policy Statements.

(4) The federal credit union must, periodically, obtain a summary of the portfolio of the investment company to ensure consistency with the Federal Credit Union Act and this part.

(5) The aggregate of a federal credit union's investment in investment companies, under this paragraph (d), and delegation of investment control, under § 703.3(b)(2), is limited to 100 percent of capital at time of purchase and/or delegation.

(e) *CMOs/REMICs.* (1) A federal credit union may invest in or hold a fixed or variable rate CMO/REMIC only if it meets all of the following tests:

(i) *Average life test.* The CMO/REMIC has an estimated average life of 10 years or less.

(ii) *Average life sensitivity test.* The estimated average life of the CMO/REMIC extends by 4 years or less, assuming an immediate and sustained parallel shift in interest rates of up to and including plus 300 basis points, and shortens by 6 years or less, assuming an immediate and sustained parallel shift in interest rates of up to and including minus 300 basis points.

(iii) *Price sensitivity test.* The estimated change in the price of the CMO/REMIC is 17 percent or less, as a result of an immediate and sustained parallel shift in interest rates of up to and including plus and minus 300 basis points.

(2) The three tests contained in paragraph (e)(1) of this section shall apply at the time of purchase and on any subsequent date, based on market prices, interest rates, and estimated prepayments at the time of testing. CMOs/REMICs must be retested at least quarterly, more frequently if market or business conditions dictate.

(3) Before a federal credit union may invest in a CMO/REMIC, the board of directors must set forth, in its investment policy, the method by which the credit union will obtain the prepayment estimates necessary to conduct the tests contained in paragraph (e)(1) of this section. In its policy, the board must state whether the credit union will use either a median prepayment estimate or individual prepayment models, one of which may be the median estimate. Only one method may be selected; once selected, it is the only method that may be used when testing a CMO/REMIC. If the board elects to use individual prepayment models, it must identify specific models, with a minimum of two. If a median prepayment estimate is used, it must be obtained from an industry-recognized information provider. At purchase, the median estimate must be based on at least 5 prepayment models. At retesting, the median estimate must be based on at least 2 prepayment models. If individual prepayment models are used, estimates must be obtained from all of the prepayment models identified in the federal credit union's investment policy. One of the individual prepayment models may be the median prepayment estimate from an industry-recognized information provider. At purchase, a CMO/REMIC must pass the tests for each prepayment model used. At retesting, the CMO/REMIC must pass the tests for a majority of the prepayment models used at the time of purchase.

(f) *Corporate credit unions.* A federal credit union may purchase shares or deposits in a corporate credit union, except where the NCUA Board has provided notice that the corporate credit union is not operating in compliance with part 704 of this chapter. A federal credit union's purchase of corporate credit union capital shares, as defined in part 704 of this chapter, is limited to one percent of the investing credit union's assets.

(g) *Municipal securities.* A federal credit union may purchase and hold a municipal security only if it has been rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization.

(h) *Variable rate investments.* The index of any variable rate investment must be tied to domestic interest rates and not, for example, to foreign currencies, foreign interest rates, or domestic or foreign commodity or equity prices. For purposes of this part, the U.S. dollar-denominated London Interbank Offered Rate (LIBOR) is considered a domestic interest rate.

(i) *Yankee dollars, eurodollars, and bankers' acceptances.* A federal credit union may invest in yankee dollar deposits in a Section 107(8) institution, in eurodollar deposits in a branch of a Section 107(8) institution, and in bankers' acceptances issued by a Section 107(8) institution.

§ 703.5 Prohibitions

A federal credit union is prohibited from:

(a) Purchasing or selling a standby commitment or an option contract, except as permitted under § 701.21(i) of this chapter;

(b) Purchasing or selling futures or interest rate swap contracts;

(c) Engaging in pair-off transactions, adjusted trading, when issued trading, or short sales;

(d) Purchasing stripped mortgage backed securities, residual interests in CMOs/REMICs, mortgage servicing rights, commercial mortgage related securities, or small business related securities; and

(e) Purchasing a zero coupon investment with a maturity date that is more than 10 years from the settlement date.

§ 703.6 Pledging securities.

(a) *Permissible activities.* A federal credit union may pledge securities through reverse repurchase transactions, securities loans, and collateralized borrowing, and receive in exchange cash, other securities, and/or a fee.

(b) *Limitations.* (1) A federal credit union may enter into a transaction described in paragraph (a) of this section provided that the transaction is priced to reflect accrued interest, the risk of the securities, and the terms of the transaction.

(2) Cash obtained in a transaction described in paragraph (a) of this section is subject to the borrowing limit specified in Section 107(9) of the Act.

(3) Any investment purchased with cash obtained in a transaction described in paragraph (a) of this section must be a permissible investment for federal credit unions and must mature no later than the maturity of the transaction.

(4) Any security received in a transaction described in paragraph (a) of this section must be a permissible investment for federal credit unions.

§ 703.7 Divestiture requirements.

(a) Any federal credit union in possession of an investment that fails a requirement of this part, either because it has been downgraded below a minimum rating by the same rating agency used when it was purchased or because it is a CMO/REMIC that does not meet one of the tests set forth at § 703.4(e) upon retesting, must, within 30 days of the date of the failure, provide written notice of the failure to the board of directors and the appropriate regional director, except that notification to the regional director is not required if the investment matures within 90 days.

(b) If the federal credit union does not sell the failed investment within 30 days of the date of the failure, it must provide to the regional director, within 60 days of the written notice, a written plan to hold the investment. The regional director, however, has the authority to require the written plan within a shorter timer period or require immediate divestiture if serious safety and soundness concerns are present. The plan must address:

(1) The investment's characteristics and risks;

(2) The process to obtain and adequately evaluate the investment's market pricing, cash flows, and risk;

(3) How the investment fits into the credit union's asset liability management strategy;

(4) The impact that either holding or selling the investment will have on the federal credit union's earnings, liquidity and capital in different interest rate environments; and

(5) The likelihood that the investment may again pass the requirements of this part.

(c) Except where serious safety and soundness concerns are present, the federal credit union is not required to sell the investment until it receives a written response to the plan described in paragraph (b) of this section from the regional director.

§ 703.8 Prohibited fees.

(a) A federal credit union's officials, senior management employees, and immediate family members of such individuals, may not receive pecuniary consideration in connection with the making of an investment by the federal credit union. The prohibition contained in this subsection also applies to any employee not otherwise covered if the employee is directly involved in investments or deposits unless the board of directors determines that the employee's involvement does not present a conflict of interest.

(b) All transactions with business associates or family members not specifically prohibited by paragraph (a) of this section must be conducted at arm's length and in the interest of the credit union.

§ 703.9 Grandfather provisions.

(a) Subject to safety and soundness considerations, a federal credit union's authority to hold an investment is governed by the regulations in effect at the time of purchase. Past regulations governing certain investments are described in paragraphs (b) through (d) of this section.

(b) Subject to safety and soundness considerations, a federal credit union may hold a fixed-rate CMO/REMIC purchased:

(1) Before December 2, 1991;

(2) On or after December 2, 1991, but before July 30, 1993, if its average life does not extend or shorten by more than 6 years if interest rates rise or fall 300 basis points; or

(3) On or after December 2, 1991, but before the effective date of the final regulation, if for the purpose of reducing interest rate risk.

(c) Subject to safety and soundness considerations, a federal credit union may hold a variable-rate CMO/REMIC purchased:

(1) Before December 2, 1991;

(2) On or after December 2, 1991, but before July 30, 1993, if:

(i) The interest rate is reset at least annually;

(ii) The maximum allowable interest rate on the instrument is at least 300 basis points above the interest rate of the instrument at the time of purchase; and

(iii) The interest rate of the instrument varies directly (not inversely) with the index upon which it is based and is not reset as a multiple of the change in the related index; or

(3) On or after July 30, 1993, but before the effective date of this regulation, if:

(i) The interest rate is reset at least annually;

(ii) The maximum allowable interest rate on the instrument is at least 300 basis points above the interest rate of the instrument at the time of purchase; and

(iii) The interest rate of the instrument varies directly (not inversely) with the index upon which it is based and is not reset as a multiple of the change in the related index; and

(iv) The estimated change in its price is 17 percent or less, due to an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

(d) Subject to safety and soundness considerations, a federal credit union may hold a CMO/REMIC residual, SMBS, or zero coupon security with a maturity greater than 10 years, if the investment was purchased:

(1) Before December 2, 1991; or

(2) On or after December 2, 1991, but before the effective date of the final regulation, if for the purpose of reducing interest rate risk.

(e) All grandfathered investments are subject to the reporting and risk management requirements of § 703.3.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food And Drug Administration

21 CFR Part 872

[Docket No. 95N–0296]

Dental Devices; Effective Date of Requirement for Premarket Approval of Partially Fabricated Denture Kits

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; opportunity to request a change in classification.

SUMMARY: The Food and Drug Administration (FDA) is proposing to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for partially fabricated denture kits. The agency is also summarizing its proposed findings regarding the benefits to the public from use of the device as well as the degree of risk of illness or injury intended to be eliminated or reduced by requiring that the device have an approved PMA or a completed PDP. In addition, FDA is announcing an opportunity for interested persons to request the agency to change the classification of the device based on new information.

DATES: Written comments by February 27, 1996; requests for a change in classification by December 14, 1995. FDA intends that if a final rule based on this proposal is issued, PMA's or notices of completion of PDP's will be required to be submitted within 90 days of the effective date of the final rule.

ADDRESSES: Submit written comments or requests for a change in classification to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Louis Hlavinka, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8879.

SUPPLEMENTARY INFORMATION:

I. Background

Section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) requires the classification of medical devices into one of three regulatory classes: Class I (general controls), class II (special controls), and class III (premarket approval). Generally, devices that were on the market before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295), and devices marketed on or after that date that are substantially equivalent to such devices, have been classified by FDA. For the sake of convenience, this preamble refers to the devices that were on the market on or after that date as "preamendments devices."

Section 515(b)(1) of the act (21 U.S.C. 360e(b)(1)) establishes the requirement that a preamendments device that FDA has classified into class III is subject to premarket approval. A preamendments class III device may be commercially distributed without an approved PMA or notice of completion of a PDP until 90 days after FDA promulgates a final rule requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the act, whichever is later. Also, such a device is exempt from the investigational device exemption (IDE) requirements (part 812 (21 CFR part 812)) until the date stipulated by FDA in the final rule requiring the submission of a PMA application or a notice of completion of a PDP for that device. At that time, an IDE must be submitted only if a PMA has not been submitted or a PDP not completed.

Section 515(b)(2)(A) of the act provides that a proceeding to issue a final rule to require premarket approval shall be initiated by publication of a notice of proposed rulemaking containing: (1) The proposed rule, (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or a declared completed PDP and the benefit to the public from the use of the device, (3) an opportunity for the submission of comments on the proposed rule and the proposed findings, and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(2)(B) of the act provides that if FDA receives a request for a change in the classification of the device within 15 days of the publication of the notice, FDA shall, within 60 days of the publication of the notice, consult with the appropriate FDA advisory committee and publish a notice denying the request for change of classification or announcing its intent to initiate a proceeding to reclassify the device under section 513(e) of the act. If FDA does not initiate such a proceeding, section 515(b)(3) of the act provides that FDA shall, after the close of the comment period on the proposed rule and consideration of any comments received, promulgate a final rule to require premarket approval, or publish a notice terminating the proceeding. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the act, unless the reason for termination is that the device is a banned device under section 516 of the act (21 U.S.C. 360f).

If a proposed rule to require premarket approval for a preamendments device is made final, section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)) requires that a PMA or a notice of completion of a PDP for any such device be filed within 90 days of the date of promulgation of the final rule or 30 months after final classification of the device under section 513 of the act, whichever is later. If a PMA or a notice of completion of a PDP is not filed by the later of the two dates, commercial distribution of the device is required to cease. The device may, however, be distributed for investigational use if the manufacturer, importer, or other sponsor of the device complies with the IDE regulations. If a PMA or a notice of completion of a PDP is not filed by the later of the two dates, and no IDE is in effect, the device is deemed to be adulterated, within the meaning of section 501(f)(1)(A) of the act, and subject to seizure and condemnation under section 304 of the act (21 U.S.C. 334) if its distribution continues. Shipment of the device in interstate commerce will be subject to injunction under section 302 of the act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the act (21 U.S.C. 333). In the past, FDA has requested that manufacturers take action to prevent the further use of devices for which no PMA or notice of completion of a PDP has been filed and may determine that such a request is appropriate for partially fabricated denture kits.

The act does not permit an extension of the 90-day period after promulgation of a final rule within which an application or a notice is required to be filed. The House report (H. Rept.) on the amendments states that "the thirty month 'grace period' afforded after classification of a device into class III * * * is sufficient time for manufacturers and importers to develop the data and conduct the investigations necessary to support an application for premarket approval." (H. Rept. 94–853 Cong., 2d sess. 42 (1976)).

A. Classification of Partially Fabricated Denture Kits

In the **Federal Register** of August 12, 1987 (52 FR 30082), FDA issued a final rule classifying partially fabricated denture repair kits into class III. The preamble to the proposal to classify the device published in the **Federal Register** of December 30, 1980 (45 FR 85962), included the recommendation of the Dental Devices Classification Panel (the Panel), an FDA advisory committee, regarding the classification of the devices. The Panel recommended that partially fabricated denture kits be in class III (premarket approval). The Panel believed that general controls and performance standards would not provide reasonable assurance of the safety and effectiveness of these devices and that there was insufficient information to establish such standards.

In the **Federal Register** of January 6, 1989 (54 FR 550), FDA published a notice of intent to initiate proceedings to require premarket approval for 31 class III preamendments devices. Among other items, the notice described the factors FDA takes into account in establishing priorities for proceedings under section 515(b) of the act for promulgating final rules requiring that preamendments class III devices have approved PMA's or declared completed PDP's. Partially fabricated denture kits were not included in the list of devices identified in that notice. FDA updated its priorities in a preamendments class III strategy document made public through a **Federal Register** notice of availability published on May 6, 1994 (59 FR 23731). Accordingly, FDA has recently determined that partially fabricated denture kits identified in 21 CFR 872.3600 have a high priority for initiating a proceeding to require premarket approval because the safety and effectiveness of the device has not been established by valid scientific evidence as defined in § 860.7 (21 CFR 860.7). Accordingly, FDA is commencing a proceeding under section 515(b) of the act to require that the partially fabricated denture kit have an approved PMA or declared completed PDP.

B. Dates New Requirements Apply

In accordance with section 515(b) of the act, FDA is proposing to require that a PMA or a notice of completion of a PDP be filed with the agency for the partially fabricated denture kit within 90 days after promulgation of any final rule based on this proposal. An applicant whose device was legally in commercial distribution before May 28, 1976, or whose device has been found by FDA to be substantially equivalent to such a device, will be permitted to continue marketing the partially fabricated denture kit during FDA's review of the PMA or notice of completion of the PDP. FDA intends to review any PMA for the device within 180 days, and any notice of completion of a PDP for the device within 90 days of the date of filing. FDA cautions that, under section 515(d)(1)(B)(i) of the act, FDA may not enter into an agreement to extend the review period of a PMA beyond 180 days unless the agency finds that "* * * the continued availability of the device is necessary for the public health."

FDA intends that, under § 812.2(d), the preamble to any final rule based on this proposal will state that, as of the date on which a PMA or a notice of completion of a PDP is required to be filed, the exemptions in § 812.2(c)(1) and (c)(2) from the requirements of the IDE regulations for preamendments class III devices will cease to apply to any partially fabricated denture kit which is: (1) Not legally on the market on or before that date, or (2) legally on the market on or before that date but for which a PMA or notice of completion of a PDP is not filed by that date, or for which a PMA approval has been denied or withdrawn.

If a PMA or a notice of completion of a PDP for the partially fabricated denture kit is not filed with FDA within 90 days after the date of issuance of any final rule requiring premarket approval for the devices, commercial distribution

of the device must cease. The device may be distributed for investigational use only if the requirements of the IDE regulations are met. An approved IDE is required to be in effect before an investigation of the device may be initiated or continued. FDA, therefore, cautions that, for manufacturers not planning to submit a PMA immediately, an IDE application should be submitted to FDA at least 30 days before the end of the 90 day period after the final rule is published in the **Federal Register** to minimize the possibility of interrupting all availability of the device. FDA does not consider an investigation of the partially fabricated denture kit to pose a significant risk as defined in the IDE regulation. The device may be distributed for investigational use if manufacturers, importers, or other sponsors comply with the abbreviated requirements (§ 812.1(b)) of the IDE regulation.

C. Description of Device

A partially fabricated denture kit is a device composed of connected preformed teeth that is intended for use in construction of a denture. A denture base is constructed using the patient's mouth as a mold, by partially polymerizing the resin denture base materials while the materials are in contact with the oral tissues. After the denture base is constructed, the connected preformed teeth are chemically bonded to the base.

D. Proposed Findings With Respect to Risks and Benefits

As required by section 515(b) of the act, FDA is publishing its proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring partially fabricated denture kits to have an approved PMA or a declared completed PDP, and (2) the benefits to the public from the use of the device.

E. Risk Factors

Partially fabricated denture kits have been associated with potential risks relative to jaw relationships, adverse tissue reaction, and materials composition.

The risks associated with jaw relationships are: (1) Inaccurate vertical dimension of occlusion; (2) improper occlusal plane and tooth ridge relationships; (3) jaw joint dysfunction and esthetic problems caused by inaccurate reproduction of the physiologic dimensions of the mandible; and (4) unsatisfactory centric and eccentric relations to ensure proper distribution of pressure to the edentulous-bearing areas.

The risks related to adverse tissue reaction include: (1) Irritation of the oral cavity soft tissues; (2) monilial infection; (3) unusual hard and soft tissue changes; (4) tissue health maintenance difficulties; and (5) allergy or sensitization caused by the leaching of unreacted resin monomer on initial fitting or insertion of the denture.

The risks relative to materials composition: (1) Deterioration of the acrylic plastic denture base over time; (2) unsatisfactory performance of the denture materials; and (3) ill-fitting dentures resulting from decomposition or distortion of the acrylic plastic caused by improper finishing techniques and jeopardy to the patient's oral health resulting from the use of dentures fabricated by dental office techniques that bypass traditionally controlled, accepted, and proven laboratory procedures (Refs. 1 through 10).

F. Benefits of the Device

A partially fabricated denture kit is constructed by chemically bonding preformed teeth to a common base. The patient's mouth is used as a mold by partially polymerizing the resin denture base while the materials are in contact with oral tissues. The potential benefits intended from the use of a partially fabricated denture kit are: potential modification of the size and shape of the prefabricated denture to the specific oral configuration and relationships for some patients; a reduction in the amount of time needed by the practitioner and auxiliary staff to fabricate a denture for the patient; fewer laboratory procedures compared with conventional methods of denture construction outside the dental office; reduction of commercial laboratory charges and potential reduction of denture costs to the patient; and availability of a denture intended for temporary use. (Refs. 1, 3 through 5, 8, and 10).

G. Need for Information for Risk/Benefit Assessment of the Device

FDA classified the partially fabricated denture kit into class III because it determined that insufficient information existed to determine that general controls would provide reasonable assurance of the safety and effectiveness of the device or to establish a performance standard to provide such assurance. FDA has determined that the special controls that may now be applied to class II devices under the Safe Medical Devices Act of 1990 also would not provide such assurance. FDA has weighed the probable risks and benefits to the public health from the use of the device and believes that the literature reports and other information discussed above suggest the potential for unreasonable risks associated with the use of the device. These risks must be addressed by the manufacturers of partially fabricated denture kits. FDA believes that partially fabricated denture kits should undergo premarket approval to establish effectiveness and to determine whether the benefits to the patient are sufficient to outweigh any risk.

II. PMA Requirements

A PMA for this device must include the information required by section 515(c)(1) of the act and § 814.20 (21 CFR 814.20) of the procedural regulations for PMA's. Such a PMA should include a detailed discussion of the risks identified above, as well as a discussion of the effectiveness of the device for which premarket approval is sought. In addition, a PMA must include all data and information on: (1) Any risks known, or that should be reasonably known to the applicant that have not been identified in this document; (2) the effectiveness of the specific partially fabricated denture kit that is the subject of the application; and (3) full reports of all preclinical and clinical information from investigations on the safety and effectiveness of the device for which premarket approval is sought.

A PMA should include valid scientific evidence as defined in § 860.7 and should be obtained from well-controlled clinical studies, with detailed data, in order to provide reasonable assurance of the safety and effectiveness of the partially fabricated denture kit for its intended use. In addition to the basic requirements described in § 814.20(b)(6)(ii) for a PMA, it is recommended that such studies employ a protocol that meets the criteria described below.

Applicants should submit any PMA in accordance with FDA's guideline entitled "Guideline for the Arrangement and Content of a PMA Application." The guideline is available upon request from FDA, Center for Devices and Radiological Health, Division of Small Manufacturers Assistance (HFZ–220), 1350 Piccard Dr., Rockville, MD 20850.

A. General Protocol Requirements

The partially fabricated denture kit should be evaluated in a prospective, randomized, controlled clinical trial that uses adequate controls. The study must attempt to answer all of the general and specific questions about the safety and effectiveness of the devices, including the risk to benefit ratio. These questions should relate to the pathophysiologic effects which the device produces, as well as the primary and secondary variables analyzed to evaluate safety and effectiveness. Study endpoints and study success must be defined.

Animal toxicity studies should be conducted according to the International Standard ISO–10993, "Biological Evaluation of Medical Devices Part-1: Evaluation and Testing." Specifically:

(1) The selection of material(s) to be used in device manufacture and its toxicological evaluation should initially take into account full characterization of the material, for example, formulation, known and suspected impurities, and processing.

(2) The material(s) of manufacture, the final product and possible leachable chemicals or degradation products should be considered for their relevance to the overall toxicological evaluation of the device.

(3) Any in vitro or in vivo experiments or tests must be conducted according to recognized good laboratory practices followed by an evaluation by competent informed persons.

(4) Any change in chemical composition, manufacturing process, physical configuration or intended use of the device must be evaluated with respect to possible changes in toxicological effects and the need for additional testing.

(5) The toxicological evaluation performed in accordance with the guidance should be considered in conjunction with other information from other nonclinical studies and postmarket experiences for an overall safety assessment.

Examples of questions to be addressed by the clinical studies may include the following:

1. What morbidity (irritation of the oral cavity soft tissues, monilial infection, unusual hard and soft tissue changes, sensitization, or allergic response) is associated with the subject device in the patient population and how does this compare to the control?

2. What impact does the device have on the vertical dimension of the occlusion?

3. What are the long term effects of the device on the oral tissue?

4. What changes in physical characteristics (hardness, dimensional stability, etc.) of the materials take place over time?

5. Does the device provide a functional level of retention for the user?

6. Does the device allow sufficient comfort for the user?

7. Does the partially fabricated denture provide adequate strength for the denture to function properly?

8. What criteria are used to select the correct size of partially fabricated denture for an individual patient?

9. Because the teeth are preset, how is the individual occlusal plane determined to avoid traumatic occlusion?

10. Does the device allow the patient to be able to masticate food, insofar as oral and psychologic conditions will permit?

11. Does use of the device result in the patient presenting a normal individual appearance that satisfies esthetic requirements?

Statistically valid investigations should include a clear statement of the objectives of the study. Appropriate rationale, supported by background literature on previous uses of the device and proposed mechanisms for its effect, should be presented as justification for the questions to be answered, and the definitions of study endpoints and success. Clear study hypotheses should be formulated based on this information.

B. Study Sample Requirements

The subject population should be well defined. Ideally, the study population should be as homogeneous as possible in order to minimize selection bias and reduce variability. Otherwise, an unusually large population may be necessary to achieve statistical significance. Independent studies producing comparable results at multiple study sites using identical protocols are necessary to demonstrate repeatability. Justification must be provided for the sample size used to show that a sufficient number of completely edentulous patients were enrolled to attain statistically and clinically meaningful results. Eligibility criteria for the subject population should include the subject's potential for benefit, the ability to detect a benefit in the subject, the absence of both contraindications and any competing risk and assurance of subject compliance. In a heterogeneous sample, stratification of the patient groups participating in the clinical study may be necessary to analyze homogeneous subgroups and thereby minimize potential bias. All endpoint variables should be identified, and a sufficient number of patients from each subgroup analysis should be included to allow for stratification by pertinent demographic characteristics.

The investigation should include an evaluation of comparability between treatment groups and control groups (including historical controls). Baseline (e.g., age, gender, etc.) and other variables should be measured and compared between the treatment and control groups. The baseline variables should be measured at the time of treatment assignment, not during the course of the study. Other variables should be measured during the study as needed to completely characterize the device's safety and effectiveness.

C. Study Design

All potential sources of error, including selection bias, information bias, misclassification bias, comparison bias, or other potential bias should be evaluated and minimized. The study should clearly measure any possible placebo effect. Treatment effects should be based on objective measurements. The validity of these measurement scales should be shown to ensure that the treatment effect being measured reflects the intended uses of the device.

Adherence to the protocol by subjects, investigators, and all other individuals involved is essential and requires monitoring to assure compliance by both patients and physicians. Subject exclusion due to dropout or loss to followup greater than 20 percent may invalidate the study due to bias potential; therefore, initial patient screening and compliance of the final subject population will be needed to minimize the dropout rate. All dropout must be accounted for and the circumstances and procedures used to ensure patient compliance must be well documented.

Endpoint assessment cannot be based solely on a statistical value. Instead, the clinical outcome must be carefully defined to distinguish between the evaluation of the proper function of the device versus its benefit to the subject. Statistical significance and effectiveness of the device must be demonstrated by the statistical results. However, under certain restricted circumstances, a clinically significant result may be acceptable without statistical significance.

Observation of all potential adverse effects must be recorded and monitored throughout the study and the followup period. All adverse effects must be documented and evaluated.

D. Statistical Analysis Plan

The involvement of a biostatistician is recommended to provide proper guidance in the planning, design, conduct, and analysis of a clinical study. There must be sufficient documentation of the statistical analysis and results including comparison group selection, sample size justification,

stated hypothesis test(s), population demographics, study site pooling justification, description of statistical tests applied, clear presentation of data and a clear discussion of the statistical results, and conclusions.

In addition to this generalized guidance, the investigator or sponsor is expected to incorporate additional requirements necessary for a well-controlled scientific study. These additional requirements are dependent on what the investigator or sponsor intends to measure or what the expected treatment effect is based on each device's intended use.

E. Clinical Analysis

The analysis which results from the study should include a complete description of all the statistical procedures employed, including assumption verification, pooling justification, population selection, statistical model selection, etc. If any procedures are uncommon or derived by the investigator or sponsor for the specific analysis, an adequate description must be provided of the procedure for FDA to assess its utility and adequacy. Data analysis and interpretations from the clinical investigation should relate to the medical claims.

F. Monitoring

Rigorous monitoring is required to assure that the study procedures are followed and that data are collected in accordance with the study protocol. Forceful monitors, who have appropriate credentials and who are not aligned with patient management or otherwise biased, contribute prominently to a successful study.

III. Opportunity to Request a Change in Classification

Before requiring the filing of a PMA or a notice of completion of a PDP for a device, FDA is required by section 515(b)(2)(A)(i) through (b)(2)(A)(iv) of the act and 21 CFR 860.132 to provide an opportunity for interested persons to request a change in the classification of the device based on new information relevant to its classification. Any proceeding to reclassify the device will be under the authority of section 513(e) of the act.

A request for a change in the classification of the partially fabricated denture kit is to be in the form of a reclassification petition containing the information required by § 860.123 (21 CFR 860.123), including information relevant to the classification of the device, and shall, under section 515(b)(2)(B) of the act, be submitted by December 14, 1995.

The agency advises that, to ensure timely filing of any such petition, any request should be submitted to the Dockets Management Branch (address above) and not to the address provided in § 860.123(b)(1). If a timely request for a change in the classification of the partially fabricated denture kit is submitted, the agency will, by January 29, 1996, after consultation with the appropriate FDA advisory committee and by an order published in the **Federal Register**, either deny the request or give notice of its intent to initiate a change in the classification of the device in accordance with section 513(e) of the act and 21 CFR 860.130 of the regulations.

IV. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Ad Hoc Committee for the Delivery of Quality Prosthetic Care for the Financially Disadvantaged, "Final Report from the Ad Hoc Committee for the Delivery of Quality Prosthetic Care for the Financially Disadvantaged," *Journal of the American Dental Association*, 95:1026–1037, November 1977.

2. Chasens, A. I., "Controversies in Occlusion," Dental Clinics of North America, 34:1:111–123, January 1990.

3. Council on Dental Materials and Devices, "Association Reports: Partially Prefabricated Dentures," *Journal of the American Dental Association*, 98(2):268, February 1979.

4. Council on Dental Materials and Devices, "Partially Prefabricated Dentures," *Journal of the American Dental Association*, 93(2):380, August 1976.

5. Council on Dental Materials and Devices, "Reports of Councils and Bureaus: Partially Prefabricated Dentures," *Journal of the American Dental Association*, 90(3):669, March 1975.

6. Craig, R. G. et al., "Dental Materials Properties and Manipulation," pp. 271–281, 5th ed., Mosby, St. Louis, MO, 1991.

7. Muzyka, B. C., and M. Glick, "A Review of Oral Fungal Infections and Appropriate Therapy," *Journal of the American Dental Association*, 126:63–72, January 1995.

8. Phillips, R. W., "Elements of Dental Materials For Dental Hygienists and Assistants," 3d ed., W. B. Saunders Co., 1977, pp. 130–138.

9. Shay, K., "Identifying the Needs of the Elderly Dental Patient: The Geriatric Dental Assessment," Dental Clinics of North America, 38:3:499, 505–507, July 1994.

10. Vining, R. V., "Council Comments on Prefabricated Dentures," a Letter to the Editor, *Journal of the American Dental Association*, 95:21, July 1977.

V. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this device has been classified into class III since August 12, 1987, and manufacturers of this device legally in commercial distribution before May 28, 1976, or found by FDA to be substantially equivalent to such a device, will be permitted to continue marketing during FDA's review of the PMA or notice of completion of the PDP, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

VII. Comments

Interested persons may, on or before February 27, 1996, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Interested persons may, on or before December 14, 1995, submit to the Dockets Management Branch a written request to change the classification of the partially fabricated denture kit. Two copies of any request are to be submitted, except that individuals may submit one copy. Comments or requests are to be identified with the docket number found in brackets in the heading of this document. Received comments and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 872

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 872 be amended as follows:

PART 872—DENTAL DEVICES

1. The authority citation for 21 CFR part 872 continues to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 371).

2. Section 872.3600 is amended by revising paragraph (c) to read as follows:

§ 872.3600 Partially fabricated denture kit.

* * * * *

(c) *Date PMA or notice of completion of a PDP is required.* A PMA or a notice of completion of a PDP is required to be filed on or before (date 90 days after the effective date of a final rule based on this proposed rule), for any partially fabricated denture kit that was in commercial distribution before May 28, 1976, or that has on or before (date 90 days after the effective date of a final rule based on this proposed rule), been found to be substantially equivalent to a partially fabricated denture kit that was in commercial distribution before May 28, 1976. Any other partially fabricated denture kit shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: October 5, 1995.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 95–29083 Filed 11–28–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018–AD44

Addition of Great Bay National Wildlife Refuge to the List of Open Areas for Hunting in New Hampshire

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to add Great Bay National Wildlife Refuge to the list of areas open for migratory game bird hunting and big game hunting in New Hampshire along with pertinent refuge-specific regulations for such activities. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resource.

DATES: Comments may be submitted on or before January 29, 1996.

ADDRESSES: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 670 ARLSQ, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, at the address above; Telephone: 703–358–2029 X–5242.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking proposes to open Great Bay National Wildlife Refuge to migratory game bird (waterfowl) hunting and big game (deer) hunting.

Request for Comments

Department of the Interior policy is, whenever practicable, to afford the public a meaningful opportunity to participate in the rulemaking process. A 60-day comment period is specified in order to facilitate public input. Accordingly, interested persons may submit written comments concerning this proposed rule to the person listed above under the heading **ADDRESSES**. All substantive comments will be reviewed and considered.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, Section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the purposes for which each refuge was established. The Director of the U.S. Fish and Wildlife Service (Director), administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established.

Opening Package

In preparation for this opening, the refuge unit has included in its "openings package" for Regional review and approval from the Washington Office the following documents: a management plan for recreational hunting; an environmental assessment; a Finding of No Significant Impact (FONSI); a Section 7 statement, pursuant to the Endangered Species Act, that this opening will not affect a listed species or its critical habitat; and refuge-specific regulations to administer the hunting program. From a review of the totality of these documents, The Service has determined that the opening of the Great Bay National Wildlife Refuge to hunting is compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSAA and the RRA, the Service has also determined that this opening for hunting is compatible and consistent with the primary purposes for which the refuge was established. A brief description of the hunting program is as follows:

Great Bay National Wildlife Refuge

Great Bay National Wildlife Refuge was authorized in December, 1991, when an Act of Congress approved the transfer of 1,000 acres of land at Pease Air Force Base in Newington, New Hampshire to the Fish and Wildlife Service. The refuge was established August 11, 1992, with the signing of the transfer document. The refuge was established for the purposes (1) to encourage the natural diversity of plant, fish and wildlife species within the refuge, and to provide for their

conservation and management, (2) to protect species listed as endangered or threatened, or identified as candidates for listing pursuant to the Endangered Species Act of 1973, (3) to preserve and enhance the water quality of aquatic habitats within the refuge, and (4) to fulfill the international treaty obligations of the United States relating to fish and wildlife.

The refuge is located on the eastern shores of Great Bay. The refuge protects 922 acres of upland, 132 acres of wetlands, and 6.5 miles of Great Bay's shoreline. Wetland habitat types include 64 acres of open (fresh water) impoundments, 37 acres of forested wetlands, and 31 acres of salt marsh. The upland habitat includes 585 acres of hardwood forests interspersed with white pine, red pine, spruce, and fir, 200 acres of open (grasslands) area, and 137 acres of shrub dominate upland.

Waterfowl are commonly seen throughout the year. In 1994 spring waterfowl migration peaked around mid-April with over 300 birds observed. In summer the refuge supports breeding waterfowl. Typically, the fall waterfowl migration is larger than spring. In 1994, fall migration peaked around the end of October with over 900 birds observed. The refuge also supports wintering black ducks when open water is available. With wetland restoration and wetland habitat management, the refuge will be able to attract and support more breeding waterfowl.

Currently, the deer population is being monitored. High deer density and its effect on the habitat is the number one concern of the refuge. Habitat degradation can occur quickly and take many years to overcome. The refuge is constructing deer enclosures to monitor the condition of the habitat. An index of deer use during October and November has begun. A night spot-light count was conducted in 1993 and 1994 to monitor deer populations during these months. The index results show an increase in deer observed from 4.7 deer/night in 1993 to 11.5 deer/night in 1994. The University of New Hampshire is assisting the refuge in developing more detailed data. There is a need for deer harvesting due to the many years the Pease Air Force Base was off-limits to all but military personnel. The hunting of deer was, therefore, quite limited.

Opening the refuge to hunting has been found to be compatible in a separate compatibility determination. The hunting programs will be reviewed, as appropriate, to ensure that sensitive habitats are protected from disturbance. A Section 7 evaluation pursuant to the Endangered Species Act was conducted. The Service determined that the proposed action will not affect any Federally listed or proposed for listing threatened or endangered species or their critical habitats. Pursuant to the National Environmental Policy Act (NEPA), an environmental assessment was made and a Finding of No Significant Impact (FONSI) was made regarding the hunting programs. Sufficient funds would be available within the refuge unit budget to operate the hunting programs as proposed.

Paperwork Reduction Act

The information collection requirements for Part 32 are found in 50 CFR Part 25 and have been approved by the Office of Management and Budget under Public Law 104–13 and assigned clearance number 1018–0014. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational used be compatible with the primary purposes for which the areas were established. The information requested in the applicable form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Economic Effect

This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) has revealed that the rulemaking would not have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. While the proposed hunting programs could increase the number of hunting licenses purchased and boost sales of hunting gear, the impact would not be considered significant as other surrounding areas are, also, open to hunting and the addition of the refuge to those areas open for hunting would be only proportionally relevant to small entities. Therefore, this proposed rule would have minimal effect on such entities.

Federalism

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared for this opening. Based upon the Environmental Assessment, the Service issued a Finding of No Significant Impact with respect to the opening. A Section 7 evaluation was prepared pursuant to the Endangered Species Act with a finding that the opening will not affect any identified threatened or endangered species or critical habitat. These documents are on file at the offices of the Service, and may be reviewed by making preliminary arrangements with the primary author.

Primary Author. Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, Fishing, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

Accordingly, Part 32 of chapter I of Title 50 of the *Code of Federal Regulations* is proposed to be amended as set forth below:

PART 32—[AMENDED]

1. The authority citation for Part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

§ 32.7 [Amended]

2. Section 32.7 List of refuge units open to hunting and/or fishing is amended to add the alphabetical listing of Great Bay National Wildlife Refuge under the State of New Hampshire.

3. Section 32.48 New Hampshire is added to read as follows:

§ 32.48 New Hampshire.

The following refuge units have been opened to hunting and/or fishing, and are listed in alphabetical order with applicable refuge-specific regulations.

Great Bay National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

1. Waterfowl hunting will not require a permit. Hunting will be allowed only from the immediate shoreline of the Bay.

2. Only portable blinds are permitted. All decoys, blinds, and boats must be removed after each day's hunt.

3. Waterfowl hunters will access shorelines by boat only.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

1. Refuge permits are required for the deer hunt.

2. Big game hunters are required to wear in a conspicuous manner on the head, chest and back a minimum of 400 square inches of solid-colored blaze orange clothing or material.

D. Sport Fishing. [Reserved]

Dated: October 20, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–29106 Filed 11–28–95; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 32

RIN 1018–AD43

Addition of Ohio River Islands National Wildlife Refuge to the List of Open Areas for Sport Fishing in West Virginia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to add Ohio River Islands National Wildlife Refuge to the list of areas open for sport fishing in West Virginia along with pertinent refuge-specific regulations for such activities. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resource.

DATES: Comments may be submitted on or before January 29, 1996.

ADDRESSES: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1849 C Street NW., MS 670 ARLSQ, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, at the address above; Telephone: 703–358–2029 X–5242.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking proposed to open Ohio River Islands National Wildlife Refuge to sport fishing

Request for Comments

Department of the Interior policy is, whenever practicable, to afford the public a meaningful opportunity to participate in the rulemaking process. A 60-day comment period is specified in order to facilitate public input. Accordingly, interested persons may submit written comments concerning this proposed rule to the person listed above under the heading **ADDRESSES**. All substantive comments will be reviewed and considered.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, Section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the purposes for which each refuge was established. The Director administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established.

Opening Package

In preparation for this opening, the refuge unit has included in its "openings package" for Regional review and approval from the Washington Office the following documents: a management plan for recreational fishing; an environmental assessment; a Finding of No Significant Impact (FONSI); a Section 7 statement, pursuant to the Endangered Species Act, that this opening is not likely to adversely affect a listed species or its critical habitat; and refuge-specific regulations to administer the fishing program. From a review of the totality of these documents, the Service has determined that the opening of the Ohio River Islands National Wildlife Refuge to sport fishing is compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSAA and the RRA, the Service has also determined that this opening for sport fishing is compatible and consistent with the primary purposes for which the refuge was established. A brief description of the fishing program is as follows:

Ohio River Islands National Wildlife Refuge

Established in 1990, the Ohio River Islands National Wildlife Refuge is located on the Ohio River from Shippingport, Pennsylvania to Manchester, Ohio. There are currently eighteen islands in the refuge totaling 1,020 acres. Through ongoing acquisition efforts, the refuge has the potential to include all, or portion of, 38 islands located along 362 river miles encompassing up to 3,500 acres of wildlife habitat.

The Ohio River islands and their back channels are recognized for high quality fish and wildlife, recreation, scientific, and natural heritage values. These areas provide some of the regions' highest quality riverine, wetland, and bottomland habitats, and are used by waterfowl, shorebirds, songbirds, warmwater fish, and freshwater mussels.

The Ohio River Islands National Wildlife Refuge was established under the authority of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j). The refuge's primary purposes is "* * * for the development, advancement, management, conservation, and protection of fish and wildlife resources", and "for the benefit of the United States Fish and Wildlife Service, in performing its activities and services." The objectives of the sport fishing program are (1) to provide for the wise use of renewable natural resources, (2) provide an opportunity for sport fishing and minimal interference from other anglers and freedom to participate in a natural setting, and (3) provide sport fishing opportunity when

such use will not be detrimental to the refuge's primary objective and that will be compatible with other wildlife-oriented recreation.

A total of 55 species of fish have been collected by the West Virginia Department of Natural Resources and the Service in the vicinity of the islands. The shallow water areas against the islands, particularly the back channels, are important nursery areas for a variety of game fish. With respect to the impact on the fishery resource itself, opening the refuge to sport fishing would have a negligible impact.

The 18 refuge islands consist on only 1,020 acres and State surveys of recreational fishing indicate that only a small percentage of impact would be realized on the island habitats. The overwhelming majority of fish harvest occurs at dam tailwaters and main channel borders.

Opening the refuge to fishing has been found to be compatible in a separate compatibility determination. The fishing program will be reviewed, as appropriate, to ensure that sensitive habitats are protected from disturbance. A Section 7 evaluation pursuant to the Endangered Species Act was conducted. The Service determined that the proposed action will not affect any federally listed or proposed for listing threatened or endangered species or their critical habitats. Pursuant to the National Environmental Policy Act (NEPA), an environmental assessment was made and a Finding of No Significant Impact (FONSI) was made regarding the fishing program.

The Service has determined that there would be sufficient funds to administer the proposed fishing program. Sufficient funds would be available within the refuge unit budget to operate such a fishing program as proposed.

Paperwork Reduction Act

The information collection requirements for Part 32 are found in 50 CFR Part 25 and have been approved by the Office of Management and Budget under Public Law 104–13 and assigned clearance number 1018–0014. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Economic Effect

This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) has revealed that the rulemaking would not have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. While the proposed fishing program could increase the fishing licenses purchased and boost sales of fishing gear and tackle, the impact would not be considered significant as other surrounding areas are, also, open to fishing and the addition of the refuge to fishing waters would be only proportionally relevant to small entities. Therefore, this proposed rule would have minimal effect on such entities.

Federalism

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared for this opening. Based upon the Environmental Assessment, the Service issued a Finding of No Significant Impact with respect to the opening. A Section 7 evaluation was prepared pursuant to the Endangered Species Act with a finding that the opening of the refuge for sport fishing will not affect any identified threatened or endangered species or designated critical habitat.

Primary Author Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, Fishing, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

Accordingly, part 32 of chapter I of Title 50 of the *Code of Federal Regulations* is proposed to be amended as set forth below:

PART 32—[AMENDED]

1. The authority citation for Part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

§ 32.68 [Amended]

2. Section 32.68 *West Virginia* is amended by adding paragraph D, under "Ohio River Islands National Wildlife Refuge" to read as follows:

§ 32.68 West Virginia.

Ohio River Islands National Wildlife Refuge

* * * * *

D. Sport Fishing. Sport fishing is permitted on designated areas of the refuge pursuant to the following condition: Fishing will be conducted during West Virginia's State fishing seasons and under West Virginia's State regulations and guidelines, unless otherwise posted on the refuge.

* * * * *

Dated: October 20, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–29107 Filed 11–28–95; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 60, No. 229
Wednesday, November 29, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Consolidated Farm Service Agency

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Consolidated Farm Service Agency.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Consolidated Farm Service Agency's (CFSA) intention to request an extension for currently approved information collections in support of the payment eligibility determination requirements for the Price Support, Production Adjustment and Conservation Reserve Programs.

DATES: Comments on this notice must be received on or before January 29, 1996 to be assured consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Greg Tonkinson, Agricultural Program Specialist, Compliance and Production Adjustment Division, CFSA, USDA, P.O. Box 2415, Washington, DC 20013, (202) 690–0926.

SUPPLEMENTARY INFORMATION:

Title: Payment Limitation and Determination of Eligibility of Foreign Individuals or Entities to Receive Program Benefits.

OMB Number: 0560–0096.

Approval Date of Expiration: February 29, 1996.

Type of Request: Extension of a currently approved information collection.

Abstract: The collection of this information is necessary to determine the maximum eligibility of individuals or entities for program payments for various programs administered by CFSA including price support programs, and the conservation reserve programs. The regulations at 7 CFR Part 1497 provide for an "actively engaged in farming" status determination be made for individuals or entities, with respect to a particular farming operation, in order to determine their eligibility for payments under covered programs. These programs impact a potential participant universe of 2,000,000 respondents. Forms CCC–502A, CCC–502B, CCC–502C, CCC–502D, CCC–502EZ, CCC–501A, and CCC–501B will continue to be used for making determinations under part 1497, as will ASCS–561, ASCS–561A, and ASCS–561B, which are used for these purposes in connection with the CRP.

Estimate of Burden: Public reporting burden for this collection of information is estimated to be 52 minutes per response.

Respondents: Persons who, as owner, landlord, tenant, or sharecropper, share in the risk of producing the crop, or who otherwise are participants in CFSA programs subject to payment limitations.

Estimated Number of Respondents: 356,800

Estimated Number of Responses per Respondent: 1 per year

Estimated Total Burden Hours: 307,985

Send comments regarding the accuracy of the burden, and ways to minimize the burden, including possible uses of alternative information techniques or technology, or any other aspect of this collection or information to the individual listed above.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, on November 22, 1995.

Bruce R. Weber,

Acting Administrator, Consolidated Farm Service Agency.

[FR Doc. 95–29170 Filed 11–28–95; 8:45 am]

BILLING CODE 3410–05–P

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Central Illinois (IL) and Plainview (TX) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations will end not later than triennially and may be renewed. The designations of Central Illinois Grain Inspection, Inc. (Central Illinois), and Plainview Grain Inspection and Weighing Service, Inc. (Plainview), will end May 31, 1996, according to the Act, and GIPSA is asking persons interested in providing official services in the Central Illinois and Plainview areas to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before January 2, 1996.

ADDRESSES: Applications must be submitted to Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. Telecopier (FAX) users may send applications to the automatic telecopier machine at 202–690–2755, attention: Janet M. Hart. If an application is submitted by telecopier, GIPSA reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services. GIPSA designated Central Illinois, main office located in Bloomington, Illinois, and Plainview, main office located in Plainview, Texas, to provide official inspection services under the Act on June 1, 1993.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designations

of Central Illinois and Plainview end on May 31, 1996.

The geographic area presently assigned to Central Illinois, in the State of Iowa, pursuant to Section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by State Route 18 east to U.S. Route 51; U.S. Route 51 south to State Route 17; State Route 17 east to Livingston County; the Livingston County line east to State Route 47;

Bounded on the East by State Route 47 south to State Route 116; State Route 116 west to Pontiac, which intersects with a straight line running north and south through Arrowsmith to the southern McLean County line;

Bounded on the South by the southern McLean County line; the eastern Logan County line south to State Route 10; State Route 10 west to the Logan County line; the western Logan County line; the southern Tazewell County line; and

Bounded on the West by the western Tazewell County line; the western Peoria County line north to Interstate 74; Interstate 74 southeast to State Route 116; State Route 116 north to State Route 26; State Route 26 north to State Route 18.

Central Illinois' assigned geographic area does not include the following grain elevator inside Central Illinois' area which has been and will continue to be serviced by the following official agency: Springfield Grain Inspection, Inc.: East Lincoln Farmers Grain Co., Lincoln, Logan County.

The geographic area presently assigned to Plainview, in the State of Texas, pursuant to Section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern Deaf Smith County line east to U.S. Route 385; U.S. Route 385 south to FM 1062; FM 1062 east to State Route 217; State Route 217 east to Prairie Dog Town Fork of the Red River; Prairie Dog Town Fork of the Red River southeast to the Briscoe County line; the northern Briscoe County line; the northern Hall County line east to U.S. Route 287;

Bounded on the East by U.S. Route 287 southeast to the eastern Hall County line; the eastern and southern Hall County lines; the eastern Motley County line;

Bounded on the South by the southern Motley and Floyd County lines; the western Floyd County line north to FM 37; FM 37 west to FM 400; FM 400 north to FM 1914; FM 1914 west, including Hale Center, to FM 179; FM 179 south to FM 37; FM 37 west to U.S. Route 84; U.S. Route 84 northwest to FM 303; and

Bounded on the West by FM 303, not including Sudan, north to U.S. Route 70; U.S. Route 70 west to the Lamb County line; the western and northern Lamb County lines; the western Castro County line; the southern Deaf Smith County line west to State Route 214; and State Route 214 north to the northern Deaf Smith County line.

Interested persons, including Central Illinois and Plainviewl, are hereby given the opportunity to apply for designation to provide official services in the geographic area specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning June 1, 1996, and ending May 31, 1999. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

AUTHORITY: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: November 21, 1995

Neil E. Porter

Director, Compliance Division

[FR Doc. 95–29116 Filed 11–28–95; 8:45 am]

BILLING CODE 3410–EN–F

Deposting of Stockyards

Notice is hereby given, that the livestock markets named herein, originally posted on the dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer comes within the definition of a stockyard under the Act and are therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard			Date of posting
AL	100	Henry County Livestock, Abbeville, Alabama	May 15, 1959.
MS	108	Alcorn County Stockyard, Corinth, Mississippi	October 25, 1968.
MS	112	Reagan Stockyard, Greenville, Mississippi	January 13, 1959.
MS	113	Grenada Livestock Exchange, Inc., Grenada, Mississippi	January 14, 1959.
MS	117	Chickasaw Livestock Auction, Houston, Mississippi	February 9, 1959.
MS	120	Laurel Stock Yards, Laurel, Mississippi	January 5, 1959.
MS	123	Allen's Southwest Stockyards, Inc., Lorman, Mississippi	August 31, 1971.
MS	133	Oxford Livestock Market, Inc., Oxford, Mississippi	September 13, 1961.
MS	140	Starkville Livestock Auction, Starkville, Mississippi	February 11, 1959.
MS	144	Lum's Commission Company, Vicksburg, Mississippi	February 16, 1959.
MS	148	Morton Livestock Exchange, Inc., Morton, Mississippi	March 2, 1972.
MS	164	Kosciusko Livestock Sales, Inc., Kosciusko, Mississippi	April 25, 1990.
MO	138	Joplin Regional Stockyards, Inc., Joplin, Missouri	October 7, 1931.
PA	124	Cowanesque Valley Livestock Market, Knoxville, Pennsylvania	October 31, 1968.
TN	106	Cleveland Livestock Auction, Inc., Cleveland, Tennessee	May 14, 1971.
TN	109	Mid-South Livestock Commission Company, Columbia, Tennessee	August 9, 1950.
TN	115	Cumberland City Stockyard, Cumberland City, Tennessee	May 9, 1959.
TN	117	People's Stockyard, Fayetteville, Tennessee	May 26, 1959.
TN	122	Greeneville Livestock Company, Inc., Greeneville, Tennessee	August 24, 1938.
TN	128	C & M Livestock Market, Inc., Jamestown, Tennessee	December 1, 1969.
TN	139	West Tennessee Auction Co., Inc., Martin, Tennessee	May 18, 1959.
TN	140	Crockett Livestock Sales Co., Inc., Maury City, Tennessee	January 28, 1960.
TN	143	South Memphis Stock Yards, Memphis, Tennessee	November 1, 1921.

Facility No., name, and location of stockyard			Date of posting
TN	155	Rogersville Livestock Auction Company, Rogersville, Tennessee	May 11, 1959.
TN	162	West Tennessee Horse Auction, Somerville, Tennessee	April 15, 1968.
TN	177	Mullins Livestock Yard, Inc., Clinton, Tennessee	October 30, 1981.
TN	178	Shelbyville Livestock Market, Shelbyville, Tennessee	October 27, 1981.
TN	179	Lewisburg Feeder Pig Market, Lewisburg, Tennessee	January 18, 1982.
TN	182	Hogin Livestock Sales, Dixon, Tennessee	October 30, 1984.
TN	184	Beech River Feeder Pig Sale, Inc., Parsons, Tennessee	December 2, 1987.
TN	187	Brownsville Feeder Sale Association, Inc., Brownsville, Tennessee	April 2, 1991.

This notice is in the nature of a change relieving a restriction and, thus, may be made effective in less than 30 days after publication in the **Federal Register** without prior notice or other public procedure. This notice is given pursuant to section 302 of the Packers and Stockyards Act (7 U.S.C. 202) and is effective upon publication in the **Federal Register**.

Done at Washington, D.C. this 21st day of November 1995.

Paul L. Peterson,

Acting Director, Livestock Marketing Division.

[FR Doc. 95–29119 Filed 11–28–95; 8:45 am]

BILLING CODE 3210–KD–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112195C]

Workshops on Limited Access for Atlantic Swordfish and Atlantic Shark Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meeting.

SUMMARY: On December 6–8, 1995, NMFS will conduct the first in a series of workshops to design potential limited access management systems for the Atlantic swordfish and Atlantic shark fisheries.

DATES: December 6 and 7, 1995, 9 a.m. to 5 p.m., and December 8, 1995, 8:30 a.m. to 1 p.m.

ADDRESSES: The workshop will be held at the Quality Hotel, 8727 Colesville Road, Silver Spring, MD 20910; Telephone (301) 589–5200. Send comments to Richard B. Stone, Chief, Highly Migratory Species Management Division (FCM4), Office of Fisheries Conservation and Management, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Pamela Mace, Sarah McLaughlin or John Kelly, telephone: (301) 713–2347, Fax (301) 713–0596.

SUPPLEMENTARY INFORMATION:

Background

Over the past few years, NMFS has received increasing numbers of comments from fishermen and other stakeholders who think that some form of limited access is essential for effective management of highly migratory species (HMS) fisheries. In response to this input, NMFS prepared an Advance Notice of Proposed Rulemaking (ANPR) on July 28, 1995 (60 FR 38785) announcing the availability of a Concept Paper entitled "Towards Rationalization of Fisheries for Atlantic Highly Migratory Species" and two Supplemental Papers detailing options for establishing an interim permit moratorium and eligibility criteria for the Atlantic swordfish and Atlantic shark fisheries. For swordfish and sharks, NMFS has designed a two-phase process: (1) A proposed rule to implement a moratorium on the issuance of permits for the Atlantic shark and swordfish commercial fisheries, based on comments on the ANPR and discussion papers; and (2) limited access workshops, which will commence before the outcome of the permit moratorium rulemaking process is known but could be modified depending on whether a permit moratorium is actually implemented. NMFS staff is currently drafting fishery management plan amendments and associated documents required to implement the permit moratorium for each species.

The limited access workshops are viewed as input to long-term management strategies, whereas a permit moratorium is seen as a stopgap measure to temporarily restrict new entrants. NMFS plans to schedule the limited access workshops to last 2–3 days each, and to occur approximately once every 2 months for a period of approximately 1 year, with provision to continue into a second year if necessary. Participants in the workshops will provide input to NMFS on the pros and cons of various limited access options. NMFS will prepare written summaries of the discussions at each workshop and make these freely available to the public. NMFS also expects that industry representatives and others who attend the workshops will report to their associates and by this means solicit additional input that can be presented at the next workshop. In addition, NMFS will accept written suggestions and comments at any time beginning December 6, 1995. Comments should be sent to (see **ADDRESSES**).

Ultimately, NMFS will prepare a "strawman" proposal for long-term management strategies that could replace permit moratoria for swordfish and sharks, if the moratoria are implemented. The strawman proposal is likely to include identification of viable options for each component of the proposal, based on input received during and between the workshops, and may form the basis for a concept paper or a proposed rule. In either case, NMFS will conduct extensive public hearings on the proposal over a prolonged period to maximize the opportunity for comment from the broadest possible cross-section of the fishing industry and other stakeholders.

Participation

There are more than 1,200 permit holders in the Atlantic swordfish fishery, and more than 2,000 current permit holders in the Atlantic shark fishery, as well as many other types of stakeholders. NMFS considers it to be impractical to work through the large number of complex issues associated with limited access with several hundred participants at any given time. NMFS believes that the number of participants in a working group setting should not exceed about 20–25, including NMFS staff. Therefore, NMFS has requested that specific commercial fishermen's organizations (both harvesters and dealers), recreational organizations, marine conservation groups, Fishery Management Councils, and Marine Fisheries Commissions each select one representative to attend and participate in the workshops. The

organizations expected to participate include:

Commercial Fishermen's Organizations

Blue Water Fishermen's Association
National Fisheries Institute
Southern Offshore Fishermen's Association
Directed Shark Fishery Association
North Carolina Commercial Fisheries Association
New Jersey Seafood Harvesters' Association
Northeast Atlantic Swordfish Net Association

Recreational Groups

National Fishing Association
A representative from the charter/headboat industry

Marine Conservation Group

Ocean Wildlife Campaign

Fishery Management Councils

New England Fishery Management Council
Mid-Atlantic Fishery Management Council
South Atlantic Fishery Management Council
Gulf of Mexico Fishery Management Council
Caribbean Fishery Management Council

Marine Fisheries Commissions

Atlantic States Marine Fisheries Commission
Gulf States Marine Fisheries Commission

NMFS staff and members of the academic community will also be invited to participate as needed.

The criteria used by NMFS to specify the commercial and recreational organizations included the size of the membership of fishermen or dealers/processors who target swordfish or sharks, and geographic representation. NMFS has already provided preliminary, informal notifications and requests for comments about the suggested composition of the workshops in two open letters distributed via the HMS Fax network on October 10, 1995 and November 3, 1995. There was very little response to the first open letter, but subsequently NMFS has received several additional requests to attend and participate in the first workshop. Therefore, NMFS is extending the invitation to attend the first workshop to other organizations or associations that are directly involved in the Atlantic swordfish or Atlantic shark fisheries. NMFS requests that each such organization or association limit the number of representatives to one individual and that everyone who plans to attend the workshop should notify (see **FOR FURTHER INFORMATION CONTACT**) no later than November 30, 1995. Format and representation in future workshops will be one of the agenda items for the first workshop.

In future workshops, if any organizations or individuals feel their views are not represented, and that other opportunities for providing comment and input are inadequate, they may attend all or a part of a workshop, provided they give NMFS at least 2 weeks notice so that an appropriate meeting room can be organized. Such organizations or individuals may attend the meeting as observers and/or may request a specific time slot to present their views.

Objectives and Format

The objectives of the first workshop are:

(i) *Information exchange*: What general types of limited access have previously been proposed or implemented; what are their biological, economic, social, legal and enforcement implications; what practical lessons can be learned from systems already implemented in the United States?

(ii) *Scoping of options*: Is limited access an essential part of any long-term management strategy for Atlantic swordfish and Atlantic shark fisheries; if so, what is the range of options that are relevant or viable for these fisheries?

Two other important issues that are considered beyond the scope of the workshops and will not be discussed in these workshops are the annual quotas for Atlantic swordfish and shark fisheries and allocations of annual quotas between user groups and geographic regions.

The first two workshops will include several presentations by invited speakers knowledgeable about various forms of limited access. Other speakers will be invited as the need arises. NMFS staff will also collate important background papers and summaries concerning limited access. Background documents may be provided in advance of the workshops. The workshops will use a moderated, open-discussion framework to present and discuss issues and options. At the end of each workshop, participants will discuss a preliminary agenda for the next workshop. There will be no consensus recommendation from the workshops.

NMFS staff will summarize workshop discussions as quickly as possible and disseminate them via the HMS Fax Network, and upon written or verbal request from members of the public. NMFS staff will finalize the agenda for each upcoming workshop at least one week prior to the workshop, and disseminate it by the same means. The objectives of the workshops will not be subject to substantive change, but the format and procedures adopted to ensure orderly progress in the workshops may be modified over time.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to John Kelly at (301) 713–2347 at least 5 days prior to the meeting date.

Dated: November 22, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29164 Filed 11–24–95; 3:17 pm]

BILLING CODE 3510–22–F

[I.D. 112195B]

Workshops on Limited Access for Atlantic Tunas Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: NMFS announces the first in a series of open workshops to discuss the possibility of future fisheries management alternatives that limit access to the various fisheries for Atlantic tunas, including bluefin tuna, yellowfin tuna, bigeye tuna, albacore tuna, skipjack tuna and Atlantic bonito.

DATES: December 13, 1995, 1 p.m. - 5 p.m.

ADDRESSES: The workshop will be held at the auditorium of the John B. Hynes Veterans Memorial Convention Center, 900 Boylston Street, Boston, MA 02115.

FOR FURTHER INFORMATION CONTACT: Kevin Foster, telephone: (508) 281–9260, Fax (508) 281–9340; or Sarah McLaughlin, telephone: (301) 713–2347, Fax (301) 713–0596.

SUPPLEMENTARY INFORMATION: NMFS announces the first in a series of open workshops to discuss the possibility of future fisheries management alternatives that limit access to the various fisheries for Atlantic tunas, including bluefin tuna, yellowfin tuna, bigeye tuna, albacore tuna, skipjack tuna and Atlantic bonito. All interested parties are encouraged to attend these workshops to assist NMFS in the development of proposals for limited access management of the Atlantic tunas fisheries. The first workshop will include presentations from NMFS staff outlining potential options. There will be ample opportunity for input and/or questions from the public. The workshop will end with a discussion about future courses of action and mechanisms to ensure continuing and extensive public input, including times and places for future workshops.

These workshops are not part of any specific rulemaking process; however, where relevant, input from the workshops will be taken into consideration when developing future proposed rules for these fisheries.

The meeting is open to the public. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kevin Foster at (508) 281–9140 at least 5 days prior to the meeting date.

Dated: November 22, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29163 Filed 11–24–95; 3:17 pm]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Restraint Limit for Certain Wool Textile Products Produced or Manufactured in Poland

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 30, 1995.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 435 is being increased for special carryforward, pursuant to a Memorandum of Understanding (MOU) dated November 21, 1995 between the Governments of the United States and Poland, the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing. As a result, the limit, which is currently filled, will re-open.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 59 FR 62718, published on December 6, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the November 21, 1995 MOU, Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Poland and exported during the twelve-month period beginning on January 1, 1995 and extending through December 31, 1995.

Effective on November 30, 1995, you are directed, pursuant to a Memorandum of Understanding dated November 21, 1995 between the Governments of the United States and Poland, to increase the limit for Category 435 to 15,506 dozen [1], as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29176 Filed 11–28–95; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1994.

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange: Proposed Amendments to the Frozen Pork Bellies Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of proposed amendments to the terms and conditions of a futures contract.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has proposed amendments to its frozen pork bellies futures contract. The proposed amendments would change the definition of the par delivery unit and revise the discounts applicable to non-par frozen pork bellies.

In accordance with Section 5a(a)(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Acting Director of the Division of Economic Analysis ("Division") of the Commodity Futures Trading Commission ("Commission") has determined, on behalf of the Commission, that the proposed amendments are of major economic significance. On behalf of the Commission, the Division is requesting public comment on the proposal.

DATES: Comments must be received on or before December 29, 1995.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the proposed amendments to the CME frozen pork bellies futures contract regarding weight differentials.

FOR FURTHER INFORMATION CONTACT: Please contact Fred Linse of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, telephone 202–418–5273.

SUPPLEMENTARY INFORMATION: The frozen pork bellies futures contract currently provides for the delivery at par of 40,000 pounds of either $12\frac{3}{14}$ or $14\frac{1}{16}$-pound frozen pork bellies. Delivery of $16\frac{1}{16}$ pound frozen pork bellies is permitted at a discount of 2.5 cents per pound.

Under the proposed amendments, $12\frac{3}{14}$-pound frozen pork bellies would be deliverable at a discount of 1.5 cents per pound, rather than at par as currently specified. In addition, the proposed amendments would reduce to 1.5 from 2.5 cents per pound the existing

discount applicable to the delivery of 16/18-pound frozen pork bellies. Frozen pork bellies in the 14/16-pound weight range would continue to be deliverable at par under the proposal.

The CME intends to implement the proposed amendments with respect to the February 1997 contract month and all subsequent contract months upon receipt of Commission approval.

According to the Exchange, the contract's present discount structure encourages the delivery of lighter, less desirable bellies and discourages the delivery of heavier, more desirable bellies. The Exchange said that the proposed amendments are intended to correct this situation.

The Exchange also stated that:

> The price differential between the 12/14 [pound] and 14/16 [pound] bellies in the fresh market is volatile. However, the average is approximately zero . . . because sausage makers buy whichever size is the cheapest, which off-sets the weak demand for the 12/14 pound bellies by slicers.
>
> The 16/18 [pound] belly is less desirable than the 14/16 [pound belly], all other things being the same, because not all slicers are equipped to handle the larger bellies. This is reflected by the price differential which averages 1.6 [cents per pound]. . . . Therefore, the proposed 1.5 [cents-per-pound] discount brings the contract in line with industry practices and cash market differentials.

The Exchange indicated that the proposals will not reduce the deliverable supply of frozen pork bellies for the contract.

The Division is requesting comment with respect to the extent to which the proposed discounts fall within the range of commonly observed cash price differences between 12/14 and 14/16-pound frozen pork bellies and between 14/16 and 16/18-pound frozen pork bellies. In addition, commenters are requested to address the effect (if any) the proposed amendments would have on the quantity of frozen pork bellies likely to be economically available for delivery on the contract.

Copies of the amended terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5097.

Other materials submitted by the CME may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CME, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., 20581 by the specified date.

Issued in Washington, DC, on November 20, 1995.

Blake Imel,

Acting Director.

[FR Doc. 95–29127 Filed 11–28–95; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Information Warfare Defense; Notice of Advisory Committee Meeting

SUMMARY: The Defense Science Board Task Force on Information Warfare Defense will meet in closed session on December 14–15, 1995 and January 18–19, 1996 at Science Applications International Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will focus on protection of information interests of national importance through establishment and maintenance of a credible information warfare defensive capability in several areas, including deterrence. This study will be used to assist in analysis of information warfare procedures, processes, and mechanisms, and illuminate future options in defensive information warfare technology and policy.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: November 22, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–29142 Filed 11–28–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board FFRDC & UARC Independent Advisory Task Force; Notice of Advisory Committee Meeting

SUMMARY: The Defense Science Board FFRDC & UARC Independent Advisory Task Force will meet in open session on December 12, 1995 from 8:30 a.m.–5 p.m. and on December 13, from 8:30 a.m.–12 p.m. at the U.S. Air Force Association, 4th Floor Conference Center, 1501 Lee Highway, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense.

Persons wishing to attend this meeting are requested to call (703) 318–9660 by Friday, December 8.

Dated: November 22, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–29143 Filed 11–28–95; 8:45 am]

BILLING CODE 3000–04–M

Defense Science Board Task Force on Privatization and Outsourcing; Notice of Advisory Committee Meeting

SUMMARY: The Defense Science Board Task Force on Privatization and Outsourcing will meet in open session on December 4–5, 1995 at the Sheraton Premiere, Tysons Corner, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense.

Persons interested in further information should call Ms. Julia Vindasius at (703) 695–7178.

Dated: November 22, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–29144 Filed 11–28–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Air Force

Intent to Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, the Department of the Air Force announces its intention to grant Morse Technologies, Inc., a corporation of the State of Delaware, an exclusive license under: United States Patent Application Serial No. 08/368,262 filed in the name of Jeffrey W. Morse for a "Wound And Lavage Connector Apparatus And Method For Using," and U.S. Patent Application Serial No. 08/368,261 filed in the name of Jeffrey W. Morse for a "Wound And Lavage Irrigation Cap Apparatus And Method For Using."

The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within sixty (60) days from the date of publication of this notice. Copies of the patent application may be obtained, on request, from the same addressee.

All communications concerning this notice should be sent to: Mr. Samuel B. Smith, Jr., Chief, Intellectual Property Branch, Commercial Litigation Division, Air Force Legal Services Agency, AFLSA/JACNP, 1501 Wilson Blvd. Suite 805, Arlington, VA 22209–2403, telephone (703) 696–9050.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–29095 Filed 11–28–95; 8:45 am]

BILLING CODE 3910–01–P

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Naval Research Advisory Committee Panel to Review the Department of the Navy Science and Technology Program will meet on December 11, 12, and 13, 1995, at the Naval Research Laboratory, Washington, DC. The meeting will commence at 9:00 a.m. and terminate at 5:30 p.m. on December 11 and 12; and commence at 8:30 a.m. and terminate at 3:00 p.m. on December 13, 1995. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide an assessment of the Department of the Navy Science and Technology Program, make recommendations on how to best posture the Department to be a world class customer of science and technology innovation, and determine whether the Department's execution philosophy and management structure allow for the most effective utilization of innovation. The agenda will consist of Executive Sessions devoted to writing a report of their findings and recommendations. The Executive Sessions will include discussions of previously briefed material from the Joint Chiefs of Staff, Department of Defense, Department of the Army, Department of the Air Force, Advanced Research Projects Agency, and internal Department of the Navy sources. These discussions will contain (1) classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order; and (2) sensitive Department of Defense information that would be likely to significantly frustrate proposed agency action if it is disclosed to the public prematurely. The classified, sensitive, and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting.

Accordingly, the Under Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) and (9)(B) of title 5, United States Code.

This Notice is being published late because the Federal Government furlough caused administrative delays which constitute an exceptional circumstance, not allowing Notice to be published in the Federal Register at least 15 days before the date of the meeting.

For further information concerning this meeting contact:Ms. Diane Mason-Muir, Office of Naval Research, Naval Research Advisory Committee, 800 North Quincy Street, Arlington, VA 22217-5660, Telephone Number: (703) 696-6769.

Dated: November 21, 1995

M. A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95–29174 Filed 11–28–95; 8:45 am]

BILLING CODE 3810–FF–F

Planning and Steering Advisory Committee; Closed Meeting

Per the provisions of the Federal Advisory Committee Act (5 U.S.C. App 2), notice is hereby given that the Planning and Steering Advisory Committee will meet December 13, 1995 from 9 a.m. to 4 p.m., at the Center for Naval Analyses, 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to discuss topics relevant to SSBN security. The entire agenda will consist of classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is properly classified pursuant to such Executive order. Accordingly, the Under Secretary of the Navy has determined in writing that all sessions of the meeting shall be closed to the public because they concern matters listed in 552b(c)(1) of title 5, United States Code.

FOR FURTHER INFORMATION CONTACT: LCDR R. F. Brese, 2000 Navy Pentagon, Room 4D534, Washington, D.C 20350–2000, Telephone Number: (703) 693–7248.

Dated: November 16, 1995.

Michael A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95–29096 Filed 11–28–95; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.309B]

Office of Educational Research and Improvement: Educational Research and Development Centers Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1996—Correction

On September 14, 1995, the Assistant Secretary for Educational Research and Improvement published in the **Federal Register** (60 FR 47826) a notice inviting applications for new awards for the Educational Research and Development Centers Program. The purpose of this notice is to increase the estimated funds available and to extend the deadline for transmittal of applications for the Educational Research and Development Center for Improving Adult Learning and Literacy.

In the notice inviting applications for new awards, change the estimated available funds for FY 1996 from $21,350,000 to $22,350,00 and increase the estimated funds available under the priority area "Improving Adult Learning and Literacy" from $1,500,000 to $2,500,000.

To allow applicants sufficient time to develop projects that respond to the new estimated available funds, the

Secretary extends the deadline for transmittal of applications for the priority area "Improving adult learning and literacy" from December 15, 1995 to January 12, 1996. The deadline for submission of applications for all other priority areas remains December 15, 1995.

Note: The Department is not bound by any estimates in this notice.

FOR FURTHER INFORMATION CONTACT: Either—1. Jacqueline Jenkins, U.S. Department of Education, 555 New Jersey Avenue, N.W., Room 510G, Washington, DC 20208–5573. Telephone: (202) 219–2232. Internet: Jackie___Jenkins @ed.gov; or 2. Judith Anderson, U.S. Department of Education, 555 New Jersey Avenue, N.W., Room 611B, Washington, DC 20208–5573. Telephone: (202) 219–2086. Internet: Judith___Anderson @ed.gov.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of the application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Servers at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 6031.

Dated: November 22, 1995.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95–29075 Filed 11–28–95; 8:45 am]

BILLING CODE 4000–01–P

National Educational Research Policy and Priorities Board; Meeting

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Amendment to notice of meeting.

SUMMARY: This amends the notice of an open meeting of the National Educational Research Policy and Priorities Board published on Tuesday, November 14, 1995, in Vol. 60, No. 219, page 57231. This notice changes the status of the meeting from open to partially closed. This document is intended to notify the general public of the closed session.

DATE: December 1, 1995.

TIMES: 8 a.m. to 11 a.m., (open); 11 a.m.–noon, (closed); noon–2 p.m. (open).

SUPPLEMENTARY INFORMATION: The meeting of the Board is closed to the public from 11 a.m. to 12 noon under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 2) and under exemptions (2) and (6) of Section 552b(c) of the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b(c). The Board will discuss the internal personnel rules and practices of the Board and the personal qualifications and experience of potential candidates for the position of executive director. Such discussions would touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b(c) will be available to the public within 14 days of the meeting.

Dated: November 22, 1995.

Sharon P. Robinson,

Assistant Secretary.

[FR Doc. 95–29114 Filed 11–28–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC96–3–000, et al.]

Wisconsin Public Service Corporation, et al.; Electric Rate and Corporate Regulation Filings

November 21, 1995.

Take notice that the following filings have been made with the Commission:

1. Wisconsin Public Service Corporation

[Docket No. EC96–3–000]

Take notice that on November 13, 1995, Wisconsin Public Service Corporation (WPSC) filed an application under Section 203 of the Federal Power Act for an order authorizing it to lease a 24.9 Kv feeder bay and related facilities (designated as Feeder 241) to the Eagle River Light & Water Commission. These facilities are located in and near WPSC's Cranberry Substation. The facility lease and related equipment changeout will qualify the Eagle River delivery point for a transmission-level voltage discount under the applicable wholesale rates of its power supplier, The Wisconsin Public Power Incorporated SYSTEM.

Comment date: December 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Utah Municipal Power Agency v. PacifiCorp

[Docket No. EL96–11–000]

Take notice that on November 7, 1995, Utah Municipal Power Agency tendered for filing a Complaint against PacifiCorp in order to seek the establishment by the Commission of a refund effective date in connection with rate reductions expected as a result of PacifiCorp's transmission rate filing in Docket No. ER96–8–000.

Comment date: December 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Deseret Generation and Transmission Cooperative, Inc. v. PacifiCorp

[Docket No. EL96–12–000]

Take notice that on November 7, 1995, Deseret Generation and Transmission Cooperative, Inc. tendered for filing a complaint against PacifiCorp in order to seek the establishment by the Commission of a refund effective date in connection with rate reductions expected as a result of PacifiCorp's transmission rate filing in Docket No. ER96–8–000.

Comment date: December 21, 1995, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall be due on or before December 21, 1995.

4. Sierra Pacific Power Company v. PacifiCorp

[Docket No. EL96–14–000]

Take notice that on November 13, 1995, Sierra Pacific Power Company tendered for filing a complaint against PacifiCorp to establish a refund effective date in Docket No. ER96–8–000 contingent on the Commission not granting similar relief in complaint proceedings initiated by Utah Associated Municipal Power Systems.

Comment date: December 21, 1995, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall be due on or before December 21, 1995.

5. CRSS Power Marketing, Inc., Eclipse Energy, Inc., EDC Power Marketing, Inc., Kimball Power Company, Southeastern Energy Resources, Inc. and Sonat Power Marketing, Inc.

[Docket Nos. ER94–142–007, ER94–1099–006, ER94–1538–004, ER95–232–004, ER95–385–003, and ER95–1050–001 (not consolidated).]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On October 20, 1995, CRSS Power Marketing, Inc. filed certain information as required by the Commission's December 30, 1993, order in Docket No. ER94–142–000.

On October 19, 1995, Eclipse Energy, Inc. filed certain information as required by the Commission's June 15, 1994, order in Docket No. ER94–1099–000.

On October 19, 1995, EDC Power Marketing, Inc. filed certain information as required by the Commission's September 14, 1994, order in Docket No. ER94–1538–000.

On October 30, 1995, Kimball Power Company filed certain information as required by the Commission's February 1, 1995, order in Docket No. ER95–232–000.

On October 17, 1995, Southeastern Energy Resources, Inc. filed certain information as required by the Commission's March 7, 1995, order in Docket No. ER95–385–000.

On October 23, 1995, Sonat Power Marketing, Inc. filed certain information as required by the Commission's August 18, 1994, order in Docket No. ER95–1050–000.

6. Citizens Utilities Company

[Docket No. ER94–1561–006]

Take notice that on November 2, 1995, Citizens Utilities Company tendered for filing its refund report in the above-referenced docket.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Century Power Corporation

[Docket No. ER96–219–000]

Take notice that on November 1, 1995, Century Power Corporation tendered for filing a Notice of Cancellation of Service Agreement No. 24 with Louis Dreyfus Electric Power, Inc.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Florida Power & Light Company

[Docket No. ER96–269–000]

Take notice that on November 2, 1995, Florida Power & Light Company (FPL), tendered for filing Amendment Number Four to the Agreement for Full Requirements Electric Service by Florida Power & Light Company to Seminole Electric Cooperative, Inc.

FPL requests that the amendment be permitted to become effective on January 3, 1996.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Montaup Electric Company

[Docket No. ER96–270–000]

Take notice that on November 1, 1995, Montaup Electric Company (Montaup or the Company), tendered for filing rate schedule revisions incorporating the 1996 forecast billing rate for its purchased capacity adjustment clause (PCAC) for all-requirements service to Montaup's affiliates Eastern Edison Company (Eastern Edison) in Massachusetts and Blackstone Valley Electric Company (Blackstone) and Newport Electric Corporation (Newport) in Rhode Island, and contract demand service to two non-affiliated customers: The Town of Middleborough in Massachusetts and the Pascoag Fire District in Rhode Island. The new forecast billing rate is $16.39101/kW-Mo. Montaup requests that the new rate become effective January 1, 1996 in accordance with the PCAC.

Montaup's filing was served on the affected customers, the Attorney Generals of Massachusetts and Rhode Island, the Rhode Island Public Utilities Commission and the Massachusetts Department of Public Utilities.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Illinois Power Company

[Docket No. ER96–271–000]

Take notice that on November 2, 1995, Illinois Power Company (IPC), tendered for filing an Interchange Agreement between IPC and InterCoast Power Marketing Company, (IPM). IPC states that the purpose of this agreement is to provide for the buying and selling of capacity and energy between IPC and IPM.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket No. ER96–275–000]

Take notice that on November 3, 1995, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement to provide non-firm transmission service to CNG Power Services Corporation (CNG) under the NU System Companies Transmission Service Tariff No. 2.

NUSCO states that a copy of this filing has been mailed to CNG.

NUSCO requests that the Service Agreement become effective November 1, 1995.

Comment date: December 4, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Public Service Company of New Mexico

[Docket No. ER96–276–000]

Take notice that on November 3, 1995, Plains Electric Generation and Transmission Cooperative, Inc. (Plains) provided Public Service Company of New Mexico (PNM) a notice of termination for the Agreement For Electric Service, as amended (Agreement), PNM Rate Schedule No. 36, requesting an effective date of October 1, 1995.

Copies of the filing have been served upon Plains and the New Mexico Public Utility Commission.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Southern California Edison Company

[Docket No. ER96–277–000]

Take notice that on November 3, 1995, Southern California Edison Company (Edison), tendered for filing the following amendment to the Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement (IOA) between the City of Anaheim (Anaheim) and Edison, FERC Rate Schedule No. 246.17: Amendment No. 1 to Supplemental Agreement for the Integration of Non-Firm Energy from Portland General Electric Company Between Southern California Edison Company and City of Anaheim.

Amendment No. 1 replaces, in its entirety, the Service Agreement contained in Appendix A of the Supplemental Agreement which provides for the integration of Anaheim's non-firm energy purchases from Portland General Electric Company. Edison is requesting waiver of the 60-day prior notice requirements, and requests the Commission to assign

to the Agreement an effective date of November 4, 1995.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Rochester Gas and Electric Corporation

[Docket No. ER96–278–000]

Take notice that on November 3, 1995, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement for acceptance by the Federal Energy Regulatory Commission (Commission) between RG&E and Industrial Energy Applications, Inc. The terms and conditions of service under this Agreement are made pursuant to RG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1279. RG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Rochester Gas and Electric Corporation

[Docket No. ER96–279–000]

Take notice that on November 3, 1995, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement for acceptance by the Federal Energy Regulatory Commission (Commission) between RG&E and CMEX Energy, Inc. The terms and conditions of service under this Agreement are made pursuant to RG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1279. RG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Energy Transfer Group, L.L.C.

[Docket No. ER96–280–000]

Take notice that on November 3, 1995, Energy Transfer Group, L.L.C. tendered for filing an application for Waivers, Blanket Authorizations, and Order Accepting Rate Schedule.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Central Illinois Public Service Company

[Docket No. ER96–281–000]

Take notice that on November 3, 1995, Central Illinois Public Service Company (CIPS), submitted a Service Agreement, dated October 23, 1995, establishing Koch Power Services, Inc. (Koch) as a customer under the terms of CIPS' Coordination Sales Tariff CST–1 (CST–1 Tariff).

CIPS requests an effective date of October 23, 1995, for the service agreement with Koch. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon Koch and the Illinois Commerce Commission.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Central Maine Power Company

[Docket No. ES96–12–000]

Take notice that on November 14, 1995, Central Maine Power Company filed an application under § 204 of the Federal Power Act seeking authorization to issue and renew short-term notes, from time to time, in an aggregate principal amount not to exceed $130 million outstanding at any one time, on or before December 31, 1997, with a maturity of one year or less from the date of issuance.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. MDU Resources Group, Inc.

[Docket No. ES96–13–000]

Take notice that on November 15, 1995, MDU Resources Group, Inc. filed an application under § 204 of the Federal Power Act seeking authorization to issue promissory notes, from time to time, in an aggregate amount up to $30 million principal amount outstanding at any one time, during the period from January 1, 1996 to December 31, 1997, with final maturities not later than December 31, 1998.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Michael R. Whitley

[Docket No. ID–2921–000]

Take notice that on October 30, 1995, Michael R. Whitley (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Kentucky Utilities Company

Chairman, President, Chief Executor Officer, Director

Electric Energy, Inc.

Director

Ohio Valley Electric Company

Director

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29154 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2535–003, South Carolina/Georgia]

South Carolina Electric & Gas Company; Notice of Availability of Final Environmental Assessment

November 22, 1995

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for relicense for the Stevens Creek Hydroelectric Project, located in Edgefield and McCormick Counties, South Carolina, and Columbia County, Georgia, and has prepared a Final Environmental Assessment (FEA) for the project. In the FEA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the FEA are available for review in the Public Reference Branch, of the Commission's offices at 888 First Street NE., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29155 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–74–000]

Colorado Interstate Gas Company; Notice of Application

November 22, 1995.

Take notice that on November 17, 1995, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP96–74–000 an application pursuant to Section 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon approximately 800 feet of the F43–6" Latigo storage field line and to construct a new Latigo storage field gathering line to be designated as the F53–2 which will connect the Latigo #38 injection/withdrawal well to the Latigo gathering system at a new location, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, CIG proposes to abandon the F43–6" field line that connects the Latigo #38 injection/withdrawal well and construct the F53–2, approximately 1,300 feet long, as a replacement. This modification will increase efficiency of the Latigo #38 well at a cost of approximately $18,493.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 14, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29156 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–67–000]

Eastern Shore Natural Gas Company; Notice of Request Under Blanket Authorization

November 22, 1995.

Take notice that on November 17, 1995, Eastern Shore Natural Gas Company (Eastern Shore), P.O. Box 1769, Dover, Delaware 19903–1769, filed in Docket No. CP96–67–000 a request pursuant to sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct a new delivery point for its customer, Delaware Division of Chesapeake Utilities Corporation (Delaware Division), under Eastern Shore's blanket certificate issued in Docket No. CP83–40–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Eastern Shore states that the proposed delivery point, known as the Cricklewood delivery point would require the installation of a meter and appurtenant equipment and approximately 30 feet of 2 inch service lateral. Eastern Shore would serve Delaware Division approximately 300 Mcf on a peak day and approximately 30,000 Mcf per year in New Castle, Kent, and Sussex counties, Delaware, and states that the deliveries will be made from Delaware Division's existing firm entitlement.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29157 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–59–000]

Koch Gateway Pipeline Company, and Southern Natural Gas Company; Notice of Request Under Blanket Authorization

November 22, 1995.

Take notice that on November 9, 1995, Koch Gateway Pipeline Company (Koch), P.O. Box 1478, Houston, Texas 77251–1478, and Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP96–59–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to designate as an additional delivery point an existing interconnection between the two pipelines in Rankin County, Mississippi under Koch's blanket certificate issued in Docket No. CP82–430–000 and Southern's blanket certificate issued in Docket No. CP82–406–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch and Southern state that the delivery point is required for an existing exchange of natural gas between the two companies, authorized in Docket No. CP71–166 and carried out under the terms of an agreement on file as Koch's Rate Schedule X–40 and Southern's Rate Schedule X–19. It is stated that the addition of the delivery point would not require any construction of facilities. It is asserted that the total volumes to be delivered after the addition of the

requested delivery point would not exceed those presently authorized. It is further asserted that both companies have sufficient capacity to accomplish the deliveries with detriment or disadvantage to either company's other customers. It is explained that the proposed delivery point would not have any impact on either party's peak day or annual deliveries. It is further explained that neither pipeline's tariff prohibits the addition of delivery points.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29158 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–58–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

November 22, 1995.

Take notice that on November 9, 1995, NorAm Gas Transmission Company (NGT) 1600 Smith Street, Houston, Texas 77002, in Docket No. CP96–58–000, filed a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) and under its blanket authority issued in Docket Nos. CP82–384–000 and CP82–384–001, to abandon certain facilities in Louisiana, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, NorAm proposes to abandon an inactive 2–inch domestic tap on NGT's Line NM–3, at pipeline station no 186+84 in Section 7, Township 16 North, Range 14 West, Caddo Parish, Louisiana. NGT installed this tap in 1967 and certificated in Docket No. CP67–83–000 to provide service to a domestic customer served by Arkla, a division of NorAm Energy Corp. NFT states that Arkla has informed NGT that this tap is no longer active. The cost of the facilities to be abandoned is $230.00. NGT states that this tap will be removed and capped, as a result of the proposed modification.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity is deemed to be authorized effective on the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29159 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–45–000]

Northern Border Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

November 22, 1995.

Take notice that on November 16, 1995, Northern Border Pipeline Company (Northern Border), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective on January 1, 1996:

Second Revised Sheet Number 108
Second Revised Sheet Number 117
Third Revised Sheet Number 118
First Revised Sheet Number 119
Seventh Revised Sheet Number 157
Second Revised Sheet Number 158

The proposed changes would on an illustrative basis increase revenues from jurisdictional service by $7.0 million based on the first year that such changes are in effect. The filing proposes a return on equity of 14.25 percent, which for the 12 months ending December 31, 1996, equates to a pre-tax return on total capital of approximately 14.50 percent. Northern Border also proposes to eliminate the Minimum Revenue Credit in Rate Schedule IT–1 and the mandatory periodic review of its equity rate of return. Northern Border additionally is requesting removal of the at-risk conditions contained in the certificates for facilities placed in-service during 1991 and 1992 at Docket Nos. CP89–576 and CP91–002. Northern Border has provided pro forma tariff Sheets Nos. 109 and 110 which set forth the Project Related Depreciation Schedule as presented in Exhibit 0 of the certificate amendment at Docket No. CP95–194–001. Effectuation of the pro forma tariff sheets is dependent upon various contingencies, e.g., the approval and completion of the facilities proposed in Docket No. CP95–194–001.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. Under Section 154.209, all such motions or protests should be filed on or before November 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29160 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–52–000]

Pine Needle LNG Company, LLC; Notice of Application

November 22, 1995.

Take notice that on November 7, 1995, Pine Needle LNG Company, LLC (Pine Needle), by and through its operator, Pine Needle Operating Company (PNOC), filed an application pursuant to Section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations, for a certificate of public convenience and necessity authorizing the construction and operation of a liquefied natural gas (LNG) storage facility in Guilford County, North Carolina and approving initial rates for storage services to be rendered by Pine Needle. Pine Needle's application further requests that the Commission grant Pine Needle a blanket certificate pursuant to Part 284(G) of the Commission's regulations authorizing the storage of gas for others, and a blanket certificate under Part 157(F) of

the Commission's regulations authorizing certain facility construction and operation, abandonments and certificate amendments. Further details on Pine Needle's proposal are contained in the application which is on file with the Commission and open to public inspection.

Pine Needle says that the LNG storage facilities will be constructed on an 828 acre site in northwest Guilford County, North Carolina approximately one mile northwest of Transcontinental Gas Pipe Line Corporation's (Transco) mainline. The LNG storage facilities will consist of: 2 double wall suspended deck storage tanks each capable of storing 2 Bcf of natural gas equivalent (48 million gallons of LNG); a pre-treatment and liquefaction system; boil-off recompression; an LNG truck loading and unloading station; a vaporization and send out system; a hazard detection/protection system; 1.05 miles of 10-inch diameter inlet pipeline for receipts from Transco's mainline; 1.05 miles of 24-inch diameter pipeline for deliveries to Transco's mainline; and a metering and regulating station in the plant yard with an inlet capacity of 29 MMcf/d and an outlet capacity of 400 MMcf/d.

The pre-treatment and liquefaction systems will liquefy at a net rate of 20 MMcf/d to storage. The vaporization and send-out system will be designed to vaporize and send out from 50 to 400 MMcf/d. The facilities will also include a firewater pond and dam with a capacity of 17,760,000 gallons for hydrostatic and test water and plant firewater. The hazard detection/protection system will also include hydrants, monitors, and deluge nozzles as well as fire, gas, smoke, and high temperature detectors that will be integrated into a plant-wide alarm system. The LNG plant will be accessed by a new 3,900-foot access road extending from the plant site to an existing improved road.

Pine Needle estimates that the total cost of the project will be $107 million. Pine Needle proposes a 50/50 debt to equity capital structure and will seek non-recourse project financing. PNOC will oversee the construction of Pine Needle's facilities and will operate the facilities pursuant to the terms and conditions of an operating agreement between Pine Needle and PNOC. PNOC will also handle the day-to-day business affairs of Pine Needle.

Pine Needle proposes to place the LNG facility into service on or about May 1, 1995. Pine Needle says the proposed in-service date will allow customers to fill the LNG tanks with their inventory prior to the commencement of the 1999–2000 winter heating season. Because of the approximately 28 months of construction, pre-commissioning, and cool-down time required, construction of the LNG facilities is scheduled to begin on February 1, 1997.

Pine Needle states that an open season was conducted from August 2 to August 31, 1995, during which it accepted requests for firm LNG storage service. As a result of the open season, Pine Needle executed precedent agreements with customers subscribing to 3.61 Bcf, or 90.25 percent, of the total storage capacity of 4 Bcf. Pine Needle states that it is in the process of marketing the remaining 0.39 Bcf of storage capacity. The precedent agreements provide that the firm peaking LNG storage service will be rendered for an initial term of 20 years, commencing as soon as the necessary approvals are secured and all of the facilities necessary to provide service have been constructed and are ready for liquefaction of gas.

Pine Needle states that it will receive for liquefaction on a firm basis the dekatherm (dth) equivalent of 0.5% of each customer's firm storage capacity quantity per day and will vaporize and redeliver on a firm basis the dth equivalent of 10% of each customer's storage capacity quantity per day. The terms and conditions governing such firm liquefaction, storage, vaporization, and redelivery are set forth in Pine Needle's Rate Schedule LNG–1, included in Exhibit P to the application. Rate Schedule LNG–1 also provides for LNG truck loading services. Truck loading services will also be provided on an interruptible basis under Rate Schedule LNG–2.

Pine Needle states that the initial rate for firm LNG storage service under Rate Schedule LNG–1, will be a monthly demand charge of $4.85 per Mcf/d of vaporization quantity entitlement. In addition, Pine Needle proposes an initial excess vaporization charge for quantities in excess of the customer's daily vaporization quantity under Rate Schedule LNG–1 of $5.63 per dth. Pine Needle's customers will also be charged the fuel retention factor and ACA surcharge as set forth in Pine Needle's tariff.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 13, 1995, file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All Protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 3, 7, and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If motion for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Pine Needle to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29161 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–44–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 22, 1995.

Take notice that on November 15, 1995, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 listed In Appendix A of the filing. Transco proposes a December 15, 1995 effective date.

This filing revises the rates under Transco's Rate Schedules FT and ESS (Eminence Storage Service) to provide for the recovery of certain costs attributable to the Phase III expansion of Transco's Eminence Storage Field. According to Transco, the revisions to the Rate Schedule FT reservation charges will necessarily result in revisions to charges under Rate Schedules FT–R, FTN, FTN–R, and FT–G; similarly, the revisions to the Rate

Schedule ESS charges necessarily result in revisions to the Rate Schedule ESS–R charges. Moreover, the reservation rate surcharges applicable to certain incrementally priced services which have been assigned and converted from Section 7(c) to service under Part 284 have been reduced in order to offset the increase in the Rate Schedule FT reservation rate such that the total rates for such services remain unchanged.

Transco states that copies of the filing are being mailed to customers, state commissions, and other interested parties.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. Under Section 154.209, all such motions or protests should be filed on or before November 27, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29162 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5335–6]

Comprehensive Drinking Water Program Redirection Plan Availability of Draft Document and Request for Comment

This notice announces the availability of the draft document "Comprehensive Drinking Water Program Redirection Plan" and the Agency's request for public comment. The document will be available through the Safe Drinking Water Hotline and the Office of Water Resource Center on November 30, 1995. The purpose of this document is designed to report the results of extensive stakeholder involvement in redirecting the drinking water program. These actions are part of a Presidential initiative that is intended to "substantially improve the existing regulatory system to move the Nation toward a new and better environmental management system for the 21st century." The redirection includes: (1) Establishing priorities and new schedules for setting safety standards based on health risks and sound science; (2) Supporting the Partnership for Safe Water, which represents a new level of cooperation between EPA, States and stakeholders to protect public health; and (3) Simplifying and streamlining monitoring requirements for chemical contaminants and allowing further tailoring of monitoring to local contaminant threats.

Oral public comments will be taken by the National Drinking Water Advisory Council at its conference call meeting on December 11, 1995. (Note: The Notice of this meeting and a subsequent meeting on this subject will be announced in this **Federal Register**. See notice for time and location.) Written comments will be accepted until January 17, 1996, and can be sent to Redirection Comment Clerk, Water Docket MC4101; Environmental Protection Agency; 401 M Street SW; Washington, DC 20460. Comments should be accompanied by any references cited. It is requested that an original and 3 copies of the written comments and enclosures be submitted. A copy of the comments and supporting documents cited in the report are available for review at EPA's Water Docket at the above address. For access to the Docket materials, call (202) 260–3027 between 9:00 a.m. and 3:30 p.m. for an appointment. All comments must be postmarked or delivered by hand by January 17, 1996. No facsimiles (faxes) will be accepted.

To obtain a copy of the document, call the Safe Drinking Water Hotline at 1–800–426–4791 or write the Office of Water Resource Center (RC4100), U.S. EPA, 401 M Street SW, Washington, DC 20460. A single copy of this document can be picked up at the Resource Center in Room G099B at the address above. The Center is open from 8:30 a.m. until 5 p.m., Monday through Friday.

Dated: November 22, 1995.

Peter L. Cook,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 95–29033 Filed 11–28–95; 8:45 am]

BILLING CODE 5560–50–M

[FRL–5337–3]

Environmental Laboratory Advisory Board; Meeting Date

AGENCY: Environmental Protection Agency.

ACTION: Notice of open meeting.

SUMMARY: The Environmental Laboratory Advisory Board will convene its first meeting on December 4, 1995. (Due to the exceptional circumstance of the government shutdown, the usual 15 days advance notice is waived.) The meeting will be held in conjunction with the National Environmental Laboratory Accreditation Conference (NELAC) Interim Meeting at the Hyatt Regency Crystal City; 2799 Jefferson Davis Highway, Arlington, VA 22202. The meeting will start at 9:00 am and adjourn at 3:00 pm. The agenda will include a history and background discussion of national environmental accreditation within EPA, EPA's charge to the committee, perspectives of the participants, comments on the current standards, and establishment of subcommittees. The public is welcome to attend and time will be allotted for public comment. Written comments should be directed to Ms. Jeanne Mourrain, Designated Federal Official, USEPA, NERL (MD–77B), Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Ms. Mourrain, (919) 541–1120.

Dated: November 21, 1995.

E. Ramona Trovato,

Director, Office of Radon and Indoor Air.

[FR Doc. 95–29243 Filed 11–27–95; 1:11 pm]

BILLING CODE 6560–50–P

[FRL–5335–5]

National Drinking Water Advisory Council; Notice of Open Meetings

Under Section 10(a)(2) of Public Law 92–423, "The Federal Advisory Committee Act," notice is hereby given that two meetings of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on December 11, 1995, from 2:00 p.m. until 4:00 p.m. in Room #1209 East Tower and on December 12, 1995, from 11:30 p.m. until 1:30 p.m. in Room #1032 East Tower, U.S. Environmental Protection Agency (EPA) Headquarters, 401 M Street, SW, Washington, D.C. Council members will be participating by Conference Call. The meeting is open to the public, but due to past experience, seating will be limited. Due to the government-wide shutdown, the 15-day prior to meeting notice requirement was not possible.

The purpose of these meetings is two fold. At the December 11, 1995, meeting the Advisory Council will hear public comments on EPA's draft Redirection Report and will also use this opportunity to obtain any clarification from EPA staff that may be necessary for their further deliberations. At the December 12, 1995, meeting the Council will present its recommendations to the Agency on the draft report. (Note: The availability notice for this document will be published in the **Federal Register**.)

These meetings are open to the public. The Council encourages the hearing of outside statements and will allocate the first hour of their conference call on December 11, 1995, for this purpose. They will not take public comments at the December 12, 1995, meeting. Oral statements will be limited to five minutes, and it is preferred that only one person present the statement. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 260–2285 before December 7, 1995.

Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received prior to the meetings will be distributed to all members of the Council before any final discussion or vote is completed. Any statements received after the meetings will become part of the permanent meeting file and will be forwarded to the Council members for their information.

Members of the public that would like to attend the meetings, present an oral statement, or submit a written statement, should contact Ms. Charlene Shaw, Designated Federal Officer, National Drinking Water Advisory Council, U.S. EPA, Office of Ground Water and Drinking Water (4601), 401 M Street SW, Washington, DC 20460. The telephone number is Area Code (202) 260–2285.

Dated: November 22, 1995.

Peter L. Cook,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 95–29034 Filed 11–28–95; 8:45 am]

BILLING CODE 6560–60–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program Application Solicitation for Labor-Management Committees FY1996

A. Introduction

The following is the draft solicitation for the Fiscal Year (FY) 1996 cycle of the Labor-Management Cooperation Program as it pertains to the support of labor-management committees. These guidelines represent the continuing efforts of the Federal Mediation and Conciliation Service (FMCS) to implement the provisions of the Labor-Management Cooperation Act of 1978 which was initially implemented in FY81. The Act generally authorizes FMCS to provide assistance in the establishment and operation of plant, area, public sector, and industry-wide labor-management committees which:

(A) Have been organized jointly by employers and labor organizations representing employees in that plant, area, government agency, or industry; and

(B) Are established for the purpose of improving labor-management relationships, job security, and organizational effectiveness; enhancing economic development; or involving workers in decisions affecting their jobs, including improving communication with respect to subjects of mutual interest and concern.

The Program Description and other sections that follow, as well as a separately published FMCS Financial and Administrative Grants Manual, make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a plant, area-wide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in Section H. A copy of the Labor-Management Cooperation Act of 1978, included in the application kit, should be reviewed in conjunction with this solicitation.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 identifies the following seven general areas for which financial assistance would be appropriate:

(1) To improve communication between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance in the formation and operation of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committees to carry out specific objectives that meet the aforementioned general criteria. The term "labor" refers to employees represented by a labor organization and covered by a formal collective bargaining agreement. These committees may be found at either the plant (worksite), area, industry, or public sector levels. A plant or worksite committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon city, county, contiguous multicounty, or statewide jurisdictions. An industry committee generally consists of a collection of agencies or enterprises and related labor union(s) producing a common product or service in the private sector on a local, state, regional, or nationwide level. A public sector committee consists either of government employees and managers in one or more units of a local or state government, managers and employees of public institutions of higher education, or of employees and managers of public elementary and secondary schools. Those employees must be covered by a formal collective bargaining agreement or other enforceable labor-management agreement. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY 1996, competition will be open to plant, area, private industry, and public sector committees. Public Sector committees will be divided into two sub-categories for scoring purposes. One sub-category will consist of committees representing state/local units of government and public institutions of higher education. The second sub-category will consist of public elementary and secondary schools.

Special consideration will be given to committee applications involving innovative or unique efforts. All application budget requests should

focus directly on supporting the committee. Applicants should avoid seeking funds for activities that are clearly available under other Federal programs (e.g., job training, mediation of contract disputes, etc.).

Required Program Elements

1. *Problem Statement*—The application, which should have numbered pages, must discuss in detail what specific problem(s) face the plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problem(s) using as much relevant data as possible and discuss the full range of impacts these problem(s) could have or are having on the plant, government, area, or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problem(s). This section basically discusses *WHY* the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail *WHAT* the labor-management committee as a demonstration effort will accomplish during the life of the grant. Applications that offer to provide objectives *after* a grant is awarded will receive little or no credit in this area. While a goal of "improving communication between employers and employees" may suffice as one over-all goal of a project, the objectives must, whenever possible, be expressed in specific and measurable terms. Applicants should focus on the impacts or changes that the committee's efforts will have. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts.

3. *Approach*—This section of the application specifies *HOW* the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all existing or proposed members of the labor-management committee. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area or plant workforce);

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees (i.e., in existence at least 12 months prior to the submissions deadline), a discussion of past efforts and accomplishments and how they would integrate with the proposed expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for *WHEN* they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant using October 1, 1996, as the start date. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation*—Applicants must provide for either an external evaluation or an internal assessment of the project's success in meeting its goals and objectives. An evaluation plan must be developed which briefly discusses what basic questions or issues the assessment will examine and what baseline data the committee staff already has or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applications must include current letters of commitment from *all* proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and will attend scheduled committee meetings. A blanket letter signed by a committee chairperson or other official on behalf of all members is not acceptable. We encourage the use of individual letters submitted on company or union letterhead represented by the individual. The letters should match the names provided under Section 3(b).

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating approximately how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels, a copy of the by-laws, a breakout of annual operating costs and identification of all sources and levels of current financial support;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that committee meetings will be held at least every other month and that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and measurable goals and objectives have been developed to address the problems/needs of the area. For existing committees, the extent to which the committee will focus on expanded efforts.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived results. This section will also address the degree of innovativeness or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application as indicated in the letters of support.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates.

(6) The cost effectiveness and fiscal soundness of the application's budget request, as well as the application's feasibility vis-a-vis its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration; and

(8) The value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, site location, cost, and other qualities that impact upon an applicant's value in encouraging the labor-management committee concept.

C. Eligibility

Eligible grantees include state and local units of government, labor-management committees (or a labor union, management association, or company on behalf of a committee that will be created through the grant), and certain third party private non-profit entities on behalf of one or more committees to be created through the grant. Federal government agencies and their employees are not eligible.

Third-party private, non-profit entities which can document that a major purpose or function of their organization has been the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applications from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible, nor will applications signed by entities such as law firms or other third parties failing to meet the above criteria.

Applicants who received funding under this program in the past for committee operations are generally not eligible to apply. The only exceptions apply to third-party grantees who seek funds on behalf of an entirely different committee.

D. Allocations

FY 1996 appropriation bills for this program have not yet been approved. FMCS has been given a tentative allocation of approximately $1.25 million for this program. Specific funding levels will not be established for each type of committee. Instead, the review process will be conducted in such a manner that at least two awards will be made in each category (plant, industry, public sector, and area), providing that FMCS determines that at least two outstanding applications exist in each category. After these applications are selected for award, the remaining applications will be considered according to merit without regard to category. An additional $250,000 has been reserved for the limited continuation of FY94-funded grantees.

In addition to the competitive process identified in the preceding paragraph, FMCS will set aside a sum not to exceed thirty percent of its appropriation to be awarded on a non-competitive basis. These funds will be used to support industry-specific national-scope initiatives and/or regional industry models with high potential for widespread replication.

FMCS reserves the right to retain up to an additional five percent of the FY96 appropriation to contract for program support purposes (such as evaluation) other than administration.

E. Dollar Range and Length of Grants and Continuation Policy

Awards to continue and expand existing labor-management submission deadline) will be for a period of 12 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued for a limited time at a 40 percent cash match ratio. Initial awards to establish new labor-management committees (i.e., not yet established or in existence less than 12 months prior to the submission deadline), will be for a period of 18 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued for a limited time at a 40 percent cash match ratio.

The dollar range of awards is as follows:

—Up to $35,000 in FMCS funds per annum for existing in-plant applicants;
—Up to $50,000 over 18 months for new in-plant committee applicants;
—Up to $75,000 in FMCS funds per annum for existing area, industry and public sector committees applicants;
—Up to $100,000 per 18-month period for new area, industry, and public sector committee applicants.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and its required grantee allowable Federal funding level and its required grantee match, applicants may supplement these funds through voluntary contributions from other sources.

F. Match Requirements and Cost Allowability

Applicants for new labor-management committees must provide at least 10 percent of the total allowable project costs. Applicants for existing committees must provide at least 25 percent of the total allowable project costs. All matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-supported efforts are considered "project income," and may not be used for matching purposes.

It will be the policy of this program to reject all requests for indirect or overhead costs as well as "in-kind" match contributions. In addition, grant funds must not be used to supplant private or local/state government funds currently spent for these purposes. Funding requests from existing committees should focus entirely on the costs associated with the expansion efforts. Also, under no circumstances may business or labor officials participating on a labor-management committee be compensated out of grant funds for *time* spent at committee meetings or *time* spent in training sessions. Applicants generally will not be allowed to claim all or a portion of *existing* staff time as an expense or match contribution.

For a more complete discussion of cost allowability, applicants are encouraged to consult the FY96 FMCS Financial and Administrative Grants Manual which will be included in the application kit.

G. Application Submission and Review Process

Applications should be signed by *both* a labor and management representative and be postmarked no later than May 4, 1996. No applications or supplementary materials can be accepted after the deadline. It is the responsibility of the applicant to ensure that the application is correctly postmarked by the U.S. Postal Service or other carrier. An original application containing numbered pages, plus *three* copies, should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Program Services, 2100 K Street, NW, Washington, DC 20427. FMCS will not consider videotaped submissions or video attachments to submissions.

After the deadline has passed, all eligible applications will be reviewed and scored initially by one or more Customer Review Boards. The Board(s) will recommend selected applications for further funding consideration. The Director, Labor-Management Program Services, will finalize the scoring and selection process. The individual listed as contact person in Item 6 on the application form will generally be the only person with whom FMCS will communicate during the application review process.

All FY96 grant applicants will be notified of results and all grant awards will be made before September 30, 1996. Applications submitted after the May 4 deadline date or that fail to adhere to eligibility or other major requirements will be administratively rejected by the Director, Labor-Management Program Services.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits and additional information or clarification can be obtained free of charge by contacting Karen Pierce or Linda Stubbs, Federal Mediation and Conciliation Service, Labor-Management Program Services, 2100 K Street, NW, Washington, DC 20427; or by calling 202–606–8181.

John Calhoun Wells,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 95–29175 Filed 11–28–95; 8:45 am]

BILLING CODE 6732-01-M

FEDERAL RESERVE SYSTEM

Calvin C. Fayard, Jr., et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 12, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Calvin C. Fayard, Jr., Denham Springs, Louisiana; to retain a total of 7.5 percent, and acquire an additional 9.6 percent, for a total of 17.1 percent, of the voting shares of Tuscaloosa Bancshares, Inc., Denham Springs, Louisiana, and thereby indirectly acquire Tuscaloosa Commerce Bank, Denham Springs, Louisiana.

B. Federal Reserve Bank of Dallas, (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Jose M. Ramirez, Jr., San Ygnacio, Texas; to acquire an additional 3.88 percent, for a total of 15.54 percent, of the voting shares of Zapata Bancshares, Inc., Mercedes, Texas, and thereby indirectly acquire Zapata National Bank, Zapata, Texas, and Mercedes National Bank, Mercedes, Texas.

Board of Governors of the Federal Reserve System, November 22, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29076 Filed 11–28–95; 8:45 am]

BILLING CODE 6210-01-F

Forstorm Bancorporation, Inc.; Notice of Proposal to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has given notice under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether commencement of the activity can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 12, 1995.

A. Federal Reserve Bank of Minneapolis, (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Forstrom Bancorporation, Inc., Clara City, Minnesota; to engage *de novo* in direct lending, pursuant to § 225.25(b)(1) of the Board's Regulation.

Board of Governors of the Federal Reserve System, November 22, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29080 Filed 11–28–95; 8:45 am]

BILLING CODE 6210-01-F

Otto Bremer Foundation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than December 12, 1995.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Otto Bremer Foundation and Bremer Financial Corporation, both of St. Paul, Minnesota; to acquire United Insurance Agency, Inc., Minot, North Dakota, and thereby engage in general insurance activities, pursuant to § 225.25(b)(8)(vii) of the Board's Regulation Y. These activities will be conducted through First American Insurance Agencies, Inc., St. Paul, Minnesota.

Board of Governors of the Federal Reserve System, November 22, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29081 Filed 11–28–95; 8:45 am]

BILLING CODE 6210-01-F

Sunset Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 22, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Sunset Bancorp, Inc., Sunset, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Sunset and Trust Company, Sunset, Louisiana.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. CJSB Bancorporation, Columbus Junction, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Columbus Junction State Bank, Columbus Junction, Iowa.

2. West Pointe Bancshares, Inc., Oshkosh, Wisconsin; to acquire 100 percent of the voting shares of West Pointe Bank, Oshkosh, Wisconsin (in organization).

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Valley Bancorp, Inc., Phoenix, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of Valley Bank of Arizona, Phoenix, Arizona (in organization).

Board of Governors of the Federal Reserve System, November 22, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29082 Filed 11–28–95; 8:45 am]

BILLING CODE 6210-01-F

GENERAL SERVICES ADMINISTRATION

Office of Acquisition Policy, FAR Secretariat; Stocking of New Standard Form, SF 1449, Solicitation/Contract/Order for Commercial Items

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration/Office of Acquisition Policy recently revised Standard Form, SF 1449, Solicitation/Contract/Order for Commercial Items. This form is authorized for local reproduction. You can request camera copy of SF 1449 from General Services Administration (CARM), Attn.: Barbara Williams, (202) 501–0581.

FOR FURTHER INFORMATION CONTACT: Mr. Lou Caudio, General Services Administration, (703) 695–1099. This contact is for information on completing the form and interpreting the FAR only.

DATES: Effective November 29, 1995.

Dated: November 20, 1995.

Theodore D. Freed,

Chief, Forms Management Branch.

[FR Doc. 95–29172 Filed 11–28–95; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Notice of Assessment of Medical Technology

The Agency for Health Care Policy and Research (AHCPR), through the Center for Health Care Technology (CHCT) (formerly Office of Health Technology Assessment); announces that it is initiating a technology assessment or technology review of the safety, efficacy, and effectiveness of biofeedback for the treatment of hypertension.

The AHCPR is requesting information on the risks, benefits, and costs associated with the use of this mode of treatment, and the specific circumstances in which biofeedback is appropriate. The AHCPR also requests information on patient selection criteria and institutional or team criteria necessary to establish acceptable standards for appropriate benefits and risks.

The assessment consists of a synthesis of information found in published literature and obtained from appropriate sources in the private sector, Public Health Service (PHS) agencies and others in the Federal Government. AHCPR assessments and reviews are conducted in accordance with sections 904(b) and (d) of the PHS Act (42 U.S.C. 299a–2(b) and (d)), as described in the **Federal Register** of December 3, 1993. The evaluation is based on the most current knowledge concerning the safety, clinical effectiveness, and appropriate uses of a technology, and its relative clinical utility compared to alternative technologies. A recommendation may be formulated to assist the Office of Civilian Health and Medical Programs of the Uniformed Services (OCHAMPUS), Department of Defense, in establishing coverage policy. The information being sought by this notice is a review of past, current, and planned research related to this technology, as well as a bibliography of published, controlled clinical trials and other well-designed clinical studies.

Information related to the characteristics of the patient population most likely to benefit from biofeedback treatment of hypertension, as well as information on the clinical acceptability, effectiveness, and the extent of use of this technology, is also being sought.

The AHCPR is interested in receiving information which would help in the evaluation or review of the technology as described above. To enable the interested scientific community to evaluate the information included in the assessment, AHCPR will discuss in the assessment only those data and analyses for which a source(s) can be cited. Respondents are therefore encouraged to include with their submissions a written consent permitting AHCPR to cite the sources of the data and comments provided. Otherwise, in accordance with the confidentiality statute governing information collected by AHCPR, 42 U.S.C. 299a–1(c), no information received will be published or disclosed which could identify an individual or entity described in the information, or could identify an entity or individual supplying the information.

Any person or group wishing to provide AHCPR with information relevant to this assessment should do so in writing no later than [insert date 90 days after the date of publication] to the Center for Health Care Technology at the address below.

Thomas V. Holohan, M.D., FACP, Acting Director, Center for Health Care Technology, AHCPR, 6000 Executive Boulevard, Suite 309, Rockville, MD 20852, Phone: (301) 594–4023.

Dated: November 20, 1995.

Clifton R. Gaus,

Administrator.

[FR Doc. 95–29086 Filed 11–28–95; 8:45 am]

BILLING CODE 4160–90–M

Centers for Disease Control and Prevention

[INFO–95–06]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–3453.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

1. Prevention Marketing Initiative Community Demonstration Site Project Evaluation—New—The Centers for Disease Control and Prevention, National Center for HIV, STD, and TB Prevention, Division of HIV/AIDS Prevention, Prevention Communication Branch is planning to conduct a survey as part of the evaluation of a five-city HIV prevention demonstration program that is part of the national Prevention Marketing Initiative. The local demonstration program is attempting to integrate community participation into a social marketing process. Community groups in the local sites have chosen to target particular high-risk behaviors and/or their determinants in young people under 25 years of age through a variety of intervention strategies. Decisions about the nature of local interventions are being based on formative research in each geographic area. It is hoped that this demonstration program will result in lowering HIV risk behavior among youth in the target audiences, and also in enhanced collaboration among individuals and organizations in the local communities. To evaluate the effectiveness of the interventions, questionnaire data will be collected from community social marketing group members before and after participation, and surveys of youth in local project areas and comparison areas will be undertaken before and after prevention message campaigns are launched. Baseline surveys are planned for early spring. Total cost to respondents is estimated at $450,000.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Community social marketing group members and control group	200	2	0.50	200
Young people under 25 years of age in target audience and control group	3,000	2	0.25	1500
Total				1700

Dated: November 22, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–29166 Filed 11–28–95; 8:45 am]

BILLING CODE 4163–18–P

[30DAY–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–3453.

The following requests have been submitted for review since the enactment of the PRA of 1995 on October 1, 1995.

1. Evaluation of the "WomanKind: Support Systems for Battered Women" Project in Minnesota—New—The Division of Violence Prevention at CDC has been directed to increase physicians' and other health care providers' ability to identify and attend to the needs of victims of domestic violence.

WomanKind strives to: (1) Increase health care providers' capacity and motivation to identify and refer battered women to WomanKind advocates from several hospital departments, (2) facilitate clients' decisions to alter their circumstances, and (3) work with clients to identify and access existing community services that provide practical support in developing and implementing a plan for change.

The evaluation is being conducted to determine the extent to which the objectives listed above are achieved and to identify the integration and level of contribution made by each specific program element. If proven effective, this program could be used with other domestic violence prevention strategies to reduce the incidence of domestic violence.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Hospital Staff KABB Survey—Census 1 & 6 month & year	950	3	.17
Hospital Staff KABB Survey—Trainees Immediate Post-test	250	1	.17
Volunteer Advocate KABB Survey	30	4	.17
Womankind Client KABB Survey	450	4	.25
Control Client KABB Survey	200	4	.25
Hospital Staff Training Evaluation	250	1	.08
Volunteer Advocate Training Evaluation	30	6	.08
Hospital Staff Trainer Evaluation	250	1	.08
Volunteer Trainer Evaluation	30	5	.08

The total annual burden is 1262. Send comments to Allison Eydt; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

Dated: November 22, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–29167 Filed 11–28–95; 8:45 am]

BILLING CODE 4163–18–P

Mine Health Research Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following committee meeting.

Name: Mine Health Research Advisory Committee.

Times and Dates: 9 a.m.–5 p.m., December 13, 1995. 9 a.m.–12 noon, December 14, 1995.

Place: The Washington Court Hotel, Hermitage Room, 525 New Jersey Avenue, NW., Washington, DC 20001.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Secretary of Health and Human Services on matters involving or relating to mine health research, including grants and contracts for such research. Additionally, the Committee assesses mine health research needs and advises on the conduct of mine health research.

Matters to be discussed: The agenda will include a discussion on current trends and future directions in the mining industries, NIOSH plans for a National Occupational Research Agenda, critical mining research needs for the next decade, NIOSH Recommended Standard for Occupational Exposure to Respirable Coal Mine Dust, subcommittee reports, report from 2nd International Conference on Health Miners and a report from the Director of NIOSH.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Gregory R. Wagner, M.D., Executive Secretary, Division of Respiratory Disease Studies, NIOSH, CDC, Mailstop 220, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505, telephone 304/291–4474.

Dated: November 21, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–29168 Filed 11–28–95; 8:45 am]

BILLING CODE 4163–19–M

Board of Scientific Counselors, National Center for Infectious Diseases; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Center for Infectious Diseases (NCID).

Times and Dates: 8:30 a.m.–5 p.m., December 7, 1995. 8:30 a.m.–2:30 p.m., December 8, 1995.

Place: CDC, Auditorium B, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, NCID, provides advice and guidance to the Director, CDC, and Director, NCID, in the following areas: program goals and objectives; strategies; program organization and resources for infectious disease prevention and control; and program priorities.

Matters to be Discussed: The agenda will focus on:

1. Progress and Plans for Implementation of CDC Emerging Infectious Diseases: Prevention Strategy for the U.S.
2. Personnel and Facility Updates.
3. Committee on Science, Engineering, and Technology Working Group Report on Emerging and Re-emerging Infectious Diseases; Recommendations for CDC; Implementation of Interagency Task Force.
4. Update on World Health Organization Emerging Infections Programs.
5. Research on Emerging and Re-emerging Infectious Diseases.
6. Health Communication Strategies.
7. Current Scientific Investigations.

Other agenda items include announcements/introductions; NCID update; late breakers; and follow-up on actions recommended by the Board (May 1995).

Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person for More Information: Diane S. Holley, Office of the Director, NCID, CDC, Mailstop C–20, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0078.

Dated: November 20, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and, Prevention (CDC).

[FR Doc. 95–29191 Filed 11–28–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which

interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Oncologic Drugs Advisory Committee

Date, time, and place. December 14, 1995, 8 a.m., Holiday Inn—Bethesda, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; Stephen P. Pollitt or Adele S. Seifried, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Oncologic Drugs Advisory Committee, code 12542.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of cancer.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before December 8, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss: (1) FDA oncology initiatives, (2) new drug application (NDA) 20–587, Sterile Aerosol Talc (Talc of Luzenac PR 784, Bryan Corp.), for treatment of malignant pleural effusion, and (3) product license application (PLA) 94–0308, NR–LU–10 Fab (Karl Thomae GmbH), for primary staging of patients with biopsy confirmed small cell lung cancer.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: November 20, 1995.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 95–29085 Filed 11–28–95; 8:45 am]

BILLING CODE 4160–01–F

Grassroots Regulatory Partnership Meeting; Southwest Region; Human and Veterinary Drug Industry

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of a public meeting.

SUMMARY: The Food and Drug Administration (FDA) (Office of External Affairs, Office of Regulatory Affairs, Office of the Southwest Region, Center for Drug Evaluation and Research, Center for Biologics Evaluation and Research, and Center for Veterinary Medicine) is announcing a free public meeting as a followup to a meeting held in April 1995. FDA Office of the Southwest Region will meet with interested persons in the Southwest Region to address specific issues related to the human and veterinary drug industry. The agency is holding this meeting to promote the President's initiative for a partnership approach between front-line regulators and the people affected by the work of this agency.

DATES: The public meeting will be held on Thursday, December 7, 1995, from 8:30 a.m. to 3:30 p.m.

ADDRESSES: The public meeting will be held at the Sheraton Denver West Hotel, 360 Union Blvd., Lakewood, CO.

FOR FURTHER INFORMATION CONTACT: Virlie M. Walker, FDA Denver District, Bldg. 20, Entrance W–10, Denver Federal Center, Sixth and Kipling Sts., Denver, CO 80225–0087, 303–236–3018, FAX 303–236–3551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 20, 1995 (60 FR 19753), FDA announced that a series of Grassroots Regulatory Partnership Meetings would be held. This document announces a followup meeting to the one held on April 24, 1995, in Dallas, TX. Those persons interested in attending this public meeting should FAX their registration including name(s), affiliation, address, telephone and FAX numbers, and any specific questions about the workshop to Virlie M. Walker (address above), 303–236–3551. There is no registration fee for this meeting. However due to space limitations, early registration is required. The goal of this meeting is to listen to concerns and ideas, and to identify next steps for the agency.

Dated: November 22, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–29130 Filed 11–28–95; 8:45 am]

BILLING CODE 4160–01–F

Grassroots Regulatory Partnership Meeting; Atlanta and Florida District Offices; Medical Device Industry

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of a public meeting.

SUMMARY: The Food and Drug Administration (FDA) (Office of Regulatory Affairs, Southeast Region/Atlanta and Florida District Offices) is announcing a free public meeting as a followup to a meeting held in April 1995. FDA Atlanta and Florida District Offices will meet with interested persons in Georgia, Florida, North Carolina, and South Carolina to address specific issues related to the medical device industry, Atlanta and Florida Districts, and FDA. The agency is holding this meeting to promote the President's initiative for a partnership approach with front-line regulators and the people affected by the work of this agency, and to create local partnerships.

DATES: The public meeting will be held on Thursday, December 7, 1995, from 8 a.m. to 3:30 p.m.

ADDRESSES: The public meeting will be held at the Sheraton Colony Square Hotel, Peachtree at 14th St., Atlanta, GA.

FOR FURTHER INFORMATION CONTACT: Sheila Bayne-Lisby, FDA Atlanta District, 60 Eighth St. NE., Atlanta, GA 30309, 404–347–7355, or FAX 404–347–1912, or Lynne Isaacs, FDA Florida District, 7200 Lake Ellenor Dr., suite 120, Orlando, FL 32809, 407–648–6922 ext. 202, or FAX 407–648–6881.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 20, 1995 (60 FR 19753), FDA announced that a series of Grassroots Regulatory Partnership meetings would be held. This document announces a followup to the one held on April 25, 1995, in Atlanta, GA. Those persons interested in attending this meeting should FAX their comments and registration including name, firm/organization name, address, and telephone number to 404–347–1912. There is no registration fee for this meeting. However, due to space limitations advance registration is required, and all interested parties are encouraged to register early. The goal of this meeting is to "listen" to concerns and ideas, and to identify next-steps for the agency.

Dated: November 22, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–29131 Filed 11–28–95; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Public Information Collection Requirements Submitted for Public Comment and Recommendations

AGENCY: Health Care Financing Administration, Department of Health and Human Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summaries of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Medicare Uniform Institutional Provider Bill; *Form No.:* HCFA–1450; *Use:* Medicare reimbursement of claims. This form is the standardized form used in the Medicare/Medicaid program to apply for reimbursement for covered services by all providers that accept Medicare/Medicaid assigned claims. It will reduce cost and administrative burdens associated with claims since only one coding system is used and maintained. *Frequency:* On occasion; *Affected Public:* Business or other for-profit, not-for-profit institutions, Federal Government, and State, local or tribal government; *Number of Respondents:* 123,432,041; *Total Annual Hours Requested:* 1,890,490.

2. Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* End Stage Renal Disease Medical Evidence Report Medicare Entitlement and/or Patient Registration; *Form No.:* HCFA–2728; *Use:* This form captures the necessary medical information required to determine Medicare eligibility of an end stage renal disease claimant. It also captures the specific medical data required for research and policy decisions on this population as required by law. *Frequency:* Annually; *Affected Public:* Individuals or households, business or other for-profit, not-for-profit institutions; *Number of Respondents:* 60,000; *Total Annual Hours Requested:* 25,200.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: November 20, 1995.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 95–29098 Filed 11–28–95; 8:45 am]

BILLING CODE 4120–03–P

[BPD–820–N]

RIN 0938–AG93

Medicare Program; Notice Containing the Statement Drafted by the Committee Established to Negotiate the Wage Index to be Used to Adjust Hospice Payment Rates Under Medicare

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice provides the statement signed on April 13, 1995, by the Negotiating Committee on the Hospice Wage Index, concerning the index to be used to adjust Medicare payment rates for hospice services to reflect geographic differences in wages. The statement represents a consensus by the committee members, who represent different interests affected by the hospice rules.

The notice also announces that a proposed rule establishing the revised hospice wage index, with a description of the methodology used to calculate the index, will be published in the spring of 1996. A new wage index is needed because the index currently applied is based on 1981 wage and employment data and has not been updated since 1983.

FOR FURTHER INFORMATION CONTACT: Jennifer Carter (410) 786–4615.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1814(i) of the Social Security Act (the Act) provides for payment to Medicare hospices. Regulations for Medicare hospice care services (42 CFR part 418) were published in the **Federal Register** on December 16, 1983 (48 FR 56008), effective for hospice services furnished on or after November 1, 1983. These regulations provide for payment to hospices based on one of four prospectively determined rates for each day in which a qualified Medicare beneficiary is under the care of the hospice. The four rate categories are routine home care, continuous home care, inpatient respite care, and general inpatient care. Under § 418.306(c), we adjust the payment rates to reflect local differences in area wage levels.

The wage index currently used to adjust the hospice payment rates is the wage index published in the **Federal Register** on September 1, 1983 (48 FR 39871) for purposes of determining Medicare inpatient hospital prospective payment rates. This hospital wage index was based on calendar year 1981 hospital wage and employment data obtained from the Bureau of Labor Statistics' (BLS) ES 202 Employment, Wages and Contributions file for hospital workers.

Although Medicare hospice payment rates have been periodically updated since the inception of the Medicare hospice program in late 1982, we have never updated the wage index for hospices. Thus, the wage index developed based on 1981 BLS data is still used for hospices, even though HCFA now uses its own wage data surveys to construct an updated, more accurate hospital wage index. Previous attempts to begin to develop an updated wage index for hospices through rulemaking brought to our attention the divergent views within the hospice industry itself and between the industry and HCFA on how best to update the index. During discussions preliminary to developing a new wage index, the industry voiced concerns over the adverse financial impact of a new wage index on individual hospices and a possible reduction in overall Medicare hospice care payments, the effect of overarching Federal budgetary constraints. The result was that, in the absence of agreement, we continued to use a wage index that is clearly obsolete for geographically adjusting Medicare hospice payments.

II. Negotiated Rulemaking Process

In accordance with the Negotiated Rulemaking Act of 1990, we embarked on the use of the negotiated rulemaking process to promulgate a proposed rule specifying the wage index to be used to adjust payment rates for hospice services under Medicare. Our goal was to achieve the objectives associated with the use of the negotiated rulemaking process—reducing the time, cost, and other problems associated with the traditional rulemaking process.

To determine who should participate on the negotiating committee, a neutral facilitator selected by the Department of Health and Human Services conducted a convening process to ensure the presence on the committee of all interests affected by changes in the wage index. The intent was to establish a negotiating committee that represented all interests, although not necessarily all interested parties. The two national hospice organizations, the National Hospice Organization and Hospice Association of America, were also contacted by the facilitator for their recommendations. The facilitator then interviewed a number of representatives in the hospice community to determine who would best represent different interests on the committee. The facilitator proposed, and we accepted, the following individuals as negotiation participants. We believe these individuals represent an appropriate mix of interests and backgrounds:

Donna Bales, Kansas Hospice Association
Mary Ellen Bliss, American Association of Retired Persons
Janice Casey, Hospice Care, Inc.
Kate Colburn, Hospice of Central Iowa
Randall DuFour, Hospice of Louisville, Kentucky
Thomas Hoyer, Bureau of Policy Development, HCFA
Mary Labiak, Hospice of the Florida Suncoast, Florida
John J. Mahoney, National Hospice Organization
Janet Neigh, Hospice Association of America
Dale C. Smith, Academy of Hospice Physicians
Mark Sterling, VITAS Healthcare
Claire Tehan, Hospital Home Health Care Agency of California

With the assistance of the facilitator, we reached consensus with hospice industry groups and other affected interests on how best to propose an update to the present outdated hospice wage index. We believed a new wage index based on consensus would be less controversial and easier to administer than one developed by the traditional rulemaking process.

The committee held five public meetings beginning in November 1994 and ending in April 1995. In accordance with the Federal Advisory Committee Act, each meeting of the negotiating committee was announced in the **Federal Register**, at least 15 days before the meeting. The meeting notices indicated that the meetings were open to the public and that time was set aside at the end of each meeting day to hear any public statements.

On April 13, 1995, the committee reached consensus on an option for the proposed wage index. Reaching consensus was a long and deliberative process. The committee stressed that consensus meant that even if elements of the agreement were not the choice of individual committee members, all committee members could live with the agreement, considered as a whole. The committee concurred that a wage index based on the committee's

recommendations would be preferable to a wage index that could be developed by the traditional rulemaking process, both for the hospice community as a whole, and for the Medicare beneficiaries it serves. The proposed rule announcing the revised hospice wage index, including a description of the methodology used to calculate the index, will be published in the spring of 1996. The Committee Statement signed by all committee members is reprinted below.

United States Department of Health and Human Services Negotiating Committee on the Medicare Hospice Wage Index

Committee Statement

April 13, 1995.

The Negotiating Committee on Medicare Hospice Wage Index has concurred in the following recommendations, considered as a whole, concerning the wage index used to adjust Medicare payment rates for hospice services to reflect geographic differences in wages:

A. Data to be Used

The wage index for hospices will be based on the wage index used by the Health Care Financing Administration (HCFA) for hospitals under the Medicare Prospective Payment System, prior to reclassification. This means that the hospital wage index will not be adjusted to take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(b) and 1886(d)(10) of the Social Security Act.

The hospital wage index prior to reclassification will be referred to in this statement as the Raw Index and will be adjusted as provided below to calculate what will be referred to as the Revised Wage Index.

Special provisions governing a transition period are described in paragraph D below.

B. Budget Neutrality

HCFA will determine a Budget Neutrality Factor that will be applied to achieve neutrality during and after the transition period. Budget neutrality means that, in a given year, estimated aggregate payments for Medicare hospice services using the Revised Wage Index will equal estimated payments that would have been made for the same services if the wage index adopted for hospices in 1983 (1983 Index) had remained in effect. HCFA will estimate aggregate payments for Medicare hospice services using the best available utilization data.

C. Adjustments

Each Raw Index value will be adjusted in one of two ways to determine the Revised Wage Index value applicable to each area.

(1) If the Raw Index value for any area is 0.8 or greater, the Revised Wage Index will be calculated by multiplying the Raw Index value for that area by the Budget Neutrality Factor.

(2) If the Raw Index value for any area is less than 0.8, the Revised Wage Index will be the greater of either:

(a) The Raw Index value for that area multiplied by the Budget Neutrality Factor; or

(b) The Raw Index value for that area multiplied by 1.15 (in effect, a 15-percent increase), but subject to a maximum index value of 0.8.

D. Transition Period

The Revised Wage Index will be implemented over a 3-year transition period beginning on or about October 1, 1996. For the first year of the transition period, a blended index will be calculated by adding two-thirds of each 1983 index value for an area to one-third of the Revised Wage Index value for that area. During the second year of the transition period, the calculation will be similar, except that the blend will be one-third of the 1983 Index values and two-thirds of the Revised Wage Index values. During the third year the Revised Wage Index will be fully implemented.

Throughout the transition period, new hospices will be treated the same as existing hospices based in the same county.

E. Annual Updates

The Revised Wage Index will be updated annually, so that it is based on the most current available data used by HCFA to construct the hospital wage index, as well as on changes by the Office of Management and Budget to Metropolitan Statistical Areas as adopted by HCFA in calculating the hospital wage index.

HCFA will use the most current hospital cost report data available that allows HCFA to publish a proposed rule containing wage index values at least 4 months in advance of the effective date of each annual update to the Revised Wage Index.

F. Effective Date

The effective date of a final rule revising the wage index as stated above should be October 1, 1996.

G. Statement to Accompany Proposed and Final Hospice Wage Index Notice

The proposed rule is based upon a Committee Statement developed by a Negotiating Committee on the Medicare hospice wage index which was convened under the Negotiated Rulemaking Act. A new hospice wage index is needed because the existing hospice wage index is based on a 1983 wage index using 1981 Bureau of Labor Statistics (BLS) data which is inaccurate and outdated.

The Committee reached consensus; however, this means only that all Committee members could "live with" the agreement, considered as a whole, even if elements of that agreement were not the preferred choice of individual Committee members. The Committee Statement reflects those issues upon which the Committee ultimately concurred, but does not address many issues that were considered by the Committee.

The Committee considered the appropriate data to be used to construct a wage index, the appropriateness of retaining a 0.8 floor, budget neutrality, and how to structure a transition to timely update the index yet ensure access to hospice care. In particular, the Committee considered the problems faced by hospices that would receive significant decreases under the new wage indices, rural hospices, hospices with low wage indices, and hospices that may have disproportionately high non-wage costs.

The Committee received extensive information from experts who appeared before the Committee and from the hospice community, and sought public input. While considerable data was reviewed, the Committee acknowledges that hospice data collection is maturing and encourages its continued development. In addition, while other issues were identified, the scope of the Committee's negotiations was limited by the Notice of Intent to Negotiate.

Given these constraints, and taking into account the differing and conflicting interests that would be significantly affected, the Committee sought to develop a wage index that would be as accurate, reliable, and equitable as possible, but would not threaten access to hospice care.

The Committee recognizes that hospice care is still not universally available. The Committee further recognizes that there may be geographic or other circumstances that inhibit the provision of hospice care. The Committee strongly requests that HCFA consider options to address these access problems.

Reaching consensus was a long and deliberative process. The Committee concurred that the wage index it recommends will be better both for the hospice community as a whole, and for the Medicare beneficiaries it serves, than a wage index developed by the traditional rulemaking process.

Authority: Section 1814(i) of the Social Security Act (42 U.S.C. 1395(f)).

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 25, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–29140 Filed 11–28–95; 8:45 am]

BILLING CODE 4120–01–P

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Health and Human Services Department.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected

inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications and issued patents listed below may be obtained by writing to John Fahner-Vihtelic, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Box 13, Rockville, Maryland 20852–3804 (telephone 301/496–7735 ext 285; fax 301/402–0220). A signed Confidential Disclosure Agreement (CDA) will be required to receive copies of the patent applications. Requests for copies of issued patents do not require the execution of a CDA.

Methods For Determining The Presence Of Functional p53 In Mammalian Cells

Fornace, A.J., Kastan, M.B. (NCI)
Filed 10 Aug 94
Serial No. 08/288,872 (CON of 07/974,960)

The protein p53 is involved in tumorigenesis. Recent observations have indicated that the gene encoding p53 is a tumor suppressor gene; however, mutation or deletion of this gene results in loss of this suppressor function. Mutations of the p53 gene have been demonstrated in tumors of the colon, breast, lung, ovary, bladder, and other organs, making the p53 gene the most commonly mutated gene yet identified in human cancers. While currently used assays can detect the presence of wild-type or mutant p53 protein in mammalian cells, they cannot accurately determine the presence of functional p53 protein in these cells, which is necessary to determine the biological function of functional p53 and to develop subsequent diagnostic modalities using functional p53. This invention describes a specific gene whose expression is dependent on the presence of functional p53 in cells and tumors, as well as methods by which the presence of this gene may be detected. It also describes a diagnostic kit utilizing a nucleic acid sequence capable of binding functional p53, which is then measured to detect p53 presence. Issuance of a patent on this invention is currently pending. [portfolio: Cancer—Diagnostics]

Novel B-Lymphoma Cell Line And Antigen

Bock, G.H., Nelson, D.L., Kurman, C.C., Fleisher, T.A. (NCI)
Filed 9 Aug 94
Serial No. 08/287,718 (FWC of 07/934,106)

Various cell lines of B-cell lineage have been produced, but none have been of tumor cell origin. This case provides an IL–6 dependent B-cell lymphoma cell line, designated DS–1. The invention further provides a monoclonal antibody which reacts with the cell line and a method for detecting the presence of neoplastic cells by detecting the presence of an antigen on a cell which is not normal for that cell type. [portfolio: Cancer—Diagnostics; Cancer—Research Reagents]

Novel Human ras-Related Oncogenes Unmasked By Expression cDNA Cloning

Aaronson, S., Chan, A., Miki, T. (NCI)
Filed 24 May 94
Serial No. 08/247,946

A family of small G-proteins encoded by H-, K-, and N-ras is frequently activated as oncogenes in a wide variety of human tumors. Activation is usually due to a point mutation within the coding sequence which results in the molecule to be constitutively in the GTP bound (active) state. In normal cells, these proteins are coupled to growth factor signaling pathways and appear to cause proliferation or differentiation. Over the past several years, cloning efforts by many laboratories have greatly expanded the number of ras-related proteins, to include R-ras, K-rev-1/rap and TC21. The present invention relates to a mutant TC21 protein that was cloned from an expression cDNA from a ovarian carcinoma cell line. Based upon the finding that an oncogenic form of TC21 exists, the present invention also relates to the generation of point mutations in R-ras for expression study. The present invention also relates to methods of diagnosing cancers or monitoring disease progression by detecting mutant forms of R-ras or TC21 at the protein or gene level. [portfolio: Cancer—Diagnostics; Cancer—Research Reagents]

Immortalized Adult Human Prostate Epithelial Cell Lines

Rhim, J.S., Webber, M.M. (NCI)
Filed 28 Apr 94
Serial No. 08/234,843

This invention relates to cell lines which are useful in testing compounds for anti-carcinogenic, anti-neoplastic, anti-invasive, or anti-metastatic activity by growing the cell line in the presence of the subject compounds. The cell lines contain DNA of a human Papilloma virus (HPV), either alone or with an activated viral ras oncogene, e.g., v-Ki-ras. The HPV immortalized line is not tumorigenic; however, the V-Ki-ras transformed HPV cell line is tumorigenic. They are useful for determining causes, treatment, and prevention of prostate cancer, benign prostate hyperplasic, male infertility, birth defects, aging, and assessment of environmental toxic agents. [portfolio: Cancer—Research Reagents]

Pulsed Low Frequency EPR Spectrometer And Imager

Bourg, J., Cherukuri, M., Mitchell, J., Mirotznik, M., Roth, B., Subramanian, S. (NCI)
Serial No. 08/097,811
Patent Issued 7 Feb 95
U.S. Patent No. 5,387,867

This application describes an Electron Paramagnetic Resonance (EPR) spectroscopy imaging system. This system generates broadband pulses having a RF carrier frequency that is not highly absorbed by biological materials. The pulse generating system includes up and down chirp converters for frequency modulating of a carrier frequency and compression of the frequency modulated pulse to form a broadband excitation pulse of high energy. This technology's function has been proven and could form the basis of a clinical imaging device capable of high sensitivity to free radical species in human patients. [portfolio: Devices/Instrumentation—Diagnostics, electron paramagnetic resonance]

Phosphonoalkyl Phenylalanine Compounds Suitably Protected For Use In Peptide Synthesis

Burke, T.R, Smyth, M.S., Lim, B.B. (NCI)
Filed 8 Jun 93
Serial No. 08/073,088

A novel class of phosphononodifluoromethyl phenylalanine ("F_2Pmp") derivatives have been developed which are suitable for the synthesis of peptides containing the phosphotyrosyl (pTyr) mimetic, F_2Pmp. These analogues bear Boc or Fmoc protection at the N^{α}-position for either solution or solid-phase peptide synthesis using standard techniques. A number of studies have shown that peptides containing the F_2Pmp residue show utility as inhibitors of src homology 2 (SH2) domain binding interactions and of phosphotyrosyl phosphatases. Unlike pTyr residues, the F_2Pmp moiety is stable to both chemical and phosphatase-mediated hydrolysis, making it an attractive replacement for pTyr in signal transduction peptides. [portfolio: Cancer—Research Reagents]

Monoclonal Antibodies To Prostate Cells

Pastan, I. (NCI)
Filed 8 Oct 92
Serial No. 07/958,140

Monoclonal antibodies which bind to an antigen associated with prostate cells, including prostate cancer, can be used either individually or conjugated to drugs, labels, radioisotopes, or cytotoxins to target delivery of the conjugated to prostate cells. The antibodies are thus useful in a variety of diagnostic and therapeutic applications involving prostate cancer. A hybridoma cell line secreting monoclonal antibody PR1 is also provided, as well as methods for screening for the presence of metastatic prostate cancer. [portfolio: Cancer—Therapeutics]

Antibodies To Human LINE–1 p40 Protein

Fanning, T.G. (NCI)
Serial No. 07/750,044
Patent Issued 18 Jan 94
U.S. Patent No. 5,280,108

Antibodies to the human LINE–1 retrotransposon offer a powerful new tool for studying tumors. In most cell lines and tissues, human LINE–1 sequences (LIHs) are not expressed; however, LIH-specific RNA and proteins have been detected in cell lines and tissues derived from human germ cell tumors (teratocarcinomas) and breast tumors. These LIH antibodies, which are specific for the p40 protein portion of the retrotransposon, can be used for determining LIH expression in tumor cells and determining the role this retrotransposon plays in these cells. [portfolio: Cancer—Research Reagents]

Cartilage-Derived Morphogenetic Proteins

Luyten, F.P., Moos, M., Chang, S. (NIDR)
PCT Application PCT/US94/12814 filed 7 Nov 94
DHHS Reference No.: E–138–94/0

The present invention provides a cartilage-derived extract which initiates and promotes ectopic cartilage and bone development *in vivo* and recombinant cartilage-derived morphogenetic proteins which promote development of musculoskeletal tissues *in vivo*. These products will be useful in the therapeutic induction, repair, and maintenance of skeletal tissues. These compounds show promise for the healing of joint surface lesions and repair or reconstruction of cartilaginous tissues. They are also useful as growth factors for cells of the chondrocyte lineage which, expanded *ex vivo*, can be implanted into an individual where cartilage growth is desired. In addition, cloned polynucleotides encoding these proteins will be effective diagnostic reagents for detecting genetic abnormalities associated with poor skeletal development. [portfolio: Cancer—Therapeutics, biological response modifiers, growth factors]

Dated: November 20, 1995.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 95–29092 Filed 11–28–95; 8:45 am]

BILLING CODE 4140–01–P

National Cancer Institutes; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Cancer Institute Initial Review Group:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: Subcommittee D—Clinical Research Studies.

Date: December 11–12, 1995.

Time: 8 a.m.

Place: DoubleTree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: John Abrell, Ph.D., 6130 Executive Blvd., Room 635B, Bethesda, MD 20892, telephone: 301–496–9767.

Committee Name: Subcommittee H—Clinical Trials.

Date: December 12–13, 1995.

Time: 8 a.m.

Place: DoubleTree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: John L. Meyer, Ph.D., 6130 Executive Blvd, Room 611C, Bethesda, MD 20892, telephone: 301–496–7721.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAM NUMBERS: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: November 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–29090 Filed 11–28–95; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Cancer Institute Frederick Cancer Research & Development Center Advisory Committee.

Agenda/Purpose: Discussion of previous site visit report and response for the AIDS Vaccine program and AIDS projects both under contract with Science Applications International Corporation, site visit review of the Macromolecular Structure Laboratory with Advanced Bioscience Laboratories, Inc.

Committee Name: Frederick Cancer Research & Development Center Advisory Committee.

Date: December 11–13, 1995.

Time: Open Session, Dec. 11–8:30 a.m.–11:00 a.m.; closed session, Dec. 11–11 a.m.–Dec. 13.

Place: Frederick Cancer Research and Development Center, Building 549, Executive Board Room, Frederick, MD 21702.

Contact Person: Cedric W. Long, Ph.D., Frederick Cancer Research and Development Center, P.O. Box B, Frederick, MD 21702, telephone: 301–496–1108.

The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The reports and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAM NUMBERS: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: November 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–29091 Filed 11–28–95; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Proposed Data Collection Available for Public Comment

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 to provide the opportunity for public comment on proposed data collection projects, the Substance Abuse and Mental Health Services Administration publishes periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the SAMHSA Reports Clearance Officer on (301) 443–0525.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance

of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects

(1) FY 1997 Community Mental Health Services Block Grant Application Voluntary Format and Content—Extension with no change—The Public Health Service Act (42 U.S.C. 300x 1–9) authorizes block grants to States for the purpose of providing community based mental health services. Under the provisions of the law, States may receive allotments only after an application is approved by the Secretary, DHHS. For the FY 1997 CMHS Block Grant cycle, SAMHSA plans to provide States with the same voluntary application format and instructions as in FY 1996. The annual burden estimate is shown below:

No. of respondents	No. of responses per respondent	Avg. burden per response	Total annual burden
59	1	320 hours	18,880 hours.

(2) FY 1997 Substance Abuse Prevention and Treatment Block Grant Application Format—Extension with no change—The Public Health Service Act (42 U.S.C. 300x 21–35 & 51–64) authorizes block grants to States for the purpose of providing substance abuse prevention and treatment services. Under the provisions of the law, States may receive allotments only after an application is submitted and approved by the Secretary, DHHS. For FY 1997 SAPT Block Grant cycle, SAMHSA plans to provide States with the same application forms and instructions as in FY 1996. These forms and instructions will enable States to comply with the requirements of the law and the regulations implementing the law. The annual burden estimate is shown below:

No. of respondents	No. of responses per respondent	Avg. burden per response	Total annual burden
60	1	530 hours	31,800 hours.

(3) Substance Abuse Prevention and Treatment Block Grant—45 CFR Part 96—Extension with no change—This interim final rule provides guidance to States regarding the Substance Abuse Prevention and Treatment Block Grant legislation. The rule implements the reporting and recordkeeping requirements of 42 U.S.C. 300x 21–35 & 51–64 by specifying the content of the States' annual report on and application for block grant funds. SAMHSA plans to request that OMB extend approval of the recordkeeping requirements in the rule with no changes. The annual recordkeeping burden estimate is shown below:

No. of recordkeepers	Avg. annual burden per recordkeeper	Total annual recordkeeping burden
60	16 hours	960 hours.

Send comments to Deborah Trunzo, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: November 22, 1995.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 95–29129 Filed 11–28–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. FR–3950–N–02]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval by November 20, 1995, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: The due date for comments is: December 6, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package with respect to a proposed "Notice of Application—foreclosure commissioners," [Docket No. FR–3950–N–01]. HUD seeks to implement the requirement of Section 3754 of the Single Family Mortgage Foreclosure Act of 1994 (the Act), 12 USC 3751 *et seq.*, which requires that single family foreclosure commissioners designated by HUD be "responsible, financially sound, and competent to conduct a foreclosure.

The Act creates for the Secretary of HUD a non-judicial power of sale with respect to HUD-held mortgages and loans originated under Titles I and II of the National Housing Act, and with respect to loans originated under Section 312 of the Housing Act of 1964. The Act will thus allow HUD to complete foreclosures of such mortgages in about two months, rather than the longer periods—up to two years—obtaining under the laws of the various States, particularly those using a judicial process to foreclose. The longer periods result in substantial unnecessary costs (for management, vandalism, taxes, etc.) to the FHA mortgage insurance funds and, by extension, to the taxpayers. Thus, implementation of the Act, including designation of foreclosure commissioners, will lead to substantial savings to the Department.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35):

(1) Title of the information collection proposal:

Notice of Application for Designation as Single Family Foreclosure Commissioner

(2) Summary of the collection of information:

Each party seeking designation as a foreclosure commissioner would be required to submit current information, as listed below:

1. Name
2. Business Address
3. Geographic area in which the applicant wishes to conduct foreclosures. (List only States or areas in States in which the applicant is a resident or is duly authorized to transact business.)
4. If the applicant is not a natural person, the names and business addresses of the people who would actually perform the commissioner's duties.
5. Description of the applicant's experience in conducting mortgage foreclosures or in related activities which would qualify the applicant to serve as a foreclosure commissioner.
6. Evidence of the applicant's financial responsibility.

In place of the above information, any party that has been designated as a foreclosure commissioner for HUD-held multifamily mortgages would be permitted to submit a letter requesting designation as a foreclosure commissioner for single family mortgages.

(3) description of the need for the information and its proposed use:

The requested information is needed for HUD's selection of foreclosure commissioners who will satisfy the statutory requirements to be "responsible, financially sound, and competent to conduct a foreclosure." The Department is not providing any assurances of confidentiality.

Under the Act, HUD will be able to foreclose on HUD-held Single Family mortgages in about two months instead of the much longer periods—ranging up to two years—currently required under many State laws. The current long periods lead to increased holding costs and vandalism on the properties securing the loans. HUD holds thousands of loans that are ripe for foreclosure.

In view of the substantial economies to be provided by the Act, emergency approval is requested in order to appoint commissioners as soon as the Rule is in effect rather than waiting until the routine clearance process could be completed.

(4) description of the likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information:

Respondents will be entities with experience in real estate foreclosure procedures. Over a three year period, the estimated number of respondents is approximately 250 in the first year and 50 each year thereafter. The estimated frequency of responses over a three year period is once per HUD region, with very few respondents expected to apply to more than one HUD region.

(5) estimate of the total reporting and recordkeeping burden that will result from the collection of information:

Reporting burden	First year	Each following year
Number of respondents	250	50
Total burden hours (@ 0.5 hour per response)	125	25
Total Estimated Burden Hours	*175* (3 years)	

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 7, 1995.

David S. Cristy,

Director, IRM Policy and Management Division.

[FR Doc. 95–29093 Filed 11–28–95; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–050–1020–00]

Front Range Resource Advisory Council (Colorado) Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, notice is hereby given that the next two meetings of the Front Range Resource Advisory Council (Colorado) will be held on Tuesday, December 12, 1995 in Canon City, Colorado. The meeting is scheduled to begin at 9 a.m. at BLM's Canon City District Office, 3170 East Main Street, Canon City, Colorado.

The agenda for the meeting will focus on the development of guidelines for livestock grazing.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council at 9:30 a.m. or written statements may be submitted for the Council's consideration. The District Manager may limit the length of oral presentations depending on the number of people wishing to speak.

DATES: The meeting is scheduled for Tuesday, December 12, 1995 from 9 a.m. to 5 p.m.

ADDRESSES: Bureau of Land Management (BLM), Canon City District Office, 3170 East Main Street, Canon City Colorado 81212; Telephone (719) 275–0631; TDD (719) 275–4346.

FOR FURTHER INFORMATION CONTACT: Ken Smith, at (719) 275–0631.

SUPPLEMENTARY INFORMATION: Summary minutes for the Council meeting will be maintained in the Canon City District Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Donnie R. Sparks,

District Manager.

[FR Doc. 95–29240 Filed 11–27–95; 1:11 pm]

BILLING CODE 4310–JB–M

Geological Survey

Federal Geographic Data Committee (FGDC); Public Meeting of the FGDC Facilities Working Group

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice is to invite public participation in a meeting of the FGDC Facilities Working Group. The major topic for this meeting is refinement of the working group's definition of "facility" in preparation for several standards development efforts.

TIME AND PLACE: December 21, 1995, from 1 p.m. until 4 p.m. The meeting will be held at Headquarters, U.S. Army Corps of Engineers, in Room 8222D of the Pulaski Building, 20 Massachusetts Avenue, NW, Washington, DC. The Pulaski building is located just a few blocks west of Union Station.

FOR FURTHER INFORMATION CONTACT: Jennifer Fox, FGDC Secretariat, U.S. Geological Survey, 590 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092; telephone (703) 648–5514; facsimile (703) 648–5755; Internet "gdc@usgs.gov".

SUPPLEMENTARY INFORMATION: The FGDC is a committee of Federal Agencies engaged in geospatial activities. The

FGDC Facilities Working Group specifically focuses on geospatial data issues related to facilities and facility management. A facility is an entity with location, deliberately established as a site for designated activities. A facility database might describe a factory, a military base, a college, a hospital, a power plant, a fishery, a national park, an office building, a space command center, or a prison. The database for a complex facility may describe multiple functions or missions, multiple buildings, or even a county, town, or city. The objectives of the Working Group are to: promote standards of accuracy and currentness in facilities data that are financed in whole or in part by Federal funds; exchange information on technological improvements for collecting facilities data; encourage the Federal and non-Federal communities to identify and adopt standards and specifications for facilities data; and promote the sharing of facilities data among Federal and non-Federal organizations.

Dated: November 14, 1995.

Richard E. Witmer,

Acting Chief, National Mapping Division.

[FR Doc. 95–29108 Filed 11–28–95; 8:45 am]

BILLING CODE 4310–31–M

National Park Service

Record of Decision for the Development Concept Plan/ Amendment to the General Management Plan/Final Environmental Impact Statement, Crater Lake National Park, Oregon

ACTION: Notice of Record of Decision.

SUMMARY: Pursuant to section 102(2)(C) of the National environmental Policy Act of 1969 (Public Law 91–190, as amended) and the regulations promulgated by the Council on Environmental Quality in 40 CFR 1505.2, the National Park Service has approved the Record of Decision for the Development Concept Plan/Amendment to the General Management Plan/Final Environmental Impact Statement for Crater Lake National Park, Oregon. The National Park Service will implement the proposed action as described in the Final Environmental Impact Statement.

DATES: The Record of Decision was recommended by the Superintendent of Crater Lake National Park and concurred by the Deputy Field Director, Pacific West Area, on 26 October 1995; it was approved by the Acting Field Director, Pacific West Area, on 30 October 1995.

ADDRESSES: Requests for copies of the Record of Decision or other inquiries regarding the Record of Decision or the Environmental Impact Statement should be submitted to the Superintendent, Crater Lake National Park, Post Office Box 7, Crater Lake, OR 97604–0007; telephone (541) 594–2211.

Dated: November 3, 1995.

William C. Walters,

Deputy Field Director, Pacific West Area, National Park Service.

[FR Doc. 95–29184 Filed 11–28–95; 8:45 am]

BILLING CODE 4310–70–M

Draft General Management Plan/ Environmental Impact Statement for Hagerman Fossil Beds National Monument, Idaho

ACTION: Notice of availability of draft Environmental Impact Statement.

SUMMARY: This Notice announces the availability of a draft General Management Plan/Environmental Impact Statement (GMP/EIS) for Hagerman Fossil Beds National Monument, Idaho.

DATES: Comments on the draft GMP/EIS should be received no later than January 31, 1996. All comments received will become part of the public record and copies of comments, including any names, addresses and telephone numbers that may have been provided by respondents, may be released for public inspection. Dates, locations and times for public meetings regarding the draft GMP/EIS will be as follows:

January 9, 1996: Hagerman, Idaho 10:00 am–4:00 pm Open House, 7:00 pm–9:30 pm, public meeting.

January 10, 1996: Twin Falls, Idaho 7:00 pm–9:30 pm, public meeting.

January 11, 1996: Boise, Idaho 10:00 am–4:00 pm, open house.

The public meetings will be designed primarily to help people to understand the Draft GMP/EIS and to provide detailed and well-informed written comments. The evening meetings will begin at 7:00 with a presentation by the National Park Service, followed by questions/answers and large group discussion. The open houses will provide an opportunity for informal personal or small group discussion.

ADDRESSES: Written responses to the draft GMP/EIS should be submitted to the Superintendent, Hagerman Fossil Beds National Monument, P.O. Box 570, Hagerman, Idaho 83332.

Public Meetings: (call (208) 837–4793 for additional information) January 9, 1996: Hagerman Fossil Beds National Monument, Visitor Center, 221 North State Street, Hagerman, Idaho 83332. January 10, 1996: College of Southern Idaho, Shields Building, Rooms 117 & 118, 315 Falls Ave., Twin Falls, Idaho 83301. January 11, 1996: Holiday Inn, Brundage Room, 3300 Vista Ave., Boise, Idaho 83705.

Review Copies: Public reading copies of the draft GMP/EIS will be available for review at four locations: (1) Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, NW., Washington, DC 20240 (202) 208–6843; (2) Pacific West Field Office, National Park Service, 600 Harrison St., Suite 600, San Francisco, CA 94107–1372 (415) 744–3968; (3) Columbia-Cascades System Support Office, National Park Service, 909 First Ave., Seattle, WA 98104–1060 (206 220–4154; (4) Headquarters, Hagerman Fossil Beds National Monument, 221 North State Street, P.O. Box 570, Hagerman, ID 83332 (208) 837–4793.

A limited number of copies of the draft GMP/EIS are also available upon request from: Superintendent, Hagerman Fossil Beds National Monument, P.O. Box 570, Hagerman, ID 83332 (208) 837–4793; or Hagerman Fossil Beds General Management Plan Team, National Park Service, P.O. Box 25287, Denver, CO 80225–0287 (303) 969–2274.

Copies of the draft GMP/EIS are also being sent to approximately 500 individuals, organizations, and libraries on a mailing list which was developed during scoping for the general management plan.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91–190, as amended), the National Park Service, Department of the Interior, has prepared a draft environmental impact statement (DEIS) that describes and analyzes the environmental consequences of a proposed action and two alternatives for the management, use, and development of Hagerman Fossil Beds National Monument. The proposed action (alternative 2), along with statements contained in the document of the purpose and significance of the monument, management objectives, desired future conditions, management zoning, and interpretive themes constitutes the draft general management plan.

The proposed action would comprehensively meet the monument's legislative mandate to provide a center for paleontological research and education, including construction of a fully functional research center and museum. The National Park Service would perform professional research,

educational, and resource management functions as peers and partners with various persons, institutions and organizations. The no-action alternative would continue the present course of action for the monument, which would not meet the legislative mandate as it would provide only minimal research and education capabilities and no research center or museum. The minimum requirements alternative (alternative 1) would minimally meet the legislative mandate with most research and education functions completely dependent on sources from outside the National Part Service, and a research center and museum constructed and operated at a limited and superficial level.

Major resource impact topics that are analyzed for the proposed action and alternatives include natural and cultural resources, National Park Service programs, socioeconomics, facilities and infrastructure, access, and visitor experience.

The official responsible for a decision on the proposed action is the Field Director, Pacific West Area, National Park Service.

Dated: November 3, 1995.

William C. Walters,

Deputy Field Director, Pacific West Area, National Park Service.

[FR Doc. 95–29185 Filed 11–28–95; 8:45 am]

BILLING CODE 4310–70–M

Mississippi River Corridor Study Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Mississippi River Corridor Study Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

MEETING DATE AND TIME: January 9, 1996, 12 noon until 5 p.m., January 10, 1996, 8 a.m. until 5 p.m.

ADDRESSES: Radisson Hotel Saint Paul, 350 Market Street, St. Paul, Minnesota 55102.

This business meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. The Chairman will permit attendees to address the Commission, but may restrict the length of presentations. An agenda will be available from the National Park Service, Midwest Field Area, one week prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Alan M. Hutchings, Assistant Field Director, Planning, Legislation, and WASO Coordination, National Park Service, Midwest Field Area, 1709 Jackson Street, Omaha, Nebraska 68102, or call 402–221–3082.

SUPPLEMENTARY INFORMATION: The Mississippi River Corridor Study Commission was established by Public Law 101–398, September 29, 1990.

Dated: November 14, 1995.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 95–29186 Filed 11–28–95; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP Number 1071]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

November 22, 1995.

AGENCY: Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

ACTION: Notice.

SUMMARY: A meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will take place in the District of Columbia, beginning at 2 p.m. on Friday, December 15, 1995, and ending at 4:30 p.m. on December 15, 1995. This advisory committee, chartered as the Coordinating Council on Juvenile Justice and Delinquency Prevention, will meet at the United States Department of Justice, located at 10th and Constitution Avenue, NW., Conference Room 5111, Washington, DC 20530. The Coordinating Council, established pursuant to section 3(2)(A) of the Federal Advisory Committee Act (5 U.S.C. App. 2), will meet to carry out its advisory functions under section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

This meeting will be open to the public. The public is advised that it must enter the building via the Constitution Avenue Visitors' Center. For security reasons, members of the public who are attending the meeting must contact the Office of Juvenile Justice and Delinquency Prevention (OJJDP) by close of business December 8, 1995. The point of contact at OJJDP is Lutricia Key who can be reached at (202) 307–5911. The public is further advised that a pictured identification is required to enter the building.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 95–29097 Filed 11–28–95; 8:45 am]

BILLING CODE 4410–18–M

LIBRARY OF CONGRESS

[Docket No. LOC 96–1]

Notice of Item Inspection Pilot Program

AGENCY: Library of Congress.

ACTION: Notice.

SUMMARY: This notice announces further security measures being instituted by the Library of Congress for the protection of its collections. The notice specifically deals with the examination of high-risk collections before and after they are used by members of the public. The final rules on Reading Rooms and service to the collections were published in the **Federal Register** on July 5, 1995.

DATE: November 27, 1995.

FOR FURTHER INFORMATION CONTACT: Johnnie M. Barksdale, Regulations Officer, Office of the General Counsel, Library of Congress, Washington, D.C. 20540–1050. Telephone No. (202) 707–1593.

SUPPLEMENTARY INFORMATION: Under the authority of 2 U.S.C. 136, the Librarian of Congress is authorized to make rules and regulations for the government of the Library and for the protection of its property.

Notice Pursuant to Final Rules on Reading Rooms and Service to the Collections—Item Inspection Pilot Program

Notice is hereby given that, on November 27, 1995, in order to further secure the Library's collections, the Library of Congress will institute an Item Inspection Pilot Program. The Library will examine and record the condition of items from its high-risk collections before and after they are used by members of the public in the Library's reading rooms. The reader may be required to surrender his/her Library-issued User Card while using a particular high-risk item. The Library Police shall investigate instances when Library staff believe that the item may have been intentionally damaged by a reader. The Library will retain the records of the condition inspections in a file for security purposes.

The objective of this pilot program is to ensure that the Library's high-risk

and often irreplaceable collections are protected from loss or desecration.

Dated: November 22, 1995.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 95–29173 Filed 11–28–95; 8:45 am]

BILLING CODE 1410–04–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237, 50–249, 50–254, and 50–265]

Commonwealth Edison Company and Midamerican Energy Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DRP–19, DRP–25, DRP–29, and DRP–30 issued to Commonwealth Edison Company (ComEd, the licensee) for operation of the Dresden Nuclear Power Station, Units 2 and 3, located in Grundy County, Illinois and Quad Cities Nuclear Power Station, Units 1 and 2, located in Dixon County, Illinois.

The proposed amendment would close out additional open items identified in the NRC staff's review of the upgrade of the Dresden and Quad Cities Technical Specifications (TS) to the Standard Technical Specifications (STS) contained in NUREG–0123. The Technical Specification Upgrade Program (TSUP) is not a complete adaption of the STS. The TS upgrade focuses on (1) integrating additional information such as equipment operability requirements during shutdown conditions, (2) clarifying requirements such as limiting conditions for operation and action statements utilizing STS terminology, (3) deleting superseded requirements and modifications to the TS based on the licensee's responses to Generic Letter (GL), and (4) relocating specific items to more appropriate TS locations. The November 14, 1995, application proposed to close out all open items identified during the NRC's review as noted in previous NRC staff Safety Evaluations for previously provided submittals regarding the TSUP project.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because:

In general, the proposed amendment represents the conversion of current requirements to a more generic format, or the addition of requirements which are based on the current safety analysis. Implementation of these changes will provide increased reliability of equipment assumed to operate in the current safety analysis, or provide continued assurance that specified parameters remain within their acceptance limits, and as such, will not significantly increase the probability or consequences of a previously evaluated accident.

Some of the proposed changes represent minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. The proposed amendment for Dresden and Quad Cities Station's Technical Specifications are based on STS guidelines or later operating BWR plants' NRC accepted changes. Any deviations from STS requirements do not significantly increase the probability or consequences of any previously evaluated accidents for Dresden or Quad Cities Stations. The proposed amendment is consistent with the current safety analyses and has been previously determined to represent sufficient requirements for the assurance and reliability of equipment assumed to operate in the safety analysis, or provide continued assurance that specified parameters remain within their acceptance limits. As such, these changes will not significantly increase the probability or consequences of a previously evaluated accident.

The associated systems related to this proposed amendment are not assumed in any safety analysis to initiate any accident sequence for Dresden or Quad Cities Stations; therefore, the probability of any accident previously evaluated is not increased by the proposed amendment. In addition, the proposed surveillance requirements for the proposed amendments to these systems are generally more prescriptive than the current requirements specified within the Technical Specifications. The additional surveillance requirements improve the reliability and availability of all affected systems and therefore, reduce the consequences of any accident previously evaluated as the probability of the systems related to the TSUP open items outlined within the proposed Technical Specifications performing their intended function is increased by the additional surveillances.

The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated because:

In general, the proposed amendment represents the conversion of current requirements to a more generic format, the addition of requirements which are based on the current safety analysis, and some minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. These changes do not involve revisions to the design of the station. Some of the changes may involve revision in the operation of the station; however, these provide additional restrictions which are in accordance with the current safety analysis, or are to provide for additional testing or surveillances which will not introduce new failure mechanisms beyond those already considered in the current safety analyses.

The proposed amendment for Dresden and Quad Cities Station's Technical Specification is based on STS guidelines or later operating BWR plants' NRC accepted changes. The proposed amendment has been reviewed for acceptability at the Dresden and Quad Cities Nuclear Power Stations considering similarity of system or component design versus the STS or later operating BWRs.

Any deviations from STS requirements do not create the possibility of a new or different kind of accident previously evaluated for Dresden or Quad Cities Stations. No new modes of operation are introduced by the proposed changes. Surveillance requirements are changed to reflect improvements in technique, frequency of performance or operating experience at later plants. Proposed changes to action statements in many places add requirements that are not in the present technical specifications. The proposed changes maintain at least the present level of operability. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The associated systems related to this proposed amendment are not assumed in any safety analysis to initiate any accident sequence for Dresden or Quad Cities Stations. In addition, the proposed surveillance requirements for affected systems associated with the TSUP open items are generally more prescriptive than the current requirements specified within the Technical Specifications; therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not involve a significant reduction in the margin of safety because:

In general, the proposed amendment represents the conversion of current

requirements to a more generic format, the addition of requirements which are based on the current safety analysis, and some minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. Some of the latter individual items may introduce minor reductions in the margin of safety when compared to the current requirements. However, other individual changes are the adoption of new requirements which will provide significant enhancement of the reliability of the equipment assumed to operate in the safety analysis, or provide enhanced assurance that specified parameters remain within their acceptance limits. These enhancements compensate for the individual minor reductions, such that taken together, the proposed changes will not significantly reduce the margin of safety.

The proposed amendment to the Technical Specifications implements present requirements, or the intent of present requirements in accordance with the guidelines set forth in the STS. Any deviations from STS requirements do not significantly reduce the margin of safety for Dresden or Quad Cities Stations. The proposed changes are intended to improve readability, usability, and the understanding of technical specification requirements while maintaining acceptable levels of safe operation. The proposed changes have been evaluated and found to be acceptable for use at Dresden or Quad Cities based on system design, safety analysis requirements and operational performance. Since the proposed changes are based on NRC accepted provisions at other operating plants that are applicable at Dresden or Quad Cities and maintain necessary levels of system or component reliability, the proposed changes do not involve a significant reduction in the margin of safety.

The proposed amendment for Dresden and Quad Cities Stations will not reduce the availability of systems associated with the TSUP open items when required to mitigate accident conditions; therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 28, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Morris Area Public Library District, 604 Liberty Street, Morris, Illinois for the Dresden Station and Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois for Quad Cities Station. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Robert A. Capra: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 14, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Morris Area Public Library District, 604 Liberty Street, Morris, Illinois for the Dresden Station and Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois for Quad Cities Station.

Dated at Rockville, Maryland, this 22nd day of November 1995.

For the Nuclear Regulatory Commission.

Robert M. Pulsifer,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–29135 Filed 11–28–95; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36499; File No. SR–CBOE–95–55]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Minor Rule Changes Applicable to Stock Index, Currency, and Currency Index Warrants

November 21, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 11, 1995, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to make minor technical changes to its uniform listing and trading guidelines for stock index, currency, and currency index warrants. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On August 29, 1995, the Commission approved the Exchange's uniform listing and trading guidelines for stock index, currency, and currency index warrants.[1] The Exchange now proposes to make minor technical changes to these rules.

Under the proposal, the Exchange proposes to add a provision to CBOE Rule 30.53 that will permit customers to use a "letter of guarantee" to cover a short put position in an index warrant. In general, the letter of guarantee will permit a customer to cover a short index warrant position with cash or cash equivalents in an amount equal to the aggregate exercise price of the put warrant contract. The letter of guarantee must be issued by a bank in accordance with the proposed rule and in a form satisfactory to the Exchange. In addition, the proposal also makes other minor, non-substantive textual changes applicable to Rule 30.53.

Finally, the Exchange proposes to add the term "securities association" to rule 30.35(b), Exercise Limits, to ensure that a CBOE member's customer transactions in warrants issued on Nasdaq will be brought within the CBOE's jurisdiction for exercise limit purposes when the NASD does not have member jurisdiction over the CBOE member.

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

[1] *See* Securities Exchange Act Release No. 36169 (Aug. 29, 1995), 60 FR 46644 (Sept. 7, 1995).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) was provided to the Commission for its review at least five business days prior to the filing date; and (4) does not become operative for 30 days from October 11, 1995, the rule change proposal has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder. In particular, the Commission believes the proposal qualifies as a "noncontroversial filing" in that the proposed amendments do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–95–55 and should be submitted by December 20, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29148 Filed 11–28–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36504; File No. SR–PSE–95–18]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving a Proposed Rule Change Relating to Increased Position and Exercise Limits on the PSE Technology Index

November 22, 1995.

On August 21, 1995, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to increase the existing position and exercise limits for options on the PSE Technology Index ("Technology Index" or "Index") and change the terms of option contracts overlying the Index from closing price (p.m.) settlement to opening price (a.m.) settlement.

Notice of the proposed rule change was published for comment and appeared in the **Federal Register** on August 31, 1995.[3] No comments were received on the proposal. The portion of the filing relating to a.m. settlement of Technology Index options was approved by the Commission and appeared in the **Federal Register** on September 21, 1995.[4] This order approves the remaining portion of the filing relating to increased position limits.

I. Description of the Proposal

On November 26, 1991, the Commission approved an exchange proposal to re-classify the Technology Index as a broad-based index for position limit and customer margin purposes.[5] The Index is price-weighted and comprised of 100 stocks that are intended to represent a broad spectrum of companies principally engaged in manufacturing and service-related products within advanced technology fields.[6] The PSE currently lists European-style,[7] a.m. settled[8] options based on the Index.

The Exchange is proposing to set new position and exercise limits for options on the Index at 37,500 contracts on the same side of the market (versus the current 15,000 contract level), with no more than 22,500 of such contracts in the series with the nearest expiration date. The Exchange has compared the Index with indexes traded on other exchanges and believes, based on such data, that the proposed position and exercise limits are consistent with the existing limits for broad-based index option contracts traded at the other exchanges.[9]

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5),[10] in particular, in that it should help remove impediments to and perfect the mechanism of a free and open market, promote just and equitable principles of trade and protect investors and the public interest. Specifically, the Commission believes that the PSE's proposal to increase position and exercise limits on the Technology Index to 37,500 contracts could increase the depth and liquidity of the Technology Index options market[11] without significantly increasing concerns regarding intermarket manipulations or disruptions of the market for the options

[2] 17 CFR 200.30–3(a)(12) (1944).

[1] 15 U.S.C. 78s(b)(1) (1988 & Supp. V 1993).

[2] 17 CFR § 240.19b–4 (1994).

[3] *See* Securities Exchange Act Release No. 36146 (August 23, 1995), 60 FR 45509.

[4] *See* Securities Exchange Act Release No. 36236 (Sept. 14, 1995), 60 FR 49031.

[5] Securities Exchange Act Release No. 29994, 56 FR 63536 (Dec. 4, 1991). The Commission initially approved options trading on the Index in November 1983. *See* Securities Exchange Act Release Nos. 20424, 48 FR 54557 (Dec. 5, 1983); and 20499, 48 FR 58880 (Dec. 23, 1983).

[6] On September 12, 1995, the PSE reduced the value of the Technology Index from 420.54 to 210.27. Options on the Index commenced trading on September 18, 1995.

[7] A European-style option may only be exercised during a specified period prior to expiration.

[8] A.M. settlement methodology utilizes opening market prices for the underlying securities rather than closing market prices.

[9] The Exchange has compared the Index to the following indexes: Russell 2000 Index, S&P 400 Index, S&P 600 Index, Wilshire Small-Cap Index and National Over the Counter Index.

[10] 15 U.S.C. 78f(b)(5) (1982).

[11] The increase in position limits could increase market depth and liquidity by giving institutional investors wider latitude in trading to manage their portfolios.

or the underlying securities. Markets that exhibit active and deep trading, as well as broad public ownership, are more difficult to manipulate or disrupt than less active markets with smaller public floats. In this regard, the Technology Index is a broad-based price-weighted index consisting of 100 actively traded technology stocks in the U.S. Accordingly, given the size and breadth of the Index, the Commission believes that increasing position limits to 37,500 contracts will not significantly increase any manipulative concerns. In addition, the Exchange's surveillance program will continue to be applicable to the trading of Technology Index options and should detect and deter any potential trading abuses arising from the increased position and exercise limits.

The Exchange submitted data comparing the Technology Index to several other broad-based indexes, including the Russell 2000 Index, Standard & Poor's 400 and 600 Indexes, the Wilshire Small Cap Index and the National Over-the-Counter Index. The Commission believes that the comparative data confirms that the proposed Technology Index position limits of 37,500 contracts are similar to those of the other options exchanges on similar indexes. For example, as of September 22, 1995, the S&P 400 Index had an index value of 214.46 and position limits of 45,000 contracts, creating a maximum attainable position of approximately $970 million.[12] As of the same date, the Technology Index proposed position and exercise limits of 37,500 contracts had a maximum attainable position of $773 million.[13]

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–PSE–95–18) relating to increased position and exercise limits on the Technology Index is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

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[12] This figure is attained from multiplying the index value times the position limit times the 100 multiplier (215.46 × 45,000 × 100).

[13] 206.28 × 37,500 ×100. The Commission notes that it may be appropriate for position and exercise limits on certain price-weighted indexes to be somewhat lower than the limits for similarly constructed capitalization-weighted indexes.

[14] 15 U.S.C. 78s (b)(2) (1988).

[15] 17 CFR § 200.30–3(a)(12) (1994).

[Release No. 34–36503; File No. SR–PHILADEP–95–07]

Self-Regulatory Organizations; The Philadelphia Depository Trust Company; Order Granting Approval of a Proposed Rule Change Implementing the Fully Automated Securities Transfer Reconciliation Accounting Control System

November 22, 1995.

On July 14, 1995, the Philadelphia Depository Trust Company ("PHILADEP") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–PHILADEP–95–07) under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] seeking permanent approval for the Fully Automated Securities Transfer Reconciliation Accounting Control System ("FASTRACS").[2] Notice of the proposal was published in the **Federal Register** on September 28, 1995.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

FASTRACS is an automated program by which PHILADEP and participating transfer agents use master balance certificates to evidence the number of securities of a particular issue that are registered in PHILADEP's nominee name.[4] The transfer agents maintain custody of the securities in the form of balance certificates and adjust daily the balance certificates to reflect PHILADEP's withdrawal and deposit activity.

PHILADEP has provided the Commission with copies of the test results of FASTRACS activity during the temporary approval period of the three designated transfer agents. PHILADEP states that FASTRACS has enhanced PHILADEP's operational efficiency, has substantially reduced its burdens in reconciling its positions, and has saved costs associated with these functions. PHILADEP represents that it has encountered no significant operational problems and believes the system operated effectively during the testing phase. Furthermore, PHILADEP believes the current filing is consistent with the Commission's Direct Registration System ("DRS") initiative insofar as DRS, among other things, will compel PHILADEP and other participating clearing agencies to establish fully operational automated programs for the transfer of certain securities between participating clearing agencies and their transfer agents.[5]

II. Discussion

Sections 17A(b)(3) (A) and (F)[6] of the Act require that a clearing agency be organized and its rules be designed to facilitate and promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds in its custody or control or for which it is responsible. The Commission believes PHILADEP's proposal is consistent with sections 17A(b)(3)(A) and (F) of the Act because it should alleviate some of the inefficiencies associated with the physical transfer of securities and should reduce PHILADEP's burdens in reconciling its positions. The transfer of securities should be faster and more efficient with the likely effect of reducing costs related to the preparation of written instructions and physical delivery of the securities. FASTRACS also should help PHILADEP fulfill its safekeeping obligations by allowing PHILADEP to maintain securities in a form that should reduce the chances of loss and theft. Furthermore, the current filing is consistent with the Commission's Direct Registration System ("DRS") initiative.

III. Conclusion

On the basis of the foregoing, the Commission finds that PHILADEP's proposed rule change is consistent with the requirements of the Act and particularly with section 17A of the Act and the rules and regulations thereunder.

[1] 15 U.S.C. 78(b)(1) (1988).

[2] On July 19, 1994, the Commission approved a proposed rule change establishing a pilot program for FASTRACS for the transfer of certain securities between PHILADEP and certain transfer agents. Securities Exchange Act Release No. 34404 (July 19, 1994), 59 FR 38010 [File No. SR–PHILADEP–90–03] (order approving FASTRACS program on a temporary basis). On May 4, 1995, the Commission extended its approval of the pilot program through December 29, 1995. Securities Exchange Act Release No. 35676 (May 4, 1995), 60 FR 24951 [File No. SR–PHILADEP–94–06] (order granting temporary approval of a proposed rule change extending the pilot program for FASTRACS until December 29, 1995). The Commission extended the temporary approval of the FASTRACS program so that PHILADEP could complete adequate testing. The program was limited to three transfer agents for the duration of the temporary approval period.

[3] Securities Exchange Act Release No. 36264 (September 21, 1995), 60 FR 50232.

[4] For a complete description of FASTRACS, refer to Securities Exchange Act Release No. 34404," *supra* note 2.

[5] For a complete description of DRS, refer to Securities Exchange Act Release No. 35038 (December 1, 1994), 59 FR 63652 [Filed No. S7–34–94] (concept release soliciting comment on proposed transfer agent operated direct registration system).

[6] 15 U.S.C. 78q–1(b)(3)(A) and (F) (1988).

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–PHILADEP–95–07) be, and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34–36505; International Series Release No. 889; File No. SR–Phlx–95–42]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc., to List and Trade 3D Foreign Currency Options on the Japanese Yen

November 22, 1995.

I. Introduction

On June 14, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] to list and trade Dollar Denominated Delivery ("3D") foreign currency options ("FCOs") on the Japanese yen. The Exchange filed Amendment No. 1 to the proposal on July 7, 1995.[3] The Exchange filed Amendment No. 2 on November 8, 1995.[4]

Notice of the proposal, and Amendment No. 1, was published for comment and appeared in the **Federal Register** on August 11, 1995.[5] No comment letters were received on the proposed rule change. This order approves the Exchange's proposal, as amended.

II. Background

In March 1994, the Commission approved the listing and trading of 3D FCOs on the German mark.[6] 3D FCOs are cash-settled, European-style options issued by The Options Clearing Corporation ("OCC") that allow holders to receive U.S. dollars representing the difference between the current foreign exchange spot price[7] and the exercise price of the option. Specifically, upon exercise of an in-the-money 3D FCO structured as a call, the holder will receive, from OCC, U.S. dollars representing the difference between the exercise strike price and the closing settlement value of the 3D FCO contract multiplied by the number of units of currency covered by the contract. For a 3D FCO structured as a put, the holder will receive U.S. dollars representing the excess of the exercise price over the closing settlement value of the 3D FCO contract multiplied by the number of units of foreign currency covered by the contract.

Unlike other Phlx-traded FCOs, 3D FCOs which are in-the-money by any amount on the expiration date will be exercised automatically by OCC. 3D FCOs which are out-of-the-money at expiration will expire worthless.

German 3D FCOs were originally listed with one-week and two-week expirations to provide a hedging vehicle to sophisticated retail customers, portfolio managers and multi-national corporations which needed to hedge their short term foreign currency exposure and also to banks which needed to hedge the risks associated with trading in the forward and cash markets. The Commission recently approved the Phlx's proposal to list German 3D FCO contracts with longer term expirations up to twelve months.[8]

III. Description of the Proposal

The Exchange is now proposing to list and trade 3D FCOs on the Japanese yen (U.S. dollar/Japanese yen) ("3D JY Options"). The contract size will be 6,250,000 yen, the same as physically settled Japanese yen contract. Pursuant to Phlx Rule 1012(a)(ii), the contracts will be listed with expirations at one week and two weeks and one, two, three, six and nine months (twelve month options will not be listed at this time but will be permitted under Phlx rules). The options will be on the March, June, September, December cycle and no month end or long term expirations will be listed. The expiration date for the consecutive and cycle month options will be the Monday preceding the third Wednesday of each month. The Exchange expects that the symbols for these options will be as follows:

XJA	first Monday of month expiration
XJB	second Monday of month expiration
XJC	third Monday of month expiration
XJD	fourth Monday of month expiration
XJE	fifth Monday of month expiration
XJS	settlement symbol

The 1, 2, 3, 6 and 9 month options will be listed with the symbol XJB or XJC depending on whether expiration will be the second or third Monday of that month and will carry that symbol to expiration. For example, a "Sept 1995" option which would expire on Monday September 18, would be listed as an XJC Sept 95 call whereas the "Nov 1995" option which would expire on Monday, November 13, would be listed as an XJB Nov 95 call.

Similar to the 3D German mark contracts, the Exchange proposes that a series of 3D JY Options will trade during normal trading hours for foreign currency options, specifically, 2:30 a.m. to 2:30 p.m. E.T. Monday through Friday. The expiring FCO contract will cease trading at 10:30 a.m. and expire at 11:59 p.m. on its expiration Monday, unless such Monday is an Exchange holiday or an Exchange designated bank holiday, when, under Phlx Rule 1000(b)(21), "Expiration date," as amended, the 3D FCO will expire at 11:59 p.m. on the preceding business date (ordinarily a Friday).

Accordingly, on Exchange holidays and Exchange designated bank holidays, the expiring 3D FCOs will cease trading at 10:30 a.m. on the preceding business day. In addition, when Monday is an exchange holiday, new series will be listed on the following Tuesday at 2:30 a.m. E.T. as opposed to the normal Monday morning listing.

The closing settlement value, which will be disseminated through the Options Price Reporting Authority ("OPRA"), will be determined by a designated agent(s) of the Exchange under Phlx Rule 1057, "3D (Dollar Denomination Delivery) Foreign Currency Option Closing Settlement

[7] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Phlx submitted Amendment No. 1 to the Commission to make certain technical corrections to the proposal. *See* Letter from Michele Wiesbaum, Associate General Counsel, Phlx. to John Ayanian, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market Regulation"), Commission, dated July 7, 1995.

[4] The Phlx submitted Amendment No. 2 to the Commission to explain its proposed provisions for calculating and disseminating the settlement value for the 3D Japanese yen options. *See* Letter from Michele Weisbaum, Associate General Counsel, Phlx, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated November 8, 1995 ("Amendment No. 2").

[5] *See* Securities Exchange Act Release No. 36062 (August 4, 1995), 60 FR 41140.

[6] *See* Securities Exchange Act Release No. 33732 (March 8, 1995), 59 FR 12023 (March 15, 1994).

[7] The "spot price" with respect to an option contract on a foreign currency option contract means the price for the sale of one foreign currency for another, quoted by various commercial banks in the interbank foreign exchange market for the sale of a single unit of such foreign currency for immediate delivery (which generally means delivery within two business days following the date on which the terms of such sale are agreed upon). *See* Phlx Rule 1000(b)(16).

[8] *See* Securities Exchange Act Release No. 35756 (May 24, 1995), 60 FR 28638 (June 1, 1995).

Value." Pursuant to Phlx Rule 1057, at 10:30 a.m. (E.T.), on every expiration date for 3D FCOs, the market information vendor(s), acting as the Exchange's designated agent will determine the final settlement value. The Exchange has retained Reuters to calculate the settlement value which the Exchange disseminates.[9]

The market information vendor(s) will collect a bid and offer quotation, from 10 a.m. (E.T.) until 10:30 a.m. (E.T.), for the current Japanese yen spot price from the quotations submitted by 15 interbank foreign participants, which the designated agent will select randomly from a list created by the Phlx of at least 25 active interbank foreign exchange market participants.[10] After discarding the five highest offers and five lowest bids, the designated agent will arithmetically average the remaining ten bids and ten offers to arrive at a closing settlement value. This value will be calculated and sent to the Phlx every 30 seconds until 10:30 a.m. when the designated agent will determine the final settlement value. At that time, the settlement value will be automatically entered into the Phlx's systems, and then the Phlx disseminates it to OPRA and the OCC for entry into the OCC clearing systems.

The Exchange represents that there are two Reuters terminals within the Exchange Regulatory Services area which calculate the settlement value and both are connected to a digital feed. If one terminal has a complication with any 30 second calculation, the other terminal takes over. If there is a communication problem between Reuters and the Exchange, the Exchange can telephone Reuter's New York office to have the value provided verbally, as it is also calculated on a terminal in New York. In the event of a broad based shut down of Reuters, the Exchange would directly contact a group of banks and ask for their current spot quote, and calculate the settlement value using the same methodology as described above. Additionally, if the Reuters program does not generate enough quotes during an inactive period, the Exchange can add quotes from the Reuters international page which shows bank quotes other than the predetermined set of 40 in the normal program.[11]

The position limits and exercise limits for the 3D JY Options will be the same as the position and exercise limit for the physically settled Japanese yen contracts pursuant to Phlx Rule 1001[12] and Rule 1002 and positions in the 3D JY Options will be aggregated with positions in the physically settled Japanese yen contracts. The Phlx proposes to initially list exercise strike prices for each expiration around the current spot price and new strikes may be added during the life of the option in accordance with Phlx Rule 1012 at half-cent intervals for the one and two weeks and 3 near term months and at one cent intervals for the six and nine month options.[13]

The 3D JY Options will trade in accordance with the rules governing all Phlx FCOs, including sales practice rules and floor trading rules. For example, Phlx Rule 1014, "Obligations and Restrictions Applicable to Specialists and Registered Options Traders" provides that bid/ask differentials for 3D FCOs shall be determined by reference to the underlying foreign currency. Further, 3D JY Options will not be subject to customized trading pursuant to Phlx Rule 1069.

The 3D JY Options will have the same customer margin requirements as are provided for the existing Japanese yen FCOs pursuant to Phlx Rule 722, "Margin Accounts." Specifically, for any put or call on 3D options which are issued, guaranteed or carried "short" in a customer's account, the required margin shall be 100% of the options premium plus 4% of the value of the underlying contract less any out-of-the-money account, with an adjustment for out-of-the-money options to be not less than 100% of the options premium plus ¾% of the underlying contract margin within five days following the date on which a customer enters into a 3D FCO position and within two days if the option has two weeks or less to expiration.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest by providing foreign currency option users who do not necessarily need to exchange currency at settlement with an alternative cash settled foreign currency option with corresponding expirations.

IV. Commission Finding and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[14] Specifically, the Commission believes that the Exchange's proposal is designed to provide investors with an adequate means to hedge foreign currency portfolios and cash flows from short-term market risk, thereby facilitating transactions in FCOs and providing investors with greater flexibility to tailor foreign currency options positions to satisfy their investment objectives.[15]

The Commission believes that the Phlx's proposal will help to promote the maintenance of a fair and orderly market by extending the benefits of a listed currency market to an instrument designed to meet the investment needs of Japanese currency market participants. The attributes of the Exchange's markets versus the OTC market for short-term FCOs include, but are not limited to, a regulated market

[9] *See* Amendment No. 2, *supra* note 4.

[10] The Phlx will select the list of interbank market participants by evaluating the number of times each contributor supplies Japanese yen spot quotes to the market information vendor(s) on Monday mornings between 10 a.m. and 10:30 a.m. The pool of quote contributors will be reviewed monthly based on these criteria and substitutions will be made, if necessary. If at any time an interbank market participant ceases to distribute Japanese yen spot quotes or is no longer in the business of making Japanese yen markets, that entity will be replaced. Currently, there are 40 interbank market participants on the list which show bid and offer quotations. Telephone conversation between Michele Weisbaum, Associate General Counsel, Phlx, and John Ayanian, Attorney, OMS, Market Regulation, Commission, on November 15, 1995.

[11] *See* Amendment No. 2, *supra* note 4.

[12] Position and exercise limits on the Japanese yen are 100,000 contracts on either side of the market, however, the Phlx has recently proposed to raise this limit to 200,000 contracts. This proposal is currently under review at the Commission. *See* Securities Exchange Act Release No. 35688 (May 8, 1995), 60 FR 26082 (May 16, 1995).

[13] The Phlx represents that it has adequate systems capacity to process quotations and trades in the proposed 3D JY Options. *See* Letter from William H. Morgan, Vice President, Trading Systems, Phlx, to Michael Walinskas, Branch Chief, OMS, Market Regulation, Commission, dated November 17, 1995.

The Commission notes that trading of 3D JY Options is contingent upon the Commission's receipt of the Options Price Reporting Authority's representation that it has adequate systems capacity to process quotations and trades in the proposed 3D JY Options. Telephone Conservation between Michele Weisbaum, Associate General Counsel, Phlx, and John Ayanian, Attorney, OMS, Market Regulation, Commission, on November 22, 1995.

[14] 15 U.S.C. 78f(b)(5).

[15] Pursuant to Section 6(b)(5) of the Act the Commission must predicate approval of exchange trading for new products upon a finding that the introduction of the product is in the public interest. Such a finding would be difficult with respect to a product that served no investment hedging or other economic function, because any benefits that might be derived by market participants would likely be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

center, an auction market, with posted market quotations and transaction reporting, standardized contract specifications, parameters and procedures and procedures for clearance and settlement, and the guarantee of the OCC.

The trading of 3D JY Options, generally, however, raises several issues, including issues related to pricing and settlement value, customer protection, surveillance, and market impact. For the reasons discussed below, the Commission believes that the Phlx has adequately addressed these issues.

A. Pricing and Settlement Value

The Commission believes that the methodology described above in Phlx Rule 1057 and Amendment No. 2 for calculating the settlement value of 3D JY Options is designed to provide an accurate reflection of the foreign currency spot price. The Commission also believes that the Phlx's procedures and the competitive nature of the spot market for foreign currencies should help to ensure that the settlement values for 3D FCO contracts will accurately reflect the spot price for foreign currencies. Moreover, the Commission believes that the Phlx's procedures should guard against unreliable or manipulated quotes. Finally, as noted above, the Phlx has established adequate back-up mechanisms to ensure the settlement value calculation will be available on a timely basis.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as 3D JY Options, can commence on a national securities exchange. Under paragraph (b) of Phlx Rule 1024, members will be prohibited from accepting a customer order to purchase or write a 3D FCO unless such customer's account has been specially approved in writing by a designated Foreign Currency Options principal of the member for transactions in 3D FCOs. Exchange Rule 1026 is designed to ensure that options, including 3D FCOs, will be sold only to customers capable of evaluating and bearing the risks associated with trading in the instruments. Finally, under Exchange Rule 1027, members will be permitted to exercise discretionary power with respect to trading 3D FCOs in a customer's account only if the member has received prior written authorization from the customer and the account has been accepted in writing by a designated Foreign Currency Options Principal. In addition, under Exchange Rule 1027, the Foreign Currency Options Principal or a Registered Options Principal must approve and initial each discretionary 3D FCO on the day the order is entered.

The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the 3D JY Options will be subject to the same regulatory regime as the other 3D FCOs currently traded on the Phlx, the Commission believes that adequate safeguards are in place to ensure the protection of investors in 3D JY Options.

C. Surveillance

The Commission notes that the Phlx will integrate 3D JY Options into existing Phlx market surveillance programs. The Commission believes that existing FCO surveillance procedures should enable the Exchange to conduct, deter, as well as detect, trading abuses involving the 3D JY Options market and the markets for the underlying Japanese yen. In light of the design of the 3D JY Options contracts and the developed market for foreign currencies, the Commission believes that the markets for the 3D JY Options will not be readily susceptible to manipulation.

D. Position and Exercise Limits and Margin Requirements

As noted above, 3D JY Options will be aggregated with other existing contracts on the same underlying currency for position and exercise limit purposes. The Commission believes that aggregation of 3D FCOs with existing contracts on the same underlying currency for position and exercise limit purposes will reduce concerns regarding manipulations or disruptions of the markets for 3D FCOs, other currency options, and the underlying currencies, while at the same time not hampering the depth and liquidity of the marekt for 3D FCOs.

The Commission believes the proposed margin levels for 3D FCO contracts, which are consistent with the margin levels for the Phlx's other FCOs, will result in adequate coverage of contract obligations and are designed to preclude the systemic risks arising from excessively low margin levels. As noted above, the margin requirement on any put and call 3D FCO issued, guaranteed or carried "short" in a customer's account shall be 100% of the option premium plus 4% of the value of the underlying contract less any out-of-the money amount, with an adjustment for out-of-the money options to be not less than 100% of the option premium plus ¾% of the underlying contract value. The Phlx plans to collect margin within five days following the date on which a customer enters into a 3D FCO position and within two days if the option has two weeks or less to expiration. The Phlx has indicated that the proposed margin would cover the historical volatility over the preceding three years of the Japanese yen over a five-day period with a 97.50% level of confidence.[16] Accordingly, the Commission believes that the Phlx's propsoed margin level will result in adequate coverage for 3D JY Options. Because the volatility of foreign currencies can change significantly, the Commission expects the Phlx to monitor the adequacy of margin levels for 3D JY Options to ensure that the required margin remains appropriate in view of the volatility of the underlying instrument.[17]

E. Market Impact

The Commission believes that the listing and trading of 3D JY Options will not adversely affect the spot or derivative foreign currenly markets. First, the Commission notes that the interbank foreign currency spot market is an extremely large, diverse market comprised of banks and other financial institutions worldwide. That market is supplemented by equally deep and liquid markets for standardized options and futures on foreign currencies and options on those futures. There is also an active OTC market for FCOs.

Further, as noted above, the Phlx applies its existing FCO surveillance procedures to the 3D FCOs, which should enable the Exchange to conduct, deter, as well as detect, trading abuses involving the 3D JY Options market and the markets for the underlying Japanese yen.

F. Conclusion and Accelerated Approval of Amendment No. 2

Based on the above, the Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations

[16] Telephone conversation between Michele Weisbaum, Associate General Counsel, Phlx, and John Ayanian, Attorney, OMS, Market Regulation, Commission, on November 22, 1995.

[17] In this regard, the Commission would view coverage of less than 97.50% as problematic. If coverage should fall below this level, the Exchange will immediately notify the Commission's Division of Market Regulation.

thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[18] Additionally, the Commission notes that implementation of this proposed rule change is contingent upon the Commission's receipt of OPRA's representation that it has adequate systems capacity to process quotations and trades in the proposed 3D JY Options.[19]

The Commission finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of the notice thereof in the **Federal Register**. In Amendment No. 2, the Phlx represented that the provisions for calculating and disseminating the settlement value for the 3D Japanese yen options will be exactly the same as used for the 3D German mark options. The Commission believes that because the provisions for calculating and disseminating the settlement value for the 3D Japanese yen options will be exactly the same as used for the 3D German mark options, and contain adequate back-up procedures in case of system failure or other problems, no new regulatory issues are raised. Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 2 to the Phlx proposal on an accelerated basis.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Phlx Amendment No. 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to SR–Phlx–95–42 and should be submitted by December 20, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (File No. SR–phlx–95–42), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29152 Filed 11–28–95; 8:45 am]

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[18] 15 U.S.C. 78f(b)(5).

[19] *See supra* note 13.

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

[Release No. 34–36501; File No. SR–PHLX–95–50]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to PHLX Rule 722, "Margins"

November 21, 1995.

On July 3, 1995, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposal to amend PHLX Rule 722(c)(6), "Time Within Which Margin or 'Mark-to-Market' Must Be Obtained," to reduce from seven business days after the trade date to five business days after the trade date the time in which a customer must either pay for a long foreign currency option ("FCO") position or post initial margin for a short FCO position.

Notice of the proposed rule change appeared in the **Federal Register** on August 24, 1995.[3] No comments were received on the proposal.

Currently, PHLX Rule 722(c)(6) provides that margin for a short FCO position in a customer account or full cash payment for a long FCO position in a customer account must be obtained within seven business days following the date on which the customer enters into the FCO position. Recently, the Board of Governors of the Federal Reserve System ("Board") amended Regulation T under the Act to reduce from seven business days after the trade date to five business days after the trade date the amount of time in which a customer must meet initial margin calls or make full cash payment for securities.[4] To be consistent with Regulation T, as amended, the PHLX proposes to amend Exchange Rule 722(c)(6) to reduce from seven business days to five business days the time in which a customer must either pay for a long FCO position or post initial margin for a short FCO position.

According to the PHLX, T + 3 has impacted securities trading in many ways, primarily in the systems and procedures utilized by broker-dealers, exchanges, and clearing agencies. In addition, the Exchange states that PHLX Rule 722 has been impacted by T + 3. Specifically, PHLX Rule 722(c)(6) currently provides that FCO margin and cash payment must be obtained as promptly as possible but before the expiration of seven full business days following the trade date. This time period was originally established by allowing two days after the standard securities settlement time (prior to the effective date of Commission Rule 15c6–1) of five business days ("T + 5"). Within T + 5 reduced to T + 3, the Exchange proposes to conform its FCO margin rules to the reduced five business day time period by which margin or cash payment must be obtained on securities, including FCO options, pursuant to Regulation T.[5]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b)(5)[6] in that it is designed to protect investors and the public interest and to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. Specifically, the proposal will make PHLX Rule 722(c)(6) consistent with Regulation T, as amended, which is in effect for FCOs as well as for other securities options, and provides that a margin call must be satisfied within one payment period (*i.e.*, five business days) after the margin

[1] 15 U.S.C. 78s(b)(1) (1988 & Supp. V 1993).

[2] 17 CFR § 240.19b–4 (1994).

[3] *See* Securities Exchange Act Release No. 36114 (August 17, 1995), 60 FR 44098.

[4] Regulation T, as amended, provides that a margin call must be satisfied within one payment period after the margin deficiency was created or increased. Under Regulation T, a "payment period" is the number of business days in the standard securities settlement cycle in the United States, as defined in SEC Rule 15c6–1 under the Act, plus two business days. As of June 7, 1995, SEC Rule 15c6–1 establishes a standard three business day settlement cycle for most securities transactions in the United States ("T + 3"). Accordingly, after June 7, 1995, the payment period for satisfying a margin call under Regulation T is five business days.

[5] *See* note 4, *supra*. The Commission notes that PHLX Rule 722(c)(6) establishes a maximum time period for the payment of margin. According to the PHLX, most Exchange members require payment for long FCO positions or margin for short FCO positions by the date following the trade.

[6] 15 U.S.C. § 78f(b)(5) (1982).

deficiency was created or increased. When the PHLX originally proposed margin requirements for FCOs, the Exchange incorporated the seven business day margin posting rule then required under Regulation T.[7] Since the Board has decreased the Regulation T payment period, the Commission believes that it is reasonable for the PHLX to make a corresponding amendment to PHLX Rule 722(c)(6) so that the PHLX's rule will continue to be consistent with Regulation T.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–PHLX–95–50) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29151 Filed 11–28–95; 8:45 am]

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[7] *See* Securities Exchange Act Release No. 19313 (December 8, 1982), 47 FR 54591 (December 17, 1982) (order approving File No. SR–PHLX–81–4).

[8] 15 U.S.C. § 78s(b)(2) (1988).

[9] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36506; File Nos. SR–SCCP–95–04 and SR–Philadep–95–06]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia and Philadelphia Depository Trust Company; Notice of Filing of Proposed Rule Changes Seeking Authority to Release Clearing Data Relating to Participants

November 22, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on July 7, 1995, the Stock Clearing Corporation of Philadelphia ("SCCP") and the Philadelphia Depository Trust Company ("Philadep") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes (File Nos. SR–SCCP–95–04 and SR–Philadep–95–06) as described in Items I, II, and III below, which items have been prepared primarily by SCCP and Philadep. On August 17, 1995, SCCP and Philadep each filed an amendment to its proposed rule change to clarify the parties to whom SCCP and Philadep will release clearing data and to define the term "clearing data".[2] On September 25, 1995, SCCP and Philadep each filed a second amendment to its proposed rule change to supersede the prior amendments.[3] On November 16, 1995, SCCP and Philadep each filed a third amendment to its proposed rule change to make certain technical corrections.[4] The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

The purpose of the respective proposed rule changes is to modify SCCP Rule 28 and to add Rule 32 to Philadep's rules to authorize SCCP and Philadep to release data relating to their respective participants' clearance and settlement activities.

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, SCCP and Philadep included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. SCCP and Philadep have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[5]

(A) Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

The purpose of the respective proposed rule changes is to modify SCCP Rule 28 and to add Rule 32 to Philadep's rules to authorize SCCP and Philadep to release data relating to their respective participants' clearance and settlement activities. SCCP and Philadep receive transaction data and other data relating to their participants in the normal course of business. The rule changes set forth SCCP's and Philadep's obligations to preserve their participants' rights with respect to such data and the conditions under which SCCP and Philadep will disclose such data.

The proposed rules will permit SCCP and Philadep to disclose such data to regulatory organizations, self-regulatory organizations, clearing organizations affiliated with or designated by contract markets trading specific futures products under the oversight of the Commodity Futures Trading Commission, and others under certain conditions. The proposed rule changes generally provide that the release of a participant's clearing data shall be conditioned upon either the submission of a written request or the execution of a written agreement.[6] The proposed rules also define "clearing data" to mean transaction and other data which is received by SCCP and Philadep in the clearance and/or settlement process or such data, reports, or summaries which may be produced as a result of processing such data.

The proposed rule changes also will facilitate SCCP's and Philadep's participation in the National Securities Clearing Corporation's ("NSCC") Collateral Management Service ("CMS").[7] The proposals will enable SCCP and Philadep to provide information regarding their respective participants funds, including excess or deficit amounts, and to provide comprehensive data on underlying collateral to NSCC for inclusion in the CMS. Participants of SCCP and Philadep that desire access to the CMS data will be required to execute a CMS participation application.

SCCP and Philadep believe the proposed rule changes are consistent with Section 17A of the Act and the rules and regulations thereunder because the rule proposals should help to safeguard securities and funds in their custody or control or for which they are responsible.

(B) Self-Regulatory Organizations' Statement on Burden on Competition

SCCP and Philadep do not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received. SCCP and Philadep will notify the Commission of

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Sharon S. Metzker, Staff Counsel, SCCP and Philadep, to Peter R. Geraghty, Senior Counsel, Division of Market Regulation ("Division"), Commission (August 15, 1995).

[3] Letter from Sharon S. Metzker, Staff Counsel, SCCP and Philadep, to Peter R. Geraghty, Senior Counsel, Division, Gommission (September 22, 1995).

[4] Letter from Sharon S. Metzker, Staff Counsel, SCCP and Philadep, to Christopher Concannon, Division, Commission (November 16, 1995).

[5] The Commission has modified the text of the summaries submitted by SCCP and Philadep.

[6] As self-regulatory organizations, SCCP and Philadep are authorized to cooperate and share data with other regulatory or self-regulatory organizations for regulatory purposes.

[7] Generally, the CMS will provide participating participants and clearing agencies with access to information regarding clearing fund, margin, and other similar requirements and deposits. For a complete description of the CMS, refer to Securities Exchange Act Release No. 36091 (August 5, 1995), 60 FR 30912 (File No. SR–NSCC–95–06) (order approving the CMS).

any written comments received by SCCP or Philadep.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which SCCP and Philadep consent, the Commission will:

(a) By order approve such proposed rule changes or

(b) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal offices of SCCP and Philadep. All submissions should refer to the file numbers SR–SCCP–95–04 or SR–Philadep–95–06 and should be submitted by December 29, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29153 Filed 11–28–95; 8:45 am]

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[8] 17 CFR 200.30–3(a)(12) (1994).

[Investment Company Act Release No. 21539; 812–9688]

SEI Institutional Managed Trust, et al.; Notice of Application

November 22, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: SEI Asset Allocation Trust (the "Trust"); SEI Institutional Managed Trust, SEI Liquid Asset Trust, SEI International Trust (collectively, the "Underlying Funds"); SEI Financial Management Corporation ("SEI Management"); and SEI Financial Services Company ("SEI Financial").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act from section 12(d)(1) of the Act, under sections 6(c) and 17(b) of the Act from section 17(a) of the Act, and pursuant to section 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order that would permit the Trust to operate as a "fund of funds" and to acquire up to 100% of the voting shares of any acquired fund.

FILING DATES: The application was filed on July 25, 1995 and was amended on September 27, 1995. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 19, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 680 Swedesford Road, Wayne, Pennsylvania 19087–1658.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is organized as a Massachusetts business trust and is registered as an open-end management investment company under the Act. Currently, the Trust consists of eight portfolios (each a "Portfolio"): Balanced Income Fund; Conservative Balanced Fund; Moderate Balanced Fund; Aggressive Balanced Fund; U.S. Equity Fund; International Equity Fund; Global Fixed Income Fund; and Global Equity Fund. Portfolio shares will be primarily offered to long-term investors such as: employee benefit plans qualified under the Internal Revenue Code; non-qualified plans, including section 403(b) and section 457 plans under the Internal Revenue Code; and individual retirement account participants. Portfolio shares may be subject to sales charges, including front-end and deferred sales charges, redemption fees, service fees, and rule 12b–1 fees under the Act.

2. The Underlying Funds are open-end management investment companies registered under the Act. Each Underlying Fund has one or more portfolios (each an "Underlying Portfolio") with different investment objectives and policies. Underlying Portfolio shares may be subject to sales charges, including front-end and deferred sales charges, redemption fees, service fees, and rule 12b–1 fees under the Act. Applicants request that any relief granted pursuant to this application also apply to any open-end management investment company that currently or in the future is part of the same SEI "group of investment companies," as defined in rule 11a–3 under the Act (collectively, the "SEI Funds").[1] Applicants also request that any such relief apply to any other "group of investment companies" where SEI is the distributor (collectively, the "Non-SEI Funds").[2]

[1] Rule 11a–3 under the Act defines the "same group of investment companies" as two or more companies that: (a) hold themselves out to investors as related companies for purposes of investment and investor services; and (b) that have a common investment adviser or principal underwriter.

[2] Although certain existing registered investment companies, or portfolios thereof, that are SEI Funds or Non-SEI Funds do not presently intend to rely on the requested order, any such registered investment company, or portfolios thereof, would be covered by the order if they later proposed to enter into a fund of funds arrangement in accordance with the terms described in the application.

3. SEI Management is registered as an investment adviser under the Investment Advisers Act of 1940. SEI Management provides the SEI Funds with overall management services and serves as investment adviser to each Portfolio and investment adviser or distributor to each Underlying Portfolio. SEI Financial is registered as a broker/dealer under the Securities Exchange Act of 1934. SEI Financial serves as distributor for the SEI Funds and Non-SEI Funds.

4. Applicants propose a fund of funds arrangement where each Portfolio will invest in shares of Underlying Portfolios that are part of the same group of investment companies. Each Portfolio initially proposes to allocate its assets among one or more Underlying Portfolios representing the following asset classes: Cash; fixed income; domestic equity; and international equity. Within each asset class, each Portfolio initially will allocate its assets among the Underlying Portfolios in accordance with predetermined percentage ranges. In addition, funds of funds of the Non-SEI Funds ("Non-SEI Funds of Funds") will invest in shares of underlying Non-SEI Funds ("Underlying Non-SEI Funds") that are part of the same group of investment companies.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 6(c) of the Act provides that the SEC may exempt persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order permitting the Portfolios to acquire shares of the Underlying Portfolios beyond the section 12(d)(1) limits. Applicants also request an order permitting the Non-SEI Funds of Funds to acquire shares of the Underlying Non-SEI Funds beyond the section 12(d)(1) limits.

3. The restrictions in section 12(d)(1) were intended to prevent certain abuses perceived to be associated with the pyramiding of investment companies, including: (a) Unnecessary duplication of costs, *e.g.* sales loads, advisory fees, and administrative costs; (b) a lack of appropriate diversification; (c) undue influence by the fund holding company over its underlying funds; (d) the threat of large scale redemptions of the securities of the underlying investment companies; and (e) unnecessary complexity. For the following reasons, applicants believe that the proposed arrangement will not create these dangers and, therefore, that the requested relief is appropriate.

4. First, the proposed arrangement will not raise the fee layering concerns contemplated by section 12(d)(1) of the Act. The proposed arrangement will not involve the layering of advisory fees since SEI Management will not initially charge an advisory fee for serving as investment adviser to the Portfolios. Before approving any advisory contract under section 15(a) of the Act, the board of trustees of the Trust or the board of trustees or directors of the Non-SEI Fund of Funds, including a majority of the trustees or directors who are not "interested persons," as defined in section 2(a)(19) of the Act, will find that the advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Fund or Underlying Non-SEI Fund advisory contract. In addition, the proposed structure will not involve layering of sales charges. Any sales charges or service fees relating to the shares of a Portfolio or Non-SEI Fund of Funds will not exceed the limits set forth in Article III, section 26 of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. ("NASD") when aggregated with any sales charges or service fees that the Portfolio or Non-SEI Fund of Funds pays relating to Underlying Portfolio or Underlying Non-SEI Fund shares. The aggregate sales charges at both levels, therefore, will not exceed the limit that otherwise lawfully could be charged at any single level. Furthermore, the proposed arrangement will not involve the unnecessary duplication of administrative and other fees. Applicants expect that these expenses will be reduced at both levels under the proposed arrangement.

5. Second, the proposed arrangement will not raise improper diversification concerns. Each Portfolio and Non-SEI Fund of Funds will pursue a different investment strategy by investing in Underlying Portfolios and Underlying Non-SEI Funds that also pursue distinct investment strategies. Third, the proposed arrangement will be structured to minimize undue influence concerns. The Portfolios only will acquire shares of Underlying portfolios that are SEI Funds. Because SEI Management is investment adviser to the Underlying Portfolios as well as to the Trust, a redemption from one Underlying Portfolio will simply lead to the investment of the proceeds in another Underlying Portfolio. Applicants believe that the same will be true in the case of the Non-SEI Funds of Funds since they will invest in Underlying Non-SEI Funds that are part of the same "group of investment companies."

6. Fourth, the proposed arrangement will be structured to minimize large scale redemption concerns. The Portfolios and Non-SEI Funds of Funds will be designed for persons investing for retirement and other long term investment purposes. This will reduce the possibility of the Portfolios and Non-SEI Funds of Funds from being used as short-term investment vehicles and further protect the Portfolios and the Non-SEI Funds of Funds and their respective Underlying Portfolios and the Underlying Non-SEI Funds from unexpected large redemptions. Fifth, the proposed arrangement will not be unnecessarily complex. No Underlying Portfolio or Underlying Non-SEI Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. Section 17(a) makes it unlawful for an affiliated person of a registered investment company to sell securities to, or purchase securities from, the company. The Trust and the Underlying SEI Funds may be considered affiliated persons because they share common officers and/or directors/trustees. Similar arguments may be made in the case of the Non-SEI Funds of Funds and the Underlying Non-SEI Funds. An Underlying SEI Fund's issuance of its shares to the Trust may be considered a sale prohibited by section 17(a). In addition, the sale by the Underlying Non-SEI Funds of their shares to the Non-SEI Funds of Funds could be deemed principal transactions subject to section 17(a) of the Act.

8. Section 17(b) provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence

establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act. Applicants request an exemption under sections 6(c) and 17(b) to allow the above transactions.

9. Applicants believe that the proposed transactions meet the standards of sections 6(c) and 17(b). The consideration paid for the sale and redemption of shares of Underlying Portfolios and Underlying Non-SEI Funds will be based on the net asset value of the Underlying Portfolios and Underlying Non-SEI Funds, respectively, subject to applicable sales charges. The Trust and Non-SEI Funds of Funds' purchase and sale of shares of the Underlying Portfolios and Underlying Non-SEI Funds is consistent with the Trust and Non-SEI Funds of Funds' policy, as set forth in their registration statements. Applicants also believe that the proposed transactions are consistent with the general purposes of the Act.

10. Section 17(d) prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from effecting any transaction in which such investment company is a joint, or joint and several, participant with such person in contravention of SEC rules and regulations. Rule 17d–1 provides that an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, shall not participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which the registered investment company is a participant unless the SEC has issued an order approving the arrangement. Applicants assert that the proposed arrangement is intended to provide substantial benefits for both the Portfolios and the Non-SEI Funds of Funds and their respective Underlying Portfolios and Underlying Non-SEI Funds, including increased diversification, more efficient portfolios management, a larger asset base, and reduced expenses. Therefore, for the reasons discussed above, applicants believe that the proposed arrangement is consistent with the provisions, policies, and purposes of the Act. Furthermore, the Portfolios and Non-SEI Funds of Funds and their respective Underlying Portfolios and Underlying Non-SEI Funds will not participate in the proposed arrangement on a basis that is different from or less advantageous than the participants that are not investment companies.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. Each Portfolio and each Underlying Portfolio will be part of the "same group of investment companies," as defined in rule 11a–3 under the Act. In addition, each Non-SEI Fund of Funds and each Underlying Non-SEI Fund will be part of the same "group of investment companies."

2. No Underlying Portfolio or Underlying Non-SEI Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. A majority of the trustees of the Trust and a majority of the trustees or directors of each Non-SEI Fund of Funds, will not be "interested persons," as defined in section 2(a)(19) of the Act.

4. Any sales charges or service fees charged to the shares of a Portfolio or Non-SEI Fund of Funds, when aggregated with any sales charges or service fees paid by the Portfolio or Non-SEI Fund of Funds relating to the securities of the respective Underlying Portfolio or Underlying Non-SEI Fund, shall not exceed the limits set forth in Article III, section 26, of the NASD's Rules of Fair Practice.

5. Before approving any advisory contract under section 15 of the Act, the board of trustees of the Trust and the board of trustees or directors of the Non-SEI Fund of Funds, including a majority of the trustees or directors who are not "interested persons," as defined in section 2(a)(19), will find that advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Fund or Underlying Non-SEI Fund advisory contract. The finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Trust or Non-SEI Fund of Funds.

6. Applicants agree to provide the following information, in electronic format, to the Chief Financial Analyst of the SEC's Division of Investment Management: monthly average total assets of each Portfolio and Non-SEI Fund of Funds and each respective Underlying Portfolio and Underlying Non-SEI Fund of Funds; monthly purchases and redemptions (other than by exchange) for each Portfolio and Non-SEI Fund of Funds and each respective Underlying Portfolio and Underlying Non-SEI Fund; monthly exchanges into and out of each Portfolio and Non-SEI Fund of Funds and each respective Underlying Portfolio and Underlying Non-SEI Fund; month-end allocations of each Portfolio's assets among the Underlying Portfolios and of the assets of each Non-SEI Fund of Funds among its Underlying Non-SEI Funds; annual expense ratios for each Portfolio and each Non-SEI Fund of Funds and each respective Underlying Portfolio and Underlying Non-SEI Fund; and a description of any vote taken by the shareholders of any Underlying Portfolio and any Underlying Non-SEI Fund, including a statement of the percentage of votes cast for and against the proposal by the Portfolio and the Non-SEI Fund of Funds and by the other shareholders of the Underlying Portfolio and Underlying Non-SEI Fund. Such information will be provided as soon as reasonably practicable following each fiscal year-end of the Trust and each Non-SEI Fund of Funds (unless the Chief Financial Analyst shall notify applicants in writing that such information need no longer be submitted).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29111 Filed 11–28–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21537; 812–9738]

Smith Barney Inc., et al.; Notice of Application

November 21, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "Act".

APPLICANTS: Smith Barney Inc. ("Smith Barney"); Smith Barney Mutual Funds Management Inc. ("SBMFM"); Smith Barney Strategy Advisers Inc. ("Strategy Advisers"); and Smith Barney Cardinal Investment Fund Inc. ("Cardinal"), Smith Barney Aggressive Growth Fund Inc., Smith Barney Appreciation Fund Inc., Smith Barney Equity Funds, Smith Barney Fundamental Value Fund Inc., Smith Barney Funds, Inc., Smith Barney Income Funds, Smith Barney Investment Funds, Inc., Smith Barney Managed Governments Fund Inc., Smith Barney Money Funds, Inc., Smith Barney World Funds, Inc., and each open-end management investment company, or series thereof, that is or will be part of a group of investment companies that holds itself out to investors as related companies for purposes of investment and investor services (a) for which Smith Barney or any entity controlling, controlled by, or under common control with, Smith Barney now or in the future acts as principal underwriter or (b) for which Smith Barney, SBMFM, Strategy Advisers, or any entity controlling, controlled by, or under common control with Smith Barney, SBMFM, or Strategy Advisers now or in the future acts as investment adviser (the "Smith Barney Funds" or the "Funds").[1]

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act from section 12(d)(1) of the Act, and under sections 6(c) and 17(b) of the Act from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would allow Cardinal to acquire up to 100% of the voting shares of any other Smith Barney Fund.

FILING DATES: The application was filed on August 28, 1995, and was amended on November 15, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 18, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 388 Greenwich Street, New York, New York 10013–2996.

FOR FURTHER INFORMATION CONTACT: Sarah A. Wagman, Staff Attorney, at (202) 942–0654, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Cardinal will be registered under the Act as an open-end management investment company. Cardinal initially will consist of five funds organized as series or portfolios: (a) Aggressive Growth Portfolio, (b) Growth Portfolio, (c) Growth and Income Portfolio, (d) Balanced Portfolio, and (e) Income Portfolio. Cardinal will function as a "fund of funds," investing substantially all of its assets in shares of other Smith Barney Funds (the "Underlying Funds"). Additional funds of funds that may be established in the future in accordance with the terms and conditions of the requested order may be organized as: (a) Series of Cardinal, (b) series of any other Smith Barney Fund, or (c) any other Smith Barney Fund that does not offer its securities in separate series (Aggressive Growth Portfolio, Growth Portfolio, Growth and Income Portfolio, Balanced Portfolio, Income Portfolio, and any future funds of funds are referred to herein as the "Cardinal Funds"). The Cardinal Funds currently expect to issue shares of each series in multiple classes, as permitted by rule 18f–3 under the Act or any applicable exemptive order.

2. Each Smith Barney Fund is organized either as a Maryland corporation or a Massachusetts business trust. The Smith Barney Funds are principally sold by Smith Barney financial consultants.

3. Smith Barney is a Delaware corporation and is registered as a broker-dealer under the Securities Exchange Act of 1934, and as an investment adviser under the Investment Advisers Act of 1940 ("Investment Advisers Act"). Smith Barney is an indirect wholly-owned subsidiary of Travelers Group Inc. Smith Barney is the principal underwriter of all of the Funds.

4. Strategy Advisers and SBMFM are both investment advisers registered under the Investment Advisers Act, and are indirect wholly-owned subsidiaries of Travelers Group Inc. Either Strategy Advisers or SBMFM is the investment adviser to each Fund. SBMFM intends to provide advisory services to the Cardinal Funds regarding each Cardinal Fund's asset allocation, general economic conditions, and other advisory services.

5. SBMFM is considering charging the Cardinal Funds an advisory fee, presently expected to be approximately ten basis points (0.1%) (which may be waived initially) for providing these services. Although SBMFM would also earn advisory fees arising by virtue of its investment advisory contracts with the Underlying Funds, these fees would not be duplicative of any fee charged directly to the Cardinal Funds. Any advisory fee charged at the level of the Cardinal Funds would compensate SBMFM for services (*e.g.*, asset allocation) that are unique to the Cardinal Funds and would not be provided at the level of the Underlying Funds because those Funds would have no need for such services. If SBMFM determines to charge an advisory fee for such allocation and other advisory services, or to increase any advisory fee borne by a Cardinal Fund, it will do so only in conformity with the requirements of the conditions to the requested order.

6. SBMFM is also the administrator for each Fund. As administrator, SBMFM provides fund accounting services, calculates each Fund's daily net asset value, maintains the Funds' required books and records, and provides the Funds with corporate secretarial and clerical services, corporate officers and office space.

7. Pursuant to its investment objectives and policies, each Cardinal Fund will invest in shares of the Underlying Funds and, possibly, short-term paper. Applicants expect that the Cardinal Funds will not pay sales loads or a distribution and service fee charged pursuant to a plan adopted in accordance with rule 12b–1 under the Act in connection with the Cardinal Funds' investments in shares of the Underlying Funds. If, in the future, a Cardinal Fund chooses to invest in shares of an Underlying Fund that incurs sales charges, it will do so only in accordance with the conditions to the requested order.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale

[1] Existing Smith Barney Funds that intend to rely on the requested order have been named as applicants. Other Smith Barney Funds do not presently intend to rely on the requested order, but may do so in the future in accordance with the terms of the requested order.

will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 6(c) provides that the SEC may exempt persons or transactions if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order under section 6(c) exempting them from section 12(d)(1)(A) and (B) to permit the Cardinal Funds to invest in shares of the Underlying Funds in excess of the percentage limitations of section 12(d)(1).

3. Applicants state that the Cardinal Funds have been created to function as an asset allocation mechanism. Applicants believe that the Cardinal Funds provide professional investment management for those investors who wish to diversify their mutual fund investments, but desire professional management to decide which mutual funds to select, how much of their assets to commit to each Fund, and when to reallocate their investments.

4. Section 12(d)(1) was intended to mitigate or eliminate actual or potential abuses which might arise when one investment company acquires shares of another investment company. These abuses include the acquiring fund imposing undue influence over the management of the acquired funds through the threat of large-scale redemptions, the acquisition by the acquiring company of voting control of the acquired company, the layering of sales charges, advisory fees, and administrative costs, and the creation of a complex pyramidal structure which may be confusing to investors.

5. Applicants believe that none of these potential or actual abuses are present in their proposed fund of funds structure. Applicants assert that the structure of the Cardinal Funds will not result in excessive fees for Cardinal Fund shareholders. Although SBMFM is considering charging an advisory fee to the Cardinal Funds, advisory fees charged to the Cardinal Funds and the Underlying Funds would not be duplicative. If SBMFM determines to charge an advisory fee for such allocation services, or to increase any advisory fee charged to a Cardinal Fund, such fees, in accordance with the conditions to the requested order, would only be for services that augment, rather than duplicate, advisory services provided to the Underlying Funds.

6. Applicants also assert that their proposed fund of funds structure does not present any danger of excessive sales charges. Although applicants have reserved the right to have different sales charge structures in the future, which may include the payment of sales charges or service fees at both the Cardinal Fund and Underlying Fund level, applicants assert that such structures would not result in excessive or duplicative sales charges. In the event that a Cardinal Fund would invest in shares of an Underlying Fund that also bears sales charges or service fees, it would do so only in accordance with the conditions to the requested order, which require that any such sales charges or service fees, in the aggregate, be within the limitations set forth in section 26 of Article III of the National Association of Securities Dealers ("NASD") Rules of Fair Practice.[2]

7. Applicants assert that the Cardinal Funds would pose no threat of excessive control over the Underlying Funds. The shares of any Underlying Fund held by a Cardinal Fund will be voted either in proportion to the vote of all other holders of the securities of that Underlying Fund, or by pass-through voting by the shareholders of the Cardinal Funds. As well, applicants assert that redemption threats and a concomitant risk of lost advisory fees are not a problem in the context of a fund of funds structure in which all of the funds are members of the same fund family. The Cardinal Funds will only acquire shares of other Smith Barney Funds. Because Smith Barney affiliates are the advisers to the Smith Barney Funds and SBMFM will be the adviser to the Cardinal Funds, a redemption from one Smith Barney Fund will simply lead to the placing of the proceeds into another Smith Barney Fund. For these reasons, applicants submit that the requested order exempting applicants from section 12(d)(1) to the extent described in the application meets the standards of section 6(c).

B. Section 17(a)

1. Section 17(a) makes it unlawful for an affiliated person of a registered investment company, or an affiliated person of such person, to sell securities to, or purchase securities from, the company. The Cardinal Funds and the Underlying Funds may be considered affiliated persons because the funds may be deemed to be controlled by their advisers, who are under the common control of Smith Barney. Thus, an Underlying Fund's issuance of its shares to a Cardinal Fund may be considered a sale prohibited by section 17(a).

2. Section 17(b) provides that the SEC shall exempt a proposed transactions from section 17(a) if evidence establishes that: (a) the terms of the proposed transactions are reasonable and fair and do not involve overreaching; (b) the proposed transactions is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act. Applicants request an exemption under sections 6(c) and 17(b) to permit the Underlying Funds to sell their shares to the Cardinal Funds.[3] Applicants believe that the proposed transactions meet the standards of sections 6(c) and 17(b).

Applicants' Conditions

Applicants agree that the order granting the required relief shall be subject to the following conditions:

1. The Cardinal Funds and each Underlying Fund will be part of the same "group of investment companies" as defined in paragraph (a)(5) of rule 11a–3 under the Act.

2. The Cardinal Funds will not invest in an Underlying Fund unless that Fund may not acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by section 12(d)(1)(D).

3. At least a majority of each Cardinal Fund's directors will not be "interested persons," as defined in section 2(a)(19) of the Act ("Independent Directors"), and the selection of Independent Directors necessary to fill any vacancies on the board of directors, as well as the nomination of those persons to be recommended by the board of directors in connection with any shareholder vote, will be committed to the discretion of such Independent Directors.

4. Prior to approving any advisory contract under section 15 of the Act, the directors of each Cardinal Fund, including a majority of the Independent Directors, shall find that the advisory fees charged under such contract, if any, are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract of any Underlying Fund in which a Cardinal Fund may invest. These findings and their basis will be recorded fully in the minute books of the Cardinal Fund.

5. Any Sales Charges or Service Fees, as such terms are defined under section 26(b) of Article II of the NASD Rules of Fair Practice, as may be charged with respect to securities of a Cardinal Fund, when aggregated with any such Sales Charges and/or Service Fees borne by the Cardinal Fund with respect to the shares of an Underlying Fund, shall not exceed the limits set forth in section 26(d) of Article III of the NASD Rules of Fair Practice.

6. Applicants will provide the following information in electronic format to the Chief Financial Analyst of the SEC's Division of Investment Management as soon as reasonably practicable following each fiscal year-end of each Cardinal Fund, unless the Chief Financial Analyst notifies applicants that the information need no longer be submitted: (a) monthly average total assets of each Cardinal Fund and each Underlying Fund in which a Cardinal Fund invests; (b) monthly purchases and redemptions (other than by exchange) for each Cardinal Fund and each Underlying Fund in which a Cardinal Fund invests; (c) monthly exchanges into and out of each Cardinal Fund and each Underlying Fund in which a Cardinal Fund invests; (d) month-end allocations of each Cardinal Fund's assets among the Underlying Funds in which it invests; (e) annual expense ratios for each Cardinal Fund and each Underlying Fund in which a Cardinal Fund invests; and (f) a description of any vote taken by the shareholders of any Underlying Fund in which a Cardinal Fund invests, including a statement of the percentage of votes cast for and against the proposal by the Cardinal Fund and by the other shareholders of that Underlying Fund.

7. Substantially all of the assets of each Cardinal Fund will be invested in shares of Underlying Funds. Each Cardinal Fund will not hold any investment securities other than shares of Underlying Funds and short-term paper.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29110 Filed 11–28–95; 8:45 am]

BILLING CODE 8010–01–M

[2] As multiple class funds, the Cardinal Funds will apply the NASD restrictions on a class-by-class basis to ensure that no investor would pay excessive sales charges.

[3] Section 17(b) applies to specific proposed transactions, rather than an ongoing series of future transactions. *See* Keystone Custodian Funds, 21 S.E.C. 295, 298–99 (1945). Section 6(c) frequently is used to grant relief from section 17(a) to permit an ongoing series of future transactions.

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket S–928]

Margate Shipping Company, and Chestnut Shipping Company; Notice of Application for Payment of Unused Operating-Differential Subsidy

Notice is hereby given that Margate Shipping Company (Margate) and Chestnut Shipping Company (Chestnut) request the extensions of their operating-differential subsidy agreements (ODSA) for five years or, in the alternative, a new five year ODSA, for the purpose of using available but unused days of operating-differential subsidy (ODS), which have accrued under their respective ODSAs, commencing as of January 1, 1974. Additionally, pursuant to section 605(b) of the Merchant Marine Act, 1936, as amended, Margate and Chestnut (applicants) request that the subsidizable lives of the following vessels be extended to the indicated dates:

Vessel	Extended date
CHESTNUT HILL	December 1, 2001.
KITTANNING	March 1, 2002.
CHELSEA	February 28, 2000.
CORONADO	December 28, 1998.
CHERRY VALLEY ..	July 10, 1999*.

*The Maritime Administration has previously extended the subsidizable lives of the CHERRY VALLEY, CHELSEA, and CORONADO to February 28, 1997.

On January 3, 1972, Margate entered into Contract MA/MSB–134 for the CORONADO, CHERRY VALLEY, and CHELSEA. Chestnut entered into Contract MA/MSB–299 for the CHESTNUT HILL and KITTANNING on December 17, 1973.

On November 9, 1989, the Maritime Administration (MARAD) approved a vessel sharing/substitution system in which Contract MA/MSB–299 and MA/MSB–134 were amended to include the CHILBAR, GOLDEN GATE, EDGAR M. QUEENY, ENERGY INDEPENDENCE, and FREDERICKSBURG, provided that the annual amount of ODS accrued for all vessels operating under the two ODSAs would not exceed five ship years of subsidized operation in any given year.

On December 22, 1993, MARAD agreed to separate Contract MA/MSB–134 and MA/MSB–299 into distinct ODSA contracts to correct the inequitable result of terminating these agreements 20 years from the date of entry into subsidized service of the first vessel delivered. The separate agreements provided that each subsidized vessel would have a full 20-year operating period from date of entry into service until termination of its ODSA.

Margate's ODSAs on the CORONADO, CHERRY VALLEY, and CHELSEA (Contracts MA/MSB–134(a), (b), and (c) expired on December 27, 1993, July 9, 1994, and February 27, 1995, respectively, when each vessel reached 20 years of age. At present Chestnut may operate the following vessels under Contracts MA/MSB–299(a) and (b), which expire on November 30, 1996 and on February 28, 1997, when the CHESTNUT HILL and KITTANNING reach 20 years of age:

CHESTNUT HILL
KITTANNING
CHELSEA
CORONADO
CHERRY VALLEY
CHILBAR
FREDERICKSBURG

The applicants advise that the unused subsidy days for the Margate and Chestnut ODSAs commencing January 1, 1974, are as follows:

ODSAs	Unused days
Contracts MA/MSB–134, 134(a), (b), and (c)	729.00
Contracts MA/MSB–299, 299(a) and (b) (to September 1995) ..	3,153.90
Less subsidy sharing days (to September 1995)	(857.00)
	2,296.90

According to the applicants, Chestnut and Margate have a total of 3,025.90 unused subsidy days (729.00 days plus 2,296.90 days). Margate and Chestnut request that if Brookville Shipping, Inc.'s application is granted (see 60 Fed. Reg. 54099, Oct. 19, 1995), that Margate and Chestnut also be enabled to obtain the full unused benefits of their ODSAs by extending Contracts MA/MSB–134 (a), (b), and (c) and Contract MA/MSB–299 (a) and (b) for an additional five years beyond their expiration dates, or in the alternative, Margate and Chestnut request that the Maritime Subsidy Board (Board) enter into five year ODSAs with Margate and Chestnut for the payment of ODS for the number of unused subsidy days of their respective ODSAs.

In connection with this request, Margate and Chestnut further ask the Board to permit them to share the unused subsidy days among the CHESTNUT HILL, KITTANNING, CHELSEA, CORONADO, CHERRY VALLEY, CHILBAR, and FREDERICKSBURG without limitation

as to the number of days that may be used in any one year.

As indicated earlier, Margate and Chestnut are requesting an extension of the subsidizable lives of their vessels so that these vessels would remain eligible to operate with ODS under the extended contracts or new contracts as the case may be. According to the applicants, the effect of extending the lives of these vessels will enable Chestnut and Margate to utilize the unused subsidy days. The applicants advise that such an extension of the lives of the vessels will not give advantage or be prejudicial as between U.S. citizens operating in the trade, since there would be no increase in vessels or change in service, and the service will not be in addition to existing service; accordingly, section 605(c) is not a bar to the request.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7210, Nassif Building, 400 Seventh Street SW., Washington D.C. 20590. Comments must be received no later than 5:00 p.m. on December 13, 1995. The Maritime Subsidy Board will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 2.804 Operating-Differential Subsidies).

By Order of the Maritime Subsidy Board.

Dated: November 22, 1995.

Joel C. Richard,

Secretary.

[FR Doc. 95–29133 Filed 11–28–95; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1995—Rev., Supp. No. 4]

Surety Companies Acceptable on Federal Bonds Redomestication and Change of Name; Alaska Pacific Assurance Company

Alaska Pacific Assurance Company, an Alaska corporation, has redomesticated to Iowa and formally changed its name to CIGNA INDEMNITY INSURANCE COMPANY, effective January 31, 1995. The Company was last listed as an acceptable surety on Federal bonds at 60 FR 34436, June 30, 1995.

A Certificate of Authority as an acceptable surety on Federal bonds, dated today, is hereby issued under Sections 9304 to 9308 of Title 31 of the United States Code, to CIGNA INDEMNITY INSURANCE COMPANY, West Des Moines, Iowa. This new Certificate replaces the Certificate of Authority issued to the Company under its former name. The underwriting limitation of $1,766,000 established for the Company as of July 1, 1995, remains unchanged until June 30, 1996.

Certificates of Authority expire on June 30, each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the Company remains qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1, in the Department Circular 570, which outlines details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1995 Revision, at pages 34436 and 34439 to reflect this change.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782, telephone (202/FTS) 874–7116, facsimile (202) 874–9978.

Dated: November 21, 1995.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 95–29183 Filed 11–28–95; 8:45 am]

BILLING CODE 4810–35–M

Office of Foreign Assets Control

List of Specially Designated Narcotics Traffickers

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice of blocking.

SUMMARY: The Treasury Department is adding the names of three additional individuals and one entity and revising information for three individuals on the list of blocked persons contained in the notice published on October 24, 1995, who have been determined to play a significant role in international narcotics trafficking centered in Colombia or have been determined to be owned or controlled by, or to act for or on behalf of, other blocked persons on the list.

EFFECTIVE DATE: November 24, 1995 or upon prior actual notice.

FOR FURTHER INFORMATION: Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, DC 20220; Tel.: (202) 622–2420.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem, dial 202/515–1387 and type "/GO FAC," or call 202/512–1530 for disks or paper copies. This file is available for downloading in WordPerfect, ASCII, and Adobe Acrobat™ readable (*.PDF) formats. The document is also accessible for downloading in ASCII format without change from Treasury's Electronic Library ("TEL") in the "Business, Trade and Labor Mall" of the FedWorld bulletin board. By modem dial 703/321–3339, and select self–expanding file "T11FR00.EXE" in TEL. For internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = hhtp://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205).

Background

On October 21, 1995, President Clinton signed Executive Order 12978, "Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers" (the "Order").

The Order blocks all property subject to U.S. jurisdiction in which there is any interest of four principal figures in the Cali drug cartel who are listed in the annex to the Order. In addition, the Order blocks the property and interests in property of foreign persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, (a) to play a significant role in international narcotics trafficking centered in Columbia, or (b) to materially assist in or provide financial or technological support for, or goods or services in support of, persons designated in or pursuant to the Order. In addition, the Order blocks all property and interests in property subject to U.S. jurisdiction of persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the Order (collectively "Specially Designated Narcotics Traffickers" or "SDNTs"). On October 24, 1995, 76 additional names were published in the **Federal Register** that were determined to met one or more of these criteria (60 FR 54582, October 24, 1995).

The Order further prohibits any transaction or dealing by a United States person or within the United States in property or interests in property of SDNTs, and any transaction that evades or avoids, has the purpose of evading or avoiding, or attempts to violate, the prohibitions contained in the Order.

This notice adds the names of three additional individuals and one entity designated pursuant to the criteria contained in the Order. The notice also contains additional information concerning two individuals previously designated, and corrects information on one individual previously designated.

Designations of foreign persons blocked pursuant to the Order are effective upon the date of determination by the Director of the Office of Foreign Assets Control, acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the **Federal Register**, or upon prior actual notice.

Additional Entity:

SUPERTIENDAS LA REBAJA, Avenida Colombia No. 2–45, Cali, Colombia; Calle 9, No. 26–98, Cali, Colombia.

Additional Individuals:

AGUANDO ORTIZ, LUIS JAMERSON, Cédula No. 2935839 (Colombia); c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia.

BARÓN, CARLOS, Cédula No. 49994 (Colombia); c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia.

PATIÑO URIBE, CARLOS AUGUSTO, Cédula No. 16627574 (Colombia); c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia.

Corrected and Additional Name and Address Information:

CASTRO DE SANTACRUZ, AMPARO, DOB: 13 January 1948; alt. DOBs: 13 January 1946, 14 April 1959; Passports: PE027370 (Colombia), AA429676 (Colombia); Cédula No. 38983611 (Colombia); c/o INMOBILIARIA SAMARIA LTDA., Cali, Colombia; c/o INVERSIONES EL PASO LTDA., Cali, Colombia; c/o INVERSIONES SANTA LTDA., Cali, Colombia; c/o SAMARIA LTDA., Cali, Colombia.

RODRIGUEZ ABADIA, WILLIAM, DOB: 31 July 1965; Cédula No. 16716259 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogotá, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogotá, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o INVERSIONES ARA LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogotá, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA, S.A., Bogotá, Colombia.

RODRIGUEZ ARBELÁEZ, MARIA FERNANDA, DOB: 28 November 1973; alt. DOB: 28 August 1973; Passport AC568974 (Colombia); Cédula No. 7382804819 (Colombia); c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogotá, Colombia; c/o INVERSIONES ARA LTDA., Cali, Colombia.

Dated: November 8, 1995.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: November 9, 1995.

Dennis M. O'Connell

Acting Deputy Assistant Secretary (Regulatory, Tariff & Law Enforcement).

[FR Doc. 95–29136 Filed 11–24–95; 11:27 am]

BILLING CODE 4810–25–F

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Research Realignment, Notice of Meeting

As required by Section 9(a)(2) of the Federal Advisory Committee Act, U.S.C. (App. 1) 9(c), the VA hereby gives notice that the second meeting of the Research Realignment Advisory Committee will be held December 4 and 5, 1995. The meeting will start at 8 a.m. on December 4 and adjourn at 5 p.m. The meeting will reconvene at 8 a.m. on December 5 and adjourn at 12 noon. The meeting will be held in Room 819 of the Import and Export Bank Building, 811 Vermont Avenue NW., Washington, DC.

The agenda for December 4 will begin with a review of the minutes for the October 16–17, 1995 meeting. The first day's agenda will also cover a discussion of Research in the VISNs, the role of entrepreneurship and non-profit corporations in VA research, the Career Development Program.

On December 5 the Committee will discuss Non-Clinician Ph.D.s in VA research.

The meeting will be open to the public. Due to limited seating capacity of the room, those who plan to attend or who have questions concerning the meeting should contact Efrend Z. Garcia, Chief Career Development, Department of Veterans Affairs at (202) 565–7133.

The Designated Federal Official for the Committee is Timothy Gerrity, Ph.D., Deputy Director for Medical Research Service (phone number: 202–565–4004).

Dated: November 20, 1995.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–29189 Filed 11–28–95; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities, Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Public Law 92–463, gives notice that meetings of the Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities will be held on:

Monday, December 4, 1995, at 8:30 a.m.–4:30 p.m.

Tuesday, December 5, 1995, at 10 a.m.–12:30 p.m.

The location of the meetings will be 811 Vermont Avenue, NW., Washington, DC; Room 239 on December 4, 1995, and Room 442 on December 5, 1995.

The all day meeting of Monday, December 4, 1995, is primarily designed as a work session to go over the developments in the field of structural design as a result of lessons learned from the damages caused by recent earthquakes around the world, and fire safety issues. The Tuesday, December 5, 1995, meeting is of a formal nature, where structural safety due to natural disasters and fire and revision to H–08–8, Earthquake Resistant Design Requirements for VA Hospital Facilities, will be voted upon.

Both meetings will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Krishna K. Banga, Senior Structural Engineer, Facilities Quality Office, Facilities Management Office, Department of Veterans Affairs Central Office (phone 202–565–9370) prior to November 30, 1995.

Dated: November 20, 1995.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–29188 Filed 11–28–95; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 60, No. 229
Wednesday, November 29, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 96-C0001]

J.B.I., Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

Correction

In notice document 95–28347 beginning on page 57577 in the issue of Thursday, November 16, 1995, make following correction:

On page 57579, in the first column, in paragraph 23., in the nineth line, after "not" insert "receive any written request not".

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG95-7-001]

Cove Point LNG Limited Partnership; Notice of Filing

Correction

In notice document 95–28566 beginning on page 58080, in the issue of Friday, November 24, 1995, in the third column, the docket number should read as set forth above.

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

28 CFR Part 49

[AG Order No. 1985-95]
RIN 1105-AA37

Use and Examination of Materials Submitted Pursuant to the Antitrust Civil Process Act

Correction

In rule document 95–20984 beginning on page 44276 in the issue of Friday, August 25, 1995, make the folling corrections:

§ 49.2 [Corrected]

1. On page 44277, in the 1st column, in § 49.2(a), the 11th line should read "the Antitrust Division), shall, unless".

§ 49.3 [Corrected]

2. On page 44277, in the second column, in § 49.3 introductory text, in the sixth line, "agent" should read "agents".

BILLING CODE 1505–01–D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206-AH20

Prevailing Rate Systems; Abolishment of Ocean, NJ, Nonappropriated Fund Wage Area

Correction

In rule document 95–26946 appearing on page 55423 in the issue of Wednesday, November 1, 1996 make the following correction:

Appendix D to Subpart D of Part 532 [Corrected]

On page 55423, in the third column, in Appendix D to Subpart B of Part 532, the entry for New Jersey is corrected as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

* * * * *

Area of Application. Survey Area Plus:

New Jersey:
Atlantic
Ocean

* * * * *

BILLING CODE 1505–01–D

THE REGULATORY PLAN AND UNIFIED AGENDA OF FEDERAL REGULATIONS

Correction

In the Regulatory Plan and Unified Agenda of Federal Regulations published in the issue of November 28, 1995, in parts II through LXVI, the file date "11-24-95" should read "11-27-95".

BILLING CODE 1505–01–D

federal register

Wednesday
November 29, 1995

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 930
Cherries (Tart) Grown in Michigan et al.; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. AO–370–A5; FV93–930–1]

Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Recommended Decision and Opportunity To File Written Exceptions to the Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This recommended decision proposes the issuance of a marketing agreement and order (order) for tart cherries grown in certain designated states. The proposed order and agreement would authorize volume regulation, grade, size, and maturity regulations, and mandatory inspection. The proposed order would also authorize production, processing, and marketing research and promotion projects, including paid advertising. The order would be administered by an 18 member administrative board consisting of 17 growers and handlers and one public member. The order would be financed through assessments on handlers of tart cherries grown in the production area. A primary objective of this program would be to improve grower returns by strengthening consumer demand through volume control and quality assurance mechanisms. Tart cherry producers and processors would vote in a referendum to determine if they favor issuance of the proposed marketing order.

DATES: Comments must be received by December 29, 1995.

ADDRESSES: Four copies of all comments should be sent to the Hearing Clerk, United States Department of Agriculture, Room 1079, South Building, Washington, DC 20250–9200. All written comments will be made available for public inspection at the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: (1) R. Charles Martin or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, Room 2523–S, AMS, USDA, PO Box 96456, Washington, DC 20090–6456; telephone number (202) 720–5053, FAX: (202) 720–5698.

(2) Robert Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, Oregon 97204; telephone: (503) 326–2725, FAX: (503) 326–7440.

SUPPLEMENTARY INFORMATION:

Prior Documents in This Proceeding

Notice of Hearing, issued on November 30, 1993, and published in the **Federal Register** on November 30, December 23, 1993, and January 31, 1994 (58 FR 63108, 58 FR 68065, and 59 FR 4259, respectively). The notice reopening the hearing was issued on December 5, 1994, and published in the **Federal Register** on December 8, 1994 (59 FR 63273).

This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and is therefore excluded from the requirements of Executive Order 12866.

The marketing agreement and order proposed herein have been reviewed under Executive Order 12778, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed agreement and order would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the proposal.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed marketing agreement and order regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. This recommended decision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The proposed marketing agreement and order are based on the record of a public hearing held December 15–17, 1993, in Grand Rapids, Michigan; January 10–11, 1994, in Rochester, New York; January 13, 1994, in Provo, Utah; February 15–17, 1994, in Portland, Oregon; January 9–10, 1995, in Grand Rapids, Michigan; and January 12–13, 1995, in Portland, Oregon. These multiple hearing sessions were held to receive evidence on marketing order proposals from growers, handlers, processors and other interested parties located throughout the proposed production area.

At the conclusion of the February 1994 hearing in Oregon, the deadline for filing post-hearing briefs was set at April 29, 1994. The deadline for filing post-hearing briefs was subsequently extended to May 31, 1994. However, based on a review of the hearing evidence and post hearing briefs, the Department of Agriculture (USDA) determined that the hearing should be reopened to clarify some provisions. The USDA wanted to obtain additional information and clarification on the following: (1) The States that should be regulated under the order; (2) the economic impact of the proposed order on small and large businesses; (3) whether the expected program benefits would exceed costs, especially for growers, handlers and consumers; and (4) how certain provisions would be implemented under the proposed marketing order. The hearing was reopened and held January 9–10, 1995, in Grand Rapids, Michigan and January 12–13, 1995 in Portland, Oregon. At the conclusion of the Oregon hearing, the deadline for filing post-hearing briefs was set at March 17, 1995.

Ten briefs were filed following the first briefing period. These briefs were from the U.S. Department of Justice, Anti-Trust Division (DOJ), Ray Schultz of Schultz's Fruitland, Ridgecrest Fruit Corporation, Smeltzer Orchard Co., Northwest Food Processors Association, American Farm Bureau Federation, Laughlin Orchards, Inc., Oregon Tart Cherry Association, Fruithill Inc., and the Cherry Marketing Institute.

Seven briefs were filed following the second briefing period. These were filed by Knouse Foods Cooperative, Inc. (Knouse), Shoreline Fruit, Inc., Oregon Tart Cherry Association, DeRuiter Farms, Inc., Milne Fruit Products, Cherry Marketing Institute, and DOJ.

The briefs are discussed throughout the following document where relevant.

The tart cherry industry's previous Federal Marketing Order began in 1971. It covered the States of Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland. In a continuance referendum conducted March 10–20, 1986, 64 percent of all cherry producers and 83 percent of all cherry handlers voted. Of those voting, 51 percent of the producers and 56 percent of the handlers favored terminating the cherry marketing order. Producers favoring termination represented 45 percent of the production volume represented in the referendum, while handlers favoring termination represented 40 percent of the processed volume represented.

Given the lack of producer and handler support for that tart cherry order, it was determined that it no longer fulfilled the Act's objective, and was terminated April 30, 1987.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Administrator of the Agricultural Marketing Service has considered the economic impact of this action on small entities. The record indicates that there are approximately 1,600 growers of tart cherries and 75 handlers who process cherries in the production area proposed to be regulated. Small agricultural service firms have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those whose annual receipts are less than $5,000,000, and small agricultural producers as those having annual receipts of $500,000. The majority of the tart cherry handlers and producers may be classified as small entities.

For practical purposes, there is no fresh market for tart cherries. Processors dry, freeze, can, juice, or puree pitted tart cherries. Market use averages are: 56 percent of the product becomes industrial grade frozen cherries; 16 percent goes into consumer-size cans of pie filling; 8 percent is used for commercial pie filling; 10 percent becomes juice concentrate; 2 percent is dried; and 8 percent goes into water packs.

Since 1971, there has been a marked transformation in the processing industry's structure. Currently, 75 percent of the crop is processed by farmer-owned cooperatives or grower-owned processing facilities; whereas in 1971, a substantial volume was processed by independent handlers. Processors, through their sales agents, market in all U.S. markets and export to Europe and Asia. There are no discrete regional markets where cherries from a particular district could have a particular advantage, beyond nominal differences in transportation costs, which can often be overcome by price discounting.

The record evidence shows that economic adversity has caused more than 21 percent of Michigan's growers to withdraw from tart cherry farming. There were 1,183 Michigan commercial growers in 1986, compared to 933 in 1992. In 1992, Michigan growers had an average production of 238,000 pounds with 19 percent of those growers averaging 800,000 pounds, accounting for 66 percent of the total Michigan production. In states other than Michigan, there has also been a general decline in the number of commercial growers since 1986. There are fewer growers in other States besides Michigan, but the number of bearing acres has increased from 4.5 million in 1986, to more than 5 million in 1990.

Record evidence indicates that the demand for red tart cherries is inelastic at high and low levels of production, and relatively elastic in the middle range. At the extremes, during times of very low and very high production, different factors become operational. In very short crop years, such as 1991, there is limited but sufficient exclusive demand for cherries that can cause processor prices to double and grower prices to triple. In the event of large crops, there seems to be no price low enough to expand sales beyond about 275 million pounds of raw fruit in a single year.

Since 1982, annual sales have averaged 230 million pounds. Under the proposed order, total returns to growers could be increased by restricting supplies of red tart cherries available for sale by handlers during large crop years. Also, the alternate production characteristics of the tart cherry industry provide an opportunity to increase growers' total earnings by converting the excess production of large crop years into storable products that could constitute reserve pools. These pools would be liquidated in a year when the available supplies are short.

One of the main concerns of this recommended order is the short term annual variation in supply which is attributable to climatic factors that neither growers nor processors can control, and which leads to chaotic marketing conditions. Such climatic factors can result in highly unpredictable annual crop sizes, causing gluts and shortages of tart cherries. When gluts occur, large carryin inventories can decrease processor and grower prices, regardless of the anticipated size of the oncoming year's crop. Many sales are consummated with large buyers well before the current crop year's supply and demand situation is clear (based on what can best be described as "Anticipated Supply", i.e., the sum of the carryin inventory and the United States Department of Agriculture crop forecast, available usually late in June, weeks before the actual crop harvest.)

These large, unrestricted carryin inventories and crop estimates can play a dominant role in setting the tone of the market in a given year. The proposed order is intended to lessen the impact of these inventories and estimates by establishing an "optimum supply," thereby reducing price swings to growers and buyers, and ultimately resulting in a stabilization and enhancement of the market.

The order would impose some reporting and record keeping requirements on handlers. Handler testimony indicated that the expected burden that would be imposed with respect to these requirements would be negligible. Most of the information that would be reported to the Board is already compiled by handlers for other uses and is readily available. Reporting and recordkeeping requirements issued under comparable marketing order programs impose an average annual burden on each regulated handler of about one hour. It is reasonable to expect that a comparable burden may be imposed under this proposed marketing order on the estimated 75 handlers of tart cherries. With respect to growers, they testified at the hearing that information required to be submitted to the Board for grower diversion is already collected and available from growers.

The Act requires that, prior to the issuance of a marketing order for tart cherries, a referendum be conducted among affected producers and processors to determine if they favor issuance of the order. The ballot material that would be used in conducting the referendum would be submitted to and approved by OMB before it is used. It is estimated that it would take an average of 10 minutes for each of the approximately 1,600 tart cherry growers and 75 tart cherry processors to complete the ballots. Additionally, it has been estimated that it would take approximately ten minutes for each handler to complete the marketing agreement.

Therefore, in compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction

Act of 1995 (Pub. L. 104–13), the information collection and recordkeeping requirements that may be imposed by this order would be submitted to OMB for approval. Those requirements would not become effective prior to OMB review. Any recordkeeping and reporting requirements imposed would be evaluated against the potential benefits to be derived and it is expected that any added burden resulting from increased reporting and recordkeeping would not be significant when compared to those anticipated benefits derived from administration of the order.

The purpose of the RFA is to fit regulatory and informational requirements to the size and scale of the business entities in a manner that is consistent with the objectives of the rule and applicable statutes. The proposed marketing order provisions have been carefully reviewed and every effort has been made to eliminate any unnecessary costs or requirements. As discussed in the RFA, Congress' intent, among other objectives, was to direct agencies to identify the need for any "special accommodation" (e.g., exemption or relaxation) on regulated small entities (i.e., handlers) because, in the past, some Federal regulatory and reporting requirements imposed unnecessary and disproportionately burdensome demands on small businesses. Thus, the AMS closely reviewed the record evidence and could not find any evidence to suggest that any direct or indirect costs imposed under the marketing order regulation would be proportionately greater on small handlers than on large handlers, or conversely, that any projected order benefits would be proportionately smaller for small handlers than for large handlers.

The record evidence indicated that the order may impose some additional costs and requirements on handlers, but those costs are insignificant and are directly proportional to the sizes of the regulated handlers. The record evidence also indicated that, given the severe economic conditions and unstable markets facing the majority of the industry, the benefits to small (as well as large) handlers are likely to be greater than would accrue under the alternatives to the order proposed herein, namely no marketing order, or an order without the proposed combination of volume controls and other order authorities.

The record evidence indicates that the proposed order would be instrumental in providing expanding markets and sales, and raising and stabilizing prices of tart cherries, primarily for the primary benefit of producers, but the evidence also indicates that, since handlers (including cooperatives that market the crops of their producer members) market the producers' crops, they would benefit as well. While the level of such benefits to handlers is difficult to quantify, it is also clear the provisions of the proposed order are designed to benefit small entities. For example, the record evidence indicated that small handlers (and small producers) are more likely to be minimally capitalized than large entities, and are less likely to survive without the stability the proposed order would provide.

Accordingly, based on the information discussed above and in the following discussion, it is determined that the marketing order would not have a significant economic impact on a substantial number of small entities.

Material Issues

The material issues presented on the record of the hearing are as follows:

1. Whether the handling of tart cherries grown in the proposed production area is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce;

2. Whether the economic and marketing conditions are such that they justify a need for a Federal marketing agreement and order which would tend to effectuate the declared policy of the Act;

3. What the definition of the production area and the commodity to be covered by the order should be;

4. What the identity of the persons and the marketing transactions to be regulated should be; and

5. What the specific terms and provisions of the order should be, including:

(a) The definitions of terms used therein which are necessary and incidental to attain the declared objectives and policy of the Act and order;

(b) The establishment, composition, maintenance, procedures, powers and duties of a Cherry Industry Administrative Board (Board) that would be the local administrative agency for assisting the Secretary in the administration of the order;

(c) The authority to incur expenses and the procedure to levy assessments on handlers to obtain revenue for paying such expenses;

(d) The authority to establish or provide for the establishment of production, processing and marketing research and market development projects, including paid advertising;

(e) The authority to establish regulations that would require minimum quality and inspection requirements;

(f) The authority to establish regulations that would provide for a volume control program;

(g) The authority to establish other regulations and procedures necessary and incidental to the administration of the order;

(h) The establishment of requirements for handler reporting and recordkeeping;

(i) The requirement of compliance with all provisions of the order and with any regulations issued under it; and

(j) Additional terms and conditions as set forth in § 930.81 through § 930.91 of the Notice of Hearing published in the **Federal Register** of November 30, 1993. which are common to all marketing agreements and orders, and other terms and conditions published at § 930.92 through § 930.94 that are common to marketing agreements only.

Findings and Conclusions

The following proposed findings and conclusions on the material issues are based on the record of the hearing.

1. The record indicates that the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin is in the current of interstate or foreign commerce or directly burdens, obstructs or affects such commerce. The proposed production area is discussed in material issue no. 3.

Red tart cherries, also known as red sour cherries, are grown in commercially significant amounts in these seven states: Michigan, New York, Utah, Pennsylvania, Oregon, Washington, and Wisconsin. Between 1988 and 1992, Michigan, New York, and Utah accounted for 90 percent of the United States' production, with Michigan producing 71 percent of the total industry product. Pennsylvania, Oregon, Washington, and Wisconsin's current tart cherry production averages 9 percent of the total. One handler handles all of Pennsylvania's production, while a substantial portion of Oregon and Washington's production is marketed almost entirely in those states as cherry juice concentrate. Colorado, which is excluded from the proposed marketing order because of its consistently small production, has averaged only 1.3 million pounds of cherries annually since 1986.

Handlers, through their sales agents, market in all U.S. markets and in exports to Europe and Asia. For example, Michigan cherries are sold in every State except Maine, Idaho, and Alaska, as well as in Asia, Australia, and Europe.

Record evidence shows that any handling of tart cherries in market channels, including intrastate shipments, exerts an influence on all other handling of such cherries and vice versa. Therefore, because such handling directly burden, obstruct, or affect such commerce, all handling of tart cherries grown in the proposed production area should be covered by the order, and an order for tart cherries is supported by evidence in the record of hearing.

2. The proponents have demonstrated that there is a need for a marketing order for tart cherries. The proponents testified that the following conditions currently exist in the industry: (1) Large variations in annual supplies of tart cherries; (2) significant fluctuations in prices to farmers with gross receipts being below the industry's costs in seven of the last eight years; (3) disruptive variations in the price of cherries to food manufacturers; and (4) concomitant difficulties in developing both domestic and export markets.

Large variations in annual supply tend to lead to disorderly marketing. The proponents testified that a recent study at Michigan State University of annual variation in production of major horticultural crops indicates that the average production of tart cherries fluctuated to a greater extent than any other crop, including almonds, hazelnuts, and raisins. These are other storable commodities that have Federal marketing order programs. The fluctuations in production are due mainly to climatic factors over which neither growers nor processors have any control. In recent history, tart cherry production increased by 63 percent from 1986 to 1987 and by 82 percent from 1991 to 1992. These surges in production are far beyond the capability of the market to absorb. The result is not only the production year impact of depressed grower prices during the production year, but large carryover inventories which can depress prices for the next three to five years. The proponents provided an example as follows: Production averaged about 242 million pounds in 1988 and 1989 following the 1987 surge in production of 359 million pounds, yet grower prices only averaged 16.7 cents per pound during the period, which is well below the estimated cost of production of 20 cents per pound. The inventory carryin did not reach tolerable levels until July 1, 1991. The mere presence of these large carryin inventories had a depressing effect on processor and grower prices.

As a result of these fluctuations in price, growers receive less income for their tart cherries. Several growers testified that they are, in most years, unable to recoup their production costs of tart cherries. Also, very few new growers have entered the tart cherry industry because the initial investment in an orchard is substantial and yields little or no income for the first five years. In addition, cherry trees have a commercially productive life of 15 to 20 years, which means they are treated as a long term investment. Thus, it is not economically sound to plant and/or uproot cherry trees in response to changing supply or demand conditions. Further, while some growers have diversified their holdings to include other crops, record evidence shows that most growers do not have other viable economic alternatives for their land, due to the unsuitability of the land for crops for which additional demand exists. This most often results in the continued maintenance of and/or replanting of tart cherry trees.

In the crop years 1986 through 1993, tart cherry production ranged from a high of 359 million pounds in 1987 to a low of 189.9 million pounds in 1991. The price per pound to tart cherry growers ranged from a low of 7.3 cents in 1987 to a high of 46.4 cents in 1991. These problems of wide supply and price fluctuation in the tart cherry industry are national in scope and impact. Tart cherry growers testified about the hardships they have endured over the seven years since the demise of the prior Federal tart cherry marketing order. Growers testified that the average prices of 12 to 17 cents per pound which they received do not come close to covering the costs of production for the vast majority of tart cherry growers. There was testimony that production costs for most growers range between 20 to 22 cents per pound, which is well above average prices received.

Proponents testified that small growers and processors would have the most to gain from implementation of a marketing order because such growers and handlers have been going out of business over most of the last eight years due to low tart cherry prices. They also testified that, since an order would help increase grower returns, this should increase the buffer between success and failure because small growers and handlers tend to be less capitalized than larger ones. One Michigan grower testified that his family operates a 184 acre fruit farm and about one-half of their annual farm production comes from tart cherries. While the value of the farm is $450,000 (includes value of land, $15 per fruit tree, and $55,000 for depreciated equipment), their tart cherry crop has returned a negative $1,240 per year, on average, over the past seven years. There are no funds left for the grower's labor and no return on the grower's investment. This grower has only been able to stay in business because of the income from other crops such grower produces and off-farm income.

Another grower testified that some growers do not own harvesting equipment. In most years, all the money such growers earn from their cherries is spent on hiring someone else to harvest their cherries. To further demonstrate economic difficulties faced by the tart cherry industry, a representative from a cooperative testified that, in 1994, the cooperative was unable to make a monthly payment to growers because of the large crop and the necessary storage and interest costs that the cooperative incurred. One Michigan grower testified that in 1985, there were 2,000 tart cherry growers; today (1995), due to the economic hardships, there are 1,190 growers.

The prior order had a grower owned reserve pool that was controlled by the Board. The Board had the authority to establish prices for sales of reserve pool cherries to handlers. There were often disagreements on the Board as to what price should be established for reserve pool cherries. One reason for the demise of the order was that the price the Board established for reserve pool cherries was often higher than cherries being sold into the marketplace. Therefore, the reserve was not disposed of and continued to grow into a large, high priced surplus. Proponents testified that the proposed order should have a limit on the volume of cherries which could be stored in the inventory reserve. They also testified that handlers, and not the Board, should be responsible for pricing and selling the reserve once it is released. This would provide an incentive to handlers to place good quality cherries into the reserve, avoiding a previous problem of some handlers placing low quality cherries into the reserve—cherries which handlers did not have to repurchase when reserve cherries were offered for sale. Based on such considerations, the proponents believe that the proposed order would work significantly better than the previous order.

An economist for the proponents testified that tart cherry growers and handlers would benefit from the proposed order and that consumers would benefit from the order's stabilization of supplies and prices. When supplies and prices are stabilized, manufacturers should more readily

develop new tart cherry containing products, thereby increasing the availability of new products and permitting retailers to introduce new and increased numbers of tart cherry products as part of their regular year-round product lines. Consumers would not be expected to have to pay more for tart cherry products because much of the anticipated favorable impact on grower returns would be absorbed by tart cherry processors and others in the manufacturing and distribution channels.

The USDA's evaluation of the record shows that fluctuating tart cherry prices are inherently harmful to growers and consumers. If the peaks of grower prices were lowered and the production troughs reduced slightly through the operation of the order, consumer prices over a period of years could actually be slightly lower, and additional cherry supplies and products could be made available.

The proponents testified that tart cherry growers could anticipate an average return of ten cents more per pound under the proposed marketing order. An economist for the proponents testified that had the order been in effect for the years 1974 through 1991, grower prices would have increased by an average of ten cents per pound with the year-to-year price variation decreased by 33 cents. If handlers had passed on the cost of the proposed assessment for order operation (approximately .75 cents per pound) to growers, growers would still have received an increase of at least an additional nine cents per pound. Thus, the proponents testified that the beneficial effects of the proposed order would outweigh any related costs.

An economist for the proponents testified that the benefit/cost ratio for handlers and processors is also favorable, although less so than for tart cherry growers. The witness testified that their prices would increase, but less in percentage terms than grower prices. Also, volatility in prices and supplies would be significantly reduced. For the period analyzed by the proponent's witness (1974 through 1991), the handler/processor price would have been expected to have increased an average of four cents per pound and the price variation from year to year would have been reduced by approximately ten percent. It was argued that, if the price is increased, handlers/processors would have additional financial resources to develop and expand markets, thereby increasing the demand for tart cherries and tart cherry products.

The proponents testified that the benefit/cost ratio for consumers under the proposed order would be slightly positive and, to the extent that market supplies and prices are more stable and product development occurs, consumers should benefit. This is because most increases in grower prices would not be likely to be passed on to the consumer, and consumers would benefit with more stable tart cherry prices and supplies. Even if handlers and processors were to pass on some percentage of increased grower prices, consumers would not be likely to notice major differences in the prices that they would have to pay for products that contain tart cherries compared to what they might have paid if an order had not been functional. As in most processed consumer food products, the cost of the primary food commodity ingredient represents a relatively small portion of the consumer price. The proponents estimated the cost of tart cherries in a cherry pie represented about nine percent of the total cost. Therefore, if the presence of an order increased grower prices by ten cents, this could result in a one cent increase in the cost of the ingredient at the retail level. The potential retail price impact of the order would represent a very minor change compared to the wide year to year fluctuations in grower and processor prices. It is, therefore, unlikely that the operation of an order would have much, if any, impact on the pricing strategies of retail operators or the average retail price. Furthermore, most of the evidence of how grocery stores and food service establishments price their products implies that they do not tie the retail price to the cost of the basic raw food ingredient. Two economists that testified at the hearing agreed with an analysis prepared by Mr. Bruce Marion (The Organization and Performance of the U.S. Food System) that states "consumer prices in grocery stores and particularly in food service markets largely do not reflect fluctuations in cherry supplies." Thus, just because there is a price increase to the grower, that increase would not necessarily be passed on to the consumer that buys the cherry pie.

The proponents testified that large swings in prices to food manufacturers inhibit the industry's ability to expand the usage of tart cherries. Manufacturers are reluctant to make product development or marketing investments in products whose supply and price are capricious. The record evidence shows that a major national fast food retailer discontinued making cherry pies for its fast food restaurants because it could not be guaranteed a consistent supply of and stable price for tart cherries.

In its brief, DOJ indicated that growers and handlers can hedge against fluctuating prices by using the free market mechanisms available. For example, handlers may store low-priced tart cherries for sale in the future when prices are higher, diversify crops, enter into long-term contracts with buyers, or make more extensive use of frost control systems. The Department stated that the proponents ignored these options and never explained why they cannot thus protect themselves from fluctuating prices. However, the evidence showed that some handlers have already tried withholding product from the market. Persons at the hearing testified that this is a regular practice among some handlers, although it has not proven to be beneficial, since handlers acting alone or in small numbers cannot successfully ameliorate the current production variability problem. Growers testified that they have diversified somewhat, but tart cherries require specific growing conditions and substantial investment, so it is difficult for growers to further diversify. Land currently devoted to tart cherry production may be suitable for other tree crops such as apples and pears. However, there is little to no demand for additional supplies of these commodities and costs to convert to such crops are substantial. As there are often no profitable alternative uses for their land resources, Michigan, Utah, and Wisconsin growers' principal crop is often tart cherries. Some growers in other States have been able to diversify their crops and regard tart cherries as a minor crop, or have additional alternative uses for their land. However, the bulk of the production is not in these States.

DOJ took the position that the proposed marketing order should be rejected because the order would increase consumer prices, artificially limit supplies, and result in the destruction of substantial portions of the tart cherry crop. Instead, growers, processors, buyers, and consumers should continue to participate in a free market for tart cherries. Free markets best determine optimal production and price levels and are often the most efficient way to supply all types of goods and services. Regulation should be substituted for a free market only where exceptional circumstances exist. It was further argued by DOJ in its brief that the record established that the tart cherry industry is a competitive marketplace. Every year hundreds of growers sell their crop to numerous processors who sell processed cherry products to many buyers. The Department stated that entry to the industry is easy and market information is readily available. It was the Department's position that the proponents did not offer any facts that there is market failure in the tart cherry industry that might be addressed through government regulation. Instead, they merely complained about fluctuating tart cherry prices while proposing that the order would stabilize tart cherry prices by restricting supply. With respect to the proponents' claim that fluctuations are inherently harmful to growers and consumers, DOJ argued that fluctuating prices provide growers and consumers with valuable signals which reflect changes in the market over time. Responses by growers and consumers to these signals assure resources are allocated efficiently in the tart cherry industry. The Department opined that volume control regulations would distort these signals and result in inefficient production and lost consumption opportunities of cherries for consumers.

It was DOJ's position that the proponents' economic model presented at the hearing ignores the basic laws of supply and demand and that the model fails to incorporate the effect of increased plantings induced by the higher prices which would be brought on by volume controls. According to DOJ, the proponents' model rendered simulated results that are unreliable because the methodology ignores the supply decisions of growers and the demand decisions of consumers that determine prices and price variability in the real world.

The market signals discussed by DOJ are available now to growers and handlers. However, they have been unable to effectively respond to them because of the large fluctuations in production. If prices received were to encourage additional production, record evidence shows that there is limited land available to effectuate such increases. Also, growers cannot immediately respond to increased prices. Record evidence shows that it takes approximately five years to receive a commercial cherry crop from newly planted trees. New trees are also a large financial investment for growers, an additional disincentive to increased plantings.

If volume control regulations were established, the regulations would set forth the quantity of cherries that could be marketed. Opportunities for reserve releases would allow the industry to deal with demand increases and ensure a stabilized supply to the marketplace. The order would not establish prices.

In years of excessive production, growers would have additional options to control their costs and income. There would be less of an incentive to deliver poor quality cherries simply to obtain some return on their investment and, given reduced pressures to deliver cherries at all costs, decisions concerning retiring marginal producing acreage, replanting, or economic abandonment of poor quality production could be made on sounder economic terms. Keeping such poor quality cherries off the market should also improve returns for all growers.

If a marketing order were established, cultural practices currently available to growers would remain and growers would be expected to utilize them through market based decisions. For example, orchard planning, which includes removing old trees and replanting new trees, would need to continue to ensure continued viability of commercially significant acreage. However, if growers discover a substitutable crop, the order would not prevent them from converting tart cherry acreage to that crop.

With regard to forward contracting, as mentioned by DOJ, handlers testified that this type of mechanism could possibly decrease the wide swings in prices and has been utilized to some extent. Forward contracting would not be prohibited under the proposed marketing order. However, record evidence indicates that forward contracting, in and of itself, has been ineffective as a tool to manage supplies or significantly reduce the price variability experienced in the industry.

The proposed order is designed to bring supplies in line with demand, thereby increasing grower returns. It is a tool the industry could use to alleviate a widespread problem in the industry, one which has not been effectively dealt with by the economic mechanisms DOJ has identified. The "real world" has resulted in significant losses to tart cherry growers in seven of the last eight years.

In a brief submitted on behalf of the Oregon Tart Cherry Association, Mr. Lee Schrepel contended that the proponents failed to offer convincing evidence that the benefits derived from the proposed order would exceed the costs for participants in an equitable manner. Mr. Schrepel stated that the record shows that Oregon growers are likely to bear comparatively greater costs than other districts proposed to be regulated under the order. Any potential increase in grower prices would be tempered by inventory reserves which would tend to depress the market. There is no evidence to support Mr. Schrepel's contention that Oregon would bear greater costs than the other districts. Inventory reserves would be held off the market and slowly released when needed. Order imposed mechanisms would prevent their release until they are needed in the market, preventing the exact type of market depression unregulated carryovers now cause. Mr. Schrepel's other concerns have been addressed under material issue number 5(c).

The preponderance of the evidence presented at the hearing supports a Federal marketing order for tart cherries. The proponents have demonstrated that there is need for regulation in order to bring supplies in line with demand. The use of a marketing order could increase demand for tart cherries through price stability, market research and new market development opportunities. Also, the proposed order could increase returns to growers which is one of the objectives of the Act.

In view of the foregoing, and based on the record of the proceeding, it is concluded that current economic and marketing conditions justify a need for a marketing order for tart cherries grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. The order would meet many needs of the industry and would tend to effectuate the declared policy of the Act.

3. A definition of the term "production area" should be included in the order to delineate the area proposed to be regulated. Such definition should include the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin.

The area defined in the proposed order comprises what is generally recognized as the major tart cherry producing States within the United States. The States included are not, to the most part, contiguous, and therefore do not generally share the same climatic conditions. However, the defined production area does generally share the same cultural, production, processing, and distribution characteristics with respect to tart cherries, although differences in technology and transportation costs are evident. The State of Michigan leads in volume produced with approximately 68 percent of the 48,454 bearing U.S. acres of tart cherries reported in 1993, as well as approximately 60 percent of all known producers. During the same year, Utah was reported as having the second highest production with approximately eight percent of the bearing acreage and 12 percent of the producers. New York had seven percent of the bearing acreage and 13 percent of the producers, Wisconsin had six percent of both the acreage and the producers, Oregon had four percent of the acreage and three

percent of the producers, Washington also had four percent of the nation's acreage but less than one percent of the producers, and Pennsylvania had three percent of both the bearing acreage and the producers.

During the hearing process, considerable testimony was received pertaining to the proposed scope of the production area under the order. Most of the testimony was centered around the question of whether the States of Washington and Oregon should be included in the definition of the production area. The subject of removing any or all of the States of Michigan, New York, Pennsylvania, Utah, and Wisconsin from the proposed order was not broached during the hearing process, other than in testimony made against issuance of any marketing order for tart cherries.

Hearing evidence indicates that the primary issues encompassing the question of whether Oregon and Washington should be included within the proposed marketing order pertain to prices received by producers, the geographic scope of markets as they relate to particular forms of processed tart cherries, and whether competition is international, national, or regional in scope. The issue of regional responsibility for the current surplus of bearing tart cherry acreage was also raised during the hearing.

Lee Schrepel, representing the Oregon Tart Cherry Growers Association, testified that there is no meaningful relationship between the small tart cherry crop in Oregon and nationwide producer prices. He also stated that the market for processed tart cherries in the States of Oregon and Washington is substantially different from the rest of the U.S. market. The different processed forms of tart cherries generally include frozen, canned, brined, dehydrated, pureed, and juice concentrated products. Mr. Schrepel, as well as other producers and processors from Oregon and Washington testified that, whereas the majority of U.S. tart cherries are processed into frozen and canned forms, a significant proportion of Pacific Northwest cherries are processed into what is generally termed as secondary market forms, such as brined, dehydrated, juice concentrate, and pureed cherries. Testimony was received that these secondary, and in some cases, specialized, forms are marketed to a large extent in "niche" markets that have little or no relation to the national market for frozen and canned cherries. Some examples of "niche" markets provided during the hearing included wine, dried specialty fruit, and specialty juices. Moreover, opponents to inclusion of Oregon and Washington in the proposed order testified that a majority of their frozen and canned product is marketed on the West Coast or into export markets, specifically Japan, rather than to markets east of the Rocky Mountains. Further testimony indicated that Pacific Northwest tart cherries are often higher in color and Brix, or sugar content, than cherries from other producing States. While purportedly not of great importance in the freezing and canning of tart cherries, these characteristics are valued in the concentrate business. As a consequence of these differences, it was argued that competition between the Pacific Northwest and other tart cherry producing regions has not been, nor will be, significant.

While it is true that a notable portion of the Pacific Northwest crop is marketed in secondary forms, a viable argument was not presented that demonstrated that this isolates the majority of such crop from other markets, either nationally or internationally. To the contrary, evidence presented during the hearing by Dr. Olan Forker of Cornell University shows that, nationally, producer prices move in the same direction and in similar amounts. This analysis, based upon statistical information presented throughout the hearing process, shows a definite national correlation or link in the prices received by all tart cherry producers. This correlation further indicates that the markets available to producers for fresh tart cherries grown for processing are national in scope.

In partial response to testimony that the Pacific Northwest States largely produce tart cherries for markets other than the primary frozen packed market, such as the juice concentrate market, proponents of the proposed order testified that increasing supplies of juice concentrate from Michigan and from Eastern Europe would, in time, undermine that market. Proponents testified that the resulting price erosion in the juice concentrate market would force both Oregon and Washington to move increasingly into the primary freezing and canning market. Indeed, record testimony suggests that marketing trends in the State of Washington are already moving in this direction.

Hearing evidence further indicates that the end-use, or consumer market, is also national in scope. For example, consumers in any location are not likely to differentiate between a can of pie cherries grown and processed in the Pacific Northwest and one originating from the Midwest or East.

Pacific Northwest producers and processors advocating exclusion from the proposed order contended that their regions have not contributed to the tart cherry over-supply situation, and therefore should not be held responsible for alleviating the problem. This testimony indicated that the Oregon and Washington industries have managed to consistently market all tart cherries produced. Moreover, it was testified that statistical evidence shows that Oregon has experienced a reduction in tart cherry acreage in recent years, thus reflecting a form of independent supply control without the use of complex federal regulations. Opponents to the inclusion of Oregon and Washington specifically, and the proposed order generally, insisted that the national over-supply problem is largely caused by the Michigan industry and therefore should be borne by it alone. Opponents testified that both Oregon and Washington together annually contribute an amount equal to seven percent of the nation's tart cherry stocks and are thus too small to have a significant impact on national supply.

Nonetheless, evidence supports the position that the over-supply situation in the U.S. is a national problem. Since the tart cherry industry is national in scope, evidence indicates that the entire industry should work together to alleviate the problem, regardless of any current localized over-planting of tart cherry trees. Although it is acknowledged that the Pacific Northwest has not contributed significantly to the over-supply problem, this area has the potential in the future to expand its production, notwithstanding inclusion or exclusion from the proposed order. Regardless of the question of supply, any region capable of significantly increasing bearing acreage, such as Oregon and Washington, would benefit from the provisions of the proposed order and thus should be included in the program. Testimony supports the proponents' opinion that, if excluded, the Oregon and Washington tart cherry industries could be characterized as "free-rider" States and could thus contribute to inequities within the national tart cherry industry rather than to a national solution. The majority of testimony from individuals from States other than Oregon, including producers and processors representing approximately half of the production from the State of Washington, overwhelmingly supported inclusion of all seven states within the defined production area.

It was testified at the hearing that the proposed order ignores the fact that both Montana and Colorado produce tart cherries. It was contended that if States such as Oregon and Washington must be included in the proposed order, then Montana and Colorado should be as well. Evidence presented at the hearing showed, however, that bearing acreage and production in Montana and Colorado is insignificant and will likely remain insignificant. Therefore, Montana and Colorado should be excluded from the production area at this time.

Opponents to the proposed inclusion of the Pacific Northwest in the order asserted that climatic and general production characteristic differences in the various tart cherry producing areas are significant enough to warrant exclusion of Oregon and Washington from the order. It is true that climatic differences in the various regions can be quite significant—they are even quite different between the producing regions in Oregon and Washington. However, there is insufficient evidence to show that climate, or cultural practices for that matter, have a significant effect on the various regions with respect to pricing or markets.

To create orderly marketing conditions through volume regulations with the goal of achieving parity prices should require that all significant tart cherry producing areas in the United States be included under the proposed order, since all would be competing in the same market. To exclude any portion of the proposed production area, as defined, would tend to defeat the purpose of the proposed order and could result in depressed prices of the regulated tart cherries. All territory included within the boundaries of the production area constitutes the smallest regional production area that is practicable, and thus consistent with carrying out the declared policy of the Act. The production area, therefore, should be defined as hereinafter set forth.

4. The term "handler" should be defined to identify the persons who would be subject to regulation under the order. Such term should apply to any person who handles cherries or causes cherries to be handled for his or her own account. The term is also used to identify those persons who are eligible to vote for, and serve as, handler members and alternate handler members on the Board. Such term should apply to any person who first performs any of the activities within the scope of the term "handle" as hereinafter defined. Record evidence indicates that the term should also include growers that deliver cherries to a handler but keep title of the cherries and pay to have them processed. This is referred to in the industry as custom processing. Evidence supports the position that the grower would be performing a handler function by retaining the right to sell the product and should therefore be covered under the definition of handler. The definition of the term "Handler" identifies persons who would be responsible for meeting the requirements of the order, including paying assessments and submitting reports and maintaining inventory reserves.

The term "handle" should be defined in the order to establish the specific functions that would place tart cherries in the current of commerce within the production area or between the production area and any point outside thereof, and to provide a basis for determining which functions are subject to regulation under authority of the marketing order.

The record indicates that the term "handle" should include the acts of processing cherries by brining, canning, concentrating, freezing, dehydrating, pitting, pressing or pureeing cherries, or in any other way, converting cherries commercially into a processed product. The definition also includes diverting cherries at the handler's plant and acquiring grower diversion certificates under the marketing order. Diversion will be discussed in material issue 5(f). However, the term "handle" shall not include the brining, canning, concentrating, freezing, dehydrating, pitting, pressing or the converting, in any other way, of cherries into a processed product for home use and not for resale. The term also does not include: (1) The transportation within the production area of cherries from the orchard where grown to a processing facility located within such area for preparation for market; (2) the delivery of cherries to a processing facility for such preparation; (3) the sale or transportation of cherries by a producer to a handler of record within the production area; and (4) the sale of cherries in the fresh market in an unpitted condition. In the first three cases, the tart cherries have not been prepared for market nor are they in their existing condition being transported to market. The sale of fresh unpitted cherries should not be regulated because there are very few sales into this market.

Testimony presented at the hearing by Mr. Schrepel stated that the terms hot pack, pie filling and culls should be added to the definition of handle. The term "handle" as proposed includes these terms since hot pack and pie filling are canned products. Mr. Schrepel stated that he wanted these terms added to make the definition more explicit. However, it would be redundant to include these terms in the definition.

5. (a) Certain terms should be defined for the purpose of specifically designating their applicability and limitations whenever they are used in the order. The definition of terms discussed below is necessary and incidental to attain the declared policy and objectives of the order and Act.

"Secretary" should be defined to mean the Secretary of Agriculture of the United States, or any officer, or employee of the United States Department of Agriculture who has been or who may be delegated the authority to act for the Secretary.

"Act" should be defined to mean the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This is the statute under which the proposed regulatory program would be operative, and this definition avoids the need to refer to the citation throughout the order.

"Board" should be defined to mean the administrative agency known as the Cherry Industry Administrative Board established under the provisions of the marketing order. Such a board is authorized by the Act, and this definition is merely to avoid the necessity of repeating the full name each time it is used. The Board is discussed in detail in material issue 5(b).

"Crop Year" should be defined to mean the annual period that tart cherries are harvested and marketed. Record evidence indicated that the harvesting and marketing cycle for tart cherries begins in July. Therefore, "Crop Year" should be defined as the 12-month period beginning on July 1 and ending on June 30 of each year. Volume control regulations are implemented based on upcoming crop year forecasts and reports of final crop delivered to handlers. With the approval of the Secretary, the Board also has the authority to change the crop year if another period is found to be more appropriate. The proponents testified that a change would be necessary if a new variety of tart cherry was developed that would have an earlier harvest cycle.

The term "Cherries" should be defined to specify the commodity covered by the proposed order and to which the terms and provisions of the marketing order would be applicable. The record indicates that "Cherries" means all tart/sour cherry varieties grown in the production area classified as *Prunus cerasus*, *Prunus cerasus* by *Prunus avium*, or *Prunus cerasus* by *Prunus fruticosa*. Record evidence

indicated that the definition should not include *Prunus avium*, which is the sweet cherry variety. The proponents testified that in order to embrace the activities that are taking place in plant breeding programs, the definition should include all the varieties as proposed under the "Cherries" definition. These varieties are grown throughout the proposed production area.

"Department" or "USDA" should be defined to mean the United States Department of Agriculture which is the governmental body responsible for oversight of Federal marketing orders and agreements.

"District" should be defined to mean each subdivision of the production area described in the marketing order. The district delineations defined would be important for the purposes of Board nominations and implementation of volume control provisions. Testimony indicated that authority should be provided to allow the Board to recommend to the Secretary the establishment of other districts or addition of other districts, as may be necessary, through informal rulemaking procedures. Therefore the definition of "district" contains such authority. This term is further discussed under material issue no. 3.

The term "Fiscal period" should be defined to mean the 12-month period for which the Board would plan the use of its funds. This period should be established to allow sufficient time prior to the time tart cherries are first marketed for the Board to organize and develop its budget for the ensuing season. However, it should also be set to minimize the incurring of expenses during a fiscal period prior to the time assessment income is available to defray such expense.

The Notice of Hearing proposed that "fiscal period" mean the 12-month period beginning on July 1 and ending on June 30 of the following year. Record evidence indicates that the harvesting and marketing cycle for tart cherries grown in the production area begins in July and ends in August. The fiscal period should coincide with the tart cherry crop year, because the industry typically plans its operation on this basis. Hearing testimony supported the fiscal period being established for a 12-month period beginning on July 1 and ending on June 30 of the following year.

However, based on future experience, it may be desirable to establish a fiscal period other than one ending on June 30. Thus, authority should be included in the order to provide for the establishment of a different fiscal period if recommended by the Board and approved by the Secretary through informal rulemaking procedures. In any event, the beginning date of any new fiscal period should be sufficiently in advance of the harvesting season to permit the committee to formulate its marketing policy and perform other administrative functions. Also, it should be recognized that if at some future date there is a change in the fiscal period, such change would result in a transition period being more or less than 12 months. For example, the Board may decide to change the fiscal period from beginning on July 1 through June 30 to August 1 through July 31. If that occurred, the fiscal period would be longer in one year running from July 1 through July 31 of the following year, to incorporate the new fiscal period.

The term "Free market tonnage percentage cherries" should be defined to mean that portion of cherries handled in a crop year which are free to be marketed in commercial outlets under any volume regulation established under the order. Testimony indicated that the definition was taken from volume control formulas under other established marketing order programs.

The term "grower" should be synonymous with "producer" and should be defined to identify those persons who are eligible to vote for, and serve as, grower members and alternate grower members on the Board and those who may vote in any referendum. The term should mean any person engaged in a proprietary capacity in the production of tart cherries for market within the production area. The term "grower" should not include a person who produces cherries to be marketed exclusively for the fresh market in an unpitted condition. Each business unit (such as a corporation or partnership) should be considered a single grower and should have a single vote in nomination proceedings and referenda. The term "grower" should include any person who owns or shares in the ownership of tart cherries such as a landowner landlord, tenant, or sharecropper. A person who rents and produces tart cherries resulting in that person's ownership of all or part of the tart cherries produced in that land should also be considered a grower.

Also, any person who owns land which that person does not farm, but as rental for such land obtains ownership of a portion of the tart cherries produced thereon, should be regarded as a grower for that portion of the tart cherries received as rent. The tenant on such land should be regarded as a grower for the remaining portion produced on such land.

A joint venture is one whereby several persons contribute resources to a single endeavor to produce and market a tart cherry crop. In such venture, one party may be the farmer who contributes one or more factors such as labor, time, production facilities or cultural skills, and the other party may be a handler who contributes money and cultural, harvesting, and marketing supervision. Normally, a husband and wife operation would be considered a partnership. Any individual, partnership, family enterprise, organization, estate, or other business unit currently engaged in the production of tart cherries for market would be considered a grower under the marketing order, and would be entitled to vote in referenda and Board nominations. Each party would have to have title to at least part of the crop produced, electing its disposition, and receiving the proceeds therefrom. This control would come from owning and farming land producing tart cherries, payment for farming services performed, or a landlord's share of the crop for the use of the producing land. A landlord who only receives cash for the land would not be eligible to vote. A business unit would be able to cast only one vote regardless of the number and location of its farms, but each legal entity would be entitled to vote.

"Person" should be defined to mean an individual, partnership, corporation, association, or any other business unit. This definition is the same as that contained in the Act.

"Primary inventory reserve" should be defined to mean that portion of handled cherries that are placed into inventory in accordance with any restricted percentage established under the volume control provisions of the marketing order. Testimony indicated that handlers would be responsible for maintaining the reserve and selling the reserve once it is released by the Board into certain outlets. The Board would reimburse handlers for the inspection of the primary inventory reserve. The Board could also establish quality requirements that cherries may need to meet before they are placed in an inventory reserve. Testimony supported that handlers could place tart cherries in the primary inventory reserve in any processed form.

"Secondary inventory reserve" should be defined to mean any portion of handled cherries voluntarily placed into inventory by a handler under the volume control provisions of the order. This definition is used to define the additional option handlers may use in the event free and restricted percentages are announced by the Board. The secondary inventory reserve is a handler selected option and all expenses of such reserve are borne by the handler.

The term "Restricted percentage cherries" should be defined to mean that proportion of cherries handled in a crop year which must be withheld from marketing in normal commercial outlets in that crop year under a volume regulation established under the marketing order. Such cherries would be either placed into a primary or secondary inventory reserve or diverted in accordance with the diversion provisions of the marketing order. Testimony indicated that the Board would be responsible for evaluating supply and demand conditions and recommending to the Secretary, if necessary, the implementation of volume control percentages.

The term "sales constituency" should be defined to mean a common marketing organization or brokerage firm or individual representing a group of handlers or growers. The record indicates, that in this case, the largest single sales constituency currently in the industry is Cherry Central, Inc.

(b) Pursuant to the Act, it is desirable to establish an agency to administer the order locally as an aid to the Secretary in carrying out the declared policy of the Act and to provide for effective and efficient operation of the order. The establishment and membership of a Board is addressed in § 930.20 of the proposed order. The record shows that the Board should consist of 18 members, including one public member. Seventeen members should be growers or handlers of tart cherries, or individuals involved in both the growing and handling of tart cherries. One member should be selected from the general public. Each member should have an alternate possessing the same qualifications as the member.

For the purpose of Board representation, the order should provide that the production area be divided into nine districts. The record indicates that the 17 industry members of the Board should be composed of growers and handles from within each district as follows: (1) Two grower members and two handler members from District 1, which would consist of that portion of the State of Michigan that is North of a line drawn along the northern boundary of Mason County and extended east to Lake Huron; (2) Three grower and handler members from District 2, which would consist of that portion of the State of Michigan that is South of District 1 and North of a line drawn along the southern boundary of Allegan County and extended east to Lake St. Clair. The number of grower and handler representatives in District 2 would alternate each full term of the Board. For example, evidence indicated that during the initial three-year term of the proposed Board, District 2 would be represented by two handler members and one grower member. During the second three-year term, District 2 would be represented by two grower members and one handler member. This would thus alternate for each succeeding term of office; (3) One grower member and one handler member from District 3, which would consist of that portion of the State of Michigan not included in Districts 1 and 2; (4) One grower member and one handler member from each of Districts 4 and 7, which would consist of the states of New York and Utah, respectively; and (5) One grower member or handler member from each of Districts 5, 6, 8, and 9, which would consist of the states of Oregon, Pennsylvania, Washington, and Wisconsin, respectively. The districts were developed based on the actual cherry production in those areas.

The order should provide that the Board positions for Districts 5, 6, 8, and 9 could be filled by individuals who are either growers or handlers of tart cherries, or by individuals involved in both the growing and handling of tart cherries. Furthermore, should any one of Districts 5, 6, 8, and 9 become subject to volume regulation under § 930.52(a), the Board should be realigned by the Secretary to provide that such district be represented by at least one grower member and one handler member rather than just one or the other.

The order should provide that, within any district represented by multiple seats, not more than one Board member may be elected from a single sales constituency. As addressed earlier, sales constituency is defined in § 930.16 to mean "a common marketing organization or brokerage firm or individual representing a group of handlers or growers." However, there should be no prohibition on the number of Board representatives from differing districts that may be elected from a single sales constituency which may have operations in more than one district.

The proponents testified that a limit to the total number of Board members from a single sales constituency should not be warranted, with the condition that there is no more than one such member from each district. The proponents suggested that it would be desirable to have Board membership reflect any potential industry affiliation with a single sales constituency. The proponents also testified that the single largest sales constituency in the tart cherry industry, Cherry Central, Inc., could possibly gain up to five seats on the Board under current industry conditions, but was doubtful that Board domination by such sales constituency would ever occur.

Testimony was received that the order should prohibit any sales constituency from gaining a majority of the seats on the Board. The record indicates that the order, as currently proposed, would prevent any single sales constituency from gaining a majority of the Board positions. With nine districts, any single sales constituency would have the maximum potential of nine members on the Board.

The Board should elect a chairperson, vice-chairperson, and any other officers it may find appropriate from among its members at its first meeting and annually thereafter. Testimony supports the position that all such officers should be voting members of the Board.

Upon recommendation of the Board and approval of the Secretary, reestablishment of districts or subdivisions of districts, and the distribution of grower and handler representation within any district or subdivisions thereof, is provided for in proposed § 930.21. Any such recommended change is subject to the provisions of § 930.23, as well as to consideration by the Board of the relative levels of production of tart cherries within each district, and the relative importance of new concentrations of tart cherry production within the overall production area. Prior to any such recommendation, the Board should also consider how the efficiency of marketing order administration is effected by geographic location of areas of production, as well as whether shifts in cherry production within the production area have occurred. The Board should also take into consideration any changing of the roles, or functions, of growers and handlers as it pertains to the production and handling of tart cherries. Any changes in the proportion of growers to handlers that may occur, as well as any other relevant factors, should also be considered by the Board before making any recommendations for redistribution or reestablishment.

Proposed § 930.22 provides that the term of office of Board members and their respective alternates should be three fiscal years. Approximately one-third of the Board terms should end each year. As defined earlier, fiscal year should mean the period beginning on July 1 and ending on June 30, or such other period as the Board may recommend and the Secretary approve. The record indicates that the term of office should begin on July 1, the

beginning of the marketing year for the tart cherry crop.

The length of the terms of those initial industry Board members who represent districts with more than one seat would be staggered so that all of the members' terms would not expire at the same time. The initial term of offices for the nine members and their respective alternates from Districts 1, 2, and 3 should be established so that one-third of such initial members and alternates would serve for a one year term, one-third would serve for a two year term, and one-third would serve for a three year term. It is also provided that one-half of the initial four members and respective alternates from Districts 4 and 7 would serve for one year, and one-half would serve for two years. Under the terms of the proposed order, the initial four members and four alternates from Districts 5, 6, 8, and 9 would all serve their full three year terms. Determination of which of the initial members and alternate members from Districts 1, 2, 3, 4, and 7 would serve for one year, two years, or three years would be by lot.

It was proposed by the proponents that the term of office of the public member and alternate public member should be for one fiscal year only. The proponents testified that to limit the term of the public member and alternate public member to one fiscal year would provide the industry members of the Board with the ability to quickly and easily replace such public members should Board expectations not be met.

An alternative proposal received during testimony favored a two-year term of office for all Board members and alternate members, inclusive of the public member and alternate public member. The justification provided in support of a two-year term of office was that Board members would gain sufficient experience within a two year time period and that a third year would not add significant benefit to either the members or the Board.

The preponderance of evidence, however, supports a three-year term because it would give members sufficient time to become familiar with Board operations and enable them to make meaningful contributions at Board meetings. Furthermore, a three-year term would enable establishment of a rotation so that approximately one-third of the Board membership would terminate each year. Such staggered terms would lend continuity to the Board by insuring that some experienced members would be on the Board at all times.

Insufficient supporting evidence was provided for the proposition that, while industry members and alternate members should serve three-year terms, the public member and alternate public member should be limited to a one-year term. To maintain the continuity that is afforded the Board by industry members serving for three years, it logically follows that the public member should also serve for three years. If the public member and alternate would only serve one-year terms that are dependent on the Board's annual review, and nomination to the Board requires a ⅔ majority vote, the public member and alternate could feel pressured to always vote with the majority of the Board members. Record evidence supports public representation on the Board, and just as three-year grower and handler member terms offer many advantages to the Board, the tart cherry industry, and the members themselves, so would three-year public member terms. Therefore, the order should provide that the terms for all members be three years in duration. Approximately one-third of the total Board membership should terminate each year. The public member and alternate public member would both serve their full three-year terms initially and thereafter.

To prevent unnecessary vacancies from occurring on the Board, the order should provide that members and alternates shall serve in such capacity for the term of office, or portion thereof, for which they are selected and have qualified, and until their respective successors are selected and have qualified. However, so that there is continual turnover in membership and infusion of new ideas, the order should provide that the grower and handler members, and their respective alternates, may not serve more than two consecutive three-year terms on the Board.

The proponents proposed that there should be no limit on the number of consecutive terms the public member and alternate public member could serve on the Board. Just as testimony offered by the proponents indicated that a one-year term of office for the public member and alternate public member would provide the Board with the flexibility to quickly replace such members should they prove inadequate, the proponents also argued that unlimited tenure would provide the Board with the flexibility of maintaining the public member and alternate public member indefinitely should such be desired.

However, there was insufficient evidence offered during the hearing process to support a Board membership with differing tenure requirements. A two-term tenure requirement for the public member and alternate public member would offer the Board the same infusion of new ideas from the public perspective that is provided from the industry perspective by continual turnover in grower and handler membership. The order, therefore, should provide that all members of the Board be restricted to serving no more that two consecutive three-year terms. Any initial term lasting less than three years should not be counted towards this six-year tenure limitation.

After serving two consecutive terms, Board members should be eligible to serve as alternates, but should be ineligible to serve as members for a period of at least one year. Conversely, alternate members should be eligible to serve as Board members after serving two consecutive terms as alternate members, but should be ineligible to again serve as alternate members for a period of at least one year. The alternate member's term of office should coincide with that of the position's member.

The effective date of the order, if issued, may not coincide with the specified beginning date of the terms of office of Board members and alternates. Therefore, a provision is necessary to adjust the initial terms of office. To accomplish this, the order should provide that if the initial fiscal period is less than six months in duration, that is beginning after January 1, then the tolling of time for the initial term of office would not begin until the following July 1. Similarly, if the initial fiscal period is for a duration of between 6 and 12 months, then the tolling of time for the initial term of office would begin on the prior July 1.

As an example, if an order were promulgated in May of 1996, and in the event that the initial members are selected prior to July 1, 1996, the initial terms of office could be adjusted as follows: the initial one-year term would not end on June 30, 1996, but would continue until June 30, 1997. The two-year and three-year terms would end on June 30, 1998, and June 30, 1999, respectively. However, if the initial members should start their terms of office between July 1, 1995, and February 1, 1996, the initial one-year term would end on June 30, 1996. The two-year and three-year terms would end on June 30, 1997 and June 30, 1998, respectively.

For the proposed Board to function, a mechanism is required by which members and alternate members may be nominated, elected, and appointed by the Secretary. Section 930.23 of the proposed order provides for a nomination and election procedure using petition forms and election ballots

and utilizing the U.S. Postal Service, or such other means as the Secretary may determine.

Proposed § 930.29 establishes the eligibility criteria for membership on the Board. Each of the grower members and alternate grower members of the Board should be tart cherry growers or officers or employees of tart cherry growers. Likewise, each of the handler members and alternate handler members of the Board should be tart cherry handlers or officers or employees of tart cherry handlers. The proposed order further maintains that, to be eligible to serve on the Board, each of these handlers, or officers or employees of handlers, must own or lease, and operate a tart cherry processing facility in the district for which nominated to serve. A person who is a grower and handler in the industry (grower/handler) could serve as either a grower or handler member or alternate grower or handler member on the Board.

To be eligible to participate in the nomination and election process, the order should provide that an individual be a grower or a handler of tart cherries or a duly authorized officer or employee of a tart cherry grower or handler. To discourage potential duplication, eligible growers and handlers would only participate in the nomination and election process in the district where they produce or handle tart cherries. Since it is possible for a tart cherry grower to have production in more than one district and a handler to have handling facilities in more than one district, the proposed order provides that such growers and handlers must choose which district they wish to participate in. The record indicates that neither growers nor handlers would be allowed to participate in the nomination and election process in more than one district during a single fiscal period.

Furthermore, the order should restrict growers and handlers from participating in the nomination process in one district and the election process in a second district during the same election cycle. However, if growers or handlers with operations in more than one district do not participate in the nomination process but do participate in the election process, they should be authorized to select the district in which they wish to vote. To help ensure that proper administration of the nomination and election process is maintained, it is reasonable for the order to require such growers and handlers to notify the Secretary or the Board of their choice of districts prior to participation in the process.

In order that a grower's name appear on an election ballot, the individual's name must first be submitted to the Board on a nomination petition form. Such petition form would contain the signatures of at least five eligible growers other than the nominee in order to be accepted. The order should provide that petitions for Board membership by growers from District 8 (Washington State) must be signed by two eligible growers other than the nominee. This differs from the procedure used in other districts because there are relatively few tart cherry growers in Washington. It would be reasonable to conclude that should the number of tart cherry growers in Washington significantly increase in the future, this provision could be revised, through informal rulemaking, to more closely approximate requirements in the other districts.

Similarly, in order that a handler's name appear on an election ballot in any district, the nominee's name should be submitted on a petition form signed by at least one other eligible handler. In districts where either a grower or a handler may be elected to the single position (initially Districts 5, 6, 8, and 9), both growers and handlers may be nominated for the single seat.

Testimony supported the inclusion of an order provision that would restrict individuals who are growers, but who may be regulated as handlers while having some or all of their tart cherries custom packed, to participating in the nomination and election process as growers rather than as handlers. Hearing evidence supports the provision that, for purposes of nominations and elections, such grower-handlers not owning or leasing and operating their own packing facilities be identified as growers.

At the hearing, witnesses supported adding a public member to the Board. While the influence of consumers would be implicitly present in the deliberations of the grower and handler Board members, and all meetings would be public, the appointment of a public member would offer many advantages. One such advantage would afford the industry an opportunity to discuss its problems and concerns with someone without an economic interest in the tart cherry industry.

The public member and alternate public member should not be permitted to have a direct financial interest in the production, processing, financing, buying, packing, or marketing of tart cherries except as a consumer; nor be a director, officer, or employee of any firm so engaged. Such public members should be willing to devote sufficient time to regularly attend Board activities and to familiarize themselves with the background and economics of the industry, as well as with the provisions of the proposed order. Testimony indicated that the public member and alternate public member could, for example, be individuals who are retired food industry executives or are associated with an academic institution. The Board, once formed, could decide what further qualifications, if any, the public member and alternate public member should possess.

During the nomination process, tart cherry growers and handlers in each district would have an opportunity to nominate eligible individuals for the public member and alternate public member positions on the Board. Record evidence indicates that this would be accomplished in the same manner that grower and handler members are nominated. All eligible growers and handlers in each district would have the opportunity to submit the name of a nominee for both the public member and the alternate public member on a petition form provided by the Board or the Secretary. At one of its first meetings following initial appointment and every three years thereafter, Board members would elect, by at least a two-thirds majority of the entire Board, the public member and alternate public member. The Board members would vote for the public member and alternate public member from the list of nominees received from tart cherry growers and handlers. If such nominations are not made, the Board should have the authority to nominate qualified individuals for subsequent election. The persons elected by the Board to fill the public member and alternate public member positions would then be subject to appointment by the Secretary.

A procedure should be in place that provides adequate time for the nomination and election process to be completed and appointments made by the Secretary prior to the beginning of the next term of office. Thus it is reasonable that the Board should announce and solicit nominations at least 180 days before the expiration of the current term of office. Furthermore, a requirement that the nomination petition form be returned to the Board not less than 120 days prior to the then current term's expiration would provide adequate time to complete the election of industry members. Such a procedure would help ensure that appointments by the Secretary are made in time to seat the new Board by the beginning of the next term.

Once the completed petition forms are returned, the Board would distribute ballots containing the names of all eligible grower and handler nominees by district via the U.S. Postal Service, or

such other means as the Board may recommend and the Secretary approve, to all eligible growers and handlers. Hearing evidence indicates that, in Districts 1, 2, 3, 4, and 7, growers would be permitted to vote only for grower members and alternate grower members, and handlers would be permitted to vote only for handler members and alternate handler members. In Districts 5, 6, 8, and 9, where the single seat on the Board may be either a handler or a grower, both growers and handlers may vote regardless of whether the nominees are producers or handlers of tart cherries. In this situation, the member could be a grower and the alternate member could be a handler or vice versa or both.

The Board should have the ability to modify these provisions of the proposed order, or to specify more detailed nomination and election procedures. Consequently, the order should contain provision for the Board, with the approval of the Secretary, to establish rules and regulations necessary and incidental to the administration of the nomination and election process. The order should further provide that the Secretary or the Board may administer the nomination and election process as outlined herein.

Once affirmed, the nomination and election results should be presented to the Secretary for appointment pursuant to § 930.24. Following the Board's submission of the nomination and election results to the Secretary, the Secretary would appoint the grower and handler members and alternate members on the basis of representation provided for in § 930.20. The order should also authorize the Secretary to appoint the public member and alternate public member once elected by the newly appointed Board.

In the case of the initial Board, the Secretary would conduct meetings to nominate initial Board members. All producers of record in the production area would receive notice of the meetings in sufficient time to enable them to attend. Nominations should be received and voted upon at these meetings. Handlers nominations would be accomplished in the same way.

The order should provide for appointment by the Secretary of members and alternates of the Board. The tart cherry growers and handlers should have the responsibility for recommending nominees to the Secretary for appointment. The nomination and election procedure outlined in the order would provide a means of making available to the Secretary the names of prospective members and alternates selected by the industry under the order to serve on the Board. The Secretary should have the authority to appoint the industry and public members and alternate members to the Board, notwithstanding the list of nominees submitted.

In the event the nomination and election process has not been completed within the time and in the manner specified in the order, the Secretary should have the authority to appoint members and alternates without regard to nominations, in accordance with proposed § 930.25. Such appointment should be from qualified persons as provided in the order.

Each person to be appointed by the Secretary as a member or as an alternate member of the Board should, prior to appointment, qualify by advising the Secretary on a form provided by the Board or the Secretary that such person agrees to serve in the position for which nominated. The information requested on the form would be incidental to the qualifications of each position and would thus provide the Secretary with the information required to complete the appointment process.

Proposed § 930.27 states that the order should provide a method for promptly filling any vacancies on the Board for unexpired terms of office. There may be vacancies caused by the death, removal, resignation, or disqualification of a member or alternate. The order should provide that the Secretary shall be authorized to name a successor to fill an unexpired term from the most recent list of nominations for the Board, from a nomination and election process specifically held to fill the vacancy and made in the same manner as provided for in § 930.23, or from other qualified individuals. Qualification and appointment should be made on the basis of § 930.20 or any redistribution or reestablishment made pursuant to § 930.21.

Proposed § 930.28 states that an alternate member of the Board should act in the place and stead of the regular member during the absence of such member. It continues by adding that an alternate member would not be eligible to serve at a meeting of the Board if the member is in attendance. In the event of the death, removal, resignation, or disqualification of a member, an alternate member would act for the regular member until a successor of such member is appointed. This would ensure that all portions of the production area are adequately represented in the conduct of the Board's business and that the continuity of Board operation is not interrupted. In the event both a member and the respective alternate member are unable to attend a meeting of the Board, no other member or alternate member would be eligible to serve in that position. Witnesses testified that a member and alternate member are nominated and elected to represent a specific constituency, and that an arrangement that allows another member, even if from the same district, to sit in such position would not best serve the industry. The order should also provide that alternate members have the same qualifications as their respective members.

The Board, under proposed § 930.30, should be given those specific powers that are set forth in section 608c(7)(C) of the Act. Such powers are necessary for an administrative agency, such as the Board, to carry out its proper functions. The Board would administer the order in accordance with its terms and provisions and would recommend rules and regulations necessary to effectuate the terms and provisions thereof. The Board should also have the power to investigate complaints of violations to the order and forward such information to the Secretary, and to recommend to the Secretary appropriate amendments to this part.

The Board's duties as set forth in § 930.31 of the proposed order are necessary for the discharge of its responsibilities. These duties are similar to those typically specified for administrative agencies under other programs of this nature. They pertain to specific activities authorized under the order, such as investigating and compiling information regarding tart cherry marketing conditions, and to the general operation of the order including hiring employees, appointing officers, and keeping records of all Board transactions. The order should delineate Board duties as follows:

(1) The Board should select any officers, including a chairperson and vice-chairperson, necessary for its proper function, and should define the duties of such officers. Other officers might include secretary, treasurer, parliamentarian, or such other officers deemed helpful to the efficient operation of the Board.

(2) The Board should employ or contract with such persons or agents as it finds necessary, and should determine the duties and compensation of such persons or agents. This provides the Board with the ability to organize for the purpose of conducting its day-to-day business. A typical staffing arrangement could include a general manager who reports directly to the Board, and field and office support staff deemed necessary for efficient operation. In some cases, additional staff dedicated to

order compliance would be useful to the Board.

(3) Whenever committees or subcommittees are deemed necessary or advisable, the Board should appoint members or other industry representatives to serve on such committees or subcommittees. These may be producers, handlers, consultants, or other persons who are not members of the Board but who possess some knowledge or could serve the Board in some unique way. Thus, the provisions authorizing the board to appoint subcommittees should include authority for the Board to appoint persons to serve on special subcommittees or as consultants to regular subcommittees, even though they are not members of the Board. Actions recommended by any subcommittee should be subject to the approval of the Board.

(4) The Board should adopt bylaws and establish other rules, including rules of conduct and administration, which are necessary to carry out its duties and responsibilities. These could include rules relating to parliamentary procedures for the conduct of meetings and rules governing Board member and staff compensation for expenses incurred while performing their normal duties.

(5) Prior to the beginning of each fiscal period, the Board should submit a budget of such fiscal period to the Secretary. Each such budget should be accompanied by a report explaining the items appearing therein, as well as a recommendation for an assessment rate for the forthcoming fiscal period.

(6) The Board should keep minutes, books, and records which clearly reflect all of its meetings, acts and transactions. These minutes, books, and records would be subject to examination at any time by the Secretary or an authorized agent or representative of the Secretary. Minutes of all Board meetings, as well as all subcommittee meetings, should be recorded in a minutes book, or similar record. Minutes would assist in answering questions at a later date, and avoid confusion as to what transpired at a given meeting. In order for the record to be complete, minutes should include motions, whether passing or failing, votes, important points of discussion, and all resolutions. Copies of the minutes should be furnished to the Secretary and to all members and alternate members as early as possible following each meeting.

(7) The Board should prepare periodic statements of its financial operations and ensure that copies of each financial statement are made available to growers and handlers for examination at the office of the Board. Copies of such statements should also be provided to the Secretary.

(8) The Board should have its books audited by a certified public accountant at least once each fiscal period, and at such other times as the Board may find necessary or as the Secretary may request. This audit would normally follow the conclusion of each marketing year. The audit report should show the receipt and expenditures of funds collected pursuant to this part. A copy of this report should be made available to the Secretary, as well as at the principal office of the Board for inspection by handlers and growers. Confidential or proprietary information should be removed from the audit report before making it available to handlers and growers.

(9) Should it be necessary, the Board should act as an intermediary between the Secretary and any grower or handler. This provides that any problems arising at either level can be dealt with in an efficient and orderly manner.

(10) The Board should have the duty to investigate and assemble data on the growing, handling, and marketing of tart cherries. Such data would provide information necessary for the Board to make proper recommendations and to otherwise perform its duties. During the investigation and assembly of data, the Board should acquire information concerning producing acreage and the estimated production of tart cherries on an ongoing basis. Thorough knowledge of growing and harvesting conditions in each of the districts, including information on weather, problems with pests, and new and innovative cultural practices, would be helpful to the Board when making decisions pertaining to quality and volume regulations. Information should be obtained pertaining to the volume of fresh and processed tart cherries in the possession of producers and handlers. With such growing, harvesting, and supply information and knowledge of past, current and projected demand patterns, the Board would be better equipped to make regulatory recommendations to the Secretary.

(11) Whenever the Board provides notice of meetings to its members, the same notice should be provided to the Secretary. This would apply to all meetings of the Board and any of its designated subcommittees. The Secretary should have ample notice of these meetings in order to exercise the supervisory responsibilities provided by law. With the exception of certain meetings held for personnel or compliance purposes, all such meetings are open to the public. Therefore, all meeting notices should receive widespread distribution. In order for the Secretary to properly exercise oversight authority over the order and its administration, all information relating to the marketing of cherries and the various activities of the Board must be made available.

(12) The Board should submit such available information as the Secretary may request.

(13) The Board should investigate compliance with the provisions of this part. This would include development of a comprehensive plan, to be reviewed and approved by the Board and the Secretary on an annual basis, that contains sound and effective methods for preventing and detecting violations of the order and assurances that responsible staff are following the prescribed procedures.

(14) The Board should be responsible for developing and submitting an annual marketing policy to the Secretary for approval. The marketing policy should contain the optimum supply of tart cherries for the crop year established pursuant to § 930.50 and recommend any such action necessary to achieve such optimum supply. The marketing policy should include an explanation of the marketing problems expected to exist during the season, as well as an explanation of how the regulations recommended by the Board, if any, would be used in an effort to correct or change marketing conditions.

(15) The Board should implement such quantity regulations as are called for by the marketing policy and approved by the Secretary, including the release of any inventory reserve.

(16) The Board should provide thorough communications to growers and handlers regarding its activities and respond to any industry inquiries about its activities.

(17) The Board should oversee the collection of assessments levied under this part.

(18) For the development and conduct of activities, including research and promotion activities, the Board should have the authority to enter into contracts or agreements. Such contracts or agreements would pertain to the rendering of services required by the order and for the payment of the cost of such services with funds collected under the authority of this part. Any contracts or agreements entered into pursuant to this paragraph should provide that contractors submit to the Board a plan and a budget, that the plan or project be submitted to the Secretary for approval, and that the contractor shall maintain accurate records of all

transactions. Such an agreement should also specify that the contractor make periodic reports to the Board of its activities and funds received and expended or any other reports required by the Board or the Secretary. It should also clearly indicate that the Board or the Secretary may periodically audit the records of the contracting party as they pertain to the agreement.

(19) Pending the expenditure of funds as set forth in the annual budget, the Board should have the authority to invest funds collected through assessments as well as income generated by such assessments. Any investments made should be in accordance with applicable Departmental policies. The Board should maximize income opportunities while not putting the funds at risk.

(20) The Board, with the Secretary's approval, may establish standards and grade requirements for cherries produced for frozen and canned cherry products. Prior to making such recommendations, the Board should poll all handlers that would be affected by such regulations to obtain a consensus as to if, when, and how standards and grade requirements might be implemented. The Board, with the Secretary's approval, could establish a requirement for mandatory inspection pursuant to § 930.44.

After review of the requirement for the Board to poll handlers on how the standards and grade requirements might be implemented, the USDA is deleting such requirement from the proposed order. The Board, which is comprised of grower and handler members, has the responsibility of representing the growers or handlers from the district in which such member was represented to serve. It is the Board's responsibility to develop recommendations and/or rules and regulations to implement the sections in the proposed marketing order. Therefore, it is not necessary for the Board to poll handlers on this issue since handlers are represented by members on the Board.

An opponent to this provision testified that this section should be deleted from the proposed order. It was the opponent's position that the market should be allowed to function on utilization of relationships between handlers and buyers and use of the current USDA standards and specifications. However, the preponderance of the testimony supports the authority to authorize the Board to recommend to the Secretary standards or grade requirements in order to provide a consistent quality cherries to be processed into cherry products.

(21) The Board should be able to borrow funds necessary to administer its responsibilities and obligations under this part. Any such transaction should be subject to the Secretary's approval and should not exceed one fiscal period's budget. The Board should normally be required to pay any borrowed funds back within the same fiscal period.

(22) With the Secretary's approval, the Board should establish rules and procedures relative to the administration of this order. Such rules and procedures should be consistent with the provisions of this subpart and necessary for efficient operation of the order and to accomplish the purposes of the Act.

The duties listed in proposed § 930.31 are reasonable and necessary if the Board is to function in the manner prescribed under the Act and the order. It should be recognized that the duties specified are not necessarily all-inclusive, and it may develop that there are other duties that the Board may need to perform which are incidental to, and not inconsistent with, these specified duties.

As set forth in proposed § 930.32, the order should specify a procedure for the Board to conduct its meetings. Conflicting testimony was received during the hearing process pertaining to the number of Board members that should constitute a quorum, as well as to the number of favorable votes required of Board members to pass any recommendations by the Board. The proponents proposed that 12 members, or their alternates acting in their stead, should constitute a quorum. Further, the proponents proposed that for any action of the Board to pass, a simple majority of those present should concur. For example, if the minimum number of 12 Board members, the proposed quorum, were present at a meeting, seven members could conceivably carry a recommendation for regulatory action. The proponent argued that a general voting procedure requiring a higher degree of support for regulatory and administrative Board actions would potentially allow minority district representatives to boycott meetings and thereby disrupt the Board's ability to recommend rules and regulations to the Secretary. This proposal excluded Board action taken to elect the public member and alternate public member, however, in which case affirmation by at least two-thirds of the entire Board was proposed.

During the hearing process, an amendment to § 930.32 was offered by Mr. Lee Schrepel proposing that (1) a quorum consist of at least 14 members, (2) any action approved by the Board would not be effective upon any district affected by such action unless a simple majority of the Board members from such district also approved the action, and (3) actions involving enactment of volume control, implementation of assessments, inspection, grading, procedural considerations and district representation should require a two-thirds affirmative vote of the entire Board.

In support of his proposed amendments, Mr. Schrepel testified that a quorum requirement of less than 14 Board members could potentially allow a single sales constituency to dominate the Board. He also indicated that the rights and responsibilities of all participants should be protected and that any regulations recommended by the Board not be imposed on a segment of the industry that objects to such regulations.

As indicated earlier, a single sales constituency would have a maximum potential representation on the Board of nine members. Therefore no such sales constituency could dominate the Board if the quorum requirement is less than 14 members, because, as discussed hereinafter the voting requirement for an action to pass should be two-thirds of the entire board. The proponents testified that they anticipate that most of the members would be present for full Board meetings. The proposal that each district must ratify any action by the Board should also not be adopted. Such a proposal is synonymous with requiring Board unanimity on any action and could cripple the effectiveness of the order.

However, Mr. Schrepel's third recommendation is a sound one. Therefore, the order should provide that 12 members of the Board, including alternates acting for absent members, should constitute a quorum and any action by the Board should require that two-thirds of the entire Board support such action. A voting procedure requiring the consensus of at least a two-thirds majority of the entire Board is similar to many of the other fruit, vegetable and specialty crop marketing orders now in effect. Such a voting procedure helps ensure that the industry majority supports any action of the Board and that minority interests are addressed.

If Board membership is increased in the future due to Districts 5, 6, 8, or 9 becoming permanently regulated as proposed in § 930.20(e), the order should authorize a like increase of the quorum requirement through implementing regulations. For example, if District 5 picked up one seat on the Board in the future, the Board would increase to 19 members. The quorum requirement, in this example, would subsequently be increased from 12 to 13. The quorum would be maintained at a level equal to two-thirds of the total Board membership.

Since the production area encompasses several states and spans the entire width of the country, it is reasonable that the Board be provided with the authority to recommend to the Secretary rules and regulations pertaining to the conduct of simultaneous meetings of groups of its members assembled at different locations. There may be times, due to inclement weather or similar situations, when the Board is unable to assemble at one location. Therefore, the proposed order should also provide for Board meetings conducted via telephone or some other means of communications. To eliminate potential confusion or misunderstanding that may arise when the Board meets at multiple locations, all such votes cast by the Board should be promptly confirmed in writing.

All meetings of the Board should be open to the public with the exception of special meetings held in executive session for consideration of personnel or certain compliance matters, or such other matters that the Secretary may approve. The Board should establish a means of providing advanced notice of meetings to tart cherry growers and handlers as well as other interested parties.

Board members and alternates will necessarily incur some expense while on Board business. Reasonable expenses, which may include those associated with travel, meals, and lodging, should be reimbursed to members while attending Board meetings or performing other duties under the order, in accordance with proposed § 930.33. It is also reasonable that the public member and alternate public member, in addition to reimbursement for incurred expenses, should receive compensation for time served at meetings and while performing other Board authorized duties. The public members and alternate members should be compensated while performing Board authorized duties because attending Board meetings may take them from their normal place of employment, one not associated with the tart cherry industry. Therefore, the order should provide that, except for the public member and alternate public member who shall receive such compensation as the Board may establish and the Secretary may approve, the members of the Board, and alternates when acting as members, shall serve without compensation but shall be reimbursed for necessary and reasonable expenses as authorized by the Board. The Board at its discretion may request the attendance of one or more alternates at any or all meetings, notwithstanding the expected or actual presence of the respective member(s), and may pay their expenses as aforesaid. The Board may also request nonmembers to attend Board or subcommittee meetings to present an issue of interest to the Board or subcommittee. In this case, the Board should be authorized to pay such individuals' expenses for attending such meetings.

(c) As noted under § 930.31(e), the Board should be required to prepare a budget showing estimates of income and expenditures necessary for the administration of the marketing order during each fiscal year. The budget, including an analysis of its component parts, should be submitted to the Secretary sufficiently in advance of each fiscal period to provide for the Secretary's review and approval. The submitted budget should include a recommendation to the Secretary of a rate of assessment designed to secure all or part of the income required for such fiscal year.

The Board should be authorized under § 930.40 of the proposed order to incur such expenses as the Secretary finds are reasonable and likely to be incurred during each fiscal year. Such a provision is necessary to assure the maintenance and functioning of the Board, and to enable the Board to perform its duties in accordance with the provisions of the order. Necessary expenses would include, but would not be limited to, such administrative items as employee salaries and benefits: establishment of an office and equipping such office; telephone and mail services; and such business and travel related costs for the Board staff as transportation, lodging, and food. As discussed previously, expenses incurred by Board members in attending Board meetings should be a reimbursable expense as well. Other administrative expenses would include those related to inspection and marketing order compliance.

In addition, the order should authorize the Board to incur expenses related to production and processing research, market research and development, and promotional activities, including paid advertising, designed to assist, improve, or promote the efficient production, processing, marketing, distribution, and consumption of cherries.

The proponents testified it would be unlikely, in the foreseeable future, that any activity under § 930.48 would be initiated by the Board unless the current high level of research and promotion activity sponsored by the Cherry Marketing Institute and the New York Cherry Board tapers off. The proponents estimated that producers representing approximately 94 percent of tart cherry production on a national scale are currently financing various production research, development and promotional projects through assessments to these two organizations. The proponents thus testified that it would be unnecessary and redundant for the Board to finance similar activities while such a relatively high level of activity exists, but recommended including the authority for such future activity in the order.

The proposed order should state that expenses incurred due to any approved administrative costs and authorized research, development, and promotion projects could occur on an ongoing basis throughout the fiscal period.

With the Secretary's approval, the Board, under proposed § 930.41, should be authorized to levy annual assessments upon handlers to cover administrative costs and the costs of any research, development and promotion activities undertaken pursuant to § 930.48 that the Board recommends and the Secretary approves. However, as noted earlier, the proponents indicated that it would be highly unlikely that the Board would initiate recommendations for research, development, or promotion related assessments while a high percentage of tart cherry producers are financing such activities through other organizations. It would be reasonable to expect the Board to ensure that handlers in each district are well informed of the assessment rate and how such assessment rate would be allocated among the various approved expenses.

During each fiscal period, the Board would assess each handler on all cherries handled, unless subject to certain authorized exemptions, that handler's pro rata share of the administrative expenses, as well as any research, development and promotion expenses. Assessments should be calculated on the basis of pounds of cherries handled. However, the order should provide that the formula adopted by the Board and approved by the Secretary for determining the rate of assessment should compensate for differences in the number of pounds of cherries utilized for various cherry products. For example, the proponents testified that high value products such as frozen, canned or dried cherries would be assessed one amount and the

low value products such as juice concentrate and puree would be assessed one half of the assessed amount of the high value product.

Testimony supported exempting any handler from paying assessments on cherries diverted as provided in § 930.59. This exemption from assessment would also include cherries represented by grower diversion certificates issued pursuant to § 930.58(b)(2) and acquired by handlers, and those cherries devoted to exempt uses under § 930.62.

In addition to administrative, research, development and promotion expenses, the proponents proposed that assessments be collected from all handlers in all districts to cover the costs of storing the primary inventory reserve. The proponents recommended that all handlers, whether regulated or non-regulated, pay storage cost assessments. Alternative proposals were also received into evidence recommending that such storage cost assessments not be levied. Considerable testimony was received throughout the hearing process concerning this issue.

The proponents testified that the entire industry would benefit from increased cherry prices during periods when a volume regulation is in effect, and not just the handlers and growers in the regulated districts. The proponents emphasized that non-regulated districts would be able to market one hundred percent of their marketable crop while the regulated districts would be required to withhold a determined amount of their marketable cherries from the market. The proponents argued that to excuse the non-regulated districts from paying for a portion of the regulated district's storage expenses would burden regulated handlers not only with such tangible costs, but also with the intangible cost of withholding product from the market. Therefore, in order to thus distribute the costs associated with the potential increase in the grower price of cherries, the proponents proposed that all districts, regulated or not, be assessed for annual storage costs.

However, opponents to the establishment of a storage cost assessment noted that, while the non-regulated districts do indeed have the opportunity to market one hundred percent of their crop, they enjoy such benefit primarily because they are producing less than the amount that would trigger volume regulation in their district, are not contributing to the oversupply situation, and have demonstrated the ability to market all of their crop. Opponents to the proposed storage assessment argued that such a proposal merely provides a subsidy for those districts responsible for the oversupply situation.

Testimony received during the hearing process indicated that the cost of storage varies with different processed cherry products. For example, the costs associated with the storage of frozen product would generally run higher than the costs associated with the storage of canned, pureed, concentrated and dried product. Testimony also indicated that the cost differential between freezer storage and dry storage is considerable, with the cost of storing frozen product approximately twice that of storing non-frozen product. However, to effectuate the proponent's provision, storage assessments would have to be levied on all handlers such that the full cost of storage would be covered. Thus, under a storage assessment as proposed, handlers putting product into the lower cost, non-frozen storage packs would, to some degree, also be subsidizing handlers packing for freezer storage.

The preponderance of testimony supports the levying of assessments for administrative, research, development and promotion purposes on all handlers, but does not adequately justify the additional burden of an assessment designed to distribute individually assumed costs of storage to the entire cherry industry. Each regulated handler utilizing storage because of an established primary reserve should be independently responsible for any costs associated with such storage. Such an arrangement should also have the effect of increasing the efficiency of storing product since each handler, responsible for carrying the entire cost associated with storing their own product, would seek the most cost-effective storage facilities, would pack the cherry product in a form, frozen or non-frozen, that best matches his or her own individual economic situation, or could choose to divert the cherries into an approved exempt channel.

The proponents did not adequately show why it would be equitable for all handlers to share the cost of storing product when only a portion of them would be utilizing storage, how each producer or handler would benefit economically or practically from such an arrangement, nor why it would be cost effective for the Board or the assessed handlers to be burdened with the costs of administering such an assessment.

Sufficient evidence was not received to indicate that handlers would not be unduly burdened with the increased costs of reporting and record keeping that are directly attributable to a storage assessment, nor that the Board should sustain expenses associated with the administration of a storage assessment.

The marketing order should contain the authority for the Board to incur administrative expenses and such expenses related to approved research, development, and promotion activities, as well as the authority for the Board to levy assessments on all handlers to cover such expenses. The order should not, however, authorize the Board to incur expenses nor levy assessments for any costs associated with the storage of reserve cherries. The Board should be authorized to pay inspection costs for reserve cherries from assessments collected from all handlers for the administration of the order.

The rate of assessment should be established by the Secretary on the basis of the Board's recommendation and other available information. However, in the event that an assessment rate is established which does not generate sufficient income to pay for the approved expenses, the Board should be authorized to recommend to the Secretary an increase in the rate of assessment in order to secure sufficient funds. The Secretary may approve an assessment rate increase, and such increase should be applicable to all tart cherries handled during the fiscal year to which that assessment rate applies.

The Board should be authorized to accept advance payment of assessments so that it may pay expenses which become due before assessment income is normally received. This would give the Board more flexibility in paying obligated expenses, particularly in the first part of a fiscal year before assessment funds are received.

The Board should also be able to borrow money to meet administrative expenses that would be incurred before assessment income is sufficient to defray such expenses. However, the Board should not borrow money to pay obligations if sufficient funds already exist in the Board's reserve fund or in other Board accounts.

If a handler does not pay any assessment by the date it is due, the order should provide that the late assessment may be subject to a late payment charge or an interest charge, or both, at rates set by the Board with the Secretary's approval. Such charges should be set at rates established to cover additional costs that may be incurred by the Board in attempting to collect overdue assessments, and should encourage timely payments. The period in which payments would be considered late, and late payment or interest charges incurred, should be recommended by the Board and approved by the Secretary.

If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess should be established as a reserve or refunded pro rata to the handlers, under proposed § 956.42. The Board should be authorized to carry over excess assessment income into the following fiscal period as a reserve. If such excess income is not carried over as a reserve, handlers should be entitled to a refund proportionate to the assessments each handler paid. The proposed order should indicate that the amount held in reserve for administrative, research, development and promotion expenses should be held at or below an amount equal to approximately one year's operational expenses.

One purpose of the reserve fund would be to provide stability in the administration of the order in the case of a short crop. Also, establishing a reserve should minimize the necessity of the Board borrowing money at the beginning of a fiscal year or raising an assessment rate during a season of less than anticipated production.

Reserve funds could also be used to cover necessary liquidation expenses in the event the order is terminated. Upon such termination, any funds not needed to defray liquidation expenses should be disposed of as determined by the Secretary. To the extent possible, however, these funds should be returned pro rata to the handlers from whom they were collected.

All funds collected by the Board through assessments or any other provision of the order should be used only for the purposes set forth in the order. The Secretary should at all times have authority to require the Board, its members and alternates, and its employees and agents to account for all receipts, disbursements, and property and records of the Board. Likewise, when any of the above individuals ceases to act in his or her official position, that person should account for all receipts, disbursements, property or records of the Board for which such person has been responsible. In the event the order is terminated or becomes inoperative, the Board should appoint, with the approval of the Secretary, one or more trustees for holding records, funds or other property of the Board.

(d) Under proposed § 930.48, the order should authorize the Board to establish and provide for the establishment of production research, marketing research and development, and marketing promotion projects, including paid advertising, designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production and processing of tart cherries. Funding for these programs should come from any authorized receipts of the Board including assessment income, voluntary contributions and miscellaneous income such as interest.

The Board should have the authority to initiate new production and marketing research projects, as well as to contribute to research which may currently be taking place.

As discussed previously, marketing order proponents testified that this authority would not be used unless existing State programs for these purposes were terminated or their operations suspended. Currently, Michigan, Utah, Wisconsin, and New York have assessment programs of $10 to $15 per ton that are paid by growers to support the Cherry Marketing Institute (CMI) and the New York Cherry Board. The CMI represents growers in Michigan, Utah, and Wisconsin. Both the New York Cherry Board and CMI conduct substantial domestic generic promotion programs for tart cherries. At this time the tart cherry industry does not support any brand advertising. These activities are supported only by the various finished product manufacturers.

The States of Washington, Oregon, and Pennsylvania have no state programs at this time to authorize assessments for this purpose. The proponents testified that about 94 percent of the tart cherry industry is now supporting marketing and production research and development, and promotion under the various state organizations.

The record indicates that some of the primary responsibilities of the CMI are to fund projects relating to: short-term production research directed at improving current horticultural practices; long-term research directed at developing new varieties of cherries with increased market appeal and greater resistance to pests and climate factors; domestic promotion activities covering food service and consumer markets; export development in Japan, Korea, and Taiwan; new product applications; and nutritional evaluations. These are also examples of the types of programs that could be implemented under the marketing order. When this authority is utilized the assessments would be collected, pursuant to § 930.41(a).

The record does not indicate the amount of assessment funds that may be allotted for research and promotion programs. The Board should have the responsibility to determine the amount of funds spent on each program each year. Such determination should be based on the needs of the industry each year. The amount of funds to be spent on research and promotion programs would be included in the annual budget required to be submitted to the Secretary for review and approval.

All research and promotion projects to be conducted under the order in a given fiscal period should be required to be submitted by the Board to the Secretary for approval prior to being undertaken. Further, the Board should be required to report at least annually on the progress of each project and at the conclusion of each project. Such reports should be made to the Secretary.

The proponents did not provide specific testimony on paid advertising authority. However, the record supports the proposition that such authority should be added to allow the Board to implement such a program in the future, if necessary. Therefore, the authority is proposed to be contained in the order.

(e) In accordance with proposed § 930.44, the Board should have the authority to recommend regulations to the Secretary regarding minimum quality and inspection requirements. Also, the Board should be authorized to recommend to the Secretary the amendment, modification, termination, or suspension of any regulation issued under this part, when deemed necessary.

Recent technological improvements in the industry have enabled processors to install sophisticated equipment to reduce pit counts and improve color sorting. As the technology improves further, the Board should have the authority to respond by adopting additional quality standards for cherries, especially as to pit count. The proponents testified that any regulation that could be implemented to cause a reduction of the pit counts in cherries consumed by the public would be beneficial to growers and consumers. The proponents further testified that the sale of poor quality cherries creates image and marketing problems for the entire tart cherry industry, both domestically and internationally. Therefore, the Board should have the authority to implement quality regulations so that the industry can provide a consistent, quality product to consumers.

Marketing order proponents proposed that when quality control regulations are implemented, no handler should be allowed to process cherries into manufactured products or sell manufactured products in the current of commerce unless the cherries used in such products meet the applicable requirements. The inspection and

certification of tart cherries would be carried out by USDA. The proponents testified that cherries should be required to be inspected again if they are regraded, resorted, repackaged or in any way further prepared for market. This would be done to cover those situations where a handler may need to repackage or resort a product that was already packaged and inspected for a client. This provision is a safety valve designed to prevent poor quality product from entering the channels of commerce.

The Board should also have the authority to recommend to the Secretary such standards of grade, quality or condition of cherries to be placed in the inventory reserve. This would insure the quality of the inventory reserve once it is released to the handlers and sold in the marketplace.

After obtaining inspection and certification of tart cherries, a handler would be required to submit a copy of the inspection certificate to the Board. The Board, with the approval of the Secretary, should have the authority to establish rules and regulations to implement the provisions of this section.

An opponent offered testimony concerning § 930.44 providing exemptions for very small handlers and specialty packs for which grading may be inappropriate. The Board should establish a fixed cost per pound that small handlers would pay for inspection. The opponent testified that handlers that handle less than one million pounds of cherries per year should be exempt from the proposed order regulations, if implemented. One million pounds was chosen because these handlers would be severely burdened with providing personnel to comply with reporting requirements under a marketing order.

The preponderance of the testimony supports providing authority for minimum quality and inspection regulations. Also, several witnesses testified that the burden for handlers would not be severe. The information required to be submitted to the Board under a marketing order would be similar to information already available to handlers. Therefore, this provision would remain as proposed.

(f) In accordance with proposed section 930.50, whenever the Board believes that regulations issued pursuant to section 930.51 regarding free and restricted percentages would be appropriate, it should have the authority to recommend such regulations to the Secretary. The proponents have testified that the proposed volume control regulations would result in a supply management program which would compensate for the extremely erratic natural production cycles of tart cherries and which would provide the market with a more stable supply of tart cherries. Record evidence shows that a major flaw in the previous tart cherry order was that the process used to establish the marketing policy was prone to too much subjective decision-making by the Board which led to non-uniform policies and political skirmishes. The proponents therefore sought to develop a more objective system that is less subject to outside influences and is more market driven.

Marketing Policy

Record evidence indicates that a volume control program should entail several steps. Section 930.50 of the proposed marketing order states that the Board would meet on or before July 1 of each crop year. At this meeting, the Board would review sales data, inventory data, current crop forecasts and market conditions in order to establish an "optimum supply" level for the crop year. The proponents testified that the USDA forecast is the most accurate estimate available at that time to use in the marketing policy calculations. The optimum supply represents the desirable volume of tart cherries that should be available for sale in the coming crop year for both buyers and sellers. The optimum supply would be calculated as 100 percent of the average sales of the prior three years, plus a desirable carryout inventory that would not exceed 20 million pounds. In addition, there should be authority, through informal rulemaking, to adjust the 20 million pound desirable carryout figure upward, if necessary. Record evidence shows that the 20 million pound figure is based on a historical pattern of the amount needed in inventory for the industry to operate. Once the optimum supply is calculated, it would be announced to the industry by the Board. Testimony showed that this could be done as early as May or June but definitely by July 1.

After the calculation of the optimum supply, the Board would establish preliminary free and restricted percentages. This would be done on or about July 1 of each crop year. Subsequently, as discussed below, the Board may also establish interim percentages and recommend final percentages to the Secretary. Evidence indicates that when the Board computes preliminary and interim percentages, or when it determines final percentages for recommendation to the Secretary, it should also consider the following factors: (1) The estimated total production of tart cherries; (2) the estimated size of the crop to be handled; (3) the expected general quality of such cherry production; (4) the expected carryover as of July 1 of canned and frozen cherries and other cherry products; (5) the expected demand conditions for cherries in different market segments; (6) supplies of competing commodities; (7) an analysis of economic factors having a bearing on the marketing of cherries; (8) the estimated tonnage held by handlers in primary or secondary inventory reserves; and (9) any estimated release of primary or secondary inventory reserve cherries during the crop year.

Record evidence indicates that preliminary free and restricted percentages should then be calculated in the following manner. The Board would deduct the carryin inventory from the optimum supply figure (adjusted to raw fruit equivalent) and divide that figure by the current year's USDA crop forecast. The carryin inventory figure reflects the amount of cherries that handlers actually have in inventory. If the resulting quotient is 100 percent or more, the Board should establish a preliminary free market tonnage percentage of 100 percent. If the quotient is less than 100 percent, the Board should establish a preliminary free market tonnage percentage equivalent to the quotient, rounded to the nearest whole percent, with the complement being the preliminary restricted percentage. The Board would be responsible for announcing these percentages to the industry in an expedited manner. If a restricted percentage is announced, each handler would be responsible for setting aside a portion of tart cherries which that particular handler handled.

If necessary, the Board should be able to modify the preliminary free and restricted percentages to adjust to the actual pack occurring in the industry. The Board may adjust the percentages between July 1 and September 15 of the crop year. However, the optimum supply could not be adjusted. Record evidence shows that the Board would review weekly production reports to determine if it is necessary to adjust the preliminary percentages. If interim percentages are established, the Board would be responsible for announcing them quickly to the industry. Timely announcement would be crucial since the proponents testified that these percentages could be adjusted as often as once per week.

Finally, no later than September 15 of each crop year, the Board would recommend the establishment of final free and restricted percentages to the Secretary. At this time, the Board would have available actual production and delivery figures to review to make any needed adjustments to the percentages. The Secretary would establish the final free and restricted percentages through the informal rulemaking process. These percentages would release the tart cherries necessary to achieve the optimum supply figure calculated earlier. The difference between any final free market tonnage percentage designated by the Secretary and 100 percent would be the final restricted percentage.

An example of the marketing policy calculations is discussed below. The USDA crop forecast for the example is 256 million pounds and the optimum supply is 263 million pounds. The total industry carryin is 40 million pounds. The total production in the regulated districts is 233 million pounds. For this example, the average sales of the prior three years is 243 million pounds, and added to it is a 20 million pound desirable carryout, which equals an optimum supply of 263 million pounds. The preliminary percentages would then be calculated by deducting the carryin from the optimum supply to equal a free tonnage of 223 million pounds. The free tonnage would then be deducted from the USDA crop forecast. This would result in a requirement for a 33 million pound inventory reserve. The free and restricted percentages would only apply to those handlers in the regulated districts. Therefore, the percentages would be calculated by dividing the restricted tonnage volume by the regulated district production (233 million pounds would be divided into 33 million pounds to obtain the restricted percentage). This would result in a preliminary free percentage of 86 percent and a restricted percentage of 14 percent for those districts that are being regulated.

Illustration

1. Average movement is based on a three year rolling average of sales and movement, plus a desirable carryout of up to 20 million pounds. For example, if tart cherry sales for 1992–1994 had been, respectively:

1992—243 million pounds
1993—245 million pounds
1994—241 million pounds

The average movement for the 1992–94 three year period would have been 243 million pounds. Adding a carryout of 20 million pounds produces an Optimum Supply Formula (OSF) of 263 million pounds.

2. Annually, deduct the free carryin inventory from the optimum supply. This would provide the tonnage requirement from current year production to meet market needs. In this illustration, if OSF is 263 million pounds and the carryin inventory is 40 million pounds, the free tonnage requirement for this year's crop would be 223 million pounds (263 million − 40 million).

3. Thus, using an initial estimated production of 256 million pounds, with 223 million pounds required, processors in the regulated districts would have to set-aside or divert 33 million pounds. Assuming for this illustration that the regulated districts produced 233 million of the industry's total of 256 million pounds, handlers would have a restricted tonnage set-aside of 14 percent (33 million/233 million). This would result in a preliminary free percentage of 86 percent.

Once harvest begins in late August or early September, the Board would be able to obtain better information on the final volume of product being packaged and adjust the percentages using actual figures. The Board could calculate and announce interim free and restricted percentages between July 1 and September 15 based on this new information.

No later than September 15, the Board would compute the final free and restricted percentages. At that time, the Board would recommend the percentages to the Secretary to establish them through the informal rulemaking process. For this example, we would use the crop year free tonnage of 223 million pounds calculated from the previous example. If the final crop year estimate is 296 million pounds and the final production for the regulated States is 256 million pounds, the final percentages would be calculated by deducting the current crop year free tonnage from the 296 million pound final crop estimate to equal a 73 million pound inventory reserve. The 73 million pound inventory reserve would be divided by the Regulated districts final production of 256 million pounds. This would equate to a 33 percent restricted percentage and a 66 percent free tonnage. Since 73 million pounds is above the 50 million pound maximum allowable in the inventory reserve, handlers would have to divert 23 million pounds or establish a secondary reserve.

The proponents testified that the Board should be able to modify its marketing policy in the event of a national emergency, crop failure, or other major change in economic conditions. This would provide a type of "escape hatch" should market conditions change so drastically from what Board projections or from historical patterns on which the marketing policy outlined in this order is based. The Department agrees with this recommendation. The Board would be required to hold a meeting, and file a report with the Secretary within 5 days which shall show such modification and the basis therefor. For example, the Board could file a report with the Secretary that would request that the Board be allowed to release more or all the cherries, from any established inventory reserve, than what was established under the marketing policy formula. This could be done if a weather disaster was experienced during the harvest season in one of the production districts under the marketing order. The Board could therefore recommend that the free and restricted percentages not apply for that current crop year, lower the restricted percentage, or release more reserve cherries to the industry.

The proponents testified that the Board should recognize growers that cooperatively form a national bargaining agency in order to enhance their chances for a higher price for their cherries. In recognition of such organization, the Board should be able to release less than 100 percent of the free market tonnage for sale if a grower price had not been set. However, it would be required to release at least 65 percent of the total free market tonnage by September 1. This would allow handlers to make marketing plans, sales, and contractual agreements in order to market the new crop in a timely fashion. If no grower price is established by September 1, the Board must thereafter release all of the free market tonnage. However, after further review of this issue, the USDA has determined that such a provision should not be contained in the marketing order. Record evidence does not adequately explain how such a provision would work or what the benefits to growers would be. Also, the record does not contain adequate information relating to the composition, function, or the limits and bounds of a bargaining agency. Therefore, this provision should not be adopted in the proposed marketing order.

Inventory Reserve

The proposed order provides that if restricted percentages are established, handlers would be required to set aside a portion of cherries handled. Testimony at the hearing indicated that a handler could fulfill such restricted percentage amount by either establishing an inventory reserve or by diversion of product. There would be two types of inventory reserve—a

primary and secondary inventory reserve. The inventory reserve would be the sole property of the handlers who place products into the reserve. The proponents testified that this represents a significant improvement over ownership of the reserve by growers under the previous order. It is the proponent's view that handler ownership should help market forces determine the sales of released reserve cherries. Record evidence shows that handlers should be able to place cherries in their inventory reserve in any processed form. This would include individually quick frozen (IQF), canned product, frozen 5 plus 1 (25 pounds of cherries to 5 pounds of sugar), concentrated juice, dried product, etc. It was explained at the hearing that handlers would make individual business decisions as to the processed form in which they would wish to store their inventory reserve. This would allow maximum flexibility for handlers in meeting their restricted percentage requirements and storing inventory reserve cherries.

The proponents testified that, at the end of the processing season during which there is volume control, a regulated handler would be required to have an established inventory reserve and/or have proof of diversion of that handler's total restricted percentage requirement. It would not matter whether that handler actually processed and packed such inventory reserve cherries, or whether the handler purchased the cherries from a different handler within the regulated area and stored them at that location, as long as proper documentation is provided to the Board.

The proponents also testified that authority should be added to the order to allow a grace period for handlers to set up their inventory reserves after the processing season. This would allow handlers to appropriately document cherries that are being placed in the inventory reserve and to compile any applicable diversion certificates. In the proponents brief, a grace period of 30 days was specified. The Board, with the approval of the Secretary, would be able to establish rules and regulations to provide guidelines for handlers in complying with any restricted tonnage requirements. In view of the foregoing, these proposals relative to the industry reserve should be adopted and are included in this decision as proposed.

In addition, the record supports order authority for a handler bonding requirement. This would be another mechanism by which handlers would be able to comply with the restricted tonnage percentage, if established. The Board would establish a date by which the inventory reserve must be established by each regulated handler. A bonding requirement would allow that date to be deferred if the handler obtains a bond equivalent to the value of the cherries such handler would have placed in the inventory reserve. Testimony did not provide details as to how this particular provision would be applied. However, the USDA is including the provision in the proposed language. The bonding requirement is similar to authority under other marketing order programs. The Board, with the approval of the Secretary, could develop rules and regulations which provide guidelines to implement the bonding authority.

The proposed order should require that the maximum percentage of restricted cherries which may be established as a primary inventory reserve not exceed 50 million pounds. Handlers should also be authorized to establish individual inventory reserves in excess of the 50 million pounds that would be classified as a secondary reserve. The proponents testified that the 50 million pound cap would help prevent an exceedingly large reserve from having a dampening effect on the market for tart cherries. Also, a very large inventory reserve would cost more to store over an extended period of time. A larger reserve may not be sold in time to offset the high investment of storing the reserve.

A witness testified and offered an alternative of 75 million pounds as the inventory reserve cap instead of the proposed 50 million pound cap. The witness testified that 75 million pounds would work better. Because of lack of testimony to support this alternative, the 50 million pound cap would remain as proposed by the proponents.

Inventory Reserve—General

Once a restricted percentage is established, each handler could establish an inventory reserve to meet such handler's restricted percentage. As previously discussed, handlers would be able to place cherries in any form in the reserve. Each handler's reserve portion would be computed by taking the sum of the multiplication of the weights of cherries in each lot of cherries the handler handled during the fiscal period by the restricted percentage. Rules and regulations would establish the manner in which processed products would be converted to raw fruit equivalents for each type of storable product.

The record indicates that a handler's equity in the primary inventory reserve could be transferred to another person. A handler could elect to do this if such handler has no storage area remaining to store a primary inventory reserve. A handler would have to notify the Board if this authority is to be utilized. In addition, handlers would be encouraged to have written agreements with growers who deliver cherries to them. Such agreements could include provisions describing how the restricted percentage cherries delivered to the handler would be handled and what share, if any, the grower would have in the eventual sale of any inventory reserve cherries. Such agreements could also cover grower reimbursement for the sale of primary inventory reserve cherries.

Testimony at the hearing indicated that the Board could require reserve cherries to meet certain standards of grade, quality, or condition. All unprocessed cherries would be inspected by the USDA prior to placing them in an inventory reserve. A certificate of such inspection would show the name and address of the handler, the number and type of containers in the lot, the grade of the product, the location where the lot is stored, identification marks, and a certification that the cherries meet the prescribed standard.

All inspection costs of inventory reserve cherries would be paid by the Board. The USDA considered modifying this provision to provide that inspection costs be paid by the individual handler placing cherries in the inventory reserve. This would then be similar to the modification to the proposed order regarding storage costs to be paid by the regulated handler rather than by a separate storage assessment on all handlers. However, after further examination of the record, the USDA has determined that the industry as a whole would benefit by providing quality standards for cherries to be placed in the inventory reserve and later released to be sold in the marketplace. The proponents offered testimony that setting quality standards for inventory reserve cherries would be a benefit to the entire industry. Therefore, it would be appropriate for the Board to pay for inspection. The inspection costs would be paid from the administrative assessment fund.

The record does not indicate any specific quality standard for the inventory reserve. Thus, it should be the Board's responsibility to establish, with the approval of the Secretary, such quality standards. Promptly after inspection and certification, each handler would submit a copy of the certificate of inspection to the Board.

A witness testified that inspection on the inventory reserve should not be required. The witness stated that tentative industry committees made up of pie fill, juice and IQF processors could propose different regulations to ascertain the quality of the product in the inventory reserve without requiring inspection. The preponderance of the testimony supports inspection of cherries placed in the inventory reserve, if recommended by the Board and approved by the Secretary. Inspection of the inventory reserve would ensure good quality product is placed into the reserve and is still of good quality when released and sold from the reserve. Therefore, the witness's proposal is not included in the proposed order.

Record evidence indicates that it would be the individual handler's responsibility to rotate cherries placed in the inventory reserves by putting new cherries in and taking old cherries out. Rotating cherries in the inventory reserve is not a requirement under the order. However, it would benefit the industry if it is done. This would insure that good quality cherries are being released when inventory reserve cherries are sold. Handlers would be required to notify the Board of any changes in lot numbers, etc., when inventory is rotated and provide proof of inspection of cherries used to produce the storable product. Since rotation is voluntary by each handler, the type of storage chosen would impact on how frequently rotation is required. Generally, the cost of inspecting cherries to be rotated into reserve inventories should be borne by the Board. However, the Board should have the authority, subject to the approval of the Secretary, to limit the number of inspections of cherries to be rotated into inventory reserves for which the Board would be financially liable.

Handlers would be responsible for holding inventory reserve cherries until released by the Board. So that such release is equitably apportioned, the Board would set the quantity to be taken out of each particular handler's reserve. Handlers would not be required to market such cherries immediately upon release from the reserve. Once released, the cherries could be marketed at appropriate times depending on each handler's marketing plan. Handlers would not be allowed to forward contract or, in any other way, market reserve cherries before receiving an official release from the Board.

The proponents testified that if a secondary reserve is established, all costs of that reserve, including inspection costs, should be paid by the individual handler. The record indicates that a secondary reserve established by a handler would be an option for a handler to consider when the reserve is above the 50 million pound cap. Therefore, the handler should assume all the responsibility of a secondary reserve since there are other options (redeeming grower diversion certificates, diverting at the handler's processing facility, etc.) handlers could use to meet their diversion requirement.

All other requirements established to operate the primary reserve should apply to a secondary reserve established by an individual handler. These could include quality standards for inventory reserve cherries and inventory reserve releases.

A witness testified by offering an alternative proposal to the proponent's proposal. That proposal would eliminate the secondary reserve. The witness testified that there are many market factors which dictate against putting up a large reserve. For example, handlers would have to consider the costs of storing a large reserve. This proposal is not included in the proposed order because a secondary reserve is an option the handler could choose. If a handler does not want to pay for storage costs of a secondary reserve, the handler could choose to divert at the plant or redeem grower diversion certificates.

Reserve Releases

Record evidence indicates that the volume control provisions should provide for opportunities for the primary inventory reserve to be released throughout the year to handlers that are in regulated districts. No cherries should be released from the secondary reserve until all cherries in any primary inventory reserve have been released.

A witness testified that single districts should be allowed to release inventory reserve cherries when they are needed to satisfy a specific market. If such a release occurs in one district, those cherries could be sold into that market. Other districts who have inventory reserve released could not sell their cherries into those markets. After review of this modification the USDA has determined that such a modification would not be equitable to all handlers. Also, there was no additional testimony as to how such a provision would operate in the industry. Therefore, such a modification is not included in the proposed order.

The proposed marketing order specifies four possible releases of primary inventory reserves under §§ 930.50 (g) and (j) and 930.55(a).

The first, under proposed § 930.50(g), would release up to an additional 10 percent (above the optimum supply level) of the average of the prior three years sales if such inventory is available in the primary inventory reserve. The proponents proposed that this release would take place after all handlers had been polled and deemed it advisable to release additional cherries into the market for market expansion. The proponents testified that handlers would be polled as quickly as possible and the Board would make the final decision on the release based on the handler vote. The USDA would be informed of the outcome of the voting process. The proponents also testified that this release would be up to an additional 10 percent of the optimum supply and could take place a couple of times a year to reach the 10 percent total.

After review of this proposal, the USDA has revised this reserve release mechanism to more closely follow USDA policy guidelines. As proposed by the proponents, the polling of handlers to determine the release of up to 10 percent would be difficult to administer and inconsistent with the Secretary's Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders (Guidelines). The Guidelines state that, under volume control programs, primary markets should have available a quantity equal to 110 percent of recent years' sales in those outlets before the Secretary would approve secondary market allocation or pooling. This is to assure plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with burdensome supply situations.

The proponents' proposal is revised by requiring the additional 10 percent to be made available to handlers, without a polling mechanism. However, for this release only, individual handlers would be able to decide if they need the additional tonnage and inform the Board so that their reserve cherries may be released to them. Those handlers not desiring the additional inventory would not have it released to them. This revision would be consistent with the Guidelines, which were discussed at the hearing, since the tonnage would be required to be made available to the industry, but actual release of inventories would be based on individual handlers projected needs and situations.

The second release, under § 930.50(j), would occur in years when the expected availability from the current crop plus expected carryin inventory does not fulfill the targeted availability of 100 percent of the average annual sales in the prior three years plus the desirable carryout (optimum supply). The Board would release, not later than November

1 of the current crop year, such volume from the inventory reserve. This release would be made to all handlers holding primary inventory reserve and is a required release to be made by the Board if the above conditions are met and inventory reserve cherries are available. This provision would assure that inventory reserves would be utilized to stabilize supplies available on the market. In this case, handlers would be required to accept the released inventory reserve cherries, if available, for their own use. Under these circumstances, most handlers would want more cherries because the current supply is not available to fulfill demand. Testimony at the hearing indicated that reserve inventories released to handlers could be sold into any market as free tonnage cherries. In addition, any secondary inventory reserve cherries could be released if the release of the total primary inventory reserve does not bring total available supplies up to the optimum supply level.

The third release of the reserve is proposed under § 930.54(a) which would allow the Board to recommend to the Secretary a release of a portion or all of the primary (and secondary) inventory reserve. In order to make this release, the Board would need to determine that the total available supplies for use in normal commercial outlets do not equal the amount needed to meet the demand in such outlets. This could happen if there was a tart cherry crop loss in Europe or a significant U.S. blueberry or other competing crop loss. In these instances, more tart cherries could be made available to supply the unexpected demand caused by such crop losses.

The proponents also proposed the authority under § 930.54(b), for the Board to establish, through informal rulemaking, circumstances in which an individual handler may sell any or all of their inventory reserve cherries into the following markets: Charitable uses; state government, USDA or other non-military federal agency purchases, any experimental purposes, and any nonhuman use, including animal feed. This provision would allow the Board to specify when handlers can sell inventory reserve cherries into these outlets.

After review of this proposal the USDA is deleting this provision from the proposed order. The Board should not be placed in the position of deciding whether inventory reserve cherries should be released to individual handlers for specific sales. Handlers would be able to sell cherries into these outlets by using their free tonnage cherries or cherries that are released to them from the inventory reserve. The Board could address this issue under the exempted use provision (§ 930.62). The Board is authorized to expand the list of exempted uses, therefore the Board could specify those outlets that handlers can sell reserve cherries into after notifying the Board. For the above reasons the USDA has deleted this portion of the proposal and modified § 930.62 as discussed above.

Diversion—General

Handlers would be allowed to choose to meet their restricted percentage obligation by placing cherries in the primary inventory reserve or diverting the cherries, or a combination of both. Record evidence shows that cherries could be diverted either by the grower at the orchard or by the handler at the processing plant. Handlers and growers choosing to divert would save production, cultural, processing, storing and inspection costs.

A grower could choose to divert if such grower's crop is of poor quality due to hail damage or some other climatic condition. By choosing to divert the poor quality crop, the grower could be provided income from redeemed diversion certificates. In addition, poor quality fruit would be kept off the market.

Handlers choosing to divert would save processing, storage and secondary reserve inspection costs if they divert cherries at the plant. The handler could choose the best cherries to process, and divert the less desirable cherries or contribute them to a Board approved food bank. The specifics of both proposed diversion programs are discussed below.

Grower Diversion

There are no order provisions which would require a grower to divert tart cherries. Grower diversion would be completely voluntary. Growers could choose to divert because they have an abundance of low value, poor quality cherries or they are unable to find a processor willing to process some or all of their cherries because of a large crop. Before choosing to divert, the grower would most likely evaluate the harvesting and other cultural costs that could be saved by diverting and locate a handler that would be willing to redeem such grower's diversion certificate. Record evidence indicated that a portion of the production of growers choosing to divert would be left unharvested until the cherries are too ripe to be of commercial use. Growers who elect to divert their cherries and who wish to obtain diversion certificates (explained below) would have to file an application with the Board for such diversion to be approved. The proponents stated that rules and regulations would need to be promulgated to implement provisions for diverting cherries by growers. These regulations could include: (1) The form and content of applications and agreements including provisions for supervision and compensation for such supervision by the Board; and (2) provisions for mapping procedures to identify growers' production and acreage locations. The proponents testified that diversion certificates should only be valid for one crop year. This would allow the Board to account for all cherries produced in the crop year and, since diverted cherries count as delivered cherries for marketing policy calculations, would allow the Board to calculate accurate preliminary and final percentages. The proponents also testified that the diversion program would be easier to administer if the diversion certificates were redeemed in the same crop year in which they were issued. However, the proponents testified that the Board should be able, through informal rulemaking, to develop rules that would apply to possible circumstances in which diversion certificates might be able to be carried forward into the next crop year.

Growers wishing to divert all or a portion of their crop could be required to submit maps to the Board that specify the area(s) where cherries would be left unharvested. Several growers testified at the hearing that most growers have maps of their orchards and that it would not be an undue burden to submit that information to the Board. Once the Board approves a grower's application for diversion and verifies diversion of the cherries, the Board would issue a diversion certificate to the diverting grower. The diversion certificate would specify the amount of cherries that were diverted. The grower could then take the diversion certificate to a handler to be redeemed. A handler could redeem the certificate for cash, by paying higher prices for nondiverted cherries, or through other financial arrangements between the two parties. Any such arrangements between growers and handlers concerning diversion certificates would not be part of the marketing order. Such decisions could vary among individual growers and handlers and among growers and handlers in different regions of the regulated area.

As an example, if a handler normally receives 1,000 tons of cherries and a restricted percentage of 20 percent is established, that handler would expect to have to place 200 tons of cherries into the primary reserve. If the handler receives grower diversion certificates (which are treated as though they are actual cherries delivered), the volume of cherries required to be placed into reserve could be reduced. Thus, if the handler received 1,000 tons of cherries, with 50 tons represented by diversion certificates, and a restricted percentage of 20 percent is established, the actual tonnage required to be stored in the primary reserve would be 150 tons (200 tons minus the 50 tons of diverted cherries). Handlers would value certificates to the extent they could reduce their operating costs through the selective use of the best quality cherries available for initial delivery and/or the avoidance of processing and storage costs for reserve cherries. Handlers could also receive higher prices for processed products made from the best quality cherries. This would create opportunities for individual growers and handlers to arrive at different financial arrangements depending on the quality of the cherries available for delivery, whether contractual obligations exist for all or a portion of the grower's crop, the processing capacity of the handler, the size of the crop which exceeds market demands, individual handler's financial situations, etc.

Handlers may want to limit the volume of the primary inventory reserve that they would be responsible for and therefore, could request their growers to divert cherries in the orchard rather than at the processing plant. Nonharvest of the cherries would be considerably cheaper than incurring the costs of picking, cooling and hauling cherries to the handler's facility. A handler might also consider redeeming grower diversion certificates if they could receive and handle a larger volume of better quality cherries from other growers.

The proponents also testified that diversion certificates should be issued to growers in the event an act of nature damaged or destroyed what would otherwise have been a deliverable crop. In the event of a disaster, growers are faced with the very tough decision of whether to harvest a heavily damaged, and usually poor quality, crop, and deliver it to a handler for processing, or to leave the crop unharvested. By leaving the crop unharvested, the grower would have no income from the crop. However, harvesting the crop could result in a considerable quantity of poor quality fruit making its way into marketing channels and could add needlessly to the grower's costs. In addition, poor quality cherries in the marketplace could depress market prices for all cherries. The proponents testified that issuing a grower diversion certificate to growers with damaged cherries could increase grower income, which is one of the purposes of the Act and the order. Record evidence supported that this should be limited solely to otherwise harvestable fruit that was damaged by acts of nature. For example, in the event of an early frost, preventing the initial setting of the cherries and resulting in no crop to harvest, this provision would not apply. Special precautions are expected to be taken by the Board to ensure that harvestable cherries were in fact not harvested, and were subsequently shaken on the ground or otherwise permanently removed from the market. The proponents testified that the Board may want to supervise some types of grower diversion. Additionally, the proponents testified that such unharvested fruit would be calculated in computing the final free and restricted percentages. Unharvested fruit for which diversion certificates are issued should also be used in the calculations in the marketing policy because such fruit would have been harvested if not diverted.

There was considerable discussion on the record concerning equity of this provision and the effect on the marketing policy. Also, one of the parties stated in his brief that the practice allowed under the proponents proposal grants a document of potential economic value in exchange for something of no value—cherries which are unmarketable because of damage of some kind. It was therefore, argued that, in no case should diversion certificates be granted for other than mature, harvestable cherries.

The Board would be required to ensure that diversion credit is not given to growers whose fruit was destroyed before it set and/or matured on the tree. Diversion credit would only be given to growers whose harvestable fruit was damaged or destroyed due to tornadic winds, floods, etc.

The proponents also testified that diversion credit could be given for fruit damaged or destroyed prior to full maturity that is not likely to enter the stream of commerce as defined under the proposed marketing order. However, counting this "destroyed, but to be diverted" cherries as though they were actually produced would result in a more restrictive inventory reserve percentage, applicable to all handlers. This would occur because the destroyed but diverted fruit would be counted in the final delivery figures used in computing the final and restricted percentages. If the final crop figure is increased, it would result in a more restrictive percentage. This provision would create a form of crop insurance for growers which is inconsistent with these types of programs. Therefore, the proponent's proposal to grant diversion credit to growers for such unharvestable fruit is not included in the language of this recommended decision.

The USDA is including amendatory language that would recommend growers notify the Board if they are unable to redeem their diversion certificates. The Board could act as a clearinghouse and inform handlers that diversion certificates are available for redemption. The Board could recommend rules and regulations to specify the details of this provision. One such provision may be to include a date by which all growers must inform the Board that they have certificates remaining to redeem. The Board would then be able to assist growers in locating handlers willing to redeem their diversion certificates. However, the Board has no authority to require handlers to redeem certificates or establish prices or pricing guidelines for diversion certificates.

Handler Diversion

The other form of diversion would be by handlers at their processing facilities. Handlers in a regulated district could fulfill any restricted percentage requirement by voluntarily diverting cherries in an approved program rather than placing cherries in an inventory reserve. If the primary inventory reserve has reached its maximum volume limitation, handlers would either have to establish a secondary inventory reserve, divert the restricted percentage cherries, or utilize a combination of the two.

The uses eligible for diversion could take any of the following forms, if recommended by the Board and approved by the Secretary. These would be uses exempt under the order, contribution to a Board approved food bank or other approved charitable organization, acquisition of grower diversion certificates, or other uses, including diversion of the cherries at the handler's facility. Record evidence shows that handlers could choose which, and whose, cherries to divert. Those decisions would likely be made on quality considerations, but could also be impacted by prior contractual arrangements with their growers. A handler electing to divert cherries would first need to notify the Board. The notification would describe in detail the manner in which the handler proposes to divert the cherries,

including, if the diversion is to be by means of destruction of the cherries, a detailed description of the means of destruction and the disposition of such cherries. This type of description would be necessary to ensure that the cherries were not marketed in any form. Any notification of diversion would contain an agreement that the proposed diversion is to be supervised by the Board and that the costs of diversion will be paid by the handler. The proponents testified that uniform fees for supervision should be established by regulation.

Exempt Use Diversion

The diversion of cherries for exempt uses would first need to be approved by the Board. Tart cherries could be exempted from certain order provisions if they are diverted in accordance with the order; used for new product and/or new market development; or used for experimental purposes or for other uses designated by the Board, including processing into products for markets utilizing less than 5 percent of the preceding 5 year average production of cherries. The list of exemptions could be expanded, with the approval of the Secretary, through the informal rulemaking process. The Board may also want to provide that handlers can sell reserve cherries in existing inventory reserves into specific outlets if handlers first notify the Board. This would allow handlers to dispose of inventory reserve cherries if their individual economic situations make continued storage unfeasible, but would prevent such cherries from interfering with normal commercial markets for free market tonnage cherries. The application for exempt usage would show the uses to which the diverted cherries would be put and contain an agreement that the diversion would be carried out under the supervision of the Board, with the cost of diversion to be paid by the applicant. The applicant would be notified of the Board's approval or disapproval.

Upon receiving verification of an approved diversion, the Board would issue to the diverting handler a handler diversion certificate. The diversion certificate would show the quantity of cherries diverted by such handler. Such a certificate would satisfy any restricted percentage or diversion requirement up to the inspected weight of the cherries involved. Such diversion would reduce that handler's processing, storage, and inspection costs. For example, if a handler receives and processes 1,000 tons of cherries and a restricted percentage of 20 percent is established, the handler would have to place 200 tons of processed cherries into the primary inventory reserve. If the handler diverts 100 tons of cherries before processing, the required volume of restricted inventory reserve would be reduced to 100 tons.

The proponents took no position on what other exempt uses the Board may establish. However, handlers from Oregon and Washington expressed concern that juice concentrate could be established by the Board as a use eligible for diversion credit. Some handlers in Washington and Oregon process all or the majority of their cherries into juice concentrate. There is a wide selection of concentrators available in that area and there was testimony that cherries produced in Washington and Oregon have a high brix (sugar content) level desirable for juice concentrate. Testimony showed that small businesses in that area could be unduly burdened if the Board decided to allow diversion credit for juice concentrate as this could cause an artificially induced increase in the volume of juice concentrate in the marketplace, lowering prices for all such products. Therefore, the evidence presented on this issue has persuaded the USDA to modify the proposed provision to prohibit the use of juice concentrate for diversion credit.

Determination of Districts Subject to Volume Regulation

The order should provide for the establishment of districts for the purposes of volume regulations. The proponents testified in support of their proposal, that upon adoption of this order, districts subject to volume regulation would be those districts in which the average annual production of cherries over the prior three years exceeded 15 million pounds. Record evidence shows that Michigan, Utah and New York would be regulated States at this time. Using the proposed 15 million pound minimum production figure, Oregon, Pennsylvania, Washington and Wisconsin would not be regulated at this time. Handlers in districts not subject to volume regulation would not be subject to annual restricted percentages, except to the extent they might handle cherries grown in a regulated district. In such case, the handler would treat a portion of the cherries from the regulated district as restricted percentage cherries, just as if the handler were in a regulated district.

The proponents further testified in support of their proposal that districts not currently meeting the production requirement of 15 million pounds should automatically be subject to regulation in the marketing year in which the production of cherries in the district is projected to exceed 150 percent of the average production experienced in 1989 through 1992. This period reflects a normal production cycle for tart cherries. This period could be changed with approval of the Secretary through the informal rulemaking process. This provision is designed to catch surges in production that occasionally occur in order to more equitably distribute the burden of controlling burdensome supplies. Proponents testified that, while a district may not historically be a large producer and thus not warrant permanent volume regulation, producing over 50 percent more than its historical average warrants a district's becoming subject to volume regulation, albeit on a temporary basis.

It was also the proponents' position that if a district's production exceeds 150 percentum of the base period as a result of increased capacity to produce (i.e., increased bearing acreage), then beginning with the next crop year such district should be permanently subject to volume regulation. However, if a district, over a rolling three-year period following the year of subjection to regulation, drops below the 150 per centum trigger, such district would become unregulated again.

After review of the proponent's proposal concerning the trigger for regulation and the testimony and other record evidence concerning this issue, the Department has determined it would be overly complicated for the Board to administer and possibly inequitable to handlers and growers. Proponents testified that it is not the intent to regulate States with smaller production volumes (e.g., Pennsylvania, Oregon) because when one State's production is up the other State's production is likely to be down. The smaller States' aggregate volume is not a critical amount when compared to the total volume of tart cherries produced. Proponents stated that a purpose of the proposed order was to make sure that when smaller producing States (e.g., Washington, Oregon, Wisconsin) expand production, they do not take advantage of the system and become free riders. The proponents also testified that some districts could be regulated even though they have less than 15 million pounds annual production if they exceed the 150 percent trigger mechanism. For example, if Wisconsin's production for the 1989 through 1992 period is 7 million, 5 million, 8 million and 9 million pounds, respectively, the average for those four years would be 7.25 million pounds. Then 7.25 would be multiplied by 150 percent to equal about 11 million pounds. If Wisconsin produced 11.5 million pounds in a specific year, Wisconsin would be regulated under the order, even though Wisconsin did not exceed the 15 million pound level.

The USDA crop estimate is not released until late June. Thus, the Board may not be able to provide adequate notice to handlers in districts that were not regulated from the initial promulgation of the order that they would be subject to volume control regulations that could be announced on July 1. The record indicated that some districts have been experiencing earlier harvesting dates than other districts and therefore, handlers and growers would not know in time that they were to become a regulated district. In addition, there could also be confusion and concern in the industry if districts can meet one of the criteria and not the other criteria and still be regulated.

Since the larger producing districts are the major concern for volume regulation purposes, the USDA is revising this provision by deleting the 150 per centum trigger mechanism for determining districts subject to volume regulation. Therefore, the criteria that a district would have to meet to become regulated under the volume control provisions of the order would be to exceed an average annual production of cherries over the prior three years of 15 million pounds. This provision would be much easier to administer and cause less confusion. It is also desirable for the district not to be subject to volume regulations until the crop year after the three year average production exceeds the 15 million pound level. This would allow adequate notice to be given to handlers that they would subsequently be subject to volume regulations. For example, if a previously unregulated district's average annual production of cherries over the prior three years was 18 million pounds at the conclusion of the 1997 crop year, that district would be subject to volume regulations during the 1998 crop year.

The USDA is also modifying the proposal for determining when regulated districts would not be subject to volume regulation. The USDA has revised this provision to provide that when a district drops below the 15 million pound three year average production figure, that district would not be regulated. It is desirable for a provision to be included in the order to discontinue regulation in a district when production capacity has decreased or actual production has suffered due to some type of hardship that has significantly affected production in that district. This determination should be made after the close of the crop year and would apply to the next year's crop. These modifications were supported by record testimony.

The proponents testified that a disaster relief clause should be included to exempt a regulated district from regulation in a year in which production in that district drops to less than one-half of its maximum annual processed production for the previous five years. This provision is included in the proposed marketing order to help relieve such district from the burdens of the order in a year in which its processors and growers were already suffering from a severely short crop. Thus, if the central Michigan district's maximum production during the previous five year period was 80 million pounds, and in the next year only 30 million pounds were produced and supplies from other districts exceeded the optimum supply, the central Michigan district would not be regulated. The above modifications have been made to the proposed order.

A witness provided an alternative to the 15 million pound production level for determining when a district would become regulated. The witness testified that 20 million pounds should be used because it provides a cushion before regulation would occur. However, the preponderance of the testimony supported a 15 million pound production level. Therefore, the 20 million level is not adopted. In addition, the proponents proposed under § 930.63 that the Board should have the authority to recommend to the Secretary expansion of the production area if such new area's average annual production of cherries reaches at least five million pounds over a three-year period. The provision also provides for nomination, election, appointment, acceptance, and other matters concerning Board membership. After review of this proposal, the USDA is deleting this provision from the proposed order. The Board has the power under § 930.30(d) to recommend to the Secretary amendments to the marketing order dealing with any issue. During a formal rulemaking process to expand the production area, the issues dealing with Board representation, quorum, voting requirements and etc. would be addressed. Also, the proposed provision requires that the Board cannot consider expansion of the production area until such new area's average annual production of cherries reaches at least five million pounds over a three-year period. The Board may want to expand the production area even though such new area has not reached the above level. Therefore, § 930.63 is deleted from the proposed order.

(g) The Board should have the authority, under proposed § 930.70, with the approval of the Secretary, to require that first handlers submit to the Board such reports and information as the Board may need to perform its functions and fulfill its responsibilities under the order. In the normal course of business, tart cherry handlers collect and record information that may be needed by the Board. Witnesses expressed the belief that the reporting requirements that may be imposed under the proposed order would not constitute an undue burden on handler businesses.

Reports would be needed by the Board for such purposes as collecting assessments; compiling statistical data for use in evaluating marketing research and development projects; promotional activities; making recommendations for production research; making recommendations for volume control regulations; and determining whether handlers are complying with order requirements. The record evidence indicates that, to the extent necessary for the Board to perform its functions, handlers would probably need to provide information showing weekly production data, monthly sales and inventory data, and other such information, including the volume of any cherries placed in or released from a primary or secondary inventory reserve or diverted. This should not be construed as a complete list of information the Board might require, nor should it be assumed that all of the above would be necessary for the proper conduct of its operations under the order. Therefore, the Board should have the authority, with the approval of the Secretary, to require each handler to furnish such information as it finds necessary to perform its duties under the order.

Each handler should be required to maintain such records of tart cherries acquired, handled, diverted or sold, or otherwise disposed of as may be necessary to verify the reports that the handler submits to the Board. All such records should be maintained for at least two years after the termination of the fiscal year in which the transaction occurred. The order should provide the authority for the Secretary and authorized employees of the Board to have access to handlers' premises to examine those records pertaining to matters within the purview of the order. This provision would enable verification of compliance with requirements of the order.

All reports and records submitted for Board use by handlers would be required to remain confidential and be disclosed only as authorized by the Secretary, except as required by law. Such reports should become part of the committee and Secretary's records. However, the Board should be authorized to release composite information from any or all reports. Such composite information could be helpful to the Board and to the industry in planning operations under the order and in promoting the order. Any release of composite information should not disclose the identity of the persons furnishing the information or any person's individual operation.

(h) No handler should be permitted to handle tart cherries except in conformity with the provisions of this part, as set forth in proposed section 930.80. If the program is to be effective, compliance with its requirements is essential.

In accordance with proposed section 930.83, the order should provide that the Secretary conduct a periodic referendum every six years with the initial referendum conducted within six years of the effective date of the marketing order.

The Secretary of Agriculture has determined that continuance referenda are an effective means for ascertaining whether producers favor continuance of marketing order programs. The Act provides that the Secretary shall terminate a marketing order whenever, through the conduct of a referendum, it is indicated that a majority of all producers favor termination and such majority produced more than 50 percent of the commodity for market during a representative period.

Since less than 50 percent of all producers usually participate in a referendum, it is difficult to determine overall producer support or opposition to termination of an order. Thus, to provide a basis for determining whether producers favor continuance of the order, a provision for continuance referenda should be included. Continuance should be based upon the affirmative vote of either two-thirds of the producers voting or an affirmative vote of the producers of two-thirds of the volume of tart cherries represented in the referendum.

The Act requires that in the promulgation of a marketing order, at least two-thirds of the producers voting, by number or volume represented in the referendum, must favor the issuance of the order. Continuance referenda should be based on the same standard of industry support. This requirement is considered adequate to measure producers' support to continue the marketing order. The Secretary would consider termination of the order if less than two-thirds of the producers voting in the referendum or producers of less than two-thirds of the volume of tart cherries represented in the referendum favor continuance. In evaluating the merits of continuance versus termination, the Secretary should not only consider the results of the referendum but also should consider all other relevant information concerning the operation of the order and the relative benefits and disadvantages to producers, handlers, and consumers in order to determine whether continued operation of the order would tend to effectuate the declared policy of the Act.

The Secretary's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" provide for periodic referenda to allow producers the opportunity to indicate their support for or rejection of a marketing order. It is the position of the Department that periodic referenda ensure that marketing order programs continue to be accountable to producers and processors, obligate producers and processors to evaluate their programs periodically, and involve them more closely in their operation. The record evidence supports these goals.

In any event, section 608(C)(16)(B) of the Act requires the Secretary to terminate the order whenever the Secretary finds that the majority of all producers favor termination, and that such majority produced more than 50 percent of the commodity for market.

In addition to producer approval for the promulgation of a order, the Act provides that no order shall be effective for cherries for canning or freezing unless the Secretary determines that the issuance of such order is approved or favored by processors who, during a representative period, have frozen or canned more than 50 percentum of the total volume of cherries. Processors should also vote in continuance referenda. The same criteria for promulgation would apply to continuance referenda for processors.

(i) The provisions of proposed §§ 930.84 through 930.94 of the order as contained in the Notice of Hearing and hereinafter set forth, are common to marketing agreements and orders now operating. All such provisions are necessary to effectuate the other provisions of the marketing order and marketing agreement and to effectuate the declared policy of the Act. The record evidence supports inclusion of each such provision as proposed in the Notice of Hearing. These provisions, which are applicable to both the marketing agreement and the marketing order, are identified by section number and heading as follows: § 930.84 Proceedings after termination; § 930.85 Effect of termination or amendment; § 930.86 Duration of immunities; § 930.87 Agents; § 930.88 Derogation; § 930.89 Personal liability; § 930.90 Separability; and § 930.91 Amendments. Those provisions applicable to the marketing agreement only are: § 930.92 Counterparts; § 930.93 Additional parties; and § 930.94 Order with marketing agreement.

Miscellaneous conforming and clarifying changes have also been made.

Rulings on Proposed Findings and Conclusions

Briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth in this recommended decision. To the extent that the suggested findings and conclusions filed by interested persons are inconsistent with the findings and conclusions of this recommended decision, the requests to make such findings or to reach such conclusions are denied.

General Findings

(1) The marketing agreement and order, as hereby proposed, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

(2) The marketing agreement and order, as hereby proposed, regulate the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin in the same manner as, and are applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which a hearing has been held;

(3) The marketing agreement and order, as hereby proposed, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivision of the production area would not effectively carry out the declared policy of the Act; and

(4) All handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin as defined in the proposed marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

1. Title 7, chapter IX is proposed to be amended by adding part 930 to read as follows:

PART 930—TART CHERRIES GROWN IN MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON AND WISCONSIN

Subpart—Order Regulating Handling

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Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

Definitions

§ 930.1 Act.

Act means Public Act No. 10, 73d Congress (May 12, 1933), as amended, and as reenacted and amended by the Agriculture Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended, 68 Stat. 906, 1047; 7 U.S.C. 601, *et seq.*).

§ 930.2 Board.

Board means the Cherry Industry Administrative Board established pursuant to § 930.20.

§ 930.3 Cherries.

Cherries means all tart/sour cherry varieties grown in the production area classified botanically as *Prunus cerasus, Prunus cerasas* by *Prunus avium,* or *Prunus cerasas* by *Prunus fruticosa.*

§ 930.4 Crop year.

Crop year means the 12-month period beginning on July 1 of any year and ending on June 30 of the following year, or such other period as the Board, with the approval of the Secretary, may establish.

§ 930.5 Department or USDA.

Department or *USDA* means the United States Department of Agriculture.

§ 930.6 District.

District means one of the subdivisions of the production area described in § 930.20(c), or such other subdivisions as may be established pursuant to § 930.21, or any subdivision added pursuant to § 930.63.

§ 930.7 Fiscal period.

Fiscal period is synonymous with fiscal year and means the 12-month period beginning on July 1 of any year and ending on June 30 of the following year, or such other period as the Board, with the approval of the Secretary, may establish: Provided, that the initial fiscal period shall begin on the effective date of this part.

§ 930.8 Free market tonnage percentage cherries.

Free market tonnage percentage cherries means that proportion of cherries handled in a crop year which are free to be marketed in normal commercial outlets in that crop year under any volume regulation established pursuant to § 930.50 or § 930.51 and, in the absence of a restricted percentage being established for a crop year pursuant to § 930.50 or § 930.51, means all cherries received by handlers in that crop year.

§ 930.9 Grower.

Grower is synonymous with "producer" and means any person who produces cherries to be marketed in canned, frozen, or other processed form and who has a proprietary interest therein: Provided that, the term "grower" shall not include a person who produces cherries to be marketed exclusively for the fresh market in an unpitted condition.

§ 930.10 Handle.

Handle means the process to brine, can, concentrate, freeze, dehydrate, pit, press or puree cherries, or in any other way convert cherries commercially into a processed product, or divert cherries pursuant to § 930.59 or obtain grower diversion certificates issued pursuant to § 930.58, or otherwise place cherries into the current of commerce within the production area or from the area to points outside thereof: Provided, that the term "handle" shall not include:

(a) The brining, canning, concentrating, freezing, dehydration, pitting, pressing or the converting, in any other way, of cherries into a processed product for home use and not for resale; or

(b) The transportation within the production area of cherries from the orchard where grown to a processing facility located within such area for preparation for market; or

(c) The delivery of such cherries to such processing facility for such preparation; or

(d) The sale or transportation of cherries by a grower to a handler of record within the production area; and

(e) The sale of cherries in the fresh market in an unpitted condition.

§ 930.11 Handler.

Handler means any person who first handles cherries or causes cherries to be handled.

§ 930.12 Person.

Person means an individual, partnership, corporation, association, or any other business unit.

§ 930.13 Primary inventory reserve.

Primary inventory reserve means that portion of handled cherries that are placed into handlers' inventories in accordance with any restricted percentage established pursuant to § 930.50 or § 930.51.

§ 930.14 Production area.

Production area means the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin.

§ 930.15 Restricted percentage cherries.

Restricted percentage cherries means that proportion of cherries handled in a crop year which must be either placed into handlers' inventories in accordance with § 930.56 or § 930.58 or otherwise diverted in accordance with § 930.60 and thereby withheld from marketing in normal commercial outlets under any volume regulation established pursuant to § 930.50 or § 930.51.

§ 930.16 Sales constituency.

Sales constituency means a common marketing organization or brokerage firm or individual representing a group of handlers or growers.

§ 930.17 Secondary inventory reserve.

Secondary inventory reserve means any portion of handled cherries voluntarily placed into inventory by a handler under § 930.58.

§ 930.18 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

Administrative Body

§ 930.20 Establishment and membership.

(a) There is hereby established a Cherry Industry Administrative Board (Board) consisting of 18 members. Seventeen of these members shall be qualified growers and handlers selected pursuant to this part, each of whom shall have an alternate having the same qualifications as the member for whom the person is an alternate. The remaining member of the Board shall be a public member who, along with his or her alternate, shall be elected by the Board from the general public.

(b) District representation on the Board shall be as follows:

District	Grower members		Handler members
1	2		2
2	1		2
3	1		1
4	1		1
5	1	or	1
6	1	or	1
7	1		1
8	1	or	1
9	1	or	1

(c) Upon the adoption of this part, the production area shall be divided into the following described subdivisions for purposes of this section:

District 1—Northern Michigan: that portion of the State of Michigan which is north of a line drawn along the northern boundary of Mason County and extended east to Lake Huron.

District 2—Central Michigan: that portion of the State of Michigan which is south of District 1 and north of a line drawn along the southern boundary of Allegan County and extended east to Lake St. Clair.

District 3—Southern Michigan: That portion of the State of Michigan not included in Districts 1 and 2.

District 4—The State of New York.

District 5—The State of Oregon.

District 6—The State of Pennsylvania.

District 7—The State of Utah.

District 8—The State of Washington.

District 9—The State of Wisconsin.

(d) The ratio of grower to handler representation in District 2 shall alternate each time the term of a Board member from the representative group having two seats expires. During the initial period of the order, the ratio shall be as designated in paragraph (b) of this section.

(e) Board members from Districts 5, 6, 8 and 9 may be either grower or handler members and will be nominated and elected as outlined in § 930.23. If District 5, 6, 8, and/or 9 becomes subject to volume regulation under § 930.52(a), then the Board shall be reestablished by the Secretary to provide such District(s) with at least one grower and one handler seat on the Board and such seats shall be filled according to the provisions of § 930.23.

(f) In those districts having more than one seat on the Board, not more than one Board member from that district may be elected from a single sales constituency. There is, however, no prohibition on the number of Board members from differing districts that may be elected from a single sales constituency which may have operations in more than one district. However, as provided in § 930.23, a handler may only nominate Board members and vote in one district.

(g) Subject to the approval of the Secretary, the Board shall at its first meeting and annually thereafter elect from among any of its members a chairperson and a vice-chairperson and may elect other appropriate officers.

§ 930.21 Reestablishment.

Districts, subdivisions of districts, and the distribution of representation among growers and handlers within a respective district or subdivision thereof, or among the subdivision of districts, may be reestablished by the Secretary, subject to the provisions of § 930.23, based upon recommendations by the Board. In recommending any such changes, the Board shall consider:

(a) The relative importance of producing areas,

(b) Relative production,

(c) The geographic locations of producing areas as they would affect the efficiency of administration of this part,

(d) Shifts in cherry production within the districts and the production area,

(e) Changes in the proportion and role of growers and handlers within the districts, and

(f) Other relevant factors.

§ 930.22 Term of office.

The term of office of each member and alternate member of the Board shall be for three fiscal years: Provided that, of the nine initial members and alternates from the combination of Districts 1, 2 and 3, one-third of such initial members and alternates shall serve only one fiscal year, one-third of such members and alternates shall serve only two fiscal years, one-third of such members and alternates shall serve only two fiscal years; and one-half of the initial members and alternates from Districts 4 and 7 shall serve only one fiscal year, and one-half of such initial members and alternates shall serve two fiscal years (determination of which of the initial members and their alternates shall serve for 1 fiscal year, 2 fiscal years, and 3 fiscal years shall be by lot). Members and alternate members shall serve in such capacity for the portion of the term of office for which they are selected and have qualified until their respective successors are selected, have qualified and are appointed. The consecutive terms of office of grower, handler and public members and alternate members shall be limited to two 3-year terms, excluding any initial term lasting less than 3 years. The term of office of a member and alternate member for the same seat shall be the same. If this part becomes effective on a date such that the initial fiscal period is less than six months in duration, then the tolling of time for purposes of this subsection shall not begin until the beginning of the first 12-month fiscal period.

§ 930.23 Nomination and election.

(a) Nomination and election of initial and successor members and alternate members of the Board shall be conducted through petition forms and election ballots distributed to all eligible growers and handlers via the U.S. Postal Service or other means, as determined by the Secretary. Similar petition forms and election ballots shall be used for both members and alternate members and any requirements for election of a member shall apply to the election of an alternate.

(b) Nomination:

(1) In order for the name of a grower nominee to appear on an election ballot, the nominee's name must be submitted with a petition form, to be supplied by the Secretary or the Board, which, except in District 8, contains at least five signatures of growers, other than the nominee, from the nominee's district who are eligible to vote in the referendum. Grower petition forms in District 8 must be signed by only two growers, other than the nominee, from the nominee's district.

(2) In order for the name of a handler nominee to appear on an election ballot, the nominee's name must be submitted with a petition form, to be supplied by the Secretary or the Board, which contains the signature of at least one handler, other than the nominee, from the nominee's district who is eligible to vote in the referendum.

(3) Only growers, including duly authorized officers or employees of growers, who are eligible to serve as grower members of the Board shall participate in the nomination of grower members and alternate grower members of the Board. No grower shall participate in the submission of nominees in more than one district during any fiscal period. If a grower produces cherries in more than one district, that grower may select in which district he or she wishes to participate in the nominations and election process and shall notify the Secretary or the Board of such selection. A grower may not participate in the nomination process in one district and the election process in a second district in the same election cycle.

(4) Only handlers, including duly authorized officers or employees of handlers, who are eligible to serve as handler members of the Board shall participate in the nomination of handler members and alternate handler members of the Board. No handler shall participate in the selection of nominees in more than one district during any fiscal period. If a handler handles cherries in more than one district, that handler may select in which district he or she wishes to participate in the nominations and election process and shall notify the Secretary or the Board of such selection. A handler may not participate in the nominations process in one district and the elections process in a second district in the same election cycle. If a person is a grower and a grower-handler only because some or all of his or her cherries were custom packed, but he or she does not own or lease and operate a processing facility, such person may vote only as a grower.

(5) In Districts 5, 6, 8 and 9, both growers and handlers may be nominated for the district's Board seat. Grower and handler nominations must follow the petition procedures outlined in paragraphs (b)(1) and (b)(2) of this section.

(6) All eligible growers and handlers in all districts may submit the names of the nominees for the public member and alternate public member of the Board.

(7) After the appointment of the initial Board, the Secretary or the Board shall announce at least 180 days in advance when a Board member's term is expiring and shall solicit nominations for that position in the manner described in this section. Nominations for such position should be submitted to the Secretary or the Board not less than 120 days prior to the expiration of such term.

(c) Election:

(1) After receiving nominations, the Secretary or the Board shall distribute ballots via the U.S. Postal Service or other means, as determined by the Secretary, to all eligible growers and handlers containing the names of the nominees by district for the respective seats on the Board, excluding the public voting member seat. The ballots will clearly indicate that growers and handlers may only rank or otherwise vote for nominees in their own district.

(2) Except as provided in paragraph (c)(4) of this section, only growers, including duly authorized officers or employees of growers, who are eligible to serve as grower members of the Board shall participate in the election of grower members and alternate grower members of the Board. No grower shall participate in the election of Board members in more than one district during any fiscal period. If a grower produces cherries in more than one district, the grower must vote in the same district in which he or she chose to participate in the nominations process under paragraph (b)(3) of this section. However, if the grower did not participate in the nominations process, he or she may select in which district he or she wishes to vote and shall notify the Secretary or the Board of such selection.

(3) Except as provided in paragraph (c)(4) of this section, only handlers, including duly authorized officers or employees of handlers, who are eligible to serve as handler members of the Board shall participate in the election of handler members and alternate handler members of the Board. No handler shall participate in the election of Board members in more than one district during any fiscal period. If a handler does handle cherries in more than one district, he or she must vote in the same district in which the handler elected to participate in the nominations process under paragraph (b)(4) of this section. However, if a handler did not participate in the nominations process, that handler may select in which district he or she chooses to vote and shall notify the Secretary or the Board of such selection. If a person is a grower and a grower-handler only because some or all of his or her cherries were custom packed, but he or she does not own or lease and operate a processing facility, such person may vote only as a grower.

(4) In Districts 5, 6, 8 and 9, growers and handlers may vote for either the grower or handler nominee(s) for the single seat allocated to those districts.

(d) The members of the Board appointed by the Secretary pursuant to § 930.24 shall, at the first meeting and whenever necessary thereafter, by at least a two-thirds vote of the entire Board, select individuals to serve as the public member and alternate public member of the Board from the list of nominees received from growers and handlers pursuant to paragraph (b) of this section or from other persons nominated by the Board. The persons selected shall be subject to appointment by the Secretary under § 930.24.

(e) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

§ 930.24 Appointment.

The selection of nominees made pursuant to elections conducted under § 930.23(c) shall be submitted to the Secretary in a format which indicates the nominees by district, with the nominee receiving the highest number

of votes at the top and the number of votes received being clearly indicated. The Secretary shall appoint from those nominees or from other qualified individuals, the grower and handler members of the Board and an alternate for each such member on the basis of the representation provided for in § 930.20 or as provided for in any reapportionment or reestablishment undertaken pursuant to § 930.21. The Secretary shall also appoint the public member and the alternate public member elected by the Board pursuant to § 930.23(d).

§ 930.25 Failure to nominate.

If nominations are not made within the time and in the manner prescribed in § 930.23, the Secretary may, without regard to nominations, select the members and alternate members of the Board on the basis of the representation provided for in § 930.20 or as provided for in any reestablishment undertaken pursuant to § 930.21.

§ 930.26 Acceptance.

Each person to be appointed by the Secretary as a member or as an alternate member of the Board shall, prior to such appointment, qualify by advising the Secretary that he/she agrees to serve in the position for which nominated for selection.

§ 930.27 Vacancies.

To fill any vacancy occasioned by the failure of any person appointed as a member or as an alternate member of the Board to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the Board, a successor for the unexpired term of such member or alternate member of the Board shall be appointed by the Secretary from the most recent list of nominations for the Board made by growers and handlers, from nominations made by the Board, or from other qualified individuals. Any nominations made by the Board to fill a vacancy must be received by the Secretary within 90 days of the effective date of the vacancy. Board members wishing to resign from the Board must do so in writing to the Secretary.

§ 930.28 Alternate members.

An alternate member of the Board, during the absence of the member for whom that member serves as an alternate, shall act in the place and stead of such member and perform such other duties as assigned. However, if a member is in attendance at a meeting of the Board, an alternate member may not act in the place and stead of such member. In the event of the death, removal, resignation, or disqualification of a member, the alternate shall act for the member until a successor for such member is appointed and has qualified.

§ 930.29 Eligibility for membership on Cherry Industry Administrative Board.

(a) Each grower member and each grower alternate member of the Board shall be a grower, or an officer or employee of a grower, in the district for which nominated or appointed.

(b) Each handler member and each handler alternate member of the Board shall be a handler, or an officer or employee of a handler, who owns, or leases, and operates a cherry processing facility in the district for which nominated or appointed.

(c) The public member and alternate public member of the Board shall be prohibited from having any financial interest in the cherry industry and shall possess such additional qualifications as may be established by regulation.

§ 930.30 Powers.

The Board shall have the following powers:

(a) To administer this part in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violations of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 930.31 Duties.

The Board shall have, among others, the following duties:

(a) To select such officers, including a chairperson and vice-chairperson, as may be necessary, and to define the duties of such officers and the duties of the chairperson and the vice-chairperson;

(b) To employ or contract with such persons or agents as the Board deems necessary and to determine the duties and compensation of such persons or agents;

(c) To select such committees and subcommittees as may be necessary;

(d) To adopt bylaws and to adopt such rules for the conduct of its business as it may deem advisable;

(e) To submit to the Secretary a budget for each fiscal period, prior to the beginning of such period, including a report explaining the items appearing therein and a recommendation as to the rates of assessments for such period;

(f) To keep minutes, books, and records which will reflect all of the acts and transactions of the Board and which shall be subject to examination by the Secretary;

(g) To prepare periodic statements of the financial operations of the Board and to make copies of each statement available to growers and handlers for examination at the office of the Board;

(h) To cause its books to be audited by a certified public accountant at least once each fiscal year and at such times as the Secretary may request. Such audit shall include an examination of the receipt of assessments and the disbursement of all funds, including the payment of storage or other costs to handlers. The Board shall provide the Secretary with a copy of all audits and shall make copies of such audits, after the removal of any confidential individual grower or handler information that may be contained in them, available to growers and handlers for examination at the offices of the Board.

(i) To act as intermediary between the Secretary and any grower or handler with respect to the operations of this part;

(j) To investigate and assemble data on the growing, handling, and marketing conditions with respect to cherries;

(k) To apprise the Secretary of all Board meetings in a timely manner;

(l) To submit to the Secretary such available information as the Secretary may request;

(m) To investigate compliance with the provisions of this part;

(n) To develop and submit an annual marketing policy for approval by the Secretary containing the optimum supply of cherries for the crop year established pursuant to § 930.50 and recommending such action(s) necessary to achieve such optimum supply;

(o) To implement volume regulations established under § 930.50 and issued by the Secretary under § 930.51, including the release of any inventory reserves;

(p) To provide thorough communication to growers and handlers regarding the activities of the Board and to respond to industry inquiries about Board activities;

(q) To oversee the collection of assessments levied under this part;

(r) To enter into contracts or agreements with such persons and organizations as the Board may approve for the development and conduct of activities, including research and promotion activities, authorized under this part or for the provision of services required by this part and for the payment of the cost thereof with funds collected through assessments pursuant to § 930.41 and income from such assessments. Contracts or agreements for any plan or project shall provide that:

(1) The contractors shall develop and submit to the Board a plan or project together with a budget(s) which shall show the estimated cost to be incurred for such plan or project;

(2) Any contract or agreement for a plan or project and any plan or project adopted by the Board shall only become effective upon approval by the Secretary; and

(3) Every such contracting party shall keep accurate records of all of its transactions and make periodic reports to the Board of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary or the Board may require. The Secretary or employees of the Board may audit periodically the records of the contracting party.

(s) Pending disbursement consistent with its budget, to invest, with the approval of the Secretary, and in accordance with applicable Departmental policies, funds collected through assessments authorized under § 930.41 and income from such assessments;

(t) To establish standards or grade requirements for cherries for frozen and canned cherry products, subject to the approval of the Secretary;

(u) To borrow such funds, subject to the approval of the Secretary and not to exceed the expected expenses of one fiscal year, as are necessary for administering its responsibilities and obligations under this part; and

(v) To establish, with the approval of the Secretary, such rules and procedures relative to administration of this subpart as may be consistent with the provisions contained in this subpart and as may be necessary to accomplish the purposes of the Act and the efficient administration of this subpart.

§ 930.32 Procedure.

(a) Twelve members of the Board, including alternates acting for absent members, shall constitute a quorum. For any action of the Board to pass, at least two-thirds of the entire Board must vote in support of such action.

(b) The Board may provide through its own rules and regulations, subject to approval by the Secretary, for simultaneous meetings of groups of its members assembled at different locations and for votes to be conducted by telephone or other means of communication. Votes so cast shall be promptly confirmed in writing.

(c) All meetings of the Board are open to the public, although the Board may hold portions of meetings in executive session for the consideration of certain business. The Board will establish, with the approval of the Secretary, a means of advanced notification of growers and handlers of Board meetings.

§ 930.33 Expenses and compensation.

Except for the public member and alternate public member who shall receive such compensation as the Board may establish and the Secretary may approve, the members of the Board, and alternates when acting as members, shall serve without compensation but shall be reimbursed for necessary and reasonable expenses, as approved by the Board, incurred by them in the performance of their duties under this part. The Board at its discretion may request the attendance of one or more alternates at any or all meetings, notwithstanding the expected or actual presence of the respective member(s), and may pay the expenses of such alternates.

Expenses and Assessments

§ 930.40 Expenses.

The Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part. The funds to cover such expenses shall be acquired by the levying of assessments as provided in § 930.41.

§ 930.41 Assessments.

(a) An assessment may be levied upon handlers annually under this part to cover the administrative costs of the Board, costs of inspection, and any research, development and promotion activities initiated by the Board under § 930.48.

(b) Each part of an assessment intended to cover the costs of each activity in paragraph (a) of this section, must be identified and approved by the Board and the Secretary, and any notification or other statement regarding assessments provided to handlers must contain such information.

(c) As a pro rata share of the administrative, inspection, research, development, and promotion expenses which the Secretary finds reasonable and likely to be incurred by the Board during a fiscal period, each handler shall pay to the Board assessments on all cherries handled, as the handler thereof, during such period: Provided, a handler shall be exempt from any assessment on the tonnage of handled cherries that are diverted according to § 930.59 which includes cherries represented by grower diversion certificates issued pursuant to § 930.58(b)(2) and acquired by handlers and those cherries devoted to exempt uses under § 930.62.

(d) The Secretary, after consideration of the recommendation of the Board, shall fix the rate of assessment to be paid by each handler during the fiscal period in an amount designed to secure sufficient funds to cover the expenses which may be approved and incurred during such period or subsequent period as provided in paragraph (c) of this section. At any time during or after the fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all cherries handled during the applicable fiscal period. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments, the Board may accept the payment of assessments in advance, and may borrow money for such purposes.

(e) Assessments not paid within a time prescribed by the Board may be made subject to interest or late payment charges, or both. The period of time, rate of interest, and late payment charge will be as recommended by the Board and approved by the Secretary: Provided, that when interest or late payment charges are in effect, they shall be applied to all assessments not paid within the prescribed period of time.

(f) Assessments will be calculated on the basis of pounds of cherries handled: Provided, that the formula adopted by the Board and approved by the Secretary for determining the rate of assessment will compensate for differences in the number of pounds of cherries utilized for various cherry products and the relative market values of such cherry products.

(g) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

§ 930.42 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, the Board, with the approval of the Secretary, may carry over all or any portion of such excess into subsequent fiscal periods as a reserve. Such reserve funds may be used to cover any expenses authorized by this part; and to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, it shall be refunded proportionately to the

handlers from whom the excess was collected. Without an additional reserve level approved by the Secretary, the amount held in reserve may not exceed approximately one year's operational expenses. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such a manner as the Secretary may determine to be appropriate: Provided, that to the extent practicable, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the Board pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the Board and its members to account for all receipts and disbursements.

Quality Control

§ 930.44 Quality control.

(a) *Quality standards.* The Board may establish, with the approval of the Secretary, such minimum quality and inspection requirements applicable to cherries as will contribute to orderly marketing or be in the public interest. If such requirements are adopted, no handler shall process cherries into manufactured products or sell manufactured products in the current of commerce unless such cherries and/or such cherries used in the manufacture of products meet the applicable requirements as evidenced by certification acceptable to the Board. The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

(b) *Inspection and certification.* Whenever the handling of any cherries requires inspection pursuant to this part, each handler who handles cherries shall cause such cherries to be inspected by the appropriate division of the Department, and certified by it as meeting the applicable requirements of such regulation: Provided, that inspection and certification shall be required for cherries which previously have been so inspected and certified only if such cherries have been regraded, resorted, repackaged, or in any other way further prepared for market. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the Board a copy of the certificate of inspection issued with respect to such cherries.

Research, Market Development and Promotion

§ 930.48 Research, market development and promotion.

The Board, with the approval of the Secretary, may establish or provide for the establishment of production and processing research, market research and development, and/or promotional activities, including paid advertising, designed to assist, improve or promote the efficient production and processing, marketing, distribution, and consumption of cherries subject to this part. The expense of such projects shall be paid from funds collected pursuant to this part and the income from such funds.

Regulations

§ 930.50 Marketing policy.

(a) *Optimum supply.* On or about July 1 of each crop year, the Board shall hold a meeting to review sales data, inventory data, current crop forecasts and market conditions in order to establish an optimum supply level for the crop year. The optimum supply volume shall be calculated as 100 percent of the average sales of the prior three years to which shall be added a desirable carryout inventory not to exceed 20 million pounds or such other amount as the Board, with the approval of the Secretary may establish. This optimum supply volume shall be announced by the Board in accordance with paragraph (h) of this section.

(b) *Preliminary percentages.* On or about July 1 of each crop year, the Board shall establish a preliminary free market tonnage percentage which shall be calculated as follows: from the optimum supply computed in subsection (a), the Board shall deduct the carryin inventory to determine the tonnage requirements (adjusted to a raw fruit equivalent) for the current crop year which will be divided by the current year USDA crop forecast. If the resulting number is positive, this would represent the estimated over-production which would need to be the restricted percentage tonnage. This restricted percentage tonnage would then be divided by the sum of the USDA crop forecast for the regulated districts to obtain the percentages for the regulated districts. The Board shall establish a preliminary restricted percentage equal to the quotient, rounded to the nearest whole number, with the compliment being the preliminary free tonnage percentage. If subtracting the current crop year requirement, computed in the first sentence from the current USDA crop forecast, results in a negative number, the Board shall establish a preliminary free tonnage of 100 percent with a preliminary restricted percentage of zero. The Board shall announce these preliminary percentages in accordance with paragraph (h) of this section.

(c) *Interim percentages.* Between July 1 and September 15 of each crop year, the Board may modify the preliminary free market tonnage and restricted percentages to adjust to the actual pack occurring in the industry. The Board shall announce any interim percentages in accordance with paragraph (h) of this section.

(d) *Final percentages.* No later than September 15 of each crop year, the Board shall review actual production during the current crop year and make such adjustments as are necessary between free and restricted tonnage to achieve the optimum supply and recommend such final free market tonnage and restricted percentages to the Secretary and announce them in accordance with paragraph (h) of this section. The difference between any final free market tonnage percentage designated by the Secretary and 100 percent shall be the final restricted percentage. With its recommendation, the Board shall report on its consideration of the factors in paragraph (e) of this section.

(e) *Factors.* When computing preliminary and interim percentages, or determining final percentages for recommendation to the Secretary, the Board shall give consideration to the following factors:

(1) The estimated total production of cherries;

(2) The estimated size of the crop to be handled;

(3) The expected general quality of such cherry production;

(4) The expected carryover as of July 1 of canned and frozen cherries and other cherry products;

(5) The expected demand conditions for cherries in different market segments;

(6) Supplies of competing commodities;

(7) An analysis of economic factors having a bearing on the marketing of cherries;

(8) The estimated tonnage held by handlers in primary or secondary inventory reserves;

(9) Any estimated release of primary or secondary inventory reserve cherries during the crop year.

(f) *Modification.* In the event the Board subsequently deems it advisable to modify its marketing policy, because of national emergency, crop failure, or other major change in economic conditions, it shall hold a meeting for that purpose, and file a report thereof

with the Secretary within 5 days (exclusive of Saturdays, Sundays, and holidays) after the holding of such meeting, which report shall show the Board's recommended modification and the basis therefor.

(g) *Reserve tonnage to sell as free tonnage.* In addition, the Board shall make available tonnage equivalent to an additional 10 percent, if available, of the average sales of the prior 3 years for market expansion. Handlers can determine if they need the additional tonnage and inform the Board so that reserve cherries may be released to them. Handlers not desiring the additional tonnage would not have it released to them.

(h) *Publicity.* The Board shall promptly give reasonable publicity to growers and handlers of each meeting to consider a marketing policy or any modification thereof, and each such meeting shall be open to them and to the public. Similar publicity shall be given to growers and handlers of each marketing policy report or modification thereof, filed with the Secretary and of the Secretary's action thereon. Copies of all marketing policy reports shall be maintained in the office of the Board, where they shall be made available for examination. The Board shall notify handlers, and give reasonable publicity to growers, of its computation of the optimum supply, preliminary percentages, and interim percentages and shall notify handlers of the Secretary's action on final percentages by registered or certified mail.

(i) *Restricted percentages.* Restricted percentage requirements established under paragraphs (b), (c) or (d) of this section may be fulfilled by handlers by either establishing an inventory reserve in accordance with § 930.55 or § 930.57 or by diversion of product in accordance with § 930.59. In years where required, the Board shall establish a maximum percentage of the restricted quantity which may be established as a primary inventory reserve such that the total primary inventory reserve does not exceed 50 million pounds. Handlers will be permitted to divert (at plant or with grower-diversion certificates) as much of the restricted percentage requirement as they deem appropriate, but may not establish a primary inventory reserve in excess of the percentage established by the Board for restricted cherries. In the event handlers wish to establish inventory reserve in excess of this amount, they may do so, in which case it will be classified as a secondary inventory reserve and will be regulated accordingly.

(j) *Inventory reserve release.* In years when inventory reserve cherries are available and when the expected availability of cherries from the current crop plus expected carryin inventory does not fulfill the optimum supply, the Board shall release not later than November 1st of the current crop year such volume from the inventory reserve as will satisfy the optimum supply.

(k) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

§ 930.51 Issuance of volume regulations.

(a) Whenever the Secretary finds, from the recommendation and supporting information supplied by the Board, that to designate final free market tonnage and restricted percentages for any cherries acquired by handlers during the crop year will tend to effectuate the declared policy of the Act, the Secretary shall designate such percentages. Such regulation designating such percentage shall fix the free market tonnage and restricted percentages, totaling 100 percent, which shall be applied in accordance with section § 930.55, § 930.57 and § 930.59 to cherries grown in regulated districts, as determined under § 930.52, and handled during such fiscal period.

(b) The Board shall be informed immediately of any such regulation issued by the Secretary, and the Board shall promptly give notice thereof to handlers.

(c) That portion of a handler's cherries that are restricted percentage cherries is the product of the restricted percentage imposed under paragraph (a) of this section multiplied by the tonnage of cherries, originating in a regulated district, handled, including those diverted according to § 930.59, by that handler in that fiscal year. Therefore, while diverted cherries, including those represented by grower diversion certificates, may be exempt from assessment under § 930.41, they must be counted when computing restricted percentage requirements.

(d) The Board, with the approval of the Secretary, shall develop rules and regulations which shall provide guidelines for handlers in complying with any restricted tonnage requirements, including, but not limited to, a grace period of at least 30 days to segregate and appropriately document any tonnage they wish to place in the inventory reserve and to assemble any applicable diversion certificates.

§ 930.52 Establishment of districts subject to volume regulations.

(a) Upon adoption of this part, the districts subject to any volume regulations implemented in accordance with this part shall be those districts in which the average annual production of cherries over the prior three years has exceeded 15 million pounds. Districts not meeting the 15 million pound test at the time of order promulgation which subsequently become subject to volume regulation shall not be regulated until the next crop year after exceeding the 15 million pound average production requirement.

(b) Handlers in districts which are not subject to volume regulation would only be so regulated to the extent that they handled cherries which were grown in a district subject to regulation as specified in paragraph (a) of this section. In such a case, the handler must place in inventory reserve pursuant to § 930.55 or § 930.57 or divert pursuant to § 930.59 the required restricted percentage of the crop originating in the regulated district.

(c) Handlers in districts not meeting the production requirement in a given year would not be subject to volume regulation in the next crop year.

(d) Any district producing a crop which is less than 50 percent of the maximum average annual processed production in that district in the previous five years would be exempt from any volume regulation if, in that year, a restricted percentage is established.

(e) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

§ 930.53 Modification, suspension, or termination of regulations.

(a) In the event the Board at any time finds that, by reason of changed conditions, any volume regulations issued pursuant to § 930.51 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the Board or from other available information, that a volume regulation issued pursuant to § 930.51 should be modified, suspended or terminated with respect to any or all shipments of cherries in order to effectuate the declared policy of the Act, the Secretary shall modify, suspend, or terminate such regulation.

§ 930.54 Prohibition on the use or disposition of inventory reserve cherries.

(a) *Release of primary and secondary inventory reserve cherries.* Except as provided in § 930.50 and paragraph (b) of this section, cherries that are placed in inventory reserve pursuant to the requirements of § 930.50, § 930.51, § 930.55, or § 930.57 shall not be used

or disposed of by any handler or any other person: Provided, that if the Board determines that the total available supplies for use in normal commercial outlets do not at least equal the amount, as estimated by the Board, needed to meet the demand in such outlets, the Board shall recommend to the Secretary and provide such justification that, during such period as may be recommended by the Board and approved by the Secretary, a portion or all of the primary and/or secondary inventory reserve cherries shall be released for such use.

§ 930.55 Primary inventory reserves.

(a) Whenever the Secretary has fixed the free market tonnage and restricted percentages for any fiscal period, as provided for in § 930.51(a), each handler in a regulated district shall place in his or her primary inventory reserve for such period, at such time, and in such manner, as the Board may prescribe, or otherwise divert, according to § 930.60, a portion of the cherries acquired during such period.

(b) The form of the cherries, frozen, canned in any form, dried, or concentrated juice, placed in the primary inventory reserve is at the option of the handler. Except as may be limited by § 930.50(i) or as may be permitted pursuant to § 930.59 and § 930.62, such inventory reserve portion shall be equal to the sum of the products obtained by multiplying the weight or volume of the cherries in each lot of cherries acquired during the fiscal period by the then effective restricted percentage fixed by the Secretary: Provided, that in converting cherries in each lot to the form prescribed by the Board, the inventory reserve obligations shall be adjusted in accordance with uniform rules adopted by the Board in terms of raw fruit equivalent.

(c) Inventory reserve cherries shall meet such standards of grade, quality, or condition as the Board, with the approval of the Secretary, may establish. All such cherries shall be inspected by the Department. A certificate of such inspection shall be issued which shall show, among other things, the name and address of the handler, the number and type of containers in the lot, the grade of the product, the location where the lot is stored, identification marks (can codes or lot stamp), and a certification that the cherries meet the prescribed standards. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the Board, at the place designated by the Board, a copy of the certificate of inspection issued with respect to such cherries.

(d) Handlers shall be compensated for inspection costs incurred on cherries placed in the primary inventory reserve. All reporting of cherries placed in, rotated in and out, or released from an inventory reserve shall be in accordance with rules and procedures established by the Board, with the approval of the Secretary. The Board could, with the approval of the Secretary, also limit the number of inspections of reserve cherries being rotated into inventory reserves for which the Board would be financially liable.

(e) Except as provided in § 930.54, handlers may not sell inventory reserve cherries prior to their official release by the Board. Handlers may rotate cherries in their inventory reserves with prior notification to the Board. All cherries rotated into the inventory reserve must meet the applicable inspection requirements.

§ 930.56 Off-premise inventory reserve.

Any handler may, upon notification to the Board, arrange to hold inventory reserve, of his or her own production or which was purchased, on the premises of another handler or in an approved commercial storage facility in the same manner as though the inventory reserve were on the handler's own premises.

§ 930.57 Secondary inventory reserve.

(a) In the event the inventory reserve established under § 930.55 of this part is at its maximum volume, and the Board has announced, in accordance with § 930.50, that volume regulation will be necessary to maintain an orderly supply of quality cherries for the market, handlers in a regulated district may elect to place in a secondary inventory reserve all or a portion of the cherries the volume regulation would otherwise require them to divert in accordance with § 930.60.

(b) Should any handler in a regulated district exercise his or her right to establish a secondary inventory reserve under paragraph (a) of this section, all costs of maintaining that reserve, as well as inspection costs, will be the responsibility of the individual handler.

(c) The secondary inventory reserve shall be established in accordance with §§ 930.55 (b) and (c) and such other rules and regulations which the Board, with the approval of the Secretary, may establish.

(d) The Board shall retain control over the release of any cherries from the secondary inventory reserve. No cherries may be released from the secondary reserve until all cherries in any primary inventory reserve established under § 930.55 have been released. Any release of the secondary inventory reserve shall be in accordance with the annual marketing policy and with § 930.54.

§ 930.58 Grower diversion privilege.

(a) *In general.* Any grower may voluntarily elect to divert, in accordance with the provisions of this section, all or a portion of the cherries which otherwise, upon delivery to a handler, would become restricted percentage cherries. Upon such diversion and compliance with the provisions of this section, the Board shall issue to the diverting grower a grower diversion certificate which such grower may deliver to a handler, as though there were actual harvested cherries.

(b) *Eligible diversion.* Grower diversion certificates shall be issued to growers only if the cherries are diverted in accordance with the following terms and conditions or such other terms and conditions that the Board, with the approval of the Secretary, may establish. Diversion may take such of the following forms which the Board, with the approval of the Secretary, may designate: Uses exempt under § 930.63; nonhuman food uses; or other uses, including diversion by leaving such cherries unharvested.

(1) *Application/mapping.* The Board, with the approval of the Secretary, shall develop rules and regulations providing for the diversion of cherries by growers. Such regulations may include, among other things:

(i) The form and content of applications and agreements relating to the diversion, including provisions for supervision and compensation;

(ii) provisions for mapping areas in which cherries will be left unharvested.

(2) *Diversion certificate.* If the Board approves the application it shall so notify the applicant and conduct such supervision of the applicant's diversion of cherries as may be necessary to assure that the cherries have been diverted. After the diversion has been accomplished, the Board shall issue to the diverting grower a diversion certificate stating the weight of cherries diverted. Where diversion is carried out by leaving the cherries unharvested, the Board shall estimate the weight of cherries diverted on the basis of such uniform rule prescribed in rules and regulations as the Board, with the approval of the Secretary, may recommend to implement this section.

§ 930.59 Handler diversion privilege.

(a) *In general.* Handlers handling cherries harvested in a regulated district may fulfill any restricted percentage requirement in full or in part by voluntarily diverting cherries or cherry products in a program approved by the Board, rather than placing cherries in an inventory reserve. Upon such diversion and compliance with the provisions of this section, the Board shall issue to the diverting handler a handler diversion certificate which shall satisfy any restricted percentage or diversion requirement to the extent of the Board or Department inspected weight of the cherries diverted.

(b) *Eligible diversion.* Handler diversion certificates shall be issued to handlers only if the cherries are diverted in accordance with the following terms and conditions or such other terms and conditions that the Board, with the approval of the Secretary, may establish. Such diversion may take place in any of the following forms which the Board, with the approval of the Secretary, may designate: uses exempt under § 930.62; contribution to a Board approved food bank or other approved charitable organization; acquisition of grower diversion certificates that have been issued in accordance with § 930.58; or other uses, including diversion by destruction of the cherries at the handler's facilities: Provided, that diversion may not be accomplished by converting cherries into juice or juice concentrate.

(1) *Notification.* The handler electing to divert cherries through means specified in this section or other approved means (not including uses exempt under § 930.62), shall first notify the Board of such election. Such notification shall describe in detail the manner in which the handler proposes to divert cherries including, if the diversion is to be by means of destruction of the cherries, a detailed description of the means of destruction and ultimate disposition of the cherries. It shall also contain an agreement that the proposed diversion is to be carried out under the supervision of the Board and that the cost of such supervision is to be paid by the handler. Uniform fees for such supervision shall be established by the Board, pursuant to rules and regulations approved by the Secretary.

(2) *Application.* The handler electing to divert cherries by utilizing an exemption under § 930.62 shall first apply to the Board for approval of such diversion; no diversion should take place prior to such approval. Such application shall describe in detail the uses to which the diverted cherries will be put. It shall also contain an agreement that the proposed diversion is to be carried out under the supervision of the Board and that the cost of such supervision is to be paid by the applicant. The Board shall notify the applicant of the Board's approval or disapproval of the submitted application.

(3) *Diversion certificate.* The Board shall conduct such supervision of the handler's diversion of cherries under paragraph (b)(1) or under paragraph (b)(2) of this section as may be necessary to assure that the cherries are diverted. After the diversion has been accomplished, the Board shall issue to the diverting handler a handler diversion certificate indicating the weight of cherries which may be used to offset any restricted percentage requirement.

§ 930.60 Equity holders.

(a) *Inventory reserve ownership.* The inventory reserve shall be the sole property of the handlers who place products into the inventory reserve. A handler's equity in the primary inventory reserve may be transferred to another person upon notification to the Board.

(b) *Agreements with growers.* Individual handlers are encouraged to have written agreements with growers who deliver their cherries to the handler as to how any restricted percentage cherries delivered to the handler will be handled and what share, if any, the grower will have in the eventual sale of any inventory reserve cherries.

(c) *Rulemaking authority.* The Board, with the approval of the Secretary, may adopt rules and regulations necessary and incidental to the administration of this section.

§ 930.61 Handler compensation.

Each handler handling cherries from a regulated district that is subject to volume regulations shall be compensated by the Board for inspection relating to the primary inventory reserve as the Board may deem to be appropriate. The Board, with the approval of the Secretary, may establish such rules and regulations as are necessary and incidental to the administration of this section.

§ 930.62 Exemptions.

The Board, with the approval of the Secretary, may exempt from the provisions of § 930.41, § 930.51, § 930.53, and § 930.55 through § 930.57 cherries: Diverted in accordance with § 930.59; used for new product and new market development; used for experimental purposes or for any other use designated by the Board, including cherries processed into products for markets for which less than 5 percent of the preceding 5-year average production of cherries were utilized. The Board, with the approval of the Secretary, shall prescribe such rules, regulations, and safeguards as it may deem necessary to ensure that cherries handled under the provisions of this section are handled only as authorized.

§ 930.63 Deferment of restricted obligation.

(a) *Bonding.* The Board, with the approval of the Secretary, may require handlers to secure bonds on deferred inventory reserve tonnage. Handlers may, in order to comply with the requirements of §§ 930.50 and 930.51 and regulations issued thereunder, secure bonds on restricted percentage cherries to temporarily defer the date that inventory reserve cherries must be held to any date requested by the handler. This date shall be not later than 60 days prior to the end of that crop year. Such deferment shall be conditioned upon the voluntary execution and delivery by the handler to the Board of a written undertaking within thirty (30) days after the Secretary announces the final restricted percentage under § 930.51. Such written undertaking shall be secured by a bond or bonds with a surety or sureties acceptable to the Board that on or prior to the acceptable deferred date the handler will have fully satisfied the restricted percentage amount required by § 930.51.

(b) *Rulemaking authority.* The Board, with the approval of the Secretary, may adopt rules and regulations necessary and incidental to the administration of this section.

Reports and Records

§ 930.70 Reports.

(a) *Weekly production, monthly sales, and inventory data.* Each handler shall, upon request of the Board, file promptly with the Board, reports showing weekly production data; monthly sales and inventory data; and such other information, including the volume of any cherries placed in or released from a primary or secondary inventory reserve or diverted, as the Board shall specify with respect to any cherries handled by the handler. Such information may be provided to the Board members in summary or aggregated form only without any reference to the individual sources of the information.

(b) *Other reports.* Upon the request of the Board, with the approval of the Secretary, each handler shall furnish to the Board such other information with respect to the cherries acquired, handled, stored and disposed of by such handler as may be necessary to enable the Board to exercise its powers and perform its duties under this part.

(c) *Protection of proprietary information.* Under no circumstances shall any information or reports be made available to the Board members or others which will reveal the proprietary information of an individual handler.

§ 930.71 Records.

Each handler shall maintain such records of all cherries acquired, handled, stored or sold, or otherwise disposed of as will substantiate the required reports and as may be prescribed by the Board. All such records shall be maintained for not less than two years after the termination of the fiscal year in which the transactions occurred or for such lesser period as the Board may direct with the approval of the Secretary.

§ 930.72 Verification of reports and records.

For the purpose of assuring compliance and checking and verifying the reports filed by handlers, the Secretary and the Board, through its duly authorized agents, shall have access to any premises where applicable records are maintained, where cherries are received, stored, or handled, and, at any time during reasonable business hours, shall be permitted to inspect such handlers premises and any and all records of such handlers with respect to matters within the purview of this part.

§ 930.73 Confidential information.

All reports and records furnished or submitted by handlers to the Board and its authorized agents which include data or information constituting a trade secret or disclosing trade position, financial condition, or business operations of the particular handler from whom received, shall be received by and at all times kept in the custody and under the control of one or more employees of the Board or its agent, who shall disclose such information to no person other than the Secretary.

Miscellaneous Provisions

§ 930.80 Compliance.

Except as provided in this part, no person may handle cherries, the handling of which has been prohibited by the Secretary under this part, and no person shall handle cherries except in conformity with the provisions of this part and the regulations issued hereunder. No person may handle any cherries for which a diversion certificate has been issued other than as provided in § 930.58(b) and § 930.59(b).

§ 930.81 Right of the Secretary.

Members of the Board (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each regulation, decision, determination, or other act of the Board shall be subject to the Secretary's disapproval at any time. Upon such disapproval, the disapproved action of the Board shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 930.82 Effective time.

The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated, or suspended.

§ 930.83 Termination.

(a) The Secretary may, at any time, terminate any or all of the provisions of this part by giving at least 1 day's notice by means of a press notice or in any other manner in which the Secretary may determine.

(b) The Secretary shall terminate or suspend the operation of any or all of the provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the Act.

(c) The Secretary shall terminate the provisions of this part whenever the Secretary finds by referendum or otherwise that such termination is favored by a majority of the growers and processors: Provided, that such majority has, during the current fiscal year, produced or canned and frozen more than 50 percent of the volume of the cherries which were produced or processed within the production area. Such termination shall become effective on the last day of June subsequent to the announcement thereof by the Secretary.

(d) The Secretary shall conduct a referendum within the month of March of every sixth year after the effective date of this part to ascertain whether continuation of this part is favored by the growers and processors. The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance is not favored by a majority of growers and processors who, during a representative period determined by the Secretary, have been engaged in the production or processing of tart cherries in the production area. Such termination shall be announced on or before the end of the fiscal period.

(e) The provisions of this part shall, in any event, terminate whenever the provisions of the Act authorizing them cease to be in effect.

§ 930.84 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the then functioning members of the Board shall, for the purpose of liquidating the affairs of the Board, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person as the Secretary may direct; and

(3) Upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or in the trustees pursuant to this part.

(c) Any person to whom funds, property, and claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligations imposed upon the Board and upon the trustees.

§ 930.85 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have risen or which may thereafter arise in connection with any provision of this part or any regulation issued thereunder; or

(b) Release or extinguish any violation of this part or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

§ 930.86 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 930.87 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the U.S. Department of Agriculture, to act as the Secretary's agent or representative in connection with any provisions of this part.

§ 930.88 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States :

(a) To exercise any powers granted by the Act or otherwise; or

(b) In accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 930.89 Personal liability.

No member or alternate member of the Board and no employee or agent of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 930.90 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 930.91 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Board or by the Secretary.

Marketing Agreement

§ 930.92 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

§ 930.93 Additional parties.

After the effective date thereof, any handler may become a party to this agreement if a counterpart is executed by such handler and delivered to the Secretary. This agreement shall take effect as to such new contracting part at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

§ 930.94 Order with marketing agreement.

Each signatory hereby requests the Secretary to issue, pursuant to the Act, an order providing for regulating the handling of tart cherries in the same manner as is provided for in this agreement.

Dated: November 20, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–28631 Filed 11–21–95; 11:11 am]

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Part III

Office of Personnel Management

Report on Summer 1994 Surveys Used To Determine Cost-of-Living Allowances in Selected Nonforeign Areas; Notice

OFFICE OF PERSONNEL MANAGEMENT

Report on Summer 1994 Surveys Used To Determine Cost-of-Living Allowances in Selected Nonforeign Areas

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This notice publishes the "Report to OPM on Living Costs in Hawaii, Guam and the Commonwealth of the Northern Mariana Islands, Puerto Rico, United States Virgin Islands, and in the Washington, DC, Area, August 25, 1995," prepared by Jack Faucett Associates under Government contract OPM–94–BP–3816.

DATES: Comments must be received on or before January 29, 1996.

ADDRESSES: Send or deliver comments to Allan G. Hearne, Salary Systems Division, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415, or FAX to (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Allan G. Hearne, (202) 606–2838.

SUPPLEMENTARY INFORMATION: Sections 591.205(d) and 591.206(c) of title 5, Code of Federal Regulations, require that nonforeign area cost-of-living allowance (COLA) survey summaries and calculations be published in the **Federal Register**. Accordingly, OPM is publishing the complete "Report to OPM on Living Costs in Hawaii, Guam and the Commonwealth of the Northern Mariana Islands, Puerto Rico, United States Virgin Islands, and in the Washington, DC, Area, August 25, 1995," produced by Jack Faucett Associates under contract with OPM. This report explains in detail the methodologies, calculations, and findings of the summer 1994 living-cost surveys.

Survey Results. Jack Faucett Associates computed index values of relative living costs in the allowance areas using an index scale where the living costs in the Washington, DC, area equal 100. (See the Executive Summary of the report.) OPM notes that the summer survey indices showed that the COLA rates for all of the allowance areas are above levels warranted by the indices. However, the Treasury, Postal Service and General Government Appropriations Act, 1992 (Pub. L. 102–141), as amended, prohibits reductions in COLA rates through December 31, 1996. Therefore, OPM is *not* proposing any adjustments in the COLA rates in these allowance areas at this time.

Office of Personnel Management.

James B. King,

Director.

Report to OPM on Living Costs in Hawaii, Guam and the Commonwealth of the Northern Mariana Islands, Puerto Rico, United States Virgin Islands, and in the Washington, DC, Area

August 1995.

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Executive Summary

This report provides the results of the summer 1994 living-cost surveys and compares living costs in certain Pacific and Caribbean nonforeign cost-of-living allowance (COLA) areas relative to the Washington, DC, area.

The surveys and analyses were conducted by Jack Faucett Associates (JFA), an economics consulting firm located in Bethesda, Maryland, and its subcontractor, Runzheimer International, a Wisconsin-based firm specializing in the collection and analysis of cost-of-living information. The study was conducted for the Office of Personnel Management (OPM) under contract OPM–94–BP–3816. The contract requires JFA to:

(1) Survey living costs in seven allowance areas and in the Washington, DC, area, and

(2) Compare living costs between the allowance areas and the DC area.

For this study, JFA and Runzheimer researched more than 3,000 outlets and gathered more than 12,000 prices on more than 200 items representing typical consumer purchases. These prices were then combined using consumer expenditure information developed by the Bureau of Labor Statistics. The final results of the study are a series of living-cost indexes, shown in the table below, which show the living-costs in each of the allowance areas relative to the Washington, D.C., area. The index for the DC area (not shown) is 100.00 because it is, by definition, the reference area.

TABLE E–1.—FINAL COST COMPARISON INDEXES

Allowance area	Index
City and County of Honolulu, Hawaii	119.56
Hawaii County, Hawaii	112.56
Kauai County, Hawaii	116.35
Maui County, Hawaii	118.84
Guam/CNMI, Local Retail	119.39
Guam/CNMI, Commissary/Exchange	113.40
Puerto Rico	99.63
U.S. Virgin Islands	112.08

CNMI = Commonwealth of the Northern Mariana Islands

OPM implemented a number of improvements for the summer 1994 survey. These included:

—Using a moving average to introduce new weights based on the results of the Bureau of Labor Statistics Consumer Expenditure Surveys;
—Using new representative income levels based on the 1994 distribution of salaries of Federal employees in the allowance areas;
—Selecting new living communities based on the results of the 1992 Federal Employee Housing and Living Patterns Survey;
—Incorporating historical housing data to reflect both newly purchased and previously purchased homes;
—Using the median home value in place of trimming and trend analyses used in previous surveys; and
—Using the Goods and Services index to reflect relative expenditures for cash contributions.

These changes as well as the data collection and analysis procedures already employed in the survey are discussed in the various sections of this report.

1. Introduction

1.1 Report Objectives

This comprehensive report culminates data collection and research work undertaken in summer 1994 as required by Tasks 1 and 2 of contract OPM–94–BP–3816 between the Office of Personnel Management (OPM) and Jack Faucett Associates (JFA). This report only provides the results of the summer 1994 surveys. A listing of earlier reports that provided the results of previous surveys is shown in Appendix 1.

The analyses show the comparative living-cost differences between the Washington, DC, area and the following allowance areas:

1. City and County of Honolulu, Hawaii
2. Hawaii County, Hawaii
3. Kauai County, Hawaii
4. Maui County, Hawaii
5. Guam and the Commonwealth of the Northern Mariana Islands (CNMI)
6. Puerto Rico
7. U.S. Virgin Islands

By law, Washington, DC, is the base or "reference" area for the nonforeign area cost-of-living allowance (COLA) program.

The contract also required JFA to analyze living-costs of Federal civilian employees in Guam who have access to military commissaries and exchanges. Under OPM regulations, employees who have unlimited access to commissaries and exchanges because of their Federal civilian employment are paid a COLA rate that takes into consideration such purchasing privileges. These regulations do not apply to Federal employees who have limited access to commissaries and exchanges or who have access for other reasons, e.g., military dependents or retired military personnel.

1.2 Changes in This Year's Survey

One of the obvious changes this year was OPM's selection of a new contractor for living-cost surveys and analyses: JFA. JFA subcontracted a substantial portion of the work to Runzheimer International, OPM's previous contractor for the COLA program.

OPM directed JFA to make several changes to the survey and analyses. Some of the key changes this year included:

—Using a moving average to introduce new weights based on the results of the Bureau of Labor Statistics Consumer Expenditure Surveys (CES);
—Using new representative incomes based on the 1994 distribution of salaries of Federal employees in the allowance areas;
—Selecting new living communities based on the results of the 1992 Federal Employee Housing and Living Patterns Survey;
—Incorporating historical housing data to reflect both newly purchased and previously purchased units;
—Using the median home value in place of trimming and trend analyses used in previous surveys; and
—Using the Goods and Services index to reflect relative expenditures for cash contributions.

Three of these changes are discussed further below. The other changes are discussed where applicable in the report.

1.2.1 Three-Year CES Moving Average

One change was the introduction of a three-year moving average of CES data in calculating the weights used to combine price indexes. In prior years, expenditure weights were based on the 1988 CES, and OPM wanted to use more current CES information.

Rather than simply replacing the 1988 CES data with the most recent (1992) CES data, OPM implemented a system that would allow the gradual introduction of new CES data over time, thereby reducing the impact that short-term changes in CES might have on the living-cost indexes. In future surveys, OPM plans to include current CES information and drop the oldest CES data to maintain a three-year moving average. Appendices 3 and 4 show the CES data used in this study.

1.2.2 New Living Communities

Another change was the selection of new living communities based on the results of the 1992 Federal Employee Housing and Living Patterns Survey. In

that survey, employees were asked to provide their residential zip codes. OPM used this information to refine community selection.

Two types of changes were made. In areas with relatively large concentrations of Federal employees and sufficient housing data, OPM selected communities to reflect the areas where Federal employees typically lived. On Oahu, for example, these changes generally resulted in the selection of communities within or close to Honolulu proper. In other areas where concentrations of Federal employees were not as evident or where obtaining a sufficient quantity of housing data had been difficult in previous surveys, OPM expanded the survey community to cover a larger area. For example, the entire island was surveyed for housing in Guam, Kauai, Maui, St. Croix, and St. Thomas.

The updated list of communities is provided in Appendix 9. These are the communities in which house sales and rental rates were collected. The communities were also used to determine the normal shopping radius and the outlets at which prices were collected.

1.2.3 Historical Housing Data

A third change was the incorporation of historical housing data to reflect not only the prices paid for recent home purchases but also for homes purchased in prior years. Appendix 10 shows the home market values, interest rates, and annual principal and interest payments for each area by year and income level. Appendix 11 shows how the principal and interest payments were combined using weights based on the percent of Federal employees presumed to have purchased their homes in each given year. The weights were derived from the results of the 1992 Federal Employee Housing and Living Patterns Survey.

1.3 Pricing Period

The prices were collected in the allowance areas and in the Washington, D.C., area in August 1994. As with the previous surveys, the prices of some items—those dependent upon the pricing of other items—were collected slightly later (i.e., in September and October 1994) In addition, individual item prices not meeting OPM's quality control procedures were resurveyed in October and used to verify or replace the original prices.

As was done in previous surveys, JFA included some catalog sales in its survey. Only catalogs that sell merchandise in both the allowance areas and the Washington, D.C. area were used. To ensure consistent seasonal catalog pricing, JFA used spring/summer catalogs for the catalog items surveyed.

2. The COLA Model

2.1 Measurement of Living-Cost Differences

A common and widely accepted way to measure living-cost differences between and among locations is to select representative items that people purchase in these locations and to calculate the respective cost differences, combining them according to their importance to one another (as measured by relative percentage of expenditures). The COLA model applies this methodology to compare the living costs in each of the allowance areas with the living costs in the Washington, DC, area.

Moving from this basic concept to computing comparative living costs between each allowance area and the Washington, DC, area involves five main steps:

Step 1: Identify the segment of the population for which the analysis is targeted (i.e., the target population).

Step 2: Estimate how these people spend their money.

Step 3: Select items to represent the types of expenditures people usually make and outlets at which people typically make purchases.

Step 4: Conduct pricing surveys of the selected items in each area.

Step 5: Analyze cost ratios for the selected items and aggregate them according to the relative importance of each item.

2.2 Step 1: Identifying the Target Population

The study estimates living-cost differences for nonmilitary Federal employees who have annual base salaries between approximately $12,000 and $87,000, the range of the General Schedule. Because living costs may vary depending on an employee's income level, living costs are analyzed at three income levels.

2.2.1 Federal Salaries

To determine the appropriate income levels, OPM analyzed the 1994 distribution of salaries for all General Schedule employees in all of the allowance areas combined. OPM divided this distribution into three groups of equal size and identified the median salary in each of the groups. These values were then rounded to the nearest $100 to produce the three representative income levels of $20,800, $31,500, and $48,300.

The study analyzes living costs at each of these three income levels. The results are three sets of estimated expenditures for each allowance area and for the Washington, D.C., area. To combine these estimated expenditures into a single overall index for the area, JFA used employment weights provided by OPM.

2.2.2 Federal Employment Weights

As with the income levels, the OPM employment weights were derived from the distribution of General Schedule employees by salary level. Using the salary parameters identified in the income analysis described above, OPM determined the number of General Schedule employees in each salary group in each allowance area. Using a moving average similar to that used with the CES data (see section 1.2.1), OPM combined these data with the same type of information for the previous two years and calculated the percent of the General Schedule workforce in each income group in each area. These percentages were the weights that JFA used.

In addition, OPM provided General Schedule employment weights to combine data in the three allowance areas in which two separate locations are surveyed. Those allowance areas are: Hawaii County, Hawaii; Puerto Rico; and the U.S. Virgin Islands. These areas are described in greater detail in section 2.5.6.1.

For these areas, OPM identified the number of General Schedule employees associated with each survey location and then combined this information with similar information from the previous two years again using a moving average. The employment counts were converted to percentages representing the proportion of the General Schedule population represented by each of the survey locations. JFA used the percentages as weights to combine the survey data from each survey area.

Appendix 2 shows the General Schedule employment distributions and how the percentage weights were derived.

2.3 Step 2: Estimating How People Spend Their Money

2.3.1 Consumer Expenditure Survey (CES)

Expenditure patterns for employees for all areas, including the Washington, D.C., area, are based on national data from the CES. OPM obtained from the Bureau of Labor Statistics "prepublished" CES results for 1988, 1991, and 1992. As discussed in section 1.2.1, these three years of CES data were combined using a moving average.

CES data are used in two ways: to identify appropriate items for survey and to derive item, category, and component weights. The item weights are not income sensitive. However, aggregated CES data are analyzed by income level to derive category and component weights. These weights are income sensitive. The CES data used in this study are shown in Appendix 3 and 4.

The Bureau of Labor Statistics has advised OPM that "prepublished" CES data may not be statistically significant. To OPM's knowledge, however, it is the only source of comprehensive consumer expenditure information by income level. Therefore, it is used in the model.

2.3.2 Expenditure Categories and Components

The CES groups expenses into small, logical families of items. For example, the report divided money spent by families on beef into four groups: ground beef, roast, steak and other beef. The steak and roast groupings were further separated into smaller clusters of items (e.g., sirloin and round steak, chuck and round roast).

Using the CES data, the items were sorted into the four main cost components specified in OPM regulations: Consumption Goods and Services, Transportation, Housing, and Miscellaneous Expenses. To develop weighting patterns for the three income levels, JFA performed linear regression analyses on the CES data shown in Appendix 3.[1] These analyses produced estimated expenditures at the three income levels identified in section 2.2.1 above. JFA converted these expenditures to percentages of total expenditures for the four components to produce the values shown in the table below. The values were the weights JFA used to combine the expenditures for each of the components into an overall value for each income level in each allowance area and the Washington, D.C., area.

TABLE 2–1.—COMPONENT EXPENSES EXPRESSED AS A PERCENTAGE OF TOTAL EXPENSES

Income level 1994	Income level 1991 adjusted	Goods and services (percent)	Housing (percent)	Transportation (percent)	Misc. (percent)	Total (percent)
$20,800	$19,250	40.10	25.01	18.93	15.96	100.00
31,500	29,150	39.47	23.98	18.66	17.88	100.00
48,300	44,700	38.87	23.01	18.41	19.71	100.00

(Values may not total because of rounding.)

Goods and services items were further sorted into ten categories and linear regression techniques were used to estimate expenditures on these ten categories by income level. The weights for these categories are shown in section 3.1. The same technique was also used to compute category weights for the Transportation and Miscellaneous Components and to produce ratios of renters to homeowners at each income level.

2.4 Step 3: Selecting Items and Outlets

2.4.1 Item Selections—The Marketbasket

As noted above, CES items were grouped into "clusters" of expenses to determine which items to survey. These clusters were chosen so that no marketbasket item would have overwhelmingly large or insignificantly small item weight.

For each of these clusters, a set of items to price was identified. Collectively, these items are called a "marketbasket." Because it would have been impractical to survey all of the thousands of items consumers might buy, the marketbasket contains representative items, such as cheddar cheese, that represent itself and the many other related items that consumers purchase (e.g., Edam, Gouda, Jack, Swiss, et cetera). JFA's marketbasket had more than 200 items ranging from table salt to new cars to home purchases.

The items selected were representative of other similar items, commonly purchased, and readily available in all areas. For example, a 10.5-ounce can of Campbell's vegetable soup was selected for survey because it is representative of canned and packaged soups, is a commonly-purchased brand, and is found in all areas. Whenever practical, the item description included the exact brand, model, type, and size, so that exactly the same items could be priced in all areas if possible. Appendix 5 provides a list of the items surveyed and their descriptions.

Changes to the item list and descriptions are an important aspect of the COLA survey. These changes are necessary to improve the survey and keep the items and descriptions current. For this survey, JFA changed several of the items or descriptions. The changes and the reasons for each are listed in Appendix 6.

2.4.2 Geographic Coverage and Outlet Selection

Just as it was important to select commonly-purchased items and survey the same items in all areas, it was important to select outlets frequented by consumers and find equivalent outlets in all areas. This involved deciding which geographic areas to survey and which outlets to survey within these geographic areas.

2.4.2.1 Geographic Areas

For some areas, the choice of which area(s) to survey was obvious. On St. Thomas, for example, the whole island is surveyed because St. Thomas is a relatively small island and Federal employees live throughout the island.

For other areas, those with multiple communities from which to choose, specific communities had to be identified. To do this, OPM used the results of the 1992 Federal Employee Housing and Living Patterns Survey. Among other things, that survey obtained information on where Federal employees lived. OPM used this information to select the communities in which housing costs would be priced. JFA then identified outlets within a normal shopping radius of these housing communities.

2.4.2.2 Similarity of Outlets

Whenever possible, JFA selected popular outlets that were comparable to outlets in all areas. For example, JFA surveyed the price of grocery items at supermarkets in all areas because most people purchase their groceries at such stores and because supermarkets are

[1] The midpoint of the moving average of CES data was 1991. Therefore, for the purposes of these regressions, OPM provided adjusted Federal salaries to reflect 1991 pay rates. OPM used the pay increases for 1992 (4.2%), 1993 (3.7%), and 1994 (0.0%) to deflate the 1994 salaries. This produced adjusted Federal salaries of $19,250, $29,150, and $44,700 for use in the regression equations.

found in all areas.[2] The selection of comparable outlets was particularly important because comparing the prices of items purchased at dissimilar outlets would be inappropriate (e.g., comparing the price of a box of cereal at a supermarket with one sold at a convenience store).

Although major supermarkets, department stores, and discount stores represented a sizable portion of the survey, JFA also selected outlets to represent the diversity of consumer shopping. For example, JFA could have used department stores for pricing all clothing items surveyed. This would not, however, have reflected the range of consumer choices. Therefore, JFA also priced some clothing items in men's and women's clothing stores, other clothing items in department stores, others in shoe stores, and still others in discount stores. For each item, the same type of outlet (e.g., clothing store, discount store, department store) was selected in each area whenever possible.

2.4.2.3 Catalog Pricing

A limited amount of catalog pricing was included in the survey to reflect this common purchasing option. Eight item prices were surveyed by catalog. OPM selected these items based on comments it received from Federal employees. Catalog pricing also allowed the comparison of comparable items that would have been difficult to price otherwise. Of course, all catalog prices included any charges for shipping and handling and all applicable taxes.

2.5 Step 4: Surveying Prices

As noted earlier, JFA obtained approximately 12,000 prices on more than 200 items from 3,000 outlets. In each survey area, JFA attempted to get at least three price quotes for each item, with certain exceptions. For example, essentially all of the available home sales and rental data meeting the specifications were obtained. For other items, such as utilities and real estate tax rates, only one quote was obtained in each area because these items have uniform rates within an area. Because the Washington, D.C., area has six survey communities, JFA attempted to get at least 18 price quotes for most items in this area.

[2] In the Washington, DC, area, JFA surveyed groceries at two kinds of supermarkets (i.e., full-service supermarkets and "warehouse-type" supermarkets) because both types of grocery stores are common in this area. JFA did not survey "warehouse-type" grocery stores in any other area because they are relatively uncommon and not frequented by most Federal employees.

To accomplish this, JFA used various information-gathering approaches. These are described below.

2.5.1 In-House Research Staff

JFA's research personnel, and those of Runzheimer, its subcontractor, played a major role in all data-collection activities. These professionals:

—Contacted manufacturers, trade associations, governmental agencies, and retail establishments to ensure that suitable items were selected and priced at common types of outlets;
—Contacted real estate professionals in each survey area to obtain general information as well as specific rental rates and home market values;
—Conducted pricing surveys onsite and by telephone;
—Served as a liaison for field researchers who collected price information onsite;
—Performed hundreds of quality control checks, often verifying survey data through telephone calls and comparing current data-gathering results with those from earlier surveys; and
—Analyzed and computed the item, category, component, and total comparative cost indexes.

2.5.2 Field Researchers—"Research Associates"

Most of the price data were collected onsite by Research Associates (RA's). The RA's were independent contractors, hired by JFA to visit retail outlets in each area and collect prices. All of these RA's were residents of the area. To avoid any real or perceived conflicts of interest, JFA refrained from hiring research associates who were either employees of the Federal government or who had immediate family who were employees of the Federal government.

2.5.3 Data Collection Materials

The living-cost surveys conform with the provisions of the Paperwork Reduction Act and are approved by the Office of Management and Budget (OMB). The OMB-approved survey collection materials are found in Appendix 7. All JFA-developed worksheets or other survey materials conformed with those approved by OMB.

2.5.4 Inclusion of Sales and Excise Taxes

For all items subject to sales and/or excise tax, the appropriate amount of tax was added prior to analysis. JFA gathered applicable information on taxes by contacting appropriate sources of information in the allowance areas and the Washington, DC, area. JFA also used appropriate tax publications, such as the State of Maryland's *Sales and Use Tax Laws and Regulations* and the "General Excise Tax Law" (Chapter 237) of the *Hawaii Tax Reports*.

2.5.5 JFA's Onsite Visits

Full-time JFA research professionals traveled to each allowance area to supervise data collection activities and perform various quality control checks as necessary. These visits all occurred during the pricing period so that these professionals could answer any of the RA's data collection questions or provide additional training and instruction if necessary.

The researchers visited living communities within the allowance areas to look at housing and to talk with local real estate professionals. They also visited numerous retail outlets to verify that comparable items were being priced at comparable outlets. In addition, they obtained general information about the local economy.

2.5.6 Special Considerations in Selected Areas

2.5.6.1 Pricing Surveys in Hawaii County, Puerto Rico, and the Virgin Islands

Three allowance areas have multiple survey areas: Hawaii County, Hawaii; Puerto Rico; and the U.S. Virgin Islands. In Hawaii County, surveys were conducted in Hilo and in the Kailua Kona area. In Puerto Rico, surveys were conducted in San Juan and in Mayaguez; and in the Virgin Islands, surveys were conducted on St. Croix and St. Thomas.

The survey data for each of these separate survey areas had to be combined to represent the allowance area overall. To do this, OPM provided JFA with weights based on the distribution of General Schedule employees in these areas. These weights are shown in Appendix 2 and are computed using three years of data and the moving-average approach described earlier.

2.5.6.2 Surveying the Washington, DC, Area

As noted earlier, JFA attempted to get more price quotes in the DC area than in the allowance areas because of the size and diversity of the Washington metropolitan area. For the purposes of the COLA surveys, the DC area was divided into six survey areas: two in the District of Columbia, two in Maryland, and two in Virginia. The specific areas surveyed were within a normal shopping radius of the housing communities identified in Appendix 9. Survey data from each of the six DC survey areas were combined using equal weights.

2.6 Step 5: Analyzing Data and Computing Indexes

2.6.1 General Formulae

2.6.1.1 Indexes

Nonforeign area COLAS are derived from the living-cost indexes. These indexes are mathematical comparisons of living costs in the allowance areas compared with living costs in the Washington, DC, area.

At the most fundamental level, an index is a way to state the difference between two prices (or sets of prices). For example, if a can of green beans costs $1.00 in the allowance area and 80 cents in the DC area, green beans are 25 percent more expensive in the allowance area than in DC. That difference can also be stated as a price index of 125.

2.6.1.2 Item Weights

JFA computed indexes for hundreds of items. To combine these indexes, JFA used weights derived from the CES. These weights reflected the relative amount consumers normally spend on different items. For example, the price of a can of green beans has a lower weight than the price of a pound of apples because, according to the CES, people generally spend less on green beans than on apples.

The COLA model uses a fixed-weight indexing methodology. This means that the same expenditure weights are used in the reference area (i.e., the DC area) and in the allowance areas. The weights used are based on the expenditure patterns of consumers nationwide as reported by the CES. This is the only source, of which OPM is aware, that provides expenditure information by income level.

2.6.1.3 Category and Component Weights

As described in section 2.3.2, JFA also computed income sensitive category and component weights. This allowed the combination of item prices in a manner that reflected the different spending patterns of people at different income levels. How this was accomplished differed among the components.

For the Goods and Services and Miscellaneous Expense components, JFA simply combined indexes within each category using the CES weights to derive an overall index for the category. The category indexes were then combined into an overall component index using the income-sensitive category weights described above.

For the Transportation and Housing Components, JFA used the above approach in combination with a cost-build-up approach. For example, for each area the annual cost of owning and operating an automobile was computed by taking individual prices (e.g., automobile financing, insurance, gas and oil, and maintenance) and computing an overall dollar cost for each area. These costs were compared with those in the DC area to compute the Private Transportation Category index. This index was then combined with the Other Transportation Category index using income sensitive category weights to compute an overall Transportation Component index for each area.

2.6.2 Computing the Overall Index

The item, category, and component indexes were combined using the process prescribed in Section 591.205(c), title 5, Code of Federal Regulations. That is a five-step process that involves converting the indexes to dollar values and weighting these, combining them, and comparing them to compute a final weighted average index. The process is described below.

First, JFA used the CES data and the income ranges described in section 2.2.1 to determine the amount of money consumers typically spend on each component at each income level. These amounts appear in the table below and in Appendix 20. They were derived by taking the component weights shown in Table 2–1 times the representative income levels described in section 2.2.1.

TABLE 2–2.—TYPICAL CONSUMER EXPENDITURES BY INCOME LEVEL AND COMPONENT

Income level	Goods and services	Own/rent	Transportation	Misc.	Total
Lower	$8,341	$5,202	$3,938	$3,320	$20,800
Middle	12,433	7,555	5,879	5,634	31,500
Upper	18,775	11,114	8,892	9,520	48,300

(Note: Values may not total because of rounding.)

Second, for each allowance area, JFA multiplied the dollar values above by the component indexes for the allowance area. Because the housing component consisted of two indexes (one for owners and another for renters), two sets of total relative costs were produced—one for owners and another for renters.

Third, for each allowance area and income level, JFA combined the total relative costs for owners and renters using as weights the proportion of owners and renters as identified in the CES. (See section 4.2.1.) This produced an overall expenditure dollar amount for each income level in each allowance area.

Fourth, JFA computed a single overall average expenditure for each allowance area by combining the income level expenditures and using the allowance area General Schedule employment distribution as weights. This produced a single overall dollar expenditure value for the allowance area. Using the same General Schedule employment weights, JFA also computed a single overall dollar expenditure value for the DC area.

The final step was to divide the overall average dollar expenditure for the allowance area by the overall average dollar expenditure for the DC area to compute a final index. These indexes are shown in the last section of this report and in Appendix 20.

3. Consumption Goods and Services

3.1 Categories and Category Weights

Based on the CES data, JFA identified ten categories of expenses within the Goods and Services Component. Using linear regression analyses and the CES data, JFA identified the portion of total Goods and Services expenditures that the typical consumer spends in each category at various income levels. The categories and the relative expenditures are shown in the table below:

TABLE 3–1.—CATEGORY WEIGHTS EXPRESSED AS A PERCENTAGE OF GOODS AND SERVICES EXPENDITURES BY INCOME LEVEL

Category	Income levels		
	Lower	Middle	Upper
Food at Home	26.40	23.49	20.65
Food Away from Home	14.42	14.73	15.04
Tobacco	3.15	2.59	2.05
Alcohol	2.77	2.73	2.69
Furnishings and Hsld. Op.	14.71	15.79	16.85
Clothing	13.97	14.65	15.30
Domestic Service	1.76	1.90	2.04
Professional Services	6.48	6.65	6.82
Personal Care	3.52	3.52	3.43
Recreation	12.72	13.94	15.14
Totals	100.00	100.00	100.00

(Note: Values may not total because of rounding.)

3.2 Goods and Services Data Collection—Special Considerations

3.2.1 Exchange and Commissary Expenditure Research

Executive Order 10000, as amended, requires OPM to adjust COLA rates when employees have special purchasing privileges, such as unlimited access to commissaries and exchanges. In Guam, employees have such access, so OPM directed JFA to price the same marketbasket of Goods and Services items at the commissaries and exchanges in Guam as it used for the local retail pricing. One price quote was obtained for each marketbasket item found in these facilities.

It was not assumed that people with access to military facilities made all purchases in these facilities. Instead, the results of an OPM survey of Federal employees was used to determine the percentage of purchases that families typically make in military facilities versus local outlets. For example, as the following table shows, it is estimated that employees with commissary/exchange access in Guam, purchase approximately 70% of their Food at Home items at a commissary and purchase the remaining 30% of such items in local retail outlets.

TABLE 3–2.—PERCENTAGES OF PURCHASES MADE AT THE COMMISSARIES AND EXCHANGES IN GUAM

Category	Percentage
Food at Home	70.0
Food Away	0.0
Tobacco	54.0
Alcohol	76.0
Furnishings. and Hsld. Op.	64.5
Clothing	43.7

TABLE 3–2.—PERCENTAGES OF PURCHASES MADE AT THE COMMISSARIES AND EXCHANGES IN GUAM—Continued

Category	Percentage
Domestic Service	0.0
Professional Services	0.0
Personal Care	49.3
Recreation	49.7

These percentages were used to aggregate the local retail and commissary/exchange prices into one set of appropriate, blended prices, hereinafter referred to as the Commissary/PX prices. The blended prices were compared to the local retail prices in the Washington, DC, area to compute Commissary/PX Goods and Services Category indexes, which were then combined using CES weights to derive an overall Commissary/PX Goods and Services Component index. Just as with the Guam Local Retail Goods and Services Component index, the Guam Commissary/PX Goods and Services Component index was combined with the indexes for the Housing, Transportation and Miscellaneous Expense Components to derive a single, overall Commissary/PX index for the Guam allowance area.

3.2.2 Restaurant Pricing

To ensure comparison of prices at comparable restaurants among areas, OPM asked JFA to classify the restaurants it surveyed into two groups: family dining and fine dining. JFA used such characteristics as menu selections, atmosphere, table setting, seating, reservations, and American Automobile Association rating to make these distinctions. In addition, OPM also directed JFA to survey 100% of selected family restaurants for breakfast, approximately 75% for lunch, and about 67% for dinner. This allowed comparison of meal prices at a comparable mix of restaurants in all areas.

3.3 Goods and Services Survey Results

Section 2.6 of this report provides a detailed explanation of the economic model used to analyze the price data. As it applies to Goods and Services, the approach involved comparing the average prices of marketbasket items in each allowance area with those in the Washington, DC, area. The resulting price ratios were aggregated into subcategory and then category indexes using the moving-average expenditure weights derived from the CES data.

Appendix 8 shows for each allowance area ten category indexes, the weights used at each of the three income levels, and the overall Goods and Services indexes. The Washington, DC, area is not shown because it is, by definition, the reference area. Therefore, the DC indexes are 100.

4. Housing

4.1 Component Overview

The Housing component consists of expenses related to owning or renting a dwelling. These are—

—mortgage or rent payments,
—utilities,
—real estate taxes,
—homeowner's or renter's insurance,
—home maintenance, and
—telephone.

At each of the three income levels, JFA measured separately the annual housing costs for homeowners and renters. The results were then combined using as weights the percentages of owners and renters reported by the CES.

4.2 Housing Model

4.2.1 Expenditure Research

The CES was used to determine the national average ratio of families who own, as opposed to rent, their residences. Using the expense data by income range as input into a linear regression analysis, JFA calculated the owner and rent weights shown below. JFA excluded expenditure data for home owning families without a mortgage because they were not typical of homeowners in the base area or in the allowance areas.

TABLE 4–1.—OWNER/RENTER WEIGHTS

Category	Income levels		
	Lower (percent)	Middle (percent)	Upper (percent)
Homeowner with mortgage	38.41	47.46	61.67
Renter	61.59	52.54	38.33
Totals	100.00	100.00	100.00

The CES data were also used to identify which home-maintenance items to price and to establish the relative importance of those items.

4.2.2 Housing Profiles

To compare housing costs in all locations, six typical housing profiles are used and are assigned to the three income levels, as shown in the table below. OPM requested that at least one criterion for the owner profile be the square footage of the home and at least one criterion for the renter profile be the number of bedrooms in the rental unit.

TABLE 4–2.—HOUSING PROFILES

Income level	Renter profile	Owner profile
Lower	3 rooms, 1 BR, 1 bath, 600 sq. ft. apartment	4 rooms, 2 BR, 1 bath, 900 sq. ft. condo or detached house.
Middle	4 rooms, 2 BR, 1 bath, 900 sq. ft. apartment	5 rooms, 3 BR, 1 bath, 1,300 sq. ft. detached house (rowhouse in NE DC).
Upper	4 rooms, 2 BR, 2 baths, 1,100 sq. ft. townhouse or detached house.	7 rooms, 3 BR, 2 baths, 1,700 sq. ft. detached house.

The home sizes stated above are the representative sizes used for certain calculations in the model. They are not, however, the only size surveyed for each profile. For rentals, JFA obtained rental rates on any unit, regardless of its size, that otherwise meet the profile characteristics. For home sales, JFA obtained the prices of homes within size range and otherwise meeting the profile specifications. The size ranges are shown below:

TABLE 4–3.—HOME SIZES SURVEYED

Income level	Range
Lower	600 to 1,200 sq. ft.
Middle	1,000 to 1,600 sq. ft.
Upper	1,400 to 2,300 sq. ft.

It should be noted that although the size ranges overlap, no home sale observation could be used at more than one income level. Application of the other criteria (i.e., number and types of rooms) ensured that each observation was assigned to the appropriate income level even though its size was common to two income levels.

4.2.3 Living Community Selection

As discussed briefly in sections 1.2.2 and 2.4.2.1, OPM identified the living communities to be surveyed based on the results of the 1992 Federal Employee Housing and Living Patterns Survey. This resulted in many survey community changes in both the allowance areas and in the Washington, DC, area. The communities surveyed are identified in Appendix 9.

As with previous surveys, nine homeowner and nine renter communities were identified for the Washington, DC, area—one for each income level in each of the three areas (DC, Maryland, and Virginia). In the allowance areas, up to three homeowner and three renter communities were identified—one for each income level.

The three-community owner/renter goal was not achievable in many of the smaller allowance areas due to the relatively few home sales and rental opportunities in these areas. In such areas, OPM directed JFA to collect prices for the entire survey area or allowance area rather than in specific communities. This was done in Hilo, Kailua Kona, Kauai, Maui, Guam, Mayaguez, St. Croix, and St. Thomas. In these areas, all home sales and/or rental rates meeting the housing profile characteristics for the particular income group were included in the analysis.

4.2.4 Housing-Related Expenses

Based on the CES data, housing-related expense items are categorized into one of five groups in the COLA model. These groups are—

—utilities,
—real estate taxes,
—owners/renters insurance,
—maintenance, and
—telephone.

4.2.4.1 Utilities

Electricity, oil, gas, water, and sewer are the utilities used in the model. Most utility companies are able to provide current charges per unit of consumption and average consumption patterns for all households. The companies were not, however, able to provide separate consumption patterns by the size or type of housing.

Because many utility costs vary by size of house, a factor is needed to derive the utility rates at each of the home profiles. The table below shows the standard square foot sizes and utility factors used for each home profile. The factors are calculated by assuming that utility use increases or decreases at half

the rate that square footage increases or decreases.

TABLE 4–4.—UTILITY FACTORS

Income level	Renter profile		Owner profile	
	Sq. ft.	Factor	Sq. ft.	Factor
Lower	800	.73	900	.85
Middle	900	.85	1,300	1.00
Upper	1,100	.92	1,700	1.15

In each area, JFA obtained the price of each of the types of utilities noted above. JFA used average annual consumption per household information gathered from utility companies serving each area to compute average annual utility costs. The above factors were then used to adjust the total annual utility costs for each of the various housing profiles.

4.2.4.2 Real Estate Taxes

For this study, JFA contacted the city assessors in each allowance area and in the Washington, DC, area to obtain real estate tax information on the living communities surveyed. Real estate tax formulas were obtained for most living communities. Actual or representative tax amounts were obtained in other communities (e.g., Puerto Rico) where formulas were not available or directly applicable.

4.2.4.3 Owners/Renters Insurance

Homeowners' insurance rates are gathered for each of the survey areas for both renter and owner profiles. For renters, the following estimated content values were used: $20,000 at the lower and middle income levels and $30,000 at the upper income level.

For homeowners, the cost of insurance was dependent on the average home values calculated as part of this survey. In most areas, it was assumed that the structure was equal to 80 percent of the total home value. In Hawaii, where land prices tend to be higher, it was assumed that the structure was equal to 50 percent of the total home value.

Previous research, conducted by Runzheimer International for OPM, found that insurance coverage for disasters, such as floods and earthquakes, were not widely purchased in the allowance areas. Therefore, the COLA model does not include these additional riders. (See Report to OPM on Living Costs in Selected NonForeign Areas and in the Washington, DC Area, June 1992 at 57 FR 58556). Hurricane and typhoon coverage, however, is common in Hawaii, Guam, and the U.S. Virgin Islands, and was included either in the insurance quote obtained or priced as a separate rider and added to the total insurance costs for these areas.

4.2.4.4 Home Maintenance

Estimated home maintenance expense was computed for each of the homeowner profiles. Maintenance costs were not added in the three renter profiles because most, if not all, maintenance expenses are covered by the landlord.

As was done in previous surveys, JFA priced both home maintenance services as well as home maintenance commodities, using the CES information to identify items to price and the weights associated with these items. The maintenance service items priced were interior painting, plumbing repair, electrical repair, and pest control. The maintenance commodities priced were bathroom caulking, kitchen faucet set, an electrical outlet, latex interior paint, and a fire extinguisher.

To compute home maintenance cost differences between each allowance area and the Washington, DC, area for the homeowner profiles, an index was computed for each maintenance item by comparing the allowance area price to the DC area price. As with the Goods and Services Component items, the CES data were used to weight these maintenance indexes into an overall home maintenance index for each area.

To combine the maintenance indexes with the other homeowner costs, which were expressed in dollar amounts, JFA converted the indexes to dollars by multiplying the index for each area by the average maintenance expense reported in the CES. This cost was assigned to the middle-income homeowner profile.

Logically, maintenance costs for larger homes would generally be greater than costs for middle-sized homes, while costs for smaller homes would generally be less. Therefore, the same homeowner multipliers used in the utilities model for the lower and upper income profiles (.85 and 1.15 respectively) are applied to recognize differences in maintenance costs due to house size.

4.2.4.5 Telephone

Telephone expense consisted of local service charges, additional charges for local calls (if applicable), and charges for long distance calls. To measure estimated expenses for local service and local calls, JFA surveyed the cost of touch-tone service with unlimited calling in each area.

To estimate long distance charges in all areas, JFA surveyed the cost of three, ten-minute direct dial calls per month to large U.S. mainland cities (i.e., Los Angeles, Chicago, and New York City). JFA measured the price of a call placed in the survey area at the time of day necessary to be received in the respective city at 8:00 p.m. local time. In many areas, this resulted in pricing a combination of daytime and evening-rate calls.

4.3 Housing Data Collection Procedures

As was done in previous years, JFA collected housing information mainly from real estate professionals, various listings services, and advertisements. In addition, JFA personnel traveled to each of the surveyed communities to assess the compatibility of the housing community with the income level for which the data were used and to ensure that homes in these communities were comparable to those in the Washington, DC, area.

4.3.1 Homeowner Data Collection

JFA obtained selling prices of homes that matched the housing profiles in each living community. JFA obtained as many of these selling prices as possible for sales that occurred during the 6-month period prior to the date of the survey.

The amount of data obtained depended on the number of home sales in the community and the availability of square footage and other housing profile information. This in turn depended on the size of the community, economic conditions, quality and quantity of the realty data available, and the willingness and ability of local realty professionals and assessor offices to provide data.

If sales data obtained from the preliminary data sources did not meet specified contract minimums, JFA contacted additional data sources in the area to attempt to secure more sales data, if practical. In this manner, either all or a sizeable portion of the home sales in each area were surveyed.

4.3.2 Renter Data Collection

Rental data also were obtained from a variety of sources, e.g., brokers, rental management firms, property managers, newspaper advertisements, and other listings. Analyses of these data revealed what appeared to be two separate rental markets: a broker market and a non-broker market. Rental rates and estimates provided by brokers generally exceeded those obtained from other sources. The methodology used to analyze these two data sets is discussed in section 4.4.2.

4.4 Housing Analysis

4.4.1 Homeowner Data Analysis

One of the most important factors relating to the price of a home is the number of square feet of living space. In the past, OPM directed the contractor to rank housing data high to low and trim equal numbers of observations from both ends of the data. The average of the remaining values was then used. This year, OPM changed the methodology and used the median home value rather than trimming and averaging. The median is the middle value in a rank-ordered set of observations. The purpose of either approach is to reduce the volatility of the housing data from one survey to the next because a relatively few extremely high or low home prices could significantly influence average housing costs.

For each income profile in each allowance area and the Washington, DC, area, JFA computed the median price per square foot for the comparables. This value was then multiplied by the reference square footage for the profile to determine the average home value for the profile.

Another change that OPM made this year was to ask JFA to use historical housing data in addition to data collected this year. These data are found in Appendix 10 of this report. The historical data are from previous living-cost surveys that were published in the **Federal Register** beginning with the 1990 report. (See Appendix 1 for a listing of these publications). The data for the period prior to 1990 were published with the results of the 1991–1992 living cost surveys at 57 FR 58618. All housing values are based on the community selections and analytical methodologies used at the time of each respective survey.

The historical housing data used were the estimated annual principal plus interest payments by income level in each area. To combine these data, OPM supplied JFA with weights that were derived from the 1992 Federal Employee Housing and Living Patterns Survey. These weights reflect the proportion of Federal employee homeowners by year of purchase or acquisition in all allowance areas and in the Washington, DC, area. The historical housing weights and analyses are shown in Appendix 11.

4.4.2 Rental Data Analysis

JFA assigned each rental quote data point to a single income level, based on the following criteria:

—One bedroom apartments: Lower Income Level,
—Two bedroom apartments: Middle Income Level, and
—Townhouses and detached houses with a minimum of two bedrooms: Upper Income Level.

As discussed earlier, there were essentially two sources of rental information: broker and non-broker sources. In each area, the quantity of data obtained from either source-type varied significantly. Therefore, analyzing all of the rental data (both broker and non-broker) together for an area and income level was undesirable.

Instead, OPM instructed JFA to analyze broker and non-broker data separately by income level. As with the housing data analyses, OPM changed from the use of trimming and averaging to the use of the median. Therefore, for each income level, JFA ranked the rental rates from low to high separately for broker and non-broker data. The median values for broker and non-broker data for each group were determined and then averaged to compute a single rental value for each income level. Because OPM has no information on how the Federal employees who rent generally secure their lodgings, OPM requested that JFA apply equal weights to the broker and nonbroker data to compute an overall average rental rate for the area and income level. The broker and non-broker medians and final results are shown in Appendix 12.

4.5 Housing Survey Results

In the above sections, the processes used for determining the costs for maintenance, insurance, utilities, real estate taxes, rents, and homeowner mortgages were described. Appendix 13 shows the cost of each of these items for renters and homeowners in each allowance area and in the Washington, DC, area.

Appendix 14 compares the total cost of these items by income level in each allowance area with the total cost of the same items by income level in the Washington, DC, area. Again, there are separate comparisons for renters and homeowners.

The final housing-cost comparisons take the form of indexes that are used in Appendix 20 to derive the total, overall index for owners and renters. (Refer to Section 2.6 for a discussion of the general formulae and how the component indexes are combined.)

5. Transportation

5.1 Component Overview

The transportation component consists of two categories: Automobile Expense and Other Transportation Costs. The Automobile Expense Category reflects costs relating to owning and operating a car in each area. The Other Transportation Costs Category is represented by the cost of air travel from each location to a common point within the contiguous 48 states.

5.2 Private Transportation Methodology

As was done in previous surveys, JFA analyzed automobile transportation costs for three commonly purchased vehicles: a domestic auto, an import auto, and a utility vehicle. New car costs were used for these analyses because it was believed that pricing used vehicles of equivalent quality in each area could introduce inconsistencies because of the value judgements that would be required.

5.2.1 Vehicle Selection and Pricing

The three vehicles selected for analysis were:

Domestic—Ford Taurus GL 4-door sedan 3.0L 6 cyl,
Import—Honda Civic DX 4-door sedan 1.5L 4 cyl, and
Utility—Chevrolet S10 Blazer 4X4 2 door 4.3L 6 cyl.

These are the same models that were surveyed in previous years and were selected based on their popularity in the United States as demonstrated by owner registration data.

For each model car, JFA collected new vehicle prices at dealerships in each area and from secondary sources, such as the *Kelly Blue Book*. All prices were based on the manufacturers' suggested retail prices (MSRP) for 1994. (OPM did not believe it was feasible to collect information on the negotiated price for these vehicles.) All vehicles were equipped with standard options, such as automatic transmission, AM/FM stereo radio and air conditioning.

In addition to the MSRP, the price included additional charges such as shipping, dealer preparation, additional dealer markup, excise tax, sales tax, and any other one-time taxes or charges. In Hawaii, for example, documentation fees were also included as part of the new-vehicle costs.

Rustproofing was priced in all areas, including the Washington, DC, area. In previous surveys, the contractor found that auto dealers in the DC area did not recommend vehicle rustproofing, although it was a commonly suggested option in the allowance areas. This year, the information collected suggested that rustproofing was a commonly offered option in all areas. Therefore, OPM directed JFA to include the cost of rustproofing in the DC area as well as the allowance areas.

5.2.2 Vehicle Trade Cycle

Calculating the cost of owning and operating a vehicle requires knowing the miles driven and how long the car is owned. In the automobile industry, these two factors are known collectively as a vehicle's "trade cycle." The trade cycle is stated as a length of time (in months or years) and the total number of miles driven in that time period. This information is used in the model to compute annual costs related to fuel, oil, tires, maintenance, and depreciation.

As with the previous living-cost analyses, JFA used a four-year, 60,000-mile trade cycle in all areas. This was based upon the following information:

—The internal Revenue Service uses this trade cycle to compute the allowable cents-per-mile reimbursement rate for persons who drive their personal vehicle for business purposes;
—The four-year time period coincides with the typical length of a vehicle loan; and
—U.S. Department of Energy statistics for 1988 show that the annual average for number of vehicle miles driven in the United States was 18,595 per household and 10,246 miles per vehicle.

5.2.3 Fuel Performance and Type

All vehicles included in this study used regular unleaded fuel. JFA surveyed self-service cash prices of unleaded regular gasoline at name-brand gas stations in each area.

To establish average fuel-performance ratings, the COLA model uses the "city driving" figures published by the U.S. Environmental Protection Agency (EPA). The "city" instead of "highway" figures are used because all locations contained considerable stop-and-go driving conditions.

As in previous COLA surveys, JFA included in its analysis the following fuel-performance factors: temperature, road surface, and gradient. These factors are based on research previously conducted for OPM. This research and the factors are discussed below.

5.2.3.1 Impact of Temperature Upon Fuel Performance

Gas mileage is affected by temperature. The lower the temperature, the fewer miles-per-gallon achieved and vice versa. According to the EPA's *Passenger Car Fuel Economy: EPA and Road*, the temperature at which no adjustments to fuel performance occur is 77°F. Below that temperature, miles-per-gallon achieved drops; above 77° miles-per-gallon achieved improves. The model uses the average monthly temperatures for each allowance area and the Washington, DC, area as reported in *The Weather Almanac*, published by Ruffner and Blair.

For each location and month, the model uses the appropriate factor from the EPA study based on the average monthly temperature for the area. These factors are then averaged to derive a single overall factor for each location. The results of these calculations are shown in section 5.2.3.4.

5.2.3.2 Impact of Road Surface Upon Fuel Performance

For the model, it is assumed that Federally controlled roadways are typically composed of concrete and/or highload asphalt and that locally controlled roadways are typically composed of low-load asphalt. EPA's research indicates that cars are generally more fuel-efficient on the firmer, high-load surfaces than on the softer, low-load surfaces.

Although traffic patterns and road usage vary among areas, previous research conducted for OPM produced no relevant findings regarding this issue. Therefore, the model uses the assumption that Federally controlled roadways generally support twice the traffic of, or are used at least twice as much as, locally controlled roadways.

In each allowance area, the total mileage falling into either the Federal or local categories was collected. For example, Hawaii contains 1,456 miles of Federally controlled roads and 2,606 miles of locally controlled roads. The usage assumption increased Federal road mileage by a factor of two.

The average low-load asphalt factor (which reflects dry, wet, and snowy conditions) is applied to the local mileage percentage, and the average concrete and/or high-load asphalt factor is applied to the Federal mileage percentage to produce a weighted average factor for each area. The weighted factor is 0.98 for the allowance areas. The Washington, DC, area is assigned a factor of 1.00 on the premise that the vast majority of traffic in that area travels on dry, high-load surfaces. The application of these factors is described in section 5.2.3.4.

5.2.3.3 Impact of Gradient Upon Fuel Performance

The effect of gradient on gas mileage is also estimated from EPA's *Passenger Car Fuel Economy: EPA and Road*. Local topography (i.e., gradient) affects fuel efficiency. EPA provides mileage factors based upon various gradients ranging from less than 0.5% (essentially flat) to greater than 6% (steep).

In research previously conducted for OPM, the contractor reviewed the topographic features of each area and found a wide range of road conditions. However, the contractor was unable to find relevant information on the types of terrain drivers typically encounter in each area or the number of miles drivers travel in each type of terrain. Lacking such information, the contractor assumed that drivers in the allowance areas generally traveled roads having approximately the same gradients that are found on average in the United States.

Applying the information from EPA's research, a fuel-performance factor of 0.981 was computed for this type of driving. This factor was assigned to each allowance area. For the Washington, DC, area, a factor of 1.00 was used on the premise that the vast majority of traffic in that area travels on major freeways and highways that are relatively flat. The application of these factors is described in the next section.

5.2.3.4 Overall Impact Upon Fuel Performance

JFA applied the factors described above to make adjustments to the average gas mileage ratings for each type of automobile surveyed for each allowance area and for the Washington, DC, area. The adjustment factors compound—that is, the total adjustment is the result of multiplying the three individual factors together for each area.

In the table below, the factor 1.00 means that no adjustment to EPA fuel performance is appropriate. A factor of less than 1.00 means that the estimated gasoline mileage in the area is less than the EPA average. For example, the total adjustment factor for Guam is 0.95. This means that the estimated gasoline mileage in Guam is 95% of the EPA estimated average. Note that the adjustment factor for the DC area (0.94) indicates that average gasoline mileage in that area is also below the EPA estimate.

TABLE 5–1.—SUMMARY OF FUEL-PERFORMANCE ADJUSTMENTS

Location	Temperature	Road surface	Gradient	Total
Hawaii	0.99	0.98	0.98	0.95
Guam	0.99	0.98	0.98	0.95
Puerto Rico	1.01	0.98	0.98	0.97
Virgin Islands	1.01	0.98	0.98	0.97
Washington, DC	0.94	1.00	1.00	0.94

5.2.4 Vehicle Maintenance

As was done in the previous surveys, JFA surveyed the cost of five common maintenance services and repairs performed on the vehicles surveyed. The services and repairs were—

—Tuneup,
—Oil change,
—Automatic transmission fluid change,
—Flush/fill coolant, and
—Muffler/exhaust pipe replacement.

Where appropriate, the automobile manufacturers' recommended maintenance schedules were used to determine the frequency of performing each of these maintenance jobs. Maintenance schedules vary, depending on the driving conditions typically encountered. Consistent with the assumptions used for fuel economy and tire mileage, it was assumed that driving conditions in the allowance areas are generally severe, and the maintenance schedules used reflected that kind of driving. For the DC area, it was assumed that driving conditions were normal, and the maintenance schedules used for that area reflected that kind of driving.

The recommended frequency of performing each of these jobs was combined with the prices charged by local dealers and service stations to compute an estimated annual maintenance expense. As with previous surveys, JFA collected specific parts costs and hourly labor costs in each location and used Chilton's Labor Guide and Parts Manual to determine service times and parts required for each maintenance procedure.

5.2.5 Tires

Research previously conducted for OPM revealed that various factors (e.g., road quality/state of repair, road composition) appeared to reduce tread life (i.e., the average number of miles a tire is expected to last) in the allowance areas compared with the Washington, DC, area. Based on this research, the model uses tire expense based on a 40,000-mile tread life in allowance areas and a 55,000-mile tread life in the DC area.

JFA priced the cost of a new set of tires, including mounting and balancing and all applicable taxes, in each area. This cost was converted into an annual cost by dividing the estimated number of annual miles driven by the expected tread life and multiplying this by the new tire price.

5.2.6 License and Registration Fees, and Miscellaneous Tax

JFA obtained information regarding license registration fees and personal property tax (where applicable). License and registration fees were included as part of the annual cost of owning an automobile. Personal property tax was computed for each year of the vehicle's four-year trade cycle using the vehicle's estimated used-car value for each year. The resulting four personal property tax values were then averaged, and that average was included as part of the annual cost of owning an automobile.

As stated in section 5.2.1, sales and excise taxes were included in the purchase price of the vehicle and were accounted for under the annual vehicle purchase and finance costs.

5.2.7 Depreciation

The single largest annual expense related to owning and operating a new car is depreciation—the lost value of the vehicle as it ages and is driven. Total depreciation is calculated by subtracting from the purchase price the estimated residual value (used car value) four years later. This value is then divided by 4 to produce an annual depreciation amount.

As described earlier, the new car price is the manufacturer's suggested retail price plus any additional charges, such as shipping, dealer prep, additional dealer markup, excise tax, and sales tax. As was done in previous surveys, the used car value was based on information from the *Black Book Official Finance/Lease Guide for 1994*. Although this source only tracks prices of vehicles sold in the contiguous 48 states, research performed by the previous OPM contractor produced no conclusive evidence that used cars in allowance areas were (on average) worth more or less than used cars in the DC area. Therefore, consistent with previous surveys, the used car prices for each make and model were held constant among the areas.

It should be noted that identical residual values did not result in identical depreciation amounts. Depreciation amounts were higher in the allowance areas than in the Washington, DC, area because new car prices are higher in the allowance areas.

5.2.8 Finance Expense

For the model, it is assumed that new car purchases are financed. Therefore, JFA surveyed banks in all areas to obtain their auto-loan interest rates for a 48-month loan with 80 percent financing. The finance cost for each vehicle in each area was computed and included in the annual cost of owning and operating an automobile.

5.2.9 Vehicle Insurance

JFA surveyed the cost of car insurance in each location. Consistent with the previous year's survey, JFA used the following common coverages, limits, and deductibles:

Bodily Injury	$100,000/$300,000.
Property Damage	50,000.
Medical	5,000.
Uninsured Motorist	100,000/300,000.
Comprehensive	100 Deductible.
Collision	250 Deductible.

In each survey area, JFA identified the common automobile insurance companies and attempted to obtain three insurance price quotes for each type of car surveyed. These quotes were averaged by type of car to produce estimated insurance costs for each area.

JFA found that some insurance companies in Hawaii and Kauai Counties, Hawaii; Guam; Puerto Rico; and the Virgin Islands did not offer the coverages, limits, and deductibles shown above. To allow the comparison of the cost of these different policies with DC costs, OPM directed JFA also to survey in the DC area the cost of insurance that was comparable to that offered in these allowance areas. The cost of these equivalent policies were then compared to derive adjustment factors that could be applied to the cost of the standard coverages, limits, and deductibles shown above. By applying

these factors to the DC area average price, the cost of equivalent coverage was estimated for these particular allowance areas. The factors and their derivation are shown in Appendix 16.

5.2.10 Overall Annual Costs

As described above, JFA measured the annual costs for fuel, maintenance and oil, tires, licensing, taxes, depreciation, finance, and insurance for three types of automobiles in each allowance area and in the Washington, DC, area. These costs were then summed to determine the overall annual costs by area for owning and operating each type of automobile. Appendix 15 shows these costs for each area by type of vehicle.

5.3 Other Transportation Costs—Air Fares

Air fares are the only item priced for the Other Transportation Costs Category. For this item, JFA priced the lowest available round-trip air fare from each allowance area and the Washington, DC, area to Los Angeles, California. Los Angeles was selected because it is a common point approximately equidistant from most of the allowance areas and the Washington, DC, area. The cost of the trip from each allowance area to Los Angeles was compared with the cost of the trip from the DC area to Los Angeles to compute the category indexes. These fares are shown in Appendix 17.

5.4 Transportation Component Analyses

JFA compared the total cost of private auto transportation for each vehicle in each allowance area with the total cost for the same vehicle in the DC area. These comparisons are expressed as indexes and are shown in Appendix 18. The indexes were then averaged to produce a single Automobile Expense Category index for each allowance area.

Likewise, JFA compared the cost of air fares for each area with those for the DC area and computed a cost index. These indexes are also shown in Appendix 18. That appendix also shows how the auto and air transportation indexes are combined using expenditure weights derived from the CES data to produce final transportation indexes.

JFA used national average expenditure data to derive weights that reflected how much consumers typically spend to own and operate an automobile versus other transportation expenses. These weights were used to combine the Automobile Expense Category index with the Other Transportation Cost index by area to derive the overall Transportation Component index for the area. The weights, computations, and final indexes are also shown in Appendix 18. The Transportation Component indexes are used in Appendix 20 to derive the total overall index.

6. Miscellaneous Expenses

6.1 Component Overview

The Miscellaneous Expense component consists of three categories of expenses:

—Medical care,
—Contributions (including gifts to non-family members),
—Personal insurance and retirement contributions/ investments.

JFA used an approach similar to that used for the Goods and Services Component to derive the indexes for each of these categories and the Miscellaneous Component overall.

6.2 Component Weights

JFA used CES data to determine the appropriate weights for each of the items and categories in the Miscellaneous Component. The following table shows the category weights. Item weights are shown in Appendix 19.

TABLE 6–1.—MISCELLANEOUS EXPENSE CATEGORIES AND WEIGHTS

Categories	Income level		
	Lower (percent)	Middle (percent)	Upper (percent)
Medical Care	41.50	31.33	23.51
Contributions	15.80	16.85	17.65
Personal Insurance and Retirement Contributions	42.70	51.82	58.83
Totals	100.00	100.00	100.00

(Note: Values may not total because of rounding.)

6.3 Component Categories

6.3.1 Medical Expense Category

JFA surveyed the price of medical care items using essentially the same approach it used for the Goods and Services Component items. The following medical-care items were priced in each allowance area and in the Washington, DC, area. (See Appendix 5 for item descriptions).

—Nonprescription pain reliever
—Prescription drugs
—Vision check
—Dental service
—Doctor visit
—Hospital room
—Health insurance

JFA surveyed the cost of these items in both the allowance areas and in the Washington, DC, area and compared the prices to produce an index for each item in each area. JFA combined these indexes using CES weights to produce a single Medical Care Category index for each area.

It should be noted that for the model, it is assumed that the cost of health insurance is constant among areas because the choice of Federal health coverage is to a large extent a matter of personal preference. Therefore, the index for this item is 100.00.

6.3.2 Contributions Category

The index for the Contributions Category is the Goods and Services Component index for the area. The Goods and Services index is used based on the assumption that the relative level of contributions is roughly equivalent to that reflected by the Goods and Services index.

6.3.3 Personal Insurance and Retirement Category

The index for personal insurance and retirement contributions and investments is assumed to be constant among areas. The cost of Federal Employees Group Life Insurance is a matter of personal preference and is constant in all areas for the same age, salary, and benefit option combinations. Likewise, retirement contributions are a matter of personal preference and the minimum contribution requirements are constant among areas for equivalent salary levels.

6.4 Miscellaneous Expense Analyses

As with the Goods and Services Component, the indexes for each of the Miscellaneous Component categories are combined using CES weights to produce a single component index for each area. These indexes are shown in Appendix 19.

Section 2.5 describes how the miscellaneous expense component indexes are combined with the other component indexes to derive the final index for each area.

7. Final Results

7.1 Total Comparative Cost Indexes

The total comparative cost indexes appear below. Appendix 20 shows how each index was derived from the component indexes.

TABLE 7–1.—FINAL COST COMPARISON INDEXES

Allowance area	Index
City and County of Honolulu, Hawaii	119.56
Hawaii County, Hawaii	112.56
Kauai County, Hawaii	116.35
Maui County, Hawaii	118.84
Guam/CNMI, Local Retail	119.39
Guam/CNMI, Commissary/Exchange	113.40
Puerto Rico	99.63
U.S. Virgin Islands	112.08

CNMI=Commonwealth of the Northern Mariana Islands.

APPENDIX 1.—PUBLICATION IN THE FEDERAL REGISTER OF RESULTS OF NONFOREIGN AREA LIVING-COST SURVEYS: 1990–1994

Citation	Title	Contents
56 FR 7902	Office of Personnel Management: Cost-of-Living Allowances and Post Differentials (Nonforeign areas).	Results of summer 1990 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
57 FR 58556	Office of Personnel Management: Report on 1991/1992 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.	Results of summer 1991 and winter 1992 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
58 FR 45558	Office of Personnel Management: Report on 1992/1993 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.	Results of summer 1992 and winter 1993 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
58 FR 27316	Office of Personnel Management: Report on Summer 1993 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.	Results of summer 1993 living-cost surveys conducted in Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
59 FR 45066	Office of Personnel Management: Report on Winter 1994 Surveys Used to Determine Cost-of-Living Allowances in Alaska.	Results of winter 1994 living-cost surveys conducted in Alaska.

APPENDIX 2.—MULTIPLE SURVEY AREAS: SUMMER 1994 SURVEY

[Federal Employment Weights Within a Single Allowance Area]

Location	1992	1993	1994	Average	Weights
Hawaii County:					
Hilo, HI	243	250	292	262	83.17
Kailua Kona, HI	47	52	60	53	16.83
Total				315	100.00
Puerto Rico:					
San Juan, PR	5074	5135	5235	5148	88.90
Mayaguez, PR	525	605	695	643	11.10
Total				5791	100.00
Virgin Islands:					
St. Croix, VI	148	142	151	147	45.09
St. Thomas, VI	180	190	166	179	54.91
Total				326	100.00

MULTIPLE INCOME LEVELS: SUMMER 1994 SURVEY

[Federal Employment Weights Within a Single Allowance Area]

Location and income level	1992	1993	1994	Average	Weights
Honolulu, HI:					
Low	4789	4346	4239	4458	33.49
Middle	4567	4540	4171	4426	33.25
Upper	4248	4344	4689	4427	33.26
Total				13311	100.00

MULTIPLE INCOME LEVELS: SUMMER 1994 SURVEY—Continued

[Federal Employment Weights Within a Single Allowance Area]

Location and income level	1992	1993	1994	Average	Weights
Hawaii County, HI:					
Low	129	122	165	139	37.87
Middle	133	145	154	144	39.24
Upper	77	85	91	84	22.89
Total	.....	.....	.....	367	100.00
Kauai County, HI:					
Low	53	71	81	68	28.57
Middle	94	94	84	91	38.24
Upper	71	78	89	79	33.19
Total	.....	.....	.....	238	100.00
Maui County, HI:					
Low	29	37	39	35	24.65
Middle	61	56	56	58	40.84
Upper	44	51	51	49	34.51
Total	.....	.....	.....	142	100.00
Guam:					
Low	1010	1061	1060	1044	48.31
Middle	650	696	681	676	31.28
Upper	387	437	498	441	20.41
Total	.....	.....	.....	2161	100.00
Puerto Rico:					
Low	2535	2330	2428	2431	41.91
Middle	2133	2287	2184	2201	37.94
Upper	1047	1140	1321	1169	20.15
Total	.....	.....	.....	5801	100.00
Virgin Islands:					
Low	125	128	114	122	37.54
Middle	139	133	128	133	40.92
Upper	64	71	75	70	21.54
Total	.....	.....	.....	325	100.00

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Average Before Tax Income	28,540.00	33,901.00	33,854.00	32,098.33
Average annual expenditures	26,389.07	30,487.29	30,527.49	29,134.62
Food	3,804.39	4,366.88	4,358.56	4,176.61
Food at home	2,176.94	2,724.89	2,684.35	2,528.73
Cereals and bakery products*	317.03	413.81	418.15	383.00
Cereals and cereal products*	111.15	149.01	144.15	134.77
Flour*	4.83	6.61	7.21	6.22
Prepared flour mixes*	9.88	14.67	13.62	12.72
Ready-to-eat and cooked cereals*	73.49	90.13	88.39	84.00
Rice*	7.98	14.49	12.67	11.71
Pasta, cornmeal and other cereal products*	14.97	23.11	22.27	20.12
Bakery products*	205.88	264.80	274.00	248.23
Bread*	65.72	76.98	77.58	73.43
White bread*	35.48	38.93	38.04	37.48
Bread, other than white*	30.24	38.04	39.54	35.94
Crackers and cookies*	51.76	65.09	67.10	61.32
Cookies*	32.19	41.15	40.75	38.03
Crackers*	19.57	23.94	26.34	23.28
Frozen and refrigerated bakery products*	13.55	19.33	21.06	17.98
Other bakery products*	74.84	103.40	108.27	95.50
Biscuits and rolls*	26.62	34.12	35.55	32.10

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Cakes and cupcakes*	20.31	29.49	31.67	27.16
Bread and cracker products*	2.82	4.14	4.70	3.89
Sweetrolls, coffee cakes, doughnuts*	19.60	24.05	24.93	22.86
Pies, tarts, turnovers*	5.48	11.61	11.41	9.50
Meats, poultry, fish, and eggs*	560.01	725.06	687.17	657.41
Beef*	183.66	238.59	210.36	210.87
Ground beef*	79.09	89.86	87.67	85.47
Roast*	33.40	42.62	37.74	37.92
Chuck roast*	13.23	16.81	13.48	14.51
Round roast*	9.13	12.63	12.96	11.57
Other roast*	11.04	13.18	11.30	11.84
Steak*	59.01	87.83	69.00	71.95
Round steak*	11.62	16.56	14.63	14.27
Sirloin steak*	12.96	23.58	17.72	18.09
Other steak*	34.42	47.68	36.65	39.58
Other beef*	12.17	18.47	15.95	15.53
Pork*	114.19	146.62	155.56	138.79
Bacon*	20.23	21.28	20.47	20.66
Pork chops*	27.10	35.26	34.88	32.41
Ham*	27.43	38.92	42.73	36.36
Ham, not canned*	24.47	35.84	38.98	33.10
Canned ham*	2.96	3.08	3.75	3.26
Sausage*	16.60	21.01	23.29	20.30
Other pork*	22.83	30.15	34.19	29.06
Other meats*	83.61	102.91	94.58	93.70
Frankfurters*	17.37	23.87	21.19	20.81
Lunch meats (cold cuts)*	58.88	70.13	63.56	64.19
Bologna, liverwurst, salami*	19.11	23.75	22.91	21.92
Other lunchmeats*	39.78	46.39	40.65	42.27
Lamb, organ meats and others*	7.36	8.91	9.84	8.70
Lamb and organ meats*	6.17	7.89	8.74	7.60
Mutton, goat and game*	1.19	1.02	1.10	1.10
Poultry*	85.49	123.67	123.39	110.85
Fresh and frozen chickens*	66.41	92.17	91.28	83.29
Fresh whole chicken*	17.24	24.27	19.61	20.37
Fresh and frozen chicken parts*	49.17	67.90	71.67	62.91
Other poultry, incl. whole frozen chickens*	19.08	31.50	32.10	27.56
Fish and seafood*	65.24	81.51	74.99	73.91
Canned fish and seafood*	17.95	18.40	17.46	17.94
Fresh and frozen shellfish*	14.98	25.27	21.36	20.54
Fresh and frozen finfish*	32.31	37.83	36.17	35.44
Eggs*	27.83	31.77	26.30	29.30
Dairy products*	277.91	306.57	307.10	297.19
Fresh milk and cream*	134.41	134.72	136.59	135.24
Whole milk*	52.12	49.88	47.69	49.90
Other milk and cream*	82.29	84.84	88.90	85.34
Other dairy products*	143.50	171.85	170.52	161.96
Butter*	8.89	10.62	9.71	9.74
Cheese*	79.01	90.15	87.72	85.63
Ice cream and related products*	41.68	50.47	51.93	48.03
Miscellaneous dairy products*	13.93	20.61	21.16	18.57
Fruits and vegetables*	376.38	437.70	435.20	416.43
Fresh fruits*	120.98	132.65	129.17	127.60
Apples*	21.57	25.69	25.64	24.97
Bananas*	20.55	27.62	26.48	24.92
Oranges*	10.98	12.28	13.23	12.16
Other fresh fruits*	67.78	66.06	62.82	65.55
Fresh vegetables*	110.67	131.09	127.84	123.20
Potatoes*	16.61	25.25	24.56	22.14
Lettuce*	13.73	15.51	16.33	15.19
Tomatoes*	14.87	21.64	19.85	18.79
Other fresh vegetables*	65.47	68.69	67.10	67.09
Processed fruits*	86.81	99.35	102.67	96.28
Frozen fruits and fruit juices*	19.59	22.09	21.35	21.01
Frozen orange juice*	14.43	14.09	13.34	13.95
Other frozen fruits and juices*	5.16	7.99	8.01	7.05
Canned and dried fruits*	21.22	24.23	23.48	22.98
Fresh, canned or bottled fruit juices*	46.00	53.03	57.83	52.29
Processed vegetables*	57.92	74.61	75.53	69.35

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Frozen vegetables*	21.30	26.45	25.46	24.40
Canned and dried vegetables and juices*	36.62	48.16	50.07	44.95
Canned beans*	6.64	9.26	10.09	8.66
Canned corn*	4.21	5.29	7.40	5.97
Other canned and dried veg. and juices*	25.77	32.61	32.59	30.32
Other food at home*	645.61	841.75	836.73	774.70
Sugar and other sweets*	80.66	104.62	106.24	97.17
Candy and chewing gum*	45.41	59.10	62.86	55.79
Sugar*	17.07	20.80	18.12	18.66
Artificial sweeteners*	2.36	3.23	3.24	2.94
Jams, preserves, other sweets*	15.82	21.48	22.02	19.77
Fats and oils*	56.65	73.12	73.79	67.85
Margarine*	11.96	14.31	14.56	13.61
Other fats, oils, and salad dressing*	31.66	39.96	40.94	37.52
Nondairy cream and imitation milk*	4.49	5.56	6.75	5.93
Peanut butter*	8.54	12.30	11.53	10.79
Miscellaneous foods*	272.98	387.81	393.26	351.35
Frozen prepared foods*	46.13	71.21	73.99	63.78
Frozen meals*	16.75	25.00	22.99	21.58
Other frozen prepared foods*	29.39	46.21	51.01	42.20
Canned and packaged soups*	21.41	26.23	25.44	24.36
Potato chips, nuts, and other snacks*	59.78	78.66	78.63	72.36
Potato chips and other snacks*	46.79	62.03	62.34	57.05
Nuts*	12.99	16.63	16.29	15.30
Condiments and seasonings*	61.52	87.93	90.44	79.96
Salt, spices, other seasonings*	12.31	19.15	20.79	17.42
Olives, pickles, relishes*	7.62	11.05	10.82	9.83
Sauces and gravies*	31.62	42.03	43.55	39.07
Baking needs and misc. products	9.97	15.71	15.29	13.66
Other canned and packaged prepared foods*	84.14	123.78	124.75	110.89
Salads and desserts*	13.23	17.87	20.42	17.17
Baby food*	16.25	23.56	24.11	21.31
Miscellaneous prepared foods*	54.66	82.35	80.22	72.41
Nonalcoholic beverages*	204.37	233.06	219.33	218.92
Cola*	92.19	92.26	86.71	90.39
Other carbonated drinks*	32.62	39.32	40.41	37.45
Coffee*	40.93	42.59	40.13	41.22
Roasted coffee*	25.27	23.35	24.56	25.06
Instant and freeze dried coffee*	15.66	17.24	15.57	16.16
Noncarbonated fruit flavored drinks*	16.30	25.74	20.15	20.73
Tea*	11.18	14.66	14.26	13.37
Nonalcoholic beer*	NA	NA	NA	NA
Other nonalcoholic beverages*	11.15	18.51	17.68	15.78
Food prepared by consumer unit on out-of-town trips	30.94	43.13	44.12	39.40
Food away from home	1,627.45	1,641.99	1,674.21	1,647.88
Meals at restaurants, carry-outs and other*	1,275.77	1,300.05	1,344.40	1,306.74
Lunch*	499.88	453.89	476.89	480.22
Dinner*	549.30	601.50	619.67	590.16
Snacks and nonalcoholic beverages*	142.56	133.59	141.35	139.17
Breakfast and brunch*	84.04	101.08	106.49	97.20
Board (including at school)	43.62	43.00	46.92	44.51
Catered affairs	41.27	46.07	40.77	42.70
Food on out-of-town trips	195.31	178.84	167.14	180.43
School lunches	42.24	46.89	47.40	45.51
Meals as pay	29.24	27.13	27.58	27.98
Alcoholic beverages	281.70	313.94	321.12	305.59
At home*	148.36	166.77	177.01	164.05
Beer and ale*	89.05	87.98	99.54	92.19
Whiskey*	12.73	17.07	14.23	14.68
Wine*	32.15	45.33	43.11	40.20
Other alcoholic beverages*	14.43	16.38	20.13	16.98
Away from home	133.34	147.17	144.11	141.54
Beer and ale*	37.50	46.76	48.77	44.34
Wine*	18.54	25.57	22.95	22.35
Other alcoholic beverages*	58.12	45.66	47.06	50.61
Alcoholic beverages purchased on trips	19.17	28.19	25.34	24.23
Housing	8,069.13	9,325.13	9,528.41	8,974.22
Shelter	4,470.25	5,208.28	5,431.78	5,036.77
Owned dwellings	2,554.04	3,279.50	3,307.24	3,046.93

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Mortgage interest and charges	1,560.48	1,951.95	1,984.40	1,832.28
Mortgage interest	1,560.38	1,880.31	1,856.78	1,765.82
Interest paid, home equity loan	NA	33.34	63.99	48.67
Interest paid, home equity line of credit	NA	37.94	63.32	50.63
Prepayment penalty charges	0.10	0.36	0.31	0.25
Property taxes	496.08	767.69	760.97	674.91
Maintenance, repairs, insurance, and other expenses	497.48	559.86	561.86	539.73
Homeowners and related insurance	151.74	164.20	176.37	164.10
Fire and extended coverage	4.98	3.84	5.02	4.61
Homeowners insurance	146.76	160.36	171.35	159.49
Ground rent	26.88	33.78	33.40	31.35
Maintenance and repair services	252.68	278.55	265.09	266.44
Painting and papering	52.01	39.24	37.27	42.84
Plumbing an water heating	23.06	31.48	34.02	29.52
Heat, a/c, electrical work	42.03	45.96	53.14	47.04
Roofing and gutters	45.96	54.11	40.98	47.35
Other repair and maintenance services	78.78	99.93	91.16	89.96
Repair and replacement of hard surface flooring	8.14	6.47	10.16	8.26
Repair of built-in appliances	1.68	1.36	1.36	1.47
Maintenance and repair commodities	65.41	69.18	63.59	66.16
Paints, wallpaper and supplies	17.47	16.27	16.50	16.75
Tools and equipment for painting and wallpapering	1.88	1.75	1.77	1.80
Plumbing supplies and equipment	5.65	7.65	5.96	6.42
Electrical supplies, heating and cooling equipment	3.76	3.44	7.13	4.78
Materials for hard surface flooring, repair and replac.	1.85	2.17	3.13	2.38
Materials and equipment for roof and gutters	5.18	6.61	6.20	6.00
Materials for plaster., panel., siding, wind., doors, screens, awn	11.08	10.86	7.29	9.74
Materials for patio, walk, fence, drive., mason., brick, stucco work	2.12	0.55	0.67	1.11
Materials for landscaping maintenance	2.52	1.77	1.15	1.81
Miscellaneous supplies and equipment	13.89	18.11	14.08	15.36
Material for insulation, other maint., and repair	7.87	12.55	7.84	9.42
Materials to finish base., remodel rooms or build patios, walks, etc	6.02	5.56	6.24	5.94
Property management and security	0.74	13.44	20.12	11.43
Property management	0.64	8.61	13.24	7.50
Management and upkeep services for security	0.10	4.84	6.88	3.94
Parking	0.04	0.70	NA	0.37
Rented dwellings	1,469.41	1,609.43	1,787.19	1,622.01
Rent	1,428.30	1,538.23	1,714.30	1,560.28
Rent as pay	17.34	44.87	37.09	33.10
Maintenance, insurance and other expenses	23.76	26.33	35.80	28.63
Tenant's insurance	8.58	9.76	9.16	9.20
Maintenance and repair services	9.01	9.96	11.88	10.28
Repair or maintenance service	8.62	9.49	11.52	9.85
Repair and replacement of hard surface flooring	0.36	0.38	0.29	0.34
Repair of built-in appliances	0.03	0.08	0.07	0.06
Maintenance and repair commodities	6.07	6.61	14.76	9.15
Paint, wallpaper, and supplies	1.19	2.07	1.70	1.65
Tools and equipment for painting and wallpapering	0.13	0.22	0.18	0.18
Materials for plastering, panels, roofing, gutters, etc	0.68	0.43	2.86	1.32
Materials for patio, walk, fence, drive, masonry, brick and stucco work	0.02	0.02	0.04	0.03
Plumbing supplies and equipment	0.38	0.25	0.55	0.39
Electrical supplies, heating and cooling equipment	0.92	0.34	0.26	0.51
Miscellaneous supplies and equipment	1.84	2.17	7.71	3.91
Material for insulation, other maintenance and repair	0.58	0.82	1.51	0.97
Termite and pest control (capital improvement)	0.00	NA	NA	0.00
Materials for additions, finishing base., remodeling rooms	1.08	1.34	5.90	2.77
Construction materials for jobs not started	0.18	0.01	0.30	0.16
Material for hard surface flooring	0.14	0.59	0.90	0.54
Material for landscape maintenance	0.76	0.53	0.55	0.61
Other lodging	446.79	319.35	337.35	367.83
Owned vacation homes	78.26	92.13	115.29	95.23
Mortgage interest and charges	NA	39.20	54.55	46.86
Mortgage interest	48.65	38.93	50.80	46.06
Interest paid, home equity loan	NA	0.02	1.06	0.54
Interest paid, home equity line of credit	NA	0.26	2.88	1.57
Prepayment penalty charge	0.00	NA	NA	0.00
Property taxes	16.90	37.77	42.04	32.24
Maintenance, insurance, and other expenses	12.71	15.17	18.70	15.53
Homeowners and related insurance	3.07	3.79	4.10	3.65

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Homeowners insurance	3.04	3.65	3.86	3.52
Fire and extended coverage	0.03	0.14	0.24	0.14
Ground rent	3.33	2.32	1.75	2.47
Maintenance and repair services	5.52	5.25	7.53	6.10
Repair and remodeling services	5.52	5.14	7.39	6.02
Repair and replacement of hard surface flooring	0.00	0.11	0.15	0.09
Maintenance and repair commodities	0.39	0.53	1.97	0.96
Paints, wallpaper, supplies	0.08	0.15	1.31	0.51
Tools and equipment for painting and wallpapering	0.01	0.02	0.14	0.06
Materials for plaster., panel., roof., gutters, downspouts, sid., wind., door,	0.05	0.05	0.07	0.06
Material for patio, walk, fence, drive, masonry, brick, stucco	0.00	0.00	0.01	0.00
Plumbing supplies and equipment	0.02	0.05	0.32	0.13
Electrical supplies, heating and cooling equipment	0.01	0.09	0.03	0.04
Miscellaneous supplies and equipment	0.01	0.12	0.09	0.07
Material for insulation, other maintenance and repair	0.01	0.04	0.09	0.05
Material for finishing basements and remodeling rooms	0.00	0.08	NA	0.04
Materials for hard surface flooring	0.20	NA	NA	0.20
Materials for landscaping maintenance	0.00	0.06	NA	0.03
Property management and security	0.40	3.19	3.35	2.31
Property management	0.40	1.96	2.25	1.54
Management and upkeep services for security	0.00	1.23	1.10	0.78
Parking	0.00	0.09	NA	0.05
Housing while attending school	35.48	59.66	54.71	49.95
Lodging on out-of-town trips	178.58	167.56	167.34	171.16
Utilities, fuels, and public services	1,726.29	1,961.13	1,962.49	1,883.30
Natural gas	232.22	240.89	246.97	240.03
Utility-natural gas (renter)	50.85	50.96	55.98	52.50
Utility-natural gas (owned home)	180.07	189.11	189.86	186.35
Utility-natural gas (owned vacation)	1.22	0.82	1.07	1.04
Utility-natural gas (rented vacation)	0.08	NA	0.06	0.07
Electricity	700.08	791.57	770.65	754.10
Electricity (renter)	169.94	189.36	201.59	186.96
Electricity (owned home)	524.87	595.84	562.26	560.99
Electricity (owned vacation)	5.03	5.00	5.59	5.87
Electricity (rented vacation)	0.25	0.37	0.20	0.27
Fuel oil and other fuels	94.02	103.30	93.93	97.08
Fuel oil	55.60	62.83	55.61	58.01
Fuel oil (renter)	5.21	5.61	7.00	5.94
Fuel oil (owned home)	49.96	56.67	48.25	51.63
Fuel oil (owned vacation)	0.38	0.51	0.36	0.42
Fuel oil (rented vacation)	0.06	0.04	NA	0.05
Coal	3.50	4.66	2.50	3.55
Coal (renter)	0.55	0.26	0.05	0.29
Coal (owned home)	2.95	4.38	2.44	3.26
Coal (owned vacation)	0.00	0.02	0.02	0.01
Coal (rented vacation)	0.00	NA	NA	0.00
Bottled gas	24.48	27.47	27.18	26.38
Gas, btld/tank (renter)	3.78	4.19	4.79	4.25
Gas, btld/tank (owned home).	18.58	21.14	20.75	20.16
Gas, btld/tank (owned vacation)	2.12	2.11	1.64	1.96
Gas, btld/tank (rented vacation)	0.00	0.02	NA	0.01
Wood and other fuels	10.43	8.35	8.64	9.14
Wood/other fuels (renter)	1.31	1.37	1.59	1.42
Wood/other fuels (owned home)	9.05	6.92	6.71	7.56
Wood/other fuels (owned vacation)	0.06	0.05	0.34	0.15
Wood/other fuels (rented vacation)	0.00	NA	NA	0.00
Telephone services	528.79	608.50	619.87	585.72
Telephone (old)	NA	48.22	0.00	24.11
Telephone services in home city, excluding mobile car phones	NA	560.28	619.87	590.08
Telephone services for mobile car phones	NA	NA	NA	NA
Water and other public services	171.19	216.87	231.08	206.38
Water and sewerage maintenance	131.02	159.33	160.22	150.19
Water/sewer maint. (renter)	18.53	22.04	24.38	21.65
Water/sewer maint. (owned home)	111.57	136.19	133.69	127.15
Water/sewer maint. (owned vacation)	0.83	1.09	2.10	1.34
Water/sewer maint. (rented vacation)	0.09	0.01	0.05	0.05
Trash and garbage collection	38.67	55.90	69.38	54.65
Trash/garb. coll. (renter)	5.28	7.26	7.37	6.64

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Trash/garb. coll. (owned home)	33.31	47.64	59.92	46.96
Trash/garb. coll. (owned vacation)	0.05	1.00	2.09	1.06
Trash/garb. coll. (rented vacation)	0.00	NA	0.01	0.01
Septic tank cleaning	1.50	1.65	1.47	1.54
Septic tank clean. (renter)	0.01	0.07	0.11	0.06
Septic tank clean. (owned home)	1.48	1.57	1.29	1.45
Septic tank clean. (owned vacation)	0.00	0.01	0.07	0.03
Septic tank clean. (rented vacation)	0.00	NA	NA	0.00
Household operations	387.45	451.97	487.20	442.21
Personal services	176.53	224.86	253.05	218.15
Babysitting	74.62	83.78	85.92	81.44
Care for elderly, invalids, handicapped, etc	11.66	26.56	43.92	27.38
Day-care centers, nursery, and preschools	90.25	114.51	123.21	109.32
Other household expenses	210.92	227.11	234.15	224.06
Housekeeping services	67.76	77.46	71.70	72.31
Gardening, lawn care service	49.80	50.55	64.99	58.48
Water softening service	2.81	2.72	3.28	2.94
Household laundry, dry cleaning, sent out (nonclothing) not coin operated	1.63	2.21	2.32	2.05
Coin-operated household laundry and dry cleaning (nonclothing)	4.78	4.91	5.58	5.09
Other home services	17.86	16.79	18.38	17.68
Termite/pest control products	0.20	0.22	0.29	0.24
Moving, storage, freight express	26.46	22.73	24.37	24.52
Appliance repair, including service center	16.44	16.96	15.88	16.43
Reupholstering, furniture repair	13.85	11.51	18.56	14.64
Repair/rental of lawn/garden equip., hand/power tools, other house. equip	5.92	5.78	3.74	5.15
Appliance rental	2.08	1.28	1.86	1.74
Rental of office equipment for nonbusiness use	0.17	0.17	0.13	0.16
Repair of miscellaneous household equipment and furnishings*	0.48	2.34	1.89	1.57
Repair of computer systems for nonbusiness use	0.88	1.19	1.19	1.09
Rental/installation of dishwashers, range hoods, and garbage disposals	0.00	NA	NA	0.00
Housekeeping supplies*	382.82	451.34	462.61	432.26
Laundry and cleaning supplies*	106.44	123.66	123.97	118.02
Soaps and detergents*	62.10	73.49	70.41	68.67
Other laundry cleaning products*	44.33	50.17	53.56	49.35
Other household products*	157.48	197.81	211.79	189.03
Cleansing and toilet tissue, paper towels and napkins*	52.12	62.60	60.52	58.41
Miscellaneous household products*	67.89	91.22	94.75	84.62
Lawn and garden supplies*	37.47	44.00	56.52	46.00
Postage and stationery*	118.90	129.87	126.85	125.20
Stationery, stationery supplies, giftwraps*	54.40	66.09	62.59	61.03
Postage*	64.49	63.78	64.26	64.18
Household furnishings and equipment	1,102.32	1,252.41	1,184.33	1,179.69
Household textiles	97.11	107.35	94.56	99.67
Bathroom linens*	13.69	24.61	15.62	17.97
Bedroom linens*	38.11	39.34	43.17	40.21
Kitchen and dining room linens*	5.74	4.76	7.84	6.11
Curtains and draperies	26.56	18.09	19.11	21.25
Slipcovers, decorative pillows	1.64	1.36	1.42	1.47
Sewing material for slipcovers, curtains, other sewing mater, for the home*	10.32	18.17	6.54	11.68
Other linens	1.05	1.04	0.86	0.96
Furniture	319.44	297.24	316.15	310.94
Mattress and springs	41.86	35.82	38.97	38.88
Other bedroom furniture	39.75	46.24	57.57	47.85
Sofas	65.44	65.48	70.67	67.20
Living room chairs	35.91	34.99	30.70	33.87
Living room tables	20.16	14.24	17.63	17.34
Kitchen, dining room furniture	58.64	46.11	42.37	49.04
Infants' furniture	7.01	7.58	6.74	7.11
Outdoor furniture	12.57	13.59	11.02	12.39
Occasional furniture	38.12	33.18	40.48	37.26
Floor coverings	70.23	128.97	61.08	86.76
Wall-to-wall carpeting (renter)	2.41	2.02	2.57	2.33
Wall-to-wall carpet, installed (renter)	1.73	1.56	2.05	1.78
Wall-to-wall carpet, not installed carpet squares (renter)	0.68	0.46	0.52	0.55
Wall-to-wall carpet (replacement) (owned home)	42.57	34.99	29.06	35.54
Wall-to-wall carpet, not installed (replace.), carp. squar. (owned home)	3.04	2.91	1.89	2.61
Wall-to-wall carpet, installed (replacement) (owned home)	39.53	32.08	27.17	32.93
Room size rugs and other floor covering, nonpermanent*	25.25	91.96	29.45	48.89

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Major appliances	172.90	131.98	144.89	149.92
Dishwashers (built-in), garbage disposals, range hoods, (renter)	0.24	0.98	0.16	0.46
Dishwashers (built-in), garbage disposals, range hoods, (owned home)	10.05	9.54	7.21	8.93
Refrigerators, freezers (renter)	11.18	7.51	8.38	9.02
Refrigerators, freezers (owned home)	39.29	25.85	33.30	32.81
Washing machines (renter)	6.56	4.28	6.28	5.71
Washing machines (owned home)	17.96	17.22	15.85	17.01
Clothes dryers (renter)	4.18	2.34	3.35	3.29
Clothes dryers (owned home)	10.35	7.05	9.78	9.06
Cooking stoves, ovens (renter)	2.87	2.18	3.11	2.72
Cooking stoves, ovens (owned home)	19.55	13.20	14.81	15.85
Microwave ovens (renter)	4.47	2.09	3.09	3.22
Microwave ovens (owned home)	9.81	4.85	4.74	6.47
Portable dishwasher (renter)	0.31	0.14	0.11	0.19
Portable dishwasher (owned home)	1.33	0.24	1.15	0.91
Window air conditioners (renter)	2.43	1.12	1.18	1.58
Window air conditioners (owned home)	8.23	7.61	3.31	6.38
Electric floor cleaning equipment	14.62	15.03	13.63	14.43
Sewing machines	5.08	5.19	5.15	5.47
Miscellaneous household appliances*	3.39	5.56	10.29	6.41
Small appliances, miscellaneous housewares	60.51	83.38	86.46	76.78
Housewares	39.14	57.82	62.47	53.14
Plastic dinnerware	1.83	1.79	1.61	1.74
China and other dinnerware	10.31	11.56	11.60	11.16
Flatware	3.44	4.07	3.97	3.83
Glassware*	9.79	7.08	13.59	10.15
Silver serving pieces*	0.27	3.83	1.35	1.82
Other serving pieces	1.36	1.78	1.59	1.58
Nonelectric cookware*	12.14	11.67	11.66	11.82
Tableware, nonelectric kitchenware*	NA	16.02	17.08	16.55
Small appliances	21.37	25.56	23.99	23.64
Small electric kitchen appliances	14.17	18.05	18.75	16.99
Portable heating and cooling equipment	7.20	7.52	5.23	6.65
Miscellaneous household equipment	382.11	503.48	481.19	455.59
Window coverings	13.72	12.79	17.37	14.63
Infants' equipment*	3.77	10.62	5.52	6.64
Laundry and cleaning equip.*	8.52	9.19	10.99	9.57
Outdoor equipment	4.73	6.20	4.83	5.25
Clocks	5.46	4.45	3.38	4.43
Lamps and lighting fixtures*	28.40	22.80	26.10	25.77
Other household decorative items*	80.30	107.69	111.16	99.72
Telephones and accessories*	7.25	62.21	20.55	30.00
Lawn and garden equipment	49.12	39.58	43.15	43.95
Power tools	14.39	13.25	16.15	14.60
Small miscellaneous furnishings*	3.39	5.23	1.15	3.26
Hand tools*	13.67	11.71	14.07	13.15
Indoor plants, fresh flowers*	41.42	57.80	53.49	50.90
Closet and storage items*	4.62	6.99	12.21	7.94
Rental of furniture	3.02	3.36	3.67	3.35
Luggage	8.72	7.49	7.04	7.75
Computers and computer hardware nonbusiness use	39.86	63.64	63.66	55.72
Computer software and accessories for nonbusiness use	7.36	8.59	9.48	8.51
Telephone answering devices	4.23	5.00	4.64	4.62
Calculators	1.99	2.56	1.57	2.04
Business equipment for home use	6.20	5.02	4.23	5.15
Other hardware*	6.95	11.83	13.74	10.84
Smoke alarms (owned home)	0.54	0.38	0.47	0.46
Smoke alarms (renter)	0.15	0.09	0.06	0.10
Smoke alarms (owned vacation)	0.00	NA	NA	0.00
Other household appliances (owned home)	4.25	4.63	4.40	4.43
Other household appliances (renter)	1.35	0.87	0.99	1.07
Miscellaneous household equipment and parts*	18.73	19.42	27.08	21.74
Apparel and services	1,537.27	1,801.23	1,732.90	1,690.47
Men and boys	400.67	448.88	436.66	428.80
Men, 16 and over	318.80	357.81	353.05	343.22
Men's suits	41.20	39.20	43.98	41.46
Men's sportcoats, tailored jackets	15.57	13.84	12.04	13.82
Men's coats and jackets*	29.30	30.48	26.12	28.63
Men's underwear*	9.72	12.26	14.13	12.04

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Men's hosiery*	10.34	12.60	13.73	12.22
Men's nightwear*	2.89	6.24	5.84	4.99
Men's accessories*	22.88	34.42	33.64	30.31
Men's sweaters and vests	17.65	13.47	13.11	14.74
Men's active sportswear	12.10	12.15	11.96	12.07
Men's shirts*	74.17	87.10	87.25	82.84
Men's pants*	70.76	77.09	70.18	72.68
Men's shorts, shorts sets*	8.29	13.53	16.40	12.74
Men's uniforms	3.16	5.00	3.70	3.95
Men's costumes	0.77	0.42	0.98	0.72
Boys, 2 to 15	81.86	91.07	83.82	85.58
Boys' coats and jackets*	9.48	4.36	5.73	5.52
Boys' sweaters	3.73	3.09	2.70	3.17
Boys' shirts*	20.55	21.80	19.50	20.62
Boys' underwear*	1.55	4.96	4.89	3.80
Boys' nightwear*	2.79	2.21	2.83	2.61
Boys' hosiery*	3.99	4.97	4.26	4.41
Boys' accessories*	2.77	4.58	5.19	4.18
Boys' suits, sportcoats, vests*	3.00	0.51	2.13	1.88
Boys' pants*	24.70	24.72	19.41	22.94
Boys' shorts, shorts sets*	3.91	11.51	9.03	8.15
Boys' uniforms, active sportwear	5.10	7.43	7.30	6.61
Boys' costumes	0.29	0.93	0.85	0.69
Women and girls	608.90	724.73	703.40	679.01
Women, 16 and over	509.83	624.19	607.23	580.42
Women's coats and jackets*	33.49	40.55	58.80	44.28
Women's dresses*	83.27	118.10	89.96	97.11
Women's sportcoats, tailored jackets*	0.84	6.02	3.90	3.59
Women's vests and sweaters*	36.74	46.00	40.43	41.06
Women's shirts, tops, blouses*	85.55	114.03	106.20	101.93
Women's skirts*	29.28	28.63	21.52	26.48
Women's pants*	66.85	69.35	79.18	71.79
Women's shorts, shorts sets*	14.23	20.40	23.33	19.32
Women's active sportswear*	23.13	28.54	32.91	28.19
Women's sleepwear*	22.57	20.98	25.33	22.96
Women's undergarments*	24.38	27.53	33.13	28.35
Women's hosiery	25.85	27.13	25.01	26.00
Women's suits	28.04	33.54	30.71	30.76
Women's accessories*	34.46	38.59	33.98	35.68
Women's uniforms*	1.15	1.47	1.82	1.48
Women's costumes	0.00	3.34	1.01	1.45
Girls, 2 to 15	99.08	100.53	96.17	98.59
Girls' coats and jackets	7.95	6.71	7.65	7.44
Girls' dresses, suits	12.02	13.87	13.23	13.04
Girls' shirts, blouses, sweaters*	30.19	23.20	22.42	25.27
Girls' skirts and pants	16.37	15.56	14.87	15.60
Girls' shorts, shorts sets	6.41	8.41	9.83	8.22
Girls' active sportswear*	9.32	10.66	8.41	9.46
Girls' underwear and sleepwear	5.92	6.16	6.26	6.11
Girls' hosiery*	4.88	5.09	5.05	5.34
Girls' accessories*	4.08	5.49	4.50	4.69
Girls' uniforms	1.46	2.26	1.86	1.86
Girls' costumes	NA	2.12	2.08	2.10
Children under 2	63.60	85.67	80.39	76.55
Infant coat, jacket, snowsuit	3.17	2.99	3.25	3.14
Infant dresses, outerwear	14.98	17.87	20.75	17.87
Infant underwear*	36.68	51.00	46.85	44.84
Infant nightwear, loungewear	3.19	3.11	4.26	3.52
Infant accessories	3.06	5.15	5.28	4.50
Infant hosiery	0.41	0.10	NA	0.10
Footwear*	204.13	258.04	243.05	235.07
Men's footwear*	62.95	72.47	73.53	69.65
Boys' footwear*	18.19	29.42	31.65	26.42
Women's footwear*	104.54	128.82	115.47	116.28
Girls' footwear*	18.46	27.33	22.41	22.73
Other apparel products and services	259.97	283.91	269.19	271.02
Material for making clothes	8.12	9.10	8.58	8.60
Sewing patterns and notions	2.15	3.00	2.56	2.57
Watches	21.65	20.45	20.47	20.86

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Jewelry	110.35	121.45	108.73	113.41
Shoe repair and other shoe service	3.46	4.27	3.47	3.73
Coin-operated apparel laundry and dry cleaning	34.25	37.63	38.61	36.83
Apparel alteration and repair	6.05	6.23	6.02	6.10
Clothing rental	4.77	4.02	3.56	4.12
Watch and jewelry repair	5.72	6.94	5.54	6.07
Apparel laundry and dry cleaning not coin operated	62.72	69.99	70.94	67.88
Clothing storage	0.75	0.83	0.71	0.76
Transportaiton	5,140.21	5,235.41	5,232.14	5,202.59
Vehicle purchases (net outlay)	2,388.19	2,154.04	2,167.03	2,236.42
Cars and trucks, new	1,391.73	1,072.55	1,095.97	1,186.75
New cars	991.60	749.65	749.56	830.27
New trucks	400.13	322.90	346.42	356.48
Cars and trucks, used	971.12	1,060.67	1,033.39	1,021.73
Used cars	754.27	742.29	737.98	744.85
Used trucks	216.85	318.39	295.42	276.89
Other vehicles	25.34	20.82	37.66	27.94
New motorcycles	5.21	2.87	18.06	8.71
New aircraft	0.00	NA	NA	0.00
Used motorcycles	15.86	17.95	9.04	14.28
Used aircraft	4.27	NA	10.57	7
Gasoline and motor oil	933.90	998.10	972.68	968.23
Gasoline	812.03	884.83	868.13	855.00
Diesel fuel	12.01	9.23	9.86	10.37
Gasoline on out-of-town trips	96.47	91.98	82.43	90.29
Gasohol*	0.00	NA	NA	0.00
Motor oil	12.55	11.31	11.44	11.77
Motor oil on out-of town trips	0.85	0.74	0.83	0.81
Other vehicle expenses	1,552.56	1,775.67	1,805.62	1,711.28
Vehicle finance charges	284.70	280.20	258.96	274.62
Automobile finance charges	196.25	190.05	169.13	185.14
Truck finance charges	71.94	75.90	71.72	73.19
Motorcycle and plane finance charges	1.67	0.50	1.93	1.37
Other vehicle finance charges	14.85	13.76	16.18	14.93
Maintenance and repairs	568.66	641.71	627.51	612.63
Coolant, additives, brake, transmission fluids	7.15	6.94	6.77	6.95
Tires—purchased, replaced, installed	86.22	85.76	92.70	88.23
Parts, equipment and accessories*	86.80	100.00	75.63	87.48
Vehicle products*	3.92	3.19	3.14	3.42
Misc. auto repair, servicing*	17.18	22.31	20.13	19.87
Body work and painting	34.71	30.35	32.21	32.42
Clutch, transmission repair	34.54	35.98	34.71	35.08
Drive shaft and rear-end repair	7.58	6.97	7.96	7.50
Brake work	33.05	42.57	43.87	39.83
Repair to steering or front-end	11.64	12.69	15.62	13.32
Repair to engine cooling system	22.87	24.02	24.59	23.83
Motor tune-up	40.07	46.97	46.95	44.66
Lube, oil change, and oil filters	24.67	33.01	35.54	31.07
Front-end alignment, wheel balance	9.30	11.64	12.40	11.11
Shock absorber replacement	6.01	9.13	8.25	7.80
Brake adjustment	4.75	6.83	5.13	5.57
Gas tank repair, replacement*	0.09	1.18	1.60	0.96
Repair tires and other repair work	29.23	33.15	33.63	32.00
Exhaust system repair	14.55	18.36	18.29	17.07
Electrical system repair	20.35	26.00	28.19	24.85
Motor repair, replacement	63.53	79.50	73.60	72.21
Autor repair service policy	8.54	5.18	5.60	6.77
Vehicle insurance	515.06	619.68	638.83	591.19
Vehicle rental, leases, licenses, other charges	184.14	234.08	280.31	232.84
Leased and rented vehicles	68.54	95.89	125.45	96.63
Rented vehicles	NA	33.77	32.93	33.35
Auto rental	44.36	12.42	8.35	21.71
Auto rental, out-of-town trips	6.78	15.41	16.16	12.78
Truck rental	12.51	2.10	2.71	5.77
Truck rental, out-of-town trips	3.99	2.49	5.20	3.89
Motorcycle rental	0.00	NA	NA	0.00
Aircraft rental	0.47	0.27	0.24	0.33
Motorcycle rental, out-of-town trips	0.04	0.50	0.07	0.20

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Aircraft rental, out-of-town trips	0.40	0.58	0.20	0.39
Leased vehicles	NA	62.11	92.52	77.32
Car lease payments	NA	47.74	69.08	58.41
Cash downpayment (car lease)	NA	2.12	8.22	5.17
Termination fee (car lease)	NA	0.16	0.14	0.15
Truck lease payments	NA	11.01	12.47	11.74
Cash downpayment (truck lease)	NA	1.09	1.52	1.31
Termination fee (truck lease)	NA	NA	1.08	1.08
State and local registration	67.04	75.17	87.09	76.43
Driver's license	6.59	7.27	7.41	7.09
Vehicle inspection	6.33	8.31	9.03	7.89
Parking fees	20.50	23.86	23.01	22.46
Parking fees (old)	NA	1.34	0.00	0.67
Parking fees in home city, excluding residence	NA	19.97	20.52	20.25
Parking fees, out-of-town trips	NA	2.54	2.49	2.52
Tolls*	5.96	8.71	10.98	8.55
Tolls on out-of-town trips	4.12	4.51	4.18	4.27
Towing charges	5.05	4.89	5.02	4.99
Automobile service clubs	NA	5.48	8.14	6.81
Public transportation	265.56	307.60	286.82	286.66
Airline fares	176.01	183.39	173.89	177.76
Intercity bus fares	14.30	7.84	10.90	11.01
Intracity mass transit fares	41.07	54.01	48.57	47.88
Local trans. on out-of-town trips	0.54	3.34	8.74	4.21
Taxi fares on trips	4.86	17.17	5.14	9.06
Taxi fares	5.89	5.78	5.46	5.38
Intercity train fares	9.04	14.66	17.38	13.69
Ship fares	13.00	19.63	14.54	15.72
School bus	0.86	0.77	1.21	0.95
Health care	1,282.43	1,563.01	1,653.66	1,499.70
Health insurance	473.36	652.12	727.65	617.71
Commercial health insurance	165.28	213.85	232.16	203.76
Blue Cross, Blue Shield	116.52	148.51	173.35	146.13
Health maintenance plans (HMO's)	48.48	95.76	90.57	78.27
Medicare payments	78.60	101.70	111.33	97.21
Commercial medicare supplements	64.48	92.29	120.24	92.34
Medical services	512.73	561.20	546.03	539.99
Physician's services	149.19	179.39	170.75	166.44
Dental services	150.89	179.38	174.32	168.20
Eyecare services	22.70	25.50	29.20	25.83
Nursing, therapy, and misc. medical services (old)	4.21	0.44	NA	2.33
Service by professionals other than physician	22.62	29.39	32.66	28.22
Lab tests, x-rays	26.78	25.91	31.35	28.01
Hospital room	54.96	36.47	37.42	42.95
Hospital service other than room	26.61	53.30	44.63	41.51
Medical care in retirement community	NA	NA	NA	NA
Care in convalescent or nursing home	40.86	21.05	13.48	25.13
Repair of medical equipment*	0.05	NA	NA	0.05
Other medical care services	13.86	8.07	12.24	11.39
Drugs	225.28	258.20	284.99	256.16
Nonprescription drugs*	65.79	73.86	80.16	73.27
Prescription drugs	159.49	184.34	204.83	182.89
Medical supplies	71.06	91.49	94.98	85.84
Eyeglasses and contact lenses	45.18	59.02	57.35	53.85
Hearing aids*	0.00	3.50	7.13	3.54
Topicals and dressings*	14.40	21.63	24.32	20.12
Medical equipment for general use	5.29	2.32	2.25	3.29
Supportive and convalescent medical equipment	5.70	3.48	2.85	4.01
Rental of medical equipment	0.50	0.35	0.35	0.40
Rental of supportive, convalescent medical equipment	NA	1.19	0.74	0.97
Entertainment	1,348.90	1,523.49	1,525.52	1,465.97
Fees and admissions	351.99	384.49	375.11	370.53
Recreation expenses, out-of-town trips	17.85	16.61	15.32	16.59
Club membership dues and fees (old)	76.68	24.30	NA	50.49
Social, recreation, civic club membership	NA	59.85	85.24	72.55
Fees for participant sports	46.90	69.05	61.15	59.04
Participant sports, out-of-town trips	18.96	20.12	21.17	20.08
Movie, theater, opera, ballet	61.08	66.54	64.92	64.18
Movie, other admissions, out-of-town trips	25.91	19.72	27.20	24.28

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Admission to sporting events	19.63	20.69	22.94	21.09
Admission to sports events, out-of-town trips	25.91	17.42	9.08	17.47
Fees for recreational lessons	41.23	53.57	52.76	49.19
Other entertainment services, out-of-town trips	17.85	16.61	15.32	16.59
Television, radios, sound equipment	422.50	476.38	493.86	464.25
Televisions	295.95	328.75	331.31	318.67
Community antenna or cable tv	137.94	180.20	188.40	168.85
Black and white tv*	2.84	1.81	3.06	2.57
Color tv—console	23.60	18.13	21.37	21.03
Color tv—portable, table model	43.50	44.32	41.51	43.11
VCRs and video disc players	47.70	40.40	31.41	39.84
Video cassettes, tapes, and discs	13.44	17.60	18.88	16.64
Video game hardware and software	14.88	15.04	16.25	15.39
Repair of tv, radio, and sound equipment	10.43	10.23	9.60	10.09
Rental of televisions	1.61	1.03	0.81	1.15
Radios, sound equipment	126.55	147.62	162.55	145.57
Radios*	4.84	10.24	10.71	8.60
Phonographs*	0.53	0.60	0.87	0.67
Tape recorders and players*	10.50	5.75	5.32	7.19
Sound components and component systems	28.64	30.53	35.56	31.58
Miscellaneous sound equipment	0.16	0.34	1.68	0.73
Sound equipment accessories*	4.29	3.22	4.28	3.93
Compact disc, tape, record and video mail order clubs	4.17	8.04	8.97	7.06
Records, CDs, audio tapes, needles	25.86	29.54	31.01	28.80
Rental of VCR, radio, and sound equipment	1.59	0.70	0.79	1.03
Musical instruments and accessories	20.58	16.03	20.45	19.02
Rental and repair of musical instruments	2.12	2.42	2.11	2.22
Rental of video cassettes, tapes, films, and discs	23.27	40.22	40.79	34.76
Pets, toys, and playground equipment	242.26	286.11	281.46	269.94
Pets	136.31	168.99	167.12	157.47
Pet food*	66.61	85.02	84.94	78.86
Pet purchase, supplies, medicine*	25.23	23.73	24.72	24.56
Pet services	10.64	16.52	13.87	13.68
Vet services	33.84	43.72	43.58	40.38
Toys, games, hobbies, and tricycles	102.96	112.46	112.38	109.27
Playground equipment	2.98	4.66	1.96	3.20
Other entertainment supplies, equipment, and services	332.16	376.51	375.10	361.26
Unmotored recreational vehicles	24.02	14.05	33.20	23.76
Boat without motor and boat trailers	18.32	3.85	14.72	12.30
Trailer and other attachable campers	5.70	10.20	18.48	11.46
Motorized recreational vehicles	137.44	154.19	142.45	144.69
Motorized camper coaches and other vehicles	38.79	75.13	77.70	63.87
Purchase of boat with motor	98.65	79.05	64.75	80.82
Rental of recreational vehicles	2.33	3.71	1.90	2.65
Rental noncamper trailer	0.06	0.03	0.05	0.05
Boat and trailer rental, out-of-town trips	0.94	2.13	0.47	1.18
Rental of campers and other vehicles on out-of-town trips (old)	0.58	NA	NA	0.58
Rental of campers on out-of-town trips	NA	0.17	0.54	0.36
Rental of other vehicles on out-of-town trips	NA	1.09	0.40	0.75
Rental of boat	0.23	0.02	0.05	0.10
Rental of campers, other r.v.'s	0.52	0.27	0.39	0.39
Outboard motors	1.28	1.91	2.17	1.79
Docking and landing fees	5.33	4.50	5.77	5.20
Sports, recreation and exercise equipment	86.67	111.11	102.67	100.15
Athletic gear, game tables, and exercise equipment	34.85	45.33	45.98	42.05
Bicycles	12.28	19.23	16.46	15.99
Camping equipment	3.26	4.50	3.77	3.84
Hunting and fishing equipment	15.91	20.54	16.92	17.79
Winter sports equipment	4.86	5.30	3.19	4.45
Water and miscellaneous sport equipment	13.20	14.50	14.68	14.13
Rental and repair of misc. sports equipment	2.31	1.70	1.68	1.90
Photographic equipment and supplies	69.61	81.69	81.66	77.65
Film	19.96	21.01	20.32	20.43
Other photographic supplies*	0.64	1.43	0.17	0.75
Film processing	25.21	28.58	27.09	26.96
Repair and rental of photographic equipment	0.24	0.55	0.39	0.39
Photographic equipment	15.43	14.65	13.47	14.52
Photographer fees*	8.12	15.47	20.23	14.61
Fireworks*	0.51	1.08	0.63	0.74

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Souvenirs*	0.44	0.45	1.21	0.70
Visual goods*	0.76	1.09	0.57	0.81
Pinball, electronic video games*	3.78	2.72	2.88	3.13
Personal care products and services	345.68	418.96	408.21	390.95
Personal care products	179.05	228.19	223.41	210.22
Hair care products*	40.57	45.03	42.44	42.68
Nonelectric articles for the hair*	4.26	6.41	5.35	5.34
Wigs and hairpieces	1.07	1.77	1.23	1.36
Oral hygiene products, articles*	18.16	27.93	28.07	24.72
Shaving needs*	8.49	10.65	9.46	9.53
Cosmetics, perfume, bath preparation*	77.63	98.28	103.29	93.07
Deodorants, feminine hygiene, misc. personal care*	23.52	32.28	28.78	28.19
Electric personal care appliances	5.35	5.85	4.80	5.33
Personal care services	166.63	190.77	184.80	180.73
Personal care service for females*	89.35	103.69	98.60	97.21
Personal care service for males	77.12	86.99	86.08	83.40
Repair of personal care appliances	0.16	0.09	0.12	0.12
Reading	152.49	168.07	165.57	162.04
Newspapers	63.99	70.41	70.60	68.33
Magazines	38.92	39.74	38.78	39.15
Newsletters*	0.04	0.27	0.67	0.33
Books thru book clubs	10.63	12.22	10.56	11.14
Books not thru book clubs	35.24	40.22	41.38	38.95
Encyclopedia and other sets of reference books	3.67	5.21	3.58	4.15
Education	324.43	433.88	423.79	394.03
College tuition	176.75	230.54	237.86	215.05
Elementary and high school tuition	53.20	65.77	59.98	52.99
Other schools tuition	15.29	39.08	16.39	23.59
Other school expenses including rentals	15.78	17.66	18.40	17.28
School books, supplies, equipment for college	26.56	37.22	36.94	33.57
School books, supplies, equipment for elementary high school	6.23	6.41	6.89	6.51
School books, supplies, equipment for day care, nursery, other	2.52	3.11	3.64	3.09
School supplies, etc.—unspecified*	28.10	34.10	33.67	31.96
Tobacco products and smoking supplies	242.33	277.79	278.59	266.24
Cigarettes	224.61	255.97	256.67	245.75
Other tobacco products	15.28	18.68	19.51	17.82
Smoking accessories*	2.44	3.14	2.41	2.66
Miscellaneous	597.58	877.79	794.63	756.67
Miscellaneous fees, pari-mutuel losses*	38.61	48.28	60.93	49.27
Legal fees	104.50	80.65	88.62	91.26
Funeral expenses	49.32	54.07	51.73	51.71
Safe deposit box rental	5.89	6.18	5.85	5.92
Checking accounts, other bank service charges	25.19	25.63	26.45	25.76
Cemetery lots, vaults, maintenance fees	17.66	15.42	16.64	16.57
Accounting fees	39.87	46.16	47.58	44.54
Miscellaneous personal services*	23.02	32.25	41.90	32.39
Finance charges excluding mortgage and vehicle	203.45	253.58	227.00	228.01
Occupational expenses	90.26	99.47	109.07	99.60
Expenses for other properties	NA	207.48	110.86	159.17
Interest paid, home equity line of credit (other property)	NA	1.77	0.80	1.29
Credit card memberships	NA	6.86	7.17	7.02
Cash contributions	730.19	1,040.14	1,020.99	930.44
Cash contributions to non-CU memb., incl. stud., alim., and child sup	179.06	277.71	240.72	232.50
Gifts of cash, stocks and bonds to non-CU members	149.99	219.98	249.31	206.43
Contributions to charity	69.16	97.36	105.65	90.72
Contributions to church	295.54	407.43	378.37	360.45
Contributions to educational organizations	17.97	21.71	31.50	23.73
Contributions to political organizations	7.29	7.64	7.22	7.38
Other contributions	11.18	8.31	8.21	9.23
Personal insurance and pensions	2,532.36	3,141.56	3,083.40	2,919.11
Life and other personal insurance	324.17	353.85	354.24	344.09
Life, endowment, annuity, other personal insurance	312.04	340.55	342.74	331.78
Other nonhealth insurance	12.13	13.30	11.50	12.31
Pensions and Social Security	2,208.19	2,787.71	2,729.16	2,575.02
Deductions for government retirement	65.36	80.17	77.00	74.18
Deductions for railroad retirement	6.23	4.55	3.03	4.60
Deductions for private pensions	156.10	268.34	264.82	229.75
Non-payroll deposit to retirement plans	297.28	334.61	337.62	323.17

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Deductions for Social Security	1,683.21	2,100.03	2,046.70	1,943.31

*Data may not be statistically significant.
Source: Bureau of Labor Statistics.

APPENDIX 4.—CONSUMER EXPENDITURE SURVEYS

[Pre-published Data for All Consumer Units Nationwide*]

	$10,000 to $14,999	$15,000 to $19,000	$20,000 to $29,000	$30,000 to $39,000	$40,000 to $49,999	$50,000 and over
Average income before taxes:						
1988	$12,320	$17,373	$24,591	$34,375	$44,331	$74,234
1991	12,430	17,301	24,816	34,402	44,548	79,902
1992	12,437	17,420	24,560	34,439	44,442	81,602
Average	12,369	17,365	24,656	34,405	44,440	78,579
Goods and services:						
1988	6,597.54	7,756.96	9,611.82	12,243.04	14,412.54	19,712.67
1991	7,262.65	8,319.82	9,715.90	13,134.61	14,944.06	21,598.60
1992	6,735.63	8,878.05	10,200.76	12,021.89	15,600.83	20,967.28
Average	6,865.27	8,318.28	9,842.83	12,466.51	14,985.81	20,759.52
Food at home:						
1988	1,809.23	1,954.49	2,174.01	2,556.74	2,908.55	3,109.86
1991	2,267.82	2,379.01	2,517.57	2,959.22	3,321.94	3,841.29
1992	2,060.61	2,473.08	2,558.40	2,785.24	3,265.99	3,799.25
Average	2,945.89	2,268.86	2,416.66	2,767.07	3,164.83	3,583.47
Food away from home:						
1988	968.10	1,240.03	1,591.02	2,030.75	2,375.06	3,186.24
1991	945.30	1,084.27	1,316.78	1,803.69	2,316.13	3,113.47
1992	841.79	1,201.22	1,405.80	1,771.87	2,354.17	3,131.93
Average	918.40	1,175.17	1,437.87	1,868.77	2,348.45	3,143.88
Alcohol:						
1988	182.87	235.22	290.56	343.77	352.96	506.47
1991	140.42	248.53	270.50	389.51	404.39	563.87
1992	200.85	223.45	324.37	313.65	374.96	590.09
Average	174.71	235.73	295.14	345.98	377.44	553.48
Domestic services:						
1988	82.78	119.28	166.06	275.08	311.41	321.27
1991	170.38	109.83	171.63	229.79	273.86	469.21
1992	151.62	129.29	147.99	222.40	398.61	559.53
Average	134.93	119.47	161.89	242.42	327.96	450.00
Furnishings & household operations:						
1988	956.43	1,145.52	1,509.87	2,010.78	2,306.76	3,895.22
1991	1,009.62	1,125.48	1,466.95	2,104.83	2,361.30	3,924.40
1992	970.65	1,370.53	1,587.26	1,932.32	2,427.52	3,651.88
Average	978.90	1,213.84	1,521.36	2,015.98	2,365.19	3,823.83
Clothing:						
1988	886.12	1,085.66	1,406.15	1,847.24	2,396.00	3,154.03
1991	1,093.80	1,178.28	1,325.86	1,951.82	2,186.30	3,520.50
1992	889.14	1,093.68	1,563.66	1,603.41	2,267.24	3,394.31
Average	956.35	1,119.21	1,431.89	1,800.82	2,283.18	3,356.28
Recreation:						
1988	895.72	969.87	1,333.46	1,695.89	2,224.56	3,435.75
1991	723.92	980.12	1,270.25	1,908.30	2,058.64	3,485.92
1992	755.24	1,146.23	1,302.99	1,726.85	2,558.20	3,374.39
Average	791.63	1,032.07	1,302.23	1,777.01	2,280.47	3,432.02
Personal Care:						
1988	249.04	282.21	324.70	420.30	478.79	651.43
1991	288.37	304.89	364.44	450.76	527.30	722.72
1992	229.68	340.56	376.85	405.19	528.27	702.54
Average	255.70	309.22	355.33	425.42	511.45	692.23
Tobacco:						
1988	221.48	250.05	262.82	292.87	249.43	270.28
1991	257.39	306.61	291.80	323.27	355.15	293.08
1992	242.99	287.66	296.57	321.75	321.76	300.33

APPENDIX 4.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	$10,000 to $14,999	$15,000 to $19,000	$20,000 to $29,000	$30,000 to $39,000	$40,000 to $49,999	$50,000 and over
Average	240.62	281.44	283.73	312.63	308.78	287.90
Professional Services:						
1988	345.77	474.63	553.17	769.62	811.02	1,182.12
1991	365.63	602.80	720.12	1,013.42	1,139.05	1,664.14
1992	393.06	612.35	636.87	939.21	1,104.11	1,463.01
Average	368.15	563.26	636.72	907.42	1,018.06	1,436.42
Housing:						
1988	4,455.88	4,682.00	5,835.92	6,974.54	7,990.62	11,502.63
1991	4,700.82	5,318.86	6,091.15	7,384.48	8,488.72	12,253.50
1992	5,063.74	5,566.03	6,434.77	7,383.31	9,071.67	12,721.51
Average	4,740.15	5,188.96	6,120.61	7,247.44	8,517.00	12,159.21
Transportation:						
1988	3,127.01	3,840.91	5,302.92	6,704.50	7,779.21	9,714.71
1991	3,130.14	3,352.28	4,700.00	5,872.44	7,226.89	9,442.91
1992	2,853.92	3,398.88	4,904.01	5,824.45	7,113.95	9,664.47
Average	3,037.02	3,534.02	4,969.31	6,133.80	7,373.35	9,607.36
Private transportation:						
1988	2,949.99	3,657.04	5,020.99	6,314.44	7,333.94	8,884.42
1991	2,952.36	3,118.89	4,434.71	5,473.96	6,809.12	8,535.49
1992	2,704.31	3,171.96	4,570.31	5,504.80	6,638.47	8,663.84
Average	2,868.89	3,315.96	4,675.34	5,764.40	6,927.18	8,694.58
Air fares and other transportation expenses:						
1988	177.02	183.87	281.93	390.06	445.27	830.29
1991	177.78	243.39	265.29	398.48	417.77	907.42
1992	149.61	226.92	334.70	319.65	475.48	1,000.63
Average	168.14	218.06	293.97	369.40	446.17	912.78
Miscellaneous:						
1988	2,421.18	3,159.62	3,955.36	5,414.71	7,030.39	10,544.42
1991	2,831.11	3,165.50	4,318.05	5,771.11	7,086.75	12,656.03
1992	2,530.29	3,280.40	4,349.33	5,801.25	7,754.49	12,924.24
Average	2,594.19	3,201.84	4,207.58	5,662.36	7,290.54	12,044.90
Health care:						
1988	1,385.50	1,299.71	1,328.49	1,367.25	1,531.77	1,568.44
1991	1,350.11	1,422.83	1,559.13	1,612.87	1,690.72	2,137.27
1992	1,409.04	1,652.24	1,647.83	1,711.96	1,953.77	2,262.82
Average	1,381.55	1,458.26	1,511.82	1,564.03	1,725.42	1,989.51
Cash contributions:						
1988	352.83	486.72	529.25	781.16	956.30	2,102.92
1991	764.72	647.89	728.00	853.26	986.19	2,418.40
1992	509.71	515.63	688.17	834.21	1,424.12	2,515.30
Average	542.42	550.08	648.48	826.21	1,122.20	2,345.54
Personal insurance:						
1988	882.85	1,373.19	2,097.59	3,266.30	4,542.32	6,883.06
1991	716.28	1,094.78	2,030.92	3,294.98	4,409.84	8,100.36
1992	611.54	1,112.53	2,013.33	3,255.08	4,376.60	8,146.12
Average	670.22	1,193.50	2,047.28	3,272.12	4,442.92	7,709.85

*Data may not be statistically significant.
Source: Bureau of Labor Statistics.

APPENDIX 5.—ITEM DESCRIPTIONS

Food at Home:	
Ground Beef	Price per lb. of regular ground beef. Average size package. Loose, pre-packaged. Do not price lean.
Round Steak, boneless	Price per lb. Average size package. 1st choice: Boneless top round steak. 2nd choice: Boneless bottom round steak.
Round Roast, boneless	Price per lb. Average size package. 1st choice: Top round roast. 2nd choice: Rolled rump roast.
Pork Chops, bone in	Price per lb. Average size package. 1st choice: Center cut rib chops. 2nd choice: Loin chops.
Bacon, sliced	Price for 16 oz. (1 lb.) package *Oscar Mayer* regular sliced bacon.
Chicken, whole	Price per lb. of 1 whole fryer chicken. If whole fryer not available, price a whole fryer chicken, cut-up.
Fish Filet, frozen	Price per lb. of frozen ocean whitefish filet.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

	1st choice: Cod or haddock. 2nd choice: Regional fish. Please record fish type in comment section.
Tuna, canned	Price for 6.13 oz. can chunk light, packed in water. (Not fancy style.) 1st choice: *Star Kist.* 2nd choice: *Chicken of the Sea.*
Lunch Meat	Price for 8 oz. pkg., *Oscar Mayer.* 1st choice: bologna. 2nd choice: cotto salami or all-beef bologna.
Ham, canned	Price for 3 lb. tin of canned ham. 1st choice: *Hormel.* 2nd choice: *Dubuque.* Do not price *Hormel's* Supreme Cut ham.
Frankfurters	Price for 16 oz. (1 lb.) package, *Oscar Mayer* all beef frankfurters
Eggs, large	Price for one dozen.
Fish, fresh	Price per lb. of a salmon steak.
Milk, 2%	Price for one gallon (128 fluid oz.), 2%. Lowest priced store brand.
Cheddar Cheese	Price for 10 oz. package. 1st choice: *Kraft Cracker Barrel* mild cheddar cheese. 2nd choice: *Kraft Cracker Barrel* sharp yellow cheddar cheese.
Ice Cream	Price for 1/2 gallon of *Sealtest* vanilla ice cream. Do not price ice milk.
Bread, white	Price for 16 oz. loaf of a regional brand of sliced, white bread. Do not price store brand. Please record brand in comment section.
Spaghetti, dry	Price for 16 oz. box or bag of spaghetti. 1st choice: *Creamettes.* 2nd choice: *Muehler's.* 3rd choice: *Golden Grain.* 4th choice: *American Beauty.*
Cereal	Price for box of *Kellogg's Corn Flakes.* 1st choice: 18 oz. box. 2nd choice: Different size box of *Kellogg's Corn Flakes.*
Cookies	Price for 20 oz. package of *Nabisco Oreo Cookies.*
Frozen Waffles	Price *Kellogg's Eggo Waffles,* price 12 waffle package.
Hamburger Buns	Price for 12 oz. (340 grams) package of 8 sliced regional brand enriched white hamburger buns. Do not price store brand. Please record brand in comment section.
Donuts	Price for box of *Hostess* chocolate covered donuts.
Apples, fresh	Price per lb. of Red Delicious apples. If apples are priced by the bag, report the price and weight of the bag—use the store's scale if necessary. Price medium-size apples if possible.
Bananas, fresh	Price per lb. If bananas are priced by the bunch, report the price and weight of the bunch—use the store's scale if necessary.
Tomatoes, fresh	Price per lb. Price medium-size tomatoes if possible. Do not price organic or "hydro" fresh tomatoes.
Potatoes	Price for 10 lb. bag of lowest priced white potatoes. If 10 lb. bag is not available, substitute nearest size sack. Please price potatoes by the bag since potatoes priced by the pound are not comparable to bagged potatoes.
Frozen Orange Juice	Price for 12 fluid oz. (makes 48 fluid oz.) can of *Minute Maid* frozen orange juice concentrate.
Tomato Juice	Price for 46 fluid oz. can of tomato juice. 1st choice: *Campbell's.* 2nd choice: *Libby's.*
Peaches, canned	Price for 16 oz. can of sliced yellow cling peaches. 1st choice: *Del Monte.* 2nd choice: *Libby's.*
Peas, frozen	Price for 16 oz. pkg. of *Green Giant* frozen peas. Do not price peas with sauce.
Green Beans, canned	Price for 16 oz. can of *Del Monte* green beans.
Oranges, fresh	Price per lb. of Florida oranges. If oranges are priced by the bag or by the orange, report the price and *weigh a bag*—using the store's scale if possible. Price navel medium-size oranges if possible.
Lettuce, fresh	Price for 1 head of iceberg lettuce. If lettuce is priced by weight, report the *price* and also report the *weight* of an average head.
Celery, fresh	Price for 1 bunch of celery. Do not price celery hearts.
Fruit Drink	Price for 46 fluid oz. can. 1st choice: *Hawaiian Punch.* 2nd choice: *HI-C* regular.
Soft Drink	Price for 2 L (liter) plastic bottle. 1st choice: *Coca-Cola.* 2nd choice: *Pepsi.*
Coffee, ground	Price for 13 oz. can of ground coffee. 1st choice: *Folger's Drip Grind.* 2nd choice: *Maxwell House.*
Canned Soup	Price for one can *Campbell's* soup. 1st choice: Vegetable 10½ oz. 2nd choice: Chicken Noodle 10¾ oz.
Snack Food	Price for 6 oz. bag or box of potato chips. 1st choice: *Ruffles.* 2nd choice: *Lays Dip Chips.*

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Salt	Price for 26 oz. box of iodized salt. 1st choice: *Morton.* 2nd choice: *Ivory.* 3rd choice: Private Label.
Ketchup	Price for 28 oz. plastic squeeze bottle of ketchup. 1st choice: *Heinz.* 2nd choice: *Del Monte.*
Cooking Oil	Price for 48 fluid oz. bottle. 1st choice: *Crisco.* 2nd choice: *Wesson.*
Margarine	Price for 1 lb., four sticks. 1st choice: *Blue Bonnet.* 2nd choice: *Parkay.*
Frozen Dinner	Price for 11.5 oz. (326 grams) *Swanson*-Turkey, whipped potatoes, peas, and fruit compote, frozen dinner.
Jello Gelatin	Price for 3 oz. box of *Jello Gelatin* desert.
Baby Food	Price for one 4.0 oz. jar of *Gerber Second Foods* strained vegetable or fruit.
Candy Bar	Price for one 2.07 oz. *Snickers* candy bar. If not available, price most popular brand of same size.
Sugar, granulated	Price for 5 lb. bag of granulated cane or beet sugar, lowest price available. Do not price generic sugar.
Bottled Water	Price for one gallon (store brand) (128 fluid oz.) bottled spring water. Do not price sparkling or distilled water.
Food Away from Home:	
Breakfast	Price for typical breakfast, such as, bacon and 2 eggs or waffles, coffee and juice. Report percentages added for tax, tip and service charge.
Lunch	Price for typical lunch, such as, chef's salad or cheeseburger platter and small soft drink. Report percentages added for tax, tip and service charge.
Dinner	Price for typical dinner, such as, New York strip or seafood platter and coffee. Report percentages added for tax, tip and service charge.
Fast Food Lunch/Dinner	Average price of a meal at fast food establishment. Price for typical meal, such as, Big Mac or Whopper, medium french fries and medium coke.
Ice Cream Cone	Price for regular (one scoop) vanilla ice cream cone.
Tobacco:	
Cigarettes, king size	Price for 1 carton (200 cigarettes) of *Winston* filter-kings soft pack. Do not include sales tax.
Alcohol:	
Beer at Home	Price for a six-pack of 12 oz. cans of *Budweiser* (Puerto Rico—10 oz). Do not price refrigerated beer.
Wine at Home	Price for 750 ml. *Gallo* white chablis blanc.
Beer Away	Price for glass of *Budweiser/Miller Lite* beer. List percent for tax.
Wine Away	Price of house white wine. List percent for tax.
Furnishings, Household Operations:	
Appliance Repair	Price to replace digital clock and heating probe for *Maytag* oven Model #CRE9400ACL, Serial #1000100HB, Series #10. Include hourly rate, trip charge and parts cost.
Housekeeping Services	Price per hour for bi-weekly cleaning. House approximately 2,000 sq. ft. Family size four. Please complete items in the Comment Section. Services include the following: Bathroom(s)—Sanitize walls, floor, counter tops, bathtub, stool. Kitchen—Sanitize walls, floor, counter tops, cabinets, appliances. Living Room & Dining Room—Dust, polish furniture and vaccum. Bedrooms—Dust, polish furniture and vacuum. If other services are included, please note.
Moving	Price per hour for a within-city move, two men with enclosed van. Include any van rental fees.
Toilet Tissue	Price for a 4 roll pack. 1st choice: *Cottonelle.* 2nd choice: *Northern.*
Pen	Price for 10 pack *Bic* round stic medium pen.
Postage	Price for First Class postage for a letter.
Laundry Soap	Price for 100 fluid oz. of liquid household laundry detergent. 1st choice: *Tide.* 2nd choice: *Cheer.*
Plant Food	Price for 8 oz. container of indoor plant food. 1st choice: *Miracle Grow.* 2nd choice: *Peters.*
Bed Sheet Set	Price for one set queen-size no-iron cotton & polyester percale sheets (180 thread count). One set consists of one fitted sheet, one flat sheet and two pillowcases. Do not price designer sheet sets. Price sheet sets with a minimum design.
Bath Towel	Price for a 2750 inch *Cannon* Portofino bath towel made of 100% cotton.
Living Room Chair	Price for a recliner chair, that is button backed with base construction of 15 zigzag springs. 1st choice: *Lane.* 2nd choice: *Lazy Boy.* Do not price special order fabric.
Bedroom Group	Price for nightstand, headboard, 5-drawer chest, triple dresser with mirror. Solid wood top, front mirror frame and headboard. Veneer sides. Drawer construction should have French dovetail or English dovetail joints and dust plate.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Dining Room Table	Price for table with center pedestal and four standard double rung chairs. Table should have veneer top and double runners for leaves with both portions of the table moveable.
Washing Machine	Price for large capacity washing machine with 4 water temperatures, 8 wash cycles, 4 water levels, white porcelain tub, self-clean lint filter, fabric softener dispenser and 2 speed combinations. 1st choice: *Maytag* Model #LAT9604. 2nd choice: *General Electric* Model #WWA8600. 3rd choice: *Whirlpool* Model #LLR6233B.
Kitchen Range	Price for 30-inch electric range with upswept cooktop, removable coil elements, electronic clock with timer, oven light, delay-start cook control, storage drawer, self-cleaning oven with two oven racks and a porcelain enamel broiler pan. 1st choice: *Maytag* Model #CRE9400. 2nd choice: *General Electric* Model #JBP55GS. 3rd choice: *Whirlpool* Model #RF385PXYW.
Refrigerator	Price for no-frost top-mount 21 cubic ft. refrigerator with reversible doors and energy saver switch, 4 split glass shelves, fixed glass crisper shelf with 2 sealed/moisture controlled crisper drawers, double wall meat drawer. Door contains 2 covered dairy compartments, 1 deep fixed bin, 4 deep adjustable bins. Freezer has 2 adjustable wire shelves, 2 deep fixed door bins and 4 ice trays. 1st choice: *Maytag* Model #RTD2100CAE. 2nd choice: *General Electric* Model #TBX22PAS. 3rd choice: *Whirlpool* Model #ET22PKXB.
Vacuum	Price for upright vacuum cleaner with 8.5 amps, 120 volts, six above-the-floor attachments, height adjustment, regular bag and 20-foot cord. 1st choice: *Eureka* Model #9334AT. 2nd choice: *Hoover* Model #U4671–930.
Two-Slice Toaster	Price for two-slice toaster, chrome body, wide slot with pastry defrost setting. 1st choice: *Proctor-Silex* Model #T620B. 2nd choice: *Black & Decker* Model #T200.
Casserole Dish Set	Price for *Corning-Ware* trio casserole set with 1 qt., 1.5 qt., and 2 qt. dishes and 3 covers (two plastic covers and one glass).
China	Price for the *Corelle Impressions* line *Abundance* pattern tableware set. Set consists of 20 pieces: 4 dinner plates, 4 luncheon plates, 4 bowls, 4 cups, and 4 saucers. The pattern is beige with a fruit and flower motif.
Electric Drill	Price for 6.0 volt reversible cordless electric drill with overnight recharge. 1st choice: *Black & Decker* Model #Cd2000. 2nd choice: *Skil* Model #2305.
Lawn Trimmer	Price for gas powered 31 cc. two-cycle engine single line lawn trimmer with a 17 inch wide cut.
Red Roses, fresh cut	Price for one dozen long stemmed, fresh cut red roses.
Hammer	Price for *Stanley* curved claw hammer with a 16 oz. head, wood handle, high carbon steel head, black finish. Overall length 13¼". 1st choice: Model #51616. 2nd choice: Model #51416.
Window Shade	Price 37½ inch wide window shade.
Toilet Lid Cover	Price for *Cannon* Portofino standard toilet lid cover made of 100% nylon.
Clothing:	
Man's Suit	Price for two-piece single-breasted business suit of the type generally worn to the office. Conservatively colored and styled with a fabric blend of 45% wool and 55% polyester.
Man's Jeans	Price of straight leg regular fit jeans. 1st choice: *Levi's* #505. 2nd choice: *Lee* regular fit. Do not price bleached jeans.
Man's Dress Shirt	Price for white or solid color, long sleeve, button cuff, plain collar dress shirt, approximately 35% cotton, 65% polyester. A dress shirt will have exact collar and sleeve sizes. Example: 15½ collar, 34 sleeve. Possible brands: *Arrow, Van Heusen.*
Man's Jacket	Price for unlined *Levi's* jean jacket. Cotton denim with button front, two chest pockets and two side pockets.
Boy's Jeans	Price of loose fit jeans (size 8–14). 1st choice: *Levi's* #560. 2nd choice: *Lee* loose fit.
Boy's Shirt	Price for screen-printed t-shirt commonly worn by boys ages 8 through 10 years (size 7–14). Pullover with crew neck, short sleeves and polyester/cotton blend. Possible brand: *Ocean Pacific.*
Man's Undershirt	Price for white 100% cotton undershirts with short sleeves, set of three. If not in set of three, report the number of undershirts in package. Possible brands: *Hanes, Fruit of the Loom.*
Woman's Dress	Price for misses mid-sleeve shirt waist dress appropriate for office attire. Exclude any unusual ornamentation. The dress should be unlined and 100% rayon. Possible brands: *Stewart Allen, Lesley Fay.*
Woman's Blouse	Price of 100% polyester, white, long sleeve, button front blouse with minimum trim. Possible brands: *Wrapper, Girls, Girls, Girls.*
Woman's Slacks	Price for misses unlined slacks appropriate for office attire. The slacks should be a blend of cotton and polyester without a belt. Possible brands: *Donnkenny, Alfred Dunner.*

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Woman's Sweater	Price for 100% cotton, crew neck sweater with rib knit cuffs and bottom. Exclude any unusual ornamentation or patterns.
Woman's Jacket	Price for unlined windbreaker.
Woman's Accessories	Price for split-grain, cowhide leather, checkbook clutch wallet. Possible brands: *Michael Stevens, Mundi.*
Girl's Dress	Price of cotton blend long-sleve dress appropriate for school. Exclude extra ornamentation. For girls ages 8 through 10 (size 7–14). Possible brand: *Carter's.*
Girl's Jeans	Price of *Levi's* #550 jean. For girls ages 8 through 10 years (size 7–14).
Girl's Blouse	Price of cotton blend, white or solid color, long sleeve, button front blouse. For girls ages 8 through 10 years (size 7–14). Possible brand: *This Side Up.*
Infant's Sleeper	Price for one-piece sleeping garment with legs, covering the body including the feet. Possible brands: *Gerber, Playskool.*
Disposable Diaper	Price for 40 count package *Pampers,* (child 12–18 lbs.). Do not price larger size diapers.
Man's Shoes	Price for 100% leather wing tips. Possible brands: *Bostonian, Johnston and Murphy.*
Woman's Shoes	Price for woman's pump style shoes with encolsed heel and toe, leather uppers and the rest of man-made materials. Heel height should be approximately two inches. Possible brands: *9 West, Candies.*
Jewelry	Price for one pair 6mm 14K gold ball earrings for pierced ears.
Coin Laundry	Price for one load of laundry using a regular size, top loading commercial washing machine. Do not include cost of drying.
Dry Clean Man's Suit	Price to dry clean a man's 2-piece business suit of typical fabric.
Domestic Service:	
Day-Care	Price for one *month* of day-care for a three-year-old child (5 days a week, about 8 hours per day). If monthly rate is not available, price per week.
Babysitter, per hour	Average hourly rate for one child, age four years, evening, before midnight. (Teenager in your home.) Do not Price babysitting service. Special Instructions: If typical for your area, you may wish to obtain quotes from friends/acquaintances in your area who use teenage babysitters.
Professional Services:	
Legal Services	Hourly rate for general counsel.
Accounting Services	Hourly rate for individual tax work (not business).
Personal Care:	
Woman's Cut and Styled Blow Dry	"Regular service" price for a woman's cut and styled blow dry. Include wash. No curling iron if extra charge.
Man's Haircut	Price of a man's typical haircut. Do *not* include wash.
Lipstick	Price for one tube of *Revlon* lipstick. 1st choice: *Super Lustrous.* 2nd choice: *Moondrops.*
Shampoo	Price for 15 fluid oz. bottle of *Revlon Flex* shampoo for normal hair.
Recreation:	
Bowling	Price for 1 game of open (or non-league) bowling on Saturday night. Exclude cost of shoe rental.
Golf	Price for 18 holes of golf on a weekend. If only 9 hole rate is available, report twice the price. If only daily rate is available (unlimited number of holes), report the Saturday or Sunday rate.
Movie Theater	Typical adult price for regular length evening film. Report weekend evening price if different from weekday.
Health Club	Price for regular individual membership for 1 year for existing member. Do not include any initial fees assessed only to new members. If yearly rate is not available, price per month.
Piano Lessons	Price for private lesson for a beginner one-half hour in length.
Video Rental	Price to rent one video tape of recently released movie, Saturday night (1 day) rate. Non-member fee.
Video Recorder	Price for VCR with 4 video heads, double azimuth, unified TV/VCR remote, one-year eight event timer, auto tracking, LED display, and HI–FI stereo. 1st choice: *Zenith* Model #VRm4120. 2nd choice: *Sony* Model #SLV720HF.
Compact Disc	Regular price for a current best-selling CD. Not sale price. Do not price double CD. Example: *VS.* by Pearl Jam, *Purple* by Stone Temple Pilots. Please record title in comment section.
Compact Disc Player	Price 5 disc CD player with rotary changer system, 10 key access, 32 track programming, 8 times oversampling, and a remote. 1st choice: *Sony* Model #CDPC545. 2nd choice: *Panasonic-Technics* Model #SLPD867.
Color Television	Price for 20" table model color TV with a remote, auto channel search, closed captions, sleep timer, on-screen channel/time and menus, channel flashback, and 181 channel tuning. 1st choice: *Zenith* Model #SM52049. 2nd choice: *Sony* Model #KV20TS29.
Basic Cable Service	Price for one month of basic cable channel TV. Do not include hookup charges or premium channels.
Veterinary Services	Typical fee for general office visit for a heartworm test for a small dog. Include the cost of the office visit.
Pet Food	Price for 5.5 oz. can of cat food.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

	1st choice: *Purina.*
	2nd choice: *9 Lives.*
Film Developing	Price to process and print 35 millimeter, 24 exposure, 100 ASA color. Single prints only please.
Camera Film	Price for 35 millimeter, 24 exposure, 100 ASA *Kodak* camera film.
Tennis Balls	Price for can of three heavy-duty felt, yellow, tennis balls.
	1st choice: *Wilson.*
	2nd choice: *Penn.*
Board Game	Price for Monopoly board game by *Parker Brothers.* Do not price deluxe edition.
Book	Price for top ten best selling paperback book.
Magazine	Price for a single copy of *Time* magazine.
Local Newspaper	Price for one year of the most common daily paper (including Sunday edition) distributed in the area. Report the name of the newspaper in the comment section.
Miscellaneous Expense Component:	
Pain Reliever	Price for 60 tablets of extra-strength *Tylenol.* Do not price caplets or gelcaps.
Tetracycline, prescription	Price of 40 capsules of tetracycline, 250 milligram strength. Report price for most common national brand sold.
Optometrist, office visit	Typical fee for visual analysis including tonometry, refraction and glaucoma screening.
Dentist, clean and check teeth	Charge for x-rays, exam and prophylaxis (light scaling and polishing) or "cleaning of teeth" without special treatment of gums or teeth. Do not price initial visit.
Doctor, office visit	Typical fee, after the initial visit, for an office visit when medical advice or simple treatment is needed. Do *not* include the charge for a regular physical examination, injections, medication or lab tests (routine brief visit). Price general practitioner, do not price specialist.
Hospital Room	Daily charge for a private room. Include food and routine care. *Exclude* cost of operating room, surgery, medicine and lab fees.
Housing-Related Component:	
Bathroom Caulking	Price a 5.5 ounce plastic tube of latex white bathroom caulking. This is not a caulk gun cartridge.
	Possible Brand: DAP Kwik Seal Tub & Tile.
Computation of Electric Bill	Average monthly consumption:
	Customer service charge (single phase service):
	Cost for first KWH:
	Cost for over first KWH:
	Other items included on bill:
	Comments:
Computation of Gas Bill	Average monthly consumption:
	Customer service charge:
	Cost for first Cu. Ft.:
	Cost for over first Cu. Ft.:
	Other items included on bill:
	Comments:
Computation of Water Bill	Average monthly consumption:
	Customer service charge:
	Cost for first ____ Gallons:
	Cost for over ____ Gallons:
	Other items included on bill:
	Comments:
Electrical Outlet	Please price a 2-plug grounded electrical outlet. Medium priced. Price blister pack or cardboard mounted (individually packaged). Do not price loose electric outlet.
	Possible brands: *GE, Levitron.*
Electrical Work	Price to add circuit breaker for dishwasher. Cut ¾ inch hole in wooden floor for cable. Connect dishwasher directly to power box (power box is easy to reach). Exclude cost of materials.
Fire Extinguisher	Please price a fire extinguisher with a UL rating of 10BC, 2.5 pound size.
	Suggested brand: *Kidde.*
Interior Painting	Price to paint 12′ × 14′ living room with 8′ ceilings. Walls are plaster or drywall in good repair. Two standard sized sash windows, one picture window, one standard wood door. Rooms have simple wood baseboards and trim. Existing paint is latex, flat white, smooth finish, about three years old. Trim paint is latex, white, gloss enamel, about three years old. Walls and trim require no surface preparation. Obtain labor rate per hour, flat charge if any, and estimated time to complete job.
Latex Interior Paint	Please price one gallon white, interior flat latex paint.
	Price a national brand with one coat coverage.
	Possible brands: *Dutch Boy, Gildden.*
Pest Control	Price for basic pest control maintenance (one visit to control crawling insects, not wood eating), based on the inside of a 1,200 sq. ft. single story home. Price followup maintenance only, not the initial application.
Unclog Drain	Price to unclog kitchen sink drain by mechanical means (snake, auger, etc.). Only include pipe removal to access trap if necessary.
Kitchen Faucet	Price a *Peerless* single control chrome-plated faucet *with* spray. Faucet is solid brass and stainless steel quality construction with copper waterways, washerless design and triple chrome plating. Warrantied for as long as the home is owned.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Real Estate Taxes	Call the local tax assessor office and/or local tax collector/treasurer for each living community in the report. Request the current real property tax rate, any special charges that are added to the tax bill and any homestead credits that might be deducted from the bill. Ask when properties were last assessed and what base year tax rate should be applied to. Request information as to what month rates are certified and when bills are mailed. Verify any significant increases or decreases from previous records.
Long Distance Telephone	Price the cost of a 10 minute call, received on a weekday, at each location at 8:00 p.m. (local time); direct dial from the location being surveyed to each of the following cities; New York, Chicago and Los Angeles. Include any federal, state, local or excise tax that is applicable.
Telephone Service	Obtain monthly cost for unmeasured service, for touchtone service, and for tax.
Homeowner Insurance	For each community surveyed based on income level, secure the annual renewal premium for HO–2 type coverage. If the company does not refer to the coverage as HO–2 obtain the cost for a comprehensive coverage that covers "all risk for dwelling and named peril for contents" with contents at replacement value.
Renter Insurance	For each living community surveyed based on income level, provide renter housing profile and insurance cost (semiannual or other). Assume HO–4-type coverage.
Homeowners:	
The profiles for each of the home sizes costed are as follows:	
Low	900 (Sq. Ft.)
Mid	1,300 (Sq. Ft.)
High	1,700 (Sq. Ft.)
The worksheet components for data collection are as follows:	
(1) Address	
(2) Selling Price	
(3) Sale Date	
(4) Age	
(5) Room Count (broken down into bedrooms and baths)	
(6) Square Footage	
(7) Price Per Square Foot	
Information was collected through various sources—Real Estate Professionals, Appraisers, MLS data, assessors' offices and private sources.	
Data Collection for Aged Mortgages:	
The worksheet components for data collection for aged mortgages are as follows:	
(1) Address	
(2) Selling Price	
(3) Sale Date	
(4) Age	
(5) Room Count (broken down into bedrooms and baths)	
(6) Square Footage	
(7) Price Per Square Foot	
Transportation Component:	
Vehicles	1994 Honda Civic DX four door sedan, 1.5 Liter 4 Cylinder.
	1994 Ford Taurus GL four door sedan, 3.0 Liter 6 Cylinder.
	1994 Chevrolet S10 Blazer Two Door, four wheel drive, 4.3 Liter 6 Cylinder.
Base Price	Obtain the base price (Manufacturer's Suggested Retail Price) for each vehicle.
Options	For each vehicle, price the following options: air conditioning, AM/FM stereo radio, power steering, tinted glass, power disc brakes, rustproofing and other options.
Fees	For each vehicle, price the following options: destination charge, shipping charge, dealer markup, documentation fees and other one-time fees.
Taxes	For each vehicle, price the following taxes: excise tax, import/customs tax, use tax, sales tax and other one-time taxes.
Specifications	For each vehicle, obtain the following information: length, wheelbase, tires, curb weight, horsepower, fuel type and fuel performance (mpg).
Depreciation	For each vehicle, compute the residual value after 12, 24, 36 and 48 months respectively.
Gasoline	For each station name/brand, price regular unleaded self-service.
Tune-Up	For each vehicle, price a basic tune-up. Include parts and labor for the following: replace spark plugs, PCV valve, fuel filter, air filter, and breather filter. Check distributor cap, rotor, timing, and idle.
Oil Change	For each vehicle, price an oil change. Include parts and labor for the following: drain old oil, replace oil filter and refill with five quarts of 10W30 SG grade oil. If SG grade is unavailable, price SF grade oil.
Change Automatic Transmission Fluid.	For each vehicle, price to change automatic transmission fluid. Include parts and labor for the following: remove transmission pan, drain transmission fluid, replace transmission filter, replace transmission pan gasket, replace transmission fluid, and test vehicle.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Coolant Flush and Fill	For each vehicle, price to flush and fill engine coolant. Include parts and labor for the following: remove old coolant, flush contaminants, and replace with new coolant.
Muffler System	For each vehicle, price a complete muffler system. Include parts and labor for the following: install all parts after the catalytic converter. These parts include mid pipes, clamps, muffler, and tail pipes.
Miscellaneous Tax	For each vehicle, price miscellaneous tax. Tell how rate is determined, give formula for new vehicle purchase, give formula for subsequent year (2 to 5) and explain billing.
Tires	Price a P175/70R13 for the Honda Civic. Price a P205/70R15 for the Ford Taurus L. Price a P235/R15 for the Chevrolet S10 Blazer in DC area.
License and Registration	For each vehicle, price title fee, passenger vehicle registration fees, plate fees, inspection fees, administration/clerical/other fees and local added fees. Specify if one-time or annual. List any exceptions if the Blazer is not registered as a passenger vehicle.
Automobile Finance	Obtain the rate for a four year loan based on a down payment of 20 percent. Assume the loan applicant is a current bank customer who will make payments by cash/check and not by automatic deduction from the account.
Automobile Insurance	For each vehicle, price insurance coverage identified below. Assume that vehicles are used in commuting 15 miles/day, 12,000 miles/year and that the driver is a 35-year-old married male with no accidents or violations in the last five years. When there is a geographic difference, obtain rates for two different living communities. Include related expense fees and taxes. Bodily Injury, $100,000/$300,000. Property Damage, $25,000. Medical, $15,000 or Personal Injury Protection, $50,000. Uninsured Motorist, $100/$300,000. Comprehensive, $100 Deductible. Collision, $250 Deductible.
Round-Trip Airfare	Price for lowest cost round trip ticket to Los Angeles, CA. Disregard restrictions.

APPENDIX 6.—PRICING CHANGES

[Foods and Services/Miscellaneous Expenses/Housing Related]

Previous	Current	Reason
1. Cheddar Cheese:		
Per pound	10 oz. package	New packaging.
2. Donuts:		
12 glazed	10 chocolate covered	Discontinued.
3. Appliance Repair:		
Price to replace oven thermostat control for *Maytag* Model #CRE9400. Include hourly rate, trip charge, and parts cost. Part Number #7430P010–60.	Price to replace digital clock and heating probe for *Maytag* Model #CRE9400ACL, Serial #1000100HB, Series #10. Include hourly rate, trip charge, and parts cost..	More comparable item.
4. Washing Machine:		
3 wash cycles	8 wash cycles	Better description.
Maytag #LAT7793	Maytag #LAT9604	New model number.
General Electric #WWA7600R	General Electric #WWA8600	New model Number.
Whirlpool #LLR6233A	Whirlpool #LLR6233B	New model number.
5. Kitchen Range:		
General Electric #JBP5565	General Electric #JBP55GS	Model number clarification.
6. Refrigerator:		
Whirlpool #ET22RKXZ	Whirlpool #ET22RKXB	New model number.
7. Vacuum:		
Hoover #U4671–910	Hoover #U4671–930	New model number.
8. Girl's Jeans:		
Price of Levi's #902 basic relaxed taper jean, two back pockets and two front pockets.	Price of Levi's #550.	Discontinued.
9. Disposable Diapers:		
44 count	40 count	Product marketing change.
10. Video Recorder:		
Zenith #VRL4110	Zenith #VRM4120	New model number.
Sony #SLV700HF	Sony #SLV720HF	New model number.
11. Compact Disc:		
"Janet" by Janet Jackson	"VS." by Pearl Jam	Current bestselling titles.
"Unplugged" by Rod Stewart	"Purple" by Stone Temple Pilots.	
12. Compact Disc Player:		
Sony #CDPC535	Sony #CDPC545	New model number.
Panisonic-Technics #SLPD847	Panisonic-Technics #SLPS867	New model number.
13. Color Television:		
Zenith #SLS2049	Zenith #SMS2049	New model number.
14. Bathroom Caulking:		

APPENDIX 6.—PRICING CHANGES—Continued

[Foods and Services/Miscellaneous Expenses/Housing Related]

Previous	Current	Reason
Price an 8 ounce tube of specific white bathroom caulking, most popular brand.	Price a 5.5 ounce plastic tube of latex white bathroom caulking. (*Not* a caulk gun cartridge.) Suggested brand: DAP KWIK SEAL Tub & Tile.	New Size and more description.
15. Interior Painting:		
Obtain labor rate, per hour, flat charge, if any, and estimated time to complete the job.	Flat charge for painting standard living room. If flat fee unavailable, obtain hourly rate and the total hours necessary to complete job.	More specific discription.

Appendix 7—Nonforeign Area Cost-of-Living Allowances Price Survey Data Collection Procedures

Survey Description

The following information will be provided to the participants verbally or in writing. Participants who are familiar with the program and the survey may be provided with less information as appropriate.

Purpose

The Federal Government pays cost-of-living allowances (COLA) in Alaska, Hawaii, and certain U.S. territories and possessions. Living cost differences are determined by comparing costs of goods, services, housing, transportation, and other items in the allowance area with the cost of the same or similar items and services in the Washington DC area. The U.S. Office of Personnel Management (OPM) is responsible for the operation of the COLA program.

Data Collection

OPM, or its representative, conducts annual Price Surveys to determine living cost differences. Local governments, retail outlets, realty firms, and businesses providing professional and other services to be surveyed are identified through the use of full-scale Background Surveys, conducted approximately once every five years. Participation in the Price Surveys is voluntary. Data are collected by telephone and/or personal interview.

Wherever practical and appropriate, the price of each good or service is obtained from at least three outlets in each allowance area and at least six outlets in the reference area (i.e., the Washington, DC, area). Realty data may be obtained from one or multiple sources, as appropriate.

Release of Information

The price data collected from participating firms may be made available to Congress or to the general public upon request. This includes the name of the company and prices of items or services surveyed. The names of proprietors, managers, or other individuals who provide price information generally will not be made public. However, the Government may release the names of individuals who, on the basis of their expertise, provide opinions or estimates.

Public Burden Information

Public burden reporting for this collection of information is estimated to vary from 1 to 20 minutes per response. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Reports and Forms Management Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room CHP 500, Washington, DC 20415; and to the Office of Management and Budget, Paperwork Reduction Project (3206–0199), Washington, DC 20503.

Nonforeign Area Cost-of-Living Allowances Price Survey Data Collection Procedures

Interview Guidelines

Three types of information are collected in Price surveys: Price of goods and services, rental rates and related information, and home prices and related information. The following are the typical interview questions used to collect these data.

Price Information Collection

1. What is the regular (non-sale) price of _____ (a specific item or service)?

Examples of items include, but are not limited to:

Chuck Roast, Bone In.
Price per pound. Average size package (e.g., not a "family" or "bonus" pack).
1st Choice: Arm pot roast.
2nd Choice: Eye roast.

Peas, Frozen.
Price for 10 ounce package.
1st Choice: Bird's Eye.
2nd Choice: Major brand of equivalent quality.

Men's Jeans.
Price for one pair of blue jeans.
1st Choice: Levi's #501 jeans.
2nd Choice: Equivalent quality jeans.

Automobile, New.
"Sticker" price of current year model Honda Civil DX, four door sedan, 1.5 liter, four cylinder engine. (Price options, fees, financing, and taxes separately.)

Example of services include, but are not limited to:

Woman's Haircut and Styling.
"Regular service" price for a woman's cut and style blow dry. Include wash, but do not include use of curling iron if there is an extra charge.

Unclog Drain.
Price to unclog kitchen drain by mechanical means (snake, auger, etc.). Only include pipe removal of necessary to access trap.

Film Developing.
Price to process and print 35 millimeter, 24 exposure, 100 ASA color roll film. Single prints only, standard size and finish.

Doctor, Office Visit.
Typical fee, after the initial visit, for an office visit when medical advice or simple treatment is all that is needed. Do not include the charge for a complete physical examination, injections, medication, laboratory tests, or similar services.

Oil Change.
Price of a regular oil change including oil and filter for a current year model Honda Civic DX sedan, 1.5 liter, 4 cylinder engine.

2. Prices of many of the items can be obtained "off-the-shelf" without assistance. Occasionally, when a specific item is not available, assistance from sales or other personnel may be required to identify and price substitution items of comparable quality and quantity.

3. Prices of most services are obtained by telephone or personal interview. A few services are priced with little or no assistance. For example, prices may be obtainable from a displayed price schedule, list, or menu.

Housing Component—Rental Information Collection

1. Describe the location, size, layout, number and types of rooms, and square footage of your rental units.

2. Are they apartments, duplexes, town houses, detached houses, or other types of units? Describe.

3. Are there additional amenities (e.g., pool, sauna, tennis courts, gym)? If so, describe.

4. What is the monthly rent? What is the amount of the security deposit (if any)? What other kinds of fees or assessments are there?

5. Are utilities included? Which ones? If you can, please provide information on average monthly or annual costs of utilities paid by tenants.

6. Are term leases usually required? What are the conditions and penalties associated with the lease?

7. Are there any special restrictions or other factors we should know about (e.g., seasonal tourist trade)?

Housing Component—Information Collection for Comparable Sales

1. Describe the location, size, layout, number and types of rooms, and square footage of some your recent home sales.

2. Were they condominiums, duplexes, town houses, detached houses, or other types of dwellings? Describe.

3. Were there any atypical characteristics (e.g., extra large lot sizes, beach front, desirable/undesirable locations)?

4. Are there additional amenities provided by the developer, homeowners association, or similar community group (e.g., pool, sauna, tennis courts, gym)? If so, describe facilities and charges.

5. What was the selling price and date of sale?

6. What are the real estate taxes?

7. Do you have any data on utilities relating to these homes?

8. In the past year or so, what has been the average appreciation rate of property in this community? Looking back over the past six years, has this rate changed? How?

9. Describe current market conditions (e.g., soft, booming, so-so). How has this affected housing prices? Describe the housing market over the past six years.

10. Are there any special considerations or other factors we should know about (e.g., retirement/tourist trade) that might affect the housing market in this community?

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Nonforeign Area Cost-of Living Price Information Collection

Survey Date: _____ Survey Area: _____ Data Collector: _____

Survey Item/Description	Outlet	Price	Wgt/Cnt	Remarks

Nonforeign Area Cost-of Living Price Information Collection

Survey Date: _____ Survey Area: _____ Data Collector: _____

Survey Item: _____

Description:

Outlet	Price	Wgt/Count	Remarks

Comments:

OMB Approved
OMB No. 3206-0199
Expires June 30, 1997

Nonforeign Area Cost-of-Living Housing Component - Information Collection for Comparable Sales

Survey Area: _____ Community: _____ Survey Date: _____ Data Collector: _____

Address	Selling Price	Sale Date	Room Count: Total	Room Count: Bed	Room Count: Bath	Square Feet	Taxes	Other	Remarks

Nonforeign Area Cost-of-Living Allowances
Housing Component - Rental Information Collection

Survey Area _____ Community _____ Survey Date: _____ Data Collector: _____

Complex Address Phone #	Rental Type	Bedroom Count	Monthly Rent	Monthly Heating Cost	Utilities	Security Deposit	Square Feet	Total Room Count	Amenities	Restrictions	Total Units	Other

Remarks:

OMB Approved
OMB No. 3206-0199
Expires June 30, 1997

BILLING CODE 6325-01-C

7-8

Nonforeign Area Cost-of-Living Allowances Background Survey Data Collection Procedures

Survey Description

The following information will be provided to the participants verbally or in writing. Participants who are familiar with the program and the survey may be provided with less information as appropriate.

Purpose

The Federal Government pays cost-of-living allowances (COLA) in Alaska, Hawaii, and certain U.S. territories and possessions. Living cost differences are determined by comparing costs of goods, services, housing, transportation, and other items in the allowance area with the cost of the same or similar items and services in the Washington, DC, area. The U.S. Office of Personnel Management (OPM) is responsible for the operation of the COLA program. OPM, or its representative, conducts annual surveys to determine living cost differences. OPM conducts full-scale Background Surveys approximately once every five years to review the appropriateness of items, services, and businesses covered in the annual Price Surveys. Elements of the Background Survey may be repeated annually on a limited basis as part of the maintenance of and preparation for the annual Price Surveys.

OPM uses the Background Survey to identify the services, items, quantities, outlets, and locations that will be surveyed to collect living cost data within the allowance areas and the Washington, DC, area. The Background Survey also is used to collect information on local trade practices, consumer buying patterns, taxes and fees, and other economic characteristics related to living costs.

Data Collection

Full-scale Background Surveys are conducted approximately once every five years. OPM identifies major manufacturers, local governments, retail outlets, realty firms, and businesses providing professional services to be surveyed on the basis of business volume and local prominence. Participation is voluntary. Data are collected by telephone and/or personal interview.

Confidentiality

All data collected are used only for the purposes described above. The Government pledges to hold all micro or "raw" data collected in confidence. Names of participating businesses and institutions may be released. Names of individuals are not released. Summary data will be made available to the public only to the extent that micro data cannot be associated with data sources.

Public Burden Information

Public burden reporting for this collection of information is estimated to vary from 5 minutes to 30 minutes per response. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Reports and Forms Management Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room CHP 500, Washington, DC, 20415; and to the Office of Management and Budget, Paperwork Reduction Project (3206–0199), Washington, DC, 20503.

Nonforeign Area Cost-of-Living Allowances Background Survey Data Collection Procedures

Interview Guidelines

Seven types of information are collected in background surveys. Information is collected on products and services, outlet availability and usage, transportation, local taxes and fees, mortgage, real estate, and other topics related to the measurement of living costs (e.g., specialized information from local chambers of commerce, colleges, and universities). The following are the typical interview questions used to collect these data.

Product or Service Information

1. As a major manufacturer/supplier of _____ (a specific product or service, e.g., women's apparel), please identify your items/services that are most popular (e.g., your 'volume sellers').

2. Which of these items are apt to be readily available in the following geographic locations: Alaska (i.e., Anchorage, Fairbanks, and Juneau); Hawaii, Guam; Puerto Rico; the Virgin Islands; and Washington, DC, and suburbs?

3. If the items or services are not universally available, are there other items or services that are of similar function, quality, quantity, size, and type and that can be substituted?

4. Is there anything else we should know about your product or service? Are there recommendations you wish to make that would help us in our data collection?

Outlet Availability and Usage (Retail)

1. What is your product or service? What is the address(es) of your establishment(s)? If you have multiple locations, which locations have the greatest sales volumes (i.e., are most utilized by consumers)?

2. What are your store/office hours? Do these vary by location?

3. Is your full line of products or services available at all locations?

4. Is there anything else we should know about your outlet(s) or recommendations you wish to make?

Transportation Information—Private and Public Services

1. What type of transportation services do you provide (e.g., taxi, bus, subway)?

2. What geographic areas do you service? Which routes are 'typical' or most heavily utilized?

3. What is your rate structure? Does it vary by time of day or season?

4. Is there anything else we should know about transportation usage and services in your area? Are there recommendations you wish to make about our data collection?

Transportation Information—Private Use and Maintenance

1. What types of driving are most common in your area? What is the annual distance driven?

2. What types roads and highways are common in your area? What are the road surfaces and conditions?

3. Are there unusual climatic or other factors that affect the fuel economy, maintenance, and depreciation of vehicles?

4. Is there anything else we should know about private transportation usage and maintenance in your area? Are there suggestions or recommendations you wish to make?

Local Taxes and Fees

1. What types of taxes, licenses, or fees does your State, territory, or local jurisdiction levy on real estate; personal property; sales (including sales of property); automobiles; utilities; or other goods, services, or transactions?

2. Who levies these taxes, licenses or fees (i.e., State, territory, county, city, other jurisdiction)?

3. What are the rates or schedules for these? How often and when are they levied? Do the rates/schedules vary by location, season, or other factors?

4. Is there anything else we should know about taxes and fees in your area? Are these suggestions or recommendations you wish to make?

Mortgage Information

1. What forms of home financing are most common in _____ (the allowance area or Washington DC metropolitan area)? (Do not include second mortgages.)

2. What are the typical conditions and limitations on loans?

3. What is the typical amount(s) of down payment required? What are the terms and rates?

4. Are there special subsidies or other practices that influence home financing in your area?

5. Looking back 6 years, what types of changes have occurred that affect home financing?

6. Is there anything else we should know about home financing in your area? Are there suggestions or recommendations you wish to make that would help us in our data collection?

Real Estate Information

1. What is the availability of housing in _____ (the allowance area or Washington DC metropolitan area)? Of principal interest is housing for typical salary and wage earners (as distinguished from retirees, tourists, or other special groups) for persons with low, moderate, and high incomes.

2. Describe the communities within your area in which persons _____ (specify occupation/income characteristics) typically live. If appropriate, identify separate communities for renters and home owners. Where are these communities located relative to the major Federal activities in the area?

3. Describe the type of housing (e.g., apartment, condominium, town house, detached house).

4. For each type of housing, what are the usual number of rooms, bedrooms, baths,

total square footage, lot size, type of construction, and similar characteristics?

5. What types of utilities are available and typically used in these communities: sewer, water, natural gas, electricity, other?

6. Are there any unusual factors that might affect maintenance requirements in your area?

7. Looking back six years, describe the changes that significantly affected the housing market (both rental and owner markets).

8. Is there anything else we should know about the housing market in your area? Are there suggestions or recommendations you wish to make concerning our data collection?

Other Types of Information

Occasionally, it is necessary to collect information from colleges, universities, chambers of commerce, trade associations, and other groups on specific subjects relating to the analysis of living costs. For example, a university known to be involved in home energy research may be contacted to determine whether there are consumption data by region or allowance area that could have application in the COLA program.

When such data are collected, the purpose and basic structure of the interview will follow the patterns shown above. The substance, however, will vary with the subject matter.

BILLING CODE 6325-01-U-M

Nonforeign Area Cost-of-Living Background Survey Information Collection

Contact Date: _____ Survey Area: _____ Data Collector: _____

Contact
Name:
Address:
Phone #:

Purpose of Contact	
Product/Service Info.	
Outlet Availability/Usage	
Transportation Info.	
Local Taxes and Fees	
Mortgage Information	
Real Estate Information	
Other: (specify)	

Findings:

Remarks:

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OMB No. 3206-0199
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APPENDIX 8.—CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Honolulu, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	138.56	26.40	36.59	23.49	32.55	20.65	28.61
2. Food Away From Home	109.22	14.42	15.75	14.73	16.09	15.04	16.42
3. Tobacco	106.01	3.15	3.34	2.59	2.75	2.05	2.17
4. Alcohol	109.81	2.77	3.04	2.73	3.00	2.69	2.95
5. Furnishings and Household Operations	114.96	14.71	16.91	15.79	18.15	16.85	19.37
6. Clothing	104.13	13.97	14.55	14.65	15.25	15.30	15.94
7. Domestic Services	99.58	1.76	1.75	1.90	1.89	2.04	2.03
8. Professional Services	113.85	6.48	7.37	6.65	7.57	6.82	7.77
9. Personal Care	110.26	3.62	3.99	3.52	3.89	3.43	3.78
10. Recreation	102.47	12.72	13.04	13.94	14.29	15.14	15.51
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			116.33				
Middle:					115.43		
Upper:							114.55

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Hilo, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	135.04	26.40	35.66	23.49	31.73	20.65	27.88
2. Food Away From Home	113.98	14.42	16.44	14.73	16.79	15.04	17.14
3. Tobacco	103.76	3.15	3.27	2.59	2.69	2.05	2.13
4. Alcohol	102.46	2.77	2.84	2.73	2.80	2.69	2.76
5. Furnishings and Household Operations	118.21	14.71	17.39	15.79	18.66	16.85	19.91
6. Clothing	97.91	13.97	13.68	14.65	14.34	15.30	14.98
7. Domestic Services	99.62	1.76	1.22	1.90	1.32	2.04	1.42
8. Professional Services	104.03	6.48	6.74	6.65	6.92	6.82	7.10
9. Personal Care	112.19	3.62	4.06	3.52	3.95	3.43	3.85
10. Recreation	109.91	12.72	13.98	13.94	15.33	15.14	16.64
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			115.28				
Middle					114.53		
Upper							113.81

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Kailua Kona, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	133.51	26.40	35.25	23.49	31.37	20.65	27.56
2. Food Away From Home	124.38	14.42	17.94	14.73	18.32	15.04	18.70
3. Tobacco	100.94	3.15	3.18	2.59	2.62	2.05	2.07
4. Alcohol	112.56	2.77	3.11	2.73	3.07	2.69	3.03
5. Furnishings and Household Operations	108.09	14.71	15.90	15.79	17.07	16.85	18.21
6. Clothing	103.52	13.97	14.46	14.65	15.16	15.30	15.84
7. Domestic Services	97.88	1.76	1.72	1.90	1.86	2.04	1.99
8. Professional Services	104.48	6.48	6.77	6.65	6.95	6.82	7.13
9. Personal Care	113.86	3.62	4.12	3.52	4.01	3.43	3.90
10. Recreation	107.02	12.72	13.62	13.94	14.92	15.14	16.20
Total Weights		100.00		100.00		100.0	

CONSUMPTION GOODS AND SERVICES ANALYSIS—Continued

[Location: Kailua Kona, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Total Indexes:							
Lower			116.07				
Middle					115.35		
Upper							114.63

CONSUMPTION GOODS AND SERVICES COST ANALYSIS

[Hawaii County Composite; Summer 1994 Survey]

Location	Weights	Total indexes		
		Lower income	Middle income	Upper income
Hilo, HI	83.17	115.28	114.53	113.81
Kailua Kona, HI	16.83	116.07	115.35	114.63
Total Weight	100.00			
Composite Indexes		115.41	114.67	113.95

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Kauai County, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	146.40	26.40	38.66	23.49	34.39	20.65	30.22
2. Food Away From Home	112.38	14.42	16.21	14.73	16.56	15.04	16.90
3. Tobacco	108.60	3.15	3.42	2.59	2.81	2.05	2.22
4. Alcohol	106.68	2.77	2.95	2.73	2.91	2.69	2.87
5. Furnishings and Household Operations	108.87	14.71	16.01	15.79	17.19	16.85	18.34
6. Clothing	101.99	13.97	14.25	14.65	14.94	15.30	15.61
7. Domestic Services	81.30	1.76	1.43	1.90	1.54	2.04	1.66
8. Professional Services	108.00	6.48	7.00	6.65	7.18	6.82	7.37
9. Personal Care	113.98	3.62	4.13	3.52	4.02	3.43	3.91
10. Recreation	118.84	12.72	15.12	13.94	16.57	15.14	17.99
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			119.18				
Middle					118.11		
Upper							117.09

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Maui County, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	141.63	26.40	37.40	23.49	33.27	20.65	29.24
2. Food Away From Home	121.22	14.42	17.48	14.73	17.86	15.04	18.23
3. Tobacco	107.83	3.15	3.39	2.59	2.79	2.05	2.21
4. Alcohol	110.66	2.77	3.06	2.73	3.02	2.69	2.98
5. Furnishings and Household Operations	122.95	14.71	18.08	15.79	19.41	16.85	20.71
6. Clothing	102.60	13.97	14.34	14.65	15.03	15.30	15.70
7. Domestic Services	80.12	1.76	1.41	1.90	1.52	2.04	1.63
8. Professional Services	106.08	6.48	7.00	6.65	7.19	6.82	7.38
9. Personal Care	119.17	3.62	4.32	3.52	4.20	3.43	4.09
10. Recreation	108.14	12.72	13.76	13.94	15.08	15.14	16.37

CONSUMPTION GOODS AND SERVICES ANALYSIS—Continued
[Location: Maui County, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			120.24				
Middle					119.37		
Upper							118.54

CONSUMPTION GOODS AND SERVICES ANALYSIS
[Location: Guam; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	125.92	26.40	33.25	23.49	29.58	20.65	26.00
2. Food Away From Home	109.05	14.42	15.73	14.73	16.07	15.04	16.40
3. Tobacco	72.53	3.15	2.28	2.59	1.88	2.05	1.49
4. Alcohol	103.82	2.77	2.87	2.73	2.83	2.69	2.79
5. Furnishings and Household Operations	138.20	14.71	20.33	15.79	21.82	16.85	23.28
6. Clothing	96.01	13.97	13.42	14.65	14.06	15.30	14.69
7. Domestic Services	118.50	1.76	2.08	1.90	2.25	2.04	2.41
8. Professional Services	95.77	6.48	6.20	6.65	6.37	6.82	6.54
9. Personal Care	121.82	3.62	4.41	3.52	4.29	3.43	4.18
10. Recreation	121.10	12.72	15.41	13.94	16.89	15.14	18.33
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			115.98				
Middle					116.04		
Upper							116.11

CONSUMPTION GOODS AND SERVICES ANALYSIS
[Location: Mayaguez, PR; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	104.58	26.40	27.61	23.49	24.57	20.65	21.59
2. Food Away From Home	88.23	14.42	12.72	14.73	13.00	15.04	13.27
3. Tobacco	107.39	3.15	3.38	2.59	2.78	2.05	2.20
4. Alcohol	108.70	2.77	3.01	2.73	2.97	2.69	2.92
5. Furnishing and Household Operations	99.71	14.71	14.66	15.79	15.74	16.85	16.80
6. Clothing	98.09	13.97	13.71	14.65	14.37	15.30	15.01
7. Domestic Services	58.95	1.76	1.04	1.90	1.12	2.04	1.20
8. Professional Services	56.14	6.48	3.64	6.65	3.73	6.82	3.83
9. Personal Care	71.78	3.62	2.60	3.52	2.53	3.43	2.46
10. Recreation	86.89	12.72	11.03	13.94	12.09	15.14	13.12
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			93.40				
Middle					92.90		
Upper							92.40

CONSUMPTION GOODS AND SERVICES ANALYSIS
[Location: San Juan, PR; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	101.08	26.40	26.69	23.49	23.75	20.65	20.87

CONSUMPTION GOODS AND SERVICES ANALYSIS—Continued
[Location: San Juan, PR; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
2. Food Away From Home	108.86	14.42	15.70	14.73	16.04	15.04	16.37
3. Tobacco	110.75	3.15	3.49	2.59	2.87	2.05	2.27
4. Alcohol	118.45	2.77	3.28	2.73	3.23	2.69	3.19
5. Furnishings and Household Operations	105.12	14.71	15.46	15.79	16.60	16.85	17.71
6. Clothing	107.85	13.97	15.07	14.65	15.80	15.30	16.50
7. Domestic Services	62.32	1.76	1.10	1.90	1.18	2.04	1.27
8. Professional Services	78.84	6.48	5.11	6.65	5.24	6.82	5.38
9. Personal Care	96.36	3.62	3.49	3.52	3.40	3.43	3.30
10. Recreation	107.75	12.72	13.71	13.94	15.03	15.14	16.31
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			103.10				
Middle					103.14		
Upper							103.17

CONSUMPTION GOODS AND SERVICES COST ANALYSIS
[Puerto Rico Composite; Summer 1994 Survey]

Location	Weights	Total indexes		
		Lower income	Middle income	Upper income
San Juan, PR	88.90	103.10	103.14	103.17
Mayaguez, PR	11.10	93.40	92.90	92.40
Total Weight	100.00			
Composite Indexes		102.02	102.00	101.97

CONSUMPTION GOODS AND SERVICES ANALYSIS
[Location: St. Croix, VI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	121.97	26.40	32.20	23.49	28.65	20.65	25.18
2. Food Away From Home	107.78	14.42	15.54	14.73	15.88	15.04	16.21
3. Tobacco	58.53	3.15	2.16	2.59	1.78	2.05	1.40
4. Alcohol	100.33	2.77	2.78	2.73	2.74	2.69	2.70
5. Furnishings & Household Operations	120.56	14.71	17.73	15.79	19.03	16.85	20.31
6. Clothing	81.43	13.97	11.38	14.65	11.93	15.30	12.46
7. Domestic Services	60.82	1.76	1.07	1.90	1.15	2.04	1.24
8. Professional Services	88.93	6.48	5.76	6.65	5.92	6.82	6.07
9. Personal Care	98.88	3.62	3.58	3.52	3.49	3.43	3.39
10. Recreation	101.11	12.72	12.86	13.94	14.10	15.14	15.31
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			105.06				
Middle					104.67		
Upper							104.27

CONSUMPTION GOODS AND SERVICES ANALYSIS
[Location: St. Thomas; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	117.46	26.40	31.01	23.49	27.60	20.65	24.25

CONSUMPTION GOODS AND SERVICES ANALYSIS—Continued

[Location: St. Thomas; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
2. Food Away From Home	110.01	14.42	15.86	14.73	16.21	15.04	16.54
3. Tobacco	60.96	3.15	1.92	2.59	1.58	2.05	1.25
4. Alcohol	112.02	2.77	3.10	2.73	3.06	2.69	3.01
5. Furnishings & Household Operations	118.29	14.71	17.40	15.79	18.68	16.85	19.93
6. Clothing	84.70	13.97	11.83	14.65	12.40	15.30	12.96
7. Domestic Services	81.95	1.76	1.44	1.90	1.56	2.04	1.67
8. Professional Services	118.25	6.48	7.66	6.65	7.87	6.82	8.07
9. Personal Care	113.47	3.62	4.11	3.52	4.00	3.43	3.89
10. Recreation	109.28	12.72	13.90	13.94	15.24	15.14	16.54
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			108.23				
Middle					108.20		
Upper							108.11

CONSUMPTION GOODS AND SERVICES COST ANALYSIS

[Virgin Islands Composite; Summer 1994 Survey]

Location	Weights	Total indexes		
		Lower income	Middle income	Upper income
St. Croix, VI	45.09	105.06	104.67	104.27
St. Thomas, VI	54.91	108.23	108.20	108.11
Total Weights	100.00			
Composite Indexes		106.80	106.61	106.38

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Guam Blend*; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	87.95	26.40	23.22	23.49	20.66	20.65	18.16
2. Food Away From Home	109.05	14.42	15.73	14.73	16.07	15.04	16.40
3. Tobacco	51.99	3.15	1.64	2.59	1.35	2.05	1.06
4. Alcohol	103.82	2.77	2.87	2.73	2.83	2.69	2.79
5. Furnishings and Household Operations	120.01	14.71	17.65	15.79	18.95	16.85	20.22
6. Clothing	89.49	13.97	12.50	14.65	13.11	15.30	13.70
7. Domestic Services	118.50	1.76	2.08	1.90	2.25	2.04	2.41
8. Professional Services	95.77	6.48	6.20	6.65	6.37	6.82	6.54
9. Personal Care	110.89	3.62	4.02	3.52	3.91	3.43	3.80
10. Recreation	110.43	12.72	14.05	13.94	15.40	15.14	16.72
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			99.96				
Middle				100.90			
Upper							101.80

*Local Retail and Commissary/Exchange

APPENDIX 9.—OPM LIVING COMMUNITY LIST

	Low	Middle	High
Washington DC DC:			
Homeowner	Southeast DC	Northeast DC	Northwest DC.*

APPENDIX 9.—OPM LIVING COMMUNITY LIST—Continued

	Low	Middle	High
Renter	Southeast DC	Northeast DC	Northwest DC.*

*Northwest DC excludes Georgetown, but includes Dupont Circle, Cleveland Park, and Adams Morgan.

Washington DC MD:			
Homeowner	Capitol Heights/ Suitland	Gaithersburg/ Silver Spring	Rockville.
Renter	Capitol Heights/ Suitland	Hyattsville/ College Park	Rockville.
Washington DC VA:			
Homeowner	Woodbridge/ Dale City*	Springfield	Alexandria.
Renter	Woodbridge	Alexandria	Arlington.
Honolulu:			
Homeowner	Ewa Beach Waipahu	Kaneohe Pearl City	Manoa/Kaimuki Kailua*.
Renter	Pearl Harbor Area* Kalihi	Alakea Kaneohe	Manoa. Aiea.

*Pearl Harbor Area excludes Aiea.

Hawaii County—Hilo:			
Homeowner	Hilo	Hilo	Hilo.
Renter	Hilo	Hilo	Hilo.
Hawaii County—Kailua Kona:			
Homeowner	Kailua Kona	Kailua Kona	Kailua Kona.
Renter	Kailua Kona	Kailua Kona	Kailua Kona.
Kauai:			
Homeowner	Kauai	Kauai	Kauai.
Renter	Kauai	Kauai	Kauai.
Maui:			
Homeowner	Maui	Maui	Maui.
Renter	Maui	Maui	Maui.
Guam:			
Homeowner	Guam	Guam	Guam.
Renter	Guam	Guam	Guam.
Puerto Rico—Mayaguez:			
Homeowner	Mayaguez	Mayaguez	Mayaguez.
Renter	Mayaguez	Mayaguez	Mayaguez.
Puerto Rico—San Juan:			
Homeowner	Carolina Bayamon	Rio Piedras* VA Hospital Area	Guaynabo. Hato Rey.
Renter	Carolina Rio Piedras Area	Rio Piedras Isla Verde**	Old San Juan. Condado.

*Rio Piedras excludes VA Hospital Area. **Isla Verde excludes the area on the Boulevard.

St. Croix:			
Homeowner	St. Croix	St. Croix	St. Croix.
Renter	St. Croix	St. Croix	St. Croix.
St. Thomas:			
Homeowner	St. Thomas	St. Thomas	St. Thomas.
Renter	St. Thomas	St. Thomas	St. Thomas.

APPENDIX 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES

Area	Year	Interest rate (percent)	Income level	Market value	Annual P & I*
Honolulu, HI	1985	10.250	Lower	86,657	7,455
			Middle	110,500	9,506
			Upper	118,220	10,170
	1986	10.250	Lower	97,229	8,364
			Middle	134,257	11,550
			Upper	154,513	13,292
	1987	10.375	Lower	107,837	9,373
			Middle	158,027	13,736
			Upper	190,786	16,583
	1988	11.000	Lower	118,445	10,829
			Middle	181,797	16,620
			Upper	227,059	20,758

APPENDIX 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P & I*
	1989	10.500	Lower	154,366	13,556
			Middle	239,426	21,025
			Upper	263,331	23,124
	1990	10.250	Lower	216,113	18,591
			Middle	335,197	28,836
			Upper	379,283	32,628
	1991	9.125	Lower	207,000	16,169
			Middle	310,700	24,268
			Upper	370,600	28,947
	1992	8.125	Lower	211,347	15,065
			Middle	329,693	23,500
			Upper	363,460	25,907
	1993	7.125	Lower	202,041	13,067
			Middle	327,715	21,196
			Upper	374,918	24,249
	1994	9.333	Lower	251,919	20,042
			Middle	331,695	26,389
			Upper	394,706	31,402
Hilo, HI	1985	10.250	Lower	41,496	3,570
			Middle	61,798	5,316
			Upper	89,453	7,696
	1986	10.250	Lower	50,459	4,341
			Middle	71,995	6,193
			Upper	97,783	8,412
	1987	10.375	Lower	59,435	5,166
			Middle	82,183	7,143
			Upper	106,098	9,222
	1988	11.000	Lower	68,410	6,254
			Middle	92,371	8,445
			Upper	114,412	10,460
	1989	10.500	Lower	77,386	6,796
			Middle	102,559	9,006
			Upper	122,727	10,777
	1990	10.250	Lower	67,714	5,825
			Middle	108,821	9,361
			Upper	164,283	14,133
	1991	9.125	Lower	134,100	10,474
			Middle	180,700	14,114
			Upper	204,000	15,934
	1992	8.125	Lower	130,743	9,319
			Middle	162,903	11,612
			Upper	197,863	14,104
	1993	7.125	Lower	127,854	8,269
			Middle	173,095	11,195
			Upper	202,018	13,066
	1994	9.333	Lower	114,696	9,125
			Middle	162,500	12,928
			Upper	196,146	15,605
Kailua Kona, HI	1985	10.250	Lower	65,336	5,621
			Middle	92,833	7,986
			Upper	99,504	8,560
	1986	10.250	Lower	77,097	6,632
			Middle	107,594	9,256
			Upper	119,902	10,315
	1987	10.375	Lower	88,880	7,725
			Middle	122,387	10,638
			Upper	140,297	12,194
	1988	11.000	Lower	100,662	9,203
			Middle	137,180	12,541
			Upper	160,692	14,691
	1989	10.500	Lower	112,444	9,874
			Middle	151,973	13,346
			Upper	181,087	15,902
	1990	10.250	Lower	134,609	11,580
			Middle	189,900	16,336
			Upper	225,100	19,364
	1991	9.130	Lower	154,800	12,097
			Middle	204,100	15,949
			Upper	256,700	20,059
	1992	8.125	Lower	159,867	11,395
			Middle	222,950	15,892

APPENDIX 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P & I*
			Upper	261,018	18,605
	1993	7.125	Lower	153,666	9,939
			Middle	219,245	14,180
			Upper	261,902	16,939
	1994	9.333	Lower	152,235	12,111
			Middle	215,826	17,171
			Upper	224,128	17,831
Kauai County, HI	1985	10.250	Lower	55,280	4,756
			Middle	69,756	6,001
			Upper	95,904	8,250
	1986	10.250	Lower	68,105	5,859
			Middle	88,032	7,573
			Upper	105,494	9,075
	1987	10.375	Lower	78,576	6,830
			Middle	106,294	9,239
			Upper	121,318	10,545
	1988	11.000	Lower	91,046	8,324
			Middle	124,556	11,387
			Upper	145,581	13,309
	1989	10.500	Lower	103,516	9,090
			Middle	142,818	12,542
			Upper	177,900	15,622
	1990	10.250	Lower	177,351	15,257
			Middle	233,846	20,117
			Upper	295,854	25,451
	1991	9.125	Lower	174,336	13,617
			Middle	229,900	17,957
			Upper	290,800	22,714
	1992	8.125	Lower	171,792	12,245
			Middle	221,624	15,797
			Upper	273,921	19,525
	1993	7.125	Lower	171,964	11,122
			Middle	221,858	14,349
			Upper	274,195	17,734
	1994	9.333	Lower	163,350	12,996
			Middle	222,196	17,677
			Upper	255,000	20,287
Maui County, HI	1985	10.250	Lower	83,407	7,175
			Middle	110,670	9,520
			Upper	139,174	11,973
	1986	10.250	Lower	91,748	7,893
			Middle	121,737	10,473
			Upper	153,091	13,170
	1987	10.375	Lower	100,293	8,717
			Middle	133,911	11,639
			Upper	168,401	14,637
	1988	11.000	Lower	121,107	11,072
			Middle	160,693	14,691
			Upper	202,081	18,475
	1989	10.500	Lower	151,384	13,294
			Middle	200,866	17,639
			Upper	252,601	22,182
	1990	10.250	Lower	174,092	14,976
			Middle	230,996	19,872
			Upper	290,491	24,990
	1991	9.125	Lower	210,651	16,454
			Middle	279,500	21,831
			Upper	351,494	27,455
	1992	8.125	Lower	207,913	14,820
			Middle	275,925	19,668
			Upper	346,925	24,729
	1993	7.125	Lower	180,099	11,648
			Middle	255,476	16,523
			Upper	310,845	20,105
	1994	9.333	Lower	180,000	14,320
			Middle	250,588	19,936
			Upper	278,443	22,152
Guam	1985	10.250	Lower	59,421	5,112
			Middle	72,445	6,232
			Upper	154,895	13,325
	1986	10.250	Lower	65,363	5,623

APPENDIX 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P & I*
			Middle	79,689	6,855
			Upper	170,384	14,657
	1987	10.375	Lower	74,841	6,505
			Middle	91,802	7,979
			Upper	188,786	16,409
	1988	11.000	Lower	84,271	7,704
			Middle	103,920	9,501
			Upper	207,287	18,951
	1989	10.375	Lower	93,709	8,145
			Middle	116,079	10,089
			Upper	225,735	19,621
	1990	10.500	Lower	103,174	9,060
			Middle	128,151	11,254
			Upper	244,245	21,448
	1991	10.125	Lower	113,491	9,662
			Middle	140,966	12,001
			Upper	268,670	22,873
	1992	9.491	Lower	130,855	10,555
			Middle	162,534	13,110
			Upper	309,777	24,986
	1993	7.750	Lower	144,738	9,954
			Middle	189,280	13,018
			Upper	258,978	17,811
	1994	10.050	Lower	133,452	11,290
			Middle	188,240	15,925
			Upper	244,375	20,675
Mayaguez, PR	1985	10.250	Lower	38,650	3,325
			Middle	54,110	4,655
			Upper	82,465	7,094
	1986	10.250	Lower	42,515	3,657
			Middle	59,521	5,120
			Upper	90,711	7,803
	1987	10.625	Lower	47,616	4,224
			Middle	66,663	5,914
			Upper	101,597	9,013
	1988	10.875	Lower	53,807	4,870
			Middle	75,329	6,819
			Upper	114,804	10,392
	1989	10.375	Lower	57,035	4,957
			Middle	79,849	6,940
			Upper	121,693	10,577
	1990	10.375	Lower	93,898	8,162
			Middle	116,409	10,118
			Upper	196,696	17,097
	1991	8.875	Lower	57,600	4,400
			Middle	92,300	7,050
			Upper	134,300	10,258
	1992	8.125	Lower	61,459	4,381
			Middle	98,484	7,020
			Upper	143,298	10,214
	1993	7.125	Lower	60,906	3,939
			Middle	97,598	6,312
			Upper	142,008	9,185
	1994	8.750	Lower	71,307	5,385
			Middle	92,079	6,954
			Upper	128,571	9,710
San Juan, PR	1985	10.250	Lower	52,638	4,528
			Middle	64,476	5,547
			Upper	93,324	8,028
	1986	10.250	Lower	56,323	4,845
			Middle	68,989	5,935
			Upper	99,857	8,590
	1987	10.625	Lower	60,266	5,346
			Middle	73,818	6,549
			Upper	106,847	9,479
	1988	10.875	Lower	64,485	5,837
			Middle	78,985	7,150
			Upper	114,326	10,348
	1989	10.375	Lower	70,934	6,166
			Middle	86,884	7,552
			Upper	122,329	10,633

APPENDIX 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P & I*
	1990	10.375	Lower	78,027	6,782
			Middle	95,572	8,307
			Upper	134,562	11,696
	1991	8.875	Lower	82,800	6,324
			Middle	100,255	7,658
			Upper	141,100	10,777
	1992	8.125	Lower	62,271	4,439
			Middle	84,721	6,039
			Upper	151,946	10,831
	1993	7.125	Lower	61,389	3,970
			Middle	84,064	5,438
			Upper	151,878	9,823
	1994	8.750	Lower	66,843	5,048
			Middle	102,232	7,721
			Upper	143,633	10,848
St Croix, VI	1985	10.250	Lower	47,893	4,120
			Middle	62,064	5,339
			Upper	105,308	9,059
	1986	10.250	Lower	48,995	4,215
			Middle	63,491	5,462
			Upper	107,730	9,268
	1987	12.000	Lower	54,140	5,346
			Middle	70,157	6,928
			Upper	119,042	11,755
	1988	12.000	Lower	66,051	6,522
			Middle	85,592	8,452
			Upper	145,231	14,341
	1989	11.750	Lower	64,730	6,273
			Middle	83,880	8,128
			Upper	142,326	13,792
	1990	11.250	Lower	80,912	7,544
			Middle	104,850	9,776
			Upper	177,908	16,588
	1991	10.250	Lower	85,281	7,336
			Middle	110,500	9,506
			Upper	187,500	16,130
	1992	9.500	Lower	103,635	8,366
			Middle	151,866	12,259
			Upper	188,037	15,179
	1993	8.375	Lower	112,962	8,242
			Middle	174,161	12,708
			Upper	194,004	14,156
	1994	9.083	Lower	77,409	6,024
			Middle	128,076	9,967
			Upper	210,035	16,345
St. Thomas, VI	1985	10.250	Lower	77,330	6,652
			Middle	97,846	8,417
			Upper	116,784	10,046
	1986	10.250	Lower	92,023	7,916
			Middle	116,437	10,017
			Upper	138,973	11,955
	1987	12.000	Lower	103,617	10,232
			Middle	131,108	12,946
			Upper	156,484	15,452
	1988	12.000	Lower	121,129	11,961
			Middle	153,265	15,134
			Upper	182,929	18,064
	1989	11.750	Lower	126,943	12,301
			Middle	160,622	15,565
			Upper	191,710	18,577
	1990	11.250	Lower	122,500	11,422
			Middle	155,000	14,452
			Upper	185,000	17,250
	1991	10.250	Lower	126,900	10,917
			Middle	180,700	15,545
			Upper	210,800	18,134
	1992	9.000	Lower	128,930	9,959
			Middle	183,591	14,181
			Upper	214,173	16,544
	1993	8.250	Lower	139,680	10,074
			Middle	198,829	14,340

APPENDIX 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P & I*
	1994	9.083	Upper	231,949	16,729
			Lower	106,533	8,290
			Middle	190,164	14,799
			Upper	195,381	15,205
Washington, DC (DC)	1985	10.250	Lower	58,996	5,075
			Middle	90,194	7,759
			Upper	160,600	13,816
	1986	10.250	Lower	64,778	5,573
			Middle	99,213	8,535
			Upper	173,448	14,921
	1987	10.250	Lower	70,543	6,069
			Middle	113,015	9,722
			Upper	187,324	16,115
	1988	10.500	Lower	76,327	6,703
			Middle	126,817	11,136
			Upper	202,310	17,766
	1989	9.625	Lower	82,128	6,702
			Middle	140,619	11,474
			Upper	218,495	17,829
	1990	9.875	Lower	87,877	7,326
			Middle	140,974	11,752
			Upper	235,975	19,671
	1991	9.250	Lower	88,200	6,966
			Middle	141,500	11,175
			Upper	236,900	18,710
	1992	8.500	Lower	93,573	6,907
			Middle	138,580	10,229
			Upper	231,948	17,121
	1993	7.125	Lower	95,306	6,164
			Middle	125,469	8,115
			Upper	271,054	17,531
	1994	8.708	Lower	85,158	6,407
			Middle	104,117	7,834
			Upper	284,087	21,374
Washington, DC (MD)	1985	10.250	Lower	54,572	4,695
			Middle	84,505	7,270
			Upper	100,545	8,649
	1986	10.250	Lower	60,029	5,164
			Middle	92,955	7,997
			Upper	110,600	9,514
	1987	10.125	Lower	66,032	5,622
			Middle	102,250	8,705
			Upper	121,660	10,358
	1988	10.375	Lower	73,295	6,371
			Middle	113,498	9,865
			Upper	135,043	11,738
	1989	10.000	Lower	81,357	6,854
			Middle	125,983	10,614
			Upper	149,898	12,628
	1990	9.875	Lower	89,493	7,460
			Middle	138,581	11,552
			Upper	164,888	13,745
	1991	8.750	Lower	90,835	6,860
			Middle	140,660	10,623
			Upper	167,361	12,640
	1992	8.375	Lower	103,563	7,557
			Middle	136,513	9,961
			Upper	203,337	14,837
	1993	7.250	Lower	95,031	6,223
			Middle	116,294	7,616
			Upper	199,750	13,081
	1994	8.833	Lower	92,394	7,031
			Middle	184,249	14,020
			Upper	222,377	16,922
Washington, DC (VA)	1985	10.250	Lower	65,608	5,644
			Middle	74,031	6,369
			Upper	122,748	10,559
	1986	10.250	Lower	70,857	6,096
			Middle	79,954	6,878
			Upper	132,568	11,404
	1987	10.125	Lower	76,526	6,515

APPENDIX 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P & I*
			Middle	86,350	7,351
			Upper	143,173	12,189
	1988	10.500	Lower	83,413	7,325
			Middle	94,122	8,265
			Upper	156,059	13,704
	1989	9.500	Lower	90,086	7,272
			Middle	101,652	8,206
			Upper	168,544	13,605
	1990	10.000	Lower	97,293	8,197
			Middle	109,784	9,249
			Upper	182,028	15,335
	1991	8.875	Lower	99,823	7,625
			Middle	114,400	8,738
			Upper	183,600	14,024
	1992	8.375	Lower	105,021	7,663
			Middle	127,582	9,309
			Upper	183,294	13,374
	1993	7.250	Lower	94,563	6,193
			Middle	126,984	8,316
			Upper	181,917	11,914
	1994	8.792	Lower	96,048	7,281
			Middle	169,078	12,818
			Upper	240,108	18,202

*Principal and interest assumes 80% financing.

APPENDIX 11.—HISTORICAL HOUSING DATA

Year	Weights	Lower amounts	Subtotal	Middle amounts	Subtotal	Upper amounts	Subtotal
Honolulu:							
1985	6.31	7,455	470.41	9,506	599.83	10,170	641.73
1986	6.77	8,364	566.24	11,550	781.94	13,292	899.87
1987	8.19	9,373	767.65	13,736	1,124.98	16,583	1,358.15
1988	7.03	10,829	761.28	16,620	1,168.39	20,758	1,459.29
1989	7.72	13,556	1,046.52	21,025	1,623.13	23,124	1,785.17
1990	8.32	18,591	1,546.77	28,836	2,399.16	32,628	2,714.65
1991	10.08	16,169	1,629.84	24,268	2,446.21	28,947	2,917.86
1992	12.92	15,065	1,946.40	23,500	3,036.20	25,907	3,347.18
1993	13.78	13,067	1,800.63	21,196	2,920.81	24,249	3,341.51
1994	18.88	20,042	3,783.93	26,389	4,982.24	31,402	5,928.70
Total	100.00		14,320		21,083		24,394
Hilo:							
1985	6.31	3,570	225.27	5,316	335.44	7,696	485.62
1986	6.77	4,341	293.89	6,193	419.27	8,412	569.49
1987	8.19	5,166	423.10	7,143	585.01	9,222	755.28
1988	7.03	6,254	439.56	8,445	593.68	10,460	735.34
1989	7.72	6,796	524.65	9,006	695.26	10,777	831.98
1990	8.32	5,825	484.64	9,361	778.84	14,133	1,175.87
1991	10.08	10,474	1,055.78	14,114	1,422.69	15,934	1,606.15
1992	12.92	9,319	1,204.01	11,612	1,500.27	14,104	1,822.24
1993	13.78	8,269	1,139.47	11,195	1,542.67	13,066	1,800.49
1994	18.88	9,125	1,722.80	12,928	2440.81	15,605	2,946.22
Total	100.00		7,513		10,314		12,729
Kailua Kona:							
1985	6.31	5,621	354.69	7,986	503.92	8,560	540.14
1986	6.77	6,632	448.99	9,256	626.63	10,315	698.33
1987	8.19	7,725	632.68	10,638	871.25	12,194	998.69
1988	7.03	9,203	646.97	12,541	881.53	14,691	1,032.78
1989	7.72	9,874	762.27	13,346	1,030.31	15,902	1,227.63
1990	8.32	11,580	963.45	16,336	1,359.16	19,364	1,611.08
1991	10.08	12,097	1,219.38	15,949	1,607.66	20,059	2,021.95
1992	12.92	11,395	1,472.23	15,892	2,053.25	18,605	2,403.77
1993	13.78	9,939	1,369.59	14,180	1,954.00	16,939	2,334.19
1994	18.88	12,111	2,286.56	17,171	3,241.88	17,831	3,366.49

APPENDIX 11.—HISTORICAL HOUSING DATA—Continued

Year	Weights	Lower amounts	Subtotal	Middle amounts	Subtotal	Upper amounts	Subtotal
Totals	100.00		10,157		14,130		16,235
Kauai:							
1985	6.31	4,756	300.10	6,001	378.66	8,250	520.58
1986	6.77	5,859	396.65	7,573	512.69	9,075	614.38
1987	8.19	6,830	559.38	9,239	756.67	10,545	863.64
1988	7.03	8,324	585.18	11,387	800.51	13,309	935.62
1989	7.72	9,090	701.75	12,542	968.241	15,622	1,206.02
1990	8.32	15,257	1,269.38	20,117	1,673.73	25,451	2,117.52
1991	10.08	13,617	1,372.59	17,957	1,810.07	22,714	2,289.57
1992	12.92	12,245	1,582.05	15,797	2,040.97	19,525	2,522.63
1993	13.78	11,122	1,532.61	14,349	1,977.29	17,734	2,443.75
1994	18.88	12,996	2,453.64	17,677	3,337.42	20,287	3,830.19
Totals	100.00		10,753		14,256		17,344
Maui:							
1985	6.31	7,175	452.74	9,520	600.71	11,973	755.50
1986	6.77	7,893	534.36	10,473	709.02	13,170	891.61
1987	8.19	8,717	713.92	11,639	953.23	14,637	1,198.77
1988	7.03	11,072	778.36	14,691	1,032.78	18,475	1,298.79
1989	7.72	13,294	1,026.30	17,639	1,361.73	22,182	1,712.45
1990	8.32	14,976	1,246.00	19,872	1,653.35	24,990	2,079.17
1991	10.08	16,454	1,658.56	21,831	2,200.56	27,455	2,767.46
1992	12.92	14,820	1,914.74	19,668	2,541.11	24,729	3,194.99
1993	13.78	11,648	1,605.09	16,523	2,276.87	20,105	2,770.47
1994	18.88	14,320	2,703.62	19,936	3,763.92	22,152	4,182.30
Totals	100.00		12,634		17,093		20,852
Guam:							
1985	6.31	5,112	322.57	6,232	393.24	13,325	840.81
1986	6.77	5,623	380.68	6,855	464.08	14,657	992.28
1987	8.19	6,505	532.76	7,979	653.48	16,409	1,343.90
1988	7.03	7,704	541.59	9,501	667.92	18,951	1,332.26
1989	7.72	8,145	628.79	10,089	778.87	19,621	1,514.74
1990	8.32	9,060	753.79	11,254	936.33	21,448	1,784.47
1991	10.08	9,662	973.93	12,001	1,209.70	22,873	2,305.60
1992	12.92	10,555	1,363.71	13,110	1,693.81	24,986	3,228.19
1993	13.78	9,954	1,371.66	13,018	1,793.88	17,811	2,454.36
1994	18.88	11,290	2,131.55	15,925	3,006.64	20,675	3,903.44
Totals	100.00		9,001		11,598		19,700
Mayaguez:							
1985	6.31	3,325	209.81	4,655	293.73	7,094	447.63
1986	6.77	3,657	247.58	5,120	346.62	7,803	528.26
1987	8.19	4,224	345.95	5,914	484.36	9,013	738.16
1988	7.03	4,870	342.36	6,819	479.38	10,392	730.56
1989	7.72	4,957	382.68	6,940	535.77	10,577	816.54
1990	8.32	8,162	679.08	10,118	841.82	17,097	1,422.47
1991	10.08	4,400	443.52	7,050	710.64	10,258	1,034.01
1992	12.92	4,381	566.03	7,020	906.98	10,214	1,319.65
1993	13.78	3,939	542.79	6,312	869.79	9,185	1,265.69
1994	18.88	5,385	1,016.69	6,954	1,312.92	9,710	1,833.25
Totals	100.00		4,776		6,782		10,136
San Juan:							
1985	6.31	4,528	285.72	5,547	350.02	8,028	506.57
1986	6.77	4,845	328.01	5,935	401.80	8,590	581.54
1987	8.19	5,346	437.84	6,549	536.36	9,479	776.33
1988	7.03	5,837	410.34	7,150	502.65	10,348	727.46
1989	7.72	6,166	476.02	7,552	583.01	10,633	820.87
1990	8.32	6,782	564.26	8,307	691.14	11,696	973.11
1991	10.08	6,324	637.46	7,658	771.93	10,777	1,086.32
1992	12.92	4,439	573.52	6,039	780.24	10,831	1,399.37
1993	13.78	3,970	547.07	5,438	749.36	9,823	1,353.61
1994	18.88	5,048	953.06	7,721	1,457.72	10,848	2,048.10

APPENDIX 11.—HISTORICAL HOUSING DATA—Continued

Year	Weights	Lower amounts	Subtotal	Middle amounts	Subtotal	Upper amounts	Subtotal
Totals	100.00		5,213		6,824		10,273
St. Croix:							
1985	6.31	4,120	259.97	5,339	336.89	9,059	571.62
1986	6.77	4,215	285.36	5,462	369.78	9,268	627.44
1987	8.19	5,346	437.84	6,928	567.40	11,755	962.73
1988	7.03	6,522	458.50	8,452	594.18	14,341	1,008.17
1989	7.72	6,273	484.28	8,128	627.48	13,792	1,064.74
1990	8.32	7,544	627.66	9,776	813.36	16,588	1,380.12
1991	10.08	7,336	739.47	9,506	958.20	16,130	1,625.90
1992	12.92	8,366	1,080.89	12,259	1,583.86	15,179	1,961.13
1993	13.78	8,242	1,135.75	12,708	1,751.16	14,156	1,950.70
1994	18.88	6,024	1,137.33	9,967	1,881.77	16,345	3,085.94
Totals	100.00		6,647		9,484		14,238
St. Thomas:							
1985	6.31	6,652	419.74	8,417	531.11	10,046	633.90
1986	6.77	7,916	535.91	10,017	678.15	11,955	809.35
1987	8.19	10,232	838.00	12,946	1,060.28	15,452	1,265.52
1988	7.03	11,961	840.86	15,134	1,063.92	18,064	1,269.90
1989	7.72	12,301	949.64	15,565	1,201.62	18,577	1,434.14
1990	8.32	11,422	950.31	14,452	1,202.41	17,250	1,435.20
1991	10.08	10,917	1,100.43	15,545	1,566.94	18,134	1,827.91
1992	12.92	9,959	1,286.70	14,181	1,832.19	16,544	2,137.48
1993	13.78	10,074	1,388.20	14,340	1,976.05	16,729	2,305.26
1994	18.88	8,290	1,565.15	14,799	2,794.05	15,205	2,870.70
Totals	100.00		9,875		13,907		15,989
DC–DC:							
1985	6.31	5,075	320.23	7,759	489.59	13,816	871.79
1986	6.77	5,573	377.29	8,535	577.82	14,921	1,010.15
1987	8.19	6,069	497.05	9,722	796.23	16,115	1,319.82
1988	7.03	6,703	471.22	11,136	782.86	17,766	1,248.95
1989	7.72	6,702	517.39	11,474	885.79	17,829	1,376.40
1990	8.32	7,326	609.52	11,752	977.77	19,671	1,636.63
1991	10.08	6,966	702.17	11,175	1,126.44	18,710	1,885.97
1992	12.92	6,907	892.38	10,229	1,321.59	17,121	2,212.03
1993	13.78	6,164	849.40	8,115	1,118.25	17,531	2,415.77
1994	18.88	6,407	1,209.64	7,834	1,479.06	21,374	4,035.41
Totals	100.00		6,446		9,555		18,013
DC–MD:							
1985	6.31	4,695	296.25	7,270	458.74	8,649	545.75
1986	6.77	5,164	349.60	7,997	541.40	9,514	644.10
1987	8.19	5,622	460.44	8,705	712.94	10,358	848.32
1988	7.03	6,371	447.88	9,865	693.51	11,738	825.18
1989	7.72	6,854	529.13	10,614	819.40	12,628	974.88
1990	8.32	7,460	620.67	11,552	961.13	13,745	1,143.58
1991	10.08	6,860	691.49	10,623	1,070.80	12,640	1,274.11
1992	12.92	7,557	976.36	9,961	1,286.96	14,837	1,916.94
1993	13.78	6,223	857.53	7,616	1,049.48	13,081	1,802.56
1994	18.88	7,031	1,327.45	14,020	2,646.98	16,922	3,194.87
Totals	100.00		6,557		10,241		13,170
DC–VA:							
1985	6.31	5,644	356.14	6,369	401.88	10,559	666.27
1986	6.77	6,096	412.70	6,878	465.64	11,404	772.05
1987	8.19	6,515	533.58	7,351	602.05	12,189	998.28
1988	7.03	7,325	514.95	8,265	581.03	13,704	963.39
1989	7.72	7,272	561.40	8,206	633.50	13,605	1,050.31
1990	8.32	8,197	681.99	9,249	769.52	15,335	1,275.87
1991	10.08	7,625	768.60	8,738	880.79	14,024	1,413.62
1992	12.92	7,663	990.06	9,309	1,202.72	13,374	1,727.92
1993	13.78	6,193	853.40	8,316	1,145.94	11,914	1,641.75
1994	18.88	7,281	1,374.65	12,818	2,420.04	18,202	3,436.54
Totals	100.00		7,047		9,103		13,946

APPENDIX 12.—RENTAL DATA ANALYSES

	B&BN			Non-Brkr			Broker		
	#	$	Change (percent)	#	$	Change (percent)	#	$	Change (percent)
Honolulu:									
Low	217	$773	−5.3	205	$795	0.0	12	$750	−10.3
Middle	168	925	−4.8	156	925	−6.8	12	925	−2.6
High	309	1250	−1.9	285	1200	−5.2	24	1300	1.5
Hilo:									
Low	52	567	9.7	46	520	25.6	6	613	−1.0
Middle	72	698	0.0	66	695	25.9	6	700	−17.1
High	156	880	1.4	144	860	25.5	12	900	−14.3
Kailua Kona:									
Low	103	669	−1.3	97	651	7.2	6	677	−8.3
Middle	78	775	−3.2	72	781	7.5	6	769	−12.1
High	103	1003	−4.5	91	954	4.2	12	1042	−11.3
Kauai:									
Low	67	688	−25.3	61	700	16.7	6	675	−15.6
Middle	74	794	−24.4	68	788	−21.2	6	800	−27.3
High	212	1075	−28.9	200	1050	−36.1	12	1100	−15.2
Maui:									
Low	255	625	−1.6	249	650	8.2	6	600	−10.3
Middle	253	800	0.4	247	750	5.9	6	850	−4.0
High	128	975	−11.4	116	950	−6.9	12	1000	−15.2
Guam:									
Low	23	763	−5.0	17	725	−3.2	6	800	−6.5
Middle	59	900	−14.3	53	900	−8.2	6	900	−19.6
High	70	1250	−28.6	58	1300	−8.5	12	1200	−42.3
Mayaguez:									
Low	14	425	2.4	7	450	−25.0	7	400	−18.4
Middle	14	550	−9.2	7	600	2.0	7	500	−21.6
High	16	725	−26.2	5	850	11.8	11	600	−26.8
San Juan:									
Low	18	451	−38.0	6	388	−45.2	12	513	−31.3
Middle	25	913	−14.5	13	800	−32.5	12	1025	7.9
High	54	1400	−26.0	28	1300	−29.0	26	1500	−23.3
St. Croix:									
Low	92	548	−19.3	86	600	−16.0	6	495	−23.1
Middle	68	600	−44.3	62	600	−28.6	6	600	−20.4
High	57	1000	−26.5	40	1000	−29.9	17	1000	−22.8
St. Thomas:									
Low	104	663	−15.4	98	650	1.1	6	575	−27.0
Middle	89	857	−12.4	83	875	−5.9	6	836	−18.2
High	83	1300	−5.9	71	1200	−5.7	12	1400	−5.9
Washington, DC:									
Low	237	415	−10.4	231	399	−10.7	6	430	−10.2
Middle	127	530	−13.7	121	535	−14.8	6	525	−12.5
High	110	1349	−7.6	94	1198	5.1	16	1500	−15.7
DC—Maryland:									
Low	71	525	−4.4	65	525	0.4	6	525	−8.7
Middle	117	650	−17.1	111	650	−18.6	6	650	−16.8
High	114	950	−7.9	102	975	−4.5	12	925	−11.1
DC—Virginia:									
Low	51	583	−2.3	45	590	−0.7	6	575	−4.2
Middle	257	863	11.5	251	775	−4.0	6	950	28.4
High	149	1225	19.6	137	1150	16.8	12	1300	22.3

APPENDIX 13.—HOUSING COST ANALYSIS

[Location: Honolulu, HI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$358	.....	$421	.....	$484	.....
Insurance	750	$329	1,059	329	1,377	$392
Utilities	1,608	1,435	1,824	1,608	2,041	1,709
Real estate taxes	746	.....	1,027	.....	1,249	.....

APPENDIX 13.—HOUSING COST ANALYSIS—Continued

[Location: Honolulu, HI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Housing	14,320	9,276	21,083	11,100	24,394	15,000
Total annual cost	17,782	11,040	25,414	13,037	29,545	17,101

HOUSING COST ANALYSIS

[Location: Hilo, HI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$271	.....	$319	.....	$367	.....
Insurance	604	$395	740	$395	912	$413
Utilities	1,598	1,424	1,816	1,598	2,034	1,700
Real estate taxes	635	.....	1,041	.....	1,327	.....
Housing	7,513	6,804	10,314	8,376	12,729	10,560
Total annual cost	10,621	8,623	14,230	10,369	17,369	12,673

HOUSING COST ANALYSIS

[Location: Kailua Kona, HI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$295	.....	$347	.....	$399	.....
Insurance	794	$395	975	$395	1,038	$413
Utilities	1,751	1,556	1,996	1,751	2,241	1,866
Real estate taxes	954	.....	1,495	.....	1,565	.....
Housing	10,157	8,028	14,130	9,300	16,235	12,036
Total annual cost	13,951	9,979	18,943	11,446	21,478	14,315

HOUSING COST ANALYSIS—HAWAII COUNTY COMPOSITE

[Summer 1994 Survey]

Location	Weights	Annual costs					
		Lower income		Middle income		Upper income	
		Owner	Renter	Owner	Renter	Owner	Renter
Hilo, HI	83.17	$10,621	$8,623	$14,230	$10,369	$17,369	$12,673
Kailua Kona, HI	16.83	13,951	9,979	18,943	11,446	21,478	14,315
Total weight	100.00	.....	.....	.....	.....	.....	.....
Hawaii County, HI cost	.....	11,181	8,851	15,023	10,550	18,061	12,949

HOUSING COST ANALYSIS

[Location: Kauai County, HI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$302	.....	$355	.....	$408	.....

HOUSING COST ANALYSIS—Continued
[Location: Kauai County, HI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Insurance	837	$454	1,014	$454	1,158	$550
Utilities	1,758	1,560	2,005	1,758	2,252	1,873
Real estate taxes	547	.....	808	.....	954	.....
Housing	10,753	8,256	14,256	9,528	17,344	12,900
Total annual cost	14,197	10,270	18,438	11,740	22,116	15,323

HOUSING COST ANALYSIS
[Location: Maui County, HI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$388	.....	$456	.....	$524	.....
Insurance	891	$394	930	$447	1,065	$538
Utilities	1,610	1,433	1,831	1,610	2,052	1,713
Real estate taxes	665	.....	1,000	.....	1,133	.....
Housing	12,634	7,500	17,093	9,600	20,852	11,700
Total annual cost	15,988	9,327	21,310	11,657	25,626	13,951

HOUSING COST ANALYSIS
[Location: Guam, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$428	.....	$504	.....	$580	.....
Insurance	1,758	$293	2,479	$293	3,218	$440
Utilities	2,288	2,084	2,543	2,288	2,798	2,407
Real estate taxes	420	.....	593	.....	770	.....
Housing	9,001	9,156	11,598	10,800	19,700	15,000
Total annual cost	13,895	11,533	17,717	13,381	27,066	17,847

HOUSING COST ANALYSIS
[Location: Mayaguez, PR, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$173	.....	$204	.....	$235	.....
Insurance	449	$250	565	$206	817	$239
Utilities	1,036	941	1,153	1,036	1,271	1,090
Real estate taxes	0	.....	230	.....	721	.....
Housing	4,776	5,100	6,782	6,600	10,136	8,700
Total annual cost	6,434	6,247	8,934	7,842	13,180	10,029

HOUSING COST ANALYSIS
[Location: San Juan, PR, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$164	.....	$193	.....	$222	.....
Insurance	348	$205	535	$205	783	$277
Utilities	1,086	987	1,209	1,086	1,332	1,143
Real estate taxes	0	.....	367	.....	924	.....
Housing	5,213	5,412	6,824	10,956	10,273	16,800
Total annual cost	6,811	6,604	9,128	12,247	13,534	18,220

HOUSING COST ANALYSIS—PUERTO RICO COMPOSITE
[Summer 1994 Survey]

Location	Weights	Annual costs					
		Lower income		Middle income		Upper income	
		Owner	Renter	Owner	Renter	Owner	Renter
San Juan, PR	88.90	$6,811	$6,604	$9,128	$12,247	$13,534	$18,220
Mayaguez, PR	11.10	6,434	6,247	8,934	7,842	13,180	10,029
Total weight	100.00	.....	.....	.....	.....	.....	.....
Puerto Rico cost	.....	6,769	6,564	9,106	11,758	13,495	17,311

HOUSING COST ANALYSIS
[Location: St. Croix, VI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$207	.....	$244	.....	$281	.....
Insurance	1,604	$582	2,590	$582	4,183	$654
Utilities	1,530	1,363	1,737	1,530	1,945	1,627
Real estate taxes	393	.....	773	.....	1,388	.....
Housing	6,647	6,576	9,484	7,200	14,238	12,000
Total annual cost	10,381	8,521	14,828	9,312	22,035	14,281

HOUSING COST ANALYSIS
[Location: St. Thomas, VI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$216	.....	$254	.....	$292	.....
Insurance	2,591	$512	4,166	$512	4,260	$762
Utilities	1,530	1,363	1,737	1,530	1,945	1,627
Real estate taxes	611	.....	1,239	.....	1,278	.....
Housing	9,875	7,956	13,907	10,284	15,989	15,600
Total annual cost	14,823	9,831	21,303	12,326	23,764	17,989

HOUSING COST ANALYSIS— VIRGIN ISLANDS COMPOSITE
[Summr 1994 Survey]

Location	Weights	Annual costs					
		Lower income		Middle income		Upper income	
		Owner	Renter	Owner	Renter	Owner	Renter
St. Croix, VI	45.09	$10,381	$8,521	$14,828	$9,312	$22,035	$14,281
St. Thomas, VI	54.91	14,823	9,831	21,303	12,326	23,764	17,989
Total weight	100.000						
Puerto Rico cost		12,820	9,240	18,383	10,967	22,984	16,317

HOUSING COST ANALYSIS
[Location: Washington DC, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$312		$367		$422	
Insurance	212	579	261	$79	730	$98
Utilities	1,579	1,402	1,801	1,579	2,023	1,683
Real estate taxes	530		712	2,439		
Housing	6,446	4,980	9,555	6,360	18,013	16,188
Total annual cost	9,079	6,641	12,696	8,018	23,627	17,969

HOUSING COST ANALYSIS
[Location: Washington, DC, MD, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$319		$375		$431	
Insurance	237	$59	294	$59	355	$69
Utilities	2,062	1,820	2,366	2,062	2,669	2,204
Real estate taxes	1,254		2,501		3,018	
Housing	6,557	6,300	10,241	7,800	13,170	11,400
Total annual cost	10,429	8,179	15,777	9,921	19,643	13,673

HOUSING COST ANALYSIS
[Location: Washington, DC, VA, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$256		$336		$386	
Insurance	208	$126	304	$126	410	$148
Utilities	1,932	1,712	2,208	1,932	2,483	2,061
Real estate taxes	1,211		2,132		3,027	
Housing	7,047	6,996	9,103	10,356	13,946	14,700
Total annual cost	10,684	8,834	14,083	12,414	20,252	16,909

HOUSING COST ANALYSIS—WASHINGTON DC COMPOSITE
[Summer 1994 Survey]

Location	Weights	Annual costs					
		Lower income		Middle income		Upper income	
		Owner	Renter	Owner	Renter	Owner	Renter
Washington DC, DC	33.34	$9,079	$6,461	$12,696	$8,018	$23,627	$17,969
Washington DC, MD	33.33	10,429	8,179	15,777	9,921	19,643	13,673
Washington DC, VA	33.33	10,684	8,834	14,083	12,414	20,252	16,909
Total weight	100.00						
Composite cost		10,064	7,825	14,185	10,117	21,174	16,184

APPENDIX 14.—HOUSING ANALYSIS
[Location: Honolulu, HI, Summer 1994 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$17,782	$10,064	176.69	$11,040	$7,825	141.09
Middle income	25,414	14,185	179.16	13,037	10,117	128.86
Upper income	29,545	21,174	139.53	17,101	16,184	105.67

HOUSING ANALYSIS
[Location: Hawaii County, HI, Summer 1994 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$11,181	$10,064	111.10	$8,851	$7,825	113.11
Middle income	15,023	14,185	105.91	10,550	10,117	104.28
Upper income	18,061	21,174	85.30	12,949	16,184	80.01

HOUSING ANALYSIS
[Location: Kauai County, HI, Summer 1994 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$14,197	$10,064	141.07	$10,270	$7,825	131.25
Middle income	18,438	14,185	129.98	11,740	10,117	116.04
Upper income	22,116	21,174	104.45	15,323	16,184	94.68

HOUSING ANALYSIS
[Location: Maui County, HI, Summer 1994 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$15,988	$10,064	158.86	$9,327	$7,825	119.19
Middle income	21,310	14,185	150.23	11,657	10,117	115.22
Upper income	25,626	21,174	121.03	13,951	16,184	86.20

HOUSING ANALYSIS
[Location: Guam, Summer 1994 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$13,895	$10,064	138.07	$11,533	$7,825	147.39
Middle income	17,717	14,185	124.90	13,381	10,117	132.26
Upper income	27,066	21,174	127.83	17,847	16,184	110.28

HOUSING ANALYSIS
[Location: Puerto Rico, Summer 1994 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$6,769	$10,064	67.26	$6,564	$7,825	83.85
Middle income	9,106	14,185	64.19	11,758	10,117	116.22
Upper income	13,495	21,174	63.73	17,311	16,184	106.96

HOUSING ANALYSIS
[Location: Virgin Islands, Summer 1994 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$12,820	$10,064	127.38	$9,240	$7,825	118.08
Middle income	18,383	14,185	129.59	10,967	10,117	108.40
Upper income	22,984	21,174	108.55	16,317	16,184	100.82

APPENDIX 15.—PRIVATE TRANSPORTATION COST ANALYSIS
[Location: Honolulu, HI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$822	$1,192	$1,490
Maintenance/oil	424	476	505
Tires	110	141	153
License and registration	101	115	124
Miscellaneous tax	0	0	0
Depreciation	2,786	3,405	2,815
Finance expense	739	859	901
Insurance	1,788	1,752	1,903
Total annual costs	6,770	7,940	7,891

PRIVATE TRANSPORTATION COST ANALYSIS
[Location: Hilo, HI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$882	$1,279	$1,599
Maintenance/oil	416	422	449
Tires	120	168	178
License and registration	101	115	124
Miscellaneous tax	0	0	0
Depreciation	3,629	3,201	3,631
Finance expense	919	851	1,082

PRIVATE TRANSPORTATION COST ANALYSIS—Continued
[Location: Hilo, HI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Insurance	2,024	2,171	2,366
Total annual cost	8,091	8,207	9,429

PRIVATE TRANSPORTATION COST ANALYSIS
[Location: Kailua Kona, HI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$938	$1,358	$1,697
Maintenance/oil	444	510	478
Tires	95	174	139
License and registration	101	115	124
Miscellaneous tax	0	0	0
Depreciation	2,631	3,421	3,613
Finance expense	755	914	1,106
Insurance	1,457	1,368	1,742
Total annual cost	6,419	7,860	8,899

PRIVATE TRANSPORTATION COST ANALYSIS—HAWAII COMPOSITE
[Summer 1994 Survey]

Location	Weights	Annual costs		
		Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Hilo, HI	83.17	$8,091	$8,207	$9,429
Kailua Kona, HI	16.83	6,419	7,860	8,899
Total weight	100.00			
Composite cost		7,810	8,149	9,340

PRIVATE TRANSPORTATION COST ANALYSIS
[Location: Kauai, HI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$882	$1,279	$1,599
Maintenance/oil	386	427	467
Tires	75	112	85
License and registration	101	115	124
Miscellaneous tax	0	0	0
Depreciation	3,463	3,441	4,298
Finance expense	851	857	1,153
Insurance	1,327	1,274	1,596
Total annual cost	7,085	7,505	9,332

PRIVATE TRANSPORTATION COST ANALYSIS
[Location: Maui, HI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$893	$1,295	$1,618
Maintenance/oil	439	524	500
Tires	113	140	149
License and registration	101	115	124
Miscellaneous tax	0	0	0
Depreciation	2,631	3,175	3,907
Finance expense	786	904	1,209
Insurance	1,825	1,825	2,063
Total annual cost	6,788	7,978	9,570

PRIVATE TRANSPORTATION COST ANALYSIS
[Location: Guam Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4 WD 2 dr
Fuel	$784	$1,137	$1,421
Maintenance/oil	295	327	414
Tires	83	125	203
License and registration	23	25	27
Miscellaneous tax	0	0	0
Depreciation	2,504	4,261	2,818
Finance expense	834	1,223	1,092
Insurance	1,088	1,587	1,879
Total annual cost	5,611	8,685	7,854

PRIVATE TRANSPORTATION COST ANALYSIS
[Location: Mayaguez, PR, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4 WD 2 dr
Fuel	$619	897	$1,121
Maintenance/oil	284	310	429
Tires	68	147	113
License and registration	88	88	88
Miscellaneous tax	0	0	0
Depreciation	2,980	3,641	3,619
Finance expense	937	1,091	1,265
Insurance	1,224	1,447	1,666
Total annual cost	6,200	7,621	8,301

PRIVATE TRANSPORTATION COST ANALYSIS
[Location: San Juan, PR, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$592	$858	$1,073
Maintenance/oil	289	308	352
Tires	57	96	135
License and registration	88	88	88
Miscellaneous tax	0	0	0

PRIVATE TRANSPORTATION COST ANALYSIS—Continued
[Location: San Juan, PR, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Depreciation	3,056	3,622	3,594
Finance expense	954	1,087	1,260
Insurance	1,416	1,616	1,829
Total annual cost	6,452	7,675	8,331

PRIVATE TRANSPORTATION COST ANALYSIS—PUERTO RICO COMPOSITE
[Summer 1994 Survey]

Location	Weights	Annual costs		
		Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
San Juan, PR	88.90	$6,452	$7,675	$8,331
Mayaguez, PR	11.10	6,200	7,621	8,301
Total weight	100.00			
Composite cost		6,424	7,669	8,328

PRIVATE TRANSPORTATION COST ANALYSIS
[Location: St. Croix, VI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$608	$881	1,102
Maintenance/oil	320	275	396
Tires	80	143	133
License and registration	47	56	88
Miscellaneous tax	0	0	0
Depreciation	2,809	3,554	3,241
Finance expense	936	1,115	1,231
Insurance	1,876	2,262	2,745
Total annual cost	6,679	8,289	8,916

PRIVATE TRANSPORTATION COST ANALYSIS
[Location: St. Thomas, VI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$629	$912	$1,140
Maintenance/oil	345	396	437
Tires	86	110	126
License and registration	47	56	88
Miscellaneous tax	0	0	0
Depreciation	3,020	3,651	4,121
Finance expense	862	997	1,251
Insurance	1,429	1,477	2,466
Total annual cost	6,418	7,599	9,609

PRIVATE TRANSPORTATION COST ANALYSIS—VIRGIN ISLANDS COMPOSITE

[Summer 1994 Survey]

Location	Weights	Annual costs		
		Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
St. Croix, VI	45.09	$6,679	$8,289	$8,916
St. Thomas, VI	54.91	6,418	7,599	9,609
Total weight	100.00			
Composite cost		6,536	7,910	9,297

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Washington DC, DC Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4 WD 2 dr
Fuel	$649	$941	$1,177
Maintenance/oil	444	449	507
Tires	48	75	67
License and registration	69	69	102
Miscellaneous tax	0	0	0
Depreciation	2,836	3,311	2,887
Finance expense	568	639	694
Insurance	1,558	1,616	1,994
Total annual cost	6,172	7,100	7,448

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Washington, DC, MD, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$633	$918	$1,147
Maintenance/oil	389	400	425
Tires	78	104	106
License and registration	39	39	39
Miscellaneous tax	0	0	0
Depreciation	2,602	3,130	2,725
Finance expense	530	608	665
Insurance	956	982	1,096
Total annual costs	5,227	6,161	6,204

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Washington DC, VA, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$622	$902	$1,127
Maintenance/oil	406	489	464
Tires	54	72	96
License and registration	52	52	52
Miscellaneous tax	297	340	491
Depreciation	2,673	3,213	2,701
Finance expense	497	570	509

PRIVATE TRANSPORTATION COST ANALYSIS—Continued

[Location: Washington DC, VA, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Insurance	729	719	773
Total annual cost	5,330	6,357	6,313

PRIVATE TRANSPORTATION COST ANALYSIS—WASHINGTON DC COMPOSITE

[Summer 1994 Survey]

Location	Weights	Annual costs		
		Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Washington DC, DC	33.34	$6,172	$7,100	$7,448
Washington DC, MD	33.33	5,227	6,181	6,204
Washington DC, VA	33.33	5,330	6,357	6,313
Total weight	100.00			
Composite cost		5,576	6,546	6,655

APPENDIX 16.—AUTO INSURANCE CALCULATION WORKSHEET—SPECIAL LIMITS ADJUSTMENTS

[Location: Guam]

Allowance area—original values				Reference area—special limits				Indexes		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 25/50	160.33	160.33	160.33	BI 25/50	517.40	517.40	504.30	30.99	30.99	31.79
PD 20	In BI	In BI	In BI	PD 10	In BI	In BI	In BI			
Med 2	17.67	17.67	17.67	Med						
UM 25/50				UM 25/50						
CM 100	265.67	422.33	573.33	CM 100	251.26	261.91	441.14			
CL 200	576.67	893.33	1,028.67	CL 250	542.24	588.44	802.86			
Total*	1,002.67	1,475.99	1,762.33	Total	1,310.90	1,367.75	1,748.30	76.49	107.91	100.80
				MD						
				BI 25/40	465.80	465.80	465.80	34.42	34.42	34.42
				PD 10	In BI	In BI	In BI			
				Med						
				UM 25/40						
				CM 500	125.70	149.62	179.92			
				CL 500	325.30	335.20	388.78			
				Total	916.80	950.62	1,034.50	109.37	155.27	170.36
				VA						
				BI 25/50	276.97	282.83	264.97	57.80	56.69	60.51
				PD 20	In BI	In BI	In BI			
				Med						
				UM 25/50						
				CM 500	100.73	105.94	139.24			
				CL 500	241.53	239.56	260.76			
				Total	619.23	628.35	664.97	161.92	234.90	265.02

Allowance area—adjusted values				Reference area—normal limits				Adjusted values		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 100/300	176.67	174.93	175.14	BI 100/300	638.61	648.61	627.16	197.89	200.99	199.39
PD 50	In BI	In BI	In BI	PD 50	In BI	In BI	In BI			
Med 2	17.67	17.67	17.67	Med	N/A	N/A	N/A			
UM 100/300	50.95	79.17	84.32	UM 100/300	71.35	71.35	71.35	54.57	77.00	71.92
CM 100	265.67	422.33	573.33	CM 100	251.26	261.91	441.14			
CL 200	576.67	893.33	1,028.67	CL 250	542.24	588.44	802.86			
Total**	1,087.63	1,587.43	1,879.14	Total	1,503.46	1,570.31	1,942.51			
				MD						
				BI 100/300	423.30	400.08	400.08	145.70	137.71	137.71
				PD 50	In BI	In BI	In BI			

Allowance area—adjusted values				Reference area—normal limits				Adjusted values		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				Med	N/A	N/A	N/A			
				UM 100/300	47.55	60.15	61.55	52.00	93.39	104.85
				CM 100	125.70	149.62	179.92			
				CL 250	325.30	335.20	388.78			
				Total	921.85	945.05	1,030.33			
				VA						
				BI 100/300	322.05	328.25	311.25	186.43	186.08	188.33
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300	26.58	26.58	28.75	46.28	67.13	76.19
				CM 100	100.73	105.94	139.24			
				CL 250	241.53	239.58	260.76			
				Total	692.89	702.35	740.00			

Notes: Comparable BI/PD coverage was priced in the allowance and in the reference area, and premiums were compared to derive indexes. These indexes were used to estimate the cost of equivalent coverage in allowance area. Uninsured Motorist premiums were adjusted using the relative total cost of premiums (less Medical coverage where applicable), and Medical premiums were not adjusted because they were not part of the reference area normal coverage.
*Less Medical.
**Including Medical.

Auto Insurance Calculation Worksheet—Special Limits Adjustments

[Location: Mayaguez]

Allowance area—original values				Reference area—special limits				Indexes		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 100/300	153.77	153.77	153.77	BI 100/300	638.61	648.61	627.16			
PD 50	133.83	133.83	133.83	PD 50	In BI	In BI	In BI			
Med 5	5.40	5.40	5.40	Med	N/A	N/A	N/A			
UM 100/300				UM 100/300						
CM 100	414.23	558.53	700.27	CM 100	251.26	261.91	441.14			
CL 250	459.77	523.60	598.03	CL 250	542.24	588.44	802.86			
Total*	1,161.60	1,369.73	1,585.90	Total	1,432.11	1,498.96	1,871.16	81.11	91.38	84.75
				MD						
				BI 100/300	423.30	400.08	400.08			
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300						
				CM 100	125.70	149.62	179.92			
				CL 250	325.30	335.20	388.78			
				Total	874.30	884.90	968.78	132.86	154.79	163.70
				VA						
				BI 100/300	322.05	328.25	311.25			
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300						
				CM 100	100.73	105.94	139.24			
				CL 250	241.53	239.58	260.76			
				Total	664.31	673.77	711.25	174.86	203.29	222.97

Allowance area—adjusted values				Reference area—normal limits				Adjusted values		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 100/300	153.77	153.77	153.77	BI 100/300	638.61	648.61	627.16			
PD50	133.83	133.83	133.83	PD50	In BI	In BI	In BI			
Med 2	5.40	5.40	5.40	Med	N/A	N/A	N/A			
UM 100/300	57.01	72.14	75.11	UM 100/30	71.35	71.35	71.35	57.87	55.20	60.47
CM 100	414.23	558.53	700.27	CM 100	251.26	261.91	441.14			
CL 200	459.77	523.6	598.03	CL 250	524.24	588.44	802.86			
Total**	1,224.01	1,447.27	1,666.41	Total	1,503.46	1,570.31	1,942.51			
				MD						
				BI 100/300	423.30	400.08	400.08			
				PD50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/30	47.55	60.15	61.55	63.18	93.11	100.76
				CM 100	125.70	149.62	179.92			
				CL 250	325.30	335.20	388.78			
				Total	921.85	945.05	1,030.33			
				VA						
				BI 100/300	322.05	328.25	311.25			
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			

Allowance area—adjusted values				Reference area—normal limits				Adjusted values		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				UM 100/30	28.58	28.58	28.75	49.97	58.10	64.10
				CM 100	100.73	105.94	139.24			
				CL 250	241.53	239.58	260.76			
				Total	692.89	702.35	740.00			

Notes: Normal limits coverage was priced in the allowance and in the reference area, except for Uninsured Motorist coverage, which could not be priced in the allowance area. To estimate the cost of equivalent coverage, the relative costs of the total premiums (less than Medical and Uninsured Motorist premiums where applicable) for each area were compared to derive indexes that were used to adjust the reference area Uninsured Motorist premiums.
*Less Medical
**Including Medical

Auto Insurance Calculation Worksheet—Special Limits Adjustments

[Location: San Juan]

Allowance area—original values				Reference area—special limits				Indexes		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 100/300	180.80	180.80	180.80	BI 100/300	638.61	648.61	627.16			
PD 50	151.30	151.30	151.30	PD 50	In BI	In BI	In BI			
Med 5	7.67	7.67	7.67	Med	N/A	N/A	N/A			
UM 100/300				UM 100/300						
CM 100	549.50	689.73	840.00	CM 100	251.26	261.91	441.14			
CL 250	460.90	505.67	566.73	CL 250	542.24	588.44	802.86			
Total*	1,342.50	1,527.50	1,738.83	Total	1,432.11	1,498.96	1,871.16	93.74	101.90	92.93
				MD						
				BI 100/300	423.30	400.08	400.08			
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300						
				CM 100	125.70	149.62	179.92			
				CL 250	325.30	335.20	388.78			
				Total	874.30	884.90	968.78	153.55	172.62	179.49
				VA						
				BI 100/300	322.05	328.25	311.25			
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300						
				CM 100	100.73	105.94	139.24			
				CL 250	241.53	239.58	260.76			
				Total	664.31	673.77	711.25	202.09	226.71	244.48

Allowance area—adjusted values				Reference area—normal limits				Adjusted values		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 100/300	180.80	180.80	180.80	BI 100/300	638.61	648.61	627.16			
PD 50	151.30	151.30	151.30	PD 500	In BI	In BI	In BI			
Med 2	7.67	7.67	7.67	Med	N/A	N/A	N/A			
UM 100/300	65.89	80.44	82.35	UM 100/300	71.35	71.35	71.35	65.89	72.71	65.30
CM 100	549.50	689.73	840.00	CM 100	251.26	261.91	441.14			
CL 200	460.90	505.67	566.73	CL 250	542.24	588.44	802.86			
Total**	1,416.06	1,615.61	1,828.85	Total	1,503.46	1,570.31	1,942.51			
				MD						
				BI 100/300	423.30	400.08	400.08			
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300	47.55	60.15	61.55	73.01	103.83	110.47
				CM 100	125.70	149.62	179.92			
				CL 250	325.30	335.20	388.78			
				Total	921.85	945.05	1,030.33			
				VA						
				BI 100/300	322.05	328.25	311.25			
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300	28.58	28.58	28.75	57.76	64.79	70.29
				CM 100	100.73	105.94	139.24			
				CL 250	241.53	239.58	260.76			
				Total	692.89	702.35	740.00			

Notes: Normal limits coverage was priced in the allowance and in the reference area, except for Uninsured Motorist coverage, which could not be priced in the allowance area. To estimate the cost of equivalent coverage, the relative costs of the total premiums (less Medical and Uninsured Motorist premiums where applicable) for each area were compared to derive indexes that were used to adjust the reference are Uninsured Motorist premiums.
*Less Medical
**Including Medical

AUTO INSURANCE CALCULATION WORKSHEET—SPECIAL LIMITS ADJUSTMENTS

[Location: St. Croix]

Allowance area—original values	Honda	Ford	Chevy	Reference area—special limits	Honda	Ford	Chevy	Indexes Honda	Ford	Chevy
				DC						
BI 10/20	339.61	336.75	296.00	BI 25/50	517.40	517.40	504.30	65.64	65.09	58.70
PD 10	x In BI	In BI	In BI	PD 10	In BI	In BI	In BI			
Med 5	41.17	40.84	40.00	Med						
UM				UM 25/50						
CM 250	392.07	422.37	571.34	CM 500	171.92	164.82	307.50	228.05	256.26	185.80
CL 500	781.63	984.36	1,321.19	CL 500	432.14	443.99	579.63	180.87	221.71	227.94
Total*	1,513.31	1,743.49	2,188.53	Total	1,121.46	1,126.21	1,391.43	134.94	154.81	157.29
				MD						
				BI 25/40	465.80	465.80	465.80	72.91	72.30	63.55
				PD 10	In BI	In BI	In BI			
				Med						
				UM 25/40						
				CM 500	109.20	107.30	155.30	359.04	393.63	367.89
				CL 500	364.80	337.80	423.20	214.26	291.40	312.19
				Total	939.80	910.90	1,044.30	161.02	191.40	209.57
				VA						
				BI 25/50	276.97	282.83	264.97	122.52	119.07	111.71
				PD 20	In BI	In BI	In BI			
				Med						
				UM 25/50						
				CM 500	73.95	77.50	106.47	530.18	544.99	536.62
				CL 500	211.03	208.87	225.78	370.39	471.28	585.17
				Total	561.95	569.20	597.22	269.30	306.31	366.45

Allowance area—adjusted values	Honda	Ford	Chevy	Reference area—normal limits	Honda	Ford	Chevy	Adjusted values Honda	Ford	Chevy
				DC						
BI 100/300	374.23	367.42	323.25	BI 100/300	636.61	648.61	627.16	419.17	422.16	368.11
PD 50	In BI	In BI	In BI	PD 50	In BI	In BI	In BI			
Med 2	41.17	40.84	40.00	Med	N/A	N/A	N/A			
UM 100/300	83.27	104.38	115.52	UM 100/300	71.35	71.35	71.35	98.28	110.46	112.22
CM 100	519.46	612.50	742.92	CM 100	251.26	261.91	441.14	573.01	671.17	519.65
CL 200	857.46	1,136.83	1,523.21	CL 250	542.24	588.44	802.86	980.77	1,304.62	1,830.01
Total**	1,875.58	2,261.96	2,745.00	Total	1,503.46	1,570.31	1,942.51	2,069.23	2,508.41	3,130.00
				MD						
				BI 100/300	423.30	400.08	400.08	308.62	289.25	254.24
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300	47.55	60.15	61.55	76.57	115.13	128.99
				CM 100	125.70	149.62	179.92	451.31	588.96	661.92
				CL 250	325.30	335.20	388.78	697.00	976.78	1,213.73
				Total	921.85	945.05	1,030.33	1,533.50	1,970.11	2,258.88
				VA						
				BI 100/300	322.05	328.25	311.25	394.89	390.84	347.70
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300	28.58	28.58	28.75	76.96	87.54	105.36
				CM 100	100.73	105.94	139.24	534.05	577.37	747.19
				CL 250	241.53	239.58	260.76	894.60	1,129.09	1,525.88
				Total	692.89	702.35	740.00	1,900.50	2,184.84	2,726.13

Notes: Comparable coverage was priced in the allowance and in the reference area, and the premiums were compared to derive indexes for each type of coverage. With two exceptions, these indexes were used to adjust reference area premiums by type of coverage to estimate the cost of equivalent coverage in allownace area. The exceptions are Uninsured Motorist premiums, which were adjusted using the relative total cost of premiums (less Medical coverage where applicable), and Medical premiums, which were not adjusted because they were not part of the reference to normal coverage.

*Less Medical

**Including Medical

AUTO INSURANCE CALCULATION WORKSHEET—SPECIAL LIMITS ADJUSTMENTS

[Location: St. Thomas]

Allowance area—original values	Honda	Ford	Chevy	Reference area—special limits	Honda	Ford	Chevy	Indexes Honda	Ford	Chevy
				DC						
BI 10/20	277.81	278.29	296.00	BI 25/50	517.40	517.40	504.30	53.69	53.81	58.70
PD 10	In BI	In BI	In BI	PD 10	In BI	In BI	In BI			
Med 5	38.20	38.19	48.00	Med						
UM				UM 25/50						
CM 250	304.29	293.48	386.00	CM 500	171.92	164.82	307.50	177.00	178.05	126.18

AUTO INSURANCE CALCULATION WORKSHEET—SPECIAL LIMITS ADJUSTMENTS—Continued

[Location: St. Thomas]

Allowance area—original values	Honda	Ford	Chevy	Reference area—special limits	Honda	Ford	Chevy	Indexes Honda	Ford	Chevy
CL 500	563.66	555.77	1,289.00	CL 500	432.14	443.99	579.63	130.43	125.18	222.38
Total*	1,145.76	1,127.62	1,973.00	Total	1,121.46	1,126.21	1,391.43	102.17	100.13	141.80
				MD						
				BI 25/40	465.80	465.80	465.80	59.64	59.77	63.55
				PD 10	In BI	In BI	In BI			
				Med						
				UM 25/40						
				CM 500	109.20	107.30	155.30	276.65	273.49	249.64
				CL 500	364.80	337.80	423.20	154.51	164.53	304.58
				Total	939.80	910.90	1,044.30	121.92	123.79	188.93
				VA						
				BI 25/50	276.97	282.83	264.97	100.30	98.43	111.71
				PD 20	In BI	In BI	In BI			
				Med						
				UM 25/50						
				CM 500	73.95	77.50	106.47	411.48	378.66	364.42
				CL 500	211.03	208.87	225.78	267.10	266.06	570.91
				Total	561.95	569.20	597.22	203.89	198.11	330.36

Allowance area—adjusted values	Honda	Ford	Chevy	Reference area—normal limits	Honda	Ford	Chevy	Adjusted values Honda	Ford	Chevy
				DC						
BI 100/300	306.13	303.73	323.35	BI 100/300	636.61	648.61	627.16	342.89	348.99	368.11
PD 50	In BI	In BI	In BI	PD 50	In BI	In BI	In BI			
Med 2	38.20	38.19	48.00	Med	N/A	N/A	N/A			
UM 100/300	63.05	67.51	104.15	UM 100/300	71.35	71.35	71.35	72.90	71.44	101.17
CM 100	403.16	425.56	504.52	CM 100	251.26	261.91	441.14	444.72	466.33	556.63
CL 200	618.34	641.85	1,486.10	CL 250	542.24	588.44	802.85	707.27	736.59	1,785.43
Total**	1,428.87	1,476.84	2,466.11	Total	1,503.46	1,570.31	1,942.51	1,567.77	1,623.34	2,811.34
				MD						
				BI 100/300	423.30	400.08	400.08	252.46	239.11	254.24
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300	47.55	60.15	61.55	57.97	74.48	116.29
				CM 100	125.70	149.62	179.92	350.27	409.20	449.51
				CL 250	325.30	335.20	388.78	502.63	551.49	1,184.16
				Total	921.85	945.05	1,030.33	1,163.33	1,274.27	2,004.20
				VA						
				BI 100/300	322.05	328.25	311.25	323.03	323.10	347.70
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300	28.58	28.58	28.75	56.27	56.62	94.98
				CM 100	100.73	105.94	139.24	414.48	401.15	507.42
				CL 250	241.53	239.58	260.76	645.13	637.48	1,488.70
				Total	692.89	702.35	740.00	1,440.91	1,418.35	2,438.80

Notes: Comparable coverage was priced in the allowance and in the reference area, and the premiums were compared to derive indexes for each type of coverage. With two exceptions, these indexes were used to adjust reference area premiums by type of coverage to estimate the cost of equivalent coverage in allowance area. The exceptions are Uninsured Motorist premiums, which were adjusted using the relative total cost of premiums (less Medical coverage where applicable), and Medical premiums, which were not adjusted because they were not part of the reference are normal coverage.

*Less Medical

**Including Medical

APPENDIX 17.—AIR FARES AND OTHER TRANSPORTATION EXPENSES COST ANALYSIS SUMMARY PROGRAM

[Summer 1994 Survey]

Location	Air fares and other transportation expenses cost	Total cost DC area	Index
Honolulu, HI	$289	$441	65.53
Hawaii County, HI	427	441	96.83
Kauai County, HI	419	441	95.01
Maui County, HI	429	441	97.28
Guam	1171	441	265.53
Puerto Rico	639	441	144.90
Virgin Islands	697	441	158.05

AIR FARES AND OTHER TRANSPORTATION EXPENSES COMPOSITES

[Summer 1994 Survey]

Location	Weights	Cost
San Juan, PR	88.90	$639
Mayaguez, PR	11.10	639
Total Weight	100.00	
Puerto Rico cost		639
Hilo, HI	83.17	429
Kailua Kona, HI	16.83	419
Total Weight	100.00	
Hawaii County, HI cost		427
St. Croix, VI	45.09	697
St. Thomas, VI	54.91	697
Total Weight	100.00	
Virgin Islands cost		697

APPENDIX 18.—TRANSPORTATION ANALYSIS

[Location: Honolulu, HI; Summer 1994 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	6,770	5,576	121.41
2. Fort Taurus GL 4 dr sedan 3.0L 6 cyl	7,940	6,546	121.30
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	7,891	6,655	118.57
Average index			120.43

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	120.43	94.64	113.98	93.54	112.65	92.47	111.36
Air fares and other transportation expenses	65.53	5.36	3.51	6.46	4.23	7.53	4.93
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			117.49				
Middle					116.88		
Upper							116.29

TRANSPORTATION ANALYSIS

[Location: Hawaii County, HI; Summer 1994 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	$7,810	$5,576	140.06
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	8,149	6,546	124.49
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	9,340	6,655	140.35
Average index			134.97

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	134.97	94.64	127.74	93.54	126.26	92.47	124.81

TRANSPORTATION SUMMARY—Continued

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Air fares and other transportation expenses	96.83	5.36	5.19	6.46	6.25	7.53	7.29
Total Weights		100.00		100.00		100.00	
Total indexes:							
Lower			132.93				
Middle					132.51		
Upper							132.10

TRANSPORTATION ANALYSIS

[Location: Kauai County, HI; Summer 1994 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4cyl	$7,085	$5,576	127.06
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	7,505	6,546	114.65
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	9,332	6,655	140.23
Average index			127.31

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	127.31	94.64	120.49	93.54	119.09	92.47	117.72
Air fares and other transportation expenses	95.01	5.36	5.09	6.46	6.13	7.53	7.15
Total Weights		100.00		100.00		100.00	
Total indexes:							
Lower			125.58				
Middle					125.22		
Upper							124.87

TRANSPORTATION ANALYSIS

[Location: Maui County, HI; Summer 1994 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	$6,788	$5,576	121.74
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	7,978	6,546	121.88
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	9,570	6,655	143.80
Average index			129.14

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	129.14	94.64	122.22	93.54	120.80	92.47	119.42
Air fares and other transportation expenses	97.28	5.36	5.21	6.46	6.28	7.53	7.32
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			127.43				

TRANSPORTATION SUMMARY—Continued

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Middle					127.08		
Upper							126.74

TRANSPORTATION ANALYSIS

[Location: Guam; Summer 1994 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	$5,611	$5,576	100.63
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	8,685	6,546	132.68
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	7,854	6,655	118.02
Average index			117.11

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	117.11	94.64	110.84	93.54	109.55	92.47	108.29
Air fares and other transportation expenses	265.53	5.36	14.22	6.46	17.14	7.53	19.99
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			125.06				
Middle					126.69		
Upper							126.28

TRANSPORTATION ANALYSIS

[Location: Puerto Rico; Summer 1994 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	$6,424	$5,576	115.21
2. Ford Taurus GL 4 dr Sedan 3.0L 6 cyl	7,669	6,549	117.16
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	8,328	6,655	125.14
Average index			119.17

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	119.17	94.64	112.79	93.54	111.48	92.47	110.20
Air Fares and other transportation expenses	144.90	5.36	7.76	6.46	9.35	7.53	10.31
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			120.55				
Middle					120.83		
Upper							121.11

TRANSPORTATION ANALYSIS

[Location: Virgin Islands; Summer 1994 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	$6,536	$5,576	117.22
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	7,910	6,546	120.84
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	9,297	6,655	139.70
Average index			125.92

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	125.92	94.64	119.18	93.54	117.79	92.47	116.44
Air fares and other transportation expenses	158.05	5.36	8.47	6.46	10.20	7.53	11.90
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			127.65				
Middle					127.99		
Upper							128.34

APPENDIX 19—MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: Honolulu, HI; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care						104.94
Nonprescription pain reliever	8.3800	5.5800	1.5018	4.9	7.36	
Tetracycline	5.9200	5.3000	1.1170	12.2	13.66	
Vision check	67.2400	51.1700	1.3141	5.5	7.17	
Dental service	126.0000	108.5600	1.1791	16.1	18.97	
Doctor visit	38.9600	55.8300	0.6978	15.9	11.11	
Hospital room	581.5000	445.2300	1.3061	4.1	5.37	
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	104.94	41.50	43.55	31.33	32.87	23.51	24.68
2. Cash contributions:							
Lower income	116.33	15.80	18.38	0.00	0.00	0.00	0.00
Middle income	115.43	0.00	0.00	16.85	19.45	0.00	0.00
Upper income	114.55	0.00	0.00	0.00	0.00	17.65	20.22
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			104.63				
Middle					104.14		
Upper							103.73

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: Hilo, HI; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care						105.53
Nonprescription pain reliever	7.4600	5.5800	1.3369	4.9	6.55	

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT—Continued

[Location: Hilo, HI; Summer 1994 Survey]

Category/item		Price	Price DC area	Ratio	Weights	Subtotal	Index
Tetracycline		6.6000	5.3000	1.2453	12.2	15.23	
Vision check		67.6000	51.1700	1.3211	5.5	7.21	
Dental service		133.0000	108.5600	1.2251	16.1	19.71	
Doctor visit		37.0000	55.8300	0.6627	15.9	10.55	
Hospital room		539.0000	445.2300	1.2106	4.1	4.98	
Health insurance		1.0000	1.0000	1.0000	41.3	41.30	

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	105.53	41.50	43.79	31.33	33.06	23.51	24.81
2. Cash contributions:							
Lower income	115.28	15.80	18.21	0.00	0.00	0.00	0.00
Middle income	114.53	0.00	0.00	16.65	19.30	0.00	0.00
Upper income	113.81	0.00	0.00	0.00	0.00	17.65	20.09
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			104.70				
Middle					104.18		
Upper							103.73

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: Kailua Kona, HI; Summer 1994 Survey]

Category/item		Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care							116.44
Nonprescription pain reliever		8.5700	5.5800	1.5358	4.9	7.53	
Tetracycline		7.1400	5.3000	1.3472	12.2	16.48	
Vision check		65.0000	51.1700	1.2703	5.5	6.94	
Dental service		156.7000	108.5600	1.4434	16.1	23.22	
Doctor visit		57.3300	55.8300	1.0269	15.9	16.35	
Hospital room		500.0000	445.2300	1.1230	4.1	4.62	
Health insurance		1.0000	1.0000	1.0000	41.3	41.30	

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	116.44	41.50	48.32	31.33	36.48	23.51	27.38
2. Cash contributions:							
Lower income	116.07	15.80	18.34	0.00	0.00	0.00	0.00
Middle income	115.35	0.00	0.00	16.85	19.44	0.00	0.00
Upper income	114.63	0.00	0.00	0.00	0.00	17.65	20.24
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			109.36				
Middle					107.74		
Upper							106.45

MISCELLANEOUS EXPENSE ANALYSIS—HAWAII COUNTY COMPOSITE

[Summer 1994 Survey]

Location	Weights	Total indexes		
		Lower income	Middle income	Upper income
Hilo, HI	83.17	104.70	104.18	103.73
Kailua Kona, HI	16.83	109.36	107.74	106.45
Total weight	100.00			
Composite indexes		105.48	104.78	104.19

MISCELLANEOUS EXPENSE ACCOUNT—CATEGORY INDEX DEVELOPMENT

[Location: Kauai County, HI; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care						110.96
Nonprescription pain reliever	8.6200	5.5800	1.5448	4.9	7.57	
Tetracycline	7.3700	5.3000	1.3906	12.2	17.01	
Vision check	63.0000	51.1700	1.2312	5.5	6.72	
Dental service	142.6700	108.5600	1.3142	16.1	21.15	
Doctor visit	42.9000	55.8300	0.7684	15.9	12.23	
Hospital room	539.0000	445.2300	1.2106	4.1	4.98	
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	110.96	41.50	46.05	31.33	34.76	23.51	26.09
2. Cash contributions:							
Lower income	119.18	15.80	18.83	0.00	0.00	0.00	0.00
Middle income	118.11	0.00	0.00	16.85	19.90	0.00	0.00
Upper income	117.09	0.00	0.00	0.00	0.00	17.65	20.67
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			107.58				
Middle					106.48		
Upper							105.59

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: Maui County, HI; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care						114.37
Nonprescription pain reliever	9.3100	5.5800	1.6685	4.9	8.18	
Tetracycline	6.5600	5.3000	1.2377	12.2	15.14	
Vision check	55.7300	51.1700	1.0891	5.5	5.95	
Dental service	159.4200	108.5600	1.4685	16.1	23.63	
Doctor visit	53.2700	55.8300	0.9541	15.9	15.19	
Hospital room	539.0000	445.2300	1.2106	4.1	4.98	
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	

TOTAL INDEX DEVELOPMENT

[Location: Maui County, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	114.37	41.50	47.46	31.33	35.83	23.51	26.89

TOTAL INDEX DEVELOPMENT—Continued
[Location: Maui County, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
2. Cash contributions:							0.00
Lower income	120.24	15.80	19.00	0.00	0.00	0.00	0.00
Middle income	119.37	0.00	0.00	16.85	20.11	0.00	0.00
Upper income	118.54	0.00	0.00	0.00	0.00	17.65	20.93
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			109.16				
Middle					107.76		
Upper							106.65

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT
[Location: Guam; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care						100.03
Nonprescription pain reliever	9.6100	5.5800	1.7222	4.9	8.44	
Tetracycline	4.3000	5.3000	0.8113	12.2	9.92	
Vision check	20.0000	51.1700	0.3909	5.5	2.13	
Dental service	172.0000	108.5600	1.5844	16.1	25.49	
Doctor visit	37.3300	55.8300	0.6686	15.9	10.64	
Hospital room	229.0000	445.2300	0.5143	4.1	2.11	
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	100.03	41.50	41.51	31.33	31.34	23.51	23.52
2. Cash contributions:							
Lower income	115.98	15.80	18.33	0.00	0.00	0.00	0.00
Middle income	116.04	0.00	0.00	16.85	19.55	0.00	0.00
Upper income	116.11	0.00	0.00	0.00	0.00	17.65	20.50
3. Personal Insurance/Pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			102.54				
Middle					102.71		
Upper							102.85

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT
[Location: Mayaguez, PR; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care						76.60
Nonprescription pain reliever	5.9500	5.5800	1.0663	4.9	5.22	
Tetracycline	3.4300	5.3000	0.6472	12.2	7.92	
Vision check	26.5700	51.1700	0.5212	5.5	2.85	
Dental service	73.3300	108.5600	0.6755	16.1	10.87	
Doctor visit	21.6700	55.8300	0.3881	15.9	6.18	
Hospital room	245.0000	445.2300	0.5503	4.1	2.26	
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	76.60	41.50	31.79	31.33	24.00	23.51	18.01
2. Cash contributions:							
Lower income	93.40	15.80	14.76	0.00	0.00	0.00	0.00
Middle income	92.90	0.00	0.00	16.85	15.65	0.00	0.00
Upper income	92.40	0.00	0.00	0.00	0.00	17.65	16.31
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			89.25				
Middle					91.47		
Upper							93.15

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT
[Location: San Juan, PR; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care						77.79
Nonprescription pain reliever	5.5100	5.5800	0.9875	4.9	4.84	
Tetracycline	3.4300	5.3000	0.6472	12.2	7.92	
Vision check	32.5000	51.1700	0.6351	5.5	3.47	
Dental service	65.0000	108.5600	0.5987	16.1	9.63	
Doctor visit	30.0000	55.8300	0.5373	15.9	8.55	
Hospital room	225.0000	445.2300	0.5054	4.1	2.08	
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	77.79	41.50	32.28	31.33	24.37	23.51	18.29
2. Cash contributions:							
Lower income	103.10	15.80	16.29	0.00	0.00	0.00	0.00
Middle income	103.14	0.00	0.00	16.85	17.38	0.00	0.00
Upper income	103.17	0.00	0.00	0.00	0.00	17.65	18.21
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights		100.000		100.00		100.00	
Total indexes:							
Lower			91.27				
Middle					93.57		
Upper							95.33

MISCELLANEOUS EXPENSE ANALYSIS—PUERTO RICO COMPOSITE
[Summer 1994 Survey]

Location	Weights	Total indexes		
		Lower income	Middle income	Upper income
San Juan, PR	88.90	91.27	93.57	95.33
Mayaguez, PR	11.10	89.25	91.47	93.15
Total weight	100.00			
Composite indexes		91.05	93.34	95.09

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: St. Croix, VI; Summer 1994 Survey]

Category/item	Price	Price DC Area	Ratio	Weights	Subtotal	Index
Medical care						84.45
Nonprescription pain reliever	6.1600	5.5800	1.1039	4.9	5.41	
Tetracycline	5.9300	5.3000	1.1189	12.2	13.68	
Vision check	46.6700	51.1700	0.9121	5.5	4.98	
Dental service	57.3300	108.5600	0.5281	16.1	8.50	
Doctor visit	30.0000	55.8300	0.5373	15.9	8.55	
Hospital room	220.0000	445.2300	0.4941	4.1	2.03	
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	84.45	41.50	35.04	31.33	26.46	23.51	19.86
2. Cash contributions:							
Lower income	105.06	15.80	16.60	0.00	0.00	0.00	0.00
Middle income	104.67	0.00	0.00	16.85	17.64	0.00	0.00
Upper income	104.27	0.00	0.00	0.00	0.00	17.65	18.41
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			94.34				
Middle					95.92		
Upper							97.10

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: St. Thomas, VI; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care						126.87
Nonprescription pain reliever	8.0500	5.5800	1.4427	4.9	7.07	
Tetracycline	16.1400	5.3000	3.0453	12.2	37.24	
Vision check	45.0000	51.1700	0.8794	5.5	4.80	
Dental service	97.0000	108.5600	0.8935	16.1	14.38	
Doctor visist	63.3300	55.8300	1.1343	15.9	18.06	
Hospital room	435.0000	445.2300	0.9770	4.1	4.02	
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	126.87	41.50	52.65	31.33	39.74	23.51	29.83
2. Cash contributions:							
Lower income	108.23	15.80	17.10	0.00	0.00	0.00	0.00
Middle income	108.20	0.00	0.00	16.85	18.23	0.00	0.00
Upper income	108.11	0.00	0.00	0.00	0.00	17.65	19.09
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			112.45				
Middle					109.79		
Upper							107.75

MISCELLANEOUS EXPENSE ANALYSIS—VIRGIN ISLANDS COMPOSITE

[Summer 1994 Survey]

Location	Weights	Total indexes		
		Lower income	Middle income	Upper income
St. Croix, VI	45.09	94.34	95.92	97.10
St. Thomas, VI	54.91	112.45	109.79	107.75
Total weight	100.00			
Composite indexes		104.28	103.54	102.95

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Appendix 20

Component Expenditure Amounts

	Incomes	Indexes					Amounts				
		CG&S	Own	Rent	Trn	Misc	CG&S	Own	Rent	Trn	Misc
Reference Wts/Amts...	20800	40.10	25.01	25.01	18.93	15.96	8341	5202	5202	3938	3320
	31500	39.47	23.98	23.98	18.66	17.88	12433	7555	7555	5879	5634
Location	48300	38.87	23.01	23.01	18.41	19.71	18775	11114	11114	8892	9520
Honolulu, HI	Lower	116.33	176.69	141.09	117.49	104.63	9703	9191	7340	4627	3474
(City and County)	Middle	115.43	179.16	128.86	116.88	104.14	14351	13536	9735	6871	5867
	Upper	114.55	139.53	105.67	116.29	103.73	21507	15507	11744	10341	9875
Hawaii County, HI	Lower	115.41	111.10	113.11	132.93	105.48	9626	5779	5884	5235	3502
	Middle	114.67	105.91	104.28	132.51	104.78	14257	8002	7878	7790	5903
	Upper	113.95	85.30	80.01	132.10	104.19	21394	9480	8892	11746	9919
Kauai County, HI	Lower	119.18	141.07	131.25	125.58	107.58	9941	7338	6828	4945	3572
	Middle	118.11	129.98	116.04	125.22	106.48	14685	9820	8767	7362	5999
	Upper	117.09	104.45	94.66	124.87	105.59	21984	11609	10523	11103	10052
Maui County, HI	Lower	120.24	158.86	119.19	127.43	109.16	10029	8264	6200	5018	3624
	Middle	119.37	150.23	115.22	127.08	107.76	14841	11350	8705	7471	6071
	Upper	118.54	121.03	86.20	126.74	106.65	22256	13451	9580	11270	10153
Guam	Lower	115.98	138.07	147.39	125.06	102.54	9674	7182	7667	4925	3404
(Local Retail)	Middle	116.04	124.90	132.26	126.69	102.71	14427	9436	9992	7448	5787
	Upper	116.11	127.83	110.28	128.28	102.85	21800	14207	12257	11407	9791
Guam	Lower	99.96	138.07	147.39	125.06	102.54	8338	7182	7667	4925	3404
(Commissary	Middle	100.90	124.90	132.26	126.69	102.71	12545	9436	9992	7448	5787
and Exchange)	Upper	101.80	127.83	110.28	128.28	102.85	19113	14207	12257	11407	9791
Puerto Rico	Lower	102.02	67.26	83.68	120.55	91.05	8509	3499	4363	4747	3023
	Middle	102.00	64.19	116.22	120.83	93.34	12682	4850	8780	7104	5259
	Upper	101.97	63.73	106.96	121.11	95.09	19145	7083	11888	10769	9053
Virgin Islands	Lower	106.80	127.38	118.08	127.65	104.28	8908	6626	6143	5027	3462
	Middle	106.61	129.59	108.40	127.99	103.54	13255	9791	8190	7525	5833
	Upper	106.38	108.55	100.82	128.34	102.95	19973	12064	11205	11412	9801

Total Comparative Cost Indexes

	Income	Income Weights	Own	Rent	Total	WDC	Index
	Lower	20800	38.41	61.59			
	Middle	31500	47.46	52.54			
Location	Upper	48300	61.67	38.33			
Honolulu, HI	Lower	33.49	26995	25144	25855	20800	
(City and County)	Middle	33.25	40625	36824	38628	31500	
	Upper	33.26	57230	53467	55788	48300	
		100.00			40058	33504	119.56
Hawaii County, HI	Lower	37.87	24142	24247	24207	20800	
	Middle	39.24	35952	35828	35887	31500	
	Upper	22.89	52539	51951	52314	48300	
		100.00			35224	31293	112.56
Kauai County, HI	Lower	28.57	25796	25286	25482	20800	
	Middle	38.24	37866	36813	37313	31500	
	Upper	33.19	54748	53662	54332	48300	
		100.00			39581	34019	116.35
Maui County, HI	Lower	24.65	26935	24871	25664	20800	
	Middle	40.84	39733	37088	38343	31500	
	Upper	34.51	57130	53259	55646	48300	
		100.00			41189	34660	118.84
Guam	Lower	48.31	25185	25670	25484	20800	
(Local Retail)	Middle	31.28	37098	37654	37390	31500	
	Upper	20.41	57205	55255	56458	48300	
		100.00			35530	29760	119.39
Guam	Lower	48.31	23549	24334	24148	20800	
(Commissary	Middle	31.28	35216	35772	35508	31500	
and Exchange)	Upper	20.41	54518	52568	53771	48300	
		100.00			33747	29760	113.40
Puerto Rico	Lower	41.91	19778	20642	20310	20800	
	Middle	37.94	29895	33825	31960	31500	
	Upper	20.15	46050	50855	47892	48300	
		100.00			30288	30401	99.63
Virgin Islands	Lower	37.54	24023	23540	23726	20800	
	Middle	40.92	36404	34803	35563	31500	
	Upper	21.54	53250	52391	52921	48300	
		100.00			34858	31102	112.08

[FR Doc. 95–28905 Filed 11–28–95; 8:45 am]
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federal register

Wednesday
November 29, 1995

Part IV

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

November 1, 1995.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of November 1, 1995, of three deferrals contained in one special message for FY 1996. This message was transmitted to Congress on October 19, 1995.

Deferrals (Attachments A and B)

As of November 1, 1995, $122.8 million in budget authority was being deferred from obligation. Attachment B shows the status of each deferral reported during FY 1995.

Information From Special Messages

The special message containing information on the deferrals that are covered by this cumulative report is printed in the **Federal Register** cited below:

60 FR 55154, Friday, October 27, 1995

Alice M. Rivlin,

Director.

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ATTACHMENT A

STATUS OF FY 1996 DEFERRALS
(in millions of dollars)

	Budgetary Resources
Deferrals proposed by the President.....	122.8
Routine Executive releases through September 1, 1995.....	---
Overturned by the Congress.....	---
Currently before the Congress.....	122.8

ATTACHMENT B
Status of FY 1996 Deferrals - As of November 1, 1995
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted Original Request	Amounts Transmitted Subsequent Change (+)	Releases(-) Cumulative OMB/ Agency	Releases(-) Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Date of Message	Amount Deferred as of 11-1-95
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund and International Fund for Ireland	D96-1	75,000						10-19-95	75,000
DEPARTMENT OF STATE									
Other									
United States emergency refugee and migration assistance fund	D96-3	40,486						10-19-95	40,486
SOCIAL SECURITY ADMINISTRATION									
Limitation on administrative expenses	D96-2	7,321						10-19-95	7,321
TOTAL, DEFERRALS		122,807	0	0	0		0		122,807

[FR Doc. 95-28969 Filed 11-28-95 8:45 am]
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federal register

Wednesday
November 29, 1995

Part V

Department of Education

34 CFR Part 668

Student Assistance General Provisions; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840–AC14

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Student Assistance General Provisions regulations. These amendments are necessary to implement a new requirement in the Higher Education Act of 1965, as amended (HEA), added by the Improving America's Schools Act of 1994 (IASA), Pub. L. 103–382. The IASA provisions, titled the "Equity in Athletics Disclosure Act" (EADA), require certain co-educational institutions of higher education to prepare annually—and make available to students, potential students, and the public—a report on participation rates, financial support, and other information on men's and women's intercollegiate athletic programs. These regulations implement these new statutory requirements.

EFFECTIVE DATE: These regulations take effect on July 1, 1996. However, affected parties do not have to comply with the information collection requirements in § 668.41 and § 668.48 until the Department of Education publishes in the **Federal Register** the control numbers assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control numbers notifies the public that OMB has approved these information requirements under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Mr. David Lorenzo or Ms. Paula Husselmann, U.S. Department of Education, 600 Independence Avenue, SW., ROB–3, room 3045, Washington, DC 20202–5346. Telephone: (202) 708–7888. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Student Assistance General Provisions regulations (34 CFR part 668) apply to all institutions that participate in the title IV, HEA programs. The changes in these regulations are necessary to implement changes to the HEA made by the Equity in Athletics Disclosure Act (EADA), which was included in the Improving America's Schools Act of 1994 (IASA), Pub. L. 103–382, enacted on October 20, 1994. The EADA requires that certain institutions of higher education disclose annually—to students, potential students, and the public—financial, participation, and other information concerning the institution's women's and men's intercollegiate athletic programs. The EADA is a "sunshine" law designed to make "prospective students and prospective student athletes...aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students" (IASA, section 360B(b)(7)).

The EADA does not require that this information be submitted to the Federal Government. The Secretary may, however, request that institutions of higher education that are subject to the EADA provide a copy of the report in order to verify compliance with these requirements. The EADA does require that all institutions subject to its provisions make the information available to students, potential students, and the public.

Background

On February 3, 1995, the Secretary published a Notice of Proposed Rulemaking (NPRM) for part 668 in the **Federal Register** (60 FR 6940). The NPRM included a discussion of the major issues surrounding the proposed changes which will not be repeated here. The following list summarizes those issues and identifies the pages of the preamble to the NPRM on which the discussion of those issues can be found:

The Secretary proposed definitions of the terms "intercollegiate athletic program" and "varsity team" and solicited comments as to whether type or level of financial support should be part of the definition of varsity team (page 6940).

The Secretary solicited comments on the date for schools to make available the annual report of data beyond the statutory date of October 1, 1996 for the first report (page 6940).

The Secretary requested comments on what definition of "academic year" and "undergraduate student" should be employed in these regulations (pages 6940–6941).

The Secretary requested comments on whether certain categories of athletes, such as "redshirts," should be counted as participants on a team (page 6941).

The Secretary proposed a list of items to be included under the category of "operating expenses," interpreted the statute to require the reporting of expenses incurred for both home and away contests, and interpreted the statute to require the reporting of expenses in categories specifically listed in the law. The Secretary also solicited comments as to what items are included under the statutory categories (page 6941).

The Secretary interpreted the statute to require institutions to disclose two total amounts of athletically-related aid, one for male athletes and one for female athletes. The Secretary also proposed that the definition of athletically-related student aid for these provisions be the same as that provided in section 485(e)(8) of the HEA, and solicited comments on whether to apply this definition to particular categories of students (page 6941).

The Secretary interpreted the statute to require institutions to calculate a ratio of the total amount of athletic aid awarded to men to the total amount of athletic aid awarded to women (page 6941).

The Secretary interpreted the statute to require institutions to report the total expenditures used for recruiting male athletes, and the total expenditures used for recruiting female athletes. The Secretary also solicited comment on what items should be included as "expenditures on recruiting" (page 6941).

The Secretary interpreted the statute to require institutions to report the total annual revenues for men's teams and the total annual revenue for women's teams, and interpreted "total annual revenues" to mean "annual gross income." The Secretary also requested comments on whether the definition of "expenses" here should follow that in section 487 of the HEA, and whether the definition of "total annual revenues" should follow the definition in 34 CFR 668.14 (pages 6941–6942).

The Secretary interpreted the statute to require a report of coaches' salaries on average across all men's sports, and on average across all women's sports, for both head coaches and assistant coaches. The Secretary also requested comments on a definition of "salary," and whether the salary of a volunteer coach should be listed as zero for averaging purposes (page 6942).

The Secretary requested comments on how information on co-educational teams could be reported with a minimum of burden (page 6942).

The Secretary interpreted the statute to require reports to be based on actual expenditures, not budgeted expenditures (page 6942).

The Secretary requested comments on how schools should report when their academic year differs from their fiscal year (page 6942).

The Secretary requested comments on whether the provision of substantially comparable data to an athletic conference satisfies the requirements of the statute (page 6942).

The Secretary requested comments and suggestions on possible formats for the report, and whether a mandatory format was necessary (pages 6942–6943).

The Secretary requested comments and suggestions regarding the availability and accessibility of the report (page 6943).

The following discussion describes the significant changes since publication of the NPRM. These topics will be discussed in the order in which they appear in the text of the regulations.

Section 668.41—Reporting and Disclosure

The Secretary has decided not to regulate where this report is to be made available to students and the public, nor the specific publications in which institutions must publish notice of its availability. The Secretary has added a regulatory requirement that is consistent with the statute in requiring institutions to make the report available in easily accessible places and in a timely manner. The discussion below provides guidance as to ways in which this requirement may be satisfied.

With regard to the date for reporting the information listed in the statute, the Secretary has decided to change the reporting date to October 15 for years subsequent to 1996.

Section 668.48—Report on Athletic Program Participation Rates and Financial Support Data

The Secretary does not provide any exemptions to institutions from reporting the data listed in the statute. The Secretary does, however, permit flexibility where appropriate in the manner in which institutions may report certain data elements.

The Secretary provides in the regulations definitions of the terms "reporting year" and "undergraduate student" that allow institutions, within certain limits, to use their customary definitions of those terms. The Secretary also defines in the regulations the terms "athletically-related student aid," "institutional salary," "recruiting expenses," and "varsity team." The Secretary also includes an explanatory note discussing the term "participant."

The Secretary adds a regulatory requirement for an institution to disclose as part of each annual report the list of recruiting expenses on which it bases the figures it discloses as expenditures on recruiting.

The Secretary interprets the statute to require institutions to report an average of those salaries the institution pays to coaches as compensation for coaching. The Secretary also interprets the statute to require institutions to report any team expenses the institution directly funds.

The Secretary provides as an appendix to these regulations an optional form institutions may use to report the data required in the regulations.

Preparation of Final Regulations

The Secretary has formulated these regulations in accordance with Executive Order 12866, the Administration's initiative on regulatory reinvention, and the Department's own principles for regulating. The Secretary's goal is to regulate only when necessary, and then as flexibly as possible, while implementing such rules as are essential to advance the purpose of the statute. The Secretary has also placed renewed emphasis on minimizing burden on institutions, and on making regulations easy to read and understand.

The Department expects good faith efforts from institutions, and has tried wherever possible to provide guidance regarding reasonable ways of complying with the statute rather than promulgating overly prescriptive rules. The Department relies upon its experience with the community as to the level of guidance necessary to ensure compliance and full knowledge of the Department's expectations. However, the Department also recognizes that any new reporting requirements, such as those contained in this statute, may produce unforeseen questions, or problems of compliance and interpretation. In the event that such questions or problems arise, the Department may revisit these regulations or provide further guidance to resolve those matters.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 26 parties, including representatives from large and small schools, athletic associations, university associations, student advocacy groups, and right-to-know advocates, submitted comments on the proposed regulations. A summary of those comments, and an analysis of changes in the regulations since the publication of the NPRM, follows.

Substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

General

Comments: One commenter complimented the Department on the clarity of the proposed regulations and the clarification they brought to the statute.

One commenter argued that the statute was based on misconceptions about interest in the kinds of data most institutions would supply and on general interest in comparing institutions' athletic programs, and that the Secretary should consider these caveats when determining what level of cost is justified to provide these data.

One commenter noted that the proposed regulations contain no specific provisions governing the consequences of non-compliance, and urged the Department to detail those provisions, including a reference to the Higher Education Act of 1965, as amended (HEA), if that is the source of sanctions.

Discussion: The Secretary wishes to emphasize that care was taken, consistent with the purpose and terms of the statute, to respond to concerns and minimize the burdens associated with reporting these data.

The Secretary notes that these regulations implement an amendment to the HEA, and thus form a part of the regulations governing an institution's participation in the title IV, HEA programs. Institutions that do not comply with these reporting requirements are subject to the same penalties applicable to other regulatory violations, namely, possible fines, limitation, suspension, or termination of participation in the title IV, HEA programs. The regulations governing these possible sanctions are located in 34 CFR Part 668, Subpart G.

Changes: None.

Section 668.41 Reporting and Disclosure

Comments: Several commenters proposed that reports be available for examination at an accessible office during normal business hours. One commenter suggested that the information should be made available on request. Another commenter suggested that the information be available at the institution's library. Still another commenter recommended that the information be available in all admissions, financial aid, and intercollegiate athletic offices, as well as available on request. Several commenters suggested that the information, in addition to being generally available, also be supplied automatically to students who have been offered an athletic scholarship and to their parents, just as the National

Collegiate Athletic Association (NCAA) now requires schools to disclose to those parties the institution's retention rate. One commenter inquired whether the information should be supplied to the Department, and if so, to whom it should be sent.

Discussion: The Secretary agrees that the statute requires only that the report be available on request. To allow institutions flexibility in complying with this statutory requirement, the Secretary will not regulate where the report be made available. However, the Secretary believes that the intent of the statute is for institutions to make the annual reports easily accessible, and adds a regulatory requirement to that effect. The Secretary believes that an institution would fulfill this obligation if, for example, it made copies of this report available in such places as intercollegiate athletic offices, admissions offices, and libraries. An institution may also fulfill this obligation by electronic means, for example, by providing a copy to every student in his or her electronic mailbox.

As noted in the February 3, 1995 Notice of Proposed Rulemaking, 60 FR 6940, institutions are not required to submit this report to the Secretary. However, the Secretary may request that the report be provided during a program review or compliance audit, for example, in order to verify compliance with these regulations.

Changes: Section 668.41(e)(1)(i) has been changed to include a requirement that institutions make the information contained in this report easily accessible to students, prospective students, and the public, and that an institution make the information available in a timely fashion when requested.

Comments: Several commenters proposed that notice of the report's availability be published in at least one publication distributed once a year. One commenter advised that the campus security report model for giving notice be adopted. Several commenters believed notice should be published in the institution's catalogue and registration packets, and one commenter added financial aid and intercollegiate athletic department publications to that list.

Discussion: The statute simply requires institutions to inform students of their right to request the information contained in the report. In order to provide flexibility to institutions and make it easier for them to meet this requirement, the Secretary will not regulate the specifics of notification.

The Secretary agrees that an appropriate way to meet this requirement would be to publish a notice at least once a year in a widely-distributed institutional publication. The Secretary also agrees that publishing a notice in an institution's catalogue, registration materials, or relevant intercollegiate athletic department publications distributed to all students, distributing a separate notice to all students, or distributing the report directly to all students would each be an appropriate step toward meeting this requirement.

Changes: None.

Comments: Several commenters supported allowing institutions to charge the general public a reasonable fee for copies of the report as a means of reducing costs to the institution.

Discussion: The Secretary emphasizes that charging such a fee to students, potential students, parents, or coaches would violate the intent of the statute. However, upon reviewing the comments and the statute, the Secretary agrees that the statute does not prohibit institutions from charging the general public (persons other than those listed above) a fee to cover copying expenses only.

Changes: None.

Comments: Several commenters supported October 1 as a reasonable reporting date beyond 1996, for which the statute requires reporting by October 1. Several other commenters opposed an October 1 reporting date, arguing that it would be burdensome or impossible for their institutions to meet this timetable, especially if actual figures rather than budget figures must be reported, since these institutions' fiscal years end near October 1. One of these commenters suggested November 1 as an alternate reporting date beginning in 1997.

Discussion: The Secretary believes it is vital to fulfilling the intent of the statute that all prospective student athletes have this information available before they commit themselves to attending an institution as a student athlete. The Secretary also, however, appreciates the concerns of those commenters who believe that the October 1 disclosure date would be difficult to meet if an institution's fiscal year ends shortly before October 1. The Secretary believes it is possible to balance those concerns by designating October 15 as the disclosure date, beginning in 1997. The Secretary believes that allowing institutions two additional weeks provides needed flexibility. The Secretary also believes that the October 15 date will allow students adequate time to request this information before the start of the NCAA early signing period in the first week of November. Because the purpose of the legislation is to provide student consumers with timely information, the Secretary does not believe it justifiable to push the disclosure date past October 15, due to the early NCAA signing period.

The Secretary notes that the October 1, 1996 reporting date is set by the statute, and cannot be changed by the Department.

The Secretary reiterates that information derived from an institution's budget would not necessarily provide the data on actual expenditures the statute requires. All reported data must be based on the institution's actual expenditures.

Changes: Section 668.41(e)(2) has been amended to establish October 15 as the annual disclosure date beginning October 15, 1997.

Section 668.48 Report on Athletic Program Participation Rates and Financial Support Data

Comments: Several commenters questioned the scope of the regulations. They argued that small institutions, and institutions that do not award athletic scholarships, or do not derive revenue from athletic programs, should not be required to report under these provisions. These commenters in general maintained that applying the same reporting requirements to these institutions as to large institutions would be unfair and burdensome, given that large institutions have more extensive resources at their command and that making information about these institutions' athletic programs is purportedly the main reason for the statute.

One commenter stated that his institution did not give athletically-related student aid, and inquired whether these provisions applied to such institutions.

Discussion: The statute requires that all co-educational institutions of higher education that participate in any title IV, HEA program and have an intercollegiate athletic program prepare this report. It does not provide for any exemptions to this reporting requirement.

Changes: None.

Comments: Many commenters favored the development of a common format for the report to save staff time and to foster the provision of comparable data to students, but differed as to whether the format should be optional or mandatory.

Several commenters favored an optional common format, arguing that a school is the best judge of how to present its information, and that if a school differed from the norm, using a mandatory form would only increase cost and burden. Some of these commenters favored the development by the Department, institutions, or athletic associations and conferences of several different optional formats geared toward specific types of schools (e.g., NCAA Division I or Division II, junior colleges). One of these commenters also favored designating schools based on different types of sports sponsorship, and according to whether schools award athletically-related student aid.

Several commenters favored a single, mandatory format. One of these commenters argued that such a format would save schools time and resources. Other commenters supporting such a format urged its adoption on the grounds that only a single format would ensure the reporting of comparable data and total compliance with the provisions of Title IX of the Education Amendments of 1972 (Title IX).

Several commenters reported that some institutions and associations are now developing standard formats.

Several commenters reported that trials had shown that a report generated using a standard format would require four to six hours to complete and thus did not represent an unreasonable burden. Another commenter stated it was impossible to determine how long on average it would take to complete a report, since each report will differ with institutions' circumstances.

Discussion: In the interest of providing flexibility, the Secretary has decided not to create a mandatory format at this time, but is making available an acceptable optional form that is included with these final regulations. Leaving the form's use optional will allow schools the freedom to design their own format if they prefer. Given that the regulations and statute require all institutions to provide the same information regardless of the format used, the Secretary believes that students and others will be reasonably able to compare data from various institutions even if different reporting formats are used. However, if in the future student consumers or others apprise the Secretary that optional formats are not in practice yielding reasonably comparable information, the Department will consider proposing a standard format or other improvements.

The Secretary does not believe that more than one optional form is necessary. If a reporting item does not apply to a school—for example, athletically-related student aid in the case of an institution that does not award athletic scholarships—the institution may simply note that the item is not applicable, or report zero expenditures.

In order to address other possible concerns, the Secretary has included in the appended optional form a section schools may use to provide further information, or explanations and the context for the data they supply. The Secretary also encourages schools to use this section of the report to provide other information that may assist prospective student-athletes in choosing a school.

Changes: None.

Comments: There was much divergence of opinion among commenters on whether an institution's provision of athletic participation, aid, and revenue data to an entity such as an athletic conference or athletic association satisfies the requirements of this statute. Several commenters strongly endorsed waivers that would allow such a substitution. These commenters argued that waivers would substantially reduce burden on schools while fulfilling the intent of the statute.

Several commenters strongly opposed permitting this substitution. Some opposed the proposed substitution on the grounds that (a) provisions for waivers are not included in the statute, as they are in the Student Right-to-Know Act, and therefore Congress did not intend for waivers to be issued; (b) the methodology of the conference and association reporting requirements does not generate the same data required by the statute; and (c) giving control over the collection of such data to these conferences and associations will result in less access to the data, less public input into collection methodologies and formats, less due process with regard to errors, and less access for research by the higher education community.

Discussion: Upon further review, the Secretary agrees that the statute does not allow waivers from the statutory reporting requirements due to the provision of data to an outside entity. The Secretary will not consider a disclosure to an athletic conference or association as satisfying the requirements contained in this statute. If a disclosure to an athletic conference or association contains data the institution must also report under this statute, it is certainly permissible for the institution to use that disclosure as the source of data for the report required by this statute. If that conference or association disclosure does not contain all of the required data, the institution must still obtain and report the necessary additional information.

The Secretary believes that the amount of information provided the Department during the rulemaking process with regard to the reporting provisions and the optional form has resulted in regulations and an optional reporting format that provide guidance sufficient for institutions and athletic associations to ascertain clearly the requirements set forth in these regulations. The optional form the Secretary provides is adapted from a model form submitted by a commenter. The Secretary also believes that should they wish to do so, institutions and athletic conferences and associations will be able to work together to create other reporting formats that will satisfy the requirements of these regulations.

The Secretary notes here that the reporting requirements under this statute, and those found in section 487(a)(18) of the HEA and § 668.14(d)(1), are quite different. The data supplied in the respective reports are not necessarily comparable, particularly as the respective statutes define "operating expenses," "revenues," and "sports" differently. Therefore, the compilations required under section 487(a)(18) of the HEA cannot substitute for reports required by the EADA. The Secretary will consider asking Congress for a statutory change that will reconcile these different reporting requirements.

Changes: None.

Comments: Several commenters supported reporting data on an academic year basis. One commenter supported reporting by academic year as defined by the Student Assistance General Provisions regulations in 34 CFR Part 668. Several other commenters supported the reporting by academic year as opposed to a calendar year. Several more commenters supported defining an academic year for these purposes as a twelve-month period, for example, July 1 through June 30. These commenters argued that only such a definition would capture the relevant data that should be reported, including support given athletes during the summer months, the costs of summer sports camps, and year-round expenditures on coaches' salaries and facilities.

One commenter urged that a twelve-month definition of academic year not be used, since no intercollegiate athletic activities occur during the summer months.

One commenter believed there is no situation in which the academic year and fiscal year of an institution would be different, and suggested that an allocation approach be used if it did occur. Another commenter asserted that such a situation would make reporting by an academic year impossible because it would mean adding and subtracting totals from months that did not overlap in the respective definitions of a "year."

One commenter recommended that schools simply be required to report consistently on a fixed twelve-month time period. This commenter stated that forcing institutions to use a standard period would only cause difficulties without benefit, because schools do have a variety of fiscal year and academic year definitions. One commenter recommended that institutions allocate the monthly income statement in which the academic year ends proportionally in accordance with the number of academic days in that month which are included in the academic year.

Discussion: In order to prevent confusion regarding the different uses of "academic year," the Secretary for purposes of this discussion and this section of the regulations will use the term "reporting year" whenever the statute refers to an "academic year".

The Secretary disagrees that the definition of an "academic year" found in the Student Assistance General Provisions regulations is adequate for the purposes of this statute. The definition in § 668.2 of those regulations does not necessarily define a set period of calendar time, and is used primarily in determining the amount of aid a student may receive.

The Secretary agrees with the commenters who interpreted the statute to require a twelve-month reporting period, and disagrees with those who opposed such an interpretation. The Secretary notes that some programs do make expenditures on athletics during the summer months, and these must be reported to ensure the complete reporting of data the statute requires. Those schools that only make expenditures during nine months of the year and make no expenditures during the summer will not face increased burden, as they simply will have no additional expenses to report.

The Secretary agrees with the commenter who argued that, because institutions base their academic years on different periods of time, institutions should not be required to use a single, standard twelve-month period of time. The Secretary agrees that institutions should make an effort to ensure that they use a consistent time period from year to year. The Secretary also notes that whatever the time designated as the reporting year, the Secretary expects institutions to disclose on each annual report the exact time period covered by each report. The Secretary has supplied a space on the optional form for institutions to supply this information.

Thus, the Secretary interprets the statute to allow, for these purposes only, each institution to designate a period of calendar time as its reporting year, so long as the period of time so designated is twelve consecutive months in length. As noted above, the Secretary believes this specification of "year" as a twelve-month period is necessary to fulfill the statute's intent that institutions report all specified information regarding expenditures on athletics throughout the year.

The Secretary will deem it reasonable for an institution to designate its fiscal year as its reporting year for these purposes, so long as the fiscal year is twelve months in length.

Changes: A new section 668.48(b), *Definitions*, has been added; a new § 668.48(b)(4) is added to clarify the relevant definition of a reporting year for purposes of this section only.

Comments: Several commenters supported using the definition of an undergraduate student contained in the Student Assistance General Provisions regulations. One commenter urged that either a Departmental definition or the NCAA definition be adopted. One commenter urged the adoption of the definition of an undergraduate as "a student who has not received a degree from that or any other institution." One commenter supported defining an undergraduate student as someone enrolled in a baccalaureate degree-seeking program as defined by the regulations of the certifying institution. This commenter argued that such a definition is superior to that found in the program regulations, in that it defers to the institution, and is flexible, specific and clear. One commenter argued that the term is already defined in the education community and hence no clarification is needed.

One commenter questioned the need to collect enrollment information for numbers of male and female undergraduate students for the entire academic year, and instead urged the use of the Integrated Postsecondary Education Data Systems (IPEDS) Fall Enrollment Survey to collect this information.

Discussion: Upon further review, the Secretary agrees, for the purposes of these provisions only, that the term "undergraduate student" is sufficiently well-understood in the higher-education community. The Secretary will allow each institution to use its customary definition of an undergraduate student as the basis for reporting the data required by the statute. The Secretary believes that allowing each institution to report numbers of undergraduate students on the basis of its customary definition will satisfy these reporting requirements, and that for the Department to provide a special definition that might oblige an institution to recount students on the basis of a definition different from the one it ordinarily employs would be needlessly burdensome. The Secretary does, however, expect institutions to provide a definition of undergraduate student if that definition is not found elsewhere in the institution's catalog or other similar publications.

The Secretary also stresses that for all other regulations governing title IV, HEA programs, the relevant definition of undergraduate student continues to apply according to its terms.

Changes: A new section 668.48(b)(5)is added that clarifies the definition of undergraduate student for purposes of this section only.

Comments: One commenter agreed that the term "intercollegiate athletic program" should include only varsity teams, not intramural teams.

Discussion: The Secretary appreciates the commenter's support for this interpretation.

Changes: None.

Comments: One commenter suggested that the defining element in designating a team as a varsity team be that it is funded through the university's department of athletics. This commenter argued that general institutional support does not necessarily indicate varsity status. One commenter argued that the level of financial support not be a factor in determining varsity status; rather, membership in an athletic association should be the determining factor. One commenter argued that both the type and level of financial support be taken into account. This would help prevent institutions from calling a club team an "unfunded varsity team." One commenter believed that a varsity team be designated by its participation in a sport that has an NCAA championship or is an NCAA emerging sport, or by a set number of intercollegiate contests each season, either set absolutely, or preferably by the institution's sports governance group, or some combination of these factors.

Discussion: Upon further review, the Secretary disagrees with the commenters who urged that a varsity team be defined by its receipt of funds through an athletic department, or by the type and level of funding it receives. The Secretary believes these definitions are too narrow in scope for the purposes of the statute. Such definitions would not include acknowledged varsity teams that receive funds from an institution that does not have an athletics department, acknowledged varsity teams that are funded from non-institutional sources, or unfunded teams that play a predominantly

intercollegiate schedule against other varsity teams.

The Secretary agrees that a team's membership in an athletic conference, or its participation in a schedule made up primarily of intercollegiate contests against varsity teams, is a mark of varsity status. However, the Secretary believes that, because it would exclude independent programs, defining varsity status by membership in an athletic conference alone is too limited a definition. The Secretary also believes it would not be productive to set a specific number of annual intercollegiate contests as a defining criterion.

The Secretary therefore defines the term "varsity team" as used in the statute to mean a team that is either: (a) designated or defined by its institution or an athletic association as a varsity team, or (b) a team that primarily competes against other teams that are designated or defined as varsity teams.

The Secretary notes that this interpretation is not meant to include as "varsity teams" those club teams that annually play a small number of games, or compete in a small number of matches or meets, against varsity teams.

Changes: A new § 668.48(b)(6) is added that clarifies the definition of varsity team.

Comments: One commenter supported counting all varsity participants on a varsity team as participants. One commenter urged that two totals of varsity participants be listed, one including, and one excluding, "redshirted" athletes (those athletes who do not play in varsity games in order to preserve their eligibility for a future season). The commenter based this recommendation on the finding in the statute that there is concern about athletic opportunities among different groups of athletes, including redshirts.

Many commenters argued that all players who receive athletically-related aid should be counted as participants. Some of these commenters argued that this included everyone who practices with a varsity team and receives coaching, and thus includes redshirts. Some of the commenters who supported this definition construed it to cover only varsity and junior varsity players. Others argued that such a definition included members of freshmen and junior varsity teams as well as redshirts. One of these commenters thought such a definition should include all student-athletes, whether or not they are eligible or competing at the time. Another of these commenters supported this definition and the inclusion of redshirts as participants on the grounds that it coincides with provisions in Title IX regulations.

One commenter believed that the term "varsity participant" should include everyone who participates as of the first day of practice. One commenter supported the inclusion of redshirts, but not the inclusion of athletes on medical waivers, as this is consistent with NCAA procedures. One commenter supported the inclusion of athletes who are injured and unable to compete, as this is consistent with NCAA procedures.

One commenter cautioned that counting varsity participants would include counting more than undergraduates, since previous redshirts might be participating and on scholarship as graduate students under their remaining eligibility. This commenter suggested that Congressional intent be the determining factor in deciding whether to count these students as participants.

Discussion: From the breadth and variety of comments received in this area, the Secretary is concerned that institutions may take an unnecessarily and improperly restrictive view of who is a participant in order to avoid full disclosure. The Secretary recognizes that the term "participants" may be open to varied interpretations, and therefore emphasizes that the statute requires institutions to include in the category of participants all members listed on the roster of varsity teams. Institutions may not, for example, apply this term only to those athletes who actually take part in any one contest.

The Secretary agrees that students who receive athletically-related aid should be counted as varsity participants, because they receive financial benefits by reason of their association as athletes with an intercollegiate athletic program. The Secretary, however, does not agree that this should be the sole criterion for designation as a participant, since this would exclude team members not on scholarship ("walk-ons") and all team members in institutions that do not give athletically-related student aid. The Secretary also agrees that an athlete who practices with the varsity team and receives coaching from varsity coaches as of the day of the first scheduled contest of the designated reporting year should be counted as a participant.

The Secretary agrees that it is reasonable to include redshirts in the count of participants, because these student-athletes may receive athletically-related financial aid, or the benefits of varsity team coaching, or both. Junior varsity team and freshman team players must be included if they are part of the overall varsity program. The Secretary also believes this count must include student-athletes who are injured and still receive scholarship assistance (since they are receiving a substantial financial benefit) as well as fifth-year team members who have already received a bachelor's degree (because they may receive athletically-related financial aid or the benefits of coaching).

Therefore the Secretary interprets the statute as requiring an institution to count all varsity team members as participants, and believes that a reasonable count of participants would also cover all students who receive athletically-related student aid, in addition to students who practice with the varsity team and receive coaching as of the day of the first scheduled intercollegiate contest of the designated reporting year.

Changes: A supplementary note providing a discussion of the term participant has been added to the regulations.

Comments: Several commenters supported the definition of operating expenses as stated, and thought no further regulatory guidance was necessary. One commenter argued for a comprehensive categorization, which would include, for example, travel expenses for coaches' spouses, medical trainers and alumni and alumnae. This commenter also urged that the source of funds used for expenses should have no bearing on the reporting of team-related expenses. One commenter maintained that no one definition should be codified, as there are thousands of different accounting procedures in use by institutions. One commenter urged that a three-year averaging method be used, in order to take into account year-to-year variations in expenditures on such items as uniforms and travel. One commenter recommended that appearance guarantees paid to visiting teams and expenses related to post-season contests not be included. One commenter strongly urged that institutions be required to report expenses for home as well as away contests. One commenter recommended that costs of videotaping and videotape personnel be included, as well as capital expenses exceeding one year. One commenter believed that reporting expenses by team would be misleading, since the required sizes of the teams and the nature of the sports would differ and greatly affect expenses.

Discussion: While understanding the concerns of those commenters who argued for a more comprehensive categorization of operating expenses, the Secretary notes that the statute includes

a specific definition of the categories of expenses that must be reported. However, the Secretary does wish to emphasize several points with regard to that definition. All items within the categories listed in the statute—lodging, meals, transportation, officials, uniforms, and equipment—must be included in the report. Expenses in these categories related to both home and away contests must be included in the report. Any travel expenses related to intercollegiate athletics paid for by the institution must be included in the report.

Because the statute explicitly defines the kinds of expenses to be captured in this section of the report as operating expenses, the Secretary disagrees with the commenters who maintain that these items must include capital expenses. The inclusion of such items as videotape equipment will depend on whether those items are accounted for by the institution as operating expenses or capital expenses. The Secretary agrees that for reasons of comparability between men's and women's teams and among institutions, items not specifically enumerated in the statute, such as appearance fees or guarantees paid to visiting teams, should not be included in the report.

The Secretary agrees that the original source of the funds used to pay operating expenses (for example, fund-raising organizations) should not exempt the institution from reporting those expenses. If the funds are expended by the institution for one of the purposes listed in the statute, the expenses must be reported.

The Secretary disagrees with the commenter who urged that institutions be allowed or required to report expenses averaged over several years, and also disagrees with the commenter who maintained that institutions be allowed not to report post-season expenses. The statute requires an institution to report for each reporting year, and separately for each team, its expenditures on all specified operating expenses. If an institution wishes to provide further information on these matters, such as multi-year data, or explanations of significant year-to-year variations in expenses, it may do so (e.g., in a "further information" section of its form or report).

In this regard the Secretary wishes to point out that while an institution is required to list all teams meeting the definition found in § 668.48(b)(6) as varsity teams regardless of the institution's level of funding for them, the Secretary interprets the statute to require institutions to report only institutional expenditures. An institution shall report expenses for unfunded or non-institutionally-funded varsity teams as zero. For teams an institution only partially funds, the institution shall report as zero those expenses it does not fund.

The Secretary also notes that the statute and these regulations allow institutions to report operating expenses on a per capita basis for each team, and to report combined expenditures attributable to closely-related teams, such as track and field, or swimming and diving.

Changes: None.

Comments: Several commenters supported requiring the proration of expenses for co-educational teams based on the proportion of males to females on such teams. Several commenters supported only prorating "in a reasonable manner," arguing that prorating on the basis of male-female ratios would involve, for example, calculations for each trip taken, and thus would constitute an unwarranted burden on institutions. One of these commenters also believed that these calculations would provide a false precision, as different accounting practices would lead to large discrepancies. Several commenters recommended that expenses for co-educational teams instead be listed as a separate category in order to reduce burdensome calculations.

Discussion: In the interest of reducing burden, and because the EADA does not specifically address the reporting requirements for co-educational teams, the Secretary will allow, but not require, institutions to report the expenses of co-educational teams in a separate category without proration.

However, the Secretary emphasizes that these expenses, in whatever form they are categorized, are to be reported in an unduplicated manner. An institution that prorates co-educational team expenses between men's and women's teams would not report those same expenses under a co-educational team category. Similarly, an institution that lists co-educational team expenses in a co-educational team category would not add a prorated portion of those same expenses to the figures they report for men's and women's teams.

Changes: None.

Comments: One commenter urged that a consistent definition of "full-time" coach be promulgated in the interest of consistent reporting. Because few coaches coach twelve months a year, this commenter recommended that the Department define a "full-time" coach as someone employed full-time nine months a year, with eighty percent of his or her job responsibilities being related to coaching the particular sport. One commenter recommended that volunteer coaches not be counted, as there is no cost factor involved. One commenter questioned the efficacy of counting assistants and interns, as the required number will vary from sport to sport. This commenter also questioned the relevance of this requirement to the intent of the statute.

Discussion: The Secretary does not agree with the commenter who urged that a definition of "full-time" be set by the Department. The Secretary allows institutions to make their own determination of "full-time" and "part-time", so long as those designations are credible and reasonable. In the interest of accurate and clear reporting the Secretary expects institutions to explain what they mean by those terms, and also expects them to employ the terms consistently. The optional form provides a space for institutions to supply this information.

The Secretary disagrees with the commenters who argued that volunteers, assistants and interns not be counted. While it is true that there is no cost factor associated with volunteers, the statute aims to disclose not only monetary resources expended on student-athletes, but also time and attention spent in instructing student-athletes. Similarly, while the number of assistants and interns needed will depend on the nature of the sport, the statute requires that the number of those coaches be disclosed.

Changes: None.

Comments: One commenter recommended that the definition of athletically-related student aid be defined as "all unearned, nonrepayable financial aid awarded and administered by the institution's department of athletics (or upon recommendation of the department of athletics) and based on athletic ability (e.g., athletic scholarship). Such aid would include any tuition waiver or room waiver (state or institutional waivers) administered at the institution's discretion based on the student-athlete's athletic ability." This commenter argued that such a definition is superior to that found in the HEA, as it is clearer and broader. Several commenters urged that if the aid is made through the athletics department, it should be counted. One commenter argued that all grants to current or former athletes be counted. One commenter agreed that such aid should be defined as it has been in other regulations.

Discussion: The Secretary, while recognizing the merit of the definitions offered by the commenters, concludes that they are neither clearer nor more comprehensive than that already provided in section 485(e)(8) of the HEA. Therefore, in the interest of consistency, the Secretary will retain that definition for these purposes.

Changes: A new § 668.48(b)(1) is added to clarify the definition of athletically-related student aid incorporating the language of section 485(e)(8) of the HEA.

Comments: One commenter agreed that the statute requires that separate reports of athletically-related student aid be made for male and female teams overall.

Discussion: The Secretary appreciates the commenter's support for this interpretation of the statute.

Changes: None.

Comments: Several commenters supported the inclusion of scholarships for students on medical waivers in the report of athletically-related student aid. Several supported the inclusion of these scholarships if they are still awarded through the athletics department. One commenter opposed the inclusion of these scholarships, on the grounds that the character of the aid changes once the student ceases to be a participant on a team.

Discussion: The Secretary agrees with those commenters who interpret the statute to include these scholarships as part of athletically-related student aid. The Secretary believes these scholarships continue to retain the character of "athletically-related" assistance.

Changes: None.

Comments: Several commenters strongly urged that a definition of recruiting expenses be promulgated, arguing that a standard definition is essential to ensuring comparability and to revealing the true commitment of an institution to gender equity. Some of these commenters maintained that such a definition should include a wide scope of expenses, including expenses for literature and videotapes, telephone and travel, campus visitations, and other expenses related to the purpose of persuading a recruit to attend the institution. One of these commenters also argued that the number of letters of intent offered and the terms of these letters be disclosed. One commenter recommended that the value of "trade-outs" (goods and services provided by businesses in exchange for advertising or other services provided by the institution) used for recruiting purposes be reported, since often a disproportionate number of these go to men's teams, which artificially lowers their overall official expenses. One commenter believed that a definition of recruiting expenses, possibly based on NCAA-allowed recruiting practices, would be useful.

Several institutions stated that their recruiting expenses were negligible, and that these reporting requirements would be unduly burdensome. They argued that in some cases the cost of reporting expenditures on recruiting would exceed those expenditures. One of these commenters urged that these requirements be limited to the larger programs. One commenter disclosed that his institution does not track recruiting expenditures, those expenditures being incurred for the most part in the form of telephone calls and letters. One commenter stated that such expenditures will depend on the sport, and thus are not comparable across sports. This commenter also questioned the relevance of this requirement to the intent of the statute.

Discussion: The statute requires institutions to report all expenses they incur for recruiting. The Secretary defines these expenses to include, but does not limit them to, the following items: expenditures for transportation, lodging, and meals for both recruits and institutional personnel engaged in recruiting; all expenditures for on-site visits; and all other related expenses, such as those incurred for printing recruiting materials, creating recruiting videos, and mass mailings. The Secretary believes that these and all other expenses logically related to recruiting activities must be reported. In the interest of clear and accurate reporting, the Secretary expects institutions to provide an explanation of how they derived the data on recruiting expenses they report and to disclose the list of expenses on which they base the figures they report as recruiting expenses. The optional form provides a space for institutions to provide this information.

The Secretary agrees that, to balance burden appropriately with the statutory requirement to collect data, institutions need not, for example, trace every telephone call or every postage stamp. The Secretary will allow schools to make a reasonable estimate of actual expenses for such items as telephone usage and postage if those expenses cannot readily be separated from telephone and postage charges incurred for other purposes.

The Secretary also believes that an accurate accounting of recruiting expenses would include an estimate of the value of trade-outs used in the respective recruiting of male and female athletes.

Changes: A new section 668.48(b)(4) has been added to clarify the definition of recruiting expenses for purposes of this section only.

Comments: Several commenters recommended the Secretary use the definition of "total annual revenues" in § 668.14 of the Student Assistance General Provisions regulations. One commenter recommended that fund-raising dollars be included in the determination of male and female athletic revenues.

Discussion: The Secretary agrees with the commenters that institutions must use the definition of total revenues found in § 668.14(e)(1)–(2), and interprets this definition to include revenues derived from fund-raising activities.

Changes: None.

Comments: One commenter urged that all types of compensation, including bonuses and benefits, be included in the calculation of a coach's salary. Several commenters supported the use of W–2 forms for purposes of salary calculation. One of these commenters noted that this method would capture all benefits without the necessity of doing additional calculations. One commenter urged that years of experience be listed along with salaries, because this is (or should be) an important component in the awarding of salary. This commenter also questioned the relevance of this requirement to the intent of the statute.

One commenter urged that income derived from shoe and television contracts be included in the calculation of a coach's salary. This commenter noted that this is important because these contracts are a factor in the large discrepancies existing between male and female coaches' salaries at NCAA Division I and II institutions. One commenter recommended that shoe and television contracts not be included in salary calculations, since these are revenue sources that are not derived from the institution or institutional property, but that revenue from summer sports camps held at the institution be included.

One commenter recommended that NCAA categories be used in the calculation of salaries, and that these should include funds provided by booster organizations.

Discussion: In requiring the disclosure of "institutional salary," the Secretary interprets the statute as obligating institutions to report all wages and bonuses the institution pays a coach as compensation attributable to coaching. To meet these reporting requirements, an institution may base its report on a coach's W–2 form, so long as that document contains information conforming to the Secretary's

interpretation of the statute. However, the Secretary notes that these forms may contain information that is not required by the statute.

Whether an institution must report as part of institutional salary such payments as those associated with sports camps, television shows, and shoe contracts will depend on the role the institution plays in the provision of those payments. Such payments must be disclosed if they form part of the coach's institutional compensation for coaching.

The Secretary agrees with the commenter who maintained that years of experience is useful information relevant to salaries, but notes that the statute does not require that this information be reported. Institutions may include this information separately on their form in a section for additional information.

Changes: A new section 668.48(b)(2) has been added that clarifies the definition of institutional salary for purposes of this section only.

Comments: Several commenters favored only listing the number of volunteer coaches, and not assigning their salaries as zero for averaging purposes. These commenters argued that to assign these salaries as zero would distort the salary averages for that particular sport. One of these commenters argued that such a practice would seem to understate funding for men's sports, since they traditionally have many volunteer coaches. One commenter supported reporting salaries of such coaches as zero, provided that the number of such coaches per sport is included in the report. Several commenters recommended that a salary of zero should be used for calculating average salaries, since this most accurately reflects the comparative expenditures for men's and women's teams.

Some commenters also expressed concern that, due to the small number of such teams, privacy issues might arise in reporting the salaries of coaches who coach co-educational teams.

Discussion: The Secretary recognizes that averaging in volunteer coaches with zero salaries may result in averages that are not readily comparable across men's and women's teams, depending on the number of volunteers utilized by those teams. Men's teams with large numbers of volunteers may appear to pay lower salaries than is actually the case. Since averaging in zero salaries will distort the average for salaries actually paid, the Secretary is changing the position taken in the NPRM. The Secretary believes that the average of actual salaries is more useful for comparison than an average diluted with zero salaries. Further, the EADA specifically directed that volunteers be included in the counts of head coaches and assistant coaches institutions must report, but did not direct that volunteers be included in the salary calculation. Thus, the Secretary interprets the statute to require that volunteer coaches be excluded from the calculation of average salaries.

As noted in the discussion of operating expenses, the Secretary interprets the statute to require that the salaries of coaches paid by entities other than the institution be excluded from this calculation as well. In the interest of clarity and ease of comparison, the Secretary expects institutions to report the number of salaried coaches that are included in the calculation of average salary, and has provided a place on the optional form where this information may be reported.

With respect to the privacy concerns expressed above that may arise in the case of small numbers of coaches coaching co-educational teams, the Secretary notes that institutions are not required to report separately average salaries for co-educational teams. Institutions may report the appropriate pro-rated portion of those salaries as part of the averages of institutional salaries of coaches of men's and women's teams.

Changes: None.

Comments: One commenter supported the Secretary's interpretation that the requirement to report coaches' salaries in the aggregate requires institutions to report a single average for all men's sports in the aggregate and a single average for all women's sports in the aggregate. One commenter recommended that these aggregate averages be broken down into categories of full-time and part-time coaches, so that accurate comparisons may be made between the men's and women's programs.

One commenter recommended that when a coach instructs both male and female teams, a proration be calculated based on the time spent with each team. One commenter argued that when closely-related male and female teams share coaches and practice time, a proration of expenses and salaries should be made. One commenter noted that her institution's male and female track and cross country teams work out together and have the same coach; consequently, the institution has a combined budget for these men's and women's teams that cannot be separated by gender. One commenter noted that all of her institution's coaches coach more than one sport, so that full-time coaches for two different sports would not represent two different people.

One commenter agreed with the Department that a faculty member who also coaches should have his or her salary reasonably attributed to both activities. One commenter maintained that it would be difficult to separate out the costs associated with a faculty member who also coaches. One commenter noted that all of her institution's coaches coach a sport as part of their teaching load, and that this differentiates this institution from many others, thus meriting special consideration.

Discussion: The Secretary does not interpret the statute as requiring institutions to break down these averages into full-time and part-time categories. If an institution wishes to explain differences in average salaries by referencing the number of part-time and full-time coaches it employs, it may provide that explanation in a section for additional information on its form.

The Secretary notes that there are two different instances where a coach instructs both male and female athletes, and these are covered by different requirements. For coaches who coach both a men's team and a women's team, the statute specifies that an institution must divide the salary of the coach by the number of teams coached, then allocate the salary among the teams on the basis of the coach's responsibilities for the different teams. For coaches who coach a co-educational team or teams, the institution may allocate the salary of the coach as above, or report the average salaries as part of a separate category. As noted above, the Secretary also expects institutions to provide an explanation of what they mean by the term "full-time," particularly when an institution employs a coach who acts as a "full-time" coach for more than one team.

The Secretary agrees with the commenter who maintained that for a faculty member who also coaches, the portion of his or her salary attributed to coaching activities should be included in the calculation of average salary. In cases where coaching is added to other teaching responsibilities for additional compensation, the additional amount should be readily available. If coaching is part of the regular workload of a faculty member and the institution does not differentiate the compensation paid for teaching from compensation paid for coaching, the institution must make a reasonable effort to attribute an appropriate portion of the salary for coaching.

Changes: None.

Executive Order 12866

These final regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the final regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering this program effectively and efficiently. Burdens specifically associated with information collection requirements were identified and explained elsewhere in this preamble under the heading *Paperwork Reduction Act of 1995.*

In assessing the potential costs and benefits—both quantitative and qualitative—of these regulations, the Secretary has determined that the benefits of the regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal government in the exercise of their governmental functions.

Summary of Potential Costs and Benefits

The potential costs and benefits of these final regulations are discussed elsewhere in this preamble under the following heading: *Analysis of Comments and Changes.*

Paperwork Reduction Act of 1995

Sections 668.41 and 668.48 contain information collection requirements.

Collection of information: Student Assistance General Provisions—

Section 668.41—Reporting and disclosure of information—Co-educational institutions that have intercollegiate athletic programs must make available the information described in section 668.48 to students, prospective students, and the public upon request.

Section 668.48—Report on athletic program participation rates and financial support data—Co-educational institutions that have intercollegiate athletic programs are required to gather information on program participation rates and financial support data for purposes of consumer information. The information to be collected includes: information on participation rates of male and female athletes; information on the number of men's and women's varsity teams; information on athletically-related student aid awarded male and female athletes; and various types of information regarding the financial support of men's and women's athletic teams, including revenues, operating expenses, recruiting expenses, the number of coaches, and coaches' salaries.

Institutions are to collect this information annually. An estimate of the total annual reporting and recordkeeping burden that will result from the collection of the information is 5.5 hours per response for 1,800 respondents, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total annual recordkeeping and reporting burden equals 9,900 hours.

The Department considers comments by the public on these proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have a practical use;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

The Department requests comments concerning the collection of information contained in these final regulations by January 29, 1996.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to Patrick Sherrill, U.S. Department of Education, 600 Independence Avenue, S.W., Room 5624, ROB–3, Washington, D.C. 20202.

Assessment of Educational Impact

In the Notice of Proposed Rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Federal Stafford Loan Program; 84.032 Federal PLUS Program; 84.032 Federal Supplemental Loans for Students Program; 84.032 Federal Consolidation Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Program; 84.063 Federal Pell Grant Program; 84.069 State Student Incentive Grant Program; 84.268 Direct Loan Program; and 84.272 National Early Intervention Scholarship and Partnership Program.)

Dated: November 22, 1995.

Richard W. Riley,

Secretary of Education.

The Secretary amends Part 668 of Title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for Part 668 is revised to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099c, and 1141, unless otherwise noted.

2. Section 668.41 is amended by revising the heading, reserving paragraphs (c) and (d), adding a new paragraph (e), and revising the authority citation to read as follows:

§ 668.41 Reporting and disclosure of information.

* * * * *

(e)(1)(i) An institution of higher education subject to § 668.48 shall make available to students, prospective students, and the public upon request the information contained in the report described in § 668.48(c). The institution shall make the information easily accessible to students, prospective students, and the public and shall provide the information promptly to anyone who requests the information.

(ii) The institution shall inform all students and prospective students of their right to request that information.

(2) Each institution shall make available its first report under § 668.48 not later than October 1, 1996, and make available each subsequent report no later than October 15 each year thereafter.

(Authority: 20 U.S.C. 1092(g)(3) and (5))

3. A new section 668.48 is added to subpart D to read as follows:

§ 668.48 Report on athletic program participation rates and financial support data.

(a) *Applicability.* This section applies to each co-educational institution of higher education that—

(1) Participates in any title IV, HEA program; and

(2) Has an intercollegiate athletic program.

(b) *Definitions.* The following definitions apply for purposes of this section only.

(1) *Athletically-related student aid* means any scholarship, grant, or other form of financial assistance, the terms of which require the recipient to participate in a program of intercollegiate athletics at an institution of higher education in order to be eligible to receive that assistance.

(2) *Institutional salary* means all wages and bonuses an institution pays a coach as compensation attributable to coaching.

(3) *Recruiting expenses* means all expenses institutions incur for recruiting activities, including but not limited to expenditures for transportation, lodging, and meals for both recruits and institutional personnel engaged in recruiting, all expenditures for on-site visits, and all other expenses related to recruiting.

(4) *Reporting year* means a consecutive twelve-month period of time designated by the institution for the purposes of this section.

(5) *Undergraduate students* means students who are consistently designated as such by the institution.

(6) *Varsity team* means a team that—

(i) Is designated or defined by its institution or an athletic association as a varsity team; or

(ii) Primarily competes against other teams that are designated or defined as varsity teams.

(c) *Report.* An institution subject to this section shall annually, for the immediately preceding reporting year, prepare a report that contains the following information regarding intercollegiate athletics:

(1) The number of male and female full-time undergraduate students that attended the institution.

(2) A listing of the varsity teams that competed in intercollegiate athletic competition and for each team the following data:

(i) The total number of participants, by team, as of the day of the first scheduled contest of the reporting year for the team.

(ii) Total operating expenses attributable to those teams. For the purposes of this section, the term "operating expenses" means expenditures on lodging and meals, transportation, officials, uniforms and equipment. An institution—

(A) Also may report those expenses on a per capita basis for each team; and

(B) May report combined expenditures attributable to closely-related teams—such as track and field or swimming and diving. Those combinations must be reported separately for men's and women's teams.

(iii)(A) Whether the head coach was male or female and whether the head coach was assigned to that team on a full-time or part-time basis.

(B) The institution shall consider graduate assistants and volunteers who served as head coaches to be head coaches for the purposes of this report.

(iv)(A) The number of assistant coaches who were male and the number of assistant coaches who were female for each team and whether a particular coach was assigned to that team on a full-time or part-time basis.

(B) The institution shall consider graduate assistants and volunteers who served as assistant coaches to be assistant coaches for purposes of this report.

(3) The total amount of money spent on athletically-related student aid, including the value of waivers of educational expenses, aggregately for men's teams, and aggregately for women's teams.

(4) The ratio of-(i) Athletically-related student aid awarded male athletes; and

(ii) Athletically-related student aid awarded female athletes.

(5) The total amount of expenditures on recruiting aggregately for all men's teams, and aggregately for all women's teams.

(6) The total annual revenues generated across all men's teams, and the total annual revenues generated across all women's teams. An institution may also report those revenues by individual team.

(7)(i) The average annual institutional salary of the head coaches of all men's teams, across all offered sports, and the average annual institutional salary of the head coaches of all women's teams, across all offered sports.

(ii) If a head coach had responsibilities for more than one team and the institution does not allocate that coach's salary by team, the institution shall divide the salary by the number of teams for which the coach had responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

(8) The average annual institutional salary of the assistant coaches of men's teams, across all offered sports, and the average annual institutional salary of the assistant coaches of women's teams, across all offered sports.

Note to paragraph (c): The Secretary interprets the statute to require an institution to count all varsity team members as participants, and not merely those athletes who take part in a scheduled contest. "Participants" include all students who practice with the varsity team and receive coaching as of the day of the first scheduled intercollegiate contest of the designated reporting year, including junior varsity team and freshman team players if they are part of the overall varsity program. The Secretary believes that a reasonable count of participants would also cover all students who receive athletically-related student aid, including redshirts, injured student athletes, and fifth-year team members who have already received a bachelor's degree.

(Authority: 20 U.S.C. 1092(g)(1), (2) and (4))

Appendix

Note: The following appendix will not appear in the Code of Federal Regulations.

BILLING CODE 4000-01-P

Equity in Athletics Disclosure Act--Optional Form (DRAFT)

All co-educational institutions of higher education that participate in any federal student financial aid program (Federal Pell, Federal SEOG, and Federal SSIG Grants; Federal Work Study; and Federal Family Education, Federal Perkins, and William D. Ford Federal Direct Loans) and have intercollegiate athletic programs must provide information concerning their intercollegiate athletic programs under the Equity in Athletics Disclosure Act of 1994, Section 360B of Pub. L.103-382. This Act and accompanying federal regulations require that the following information, based on the previous reporting year, be available for inspection by students, prospective students, and the public by October 1, 1996, and by October 15 each year thereafter. An institution may use this or any format to disclose this information.

I. General Information

A. Institution:_____

Information is for the reporting year beginning _____ and ending_____

B. *Optional*

Name of person completing form:_____

Signature:_____

Title:_____

Phone:_____

Date completed:_____

Current Organizational Classification:

NCAA Division_____ NAIA Division_____ Other_____

C. Enrollment: Indicate the number of undergraduates by gender:

	#	%
Male undergraduates	_____	_____
Female undergraduates	_____	_____
Total undergraduates	_____	100%

II. Intercollegiate Athletics-- Varsity Teams

A. Athletic Participation: Indicate the number of participants by gender for each varsity team. A participant is a student athlete who either a) is listed as a team member, b) practices with the team and receives coaching as of the day of the first scheduled intercollegiate contest, or c) receives athletically-related student aid. Mark coed teams, specify "other" teams, and use additional pages if necessary.

PROGRAM	MEN'S TEAMS	WOMEN'S TEAMS
BASKETBALL		
BASEBALL		
CROSS COUNTRY		
DIVING		
FENCING		
FIELD HOCKEY		
FOOTBALL		
GOLF		
GYMNASTICS		
ICE HOCKEY		
LACROSSE		
RIFLE		
ROWING		
SKIING		
SOCCER		
SOFTBALL		
SQUASH		
SWIMMING		
SYNCHRONIZED SWIMMING		
TRACK & FIELD		
TEAM HANDBALL		
TENNIS		
VOLLEYBALL		
WATERPOLO		
WRESTLING		
OTHERS (SPECIFY TEAMS)		
TOTAL PARTICIPANTS		

B. Operating Expenses: For each team, please indicate total institutional expenditures for lodging, meals, transportation, officials, uniforms and equipment for both home and away games. You may report co- ed team expenses separately, or pro-rate them as part of men's and women's teams' expenses, but you may not report the same coed expenses both ways. Specify all "other" teams and use additional pages if necessary.

PROGRAMS	MEN'S TEAMS	WOMEN'S TEAMS	CO-ED TEAMS	TOTALS
BASKETBALL				
BASEBALL				
CROSS COUNTRY TRACK & FIELD				
FENCING				
FIELD HOCKEY				
FOOTBALL				
GOLF				
GYMNASTICS				
ICE HOCKEY				
LACROSSE				
RIFLE				
ROWING				
SKIING				
SOCCER				
SOFTBALL				
SQUASH				
SWIMMING & DIVING				
SYNCHRONIZED SWIMMING				
TEAM HANDBALL				
TENNIS				
VOLLEYBALL				
WATER POLO				
WRESTLING				
OTHERS (SPECIFY TEAMS)				
TOTAL EXPENSES	$ (%)	$ (%)	$ (%)	$ (100%)

C. Head Coaches: For each team, please indicate the gender of the head coach (including volunteers) and whether the head coach is assigned to the team on a full-time or part-time basis. Specify "other" teams, and use additional pages if necessary.

PROGRAMS	HEAD COACH MEN'S TEAMS				HEAD COACH WOMEN'S TEAMS				HEAD COACH CO-ED TEAMS			
	MALE		FEMALE		MALE		FEMALE		MALE		FEMALE	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
BASKETBALL												
BASEBALL												
CROSS COUNTRY												
DIVING												
FENCING												
FIELD HOCKEY												
FOOTBALL												
GOLF												
GYMNASTICS												
ICE HOCKEY												
LACROSSE												
RIFLE												
ROWING												
SKIING												
SOCCER												
SOFTBALL												
SQUASH												
SWIMMING												
SYNCHRONIZED SWIMMING												
TEAM HANDBALL												
TENNIS												
TRACK & FIELD												
VOLLEYBALL												
WATER POLO												
WRESTLING												
OTHERS												
TOTALS												

D. Assistant Coaches: For each team, please indicate the number of assistant coaches by gender (including volunteers) and whether they are assigned to the team on a full-time or part-time basis. Specify "other" teams and use additional pages if necessary.

PROGRAMS	ASS'T COACHES MEN'S TEAMS				ASS'T COACHES WOMEN'S TEAMS				ASS'T COACHES CO-ED TEAMS			
	MALE		FEMALE		MALE		FEMALE		MALE		FEMALE	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
BASKETBALL												
BASEBALL												
CROSS COUNTRY												
DIVING												
FENCING												
FIELD HOCKEY												
FOOTBALL												
GOLF												
GYMNASTICS												
ICE HOCKEY												
LACROSSE												
RIFLE												
ROWING												
SKIING												
SOCCER												
SOFTBALL												
SQUASH												
SWIMMING												
SYNCHRONIZED SWIMMING												
TEAM HANDBALL												
TENNIS												
TRACK & FIELD												
VOLLEYBALL												
WATER POLO												
WRESTLING												
OTHER (SPECIFY TEAMS)												
TOTALS												

Please provide definitions of full-time and part-time coaches:

III. Overall Athletics Program

A. **Recruiting Expenditures**: Please report the total institutional expenditures associated with recruiting for the men's and women's teams. Costs include, but are not limited to: transportation, lodging and meals for both recruits and institutional personnel engaged in recruiting; expenditures for on-site visits; and all other major expenses logically-related to recruiting. You may report expenditures for coeducational teams separately, or as a pro-rated portion of the expenditures reported for men's men's and women's teams. Do not list the same expenses under both men's or women's teams **and** coeducational teams.

Men's Teams	$_____	_____%
Women's Teams	$_____	_____%
Coeducational Teams	$_____	_____%
Total	$_____	100%

Please explain how these figures were derived:

B. **Revenue**: Please report the total revenue for the reporting year generated by all men's and women's teams. You may report revenues for coeducational teams separately, or as a pro rated portion of the revenues reported for men's and women's teams. Do not report the same revenues under both men's or women's teams **and** coeducational teams.

Men's Teams	$_____	_____%
Women's Teams	$_____	_____%
Coeducational Teams	$_____	_____%
Total	$_____	100%

C. **Athletically-Related Student Aid**: Please report the total amount of athletically-related student aid awarded men and women student athletes. Athletically-related student aid is aid awarded a student that requires the student to participate in an intercollegiate athletics program.

Athletically-related student aid awarded male athletes	$_____	___%
Athletically-related student aid awarded female athletes	$_____	___%
Total amount of athletically-related student aid	$_____	100%

D. **Head Coaches' Salaries**: Please report the average annual institutional salary of the head coaches of the men's and women's teams. Volunteer head coaches and head coaches whose salaries are paid by entities other than this institution are excluded from this calculation. You may report average salaries of head coaches of coeducational teams separately, or as a pro rated portion of the salaries of head coaches of men's and women's teams. Do not list the same salaries under both men's or women's teams **and** coeducational teams. Institutions are encouraged to report the number of coaches to clarify the number of salaries represented in the average.

Average salary of head coaches for men's teams	$_____
Number of head coaches included in this average:	_____
Average salary of head coaches for women's teams	$_____
Number of head coaches included in this average	_____
Average salary of head coaches for coeducational teams	$_____
Number of head coaches included in this average	_____

E. Assistant Coaches' Salaries: Please report the average annual institutional salary of the assistant coaches for the men's and women's teams. Volunteer assistant coaches and assistant coaches whose salaries are paid by entities other than this institution are excluded from this calculation. You may report the average salary of assistant coaches for coeducational teams separately, or as a pro rated portion of the salaries of assistant coaches of men's and women's teams. Do not report the same salaries under both men's or women's teams **and** under coeducational teams. Institutions are encouraged to report the number of coaches to clarify the number of salaries represented in the average.

Average salary of assistant coaches for men's teams $_____
Number of assistant coaches included in this average ____

Average salary of assistant coaches for women's teams $_____
Number of assistant coaches included in this average ____

Average salary of assistant coaches for coeducational teams $_____
Number of assistant coaches included in this average ____

IV. Optional Section

An institution is encouraged to provide here any further information it believes might be helpful to students, prospective students, or the public to interpret the information provided above, or that might help a prospective student-athlete make an informed choice of an athletic program. For example, an institution may include here a history of its athletic programs, or explanations of unusual or exceptional circumstances that would better explain the data or their significance.

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federal register

Wednesday,
November 29, 1995

Part VI

Department of Energy

Office of Energy Efficiency and Renewable Energy

Motor Challenge Showcase Demonstration Projects; Notice

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Motor Challenge Showcase Demonstration Projects

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice inviting participation.

SUMMARY: The U.S. Department of Energy (DOE) is interested in obtaining proposals from industrial electric motor system end users for projects that are intended to demonstrate and "showcase" electric motor system energy efficiency, productivity, and environmental improvement in specific industrial facilities and settings. Projects selected by DOE will become "Showcase Demonstrations" and are part of a larger, Federally-sponsored (DOE) program that is an industry-driven collaborative effort called MOTOR CHALLENGE. The experiences and successful results to be gained from the Showcase Demonstrations will be used to encourage other U.S. industrial companies with similar applications to adopt efficient electric motor systems, and therefore, to increase the market penetration of efficient electric motor systems on a widespread basis within the U.S. Currently twenty-one Showcases are underway, and DOE intends to build upon the initial set of Showcases by now focusing on process industries.

DATES: Proposals may be submitted between the receipt of this notice and March 31, 1996. Proposals shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline date or, (2) postmarked on or before the deadline date. Proposals which do not meet the deadline will be considered late applications and may not be considered. Acceptance will be done on a rolling basis. Within four weeks of submittal, submitters will be notified regarding acceptance, rejection, or a request for further information and/or clarification. It is envisioned that selected projects will have a duration of no more than 18 months, and therefore, projects are expected to be completed (the project's costs and benefits defined and validated) by September, 1997.

ADDRESSES: Showcase proposals should be submitted to: Mr. Andrew J. Szady, Oak Ridge National Laboratory, P.O. Box 2009, 9102–1, Oak Ridge, TN 37831–8038, 423–576–0243, Fax 423 576–0493. If there are any questions concerning Showcase proposals please call the above Motor Challenge Program contact. For additional information on the MOTOR CHALLENGE Partnership, or to obtain application forms for the Partnership, call the MOTOR CHALLENGE Hotline at 1–800–862–2086.

SUPPLEMENTARY INFORMATION: The MOTOR CHALLENGE program is designed to reduce greenhouse gas emissions through increased market penetration of efficient electric motor systems. It is expected that industrial participants will achieve increased electric motor system efficiency through the system integration of a variety of technology and application options including: energy efficient electric motors, adjustable speed drives, and motor-driven equipment (e.g., pumps, fans, and compressors) within industrial operations and processes. DOE is carrying out the MOTOR CHALLENGE program with industrial and manufacturing companies, municipalities, electric motor and drive manufacturers, original equipment manufacturers (OEMs), distributors, utilities, energy service companies, research institutes, other Federal agencies, state energy agencies, public interest groups, and other supporting organizations. DOE will be the Federal agency with the responsibility of selecting Showcase Demonstration projects, and will then develop an Agreement between the government and the respective selected companies.

Specific Aim of This Request

The MOTOR CHALLENGE program was launched on October 19, 1993 by the Federal government (DOE) and industry with the signing of the MOTOR CHALLENGE Compact (dated October 13, 1993). As stated within the MOTOR CHALLENGE Compact, DOE would issue an appropriate notice to solicit participants in the MOTOR CHALLENGE Showcase Demonstrations. On October 7, 1994 DOE issued a request for Showcase proposals, and on May 23, 1995 twenty-one Showcases were selected and announced. These Showcases are currently underway. This current request is for additional Showcase Demonstrations (approximately 10) primarily directed at the following industries:

(1) Paper and Allied Products
(2) Steel
(3) Chemical
(4) Glass
(5) Aluminum
(6) Refining
(7) Metal Casting
(8) Food Processing
(9) Textiles
(10) Federal Operating/Production Facilities

Additional industries will be considered if, in the judgment of DOE, the Showcase demonstrates energy and environmental savings consistent with the tenets of the Motor Challenge Program, and the industry is currently not represented in a Showcase.

As one condition of proposing to be a Showcase Demonstration, DOE requires that each company, organization, and/or agency of a proposing team, be a member of the MOTOR CHALLENGE Partnership by submitting an appropriately completed application. (The availability of application forms is discussed in the **ADDRESSES** section above).

Benefits of Industry Participation

Industry will receive many benefits by participating as a MOTOR CHALLENGE Showcase Demonstration project team. The principal benefit of participation is for an individual company to achieve energy efficiency, productivity, and environmental performance goals faster than otherwise. This will primarily be accomplished by the adoption of a "systems approach" in the way electric motor and drives are utilized within industrial operations and processes. Participation in the Showcase Demonstration projects provides leveraged access to technical assistance, and more reliable information. Participants will use the experiences of the Showcase Demonstrations to replicate opportunities within similar applications. In addition, participants will gain national recognition for taking a leadership role in a unique industry/government partnership. A secondary benefit of participation is to catalyze and to solidify strategic alliances among team members that otherwise would be more difficult to initiate and/or to maintain.

Specifically, the MOTOR CHALLENGE Showcase Demonstration project teams will be provided the following technical assistance and special access to DOE-funded activities:

(1) Input to Development of Technical Tools and Best Practices. DOE is supporting the development of design-decision tools, best practices, and guidelines on various electric motor system application topics (e.g., motors, adjustable speed drives, pumps, fans, compressors, etc.). The Showcase teams will have the opportunity to provide input to DOE to ensure that the tools, materials, and procedures developed, appropriately meet industry's design and decision-making needs and requirements.

(2) Performance Validation. DOE will pay for appropriate engineering consulting assistance to advise Showcase Demonstration teams on performance validation issues. Working jointly with individual teams, the consultants will assist and advise teams on the development and design of reliable experimental and performance measurement techniques so that the demonstration's costs and benefits can be validated. At the completion of each project an Independent Performance Validation report will be completed.

(3) Case Study Documentation and Dissemination. DOE will pay for the development and documentation of a comprehensive case history for each Showcase Demonstration, and will disseminate the case study results subject to team member's and independent performance validator's review and approval. Likewise, DOE will provide a compendium of Case Study Briefs.

(4) Access to Experts Group. Through the Oak Ridge National Lab, DOE has assembled an Experts Group of consultants on electric motor system optimization, specializing in high efficiency motors, variable speed drives, fans, blowers, and pumps. Reasonable access to the Experts Group will be provided to the teams to acquire technical assistance and advice.

(5) Participation in Showcase Demonstration Workshops. Team members will be invited to DOE-sponsored workshops where all Showcase Demonstration teams will be provided the opportunity to exchange valuable information and to discuss common implementation experiences with industry counterparts. These workshops will also serve to inform participants of the latest available technology. The first workshop for the Showcases currently underway was held on June 27 and 28, 1995.

Benefits to the Government

The knowledge and experiences of the Showcase Demonstrations will be used in future DOE efforts to assist industry in replicating and implementing efficient electric motor systems. DOE intends that the long-term result of highlighting the exemplary and cost-effective benefits of the Showcase Demonstrations is the accelerated and increased market penetration of efficient electric motor systems within U.S. industry. The deployment of efficient industrial electric motor systems will contribute significantly to greater energy efficiency, reduced primary/source energy consumption, deferred new power generation capacity, improved industrial productivity and competitiveness, and enhanced environmental protection for the United States.

Eligible Project Teams

Only industrial "end-users" are eligible to submit project proposals. "End-users" are defined as those companies who own and operate the facility where the demonstration will take place. In addition to end-user participation, a project team may involve other partners including, but not limited to, motor and drive manufacturers, original equipment manufacturers (OEMs), distributors, utilities, energy service companies, state energy offices, research institutions, etc. End-user proposers are encouraged to include such participation. Other non-end user entities are also encouraged to catalyze and support proposal submission by end-user project teams.

Industry Showcase Demonstration Project Team Obligations

Each proposing project team will themselves provide all the funding to support necessary design, equipment specification, purchase, and installation for the efficient electric motor systems to be demonstrated, along with all the measurement equipment and instrumentation to validate and substantiate all claims of performance and benefits achieved.

Teams will provide DOE with sufficient data to substantiate and document the energy and environmental performance of the project and the economic benefit/cost of the result. Additionally, teams will provide appropriate information to DOE to allow for DOE contractors to perform an independent performance validation report and to prepare a comprehensive case study document. For activities within the Showcase Demonstration, DOE will respect all proprietary interests to which selected demonstration hosts are entitled. These activities will be addressed in the previously referenced Agreement between DOE and the project team.

Showcase Demonstration Team's Intellectual Property Rights

The Agreements to be signed by DOE and each MOTOR CHALLENGE Showcase Demonstration project team does not envision a commitment by the Participants to perform research and development. DOE's intellectual property policies will not apply to Participant's inventions because the work performed by the Participants in developing the demonstration projects for the MOTOR CHALLENGE Showcase Demonstrations are not wholly or partially funded by DOE. Therefore, rights to intellectual property developed by Participants and demonstrated by the MOTOR CHALLENGE Showcase Demonstrations will not vest in the United States Government. Language to this effect will be incorporated into any resulting Agreement.

Proposal Submission Format

The proposals must include the following sections at a minimum:

Section 1—Project Abstract

A brief abstract of the project should include:

(a) Project title;
(b) Brief narrative describing the project (1 or 2 sentences);
(c) Proposing industrial end-user company;
(d) Management and technical point of contact of end-user company (name, title, address, phone, fax);
(e) Supporting team member companies, organizations, and points of contact (title, address, phone, fax);
(f) Facility name and location where the demonstration is proposed.

Section 2—Description of the Project

(This section should take no more than two pages) A description of the industrial application to include the kind of efficient electric motor system [drive, motor, and load] the proposed project is intended to address. Estimates of the energy, environmental, and economic costs and benefits that might reasonably be expected to result from an assumed successful demonstration [relative to the present or conventional system], should be presented. Also, extrapolated costs and benefits of the demonstrated system if it were it to be replicated in other similar applications, within the proposer's corporate facilities should be estimated.

A description of the technical approach of how and where the demonstration will be implemented within the facility should be explained. Also, a description of the technique and methodology to be employed to measure and evaluate the performance of the demonstration should be provided.

The overall project cost should be estimated along with the approximate cost-share breakdown by all parties providing resources to the project. A project schedule should be included which addresses the following items:

(a) Procurement
(b) Installation
(c) Start-up
(d) Data acquisition
(e) Final reporting

Section 3—Letter of Intent

Appropriate upper management within the industrial end-user company must provide a letter of intent to support the demonstration project. This letter will show evidence that the company upper management (e.g., Vice President, Engineering Director/ Manager, Plant Manager, etc.) is aware, endorses, and is supportive of the project at the proposed facility, and the company will provide the necessary resources to the project, if selected.

Section 4—MOTOR CHALLENGE Application Forms

Each participating proposing Showcase Demonstration team member company or organization must join the MOTOR CHALLENGE program by submitting an appropriately completed application. Applications can be obtained by calling the MOTOR CHALLENGE Hotline number 1–800–862–2086. This section should contain all completed application forms.

Availability of Federal Funds

Approximately $1.5 million in FY 1996 of Federal funds is expected to be available to support the activities, authorized pursuant to Section 2101 of the Energy Policy Act of 1992, 42 U.S.C 13451, in support of the Showcase Demonstrations. These Federal funds will be managed through the DOE Office of Industrial Technologies' Motor Challenge program. Subject to the availability of appropriated funds, up to 10 proposals may be selected as Showcase Demonstrations in accordance with the evaluation criteria stated below. All selected Showcase Demonstration projects will receive no Federal financial assistance, but will be provided technical assistance by DOE as stipulated above.

Technical Evaluation Criteria and Review Process

Proposals will be reviewed and technically evaluated by staff members of the Oak Ridge National Laboratory.

Proposal Technical Evaluation Criteria

All proposals submitted in response to this notice will be technically evaluated by two major categories as follows:

Category (1) Overall technical merit. The overall technical merit will consider such factors as the practicality and likelihood that the project will achieve success and the benefits claimed; and reliable and defensible performance measurement techniques will be employed to ascertain the project's costs and benefits.

Category (2) Economic significance if the project were to be successfully replicated within the company and throughout the United States. Factors to be evaluated that will influence the ability of the Showcase Demonstration to impact the market are: the estimated cost-effectiveness of the demonstration, the qualitative level of productivity gain and non-energy cost savings from the application, and the comparative significance of estimated energy cost savings if the demonstration were to be replicated more broadly at the facility and within the end-user's company.

Proposal Policy and Programmatic Factors and Applications of Greater Interest

DOE will use policy and programmatic factors to select the proposals of greatest interest. To attempt to ensure that a broadly representative group of proposals are selected, DOE will seek diversity in the Showcase Demonstrations selected by considering: geographical location, application type, industry type, and facility size (e.g., annual electricity costs) of the Showcase Demonstration.

DOE prefers proposals for projects that are no further along than the engineering design stage. However, if a project is further along, DOE will consider the project as a Showcase Demonstration candidate, if a reliable and defensible methodology of establishing a performance baseline of a conventional system is available. For example, if another conventional system is currently operating, and a performance baseline of the conventional system can be measured and reliably compared to the demonstration project, then this would be acceptable to DOE.

DOE has identified the following seven broad technical applications as those in which it is most interested in receiving Showcase Demonstration proposals:

(1) Applications where new efficient electric motor and drive designs are creatively and cost-effectively integrated within specific mechanical component systems (e.g., pumps, fans, compressors, etc.), or processes so as to yield improved energy efficiency, productivity improvement, and reduced life-cycle cost relative to typical conventional operating systems.

(2) Applications where an efficient electric motor and drive system replaces a less efficient heat-engine/mechanical drive system (e.g., steam turbine) to yield primary energy savings, productivity improvement, and environmental improvement both at the facility and on a global basis.

(3) New manufacturing production lines where state-of-the-art motor and drive system utilization results in energy efficiency and productivity improvement compared to similar conventional operations.

(4) Novel electric motor, drive, and mechanical system retrofits that are more optimally matched to yield overall improved system energy efficiency, reliability, and productivity improvement.

(5) Demonstration of exemplary electric motor and drive system management policies and maintenance practices that result in higher process reliability and gradual, but continual, overall energy efficiency improvement. Topical areas of interest could be motor repair and rewind techniques, electrical distribution improvement, and mechanical system maintenance and optimization.

(6) Demonstrations that identify and implement the solution to power quality problems, and by doing so, effectively increases total system efficiency and productivity. Specifically, projects addressing the impact of power quality on motor drives and other motor system components which quantify the true cost/benefits of power quality enhancement with respect to total motor system efficiency, reliability and productivity.

(7) Implementation and retrofit of efficient motor and drive systems on *industrial* heating, ventilating, and air conditioning (HVAC) equipment or motor-driven industrial process heating or cooling systems. These systems should be integrated creatively and cost-effectively within an entire, or a portion of, an industrial facility or process to yield improved energy efficiency, reduced life-cycle cost in an environmentally-acceptable manner. [HVAC for industrial or manufacturing facilities are only of interest, not HVAC for space conditioning of an office or commercial facility].

Projects could involve a single unit of equipment, a unit operation, a series of replicable equipment, an entire process, or an entire facility. In general, proposals are desired which could lead to demonstrably higher U.S. industrial productivity, energy efficiency, environmental enhancement, and improved competitiveness once the application is replicated on a widespread basis throughout the United States. This listing is meant to be illustrative, not exclusive.

Final Proposal Selection

The recommendations of the technical merit review will be provided by Oak Ridge National Laboratory to representatives of the Deputy Assistant Secretary for Industrial Technologies. Final selection will be made by the Deputy Assistant Secretary for Industrial Technologies.

Issued in Washington, DC on November 20, 1995.

Denise Swink,

Deputy Assistant Secretary, Office of Industrial Technologies.

[FR Doc. 95–29020 Filed 11–28–95; 8:45 am]

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Federal Register

Wednesday
November 29, 1995

Part VII

Office of Management and Budget

Cost of Hospital and Medical Care and Treatment Furnished by the United States; Certain Rates Regarding Recovery From Tortiously Liable Third Persons; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cost of Hospital and Medical Care and Treatment Furnished by the United States; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by Section 2(a) of P.L. 87–693 (76 Stat. 593; 42 U.S. C. 2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970 (35 FR 10737), the three sets of rates outlined below are hereby established. These rates are for use in connection with the recovery, from tortiously liable third persons, of the cost of hospital and medical care and treatment furnished by the United States (Part 43, Chapter I, Title 28, Code of Federal Regulations) through three separate Federal agencies. The rates have been established in accordance with the requirements of OMB Circular A–25, requiring reimbursement of the full cost of all services provided. The rates are established as follows:

(1) *Department of Defense.* The FY 1996 inpatient rates are based on the cost per Diagnostic Related Group (DRG), which is the inpatient full reimbursement rate per hospital discharge, weighted to reflect the intensity of the principal diagnosis involved. The average cost per Relative Weighted Product (RWP) for large urban, other urban/rural and overseas facilities will be published annually as an inpatient standardized amount.

The adjusted standardized amounts (ASA) per Relative Weighted Product (RWP) for use in the Direct Care System will be comparable to procedures utilized by Health Care Financing Administration (HCFA) and the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS). These expenses will include all direct care expenses. The average cost per relative weighted product for large urban, other urban/rural and overseas facilities will be published annually as an inpatient standardized amount and will include the cost of inpatient professional services. The DRG rates will apply to reimbursement from all sources. A relative weight for each DRG using the standardized amount will be the same as the DRG weights published annually for hospital reimbursement rates under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) pursuant to 32 CFR 199.14(a)(1) which includes adjustments for outliers, area wages, and indirect medical education.

(2) *Department of Health and Human Services.* The sum of obligations for each cost center providing medical service is broken down into amounts attributable to inpatient care on the basis of the proportion of staff devoted to each cost center. Total inpatient costs and outpatient costs thus determined are divided by the relevant workload statistic (inpatient day, outpatient visit) to produce the inpatient and outpatient rates. In calculation of the rates, the Department's unfunded retirement liability cost and capital and equipment depreciation cost were incorporated to conform to requirements set forth in OMB Circular A–25. In addition, each cost center's obligations include all costs for accounts, such as Medicare and Medicaid collections and Contract Health funds used to support direct program operation. Inclusion of these funds yields a more accurate indication of the cost of care in HHS facilities.

(3) *Department of Veterans Affairs.* The actual costs and per diem rates by type of care the previous year are added to the facility overhead costs and then adjusted by the budgeted percentage change for the current year and the budget year to compute the base rate for the budget year. The base rate is then adjusted by the estimated cost for depreciation of buildings and equipment, central office overhead, Government employee retirement and disability charges, and return on fixed assets (interest on capital for land, buildings and equipment (net book value)), to compute the budget year tortiously liable reimbursement rates. Also shown for inpatient per diem rates are breakdowns into three cost components: Physician; Ancillary; and Nursing, Room and Board. As with the total per diem rates, these breakdowns are calculated from actual data by type of care for the previous year.

These rates represent the reasonable cost of hospital, nursing home, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished by the United States in Federal hospitals, nursing homes, and outpatient clinics administered by the Department of Defense, the Department of Veterans Affairs and the Department of Health and Human Services.

For such care and treatment furnished at the expense of the United States in a facility not operated by the United States, the rates shall be the amounts expended for such care and treatment.

For the Department of Defense, effective October 1, 1995 and thereafter:

I. Inpatient Rates (Per Inpatient Day) [1]

		Full reimbursement rate
A. Burn Center		$3,794
B. Surgical Care Services (Cosmetic Surgery)		1,567
C. All Other Inpatient Services (Based on Diagnosis Related Groups (DRG) Charges)		
1. FY 1996 Direct Care Inpatient Reimbursement Rates (Adjusted Standard)		
		Full cost
Large Urban		$4,713
Other Urban/Rural		4,745
Overseas		6,038

2. Overview

The FY 1996 inpatient rates are based on the cost per DRG which is the inpatient full reimbursement rate per hospital discharge, weighed to reflect the intensity of the principal diagnosis involved. The average costs per Relative Weighted Product (RWP) for large urban, other urban/rural and overseas facilities will be published annually as an inpatient standardized amount. (See item 1 above). A "relative weighted product" for each DRG case to apply to the standardized amount will be determined from DRG weights published annually for hospital reimbursement rates under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) pursuant to 32 CFR 199.14(a)(1) with adjustments for outliers. Standardized amounts will be adjusted for area wage differences and indirect medical education. An example of how to apply DoD costs to a DRG standardized weight to arrive at DoD costs is contained in part 3 of Section I.C., below.

3. Example of Adjusted Standardized Amounts for Procedures Performed

Large Urban Area—Example

a. The cost to be recovered is DoD's cost for medical services provided in a large urban area. Billings will be at the third party rate.

b. DRG 020: Nervous System infection except viral meningitis. Relative Weighed Product for an inlier case is the CHAMPUS weight of 2,0327.

c. The DoD adjusted standardized amount to be recovered is $4,713 (i.e., the third party rate as shown in the table).

d. DoD cost to be recovered at a non-teaching hospital with area wage index of 1.0 is the RWP factor (2,0327) in item 3.b., above, times the amount ($4,713) in 3.c., above.

Cost to be recovered is $9,580.

II. Outpatient Rates [1]

Code	*Clinical services*	*Full reimbursement rate*
	A. Medical Care	
BAA	Internal Medicine.	$163
BAB	Allergy	56
BAC	Cardiology	116
BAE	Diabetes	70
BAF	Endocrinology	152
BAG	Gastroenterology.	190
BAH	Hematology	269
BAI	Hypertension	60
BAJ	Nephrology	230
BAK	Neurology	177
BAL	Nutrition	51
BAM	Oncology	157
BAN	Pulmonary Disease.	205
BAO	Rheumatology	147
BAP	Dermatology	100
BAQ	Infectious Disease.	139
BAR	Physical Medicine.	132
	B. Surgical Care	
BBA	General Surgery.	193
BBB	Cardiovascular/Thoracic Surgery.	183
BBC	Neurosurgery	228
BBD	Ophthalmology	131
BBE	Organ Transplant.	262
BBF	Otolaryngology	150
BBG	Plastic Surgery	170
BBH	Proctology	159
BBI	Urology	174
BBJ	Pediatric Surgery.	125
	C. Obstetrical and Gynecological (OB–GYN)	
BCA	Family Planning.	87
BCB	Gynecology	118
BCC	Obstetrics	113
	D. Pediatric Care	
BDA	Pediatric	88
BDB	Adolescent	86
BDC	Well Baby	64
	E. Orthopaedic Care	
BEA	Orthopaedic	163
BEB	Cast Clinic	69
BEC	Hand Surgery	69
BEE	Orthopaedic Appliance.	112
BEF	Podiatry	79
BEZ	Chiropractic Clinic.	49
	F. Psychiatric and/or Mental Health Care	
BFA	Psychiatry	165
BFB	Psychology	135
BFC	Child Guidance.	56
BFD	Mental Health	119
BFE	Social Work	129
BFF	Substance Abuse Rehabilitation.	98
	G. Primary Medical Care	
BGA	Family Practice.	105
BHA	Primary Care	102
BHB	Medical Examination.	93
BHC	Optometry	71
BHD	Audiology Clinic.	57
BHE	Speech Pathology.	88
BHF	Community Health.	80
BHG	Occupational Health.	84
BHI	Immediate Care Clinic.	139
	H. Emergency Medical Care	
BIA	Emergency Care Clinic 163.	
	I. Flight Medicine Clinic	
BJA	Flight Medicine.	151
	J. Underseas Medicine Care	
BKA	Underseas Medicine Clinic 65.	
	K. Rehabilitative Services	
BLA	Physical Therapy.	49
BLB	Occupational Therapy.	96
BLC	Neuromuscular Skeletal Screening.	37
	L. Same Day Surgery	767

III. Other Rates and Charges

	Full reimbursement rate
A. Immunizations	$18
B. Hyperbaric Services:	
1–60 minutes	233
61–120 minutes	452
121–180 minutes	671
181–240 minutes	889
Each Additional Hour (Note: Charges may be prorated based on usage)	233
C. Family Member Rate (Formerly Military Dependents Rate)	9.70

For the Department of Health and Human Services, Indian Health Service, effective October 1, 1995 and thereafter:

	HHS
Hospital Care Inpatient Day:	
General Medical Care	$2,018
Outpatient Medical Treatment:	
Outpatient Visit	195

For the Department of Veterans' Affairs effective October 1, 1995 and thereafter:

Hospital Care, rates per inpatient day	
General Medicine	$966
Physician	116
Ancillary	252
Nursing, Room and Board	598
Surgery	1,576
Physician	174
Ancillary	478
Nursing, Room and Board	924
General Psychiatry	458
Physician	43
Ancillary	72
Nursing, Room and Board	343
Intermediate Medicine	337
Physician	17
Ancillary	49
Nursing, Room and Board	271
Neurology	847
Physician	124
Ancillary	224
Nursing, Room and Board	499
Rehabilitation Medicine	712
Physician	81
Ancillary	218
Nursing, Room and Board	413
Blind Rehabilitation	859
Physician	69
Ancillary	427
Nursing, Room and Board	363
Spinal Cord Injury	855
Physician	106
Ancillary	215
Nursing, Room and Board	534
Substance Abuse (Alcohol and Drug Treatment)	295
Physician	28
Ancillary	68
Nursing, Room and Board	199
Nursing Home Care, rates per day	
Nursing Home Care	266
Physician	8
Ancillary	36
Nursing, Room and Board	222
Outpatient Medical and Dental Treatment	
Outpatient Visit	205
Emergency Dental Outpatient Visit	104
Prescription Filled	20

Notes

1. Pursuant to the provisions of 10 U.S.C. 109, the inpatient Diagnosis Related Groups are 96 percent hospital and 4 percent professional fee. The outpatient per visit percentages are 58 percent hospital, 29 percent ancillary and 13 percent professional.

2. The Medical Expense and Performance Reporting System (MEPRS) code is a three digit code which defines the summary account and the subaccount within a functional category in the DoD medical system. An example of this hierarchical arrangement is as follows:

Outpatient Care (Functional Category)	*MEPRS Code*
Medical Care (Summary Account)	BA
Internal Medicine (Subaccount)	BAA

MEPRS codes are used to ensure that consistent expense and operating performance data is reported in the DoD military medical system.

For the period beginning October 1, 1995, the rates prescribed herein superseded those established by the Director of the Office of

Management and Budget October 24, 1994 (59 FR 53492).

Alice M. Rivlin,

Director, Office of Management and Budget.

[FR Doc. 95–29043 Filed 11–28–95; 8:45 am]

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federal register

Wednesday
November 29, 1995

Part VIII

Securities and Exchange Commission

17 CFR Parts 230, 239, and 270
Calculation of Yield by Certain Unit Investment Trusts; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, and 270

[Release Nos. 33–7243; IC–21538; File No. S7–32–95]

RIN 3235–AG63

Calculation of Yield by Certain Unit Investment Trusts

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to rules and forms.

SUMMARY: The Commission is proposing for public comment rule and form amendments that would require certain unit investment trusts ("UITs" or "trusts") to use a uniform formula to calculate yields quoted in their prospectuses, advertisements, and sales literature. Use of the uniform formula by UITs is designed to permit investors to assess more accurately the anticipated yield from a UIT and to make comparisons of yields among UITs.

DATES: Comments on the proposed amendments should be received on or before January 29, 1996.

ADDRESSES: Three copies of all comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. All comment letters should refer to File No. S7–32–95. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Anthony R. Bosch, Senior Attorney, or Joseph E. Price, Deputy Chief, (202) 942–0721, Office of Disclosure and Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is proposing for comment:

(1) Amendments to Form S–6 [17 CFR 239.16] under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] (the "1933 Act"), the form used by UITs to register securities under the 1933 Act, that would standardize the computation of yield by certain UITs in their prospectuses;

(2) Amendments to rule 482 [17 CFR 230.482] under the 1933 Act, together with the amendments to Form S–6, that would require certain UITs including quotations of return in their advertisements also to include a quotation of yield calculated in accordance with the formula in Form S–6; and

(3) Amendments to rule 34b–1 [17 CFR 270.34b–1] under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] ("1940 Act") that would require certain UITs including quotations of return in their sales literature also to include a quotation of yield calculated in accordance with the formula in Form S–6.

Executive Summary

The Commission is proposing to adopt a uniform formula, called the "Estimated Yield Formula," for the calculation of the anticipated yield of UITs that invest substantially all of their assets in fixed income securities ("Fixed income UITs"). Under the proposed rule and form amendments, a Fixed Income UIT would be required to include in its prospectus a yield quotation calculated pursuant to the Estimated Yield Formula ("Estimated Yield"). A Fixed Income UIT that includes a quotation of yield, or other similar quotation purporting to demonstrate the income to be earned or distributions to be made by the UIT, in its advertisements and sales literature would be required to include and give equal prominence to its Estimated Yield. The proposed amendments are intended to establish a uniform standard for calculating UIT yield to enhance the ability of prospective investors to make informed investment decisions.

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I. Background

A UIT is a type of investment company that issues securities, typically called "units," representing undivided interests in a relatively fixed portfolio of securities.[1] UITs are typically sponsored by broker-dealers, which assemble the UIT's portfolio securities, deposit the securities in a trust, and sell units of the UIT in a public offering. Unlike a mutual fund, a UIT does not have a board of directors or an investment adviser and its portfolio is not actively managed.

UIT units are redeemable securities that entitle an investor to receive his or her proportionate share of the UIT's net assets upon redemption. Notwithstanding this characteristic of UIT units, most UIT sponsors voluntarily maintain a secondary market for units of the UITs they sponsor.[2] This secondary market reduces the frequency with which trusts are forced to liquidate as a result of unitholder redemptions.

UITs currently have approximately $74 billion in aggregate assets, most of which (88 percent) are held by Fixed Income UITs.[3] In marketing Fixed Income UITs to investors, sponsors and broker-dealers typically quote a rate of return that estimates the income that an investor who holds a unit for the expected life of the UIT can anticipate receiving. This method of marketing Fixed Income UITs is similar to the manner in which individual bonds are marketed to investors based on a bond's "yield to maturity," [4] and may be contrasted to mutual fund performance marketing, which is based exclusively on the past performance of the mutual fund.[5] The prominence of the

[1] Section 4(2) of the 1940 Act [15 U.S.C. 80a–4(2)] defines a UIT as an investment company which (A) is organized under a trust indenture, contract of custodianship or agency, or similar instrument, (B) does not have a board of directors, and (C) issues only redeemable securities, each of which represents an undivided interest in a unit of specified securities. *See generally* Harman, *Emerging Alternatives to Mutual Funds: Unit Investment Trusts and Other Fixed Portfolio Investment Vehicles*, 1987 Duke L.J. 1045 (1987).

[2] Sponsors that maintain secondary markets in the shares of the UITs they sponsor are considered issuers under section 2(4) of the 1933 Act [15 U.S.C. 77b(4)] and must comply with the registration requirements of the 1933 Act for units they offer to the public. In addition, under section 24(d) of the 1940 Act [15 U.S.C. 80a–24(d)], a broker-dealer selling UIT shares in the secondary market must comply with section 5(b) of the 1933 Act [15 U.S.C. 77e(b)] if the sponsor is continuing to sell shares in the trust.

[3] Source: Investment Company Institute. Tax-free debt securities represent approximately $57 billion (89 percent) of the securities held by Fixed Income UITs. *Id.*

[4] Yield to maturity is the discount rate that equates the present value of future promised cash flows from the security to the current market price of the security. *See* W. Sharpe, *Investments*, 1028 (5th ed. 1995).

[5] *See* Item 22(b) of Form N–1A under the 1940 Act [17 CFR 274.11A], which specifies the manner in which mutual funds calculate yield and total

anticipated income rate to the investment decisions of UIT investors makes it particularly important that the rate is uniformly and accurately calculated.

Before 1989, estimated current return ("ECR") was the performance measurement used by Fixed Income UITs. The ECR of a trust is calculated by dividing the trust's annual interest income per unit (net of expenses) by the offering price per unit.[6] While a trust's ECR is a reasonably accurate measure of anticipated cash flows from a unit, it does not take into account the full effect of bonds in a trust's portfolio that are trading at a market discount or premium in the same manner as the yield to maturity of a bond. As a result, the ECR of a Fixed Income UIT comprised of premium bonds may overstate the return that may be reasonably anticipated over the life of the trust.[7]

ECR was developed at a time when interest rates were fairly stable and UIT sponsors bought and deposited bonds at par. In the 1970s, interest rates became more volatile,[8] and in the 1980s the practices of some UIT sponsors began to change. In 1989, the Commission's staff became aware that some UITs proposed to invest a significant portion of their assets in premium bonds.[9] In response to concerns expressed by the staff that the quotation of ECR by such trusts could mislead prospective investors, the UIT industry developed a formula, the estimated long-term return ("ELTR") formula,[10] as a solution to ECR's limitations.[11] ELTR is calculated by averaging the yields to maturity of the bonds held by a UIT, giving weight to the period remaining to maturity of each bond and the percentage of the UIT's portfolio that consists of each bond. Because yield to maturity reflects any premium or discount at which a bond may be trading, ELTR addressed the primary limitation of the ECR formula and the concerns of the staff.

Since 1989, the UIT industry and the Commission's staff have held discussions to develop a permanent UIT yield formula. In March of this year, the Investment Company Institute ("ICI") submitted to the Commission a rulemaking proposal to standardize the calculation of UIT yield based on a revised ELTR formula.[12] The revisions primarily were intended to address deficiencies in the application of the ELTR formula to trusts with short-term termination dates (or trusts that are likely to terminate in the near future due to bonds in the trust's portfolio being called). The Division of Investment Management, in a letter to the ICI, stated that it would not object to the use of the ELTR formula, revised in accordance with the ICI's proposal, until the Commission adopts rule and form amendments concerning a uniform yield formula for UITs.[13]

II. Discussion

The Commission is now proposing to adopt rule and form amendments to codify a uniform method for the calculation of yield by UITs. The proposed Estimated Yield Formula is based largely on the ELTR formula but, as suggested by the ICI's most recent submission and described in more detail below, would include an adjustment that would require a trust that charges a sales load to reflect the amortization of the load based on the weighted-average expected life of the trust's portfolio securities. The proposed Estimated Yield Formula would be used to determine the yield of newly offered trusts, as well as for trusts the units of which trade in a secondary market.

A. Proposed Estimated Yield Formula

Under the proposed Estimated Yield Formula, a Fixed Income UIT would calculate its Estimated Yield by first calculating the average yield to maturity, weighted by market value and time to maturity, of its portfolio securities, reducing this yield by trust expenses (expressed as a percentage), and multiplying the remainder by a percentage representing the net amount of the trust's offering price that is invested.[14] The proposed Estimated Yield Formula would then require a Fixed Income UIT to reduce the resulting ratio by a "sales charge factor" to reflect the "cost" to a UIT investor of not receiving upon termination of the trust (or upon sale or redemption of the units or partial liquidation of the trust) the portion of the amount initially invested that represents sales load. Thus, the proposed Estimated Yield Formula would not only reflect premiums or discounts on portfolio securities, but also the "premium" an investor who is charged a sales load pays for the units.

1. Sales Load

a. Front-End Sales Loads. Most investors in an initial offering of a UIT pay at the time of purchase a sales load ("front-end" sales load) calculated as a

return. Investment Company Act Rel. No. 16245 (Feb. 2, 1988) [53 FR 3868 (Feb. 10, 1988)] (adopting amendments to rule 482 and other rules to standardize the calculation of mutual fund performance).

[6] ECR is analogous to "current yield," a method of quoting yield on an individual bond based on the amount of annual income an investor will earn if the bond is purchased today, as a percentage of today's price. *See* W. Sharpe *supra* note 4 at 1006.

[7] For example, a Fixed Income UIT consisting of bonds that, at the time of deposit, were trading at 10% premium to their par value, paying a 5% interest coupon every six months, and maturing in ten years, would have an ECR of 9.09% (assuming no sales load or expenses). If, however, a unitholder holds the units until maturity, the unitholder's return would be 8.5%. The lower rate reflects that the 10% premium would not be recovered by the unitholder when the UIT matures.

[8] From 1970 to 1980 interest rates on six-month treasury securities ranged from 5.25% in 1976 to 11.43% in 1980. *See Statistical Abstracts of the United States*, U.S. Department of Commerce, 522–23 (1981) (based on annual averages of monthly data for interest rates between 1970 and 1980). In the 1980s, interest rates on six-month treasury securities ranged from 13.81% in 1981 to 6.02% in 1986. *See Statistical Abstracts of the United States*, U.S. Department of Commerce, 525 (1994) (based on annual averages of monthly data for interest rates between 1980 and 1990).

[9] The staff became aware of these UITs during its routine review of pre-effective offerings. Several articles in the financial press also raised questions whether ECR was an appropriate measure of yield for a UIT that held significant investments in premium bonds. *See e.g.*, Weberman, *Doesn't Honesty Sell?* Forbes, Oct. 16, 1989, at 297.

[10] In 1989, an *ad hoc* committee of UIT sponsors, formed to study the calculation of UIT yield, submitted to the Commission a proposed uniform UIT yield formula. Letter from James J. Wesolowski, Vice President and General Counsel, John Nuveen & Co. Inc., to Robert E. Plaze, Special Counsel, Division of Investment Management (Apr. 11, 1989). Subsequently, the Investment Company Institute submitted a revised UIT yield formula. Letter from David Silver, President, Investment Company Institute, to Kathryn B. McGrath, Director, Division of Investment Management (Dec. 7, 1989). A copy of each letter is contained in File No. S7–32–95.

[11] At the time, the Commission's Division of Investment Management adopted a policy of not exercising its delegated authority to accelerate the effectiveness of any UIT registration statement the prospectus of which disclosed the UIT's ECR unless the prospectus also contained the UIT's ELTR. *See* letter to Registrants from Carolyn B. Lewis, Assistant Director, Division of Investment Management (Jan. 11, 1990). Subsequent to the Division's 1990 letter, the Directors of the Divisions of Market Regulation and Investment Management sent a letter to UIT sponsors and broker-dealers that are active in the UIT secondary market stating that quotations of a UIT's ECR should be accompanied by a quotation of the UIT's ELTR, if the ECR varies materially from the estimated long-term return of the trust. Letter from Marianne K. Smythe, Director, Division of Investment Management, and William H. Heyman, Director, Division of Market Regulation (Apr. 8, 1992). A copy of each letter is contained in File No. S7–32–95.

[12] *See* letter from Craig S. Tyle, Vice President and Senior Counsel, Investment Company Institute, to Robert E. Plaze, Assistant Director, Division of Investment Management (Mar. 24, 1995). A copy of this letter is contained in File No. S7–32–95.

[13] Investment Company Institute, (pub. avail. Aug. 2, 1995).

[14] This last step reflects that a portion of the offering price will be deducted in the form of a sales load and thus, will not be invested and earn income for the unitholder. As discussed *infra* section II.A.1. of this Release, this step does not, however, reflect the effect on investor return that the amount of the sales load will not be returned to the investor at the termination or redemption of the trust.

percentage of the public offering price.[15] Although the ELTR formula currently being used reflects that a portion of the offering price representing sales load will not be invested (and thus will not earn interest for the unitholder), it does not amortize sales load to reflect the effect on investor return of not receiving the sales load at the termination of the trust or redemption of the units. This limitation has the greatest effect for yield calculations involving short-term trusts and trusts that are likely to terminate in the near term due to bonds in the portfolio being called.[16] In attempting to deal with this limitation, the proposed Estimated Yield Formula would require Fixed Income UITs to amortize sales load to reflect more accurately the effect of sales load on investor return.

Under the proposed formula, a Fixed Income UIT would amortize sales load over a time period ("amortization period") determined by averaging the "expected lives" of the bonds in the trust weighted by market value.[17] The expected life of most bonds in the portfolio would be determined by each bond's maturity date.[18] To account for the possibility of an early redemption of the bonds, however, the proposed Estimated Yield Formula would require trusts to calculate the expected life of a bond with call features by comparing the bond's yield to maturity to the bond's yield to "worst" call (the call feature to which the bond is priced that would result in the bond's lowest yield).[19] A bond's worst call date would be used if the bond's yield to maturity exceeds its yield to worst call by more than 40 basis points.[20]

The Commission considered requiring, as an alternative method of determining the amortization period, the use of the weighted average of each bond's worst call date as the expected life of the trust. In its submission, the ICI explained that this alternative may underestimate the life of a bond (and thus, the expected life of the trust), particularly when transaction costs would make many refundings economically infeasible.[21] Because the likelihood of a bond being called depends in large part on whether the refunding will provide sufficient savings to the issuer, the ICI stated that the "spread" between a bond's yield to maturity and its yield to call would provide an appropriate measure for determining a bond's expected life—the greater the savings for the issuer, the more likely the bond will be called.

The Commission also considered an alternative that would require the amortization period to be determined by the expected life of the trust. The Commission is not proposing this method because such a method would permit a trust sponsor to lengthen the amortization period by including one long-term bond in a trust consisting of bonds that have much shorter maturities.[22] Moreover, such a method would appear not to reflect accurately the effect on investor return of an early partial or complete liquidation of the trust and, thus, would result in an amortization period that is too long. In the same way sales load affects yield on an investment in a short-term trust more than an investment in a long-term trust, a unitholder's yield from an investment in a long-term trust will be affected if a portion of the investment is returned before maturity. To account for these effects, under the proposed formula, sales load would be amortized over the time each dollar of a unitholder's investment can be expected to remain invested, assuming the unitholder does not sell or redeem trust units before termination of the trust.

The proposed Estimated Yield Formula would amortize the sales load over the amortization period using a method designed to reduce annual yield by an amount equal to a stream of future annual payments that equate to the amount of the front-end sales load. Comment is requested on the proposed Estimated Yield Formula's method of amortization of sale load and, specifically, on alternative methods that might reflect more accurately the effect of sales load on investor return. Comment is requested on an alternative method that would require sales load to be amortized by treating the load as an additional premium in a bond's yield to maturity calculation. This alternative would require a trust to calculate each bond's yield to maturity by adding to the price of the security an amount equal to the security's pro rata portion of the sales load weighted by the security's market value.[23] In addition, comment is requested on a straight-line amortization method (*i.e.*, dividing the sales load by the amortization period) and whether this alternative would provide a simpler method for amortizing sales load.

b. Deferred Sales Loads. The Commission has issued several exemptive orders permitting UITs to impose sales charges on units on a deferred basis.[24] Under the terms of the exemptions, a UIT sponsor determines the maximum sales charge per unit at the time portfolio securities are deposited in a trust, and the sales charge is paid by the unitholder in installments over a period following the purchase of the units.[25] The proposed Estimated Yield Formula would require Fixed Income UITs to use the maximum sales load, determined by the sponsor at the time of deposit, for calculating Estimated Yield of trusts whose unitholders pay a deferred or installment load.[26]

[15] Some UITs, pursuant to a Commission exemptive order, have implemented deferred or installment loads. *See* discussion *infra* section II.A.1.b.

[16] For example, assuming the trust in *supra* note 7 charged a 4.8% sales load and matured in five years, the ELTR of the trust would be 8.09%, although the investor's actual return would be 6.34%.

[17] Instruction 8 to the proposed Estimated Yield Formula. For purposes of simplification, proposed amendments to rule 482, (requiring disclosure in trust advertisements and sales literature), would refer to the expected life of each bond in the trust as the "expected life of the trust." Proposed rule 482(f) under the 1933 Act [17 CFR 230.482(f)].

[18] The maturity date is the date upon which the principal of a debt security becomes due and payable to the securityholder. *See Glossary of Municipal Securities Terms*, Municipal Securities Rulemaking Board, (Adapted from the State of Florida's Glossary of Municipal Bond Terms) (1985).

[19] Rules adopted by the Municipal Securities Rulemaking Board ("MSRB") require that, when confirming customer orders, yield be calculated to the lowest yield to call, yield to par option, or yield to maturity ("yield to worst"). This assures that an investor will realize, at a minimum, the stated yield, even in the event that a call provision is exercised. MSRB Rule G–15(a)(i)(I), MSRB Manual (CCH) ¶3571.

[20] Maturity date would be used to determine the expected life of any bond priced at par or at a discount and for any bond priced at a premium if the bond's yield to maturity does not exceed the bond's yield to worst call by more than 40 basis points (.4%).

[21] *See* letter from Craig S. Tyle, Vice President and Senior Counsel, Investment Company Institute, *supra* note 12.

[22] *Id.*

[23] Under this alternative, the portfolio's weighted average yield to maturity would not be reduced by multiplying the yield by a percentage representing the net amount of the trust's offering price that is invested.

[24] *See* Merrill Lynch, Pierce, Fenner & Smith, Inc., Investment Company Act Rel. Nos. 13801 (Feb. 29, 1984) [49 FR 8512 (Mar. 7, 1984)]; 13848 (Mar. 27, 1984) [30 SEC Docket 192]; 15120 (May 29, 1986) [51 FR 20389 (June 4, 1986)]; and 15167 (June 24, 1986) [35 SEC Docket 1735]. PaineWebber, Inc., Investment Company Act Rel. Nos. 20755 (Dec. 6, 1994) [59 FR 64003 (Dec. 12, 1994)]; and 20819 (Jan. 4, 1995) [58 SEC Docket 1586].

[25] *Id.* The installments are paid from the distributions of the trust until the maximum sales charge is collected. If distribution income is insufficient to pay a deferred sales charge installment, the trustee, under the terms of the trust indenture, will sell portfolio securities in an amount necessary to provide the requisite payments. If a unitholder redeems or sells to the sponsor his or her units before the total sales charge has been collected from installment payments, the balance of the sales charge may be collected at the time of the redemption or sale.

[26] Instruction 7 to the proposed Estimated Yield Formula.

2. Compounding

The proposed Estimated Yield Formula would omit a step proposed by the ICI in which a trust's average yield to maturity is divided by twelve and re-annualized using a method that, in effect, would compound a monthly yield. The Commission is concerned that such a calculation could materially overstate the anticipated yield of a trust and is not proposing to provide for compounding of a trust's average yield to maturity.

In its request for rulemaking and in other correspondence with the staff, the ICI has argued that Fixed Income UITs primarily compete with mutual funds.[27] Mutual funds calculate yield according to a Commission formula that effectively compounds earnings.[28] The ICI believes that Fixed Income UITs also should be permitted to compound earnings or they would be placed at a competitive disadvantage to mutual funds.[29]

The compounding element of the mutual fund yield formula reflects the internal compounding of dividends within mutual funds as a result of their reinvestment of interest from bonds (and other securities) upon receipt. Because of the fixed nature of UITs, interest payments received are not reinvested, but are held by the trust's custodian until they are distributed to unitholders, and thus no compounding occurs within the UIT.[30] The ICI has suggested, however, that because dividends distributed to unitholders may be reinvested in a mutual fund made available by a UIT sponsor, unitholders may obtain the benefits of compounding. A similar argument may be made for compounding the calculation of yield to maturity of a bond. In both the cases, however, such a yield would not constitute a yield from an investment, but from an investment plan. Moreover, the ICI's proposed formula would assume reinvestment of interest payments immediately upon receipt by the trust and would not reflect the delay from the time a trust receives the coupon payments until it distributes those payments to unitholders, when only then could they reinvest the distributions.[31]

In developing this proposal and reviewing the ICI proposal, the Commission has been primarily concerned with the accuracy of the formula. Compounding yield to maturity of a trust's portfolio securities would result in a trust advertising an Estimated Yield of the UIT that is *higher* than the yield an investor would have obtained if the investor purchased each security outside of the UIT. For example, if a bond trading at par with a yield to maturity of 8 percent is deposited into a UIT (assuming no trust expenses or sales load), the ICI-proposed formula would produce a yield of 8.13 percent.[32] To avoid such a result, the Commission is not proposing that the Estimated Yield Formula provide for compounding.

Comment is requested whether the Estimated Yield Formula should contain an element of compounding. Commenters supporting compounding should address the variance that would be created between the yields to maturity of the bonds in which UITs invest and Estimated Yield that would be calculated under such a formula.

3. Accrued Interest

The public offering price of units of a Fixed Income UIT includes not only the price of the securities in a portfolio plus a sales charge, but also a proportionate share of accrued interest of each security in the trust.[33] The amount an investor pays for the purchase of a bond, also includes accrued interest. The calculation of a bond's yield to maturity excludes consideration of the accrued interest because it will be returned to bondholders upon receipt of the next interest payment. Thus, the amount of accrued interest paid by a purchaser of a bond does not represent part of the bondholder's investment. In contrast, all of the accrued interest paid by a unitholder of a UIT will not be returned in the trust's first distribution; some or all will remain part of the net asset value of the trust and will be used to eliminate fluctuations in periodic distributions and to compensate the trustee who has use of the cash.

Unitholders generally receive equal distributions, on a monthly, quarterly, semi-annual, or annual basis, based on the interest income of the bonds in the portfolio less expenses. Because interest on the bonds is not received at a constant rate throughout the year, a trust may not have cash from interest payments available to meet distributions to unitholders at the end of a period. In such a case, the trustee will draw on the accrued interest account, which will be replenished during a period in which interest is received in excess of what is needed to make distributions to unitholders. A trust's retained accrued interest balance generally remains positive after the trust's first distribution.[34] Each unit's proportionate share of retained accrued interest, if any, is part of the trust's net asset value. As such, it is returned to unitholders upon redemption, sale of a unit, or liquidation of the trust.[35]

The proposed Estimated Yield Formula would reflect the delay in repayment of accrued interest by treating accrued interest as of the date of deposit as a trust asset.[36] The formula would achieve this result by requiring Fixed Income UITs, in calculating the yield to maturity of each bond in the trust's portfolio, to subtract from the amount of the bond's first coupon payment and to add to the amount of the bond's last coupon payment the amount of the bond's accrued interest as of the date of deposit of the bond in the trust.[37] The Commission requests comment on the proposed treatment of accrued interest under the Estimated Yield Formula.

[27] *See* letter from Craig S. Tyle, Vice President and Senior Counsel, Investment Company Institute, *supra* note 12; letter from David Silver, President, Investment Company Institute, *supra* note 10; letter from Craig S. Tyle, Associate General Counsel, Investment Company Institute, to Gene Gohlke, Acting Director, Division of Investment Management (June 29, 1990). A copy of each letter is contained in File No. S7–32–95.

[28] Item 22(b) of Form N–1A under the 1940 Act [17 CFR 274.11A].

[29] In an earlier submission, however, the UIT industry asserted that the formula should replicate the yield of a bond. *See* letter from James J. Wesolowski, Vice President and General Counsel, John Nuveen & Co. Inc., *supra* note 10. This submission included a proposed formula, the ELTR formula UITs currently use to calculate yield, that does not compound yield to maturity.

[30] To the extent that the use of the dividends and other income by the trust custodian before their distribution reduces the custodian's fees and thus UIT expenses, their use already would be reflected in the proposed Estimated Yield Formula as a higher resulting Estimated Yield.

[31] *See* letters from the Investment Company Institute cited in *supra* note 27.

[32] Higher yields would produce greater differences between the yields.

[33] Accrued interest on the purchase of a bond is the dollar amount of interest, based on the coupon rate of interest, which has accumulated on a security from the most recent interest payment date up to but not including the date of settlement of the purchase. Accrued interest is paid to the seller by the purchaser of a bond.

[34] *See* letter from David Silver, President, Investment Company Institute, *supra* note 10.

[35] In addition, as securities in the portfolio mature, or are called or sold, the accrued interest applicable to such bonds is distributed to unitholders.

[36] In its 1989 submission, the ICI proposed to treat accrued interest as a non-earning asset, although the method used would have been different from that of the proposed Estimated Yield Formula, reflecting differences in the two formulas. *See* letter from David Silver, President, Investment Company Institute, *supra* note 10. The ICI's 1995 submission, upon which the Estimated Yield Formula is based, does not appear to provide for similar treatment.

[37] Instruction 2 to the proposed Estimated Yield Formula. This Instruction would not apply to trusts in which all accrued interest at the date of deposit is paid by the sponsor or a person other than a unitholder.

4. Principal Cash Balances

Units purchased in the secondary market often have, as a component of their net asset value, cash balances that represent proceeds from bonds that have matured, or have been redeemed, called, or sold. This cash is held by the trust in the form of principal account cash balances to be distributed to unitholders as part of the next distribution. These amounts are returned to unitholders shortly after their receipt by the trust and do not represent part of the unitholders' investment. Thus, the proposed Estimated Yield Formula would exclude these amounts from the calculation of the trust's net asset value.[38]

5. Market Discount on Tax Exempt Securities

The proposed Estimated Yield Formula would require Fixed Income UITs, in determining the yield to maturity of tax exempt securities held by the trust, to exclude any market discount that would be treated as capital gain under federal income tax.[39] In its 1989 submission, the ICI proposed an alternative that would permit Fixed Income UITs to quote an Estimated Yield that reflects the accretion of market discount and to disclose the portion of that yield that could be subject to federal income tax.[40] The Commission is not proposing to include the ICI's proposed alternative in the determination of Estimated Yield out of concern that the ICI's approach would lead to a confusing multiplicity of Estimated Yield quotations, particularly for prospective investors in trusts quoting more than one yield because of different distribution options.[41] The Commission requests comment on the Estimated Yield Formula's proposed treatment of market discount on tax exempt securities.

6. Preferred Stock, Asset-Backed Securities, and Adjustable-Rate Securities

As discussed above, the proposed Estimated Yield Formula is designed to measure the anticipated yield from a portfolio of *fixed* income securities that yield income at a predictable rate. Most UITs that invest their assets in corporate, municipal, or U.S. government bonds invest almost exclusively in these securities. These securities are issued with stated maturities and fixed interest rates, and thus, the yield of trusts that invest in these securities can be estimated with reasonable certainty. A Fixed Income UIT, however, may have some of its assets invested in preferred stock, asset-backed securities,[42] or adjustable-rate securities,[43] the issuers of which have no legal obligation to pay a fixed amount of interest or dividends. Because the income from these securities is not as predictable as the income from traditional bonds, the Commission is proposing to require trusts holding these instruments to disclose in their prospectuses, advertisements, and sales literature that some of their assets are invested in these types of securities and that, as a result, their yields likely will fluctuate.[44]

Approximately three percent of the assets of UITs are invested in trusts substantially all the assets of which consist of preferred stock, asset-backed securities, or adjustable-rate securities.[45] The Commission is proposing that these UITs use the proposed formula to calculate yield, but would require them to characterize the yield as "Current Yield" to emphasize that it does not represent a rate an investor can expect to receive in the future. In addition, these trusts would be required to provide a statement that, because the continued payment of interest (and return of principal for asset-backed securities) for these types of securities cannot be predicted, the trust's yield *will* vary and, as a result, actual investor experience *will* be different from the quoted yield.[46]

The Commission requests comment on the proposed treatment of preferred stock, asset-backed securities, and adjustable-rate securities. Specifically, the Commission requests comment whether the proposed disclosure adequately would inform investors of the uncertainty of yield estimates for trusts that invest in these types of securities. The Commission also requests comment whether the proposed formula should define those trusts that invest "substantially" all their assets in preferred stock, asset-backed securities, and adjustable-rate securities and, if so, what that definition should be.

7. Units of Other Trusts

Fixed Income UITs sometimes hold units of other trusts in their portfolios. Although the Estimated Yield of these trusts could be used as their yield to maturity in the Estimated Yield Formula, in its 1989 submission the ICI urged that the Commission not adopt such a requirement because it would be complicated and burdensome. According to the ICI, in many cases these trusts are no longer offered in the secondary market and thus the trust sponsor no longer calculates their yield.[47] Instead, the ICI suggested that the Commission permit UITs to calculate the yield to maturity of these units based on the average dollar price, average coupon rate, and average yield to maturity of the securities held by the trust.[48] The Commission is proposing the approach recommended by the ICI, but only for units of trusts that are not currently calculating Estimated Yield.[49]

8. Tax Equivalent Yield

The proposed Estimated Yield Formula would provide Fixed Income UITs a method of calculating a tax equivalent yield.[50] A tax equivalent yield would demonstrate the taxable yield necessary to produce an after-tax yield equivalent to that of a trust which invests in tax exempt securities. Under the proposal, tax equivalent yield would be calculated by dividing that portion of the yield of the trust that is tax exempt by one minus a stated income tax rate and adding to the product that portion, if any, of the yield of the trust that is not tax exempt.[51] This would provide a uniform method for calculating tax equivalent yield.[52] The Commission requests comment on the proposed method of calculating tax equivalent yield for Fixed Income UITs. In addition, the Commission requests comment whether bonds that distribute interest income that may be subject to the alternative minimum tax under Federal tax law should be considered taxable bonds for purposes of the proposed Estimated Yield Formula. The Commission requests comment whether, if these bonds are not considered taxable bonds, additional disclosure should be required by trusts holding themselves out as distributing tax exempt income but which invest in bonds that distribute interest income that, when distributed to unitholders, may be subject to the alternative minimum tax.

B. Scope of Application of the Proposed Estimated Yield Formula

1. Prospectuses

The Commission is proposing to amend Form S–6 to require Fixed Income UITs to include in the summary financial data, typically provided in the front part of each UIT prospectus, a quotation of its Estimated Yield. The proposed Estimated Yield Formula would define "Fixed Income UITs" as trusts investing substantially all their assets in bonds and other debt instruments, preferred stock, or a combination of these types of securities. Comment is requested on the proposed definition of Fixed Income UITs. Comment is specifically requested whether the Estimated Yield Formula should define the term "substantially," and, if so, what that definition should be.

The amendments would not preclude a trust from including a quotation of the UIT's ECR provided that, under the circumstances, the ECR is not misleading and that the differences between ECR and Estimated Yield are clearly described in the prospectus. As proposed, the amendments would require a trust using ECR or some other method of estimating return (*e.g.*, ELTR) to include a brief description of the differences between Estimated Yield and the other method and a statement that the trust's Estimated Yield is calculated following a Commission-prescribed formula designed to estimate the yield an investor holding a unit for the expected life of the trust may receive.[53]

2. Advertisements and Sales Literature

The Commission is proposing to amend rule 482 under the 1933 Act and rule 34b–1 under the 1940 Act to require Fixed Income UITs to include a quotation of Estimated Yield, as prescribed by Form S–6, in their advertisements and sales literature that contain a quotation of yield, or other similar quotation purporting to demonstrate the income earned or distributions made or to be made by a Fixed Income UIT.[54] Advertisements and sales literature of Fixed Income UITs that contain a quotation of yield also would be required to contain a legend disclosing that the Estimated Yield quoted is an estimate of the rate of return an investor holding a unit for the expected life of the trust may receive, actual return to the investor may vary from the estimate, and that an investor's units, when redeemed, may be worth more or less than their original cost.[55] As discussed above, Fixed Income UITs that invest substantially all or a portion of their assets in preferred stock, asset-backed securities, or in adjustable-rate securities would be required to provide additional disclosure in their advertisements and sales literature.[56]

Under the proposed amendments, UITs may continue to advertise performance information other than Estimated Yield or Current Yield, including ECR, if a quotation of Estimated Yield is included at least as prominently as the other performance information. The Commission requests comment whether the performance information permitted in all Fixed Income UIT advertisements should be limited to the yields calculated pursuant to the proposed Estimated Yield Formula.

3. Secondary Market Sales

As discussed above, sponsors generally maintain a secondary market in units of the UITs they sponsored. Sponsors typically repurchase units at the redemption price or net asset value of the trust based on the bid side evaluation of the bonds and resell the units to new investors based on the offer side evaluation of the bonds. The proposed Estimated Yield Formula would require that UITs calculate Estimated Yield based on the maximum offering price per unit, which, in the case of a trust the units of which are trading in a secondary market, would be the price at which the sponsor is willing to resell the units.[57]

In some cases, an investor who purchases a UIT in the secondary market will be charged a sales load. The proposed Estimated Yield Formula would require UITs to include in the public offering price of the units the maximum sales load that may be charged to an investor in the secondary market.[58]

C. Alternative Formula

The Commission requests comment whether, in lieu of the Estimated Yield Formula, the Commission should require a trust to calculate and disclose a yield measured by the trust's internal rate of return ("IRR"). IRR is the discount rate that would make the amount paid by the investor for the investment (including sales load) equivalent in value to the payments expected from the trust.[59] Unlike the Estimated Yield Formula, IRR would take into consideration different cash flows unitholders selecting different distribution options will receive. The Commission's staff has discussed with the ICI the desirability and feasibility of a UIT yield formula based on a trust's IRR.[60] In correspondence with the staff in 1990, the ICI asserted that the amount of computer time required to generate IRR for each distribution option for each trust would be so great as to significantly disrupt UIT sponsors' computer operations and increase UIT expenses.[61] In light of the significant advancements in computer technology over the past several years, the Commission requests comment whether calculation of IRR would be feasible, and, if so, whether IRR could provide an accurate but simpler method for calculating UIT yield than the Estimated Yield Formula.

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[38] In its 1989 submission, the ICI suggested a similar treatment of principal account cash balances. *See* letter from David Silver, President, Investment Company Institute, *supra* note 10.

[39] Instruction 5 to the proposed Estimated Yield Formula. This approach is similar to the treatment of market discount on tax exempt securities by the mutual fund yield formula. *See* Instruction 1(e) to Item 22(v)(ii) to Form N–1A under the 1940 Act [17 CFR 274.11A].

[40] *See* letter from David Silver, President, Investment Company Institute, *supra* note 10.

[41] *See* discussion *supra* section II.A.3.

[42] The cash flows of asset-backed securities, including mortgaged-backed securities, are based on an underlying pool of mortgages or other income-producing assets. *See* F. Fabozzi, *The Handbook of Fixed Income Securities*, 16–19 (4th ed. 1995).

[43] Adjustable-rate securities, including floating-rate and variable-rate securities, have interest rates that adjust periodically over their stated life. *Id.* at 7.

[44] Instruction 15 to the proposed Estimated Yield Formula. The proposed Estimated Yield Formula also would provide specific instructions for calculating yield to maturity for these securities and for determining their expected life for purposes of amortizing sales load. Instructions 12–14 to the proposed Estimated Yield Formula.

[45] Source: Investment Company Institute.

[46] Instruction 16 to the proposed Estimated Yield Formula.

[47] *See* letter from David Silver, President, Investment Company Institute, *supra* note 10.

[48] *Id.*

[49] Instruction 6 to the proposed Estimated Yield Formula.

[50] UITs would not be required to quote a tax equivalent yield.

[51] Instruction 10 to the proposed Estimated Yield Formula. The proposed method of calculating tax equivalent yield is similar to the mutual fund yield formula's method of calculating tax equivalent yield. *See* Item 22(b) of Form N–1A under the 1940 Act [17 CFR 274.11A].

[52] A UIT that includes a quotation of tax equivalent yield in its prospectuses, advertisements and sales literature would be required to provide a quotation of its Estimated Yield at least as prominently as its tax equivalent yield.

[53] Paragraph (f)(3) of the proposed Estimated Yield Formula.

[54] Proposed rule 482(f) under the 1933 Act [17 CFR 230.482(f)]; proposed rule 34b–1(c)(2) under the 1940 Act [17 CFR 270.34b–1(c)(2)].

[55] Proposed rule 482(a)(8) under the 1933 Act [17 CFR 230.482(a)(8)]; proposed rule 34b–1(c)(1) under the 1940 Act [17 CFR 270.34b–1(c)(1)].

[56] Instructions 15–16 to the proposed Estimated Yield Formula.

[57] Instruction 11 to the proposed Estimated Yield Formula.

[58] *Id.*

[59] *See* F. Fabozzi, *supra* note 42 at 71–72.

[60] Letter from Kathryn B. McGrath, Director, Division of Investment Management, to David Silver, President, Investment Company Institute (Apr. 17, 1990). A copy of this letter is contained in File No. S7–32–95.

[61] Letter from Craig S. Tyle, Associate General Counsel, Investment Company Institute, *supra* note 27.

III. General Request for Comments

Any interested persons wishing to submit written comments on the rule and form changes that are the subject of this release, to suggest additional changes, or to submit comments on other matters that might have an effect on the proposals contained in this release, are requested to do so.

IV. Cost/Benefit Analysis

The rule and form changes proposed today are intended to improve information regarding the estimated yield of UITs provided to investors by requiring that yield be uniformly calculated in a manner reasonably likely to provide a "best estimate" of the return in an investment in a UIT. The Commission believes that any resulting increase in the expenses of UITs and their sponsors will be small, particularly in relation to the benefit of preventing the advertisement of misleading or inaccurate information.

The proposed formula is not expected to be significantly more costly to calculate than current formulas used in connection with UIT offerings. The proposed amendments therefore should result in little increase in the cost of calculating or advertising performance information. Converting to the use of a new formula (*e.g.*, reprogramming computers) would involve certain costs, but the costs of any conversion should be outweighed by the benefits of more accurate UIT yield figures.

V. Summary of Initial Regulatory Flexibility Act Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the proposed amendments. The analysis reiterates the reasons and objectives for the proposed amendments discussed above in this Release. The analysis also describes the legal basis for the proposal and discusses its effect on small entities as defined by the 1940 Act. In addition, the analysis considers several alternatives to the proposed amendments such as requiring a trust to calculate its IRR. The analysis notes, however, that these alternatives would not be less costly than the proposed Estimated Yield Formula. The analysis also notes that the proposed Estimated Yield Formula is based on a proposal submitted by the UIT industry. Other aggregate cost-benefit information reflected in the "Cost/Benefit Analysis" section of this release also is reflected in the analysis. A copy of the analysis may be obtained by contacting Anthony R. Bosch, Office of Disclosure and Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

VI. Paperwork Reduction Act

Certain provisions of the proposed rule and form amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*], and the Commission has submitted the rule and form amendments to the Office of Management and Budget for review in accordance with 44 U.S.C. 3507(d). The title for the collection of information is "Amendments to Regulation C, Rule 34b–1, and Form S–6." The Supporting Statement to the Paperwork Reduction Act submission notes that the proposed amendments would amend Form S–6, rule 482, and rule 34b–1 to require certain UITs to use a uniform formula to calculate yields quoted in their prospectuses, advertisements, and sales literature and that the proposed amendments are designed to enhance the ability of prospective investors to make informed investment decisions.

Proposed amendments to Form S–6, Regulation C, and rule 34b–1 would have a negligible effect on the annual reporting and cost burden of UITs. Because most UITs currently calculate yield quoted in their prospectuses, advertisements, and sales literature, the proposed amendments should not significantly increase the reporting and cost burdens in connection with UIT offerings. Form S–6 is used for registration of securities under the 1933 Act by UITs registered under the 1940 Act. UITs file approximately 3263 registration statements on Form S–6 annually. Form S–6 requires an estimated 35 reporting burden hours resulting from the required collection of information. Rule 34b–1 under the 1940 Act governs sales material that accompany or follow the delivery of a statutory prospectus. Approximately 287 respondents (including UITs) each file approximately five responses annually pursuant to rule 34b–1. The recordkeeping burden from rule 34b–1 requires approximately 2.4 hours per response resulting from the required collection of information. Regulation C provides standard instructions to guide registrants filing registration statements under the 1933 Act. Regulation C is assigned one burden hour for administrative convenience because the rule simply prescribes the disclosure that must appear in other filings under the 1933 Act.

The Commission requests specific comment concerning: whether the proposed collection of information is necessary for the proper performance of the function of the Commission, including whether the information shall have practical utility; on the accuracy of the Commission's estimate of the burden of the proposed collection of information; on the quality, utility, and clarity of the information to be collected; and whether the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology may be minimized.

Persons desiring to submit comments on the collection of information requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, D.C. 20503, and should also send a copy of their comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, Washington, D.C. 20549 with reference to File No. S7–32–95. The Office of Management and Budget is required to make a decision concerning the collections of information between 30 and 60 days after publication, so a comment to the Office of Management and Budget is best assured of having its full affect if the Office of Management and Budget receives it within 30 days of publication.

VII. Text of Proposed Rule and Form Amendments

List of Subjects

17 CFR Parts 230 and 239

Reporting and recordkeeping requirements, Securities.

17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78d, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 78t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. By amending § 230.482 by removing the comma at the end of paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) and in its place adding a semicolon; by removing the ", and" at the end of paragraph (a)(5) and in its place adding a semicolon; by removing the period at the end of paragraph (a)(7) and in its place adding "; and"; by adding paragraph (a)(8) before the note; by redesignating paragraph (f) as paragraph (g); and by adding paragraph (f) to read as follows:

§ 230.482 Advertising by an investment company as satisfying requirements of section 10.

(a) * * *

(8) In the case of an advertisement of a Fixed Income UIT, defined in Instruction 1 to Form S–6 under the Act, (§ 239.16 of this chapter), containing a quotation of Estimated Yield, defined in Form S–6, or other similar quotation purporting to demonstrate the income earned or distributions made or to be made by the trust, shall also include a legend disclosing that the Estimated Yield quoted is an estimate of the rate of return an investor holding a unit for the expected life of the trust may receive, actual return to the investor may vary from the estimate, and that an investor's units, when redeemed, may be worth more or less than their original cost.

* * * * *

(f) In the case of a Fixed Income UIT, any advertisement containing a quotation of yield, or other similar quotation purporting to demonstrate the income earned or distributions made or to be made by the trust, shall also include a quotation of Estimated Yield that:

(1) Is based on the method of computation prescribed in Form S–6; and

(2) Identifies the date in which an investment in the trust would result in the advertised Estimated Yield.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

3. The authority citation for Part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78w(a), 78ll(d), 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q, 79t, 80a-8, 80a-29, 80a-30 and 80a-37, unless otherwise noted.

* * * * *

4. By amending Form S–6 (referenced in § 239.16) by adding paragraph (f) to Instruction 1 of the Instructions As To The Prospectus to read as follows:

Note: The text of Form S–6 does not and the amendments will not appear in the Code of Federal Regulations.

Form S–6

* * * * *

Instructions as to the Prospectus

Instruction 1. Information to be Contained in Prospectus.

* * * * *

(f) Information Concerning Registrant's Performance.

Estimated Yield. In the case of a trust that invests substantially all of its assets in bonds and other debt instruments, preferred stock, or a combination of these types of securities ("Fixed Income UIT"):

(1) Furnish the trust's estimated yield to maturity ("Estimated Yield") calculated as of a day reasonably close to the effective date of the registration statement or the commencement of the offering:

Estimated Yield = [(a-b) * c] - x

Where,

a = sum of (market value of each security * yield to maturity of each security * time to maturity of each security)/sum of (market value of each security * time to maturity of each security)

b = total annual expenses of the trust/net asset value of the trust

c = 1 - sales load

$$x = \text{sales load} * \frac{r}{(1+r)^n - 1}$$

r = (a-b) * c

n = number of annual periods until amortization date.

(2) Provide a statement that the trust's Estimated Yield is calculated following a SEC-prescribed formula designed to estimate the yield an investor holding a unit for the expected life of the trust may receive, but that actual investor experience may be different.

(3) If the trust provides an estimated rate of return calculated using a different method, provide a brief description of the relevant differences between the other rate of return and the trust's Estimated Yield.

Instructions

Yield to Maturity

1. In determining the yield to maturity and time to maturity of each security in "a", consider the maturity of a security with a call provision(s) as the date with the lowest resulting yield to call, yield to par option, or yield to maturity pursuant to rule G–15 of the Municipal Securities Rulemaking Board.

2. In determining the yield to maturity of each security in "a", subtract from the amount of each security's first coupon payment and add to the amount of each security's last coupon payment the amount of accrued interest of that security as of the date of deposit. (This accrued interest also should be included in the price of each bond.) In calculating Estimated Yield subsequent to the initial offering of the trust, use the same amount of accrued interest. In the case of a trust in which all accrued interest at the date of deposit is paid by the sponsor or a person other than a unitholder, this Instruction does not apply.

3. In determining the market value of each security and the net asset value of the trust in "a" and "b" respectively, include the amount of accrued interest or any advance of accrued interest that is paid by unit holders upon purchase of the units.

4. In determining the net asset value of the trust in "b", do not include the amount of repayments of principal of securities held in a trust's portfolio that are to be distributed to unitholders.

5. In the case of a tax exempt obligation issued without original issue discount and having a current market discount, use the coupon rate of interest in lieu of the yield to maturity. Where, in the case of a tax exempt obligation with original issue discount, and the discount based on the current market value exceeds the then-remaining portion of original issue discount (market discount), the yield to maturity is the imputed rate based on the original issue discount calculation. Where, in the case of a tax exempt obligation with original issue discount, and the discount based on the current market value is less than the then-remaining portion of original issue discount (market premium), the yield to maturity should be based on the market value.

6. In the case of a trust that invests in units of other trusts for which an Estimated Yield is not available from the sponsor, determine the yield to maturity of the other trust using the other trust's average dollar price, average coupon rate, and average yield to maturity. Determine the other trust's average dollar price by dividing the sum of the net asset values of the bonds in the other trust by the sum of the par values of the bonds. Determine the other trust's average coupon rate and average yield to maturity by weighting the coupon rate and yield to maturity of each bond in the other trust by its market value.

Sales Load

7. Sales load in "c" and "x" is the maximum sales load stated as a percentage of the offering price of units. In the case of a deferred sales load, the maximum sales load is the aggregate of all installment loads, stated as a percentage of the offering price.

8. In determining the amortization date of a trust in "n", calculate an average, weighted by market value, of the expected lives of the bonds in the trust. To calculate the expected life of each bond in the trust:

(a) For bonds priced at par or at a discount and for bonds priced at a premium where the yield to maturity is less than or equal to yield to call (as determined by Instruction 1) plus .4% (40 basis points), use the maturity date of the bond(s); and

(b) For bonds priced at a premium where yield to maturity is greater than yield to call (as determined by Instruction 1) plus .4% (40 basis points), use the call date of the bond(s).

Expenses

9. A trust that has different Estimated Yields for different classes of unit holders, (*e.g.*, because of different distribution payment options that result in different expense ratios) may include a quotation of more than one Estimated Yield. If such a trust quotes a single yield, in determining the total annual expenses of the trust in "b", assume the highest expense ratio is applicable to all of the assets of the trust.

Tax Equivalent Yield

10. If a trust quotes a tax equivalent yield, calculate tax equivalent yield by dividing that portion of the yield of the trust that is tax exempt by one minus a stated income tax rate and adding to the product that portion, if any, of the yield of the trust that is not tax exempt. Any quotation of tax equivalent yield in the trust's prospectus, advertisements, or sales literature, should be accompanied by a quotation of Estimated Yield that is given equal prominence.

Secondary Market Sales

11. In calculating Estimated Yield subsequent to the initial offering of the trust, use the maximum public offering price at which the trust's sponsor is willing to sell trust units to an investor and the maximum sales load that may be charged to an investor for trust units.

Preferred Stock, Asset-Backed Securities, and Adjustable-Rate Securities

12. In the case of preferred stock:

(a) In lieu of yield to maturity in determining "a", use the preferred stock's interest rate calculated by dividing the security's dividend by its market value and by annualizing on a straight-line method, (*e.g.*, multiply a quarterly payment rate by 4);

(b) In determining the amortization date in "n", in the case of preferred stock that can be converted to common stock or is subject to a redemption feature, use as the security's expected life: the lesser of the time period to its conversion date, its redemption date or the trust's termination date; and

(c) In determining the amortization date in "n", in the case of all other preferred stock, use the trust's termination date as the security's expected life.

13. In determining each asset-backed security's yield to maturity in "a" and in determining each asset-backed security's amortization period in "n", in lieu of its maturity date, use the same "expected life" of the security used for calculating the price of the security as part of the trust's net asset value.

14. (a) For adjustable-rate securities not subject to a demand feature, use the next reset date as the maturity date for calculating yield to maturity in "a"; and

(b) For adjustable-rate securities subject to a demand feature, use the time remaining until the next demand date or the next reset date, whichever is less, as the maturity date for calculating yield to maturity in "a".

15. In the case of a trust that invests some of its assets in preferred stock, asset-backed securities, or adjustable-rate securities, in addition to the disclosure required by paragraph (f)(2) of Form S–6, disclose that some of the trust's assets (____%) is invested in (preferred stock, asset-backed securities, or adjustable-rate securities), and, because the continued payment of interest or other income (and return of principal for asset-backed securities) for these types of securities cannot be predicted, this portion of the trust's yield *will* vary and, as a result, actual investor experience *will* be different.

16. In the case of a trust that invests substantially all of its assets in preferred stock, asset-backed securities, or adjustable-rate securities refer to its yield, calculated pursuant to the Estimated Yield Formula, as "Current Yield"; and, in addition to the disclosure required by paragraph (f)(2) of Form S–6, disclose that, because the continued payment of interest or other income (and return of principal for asset-backed securities) for these types of securities cannot be predicted, the trust's yield *will* vary and, as a result, actual investor experience *will* be different. Provide a cross-reference to the part of the prospectus in which the portfolio securities are described.

17. In the case of a trust that invests substantially all or a portion of its assets in preferred stock, asset-backed securities, or adjustable-rate securities and provides a yield in its advertisements pursuant to Rule 482 under the Act [17 CFR 230.482], or in its sales literature in compliance with Rule 34b–1 under the 1940 Act [17 CFR 270.34b–1], in lieu of the disclosure required by Rule 482(a)(8) under the Act [17 CFR 230.482(a)(8)] or Rule 34b–1(c)(1) under the 1940 Act [17 CFR 270.34b–1(c)(1)] provide the disclosure required by Instructions 15 and 16 (excluding the cross-reference) as appropriate.

Securities Denominated in Foreign Currencies

18. In the case of a security denominated in a foreign currency, convert its market value into U.S. dollars at the exchange rate in effect at the time of calculation.

Additional

19. Determine Estimated Yield to the nearest hundredth of one percent. Use calculations using market price, accrued interest, annual periods, expenses, net asset value, or number of years to the nearest one thousandth. Base calculations using yield to maturity, coupon rate, or sales load to the nearest thousandth of one percent.

20. In the case of a post-effective amendment to the trust's registration statement, calculate the trust's Estimated Yield as of a date reasonably close to the date of filing of the post-effective amendment.

* * * * *

PART 270—GENERAL RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

5. The authority citation for Part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39 unless otherwise noted;

* * * * *

6. By revising § 270.34b–1 to read as follows:

§ 270.34b–1 Sales literature deemed to be misleading.

Any advertisement, pamphlet, circular, form letter, or other sales literature addressed to or intended for distribution to prospective investors that is required to be filed with the Commission by section 24(b) of the Act [15 U.S.C. 80a–24(b)] ("sales literature") shall have omitted to state a fact necessary in order to make the statements made therein not materially misleading unless the sales literature includes the information specified in paragraphs (a), (b) and (c) of this section.

(a) Sales literature for a money market fund shall contain the information required by paragraph (a)(7) of § 230.482 of this chapter.

(b) Except as provided in paragraph (d) of this section, any sales literature containing performance data of an open-end management investment company or a separate account registered under the Act as a unit investment trust offering variable annuity contracts shall also include:

(1) The disclosure required by paragraph (a)(6) of § 230.482 of this chapter; and

(2) The following additional performance data, which shall meet the currentness requirements of paragraph (g) of § 230.482 of this chapter:

(i) Except in the case of a money market fund, the total return information required by paragraph (e)(3) of § 230.482 of this chapter;

(ii) In the case of sales literature containing a quotation of yield or other similar quotation purporting to demonstrate the income earned or distributions made by the company, a quotation of current yield specified by paragraph (e)(1) of § 230.482 of this chapter, or, in the case of a money market fund, paragraph (d)(1) of § 230.482 of this chapter; and

(iii) In the case of sales literature containing a quotation of tax equivalent yield or other similar quotation purporting to demonstrate the tax equivalent of income earned or distributions made by the company, a quotation of tax equivalent yield specified by paragraph (e)(2) and current yield specified by paragraph (e)(1) of § 230.482 of this chapter, or, in the case of a money market fund, paragraph (d)(1) of § 230.482 of this chapter.

(c) Any sales literature containing a quotation of yield, or other similar quotation purporting to demonstrate the income earned or distributions made or to be made by a Fixed Income UIT defined in Instruction 1 to Form S–6 under the Securities Act of 1933, (§ 239.16 of this chapter), shall also include:

(1) The disclosure required by paragraph (a)(8) of § 230.482 of this chapter; and

(2) A quotation of Estimated Yield specified by paragraph (f) of § 230.482 of this chapter which shall meet the currentness requirements of paragraph (g) of § 230.482 of this chapter.

(d) The requirements specified in paragraph (b) of this section shall not apply to any quarterly, semi-annual or annual report to shareholders under section 30 of the Act [15 U.S.C. 80a–29], containing performance data for a period commencing no earlier than the first day of the period covered by the report; nor shall the requirements of paragraphs (e)(3)(ii) and (g) of § 230.482 (e)(3)(ii) and (g) apply to any such periodic report containing any other performance data.

Note to § 270.34b–1: Sales literature of an open-end management company or a separate account (except that of a money market fund) containing a quotation of yield or tax equivalent yield must also contain the total return information. In the case of sales literature, the currentness provisions apply from the date of distribution and not the date of submission for publication.

Dated: November 22, 1995.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

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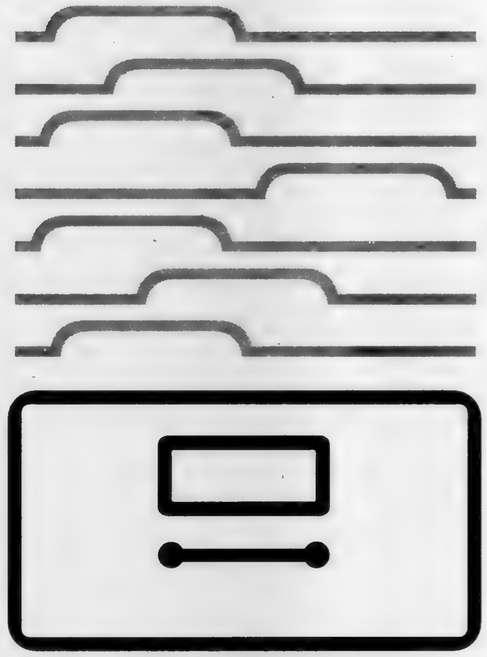

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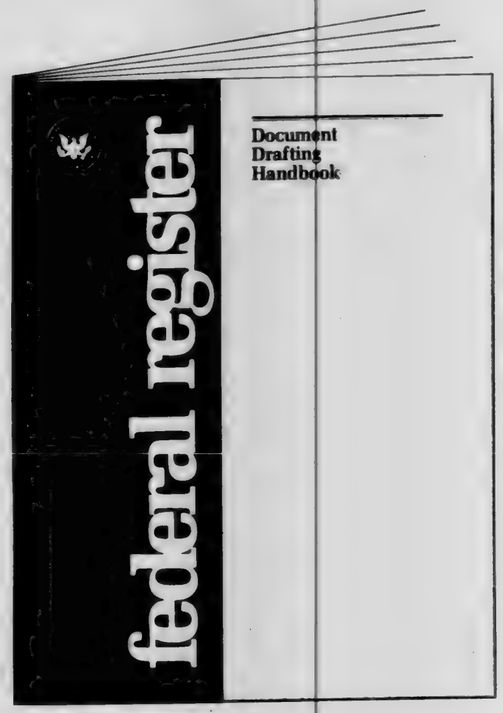

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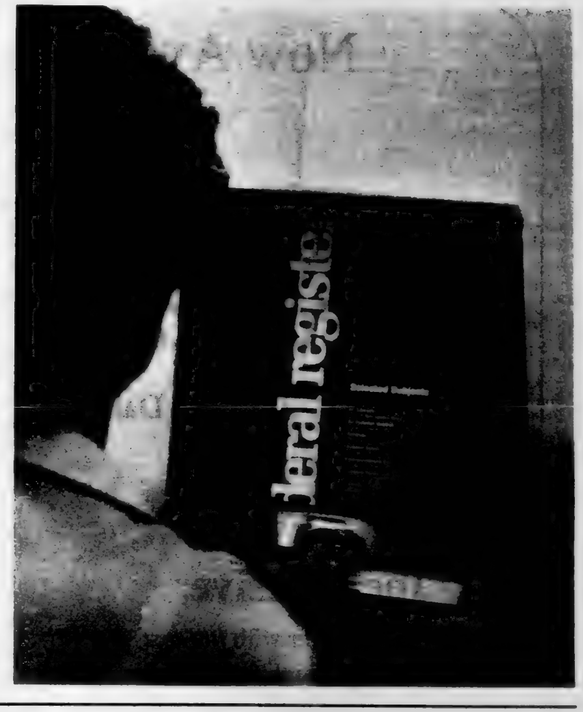

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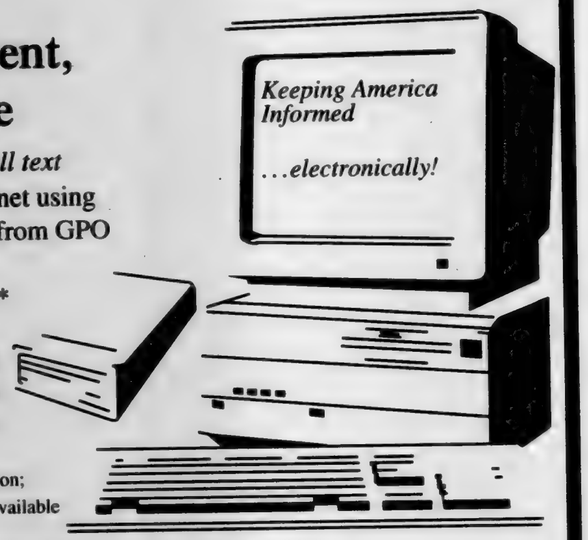

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Rules and Regulations

Federal Register
Vol. 60, No. 230
Thursday, November 30, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 309

RIN 3064–AB67

Disclosure of Information

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC or Corporation) is issuing a final rule which sets forth the Corporation's rules governing disclosure of information to members of the public. The final rule will become effective 30 days after the date of publication, and will establish the procedures to be used by members of the public when requesting records maintained by the FDIC, the amount of fees charged by the Corporation for responding to requests, the procedures to be used when appealing a decision to deny access to records or for a waiver of fees, circumstances and procedures under which exempt records might be disclosed, and the method by which a party can serve legal process on the Corporation in order to obtain information. The final rule provides a more streamlined and efficient process under which members of the public can obtain information from the Corporation, thus meeting the goals of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Paul A. Jeddeloh, Senior Program Attorney, Office of the Executive Secretary, telephone (202) 898–7161; Z. Scott Birdwell, Senior Attorney, Corporate and Special Litigation Section, Legal Division, telephone (202) 736–0536; or Dirck A. Hargraves, Attorney, Regulation and Legislation Section, Legal Division, telephone (202) 898–7049, FDIC, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

On July 6, 1995, the Corporation published for comment a proposed rule to establish procedures for the disclosure of information to the public (60 FR 35148–35158). The proposed rule prescribed a 60-day comment period and invited comments from all interested parties. No comments were received. The rule was technically corrected for clarification through the deletion of the words *court order* in the fifth sentence in § 309.6(b)(8)(i) and 309.7(c); the addition of the phrase *and not otherwise prohibited by Federal statute* to the end of the first sentence in § 309.6(b)(8)(ii); the addition of the last sentence in § 309.7(a); and the deletion of the word *exempt* in the first sentence of § 309.7(b) and 309.7(c).

II. Matters of Regulatory Procedure

Authority

This rule is promulgated under the FDIC's general authority to prescribe, through its Board of Directors, such rules and regulations as it may deem necessary to carry out the provisions of the Federal Deposit Insurance Act or any other law which the FDIC has the responsibility of administering or enforcing (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency). 12 U.S.C. 1819 "Seventh" and "Tenth"; 5 U.S.C. 552; 12 U.S.C. 3401 *et seq.*

Regulatory Flexibility Act

The Board of Directors has concluded that the final rule will not impose a significant economic hardship on small institutions. Therefore, the Board of Directors hereby certifies pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the final rule will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The Board of Directors has determined that this final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 12 CFR Part 309

Banks, Banking, Credit, Freedom of information, Privacy.

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation is revising Part 309 of Chapter III of title 12, of the Code of Federal Regulations to read as follows:

PART 309—DISCLOSURE OF INFORMATION

Sec.

309.1 Purpose and scope.
309.2 Definitions.
309.3 **Federal Register** publication.
309.4 Publicly available records.
309.5 Procedures for requesting records.
309.6 Disclosure of exempt records.
309.7 Service of process.

Authority: 5 U.S.C. 552; 12 U.S.C. 1819 "Seventh" and "Tenth."

§ 309.1 Purpose and scope.

This part sets forth the basic policies of the Federal Deposit Insurance Corporation regarding information it maintains and the procedures for obtaining access to such information.

§ 309.2 Definitions.

For purposes of this part:

(a) The term *depository institution*, as used in § 309.6, includes depository institutions that have applied to the Corporation for federal deposit insurance, closed depository institutions, presently operating federally insured depository institutions, foreign banks, branches of foreign banks, and all affiliates of any of the foregoing.

(b) The terms *Corporation* or *FDIC* mean the Federal Deposit Insurance Corporation.

(c) The words *disclose* or *disclosure*, as used in § 309.6, mean to give access to a record, whether by producing the written record or by oral discussion of its contents. Where the Corporation employee authorized to release Corporation documents makes a determination that furnishing copies of the documents is necessary, the words *disclose* or *disclosure* include the furnishing of copies of documents or records. In addition, *disclose* or *disclosure* as used in § 309.6 is synonymous with the term *transfer* as

used in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*).

(d) The term *examination* includes, but is not limited to, formal and informal investigations of irregularities involving suspected violations of federal or state civil or criminal laws, or unsafe and unsound practices as well as such other investigations as may be conducted pursuant to law.

(e) The term *record* includes records, files, documents, reports, correspondence, books, and accounts, or any portion thereof.

(f) The term *report of examination* includes, but is not limited to, examination reports resulting from examinations of depository institutions conducted jointly by Corporation examiners and state banking authority examiners or other federal financial institution examiners, as well as reports resulting from examinations conducted solely by Corporation examiners. The term also includes compliance examination reports.

(g) The term *customer financial records*, as used in § 309.6, means an original of, a copy of, or information known to have been derived from, any record held by a depository institution pertaining to a customer's relationship with the depository institution but does not include any record that contains information not identified with or identifiable as being derived from the financial records of a particular customer. The term *customer* as used in § 309.6 refers to individuals or partnerships of five or fewer persons.

(h) The term *Director of the Division having primary authority* includes Deputies to the Chairman and directors of FDIC Divisions and Offices that create, maintain custody, or otherwise have primary responsibility for the handling of FDIC records or information.

§ 309.3 Federal Register publication.

The FDIC publishes the following information in the **Federal Register** for the guidance of the public:

(a) Descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

(b) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports or examinations;

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the FDIC;

(e) Every amendment, revision or repeal of the foregoing; and

(f) General notices of proposed rule-making.

§ 309.4 Publicly available records.

The following records are available upon request or, as noted, available for public inspection during normal business hours, at the listed offices. Certain records are also available on the Internet at the following address: http://www.fdic.gov. To the extent permitted by law, the FDIC may delete identifying details when it makes available or publishes a final opinion, final order, statement of policy, interpretation or staff manual or instruction. Fees for furnishing records under this section are as set forth in § 309.5(c).

(a) At the Office of Corporate Communications, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429, (202) 898–6996:

(1) Documents, including press releases, financial institution letters and proposed and adopted regulations, published by the FDIC and pertaining to its operations and those of insured depository institutions that it supervises.

(2) Reports on the competitive factors involved in merger transactions and the bases for approval of merger transactions as required by sections 18(c)(4) and 18(c)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c) (4) and (9)).

(3) Community Reinvestment Act (CRA) Public Evaluations.

(4) Final decisions and orders concerning compliance, enforcement, and other related administrative actions.

(5) At the FDIC's discretion, Summary of Deposits filed by insured depository institutions, except that information on the size and number of accounts filed before June, 1982 is not available.[1]

(6) Annual Report of Trust Assets for commercial banks and state savings banks.[2]

(b) At the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429, which information is available for public inspection:

(1) All final opinions (including concurring and dissenting opinions) and all final orders made in the adjudication of administrative cases.

(2) Statements of policy and interpretations which have been adopted by the FDIC but have not been published in the **Federal Register**.

(3) A current index of matters covered by paragraphs (b)(1) and (b)(2) of this section that were issued, adopted or promulgated after July 4, 1967. Copies of the index will be provided at the direct cost of duplication as set forth in § 309.5(b).

(c) At the Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429:

(1) Filings and reports required under the provisions of 12 CFR Part 335 and the Securities and Exchange Act of 1934, as amended (15 U.S.C. 78a), by insured nonmember banks the securities of which are registered with the FDIC pursuant to section 12 of that Act (15 U.S.C. 78l). These filings and reports are available for public inspection as detailed in 12 CFR 335.702.

(2) Manual of Examination Policies.

(3) Manual of Trust Examination Policies.

(4) Federal Financial Institutions Examination Council (FFIEC) Information Systems Examination Handbook.

(5) In the FDIC's discretion, the Consolidated Reports of Condition and Income filed by insured nonmember banks (and certain nonfederally insured depository institutions in the case of reports of condition), except that select sensitive financial information may be withheld.[3]

(d) At the regional office of the FDIC for the region in which the applicant or subject depository institution is located (A list of FDIC's regional offices is available from the Office of Corporate Communications, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, DC 20429, (202) 898–6996):

(1) In the FDIC's discretion, non-confidential portions of application files as provided in 12 CFR 303.6(g), including applications for deposit insurance, to establish branches, to relocate offices and to merge.

(2)(i) After acceptance by the FDIC of a notice filed pursuant to the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)) (other than a notice filed in contemplation of a public tender offer subject to the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78n) and the FDIC's tender offer regulations (12 CFR 335.501–335.530), the appropriate FDIC regional office will make available, on request, the following information: The name of the depository institution whose stock is to be acquired; the date the notice was accepted; the identity of the acquiring person(s); the number of shares to be acquired; and the number of outstanding shares of stock in the depository institution. (The mere filing of a notice does not automatically constitute "acceptance" by the FDIC; a notice is "accepted" when the regional office determines that the notice contains all the information required by 12 U.S.C. 1817(j)(6)).

(ii) In the case of a notice filed in contemplation of a public tender offer that is subject to the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78n) and the FDIC's tender offer regulations (12 CFR 335.501–335.530), when public disclosure is determined under § 303.4(b)(4) of the FDIC's regulations (12 CFR 303.4(b)(4)) to be appropriate, the appropriate FDIC regional office will make available, on request, the information described in paragraph (d)(2)(i) of this section.

(iii) After a transaction subject to the Change in Bank Control Act of 1978 has been consummated, the appropriate FDIC regional office will make available, on request, the following information, in addition to the information described in paragraph (d)(2)(i) of this section: The date the shares were acquired; the names of the sellers (or transferors); and the total number of shares owned by the purchasers (or acquirors).

(e) At the Division of Depositor and Asset Services, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C., 20429:

(1) Credit Manual;
(2) Agriculture Manual;
(3) Claims Manual;
(4) Operations Manual;
(5) Closing Manual;
(6) Environmental Guidelines Manual;
(7) Deposit Insurance Manual;
(8) Settlement Manual.

(f) At the Division of Compliance and Consumer Affairs, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429: Compliance Examination Manual.

[1] Summary of Deposits reports are described at 12 CFR 304.5.

[2] Annual Report of Trust Assets, FFIEC Form 001.

[3] Reports of income and of condition are described at 12 CFR 304.4.

§ 309.5 Procedures for requesting records.

(a) *Definitions.* For purposes of this section:

(1) *Commercial use request* means a request from or on behalf of a requester who seeks records for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a request falls within this category, the FDIC will determine the use to which a requester will put the records requested and seek additional information as it deems necessary.

(2) *Direct costs* means those expenditures the FDIC actually incurs in searching for, duplicating, and, in the case of commercial requesters, reviewing records in response to a request for records.

(3) *Duplication* means the process of making a copy of a record necessary to respond to a request for records or for inspection of original records that contain exempt material or that cannot otherwise be directly inspected. Such copies can take the form of paper copy, microfilm, audiovisual records, or machine readable records (e.g., magnetic tape or computer disk).

(4) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(5) *Non-commercial scientific institution* means an institution that is not operated on a *commercial* basis as that term is defined in paragraph (a)(1) of this section, and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(6) *Representative of the news media* means any person actively gathering news for, or a free-lance journalist who reasonably expects to have his or her work product published or broadcast by, an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the general public.

(7) *Review* means the process of examining records located in response to a request for records to determine whether any portion of any record is permitted to be withheld as exempt information. It includes processing any record for disclosure, e.g., doing all that is necessary to excise them or otherwise prepare them for release.

(8) *Search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within records. Searches may be done manually and/or by computer using existing programming.

(b) *Initial request.* (1) Except as provided in paragraphs (d) and (h) of this section, the FDIC, upon request for any record in its possession, will make the record available to any person who agrees to pay the costs of searching, review and duplication as set forth in paragraph (c) of this section. The request must be in writing, provide information reasonably sufficient to enable the FDIC to identify the requested records and specify a dollar limit which the requester is willing to pay for the costs of searching, review and duplication, unless the costs are believed to be less than the FDIC's cost of processing the requester's remittance, which cost will be set forth in the "Notice of Federal Deposit Insurance Corporation Records Fees" as described in paragraph (c)(3) of this section. Requests under this paragraph (b) should be addressed to the Office of the Executive Secretary, FDIC, 550 17th Street, N.W., Washington, DC 20429.

(2) The FDIC will transmit notice to the requester within 10 business days after receipt of the initial request whether it is granted or denied. Denials of requests will be based on the exemptions provided for in paragraph (d) of this section.

(3) Notification of a denial of an initial request will be in writing and will state:

(i) If the denial is in part or in whole;

(ii) The name and title of each person responsible for the denial (when other than the person signing the notification);

(iii) The exemptions relied on for the denial; and

(iv) The right of the requester to appeal the denial to the FDIC's General Counsel within 30 business days following receipt of the notification.

(c) *Fees*—(1) *General rules.* (i) Persons requesting records of the FDIC shall be charged for the direct costs of search, duplication and review as set forth in paragraphs (c)(2) and (c)(3) of this section, unless such costs are less than the FDIC's cost of processing the requester's remittance.

(ii) Requesters will be charged for search and review costs even if responsive records are not located and, if located, are determined to be exempt from disclosure.

(iii) Multiple requests seeking similar or related records from the same requester or group of requesters will be aggregated for the purposes of this section.

(iv) If the FDIC determines that the estimated costs of search, duplication or review of requested records will exceed the dollar amount specified in the request or if no dollar amount is specified, the FDIC will advise the requester of the estimated costs (if greater than the FDIC's cost of

processing the requester's remittance). The requester must agree in writing to pay the costs of search, duplication and review prior to the FDIC initiating any records search.

(v) If the FDIC estimates that its search, duplication and review costs will exceed $250.00, the requester must pay an amount equal to 20 percent of the estimated costs prior to the FDIC initiating any records search.

(vi) The FDIC may require any requester who has previously failed to pay the charges under this section within 30 days of mailing of the invoice to pay in advance the total estimated costs of search, duplication and review. The FDIC may also require a requester who has any charges outstanding in excess of 30 days following mailing of the invoice to pay the full amount due, or demonstrate that the fee has been paid in full, prior to the FDIC initiating any additional records search.

(vii) The FDIC may begin assessing interest charges on unpaid bills on the 31st day following the day on which the notice was sent. Interest will be at the rate prescribed in section 3717 of title 31 of the United States Code and will accrue from the date of the invoice.

(viii) The time limit for FDIC to respond to a request will not begin to run until the FDIC has received the requester's written agreement under paragraph (c)(1)(iv) of this section, and advance payment under paragraph (c)(1)(v) or (vi) of this section, or outstanding charge under paragraph (c)(1)(vi) of this section.

(ix) As part of the initial request, a requester may ask that the FDIC waive or reduce fees if disclosure of the records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. Determinations as to a waiver or reduction of fees will be made by the Executive Secretary (or designee) and the requester will be notified in writing of his/her determination. A determination not to grant a request for a waiver or reduction of fees under this paragraph may be appealed to the FDIC's General Counsel (or designee) pursuant to the procedure set forth in paragraph (e) of this section.

(2) *Chargeable fees by category of requester.* (i) Commercial use requesters shall be charged search, duplication and review costs.

(ii) Educational institutions, non-commercial scientific institutions and news media representatives shall be charged duplication costs, except for the first 100 pages.

(iii) Requesters not within the scope of paragraph (c)(2) (i) or (ii) of this section shall be charged the full reasonable direct cost of search and duplication, except for the first two hours of search time and first 100 pages of duplication.

(3) *Fee schedule.* The dollar amount of fees which the FDIC may charge to records requesters will be established by the Chief Financial Officer of the FDIC (or designee), and will be set forth in the "Notice of Federal Deposit Insurance Corporation Records Fees" issued in December of each year or in such "Interim Notice of Federal Deposit Insurance Corporation Records Fees" as may be issued. Copies of such notices may be obtained at no charge from the FDIC's Office of the Executive Secretary, FOIA Unit, 550 17th Street NW., Washington, DC 20429. The fees implemented in the December or Interim Notice will be effective 30 days after issuance. The FDIC may charge fees that recoup the full allowable direct costs it incurs. The FDIC may contract with independent contractors to locate, reproduce, and/or disseminate records; provided however, that the FDIC has determined that the ultimate cost to the requester will be no greater than it would be if the FDIC performed these tasks itself. In no case will the FDIC contract out responsibilities which the Freedom of Information Act (FOIA) (5 U.S.C. 552) provides that the FDIC alone may discharge, such as determining the applicability of an exemption or whether to waive or reduce fees. Fees are subject to change as costs change.

(i) *Manual searches for records.* The FDIC will charge for manual searches for records at the basic rate of pay of the employee making the search plus 16 percent to cover employee benefit costs. Where a single class of personnel (e.g., all clerical, all professional, or all executive) is used exclusively, the FDIC, at its discretion, may establish and charge an average rate for the range of grades typically involved.

(ii) *Computer searches for records.* The fee for searches of computerized records is the actual direct cost of the search, including computer time, computer runs, and the operator's time apportionable to the search. The fee for a computer printout is the actual cost. The fees for computer supplies are the actual costs. The FDIC may, at its discretion, establish and charge a fee for computer searches based upon a reasonable FDIC-wide average rate for central processing unit operating costs and the operator's basic rate of pay plus 16 percent to cover employee benefit costs.

(iii) *Duplication of records.* (A) The per-page fee for paper copy reproduction of documents is the average FDIC-wide cost based upon the reasonable direct costs of making such copies.

(B) For other methods of reproduction or duplication, the FDIC will charge the actual direct costs of reproducing or duplicating the documents.

(iv) *Review of records.* The FDIC will charge commercial use requesters for the review of records at the time of processing the initial request to determine whether they are exempt from mandatory disclosure at the basic rate of pay of the employee making the search plus 16 percent to cover employee benefit costs. Where a single class of personnel (e.g., all clerical, all professional, or all executive) is used exclusively, the FDIC, at its discretion, may establish and charge an average rate for the range of grades typically involved. The FDIC will not charge at the administrative appeal level for review of an exemption already applied. When records or portions of records are withheld in full under an exemption which is subsequently determined not to apply, the FDIC may charge for a subsequent review to determine the applicability of other exemptions not previously considered.

(v) *Other services.* Complying with requests for special services is at the FDIC's discretion. The FDIC may recover the full costs of providing such services to the extent it elects to provide them.

(d) *Exempt information.* A request for records may be denied if the requested record contains information which falls into one or more of the following categories.[4] If the requested record contains both exempt and nonexempt information, the nonexempt portions which may reasonably be segregated from the exempt portions will be released to the requester.

(1) Records which are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order;

(2) Records related solely to the internal personnel rules and practices of the FDIC;

[4] Classification of a record as exempt from disclosure under the provisions of § 309.5(d) shall not be construed as authority to withhold the record if it is otherwise subject to disclosure under the Privacy Act of 1974 (5 U.S.C. 552a) or other federal statute, any applicable regulation of FDIC or any other federal agency having jurisdiction thereof, or any directive or order of any court of competent jurisdiction.

(3) Records specifically exempted from disclosure by statute, provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person that is privileged or confidential;

(5) Interagency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with the FDIC;

(6) Personnel, medical, and similar files (including financial files) the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished records on a confidential basis;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Records that are contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the FDIC or any agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

(e) *Appeals.* (1) A person whose initial request for records under paragraph (a) of this section, or whose request for a waiver of fees under paragraph (c)(1)(ix) of this section, has been denied, either in part or in whole, has the right to appeal the denial to FDIC's General Counsel (or designee) within 30 business days after receipt of notification of the denial. Appeals of denials of initial requests or for a waiver of fees must be in writing and include any additional information relevant to consideration of the appeal. Appeals should be addressed to the Office of the Executive Secretary, FDIC, 550 17th Street, N.W., Washington, DC 20429.

(2) The FDIC will notify the appellant within 20 business days after receipt of the appeal whether it is granted or denied. Denials of appeals on initial requests for records will be based on the exemptions provided for in paragraph (c) of this section.

(3) Notifications of a denial of an appeal will be in writing and will state:

(i) Whether the denial is in part or in whole;

(ii) The name and title of each person responsible for the denial (if other than the person signing the notification);

(iii) The exemptions relied upon for the denial in the case of initial requests for records; and

(iv) The right to judicial review of the denial under the FOIA.

(f) *Extension of time.* (1) Under unusual circumstances the FDIC may require additional time, up to a maximum of 10 business days, to determine whether to grant or deny an initial request or to respond to an appeal of an initial denial. These circumstances would arise in cases where:

(i) The records are in facilities, such as field offices or storage centers, that are not part of the FDIC's Washington office;

(ii) The records requested are voluminous and are not in close proximity to one another; or

(iii) There is a need to consult with another agency or among two or more components of the FDIC having a substantial interest in the determination.

(2) The FDIC will promptly give written notification to the person making the request of the estimated date it will make its determination and the reasons why additional time is required.

(g) *FDIC procedures.* (1) Initial requests for records will be forwarded by the Executive Secretary to the head of the FDIC division or office which has primary authority over such records. Where it is determined that the requested records may be released, the appropriate division or office head will grant access to the records. A request for records may be denied only by the Executive Secretary (or designee), except that a request for records not responded to within 10 business days following its receipt by the Office of Executive Secretary—by notice to the requester either granting the request, denying the request, or extending the time for making a determination on the request—shall, if the requester chooses to treat such delay in response as a denial, be deemed to have been denied.

(2) Appeals from a denial of an initial request will be forwarded by the Executive Secretary to the General Counsel (or designee) for a determination whether the appeal will be granted or denied. The General Counsel (or designee) may on his or her own motion refer an appeal to the Board of Directors for a determination or the Board of Directors may in its discretion consider such an appeal.

(h) *Records of another agency.* If a requested record is the property of another federal agency or department, and that agency or department, either in writing or by regulation, expressly retains ownership of such record, upon receipt of a request for the record the FDIC will promptly inform the requester of this ownership and immediately shall forward the request to the proprietary agency or department either for processing in accordance with the latter's regulations or for guidance with respect to disposition.

§ 309.6 Disclosure of exempt records.

(a) *Disclosure prohibited.* Except as provided in paragraph (b) of this section or by 12 CFR part 310[5], no person shall disclose or permit the disclosure of any exempt records, or information contained therein, to any persons other than those officers, directors, employees, or agents of the Corporation who have a need for such records in the performance of their official duties. In any instance in which any person has possession, custody or control of FDIC exempt records or information contained therein, all copies of such records shall remain the property of the Corporation and under no circumstances shall any person, entity or agency disclose or make public in any manner the exempt records or information without written authorization from the Director of the Corporation's Division having primary authority over the records or information as provided in this section.

(b) *Disclosure authorized.* Exempt records or information of the Corporation may be disclosed only in accordance with the conditions and requirements set forth in this paragraph (b). Requests for discretionary disclosure of exempt records or information pursuant to this paragraph (b) may be submitted directly to the Division having primary authority over the exempt records or information or to

[5] The procedures for disclosing records under the Privacy Act are separately set forth in 12 CFR part 310.

the Office of Executive Secretary for forwarding to the appropriate Division having primary authority over the records sought. Such administrative request must clearly state that it seeks discretionary disclosure of exempt records, clearly identify the records sought, provide sufficient information for the Corporation to evaluate whether there is good cause for disclosure, and meet all other conditions set forth in paragraph (b)(1) through (10) of this section. Information regarding the appropriate FDIC Division having primary authority over a particular record or records may be obtained from the Office of Executive Secretary. Authority to disclose or authorize disclosure of exempt records of the Corporation is delegated as follows:

(1) *Disclosure to depository institutions.* The Director of the Corporation's Division having primary authority over the exempt records, or designee, may disclose to any director or authorized officer, employee or agent of any depository institution, information contained in, or copies of, exempt records pertaining to that depository institution.

(2) *Disclosure to state banking agencies.* The Director of the Corporation's Division having primary authority over the exempt records, or designee, may in his or her discretion and for good cause, disclose to any authorized officer or employee of any state banking or securities department or agency, copies of any exempt records to the extent the records pertain to a state-chartered depository institution supervised by the agency or authority, or where the exempt records are requested in writing for a legitimate depository institution supervisory or regulatory purpose.

(3) *Disclosure to federal financial institutions supervisory agencies and certain other agencies.* The Director of the Corporation's Division having primary authority over the exempt records, or designee, may in his or her discretion and for good cause, disclose to any authorized officer or employee of any federal financial institution supervisory agency including the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Office of Thrift Supervision, the Securities and Exchange Commission, the National Credit Union Administration, or any other agency included in section 1101(7) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et. seq.) (RFPA), any exempt records for a legitimate depository institution supervisory or regulatory purpose. The Director, or designee, may in his or her discretion and for good cause, disclose exempt records, including customer financial records, to certain other federal agencies as referenced in section 1113 of the RFPA for the purposes and to the extent permitted therein, or to any foreign bank regulatory or supervisory authority as provided, and to the extent permitted, by section 206 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 3109).

(4) *Disclosure to prosecuting or investigatory agencies or authorities.* (i) Reports of Apparent Crime pertaining to suspected violations of law, which may contain customer financial records, may be disclosed to federal or state prosecuting or investigatory authorities without giving notice to the customer, as permitted in the relevant exceptions of the RFPA.

(ii) The Director of the Corporation's Division having primary authority over the exempt records, or designee, may disclose to the proper federal or state prosecuting or investigatory authorities, or to any authorized officer or employee of such authority, copies of exempt records pertaining to irregularities discovered in depository institutions which are believed to constitute violations of any federal or state civil or criminal law, or unsafe or unsound banking practices, provided that customer financial records may be disclosed without giving notice to the customer, only as permitted by the relevant exceptions of the RFPA. Unless such disclosure is initiated by the FDIC, customer financial records shall be disclosed only in response to a written request which:

(A) Is signed by an authorized official of the agency making the request;

(B) Identifies the record or records to which access is requested; and

(C) Gives the reasons for the request.

(iii) When notice to the customer is required to be given under the RFPA, the Director of the Corporation's Division having primary authority over the exempt records, or designee, may disclose customer financial records to any federal or state prosecuting or investigatory agency or authority, provided, that:

(A) The General Counsel, or designee, has determined that disclosure is authorized or required by law; or

(B) Disclosure is pursuant to a written request that indicates the information is relevant to a legitimate law enforcement inquiry within the jurisdiction of the requesting agency and:

(*1*) The Director of the Corporation's Division having primary authority over the exempt records, or designee, certifies pursuant to section 1112(a)[6] of the RFPA that the records are believed relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency; and

(*2*) A copy of such certification and the notice required by section 1112(b)[7] of the RFPA is sent within fourteen days of the disclosure to the customer whose records are disclosed.[8]

(5) *Disclosure to servicers and serviced institutions.* The Director of the Corporation's Division having primary authority over the exempt records, or designee, may disclose copies of any exempt record related to a bank data center, a depository institution service corporation or any other data center that provides data processing or related services to an insured institution (hereinafter referred to as "data center") to:

(i) The examined data center;

(ii) Any insured institution that receives data processing or related services from the examined data center;

(iii) Any state agency or authority which exercises general supervision over an institution serviced by the examined data center; and

(iv) Any federal financial institution supervisory agency which exercises general supervision over an institution serviced by the examined data center. The federal supervisory agency may disclose any such examination report received from the Corporation to an insured institution over which it exercises general supervision and which is serviced by the examined data center.

(6) *Disclosure to third parties.* (i) Except as otherwise provided in paragraphs (c) (1) through (5) of this section, the Director of the Corporation's Division having primary authority over the exempt records, or designee, may in his or her discretion and for good cause, disclose copies of any exempt records to any third party where requested to do so in writing. Any such written request shall:

(A) Specify, with reasonable particularity, the record or records to which access is requested; and

(B) Give the reasons for the request.

(ii) Either prior to or at the time of any disclosure, the Director or designee shall require such terms and conditions as he deems necessary to protect the confidential nature of the record, the financial integrity of any depository institution to which the record relates, and the legitimate privacy interests of any individual named in such records.

(7) *Authorization for disclosure by depository institutions or other third parties.* (i) The Director of the Corporation's Division having primary authority over the exempt records, or designee, may, in his or her discretion and for good cause, authorize any director, officer, employee, or agent of a depository institution to disclose copies of any exempt record in his custody to anyone who is not a director, officer or employee of the depository institution. Such authorization must be in response to a written request from the party seeking the record or from management of the depository institution to which the report or record pertains. Any such request shall specify, with reasonable particularity, the record sought, the party's interest therein, and the party's relationship to the depository institution to which the record relates.

(ii) The Director of the Corporation's Division having primary authority over the exempt records, or designee, may, in his or her discretion and for good cause, authorize any third party, including a federal or state agency, that has received a copy of a Corporation exempt record, to disclose such exempt record to another party or agency. Such authorization must be in response to a written request from the party that has custody of the copy of the exempt record. Any such request shall specify the record sought to be disclosed and the reasons why disclosure is necessary.

(iii) Any subsidiary depository institution of a bank holding company or a savings and loan holding company may reproduce and furnish a copy of any report of examination of the subsidiary depository institution to the parent holding company without prior approval of the Director of the Division having primary authority over the exempt records and any depository institution may reproduce and furnish a copy of any report of examination of the disclosing depository institution to a majority shareholder if the following conditions are met:

(A) The parent holding company or shareholder owns in excess of 50% of the voting stock of the depository institution or subsidiary depository institution;

(B) The board of directors of the depository institution or subsidiary depository institution at least annually by resolution authorizes the reproduction and furnishing of reports of examination (the resolution shall specifically name the shareholder or parent holding company, state the address to which the reports are to be sent, and indicate that all reports furnished pursuant to the resolution remain the property of the Federal Deposit Insurance Corporation and are not to be disclosed or made public in any manner without the prior written approval of the Director of the Corporation's Division having primary authority over the exempt records as provided in paragraph (b) of this section;

(C) A copy of the resolution authorizing disclosure of the reports is sent to the shareholder or parent holding company; and

(D) The minutes of the board of directors of the depository institution or subsidiary depository institution for the meeting immediately following disclosure of a report state:

(*1*) That disclosure was made;

(*2*) The date of the report which was disclosed;

(*3*) To whom the report was sent; and

(*4*) The date the report was disclosed.

(iv) With respect to any disclosure that is authorized under this paragraph (b)(7), the Director of the Corporation's Division having primary authority over the exempt records, or designee, shall only permit disclosure of records upon determining that good cause exists. If the exempt record contains information derived from depository institution customer financial records, disclosure is to be authorized only upon the condition that the requesting party and the party releasing the records comply with any applicable provision of the RFPA. Before authorizing the disclosure, the Director (or designee) may require that both the party having custody of a copy of a Corporation exempt record and the party seeking access to the record agree to such limitations as the Director (or designee) deems necessary to protect the confidential nature of the record, the financial integrity of any depository institution to which the record relates and the legitimate privacy interests of any persons named in such record.

(8) *Disclosure by General Counsel.* (i) The Corporation's General Counsel, or designee, may disclose or authorize the disclosure of any exempt record in response to a valid judicial subpoena, court order, or other legal process, and authorize any current or former officer, director, employee, agent of the Corporation, or third party, to appear and testify regarding an exempt record or any information obtained in the performance of such person's official duties, at any administrative or judicial hearing or proceeding where such person has been served with a valid subpoena, court order, or other legal process requiring him or her to testify. The General Counsel shall consider the relevancy of such exempt records or testimony to the litigation, and the interests of justice, in determining whether to disclose such records or testimony. Third parties seeking disclosure of exempt records or testimony in litigation to which the FDIC is not a party shall submit a request for discretionary disclosure directly to the General Counsel.[9] Such request shall specify the information sought with reasonable particularity and shall be accompanied by a statement with supporting documentation showing in detail the relevance of such exempt information to the litigation, justifying good cause for disclosure, and a commitment to be bound by a protective order. Failure to exhaust such administrative request prior to service of a subpoena or other legal process may, in the General Counsel's discretion, serve as a basis for objection to such subpoena or legal process. Customer financial records may not be disclosed to any federal agency that is not a federal financial supervisory agency pursuant to this paragraph unless notice to the customer and certification as required by the RFPA have been given except where disclosure is subject to the relevant exceptions set forth in the RFPA.

(ii) The General Counsel, or designee, may in his or her discretion and for good cause, disclose or authorize disclosure of any exempt record or testimony by a current or former officer, director, employee, agent of the Corporation, or third party, sought in connection with any civil or criminal hearing, proceeding or investigation without the service of a judicial

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[6] The form of certification generally is as follows. Additional information may be added:

Pursuant to section 1112(a) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412), I, _____ [name and appropriate title] hereby certify that the financial records described below were transferred to (agency or department) in the belief that they were relevant to a legitimate law enforcement inquiry, within the jurisdiction of the receiving agency.

[7] The form of notice generally is as follows. Additional information may be added:

Dear Mr./Ma. _____:

Copies of, or information contained in, your financial records lawfully in the possession of the Federal Deposit Insurance Corporation have been furnished to (agency or department) pursuant to the Right to Financial Privacy Act of 1978 for the following purpose: _____. If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Right to Financial Privacy Act of 1978 or the Privacy Act of 1974.

[8] Whenever the Corporation is subject to a court-ordered delay of the customer notice, the notice shall be sent immediately upon the expiration of the court-ordered delay.

[9] This administrative requirement does not apply to subpoenas, court orders or other legal process issued for records of depository institutions held by the FDIC as Receiver or Conservator. Subpoenas, court orders or other legal process issued for such records will be processed in accordance with State and Federal law, regulations, rules and privileges applicable to FDIC as Receiver or Conservator.

subpoena, or other legal process requiring such disclosure or testimony, if he or she determines that the records or testimony are relevant to the hearing, proceeding or investigation and that disclosure is in the best interests of justice and not otherwise prohibited by Federal statute. Customer financial records shall not be disclosed to any federal agency pursuant to this paragraph that is not a federal financial supervisory agency, unless the records are sought under the Federal Rules of Civil Procedure (28 U.S.C. appendix) or the Federal Rules of Criminal Procedure (18 U.S.C. appendix) or comparable rules of other courts and in connection with litigation to which the receiving federal agency, employee, officer, director, or agent, and the customer are parties, or disclosure is otherwise subject to the relevant exceptions in the RFPA. Where the General Counsel or designee authorizes a current or former officer, director, employee or agent of the Corporation to testify or disclose exempt records pursuant to this paragraph (b)(8), he or she may, in his or her discretion, limit the authorization to so much of the record or testimony as is relevant to the issues at such hearing, proceeding or investigation, and he or she shall give authorization only upon fulfillment of such conditions as he or she deems necessary and practicable to protect the confidential nature of such records or testimony.

(9) *Authorization for disclosure by the Chairman of the Corporation's Board of Directors.* Except where expressly prohibited by law, the Chairman of the Corporation's Board of Directors may in his or her discretion, authorize the disclosure of any Corporation records. Except where disclosure is required by law, the Chairman may direct any current or former officer, director, employee or agent of the Corporation to refuse to disclose any record or to give testimony if the Chairman determines, in his or her discretion, that refusal to permit such disclosure is in the public interest.

(10) *Limitations on disclosure.* All steps practicable shall be taken to protect the confidentiality of exempt records and information. Any disclosure permitted by paragraph (b) of this section is discretionary and nothing in paragraph (b) of this section shall be construed as requiring the disclosure of information. Further, nothing in paragraph (b) of this section shall be construed as restricting, in any manner, the authority of the Board of Directors, the Chairman of the Board of Directors, the Director of the Corporation's Division having primary authority over the exempt records, the Corporation's General Counsel, or their designees, or any other Corporation Division or Office head, in their discretion and in light of the facts and circumstances attendant in any given case, to require conditions upon and to limit the form, manner, and extent of any disclosure permitted by this section. Wherever practicable, disclosure of exempt records shall be made pursuant to a protective order and redacted to exclude all irrelevant or non-responsive exempt information.

§ 309.7 Service of process.

(a) *Service.* Any subpoena or other legal process to obtain information maintained by the FDIC shall be duly issued by a court having jurisdiction over the FDIC, and served upon either the Executive Secretary (or designee), FDIC, 550 17th Street, N.W., Washington, DC 20429, or the Regional Director or Regional Manager of the FDIC region where the legal action from which the subpoena or process was issued is pending. A list of the FDIC's regional offices is available from the Office of Corporate Communications, FDIC, 550 17th Street, N.W., Washington, DC 20429 (telephone 202–898–6996). Where the FDIC is named as a party, service of process shall be made pursuant to the Federal Rules of Civil Procedure, and upon the Executive Secretary (or designee), FDIC, 550 17th Street N.W., Washington, DC 20429, or upon the agent designated to receive service of process in the state, territory, or jurisdiction in which any insured depository institution is located. Identification of the designated agent in the state, territory, or jurisdiction may be obtained from the Office of the Executive Secretary or from the Office of the General Counsel, FDIC, 550 17th Street N.W., Washington, DC 20429. The Executive Secretary (or designee), Regional Director or designated agent shall immediately forward any subpoena, court order or legal process to the General Counsel. The Corporation may require the payment of fees, in accordance with the fee schedule referred to in § 309.5(c)(3), prior to the release of any records requested pursuant to any subpoena or other legal process.

(b) *Notification by person served.* If any current or former officer, director, employee or agent of the Corporation, or any other person who has custody of records belonging to the FDIC, is served with a subpoena, court order, or other process requiring that person's attendance as a witness concerning any matter related to official duties, or the production of any exempt record of the Corporation, such person shall promptly advise the Office of the Corporation's General Counsel of such service, of the testimony and records described in the subpoena, and of all relevant facts which may be of assistance to the General Counsel in determining whether the individual in question should be authorized to testify or the records should be produced. Such person should also inform the court or tribunal which issued the process and the attorney for the party upon whose application the process was issued, if known, of the substance of this section.

(c) *Appearance by person served.* Absent the written authorization of the Corporation's General Counsel, or designee, to disclose the requested information, any current or former officer, director, employee, or agent of the Corporation, and any other person having custody of records of the Corporation, who is required to respond to a subpoena or other legal process, shall attend at the time and place therein specified and respectfully decline to produce any such record or give any testimony with respect thereto, basing such refusal on this section.

By Order of the Board of Directors.

Dated at Washington, DC this 14th day of November, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 95–28718 Filed 11–29–95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 221 and 292

[Docket No. 49827]

RIN 2105–AC09

Exemption From Property Tariff-Filing Requirements

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department is exempting U.S. and foreign air carriers from their statutory and regulatory duty to file international property ("cargo") tariffs with DOT, subject to the reimposition of the duty in specific cases when consistent with the public interest. Commencing with the date of effectiveness of the final rule, currently effective rate tariffs are canceled as a matter of law, pending tariff applications are dismissed, and new tariffs will not be accepted for filing. In response to comments, currently effective cargo rules related to carrier rights and/or obligations, set forth in general governing rules tariffs, may continue in legal effect for 90 days from the date of effectiveness of the final rule, although carriers may elect to cancel them earlier and also may deviate from such rules through express contract. This action is taken on the Department's initiative in order to streamline government operations and eliminate unjustified regulatory burdens.

DATES: This regulation is effective on November 30, 1995.

However the cancellation of certain tariffs pursuant to the first sentence of § 292.22(b) will take place on March 1, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Keith A. Shangraw or Mr. John H. Kiser, Office of the Secretary, Office of International Aviation, X–43, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–2435.

SUPPLEMENTARY INFORMATION:

Background

Section 41504 of Title 49 of the United States Code requires every U.S. and foreign air carrier to file with the Department, and to keep open for public inspection, tariffs showing all prices for foreign air transportation between points served by that carrier, as well as all rules relating to that transportation to the extent required by the Department. This includes prices and rules for the carriage of cargo.

Over the years, cargo rate tariffs have provided U.S. regulatory authorities with a means to exercise close regulatory supervision over cargo pricing, either for consumer protection and other public policy reasons, or in the context of bilateral aviation relations. While much less frequent, regulatory supervision of cargo rules was also occasionally exercised. During the last two decades, however, cargo tariff requirements have been reduced substantially by both legislative and regulatory action in favor of placing primary reliance on competitive market forces to achieve essential public policy objectives.[1] For this and other reasons discussed in our Notice of Proposed Rulemaking (NPRM), published October 24, 1994 (59 FR 53377), we have tentatively found that the remaining cargo rate tariffs are no longer necessary to protect the public interest, and that this tariff regime is costly and burdensome to everyone associated with it.

As discussed in the NPRM, the Department's regulatory policy regarding international cargo rates appears at 14 CFR § 399.41. Under this regulation, carrier prices in most international cargo rate categories are effectively deregulated.[2] Barring extreme circumstances, the only tariff rates over which we continue to exercise regulatory supervision are general cargo rates (GCRs) up to and including the 500 kilogram weightbreak, and certain non-standard "exception" rates.[3] Even this oversight is not applicable to markets governed by bilateral air transport agreements that establish liberal entry and pricing regimes.

Since the regulation's adoption in 1983, virtually no complaints have been received against filed cargo tariffs, and in many markets carriers have not used the upward flexibility available to them to raise rates to the SFRL ceilings. The international cargo market has continued to evolve to the point where today we believe we no longer need to rely on the routine government supervision of cargo tariffs to protect the public.

Yet, carriers are still filing, and we are still processing, thousands of pages of tariff material each year that has little, if any, meaningful regulatory consequence.[4] Requiring carriers to continue filing cargo tariffs thus burdens the industry unnecessarily, and continuing the physical processing and storage of such tariffs at the Department needlessly wastes scarce and diminishing governmental resources.

We have therefore proposed to amend our tariff regulations to end the routine filing and review of price and other tariff information relating to the scheduled foreign air transportation of cargo, *i.e.* to/from U.S. points. As in the case of the previous elimination of domestic and other cargo tariffs, this proposal would take the form of an exemption of U.S. and foreign carriers from their statutory and regulatory duty to file with the Department, and adhere to, tariffs containing rates or any other rules or conditions of service relating to such transportation. The exemption would encompass all material currently filed in international cargo tariffs with the Department.[5] Similarly, the exemption would be mandatory; it would not permit such filings. However, the duty to file tariffs in any respect could be reimposed in particular cases where consistent with the public interest.

Comments

We received comments on our proposal from Aeromexpress, S.A. de C.V.; the Air Freight Association (AFA); the Air Transport Association of America (ATA); American Airlines, Inc. (American); Athearn Transportation Consultants, Inc. (Athearn); British Airways PLC (BA); Evergreen International Airlines, Inc. (Evergreen); Haupauge Industrial Association (HIA); the International Air Transport Association (IATA); International Support Systems (ISS); Korean Air Lines, Co. (KAL); Nippon Cargo Airlines Co., Ltd. (Nippon); Ocean Freight Consultants, Inc. (OFC); Pakistan International Airlines (PIA); and United Air Lines, Inc. (UAL).

In general, the carriers, ATA and AFA support the proposal; IATA takes no position on the elimination of the requirement to file rate tariffs, but supports the continued filing of cargo rules tariffs; HIA wants the Department to require carriers to make information on their cargo rates available to shippers within a reasonable amount of time; and Athearn, ISS and OFC oppose the proposal in its entirety.

ATA, AFA, and several carriers, however, condition their support upon several modifications or clarifications to the proposal regarding (1) its effect on their ability to incorporate contract terms by reference and/or provide requisite public notice, and (2) its effect

[1] In the cargo area, only international scheduled cargo rate tariffs continue to be filed with the Department. Domestic scheduled service cargo tariffs were eliminated in 1978 by Regulation ER–1080, 43 FR 53635, November 16, 1978. Similarly, both domestic and international charter rate tariffs were eliminated in 1979 by ER–1125, 44 FR 33056, June 8, 1979, while domestic and international tariffs of air freight forwarders (part of a class of carriers called "indirect cargo air carriers" or "foreign indirect air carriers") were eliminated by ER–1094, 44 FR 6634, February 1, 1979, and by ER–1159, 44 FR 69635, December 4, 1979.

[2] Agreements containing international cargo rates that carriers coordinate through the tariff conferences of the International Air Transport Association (IATA) must be filed with and approved by the Department before they can be implemented. These agreements are subject to economic justification requirements and Department analysis that are independent of its tariff policy and procedures. The new rule is not intended to affect the review of IATA agreements in any way.

[3] Section 399.41 set zones of pricing flexibility for GCRs up to 500 kilograms, and established a Standard Foreign Rate Level (SFRL) for each market as the basis for these zones of flexibility. The SFRL is recalculated periodically to reflect changes in the cost experiences of the carriers. The SFRL zones also govern exception rates, priced at levels higher than comparable GCRs for shipments of live animals, perishable goods and other kinds of specialized cargo.

[4] In 1994 alone, we received and processed 9,721 pages of cargo tariffs.

[5] Part 221 provides for the filing of up to four seperate kinds of international cargo tariffs: rates tariffs, governing rules tariffs, rate classification tariffs, and restricted articles tariffs.

on federal preemption of State law governing contracts or the regulation of common carriers. Their position on both issues coincides in certain fundamental respects with IATA's reasons for urging the continued filing of cargo rules tariffs, and therefore we will discuss these comments together. Then we will address the arguments of the parties who support the continuation of cargo rates tariffs as well.

Decision

We have decided to adopt the NPRM substantially as proposed. However, we are making certain minor changes in response to the comments. First, as a transition measure, we will permit the carriers to maintain in effect as official tariffs their current rules relating to the general conditions of carriage,[6] for a period of up to ninety days, in order to maintain the legal framework for current contracts while the carriers are drafting new language for air waybill and/or other documents to provide acceptable forms of actual notice to shippers of such terms. We do not find a similar transitional need for cargo rate tariffs, including related applicability rules,[7] because pricing is a key term negotiated and stated in every contract. At the same time, we are providing expressly that carriers may cancel any or all rules tariffs prior to 90 days, and that they may deviate from any filed rules by express contract provision. Second, we are providing explicitly that carrier compliance with the notice requirements set forth in 14 CFR 221.177 permits incorporation of contract terms as a matter of federal law, and that such requirements supercede any contrary State contract law requirements relating to incorporation by reference. On the other hand, we are also making clear that terms cannot be enforced against shippers without proper notice. We also make explicit, in our discussion below, that this cargo tariff exemption is not intended to undermine in any respect the scope of the statutory preemption of State economic regulation provided under 49 U.S.C. 41713.

We find that this final rule should be made effective immediately upon publication in the **Federal Register** because it grants an exemption from costly regulatory burdens and relieves certain restrictions.

[6] This would include all rules in separate governing rules tariffs and separate restricted articles tariffs.

[7] This would include rate "classification" tariffs, which, as IATA notes, may be filed in the rate tariffs or separately.

Discussion of Comments and Issues

1. Notice. Most of the concerns raised by our proposal involve the issue of legal notice of contract terms. While taking no position on the elimination of the requirement to file cargo *rate* tariffs, IATA contends that the proposed rule should be amended to permit the continued filing of cargo *rules* tariffs governing such matters as consignments, liability for loss, claims procedures, handling of dangerous or other restricted goods, acceptability of cargo, and other general matters of concern to shippers of cargo to/from U.S. points. It argues primarily that such rules should continue to be deemed a part of each contract of carriage as a matter of tariff law, regardless of any actual notice to shippers of their existence or content.[8] ATA, AFA, American and United support the elimination of all official tariffs, but want the proposed rule amended or clarified so that a carrier's continued publication of its cargo tariffs or the "filing of its rates and rules with a named tariff publishing agent" will "provide constructive notice to the public of their contents."[9] In the alternative, ATA and American request that cargo tariffs be permitted to remain in effect for 180 days in order to allow carriers to revise existing air waybill language to provide adequate notice of all contract terms. British Airways requests at least a 90-day transition period, paralleling the action of the Civil Aeronautics Board (CAB) in eliminating charter tariffs, forwarder tariffs and carrier tariffs for domestic cargo transportation.

IATA joins ATA, American and British Airways in arguing that an immediate elimination of official rules tariffs will cause a disruption in the administration of existing contracts because most waybills state only generally that carriage is subject to the carrier's "applicable tariffs."[10] We are persuaded, as was the CAB in taking similar actions, that a brief transition period of 90 days is justified to permit clarification of any existing contracts that may be rendered ambiguous by reference to rules tariffs no longer officially on file with the Department and to facilitate the redrafting of waybills and other contract documents to provide acceptable actual notice of any missing terms, whether through incorporation by reference or otherwise. A longer period may cause confusion and appears unnecessary. Carriers are neither required nor expected to completely replace their current waybill stock in this 90-day period. The period should be sufficient, however, for them to print notices or other supplemental contractual materials to conform such stock to the new environment until it can be replaced. Carriers needing less time should be able to cancel their rules tariffs when ready, while no carrier should be bound to tariffs on file during the transition where negotiations with shippers suggest a different result.

IATA argues that in the longer term eliminating rules tariffs will not only force carriers to incur the cost of redrafting waybills or other contract documents to provide adequate forms of notice of contract terms, but also that efforts to incorporate terms by reference could engender litigation under State contract law. It also contends that many matters not now subject to direct carrier-shipper negotiation would become so, with the effect of reducing uniformity among carriers, complicating transactions, and hindering the introduction of a paperless "electronic data interface." In IATA's view, such burdens greatly outweigh the perceived cost savings related to the elimination of rules which assertedly change infrequently and impose relatively few administrative costs on DOT and filing parties. IATA contends that the Department's "narrow cost-benefit analysis" fails to recognize that the tariff system provides the most efficient means of establishing uniform, binding and predictable contract conditions of carriage, and that therefore the Department has failed to demonstrate that the exemption is "compelled" by the public interest.

At the outset, we note that IATA's position contains two fundamental errors. First, the filing of rules tariffs is not a statutory requirement. Rather, rules are to be filed to the extent that the Secretary requires by regulation. It is sufficient to find that the continued filing and review of such tariffs can no longer be justified by the public interest factors underlying the promulgation of the original filing requirement in Part 221, which is certainly the case. Secondly, we do not presume that carriers will cease publishing their rates and rules in tariff-like formats. To the contrary, we assume that the carriers will continue to promulgate, publish and disseminate, directly or through

[8] See, e.g. Slick Airways, Inc. v. U.S., 292 F. 2d 515 (1961).

[9] ATA comments, page 3.

[10] The argument presumes that such a general reference would not constitute a valid "incorporation by reference" of tariff provisions into the contract of carriage under State contract law, nor would it fully comply with the Department's notice regulations in 14 CFR Part 221. Without the specificity of certain tariff provisions, these parties contend, the waybill contract might be rendered ambiguous or uncertain.

agents, a number of documents containing both rules and rates, as indicated by ATA, American and United. In addition to foreign tariff-filing requirements, the carriers indicate that such publications are necessary to reach potential customers and to incorporate terms into the waybill by reference, where necessary.

IATA's characterization of constructive notice of official tariff material as more "efficient" than the forms of actual notice that have been used successfully where cargo tariffs have been eliminated is, in our view, questionable. More fundamentally, its emphasis on official tariffs as a means to produce "uniformity" among carrier rules ignores many of the considerations of procompetitive and market-oriented public policy that underlay previous reductions in filing requirements. Those considerations are equally present here and form an additional basis for our conclusion that the continued filing of international cargo rates and rules tariffs is no longer in the public interest.

Most of IATA's arguments relating to the long-run desirability of maintaining constructive notice of cargo rules through filed tariffs are similar to those found unpersuasive by the Civil Aeronautics Board when it eliminated domestic cargo tariffs and international air freight forwarder tariffs.[11] More importantly, IATA has not effectively challenged the reasons given in the NPRM for concluding that the elimination of filed tariffs should have no significant impact on the ability of carriers and shippers to deal with the general terms and conditions of carriage.

Thus, the NPRM noted that domestic cargo tariffs were eliminated without significant difficulty; that international forwarder tariffs were eliminated in 1979 with no apparent adverse effect on the forwarders' ability to do business with their customers, many of whom are smaller shippers; that most international small shipper traffic is handled by large forwarder intermediaries and small package specialists who are familiar with direct carrier services and are able to negotiate the best price/service options; that most areas of potential carrier and shipper concern are governed directly by provisions of the Warsaw Convention and that, largely as a result of its requirements, the basic conditions of service for international cargo transportation are already stated in the carriers' waybills; and that to the extent that shippers have questions about the application or interpretation of certain contract provisions, it is likely that they consult the carrier directly rather than its tariffs. IATA has not demonstrated that the elimination of cargo rules tariffs in the past has created any of the longer-term difficulties it describes, nor has it even alleged that to be the case. Moreover, IATA does not address the fact that domestic cargo carriers have functioned effectively without the presumed advantage of federal incorporation rules, since 14 CFR Part 253 was limited to passenger transportation. All general conditions of domestic carriage are either fully stated on contract documents or are incorporated by reference to other sources accessable to shippers without apparent significant risk of challenge under State contract law requirements.[12]

While IATA and AFA both assert that international rates, classifications, and rules are more complex than domestic ones, they have not cited significant differences, nor have they indicated how current international waybills or other transportation documents would need to be revised to provide sufficient actual notice of all necessary conditions of carriage.[13] AFA has not discussed examples of revisions required by the elimination of international forwarder tariffs in 1979. Moreover, no party has challenged the Department's observation that international waybills are already drafted with considerable specificity to accommodate the detailed requirements of the Warsaw Convention, which governs major elements of the contract of carriage regardless of the existence of filed tariffs, as well as other important matters. Indeed, of the important general rules cited by IATA, all are governed by the Warsaw Convention and are dealt with specifically in the IATA waybill, which is a model for many carriers.[14]

There is therefore no record basis for concluding that the elimination of international cargo rules tariffs will impose significant economic or administrative burdens on carriers or shippers. However, the NPRM noted that, to the extent that tariffs might set forth certain conditions of carriage in greater detail than does the current waybill, such details could be incorporated into the contract if notice is given in conformity with the Department's alternative posting requirements in 14 CFR § 221.177, which are incorporation-by-reference standards essentially identical to those provided for domestic passenger transportation by 14 CFR Part 253.[15] In giving the carriers an alternative to the paper tariff notice requirement, which most had found difficult to comply with, it was the Department's intention to shift from a constructive to an actual notice system consonent with contract principles. To the extent that carriers wish to rely upon such an incorporation mechanism for cargo, Part 221.177 is already in place and it is likely that some, if not many, carriers are already complying with its graduated notice provisions in preference to the earlier requirement in Part 221.170 that complete paper tariffs be made available for inspection at each sales office.

While ATA, AFA, American and United support the elimination of all official tariffs in favor of an incorporation by reference mechanism, they request that the final rule make the provisions of section 221.177 more explicit in certain respects, including a specific request by ATA, AFA and United that carriers be authorized to incorporate terms and conditions of service included in a "tariff" published either individually or through a recognized and identified agent. All four commenters, plus IATA, emphasize a need for assurance that carrier reliance upon federal incorporation by reference requirements will be protected from challenge under possibly divergent State law requirements.

AFA questions whether the provisions of 14 CFR § 221.177 permit

[11] Moreover, when it adopted uniform rules for incorporation by reference of domestic passenger conditions in 14 CFR Part 253, the CAB found that insufficient grounds had been presented to warrant extending those rules to domestic cargo transportation.

[12] A typical domestic waybill incorporates by reference the "rates, rules and classifications set forth in the most recent Official Airline Cargo Rate Tariff," an unofficial carrier document. All other terms and conditions are stated on the waybill.

[13] IATA claims that the development of "paperless transactions" will suffer, but does not explain how the electronic medium is any less adapted to providing information, including requisite notice, than the paper medium. The incorporation by reference rules in 14 CFR 221.177 already contemplate notice through electronic media.

[14] The IATA waybill states that carriage is subject to the Warsaw Convention, and, where not in conflict with it, to the carrier's "general conditions of carriage," applicable domestic laws and regulations, and "applicable tariffs" of such carrier. Tariffs, which are not necessarily filed officially in many countries, are at most one of several means of supplementing the basic conditions of contract.

[15] Under section 221.177, carriers must give written notice, on or with the waybill or other contract instrument, that the contract of carriage may include terms incorporated by law from public tariffs or by reference from other sources; that the customer may inspect the full text of such terms at any carrier sales office and request a mailed copy thereof; and that the customer may receive an immediate explanation of any terms covering carrier liability limits, claims restrictions, service modification rights, or contract modification rights. In addition, direct written notice of the salient features of incorporated terms that restrict refunds, impose monetary penalties, or permit price changes must be provided on or with the waybill or other contract instrument.

the incorporation by reference of material filed in unofficial carrier tariffs or other documents, since the current language of subsection 221.177(b)(1) refers to notice of the possible incorporation of "terms and conditions filed in public tariffs with U.S. authorities." Supporting ATA's request, AFA suggests that this reference be changed to cover unofficial tariffs filed with a recognized tariff publishing agent, or that a similar provision be made in proposed Part 292.

While the NPRM proposed a "rule of construction" in section 292.20 which would implicitly permit such incorporation by reference, subject to the various specific notice requirements set forth in section 221.177, we agree with the commenters that the final rule should be clarified in this and several other respects. We have decided to add provisions to Part 292 which will expressly authorize carriers exempt from filing tariffs under that Part to incorporate any terms by reference into their contracts for the carriage of cargo in scheduled foreign air transportation upon compliance with all of the notice, inspection, explanation and other requirements set forth in section 221.177.[16] Completing the basic parallel to 14 CFR Part 253, we will also expressly provide that shippers are not bound by incorporated terms unless the carrier complies with such requirements, and that the requirements are intended to preempt any State requirements governing incorporation of contract terms by reference. The NPRM contained a similar preemption statement in the explanatory section, but, given the concerns of the carriers and AFA on this subject, we will clarify our intention in Part 292 itself.

At the same time, we are not prepared to consider weakening the notice requirements contained in Section 221.177 to further simplify incorporation by reference of terms for cargo carriage. The graduated system of written notice and right of immediate inspection for most general terms coupled with direct notice and/or a right to immediate explanation of certain more important terms constitutes a deliberate balance between ease of contract formation and the importance of informed assent. Once on actual notice that terms may be incorporated by reference, the customer is under an obligation to inquire and understand them. A general desire to minimize necessary modifications to existing waybills is not, in our view, a justification for modifying this balance.[17]

American, and to some extent United, are also concerned that carriers will continue to face a public notice requirement that is currently satisfied by the filing of tariffs. American points to the statement in the NPRM that 14 CFR Part 249 and section 221.177 will continue to require each carrier, individually and through its agents, to maintain pertinent information on its cargo prices and rules, and to make that information available to the public upon request. The carriers have apparently misunderstood the scope of that statement, which was a narrow reference to the record retention requirements of Part 249 and the notice provisions of section 221.177 applicable solely in cases of incorporation by reference.[18] We construe the term "tariff information" in section 221.170 to mean tariffs filed with the Department. Thus, in their absence, there is no general "duty" to make such information public. Our experience with the elimination of domestic cargo tariffs and other tariffs has demonstrated clearly that carriers have ample marketplace incentives to disseminate their rates and rules as broadly as possible, and that the threat of administrative enforcement action to compel a general duty in this regard has little influence. Similarly, our experience has been that carriers have strong economic incentives to maintain evidence of past rates and rules, as well as specific waybills beyond the time requirement of Part 249, as a defense against litigation. Such evidence is discoverable by other parties in the event of litigation. Therefore, we have not proposed a general public notice requirement for exempted carriers, nor have the comments persuaded us that one is necessary.

2. Preemption. In addition to the requests of ATA, AFA, American, United, and IATA that the final rule make as clear as possible that State contract law requirements governing incorporation by reference differing from those in 14 CFR § 221.177 are preempted, several of these commenters have also expressed concern that the tariff exemption itself might be construed by some courts as evidence that State regulatory requirements might have increased applicability to airline activities. We do not believe such a concern to be well founded. While the legal effect of filed tariffs was at one time an important element in the consideration of the scope of federal preemption by the courts, Congress in 1978 adopted a broad preemption provision protecting the "rates, routes and services" of carriers with federal authority[19] in anticipation of the statutory sunset of domestic tariffs and other public utility regulation. The statute has been given a broad reading by the courts, most recently in American Airlines, Inc. v. Wolens, 115 S. Ct. 817, 130 L. Ed. 2d 63 (1995). IATA's argument that the absence of a federal rules tariff facility "actively supervised by the Department" may generate unnecessary and costly litigation over both State contract and public utility law requirements ignores the fact that domestic cargo carriage has flourished without the benefit of either filed tariffs or federal incorporation rules for well over a decade. As noted above, domestic waybills do make some use of incorporation by reference. Some litigation may be inevitable in this area, in part because the statute also preserves many remedies at common law. However, we see no reason to assume that the elimination of the tariff requirement for cargo rules will result in an increased risk of litigation for the carriers.

3. Rates and other issues. Athearn, ISS and OFC, shipping consultants which, as part of their services, audit international shipping invoices to determine if their customers have been properly charged, all oppose the proposal.[20] In general, they contend that the proposal will deny shippers and/or their auditors the only assured, complete source of factual information on international carrier rates and rules; that carriers are reluctant to provide customers with precise rate information while cargo agents, whose commissions are based on gross sales, will not always quote the best rates; that existing alternative sources of tariff information, such as The Air Cargo Tariff (TACT), are inadequate since they are infrequently issued and incomplete; that these sources often do not include all rates available, especially the lowest ones; and that shipper costs will increase due to de facto cargo rate increases.

In addition, the shipping consultants assert that, because these tariffs are a matter of public record, they also serve to protect unsophisticated shippers by discouraging carriers from engaging in unreasonable practices and charging unfair rates; that the proposal will undermine this public benefit, which facilitates the recovery of thousands of dollars annually from overcharges; that the elimination of easily monitored, published tariffs, defining carriers' maximum rates, would increase forwarders' opportunities for misrating; and that without filed tariffs, shippers will lose their ability to apply reasonable controls on shipping expenses.[21]

ISS contends that the lack of complaints indicates that the current system is working, and provides important protection to consumers; and that while many shipments tendered by large volume forwarders or "consolidators" are governed by negotiated "contract rates," most of the air waybills issued by forwarders acting as carrier agents are governed by filed tariffs and are often misrated. Athearn contends that the Department has overstated the proposal's cost savings since, even with the exemption, carriers will still bear the costs of disseminating their prices. If the Department needs to reduce costs, it should recognize that paper tariffs are obsolete, and explore converting them to less expensive electronic media so that they will continue to be available to the public at one central location.

These commenters have not substantiated their basic contention that filed tariffs are an essential source of pricing information that is not, or will not be, available to shippers through normal marketplace incentives and mechanisms. Notwithstanding the contrary experience following domestic cargo and international forwarder tariff deregulation, Athern states that it is "questionable" whether carriers will continue to publish and routinely make available to the public the comprehensive rate information contained in tariffs. However, Athern also states that the general source of international rate information for forwarders today is the unofficial memorandum tariff identified as TACT, and further that "because most rates have been available through tariff publication firms, there has not been the need by shippers or their auditors to deal with each carrier." This corresponds with the Department's experience that very few requests are received each year from the public for certified copies of present or past cargo tariffs, as well as with our findings in support of the alternative notice requirement in 14 CFR 221.177 that most carrier tariffs maintained at sales offices were incomplete, inaccessible and infrequently used by the public.[22] In general, both the CAB and the Department have found that filed tariffs are not an effective means of informing the public of a carrier's prices and services. The airline commenters in this proceeding agree, affirming that they will continue to publish international rates and rules in formats similar to those used now for both legal and promotional reasons.[23]

Finally, the rate consultants have not substantiated their contentions that tariff-filing discourages unreasonable carrier practices and prices, and acts as a necessary check on "misrating." As the Department has found, it is competition in the marketplace, not the filing of tariffs or the Department's substantive review policies, that keeps prices and practices within reasonable bounds. The concepts of "overcharging" and "misrating" used by these commenters have meaning only in the context of approved tariffs, not the free marketplace where shippers are free to negotiate the best deal for each contract and may be expected to place their business with carriers and/or agents that provide the best information and the best rate options. It is this competition and this freedom to negotiate which provides the greatest economic benefits to the shipping public. The rate consultants have provided no sound basis for their argument that cargo tariffs should continue to be required.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

The Department has determined that this rule is not significant under Executive Order 12866 and the Department's Regulatory Policies and Procedures (44 CFR 11034; Feb. 26, 1979). A regulatory evaluation in this Docket shows that the benefits of the proposed rule exceed the costs to the industry and the Federal government significantly, since it eliminates a regulatory burden, without imposing other requirements. This rule could result in net savings to the airlines of approximately $600,000 per year.

Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"), and the Department has determined the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

I certify that this rule will not have a significant economic impact on a substantial number of small entities, because the tariff filing requirements apply to scheduled service air carriers. The vast majority of the air carriers filing international ("foreign") air cargo tariffs are large operators with revenues in excess of several million dollars each year. Small air carriers operating aircraft with 60 seats or less and 18,000 pounds payload or less that offer on-demand air-taxi service are not required to file such tariffs.

Paperwork Reduction Act

With respect to the Paperwork Reduction Act, this rule eliminates information collection requirements that require the approval of the Office of Management and Budget pursuant to the Act. This proposal reduces paperwork burdens, as described in detail in the Regulatory Evaluation in this docket.

The implementation of these regulations will reduce tariff filings of cargo rates, rules and charges by almost 10,000 cargo tariff pages and about 200 Cargo Special Tariff Permission Applications (STPA's) filed each year, saving the air carriers a filing fee of $2 a cargo page and $12 a cargo STPA (which generally consists of about three double-sided pages for each STPA form).

Such filing fees, now paid to DOT, total about $22,400 or less annually. In addition, ATPCO charges carriers $18 for preparing each STPA for submission to the Department, which amounts to an additional $3,600 per year for an average of 200 STPA's.

Air carriers and their cargo filing agents also will avoid the burden of filing the tariffs with DOT, estimated to be about 5.34 hours for each of the 10,200 cargo tariff pages and STPA

[16] Amending section 221.177 itself is neither necessary nor desirable, since tariff-filing requirements could be reimposed in specific cases. To correct ambiguities in existing language, it is sufficient to provide in Part 292 that the sign required by subsection 221.177(a)(3) is not required of exempt carriers, and that notices required of such carriers under subsection 221.177(b) shall refer to the title or general nature of the publication or document containing the referenced terms rather than to "terms and conditions filed in public tariffs with U.S. authorities." See section 292.21(a)(1).

[17] Moreover, a DOT rule defining tariffs published by carriers or their agents as "official," "filed," "applicable" or any other term suggesting legal effect in order to accommodate existing waybill language would be potentially misleading.

[18] Where no incorporation of rules by reference to unofficial sources is made, shippers will have direct notice of all contract of carriage terms on the waybill or other accompanying document.

[19] Now codified as 49 U.S.C. 41713.

[20] OFC also seeks an extension of the comment period, arguing that the proposal has not been well publicized among the shipping community. We do not believe such an extension to be necessary. The NPRM was published in the **Federal Register**, which is legal notice, and the breadth of the comments received indicates industry awareness of the proposal.

[21] OFC asks that any final rule give shippers access to the Department's resources so as to ensure that carriers will furnish complete information on their cargo rates and rules to shippers on request and within a reasonable amount of time. We do not believe this to be necessary. Normal contract law has the tools needed to accomplish these goals.

[22] 53 FR 52677, December 29, 1988.

[23] IATA also concurs that shippers and interested agent/intermediaries can access applicable rates directly from carriers "as efficiently as through tariff filings."

forms, or about 54,468 burden hours, which at an estimated industry salary rate of about $10.40 an hour would indicate a savings of approximately $566,467.

In addition, other costs incurred by carriers to formulate and disseminate the cargo rate and rule pages to their customers (by the air carriers or their agent, such as the Airline Tariff Publishing Company (ATPCO) or Cargo Rate Services (CRS)) may be affected. Elimination of government filing may favorably affect some portion of their overall cost other than the DOT filing fee; for instance, $48 for an international cargo tariff page publication/distribution cost in 1994 by the Airline Tariff Publishing Company (ATPCO) in Cargo Tariff Bulletin No. 19, dated November 18, 1993.

The reporting and recordkeeping requirements associated with this rule are being submitted to OMB for approval in accordance with 44 U.S.C. chapter 35 under OMB NO. 2137–AC48; Administration: Department of Transportation; TITLE: Exemption From Property Tariff-Filing Requirements; NEED FOR INFORMATION: Exempts a data page filing requirement; PROPOSED USE OF INFORMATION: Exemption is based on "de minimis" regulatory use; FREQUENCY: Currently, an initial tariff filing is required of each respondent; changes are voluntary, whenever an air carrier elects; BURDEN ESTIMATE: 5.34 hours for an STPA or a cargo rate page; RESPONDENTS: 45; FORM(S): 10,200 pages or forms per annum; AVERAGE BURDEN HOURS PER RESPONDENT: 1,210 hours.

For further information on paperwork reduction contact: The Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, (202) 366–4735 or Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503.

Any comments regarding the burden estimate or any aspect of these information requirements, including suggestions for reducing the burden, may be sent to: Director, Office of International Aviation, X–40, U.S. Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Room 6402, Washington, D.C. 20590–0001 as well as the above contact.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

14 CFR Part 221

Air rates and fares, Freight, Reporting and recordkeeping requirements.

14 CFR Part 292

Air rates and fares, Freight, Reporting and recordkeeping requirements, Preemption.

For the reasons set forth herein, and under the authority delegated in 49 CFR 1.56(j)(2)(ii), the Department of Transportation amends 14 CFR Part 221 and adds a new Part 292 as follows:

PART 221—TARIFFS

1. The authority citation for Part 221 is revised to read as follows:

Authority: 49 U.S.C. 40101, 40109, 40113, 46101, 46102, Chapter 411, Chapter 413, Chapter 415 and Subchapter I of Chapter 417.

2. Section 221.3 is amended by removing the period at the end of paragraph (d)(8) and adding a semicolon in its place, and by adding a new paragraph (d)(9) to read as follows:

§ 221.3 Carrier's duty.

* * * * *

(d) * * *

(9) Part 292, *International Cargo Transportation*, except as provided in 292.

* * * * *

3. A new Part 292 is added to read as follows:

PART 292—INTERNATIONAL CARGO TRANSPORTATION

Subpart A—General

Sec.
292.1 Applicability.
292.2 Definitions.

Subpart B—Exemption From Filing Tariffs

292.10 Exemption.
292.11 Revocation of exemption.

Subpart C—Effect of Exemption

292.20 Rule of construction.
292.21 Incorporation of contract terms by reference.
292.22 Effectiveness of tariffs on file.

Authority: 49 U.S.C. 40101, 40105, 40109, 40113, 40114, 41504, 41701, 41707, 41708, 41709, 41712, 46101; 14 CFR 1.56(j)(2)(ii).

Subpart A—General

§ 291.1 Applicability.

This part applies to direct air carriers providing scheduled transportation of cargo in foreign air transportation.

§ 292.2 Definitions.

For purposes of this part:

Cargo means property other than baggage accompanied or checked by passengers, or mail.

Cargo tariff means a tariff containing rates, charges or provisions governing the application of such rates or charges, or the conditions of service, applicable to the scheduled transportation of cargo in foreign air transportation.

Direct air carrier means an air carrier or foreign air carrier directly engaged in the operation of aircraft under a certificate, regulation, order, exemption or permit issued by the Department or its predecessor, the Civil Aeronautics Board.

Subpart B—Exemption From Filing Tariffs

§ 292.10 Exemption.

Direct air carriers are exempted from the requirement to file cargo tariffs with the Department of Transportation provided in 49 U.S.C. 41504 and 14 CFR Part 221.

§ 292.11 Revocation of exemption.

(a) The Department, upon complaint or upon its own initiative, may, immediately and without hearing, revoke, in whole or in part, the exemption granted by this part with respect to a carrier or carriers, when such action is in the public interest.

(b) Any such action will be taken in an order issued by the Assistant Secretary for Aviation and International Affairs, and will identify:

(1) The tariff matter to be filed; and

(2) The deadline for carrier compliance.

(c) Revocations under this section will have the effect of reinstating all applicable tariff requirements and procedures specified in the Department's regulations for the tariff material to be filed, unless otherwise specified by Department order.

Subpart C—Effect of Exemption

§ 292.20 Rule of construction.

Carriers holding an effective exemption from the duty to file tariffs under this part shall not, unless otherwise directed by order of the Department, be subject to tariff posting, notification or subscription requirements set forth in 49 U.S.C. 41504 or 14 CFR part 221, *except* as provided in § 292.21 of this part.

§ 292.21 Incorporation of contract terms by reference.

(a) Carriers holding an effective exemption from the duty to file tariffs under this part may incorporate contract terms by reference (*i.e.* without stating their full text) into the waybill or other document embodying the contract of carriage for the scheduled transportation of cargo in foreign air transportation, *provided that:*

(1) The notice, inspection, explanation and other requirements set forth in 14 CFR 221.177(a)(1), (a)(2), (a)(4), (b), (c) and (d) are complied with, to the extent applicable, except that the notice required under 14 CFR 221.177(b)(1) shall refer to the title or general nature of the publication(s) or document(s) containing the full text of the referenced terms rather than to "terms and conditions filed in public tariffs with U.S. authorities";

(b) In addition to other remedies at law, a carrier may not claim the benefit as against a shipper or consignee of, and a shipper or consignee shall not be bound by, any contract term which is incorporated by reference under this part unless the requirements of paragraph (a)(1) of this section are complied with, to the extent applicable; and

(c) The purpose of this section is to set uniform disclosure requirements, which preempt any State requirements on the same subject, for terms incorporated by reference into contracts of carriage for the scheduled transportation of cargo in foreign air transportation.

§ 292.22 Effectiveness of tariffs on file.

(a) Cargo rate tariffs on file with the Department, including related classification and/or applicability rules, cease to be effective as tariffs under 49 U.S.C. 41504 and 41510, as well as under the provisions of 14 CFR Part 221, and they are canceled by operation of law.

(b) As of March 1, 1996, all remaining cargo tariffs on file with the Department cease to be effective as tariffs under 49 USC 41504 and the provisions of 14 CFR part 221, and are cancelled by operation of law. Any such tariffs may be cancelled voluntarily prior to that date. With respect to terms expressly agreed in the contract of carriage, carriers, agents and other persons are relieved from the requirement of adherence to filed tariffs in 49 USC 41510 and the related provisions of 14 CFR part 221 as of November 30, 1995.

(c) Applications for filing and/or effectiveness of any cargo tariffs pending on November 30, 1995 are dismissed by operation of law. No new filings or applications will be permitted except as provided under § 292.11.

Issued in Washington, D.C. on November 13, 1995.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 95–28474 Filed 11–29–95; 8:45 am]

BILLING CODE 4910–62–P

Coast Guard

33 CFR Part 165

[CGD13–95–008]

RIN 2115–AA97

Safety Zone Regulations; Bellingham Bay, Bellingham, WA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone for the annual Fourth of July Blast Over Bellingham Fireworks Display in Bellingham, Washington. This event is held each year on the Fourth of July on the waters of Bellingham Bay. In the past, the Coast Guard has established a temporary safety zone each year to protect the safety of life on the navigable waters during the event. However, because the event recurs annually, the Coast Guard is adopting a permanent rule to better inform the boating public.

EFFECTIVE DATE: January 2, 1996.

ADDRESSES: Documents referred to in this preamble are available for inspection or copying at U.S. Coast Guard Group Seattle, 1519 Alaskan Way South, Building One, Room 130, Seattle, WA 98134. Normal office hours are between 7 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Ben White, Assistant Operations Officer, U.S. Coast Guard Group Seattle (Telephone: (206) 217–6009).

SUPPLEMENTARY INFORMATION:

Drafting Information: The principal persons involved in drafting this document are LT Susan Workman, Project Manager, U.S. Coast Guard Group Seattle, and LCDR John Odell, Project Counsel, Thirteenth Coast Guard District Legal Office.

Regulatory History

On April 10, 1995, the Coast Guard published a Notice of Proposed Rulemaking (entitled Safety Zone Regulations, Bellingham Bay, Bellingham, WA) in the **Federal Register** (60 FR 18063). The Coast Guard received no letters commenting on the proposal. No public hearing was requested, and none was held.

Background and Purpose

The Coast Guard is adopting permanent safety zone regulations for the annual Fourth of July Blast Over Bellingham in Bellingham, Washington. This event is held on the waters of Bellingham Bay each year from 9:30 p.m. to 11 p.m. on July fourth and is sponsored by the Whatcom County Chamber of Commerce. The Coast Guard (by adopting a permanent safety zone through this action) intends to promote the safety of spectators and participants during this event. The fireworks display is conducted from a barge located on the waters of Bellingham Bay, Bellingham, Washington. To promote the safety of both the spectators and participants and to keep spectators away from the fireworks barge during the fireworks display, this rule establishes a safety zone around the fireworks barge and prohibits entry into the area that surrounds the fireworks barge during the event. This safety zone will be enforced by representatives of the Captain of the Port, Puget Sound, Seattle, Washington. The Captain of the Port may be assisted by other federal agencies.

Regulatory Evaluation

This rule is not a significant action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone established by this regulation would encompass less than a half of one square nautical mile on Bellingham Bay adjacent to Squalicum Harbor. Entry into the safety zone will be restricted for less than three hours on the day of the event. These restrictions will have little effect on maritime commerce in the area.

Small Entities

The impact on small entities is expected to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation. Appropriate environmental analysis of the Blast Over Bellingham Fireworks Display will be conducted in conjunction with the marine event permitting process each year. Any environmental documentation required under the National Environmental Policy Act will be completed prior to the issuance of a marine event permit for the event.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

Final Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A new section 165.1304 is added to read as follows:

§ 165.1304 Bellingham Bay, Bellingham, WA

(a) *Location.* The following area is a safety zone: All portions of Bellingham Bay bounded by the following coordinates: Latitude 48°44′09″ N, Longitude 122°30′07″ W; thence to Latitude 48°44′09″ N, Longitude 122°29′57″ W; thence to Latitude 48°44′02″ N, Longitude 122°29′57″ W; thence to Latitude 48°44′02″ N, Longitude 122°30′07″ W; thence returning to the origin. This safety zone resembles a square centered around the barge from which the fireworks demonstration will be launched. Floating markers will be placed by the sponsor of the fireworks demonstration to delineate the boundaries of the safety zone. [Datum: NAD 1983].

(b) *Effective dates.* This section is effective annually on July fourth from 9:30 p.m. to 11 p.m. unless otherwise specified by **Federal Register** notice.

(c) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port, Puget Sound, Seattle, WA.

Dated: November 13, 1995.

R.K. Softye,

Captain, U.S. Coast Guard, Captain of the Port Puget Sound.

[FR Doc. 95–29274 Filed 11–29–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD13–95–009]

RIN 2115–AA97

Safety Zone Regulations; Commencement Bay, Tacoma, WA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone for the annual Fourth of July Freedom Fair Airshow and Fireworks Display in Tacoma, Washington. This event is held each year on the Fourth of July on the waters of Commencement Bay. In the past, the Coast Guard has established a temporary safety zone each year to protect the safety of life on the navigable waters during this event. However, because the event recurs annually, the Coast Guard is adopting a permanent rule to better inform the boating public.

EFFECTIVE DATE: January 2, 1996.

ADDRESSES: Documents referred to in this preamble are available for inspection or copying at U.S. Coast Guard Group Seattle, 1519 Alaskan Way So., Building One, Room 130, Seattle, WA 98134. Normal office hours are between 7 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Ben White, Assistant Operations Officer, U.S. Coast Guard Group Seattle, (Telephone: (206) 217–6009).

SUPPLEMENTARY INFORMATION:

Drafting Information: The principal persons involved in drafting this document are LT Susan Workman, Project Manager, U.S. Coast Guard Group Seattle, and LCDR John Odell, Project Counsel, Thirteenth Coast Guard District Legal Office.

Regulatory History

On April 10, 1995, the Coast Guard published a Notice of Proposed Rulemaking (entitled Safety Zone Regulations, Commencement Bay, Tacoma, WA) in the **Federal Register** (60 FR 18066). The Coast Guard received no letters commenting on the proposal. No public hearing was requested, and none was held.

Background and Purpose

The Coast Guard is adopting permanent safety zone regulations for the annual Fourth of July Freedom Fair Airshow and Fireworks Display in Tacoma, Washington. This event is held on the waters of Commencement Bay each year from 2 p.m. on July fourth to 12:30 a.m. on July fifth and is sponsored by the Tacoma Fourth of July Commission. The Coast Guard, (by adopting a permanent safety zone through this action), intends to promote the safety of spectators and participants in this event. The airshow is conducted over the waters of Commencement Bay just off shore from Ruston Way and the Old Town area. The Federal Aviation Administration (FAA) requires that the waters below the airshow aerobatics be closed to all spectators. This required closed area measures 1000 yards by 1800 yards on the waters of Commencement Bay, Tacoma, Washington, along the shoreline of Ruston Way. The fireworks display is conducted from a barge located inside the airshow closure area. The fireworks display will take place late in the evening after the airshow is complete. To promote the safety of both the spectators and participants, and to keep spectators away from both the airshow aerobatics area and the fireworks barge during the events, this rule establishes a safety zone and prohibits entry into the area surrounding the events. This safety zone will be enforced by representatives of the Captain of the Port Pugent Sound, Seattle, Washington. The Captain of the Port may be assisted by other federal agencies.

Regulatory Evaluation

This rule is not a significant action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone established by this regulation will encompass less than a one square nautical mile on Commencement Bay adjacent to the Old Town area on Ruston Way. Entry into the safety zone will be restricted for less than nine hours on the day of the event. These restrictions will have little effect on maritime commerce in the area.

Small Entities

The impact on small entities is expected to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation. Appropriate environmental analysis of the Fourth of July Freedom Fair Airshow and Fireworks Display will be conducted in conjunction with the marine event permitting process each year. Any environmental documentation required under the National Environmental Policy Act will be completed prior to the issuance of a marine event permit for this event.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

Final Regulations

For reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A new section 165.1305 is added to read as follows:

§ 165.1305 Commencement Bay, Tacoma, WA.

(a) *Location.* The following area is a safety zone: All portions of Commencement Bay bounded by the following coordinates: Latitude 47°17′34″ N, Longitude 122°28′36″ W; thence to Latitude 47°17′06″ N, Longitude 122°27′40″ W; thence to Latitude 47°16′42″ N, Longitude 122°28′06″ W; thence to Latitude 47°17′10″ W, Longitude 122°29′02″ W; thence returning to the origin. This safety zone resembles a rectangle lying adjacent to the shoreline along Ruston Way. Floating markers will be placed by the sponsor of the event to delineate the boundaries of the safety zone. [Datum: NAD 1983].

(b) *Effective dates.* This section is effective annually on July the fourth from 2 p.m. to 12:30 a.m. July the fifth unless otherwise specified by **Federal Register** notice.

(c) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port, Puget Sound, Seattle, WA.

Dated: November 13, 1995.

R.K. Softye,

Captain, U.S. Coast Guard, Captain of the Port Puget Sound.

[FR Doc. 95–29272 Filed 11–29–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD13–95–007]

RIN 2115–AA97

Safety Zone Regulations; Elliott Bay, Seattle, WA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is adopting a permanent safety zone for the annual Fourth of July Ivar's Fireworks Display in Seattle, Washington. This event is held each year on the Fourth of July on the waters of Elliott Bay. In the past, the Coast Guard has established a temporary safety zone each year to protect the safety of life on the navigable waters during this event. However, because the event recurs annually, the Coast Guard is adopting a permanent rule to better inform the boating public.

EFFECTIVE DATE: January 2, 1996.

ADDRESSES: Documents referred to in this preamble are available for inspection or copying at U.S. Coast Guard Group Seattle, 1519 Alaskan Way South, Building One, Room 130, Seattle, WA 98134. Normal office hours are between 7 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Ben White, Assistant Operations Officer, U.S. Coast Guard Group Seattle (Telephone: (206) 217–6009).

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are LT Susan Workman, Project Manager, U.S. Coast Guard Group Seattle, and LCDR John Odell, Project Counsel, Thirteenth Coast Guard District Legal Office.

Regulatory History

On April 10, 1995, the Coast Guard published a Notice of Proposed Rulemaking (entitled Safety Zone Regulations; Elliott Bay, Seattle, WA) in the **Federal Register** (60 FR 18068). The Coast Guard received no letters commenting on the proposal. No public hearing was requested, and none was held.

Background and Purpose

The Coast Guard is adopting permanent safety zone regulations for the annual Fourth of July Ivar's Fireworks Display in Seattle, Washington. This event is held on the waters of Elliott Bay each year from 9:30 p.m. to 11 p.m. on July fourth and is sponsored by Ivar's, Incorporated. The Coast Guard (by adopting a permanent safety zone through this action) intends to promote the safety of spectators and participants during this event. Each year, as part of the event, a fireworks display is conducted from a barge located on the waters of Elliott Bay, Seattle, Washington. To promote the safety of both the spectators and participants and to keep spectators away from the fireworks barge during the fireworks display, this rule establishes a safety zone around the fireworks barge and prohibits entry into the area that surrounds the fireworks barge during the event. This safety zone will be enforced by representatives of the Captain of the Port, Puget Sound, Seattle, Washington. The Captain of the Port may be assisted by other federal agencies.

Regulatory Evaluation

This rule is not a significant action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone established by the proposed regulation will encompass less than a half of one square nautical mile on Elliott Bay adjacent to Myrtle Edwards Park. Entry into the safety zone will be restricted for less than three hours on the day of the event. These restrictions will have little effect on maritime commerce in the area.

Small Entities

The impact on small entities is expected to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation. Appropriate environmental analysis of the Ivar's Fourth of July Fireworks Display will be conducted in conjunction with the marine event permitting process each year. Any environmental documentation required under the National Environmental Policy Act will be completed prior to the issuance of a marine event permit for this event.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

Final Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new section 165.1307 is added to read as follows:

§ 165.1307 Elliott Bay, Seattle, WA.

(a) *Location.* The following area is a safety zone: All portions of Elliott Bay bounded by the following coordinates: Latitude 47°37′ 22″ N, Longitude 122° 22′ 06″ W; thence to Latitude 47° 37′ 06″ N, Longitude 122° 21′ 55″ W; thence to Latitude 47° 36′ 54″ N, Longitude 122° 22′ 05″ W; thence to Latitude 47° 36′ 09″ N, Longitude 122° 22′ 25″ W; thence returning to the origin. This safety zone resembles a square centered around the barge from which the fireworks will be launched and begins 100 yards from the shoreline of Myrtle Edwards Park. Floating markers will be placed by the sponsor of the fireworks display to delineate the boundaries of the safety zone. [Datum: NAD 1983]

(b) *Effective dates.* This section is effective annually on July fourth from 9:30 p.m. to 11 p.m. unless otherwise specified by **Federal Register** notice.

(c) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port, puget sound, Seattle, WA.

Dated: November 13, 1995.

R.K. Softye,

Captain, U.S. Coast Guard, Captain of the Port Puget Sound.

[FR Doc. 95–29275 Filed 11–29–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD13–95–010]

RIN 2115–AA97

Safety Zone Regulations; Lake Union, Seattle, WA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is adopting a permanent safety zone for the annual Fourth of July Fireworks Display on Lake Union, Seattle, Washington. This event is held each year on the Fourth of July on the waters of Lake Union. In the past, the Coast Guard has established a temporary safety zone each year to protect the safety of life on the navigable waters during this event. However, because the event recurs annually, the Coast Guard is adopting a permanent rule to better inform the boating public.

EFFECTIVE DATE: January 2, 1996.

ADDRESSES: Documents referred to in this preamble are available for inspection or copying at U.S. Coast Guard Group Seattle, 1519 Alaskan Way South, Building One, Room 130, Seattle, WA 98134. Normal office hours are between 7 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Ben White, Assistant Operations Officer, U.S. Coast Guard Group Seattle, (Telephone: (206) 217–6009).

SUPPLEMENTARY INFORMATION:

Drafting Information: The principal persons involved in drafting this document are LT Susan Workman, Project Manager, U.S. Coast Guard Group Seattle, and LCDR John Odell, Project Counsel, Thirteenth Coast Guard District Legal Office.

Regulatory History

On April 10, 1995, the Coast Guard published a notice of proposed rulemaking (entitled Safety Zone Regulations; Lake Union, Seattle, WA) in the **Federal Register** (60 FR 18065). The Coast Guard received no letters commenting on the proposal. No public hearing was requested, and none was held.

Background and Purpose

The Coast Guard is adopting permanent safety zone regulations for the annual Fourth of July Fireworks Display on Lake Union, Seattle, Washington, This event is held on the waters of Lake Union each year from 9:30 p.m. to 11 p.m. on July fourth and is sponsored by One Reel, Incorporated. The Coast Guard, (by adopting a permanent safety zone through this action), intends to promote the safety of spectators and participants in this event. Each year, as part of this event, a fireworks display is conducted from a barge located on the waters of Lake Union, Seattle, Washington. To promote the safety of both the spectators and participants and to keep spectators away from the fireworks barge during the fireworks display, this rule establishes a safety zone around the fireworks barge and prohibits entry into the area that surrounds the fireworks barge during the event. Under this rule, the Captain of the Port may establish transit lanes along the east and west shorelines of Lake Union. If established, boaters will be allowed to transit north and south through the safety zone in these lanes. These lanes will remain open until 10 p.m. and then be closed until the conclusion of the fireworks display. This safety zone will be enforced by representatives of the Captain of the Port Puget Sound, Seattle, Washington. The Captain of the Port may be assisted by other federal agencies.

Regulatory Evaluation

This rule is not a significant action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone established by this regulation will encompass less than eight hundred square yards in the center of Lake Union. Entry into the safety zone will be restricted for less than three hours on the day of the event. These restrictions will have little effect on maritime commerce in the area.

Small Entities

The impact on small entities is expected to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 2[illegible], 1994), this rule is categorically excluded from further environmental documentation. Appropriate environmental analysis of the Lake Union Fireworks Display will be conducted in conjunction with the marine event permitting process each year. Any environmental documentation required under the National Environmental Policy Act will be completed prior to the issuance of a marine event permit for this event.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulations

For reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new section 165.1306 is added to read as follows:

§ 165.1306 Lake Union, Seattle, WA.

(a) *Location.* The following area is a safety zone: All portions of the waters of Lake Union bounded by the following coordinates: Latitude 47°38′32″ N, Longitude 122°20′34″ W; thence to Latitude 47°38′32″ N, Longitude 122°19′48″ W; thence to Latitude 47°38′10″ N, Longitude 122°19′45″ W; thence to Latitude 47°38′10″ N, Longitude 122°20′24″ W; thence returning to the origin. This safety zone begins 1,000 feet south of Gas Works Park and encompasses all waters from east to west for 2,500 feet. Floating markers will be placed by the sponsor of the fireworks demonstration to delineate the boundaries of the safety zone. [Datum: NAD 1983]

(b) *Effective dates.* This section is effective annually on July fourth from 9:30 p.m. to 11 p.m. unless otherwise specified by **Federal Register** notice.

(c) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into the safety zone is prohibited unless authorized by the Captain of the Port, Puget Sound, Seattle, WA. The Captain of the Port may establish transit lanes along the east and west shorelines of Lake Union and may allow boaters to transit north and south through the safety zone in these lanes. If established, these transit lanes will remain open until 10 p.m. and then be closed until the end of the fireworks display (approximately 30 minutes).

Dated: November 13, 1995.

R.K. Softye,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 95–29273 Filed 11–29–95; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 440

[MB–085–F]

RIN 0938–AG73

Medicaid Program: Nurse-Midwife Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: In accordance with section 13605 of the Omnibus Budget Reconciliation Act of 1993, this final rule expands coverage of nurse-midwife services under the Medicaid program by including coverage for those services that nurse-midwives perform outside the maternity cycle as allowed by State law and regulation. In addition, this rule includes several clarifying revisions to the Medicaid regulations.

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Linda Sizelove, (410) 786–4626.

SUPPLEMENTARY INFORMATION:

I. Background

A. Scope of Covered Services

Title XIX of the Social Security Act (the Act) authorizes States to establish Medicaid programs to provide medical assistance to needy individuals. Section 1902(a)(10) of the Act describes the two broad classifications of most individuals to whom medical assistance may be provided: the categorically needy (section 1902(a)(10)(A)) and the medically needy (section 1902(a)(10)(C)). Section 1905 of the Act defines medical assistance as payment of part or all of the costs of specified services to eligible individuals.

Section 1905(a)(17) of the Act includes, as a service for which medical assistance may be available, nurse-midwife services which the nurse-midwife is authorized to provide under

State law or regulation. Nurse-midwife services are mandatory for the categorically needy under section 1902(a)(10)(A) of the Act. At the State's option, a State may also provide these services to the medically needy.

Before October 1, 1993, section 1905(a)(17) of the Act (through a cross-reference to section 1861(gg) of the Act) and implementing regulations at 42 CFR 440.165 required that a nurse-midwife must be a registered nurse who (1) is either certified as a nurse-midwife by an organization recognized by the Secretary or has completed a program of study and clinical experience that has been approved by the Secretary and (2) performs services in the care of mothers and babies throughout the maternity cycle. Section 1905(a)(17) (again, through a cross-reference to section 1861(gg) of the Act) also specifies that the services that a nurse-midwife is legally authorized to perform under State law and regulations must be covered regardless of whether the nurse-midwife is under the supervision of, or associated with, a physician or other health care provider.

Section 13605 of the Omnibus Budget Reconciliation Act of 1993 (OBRA '93), Pub. L. 103–66, amended section 1905(a)(17) of the Act to remove the limitation that a nurse-midwife can provide services only during the maternity cycle.

B. Current Regulatory Provisions

There are four existing sections of Medicaid regulations that are affected by this final rule. Section 440.165 defines nurse-midwife services as a distinct service category and lists the requirements for coverage of services under that category. Three other sections, §§ 440.10, 440.20, and 440.90, contain cross-references to § 440.165 to indicate that nurse-midwife services may be performed in specified settings. Sections 440.10 and 440.20 provide that nurse-midwife services may be performed in inpatient and outpatient hospital settings. Section 440.90 provides that nurse-midwife services may be performed in clinic settings.

II. Provisions of the Proposed Regulations

On July 18, 1994, we published a proposed rule that set forth changes to the Medicaid regulations based on the provisions of OBRA '93 and our reexamination of existing regulations (59 FR 36419). Specifically, we proposed the following revisions: •

• To amend § 440.165 by removing paragraphs (a)(1) and (c) to delete the definition of, and all other references to, the maternity cycle in accordance with the OBRA '93 amendment that provides for the coverage of nurse-midwife services regardless of whether the services are performed in the management of care of mothers and babies throughout the maternity cycle. Removal of this limitation will allow nurse-midwives to perform any service that is allowed under State law or regulation.

• To remove the exception cross-references to § 440.165 contained in §§ 440.10, 440.20, and 440.90. Because nurse-midwife services are defined as a distinct service category under § 440.165, we have determined that the inclusion of crose-references to the description of covered nurse-midwife services within the descriptions of other covered Medicaid services is more confusing than clarifying.

III. Discussion of Public Comments

In response to the July 18, 1994 proposed rule, we received 30 timely items of correspondence. We have summarized the comments and present them below with our responses.

Comment: Several commenters requested that we revise the regulations to clarify that nurse-midwife services may be provided in a variety of settings. The commenters suggested that we explain in the regulations that a nurse-midwife can order home health visits, can be reimbursed for services provided in freestanding birth centers and clinics, and can be reimbursed for patient services provided in the home without regard to whether the services were provided under the direction of a physician or other health care provider. One commenter suggested that we revise § 440.70 to clarify that nurse-midwife services may be provided in the home and that these services are not subject to the requirement that home health services must be on the order of the recipient's physician. Another commenter requested that we revise § 440.165 to specify the settings where nurse-midwife services may be performed.

Additionally, while several commenters supported our proposed revisions to §§ 440.10, 440.20, and 440.90, other commenters were concerned that our proposal to remove the cross references to nurse-midwife services in these sections may lead parties to mistakenly believe that the supervision of a physician is required for nurse-midwife services furnished in inpatient or outpatient hospital settings or clinic settings. The majority of the comments we received focused on the issues described above.

Response: To help clarify our position on the settings where nurse-midwife services may be provided and the restrictions imposed on services furnished in those settings, we will provide some general information on how Medicaid services are paid. We will follow this with specific information on nurse-midwife services.

A. General Principles

Generally, Medicaid services are classified by three types of categories. Each separate category may have specific Federal requirements relating to supervision or location of services. First, services are described in terms of the setting in which they are provided. Some services included in this category are inpatient or outpatient hospital services and clinic services. Second, services are described by the type of services being furnished, such as rehabilitation or physical therapy services. Finally, services are described in terms of the individual providing the service such as physician, nurse practitioner, and nurse-midwife services. Each category is separate and has a distinct set of regulatory requirements.

While we view each category of service as separate and distinct, the categories are not mutually exclusive. Some services, including nurse-midwife services, can be classified in more than one category. It is also possible that a service provided may meet the requirements under one category and not another even though, as a general rule, the service could be classified under either category. The specific circumstances under which a service is provided and how the provider bills for the service determines how the service is categorized and which regulatory requirements apply.

B. Nurse-Midwife Services

The general principles of Medicaid coverage discussed above apply to nurse-midwife services. There are no Federal restrictions on settings where nurse-midwife services may be furnished. Nurse-midwife services are limited only through State licensure or scope of practice laws. Additionally, the Act does not dictate that a nurse-midwife who practices in a hospital or clinic must receive payment through that facility. Nurse-midwife services are similar to physician services in that they may be billed in their own distinct category or alternatively may be billed under other categories such as hospital or clinic services. If nurse-midwife services are provided under the classification of inpatient or outpatient hospital services or clinic services, and billed as such, then the requirements outlined in §§ 440.10, 440.20, or 440.90 must be met. For example, nurse-midwife services performed in a hospital setting could be billed as either nurse-midwife services or hospital services. If the hospital bills Medicaid for the nurse-midwife services, the services will be categorized as inpatient hospital services (or outpatient hospital services as the case may be) and all Federal requirements relating to inpatient (or outpatient) hospital services must be met. That is, in accordance with § 440.10, the hospital services provided by the nurse-midwife must be provided under the overall direction of a physician. If a nurse-midwife bills for the services as nurse-midwife services (which happen to be furnished in a hospital setting), all Federal regulatory requirements relating to nurse-midwife services must be met. Thus, under § 440.165, the services may be performed without regard to whether the nurse-midwife is under the supervision of, or associated with, a physician or other health care provider.

This same rationale applies to nurse-midwife services furnished in the home. As long as the services are billed as nurse-midwife services, the nurse-midwife may provide services in the home and receive payment for such services without regard to whether the services were ordered by the recipient's physician. However, if the services are billed through a home health agency, the Federal requirements set forth in § 440.70 for home health services must be met.

Similarly, if nurse-midwife services provided in freestanding birth centers are billed as clinic services, then the Federal requirements outlined in § 440.90 for clinic services must be met in order to receive payment. Therefore, the services would have to be performed under the direction of a physician. If the nurse-midwife bills for the services performed in the clinic as nurse-midwife services, regulations at § 440.165 must be followed. That is, nurse-midwife services which happen to be provided in the clinic setting may be furnished without regard to whether the nurse-midwife is under the direction of a physician.

Thus, there are no restrictions on settings where a nurse-midwife may furnish services. Whether supervision by a physician or other health care provider is necessary depends on how the services are classified when they are billed. Therefore, we do not believe that the revisions suggested by the commenter are necessary since the proposed regulations already provide for nurse-midwife services in a variety of settings. We note that this regulation does not implement any new requirements. We removed the cross references to § 440.165 in §§ 440.10, 440.20, and 440.90 for the sake of clarity. These revisions do not impose new supervision requirements.

Comment: Several commenters noted that the regulations did not include any reference to out-of-hospital birth centers. One commenter stated that § 440.90(c), which defines "clinic services," clearly includes services furnished in freestanding birth centers. The commenter expressed concern that removal of the cross reference to § 440.165 in this section could be interpreted to mean that nurse-midwife services furnished in freestanding birth centers are not covered under Medicaid. Commenters suggested that we revise § 440.90 to indicate that nurse-midwife services furnished in a freestanding birth center are covered under Medicaid. Other commenters recommended that specific reference to birth centers should be inserted in § 440.165(a)(1).

Response: Nurse-midwife services are practitioner services that are ordinarily furnished on an outpatient basis, except that nurse-midwife services may be furnished to patients in an inpatient setting reimbursable under section 1905(a) of the Act, such as a hospital or nursing facility. We do not believe that the specific inclusion of "freestanding birth center" or "out-of-hospital birth center" in § 440.165(a)(1) or the addition of such terms to the definition of clinic services found at § 440.90 is necessary. The current definition of clinic services as those services that are "preventive, diagnostic, therapeutic, rehabilitative, or palliative services that are furnished by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients" clearly includes the services of a freestanding or out-of-hospital birth center that meets the other conditions of clinic services. Nurse-midwife services furnished at a birth center would be claimed as outpatient care, either under the category of nurse-midwife services or as clinic services, unless the birth center met the definition of a hospital or nursing facility.

Comment: Two commenters believe that we should require nurse-midwives to have a predetermined arrangement with a physician to assure the orderly availability of physician care for purposes of consultations and referrals beyond the scope of the nurse-midwife's practice and to aid in emergency and other situations a nurse-midwife may encounter in the course of providing care.

Response: Section 1905(a)(17) of the Act provides in part for services furnished by a nurse-midwife that the nurse-midwife is legally authorized to perform under State law, regardless of whether the nurse-midwife is under the supervision of, or associated with, a physician or other health care provider. We do not have statutory authority to amend the regulations to require that a nurse-midwife have a predetermined arrangement with a physician. Such an arrangement would be an "association" with a physician within the meaning of section 1905(a)(17) of the Act. Congress intended State law, or the appropriate State regulatory mechanism, to define a nurse-midwife's scope of practice, including any physician supervision or association requirements.

Comment: One commenter stated that our proposal to remove reference to "maternity cycle" in § 440.165 is consistent with section 1905(a)(17) of the Act. The commenter noted, however, that it is important that the regulations not be interpreted to preempt State law or regulations setting scope of practice. The elimination of the "only during the maternity cycle" limitation should not be considered as the authority for nurse-midwives to receive payment for any service they may perform. The commenter gave the example that while a nurse-midwife may provide some child care services for a newborn in the course of care for a woman during her maternity cycle, this does not mean the nurse-midwife has the training necessary to provide pediatric care services.

Response: As discussed above, the Act specifies that a nurse-midwife's scope of practice is defined by State law or State regulatory mechanisms. Federal regulations cannot dictate the extent of services a nurse-midwife may furnish. If State law allows a nurse-midwife to provide pediatric care services, then such services are covered under Medicaid. As long as the service is categorized as nurse-midwife services and the nurse-midwife meets the requirements set in State and Federal regulations, the nurse-midwife may provide the service and receive payment for such services as nurse-midwife services.

Comment: One commenter stated that certified nurse-midwives should be covered as surgical, or first assistants.

Response: As stated above, certified nurse-midwife services are limited in scope of practice only by State law or State regulatory mechanisms. The State determines the services a nurse-midwife can legally perform. If the State laws and regulations provide that a nurse-midwife can perform surgical assistant

or first assistant duties, these services will be covered under Medicaid.

Comment: One commenter stated that additional amendments to § 440.165(b)(4) are necessary to reflect actual statutes and regulations relating to licensure in the various States. Specifically, the commenter proposed that § 440.165(b)(4) (i) and (ii) be revised to indicate current certification of nurse-midwives by the American College of Nurse-Midwives (ACNM) Certification Council, Inc. Since 1991, the certification function has been conducted by the ACNM Certification Council (ACC), a corporation separate from the ACNM which was created to handle certification functions separately from the membership structure and other functions of the ACNM.

Response: We agree with the commenter and will revise section 440.165(b)(4) (i) and (ii) by adding "or by the ACNM Certification Council, Inc. (ACC)." This revision will recognize the current certification of nurse-midwives by the ACC.

Comment: One commenter suggested that if for any reason the definition of "maternity cycle" must be retained, it should be amended to reflect the generally recognized postpartum period as 6 weeks rather than 60 days.

Response: The definition of maternity cycle at § 440.165(c), which included the statutory Medicaid definition of the postpartum period, is not retained in this regulation because OBRA '93 deleted the maternity cycle definition from section 1905(a)(17) of the Act. Nurse-midwife services are no longer limited by the "during the maternity cycle" requirement.

IV. Provisions of the Final Rule

In this final rule we are adopting the provisions as proposed with one addition. Specifically, in response to a public comment, we are revising § 440.165(b)(4) (i) and (ii) to include the American College of Nurse-Midwives Certification Council as an organization that may certify nurse-midwives.

V. Impact Statement

We generally prepare an initial regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a final rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all providers and suppliers of health care and services for Medicaid recipients to be small entities. Individuals and States are not included in the definition of a small entity.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any final rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

We have determined, and the Secretary certifies, that these final regulations will not have a significant impact on a substantial number of small entities and will not have a significant impact on the operation of a substantial number of small rural hospitals. Therefore we have not prepared a regulatory flexibility analysis or an analysis of the effect on small rural hospitals.

Cost savings will occur regardless of the promulgation of these regulations. The provisions of this rule merely conform the regulations to the legislative provisions of OBRA '93. In accordance with the provisions of Executive Order 12866, this final rule was not reviewed by the Office of Management and Budget.

VI. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

List of Subjects in 42 CFR Part 440

Grant programs—health, Medicaid.

42 CFR part 440 would be amended as set forth below:

PART 440—SERVICES: GENERAL PROVISIONS

1. The authority citation for part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 440.10 the introductory text of paragraph (a) is republished, paragraph (a)(2) is revised, the introductory text of paragraph (a)(3) is republished, and paragraph (a)(3)(iii) is revised to read as follows:

§ 440.10 Inpatient hospital services, other than services in an institution for mental diseases.

(a) *Inpatient hospital services* means services that—

* * * * *

(2) Are furnished under the direction of a physician or dentist; and

* * * * *

(3) Are furnished in an institution that—

* * * * *

(iii) Meets the requirements for participation in Medicare as a hospital; and

* * * * *

3. In § 440.20 the introductory text to paragraph (a) is republished, paragraph (a)(2) is revised, the introductory text of paragraph (a)(3) is republished and paragraph (a)(3)(ii) is revised to read as follows:

§ 440.20 Outpatient hospital services and rural health clinic services.

(a) *Outpatient hospital services* means preventive, diagnostic, therapeutic, rehabilitative, or palliative services that—

* * * * *

(2) Are furnished by or under the direction of a physician or dentist; and

* * * * *

(3) Are furnished by an institution that—

* * * * *

(ii) Meets the requirements for participation in Medicare as a hospital; and

* * * * *

4. Section 440.90 is amended by removing paragraph (c).

5. In § 440.165, the introductory text of paragraph (a) is republished, paragraph (a)(1) is removed, paragraphs (a)(2) and (a)(3) are redesignated paragraphs (a)(1) and (a)(2) respectively and republished, the introductory text of paragraph (b) is republished, paragraphs (b)(4)(i) and (b)(4)(ii) are revised and paragraph (c) is removed. The revisions are to read as follows:

§ 440.165 Nurse-midwife services.

(a) *Nurse-midwife services* means services that—

(1) Are furnished by a nurse-midwife within the scope of practice authorized by State law or regulation, and in the case of inpatient or outpatient hospital services or clinic services, are furnished by or under the direction of a nurse-midwife to the extent permitted by the facility; and

(2) Unless required by State law or regulation or a facility, are paid without regard to whether the nurse-midwife is under the supervision of, or associated with a physician or other health care provider. (See § 441.21 of this chapter for provisions on independent provider agreements for nurse-midwives.)

* * * * *

(b) *Nurse-midwife* means a registered professional nurse who meets the following requirements:

* * * * *

(4) * * *

(i) Is currently certified as a nurse-midwife by the American College of Nurse-Midwives (ACNM or by the ACNM Certification Council, Inc. (ACC).

(ii) Has satisfactorily completed a formal education program (of at least one academic year) that, upon completion qualifies the nurse to take the certification examination offered by the American College of Nurse-Midwives (ACNM) or by the ACNM Certification Council, Inc. (ACC).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: October 25, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–29194 Filed 11–29–95; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Subchapter F (6000)

[WO–420–1800–00–24 1A]

RIN 1004–AC48

Wildlife Management, Protection and Preservation of Natural Values; Removal and Reservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This administrative final rule removes the Subchapter F subject heading and 43 CFR part 6220 in its entirety. The rule reserves Subchapter F (6000) for future regulatory guidance. This action is necessary because the Subchapter F subject heading and the material contained in 43 CFR part 6220 are obsolete and do not provide regulatory guidance. In turn, removal of the subject heading and part 6220 will render Subchapter F (6000) entirely without content, so that reservation of this Subchapter for future regulatory guidance is both appropriate and necessary.

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Matthew Reed, 202–452–5069.

SUPPLEMENTARY INFORMATION: 43 CFR part 6220 contains only a single paragraph, (Sec. 6220.0–1 Purpose), which is general and introductory in nature. The specific regulatory guidelines contemplated by this single introductory paragraph do not exist. Accordingly, part 6220 is obsolete and without purpose. The Bureau of Land Management (BLM) does not intend to use Subchapter F for regulatory guidance concerning wildlife management. Accordingly, this rule removes the title heading "Wildlife Management" from Subchapter F. The BLM has determined for good cause that notice and public procedure on this rule are unnecessary and contrary to the public interest, as the material that this rule removes does not contain any regulatory substance or guidance. The principal author of this final rule is Matthew Reed, Regulatory Management Team, BLM.

This rule is an administrative action and not a major rule for the purposes of E.O. 12291. Accordingly, neither an environmental impact analysis nor a regulatory flexibility analysis is required. This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

43 CFR SUBCHAPTER F—WILDLIFE MANAGEMENT (6000)

Subchapter F (6000) [Removed and reserved]

Under the authority of 43 U.S.C. 1740, subchapter F (6000) is removed and reserved.

Dated: November 8, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–28966 Filed 11–29–95; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 89–553, PP Docket No. 93–253, GN Docket No. 93–252]

SMR Systems in the 900 MHz Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final regulations which were published Thursday, September 21, 1995 (60 Fed. Reg. 48913). The regulations involved the service and auction rules for the 900 MHz Specialized Mobile Radio (SMR) service.

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Diane Law (202) 418–0660, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction were adopted in the *Second Order on Reconsideration and Seventh Report and Order*, PR Docket No. 89–553, PP Docket No. 93–253, GN Docket No. 93–252, FCC 95–395, released on September 14, 1995.

Need for Correction

As published, the final regulations contain a minor error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication on September 21, 1995 of the final regulations (FCC 95–395) is corrected as follows:

§ 90.665 [Corrected]

On page 48918, in the third column, § 90.665(c) of the Commission's rules is corrected in the second sentence by removing "license grant or, alternatively," and inserting "license grant; or alternatively," in its place.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–29087 Filed 11–29–95; 8:45 am]

BILLING CODE 6712–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 800

Organization and Functions of the Board and Delegations of Authority

AGENCY: National Transportation Safety Board.

ACTION: Final rules.

SUMMARY: The Board is updating various organizational rules to reflect current operations.

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 382–6540.

SUPPLEMENTARY INFORMATION: The current rules, at 49 CFR Part 800, have not been updated since June 27, 1984. The changes adopted here reflect the current functioning of the various offices at the Board. Because these rule

changes affect only internal "rules of agency organization procedure or practice," notice and comment procedures are not required and are not provided here. 5 U.S.C. 553(b)(B).

List of Subjects in 49 CFR Part 800

Authority delegations (Government agencies), Organization and functions (Government agencies).

Organization and Functions of the Board and Delegations of Authority

1. The Authority citation for Part 800 continues to read as follows:

Authority: Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101 *et seq.*); Federal Aviation Act of 1958, as amended (49 U.S.C. 40101 *et seq.*).

2. Section 800.2 is revised to read as follows:

§ 800.2 Organization.

The Board consists of five Members appointed by the President with the advice and consent of the Senate. One of the Members is designated by the President as Chairman with the advice and consent of the Senate, and one was Vice Chairman. The Members exercise various functions, powers and duties set forth in Titles VI and VII of the Federal Aviation Act of 1958 (49 U.S.C. 44101–46501), and the Independent Safety Board Act of 1974 (88 Stat. 2166 *et seq.* (49 U.S.C. 1101 *et seq.*)). The Board is an independent agency of the United States. A detailed description of the Board and its components is published in the Board's internal orders, which are available for inspection and copying in the public reference room in the Washington office of the Board. Various special delegations of authority from the Board and the Chairman to the staff are set forth in Subpart B of this part. The Board's staff is comprised of the following principal components:

(a) The Office of the Managing Director, which assists the Chairman in the discharge of his functions as executive and administrative head of the Board; coordinates and directs the activities of the staff; is responsible for the day-to-day operation of the Board; and recommends and develops plans to achieve the Board's program objectives. The Office of the Managing Director also provides executive secretariat services to the Board.

(b) The Office of Public Affairs, which supplies the public, the transportation industry and the news media, with current, accurate information concerning the work, programs, and objectives of the Board.

(c) The Office of Government Affairs, which supplies the Congress and Federal, State and local government agencies with information regarding the Safety Board's activities, programs and objectives.

(d) The Office of the General Counsel, which provides legal advice and assistance to the Board and its staff components; prepares Board rules, opinions and/or orders, and advice to all offices and bureaus on matters of legal significance; and represents the Board in court actions to which the Board is a party or in which the Board is interested.

(e) The Office of Administrative Law Judges, which conducts all formal proceedings arising under the Federal Aviation Act of 1958, as amended, including proceedings involving civil penalties and suspension or revocation of certificates, and appeals from actions of the Administrator in refusing to issue airman certificates.

(f) The Office of Aviation Safety, which conducts investigations of all aviation accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future aviation accidents; participates in the investigation of accidents that occur in foreign countries and involve U.S.-registered and/or U.S.-manufactured aircraft; and conducts special investigations into selected aviation accidents involving safety issues of concern to the Board.

(g) The Office of Surface Transportation Safety, which conducts investigations of highway, railroad, pipeline, and marine accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future surface transportation accidents; participates in the investigation of accidents that occur in foreign countries and involve U.S.-registered vessels; and conducts special investigations into selected surface accidents involving safety issues of concern to the Board.

(h) The Office of Safety Recommendations, which oversees the Board's safety recommendations program, including the Board's "MOST WANTED" recommendations.

(i) The Office of Research and Engineering, which provides technical advice and services; conducts research and carries out analytical studies and tests on all aspects of the Board's accident investigation, accident prevention and safety promotion activities; conducts safety studies of specific safety issues; performs statistical analyses of transportation accident and incident data; maintains archival records of the Board's accident investigation and safety promotion activities and supports public access to these records; and supports the Board's data processing, computing and information management requirements.

(j) The Office of Administration, which provides administrative support for the Board in the following areas: budget, accounting and audit; personnel, training and payroll; information management and automatic data processing; property, space, communications, facilities and transportation management; and printing, publications, mail, procurement, contracting, and accident inquiry services.

3. Section 800.3 is revised to read as follows:

§ 800.3 Functions.

(a) The primary function of the Board is to promote safety in transportation. The Board is responsible for the investigation, determination of facts, conditions, and circumstances and the cause or probable cause or causes of: all accidents involving civil aircraft, and certain public aircraft; highway accidents, including railroad grade-crossing accidents, the investigation of which is selected in cooperation with the States; railroad accidents in which there is a fatality, substantial property damage, or which involve a passenger train; pipeline accidents in which there is a fatality, significant injury to the environment, or substantial property damage; and major marine casualties and marine accidents involving a public and a non-public vessel or involving Coast Guard functions. The Board makes transportation safety recommendations to Federal, State, and local agencies and private organizations to reduce the likelihood of recurrences of transportation accidents. It initiates and conducts safety studies and special investigations on matters pertaining to safety in transportation, assesses techniques and methods of accident investigation, evaluates the effectiveness of transportation safety consciousness and efficacy in preventing accidents of other Government agencies, and evaluates the adequacy of safeguards and procedures concerning the transportation of hazardous materials.

(b) Upon application of affected parties, the Board reviews in quasijudicial proceedings, conducted pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, denials by the Administrator of the Federal Aviation Administrator of applications for airman certificates and orders of the Administrator modifying, amending, suspending, or revoking certificates or imposing civil penalties. The Board also reviews on appeal the decisions of the Commandant, U.S. Coast Guard, on appeals from orders of administrative law judges suspending, revoking, or denying seamen licenses, certificates, or documents.

(c) The Board, as provided in Part 801 of this chapter, issues reports and orders pursuant to its duties to determine the cause or probable cause or causes of transportation accidents and to report the facts, conditions and circumstances relating to such accidents; issues opinions and/or orders after reviewing on appeal the imposition of a civil penalty or the suspension, amendment, modification, revocation, or denial of any certificate or license issued by the Secretary of the Department of Transportation (who acts through the Administrator of the Federal Aviation Administration or the Commandant of the United States Coast Guard); and issues and makes available to the public safety recommendations, safety studies, and reports of special investigations.

4. Section 800.4 is amended by revising paragraph (a) to read as follows:

§ 800.4 Operation.

* * * * *

(a) The Board's staff, consisting of specialized offices dealing with particular areas of transportation safety and performing administrative and technical work for the Board. The staff advises the Board and performs duties for the Board that are inherent in the staff's position in the organizational structure or that the Board has delegated to it. The staff is described more fully in § 800.2.

* * * * *

5. Section 800.5 is revised to read as follows:

§ 800.5 Office locations.

The principal offices of the National Transportation Safety Board are located at 490 L'Enfant Plaza East, SW., Washington, DC 20594. The Board maintains field offices in selected cities throughout the United States.

6. Section 800.21 is revised to read as follows:

§ 800.21 Purpose.

The purpose of this Subpart B is to publish special delegations of authority to staff members.

7. Section 800.22 is revised to read as follows:

§ 800.22 Delegation to the Managing Director.

(a) The Board delegates to the Managing Director the authority to:

(1) Make the final determination, on appeal, as to whether to withhold a Board record from inspection or copying, pursuant to Part 801 of this chapter.

(2) Approve for publication in the **Federal Register** notices concerning issuance of accident reports and safety recommendations and responses to safety recommendations, as required by sections 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (49 U.S.C. 1131(d) and 1135(c)).

(b) The Chairman delegates to the Managing Director the authority to exercise and carry out, subject to the direction and supervision of the Chairman, the following functions vested in the Chairman:

(1) The appointment and supervision of personnel employed by the Board;

(2) The distribution of business among such personnel and among organizational components of the Board; and

(3) The use and expenditure of funds.

8. Section 800.23 is revised to read as follows:

§ 800.23 Delegation to the administrative law judges, Office of Administrative Law Judges.

The Board delegates to the administrative law judges the authority generally detailed in its procedural regulations at Part 821 of this chapter.

9. Section 800.24 is revised to read as follows:

§ 800.24 Delegation to the General Counsel.

The Board delegates to the General Counsel the authority to:

(a) Approve, disapprove, request more information, or otherwise handle requests for testimony of Board employees with respect to their participation in the investigation of accidents, and, upon receipt of notice that an employee has been subpoenaed, to make arrangements with the court either to have the employee excused from testifying or to give the employee permission to testify in accordance with the provisions of Part 835 of this Chapter.

(b) Approve or disapprove in safety enforcement proceedings, for good cause shown, requests for extensions of time or for other changes in procedural requirements subsequent to the initial decision, grant or deny requests to file additional and/or *amicus* briefs pursuant to §§ 821.9 and 821.48 of this Chapter, and raise on appeal any issue the resolution of which he deems important to the proper disposition of proceedings under § 821.49 of this Chapter.

(c) Approve or disapprove, for good cause shown, requests to extend the time for filing comments on proposed new or amended regulations.

(d) Issue regulations for the purpose of making editorial changes or corrections in the Board's rules and regulations.

(e) Issue orders staying or declining to stay, pending judicial review, orders of the Board suspending or revoking certificates, and consent to the entry of judicial stays with respect to such orders.

(f) Compromise civil penalties in the case of violations arising under The Independent Safety Board Act of 1974, as amended, or any rule, regulation, or order issued thereunder.

(g) Issue orders dismissing appeals from initial decisions of Board administrative law judges pursuant to the request of the appellant or, where the request is consensual, at the request of any party.

(h) Correct Board orders by eliminating typographical, grammatical, and similar errors, and make editorial changes therein not involving matters of substance.

(i) Take such action as appropriate or necessary adequately to compromise, settle, or otherwise represent the Board's interest in judicial or administrative actions to which the Board is a party or in which the Board is interested.

10. Section 800.25 is revised to read as follows:

§ 800.25 Delegation to the Directors of Office of Aviation Safety and Office of Surface Transportation.

The Board delegates to the Directors, Office of Aviation and Office of Surface Transportation, the authority to:

(a) Order an investigation into the facts, conditions, and circumstances of accidents that the Board has authority to investigate.

(b) Disclose factual information pertinent to all accidents or incidents as provided for in Part 801 of this chapter.

(c) Determine the probable cause(s) of accidents in which the determination is issued in the "Brief of Accident" format, except that the Office Director will submit the findings of the accident investigation to the Board for

determination of the probable cause(s) when (1) any Board Member so requests, (2) it appears to the Office Director that, because of significant public interest, a policy issue, or a safety issue of other matter, the determination of the probable cause(s) should be made by the Board, or (3) the accident investigation will be used to support findings in a special investigation or study. Provided, that a petition for reconsideration or modification of a determination of the probable cause(s) made under § 845.41 of this Chapter shall be acted on by the Board.

(d) Consistent with Board resources, investigate accidents as provided under § 304(a) of the Independent Safety Board Act of 1974, as amended (49 U.S.C. 1131(a)) and the Appendix to this Part.

11. Section 800.26 is revised to read as follows:

§ 800.26 Delegation to the Director, Office of Administration.

The Board delegates to the Director, Office of Administration, the authority to:

(a) Determine, initially, the withholding of a Board record from inspection or copying, pursuant to Part 801 of this Chapter.

(b) Settle claims for money damages of $2,500 or less against the United States arising under Section 2672 of 28 United States Code (the Federal Tort Claims Act) because of acts or omissions of Board employees.

12. Section 800.27 is revised to read as follows:

§ 800.27 Delegation to investigative officers and employees of the Board.

The Board delegates to any officer or employee of the Board designated by the Chairman of the Safety Board the authority to sign and issue subpoenas, and administer oaths and affirmations, and to take depositions or cause them to be taken in connection with the investigation of transportation accidents or incidents.

§ 800.28 [Removed]

13. Section 800.28 is removed.

Issued in Washington, DC, this 27th day of November 1995.

Jim Hall,

Chairman.

[FR Doc. 95–29227 Filed 11–29–95; 8:45 am]

BILLING CODE 7533–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018–AD31

Addition of Ottawa National Wildlife Refuge to the List of Open Areas for Big Game Hunting in Ohio

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) adds Ottawa National Wildlife Refuge to the list of areas open for big game hunting in Ohio along with pertinent refuge-specific regulations for such activities. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resource.

EFFECTIVE DATE: This rule is effective November 30, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, Telephone (703) 358–2029, X–5242.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established. The action must also be in accordance with provisions of all laws applicable to the areas, consistent with the principles of sound wildlife management, and otherwise be in the public interest. This rulemaking opens Ottawa National Wildlife Refuge to big game (white-tailed deer) hunting.

In the July 13, 1995, issue of the **Federal Register**, 60 FR 36196, the Service published a proposed rulemaking and invited public comment. All substantive comments were reviewed and considered following a 60-day public comment period.

Four organizations and two individuals provided comments opposing the rule based on the rationale that recreational deer hunting was not justified nor compatible with the primary purpose for which the refuge was established. These comments also indicated an opinion that the Service failed to show adequate evidence that the proposed reduction of deer numbers through hunting is based on solid scientific evidence, and that alternative herd reduction methods were considered.

Comments further indicated that an explanation was not presented explaining that hunting could destabilize this refuge deer herd and cause a compensatory rebound of offspring within the hunted population, and that the majority of the public is opposed to hunting on national wildlife refuges.

The Refuge Manager conducted a compatibility determination, on behalf of the Service, of the feasibility of deer hunting being applied as a management tool to control the refuge white-tailed deer population as well as to provide a quality wildlife-dependent recreational opportunity for deer hunters. The Manager's documented findings within the compatibility determination as well as within the environmental assessment were as follows: 1. The proposed white-tailed deer hunt was indeed compatible with the major purposes for which the refuge was established; 2. the proposed hunt was within the policy guidelines of the Service to be applied as both a herd management tool, and as a method to provide recreational opportunities for deer hunters; and 3. abundant scientific evidence exists which concludes that the recreational hunting of deer as a harvest technique is indeed a biologically sound practice, which could be expected to produce and sustain a healthy refuge white-tailed deer herd.

Substantive comments were also received referencing the environmental assessment completed for this hunt proposal, and that the preferred alternative, which parallels the proposal outlined in this **Federal Register** notice, provides for wildlife-dependent recreation while effectively protecting and controlling deer populations within the refuge. Other comments supported hunting as a management tool to control deer depredations on private land surrounding the refuge.

The Service agrees, of the alternative herd management methods proposed in the Refuge Environmental Assessment and adopted and presented in the **Federal Register**, recreational deer hunting is a biologically sound management technique that provides the best herd management and depredation control.

Consideration was given to delaying this final rule for a 30-day period, however, it was determined by the Service that any further delay in the implementation of this refuge-specific regulation will hinder the effective planning and administration of the hunt. Public comment was received on this proposal during the Environmental Assessment planning phase as well as the 60-day comment period for this rule. A delay of an additional 30 days would specifically jeopardize holding the hunt this year, or shorten its duration and thereby lessen the herd management effectiveness of this regulation. Therefore, in accordance with (5 U.S.C. 553(d)(3), the Service finds good cause to make this rule effective upon publication.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when the Secretary determines that such uses are compatible with the purposes for which each refuge was established. The Service administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established.

Opening Package

In preparation for this opening, the refuge unit has included in its "openings package" for Regional review and approval from the Washington Office the following documents: a hunting-fishing plan; an environmental assessment; a Finding of No Significant Impact (FONSI); a section 7 evaluation or statement, pursuant to the Endangered Species Act, that these openings are not likely to adversely affect a listed species or its critical habitat; a letter of concurrence from the affected States; and refuge-specific regulations to administer the hunts. From a review of the totality of these documents, the Service has determined that the opening of the Ottawa National Wildlife Refuge to big game hunting is compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSAA and the RRA. The Service has also determined that this opening for big game hunting is compatible and consistent with the primary purposes for which the refuge was established. A brief description of the hunting program is as follows:

Ottawa National Wildlife Refuge

The Ottawa National Wildlife Refuge (NWR) is situated on the southwestern edge of Lake Erie in what was once part of a 300,000 acre forested wetland known as the Great Black Swamp.

Approximately 10% of the original habitat exists—mostly as modified, impounded wetland units formerly owned by agricultural or sport-hunting interests. Ottawa NWR was established on July 28, 1961, with land acquired under the authority of the Migratory Bird Conservation Act. The primary purpose of the refuge is for use as an inviolate sanctuary, or for any other management purpose, and for administration of areas of land, water or interest therein to conserve and protect migratory birds in accordance with treaty obligations and (to conserve) other species of wildlife found therein, including adequate wildlife habitat.

The total refuge acreage is 8,318 acres of which 5,350 acres are either open pools, marsh, or moist soil units. The remaining acreage is a mixture of grassland and shrubland, fallow fields, wet meadows, forests (310 acres), and croplands (600 acres).

Ottawa NWR is an important migration stopover for migratory birds. The refuge bird list contains 267 normally observed species. The refuge supports 32 native mammal species along with 53 indigenous amphibian and reptile species.

Public hunting is to be used primarily as a management tool for balancing the white-tailed deer population objectives with other wildlife objectives, thereby inhibiting this species from impacting the quality of vegetative habitat. In addition, the proposed hunt will provide limited public hunting opportunities on the refuge. The deer population estimate at the refuge was determined from a winter helicopter survey. The refuge estimates indicate that the current deer population is at 47.3 deer per square mile. In Ohio, the buck harvest estimates indicate a pre-harvest density for Lucas and Ottawa counties of 0.6 and 0.9 deer per square mile. The refuge population estimate is 315% above the upper end of average densities reported for the agricultural Midwest region. Wildlife managers expend a lot of time and money responding to deer-vehicle accident and crop depredation complaints. Without a hunting program specifically used as a management tool, the refuge deer population may degrade habitat quality not only for that population but other important species. Controlled access, blind placement and hunting opportunity in designated management zones and seasonal restrictions will limit human disturbance of wildlife and provide wildlife a refuge interior sanctuary.

Opening the refuge to big game hunting has been found to be compatible in a separate compatibility determination. The hunting program will be reviewed annually to ensure that a harvestable surplus of animals exist, and that sensitive habitats are protected from disturbance. A Section 7 evaluation pursuant to the Endangered Species Act was conducted. The Service determined that the proposed action is not likely to adversely affect any Federally listed or proposed for listing threatened or endangered species or their critical habitats. Pursuant to the National Environmental Policy Act (NEPA), an environmental assessment was made and a Finding of No Significant Impact (FONSI) was made regarding the hunt. During the preparation of the environmental assessment, biologists and management personnel within the Ohio Division of Wildlife were consulted. Comments were solicited from the public during the draft environmental assessment phase. Articles on this assessment were carried in the local newspapers and sent to Federal, State and local legislators and conservation groups.

The Service has determined that there would be sufficient funds within the station budget to administer the proposed hunt.

Paperwork Reduction Act

The information collection requirements for Part 32 are found in 50 CFR Part 25 and have been approved by the Office of Management and Budget under Public Law 104–13 and assigned clearance number 1018–0014. The information is being collected to assist the Service in administering these program in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments

on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Economic Effect

This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) has revealed that the rulemaking would not have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. While there would be an increase in the sale of firearms, ammunition, hunting gear, etc., this proposed rule would have minimal effect on such entities as this is not a big hunting program and hunting is otherwise allowed in surrounding areas.

Federalism

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared for this opening. Based upon the Environmental Assessments, the Service issued a Finding of No Significant Impact with respect to the opening. A Section 7 evaluation was prepared pursuant to the Endangered Species Act with a finding that these openings are not likely to adversely affect a listed species or its critical habitat.

Primary Author

Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, Fishing, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

For the reasons set forth in the preamble, Part 32 of chapter I of Title 50 of the *Code of Federal Regulations* is amended to read as follows:

PART 32—[AMENDED]

1. The authority citation for Part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

2. Section 32.54 *Ohio* is amended by revising paragraph (c) to read as follows:

§ 32.54 Ohio.

* * * * *

Ottawa National Wildlife Refuge

* * * * *

C. Big Game Hunting. Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

1. Permits are required.
2. Hunters are required to check in and out of the refuge each day that they hunt.
3. No shooting from refuge roads or dikes is permitted.

* * * * *

Dated: October 20, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–29105 Filed 11–29–95; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, 676, and 677

[Docket No. 951120272–5272–01; I.D. 110295A]

Groundfish of the Gulf of Alaska; Limited Access; Foreign Fishing; Interim 1996 Harvest Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim 1996 harvest specifications for groundfish; associated management measures; and closures.

SUMMARY: NMFS issues interim 1996 total allowable catch (TAC) amounts for each category of groundfish and specifications for prohibited species bycatch allowances for the groundfish fishery of the Gulf of Alaska (GOA). NMFS is closing certain fisheries as specified in the interim 1996 groundfish specifications. The intended effect is to conserve and manage the groundfish resources in the GOA.

EFFECTIVE DATE: 0001 hours, Alaska local time (A.l.t.), January 1, 1996, until the effective date of the Final 1996 Harvest Specifications for Groundfish, which will be published in the **Federal Register**.

ADDRESSES: The preliminary Stock Assessment and Fishery Evaluation (SAFE) Report, dated September 1995, is available from the North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the exclusive economic zone of the GOA are managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP is implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fisheries at 50 CFR parts 672, 676, and 677. General regulations that also pertain to the U.S. fisheries appear at 50 CFR part 620.

The Council met September 27 through October 2, 1995, to review scientific information concerning groundfish stocks. The preliminary specifications are based on the current stock assessments contained in the preliminary Gulf of Alaska Groundfish SAFE Report, dated September 1995, as well as recommendations by the GOA Groundfish Plan Team, Advisory Panel, and Scientific and Statistical Committee. The preliminary SAFE Report was prepared and presented to the Council by the GOA Groundfish Plan Team and summarizes the best available scientific information. Copies of the SAFE Report are available from the Council (see **ADDRESSES**). The Council recommended a preliminary total TAC amount of 267,917 metric tons (mt) and a preliminary total acceptable biological catch (ABC) amount of 477,110 mt for the 1996 fishing year.

Under § 672.20(c)(1)(ii), NMFS is publishing in the Proposed Rules section of this issue of the **Federal Register** for review and comment proposed initial harvest specifications for groundfish and associated management measures in the GOA for the 1996 fishing year. Those proposed specifications contain detailed

information on the 1996 specification process and provides a discussion of the preliminary ABCs, proposed establishment of the 1996 annual TAC amounts and apportionments thereof among domestic annual processing (DAP), joint venture processing (JVP), total allowable level of foreign fishing (TALFF) and reserves for each target species and the "other species" category, apportionments of pollock and Pacific cod TAC, apportionments of the sablefish TAC to vessels using hook-and-line and trawl gear, halibut prohibited species catch (PSC) limits, and seasonal allocations of the halibut PSC limits.

Regulations at § 672.20(c)(1)(ii)(A) require that one-fourth of the preliminary or proposed specifications (not including the reserves and the first quarterly allowance of pollock), one-fourth of the inshore and offshore allocations of Pacific cod in each regulatory area, and one-fourth of the halibut PSC amounts become effective at 0001 hours, A.l.t., January 1, on an interim basis and remain in effect until superseded by the final harvest specifications, which will be published in the **Federal Register**.

This action provides interim TAC specifications and apportionments thereof for the 1996 fishing year that will become available on January 1, 1996, on an interim or preliminary basis. Background information concerning the 1996 groundfish harvest specification process upon which this interim action is based is provided in the proposed initial harvest specifications appearing in the Proposed Rules section of this **Federal Register** issue.

Species TAC amounts are apportioned initially among DAP, JVP, TALFF, and reserves under §§ 611.92(c)(1) and 672.20(a)(2). DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen deliver their catches to foreign processors at sea. TALFF amounts are intended for harvest by foreign fishermen. Existing harvesting and processing capacity allows the U.S. industry to utilize the entire 1996 TAC specified for GOA groundfish. Therefore, the Council recommended that DAP equal TAC for each species category, which results in no proposed amounts of TALFF or JVP for the 1996 fishing year.

The reserves for the GOA are 20 percent of the TAC amounts for pollock, Pacific cod, flatfish species, and the "other species" category. Given that the GOA groundfish TAC amounts have been utilized fully by DAP since 1987, NMFS has reapportioned all the reserves to DAP. The interim TAC amounts contained in Table 1 reflect the reapportionment of reserves to DAP.

Amendment 23 to the FMP and Amendment 18 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area established inshore and offshore component allocations of Pacific cod and pollock in the GOA and inshore and offshore component allocations of pollock in the Bering Sea and Aleutian Islands management area during the years 1993 through 1995. Because Amendments 23 and 18 and their implementing regulations expire on December 31, 1995, and because the Council has yet to complete development of its comprehensive plan to address problems caused by the open access nature of the Alaska groundfish fisheries, the Council voted unanimously at its June 1995 meeting to adopt Amendments 40 and 38, which would extend the provisions of the expiring Amendments 23 and 18 through December 31, 1998. The Council has submitted to NMFS for review and approval under the Magnuson Act proposed Amendments 40 and 38. On September 18, 1995, NMFS published a proposed rule that would implement the inshore and offshore allocations through 1998 (60 FR 48087). However, at this time, NMFS has not determined that either Amendment 40 or Amendment 38 is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws.

This interim specification document specifies allocations of pollock and Pacific cod to inshore and offshore components. If NMFS disapproves proposed Amendment 40 to the FMP, NMFS will revise the applicable GOA interim pollock and Pacific cod TAC allocations specified in this document before the start of the 1996 fishing season. The revised interim TAC allocations of pollock and Pacific cod will be published in the **Federal Register**.

1. Interim TAC Amounts and Apportionments Thereof

Table 1 provides interim TAC amounts, interim TAC allocations of Pacific cod to the inshore and offshore components, first quarterly allowances of pollock in the combined Western and Central regulatory areas, and interim sablefish TAC apportionments to hook-and-line and trawl gear. These interim TAC amounts and apportionments thereof become effective at 0001 hours, A.l.t., January 1, 1996.

TABLE 1.—INTERIM 1996 TAC AMOUNTS OF GROUNDFISH FOR THE COMBINED WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYAK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA (GOA)[1 2 3]. FIRST QUARTERLY ALLOWANCES OF POLLOCK IN THE COMBINED W/C REGULATORY AREAS. INTERIM SABLEFISH TAC APPORTIONMENTS TO HOOK-AND-LINE (H/L) AND TRAWL (TRW) GEAR. AMOUNTS ARE IN METRIC TONS.

Species	Area	Interim TAC
Pollock[4 5]		
	W (61)	6,125
	C (62)	3,125
	C (63)	3,250
Subtotal	W/C	12,500
	E	675
Total		13,175
Pacific cod[6]		
Inshore	W	4,241
Offshore	W	471
Inshore	C	9,653
Offshore	C	1,073

TABLE 1.—INTERIM 1996 TAC AMOUNTS OF GROUNDFISH FOR THE COMBINED WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYAK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA (GOA)[1][2][3]. FIRST QUARTERLY ALLOWANCES OF POLLOCK IN THE COMBINED W/C REGULATORY AREAS. INTERIM SABLEFISH TAC APPORTIONMENTS TO HOOK-AND-LINE (H/L) AND TRAWL (TRW) GEAR. AMOUNTS ARE IN METRIC TONS.—Continued

Species	Area	Interim TAC
Inshore	E	731
Offshore	E	81
Total		16,250
Flatfish, Deep-water[7]		
	W	115
	C	1,875
	E	780
Total		2,770
Rex sole		
	W	200
	C	1,763
	E	460
Total		2,423
Flathead Sole		
	W	500
	C	1,250
	E	685
Total		2,435
Flatfish, Shallow-water[8]		
	W	1,125
	C	3,238
	E	295
Total		4,658
Arrowtooth flounder		
	W	1,250
	C	6,250
	E	1,250
Total		8,750
Sablefish[9][10][11]		
H/L	W	N/A(520)
TRW	W	130
H/L	C	N/A(1,720)
TRW	C	430
H/L	WYak	N/A(974)
TRW	WYak	51
H/L	SEO	N/A(1,473)
TRW	SEO	78
Total		5,376
Pacific ocean perch[12]		
	W	315
	C	833
	E	592
Total		1,740
Shortraker/rougheye[13]		
	W	43
	C	303
	E	133
Total		479
Rockfish, northern[14]		
	W	160
	C	1,153
	E	5
Total		1,318
Rockfish, other[15][16]		
	W	45
	C	293
	E	1,440
Total		1,778
Rockfish, pelagic shelf[17]		
	W	228
	C	800
	E	270
Total		1,298
Rockfish, Demersal Shelf SEO[18]	SEO	145
Thornyhead rockfish	GW	390
Atka mackerel		
	W	578
	C	231
	E	1
Total		810
Other species[19]		3,190
GOA Total Interim TAC		66,985

TABLE 1.—INTERIM 1996 TAC AMOUNTS OF GROUNDFISH FOR THE COMBINED WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYAK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA (GOA)[1][2][3]. FIRST QUARTERLY ALLOWANCES OF POLLOCK IN THE COMBINED W/C REGULATORY AREAS. INTERIM SABLEFISH TAC APPORTIONMENTS TO HOOK-AND-LINE (H/L) AND TRAWL (TRW) GEAR. AMOUNTS ARE IN METRIC TONS.—Continued

(Interim TAC amounts have been rounded.)

[1] Amounts specified as JVP and TALFF are proposed to be zero and are not shown in this table.

[2] Reserves have been reapportioned to DAP and are reflected in the interim TAC amounts. (See § 672.20(a)(2)(ii))

[3] See § 672.2 for definitions of regulatory area, regulatory district, and statistical area.

[4] Pollock is apportioned to three statistical areas in the combined Western/Central Regulatory Area, and is further divided into equal quarterly allowances. The first quarterly allowances are in effect on an interim basis as of January 1, 1996. In the Eastern Regulatory Area, pollock is not divided into quarterly allowances, and one-fourth of the TAC is available on an interim basis.

[5] The TAC apportionment for pollock in all regulatory areas and all quarterly allowances is divided into inshore and offshore components. The inshore component is apportioned 100 percent of the pollock TAC in each regulatory area after subtraction of amounts that are determined by the Director, Alaska Region, NMFS, to be necessary to support the bycatch needs of the offshore component in directed fisheries for other groundfish species. At this time, these bycatch amounts are unknown and will be determined during the fishing year. (See § 672.20(a)(2)(v)(A))

[6] The TAC apportionment of Pacific cod in all regulatory areas is divided into inshore and offshore components. The inshore and offshore component allocations are 90 percent and 10 percent, respectively, of the Pacific cod TAC in each regulatory area. (See § 672.20(a)(2)(v)(B))

[7] "Deep-water flatfish" means Dover sole and Greenland turbot.

[8] "Shallow-water flatfish" means flatfish not including "deep-water flatfish," flathead sole, rex sole, or arrowtooth flounder.

[9] Sablefish TAC amounts for each of the regulatory areas and districts are assigned to hook-and-line and trawl gear. In the Central and Western Regulatory Areas, 80 percent of the TAC is allocated to hook-and-line gear and 20 percent to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is assigned to hook-and-line gear. Five percent is allocated to trawl gear and may only be used as bycatch to support directed fisheries for other target species. (See § 672.24(c))

[10] The sablefish hook-and-line (H/L) gear fishery is managed under the Individual Fishing Quota (IFQ) program and subject to regulations contained in subparts B and C of 50 CFR part 676. Annual IFQ amounts are based on the final TAC amount specified for the sablefish H/L gear fishery as contained in the final specifications for groundfish. Under § 676.16(c), retention of sablefish caught with H/L gear is prohibited unless the harvest is authorized under a valid IFQ permit and IFQ card. In 1996, IFQ permits and IFQ cards will not be valid prior to the effective date of the 1996 final specifications. Thus, fishing for sablefish with H/L gear will not be authorized under these interim specifications. Nonetheless, interim amounts are shown in parentheses to reflect assignments of one-fourth of the proposed TAC amounts among gear categories and regulatory areas in accordance with § 672.20(a)(7). See §§ 676.20 and 676.23(b) for guidance on the annual allocation of IFQ and the sablefish season.

[11] Sablefish caught in the GOA with gear other than hook-and-line or trawl gear must be treated as prohibited species and may not be retained.

[12] "Pacific ocean perch" means *Sebastes alutus*.

[13] "Shortraker/rougheye rockfish" means *Sebastes borealis* (shortraker) and *S. aleutianus* (rougheye).

[14] "Northern rockfish" means *Sebastes polyspinis*.

[15] "Other rockfish" in the Western and Central Regulatory Areas and in the West Yakutat District means slope rockfish and demersal shelf rockfish. The category "other rockfish" in the Southeast Outside District means slope rockfish.

[16] "Slope rockfish" means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), *S. goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegatus* (harlequin), *S. wilsoni* (pygmy), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergrey), *S. diplopoa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), *S. babcocki* (redbanded), and *S. reedi* (yellowmouth).

[17] "Pelagic shelf rockfish" includes *Sebastes melanops* (black), *S. mystinus* (blue), *S. ciliatus* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).

[18] "Demersal shelf rockfish" means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).

[19] "Other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, squid, and octopus. The TAC for "other species" equals 5 percent of the TAC amounts of target species.

2. Interim Halibut PSC Mortality Limits

Under § 672.20(f), annual Pacific halibut PSC mortality limits are established for trawl and hook-and-line gear and may be established for pot gear. As in 1995, the Council proposes to exempt pot gear and the sablefish hook-and-line fishery from halibut PSC limits for 1996. The interim PSC limits are effective on January 1, 1996, and remain in effect until superseded by the Final 1996 Harvest Specifications, which will be published in the **Federal Register**. The interim halibut PSC limits are as follows: (1) 500 mt to trawl gear, (2) 73 mt to hook-and-line gear for fisheries other than demersal shelf rockfish, and (3) 2.5 mt to hook-and-line gear for demersal shelf rockfish fishery in the Southeast Outside District.

Regulations at § 672.20(f)(1) authorize apportionments of the trawl halibut PSC limit allowance as bycatch allowances to a deep-water species complex, comprised of rex sole, sablefish, rockfish, deep-water flatfish, and arrowtooth flounder, and a shallow-water species complex, comprised of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and other species. The interim 1996 apportionment for the shallow-water species complex is 415 mt and for the deep-water species complex is 85 mt.

3. Closures to Directed Fishing

Under § 672.20(c)(2)(ii), if the Director, Alaska Region, NMFS (Regional Director), determines that the amount of a target species or "other species" category apportioned to a fishery or, with respect to Pacific cod, to an allocation to the inshore or offshore component, is likely to be reached, the Regional Director may establish a directed fishing allowance for that species or species group. In establishing a directed fishing allowance, the Regional Director shall consider the amount of that species group or allocation of Pacific cod to the inshore or offshore component that will be taken as incidental catch in directed fishing for other species in the same regulatory area or district. If the Regional Director establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified regulatory area or district.

The Regional Director has determined that interim amounts of groundfish specified in Table 1 of these interim specifications for species or species groups identified in Table 2 will be necessary as incidental catch to support anticipated groundfish fisheries prior to the time that final specifications for groundfish are in effect for the 1996 fishing year. Therefore, NMFS is prohibiting directed fishing for those target species, gears, and components listed in Table 2 to prevent exceeding the interim amounts of groundfish TAC amounts specified. These closures will be in effect during the period that the 1996 interim specifications for groundfish TAC amounts are effective beginning at 0001 hours, A.l.t., January 1, 1996, until superseded by the Final 1996 Harvest Specifications for Groundfish. While the closures are in effect, the maximum retainable bycatch amounts at § 672.20(g) apply at any time during a fishing trip. Additional closures and restrictions may be found in existing regulations at 50 CFR part 672.

TABLE 2.—CLOSURES TO DIRECTED FISHING UNDER THE INTERIM 1996 TOTAL ALLOWABLE CATCH AMOUNTS IMPLEMENTED BY THIS ACTION[1] OFFSHORE = THE OFFSHORE COMPONENT; TRW = TRAWL; ALL = ALL GEARS; WG = WESTERN REGULATORY AREA; CG = CENTRAL REGULATORY AREA; EG = EASTERN REGULATORY AREA; GOA = ENTIRE GULF OF ALASKA

Fishery	Component	Gear	Closed areas
Atka mackerel		ALL	GOA
Northern rockfish		ALL	WG, EG
Pelagic shelf rockfish		ALL	WG, EG
Other rockfish		ALL	WG, CG
Pacific cod	Offshore	ALL	EG
Rex sole		ALL	WG
Sablefish		TRW	WG, CG
Shortraker/rougheye		ALL	GOA
Thornyhead rockfish		ALL	GOA

[1] These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 672.

After consideration of public comments on the proposed 1996 specifications and additional scientific information presented at its December 1995 meeting, the Council may recommend other closures to directed fishing. Additionally, NMFS may implement other closures at the time the Final 1996 Specifications for Groundfish are implemented, or during the 1996 fishing year as necessary for effective management.

Classification

This action is authorized under 50 CFR 611.92, 672.20, and 676.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 24, 1995.

Nancy Foster,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Serivce.

[FR Doc. 95–29262 Filed 11–29–95; 8:45 am]

BILLING CODE 3510–22–W

50 CFR Part 676

[Docket No.950123023–5271–02; I.D. 110795E]

RIN 0648–AH38; 0648–AI09

Limited Access Management of Federal Fisheries In and Off of Alaska; Determinations and Appeals; Individual Fishing Quota Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule adopting as final without change two interim rules that amended regulations implementing the Individual Fishing Quota (IFQ) Program for Pacific halibut and sablefish fixed gear fisheries in and off of Alaska.

EFFECTIVE DATE: This rule is effective November 30, 1995.

FOR FURTHER INFORMATION CONTACT: James Hale, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The IFQ Program is a regulatory regime developed by the North Pacific Fishery Management Council (Council) to promote the conservation and management of Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) stocks in Federal waters in and off of Alaska. The IFQ Program limits access to Pacific halibut and sablefish fixed gear fisheries through the annual issuance of IFQ. Holders of IFQ may harvest their IFQ, specific to species, vessel category, and regulatory area, any time during the IFQ fishing season. Further information about the IFQ Program is contained in the preamble to the final implementing regulations published at 58 FR 59375, November 9, 1993, and subsequent amendments.

This action makes final several changes to the IFQ implementing regulations that were originally effected by interim rules. One interim rule reduced the two-stage appeals procedures to a single-step process, shortened the length of time required for certain appeals-related actions, and established a quota shares (QS) reserve to permit the deferred allocation of IFQ for qualified persons whose QS are in dispute at the time of annual IFQ allocation. The other interim rule allowed vessels subject to existing IFQ Program recordkeeping and observer coverage requirements to fish for IFQ species in regulatory areas for which persons aboard a vessel hold IFQ less than the total amount of IFQ species on board. These changes are described below.

Changes to the Determinations and Appeals Procedures

Final rules implementing the appeals procedure for limited access management of Federal fisheries in and off of Alaska became effective July 1, 1994 (59 FR 28281, June 1, 1994). A detailed explanation of the procedure for appealing initial administrative determinations appeared in the preamble of the notice of proposed rulemaking published at 59 FR 5979 on February 9, 1994. NMFS identified three changes to the final rules as necessary to improve the efficiency of the appeals process. An interim rule published at 60 FR 6448, February 2, 1995, effected these changes, as follows.

1. The first change eliminated applicants' right to appeal an appellate officer's decision to the Director, Alaska Region, NMFS (Regional Director), but retained the Regional Director's discretionary authority to renew, modify, reverse, or remand any such decision. This effectively changed the original two-stage appeals procedure to a single-step process. The original procedure provided an applicant a first-stage opportunity to appeal an initial administrative determination to an appellate officer and a second-stage opportunity to appeal the appellate officer's decision to the Regional Director. This interim rule eliminated the second-stage appeal; however, the Regional Director routinely reviews appellate officers' decisions and may reverse, modify, or remand those decisions for further consideration. The appellate officer's decision, unless acted on by the Regional Director, becomes the final agency action for purposes of judicial review 30 days after issuance.

2. The second change substantially reduced the time period within which an appellant may file an appeal from 90 Federal business days to 60 calendar days after the date of the initial administrative determination. The original appeals filing period consisted of 90 days, not including weekends and holidays. The revised appeals filing period consists of 60 calendar days unless the last day falls on a weekend or holiday. The original appeals filing period was intended to provide an appellant with a liberal period within which to prepare an appeal. NMFS determined that this period was unnecessarily long and would exacerbate expected delays in the resolution of appeals. Disputes in which two or more applicants make claims to the same vessel or catch data should be resolved at the same time. Without this change, one claimant could file a prompt appeal while another could delay filing for up to 4 months, thereby preventing the prompt issuance of disputed IFQ to the rightful party. The revised period provides appellants with adequate time to prepare and file appeals, and benefits all affected parties by accelerating the appeals process.

3. The third change shortened the period of delayed effectiveness of an appellate officer's decision from 45 Federal business days to 30 calendar days after the date the decision is issued, unless, prior to that time, the Regional Director modifies the decision, issues an order staying the effectiveness of the decision pending review, or accelerates the effectiveness date. This change also accelerated the agency's final actions on appeals. NMFS determined that 30 calendar days are adequate for the Regional Director to review an appellate officer's decision and take any necessary action, such as a stay.

These changes implemented by the interim rule help to expedite the appeals process, which benefits the fishermen involved.

Changes to the Establishment of QS Pools

Regulations pertaining to the calculation of QS and the QS pool for an area are found at § 676.20. The interim rule at 60 FR 6448, February 2, 1995, also amended § 676.20(d)(3) to establish a reserve within the QS pool of each IFQ regulatory area. Without such a reserve, contested catch history would not be included in the pool, and persons without QS included in the QS pool on January 31 of any year, when annual allocations of IFQ are determined, would be unable to participate in the IFQ fisheries in that year.

A problem of particular concern in the initial year of the IFQ Program was that numerous appeals involved disputes over who owned or leased a vessel that made qualified landings but not over the amount of those landings. Many of these appeals were not resolved by January 31, 1995. Failure to establish a reserve within the QS pool could have prevented the prevailing party from receiving and using IFQ during the IFQ

fishing season in 1995. It is possible that such situations may occur in the future.

To correct the problem, the interim rule established a QS pool reserve for catch history that would otherwise have been withheld from the QS pool due to the pendency, at the time of annual IFQ determinations, of an appeal involving contested catch history, vessel ownership, or vessel lease data by two or more QS applicants. The interim rule allowed NMFS to set aside QS in the reserve pool for deferred award to specific appellants, and to include this QS in the total QS pool for purposes of determining the amount of IFQ to be assigned to each holder of QS.

The interim rule addressed the problem that appeals involving multiparty contests could unjustly result in failure to allocate IFQ for the annual fishing season to applicants who make timely and sufficient application for participation in the IFQ Program. The QS pool reserve is used only in situations in which eligibility for qualifying pounds has been established but the appropriate party to be issued QS and resulting IFQ remains contested pending a decision.

Changes to General Prohibitions

Close monitoring of the harvest of IFQ halibut and IFQ sablefish is required to prevent exceeding the total allowable catch for halibut and sablefish fixed gear fisheries in each regulatory area. A regulation at § 676.16(d) was designed to ensure that an IFQ holder harvested his or her IFQ only in the regulatory area specified on his or her IFQ permit. This regulation, enforced by at-sea monitoring of catches, made it unlawful for any person to retain IFQ halibut or IFQ sablefish on a vessel in excess of the total amount of unharvested IFQ, applicable to the vessel category and IFQ regulatory area in which the vessel is operating, and that is currently held by all IFQ card holders on board the vessel.

The practical effect of this provision was to require persons to offload all IFQ species caught in one regulatory area before fishing IFQ in another regulatory area. IFQ holders with small amounts of IFQ in multiple regulatory areas were especially affected, because the IFQ held in one area was frequently too small to cover the IFQ species harvested in that area and another.

Members of the fishing industry requested the Council to relieve the requirement specified in § 676.16(d). At its meeting in June 21–25, 1995, the Council recommended that NMFS implement an emergency rule to allow vessels required to keep daily logs and carry 100 percent observer coverage to retain IFQ halibut or IFQ sablefish in excess of the total amount of unharvested IFQ applicable to that vessel in the IFQ regulatory area in which the vessel is operating. The Council also recommended that the regulations be so amended for future years.

NMFS determined that an interim rule was appropriate to effect the changes requested by the Council and, in the interim rule published at 60 FR 45378, August 31, 1995, amended § 676.16(d) to allow vessel operators subject to recordkeeping and observer coverage regulations to fish for IFQ species in regulatory areas for which persons aboard the vessel hold IFQ, even when the amount of IFQ held for a specific area is less than the total amount of IFQ species on board the vessel.

A vessel operator must comply with the requirements at § 676.16(d), unless the vessel has an observer aboard pursuant to 50 CFR part 677 while fishing for the IFQ species in the regulatory area concerned and complies with the applicable daily fishing logbook requirements at 50 CFR 301.15, 672.5(b)(2), and 675.5(b)(2). The observer and recordkeeping requirements enable authorized officers to verify that the IFQ halibut or IFQ sablefish on board was lawfully harvested in the appropriate IFQ regulatory area by an IFQ card holder with sufficient unused IFQ applicable to the vessel category. The interim rule thus provided added flexibility to the IFQ holder's fishing schedule while still allowing NMFS to monitor closely IFQ harvests.

Although the Council requested that this relief be provided in all IFQ regulatory areas, current provisions in 50 CFR 301 remain in force and partly diminish the benefits of the present action. Specifically, provisions in § 301.14 require a vessel operator who intends to harvest halibut in areas 4A, 4B, 4C, or 4D to obtain a vessel clearance in designated ports before commencing harvest or landing of halibut. This vessel clearance requirement, while not in direct conflict with the interim rule, may diminish the intended effect. Any changes to the requirements of § 301.14 must be approved and adopted by the International Pacific Halibut Commission.

Classification

This final rule finalizes actions made effective by interim rules published at 60 FR 6448 on February 2, 1995, and 60 FR 45378 on August 31, 1995. Though the requirement for prior notice and an opportunity for public comment was waived for good cause on both of the interim rules, an opportunity for comment was provided. NMFS received no comments and adopts the interim rules as final without change. In that this rule finalizes actions already in effect, a delayed effectiveness period is unnecessary and is therefore waived for good cause pursuant to 5 U.S.C. 553(d)(3).

This final rule does not require the collection of new information, but adopts a shorter period of time within which affected persons would have to submit information. The collection of information necessary for this rule has been approved by the Office of Management and Budget (OMB), OMB control number 0648–0272 (regarding IFQs for Pacific halibut and sablefish), OMB control number 0648–0280 (North Pacific Fisheries Research Plan), and OMB control number 0648–0213 (logbook family of forms).

This final rule has been determined to be not significant for purposes of E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 22, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, the interim rules amending 50 CFR part 676 that were published at 60 FR 6448, February 2, 1995, and 60 FR 45378, August 31, 1995, are adopted as a final rule without change.

[FR Doc. 95–29198 Filed 11–29–95; 8:45 am]

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Proposed Rules

Federal Register

Vol. 60, No. 230

Thursday, November 30, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 800

RIN 0580–AA40

Fees for Official Inspection and Official Weighing Services

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS), of the Grain Inspection, Packers and Stockyards Administration (GIPSA), is proposing a change in the way it collects user fees for official inspection and weighing services performed in the United States under the United States Grain Standards Act (USGSA), as amended. Currently, FGIS assesses fees on an hourly basis. The proposed fee structure establishes fees for specific services using hourly rates and/or unit fees. This structure will provide customers with information to better assess the cost of specific services and allow FGIS to pass savings (in the form of fewer billable hours) to customers who invest in operational efficiencies. The proposed fee structure does include a 4 percent increase to recover salary increases.

DATE: Comments must be received on or before January 29, 1996.

ADDRESSES: Written comments must be submitted to George Wollam, USDA, GIPSA, Room 0623 South Building, P.O. Box 96454, Washington, DC 20090–6454, or FAX them to (202) 720–4628.

All comments received will be made available for public inspection during regular business hours in Room 0623, South Building, USDA, 1400 Independence Avenue, SW, Washington, DC 20090–6454 (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT: George Wollam, at above address or telephone (202) 720–0292.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Regulatory Flexibility Act

This rule has been determined to be significant for the purposes of Executive Order 12866 and therefore has been reviewed by the Office of Management and Budget.

The proposed change in the way user fees are collected will provide customers with information to better assess the costs of specific inspection services because the fees will be more service specific than under the current hourly rate. Further, it will allow savings to be passed on to users of the service who invest in operational efficiencies. Currently, applicants choose only those services they want, but individual service costs are supported by the hourly rate without segregation. Fiscal year 1993 financial and volume data were used in developing the proposed fee structure. While certain fees are increased and new fees are established, the revenue generated using the fiscal year 1993 data is equivalent to the $23,192,178 collected that year.

The proposed fee structure does include a 4 percent increase to recover salary increases since 1993 and would have generated sufficient revenue to cover costs for fiscal year 1994 and the anticipated costs for fiscal year 1995. For information, fiscal year 1994 revenues were $20,662,062 with obligations of $21,415,400. For the first half of fiscal year 1995, revenues were $11,691,695 with obligations of $12,027,624. Obligations include buy out costs, along with costs associated with office consolidations.

Presently, users of the inspection service are charged on an hourly basis. This hourly rate includes the salary and benefits for each service representative providing the service as well as a portion of overhead and program support costs. The overall cost of a wide variety of services, e.g., grading, weighing, wheat protein measurement, soybean protein and oil measurement, and aflatoxin detection, are averaged together and recovered through an hourly service rate. Under the proposed system, customers will be charged a lower base hourly rate plus a unit fee to cover the cost of the specific service they request such as wheat protein. Overhead and program support costs will be recovered through a per-metric-ton volume fee assessed on all grain loaded from a facility.

This rule may have an economic impact on infrequent users of the service. FGIS incurs difficulty balancing costs and revenue in some locations where customers desire local FGIS service capability but use the service infrequently. The proposed fee schedule is designed to shift the cost of non-revenue producing time to those users responsible for incurring it. Consequently, infrequent users of the service may find the net effect of the proposed hourly fees and per-metric-ton administrative fee increases their total per-metric-ton cost for inspection service. Conversely, highly efficient and/or high-volume users of the service may realize a decrease in their per-metric- ton cost for inspection service, due to the reduced contract hourly rate, and the use of an administrative fee to cover overhead and program support expenses. Additional information provided in an impact assessment will be provided upon request.

James R. Baker, Administrator, GIPSA, has determined that this proposed action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. The USGSA provides in § 87g that no subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this proposed rule will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to provisions of this rule.

Regulatory Flexibility Act Certification

James R. Baker, Administrator, GIPSA, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services do not meet the requirements for small entities. FGIS is required by

statute to make services available and to recover costs of providing such services as nearly as practicable.

Information Collection and Recordkeeping Requirements

The requirement to collect information included in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)). The additional requirement results from FGIS providing an opportunity for the service customers to pay the proposed administrative costs in 12 equal payments. Comments on the collection of information should be sent to the Office of Management and Budget, Attn.: Desk Officer for the Department of Agriculture, Office of Information and Regulatory Affairs, Washington, DC 20224.

The additional collection of information is required by FGIS to provide the necessary information to collect and assess fees. FGIS, under the USGSA, is required to recover the cost of providing inspection and weighing services through the assessment of fees on the requestor of the services. The respondents are users of FGIS inspection and weighing services.

The estimated annual increase in reporting burden is 14.4 hours.

The estimated annual burden per respondent is .43 hours.

The estimated number of respondents is 12.

The estimated annual frequency of responses is 4 times per year.

Background

The USGSA requires FGIS to charge and collect reasonable fees for performing official inspection and weighing services. The fees are to cover, as nearly as practicable, FGIS's costs for performing these services, including related administrative and supervisory costs.

The current USGSA fees became effective on May 20, 1991 (56 FR 15803). They appear in 7 CFR 800.71, Schedule A, Fees for Official Inspection, Weighing, and Appeal Inspection Services Performed in the United States. FGIS currently provides service on an hourly basis with provisions for contract and noncontract rates. Hourly fees provide cost recovery for all direct and indirect costs.

Over the years, technology has expanded the variety of testing services available at local service points and has reduced the number of service representatives required to provide service, especially export inspection and weighing service. These changes have enabled FGIS to provide improved and expanded services while maintaining a relatively constant cost to the grain industry when viewed as a cost per-metric-ton of grain exported. However, this trend toward increased services and fewer billable hours due to advances in technology makes it increasingly difficult to recover costs using an hourly rate basis.

The intent of the proposed change in the manner of fee collection is (1) to permit customers to realize more directly the costs of services requested and (2) to compensate FGIS for the imbalance between costs and revenue created due to technology, enabling a reduction in FGIS' direct costs and the corresponding billable hours at a greater rate than the reduction of indirect costs.

Proposed Action

FGIS proposes to: 1. Withdraw the Interim Final Rule: Fees for Official Inspection and Weighing Service published January 8, 1993 (58 FR 3213) and placed on indefinite hold pending review of need on January 23, 1993 (58 FR 5255).

2. Revise § 800.71, Schedule A—Fees for Official Inspection, Weighing, and Appeal Inspection Services Performed in the United States. Instead of one schedule covering all services, three tables are being proposed. The proposed tables are: Table 1, "Fees for Official Services Performed at an Applicant's Facility in an Onsite FGIS Laboratory;" Table 2, "Services Performed at Other Than an Applicant's Facility in an FGIS Laboratory;" and Table 3, "Miscellaneous Services."

Schedule A, Table 1. This table covers all services performed onsite at an applicant's facility and continues the existing provision for using contract and noncontract hourly rates. The hourly rates were calculated to include only those costs directly related to labor and do not include overhead. The current 1 year contract will be retained, but provisions have been included for 3- and 6-month contracts. FGIS will evaluate the use of 3- and 6-month contracts after 1 year to determine if they shall be continued. The rate differences between 1-year, 6-month, and 3-month contracts reflect the predicted costs associated with increased staff production under a contract.

1. *Hourly Rates.* The proposed new hourly rates will be divided into four categories related to how FGIS employees are paid: regular time (6 a.m. to 6 p.m.), 10 percent night differential (6 p.m. to 6 a.m.), overtime at 1–1/2 the regular hourly rate (for applicant-caused or requested overtime), and holiday rates at double the regular hourly rate (all hourly rates other than those of regular time are calculated using only the average base hourly rate, this does not include personnel benefits).

2. *Additional Tests.* Additional unit fees are being proposed for certain tests such as Aflatoxin, Vomitoxin, Soybean protein and/or oil, Sunflower oil, Wheat protein, Waxy corn, and Class Y weighing. These fees will recover additional costs incurred such as testing materials, equipment, and hazardous waste disposal which are not recovered through the hourly fee or administrative fee.

3. *Administrative Fee.* A per metric ton administrative charge is being proposed to recover the indirect costs of FGIS field offices and headquarters such as the salaries and benefits for office management and support staff, and rent. This charge will be assessed on all *outbound* grain inspected and/or weighed at an applicant's facility. Six levels of fees are being proposed ranging from 1 metric ton or less to over 7,000,001 metric tons with fees decreasing as the number of metric tons inspected increases. The charge will be assessed in addition to the base hourly rate. At the beginning of each fiscal year (October 1), all applicants will pay the same per-metric-ton fee. Once a level has been reached, the fee for additional metric tons will be reduced until the maximum volume level is reached. Inspections performed on grain that cannot be captured as part of the metric ton charge will have a unit fee assessed in addition to the hourly rate to recover overhead costs. Inspections such as submitted samples, factor only and sacked grain are included.

Schedule A, Table 2, covers fees for inspection and weighing services where FGIS does not have an onsite laboratory at an applicant's facility. The fees proposed in this table are a mixture of hourly rates and unit fees. They cover a vast array of specific services presently provided under the current hourly rates. The hourly rates applied in Table 2 will be the appropriate rates from Table 1 unless specific hourly rates are identified. Unit fees cover the time required to perform the service plus a portion for overhead. The types of service provided under these fees include: inspection for grade and factor for specific carriers probe sampled or sampled online, additional services and testing (i.e., individual tests), Board appeals and appeals, weighing (Class X and Y), and stowage examinations.

Schedule A, Table 3, provides fees to cover a variety of services not included in the previous tables. As with Table 2, the proposed change in the fee structure from an hourly fee that recovers all costs to a service-specific fee structure requires a listing of specific services currently funded by the hourly rate. These service-specific fees will be a mixture of hourly rates and unit fees and will apply to: Grain Grading Seminars, Certification of Diverter Samplers, Special Weighing Services: Scale Testing and Certification, Evaluation of Weighing and Material Handling Systems, National Type Evaluation Program (NTEP) Prototype Evaluation, NTEP Prototype Evaluation of Railroad Track Scales, Mass Standards Calibration and Reverification, Special Projects, Foreign Travel, On Line Customized Data Export Grain Information System (EGIS) Service, Samples Provided to Interested Parties, Divided-Lot Certificates, Extra Copies of Certificates, Faxing, Special Mailing, and Preparing Certificates Onsite.

Further, FGIS is proposing to establish a unit fee to recover expenses incurred when FGIS employees are requested to provide consulting services outside the United States. Currently, there is no fee for recovering costs of salary, travel, per diem, and related costs which is not related to an official service provided on a shipment of grain at the time of export from the United States. For example, an exporter may ask for an FGIS microbiologist to consult with microbiologists in an importing country to resolve a dispute on the presence of grain fungi; or a USDA cooperator may request an FGIS inspector to conduct training for inspectors in an importing country.

FGIS is also proposing corresponding changes to §§ 800.72 and 800.73 of the regulations to further clarify the application of fees covered in Schedule A. Specifically, service provided under Schedule A will cover service provided within 25 miles of the employee's assigned duty point. Travel, per diem, and other related costs will be assessed for providing service beyond the 25-mile limit. A minimum fee will be established for services identified in Table 2 performed outside of normal business hours Monday through Friday.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Grain.

For the reasons set out in the preamble, 7 CFR part 800 is proposed to be amended as follows:

PART 800—GENERAL REGULATIONS

1. The authority citation for part 800 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

2. Section 800.71 is revised to read as follows:

§ 800.71 Fees assessed by the Service.

Schedule A—Fees for Official Inspection and Weighing Services Performed in the United States

Table 1

Fees for Official Services Performed at an Applicant's Facility in an Onsite FGIS Laboratory[1]

(1) Inspection and Weighing Services

HOURLY RATES

[Per Service Representative]

	Monday to Friday (6 a.m to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime[2]	Holidays
1-year contract	$23.00	$24.80	$32.40	$39.00
6-month contract	25.00	26.80	34.40	43.60
3-month contract	28.00	29.80	37.40	46.60
Noncontract	33.00	35.00	42.80	52.60

(2) Additional Tests (cost per test, assessed in addition to the hourly rate)[3]	
(i) Aflatoxin (other than Thin Layer Chromatography)	$8.50
(ii) Aflatoxin (Thin Layer Chromatography method)	20.00
(iii) Soybean protein and oil (one or both)	1.50
(iv) Wheat protein (per test)	1.50
(v) Sunflower oil (per test)	1.50
(vi) Vomitoxin (qualitative)	7.50
(vii) Vomitoxin (quantitative)	12.50
(viii) Waxy corn (per test)	1.50
(ix) Fees for other tests not listed above will be based on the lowest noncontract hourly rate.	
(x) Other services	
(a) Class Y Weighing (per carrier)	
(1) Truck/container	.30
(2) Railcar	1.25
(3) Barge	2.50
(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier)	
(i) All outbound carriers (per-metric-ton)[4]	
(a) 1—1,000,000	0.090
(b) 1,000,001—1,500,000	0.082
(c) 1,500,001—2,000,000	0.042
(d) 2,000,001—5,000,000	0.032
(e) 5,000,001—7,000,000	0.017
(f) 7,000,001—	0.002

(ii) Additional services (assessed in addition to all other fees)[3]	
(a) Submitted sample (per sample—grade and factor)	1.50
(b) Submitted sample—Factor only (per factor)	0.70

[1] Fees apply for original inspection and weighing, reinspection, and appeal inspection service include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72 (1).
[2] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.
[3] Appeal and reinspection services will be assessed the same fee as the original inspection service.
[4] The administrative fee is assessed on an accumulated basis beginning at the start of the Service's fiscal year (October 1 each year).

Table 2

Services Performed at Other Than an Applicant's Facility in an FGIS Laboratory[1 2]

(1) Original Inspection and Weighing (Class X) Services	
(i) Sampling only (use hourly rates from Table 1)	
(ii) Stationary lots (sampling, grade/factor, & checkloading)	
(a) Truck/trailer/container (per carrier)	$17.60
(b) Railcar (per carrier)	27.00
(c) Barge (per carrier)	173.60
(d) Sacked grain (per hour per service representative plus an administrative fee per hundred weight)	0.02 CWT
(iii) Lots sampled online during loading (sampling charge under (i) above plus):	
(a) Truck/trailer container (per carrier)	9.40
(b) Railcar (per carrier)	18.80
(c) Barge (per carrier)	107.60
(d) Sacked grain (per hour per service representative plus an administrative fee per hundred weight)	0.02 CWT
(iv) Other services	
(a) Submitted sample (per sample—grade and factor)	10.00
(b) Warehouseman inspection (per sample)	17.00
(c) Factor only (per factor—maximum 2 factors)	4.10
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundred weight if not previously assessed)	0.02 CWT
(e) Reinspection (grade and factor only. Sampling service additional, item (i) above)	11.00
(f) Class X Weighing (per hour per service representative)	43.60
(v) Additional tests (excludes sampling)	
(a) Aflatoxin (per test—other than TLC method)	25.00
(b) Aflatoxin (per test—TLC method)	100.50
(c) Soybean protein and oil (one or both)	7.80
(d) Wheat protein (per test)	7.80
(e) Sunflower oil (per test)	7.80
(f) Vomitoxin (qualitative)	25.00
(g) Vomitoxin (quantitative)	30.00
(h) Waxy corn (per test)	9.00
(i) Canola (per test—00 dip test)	9.00
(j) Pesticide Residue Testing[3].	
(1) Routine Compounds (per sample)	200.00
(2) Special Compounds (per service representative)	100.00
(k) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1	
(2) Appeal inspection and review of weighing service.[4]	
(i) Board Appeals and Appeals (grade and factor)	74.60
(a) Factor only (per factor—max 2 factors)	38.00
(b) Sampling service for Appeals additional (hourly rates from Table 1)	
(ii) Additional tests (assessed in addition to all other applicable fees)	
(a) Aflatoxin (per test, other than TLC)	25.00
(b) Aflatoxin (TLC)	110.00
(c) Soybean protein and oil (one or both)	15.30
(d) Wheat protein (per test)	15.30
(e) Sunflower oil (per test)	15.30
(f) Vomitoxin (per test—qualitative)	35.00
(g) Vomitoxin (per test—quantitative)	40.00
(h) Vomitoxin (per test—HPLC Board Appeal)	125.70
(i) Pesticide Residue Testing[3]	
(1) Routine Compounds (per sample)	200.00
(2) Special Compounds (per service representative)	100.00
(j) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1	
(iii) Review of weighing (per hour per service representative)	63.50
(3) Stowage examination (service-on-request)[3]	
(i) Ship (per stowage space) (minimum $250 per ship)	50.00
(ii) Subsequent ship examinations (same as original) (minimum $150 per ship)	
(iii) Barge (per examination)	40.00

(iv) All other carriers (per examination)	15.00

[1] Fees apply for original inspection and weighing, reinspection, and appeal inspection service include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles are found in § 800.72 (1).
[2] An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72 (2).
[3] If performed outside of normal business, 1½ times the applicable unit fee will be charged.
[4] If, at the request of the Service, a file sample is located and forwarded by the Agency for an official agency, the Agency may, upon request, be reimbursed at the rate of $2.50 per sample by the Service.

Table 3

Miscellaneous Services[1 3]

(1) Grain grading seminars (per hour per service representative)	$43.60
(2) Certification of diverter-type mechanical samplers (per hour per service representative)	43.60
(3) Special weighing services (per hour per service representative)	
(i) Scale testing and certification	43.60
(ii) Evaluation of weighing and material handling systems	43.60
(iii) NTEP Prototype evaluation (other than Railroad Track Scales)	43.60
(iv) NTEP Prototype evaluation of Railroad Track Scales (plus usage fee per day for test car)	43.60 100.00
(v) Mass standards calibration and reverification	43.60
(vi) Special projects	43.60
(4) Foreign travel (per day per service representative)	416.00
(5) On line customized data BGIS service	
(i) One data file per week for 1 year	500.00
(ii) One data file per month for 1 year	300.00
(6) Samples provided to interested parties (per sample)	2.50
(7) Divided-lot certificates (per certificate)	1.50
(8) Extra copies of certificates (per certificate)	1.50
(9) Faxing (per page)	1.50
(10) Special mailing (actual cost)	
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1)	

[1] Any requested service that is not listed will be performed at $43.60 per hour.
[2] Regular business hours-Monday thru Friday-service provided at other than regular hours charged at the applicable overtime hourly rate.

3. Section 800.72 is revised to read as follows:

§ 800.72 Explanation of additional service fees for services performed in the United States only.

(a) When transportation of the service representative to the service location (at other than a specified duty point) is more than 25 miles from an FGIS office, the actual transportation cost in addition to the applicable hourly rate for each service representative will be assessed from the FGIS office to the service point and return. When commercial modes of transportation (e.g., airplanes) are required, the actual expense incurred for the round-trip travel will be assessed. When services are provided to more than one applicant, the travel and other related charges will be prorated between applicants.

(b) In addition to a 2-hour minimum charge for service on Saturdays, Sundays, and holidays, an additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not equal or exceed what would have been collected at the applicable hourly rate. The additional charge will be the difference between the actual unit fee revenue and the hourly fee revenue. Hours accrued for travel and standby time shall apply in determining the hours for the minimum fee.

4. Section 800.73 is revised to read as follows:

§ 800.73 Computation and payment of service fees; general fee information.

(a) *Computing hourly rates.* The applicable hourly rate will be assessed in quarter hour increments for:

(1) Travel from the FGIS field office or assigned duty station to the service point and return;

(2) The performance of the requested service, less mealtime.

(b) *Application of fees when service is delayed or dismissed by the applicant.* The applicable hourly rate will be assessed for the entire period of scheduled service when:

(1) Service has been requested at a specified location;

(2) A service representative is on duty and ready to provide service but is unable to do so because of a delay not caused by the Service; and

(3) FGIS officials determine that the service representative cannot be utilized to provide service elsewhere without cost to the Service.

(c) *Application of fees when an application for service is withdrawn or dismissed.* The applicable hourly rate will be assessed to the applicant for the entire period of scheduled service if the request is withdrawn or dismissed after the service representative departs for the service point, or if the service request is not canceled by 2 p.m., local time, the business day preceding the date of scheduled service. However, the applicable hourly rate will not be assessed to the applicant if FGIS officials determine that the service representative can be utilized elsewhere or released without cost to the Service.

(d) *To whom fees are assessed.* Fees for inspection, weighing, and related services performed by service representatives, including additional fees as provided in § 800.72, shall be assessed to and paid by the applicant for the service.

(e) *Monthly payment of administrative fee.* At the option of the applicant, an agreement for 12 equal monthly payments may be entered into for payment of the administrative fee. These monthly payments will be based on the previous fiscal year's volume applied to the current year's administrative fee schedule. If the volume of grain inspected is more than the amount of grain agreed upon at the beginning of the fiscal year, at the point the agreed upon volume is exceeded, the current year's administrative fee schedule shall apply to the remaining amount of grain for the rest of the fiscal

year. If the volume of grain inspected is less than the agreed upon amount, any excess monies paid to the Service shall be applied to the next fiscal year's administrative fee unless a request for a refund is made by the applicant.

(f) *Advance payment.* As necessary, the Administrator may require that fees shall be paid in advance of the performance of the requested service. Any fees paid in excess of the amount due shall be used to offset future billings, unless a request for a refund is made by the applicant.

(g) *Form of payment.* Bills for fees assessed under the regulations for official services performed by FGIS shall be paid by check, draft, or money order, payable to the U.S. Department of Agriculture, Grain Inspection, Packers and Stockyards Administration.

Dated: November 22, 1995.

James R. Baker,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95–29115 Filed 11–29–95; 8:45 am]

BILLING CODE 3410–EN–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 185 and 186

[FAP 4H5710/P636; FRL–4963–5]

RIN 2070–AC18

Deltamethrin; Food and Feed Additive Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish food and feed additive regulations for residues of the pyrethroid deltamethrin in or on food and feed items as a result of use in food- and feed-handling establishments. Roussel Uclaf Corp. requested these regulations pursuant to Federal Food, Drug and Cosmetic Act (FFDCA) that would establish the maximum permissible levels for residues of the pesticide in or on certain food and feed items.

DATES: Comments, identified by the document control number [PP4H5710/P636], must be received on or before January 2, 1996.

ADDRESSES: Submit written comments by mail to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any parts or all of that information as "Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures as set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the above address, from 8 a.m. through 4:30 p.m., Monday through Friday, excluding legal holidays. Comments and data may also be submitted by sending electronic mail (e-mail) to:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 4H5710/P636]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: George T. LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6100; e-mail: larocca.george@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of February 8, 1995 (60 FR 7541), which announced that, Roussel Uclaf Corp., 95 Chestnut Ridge Rd., P.O. Box 30, Montvale, NJ 07645, had submitted pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 348, a food additive petition, FAP 4H5710, that proposed amending 40 CFR part 185 by establishing a food additive regulation to permit residues of the insecticide deltamethrin [(1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-*alpha*-cyano-3-phenoxybenzyl ester] in or on food as a result of use in food-handling establishments at 0.02 part per million (ppm). On March 20, 1995, Roussel Uclaf Corp. submitted a request to amend 40 CFR part 186 by proposing a feed additive regulation to permit residues of the insecticide deltamethrin in or on feed items as a result of use in feed-handling establishment at 0.02 ppm.

The scientific data submitted in the petitions and other relevant material have been evaluated. The toxicological and metabolism data and analytical methods for enforcement purposes considered in support of these tolerances include the following:

1. Chronic 2-year feeding in dogs with a systemic NOEL greater than 40 ppm (highest doses treated (HDT)).

2. A 24-month chronic feeding/carcinogenicity study in rats with a systemic NOEL of 20 ppm (1 mg/kg/day) and LEL of 50 ppm (2.5 mg/kg/day based on decreased body weight. No carcinogenic effects were observed in this study.

3. Mutagenicity tests include an Ames assay, a structural chromosomal aberration assay in Chinese hamster ovary (CHO) cells, and an unscheduled DNA synthesis assay in rat hepatocyte. All tests were negative for genotoxicity.

4. A metabolism study in rats demonstrates that deltamethrin is relatively well absorbed. Urine and fecal excretions were almost complete at 48 hours post dose.

5. An oral development toxicity study in rats with a developmental NOEL of 11 mg/kg/day (highest dose tested). The maternal NOEL was 3.3 mg/kg/day with the LEL of 7 mg/kg/day based on one death and excessive salivation. An oral developmental toxicity study in rabbits with a maternal NOEL of 10 mg/kg/day and a maternal LEL of 25 mg/kg/day based on decreased defecation. The developmental NOEL was 25 mg/kg/day with a developmental LEL of 100 mg/kg/day based on statistically significant trend for an increase in fetal incidence of unossification of pubic and tail bones.

6. A three-generation reproduction study in rats noted no parental effects. NOEL greater than 50 ppm.

A chronic dietary exposure/risk assessment was performed for deltamethrin using a reference dose (RfD) of 0.01 mg/kg bwt/day based on a NOEL 1.00 mg/kg bwt/day from the 2-year rat feeding study with an uncertainty factor of 100. The end-point effect of concern was decreased body weight. The Theoretical Maximum Residue Contribution (TMRC) from established tolerances utilizes 3.7% of the RfD for the U.S. population and 2.3% of the RfD for the subpopulation most highly exposed, nonnursing infants (less than 1-year old). Establishing the new tolerances would utilize 5.1% of the RfD for the U.S. population and 20.7% for nonnursing infants (less than 1-year old). If the new tolerances are approved, the total percentages of the RfD utilized for the U.S. population and nonnursing infants (less than 1-year old) are 8.8% and 23.0%, respectively. Generally speaking, EPA has no cause for concern if total residue contribution for published tolerances is less than the RfD. EPA concludes that the chronic dietary risk of deltamethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

The nature of the deltamethrin residue in plants and animals for this use is adequately understood. The residues of concern is deltamethrin. There is no reasonable expectation of secondary residues in eggs, meat, milk, or poultry from the proposed use as delineated in 40 CFR 180.6(a)(3).

The metabolism of the chemical in animals for this use is adequately understood. An adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual Vol. II (PAM II). Because of the long lead time for publication of the method in PAM II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency 401 M St., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5232.

There are presently no actions pending against the continued registration of this chemical.

The pesticide is considered useful for the purposes for which it is sought. Based on the information and data considered, the Agency concludes that the proposed tolerances will protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [FAP 4H5710/P636]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [FAP 4H5710/P636] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not a "significant regulatory action" because it does not meet any of the regulatory signficance crieteria listed above.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements, or establishing or raising food additive regulations do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

This proposed regulatory action does not contain any information collection requirements subject to review by OMB under the Paper Reduction Act of 1980, 44 U.S.C. 3501 et seq.

This proposed rule contains no Federal mandates under Title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, for State, local, or tribal governments or the private sector because it would not impose enforceable duties on them.

List of Subjects in 40 CFR Parts 185 and 186

Environmental protection, Administrative practice and procedure, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 7, 1995.

Susan Lewis,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR parts 185 and 186 be amended as follows:

PART 185—[AMENDED]

1. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

b. In § 185.1580, by designating the existing text as paragraph (a) and by adding new paragraph (b), to read as follows:

§ 185.1580 Deltamethrin.

* * * * *

(b) A food additive tolerance of 0.02 part per million is established for residues of the insecticide deltamethrin [(1*R*,3*R*)-3(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-*alpha*-cyano-3-phenoxybenzyl ester] as follows:

(1) In or on all food items (other than those covered by a higher tolerance as a result of use on growing crops) resulting from use in food- handling establishments.

(2) The insecticide may be present as a residue from application of deltamethrin in food-handling establishments, including food service, manufacturing and processing establishments, such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries in accordance with the following prescribed conditions:

(i) Application shall be limited to a general surface and spot and/or crack and crevice treatment in food-handling establishments where food and food products are held, processed, prepared, and served. General surface application may be used only when facility is not in operation provided exposed food is covered or removed from area being treated. Spot and/or crack and crevice application may be used while the facility is in operation provided exposed food is covered or removed from area being treated prior to application. Spray concentration shall be limited to a maximum of 0.06 percent active ingredient. Contamination of food-contact surfaces shall be avoided.

(ii) To assure safe use of the pesticide, its label and labeling shall conform to that registered with the U.S. Environmental Protection Agency and shall be used in accordance with such label and labeling.

PART 186—[AMENDED]

2. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. By adding new § 186.1580, to read as follows:

§ 186.1580 Deltamethrin.

(a) A food additive tolerance of 0.02 part per million is established for residues of the insecticide deltamethrin [(1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-*alpha*-cyano-3-phenoxybenzyl ester] as follows:

(1) In or on all feed items (other than those covered by a higher tolerance as a result of use on growing crops) resulting from use in feed- handling establishments.

(2) The insecticide may be present as a residue from application of deltamethrin in feed-handling establishments, including feed manufacturing and processing establishments in accordance with the following prescribed conditions:

(i) Application shall be limited to a general surface and spot and/or crack and crevice treatment in feed-handling establishments where feed and feed products are held, processed, prepared, and served. General surface application may be used only when facility is not in operation provided exposed food is covered or removed from area being treated. Spot and/or crack and crevice application may be used while the facility is in operation provided exposed feed is covered or removed from area being treated prior to application. Spray concentration shall be limited to a maximum of 0.06 percent active ingredient. Contamination of feed-contact surfaces shall be avoided.

(ii) To assure safe use of the pesticide, its label and labeling shall conform to that registered with the U.S. Environmental Protection Agency and shall be used in accordance with such label and labeling.

(b) [Reserved]

[FR Doc. 95–29251 Filed 11–29–95; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Parts 261, 271, and 302

[SWH–FRL–5336–3]

Extension of Comment Period for the Proposed Identification and Listing of Hazardous Waste/Dye and Pigment Industries

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) again is extending the comment period for the proposed listing determination for the dyes and pigments industry, which appeared in the **Federal Register** on December 22, 1994 (see 59 FR 66072–66114). The public comment period for this proposed rule was to end on November 30, 1995. The purpose of this notice is to extend again the comment period to end on December 15, 1995.

DATES: EPA will accept public comments on this proposed listing determination until December 15, 1995.

ADDRESSES: The public must send an original and two copies of their comments to EPA RCRA Docket Number F–94–DPLP–FFFFF, RCRA Information Center (5305W), U.S. EPA, 401 M Street, SW, Washington, DC. To hand-deliver comments, or to review docket materials, the address is U.S. EPA, Crystal Gateway, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The docket is open from 9 am to 4 pm, Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (703) 603–9230. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this notice, please contact Wanda Levine, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 260–7458.

SUPPLEMENTARY INFORMATION: This proposed rule was issued under Section 3001(b) of RCRA. EPA proposed to list certain wastes generated during the production of dyes and pigments because these wastes may pose a substantial present or potential risk to human health or the environment when improperly managed. See 59 *FR* 66072–114 (December 22, 1994) for a more detailed explanation of the proposed rule.

These proposed hazardous waste listings were based in part upon data claimed as confidential by certain dye and pigment manufacturers. Although EPA hopes to publish these data or information derived from these data to the extent relevant to the proposed listing, the Agency is unable to do so at the present time due in large part to the issuance of a preliminary injunction against EPA in *Magruder Color Co.* v. *EPA*, Civ. No. 94–5768 (D.N.J.). EPA is pursuing avenues to allow publication of the information and hopes to supplement the public record with and allow public comment on such information prior to issuance of a final listing. However, because EPA anticipates that its obligation to publish a final rule pursuant to a consent decree

entered in *EDF* v. *Browner*, Civ. No. 89–0598 (D.D.C.) will be extended only to on or about January 19, 1996, at this time EPA is extending the comment period only until December 15, 1995.

Dated: November 22, 1995.

Michael H. Shapiro,

Director, Office of Solid Waste.

[FR Doc. 95–29244 Filed 11–29–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–5335–2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent To Delete the Whitewood Creek Superfund Site From the National Priorities List: Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA) Region VIII announces its intent to delete the Whitewood Creek Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of South Dakota (State) have determined that all appropriate CERCLA response actions have been implemented and that no further response actions are necessary at the Site except required operations and maintenance activities (O&M). Moreover, EPA and the State have determined that remedial activities conducted at the Site are protective of human health and the environment.

DATES: Comments concerning the proposed deletion of the Whitewood Creek Site may be submitted to EPA on or before January 2, 1996.

ADDRESSES: Comments may be mailed to: Mr. Michael H. McCeney, Remedial Project Manager, U.S Environmental Protection Agency, Region VIII, Mail Code 8EPR/SR, 999 18th Street, Suite 500, Denver, CO 80202, Telephone: (303) 312–6226.

Comprehensive information on this site is available through EPA, Region VIII public docket, located at EPA, Region VIII, Superfund Records Center and is available for viewing from 8:00 AM to 4:30 PM, Monday through Friday excluding holidays. Requests for documents should be directed to the EPA, Region VIII Superfund Records Center.

The address for the Region VIII Superfund Records Center is: Superfund Records Center, U.S. Environmental Protection Agency, 999 18th Street, 5th Floor, Denver, CO 80202, Telephone: (303) 312–6473.

Background information from the Regional public docket is also available for viewing at the following location: Ms. Judy Meverden, Lawrence County Registry of Deeds Office, P.O. Box 565, Deadwood, South Dakota 57732–0565, Telephone: (605) 578–3930.

FOR FURTHER INFORMATION CONTACT: Michael H. McCeney (303) 312–6226.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The Environmental Protection Agency (EPA), Region VIII announces its intent to delete the Whitewood Creek Site located in Butte, Meade, and Lawrence Counties, South Dakota, from the National Priorities List (NPL) and requests comments on this deletion. The NPL constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), Title 40 of the Code of Federal Regulations (40 CFR), as amended. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as a list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that future conditions at the site warrant such action.

EPA intends to delete the Whitewood Creek Site from the NPL. EPA will accept comments on this proposed deletion for thirty days following publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the Whitewood Creek Site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations with regard to an individual site. The NPL is designed primarily for informational purposes and to assist EPA management.

II. NPL Deletion Criteria

The NPL establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA will consider whether any of the following criteria have been met:

(i) EPA, in consultation with the State, has determined that responsible or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and EPA, in consultation with the State, has determined that no further response action by responsible parties is appropriate; or

(iii) Based on a remedial investigation, EPA, in consultation with the State, has determined that the release poses no significant threat to public health or the environment and, therefore, taking remedial measures is not appropriate.

For all Remedial Actions (RAs) which result in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, EPA shall review such action no less often than every five years after initiation of the selected RA.

III. Deletion Procedures

EPA, Region VIII will accept and evaluate public comments before making a final decision to delete the Whitewood Creek Site. The following procedures were used for the intended deletion of this Site:

(1) EPA, Region VIII has recommended deletion of the Whitewood Creek Site and has prepared the relevant documents;

(2) The State of South Dakota has concurred with EPA's recommendation for deletion;

(3) Concurrent with this National Notice of Intent to Delete, a notice has been published in local newspapers and has been distributed to appropriate Federal, State and local officials, and other interested parties; and

(4) EPA, Region VIII has made all relevant documents available in the Regional Office and local Site information repositories.

Comments received during the notice and comment period will be evaluated before making a final decision to delete. Region VIII will prepare a Responsiveness Summary, which will

address the comments received during the public comment period. After the public comment period, a deletion will occur after EPA publishes a Notice of Deletion in the **Federal Register**. The NPL will reflect any deletions in the next final update. Public notices and copies of the Responsiveness Summary will be made available to local residents by EPA Region VIII.

IV. Basis for Intended Site Deletion

The following summary provides EPA's rationale for recommending deletion of the Whitewood Creek Superfund Site.

The Whitewood Creek Superfund Site is located in Butte, Meade and Lawrence Counties in western South Dakota. The Site includes the floodplain of an 18 mile stretch of Whitewood Creek between the Crook City Bridge and the confluence with the Belle Fourche River. The Site also includes areas surrounding the floodplain which fall within the 100 milligrams per kilogram (mg/kg) arsenic concentration isopleths as defined during remedial design (RD).

Disposal of mill tailings from area gold mines into Whitewood Creek for more than 100 years caused contamination at the Site. This practice ended in 1977. Homestake Mining Company (Homestake) of Lead, South Dakota was the largest contributor of this mine waste material. As Whitewood Creek flowed northeast out of the Black Hills, mine tailings were deposited on the banks of the creek and throughout the floodplain. An estimated 30 million tons of mill tailings were deposited within the Site. These tailings were found to contain elevated levels of arsenic and other heavy metals.

In 1981, at the request of the governor of South Dakota, the Site was placed on the "Interim NPL". Subsequently the Site was placed on the NPL on September 8, 1983 (48 Fed. Reg. 40658). The hazardous substance release pathways of concern at the Site were ground water and surface water. These pathways were used to develop the Site's hazard ranking system score. The hazardous substances of concern were arsenic, copper, zinc, selenium, and mercury.

Following placement of the Site on the Interim NPL, EPA, the State of South Dakota, and Homestake entered into a three-party agreement to perform studies to determine the nature and extent of contamination at the Site. In 1989, EPA determined that this study, combined with several others conducted between 1982 and 1986, constitutes the functional equivalent of a remedial investigation for the Site. The remedial investigation reports, as well as any other reports referred to in this notice, can be found in the public docket for this Site.

Under an administrative agreement with EPA, Homestake conducted a feasibility study in 1989 to evaluate cleanup alternatives. The feasibility study and the remedial investigation reports concluded that the primary concern for human health and the environment at the Site was exposure to arsenic-contaminated tailings, soils, and groundwater.

EPA issued a Record of Decision (ROD) for the Whitewood Creek Site on March 30, 1990. The remedy selected for the Site was two-fold; (1) remove and/or cover tailings-contaminated soils in existing residential areas; and (2) implement institutional controls (ICs) to control access to the tailings and groundwater. To achieve a detailed understanding of the ROD, refer to the ROD dated March 30, 1990.

In August of 1990, EPA and Homestake signed a consent decree (CD) for Homestake to conduct remedial design and remedial action (RD/RA) at the Site. Under EPA oversight, Homestake, in coordination with Site residents, developed plans and specifications for removal and/or cover of arsenic-contaminated materials at sixteen residential yards.

Homestake conducted cleanup of the residential yards in 1991 and 1992. A total of 4,500 cubic yards of contaminated material was removed from the individual sites and placed in an on-site disposal facility.

Community relations activities throughout the Superfund process at the Site included:

a. a public meeting followed by a comment period to present the preferred cleanup plan before issuing the ROD;

b. a responsiveness summary to address comments received from the public regarding EPA's proposed clean up plan;

c. regular site updates in the form of fact sheets mailed to the community;

d. meetings with site residents to develop acceptable cleanup plans for residential yards; and

e. community meetings.

Also as part of RD/RA, the following institutional controls have been implemented at the Site:

(a) Butte, Meade, and Lawrence Counties adopted ordinances that: prohibit construction of any new residential or commercial structures on the tailings deposits; restrict future development in tailings-impacted areas of the Site; and prohibit the removal and use of tailings from outside the tailings areas; however, mining would be allowed subject to South Dakota regulations. These ordinances were adopted in 1992 and 1993;

(b) since 1993, Homestake has been distributing a Site fact sheet at least once a year to educate the public on Site hazards and ways to minimize the risk posed by residual contamination;

(c) a State ban on shallow aquifer water supply wells in the floodplain of Whitewood Creek has been maintained.

Administration of the above institutional controls is on-going and will continue indefinitely. In addition, Homestake is responsible for several operations and maintenance (O&M) activities at the site including but not limited to:

(1) monitoring the surface water quality of Whitewood Creek at least four times yearly for significant releases of remaining hazardous substances at the Site;

(2) re-sampling the soil in residential yards at least once every five years to ensure that re-contamination has not occurred; in the event of unacceptable levels of recontamination, Homestake will remediate the yard; and

(3) submitting reports to EPA on O&M activities four times yearly.

Further details of Homestake's O&M responsibilities at the Site can be found in the *Whitewood Creek Superfund Site, Post Closure Operations, Maintenance, and reporting Plan*, dated July 27, 1994. Deletion of the Site from the NPL in no way affects Homestake's continued obligations to perform O&M at the Site.

Because hazardous substances remain at this Site EPA must review Site conditions no less often than every five years from the start of remedial action at the Site to ensure that the remedy continues to remain protective of human health and the environment. The first five year review will begin no later than September 1996.

Dated: November 8, 1995.

William P. Yellowtail,

Regional Administrator, U.S. E.P.A., Region VIII.

[FR Doc. 95–29037 Filed 11–29–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Centers for Disease Control and Prevention

42 CFR Part 493

[HSQ–233–P]

CLIA Program; Cytology Proficiency Testing

AGENCY: Health Care Financing Administration (HCFA) and Centers for Disease Control and Prevention (CDC), HHS.

ACTION: Proposed rule.

SUMMARY: In this proposal, HHS is complying with a court order requiring publication of a proposed rule to require that cytology proficiency testing (PT) be conducted, to the extent practicable, under normal working conditions. In accordance with the court order, we are proposing to revise regulations that implement the Clinical Laboratory Improvement Amendments of 1988 (CLIA) to require that PT be conducted at a pace corresponding to the maximum workload rate for individuals examining cytology slides. As a separate matter, we use this opportunity to solicit comments on the use of computer facsimile representations of cytology specimens, as an alternative to glass slide PT.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on January 29, 1996.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Centers for Disease Control and Prevention, Attention: HSQ–233–P, 4770 Buford Hwy, N.E., MS F11, Atlanta, Ga. 30341–3724.

If you prefer, you may deliver your written comments (1 original and 3 copies) to the following address: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HSQ–233–P. Comments received timely will be available for public inspection as they are received in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

For comments that relate to information collection requirements, mail a copy of comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Rhonda S. Whalen, (770) 488–7670.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 353 of the Public Health Service Act (42 U.S.C. 263a), which embodies provisions of the Clinical Laboratory Improvement Amendments of 1988 (CLIA), all laboratories that examine human specimens for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings must meet certain requirements to perform the examination. On February 28, 1992 (57 FR 7002), we published regulations to implement CLIA at 42 CFR part 493, with most sections of the regulations effective September 1, 1992. On January 14, 1993, plaintiffs, the Consumer Federation of America and Public Citizen, filed a lawsuit in the United States District Court for the District of Columbia, challenging the Department of Health and Human Services' implementation of CLIA (*Consumer Federation of America and Public Citizen* v. *HHS*, Civil Action No. 93–97 (D.D.C.)). As one aspect of their complaint, plaintiffs argued that the regulations violated the requirements of the law by failing to require cytology proficiency testing (PT) "to the extent practicable, under normal working conditions."

On August 29, 1995, the court ruled that the regulations did not strictly conform to the statute. The court ruled that, within 90 days of this order, we publish proposed regulations in the **Federal Register**, in accordance with 42 U.S.C. 263a(f)(4)(B)(iv) regarding proficiency testing of cytologists, to ensure that cytologists are tested, to the extent practicable, under normal working conditions, and request public comment. The court further ruled that we are to issue a final rule regarding the same within a reasonable time thereafter. As provided in the court's August 29 ruling, the PT regulations promulgated by the Department on February 28, 1992, remain in effect pending the issuance of the final PT regulations required by the court. It should be noted that this particular notice only addresses matters in the court order pertaining to cytology PT, and it is not designed to respond to a separate part of the court order pertaining to test classification and personnel standards.

II. Proposed Rule

In this proposed rule, we are complying with that portion of the court order requiring the publication of proposed regulations and solicitation of public comment to ensure that PT of cytology personnel is conducted, to the extent practicable, under normal working conditions. We note, however, that the Department of HHS has filed a notice of appeal with respect to the order. If the order is reversed on appeal, we would still review the comments and carefully consider the appropriate course of action.

The current PT regulations are based on the principle that effective and appropriate PT should not be equated to the routine examination of patient specimens. Nevertheless, in accordance with the court's ruling, we are soliciting comments on a proposal to change the current regulations (which authorize the examination of PT slides at a rate of five slides per hour), to require the examination of PT slides at a new rate, which is set at the maximum workload rate of 12.5 slides per hour. To achieve this PT workload rate, in this rule, we are proposing to change the amount of time allowed for completion of the PT examination from 2 hours to 45 minutes, while retaining the same number of slides (10) per test. (For a 20-slide PT retest, the test time would change from 4 hours to 90 minutes.)

We recognize that there may be other options for complying with the court order requiring that PT be conducted under normal working conditions. One option for consideration to comply with the order would be to maintain the current 2-hour testing time period but increase the number of slides per PT examination (in other words, require the examination of 25 slides in a 2-hour period and, for a retest, require 50 slides to be examined in a 4-hour period). We are cautious about supporting this alternative because we have concerns about the practical feasibility of obtaining sufficient referenced slides for a nationally-administered 25-slide test set for PT; however, we are interested in receiving comments on this option. Another option would be to specify that PT be conducted at each individual's actual workload rate (which could be less than the maximum workload rate) for examining patient slides. We recognize that this alternative will present problems in administering PT but are interested in receiving comments on the appropriateness of such a proposal, together with

suggestions for specific regulatory language that could implement such a provision in a fair and consistent manner.

We also are interested in receiving comment on several alternatives.

- We are interested in receiving comment on the establishment of an average workload rate (perhaps within an interval) that would be based upon available empirical data on cytotechnologist productivity and would accurately reflect normal working conditions.
- We solicit comments on varying the ratio of abnormal PT slides so the failure rate would better reflect such a rate under "normal working conditions."
- We solicit comment on establishing differing definitions of "normal working conditions," dependent on the ratio of abnormal PT slides.
- We solicit further comment on the feasibility of blind testing in cytology PT.
- We solicit comment on the feasibility and desirability of mandating unannounced PT, both on-site and off-premises.
- Finally, we solicit comment on the appropriateness of defining "normal working conditions" as maximum workloads for non-PT slides, as defined in § 493.1257(b).

A. Rationale for the PT Timeframe in Current Regulations

In the regulations published February 28, 1992, we established the time limits for cytology PT to provide for equitable testing on a national scale and to allow individuals sufficient time to complete the test at a normal pace without unduly restricting or extending the time for the examination. (57 FR 7041) This maximum time frame established for the administration of PT was not intended to hold individuals to a workload limit related to their examination of patient material because we believe that this would be an unreasonable standard, since there are salient differences between the routine examination of patient material and cytology PT.

We note several reasons why cytology PT is not identical to the routine evaluation of patient material, both in terms of the microscopic examination and the reporting of results. To assess the proficiency of personnel, slides used for cytology PT include a high percentage of abnormal preparations which could be up to 80 percent of the challenges for the testing event, whereas a laboratory's routine patient case load might vary, with abnormal cases representing 5 percent to 25 percent of the total volume. In our judgment, compared to normal cases, examination of abnormal cases may take significantly longer to analyze and determine conclusively whether the cells are benign or malignant and to specify the type of abnormality and recommendations for treatment or follow up. A complex scale for categorizing and grading such abnormal PT results is defined in the current regulation in abundant detail in the tables at 42 CFR 493.945. The 12.5 slides per hour maximum workload rate is based upon a normal, "real world" distribution of 5 percent abnormal slides per day. On the other hand, the PT rate of 5 slides per hour is based upon an intentionally constructed testing mixture of up to 80 percent abnormal slides in the PT test set.

The current PT regulation is based on the principle that, in the limited time available to conduct cytology PT, it is appropriate to test cytology personnel using a high rate of abnormal slides. The reason for this is that there are many types of diagnostic abnormalities and it is important to evaluate the examinee's ability to correctly identify the abnormal conditions. In our view, it is inefficient to test these individuals using the natural distribution rate of 5 percent abnormals because it would take many more PT examinations to develop any reliable information about an individual's proficiency over the spectrum of possible abnormal specimens. In addition, although all slides will be evaluated and assessed for appropriateness for inclusion in test sets, in some instances examinees may note that staining used for PT slides varies in intensity from that used in their laboratories for the evaluation of patient specimens. Since there is no uniform or standard format used by laboratories to report Pap smear results, for scoring purposes, PT report forms and nomenclature may be different from the examinee's usual workplace experience. Individuals, who are perfectly capable of examining patient slides, may need additional time to adjust to the testing model, which may include unavoidable differences from routine working conditions. Every effort should be made to ensure that individuals are fairly assessed in their ability to examine patient specimens and are not unfairly penalized for failure to perform satisfactorily in PT if they have no real problems examining patient material. We solicit comments as to whether or not these factors should be appropriately used to extend the amount of time allowed for a PT examination.

In the current CLIA regulations, we established the testing procedure using an above average ratio of abnormal slides, but a correspondingly longer period to review each slide, as an appropriate implementation of the obligation to test "...to the extent practicable, under normal working conditions." In this context, it should be noted that we indicated in the February 28, 1992 regulations, at § 493.1257(b), the workload limit represents the maximum number, a total of 100 slides, that may be screened in a 24-hour period and "*is not to be employed as a performance target for each individual,*" [emphasis added].

Due to practical realities, we believe that cytology PT can not be conducted in a "blind" fashion. We believe that PT challenges cannot be inserted into the laboratory's routine workload because such slides would be immediately identifiable, and no oversight would be provided to ensure that consultation does not occur among individuals being tested. We invite comments on these limitations to blind PT and our view that individual PT needs to provide a reasonable time for these extraneous testing factors.

In summary, in the February 28, 1992 regulations, we determined that a 2-hour time period would be reasonable for the examination of a 10-slide test set, and the 2-hour time frame is supported by the State of Maryland's experience in administering cytology PT for over 6 years using this time frame. (In 1994, the Maryland program received approval under CLIA, and has a current enrollment of 80 laboratories.)

Consistent with the court's order discussed above, we hereby solicit comments on the proposal to change the rate for examination of PT slides to approximately 12.5 slides per hour, which equates to 45 minutes for a 10-slide test set and 90 minutes for a 20-slide test set. We also seek comments on the two options mentioned above. We also solicit comments on any other suggested procedures for complying with the court's order that PT be conducted under normal working conditions.

B. Current Status of Cytology PT Implementation

Prior to 1992, we anticipated that private, not-for-profit organizations and States would develop and administer cytology programs, as is the case for all other PT. However, following publication of the February 28, 1992 regulations, we received no applications for approval of a cytology PT program, but we did receive a number of comments expressing concerns about the feasibility of conducting a national cytology PT program to test individuals.

In June 1992, the Centers for Disease Control and Prevention hosted a meeting of the cytology professional organizations and States having cytology PT programs to solicit support in the development and implementation of a national cytology PT program. Participants at this meeting had reservations about the feasibility of conducting a national glass slide PT program that included on-site testing of individuals.

In March 1993, the Centers for Disease Control and Prevention issued a Request for Proposal for a contractor to undertake procurement of the glass slides for use in administering a national cytology PT program. No responses were received to the Request for Proposal. However, we did receive additional comments from cytology societies and individuals that echoed the comments previously received in response to the February 28, 1992 regulations. The commenters stated that conducting a national glass slide PT program with on-site testing of individuals was logistically and financially unworkable, due to the high cost of collecting the requisite number of glass slides representing appropriate diagnostic categories, and the time that would be needed to assemble and reference such a collection of slides. Several commenters also noted that, although a national program may be impossible to implement, implementing a cytology PT program by region or State might be feasible.

In November 1993, the Centers for Disease Control and Prevention cosponsored a cytology symposium to consider possible alternatives to a national cytology PT program using glass slides, and a number of potential approaches were discussed. The participants believed that the most promising strategy would be to develop a variety of cytology PT programs to accomplish the statutory mandate of testing the proficiency of cytology personnel. Alternative approaches suggested included State-administered glass slide programs, mailed glass slide programs, or national programs that use photographic facsimile representations (in other words, color transparencies, color plates, digitized computer images) of cytology preparations in lieu of glass slides.

In December 1993, the subcommittee on cytology of the Clinical Laboratory Improvement Advisory Committee met to review the proceedings from the symposium, and to make recommendations concerning cytology PT. Following the subcommittee meeting, the full Clinical Laboratory Improvement Advisory Committee met and endorsed the recommendations made by the subcommittee. The Clinical Laboratory Improvement Advisory Committee recommended that research studies be conducted to define outcomes and evaluate the effectiveness of both glass slide and alternative cytology PT programs and that regulatory changes be pursued to permit approval of alternative programs. The committee also encouraged professional organizations and States to develop programs to meet the current regulations and become operational.

Currently, cytology PT is not being conducted nationally. To date, two State-operated cytology PT programs have applied for approval under CLIA. The State of Wisconsin subsequently withdrew its application when it was unable to obtain a sufficient number of referenced glass slides. The other applicant, the State of Maryland Cytology Proficiency Testing Program, met the CLIA cytology PT requirements and was granted approval for calendar year 1995. To date, we have received no other applications.

C. Alternatives to Glass Slide Testing

The major impediment in making cytology PT available on a national basis has been and continues to be the difficulty in obtaining a sufficient number of properly referenced glass slides. We believe that programs using facsimiles of glass slides (in other words, computer images) may provide the most reasonable alternative to evaluating cytology performance using traditional glass slide programs.

Computer-based programs offer the advantage of providing for the accumulation and assembly of sufficient numbers of well-documented, referenced cytology preparations that can be used for testing individuals in a consistent and uniform manner. We believe that revising the requirements to allow the use of testing media other than glass slides is the most promising approach to making cytology PT available nationwide and would reflect the intent of the Congress in enacting the CLIA legislation. In the Report of the House Energy and Commerce Committee that accompanies the Clinical Laboratory Improvement Amendments of 1988, Public Law 100–578, H.R. Rept. No. 100–899, 100th Congress, 2nd Sess., pp. 29–31, HHS was instructed to ". . . develop, or foster the development of, a proficiency test for cytology slides and to conduct, or require approved proficiency testing agencies to conduct, some on-site proficiency testing." In addition, the Committee Report stated that the Committee expected HHS ". . . to foster innovative approaches, including video technology, for developing proficiency testing for analytes for which such testing is not currently available."

To promote the development of alternative PT programs in cytology, the Centers for Disease Control and Prevention awarded three 1-year cooperative agreements in 1994. These agreements included provisions for the development of computer-based PT programs to measure cytology performance, and provisions for the evaluation of such programs through pilot studies. Early in 1995, the Centers for Disease Control and Prevention awarded a 2-year contract to compare the actual work performance of cytology personnel with their performance in both a glass slide PT program and a computer-based PT program, which simulates the screening process and includes the evaluation of locator and interpretive skills.

D. Request for Comments on Computer-Based Cytology PT Programs

We are soliciting comments on expanding the CLIA regulations to permit the use of computer facsimile representations of cytology specimens as an alternative to glass slide PT examinations. We are particularly interested in receiving comments from individuals and organizations with experience in computer systems for microscopic examination of cytology preparations (glass slides) and the ability of this technology to closely simulate normal working conditions.

We are specifically soliciting comments which respond to the following questions:

1. Should computer-based cytology PT programs measure both interpretive and locator skills? Interpretive skills are those required to look at a particular cell or set of cells and determine a diagnostic condition; locator skills are those required to scan a slide and select a cell or group of cells for interpretation. As technology is now available to measure interpretive skills but development is needed to expand capabilities to include locator skills, should we consider a phase-in period during which PT programs would be required only to evaluate interpretive skills?

2. How can computer-based PT programs meet the provisions in the law requiring unannounced testing and that testing take place, to the extent practicable, under normal working conditions? At the current level of technology, computer testing events to evaluate interpretive and locator skills would probably need to be announced

and occur at testing centers, rather than in the laboratory.

3. Should the number of slides or challenges in the current regulations be changed for computer technology? Since this technology is not limited by ability to collect referenced glass slides, it is possible to provide more challenges (images or portions of slides) to evaluate proficiency.

4. Should the scoring system be modified for computer-based programs?

Finally, we recognize that this technology is relatively new and, while it affords many advantages, we are most interested in obtaining comments about the acceptance of computer-based programs for evaluating cytology skills.

Following receipt and analysis of the comments, we plan to consider these suggestions and comments and, if warranted, develop a proposed rule to expand the regulations to allow approval of cytology PT programs that include computer-based testing media as an alternative to glass slides. In any such proposed rule on computer-based testing, we would provide specific revisions to the regulations. We would respond to comments on the proposed rule when we finalize any changes to our existing rules.

III. Proposed Revision to the Regulations

This proposed rule is in response to the court's decision that the 12.5 slide per hour rate contained in § 493.1257(b), must, in the court's opinion, also be the rate for cytology PT, which is delineated at § 493.855(b). Accordingly, the Department complies with the court decision and proposes and solicits comments on revisions to § 493.855(b) to change the time frame in which individuals must complete: a 10-slide test, from not more than 2 hours to 45 minutes; and a 20-slide test, from not more than 4 hours to 90 minutes.

IV. Response to Comments

Because of the large number of items or correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent final rule, we will respond to the comments in the preamble to that document.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, agencies are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden of the affected public, including automated collection techniques.

Section 493.855 contains the requirement that laboratories ensure that each individual engaged in the cytological examination of gynecologic specimens participate in an annual testing event. We estimate that 15,000 individuals would be subject to testing. Once each year they must complete required reporting forms, estimated to take 10 minutes per response. The total burden associated with this requirement is estimated to be 2,500 hours.

Section 493.855 is currently approved under OMB approval number 0938–0612, with an expiration date of February 28, 1998.

Comments should be sent to HCFA, OFHR, MPAS, C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850 and to the OMB official whose name appears in the **ADDRESSES** section of this proposed rule.

VI. Regulatory Impact Statement

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare a regulatory flexibility analysis unless we certify that a rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all clinical laboratories are considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This proposed rule would modify the CLIA regulations published February 28, 1992 by changing the current requirements authorizing the examination of PT slides at a rate of five slides per hour, to require the examination of PT slides at the maximum workload rate of 12.5 slides per hour (for examination of patient preparations). This proposed revision is in accordance with the court order requiring us to publish a notice of proposed rulemaking that would require PT to be conducted within the time frame corresponding to the maximum workload rate for individuals examining cytology slides. There are approximately 16,600 cytotechnologists and pathologists and one HCFA-approved cytology PT program that could be affected by this rule; however, the significance of the effect would vary depending on the number of individuals having to take a second or third retest and whether or not the one cytology PT program in Maryland approved by HHS under current regulations would seek approval, if the proposed revised criteria for cytology PT are finalized.

The final rule published February 28, 1992 (57 FR 7002) and subsequently revised December 6, 1994 (59 FR 62606) provided a phase-in period for enrollment in a HCFA-approved cytology PT program. Specifically, as of January 1, 1995, individuals must enroll in an approved program, if one is available in the State in which he or she is employed (currently only Maryland). Under the CLIA cytology PT requirements, each person examining cytologic preparations is tested on his or her ability to categorize each slide into one of four response categories. After an initial PT failure, the examinee must take a second 10-slide test within 45 days. In the event of a second failure, the laboratory must provide immediate remedial training to any individual who fails the second test or retest.

The second failure also triggers a mandatory rescreen of all subsequent slides by another cytologist until the individual is retested. Failure of the third test, consisting of 20 slides, results in immediate suspension of an individual's screening privileges. The individual must complete remedial training of at least 35 hours before he or she can be retested. Successful completion of a 20-slide test is required before screening of gynecological slides may resume.

As mentioned earlier in this preamble, other factors (for example, variations in staining intensity and nonroutine nomenclature on report forms) may add to the anxiety level associated with PT participation and adversely affect PT performance. Decreasing the time frame in which individuals must complete the PT examination may increase the overall costs of cytology PT due to an increase in the failure rate of individuals who would be forced to examine PT slides at a rate greater than their normal workload rate (for individuals who examine slides at a workload rate that is less than the maximum). In the case of pathologists, who do not routinely screen slides and therefore are not subject to a workload limit, a higher failure rate might also be expected.

Costs associated with taking the second test and rescreening slides for the 20 work days between tests would increase in proportion to the increased failure rate. In addition, if a greater number of individuals must take the third retest off-site, we assume one day of work per examinee would be lost.

The costs of this proposed rule would be confined to the difference in lost wages because of an expected increase in rates of failure for both cytotechnologists and cytopathologists and an increase in costs needed because of rescreening more slides and retraining an increased number of examinees.

Estimated Costs

The data we are using in this proposed rule are the data we used to determine the impact of the February 1992 rule. The regulatory impact analysis in that rule projected national costs from data pertaining to 1990 that we received from the Maryland State Cytology Testing Program. We have no more recent data from which to project national figures at this time, and there is no other HCFA-approved testing program to validate or invalidate the Maryland State experience.

The base population that we are using for this impact analysis consists of 7,950 cytotechnologists and 8,690 pathologists. We are assuming a range of wages for cytotechnologists of $14 to $20 per hour and for pathologists a range of $75 to $110 per hour. We are assuming that conducting an on-site test that lasts 45 minutes will consume 2 hours per examinee, instead of the 5 hours we currently allot for each examinee to take a 2-hour test.

Based on these assumptions, we project the following: The first round of tests will cost from $2.0 to $2.9 million. This represents savings of $3.0 to $4.3 million from our estimate of what it would cost to test under current requirements.

In order to measure the possible costs of retesting, we estimated that under the new time constraints 25 percent of the examinees would fail the first test. We project that costs associated with taking the second test, assumed to be conducted off-site, will be $3.1 to $4.5 million.

We estimate that 25 percent of the persons taking the second test will fail that examination and that it would cost $1.7 to $2.4 million for the rescreening required and from $0.4 to $0.7 million in time lost to conduct the third test. Again, we assume one day of work per examinee will be lost due to off-site testing. If an on-site testing option is offered and selected, costs may be significantly lower.

We estimate that 25 percent of those failing the second test would fail the third test (260 persons) and that it would cost from $0.6 to $0.8 million in lost time to retrain cytotechnologists and from $3.3 to $6.5 million to retrain pathologists. The costs of retraining include the cost of 40 days of time lost; this includes 5 days for training and 35 days waiting for the next examination to be given, assuming the examinations are not offered more than once a month. We have no data or information on which to base an estimate of the cost of the training itself.

The total costs attributable to the proposed PT requirements would range from $10.9 to $17.8 million in the first year of testing in a nationwide cytology PT program. This represents an increase of $0.5 to $1.6 million over our original projected costs of $10.4 to $16.1 million (excluding the cytology slide test costs which would remain unchanged in this proposed rule) for our current PT requirements. This difference reflects the impact of the assumed increase in the test failure rate on the associated costs of retesting and retraining an increased number of examinees and rescreening more slides. It is possible that costs would go down somewhat in subsequent years: the Maryland State Cytology Testing Program showed a decrease in the percentage of examinees failing the testing after the first year.

PROJECTED ANNUAL COSTS OF CYTOLOGY PROFICIENCY TESTING

	Low	High
Conduct of first testing	$2,025,000	$2,895,000
Conduct of second testing	3,058,000	4,467,000
Cost to rescreen for 20 workdays	1,667,000	2,383,000
Conduct of third testing	384,000	733,000
Loss of 40 days Cytotechnologist	561,000	802,000
Loss of 40 days Cytopathologist	3,246,000	6,493,000
Costs through hired testing	10,941,000	17,773,000

The effect of the proposed change on the only HCFA-approved cytology PT program, Maryland State Cytology Testing Program, is difficult to predict, until we are notified whether the program intends to make revisions to its requirements for examination of PT slides complying with these proposed revisions (if finalized). However, if Maryland maintains an approved program, we predict that it would have comparable increases in costs after the first test because of the greater number of persons failing.

If Maryland chooses not to make the revisions, the program would fail to meet the criteria for CLIA-approval as a cytology PT program. HCFA would notify the program of the nonapproval, and the program would then have to notify all laboratories enrolled in the program of the nonapproval and the reasons for nonapproval within 30 days of the HCFA notification. If this occurs, until other State programs are approved or a nationwide cytology PT program is available, none of the cytotechnologists and pathologists in this country who examine gynecologic cytology preparations would be participating in an approved cytology PT program.

We are not preparing an analysis for either the RFA or section 1102(b) of the Act because we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

Also, we considered the economic aspects of whether or not the proposed change would reduce or increase health care costs by leading to the correct earlier diagnosis of pap smears that would otherwise be misread as false positive or false negative under the existing regulations. Because the potential economic effects of this proposal are so speculative pertaining to any impact on health care costs, we are unable to factor such costs into this analysis. Similarly, we considered the economic impact on individuals due to

loss of employment, but again, we are unable to factor such costs into this analysis because the economic effects are so speculative.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 493

Grant programs—health, Health facilities, Laboratories, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR part 493 would be amended as set forth below:

PART 493—LABORATORY REQUIREMENTS

1. The authority citation for part 493 continues to read as follows:

Authority: Sec. 353 of the Public Health Service Act, secs. 1102, 1861(e), the sentence following 1861(s)(11), 1861(s)(12), 1861(s)(13), 1861(s)(14), 1861(s)(15), and 1861(s)(16) of the Social Security Act (42 U.S.C. 263a, 1302, 1395x(e), the sentence following 1395x(s)(11), 1395x(s)(12), 1395x(s)(13), 1395x(s)(14), 1395x(s)(15), and 1395x(s)(16)).

2. Section 493.855, paragraph (b) introductory text is revised to read as follows:

§ 493.855 Standard; Cytology: gynecologic examinations.

* * * * *

(b) The laboratory must ensure that each individual participates in an annual testing event that involves the examination of a 10-slide test set as described in § 493.945. Individuals who fail this testing event are retested with another 10-slide test set as described in paragraphs (b)(1) and (b)(2) of this section. Individuals who fail this second test are subsequently retested with a 20-slide test set as described in paragraphs (b)(2) and (b)(3) of this section. Individuals are given not more than 45 minutes to complete a 10-slide test and not more than 90 minutes to complete a 20-slide test. Unexcused failure to appear by an individual for a retest will result in test failure with resulting remediation and limitations on slide examination as specified in (b)(1), (b)(2), and (b)(3) of this section.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 21, 1995.

Helen Smits,

Deputy Administrator, Health Care Financing Administration.

Dated: November 21, 1995.

Frances Lee de Peyster,

Director, Centers for Disease Control and Prevention, Washington Office.

Dated: November 21, 1995.

Donna E. Shalala,

Secretary.

[FR Doc. 95–29190 Filed 11–27–95; 11:59 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 676

[Docket No. 95111 3267–5267–01; I.D. 110295B]

Groundfish of the Gulf of Alaska; Limited Access; Foreign Fishing; Proposed 1996 Harvest Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed 1996 initial specifications for groundfish; apportionment of reserves; request for comments.

SUMMARY: NMFS proposes initial harvest specifications for groundfish and associated management measures in the Gulf of Alaska (GOA) for the 1996 fishing year. This action is necessary to carry out management objectives contained in the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

DATES: Comments must be received by Decemberr 29, 1995.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel.

The preliminary Stock Assessment and Fishery Evaluation (SAFE) Report, dated September 1995, is available from the North Pacific Fishery Management Council, 605 W. 4th Ave Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the exclusive economic zone of the GOA are managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act. The FMP is implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fisheries at 50 CFR parts 672, 676, and 677. General regulations that also pertain to the U.S. fisheries appear at 50 CFR part 620.

This action proposes for the 1996 fishing year: (1) Specifications of total allowable catch (TAC) for each groundfish target species category in the GOA and apportionments thereof among domestic annual processing (DAP), joint venture processing (JVP), total allowable level of foreign fishing (TALFF), and reserves; (2) apportionments of reserves to DAP; (3) apportionments of the sablefish TAC to vessels using hook-and-line and trawl gear; (4) apportionments of pollock and Pacific cod TAC; (5) "other species" TAC; (6) halibut prohibited species catch (PSC) limits; and (7) fishery and seasonal allocations of the halibut PSC limits.

Comments on the proposed 1996 specifications and proposed apportionments of reserves are invited from the public through December 29, 1995. After again consulting with the Council, NMFS will publish final specifications for the 1996 fishing year in the **Federal Register**.

Regulations at § 672.20(c)(1)(ii)(A) require that one-fourth of the preliminary or proposed specifications (not including the reserves and the first quarterly allowance of pollock), one-fourth of the inshore and offshore allocations of Pacific cod in each regulatory area, and one-fourth of the halibut PSC amounts become effective at 0001 hours, Alaska local time, January 1, on an interim basis, and remain in effect until superseded by the final harvest specifications.

NMFS is publishing, in the Rules and Regulations section of this **Federal Register** issue, interim TAC specifications and apportionments thereof for the 1996 fishing year that will become available 0001 hours, A.l.t., January 1, 1996, and remain in effect until superseded by the final 1996 harvest specifications.

1. *Proposed Establishment of TAC Amounts and Apportionments Thereof Among DAP, JVP, TALFF, and Reserves*

Under § 672.20(c)(1)(ii), NMFS, after consultation with the Council, publishes in the **Federal Register** proposed specifications of annual TAC amounts. These proposed specifications indicate apportionments of TAC amounts among DAP, JVP, TALFF, and reserves for each target species and the "other species" category. The sum of the TAC amounts for all species must fall within the combined optimum yield (OY) range, of 116,000–800,000 metric tons (mt), established for these species.

Species TAC amounts are apportioned initially among DAP, JVP, TALFF, and reserves under §§ 611.92(c)(1) and 672.20(a)(2). DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen deliver their catches to foreign processors at sea. TALFF amounts are intended for harvest by foreign fishermen. Existing harvesting and processing capacity of the U.S. industry is capable of utilizing the entire 1996 TAC specification for GOA groundfish. Therefore, the Council recommended that DAP equal TAC for each species category, resulting in no proposed amounts of TALFF or JVP for the 1996 fishing year.

The reserves for the GOA are 20 percent of the TAC amounts for pollock, Pacific cod, flatfish target species categories, and "other species." If necessary, these reserve amounts may be set aside for possible apportionment to DAP and/or to JVP if the initial apportionments prove inadequate. Reserves that are not apportioned to DAP or JVP may be reapportioned to TALFF. The GOA groundfish TAC amounts have been utilized fully by DAP since 1987, and NMFS expects the same to occur in 1996. Therefore, NMFS proposes apportionment of all the reserves to DAP.

The Council met from September 27 through October 2, 1995, to review scientific information concerning groundfish stocks. The preliminary SAFE Report, dated September 1995, prepared and presented to the Council by the GOA Plan Team (Plan Team), summarizes the best available scientific information.

The September 1995 SAFE Report contains updated stock assessments for pollock, Pacific cod, Pacific ocean perch (POP), thornyhead, and Atka mackerel. New assessments were not available for the flatfish groups (deep-water flatfish, shallow-water flatfish, rex sole, flathead sole, and arrowtooth flounder), shortraker/rougheye rockfish, other slope rockfish, northern rockfish, and pelagic shelf rockfish. Survey information will be available for incorporation into assessments of sablefish and demersal shelf rockfish (DSR) for the final SAFE Report issued in November. Details of the assessments can be found in the September 1995 SAFE Report.

The Council's proposed 1996 acceptable biological catch (ABC) amounts for pollock, Pacific cod, and thornyhead are reduced from the 1995 ABC levels specified for these species; whereas the 1996 ABC for POP increased from 1995. The proposed 1996 ABC amounts, as recommended by the Council, for all other species or species groups remained unchanged from 1995.

The Plan Team recommended a range of ABC amounts for pollock, 35,800–52,700 mt. These ABC amounts are lower than the 1995 ABC amounts. The lower end of the range was an ABC based on the fishing mortality rate that produced a minimal (5 percent) probability of falling below the threshold spawner biomass level in the long-term (34,000 mt for the Western and Central Regulatory Areas). The upper end of the range reflects an optimal fishing mortality rate that maximizes yield and minimizes risk of falling below the threshold spawner biomass level. The stock biomass for pollock has been in a declining trend for a number of years; however, biomass is expected to increase following recruitment of the strong 1994 year class. Considering the projected improvements in stock biomass, the Scientific and Statistical Committee (SSC) chose the upper end of the Plan Team's recommended range for ABC. The Council accepted the SSC's recommendation.

The Plan Team also presented a range of ABC values for Pacific cod, from 65,000 to 110,000 mt. The SSC chose the lower end of the range, because the stock has been declining since 1987, and because recent recruitment levels appear to be below normal. The Council concurred with the SSC's recommendation.

An updated model for POP produced a 1996 ABC of 10,165 mt, an increase of 2,935 mt over the analysts' estimated ABC for 1995. As in previous years, the ABC equals the overfishing level. The Plan Team reduced this number further (to 8,060 mt) to create a buffer between the overfishing level and the ABC. The SSC does not agree with this adjustment and recommended that ABC equal overfishing. The Council accepted the Plan Team recommendation and set the 1996 ABC at 8,060 mt. The TAC amount for POP is set by the POP rebuilding plan algorithm (Amendment 32 to the FMP). The SSC also recommended that the analysts explore the feasibility of running the stock assessment model separately for the Western/Central and the Eastern Regulatory Area, providing two ABC amounts for POP in the Gulf.

An updated analysis was presented for thornyhead rockfish, which resulted in a 1996 ABC recommendation of 1,560 mt, somewhat lower than the 1995 ABC amount of 1,900 mt. The differences from 1995 are attributable to the inclusion of new data for 1982 and 1983, and correcting 1978 and 1979 hook-and-line data that were previously attributed to trawl gear.

The Plan Team recommended an ABC for sablefish of 18,700 mt, which is reduced from the 1995 ABC to reflect model projections of reduced 1996 biomass. However, the SSC recommended that the 1995 ABC (21,500 mt) be used for the preliminary 1996 ABC, until the 1996 longline survey data can be incorporated into the stock assessment analysis in November.

The stock assessment for Atka mackerel was also updated for 1996 to include 1994 catch data and maturity at length/age data. From the new analysis the Plan Team recommended a 1996 ABC of 6,480 mt. The SSC, however, recommended reducing the Plan Team's ABC by one-half, to 3,240 mt, which is equal to the 1995 ABC. This conservative approach is recommended because of the uncertainty in the abundance of Atka mackerel and because of concerns for marine mammals. Atka mackerel is an important prey species for sea lions and occurs in abundance near sea lion rookeries.

The Plan Team recommended that dusky rockfish (*Sebastes ciliatus*) be separated from the other species in the pelagic shelf rockfish assemblage. The SSC requested that the Plan Team provide a more extensive report on the management and stock assessment alternatives and recommends that the Council proceed with the development of a plan amendment analyzing management alternatives for pelagic shelf rockfish. However, the Council did not make a recommendation at this time.

The total ABC amount recommended by the SSC and accepted by the Council was 477,110 mt.

The total TAC amount recommended by the Advisory Panel (AP) was 267,917 mt. The AP recommended 1996 TAC amounts equal to the 1996 ABC amounts, as recommended by the SSC, for all species except the flatfish groups (deep-water flatfish, shallow-water flatfish, rex sole, flathead sole, and arrowtooth flounder) and POP. For the flatfish groups the AP recommended a 1996 TAC that was equal to the 1995 TAC amount. The TAC for POP is established by an algorithm in the POP

Rebuilding Plan and is calculated for 1996 at 6,959 mt.

The Council noted its intent to reduce the proposed TAC for other slope rockfish (7,110 mt) at the Council's December 1995 meeting. This action would be recommended to prevent a directed fishery for this species group while adequately providing for bycatch needs in other fisheries.

The Council has requested an analysis of alternatives to modify the POP Rebuilding Plan such that the stated algorithm for determining the TAC is an upper-bound limit. Final action will be taken by the Council on this analysis at its December 1995 meeting. Should the Council choose to implement an amendment to establish the POP TAC algorithm as an upper bound limit, those changes would not occur prior to publication of the final TAC amounts. Therefore, any potential changes in the POP TAC would occur through a separate specification notice.

The Council considered information in the SAFE Report, recommendations from its SSC and its AP, as well as public testimony. The Council then accepted the ABC amounts as recommended by the SSC, except for POP for which the Council accepted the Plan Team's recommendation. The Council accepted the TAC amounts as recommended by the AP.

The proposed 1996 ABC amounts and TAC amounts, as well as the ABC and TAC apportionments, are shown in Table 1.

TABLE 1.—PROPOSED 1996 ABC AMOUNTS, PROPOSED TAC AMOUNTS, AND DAPS OF GROUNDFISH FOR THE WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYAK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA.[1,2,3]

[Amounts are in metric tons]

Species	Area	ABC	TAC=DAP
Pollock:[4]			
	W (61)	24,500	24,500
	C (62)	12,500	12,500
	C (63)	13,000	13,000
Subtotal	W/C	*50,000	*50,000
	E	*2,700	*2,700
Total		52,700	52,700
Pacific cod:[5]			
Inshore	W	.....	16,965
Offshore	W	.....	1,885
Inshore	C	.....	38,610
Offshore	C	.....	4,290
Inshore	E	.....	2,925
Offshore	E	.....	325
Subtotal	W	18,850	*18,850
	C	42,900	*42,900
	E	3,250	*3,250
Total		65,000	65,000
Flatfish, Deep-water:[6]	W	670	450
	C	8,150	7,500
	E	5,770	3,120
Total		14,590	11,080
Rex sole:	W	1,350	800
	C	7,050	7,050
	E	2,810	1,840
Total		11,210	9,690
Flathead sole:	W	26,280	2,000
	C	23,140	5,000
	E	2,850	2,740
Total		52,270	9,740
Flatfish, Shallow-water:[7]	W	8,580	4,500
	C	17,170	12,950
	E	2,740	1,180
Total		28,790	18,630
Arrowtooth flounder:	W	28,400	5,000

TABLE 1.—PROPOSED 1996 ABC AMOUNTS, PROPOSED TAC AMOUNTS, AND DAPS OF GROUNDFISH FOR THE WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYAK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA.[1,2,3]—Continued

[Amounts are in metric tons]

Species	Area	ABC	TAC=DAP
	C	141,290	25,000
	E	28,440	5,000
Total		198,130	35,000
Sablefish:[8]			
	W	2,600	2,600
	C	8,600	8,600
	WY	4,100	4,100
	SEO	6,200	6,200
Total		21,500	21,500
Pacific ocean perch:[9]			
	W	1,460	1,260
	C	3,860	3,333
	E	2,740	2,366
Total		8,060	6,959
Shortraker/rougheye:[10]			
	W	170	170
	C	1,210	1,210
	E	530	530
Total		1,910	1,910
Rockfish, other:[11,12]			
	W	180	180
	C	1,170	1,170
	E	5,760	5,760
Total		7,110	7,110
Rockfish, northern:[13]			
	W	640	640
	C	4,610	4,610
	E	20	20
Total		5,270	5,270
Rockfish, pelagic shelf:[14]			
	W	910	910
	C	3,200	3,200
	E	1,080	1,080
Total		5,190	5,190
Demersal shelf rockfish:[15]	SEO	580	580
Thornyhead rockfish:	GW	1,560	1,560
Atka mackerel:			
	W	2,310	2,310
	C	925	925
	E	5	5
Total		3,240	3,240
Other species[16]		[17]NA	12,758
GOA Total		[18]477,110	267,917

*Amounts that are subtotals and are not additive.

[1] See §672.2 for definitions of regulatory area, regulatory district, and statistical area.

[2] Amounts specified as joint venture processing (JVP) and total allowable level of foreign fishing (TALFF) are proposed to be zero and are not shown in this table.

[3] Reserves are proposed to be apportioned to DAP and are reflected in the proposed TAC amounts.

[4] Pollock is apportioned to three statistical areas in the combined Western/Central Regulatory Area (Table 3), each of which is further divided into equal quarterly allowances. In the Eastern Regulatory Area, pollock is not divided into quarterly allowances.
[5] Pacific cod is allocated 90 percent to the inshore, and 10 percent to the offshore component. Component allowances are shown in Table 4.
[6] "Deep-water flatfish" means Dover sole and Greenland turbot.
[7] "Shallow water flatfish" means flatfish not including "deep-water flatfish," flathead sole, rexsole, or arrowtooth flounder.
[8] Sablefish is allocated to trawl and hook-and-line gears (Table 2).
[9] "Pacific ocean perch" means *Sebastes alutus*.
[10] "Shortraker/rougheye rockfish" means *Sebastes borealis* (shortraker) and *S. aleutianus* (rougheye).
[11] "Other rockfish" in the Western and Central Regulatory Areas and in the West Yakutat District means slope rockfish and demersal shelf rockfish. The category "other rockfish" in the Southeast Outside District means slope rockfish.
[12] "Slope rockfish" means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), *S. goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegatus* (harlequin), *S. wilsoni* (pygmy), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergrey), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), *S. babcocki* (redbanded), and *S. reedi* (yellowmouth).
[13] "Northern rockfish" means *Sebastes polyspinis*.
[14] "Pelagic shelf rockfish" includes *Sebastes melanops* (black), *S. mystinus* (blue), *S. ciliatus* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).
[15] "Demersal shelf rockfish" means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).
[16] "Other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, squid, and octopus. The TAC for "other species" equals 5 percent of the TAC amounts of target species.
[17] NA=not applicable
[18] The total ABC reflects the sum of the ABC amounts for target species.

2. *Proposed Apportionment of Reserves to DAP*

Regulations implementing the FMP that require 20 percent of each TAC for pollock, Pacific cod, flatfish species, and the "other species" category be set aside in reserves for possible apportionment at a later date (§ 672.20(a)(2)(ii)). Consistent with § 672.20(a)(2)(iii), NMFS is proposing to apportion the 1996 reserves for each of the four species categories to DAP, because domestic harvesters and processors have established markets for these species and should be provided the opportunity to realize revenues from the harvest of the full DAP amounts so specified. Specifications of DAP shown in Table 1 reflect apportioned reserves.

3. *Proposed Apportionment of the Sablefish TAC Amounts to Users of Hook-and-Line and Trawl Gear*

Under § 672.24(c), sablefish TAC amounts for each of the regulatory areas and districts are assigned to hook-and-line and trawl gear. In the Central and Western Regulatory Areas, 80 percent of the TAC amounts is allocated to hook-and-line gear and 20 percent is allocated to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is assigned to hook-and-line gear and 5 percent is assigned to trawl gear. The trawl gear allocation in the Eastern Regulatory Area may only be used as bycatch to support directed fisheries for other target species. Sablefish caught in the GOA with gear other than hook-and-line or trawl must be treated as prohibited species and may not be retained. Table 2 shows the assignments of the proposed 1996 sablefish TAC amounts between hook-and-line and trawl gears.

TABLE 2.—PROPOSED 1996 SABLEFISH TAC SPECIFICATIONS IN THE GULF OF ALASKA AND ASSIGNMENTS THEREOF TO HOOK-AND-LINE AND TRAWL GEAR. VALUES ARE IN METRIC TONS

Area/District	TAC	Hook-and-line share	Trawl share
Western	2,600	2,080	520
Central	8,600	6,880	1,720
Eastern:			
West Yakutat	4,100	3,895	205
Southeast Outside	6,200	5,890	310
Total	21,500	18,745	2,755

4. *Proposed Apportionments of Pollock and Pacific Cod TAC Amounts*

In the GOA, pollock is apportioned by area and season. Regulations at § 672.20(a)(2)(iv) require that the TAC for pollock in the combined Western/Central (W/C) Regulatory Areas be apportioned among statistical areas Shumagin (61), Chirikof (62), and Kodiak (63) in proportion to known distribution of the pollock biomass. This measure was intended to provide spatial distribution of the pollock harvest as a sea lion protection measure. Each statistical area apportionment is further divided equally into the 4 calendar quarters. Within any fishing year, any unharvested amount of any quarterly allowance of pollock TAC is added in equal proportions to the quarterly allowances of the following quarters, resulting in a sum for each quarter not to exceed 150 percent of the initial quarterly allowance.

Similarly, harvests in excess of a quarterly allowance of TAC are deducted in equal proportions from the remaining quarterly allowances of that fishing year. The Eastern Regulatory Area proposed TAC of 2,700 mt is not allocated among smaller areas, or quarterly.

Regulations at § 672.20(a)(2)(v)(A) require that the DAP apportionment for pollock in all regulatory areas and all quarterly allowances thereof be divided into inshore and offshore components. Similarly regulations at § 672.20(a)(2)(v)(B) require that the DAP apportionment of Pacific cod in all regulatory areas be divided into inshore and offshore components, although these regulations are scheduled to expire at the end of 1995. Amendment 40 to the FMP, if approved, would authorize continued apportionment of the pollock and Pacific cod TAC amounts between the inshore and offshore components. NMFS has published a notice of proposed rulemaking in the **Federal Register** (60 FR 48087; September 18, 1995) to continue the existing regulations. For purposes of this notice of proposed specifications, the percentage of the TAC apportioned to the inshore and offshore sectors is as set out in that notice of proposed rulemaking. If Amendment 40 is not approved, the 1996 final specifications will be revised accordingly. For purposes of this action, the inshore component would be apportioned 100 percent of the pollock TAC in each regulatory area after subtraction of amounts that are determined by the Director, Alaska Region, NMFS (Regional Director) to be necessary to support the bycatch needs of the offshore component in directed fisheries for other groundfish species. At this time, these bycatch amounts are unknown and will be determined during the fishing year. The proposed distribution of pollock within the combined W/C Regulatory Areas is shown in Table 3, except that inshore and offshore component apportionments of pollock are not shown.

The inshore component for Pacific cod would be apportioned equal to 90 percent of the TAC in each regulatory area. Inshore and offshore component allocations of the proposed 65,000 mt TAC for each regulatory area are shown in Table 4.

TABLE 3.—PROPOSED DISTRIBUTION OF POLLOCK IN THE WESTERN AND CENTRAL REGULATORY AREAS OF THE GULF OF ALASKA (W/C GOA); BIOMASS DISTRIBUTION, AREA APPORTIONMENTS, AND QUARTERLY ALLOWANCES. ABC FOR THE W/C GOA IS PROPOSED TO BE 50,000 METRIC TONS (MT). BIOMASS DISTRIBUTION IS BASED ON 1993 SURVEY DATA. TAC AMOUNTS ARE EQUAL TO ABC. INSHORE AND OFFSHORE ALLOCATIONS OF POLLOCK ARE NOT SHOWN. ABC AMOUNTS AND TAC AMOUNTS ARE ROUNDED TO THE NEAREST 10 MT

Statistical area	Biomass percent	1996 ABC=TAC	Quarterly allowance
Shumagin (61)	49	24,500	6,125
Chirikof (62)	24.7	12,500	3,125
Kodiak (63)	26.3	13,000	3,250
Total	100	50,000	12,500

TABLE 4.—PROPOSED 1996 ALLOCATION (METRIC TONS) OF PACIFIC COD IN THE GULF OF ALASKA; ALLOCATIONS TO INSHORE AND OFFSHORE COMPONENTS.

Regulatory area	TAC	Component allocation	
		Inshore (90%)	Offshore (10%)
Western	18,850	16,965	1,885
Central	42,900	38,610	4,290
Eastern	3,250	2,925	325
Total	65,000	58,500	6,500

5. *"Other Species" TAC*

The FMP specifies that amounts for the "other species" category are calculated as 5 percent of the combined TAC amounts for target species. The GOA-wide "other species" TAC is calculated as 12,758 mt, which is 5 percent of the sum of combined TAC amounts for the target species.

6. *Proposed Halibut PSC Mortality Limits*

Under § 672.20(f), annual Pacific halibut PSC mortality limits are established for trawl and hook-and-line gear and may be established for pot gear. At its September meeting, the Council recommended that NMFS re-establish the PSC limits of 2,000 mt for the trawl fisheries and 300 mt for the hook-and-line fisheries, with 10 mt of the hook-and-line limit allocated to the DSR fishery in the Southeast Outside District and remainder to the other hook-and-line fisheries.

Regulations at § 672.20(f)(1)(ii) authorize exemption of specified non-trawl fisheries from the halibut PSC limit. As in 1995, the Council proposes to exempt pot gear and the hook-and-line sablefish fishery from the non-trawl halibut limit for 1996. The Council proposed these exemptions because of the low halibut bycatch mortality experienced in the pot gear fisheries (16 mt in 1995) and because of the 1995 implementation of the sablefish and halibut Individual Fishing Quota (IFQ) program, which would allow legal-sized halibut to be retained in the sablefish fishery. The trawl fishery apportionment of the 1996 halibut bycatch mortality limit (2,000 mt) remains unchanged from 1995. Under § 672.20(f)(1)(i)(B) the trawl halibut bycatch mortality limit is apportioned between trawl fisheries for deep-water and shallow-water species. These apportionments are divided seasonally to avoid seasonally high halibut bycatch rates.

NMFS preliminarily concurs in the Council's 1996 recommendations for halibut bycatch limits and apportionments (Table 5). Some changes may be made in the seasonal, gear type and fishing-complex apportionments of halibut PSC limits for the final 1996 specifications. NMFS considers the following types of information as presented by, and summarized from, the preliminary 1995 SAFE Report, or from public comment and testimony.

TABLE 5.—PROPOSED 1996 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS. THE PACIFIC HALIBUT PSC LIMIT FOR HOOK-AND-LINE GEAR IS ALLOCATED TO THE DEMERSAL SHELF ROCKFISH (DSR) FISHERY AND FISHERIES OTHER THAN DSR. VALUES ARE IN METRIC TONS

Trawl gear		Hook-and-line gear			
		Other than DSR		DSR	
Dates	Amount	Dates	Amount	Dates	Amount
Jan 1–Mar 31	600 (30%)	Jan 1–May 14	242 (83%)	Jan 1–Dec 31	10 (100%)
Apr 1–Jun 30	400 (20%)	May 15–Aug 31	29 (10%)		
Jul 1–Sep 30	600 (30%)	Sep 1–Dec 31	19 (6.5%)		
Oct 1–Dec 31	400 (20%)				
Total	2,000 (100%)		290 (100%)		10 (100%)

(A) Estimated Halibut Bycatch in Prior Years

The best available information on estimated halibut bycatch is available from data collected in 1995 by NMFS-certified observers. The calculated halibut bycatch mortality by trawl, hook-and-line, and pot gear through October 7, 1995, is 1,561 mt, 354 mt, and 16 mt, respectively, for a total of 1,931 mt. Halibut bycatch restrictions seasonally constrained trawl gear fisheries during the first, second, and third quarters of the fishing year and are anticipated to constrain trawl gear fisheries during the fourth quarter. Trawling for the deep-water fishery complex was closed during the first quarter on March 27 (60 FR 16587; March 31, 1995), for the second quarter on April 22 (60 FR 20658; April 27, 1995) and for the third quarter on July 21 (60 FR 37601, July 21, 1995). The shallow-water fishery complex was closed in the second quarter on May 8 (60 FR 25623, May 12, 1995) and in the third quarter on July 17 (60 FR 37600, July 21, 1995). The amount of groundfish that might have been harvested if halibut had not been seasonally limiting in 1995 is unknown. However, lacking market incentives, some amounts of groundfish will not be harvested, regardless of halibut PSC bycatch availability.

(B) Expected Changes in Groundfish Stocks

At its September 1995 meeting, the Council recommended lower 1996 ABC amounts than 1995 ABC amounts for pollock, Pacific cod and thornyhead rockfish. A higher 1996 ABC than the 1995 ABC was recommended for POP.

The 1996 ABC amounts for the remaining species or species groups remain unchanged from 1995 levels. More information on these proposed changes is included in the preliminary SAFE Report, dated September 1995, and in the AP, SSC, and Council minutes from the September 1995 meeting.

(C) Expected Changes in Groundfish Catch

The total of the proposed 1996 TAC amounts for the GOA is 267,917 mt, which represents 96 percent of the sum of TAC amounts for 1995 (279,463 mt). Significant changes in TAC amounts for pollock, Pacific cod, and POP are proposed. POP is the only species for which a TAC was specified that is higher in 1996 than in 1995. This increase should not directly affect halibut bycatch.

(D) Current Estimates of Halibut Biomass and Stock Condition

The stock assessment for 1995 conducted by the International Pacific Halibut Commission (IPHC) indicates that the total exploitable biomass of Pacific halibut in the GOA is approximately 166.9 million lbs. This represents a decline in biomass of approximately 16 percent from the previous stock assessment, a rate that is higher than the 5–15 percent annual decline observed in previous years. The low recruitment of recent years indicates that the stock will continue its decline at a rate of about 10–15 percent per year over the next several years.

(E) Potential Impacts of Expected Fishing for Groundfish on Halibut Stocks and U.S. Halibut Fisheries

Halibut fisheries will be adjusted to account for the overall halibut PSC mortality limit established for groundfish fisheries. The 1996 groundfish fisheries are expected to use the entire proposed halibut PSC limit of 2,300 mt. The allowable directed commercial catch is determined by accounting for the recreational catch, waste, and bycatch mortality, and then providing the remainder to the directed fishery. Groundfish fishing is, therefore, not expected to affect the halibut stocks.

(F) Methods Available for, and Costs of, Reducing Halibut Bycatches in Groundfish Fisheries

Methods available for reducing halibut bycatch include (1) reducing halibut bycatch rates through a Vessel Incentive Program; (2) modifications to gear; (3) changes in groundfish fishing seasons; (4) individual transferable quota programs, designed to reduce the derby-style fishing; and (5) time/area closures.

Reductions in groundfish TAC amounts provide no incentives for fishermen to reduce bycatch rates. Costs that would be imposed on fishermen as a result of reducing TAC amounts depend on species and amounts of groundfish foregone.

Trawl vessels carrying observers for purposes of complying with the observer coverage requirements (50 CFR 677.10) are subject to the Vessel Incentive Program. The program encourages trawl fishermen to avoid high halibut bycatch rates while conducting groundfish fisheries by specifying bycatch rate standards for various target fisheries.

Current regulations require groundfish pots to have halibut exclusion devices to reduce halibut bycatches. Resulting low bycatch and mortality rates of halibut in pot fisheries have justified exempting pot gear from PSC limits.

The regulations also define pelagic trawl gear in a manner intended to reduce bycatch of halibut by displacing fishing effort off the bottom of the sea floor when certain halibut bycatch levels are reached during the fishing year. The definition provides standards for physical conformation (§ 672.2) and also for performance of the trawl gear in terms of crab bycatch (§ 672.7(m)). Furthermore, all hook-and-line vessel operators are required to employ careful release measures when handling halibut bycatch. This measure is intended to reduce handling mortality, increase the amount of groundfish harvested under the available halibut mortality bycatch limits, and possibly lower overall halibut bycatch mortality in groundfish fisheries.

The sablefish/halibut IFQ program (implemented in 1995) was intended, in part, to reduce the halibut discard mortality in the sablefish fishery.

Methods available for reducing halibut bycatch listed above will be reviewed by NMFS and the Council to determine their effectiveness. Changes will be initiated, as necessary, in response to this review or to public testimony and comment.

Consistent with the goals and objectives of the FMP to reduce halibut bycatches while providing an opportunity to harvest the groundfish OY, NMFS proposes the assignments of 2,000 mt and 300 mt of halibut PSC mortality limits to trawl and hook-and-line gear, respectively. While these limits would reduce the harvest quota for commercial halibut fishermen, NMFS has determined that they would not result in unfair allocation to any particular user group. NMFS recognizes that some halibut bycatch will occur in the groundfish fishery, but the Vessel Incentive Program, required modifications to gear, and implementation of the IFQ program are intended to reduce adverse impacts on halibut fishermen while promoting the opportunity to achieve the OY from the groundfish fishery.

7. *Proposed Seasonal Allocations of the Halibut PSC Limits*

Under § 672.20(f)(1)(iii), NMFS proposes to allocate seasonally the halibut PSC limits after receiving recommendations from the Council. The FMP requires that the following information be considered by the Council in recommending seasonal allocations of halibut: (1) Seasonal distribution of halibut, (2) seasonal distribution of target groundfish species relative to halibut distribution, (3) expected halibut bycatch needs on a seasonal basis relevant to changes in halibut biomass and expected catches of target groundfish species, (4) expected bycatch rates on a seasonal basis, (5) expected changes in directed groundfish fishing seasons, (6) expected actual start of fishing effort, and, (7) economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

The Council recommended the same seasonal allocation of PSC limits for the 1996 fishing year as those in effect during the 1995 fishing year. The publication of the final 1995 initial groundfish and PSC specifications (60 FR 8470, February 14, 1995) summarizes Council findings with respect to each of the FMP considerations set forth above. At this time, the Council's findings are unchanged from those set forth for 1995.

Pacific halibut PSC catch limits, and apportionments thereof, are presented in Table 5. The regulations specify that any overages or shortfalls in PSC catches will be accounted for within the 1996 season. The Council did not recommend changes in the seasonal apportionments for the hook-and-line gear fisheries from those specified in 1995.

Regulations at § 672.20(f)(1) authorize apportionments of the trawl halibut PSC limit allowance as bycatch allowances to a deep-water species fishery, comprised of sablefish, rockfish, deep-water flatfish, rex sole and arrowtooth flounder, and a shallow-water species fishery, comprising pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species." The proposed apportionment for these two fishery complexes is presented in Table 6 and is unchanged from 1995.

TABLE 6.—PROPOSED 1996 APPORTIONMENT OF PACIFIC HALIBUT PSC TRAWL LIMITS BETWEEN THE DEEP-WATER SPECIES FISHERY AND THE SHALLOW-WATER SPECIES FISHERY. VALUES ARE IN METRIC TONS.

Season	Shallow-water	Deep-water	Total
Jan. 20–Mar. 31	500	100	600
Apr. 1–Jun. 30	100	300	400
Jul. 1–Sep. 30	200	400	600
Oct. 1–Dec. 31	No apportionment between shallow and deep for the 4th quarter.		

Assumed halibut mortality rates for halibut PSC bycatch in 1996 are based on an average of mortality rates determined from NMFS-observer data collected during 1993 and 1994. Because the rates for 1993 were lacking for hook-and-line rockfish the average of 1991 and 1994 was used. Except as noted below, the Council proposed that halibut discard mortality rates recommended by the IPHC be adopted for purposes of monitoring halibut bycatch mortality limits established for the 1996 groundfish fisheries. In 1995, the Council established separate mortality rates for the GOA at-sea and shoreside bottom trawl pollock fisheries. However, NMFS notes that directed fishing for GOA pollock by the offshore component is prohibited under § 672.20(a)(2)(v). The IPHC did not propose a rate for the GOA bottom trawl pollock fishery for 1996. Until further information is available, NMFS is proposing to use the actual observed 1994 rate for the bottom trawl fishery (with no separation for at-sea and shoreside), which is the most current information available for this fishery.

The IPHC determined that the careful release measures implemented for vessels using hook-and-line gear did not show appreciable improvements in mortality rates and has recommended one rate for both observed and unobserved vessels in the hook-and-line fisheries. This action was approved by the Council in 1995. NMFS is proposing this for 1996 as well. The halibut mortality rates are listed in Table 7.

TABLE 7.—1996 ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR VESSELS FISHING IN THE GULF OF ALASKA. TABLE VALUES ARE PERCENT OF HALIBUT BYCATCH ASSUMED TO BE DEAD.

Gear and Target	
Hook-and-Line:	
Sablefish	24
Pacific cod	13
Rockfish	19
Trawl:	
Midwater pollock	88
Rockfish	58
Shallow-water flatfish	64
Pacific cod	57
Deep-water flatfish	56
Bottom pollock	57
Pot:	
Pacific cod	18

The analysis by the IPHC on the halibut discard mortality rates was

conducted on a preliminary data set provided by the NMFS Observer Program Office. A final data set is expected to be available in late September, which will allow refinement of this analysis, as well as additional analyses.

After the December 1995 Council meeting, NMFS will consider all available data and will announce preseason assumed halibut mortality rates in the **Federal Register** with the final 1996 initial specifications for groundfish TAC amounts.

Classification

This action is authorized under 50 CFR 611.92 and 672.20 and is exempt from review under E.O. 12866. This action is also covered by the regulatory flexibility analysis prepared for the implementing regulations.

A draft environmental assessment (EA) on the allowable harvest levels set forth in the final 1995 SAFE Report will be available for public review from the NMFS, Alaska Region (see **ADDRESSES**), and at the December 1995 Council meeting. After the December meeting, a final EA will be prepared on the final 1996 TAC amounts after consultation by the Council.

Consultation pursuant to section 7 of the Endangered Species Act has been initiated for the 1996 GOA initial specifications.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 24, 1995.

Nancy Foster,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 95–29263 Filed 11–29–95; 8:45 am]

BILLING CODE 3510–22–W

Notices

Federal Register

Vol. 60, No. 230

Thursday, November 30, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Boundary Extension, Ouachita National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of boundary extension.

SUMMARY: The Secretary of Agriculture has extended the Ouachita National Forest boundary to include 1,214.78 acres, more or less, which were recently acquired through exchange, in Le Flore County, Oklahoma. A copy of the Secretary's establishment document, which includes the legal description of the land within the extension, appears at the end of this notice.

EFFECTIVE DATE: The boundary extension was effective November 3, 1995.

ADDRESSES: A copy of the map showing the boundary extension is on file and available for public inspection in the Office of the Director of Lands, Forest Service, Auditor's Building, 201 14th Street, SW, Washington, D.C. 20090–5090.

FOR FURTHER INFORMATION CONTACT: Ralph Bauman, Lands Staff, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090 (202) 205–1248.

SUPPLEMENTARY INFORMATION: Pursuant to the authority under Section 20(d), Winding Stair Mountain National Recreation and Wilderness Act of October 18, 1988, P.L. 100–499 (102 Stat. 2491), the Secretary of Agriculture has extended the Ouachita National Forest boundary. The Act provided authority to the Secretary of Agriculture to acquire by purchase, exchange, donation or otherwise any right, title, and interest in lands to Le Flore County, Oklahoma, which are outside the boundaries of the Ouachita National Forest. This Act also provided that the Secretary would extend the boundaries of the Ouachita National Forest to include such lands

Dated: November 8, 1995.

Sterling J. Wilcox,

Acting Associate Deputy Chief

Ouachita National Forest Boundary Extension

Pursuant to the Secretary of Agriculture's authority under Section 20(d), P.L. 100–499 (102 Stat. 2491) the Ouachita National Forest boundary is hereby extended to include the following lands.

Le Flore County, Oklahoma, Indian Meridian

T2N,R26E Section 32: The E1/2SE1/4. containing 80.00 acres
Section 33: All containing 640 acres
T1NR26E Section 4: the N1/2, containing 317.44 acres
Section 5: The NE1/4, containing 157.34 acres
Section 5: The SW1/4se1/4, containing 40.00 acres

The areas described aggregate 1,234.78 acres more or less

As provided by P.L. 100–499, the lands described shall be administered by the Secretary of Agriculture in accordance with the Act of March 1, 1911 (36 Stat. 961) and in accordance with the laws, rules, and regulations generally applicable to units of the National Forest System.

Dated: November 5, 1995.

Mark Gaede,

Acting Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 95–29046 Filed 11–29–95; 8:45 am]

BILLING CODE 3410–11–M

Southwest Oregon Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on December 5, 1995 at the Coos Bay Bureau of Land Management Office, 1300 Airport Lane, North Bend, Oregon. The meeting will begin at 9:30 a.m. and continue until 4:30 p.m. Agenda items to be covered include: (1) Recommendations for revising standards and guides for large woody material; (2) Local area issues presentation; (3) Public forum. All Province Advisory committee meetings are open to the public, interested citizens are encouraged to attend; (4) Province ecosystem overview; (5) Monitoring subcommittee report; (6) Province Assessment considerations of the Province Interagency Executive Committee.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Chuck Anderson, Province Advisory Committee staff, USDA, Rogue River National Forest, P.O. Box 520, Medford, Oregon 97501, 503–858–2322.

Dated: November 14, 1995.

Charles J. Anderson,

Acting Forest Supervisor.

[FR Doc. 95–28512 Filed 11–29–95; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Natural Resources Conservation Service

Lake Carlinville Watershed, Macoupin County, Illinois; Notice of a Finding of No Significant Impact

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lake Carlinville Watershed, Macoupin County, Illinois.

FOR FURTHER INFORMATION CONTACT: Thomas Christensen, State Conservationist, Natural Resources Conservation Service, 1902 Fox Drive, Champaign, IL 61820, 217/398–5267.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Thomas Christensen, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is to improve water quality by trapping sediment and nonorganic materials. The element included in this plan is one sediment retention structure.

The notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Thomas W. Christensen.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Thomas W. Christensen,

State Conservationist.

Finding of No Significant Impact (FONSI) for Lake Carlinville Watershed, Macoupin County, Illinois

Introduction

The Lake Carlinville Watershed is a federally assisted action authorized for planning under Public Law 83–566, the Watershed Protection and Flood Prevention Act. An environmental assessment was undertaken in conjunction with the development of a watershed plan. This assessment was conducted in consultation with local, state, and federal agencies as well as interested organizations and individuals. Data developed during the assessment are available for public review at the following location: U.S. Department of Agriculture, Natural Resources Conservation Service, 1902 Fox Drive, Champaign, Illinois 61820, 217–398–5267.

Recommended Action

Proposed is the installation of one sediment retention structure that controls 95 percent of the land draining into Lake Carlinville. This structure will have a significant impact on reducing sediment entering the lake. It will also reduce non-organic pollutants that enter the lake, such as nutrients being carried by the sediment. A straight gabion weir will be installed across the upper end of the lake. The structure will be built approximately seven feet higher than the existing Lake Carlinville water surface.

High storm flows will flow over the weir three or more times per year. Lower storm flows and base flows will be directed through a low flow pipe on the north end of the structure. A stop log depth control device will be installed on the front of the pipe to allow the city to control the water elevation above the weir.

Costs: Total project costs are $554,600. Average annual costs are $56,300, which includes $12,200 for operation and maintenance.

PROJECT COST

[Dollars in 1995]

Project investment	PL 566 funds	Other funds	Total funds
Construction	$203,000	$203,000	$406,000
Engineering Service	54,000	0	64,000
Project Administration	29,000	9,600	38,600
Land Rights	0	46,000	46,000
Total	296,000	258,600	554,600

Benefits: The estimated benefits for this alternative are $75,300 annually. These benefits are derived from maintaining the value of recreation activities associated with Lake Carlinville, extending the life of dredging activities and reducing water treatment costs. The lake's fishery will improve, while the loss of habitat and fishing access due to sedimentation will be reduced. The decrease in turbidity will cause an increase in growth and numbers of fish. Fish populations will be easier to manage (less problems with reproduction). The improvement in the lake's fishery will increase the recreational use and value of the lake.

Effects: The retention structure will control a drainage area of 23.7 square miles or 95 percent of the watershed drainage area. Sedimentation deposited in the lake will be reduced from 15,300 tons to 3,000 tons annually, or 80 percent. This alternative significantly reduces the sediment and nutrients that would be delivered to the lake. The Trophic State index will be reduced from 70 to 59. This gives the lake a good chance to improve its transparency.

This alternative addresses resource concerns by improving recreational values, improving water quality, improving sports fishery populations, significantly reducing loss of fish habitat, and improving visual quality. This alternative would preserve fish habitat which would otherwise be lost throughout the 50 year life of the project.

Where tributaries empty into the lake, wetlands have formed on sediment. The mud flats are vegetated with reed canary grass, cattails, and willows. Slightly higher areas are vegetated with trees, which are mostly green ash and silver maple. Less than one acre of shallow lake will be displaced by the sediment basin structure.

An estimated 32 acres of shallow lake and marsh will fill with sediment over the life of the basin (50 years), and become vegetated with emergent wetland plants and willows or silver maple and green ash trees. Wetland hydrology will remain after the basin is full of sediment.

Approximately 51 acres of wet meadow and woody vegetation (willow, silver maple, and box elder) growing on mud flats will continue to grow upon sediment as the basin fills. The extent of this vegetation type will expand into areas that are now open water and marsh as the basin fills with sediment.

Approximately 53 acres of cropland, hayland, and mixed hardwoods (early successional), will make a transition into wooded wetland. The temporary inundation of these areas, due to the basin structure, is expected to average 6 to 10 days in duration 2 to 3 times during the growing season. This type of inundation will cause the slow transition of this area to species that can tolerate wetter conditions.

As the sediment retention structure fills, the base water level (water table) can be raised to maintain wetland hydrology in the basin. When the basin has filled with sediment, larger trees will become established on most of the 136 acres that are now in grass, trees, crops or open water.

The long term effect on wetlands is not significant. During construction and during the period of time that the basin is filling, there will not be a significant adverse impact on wetlands. Some areas will gradually shift from one wetland vegetation type to another. Also over time some areas that are now upland mixed hardwoods will change to wooded wetlands. This will have the positive effect of adding diversity to the area. The ability to control the draw down, duration, and timing, offered by the water control feature in the structure will enable some management of water levels for optimum use by waterfowl and other wetland species. It will also facilitate management of problem plant species.

No threatened and endangered species habitat will be affected.

Mitigation Features: Contractors will be required to comply with local, state, and federal environmental protection standards, and to take measures to control sediment and erosion related to construction.

Negative environmental impacts have been avoided or minimized to the point that they are not significant. Two acres of upland woods will be cleared to build this project. One acre will be needed for the construction site and the second acre will be cleared during the building of the access road to the site. This loss will be mitigated by the replanting of the construction site to trees after construction is complete. The second acre will be mitigated by planting one acre of pasture or cropland that is within the basin to hardwoods.

Alternatives

The planned action is the most practical means of reducing the sedimentation to Lake Carlinville. Since no significant adverse environmental impacts will result from the installation of the measures, the no-project alternative was the only other alternative considered.

Consultation and Public Participation

On January 1990, the Macoupin County Soil and Water Conservation District received a request from the City of Carlinville for assistance in developing a resource plan for Lake Carlinville and its watershed. To initiate such a plan, the Soil and Water Conservation District appointed a committee of concerned citizens to help provide guidance during the planning process. The planning committee met on April 24, 1990 and developed a list of resource concerns for the watershed. These included:

1. Future water supply
2. Soil erosion
3. Water quality of the lake
4. Impact of above on lake use and recreation facilities

The planning committee appointed a technical advisory committee to inventory and evaluate the identified resource concerns in the watershed. Agencies represented on the technical advisory committee include:

—Illinois Department of Natural Resources
—Macoupin Soil and Water Conservation District
—Natural Resources Conservation Service
—U.S. Fish and Wildlife Service
—Illinois Department of Agriculture, Bureau of Soil Conservation

The technical advisory committee provided their reports to the planning committee and a resource plan was developed and presented to the planning committee in May of 1990. At this time, the planning committee selected the sediment retention structure to be included in the plan of work.

A resource plan was completed in August, 1990 and reviewed with the planning committee.

In July, 1990, a pre-authorization planning meeting was held with key individuals from NRCS. At this time, various activities were identified with a timetable for completion. In July, 1990, a standard form application was completed for federal assistance.

The plan of work was completed in October, 1993. This plan of work was prepared to show time, cost and schedules to complete the watershed work plan through to authorization for installation.

It is the opinion of the planning committee that there is evidence of ample need and overall interest in this project.

On June 22, 1994 an inter-agency meeting was held to discuss environmental concerns with IDNR, USFWS, IEPA, USDA/FS, Macoupin County SWCD, and the field area, and state office staff of the NRCS.

The committee sponsored an informational public meeting on June 22, 1994 to review project plans for a sediment basin in the upper end of the lake.

The planning committee continues to meet monthly.

Conclusion

The Environmental Assessment summarized above indicates that this Federal action will not cause significant local, regional, or national impacts on the environment. Therefore, based on the above findings, I have determined that an environmental impact statement for the Lake Carlinville Watershed Plan is not required.

Thomas W. Christensen,

State Conservationist.

Dated: November 21, 1995.

[FR Doc. 95–29242 Filed 11–29–95; 8:45 am]

BILLING CODE 3410–16–M

Bureau of the Census; Survey of Building and Zoning Permit Systems; Proposed Agency Information Collection Activity; Comment Request

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 29, 1996.

ADDRESSES: Direct all written comments to Gerald Taché, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Linda Hoyle, Manufacturing and Construction Division, Bureau of the Census, Room 2105–FOB 4, Washington, DC 20233–6900, phone number (301) 457–1321.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of the Census uses this form to collect information from state and local building permit officials. We need this information to update the universe of permit-issuing places, the sampling frame for the Building Permits Survey (BPS). The BPS provides widely used measures of construction activity, including the economic indicator *Housing Units Authorized by Building Permits.*

II. Method of Collection

We collect this information by mail.

III. Data

OMB Number: 0607–0350.
Form Number: C–411.
Type of Review: Regular submission.
Affected Public: State and Local Governments.
Estimated Number of Respondents: 2,000 per year.
Estimated Time Per Response: 15 minutes.
Estimated Total Annual Burden Hours: 500 hours.
Estimated Total Annual Cost: The total cost in fiscal year 1996 of the Building Permits Survey is $2,067,000 all borne by the Bureau of the Census. The cost to the respondents is estimated to be $7,335 based on an average hourly salary of $14.67[1] for state and local government employees.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 22, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–29123 Filed 11–29–95; 8:45 am]

BILLING CODE 3510–07–P

[1] Taken from the Census Bureau's Annual Survey of State and Local Government Employment.

Bureau of the Census; Survey of Environmental Products and Services; Proposed Agency Information Collection Activity; Comment Request

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 29, 1996.

ADDRESSES: Direct all written comments to Gerald Taché, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instructions should be directed to Elinor Champion, Bureau of the Census, Room 2135 FB–4, Washington, DC 20233, Telephone (301) 457–4683.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to conduct a survey of environmental products and services. This data collection will provide a benchmark for measuring shipments of goods and the revenues for services that define an environmental industry. The survey forms will collect data on the value of products and services provided in 1995 for measuring, preventing, limiting or correcting environmental damage. The survey will also collect value of shipments and services which were exported. The survey results will be used to determine potential product and service classifications in the 1997 Economic Censuses. The survey results will also be used for monitoring and promoting the growth of the environmental industry.

II. Method of Collection

The Census Bureau will use mail out/mail back survey forms to collect the data. Companies will be asked to respond to the survey within 30 days of the initial mailing. Letters encouraging participation will be mailed to companies that have not responded by the designated time.

III. Data

OMB Number: Not assigned
Form Number: EPS–1, EPS–2.
Type of Review: Regular.
Affected Public: Businesses or other non-profit organizations that produce goods or provide services.
Estimated Number of Respondents: 10,000.
Estimated Time Per Response: 2 hours.
Estimated Total Annual Burden Hours: 20,000 hours.
Estimated Total Annual Cost: $625,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and the cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 22, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–29124 Filed 11–29–95; 8:45 am]

BILLING CODE 3510–07–P

Bureau of the Census

The Census Advisory Committee (CAC) on the African American Population; et al.; Notice of Public Meetings

Pursuant to the Federal Advisory Committee Act (P.L. 92–463 as amended by P.L. 94–409, P.L. 96–523, and P.L. 97–375), we are giving notice of a joint meeting followed by separate and jointly held (described below) meetings of the CAC on the African American Population, the CAC on the American Indian and Alaska Native Populations, the CAC on the Asian and Pacific Islander Populations, and the CAC on the Hispanic Population. The joint meeting will convene on December 11–13, 1995 at the Doubletree Hotel, 1515 Rhode Island Avenue, N.W., Washington, D.C. 20005.

Each of these Committees is composed of nine members appointed by the Secretary of Commerce. They provide an organized and continuing channel of communication between the communities they represent and the Bureau of the Census on its efforts to reduce the differential in the count for the 2000 census and on ways the census data can be disseminated to maximum usefulness to their communities and other users.

The Committees will draw on past experience with the 1990 census process and procedures, results of evaluations and research studies, and the expertise and insight of its members to provide advice and recommendations during the research and development phase on various topics, and provide advice and recommendations during the design planning and implementation phases of the 2000 census.

The agenda for the December 11 combined meeting that will begin at 8:15 a.m. and end at 5:00 p.m. is: (1) Introductory remarks and update by the Director, Bureau of the Census; (2) 1995 Census Test observations; (3) How will reengineering the 2000 census affect your community?; and (4) Topical concurrent sessions: Topic I—How will sampling and estimation affect the data for your community?; Topic II—How can paid promotion and partnerships produce an effective outreach and promotion program in your community?; Topic III—How should we meet data needs in your communities beyond redistricting?

The agendas for the four committees in their separate and jointly held meetings are as follows:

The CAC on the African American Population: (1) issues from the last meeting; (2) review of responses to committee recommendations; (3) review of background papers; (4) assignments to topical concurrent sessions; and (5) other discussions as determined by the chair and the committee.

The CAC on the American Indian and Alaska Native Populations: (1) issues from the last meeting; (2) review of responses to committee recommendations; (3) review of background papers; (4) assignments to topical concurrent sessions; (5) review of topical concurrent sessions; and (6) other discussions as determined by the chair and the committee.

The CAC on the Asian and Pacific Islander Populations: (1) issues from the last meeting; (2) review of responses to committee recommendations; (3) review of background papers; (4) assignments to topical concurrent sessions; and (5) other discussions as determined by the chair and the committee.

The CAC on the Hispanic Population: (1) issues from the last meeting; (2) review of responses to committee recommendations; (3) review of background papers; (4) assignments to topical concurrent sessions; and (5) other discussions as determined by the chair and the committee.

The agenda for the December 12 combined meeting that will begin at 8:15 a.m. and end at 5:00 p.m. is: (1) Open session (discussion period); (2) Summary of the race and ethnicity research and testing plan; (3) What are the benefits and risks for your communities from the Census Bureau's expanded use of administrative records in the 2000 census?; and (4) Topical concurrent sessions: Topic IA—From the perspective of your communities how can we use the results from the 1995 focus groups?; Topic IB—How will your respective communities react to the new approach in forms design?; Topic II—What are your ideas and concerns about future directions of data access and dissemination?; and Topic III—What partnerships will work for your communities?

The agenda for the four committees in their separate and jointly held meetings are as follows:

The CAC on the African American Population: (1) discussion of topical concurrent sessions; (2) presentation on critical census issues and their impact on rural Black America; and (3) other discussions as determined by the chair and the committee.

The CAC on the American Indian and Alaska Native Populations: (1) discussion of the American Indian Reservation Special Test 1996; (2) Are the 2000 census geographic area programs criteria appropriate for the American Indian and Alaska Native Populations?; (3) review of topical concurrent sessions; and (4) other discussions as determined by the chair and the committee.

The CAC on the Asian and Pacific Islander Populations: (1) discussion of topical concurrent sessions; and (2) other discussions as determined by the chair and the committee.

The CAC on the Hispanic Population: (1) discussion of topical concurrent sessions; (2) Can we develop a multiple purpose Spanish surname list, and what uses can be made of those surnames?; and (3) other discussions as determined by the chair and the committee.

The agenda for the December 13 combined meeting that will begin at 8:45 a.m. and end at 12:30 p.m. is: (1) American Indian and Alaska Native historical and cultural presentation; and (2) Committee recommendations and agenda items for the next meeting.

The agendas for the four committees in their separate and jointly held meetings are:

The CAC on the African American Population: (1) discussion of committee recommendations; (2) agenda items for the next meeting; and (3) review of the topical concurrent sessions.

The CAC on the American Indian and Alaska Native Populations: (1) discussion of committee recommendations; (2) agenda items for the next meeting; and (3) review of the topical concurrent sessions.

The CAC on the Asian and Pacific Islander Populations: (1) discussion of committee recommendations; (2) agenda items for the next meeting; and (3) review of the topical concurrent sessions.

The CAC on the Hispanic Population: (1) discussion of committee recommendations; (2) agenda items for the next meeting; and (3) review of the topical concurrent sessions.

All meetings are open to the public and a brief period is set aside on December 13, for public comment and questions. Individuals with extensive questions or statements must submit them in writing to the Census Bureau official named below at least three days before the meeting.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Census Bureau official named below.

Anyone wishing additional information regarding these meetings or who wishes to submit written statements may contact Ms. Diana Harley, Decennial Management Division, Bureau of the Census, Room 3587, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, DC 20233–7100). Telephone: (301) 457–4047—TDD (301) 457–2540.

Dated: November 24, 1995.

Bryant Benton,

Acting Director, Bureau of the Census.

[FR Doc. 95–29197 Filed 11–29–95; 8:45 am]

BILLING CODE 3510–07–M

Foreign-Trade Zones Board

[Docket 78–95]

Foreign-Trade Zone 82—Mobile, Alabama; Application for Subzone Status; Sony Magnetic Products Inc. of America; Dothan, AL

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Mobile, Alabama, grantee of FTZ 82, requesting special-purpose subzone status for the magnetic media and battery systems manufacturing plant of Sony Magnetic Products Inc. of America (Sony) (subsidiary of Sony Corp., Japan) located in Dothan, Alabama. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on November 21, 1995.

The Sony plant (1.2 mil. sq. ft. on 80 acres) consists of three sites in Dothan, Alabama: Site 1 (77 acres)—4275 Main Street; Site 2 (3.3 acres)—135 Woodburn Drive; and, Site 3 (1.6 acres)—921 Tate Drive. The facilities (1,100 employees) currently are used to produce magnetic media products for the recording of audio and video signals and digital information, including audio tape cassettes, video tape cassettes, 3.5-inch computer floppy disks and computer data tape. The plant may also be used to produce a lithium ion battery and recharger system. Some 50 percent of the products are exported.

Foreign-sourced materials and components for the media products (accounting for some 15% of final product value) include carbon, corundum, chromium and iron compounds, acyclic monocarboxylic acids, amine-function compounds, nitrogen compounds, coloring matter, paints, styrene, acrylic polymers, polyacetals, resins, silicones, cellulose, plastics, packing materials, fasteners, steel springs, articles of iron or steel, and prepared unrecorded media.

Foreign-sourced materials related to the proposed battery/recharger production would include transformers, batteries, capacitors, resistors, printed circuits, diodes, semiconductors, consoles, electrical apparatus, wire and battery parts.

Zone procedures would exempt Sony from Customs duty payments on foreign materials used in export production. On its domestic sales, the company would be able to choose the duty rates that apply to the finished products (zero to 8.7%), rather than the duty rates that would otherwise apply to the foreign material and components (zero to 18.6%). The application indicates that the savings from zone procedures would help improve the Sony plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 29, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to February 13, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Customs Service Port Director's Office, 150 N. Royal Street, Suite 3004, Mobile, Alabama 36602

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: November 21, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–29268 Filed 11–29–95; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 77–95]

Foreign-Trade Zone 168—Fort Worth, TX; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Dallas/Fort Worth Maquila Trade Development Corporation, grantee of FTZ 168, requesting authority to expand its zone in the Fort Worth, Texas, area, within the Dallas/Fort Worth Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 21, 1995.

FTZ 168 was approved on November 1, 1990 (Board Order 491, 55 FR 46974, 11/8/90) and reorganized in 1992 and 1994. The zone currently consists of three sites in the Fort Worth, Texas, area:

Site 1 (24 acres)—an industrial area at Alta Mesa and Will Rogers Boulevards, Fort Worth;

Site 2 (263 acres)—within the Centreport Industrial Development, south of DFW International Airport, Fort Worth;

Site 3 (195 acres) within the Fossil Creek Business Park, I–35W and I–820, Fort Worth.

The applicant is now requesting authority to expand the zone to include an additional site (91 acres) at the Regency Business Park (currently under development), located along Post & Paddock Road, Grand Prairie, Texas. The park is owned by Champion Partners, Ltd., and zone services will be provided by the FTZ Operating Company of Texas.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 29, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to February 13, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 1205 Royal Lane, Irving, Texas 75261

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: November 21, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–29267 Filed 11–30–95; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 76–95]

Foreign-Trade Zone 41—Milwaukee, WI; Application To Remove Time Limit Western Publishing Company, Inc. (Children's Books); Milwaukee, Wisconsin Area

A request has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign Trade Zone of Wisconsin, Ltd., grantee of FTZ 41, requesting removal of the time limit contained in Board Order 639 which authorized Western Publishing Company, Inc., to conduct processing activity within FTZ 41, Milwaukee, Wisconsin area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on November 20, 1995.

The FTZ Board authorized Western Publishing Company, Inc., to assemble children's books under zone procedures within FTZ 41 in 1993 subject to a 3-year time limit (Board Order 639, 58 FR 30144, 5/26/93). The activity involves attaching foreign-sourced sound pads to domestically printed children's books.

Zone procedures exempt Western Publishing from the payment of Customs duties on foreign merchandise used in books assembled for export. On its domestic sales, zone procedures allow the company to choose the duty-free rate that applies to books instead of the duty rate that would otherwise apply to sound pads (3.9%). The company states that the removal of the time limit would allow Western Publishing to continue to use zone procedures to maintain the U.S. plant's international competitiveness. In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 29, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to February 13, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Room 596, 517 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, N.W., Washington, DC 20230

Dated: November 21, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–29266 Filed 1130–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–485–804]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Circular Welded Non-Alloy Steel Pipe From Romania

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 30, 1995.

FOR FURTHER INFORMATION CONTACT: John Beck or Magd Zalok, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–3464 or (202) 482–4162, respectively.

THE APPLICABLE STATUTE: Unless otherwise indicated, all citations to the Tariff Act of 1930 (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act.

PRELIMINARY DETERMINATION: Because of the Federal Government shutdown, the deadline for this preliminary determination has been extended by the number of days of the shutdown, six days, to Tuesday, November 21, 1995.

We preliminarily determine that circular welded non-alloy steel pipe (pipe) from Romania is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on May 16, 1995 (60 FR 27078, May 22, 1995), the following events have occurred:

On May 30, 1995, a letter of appearance was filed on behalf of Tepro S.A. (Tepro), a producer of the subject merchandise, as well as Metagrimex S.A. (Metagrimex), Metalexportimport S.A. (Metalexportimport), and Metanef S.A. (Metanef), exporters of the subject merchandise. On June 7, 1995, a cable was sent to the U.S. Embassy in Romania requesting the identification of Romanian producers and exporters of pipe exported to the United States. We received a response on June 13, 1995, identifying the same companies named in the May 30, 1995, letter of appearance.

On June 12, 1995, the United States International Trade Commission (ITC) notified the Department of Commerce (the Department) of its affirmative preliminary determination.

On June 30, 1995, we presented questionnaires to the Romanian Embassy and counsel for Tepro, Metagrimex, Metalexportimport and Metanef. Supplemental questionnaires were issued in August and September 1995. Responses to the original and supplemental questionnaires were received in August, September, and October 1995.

On September 14, 1995, the Department, at the request of the petitioner, postponed the preliminary determination to November 15, 1995 (60 FR 48690, September 20, 1995).

Postponement of Final Determination

Pursuant to section 735(a)(2)(A) of the Act, on November 20, 1995, the respondents requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the date of publication of an affirmative preliminary determination in the **Federal Register**. Pursuant to 19 CFR 353.20(b), because our preliminary determination is affirmative, the respondents account for a significant proportion of exports of the subject merchandise, and no compelling reasons for denial exist, we are granting respondents' request and postponing the final determination.

Scope of Investigation

The following scope language reflects certain modifications from the notice of initiation. In the initiation notice, we indicated that our scope language may change based on any final scope determination regarding the antidumping duty orders on certain circular welded non-alloy steel pipe from Brazil, the Republic of Korea, Mexico, and Venezuela. *See Preliminary Affirmative Determination of Scope Inquiry on Antidumping Duty Orders on Certain Circular Welded Non-Alloy Steel Pipe From Brazil, the Republic of Korea, Mexico, and Venezuela* (59 FR 1929, January 13, 1994). However, the final determination has not yet been made. Consequently, we have modified our scope language in an effort to eliminate the need for use certification at this time.

For purpose of this investigation, circular welded non-alloy steel pipes (standard pipes) are all pipes and tubes, of circular cross-section, not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), end finish (plain end, bevelled end, threaded, or threaded and coupled), or industry specification (ASTM, proprietary, or other) used in standard or structural pipe applications.

The scope specifically includes, but is not limited to, all pipe produced to the ASTM A–53, ASTM A–135, ASTM A–795, and BS–1387 specifications. It also includes any pipe multiple-stencilled or multiple-certified to one of the above-listed specifications and to any other specification. Pipe which meets the above physical parameters and which is produced to proprietary specifications, the API–5L, the API–5L X–42, or to any other non-listed specification is included within the scope of this investigation if used in a standard or structural pipe application, regardless of the *Harmonized Tariff Schedule of the United States* (*HTSUS*) category into which it was classified. If the pipe does not meet any of the above identified specifications, although it is within the identified physical parameters described in the second paragraph of this section, our presumption is that it

is not used in a standard pipe application.

Standard pipe uses include the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may carry liquids at elevated temperatures but may not be subject to the application of external heat. Standard pipe uses also include load-bearing applications in construction and residential and industrial fence systems. Standard pipe uses also include shells for the production of finished conduit and pipe used for the production of scaffolding.

Specifically excluded from this investigation are mechanical tubing, tube and pipe hollows for redrawing, and finished electrical conduit if such products are not certified to ASTM A–53, ASTM A–120, ASTM A–135, ASTM A–795, and BS–1387 specifications and are not used in standard pipe applications. Additionally, pipe meeting the specifications for oil country tubular goods is not covered by the scope of this investigation, unless also certified to a listed standard pipe specification or used in a standard pipe application.

The merchandise under investigation is currently classifiable under items 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90 of the *HTSUS*. Although the *HTSUS* subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Regarding implementation of the use provision of the scope of this investigation, and any order which may be issued in this investigation, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require use certification until such time as petitioner or other interested parties provide the Department with a reasonable basis to believe or suspect that substitution is occurring. Second, we will require use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that pipe produced to the API–5L specification is being used as standard pipe, we will require use certifications for imports of API–5L specification pipe. Third, normally we will require only the importer of record to certify to the use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Period of Investigation

The period of investigation is October 1, 1994, through March 31, 1995.

Nonmarket Economy Country Status

The Department has treated Romania as a nonmarket economy country (NME) in all past antidumping investigations (*see, e.g., Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from Romania* (57 FR 42957, September 17, 1992). Since neither respondents nor petitioners have challenged such treatment, we will continue to treat Romania as a NME in this investigation, in accordance with section 771(18)(C) of the Act.

When the Department is investigating imports from a NME, section 773(c)(1) of the Act directs us to base normal value (NV) on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the NV section, below.

Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) are at a level of economic development comparable to that of the NME country; and (2) are significant producers of comparable merchandise. The Department has determined that Algeria, Colombia, the Dominican Republic, Ecuador, Morocco and Peru are the countries most comparable to Romania in terms of overall economic development (*see* the July 25, 1995, memorandum from David Mueller, Director, Office of Policy, to David L. Binder, Director, Antidumping Investigations Division II). On July 28, 1995, the Department issued a letter allowing all interested parties an opportunity to comment on those countries and to provide the Department with information to value Tepro's factors of production. Responses to that letter were received in September, October and November, 1995. According to the information on the record, we have determined that Colombia is also a significant producer of pipe among these six potential surrogate countries. Accordingly, where possible, we have calculated NV using Colombian prices to value the Romanian producer's factors of production. Where we did not have Colombian values, we used values for inputs from: (1) Thailand, which was the surrogate country in the first investigation of this product from Romania (*see* the *Final Determination of Sales at Less than Fair Value: Circular Welded Non-Alloy Steel Pipe from Romania* (*Steel Pipe I*) (57 FR 42957, September 17, 1992)), when no information was available from any other surrogate countries listed in the July 25, 1995, memorandum referenced above; or (2) U.S. import prices, when no current information was available from: (a) any other surrogate countries listed in the July 25, 1995, memorandum referenced above; or (b) Thailand. For a complete analysis of the selection of the surrogate country, see the November 21, 1995, memorandum from the team to Barbara R. Stafford, Deputy Assistant Secretary for Investigations.

Separate Rates

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test articulated in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) and amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, 22586, May 2, 1994) (*Silicon Carbide*). Under the separate rates criteria, the Department assigns separate cash deposit rates in nonmarket economy cases only if a respondent demonstrates the absence of both *de jure* and *de facto* governmental control over export activities.

The Department typically considers three factors which support, though do not require, a finding of *de jure* absence of central control. These factors include: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; or (3) any other formal measures by the government decentralizing control of companies. The Department typically considers four factors in evaluating whether each

respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (*see Silicon Carbide*).

Regarding the absence of *de jure* control, the three exporters of the subject merchandise, Metagrimex, Metanef and Metalexportimport, have provided their business licenses issued by the Romanian Chamber of Commerce and Industry. According to each of the three exporters, this license does not require renewal, does not impose any limitations on or create any entitlements for the operations of these exporters, and can only be revoked by the issuing authorities if the requirements of the license are not fulfilled. The three exporters have also provided copies of several laws which they claim provide for the elimination of the state monopoly in the economy and foreign trade. We have reviewed these laws and have found no evidence to contradict that claim.

The three exporters have also asserted absence of governmental control based on all the *de facto* criteria. All three respondents have stated that: (1) they establish their own export prices; (2) they negotiate contracts, without guidance from any governmental entities or organizations; and (3) there are no restrictions on the use of their export revenues and they make independent decisions regarding disposition of profits or financing of losses. Concerning autonomy from the government in making decisions regarding the selection of management, both Metagrimex and Metanef have each asserted that their Council of Administration, which selects the management of the company and is similar to a board of directors, is free from government control and the companies are therefore able to make their own management personnel decisions. Metalexportimport has asserted that its five member Council of Administration includes one member appointed by the state ownership fund [1] (SOF) and one member appointed by the private ownership fund [2] (POF). The SOF and POF were created by the Romanian government to help privatize Romanian companies. Therefore, although Metalexportimport's Council of Administration includes one member appointed by the SOF and one member appointed by the POF, the council is made up of five members and, thus, the SOF and POF have a minority representation. There is, therefore, no evidence that the central government controls the selection of management for Metalexportimport. All of these statements will be subject to verification.

Consequently, we preliminarily determine that the information provided by these three companies supports a preliminary finding that there is *de jure* and *de facto* absence of governmental control of export functions. Therefore, these three companies have preliminarily met the criteria for the application of separate rates. For a further discussion of the Department's preliminary determination that these three companies are entitled to separate rates, see the November 13, 1995, memorandum from the team to Gary Taverman, Acting Director, Office of Antidumping Investigations.

Fair Value Comparisons

To determine whether sales of pipe from Romania to the United States by Metagrimex, Metalexportimport and Metanef were made at less than fair value, we compared the Export Price (EP) to the NV, as specified in the "Export Price" and "Normal Value" sections of this notice.

Export Price

For all three exporters, we calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation. The constructed export price under section 772(b) is not otherwise warranted on the basis of the facts of this investigation.

We calculated EP based on packed, FOB Romanian port or C&F U.S. port prices to unaffiliated purchasers in the United States, as appropriate. We made deductions from the starting price, where appropriate, for foreign brokerage and handling, foreign inland freight and ocean freight. Given that foreign brokerage and handling and foreign inland freight were services provided by Romanian companies, we valued these expenses in Thailand (*see* the Surrogate Country section above).

Normal Value

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by Tepro, which produced the pipe for Metagrimex, Metalexportimport and Metanef. To calculate NV, the reported unit factor quantities were multiplied by publicly available Colombian values, where possible. As stated above, we used values from other countries for certain other factors where Colombian values were not available. The selection of the surrogate values applied in this determination was based on the quality and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the period of investigation (POI), we adjusted for inflation using wholesale price indices or, in the case of labor rates, consumer price indices, published in the International Monetary Fund's *International Financial Statistics*.

In presenting their suggestions to the Department on the appropriate values to use in this investigation, Tepro and the petitioners have raised two issues. The first issue involves the quality of steel to be valued. Tepro has stated that it uses secondary, not prime, steel, in producing the subject merchandise. Furthermore, Tepro claimed that the grade of steel it uses is different than that contained in the steel valuation suggestions presented by the petitioners. Thus, Tepro argued that the Department should discount any value it uses to account for the difference between primary and secondary steel. The petitioners refuted Tepro's arguments, claiming that Tepro did not provide sufficient support for its claim that it uses secondary steel in the production of the subject merchandise. The Department agrees with the petitioners and has preliminarily denied Tepro's claim for a discount on the value we have used for steel. This decision was based on: (1) the fact that Tepro's reported scrap rates do not appear to be indicative of a producer who's chief material input is second quality; and (2) the results of a test submitted by the petitioners which showed that the grade of steel used by Tepro is identical to the grade of steel used by U.S. and other world producers of the subject merchandise.

The second issue involves the different sources of information presented to value the steel factor. Both Tepro and the petitioners claimed that the information provided by the other was not appropriate. We have

[1] This fund holds the state—s shares in this company and all other companies in which the state owns shares. The state is required to privatize a certain number of the shares it holds every year until it no longer holds any shares in any company.

[2] This fund possesses the —Certificates of Ownership— which were distributed to all qualified Romanian citizens and will become actual shares of Romanian companies after five years.

determined that the information provided by the petitioners was the most appropriate source since it included prices for a greater range of the steel thicknesses used by Tepro. For a complete analysis of these issues, see the November 21, 1995, memorandum from the team to Barbara R. Stafford, Deputy Assistant Secretary for Investigations.

Valuation of Factors

To value hot rolled steel coil, the major material input, we used a steel price list for sheet and coil sold to industrial users in Colombia published by Acerias Paz del Rio. S.A., a Colombian producer of steel sheet and coil. We were unable to locate Colombian publicly available published information (PAPI) for the other material inputs. Thus, to value saleable steel scrap, we used the same percentage difference between steel coil and steel scrap used in *Steel Pipe I*. For lacquer and marking paint, we used the basket category data for both of these values that were used in *Steel Pipe I*. For zinc, saleable zinc scrap, hydrochloric acid, zinc chloride and ammonium chloride, we used values based on U.S. import statistics (IM 145) from market economy countries for the last quarter of 1994 and the first quarter of 1995. We used U.S. import statistics for these five inputs because values for these factors were not available from the other surrogate countries and these factors were not used in *Steel Pipe I*.

To value unskilled, indirect and packing labor, we used the 1994 wage rate for the manufacturing sector published in the *Economic Guide for Investors* by the Colombian government. Since we cannot determine if the labor values in this case were for skilled or unskilled workers, we are following the method established in the *Preliminary Determination of Sales at Less than Fair Value: Polyvinyl Alcohol from the PRC* (60 FR 52647, October 10, 1995). In that investigation, we found no basis to assume the skill level of the surrogate value, nor did we have agreement among the parties regarding the skill level. Thus, we applied a single wage rate to all reported labor factors. Since we have the same situation here, we also applied a single wage rate to all reported labor factors. Further, because this value was exclusive of benefits, we increased the amount reported to include benefits.

To value electricity, we used electricity rates for Colombian industrial users published quarterly by the Latin America Energy Organization (Organizacion Latinoamericana de Energia, or OLADE). For methane, because we were unable to find a Colombian value, we used the value of natural gas because, according to the petitioners, it has substantially the same end use as methane. Tepro also submitted values for natural gas as well. We based the surrogate value for natural gas on 1992 Colombian prices shown in a 1993 OLADE publication.

For the packing materials of cold rolled strip, PVC foil and thread protectors, because we could find no Colombian PAPI, we used the values in *Steel Pipe I*.

We were unable to locate Colombian PAPI for overhead and selling, general and administrative (SG&A) expenses. Thus, for factory overhead and SG&A expenses, we used the rates used in *Steel Pipe I*. These rates showed overhead as a percentage of materials, exclusive of energy, and SG&A as a percentage of the sum of materials, labor and overhead. For both overhead and SG&A, we are using the percentages for black plain-end pipe as the percentages for galvanized plain end pipe and are using the percentages for black threaded and coupled pipe as the percentages for galvanized threaded and coupled pipe.

We were unable to locate Colombian PAPI for profit. In *Steel Pipe I*, we used eight percent because it was the statutory minimum profit percentage. The statutory minimum profit figure is no longer applicable. We were able to obtain profit information for the pipe industry in Thailand from the *Preliminary Results of the 1992–93 Administrative Review of Pipe and Tube from Thailand (Pipe and Tube from Thailand)*. That review contained public information indicating that the profit for the pipe and tube industry in Thailand is greater than eight percent (*see* the November 28, 1994, memorandum from the case analyst to the file). Thus, we used eight percent as the profit margin in this preliminary determination not because it was formerly the statutory minimum profit figure, but because publicly available information indicates that the profit figure is not less than eight percent. If additional public information becomes available either as a result of the final determination in *Pipe and Tube* from Thailand or otherwise, we will consider that information in our final determination.

We were also unable to locate Colombian PAPI for rail freight and foreign brokerage and handling. Thus, for rail freight, we used the rate contained in *Steel Pipe I*. This information was obtained from *The Investment Environment in Thailand* for 1991. For foreign brokerage and handling, we used the rate contained in the public version of a questionnaire response submitted in the 1994 antidumping duty investigation of *Carbon Steel Butt Weld Pipe Fittings from Thailand*. We used the rate contained in the 1994 investigation because this figure was more recent than the foreign brokerage and handling rate contained in *Steel Pipe I*, which was based on an earlier Carbon Steel Butt Weld Pipe Fittings from Thailand investigation. For a complete analysis of surrogate values used in the calculation of NV, see the November 21, 1995, memorandum from the team to Barbara R. Stafford, Deputy Assistant Secretary for Investigations.

Romania-Wide Rate

The U.S. Embassy in Romania identified what we believe to be the only three Romanian exporters of the subject merchandise to the United States during the POI. This information was confirmed by the Romanian embassy in Washington. All three exporters have responded in this investigation. We compared the respondents' sales data with U.S. import statistics for time periods including the POI and found no indication of unreported sales. Accordingly, we have based the Romania-wide rate on the weighted-average of the margins calculated in this proceeding.

Verification

As provided in section 782(i) of the Act, we will verify all information used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of pipe from Romania, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service will require a cash deposit or posting of a bond equal to the estimated dumping margins by which the normal value exceeds the export price, as shown below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Metagrimex, S.A.	46.12
Metalexportimport, S.A.	41.96
Metanef, S.A.	46.34
Romania-Wide Rate	44.69

The Romania-wide rate applies to all entries of subject merchandise except for entries from exporters that are identified individually above.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than February 27, 1996, and rebuttal briefs, no later than March 5, 1996. A list of authorities used and a summary of arguments made in the briefs should accompany these briefs. Such summary should be limited to five pages total, including footnotes. We will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. At this time, the hearing is scheduled for March 8, 1996, the time and place to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B–099, within ten days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b) oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to section 733(f) of the Act.

Dated: November 21, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–29270 Filed 11–29–95; 8:45 am]

BILLING CODE 3510–DS–P

Determination Not To Revoke Antidumping Duty Orders and Findings Nor To Terminate Suspended Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Determination Not to Revoke Antidumping Duty Orders and Findings Nor to Terminate Suspended Investigations.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty orders and findings nor to terminate the suspended investigations listed below.

EFFECTIVE DATE: November 30, 1995.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 482–4737.

SUPPLEMENTARY INFORMATION: The Department of Commerce (the Department) may revoke an antidumping duty order or finding or terminate a suspended investigation, pursuant to 19 CFR 353.25(d)(4)(iii), if no interested party has requested an administrative review for four consecutive annual anniversary months and no domestic interested party objects to the revocation or requests an administrative review.

We had not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months. Therefore, pursuant to § 353.25(d)(4)(i) of the Department's regulations, on September 29, 1995, we published in the **Federal Register** a notice of intent to revoke these antidumping duty orders and findings and to terminate the suspended investigations and served written notice of the intent to each domestic interested party on the Department's service list in each case. Within the specified time frame, we received objections from domestic interested parties to our intent to revoke these antidumping duty orders and findings and to terminate the suspended investigations. Therefore, because domestic interested parties objected to our intent to revoke or terminate, we no longer intend to revoke these antidumping duty orders and findings or to terminate the suspended investigations.

Antidumping Proceeding

A–588–045

Japan, Steel Wire Rope

Objection Date: October 17, 1995
Objector: Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers
Contact: Davina Hashmi at (202) 482–3813

A–479–801

Yugoslavia, Industrial Nitrocellulose

Objection Date: October 13, 1995
Objector: Hercules Incorporated, Aqualon Division
Contact: Rebecca Trainor at (202) 482–0666

Dated: November 20, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–29265 Filed 11–30–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–791–803]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Circular Welded Non-Alloy Steel Pipe From South Africa

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 30, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Stagner or John Beck, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1673 or (202) 482–3464, respectively.

THE APPLICABLE STATUTE: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act.

PRELIMINARY DETERMINATION: Because of the federal government shutdown, the deadline for this preliminary determination has been extended by the number of days of the shutdown, six days, to Tuesday, November 21, 1995.

We preliminarily determine that circular welded non-alloy steel pipe (pipe) from South Africa is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on May 16, 1995 (60 FR 27078 (May 22, 1995)), the following events have occurred:

On June 12, 1995, the United States International Trade Commission (ITC) notified the Department of Commerce (the Department) of its affirmative preliminary determination.

On June 30, 1995, we presented questionnaires to the South African embassy, counsel for RIH, and Steel Pipe Industries. On July 5, 1995, Steel Pipe Industries informed the Department that it does not export pipe to the United States. Supplemental questionnaires were issued to RIH in August, September, and October 1995. Responses to the original and supplemental questionnaires were received in July through October 1995.

On September 14, 1995, the Department postponed the preliminary determination to November 15, 1995. *See Notice of Postponement of Preliminary Determinations: Antidumping Duty Investigations of Circular Welded Non-Alloy Steel Pipe From Romania and South Africa* (60 FR 48690, September 20, 1995).

Respondent Selection

The producers named in the petition were Brollo Africa, Robor Industrial Holding (Pty) Ltd., Trident Steel, and Tosa; the trading companies named in the petition were Dorbyl, Circle Freight, Extram, Firestone, Hall Longmore Equipment Service, MacSteel, Protea International, and TISCO International.

On June 8, 1995, a cable was sent to the U.S. embassy in South Africa requesting the identification of South African producers and exporters of pipe which was exported to the United States. We received a response to our cable on July 17, 1995, identifying the following additional companies as producers and sellers of the subject merchandise to the United States during the period of the investigation: (1) Bartons Precision (Pty) Ltd.; (2) Bosal Marketing (Pty) Ltd.; (3) Steel Pipe Industries (Pty) Ltd.; and (4) Trident Sterling Tube.

Based on the petition and information contained in *Iron and Steel Works of the World* (1994), we determined to send questionnaires to Brollo Africa, Robor Industrial Holdings, Steel Pipe Industries, and Tosa. At the time of that determination, we had not received a response from the U.S. Embassy in South Africa, but indicated that we were running a data inquiry with the U.S. Customs database. *See* Memorandum to the file regarding the appropriate questionnaire recipients, dated June 30, 1995. Based on the U.S. Customs database and pursuant to section 777A(c)(2)(B) of the Act, we found that we had sent questionnaires to the exporters and producers accounting for the largest volume of exports of the subject merchandise from South Africa that could be reasonably examined. Thus, we did not send any additional questionnaires.

Postponement of Final Determination

Pursuant to section 735(a)(2)(A) of the Act, on October 24, 1995, the respondents requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 60 days after the date of the scheduled final determination, which is equivalent to 135 days after the publication of an affirmative preliminary determination in the **Federal Register**. In accordance with 19 CFR 353.20(b), because our preliminary determination is affirmative, the respondents account for a significant proportion of exports of the subject merchandise, and no compelling reasons for denial exist, we are granting respondents' request and postponing the final determination.

Scope of Investigation

The following scope language reflects certain modifications from the notice of initiation. In the initiation notice, we indicated that our scope language may change based on any final scope determination regarding the antidumping duty orders on certain circular welded non-alloy steel pipe from Brazil, the Republic of Korea, Mexico and Venezuela. *See Preliminary Affirmative Determination of Scope Inquiry on Antidumping Duty Orders on Certain Circular Welded Non-Alloy Steel Pipe From Brazil, the Republic of Korea, Mexico, and Venezuela* (59 FR 1929, January 13, 1994). However, the final determination has not yet been made. Consequently, we have modified our scope language in an effort to eliminate the need for use certification at this time.

For purpose of this investigation, circular welded non-alloy steel pipes (standard pipes) are all pipes and tubes, of circular cross-section, not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), end finish (plain end, bevelled end, threaded, or threaded and coupled), or industry specification (ASTM, proprietary, or other) used in standard or structural pipe applications.

The scope specifically includes, but is not limited to, all pipe produced to the ASTM A–53, ASTM A–135, ASTM A–795, and BS–1387 specifications. It also includes any pipe multiple-stencilled or multiple-certified to one of the above-listed specifications and to any other specification. Pipe which meets the above physical parameters and which is produced to proprietary specifications, the API–5L, the API–5L X–42, or to any other non-listed specification is included within the scope of this investigation if used in a standard or structural pipe application, regardless of the *Harmonized Tariff Schedule of the United States* (*HTSUS*) category into which it was classified. If the pipe does not meet any of the above identified specifications, although it is within the identified physical parameters described in the second paragraph of this section, our presumption is that it is not used in a standard pipe application.

Standard pipe uses include the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may carry liquids at elevated temperatures but may not be subject to the application of external heat. Standard pipe uses also include load-bearing applications in construction and residential and industrial fence systems. Standard pipe uses also include shells for the production of finished conduit and pipe used for the production of scaffolding.

Specifically excluded from this investigation are mechanical tubing, tube and pipe hollows for redrawing, and finished electrical conduit if such products are not certified to ASTM A–53, ASTM A–120, ASTM A–135, ASTM A–795, and BS–1387 specifications and are not used in standard pipe applications. Additionally, pipe meeting the specifications for oil country tubular goods is not covered by the scope of this investigation, unless also certified to a listed standard pipe specification or used in a standard pipe application.

The merchandise under investigation is currently classifiable under items 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90 of the *HTSUS*. Although the *HTSUS* subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Regarding implementation of the use provision of the scope of this investigation, and any order which may be issued in this investigation, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require use certification until such time as petitioner or other interested parties provide the Department with a reasonable basis to believe or suspect that substitution is occurring. Second, we will require use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that pipe produced to the API–5L specification is being used as standard pipe, we will require use certifications for imports of API–5L specification pipe. Third, normally we will require only the importer of record to certify to the use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Period of Investigation

The period of investigation (POI) is April 1, 1994, through March 31, 1995.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products sold in the home market, fitting the description specified in the "Scope of Investigation" section above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the Department's antidumping questionnaire.

RIH claimed that it sells to customers at two levels of trade in the home market: distributors and end-users/fabricators. However, RIH reported that there are no differences in the selling functions it performed for the different customers. Thus, based on the absence of distinct levels of trade, we did not make any distinctions between levels of trade in our comparisons.

Fair Value Comparisons

To determine whether RIH's sales of pipe to the United States were made at less than fair value, we compared Export Price (EP) to the Normal Value (NV), as specified below.

Export Price

We calculated EP, in accordance with section 772(a) of the Act, because the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation, and Constructed Export Price (CEP) under section 772(b) is not otherwise warranted based on the facts of this investigation.

We based EP on packed, FOB Port (U.S. or Durban, South Africa) prices to unaffiliated customers in the United States. We made deductions from the starting price (gross unit price), where appropriate, for the following charges: inland freight in South Africa; international freight; marine insurance; and brokerage and handling.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of RIH's home market sales of the subject merchandise to the volume of RIH's U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Since RIH's aggregate volume of home market sales of the subject merchandise was greater than five percent of its aggregate volume of U.S. sales for the foreign like product, we determined that the home market was viable. Therefore, we have based NV on home market sales.

We based NV on FOB factory, delivered, or collected prices to unaffiliated customers, or prices to affiliated customers which were determined to be at arm's length (*see* discussion below regarding these sales). We made deductions from the starting price for freight, discounts, and rebates, and post-sale billing corrections. For certain sales, we added freight revenue to the gross unit price. In accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs.

In addition, we adjusted for differences in the circumstances of sale, in accordance with section 773(a)(6)(C)(iii). These circumstances included differences in imputed credit expenses and commissions. We instructed RIH to report a sample of actual payment dates for purposes of calculating credit expenses. Based on this sample, we have calculated a weighted-average credit period to be used for those sales without actual payment days. We then calculated credit expenses for all home market sales using a POI-average interest rate.

RIH requested that we make a circumstance-of-sale adjustment for rebates it receives from its steel suppliers for exported pipe. As stated in *Final Results of Antidumping Duty Administrative Review; Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan* (56 FR 26382, June 7, 1991) (*Tubing from Taiwan*), we will not make circumstance of sale adjustments to account for differences in production costs. In *Tubing from Taiwan*, the Department denied a circumstance of sale adjustment for the same type of rebate involved here. Although the rebate was paid on export, we found it to be a delayed price adjustment on raw materials used in the production of the exported merchandise. Thus, the rebate involved a difference in production costs, not a difference in circumstances of sales, between the exported and domestically consumed product. Similarly, as the rebate received by RIH does not reflect a difference in the circumstances of sales, we have made no adjustment for these rebates.

RIH paid commissions on some U.S. sales, but paid no commissions on any home market sales. Thus, we deducted the lesser of either (1) the amount of the weighted-average commission paid on the U.S. sales of a product; or (2) the sum of the weighted average indirect selling expenses paid on the home market sales, and then added the weighted-averaged amount of the commission paid on the U.S. sales to NV in accordance with 19 CFR 353.56(b)(1).

RIH reported that its sales to its affiliated resellers are made at arm's length. In our October 13, 1995, supplemental questionnaire, we instructed RIH to report all sales to the final customer, rather than to its affiliated resellers. In its questionnaire response, RIH stated that it was too burdensome to report this information due to the difficulties involved in tracing these sales to the first unaffiliated customer.

For purposes of the preliminary determination, we have accepted RIH's argument regarding this burden. RIH has not, however, adequately demonstrated

that the sales to the first unaffiliated customer would not provide appropriate matches to U.S. sales for reasons of differences in product characteristics, differences in level of trade, or other criteria relevant to our analysis. Therefore, for purposes of our final determination, we believe it is appropriate to require further reporting of the sales to the first unaffiliated customer unless RIH can provide additional reasoning to show that these sales are not appropriate to use in our analysis. Thus, we will send an additional questionnaire regarding these sales to RIH.

Accordingly, for purposes of the preliminary determination, we have included only those sales to affiliated parties that passed the arm's length test. *See* 19 CFR 353.45(a). To test whether these sales were made at arm's length, we compared the gross unit prices of sales to affiliated and unaffiliated customers net of all movement charges, direct and indirect selling expenses, and packing. *See Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Carbon Steel Flat Products from Argentina* (58 FR 37062, 37077, July 9, 1993).

Comparison Methodology

In accordance with section 777A(d)(1)(A)(i), we calculated weighted-average EPs for comparisons to weighted average NVs. The weighted-averages were calculated and compared by product characteristics.

Currency Conversion

For the purpose of the preliminary determination, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. We were unable to obtain the official daily exchange rates as certified by the Federal Reserve Bank of Chicago, according to section 773A(a) of the Act, in time to use for the preliminary determination. However, we are expecting to receive these rates in time to use for the final determination.

Verification

As provided in section 782(i) of the Act, we will verify all information used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of circular welded non-alloy steel pipe from South Africa, that are entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service will require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the export price as shown below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
RIH Group, including Brollo Africa and Tosa	135.36
All Others	135.36

The all others rate applies to all entries of subject merchandise except for entries of merchandise produced by RIH Group and its divisions: Brollo Africa and Tosa.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than February 27, 1996, and rebuttal briefs, no later than March 5, 1996. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with 19 CFR 353.38, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on March 8, 1996, time and place to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B–099, within ten days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to section 733(f) of the Act.

Dated: November 21, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–29269 Filed 11–29–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–122–823]

Certain Cut-to-Length Carbon Steel Plate From Canada: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation and preliminary results of changed circumstances antidumping duty administrative review, and intent to revoke order in part.

SUMMARY: In response to a request from Sidbec-Dosco Inc., (Sidbec-Dosco) and Canberra Industries, Inc., (Canberra), the Department of Commerce (the Department) is initiating a changed circumstances antidumping duty administrative review and issuing a preliminary intent to revoke in part the antidumping duty order on certain cut-to-length carbon steel plate from Canada, the scope of which currently includes Cobalt 60 free cut-to-length carbon steel plate. *See Antidumping Duty Orders: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada*, 58 FR 44162 (August 19, 1993). Sidbec-Dosco and Canberra requested that the Department revoke the order in part as to imports of cut-to-length carbon steel plate free of Cobalt-60 and other radioactive nuclides (Cobalt-60 free carbon steel plate) from Canada. Based on the fact that Bethlehem Steel Corporation, Inland Steel Industries, Inc., and U.S. Steel Group, a unit of USX Corporation, (the petitioners) have expressed no interest in the importation or sale of Cobalt-60 free cut-to-length carbon steel plate produced in Canada, we intend to partially revoke this order.

EFFECTIVE DATE: November 30, 1995.

FOR FURTHER INFORMATION CONTACT: Ron Trentham or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On November 3, 1995, Sidbec-Dosco and Canberra requested that the Department conduct a changed circumstances administrative review to determine whether to partially revoke the order with regard to Cobalt 60 free cut-to-length carbon steel plate. The order with regard to imports of other cut-to-length carbon steel plate is not affected by this request. In addition, on November 13, 1995, the petitioners informed the Department in writing that they do not object to the changed circumstances review and have no interest in the importation or sale of Cobalt 60 free cut-to-length carbon steel plate produced in Canada.

Scope of Review

The antidumping duty order on certain cut-to-length carbon steel plate from Canada covers hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in these investigations are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")—for example, products which have been bevelled or rounded at the edges. Excluded from these investigations is grade X–70 plates. HTS item numbers are provided for convenience and for Customs purposes. The written description remains dispositive. The preceding description of the steel plate products covered by this order is included in *Appendix 1 to the Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062 (July 9, 1993).

The merchandise covered by this changed circumstances review includes cut-to-length carbon steel plate meeting the following criteria: (1) 100% dry steel plates, virgin steel, no scrap content (free of Cobalt-60 and other radioactive nuclides); (2) .290 inches maximum thickness, plus 0.0, minus .030 inches; (3) 48.00 inch wide, plus .05, minus 0.0 inches; (4) 10 foot lengths, plus 0.5, minus 0.0 inches; (5) flatness, plus/minus 0.5 inch over 10 feet; (6) AISI 1006; (7) tension leveled; (8) pickled and oiled; and (9) carbon content, .03 to.08 (max).

This changed circumstance administrative review covers all manufacturers/exporters of Cobalt 60 free cut-to-length carbon steel plate from Canada.

Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order in Part

Pursuant to section 751(d) of the Tariff Act of 1930, as amended (the Act), the Department may partially revoke an antidumping duty order based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances administrative review to be conducted upon receipt of a request containing sufficient information concerning changed circumstances.

The Department's regulations at 19 CFR 353.25(d)(2) permit the Department to conduct a changed circumstances administrative review under section 353.22(f) based upon an affirmative statement of no interest from the petitioner in the proceeding. Section 782(h) of the Act and Section 353.25(d)(1)(i) of the Department's regulations further provide that the Department may revoke an order or revoke an order in part if it determines that the order under review is no longer of interest to interested parties. In addition, in the event that the Department concludes that expedited action is warranted, section 353.22(f)(4) of the regulations permits the Department to combine the notices of initiation and preliminary results.

Therefore, in accordance with sections 751(d) and 782(h) of the Act and 19 CFR 353.25(d) and 353.22(f), based on an affirmative statement of no interest in the proceeding by petitioners, we are initiating this changed circumstances administrative review. Further, based on the representation made by the petitioners that other U.S. producers and potential producers of this merchandise have no interest in the order regarding Cobalt 60 free cut-to-length carbon steel plate from Canada, we have determined that expedited action is warranted, and we have preliminarily determined that there are changed circumstances sufficient to warrant revocation of the order regarding Cobalt 60 free cut-to-length carbon steel plate from Canada. Because we have concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results. Therefore, we are hereby notifying the public of our intent to revoke in part the antidumping duty order as to imports of Cobalt 60 free cut-to-length carbon steel plate from Canada.

If final revocation in part occurs, we intend to instruct the U.S. Customs Service (Customs) to liquidate without regard to antidumping duties and to refund any estimated antidumping duties collected for all unliquidated entries of Cobalt-60 free cut-to-length carbon steel plate from Canada made on or after the effective date of partial revocation, in accordance with 19 CFR 353.25(d)(5). We will also instruct Customs to refund interest for entries made on or after August 1, 1995, in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this changed circumstances review.

Public Comment

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held no later than 28 days after the date of publication of this notice, or the first workday thereafter. Case briefs and/or written comments from interested

parties may be submitted not later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed not later than 21 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 353.31(e) and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 353.31(g). Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments.

This notice is in accordance with sections 751 (b)(1) and (c) of the Act and section 353.22(a)(5), 353.22(f), and 353.25(d) of the Department's regulations.

Dated: November 20, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–29271 Filed 11–29–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–122–804; C–122–805]

New Steel Rail, Except Light Rail, From Canada: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty and Countervailing Duty Administrative Reviews, and Intent To Revoke Orders in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation and preliminary results of changed circumstances antidumping duty and countervailing duty administrative reviews, and intent to revoke orders in part.

SUMMARY: In response to a request from Cleveland Track Materials, Inc., an interested party in these proceedings in accordance with §§ 353.2(k) and 355.2(i) of our regulations, and a railway trackwork fabricator which imports 100 ARA (Association of American Railroads)—A steel rail, the Department of Commerce (the Department) is initiating changed circumstances antidumping duty and countervailing duty administrative reviews and issuing an intent to revoke in part the antidumping duty and countervailing duty orders on new steel rail, except light rail, from Canada, the scope of which currently include new steel rail at least 60 pounds per yard or heavier. Cleveland Track Material, Inc. requested that the Department revoke the orders in part as to imports of new steel rail of 100 pounds per yard (100ARA–A). Cleveland Track Material, Inc. also requested that this partial revocation of 100 ARA–A steel rail be retroactive to August 1, 1994. Bethlehem Steel Corp., petitioners in this case, have submitted a letter indicating they have no objection to the initiation of these changed circumstances reviews and no interest in maintaining the antidumping duty and countervailing duty orders on 100ARA–A steel rail from Canada. Based on the fact that this portion of these orders is no longer of interest to domestic parties, we intend to partially revoke these orders.

EFFECTIVE DATE: November 30, 1995.

FOR FURTHER INFORMATION CONTACT: Roy F. Unger, Jr., Office of Antidumping Compliance or Robert Copyak, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0651 and (202) 482–2209, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 3, 1989, the Department published the final determination in the less-than-fair-value (LTFV) investigation (54 FR 31984), which covered new steel rail 60 pounds per yard and heavier. The Department published an antidumping duty order on new steel rail, except light rail, on September 15, 1989 (54 FR 38263). The Department published a countervailing duty order on new steel rail, except light rail, on September 22, 1989 (54 FR 39032).

On October 20, 1995, Cleveland Track Material, Inc. requested that the Department conduct changed circumstances administrative reviews to determine whether to partially revoke the orders with regard to 100ARA–A new steel rail. The orders with regard to imports of new steel rail other than 100ARA–A are not affected by this request. In addition, the petitioners informed the Department that they have canvassed interested parties known to them to be actively involved in the production of 100ARA–A steel rail in the United States, and did not find any opposition to the revocation of the orders with regard to 100ARA–A steel rail. Furthermore, Cleveland Track Material, Inc. requested that the partial revocation on 100ARA–A steel rail be effective retroactive to August 1, 1994.

Scope of Review

The merchandise covered by these changed circumstances reviews are imports of 100ARA–A new steel rail, except light rail, whether of carbon, high carbon, alloy or other quality steel, and includes standard rails, all main line sections, heat-treated or head-hardened (premium) rails, transit rails, contact rail (or "third rail") and crane rails. This merchandise is currently classified under subheadings 7302.10.1020, 7302.10.1040, 7302.10.5000, and 8548.00.0000 of the Harmonized Tariff Schedule (HTS). The HTS numbers are provided for convenience and Customs purposes. The written description of the scope of these reviews remains dispositive.

These changed circumstances administrative reviews cover all manufacturers/exporters of 100 ARA–A steel rail, except light rail, from Canada.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act.

Initiation and Preliminary Results of Changed Circumstances Antidumping Duty and Countervailing Duty Administrative Reviews, and Intent to Revoke Orders in Part

Pursuant to section 751(d)(1) and 782(h)(2) of the Act, the Department may partially revoke an antidumping or countervailing duty order based on a review under section 751(b) of the Act (i.e., a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances administrative review to be conducted upon receipt of a request containing sufficient information concerning changed circumstances.

The Department's regulations at 19 CFR 353.25(d)(2) and 355.25(d)(2) permit the Department to conduct changed circumstances administrative reviews under section 353.22(f) and 355.22(h), respectively, based upon an affirmative statement of no interest from the petitioner in the proceeding. Sections 353.25(d)(1)(i) and 355.25(d)(1)(i) further provide that the Department may revoke an order or revoke an order in part if it determines that the order under review is no longer of interest to interested parties. In addition, in the event that the Department concludes that expedited action is warranted, sections 353.22(f)(4) and 355.22(h)(4) of the regulations permit the Department to combine the notices of initiation and preliminary results.

Therefore, in accordance with sections 751(d)(1) and 782(h)(2) of the Act and 19 CFR 353.25(d), 353.22(f), 355.25(d), and 355.22(h) based on affirmative statements of no interest in the proceedings by Bethlehem Steel, we are initiating these changed circumstances administrative reviews. Further, based on the representation made by the petitioners that other U.S. producers and potential producers of this merchandise have no interest in the orders regarding 100ARA–A steel rail, we have determined that expedited action is warranted, and we have preliminarily determined that the orders regarding 100ARA–A steel rail no longer are of interest to domestic interested parties. Because we have concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results. Therefore, we are hereby notifying the public of our intent to revoke in part the antidumping and countervailing duty orders as to imports of 100ARA–A new steel rail from Canada.

In the event that these revocations in part become final, the effective date of the revocations will be August 1, 1994.

If final revocation in part occurs, we intend to instruct the U.S. Customs Service (Customs) to liquidate without regard to antidumping or countervailing duties and to refund any estimated antidumping and countervailing duties collected for all unliquidated entries of subject merchandise made on or after the effective date of partial revocation, in accordance with 19 CFR 353.25(d)(5) and 355.25(d)(5). We will also instruct Customs to refund interest for entries made on or after August 1, 1994, in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping and countervailing duties will continue until publication of the final results of these changed circumstances reviews.

Public Comment

Parties to the proceedings may request disclosure within 5 days of the date of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held no later than 28 days after the date of publication of this notice, or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed not later than 21 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 353.31(e) and 355.31(e) and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 353.31(g) and 355.31(g). Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish the final results of these changed circumstances reviews, including the results of its analysis of issues raised in any written comments.

This notice is in accordance with sections 751(b)(1) of the Act and sections 353.22(f), 353.25(d), 355.22(h), and 355.25(d) of the Department's regulations.

Dated: November 20, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–29264 Filed 11–29–95; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

[Notice 2]

National Fire Codes: Request for Proposals for Revision of Standards

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of request for proposals.

SUMMARY: The National Fire Protection Association (NFPA) proposes to revise some of its fire safety standards and requests proposals from the public to amend existing NFPA fire safety standards. The purpose of this request is to increase public participation in the system used by NFPA to develop its standards. The publication of this notice of request for proposals by the National Institute of Standards and Technology (NIST) on behalf of NFPA is undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Interested persons may submit proposals on or before the dates listed with the standards.

ADDRESS: Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269–9101.

FOR FURTHER INFORMATION CONTACT: Arthur E. Cote, P.E., Secretary, Standards Council, at above address, (617) 770–3000.

SUPPLEMENTARY INFORMATION:

Background

The National Fire Protection Association (NFPA) develops fire safety standards which are known collectively as the National Fire Codes. Federal agencies frequently use these standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Request for Proposals

Interested persons may submit amendments, supported by written data, views, or arguments to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269–9101. Proposals should be submitted on forms available from the NFPA Standards Administration Office.

Each person must include his or her name and address, identify the document and give reasons for the proposal. Proposals received before or by 5 pm local time on the closing date indicated will be acted on by the Committee. The NFPA will consider any proposal that it receives on or before the date listed with the standard.

At a later date, each NFPA Technical Committee will issue a Report on Proposals which will include a copy of written proposals that have been received and an account of their disposition by the Technical Committee. Each person who has submitted a written proposal will receive a copy of the report.

Authority: 15 U.S.C. 272.

Dated: November 22, 1995.

Samuel Kramer,

Associate Director.

NFPA No., date	Title	Proposal closing
NFPA 10R–1992	Portable Fire Extinguishing Equipment in Family Dwellings and Living Units	1/19/96
NFPA 11–1994	Low-Expansion Foam	1/16/96
NFPA 12–1993	Carbon Dioxide Extinguishing Systems	1/19/96

NFPA No., date	Title	Proposal closing
NFPA 12A–1992	Halon 1301 Fire Extinguishing Systems	1/19/96
NFPA 17–1994	Dry Chemical Extinguishing Systems	7/19/96
NFPA 17A–1994	Wet Chemical Extinguishing Systems	7/19/96
NFPA 25–1995	Water-Based Fire Protection Systems	7/19/96
NFPA 30B–1994	Aerosol Products	8/1/96
NFPA 33–1995	Spray Application Using Flammable and Combustible Materials	8/1/97
NFPA 34–1995	Dipping and Coating Processes Using Flammable or Combustible Liquids	8/1/97
NFPA 35–1995	Manufacture of Organic Coatings	12/31/96
NFPA 40–1994	Cellulose Nitrate Motion Picture Film	1/19/96
NFPA 40E–1993	Pyroxylin Plastic	1/19/96
NFPA 43B–1993	Organic Peroxide Formulations	1/19/96
NFPA 43D–1994	Pesticides	1/17/97
NFPA 65–1993	Processing and Finishing of Aluminum	1/17/97
NFPA 68–1994	Venting of Deflagrations	7/19/96
NFPA 77–1993	Static Electricity	8/1/96
NFPA 79–1994	Electrical Standard for Industrial Machinery	1/19/96
NFPA 88B–1991	Repair Garages	1/19/96
NFPA 91–1995	Exhaust Systems for Air Conveying of Materials	7/19/96
NFPA 101A–1995	Alternative Approaches to Life Safety	4/12/96
NFPA 102–1995	Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures	3/29/96
NFPA 105–1993	Smoke-Control Door Assemblies	1/17/97
NFPA 130–1995	Fixed Guideway Transit Systems	1/19/96
NFPA 220–1995	Types of Building Construction	1/19/96
NFPA 221–1994	Fire Walls and Fire Barrier Walls	1/19/96
NFPA 258–1994	Determining Smoke Generation of Solid Materials	1/19/96
NFPA 270–P*	Determination of Specific Optical Density of Smoke	1/19/96
NFPA 273–P*	Determining Degrees of Combustibility of Building Materials	2/29/96
NFPA 299–1991	Protection of Life and Property From Wildfire	2/29/96
NFPA 301–P*	Safety to Life From Fire on Merchant Vessels	1/19/96
NFPA 302–1994	Pleasure and Commercial Motor Craft	1/17/97
NFPA 306–1993	Control of Gas Hazards on Vessels	1/19/96
NFPA 328–1992	Flammable and Combustible Liquids and Gases in Manholes, Sewers, and Similar Underground Structures.	1/19/96
NFPA 329–1992	Underground Releases of Flammable and Combustible Liquids	1/19/96
NFPA 430–1995	Liquid and Solid Oxidizers	1/17/97
NFPA 480–1993	Magnesium Solids and Powders	1/17/97
NFPA 490–1993	Ammonium Nitrate	1/19/96
NFPA 491M–1991	Hazardous Chemical Reactions	1/19/96
NFPA 497A–1992	Classification of Class I Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas.	1/19/96
NFPA 497B–1991	Classification of Class II Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas.	1/19/96
NFPA 497M–1991	Classification of Gases, Vapors, and Dusts for Electrical Equipment in Hazardous (Classified) Locations	1/19/96
NFPA 501–P*	Manufactured Dwelling Code	2/29/96
NFPA 501A–1992	Manufactured Home Installations, Sites, and Communities	2/29/96
NFPA 651–1993	Aluminum Powder	1/17/97
NFPA 655–1993	Sulfur Fires and Explosions	1/17/97
NFPA 705–1993	Field Flame Test for Textiles and Films	1/19/96
NFPA 720–P*	Household Carbon Monoxide (CO) Warning Equipment	1/19/96
NFPA 721–P*	Fuel Gas Warning Equipment	1/19/96
NFPA 780–1995	Lightning Protection Systems	1/19/96
NFPA 802–1993	Nuclear Research and Production Reactors	7/19/96
NFPA 803–1993	Fire Protection for Light Water Nuclear Power Plants	7/19/96
NFPA 910–1991	Protection of Libraries and Library Collections	3/15/96
NFPA 911–1991	Protection of Museums and Museum Collections	3/15/96
NFPA 912–1993	Fire Protection in Places of Worship	3/15/96
NFPA 914–1994	Historic Structures	3/15/96
NFPA 921–1995	Fire and Explosion Investigations	7/19/96
NFPA 1021–1992	Fire Officer Professional Qualifications	1/19/96
NFPA 1122–1994	Code for Model Rocketry	1/19/96
NFPA 1500–1992	Fire Department Occupational Safety and Health Program	1/19/96
NFPA 1521–1992	Fire Department Safety Officer	1/19/96
NFPA 1977–1993	Protective Clothing and Equipment for Wildland Fire Fighting	8/30/95
NFPA 1982–1993	Personal Alert Safety Systems (PASS) for Fire Fighters	7/5/96
NFPA 8501–1992	Single Burner Boiler Operation	1/17/96
NFPA 8503–1992	Pulverized Fuel Systems	1/17/96
NFPA 8505–1992	Stoker Operation	1/17/96
NFPA 8506–1995	Heat Recovery Steam Generators	1/17/97

* Proposed NEW drafts are available from the NFPA Standards Administration Department, 1 Batterymarch Park, Quincy, MA 02269.

[FR Doc. 95–29214 Filed 11–29–95; 8:45 am]
BILLING CODE 3510–13–M

[Notice 1]

National Fire Codes: Request for Comments on NFPA Technical Committee Reports

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of request comments.

SUMMARY: The National Fire Protection Association (NFPA) revises existing standards and adopts new standards twice a year. At its Fall Meeting in November or its Annual Meeting in May, the NFPA acts on recommendations made by its technical committees.

The purpose of this notice is to request comments on the technical reports which will be presented at NFPA's 1996 Fall Meeting. The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of NFPA is undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Nineteen reports are published in the 1996 Fall Meeting Report on Proposals and will be available on February 2, 1996. Comments received on or before April 12, 1996 will be considered by the respective NFPA Committees before final action is taken on the proposals.

ADDRESSES: The 1996 Fall Meeting Report on Proposals is available from NFPA, Publications Department, 1 Batterymarch Park, PO Box 9101, Quincy, Massachusetts 02269–9101. Comments on the reports should be submitted to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, PO Box 9101, Quincy, Massachusetts 02269–9101.

FOR FURTHER INFORMATION CONTACT: Arthur E. Cote, P.E., Secretary, Standards Council, at above address, (617) 770–3000.

SUPPLEMENTARY INFORMATION:

Background

Standards developed by the technical committees of the National Fire Protection Association (NFPA) have been used by various Federal Agencies as the basis for Federal regulations concerning fire safety. The NFPA standards are known collectively as the National Fire Codes. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Revisions of existing standards and adoption of new standards are reported by the technical committees at the NFPA's Fall Meeting in November or at the Annual Meeting in May each year. The NFPA invites public comment on its Report on Proposals.

Request for Comments

Interested persons may participate in revision of NFPA Standards by submitting written data, views, or arguments to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, PO Box 9101, Quincy, Massachusetts 02269–9101. Commenters may use the forms provided for comments in the 1990 Fall Meeting Reports on Proposals. Each person submitting a comment should include his or her name and address, identify the notice, and give reasons for any recommendations. Comments received on or before 1996 will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the 1996 Fall Meeting Report on Comments by September 27, 1996, prior to the Fall Meeting.

A copy of the Report on Comments will be sent automatically to each commenter. Action on the reports of the Technical Committees (adoption or rejection) will be taken at the Fall Meeting, November 18–20, 1996 in Nashville, Tennessee, by NFPA members.

Authority: 15 U.S.C. 272.

Dated: November 20, 1995.

Samuel Kramer,

Associate Director.

1996 Fall Meeting Report on Proposals

[P = Partial revision; W = Withdrawal; R = Reconfirmation; N = New; C = Complete Revision]

Doc. No.	Title	Action
NFPA 1	Fire Prevention Code.	C
NFPA 31	Oil-Burning Equipment.	P
NFPA 36	Solvent Extraction Plants.	P
NFPA 51	Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes.	P
NFPA 69	Explosion Prevention Systems.	C

1996 Fall Meeting Report on Proposals—Continued

[P = Partial revision; W = Withdrawal; R = Reconfirmation; N = New; C = Complete Revision]

Doc. No.	Title	Action
NFPA 96	Ventilation Control and Fire Protection of Commercial Cooking Operations.	P
NFPA 101	Safety to Life from Fire in Buildings and Structures.	P
NFPA 415	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways (Incorporating NFPA 416 and NFPA 417).	C
NFPA 471	Responding to Hazardous Materials Incidents.	P
NFPA 472	Professional Competence of Responders to Hazardous Materials Incidents.	C
NFPA 473	EMS Personnel Responding to Hazardous Materials Incidents.	P
NFPA 902M	Fire Reporting Field Incident Manual.	C
NFPA 1402	Building Fire Service Training Centers.	P
NFPA 1403	Live Fire Training Evolutions (Incorporating NFPA 1406).	C
NFPA 1451	Fire Service Vehicle Risk Management Program.	N
NFPA 1961	Fire Hose	R

[FR Doc. 95–28853 Filed 11–29–95; 8:45 am]
BILLING CODE 3510–13–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 28 November 1995.

Time of Meeting: 1000–1600.
Place: Pentagon—Washington, DC.
Agenda: The Army Science Board's Ad Hoc Study on "Reengineering the Acquisition and Modernization Processes of the Institutional Army" will meet to discuss the current status of Army Modernization and to discuss plans to reengineer the Acquisition and Modernization process. Discussion will include the current shortfalls in modernization and the attendant vulnerabilities to the U.S. Army. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of this meeting. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,
Acting Administrative Officer, Army Science Board.

[FR Doc. 95–29209 Filed 11–29–95; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Providing Environmental Oversite and Monitoring at the INEL

AGENCY: Department of Energy, Idaho Operations Office.
ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy (DOE) intends to negotiate and award on a noncompetitive basis Grant No. DE–FG07–96ID13373 to the State of Idaho, Department of Health and Welfare (Recipient). The award has an estimated overall total value of $15,000,000, of which DOE's share will be 100%. The award will allow the Recipient to ensure the DOE operations are fully accountable in the areas of environmental protection, public health, and safety. The State and DOE entered into an agreement in principle to assure the citizens of Idaho that health, safety, and the environment are being protected through DOE and State actions. This grant will provide funding to the State by DOE to carry out various environmental oversight and monitoring activities. A similar past agreement was very successful; therefore, DOE and Idaho determined to enter into a similar agreement for another five years.

FOR FURTHER INFORMATION CONTACT: Marshall C. Garr, Contract Specialist, (208) 526–1536, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Mail Stop 1221, Idaho Falls, Idaho 83401–1563.

SUPPLEMENTARY INFORMATION: It is anticipated that the award will provide the benefit of building public confidence in DOE programs through the State's independent evaluation of DOE's environmental and waste management programs. The work anticipated under this new award is expected to have a continued impact towards meeting this benefit. The non-competitive award justification is Criteria (C) of 10 CFR 600.7(b)(2)(i), as follows:

(C) The applicant is a unit of government and the activity to be supported is related to performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity.

The statutory authorities for the proposed award are Sections 102(11) and 102(13) of the Department of Energy Organization Act (42 U.S.C. 7112(11) and 7112(13)).

Procurement Request Number: 07–96ID13373.000.

Dated: November 21, 1995.

R. Jeffrey Hoyles,
Director, Procurement Services Division.

[FR Doc. 95–29254 Filed 11–29–95; 8:45 am]
BILLING CODE 6450–01–P

Chicago Operations Office; Award Based on Acceptance of an Unsolicited Application

AGENCY: U.S. Department of Energy.
ACTION: Notice of financial assistance award in response to an unsolicited financial assistance application.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.14(e), it plans to negotiate and award Grant Number DE–FG02–96CH10851 to the Institute of Regulatory Science

SUPPLEMENTARY INFORMATION: The anticipated objective of the award is to provide for the application of "Best Available Science" (BAS) to the reevaluation of assessment methods based on scientific knowledge rather than opinions or value judgements. This proposal provides for a unique approach to choose the best available scientific information in that it suggests a clear separation of science from societal goals to enhance the accuracy of estimating environmental risks in an attempt to limit costly adverse effects. These goals will provide scientifically based data for others to utilize in pursuing environmental issues in the educational arena and provide the general public as well as the professional societies, knowledge of how risk factors were determined by making consensus reports more accessible. This proposal provides a public service by providing the public with the best and most accurate scientific information with respect to utilizing the Best Available Science. DOE's Office of Environmental Management believes that there is a high probability of achieving the objectives.

The public is greatly served if environmental decisions would be based on BAS. It is the belief of the grantee that objectively computed risks will be somewhat lower than those based upon societal objectives. The lower the risk, the smaller the costs for adverse effects caused within the human health and environmental areas. It is likely that if this approach is successful the cost of environmental protection would be significantly reduced. Consequently, a higher level of environmental protection could be achieved by the current level of funding.

Additional benefits of this project are enhancement of public and university education and expand the availability of relevant published scientific information. The public will have easier access to data presented in relevant papers and consensus reports regarding BAS through their publication in the journal "Technology:Journal of the Franklin Institute" and a new "Encyclopedia of Environment." Education will be enhanced by the utilization of high school or community college minority students in researching environmental issues while applying BAS, participating with professional organizations in providing environmental courses, participation in technical conferences to discuss BAS for environmental issues, as well as participating in technical panels and making presentations to various groups regarding BAS in human health and environmental concerns.

The grantee plans to obtain this objective by educating students and professional organizations about the benefits and needs of BAS in relation to existing practices; and the dissemination of scientific information through the Technology publication and the new Encyclopedia of Environment. To assure reliance upon BAS the grantee proposes the utilization of not-for-profit professional organizations which include the following: (1) the American Society of Mechanical Engineers (ASME); (2) the American Association for the Advancement of Technology (AAAT); (3) the American Association of Engineering Societies (AAES); and (4) the National Council and Radiation Protection and Measurements (NCRPM). These organizations can provide peer-review of scientific aspects of the societal decisions, can reach a consensus on scientific subjects related to protection of human health and the environment, and can support the publication of relevant BAS. In addition, and in accordance with the North American Free Trade Agreement (NAFTA), an organization was formed and is known by its Spanish acronym "CEPA" which is composed of Universities in Mexico and the U.S. which pursue environmental protection in Mexico. The proposed approach permits the development of relevant information based on scientific consensus, education of the professionals and high school students, and publication of relevant materials for the benefit of the scientific community, regulators, legislators, and above all, the general public.

The technical team is led by a uniquely qualified individual, Dr. A. Alan Moghissi, Ph.D., President of the Institute for Regulatory Science. He has broad regulatory experience and has served as a Senior Environmental Protection Agency (EPA) policy official. His interaction with industry over the years has fulfilled a critical need in obtaining an industry perspective. He has gained credibility with the intervener community and Congress as a credible spokesman in the area of technical assessment of societal decisions. For the past 11 years under grants for this effort, Dr. Moghissi has gained unique experience and specialized knowledge in the reevaluation of risk assessments for human health and the environment. An example of the kind of accomplishments he has made is evident in the regulatory change that was made for tritium standards in drinking water. Dr. Moghissi, because of his unique past experience as stated above, is uniquely qualified to perform the proposed research.

This award meets the criteria for selection of an unsolicited application as specified under 10 CFR 600.14(e)(i) & (ii). Under subparagraph (i) the application is meritorious based on the foregoing general evaluation which is required by 10 CFR 600.14(d). Under subparagraph (ii) the proposed project represents a unique, innovative idea, method and approach which would not otherwise be eligible for funding under any other known recent, current, or planned solicitation and a competitive solicitation would be inappropriate. This award would be for approximately 5 years at an estimated total cost of three million dollars.

FOR FURTHER INFORMATION CONTACT: David Ramirez, Contract Specialist, (708) 252–2133; U.S.Department of Energy, 9800 South Cass Avenue, Argonne, Illinois 60439.

Issued in Chicago, Illinois on November 21, 1995.

F.T. Sienko,
Acquisition & Assistance Group Acting Manager.

[FR Doc. 95–29255 Filed 11–29–95; 8:45 am]
BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. EG96–15–000, et al.]

Indeck Pepperell Power Associates, Inc. et al.; Electric Rate and Corporate Regulation Filings

November 22, 1995.

Take notice that the following filings have been made with the Commission:

1. Indeck Pepperell Power Associates, Inc.

[Docket No. EG96–15–000]

On November 13, 1995, Indeck Pepperell Power Associates, Inc., a corporation organized and existing under the laws of the State of Delaware, with its address at 1130 Lake Cook Road, Suite 300, Buffalo Grove, Illinois 60089 (the "Applicant"), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator ("EWG") status pursuant to Part 365 of the Commission's Regulations.

The Applicant will be engaged directly in owning an eligible facility located in Pepperell, Massachusetts (the "Pepperell Plant"). The Pepperell Plant consists of a nominal 38 MW combined-cycle cogeneration facility utilizing natural gas as its primary fuel and No. 2 fuel oil as a backup fuel.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. IES Utilities Inc.

[Docket No. ER95–1444–001]

Take notice that on October 30, 1995, IES Utilities Inc. tendered for filing the following documents pursuant to the Commission's order dated September 28, 1995 in Docket No. ER95–1444–000:

- Revised Firm Point-To-Point Transmission Service Tariff.
- Revised Network Integration Service Tariff.
- Selections of Form Point-To-Point Transmission Service Tariff to be Revised.
- Selections of Network Integration Service Tariff to be revised.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Kentucky Utilities Company

[Docket No. ER95–1608–001]

Take notice that on November 13, 1995, Kentucky Utilities Company (KU) tendered for filing the rates and terms for transactions made pursuant to KU's Power Services Tariff and Service Agreements executed pursuant thereto Wabash Valley Power Association and Stand Energy Corporation filed with the Commission in docket No. ER95–1808–000.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Commonwealth Edison Company

[Docket No. ER96–282–000]

Take notice that on November 3, 1995, Commonwealth Edison Company (ComEd) submitted three Service Agreements, establishing Baltimore Gas and Electric Company (BG&E), Cleveland Electric Illuminating Company (Cleveland) and Toledo Edison Company (Toledo) as customers under the terms of ComEd's Power Sales Tariff PS–1 (PS–1 Tariff). The Commission has previously designated the PS–1 Tariff as FERC Electric Tariff, Original Volume No. 2.

Copies of this filing were served upon BG&E, Cleveland, Toledo and the Illinois Commerce Commission.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Pacific Gas and Electric Company

[Docket No. ER96–283–000]

Take notice that on November 6, 1995, Pacific Gas and Electric Company (PG&E), tendered for filing, as a change in rate schedule, new supplements to the Interconnection Agreement between Northern California Power Agency and Pacific Gas and Electric Company (PG&E-NCPA IA). These supplements reflect NCPA's reservation of transmission services for 1996 and 1997. The IA and its appendices were accepted for filing by the Commission on May 12, 1992 and designated as Rate Schedule FERC No. 142.

Copies of this filing were served upon NCPA and the California Public Utilities Commission.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Puget Sound Power & Light Company

[Docket No. ER96–284–000]

Take notice that on November 6, 1995, Puget Sound Power & Light

Company (Puget), tendered for filing as a change in rate schedule a letter agreement (the Letter Agreement) between Puget and the United States of America Department of Energy acting by and through the Bonneville Power Administration (Bonneville). A copy of the filing was served upon Bonneville.

Puget states that the Letter Agreement provides for Puget's installation of a temporary electrical connection during repair of a circuit used to serve a Bonneville customer.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Company

[Docket No. ER96–285–000]

Take notice that on November 6, 1995, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Kansas City Power & Light Company

[Docket No. ER96–286–000]

Take notice that on November 6, 1995, Kansas City Power & Light Company (KCPL), tendered for filing an Interchange Agreement dated October 2, 1995, between Kansas City Power & Light Company (KCPL) and the City of Columbia, Missouri (Columbia). KCPL proposes an effective date of October 2, 1995 and requests waiver of the Commission's notice requirement. This Agreement provides for the initial rates and charges for certain Interchange Services between KCPL and Columbia.

In its filing, KCPL states that the rates included in the above-mentioned Interchange Agreement are KCPL's rates and charges for similar service under schedules previously filed by KCPL with the Federal Energy Regulatory Commission.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. The Montana Power Company

[Docket No. ER96–287–000]

Take notice that on November 6, 1995, The Montana Power Company (Montana), tendered for filing a revised Appendix 1 as required by Exhibit C for retail sales in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Montana and the Bonneville Power Administration (BPA).

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Public Law 96–501. The Agreement provides for the exchange of electric power between Montana and BPA for the benefit of Montana's residential and farm customers.

A copy of the filing has been served upon BPA.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Company

[Docket No. ER96–288–000]

Take notice that on November 6, 1995, New England Power Company (NEP), tendered for filing a service agreement with and certificate of concurrence from Princeton (Mass.) Municipal Light Department under NEP's Tariff 5.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. New England Power Company

[Docket No. ER96–289–000]

Take notice that on November 6, 1995, New England Power Company (NEP), tendered for filing a service agreement with and certificate of concurrence from Peabody (Mass.) Municipal Light Plant under NEP's Tariff 5.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. PECO Energy Company

[Docket No. ER96–290–000]

Take notice that on November 6, 1995, PECO Energy Company (PECO) filed a Service Agreement dated October 18, 1995, with Virginia Electric & Power Company (Virginia Power) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds Virginia Power as a customer under the Tariff.

PECO requests an effective date of October 18, 1995 for the Service Agreement.

PECO states that copies of this filing have been supplied to Virginia Power and to the Pennsylvania Public Utility Commission.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Louisville Gas and Electric Company

[Docket No. ER96–291–000]

Take notice that on November 6, 1995, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Louis Dreyfus Electric Power Inc. under Rate GSS.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.

[Docket No. ER96–292–000]

Take notice that on November 6, 1995, Cinergy Services, Inc. (CIN), tendered for filing on behalf of its operating company, PSI Energy, Inc. (PSI), a First Supplemental Agreement, dated October 1, 1995, to the Interconnection Agreement, dated August 1, 1994 between LG&E Power Marketing, Inc. and PSI.

The First Supplemental Agreement revises the definitions for Emission Allowances and provides for Cinergy Services to act as agent for PSI. The following Exhibit has also been revised:

B Power Sales by Cinergy

Cinergy and LPM have requested an effective date of December 1, 1995.

Copies of the filing were served on LG&E Power Marketing, Inc., the Kentucky Public Service Commission, Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Houston Lighting & Power Company

[Docket No. ER96–293–000]

Take notice that on November 6, 1995, Houston Lighting & Power Company (HL&P) tendered for filing four executed transmission service agreements (TSAs) with Destec Power Services, Inc. (Destec) for Economy Energy Transmission Service under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. HL&P has requested an effective date of November 6, 1995 for the TSAs.

Copies of the filing were served on Destec and the Public Utility Commission of Texas.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Central Power and Light Company and West Texas Utilities Company

[Docket No. ER96–294–000]

Take notice that on November 7, 1995, Central Power and Light Company (CPL) and West Texas Utilities Company (WTU) (jointly, the Companies) submitted a Transmission Service Agreement, dated October 19, 1995, establishing Western Gas Resources Power Marketing, Inc. (WGR) as a customer under the terms of the ERCOT Coordination Transmission Service Tariff.

The Companies request an effective date of November 8, 1995, for the service agreement. Accordingly, the Companies request waiver of the Commission's notice requirements. Copies of this filing have been served upon WGR and the Public Utility Commission of Texas.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Kentucky Utilities Company

[Docket No. ER96–304–000]

Take notice that on November 3, 1995, Kentucky Utilities Company (KU) tendered for filing service agreements between KU and Louis Dreyfus Electric Power, Inc., AES Power, Inc., Rainbow Energy Marketing Corporation and Wabash Valley Power Association Inc. under its TS Tariff. KU requests an effective date of July 25, 1995.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. American Electric Power Service Corporation

[Docket No. ER96–305–000]

Take notice that on November 3, 1995, the American Electric Power Service Corporation (AEPSC) supplemented its filing in the above referenced Dockets to clarify its policy regarding return-in-kind of emission allowances.

A copy of the amendment was served upon the affected parties and State regulatory commissions.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Alabama Power Company

[Docket No. ER96–306–000]

Take notice that on November 8, 1995, Southern Companies Services, Inc. acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (Southern Companies) tendered for filing Service Agreements for Non-firm Service under Southern Companies' Point-to-Point Transmission Service Tariff and Notice of Cancellation of Service Agreements under Southern Companies' Short-Term Non-Firm Tariff.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Alabama Power Company

[Docket No. ER96–307–000]

Take notice that on November 8, 1995, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (Southern Companies) tendered for filing an Interchange Service Contract between Southern Companies and Sonat Power Marketing, Inc. The Interchange Service Contract establishes the terms and conditions of power supply, including provisions relating to service conditions, control of system disturbances, metering and other matters related to the administration of the agreement.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

21. Commonwealth Electric Company Cambridge Electric Light Company

[Docket No. ER96–308–000]

Take notice that on November 8, 1995, Commonwealth Electric Company (Commonwealth) on behalf of itself and Cambridge Electric Light Company (Cambridge) collectively referred to as the "Companies", tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements between the Companies and the following Customers: Boston Edison Company, CMEX Energy, Inc., CNG Power Service Corporation, Vermont Public Power Supply Authority.

These Service Agreements specify that the Customers have signed on to and have agreed to the terms and conditions of the Companies' Power Sales and Exchanges Tariff (FERC Electric Tariff Original Volume No. 3) and Cambridge's Power Sales and Exchanges Tariff (FERC Electric Tariff Original Volume No. 5). These Tariffs, approved by FERC on April 13, 1995, and which have an effective date of March 20, 1995, will allow the Companies and the Customers to enter into separately scheduled transactions under which the Companies will sell to the Customers capacity and/or energy as the parties may mutually agree.

The Companies request an effective date as specified on each Service Agreement.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

22. Mid-Continent Area Power Pool

[Docket No. ER96–309–000]

Take notice that on November 6, 1995, Mid-Continent Area Power Pool tendered for filing an amendment to the Agreement with Mid-American Energy Company approving transfer of membership effective September 26, 1995.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

23. Wisconsin Power and Light Company

[Docket No. ER96–310–000]

Take notice that on November 8, 1995, Wisconsin Power and Light Company (WP&L) tendered for filing an Agreement dated October 30, 1995, establishing Western Gas Resources Power Marketing, Inc. as a customer under the terms of WP&L's Point-to-Point Transmission Tariff.

WP&L requests an effective date of October 30, 1995 and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

24. Dayton Power and Light Company

[Docket No. ER96–311–000]

Take notice that on November 8, 1995, Dayton Power and Light Company (Dayton) tendered for filing an executed Service Sales Agreement between Dayton and Wabash Valley Power Association (Wabash).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to Wabash power and/or energy for resale.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

25. Dayton Power and Light Company

[Docket No. ER96–312–000]

Take notice that on November 8, 1995, Dayton Power and Light Company (Dayton) tendered for filing an executed Master Power Sales Agreement between Dayton and Louisville Gas and Electric Company (Louisville).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to Louisville power and/or energy for resale.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

26. Dayton Power and Light Company

[Docket No. ER96–313–000]

Take notice that on November 8, 1995, Dayton Power and Light Company (Dayton) tendered for filing an executed Master Electric Interchange Agreement

between Dayton and LG&E Power Marketing Inc. (LG&E).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to LG&E power and/or energy for resale.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

27. PECO Energy Company

[Docket No. ER96–314–000]

Take notice that on November 8, 1995, PECO Energy Company (PECO) filed a Service Agreement dated November 1, 1995, with Consolidated Edison Company of New York, Inc. (Con Edison) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds Con Edison as a customer under the Tariff.

PECO requests an effective date of November 1, 1995 for the Service Agreement.

PECO states that copies of this filing have been supplied to Con Edison and to the Pennsylvania Public Utility Commission.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

28. PECO Energy Company

[Docket No. ER96–315–000]

Take notice that on November 8, 1995, PECO Energy Company (PECO) filed a Service Agreement dated November 3, 1995, with American Municipal Power—Ohio Inc. (Amp-O) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds Amp-O as a customer under the Tariff.

PECO requests an effective date of November 3, 1995 for the Service Agreement.

PECO states that copies of this filing have been supplied to Amp-O and to the Pennsylvania Public Utility Commission.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

29. PECO Energy Company

[Docket No. ER96–316–000]

Take notice that on November 8, 1995, PECO Energy Company (PECO) filed a Service Agreement dated October 23, 1995, with Cleveland Electric Illuminating Company (CEI) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds CEI as a customer under the Tariff.

PECO requests an effective date of October 23, 1995, for the Service Agreement.

PECO states that copies of this filing have been supplied to CEI and to the Pennsylvania Public Utility Commission.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

30. PECO Energy Company

[Docket No. ER96–317–000]

Take notice that on November 8, 1995, PECO Energy Company (PECO) filed a Service Agreement dated October 23, 1995, with Toledo Edison Company (TE) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds TE as a customer under the Tariff.

PECO requests an effective date of October 23, 1995, for the Service Agreement.

PECO states that copies of this filing have been supplied to TE and to the Pennsylvania Public Utility Commission.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

31. PECO Energy Company

[Docket No. ER96–318–000]

Take notice that on November 8, 1995, PECO Energy Company (PECO) filed a Service Agreement dated October 19, 1995, with City of Tallahassee (City of Tallahassee) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds City of Tallahassee as a customer under the Tariff.

PECO requests an effective date of October 19, 1995, for the Service Agreement.

PECO states that copies of this filing have been supplied to City of Tallahassee and to the Pennsylvania Public Utility Commission.

Comment date: December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29200 Filed 11–29–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EG96–17–000, et al.]

Kraftwerk Schkopau GbR, et al.; Electric Rate and Corporate Regulation Filings

November 24, 1995.

Take notice that the following filings have been made with the Commission:

1. Kraftwerk Schkopau GbR

[Docket No. EG96–17–000]

On November 17, 1995, Kraftwerk Schkopau GbR ("Schkopau"), with its principal office at An der Bober 100 06258 Korbetha, Federal Republic of Germany, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Schkopau states that it is a general partnership organized under the laws of the Federal Republic of Germany. Schkopau will be engaged directly and exclusively in owning a 900 MW lignite-fired electric generating facility that is located in the Federal Republic of Germany (the "Facility"). Electric energy produced by the Facility will be sold at wholesale to a German "grid company." Electricity produced by the Facility will also be sold at retail. In addition, steam cogenerated by the Facility will be sold to an adjacent chemical company. In no event will any electric energy be sold to consumers in the United States.

Comment date: December 8, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Kraftwerk Schkopau Betriebsgesellschaft mbH

[Docket No. EG96–18–000]

On November 17, 1995, Kraftwerk Schkopau Betriebsgesellschaft mbH ("KSB"), with its principal office at An der Bober 100 06258 Korbetha, Federal Republic of Germany, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

KSB states that it is a limited liability company organized under the laws of the Federal Republic of Germany. KSB will be engaged directly and exclusively in operating a 900 MW lignite-fired electric generating facility that is located in the Federal Republic of Germany (the "Facility"). Electric energy produced by the Facility will be sold at wholesale to a German "grid company." Electricity produced by the Facility will also be sold at retail. In addition, steam cogenerated by the Facility will be sold to an adjacent chemical company. In no event will any electric energy be sold to consumers in the United States.

Comment date: December 8, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Kingston Cogen Limited Partnership

[Docket No. EG96–19–000]

Kingston Cogen Limited Partnership (Kingston) (c/o Michael J. Zimmer, Esq., Reid & Priest LLP, 701 Pennsylvania Avenue, N.W. Washington, DC 20004) filed with the Federal Energy Regulatory Commission an application on November 17, 1995, for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

According to its application, Kingston is a Ontario, Canada limited partnership formed to own an electric generating facility located on in Ernestown Township, Ontario, Canada.

Comment date: December 11, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limits its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Virginia Electric & Power Company

[Docket No. ER96–225–000]

Take notice that on November 16, 1995, Virginia Electric and Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER96–295–000]

Take notice that on November 7, 1995, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Operating Companies), filed an executed Service Agreement between GPU and Coastal Electric Services Company (CESC), dated November 3, 1995. This Service Agreement specifies that CESC has agreed to the rates, terms and conditions of the GPU Operating Companies' Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company*, Docket No. ER95–276–000 and allows GPU and CESC to enter into separately scheduled transactions under which the GPU Operating Companies will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than the GPU Operating Companies' cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of November 3, 1995 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Rochester Gas and Electric Corporation

[Docket No. ER96–296–000]

Take notice that on November 7, 1995, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement for acceptance by the Federal Energy Regulatory Commission (Commission) between RG&E and Commonwealth Electric Company. The terms and conditions of service under this Agreement are made pursuant to RG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1279. RG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. New York State Electric & Gas Corporation

[Docket No. ER96–297–000]

Take notice that on November 7, 1995, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with Gateway Power Corporation (Gateway). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to Gateway and Gateway will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on November 8, 1995, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and Gateway.

Comment date: December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. New England Power Company

[Docket No. ER96–298–000]

Take notice that on November 7, 1995, New England Power Company (NEP), tendered for filing a proposed amendment to its FERC Electric Tariff original Volume No. 1, Schedule III-B, Terms and Conditions Governing All Requirements Service—Integrated Facilities. The proposed amendment would allow for a rate decrease to The Narragansett Electric Company.

NEP requests that the proposed amendment be permitted to become effective on January 1, 1996.

A copy of the filing has been served upon Narragansett, the Rhode Island Public Utilities Commission and the Attorney General of the State of Rhode Island.

Comment date: December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Pacific Gas and Electric Company

[Docket No. ER96–299–000]

Take notice that on November 7, 1995, Pacific Gas and Electric Company (PG&E), tendered for filing the National Electric Associates, L.P. (NEA) and PG&E Power Enabling Agreement. The Enabling Agreement documents terms and conditions for the purchase, sale or

exchange of economy energy and surplus capacity which the Parties agree to make available to one another at defined control area border interconnection points.

Copies of this filing have been served upon NEA and the California Public Utilities Commission.

Comment date: December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Rochester Gas and Electric Corporation

[Docket No. ER96–300–000]

Take notice that on November 7, 1995, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement for acceptance by the Federal Energy Regulatory Commission (Commission) between RG&E and Cambridge Electric Light Company. The terms and conditions of service under this Agreement are made pursuant to RG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1279. RG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. UtiliCorp United Inc.

[Docket No. ER96–301–000]

Take notice that on November 7, 1995, UtiliCorp United Inc. tendered for filing on behalf of its operating division, Missouri Public Service, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with *Commonwealth Edison Company*. The Service Agreement provides for the sale of capacity and energy by Missouri Public Service to *Commonwealth Edison Company* pursuant to the tariff, and for the sale of capacity and energy by Commonwealth Edison Company to Missouri Public Service.

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Southern Company Services, Inc.

[Docket No. ER96–302–000]

Take notice that on November 8, 1995, Southern Company Services, Inc., as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (the Operating Companies), tendered for filing a settlement of a billing dispute and amendments to Unit Power Sales Agreements between the Operating Companies and Florida Power & Light Company and Jacksonville Electric Authority, respectively, respecting changes to the methods and procedures for calculating the capital for use in developing capacity charges.

Comment date: December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. New York State Electric & Gas Corporation

[Docket No. ER96–303–000]

Take notice that on November 8, 1995, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with Coastal Electric Services Company (Coastal). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to Coastal and Coastal will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on November 9, 1995, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and Coastal.

Comment date: December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. UtiliCorp United Inc.

[Docket No. ER96–360–000]

Take notice that UtiliCorp United Inc. (UCU) on November 15, 1995, tendered for filing proposed changes in its Rate Schedules FERC Nos. 52, 54, 55, 56, 57, 58, 59, and 109 (its rate schedules for wholesale firm power service to municipal customers in the State of Missouri). The proposed changes would increase revenues from jurisdictional sales and service by $599,896 based on the 12 month period ending December 31, 1994. The proposed changes are intended to more accurately reflect UCU's current cost of service. The proposed changes also provide for separate, unbundled rates for the transmission, energy, and capacity components of such service.

UCU has provided copies of the rate change filing to the affected customers and to the Missouri Public Service Commission.

Comment date: December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29199 Filed 11–29–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP96–46–000]

Algonquin Transmission Company; Panhandle Eastern Corporation; Texas Eastern Transmission Corporation; Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariffs

November 24, 1995.

Take notice that on November 16, 1995, the above-captioned pipeline companies (Panhandle Eastern Corporation Pipeline Group or PEC Pipeline Group) tendered for filing as part of their FERC Gas Tariffs, the pro-forma tariff sheets as listed on Appendices A, B, C and D, to the filing, with a proposed effective date of April 1, 1996. The proposed changes would increase the level of standardization among the PEC Pipeline Group of certain provisions of each of the pipeline member's FERC Gas Tariff.

The PEC Pipeline group proposes to increase the level of standardization and uniformity of their FERC Gas Tariffs in six (6) areas: (1) Capacity release, (2) nominations, scheduling, and curtailment, (3) the uniform definition of "Gas Day", (4) operational flow orders ("OFSs"), (5) imbalance resolution and operational balancing agreements ("OBAs"), and (6) invoicing and payment.

While the PEC Pipeline Group believes further standardization is possible, the instant effort reflects those provisions that can be standardized in the near future without significant ramifications on the nature and type of services currently being rendered to the customers of the interstate pipeline members of the PEC Pipeline Group.

The PEC Pipeline Group also intends to participate actively in the industry standardization efforts outlined to the Commission by the Interstate Natural Gas Association of American ("INGAA") in their letter of October 18, 1995 and in the ongoing efforts sponsored by the Gas Industry Standards Board ("GISB").

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, DC 20426, in accordance with 18 CFR 385.214 and 18 CFR 385.211 if the Commission's Rules and Regulations, on or before December 6, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29203 Filed 11–29–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. SA96–1–000]

Montana Power Company; Notice of Petition for Adjustment

November 24, 1995.

Take notice that on October 31, 1995, Montana Power Company (MPC) filed a petition for adjustment pursuant to section 284.123(b)(1)(ii) of the Commission's regulations. MPC seeks to: (1) eliminate the rate petition filing requirement contained in Ordering Paragraph (d) of the Commission's August 3, 1995, order in Docket No. PR93–3–000, 72 FERC ¶ 61,164, and (2) waive the city-gate requirement contained in Section 284.123 (b)(1)(ii) of the Commission's regulations. Ordering Paragraph (d) requires MPC to file a rate petition under section 284.123(b)(2) on or before November 1, 1995. MPC requests that its transportation rates be subject to regulation by the Montana Public Service Commission (Montana Commission) which MPC alleges has been approved by the FERC as an agency that regulates retail rates on a cost basis consistent with the comparable service requirement of section 284.123(b)(1).

MPC states that it has a general revenue requirement increase request pending before the Montana Commission filed on September 21, 1995. MPC's filing requests a Gas Utility overall revenue requirement increase of $12 million and an interim revenue requirement increase of $4.4 million. MPC provided a table comparing its existing interstate rates with the proposed state-approved rates. MPC indicates that the proposed interim increase would be effective January 1, 1996, and would result in a 4.9% increase to its existing interstate transportation rate.

MPC listed several reasons why it should be permitted to charge rates approved by the Montana Commission for all of its interstate services. MPC asserts that having its rates regulated solely by the Montana Commission would avoid costly and lengthy duplicative proceedings under section 284.123(b)(2) of the Commission's regulations. MPC contends that it would be able to address rate design and other changes uniformly for all shippers, without the duplication and/or potential disparate treatment that would exist if MPC continues to operate under both state and FERC cost of service procedures. MPC also alleges that section 284.123(b) of the Commission's regulations leaves to the pipeline the choice of whether to make an election under section 284.123(b)(2) or to seek a FERC-approved rate under section 284.123(b)(1) of the Commission's regulations. MPC asserts that the streamlining of the regulatory filing process and avoidance of duplicative rate review is expected to reduce MPC's costs and allow it to become more competitive in the marketplace.

The regulations applicable to this proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All Motions must be filed with the Secretary of the Commission within 15 days after publication of this notice in the **Federal Register**. The petition for adjustment is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29201 Filed 11–29–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–47–000]

Northwest Alaskan Pipeline Company; Notice of Tariff Changes

November 24, 1995.

Take notice that on November 16, 1995, Northwest Alaskan Pipeline Company ("Northwest Alaskan") tendered for filing Thirty-Seventh Revised Sheet No. 5 to its FERC Gas Tariff Original Volume No. 2.

Northwest Alaskan states that this filing reflects a decrease in total demand charges for Canadian gas purchased by Northwest Alaskan from Pan-Alberta Gas Ltd. ("Pan-Alberta") and resold to Northwest Alaskan's two U.S. purchasers, Pan-Alberta Gas (U.S.), Inc. ("PAG–US") under Rate Schedules X–1, X–2 and X–3, and Pacific Interstate Transmission Company ("PIT") under Rate Schedule X–4.

Northwest Alaskan requests that Thirty-Seventh Revised Sheet No. 5 become effective January 1, 1996.

Northwest Alaskan states that a copy of this filing has been served on Northwest Alaskan's customers.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. Under Section 154.209, all such motions or protests should be filed on or before November 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29202 Filed 11–29–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–449–000]

Trunkline Gas Company; Notice of Technical Conference

November 24, 1995.

In the Commission's order issued on October 25, 1995 in the above-captioned proceeding, the Commission ordered that a technical conference be convened to resolve issues raised by the filing. The conference to address the issues has been scheduled for December 11, 1995, at 2:00 p.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29204 Filed 11–29–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–34–000]

Wicor Energy Services, Inc.; Notice of Issuance of Order

November 24, 1995.

On October 5, 1995, Wicor Energy Services, Inc., (Wicor) submitted for filing a rate schedule under which Wicor will engage in wholesale electric power and energy transactions as a marketer. Wicor also requested waiver of various Commission regulations. In particular, Wicor requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Wicor.

On November 9, 1995, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Wicor should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Wicor is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Wicor's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is December 11, 1995.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29205 Filed 11–29–95; 8:45 am]

BILLING CODE 6717–0–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5335–8]

Delisting of Source Category and Revision of Initial List of Categories of Sources and Schedule for Standards Under Section 112(c) of the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Removal of the asbestos processing area source category from the initial list of categories of sources and schedule for standards for major and area sources of hazardous air pollutants.

SUMMARY: This notice removes the asbestos processing source category from the initial list of categories of sources of hazardous air pollutants (HAP), published on July 16, 1992 (57*FR*31576), and the schedule for promulgation of emission standards, published on December 3, 1993 (58*FR*63941).

This action finalizes the notice published in the **Federal Register** (*FR*) on January 24, 1995 by removing an area source category (asbestos processing) that was listed on July 16, 1992 (57*FR*31576). As presented in 60*FR*4624, this decision is based on data obtained during the initial stage of standards development for this source category. Under this listing, asbestos emissions from asbestos processing sources were studied to determine whether they could be further reduced beyond the levels achieved under the existing National Emission Standards for HAP (NESHAP) that apply to these sources. These data conclusively show that asbestos emissions from specific plants that were the basis for the initial listing are significantly lower than previously estimated. As a result, the Agency believes that no source in the category emits asbestos in quantities that pose an individual risk greater than one in one million and that the previous determination that asbestos emissions from these plants pose a threat of adverse health effects is no longer supportable. The asbestos processing source category should therefore be removed from the source category list.

Docket. Docket No. A–94–69, containing supporting information used in developing this notice, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at the Agency's Air Docket, 401 M Street SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning specific aspects of this notice, contact Susan Fairchild-Zapata, Minerals and Inorganic Chemicals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–5167.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act requires under section 112 that the Agency list and promulgate regulations requiring control of emissions of HAPs from categories of major and area sources. Section 112(c)(1) requires the Administrator to publish, and from time to time revise, if appropriate, in response to comments or new information, a list of all categories and subcategories of major and area sources of HAPs. Section 112(c)(3) requires that the Administrator list any area source category (one which emits less than 10 tons per year of any one HAP and less than 25 tons per year of all HAPs) that the Administrator finds poses a threat of adverse effects to human health or the environment. Pursuant to the specific listing requirements in section 112(c), the Agency published on July 16, 1992 (57FR31590) a finding of adverse effects (specifically carcinogenic effects from exposure to asbestos) for the source category of asbestos processing. The asbestos processing source category was then listed as a source category that would be subject to emission standards. Following this listing, pursuant to requirements in section 112(e), the Agency on December 3, 1993 (58FR63941) published a schedule for the promulgation of emission standards for each of the 174 listed source categories. The reader is directed to these two notices for information related to development of the initial list and schedule.

EPA published a notice on January 24, 1995 (60FR4624) that, when finalized, would remove the asbestos processing source category from the section 112 source category list and schedule. In this notice, EPA is finalizing that proposal. The reader is directed to that notice for information related to the proposal.

Summary of Comments Received

During the comment period between January 24, 1995 and February 23, 1995, Docket No. A–94–69 received a total of three comments in response to the 60FR4624 notice. No comments were received within 30 days after the close of the comment period and there was no request for a public hearing on issues related to the proposed deletion. All comments received were in support of the Agency's preliminary decision to revise the source category list by removing the asbestos processing area source category from the list.

Comments addressed the completeness of EPA's study, the adequacy of the extent of new information collected, the appropriateness of the (proposed) revision to the list, and the adequacy of existing regulations for controlling asbestos emissions from asbestos processing facilities. The commenters expressed the opinion that EPA's decision to revise the list as proposed is both accurate and reasonable.

- Mr. Russell K. Snyder, Executive Vice President of the Roof Coating Manufacturers Association (RCMA) commented, "* * * RCMA feels that the extensive information obtained by the Agency from over 250 companies, indicating that many companies no longer process asbestos and those remaining use appropriate control equipment, lends additional support and credence to the decision on the part of the Agency to de-list the asbestos processing industry. RCMA endorses the notice as consistent with the Clinton Administration's Common Sense Initiative regarding legislation and regulation based on thorough scientific and technical justification. Furthermore, RCMA feels that this notice is an excellent example of EPA working with industry and environmentalists to develop necessary, intelligent and effective regulation."
- Mr. B.J. Pigg, President of the Asbestos Information Association (AIA/NA) commented that "AIA/NA previously filed comments with the Agency on its plans to assess asbestos processing emissions on October 26, 1992. As (AIA) noted there, U.S. processors currently employ very effective baghouse collection methods to minimize fiber release. These control methods will continue to be employed even after the area source category is delisted."
- Mr. Frank P. Collis, environmental specialist with the Occidental Chemical Corporation commented, "* * * most facilities that would have been subject to the asbestos processing area source MACT standard are already subject to the existing asbestos NESHAP standard (i.e., 40 CFR 61 Subpart M). The development of an additional MACT standard would be duplicative, confusing to the regulated community and not the best use of the Agency's limited resources."

No comments took exception to the technical basis for the delisting, the new information received, the analyses conducted by the U.S. EPA to determine the validity of that information, or the rationale for the technical decision being made. The EPA analysis showed less than 10^{-6} maximum individual risk (MIR) and emission estimates 150 times less than the estimate originally used to list the asbestos processing source category as an area source category. Additionally, no comments were received regarding the specific legal basis for deletion.

II. Description of Revision

In today's notice, the Agency is removing the asbestos processing area source category on the Administrator's own motion, pursuant to section 112(c). As described in the proposed notice 60 FR 4624, the Agency has new information showing that no source or group of sources in the category emits asbestos in quantities which may cause a lifetime risk of cancer greater than one in one million. This refutes EPA's initial finding of a threat of adverse health effects on which the initial listing for this area source was based under section 112(c)(3).

EPA has, therefore, determined that no source or group of sources in the category emits asbestos in quantities which may cause a lifetime risk of cancer greater than one in one million to the individual most exposed to asbestos emissions and that the previous determination under section 112(c)(3) is no longer supportable. EPA based its initial listing of this area source category solely on the risk to human health caused by the carcinogenic properties of asbestos emissions. New information contained in the docket thoroughly refutes the original data upon which EPA based its initial listing. EPA received no comment rebutting the statement that the Agency has met the legal requirements of section 112(c). Hence removal of this source category from the list of area source categories is appropriate in this instance.

Most friction product manufacturing facilities have discontinued their use of asbestos, but have significant emissions of other HAP. EPA notes that the information collected in connection with this decision also shows that a subcategory of asbestos processing sources, the friction product manufacturing subcategory, has individual facilities which emit more than 10 tons/year of a single non-asbestos HAP or more than 25 tons per year of a collection of non-asbestos HAPs (methyl chloroform, methyl ethyl ketone, formaldehyde, phenol, and toluene). Therefore, EPA intends to add a new friction products manufacturing category, including friction product manufacturing facilities that do not use asbestos, to the source category list as a major source category in a general revision to the source category list that is currently being developed.

III. Administrative Requirements

A. Docket

The docket (Docket no. A–94–69) is an organized and complete file of all the information submitted to or otherwise considered by the Agency in the development of this proposed revision to the initial list of categories of sources. The principal purpose of this docket is to allow interested parties to identify and locate documents that serve as a record of the process engaged in by the Agency to publish today's proposed revision to the initial list and schedule.

B. Executive Order 12866

Under Executive Order 12866 (58*FR*51735, October 4, 1993), the Agency must determine whether a regulation is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The criteria set forth in section 1 of the Order for determining whether a regulation is a significant rule are as follows:

(1) Is likely to have an annual effect on the economy of $100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government communities;

(2) Is likely to create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Is likely to materially alter the budgetary impact of entitlements,

grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Is likely to raise novel or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This action raises the issue of delisting an area source category from the section 112 list of categories and sources and is therefore subject to OMB review.

C. Paperwork Reduction Act

This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act, 55 U.S.C. 3501 et seq.

D. Regulatory Flexibility Act Compliance

Pursuant to 5 U.S.C. 605(6), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it imposes no new requirements.

E. Unfunded Mandates Reform Act Compliance

As shown in the Information Collection Request Document (ICR), this action imposes no costs on State, local and tribal governments. Accordingly, the EPA estimates that there is no direct cost to the private sector in any one year, and no total marginal costs to industry under this action in any one year. Therefore, the Agency concludes that it is not required by Section 202 of the Unfunded Mandates Reform Act of 1995 to provide a written statement to accompany this action because promulgation of the action would not result in any expenditure by State, local, and tribal governments, in the aggregate or by the private sector, in any one year.

Dated: November 14, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 95–29113 Filed 11–29–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5336–9]

Workshop on Draft Ecological Risk Assessment Guidelines

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: This notice announces a workshop sponsored by the U.S. Environmental Protection Agency (EPA) Risk Assessment Forum to peer review draft proposed Agency-wide guidelines for ecological risk assessment. EPA will use comments and recommendations from the workshop to assist in guidelines revisions.

DATES: The workshop will begin on Wednesday, December 6, 1995 at 8:30 a.m. and end on Thursday, December 7, 1995 at 5:45 p.m. Members of the public may attend as observers.

ADDRESSES: The workshop will be held at the Holiday Inn—Georgetown, 2101 Wisconsin Avenue NW., Washington, DC. Eastern Research Group, Inc. (ERG), an EPA contractor, is providing logistical support for the workshop. To attend the workshop as an observer, register by calling ERG at (617) 674–7374. Space is limited.

To obtain a single copy of the draft guidelines document, interested parties should contact the Center for Environmental Research Information, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268, Tel: (513) 569–7562, FACS: (513) 569–7566. Please provide your name and mailing address, and request the document by the EPA number (EPA/630/R–95/002) and title ("Draft Proposed Guidelines for Ecological Risk Assessment").

FOR FURTHER INFORMATION CONTACT: Bill van der Schalie, U.S. Environmental Protection Agency (8101), 401 M Street SW., Washington, DC 20460, Telephone (202) 260–6743.

SUPPLEMENTARY INFORMATION: This draft proposed for Agency-wide ecological risk assessment guidelines is the culmination of a broad-based effort by EPA's Risk Assessment Forum. Since initiating the guidelines development process in 1989, the Risk Assessment Forum has sponsored numerous colloquia and workshops to discuss concepts and peer review documents related to ecological risk assessment. Products of these efforts include the widely-used report *Framework for Ecological Risk Assessment* (Framework Report; EPA/630/R–92/001), two sets of ecological assessment case studies, and a report containing nine ecological risk assessment issue papers. The draft proposed guidelines expand upon and replace the Framework Report and draw extensively from the case studies and issue papers.

The guidelines workshop is the next step in a process that has emphasized peer review and consensus-building. After the workshop, the guidelines will be given additional evaluation by EPA and the EPA Science Advisory Board. Following revision, the proposed guidelines will be published in the **Federal Register** for public comment. The goal of the guidelines is to improve the quality and Agency-wide consistency of EPA's ecological risk assessments.

Dated: November 8, 1995.

Henry Longest II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 95–29249 Filed 11–29–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5337–1]

Risk Assessment and Risk Management Commission

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Risk Assessment and Risk Management Commission established as an Advisory Committee under Section 303 of the Clean Air Act Amendments of 1990, will meet on January 17, 1996 at the One Washington Circle Hotel at 1 Washington Circle, Washington, D.C. subject to availability of funding. Unexpected budget problems prevented the Commission from meeting during the months of October, November and December. If the Federal government is still on a continuing resolution, please call the hotel to ascertain if the meeting is still being held (202–872–1680).

A copy of the agenda can be obtained by calling 202–233–9537 or fax note to 202–233–9540. Please be sure to include your fax number when you call or fax a request to us. This will expedite your request for information.

Dated: November 20, 1995.

Gail Charnley,

Executive Director, Commission on Risk Assessment and Risk Management.

[FR Doc. 95–29247 Filed 11–29–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5337–2]

Technical Workshop on WTI Incinerator Risk Issues

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of Meeting.

SUMMARY: EPA is announcing a workshop for scientific peer review of the EPA draft risk assessment for the Waste Technologies Industries (WTI) hazardous waste incinerator in East Liverpool, Ohio. The workshop will be open to members of the public as observers. The peer review, to be conducted by scientists from outside EPA, is being organized to assist EPA in completing the risk assessment.

DATES: The workshop will begin on Thursday, January 11, 1996, at 7:30 a.m. and end on Friday, January 12, 1996, at 2 p.m. Members of the public may attend as observers.

ADDRESSES: The meeting will be held at the Holiday Inn, Georgetown, 2101 Wisconsin Avenue NW., Washington, DC, 20007. Eastern Research Group, Inc., an EPA contractor, is providing logistical support for the workshop. To attend the workshop as an observer, contact Eastern Research Group, Inc., Tel: 617/674–7374 by December 20, 1995. Please register early.

FOR FURTHER INFORMATION CONTACT: For technical inquiries, contact Harriet Croke, U.S. EPA Region V, 77 West Jackson Boulevard, Chicago, IL 60604, Telephone (312) 353–4789. Copies of the draft risk assessment document (EPA905–D95–002a–g) will be available in EPA regional libraries, EPA Headquarters library, and from the National Technical Information Service (NTIS document numbers PB96–121546, PB121553, PB96–121561, PB96–121579, PB96–121587, PB96–121595, and PB96–121603; Phone: 1–800–553–6847). In addition, the draft risk assessment will be available in the following libraries in the vicinity of the WTI facility: Carnegie Public Library of East Liverpool, 219 E. 4th St., East Liverpool, OH 43920; Lynn Murray Memorial Library, 601 Railroad St., Chester WV 26034; Carnegie Public Library, 61 Ninth St., Midland, PA 15059. Further, a summary of the draft risk assessment will be available on the Internet on EPA's ORD Home Page (http://www.epa.gov/docs/ORD/).

For other workshop information, contact William Wood, U.S. Environmental Protection Agency (8501), 401 M Street SW., Washington, DC 20460, Telephone (202) 260–6743.

SUPPLEMENTARY INFORMATION: Previously, several preliminary risk assessments were conducted by EPA concerning the WTI incinerator. To prepare for a final, detailed risk assessment the EPA decided, in July 1993, that the Agency would arrange independent scientific peer reviews of both the project plan and the draft risk assessment. The first peer review was held in December, 1993 (17 November, 1993 Federal Register, pp. 60628–60629) and concerned the draft project plan for the risk assessment. For this first workshop, EPA convened a peer review panel of 13 independent scientists from the fields of toxicology, environmental fate and transport, combustion engineering, atmospheric modeling, and exposure assessment. The comments and recommendations provided during this workshop are published in "Reports on the Technical Workshop on WTI Incinerator Risk Issues" (EPA/630/R–94/001). This document is available from the Center for Environmental Research Information (Phone: 513–569–7562). Major recommendations from this workshop included: (1) using additional incinerator performance test data; (2) refining computer models used to simulate airborne dispersions; (3) conducting a screening level ecological risk assessments; and (4) performing an evaluation of accident scenarios.

For the current review, EPA is convening the same panel, enhanced with eight additional experts in the area of ecological risk assessments and accident analysis. These scientists will focus on the scientific data, methods, and analyses, along with the assumptions and uncertainties that are associated with the risk estimates at the site. Following the workshop, EPA will consider the workshop recommendations in completing the risk assessment. Policy and permitting issues will not be discussed at the current workshop.

Dated: November 22, 1995.

Henry Longest II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 95–29248 Filed 11–29–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5336–8]

Proposed Settlements Pursuant to Sections 122(h) and 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed administrative settlements and opportunity for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(i), the U.S. Environmental Protection Agency ("EPA"), Region II, announces proposed administrative settlements pursuant to Sections 122(h) and 122(g) of CERCLA, 42 U.S.C. 9622(g),(h), relating to the Quanta Resources Syracuse Superfund Site ("Site"). The Site is located at 2802–2810 Lodi Street, Syracuse, Onondaga County, New York. This notice is being published pursuant to Section 122(i) of CERCLA to inform the public of the proposed settlements and of the opportunity to comment. EPA will consider any comments received during the comment period and may withdraw or withhold consent to the proposed settlements if comments disclose facts or considerations which indicate that the proposed settlements are inappropriate, improper, or inadequate.

The proposed administrative settlements have been seperately memorialized in an Administrative Cost Recovery Agreement and an Administrative Order on Consent between EPA and eighty-eight ORC-settling parties ("Respondents"). These administrative settlements will become effective after the close of the public comment period, unless comments received disclose facts or considerations which indicate that these agreements are inappropriate, improper or inadequate, and EPA, in accordance with Section 122(i)(3) of CERCLA, modifies or withdraws its consent to this Agreement. Under these administrative settlements, the Respondents will be obligated to pay an aggregate of approximately $500,000 to the Hazardous Substance Superfund in reimbursement of EPA's response costs relating to the Site.

Pursuant to CERCLA Section 122(g)(4) &(h)(1), the administrative settlements may not be issued without the prior written approval of the Attorney General or her designee. In accordance with that requirement, the Attorney General or her designee has approved the proposed administrative settlements in writing.

EPA intends to settle with other potentially responsible parties concerning reimbursement of EPA's remaining response costs.

DATES: Comments must be provided on or before January 2, 1996.

ADDRESSES: Comments should be addressed to the U.S. Environmental Protection Agency, Office of Regional Counsel, New York/Caribbean Superfund Branch, 17th Floor, 290 Broadway, New York, New York 10007 and should refer to: "Quanta Resources Syracuse Superfund Site, U.S. EPA Index No. II-CERCLA–95–0223 and Index No. II-CERCLA–95–0224". For a copy of the settlement document, contact the individual listed below.

FOR FURTHER INFORMATION CONTACT: Jeannie M. Yu, Law Clerk, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 17th Floor, 290 Broadway, New York, New York 10007. Telephone: (212) 637–3178.

Dated: November 22, 1995.

Jeanne M. Fox,

Regional Administrator.

[FR Doc. 95–29245 Filed 11–29–95; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5336–4]

Draft Cook Inlet General NPDES Permit for Oil and Gas Exploration, Production and Development in Waters of the United States: General NPDES Permit No. AKG285100

AGENCY: Environmental Protection Agency, Region 10.

ACTION: Extension of the public comment period.

SUMMARY: On September 20, 1995, EPA provided notice of the draft general National Pollutant Discharge Elimination System (NPDES) permit no. AKG285100 for oil and gas stratigraphic and exploration wells on the Alaskan Outer Continental Shelf, in addition to exploration, production and development wells in offshore and coastal waters of the State of Alaska. The public comment period schedule was published in the notice. At the request of interested parties, EPA is today providing notice that the public comment period has been extended.

DATES: Original public notice issuance date: September 20, 1995. Extended public notice expiration date: January 29, 1996.

ADDRESSES: Public comments: Interested persons may submit written comments on the draft general NPDES permit to: Environmental Protection Agency, Attn: Laurie Mann (WD–134), 1200 Sixth Avenue, Seattle, Washington 98101. All comments should include the name, address, and telephone number of the commenter and a concise statement of comment and the relevant facts upon which it is based. Comments of either support or concern which are directed at specific, cited permit requirements are appreciated. Comments must be submitted to EPA on or before the extended expiration date of the public notice.

Administrative record: The complete administrative record for the draft permit is available for public review at the EPA Seattle address listed above; and at the U.S. EPA, Anchorage Operations Office, Room 537, Federal Building, 222 West Seventh Avenue, #19, Anchorage, Alaska 99513. Copes of the draft general NPDES permit and fact sheet are available upon request from the Region 10 Public Information Center at 1–800–424–4EPA (4372).

FOR FURTHER INFORMATION CONTACT: Laurie Mann, EPA Region 10, at the EPA Seattle address listed above or telephone (206) 553–1583.

Dated: November 2, 1995.

Philip G. Millam,

Acting Director, Office of Water.

[FR Doc. 95–29246 Filed 11–29–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 95–2119]

Licensing of General Category Frequencies

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: By this Order, the Wireless Telecommunications Bureau suspends acceptance of General Category channels in the 800 MHz band. This action is taken to ensure the successful resolution of the spectrum allocation issues raised in PR Docket 93–144 are not compromised. The intended effect of this action is to freeze acceptance of new applications after the effective date.

EFFECTIVE DATE: October 4, 1995.

FOR FURTHER INFORMATION CONTACT: D'wana Speight or David Kirschner, Legal Branch, Commercial Wireless Division, Wireless Telecommunications Bureau at (202) 418–0620.

SUPPLEMENTARY INFORMATION: Adopted: October 4, 1995. Released: October 4, 1995.

By the Chief, Wireless Telecommunications Bureau:

1. On October 20, 1994, the Commission adopted a Further Notice of Proposed Rulemaking in PR No. Docket 93–144, 59 FR 60111, November 22, 1994, which proposed a new framework for the licensing of Specialized Mobile Radio (SMR) systems in the 800 MHz band. In the context of this proceeding the Commission tentatively concluded that it should revise its eligibility rules for the General Category Channels to prohibit SMR and non-SMR applicants from applying for the same channels in the future. For the reasons stated below, we have decided to place a freeze on the filing of new applications for General Category frequencies.

2. The General Category channels are available to all eligible users in the 800 MHz band for either conventional or trunked operations. Recently, there has been a steep rise in demand for General Category frequencies, especially by SMR applicants and licensees, as a result of regulatory actions affecting certain 800 MHz frequencies. On August 9, 1994, the Commission imposed a freeze on the acceptance of new 800 MHz applications on the 280 SMR category channels. In addition, on April 15, 1995, the Wireless Telecommunications Bureau ("Bureau") placed a freeze on the filing of new applications for inter-category sharing on all private mobile radio service frequencies in the 806–821/851–866 MHz bands.

3. We believe that the current situation warrants a freeze on new applications for General Category channels. Because of the pressure placed on the General Category channels, unless we immediately freeze new applications the successful resolution of the spectrum allocation issues raised in PR Docket No. 93–144 could be compromised. Freezing acceptance of these applications is a temporary action that would preserve the current licensing landscape of the General Category and allow resolution of the issues regarding future licensing of these channels in PR Docket No. 93–144. We anticipate that this action will be of limited duration, because the Commission intends to resolve expeditiously the issues presented in PR Docket No. 93–144. We emphasize, however, that this action is limited to new applications for General Category channels and does not affect the acceptance of new applications for other categories of 800 MHz frequencies, e.g. Public Safety, Industrial/Land Transportation, and Business Category Channels.

4. As a result of today's action, we will continue to process those new applications for General Category channels which have been received by the Bureau's Licensing Division as of 12:00 a.m. midnight on October 4, 1995. All other applications, including those which still are in the frequency coordination process, will be subject to this freeze and, thus, will be returned to the applicant upon receipt by the Bureau's Licensing Division.

5. Accordingly, *it is ordered* That the acceptance of applications for the General Category channels is suspended effective October 4, 1995.[1]

[1] The imposition of this freeze is procedural in nature and therefore is not subject to the notice and comment, and effective date requirements of the Administrative Procedure Act (APA). See *Kessler* v. *FCC*, 326 F.2d 673 (D.C. Cir. 1963). Furthermore, good cause exists for noncompliance with these APA requirements. Adherence to the notice and comment, and effective date requirements in this matter would be contrary to the public interest, because compliance would undercut the purposes of the freeze.

Federal Communications Commission.

Regina M. Keeney,

Chief, Wireless Telecommunications Bureau.

[FR Doc. 95–29193 Filed 11–29–95; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Celebrity Cruises, Inc. and Blue Sapphire Marine, Inc., 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: CENTURY

Dated: November 27, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–29241 Filed 11–29–95; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

Club Med Sales, Inc. and Services et Transports Cruise Lines, 40 West 57th Street, New York, N.Y. 10019

Vessel: CLUB MED 1

Dated: November 22, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–29215 Filed 11–29–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

ABS Investors, LLC, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 26, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. ABS Investors, LLC, Atlanta, Georgia; to become a bank holding company by acquiring 50.1 percent of the voting shares of American Bankshares, Inc., Marietta, Georgia, and thereby indirectly acquire Cobb American Bank & Trust Company, Marietta, Georgia.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Crosstown Holding Company, Ham Lake, Minnesota; to merge with Balaton Agency, Inc., Balaton, Minnesota, and thereby indirectly acquire 21st Century Bank, Balaton, Minnesota.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Quanah Financial Corporation Employee Stock Ownership Plan, Quanah, Texas; to become a bank holding company by acquiring 31.23 percent of the voting shares of Quanah Financial Corporation, Quanah, Texas, and thereby indirectly acquire Quanah Bancshares, Inc., Quanah, Texas, and First National Bank, Quanah, Texas.

In connection with this application, Quanah Financial Corporation, Quanah, Texas, also has applied to become a bank holding company by acquiring 100 percent of the voting shares of Quanah Bancshares, Inc., Quanah, Texas, and thereby indirectly acquire First National Bank, Quanah, Texas.

Board of Governors of the Federal Reserve System, November 27, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29276 Filed 11–29–95; 8:45 am]

BILLING CODE 6210–01–F

Commercial Guaranty Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 26, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Commercial Guaranty Bancshares, Inc., Shawnee Mission, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of First Commercial Bank, N.A., Overland Park, Kansas (in organization).

2. Swanton Agency, Inc., Swanton, Nebraska; to acquire 100 percent of the voting shares of Farmers State Bank of Plymouth, Plymouth, Nebraska.

Board of Governors of the Federal Reserve System, November 24, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29225 Filed 11–29–95; 8:45 am]

BILLING CODE 6210–01–F

David G. Massad, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 15, 1995.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. David G. Massad, Westboro, Massachusetts; to retain 9.99 percent, and acquire up to an additional 90.01 percent, for a total of up to 100 percent, of the voting shares of The Safety Fund Corporation, Fitchburg, Massachusetts; and thereby indirectly acquire Safety Fund National Bank, Fitchburg, Massachusetts.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. William L. Lee, Lakeland, Georgia; to acquire an additional 1.59 percent, for a total of 15.24 percent of the voting shares of FMB Bankshares, Inc., Lakeland, Georgia, and thereby indirectly acquire Farmers & Merchants Bank, Lakeland, Georgia, and United Banking Company, Nashville, Georgia.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. David J. Gardner, Tonka Bay, Minnesota; to acquire an additional 15.45 percent, for a total of 34.21 percent, of the voting shares of Sentry Bancorp, Inc., Edina, Minnesota, and thereby indirectly acquire Cannon Valley Bank, Dundas Minnesota.

2. Mark Johnson, Darwin, Minnesota, acting in concert, to acquire an additional 12.80 percent, for a total of 25.81 percent; Thomas Johnson, Winthrop, Minnesota, acting in concert, to acquire an additional 12.15 percent, for a total of 24.49 percent; Michael Johnson, Litchfield, Minnesota, acting in concert, to acquire an additional 12.37 percent, for a total of 24.93 percent; and Michele Larson, Paynesville, Minnesota, acting in concert, to acquire an additional 12.27 percent, for a total of 24.72 percent, of the voting shares of Darwin Bancshares, Inc., Darwin, Minnesota, and thereby indirectly acquire Farmers State Bank of Darwin, Darwin, Minnesota, and Farmers and Merchants State Bank, Paynesville, Minnesota.

Board of Governors of the Federal Reserve System, November 24, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29226 Filed 11–29–95; 8:45 am]

BILLING CODE 6210–01–F

Poca Valley Bankshares, Inc.; Notice of Proposal to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has given notice under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether commencement of the activity can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 15, 1995.

A. Federal Reserve Bank of Richmond, (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Poca Valley Bankshares, Inc., Walton, West Virginia; to engage *de novo* through its subsidiary, Poca Valley Insurance and Financial Services Co., Inc., Walton, West Virginia, in general insurance agency activities in a town of less than 5,000, pursuant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y; and in discount brokerage activities, pursuant to § 225.25(b)(15) of the Board's Regulation Y. These activities will be conducted throughout the towns of Clendenin, Elkview, and Walton, West Virginia.

Board of Governors of the Federal Reserve System, November 27, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29277 Filed 11–29–95; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers of acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these propose acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 092595 AND 100695

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Acadia Partners, L.P., MRI Business Properties Fund, Ltd. II, MRI Business Properties Fund, Ltd. II	95–2611	09/25/95
Farmland Industries, Inc., Sunset Limited Partnership, FDL Foods, Inc	95–2616	09/25/95
Greenfield Industries, Inc., Rule Industries, Inc., Rule Industries, Inc	95–2617	09/25/95
The Multicare Companies, Inc., Andrew Panteleakis, Great American Nursing Centers, Inc., Great American Ma	95–2620	09/25/95
Ripplewood Interim Partners, L.P., Landmark Equity Partners III L.P., Edwards Baking Company	95–2623	09/25/95
Mallinckrodt Group Inc., Molecular Biosystems, Inc., Molecular Biosystems, Inc	95–2625	09/25/95
Trust U/W Helen M. Rivoire F/B/O William Ziegler, III, Montedison S.p.A. (an Italian Corporation), Swisher International, Inc	95–2631	09/25/95
Carmike Cinemas, Inc., N.L. Bentson, MidContinent Theatre Co. of Minnesota, MidContinent	95–2635	09/25/95
The Duriron Company, Inc., Durametallic Corporation, Durametallic Corporation	95–2638	09/25/95
James S. Ware, The Duriron Company, Inc., The Duriron Company, Inc	95–2639	09/25/95
IPL Energy Inc., Burlington Resources Inc., Portal Pipe Line Company	95–2644	09/25/95
IMCO Recycling Inc., Alumar Associates, Inc., Alumar Associates, Inc	95–2647	09/25/95
IPL Energy Inc., Loyal Trust No. 1, Portal Pipe Line Company	95–2653	09/25/95
Alco Standard Corporation, Steven P. Cress, Service Packaging Corporation	95–2659	09/25/95
Richard G. Haworth, U.S. Industries, Inc., Office Group America, Inc	95–2666	09/25/95
Odyssey Partners, L.P., Peak Jersey Trust (of Jersey), Elder Leasing Company	95–2670	09/25/95
International Shipholding Corporation, Chas. Kurz & Co., Inc., Intercoastal Bulk Carriers, Inc., Asset	95–2506	09/26/95
Atlantic Richfield Company, Robert S. Howard, Howard Publications, Inc	95–2632	09/26/95
Allen A. Meyer, Mid-America Dairymen, Inc., Flav-O-Rich	95–1478	09/27/95
BancTec, Inc., Recognition International Inc., Recognition International Inc	95–1890	09/27/95
First Data Corporation, First Financial Management Corporation, First Financial Management Corporation	95–1925	09/27/95
Merck & Co., Inc., Rhone-Poulenc S.A., Rhone-Poulenc S.A	95–2474	09/27/95
Rhone-Poulenc S.A., Merck & Co., Inc., Merck & Co., Inc	95–2475	09/27/95
Merck & Co., Inc., Merck & Co., Inc., Merck & Co., Inc	95–2485	09/27/95
Merix Corporation, Hewlett-Packard Company, Printed Circuit Board Operation	95–2508	09/27/95
Rhone-Poulenc S.A., Rhone-Poulenc S.A., Rhone-Poulenc S.A	95–2531	09/27/95
Panhandle Eastern Corporation, Rex Kary, Continental Energy Marketing Ltd	95–2536	09/27/95
James River Corporation of Virginia, Michael T. Kennedy, Winkler cutlery div. of Benchmark Corp. of Delaware	95–2537	09/27/95
Keramik Holding AG Laufen, Phyllis G. Quasha, CeramicUS	95–2552	09/27/95
K N Energy, Inc., Parker & Parsley Petroleum Company, Parker & Parsley Petroleum Company	95–2578	09/27/95
Cardinal Health, Inc., Medicine Shoppe International, Inc., Medicine Shoppe International, Inc	95–2618	09/27/95
The Sherwin-Williams Company, White Lightning Products Corp., White Lightning Products Corp	95–2628	09/27/95
British Steel plc, Avesta Sheffield AB, Avesta Sheffield AB	95–2636	09/27/95
EXEL Limited, Risk Capital Holdings, Inc., Risk Capital Holdings, Inc	95–2652	09/27/95
The Dial Corp., Unigate PLC (a British Company), Giltspur North America, Giltspur Exhibits of Canada	95–2658	09/27/95
Standard Management Corporation, Dixie National Corporation, Dixie National Life Insurance Company	95–2566	09/28/95
Time-Warner Inc., Toshiba Corporation, TAE Holding, Inc	95–2597	09/28/95
Glenn R. Jones, Cable TV Fund 12–D, Ltd., Cable TV Fund 12–D, Ltd Assets	95–2607	09/28/95
Glenn R. Jones, Time Warner, Inc., Time Warner Entertainment Advance/Newhouse Partnership	95–2608	09/28/95
Glenn R. Jones, Jones Cable Income Fund 1–B, Ltd., Jones Cable Income Fund 1–B, Ltd	95–2610	09/28/95
Alexander & Alexander Services Inc., Jardine Matheson Holdings Limited, JIB Holdings Inc	95–2612	09/28/95
Century Communications Corp., AT&T Corp., McCaw Communications of Lafayette, Inc	95–2626	09/28/95
AT&T Corp., Century Communications Corp., Centennial Clay Cellular Corp	95–2627	09/28/95
Golden West Telecommunications Cooperative, Inc., US West, Inc., US West Communications, Inc	95–2629	09/28/95
Interstate Telecommunications Cooperative, Inc., US West, Inc., US West Communications, Inc	95–2630	09/28/95
United Meridian Corporation, Enron Corp., Northern Natural Gas Company	95–2661	09/28/95
Ford Motor Company, Caisse Nationale de Credit Agricole, LCA Holding Corporation	95–2662	09/28/95
DeVlieg-Bullard, Inc., Acme-Cleveland Corporation, The National Acme Company	95–2667	09/28/95
Massachusetts Mutual Life Insurance Company, Connecticut Mutual Life Insurance Company, Connecticut Mutual Life Insurance Company	95–2669	09/28/95
Central and South West Corporation, NORWEB plc, NORWEB plc	95–2710	09/28/95
Houston Industries Incorporated, NORWEB plc, NORWEB plc	95–2713	09/28/95
United HealthCare Corporation, The MetraHealth Companies, Inc., The MetraHealth Companies, Inc	95–2194	09/29/95
Francois Carrette, James D. Levine, Levine-Fricke, Inc	95–2622	09/29/95
Imperial Credit Industries, Inc., Coast Savings Financial, Inc., CoastFed Business Credit Corporation	95–2642	09/29/95
EZ Communications, Inc., Scott R. McQueen, KFKF Broadcasting, Inc	95–2643	09/29/95
EZ Communications, Inc., Randall T. Odeneal, KFKF Broadcasting, Inc	95–2646	09/29/95
Henri Bacou, Carl-Zeiss-Stiftung, Titmus Optical, Inc	95–2648	09/29/95
Francois Carrette, Carl A.P. Fricke, Levine-Fricke, Inc	95–2656	09/29/95
Genesis Health Ventures, Inc., McKerley Health Care Centers, Inc., McKerley Health Care Centers, Inc	95–2660	09/29/95
First Financial Management Corporation, New Valley Corporation, Western Union Data Services Company, Inc	95–2674	09/29/95
Hicking Pentecost PLC (a British Corporation), U.S. Industries, Blue Mountain Industries Assets	95–2683	09/29/95
Carlisle Companies Incorporated, Walker Stainless Equipment Company, Inc., Walker Stainless Equipment Company, Inc	95–2690	09/29/95
The Atlantic Foundation, Marcam Corporation, Marcam Corporation	95–2691	09/29/95
Young Broadcasting Inc., The Prudential Insurance Company of America, Broad Street Television, L.P	95–2694	09/29/95

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 092595 AND 100695—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Henry Schein, Inc., Marvin H. Schein, Schein Dental Equipment Corp	95-2701	09/29/95
Fund American Enterprises Holdings, Inc., Carbadon Corporation, Empire of America Realty Credit Corp	95-2712	09/29/95
Lomak Petroleum, Inc., Mitsubishi Corporation (a Japanese company), Transfuel, Inc	95-2716	09/29/95
Forest Laboratories, Inc., Biovail Corporation International, a Canadian Company, Biovail Laboratories Inc., a Barbados Company	95-2727	09/29/95
Donald H. Gales, Paul L. Snyder, II, Olympic Management Systems, Inc	95-2730	09/29/95
William H. Gates, III, The Kraus Organization Limited, The Bettmann Archive L.L.C	95-2734	09/29/95
Coda Energy, Inc., Snyder Oil Corporation, Snyder Oil Corporation	95-2735	09/29/95
Sutter Health, California Healthcare System, California Healthcare System	95-2640	10/02/95
CSR Limited, Poly Pipe Industries, Inc., Poly Pipe Industries, Inc	95-2673	10/03/95
HIG Investment Group, L.P., ALU Menziken Holding AG, Precise Imports Corporation, PIC Imports Corporation	95-2706	10/03/95
Apple South, Inc., DF&R Restaurants, Inc., DF&R Restaurants, Inc	95-2733	10/03/95
Marc D. Redus, Apple South, Inc., Apple South, Inc	95-2738	10/03/95
David P. Frazier, Apple South, Inc., Apple South, Inc	95-2739	10/03/95
Amphenol Corporation, United International Holdings, Inc., United International Holdings, Inc	95-2645	10/04/95
B. Wayne Hughes, Storage Equities, Inc., Storage Equities, Inc	95-2678	10/04/95
Electronique d2, Quantam Corporation, La Cie, Ltd	95-2692	10/04/95
Onset Corporation, Bell Atlantic Corporation, Bell Atlantic Business Systems Services, Inc	95-2742	10/04/95
AirTouch Communications, Inc., Cellular Communications, Inc., Cellular Communications, Inc	95-2725	10/04/95
Alco Standard Corporation, Thomas I. Althotz, Inlander-Steindler Paper Company	95-2726	10/04/95
Philip F. Anschutz, Jeffrey P. Sudikoff, LAK Acquisition Corp., debtor-in-possession	95-2764	10/04/95
Philip F. Anschutz, Joseph M. Cohen, LAK Acquisition Corp., debtor-in-possession	95-2765	10/04/95
Sisters of Mercy Health Systems, St. Louis, Inc., Columbia/HCA Healthcare Corporation, St. Mary's Hospital of Enid, Oklahoma, Inc	95-2570	10/05/95
Knight-Ridder, Inc., Margaret L. Lesher QTIP Trust, Lesher Communications, Inc	95-2675	10/05/95
TCW Special Credits Fund V—The Principal Fund, KinderCare Learning Centers, Inc., KinderCare Learning Centers, Inc	95-2687	10/05/95
Time Warner Inc., Henry Posner, Jr., Star Cable Associates	95-2693	10/05/95
TCA Cable TV, Inc., Time Warner Inc., Time Warner Entertainment Advance/Newhouse Partnership	95-2702	10/05/95
Central and South West Corporation, NORWEB plc (a British company), NORWEB plc (a British company)	96-0004	10/05/95
Houston Industries Incorporated, NORWEB plc (a British company), NORWEB plc (a British company)	96-0005	10/05/95
Francois Pinault, United Auto Group, Inc., United Auto Group, Inc	95-2565	10/06/95
North West Water Group PLC, NORWEB plc, NORWEB plc	95-2715	10/06/95
McKechnie plc, Desmond J. Toal, DLO Investments, Inc	95-2731	10/06/95
Sea Containers Ltd., Marshall S. Cogan, "21" Club, Inc	95-2747	10/06/95
ITOCHU Corporation, Stephen L. Hull, Hull Chevrolet, Inc. and First Auto Credit Corporation	95-2753	10/06/95
Roger S. Penske, Kmart Corporation, Automotive Service Center Assets	95-2759	10/06/95
IES Industries Inc., Mitsubishi Corporation (a Japanese corporation), Transfuel, Inc	95-2760	10/06/95
Osborn Jay Call, CENEX, Inc., CENEX, Inc	95-2761	10/06/95
Fibreboard Corporation, Andrew M. Spriet, Vytec International Corp. (a Canadian Corp.)	95-2758	10/06/95
Maybelline, Inc., Wasserstein Perella Partners, L.P., Intellectual Property Holdings Co	95-2776	10/06/95
W.R. Grace & Co., Mobil Corporation, Mobil Corporation	95-2800	10/06/95

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95-29278 Filed 11-29-95; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection Under OMB Review

Proposed Information Collection Submitted for Public Comment and Recommendations.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Administration for Children and Families (ACF) is publishing the following summary(ies). To request copies of the proposed collection of information write to The Administration for Children and Families, OIS, DIRMS, 338F, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Proposed Project(s)

Title: April 1996 Current Population Survey Supplement on Child Support.

OMB No.: 0992-0003.

Description: Collection of these data will assist legislators and policymakers in determining how effective their policymaking efforts have been over time in applying the various child support legislation to the overall child support enforcement picture. This information will help policymakers determine to what extent individuals on welfare would be removed from the welfare rolls as a result of more stringent child support enforcement efforts.

Respondents: Individuals or Households.

Title	No. of respondents	No. of responses per respondent	Average burden per response	Burden
Supplement	47,000	1	.0241	1,136

Estimated Total Annual Burden Hours: 1,136.

Dated: November 24, 1995.

Roberta Katson,

Acting Director, Office of Information Resource Management.

[FR Doc. 95-29195 Filed 11-29-95; 8:45 am]

BILLING CODE 4184-01-M

Agency Information Collection Under OMB Review

Proposed Information Collection Submitted for Public Comment and Recommendations

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Administration for Children and Families (ACF) is publishing the following summary(ies). To request copies of the proposed collection of information write to The Administration for Children and Families, OIS, DIRMS, 338F, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Proposed Project(s)

Title: Summary Data Component (SDC) of the National Child Abuse and Neglect Data System (NCANDS)

OMB No.: 0980-0229.

Description: The Summary Data Component of the National Child Abuse and Neglect Data System is a voluntary reporting system collection aggregate data from State child protective services agencies on key indicators of reported child abuse and neglect. These data are used to inform policy and program development at the national, State and local levels.

Respondents: State, Local or Tribal Govt.

Title	No. of respondents	No. of responses per respondent	Average burden per response	Burden
SDC	56	1	30	1,680

Estimated Total Annual Burden Hours: 1,680.

Dated: November 24, 1995.

Roberta Katson,

Acting Director, Office of Information Resource Management.

[FR Doc. 95-29196 Filed 11-29-95; 8:45 am]

BILLING CODE 4184-01-M

Food and Drug Administration

[Docket No. 95N-0026]

Blood Systems Inc., United Blood Services; Revocation of U.S. License No. 183-009

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 183-009) and the product licenses issued to Blood Systems, Inc., United Blood Services, now doing business as Blood Systems, Inc., for the manufacture of Whole Blood, Red Blood Cells, Plasma, Cryoprecipitated antihemophilic factor (AHF), Platelets, and Source Leukocytes. Blood Systems, Inc., United Blood Services has several locations; only the Lubbock, TX, location is affected by this revocation. In a letter to FDA dated June 8, 1994, the firm voluntarily requested revocation of its establishment license and product licenses at the Lubbock, TX, location and thereby waived an opportunity for a hearing.

DATES: The revocation of the establishment license (U.S. License No. 183-009) and the product licenses became effective July 19, 1994.

FOR FURTHER INFORMATION CONTACT: Sharon Carayiannis, Center for Biologics Evaluation and Research (HFM-635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-594-3074.

SUPPLEMENTARY INFORMATION: FDA has revoked the establishment license (U.S. License No. 183-009) and the product licenses issued to Blood Systems, Inc., United Blood Services, 2523 48th St., Lubbock, TX 79413, for the manufacture of Whole Blood, Red Blood Cells, Plasma, Cryoprecipitated AHF, Platelets, and Source Leukocytes. The firm's other locations are not affected by this revocation. Blood Systems, Inc., United Blood Services submitted a notice of corporate name change and is now doing business as Blood Systems, Inc.

FDA conducted an inspection of Blood Systems Inc., United Blood

Services, Lubbock, TX, from March 16 through March 25, 1994. The inspection also involved a concurrent investigation which included interviews with individuals knowledgeable about the firm's operations. The inspection and the investigation documented serious deviations from the applicable Federal regulations. Deviations identified in the inspection included, but were not limited to, the following: (1) Failure to collect blood by aseptic methods in a sterile system to protect against contamination (21 CFR 640.4(f)), in that: (a) current and former employees stated in affidavits that on numerous occasions employees broke the sterility barrier of blood containers and drained blood into vacutainer tubes or biohazard containers in order to conceal overbleeds, and (b) employees used an incorrect phlebotomy technique on numerous occasions thereby possibly contaminating the blood collection bags with room air; (2) failure to maintain records of donor adverse reaction reports (21 CFR 606.160(b)(1)(iii)), in that, on numerous occasions, employees did not document mild to moderate donor adverse reactions; (3) failure to follow standard operating procedures to adequately determine donor suitability (21 CFR 606.100(b)(1)), in that employees stated that: (a) donors were not always asked screening questions, such as high risk behavior questions, in order to expedite the donation process, (b) donors were sometimes asked if anything had changed since the last time they donated instead of being asked the required acquired immune deficiency syndrome (AIDS)-related behavior questions, and (c) individuals under the influence of alcohol were accepted as blood donors; and (4) failure to adequately and promptly notify the Director, Center for Biologics Evaluation and Research, of such errors or accidents in the manufacture of products that may affect the safety, purity or potency of any product pursuant to 21 CFR 600.14, in that, all known facts of the incidents involving a phlebotomist who used an incorrect phlebotomy technique, whereby the units may have become contaminated with room air, were not reported to the agency.

FDA determined that the deviations from Federal regulations were significant and constituted a danger to public health, warranting a suspension pursuant to 21 CFR 601.6(a). In a letter to Blood Systems, Inc., United Blood Services, dated June 6, 1994, FDA detailed the violations noted earlier in this document and suspended the firm's establishment and product licenses. In the same letter, FDA acknowledged receipt of letters dated April 13, April 15, and May 24, 1994, submitted by the firm in response to the Form FDA–483, Inspectional Observations, left at the close of the inspection. FDA concluded that the firm's promises of corrective action were not sufficient based on the seriousness of the documented deviations. It was FDA's view that the establishment and products failed to conform to applicable donor protection standards which are intended to ensure a continuous and healthy donor population, as well as standards designed to ensure the continued safety, purity, potency, and quality of products manufactured.

FDA's letter dated June 6, 1994, also stated that the agency's inspection and investigational findings, including evidence that records were knowingly falsified, demonstrated willfulness on the part of the firm. As a result, pursuant to 21 CFR 601.5(b) the firm was not given additional time to achieve compliance with the regulations. The same letter provided notice that FDA intended to initiate proceedings to revoke U.S. License No. 183–009 and product licenses issued to Blood Systems, Inc., United Blood Services pursuant to 21 CFR 601.5(b) and provided notice of opportunity for a hearing pursuant to 21 CFR 12.21(b). In a letter to FDA dated June 8, 1994, Blood Systems, Inc., voluntarily requested that its licenses for the Lubbock, TX, location be revoked and thereby waived its opportunity for a hearing. In a letter to the firm dated July 13, 1994, FDA acknowledged voluntary revocation of the establishment license (U.S. License No. 183–009) and the aforementioned product licenses of Blood Systems, Inc., United Blood Services at the Lubbock, TX, location only. In the July 13, 1994, letter to the firm, FDA restricted the interstate distribution of autologous units currently in inventory except in documented emergency situations, and permitted the firm to resume collections of allogeneic and autologous blood products intended for distribution within the State of Texas.

FDA has placed copies of letters relevant to the license revocations on file under the docket number found in brackets in the heading of this document in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. These documents are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Accordingly, under section 351 of the Public Health Act (42 U.S.C. 262), 21 CFR 601.5, and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.68), the establishment license (U.S. License No. 183–009) and the product licenses issued to the Lubbock, TX, location of Blood Systems, Inc., United Blood Services for the manufacture of Whole Blood, Red Blood Cells, Plasma, Cryoprecipitated AHF, Platelets, and Source Leukocytes, were revoked, effective July 19, 1994.

This notice is issued and published under 21 CFR 601.8 and under authority delegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.67).

Dated: October 31, 1995.

Michael G. Beatrice,

Deputy Director, Center for Biologics Evaluation and Research.

[FR Doc. 95–29220 Filed 11–29–95; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Advisory Council on Nurses Education; Notice of Meeting Cancellation

In **Federal Register** Document 95–27189 appearing on page 55720 in the issue for Tuesday, November 2, 1995, the December 14–15, 1995, meeting of the "National Advisory Council on Nurse Education and Practice" will be cancelled.

Dated: November 27, 1995.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 95–29260 Filed 11–29–95; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Institutes of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of the rescheduling of the meeting of the Environmental Health Sciences Review Committee, the notice of which was published in the **Federal Register** 60 FR 49848 on September 27, 1995. This meeting could not be convened on November 16–17 due to the partial shutdown of the Federal Government. it is rescheduled for December 3–5 at 6:00 p.m., at the Omni Europa Hotel, Chapel Hill, NC, and is closed to members of the public on the same bases as provided in the initial notice.

Dated: November 28, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–29343 Filed 11–29–95; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration (SAMHSA)

Cancellation of Receipt Date for SAMHSA Conference Grant Applications

AGENCY: Center for Substance Abuse Prevention and Center for Substance Abuse Treatment, SAMHSA.

ACTION: Cancellation of January 10, 1996 Application Receipt Date.

SUMMARY: Pending certainty on the fiscal year 1996 appropriation for SAMHSA, the Center for Substance Abuse Prevention (CSAP) and the Center for Substance Abuse Treatment (CSAT) are canceling the January 10, 1996, receipt date for applications for the following grant programs:

CSAP's Knowledge Dissemination Conference Grants (CFDA No. 93.174)

CSAT's Substance Abuse Treatment Conference Grants (CFDA No. 93.218)

For information regarding future receipt dates or for programmatic assistance, potential applicants should contact the following individuals:

CSAP: Ms. Luisa del Carmen Pollard, Division of Public Education and Dissemination, CSAP, Rockwall II Building, Suite 800, 5600 Fishers Lane, Rockville, Maryland 20857, Tele: (301) 443–0377.

CSAT: Ms. Nancy Kilpatrick, Office of Scientific Analysis and Evaluation, CSAT, Rockwall II Building, Suite 840, 5600 Fishers Lane, Rockville, Maryland 20857, Tele: (301) 443–8831.

Dated: November 24, 1995.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 95–29261 Filed 11–30–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing

[Docket No. FR–3917–N–30]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: January 29, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451—7th Street, SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Barbara D. Hunter, Telephone number (202) 708–3944 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal:

Section 8 Housing Assistance Payments Program, Additional Assistance Payments Projects with HUD-held Mortgages 24 CFR Part 886, Subpart A, Housing Assistance Payment (HAP)

OMB Control Number: 2502–0407.

Description of the need for the information and proposed use: The Section 8 Housing Assistance Program, Part 886, Subpart A (Loan Management Set-Aside Special Allocations), authorized the use of Section 8 assistance in existing multifamily projects with HUD-insured or HUD-held mortgages, including Section 202 projects (except those receiving assistance under 24 CFR part 885) and projects sold by the Department subject to purchase money mortgages. The form HUD–52537, Section 8 HAP Contract (Part I), provides the administrative mechanism to obligate the necessary funds for the financially troubled projects aided under this regulation, a copy of which is attached.

It is also necessary to collect application information using the form HUD–52530 for the Department to evaluate applications for Section 8 Loan Management Set-Aside (LMSA) assistance.

Agency form numbers: HUD 52530 and 52537.

Members of affected public: Individuals, households and State/Local Government and Non-Profit Institutions.

An estimation of the total numbers of hours needed to prepare the information collection is 22,642, the number of respondents is 3,126, frequency of response is 1, and the hours of response is 7,243.

Status of the proposed information collection: Extension with change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 7, 1995.

Nicolas P. Retsinas,

A/S Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 95–29232 Filed 11–29–95; 8:45 am]

BILLING CODE 4210–27–M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. FR–3917–N–31]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: January 29, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451—7th Street SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Oliver Walker, Telephone number (202) 708–1694 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Master Appraisal Report.

OMB Control Number: 2502–0493.

Description of the need for the information and the proposed use: Section 203 of the National Housing Act P.L. 479, 48 Stat. 1246, 12 U.S.C. 1701 et seq.) authorizes the Secretary of Housing and Urban Development (HUD) to insure mortgages on application by an approved mortgagee for appraisal and Commitment/Direct Endorsement Statement of Appraised Value on a designated property. The Master Appraisal Report, Form HUD–91322, and accompanying forms HUD–91322.1, 91322.2 and 91322.3 involve only "proposed" construction.

Agency Form Numbers: HUD–91322, 91322.1, 91322.2 and 91322.3.

Members of Affected Public: Business or other for profit numbers.

An estimation of the total numbers of hours needed to prepare the information collection is 10,500, number of respondents is 3,500, frequency is dependent upon the occasion of the application and the hour of response is .25 of an hour.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 21, 1995.

Nicolas P. Retsinas,

A/S Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 95–29231 Filed 11–30–95; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. FR–3917–N–32]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: January 29, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Oliver Walker, Telephone number (202) 708–1694 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Request for Alternative Construction ("No Action Letter") Alternative Construction of Manufactured Homes—24 CFR 3282.14.

OMB Control Number: 2502–0295.

Description of the need for the information and proposed use: The information is needed by the Department of Housing and Urban Development to permit manufacturers to build homes using alternative construction methods other than those required by the national manufactured home construction and safety standards established by the Secretary and to assure that home purchasers are aware of any use of alternative construction.

Agency form numbers: Not applicable.

Members of affected public: Home Purchasers.

An estimation of the total numbers of hours needed to prepare the information collection is 770, the number of respondents is 11, frequency of response is on occasion, and the hours of response is 33.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 7, 1995.

Nicolas P. Retsinas,

A/S Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 95–29230 Filed 11–29–95; 8:45 am]

BILLING CODE 4210–27–M

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR–2961–N–06]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: January 29, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451–7th Street, SW, Room 4240, Washington, D.C. 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202)–708–0846, (This is not a toll-free number.) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paper Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of proposal: Family Self-Sufficiency Program (FSS).

OMB control number: 2577–0178.

Description of the need for the information and proposed use: The FSS program will promote the development of local strategies that coordinate the use of public housing assistance and assistance under Section 8 rental certificate and voucher programs with public-private resources to enable eligible families to achieve economic independence and self-sufficiency. Housing agencies will enter into a Contract of Participation with each eligible family that opts to participate in the program; consult with local officials to develop an Action Plan; and report annually to HUD on implementation of the FSS program.

Agency form numbers, if applicable: HUD–52650 and HUD–52652.

Members of affected public: Individuals or households, State or Local Government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 660 respondents, annually and on occasion, 2.26 average hours per response, 84,150 hours for a total reporting burden.

Status of the proposed information collection: Reinstatement of a Previously Approved Collection for Which Approval has Expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 22, 1995.

Kevin Emanuel Marchman,

Deputy Assistant Secretary for Distressed and Troubled Housing Recovery.

BILLING CODE 4210–33–M

7420.8

Family Self-Sufficiency Program Contract of Participation

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Section 8, Public Housing and Indian Housing Programs
(See the instructions page for the Public Reporting and Privacy Act Statements)

OMB Approval No. 2577-0178 (exp. 6/30/95)

This Contract of Participation for the Family Self-Sufficiency (FSS) Program is between

_____, Housing Agency (HA),

and

_____, head of the FSS family.

The FSS family includes everyone in the household, and is referred to in this contract as "family".

Type of FSS Program.

The family is a participant in the:(Check only one)

- ☐ Section 8 Rental Certificate or Rental Voucher FSS Program
- ☐ Public Housing FSS Program
- ☐ Indian Housing FSS Program

Purpose of Contract

The purpose of this contract is to state the rights and responsibilities of the family and the HA, the resources and supportive services to be provided to the family, and the activities to be completed by the family.

Term of Contract

This contract will be effective on _____.

This contract will expire on _____.

The HA can extend the term of the contract up to 2 years if the family gives the HA a written request for an extension and the HA finds that good cause exists for the extension.

Resources and Supportive Services

During the term of the contract, the HA will try to provide the resources and services listed in the individual training and services plans. If the resources and services are not available, the HA will try to substitute other resources and services. However, the HA has no liability to the family if the resources and services are not provided.

FSS Escrow Account

The HA will establish an FSS escrow account for the family. A portion of the increases in the family's rent because of increases in earned income will be credited to the FSS escrow account in accordance with HUD requirements.

Listed below are the family's annual income, earned income, and family rent when the family begins the FSS program. These amounts will be used to determine the amount credited to the family's FSS escrow account because of future increases in earned income.

Annual Income $ _____

Earned Income $ _____

Family Rent (Total Tenant Payment or, for rental vouchers, 30% of monthly Adjusted Income) $ _____

The HA will invest the FSS escrow account funds in HUD-approved investments.

The HA will give the family a report on the amount in the family's FSS escrow account at least once a year.

If the family is participating in the Section 8 program and moves outside the HA's jurisdiction under Section 8 portability procedures, the HA may transfer the balance of the family's FSS escrow account to another HA.

Withdrawal of Funds from FSS Escrow Account

The HA may permit the family to withdraw funds from the FSS escrow account before completion of the contract if the family has completed specific interim goals, designated by the HA, and needs some of the FSS escrow account funds to complete the contract (example: to pay for school costs).

The HA will pay the head of the family the amount in the family's FSS escrow account, less any amount owed to the HA, when:

(1) the HA determines that the family has completed this contract, and,

(2) at the time of contract completion, the head of the family provides written certification to the HA that no member of the family is receiving welfare assistance. Welfare assistance means income assistance from Federal or state welfare programs including AFDC, SSI that is subject to an income eligibility test, Medicaid, food stamps, and general assistance. Welfare assistance does not include transitional Medicaid or child care for JOBs participants or SSI payments to guardians of disabled children.

If the head of the family leaves the assisted unit, the remaining family members may, after consulting the HA, name another family member to receive the FSS escrow account funds.

Loss of FSS Escrow Account

The family will not receive the funds in its FSS escrow account if:

(1) the contract of participation is terminated,

(2) the contract of participation is declared null and void; or

(3) the family has not met its family responsibilities within the times specified as stated in this contract.

Family Responsibilities

The head of the family must:

Seek and maintain suitable employment after completion of the job training programs listed in the individual training and services plan. The HA, after consulting with the head of the family, will determine what employment is suitable based on the skills, education, and job training of that individual and available job opportunities in the area.

The head of the family and those family members who have decided, with HA agreement, to execute an individual training and services plan, must:

Complete the activities within the dates listed in each individual training and services plan.

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Provide the HA and HUD with information about the family's participation in the FSS program in order to help the HA and HUD evaluate the FSS program. This could include information regarding employment, job interviews, training, educational attendance, and other FSS services and activities.

All family members must:

Comply with the terms of the lease.

If receiving welfare assistance, become independent of welfare assistance and remain independent of welfare assistance for at least 12 consecutive months before the contract expires.

If participating in the Section 8 program, live in the jurisdiction of the HA that enrolled the family in the FSS program at least 12 months from the effective date of this contract and comply with the family obligations under the Section 8 rental certificate or rental voucher program.

Corrective Actions for Failure to meet Family Responsibilities

If any member of the family does not meet his or her responsibilities under this contract, the family will not receive the money in its FSS escrow account and the HA may:

(1) stop supportive services for the family,

(2) terminate the family's participation in the FSS program; and

(3) if the family is participating in the rental certificate or rental voucher program, terminate the Section 8 assistance, when allowed by HUD requirements.

HA Responsibilities

Attempt to obtain commitments from public and private sources for supportive services for families.

Establish an FSS escrow account for the family, invest the escrow account funds, and give the family a report on the amount in the FSS escrow account at least once a year.

Determine which, if any, interim goals must be completed before any FSS escrow funds may be paid to the family; and pay a portion of the FSS escrow account to the family if the HA determines that the family has met these specific interim goals and needs the funds from the FSS escrow account to complete the contract.

Determine if the family has completed this contract.

Pay the family the amount in its FSS escrow account, if the family has completed the contract and the head of the family has provided written certification that no member of the family is receiving welfare assistance.

Completion of the Contract of Participation

Completion of the contract occurs when the HA determines that:

(1) the family has fulfilled all of its responsibilities under the contract; or

(2) 30 percent of the family's monthly adjusted income equals or is greater than the Fair Market Rent amount for the unit size for which the family qualifies.

Termination of the Contract of Participation

The HA may terminate this contract if:

(1) the family and the HA agree to terminate the contract;

(2) the HA determines that the family has not fulfilled its responsibilities under this contract;

(3) the family withdraws from the FSS program;

(4) an act occurs that is inconsistent with the purpose of the FSS program; or

(5) the HA is permitted in accordance with HUD requirements.

The HA may declare this contract null and void if the resources and services necessary to complete the contract are not available.

The HA must give a notice of termination or nullification to the head of the family. The notice must state the reasons for the HA decision to terminate or nullify the contract.

If the contract is terminated or declared null and void, the family has no right to receive funds from the family's FSS escrow account. The HA must close the family's FSS escrow account and may use the funds for purposes in accordance with HUD requirements.

If the family is participating in the Section 8 program, the HA will terminate the contract if the family moves outside the HA's jurisdiction under Section 8 portability procedures and enters the FSS program of another HA.

If the family is participating in the Section 8 program, this contract is automatically terminated if the family's section 8 assistance is terminated in accordance with HUD requirements.

Conflict with the Public or Indian Housing Lease

If part of this contract conflicts with the public or Indian housing lease, the lease will prevail.

Compliance with HUD Regulations and Requirements

The contract of participation must be interpreted and administered in accordance with HUD regulations and requirements. Terms and figures, such as the income and rent amount on page 1, are subject to correction by the HA for compliance with HUD regulations and requirements. The HA must notify the family in writing of any adjustments made to the contract.

Signatures:

Family

_____
(Signature of head of family)

_____
(Date Signed)

Housing Agency

_____
(Name of HA)

_____
(Signature of HA Official)

_____
(Official Title)

_____
(Date Signed)

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HA Instructions for Executing the FSS Contract of Participation

OMB Approval No. 2577-0178 (exp. 6/30/95)

Public reporting burden for this collection of information is estimated to average 1.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0178), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

Sensitive Information: The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained.

Parties to the Contract/Signatures

The head of the participating family must be the adult member of the family who is the head of the household for income eligibility and rent purposes.

Term of Contract

The effective date is the first day of the month following the date the contract was signed by the family and the HA's representative.

The expiration date is five years from the effective date of the contract.

If the HA decides to extend the term of the contract, the original expiration date listed on page one of the contract must be crossed out and the new expiration date added.

If a family moves under Section 8 portability procedures and is going to participate in the receiving HA's FSS program, the effective date of the contract between the family and the receiving HA is the first day of the month following the date the contract was signed by the family and the HA's representative. The expiration date of the contract between the receiving HA and the family must be the same as the expiration date of the contract between the initial HA and the family.

FSS Escrow Account

The income and rent numbers to be inserted on page one may be taken from the amounts on the last reexamination or interim determination before the family's initial participation in the FSS program, unless more than 120 days will pass between the effective date of the reexamination and the effective date of the contract of participation. If it has been more than 120 days, the HA must conduct a new reexamination or interim redetermination.

If a family moves under Section 8 portability procedures and is going to participate in the receiving HA's FSS program, the receiving HA must use the amounts listed for annual income, earned income, and family rent on page one of the contract between the initial HA and the family.

Changes to the Contract

This contract of participation can only be changed to modify the contract term, the head of the family, or the individual training and services plans.

Any change of the head of the family under the contract must be included as an attachment to the contract. The attachment must contain the name of the new designated head of the family, the signatures of the new head of the family and an HA representative, and the date signed.

Any change/s to an individual training and services plan must be included as a revision to the individual training and services plan (attachment) to which the change applies. The revision must include the item changed, signatures of the participant and an HA representative, and the date signed.

For extensions to the contract term, see the "Term of Contract" section.

If, twelve months after the effective date of the contract, a family in the Section 8 FSS program moves outside of the HA's jurisdiction under Section 8 portability procedures, an HA may take one of the following actions:

(1) The initial HA may permit the family to continue to participate in its FSS program, if the family demonstrates to the initial HA's satisfaction that it can meet the family responsibilities of the contract in the new location. In this case, the existing contract remains in effect with no change. The initial HA must transfer the family's FSS escrow account balance when the family is absorbed by the receiving HA.

(2) The receiving HA may permit the family to participate in its FSS program. If so, the initial HA must terminate its contract with the family. The initial HA must also transfer the family's FSS escrow account balance when the family is absorbed by the receiving HA. The receiving HA will execute a new contract with the family.

(3) In cases where the family cannot fulfill its family obligations in the new location, and the receiving HA does not permit the family to participate in its FSS program, the contract between the initial HA and the family shall terminate and the family will lose the funds in its FSS escrow account.

Individual Training and Services Plans

The contract must include an individual training and services plan for the head of the family. Other family members age eighteen and older may choose to execute an individual training and services plan if agreed to by the HA.

The resources and supportive services to be provided to each family member must be listed in the individual training and services plans which are attachments to the contract of participation.

Page one of each participant's individual training and services plan includes space for the final goal and the first interim goal needed to achieve the final goal. The additional pages provide a format for recording each interim goal and specific information related to its achievement. The first page of each participant's plan must be signed by the participant and an HA representative.

Interim goals must be specified along with the activities and services needed to achieve them. For example, a single mother with two children who has an interim goal of completing her secondary education might require several different activities and services to achieve that goal. These could include transportation, tutoring, and child care.

All completion dates included in the individual training and services plan/s must be on or before the contract of participation expires.

One of the interim goals for families receiving welfare assistance is to become independent of welfare assistance for at least twelve consecutive months before the end of the contract. Any family that is receiving welfare assistance must have this included as an interim goal in the head of the family's individual training and services plan.

The final goal listed on the individual training and services plan of the head of the family must include getting and maintaining suitable employment specific to that individual's skills, education, job training, and the available job opportunities in the area.

Incentives

If the HA has chosen to offer other incentives in connection with the FSS program, these incentives may be included in the individual training and services plans or as an attachment to this contract.

Previous Editions are Obsolete

form HUD-52650 (5/93)
ref. Handbook 7420.8

52650-3 9/93

Family Self-Sufficiency Program
FSS Escrow Account Credit Worksheet

(See back for Public reporting and Sensitive Information statement)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0178 (exp. 6/30/95)

Escrow credit must be determined at each reexamination and interim determination occurring after the effective date of the FSS Contract of Participation while the family is participating in the FSS program.

Head of the FSS family	Date
1. Current Annual Income (Enter amount on line 5 of form HUD-50058.)	1.
2. Applicable Lower-Income Limit (Enter the current lower-income limit for the jurisdiction in which the FSS family is living.)	2.
3. Current Adjusted Income (Enter amount on line 10b of form HUD-50058.) **If line 3 is greater than line 2, this family does not qualify for an FSS credit.**	3.
4. Earned income included in line 1 (Add up the income items coded B, M, F, and W in column 3a of form HUD-50058.)	4.
5. Earned income included in Annual Income on effective date of the FSS Contract of Participation. (Enter amount from contract of participation.)	5.
6. Increase in earned income since the effective date of the FSS Contract of Participation. (Subtract line 5 from line 4. If negative, enter 0.)	6.
7. Current Annual Income less increase in earned income since the effective date of the FSS Contract of Participation. (Subtract line 6 from line 1.)	7.
8. Thirty percent of current monthly Adjusted Income (Line 3 divided by 40. The calculated amount should equal the amount on line 11 of form HUD-50058.)	8.
9. Current Adjusted Income less increase in earned income since the effective date of the FSS Contract of Participation. (Subtract line 6 from line 3.)	9.
10. 30% of current monthly Adjusted Income less increase in earned income since the effective date of the FSS Contract of Participation. (Line 9 divided by 40)	10.
11. 10% of current monthly Annual Income less increase in earned income since the effective date of the FSS Contract of Participation. (Line 7 divided by 120)	11.
12. If applicable, welfare rent (enter amount on line 13 of form HUD-50058) or public housing ceiling rent (enter amount on line 16a of form HUD-50058)	12.
13. TTP based on current Annual Income less increase in earned income since effective date of the FSS Contract of Participation. (If rental vouchers, enter the amount on line 10, otherwise, enter the greater of line 10, 11, or 12.)	13.
14. Difference between 30% of current monthly Adjusted Income and TTP adjusted for increases in earned income. (Subtract line 13 from line 8. Enter 0 if negative.)	14.
15. Current TTP (Enter the amount on line 16b of form HUD-50058 or, in the case of rental vouchers, enter the amount on line 8 of this form.)	15.
16. TTP on effective date of the FSS Contract of Participation or, in the case of rental vouchers, 30% of monthly Adjusted Income on effective date of the FSS Contract of Participation. (Enter amount from contract of participation.)	16.
17. Difference between current TTP and TTP on effective date of the FSS Contract of Participation. (Subtract line 16 from line 15. Enter 0 if negative.)	17.
18. Enter the lesser of line 14 or line 17.	18.
19. Applicable Very Low-Income Limit (Enter the current very low-income limit for the jurisdiction in which the FSS family is living.)	19.
20. Amount by which Adjusted Income exceeds the Very Low-Income Limit (Subtract line 19 from line 3.)	20.
21. 30% of the amount by which Adjusted Income exceeds the Very Low-Income Limit (Line 20 divided by 40)	21.
22. Escrow credit (Subtract line 21 from line 18.)	22.

This HUD form is optional and is used here to illustrate the process. PHAs may develop their own FSS Worksheet.

Previous Editions are Obsolete

form HUD-52652 (12/93)
ref. Handbook 7420.8

Instructions for Completing the FSS Escrow Account Credit Worksheet

Public reporting burden for this collection of information is estimated to average 1.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0178), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Sensitive Information: The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained.

General Instructions:

1. An escrow credit must be determined at each reexamination and interim determination occurring after the effective date of the FSS contract of participation while the family is participating in the FSS program.

2. The amount of the escrow credit can be calculated using Form HUD-52652, or another document which incorporates the procedures in Form HUD-52652.

3. The amount of the escrow credit will vary depending on the income level of each FSS family and is based on increases of earned income since the effective date of the contract of participation. If the family's adjusted income exceeds the lower-income limit in the jurisdiction in which the FSS family is living (the amount on line 3 is greater than the amount on line 2), the family does not qualify for an escrow credit. In such cases, line 4 - line 22 of Form HUD-52652 will not be completed.

Previous Editions are Obsolete

form HUD-52652 (12/93)
ref. Handbook 7420.8

[FR Doc. 95-29233 Filed 11-29-95; 8:45 am]
BILLING CODE 4210-33-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

PRT-808510

Applicant: Charles R. Bomar, Department of Biology, University of Wisconsin-Stout, Menomonie, Wisconsin.

The applicant requests a permit to take (capture and release; collect if accidentally killed) Karner Blue Butterflies (*Lycaeides melissa samuelis*) in Western Wisconsin as part of a study to monitor insect populations on restored prairies.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056. Telephone: (612/725-3536 x250); FAX: (612/725-3526).

Dated: November 24, 1995.

Matthias A. Kerschbaum,

Acting Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 95-29221 Filed 11-29-95; 8:45 am]

BILLING CODE 4310-55-M

Endangered and Threatened Species Permits Issued

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Permits Issued for the Months of June, July, August, and September 1995.

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications duly received in accordance with section 10 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1539, *et seq.*). Each permit listed as issued was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the endangered species, and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973, as amended.

Name	Permit No.	Date issued
TAMS Consultants, Inc	801466	6/23/95
The Nature Conservancy	801467	7/25/95
Ross, Tamara	801463	8/4/95
3D/Environmental	802776	8/11/95
Ohio Historical Society	801465	8/17/95
Malacological Consultants	801471	8/21/95
Whitaker, John	802777	8/24/95
Assistant Regional Director, USFWS	[1] 697830	8/30/95
Woodward-Clyde Consultants	805737	9/27/95

[1] Amendment.

Additional information on these permit actions may be requested by contacting the U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, telephone 612/725–3536 x250, during normal business hours (7:30 a.m.–4:00 p.m.) weekdays.

Dated: November 24, 1995.

Matthias A. Kerschbaum,

Acting Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 95–29222 Filed 11–29–95; 8:45 am]

BILLING CODE 4310–55–M

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: Hornocker Wildife Research Institute, Moscow, ID, PRT–808113

The applicant has requested a permit to import blood and tissue samples from free-living Siberian tiger (*Panthera tigris altaica*), and Amur leopard (*Panthera pardus orientalis*) and salvaged tissue samples as available from carcasses of the same species for the purpose of enhancement of the species through scientific research.

Applicant: Ellen Trout Zoo, Lufkin, TX, PRT–808918

The applicant requests a permit to export a female captive-born jaguar (*Panthera onca*) to Belize Zoo, Belize City, Belize for the purpose of enhancement of the species through captive breeding and conservation education.

Applicant: Ing. Loro Piana Company, New York, NY, PRT–808449

The applicant request a permit to import and re-export products of vicuna (*Vicugna vicugna*) from Lanificio Ing. Loro Piana & Co. S.P.A., Italy for the purpose of enhancement of the survival of the species through conservation education. The products imported and re-exported for this activity are for display purposes only and are not authorized to be sold, traded, bartered, or donated.

Applicant: The Denver Zoological Gardens, Denver, CO, PRT–807412

Type of Permit: Import for scientific research

Name and Number of Animals: Polar Bear (Ursus maritimus)

Summary of Activity to be Authorized: The applicant has requested a permit to import up to 70 serum and/or milk samples surplus to the needs of Canadian scientific research projects and which have been freezer-banked in Canada for the purpose of scientific research.

Source of Marine Mammals for Research/Public Display: Canada as described above.

Period of Activity: Up to five years from issuance of a permit, if issued.

Applicant: Point Defiance Zoo and Aquarium, Tacoma, WA, PRT–808562

Type of Permit: Public display

Name and Number of Animals: Polar bear (*Ursus maritimus*), 1

Summary of Activity to be Authorized: The applicant has requested a permit to maintain one female polar bear, recovered as a stranded/orphaned animal in Alaska, for the purposes of public display.

Source of Marine Mammals for Research/Public Display: Northern Alaska (stranded/orphaned animal approximately 10 months old)

Period of Activity: indefinite

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: November 24, 1995.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 95–29208 Filed 11–29–95; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[MT–921–06–1320–01–P; MTM 83859]

Notice of Amended Coal Lease Application—MTM 83859—Spring Creek Coal Company

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice.

SUMMARY: This is notice of an amendment to Spring Creek Coal Company's Coal Lease Application MTM 83859 for certain coal resources within the Powder River Coal Region.

The land included in Amended Coal Lease Application MTM 83859 is located in Big Horn County, Montana, and is described as follows:

T. 8 S., R. 39 E., P.M.M.
Sec. 22: E½ SW¼ SW¼
Sec. 25: SW¼SW¼
Sec. 26: S½NE¼NE¼SW¼, NW¼NE¼SW¼, N½SW¼NE¼SW¼, SE¼NE¼SW¼, N½N½NW¼SW¼, SE¼NE¼NW¼SW¼, NE¼SE¼NW¼SW¼, S½NW¼SE¼, N½N½SW¼SE¼, SE¼NE¼SW¼SE¼, N½SE¼SE¼, NE¼SW¼SE¼SE¼, N½SE¼SE¼SE¼
Sec. 27: N½SW¼NE¼, N½S½SW¼NE¼, SE¼SE¼SW¼NE¼, S½NW¼SE¼NE¼, S½SE¼NE¼, E½NW¼NW¼, N½NE¼SE¼NW¼, SE¼NE¼SE¼NW¼, NE¼NW¼SE¼NW¼
T. 8 S., R. 40 E., P.M.M.
Sec. 30: S¼NW¼NE¼SW¼, S½NE¼SW¼, SW¼NW¼SE¼, W½SW¼SE¼, W½SE¼SW¼SE¼

The 320.00-acre tract contains an estimated 37.8 million tons of recoverable coal reserves.

The application will be processed in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181, *et seq.*), and the implementing regulations at 43 CFR 3400. A decision to allow leasing of the coal resources in said tract will result in a competitive lease sale to be held at a time and place to be announced through publication pursuant to 43 CFR 3422.

SUPPLEMENTARY INFORMATION: Notice of the initial application was published in the **Federal Register** (60FR26452) on Wednesday, May 17, 1995. The supplementary information provided in said publication continues to apply.

NOTICE OF AVAILABILITY: The application and amendment are available for review between the hours of 9 a.m. and 4 p.m. at the Bureau of Land Management, Montana State Office, 222 North 32nd Street, Billings, Montana 59101, and at the Bureau of Land Management, Miles City District Office, whose address is Garryowen Road, Miles City, Montana 59103, between the hours of 7:45 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Ed Hughes telephone 406–255–2830, Bureau of Land Management, Montana State Office, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107–6800.

Dated: November 21, 1995.

Thomas P. Lonnie,

Deputy State Director, Division of Resources.

[FR Doc. 95–29236 Filed 11–29–95; 8:45 am]

BILLING CODE 4310–DN–P

[MT–925–06–1020–00]

Notice of Intent To Modify Management Plans and To Prepare an Environmental Impact Statement (EIS) To Address Standards for Rangeland Health and Guidelines for Grazing Management; Montana, North Dakota, and South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) in Montana, North Dakota, and South Dakota intends to modify existing management plans and to conduct appropriate National Environmental Policy Act (NEPA) analysis to address standards for rangeland health and guidelines for grazing management, as required by BLM grazing regulations (43 CFR Part 4100). Public comment is sought on the issues and alternatives to be considered, and on suggested standards and guidelines.

DATES: Comments will be accepted throughout the process of modifying plans and conducting NEPA analysis. However, comments received after January 19, 1996, may not be reflected in the alternatives considered in the draft EIS or other NEPA analysis.

ADDRESSES: Comments and requests for additional information should be addressed to Dan Lechefsky, Planning Team Leader, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107, 406–255–2919.

SUPPLEMENTARY INFORMATION: The BLM's new grazing administration regulations (43 CFR Part 4100), which became effective August 21, 1995, provide for the development of standards for rangeland health and guidelines for grazing management. These standards and guidelines are to be developed through BLM planning and NEPA processes. Incorporating standards and guidelines into existing plans will require some form of plan modification, ranging from simple plan maintenance to plan amendment. Management plans to be modified are: Big Dry, Billings, Dillon, Headwaters, Judith, North Dakota, Phillips, Powder River, South Dakota, Valley, and West HiLine. The Garnet Resource Management Plan will also be modified to incorporate standards and guidelines,

although through a separate process tied to an ongoing regional assessment and environmental analysis for the Upper Columbia River Basin being conducted jointly by the BLM and Forest Service.

At this point in time, it is unclear what level of plan modification (maintenance or amendment) and NEPA analysis will be needed. Should further scoping and development of the proposed action and alternatives indicate that an EIS is not needed, NEPA analysis will be accomplished through preparation of an environmental assessment.

Resource Advisory Councils in Montana and the Dakotas will be consulted during the development of proposed standards and guidelines. This notice invites additional public comment on the issues to be addressed and alternatives to be considered in the EIS or other NEPA analysis. Issues preliminarily identified include: the effect that adoption of standards will have on resource conditions, uses, and users of public land, and the effect that adoption of guidelines will have on grazing management and livestock operations. Three preliminary alternatives have been identified: the continuation of current management as provided for in existing management plans, the adoption of the fallback standards and guidelines contained in the regulations, and the adoption of standards and guidelines developed in consultation with Resource Advisory Councils for Montana and the Dakotas.

Dated: November 24, 1995.

Randy D. Heuscher,

Acting Deputy State Director, Division of Resources.

[FR Doc. 95–29234 Filed 11–29–95; 8:45 am]

BILLING CODE 4310–ON–P

[CO–070–06–1020–00–241A]

Northwest Colorado Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given that the next meeting of the Northwest Colorado Resource Advisory Council will be held on Tuesday, December 12, 1995, in Meeker, Colorado.

DATES: The meetings is scheduled for Tuesday, December 12, 1995.

ADDRESS: For further information, contact Lynda Boody, Bureau of Land Management (BLM), Grand Junction District Office, 2815 H Road, Grand Junction, Colorado 81506; Telephone (970) 244–3000; TDD (970) 244–3011.

SUPPLEMENTARY INFORMATION: The meeting is scheduled to begin Tuesday at 8:30 a.m. in the Conference Room at the Bureau of Land Management Office, 73544 Highway 64, Meeker, CO 81641. The agenda for this meeting will focus on ecosystem training and general Council business.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the Grand Junction/Craig District Manager.

Summary minutes for the Council meeting will be maintained in the Grand Junction and Craig District Offices and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: November 22, 1995.

Mark T. Morse,

Grand Junction/Craig District Manager.

[FR Doc. 95–29239 Filed 11–29–95; 8:45 am]

BILLING CODE 4310–70–P

[NV–930–1430–01; NVN 20972]

Termination of Recreation and Public Purpose Classification and Opening Order, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates existing Recreation and Public Purposes Classification N 20972 in its entirety and opens the land to appropriation under the public land laws and general mining laws, subject to any valid existing rights.

EFFECTIVE DATE: November 30, 1995.

FOR FURTHER INFORMATION CONTACT: Charles J. Kihm, Bureau of Land Management, Carson City District, 1535 Hot Springs Road, Carson City, Nevada 89706, (702) 885–6000.

SUPPLEMENTARY INFORMATION: On June 2, 1984, the public lands described below were classified as suitable for lease and sale under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, 869–1 to 869–4).

Mount Diablo Meridian, Nevada

T. 16 N., R. 22 E.,
Sec. 16, NW¼ of Lot 2.

The area described contains 10.81 acres in Lyon County.

On July 25, 1984, the subject lands were leased for a fire station and park to Lyon County for a five year period with right of renewal. The lease was subsequently renewed for five years until July 24, 1994, at which time the lease expired and was not renewed. The classification no longer serves any purpose; accordingly, pursuant to section 7 of the Taylor Grazing Act (48 Stat. 1272) and the authority delegated by Appendix 1 of the Bureau of Land Management 1203 Manual, the aforementioned Recreation and Public Purposes classification is hereby terminated.

At 10:00 a.m. on November 30, 1995, the above described land will become open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws, rules and regulations.

At 10:00 a.m. on November 30, 1995, the above described land will become open to location under the United States mining laws. Appropriation of the land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

This land has been and will remain open to the operation of the Recreation and Public Purposes Act, and to leasing under the mineral leasing laws.

Dated: November 13, 1995.

John O. Singlaub,

District Manager, Carson City.

[FR Doc. 95–29211 Filed 11–29–95; 8:45 am]

BILLING CODE 4310–HC–M

[AZ–040–1430–06–00; AZA–28238 and AZA 29330]

Notice of Realty Action; Proposed Sale of Public Lands; Arizona

AGENCY: Bureau of Land Management, Safford District, Arizona.

ACTION: Notice.

SUMMARY: The following lands in Cochise County, Arizona have been found suitable for sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at not less than the appraised fair market value. The land will not be offered for sale until at least 60 days after the date of this notice

Gila and Salt River Meridian, Arizona

T. 23 S., R. 24 E., (AZA 28238)
Sec. 8, lot 6.

The area described contains 0.1 acre.

T. 19 S., R. 25 E., (AZA 29330)
All public land in sections 17, 18 and 20.

The area described contains 650 acres, more or less.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the **Federal Register**, the lands will be segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice , whichever occurs first.

The land is being offered for sale under modified competitive bidding procedures which will allow designated bidders to meet the apparent high bid after a competitive offering. If a determination is reached that the subject parcels contain no known mineral values, the mineral interests may be conveyed simultaneously under section 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2757, 43 U.S.C. 1719). Detailed information concerning sale procedures, specific conditions and reservations will be available to interested parties from the Safford District Office, Bureau of Land Management, 711 14th Avenue, Safford, Arizona 85546.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Safford District, at the above address. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Dated: November 21, 1995.

Frank L. Rowley,

Acting District Manager.

[FR Doc. 95–29210 Filed 11–29–95; 8:45 am]

BILLING CODE 4310–32–M

[CA–942–5700–00]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATE: Unless otherwise noted, filing was effective at 10 a.m. on the next federal work day following the plat acceptance date.

FOR FURTHER INFORMATION CONTACT:

Lance J. Bishop, Acting Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2800 Cottage Way, Room E–2845, Sacramento, CA 95825, 916–979–2890.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office of the Bureau of Land Management in Sacramento, CA.

Mount Diablo Meridian, California

T. 5 N., R. 11 E.,—Supplemental plat of the SE¼ of section 35, accepted October 12, 1995, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

T. 21 S., R. 32 E.,—Dependent resurvey and subdivision of sections, (Group 1225) accepted October 24, 1995, to meet certain administrative needs of the U.S. Forest Service, Sequoia National Forest.

T. 22 S., R. 32 E.,—Dependent resurvey and subdivision of sections, (Group 1226) accepted October 24, 1995, to meet certain administrative needs of the U.S. Forest Service, Sequoia National Forest.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: November 20, 1995.

Lance J. Bishop,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 95–29212 Filed 11–29–95; 8:45 am]

BILLING CODE 4310–40–M

[ID–957–1420–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., November 22, 1995.

The supplemental plat, prepared to correct the value of the latitude at the southeast corner of section 12, T. 10 S., R. 18 E., Boise Meridian, Idaho, was accepted November 22, 1995.

All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: November 22, 1995.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 95–29213 Filed 11–29–95; 8:45 am]

BILLING CODE 4310–GG–M

[CA–050–1430–00; CACA 36304]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 150 acres, more or less, of public lands and 1,132 acres, more or less, of non-federal lands along Clear Creek to protect the natural, recreational, scenic, and historic values associated with the Clear Creek Acquisition Area. This notice closes the public lands for up to two years from mining. The lands will remain open to mineral leasing and the Materials Act of 1947.

DATE: Comments and requests for meeting should be received on or before February 28, 1996.

ADDRESS: Comments and meeting requests should be sent to the California State Director (CA–931), BLM, 2800 Cottage Way, Room E–2845, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office, 916–979–2858 or Michael Truden, BLM Redding Resource Area Office, 916–224–2100.

SUPPLEMENTARY INFORMATION: On November 8, 1995, á petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described lands from settlement, sale, location or entry under the United States mining laws (30 U.S.C. Ch.2), subject to valid existing rights:

Mount Diablo Meridian

T. 31 N., R. 4 W.,
Sec. 30, that portion of an unsurveyed island in the Sacramento River,
Sec. 31, lots 1 and 2, and that portion of an unsurveyed island in the Sacramento River,
Sec. 32, lots 4 to 8, inclusive, and that portion of an unsurveyed island in the Sacramento River.
T. 31 N., R. 6 W.,
Sec. 15, lots 17 and 18,
Sec. 36, lots 5, and 7 to 10, inclusive.

The areas described aggregate 150 acres, more or less, in Shasta County.

The petition was also approved allowing the Bureau of Land Management to file an application to

withdraw the following described non-Federal lands (private surface and private minerals). In the event the non-Federal lands (private surface and private minerals) return to Federal ownership, the lands would become subject to the withdrawal.

Mount Diablo Meridian

(A). Surveyed lands previously conveyed out of public ownership
T. 31 N., R. 4 W.,
Sec. 29, SW¼SW¼,
Sec. 30, lots 1 and 2, S½NE¼, and E½SE¼,
Sec. 32, lots 1 to 3, inclusive, and N½N½,
Sec. 33, W½SW¼.
T. 31 N., R. 5 W.,
Sec. 26, lots 3 and 4, and W½SW¼,
Sec. 27, S½SE¼,
Sec. 31, lots 3 and 4, SW¼NE¼, E½SW¼, and N½SE¼,
Sec. 32, S½S½NE¼, SE¼NW¼, and N½S½,
Sec. 33, S½NE¼ and N½S½,
Sec. 34, N½ and NW¼SW¼,
Sec. 35, lot 1 and NW¼NW¼.
T. 31 N., R. 6 W.,
Sec. 10, lots 10 and 15,
Sec. 15, lots 6, 11, 14, and 22, and N½NW¼NE¼,
Sec. 22, lots 3, 6, 7, 10, 11, 17, and 22, and Mineral Survey 424,
Sec. 25, SW¼SW¼,
Sec. 26, lots 4 and 13, S½NW¼, NW¼SE¼, and S½SE¼,
Sec. 27, lots 2, 15, and 16, and Mineral Survey 4688,
Sec. 36, lot 6, NW¼NW¼, E½SE¼, and Mineral Surveys 307 and 411.

(B). Surveyed lands located in Buenaventura Grant 1

That area of land in the Buenaventura Grant 1, located in T. 31 N., R. 4 W., lot 38, and T. 31 N., R. 5 W., lot 37, more specifically shown on the Federal Emergency Management Agency's *Flood Insurance Rate Map* for Clear Creek, on file in the office of the Bureau of Land Management's Redding Resource Area, Redding, California. The pertinent panels of that map and their dates of publication are, respectively: (a) 060358 0880 B, 09/27/1985; (b) 060358 0690 C, 09/05/1990; and (c) 060360 0025 C, 09/29/1989.

The areas described aggregate 1,132 acres, more or less, in Shasta County.

The purpose of the proposed withdrawal is to accomplish the following actions in the Clear Creek Acquisition Area: (a) Enhance anadromous salmonoid habitat, (b) Restore the quality and quantity of riparian vegetation, (c) Establish a greenway along Clear Creek from the Sacramento River to the Whiskeytown Unit of the National Recreation Area, (d) Maintain the scenic quality of the canyon above the Clear Creek Road bridge, (e) Protect the native plant communities and associated fauna of the area, and (f) Protect the historic values of the area.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the California State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the California State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are licenses, permits, cooperative agreements, or other discretionary land use authorizations of a temporary nature.

Dated: November 21, 1995.

Duane Marti,

Acting Chief, Branch of Lands.

[FR Doc. 95–29238 Filed 11–29–95; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Information Collection Under Review

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" from the date listed at the top of this page in the **Federal Register**.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. e.g., permitting electronic submission of responses. If you have additional comments or suggestions, please include them with your written response. If a copy of the proposed collection instrument with instructions is not published in this notice please contact the agency representative listed below if you wish to receive a copy. Contact: Ms. Marilyn C. Landon, Telephone: 202–307–0586. Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Room 742, 633 Indiana Avenue NW., Washington, DC 20531 United States Department of Justice.

Overview of this Information Collection

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* Organizational Study, Evaluation of the "Comprehensive Community-Wide Approach to Gang Prevention, Intervention and Suppression Program."

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form number: None. Sponsored by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, United States Department of Justice.

(4) *Who will be asked or required to respond, as well as a brief abstract:* Primary: Not-for-Profit Institutions. Other: State, Local, or Tribal Government. The study focuses on information about program policies and mechanisms used to analyze and address the gang problem, including interorganizational relationships, and to test the effectiveness of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) approach over time. Respondents will be mainly administrative personnel in organizations participating in the program and a comparable group not participating in the comprehensive approach.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 250 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 500 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Systems Policy Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530. Telephone: 202–514–4319.

Dated: November 27, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–29259 Filed 11–29–95; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–106]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Crystal Systems, Inc., of Decatur, Alabama, has applied for an exclusive license to practice the inventions described and claimed in (1) U.S. Patent No. 4,833,233 entitled Human Serum Albumin Crystals and Method of Preparation, (2) U.S. Patent Application Serial No. 08/351,861 entitled Crystals of Serum Albumin for Use in Genetic Engineering and Rational Drug Design, (3) U.S. Patent Application Serial No. 08/448,196 entitled Biologically Active Protein Fragments Containing Specific Binding Regions of Serum Albumin or Related Proteins, and (4) U.S. Patent Application Serial No. 08/422,963 entitled Device and Method for Screening Crystallization Conditions in Solution Crystal Growth, all of which are assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license to Crystal Systems, Inc. should be sent to Jerry L. Seemann at NASA/Marshall Space Flight Center, CC01/Office of Chief Counsel, Huntsville, Alabama 35812.

DATE: Responses to this Notice must be received by January 29, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry L. Seemann at (205) 544–0026.

Dated: November 13, 1995.

Edward A. Frankle,

General Counsel.

[FR Doc. 95–29216 Filed 11–29–95; 8:45 am]

BILLING CODE 7510–01–M

[Notice 95–107]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that IVAC Corporation, of San Diego, California, has applied for an exclusive license to practice the invention described and claimed in U.S. Patent Application Serial No. 08/500,806, entitled Electronic Clinical Thermometer, which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license to IVAC Corporation should be sent to Jerry L. Seemann at NASA/Marshall Space Flight Center, CC01/Office of Chief Counsel, Huntsville, Alabama 35812.

DATE: Responses to this Notice must be received by January 29, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry L. Seemann at (205) 544–0026.

Dated: November 20, 1995.

Edward A. Frankle,

General Counsel.

[FR Doc. 95–29217 Filed 11–29–95; 8:45 am]

BILLING CODE 7510–01–M

COMMISSION OF FINE ARTS

Notice of Meeting

The Commission of Fine Arts' next meeting is scheduled for 14 December 1995 at 10:00 AM in the Commission's offices in the Pension Building, Suite 312, Judiciary Square, 441 F Street, N.W., Washington, D.C. 20001 to discuss various projects affecting the appearance of Washington, D.C., including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, D.C., November 21, 1995.

Charles H. Atherton,

Secretary.

[FR Doc. 95–29235 Filed 11–29–95; 8:45 am]

BILLING CODE 6330–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–298]

Nebraska Public Power District (Cooper Nuclear Station); Exemption

I

Nebraska Public Power District (NPPD, the licensee) is the holder of Facility Operating License No. DPR–46, which authorizes operation of the Cooper Nuclear Station (CNS) at power levels not in excess of 2381 megawatts thermal. The facility consists of a boiling water reactor at the licensee's site in Nemaha County, Nebraska. The operating license provides, among other things, that CNS is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

II

Pursuant to 10 CFR 55.59(a)(1), each licensed operator is required to successfully complete a requalification program developed by the licensee that has been approved by the Commission. This program is to be conducted for a continuous period not to exceed 24 months in duration and upon its conclusion must be promptly followed by a successive requalification program.

In addition, pursuant to 10 CFR 55.59(a)(2), each licensed operator must also pass a comprehensive requalification written examination and an annual operating test.

III

By letter dated October 16, 1995, NPPD requested an exemption under 10 CFR 55.11 from the requirements of 10 CFR 55.59(a)(2). The schedular exemption requested would extend the completion date for the administration of licensed operator examinations for the CNS requalification program from December 22, 1995, to March 15, 1996, because the scheduled examination time coincides with the plant refueling outage. The requested exemption would constitute a one-time extension of the requalification program duration.

In support of its request for exemption, NPPD indicated that the licensed operators at CNS will continue to participate in the ongoing requalification training program. NPPD further indicated that the assignment of

licensed operators to refueling outage organization positions represents a shutdown risk benefit with regard to plant safety.

The Code of Federal Regulations at 10 CFR 55.11 states that, "The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property and are otherwise in the public interest."

IV

The Commission has determined that pursuant to 10 CFR 55.11, granting an exemption to NPPD from the requirements in 10 CFR 55.59(a)(1) and (a)(2) is authorized by law and will not endanger life or property and is otherwise in the public interest. This one-time exemption will allow additional licensed operator support during the current refueling outage, which will provide a safety enhancement during plant shutdown operations and post-maintenance testing. The affected licensed operators will continue to demonstrate and possess the required levels of knowledge, skills, and abilities needed to safely operate the plant throughout the extension period via continuation of the current satisfactory licensed operator requalification program. In meeting the requirement for the administration of examinations during the 24 month requalification cycle, the current plant refueling outage could be prolonged without a net benefit to safety, and would otherwise have a detrimental effect on the public interest. Accordingly, the Commission hereby grants Nebraska Public Power District an exemption on a one-time only basis from the schedular requirements of 10 CFR 55.59(a)(1) and (2), to allow the current Cooper Nuclear Station requalification program to be extended beyond 24 months, until March 15, 1996.

Pursuant to 10 CFR 51.32, the Commission has also determined that the issuance of the exemption will have no significant impact on the environment. An Environmental Assessment and Finding of No Significant Impact was noticed in the **Federal Register** on November 16, 1995 (60 FR 57603).

This exemption is effective upon issuance and expires on March 15, 1996.
Dated at Rockville, Maryland this 16th day of November 1995.

For the Nuclear Regulatory Commission.
Jack W. Roe,
Director Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.
[FR Doc. 95–29223 Filed 11–29–95; 8:45 am]
BILLING CODE 7590–01–P

[Docket No. 50–341]

Detroit Edison Co., FERMI, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U. S. Nuclear Regulatory Commission (the Commission) is considering issuance of a schedular exemption from certain requirements of 10 CFR Part 50, Appendix J, to the Detroit Edison Company (the licensee) for the Fermi, Unit 2, facility located in Monroe County, Michigan.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant a one-time schedular exemption from the requirements of Sections III.D.2(a) and III.D.3 (Type B and Type C tests, respectively) of Appendix J to 10 CFR Part 50 relating to the primary reactor containment leakage testing for water-cooled reactors. Type B and C tests are associated with leakage testing of bellows, manway gasket seals, flanges, and containment isolation valves. Sections III.D.2(a) and III.D.3 require, in part, that Type B and C tests be performed at intervals no greater than 2 years. The purpose of the tests is to assure that leakage through primary reactor containment shall not exceed allowable leakage rate values as specified in the Technical Specifications and that periodic surveillance is performed. The licensee has proposed a one-time exemption to allow a 25-percent extension to the 2-year testing interval.

The proposed action is in accordance with the licensee's application for exemption dated September 1, 1995.

The Need for the Proposed Action

The proposed action would provide a one-time schedular exemption for Fermi, Unit 2, from the local leak rate test intervals for Type B and C leak rate tests required by 10 CFR Part 50, Appendix J, Sections III.D.2(a) and III.D.3. The exemption is requested to support a revised outage schedule and to avoid the potential for a forced reactor shutdown. If a forced outage is imposed to perform testing, it would present undue hardship and cost in the form of increased radiological exposure. Furthermore, if a forced outage is imposed to perform the required testing, an additional plant shutdown and startup will be required.

Due to a lengthy turbine outage and power ascension program, the licensee proposed deferring the spring 1996 refueling outage until September 27, 1996. This would permit targeted fuel burnup to be met so that Cycle 6 operation can be conducted as planned. However, the 2-year interval for performing Type B and C tests expires in April 1996. Since these tests cannot be performed when the plant is at power, performance of these tests to meet the 2-year interval would necessitate a plant shutdown. Therefore, Detroit Edison has proposed a one-time exemption to allow a 25-percent extension to the testing interval. This would allow for a maximum Type B and C test interval of 30 months and would permit continued plant operation until the September 27, 1996, outage date.

Environmental Impacts of the Proposed Action

The proposed exemptions will add a one-time only 6-month extension to the Appendix J test intervals for Type B and C testing. As stated in 10 CFR Part 50, Appendix J, the purpose of the primary containment leak rate testing requirements is to ensure that leakage rates are maintained within the Technical Specification requirements and to assure that proper maintenance and repair is performed throughout the service life of the containment boundary components. The requested exemption is consistent with the intent of 10 CFR 50.12(a), in that it represents a one-time only schedular extension of short duration. The required leak tests will still be performed to assess compliance with Technical Specification requirements, albeit later, and to assure that any required maintenance or repair is performed. As noted in Sections III.D.2(a) and III.D.3 of Appendix J, it was intended that the testing be performed during refueling outages or other convenient intervals. Extending the Appendix J intervals by a small amount to reach the next refueling outage will not significantly impact the integrity of the containment boundary, and therefore, will not significantly impact the consequences of an accident or transient in the unlikely event of such an occurrence during the 6-month extended period.

Past Unit 2 local leak rate test data have, in general, demonstrated good leak rate test results. A combined Type B and C leakage rate was established by the licensee at the conclusion of the last refueling outage and a running total leakage is maintained during each operating cycle. This running total leakage rate is 73.81 standard cubic feet per hour, which is 41.5 percent of the limit of 0.6 L_a. Based on this margin, it is clear that extending the test interval a maximum of 6 months will not affect the overall integrity of the containment.

The above data provides a basis for showing that the probability of exceeding the offsite dose rates established in 10 CFR Part 100 will not be increased by extending the current Type B and C testing intervals for a maximum of 6 months. The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternative with equal or greater environmental impact need not be evaluated. The principal alternative to the exemption would be to require rigid compliance with the requirements of Sections III.D.2(a) and III.D.3 of Appendix J to 10 CFR Part 50. Such action would not enhance the protection of the environment and would result in increased radiation exposure for the licensee.

Alternate Use of Resources

This action does not involve the use of any resources not considered previously in the Final Environmental Statement for Fermi, Unit 2, dated August 1981.

Agencies and Persons Consulted

In accordance with its stated policy, on November 9, 1995, the staff consulted with the Michigan State official, Mr. Dennis Hahn of the Michigan Department of Public Health, Nuclear Facilities and Environmental Monitoring, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's request for exemption dated September 1, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland, this 22nd day of November 1995.

For the Nuclear Regulatory Commission.
Tae Kim,
Acting Director, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.
[FR Doc. 95–29224 Filed 11–29–95; 8:45 am]
BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36491; File No. SR–GSCC–95–02]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Netting Services for the Non-Same-Day-Settling Aspects of Next-Day and Term Repurchase and Reverse Repurchase Transactions

November 17, 1995.

On August 1, 1995, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–GSCC–95–02) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] On August 29, 1995, and September 19, 1995, GSCC amended the filing.[2] Notice of the proposal was published in the **Federal Register** on September 26, 1995.[3] One comment letter was received regarding the proposed rule change.[4] For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

On May 12, 1995, GSCC implemented its comparison service for next-day (also referred to as "overnight") and term repurchase and reverse repurchase transactions involving government securities as the underlying instrument ("repos").[5] As of October 10, 1995, forty-five members are participating in this service. This rule filing allows GSCC to implement the next stage of its repo services, which is providing netting and risk management services for the non-same-day-settling aspects of next-day and term repo transactions.[6]

The repo netting process began in test mode on October 12, 1995, and continues on a daily basis. The test process is conducted using data submitted during the previous day's production cycle. GSCC anticipates fully implementing repo netting in mid-November 1995 after the November refunding of government securities. In order to accommodate the repo netting process, the proposed rule change substantially modifies GSCC's procedures and methodologies as described below.

(1) Eligibility for Netting

GSCC netting members, other than interdealer broker netting members, may participate in the repo netting system upon being designated by GSCC's Membership and Standards Committee as eligible for such services.[7] The

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Letters from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Christine Sibille, Division of Market Regulation, Commission (August 24, 1995, and September 14, 1995).

[3] Securities Exchange Act Release No. 36252 (September 19, 1995), 60 FR 49649.

[4] Letter from Barry E. Silverman, President, Delta Government Options Corp., to Jonathan G. Katz, Secretary, Commission (October 20, 1995).

[5] For a complete description of GSCC's repo comparison service, refer to Securities Exchange Act Release No. 35557 (March 31, 1995), 60 FR 17598 [File No. SR–GSCC–94–10] (order approving proposed rule change relating to implementing a comparison service for repos).

[6] GSCC plans to offer its repo services in three phases. Phase I involves providing comparison and netting services for next-day and term repo transactions; Phase II will focus on providing comparison, netting, and risk management services for open repos; and Phase III will focus on providing intraday netting and risk management services for same-day settling aspects of repo transactions. Future phases will add the following repo services (not necessarily in this order): (1) tracking and facilitation of collateral substitutions, (2) enhanced comparison services for forward-settling repos, and (3) interest rate protection for forward-settling repos.

[7] Interdealer broker netting members will not be eligible for GSCC's repo netting service during this first phase because brokering in the repo market currently is done on a "give up" basis with interdealer brokers giving up the name of each counterparty to the other counterparty and the no longer having any involvement in the transaction.

Committee will base its determination of eligibility on: (1) Satisfactory participation in GSCC's repo comparison service, (2) demonstration by the member of its ability to meet its obligations with regards to the netting and settlement of repos, and (3) execution by the member of documents provided by GSCC to ensure that the netting and settlement of the member's repos will be done in conformity with GSCC's rules.

A start leg or a close leg of a repo is eligible for netting and settlement through the netting system if: (1) The repo is compared through GSCC, (2) (i) for the start leg, the number of calendar days between the business day on which the repo is submitted to GSCC and the scheduled settlement date for the close leg associated with the settling start leg must not be greater than the maximum number of calendar days set by GSCC, which initially is 195 calendar days and (ii) for the close leg, the number of calendar days between the business day on which the repo is submitted to GSCC and the scheduled settlement date for the close leg must not be greater than the maximum number of calendar days set by GSCC, (3) netting of the start or close leg must occur on or before its scheduled settlement date (*i.e.*, the leg cannot be a same-day settling leg), (4) data on each side of the repo must be submitted to GSCC by members designated as eligible to participate in the repo netting process, (5) the underlying securities must be eligible for netting,[8] and (6) the maturity date of the underlying securities must be on or later than the scheduled settlement date of the leg.

A forward-settling start leg[9] is not netted with other trades and is not guaranteed until the scheduled settlement date for that start leg. A forward-settling close leg is not netted with other trades and is not guaranteed until the scheduled settlement date for the associated start leg.

(2) Netting Process

Each night a participating repo netting member's eligible repo transactions will be netted with its regular buy/sell cash activity and Treasury auction purchases in the same CUSIP to establish a single net position in each security. For netting purposes, the settlements associated with repo start legs and reverse repo close legs will be treated as short positions. The settlements associated with repo close legs and reverse repo start legs will be treated as long positions. The difference between a member's total short activity and its total long activity within a CUSIP is its net position in the CUSIP.

GSCC will provide each participant with a daily netting system output that will breakdown its net positions by reporting for each security: (1) The net cash position, (2) the net repo position, and (3) the total net position.[10] Each participant's forward-settling net position for each of its securities is recalculated on a daily basis. Forward-settling net positions automatically convert into deliver or receive obligations on their scheduled settlement dates.

(3) Settlement

Each processing day, GSCC conducts two settlement processes. These are a securities settlement and a funds-only settlement.[11] For securities settlement, each netting member is obliged to deliver to or to receive from GSCC its net deliver or receive obligation in each CUSIP that is generated as a result of the netting process. Securities settlement for repo legs will not differ from securities settlement for regular cash activity. For funds-only settlement, GSCC will add amounts pertaining to repos to amounts pertaining to regular cash activity and Treasury auction purchases and will report such amounts within the existing categories (*e.g.*, forward margin or fail mark obligations).[12]

(4) Coupon Protection

When the start leg of a repo is initiated, securities are moved from the account of the funds borrower (*i.e.*, the long side for the close leg) to the account of the funds lender (*i.e.*, the short side for the close leg) until the settlement date of the close leg. However, because the funds lender is not entitled to any coupon payments which are made by the issuer directly to the funds lender's clearing bank while the securities are in its possession, the coupon payments will be passed through from the funds lender (short side) to the funds borrower (long side) when the coupon date is after the repo start date and on or before the repo close date GSCC's current procedures for paying coupon on all fail obligations will not change and will apply to fail obligations arising from repos as well.[13]

(5) Collateral Substitution

In this initial phase of repo netting, GSCC will not perform collateral substitutions on an automated basis. However, participants may make collateral substitutions by designating new underlying collateral for a repo transaction through use of the "cancel and correct" feature of GSCC's comparison system. GSCC's operations staff manually will process the collateral substitution as it does now for clearing fund securities margin.

(6) Guarantee of Settlement

As in cash transactions, GSCC novates the repo transaction at the time the start or close leg is netted. At that time, GSCC assumes contraparty responsibility and guarantees settlement of the repo. GSCC's guarantee includes the return of the underlying collateral to the funds borrower and both the return of principal (repo start amount) and the payment of interest to the term of the repo transaction to the funds lender. As discussed above, forward-settling repo start legs and close legs are not netted or guaranteed until the scheduled settlement date of the start leg.

(7) Forward Margin

Because GSCC guarantees the settlement of all transactions once they are compared and netted, each day GSCC will mark-to-market each participant's forward-settling net positions and will recalculate each participant's forward margin obligation. Participating members will then be assessed forward margin accordingly in their daily funds settlement.[14]

Margin for cash trades will continue to be calculated by marking each transaction to the market using the following formula:

Market value=GSCC Price×Par Amount+Accrued Coupon Interest Calculated to Scheduled Settlement Date

The resulting value is then subtracted from the contract value to calculate the appropriate margin amount.

To take into account differences between the repo market and the when-issued cash market, including the fact that the liquidation process for repos involves a cost-of-carry element, forward margin calculations for repos will differ from those of cash market trades. To margin a forward-settling repo close leg, GSCC begins by calculating market value, using the following formula:

Market Value=GSCC Price×Par Amount+Accrued Coupon Interest Calculated to Current Date

The market value calculated is subtracted from the repo's contract value[15] to establish a debit or credit collateral mark.

Next, the repo financing mark for the transaction is calculated. If a member in a net short position (reverse side) fails, GSCC will replace the position by buying securities and putting them out on repo in the market and thus will incur a financing cost. Conversely, if a member in a net long position (repo side) fails, GSCC will replace the position by selling securities obtained by doing a reverse repo in the market and thus will create interest income potential. To account for its possible financing costs and interest income potential, GSCC computes the financing mark and includes it in the clearing margin calculation. The formula used to calculate the financing mark is:

Financing Mark=Market Value of Repo×GSCC Repo Rate×Number of Days to Scheduled Settlement Date÷360

GSCC tailors its repo rate to each individual repo transaction. To establish the repo rate, GSCC first determines if the collateral underlying the repo is general or specific.[16] For general collateral repos, GSCC uses the remaining term of the repo to determine the appropriate market repo rate. For specific collateral repos, GSCC uses both the CUSIP and the remaining term of the repo to determine the specific repo rate. GSCC uses multiple market sources to obtain repo rates which are monitored on a daily basis. After calculating, GSCC debits from the reverse (short) side the financing mark and credits the financing mark to the repo (long) side.

The total forward margin for repos is calculated using the following formula:

Total Forward Margin=Collateral Mark+Financing Mark

The debit and credit margins calculated for the individual transactions comprising the participant's net settlement position are then added together. A participant's total forward margin is the mathematical sum of the individual debit and credit margins calculated across all securities and across all settlement dates.

Any credit margin amounts resulting from both cash and repo trades remaining after being used to fully offset debit margin amounts across CUSIPs will be paid out to participants in funds settlements. There are the following exceptions to this pay-through policy: (1) only bank and category one dealer netting members that have been active in the netting system for at least sixty days may collect credit forward margin amounts, (2) if a member has been awarded Treasury securities at auction, GSCC's obligation to pay to such member a credit forward margin payment will be limited by the amount of debit forward margin payment(s) that under GSCC's rules the Federal Reserve Banks are not obligated to pay to GSCC, and (3) GSCC may suspend a member's right to collect credit forward margin if the member is placed on surveillance.

Because credit margins now will be paid to participants, only cash may be used as margin. Members will no longer be able to post collateral in advance in lieu of their cash forward margin obligations. GSCC will pay interest on all margin amounts collected and will charge interest on all margin amounts paid on a daily basis using the effective Fed Funds rate.

(8) Clearing Fund

GSCC's method of calculating a member's clearing fund contribution now is based on the net settlement positions of all of the cash and repo activities of the participant. The funds settlement risk component and the securities settlement risk component of the clearing fund calculation has been changed to take into account the average of a member's most active ten days over the most recent seventy-five business days instead of the average of the most recent twenty business days.[17]

The clearing fund formula also has been modified to anticipate any exposure resulting from the clearance of the present day's settlement transactions. Specifically, a member's outstanding net settlement position for clearing fund purposes is calculated alternately by disregarding an by including the amount of securities underlying the positions that are scheduled to settle that day. The portion of the clearing fund formula that reflects securities settlement exposure is calculated by taking the average offset margin amount[18] or, if greater, the greatest of the following three calculations; (1) fifty percent of that day's gross margin amount, (2) one hundred percent of that day's offset margin amount calculated by excluding positions that are schedule to settle that day or (3) one hundred percent of that day's offset margin amount including positions that are scheduled to settle that day.[19]

The calculation of the securities settlement exposure for a Category 2 dealer netting member or a Category 2 futures commission merchant netting member also is revised to require such member to deposit the greatest (1) such member's average gross margin amount based on the average of the ten most active days over the most recent seventy-five business days, (2) such member's gross margin amount calculated by including positions settle that day, or (3) such member's gross margin amount calculated by excluding positions settling that day.

The proposed rule change adds a new component, the repovolatility factor, to the clearing fund formula. Repo volatility factors are a set of percentages which are applied to the net settlement repo positions to cover the securities' settlement exposure posed by such repo activity.[20] Initially, the repo volatility factor for general collateral repos will be set at fifty basis points. The repo volatility factor for specific repos that

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[8] Pursuant to GSCC's rules, an eligible security is a security issued or guaranteed by the U.S., a U.S. government agency or instrumentality, or a U.S. government-sponsored corporation (except a mortgage-backed security) that GSCC has listed on its eligible securities master file.

[9] A forward-settling transaction is submitted one or more business days prior to its scheduled settlement date.

[10] The daily netting system output separately lists forward-settling start legs and close legs until such transactions are eligible for netting (*i.e.*, the settlement date of the start leg).

[11] At 2:00 a.m., GSCC issues to each participant its netting output reports which establish the participant's deliver, receive, and payment obligations for the day. By 10:00 a.m., a participant must satisfy its funds only settlement obligations, and GSCC will pay funds credits owed to participants by 11:00 a.m. A participant may satisfy its securities deliver obligations at any time during the day.

[12] The daily net funds-only settlement amount for each netting member will be adjusted to reflect certain changes to GSCC's margining processes as discussed below in Section (7).

[13] Under these procedures, on the coupon payment date GSCC will collect the coupon payment from a member with a fail net short position and pass the coupon payment to the member with the fail net long position.

[14] Because forward-settling start legs are not guaranteed until the scheduled settlement date, such transactions are not margined.

[15] The contract value of the repo is the dollar value at which the close leg is to be settled.

[16] General collateral repos refer to repo transactions that do not specify the underlying collateral by a CUSIP number while specific collateral repos indicate by CUSIP number what the underlying security must be.

[17] This change has been made to both the general rules on clearing fund deposits and the specific rules for Category 2 dealer netting members and Category 2 futures commission merchants.

[18] The offset margin amount is the gross margin (the dollar value of a member's net settlement positions multiplied by the appropriate margin factors) as reduced by offsetting short and long positions based on maturity date and par amount. The average offset margin, which is part of the securities settlement risk component discussed above, takes the average of offset margins from the ten most active days over the previous seventy-five business days.

[19] Prior to this filing, securities settlement exposure was calculated as the greater of the average offset margin amount or 50% of the gross margin amount.

[20] These percentages are derived based on GSCC's research, which has been conducted with the assistance of tits members, on historical repo rate volatility including repo market participants' analytics and raw data itself. GSCC is building and will maintain its own date base on the historical daily volatility of repo rates.

are expected to convert to general collateral repos on a certain date will be the same as the factor for general collateral repos. The repo volatility factor for all other specific repos will be the spread between the system rate for the repo and the system rate for general collateral repos with a minimum factor of fifty basis points.

Each member is required to add to its clearing fund requirement the greater of (1) the product of the repo volatility factors and the market value of the member's repo transactions reduced by offsetting short and long positions based on maturity date and par amount [21] ("offset repo volatility amount") or (2) the average of a member's ten highest offset repo volatility amounts over the most recent seventy five business days. Participants may submit requests for the return of excess collateral on a monthly basis instead of on a quarterly basis.

(9) Obligation To Submit Trades

GSCC Rule 11, Section 3, which requires a netting member to submit all eligible trades to GSCC for comparison and netting, is not applicable to a netting member's repo transactions. Rule 18, Section 4 requires a repo netting member to submit for comparison and netting all repo trades eligible for netting to either GSCC, to another Commission registered clearing agency, or a clearing agency exempted by the Commission from Clearing agency registration.

II. Comments

The Commission received one comment letter opposing the proposal.[22] This commenter argues that: (1) GSCC's system does not novate trades, and therefore, its members may not offset repo trades on their books in reliance on Interpretation 41 of the Financial Accounting Standards Board ("FASB"); [23] (2) GSCC's repo volatility factor provides inadequate protection in a volatile market; [24] (3) GSCC does not have a third party credit line to pay for customer defaults; and (4) GSCC has not imposed trading limits on its members. In its response to the commenter, GSCC states that the commenter's arguments are based on misrepresentations and misstatements regarding GSCC and its processes.[25]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).[26] Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes GSCC's rule change meets these goals because the implementation of a netting system for repos continues the process whereby GSCC provides the benefits of centralized automated settlement to a broader segment of government securities transactions and because the netting system is being implemented with safeguards adequately designed to limit the risks to GSCC and its participants associated with the netting of repo transactions.

In addition to centralizing and automating the settlement process, repo netting provides several benefits to participants. Among others, these include: (1) guaranteed settlement, (2) reduction in FedWire transfer activity through the netting of a member's repo transactions with its cash transactions and auction purchases, (3) automated coupon tracking, and (4) automated output.

The proposed rule change also is consistent with the recommendations of the Joint Report on the Government Securities Market.[27] The Joint Report recommended, among other things, that GSCC include more trades in its netting system. The Joint Report noted that the benefits of netting are greater as more trades are included in the net and that as more trades are included in GSCC's net a larger percentage of market trades become guaranteed trades.

The Commission also believes that GSCC has put in place adequate safeguards to limit the settlement risk associated with repo transactions. For example, GSCC does not novate or guarantee the start leg of a repo until the scheduled settlement date. In addition, GSCC's guarantee is limited to repos that are schedule to settle within 195 days of submission to GSCC. The Commission believes that these measures provide additional risk protection. As GSCC becomes more experienced in the netting of repos, it may decide that it can eliminate or modify these limitations consistent with its responsibility to safeguard securities and funds.[28]

The Commission further believes that GSCC's forward margin and clearing fund calculations provide adequate risk management. GSCC's margining system takes into account changes in the price of the underlying collateral and the risk that GSCC may need to replace the underlying collateral if a participant defaults. The clearing fund calculation is based on both a member's funds settlement amount and securities settlement amount. With respect to repos, GSCC also will collect clearing fund contributions based on changes in the financing rate which will reflect possible changes in repo rates. The Commission believes that the margin and clearing fund contributions appropriately take into account the risks posed to GSCC by the settlement of repos.

The Commission also notes that GSCC's rules require that netting members submit a repo transaction to either GSCC or another registered or exempted clearing agency. The Commission believes that such a requirement is consistent with the Act's goal of establishing a national system for the clearance and settlement of securities by including more trades within the system.[29]

Currently, GSCC will not accept same-day settling repo legs or open repos. The Commission understands that GSCC needs to study further the risk involved with such repos and to modify its systems in order to process these trades in a safe and efficient manner. The Commission believes that the current limitations on eligible transactions are appropriate.

The one adverse commenter argued that GSCC's system does not comply with FASB's Interpretation No. 41 because GSCC does not novate the trades.[30] The Commission believes that the commenter mischaracterizes GSCC's netting process. Pursuant to Section 6 of GSCC's Rule 11, all obligations between netting members are terminated at the time a report of such positions and obligations are made available to members and are replaced by obligations to deliver to and/or to receive from GSCC securities and payments.

The adverse commenter also argues that GSCC's repo volatility factor should take into account a three standard deviation move instead of a two standard deviation move.

Contrary to the commenter's statement, GSCC does not rely upon a two standard deviation movement. Instead, the current minimum repo volatility factor of fifty basis points exceeds the largest one day movement (forty-one basis points) in all general collateral repos.[31]

The commenter also argues that GSCC does not have sufficient liquidity through a third party credit line and does not limit the positions of members. In its release announcing standards for the registration of clearing agencies, the Commission stated that a clearing agency should establish an appropriate level of clearing fund contributions based on the risks to which it is subject.[32] The purpose of the clearing fund is to enable a clearing agency to meet its obligations to its participants. The Commission believes that by revising its clearing fund formula to take into account repo activity, GSCC will have sufficient liquidity to provide for the safeguarding of securities and funds. Further, GSCC's clearing fund is based upon each member's level of trading activity.[33] Thus, GSCC will collect payments from members in proportion to their trading activity.

Nonetheless, the Commission believes it is appropriate for GSCC to review its liquidity needs and resources after it has experience operating the repo netting system. Accordingly, GSCC has agreed to conduct a study of its liquidity resources within a year after implementing this service, and to provide a copy of such study to the Commission.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with Section 17A(b)(3)(F) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–95–02) be, and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[34]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29258 Filed 11–29–95; 8:45 am]

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[21] A twenty-five percent disallowance will be imposed an all offsets.

[22] *Supra* note 4.

[23] The commenter asserts that nothing in GSCC's rules or procedures prevents it from assigning a guaranteed obligation to a system participant having an equal obligation and stepping out as a counterparty.

[24] Specifically, the commenter asserts that GSCC's repo volatility factor is based upon two standard deviations from the mean rate over the historical period instead of the three standard deviations used by the commenter.

[25] In its letter, GSCC addressed each of the commenter's points. (1) Regarding novation of trades, GSCC asserts that its rules clearly set forth the novation process whereby GSCC stands in the middle of all net settlement positions as a counterparty to each member for settlement purposes, and with regard to repos, as counterparty it ensures the return of the underlying collateral to the funds borrower and both the return of principal and the payment of interest to the term of the repo to the funds lender. (2) Regarding the protection given by GSCC's repo volatility factor in a volatile market, GSCC asserts that it does not plan to use a two standard deviation measure for the repo volatility component of its clearing fund calculation as asserted by the commenter and states that the factor will reflect the interest rate exposure incurred by GSCC in guaranteeing payment to the funds lender in a repo transaction. (3) Regarding third-party credit support, GSCC asserts that it uses a dynamic margining process whereby margin is recalculated and collected daily and increases or decreases daily based on the level of members' net activity. GSCC states that the dynamic nature of the margining process provides a high level of assurance that GSCC's overall settlement process for the Government securities industry never fails. (4) Regarding system limits and risk assessment, GSCC asserts that it has a comprehensive and highly automated management reporting system that allows it to assess the risks presented by members' activities and changing market conditions. GSCC asserts that the clearing fund and forward margin requirements imposed on members act as limits on system-wide exposure because a member can only increase its trading activity to the extent that it can meet its daily margin obligations. Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (October 27, 1995).

[26] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[27] Joint Report on the Government Securities Market (January 1992) at 31 ("Joint Report"), prepared by the Department of the Treasury, the Securities and Exchange Commission, and the Board of Governors of the Federal Reserve System.

[28] Should GSCC decide that it can modify or eliminate the limitations in a manner consistent with its statutory safeguarding obligations, it will file for Commission approval a proposed rule change.

[29] 15 U.S.C. 78q–1(a)(2)(A) (1988).

[30] The commenter noted that although Price Waterhouse LLP issued an opinion stating that GSCC members would be allowed to offset for financial statement purposes positions in repos, this opinion is based on GSCC's description of the novation process by which GSCC becomes the counterparty. Letter from Barry E. Silverman, *supra* note 4, referring to a letter from Price Waterhouse LLP to GSCC (May 30, 1995).

[31] In contrast, a two standard deviation movement is equal to ten basis points.

[32] Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920.

[33] While the commenter suggests that in its repo clearing system it establishes trading limits for all participants, such limits only prohibit additional trading activity that is not margined (*i.e.*, the commenter requires that a participant submit additional margin in order to submit additional trades).

[34] 17 CFR 200.30–3(a)(12) (1994).

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waivers of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received from the American Railway Car Institute (ARCI) a request for waiver of compliance with certain requirements of the Railroad Power Brakes and Drawbars Regulations. The petition is described below, including the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

American Railway Car Institute (ARCI) (FRA Waiver Petition Docket Number PB–95–3)

The ARCI seeks a permanent waiver of compliance from section 232.2 of the Railroad Power Brakes and Drawbars Standards (49 CFR Part 232). That section states in part: "The maximum height of drawbars for freight cars—shall be 34½ inches, and the minimum height of drawbars for freight cars on such standard-gauge railroads—shall be 31½ inches—ARCI is requesting to increase the maximum allowable coupler height one inch from 34.5 inches to 35.5 inches for bottom shelf E couplers and top and bottom shelf E couplers only. ARCI states that the granting of this waiver will allow railroads and car builders to build safer and more efficient cars. It claims industry's need for safer suspension systems is being hampered by the small range of allowable coupler heights. Railroads, truck manufacturers, and freight car manufacturers know that rail worthiness of many cars would be improved if spring travel could be increased. For example, cars negotiating changes in super-elevation as they enter and exit curves would be subject to less wheel unloading if they had softer, more compliant, longer travel suspensions. Wheel unloading is most undesirable in curves, as the wheel set is often developing high lateral forces. High lateral forces combined with wheel unloading can result in derailment. The small range of allowable coupler heights severely limits the use of longer travel springs. By increasing the allowable range of coupler height of one inch would allow designers to make a significant improvement in rail worthiness.

FRA has determined that a public hearing will be held in this matter. Accordingly a public hearing is hereby set for 10 a.m. on January 10, 1996, Room 3328 in the Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

The hearing will be an informal one and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR Part 211.25), by a representative designated by the FRA. The hearing will be a nonadversary proceeding in which all interested parties will be given the opportunity to express their views regarding this waiver petition.

Interested parties are also invited to participate in these proceedings by submitting written views, data or

comments. All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Number PB–95–3 and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590.
Communications received by January 17, 1996 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m. to 5 p.m.) in Room 8201, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC on November 27, 1995.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 95–29257 Filed 11–30–95; 8:45 am]

BILLING CODE 4910–06–P

[FRA Docket No. RST–95–3]

Petition for Exemption or Waiver for Cant-Deficient Passenger Train Operation; New York State Department of Transportation

In accordance with 49 CFR 211.41, notice is hereby given that the New York State Department of Transportation (NYDOT) has submitted a petition, dated October 16, 1995, for a waiver of compliance with certain requirements of Title 49, Code of Federal Regulations, Part 213: Track Safety Standards.

The purpose of the petition is to secure approval from the Federal Railroad Administration (FRA) for the operation of certain types of passenger trains at curve negotiating speeds producing up to eight inches of cant deficiency (superelevation underbalance). Currently, section 213.57(b) of the Track Safety Standards limits cant deficiency to not more than three inches. (For a detailed discussion of cant deficiency, see 52 FR 38035, October 13, 1987). It is stated in the petition that: "The Petitioner represents the People of the State of New York and their interest in maximizing the efficiency and safety of the state's transportation system, to the benefit of the economy and general welfare."

The petition envisions the operation of modified, so-called Rohr RTL–2 "Turboliner" trainsets within the Empire Corridor, New York City to Niagara Falls. Tracks that would support this proposed train operating scenario are owned by Conrail, Metro North Commuter Rail and the National Railroad Passenger Corporation (Amtrak). The petition focuses attention on passenger rolling stock controlled by Amtrak.

Interested parties are invited to participate in these proceedings by submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, the party should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Number RST–95–3) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 45 days of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m. to 5:00 p.m.) in Room 8201, 400 Seventh Street SW., Washington, D.C., 20590.

Issued in Washington, D.C. on November 20, 1995.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 95–29256 Filed 11–30–95; 8:45 am]

BILLING CODE 4910–06–P

Sunshine Act Meetings

Federal Register
Vol. 60. No. 230
Thursday, November 30, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, December 5, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Wednesday, December 6, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W. Washington, D.C. (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

ITEM TO BE DISCUSSED: *MCFL* Rulemaking: Explanation and Justification.

DATE AND TIME: Thursday, December 7, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W. Washington, D.C. (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes
Future Meetings (tentative)
Election of Officers
Advisory Opinion 1995–39: Charles H. Bell, Jr. on behalf of the Los Angeles County Republican Central Committee
Advisory Opinion 1995–41: Robert F. Bauer on behalf of Representative Carolyn Maloney and Maloney for Congress
MCFL Rulemaking: Explanation and Justification (continued from meeting of December 6, 1995, if necessary)
Fiscal Year 1996 Management Plan
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 95–29378 Filed 11–28–95; 8:45 am]

BILLING CODE 6715–01–M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 2:30 p.m., Monday, November 27, 1995.

PLACE: Board Conference Room, Eleventh Floor, 1099 Fourteenth St., N.W., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION: John J. Toner, Acting Executive Secretary, Washington, D.C. 20570. Telephone: (202) 273–1940.

Dated, Washington, D.C., November 27, 1995.

By direction of the Board:

John J. Toner,

Acting Executive Secretary, National Labor Relations Board.

[FR Doc. 95–29306 Filed 11–28–95; 11:21 am]

BILLING CODE 7540–01–M

OVERSEAS PRIVATE INVESTMENT CORPORATION

December 12, 1995 Board of Directors Meeting

TIME AND DATE: Tuesday, December 12, 1995, 1:00 p.m. (Open Portion 1:30 p.m. (Closed Portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, N.W., Washington, D.C.

STATUS: Meeting OPEN to the Public from 1:00 p.m. to 1:30 p.m. Closed portion will commence at 1:30 p.m. (approx.).

MATTERS TO BE CONSIDERED:

1. President's Report.
2. Approval of September 19, 1995 Minutes (Open Portion).
3. Meeting schedule through September, 1996.

FURTHER MATTERS TO BE CONSIDERED: (Closed to the Public 1:30 p.m.)

1. Insurance Project in Russia and Kazakhstan.
2. Finance Project in Brazil.
3. Insurance Project in Bolivia.
4. Insurance in Peru.
5. Insurance Project in Indonesia.
6. Insurance Project in Indonesia.
7. Insurance Project in Papua New Guinea.
8. Pending Major Projects.
9. Approval of 9/19/95 Minutes (Closed Portion).

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: November 22, 1995.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 95–29371 Filed 11–28–95; 2:42 pm]

BILLING CODE 3210–01–M

UNITED STATES INSTITUTE OF PEACE

DATE AND TIME: Thursday, December 7—9:00 a.m.-5:30 p.m.

LOCATION: University Club*/Governor's Room, Second Floor, 1135 16th Street, Washington, DC 20036, (202) 862–8800.

*Professional Dress Is Required.

STATUS: *(Open Session)*—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

AGENDA: December Board Meeting, Approval of Minutes of the Seventy-second Meeting of the Board of Directors; Chairman's Report; President's Report; Committee Reports; Approval of Unsolicited Grants; Institute's Longer-term Plans; Other General Issues.

CONTACT: Dr. Sheryl Brown, Director, Office of Communications, Telephone: (202) 457–1700.

Dated: November 27, 1995

Charles E. Nelson,

Vice President for Management and Administration, United States Institute of Peace.

[FR Doc. 95–29337 Filed 11–28–95; 1:07 pm]

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federal register

Thursday
November 30, 1995

Part II

Department of Defense

48 CFR Parts 201, 202, et al.

Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments; Interim and Final Rules

DEPARTMENT OF DEFENSE

48 CFR Parts 201, 202, 203, 204, 206, 207, 208, 209, 210, 211, 212, 214, 215, 217, 219, 223, 225, 226, 227, 228, 231, 232, 234, 235, 237, 239, 242, 246, 247, 249, 250, 252, 253, and Appendices C, F, and G to Chapter 2

[Defense Acquisition Circular (DAC) 91–9]

Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Interim and final rules.

SUMMARY: Defense Acquisition Circular (DAC) 91–9 amends the Defense Federal Acquisition Regulation Supplement (DFARS) to revise, finalize, or add language on ethics, personal services contracts, contract award, class justifications and approvals, integrated materiel management, preaward surveys, qualification requirements, audit, field pricing reports, subcontracting plans, environmentally sound products, hazardous materials, foreign source restrictions, supercomputers, Indian incentives, preference for local residents, allowable individual compensation, cost principles, manufacturing science and technology program, research and development, firefighting and security-guard services, automatic data processing equipment leasing reviews, cost monitoring, contract quality requirements, contract data reporting, master agreements, and acquisition of commercial items.

DATES: *Effective date:* November 30, 1995.

Comment date: Comments on the interim rule (Item XXXV: Sections 203.170–1; 203.170–4; 203.570–5; 207.105; 209.103–70; Parts 210, 211, and 212, Sections 215.971–4; 217.7302; 219.704; 223.570–4; 225.7002–2; 225.7019–2; 225.7103; 225.7201; 227.7101; 227.7102–3; 227.7103–15; 227.7202–2; 234.001; 242.7206; 246.204; 246.704; 246.770–1; 247.572–1; 247.572–2; 252.203–7000; 252.203–7001; 252.209–7000; 252.210–7000 through 252.210–7004; 252.211–7000 through 252.211–7021; 252.212–7000; 252.212–7001; 251.217–7026; 252.219–7003; 252.219–7005; 252.225–7012; 252.225–7014; 252.225–7016; 252.225–7026; 252.227–7103; 252.227–7015; 252.227–7037; 252.247–7023; and 252.247–7024) should be submitted in writing to the address shown below on or before January 29, 1996, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments on the interim rule (Item XXXV) to: Defense Acquisition Regulations Council, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 95–D712 in all correspondence related to this rule.

FOR FURTHER INFORMATION CONTACT: Item XXXV—Mr. Louis Gaudio, (703) 695–1097.

All other items—Ms. Lucile Martin, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

This Defense Acquisition Circular (DAC) 91–9 includes 35 rules and miscellaneous editorial amendments. Five of the rules in the DAC (Items II, IX, XII, XIV, and XXIII) were published previously in the **Federal Register** and thus are not included as part of this rulemaking notice. These five rules are being published in the DAC to revise the looseleaf edition of DFARS to conform to the previously published revisions. Item XXXV, Acquisition of Commercial Items, was subject to Office of Management and Budget Review under Executive Order 12866, dated September 30, 1993.

B. Determination to Issue an Interim Rule (Item XXXV)

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. Federal Acquisition Circular 90–32 (60 FR 48206, September 18, 1995) revised the Federal Acquisition Regulation (FAR) to implement Title VIII of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355). Title VIII of Pub. L. 103–355 contained requirements for the acquisition of commercial items and required publication of implementing FAR revisions by October 1, 1995. The FAR rule became available for use on October 1, 1995, and is mandatory for use by all Federal agencies in commercial item solicitations issued after December 1, 1995. This DFARS rule implements DoD-unique requirements of Pub. L 103–355 pertaining to the acquisition of commercial items. DoD contracting activities cannot effectively use the FAR commercial item procedures without this supplemental DFARS guidance. Immediate DFARS coverage is needed to permit DoD contracting activities to comply with Pub. L. 103–355 and the implementing FAR requirements pertaining to the acquisition of commercial items.

C. Regulatory Flexibility Act

DAC 91–9, Items I, VI, VII, VIII, X, XV, XVIII, XXI, XXV, XXVIII, XXIX, XXX, XXXI, XXXIII, XXXIV

The Regulatory Flexibility Act does not apply because these rules are not significant revisions within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. However, comments from small entities will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately. Please cite the applicable DFARS case number in correspondence.

DAC 91–9, Items IV, V, XI, XIII, XVI, XVII, XX, XXII, XXVI

DoD certifies that these rules will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act because:

Item IV—The rule only pertains to (1) purchases made outside the United States for use by armed forces outside the United States; (2) internal Government considerations regarding leasing; (3) production contracts where special tooling/special test equipment costs exceed $1,000,000; and (4) certain notification requirements under the Certificate of Competency Program which were repealed by Section 7101(b) of the Federal Acquisition Streamlining Act of 1994.

Item V—The use of class justifications and approvals is already permitted by the Federal Acquisition Regulation (FAR). This rule merely expands Defense FAR Supplement (DFARS) guidance to address the use of class justifications and approvals for multiple contracts extending across more than one program phase.

Item XI—The rule primarily relates to the application of Government resources for conducting field pricing reviews.

Item XIII—The rule merely reflects the extension of statutory authority for contractors to claim credit toward their small business subcontracting goals when awarding subcontracts to qualified nonprofit agencies for the blind or severely disabled.

Item XVI—The rule only applies in exceptional situations when non-DoD-owned toxic or hazardous materials are stored or disposed of on a military installation.

Item XVII—The DFARS already permits DoD to grant public interest exceptions to the Buy American Act, where the purposes of the Buy American Act are not served. This rule merely amends the DFARS guidance to reflect a recent statutory change to the criteria that must be considered when granting a public interest exception, and to streamline internal DoD approval requirements.

Item XX—The rule places restrictions on the acquisition of foreign products.

Item XXII—The rule only applies to contracts that are awarded in support of the closure or realignment of a military installation.

Item XXVI—The rule only applies to contracts that are awarded under the Manufacturing Science and Technology Program.

DAC 91–9, Items III, XIX, XXIV, XXVII, XXXII

The Regulatory Flexibility Act applies. A final regulatory analysis has been performed and is available by writing the Defense Acquisition Regulations Council, PDUSD(A&T)DP(DAR), 3062 Defense Pentagon, Washington, DC 20301–3062.

DAC 91–9, Item XXXV

This interim rule is expected to have a positive economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule simplifies procedures for DoD acquisition of commercial items. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and may be obtained from the address stated herein. A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. Comments from small entities concerning the affected DFARS subparts will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 95–D712 in correspondence.

D. Paperwork Reduction Act

DAC 91–9, Items I, III, IV, V, VI, VII, VIII, X, XI, XV, XVI, XVII, XVIII, XIX, XX, XXI, XXII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX, XXX, XXXI, XXXII, XXXIII, XXXIV, XXXV

The Paperwork Reduction Act does not apply because the revisions in this rulemaking notice do not contain and/or affect information collection requirements which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

DAC 91–9, Item XIII

The Paperwork Reduction Act applies. OMB has approved the information collection requirement under OMB Control Number 9000–0007.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Defense Acquisition Circular (DAC) 91–9 amends the Defense Federal Acquisition Regulation Supplement (DFARS) 1991 edition. The amendments are summarized as follows:

Item I—Ethics (DFARS Case 95–D707)

This final rule deletes DFARS Subpart 203.71, Contractor Employee Communications with Government Officials, and the corresponding contract clause at 252.203–7003, Prohibition Against Retaliatory Personnel Actions. DFARS Subpart 203.71 and the clause at 252.203–7003 implemented 10 U.S.C. 2409a, which was repealed by Section 6005 of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355). Guidance on whistleblower protections for contractor employees has been added to the FAR at Subpart 3.9, by Federal Acquisition Circular 90–30, dated July 21, 1995.

Item II—Sequence of Progress Payments and Contract Modifications (DFARS Case 93–D016/95–D012)

This final rule was issued by Departmental Letter 95–012, effective July 3, 1995. The rule amends DFARS Subparts 204.71, 215.4, 217.74, and 243.1 to provide additional guidance regarding identification of funding under DoD contracts. Contracting officers shall ensure that contracts clearly identify the accounting classification reference numbers which apply to each line and subline item. When a line item contains multiple accounting classification citations, the contract shall include instructions which provide for payment in a manner that reflects the performance of work on the contract. Contracts that contain both fixed-price and cost-reimbursement line or subline items shall identify the contract type for each line or subline item. In addition, contract modifications which obligate or deobligate funds shall identify the accounting changes for each line and subline item to facilitate appropriate payment.

Item III—Personal Services Contracts (DFARS Case 94–D302)

The interim rule published as Item XXX of DAC 91–7 is revised and finalized. The rule establishes procedures for entering into personal services contracts under 10 U.S.C. 1091 to carry out health care responsibilities in medical treatment facilities. The final rule differs from the interim rule in that it adds language at DFARS 206.001, deletes 206.102, and amends 237.104(b)(ii), to recognize that personal services contracts authorized by 10 U.S.C. 1091 are exempt from FAR Part 6 competition requirements.

Item IV—Contract Award (DFARS Case 95–D701)

The interim rule issued by Departmental Letter 95–016 on August 7, 1995, is converted to a final rule without change. The rule (1) revises DFARS 206.302–5(b)(i) to exclude soft drinks, that are manufactured in the United States, from the limitations which apply to noncompetitive acquisition of items from military exchange stores outside the United States; (2) adds a new section at DFARS 207.470 to place restrictions on the lease of vessels, aircraft, or vehicles for a term of 18 months or more; (3) deletes the language at DFARS 215.871 concerning production special tooling and production special test equipment; and (4) deletes DFARS 219.602–1(a), 219.602–70, and 252.219–7009 to eliminate certain notification requirements pertaining to the Certificate of Competency Program. These DFARS revisions implement Sections 1506, 3065, 3066, and 7101(b) of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355).

Item V—Class Justifications and Approvals (DFARS Case 95–D009)

This final rule adds language at DFARS 206.303–1(c) and 207.102 to state that: (1) When conditions warrant, a class justification for other than full and open competition may provide for award of multiple contracts extending across more than one program phase; and (2) when a class justification for other than full and open competition has been approved, planning for competition shall be consistent with the terms of that approval.

Item VI—Integrated Materiel Management (DFARS Case 95–D005)

This final rule amends DFARS 208.7003 to permit greater flexibility for local purchase of items assigned for integrated materiel management (IMM), when such action is in the best interest of the Government. The dollar threshold at which file documentation is required to justify local purchase of an IMM item is increased from $100 per line item to the micro-purchase threshold. The dollar threshold at which a waiver is required, before local purchase of an IMM item, is increased from $5,000 per line item to the simplified acquisition threshold. Additionally, the list of points of contact for waiver requests is revised.

Item VII—Preaward Survey (DFARS Case 95–D016)

This final rule revises DFARS 209.106–1 to delete the requirement for the contracting officer to contact the cognizant contract administration activity when the contracting officer is unable to make a determination of responsibility for a low-dollar value acquisition. Guidance regarding sources of information to support determinations of responsibility can be found at FAR 9.105–1(c).

Item VIII—Qualification Requirements (DFARS Case 95–D011)

This final rule revises DFARS 209.202 to delegate authority for approval of qualification requirements, except those pertaining to Qualified Products Lists (QPLs) or Qualified Manufacturers Lists (QMLs), to the chief of the contracting office. QPLs and QMLs are managed in accordance with DoD Manual 4120.3–M, Defense Standardization Program Policies and Procedures.

Item IX—Institutions of Higher Education (DFARS Case 94–D310)

This interim rule was issued by Departmental Letter 95–007, effective March 6, 1995. The rule adds a new section and contract clause at DFARS 209.470 and 252.209–7005 to implement Section 558 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103–337). Section 558 provides that no funds available to DoD may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents the Secretary of Defense from obtaining for military recruiting purposes, entry to campuses, access to students on campuses, or access to directory information pertaining to students.

Item X—Audit (DFARS Case 95–D705)

This final rule amends DFARS 215.804–8, 235.015–71, 237.7204, 252.239–7010, and C–204.3, and deletes the clause at 252.215–7001, to reflect revisions to the FAR published as Item I of Federal Acquisition Circular (FAC) 90–31 on August 16, 1995. Item I of FAC 90–31 (1) revised the policy pertaining to contractor records retention at FAR 4.703; (2) deleted the clause at FAR 52.215–1, Examination of Records by Comptroller General; and (3) revised the clauses at FAR 52.214–26, Audit and Records—Sealed Bidding, and 52.215–2, Audit and Records—Negotiation, to provide for examination of records by the Comptroller General.

Item XI—Field Pricing Report (DFARS Case 95–D010)

This final rule amends DFARS 215.805–5 to increase, from $1 million to $10 million, the dollar threshold for requesting field pricing reports for cost-type proposals from offerors without significant estimating system deficiencies.

Item XII—Comprehensive Small Business Subcontracting Plans (DFARS Case 95–D002)

This final rule was issued by Departmental Letter 95–015, effective July 10, 1995. The rule amends DFARS 219.702 and the clause at 252.219–7004 to implement Section 7103 of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355). Section 7103 extends, through September 30, 1998, the test program for contractor use of comprehensive small business subcontracting plans.

Item XIII—Subcontracting Plans for Nonprofit Agencies for the Blind or Severely Disabled (DFARS Case 94–D312)

The interim rule issued by Departmental Letter 95–004, on February 27, 1995, is converted to a final rule without change. The rule amends DFARS 219.703 to implement Section 804 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103–337). Section 804 extends, through September 30, 1997, the authority for contractors to claim credit toward their small business subcontracting goals for subcontracts with qualified nonprofit agencies for the blind or severely disabled.

Item XIV—Evaluation Preference for Small Disadvantaged Business Concerns (DFARS Case 95–D008)

This final rule was issued by Departmental Letter 95–017, effective August 22, 1995. The rule amends DFARS 219.7001 to state that the evaluation preference for small disadvantaged business concerns shall not be used in acquisitions for long distance telecommunications services.

Item XV—Environmentally Sound Products (DFARS Case 95–D303)

This final rule adds a new section at DFARS 223.404 to (1) designate the approving official for acquisition of EPA designated items which do not meet EPA or agency minimum recovered material standards; and (2) require agency collection and consolidation of annual contractor certifications pertaining to the use of recovered materials.

Item XVI—Hazardous Materials (DFARS Case 94–D309)

The interim rule issued by Departmental Letter 95–006, on March 6, 1995, is revised and finalized. The rule amends DFARS Subpart 223.71 and the clause at 252.223–7006 to implement Section 325 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103–337). Section 325 provides an additional exception to the statutory prohibition on storage and disposal of non-DoD-owned toxic and hazardous materials on military installations. The final rule differs from the interim rule in that it revises alternate paragraph (d) of the clause at 252.223–7006 to clarify requirements for flowdown of the clause to subcontractors.

Item XVII—Determinations Under the Buy American Act (DFARS Case 94–D313)

The interim rule issued by Departmental Letter 95–011, dated July 3, 1995, is converted to a final rule without change. The rule amends DFARS 225.102 to implement Section 812 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103–337). Section 812 adds several factors to the series of factors at 10 U.S.C. 2533 that must be considered when deciding whether to grant a public interest exception to the Buy American Act. In addition, the rule changes the approval levels for granting such exceptions.

Item XVIII—Australian Memorandum of Agreement (DFARS Case 95–D013)

This final rule amends DFARS 225.872–1 to add Australia to the list of countries whose defense products are not subject to the restrictions of the Buy American Act/Balance of Payments Program. The rule implements a Memorandum of Agreement Concerning Reciprocal Defense Procurement, dated April 19, 1995, between the United States and Australia, and a determination made by the Deputy Secretary of Defense, on April 29, 1995, that it is inconsistent with the public interest to apply the restrictions of the Buy American Act to the acquisition of defense equipment produced or manufactured in Australia.

Item XIX—Restriction on Procurement of Goods (DFARS Case 94–D314)

The interim rule published as Item XIV of DAC 91–7 is revised and finalized. The rule implements the foreign source restrictions of 10 U.S.C. 2534. The interim rule differs from the final rule in that it revises DFARS 225.7007–4, 225.7010–3, and 225.7016–3 to refer to, rather than repeat, the waiver criteria at 225.7004–4.

Item XX—Supercomputers (DFARS Case 95–D301)

The interim rule issued by Departmental Letter 95–013 on July 3, 1995, is revised and finalized. The rule adds a section at DFARS 225.7023 and a contract clause at 252.225–7011 to implement Section 8023 of the Fiscal Year 1995 Defense Appropriations Act (Pub. L. 103–335). Section 8023 and comparable sections in prior Defense Appropriations Acts require that any supercomputers acquired with defense funds appropriated in Fiscal Years 1988 through 1995 must be manufactured in the United States, unless the Secretary of Defense certifies to the Congress that the supercomputers are for national security purposes and are not available from United States manufacturers. The final rule differs from the interim rule in that it corrects the statutory citation at 225.7023–1.

Item XXI—Indian Incentives (DFARS Case 95–D027)

This final rule adds a new section at DFARS 226.103 to provide procedures for obtaining contract funding for an approved Indian incentive payment request.

Item XXII—Preference for Local Residents (DFARS Case 94–D315)

The interim rule published as Item XX of DAC 91–7 is revised and finalized. The rule implements Section 817 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103–337). Section 817 authorizes the Secretary of Defense to give preference to entities that plan to hire local residents, when entering into contracts for services to be performed at a military installation that is affected by closure or realignment under a base closure law. The final rule differs from the interim rule in that it adds language at DFARS 226.7104 to clarify that the guidance in this section applies to contracts related to base closure activities.

Item XXIII—Payment Protections in Construction Contracts Between $25,000 and $100,000 (DFARS Case 95–D305)

This interim rule was issued by Departmental Letter 95–018, effective August 31, 1995. The rule adds a new section and contract clause at DFARS 228.171 and 252.228–7007. The rule provides alternative payment protections for construction contracts between $25,000 and $100,000, pending implementation of Section 4104(b)(2) of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355) in the FAR. Section 4104(b)(2) requires FAR revisions to provide alternatives to payment bonds as payment protections for suppliers of labor and material under construction contracts between $25,000 and $100,000. Federal Acquisition Circular 90–29 revised FAR Part 13 to exclude construction contracts and subcontracts at or below the simplified acquisition threshold from Miller Act bond requirements, in accordance with Section 4104(b)(1) of Pub. L. 103–355.

Item XXIV—Limitation on Allowable Individual Compensation (DFARS Case 94–D318)

The interim rule published as Item XXII of DAC 91–7 is converted to a final rule without change. The interim rule amended DFARS 231.205, 231.303, 231.603, and 231.703 to implement Section 8117 of the Fiscal Year 1995 Defense Appropriations Act (Pub. L. 103–335). Section 8117 limits allowable costs for individual compensation to $250,000 per year. This limitation applies to contracts that are awarded after April 15, 1995, and that are funded with Fiscal Year 1995 appropriations.

Item XXV—Cost Principles (DFARS Case 95–D704)

This final rule amends the DFARS to delete language that was incorporated into the FAR by Federal Acquisition Circular 90–31, dated August 15, 1995. Accordingly, the following DFARS sections are deleted: 231.205–6(g)(2)(i); 231.603(1); 231.703(1); 231.70; 237.171; 242.705–1(b) (3) and (4); 242.770; 252.231–7001; 252.237–7020; 252.237–7021; and 252.242–7001.

Item XXVI—Manufacturing Science and Technology Program (DFARS Case 94–D307)

The interim rule published as Item XXVI of DAC 91–7 is converted to a final rule without change. The interim rule added language at DFARS 235.006 (a) and (b)(iv) to implement Section 256 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103–337). Section 256 requires use of competitive procedures in awarding contracts under the Manufacturing Science and Technology Program, and use of a cost-sharing arrangement for these contracts unless an alternative arrangement is approved by the Secretary of Defense.

Item XXVII—Federally Funded Research and Development Centers (FFRDCs) (DFARS Case 94–D306)

The interim rule published as Item XXVIII of DAC 91–7 is revised and finalized. The rule allows DoD-sponsored FFRDCs that function primarily as research laboratories to respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology. The final rule differs from the interim rule in that it adds, at DFARS 235.017–1, the names of DoD-sponsored FFRDCs that function primarily as research laboratories.

Item XXVIII—Research and Development Streamlined Contracting Procedures—Test (DFARS Case 92–D034)

This final rule amends DFARS 235.7002 to add the Army Soldier Systems Command and the Naval Command, Control and Ocean Surveillance Center to the list of contracting offices authorized to participate in the streamlined research and development contracting test program. In addition, editorial corrections are made at 235.7003(b)(1) and in paragraph H.5 of the exhibit at 235.7006(d).

Item XXIX—Firefighting and Security-Guard Services (DFARS Case 95–D035)

This final rule adds a new section at DFARS 237.102–70 to reflect the requirements of 10 U.S.C. 2465, which prohibits the award of DoD contracts for firefighting or security-guard functions except under certain conditions.

Item XXX—Annual Automatic Data Processing Equipment (ADPE) Leasing Review (DFARS Case 95–D017)

This final rule amends DFARS 239.7303 to eliminate the requirement for annual review of ADPE leasing costs and, instead, require review of ADPE leasing costs as warranted.

Item XXXI—Cost Monitoring (DFARS Case 95–D08)

This final rule deletes the language of DFARS 242.7003–1(b), regarding requirements for in-depth functional reviews of certain contractor activities, to provide contract administration offices greater flexibility in planning and executing cost monitoring programs.

Item XXXII—Contract Quality Requirements (DFARS Case 95–D007)

The interim rule issued by Departmental Letter 95–010, on June 13, 1995, is converted to a final rule without change. The rule amends DFARS Part 246 to encourage increased use of commercial quality standards by removing existing requirements to use military quality standards. The rule revises the definition of "quality program," replaces direct references to MIL–I–45208 and MIL–Q–9858 with references to higher-level contract quality requirements, and deletes Table

46–1, Contract Quality Requirements Guide.

Item XXXIII—Contract Data Reporting (DFARS Case 95–D711/95–D713)

This final rule contains the guidance issued by Departmental Letter 95–014, on July 6, 1995, and additional guidance pertaining to DD Form 350 and DD Form 1057 reporting requirements. The rule revises DFARS 204.6, 253.204–70 and 253.204–71 to comply with reporting requirements of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355). Except for contracting actions pertaining to contingencies as described at FAR 13.101, contracting officers will continue to use DD Form 350 to report all contracting actions exceeding $25,000. Contracting actions pertaining to contingencies will continue to be reported on DD Form 1057. Until the forms are revised, the term "small purchase procedures" used on DD Forms 350 and 1057 shall be interpreted to mean "simplified acquisition procedures."

Item XXXIV—Master Agreements (DFARS Case 95–D038)

This final rule deletes DFARS 237.270, Master Agreements. The authority to award master agreements for advisory and assistance services under 10 U.S.C. 2304 expired on September 30, 1994.

Item XXXV—Acquisition of Commercial Items (DFARS Case 95–D712)

This interim rule amends the DFARS to conform to the FAR changes pertaining to the acquisition of commercial items, published as Item III of FAC 90–32 on September 18, 1995. The rule also implements DoD-unique requirements of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355) regarding the acquisition of commercial items. Following is a summary of the DFARS amendments contained in this rule:

—Part 203 is amended to reflect that the statutory prohibitions of 10 U.S.C. 2397b do not apply to contractors that supply only commercial items to DoD.
—Part 207 is amended to reflect the preference for commercial items and the requirement for market research contained in FAR Parts 10 and 11.
—Parts 210, 211, and 212 are revised to reflect the restructuring of FAR Parts 10, 11, and 12. Part 210 is retitled "Market Research" and contains no DFARS text; Part 211 is retitled "Describing Agency Needs" and revised to include guidance that was previously included in Part 210; and Part 212 is retitled "Acquisition of Commercial Items" and revised to include two new subparts. Subpart 212.3 prescribes solicitation provisions and contract clauses for use in DoD acquisitions of commercial items, to include a new solicitation provision at 252.212–7000, Offeror Representations and Certifications—Commercial Items, and a new contract clause at 252.212–7001, Contract Terms and Conditions Required to Implement Statutes Applicable to Defense Acquisition of Commercial Items. Subpart 212.5 contains lists of statutes that do not apply, or have limited application to, contracts or subcontracts for the acquisition of commercial items.
—Part 217 is amended to state that the requirement for contractor identification of sources of supply does not apply to commercial items.
—Part 225 is amended to state that certain foreign source restrictions do not apply to commercial items or components purchased by contractors from subcontractors/suppliers.
—Part 227 is amended to delete definitions which appear in FAR Part 2 and to clarify that clauses prescribed by 227.7102–3 and 227.7103–15 do not flow down to subcontractors providing commercial items or components.
—Part 234 is amended to include the definitions of "systems" and "systems acquisition" which were deleted from 210.001.
—Part 246 is amended to conform to the policy in FAR 12.208 on contract quality assurance.
—Amendments are made to conform terminology to the definition of "commercial items" in FAR Part 2 and to delete obsolete references.

Item XXXVI—Editorial Revisions

Note: The asterisked items are revisions being made only in the looseleaf edition of the DFARS.

(a) DFARS is amended by revising "Under Secretary of Defense for Acquisition (USD(A))" to read "Under Secretary of Defense for Acquisition & Technology (USD(A&T))" each place it appears.

*(b) Section 202.101 is amended by revising in the definition "Contracting activity" under the heading "NAVY" the entry "Space nd Naval Warfare Systems Command" to read "Space and Naval Warfare Systems Command."

(c) Section 204.7003(a)(1) is amended to update the department/agency identification characters used in procurement instrument identification numbers.

(d) Section 209.403 is amended to update the Air Force entry to read "Air Force—Deputy General Counsel (Contractor Responsibility)."

(e) Section 209.405–1 is amended to redesignate paragraphs (a) and (b) as paragraphs (b) and (c), respectively.

(f) Section 214.406–3(e)(i) is amended to revise "DARPA" to read "ARPA."

(g) Section 225.302. is amended by revising in paragraph (b)(i) under the heading "DEFENSE LOGISTICS AGENCY" the entry "Executive Director, Contracting" to read "Executive Director, Procurement"; and to add a new heading and entry between the headings "DEFENSE MAPPING AGENCY" and "ON-SITE INSPECTION AGENCY" to read " DEPARTMENT OF DEFENSE OFFICE OF DEPENDENT SCHOOLS, Director."

(h) Section 225.770–1 is amended by revising between the word "that" and the word "does" the word "is" to read "it."

(i) Section 227.7103–6 is amended in paragraph (a) to revise the word "Innovative" to read "Innovation."

(j) Section 227.7104 is amended in the title by revising the word "Innovative" to read "Innovation" and by revising in paragraph (a) the word "Innovative" to read "Innovation."

*(k) Section 232.704–70(c) is amended to revise the word "funs" to read "funds."

(l) Section 242.705–2 is amended to redesignate paragraphs (b)(2)(iii) and (b)(2)(v) as paragraphs (b)(2)(ii) and (b)(2)(iv), respectively.

(m) Section 249.7002(b) is amended in the introductory text to revise the phrase "Office of Economic Adjustment (OEA), Assistant Secretary of Defense (Force Management and Personnel)" to read "Assistant Secretary of Defense (Economic Security), Office of Economic Adjustment (OEA)."

(n) Section 249.7002(b)(2) is amended to revise the Telefax number to read "(703) 604–5843."

*(o) Section 252.223–7004(a)(1) is amended to revise "employe" to read "employee."

(p) Section 252.225–7040 is amended to revise in the introductory text the reference "225.7004–5(c)" to read "225.7004–6(c)."

(q) Section 252.227–7018 is amended in the section title to revise the word "Innovative" to read "Innovation" and in the clause title to revise the word "INNOVATIVE" to read "INNOVATION."

(r) Appendix F, F–401, Table 2, is amended to update the Army address for Foreign Military Sales.

(s) Appendix G is revised to update activity addresses.

Interim Rules Adopted as Final Without Changes

PARTS 206, 207, 215, 219, AND 252—[AMENDED]

The interim rule that was published at 60 FR 40106 on August 7, 1995, is adopted as final without change.

PART 225—[AMENDED]

The interim rule that was published at 60 FR 34470 on July 3, 1995, is adopted as final without change.

PART 231—[AMENDED]

The interim that was published at 60 FR 2330 on January 9, 1995, is adopted as final without change.

PART 235—[AMENDED]

The interim rule that was published at 60 FR 4569 on January 24, 1995, is adopted as final without change.

Interim Rules Adopted as Final With Changes

PARTS 206 AND 237—[AMENDED]

The interim rule that was published at 60 FR 2888 on January 12, 1995, is adopted as final with amendments at section 237.104, addition of section 206.001, and removal of Subpart 206.1.

PART 219—[AMENDED]

The interim rule that was published at 60 FR 13074 on March 10, 1995, is adopted as final with amendments at section 219.703.

PARTS 223 AND 252—[AMENDED]

The interim rule published at 60 FR 13075 on March 10, is adopted as final with amendments at sections 223.7101, 223.7102, and 252.223–7006.

PARTS 225 AND 252—[AMENDED]

The interim rule published at 60 FR 19531 on April 19, 1995, is adopted as final with amendments at sections 225.7004–4, 225.7007–4, 225.7010–3, and 225.7016–3.

PARTS 225 AND 252—[AMENDED]

The interim rule published at 60 FR 34471 on July 3, 1995, is adopted as final with amendments at sections 225.7023–1, 225.7023–3, and 252.225–7011.

PART 226—[AMENDED]

The interim rule published at 60 FR 5870 on January 31, 1995, is adopted as final with a revision at section 226.7104.

PART 235—[AMENDED]

The interim rule published at 60 FR 13076 on March 10, 1995, is adopted as final with a revision at section 235.017–1.

PART 246—[AMENDED]

The interim rule published at 60 FR 33144 on June 27, 1995, is adopted as final with amendments at section 246.202–3.

List of Subjects in 48 CFR Parts 201, 202, 203, 204, 206, 207, 208, 209, 210, 211, 212, 214, 215, 217, 219, 223, 225, 226, 227, 228, 231, 232, 234, 235, 237, 239, 242, 246, 247, 249, 250, 252, 253, and Appendices C, F, and G to Chapter 2

Government procurement.

Amendments to 48 CFR Chapter 2 (Defense Federal Acquisition Regulation Supplement)

48 CFR Chapter 2 (the Defense Federal Acquisition Regulation Supplement) is amended as set forth below.

1. The authority for 48 CFR parts 201, 202, 203, 204, 206, 207, 208, 209, 210, 211, 212, 214, 215, 217, 219, 223, 225, 226, 227, 228, 231, 232, 234, 235, 237, 239, 242, 246, 247, 249, 250, 252, 253, and Appendices C, F, and G to Chapter 2 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

201.201–1 [Amended]

2. Section 201.201–1 is amended by revising in paragraph (d)(i) introductory text the phrase "OUSD(A)" to read "OUSD(A&T);" and by revising in paragraph (d)(i)V. the phrase "USD(A)DP" to read "USD(A&T)DP."

201.301 [Amended]

3. Section 201.301(b) is amended by revising the phrase "USD(A)" to read "USD(A&T)."

201.304 [Amended]

4. Section 201.304 is amended by revising in paragraph (1) the phrase the "USD(A)" to read "USD(A&T);" by revising in paragraph (2) the phrase "USD(A)" to read "USD(A&T);" and by revising in paragraph (2) the phrase "USD(A)DP" to read "USD(A&T)DP;" by revising in paragraph (3) the phrase "USD(A)DP" to read "USD(A&T)DP;" by revising in paragraph (4) the phrase "USD(A)DP" to read "USD(A&T)DP;" by revising in paragraph (5) the phrase "USD(A)" to read "USD(A&T);" and by revising in paragraph (5) the phrase "USD(A)DP" to read "USD(A&T)DP."

201.402 [Amended]

5. Section 201.402 is amended by revising in paragraph (1) the phase "Office of the Under Secretary of Defense for Acquisition, USD(A)DP" to read "Office of the Under Secretary of Defense (Acquisition & Technology), USD(A&T)DP;" and by revising in paragraph (3) the phrase "USD(A)DP" to read "USD(A&T)DP".

PART 202—DEFINITIONS OF WORDS AND TERMS

6. Section 202.101 is amended by revising the definition of "Senior procurement executive" to read:

202.101 Definitions.

* * * * *

Senior procurement executive, means for DoD—

Department of Defense (including the defense agencies)—Under Secretary of Defense (Acquisition & Technology);

Department of the Army—Assistant Secretary of the Army (Research, Development and Acquisition);

Department of the Navy—Assistant Secretary of the Navy (Research, Development and Acquisition);

Department of the Air Force—Assistant Secretary of the Air Force (Acquisition).

The directors of the defense agencies have been delegated authority to act as senior procurement executive for their respective agencies, except for such actions that by terms of statute, or any delegation, must be exercised by the Under Secretary of Defense (Acquisition & Technology).

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

7. Section 203.170–1 is amended in paragraph (a) by adding a last sentence to read as follows:

203.170–1 Policy.

(a) * * * The prohibitions in 10 U.S.C. 2397b do not apply to contractors that supply only commercial items to DoD.

* * * * *

8. Section 203.170–4 is revised to read as follows:

203.170–4 Contract clause.

Use the clause at 252.203–7000, Statutory Prohibitions on Compensation to Former Department of Defense Employees, in all solicitations and contracts expected to exceed $100,000, except solicitations and contracts for commercial items.

9. Section 203.570–5 is revised to read as follows:

203.570–5 Contract clause.

Use the clause at 252.203–7001, Special Prohibition on Employment, in all solicitations and contracts exceeding the simplified acquisition threshold in FAR part 13, except solicitations and contracts for commercial items.

203.703 [Amended]

10. Section 203.703 is amended by revising "Under Secretary of Defense for Acquisition" to read "Under Secretary of Defense (Acquisition & Technology)."

203.71 [Removed]

11. Subpart 203.71 is removed.

PART 204—ADMINISTRATIVE MATTERS

12. Section 204.602–70 is added to read as follows:

204.602–70 Solicitation provision.

When the Commercial and Government Entity codes for the prospective offerors are not available to the contracting office, use the provision at 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting.

204.603 [Removed]

13. Section 204.603 is removed.

204.603–70 [Removed]

14. Section 204.603–70 is removed.

204.670–1 [Amended]

15. Section 204.670–1 is amended by revising in paragraph (c)(3) the acronym "SAF/AQCP" to read "SAF/AQCL"

16. Section 204.670–2 is amended by revising paragraph (c) and paragraph (d) to read as follows:

204.670–2 Reportable contracting actions.

* * * * *

(c) Do not report on a DD Form 350, contingency actions defined in 213.101. Summarize these actions on a DD Form 1057 in accordance with the instructions in 253.204–71(a)(3).

(d) The following contracting actions are not subject to reporting on either the DD Form 350 or DD Form 1057:

(1) Micro-purchases obtained through use of the purchase card;

(2) Transactions that cite only nonappropriated funds (Funds held in trust accounts for foreign governments shall be treated as appropriated funds.);

(3) Transactions for purchase of land, or rental or lease of real property, when the General Services Administration (GSA) executes the contracting action;

(4) Orders from GSA stock and the GSA Consolidated Purchase Program;

(5) Transactions that involve Government bills of lading or transportation requests, except orders placed under Regional Storage Management Office's (RSMO) BOAs;

(6) Requisitions transferring supplies within or among the departments or agencies; and

(7) Pursuant to 204.670–6(b), orders placed by other contracting activities against indefinite delivery contracts awarded by the—

(i) Military Sealift Command;

(ii) Defense Fuel Supply Center for petroleum and petroleum products; or

(iii) Defense General Supply Center for petroleum products.

17. Section 204.670–6 is amended by revising paragraph (b) to read as follows:

204.670–6 Types of DD Form 350 report.

* * * * *

(b) A consolidated report is one DD Form 350 report which combines several contracting actions.

(1) Prepare consolidated reports for—

(i) Air Mobility Command awards for international airlift services. The Command reports these at the end of each operating month with one DD Form 350 for each airlift contract.

(ii) Military Sealift Command awards of indefinite delivery contracts for ocean transportation. The Command reports at the beginning of each fiscal year the estimated value of the orders for that fiscal year on one DD Form 350.

(iii) Defense Fuel Supply Center or Defense General Supply Center indefinite delivery contracts for petroleum or petroleum supplies. The Centers, at the time of award, report the estimated value of the orders to be placed against the contract on one DD Form 350.

(iv) Orders placed by the Defense Commissary Agency (DeCA) for resale items in excess of $25,000. DeCA consolidates the orders monthly and reports the cumulative dollar amounts and actions on one DD Form 350 in accordance with departmental regulations. Defense Logistics Agency activities submit single rather than consolidated reports.

(v) Vouchers processed by the U.S. Army Contracting Command, Europe (USACCE), for the purchase of utilities from municipalities (e.g., gas, electricity, water, sewage, steam, snow removal, and garbage collection). USACCE consolidates these transactions monthly and reports the cumulative dollar amount on one DD Form 350 in accordance with departmental regulations.

(2) Consolidated reports may be prepared in accordance with departmental instructions for orders under communications service agreements for local dial tone services.

* * * * *

18. Section 204.7003 is amended by revising paragraph (a)(1)(i) to read as follows:

204.7003 Basic PII number.

(a) * * *

(1) * * *

(i) Department/agency identification:

(A) Department of the Army	DA
(B) Department of the Navy (except Marine Corps).	N
(C) Department of the Air Force .	F
(D) Defense Information Systems Agency.	DCA
(E) Defense Logistics Agency	S
(F) Defense Nuclear Agency	DNA
(G) Defense Mapping Agency	DMA
(H) Miscellaneous Defense Activities.	MDA
(I) Marine Corps	M
(J) Ballistic Missile Defense Organization.	HQ0006
(K) On Site Inspection Agency ...	OSIA
(L) Defense Commissary Agency	DECA
(M) United States Special Operations Command.	USZA

* * * * *

PART 206—COMPETITION REQUIREMENTS

19. A new section 206.001 is added to read as follows:

206.001 Applicability.

(b) Contracts awarded using the procedures in 237.104(b)(ii) are expressly authorized by 10 U.S.C. 1091.

206.1 [Removed]

20. Subpart 206.1 is removed.

21. Section 206.303–1 is amended by adding a new paragraph (c) to read as follows:

206.303–1 Requirements.

* * * * *

(c) When conditions warrant, a class justification may provide for award of multiple contracts extending across more than one program phase.

PART 207—ACQUISITION PLANNING

22. Section 207.102 is added to read as follows:

207.102 Policy.

When a class justification for other than full and open competition has been approved, planning for competition shall be accomplished consistent with the terms of that approval.

23. Section 207.105 is amended by revising paragraph (b)(6); paragraph (b)(5); and paragraph (b)(17)(A)(*8*) to read as follows:

207.105 Contents of written acquisition plans.

(a) * * *

(b) * * *

(6) *Product descriptions*

For development acquisitions, describe the market research undertaken to identify commercial items, commercial items with modifications, or nondevelopmental items (see FAR part 10) that could satisfy the acquisition objectives.

* * * * *

(15) *Environmental considerations.*

Discuss actions taken to ensure either elimination of or authorization to use class I ozone-depleting chemicals and substances (see 211.271).

(17) * * *

(A) * * *

(*8*) Expanded use of commercial items, commercial items with modifications, or to the extent commercial items are not available, nondevelopmental items (see FAR part 10).

* * * * *

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

24. Section 208.7003–1 is revised to read as follows:

208.7003–1 Assignments under integrated material management (IMM).

(a) All items assigned for IMM must be acquired from the IMM manager except—

(1) Items purchased under circumstances of unusual and compelling urgency as defined in FAR 6.302–2. After such a purchase is made, the requiring activity must send one copy of the contract and a statement of the emergency to the IMM manager;

(2) Items for which the IMM manager assigns a supply system code for local purchase or otherwise grants authority to purchase locally; or

(3) When purchase by the requiring activity is in the best interest of the Government in terms of the combination of quality, timeliness, and cost that best meets the requirement. This exception does not apply to items—

(i) Critical to the safe operation of a weapon system;

(ii) With special security characteristics; or

(iii) Which are dangerous (e.g., explosives, munitions).

(b) When an item assigned for IMM is to be acquired by the requiring activity under paragraph (a)(3) of this subsection, the contracting officer must—

(1) Document the contract file with a statement of the specific advantage of local purchase for an acquisition exceeding the micro-purchase threshold in FAR part 13; and

(2) Ensure that a waiver is obtained from the IMM manager before initiating an acquisition exceeding the simplified acquisition threshold in FAR part 13, if the IMM assignment is to the General Services Administration (GSA), the Defense Logistics Agency (DLA), or the Army Materiel Command (AMC). Submit requests for waiver to—

(i) For GSA:

Commissioner (F), Federal Supply Service, Washington, DC 20406

(ii) For DLA:

Defense Construction Supply Center, ATTN: DCSC–BDA, P.O. Box 3990, Columbus, OH 43216–5000

Defense Electronics Supply Center, ATTN: DESC–ERM, 1507 Wilmington Pike, Dayton, OH 45444–5000

Defense Fuel Supply Center, ATTN: DFSC–OI, Cameron Station, VA 22304–6160

Defense General Supply Center, ATTN: DGSC–X, Richmond, VA 23297–5000

Defense Industrial Supply Center, ATTN: DISC–OPD, 700 Robbins Avenue, Philadelphia, PA 19111–5096

Defense Personnel Support Center, ATTN: DPSC–CSH, 2800 South 20th Street, P.O. Box 8419, Philadelphia, PA 19101–8419

(iii) For AMC:

Commander, U.S. Army Materiel Command, ATTN: AMCLG–S, 5001 Eisenhower Avenue, Alexandria, VA 22333–0001

25. Section 208.7003–2 is amended by revising paragraph (c) to read as follows:

208.7003–2 Assignments under coordinated acquisition.

* * * * *

(c) Requirements not in excess of the simplified acquisition threshold in FAR part 13, when contracting by the requiring department is in the best interest of the Government;

* * * * *

PART 209—CONTRACTOR QUALIFICATIONS

26. Section 209.103–70 is revised to read as follows:

209.103–70 Contract clause.

Use the clause at 252.209–7000, Acquisition from Subcontractors Subject to On-Site Inspection Under the Intermediate-Range Nuclear Forces (INF) Treaty, in all solicitations and contracts exceeding the simplified acquisition threshold in FAR part 13, except solicitations and contracts for commercial items.

27. Section 209.106–1 is revised to read as follows:

209.106–1 Conditions for preaward surveys.

(a) If a preaward survey is requested, include the rationale in block 23 of the SF 1403, Preaward Survey of Prospective Contractor (General).

28. Section 209.202 is revised to read as follows:

209.202 Policy.

(a)(1) The inclusion of qualification requirements in specifications for products which are to be included on a Qualified Products List, or manufactured by business firms included on a Qualified Manufacturers List, requires approval by the departmental standardization office in accordance with DoD Manual 4120.3–M, Defense Standardization Program Policies and Procedures. The inclusion of other qualification requirements in an acquisition or group of acquisitions requires approval by the chief of the contracting office.

209.403 [Amended]

29. Section 209.403 is amended under the definition "Debarring official" to revise the "Air Force" entry to read "Air Force—Deputy General Counsel (Contractor Responsibility)."

209.405–1 [Amended]

30. Section 209.405–1 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c).

209.470–1 [Amended]

31. Section 209.470–1 is amended by removing in paragraph (a) introductory text the comma after the parenthetical phrase "(Pub. L. 103–337)"; and by revising in paragraph (b) the last sentence "(See FAR 9.404)." to read "(See FAR 9.404.)"

209.470–3 [Amended]

32. Section 209.470–3 is amended to revise "252.209–7007" to read "252.209–7005."

PART 210—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

Part 210—[Removed]

33. Part 210 is removed.

34. Part 211 is revised to read as follows:

PART 211—DESCRIBING AGENCY NEEDS

Sec.

211.002 Policy.
211.002–70 Contract clause.

Subpart 211.2—Using and Maintaining Requirements Documents

211.201 Identification and availability of specifications.
211.204 Solicitation provisions and contract clauses.
211.270 Brand name or equal purchase descriptions.
211.270–1 Policy.
211.270–2 Solicitation provision.
211.271 Elimination of use of class I ozone-depleting substances.
211.272 Alternate preservation, packaging, and packing.

Subpart 211.5—Liquidated Damages

211.504 Contract clauses.

Subpart 211.6—Priorities and Allocations

211.602 General.

211.002 Policy

All systems acquisition programs in the DoD are subject to the acquisition streamlining policies and procedures in DoDI 5000.2, Defense Acquisition Management Policies and Procedures.

211.002–70 Contract clause.

Use the clause at 252.211–7000, Acquisition Streamlining, in all solicitations and contracts for systems acquisition programs.

Subpart 211.2—Using and Maintaining Requirements Documents

211.201 Identification and availability of specifications.

(a) The DoD index of data item descriptions is DoD 5010.12–L, Acquisition Management Systems and Data Requirements Control List (AMSDL).

(b) Also, furnish data item descriptions which are not listed in the AMSDL, except when it is not feasible, e.g., documents are bulky or only a limited number of copies are available at the contracting activity.

(d) The AMSDL, all unclassified specifications and standards listed in the DODISS, and data item descriptions listed in the AMSDL may also be purchased from the Standardization Documents Desk, Building 4D, 700 Robbins Avenue, Philadelphia, PA 19111–5094. Include with the letter or DD Form 1425—

(i) The requester's customer number; and

(ii) Complete return mailing address, including any "mark for" instructions.

211.204 Solicitation provisions and contract clauses.

(c) When contract performance requires use of specifications and standards which are not listed in the DODISS and data item descriptions which are not listed in the AMSDL, use provisions, as appropriate, substantially the same as those at 252.211–7001, Availability of Specifications and Standards Not Listed in DODISS, Data Item Descriptions Not Listed in DoD 5010.12–L, and Plans, Drawings, and Other Pertinent Documents, and 252.211–7002, Availability for Examination of Specifications, Standards, Plans, Drawings, Data Item Descriptions, and Other Pertinent Documents.

211.270 Brand name or equal purchase descriptions.

211.270–1 Policy.

When a "brand name or equal" purchase description is used—

(a) The purchase description—

(1) Should include a complete common generic identification of the item.

(2) Should reference all known acceptable brand name products, to include—

(i) Name of manufacturer, producer, or distributor of each brand name product referenced (and address if not well known); and

(ii) Model, make, or catalog number for each, and identity of the commercial catalog in which it appears.

(3) May, if necessary to adequately describe an item, use a commercial catalog description or an extract from the catalog. Ensure that a copy of each catalog referenced (except parts catalogs) is available at the contracting office for review by offerors.

(4) Should give prospective offerors the opportunity to offer products other than those specifically referenced by brand name, as long as they meet the needs of the Government in essentially the same manner as the brand name product.

(5) Must identify those salient physical, functional, or other characteristics which are essential to the needs of the Government.

(b) The solicitation—

(1) Shall be at or below the simplified acquisition threshold in FAR part 13.

(2) May require bid samples for "or equal" offers, but not for "brand name" offers.

(3) Must provide for full consideration and evaluation of "or equal" offers against the salient characteristic specified in the purchase description. Do not reject offers for minor differences in design, construction, or features which do not affect the suitability of the product for its intended use.

(4) Must include the following immediately after the item description—Offering:

Manufacturer's Name_____ Brand_____
Model or Part No._____

(c) The contract shall—

(1) Not exceed the simplified acquisition threshold in FAR part 13.

(2) Identify, or incorporate by reference an identification of the specific products the contractor is to furnish. Include any brand name, make or model number, descriptive material, and any modifications of brand name products specified in the offer.

211.270–2 Solicitation provision.

(a) When a brand name or equal purchase description is included in a solicitation at or below the simplified acquisition threshold in FAR part 13, use the provision at 252.211–7003, Brand Name or Equal.

(b) When component parts of an end item are described by brand name or equal purchase descriptions and application of the provision at 252.211–7003 to some or all of the components is impracticable, either do not use the provision or limit its application to specified components.

211.271 Elimination of use of class I ozone-depleting substances.

(a) *Contracts.* No DoD contract may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard is specifically authorized at a level no lower than a general or flag officer or member of the Senior Executive Service of the requiring activity in accordance with Section 326, Public Law 102–484 (10 U.S.C. 2301 (repealed) note).

(b) *Modifications.* (1) Contracts awarded before June 1, 1993, with a value in excess of $10 million, that are modified or extended (including option exercise) and, as a result of the modification or extension will expire more than one year after the effective date of the modification or extension, must be evaluated in accordance with agency procedures for the elimination of ozone-depleting substances.

(i) The evaluation must be carried out within 60 days after the first modification or extension.

(ii) No further modification or extension may be made to the contract until the evaluation is complete.

(2) If, as a result of this evaluation, it is determined that an economically

feasible substitute substance or alternative technology is available, the contracting officer shall modify the contract to require the use of the substitute substance or alternative technology.

(3) If a substitute substance or alternative technology is not available, a written determination shall be made to that effect at a level no lower than a general or flag officer or member of the Senior Executive Service of the requiring activity.

211.272 Alternate preservation, packaging, and packing.

Use the provision at 252.211–7004, Alternate Preservation, Packaging, and Packing, in solicitations which include military preservation, packaging, or packing specifications when it is feasible to evaluate and award using commercial or industrial preservation, packaging, or packing.

Subpart 211.5—Liquidated Damages.

211.504 Contract clauses.

(b) Use the clause at FAR 52.211–12, Liquidated Damages—Construction, in all construction contracts exceeding $500,000, except cost-plus-fixed-fee contracts or contracts where the contractor cannot control the pace of the work. Use of the clause in contracts of $500,000 or less is optional.

Subpart 211.6—Priorities and Allocations.

211.602 General.

DoD implementation of the Defense Priorities and Allocations System is in DoDI 4400.1, Priorities and Allocations—Delegation of DO and DX Priorities and Allocations Authorities, Rescheduling of Deliveries and Continuance of Related Manuals.

35. Part 212 is revised to read as follows:

PART 212—ACQUISITION OF COMMERCIAL ITEMS—GENERAL

Sec.

Subpart 212.2—Special Requirements for the Acquisition of Commercial Items

212.211 Technical data.

Subpart 212.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.
212.302 Tailoring of provisions and clauses for the acquisition of commercial items.

Subpart 212.5—Applicability of Certain Laws to the Acquisition of Commercial Items

212.503 Applicability of certain laws to Executive Agency contracts for the acquisition of commercial items.
212.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.

Subpart 212.2—Special Requirements for the Acquisition of Commercial Items

212.211 Technical data.

The DoD policy for acquiring technical data for commercial items is at 227.7102.

Subpart 212.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f)(i) Use the provision at 252.225–7013, Domestic Wool Preference, as prescribed in 225.7002–4(b).

(ii) Use one of the following provisions as prescribed in part 225:

(A) 252.225–7000, Buy American Act—Balance of Payments Program Certificate.

(B) 252.225–7006, Buy American Act—Trade Agreements—Balance of Payments Program Certificate.

(C) 252.225–7035, Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program Certificate.

(iii) Use the provision at 252.212–7000, Offeror Representations and Certifications—Commercial Items, in all solicitations for commercial items exceeding the simplified acquisition threshold in FAR part 13. If an exception to 10 U.S.C. 2410i applies to a solicitation exceeding the simplified acquisition threshold (see 225.770–3), indicate on an addendum that "The certification in paragraph (b) of the provision at 252.225–7000 does not apply to this solicitation."

(iv) Use the clause at 252.212–7001, Contract Terms and Conditions Required to Implement Statutes Applicable to Defense Acquisitions of Commercial Items, in all solicitations and contracts for commercial items, completing paragraph (b), as appropriate.

212.302 Tailoring of provisions and clauses for the acquisition of commercial items.

(c) *Tailoring inconsistent with customary commercial practice.*

The head of the contracting activity is the approval authority within the DoD for waivers under FAR 12.302(c).

Subpart 212.5—Applicability of Certain Laws to the Acquisition of Commercial Items

212.503 Applicability of certain laws to Executive Agency contracts for the acquisition of commercial items.

(a) The following laws are not applicable to contracts for the acquisition of commercial items:

(i) Section 806, Public Law 102–190 (10 U.S.C. 2301 (repealed) note), Payment Protections for Subcontractors and Suppliers.

(ii) 10 U.S.C. 2306(b), Prohibition on Contingent Fees.

(iii) 10 U.S.C. 2324, Allowable Costs Under Defense Contracts.

(iv) 10 U.S.C. 2384(b), Requirement to Identify Suppliers.

(v) 10 U.S.C. 2397(a)(1), Reports by Employees or Former Employees of Defense Contractors.

(vi) 10 U.S.C. 2397b(f), Limits on Employment for Former DoD Officials.

(vii) 10 U.S.C. 2397c, Defense Contractor Requirements Concerning Former DoD Officials.

(viii) 10 U.S.C. 2408(a), Prohibition on Persons Convicted of Defense Related Felonies.

(ix) 10 U.S.C. 2410b, Contractor Inventory Accounting System Standards (see 252.242–7004).

(x) 107 Stat 1720 (Section 843(a), Public Law 103–160), Reporting Requirement Regarding Dealings with Terrorist Countries.

(xi) Domestic Content Restrictions in the National Defense Appropriations Acts for Fiscal Years 1996 and Subsequent Years.

(c) The applicability of the following laws has been modified in regard to contracts for the acquisition of commercial items:

(i) 10 U.S.C. 2402, Prohibition on Limiting Subcontractor Direct Sales to the United States (see FAR 3.503 and 52.203–6).

(ii) 10 U.S.C. 2306a, Truth in Negotiations Act (see FAR 15.804).

212.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.

(a) The following laws are not applicable to subcontracts at any tier for the acquisition of commercial items or commercial components:

(i) 10 U.S.C. 2241 note, Limitations on Procurement of Food, Clothing, and Specialty Metals Not Produced in the United States.

(ii) Section 806, Public Law 102–190 (10 U.S.C. 2301 (repealed) note), Payment Protections for Subcontractors and Suppliers.

(iii) 10 U.S.C. 2306(b) Prohibition on Contingent Fees.

(lv) 10 U.S.C. 2313(c), Examination of Records of a Contractor.
(v) 10 U.S.C. 2320, Rights in Technical Data.
(vi) 10 U.S.C. 2321, Validation of Proprietary Data Restrictions.
(vii) 10 U.S.C. 2324, Allowable Costs Under Defense Contracts.
(viii) 10 U.S.C. 2327, Reporting Requirement Regarding Dealings with Terrorist Countries.
(ix) 10 U.S.C. 2384(b), Requirement to Identify Suppliers.
(x) 10 U.S.C. 2391 note, Notification of Substantial Impact on Employment.
(xi) 10 U.S.C. 2393, Prohibition Against Doing Business with Certain Offerors or Contractors.
(xii) 10 U.S.C. 2397(a)(1), Reports by Employees or Former Employees of Defense Contractors.
(xiii) 10 U.S.C. 2397b(f), Limits on Employment for Former DoD Officials.
(xiv) 10 U.S.C. 2397c, Defense Contractor Requirements Concerning Former DoD Officials.
(xv) 10 U.S.C. 2408(a) Prohibition on Persons Convicted of Defense Related Felonies.
(xvi) 10 U.S.C. 2410b, Contractor Inventory Accounting System Standards.
(xvii) 10 U.S.C. 2501 note, Notification of Proposed Program Termination.
(xviii) 10 U.S.C. 2534, Miscellaneous Limitations on the Procurement of Goods Other Than United States Goods.
(xix) 10 U.S.C. 2534(c), Preference for United States and Canadian Valves and Machine Tools.
(xx) 10 U.S.C. 2534(d), Restriction on Acquisition of Carbonyl Iron Powder.
(xxi) 10 U.S.C. 2534(e), Restriction on Acquisition of Air Circuit Breakers.
(xxii) Effective May 1, 1996: 10 U.S.C. 2631, Transportation of Supplies by Sea.
(xxiii) 19 U.S.C. 2512, Trade Agreements Act.
(xxiv) 41 U.S.C. 10, Buy American Act.
(xxv) 10 U.S.C. 2327 (Section 843(a), Public Law 103–160), Reporting Requirement Regarding Dealings with Terrorist Countries.
(xxvi) Domestic Content Restrictions in the National Defense Appropriations Acts for Fiscal Years 1996 and Subsequent Years.

(b) Certain requirements of the following laws have been eliminated for subcontracts at any tier for the acquisition of commercial items or commercial components:

(i) 10 U.S.C. 2393(d), Subcontractor Reports Under Prohibition Against Doing Business with Certain Offerors (see FAR 52.209–6).
(ii) 10 U.S.C. 2402, Prohibition on Limiting Subcontractor Direct Sales to the United States (see FAR 3.503 and 52.203–6).

PART 214—SEALED BIDDING

214.406–3 [Amended]

36. Section 214.406–3 is amended by revising in paragraph (e)(i) the phrase "DARPA" to read "ARPA."

PART 215—CONTRACTING BY NEGOTIATION

37. Section 215.804–8 is revised to read as follows:

215.804–8 Contract clauses.

If the solicitation or contract includes one of the clauses at FAR 52.215–23, FAR 52.215–24, or FAR 52.215–25, also use the clause at 252.215–7000, Pricing Adjustments.

215.805–5 [Amended]

38. Section 215.805–5 is amended by revising in paragraph (a)(1)(A)(*3*) the amount "$1 million" to read "$10 million."

215.971–4 [Amended]

39. Section 215.971–4(d)(3)(A) is amended by revising the word "product" to read "item."

PART 217—SPECIAL CONTRACTING METHODS

217.103–1 [Amended]

40. Section 217.103–1 is amended by revising in paragraph (b)(v) the phrase "(Acquisition)" to read "(Acquisition & Technology)" and the phrase "(USD(A)DP)" to read "(USD(A&T)DP);" by revising in paragraph (b)(v) the phrase "Deputy Assistant" to read "Under" and by revising the phrase "(OASD(C)(P/B))" to read "(USD(C)P/B))"; by revising in paragraph (b)(vi)(A)(*2*) the phrase "(Acquisition)" to read "(Acquisition & Technology);" and by revising in paragraph (b)(viii)(C) the phrase "(Acquisition)" to read "(Acquisition & Technology)."

41. Section 217.7302 is amended by revising paragraph (b) to read as follows:

217.7302 Procedures.

* * * * *

(b) The requirement in paragraph (a) of this section does not apply to commercial items.

217.7406 [Amended]

42. Section 217.7406 is amended by revising "252.217.7027" to "252.217–7027."

PART 219—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

219.703 [Amended]

43. Section 219.703(a) is amended by revising the reference "Pub. L. 103–277" to read Public Law 103–337."

44. Section 219.704 is revised to read as follows:

219.704 Subcontracting plan requirements.

(a)(1) The goal for use of small disadvantaged business concerns shall include subcontracts with historically black colleges and universities and minority institutions (see subpart 226.70), in addition to subcontracts with small disadvantaged business concerns. Subcontracts with historically black colleges and universities and minority institutions do not have to be included in the small disadvantaged business goal in commercial items subcontracting plans.

219.1006 [Amended]

45. Section 219.1006(b)(2) is amended by revising the phrase "(Acquisition)" to read "(Acquisition & Technology)."

PART 223—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG–FREE WORKPLACE

46. Section 223.104 is revised to read as follows:

223.104 Exemptions.

(c) The authority to act for the agency head under this subpart is limited to a level no lower than an official who is appointed by and with the advice of the Senate. For the defense agencies, this is the Under Secretary of Defense (Acquisition and Technology).

47. A new subpart 223.4 is added to read as follows:

Subpart 223.4—Use of Recovered Materials

223.404 Procedures.

(b)(3) A contract for an EPA designated item which does not meet the EPA or agency minimum recovered material standards shall not be awarded before approval of the written determination required by FAR 23.404(b)(3). The approving official shall be—

(A) A general or flag officer, or a member of the Senior Executive Service, of the requiring activity; or

(B) For requiring activities without a general or flag officer or member of the Senior Executive Service, the commander of the activity.

(4) Annual contractor certifications shall be submitted for consolidation and reporting in accordance with department/agency procedures.

48. Section 223.570–4 is amended by revising paragraph (b)(1) to read as follows:

223.570–4 Contract clause.

* * * * *

(b) Do not use the clause in solicitations and contracts for—

(1) Commercial items; or

* * * * *

49. Section 223.7101 is revised to read as follows:

223.7101 Procedures.

(a) If the contracting officer is uncertain as to whether particular activities are prohibited or fall under one of the exceptions in 223.7102, the contracting officer should seek advice from the cognizant office of counsel.

(b) When storage, treatment, or disposal of non-DoD-owned toxic or hazardous materials is authorized in accordance with this subpart, the contract or authorization should specify the types, conditions, and quantities of toxic or hazardous materials that may be temporarily stored, treated, or disposed of in connection with the contract or as a result of the authorized commercial use of a DoD industrial-type facility.

223.7102 [Amended]

50. Section 223.7102 is amended by removing at the end of paragraph (a)(7) the word "or"; by removing at the end of paragraph (a)(8) the period and adding a semicolon and the word "or"; and by adding paragraph (a)(9)(ii) the word "into" after the word "Enters."

PART 225—FOREIGN ACQUISITION

225.302 [Amended]

51. Section 225.302 is amended by revising in paragraph (b)(i) under the heading "DEFENSE LOGISTICS AGENCY" the entry "Executive Director, Contracting" to read "Executive Director, Procurement"; and to add a new heading and entry between the headings "DEFENSE MAPPING AGENCY" and "ON-SITE INSPECTION AGENCY" to read "DEPARTMENT OF DEFENSE OFFICE OF DEPENDENTS SCHOOLS, Director."

225.403 [Amended]

52. Section 225.403 is amended by revising in paragraph (d)(1)A) the phrase "(USD(A)DP)" to read (USD(A&T)DP):" by revising in paragraph (d)(1) (B) introductory text the phrase "USDA(A)DP" to read "USD(A&T)DP;" by revising in paragraph (d)(1)B)(*2*) the phrase "USD(A)DP" to read "USD(A&T)DP."

225.770–4 [Amended]

53–54. Section 225.770–4 is amended by revising the phrase "OUSD(A)DP" to read "OUSD(A&T)DP."

225.871–7 [Amended]

55. Section 225.871–7 is amended in paragraph (a)(1) revising the phrase "(ASD(P&L)" to read "USD(A&T)DP."

225.872–1 [Amended]

56, Section 225.872.1 is amended in paragraph (a) by adding to the listing in alphabetical order the country "Australia"; and is amended in paragraph (b) by removing from the listing the country "Australia."

225.872–2 [Amended]

57. Section 225.872–2 is amended by revising in paragraph (a)(2)(ii) the phrase "OASD(P&L), Office of Industrial Base Assessment" to read "the Deputy Assistant Secretary of Defense (Industrial Affairs)."

225.872–3 [Amended]

58. Section 225.872–3 is amended by revising in paragraph (f)(4) the phrase "(Acquisition)" to read "(Acquisition & Technology)."

59. Section 225.7002–2 is amended by adding a new paragraph (j) to read as follows:

225.7002–2 Exceptions.

* * * * *

(j) Commercial items or components purchased by contractors from subcontractors/suppliers.

60. Section 225.7004–4 is amended by revising paragraph (b) to read as follows:

225.7004–4 Waiver.

* * * * *

(b) The restriction is waived when it would cause unreasonable costs. The cost of the item of U.S. or Canadian origin is unreasonable if it exceeds 150 percent of the offered price, inclusive of duty, of items which are not of U.S. or Canadian origin.

61. Section 225.7007–4 is revised to read as follows:

225.7007–4 Waiver.

The waiver criteria at 225.7004–4 also apply to this restriction.

62. Section 225.7010–3 is revised to read as follows:

225.7010–3 Waiver.

The waiver criteria at 225.7004–4 also apply to this restriction.

63. Section 225.7016–3 is revised to read as follows:

225.7016–3 Waiver.

The waiver criteria at 225.7004–4 also apply to this restriction.

225.7018–2 [Amended]

64. Section 225.7018–2 is amended by revising the phrase "(Acquisition)" to read "(Acquisition & Technology)."

225.7019–2 [Amended]

65. Section 225.7019–2 is amended by revising in paragraph (b) the word "products" to read "items."

225.7023–1 [Amended]

66. Section 225.7023–1 is amended by revising the phase "Section 8101" to read "Section 8112."

225.7023–3 [Amended]

67. Section 225.7023–3 is amended by revising the word "Restrictions" to read "Restriction."

225.7103 [Amended]

68. Section 225.7103 is amended by revising in paragraph (a) the phrase "small purchase" to read "simplified acquisition"; and by revising in paragraph (c) introductory text the word "products" to read "items".

69. Section 225.7201 is revised to read as follows:

225.7201 Exception.

This subpart does not apply to contracts for commercial items, construction, ores, natural gas, utilities, petroleum products and crudes, timber (logs), or subsistence.

225.7307–1 [Amended]

70. Section 225.7307–1(f) is amended to revise the phrase "OUSD(A)DP(FC)" to read "OUSD(A&T)DP(FC)."

225.7307–2 [Amended]

71. Section 225.7307–2 is amended in paragraph (b) by revising the phrase "OASD(P&L)" to read "USD(A&T)DP."

PART 226—OTHER SOCIOECONOMIC PROGRAMS

72. A new subpart 226.1 is added to read as follows:

Subpart 226.1—Indian Incentive Program.

226.103 Procedures.

Contracting officers shall contact the Office of Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense for Acquisition and Technology, OUSD(A&T) SADBU, Room 2A340, The Pentagon, Washington, DC 20301–3061, (703) 697–1688, to obtain funding for an approved Indian incentive payment request. Upon receipt of funding from OUSD(A&T)

SADBU, the contracting officer shall issue a unilateral contract modification to add the incentive payment.

73. Section 226.7104 is revised to read as follows:

225.7104 Other considerations.

When planning for contracts for services related to base closure activities at a military installation affected by a closure or realignment under a base closure law, contracting officers shall consider including, as a factor in source selection, the extent to which offerors specifically identify and commit, in their proposals, to a plan to hire residents of the vicinity of the military installation that is being closed or realigned.

PART 227—PATENTS, DATA, AND COPYRIGHTS

227.7101 [Amended]

74. Section 227.7101 is amended by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

75. Section 227.7102–3 is amended by adding a last sentence to paragraph (a); by adding a last sentence to paragraph (b); and by adding a last sentence to paragraph (c) to read as follows:

227.7102–3 Contract clause.

(a) * * * Do not require the contractor to include this clause in its subcontracts.

(b) * * * Do not require the contractor to include this clause in its subcontracts for commercial items or commercial components.

(c) * * * Do not require the contractor to include this clause in its subcontracts for commercial items or commercial components.

227.7103–6 [Amended]

76. Section 227.7103–6 is amended in paragraph (a), second sentence, by revising the word "Innovative" to read "Innovation."

77. Section 227.7103–15 is amended by revising paragraph (c) introductory text to read as follows:

227.7103–15 Subcontractor rights in technical data.

* * * * *

(c) Require prime contractors whose contracts include the following clauses to include those clauses, without modification except for appropriate identification of the parties, in contracts with subcontractors or suppliers, at all tiers, who will be furnishing technical data for non-commercial items in response to a Government requirement:

* * * * *

227.7104 [Amended]

78. Section 227.7104 is amended in the title by revising the word "Innovatiive" to read "Innovation"; and by revising in paragraph (a) the word "Innovative" to read "Innovation."

227.7202–2 [Removed and Reserved]

79. Section 227.7202–2 is removed and reserved.

PART 228—BONDS AND INSURANCE

228.171–1 [Amended]

80. Section 228.171–1(e) is amended by revising "28.204" to read "FAR 28.204."

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

231.205–6 [Amended]

81. Section 231.205–6 is amended by removing paragraph (g)(2)(i).

82. Section 231.603 is revised to read as follows:

231.603 Requirements.

The limitation on allowable individual compensation at 231.205–6(a)(2) also applies to this subpart.

83. Section 231.703 is revised to read as follows:

231.703 Requirements.

The limitation on allowable individual compensation at 231.205–6(a)(2) also applies to this subpart.

Subpart 231.70—[Removed]

84. Subpart 231.70 is removed.

PART 232—CONTRACT FINANCING

232.170 [Amended]

85. Section 232.170 is amended by revising in paragraph (a) the phrase "Office of the Under Secretary of Defense (Acquisition), USD(A)DP" to read "Office of the Under Secretary of Defense (Acquisition & Technology), USD(A&T)DP"; and by revising in paragraph (b) the phrase "USD(A)DP" to read "USD(A&T)DP."

232.171 [Amended]

86. Section 232.171 is amended by revising in paragraphs (a)(1), (b)(1), and (b)(3) the phrase "USD(A)DP" to read "USD(A&T)DP."

232.173–1 [Amended]

87. Section 232.173–1(b) is amended by revising the phrase "(Acquisition)" to read "(Acquisition & Technology)."

232.173–5 [Amended]

88. Section 232.173–5 is amended by revising in the introductory text the phrase "(Acquisition)" to read "(Acquisition & Technology)."

232.501–2 [Amended]

89. Section 232.501–2(a) is amended to revise the two occurrences of "USD(A)DP" to read "USD(A&T)DP."

232.617 [Amended]

90. Section 232.617 is amended by revising the phrase "USD(A)DP" to read "USD(A&T)DP."

PART 234—MAJOR SYSTEM ACQUISITION

91. Section 234.001 is added to read as follows:

234.001 Definitions.

Systems means a combination of elements that will function together to produce the capabilities required to fulfill a mission need.

Systems acquisition means the design, development, and production of new systems. It also includes modifications to existing systems that involve redesign of the systems or subsystems.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

235.015–71 [Amended]

92. Section 235.015–71 is amended by removing in paragraph (i)(2) the entry "FAR 52.215–1 Examination of Records by Comptroller General" and by revising in paragraph (i)(2) the title of the entry "FAR 52.215–2" to read "Audit and Records—Negotiation."

93. Section 235.017–1 is revised to read as follows:

235.017–1 Sponsoring agreements.

(c)(4) DoD-sponsoring FFRDCs that function primarily as research laboratories (C3I Laboratory operated by the Institute for Defense Analysis, Lincoln Laboratory operated by Massachusetts Institute of Technology, and Software Engineering Institute) may respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology (Section 217, Public Law 103–337).

235.7002 [Amended]

94. Section 235.7002 is amended by removing at the end of paragraph (a)(1) the period and adding a semicolon and the words "Army Soldier Systems Command contracting office."; and by removing at the end of paragraph (a)(2) the period and adding a semicolon and the words "Naval Command, Control and Ocean Surveillance Center contracting office."

95. Section 235.7003 is amended by revising paragraph (b)(1) to read as follows:

235.7003 Reporting requirements.

* * * * *

(b) * * *

(1) Army:

Mr. Chuck Boylan, Army Research Laboratory, Fort Monmouth, Phone: (908) 427–3471; DSN 987–3471; FAX: (908) 532–5188; DSN 992–5188

* * * * *

235.7006 [Amended]

96. Section 235.7006, *Exhibit—Research and Development Streamlined Contracting Format*, Part I-The Schedule, Section H, *Special Contract Requirements* is amended by revising paragraph designation (H.8) to read (H.5).

PART 237—SERVICE CONTRACTING

97. Section 237.102–70 is added to read as follows:

237.102–70 Prohibition on contracting for firefighting or security-guard functions.

(a) Under 10 U.S.C. 2465, the DoD is prohibited for entering into contracts for the performance of firefighting or security-guard functions at any military installation or facility unless—

(1) The contract is to be carried out at a location outside the United States (to include any U.S. commonwealth, territory, or possession) at which members of the armed forces would have to be used for the performance of firefighting or security-guard functions at the expense of unit readiness;

(2) The contract will be carried out on a Government-owned but privately operated installation; or

(3) The contract (or renewal of a contract) is for the performance of a function under contract on September 24, 1983.

(b) Under Section 2907 of Public Law 103–160, this prohibition does not apply to services at installations being closed (see subpart 237.74).

237.104 [Amended]

98. Section 237.104 is amended by revising in paragraph (b)(ii) introductory text the word "service" to read "services;" by revising in paragraph (b)(ii)(B) the word "service" to read "services;" and by revising the last sentence in paragraph (b)(ii)(B) to read "Selections made using the procedures in this section are exempt by statute from FAR part 6 competition requirements (see 206.001(b))."

99. Section 237.109 is added to read as follows:

237.109 Services of quasi-military armed forces.

See 237.102–70b for prohibition on contracting for firefighting or security-guard functions.

237.171, 237.171–1, and 237.171–2 [Removed]

100. Sections 237.171, 237.171–1, and 237.171–2 are removed.

237.270, 237.270–1, 237.270–2, 237.270–3 and 237.270–4 [Removed]

101. Sections 237.270, 237.270–1, 237.270–2, 237.270–3 and 237.270–4 are removed.

237.7204 [Amended]

102. Section 237.7204 is amended by revising under the heading "GENERAL PROVISIONS" entry No. 6 to read "FAR 52.215–2, Audit and Records—Negotiation" in lieu of "FAR 52.215–1, Examination of Records by Comptroller General."

PART 239—ACQUISITION OF INFORMATION RESOURCES

103. Section 239.7303 is amended by revising paragraph (b) to read as follows:

239.7303 Review and approval of leasing costs.

* * * * *

(b) The contracting officer shall conduct reviews of leasing costs as warranted, meeting the criteria of FAR 31.205–2(d), to determine the continued need for leasing. In performing the review, the contracting officer shall request the contractor to update its supporting documentation.

* * * * *

PART 242—CONTRACT ADMINISTRATION

242.705–1 [Amended]

104. Section 242.705–1 is amended by removing paragraphs (b)(3) and (b)(4).

242.705–2 [Amended]

Section 242.705–2 is amended by revising paragraph designations "(b)(2)(iii)" and "(b)(2)(v)" to read "(b)(2)(ii)" and "(b)(2)(iv)" respectively.

242.770 [Removed and Reserved]

105. Section 242.770 is removed and reserved.

242.770–1, 242.770–2, 242.770–3, 242.770–4, 242.770–5, and 242.770–6 [Removed]

106. Sections 242.770–1, 242.770–2, 242.770–3, 242.770–4, 242.770–5, and 242.770–6 are removed.

242.771–3 [Amended]

107. Section 242.771–3 is amended by revising in paragraph (b)(2) the phrase "(OUSD(A))" to read "(OUSD(A&T))"; and by revising in paragraph (c) the phrase "(OUSD(A)DDR&E)" to read "(OUSD(A&T)DDR&E)."

108. Section 242.7003–1 is revised to read as follows:

242.7003–1 Description.

The annual cost monitoring plan is a schedule for reviewing contractor activities that have the greatest potential for generating erroneous charges to the Government.

109. Section 242.7206 is amended by revising the introductory text to read as follows:

242.7206 Contract clause.

Use the clause at 252.242–7004, Material Management and Accounting System, in all solicitations and contracts exceeding the simplified acquisition threshold in FAR part 13 that are not for the acquisition of commercial items and—

* * * * *

PART 246—QUALITY ASSURANCE

246.202–3 [Amended]

110. Section 246.202–3 is redesignated as 246.202–4; and paragraphs (i) and (ii) of newly designated 246.202–4 are redesignated as paragraphs (1) and (2) respectively.

246.204 [Removed]

111. Section 246.204 is removed.

246.704 [Amended]

112. Section 246.704 is amended by removing in paragraph (2) the words "supplies or services" and inserting the word "items"; and by revising in paragraph (4) the parenthetical phrase "(see 246.202–3)" to read "(see 246.202–4)."

113. Section 246.770–1 is amended by revising paragraph (f)(2)(i) to read as follows:

246.770–1 Definitions.

* * * * *

(f) * * *

(2) * * *

(i) Commercial items;

* * * * *

PART 247—TRANSPORTATION

114. Section 247.572–1 is amended by revising paragraph (a) to read as follows:

247.572–1 Ocean transportation incidental to a contract for supplies, services, or construction.

(a) This subsection applies when ocean transportation is not the purpose of the contract. However, effective May 1, 1996, this subsection does not apply to subcontracts for the acquisition of

commercial items or commercial components (see 212.504(a)(xxii)).

* * * * *

247.572–2 [Amended]

115. Section 247.572–2 is amended by removing at the end of paragraph (a)(4) the word "and"; by removing the period at the end of paragraph (a)(5) and inserting a semicolon and the word "and" in its place; and by adding a new paragraph (a)(6) to read as follows:

247.572–2 Direct purchase of ocean transportation services.

(a) * * *

(6) Subcontracts under Government contracts or agreements for ocean transportation services.

* * * * *

PART 249—TERMINATION OF CONTRACTS

249.7002 [Amended]

116. Section 249.7002 is amended in paragraph (b) introductory text by revising the phrase "Office of Economic Adjustment (OEA), Assistant Secretary of Defense (Force Management and Personnel)" to read "Assistant Secretary of Defense (Economic Security), Office of Economic Adjustment (OEA"; and in paragraph (b)(2) by revising the Telefax number to read "(703) 604–5843."

PART 250—EXTRAORDINARY CONTRACTUAL ACTIONS

117. Section 250.201–70 is amended by revising in paragraph (b)(1) the phrase "Under Secretary of Defense (Acquisition) (USD(A))" to read "Under Secretary of Defense (Acquisition & Technology) (USDA&T))"; and by revising in paragraph (b)(2) the phrase "USD(A)" to read "USD(A&T)."

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

118. Section 252.203–7000 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (a)(3) to read as follows:

252.203–7000 Statutory prohibitions on compensation to former Department of Defense employees.

* * * * * * *

(a) * * *

(3) *Defense contractor* means an entity (including affiliates and subsidiaries which clearly engage in the performance of Department of Defense (DoD) contracts) that contracts directly with the DoD to supply goods or services. "Defense contractor" does not include a State or local government or any person who contracts to supply the Department of Defense only commercial items.

* * * * *

119. Section 252.203–7001 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (g) to read as follows:

252.203–7001 Special prohibition on employment.

* * * * *

(g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in part 13 of the Federal Acquisition Regulation, except those for commercial items or components.

* * * * *

252.203–7003 [Removed]

120. Section 252.203–7003 is removed.

252.204–7001 [Amended]

121. Section 252.204–7001 is amended by revising in the introductory text the reference "204.603–70" to read "204.602–70."

122. Section 252.209–7000 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (b) to read as follows:

252.209–7000 Acquisition from subcontractors subject to on-site inspection under the Intermediate-Range Nuclear Forces (INF) Treaty.

* * * * *

(b) The Contractor shall incorporate this clause, including this paragraph (b), in all solicitations and contracts exceeding the simplified acquisition threshold in part 13 of the Federal Acquisition Regulation, except those for commercial items.

252.209–7007 [Amended]

123. Section 252.209–7007 is redesignated as 252.209–7005; the clause date is revised to read "(NOV 1995)"; the title of paragraph (a) is revised to read "*Definition*"; and paragraph (b) is revised to read as follows:

252.209–7005 Military recruiting on campus.

* * * * *

(b) *General.*

An institution of higher education that has been determined, using procedures established by the Secretary of Defense to implement section 558 of Pub. L. 103–337, (1) to have a policy of denying, or (2) to prevent effectively the Secretary of Defense from obtaining for military recruiting purposes, entry to their campuses, access to students on campuses, or access to directory information pertaining to students, is ineligible for contract award and payments under existing contracts. In addition, the Government shall terminate this contract for the Contractor's material failure to comply with the terms and conditions of award.

* * * * *

252.210–7000 [Amended]

124. Sections 252.211–7000 through 252.211–7021 are removed and Section 252.210–7000 is redesignated as 252.211–7003 and the introductory text is revised to read "As prescribed in 211.270–2, use the following provision:".

252.210–7001 [Amended]

125. Section 252.210–7001 is redesignated as 252.211–7001 and the introductory text is revised to read "As prescribed in 211.204(c), use the following provision:".

252.210–7002 [Amended]

126. Section 252.210–7002 is redesignated as 252.211–7002 and the introductory text is revised to read "As prescribed in 211.204(c), use the following provision:".

252.210–7003 [Amended]

127. Section 252.210–7003 is redesignated as 252.211–7000 and the introductory text is revised to read "As prescribed in 211.002–70, use the following clause:".

252.210–7004 [Amended]

128. Section 252.210–7004 is redesignated as 252.211–7004 and the introductory text is revised to read "As prescribed in 211.272, use the following provision:".

129–130. Sections 252.212–7000 and 252.212–7001 are added to read as follows:

252.212–7000 Offeror representations and certifications—Commercial Items.

As prescribed in 212.301(f)(iii), use the following provision:

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS

(NOV 1995)

(a) *Definitions.*

As used in this clause—

(1) *Foreign person* means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec. 2415).

(2) *United States person* is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) *Certification.*

By submitting this offer, the Offeror, if a foreign person, company or entity, certifies that it—

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec. 2407(a) prohibits a United States person from taking.

(c) *Representation of Extent of Transportation by Sea.* (This representation does not apply to solicitations for the direct purchase of ocean transportation services).

(1) The Offeror shall indicate by checking the appropriate blank in paragraph (c)(2) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term "supplies" is defined in the Transportation of Supplies by Sea clause of this solicitation.

(2) *Representation.*

The Offeror represents that it—

_____Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

_____ Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(3) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense Federal Acquisition Regulation Supplement clause at 252.247–7024, Notification of Transportation of Supplies by Sea.

(End of provision)

252.212–7001 Contract terms and conditions required to implement statutes or Executive Orders applicable to Defense acquisitions of commercial items.

As prescribed in 212.301(f)(iv), use the following clause:

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (NOV 1995)

(a) The Contractor agrees to comply with the Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.247–7023, Transportation of Supplies by Sea, which is included in this contract by reference to implement 10 U.S.C. 2631.

(b) The Contractor agrees to comply with any clause that is checked on the following list of DFARS clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive Orders applicable to acquisitions of commercial items or components.

_____ 252.205–7000 Provision of Information to Cooperative Agreement Holders (10 U.S.C. 2416).

_____ 252.206–7000 Domestic Source Restriction (10 U.S.C. 2304).

_____ 252.219–7001 Notice of Partial Small Business Set-Aside with Preferential Consideration for Small Disadvantaged Business Concerns (____ Alternate I) (Section 9004, Pub. L. 101–165 (10 U.S.C. 2301 (repealed) note)).

_____ 252.219–7002 Notice of Small Disadvantaged Business Set-Aside (____ Alternate I) (15 U.S.C. 644).

_____ 252.219–7003 Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts) (15 U.S.C. 637).

_____ 252.219–7005 Incentive for Subcontracting with Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities and Minority Institutions (____ Alternate I) (Section 9004, Pub. L. 101–165 (10 U.S.C. 2301 (repealed) note)).

_____ 252.219–7006 Noice of Evaluation Preference for Small Disadvantaged Business Concerns (____ Alternate I) (15 U.S.C. 644).

_____ 252.225–7001 Buy American Act and Balance of Payment Program (41 U.S.C. 10, E.O. 10582).

_____ 252.225–7007 Trade Agreements (10 U.S.C. 2501–2582).

_____ 252.225–7012 Preference for Certain Domestic Commodities.

_____ 252.225–7014 Preference for Domestic Speciality Metals (10 U.S.C. 2241 note).

_____ 252.225–7015 Preference for Domestic Hand or Measuring Tools (10 U.S.C. 2241 note).

_____ 252.225–7017 Preference for United States and Canadian Valves and Machine Tools (10 U.S.C. 2534(c)(2)).

_____ 252.225–7027 Limitation on Sales Commissions and Fees (12 U.S.C. 2779).

_____ 252.225–7028 Exclusionary Policies and Practices of Foreign Governments (22 U.S.C. 2755).

_____ 252.225–7029 Restriction on Acquisition of Air Circuit Breakers (10 U.S.C. 2534(a)(3)).

_____ 252.225–7036 North American Free Trade Agreement Implementation Act.

_____ 252.227–7015 Technical Data—Commercial Items (10 U.S.C. 2320).

_____ 252.227–7037 Validation of Restrictive Markings on Technical Data (10 U.S.C. 2321).

_____ 252.233–7000 Certification of Claims and Requests for Adjustment or Relief (10 U.S.C. 2410).

_____ 252.242–7002 Submission of Commercial Freight Bills for Audit (31 U.S.C. 3726).

_____ 252.247–7024 Notification of Transportation of Supplies by Sea (10 U.S.C. 2631).

_____ 252.249–7001 Notification of Substantial Impact on Employment (10 U.S.C. 2501 note).

(End of clause)

252.215–7001 [Removed and Reserved]

131. Section 252.215–7001 is removed and reserved.

132. Section 252.217–7026 is amended by revising the clause date to read "(NOV 1995)" and revising paragraph (3) of the table to read as follows:

252.217–7026 Identification of sources of supply.

* * * * *

(b) * * *

(3) Use "Y" if the item is a commercial item; otherwise use "N." If "Y" is listed, the Offeror need not complete the remaining columns in the table.

* * * * *

133. Section 252.219–7003 is amended by revising the title; by revising the clause date to read "(NOV 1995)"; by revising the introductory text of the clause and by revising in paragraph (b) the word "products" to read "items" as follows:

252.219–7003 Small, small disadvantaged and women-owned small business subcontracting plan (DoD contracts).

* * * * *

This clause supplements the Federal Acquisition Regulation 52.219–9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, clause of this contract.

* * * * *

252.219–7005 [Amended]

134. Section 252.219–7005 is amended by revising the clause date to read "(NOV 1995)" and by revising in paragraph (d) the word "products" to read "items."

135. Section 252.223–7006, ALTERNATE I, is amended by revising the date to read "(NOV 1995)"; by revising in paragraph (c) the word "material" to read "materials"; and by revising paragraph (d) to read as follows:

252.223–7006 Prohibition on storage and disposal of toxic and hazardous materials.

* * * * *

ALTERNATE I (NOV 1995)

* * * * *

(d) The Contractor shall include this clause, including this paragraph (d), in each subcontract which requires, may require, or permits a subcontractor to treat or dispose of non-DoD-owned toxic or hazardous materials as defined in this clause.

136–137. Section 252.225–7012 is amended by revising the clause date to read "(NOV 1995)"; by removing the word "or" at the end of paragraph (b)(2); by removing the period at the end of paragraph (b)(3) and adding a semicolon and the word "or" in its place; and by adding a new paragraph (b)(4) to read as follows:

252.225–7012 Preference for certain domestic commodities.

* * * * *

(b) * * *

(4) To commercial items or components purchased from subcontractors or suppliers.

138. Section 252.225–7014 is amended by revising the clause date to read "(NOV 1995)"; by revising in paragraph (c)(2) the acronym "FAR" to read "Federal Acquisition Regulation"; by removing the word "or" at the end of paragraph (c)(2); by removing the period at the end of paragraph (c)(3) and adding a semicolon and the word "or" in its place; and by adding a new paragraph (c)(4) to read as follows:

252.225–7014 Preference for domestic specialty metals.

* * * * *

(c) * * *

(4) The specialty metal is contained in a commercial item or component purchased from subcontractors or suppliers.

* * * * *

139. Section 252.225–7016 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (b) to read as follows:

252.225–7016 Restriction on acquisition of antifriction bearings.

* * * * *

(b) The restriction in paragraph (a) does not apply to the extent that the end items or components containing antifriction bearings are commercial items. The commercial item exception does not include items designed or developed under a Government contract or contracts where the end item is bearings and bearing components.

* * * * *

140. Section 252.225–7026 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (c)(1) to read as follows:

252.225–7026 Reporting of contract performance outside the United States.

* * * * *

(c) * * *

(1) The Contractor shall include a clause substantially the same as this one in all first-tier subcontracts exceeding $100,000, except subcontracts for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.

* * * * *

252.225–7040 [Amended]

141. Section 252.225–7040 is amended by revising in the introductory text the reference "225.7004–5(c)" to read "225.7004–6(c)."

142. Section 252.227–7013 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (k)(2) to read as follows:

252.227–7013 Rights in technical data—Noncommercial items.

* * * * *

(k) * * *

(1) * * *

(2) Whenever any technical data for noncommercial items is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher-tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data.

* * * * *

143. Section 252.227–7015 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (a) to read as follows:

252.227–7015 Technical data—Commercial items.

* * * * *

(a) *Definitions.*

As used in this clause:

(1) *Commercial item* does not include commercial computer software.

(2) *Form, fit, and function data* means technical data that describes the required overall physical, functional, and performance characteristics (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items.

(3) The term *item* includes components or processes.

(4) *Technical data* means recorded information, regardless of the form or method of recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

* * * * *

252.227–7018 [Amended]

144. Section 252.227–7018 is amended in the title by revising the word "Innovative" to read "Innovation"; and by revising in the clause title the word "Innovative" to read "Innovation."

145. Section 252.227–7037 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (l) to read as follows:

252.227–7037 Validation of restrictive markings on technical data.

* * * * *

(l) *Flowdown.*

The Contractor or subcontractor agrees to insert this clause in contractual instruments with its subcontractors or suppliers at any tier requiring the delivery of technical data, except contractual instruments for commercial items or commercial components.

252.231–7001 [Removed]

146. Section 252.231–7001 is removed.

252.237–7020 [Removed and Reserved]

147. Section 252.237–7020 is removed and reserved.

252.237–7021 [Removed and Reserved]

148. Section 252.237–7021 is removed and reserved.

149. Section 252.239–7010 is amended by revising the clause date to read "(NOV 1995)"; by revising paragraph (a) introductory text; and by revising paragraph (b) to read as follows:

252.239–7010 Audit and records—Common carriers.

* * * * *

(a) For the purpose of verifying the accuracy of the cost or pricing data submitted under the Submission of Cost or Pricing Data—Common Carriers clause of this agreement/contract, the Contracting Officer or authorized representative shall have the right to examine the Contractor's records, the computations and projections used, and other supporting data, as defined in 4.703(a) of the Federal Acquisition Regulation, which will permit adequate evaluation of the cost or pricing data. This right applies to cost and pricing data which were available to the Contractor as of the date of the certification and shall last—

* * * * *

(b) The Contractor shall maintain records and other evidence, and accounting procedures and practices, sufficient to show the direct and indirect costs which were the basis for pricing the communication service authorization.

* * * * *

252.242–7001 [Removed and Reserved]

150. Section 252.242–7001 is removed and reserved.

151. Section 252.247–7023 is amended by revising the clause date to read "(NOV 1995)" by revising paragraph (a)(5); and by revising paragraph (g) to read as follows:

252.247–7023 Transportation of supplies by sea.

* * * * *

(a) * * *

(5) *Subcontractor* means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract. However, effective May 1, 1996, the term does not include a supplier, materialman, distributor, or vendor of commercial items or commercial components.

* * * * *

(g) The Contractor shall include this clause, including this paragraph (g) in all subcontracts under this contract, which exceed the simplified acquisition threshold in Part 13 of the Federal Acquisition Regulation.

152. Section 252.247–7024 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (b) to read as follows:

252.247–7024 Notification of transportation of supplies by sea.

* * * * *

(b) The Contractor shall include this clause, including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties, in all subcontracts hereunder, except (effective May 1, 1996) subcontracts for the acquisition of commercial items or components.

PART 253—FORMS

153. Section 253.204–70 is revised to read as follows:

253.204–70 DD Form 350, Individual Contracting Action Report.

Policy on use of a DD Form 350 is in 204.670–2. This subsection 253.204–70 contains instructions for completion of Parts A through F of the DD Form 350. Paragraph (g) of this subsection contains special instructions for completing a DD Form 350 for an action of $25,000 or less under the Small Business Competitiveness Demonstration Program.

(a) *Part A of the DD Form 350.*

Part A identifies the report and the reporting activity. Complete all four blocks.

(1) BLOCK A1, TYPE OF REPORT.

Enter one of three codes.

(i) *Code 0–Original.*

Enter code 0 unless 1 or code 2 applies.

(ii) *Code 1–Cancelling.*

A cancelling action cancels an existing DD Form 350 in accordance with departmental data collection point instructions.

(iii) *Code 2–Correcting.*

A correcting action corrects an existing DD Form 350 action in accordance with departmental data collection point instructions.

(2) BLOCK A2, REPORT NO.

Enter the four digit local control number (see 204.670–3(a)(4)). If Block A1 is coded 1 or 2, use the prior report number rather than a new one.

(3) BLOCK A3, CONTRACTING OFFICE CODE.

Enter the code assigned the contracting office by the departmental data collection point in 204.670–1(c).

(4) BLOCK A4, NAME OF CONTRACTING OFFICE.

Enter sufficient detail to establish the identity of the contracting office.

(b) *Part B of the DD Form 350.*

Part B identifies the transaction.

(1) BLOCK B1, CONTRACT NUMBER.

(i) Enter—

(A) The DoD contract number; or

(B) For orders under contracts awarded by other Federal agencies, the contract number of that Federal agency as it appears in the contractual instrument.

(ii) Do not leave spaces between characters, and do not enter dashes, slants, or any other punctuation marks.

(iii) The DoD contract number is the basic (13 alphanumeric character) procurement instrument identification number (PIIN) that was assigned in accordance with 204.7001 or constructed under an exception permitted by 204.7000. Do not enter any supplementary procurement instrument numbers as part of the contract number (these go in Block B2).

(2) BLOCK B2, MOD. ORDER OR OTHER ID NUMBER.

Enter the supplemental procurement identification number (if there is one) that was assigned in accordance with 204.7004 or as permitted by 204.7000. It can be up to 19 characters. Usually calls and orders have a four-position number (see 204.7004–4) and modifications (including modifications of calls or orders) have a six-position modification number (see 704.7003 or 204.7004(b)).

(3) BLOCK B3, ACTION DATE.

(i) Enter the year, month, and day of the effective date for fiscal obligation purposes. When contract actions are awarded contingent on the availability of funds, enter the date funds are obligated.

(ii) Enter each segment as a two digit number. Use 01 through 12 for January through December. For example, enter January 2, 1999 as 990102.

(4) BLOCK B4, COMPLETION DATE.

(i) Enter the year, month, and day of the last contract delivery date or the end of the performance period.

(ii) Enter each segment as a two digit number. Use 01 through 12 for January through December. For example, enter January 2, 1999 as 990102.

(5) BLOCK B5, CONTRACTOR IDENTIFICATION INFORMATION.

(i) Use data that relates to the contractor whose name and address appears in the contract document (Block 7 of the SF 26, Award/Contract; Block 8 of the SF 30, Amendment of Solicitation/Modification of Contract; Block 15A of the SF 33, Solicitation, Offer and Award; or Block 9 of the DD Form 1155, Order for Supplies or Services), except—

(A) For contracts placed with the Small Business Administration under Section 8(a) of the Small Business Act, use data that relates to the company that will be performing the work.

(B) For orders placed against a contract awarded by another agency, also use data that relates to the company that will be performing the work.

(C) For Federal supply schedule orders, use data that applies to the contractor whose name appears on the schedule (not the data for the agent to whom orders may be sent).

(D) For contracts with the Canadian Commercial Corporation (CCC), use data for the appropriate CCC office, except as noted in Block B5B.

(ii) Block B5 has seven parts. Some of the parts may not apply to the action being reported.

(A) BLOCK B5A, ESTABLISHMENT CODE.

Enter the contractor's 9-position contractor establishment code (CEC). If CEC is not available within the contracting activity, use the procedures at 204.7202–2 to obtain one.

(B) BLOCK B5B, CAGE CODE.

Enter the 5-position commercial and Government entity (CAGE) code that identifies the contractor plant or establishment. If the CAGE code is not already available in the contracting office and the apparent awardee does not respond to the provision at 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting, use the procedures as 204.7202–1 to obtain one.

(C) BLOCK B5C, CONTRACTOR NAME AND DIVISION NAME.

Enter the contractor's name. Include its division name.

(D) BLOCK B5D, CONTRACTOR ADDRESS.

Enter the contractor's address. Include street address (and/or P.O. Box), city/town, state/country, and ZIP code, if applicable. Do not enter foreign postal codes.

(E) BLOCK B5E, TIN.

Enter the contractor's taxpayer identification number (see FAR Subpart 4.9).

Leave Block B5E blank if the contractor is—

(1) A nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the trade or business in the United States; and does not have an office or place of business or a fiscal paying agent in the United States;

(2) An agency or instrumentality of a foreign government; or

(3) An agency or instrumentality of a Federal, State, or local government.

(F) BLOCK B5F, PARENT TIN.

Enter the contractor's parent company (common parent) TIN (see FAR 4.9 and 52.204–3). If the contractor does not have a parent company or the parent

company meets the exemption for Block B5E, leave Block B5F blank.

(G) BLOCK B5G, PARENT NAME.

If a parent TIN is entered in Block B5F, enter in Block B5G the name of the parent company (common parent). Leave Block B5G blank if there is no parent company or the parent company is exempted from the requirement to have a TIN.

(6) BLOCK B6, PRINCIPAL PLACE OF PERFORMANCE.

(i) The place, or places, where the contract will be performed may be specified by the Government or listed by the contractor in response to the solicitation provision at FAR 52.214–14, Place of Performance—Sealed Bidding, or FAR 52.215–20, Place of Performance. Use data for the contractor's principal place of performance, which is generally the—

(A) Final assembly point for supply contracts with manufacturers.

(B) Dealer's location for supply contracts with regular dealers (FAR 22.601) where shipment is made from stock.

(C) Subcontractor's location for supply contracts with regular dealers (FAR 22.601) where shipment is made from a subcontractor's plant.

(D) Actual construction site for construction contracts.

(E) Planned construction site for architect-engineer contracts.

(F) Place of mining for mined supplies.

(G) Place (including military installations) where a service is performed for service contracts.

(ii) When there is more than one location for any of paragraphs (i)(A) through (G) (e.g., more than one construction site), use the location involving the largest dollar amount of the acquisition. Do not show more than one location in Block B6.

(iii) If places of performance are too varied or not known, or if commercial procedures were used, enter the contractor's home office location.

(iv) Follow the instructions for each part of Block 6 which applies to the action being reported.

(A) BLOCK B6A, CITY OR PLACE CODE.

(*1*) For places in the United States and outlying areas, enter the numeric place code, which can be found in the Federal Information Processing Standards (FIPS) Publication (PUB) 55–2, ("Guideline: Codes for named Populated Places, Primary Country Divisions, and Other Locational Entities of the United States and Outlying Areas"). Leave Block B6A blank for places outside the United States and outlying areas.

(*2*) If the city or locality is not listed, look in FIPS PUB 55–2 for the county code of the principal place of performance. Enter that in Block B6A. Use 50000 for Washington, DC, with a State code of 11.

(*3*) Paragraph 5.2, Entry Selection With the Aid of the Class Code, of FIPS PUB 55–2 will help in selecting the correct code. Sometimes, a class code should be used in addition to a place code to accurately identify the place of performance. Do not use place codes where the first position of the class code is X or Z.

(B) BLOCK B6B, STATE OR COUNTRY CODE.

(*1*) For places in the United States and outlying areas, enter the numeric State code, which can be found in FIPS PUB 55–2 or FIPS PUB 5–2, Codes for the Identification of the States, the District of Columbia and the Outlying Areas of the United States and Associated Areas.

(*2*) For places outside the United States and outlying areas, enter the alpha country code from FIPS PUB 10–3, Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Divisions.

(C) BLOCK B6C, CITY OR PLACE AND STATE OR COUNTRY NAME.

Enter the name of the principal place of performance. Do not leave Block B6C blank.

(7) BLOCK B7, TYPE OBLIGATION.

Enter one of two codes.

(i) *Code 1—Obligation.* Enter code 1 if the contracting action obligates funds.

(ii) *Code 2—Deobligation.* Enter code 2 if the contracting action deobligates funds.

(8) BLOCK B8, TOTAL DOLLARS.

Enter the net amount of funds (whole dollars only) obligated or deobligated by the contracting action. Do not leave Block B8 blank.

(9) BLOCK B9, FOREIGN MILITARY SALE.

Enter one of the two codes. If only part of the contracting action is foreign military sale, separately report the parts (see 204.670–6(c)).

(i) *Code Y—Yes.* Enter code Y when the contracting action is under a foreign military sales arrangement, or under any other arrangement where a foreign country or international organization is bearing the cost of the acquisition.

(ii) *Code N—No.* Enter code N when code Y does not apply.

(10) BLOCK B10, MULTIYEAR CONTRACT.

Enter one of the two codes.

(i) *Code Y—Yes.* Enter code Y when the contracting action is a multiyear contract under FAR Subpart 17.1.

(ii) *Code N—No.* Enter code N when code Y does not apply.

(11) BLOCK B11, TOTAL MULTIYEAR VALUE.

(i) Complete Block B11 if the contracting action is—

(A) A multiyear contract (B10 is coded Y); and

(B) Either a new letter contract or a new definitive contract (Block B13 is coded 1 or 3). Otherwise, leave Block B11 blank.

(ii) Enter the estimated multiyear contract value (whole dollars only).

(12) BLOCK B12, PRINCIPAL PRODUCT OR SERVICE.

B12 contains five parts. Do not leave any blocks blank.

(i) BLOCK B12A, FSC or SVC CODE.

Enter the 4-character federal stock class or service code that describes the contract effort. To find the code, look in Section 1 of the Department of Defense (DoD) Procurement Coding Manual (MN02). There are three categories of codes to choose from. In some cases, use a 4-character code from a list of 4-character codes; in other cases, construct a code using the instructions in the Manual. If more than one category or code applies to the contract action, enter the one that best identifies the product or service representing the largest dollar value.

(A) *Supplies.* If the contracting action is for the purchase (not lease or rental) of supplies, enter a federal supply classification (FSC) code in Block B12A. FSC codes are all numeric. Look in Section 1, Part C, of the DoD Procurement Coding Manual (MN02). The Department of Defense Federal Supply Classification Cataloging Handbooks H2–1, H2–2, and H2–3 may also help with the correct 4-character code.

(B) *Services.* If the contracting action is for services (except research, development, test, and evaluation), construction, or lease or rental of equipment or facilities, enter a service code in Block B12A.

(C) *Research, Development, Test and Evaluation (RDT&E).* If the contracting action is for RDT&E (as defined in FAR 35.001 and 235.001), enter an RDT&E code in Block B12A. Look in Section 1, Part A of the DoD Procurement Coding Manual (MN02). All RDT&E codes should begin with the letter "A". Do not use an RDT&E code for—

(*1*) Purchase, lease, or rental of equipment, supplies, or services separately purchased in support of RDT&E work, even if RDT&E funds are cited. Instead, use an FSC or Service code under the instructions in paragraphs (i)(A) or (B).

(*2*) Orders under Federal supply schedule contracts. Instead use an FSC or Service code under the instructions in paragraphs (i)(A) or (B).

(ii) BLOCK B12B, DOD CLAIMANT PROGRAM CODE.

Enter a code that identifies the commodity described in Block B12E. These codes are in Section III of the DoD Procurement Coding Manual (MN02). If more than one code applies to the contracting action, enter the one that best identifies the product or service representing the largest dollar value. If the description in Block B12E is for—

(A) Research and development (R&D), enter the code that best represents the objective of the R&D. For example, if the objective of the research and development is a guided missile, enter code A20. If the R&D cannot be identified to any particular objective, enter code S10.

(B) Ship repair, inspect and repair as necessary (IRAN), modification of aircraft, overhaul of engines, or similar maintenance, repair or modification services, enter the code that best identifies the program.

(C) Equipment rental (including rental of automated data processing equipment), enter code S10.

(D) Utility services, enter code S10.

(E) Services that cannot be identified to any listed program, enter code S10.

(F) Supplies or equipment that cannot be identified to any listed program, enter code C9E.

(iii) BLOCK B12C, PROGRAM, SYSTEM, OR EQUIPMENT CODE.

(A) Enter a code that describes the program, weapons system, or equipment. These codes are in Section II of the DoD Procurement Coding Manual (MN02). If there is no code that applies to the contracting action, enter three zeros. If more than one code applies to the action, enter the one that best identifies the product or service representing the largest dollar value.

(B) If the contracting action is funded by the Ballistic Missile Defense Organization, enter code CAA.

(C) If the contracting action supports environmental cleanup programs, enter one of the codes listed in Section II of the DoD Procurement Coding Manual (MN02) under the heading "Description and Use of Program Codes—Environmental Cleanup Programs."

(D) Defense Logistics Agency activities must use the code assigned by the sponsoring Service.

(iv) BLOCK B12D, SIC CODE.

Enter the standard industrial classification (SIC) code for the acquisition (as opposed to the SIC of the manufacturer or dealer). Use the SIC code in effect at the time of award. These codes are in the OMB Standard Industrial Classification Manual. If more than one code applies to the contracting action, enter the one that best identifies the product or service representing the largest dollar value.

(v) BLOCK B12E, NAME DESCRIPTION.

Enter the name or brief description of the commodity or service. If the description is classified, enter only the word "Classified." Do not, however, use "Classified" when a code name (e.g., Minuteman, Polaris, Trident, Pershing, etc.) or an identifying program number (e.g., WS–107A) can be used.

(13) BLOCK B13, KIND OF CONTRACTING ACTION.

Enter one of the 16 codes.

(i) *Code 1—Initial Letter Contract.* Enter code 1 when the contracting action is a new letter contract. Do not use code 1 for a letter modification to an existing contract—use code A instead.

(ii) *Code 2—Definitive Contract Superseding Letter Contract.* Enter code 2 when the contracting action is the definitization of a letter contract. Do not use code 2 for an action which is a definitization of a letter modification—use code A instead.

(iii) *Code 3—Definitive Contract.* Enter code 3 when the contracting action is the first binding document containing all the terms and conditions. Code 3 also includes—

(A) Definitive contract awards under the Small Business Administration 8(a) program;

(B) Orders from the Procurement List with qualified nonprofit agencies employing people who are blind or severely disabled;

(C) Notices of award;

(D) Funding actions which are initial obligations (but see Code C—Funding Action); and

(E) Lease or loan agreements.

(iv) *Code 4—Order Under a BOA.* Enter code 4 when the contracting action is an order or definitization of an order (not a modification of an order). Examples include orders under a basic ordering agreement, priced exhibit, or production list entered into by a DoD component (see code 3 for actions which are not orders or modifications of orders). Enter code 9 if the action is an order under a blanket purchase agreement.

(v) *Code 5—Order Under DoD Contract.* Enter code 5 when the contracting action is—

(A) An order (not a modification or definitization of an order) against an indefinite delivery type contract;

(B) A job order, task order, or the like where firm obligations are created by issuance of the order against a contract awarded by a DoD component (not a modification or definitization of an order); or

(C) An order (not a modification of an order) placed against DoD contracts with the Small Business Administration under the 8(a) program.

(vi) *Code 6—Order/Modification Under Federal Schedule.* Do not use for GSA area contracts for utility services, use code 7 instead. Enter code 6 if the contracting action is an order, or a modification of an order, under—

(A) Federal supply schedule, e.g., GSA, VA, or OPM, contract (FAR 8.401); or

(B) GSA ADP schedule contract.

(vii) *Code 7—Order Under Another Agency's Contract.* Enter code 7 if the contracting action is an order, or a modification of an order other than those in code 6, under a contract awarded by another Federal agency or Government corporation. Include GSA area contracts for utility services (FAR 8.301). Do not use code 7 if the Federal agency or Government corporation is the contractor (i.e., is doing the work)—use code 8 instead.

(viii) *Code 8—Action With Another Federal Agency.* Enter code 8 if the contracting action is an action, or a modification of an action, placed directly with another Federal agency or Government corporation (e.g., Government Printing Office, Federal Printing Office, Federal Prison Industries (UNICOR), Tennessee Valley Authority, or the Department of Treasury, Agriculture or Energy) where the Federal agency or Government corporation is acting as the contractor (i.e., doing the work).

(ix) *Code 9—Purchase/Modification Using Simplified Acquisition Procedures.* Enter code 9 if the contracting action, including actions in a designated industry group under the Small Business Competitiveness Demonstration Program (FAR subpart 19.10), is an award or a modification of an award pursuant to FAR part 13.

(x) *Code A—Additional Work (new agreement).* Enter code A when the contracting action is a bilateral supplemental agreement which—

(A) Adds work to an existing contract (including a letter contract); and

(B) Requires a justification and approval (J&A), except see FAR 6.302–4(c) and 6.302–5(c)(2)(ii).

(xi) *Code B—Additional Work (other).* Enter code B when the contracting action is a modification of an existing contract (including a letter contract) which is not covered by code A or by codes C through F. Code B includes actions which—

(A) Exercise an option;

(B) Initiate an incremental yearly buy under a multiyear contract; and

(C) Amend a letter or other contract to add work that does not require a J&A.

(xii) *Code C—Funding Action.* Enter code C when the contracting action is a modification (to a letter or other contract) for the sole purpose of obligating or deobligating funds.

(A) This includes—

(1) Incremental funding (other than incremental yearly buys under multiyear contracts which are code B);

(2) Increases to the estimated cost on cost-reimbursement contracts;

(3) Repricing actions covering incentive price revisions; and

(4) Economic price adjustments.

(B) This does not include modifications that have the initial citation and obligation of funds for a contract or modification awarded in one fiscal year but not effective until a subsequent fiscal year. Code these—

(1) 3—definitive contract, if they are the initial obligation for the acquisition, or

(2) A or B—additional work, if they are the initial obligation for the modification.

(xiii) *Code D—Change Order.* Enter code D when the contracting action is a change order issued under the "Changes," "Differing Site Conditions," or other similar clauses in existing contracts.

(xiv) *Code E—Termination for Default.* Enter code E if the contracting action is a modification which terminates all or part of the contract for default.

(xv) *Code F—Termination for Convenience.* Enter code F if the contracting action is a modification which terminates all or part of the contract for convenience.

(xvi) *Code G—Cancellation.* Enter code G if the contracting action is a modification which cancels the contract. Do not use code G to cancel a prior DD Form 350—see Block A1.

(c) *Part C of the DD Form 350.*

(1) Part C gathers data concerning contracting procedures, use of competition, financing, and statutory requirements other than socieconomic (which are in Part D).

(2) Do not complete Part C if the contracting action is—

(i) A foreign military sale, i.e., Block B9 (Foreign Military Sale) is coded Y (Yes); or

(ii) An action with another Federal agency, i.e., Block B13 (Kind of Contracting Action) is coded 8 (Action With Another Federal Agency).

(3) In completing Part C, the codes to be used describe either the contracting action being reported or the original contract, depending on the codes reported for "Kind of Contracting Action" in Block B13. The following chart provides overall instructions. There are some exceptions for various Part C blocks. These are listed at the beginning of the instructions for the block.

If block B13 is		Then code the blocks in part C with reference to
Code	Title	
1	Initial Letter Contract.	Action being reported.
2	Definitive Contract Superseding Letter Contract.	Action being reported.
3	Definitive Contract.	Action being reported.
4	Order Under DoD Agreement.	Action being reported.
5	Order Under DoD Contract.	Original contract.[1]
6	Order/Modification Under Federal Supply Schedule.	Action being reported (but see Blocks C3, C6, C7, C11, and C13).
7	Order Under Another Agency's Contract.	Original contract (information provided by other agency) (but see Blocks C4, C6, C11, C12, and C13).
8	Action With Another Federal Agency.	Leave all of Part C blank.
9	Purchase/Modification Using Simplified Acquisition Procedures.	Action being reported.
A	Additional Work (new agreement).	Action being reported.
B	Additional Work (other).	Original contract (but see Blocks C6 and C7).[1]
C	Funding Action.	Original contract (but see Blocks C6 and C7).[1]
D	Change Order.	Original contract (but see Blocks C6 and C7).[1]
E	Termination for Default.	Original contract (but see Blocks C6 and C7).[1]
F	Termination for Convenience.	Original contract (but see Blocks C6 and C7).[1]
G	Cancellation .	Original contract (but see Blocks C6 and C7).[1]

[1] If there are no codes for the original contract because a DD Form 350 was not required at the time, the original action is no longer available, the definition of the original code has changed, or a data element has been added to the system after the original contract report, then use codes that best describe the original contracting action.

(4) Complete Part C blocks as follows—

(i) BLOCK C1, SYNOPSIS.

Enter one of the two codes.

(A) *Code Y—Yes.* Enter code Y if a synopsis of the proposed action was prepared and transmitted to the Commerce Business Daily in accordance with FAR Subpart 5.2.

(B) *Code N—No.* Enter code N if a synopsis was not prepared.

(ii) BLOCK C2, REASON NOT SYNOPSIZED.

Enter one of the two codes if Block C1 is "N." Otherwise, leave Block C2 blank.

(A) *Code A—Urgency.* Enter code A if the action was not synopsized due to urgency (see FAR 6.302–2).

(B) *Code B—Other than Urgency.* Enter code B if the action was not synopsized due to some other reason.

(iii) BLOCK C3, EXTENT COMPETED.

Enter one of the four codes. As an exception to the chart in paragraph (c)(3) of this subsection, when Block B13 is coded 6, enter code A in Block C3.

(A) *Code A—Competed Action.* Enter code A when—

(1) The contracting action is an action under a Federal supply schedule contract (Block B13 is coded 6).

(2) Competitive procedures were used to fulfill the requirement for full and open competition (FAR subpart 6.1).

(3) Full and open competition procedures after exclusion of sources were used in order to establish/maintain alternative sources, to set aside an acquisition for small business, or to compete Section 8(a) awards (FAR subpart 6.2).

(4) Statutory authorities for other than full and open competition were used (FAR subpart 6.3) and more than one offer was received (if only one offer was received, use code D).

(5) Contracting action resulted from a contract awarded prior to the Competition in Contracting Act that used two-step sealed bidding or other sealed bidding, or that was negotiated competitively.

(6) Simplified acquisition procedures were used and competition was obtained.

(B) *Code B—Not Available for Competition.* Enter code B for—

(1) Awards for utilities or utility systems, excluding long distance telecommunications services, when only one supplier can furnish the service (FAR 6.302–1(b)(3)).

(2) Brand name commercial products for authorized resale.

(3) Acquisitions authorized or required by statute to be awarded to a specific source pursuant to FAR 6.302–5(b) (2) or (4), e.g., qualified nonprofit agencies employing people who are blind or severely disabled (FAR subpart 8.7) or 8(a) program (FAR subpart 19.8).

(4) International agreements.

(5) Other contract actions where the Director of Defense Procurement has determined that there is no opportunity for competition.

(**Note:** Even though Part C is not completed for foreign military sales or actions with another Federal agency, the database will automatically include these actions in the category of not available for competition.)

(C) *Code C—Follow-on to Competed Action.* Enter code C when the action pertains to an acquisition placed with a particular contractor to continue or augment a specific competed program where such placement was necessitated by prior acquisition decisions.

(D) *Code D—Not Competed.* Enter code D when codes A, B, or C do not apply.

(iv) BLOCK C4, SEA TRANSPORTATION.

Enter one of the three codes. As an exception to the chart in paragraph (c)(3) of this subsection, when Block B13 is coded 7, leave Block C4 blank.

(A) *Code Y—Yes—Positive Response to 252.247–7022.* Enter code Y when the contractor's response to the provision at 252.247–7022, Representation of Extent of Transportation by Sea, or 252.212–7000(c)(2), Offeror Representations and Certifications—Commercial Items, indicates the contractor anticipates that some of the supplies being provided may be transported by sea.

(B) *Code N—No—Negative Response to 252.247–7022 or 252.212–7000(c)(2).* Enter code N when the contractor's response to the provision at 252.247–7022 or 252.212–7000(c)(2) indicates that the contractor anticipates that none of the supplies being provided will be transported by sea.

(C) *Code U—Unknown—No Response or Provision Not Included in Solicitation.* Enter code U when the contractor did not complete the representation at 252.247–7022 or 252.212–7000(c)(2) or the solicitation did not include it.

(v) BLOCK C5, TYPE OF CONTRACT.

(A) If the action is a letter contract, including modifications and amendments to letter contracts, enter the code that describes the anticipated type of contract the letter contract will become when it is definitized.

(B) If there is more than one type of contract involved in the contracting action, enter the code that matches the type with the most dollars. If the type with the least dollars exceeds $500,000, fill out separate DD Forms 350 (with different report numbers) for each type.

(C) Enter one of the 11 codes—

(1) Code A—Fixed Price Redetermination.

(2) Code J—Firm Fixed Price.

(3) Code K—Fixed Price Economic Price Adjustment.

(4) Code L—Fixed Price Incentive.

(5) Code R—Cost Plus Award Fee.

(6) Code S—Cost Contract.

(7) Code T—Cost Sharing.

(8) Code U—Cost Plus Fixed Fee.

(9) Code V—Cost Plus Incentive Fee.

(10) Code Y—Time and Materials.

(11) Code Z—Labor Hour.

(vi) BLOCK C6, NUMBER OF OFFERORS SOLICITED.

Leave Block C6 blank if the original contract resulted from a solicitation issued before April 1, 1985 (i.e., before the effective date of the Competition in Contracting Act). As an exception to the chart in paragraph (c)(3) of this subsection—

If block B13 is coded	Then
6	Enter code 2 in Block C6.
7	Leave Block C6 blank.

If not an exception, enter,

(A) *Code 1—One.* Enter code 1 if only one offeror was solicited.

(B) *Code 2—More than one.* Enter code 2 if more than one offeror was solicited.

(vii) BLOCK C7, NUMBER OF OFFERS RECEIVED.

Leave Block C7 blank if the original contract resulted from a solicitation issued before April 1, 1985 (i.e., before the effective date of the Competition in Contracting Act). As an exception to the chart in paragraph (c)(3) of this subsection—

If block B13 is coded	Then
6	Enter code 2 in Block C7.

If not an exception, enter—

(A) *Code 1—One.* Enter code 1 if only one offer was received.

(B) *Code 2—More than one.* Enter code 2 if more than one offer was received. If code 2 is entered, complete Block E4.

(viii) BLOCK C8, SOLICITATION PROCEDURES.

(A) Leave Block C8 blank if—

(1) The original contract resulted from a solicitation issued before April 1, 1985 (i.e., before the effective date of the Competition in Contracting Act); or

(2) The action is pursuant to simplified acquisition procedures (Block B13 is coded 9).

(B) If the action is an order/modification under a Federal Supply Schedule (Block B13 is coded 6), use code B for single award schedules and code F for multiple award schedules.

(C) Otherwise, enter one of the following codes—

(1) Code A—Full and Open Competition—Sealed Bid. Enter code A if the action resulted from an award pursuant to FAR 6.102(a).

(2) Code B—Full and Open Competition—Competitive Proposal. Enter code B if the action resulted from an award pursuant to FAR 6.102(b).

(3) Code C—Full and Open Competition—Combination. Enter code C if the action resulted from an award using a combination of competitive procedures (e.g., two-step sealed bidding) pursuant to FAR 6.102(c).

(4) Code D—Architect-Engineer. Enter code D if the action resulted from selection of sources for architect-engineer contracts pursuant to FAR 6.102(d)(1).

(5) Code E—Basic Research. Enter code E if the action resulted from competitive selection of basic research proposals pursuant to FAR 6.102(d)(2).

(6) Code F—Multiple Award Schedule. Enter code F if the action is an award of a multiple award schedule pursuant to FAR 6.102(d)(3) or an order against such a schedule.

(7) Code G—Alternative Sources. Enter code G if the action resulted from use of competitive procedures but excluded a particular source pursuant to FAR 6.202(a).

(8) Code K—Set Aside. Enter code K if the action resulted from any—

(i) Set-aside for small business concerns (see FAR 6.203) including

small business innovation research (SBIR) actions and awards to qualified nonprofit agencies employing people who are blind or severely disabled which were participating in a set-aside for small business concerns (see FAR 19.501(h)).

(ii) Set-aside for small disadvantaged business concerns (see 206.203).

(iii) Total or partial set-asides (including portions of broad agency announcements (BAAs)) for historically black colleges and universities or minority institutions (see 206.203 and 235.016).

(iv) Competition among section 8(a) firms under FAR 19.805 (report noncompetitive 8(a) awards as code N).

(9) Code M—Otherwise Authorized by Statute. Enter code M if using contracting procedures that are expressly authorized by statute and not addressed in FAR 6.302–5 (see FAR 6.001(b)). Do not use code M for statutes addressed in FAR 6.302–5; instead use code N and enter code 5A in Block C9.

(10) Code N—Other Than Full and Open Competition. Enter code N if the action resulted from use of other than full and open competition pursuant to FAR subpart 6.3. This includes awards to qualified nonprofit agencies employing people who are blind or severely disabled (see FAR subpart 8.7) or noncompetitive awards to the Small Business Administration under Section 8(a) of the Small Business Act (see FAR 6.302–5(b)).

(ix) BLOCK C9, AUTHORITY FOR OTHER THAN FULL AND OPEN COMPETITION.

(A) Leave Block C9 blank if the original contract resulted from a solicitation issued before April 1, 1985 (i.e., before the effective date of the Competition in Contracting Act).

(B) Enter one of the following codes if Block C8 is coded "N." Otherwise, leave Block C9 blank.

(1) Code 1A—Unique Source. Enter code 1A if the action was justified pursuant to FAR 6.302–1(b)(1).

(2) Code 1B—Follow-on Contract. Enter code 1B if the action was justified pursuant to FAR 6.302–1(a)(2) (ii) or (iii).

(3) Code 1C—Unsolicited Research Prop. Enter code 1C if the action was justified pursuant to FAR 6.302–1(a)(2)(i).

(4) Code 1D—Patent/Data Rights. Enter code 1D if action was justified pursuant to FAR 6.302–1(b)(2).

(5) Code 1E—Utilities. Enter code 1E if action was justified pursuant to FAR 6.302–1(b)(3).

(6) Code 1F—Standardization. Enter code 1F if action was justified pursuant to FAR 6.302–1(b)(4).

(7) Code 1G—Only One Source—Other. Enter code 1G if the action was justified pursuant to FAR 6.302–1 in a situation other than the examples cited in code 1A through 1F.

(8) Code 2A—Urgency. Enter code 2A if action was justified pursuant to FAR 6.302–2.

(9) Code 3A—Particular Sources. Enter code 3A if action was justified pursuant to FAR 6.302–3(a)(2)(i).

(10) Code 4A—International Agreement. Enter code 4A if action was justified pursuant to FAR 6.302–4.

(11) Code 5A—Authorized by Statute. Enter code 5A if action was justified pursuant to FAR 6.302–5(a)(2)(i).

(12) Code 5B—Authorized Resale. Enter code 5B if action was justified pursuant to FAR 6.302–5(a)(2)(ii).

(13) Code 6A—National Security. Enter code 6A if action was justified pursuant to FAR 6.302–6.

(14) Code 7A—Public Interest. Enter code 7A if action was taken pursuant to FAR 6.302–7.

(x) BLOCK C10, SUBJECT TO LABOR STANDARDS STATUTES.

Enter one of the following codes. As an exception to the chart in paragraph (c)(3) of this subsection, when Block B13 is coded 6, leave Block C10 blank.

(A) *Code A—Walsh-Healey Act.* Enter code A when the contracting action is subject to the provisions of FAR subpart 22.6.

(B) *Code C—Service Contract Act.* Enter code C when the contracting action is subject to the provisions of the Service Contract Act (see FAR part 37).

(C) *Code D—Davis-Bacon Act.* Enter code D when the contracting action is subject to the Davis-Bacon Act (see FAR 22.403–1).

(D) *Code Z—Not Subject to Above.* Enter code Z when the contracting action is not subject to any of the statutory requirements in paragraphs (A) through (C).

(xi) BLOCK C11, CERTIFIED COST OF PRICING DATA.

Enter one of the three codes. As an exception to the chart in paragraph (c)(3) of this subsection, when Block B13 is coded 6 or 7, leave Block C11 blank.

(A) *Code Y—Yes—Obtained.* Enter code Y when certified cost or pricing data were obtained for the contracting action (see FAR 15.804–2).

(B) *Code N—No—Not Obtained.* Enter code N when certified cost or pricing data were not obtained because data were not required (see FAR 15.804–2) or an exemption was granted (see FAR 15.804–3(a)–(g)).

(C) *Code W—Not Obtained—Waived.* Enter code W when certified cost or pricing data were not obtained because the requirement was waived (See FAR 15.804–3(i) and DFARS 215.804–3(i)).

(xii) BLOCK C12, CONTRACT FINANCING.

Enter one of the five codes identifying whether or not progress payments (PP) or advance payments (AP) were used. As an exception to the chart in paragraph (c)(3) of this subsection, when Block B13 is coded 7, enter the code for the action being reported.

(A) *Code A—FAR Clause 52.232–16.* Enter code A if the contracting action contains the clause at FAR 52.232–16, Progress Payments.

(B) *Code B–DFARS Clause 252.232–7003.* Enter code B if the contracting action contains the clause at 252.232–7003, Flexible Progress Payments.

(C) *Code C—Percentage of Completion PP.* Enter code C if the contracting action provides for progress payments based on percentage or stage of completion, which is only permitted on contracts for construction, for shipbuilding, or for ship conversion, alteration, or repair (see 232.102(e)(2)).

(D) *Code D—Unusual PP or AP.* Enter code D if the action provides unusual progress payments or advance payments (see FAR Subpart 32.4 and 32.501–2).

(E) *Code Z—None of the Above.* Enter code Z if codes A through D do not apply.

(xiii) BLOCK C13, FOREIGN TRADE DATA.

(A) The term "United States" (U.S.), as used in Block C13 excludes the Trust Territory of Palau (see 204.670–1 for definition of United States and outlying areas).

(B) As an exception to the chart in paragraph (c)(3) of this subsection

If block B13 is coded	Then
6	Enter the code for the action being reported but leave Block C13C blank
7	Enter the code for the original contract, but leave Block C13C blank.

(C) BLOCK C13A, NUMBER OF OFFERORS.

Enter the number of offers of foreign end products as defined in FAR Part 25 or services performed by foreign concerns. If zero, enter 0; if 9 or greater than 9, enter 9.

(D) BLOCK C13B, BUY AMERICAN ACT PERCENT DIFFERENCE.

(1) If the contracting action is with a firm offering a domestic end product, and award to the firm resulted from use of the evaluation factor under the Buy American Act (225.105–70), enter the percent difference between the award price and the lowest price for a foreign end product. Compute the percent as follows:

The award price (AP) minus the lowest price for a foreign end product (LPFEP) divided by the lowest price for a foreign end product (LPFEP) times 100 equals the Buy American Act percent difference (BAAPD); or expressed mathematically:

$$\frac{(AP - LPFEP)}{LPFEP} \times 100 = BAAPD$$

(2) Enter the percentage as a two position whole number (e.g., for 5%, enter 05; for 11%, enter 11).

(3) Enter two zeroes (00) if the evaluation factor was not used.

(E) BLOCK C13C, PLACE OF MANUFACTURE.

Complete Block C13C only if the contracting action is for a foreign end product or a service provided by a foreign concern. Otherwise, leave Block C13C blank.

(1) Code A—U.S. Enter code A if the contracting action is for—

(i) A foreign end product that is manufactured in the United States but still determined to be foreign because 50 percent or more of the cost of its components is not mined, produced, or manufactured inside the United States or inside qualifying countries; or

(ii) Services performed in the United States by a foreign concern.

(2) Code B—Foreign. Enter code B if the contracting action is for—

(i) Any other foreign end product; or

(ii) Services performed outside the United States by a foreign concern.

(F) BLOCK C13D, COUNTRY OF ORIGIN CODE.

(1) Complete Block C13D only if Block C13C is coded A or B. Otherwise, leave Block C13D blank.

(2) Enter the code for FIPS PUB 10–3 (Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Divisions) that identifies the country where the foreign product is coming from or the foreign company providing the services is located. If more than one foreign country is involved, enter the code of the foreign country with the largest dollar value.

(d) *Part D of the DD Form 350.*

(1) Part D gathers data on the various socioeconomic programs that apply to defense acquisitions.

(2) Do NOT complete Part D if the contracting action is a:

(i) Foreign military sale, i.e., Block B9 (Foreign Military Sale) is coded Y (Yes);

(ii) Order/modification under a Federal supply schedule, i.e., Item B13 (Kind of Contracting Action) is coded 6 (Order/Modification Under Federal Supply Schedule); or

(iii) Action with another Federal agency, i.e., Item B13 (Kind of Contracting Action) is coded 8 (Action With Another Federal Agency).

(3) Determine the status of the concern (e.g., size and ownership), by referring to FAR part 19/DFARS part 219.

(4) In completing Part D, the codes to be used describe either the contracting action being reported or the original contract depending on the codes reported in B13 (Kind of Contracting Action). The following chart provides overall instructions. There are some exceptions for various Part D Blocks. The exceptions are listed at the beginning of the instructions for the individual blocks.

If block B13 is		Then use the block D for the
Code	Title	
1	Initial Letter Contract.	Action being reported.
2	Definitive Contract Superseding Letter Contract.	Action being reported.
3	Definitive Contract.	Action being reported.
4	Order Under DoD Agreement.	Action being reported.
5	Order Under DoD Contract.	Original contract.[1]
6	Order/Modification Under Federal Supply Schedule.	Leave all of Part D blank.
7	Order Under Another Agency's Contract.	Original contract (obtain from other agency, but see Blocks D2, D3, D4, D7, and D9).[1]
8	Action With Another Federal Agency.	Leave all of Part D blank.
9	Purchase/Modification Using Simplified Acquisition Procedures.	Action being reported.
A	Additional Work (new agreement).	Action being reported.
B	Additional Work (other).	Original contract (but see Block D9).[1]
C	Funding Action.	Original contract (but see Block D).[1]
D	Change Order.	Original contract (but see Block D9).[1]
E	Termination for Default.	Original contract (but see Block D9).[1]
F	Termination for Convenience.	Original contract (but see Block D9).[1]
G	Cancellation .	Original contract (but see Block D9).[1]

[1] If there are no codes for the original contract because a DD Form 350 was not required at the time, the original action is no longer available, the definition of the original code has changed, or a data element has been added to the system after the original contract report, then use codes that best describe the original contracting action.

(5) Complete Part D blocks as follows—

(i) BLOCK D1, TYPE OF BUSINESS. Enter one of the ten codes.

(A) *Code A—Small Disadvantaged Business Performing in U.S.* Enter code A if the contractor is an SDB concern as defined in 219.001 and the place of performance is within the United States and outlying areas.

(B) *Code B—Other Small Business Performing in U.S.* Enter code B if the contractor is a small business concern as defined in FAR 19.001, other than a small disadvantaged business concern, and the place of performance is within the United States and outlying areas.

(C) *Code C—Large Business Performing in U.S.* Enter code C if the contractor is a domestic large business concern, and the place of performance is within the United States and outlying areas.

(D) *Code D—Nonprofit Agency Employing People Who Are Blind or Severely Disabled.* Enter code D if the contractor is a qualified nonprofit agency employing people who are blind or severely disabled (FAR 8.701), and the place of performance is within the United States and outlying areas.

(E) *Code F—Hospital.* Enter code F if the contractor is a hospital, and the place of performance is within the United States and outlying areas.

(F) *Code L—Foreign Concern/Entity.* Enter code L if the contractor is a foreign concern, the Canadian Commercial Corporation, or a non-U.S. chartered nonprofit institution.

(G) *Code M—Domestic Firm Performing Outside U.S.* Enter code M if the contractor is a domestic concern or

a domestic nonprofit institution and the place of performance is outside the United States and outlying areas.

(H) *Code N—Historically Black Colleges and Universities or Minority Institutions (HBCU/MI).* Enter code N if the contractor is an HBCU/MI as defined at 252.226–7000 and the place of performance is within the United States and outlying areas.

(I) *Code P—Other Educational.* Enter code P if the contractor is an educational institution which does not qualify as an HBCU/MI, and the place of performance is within the United States and outlying areas.

(J) *Code Z—Other Nonprofit.* Enter code Z if the contractor is a nonprofit institution (defined in FAR 31.701) which does not meet any of the criteria in codes A through I and the place of performance is in the United States and outlying areas.

(ii) BLOCK D2, REASON NOT AWARDED TO SMALL DISADVANTAGED BUSINESS (SDB).

Enter one of the five codes when Block D1 is coded B or C. Otherwise leave D2 blank. As an exception to the chart in paragraph (d)(4) of this subsection, when Block B13 is coded 7, enter code Z in Block D2.

(A) *Code A—No Known SDB Source.* Enter code A when applicable.

(B) *Code B—SDB Not Solicited.* Enter code B when there was a known SDB source but it was not solicited.

(C) *Code C—SDB Solicited No Offer.* Enter code C when an SDB was solicited but it did not submit an offer or its offer was not sufficient to cover the total quantity requirement so it received a separate award for the quantity offered.

(D) *Code D—SDB Solicited Offer Not Low.* Enter code D when an SDB offer was not the low offer or an SDB was not willing to accept award of a partial small business set-aside portion of an action at the price offered.

(E) *Code Z—Other Reason.* Enter code Z when an SDB did not receive the award for any other reason.

(iii) BLOCK D3, REASON NOT AWARDED TO SMALL BUSINESS (SB).

Enter one of the five codes when Block D1 is coded C. Otherwise leave D3 blank. (The term "Small Business" includes small disadvantaged businesses.) As an exception to the chart in paragraph (d)(4) of this subsection, when Block B13 is coded 7, enter code Z in Block D3.

(A) *Code A—No Known SB Source.* Enter code A when applicable.

(B) *Code B—SB Not Solicited.* Enter code B when there was a known small business source but it was not solicited.

(C) *Code SB Solicited No Offer.* Enter code C when a small business concern was solicited but it did not submit an offer or its offer was not sufficient to cover the total quantity requirement so it received a separate award for the quantity offered.

(D) *Code D—SB Solicited Offer Not Low.* Enter code D when a small business offer was not the low or most advantageous offer or a small business concern was not wiling to accept award of a set-aside portion of an action at the price offered by the Government.

(E) *Code Z—Other Reason.* Enter code Z when a small business did not receive the award for any other reason.

(iv) BLOCK D4, PREFERENCE PROGRAM.

As an exception to the chart in paragraph (d)(4) of this subsection, when Block B13 is coded 7, enter the code describing the action being reported for Block D4C; and leave Block D4E blank.

(A) BLOCK D4A, TYPE OF SB SET-ASIDE.

Enter one of the six available codes.

(1) Code A—None. Enter code A if there was no small business set-aside (FAR 19.502). Note that set-asides for historically black colleges and universities and minority institutions (HBCUs/MIs) are not small business set-asides. Use code A for HBCU/MI set-asides and complete Block D4C.

(2) Code B—Total SB Set-Aside. Enter code B if the action was a total set-aside for small business (FAR 19.502–2), including actions reserved exclusively for small business concerns pursuant to FAR 13.105, or if the action resulted from the Small Business Innovation Research Program.

(3) Code C—Partial SB Set-Aside. Enter code C if the action was a partial set-aside for small business (219.502–3).

(4) Code D—Reserved.

(5) Code E—Total SDB Set-Aside. Enter code E if the action was a total set-aside for small disadvantaged businesses (219.502–2–70).

(6) Code Y—Small Emerging Business Set-Aside. Enter code Y if the action is an emerging small business set-aside within a designated industry group under the Small Business Competitiveness Demonstration Program (see FAR subparts 19.10 and 204.670–9).

(7) Code Z—Small Business Set-Aside Using Simplified Acquisition Procedures. Enter code Z if the action is reserved exclusively for small business concerns pursuant to FAR 13.105 and is in a designated industry group under the Small Business Competitiveness Demonstration Program (204.670–9).

(B) BLOCK D4B, TYPE OF SDB SET-ASIDE/SDB PREFERENCE.

Enter one of the five codes, even if Block D4A is coded E.

(1) Code A—None. Enter code A if no SDB preference was given or award was not to an SDB.

(2) Code B—Section 8(a). Enter code B if the contract was awarded to the Small Business Administration (SBA) under Section 8(a) of the Small Business Act (FAR 19.8).

(3) Code C—Total SDB Set-Aside. Enter code C if the action was an SDB set-aside (219.502–2–70) and award was to an SDB.

(4) Code D—SDB Evaluation Preference—Unrestricted. Enter code D if the action was unrestricted but an SDB received an award as a result of an evaluation preference (219.70).

(5) Code E—SDB Preferential Consideration—Partial SB Set-Aside. Enter code E if the action was a partial set-aside for small business and preferential consideration resulted in an award to an SDB (219.502–3).

(C) BLOCK D4C, HBCU/MI SET-ASIDE.

Enter one of the three codes.

(1) Code A—None. Enter code A if the action was not set-aside for HBCUs or MIs.

(2) Code B—HBCU or MI—Total Set-Aside. Enter code B if the action was a total set-aside for HBCUs and MIs (226.7003).

Code C—HBCU or MI—Partial Set-Aside. Enter code C if the action was a partial set-aside for HBCUs or MIs under a broad agency announcement (235.016).

(D) BLOCK D4D, OTHER PREFERENCE PROGRAM.

Enter either code A or B.

(1) Code A—None. Enter code A if no other preference program applied.

(2) Code B—Directed to NIB/NISH. Enter code B for an action with a qualified nonprofit agency employing people who are blind or severely disabled for an item on the Procurement List which was awarded under FAR subpart 8.7.

(E) BLOCK D4E, PREMIUM PERCENT.

(1) Complete Block D4E if Block D4B is coded C, D, or E, or Block D4C is coded B or C.

(2) Calculate the premium percentage per 219.202–5 and enter it as a three-digit number rounded to the nearest tenth, e.g., enter 7.55% as 076. If no premium was paid, enter three zeros (000).

(3) Otherwise leave blank.

(v) BLOCK D5, ETHNIC GROUP.

(A) Complete Block D5 if the action is with an SDB. Otherwise leave it blank.

(B) Enter the code from the following list which corresponds to the ethnic group marked by the contractor in the solicitation provision at 252.219–7000 (Small Disadvantaged Business Concern Representation (DoD Contracts)).

(1) Code A—Asian-Indian American.

(2) Code B—Asian-Pacific American.

(3) Code C—Black American.

(4) Code D—Hispanic American.

(5) Code E—Native American.

(6) Code F—Other SDB certified/determined by SBA.

(7) Code Z—No representation.

(vi) BLOCK D6, WOMEN-OWNED BUSINESS.

Enter one of the following codes.

(A) *Code Y—Yes.* Enter code Y if the response to FAR 52.204–5 or 52.212–3(c) (Women-Owned Business Representation) indicates that it is a women-owned business.

(B) *Code N—No.* Enter code N if the contractor's response to FAR 52.204–5 or 52.212–3(c) indicates that it is not a women-owned business.

(C) *Code U—Uncertified.* Enter code U if the information is not available because the contractor did not complete the representation under FAR 52.204–5 or 52.212–3(c).

(vii) BLOCK D7, SMALL BUSINESS INNOVATION RESEARCH (SBIR) PROGRAM.

Enter one of the three codes. As an exception to the chart in paragraph (d)(4) of this subsection, when Block B13 is coded 7, leave Block D7 blank.

(A) *Code A—Not a SBIR Phase I–II.* Enter code A if the action is not in support of a Phase I or II SBIR Program.

(B) *Code B—SBIR Program Phase I Action.* Enter code B if the action is related to a Phase I contract in support of the SBIR Program.

(C) *Code C—SBIR Program Phase II Action.* Enter code C if the action is related to a Phase II contract in support of the SBIR Program.

(viii) BLOCK D8, SUBCONTRACTING PLAN–SB, SDB, OR HBCU/MI.

Enter one of the four codes.

(A) *Code A—Plan Not Included.* No Subcontracting Possibilities. Enter code A if a subcontracting plan was not included in the contract because subcontracting possibilities do not exist (FAR 19.705–2(c)).

(B) *Code B—Plan Not Required.* Enter code B if no subcontracting plan was required (because the action did not meet the dollar thresholds in FAR 19.702(b)).

(C) *Code C—Plan Required, Incentive Not Included.* Enter code C if the action includes a subcontracting plan, but does not include additional incentives (FAR 19.708(c)).

(D) *Code D—Plan Required, Incentive Included.* Enter code D if the action includes a subcontracting plan and also includes additional incentives (FAR 19.708(c), 219.708(c)).

(ix) BLOCK D9, DEMONSTRATION TEST PROGRAM.

Enter one of the two codes. As exceptions to the chart in paragraph (d)(4) of this subsection, when Block B13 is coded 5, B, C, D, E, F, or G and the original action was awarded before the program began, enter code N in Block D9. When Block B13 is coded 7, enter code N in Block D9.

(A) *Code Y—Yes.* Enter code Y if this is an action with a U.S. business concern, in either the four designated industry groups or the ten targeted industry categories under the Small Business Competitiveness Demonstration Program (FAR 19.10 and 219.10), where the principal place of performance is in the United States or outlying areas.

(B) *Code N—No.* Enter code N if code Y does not apply.

(x) BLOCK D10, SIZE OF SMALL BUSINESS.

(A) Complete Block D10 only when Block D9 is coded "Y" and the contractor is a small business (Block D1 is coded A or B). Otherwise, leave Block D10 blank.

(B) Enter one of fourteen codes of the size of the business as represented by the contractor in the solicitation provision at FAR 52.219–19, Small Business Concern Representation for the Small Business Competiveness Demonstration Program.

(xi) BLOCK D11, EMERGING SMALL BUSINESS.

(A) Complete this block only if Block D9 is coded "Y" and the contracting action is in one of the four designated industry groups, not one of the targeted industry categories. Otherwise, leave Block D11 blank.

(B) Enter one of the two codes.

(1) Code Y—Yes. Enter code Y if the contractor represents in the provision at FAR 52.219–19, Small Business Concern Representation for the Small Business Competitiveness Demonstration Program, that is an emerging small business concern.

(2) Code N—No. Enter code N if code Y does not apply.

(e) *Part E of the DD Form 350.*

Part E gathers data on specialized items that may not become permanent reporting elements.

(1) BLOCK E1, CONTRACTED ADVISORY AND ASSISTANCE SERVICES.

Enter one of the two codes.

(i) *Code Y—Yes.* Enter code Y if the action includes any contracted advisory and assistance services (CAAS) as defined in FAR 37.2.

(ii) *Code N—No.* Enter code N if code Y does not apply.

(2) BLOCK E2, SET-ASIDE VALUE.

(i) Complete Block E2 only if the contracting action is with a qualified nonprofit agency employing people who are blind or severely disabled and was awarded as a result of the agency's participation in a total of partial small business set-aside (FAR 19.501(h)). Otherwise, leave Block E2 blank.

(ii) Enter the dollar amount (i.e., contract face value) of the set-aside portion of the award. Use whole dollars.

(3) BLOCK E3, NEXT LOW OFFER.

(i) Complete Block E3 only if Block E2 is completed. Otherwise, leave Block E3 blank.

(ii) Enter the offered price from the small business firm that would have been the low offeror if qualified nonprofit agencies employing people who are blind or severely disabled had not participated in the acquisition. Enter the amount in whole dollars.

(4) BLOCK E4, SPECIFIC NUMBER OF OFFERS RECEIVED.

Enter the specific number of offers received (maximum 999) if Block C7 is coded 2. Otherwise, leave Block E4 blank.

(5) BLOCK E5, TASK/DELIVERY ORDER.

(i) Enter one of the following codes.

(A) *Code T—Task Order.* Enter code T if the contracting action is a task order as defined in FAR 16.501–1.

(B) *Code D—Delivery Order.* Enter code D if the contracting action is a delivery order as defined in FAR 16.501–1.

(C) *Code N—Not Applicable.* Enter code N if the contracting action is neither a task nor a delivery order.

(6) BLOCK E6, TYPE OF INDEFINITE DELIVERY CONTRACT AWARD.

When Block E5 is coded T or D, enter one of the following codes.

(i) *Code M—Multiple Award.* Enter code M if the contracting action is a task or delivery order under a multiple award indefinite delivery contract.

(ii) *Code S—Single Award.* Enter code S if the contracting action is a task or delivery order under a single award indefinite delivery contract.

(7) BLOCK E7, COMMERCIAL ITEMS.

Enter one of the following codes.

(i) *Code Y—Yes.* Enter code Y if the contract contains the clause at FAR 52.212–4, Contract Terms and Conditions—Commercial Items.

(ii) *Code N—No.* Enter code N if code Y does not apply.

(f) *Part F of the DD Form 350.*

Part F identifies the reporting official.

(1) BLOCK F1, NAME OF CONTRACTING OFFICER OR REPRESENTATIVE.

Enter the name (Last, First, Middle Initial) of the contracting officer of representative.

(2) BLOCK F2, SIGNATURE.

The person identified in Block F1 must sign.

(3) BLOCK F3, TELEPHONE NUMBER.

Enter the telephone number (with area code) for the individual in Block F1. Installations with Defense Switched Network (DSN) must enter the DSN number.

4. BLOCK F4, DATE.

Enter date (YYMMDD) that the DD Form 350 Report is submitted. Use two digits for each segment; use 01 through 12 for January through December. For example, enter January 2, 1999 as 990102.

(g) *Special Instructions for DD Forms 350 on Actions of $25,000 or Less Under the Small Business Competitiveness Demonstration Program.*

(1) Policy on when a DD Form 350 is required on actions of $25,000 or less under the Small Business Competitiveness Demonstration Program is in 204.670–9.

(2) In general, complete these DD Forms 350 using the "regular" instructions in paragraphs (a) through (f) of this subsection. However, there are special instructions for certain blocks. The following matrix tells which apply.

DD350 block	Regular instructions	Leave blank	Special instructions
PART A	X		
B1	X		
B2	X		
B3	X		
B4		X	
B5A	X		
B5B		X	
B5C	X		
B5D	X		
B5E		X	
B5F		X	
B5G		X	
B6	X		
B6A	X		
B6B	X		
B6C	X		
B7	X		
B8	X		
B9	X		
B10		X	
B11		X	
B12A	X		
B12B		X	
B12C		X	
B12D	X		
B12E	X		
B13	X		Use Code 9 if simplified acquisition procedures were used.
C1	X		
C2	X		
C3	X		
C4		X	
C5	X		
C6		X	
C7	X		
C8	X		Leave blank if simplified acquisition procedures were used.
C9	X		Leave blank if simplified acquisition procedures were used.
C10	X		
C11		X	
C12		X	
C13A	X		
C13B	X		
C13C	X		
C13D	X		
D1	X		
D2		X	
D3		X	
D4A	X		If simplified acquisition procedures were used, use only codes Y or Z.
D4B	X		
D4C	X		
D4D	X		
D4E		X	
D5		X	
D6	X		
D7		X	
D8		X	
D9	X		
D10	X		
D11	X		
E1		X	
E2		X	
E3		X	
E4–8	X		
PART F	X		

154. Section 253.204–71 is revised to read as follows:

253.204–71 DD Form 1057, Monthly Contracting Summary of Actions $25,000 or Less.

(a) *Scope of subsection.*

Policy on use of a DD Form 1057 is in 204.670. This subsection 253.204–71 contains instructions on completion of the DD Form 1057.

(1) Report actions in the month they are awarded, issued, executed, or placed, except—

(i) When the price of an order or call cannot be determined when it is placed, count the action and its dollars when it is paid.

(ii) Count the following actions when the voucher is paid (count each voucher as one action)—

(A) Meals and lodging.

(B) Automatic deliveries, e.g., bread, milk, and ice cream.

(iii) The Navy Facilities Engineering Command shall use departmental procedures to report vouchers it processes on Naval shore establishment contracts for electricity and gas.

(2) Enter all dollar amounts in whole dollars only. Do not enter cents. If the net amount is a decrease, enter a minus sign (−) immediately preceding the amount to indicate a credit entry. Do not enter parentheses.

(3) Include actions over $25,000 but not in excess of $200,000 in support of a contingency on the DD Form 1057, as follows—

(i) Section A, complete fully.

(ii) Section B, complete only lines 5, 5a, 7, and 7a.

(iii) Section C, complete only lines 1 and 1c, 2 and 2c, or 3 and 3c, as applicable.

(iv) Sections D, E, and F, leave blank.

(v) Section G, complete fully.

(b) *Definitions.*

For purposes of this subsection—

Delivery Orders—GSA Federal Supply Schedules means only orders, and modifications of such orders, under Federal supply schedules awarded by GSA.

Delivery Orders—Other Federal Supply Schedules means only orders, and modifications of such orders, under Federal supply schedules awarded by an agency other than GSA, e.g., awarded by VA or OPM.

Delivery Orders—All Others means orders, and modifications of such orders, under basic ordering agreements (BOAs) or indefinite delivery contracts.

Other Contracting Actions means all actions that do not meet the definitions in this paragraph (b) of a delivery order.

Simplified Acquisition Procedures is defined in FAR part 13. It includes purchase orders and orders under blanket purchase agreements (BPAs) and modifications to awards made using simplified acquisition procedures.

(c) *Section A, General Information.*

(1) BLOCK A1, REPORT FOR MONTH ENDING.

Enter the last day of the month in which the report is submitted. Enter it as year, month, and day, using a two-digit number for each segment and 01 through 12 for January through December. For example, for the month ending April 30, 1999, enter 990430.

(2) BLOCK A2, CONTRACTING OFFICE.

Enter sufficient detail to establish the identity of the contracting office submitting the report in Blocks 2a and b.

(3) BLOCK A3, REPORTING OFFICE CODE.

Enter the code assigned to the contracting office by the departmental data collection point in 204.670–8.

(d) *Section B, Contracting Actions.*

(1) BLOCK B1, TARIFF OR REGULATED ACQUISITIONS.

Enter the number and dollar value of contracting actions (including modifications that will also be reported in Block B8) with tariff or regulated industries (industries with sole source and service rates which are fixed or adjusted by a Federal, State, or other public regulatory body).

(2) BLOCK B2, FOREIGN/ INTERAGENCY.

(i) Enter the total number and dollar value of contracting actions (including modifications that will also be reported in Block B8)—

(A) For foreign military sales (FMS) or other arrangement where the foreign government or international organization is paying all or part of the cost of the action.

(B) Placed directly with foreign governments under the terms of an international agreement, e.g., base maintenance performed with the foreign government acting as the contractor (any other actions directly with foreign governments go in Block B5).

(C) With another Federal agency or Government corporation, e.g., Federal Prison Industries.

(ii) Enter the subtotals in Blocks B2a and b for the number and dollar value of contracting actions, including modifications that will also be reported in Block B8 for—

(A) Block B2a, FMS/International Agreements. Enter subtotals for paragraphs (d)(2)(i)(A) and (B) of this subsection.

(B) Block B2b, Action with Another Federal Agency. Enter subtotal for paragraph (d)(2)(i)(C) of this subsection.

(3) BLOCK B3, SMALL BUSINESS.

(i) Enter the total number and total dollar value of contracting actions (including modifications which will also be reported in Block B8) where the—

(A) Contractor is a small business concern; and

(B) Place of performance is in the United States and outlying areas (see 204.670–1).

(ii) Enter the subtotals for the number and dollar value of contracting actions (including modifications that will also be reported in Block B8) for—

(A) Block B3a, Simplified Acquisition Procedures.

(B) Block B3b, Delivery Orders—GSA FSS.

(C) Block B3c, Delivery Orders—Other FSS.

(D) Block B3d, Delivery Orders—Other.

(E) Block B3e, Other Contracting Actions.

(4) BLOCK B4, LARGE BUSINESS.

(i) Enter the total number and dollar value of contracting actions (including modifications which will also be reported in Block B8) where the—

(A) Contractor is a large business concern; and

(B) Place of performance is in the United States and outlying areas.

(ii) Enter the subtotals for the number and dollar value of contracting actions (including modifications that will also be reported in Block B8) for—

(A) Block B4a, Simplified Acquisition Procedures.

(B) Block B4b, Delivery Orders—GSA FSS.

(C) Block B4c, Delivery Orders—Other FSS.

(D) Block B4d, Delivery Orders—Other.

(E) Block B4e, Other Contracting Actions.

(5) BLOCK B5, DOMESTIC OR FOREIGN ENTITIES PERFORMING OUTSIDE THE UNITED STATES.

(i) Enter the total number and dollar value of contracting actions (including modifications that will also be reported in Block B8) where the place of performance is outside the United States and outlying areas (see 204.670–1(c)). This includes actions placed directly with a foreign government that are not under international agreements (see paragraph (d)(2)(i)(B) of this subsection). It does not matter whether the contractor is domestic or foreign.

(ii) Enter the subtotals for the number and dollar value of actions (including modifications that will also be reported in Block B8) for—

(A) Block B5a, Simplified Acquisition Procedures.

(B) Block B5b, Delivery Orders—GSA FSS.

(C) Block B5c, Delivery Orders—Other FSS.

(D) Block B5d, Delivery Orders—Other.

(E) Block B5e, Other Contracting Actions.

(6) BLOCK B6, EDUCATIONAL, NONPROFIT & OTHER.

(i) Enter the total number and dollar value of contracting actions (including modifications that will also be reported in Block B8) with—

(A) Educational institutions;

(B) Not-for-profit and nonprofit institutions (defined in FAR 31.107);

(C) Qualified nonprofit agencies employing people who are blind or severely disabled; and

(D) Any other entities not listed in Blocks B1 through B5.

(ii) Enter the subtotals for the number and dollar value of contracting actions (including modifications that will also be reported in B) for—

(A) Block B6a, Simplified Acquisition Procedures.

(B) Block B6b, Delivery Orders—GSA FSS.

(C) Block B6c, Delivery Orders—Other FSS.

(D) Block B6d, Delivery Orders—Other.

(E) Block B6e, Other Contracting Actions.

Use this B6e to report actions with qualified nonprofit agencies employing people who are blind or severely disabled.

(7) BLOCK B7, TOTAL CONTRACTING ACTIONS.

(i) Add Blocks B1 through B6 and enter the totals in Block B7.

(ii) If directed by data collection point procedures, also enter the subtotals for the number and dollar value of contracting actions for—

(A) Block B7a, Simplified Acquisition Procedures, sum of sub-blocks 3a+4a+5a+6a.

(B) Block B7b, Delivery Orders—GSA FSS, sum of sub-blocks 3b+4b+5b+6b.

(C) Block B7c, Delivery Orders—Other FSS, sum of sub-blocks 3c+4c+5c+6c.

(D) Block B7d, Delivery Orders—Other, sum of sub-blocks 3d+4d+5d+6d.

(E) Block B7e, Other Contracting Actions, sum of sub-blocks 3e+4e+5e+6e.

(8) BLOCK B8, TOTAL MODIFICATIONS EXCLUDING SIMPLIFIED ACQUISITION PROCEDURES.

Enter the total number of actions and dollar value of contracting actions which are modification actions. This includes modifications to delivery orders or other contracting actions which also may be counted in other blocks in section B.

(e) *Section C, Extent Competed.*

(1) BLOCK C1, COMPETED.

(i) Enter the total number and dollar value of contracting actions which were competed.

(A) Include in Block C1—

(1) Actions not subject to Competition in Contract Act (CICA) (see FAR 6.001) where at least two quotations or offers were received;

(2) Actions where competitive procedures were used to fulfill the requirement for full and open competition (FAR subpart 6.1);

(3) Actions where full and open competition was provided for after exclusion of sources, in order to establish/maintain alternative sources or to set aside an acquisition exceeding the micro-purchase threshold for small business (FAR subpart 6.2);

(4) Actions where statutory authorities for other than full and open

competition (FAR subpart 6.3) were used and more than one offer was received, except as provided in paragraphs (B)(2) and (3).

(5) Actions resulting from a contract awarded competitively before CICA (including two-step formal advertising);

(6) Delivery orders/modifications under a Federal supply schedule; and

(7) Section 8(a) awards competed under FAR 6.204.

(B) Do not include—

(1) Actions that meet the criteria for Section C, Block C2;

(2) Actions awarded under the authority of FAR 6.302–5(b)(2) or (4), authorized or required by statute (report these in Section C, Block C2);

(3) Actions reported in Section B, Blocks B1 and B2, including actions with the Federal Prison Industries. These actions are treated as not available for competition in published competition reports.

(ii) Enter the subtotals for the number and dollar value of contracting actions for—

(A) Block C1a, Small Business Concerns.

(B) Block C1b, Large Business Concerns.

(C) Block C1c, Domestic or Foreign Entities Performing Outside the United States and Outlying Areas.

(D) Block C1d, Educational, Nonprofit & Other.

(2) BLOCK C2, NOT AVAILABLE FOR COMPETITION.

(i) Enter the total number and dollar value of contracting actions which were not available for competition.

(A) Include in Block C2—

(1) Actions for brand name commercial products for authorized resale;

(2) Actions authorized or required by statute to be awarded to a specific source or through another agency in accordance with FAR 6.302–5(b)(2) or (4); e.g., actions with qualified nonprofit agencies employing people who are blind or severely disabled and noncompetitive 8(a) actions;

(3) Actions (including modifications) at or below the micro-purchase threshold at FAR 13.101;

(4) Other contract actions where the Director of Defense Procurement has determined that there is no opportunity for competition.

(B) Do not include any actions reported in Section B, Blocks B1 or B2 (e.g., actions with regulated monopolies, actions under foreign military sales or international agreements, and actions with another Federal agency or Government corporation). These actions are treated as not available for competition in published competition reports.

(ii) Enter the subtotals for the number and dollar value of contracting actions for—

(A) Block C2a, Small Business Concerns.

(B) Block C2b, Large Business Concerns.

(C) Block C2c, Domestic or Foreign Entities Performing Outside the United States.

(D) Block C2d, Educational, Nonprofit and Other.

(3) BLOCK C3, NOT COMPLETED.

(i) Enter the total number and dollar value of contracting actions which were not competed, i.e., any actions not reported in Blocks B1 or B2. Do not include actions reported in Section B, Blocks B1 or B2. These actions are treated as not available for competition in published competition reports.

(ii) Enter the subtotals for the number and dollar value of actions for—

(A) Block C3a, Small Business Concerns.

(B) Block C3b, Large Business Concerns.

(C) Block C3c, Domestic or Foreign Entities Performing Outside the United States and Outlying Areas.

(D) Block C3d, Educational, Nonprofit & Other.

(f) *Section D, Research, Development, Test, & Evaluation Actions.*

Do not include actions for supplies or services in support of RDT&E work that do not require the contractor to perform RDT&E.

(f) BLOCK D1, SMALL BUSINESS.

Enter the total number and dollar values of RDT&E actions with small business concerns.

(2) BLOCK D2, LARGE BUSINESS.

Enter the total number and dollar value of RDT&E actions with large business concerns.

(3) BLOCK D3, DOMESTIC OR FOREIGN ENTITIES PERFORMING OUTSIDE THE UNITED STATES AND OUTLYING AREAS.

Enter the total number and dollar value of RDT&E actions where the principal place of performance is outside the United States or outlying areas (see 204.670–1).

(4) BLOCK D4, HISTORICALLY BLACK COLLEGES & UNIVERSITIES OR MINORITY INSTITUTIONS (HBCU/MI).

Enter the total number and dollar value of RDT&E actions with HBCUs or MIs.

(5) BLOCK D5, OTHER ENTITIES.

Enter the total number and dollar value of RDT&E actions that were not reported in Blocks D1 through D4.

(g) *Section E, Selected Socioeconomic Statistics.*

(1) BLOCK E1, SMALL BUSINESS (SB) SET-ASIDE.

(i) Enter the total number and dollar value of contracting actions which were small business set-aside actions pursuant to FAR 19.502, including awards to SDBs reported in Block E2d.

(ii) If the action is an emerging small business set-aside (FAR 19.1002), use Block E1b.

(iii) Leave Block E1 a blank. Enter in Block E1b the number and total dollar value of actions for small business set-asides pursuant to FAR 19.502, including awards to SDBs reported in Block E2d.

(2) BLOCK E2, SMALL DISADVANTAGED BUSINESS (SDB) ACTIONS.

(i) Enter the total number and dollar value of actions which were small disadvantaged business actions.

(ii) Enter the subtotals for the number and dollar value for—

(A) Block E2a, Through SBA—Section 8(a).

Enter actions with the Small Business Administration pursuant to Section 8(a) of the Small Business Act (FAR 19.8).

(B) Block E2b, SDB Set-Aside/SDB Preference.

Enter actions resulting from—

(1) A set-aside for small disadvantaged business (SDB) (219.502–2–70);

(2) Application of an SDB evaluation preference (219.70); or

(3) SDB preferential consideration (219.502–3).

(C) Block E2c. Leave blank.

(D) Block E2d, SB Set-Aside.

Enter actions under FAR 19.502 where award is to an SDB, but a preference was not applied nor was preferential consideration given.

(E) Block E2e, Other.

Enter awards to SDB concerns where award is to an SDB not reported in Blocks E2a through E2d.

(3) BLOCK E3, WOMEN-OWNED SMALL BUSINESS.

Enter total number and dollar value of contracting actions with women-owned small businesses.

(4) BLOCK E4, HBCU/MI.

Enter the total number and dollar value of contracting actions with HBCU/MIs pursuant to Subpart 226.70.

(5) BLOCK E5, NIB/NISH.

Enter the total number and dollar value of contracting actions with qualified nonprofit agencies employing people who are blind or severely disabled for supplies or services from the Procurement List pursuant to FAR subpart 8.7.

(h) *Section F, Simplified Acquisition Procedures—Dollar Value Ranges.*

Enter in each of the dollar ranges the total number and dollar value of contracting actions which used simplified acquisition procedures (FAR part 13). The total of Section F is normally the sum of Blocks B3a, B4a, B5a, and B6a.

(i) *Section G, Remarks and Authentication.*

(1) Block G1, Remarks.

Enter any remarks applicable to this report.

(2) Block G2, Contracting Officer.

(i) Block G2a, Typed Name.

Enter the name (last, first, middle initial) of the contracting officer or representative.

(ii) Block G2b, Signature.

The person identified in Block G2a must sign.

(iii) Block G2c, Telephone Number.

Enter the telephone number (with area code) of the person identified in Block G2a. Installations with Defense Switched Network (DSN) must enter their DSN number.

(3) Block G3, Date Report Submitted.

Enter the date (YYMMDD) that the DD Form 1057 is submitted. Use two digits for each segment; use 01 through 12 for January through December. For example, enter January 2, 1999 as 990102.

Appendix C to Chapter 2 [Amended]

155. In Appendix C to Chapter 2, Part 2, Section C–204.3, Special clauses (II3), paragraphs (f)(1) and (f)(2) are revised to read as follows:

APPENDIX C—CONTRACTOR PURCHASING SYSTEM REVIEWS

* * * * *

PART 2—ANALYTICAL PROCEDURES

* * * * *

C–204.3 Special clauses (IID3).

* * * * *

(f) * * *

(1) FAR 52.214–26, Audit and Records—Sealed Bidding;

(2) * * *

(3) FAR 52.215–2, Audit and Records—Negotiation;

* * * * *

Appendix F to Chapter 2 [Amended]

156. In Appendix F to Chapter 2, Part 4, Table 2 of F–401 Distribution, the entry for the Army is revised to read as follows:

APPENDIX F—MATERIAL INSPECTION AND RECEIVING REPORT

* * * * *

PART 4—DISTRIBUTION OF DD FORM 250 AND DD FORM 250C

F–401—Distribution.

* * * * *

TABLE 2.—SPECIAL DISTRIBUTION

As required	Address	No. of copies
*	*	*
Army:		
Foreign Military Sales.	Commander, US Army, Security Asst. Center, ATTN: AMSAC–OL–LS–CS, 3rd Street and "M" Avenue, New Cumberland Army Depot, New Cumberland, PA 17070–5096.	
*	*	*

Appendix G to Chapter 2 [Amended]

157. Appendix G to Chapter 2 is amended by revising Part 2, entitled "Army Activity Address Numbers" to read as follows:

PART 2—ARMY ACTIVITY ADDRESS NUMBERS

DAAA03
B1
Pine Bluff Arsenal, ATTN: SMCPB–PO, 10020 Kabrich Circle, Pine Bluff, AR 71602–9500
DAAA08
B7
Rock Island Arsenal, ATTN: SMCRI–CT, Rock Island, IL 61299–5000
DAAA09
BA
U.S. Army Armament, Munitions, and Chemical Command, ATTN: AMSMC–PAM, Rock Island, IL 61299–6000
DAAA22
BV
Watervliet Arsenal, ATTN: SMCWV–PPA, Watervliet, NY 12189–4050
DAAA31
GJ
McAlester Army Ammunition Plant, ATTN: SMCMC–PC, McAlester, OK 74501–5000
DAAA32
0P
Crane Army Ammunition Activity, ATTN: SMCCN–CT, 300 Highway 361, Crane, IN 47522–5099
DAAB07
BG
USA Communications—Electronics Command, C3I Acquisition Center, ATTN: AMSEL–ACSP–BM, Fort Monmouth, NJ 07703–5008
DAAB08
2V
USA Communications—Electronics Command, C3I Acquisition Center, ATTN: AMSEL–ACSB–C, (Facility ADP Branch), Fort Monmouth, NJ 07703–5008
DAAB10
ZP
USA CECOM C31 Acquisition Center, Vint Hill Farms Station, ATTN: AMSEL–ACVF–A–AA (Stop 42), Building 160, Warrenton, VA 22186–5172
DAAB11
D0
USA CECOM C31 Acquisition Center, Vint Hill Farms Station, ATTN: AMSEL–AC–VHA–HB Base OPS (Stop 42), Warrenton, VA 22186–5172
DAAB12
E1
USA Communications—Electronics Command, C4IEW–AC, VECMPS Branch, ATTN: AMSEL–ACVH–D, 10109 Gridley Road, Suite 200, Fort Belvoir, VA 22060–5845
DAAC01
BH
Anniston Army Depot, ATTN: SDSAN–DOC, Anniston, AL 36201–5003
DAAC02
ZT
Blue Grass Army Depot, Procurement Office, ATTN: SDS–BG–BM–P, Lexington, KY 40511–5001
DAAC07
ZM
Sierra Army Depot, ATTN: SDSSI–CONT, Herlong, CA 96113–5009
DAAC67
ZN
Letterkenny Army Depot, ATTN: SDSLE–P, Chambersburg, PA 17201–4152
DAAC71
ZS
Tobyhanna Army Depot, ATTN: SDSTO–K, Tobyhanna, PA 18446–5100
DAAC79
D7
Red River Army Depot, ATTN: SDSRR–P, Texarkana, TX 75507–5000
DAAC83
BJ
Corpus Christi Army Depot, ATTN: SDSCC–C, Corpus Christi, TX 78419–6170
DAAC89
BK
Tooele Army Depot, ATTN: SDSTE–DCBO, Tooele, UT 84074–0839
DAAD01
B5
USA Yuma Proving Ground, Directorate of Contracting, ATTN: ATEYP–CR, Yuma, AZ 85365–9106
DAAD03
B6
USA Jefferson Proving Ground, ATTN: STEJP–EH–C, Madison, IN 47250–5100
DAAD05
BM
USA Aberdeen Proving Ground Support Activity, ATTN: STEAP–PR/M, Ryan Building, Aberdeen Proving Ground, MD 21005–5001
DAAD07
BN
USA White Sands Missile Range, Directorate of Contracting, ATTN: STEWS–PR, White Sands, NM 88002–5201
DAAD09
BP
USA Dugway Proving Ground, Directorate of Contracting, ATTN: STEDP–DOC, Dugway, UT 84022–0538
DAAE07
BR

USA Tank—Automotive Command, ATTN: AMSTRA–IDAS, Warren, MI 48397–5000
DAAE20
Armament and Chemical Acquisition and Logistics Activity (ACALA), ATTN: Acquisition Center, Rock Island, IL 61299–6000
DAAE30
U.S. Army Armament RD&E Center (ARDEC), ATTN: SMCAR–PCM–O, Building 9, Picatinny Arsenal, NJ07806–5000
DAAG60
C8
USA Military Academy, Purchasing & Contracting Division, ATTN: MAPC, Building 667A, West Point, NY 10996–1594
DAAG99
ZY
USA Program Manager-SANG, ATTN: AMCPM–NGA, Unit 61304, APO AE 09803–1304
DAAH01
CC
USA Missile Command, ATTN: AMSMI–AC, Redstone Arsenal, AL 35898–5280
DAAH03
D8
USA Missile Command, ATTN: AMSMI–AC, Redstone Arsenal, AL 35898–5280
DAAH04
YU
U.S. Army Research Office, ATTN: AMXRO–PR, P.O. Box 12211, Research Triangle Park, NC 27709–2211
DAAJ02
D9
Aviation Applied Technology Directorate, U.S. Army Aviation and Troop Command, ATTN: AMSAT–R–TC, Building 401, Fort Eustis, VA 23604–5577
DAAJ04
0V
USA Charles Melvin Price Support Center, ATTN: SATAS–P, Granite City, IL 62040–1801
DAAJ05
ZF
USA Aviation and Troop Command, ATTN: IAS21WG, Building 404, Fort Eustis, VA 23604–5577
DAAJ09
BS
USA Aviation and Troop Command, ATTN: AMSAT–A–AD, 4300 Goodfellow Boulevard, St. Louis, MO 63120–1798
DAAK01
B9
USA Aviation and Troop Command, ATTN: AMSAT–A–AD, 4300 Goodfellow Boulevard, St. Louis, MO 63120–1798
DAAK60
C5
Soldier Systems Command Acquisition Center, ATTN: SATNC–PP (Procurement Support Division), Natick, MA 01760–5011
DAAL01
1Y
U.S. Army Research Laboratory, ATTN: AMSLC–PR, 2800 Powder Mill Road, Adelphi, MD 20783–1145
DAAM01
ZU
U.S. Army Chemical and Biological Defense Command, ATTN: AMSCB–PC, Building E4455, Aberdeen Proving Ground, MD 21010–5423
DAAM02
B2
Program Manager, Rocky Mountain Arsenal, ATTN: AMXRM–PM, Building 111, Commerce City, CO 80022–1748
DABT01
F6
U.S. Army Aviation Center, Contracting Office, ATTN: ATZQ–C, Building T–00116, Fort Rucker, AL 36362–5000
DABT02
2A
U.S. Army Chemical and Military Police Centers and Fort McClellan, ATTN: ATZN–DOC, Building 241–C, Transportation Road, Fort McClellan, AL 36205–5000
DABT10
2B
U.S. Army Infantry Center and Fort Benning, ATTN: ATZB–KT, Building 6, P.O. Box 5–5179, Fort Benning, GA 31905–5179
DABT11
2C
U.S. Army Signal Center and Fort Gordon, ATTN: ATZI–CT, Building 2050B, Fort Gordon, GA 30905–5110
DABT15
F9
U.S. Army Soldier Support Center and Fort Benjamin Harrison, ATTN: ATZI–CT, Fort Benjamin Harrison, IN 46216–5230
DABT19
2D
U.S. Army Combined Arms Center and Fort Leavenworth, ATTN: ATZL–GCC, Pope & Thomas Avenues, Fort Leavenworth, KS 66027–5031
DABT23
2E
U.S. Army Armor Center and Fort Knox, ATTN: ATZK–DC, Building 4022, Fort Knox, KY 40121–5000
DABT31
2F
U.S. Army Engineer Center and Fort Leonard Wood, ATTN: ATZT–DOC, Fort Leonard Wood, MO 65473–5000
DABT39
2H
U.S. Army Field Artillery Center and Fort Sill, ATTN: ATZR–Q, Building 1803, P.O. Box 3501, Fort Sill, OK 73503–0501
DABT43
2J
Carisle Barracks, ATTN: ATZE–DOC–C, Building 46, Carlisle Barracks, PA 17013–5002
DABT47
2K
U.S. Army Training Center and Fort Jackson, ATTN: ATZJ–DOC, Building 4340, Magruder Street, Fort Jackson, SC 29207–5420
DABT51
2L
U.S. Army Air Defense Artillery Center & Fort Bliss, ATTN: ATZC–DOC, Building 2021, P.O. Box 6078, Fort Bliss, TX 79916–0058
DABT57
2N
Directorate of Peninsula Contracting, ATTN: ATZF–DPC, Building 2746, Harrison Loop, Fort Eustis, VA 23604–5293
DABT58
2P
Fort Monroe, ATTN: ATZG–C #62, Building T–195, Fort Monroe, VA 23651–6000
DABT59
2Q
U.S. Army Combined Arms Support Command and Fort Lee, ATTN: ATZM–DOC, Building T–7124, 19th & Quartermaster Road, Fort Lee, VA 23801–5172
DABT60
1L
TRADOC Contracting Agency, ATTN: ATCA, Building 1748, Fort Eustis, VA 23604–5538
DABT61
BF
The Judge Advocate General's School, USA, University of Virginia, ATTN: JAGS–SSL–B, 600 Massie Road, Charlottesville, VA 22903–1781
DABT63
BL
U.S. Army Intelligence Center, ATTN: ATZS–DKS, P.O. Box 748, Fort Huachuca, AZ 85613–0748
DABT65
B0
Mission Contracting Activity at Fort Leavenworth, ATTN: ATOB–AL, 614 Custer Road, Fort Leavenworth, KS 66027–7203
DABT67
0Q
Directorate of Contracting, ATTN: AFZW–DOC, P.O. Box 27, Fort Ord, CA 93941–0027
DACA01
DACW01
CK
USA Engineer District, Mobile, ATTN: CESAM–CT, P.O. Box 2288, Mobile, AL 36628–0001
DACA03
DACW03
CL
USA Engineer District, Little Rock, ATTN: CESWL–CT, P.O. Box 867, Little Rock, AR 72203–0867
DACA05
DACW05
CM
USA Engineer District, Sacramento, ATTN: CESPK–CT, 1325 J Street, Sacramento, CA 95814–2922
DACA07
DACW07
CP
USA Engineer District, San Francisco, ATTN: CESPN–CT, 211 Main Street, San Francisco, CA 94105–1905
DACA09
DACW09
CQ
USA Engineer District, Los Angeles, ATTN: CESPL–CT, P.O. Box 2711, Los Angeles, CA 90053–2325
DACA17
DACW17
CS

USA Engineer District, Jacksonville, ATTN: CESAJ–CT, P.O. Box 4970, Jacksonville, FL 32232–0019
DACA21
DACW21
CV
USA Engineer District, Savannah, ATTN: CESAS–CT, P.O. Box 889, Savannah, GA 31402–0889
DACA23
DACW23
CX
USA Engineer District, Chicago, ATTN: CENCR–CT, 111 North Canal Street, Chicago, IL 60606–7206
DACA25
DACW25
CD
USA Engineer District, Rock Island Clock Tower Building, ATTN: CENCR–CT, P.O. Box 2004, Rock Island, IL 61202–2004
DACA27
DACW27
CY
USA Engineer District, Louisville, ATTN: CEORL–CT, P.O. Box 59, Louisville, KY 40201–0059
DACA29
DACW29
CZ
USA Engineer District, New Orleans, ATTN: CELMN–CT, P.O. Box 60267, New Orleans, LA 70160–0267
DACA31
DACW31
DA
USA Engineer District, Baltimore Contracting Division, ATTN: CENAB–CT, P.O. Box 1715, Baltimore, MD 21203–1715
DACA33
DACW33
DB
USA Engineer District, New England, ATTN: CENED–CT, 424 Trapelo Road, Waltham, MA 02254–9149
DACA35
DACW35
DC
USA Engineer District, Detroit, ATTN: CENCE–CT, P.O. Box 1027, Detroit, MI 48231–1027
DACA37
DACW37
DD
USA Engineer District, St. Paul, ATTN: CENCS–CT, 190 Fifth Street East, St. Paul, MN 55101–1638
DACA38
DACW38
DE
USA Engineer District, Vicksburg, ATTN: CELMK–CT, 3515 I–20 Frontage Road, Vicksburg, MS 39180–5191
DACA39
DACW39
DF
USA Engineer, Waterways Experiment Station, ATTN: CEWES–CT–Z (Contracting Division), 3909 Halls Ferry Road, Vicksburg, MS 39180–6199
DACA41
DACW41
DH
USA Engineer District, Kansas City, 700 Federal Building, ATTN: CEMRK–CT, 601 East 12th Street, Kansas City, MO 64106–2896
DACA43
DACW43
DJ
USA Engineer District, St. Louis, ATTN: CELMS–CT, 1222 Spruce Street, St. Louis, MO 63101–2833
DACA45
DACW45
DK
USA Engineer District, Omaha, ATTN: CEMRO–CT, 215 North 17th Street, Omaha, NE 68102–4978
DACA47
DACW47
DM
USA Engineer District, Albuquerque, ATTN: CESWA–CT, P.O. Box 1580, Albuquerque, NM 87103–1580
DACA49
DACW49
DN
USA Engineer District, Buffalo, ATTN: CENCB–CT (Contracting Division), 1776 Niagara Street, Buffalo, NY 14207–3199
DACA51
DACW51
CE
USA Engineering District, New York, Contracting Division, ATTN: CENAN–CT, 26 Federal Plaza, New York, NY 10025–0090
DACA54
DACW54
DQ
USA Engineer District, Wilmington, ATTN: CESAW–CT, P.O. Box 1890, Wilmington, NC 28402–1890
DACA56
DACW56
DS
USA Engineer District, Tulsa, ATTN: CESWT–CT, P.O. Box 61, Tulsa, OK 74121–0061
DACA57
DACW57
DT
USA Engineer District, Portland, ATTN: CENPP–CT, P.O. Box 2946, Portland, OR 97208–2946
DACA59
DACW59
DV
USA Engineer District, Pittsburgh, ATTN: CEORP–CT–SADBUS, 1000 Liberty Avenue, Pittsburgh, PA 15222–4186
DACA60
DACW60
DW
USA Engineer District, Charleston, ATTN: CESAC–CT, P.O. Box 919, Charleston, SC 29402–0919
DACA61
DACW61
CF
USA Engineer District, Philadelphia, ATTN: CENAP–CT, Contracting Division, 110 Penn Square East, Wanamaker Building, Philadelphia, PA 19107–3390
DACA62
DACW62
DX
USA Engineer District, Nashville, ATTN: CEORN–CT, P.O. Box 1070, Nashville, TN 37202–1070
DACA63
DACW63
DY
USA Engineer District, Fort Worth, ATTN: CESWF–CT, P.O. Box 17300, Fort Worth, TX 76102–0300
DACA64
DACW64
DZ
USA Engineer District, Galveston, ATTN: CESWG–CT, P.O. Box 1229, Galveston, TX 77553
DACA65
DACW65
EA
USA Engineer District, Norfolk, Contracting Division, ATTN: CENAO–CT, 803 Front Street, Norfolk, VA 23510–1096
DACA66
DACW66
EB
USA Engineer District, Memphis, ATTN: CEIMM–CT, B–202 Clifford Davis Federal Building, Memphis, TN 38103–1894
DACA67
DACW67
EC
USA Engineer District, Seattle, ATTN: CENPS–CT, P.O. Box C–3755, Seattle, WA 98124–2255
DACA68
DACW68
YW
USA Engineer District, Walla Walla, ATTN: CENPW–CT, Building 602, City-County Airport, Walla Walla, WA 99362–9265
DACA69
DACW69
CG
USA Engineer District, Huntington, ATTN: CEORH–CT, 502 8th Street, Huntington, WV 25701–2070
DACA72
DACW72
ZA
USA Humphreys Engineer Center Support Activity, ATTN: CEHEC–CT, Kingman Building, Fort Belvoir, VA 22060–5580
DACA75
DACW75
ZC
USA Engineer Ordnance Program Division, ATTN: CETAD–OP–C, APO AE 09803–1303
DACA76
DACW76
ZD
USA Engineer Topographic Laboratories, ATTN: CETEC–CT, Cude Building #2592, Fort Belvoir, VA 22060–5546
DACA78
DACW78
9V
USA Engineer Transatlantic Division, ATTN: CETAD–CT–P, 201 Prince Frederick Drive, Winchester, VA 22602
DACA79
DACW79
2R

USA Engineer District Japan, ATTN: CEPOJ–CT, Unit 45010, APO AP 96343–0051
DACA81
DACW81
USA Engineer District, Far East, APO AP 96205–0610
DACA83
DACW83
ZH
USA Engineer Division—Pacific Ocean, ATTN: CEPOD–CT, Building 230, Fort Shafter, HI 96858–5540
DACA85
DACW85
ZJ
USA Engineer District, Alaska, P.O. Box 898, Anchorage, AK 99506–0898
DACA87
DACW87
ZW
USA Engineer Division, Huntsville, ATTN: CEHND–CT, P.O. Box 1600, Huntsville, AL 35807–4301
DACA88
DACW88
0S
USA Construction Engineering Research Laboratory, ATTN: CECER–CT, P.O. Box 4005, Champaign, IL 61820–1305
DACA89
DACW89
1Z
USA Cold Regions Research and Engineering Laboratory, ATTN: CECRL–LM–CT, 72 Lyme Road, Hanover, NH 03755–1290
DACA90
DACW90
USA Engineer District, Europe, ATTN: CETAE–CT, Unit 25727, APO AE 09242–5301
DADA03
8W
Fitzsimons Army Medical Center, Directorate of Contracting, ATTN: HSHG–DC, Building 205, 10th Street & McCloskey Avenue, Aurora, CO 80045–5001
DADA08
BT
Dwight David Eisenhower Medical Center, Contracting Office, ATTN: HSAA–D, Building 39706, 40 A Street, Fort Gordon, GA 30905–5650
DADA09
YY
William Beaumont Army Medical Center, ATTN: HSAA–W, Building 7777, Piedras Street, Room 4J18, El Paso, TX 79920–5001
DADA10
ZQ
U.S. Army Health Services Command, Central Contracting Office, ATTN: HSAA–C, Building 2015, Beebe Loop, Fort Sam Houston, TX 78234–6000
DADA13
0W
Madigan Army Medical Center, Contracting Office, ATTN: HSAA–M, Building 9933–A, Johnson Street, Tacoma, WA 98431–5100
DADA15
0X
Walter Reed Army Medical Center, Directorate of Contracting, ATTN: HSHL–ZC, Building T–20, 1st Floor, Washington, DC 20307–5001
DADA16
0Y
Tripler Army Medical Center, Contracting Office, ATTN: HSAA–T, Building 160, Krukowski Street, Tripler AMC, HI 96859–5000
DADA18
1R
Directorate of Contracting, ATTN: AFZG–DOC, Building 4201, Fort Sam Houston, TX 78234–5000
DAEA08
E4
U.S. Army Information Systems Command, Office of Acquisition, ATTN: ASPC–RA, 134 Malbrouk Street, Fort Ritchie, MD 21719–4020
DAEA16
E7
Headquarters, 5th Signal Command, DCSLOG, Contract Management Division, ATTN: ASQE–LG–C, CMR 421, APO AE 09056–3104
DAEA20
E6
Commander, 1st Signal Brigade (USAISC), Office of Acquisition Management, ATTN: ASQK–AM, Unit #15271, APO AP 96205–0044
DAEA32
Y6
U.S. Army Information Systems Command, Contracting Office (USAISCCO), ATTN: ASPC–T, Building 61801, Room 2408, Fort Huachuca, AZ 85613–5000
DAHA01
9B
USPFO for Alabama, P.O. Box 3715, Montgomery, AL 36193–4801
DAHA02
0G
USPFO for Arizona, 5644 East Moreland Street, Phoenix, AZ 85008–3442
DAHA03
9D
USPFO for Arkansas, Camp Robinson, North Little Rock, AR 72118–2200
DAHA04
9N
USPFO for California, P.O. Box 8104, San Luis Obispo, CA 93403–8104
DAHA05
Z6
USPFO for Colorado, Camp George West, Golden, CO 80401–3997
DAHA06
1S
USPFO for Connecticut, State Armory, ATTN: Contracting Officer, 360 Broad Street, Hartford, CT 06105–3795
DAHA07
9A
USPFO for Delaware, Grier Building, 1161 River Road, New Castle, DE 19720–5199
DAHA08
2W
USPFO for Florida, P.O. Box 1008, St. Augustine, FL 32085–1008
DAHA09
C0
USPFO for Georgia, P.O. Box 17882, Atlanta, GA 30316–0882
DAHA10
CU
USPFO for Idaho, P.O. Box 45, Boise, ID 83707–4501
DAHA11
9E
USPFO for Illinois, 1301 North McArthur Boulevard, Springfield, IL 62702–2399
DAHA12
4E
USPFO for Indiana, P.O. Box 41346, Indianapolis, IN 46241–0346
DAHA13
9L
USPFO for Iowa, Camp Dodge, 7700 NW Beaver Drive, Johnston, IA 50131–1902
DAHA14
4Z
USPFO for Kansas, 2737 South Kansas Avenue, Topeka, KS 66611–1170
DAHA15
5P
USPFO for Kentucky, Boone National Guard Center, Frankfort, KY 40601–6192
DAHA16
0A
USPFO for Louisiana, Jackson Barracks, New Orleans, LA 70146–0330
DAHA17
0B
USPFO for Maine, Camp Keys, Augusta, ME 04333–0032
DAHA18
0C
USPFO for Maryland, State Mil Reservation, 301 Old Bay Lane, Havre de Grace, MD 21078–4094
DAHA19
0D
USPFO for Massachusetts, ATTN: Contracting Officer, 143 Speen Street, Natick, MA 01760–2599
DAHA20
9F
USPFO for Michigan, 3111 West St. Joseph Street, Lansing, MI 48913–5102
DAHA21
9K
USPFO for Minnesota, Camp Ripley, P.O. Box 288, Little Falls, MN 56345–0288
DAHA22
CW
USPFO for Mississippi, 144 Military Drive, Jackson, MS 39208–8880
DAHA23
9H
USPFO for Missouri, 1715 Industrial Avenue, Jefferson City, MO 65101–1468
DAHA24
0P
USPFO for Montana, P.O. Box 1157, Helena, MT 59624–1157
DAHA25
USPFO for Nebraska, 1234 Military Road, Lincoln, NE 68508–1092
DAHA26
USPFO for Nevada, 2601 South Carson Street, Carson City, NV 89701–5596
DAHA27
USPFO for New Hampshire, P.O. Box 2003, Concord, NH 03301–2003
DAHA28
ZK
USPFO for New Jersey, 131 Eggert Crossing Road, Lawrenceville, NJ 08648–2805
DAHA29

USPFO for New Mexico, ATTN: Contracting Officer, P.O. Box 4277, Santa Fe, NM 87502–4277
DAHA30
D2
USPFO for New York, 330 Old Niskayuna Road, Latham, NY 12110–2224
DAHA31
D3
USPFO for North Carolina, 4201 Reedy Creek Road, Raleigh, NC 27607–6412
DAHA32
D6
USPFO for North Dakota, P.O. Box 5511, Bismarck, ND 58502–5511
DAHA33
9M
USPFO for Ohio, 2811 West Granville Road, Columbus, OH 43235–2712
DAHA34
9J
USPFO for Oklahoma, 3501 Military Circle, N.E., Oklahoma City, OK 73111–4398
DAHA35
1X
USPFO for Oregon, ATTN: USPFO–P, P.O. Box 14840, Salem, OR 97309–5008
DAHA36
DL
USPFO for Pennsylvania, Department of Military Affairs, ATTN: Contracting Officer, Annville, PA 17003–5003
DAHA37
USPFO for Rhode Island, 330 Camp Street, Providence, RI 02906–1954
DAHA38
DU
USPFO for South Carolina, 9 National Guard Road, Columbia, SC 29201–4766
DAHA39
VQ
USPFO for South Dakota, Camp Rapid, Rapid City, SD 57702–8186
DAHA40
YX
USPFO for Tennessee, Powell Avenue, P.O. Box 40748, Nashville, TN 37204–0748
DAHA41
9C
USPFO for Texas, ATTN: Contracting Officer, P.O. Box 5218, Austin, TX 78763–5218
DAHA42
USPFO for Utah, P.O. Box 2000, Draper, UT 84020–2000
DAHA43
USPFO for Vermont, Camp Johnson, Building #3, P.O. Box 2000, Colchester, VT 05446–3004
DAHA44
ZR
USPFO for Virginia, 501 East Franklin Street, Richmond, VA 23219–2317
DAHA45
ZX
USPFO for Washington, Camp Murray, Tacoma, WA 98430–5000
DAHA46
USPFO for West Virginia, 50 Armory Road, Buckhannon, WV 26201–2396
DAHA47
9G
USPFO for Wisconsin, Camp Douglas, WI 54618–9002
DAHA48
USPFO for Wyoming, P.O. Box 1709, Cheyenne, WY 82003–1709
DAHA49
USPFO for the District of Columbia, Anacostia Naval Air Station, Building 350, Washington, DC 20315–0001
DAHA50
USPFO for Hawaii, 3949 Diamond Head Road, Honolulu, HI 96816–4495
DAHA51
2Z
USPFO for Alaska, ATTN: P&C Division, Camp Denali, P.O. Box B, Fort Richardson, AK 99505–5000
DAHA70
USPFO for Puerto Rico, P.O. Box 3786, San Juan, PR 00904–3786
DAHA72
USPFO for Virgin Islands, #9 Estate Diamond, Frederiksted, St. Croix, VI 00840
DAHA74
USPFO for Guam, PSC456 Box 56, FPO AP 96539–1256
DAHA90
2Y
National Guard Bureau, Contracting Support, 5109 Leesburg Pike, Suite 401–B, Falls Church, VA 22041–3201
DAHC21
G3
MTMC Eastern Area, Acquisition Division, ATTN: MTEA–LOA, Building 427, Military Ocean Terminal, Bayonne, NJ 07002–5302
DAHC22
DP
HQ MTMC, Acquisition Division, ATTN: MTAQ–AT, Room B24–L, 5611 Columbia Pike, Falls Church, VA 22041–5050
DAHC23
G4
MTMC, Western Area, Oakland Army Base, ATTN: MTWA–LOA, Building 1, Alaska Street, Room 2336, Oakland, CA 94626–5000
DAHC24
1B
HQ MTMC, Acquisition Division, ATTN: MTAQ–AS, Room 725, 5611 Columbia Pike, Falls Church, VA 22041–5050
DAHC25
1W
HQ MTMC, Directorate of Personal Property, ATTN: MTPP, 5611 Columbia Pike, Falls Church, VA 22041–5050
DAHC26
0E
HQ MTMC, Program Support Division, ATTN: MTAQ–AF, Stop 898, Fort Belvoir, VA 22060–5898
DAHC30
0F
U.S. Army Military District of Washington, Directorate of Contracting, ATTN: ANOC–Z, Building 15, Cameron Station, Alexandria, VA 22304–5050
DAHC32
0M
National Defense University, Contracting Office, ATTN: NDU–LG–P, Building 62, Fort Leslie J. McNair, Washington, DC 20319
DAHC35
2M
USA Garrison Fort Belvoir, Directorate of Contracting, ATTN: ANFB–OC, 9410 Jackson Loop, Suite 101, Fort Belvoir, VA 22060–5134
DAHC36
1J
Fort Meade Directorate of Contracting, ATTN: ANME–OC, Building 2234, Fort George G. Meade, MD 20755–5081
DAHC38
2S
Fort Ritchie Directorate of Contracting, Fort Ritchie, MD 21719
DAHC75
0U
U.S. Army, Pacific, Office of the ACSAM, ATTN: APAM, Building T115, Palm Circle Drive, Fort Shafter, HI 96858–5100
DAHC76
8U
U.S. Army Garrison, Alaska, Directorate of Contracting, ATTN: APVR–DOC, P.O. Box 5–525, Fort Richardson, AK 99505–0525
DAHC77
CJ
U.S. Army Support Command, Hawaii, Directorate of Contracting, ATTN: APVG–GK, Building 520, Pierce Street, Fort Shafter, HI 96858–5025
DAHC90
YJ
U.S. Army Intelligence and Security Command, ATTN: IAPARC, Building 2444 (Stop 370), Fort Belvoir, VA 22060–5368
DAHC92
1V
U.S. Army Garrison, Panama, Directorate of Contracting, ATTN: SOCO–CO, Unit 7116, APO AA 34002–5000
DAHC94
BD
U.S. Army Info Sys Sel & Acq Activity, ATTN: ISSA–PP, 2461 Eisenhower Avenue, Alexandria, VA 22331–0700
DAJA01
9Q
RCO Vicenza, ATTN: AEUCC–I, Unit 31401, Box 33, APO AE 09630
DAJA02
G5
RCO Seckenheim, ATTN: AEUCC–S, Unit 29331, APO AE 09266
DAJA04
9R
RCO Fuerth, ATTN: AEUCC–FU, Unit 28130, APO AE 09222
DAJA16
6X
RCO Grafenwoehr, ATTN: AEUCC–G, Unit 28130, APO AE 09114
DAJA22
G6
Wiesbaden Regional Contracting Center, ATTN: AEUCC–C, CMR 410, Box 741, APO AE, 09096
DAJA61
9Z
RCO Benelux, ATTN: AEUCC–B, PSC 79, Box 003, APO AE 09724
DAJA89
F0

RCO Wuerzburg, Suboffice of Fuerth, ATTN: AEUCC–W, River Building, 3rd Floor, APO AE 09244
DAJA90
0T
RCO Bad Kreuznach, ATTN: AEUCC–BK, Unit 24307, APO AE 09252
DAJB03
F4
HQ, EUSA, Asst Cofs Acquisition Mgt, ATTN: EAAQ (PARC), Unit 15236, APO AP 96205–0009
DAKF04
ZE
Directorate of Contracting, ATTN: AFZJ–DC, P.O. Box 10039, Fort Irwin, CA 92310–5000
DAKF06
1C
Directorate of Contracting, ATTN: AFZC–DOC, Building 6222, Fort Carson, CO 80913–5022
DAKF10
1D
Directorate of Contracting, ATTN: AFZP–DC, Building 622, 2nd Floor, Fort Stewart, GA 31314–5189
DAKF11
1E
Directorate of Contracting, ATTN: AFZK–DOC, Building 184, Fort McPherson, GA 30330–5000
DAKF12
BC
FORSCOM Central Contracting Office, ATTN: FCJ4–PRC, Building 130, Fort McPherson, GA 30330–6000
DAKF19
1G
Directorate of Contracting, ATTN: AFZN–DOC, P.O. Box 2248, Fort Riley, KS 66442–0248
DAKF23
1H
Directorate of Contracting, ATTN: AFZB–DOC, Building 2174, Street 13A, Fort Campbell, KY 42223–1100
DAKF24
G1
Directorate of Contracting, ATTN: AFZX–DOC, P.O. Drawer 3918, Fort Polk, LA 71459–5000
DAKF29
2G
Directorate of Contracting, ATTN: AFZI–DOC, Building 5418, South Scott Plaza, Fort Dix, NJ 08640–6150
DAKF31
1K
Directorate of Contracting, ATTN: AFZD–DOC, Building 227, Fort Devens, MA 01433–5340
DAKF36
1M
Directorate of Contracting, ATTN: AFZS–DOC, West Street, Building T–45, Fort Drum, NY 13602–5220
DAKF40
1N
Directorate of Contracting, ATTN: AFZA–DC, Drawer 70120, Fort Bragg, NC 28307–0120
DAKF48
1Q
Headquarters, III Corps and Fort Hood, Directorate of Contracting, ATTN: AFZF–DOC, Building 1001 (Room W103), Fort Hood, TX 76544–5059
DAKF57
1T
Directorate of Contracting, ATTN: AFZH–DOC, Rainer Drive, Building 9504, Fort Lewis, WA 98433–5000
DAKF61
1U
Directorate of Contracting, ATTN: AFZR–DOC, Building 2103, Fort McCoy, WI 54656–5000
DAMD17
B3
U.S. Army Medical Research Acquisition Activity, ATTN: SGRD–RMA, Building 820, Chandler Street, Frederick, MD 21702–5014
DASA01
G0
Commander, ARCENT HQ SWA, ATTN: DOC, APO AE 09808
DASA02
Commander, ARTAS–K, ATTN: AFRD–KU–KO, APO AE 09889
DASA03
Commander, ARCENT Contracting Division, ATTN: AFRD–PARC, Building 363, Fort McPherson, GA 30330–6000
DASG60
CB
USA Strategic Defense Command, Deputy Commander, ATTN: CSSD–CM–AC, P.O. Box 1500, Huntsville, AL 35807–3801
DASG62
CH
U.S. Army Space Command, ATTN: MOSC–SC, 1670 North Newport Road, Suite 211, Colorado Springs, CO 80916–2749
DASW01
F7
Defense Supply Service—Washington, ATTN: Policy and Compliance, 5200 Army Pentagon, Room 1D245, Washington, DC 20310–5200
DATM01
0R
U.S. Army OPTEC Contacting Activity, ATTN: CSTE–ZOC, P.O. Box Y, Fort Hood, TX 76544–5065

158. Appendix G to Chapter 2 is amended by revising Part 5, entitled "Air Force Activity Address Numbers" to read as follows:

PART 5—AIR FORCE ACTIVITY ADDRESS NUMBERS

F01600
5A
42 CONS/CC, 50 Lemay Plaza S, Bldg 804, Maxwell AFB, AL 36112–6334
F01620
6K
SSC/PK, 375 Libby Street, MAFB-Gunter Annex, AL 36114–6343
F02601
5C
355 CONS/CC, 3180 S. Craycroft Road, Davis-Monthan AFB, AZ 85707–3522
F02604
5D
56 CONS/CC, 14100 West Eagle St, Luke AFB, AZ 85309–1217
F03602
5F
314 CONS/CC, 642 Thomas Avenue, Little Rock AFB, AR 72099–5019
F04604
5G
93 CONS/CC, F St Bldg 708, Castle AFB, CA 95340–5320
F04605
5H
722 CONS, 1485 Graeber St, Ste 21, March AFB, CA 92518–1729
F04606
SM
SM–ALC/PK, Bldg 200, 3237 Peacekeeper Way, Ste 17, McClellan AFB, CA 95652–1060
F04611
QQ
AFFTC/PK, Bldg 2800, 5 S Wolfe Ave, Edwards AFB, CA 93524–1185
F04626
5M
60 CONS/LGC, 350 Hangar Avenue, Bldg 549, Travis AFB, CA 94535–2632
F04666
5N
9 CONS/CC, 6500 B St, Ste 101, Beale AFB, CA 95903–1712
F04684
QW
30 CONS/LGC, 806 13th St, Ste D, Bldg 7015 Sect 2c, Vandenberg AFB, CA 93437–5226
F04689
RN
750 LSS/LGC, 1080 Lockheed Way, Box 039, Onizuka AFB, CA 94089–1234
F04690
RF
Det 2, SMC/PK, 1080 Lockheed Way Box 043, Onizuka AFB, CA 94089–1235
F04693
MG
SMC/PKD, 400 N Douglas Blvd Ste 212E, Los Angeles, CA 90245–4640
F04699
Q5
SM–ALC/PK, Bldg 200 3227 Peacekeeper Way Ste 17, McClellan AFB, CA 95652–1060
F04700
Q2
AFFTC/PKA, 5 S Wolfe Ave, Building 2800, Edwards AFB, CA 93524–1185
F04071
TB
SMC/PK, 155 Discovery Blvd Ste 1516, Los Angeles, CA 90245–4692
F04704
R9
Det 10 SMC/PK, Bldg 951, 1111 E. Mill St Rm 104, San Bernardino, CA 92408–1621
F05603
HQ AFSPC/LGC, 150 Vandenberg Street Ste 1105, Peterson AFB, CO 80914–4350
F05604
SX
21 CONS/LGC, 700 Suffolk Street, Peterson AFB, CO 80914–1200
F05611
5Q

10 ABW/LGC, 8110 Industrial Drive Ste 200, USAF Academy, CO 80840–2315
F07603
5R
436 CONS/LGC, 639 Atlantic Street Ste 243, Dover AFB, DE 19902–5639
F08602
5S
56 CONS/CC, 3014 Zemke Avenue, MacDill AFB, FL 33621–5000
F08620
5T
16 CONS/LGC, P.O. Box 9190, 350 Tully Street, Hurlburt Field, FL 32544–5825
F08626
QU
OL/PK ASC/PK, 205 West D Ave, Ste 433, Bldg 350, Eglin AFB, FL 32542–6864
F08630
S1
OL–MNK ASC/MNK, 101 W Eglin Blvd, Ste 337, Bldg 13, Eglin AFB, FL 32542–6810
F08635
RH
AFDTC/PK, Bldg 350, 205 West D Avenue Ste 433, Eglin AFB, FL 32542–6864
F08637
5V
325 CONS/CC, 501 Illinois Ave Ste 5, Tyndall AFB, FL 32403–5526
F08650
TJ
45 CONS/PKESM, 1201 Minuteman Street, Patrick AFB, FL 32925–5432
F08651
Q3
AFDTC/PKO, 205 West D Ave Ste 541, Eglin AFB, FL 32542–6862
F09603
RJ, RR
WR–ALC/PK, Bldg 300, 215 Byron Street, Robins AFB, GA 31098–1611
F09604
RU
Det 8, 2762 LS(SP)/PK, 750 3rd St, Bldg 350, Robins AFB, GA 31098–2122
F09607
5W
347 CONS/CC, 4380B Alabama Rd, Moody AFB, GA 31699–1793
F09609
5X
94 LG/LGC, 1538 Atlanta Ave Ste 104, Dobbins AFB, GA 30069–4824
F09634
5Y
HQ AFRES/LGC, 155 2nd St, Robins AFB, GA 31098–1638
F09650
Q6
WR–ALC/PKO, Bldg 300, 215 Byron Street, Robins AFB, GA 31098–1803
F10603
5Z
366 CONS/CC, 366 Gunfighter Ave Ste 498, Mountain Home AFB, ID 83648–4037
F11603
6B
928 AW/LGC, 6626 N. Patton Rd Ste 94, Chicago O'Hare IAP, IL 60666–5023
F11623
6C
375 CONS/LGC, 102 E Martin Street Ste 216, Scott AFB, IL 62225–5015
F11624
X4
CSPO/CGZ, 3205 East Drive, Scott AFB, IL 62225–5425
F11626
HQ AMC/DOKR, 402 Scott Dr Unit 3A1, Scott AFB, IL 62225–5302
F12617
6D
434 LSS/LGC, 2 Kittyhawk St, Grissom ARB, IN 46971–5320
F14614
6E
22 CONS/LGC, 53147 Kansas St Ste 102, McConnell AFB, KS 67221–3606
F16602
6G
2 CONS/CC, 841 Fairchild Ave., Barksdale AFB, LA 71110
F19617
R5
439 LSS/LGC, 100 Logistics Dr, 2nd Floor Ste 200, Westover ARB, MA 01022–1531
F19628
RS
ESC/PK, Bldg 1520, 104 Barksdale Street, Hanscom AFB, MA 01731–1806
F19650
SH
ESC/PKO, Bldg 1520, 104 Barksdale Street, Hanscom AFB, MA 01731–2816
F20613
6L
410 CONS/CC, 417 A Ave Ste 112, Sawyer AFB, MI 49843–3299
F21611
6N
934 LG/LGC, 760 Military Hwy, Minneapolis, MN 55450
F22600
RC
81 CONS/CC, 200 Fifth St Ste 101, Keesler AFB, MS 39534–2102
F22608
6Q
14 CONS/CC, 555 Seventh Street Ste 113, Columbus AFB, MS 39701–1006
F23606
6R
509 CONS/CC, 850 Arnold Ave Bldg 705, Whiteman AFB, MO 65305–5021
F24604
6T
341 CONS/LGC, 7015 Goddard Dr, Malmstrom AFB, MT 59402–6863
F25600
6U
55 CONS/CC, MBB 09 106 Peacekeeper Dr Ste 2N3, Offutt AFB, NE 68113–5320
F26600
S4
554 CONS/CC 5865 Swabb Blvd, Nellis AFB, NV 89191–7063
F28609
6V
305 CONS/LGC, 3563 Lancaster Ave, McGuire AFB, NJ 08641–2712
F28620
M1
65 CONS/CC, APO AE 09720–7775
F28620
S8
65 CONS/O1–A, PO Box 837, Wrightstown, NJ 05862–0837
F29601
RW
PL/PK, Bldg 499, 3651 Lowry Ave SE Rm 222, Phillips Laboratory, Kirtland AFB, NM 87117–5777
F29605
5W
27 CONS/CC, 100 North Torch Blvd, Cannon AFB, NM 88103–5320
F29650
R3
PL/PKO, 3651 Lowry Ave SE Rm 117, Kirtland AFB, NM 87117–5777
F29651
6X
49 CONS/CC, PO Drawer S, Holloman AFB, NM 88330–1601
F30602
RX
RL/PK, Bldg 106, 26 Electronic Pky, Griffiss AFB, NY 13441–4514
F30617
6Y
914 AW/LGC, 2720 Kirkbridge Drive, Niagara Falls IAP–ARS, NY 14304–5320
F30635
S3
416 CONS/CC, 375 Brooks Road, Griffiss AFB, NY 13440
F30636
6Z
380 CONS/LGC, 11 Ohio Avenue, Plattsburgh AFB, NY 12903–3506
F31601
BU
23 CONS/CC, 1443 Reilly Rd Ste C, Pope AFB, NC 28308–2896
F31610
HW
4 CONS/CC, 1695 Wright Ave, Seymour Johnson AFB, NY 27531–2459
F32604
BX
5 CONS/CC, 211 Missile Ave, Minot AFB, ND 58705–5027
F32605
BY
319 CONS/CC, 575 6th Ave, Grand Forks AFB, ND 58205–6436
F33600
RZ
ASC/PKW, 1940 Allbrook Dr Ste 3, Bldg 1, Wright Patterson AFB, OH 45433–5309
F33601
Q7
ASC/PKWO, 1940 Allbrook Dr Ste 3, Bldg 1, Wright Patterson AFB, OH 45433–5309
F33615
SG
WL/PK, Bldg 7, 2530 C Street, Wright Patterson AFB, OH 45433–7607
F33630
C1
910 AW/LGC, 3976 King Graves Rd, Youngstown-Warren Rgl Arpt, Youngstown ARP, OH 44473–0910
F33657
SC
ASD/PK, Bldg 14, 1865 Fourth St Ste 6, Wright Patterson AFB, OH 45433–7120
F33659
Q8
AGMC/PK, Bldg 2, 813 Irving Wick Dr West, Newark AFB, OH 43055–0027
F33660
TA

AGMC/PKY, Bldg 2, 813 Irving Wick Drive/W, Newark AFB, OH 43057–0027
F34600
C2
71 FTW/CVC, 246 Brown Pkwy Ste 228, Vance AFB, OK 73705–5037
F34601
SD
OC–ALC/PK, 3001 Staff Dr Ste 1AG76A, Tinker AFB, OK 73145–3015
F34608
TF
CSC/PK, 4009 Hilltop Rd, Ste 103, Tinker AFB, OK 73145–2713
F34612
C3
97 CONS/CC, 205 South 6th St Bldg 318, Altus AFB, OK 73523–5147
F34650
Q9
OC–ALC/PKO, Bldg 3 7858 Fifth St Ste 1, Tinker AFB, OK 73145–3015
F36629
C7
911 AW/LGC, 316 Defense Ave Ste 101, Corapolis, PA, Pittsburgh IAP–ARS PA 15108–4403
F36700
C8
913 AW/LGC, 1051 Fairchild Street, Willow Grove ARS, PA 19090–5203
F38601
C9
20 CONS/CC, 305 Blue Jay St, Shaw AFB, SC 29152–5320
F38604
T3
USCENTAF, Bldg 1132, Shaw AFB, SC 29152
F38610
CT
437 CONS/LGC, 102 Long Street, Charleston AFB, SC 29404–4829
F39601
CT
28 CONS/CC, 2704 George Dr, Ellsworth AFB, SD 57706–5320
F40600
Q4
AEDC/PK, Bldg 100, 100 Kindel Dr Ste 1335, Arnold AFB, TN 37389–1335
F40650
D1
AEDC/PKP, Bldg 100, 100 Kindel Dr Ste 1332, Arnold AFB, TN 37389–1332
F41608
SA
SA–ALC/PK, Bldg 43, 143 Billy Mitchell Rd, Kelly AFB, TX 78241–6014
F41612
D4
82 CONS/CC, 136 K Avenue Ste 2, Sheppard AFB, TX 76311–2739
F41614
E2
17 CONS/CC, 210 Scherz Boulevard, Goodfellow AFB, TX 76908–4705
F41620
E3
64 CONS/CC, 300 Reese Blvd Ste 7, Reese AFB, TX 79489–5032
F41622
QY
HSC/PKO, Bldg 625, 8005 9th St, Brooks AFB, TX 78235–5353
F41624
TG
HSC/PK, Bldg 626, 8005 9th St, Brooks AFB, TX 78235–5353
F41636
ZV
37 CONS/CC, 1655 Selfridge Avenue, Lackland AFB, TX 78236–5253
F41650
YA
SA–ALC/PKO, Bldg 1598, 1288 Growden Rd, Kelly AFB, TX 78251–5318
F41652
E5
7 CONS/CC, 381 3rd St, Dyess AFB, TX 79607–5320
F41685
E6
47 CONS/CC, 171 Alabama Ave, Laughlin AFB, TX 78843–5102
F41689
SK
AETC CONS/CC, 550 D Street Ste 07, Randolph AFB, TX 78150–4434
F41691
Y0
12 CONS/CC, 395 B Street West Ste 02, Randolph AFB, TX 78150–4525
F42600
QP
OO–ALC/PK, Bldg 1289, 6038 Aspen Ave, Hill AFB, UT 84056–5805
F42610
QP
OO–ALC/LMK, Bldg 1258, 6014 Dogwood Ave, Hill AFB, UT 84056–5821
F42620
QP
OO–ALC/LAK, Bldg 1233, 6072 Fir Avenue, Hill AFB, UT 84056–5820
F42630
QP
OO–ALC/LIK, Bldg 1215, 6050 Gum Lane, Hill AFB, UT 84056–5825
F42650
R2
OO–ALC/PKO, Bldg 1289 NE 6038 Aspen Ave, Hill AFB, UT 84056–5805
F44600
F3
1 CONS/CC, 74 Nealy Ave Ste 109, Langley AFB, VA 23665–2088
F44650
Q1
ACC CONS, 227 Harding Ave Ste 302, Langley AFB, VA 23665
F45603
F5
62 CONS/LGC, 100 Main Street Ste 1049, McChord AFB, WA 98438–1109
F45613
F8
92 CONS/LGC, 110 W Ent St Ste 200, Fairchild AFB, WA 99011–9403
F47606
G7
440 AW/LGC, 300 East College Avenue, Gen. Mitchell IAP–ARS, WI 53207–6299
F48605
G9
90 CONS/LGC, 7505 Marne Loop, F.E. Warren AFB, WY 82005–2860
F49620
SE
AFOSR/PK, Bldg 410, 110 Duncan Ave Ste B115, Bolling AFB, DC 20332–0001
F49642
J1
11 CONS/LGC, 3534 Ohio Dr, Andrews AFB, MD 20331–5152
F61101
T1
Det 1, 21 CONS/CC, APO AE 09710–5000
F61211
N8
31 FW/LGC, Unit 6102, Box 140, Aviano AB APO AE 09601–2140
F61354
W8
741 ABS/LGC, Unit 6870, Box 85, Izmir AB APO AE 09821–7085
F61358
W9
39 CONS/LGC, Unit 730, Box 285, Incirlik AB APO AE 09824–0285
F61503
UC
435 AW/LGC, Unit 7420 Box 115, Rhein Main AB APO AE 09097–0115
F61517
UF
52 CON FLT/LGC, Unit 3910, Bldg 2001, Spangdahlem AB APO AE 09137–3910
F61521
UH, UJ
USAFE CONS/LGC, Unit 3115, Ramstein AB AE 09094–3115
F61708
UK
603 CS/CON, Unit 5500, Bldg 202, RAF Croughton APO AE 09494–5500
F61730
UQ
OL–C 10 LG/LGC, Unit 5720, RAF Upwood APO AE 09470–5720
F61775
UV
48 CONS/LGC, Unit 5070, Box 270, RAF Feltwell APO AE 09461–0270
F61815
UW
496 ABS/LGC, Unit 6585, Moron AB APO AE 09643–6585
F62032
4D
USMTM, Unit 61300 Box 2, APO AE 05862–0837
F62321
RA
18 CONS/LGC, Unit 5199, Kadena AB APO AP 96368–5199
F62509
QZ
35 CONS, Unit 5201, Misawa AB APO AP 96319–5201
F62562
SW
374 CONS/LGC, Unit 5228, Yokota AB AP 96328–5228
F64133
S9
36 CONS/CC, Unit 14040, Anderson AFB APO AP 96543–4040
F64605
TN
15 CONS/LGC, 90 G Street, Hickam AFB, HI 96853–5230
F65501
WF
3 CONS/CC, 6920 12th Street Ste 242, Elmendorf AFB, AK 99506–2570
F65503
WH

354 CONS/LGC, 3112 Broadway Avenue Ste 3, Eielson AFB, AK 99702–1850
F66501
R7
24 CONS/CC, Unit 0550, Howard AFB APO AA 34001–0550
FA0021
HQ AFSOC/LGCX, 100 Bartley St, Hurlburt Field, FL 32544–5273
FA2550
50 LSS/LGC, 300 O'Malley Avenue, Suite 30, Falcom AFB, CO 80912–3030
FA4416
5J
89 CONS/LGC, 1419 Menoher Dr, Andrews AFB, MD 20331–5000
FA4452
RL
AMCCONF/LGCF, 102 E. Martin St., Rm 216, Scott AFB, IL 62225–5015
FA6648
5U
482 LSSQ/LGC, 360 Coral Sea Blvd Rm 112, Homestead ARB, FL 33039–1299
FA6652
E9
924 FW/LGC, PO Box 1460, Del Valle, TX 78617–1460
FA6675
D5
301 LG/LGC, 1710 Burke Ave., NAS Joint Reserve Base, Fort Worth, TX 76127–5200

159. Appendix G to Chapter 2 is amended by revising Part 6, entitled "Defense Logistics Agency Activity Address Numbers" to read as follows:

PART 6—DEFENSE LOGISTICS AGENCY ACTIVITY ADDRESS NUMBERS

SP0100
TW
Defense Personnel Support Center, Directorate of Clothing and Textiles, 2800 South 20th Street, Philadelphia, PA 19109–8419
SP0103
W7
Defense Personnel Support Center, Installation Support, 2800 South 20th Street, Philadelphia, PA 19109–8419
SP0200
TX
Defense Personnel Support Center, Directorate of Medical Materiel, 2800 South 20th Street, Philadelphia, PA 19101–8419
SP0300
UE
Defense Personnel Support Center, Directorate of Subsistence, 2800 South 20th Street, Philadelphia, PA 19101–8419
SP0302
W6
Defense Subsistence Region Pacific, ATTN: DSR–Pacific, 2155 Mariner Square Loop, Alameda, CA 94501–1022
SP0303
U6
Defense Subsistence Region Europe, DSR Europe, APO AE 09052
SP0400
TY
Defense General Supply Center, Business Operations, 8000 Jefferson Davis Highway, Richmond, VA 23297–5770
SP0410
XH
Defense General Supply Center, Base Spt Div, Dir of Spec Proc, 8000 Jefferson Davis Highway, Richmond, VA 23297–5312
SP0411
TY
Defense General Supply Center, Proc Br (ESOC), Customer Asst Ctr, 8000 Jefferson Davis Highway, Richmond, VA 23297–5871
SP0413
TY
Defense General Supply Center, Spec Purchase Br, Prod Ctr Spt Div, 8000 Jefferson Davis Highway, Richmond, VA 23297–5864
SP0414
TY
Defense General Supply Center, SASPS Phase I Br, Prod Ctr Spt Div, 8000 Jefferson Davis Highway, Richmond, VA 23297–5863
SP0420
XK
Defense General Supply Center, DODDS Div., Dir Of Spec Proc, 8000 Jefferson Davis Highway, Richmond, VA 23297–5313
SP0430
TY
Defense General Supply Center, Proc Br, Product Center 5, 8000 Jefferson Davis Highway, Richmond, VA 23297–5813
SP0440
TY
Defense General Supply Center, Proc Br, Product Center 7, 8000 Jefferson Davis Highway, Richmond, VA 23297–5834
SP0441
TY
Defense General Supply Center, Proc Br, Product Center 6, 8000 Jefferson Davis Highway, Richmond, VA 23297–5822
SP0450
TY
Defense General Supply Center, Proc Br, Product Center 4, 8000 Jefferson Davis Highway, Richmond, VA 23297–5800
SP0451
TY
Defense General Supply Center, Proc Br, Product Center 2, 8000 Jefferson Davis Highway, Richmond, VA 23297–5772
SP0460
TY
Defense General Supply Center, Proc Br, Product Center 1, 8000 Jefferson Davis Highway, Richmond, VA 23297–5772
SP0461
TY
Defense General Supply Center, Special Purchase Branch (SPUR), 8000 Jefferson Davis Highway, Richmond, VA 23297–5864
SP0490
TY
Defense General Supply Center, Proc Br, Product Center 1, 8000 Jefferson Davis Highway, Richmond, VA 23297–5846
SP0499
Defense General Supply Center—FCIM, 8000 Jefferson Davis Highway, Richmond, VA 23297–5000
SP0500
TZ
Defense Industrial Supply Center, 700 Robbins Avenue, Philadelphia, PA 19111–5096
SP0510
W2
Defense Industrial Supply Center, Base Operating Support System, 700 Robbins Avenue, Philadelphia, PA 19111–5096
SP0520
Defense Industrial Supply Center, Product Verification Testing Acquisition, 700 Robbins Avenue, Philadelphia, PA 19111–5096
SP0599
Defense Industrial Supply Center—FCIM, 700 Robbins Avenue, Philadelphia, PA 19111–5096
SP0600
UA
Defense Fuel Supply Center, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22304–6160
SP0700
UB
Defense Construction Supply Center, P.O. Box 3990, Columbus, OH 43216–3990
SP0701
Defense Construction Supply Center, Directorate of Contracting and Production, ATTN: DDCO TTC, Bldg 122, Columbus, OH 43216–5000
SP0710
YL
Defense Construction Supply Center, Commercial Activities and Service Branch, P.O. Box 16704, Columbus, OH 43216–5010
SP0720
YM
Defense Construction Supply Center, Wood Products Branch, P.O. Box 16704, Columbus, OH 43216–5010
SP0730
WZ
Defense Construction Supply Center, Military Interdepartmental PR MIPR Division, P.O. Box 3990, Columbus, OH 43216–5000
SP0740
XJ
Defense Construction Supply Center, High Demand Group (MINI–ICP), P.O. Box 3990, Columbus, OH 43216–5000
SP0750
UB
Defense Construction Supply Center, Contracts Division I, P.O. Box 16704, Columbus, OH 43216–5010
SP0760
UB
Defense Construction Supply Center, Contracts Division II, P.O. Box 16704, Columbus, OH 43216–5010
SP0770
UB
Defense Construction Supply Center, Contracts Division III, P.O. Box 16704, Columbus, OH 43216–5010
SP0780
Defense Construction Supply Center, Government Furnished Property Acct,

P.O. Box 16704, Columbus, OH 43216–5000
SP0799
Defense Construction Supply Center—FCIM, P.O. Box 3990, Columbus, OH 43216–5000
SP0833
VS
Defense National Stockpile Center, 8725 John J. Kingman Road, Suite 3339, Fort Belvoir, VA 22060–6223
SP0834
VT
Defense National Stockpile Center, Zone 1—Management Office, Room 19–116, 26 Federal Plaza, New York, NY 10278–5000
SP0835
VU
Defense National Stockpile Center, Zone 2—Management Office, 3200 Sheffield Avenue, Hammond, IN 46327–5000
SP0836
VY
Defense National Stockpile Center, Zone 3—Management Office, 819 Taylor Street, Fort Worth, TX 76102–5000
SP0900
UD
Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, OH 45444–5000
SP0905
Defense Electronics Supply Center, Passive Devices Division, 1507 Wilmington Pike, Dayton, OH 45444–5198
SP0910
U7
Defense Electronics Supply Center, Base Contracting Section, 1507 Wilmington Pike, Dayton, OH 45444–5000
SP0920
W4
Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, OH 45444–5198
SP0930
Defense Electronics Supply Center, Switches Division, 1507 Wilmington Pike, Dayton, OH 45444–5198
SP0935
Defense Electronics Supply Center, Connectors Division, 1507 Wilmington Pike, Dayton, OH 45444–5198
SP0960
Defense Electronics Supply Center, Active Devices Division, 1507 Wilmington Pike, Dayton, OH 45444–5198
SP0970
Defense Electronics Supply Center, ADP/Communications Division, Dayton, OH 45444–5198
SP0980
Defense Electronics Supply Center, Tailored Logistics Acquisitions, 1507 Wilmington Pike, Dayton, OH 45444–5198
SP0999
Defense Electronics Supply Center—FCIM, 1507 Wilmington Pike, Dayton, OH 45444–5160
SP3100
WX
Defense Distribution Region East (DDRE), Office of Contracting, New Cumberland, PA 17070–5001
SP3200
TV
Defense Distribution Region West (DDRW), Office of Contracting, Building S–4, Lathrop, CA 95330–5000
SP3500
UN
Defense Distribution Region East (DDRE), Office of Contracting, New Cumberland, PA 17070–5001
SP4400
X1
Defense Reutilization Marketing Service, Federal Center, 74 Washington Avenue North, Battle Creek, MI 49017–3092
SP4410
X1
Defense Reutilization Marketing Service, Special Contracts Division, ATTN: DRMS–PP, Federal Center, 74 Washington Avenue North, Battle Creek, MI 49017–3092
SP4700
YK
Defense Logistics Agency, ADP Telecommunications Contracting Office, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221
SP4800
Defense Logistics Agency, Office of Small and Disadvantaged Business Utilization, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221
SBL00A
MJ
DCMAO Brussels/Emb, PSC 82, Box 002, APO AE 09724
SCN01A
WV
DCMAO Canada, 275 Bank Street, Suite 200, Ottawa, ON Canada K2P
SGR18A
DCMAO Frankfurt, CMR 410, Box 761, APO AP 09096
SJP10A
Y9
DCMAO 6TSUGI Japan, PSC 477, Box 39, APO AP 96306–2739
SKR05A
R1
DCMAO Korea, Unit 2000, APO AE 96214–5000
SM104A
XC
DCMAO Kuala Lumpur, American Embassy, APO AP 96535–5000
SPH07A
DCMAOR Manila, APO CA, San Francisco, CA 96440
SPR01A
QF
DCMAO Puerto Rico, P.O. Box DLA (NSGA), FPO AA 34053–0007
SPR02A
DCMAOR Alverca, Alverca Portugal, APO PO 09726
SSR01A
YE
DCMAO Israel, Unit 228, APO AE 09830–7228
STR02A
TQ
DCMAO Ankara, Unit 9050, APO AE 09822–9050
SUK12A
VN
DCMAO United Kingdom, Unit 4790, APO AE 09449–4790
S0102A
WA
DPRO Pemco Aeroplex, Inc., P.O. Box 12447, Birmingham, AL 35202–2447
S0302A
WY
DCMAO Phoenix, The Monroe School; 215 North 7th Street, Phoenix, AZ 85034–1012
S0304A
TR
DPRO McDonnell Douglas Helicopter, 5000 East McDowell Road, Mesa, AZ 85025–9797
S0305A
5R
DPRO Hughes, Tucson, P.O. Box 1137 M/S E–4, Tucson, AZ 85734–1337
S0506A
WL
DCMD West, 222 North Sepulveda Boulevard, El Segundo, CA 90245–4320
S0507A
XR
DCMAO San Francisco, 1250 Bayhill Drive, San Bruno, CA 94066–3070
S0512A
YC
DCMAO Van Nuys, 6230 Van Nuys Boulevard, Van Nuys, CA 91401–2713
S0513A
UG
DCMAO Santa Ana, 34 Civic Center Plaza, P.O. Box C 12700, Santa Ana, CA 92712–2700
S0514A
VH
DCMAO San Diego, 7675 Dagget Street, Suite 200, San Diego, CA 92111–2241
S0520A
VR
DPRO United Defense, California, 1125 Coleman Avenue, P.O. Box 367, San Jose, CA 95103–0367
S0523A
YG
DPRO Westinghouse, 401 East Hendy Avenue, P.O. Box 3499, M/S 11–7, Sunnyvale, CA 94088–3499
S0530A
X9
DPRO McDonnell Douglas, Space Systems Company, 5301 Bolsa Avenue, Huntington Beach, CA 92647–2048
S0533A
XG
DPRO Hughes, Fullerton, 1901 West Malvern Street, P.O. Box 3310, Fullerton, CA 92634–3310
S0539A
QT
DPRO Hughes, Los Angeles, P.O. Box 92463, Los Angeles, CA 90009–2463
S0540A
RB
DPRO Rockwell, Anaheim, 3370 Miraloma Avenue, M/S AB02A, Anaheim, CA 92803–3110
S0542A
RY

DPRO Rockwell, Canoga Park, 6633 Canoga Avenue, Canoga Park, CA 91303–2790
S0543A
QX
DPRO Lockheed, Sunnyvale, P.O. Box 3504, Sunnyvale, CA 94088–3504
S0544A
TC
DPRO Douglas, Long Beach, 3855 Lakewood Boulevard, Long Beach, CA 90846–0001
S0545A
5B
DPRO TRW, Redondo Beach, One Space Park, Redondo Beach, CA 90278–1078
S0546A
QR
DPRO Northrop, Hawthorne, One Northrop Avenue, Hawthorne, CA 90250–3296
S0602A
VK
DCMAO Denver, Orchard Place 2, Suite 200, 5975 Greenwood Plaza Boulevard, Englewood, CO 80111–4715
S0605A
RE
DPRO Martin Marietta, Denver, P.O. Box 179, Denver, CO 80201–0179
S0701A
WB
DCMAO Hartford, 130 Darlin Street, East Hartford, CT 06108–3234
S0702A
UP
DCMAO Stratford, 555 Main Street, Stratford, CT 06497–7593
S0703A
XT
DPRO Hamilton Standard, 1 Hamilton Road, Windsor Locks, CT 06096–0463
S0707A
LF
DPRO UTC Sikorsky Aircraft Division, Stratford, CT 06497–7553
S0708A
T5
DPRO Pratt & Whitney, East Hartford, 400 Main Street, East Hartford, CT 06108–0969
S1002A
WW
DCMAO Orlando, 3555 Maguire Boulevard, Orlando, FL 32803–3726
S1005A
XL
DPRO Martin Marietta, Orlando, 5600 Sand Lake Road, MP49, Orlando, FL 32819–8907
S1009A
V1
DPRO Harris, Melbourne, 1425 Troutman Boulevard, NE, Palm Bay, FL 32905–4102
S1011A
T2
DPRO Pratt & Whitney, West Palm Beach, P.O. Box 109600, West Palm Beach, FL 33410–9600
S1102A
UL
DCMD South, 805 Walker Street, Marietta, GA 30060–2789
S1103A
Y1
DCMAO Atlanta, 805 Walker Street, Marietta, GA 30060–2789
S1109A
Z4
DCMAO Clearwater, 1100 Cleveland Street, Suite 200, Clearwater, FL 34615–4822
S1110A
Z5
DPRO Grumman, St. Augustine, 5000 US Highway 1, North, P.O. Drawer 3447, St. Augustine, FL 32085–3447
S1111A
RK
DPRO Lockheed Aeronautical Systems Co.—Georgia, 86 South Cobb Drive, Bldg B–2, Marietta, GA 30063–0260
S1201A
Z9
DCMAO Residency, Honolulu, Box 64110, Camp HM Smith, Honolulu, HI 96861–4110
S1211A
U8
DCMC Aircraft Program Management Office, 805 Walker Street, Marietta, GA 30060–2789
S1221A
X5
DPRO Grumman, P.O. Box 9650, Melbourne, FL 32902–9650
S1403A
YP
DCMAO Chicago, O'Hare International Airport, P.O. Box 66911, Chicago, IL 60666–0911
S1501A
WG
DCMAO Indianapolis, Building 1, Fort Benjamin Harris, IN 46249–5701
S1505A
X2
DPRO Magnavox, 1616 Directors Row, Fort Wayne, IN 46808–1286
S1701A
YD
DCMAO Wichita, U.S. Courthouse, Suite B–34, 401 North Market, Wichita, KS 67202–2095
S1702A
RP
DPRO Boeing Military Airplanes, P.O. Box 7723, Wichita, KS 67277–7723
S1903A
DPRO Michoud, 13800 Old Gentilly Hwy, Building 350, P.O. Box 29503, New Orleans, LA 70189–0503
S2102A
7H
Defense Contract Management Residency, 895 Oceanic Drive, P.O. Box 1488, Annapolis, MD 21401–1488
S2103A
S2
DPRO Westinghouse Electric—Baltimore, P.O. Box 1693, M/S 1265, Baltimore, MD 21203–1693
S2202A
UT
DCMD Northeast, 495 Summer Street, Boston, MA 02210–2184
S2203A
XX
DPRO GTE Government Systems Corp, 200 First Avenue, Needham, MA 02194–9123
S2205A
XF
DPRO Raytheon, Spencer Laboratory, Wayside Avenue, Burlington, MA 01803–0901
S2206A
Y3
DCMAO Boston, 495 Summer Street Boston, MA 02210–2138
S2207A
7Q
DPRO GE Aircraft Engines, Lynn, 1000 Western Avenue, Lynn, MA 01910–0445
S2208A
NJ
DPRO Martin Marietta Defense Systems, 100 Plastics Avenue, Pittsfield, MA 01201–3696
S2209A
SQ
DPRO Textron Defense Systems, 201 Lowell Street, Wilmington, MA 01887–2941
S2303A
VW
DCMAO Grand Rapids, Riverview Center Building, 678 Front Street, NW, Grand Rapids, MI 49504–5352
S2305A
Y7
DCMAO Detroit, McNamara Federal Building, 477 Michigan Avenue, Detroit, MI 48226–2579
S2401A
WQ
DCMAO Twin Cities, 2305 Ford Parkway, St. Paul, MN 55116–1893
S2402A
WD
DPRO Honeywell/Alliant Techsystems, Honeywell Plaza, 2701 4th Avenue, South Minneapolis, MN 54408–1792
S2404A
UR
DCMAO Baltimore, 200 Towsontown Boulevard, West, Towson, MD 21204–5299
S2603A
X5
DCMAO St Louis, 1222 Spruce Street, St. Louis, MO 63103–2811
S2606A
JZ
DPRO McDonnell Douglas, St. Louis, P.O. Box 516, St. Louis, MO 63166–0516
S3001A
YS
DPRO Lockheed Sanders, Inc., Daniel Webster Highway, South, P.O. Box 868, Nashua, NH 03061–0868
S3101A
WT
DCMAO Springfield, 955 South Springfield Avenue, Springfield, NJ 07081–3170
S3102A
UU
DPRO Allied Signal, Route 46, Teterboro, NJ 07608–1173
S3109A
WC
DPRO GEC/Kearfott, 164 Totowa Road, MS 11A30, Wayne, NJ 07474–0975
S3110A
X7
DPRO GE Aerospace, Marne Highway and Borton Landing Road, Moorestown, NJ 08057–3095
S3304A
XQ

DPRO Link Flight Simulation, Kirkwood Plant, P.O. Box 1237, Binghamton, NY 13902–1237
S3306A
XU
DCMAO Syracuse, 615 Erie Boulevard West, Syracuse, NY 13204–2408
S3309A
VX
DCMAO Garden City, 605 Stewart Avenue, Garden City, NY 11530–4761
S3314A
YN
DPRO Harris, 6801 Jericho Turnpike, Syosset, NY 11791–4465
S3315A
YR
DPRO IBM, Route 17C, Owego, NY 13827–1298
S3316A
KK
DPRO Grumman Aerospace, Bethpage, Bethpage, NY 11714–3593
S3317A
NH
DPRO Unisys, Great Neck, Long Island, Great Neck, NY 11020–7001
S3602A
SB
DPRO GE Aircraft Engines, Evendale, Mail Drop N–1, Cincinnati, OH 45215–6303
S3603A
VB
DCMAO Cleveland, A J Celebrezze Federal Building, 1240 East Ninth Street, Cleveland, OH 44199–2063
S3605A
VL
DCMAO Dayton, Gentile Station, 1001 Hamilton Street, Dayton, OH 45444–5300
S3613A
YB
DPRO Westinghouse, Cleveland, 18901 Euclid Avenue, Cleveland, OH 44117–1300
S3615A
YH
DPRO Williams International, c/o Williams International Corporation, 2280 West Maple Road, Walled Lake, MI 48088–0200
S3616A
X6
DPRO Loral, 1210 Massillon Road, Akron, OH 44315–0001
S3618A
YF
DPRO General Dynamics, Lima, 1155 Buckeye Road, Lima, OH 45804–1898
S3620A
VA
Defense Contract Management Command, International Contracts Division, 2000 Hamilton Street, Dayton, OH 45444–5410
S3910A
XA
DCMD Mid-Atlantic, P.O. Box 7478, Philadelphia, PA 19101–7478
S3911A
XD
DCMAO Pittsburgh, 1612 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222–4190
S3912A
XM
DCMAO Reading, 45 South Front Street, Reading, PA 19602–1094
S3915A
X3
DCMAO Philadelphia, P.O. Box 7699, Philadelphia, PA 19101–7699
S3916A
TU
DPRO Boeing Helicopters, P.O. Box 16859, Philadelphia, PA 19142–0859
S4201A
XY
DPRO United Defense L.P., P.O. Box 15512, York, PA 17405–1512
S4402A
Z7
DCMAO Dallas, 1200 Main Street, Dallas, TX 75202–4399
S4404A
XN
DCMAO San Antonio, 615 East Houston, P.O. Box 1040, San Antonio, TX 78294–1040
S4407A
WN
DPRO E-Systems, Inc., P.O. Box 6379, Greenville, TX 75403–6379
S4408A
XZ
DPRO Texas Instruments, Inc., P.O. Box 660246, MS 256, Dallas, TX 75266–0246
S4418A
W1
DPRO Bell Helicopter Textron, P.O. Box 1605, Fort Worth, TX 76101–1605
S4419A
SL
TH
DPRO Lockheed, Fort Worth, P.O. Box 371, Fort Worth, TX 76101–0371
S4420A
WP
DPRO Loral/Vought Systems, P.O. Box 655907, M/S 4915, Dallas, TX 75265–5907
S4503A
R6
DPRO Thiokol, P.O. Box 524, Mail Stop Z–10, Brigham City, UT 84302–0524
S4801A
XW
DCMAO Seattle, Building 5D, Naval Station Puget Sound, Seattle, WA 98115–5010
S4804A
SP
DPRO Boeing, Seattle, P.O. Box 3707, Seattle, WA 98124–2207
S4807A
WM
DPRO, Stewart and Stevenson, Inc., 5000 Interstate 10 West, P.O. Box 457, Sealy, TX 77474–0457
S4804A
SP
DPRO Boeing, Seattle, P.O. Box 3707, Seattle, WA 98124–2207
S4807A
WM
DPRO, Stewart and Stevenson, Inc., 5000 Interstate 10 West, P.O. Box 457, Sealy, TX 77474–0457

160. Appendix G to Chapter 2 is amended by revising Part 7, entitled "Defense Information Systems Agency Activity Address Numbers" to read as follows:

PART 7—DEFENSE INFORMATION SYSTEMS AGENCY ACTIVITY ADDRESS NUMBERS

DCA100
VC
Defense Information Systems Agency, Contract Management Division, ATTN: PM, 701 South Courthouse Road, Arlington, VA 22204–2199——(ZD10)
DCA200
VP
Defense Commercial Communications Office, Directorate of Plans and Policy, ATTN: DITCO–RP, 2300 East Drive, Scott AFB, IL 62225–5406——(ZD11)
DCA300
1F
DITCO-PAC/RUS, ATTN: RU, 99–080 Kauhale Street, Building C, Suite 2, Aiea, HI 96701–4104——(ZD13)
DCA400
WK
DECCO—Europe, ATTN: RS, Unit 4235, Sembach Air Base, APO AE 09136——(ZD14)
DCA500
KH
DECCO—Alaska, ATTN: RT, 9864 L Street, Suite 201, Elmendorf AFB, AK 99506–2615——(ZD15)
DCA600
Y5
DISA/DITPRO, Office of Acquisition, ATTN: OA, 148 Redman Street, Fort Ritchie, MD 21719–3201——(ZD16)

161. Appendix G to Chapter 2 is amended by revising Part 8, entitled "Defense Mapping Agency Activity Address Numbers" to read as follows:

PART 8—DEFENSE MAPPING AGENCY ACTIVITY ADDRESS NUMBERS

DMA100
BQ
Defense Mapping Agency, Acquisition and Technology Procurement, ATTN: PCA/D–88, 4600 Sangamore Road, Bethesda, MD 20816–5003——(ZM100)
DMA201
Y2
Defense Mapping Agency, Micro Purchasing Operations (East), ATTN: PCC–E/D–6, 4600 Sangamore Road, Bethesda, MD 20816–5003——(ZM21)
DMA202
Z2
Defense Mapping Agency, Micro Purchasing Operations (West), ATTN: PCC–W/L–13, 3200 South Second Street, St. Louis, MO 63118–3399——(ZM22)
DMA301
V2
Defense Mapping Agency, Operations Group Procurement (East), ATTN: PCG–E/D–5, 4600 Sangamore Road, Bethesda, MD 20816–5003——(ZM31)
DMA302
YQ
Defense Mapping Agency, Operations Group Procurement (West), ATTN: PCG–W/L–13, 3200 South Second Street, St. Louis, MO 63118–3399——(ZM32)
DMA401
BY
Defense Mapping Agency, Installations Procurement (East), ATTN: PCI–E/D–6, 4600 Sangamore Road, Bethesda, MD 20816–5003——(ZM41)
DMA402
Defense Mapping Agency, Installations Procurement (West), ATTN: PCI–W/L–13, 3200 South Second Street, St. Louis, MO 63118–3399——(ZM42)

162. Appendix G to Chapter 2 is amended by revising in Part 9, entitled "Defense Nuclear Agency Activity Address Numbers" the ATTN line and the address in the activity address number "DNA002—0N to read: "ATTN: Acquisition Management Office (FCA), 1680 Texas Street, S.E., Kirtland AFB, NM 87115–5669 (ZD31)."

163. Appendix G to Chapter 2 is amended by revising Part 10, entitled "Miscellaneous Defense Activities Activity Address Numbers" to read as follows:

PART 10—MISCELLANEOUS DEFENSE ACTIVITIES ACTIVITY ADDRESS NUMBERS

MDA112
E0
T–ASA, Sacramento Contracting Office, 3116 Peacekeeper Way, McClellan AFB, CA 95652–1068——(ZP12)
MDA113
VE
T–ASA, March Contracting Office, 1363 Z Street, March AFB, GA 92518–2717——(ZP13)
MDA114
VV
T–ASA, Alexandria Contracting Office, 601 North Fairfax Drive, Suite 311, Alexandria, VA 22314–2007——(ZP14)
MDA410
DR
DoDDS, ATTN: Procurement Division, 4040 North Fairfax Drive, 8th Floor, Arlington, VA 22203–1635——(ZK10)
MDA412
9Y
DoDDs, European Procurement Office, Unit 29649, Box 4000, APO AE 09096——(ZK12)
MDA414
Y4
DoD Education Activity, Education Supplies Procurement Office, ATTN: DGSC–ED, 8000 Richmond Highway, Richmond, VA 23297–5320——(ZK14)
MDA416
YT
DoD Education Activity, Pacific Procurement Office, PSC 556, Box 796, FPO, AP 96386–0796——(ZK16)
MDA904
Maryland Procurement Office, ATTN: N363, 9800 Savage Road, Fort George G. Meade, MD 20755–6000——(ZD04)
MDA905
B4
Uniformed Services University of the Health Sciences, ATTN: Directorate of Contracting, 4301 Jones Bridge Road, Bethesda, MD 20814–4799——(ZD05)
MDA906
Office for the Civilian Health & Medical Program of the Uniformed Services (CHAMPUS), ATTN: Contract Management Division, Building 222, East Harlow Avenue, FAMC, Aurora, CO 80045–6900——(ZD06)
MDA907
Purchasing and Contracting Office, Menwith Hill Station, APO AE 09210——(ZD07)
MDA908
2X
Virginia Contracting Activity, ATTN: DAP, P.O. Box 46563, Washington, DC 20050–6563——(ZD50)
MDA925
Armed Forces Radiobiology, Research Institute, ATTN: Acquisition Management Office, 8901 Wisconsin Avenue, Bethesda, MD 20889–5603——(ZD28)
MDA946
WHS Contracting Office, Real Estate Facilities Directorate, ATTN: Director, Procurement & Contracts, 1155 Defense Pentagon, Room 1D198, Washington, DC 20301–1155——(ZD46)
MDA972
WS
ARPA Contract Management Office, 3701 North Fairfax Drive, Arlington, VA 22203——(ZD72)

164. Appendix G is to Chapter 2 is amended by adding "Part 14, United States Special Operations Command Activity Address Numbers" to read as follows:

PART 14—UNITED STATES SPECIAL OPERATIONS COMMAND ACTIVITY ADDRESS NUMBERS

USZA22
2U
USSOCOM Headquarters, Directorate of Procurement, 7701 Tampa Point Boulevard, MacDill AFB, FL 33621–5323——(ZA22)
USZA24
USSOCOM, 24th STS, ATTN: MS–Z, Pope AFB, NC 28308–5000——(ZA24)
USZA90
USSOCOM, JSOC, P.O. Box 70329, Fort Bragg, NC 28307–5000——(ZA90)
USZA91
USSOCOM, SOTF, ATTN: Contracting, P.O. Box 70660, Fort Bragg, NC 28307–5000——(ZA91)
USZA92
1F
USSOCOM, USASOC, ATTN: AOCO, Fort Bragg, NC 28307–5200——(ZA92)
USZA95
1A
USSOCOM, TAKO, Contracting Division, ATTN: AMSAT–D–TK, 4300 Goodfellow Boulevard, St. Louis, MO 63120——(ZA95)
USZA92
1F
US Special Operations Command—USASOC, ATTN: AOCO, Fort Bragg, NC 28307–5200——(ZA92)
USZA95
1A
US Special Operations Command—TAKO, Contracting Division, ATTN: AMSAT–D–TK, 4300 Goodfellow Boulevard, St. Louis, MO 63120——(ZA95)

[FR Doc. 95–29187 Filed 11–29–95; 8:45 am]
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Part III

Department of Justice

Immigration and Naturalization Service

8 CFR Part 274a

Demonstration Project Concerning Electronic Options for Processing of Forms I–9; Proposed Rule

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 274a

[INS No. 1713–95]

RIN 1115–AB73

Demonstration Project Concerning Electronic Options for Processing of Forms I–9

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice inviting submission of applications.

SUMMARY: The Commissioner of the Immigration and Naturalization Service (Service) invites applications from businesses, consortium of businesses, other employing entities interested in participating in a demonstration project dealing with the electronic production and/or storage of a Form I–9, Employment Eligibility Verification Form. This notice and proposed demonstration project are the result of numerous inquiries made by members of the business community expressing a desire to electronically produce and/or store the Form I–9. If the project is found to be successful, changes to existing regulations governing the methods of production, completions, storage, and output of the Form I–9 will be promulgated.

DATES: Written applications, responding to all of the Application Requirements and Criteria cited in this notice, must be submitted on or before January 29, 1996.

ADDRESSES: Please submit an original application and five copies to the Immigration and Naturalization Service, 425 I Street, NW., Room 1000, Washington, DC 20536 Attention: Form I–9 Demonstration Project.

FOR FURTHER INFORMATION CONTACT: Robert Atwater, Immigration and Naturalization Service, 425 I Street, NW., Room 1000, Washington, DC 20536, telephone (202) 514–2998.

SUPPLEMENTARY INFORMATION:

Statutory Authority

Pursuant to the authority contained in Section 274A(d)(4) of the Immigration and Nationality Act, the Service plans to conduct a demonstration project to test different methods of electronic preparation, completion, storage, and output of the Employment Eligibility Verification Form (Form I–9).

Purpose

The purpose of this demonstration project is to investigate and test various technologies which would provide both the private sector and the Government with electronic alternatives to paper Forms I–9 which will address compliance and enforcement needs under the Immigration and Nationality Act.

Goals

- To assess existing technologies for electronic preparation, completion, storage, and/or output of Forms I–9.
- To develop prototype processes.
- To identify specific technological standards for electronic Form I–9 processes.
- To draft legislative and/or regulatory proposals which would allow for implementation of an electronic Form I–9 process on a national scale.

Application Requirements and Criteria

No specific application form has been designed for this demonstration project; however, applicants must follow the format prescribed in Section III below.

Applicants may wish to refer to the Federal "Guidelines for Security of Computer Applications," FIPS Publication 73.

I. Eligibility for Participation

Any business, consortium of businesses, or other employing entities, may submit an application for participation in the demonstration project provided they, or a client business for which they provide Form I–9 services, meet the following criteria: they have been in operation at least 1 year; have at least 100 employees, either at one or multiple locations; have their headquarters in the United States; have or are able to have available the resources to begin their demonstration project within 3 months of approval; and agree to participate in the an evaluation of the project (through reporting mechanisms as well as on-site reviews).

II. Project Restrictions

The Service will not, at this time, entertain approaches which include the use of an electronic identifier, e.g. PIN number, without an associated written signature. Companies proposing to electronically generate or store Forms I–9 and/or related signatures should include samples of computer-generated signatures and associated originals for evaluation by the Service's Forensic Document Lab.

Scanned signatures must be of photographic quality. Handwritten signatures made with black ballpoint pen on white paper forms, scanned at a minimum resolution of 600 horizontal × 1200 vertical dots per inch (DPI) optical resolution (color) with output resolution of 1200×1200 DPI and produced by a printer at a minimum of 512 lines per inch (LPI) on photographic (dry silver) paper, or 600 DPI on a laser jet printer, may produce a signature acceptable for INS forensic examination as long as magnetic disk (3.5") containing 600×1200 DPI color optical resolution with output resolution of 1200×1200 DPI scanned image is available. Compression of the scanned image on the disk will not be acceptable; image must be in a Tagged-image file format (TIF).

Participants will be required to retain hard copies of the Forms I–9 for a specified term.

III. Information To Be Included in the Application

A. A company profile should be provided to include: The company name; headquarters address; listing of additional company locations, if any; number of employees (total and/or number by location); average number of new hires per year; if the data is available, the average number of reverifications per year; and the name and phone number of the company contact for this project.

B. A brief summary of the approach described in the application. Such a summary may be published in the **Federal Register** notice announcing the implementation of the demonstration project.

C. The company's plan describing, in as much detail as possible, the method to be employed to electronically prepare, complete, store, and/or output Forms I–9. (Your need only address the areas which your company would be interested in pursuing).

1. Describe the process from completion of the Form I–9 by the employee and employer to storage.

2. Indicate measures to be taken to ensure the integrity of the employment verification process as outlined in Title 8 of the Code of Federal Regulations, Part 274a. Include issues such as the provision of the Form I–9 instructions and the listing of acceptable documents to all employees during the verification process.

3. Discuss the scope of the project within your company and clearly indicate whether or not all new hires and reverifications will be included in this process.

4a. Discuss the type of equipment and software which will be used and describe the information flow of the system (i.e., how the new process would work compared to the present manual/paper-based process).

b. Discuss the number of staff resources which will be used to support the initiatives being proposed. If it will be necessary for your company to acquire additional or specialized equipment and/or staff for the purposes of this initiative, provide the costs and timeframe associated with this effort.

c. Include a process map and/or flow chart of system operation; description of data elements; description and specification of the software to be used; and specifications for all equipment devices (input scanner, storage device, etc.).

5. Describe the specific Form I–9 data which will be capture electronically; where and how it will be stored; procedures for ensuring the integrity of the database; where and how data will be output; what the methods and timeframes will be for electronic record retention and disposal; and what, if any, hardcopy versions of the Form I–9 will be used in the process. If electronic signatures are a component of the proposal, describe how the electronic signature will be linked to a physical signature by the same individual (refer to Section II. Project Restrictions, above).

6. Explain plans for internal assessment of the project's performance throughout the demonstration period.

D. If any provisions of the current regulations will need to be waived for purposes of the demonstration, describe these and also explain how your proposed process would achieve the same purpose as the existing regulations.

E. Describe the electronic access which will be available if your company is proposing to digitally store data.

F. Identify accompanying recordkeeping procedures which would allow the Government to verify the signature and date of the form's preparation, revision, and/or updating.

G. Provide a brief analysis of the cost and benefits associated with the electronic Form I–9 process being proposed.

IV. Criteria to be Used to Evaluate Applications

A. Eligibility under the requirements set forth in Item I of this notice (10 percent);

B. Comprehensiveness and quality of the application, particularly with respect to the integrity of the verification process and the security of the proposed system (22 percent);

C. Likelihood of the system to gain widespread adoption and acceptance, as reflected in the technology, start-up costs, and cost-benefit analysis (20 percent);

D. Likelihood of the system to facilitate compliance with the verification process and to permit the Government to independently review the employer's compliance with the law, as reflected in the proposed audit trail and methods of providing Government access (22 percent);

E. The company's ability, as described in the application, to: ensure that all activities described in its plan are performed in accordance with the applicant's proposal, be able to implement its proposal within 3 months of approval, and commit to at least 24 months participation in the project (10 percent);

F. The number of new hires/verification transactions per year (3 percent);

G. Achievement of a mix of technologies and procedures (10 percent); and

H. In the event the Service receives a number of equally qualified applications, preference may be given based upon the date the application was received (3 percent).

An applicant's failure to adequately address evaluation criteria A–F may result in denial of the application.

The final review panel will be composed of no fewer than five members with experience in information systems, forensic document examinations, investigations, and legal compliance. They will recommend, to the Commissioner of the Immigration and Naturalization Service (Commissioner), no more than 20 applicants for participation in the demonstration project. The final decision will be made by the Commissioner. Applications which are not approved for this demonstration project will be retained for possible future consideration.

The Service will endeavor to complete the evaluation process and make final participant selections within 3 months following the close of the application period. Participants will be required to enter into a Memorandum of Understanding with the Service. All participants in the demonstration project will be advised that their involvement in the project will not preclude the Government from conducting compliance audits and any other enforcement actions.

OMB Reporting Burden

The public reporting burden for this collection of information is estimated to be 23 hours, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Please send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Immigration and Naturalization Service, 425 I Street, NW, HQPDI, Room 5307, Washington, DC 20536. These requirements have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act, and are recorded as OMB Control Number 1115–0198, with an expiration date of 9–30–98.

Dated: November 22, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 95–29128 Filed 11–29–95; 8:45 am]

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Part IV

Department of Housing and Urban Development

Notice of Request for Cooperative Agreement Applications for the Community Renaissance Fellows Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Policy Development and Research

[Docket No. FR–3960–N–01]

Notice of Request for Cooperative Agreement Applications for the Community Renaissance Fellows Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of request for cooperative agreement applications.

SUMMARY: The Department is seeking applications from public and private universities in order to provide funding to develop and implement the educational component of HUD's new Community Renaissance Fellows Program. The program will place 20 Fellows in distressed public housing developments undergoing conversion, for example, to mixed-income or mixed-use projects. HUD hopes, with the assistance of private foundations, to place additional Fellows in comparable projects being undertaken by community development corporations.

DATES: *Application deadline.* Applications must be physically received at the address shown in the ADDRESSES section of this notice by 4:30 p.m. Eastern Standard Time on February 15, 1996. *Applications faxed to this address will not be accepted.* The above-stated deadline date is *firm* as to *date, hour* and *place.* In the interest of fairness to all competing applicants, the Department will treat as *ineligible for consideration* any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

Application kits may be requested from the address listed in the **ADDRESSES** section of this notice.

Bidder conference date. HUD will be holding a "bidders" conference to explain, in more detail, the background behind this solicitation and clarify application requirements. The conference will be held on January 11, 1996. All interested applicants are encouraged to attend this conference. For more information about this conference, please call Jane Karadbil at (202) 708–1537 (this is not a toll free number), or for the hearing impaired, TDD 1–800–877–TDDY.

ADDRESSES: *To obtain application kit.* To obtain a copy of the application kit, contact: Jane Karadbil, Office of University Partnerships in the Office of Policy Development and Research, U.S. Department of Housing and Urban Development, 451 7th Street S.W., Room 8110, Washington, D.C. 20410. Requests for application kits must be in writing, but requests may be faxed to Ms. Karadbil at (202) 708–5536. (This is not a toll free number.) Requests for application kits must include the applicant's name, mailing address (including zip code), and telephone number (including area code).

To submit applications. Applications must be physically received by the Office of University Partnerships, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, in care of the Division of Budget, Contracts, and Program Control, in Room 8230 by 4:30 pm. Eastern Standard Time on February 15, 1996. *Applications faxed to this address will not be accepted.*

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships in the Office of Policy Development and Research, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Room 8110, Washington, DC 20410. Telephone number (202) 708–1537 voice (this is not a toll free number); 1–800–877–TDDY (TDD). Ms. Karadbil can also be contacted via the Internet at Jane_K_●Karadbil@hud.gov.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB), under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), and assigned OMB Control Number 2535–0084.

II. General Information

Today's urban professional graduates do not have the education or skills to undertake complex, multi-disciplinary community building projects—from loan packaging, to design skills, to community organization to create real working partnerships with neighborhood residents, to securing the necessary social services to promote self-sufficiency. And, too often, the brightest and the best of America's young urban professionals do not view local governments, public housing agencies, and community-based organizations as desirable employers, nor distressed neighborhoods as places to apply their creativity. These graduates are knowledgeable in the traditional methods of community revitalization but need additional skills to become visionary community builders, and they need an incentive to change the trajectory of their career paths from "real estate" to community building.

At present there are no graduate programs or fellowships to promote comprehensive community building approaches. As the Federal agency charged with nurturing and sustaining urban neighborhoods, HUD has decided to take a catalyzing role in creating mechanisms to develop these skills. The paucity of these kinds of professionals has created a bottleneck in implementing important HUD programs.

HUD is creating the Community Renaissance Fellowship program to (1) meet this pressing need and (2) to support a new generation of visionary, highly competent community building urban professionals. HUD seeks to foster a cadre of professionals who can take the practical experience gained working on community building and revitalization in distressed public housing projects and urban neighborhoods and transfer these skills to other complex neighborhood development projects. HUD will be funding 20 Fellows for two-year Fellowships at a cost of $3 million (from technical assistance funding under the Public Housing Modernization Technical Assistance program authorized by the Department's FY 1995 Appropriations Act, Pub. L. 103–327, September 28, 1994) for their stipends and other expenses. These Fellows will be placed in distressed public housing developments undergoing conversion, for example, to mixed-income or mixed-use projects. HUD has also reached out to private foundations with a stake in urban neighborhoods to become potential partners and hopes to receive funding for up to an additional 20 Fellows. These Fellows will be placed in community development corporations undertaking similar large-scale urban physical and human development projects.

Since community building skills are evolving, there is a need to ensure that the Fellows benefit from up-to-date information and thinking on revitalization issues. Thus, there will be a strong educational component to the program. The education the Fellows receive will be provided through the highest quality courses and most respected participating faculty in the country. Over the two years, the Fellows will receive the equivalent of more than one full-time semester of additional professional education in community-building skills.

Subject to funding availability, HUD will be awarding a cooperative agreement to a nationally known university to design an entirely new path-breaking curriculum for the education component for the Fellows program and offer it to the Fellows.

The university selected must demonstrate that it currently offers graduate courses in real estate and provides interdisciplinary practical experiences for its graduate students.

Dated: November 22, 1995.

Michael A. Stegman,

Assistant Secretary for Policy Development and Research.

[FR Doc. 95–29228 Filed 11–29–95; 8:45 am]

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Part V

Department of Health and Human Services

Food and Drug Administration

Immediate Release Solid Oral Dosage Forms; Scale-Up and Postapproval Changes: Chemistry, Manufacturing, and Controls; In Vitro Dissolution Testing; In Vivo Bioequivalence Documentation; Guidance; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95D–0349]

Immediate Release Solid Oral Dosage Forms; Scale-Up and Postapproval Changes: Chemistry, Manufacturing, and Controls; In Vitro Dissolution Testing; In Vivo Bioequivalence Documentation; Guidance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a guidance entitled "Immediate Release Solid Oral Dosage Forms; Scale-Up and Postapproval Changes: Chemistry, Manufacturing, and Controls; In Vitro Dissolution Testing; In Vivo Bioequivalence Documentation." The guidance sets forth application information that should be provided to the Center for Drug Evaluation and Research (CDER) to assure continuing product quality and performance characteristics of immediate release solid oral dose formulations for specified changes. The guidance fulfills a commitment made in the President's National Performance report, "Reinventing Drug and Medical Device Regulations," April 1995, to reduce through guidance the number of manufacturing changes that require preapproval by FDA. The guidance provides recommendations to sponsors of new drug applications (NDA's), abbreviated antibiotic applications (AADA's), and abbreviated new drug applications (ANDA's) who intend, during the postapproval period, to change the components or composition of the drug, site of manufacture, scale-up/scale-down of manufacture, and/or manufacturing process or equipment. The guidance was prepared by the Immediate Release Scale-Up and Postapproval Change Expert Working Group of the Chemistry Manufacturing Controls Coordinating Committee (CMC CC) at CDER.

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the guidance "Immediate Release Solid Oral Dosage Forms; Scale-Up and Postapproval Changes: Chemistry, Manufacturing, and Controls; In Vitro Dissolution Testing; In Vivo Bioequivalence Documentation" to the Consumer Affairs Branch (HFD–8) (previously the CDER Executive Secretariat Staff), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests. An electronic version of the guidance document is also available via Internet. Requesting persons should connect to the CDER FTP server (CDVS2.CDER.FDA.GOV) using the FTP protocol. The guidance is available in WordPerfect Versions 5.2 and 6.0. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Allen Rudman, Center for Drug Evaluation and Research (HFD–645), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0375.

SUPPLEMENTARY INFORMATION: FDA is publishing a guidance entitled "Immediate Release Solid Oral Dosage Forms; Scale-Up and Postapproval Changes: Chemistry, Manufacturing, and Controls; In Vitro Dissolution Testing; In Vivo Bioequivalence Documentation." The guidance specifies application information that sponsors should provide to CDER to assure continuing product quality and performance characteristics of immediate release solid oral dose formulations for changes made in NDA's, AADA's, and ANDA's. The guidance fulfills a commitment made in the President's National Performance report, "Reinventing Drug and Medical Device Regulations," April 1995, to reduce through guidance the number of manufacturing changes that require preapproval by FDA.

The guidance is the result of: (1) A workshop on the scale-up of immediate release drug products conducted by the American Association of Pharmaceutical Scientists in conjunction with the United States Pharmacopoeial Convention and FDA; (2) research conducted by the University of Maryland at Baltimore on the chemistry, manufacturing, and controls of immediate release drug products under the FDA/University of Maryland Manufacturing Research Contract; (3) the drug categorization research conducted at the University of Michigan and the University of Uppsala on the permeability of drug substances; and (4) the Scale-Up and Post Approval Changes (SUPAC) Task Force which was established by the Center for Drug Evaluation and Research Chemistry, Manufacturing, and Controls Coordinating Committee to develop guidance on scale-up and other postapproval changes.

The guidance describes: (1) The levels of change that may be made in the components or composition of the drug, site of manufacture, scale-up/scale-down of manufacture, and manufacturing process and equipment; (2) the chemistry, manufacturing, and controls tests for each level of change; (3) in vitro dissolution tests and/or in vivo bioequivalence tests for each level of change; and (4) filing documentation.

The regulations in § 314.70(a) (21 CFR 314.70(a)) state that applicants may make changes to an approved application in accordance with a guideline, notice, or regulation published in the **Federal Register** that provides for a less burdensome notification of the change (for example, by notification at the time a supplement is submitted or in the next annual report). This guidance permits less burdensome notice of certain postapproval changes within the meaning of § 314.70(a).

For postapproval changes for immediate release dosage forms that affect components and composition, scale-up, site change, and manufacturing process or equipment changes, this guidance supersedes the recommendations in section 4.G of the Office of Generic Drugs Policy and Procedure Guide 22–90 (September 11, 1990). For all other dosage forms and changes, this guidance does not affect the recommendations in Guide 22–90.

This guidance is an informal communication under 21 CFR 10.90(b)(9) that reflects the best judgment of CDER employees at this time. It does not create or confer any rights, privileges, or benefits for or on behalf of any person, nor does it operate to bind or obligate FDA in any way. Different approaches may be followed, but the applicant is encouraged to discuss significant variations in advance with FDA review divisions to preclude spending time and effort in preparing a submission that FDA may later determine to be unacceptable.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the guidance follows:

Immediate Release Solid Oral Dosage Forms; Scale-up and Postapproval Changes: Chemistry, Manufacturing, and Controls; In Vitro Dissolution Testing; In Vivo Bioequivalence Documentation; Guidance

I. Purpose of Guidance

This guidance provides recommendations to sponsors of new drug applications (NDA's), abbreviated new drug applications (ANDA's), and abbreviated antibiotic applications (AADA's) who intend, during the postapproval period, to change: (1) The components or composition; (2) the site of manufacture; (3) the scale-up/scale-down of manufacture; and/or (4) the manufacturing (process and equipment) of an immediate release oral dosage formulation.

This guidance is the result of: (1) A workshop on the scale-up of immediate release drug products conducted by the American Association of Pharmaceutical Scientists in conjunction with the United States Pharmacopoeial Convention and the Food and Drug Administration (FDA); (2) research conducted by the University of Maryland at Baltimore on the chemistry, manufacturing, and controls of immediate release drug products under the FDA/University of Maryland Manufacturing Research Contract; (3) the drug categorization research conducted at the University of Michigan and the University of Uppsala on the permeability of drug substances; and (4) the Scale-Up and Post Approval Changes (SUPAC) Task Force which was established by the Center for Drug Evaluation and Research (CDER) Chemistry, Manufacturing, and Controls Coordinating Committee to develop guidance on scale-up and other postapproval changes.

The guidance defines: (1) Levels of change; (2) recommended chemistry, manufacturing, and controls tests for each level of change; (3) in vitro dissolution tests and/or in vivo bioequivalence tests for each level of change; and (4) documentation that should support the change. For those changes filed in a "changes being effected supplement" (§ 314.70(c) (21 CFR 314.70(c))), FDA may, after a review of the supplemental information, decide that the changes are not approvable. This guidance thus sets forth application information that should be provided to CDER to assure continuing product quality and performance characteristics of an immediate release solid oral dose formulation for specified postapproval changes. This guidance does not comment on or otherwise affect compliance/inspection documentation that has been defined by CDER's Office of Compliance or FDA's Office of Regulatory Affairs. This guidance does not affect any postapproval changes other than the ones specified. For changes not addressed in this guidance, or for multiple changes submitted at one time or over a short period of time, or where the number of batches recommended for stability testing is not specified, sponsors should contact the appropriate CDER review division or consult other CDER guidances/guidelines to obtain information about tests and application documentation.

The regulations in § 314.70(a) state that applicants may make changes to an approved application in accordance with a guideline, notice, or regulation published in the **Federal Register** that provides for a less burdensome notification of the change (for example, by notification at the time a supplement is submitted or in the next annual report). This guidance permits less burdensome notice of certain postapproval changes within the meaning of § 314.70(a).

For postapproval changes for immediate release dosage forms that affect components and composition, scale-up, site change, and manufacturing process or equipment changes, this guidance supersedes the recommendations in section 4.G of the Office of Generic Drugs Policy and Procedure Guide 22–90 (September 11, 1990). For all other dosage forms and changes, this guidance does not affect the recommendations in Guide 22–90.

II. Definition of Terms[1]

A. Batch

A specific quantity of a drug or other material produced according to a single manufacturing order during the same cycle of manufacture and intended to have uniform character and quality, within specified limits (21 CFR 210.3(b)(2)).

B. Contiguous campus

Continuous or unbroken site or a set of buildings in adjacent city blocks.

C. Dissolution testing

Case A: Dissolution of Q = 85 percent in 15 minutes in 900 milliliters (mL) of 0.1*N* hydrochloride (HCl), using the United States Pharmacopeia (U.S.P.) <711> Apparatus 1 at 100 revolutions per minute (rpm) or Apparatus 2 at 50 rpm.

Case B: Multi-point dissolution profile in the application/compendial medium at 15, 30, 45, 60, and 120 minutes or until an asymptote is reached for the proposed and currently accepted formulation.

Case C: Multi-point dissolution profiles performed in water, 0.1*N* HCl, and U.S.P. buffer media at pH 4.5, 6.5, and 7.5 (five separate profiles) for the proposed and currently accepted formulations. Adequate sampling should be performed at 15, 30, 45, 60, and 120 minutes until either 90 percent of drug from the drug product is dissolved or an asymptote is reached. A surfactant may be used with appropriate justification.

D. Drug product

A drug product is a finished dosage form (e.g., tablet, capsule, or solution) that contains a drug substance, generally, but not necessarily, in association with one or more other ingredients (21 CFR 314.3(b)). A solid oral dosage form includes tablets, chewable tablets, capsules, and soft gelatin capsules.

E. Drug substance

An active ingredient that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of a disease, or to affect the structure of any function of the human body, but does not include intermediates used in the synthesis of such ingredient (21 CFR 314.3(b)).

F. Equipment

Automated or non-automated, mechanical or non-mechanical equipment used to produce the drug product, including equipment used to package the drug product.

G. Formulation

A listing of the ingredients and composition of the dosage form.

H. Justification

Reports containing scientific data and expert professional judgment to substantiate decisions.

I. New drug substance

Any substance that, when used in the manufacture, processing, or packing of a drug, causes that drug to be a new drug, but does not include intermediates used in the synthesis of such substance (21 CFR 310.3(g)).

J. Operating principle

Rules or concepts governing the operation of the system.

K. Pilot scale

The manufacture of either drug substance or drug product by a procedure fully representative of and simulating that used for full manufacturing scale.

For solid oral dosage forms, this is generally taken to be, at a minimum, one-tenth that of full production, or 100,000 tablets or capsules, whichever is larger (see the **Federal Register** of September 22, 1994, 59 FR 48754–48759).

L. Process

A series of operations and/or actions used to produce a desired result.

M. Ranges

The extent to which or the limits between which acceptable variation exists.

N. Same

Agreeing in kind, amount; unchanged in character or condition.

O. Scale-up

The process of increasing the batch size.

P. Scale-down

The process of decreasing the batch size.

Q. Similar

Having a general likeness.

[1]See Workshop Report: Skelly, et al., "Scale-up of Immediate Release Oral Solid Dosage Forms," *Pharmaceutical Research*, 10(2):313–316; and the **Federal Register** of September 22, 1994, 59 FR 48754–59.

R. Significant body of information

A significant body of information on the stability of the drug product is likely to exist after 5 years of commercial experience for new molecular entities, or 3 years of commercial experience for new dosage forms.

S. Validation

Establishing through documented evidence a high degree of assurance that a specific process will consistently produce a product that meets its predetermined specifications and quality attributes. A validated manufacturing process is one that has been proven to do what it purports or is represented to do. The proof of validation is obtained through collection and evaluation of data, preferably beginning from the process development phase and continuing through into the production phase. Validation necessarily includes process qualification (the qualification of materials, equipment, systems, buildings, and personnel), but it also includes the control of the entire processes for repeated batches or runs.

III. Components and Composition

This section of the guidance focuses on changes in excipients in the drug product. Changes in the amount of drug substance are not addressed by this guidance. Changes in components or composition that have the effect of adding a new excipient or deleting an excipient are defined at Level 3 (defined below), except as described below.

A. Level 1 Changes

1. Definition of Level

Level 1 changes are those that are unlikely to have any detectable impact on formulation quality and performance.

Examples:

a. Deletion or partial deletion of an ingredient intended to affect the color or flavor of the drug product; or change in the ingredient of the printing ink to another approved ingredient.

b. Changes in excipients, expressed as percentage (w/w) of total formulation, less than or equal to the following percent ranges:

EXCIPIENT	PERCENT EXCIPIENT (w/w) OUT OF TOTAL TARGET DOSAGE FORM WEIGHT
Filler	±5
Disintegrant	
Starch	±3
Other	±1
Binder	±0.5
Lubricant	
Calcium (Ca) or Magnesium (Mg) Stearate	±0.25
Other	±1
Glidant	
Talc	±1
Other	±0.1
Film Coat	±1

These percentages are based on the assumption that the drug substance in the drug product is formulated to 100% of label/potency. The total additive effect of all excipient changes should not be more than 5 percent. (Example: In a product consisting of active ingredient A, lactose, microcrystalline cellulose, and magnesium stearate, the lactose and microcrystalline cellulose should not vary by more than an absolute total of 5 percent (e.g., lactose increases 2.5 percent and microcrystalline cellulose decreases by 2.5 percent) relative to the target dosage form weight if it is to stay within the Level 1 range).

The components (active and excipients) in the formulation should have numerical targets that represent the nominal composition of the drug product on which any future changes in the composition of the product are to be based. Allowable changes in the composition should be based on the approved target composition and not on previous Level 1 changes in the composition.

2. Test Documentation

a. Chemistry Documentation

Application/compendial release requirements and stability testing.

Stability testing: One batch on long-term stability data reported in annual report.

b. Dissolution Documentation

None beyond application/compendial requirements.

c. In Vivo Bioequivalence Documentation

None.

3. Filing Documentation

Annual report (all information including long-term stability data).

B. Level 2 Changes

1. Definition of Level

Level 2 changes are those that could have a significant impact on formulation quality and performance. Tests and filing documentation for a Level 2 change vary depending on three factors: Therapeutic range, solubility, and permeability. Therapeutic range is defined as either narrow or non-narrow. A list of narrow therapeutic range drugs is provided in Appendix A. Drug solubility and drug permeability are defined as either low or high. Solubility is calculated based on the minimum concentration of drug (milligram (mg)/mL), in the largest dosage strength, determined in the physiological pH range (pH 1 to 8) and temperature (37±0.5°C). High solubility drugs are those with a dose/solubility volume of less than or equal to 250 mL. (Example: Compound A has as its lowest solubility at 37±0.5 °C, 1.0 mg/mL at pH 7, and is available in 100 mg, 200 mg, and 400 mg strengths. This drug would be considered a low solubility drug as its dose/solubility volume is greater than 250 mL (400 mg/1.0 mg/mL=400 mL). Permeability (P_e, centimeter per second) is defined as the effective human jejunal wall permeability of a drug and includes an apparent resistance to mass transport to the intestinal membrane. High permeability drugs are generally those with an extent of absorption greater than 90 percent in the absence of documented instability in the gastrointestinal tract, or those whose permeability attributes have been determined experimentally.

Examples:

a. Change in the technical grade of an excipient. (Example: Avicel PH102 versus Avicel PH200.)

b. Changes in excipients, expressed as percent (w/w) of total formulation, greater than those listed above for a Level 1 change but less than or equal to the following percent ranges (which represent a twofold increase over Level 1 changes):

EXCIPIENT	PERCENT EXCIPIENT (w/w) OUT OF TOTAL TARGET DOSAGE FORM WEIGHT
Filler	±10
Disintegrant	
Starch	±6
Other	±2
Binder	±1
Lubricant	
Ca or Mg Stearate	±0.5
Other	±2
Glidant	
Talc	±2
Other	±0.2
Film Coat	±2

These percentages are based on the assumption that the drug substance in the drug product is formulated to 100 percent of label/potency. The total additive effect of all excipient changes should not change by more than 10 percent.

The components (active and excipients) in the formulation should have numerical targets that represent the nominal composition of the drug product on which any future changes in the composition of the product are to be based. Allowable changes in the composition should be based on the approved target composition and not on the composition based on previous Level 1 or Level 2 changes.

2. Test Documentation

a. Chemistry Documentation

Application/compendial release requirements and batch records.

Stability testing: One batch with 3 months accelerated stability data in supplement and 1 batch on long-term stability.

b. Dissolution Documentation

Case A: High Permeability, High Solubility Drugs

Dissolution of 85 percent in 15 minutes in 900 mL of 0.1*N* HCl. If a drug product fails to meet this description, the applicant should perform the tests described for Case B or Case C (below).

Case B: Low Permeability, High Solubility Drugs

Multi-point dissolution profile should be performed in the application/compendial medium at 15, 30, 45, 60, and 120 minutes or until an asymptote is reached. The dissolution profile of the proposed and currently used drug product formulations should be similar.

Case C: High Permeability, Low Solubility Drugs

Multi-point dissolution profiles should be performed in water, 0.1*N* HCl, and U.S.P. buffer media at pH 4.5, 6.5, and 7.5 (five separate profiles) for the proposed and currently accepted formulations. Adequate sampling should be performed at 15, 30, 45, 60, and 120 minutes until either 90 percent of drug from the drug product is dissolved or an asymptote is reached. A surfactant may be used, but only with appropriate justification. The dissolution profile of the proposed and currently used drug product formulations should be similar.

c. In Vivo Bioequivalence Documentation

None: if the situation does not meet the description in Case A, Case B, or Case C, refer to Level 3 changes.

3. Filing Documentation

Prior approval supplement (all information including accelerated stability data); annual report (long-term stability data).

C. Level 3 Changes

1. Definition of Level

Level 3 changes are those that are likely to have a significant impact on formulation quality and performance. Tests and filing documentation vary depending on the following three factors: Therapeutic range, solubility, and permeability.

Examples:

a. Any qualitative and quantitative excipient changes to a narrow therapeutic drug beyond the ranges noted in Section III.A.1.b.

b. All other drugs not meeting the dissolution cases under Section III.B.2.b.

c. Changes in the excipient ranges of low solubility, low permeability drugs beyond those listed in Section III.A.1.b.

d. Changes in the excipient ranges of all drugs beyond those listed in Section III.B.1.b.

2. Test Documentation

a. Chemistry Documentation

Application/compendial release requirements and batch records.

Significant body of information available:

One batch with 3 months accelerated stability data reported in supplement; one batch on long-term stability data reported in annual report.

Significant body of information not available:

Up to three batches with 3 months accelerated stability data reported in supplement; up to three batches on long-term stability data reported in annual report.

b. Dissolution Documentation

Case B dissolution profile as described in Section III.B.2.b.

c. In Vivo Bioequivalence Documentation

Full bioequivalence study. The bioequivalence study may be waived when an acceptable in vivo/in vitro correlation has been verified.

3. Filing Documentation

Prior approval supplement (all information including accelerated stability data); annual report (long-term stability data).

IV. Site Changes

Site changes consist of changes in location of the site of manufacture for both company-owned and contract manufacturing facilities and do not include any scale-up changes, changes in manufacturing (including process and/or equipment), or changes in components or composition. Scale-up is addressed in Section V of this guidance. New manufacturing locations should have a satisfactory current good manufacturing practice (CGMP) inspection.

A. Level 1 Changes

1. Definition of Level

Level 1 changes consist of site changes within a single facility where the same equipment, standard operating procedures (SOP's), environmental conditions (e.g., temperature and humidity) and controls, and personnel common to both manufacturing sites are used, and where no changes are made to the manufacturing batch records, except for administrative information and the location of the facility. Common is defined as employees already working on the campus who have suitable experience with the manufacturing process.

2. Test Documentation

a. Chemistry Documentation

None beyond application/compendial release requirements.

b. Dissolution Documentation

None beyond application/compendial release requirements.

c. In Vivo Bioequivalence Documentation

None.

3. Filing Documentation

Annual report.

B. Level 2 Changes

1. Definition of Level

Level 2 changes consist of site changes within a contiguous campus, or between facilities in adjacent city blocks, where the same equipment, SOP's, environmental conditions (e.g., temperature and humidity) and controls, and personnel common to both manufacturing sites are used, and where no changes are made to the manufacturing batch records, except for administrative information and the location of the facility.

2. Test Documentation

a. Chemistry Documentation

Location of new site and updated batch records. None beyond application/compendial release requirements.

One batch on long-term stability data reported in annual report.

b. Dissolution Documentation

None beyond application/compendial release requirements.

c. In Vivo Bioequivalence Documentation

None.

3. Filing Documentation

Changes being effected supplement; annual report (long-term stability test data).

C. Level 3 Changes

1. Definition of Level

Level 3 changes consist of a change in manufacturing site to a different campus. A different campus is defined as one that is not on the same original contiguous site or where the facilities are not in adjacent city blocks. To qualify as a Level 3 change, the same equipment, SOP's, environmental conditions, and controls should be used in the manufacturing process at the new site, and no changes may be made to the manufacturing batch records except for administrative information, location, and language translation, where needed.

2. Test Documentation

a. Chemistry Documentation

Location of new site and updated batch records.

Application/compendial release requirements.

Stability:

Significant body of information available:

One batch with 3 months accelerated stability data reported in supplement; one batch on long-term stability data reported in annual report.

Significant body of information not available:

Up to three batches with 3 months accelerated stability data reported in supplement; up to three batches on long-term stability data reported in annual report.

b. Dissolution Documentation

Case B: Multi-point dissolution profile should be performed in the application/compendial medium at 15, 30, 45, 60, and 120 minutes or until an asymptote is reached. The dissolution profile of the drug product at the current and proposed site should be similar.

c. In Vivo Bioequivalence Documentation

None.

3. Filing Documentation

Changes being effected supplement; annual report (long-term stability data).

V. Changes in Batch Size (Scale-Up/Scale-Down)

Postapproval changes in the size of a batch from the pivotal/pilot scale biobatch material to larger or smaller production batches call for submission of additional information in the application. Scale-down below 100,000 dosage units is not covered by this guidance. All scale-up changes should be properly validated and, where needed, inspected by appropriate agency personnel.

A. Level 1 Changes

1. Definition of Level

Change in batch size, up to and including a factor of 10 times the size of the pilot/biobatch, where: (1) The equipment used to produce the test batch(es) is of the same design and operating principles; (2) the batch(es) is (are) manufactured in full compliance with CGMP's; and (3) the same SOP's and controls, as well as the same formulation and manufacturing procedures, are used on the test batch(es) and on the full-scale production batch(es).

2. Test Documentation

a. Chemistry Documentation

Application/compendial release requirements. Notification of change and submission of updated batch records in annual report.

One batch on long-term stability reported in annual report.

b. Dissolution Documentation

None beyond application/compendial release requirements.

c. In Vivo Bioequivalence
None.
3. Filing Documentation
Annual report (long-term stability data).

B. Level 2 Changes

1. Definition of Level

Changes in batch size beyond a factor of 10 times the size of the pilot/biobatch, where: (1) The equipment used to produce the test batch(es) is of the same design and operating principles; (2) the batch(es) is (are) manufactured in full compliance with CGMP'S; and (3) the same SOP's and controls as well as the same formulation and manufacturing procedures are used on the test batch(es) and on the full-scale production batch(es).

2. Test Documentation

a. Chemistry Documentation
Application/compendial release requirements. Notification of change and submission of updated batch records.
Stability testing: One batch with 3 months accelerated stability data and one batch on long-term stability.
b. Dissolution Documentation
Case B testing.
c. In Vivo Bioequivalence
None.
3. Filing Documentation
Changes being effected supplement; annual report (long-term stability data).

VI. Manufacturing

Manufacturing changes may affect both equipment used in the manufacturing process and the process itself.

A. Equipment

1. *Level 1 Changes*

a. Definition of Change
This category consists of: (1) Change from nonautomated or nonmechanical equipment to automated or mechanical equipment to move ingredients; and (2) change to alternative equipment of the same design and operating principles of the same or of a different capacity.
b. Test Documentation
i. Chemistry Documentation
Application/compendial release requirements. Notification of change and submission of updated batch records.
Stability testing: One batch on long-term stability.
ii. Dissolution Documentation
None beyond application/compendial release requirements.
iii. In Vivo Bioequivalence Documentation
None.
c. Filing Documentation
Annual report (long-term stability data).

2. *Level 2 Changes*

a. Definition of Level
Change in equipment to a different design and different operating principles.
b. Test Documentation
i. Chemistry Documentation
Application/compendial release requirements. Notification of change and submission of updated batch records.
Stability testing:
Significant body of information available:
One batch with 3 months accelerated stability data reported in supplement; one batch on long-term stability data reported in annual report.
Significant body of information not available:
Up to three batches with 3 months accelerated stability data reported in supplement; up to three batches on long-term stability data reported in annual report.
ii. Dissolution Documentation
Case C dissolution profile.
iii. In Vivo Bioequivalence Documentation
None.
c. Filing Documentation
Prior approval supplement with justification for change; annual report (long-term stability data).

B. Process

1. Level 1 Change

a. Definition of Level
This category includes process changes including changes such as mixing times and operating speeds within application/validation ranges.
b. Test Documentation
i. Chemistry Documentation
None beyond application/compendial release requirements.
ii. Dissolution Documentation
None beyond application/compendial release requirements.
iii. In Vivo Bioequivalence Documentation
None.
c. Filing Documentation
Annual report.

2. *Level 2 Changes*

a. Definition of Level
This category includes process changes, including changes such as mixing times and operating speeds outside of application/validation ranges.
b. Test Documentation
i. Chemistry Documentation
Application/compendial release requirements. Notification of change and submission of updated batch records.
Stability testing: One batch on long-term stability.
ii. Dissolution Documentation
Case B dissolution profile.
iii. In Vivo Bioequivalence Documentation
None.
c. Filing Documentation
Changes being effected supplement; annual report (long-term stability data).

3. *Level 3 Changes*

a. Definition of Level
This category includes change in the type of process used in the manufacture of the drug product, such as a change from wet granulation to direct compression of dry powder.
b. Test Documentation
i. Chemistry Documentation
Application/compendial release requirements. Notification of change and submission of updated batch records.
Stability testing:
Significant body of information available:
One batch with 3 months accelerated stability data reported in supplement; one batch on long-term stability data reported in annual report.
Significant body of information not available:
Up to three batches with 3 months accelerated stability data reported in supplement; up to three batches on long-term stability data reported in annual report.
ii. Dissolution Documentation
Case B dissolution.
iii. In Vivo Bioequivalence Documentation
In vivo bioequivalence study. The bioequivalence study may be waived if a suitable in vivo/in vitro correlation has been verified.
c. Filing Documentation
Prior approval supplement with justification; annual report (long-term stability data).

VII. In Vitro Dissolution

See current United States Pharmacopeia/National Formulary, section <711>, for general dissolution specifications. All profiles should be conducted on at least 12 individual dosage units.

Dissolution profiles may be compared using the following equation that defines a similarity factor (f_2):

$f_2 = 50\ LOG\ \{[1+1/n\ \sum_{t=1}^{n}(R_t-T_t)^2]^{-0.5} \times 100\}$

where R_t and T_t are the percent dissolved at each time point. An f_2 value between 50 and 100 suggests the two dissolution profiles are similar.

VIII. In Vivo Bioequivalence Studies

Below is a general outline of an in vivo bioequivalence study. It is intended as a guide and the design of the actual study may vary depending on the drug and dosage form.

A. Objective:

To compare the rate and extent of absorption of the drug product for which the manufacture has been changed, as defined in this guidance, to the drug product manufactured before the change.

B. Design:

The study design should be a single dose, two-treatment, two-period crossover with adequate washout period between the two phases of the study. Equal numbers of subjects should be randomly assigned to each of the two dosing sequences.

C. Selection of Subjects:

The number of subjects enrolled in the bioequivalence study should be determined statistically to account for the intrasubject variability and to meet the current bioequivalence interval.

D. Procedure:

Each subject should receive the following two treatments:

Treatment 1: Drug product manufactured with the proposed change.

Treatment 2: Drug product manufactured prior to the proposed change.

Following an overnight fast of at least 10 hours, subjects should receive either Treatments 1 or 2 with 240 mL water. Food should not be allowed until 4 hours after dosing. Water may be allowed after the first hour. Subjects should be served standardized meals beginning at 4 hours during the study.

E. Restrictions:

Before and during each study phase, water may be allowed *ad libitum* except for 1 hour before and after drug administration. The subject should be served standardized meals and beverages at specified times. No alcohol or xanthine- or caffeine-containing foods and beverages should be consumed for 48 hours before each study period and until after the last blood sample is collected.

F. Blood Sampling:

Blood samples should be collected in sufficient volume for analysis of parent drug and active metabolite(s), if any. The sampling times should be such that it should be able to capture the C_{max} and T_{max} during the absorption period. Sampling should be carried out for at least three terminal elimination half-lives for both parent drug and active metabolite(s). Whole blood, plasma, or serum, whichever is appropriate for the analytes, should be harvested promptly and samples should be frozen at -20 °C or -70 °C to maintain sample stability.

G. Analytical Method:

The assay methodology selected should ensure specificity, accuracy, interday and intraday precision, linearity of standard curves, and adequate sensitivity, recovery, and stability of the samples under the storage and handling conditions associated with the analytical method.

H. Pharmacokinetic Analysis:

From the plasma drug concentration-time data, AUC_{0-t}, AUC_{0-inf}, C_{max}, T_{max}, K_{el} and $t_{1/2}$ should be estimated.

I. Statistical Analysis:

Analysis of variance appropriate for a crossover design on the pharmacokinetic parameters using the general linear models procedures of SAS or an equivalent program should be performed, with examination of period, sequence, and treatment effects. The 90 percent confidence intervals for the estimates of the difference between the test and reference least squares means for the pharmacokinetic parameters (AUC_{0-t}, AUC_{0-inf}, Cmax) should be calculated, using the two one-sided t-test procedure.

Appendix A

Narrow Therapeutic Range Drugs

Aminophylline Tablets, ER Tablets
Carbamazepine Tablets, Oral Suspension
Clindamycin Hydrochloride Capsules
Clonidine Hydrochloride Tablets
Clonidine Transdermal Patches
Dyphylline Tablets
Disopyramide Phosphate Capsules, ER Capsules
Ethinyl Estradiol/Progestin Oral Contraceptive Tablets
Guanethidine Sulfate Tablets
Isoetharine Mesylate Inhalation Aerosol
Isoproterenol Sulfate Tablets
Lithium Carbonate Capsules, Tablets, ER Tablets
Metaproterenol Sulfate Tablets
Minoxidil Tablets
Oxtriphylline Tablets, DR Tablets, ER Tablets
Phenytoin, Sodium Capsules (Prompt or Extended), Oral Suspension
Prazosin Hydrochloride Capsules
Primidone Tablets, Oral Suspension
Procainamide Hydrochloride, Capsules, Tablets, ER Tablets
Quinidine Sulfate Capsules, Tablets, ER Tablets
Quinidine Gluconate Tablets, ER Tablets
Theophylline Capsules, ER Capsules, Tablets, ER Tablets
Valproic Acid Capsules, Syrup
Divalproex, Sodium DR Capsules, DR Tablets
Warfarin, Sodium Tablets
ER - Extended Release
DR - Delayed Release

Dated: November 22, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

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S. 395/P.L. 104–58

To authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes. (Nov. 28, 1995; 109 Stat. 557)

S. 440/P.L. 104–59

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S. 1328/P.L. 104–60

To amend the commencement dates of certain temporary Federal judgeships. (Nov. 28, 1995; 109 Stat. 635)

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INQUIRIES AND SUGGESTIONS

Rob Sheehan was Chief Editor of the LSA, assisted by Brad Brooks. The LSA was prepared under the direction of Richard L. Claypoole, assisted by Maxine L. Hill. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Richard L. Claypoole, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

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200–End	(869–026–00063–8)	12.00	Apr. 1, 1995
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§§ 1.301-1.400	(869-026-00090-5)	17.00	Apr. 1, 1995
§§ 1.401-1.440	(869-026-00091-3)	30.00	Apr. 1, 1995
§§ 1.441-1.500	(869-026-00092-1)	22.00	Apr. 1, 1995
§§ 1.501-1.640	(869-026-00093-0)	21.00	Apr. 1, 1995
§§ 1.641-1.850	(869-026-00094-8)	25.00	Apr. 1, 1995
§§ 1.851-1.907	(869-026-00095-6)	26.00	Apr. 1, 1995
§§ 1.908-1.1000	(869-026-00096-4)	27.00	Apr. 1, 1995
§§ 1.1001-1.1400	(869-026-00097-2)	25.00	Apr. 1, 1995
§§ 1.1401-End	(869-026-00098-1)	33.00	Apr. 1, 1995
2-29	(869-026-00099-9)	25.00	Apr. 1, 1995
30-39	(869-026-00100-6)	18.00	Apr. 1, 1995
40-49	(869-026-000101-4)	14.00	Apr. 1, 1995
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125-199	(869-022-00128-1)	26.00	July 1, 1994
200-End	(869-026-00132-4)	24.00	July 1, 1995
34 Parts:			
1-299	(869-026-00133-2)	25.00	July 1, 1995
300-399	(869-026-00134-1)	21.00	July 1, 1995
400-End	(869-022-00132-9)	40.00	July 1, 1994
35	(869-026-00136-7)	12.00	July 1, 1995
36 Parts			
1-199	(869-026-00137-5)	15.00	July 1, 1995
200-End	(869-026-00138-3)	37.00	July 1, 1995
37	(869-022-00136-1)	20.00	July 1, 1994
38 Parts:			
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18-End	(869-026-00141-3)	30.00	July 1, 1995
39	(869-026-00142-1)	17.00	July 1, 1995
40 Parts:			
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52	(869-022-00141-8)	39.00	July 1, 1994
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43 Parts:			
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Complete 1995 CFR set		883.00	1995
Microfiche CFR Edition:			
Complete set (one-time mailing)		188.00	1992
Complete set (one-time mailing)		223.00	1993
Complete set (one-time mailing)		244.00	1994
Subscription (mailed as issued)		264.00	1995
Individual copies		1.00	1995

[1]Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4]No amendments to this volume were promulgated during the period April 1, 1990 through March 31, 1994. The CFR volume issued as of April 1, 1990 should be retained.

[5]No amendments to this volume were promulgated during the period July 1, 1991 through June 30, 1994. The CFR volume issued as of July 1, 1991 should be retained.

[6]No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1993. The CFR volume issued as of January 1, 1993 should be retained.

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317.401 Existing text designated as (a); (b) added.....6385
317.501 (a) amended; (b)(2) revised; (f) added.....6385
317.502 (b) amended; (d) revised; (e) redesignated as (f); new (e) added.....6385
317.503 (b) amended; (c) and (d) redesignated as (d) and (e); new (c) and (f) added.....6386
317.601 Revised.....6386
317.602 Heading revised; (a) amended.....6386
317.603 Heading revised; amended.....6386
317.604 Heading revised; introductory text, (a) and (b) redesignated as (b) introductory text, (1) and (2); new (a) added.....6386
317.605 (a) and (b) revised.....6386
317.703 (a) redesignated as (a)(1); (a)(2) added.....6386

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317.901 (b) heading revised; (b) redesignated as (b)(1); (b)(2) and (3) added; (d) removed 6386
317.901 (d) added 6387
317.903 (b)(2) revised; (b)(3) and (4) added 6387
319 Revised 6387
330.201 Revised 3058
330.202 (a)(1) revised; (c) added 3059
330.203 (a)(4) and (c) revised; (d) through (g) added 3059
330.204 (a) and (b)(3) revised; (c) added 3059
330.205 Revised 3059
330.206 (a)(1), (2) and (b) revised 3060
330.207 (a), (b), (c)(1) and (d) revised 3060
330.208 (a)(1) and (b) introductory text revised; (a)(4) added 3061
333.101 Revised 3061
333.102 Revised 3061
339.102 (b) revised 3061
340.202 (c) revised 3061
340.401—340.403 (Subpart D) Revised 3061
351 Authority citation revised 2678
351.202 (c)(7) added 3062
351.203 Amended 3062
351.301 Existing text designated as (a); (b) added 3062
351.302 (f) and (g) added 3062
351.303 (a) revised; (c)(3) added 3062
351.403 (a) revised; (b)(5) removed; (b)(6) redesignated as (b)(5) 3062
351.501 (b)(1) and (2) revised 3062
351.502 Revised 3063
351.506 (b) revised 3063
351.605 Revised 2678
351.606 (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added 2678
351.701 (a) revised 3063
(c)(3) revised; interim 44254
351.702 (a)(4) revised 3063
351.704 (b)(5) added 3063
351.801—351.807 (Subpart H) Regulation at 58 FR 32047 confirmed 2678
Revised 2679
351.801 (a)(2) revised; interim 44254
351.802 (a)(1) revised; interim 44254
351.803 Regulation at 59 FR 32873 confirmed 2678
351.807 Regulations at 57 FR 21890 and 59 FR 32873 confirmed 2678
(b)(3) revised; interim 44254
353 Revised 3063
Revised; interim 45652
353.103 (a)(2) corrected 6595
359.601 (b)(3) added 6388
359.602 (a)(2) amended; (a)(4) added 6388
359.603 (a)(1) and (d)(2) amended; (a)(4) and (d)(3) added; (f) revised 6388
359.605 Revised 6389
359.705 (b) redesignated as (d); new (b), (c) and (e) added 6389
359.803 Amended 6389
362 Added; interim 11017
430.101—430.102 (Subpart A) Revised 43943
430.201 (b) corrected 47646
430.201—430.210 (Subpart B) Revised 43943
430.204 (b)(3)(iv) corrected 47646
430.303 Amended 43946
430.310 Revised 43946
430.501—430.506 (Subpart E) Removed 43946
432 Technical correction 47646
432.103 (b) revised 43946
451 Heading revised 43946
Authority citation revised 43946
451.101—451.107 (Subpart A) Revised 43946
451.101 (c) corrected 47646
451.103 (c)(2) corrected 47646
451.104 (f) revised 33098
451.201 (a) second introductory text removed; (b), (c) and (d) redesignated as (c), (d) and (e); new (b) added 43947
451.301—451.307 (Subpart C) Removed 43947
531 Authority citation revised 33098, 33325
Technical correction 47646
531.101 Amended 33325
531.401 (c) revised 33098
531.402 (a) revised 43947
531.403 Amended 33098, 43947
531.404 Introductory text and (a) introductory text revised 43948
531.408 Removed 43948
531.409 (b) and (d) revised 43948
531.501 Revised 43948
531.503 Revised 43948

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531.504 Revised 43948
531.506 Revised 43948
531.507 Revised 43948
531.508 Revised 43948
532.279 Regulation at 59 FR 54787 confirmed 319
(j)(5) removed; (j)(6) through (10) redesignated as (j)(5) through (9); interim 5312
Regulation at 60 FR 5312 confirmed 22455
(j)(5) removed; (j)(6) through (9) redesignated as (j)(5) through (8); interim 26341
Regulation at 60 FR 26341 confirmed 40744
(j)(5) through (8) removed; interim 46214
532.201—532.283 (Subpart B) Appendix C amended 12395
Regulation at 59 FR 60294 confirmed 12396
Appendixes B and D amended; interim 16363, 35468
Appendix A amended 36203
Regulation at 60 FR 16363 confirmed 36204
532.285 Added 5310
534 Authority citation revised 6389
534.401 (c)(3) and (f) revised 6389
534.403 (a)(1) revised; (a)(2) redesignated as (a)(3); new (a)(2) and (4) added; (c) and (f) amended 6389
534.405 Added 6390
550.101—550.187 (Subpart A) Authority citation revised 33098
550.103 (o) revised 33098
550.171 Revised 33098
550.404 (b)(2) corrected 3303
550.803 Amended 47040
575.101 Revised 33325
575.103 Amended 33325
575.104 (b)(2), (c)(1), (2)(i) and (iii) revised 33326
575.105 Revised 33326
575.106 Revised 33326
575.108 Revised 33326
575.201 Revised 33326
575.203 Amended 33326
Corrected 35601
575.204 (c)(1), (2)(i), (iii) and (d) revised 33326
575.205 (a) and (b) revised 33326
575.206 Revised 33327
575.208 Revised 33327
575.302 (c) revised 33327
575.303 Amended 33327
575.304 (a) and (b) revised 33327
(a) corrected 35601
575.305 (c)(1) revised 33327
575.306 (d) added 33327
575.308 Revised 33327
581 Authority citation revised 5044, 35468
Technical correction 18949
581.104 (i)(3) removed 5044
581 Appendix A revised 5044
Appendix B added 35468
Appendix A corrected 42425, 42428, 42429
582 Revised 13030
591.205 (b)(3) amended 46750
591.210 (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f) 46750
630 Authority citation revised 33328
630.201 (b) corrected 5252
(b)(7), first (8) and second (8) redesignated as (b)(8), (9) and (7) 26979
630.301 (b) revised 33328
630.306 Regulation at 59 FR 62972 confirmed 22456
630.308 Regulation at 59 FR 62973 confirmed 22456
630.401 (c) revised 26979
630.403 Heading corrected 3032
630.905 (b) and (c) amended 26979
630.907 (a)(1), (2) and (d)(1) amended 26979
(c) introductory text and (d)(2) amended 26979
630.1007 (b) and (c) amended 26979
630.1008 (a)(1), (2) and (d)(1) amended 26979
630.1011 (b)(2) amended 26979
731.501 (Subpart E) Regulation at 59 FR 47527 confirmed 13613
752.203 (f) revised 47040
771 Revised 47040
831.204 (e)(2) revised 47041
831.644 (d) revised 14202
831.902 Amended 3339
831.907 (c) revised 3339
831.910 Revised 3339
842.106 (e)(2) revised 47041
842.612 (h) added 14202
842.802 Amended 3339
842.805 (d) revised 3340
843.102 Amended 13035
870 Technical correction 5461

TITLE 5 Chapter I—Con.
Authority citation revised 31372
870.203 (e) added 31372
870.204 (h) added 31372
870.301 (c) added 31373
870.402 Added 31373
870.501 (a) revised 31373
(d) amended; interim 45657
870.601 (c) introductory text and (4) revised 31373
870.602 Existing text designated as (a); (b) added 31373
870.701 (c) introductory text and (4) revised 31373
870.702 Existing text designated as (a); (b) added 31373
870.801 Existing text designated as (a); (b) added 31374
870.1101—870.1107 (Subpart K) Added 31374
871 Technical correction 5461
871.501 (a) revised 31375
872 Technical correction 5461
872.501 (a) revised 31375
873 Technical correction 5461
873.501 (a) revised 31375
874 Technical correction 5461
874.201 (g) added 31375
890 Technical correction 5461
890.101 (a) amended 16038
890.105 Revised 16038
890.107 Revised 16039
(c) corrected 21590
890.303 (l) added; interim 45657
890.304 (a)(1)(vi) revised; (a)(1)(vii) and (viii) added; interim 45658
890.305 (a) revised; interim 45658
890.307 Regulation at 59 FR 67607 confirmed 28511
890.501 (e) revised; (f) and (g) added; interim 45658
890.502 (g) revised; interim 45658
890.808 Regulation at 59 FR 67607 confirmed 28511
890.901—890.907 (Subpart I) Heading revised; interim 26668
890.901 Revised; interim 26668
890.902 (c) and (d) revised; interim 26668
890.903 Revised; interim 26668
890.904 Existing text designated as (a); new (a) amended; (b) added; interim 26668
890.905 Revised; interim 26668
(b) and (c) corrected 28019
890.906 Redesignated as 890.909; new 890.906 added; interim 26668
890.907 Redesignated as 890.910; new 890.907 added; interim 26668
890.908 Added; interim 26668
890.909 Redesignated from 890.906; interim 26668
890.910 Redesignated from 890.907; interim 26668
890.1109 Regulation at 59 FR 67607 confirmed 28511
930.105 (a) revised 3067
930.106 Revised 3067
930.108 Revised 3067
930.109 (b) revised 3067
970.100 Revised 33040, 33043
970.105 Amended 33041, 33043
970.110 (c) revised 33041, 33043
970.200 Revised 33041, 33043
970.215 Revised 33041, 33043
970.220 Revised 33041, 33043
970.225 Revised 33041, 33043
970 Appendixes A and B revised 33042, 33043

Chapter II—Merit Systems Protection Board (Parts 1200—1299)

1201 Appendixes II and III revised 40744
Appendix II corrected 43001
Appendix III corrected 44255

Chapter III—Office of Management and Budget (Parts 1300—1399)

1300 Revised 12397
1320 Revised 44984
1320.5 Corrected 46149

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

1601.1 Amended 36633
1601.4 (c) removed 47837
1601.5 Revised 36633
1601.6 Revised 36633
1603 Authority citation revised 24535
1603.1 Amended; interim 24535
1603.3 (a) and (b) amended; interim 24535
1620 Authority citation revised 19990
1620.100—1620.107 (Subpart H) Added; interim 19990

1650 Revised 9603
1653 Added 13609
Authority citation revised 45624
1653.20—1653.25 (Subpart B) Added; interim 45624

Chapter XIV—Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400—2499)

Chapter XIV Appendix A amended 49493

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2604 Added 10007
2610.106 (a) amended 38666
2635.403 (a) note amended 6391
2635.803 Note amended 6391
2635 Appendix B added 6391
2640 Added; interim 44709

Chapter XXI—Department of the Treasury (Parts 3100—3199)

Chapter XXI Established 22251

Chapter XXII—Federal Deposit Insurance Corporation (Parts 3201—3299)

3201 Added 20174

Chapter XXX—Farm Credit System Insurance Corporation (Part 4001)

Chapter XXX Established; interim 30776

Chapter XXXI—Farm Credit Administration (Part 4101)

Chapter XXXI Established; interim (effective date pending) 30781
Regulation at 60 FR 30781 confirmed; eff. 9-13-95 47453

Chapter XXXIII—Overseas Private Investment Corporation (Part 4301)

Chapter XXXIII Regulation at 58 FR 33320 confirmed 37556

Chapter LII—Export-Import Bank of the United States (Part 6201)

Chapter LII Established 17626

Chapter LIII—Department of Education (Parts 6301—6399)

Chapter LIII Established 5817

Chapter LX—United States Postal Service (Part 7001)

Chapter LX Established 47240

Chapter LXXVII—Office of Management and Budget (Part 8701)

Chapter LXXVII Established 12397

Proposed Rules:

300 ..... 2546, 46780
315 43724
316 17655
430 ..... 5542, 6595
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TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture (Parts 0—26)

0 Authority citation revised 8454
0.735-11 (b)(6) amended 8454

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(b)(7) amended 8455
1.130—1.151 (Subpart H) Authority citation revised 8455, 33329
1.131 (a) amended 8455, 33329
1.132 Amended 8455
1.133 (a)(1) amended 8455
1.140 (a)(1) and (b) amended; (c) revised 8455
1.141 (e) and (g)(7) amended; (g) and (h) redesignated as (h) and (i); (b) and new (i) revised; new (g) added 8455
1.142 (a) heading, (1), (2), (3) and (c)(2) amended 8456
1.144 (c)(2) revised; (c)(9) and (10) redesignated as (c)(13) and (14); new (c)(9), new (10), (11) and (12) added 8456
1.145 (a) and (c) amended 8456
1.147 (c)(2) and (d) amended 8456
1.148 (b) revised; (f) heading, (1), (2) and (3) amended 8456
1.149 (b) amended 8457
1.160—1.175 (Subpart I) Authority citation revised 8457
1.161 Amended 8457
1.162 (b) amended 8457
1.164 (a) amended 8457
1.167 Revised 8457
1.168 (e)(1), (2), (3) and (6) amended; (b) through (e) redesignated as (c), (d), (e) and (g); new (b), (f) and (h) added 8457
1.169 (a) heading, (1), (2), (3) and (c) amended 8458
1.170 (a), (c) and (i) amended 8458
1.171 Amended 8458
1.172 (a) amended 8458
1.173 (b)(1), (2), (d) introductory text and (e) amended; (d)(2) revised; (d)(7) redesignated as (d)(9); new (d)(7) and (8) added 8458
1.174 (c) amended 8459
6 Authority citation revised 47454
6.20—6.34 (Subpart) Heading revised; interim 1990
Authority citation revised 1990
6.20 Revised; interim 1990
6.21 Revised; interim 1990
6.22 (a) revised; interim 1991
6.23 Revised; interim 1991
6.24 Revised; interim 1991
6.25 (a), (c)(1) introductory text, (ii), (iii), (2) and (3) revised; interim 1992
(c)(2) amended; interim 21426
(c)(2) removed; (c)(3) redesignated as (c)(2); (b)(4) and new (c)(2)(ii) revised; interim 47454
6.26 (a)(3) through (6), (b)(5) and (f) removed; (b)(1) table, (c) introductory text and (3) introductory text revised; (d) and (e) redesignated as (e) and (f); new (d) added; interim 1992
(c)(3)(ii) amended; (d)(2), (3)(i) and (ii) revised; interim 21426
6.27 (f) and (h) amended; interim 1993
6.28 Amended; interim 1993
6.29 (b)(3) amended; interim 1993
6.30 (a) introductory text amended; (a)(1) and (2) removed; interim 1993
6.34 Removed; interim 1993
6.20—6.34 (Subpart) Appendix 1 revised; interim 1993
Appendix 2 revised; interim 1994
Appendix 3 added; interim 1995
6 Appendixes 1 and 2 amended; Appendix 3 revised; interim 21427
Appendix 3 revised; interim 47455
25 Revised 6950

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

28.901—28.917 (Subpart D) Authority citation revised 21034
28.909 (b) revised 21034
28.911 (a) amended 21034
29.123 (a) amended 33100
29.1001—29.6661 (Subpart C) Authority citation revised 36027
29.1059 Revised 36027
29.1135 Added 36028
29.1181 Amended 36028
29.3053 (b) revised 7429
29.8001 Table amended 12398, 12399, 12400, 12401
Regulation at 60 FR 12401 eff. date corrected to 4-6-95 13515
47 Authority citation revised 8459
47.2 (c), (e), (f) and (h) amended 8459

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47.3 (b)(1) amended; (c) revised 8459
47.4 (b)(2) amended 8459
47.5 Amended 8459
47.11 (b), (c) introductory text and (d) amended; (c)(2) revised; (c)(9) redesignated as (c)(13); new (c)(9), (10), (11) and (12) added 8459
47.12 Amended 8459
47.13 (a)(1) amended; (b) revised 8459
47.14 Revised 8460
47.15 (d)(2), (3)(i), (f)(2)(i), (6)(i), (8) and (g) amended; (f), (g) and (h) redesignated as (g), (h) and (i); (c) and new (i) revised; new (f) added 8460
47.16 (a)(3), (4), (b) and (d)(1) revised; (a)(5) and (6) added; (e) amended 8461
47.17 (c) amended 8462
47.19 (a) heading revised; (a), (b), (d)(3), (6) and (e) amended 8462
47.20 (b)(2), (h), (k) and (l) amended 8462
47.21 Amended 8462
47.22 (a) amended 8462
47.23 Amended 8462
47.24 (a) amended 8462
47.25 (e) amended 8462
47.46 Amended 8462
47.47 Introductory text amended 8462
47.49 (f) revised 8462
47.53 Revised 8462
47.56 (b) revised; (g) and (h) redesignated as (i) and (j); new (g) and new (h) added 8463
47.58 (b) and (f) amended; (a) through (f) redesignated as (b) through (g); new (a) added 8463
47.59 Heading revised; amended 8463
47.60 Revised 8463
47.62 Amended 8463
50 Revised 8463
51 Authority citation revised 8464
51.46 Amended 8464
51.1216 (c) revised 39242
51.2830—51.2854 (Subpart) Revised 46977
51.3475 Undesignated center heading and section revised 11243
51.3476 Undesignated center heading and section revised 11243
51.3477 Undesignated center heading and section revised 11243
51.3478 Undesignated center heading and section revised 11243
51.3479 Undesignated center heading and section revised 11244
51.3482 Revised 11244
51.3483 Revised 11244
51.3484 Removed; new 51.3484 redesignated from 51.3486 and revised 11244
51.3485 Removed; new 51.3485 redesignated from 51.3487 and revised 11244
51.3486 Redesignated as 51.3484 11244
51.3487 Redesignated as 51.3485 11244
52 Authority citation revised 8464
52.53 (d) Figures 11 through 14 added 3533
52.54 (a) amended 8464
52.2283 (b)(1) amended 26823
52.2292 Removed 26823
52.2293 Removed 26823
53 Authority citation revised 8464
53.13 (a)(2) revised 8464
54 Authority citation revised 8464
54.11 (a)(2) revised 8464
55.11 Amended 49168
55.95 Revised 49168
55.96 Amended 49168
55.310 (b) revised 49168
55.330 (c) revised 49168
55.410 (a) heading revised; (b) amended 49168
55.420 Revised 49168
55.430 Amended 49168
55.450 (a) and (b) redesignated as (b) and (c); new (a) added 49168
55.460 Amended 49168
56 Authority citation revised 12402
56.1 Amended 12402
56.3 (b) revised 12402
56.17 (b) amended 12402
56.35 (c) revised 12402
56.36 (b)(2) revised 12402
56.37 Amended 12402
56.76 (b) and (e)(10) revised 12402
56.226 Removed 12403
56.227 Removed 12403
56.228 Removed 12403

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56.230 Revised 12403
56.231 Table 1 revised 12403
Table correctly revised 13780
56.234 (c) revised 12403
58.43 Revised 50078
58.45 Revised 50078
58.305 (b) and (c) revised 4825
58.325 Revised 4826
58.347 Revised 4826
58.2475—58.2481 (Subpart J) Revised 11247
58.2475 Corrected 20178
58.2479 Table corrected 48203
59.5 Amended 49168
59.17 Amended 49169
59.28 (a)(1) amended 49169
59.122 Revised 49169
59.130 Amended 49169
59.136 Heading and (a) revised 49169
59.155 Amended 49169
59.300 Amended 49169
59.310 (a) amended 49169
59.320 Revised 49169
59.330 Added 49169
59.350 (a) and (b) redesignated as (b) and (c); new (a) added 49169
59.360 Amended 49169
59.411 (b)(1) amd (c)(3) revised; (c)(1), (e) and (3) amended 49169
59.412 (b) revised 49170
59.415 Introductory text amended 49170
59.417 (c) revised 49170
59.502 (b) revised 49170
59.504 (c) amended; (h) revised 49170
59.506 (d) revised 49170
59.515 (a)(8) amended; (a)(9) and (c) removed 49170
59.516 Added 49170
59.530 (g) added 49170
59.539 (d)(1) revised 49170
59.580 (c) revised 49170
59.720 (a)(1) and (b) revised 49170
59.800 Amended 49171
59.801 Revised 49171
59.905 (a) revised 49171
59.915 (b)(8) amended 49171
59.940 Amended 49171
59.945 (b) revised 49171
59.950 (a)(3) and (8) revised; (b) redesignated as (c); new (b) added 49171
59.955 (b) redesignated as (c); new (b) added 49171
59.956 Added 49171
68 Policy statement 10303
Redesignated as Part 868 16364
68.1 (b)(2) and (43) revised 5835
70.1 Amended 6639
70.5 Revised 6640
70.15 (c) revised 6640
70.210 (a), (b) and (e) introductory text revised; (e)(10) through (16) redesignated as (e)(12) through (18); new (e)(10) and new (11) added 6640
70.220 (d) through (g) and (h)(3) revised; (h)(4) added 6640
70.221 (d) through (g) revised 6641
70.230 (c) removed; (d) through (j) redesignated as (f) through (l); new (c), new (d) and new (e) added; (b), new (f) and new (l) revised 6642
70.231 Heading, introductory text, (d) and (e) revised 6642
70.232 Added 6642
70.240 (a) revised; (d) removed 6642
70.270—70.271 Undesignated center heading removed 6642
70.270 Removed 6642
70.271 Removed 6642
75 Authority citation revised 21035
75.41 Amended 21035
75.47 Amended 21035
97 Authority citation revised 8464, 17189
97.1 Amended; interim 17189
97.2 Amended; interim 17189
97.5 (a)(2) amended; interim 17189
97.6 (d) amended; interim 17189
97.7 Removed; interim 17189
97.11 (b) amended; interim 17189
97.15 Heading revised; interim 17189
97.19 Amended; interim 17189
97.20 (a) and (c) amended; interim 17189
97.23 (d) added; interim 17189
97.100 (b) amended; interim 17189
97.104 (b) amended; interim 17189
97.105 (a) and (b) amended; interim 17189
97.106 (b) and (c) amended; interim 17190
97.130 (c) and (d) amended; interim 17190
97.140 Amended; interim 17190
97.141 Amended; interim 17190
97.142 Amended; interim 17190
97.175 Revised; interim 17190
97.201 (e) amended; interim 17190

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97.205—97.222 Undesignated center heading amended; Footnote 2 added; interim 17190
97.300 (d) amended 8464
97.303 (b) amended; interim 17190
97.500 Amended; interim 17190
97.800 Amended; interim 17190
110 Authority citation revised 8123
110.2 Amended 8123
Regulation at 60 FR 8123 eff. date delayed to 8-1-95 25119
110.3 (b) through (g) redesignated as (c) through (h); (a) and new (c) revised; new (b) added 8123
Regulation at 60 FR 8123 eff. date delayed to 8-1-95 25119
110.5 Revised 8123
Regulation at 60 FR 8123 eff. date delayed to 8-1-95 25119
110.7 Revised 8123
Regulation at 60 FR 8123 eff. date delayed to 8-1-95 25119
201.49 Corrected 2493
201.66 Removed 35830
201.104 Removed; new 201.104 redesignated from 201.107 16979
201.105 Removed; new 201.105 redesignated from 201.108 16979
Revised 35830
201.106 Removed; new 201.106 redesignated from 201.109 16979
201.107 Redesignated as 201.104 16979
201.108 Redesignated as 201.105 16979
201.109 Redesignated as 201.106 16979

Chapter II—Food and Consumer Service, Department of Agriculture (Parts 210—299)

Chapter II Nomenclature change 19490
210.2 Amended 31207
210.4 (b)(3) introductory text amended 31207
210.7 (c)(1)(v) and (d) amended 31207
210.8 (a)(2), (4) and (b)(2)(i) amended; (a)(2)(i) and (ii) added; (a)(3) revised 31207
210.9 (b)(5), (c) introductory text and (1) amended 31208
210.10 (c)(1) table correctly revised 10150
Redesignated as 210.10a; new 210.10 added 31208
210.10a Redesignated from 210.10 31208
Heading revised; (c) table amended 31214
210.14 (c) revised 31215
210.15 (b)(2) revised; (b)(3) amended; (b)(4) removed; (b)(5) redesignated as (b)(4) 31215
210.16 (b)(1) and (c)(3) amended 31215
210.18 (c) introductory text, (1), (2), (3), (d)(3) and (h)(2) amended 31215
210.19 (a)(1) through (5) redesignated as (a)(2) through (6); new (a)(1) and (c)(6)(iii) added; new (a)(2) revised; new (a)(3), (6), (c) introductory text, (1), (6)(i) and (ii) amended 31215
210 Appendixes A and C amended 31216
220.2 (b) and (t) amended; (m), (p-1) and (w-1) added 31217
220.7 (e)(2) amended 31217
220.8 (a)(1) table corrected 10150
Redesignated as 220.8a; new 220.8 added 31217
220.8a Redesignated from 220.8 31217
Heading revised 31222
220.9 (a) amended 31222
220.13 (f)(3) and (4) redesignated as (f)(4) and (5); new (f)(3) added 31222
220.14 (h) amended 31222
220 Appendixes A and C amended 31222
235.1 Amended 15461
235.2 (r) and (s)(2) amended 15461
235.4 (a), (b) introductory text, (c), (d) and (e) redesignated as (a)(1), (2), (d), (e) and (f); new (a) introductory text, new (b) introductory text, new (c), new (d) heading, new (e) heading, new (f) heading and (g) added; new (a)(1), new (2), (b), (3)(iv) and new (f) amended; (b)(2), (3) introductory text and (4) revised 15461
235.5 (b)(1) amended; (e) revised 15462
235.6 (a) amended; (c) revised; (e), (g) and (h) redesignated as (d), (e) and (f); new (g) added 15462
235.7 (b) and (c) amended 15463

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235.11 (b)(2), (3), (4) and (7) amended 15463
246.7 (e)(2)(ii), (iv), (4) introductory text and (vii) revised 19490
248.2 Amended 49745
248.4 (a)(16) removed; (a)(10)(ii) through (viii) and (17) through (20) redesignated as (a)(10)(iii) through (ix), and (16) through (19); (a)(8)(i), (15) and new (16) revised; new (a)(10)(ii) and new (20) added 49746
248.8 (a) revised 49746
248.10 (a) introductory text, (e)(2) and (4) amended; (a)(4) and (d) introductory text revised 49746
248.11 (g) amended 49747
248.12 (a)(1)(ii) redesignated as (a)(1)(iii); (a)(1)(i) and new (a)(1)(iii) amended; new (a)(1)(ii) and (b)(8) through (14) added 49747
248.14 (a)(1)(i), (iii), (d)(1), (2) and (e)(1) amended; (h), (i) and (j) redesignated as (i), (j) and (k); (a)(1)(ii), (b), (c), (d)(3), (g), new (i), new (j) and new (k) revised; new (h) added 49747
248.16 (f) amended 49748
248.17 (b) introductory text, (c)(1)(i) and (ii) amended 49748
248.25 (a) revised 49748
248.26 Revised 49748
271.2 Amended 45996, 48869
272.1 (g)(139) added 1708
Regulation at 59 FR 50155 confirmed 17630
(g)(138) revised 17631
(g)(140) added 20182
(g)(141) added 43349
(g)(142) added 43515
(g)(143) added 45996
(g)(144) added 48869
272.2 (a)(2) amended; (d)(1)(xi) added 20182
(a)(2) amended; (d)(1)(xii) added 45996
273.2 (f)(1)(xii) added 48869
273.5 (b)(1), (2) and (3) redesignated as (b), (c) and (d); (a) and new (b) revised 48869
273.7 (d)(1)(i)(C) revised 1708
(d)(1)(i)(C) correctly designated 37556
273.8 (e)(16) added 43349
(e)(11)(vi) removed; (e)(11)(vii) through (e)(11)(xi) redesignated as (e)(11)(vi) through (x) 48869
273.10 Regulation at 59 FR 50155 confirmed 17630
(d)(4) amended 17631
273.12 Regulation at 59 FR 50155 confirmed 17630
273.16 (a)(1), (e)(4), (9)(iii) and (i)(5) amended; (b), (e)(3), (8)(iii), (f)(2)(iii), (g)(2)(ii) and (h)(1)(ii)(C) revised 43515
273.18 (g)(5) and (6) added 45996
273.21 Regulation at 59 FR 50155 confirmed 17630
(f)(2)(iv) and (i) revised; (j)(3)(iii)(C) revised 17631
274.2 (b)(2), (3) and (4) removed; (b)(1), (c), (d) and (e) redesignated as (b), (d), (e) and (f); (d)(2) and (3) redesignated as (d)(3) and (4); (a) and new (b) amended; (b) heading, new (d)(1) and new (3) revised; new (c), new (d)(2) and (g) added 20182
274.3 (e)(1) revised 20183
274.11 Heading, (a) heading, introductory text and (1) revised 20183

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

300 Revised 27673
300.1 (a) revised 6958, 14208, 50384
301.38–2 (b) amended 38667
Regulation at 60 FR 38667 eff. date confirmed 49494
301.45–3 Regulation at 59 FR 46902 confirmed 5836
301.50–3 (c) amended; (d) revised; interim 2322
301.52–2a Amended; interim 44416
301.64 Regulation at 59 FR 51840 confirmed 5067
301.64–3 Regulation at 59 FR 51840 confirmed 5067
301.78–3 (c) amended; interim 40054
301.80–2a Amended; interim 39836
301.83 (a) amended 39103
301.93–3 (c) revised 18728

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Regulation at 60 FR 18728 confirmed 40993
319 Authority citation revised 27674
319.19 (a) through (d) revised 27674
319.28 (a)(1), (b) introductory text and (1) amended 39103
(b)(2), (4)(ii) and (f) amended; (b)(7) removed 39104
319.34 (Subpart) Heading revised 27674
319.34 (a) and (c) removed; (b) and (d) redesignated as (a) and (b); new (a) revised 27674
319.37–1 Amended 3077, 27674
319.37–2 (a) table amended 8924
319.37–3 (a)(3) amended; (a)(17) added 8924
319.37–5 (n) amended 4530
(o) added 8924
319.37–8 (e) revised; (g) added 3077
319.37–9 Amended 3078
319.37–13 Footnote 11 redesignated as Footnote 12 3077
319.40–1—319.40–11 (Subpart) Revised 27674
319.40–6 (b)(2) and (c) corrected 30157
319.56–2aa Heading, introductory text, (a) and (c) amended 50386
319.56–2ee Added 50386
319.56–2f Removed 6958
319.56–2q Removed 6958
319.56–2r (a)(1) and (g)(1) amended 14208
319.56–2t Table amended 14208, 50384
319.56–2u Heading revised; (a) added 50385
319.56–2x (a) table amended 6958, 14209, 50385
319.69 Introductory text and (b)(3) removed; (a) and (b) amended; (b)(4) and (5) redesignated as (b)(3) and (4) 27682
319.69a (a) amended 27682
319.76–2 Footnote 1 revised 6000
322.1 Heading and (c) amended; Footnote 1 removed; (e) redesignated as (f); new (e) added 6000
354.2 Table amended 11898, 17632, 24536
Table corrected 20306
360.200 (a) and (c) amended 35832
372 Added 6002
372.5 (d) corrected 13212
372.6 Corrected 13212
372.7 Corrected 13212
381.66 (f)(2) amended 44412
381.129 (b)(6) amended 44412
381.134 (b)(15) amended 44413

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

400 Comment period reopening and extension 40055
400.4 Amended 40055
400.161—400.177 (Subpart L) Authority citation revised 21036
400.169 Revised; interim 21036
400.451—400.500 (Subpart R) Authority citation revised 37323
400.454 (a) revised 37323
400.458 Added 37324
400.459 Added 37324
400.650—400.658 (Subpart T) Added; interim 1997
401 Authority citation revised 29749, 29960
401.101 Regulation at 58 FR 67631 confirmed 37934
401.103 Regulation at 58 FR 67633 confirmed 37934
401.105 Regulation at 58 FR 67634 confirmed 37934
401.107 (e) revised 40056
401.109 Amended 29960
Regulation at 58 FR 67635 confirmed 37934
401.111 Regulation at 58 FR 67637 confirmed 37934
401.113 Regulation at 58 FR 67638 confirmed 37934
401.117 Regulation at 58 FR 67639 confirmed 37934
401.119 Regulation at 58 FR 67641 confirmed 37934
401.120 Amended 29960
Regulation at 58 FR 67642 confirmed 37934
401.121 Regulation at 58 FR 67643 confirmed 37934
401.143 Amended; interim 29750
402 Added; interim 2002
Comment period reopening and extension 40055
404 Added; interim 26671
Comment period reopening and extension 40055
404.41 OMB number 26676
443 Authority citation revised 29960
443.7 (d) amended 29960

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457.9 Regulation at 59 FR 45972 confirmed 16765
457.101 Amended 35834
457.104 Amended 35834
457.105 Amended 35834
457.108 Amended 29960
457.110 Regulation at 59 FR 9615 confirmed 37934
457.113 Amended 35834
457.114 Added 31378
457.115 Added 31380
457.116 Added 25602

Chapter VI—Soil Conservation Service, Department of Agriculture (Parts 600—699)

Chapter VI Heading revised; nomenclature change; interim 28514
620 Added; interim 28514
620.2 (1) corrected 33034
620.4 (d)(3), (3)(iv) and (f) corrected 33034
620.12 (a)(1) corrected 33034
620.14 (d) corrected 33034

Chapter VII—Consolidated Farm Service Agency, Department of Agriculture (Parts 700—799)

704.20 (a)(4) added; interim 22458
718.1 Regulation at 59 FR 59287 confirmed 33331
718.2 Regulation at 59 FR 59287 confirmed 33331
718.3 Regulation at 59 FR 59287 confirmed 33331
(b) amended; interim 44257
718.10 Regulation at 59 FR 59287 confirmed 33331
718.12 Regulation at 59 FR 59287 confirmed 33331
718.13 Regulation at 59 FR 59288 confirmed 33331
718.21 Regulation at 59 FR 59288 confirmed 33331
(e) revised; interim 44257
718.22 Regulation at 59 FR 59288 confirmed 33331
(d) removed; (e), (f) and (g) redesignated as (d), (e) and (f); interim 44257
718.24 Regulation at 59 FR 59288 confirmed 33331
718.25 Regulation at 59 FR 59289 confirmed 33331
718.26 Regulation at 59 FR 59289 confirmed 33331
718.40 (a)(1) and (b)(3) removed; (a)(2) and (b)(4) redesignated as (a)(1) and (b)(3); (c) introductory text, (1) and (2) introductory text revised; interim 44257
Regulation at 59 FR 59289 confirmed 33331
Corrected 48203
718.42 Regulation at 59 FR 59289 confirmed 33331
718.43 Regulation at 59 FR 59289 confirmed 33331
718.45 Regulation at 59 FR 59289 confirmed 33331
718.46 Regulation at 59 FR 59289 confirmed 33331
718.47 Regulation at 59 FR 59290 confirmed 33331
723.111 (c) added 22460
723.112 (c) added 27868
723.113 (c) added 38234
723.114 (c) added 38234
723.115 (c) added 38234
723.116 (c) added 38234
723.117 (c) added 38234
723.118 (c) added 38234
729.214 (e) added 7430
782 Added 5089
790 Regulation at 59 FR 59290 confirmed 33331
791 Regulation at 59 FR 59290 confirmed 33331
792.7 (l) revised 43706

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

Chapter VIII Heading revised 5835
Policy statement 10303
800.0 (b)(3) and (91) revised; Footnote 1 removed 5835
800.2 Revised 5835
800.7 Revised 5836
800.8 (b), (d) and (e) revised 5836
800.76 (a) revised 39243
800.186 (c)(3) introductory text revised 39243
800.195 (f)(5)(ii) revised 39243
800.196 (g)(6)(ii) revised 39243
802.0 Revised 31910

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Regulation at 60 FR 31910 eff. date confirmed 42429
868 Redesignated from Part 68; new Part 868 heading revised 16364
868.20 (a) and (b) amended 16364
868.21 (e), (f) and (j) amended 16364
868.22 Amended 16364
868.24 (a) amended 16364
868.26 Amended 16364
868.33 (a)(2) and (3) amended 16364
868.42 (a) amended 16364
868.43 Amended 16364
868.51 (a) amended 16364
868.52 (a) and (b) amended 16364
868.61 (a) amended 16364
868.71 (e) amended 16364
868.74 (f) amended 16364
868.75 (c) amended 16364
868.81 (d) amended 16364
868.82 Amended 16365
868.83 Amended 16365
868.90 Amended; (a), (b) and (c) revised 36029
868.92 (a) introductory text, (5) and (f) amended 16365
868.103 Amended 16365
868.134 Revised 36030
868.140 Revised 36031
868.141 Amended 16365
868.201 Amended 16365
868.205 Amended 16365
868.211 (a)(5) and (b)(5) amended 16365
868.212 Introductory text, (b) note and (d) note amended 16365
868.256 Amended 16365
868.262 (a)(5) amended 16365
868.263 Introductory text and (c) note amended 16365
868.310 Heading, Footnotes 1, 2 and 5 amended 16365
868.311 Heading, Footnotes 1, 2 and 3 amended 16365
868.312 Heading, Footnotes 1, 2 and 3 amended 16365
868.313 Heading, Footnotes 1 and 2 amended 16365
868.315 Heading, (c) note, (d) note and (e) note amended 16365
868.316 Amended 16365
868.403 (b) amended 16365
868.406 Amended 16365
868.408 Amended 16365
868.409 Amended 16365
868.502 (b) amended 16365
868.503 Amended 16365
868.507 Amended 16365
868.601 (c) and (d) amended 16365
868.603 Amended 16365
868.604 Amended 16365
868.607 Amended 16365
868.611 Amended 16365

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

905 Budget of expenses 33330, 40058
905.306 Regulation at 59 FR 55573 confirmed 8926
906 Budget of expenses 32258, 49749
906.120 (c)(4) revised 13892
906.365 (a)(7) added 33679
911 Budget of expenses 8524, 24539
915 Budget of expenses 8524, 8926, 24539
915.306 (a)(7) revised; interim 42770
916 Budget of expenses 43351
916.350 (a)(4)(iv) Table I and (b) revised 14894
Regulation at 60 FR 14894 confirmed 30997
916.356 (a) introductory text, (1) introductory text, (i), Table I, (2) introductory text, (4) introductory text and (6) introductory text revised 14894
Regulation at 60 FR 14894 confirmed; (a)(4) and (6) amended 30997
917 Budget of expenses 43351
917.442 (a)(4)(iv) Table I and (b) revised 14896
Regulation at 60 FR 14896 confirmed 30997
917.459 (a)(1)(ii), (4), (5) introductory text and (6) introductory text revised; Table 1 added 14896
Regulation at 60 FR 14896 confirmed; (a)(1)(ii) corrected 30997
918 Stayed; eff. 3-1-95 through 2-28-97 17634
920 Budget of expenses 36033
920.131 Added 7432
920.302 (a)(4)(i) through (iv) revised; (a)(4)(v) and (vi) added 32260
921 Removed 36205

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922 Budget of expenses.....39105
922.321 (a)(1) revised; interim.....32430
Regulation at 60 FR 32430 confirmed.....47858
923 Budget of expenses.....39105
924 Budget of expenses.....39105
925 Budget of expenses.....3725, 16767
926 Removed.....33681
927 Budget of expenses.....17984, 42772
927.125 (d) and (e) redesignated as (e) and (f); new (d) added; interim.....47860
928 Budget of expenses.....43353, 50079
929 Budget of expenses.....40747, 50080
929.152 Revised.....2
931 Budget of expenses.....40059, 50082
932 Budget of expenses.....4532, 18540
932.153 Heading, (a), (b) introductory text and (1) revised; interim.....42774
944.106 Regulation at 59 FR 55573 confirmed.....8926
944.312 (a) amended.....33679
944.350 Amended.....33681
944.401 (b)(12) introductory text revised; interim.....42774
944.503 (a)(3) revised; (e) removed; (f) redesignated as (e).....33681
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945.22 Revised.....29726
945.23 Revised.....29727
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945.30 (a) revised.....29727
945.42 (b) revised; (d) and (e) added.....29727
945.52 (a)(3) revised.....29727
945.80 Existing text designated as (a); (b), (c) and (d) added.....29727
946 Budget of expenses.....17433, 28318
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946.142 (a) revised.....27683
947 Budget of expenses.....29751, 38476
948 Budget of expenses.....28319, 32262, 39107, 40260
948.150 (a) revised.....16566
948.153 Added.....16566
953 Budget of expenses.....28702, 37935
955 Budget of expenses.....48362
956 Added.....27626
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958 Budget of expenses.....24540, 34454
959 Budget of expenses.....10480, 42776
959.322 (f)(3)(i), (ii), (iii), (4) and (5) redesignated as (f)(3), (4)(i), (ii), (5) and (6); new (f)(4)(i), new (ii), (g) introductory text and (4) revised.....40748
966 Budget of expenses.....3
966.161 (a) and (c) revised.....5560
967 Stayed; eff. 1-12-95 through 12-31-97.....2874
971 Removed.....31230
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981 Marketing percentages...28522, 40061
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989 Marketing percentages.....12405, 26345, 26348, 36952
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993 Budget of expenses.....39108, 49751
997 Limitation of handling.....43355
997.20 (g) revised; interim.....50086
997.30 (a)(1) redesignated as (a)(1)(i); new (a)(1)(i) table amended; (a)(1)(ii) added; interim.....50086
(a)(2) amended; (c)(5) and (f) revised; interim.....50087
997.40 (b)(6) added.....43355
(a)(1) revised; (a)(2) and (3) amended; interim.....50087
997.51 Regulation at 59 FR 39421 confirmed.....6395
997.100 Regulation at 59 FR 39421 confirmed; undesignated center heading and section removed.....6395
998 Budget of expenses.....26349, 36636
998.100 Heading and (i) revised; interim.....36208
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998.200 (f) and (h)(1) revised; (h)(2) and (4) amended; (j)(3) added; interim.....36208
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998.300 (e), (h), (j), (x) and (z) amended; (z)(6) added; interim.....36208
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1001.50 (b) revised.....6607
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1001.54 Revised.....6607
1001.76 (b) revised.....18954
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1002.50 (c) revised.....6607
1002.51 Heading revised; (a) designation and (b) removed.....6607
Revised.....18954
1002.56 Introductory text and (b) revised; (a) introductory text removed; (a)(1) and (2) through (6) redesignated as (a) and (c) through (g).....6607
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1004.12 (d) introductory text, (1) and (2) stayed in part; eff. 9-1-95 through 2-29-96.....43954
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1005.7 (d)(3) stayed in part; eff. 3-1-95 through 2-28-96.....7434
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1032.53 Revised 6609
1032.74 Revised 18961
1033.20 Removed 6609
1033.50 (b) revised 6609
1033.51 Heading revised; (a) designation and (b) removed 6609
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1033.53 Introductory text and (b) revised; (a) introductory text removed; (a)(1) and (2) through (5) redesignated as (a) and (c) through (f) 6609
1033.73 Revised 18962
1036.20 Removed 6609
1036.50 (b) revised 6609
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1036.53 Introductory text and (b) revised; (a) introductory text removed; (a)(1) and (2) through (5) redesignated as (a) and (c) through (f) 6609
1036.73 (a)(2)(iii) amended; (a)(2)(iv) removed 22256
1036.74 Revised 18963
1036.105 Removed 22256
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1040.50 (b) revised 6609
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1040.51 Revised 18963
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1040.61 Revised 45576
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1040.63 Added 45577
1040.71 (a)(1) and (2) revised 45577
1040.73 (a) amended; (b)(1)(ii) and (c) revised 45577
1040.74 Revised 18963, 45577
1040.75 (a)(1) and (c) revised 45577
1040.76 (a)(4) revised; (b)(1)(ii) amended 45577
1040.85 Introductory text amended 45578
1040.86 (a) amended 45578
1044.20 Removed 6609
1044.22 (1)(1)(i) revised; (i)(3) removed 6609
1044.50 (b) revised 6609
1044.51 Heading revised; (a) designation and (b) removed 6609
Revised 18964
1044.62 Revised 18964
1046.2 Stayed in part; eff. 3-1-95 through 2-28-96 7434
1046.20 Removed 6609
1046.50 (b) revised 6609
1046.51 Revised 18964
1046.51a Removed 6609
1046.53 Revised 6609
1046.74 Revised 18965
1049.20 Removed 6610
1049.50 (b) revised 6610
1049.51a Removed 6610
1049.52 Revised 18965
1049.53 Introductory text and (b) revised; (a) introductory text removed; (a)(1) and (2) through (5) redesignated as (a) and (c) through (f) 6610
1049.74 Revised 18966
1050.13 (d)(2) stayed in part 7435, 18344
1050.20 Removed 6610
1050.50 (b) revised 6610
1050.51 Revised 18966
1050.51a Removed 6610
1050.53 Revised 6610
1050.74 Revised 18966
1064.20 Removed 6610
1064.50 (b) revised 6610
1064.51 Revised 18966
1064.51a Removed 6610
1064.53 Revised 6610
1064.74 Revised 18967
1065.20 Removed 6610

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1065.50 (b) revised 6610
1065.51 Revised 18967
1065.51a Removed 6610
1065.53 Revised 6610
1065.74 Revised 18968
1068.20 Removed 6610
1068.50 (b) revised 6610
1068.51 Revised 18968
1068.51a Removed 6610
1068.53 Revised 6610
1068.74 Revised 18968
1075.20 Removed 6610
1075.50 (b) revised 6610
(c) revised 18969
1075.51 Revised 18969
1075.51a Heading revised; (a) designation and (b) removed 6610
1075.53 Revised 6610
1075.74 Revised 18969
1076.20 Removed 6610
1076.50 (b) revised 6610
1076.51 Revised 18969
1076.51a Removed 6610
1076.53 Revised 6610
1076.74 Revised 18970
1079.20 Removed 6611
1079.50 (b) revised 6611
1079.51 Revised 18970
1079.51a Removed 6611
1079.53 Revised 6611
1079.74 Revised 18971
1093 Removed 29453
1093.20 Removed 6611
1093.50 (b) revised 6611
1093.51 Revised 18971
1093.51a Removed 6611
1093.53 Revised 6611
1093.74 Revised 18971
1094 Removed 29453
1094.20 Removed 6611
1094.50 (b) revised 6611
1094.51 Revised 18971
1094.51a Removed 6611
1094.53 Revised 6611
1094.74 Revised 18972
1096 Removed 29453
1096.20 Removed 6611
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1096.51 Revised 18972
1096.51a Removed 6611
1096.53 Revised 6611
1096.74 Revised 18973
1099.20 Removed 29466
1099.50 (b) revised 29466
1099.51 Revised 18973, 29466
1099.51a Removed 29467
1099.53 Revised 29467
1099.74 Revised 18973, 29467
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1106.51 Revised 18974
1106.51a Removed 6611
1106.53 Revised 6611
1106.74 Revised 18974
1108 Removed 29453
1108.20 Removed 6611
1108.50 (b) revised 6611
1108.51 Revised 18974
1108.51a Removed 6611
1108.53 Revised 6611
1108.74 Revised 18975
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Removed 18975
1124.50 (b) revised; (e) and (f)(2) amended 6611
(e) and (f)(2) amended; (f)(3) added 18975
1124.51 Heading revised; (a) designation and (b) removed; new undesignated text amended 6612
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1124.53 (a) revised; (b) removed; (c) redesignated as (b) 6612
1124.75 (a)(2)(i) amended 6612, 18976
1126 Authority citation revised 40261
1126.7 (d) introductory text and (e) introductory text stayed in part; eff. 8-1-95 through 7-31-95 40261
1126.13 (e)(2) stayed; eff. 3-1-95 through 7-31-95 17192
(e)(1), (2) and (3) stayed in part; eff. 8-1-95 through 7-31-97 40262
1126.20 Removed 6612
1126.50 (b) revised 6612
1126.51 Revised 18976
1126.51a Removed 6612
1126.53 Revised 6612
1126.74 Revised 18976
1131.7 (c) stayed in part; eff. 4-1-95 through 3-31-96 17193
1131.20 Removed 6612
1131.50 (b) revised 6612
1131.51 Revised 18976
1131.51a Removed 6612
1131.53 Revised 6612
1131.74 Revised 18977
1134.19 Removed 6612
1134.50 (b) revised 6612

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1134.51 Revised 18977
1134.51a Removed 6612
1134.53 Revised 6612
1134.74 Revised 18978
1135.19 Revised 6612
Removed 18978
1135.50 (b) revised; (e) and (f)(2) amended 6612
(e) and (f)(2) amended; (f)(3) added 18978
1135.51 Heading revised; (a) designation and (b) removed; new undesignated text amended 6612
Revised 18978
1135.53 (a) revised; (b) removed; (c) redesignated as (b) 6612
1135.74 (b)(2)(i) and (ii) amended 6612, 18979
1137.7 (b) stayed in part; eff. 9–1–95 through 2–29–96 46215
1137.12 (a)(1) stayed in part; eff. 9–1–95 through 8–31–96 46215
1137.19 Removed 6612
1137.50 (b) revised 6612
1137.51 Revised 18979
1137.51a Removed 6612
1137.53 Revised 6612
1137.74 Revised 18979
1138.7 (a)(1) and (c) introductory text stayed in part; eff. 10–1–95 through 9–31–97 50088
1138.13 (d)(1), (2) and (5) stayed in part; eff. 10–1–95 through 9–31–97 50089
1138.20 Removed 6612
1138.50 (b) revised 6613
1138.51 Revised 18979
1138.52 Removed 6613
1138.54 Revised 6613
1138.74 Revised 18980
1139.19 Removed 6613
1139.50 (b) revised 6613
(d) amended; (e) revised 18980
1139.51 Heading revised; (a) designation and (b) removed 6613
Revised 18980
1139.53 (a) revised; (b) removed; (c) redesignated as (b) 6613
1150.250—1150.252 (Subpart) Removed 37325
1160.650—1160.652 (Subpart) Removed 37325

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1200 Authority citation revised 37326
1200.50—1200.52 (Subpart) Added 37326
1205.50—1205.52 (Subpart) Removed 37327
1205.510 (b)(2) and (3) revised 36034
1207.250—1207.252 (Subpart) Removed 37327
1209.200—1209.280 (Subpart B) Regulation at 58 FR 8197 confirmed 13614
1209.260 Amended 13614
1209.400—1209.402 (Subpart D) Removed 37327
1210.250—1200.252 (Subpart) Removed 37327
1210.251 (a) amended 10797
1210.252 (b)(3) amended 10797
1210.302 Amended 10797
1210.305 Revised 10797
1210.306 Amended 10797
1210.314 Added 10797
1210.315 Added 10797
1210.320 (a) revised; (d), (e) and (f) added 10797
1210.321 (a), (b), (c) and (d) redesignated as (b), (c), (e) and (f); new (a) and new (d) added; new (c) amended; new (f)(1) removed; (f)(2) and (3) redesignated as (f)(1) and (2); new (b) introductory text, (1), (4), (e), (f) introductory text and (1) revised 10798
1210.322 (a), (b) and (d) revised 10798
(b) and (d) corrected 13515
1210.325 (a) revised 10798
1210.328 (d), (g), (i), (k), (m) and (n) amended 10798
1210.340 (b) amended 10798
1210.341 (d) through (i) redesignated as (e) through (j); (a), (b) and new (e) revised; new (d) added; new (f), new (g) and new (h) amended 10798
Corrected 13515

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1210.342 Existing text designated as (a); (b), (c) and (d) added 10799
1210.343 Removed 10799
1210.350 Introductory text and (a) through (d) redesignated as (a) introductory text, and (1) through (4); new (b) and new (c) added 10799
1210.351 Amended 10799
1210.352 (a)(1) amended 10799
1210.362 Amended 10799
1210.363 (b) revised 10799
1210.364 (d) amended 10799
1210.400—1210.403 Undesignated center heading added 10799
1210.401 (b) revised 10799
1210.402 (a) revised; (b) amended 10799
1210.404 Undesignated center heading and section added 10800
1210.405 Redesignated from 1210.503; undesignated center heading added; (a) revised 10800
1210.503 Redesignated as 1210.405 10800
1210.505 Amended 10800
1210.515 (a) revised; (b) redesignated as (c); new (b) added 10800
1210.518 (a) and (b) revised; (c)(1), (2)(viii) and (d)(1) amended 10801
1210.519 Introductory text, (a) and (b) amended 10801
1210.520 Revised 10801
1210.521 Revised 10801
1210.530 Introductory text amended 10801
1210.531 Amended 10801
1210.532 Revised 10801
1211 Removed 47862
1211.250—1211.252 (Subpart C) Removed 37327
1212 Authority citation revised 7438
1212.2 Amended 7438
1212.5 Amended 7438
1212.18 Amended 7438
1212.30 (a) amended; (b) revised; (c) and concluding text removed 7438
1212.31 (k) existing and concluding text redesignated as (k)(1) and (2); heading, (a) and new (k)(1) revised 7438
1212.32 Amended 7438
1212.34 Revised 7438
1212.37 (a) amended 7439
1212.40 (o) removed; (p), (q) and (r) redesignated as (o), (p) and (q) 7439
1212.64 (j) added 7439
1212.65 (c)(2)(viii) amended 7439
1212.67 (a) introductory text revised 7439
1212.68 (a) amended; (d) added 7439
1212.69 Amended 7439
1212.84 (a) amended 7439
1212.250—1212.252 (Subpart C) Removed 37327
1220.201 Heading and (a) revised; (f) removed; (g) redesignated as (f) 29962
1220.212 (a) revised 29962
1220.400—1220.402 (Subpart C) Removed 37327
1220.701—1220.731 (Subpart F) Added 15029
1230.74 (b) revised; (c) removed 33683
1230.110 Revised 29965
1230.112 Revised 29965
1230.115 Added 33683
1230.400—1230.402 (Subpart C) Removed 37327
1240.50 Regulation at 59 FR 22493 confirmed 9609
1240.114 Regulation at 59 FR 22493 confirmed 9609
1240.250—1240.252 (Subpart) Removed 37327
1250.250—1250–252 (Subpart) Removed 37327
1290 Removed 37327

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

Chapter XIV Nomenclature change 1710
1403.7 (a)(3) and (4) amended; (a)(5) added; (m)(4) removed; (m)(5) and (6) redesignated as (m)(4) and (5); (q) revised 43706
1403.9 (c) revised 43706
1405 Authority citation revised 32899
1405.6 Added 32899
1410.116 (a)(5) added; interim 22458
1413 Regulation at 59 FR 59290 confirmed 33331

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1413.8 Amended; interim....44257
1413.26 (a)(1) revised; interim....44257
1413.43 (h)(1) revised; interim....44257
1413.49 Added....33331
1413.50 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added; interim....44257
1413.54 (a)(5)(iii) and (iv) revised; (a)(5)(v) and (d)(5) added....17985
(a)(3)(iii) and (iv) revised; (a)(3)(v) and (d)(5)(iii) added....31624
(a)(4)(iv) revised; (a)(4)(v) and (d)(5)(v) added....43002
(c)(1) and (4) revised; interim....44257
(a)(1)(iii), (iv), (2)(iii)(C), (iv) and (e) revised; (a)(1)(v), (2)(v), (d)(5)(i) and (ii) added....48019
1413.61 (a)(5) added; interim....44258
1413.64 (a) introductory text, (1) and (d) revised; interim....44258
1413.65 (g) introductory text; interim....44258
1413.103 (a)(8)(v) added; (b) revised....17985
1414 Regulation at 59 FR 59314 confirmed....33331
1414.28 (a) revised; interim....44258
1414.30 (b)(1)(i)(C) revised; interim....44258
1415 Regulation at 59 FR 59317 confirmed....33331
1415.9 Amended; interim....44258
1415.13 (a)(1)(i), (ii) and (iii) revised; (a)(1)(iv) and (v) added; interim....44258
1415.15 (b)(1)(ii), (2)(i) through (v), (e) and (h) revised; (f) amended; interim....44258
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1416 Regulation at 59 FR 59320 confirmed....33331
1416.100 (a) introductory text revised; interim....44259
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1416.103 (b) and (e) revised; interim....44259
1416.400 (b) revised; interim....44259
1421.1 Regulation at 59 FR 34347 confirmed....1709
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1421.4 Regulation at 59 FR 34348 confirmed....1709
1421.5 Regulation at 59 FR 34348 confirmed....1709
1421.7 Regulation at 59 FR 34348 confirmed....1709
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(b)(7)(v) added....43002
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1421.8 Regulation at 59 FR 34348 confirmed....1709
1421.9 Regulation at 59 FR 34348 confirmed....1709
1421.11 Regulation at 59 FR 34349 confirmed....1709
1421.14 Regulation at 59 FR 34349 confirmed....1709
1421.16 Regulation at 59 FR 34349 confirmed....1709
1421.17 Regulation at 59 FR 34349 confirmed....1709
1421.18 Regulation at 59 FR 34350 confirmed....1709
1421.19 Regulation at 59 FR 34350 confirmed....1709
1421.20 Regulation at 59 FR 34350 confirmed....1709
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1421.27 (a)(2)(iv) revised; (a)(2)(v) added....27870
1421.29 Regulation at 59 FR 34351 confirmed....1709
1421.202 Regulation at 59 FR 34351 confirmed....1709
1421.205 Regulation at 59 FR 34351 confirmed....1709
1421.206 Regulation at 59 FR 34351 confirmed....1709
1421.207 Regulation at 59 FR 34351 confirmed....1709
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1421.210 Regulation at 59 FR 34352 confirmed....1709
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1421.215 Regulation at 59 FR 34353 confirmed....1709
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1421.320 Regulation at 59 FR 34353 confirmed....1709

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1421.321 Regulation at 59 FR 34353 confirmed....1709
1421.323 Regulation at 59 FR 34353 confirmed....1709
1421.324 Regulation at 59 FR 34353 confirmed....1709
1425 Authority citation revised....2680
1425.3 (i) and (j) redesignated as (j) and (k); (d), new (j) and new (k) revised; new (i) added....2680
1425.4 (a), (b)(7) and (c) introductory text revised; (e) and (f) added....2681
1425.6 (b)(2) revised....2681
1425.7 (a) revised....2681
1425.8 (b)(2) and (e) revised....2681
1425.9 Introductory text, (d) and (g) revised....2681
1425.10 (b)(3) revised....2682
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1425.14 (c) revised....2682
1425.16 Redesignated as 1425.17; new 1425.16 added....2682
1425.17 Redesignated as 1425.18; new 1425.17 redesignated from 1425.16; (a)(2), (b)(1)(i), (ii), (iii), (2) and (c)(2) revised; (c)(5) added....2682
1425.18 Redesignated as 1425.19; new 1425.18 redesignated from 1425.17....2682
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1425.19 Redesignated as 1425.20; new 1425.19 redesignated from 1425.18....2682
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1425.21 Redesignated as 1425.22; new 1425.21 redesignated from 1425.20....2682
1425.22 Redesignated as 1425.24; new 1425.22 redesignated from 1425.21....2682
1425.23 Redesignated as 1425.25....2682
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1425.24 Redesignated from 1425.22....2682
1425.25 Redesignated from 1425.23....2682
1427.1 Regulation at 59 FR 39252 confirmed....1710
1427.3 Regulation at 59 FR 39252 confirmed....1710
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1427.5 Regulation at 59 FR 39253 confirmed....1710
(b)(2)(iii) introductory text and (A) revised....38477
1427.6 Regulation at 59 FR 39253 confirmed....1710
1427.8 (a)(2)(iii) and (iv) revised; (a)(2)(v) added....17985
(a)(1)(iii) and (iv) revised; (a)(1)(v) added....31624
1427.11 Regulation at 59 FR 39253 confirmed....1710
1427.14 Regulation at 59 FR 39253 confirmed....1710
1427.18 Regulation at 59 FR 39253 confirmed....1710
1427.23 Regulation at 59 FR 39254 confirmed....1710
1427.168 Regulation at 59 FR 39254 confirmed....1710
1427.171 Regulation at 59 FR 39254 confirmed....1710
1427.174 Regulation at 59 FR 39254 confirmed....1710
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1434.27 Regulation at 59 FR 23792 confirmed....322
1435.4 (c) redesignated as (e); new (c) and (d) added....5837

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1435.500—1435.529 (Subpart) Regulation at 58 FR 36124 confirmed 7700
1435.500 (a)(1) and (2) revised 7700
1435.502 Amended 7700
1435.507 (a) introductory text 7700
1435.510 (d) revised 7700
1435.513 (f) revised; (g) removed; (h) redesignated as (g) 7700
1435.514 (a) revised 7701
1435.520 (b) revised 7701
1435.521 (c)(1) revised 7701
1435.528 (a) and (b) revised 7701
1435.530 Regulation at 58 FR 41995 confirmed 7701
1446.103 Amended 35835
1464.7 (f) added; interim 21037
1464.11 (f) added; interim 19667
1464.12 (c) added 22460
1464.13 (c) added 38234
1464.14 (c) added 38234
1464.15 (c) added 38234
1464.16 (c) added 38234
1464.17 (c) added 38234
1464.18 (c) added 38234
1464.19 (c) added 27868
1464.102 (c) and (d) added; interim 19667
1468.3 Amended 22461
1468.4 (b)(1)(ii)(E), (2)(v) and (3)(v) added 28524
1468.18 (d) added 22461
1485 Revised 6363
1494.201 (q) revised; interim 21039
1494.301 (a)(1) and (b) removed; (a)(2) through (6) and (c) through (g) redesigntated as (a)(1) through (5) and (b) through (f); introductory text, (a) introductory text, new (b), new (d), new (e) and new (f) revised; new (a)(6) and new (g) added; interim 21039

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

1710.2 Amended 3730
1710.7 (d)(1)(vi) removed 3730
1710.106 (d) redesignated as (e); new (d) and (f) added 3730
1710.110 (c)(1)(ii) revised; (c)(3) added 3730
1710.112 (b)(10) added 3731
1710.115 (b) revised 3731
1710.116 Removed 3731
1710.251 (b) revised 3731
1710.252 (b) revised 3731
1710.400—1710.407 (Subpart I) Added 3731
1710.401 OMB number 3732
1712 Removed 3734
1714.6 (a)(2) revised 3734
1714.55—1714.59 (Subpart B) Added 3734
1717.650—1717.659 (Subpart N) Revised 46877
1717.856 (d) removed 3735
1717.860 (e) removed 3735
1718 Added 36888
1719 Removed 3735
1726 Revised 10155
1726.37 OMB number 10159
1751 Revised 8174
1755 Authority citation revised 44729
1755.97 Table amended 5097
Amended 44729
1755.98 Table amended 1712, 5097
1755.200 Added 5097
(d)(4)(ii) table corrected 9079
1755.390 OMB number 1711
1755.397 Introductory text amended 1711
Revised 44729
1755.522 OMB number 1711
1755.525 OMB number 1711
1755.860 OMB number 1711
1755.870 OMB number 1711
1755.890 OMB number 1711
1755.900 OMB number 1711
1773.2 Corrected 2874
1785.17 (Subpart A) Removed 3735

Chapter XVIII—Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Consolidated Farm Service Agency, Department of Agriculture (Parts 1800—2099)

Chapter XVIII Heading corrected; nomenclature change; CFR correction 20005
1924 Authority citation revised 24543
1924.101 Revised 24543

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1924.101—1924.150 (Subpart C) Exhibit A removed 24547
1924.102 Revised 24543
1924.103 Revised 24543
1924.104 Added 24544
1924.105 Revised 24544
1924.106 Revised 24544
1924.107 Revised 24545
1924.108 Revised 24546
1924.109 Removed 24546
1924.110 Removed 24546
1924.114 Removed 24546
1924.115 Revised 24546
1924.116 Removed 24546
1924.117 Removed 24546
1924.118 Removed 24546
1924.119 Revised 24546
1924.120 Removed 24546
1924.121 Removed 24546
1924.122 Revised 24546
1924.123 Removed 24547
1924.124 Removed 24547
1924.150 Revised (OMB number) 24547
1942.17 (g)(2)(ii) and (3)(ii) revised 11019
(b)(6) added 46216
1942.50 Revised (OMB number) 11019
1944.151—1944.200 (Subpart D) Exhibits A and A–1 amended 4070
1944.158 (i) revised 4070
1951 Authority citation revised 46756
1951.951—1951.1000 (Subpart T) Revised 46756
1955.10 (f)(2)(ii) amended 28320
1955.18 (a) through (d) and (f) through (l) removed 34455
1955.20 (b)(2) amended 28320
1955.63 (a) and (b) revised; introductory text, (c) introductory text and (3) amended; (d) removed 34455
1955.64 Removed 34455
1955.66 (i), (k)(1) and (l) through (o) removed; (j) amended 34455
1955.72 Amemded 34455
1955.80 Removed 34455
1955.107 Introductory text, (d)(3), (f) introductory text, (1) introductory text, (v), (2) and (3) amended; (a) revised; (b), (d)(1), (2) and (6) removed 34455
1955.108 Amended 34455
1955.109 (a), (c) and (g) amended; (b), (d), (e) and (i) removed 34455
1955.137 (b)(1)(ii), (iii), (2) introductory text, (6), (7), (d), (e)(1) introductory text, (ii), (2) and (4) amended; (c) and (h) removed 34455
1955.140 (a) and (b) amended 34455
1955.141 (a), (b) and (c) removed 34455
1955.142 Removed 34455
1955.143 Removed 34455
1955.144 Amended 34455
1956.86 Removed 28322
1956.146 Removed 28322
1962.34 (h) amended 28321
1965.26 (f)(5)(ii) amended 28321
1965.27 (f) amended 28321
1980.301—1980.399 (Subpart D) Revised 26985
1980.469 (c)(3) revised 26350

Chapter XXVIII—Office of Operations, Department of Agriculture (Parts 2800—2899)

2812 Added 34456

Chapter XXX—Office of Finance and Management, Department of Agriculture (Parts 3000—3099)

3015.1 (a)(1) revised; (a)(4) added; interim 44124
3015.2 (d)(6) added; interim 44124
3015.194 Revised; interim 44124
3016.36 (d), (g), (h) and (i) revised 19639, 19641
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78.1 Amended 48367
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317.300 Heading and (a) revised; (b) amended 176

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317.302 (a) and (c) amended 176
317.308 Amended 176
317.309 (a) through (g) revised; (h)(2) amended 176
317.312 (a) revised; (b) Table 2 amended; (d) redesignated as (g); new (d), (e) and (f) added 186
317.313 (a), (b), (g), (i), (j), (k), (p) and (q)(4) revised; (c) through (f) added 187
317.345 (a)(2) introductory text, (ii) and (iii) revised; (c) amended 188
317.354 Revised 189
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317.360 Revised 191
317.361 Revised 192
317.362 Revised 193
317.363 (b)(2) introductory text and (3) introductory text amended 196
317.369 (k)(5) introductory text, (i)(A) and (B) amended 196
317.380 (e) and (f) revised 196
317.400 (a) introductory text, (c)(2)(iii) and (v) amended 196
318.19 Footnote 1 removed; (b) amended; Footnote 2 redesignated as Footnote 1 10304
318.21 Footnote 5 redesignated as Footnote 4 10304
Regulation at 59 FR 66448 confirmed 19492
327.2 (b) amended 10306
Regulation at 60 FR 10306 eff. date confirmed 18540
(a)(1), (2)(i) introductory text, (ii) introductory text, (iv) introductory text, (3) and (4) amended 38668
327.4 (a) and (b) amended 38668
381.66 (f)(2) amended 44412
381.121b (a) amended; (c) added 12885
381.121c (a) amended 12885
381.129 (b)(6) added 44412
381.134 (b)(15) added 44413
381.153 Footnote 4 revised 10305
Regulation at 59 FR 66448 confirmed 19492
381.190 (b) amended; (b) in part designated as (b)(1), (b)(2)(i), (ii) and (iii); new (b)(2)(i) revised; new (b)(2)(ii) designated in part as (b)(2)(ii)(A), (B) and (C); new (b)(3) added 43358
381.196 (a)(1), (2)(i) introductory text, (ii) introductory text, (iv) introductory text, (3) and (4) amended 38668
381.221 Amended 49495
381.224 Amended 49495
381.400 (a) amended 197
381.409 (a) through (g) revised; (h)(2) amended 197
(g)(4) correctly added 10304
381.412 (a) revised; (d) redesignated as (g); new (d), (e) and (f) added 207
381.413 (b), (g), (i), (j), (k), (p) and (q)(4) revised; (c) through (f) added 208
381.445 (a)(2) introductory text, (ii) and (iii) revised; (c) amended 209
381.454 Revised 210
381.456 Revised 210
381.460 Revised 211
381.461 Revised 213
(b)(3) and (4) correctly revised 5762
381.462 Revised 214
381.463 (b)(2) and (3) amended 217
381.469 (m)(5) amended 217
381.480 (e) and (f) revised 217
381.500 (a) introductory text, (1) introductory text, (c)(2)(iii) and (v) amended 217
391.2 Revised 37329
391.3 Revised 37329
391.4 Revised 37329
391.5 Regulation at 59 FR 66449 confirmed 19492

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TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

Chapter I Policy statement 4071
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2 Authority citation revised 20886, 22491
2.712 (d)(4)(iii) revised 24550
2.758 (b) and (e) revised 22491
2.764 (a), (b) and (c) revised 20886
2.810 Added 18346
2 Appendix C removed 34380
11.15 (c) revised 26355
19.11 (c) amended 24551
19.12 Revised 36043
20.1002 Revised 48625
20.1003 Amended 36043, 48625
20.1009 Revised (OMB numbers); eff. 3–1–98 15663
20.1201 (d) and (e) amended 20185
20.1203 Amended 20185
20.1204 (c)(3), (e)(1) and (h)(2) amended 20185
20.1301 (a)(1) revised 48625
20.1302 (b)(2)(i) and (c) amended 20185
20.1502 (b)(1) amended 20185
20.1701 Amended 20185
20.1702 Amended 20185
20.1703 (a)(3)(v) revised 7903
(b)(1), (2) introductory text and (d) revised 20185
20.1704 Introductory text amended 20185
20.1902 (e) amended 20185
20.1905 (a) and (b) amended 20185
20.1906 (c) and (d) amended 20185
20.2003 (a)(2)(i) and (3)(i) amended 20185
20.2006 Revised; eff. 3–1–98 15663
(a) through (d) amended 20185
20.2101 (b) redesignated as (c); new (b) added; eff. 3–1–98 15663
20.2103 (b)(1) through (4) revised 20185
20.2104 (f) revised 20186
(a) revised 36043
20.2106 (f) revised 20186
20.2106 (b) revised 20186
20.2201 (a)(1)(i), (ii) and (b)(2)(ii) amended 20186
20.2203 (d) amended 20186
20.2204 Amended 20186
20.2205 Added 36043
20 Appendix G added; eff. 3–1–98 15664
Appendixes C and F revised 20186
Appendix D amended 24551
Appendix G amended; eff. 3–1–98 25983
21.2 (d) amended 48373
21.3 Amended 48373
21.6 (a) revised 48374
21.21 (a) introductory text revised; (c) and (d) redesignated as (d) and (e); new (c) added 48374
21.31 Revised 48374
21.41 Revised 48374
21.51 (a) introductory text and (b) revised 48374
21.61 Revised 48374
25.21 (c) revised 26355
30.6 (a)(2)(ii) revised 24551
30.7 (e)(2) amended 24551
30.35 (b)(2), (c)(2), (3) and (e) revised; (c)(4) added 38238

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30.36 (e) through (j) redesignated as (f) through (k); new (e) added 38238
32.52 (a) revised 3737
32.56 Revised 3737
32.72 (a)(4) revised 324
32.210 (b) amended 24551
34.20 (a) revised; (f) added 28325
35.2 Amended 48626
35.33 (a)(2), (3), (4), (b) and (c) revised 48626
40.5 (a)(2)(ii) revised 24551
40.7 (e)(2) amended 24551
40.23 (b)(1), (2)(ix), (c) and (d) amended 24551
40.25 (c)(1) introductory text, (2) and (d)(4) amended 24551
40.36 (b)(2), (c)(2), (3) and (d) revised; (c)(4) added 38238
40.42 (e) through (k) redesignated as (f) through (l); new (e) added 38239
40.66 (a), (b)(5) and (c) amended 24551
40.67 (a), (c) and (d) amended 24551
50 Authority citation revised 49504
50.4 (c) and (f) amended 24551
50.7 (e) amended 24551
50.36 (c)(2) and (3) revised 36959
50.55a Footnote 7 amended 24551
50.74 (c) revised 13616
50 Appendix J amended 13616, 49504
Appendix K amended 24552
51 Authority citation revised 22491
51.22 (c)(3) revised 22491
51.40 (c)(1) through (5) amended 24552
51.121 (a) through (e) amended 24552
54 Revised 22491
55 Meeting 43358
55.25 Revised 13617
60.9 (e) Note amended 24552
61.9 (e) Note amended 24552
61.12 (n) added; eff. 3-1-98 15666
61.80 (f) and (i)(1) revised; (l) added; eff. 3-1-98 15666
70.5 (a)(2)(ii) revised 24552
70.7 (e)(2) Note amended 24552
70.20b (f)(1), (2)(ii), (iii) and (g)(1) amended 24552
70.25 (b)(2), (c)(2), (3) and (e) revised; (c)(4) added 38239
70.38 (e) through (j) redesignated as (f) through (k); new (e) added 38240
71 Revised; eff. 4-1-96 50264
71.52 Eff. 4-1-96 through 4-1-99 50272
71.97 (c)(3)(iii) amended 24552
72 Authority citation revised 32441
72.10 (e)(2) amended 24552
72.32 Revised 32441
72.46 (d) revised 20886
72.54 (e) through (l) redesignated as (f) through (m); new (e) added 38240
73.37 (f)(1) amended 24552
73.55 (d)(8) removed; (d)(9) redesignated as (d)(8) 46498
73.57 (d)(1) amended 24552
73.71 (c)(2) removed; (c)(1) redesignated as (c); (d) added 13618
73.72 (a)(1), (4) and (5) amended 24552
73.73 (a)(1) and (b) amended 24553
73.74 (a)(1) and (b) amended 24553
73 Appendix G amended 13618
Appendix A amended 24553
74.57 (c) introductory text and (f)(2) amended 24553
74.59 (f)(1)(iii) amended 24553
76.7 (e)(3) amended 24553
110.2 Amended 37562
110.19 Revised 37563
110.20 (a) revised 37563
110.21 (a) introductory text, (b) introductory text and (c) revised; (d) and (e) added 37563
110.22 (a) introductory text, (b), (c) and (d) revised; (e) and (f) added 37563
110.23 (a) introductory text, (b) and (c) revised; (d) and (e) added 37564
110.27 (a) introductory text revised; (c) redesignated as (d); new (c) added 37564
110.32 Heading revised; (f)(5) redesignated as (f)(7); new (f)(5) and (6) added 37564
110.40 (a) revised 37564
110.41 (a)(7) and (8) redesignated as (a)(8) and (9); new (a)(8) added 37564
110.42 (a) introductory text, (3) and (c) revised; (d) added 37564
110.43 Redesignated as 110.44; new 110.43 added 37565
110.44 Redesignated as 110.45; new 110.44 redesignated from 110.43 37565

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110.45 Redesignated as 110.46; new 110.45 redesignated from 110.44; (b) and (c) revised 37565
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110.72 Introductory text revised 37565
110.82 (a) revised 37565
150.17 (b) and (c) amended 24553
170.11 (a)(5) revised 32238
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170.21 Introductory text and table amended 32239
170.31 Revised 32239
171.13 Revised 32244
171.15 (a), (b)(3), (c)(1), (2), (d) and (e) revised 32244
171.16 (c) introductory text, (1), (4), (d) and (e) revised 32245
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171.17 (b) revised 32248
171.19 (b) and (c) revised 32248

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210.61 (Subpart D) Removed 49198
211 Removed 49198
212.10 (Subpart A) Removed 49198
212.126—212.127 (Subpart I) Removed 49198
212 Appendix A removed 49198
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303 Removed 49198
305 Removed 49198
430.27 (n) amended 15017
436 Authority citation revised 18334
436.2 (b) amended; (c) redesignated as (d); new (c) added 18334
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436.30—436.38 (Subpart B) Added 18334
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436.30 (a) corrected 19343
440 Authority citation revised 29480
440.3 Amended 29480
440.10 Revised 29480
440.12 (b)(4) revised 29481
440.14 (b)(9)(vi) revised 29481
451 Added 36964
459 Removed 49198
465 Removed 49198
515 Removed 35322
600 Class deviations 17985
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602 Added 5841

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710 Authority citation revised 20368
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730 Removed 49198
761 Removed 49198
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765.22 (b) amended 15017
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799 Removed 49198
810.8 (a) revised 43004

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1008.12 (a)(2)(ii), (b)(1)(ii)(I), (J), (2)(ii)(K), (L), (3)(ii)(M) and (N) added 35836
1020 Removed 49198
1036.100 Revised 33040, 33043
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6.2 (g) revised; interim 39229
19 Authority citation revised 30184
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22 Authority citation revised 35288
22.6 Added; eff. 1–2–96 35288
25 Authority citation revised 22178
25.1 Removed 22189
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25.5 Removed; eff. 7–1–97 22189
25.6 Removed; eff. 7–1–97 22189
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25.8 Removed 22189
25.11—25.12 (Subpart A) Added 22178
25.21—25.29 (Subpart B) Added 22180
25.41—25.45 (Subpart C) Added 22184
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25.101 Undesignated center heading and section removed 22189
25 Appendix A added 22186
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30 Added 35680
30 Appendix A added 35678, 35682
32 Revised 8532
35 Removed; eff. 1–1–99 27401

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203.4 (e) added 22225
203 Appendix A amended 22225
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208 Authority citation revised 35288, 35682, 39229, 39493
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208.31 (f) revised; interim 39229
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208 Appendix A amended 8180, 39493, 46176, 46178
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215 Authority citation revised 31054
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225.32 (a)(2) redesignated as (a)(3); new (a)(2) added 35121
225 Appendix A amended 8181, 45616, 46179, 46181
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226.1 (d)(5) redesignated as (d)(6); (b) and new (d)(6) revised; new (d)(5) added 15471
226.2 (a)(17)(i) Footnote 3 revised 15471
226.5b (f)(2) introductory text revised; (f)(4) added 15471
226.23 (a)(3) Footnote 48 revised 15471
226.28 (b) amended 15471
226.31 (g) corrected 29969
226.31—226.33 (Subpart E) Added 15471
226.32 (b)(1)(iii) corrected 29969
226 Appendix H amended 15473
Appendix K added 15474
Appendix L added 15476
Supplement I amended 16776, 16777, 16778, 16779, 16780
Appendix K corrected 50400
228 Authority citation revised 22189
228.1 Removed 22201
228.2 Removed 22201
228.3 Removed; eff. 7–1–97 22201
228.4 Removed; eff. 7–1–97 22201
228.5 Removed; eff. 7–1–97 22201
228.6 Removed; eff. 7–1–97 22201
228.7 Removed; eff. 7–1–97 22201
228.8 Removed 22201
228.11—228.12 (Subpart A) Added 22190
228.21—228.29 (Subpart B) Added 22191
228.41—228.45 (Subpart C) Added 22195
228.51 (Subpart D) Added 22197
Removed; eff. 7–1–97 22201
228.100 Removed 22201
228 Appendix A added 22198
Appendix B added 22200
230.4 (b)(6)(iii) amended; interim 5130
230.8 (c)(6)(ii) added; interim 5130
230 Appendix A amended; interim 5130
Appendix B amended; interim 5131
261a Revised 3341
263 Authority citation revised 35682
263.300—263.305 (Subpart I) Added 35682
265.6 (b)(2) revised; (b)(3) added 10307
265.11 (e)(12) added 22257

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303 Authority citation revised 35683
303.0 (c) heading and (1) removed; (c)(2) redesignated as (c) 31384
303.9 (o) added 35683
304.5 (a) and (c) amended 31384
308 Authority citation revised 24762, 35684
308.9 (a) and (b) revised; (e) added 24762
308.145 Amended 31384
308.300—308.305 (Subpart R) Added 35684
309.4 (e) and (g) amended 31384
309.5 (h) amended 31384
324.2 (d) amended 31384
324.7 (a) amended 31384
325 Authority citation revised 15861, 45609
325.2 (t) and (v) amended 8187
(n) amended; (s) revised; interim 39232
325.3 (e) added; interim 45609
325.5 (f)(3)(i) and (4)(i) amended; (g) added 8187
(f), (g)(2)(i)(B) and (5) amended; interim 39232
325 Appendix A amended 8188, 15861, 39493, 46183, 46184
Appendixes A and B amended; interim 39232

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Appendix A amended; interim 45609
327 Assessment rate schedule 42741
327.3 (c)(2), (d)(2), (e) and (f) revised; (c)(3) and (j) added 50407
327.7 (a)(2), (3) and (b) revised; (c) added 50409
327.8 (i) added 42741
327.9 (a) revised; (b) removed; (c) redesignated as (d); new (b) and new (c) added 42741
330.6 (a) revised 7709
330.7 (c) revised 7710
330.10 Heading revised 7710
330.11 (d) added 7710
330.12 (g) heading and introductory text revised; (g)(1), (2) and (3) redesignated as (g)(2), (3) and (4); new (g)(1) and (h) added 7710
336 Authority citation revised 20177
336.1 Revised 20178
336.2 Removed 20178
336.3 Removed 20178
336.4 Removed 20178
336.5 Removed 20178
336.6 Removed 20178
336.7—336.14 (Subpart B) Removed 20178
336.15—336.23 (Subpart C) Removed 20178
336.29—336.31 (Subpart D) Removed 20178
336.32—336.37 (Subpart E) Removed 20178
336 Appendix removed 20178
337.6 (e)(1) amended; (h)(3) revised 31384
339 Authority citation revised 35288
339.7 Added; eff. 1-2-96 35288
341.3 (c) amended 31384
341.5 (b) amended 31384
343.3 (e) amended 31384
344.8 Added 7111
345 Authority citation revised 22201
345.1 Removed 22212
345.2 Removed 22212
345.3 Removed; eff. 7-1-97 22212
345.4 Removed; eff. 7-1-97 22212
345.5 Removed; eff. 7-1-97 22212
345.6 Removed; eff. 7-1-97 22212
345.7 Removed; eff. 7-1-97 22212
345.8 Removed 22212
345.11—345.12 (Subpart A) Added 22201
345.21—345.29 (Subpart B) Added 22202
345.41—345.45 (Subpart C) Added 22206
345.51 (Subpart D) Added 22209
Removed; eff. 7-1-97 22212
345.101 Undesignated center heading and section removed 22212
345.102 Removed 22212
345 Appendix A added 22209
Appendix B added 22211
346.20 (a) amended 31384
346.101 (g) revised 31384
360 Authority citation revised 35488
360.3 (f) revised 35488
360.4 Revised 35488
361.7 (b) amended 31384
362.6 Revised 31384
364 Added 35685
364 Appendix A added 35678, 35685

Chapter IV—Export-Import Bank of the United States (Parts 400—499)

400 Revised 17628
401 Removed 16045
402 Removed 16045
406 Removed 16045
409 Removed 9613

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

506.1 (b) table amended (OMB numbers) 28031
509.9 (a) and (b) revised; (e) added 28035
510 Authority citation revised 28031
510.5 Revised 28031
563 Authority citation revised 35288
563.48 (f) added; eff. 1-2-96 35288
563.93 (b) introductory text, (9), (c) introductory text, (d)(3)(ii), (f)(1) and appendix amended; (b)(6) and (11) revised; interim 15863
563e Authority citation revised 22212
563e.1 Removed 22223
563e.2 Removed 22223
563e.3 Removed; eff. 7-1-97 22223
563e.4 Removed; eff. 7-1-97 22223
563e.5 Removed; eff. 7-1-97 22223
563e.6 Removed; eff. 7-1-97 22223

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563e.7 Removed; eff. 7-1-97 22223
563e.8 Removed 22223
563e.11—563e.12 (Subpart A) Added 22212
563e.21—563e.29 (Subpart B) Added 22213
563e.41—563e.45 (Subpart C) Added 22217
563e.51 (Subpart D) Added 22220
Removed; eff. 7-1-97 22223
563e Appendix A added 22220
Appendix B added 22223
565.2 (f) revised; interim 39232
567 Authority citation revised 45621
567.1 (m) revised; interim 39232
(d) revised 42028
567.5 (a)(2) heading, (i) and (ii) revised; interim 39232
567.6 (a)(1)(iv)(L) and (M) revised; interim 39232
(a) and (2)(i)(C) amended; (a)(3) added; interim 45621
567.9 (c)(1) revised; interim 39232
567.12 Heading and (a) through (f) revised; interim 39232
570 Added 35686
570 Appendix A added 35678, 35687

Chapter VI—Farm Credit Administration (Parts 600—699)

601 Revised; interim (effective date pending) 30782
Regulation at 60 FR 30782 confirmed; eff. 9-13-95 47453
607.2 Regulation at 59 FR 37403 eff. 12-31-94 325
611.1125 (b)(2) amended (effective date pending) 34099
Regulation at 60 FR 34099 eff. 8-8-95 42049
612 Regulation at 59 FR 24894 eff. 12-31-94 325
614 Authority citation revised 35289
614.4240—614.4267 (Subpart F) Regulation at 59 FR 46730 eff. 1-4-95 2683
614.4260 (c)(5) introductory text revised 2687
614.4351 Regulation at 59 FR 37403 eff. 12-31-94 325
614.4443 Regulation at 59 FR 46734 eff. 1-4-95 2683
614.4470 (b)(1) and (3) amended (effective date pending) 20010
Regulation at 60 FR 20010 eff. 5-24-95 27402
614.4710 Regulation at 59 FR 37404 eff. 12-31-94 325
614.4940 (Subpart S) Added; eff. 1-2-96 35289
615.5104 Removed (effective date pending) 20011
Regulation at 60 FR 20011 eff. 5-24-95 27402
615.5105 (c) removed (effective date pending) 20011
Regulation at 60 FR 20011 eff. 5-24-95 27402
615.5131 Regulation at 59 FR 37404 eff. 12-31-94 325
615.5170 (a) designation and (b) through (e) removed (effective date pending) 20011
Regulation at 60 FR 20011 eff. 5-24-95 27402
615.5190 Removed (effective date pending) 20011
Regulation at 60 FR 20011 eff. 5-24-95 27402
615.5201 Regulation at 59 FR 37404 eff. 12-31-94 325
615.5210 Regulation at 59 FR 37404 eff. 12-31-94 325
615.5498 Removed (effective date pending) 20011
Regulation at 60 FR 20011 eff. 5-24-95 27402
615.5500—615.5530 (Subpart P) Removed (effective date pending) 20011
Regulation at 60 FR 20011 eff. 5-24-95 27402
618.8000—618.8030 (Subpart A) Revised (effective date pending) 34099
Regulation at 60 FR 34099 eff. 8-8-95 42049
618.8025 (a) corrected 42029
618.8030 Redesignated as 618.8040 (effective date pending) 34099
Regulation at 60 FR 34099 eff. 8-8-95 42049
618.8040 (b)(10) removed; (b)(2) through (9) redesignated as (b)(3) through (10); (b)(1) and new (6) revised; new (b)(2) added; new (b)(3) amended (effective date pending) 34101
Redesignated from 618.8030 (effective date pending) 34099
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618.8220 Removed (effective date pending) 20011
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618.8320 Regulation at 59 FR 46734 eff. 1-4-95 2683
618.8325 Regulation at 59 FR 46734 eff. 1-4-95 2683
620.1 Regulation at 59 FR 37406 eff. 12-31-94 325
620.5 (a)(3) amended (effective date pending) 34102
Regulation at 60 FR 34102 eff. 8-8-95 42049
620.21 Heading, (c)(3), (d)(1), (3), (5) and (6) revised (effective date pending) 20013
Regulation at 60 FR 20013 eff. 5-24-95 27684
630 Regulation at 59 FR 46742 eff. 1-4-95 2493

Chapter VII—National Credit Union Administration (Parts 700—799)

701.14 (a) amended 31911
707 Compliance date extension 25121
707 Appendix C amended 21699
708a Regulation at 59 FR 48792 confirmed 12661
708a.1 Revised 12661
708a.2 Revised 12661
708a.3 Added 12661
708a.4 Added 12662
708a.5 Added 12662
708a.6 Added 12662
708a Appendix A added 12662
747.901 Amended 31911
747.902 Amended 31911
747.904 (b)(2) amended 31911
760 Authority citation revised 35289
760.12 Added; eff. 1-2-96 35289
790.2 (b)(14) revised; (c)(2) amended 31911
792 Authority citation revised 31912
792.2 (f) amended 31911
792.34 (b)(3) added 31912

Chapter IX—Federal Housing Finance Board (Parts 900—999)

900 Authority citation revised 49199
900.51 Revised 49199
922.6 Revised 49199
922.7 Removed 49199
934.15 Regulation at 55 FR 50545 confirmed 42779
937 Removed 36967
939 Removed 36967
960 Authority citation revised 49330
960.4 (a) amended 49330
960.5 (a)(1) revised; (g) added 49330

Chapter XIV—Farm Credit System Insurance Corporation (Parts 1400—1499)

1401 Added; interim 30778

Chapter XVI—Resolution Trust Corporation (Parts 1600—1699)

1617 Revised 7663

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208 ..... 6042, 34481, 35688, 38082, 39495
211 ..... 34481, 49350
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220 ..... 33763, 43726
225 ..... 6042, 15881, 34481, 38082
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TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

101 Authority delegation 15864
101.3-2 Amended 5564
107 Appendix I revised; interim 7393
Appendix II removed; Appendix III redesignated as Appendix II; interim 7402
Comment period reopening 17438
108.2 Amended 20392
Amended; interim 20393
108.503-8 (b)(2) revised 4074
108.508-1 Undesignated center heading added 20392
Added 20392
108.508-2 Added 20392
108.508-3 Added 20392
108.508-4 Added 20392
108.508-5 Added 20392
108.509-1 Undesignated center heading added; interim 20393
Added; interim 20393
108.509-2 Added; interim 20393
108.509-3 Added; interim 20394
108.509-4 Added; interim 20394
108.509-5 Added; interim 20394
116.42—116.44 (Subpart F) Added 27871
120.202-5 Introductory text revised 42780
121 Technical correction 18981
121.401 (b) revised 29974
121.2001 Revised 15478
121.2004 (c)(1) and (5) revised 15478
121.2005 (c)(1) revised 15478
122.5-6 Added 42781
122.54-1 Revised 4373
122.57-3 Revised 4373
122.61-11 (a) amended 42781
123 Authority citation revised 22496
123.2 Amended 22496
124 Authority citation revised 29974
124.7 (b)(1) removed; (b)(2) redesignated as (b) 29974
124.100 Amended 29974
124.101 (a) and (b) amended 29974
124.102 (a) revised 29974
124.103 Introductory text revised; (h) amended 29975
124.104 Introductory text revised 29975
124.109 (d) revised 29975
124.111 (a)(2) revised 29975
124.114 Added 29975
124.208 (c)(2) removed; (c)(3), through (6) redesignated as (c)(2) through (5); new (c)(2) amended 29975
124.209 (b)(2) removed; (b)(3) through (6) redesignated as (b)(2) through (5); (a)(6)(i) and new (b)(3) amended; new (b)(2) revised 29975

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124.302 (c)(1)(i)(A) and (c)(2) revised 29976
124.303 (c)(3) and (4) removed; (c)(5), (6) and (7) redesignated as (c)(3), (4) and (5); (d)(1) amended 29976
124.304 Removed 29976
124.305 Removed 29976
124.307 (d) and (e) redesignated as (e) and (f); new (d) added 29976
124.308 (d) and (f)(2) revised; (e)((1)(iii) and (f)(1) amended 29976
124.311 (b) removed; (c) through (i) redesignated as (b) through (h); (a)(2), new (g)(3) and new (4) revised; new (d) introductory text amended; new (d)(1) and new (2) removed 29976
(e)(4)(iii), (5)(iii) and (7) amended; (e)(5)(iv) removed; (e)(5)(v) redesignated as (e)(5)(iv); new (e)(5)(iv) revised 29977
124.312 (b)(4), (5), (6), (c)(2), (3) and (9) removed; (b)(7), (c)(4) through (8), (10), (11) and (12) redesignated as (b)(4) and (c)(2) through (9); new (b)(4), (c)(1), (7), (8) and (9) amended 29977
124.321 (i) added 29977
124.501 (c) redesignated as (d); new (c) added 29977
130 Added 31056
143.36 (d), (g), (h) and (i) revised 19639, 19642
145.100 Revised 33040, 33044
145.105 Amended 33041, 33044
145.110 (c) revised 33041, 33044
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145.215 Revised 33041, 33044
145.220 Revised 33041, 33044
145.225 Revised 33041, 33044
145 Appendixes A and B revised 33042, 33044

Chapter III—Economic Development Administration, Department of Commerce (Parts 300—399)

Chapter III Revised; interim 49678

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TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

1.1 Amended 5075, 30749
11 Authority delegation 12108
11.25 (b)(3) revised; (b)(4) and (5) amended; (b)(6) added 5075
(b)(6)(i)(B) corrected 12034
21 Policy on enforcement 10480
23 Special FAA conditions 33332, 34105
25 Special FAA conditions 325, 10482, 10483, 10486, 17195, 26357, 31384, 36969, 36971, 38893, 39627, 42031, 44748, 47458, 49333
Authority citation revised 6622
25.119 (a) revised 30749
25.121 (d)(1) revised 30749
25.125 (a)(2) revised 30749
25.143 (c), (d) and (e) revised; (f) added 30749
25.145 (b) introductory text, (3), (4) and (c)(1) revised 30749
25.149 (f), (g) and (h) revised 30749
25.201 (b), (c) and (d) revised 30750
25.203 (c) revised 30750
25.253 (b) revised 30750
25.853 Revised 6623
25 Appendix F amended 6623
Appendix F corrected 11194
29 Special FAA conditions 26823
33 Special FAA conditions 7112
34.64 Amended 34077
34.71 Revised 34077
34.82 Amended 34077
34.89 Amended 34077
39 Authority citation revised 38670
39.13 ..... 5, 328, 330, 331, 334, 338, 1713, 2006, 2324, 2494, 2496, 2878, 3739, 3741, 4075, 4078, 5566, 5567, 5569, 6398, 6653, 6655, 8284, 8286, 8288, 8289, 8291, 8293, 8294, 8296, 8298, 8539, 8541, 8543, 8545, 8928, 8930, 8931, 9615, 9618, 9620, 9622, 10309, 10802, 10804, 10806, 10808, 11021, 11612, 11614, 11616, 11619, 11621, 11622, 11624, 12406, 12408, 12409, 12411, 12412, 12413, 12415, 12664, 12666, 13619, 13621, 13622, 13624, 13626, 14621, 14898, 15035, 15036, 15038, 15668, 15866, 16367, 16782, 16784, 17440, 17442, 17987, 17989, 17990, 17992, 18541, 18730, 18983, 19156, 19158, 19160, 19344, 19345, 19347, 19349, 19351, 20015, 20017, 20018, 20020, 20190, 20395, 20688, 20890, 21042, 21432, 21977, 21979, 21981, 22497, 22499, 22500, 22502, 24554, 24763, 25123, 25125, 25605, 25608, 25609, 25611, 25612, 25984, 25987, 26685, 27006, 27007, 27014, 27017, 27019, 27021, 27024, 27403, 27404, 27684, 27687, 27872, 27874, 28036, 28039, 28525, 28527, 28528, 28530, 28704, 28715, 29979, 29980, 29981, 29983, 30186, 31064, 31066, 31069, 31071, 31073, 31074, 31076, 31231, 31234, 31235, 31237, 31241, 31242, 31387, 31389, 31625, 31627, 31628, 31630, 32579, 32581, 32583, 32584, 32586, 32900, 32901, 33102, 33335, 33337, 33341, 33684, 33686, 33687, 33689, 34108, 34845, 35322, 35324, 35325, 35327, 35329, 36972, 36973, 36975, 36977, 36982, 36984, 36986, 36989, 37811, 37813, 37814, 37816, 37818, 37819, 37820, 37822, 37823, 37937, 38670, 38953, 38955, 39244, 39246, 39628, 39630, 39632, 39634, 39636, 39637, 39845, 40750, 40752, 40754, 40755, 41793, 41796, 43359, 43360, 43361, 43363, 43365, 43518, 43520, 43708, 43964, 44418, 44420, 44422, 44423, 46217, 46759, 46761, 46762, 46764, 46766, 47265, 47466, 47677, 47679, 47681, 47683, 47684, 47686, 47688, 47690, 47863, 47865, 48627, 48629, 48630, 48632, 48633, 48634, 48636, 48637, 48638, 48640, 48883, 50090
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61 SFAR No. 73 added; 3-27-95 through 5-30-97 11256
61.57 (f) revised 34081
71 Authority citation revised 36341, 36343, 36345, 36637, 40070, 48022, 48024
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71.5 Amended; eff. 9-16-95 through 9-15-96 47267
71.31 Amended; eff. 9-16-95 through 9-15-96 47267
71.33 (c) amended; eff. 9-16-95 through 9-15-96 47267
71.41 Amended; eff. 9-16-95 through 9-15-96 47267
71.51 Amended; eff. 9-16-95 through 9-15-96 47267
71.61 Amended; eff. 9-16-95 through 9-15-96 47267
71.71 (b) through (f) amended; eff. 9-16-95 through 9-15-96 47267
71.79 Amended; eff. 9-16-95 through 9-15-96 47267
71.901 (a) amended; eff. 9-16-95 through 9-15-96 47267
73.23 ..... 3743, 37330
73.25 3743
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73.34 43709
73.36 Corrected 49333
73.36 40994
73.37 48890
73.48 20626
73.51 15229
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91 Regulation at 59 FR 2918 eff. 2–28–95 8166
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SFAR No. 50–2 amended; eff. 6–15–95 through 6–15–97 31610
SFAR No. 65 removed 48644
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91.123 (a) and (c) revised 50679
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97 Authority citation revised 33690, 33691, 33693, 37332, 40071, 40072, 42782, 42785, 43966, 45330, 46219, 48025, 48026
97.21—97.35 ..... 2010, 4081, 5573, 5574, 5575, 5577, 6399, 6961, 6963, 6964, 9288, 9290, 12110, 12111, 14364, 14366, 17199, 17200, 19161, 19163, 20624, 20627, 25126, 25128, 25129, 28532, 28533, 30460, 30461, 33690, 33692, 33693, 36348, 36350, 36351, 37332, 37334, 40071, 40072, 42782, 42785, 43966, 45330, 46219, 48025, 48026
121 Technical correction 2497, 2687, 12034
SFAR No. 38–2 amended 5075, 29754
Authority citation revised 29754
121.312 (a)(1) through (6) and (b) revised; (a)(8) added 6628
(a)(8) corrected 11194
121.356 (b) corrected 3303
121.431 (b) revised 20869
121.434 Heading, (a) introductory text, (b) introductory text, (2), (c) introductory text, (2), (3) introductory text, (i), (ii) and (f) revised; (a)(3), (g) and (h) added; (b) and (c)(1)(ii) amended; concluding text designated as (i) 20870
121.438 Added 20870
121 Appendix J stayed in part 24766
125 Authority citation revised 29754
SFAR No. 38–2 amended 29754
127 Authority citation revised 29754
SFAR No. 38–2 amended 29754
129 Technical correction 2497
Authority citation revised 29754
SFAR No. 38–2 amended 29754
135 Technical correction 2497
Authority citation revised 29754
SFAR NO. 38–2 amended 29754
SFAR No. 50–2 amended; eff. 6–15–95 through 6–15–97 31610
135.169 (a) revised 6628
135.170 Revised 6628
(b)(1)(vii) corrected 11194
(b) introductory text revised 13011
187.15 Revised 19631
187 Appendix A revised 19631
189 Revised 39615

Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

200 Authority citation revised 43523
200.1 Introductory text, (d) and (e) amended; (f) and (g) added 43523
201 Heading revised 43523
Authority citation revised 43523
201.1 (a) amended 43523
201.4 (c) amended 43523
201.6 Amended 43523
201.7 (a), (d) and (e) amended 43523
203 Authority citation revised 43523
203.3 Amended 43523
204 Authority citation revised 43523
204.1 Amended 43523
204.2 (a), (f) and (i) removed; (b), (c), (d), (e), (g), (h), (j), (k), (l), (m), (n) and (o) redesignated as (a), (b), (c), (d), (e), (f), (g), (i), (j), (k), (l) and (m); new (a), (b), (c), (e), (f) and (g) revised; new (h) added 43523
204.3 (o) amended 43524
204.4 Heading revised; introductory text amended 43524
206 Authority citation revised 43524
206.1 Amended 43524
206.2 Amended 43524

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206.3 Amended 43524
206.4 Amended 43524
206.5 (a) introductory text and (b) amended 43524
215 Authority citation revised 43524
232 Authority citation revised 43524
232.1 (a) and (b) introductory text amended 43524
232.4 (a) and (b) introductory text amended 43524
271 Authority citation revised 43524
271.1 Revised 43524
271.2 Revised 43524
271.3 Introductory text and (a) through (d) amended 43524
271.4 (a) introductory text, (1)(i), (2)(i), (ii), (4), (ii) and (b) amended 43524
(c) removed 43525
271.5 (a) introductory text, (1) and (2) amended 43524
271.6 Amended 43524, 43525
271.7 (a) and (b)(1) amended 43524
(b) introductory text revised; (b)(3) amended; (c) removed; (d) redesignated as (c) 43525
271.8 (a) introductory text, (1) through (4) and (c) amended 43524
(a)(5) amended 43525
271.9 (a)(2), (3) and (c) amended 43525
272 Heading revised 43525
Authority citation revised 43525
272.1 Amended 43525
272.2 Amended 43525
272.3 Heading, (a) and (b) amended 43525
272.4 Amended; heading revised 43525
272.5 Amended; (a) and (b) designation removed 43525
272.6 Heading, (a) introductory text, (b) and (c) amended 43525
272.7 (a) introductory text, (1) and (2) amended 43525
272.8 (a) through (d) amended 43525
272.9 Heading, (a) through (e), (f) introductory text, (1), (2), (g), (h) introductory text, (2), (3) and (5)(i) amended 43525
272.10 (a) introductory text, (1), (b) and (c) amended 43525
272.12 Amended 43525
291 Heading revised 43525
Authority citation revised 43525
291.1 Revised 43525
291.2 Revised 43525
291.10 (Subpart B) Heading revised 43525
291.20—291.24 (Subpart C) Heading revised 43525
291.20 Revised 43526
291.22 Amended 43526
291.23 (a) and (b) amended 43526
291.24 Amended 43526
291.30—291.34 (Subpart D) Heading revised 43526
291.30 Amended 43526
291.31 Revised 43526
291.32 Removed 43526
291.33 Removed 43526
291.34 Removed 43526
291.41 (a), (b) and (c) amended 43526
291.42 Heading revised; (a)(1) and (b) introductory text amended 43526
291.50 Revised 43526
294 Authority citation revised 43526
294.1 Amended 43526
294.2 (a) removed; (b) through (j) redesignated as (a) through (i) 43526
294.10 Introductory text, (a), (b) and (c) amended 43526
294.20 Introductory text and (b) amended 43526
294.21 (b) and (e)(1) amended 43526
294.22 Introductory text amended 43526
294.30 (c) amended 43526
294.40 Amended 43526
294.50 (b) amended 43526
294.70 Amended 43527
296 Authority citation revised 43527
296.1 Amended 43527
296.10 Heading revised; (a) introductory text, (1) through (7) and (d) amended 43527
296.20 Amended 43527
297 Authority citation revised 43527
297.1 Amended 43527
297.2 Amended 43527
297.10 Heading revised; (a) introductory text, (1) through (6) and (b) amended 43527
297.12 (a), (b) and (c) amended 43527
297.20 (b) amended 43527
297.21 Amended 43527
297.22 (e) amended 43527
297.24 (a) amended 43527
297.50 Amended 43527

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TITLE 14 Chapter II—Con.

298 Heading revised 43527
Authority citation revised 43527
298.1 Amended; Footnote 1 removed 43527
298.2 (a) removed; (b) through (x) redesignated as (a) through (w); new (b), new (d-1) and (d-2) revised 43527
(w) amended 43528
298.11 Introductory text, (a), (b)(1), (c) introductory text, (d), (e) and (f) amended 43528
298.13 Amended 43528
298.21 (c)(1), (4) and (d) amended 43528
298.36 (a) amended 43528
298.62 (c)(1) amended 43528
298.80 Amended 43528
300 Authority citation revised 10312, 43528
300.0 Amended 43528
300.1 Amended 43528
300.2 (c)(10) added 10312
(c)(8) amended 43528
300.3 (a)(5) amended 43528
300.4 (c) amended 43528
300.10 Amended 43528
300.10a Amended 43528
300.14 Amended 43528
300.20 (d) revised 43528
302 Authority citation revised 6927
302.601—302.621 (Subpart F) Added 6927
313 Authority citation revised 43528
313.1 (c) amended 43528
(a) and (b) amended 43529
313.2 (d) amended 43528
(a) and (d) amended 43529
313.3 (a) and (d) removed; (b), (c), (e) and (f) redesignated as (a) through (d); new (e) added 43529
313.4 (b)(1) revised; (c)(1) amended 43529
313.7 (b) amended 43528
(a) amended 43529
324 Removed 43529
325 Authority citation revised 43529
325.7 Removed 43529
325.8 Removed 43529
325.9 Removed 43529
372 Authority citation revised 43529
372.1 Amended 43529
372.2 Amended 43529
372.4 Amended 43529
372.10 Amended 43529
372.30 (a) amended 43529
372 Appendix A amended 43529
379 Removed 43529
385 Authority citation revised 10312
385.14 (p) added 10312
398 Revised 43529
399 Authority citation revised 43531
399.20 Removed 43531
399.21 Amended 43531
Corrected 46018
399.38 Removed 43531
399.90 Removed 43531

Chapter V—National Aeronautics and Space Administration (Parts 1200—1299)

1204.1401 (a)(3) and (4) added 37567
1204.1403 (c) and (d) revised; (e) and (f) added 37568
1204.1404 (a)(3) added 37568
1204.1405 (c) added 37568
1215 Appendix A revised 25843
1241 Removed 11022
1245.200—1245.214 (Subpart 2) Removed 21042
1260.102 Regulation at 59 FR 36355 confirmed 16045
1260.201 Regulation at 59 FR 36355 confirmed 16045
1260.302 Regulation at 59 FR 36355 confirmed 16045
1260.303 Regulation at 59 FR 36355 confirmed 16045
1260.422 Regulation at 59 FR 36355 confirmed 16045
1262 Authority citation revised 12668
1262.101 (b)(1) revised 12668
1262.103 Revised 12668
1262.104 (b)(4) amended 12668
1262.307 (a) introductory text revised 12669
1262.309 Amended 12669
1265.100 Revised 33040, 33044
1265.105 Amended 33041, 33044
1265.110 (c) revised 33041, 33044
1265.200 Revised 33041, 33044
1265.215 Revised 33041, 33044
1265.220 Revised 33041, 33044
1265.225 Revised 33041, 33044
1265 Appendixes A and B revised 33042, 33044
1273 Added 33694

Proposed Rules:

1—199 (Ch. I) 6045, 9302, 15525, 28069, 36746, 43726, 44142, 49353

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1 ..... 7380, 41160
21 ..... 48790, 50244
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33 ..... 7380, 12360, 38771, 43727
35 ..... 4114, 4116
39 ..... 66, 382, 384, 386, 388, 389, 393, 2033, 2036, 2041, 2555, 2909, 3358, 3579, 3581, 3583, 3585, 3587, 3588, 3590, 3592, 4117, 4119, 5599, 6045, 6459, 7140, 7143, 7480, 7482, 7485, 7919, 7920, 7922, 7924, 8205, 8206, 8591, 8593, 8595, 9302, 9304, 9645, 9647, 9649, 9792, 9794, 9796, 9799, 9800, 10811, 11635, 11637, 11942, 11944, 11945, 12714, 14231, 14233, 14235, 14237, 14395, 15084, 16388, 16390, 16392, 16395, 16396, 16398, 16813, 16815, 16817, 17030, 17385, 17487, 17489, 18374, 18376, 19172, 19174, 19175, 19179, 19181, 19183, 19185, 19188, 19383, 19545, 19549, 19551, 19693, 20458, 20459, 20461, 20659, 20661, 21053, 21054, 21056, 21470, 21471, 21772, 21774, 22011, 22013, 24587, 24589, 25869, 26003, 26005, 26007, 26697, 26700, 26702, 26846, 27054, 27056, 27058, 27446, 27449, 27704, 27705, 27926, 28761, 28763, 29511, 29513, 29795, 29797, 29800, 30208, 30471, 30474, 30476, 30797, 30798, 31122, 31124, 31419, 31421, 31648, 31649, 31651, 31932, 32287, 32628, 32926, 33373, 35873, 35877, 36078, 36748, 36749, 37037, 37038, 37607, 37608, 37965, 37968, 40118, 40782, 40783, 41030, 41868, 42479, 43089, 43413, 43415, 43417, 43728, 43730, 43995, 44450, 45108, 45683, 46541, 46542, 46544, 46790, 46792, 47314, 47501, 47896, 47899, 47901, 47903, 48428, 48429, 48431, 48433, 49523, 49525, 49809
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61 ..... 395, 41160, 42764
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71 ..... 396, 2043, 2044, 2045, 2047, 3108, 3109, 3593, 3595, 3596, 3777, 4131, 4946, 5601, 6461, 6462, 6686, 6975, 7718, 9652, 9653, 10042, 11057, 13931, 14238, 14240, 14397, 15723, 15884, 15885, 15887, 17284, 18038, 18552, 19190, 19553, 21473, 21776, 24592, 24593, 24594, 24595, 25175, 25871, 26384, 26385, 27451, 27452, 28551, 28764, 30027, 30028, 30029, 30478, 30479, 30480, 30481, 31423, 31424, 33152, 33157, 33158, 33159, 33161, 33162, 36370, 36371, 36372, 36373, 36462, 36751, 37610, 37969, 37970, 37971, 38977, 39280, 39893, 39894, 40020, 40227, 43420, 45387, 46547, 47503, 48937, 49354, 50506
73 ..... 2048, 28552, 31425, 31426
91 ..... 2557, 18700, 25554, 27707, 30690, 33163
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119 ..... 16230, 19007
121 ..... 5794, 6632, 8490, 13008, 13862, 16230, 19007, 30690, 36932, 41992, 42764
125 ..... 6632, 13862, 16230, 19007, 30690, 41992
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135 ..... 6632, 13862, 16230, 18700, 19007, 27707, 28765, 30690, 41992, 42764
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234 ..... 29514, 35158
257 3359
258 3778
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1274 33163

TITLE 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce (Parts 0—29)

15a Revised 9291
24.36 (d), (g), (h) and (i) revised 19639, 19642
26 Authority citation revised 33044
26.100 Revised 33040, 33044
26.105 Amended 33041, 33044
26.110 (c) revised 33041, 33044
26.200 Revised 33041, 33044
26.215 Revised 33041, 33044
26.220 Revised 33041, 33044
26.225 Revised 33041, 33044
26 Appendixes A and B revised 33042, 33044

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TITLE 15

Chapter II—National Institute of Standards and Technology, Department of Commerce (Parts 200—299)

275 Removed 45659
291 Added 4082
292 Added 44751

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

771.27 Added; interim 18733
777.6 (d)(1)(xii) and (k) added 15672
778.8 (a)(3) revised 38957
779.2 Amended; interim 18733
799.1 Supplement No. 2 reinstated; CFR correction 36638
Supplement No. 1, Category 1 amended (ECCN 1C61B, 1C91F) 38957

Chapter VIII—Bureau of Economic Analysis, Department of Commerce (Parts 800—899)

806 Authority citation revised 10490
806.14 (e) amended 10490

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

902 Revised 39248
905 Added 39251
925 Appendix A revised 9294
Appendix A corrected 12592
931 Removed 38241
943 Regulation at 56 FR 63643 confirmed 10313

Chapter XX—Office of the United States Trade Representative (Parts 2000—2099)

2012 Added; interim 15230

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292 25872
700—799 (Ch. VII) 50507
730 25268
732 25268
734 25268
736 25268
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799 25480
801 40336
806 39128
905 11947
929 16399
937 16399
944 ..... 10812, 14241, 16082, 40540
945 48000
990 ..... 39804, 43574

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

1.17 Removed 37747
2.7 (b)(1), (2) and (3) amended; (b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added 37747
2.41 (a) revised 37747
3.22 (a) amended 39641
3.26 Added 39641
3.45 (a), (b) and (c) revised 37748
3.56 Added 37748
4.7 (a) and (f) amended 37748
4.9 Heading, (a)(1), (2), (3), (b) heading, introductory text, (3) heading, (5), (6), (8) heading, (c) heading, (2) and (3) revised; (c)(1) amended 37749
4.10 Heading, (a) introductory text, (8) through (11), (d), (e), (f), (g) introductory text and concluding text revised 37749

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4.11 Heading, (e) heading, (1) through (5) revised; (b) and (c) amended 37750
4.12 (a) and (c) revised 37751
14.2 Removed 42033
14.4 Removed 42033
14.7 Removed 42033
14.11 Removed 42033
14.16 Revised 42033
14.17 Removed 42033
24 Removed 48027
231 Removed 48027
234 Removed 40262
236 Guide rescission 37334
237 Removed 40265
242 Removed 40267
247 Removed 48027
248 Removed 40270
252 Removed 40453
305 Energy efficiency ranges 15198
305.8 (a)(4)(v) revised 14210
305.9 (a) revised 9296
305.11 (f)(1) amended 14210
(e)(1)(iii), (iv) and (vi) revised 31081
305.13 (a)(4) revised 14211
305.14 (d) revised 14211
305 Appendix F revised 19845, 27691
Appendixes C and D4 revised 43368
Appendixes D5, D6, E and J1 revised 43369
Appendix J2 revised 43370
309 Added 26955
310 Added 43864
600 Appendix amended 45660
800 Removed 40706
803 Appendix amended 40706

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

1000.7 (b) amended 26825
1000.12 Revised 26825
1000.19 Amended 26825
1000.24 Amended; heading revised 26825
1000.26 Revised 26825
1000.32 Revised 26825
1117 Added 10493
1117.2 (a) revised; (h) added 41801
1203 Added; interim 15232
1500 Authority citation revised 10752
1500.14 (b)(8)(iv) added 8193
1500.18 (a) introductory text; (a)(17) added 10752
1500.19 Added 10752
(b)(1) introductory text revised 41802
1700 Authority citation revised 37734
1700.14 (a)(22) added 4541
(a)(23) and (24) added 18004
(a) introductory text amended 37739
(a)(25) added; eff. 2-6-96 38674
Regulation at 60 FR 37739 eff. date corrected to 7-22-96 48890
1700.15 (b)(2) revised; eff. 7-22-96 37734
1700.20 (a) revised; eff. in part 1-24-96 and in part 7-22-96 37734
(d) added 37738

Proposed Rules:

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3 42481
24 ..... 15724, 48056
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305 15200
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310 ..... 8312, 30406
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405 ..... 15725, 48070
409 ..... 17491, 28554
413 ..... 27243, 48071
417 ..... 27244, 48073
418 ..... 27245, 48075
419 38474
436 ..... 17656, 34485
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1307 29518
1500 ..... 34922, 40785
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TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

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1 Fee schedule 25988
Technical correction 50244
1.55 (a)(1)(iii) added 38182
1.62 (b) amended 49334
1.65 (d) amemded 49334
1.70 (a), (b) and (d) amended; (c) revised 49334
1 Appendix B amended 49334
3.33 (e) amended 49334
3.50 (c) amended 49334
3.70 (a) amended 49334
4 Technical correction 50244
4.2 (a) amended 49334
4.7 (a)(2)(i)(A), (4), (b)(2)(i)(A) and (4) amended 38182
4.8 Heading, (a) and (b) amended 38182
4.10 (d) redesignated as (d)(1); (d)(2) through (5), (h) through (l) added; (e) revised 38182
4.12 (b)(2)(i) and (5)(i) revised 38183
4.21 Revised 38183
4.23 (a)(3) revised 38183
4.24 Added 38183
4.25 Added 38186
4.26 Added 38188
4.31 Revised 38189
4.32 Redesignated as 4.33 38189
4.33 Redesignated from 4.32; (a)(2) revised 38189
4.34 Added 38189
4.35 Added 38191
4.36 Added 38192
4.41 (b)(1) revised 38192
5 Fee schedule 25988
5 Appendixes B and C amended 49334
9.4 (a) amended 49334
9.11 (c) amended 49334
11 Appendix A amended 49334
12.3 Amended 49335
12.10 (a)(2) amended 49335
12.13 (b)(3) amended 49335
12.18 (e) amended 49335
13.2 Amended 49335
14.9 Amended 49335
15.05 (d) amended 49335
30 Technical correction 50244
30.6 (b)(1) and (2) revised 38193
30 Appendix B amended 19494, 34459, 41803
Appendixes B and C amended 30466
31 Fee schedule 25988
31 Appendix A amended 49335
140.1 (a) amended 49335
144.1 (b) amended 49335
145.6 (a) amended 49335
145 Appendixes A, C and D amended 49335
146.3 (a) amended 49335
146.4 (b) amended 49335
146.5 (f) amended 49335
146.6 (d) amended 49335
146.8 (a) and (d) amended 49335
146.9 (c) amended 49336
146.11 (b) amended 49336
146 Appendix A amended 49336
147.4 (d)(1) revised 49336
147.5 (h) and (i) amended 49336
147.6 (c) amended 49336
147.8 (a) amended 49336
147.9 (b) amended 49336
148.30 Amended 49336
149.170 (c) amended 49336
150 Technical correction 50244
150.3 (a)(4)(i)(D) revised 38193
155.5 (d)(1) amended 49336
170.11 (a) amended 49336
171.3 Amended 49336
171.8 (a) and (b) amended 49336
190.10 (a) amended 49336

Chapter II—Securities and Exchange Commission (Parts 200—399)

200.1 (j) revised 32794
200.16 Amended 32794
200.19c Added 39644
200.30–3 (a)(60) added 26718
200.30–4 (a)(5) amended 32794
200.30–7 (a)(1) through (5) and (9) amended; (a)(10) added 32794
200.30–9 Revised 32794
200.30–10 (a)(6) removed; (a)(7) and (8) redesignated as (a)(6) and (7); (a)(1) through (5) and new (6) amended 32794
200.30–14 (g)(1) introductory text, (2) and (4) through (7) revised; (g)(1)(x) through (xiv) added 32794
200.30–18 Added 39644

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200.40—200.42 (Subpart B) Authority citation revised 17202
200.40 Revised 17202
200.41 Redesignated as 200.42; new 200.41 added 17202
200.42 Redesignated as 200.43; new 200.42 redesignated from 200.41; (a) and (b) amended 17202
200.43 Redesignated from 200.42; (c)(1) amended 17202
Amended 32795
200.80—200.83 (Subpart D) Authority citation revised 50091
200.80f Revised 50091
200.110—200.114 (Subpart F) Authority citation revised 32795
200.111 (d)(1)(i) and (2) amended 32795
200.301—200.313 (Subpart H) Authority citation amended 32795
200.312 (a)(8) amended 32795
200.401 (a) amended 17202
200.550—200.554 (Subpart K) Authority citation revised 32795
200.554 (a) amended 32795
200.735–13 (c) amended 32795
201 Authority citation removed 32795
201.1—201.29 (Subpart A) Removed 32795
201.31—201.60 (Subpart B) Authority citation revised 32795
201.42 (b) amended 32795
201.54 Amended 32795
201.57 Amended 32795
201.60 Removed 32795
201.61—201.68 (Subpart C) Authority citation revised 32795
201.100 (b)(2) corrected 46499
201.100—201.900 (Subpart D) Added 32796
201.230 (a)(1)(vi) correctly revised 46499
201.430 (a) and (c) corrected 46500
201.431 (a) corrected 46500
202.3a Introductory text amended 26613
202.8 Removed 32823
203.3 Amended 32823
203.7 (b) amended 32823
203.8 Amended 32823
209 Added 32823
210.6–07 Amended 38923
211 Staff Accounting Bulletin No. 94 added 20022
Staff Accounting Bulletin No. 94 corrected 24968
228.10 (f) added 32824
228.501 (a)(4) revised 26613
228.502 Introductory text and (f) revised; (a)(1) heading removed; (a)(1), (b) and (c) amended 26613
228.503 (b) and (c) revised 26613
228.512 (a)(1)(ii) amended 26614
228.601 (b)(24) amended 26614
229.10 (d) added 32824
229.501 (c)(4) revised 26614
229.502 Introductory text, (a) introductory text and (g) revised; (b), (c) and (f) introductory text amended 26614
229.503 (b) and (c) revised; authority citation removed 26614
229.512 (a)(1)(ii) revised 26615
229.601 (b)(24) amended 26615
229.801 (d) Guide 4 amended 26615
230 Authority citation amended 26615
230.110 (a) amended; (d) added 26615
230.111 Existing text designated as (a); (b) added 26615
230.402 (d) and (e) added 26615
230.406 (e), (g), (h)(1) and (2) amended 32824
(b)(1) and (3) revised 47692
230.411 (b)(4) and (c) amended 32824
230.424 (b)(7) amended 26615
230.429 Authority citation removed 26615
(b) amended 26616
230.430A (a)(3) and Instruction amended 26616
230.434 Added 26616
230.439 Authority citation removed 26615
Existing text designated as (a); (b) added 26617
230.455 Amended 26617
230.457 (o) revised 26617
230.461 Authority citation removed 26615
(a) amended 26617
230.462 Heading revised; existing text designated as (a); (b) and (c) added 26617
230.472 (e) added 26618
230.483 (b) amended; (c) redesignated as (c)(1); (c)(2) added 26618

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230.497 (h) redesignated as (h)(1); (h)(2) added 26618
231 Table amended 35666
232.13 (a)(3) added 26618
232.101 (c)(13) amended 32824
232.102 (a) amended 32824
232.301 Revised 27692
239.9 Form SB–1 amended 26618
239.10 Form SB–2 amended 26618
239.11 Form S–1 amended 26619
239.12 Form S–2 amended 26619
239.13 Form S–3 amended 26620
239.14 Form N–2 amended 26623, 38924
239.15A Form N–1A amended 38923, 38924
239.17a Form N–3 amended 38924
239.17b Form N–4 amended 38925
239.18 Form S–11 amended 26620
239.31 Form F–1 amended 26620
239.32 Form F–2 amended 26621
239.33 Form F–3 amended 26621
240 Phase-in period extension 40994
240.8b–11 (e) added 26622
240.12b–11 (d) added 26622
240.12b–23 (b) amended 32825
240.12b–32 (a) amended 32825
240.12f–1 (a)(5) and (6) redesignated as (a)(6) and (7); heading, (a) introductory text and new (6) revised; new (a)(5) added 20896
240.12f–2 Revised 20896
240.12f–3 (b) revised 20896
240.12f–5 Added 20896
240.12f–6 Removed 20896
240.14a–101 Note D1 amended 32825
240.14d–1 (d) added 26622
240.15c2–8 (b), (c) and (d) amended; (j) added; authority citation removed 26622
240.15c6–1 (a) and (b) amended; (b)(2) removed; (b)(3) redesignated as (b)(2); (c) and (d) added 26622
240.16a–3 (i) added 26622
240.17a–23 Regulation at 59 FR 66702 eff. date delayed to 7–1–95 28717
240.19d–2 Revised 32825
240.19d–3 Revised 32825
240.24b–2 (d)(2), (e)(1) and (2) amended 32825
(b)(2) redesignated in part as (b)(3); (b)(1) and new (3) revised 47692
249.27 Removed 20896
249.28 Removed 20896
250.22 (b)(1) amended 32825
250.45 (b)(4) revised 33639
250.52 Revised 33639
260.7a–29 (a) amended 32825
270.0–4 (a) amended 32825
270.0–6 (a) and note amended 32825
270.8b–32 (a) amended 32825
270.24e–2 (a)(1) amended 47045
270.24f–1 (a) and (c)(1) amended 47045
270.24f–2 (b)(1), (3) and (c) revised; (e) and (f) added 47045
274.11A Form N–1A amended 38923, 38924
274.11a–1 Form N–2 amended 26623, 38924
274.11b Form N–3 amended 38924
274.11c Form N–4 amended 38925
274.24 Added 47046

Chapter IV—Department of the Treasury (Parts 400—499)

400.6 OMB number 18734
403.4 OMB number 18734
404 Authority citation revised 20399
404.2 (b) and (c) redesignated as (c) and (d); new (b) amended; new (c) added 20399
405 Authority citation revised 20400
405.3 OMB number 18734
405.5 Added (OMB number) 20401
449 Authority ciation revised 18735
449.3 Form G–FIN–4 amended 18736
449.5 Form G–405 amended 18734

Proposed Rules:

17 31653
210 35656
228 ..... 35604, 35633, 35656
229 ..... 35604, 35633
230 ..... 35604, 35638, 35642, 35645, 35648, 38454
232 ..... 35648, 38467
233 38454
239 ..... 17172, 33375, 35604, 35656, 47844
240 ..... 35604, 35633, 35642, 38467, 48078
249 ..... 35604, 35633, 35642, 35656, 38467
250 ..... 33640, 33642
259 33642
260 35642
270 ..... 17172, 33375, 38467, 39574, 39592, 47844
274 ..... 17172, 33375, 38454, 39574, 47844
275 47844
404 20065
405 20065

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)

2 Order 22503
Clarification 27878
2.25 Regulation at 59 FR 65938 confirmed 22260
(e) revised 22261
34 Order 22503
34.4 (e) ammended 27882
35 Order 22503, 39251
35.23 Regulation at 59 FR 65938 confirmed 22260
35.32—35.33 (Subpart E) Added 34123
35.32 (a)(1), (4) and (f) stayed in part 39252
41 Order 22503
131 Order 22503
284 Order 39253
284.243 (h) revised 16983
(h)(1) revised 30187
292 Order 22503
294 Order 22503
343 Authority citation revised 19505
343.1 (a), (b) and (d) through (h) removed; (c) and (i) redesignated as (a) and (b) 19505
343.5 Revised 19505
381.302 (a) amended 31390
381.303 (a) amended 31390
381.304 (a) amended 31390
381.305 (a) amended 31390
381.403 Amended 31391
381.505 (a) amended 31391
381.801 Amended 31391
382 Order 22503
385 Order 22503
385.503 (a) revised 19505
385.504 (b)(7) revised 19505
385.601 (a) revised 19505
385.602 (b)(3) and (f)(4) added; (h)(1)(ii) introductory text, (iii), (2)(iii) and (iv) revised 19505
385.604—385.606 (Subpart F) Added 19506
385.710 (d) added 19508

Chapter VIII—Susquehanna River Basin Commission (Parts 800—899)

803 Revised 31394
804 Added 31401
805 Added 31401

Chapter XIII—Tennessee Valley Authority (Parts 1300—1399)

1301.1 (b) introductory text, (c)(1)(i), (2)(i), (ii) and (3)(ii) revised; (c)(2)(iii) added 38479

Proposed Rules:

35 ..... 17662, 36752, 38289, 43997
141 ..... 17726, 31428, 33375, 43998
284 ..... 35522, 39895
357 31262
382 31262
388 ..... 17726, 31428, 33375, 43998
400—499 (Ch. III) 38288

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4 Footnotes 2, 21, 29, 63, 64, 66, 68, 69, 73, 90, 93, 94 and 100 removed; interim 50010
4.1 (c)(2) amended; interim 50010
(b), (c)(1), (2), (d) and (g) amended; interim 50021
4.2 (a) amended; interim 50021
4.5 (a) amended; interim 50021
4.6 (a) and (b) amended; interim 50021
4.7 (b) and (d)(2) amended; interim 50021
4.9 (c) amended; interim 50010
(a), (b) and (c) amended; interim 50021
4.12 (a)(1) through (5) and (b) amended; interim 50021
4.13 (c) amended; interim 50021
4.14 (c)(1) and (2) revised; interim 50010
(b)(1), (2)(ii) introductory text, (A), (d)(1)(v), (2)(iii) and (iv) amended; interim 50021
(b)(2)(ii)(A) amended; interim 50022
4.15 (a) and (c) amended; interim 50022

4.16 (a) and (b) amended; interim 50022
4.20 (c) table amended 48028
(c) table note 3 amended; interim 50022
4.23 Amended; interim 50022
4.24 (f) revised; interim 50010
(a) and (b) amended; interim 50022
4.30 (a), (f) through (i), (3), (k), (l) and (m) amended; interim 50022
4.31 (a) amended; interim 50010
Amended; interim 50022
4.32 (b) amended; interim 50022
4.33 (a)(1), (2), (c)(1), (2), (3) and (d) amended; interim 50022
4.34 (a), (b), (d) and (g) amended; interim 50022
4.35 Amended; interim 50022
4.36 (d) amended; interim 50022
4.37 (a), (c), (d) and (f) amended; interim 50022
4.38 Amended; interim 50022
4.39 (e) amended; interim 50022
4.41 (b), (c) and (d) amended; interim 50022
4.60 (d) amended; interim 50022
4.61 (b)(6) and (19) amended; interim 50010
(b) introductory text amended; interim 50022
4.65a Amended; interim 50022
4.66 (a) introductory text amended; interim 50022
4.66a Amended; interim 50022
4.66b Amended; interim 50022
4.66c Amended; interim 50022
4.68 (a) amended; interim 50022
4.72 (a) amended 35838
Amended; interim 50022
4.73 Amended; interim 50022
4.74 Amended; interim 50022
4.75 (a), (b) and (c) amended; interim 50022
4.80 (b) amended; interim 50022
4.80a (d) amended; interim 50022
4.80b (b) amended; interim 50022
4.81 (d) and (e) amended; interim 50022
4.82 (b) and (d) amended; interim 50022
4.85 (a) through (e) amended; interim 50022
4.87 (b), (c), (d) and (g) amended 50022
4.88 (a) and (b) amended; interim 50022
4.89 (b) and (d) amended; interim 50022
4.91 Amended; interim 50022
4.93 (c) amended; interim 50022
4.94 (c) and (d) form amended; interim 50022
4.96 (f) and (h) amended; interim 50022
4.97 (c) and (d) amended; interim 50022
4.98 (a)(1) and (d) amended; interim 50022
(e) amended; interim 50023
4.99 (c) amended; interim 50023
4.100 (a), (c) and (e) amended; interim 50023
7 Authority citation revised 18348
7.8 (b)(1) and (2) amended; interim 50023
10 Authority citation amended 18543, 18990, 46196, 46361
10.1 (b) and (d) amended; interim 50023
10.3 (a) introductory text and (c)(3) amended; interim 50023
10.5 (d), (e), (g) and (h) amended; interim 50023
10.6 Amended; interim 50023
10.7 (c) and (d) amended; interim 50023
10.8 Regulation at 58 FR 69470 confirmed; (a) introductory text revised 46361
(b), (c) and (d) amended; interim 50023
10.8a (c) amended; interim 50023
10.9 (b), (c) and (d) amended; interim 50023
10.21 Amended; interim 50023
10.24 (b) through (e) amended; interim 50023
10.25 Added 46196
10.26 Added 46197
10.31 Regulation at 58 FR 69470 confirmed 46361
(a)(3)(ii), (b) and (f) amended; interim 50023
10.36 (a) amended; interim 50023
10.36a Regulation at 58 FR 69470 confirmed 46361
10.37 Amended; interim 50023
10.38 (a) and (g) amended; interim 50023

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10.39 (a), (b), (d)(1), (2), (e) introductory text, (1), (2), (3), (f) and (h) amended; interim 50023
10.40 (b) amended; interim 50023
10.41a (a)(2) and (e) amended; interim 50023
10.41b (h) amended; interim 50023
10.43 (a) amended; interim 50023
10.48 (c) and (d) amended; interim 50023
10.49 (b) and (d) amended; interim 50023
10.52 Amended; interim 50023
10.53 (e)(5) and (g) amended; interim 50023
10.56 (e) amended; interim 50023
10.59 (f) table amended 28040
(a)(3) and (e) amended; interim 50023
10.60 (f) and (h) amended; interim 50023
10.61 Amended; interim 50023
10.62 (c)(1), (e) and (f) amended; interim 50023
10.62a (b) amended; interim 50023
10.64 (a) introductory text and (b) amended; interim 50023
10.65 (c)(2) amended; interim 50023
10.66 Regulation at 58 FR 69470 confirmed 46361
(a)(3), (b) and (c)(1) amended; interim 50023
10.67 Regulation at 58 FR 69470 confirmed 46361
(a)(3), (b) and (c) amended; interim 50023
10.68 (a) amended; interim 50023
10.70 (a) amended; interim 50023
10.71 (c) and (e) amended; interim 50023
10.75 Amended; interim 50023
10.81 (a) amended; interim 50023
(b) amended; interim 50024
10.83 (a) amended; interim 50024
10.84 (d) and (e) amended; interim 50024
10.101 (c) and (d) amended; interim 50024
10.102 (a) and (d) amended; interim 50024
10.104 Amended; interim 50024
10.107 (b) and (c) amended; interim 50024
10.108 Amended; interim 50024
10.121 (b) amended; interim 50024
10.134 Amended; interim 50024
10.151 Amended; interim 50024
10.151—10.153 Regulation at 59 FR 30293 confirmed 18990
10.151 Regulation at 59 FR 30293 confirmed and amended 18990
Corrected 37825
10.152 Regulation at 59 FR 30293 confirmed 18990
Amended; interim 50024
10.153 Regulation at 59 FR 30293 confirmed 18990
10.172 Amended; interim 50024
10.173 Amended; interim 50024
10.174 Amended; interim 50024
10.175 (e)(2) amended 18543
(d)(2) amended; interim 50024
10.177 (b) amended; interim 50024
10.179 (b)(1) amended; interim 50024
10.183 (c)(1), (2), (d)(2) and (e); interim 50024
10.192 Amended; interim 50024
10.193 (c)(2) amended; interim 50024
10.194 Amended; interim 50024
10.195 (d) and (e) redesignated as (e) and (f); new (d) added 46197
10.196 (b) amended; interim 50024
10.198 (a)(1)(i), (ii), (b) and (c) amended; interim 50024
10.307 (c), (e) introductory text and (2) amended; interim 50024
10.309 Amended; interim 50024
11 Authority citation revised 18348
11.1 (a) and (c) amended; interim 50024
11.2 (a) amended; interim 50024
11.6 Amended; interim 50024
11.12 (b) through (f) amended; interim 50024
11.12a (b) through (f) amended; interim 50024
11.12b (b) through (f) amended; interim 50024
11.13 (c) amended; interim 50024
12 Authority citation amended 18348
12.8 (b) amended; interim 50024
12.9 Amended; interim 50024
12.11 (a) and (b) amended; interim 50024
12.12 Amended; interim 50024
12.14 Amended; interim 50024
12.16 (b) and (c) amended; interim 50024
12.17 Amended; interim 50024
12.19 Amended; interim 50024
12.20 Amended; interim 50024

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12.22 Amended; interim 50024
12.23 (a) through (d) amended; interim 50024
12.24 (c) amended; interim 50024
12.26 (e), (f), (h) and (l) amended; interim 50024
12.28 Amended; interim 50024
12.29 (d) amended; interim 50024
12.33 (d) amended; interim 50024
12.37 (a) amended; interim 50024
12.39 (b)(3) and (d)(2) amended; interim 50024
12.42 (a), (b), (c) and (e) amended; interim 50024
12.43 (c) amended; interim 50024
12.44 ended; interim 50025
12.45 Amended; interim 50025
12.48 (d) amended; interim 50025
12.61 (b) amended; interim 50025
12.73 (c)(2), (j) and (k); interim 50025
12.80 (b)(1) introductory text, (iii), (d), (e), (f) and (h) amended; interim 50025
12.85 (c)(1), (6), (d)(7), (e)(1), (2) and (f) amended; interim 50025
12.91 (c), (d) and (f) amended; interim 50025
12.99 (c)(2) amended; interim 50025
12.103 Amended; interim 50025
12.104b (a) revised 47467
12.104c (a), (b) and (c) amended; interim 50025
12.104d Amended; interim 50025
12.104e (a) introductory text amended; interim 50025
12.107 Amended; interim 50025
12.108 Amended; interim 50025
12.109 (a) amended; interim 50025
12.113 Amended; interim 50025
12.114 Amended; interim 50025
12.115 Amended; interim 50025
12.116 Amended; interim 50025
12.117 (a) and (b) amended; interim 50025
12.121 (a) introductory text amended; interim 50025
12.122 (a) introductory text, (b) introductory text, (1), (2), (c) and (d) amended; interim 50025
12.123 (a), (b), (c) introductory text and (2) amended; interim 50025
12.124 (b) introductory text amended; interim 50025
12.125 Introductory text amended; interim 50025
12.126 Amended; interim 50025
12.130 (b), (d) introductory text and (e)(1) introductory text amended 46197
(g) and (h) amended; interim 50025
12.131 Amended; interim 50025
12.132 Regulations at 58 FR 69470 and 59 FR 31520 confirmed 46361
(a)(3) amended; interim 50025
18 Authority citation amended 18348
18.1 (b) amended; interim 50025
18.2 (b) and (d) amended; interim 50025
18.3 (a) and (b) amended; interim 50025
18.4 (a)(2) and (f) amended; interim 50025
18.4a (c) and (d) amended; interim 50025
18.5 (b), (c), (d) and (f) amended; interim 50025
18.6 (b) amended; interim 50025
18.7 (a), (b) and (c) amended; interim 50025
18.8 (d), (e)(2) and (3) amended; interim 50025
18.10 (b) amended; interim 50025
18.10a Amended; interim 50025
18.11 (b), (c), (e) and (h) amended; interim 50025
18.12 (d) and (e) amended; interim 50025
18.13 (a) and (b) amended; interim 50025
18.20 (a) and (b) amended; interim 50025
18.21 (c) amended; interim 50026
18.22 (b) amended; interim 50026
18.23 (a) amended; interim 50026
18.24 (a) amended; interim 50026
18.25 (a) and (e) amended; interim 50026
18.26 (a) and (d) amended; interim 50026
18.27 Amended; interim 50026
18.42 Amended; interim 50026
18.43 (b) and (c) amended; interim 50026
18.45 Amended; interim 50026
19 Authority citation amended 18348, 50010

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19.1 (a)(1) and (4) amended; interim 50026
19.2 (a), (e), (f) and (g) amended; interim 50026
19.3 (a) through (g) amended; interim 50026
19.4 Amended; interim 50026
19.5 Correctly removed; CFR correction 42431
19.6 (a), (b)(1), (d)(1)(iv), (2) and (e) amended; interim 50026
19.7 (b) amended; interim 50026
19.8 Amended; interim 50026
19.9 (a) and (c) amended; interim 50026
19.10 Amended; interim 50026
19.11 (c), (d), (f) and (h) amended; interim 50026
19.12 (a)(3), (5), (6), (8) and (b)(6) amended; interim 50026
19.13 (a), (b) and (d) amended; interim 50026
19.14 (c) and (e) amended; interim 50026
19.15 (f) and (j) amended; interim 50026
19.17 (a), (c), (e) and (g) amended; interim 50026
19.19 (a) and (b) amended; interim 50026
19.23 Amended; interim 50026
19.32 (b) amended; interim 50026
19.34 Amended; interim 50026
19.35 (d), (f) and (g) amended; interim 50026
19.36 (a) through (d) and (g) amended; interim 50026
19.37 (a), (b) and (d) amended; interim 50026
19.39 (a)(2), (b)(2), (c)(2), (5), (d) and (e) amended; interim 50026
19.40 (a) and (b) amended; interim 50026
19.43 Amended; interim 50026
19.44 (g) amended; interim 50010
19.45 Amended; interim 50026
19.46 Amended; interim 50026
19.47 Amended; interim 50026
19.48 (a) introductory text, (b) and (c) amended; interim 50026
24 Authority citation amended 18348, 46361
Authority citation revised 50010
24.1 (a)(3)(i) amended; interim 50011
(a)(3)(i) and (ii) amended; interim 50026
24.2 Amended; interim 50026
24.3a (c) amended; interim 50026
24.4 (a), (c)(1) and (d)(1) amended; interim 50011
(a) through (d), (1) and (h)(3)(i) amended; interim 50026
(c)(2), (h)(2) and (3) introductory text amended; interim 50027
24.5 (f) amended; interim 50027
24.11 (b) amended; interim 50027
24.12 (c) amended; interim 50027
24.13 (c), (d) and (f) amended; interim 50027
24.13a (g) amended; interim 50027
24.14 (c) amended; interim 50027
24.16 (a), (c)(1) and (2) amended; interim 50027
24.17 (a) introductory text and (d)(4) amended; interim 50027
24.22 Regulation at 58 FR 69470 confirmed 46361
(b)(3), (c)(3), (d)(3) and (i)(2) amended; interim 50027
24.23 (c)(1)(v) amended 18348
Regulation at 58 FR 69470 confirmed 46361
(a)(1) and (3) amended; interim 50027
24.24 (b)(1) table note, (c)(8)(i) and (g) amended; interim 50027
24.36 (c), (d) introductory text, (9), (e)(1) and (2) amended; interim 50027
24.70 (c) amended; interim 50027
24.72 Amended; interim 50027
54 Authority citation revised 18348
54.5 (b) amended; interim 50027
54.6 (c) introductory text and (4) amended; interim 50027
101 Authority citation revised 18348, 18990, 50011
101.0 Amended; interim 50027
101.1 Regulation at 59 FR 30293 confirmed 18990
Amended; (a), (b) and (c) removed; interim 50011
101.3 (b) amended 41804
Revised; interim 50011
101.4 Regulation at 59 FR 30293 confirmed 18990
(c) table revised; interim 50018
(a), (b) introductory text and (d) amended; interim 50027
101.5 Table amended; interim 50027
101.6 (e) amended; interim 50019

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(c) amended; interim 50027
102 Authority citation revised 18348, 46197
102.0 Amended 46197
102.11 Introductory text amended 46197
102.21 Added 46197
103.0 Amended; interim 50027
103.1 Amended; interim 50019
103.5 (b)(1), (2), (d)(1) and (2) amended; interim 50027
103.6 (a)(1) and (2) amended; interim 50028
103.7 (a), (b)(6) and (c) amended; interim 50028
103.8 (a) introductory text and (3) amended; interim 50028
103.10 (d)(3) amended; interim 50028
103.14 (d)(1)(iii), (2)(iii) and (e)(2) amended; interim 50028
103.16 Amended; interim 50028
111 Authority citation amended 18348, 50019
111.1 Amended; interim 50019
111.3 Regulation at 59 FR 30294 confirmed 18990
(b)(1) and (2) amended; interim 50028
111.11 (b)(2) and (c)(3) amended; interim 50028
111.12 Amended; interim 50028
111.13 (f) removed; interim 50019
111.15 Amended; interim 50028
111.16 (a) amended; interim 50028
111.19 (d) amended; interim 50019
(b) and (d) amended; interim 50028
111.22 (b) introductory text, (2), (c) and (e) amended; interim 50028
111.23 (e)(3) removed; interim 50019
(a)(1), (b) introductory text, (d)(1), (5), (e)(2) and (f) amended; interim 50028
111.24 Amended; interim 50028
111.27 Amended; interim 50028
111.28 (b)(1), (2), (3) and (c) amended; interim 50028
111.30 (a), (b) and (d) amended; interim 50028
111.45 (c) amended; interim 50019
111.54 Amended; interim 50028
111.55 Amended; interim 50028
111.56 Amended; interim 50028
111.57 Amended; interim 50028
111.59 (a) and (b) introductory text amended; interim 50028
111.60 Amended; interim 50028
111.61 Amended; interim 50028
111.62 (e) amended; interim 50028
111.63 (a) introductory text, (3), (4), (b) introductory text, (3) and (4) amended; interim 50028
111.64 (a) amended; interim 50028
111.67 (d) amended; interim 50029
111.72 Amended; interim 50029
111.78 Amended; interim 50029
111.91 Amended; interim 50029
111.92 Amended; interim 50029
111.94 Amended; interim 50029
111.95 Amended; interim 50029
111.96 (a) and (c) amended; interim 50029
112.1 Amended; interim 50019
112.2 Amended; interim 50020
112.11 (a) amended; interim 50029
112.12 (a), (b) introductory text, (3) and (4)(ii) amended; interim 50029
112.13 Introductory text amended; interim 50029
112.14 Amended; interim 50029
112.21 Amended; interim 50029
112.22 (a) introductory text, (1), (b)(1), (2) and (c) amended; interim 50029
112.23 Amended; interim 50029
112.24 Introductory text amended; interim 50029
112.27 (c) amended; interim 50029
112.29 Amended; interim 50029
112.30 (a) introductory text, (7), (8), (10), (b), (c), (d)(2) and (e) amended; interim 50029
112.41 Amended; interim 50029
112.42 Amended; interim 50029
112.44 Amended; interim 50029
112.45 Introductory text amended; interim 50029
112.46 Amended; interim 50029
112.48 (a) introductory text, (b), (c), (d)(2) amd (e) amended; interim 50029
112.49 Amended; interim 50029
113.1 Amended; interim 50029
113.11 Amended; interim 50029
113.12 (a), (b) introductory text and (2) amended; interim 50029
113.13 (b), (c) and (d) amended; interim 50029
113.14 Amended; interim 50029

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113.15 Amended; interim 50029
113.23 (d) amended; interim 50029
113.24 (a) introductory text and (b) amended; interim 50029
113.26 (e) amended; interim 50029
113.27 (a) and (b) amended; interim 50029
113.32 (a)(1) amended; interim 50029
113.33 (c) and (d) amended; interim 50029
113.35 (a), (c)(2), (d) and (e) amended; interim 50029
(b)(4) and (c)(1)(ii) amended; interim 50030
113.37 (a) amended; (g)(2) revised; interim 50020
(a), (f), (g)(1)(iii), (4) and (5) amended; interim 50030
113.38 (c)(2) removed; (c)(3) through (7) redesignated as (c)(2) through (6); interim 50020
(c)(1), (2), (4) and (6) amended; interim 50030
113.39 (a) introductory text amended; interim 50020
Introductory text, (a) introductory text and (5) amended; interim 50030
113.40 (a), (b) and (c) amended; interim 50030
113.43 (a) and (b) amended; interim 50030
113.53 (b) amended; interim 50030
113.55 (a)(1), (c)(2), (3) and (d) amended; interim 50030
113.62 (a)(3) amended; interim 50030
114 Authority citation revised 18348
114.25 Amended; interim 50030
114.26 (a) and (b) amended; interim 50030
114.34 (a) and (b) amended; interim 50030
118.1 Amended; interim 50030
118.2 Amended; interim 50030
118.4 (g) and (l) amended; interim 50020
(f), (g) and (k) amended; interim 50030
118.5 Amended; interim 50030
118.11 (b) and (h) amended; interim 50030
118.12 Amended; interim 50030
118.13 Amended; interim 50030
118.21 (a) introductory text and (b) introductory text amended; interim 50030
118.22 Amended; interim 50030
118.23 Amended; interim 50030
118.24 Removed; interim 50020
122.1 (c)(2) amended; interim 50030
122.3 Amended; interim 50030
122.5 (b) amended; interim 50030
122.11 (a) amended; interim 50030
122.12 (d) amended; interim 50030
122.14 (e) amended; interim 50020
(a)(1), (2), (3) introductory text, (ii) and (e) amended; interim 50030
122.15 (b) amended 41804
122.25 (a), (b) and (d)(4)(iv) amended; interim 50030
122.31 (b) amended; interim 50020
(b), (c) and (f) amended; interim 50030
122.35 (b)(1) amended; interim 50030
122.37 (c) amended; interim 50030
122.38 (d), (e) and (f) amended; interim 50030
122.49 (a)(1), (b)(1), (d) and (e)(1) amended; interim 50030
122.54 (f) and (g) amended; interim 50030
122.63 (b) amended; interim 50030
122.64 Amended; interim 50030
122.65 Amended; interim 50030
122.71 (a)(1) amended; interim 50031
122.73 (a)(2) and (b)(2) amended; interim 50031
122.74 (a)(1) and (b)(2) amended; interim 50031
122.76 (a)(1) and (2) amended; interim 50031
122.77 (a) and (b) amended; interim 50031
122.79 (b) amended; interim 50031
122.82 Amended; interim 50031
122.92 (a)(3) introductory text and (iv) amended; interim 50031
122.93 (a) amended; interim 50031
122.102 (a) amended; interim 50031
122.114 (d) amended; interim 50031
122.118 (a) amended; interim 50031
122.119 (a), (d)(1) introductory text, (ii) and (2) amended; interim 50031
122.120 (b)(1) and (k) amended; interim 50031
122.132 (b)(2) and (c) amended; interim 50031
122.134 (a) and (c) amended; interim 50031

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122.135 (b), (c) and (e) amended; interim 50031
122.143 (b) amended; interim 50031
122.144 (b) amended; interim 50031
122.153 Amended; interim 50031
122.162 (a)(2) and (4) amended; interim 50031
122.163 (c) introductory text and (2) amended; interim 50031
122.165 (b) amended; interim 50031
122.173 (a) and (b) amended; interim 50031
122.175 Amended; interim 50031
122.176 (a) and (b) amended; interim 50031
122.181 Amended; interim 50031
122.182 (b) through (g) amended; interim 50031
122.183 Amended; interim 50031
122.184 Amended; interim 50031
122.185 Amended; interim 50031
122.186 Amended; interim 50031
122.187 (a) introductory text, (4), (b), (c), (d) and (f) amended; interim 50031
122.188 (a), (b) and (d) amended; interim 50031
123 Authority citation amended 18348, 18991
123.0 Regulation at 58 FR 69471 confirmed 46361
123.1 (a)(1), (2), (3), (b) and (d) amended; interim 50031
123.4 (b) amended; interim 50031
123.8 (a), (b)(1) and (2) amended; interim 50031
123.9 (b)(1), (2), (d)(1)(iv) and (v) amended; interim 50031
123.12 Regulation at 59 FR 30294 confirmed 18990
123.14 (b) amended; interim 50031
123.24 (c) amended; interim 50031
123.25 (a) amended; interim 50031
123.34 Amended; interim 50031
123.72 Amended; interim 50031
125.11 (b) and (c) amended; interim 50031
125.12 Amended; interim 50031
125.13 Amended; interim 50031
125.14 Amended; interim 50031
125.23 Amended; interim 50031
125.33 (c) amended; interim 50031
125.35 Amended; interim 50031
125.36 Amended; interim 50031
125.42 Amended; interim 50031
127.1 Introductory text, (c), (d) and (e) amended; interim 50031
127.12 (b)(1) amended; interim 50031
127.13 (a) amended; interim 50031
127.21 Amended; interim 50031
127.22 Revised; interim 50020
127.25 Amended; interim 50032
127.27 Amended; interim 50032
127.28 (c), (d), (g) and (h) amended; interim 50032
127.29 Amended; interim 50032
127.35 Amended; interim 50032
127.36 (a) and (c) amended; interim 50032
128 Authority citation revised 18348
128.1 (d) and (e) amended; interim 50032
128.11 (a), (b)(7)(iv) and (c) amended; interim 50032
128.12 (a) and (c) amended; interim 50032
128.21 Regulation at 59 FR 30294 confirmed 18990
128.23 Regulation at 59 FR 30294 confirmed 18990
(b)(3) amended; interim 50032
128.24 Regulation at 59 FR 30294 confirmed 18990
(e) amended 18991
(c) amended; interim 50032
128.25 Regulation at 59 FR 30295 confirmed 18990
128.26 Regulation at 59 FR 30295 confirmed 18990
132 Authority citation revised 18348
Authority citation amended 39109
132.11a (c) amended; interim 50032
132.12 (a) amended; interim 50032
132.13 (a)(1) amended; interim 50032
132.14 (a)(4)(i) introductory text, (D), (ii) introductory text and (C) amended; interim 50032
132.15 Added; interim 39109
132.23 (a), (b) and (d) amended; interim 50032
132.25 Amended; interim 50032
133.23 (b)(2) and (c)(2) amended; interim 50032
133.24 Amended; interim 50032
133.42 (c) amended; interim 50032
133.43 (a), (b) introductory text, (2), (c) introductory text, (1) introductory text, (i), (ii) and (2) amended; interim 50032
133.44 Amended; interim 50032
133.46 Amended; interim 50032

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133.47 Amended; interim 50032
134 Authority citation revised 18348
Authority citation amended 46362
134.0 Regulation at 58 FR 69471 confirmed 46361
134.1 Regulation at 58 FR 69471 confirmed 46361
(k) added 46362
134.3 (b) introductory text and (2) amended; interim 50032
134.22 Regulation at 58 FR 69471 confirmed 46361
134.23 Regulation at 58 FR 69471 confirmed 46361
134.24 Regulation at 58 FR 69471 confirmed 46361
134.25 (a) and (c) amended; interim 50032
134.26 (a) and (c) amended; interim 50032
134.32 Regulation at 58 FR 69472 confirmed 46361
134.33 Amended 49752
134.34 (a) introductory text and (b) amended; interim 50032
134.35 Regulation at 58 FR 69472 confirmed 46361
134.43 Regulation at 58 FR 69472 confirmed 46361
134.44 Regulation at 58 FR 69472 confirmed 46361
134.45 Regulation at 58 FR 69472 confirmed 46361
134.51 Amended; interim 50032
134.52 (a) through (e) amended; interim 50032
134.53 (a)(2) amended; interim 50032
134.54 (a), (b) and (c) amended; interim 50032
141.4 (a) amended 18348
Regulation at 59 FR 30295 confirmed 18990
(b)(1) corrected 21043
141.5 Amended; interim 50032
141.11 (a)(2) and (5) amended; interim 50032
141.13 Amended; interim 50032
141.15 (a) amended; interim 50032
141.16 Amended; interim 50032
141.20 (a)(1) and (2) amended; interim 50032
141.35 Amended; interim 50032
141.38 Amended; interim 50032
141.44 Amended; interim 50032
141.45 Revised; interim 50020
141.46 Amended; interim 50032
141.52 Introductory text and (i) amended; interim 50032
141.54 (a) and (c) amended; interim 50032
141.55 Amended; interim 50032
141.56 Amended; interim 50032
141.61 (e)(2) introductory text, (ii) and (4) amended; interim 50032
141.62 (a) amended; interim 50032
141.63 (a) introductory text, (b) and (c) amended; interim 50032
141.69 (b) and (c) amended; interim 50032
141.83 (c)(2) amended; interim 50032
141.84 (c) amended; interim 50032
141.85 Amended; interim 50032
141.86 (a)(11) amended; interim 50032
141.88 Amended; interim 50032
141.90 (a) amended; interim 50032
141.91 (a) and (d) amended; interim 50032
141.92 (a) introductory text and (b)(4) amended; interim 50033
141.103 Amended; interim 50033
141.105 Amended; interim 50033
141.112 (b), (c), (d), (g) and (h) amended; interim 50033
141.113 (a) through (d), (f) and (h) amended; interim 50033
142.2 (a) amended; interim 50033
142.3 (c) amended; interim 50033
142.4 (c)(1) and (2) amended; interim 50033
142.6 (a)(4) amended; interim 50033
142.7 Amended; interim 50033
142.11 (b) amended; interim 50033
142.13 (a)(4) added; (b) removed; (c) redesignated as (b); interim 50020
(a) heading and introductory text amended; interim 50033
142.14 (a), (b) heading and (c) amended; interim 50033
142.15 Amended; interim 50033
142.17 (a) introductory text amended; interim 50033
142.18 (a) introductory text amended; interim 50033
142.19 (b)(2) amended; interim 50033
142.21 (a), (e)(1), (2), (f)(1) introductory text and (ii) amended; interim 50033
142.24 (a) amended; interim 50033

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142.25 (a)(4) added; (b) removed; (c) redesignated as (b); interim 50020
(a) heading and introductory text amended; interim 50033
142.26 (a), (b) heading and (c) amended; interim 50033
142.27 Amended; interim 50033
142.28 (a) introductory text amended; interim 50033
142.42 Introductory text, (a) and (c) amended; interim 50033
142.43 Amended; interim 50033
142.44 Amended; interim 50033
142.45 (a) and (c) amended; interim 50033
142.48 (c) amended; interim 50033
142.49 Amended; interim 50033
142.50 Amended; interim 50033
142.51 Amended; interim 50033
142.52 Heading, (a) and (b) amended; interim 50033
143.2 Introductory text amended; interim 50033
143.3 (a) introductory text and (b) amended; interim 50033
143.3a (c) and (d) amended; interim 50033
143.5 Amended; interim 50033
143.6 Amended; interim 50033
143.7 (a), (b) and (c) amended; interim 50033
143.8 Amended; interim 50034
143.11 (a) introductory text and (b) amended; interim 50034
143.17a (a) introductory text amended; interim 50033
143.21 Regulation at 59 FR 30295 confirmed 18990
143.22 Amended; interim 50034
143.23 Regulation at 59 FR 30295 confirmed 18990
(j)(5) amended; (j)(6) redesignated as (j)(7); new (j)(6) added 18991
Introductory text amended; interim 50034
143.26 Regulation at 59 FR 30296 confirmed 18990
(a) and (b) amended 18991
143.37 (c) and (d) amended; interim 50034
144.11 (b) amended; interim 50034
144.12 Amended; interim 50034
144.13 Amended; interim 50034
144.34 (a) amended; interim 50034
144.36 (c) and (h) amended; interim 50034
144.37 (a), (b)(3), (d), (e), (f), (h)(2) introductory text, (ii) and (v) amended; interim 50034
144.38 (d) amended; interim 50034
144.41 (b) and (h) amended; interim 50034
144.42 (b)(3) amended; interim 50034
145 Authority citation amended 18348
145.4 (b), (c) and (d) amended; interim 50034
145.12 (a)(1) and (c) amended; interim 50034
145.14 (b) amended; interim 50034
145.22 (a) and (b) amended; interim 50034
145.23 Amended; interim 50034
145.24 Amended; interim 50034
145.25 Amended; interim 50034
145.31 Regulation at 59 FR 30296 confirmed 18990
Amended; interim 50034
145.32 Regulation at 59 FR 30296 confirmed 18990
Amended; interim 50034
145.35 Amended; interim 50034
145.36 Amended; interim 50034
145.41 Amended; interim 50034
145.42 Amended; interim 50034
145.54 (c) introductory text and (3) amended; interim 50034
146 Authority citation amended 18348, 20632, 50020
146.1 (b)(2) amended; interim 50034
146.2 Amended; interim 50034
146.3 (b) amended; interim 50034
146.4 (h) amended; interim 50020
(g) and (h) amended; interim 50034
146.6 (a), (c), (d) and (e) amended; interim 50034
146.7 Amended; interim 50034
146.8 Amended; interim 50034
146.9 Amended; interim 50034
146.10 Amended; interim 50034
146.13 Amended; interim 50034
146.21 (b) amended; interim 50034
146.22 (b) amended; interim 50034
146.23 (c) amended; interim 50034
146.25 (a) and (c) amended; interim 50034
146.26 Amended; interim 50034
146.31 (a) amended; interim 50034

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146.32 (a), (b)(5), (c) introductory text, (3) and (d)(2)(i) amended; interim 50034
146.34 (a) and (b) amended; interim 50034
146.35 (b), (d) and (e) amended; interim 50034
146.36 Amended; interim 50034
146.37 (b), (c)(1) and (d) amended; interim 50034
146.38 Amended; interim 50034
146.39 (b), (c) introductory text, (d) and (e) amended; interim 50034
146.40 (b) amended; interim 50020
(a)(2), (5), (7), (c)(1), (2), (3)(i) and (4) amended; interim 50034
146.41 (a), (c) and (d) amended; interim 50034
146.42 (c) amended; interim 50034
146.44 (c)(2) amended; interim 50035
146.51 Amended; interim 50035
146.52 (a) through (d) and (e) amended; interim 50035
146.53 (a) introductory text, (3), (b), (c) and (d) amended; interim 50035
146.61 Amended; interim 50035
146.62 (c) amended; interim 50035
146.63 (c)(1) amended; interim 50035
146.64 (c) amended; interim 50035
146.65 (a)(1) amended 20632
(b)(3) and (c) amended; interim 50035
146.66 (a) amended; interim 50035
146.67 (d) amended; interim 50035
146.68 Amended; interim 50035
146.69 (b) and (c) amended; interim 50035
146.70 (b) and (c) amended; interim 50035
146.71 Amended; interim 50035
146.81 (b) amended; interim 50035
146.82 (a) introductory text, (b)(1), (2) and (3) amended; interim 50035
146.83 (a) amended; interim 50035
146.91—146.96 (Subpart H) Added 20632
146.95 (a)(3)(i) amended; interim 50035
147.1 (d) amended; interim 50035
147.3 Amended; interim 50035
147.13 (b) amended; interim 50035
147.14 (a) amended; interim 50035
147.32 Amended; interim 50035
147.33 Amended; interim 50035
147.41 Amended; interim 50035
148 Authority citation amended 18349
148.6 (b) amended; interim 50035
148.8 (d) amended; interim 50035
148.12 Regulation at 59 FR 30296 confirmed 18990
148.25 (b) amended; interim 50035
148.32 (b) amended; interim 50035
148.37 (a) amended; interim 50035
148.39 (b) amended; interim 50035
148.46 (b) amended; interim 50035
148.51 Regulation at 59 FR 30296 confirmed 18990
148.52 (b) and (d) amended; interim 50035
148.54 (c) amended; interim 50035
148.63 (a) introductory text amended; interim 50035
148.64 Regulation at 59 FR 30296 confirmed 18990
148.66 (b)(2) amended; interim 50035
148.77 (a), (c)(1) and (2) amended; interim 50035
148.84 (a)(2) amended; interim 50035
148.90 (a), (b), (c), (d)(1)(ii), (2)(i) and (iii) amended; interim 50035
148.105 (a) amended; interim 50035
148.115 (e) amended; interim 50035
151 Authority citation amended 18349
151.1 Amended; interim 50035
151.2 (a)(1) and (2) amended; interim 50035
151.4 (b) introductory text, (c)(1) and (2) amended; interim 50035
151.6 Amended; interim 50035
151.7 Introductory text and (a) through (d) amended; interim 50035
151.8 (b) and (c) amended; interim 50035
151.9 Amended; interim 50035
151.10 Amended; interim 50035
151.11 Amended; interim 50035
151.13 (a) introductory text, (2), (b) introductory text, (9), (d), (e), (f), (g)(2), (h), (j), (k) and (l)(2) amended; interim 50035
151.15 (a), (b) introductory text and (d) amended; interim 50035
(c) and (d) amended; interim 50036
151.26 Amended; interim 50036
151.28 Amended; interim 50036

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151.42 (a)(1), (2), (3) and (c) amended; interim 50036
151.44 (a) and (c) amended; interim 50036
151.51 (b) amended; interim 50036
151.52 (c) amended; interim 50036
151.54 Introductory text amended; interim 50036
151.55 Amended; interim 50036
151.65 Amended; interim 50036
151.68 (c) amended; interim 50036
151.69 (b) amended; interim 50036
151.70 Amended; interim 50036
151.71 (a), (b) and (c) amended; interim 50036
151.73 (b) and (c) amended; interim 50036
151.74 Amended; interim 50036
151.75 Amended; interim 50036
151.76 (a), (b) and (c) amended; interim 50036
151.84 Amended; interim 50036
151.85 Amended; interim 50036
152 Authority citation amended 18349
152.1 (c) amended; interim 50036
152.2 Amended; interim 50036
152.13 (b)(1), (2), (c) introductory text, (1), (2), (3) and (d) amended 18349
(a), (c)(1), (3) and (d) amended; interim 50036
152.16 (c) amended; interim 50036
152.26 Introductory text, (b), (d) and (e) amended; interim 50036
152.101 (c) and (d) amended; interim 50036
152.103 (a)(5)(iii), (d), (l)(1), (2)(iii) and (m) amended; interim 50036
152.105 (i)(2) amended; interim 50036
152.106 (f)(2) amended; interim 50036
158.1 (b) introductory text amended; interim 50036
158.3 Amended; interim 50036
158.5 (a) amended; interim 50036
158.6 Amended; interim 50036
158.11 (a), (b)(1) and (3) amended; interim 50036
158.12 (a) amended; interim 50036
158.13 (a) and (b) amended; interim 50036
158.14 Amended; interim 50036
158.24 Amended; interim 50036
158.25 Amended; interim 50036
158.27 (b) amended; interim 50036
158.28 Amended; interim 50036
158.29 Amended; interim 50036
158.30 Amended; interim 50036
158.42 (b), (c) and (d) amended; interim 50036
158.43 (a), (c) and (e) amended; interim 50036
158.44 (a) and (c) amended; interim 50036
159 Authority citation amended 18991
159.6 Regulation at 59 FR 30296 confirmed 18990
159.7 (a) introductory text, (b) and (c) amended; interim 50036
159.12 (a)(1) introductory text, (ii) and (b) through (e) amended; interim 50036
159.22 (d)(2) amended; interim 50036
159.36 (b), (c) and (d) amended; interim 50036
159.38 Amended; interim 50036
159.44 Amended; interim 50036
159.58 Amended; interim 50036
161.3 Amended; interim 50036
161.16 Amended; interim 50036
162.0 Regulation at 58 FR 69472 confirmed 46361
162.1d (b) amended; interim 50036
162.3 (b) amended; interim 50036
162.21 (b) amended; interim 50036
162.32 (a) and (c) amended; interim 50037
162.42 Amended; interim 50037
162.44 (a), (b) and (c) amended; interim 50037
162.45 (a)(3), (4) and (c) amended; interim 50037
162.45a Amended; interim 50037
162.46 (c) introductory text, (2) heading, introductory text, (ii) and (d) amended; interim 50037
162.47 (a), (d) and (e) amended; interim 50037
162.48 (a) amended; interim 50037
162.49 (a) amended; interim 50037
162.50 (a) amended; interim 50037
162.52 (b)(2) and (4) amended; interim 50037
162.64 Amended; interim 50037
162.65 (c), (d), (e) introductory text and (1) amended; interim 50037
162.71 (e)(4) amended; interim 50037
162.72 (a) amended; interim 50037

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162.74 (a), (b)(4), (c), (d)(3), (4)(i), (e)(1), (h) and (j) amended; interim 50037
162.75 (c), (d)(1), (2) introductory text, (i) and (3) amended; interim 50037
162.76 (a) amended; interim 50037
162.77 (a) amended; interim 50037
162.78 (a), (b) and (d) amended; interim 50037
162.79 (a) and (b)(1) amended; interim 50037
162.79b Amended; interim 50037
162.80 (a)(1), (2)(i) and (iii) amended; interim 50037
171.12 (a) and (e) amended; interim 50037
171.15 (a) introductory text, (4) and (7) amended; interim 50037
171.21 Amended; interim 50037
171.22 Amended; interim 50037
171.31 Amended; interim 50037
171.33 (a) introductory text, (b)(1), (2) and (c) amended; interim 50037
171.52 (d) amended; interim 50037
171 Appendixes A, B and C amended; interim 50037
172.2 Amended; interim 50037
172.12 (a) and (b)(1) amended; interim 50037
172.21 Amended; interim 50037
172.22 Heading, (a), (b)(3) introductory text, (ii), (c), (d)(1), (2), (4) and (e) amended; interim 50037
172.31 (a) amended; interim 50037
172.33 (a) introductory text, (b)(1) introductory text, (i), (ii), (2) and (c)(1) amended; interim 50038
173.1 Amended; interim 50038
173.2 Introductory text amended; interim 50038
173.3 (a) amended; interim 50038
173.4 (a) and (c) amended; interim 50038
173.4a Amended; interim 50038
173.5 Amended; interim 50038
173.6 Amended; interim 50038
174.0 Regulation at 58 FR 69472 confirmed 46361
Amended; interim 50038
174.1 Amended; interim 50020, 50038
174.3 (b)(1), (c) and (d) amended; interim 50038
174.11 Introductory text amended; interim 50038
174.12 Regulation at 58 FR 69472 confirmed 46361
(e)(2) revised 46363
(b) and (d) amended; interim 50038
174.13 (b) amended; interim 50038
174.14 (e) amended; interim 50038
174.15 Regulation at 58 FR 69472 confirmed 46361
(b)(2) amended; interim 50038
174.16 Amended; interim 50038
174.21 Amended; interim 50038
174.22 (a), (c) and (d) amended; interim 50038
174.23 Amended; interim 50038
174.24 Introductory text and (a) amended; interim 50038
174.26 (a), (b) introductory text and (2) amended; interim 50038
174.27 Amended; interim 50038
174.29 Regulation at 58 FR 69472 confirmed 46361
Amended; interim 50038
174.30 (b) and (c) amended; interim 50038
175.25 (a) and (b) amended; interim 50038
176.1 Amended; interim 50038
177 Authority citation amended 18349
177.0 Regulation at 58 FR 69473 confirmed 46361
177.1 Regulation at 58 FR 69473 confirmed 46361
(d)(3) amended; interim 50038
177.2 (a), (b)(2)(ii)(A), (B) and (C) amended; interim 50038
177.22 (c) amended; interim 50038
178 Authority citation revised 46363
178.2 Table amended (OMB number) 18991
Table amended 46204
Regulation at 58 FR 69473 confirmed 46361
Table amended (OMB numbers) 46364
181 Authority citation amended 18349
Regulation at 58 FR 69473 confirmed 46361
Revised 46364
Technical correction 48645
181 Appendix corrected; CFR correction 35122

191 Authority citation amended 18349, 46463
Interpretation 40995
191.0 Regulation at 58 FR 69565 confirmed 46361
191.2 (d) and (f) amended; interim 50038
191.10 (a), (b) and (d) amended; interim 50038
(e)(1)(i), (ii), (iii) and (2) amended; interim 50039
191.21 (c), (d) and (e) amended; interim 50039
191.22 (d) amended; interim 50039
191.23 (a) and (b) amended; interim 50039
191.24 Amended; interim 50039
191.25 (b)(1) and (2) introductory text amended; interim 50039
191.26 Amended; interim 50039
191.42 (b) introductory text amended; interim 50039
191.43 Amended; interim 50039
191.44 Amended; interim 50039
191.53 (b), (c), (d) and (e)(3) amended; interim 50039
191.56 Amended; interim 50039
191.57 Amended; interim 50039
191.62 (a)(1), (2) introductory text and (3) amended; interim 50039
191.64 Amended; interim 50039
191.65 (a) amended; interim 50039
191.66 (e) amended; interim 50039
191.67 (a)(1), (e)(1) and (2) amended; interim 50039
191.71 (d) and (f) amended; interim 50039
191.72 (b) and (c) amended; interim 50039
191.82 (d)(2) amended; interim 50039
191.83 (b)(2)(vi) and (3) amended; interim 50039
191.84 (a), (b)(9) and (d) amended; interim 50039
191.85 Amended; interim 50039
191.93 (a), (c)(5), (d), (e)(2), (4), (g), (h), (i), (j) introductory text and (4) amended; interim 50039
191.133 (a), (c) and (d)(2) amended; interim 50039
191.134 Amended; interim 50039
191.136 (d) and (e) amended; interim 50040
191.138 Amended; interim 50040
191.141 (b)(1), (2)(i), (ii), (d), (f)(1), (2) and (g)(1) amended; interim 50040
191.142 (b)(1), (3), (4) and (5) amended; interim 50040
191.153 (b) amended; interim 50040
191.156 (b) amended; interim 50040
191.158 Amended; interim 50040
191.163 (b)(2) and (c) amended; interim 50040
191.164 (b) and (c) amended; interim 50040
191.165 (b) and (c) amended; interim 50040

Chapter II—United States International Trade Commission (Parts 200—299)

201.2 (b) through (i) redesignated as (c) through (j); new (b) added 37336
201.18 (a) revised 37336
201.24 (d) revised 37336
201.28 (b) revised 37336
201.29 Revised 37336
201.30 (b) revised 37336
206.2—206.8 (Subpart A) Regulation at 60 FR 10 confirmed 46500
206.11—206.19 (Subpart B) Regulation at 60 FR 12 confirmed 46500
206.34 Regulation at 60 FR 16 confirmed 46500
206.35 Regulation at 60 FR 17 confirmed 46500
206.51—206.55 (Subpart F) Regulation at 60 FR 17 confirmed 46500
210.4 (f)(3) revised 32443
210.5 (a) revised 32444
210.8 (a) revised 32444
210.52 (e) revised 32444

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

353 Authority citation revised 25133
353.1 Revised 25133
353.12 (b)(2) revised 25134
353.13 (a) revised 25134
353.15 (a)(1), (b) and (c) revised 25134
353.22 (c)(4) and (7) revised; (h) added 25134

TITLE 19 Chapter III—Con.

353.31 (a)(1) and (c) revised 25135
353.38 (i) added 25136
355 Authority citation revised 25136
355.1 Revised 25136
355.12 (b)(2) revised 25136
355.13 (a) revised 25136
355.15 (a)(1), (2)(ii), (4), (b) and (c) revised 25136
355.20 (a)(2)(ii), (4) and (e) revised; (d) removed 25136
355.22 (a), (c), (i)(5)(ii), (6), (9)(ii) and (10) revised; (d) and (f) removed; (j) added 25137
355.31 (a)(1) and (c) revised 25139
355.38 (i) added 25139
355.40 Added 25139

Proposed Rules:

1—199 (Ch. I) 18783
10 ..... 22312, 27378, 29520
12 ..... 22312, 27378, 29520
101 ..... 25176, 47504, 47505
102 ..... 22312, 27378, 29520, 35878, 38982
133 36249
134 ..... 22312, 29520
162 ..... 21778, 35881, 37856
177 ..... 22312, 29520
201 26851
210 20463

TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board (Parts 200—399)

200.4 (o) and (p) added 29984
217.8 (t) and (u) added 21982
226 Revised 22262
232 Removed 22268
320.6 (b) and (d) revised; interim 29534
335.3 (a)(6) and (7) amended; (a)(8) and (9) added 40073
335.4 (d)(5) amended 40073
344 Removed 21982

Chapter III—Social Security Administration (Parts 400—499)

Chapter III Heading revised 18992
404.213 (a)(3) amended 17444
404.460 (c)(3) amended 17444
404.503 (b)(3) and (6) revised 17445
404.510 (l) revised 17445
404.721 (b) revised 19164
404.722 Added 19165
404.900—404.999d (Subpart J) Authority citation revised 34131
404.906 Revised 20026
404.942 Added 34131
404.943 Added 47475
404.988 (c)(4) introductory text and (i) revised 19165
404.1220 (a) and (e) revised 42433
404.1501—404.1599 (Subpart P) Authority citation revised 43710
404.1501—404.1599 (Subpart P) Appendix 1 amended 43710
416.1400—416.1499 (Subpart N) Authority citation revised 34132
416.1406 Revised 20028
416.1442 Added 34132
416.1443 Added 47476
422.101—422.140 (Subpart B) Authority citation revised 32446, 42433
422.107 (c) amended; interim 32446
422.112 Revised 42433
422.114 Added 42433
422.115 Removed 42434
422.120 Revised 42434
422.122 Added 42434
423 Added 18992

Chapter IV—Employees' Compensation Appeals Board, Department of Labor (Parts 500—599)

507 Enforcement position 49505

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

625.6 Revised; interim 25568
638.524 (b) and (c) revised 18993
641 Redesignated from Title 29, Part 89 and revised 26581
655 Enforcement position 49505
655.104 Regulation at 59 FR 41875 confirmed 26970
655.112 Regulation at 59 FR 41876 confirmed 26970
655.204 Regulation at 59 FR 41876 confirmed 26970
655.206 Regulation at 59 FR 41876 confirmed 26970
655.212 Regulation at 59 FR 41876 confirmed 26970
655.900 (b)(2)(i) and (d) amended; (e) revised; interim 34133, 34134, 38958, 38959

(b)(2)(i), (d) and (e) amended; interim 49753, 49754
655.910 (b)(2)(i) and (e) amended; interim 34133, 34134, 38958, 38959, 49754
655.940 (d)(1)(i)(B), (h)(1) and (3) amended; interim 34133, 34134, 38959, 49754
(d)(1)(i)(B) amended; interim 38958

Proposed Rules:

220 47122
230 ..... 42482, 43999
345 43300
366 42818
367 42818
400—499 (Ch. III) 17731
404 ..... 19008, 28767, 30482, 47126
410 28767
416 ..... 19008, 26387, 30482, 40542, 45110, 47126
702 22537
703 22537

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

5.10 (a)(37) added 24767
5.22 (a)(1) through (13), (b)(1) and (2) revised; (a)(14) and (b)(3) added 26826
5.61 (h) added 36594
5.85 Revised 47268
5.99 Removed 38626
10.50 (c)(21) removed 38626
16 Workshop 27406
17 Added 38626
19.21 (a), (b) and (c) amended 47478
20.63 (f) added 16968
20.86 Amended 38633
25.22 (a)(10) revised 36594
25.31a (a) introductory text, (b)(1) introductory text and (2) introductory text revised 36594
73.35 Added 18738
(b) and (d)(3) stayed 41805
73.3106 Regulation at 60 FR 10497 confirmed as 3-30-95 32264
101.2 (d)(1) revised 17205
101.9 (i) revised; (j)(17) revised 17205
(j)(17) corrected 30788
101.13 (j)(2)(iv)(B) revised 17205
101.54 (e)(1)(iii)(B) and (2)(iii)(B) revised 17206
101.56 (b)(3)(ii), (c)(1)(ii)(B), (2)(ii)(B) and (g) amended 17206
101.60 (b)(4)(ii)(B), (5)(ii)(B), (c)(4)(ii)(B) and (5)(ii)(B) revised 17206
101.61 (b)(6)(ii)(B), (7)(ii)(B) and (c)(2)(iii) revised 17206
101.62 (b)(4)(ii)(B), (5)(ii)(B), (c)(4)(ii)(B), (5)(ii)(B), (d)(1)(ii)(F)(*2*), (2)(iii)(E)(*2*), (iv)(E)(*2*), (4)(i)(C)(*2*), (ii)(D)(*2*), (5)(i)(C)(*2*) and (ii)(D)(*2*) revised 17207
102.50 Table amended 34460
170.3 (e) redesignated as (e)(1); (e)(2) added 36595
170.39 Added 36595
171.8 Added 36596
172.120 (b)(1) table amended 33710
172.723 Added 32903
172.800 (c)(12) added 21702
172.859 (c)(1) and (2) revised 44756
174.6 Added 36596
175.105 (c)(5) table amended 47480, 49337
175.250 (a), (b)(1) and (2) amended 39645
175.300 (b)(3)(viii)(*b*) and (xxxiii) amended 48646
(b)(3)(xi) amended 49337
176.170 (b)(2) table amended 18350
(a)(5) table amended 34135, 39646, 44757
Regulation at 60 FR 34135 eff. date corrected to 7-31-95 47205
176.180 (b)(2) table amended 18350
177.1520 (a)(3)(i)(*a*) redesignated as (a)(3)(i)(*a*)(*1*); (a)(3)(i)(*a*)(*2*) added; (c) table amended 40074
177.2440 (a) and (b) revised 48649
177.2600 (c)(4)(ii)(*a*) and (*b*) amended 39648
178.1010 (b)(44) and (c)(38) added 18740
178.2010 (b) table amended 18353, 22269, 33711, 43371, 49338, 49507
178.3130 (b) table amended 18351
178.3297 (e) table amended 31244, 39649
178.3400 (c) table amended 18351
178.3570 (a)(3) table amended 44758
184.1024 Added 32910
184.1034 Added 32910
184.1316 Added 32910
184.1415 Added 32911
184.1443a Added 32911

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184.1444 (a) amended; (b) revised 48893
184.1583 Added 32911
184.1595 Added 32911
184.1914 Added 32911
189.240 Added 33109
202.1 (e)(4)(i)(*b*)(*3*) amended 38480
206.10 (a) amended 19846
210 Compliance date extension 20697
211 Compliance date extension 20697
310 Technical correction 17611
310.543 Added 20165
310.545 (a)(9) removed; (d)(1) revised 20165
(d)(1) corrected 20898
(a)(6)(iv), (d)(19) and (20) added 38642
(a)(15)(ii) stayed in part 42436
436.215 (b) table amended; (c)(9) revised 27221
442.52 (b)(1)(iv) and (3) revised 33712
442.119 Redesignated as 442.119a; new 442.119 added 27222
442.119a Redesignated from 442.119 27222
442.119b Added 27222
453.522d Added 49508
500.26 (a) amended 38480
500.27 (a)(3) amended 38480
501.4 (b)(13) amended 38480
510.413 (b) amended 38480
510.600 (c)(1) table and (2) table amended 29755, 32447, 33110, 33342, 34135, 35122, 35838, 39846, 40454, 40455, 47052, 47480
520.445b (d)(4) introductory text amended 26827
(b) and (d)(4)(iii)(C) amended 47052
520.1289 Added 20402
520.1445 (c)(2) and (3) amended 50097
520.1560 Removed 39847
520.1560a Removed 39847
520.1560b Removed 39847
520.1660d (b)(2) amended; (c) removed 40455
520.1696b (b) revised 26359
520.1801 Removed 39847
520.1801a Removed 39847
520.2095 Added 50097
522.122a (a) and (d) removed; (c) revised 49339
522.540 (a)(2) revised 29985
522.723 (c) amended 39847
522.883 (c) amended 39847
522.970 (b) revised 48650
522.1044 (a) and (b)(1) revised; (b)(4) added 29985
522.1060 Removed 27223
522.1060a Removed 27223
522.1060b Removed 27223
522.1085 (b) amended 27223
522.1086 Added 27223
522.1192 Heading and (a)(3) heading revised; (d)(5) added 45041
522.1362 Added 49340
522.1563 Removed 39847
522.1660 (b) and (c)(2)(iii) amended 29755
522.1662a (h)(2) revised 48651
522.2662 (b) amended 33110, 35122, 35123
522.2680 (d)(3) added 26360
524.575 Added 48651
524.1580a Removed 39847
529.1044a (b) amended 45042, 48894
529.1186 (b) revised 40456
556.594 Added 50098
558.4 (d) table amended 39848
558.62 (c)(2)(v) removed; (c)(2)(vi) redesignated as (c)(2)(v) 39847
558.95 (b)(1)(x)(*b*) and (xi)(*b*) amended 18741
(a)(4) amended 47052
558.105 Removed 39847
558.128 (c)(5)(iii) removed 39847
558.195 (c)(2) removed; (d) table amended 34461
558.274 (a)(7), (c)(1)(i) table and (ii) table amended 47052
558.300 (c)(1)(i) and (iii) revised 39848
558.311 (e)(1) table amended 18741
(b)(6) and (e)(1) table amended; (b)(7) added 29481
(b)(7) revised; (e)(1) table amended 29482
558.325 (c)(3)(iv) removed 39847
558.355 (f)(1)(xii)(*b*) and (xx)(*b*) amended 18741
558.366 (d)(3)(v) added 29483
(a) amended 33343
558.460 (c)(2)(v) removed 39847
558.485 (a)(11) amended 47052
558.530 (d)(3)(vii) removed 39847
558.550 (b)(1)(ii)(*c*) amended 18741
558.625 (b)(52) amended 47053
558.630 (b)(3), (8) and (10) amended 47053
579.40 Added 50099
862.2310 (b) revised 38899

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862.2320 (b) revised 38900
862.2485 (b) revised 38900
862.2720 (b) revised 38900
862.2800 (b) revised 38900
862.2920 (b) revised 38900
866.2560 (b) revised 38482
872.3740 (b) revised 38900
872.3810 (b) revised 38900
872.6100 (b) revised 38900
876 Authority citation revised 17216
876.3750 (c) revised 17216
882.5800 (c) revised 43969
892.1990 Added 36639
1000 Authority citation revised 48380
1000.3 Revised 48380
1002 Authority citation revised 48382
1002.1 Revised 48382
1002.2 Removed 48385
1002.3 Revised 48385
1002.7 Introductory text and (b) amended; (c) added 48385
1002.10—1002.13 (Subpart B) Revised 48386
1002.20 (c) amended 48386
1002.30 (a) introductory text amended; (a)(5) added 48386
1002.31 (c) amended 48386
1002.40 (a) revised 48386
1002.50 Revised 48387
1002.61 (Subpart G) Removed 48387
1220.40 (a) revised 29987
1270 Workshop 27406

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1301.24 (b), (c) introductory text and (5) revised 36621
1301.37 (a) revised 32101
1301.43 (a) revised 32101
1301.44 (b) redesignated as (c); new (b) added 32101
1301.54 (a) through (d) revised 32101
1301.55 (a) revised 32102
1306.05 (b) revised 36621
1307.03 Revised 32454
1308.11 (d)(3) through (30) redesignated as (d)(4) through (31); new (d)(3) added; (g)(3) removed 28719
1309 Added 32454
1309.02 (f), (g) and (h) correctly redesignated as (e), (f) and (g) 42436
1309.04 (f)(1)(xxii) and (xxiii) corectly redesignated as (f)(1)(xxi) and (xxii) 42436
1309.12 (b) corrected 35264, 36334
1310.01 (b) through (e), (f)(1) and (g) revised; (k) redesignated as (m); new (k) and (l) added 32459
1310.02 (b)(10) added 19510
Introductory text, (a) and (b) revised 32460
1310.04 (a), (b), (f)(1) and (2) introductory text revised; (f)(1)(xiv), (xx) and (xxii) removed; (f)(1)(xv) through (xix), (xxi), and (xxiii) redesignated as (f)(1)(xiv) through (xviii), (xix) and (xx); new (f)(1)(xxi) and (xxii) added 32460
(f)(2)(v) added 19510
1310.06 Regulation at 59 FR 51364 confirmed 17628
(a) introductory text, (1), (c) and (d) revised 32461
1310.07 (a) and (b) revised 32461
1310.08 (c), (d) and (e) added 19510
(b) introductory text revised 32461
1310.10 Added 32461
1310.11 Added 32462
1310.14 Added 32462
1310.15 Added 32463
1313.01 Amended 32465
1313.02 (c), (d) introductory text, (1), (h) and (i) revised; (m) redesignated as (o); new (m) and (n) added 32463
1313.12—1313.15 Undesignated center heading amended 32465
1313.12 (c) revised; (d), (e) and (f) added 32464
1313.13 (a) amended 32465
1313.14 Introductory text and (a) amended 32465
1313.15 Revised 32464
1313.21—1313.25 Undesignated center heading amended 32465
1313.21 (d) redesignated as (g); (c) and new (g) revised; new (d), (e) and (f) added 32464
1313.22 (a) amended 32465
1313.23 Introductory text and (a) amended 32465
1313.31 Undesignated center heading added 32465
1313.32 Added 32465

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TITLE 21 Chapter II—Con.

1313.33 Added 32465
1313.34 Added 32465
(a) corrected 35264, 36334
1316 Authority citation revised 32465
1316.02 (c)(2) revised 32465
(c)(2) corrected 35264, 36334
1316.03 (b) through (e) revised 32465
1316.09 (a)(3) revised 32466

Chapter III—Office of National Drug Control Policy (Parts 1400—1499)

1403.36 (d), (g), (h) and (i) revised 19639, 19642
1404.100 Revised 33040, 33045
1404.105 Amended 33041, 33045
1404.110 (c) revised 33041, 33045
1404.200 Revised 33041, 33045
1404.215 Revised 33041, 33045
1404.220 Revised 33041, 33045
1404.225 Revised 33041, 33045
1404 Appendixes A and B revised 33042, 33045

Proposed Rules:

50 49086
54 29801
56 49086
74 37611
101 ..... 37502, 37507, 37616, 44786
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146 ..... 19866, 26853
173 21474
182 28555
184 48939
186 28555
201 ..... 26853, 37611, 44182
208 44182
310 ..... 21590, 38643, 43091, 43421, 44787
312 ..... 46794, 49086
314 ..... 34486, 44182, 46794, 49086
341 ..... 38643, 43091, 43421, 44787
500 24808
582 24808
589 24808
601 ..... 44182, 49086
610 49811
801 41314
803 41314
804 41314
812 49086
814 49086
820 38956
862 ..... 38901, 38902, 45685
864 ..... 38901, 46718
866 ..... 38901, 38902, 45685
868 ..... 38901, 38902, 45685, 46718
870 ..... 38902, 45685, 46718
872 ..... 30032, 35713, 38902, 45685, 46718
874 ..... 38902, 45685
876 ..... 17611, 38902, 45685, 46718
878 ..... 38902, 45685
880 ..... 38902, 45685, 46718
882 ..... 38902, 45685, 46718
884 ..... 38902, 45685, 46718
886 ..... 38901, 38902, 45685
888 ..... 38902, 45685, 46718
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892 ..... 38902, 45685
895 ..... 32406, 44548, 46251
896 26854
897 ..... 32406, 41314, 44548
898 ..... 44451, 46251
1270 32128
1301 ..... 43732, 50244
1303 ..... 43732, 50244
1304 ..... 43732, 50244
1305 ..... 43732, 50244
1309 49527
1310 ..... 49527, 49529

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

21 Added 29988
41.3 (e) revised 30188
41.58 Added 42036
42 Authority citation revised 35839
42.32 (d)(1)(ii) revised 35839
94.2 Revised 25843
135.36 (d), (g), (h) and (i) revised 19639, 19642
137.100 Revised 33040, 33045
137.105 Amended 33041, 33045
137.110 (c) revised 33041, 33045
137.200 Revised 33041, 33045
137.215 Revised 33041, 33045
137.220 Revised 33041, 33045
137.225 Revised 33041, 33045
137 Appendixes A and B revised 33042, 33045

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

208.100 Revised 33040, 33045

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208.105 Amended 33041, 33045
208.110 (c) revised 33041, 33045
208.200 Revised 33041, 33045
208.215 Revised 33041, 33045
208.220 Revised 33041, 33045
208.225 Revised 33041, 33045
208 Appendixes A and B revised 33042, 33045
211.4 (e)(3) added 36991
213 Authority citation revised 40456
213.21—213.27 (Subpart C) Added 40456

Chapter III—Peace Corps (Parts 300—399)

310.100 Revised 33040, 33045
310.105 Amended 33041, 33045
310.110 (c) revised 33041, 33045
310.200 Revised 33041, 33045
310.215 Revised 33041, 33045
310.220 Revised 33041, 33045
310.225 Revised 33041, 33045
310 Appendixes A and B revised 33042, 33045

Chapter V—United States Information Agency (Parts 500—599)

502.2 Amended 29989
502.3 (d) and (e) added 29989
513 Authority citation revised 33045
513.100 Revised 33040, 33045
513.105 Amended 33041, 33045
513.110 (c) revised 33041, 33045
513.200 Revised 33041, 33045
513.215 Revised 33041, 33045
513.220 Revised 33041, 33045
513.225 Revised 33041, 33045
513 Appendixes A and B revised 33042, 33045
514 Authority citation revised 16787
514.44 (a)(2) and (3) amended; interim 16787
(e), (f) and (g) redesignated as (f), (g) and (h); new (e) added; (d)(3) and new (g)(4)(i) amended; interim 16788

Chapter VII—Overseas Private Investment Corporation, International Development Cooperation Agency (Parts 700—799)

705 Regulation at 58 FR 33320 confirmed 37556

Chapter X—Inter-American Foundation (Parts 1000—1099)

1006.100 Revised 33040, 33046
1006.105 Amended 33041, 33046
1006.110 (c) revised 33041, 33046
1006.200 Revised 33041, 33046
1006.215 Revised 33041, 33046
1006.220 Revised 33041, 33046
1006.225 Revised 33041, 33046
1006 Appendixes A and B revised 33042, 33046

Chapter XV—African Development Foundation (Parts 1500—1599)

1508 Authority citation revised 33046
1508.100 Revised 33040, 33046
1508.105 Amended 33041, 33046
1508.110 (c) revised 33041, 33046
1508.200 Revised 33041, 33046
1508.215 Revised 33041, 33046
1508.220 Revised 33041, 33046
1508.225 Revised 33041, 33046
1508 Appendixes A and B revised 33042, 33046

Proposed Rules:

502 19385

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

630 Authority citation revised 36992
630.102—630.114 (Subpart A) Authority citation removed; interim 36992
630.110 Authority citation removed; interim 36992
630.112 Authority citation removed; interim 36992
630.201—630.205 (Subpart B) Authority citation removed; interim 36992
630.701—630.711 (Subpart G) Revised; interim 36993
630.1002—630.1010 (Subpart J) Authority citation removed; interim 36992
635 Authority citation revised 44273
635.101—635.126 (Subpart A) Authority citation removed 44273

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TITLE 23 Chapter I—Con.

635.410 Authority citation removed 44273
635.413 Revised; interim 44274
635.501—635.509 (Subpart E) Authority citation removed 44273
637 Revised 33717
640 Revised; interim 47483
645.109 (b) amended 34850
645.113 (f) and (g)(1) amended 34850
645.117 (d)(1) and (i)(2) revised; (i)(4) removed 34850
645.207 Amended 34850
645.209 (a) and (b) amended 34851
645.215 (a) amended 34851
655.601 (a) revised 18521
706.2 Tables Four and Five amended 50101

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1204 Removed 36654

Proposed Rules:

655 ..... 31008, 49136

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

1 Appendix A removed 42762
3 Removed 42762
8 Appendixes A and B removed 42762
11 Removed 42762
15.31—15.33 (Subpart D) Removed 42762
16 Appendix A removed 42762
24 Authority citation revised 33048
24.100 Revised 33040
Revised; (e) and (f) added 33048
24.105 Amended 33041
Amended; (1) and (2) removed 33048
24.110 (c) revised 33041
Amended; (a)(1)(i)(A)(*3*) and (3) added; (c) revised; (d) amended 33048
24.115 (d) removed 33048
24.200 Revised 33041
Revised; (c)(8), (9) and (d) added 33048
24.215 Revised 33041, 33048
24.220 Revised 33041, 33048
24.225 Revised 33041, 33048
24.305 (d) revised 33049
24.313 Revised 33049
24.314 Revised 33049
24.400 (d) removed 33050
24.410 (c) removed 33050
24.411 Revised 33050
24.412 Revised 33050
24.413 Revised 33050
24.415 (d) removed 33051
24.705 (c) amended 33051
24.710 (a)(3) amended 33051
24.711 Revised 33051
24.712 Revised 33051
24.713 Revised 33051
24.714 Added 33051
24 Appendixes A and B revised 33042, 33048
Appendixes A, B and C removed 42762
25 Authority citation revised 39237
25.2 Revised 39237
25.3 Amended 39237
25.5 (c)(1), (2) and (d)(4)(iii) revised 39237
25.7 Revised 39237
25.8 Revised 39238
25.9 (i), (w), (x) and (bb) revised; (ee) added 39238
25.12 (a) amended 39238
25.16 Revised 39238
25.17 Removed 39238
26 Authority citation revised 39238
26.1 Amended 39239
39 Removed 42762
40 Appendix A removed 42762
49 Removed 42762
58.2 (a)(7)(ii) introductory text and (D) revised; (a)(7)(ii)(E) added; interim 48611
58.10 Amended; interim 48611
58.77 (d) heading revised; (d)(2) amended; interim 48611
84 Regulation at 59 FR 47011 confirmed 32104
85.36 (d), (g), (h) and (i) revised 19639, 19642
86 Appendixes A and B removed 42762
90 Removed 42762

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91.15 (a)(2) amended 45043
91.600 Added 50802
92.2 Regulations at 59 FR 18631 and 44261 eff. date extended to 6–30–96 34136
Amended; interim 36023
92.4 Regulations at 59 FR 18631 and 44261 eff. date extended to 6–30–96 34136
92.5 Regulation at 59 FR 44261 eff. date extended to 6–30–96 34136
Revised; interim 36024
92.50 Regulation at 59 FR 19631 eff. date extended to 6–30–96 34136
92.61 Regulations at 59 FR 18631 and 44261 eff. date extended to 6–30–96 34136
92.64 Regulation at 59 FR 18632 eff. date extended to 6–30–96 34136
92.150 Regulations at 59 FR 18632 and 44261 eff. date extended to 6–30–96 34136
92.204 Regulation at 59 FR 18632 eff. date extended to 6–30–96 34136
92.205 Regulations at 59 FR 18632 and 44261 eff. date extended to 6–30–96 34136
(b) revised; interim 36024
92.206 Regulations at 59 FR 18632 and 44261 eff. date extended to 6–30–96 34136
92.207 Regulation at 59 FR 18633 eff. date extended to 6–30–96 34136
92.208 Regulation at 59 FR 18633 eff. date extended to 6–30–96 34136
92.209 Regulation at 59 FR 18633 eff. date extended to 6–30–96 34136
92.210 (f) revised; interim 36024
92.211 Regulations at 59 FR 18633 and 44261 eff. date extended to 6–30–96 34136
Revised; interim 36024
92.214 Regulations at 59 FR 18634 and 44262 eff. date extended to 6–30–96 34136
92.216 Regulation at 59 FR 44262 eff. date extended to 6–30–96 34136
92.218 Regulations at 59 FR 18634 and 44262 eff. date extended to 6–30–96 34136
(f) added; interim 36025
92.219 Regulation at 59 FR 18634 eff. date extended to 6–30–96 34136
92.220 Regulation at 59 FR 18634 eff. date extended to 6–30–96 34136
(a)(1)(ii)(A), (2) and (5) introductory text revised; interim 36025
92.221 Regulation at 59 FR 18635 eff. date extended to 6–30–96 34136
92.222 Regulation at 59 FR 18635 eff. date extended to 6–30–96 34136
92.252 Regulations at 59 FR 18635 and 44262 eff. date extended to 6–30–96 34136
(a)(2) revised; interim 36025
92.254 Regulations at 59 FR 18636 and 44262 eff. date extended to 6–30–96 34136
(a)(4)(ii) revised; interim 36026
92.255 Regulation at 59 FR 18636 eff. date extended to 6–30–96 34136
92.256 Regulation at 59 FR 18636 eff. date extended to 6–30–96 34136
92.257 Regulation at 59 FR 44262 eff. date extended to 6–30–96 34136
92.259 Regulation at 59 FR 18636 eff. date extended to 6–30–96 34136
92.300 Regulation at 59 FR 18637 eff. date extended to 6–30–96 34136
92.352 Regulation at 59 FR 44262 eff. date extended to 6–30–96 34136
92.353 Regulation at 59 FR 44262 eff. date extended to 6–30–96 34136
92.354 Regulations at 59 FR 18637 and 44263 eff. date extended to 6–30–96 34136
92.356 (a)(1) and (2) revised; interim 36026
92.502 Regulation at 59 FR 18637 eff. date extended to 6–30–96 34136

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92.504 Regulation at 59 FR 18637 eff. date extended to 6–30–96 34136
92.505 Revised; interim 36026
92.508 Regulation at 59 FR 18637 eff. date extended to 6–30–96 34136
92.625 Regulation at 59 FR 18638 eff. date extended to 6–30–96 34136
92.633 Regulation at 59 FR 44263 eff. date extended to 6–30–96 34136
0—99 (Subtitle A) Appendix D removed 42762

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

100 Authority citation revised 43327
100.304 Revised 43327
100.305 Added 43327
100.306 Added 43328
100.307 Added 43329
100.310 Added 43330
100.315 Added 43330
100.316 Added 43330
103 Appendix removed 42762
106 Removed 42762
120 Removed 42762
130 Removed 42762
135.2 Revised 28326

Chapter II—Office of Assistant Secretary for Housing–Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.5—200.39 (Subpart B) 200.93 Regulation at 59 FR 31522 confirmed 35692
200.155 Regulation at 59 FR 50143 confirmed 21937
200.213 Regulation at 59 FR 31522 confirmed 35692
200.217 Regulation at 59 FR 31522 confirmed 35692
200.517—200.533 (Subpart L) Removed 42762
200.700—200.710 (Subpart N) Removed 42762
200.946 Revised 47841
200.1301 (Subpart W) Added 42762
202.9 (a) revised; (c) and (d) removed 39239
203 Authority citation revised 42758
203.3 (b)(4) revised; interim 42758
203.5 (b) revised; interim 42759
203.255 (b)(11) amended; (b)(12) redesignated as (b)(13); new (b)(12) added; (c) introductory text and (3) revised; interim 42759
203.259a (b) amended 34138
203.269 Added 34138
203.284 (f) revised 34138
203.285 (c) revised 34138
203.355 Regulation at 59 FR 50143 confirmed 21937
203.356 Regulation at 59 FR 50144 confirmed 21937
203.360 Regulation at 59 FR 50144 confirmed 21937
203.365 Regulation at 59 FR 50144 confirmed 21937
203.370 Regulation at 59 FR 50144 confirmed 21937
203.401 Regulation at 59 FR 50144 confirmed 21937
203.402 Regulation at 59 FR 50145 confirmed 21937
203.403 Regulation at 59 FR 50145 confirmed 21937
203.410 Regulation at 59 FR 50145 confirmed 21937
203.501 Regulation at 59 FR 50145 confirmed 21937
205 Removed 42763
206 Authority citation revised 42759
206.3 Amended; interim 42759
206.5 Amended; interim 42759
206.7 Revised; interim 42759
206.9—206.51 (Subpart B) Heading revised; interim 42759
206.9 (b) heading revised; interim 42759
206.13 Removed; interim 42759
206.15 Revised; interim 42759
206.19 (f) added; interim 42760
206.21 (c)(2) and (d) revised; interim 42760
206.25 (b)(1) revised; interim 42760
206.26 (b)(1) and (2) revised; interim 42760
206.27 (b)(3) revised; interim 42760
206.40 Added; interim 42760
206.43 (a) revised; (c) added; interim 42760

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206.45 (a), (b) and (d) revised; interim 42760
206.47 (a) revised; interim 42760
206.102 Added; interim 42761
206.107 (a)(1) introductory text revised; (a)(1)(v) added; interim 42761
206.113 (b) revised; interim 42761
206.116 Added; interim 42761
206.121 (c) amended; interim 42761
206.123 (a)(4) revised; interim 42761
206.125 (a)(2) amended; (b), (d)(1), (2), (g)(1) and (3) revised; interim 42761
206.129 (d)(2)(i), (ii), (iv), (3)(ii), (e)(1) and (2) revised; (d)(2)(v) and (vi) added; interim 42761
206.203 (b) revised; interim 42762
206.205 (a) revised; interim 42762
206.207 (a) revised; interim 42762
209 Removed 42763
210 Removed 42763
211 Removed 42763
215 Policy statement 20356
215.2 Added; interim 17391
215.21 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17391
224 Removed 42763
225 Removed 42763
226 Removed 42763
227 Removed 42763
228 Removed 42763
229 Removed 42763
235 Policy statement 20356
236 Policy statement 20356
236.3 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17392
236.6 Added; interim 17392
236.72 (a) revised; (b) introductory text amended; interim 17392
238 Removed 42763
240 Removed 42763
250 Removed 42763
251.3 Added; interim; eff. 10–19–95 through 4–21–97 48598
251.4 Added; interim; eff. 10–19–95 through 4–21–97 48598
251.5 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.3 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.4 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.5 Added; interim; eff. 10–19–95 through 4–21–97 48600
255.3 Added; interim; eff. 10–19–95 through 4–21–97 48600
255.4 Added; interim; eff. 10–19–95 through 4–21–97 48600
255.5 Added; interim; eff. 10–19–95 through 4–21–97 48601
270 Removed 42763
271 Removed 42763
277 Removed 42763
278 Removed 42763
280 Policy statement 20356
291.300—291.307 (Subpart D) Removed 42762
Added; eff. 10–2–95 through 9–30–96; interim 45333

Chapter III—Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

300—310 (Subchapter A) Designation and heading removed 42015
300 Revised 42015
310 Revised 42015
320—350 (Subchapter B) Designation and heading removed 42015
320 Revised 42015
330 Revised 42018
340 Revised 42019
350 Removed 42020
360—380 (Subchapter C) Designation and heading removed 42015
360 Removed 42020
370 Removed 42020
380 Removed 42020
390—395 (Subchapter D) Designation and heading removed 42015
390 Removed 42020
395 Removed 42020

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

500 Removed 42763
511.20—511.21 (Subpart C) Removed 42763
511.40 (Subpart E) Removed 42763
511.65 (Subpart G) Removed 42763
570.200 (f)(2) amended 17445

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570.208 (a)(1)(v) revised; (a)(4)(vi)(B) and (F)(2) amended 17445
570.209 (b) introductory text amended 17445
570.483 (b)(4)(vi)(B)(2) and (F)(2) amended 17445
570.500 (a)(4)(ii) and (c) amended 17445
572.5 Amended; interim 36018
572.120 (a)(1) revised; interim 36018
572.135 (c) revised; interim 36018
572.210 (e)(1) and (f) amended; (g) added; interim 36018
572.220 (a)(1) and (b)(2)(ii) amended; interim 36018
572.400 Revised; interim 36018
575 Removed 42763
577 Removed 42763
578 Removed 42763
579 Removed 42763
580 Removed 42763
586 Added; interim 42975
586.1 Eff. 9–18–95 through 9–17–96 42975
586.5 Eff. 9–18–95 through 9–17–96 42975
586.10 Eff. 9–18–95 through 9–17–96 42976
586.15 Eff. 9–18–95 through 9–17–96 42976
586.20 Eff. 9–18–95 through 9–17–96 42977
586.25 Eff. 9–18–95 through 9–17–96 42978
586.30 Eff. 9–18–95 through 9–17–96 42978
586.35 Eff. 9–18–95 through 9–17–96 42979
586.40 Eff. 9–18–95 through 9–17–96 42979
586.45 Eff. 9–18–95 through 9–17–96 42980
595 Removed 42763
596 Removed 42763
598 Removed 42763
599 Removed 42763

Chapter VI—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 600—699)

600 Removed 42763

Chapter VII—Office of the Secretary, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

791 Authority citation revised 35126
791.401 Revised 35126
791.403 (a), (b)(1)(ii) and (2) revised 35126
791.405 Revised 35126
791.407 (a) introductory text revised 35126

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

811.201—811.211 (Subpart B) Removed 42763
813 Authority citation revised 17393
Policy statement 20356
813.1 Added; interim 17393
813.106 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17393
882 Heading revised (effective date pending) 34694
Authority citation revised 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.101 (b) revised; (c) and (d) added (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.103 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.104 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.105 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.107 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.116 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.117 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.119 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.121 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.123 (a) through (d), (f) and (i) removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.201 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.202 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.203 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.204 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.205 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.206 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.207 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.208 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.209 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.210 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.211 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.213 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.215 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.216 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.212—882.219 (Subpart B) Appendix I removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.701 Revised (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.702 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.703 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.704 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.705 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.706 Removed (effective date pending) 34694

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Regulation at 60 FR 34694 eff. 10–2–95 45661
882.707 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.708 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.709 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.710 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.711 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.712 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.713 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.716 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.720 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.721 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.722 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.723 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.724 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.725 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.730 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.731 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.732 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.733 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.740 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.741 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.750 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.751 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.752 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.753 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.754 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.755 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.756 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.757 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.758 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.759 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
887 Authority citation revised 34694
887.3 Revised (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
887.5 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
887.51—887.65 (Subpart B) Removed (effective date pending) 34695
Regulation at 60 FR 34694 eff. 10–2–95 45661
887.101—887.111 (Subpart C) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.151—887.167 (Subpart D) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.201—887.215 (Subpart E) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.251—887.261 (Subpart F) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.301—887.305 (Subpart G) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.401—887.405 (Subpart I) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.551—887.567 (Subpart L) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
888 Authority citation revised 42226
Fair market rent schedules 42230, 48278
888.101 Removed 42226
888.105 Removed 42226
888.111 Revised 42226
888.113 Revised 42226
888.115 Revised 42227

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

900 Removed 42763
905 Removed 18186
905.102 Amended; interim; eff. in part 5–5–95 through 5–6–96 17393
905.103 Added; interim 17394
905.160 Regulation at 59 FR 31522 confirmed 35692
905.642 Regulation at 59 FR 31523 confirmed 35692
905.681 Regulation at 59 FR 31523 confirmed 35692
907 Removed 42763
913 Policy statement 20356
913.1 Added; interim 17394
913.106 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17394
941.502 Regulation at 59 FR 31523 confirmed 35692
950 Added 18186
Policy statement 20356
950.102 Corrected 36667
950.103 Correctly added 36668
950.126 (d)(2) correctly revised 36668
950.175 (d)(1)(iii) correctly revised 36668
950.437 (c)(1) correctly redesignated as (c) 36668
950.455 (c) corrected 36668
950.458 (c) corrected 36668
950.503 (c) corrected 36668
950.553 (c) correctly revised 36668
950.555 OMB number 18236
950.570 OMB number 18237
(c) correctly revised 36669
950.575 OMB number 18238

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950.1006 OMB number 18281
950.1017 OMB number 18285
950.1018 OMB number 18285
950.1019 OMB number 18285
950.1020 OMB number 18285
950.1021 OMB number 18285
955 Regulation at 59 FR 42734 eff. date extended 37337
965.501—965.504 (Subpart F) Removed 42763
967 Removed 42763
968.235 Regulation at 59 FR 31523 confirmed 35692
968.335 Regulation at 59 FR 31523 confirmed 35692
982 Authority citation revised 34695
982.1—982.5 (Subpart A) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.3 Amended (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.51—982.54 (Subpart B) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.52 OMB number 45661
982.53 OMB number 45661
982.54 OMB number 45661
982.101—982.103 (Subpart C) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.102 OMB number 45661
982.151—982.163 (Subpart D) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.151 OMB number 45661
982.153 OMB number 45661
982.155 OMB number 45661
982.156 OMB number 45661
982.157 OMB number 45661
982.158 OMB number 45661
982.159 OMB number 45661
982.160 OMB number 45661
982.163 Corrected 43840
982.201 (f)(2) revised (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.202 (b)(1) and (d) amended (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.204 (a) amended (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.206 (a)(2) and (b)(2) revised (effective date pending) 34717
OMB number 45661
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.301—982.315 (Subpart G) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.301 OMB number 45661
982.302 OMB number 45661
982.303 OMB number 45661
982.304 OMB number 45661
982.305 OMB number 45661
982.307 OMB number 45661
982.310 OMB number 45661
982.351—982.355 (Subpart H) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.352 OMB number 45661
982.401—982.406 (Subpart I) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.403 OMB number 45661
982.404 OMB number 45661
982.406 OMB number 45661
982.451—982.457 (Subpart J) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.452 OMB number 45661
982.455 OMB number 45661
982.551—982.555 (Subpart L) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.551 OMB number 45661
982.552 OMB number 45661
982.554 OMB number 45661
982.555 OMB number 45661
983 Added (effective date pending) 34717

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Regulation at 60 FR 34717 eff. 10–2–95 45661
983.3 OMB number 45661
983.12 OMB number 45661
983.51 OMB number 45661
983.52 OMB number 45661
983.54 OMB number 45661
983.55 OMB number 45661
983.57 OMB number 45661
983.103 OMB number 45661
983.104 OMB number 45661
983.151 OMB number 45661
983.202 OMB number 45661
983.203 OMB number 45661
983.205 OMB number 45661
983.207 OMB number 45661

Chapter X—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Interstate Land Sales Registration Program) (Parts 1700—1799)

1710 Order 42436
1730 Removed 42763

Chapter XI—Solar Energy and Energy Conservation Bank, Department of Housing and Urban Development (Parts 1800—1899)

1800 Removed 42763
1895 Removed 42763

Chapter XV—Mortgage Insurance and Loan Programs under the Emergency Homeowners' Relief Act, Department of Housing and Urban Development (Parts 2700—2799)

2700 Removed 42763

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3699)

3500 Announcement 16985
3500.8 (c)(1) amended 24735
3500.17 (o) added 24735
3500 Appendixes A and G–2 amended; Appendixes G–1, I–1, I–2, I–5 and I–6 revised; 24735

Proposed Rules:

0 34420
10 27058
29 17968
58 49466
92 36012
120 19191
206 32630
234 32630
811 19695
888 42290
900—999 (Ch. IX) 21058
950 ..... 24597, 37294
965 49480
966 27058
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TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

151 Authority citation revised 32878
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151.2 (a) revised 32879
151.10 Heading and introductory text revised; (h) added 32879
151.11 Redesignated as 151.12; new 151.11 added 32879
Heading, (b) and (d) corrected 48894
151.12 Redesignated as 151.13; new 151.12 redesignated from 151.11 32879
151.13 Redesignated as 151.14; new 151.13 redesignated from 151.12 32879
151.14 Redesignated as 151.15; new 151.14 redesignated from 151.13 32879
151.15 Redesignated from 151.14; new 151.15 revised 32879
261 Removed 32896

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TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended.....17218, 18743, 20898, 36679, 37581, 39649, 40078, 41004, 42787, 44275, 46507
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1.61–22T Removed.....40077
1.83–6 (a)(1) and (2) revised; (a)(5) added.....36997
1.108–3 Added.....36680
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1.217–2 (g)(6) added.....40077
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1.263A–1T (b)(2)(vi)(B), (e)(1)(ii) and (iii)(A) *Example* amended.....36679
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1.341–7 (e)(10) amended.....36679
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1.402(c)–2 Added.....49208
1.402(c)–2T Removed.....49204
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1.403(b)–2 Added.....49214
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1.411(a)–11T Added.....49221
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1.461–7T Removed.....18744
1.469–0 Amended.....36684
1.469–1 (c)(8), (h)(1), (2) and (6) added.....36684
1.469–1T (c)(8), (h)(1), (2) and (6) removed.....36685
1.481–1 (a)(2) and (c)(1) amended; (c)(2), (3), (4) and (d) revised; (c)(6), (7) and (e) removed.....40078
1.481–2 (a), (b) introductory text, (c)(1), (2), (3) introductory text, (6) and (d) amended; (c)(4) revised.....40078
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1.481–5 Redesignated as 1.481–4; new 1.481–5 added.....40079
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1.701–2 (a)(3) and (f) introductory text amended; (d) *Examples 5* and *6* removed; (d) *Examples 7* through *13* and (h) redesignated as (d) *Examples 5* through *11* and (i); new (h) added.....18741
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1.860A–1 (b)(4) added.....42787
1.860G–1 (a)(2)(v) redesignated as (a)(2)(vi); new (a)(2)(v) added; (a)(3)(i) revised.....42787
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1.871–1 (b)(7) added.....41004
1.881–0 Added.....41004
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1.1015–5 (a) heading and (b) heading revised; (c) redesignated as (d); new (c) added.....43537
1.1244(e)–1 Heading and (b) revised; (a)(1) amended.....20898
1.1361–0 Revised.....37581
1.1361–1 (a) and (c) through (k) added.....37581
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1.1441–3 (j) added; OMB number.....41014
1.1441–7 (d) added; OMB number.....41014
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1.1502–14 Removed.....36708
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1.1502–20 (a)(5) *Example 6*, (b)(6) *Examples 5, 7*, (c)(4) *Example 3* and (h)(1) amended; (c)(4) *Example 9* added; (e)(3) *Examples 2* and *8* removed; (e)(3) *Examples 3* through *7* redesignated as (e)(3) *Example*.....36709
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1.1502–26 (b) amended.....36679
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1.1502–33 (c)(2) revised.....36710
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1.6664–0 Amended.....45666
1.6664–1 (b) revised.....45666
1.6664–4 (c), (d) and (e) redesignated as (d), (f) and (g); (a), (b)(1), (2) introductory text, *Example* 1 and new (d) revised; new (c) and new (e) added.....45666
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4 Added.....46530
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4.954–1 Redesignated from 1.954–1T and heading amended.....46530
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18.0 Revised 37588
18.1361–1 Removed 37588
18.1366–5 Removed 37588
18.1378–1 (b)(2)(i) and (ii) amended; (b)(3), (c) and (e) removed 37589
20.2056–0 Amended 43538
20.2056(d)–1 Redesignated as 20.2056(d)–2; new 20.2056(d)–1 added 43538
20.2056(d)–2 Redesignated as 20.2056(d)–3; new 20.2056(d)–2 redesignated from 20.2056(d)–1 43538
20.2056(d)–3 Redesignated from 20.2056(d)–2 43538
20.2056A–0 Added 43538
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20.2056A–1 Added 43539
20.2056A–2 Added 43540
20.2056A–2T Added (temporary) 43557
20.2056A–3 Added 43540
20.2056A–4 Added 43541
20.2056A–5 Added 43546
20.2056A–6 Added 43547
20.2056A–7 Added 43549
20.2056A–8 Added 43549
20.2056A–9 Added 43550
20.2056A–10 Added 43550
20.2056A–11 Added 43551
20.2056A–12 Added 43551
20.2056A–13 Added 43551
20.2101–1 Revised 43551
20.2102–1 (c) added 43552
20.2106–1 (a)(3) revised; (b) amended; (c) removed 43552
20.2106–2 (c) removed 43552
25 Authority citation revised 43552
25.2503–2 (a) amended; (f) added 43552
25.2523(i)–1 Added 43552
25.2523(i)–2 Added 43553
25.2523(i)–3 Added 43554
25.2702–1 (c)(8) added 43554
31.3402(p)–1 (a) amended 49215
31.3405(c)–1 Added 49215
31.3405(c)–1T Removed 49218
31.3505–1 (b)(1), (2) *Examples 1* and *2*, (d)(1) and (2)(iii) amended; (d)(3) and (g) added 39110
40.6302(c)–0 Removed 40081
40.6302(c)–1 (e)(4) added 40081
40.6302(c)–5T Added 44759
48 Authority citation amended 40081
48.4041–8 (f)(1) introductory text and (i) revised; (f)(1)(ii) redesignated as (f)(1)(iii); new (f)(1)(ii) added; (f)(2) amended 40081
48.4041–21 Revised 40082
(c)(4) corrected 50245
48.4081–0 Removed 40082
48.4081–3 (b)(1) revised 40082
48.4081–6 Revised 40082
48.4081–7 Heading, (b)(4), (c)(1), (3), (d) and (g) revised; (a), (b), (c)(2), (4)(i)(A), (B), (ii)(A), (B), (iii), (iv)(A), (B) and (f) *Example 1* amended; (c)(5) removed 40085
48.4101–3 Added 40086
301 Authority citation amended 37589, 40087
301.6061–1T Added (temporary) 37589
301.6311–1 (a)(1)(i) amended; (a)(2) and (b) revised; (a)(3) removed; (d) and (e) added 20899
301.6867–1 Added 39653
301.6867–1T Removed 39654
301.7425–4 (b)(3)(ii) amended 28720
301.7701(i)–0 Added 40088
301.7701(i)–1 Added 40088
(c)(4)(ii) and (g)(3) corrected 49754
301.7701(i)–2 Added 40091
301.7701(i)–3 Added 40092
301.7701(i)–4 Added 40092
602.101 (c) table amended (OMB numbers) 18744, 20899, 36710, 36998, 37589, 40086, 41016, 43554, 43563, 46530, 49218, 49221

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TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

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6 Authority citation revised 20421
6.1 Revised 20421
6.4 (b) amended 20421
6.5 Added (OMB number) 20421
6.11 Amended 20421
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6.33 (a) revised 20421
6.41 Revised 20421
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6.51 Revised 20422
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6.67 Added 20422
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6.81 Revised (OMB number) 20422
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6.91 Revised 20423
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6.93 Revised 20423
6.94 Amended 20423
6.96 (a) revised 20423
6.97 Removed 20423
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6.101 Revised 20424
6.102 Added 20424
6.151—6.153 (Subpart E) Added 20424
8 Authority citation revised 20425
8.1 Revised 20425
8.5 Added (OMB number) 20425
8.11 Amended 20425
8.23 Revised 20425
8.51—8.54 (Subpart D) Added 20425
9.149 Added 47061
10 Authority citation revised 20426
10.1 Revised 20426
10.4 (a)(1) amended 20426
10.5 Added (OMB number) 20426
10.11 Amended 20426
10.51—10.54 (Subpart D) Added 20427
11 Authority citation revised 20427
11.1 Revised 20427
11.5 Added 20427
11.11 Amended 20427
11.24 Added 20427
11.32 Revised 20427
11.34 Revised 20428
11.35 Revised 20428
19 Authority citation revised 33668
19.522 (a) amended 33668
19.523 (a) revised; (c) added 33668
24.246 Table corrected; CFR correction 38959
24.271 (b) revised; (c) added 33669
25.163 Amended 33669
25.164 (c) and (d) revised 33669
25.164a Added 33669
47.52 (c) removed; (d) and (e) redesignated as (c) and (d); (a) and new (d) revised 47866
53 Authority citation revised 33670
53.11 Amended 33670
53.21 (d) redesignated from 53.152(c) 33670
53.22 (a)(1) amended; (a)(3) added 33670
53.23 Added 33670
53.24 Added 33670
53.142 Heading, (a) introductory text, (4) and (b) revised 33671
53.151 (a)(2) amended; (a)(5) added; (b)(1) revised 33671
53.152 (c) redesignated as 53.21(d) 33670
53.157 Heading revised; note added 33671
53.158 (b)(2) and (3) amended 33671
53.159 Added 33671
55.1 (a) revised 17449
55.26 Heading and (b) revised; (c) added 17449
55.166 Amended 17449
70.306 (a) amended 33674
72.21 (c) revised 17449
72.27 Added 17449
178 Technical correction 19117
178.1 (a) revised 17450
178.11 Amended 17450
178.23 (b)(2) revised 17450

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178.25a Added 17451
178.29a Added 17451
178.32 (a)(6), (7), (d)(6) and (7) revised; (a)(8) and (d)(8) added 17451
178.33 Revised 17451
178.39a Added (OMB number) 17451
178.40 Added (OMB number) 17451
178.40a Added (OMB number) 17452
178.44 Revised 17452
178.45 Revised 17453
178.47 (a), (b) introductory text, (c) and (d) amended; (b)(6) added; OMB number 17453
178.52 Revised (OMB number) 17453
178.57 Existing text designated as (a); (b) and (c) added 17453
178.92 Heading and (a) revised; (c) added 17454
178.99 (c)(6) and (7) amended; (c)(8) added 17454
178.119 Added (OMB number) 17454
178.127 Amended 17455
178.129 (b) revised; (e) added; OMB number 17455
178.132 Added (OMB number) 17455
178.133 Added (OMB number) 17455
178.152 (a) revised 17455
178.153 Added 17456
178.171 Amended 17456
179.34 Amended; (e) added 17456
179.36 Amended 17456
179.42 Amended 17456
179.47 Amended 17456
179.50 Amended 17456
250.112 (b) and (d) revised; (c)(1) amended 33674
270.163 Revised 33675
270.164 Added 33675
270.165 (a) revised; (b) removed; (c) redesignated as (b) 33675
275.113 Revised 33675
275.114 (b) and (d) revised 33675
285.25 (c) revised; (f) amended; (g) added 33676

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TITLE 28—JUDICIAL ADMINISTRATION

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0 Authority citation revised 35335, 36711
0.77 (j) revised 36711
0.137 Revised 35335
0.138 Revised 35335
0.157 Heading, (c) and (d) revised; (e) added 35335
0.100—0.104 (Subpart R) Appendix amended 46019
2.20 Paroling policy guidelines amended 40093, 40271
2.59 Revised 40094
2.60 (g) and (h) added; interim 40095
49 Revised; interim 44277
70 Added 38242

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

541.46 (c) amended; (g) revised 46484
541.48 (b) revised 46484
541.49 (a) amended 46484
541.50 (b)(2) revised 46485
548 Authority citation revised 46486
548.10—548.20 (Subpart B) Revised; interim 46486
549.40—549.43 (Subpart C) Regulation at 57 FR 53820 confirmed 49444
549.41 (b) revised 49444
549.43 (b) revised 49444

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TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

20 Regulation at 59 FR 47250 confirmed 41016
20.101—20.111 (Subpart E) Regulation at 59 FR 47250 confirmed 41016
20.105 Revised 41017
20.106 (b) revised 41017

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

508.900 (b)(2)(i) and (d) amended; (e) revised; interim 38958, 38959
(b)(2)(i), (d) and (e) amended; interim 49573, 49574
508.910 (b)(2)(i) and (e) amended; interim 38958, 38959, 49754
508.940 (d)(1)(i)(B) amended; interim 38958
(d)(1)(i)(B), (h)(1) and (3) amended; interim 38959, 49754
552 Authority citation revised 46766
552.2 (b)(1) revised 46766
552.100 (a)(1), (c) and (d) revised 46768
552.101 (a) amended 46768
552.104 (b) revised 46768
552.105 (a) amended 46768
697.1 (a)(1), (b)(1), (2)(ii), (iii), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1), (h)(1), (i)(1), (j)(1), (k)(1), (l)(1), (m)(1) and (n)(1) revised 47485
697.3 Revised 47485
801.53 (a) revised 46531

Chapter XIV—Equal Employment Opportunity Commission (Parts 1600—1699)

1601.70 (b) and (e) amended 46220
1601.71 (a), (b) and (c) amended 46220
1613 Removed 43372
1614.501 (a) amended 43372

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1910.266 (e)(2)(iv), (vi), (xiii), (f)(2)(iv), (x), (xi), (3)(vii), (viii), (7)(i) and (ii), (h)(1)(iii), (1)(ix), (2)(i), (vi), (vii), (3) heading, (i), (5)(v), (viii) and (6)(ii) revised; (f)(3)(i) and (ii) amended; (f)(3)(ii) redesignated as (f)(3)(i 47036
Note revised 40458
(c), (d)(1)(iv), (v) and (2)(i) amended; (d)(1)(iii), (vii), (5),

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(6)(iii), (9)(iii) and (iv) revised 47035
(i)(7)(ii) removed; (i)(7)(iii) redesignated as (i)(7)(ii); appendix A amended 47037
1915.1001 (g)(7)(iii) redesignated as (g)(7)(ii)(C); new (g)(7)(iii) and (12)(vi) added; (g)(8)(iv)(B) removed; (g)(8)(iv)(C), (12) introductory text, (h)(2)(v) and (o)(4)(i) revised 50412
(b) corrected 36044
1926.104 Regulation at 59 FR 40729 withdrawn 39255
1926.105 Regulation at 59 FR 40729 withdrawn 39255
1926.107 Regulation at 59 FR 40729 withdrawn 39255
1926.500 (a)(2)(iii), (3)(iv) and (4) revised 39255
1926.753 Regulation at 59 FR 40729 withdrawn 39255
1926.1001 (b) corrected 36044
1926.1101 (g)(7)(iii) redesignated as (g)(7)(ii)(C); new (g)(7)(iii) and (11)(vi) added; (g)(8)(iv)(B) removed; (g)(8)(iv)(C), (11) introductory text and (h)(2)(v) revised 50412
(o)(4)(i) revised 50413
1952.297 (b) through (h) added 43972
1960.1 (f) revised 34852
1960.66 (f) added 34852

Chapter XX—Occupational Safety and Health Review Commission (Parts 2200—2499)

2200.200—2200.211 (Subpart M) Revised 41809
2200.203 Eff. in part 10–1–95 through 9–30–96 41809

Chapter XXVI—Pension Benefit Guaranty Corporation (Parts 2600—2699)

2606.33 Regulation at 59 FR 62573 confirmed 39848
2606.53 Regulation at 59 FR 62573 confirmed 39848
2609 Regulation at 59 FR 62574 confirmed 39846
2609.1 Regulation at 59 FR 62573 confirmed 39848
2609.31—2609.34 (Subpart C) Regulation at 59 FR 62573 confirmed 39848
2610 Appendixes A and B amended 36209
2619 Appendix B amended 36211, 42038, 47868
2622 Appendix A amended 36210
2627.3 (a) correctly revised 36998
2627.11 Added (OMB number) 50413
2644 Appendix A amended 36213
2645.5 Added (OMB number) 50413
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2674.6 OMB number 50413
2676 Appendix B amended 36212, 42039, 47868

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TITLE 30—MINERAL RESOURCES

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18.6 (a) amended 35693
18.81 (a) amended 35693
18.82 (a) and (c) amended 35693
19.3 (a) revised 35693
19.4 (a) amended 35693
20.3 Amended 35693
20.5 (a) amended 35693
20.14 Introductory text and (a) revised 35693
22.4 Amended 35694
22.5 (a) revised 35694
22.11 Introductory text and (a) revised 35694
27.3 Amended 35694
27.4 (a) amended 35694

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28.10 (a) revised; (c) amended 35694
28.31 (b) amended 35694
28.40 (d) amended 35694
35.3 Amended 35694
35.6 (a) and (g) amended 35694
36.3 Amended 35695
36.6 (a) amended 35695
50 Authority citation revised 35695
50.20 (a) amended 35695
50.20–1 Amended 35695
50.30 Amended 35695
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56.1000 Amended 35695
56.5001 (a) amended 35695
56.5005 (b) amended 35695
56.5050 (a) amended 35695
56.12407 Amended 35695
57.2 Amended 35695
57.1000 Amended 35695
57.5001 (a) amended 35695
57.5005 (b) amended 35695
57.5040 (b)(4) amended 35695
57.5047 (b) amended 35695
57.5050 Amended 35695
57.12407 Amended 35695
70.209 (a) amended 35695
71 Authority citation revised 35695
71.209 (a) amended 35695
74.6 (a) amended 35695
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90 Authority citation revised 35696
90.209 (a) amended 35696

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901.25 (e) added 42042
902 Decision 38482
904 Decision 38487
906 Decision 38491
913 Decision 38677
913.15 (r) added 35697
913.25 (f) added 35699
914 Decision 38680
914.15 (kkk) added 47695
915 Decision 38496
916 Decision 38496
917 Decision 38682
918 Decision 38487
920 Decision 38685
924 Decision 38675
925 Decision 38496
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925.16 (b)(4), (q)(1), (3), (4) and (5) removed; (q)(2) revised; (u) added 36050
925.20 Revised 43976
925.25 (c) added 43976
926 Decision 38482
926.20 Revised 37002
926.25 Added 37002
931 Decision 38491
934 Decision 38482
934.15 (u) added 36223
934.16 Introductory text revised; (b) through (i), (w) and (x) removed; (aa) and (bb) added 36223
935 Decision 38500
935.15 (xxx) added 36355
(yyy) added 37940
936 Decision 38487
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944.16 (b) removed; (e) through (i) added 37012
944.25 (c) added 37012
946 Decision 38689
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948 Decision 38691
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127.705 Introductory text amended 39796
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127.1207 (b) corrected 49509
127.1301 (a)(2) corrected 49509
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151.05 Amended 43377
151.06 Added 43377
151.13 (a), (b)(1), (2) and (3) revised; (h) added 43377
151.32 Added 43378
151.53 Revised 43378
151.71 Revised 43378
155 Authority citation revised 43378
155.400 (b)(2) revised 43378
156 Authority citation revised 45017
156.110 (a) introductory text revised 45017
156.111 Added 45017
156.200 Revised 45017
156.205 (a) and (b) introductory text revised; (b) amended 45017
156.210 (d) added 45017
156.215 (d) added 45017
156.300—156.330 (Subpart C) Added 45017
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165.T02–003 Added (temporary) 47273
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165.T02–064 Added (temporary) 47271
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165.T13–036 Added (temporary) 48895
165.T14–002 Added (temporary) 44430
165.T14–003 Added (temporary) 44430
165.167 Added 42789
165.714 Added 45047
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334.1240 Revised; interim 43379

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74.2 Authority citation revised 46493
74.3 Authority citation revised 46493

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74.47 Authority citation revised 46493
74.48 Authority citation revised 46493
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74.52 Authority citation revised 46493
74.53 (b) introductory text, (1), (3), (g)(1) and (2) amended 46493
74.60 Authority citation revised 46493
74.61 Authority citation revised 46493
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74.70 Authority citation revised 46493
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74.73 Authority citation revised 46493
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75.112 Authority citation revised 46493
75.117 Authority citation revised 46493
75.119 Authority citation revised 46493
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75.200 Authority citation revised 46493
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75.500 Authority citation revised 46493
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75.532 Authority citation revised 46493
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75.621 Authority citation revised 46493
75.622 Authority citation revised 46493
75.626 Authority citation revised 46493
75.650 Authority citation revised 46493
75.681 Authority citation revised 46493
75.682 Authority citation revised 46493
75.683 Authority citation revised 46493
75.700 Authority citation revised 46493
75.701 Authority citation revised 46493
75.702 Authority citation revised 46493
75.703 Authority citation revised 46493
75.707 Authority citation revised 46493
75.708 Authority citation revised 46493
75.720 Authority citation revised 46493
75.730 Authority citation revised 46493
75.731 Authority citation revised 46493
75.732 Authority citation revised 46493
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75.740 (a) and (b) amended; authority citation revised 46493
75.900 Authority citation revised 46493
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75.903 Authority citation revised 46493
75.910 Authority citation revised 46493
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76.101 Amended; authority citation revised 46493
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76.103 Heading and (a) revised; (b) amended 46493
76.104 Authority citation revised 46494
76.106 Authority citation revised 46494
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76.141 Authority citation revised 46494
76.142 Authority citation revised 46494
76.201 Authority citation revised 46494
76.202 Authority citation revised 46494
76.235 Authority citation revised 46494
76.261 Authority citation revised 46494
76.300 Authority citation revised 46494
76.301 Amended; authority citation revised 46493
76.302 Authority citation revised 46494
76.303 Authority citation revised 46494
76.304 Authority citation revised 46494
76.400 Authority citation revised 46494
76.401 (d)(8) and authority citation revised 46493
76.500 Authority citation revised 46494
76.530 Authority citation revised 46494
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76.560 Authority citation revised 46494
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76.600 Authority citation revised 46494
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76.661 Authority citation revised 46494
76.662 Authority citation revised 46494
76.677 Authority citation revised 46494
76.681 Authority citation revised 46494
76.683 Authority citation revised 46494
76.700 Authority citation revised 46494
76.701 Authority citation revised 46494
76.702 Authority citation revised 46494
76.703 (a) and (b) removed; (c) redesignated as (h); new (a), new (b) and (c) through (g) added 41294

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76.704 Redesignated as 76.708 41295
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76.902 Authority citation revised 46494
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81.22 Authority citation revised 46494
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81.24 (b)(1) and authority citation revised 46494
Authority citation revised 46494
81.25 Authority citation revised 46494
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81.31 Authority citation revised 46494
81.32 Authority citation revised 46495
81.33 Authority citation revised 46495
81.34 Authority citation revised 46495
81.37 (b) amended; authority citation revised 46494
81.43 (a) redesignated as (a)(1); (a)(2) added; authority citation revised 46494
81 Appendix amended 46495

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200 Revised 34802
201 Removed 34802
203 Removed 34802

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205 Removed 34802
212 Removed 34802
218 Removed 50778
219 Removed 50778
221 Removed 50778
222 Revised 50778
223 Removed 50778
263 Technical correction 35111

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366 Authority citation revised 39221
366.5 Redesignated as 366.6; new 366.5 added 39221
366.6 Redesignated from 366.5 39221
366.60—366.63 (Subpart G) Added 39221

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667.1 (d)(1)(iii) revised 41296
668.3 OMB number 42408
668.8 OMB number 42408
668.15 OMB number 42408
668.16 OMB number 42408
668.17 OMB number 42408
668.22 OMB number 42408
668.23 OMB number 42408

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700 Added 47810

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345 40688
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668 ..... 49114, 49156, 49178
674 49114
675 49114
676 49114
682 ..... 49114, 49130
685 ..... 48848, 48858, 49114
690 ..... 49114, 46004

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7.3 (b) and (c) removed; (d) through (g) redesignated as (b) through (e); (a) and new (d) revised; new (e) heading and new (f) added 35841
7.32 (c) added 47703
7.33 (c) added; interim 39258
7.100 (c) added; interim 36225
68 Revised 35843

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223 Authority citation revised 46920
223.87 Revised 46920
223.130 (a) revised 46921
223.131 Revised 46921
223.133 Amended 46921
223.135 Revised 46921
223.136 (b) revised 46921
223.137 (g) added 46921
223.139 (a) and (b) amended 46921
223.159 Revised 46922
223.161 Removed 46922
223.163 Removed 46922
223.185—223.203 (Subpart F) Revised 46922
242 Policy statement 40459
242.24 (a)(1) table amended 40464
242.25 (k)(15)(iii)(D) table amended; eff. 8-10-95 through 6-30-96 40464
251.50 Heading, (a), (c) introductory text and (3) revised 45293
251.51 Amended 45293
251.54 (a) introductory text, (e)(1) and (h) revised; (e) introductory text removed; (e)(2) through (5), (f) introductory text in part, (1) and (2) redesignated as (e)(3) through (6), (f)(1), (2) and (3); new (e)(2), (f)(4) and (5) added 45293
251.56 (e) revised 45294
251.57 (d) through (h) redesignated as (e) through (i); new (d) added 45294
251.60 (a) and (b) revised 45295
261 Authority citation revised 45295, 46934
261.2 Amended 45295
261.6 (i) added 46934
261.10 (g) revised; (h) through (n) redesignated as (i) through (o); new (h) added 45295
261.14 (p) removed; (q) redesignated as (p) 45295

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701.5 Existing text designated as (b); new (a) added 34853
701.6 Existing text designated as (a); new (a) amended; (b), (c) and (d) added 34853

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1220.14 Amended 44639
1220.42 Revised 44639
1222 Heading revised 44639
1222.20 (b)(1) and (5) revised 44640
1222.30 (b) revised 44640
1222.32 Introductory text revised 44640
1222.34 (d) redesignated as (f); new (d), (e) and (g) added 44640
1222.50 (b)(3) through (8) redesignated as (b)(4) through (9); (a), (b)(2), new (4); new (6) and new (8) revised; new (b)(3) added 44640
1228 Authority citation revised 44640
1228.1 (e) added 44640
1234.1 Revised 44640
1234.2 Amended 44641
1234.10 (e) through (l) redesignated as (f) through (m); (d), new (f), new (g), new (h) and new (m) amended; new (e) added 44641
1234.20 (a) and (b) amended 44641
1234.22 (a) and (b) amended 44641

1234.24 Redesignated as 1234.26; new 1234.24 added 44641
1234.26 Redesignated as 1234.28; new 1234.26 redesignated from 1234.24 44641
1234.28 Redesignated as 1234.30; new 1234.28 redesignated from 1234.26 44641
1234.30 Redesignated as 1234.32; new 1234.30 redesignated from 1234.28 44641
1234.32 Redesignated as 1234.34; new 1234.32 redesignated from 1234.30 44641
Heading revised; (a) amended; (d) added 44642
1234.34 Redesignated from 1234.32 44641
(c) added 44642
1253.3 Introductory text added; (a) through (f), (h), (i) and (j) revised; interim 40416
1253.4 Revised; interim 40417
1253.5 Revised; interim 40417
1253.6 Revised; interim 40417
1253.7 Revised; interim 40417

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1406 Added 45336
1410 Added 45339

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7 ..... 35887, 46562, 50509
13 ..... 36082, 40798, 47513
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217 36767
219 36767
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1206 46798
1228 ..... 49532, 50158
1232 50158
1415 39905

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1 Technical correction 36462, 44120
1.16 (a), (b), (d) and (f) through (i) revised 41022

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1.17 (b) through (g), (j), (m) through (p), (r) and (s) revised 41022
1.18 Revised 41022
1.19 (a)(1)(ii), (iii), (b)(1)(i) and (ii) revised 41022
1.20 (c), (e), (f), (g), (i)(1), (2) and (j) revised 41022
1.21 (a)(1) revised 41022
1.445 (a) revised 41023
1.482 (a)(1) and (2)(ii) revised 41023
1.492 (a), (b) and (d) revised 41023
2 Technical correction 44120
2.6 (b)(1)(ii), (iii), (2)(i) and (ii) revised 41023
3 Technical correction 36462
7 Technical correction 44120
7.1 Revised 41023

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201 Authority citation revised 50420
201.31 (a) amended 50420
201.33 Added 50420
202 Authority citation revised 50422
202.12 Added 50422

Chapter IV—Assistant Secretary for Technology Policy, Department of Commerce (Parts 400—499)

401.2 (j) revised; (k) through (m) added; interim 41812
401.5 (f)(2) revised; interim 41812
401.13 (c)(2) revised; interim 41812
401.16 Redesignated as 401.17; new 401.16 added; interim 41812
401.17 Redesignated from 401.16 and revised; interim 41812

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1 ..... 41035, 42352
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5 42352
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202 35522

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1 Authority citation revised 48387
1.700 Revised 48387
1.701 Revised 48388
1.702 (b), (c), (d) and (h) amended 48388
1.703 Revised 48388
1.705 (a), (c) and (e) amended 48388
1.770—1.776 Undesignated center heading removed 48029
1.770 Removed 48029
1.771 Removed 48029
1.772 Removed 48029
1.773 Removed 48029
1.774 Removed 48029
1.775 Removed 48029
1.776 Removed 48029
1.783 (l)(1)(i) and (ii) amended 48029
2.1 Revised; interim 40757
2.5 (b) amended 48029
2.62 Removed 48029
2.63 Removed 48029
2.63a Removed 48029
2.64 Removed 48029
2.65 Removed 48029
2.65a Removed 48029
3.202 Regulation at 59 FR 46338 confirmed 46533
3.204 Regulation at 59 FR 46338 confirmed 46533
3.205 Regulation at 59 FR 46338 confirmed 46533
3.207 Regulation at 59 FR 46338 confirmed 46533
3.209 Regulation at 59 FR 46338 confirmed 46533
3.210 Regulation at 59 FR 46338 confirmed 46533
3.211 Regulation at 59 FR 46338 confirmed 46533
4 Authority citation revised 49227
4.88a Regulation at 59 FR 60902 confirmed 37013
4.88b Regulation at 59 FR 60902 confirmed 37013
4.88c Regulation at 59 FR 60902 confirmed 37013
4.117 Revised 49227
21.5820 (b) revised 46533

21.5822 (b)(1)(i), (ii), (2)(i) and (ii) revised 46535
36.4201—36.4287 Authority citation revised 38257
36.4203 (a)(2) and (3) amended; (a)(4) added 38257
36.4212 Revised 38257
36.4223 (a)(4) revised 38258
36.4231 (b) revised 38259
36.4232 (a)(2), (5), (6) and (7) amended; (a)(8) added; (e)(1) revised 38259
36.4254 (a)(7) redesignated as (a)(8); new (a)(7) and (8) authority citation added; (d)(1) revised 38259
36.4300—36.4375 Authority citation revised 38259
36.4302 (c) through (j) redesignated as (d) through (j) and (l); (a)(4), (b), new (e), new (j)(2), new (3) and(4) revised; new (c) and (k) added 38259
36.4306a (a) introductory text and (3) revised 38260
36.4311 Revised 38260
36.4312 (d)(1)(viii) redesignated as (d)(1)(ix); new (d)(1)(viii) and (e) introductory text added; (d)(7)(iv) authority citation revised; (e)(1) revised; (e)(3) amended 38261
36.4320 (a)(1)(ii)(B) revised 38262
36.4336 (a)(2)(i) revised; (a)(4) added 38262

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20 IMM amended; incorporation by reference 49756
111 DMM amended; incorporation by reference ... 34854, 43005, 49758
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265.13 Added 36712
447 Authority citation revised 47243
Heading revised 47243
447.11—447.12 (Subpart A) Revised 47243
447.21 Removed; new 447.21 redesignated from 447.23; introductory text and (a) through (i) removed; (j) and (k) redesignated as (a) and (b); heading and new (a) revised; new (c) and new (d) through (g) redesignated from 447.25(a) and 447.25(c) through 47244
447.22 Removed 47244
447.23 Redesignated as 447.21 47244
447.25 (b) removed; (a) and (c) through (f) redesignated as 447.21(c) and 447.21(d) through 447.21(g) 47244
447.26 Removed 47244
447.27 Removed 47244
447.31—447.34 (Subpart C) Heading revised 47244
447.31 Revised 47244
447.32 Removed; new 447.32 redesignated from 447.33 and revised 47244
447.33 Redesignated as 447.32 47244
447.34 Removed 47245
447.41 Removed; new 447.41 redesignated from 447.51 47245
447.42 Removed; new 447.42 redesignated from 447.52 47245
447.43 Redesignated from 447.53 and revised 47245
447.51—447.52 (Subpart E) Heading redesignated as 447.41—447.43 (Subpart D) heading 47245
447.51 Redesignated as 447.41; new 447.51 redesignated from 447.51 47245
Heading redesignated from 447.61—447.62 (Subpart F) heading 47245
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447.53 Redesignated as 447.43 47245
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447.61—447.62 (Subpart F) Heading redesignated as 447.51—447.52 (Subpart E) heading 47245
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9 Technical correction 35452
9.1 Table amended (OMB numbers).....34598, 40496, 42792, 43258, 43886, 48399
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51 Authority citation revised 40100
51.112 (a)(1) and (2) amended 40468
51.160 (f)(1) and (2) amended.....40468
51.166 (l)(1) and (2) amended.....40468
51.350 (a)(4), (6), (7), (8), (9) and (b)(4) revised; (a)(5) removed 48034
51.351 (a) introductory text and (b) revised; (e) removed; (f) and (g) added 48035
51.360 Introductory text, (a)(1), (5), (6), (7) introductory text, (9) and (b) revised 48036
51.372 (c) introductory text, (3), (4) and (e) revised 48036
51.394 (b)(3)(i) revised; interim.....44763
51.448 (a)(3), (b)(1) introductory text and (d)(3) revised; (g)(1) and (2) removed; (b)(2), (c)(2) and (g)(3) redesignated as (b)(3), (c)(3) and (g)(1); new (b)(2) and (c)(2) added 40100
51 Appendix W amended.....40468, 40469, 40470, 40471
52 State implementation plan determinations 34866, 36225
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52.70 (c)(20) added.....46024
(c)(24) added.....49767
52.82 Added 47280
52.120 (c)(70) and (78) added 46025
52.220 (c)(217)(i)(B) added 36069
(c)(215)(i)(A)(*3*), (219), (220) and (222) added 36230
(c)(214)(i)(B), (215)(i)(A)(*2*) and (B) added 40286
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(c)(198)(ii) removed 47076
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(c)(183)(i)(A)(*13*) added 49512
(c)(193)(i)(B), (199)(i)(B), (202)(i)(D) and (207)(i)(D) added 49775
52.222 Added.....47076
52.326 Added.....40291
52.370 (c)(68) added 47081
52.420 (c)(53) added 38712
52.430 Added.....47084
52.470 (c)(34) added 44434
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52.570 (c)(46) added 45051
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52.741 (u)(8) added; (z)(1) removed 43387
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52.770 (c)(96) added 34859
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52.777 (h) added 38722
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52.820 (c)(61) removed.....45055
52.870 (c)(30) added 36364
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52.920 (c)(72) added 38707
(c)(76) added.....47094
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52.1020 (c)(40) added.....45059
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52.1080 Added 47084
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52.1320 (c)(89) added.....39855
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52.1323 (i) added 49343
52.1370 (c)(39) added.....36721

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52.1384 (a) removed; (c) added 36722
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52.1519 (c)(3) added 47290
52.1770 (c)(83) added.....34866
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52.1782 Regulation at 60 FR 32469 withdrawn 40101
52.1820 (c)(26) added.....43401
52.1834 Added 43401
52.1870 (c)(105) added 39122
52.1879 (e) added 36060
52.1885 (x) added.....36060
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52.2037 (b) added.....37018
52.2170 (c)(16) added.....46227
52.2184 Added 46228
52.2220 (c)(126) added 38700
(c)(130) added 38715
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52.2235 (b) added 38700, 47290
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52.2426 Added 47084
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60.698 (d)(3)(i) and (ii) added 43260
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62.11601 (c) removed; (g) added.....50105
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63.740—63.759 (Subpart GG) Added 45956
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82 Acceptable substitutes listing 38729
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82.166 (n) through (q) added 40443
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86.078–7 Removed 43886
86.081–8 Removed 43886
86.082–8 Removed 43886
86.082–14 Removed 43886
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86.094–17 (j) revised 37945
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86.094–38 Added 40496
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86.096–8 OMB number 43880
(b) introductory text revised; (b)(5)(iv) added 43887
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(b) introductory text and (c) through (k) revised; (b)(5)(iv) added 43887
86.096–10 OMB number 43880
(b) introductory text revised; (b)(5)(iv) added 43887
86.096–11 (b)(5)(i) revised 43887
86.096–14 OMB number 43880
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86.098–7 (h)(1) through (5) added 43888
86.098–11 (b)(3)(iii)(A) revised 43888
86.098–23 OMB number 43880
86.098–26 (a)(3)(i)(B) through (ii)(B) removed; (a)(3)(i)(D) through (ii)(B) added 43888
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86.107–96 (a)(1) introductory text, (ii)(A), (B), (2), (3)(i), (ii), (c)(1), (d), (e) and (f) revised 43888
86.107–98 (e)(1) revised 43890
86.109–82 Removed 43886
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86.129–94 (d)(1), (2)(iii), (3)(ii), (4)(i), (ii), (iii), (7)(iii) and (iv) revised; (d)(7)(v) added 43891
86.130–96 (e) added; figure revised 43893
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86.608–90 (a)(2)(ii) revised 43898
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86.1207–96 (a)(1) introductory text, (ii)(A), (B), (2), (3)(i), (ii), (c)(1), (d), (e) and (f) revised 43898
86.1217–96 Introductory text, (a)(1)(ii), (iii), (7), (b), (c) heading, (1) introductory text, (v), (vii), (d)(1) introductory text and equation, (v) and (e)(1)(iii) revised; (c)(1)(iv), (d)(1)(iii) and (iv) removed; (d)(1)(xiii), (xiv) and (3) added 43900
86.1229–85 (d)(1), (2)(iii), (3)(ii), (iii), (4)(i), (ii), (iii), (7)(iii) and (iv) revised; (d)(7)(v) added 43901
86.1230–96 (e) added; figure revised 43902
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86.1232–96 (c), (f), (h) introductory text, (1)(i), (2), (j) introductory text, (1) introductory text, (i) and (vi) revised 43904
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86.1504–84 Removed 43887
86.1506–84 Removed 43887
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90 Added 34598
93 Authority citation revised 40100
93.102 (b)(3)(i) revised; interim 44763
93.128 (a)(3), (b)(1) introductory text and (d)(3) revised; (g)(1) and (2) removed; (b)(2), (c)(2) and (g)(3) redesignated as (b)(3), (c)(3) and (g)(1); new (b)(2) and (c)(2) added 40100
122.21 Regulation at 60 FR 17956 withdrawn 40230
(c)(1) amended 40235
122.26 Regulation at 60 FR 17956 withdrawn 40230
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124.52 Regulation at 60 FR 17957 withdrawn 40230
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131.36 (b)(1) table corrected 44120
136.3 (a) Tables IC and ID amended 39588
(b) amended 39590
(a) table and (b) amended 44672
180.1 (h) table amended 42448
180.2 Revised 42460
180.186 Removed 49799
180.203 Removed 49799
180.204 (a) table amended 42447
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180.232 Revised 34870
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180.268 Revised 49799
180.280 Removed 49799
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180.322 Removed 49799
180.327 Removed 49799
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180.336 Removed 49800
180.337 Revised 34871
180.351 Removed 49800
180.361 (a) table amended 48660
180.364 (d) table amended 45064
180.376 Removed 34869
180.400 Removed 49800
180.422 Table revised 49798
180.435 Revised 42455
180.436 Existing text designated as (a); (b) added 34876
180.438 Table revised 34878
180.441 (c) revised 49790
180.443 (a) table, (b) table and (c) table revised 40503
180.458 Table amended 40505
180.459 Revised 36731
180.466 Table amended 49795
180.472 (a) table amended; (d) removed 45067
(e) added 45069
180.474 Table revised 40500
180.482 Corrected 34874
180.483 Added 34873
180.484 Added 42458
180.485 Added 49796
180.486 Added 49792
180.900 Heading revised; (d) added 45069
180.1001 (d) table amended 35846, 38263
180.1015 Removed 42460
180.1027 Revised 42460
180.1033 Revised 42460
180.1068 Revised 34871
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180.1117 Added 43719
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180.1150 Added 34869
180.1151 Added 42453
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185.3385 Added 42458
185.3575 Revised 42462
185.3765 Redesignated from 185.1310; heading revised; (c) added 34878
185.4150 Revised 42460
185.5450 Revised 38265
186.3300 Removed 49800
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195.20 Revised 41816
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258.74 (a)(3), (4), (6), (c)(3) and (d)(3) revised 40105
260 Technical correction 35452
261 Interpretation 41817
262 Technical correction 35452
264 Technical correction 35452
264.314 (e)(2)(ii) amended; (e)(2)(iii) added 35705
264.1080 (d) added 50428
264.1089 (i) added 50429
265 Technical correction 35452
265.314 (f)(2)(ii) amended; (f)(2)(iii) added 35705
265.1080 (d) added 50429
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270 Technical correction 35452
271 Technical correction 35452
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271.1 (j) table amended 35705
272.151 Revised 44279
272 Appendix A amended 44280
280 Authority citation revised 46711
280.200—280.230 (Subpart I) Added 46711
281 State underground storage tank program authorizations 34879
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281.39 Added 46715
282.95 Added 47301
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355 Appendixes A and B corrected 35998
372.65 (c) table amended 49804
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436.122 (a) corrected 35796
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716.120 (d) amended 34884
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720.102 (d) revised 34464
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721.11 (b) introductory text revised 34464
721.30 (b) introductory text revised 34464
721.185 (b)(1) amended 34464
721.562 Added 45080
721.639 Added 45080
721.1193 Added 45081
721.1643 Added 45081
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721.2815 Added 45081
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721.3486 Added 45082
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723.50 (n) revised 34465
723.175 (i)(3) revised 34465
761.19 (b) amended 34465
761.20 (c)(3) introductory text and (vii) amended 34465
761.130 (e) amended 34465
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790.50 (b)(1) revised 34466
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790.62 (c)(4) revised 34466
790.68 (b)(1) revised 34466
795.232 (c)(2)(i) amended 34466
796.1950 (b)(2)(i) amended 34466
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799.436 (d)(7)(i)(B) amended 34467
799.1285 (e)(1)(i) and (2)(i) amended 34467
799.1575 (c)(1)(ii)(C) and (2)(ii)(C) revised; (c)(3)(ii) and (d)(2) amended 34467
799.2155 (a)(1) amended 34467
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101-47.303-2 (d), (f) and (g) revised 35707
101-47.308-2 (a) revised 35707
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(b)(2) corrected 49, 36733
414.40 (b) introductory text amended 50442
414.44 (a)(1), (b) introductory text, (d), (e) and (f) amended 50442
414.58 Heading and (a) amended 50442
414.220 (a), (b), (f)(3) introductory text, (i) and (ii) revised; (f)(4) and (g) added 35497
414.222 (a) revised; (e) added 35497
414.228 (b)(2)(ii) revised; (b)(2)(iii) and (iv) added 35498
414.229 Heading and (c)(3) revised 35498
414.232 (a) revised 35498
414.314 (c) revised; (d) removed 63463
417 Authority citation revised 59941
417.1 Amended 34887, 45674
417.2 (a) amended 45675
417.400 Revised 45675
417.401 Amended 45675
417.404 Revised 45675
417.406 Revised 45675
417.407 Revised 45675
417.408 (a) redesignated in part as (a)(1) and (2); (a)(2), (b)(1) and (c) introductory text amended 45676
417.410 Heading revised; (a) heading, (b) heading, (c) heading, (d) heading, (e) heading and (f) heading amended 45676
417.412 (a) and (b) designation removed; (b)(1) and (2) redesignated as (a) and (b) 45676
417.413 (b) introductory text, (1), (2), (c), (d)(2)(i), (3), (5) and (6) 45676
417.414 (b)(1) amended; (b)(4) removed 45677
417.416 (b) and (d) revised 45677
417.420 (b) and (c)(1) amended 45677
417.422 (a) designation, (b) and (c) removed; (a)(1) through (7) redesignated as (a) through (g) 45677
417.423 Added 45677
417.424 (b) redesignated in part as (b)(1) and (2); new (b)(2) amended 45677
417.426 (b)(2) and (c) revised 45677
417.428 (c) amended 45677
417.430 (b)(3) revised; (b)(6)(i) amended 45677

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417.432 (e) heading revised 45677
417.436 (d)(1)(i), (ii), (vii) and (2)(ii) revised; (d)(3) added 33292
417.440 (f) added 59941
(b)(1), (c) and (d) introductory text revised 45678
417.442 Heading and (a) revised 45678
417.450 (c) revised 45678
417.452 (a)(1), (2) and (b) introductory text amended 45678
417.454 (b) redesignated as (c); (a) heading, new (b) and (c) heading added 59941
(a) heading revised 45678
417.456 (f) amended 45678
417.458 Introductory text amended 45678
417.460 Revised 45678
417.461 Added 45679
417.464 Added 45680
417.472 (a) and (b) revised 45680
417.474 Revised 45680
417.476 Revised 45680
417.480 Heading and introductory text revised 45680
417.481 Heading and introductory text revised 45680
417.486 Introductory text, (a)(1), (b) and (c) amended; (d) revised 45680
417.488 Revised 45680
417.492 (a)(1)(iii) and (b) revised 45681
417.494 (a)(3), (b)(1)(iv), (2), (4), (c)(4) and (5) revised 45681
417.500 (a) introductory text, (3) and (4) amended; (b) heading revised; (b)(1) heading and (2) heading added 45681
417.520 Revised 45681
417.521 Removed 45681
417.522 (a) introductory text and (3)(iii) amended 45681
417.523 (a) heading revised; (a) and (b)(2) amended 45681
417.524 Revised 46229
417.526 Amended 46229
417.528 Heading, (a), (b) and (c) revised; (d) heading added 46229
417.530 Revised 46230
417.531 (a) and (b) introductory text amended 46230
417.532 Amended; (a)(4) removed; (g) revised 46230
417.533 Introductory text, (a), (b) and (c) amended 46230
417.536 Heading and (m) heading revised; (a), (f)(3) and (m) introductory text amended 46230
417.538 (a), (b) heading and (d) heading revised; (d) amended 46230
417.544 (a) designated in part as (a)(1), (2) and (3); (b) designated in part as (b)(1) and (2) 46230
417.546 (a) designation and (b) note removed; (a)(1) and (2) redesignated as (a) and (b); (b) note removed 34887
(a) corrected 45372
417.548 (a) and (b) amended 46230
417.550 Revised 46230
417.552 (a) introductory text and (1) amended 46230
417.554 Amended 46231
417.558 Revised 46231
417.560 (d)(1) amended; (d)(2) removed 34888
(a) introductory text and (d)(1) amended; (d)(2) removed 46231
417.562 Removed 34888
417.564 Revised 46231
417.568 (a)(1), (2), (b)(2), (3) and (d) amended; (c) revised 46231
417.576 (b)(2)(i) revised 34888
(b)(2)(ii), (c)(1), (2)(ii), (d) heading, introductory text, (1), (2) and (e)(1) amended; (b)(3) and (e)(3) revised 46231
417.580 (a) amended 46231
417.582 Amended; heading revised 46232
417.584 Introductory text and (c) revised; (d) amended 46232
417.585 Heading revised; (a), (b) introductory text, (2) and (c) amended 46232
417.586 Removed 46232
417.588 (a) and (c)(2) amended 46232
417.592 Revised 46232
417.594 (a), (b)(1), (2), (c), (d) and (e) revised 46232
417.596 (a), (b), (c)(1), (2) and (d) amended 46233
417.597 (a) introductory text amended 46233
417.598 Amended 46233
417.600 Amended 59941
Revised 46233

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417.602 Amended; heading revised 46233
417.604 (a) and (b) amended 59941
Revised 46233
417.606 Added 59941
417.606 Revised 59941
417.608 Heading, (a) and (c) revised 59942
417.610 Heading, introductory text and (b) revised 59942
417.612 Heading and text amended 59941
417.614 Revised 59942
417.616 (a)(1), (b), (c)(1) and (2) introductory text revised 59942
417.618 Amended 59942
417.620 Revised 59942
417.622 (b) amended 59941
(a) revised 59942
417.628 Removed 46234
417.630 Revised 59942
417.632 (c) and (d) revised 46234
417.638 Revised 59942
417.644 (a) and (c) amended 46234
417.648 Revised 46234
417.652 Amended 46234
417.656 Revised 46234
417.666 Amended 46234
417.668 Amended 46234
417.670 (a) and (c) amended 46234
417.676 (a) through (d) amended 46234
417.678 Amended 46234
417.680 (b) amended 46234
417.682 (a) and (c) amended 46234
417.686 (a) amended 46234
417.690 (a) and (b) amended 46234
417.692 (c)(1) and (2) amended 46234
417.694 Amended 46234
417.800 Heading and (c)(2) revised 34888
417.801 (b)(6) redesignated as (b)(7); new (b)(6) added 59943
417.830 Added 59943
417.832 Added 59943
417.834 Added 59943
417.836 Added 59943
417.838 Added 59943
417.840 Added 59943
418 Authority citation revised 65497
418.202 (g) revised 65497
420 Authority citation revised 50442
420.200 (e) amended 50442
421 Authority citation revised 50442
421.1 (a) revised; (b) redesignated as (c); new (b) added 50442
421.120 Correctly added; CFR correction 21048
424 Authority citation revised 38271, 50442
424.1 (b)(1) revised 38271
(a) revised 50442
424.5 (a)(4) revised 38271
424.10—424.27 (Subpart B) Heading revised 38271
424.10 Revised 38271
424.11 (b) and (e) introductory text revised; (e)(4), (5) and (6) added 38272
424.15 (a) revised 45850
424.20 Introductory text and (e) revised 38272
430.12 (c)(1)(ii) revised 33293
431.20 (b) revised 33293
431.115 (c) revised 56232
431.151—431.154 (Subpart D) Heading revised 56232
431.151 Revised 56232
431.152 Revised 56232
431.153 Revised 56232
(a) corrected 50117
431.154 Section heading and (a) revised 56233
431.610 (a)(3) added; (g) introductory text and (2) revised 56233
433.137 (a) revised 35502
433.138 Heading, (a), (c), (d) introductory text, (e), (f) and (j) revised; (g) introductory text and (l) added 35502
433.139 (b), (d)(1), (2) and (e) revised 35503
434.28 Revised 33293
435.115 (f), (g) and (h) added 59376
435.1009 Amended; (b) introductory text and (4) revised 56233
436.114 (f), (g) and (h) added 59377
440.40 Revised 56233
(a)(2) corrected 50117
440.110 (a)(1), (b)(1) and (c)(1) revised 19861
440.140 Revised 56234
440.150 Revised 56234
440.155 Added 56234
440.166 Added 19861
440.210 (a) introductory text and (1) revised 19862
440.225 Added 19862
441.10 Revised 19862
441.11 Revised 56234
441.22 Added 19862
442 Heading revised 56235

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442.1 (a) revised 56235
442.2 Amended 56235
442.12 (c) revised 56235
442.13 (b) and (c) revised 56235
(b) and (c)(3)(ii) corrected 50117
442.14 (b)(2) revised 56235
442.15 Heading revised; (d) removed 56235
442.16 Heading revised 56235
442.30 (a)(1), (2), (4) and (7) introductory text revised 56235
Corrected 45086
(a)(7) corrected 50117
442.40 Heading and (b)(1), (2)(ii) and (c)(1) revised 56236
442.42 (a) revised 56236
442.100—442.119 (Subpart C) Heading revised 56236
442.101 (d)(1) and (2) amended 56236
442.105 Heading, introductory text, (c)(1) and (d)(1) revised 56236
442.109 Heading revised 56236
442.110 Heading and (a) revised 56236
442.116 Removed 56236
442.117 Heading and (a) revised 56236
442.118 Heading, (a), (b)(1) and (3)(i) revised; (c) removed 56236
442.119 Heading, (a)(1) and (b)(1) revised 56236
447.280 Revised 56237
473 Authority citation revised 50442
473.12 (a) and (b) redesignated as (b) and (c); new (a) added; new (c) amended 50442
482 Authority citation revised 50442
482.1 (a) heading revised; (a)(3) redesignated as (a)(5); new (a)(3) and (4) added; (b) amended 50442
482.21 (b) revised 64152
482.22 (b)(3) revised 64152
482.43 Added 64152
483 Authority citation revised 56237
Authority citation revised 50443
483.1 (a) heading revised; (a)(2) redesignated as (a)(3); new (a)(2) added 50443
483.10 (b)(7)(iv) and (8) revised 33293
483.75 Heading revised 56237
483.150 Heading revised; (a) and (b) redesignated as (b) and (c) new (a), new (b) heading and new (c) heading added 50443
483.200 Revised 50443
484 Authority citation revised 65498
Authority citation revised 2329
484.1 Revised 50443
484.10 (c)(2)(ii) and (f) revised 33293
484.18 (c) revised 65498
484.36 (b)(2)(iii), (c) and (d) revised 65498
(d)(4)(iii) corrected 39123
484.38 Amended 2329
Corrected 11632
484.48 Introductory text revised 65498
485 Authority citation revised 2327
Heading revised 2327
485.70 (e) and (m) amended 2327
485.301—485.311 (Subpart D) Redesignated as 486.301—486.325 (Subpart G) 50447
485.603 (a)(2)(i) amended 45850
485.606 (a)(1), (b)(1), (3), (c) heading, (1) introductory text, (i), (2) introductory text and (ii) revised 45850
485.614 Revised 45850
485.620 (b) revised 45851
485.639 Added 45851
485.645 Introductory text and (a) revised; (b) redesignated as (c); new (b) added 45851
485.701—485.729 (Subpart H) Heading added 2327
485.701 Redesignated from 405.1701 2326
Revised 2327
485.703 (a) through (e) redesignated from 405.1702(b), (c), (h), (i) and (l) 2326
Amended; heading revised 2327
Amended 50447
485.705 (a) through (h) redesignated from 405.1702(a), (d) through (g), (j), (k) and (m) 2326
Heading and introductory text added 2327
485.707 Redesignated from 405.1715 2326
Heading, introductory text and (a) amended 2327
485.709 Redesignated from 405.1716 2326
(b) revised; (c) and (d) amended 2327
Heading amended 50447
485.711 Redesignated from 405.1717 2326

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(a) introductory text, (b)(3) and (c) amended; (b)(1) and (4) revised 2327
485.713 Redesignated from 405.1718 2326
Introductory text and (a)(2) revised; (a)(1) introductory text, (i), (b) and (d) amended 2327
Heading amended 50447
485.715 Redesignated from 405.1719 2326
Heading amended 2327
(a), (b) and (c) amended 2328
485.717 Redesignated from 405.1720 2326
Introductory text and (b) revised; (a) amended 2328
(b) corrected 11632
Heading amended 50447
485.719 Redesignated from 405.1721 2326
(a) amended; (b) revised 2328
Heading amended 50447
485.721 Redesignated from 405.1722 2326
Heading amended 2327
(b)(1) through (6), (c), (d) introductory text, (1), (2) introductory text and (1) amended 2328
485.723 Redesignated from 405.1723 2326
Heading amended 2327
(a)(2), (b) introductory text, (1), (2) and (c)(2) amended 2328
485.725 Redesignated from 405.1724 2326
(b) revised; (c) redesignated in part as (c)(1) and in part as (2); new (c)(1), new (2) and (e) amended 2328
Heading amended 50447
485.727 Redesignated from 405.1725 2326
Heading amended 2327
Introductory text amended 2329
485.729 Redesignated from 405.1726 2326
Heading amended 2327
Introductory text, (a) and (b) amended 2329
486 Added 2329
486.1 (Subpart A) Added 50447
486.100—486.110 (Subpart C) Redesignated from 405.1411—405.1416 (Subpart N) 2326
486.100 Heading corrected 45086
486.102 Heading corrected 45086
486.104 Heading corrected 45086
486.106 Heading corrected 45086
486.108 Heading corrected 45086
486.110 Heading corrected 45086
(b) amended 50447
486.150 Redesignated from 405.1730 2326
Revised 2329
486.151 Redesignated from 405.1731 2326
Revised 2329
486.153 Redesignated from 405.1732 2326
Heading amended 2329
Heading corrected 45086
486.155 Redesignated from 405.1733 2326
Heading, (a) introductory text and (b)(4) amended 2329
Heading corrected 45086
486.157 Redesignated from 405.1734 2326
Heading amended 2329
Heading corrected 45086
486.159 Redesignated from 405.1735 2326
Revised 2329
486.161 Redesignated from 405.1736 2326
Heading amended 2329
Heading corrected 45086
486.163 Redesignated from 405.1737 2326
Introductory text, (b) and (c) amended; (d) revised 2329
486.301—486.325 (Subpart G) Redesignated from 485.301—485.311 (Subpart D) 50447
486.302 Amended 50448
486.304 Heading revised; (b)(3), (5), (6) and (7) amended 50448
486.306 Heading revised 50448
486.308 Heading revised 50448
486.310 Heading revised 50448
486.314 Amended; heading revised 50448
486.316 Introductory text amended 50448
486.318 (b) amended 50448

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486.325 Heading revised 50448
488 Technical correction 52862
Authority citation revised 56237
Heading revised 56237
Authority citation revised 50443
488.2 Added 50443
488.11 (b) revised 56237
488.14 Revised 56237
488.18 (a) and (b) revised 56237
488.20 (a) revised 56237
488.24 Revised 56237
488.26 Revised 56237
488.28 Revised 56238
488.50 Removed 56238
488.300—488.335 (Subpart E) Added 56238
488.303 (d) corrected 50118
488.314 (a)(4)(iii) corrected 50118
488.325 (f)(2) and (i) corrected 50118
488.330 (e)(1)(ii) corrected 50118
488.335 (b), (c)(3)(iv), (v) and (f) introductory text corrected; (f)(5) correctly revised 50118
488.400—488.456 (Subpart F) Added 56243
488.401 Corrected 50118
488.402 (f)(1), (2) and (7) corrected 50118
488.406 (a) and (b) correctly revised 50118
488.408 (b), (c)(2) and (f)(1) corrected; (d)(3) correctly revised 50118
488.410 (c)(2) introductory text and (i) corrected 50118
488.412 (a)(2) corrected 50118
488.417 (c)(1) and (2) corrected 50119
488.422 (c)(1) corrected 50119
488.425 (b) corrected 50119
488.426 Heading, (a) heading and (b) corrected; (c) correctly removed 50119
488.432 (a)(1) introductory text, (i)(B), (C) and (ii) corrected; (a)(1)(i)(D) correctly added 50119
488.434 (a)(1) corrected 50119
488.442 (c)(2) introductory text, (i), (e) and (f) corrected; (d) correctly revised 50119
488.450 (b) corrected 50119
488.454 (d) corrected 50119
489 Technical correction 52862
Authority citation revised 56250
Heading revised 56250
489.3 Amended 56250
Corrected 50119
489.11 (c)(3) removed 56251
489.12 (a) revised 56251
489.13 Revised 56251
(b)(3)(ii) correctly revised 50119
489.15 Removed 56251
489.16 Removed 56251
489.18 (d) revised 56251
489.53 (a)(13) added; (b) removed; (c) revised 56251
(a)(14) added 45851
(b) added 50119
489.60 Removed 56251
489.62 Removed 56251
489.64 Removed 56251
489.66 Removed 56251
489.102 (a)(1), (2), (4), (6), (b)(3) and (c)(2) revised; (e) added 33294
493 Authority citation revised 62609
Authority citation revised 20043
493.2 Amended 20043
493.3 (a)(1) revised 20043
493.5 Added 20043
493.10 Removed 20044
493.16 Redesignated as 493.19 20044
493.19 Redesignated from 493.16 and revised 20044
493.20 Revised 20044
493.25 (c) and (d) redesignated as (d) and (c); (b), new (c) and new (d) revised 20044
493.35 (a) and (d) revised 20044
493.37 (b)(2) and (g) revised 20044
493.39 (a) revised 20045
493.43—493.53 (Subpart C) Heading revised 20045
493.43 Heading and (a) revised 20045
493.45 Introductory text added; (a)(1), (2), (d) and (f) revised; (a)(3) removed 20045
493.47 (a) heading, (b) introductory text, (c) introductory text, (2), (d) and (e) revised 20045
493.49 Revised 20045
493.51 Heading, introductory text, (5) introductory text, (b) and (c) revised 20046
493.53 Heading, introductory text and (a) revised 20046
493.55 (a) introductory text revised 20046
493.57 Introductory text and (b) revised 20046
493.511 (h) revised 20046
493.521 (j) revised 20046

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493.602 Revised 20047
493.610 Removed 20047
493.614 Removed 20047
493.618 Removed 20047
493.622 Removed 20047
493.626 Removed 20047
493.629 Removed 20047
493.630 Removed 20047
493.631 Removed 20047
493.632 Removed 20047
493.633 Removed 20047
493.634 Removed 20047
493.638 Revised 20047
493.639 (b) revised 20047
493.643 (a) and (d) revised 20047
493.645 Revised 20047
493.646 (a) revised 20048
493.649 (a) and (b) introductory text revised 20048
493.801—493.865 (Subpart H) Heading revised 20048
493.803 (a) revised 20048
493.807 Heading revised 20048
493.821—493.865 Undesignated center heading revised 20048
493.855 (a) amended 62609
493.901—493.959 (Subpart I) Heading revised 20048
493.1101—493.1111 (Subpart J) Heading revised 20048
493.1101 Revised 20048
493.1201—493.1285 (Subpart K) Heading revised 20048
493.1201 Heading revised 20048
493.1202 Heading revised 62609
493.1203 Heading revised 62609
493.1351 Added 20049
493.1353—493.1965 Undesignated center heading added 20049
493.1353 Added 20049
493.1355 Added 20049
493.1357 Added 20049
493.1359 Added 20049
493.1361 Added 20049
493.1363 Added 20049
493.1365 Added 20049
493.1401—493.1495 (Subpart M) Heading revised 20049
493.1401 Removed 20049
493.1443 (b)(3)(ii) introductory text and (C) amended 62609
493.1461 (c) introductory text and (2) revised; (c)(4) and (5) added 20049
493.1463 Amended 20050
493.1489 (b)(2), (4), (5) and (6) revised; (b)(7) added 20050
493.1495 Amended 20050
493.1701—493.1721 (Subpart P) Heading revised 20050
493.1701 Revised 20050
493.1776 Heading, (a)(3), (4), (b)(1), (iii) and (iv) revised 20050
493.1777 Heading, (a) and (g) revised; introductory text added 20051
493.1804 (b)(2) amended 20051
493.1814 (b)(3) revised 20051
493.1834 (b) and (f)(2)(iii) revised 20051
493.1836 (c)(2) and (3) revised 20051
493.2001 (e) introductory text and (1) revised 20051
Corrected 45086
498 Authority citation revised 56251
Heading revised 56251
Authority citation revised 2330
498.1 (h) added 56251
498.2 Amended 56251
498.3 (b)(7), (d)(1) and (10) revised; (d)(11) and (12) redesignated as (d)(13) and (14); (b)(12), (13), new (d)(11) and new (12) added 56251
(b)(6) amended 2330
(b)(12), (d)(10) and (12) corrected 50120
498.4 Added 56252
498.5 (f)(1), (i)(2) and (j)(1) revised 56252
498.61 Revised 56252
498.90 (b) redesignated as (c); new (b) added 50120

Chapter V—Office of Inspector General-Health Care, Department of Health and Human Services (Parts 1000—1999)

1001 Authority citation revised 32917
1001.1901 (a) revised 32917
1003 Technical correction 52862
Authority citation revised 16583
1003.100 (a) revised; (b)(1)(vi) and (vii) revised; (b)(1)(viii) through (xi) added 16583
1003.101 Amended 16584
1003.102 (a)(3), (4) introductory text and (iii) revised; (a)(5), (b)(9) and (10) added 16584
1003.103 (a) and (b) revised 16584
1003.106 (a)(1) introductory text and (iv) revised; (a)(1)(v) redesignated as (a)(1)(vii); (a)(1)(v) and (vi) added 16584

Proposed Rules:

36 67592
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51 64367
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60 59193
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65a 12525
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410 38400
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TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

2 Appendix B correctly added; CFR correction 10030
4.477 (a) removed; (b) amended 9958
4.1105 (a)(2) introductory text revised 54362
4.1370—4.1377 Undesignated center heading added 54362
4.1370 Added 54362
4.1371 Added 54362
4.1372 Added 54362
4.1373 Added 54362
(a) corrected 56573
4.1374 Added 54362
4.1375 Added 54362
4.1376 Added 54362
4.1377 Added 54363
4.1380—4.1387 Undesignated center heading added 54363
4.1380 Added 54363
4.1381 Added 54363
4.1382 Added 54363
4.1383 Added 54363
4.1384 Added 54364
4.1385 Added 54364
4.1386 Added 54364
4.1387 Added 54364
7 Authority citation revised 5260
7.1 (a) amended 5260
7.3 (a)(6) added; (i) revised 5260
7.4 Heading and (a) revised; (c) added 5260
7.7 (b)(4) added 5260, 5261
7.13 (e) added 5260, 5261
7.19 Revised 5260, 5261
7.20 Added 5260, 5261
7.21 Added 5260, 5261
12 Authority citation revised 65499
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Authority citation revised 17238, 33061
12.76 (d), (g), (h) and (i) revised 19639, 19644
12.100 Revised 33040, 33061
12.105 Amended 33041, 33061
12.110 (c) revised 33041
(a)(2)(ix), (x) and (xi) added; (a)(3) and (c) revised 33061
12.200 Revised 33041, 33061
12.215 Revised 33041, 33061
12.220 Revised 33041
Revised; (c)(8) through (11) added 33061
12.225 Revised 33041, 33061
12.700 Revised 65499
12.710 (a), (b) and (c) revised 65500
12.901—12.973 (Subpart F) Revised 17238
12 Appendixes A and B revised 33042, 33061
18 Notice 9786

Chapter I—Bureau of Reclamation, Department of the Interior (Parts 200—499)

426 Authority citation revised 10036

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426.24 Redesignated as 426.25; new 426.24 added 10036
426.25 Redesignated from 426.24 10036

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1780 Authority citation revised 9958
1784.0–5 (d) amended 9958
1784.2–1 (b) removed; (c) redesignated as (b); new (b) revised 9958
1784.2–2 (a)(1) and (b) revised; (c) added 9958
1784.3 (a), (b)(3), (4), (5), (c), (d) and (g) removed; (b)(1), (2) and (f) redesignated as (a)(1), (2) and (c); (b) removed; (e) and (f) redesignated as (b) 9958
1784.5–1 Amended 9958
1784.5–2 Amended 9958
1784.6 Revised 9958
1784.6–1 Revised 9958
1784.6–2 Added 9959
1784.6–4 Removed 9960
1784.6–5 Removed 9960
1820 Authority citation revised 48905
1821.2–1 (d) amended 48905
2720 Authority citation revised 12711
2720.0–5 (b) revised 12711
2720.0–6 Amended 12711
2720.0–9 Added (OMB number) 12711
2720.1–3 (b) amended 12711
2720.2 (b) revised; (c) added 12711
2720.3 (a) amended; (b) revised 12711
4100 Authority citation revised 9960
4100.0–2 Revised 9960
4100.0–5 Amended 9960
4100.0–7 Revised 9962
4100.0–9 Added (OMB numbers) 9962
4110.1 Introductory text, (a), (b) and (c) redesignated as (a) introductory text, (1), (2) and (3); new (a) introductory text revised; new (b), new (c) and new (d) added 9962
4110.1–1 Revised 9962
4110.2–1 (a)(1), (2) and (c) revised 9962
4110.2–2 Heading and (a) revised; (c) amended 9962
4110.2–3 (a)(1) revised; (b) amended; (f) redesignated as (g); new (f) added 9963
4110.2–4 Revised 9963
4110.3 Revised 9963
4110.3–1 Heading, (a), (c) introductory text and (1) revised; (b) and (c)(2) amended 9963
4110.3–2 Heading and (b) revised; (a) amended; (c) removed 9963
4110.3–3 Revised 9963
4110.4–2 (a)(1) and (2) revised 9963
4120.2 Revised 9964
4120.3–1 (b) and (e) amended; (f) added 9964
4120.3–2 Revised 9964
4120.3–3 (a) amended; (b) and (c) revised 9964
4120.3–8 Added 9965
4120.3–9 Added 9965
4120.5 Added 9965
4120.5–1 Added 9965
4120.5–2 Added 9965
4130.1 Redesignated as 4130.1–1; new 4130.1 added 9965
4130.1–1 Redesignated as 4130.4; new 4130.1–1 redesignated from 4130.1; heading revised 9965
4130.1–2 (b) revised; (e) amended; (g) and (h) added 9965
4130.2 (b) through (e) redesignated as (c), (d), (e) and (i); (a) and new (d) revised; new (b), (f), (g) and (h) added 9965
4130.3 Redesignated as 4130.5; new 4130.3 redesignated from 4130.6 9965
Revised 9966
4130.3–1 (a) amended; (c) added 9966
4130.3–2 (f) revised; (g) amended; (h) added 9966
4130.3–3 Revised 9966
4130.4 Redesignated as 4130.6; new 4130.4 redesignated from 4130.1–1 9965
Heading and (b) revised 9966
4130.4–1 Redesignated as 4130.6–1 9965
4130.4–2 Redesignated as 4130.6–2 9965
4130.4–3 Redesignated as 4130.6–3 9965
4130.4–4 Redesignated as 4130.6–4 9965

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4130.5 Redesignated as 4130.7; new 4130.5 redesignated from 4130.3 9965
Existing text designated as (a); (b) added 9966
4130.6 Redesignated as 4130.3; new 4130.6 redesignated from 4130.4 9965
4130.6–1 Redesignated as 4130.3–1; new 4130.6–1 redesignated from 4130.4–1 9965
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4130.6–2 Redesignated as 4130.3–2; new 4130.6–2 redesignated from 4130.4–2 9965
Amended 9967
4130.6–3 Redesignated as 4130.3–3; new 4130.6–3 redesignated from 4130.4–3 9965
Revised 9967
4130.6–4 Redesignated from 4130.4–4 9965
4130.7 Redesignated as 4130.8; new 4130.7 redesignated from 4130.5 9965
(d) revised; (f) added 9967
4130.7–1 Redesignated as 4130.8–1 9965
4130.7–2 Redesignated as 4130.8–2 9965
4130.7–3 Redesignated as 4130.8–3 9965
4130.8 Redesignated as 4130.9; new 4130.8 redesignated from 4130.7 9965
4130.8–1 Redesignated from 4130.7–1 9965
(c) revised; (d) and (e) redesignated as (e) and (f); new (d) added; new (e) amended 9967
4130.8–2 Redesignated from 4130.7–2 9965
4130.8–3 Redesignated from 4130.7–3 9965
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4130.9 Redesignated from 4130.8 9965
4140.1 (a) introductory text, (2), (6), (b) introductory text, (1)(i), (5), (7), (9) and (10) revised; (b)(11) and (c) added 9968
4150.1 Existing text in part designated as (b); (a) added 9968
4150.2 (b) redesignated as (c); new (b) and (d) added 9968
4150.3 Introductory text and (c) amended; (a) revised 9968
4160.1 Revised 9968
4160.1–1 Removed 9969
4160.1–2 Removed 9969
4160.3 (a) and (c) revised; (b) amended; (d), (e) and (f) added 9969
4160.4 Revised 9969
4170.1–1 (d) amended 9969
4170.1–2 Revised 9969
4170.1–3 Removed 9969
4170.2–1 Revised 9969
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5462.2 Added; eff. 10–30–95 50450
5462.3 Added; eff. 10–30–95 50450
5511.1–1 (f)(3) removed; eff. 10–30–95 50450
5511.1–4 (e) and (f) removed; eff. 10–30–95 50450
5511.2–1 (a) revised; eff. 10–30–95 50451
5511.2–4 Amended; eff. 10–30–95 50451
5511.2–5 Removed; new 554.2–5 redesignated from 5511.2–7 and amended; eff. 10–30–95 50451
5511.2–7 Redesignated as 5511.2–5; eff. 10–30–95 50451
5511.4 Added; eff. 10–30–95 50451
5511.5 Added; eff. 10–30–95 50451
9239.1–1 Heading and (b) revised; (c) and (d) removed; eff. 10–30–95 50451
9239.1–2 Heading and (a) revised; eff. 10–30–95 50451
9239.1–3 (a)(4) added; eff. 10–30–95 50451
9260 Authority citation revised 50451
9265.0–3 Heading revised; eff. 10–30–95 50451
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Chapter III Established 49446
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829 Revoked in part by PLO 7125 15248
964 Revoked in part by PLO 7091 50698
1076 Revoked by PLO 7132 18777
1278 Revoked by PLO 7118 11046
1731 Revoked in part by PLO 7125 15248
1992 Revoked in part by PLO 7157 45372
2018 Revoked by PLO 7118 11046
2051 Revoked in part by PLO 7147 36736
2546 Revoked in part by PLO 7135 19526
2588 Revoked in part by PLO 7157 45372
2602 Revoked by PLO 7118 11046
3862 Corrected by PLO 7093 52921
3952 Corrected by PLO 7114 8571
3953 Revoked in part by PLO 7105 63257
4056 Revoked in part by PLO 7105 63257
4522 Revoked in part by PLO 7128 16384
5023 Revoked by PLO 7096 52922
5150 Modified by PLO 7150 39655
5296 Revoked by PLO 7140 24560
7046 Corrected by PLO 7097 53362
7067 Corrected by PLO 7124 13915
7081 Corrected 53869
7087 Corrected 67750
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7097 53362
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13 Authority citation revised 19645
13.36 (d), (g), (h) and (i) revised 19639, 19645
17 Authority citation revised 33061
17.100 Revised 33040, 33061
17.105 Amended 33041, 33061
17.110 (c) revised 33041, 33061
17.200 Revised 33041, 33061
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17.225 Revised 33041, 33061
17 Appendixes A and B revised 33042, 33061
59 Authority citation revised **53597**
Comment period extension 63726
59.1 Amended; interim **53597**
59.24 (a) revised; interim **53598**
60 Authority citation revised **53598**
Comment period extension 63726
60.2 (a) revised; interim **53598**
60.3 (f) added; interim **53598**
61.6 Revised 5585
61.11 (a), (b) and (c) revised 5585
(f)(1) and (2) removed; (f)(3) redesignated as (g); (e) and new (g) amended 5586
64 Authority citation revised **53599**
Comment period extension 63726
64.3 (a)(1) table amended; (b) revised; interim **53599**
64.6 Table revised **53111**
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65 Authority citation revised **53599**
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65.4 Table amended **52437, 64158**
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65.15 Redesignated from 65.14; interim **53599**
65.16 Added 35281
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70 Authority citation revised **53600**
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70.1 Revised; interim **53600**
70.3 (a) revised; interim **53601**
70.4 Heading, (a) and (b) revised; interim **53601**
70.5 (c) revised; interim **53601**
75 Authority citation revised **53601**
Comment period extension 63726
75.1 Revised; interim **53601**
75.10 Revised; interim **53601**
75.11 (a)(4), (5) and (7) revised; interim **53601**
75.13 Heading and (c) revised **53601**
152 Added 11236
205 Removed **53363**
206.1 Revised **53363**
206.131 (d)(1)(iii)(C)(*1*) and (D); interim 7130
354 Revised 15632

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11 Removed.....40505
60.2 Revised.....61555
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60.9 (a)(1)(iii) revised.....61555
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303.4 (d) revised; (f) added.....66250
303.5 (a) revised; (f), (g) and (h) added.....66250
303.101 (a), (b), (c)(1), (3), (d)(2), (3), (4) and (e) revised; (d)(5) added.....66251

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400.204 (a) and (c) amended 33604
400.206 Heading revised; existing text designated as (a); (b) added 33604
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402.10 (a) revised 65726
402.11 (p) and (q) added 65726
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402.30 Amended 65727
402.34 Added 65727
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402.51 (a) redesignated as (a)(1); new (a)(1) amended; (a)(2) added; (c) introductory text revised 65727

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620 Authority citation revised 33062
620.100 Revised 33040, 33062
620.105 Amended 33041, 33062
620.110 (c) revised 33041, 33062
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1076 Removed 26375

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1154.110 (c) revised 33041, 33062
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1154 Appendixes A and B revised 33042, 33062
1157.36 (d), (g), (h) and (i) revised 19639, 19645
1160.1 (a) revised 42465
1160.4 Redesignated as 1160.5; new 1160.4 added 42466
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1169 Appendixes A and B revised 33042, 33063
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1180.11 (c)(4) revised 55593
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1185 Authority citation revised 33063
1185.100 Revised 33040, 33063
1185.105 Amended 33041, 33063
1185.110 (c) revised 33041, 33063
1185.200 Revised 33041, 33063
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1185 Appendixes A and B revised 33042, 33063

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1355.40 OMB number 40507
1355.50 Regulation at 58 FR 67945 confirmed 26839
1355.52 Regulation at 58 FR 67945 confirmed 26839
1355.53 Regulation at 58 FR 67945 confirmed; (b)(3) amended 26839
1355.54 Regulation at 58 FR 67946 confirmed 26839
1355.55 Regulation at 58 FR 67946 confirmed 26839
1355.56 Regulation at 58 FR 67946 confirmed 26839
1355.57 Regulation at 58 FR 67946 confirmed 26839
1355.60 Regulation at 58 FR 67947 confirmed 26839
1355 Appendixes A, C and D amended 40507
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Appendix A corrected 46887
1357.40 Heading and (a) revised; (g)(6) added 28737
1397 (Subchapter K) Removed 26000

Chapter XVI—Legal Services Corporation (Parts 1600—1699)

1607 Revised 65254
1607.5 (b) correctly revised 2330
1611 Appendix A revised 10809

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2541.360 (d), (g), (h) and (i) revised 19639, 19646
2542.10 Revised 33040
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2542.20 Amended 33041, 33063
2542.30 (c) revised 33041, 33063
2542.100 Revised 33041
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2542.130 Revised 33041
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2542.140 Revised 33041
Revised; (b) amended 33063
2542.150 Revised 33041
Revised; (a) amended 33063
2542 Appendixes A and B revised 33042, 33063
2543 Added 13055
2544 Added 28355

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TITLE 46—SHIPPING

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1.01–10 (b)(1) revised 50458
2 Authority citation revised 13563
2.01–1 (b) revised 13563
2.01–6 Heading revised; (a)(2) redesignated as (a)(2)(i); (a)(2)(ii) added 13563
2.10–1—2.10–135 (Subpart 2.10) Added 13563
2.10–10 Amended 50459
2.10–20 (e) amended 50459
2.10–105 (b) amended 50459
2.10–115 (b) amended 50459
2.45–20 (a) amended 50459
2.75–1 (d) and (f) amended 50459
2.75–15 (a) amended 50459
2.75–17 (c)(2) revised; (d)(1) amended 50459
5.703 (c) amended 50459
6.06 (b) and (d) amended 50459
10 Authority citation revised 4524
10.103 Amended 4524
10.112 (b) amended 50460
10.201 (a) revised 4524
10.202 Heading revised; (l) added 4524
10.203 Table corrected 50964
10.205 (j) added 4524
10.207 (g) added 4524
10.209 (g)(1) revised; (h) added 4525
10.302 (a) amended 50460
10.303 (e) amended 50460
10.304 (a) amended 50460
10.305 Revised; interim 53757
10.306 Added; interim 53758
10.307 Amended 50460
10.464 (d)(2) amended 50460
10.470 (b)(1)(ii), (d)(1)(ii) and (h)(1)(ii) amended 50460
10.472 (a)(1)(ii) amended 50460
10.474 (a)(1)(ii) amended 50460
10.480 Revised; interim 53758
10.516 (a)(6) amended 50460
10.703 (c) amended 50460
10.805 (g) added 4525
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12 Authority citation revised 4525, 17142
12.01–5 (d) removed; interim; eff. 3–31–96 17142
12.01–6 Amended 4525
12.02–3 (b)(3) amended 50460
12.02–4 (c) added 4525
(a) and (b) amended 50460
12.02–9 (f) added 4525
12.02–13 (b) amended 50460
12.02–14 (c) amended 50460
12.02–21 (b) amended 50460
12.02–24 Amended 50460
12.02–27 (g)(1) revised 4525
12.05–7 Introductory text, (b) introductory text and (2) 50460
12.10–3 (a)(2), (5) and (6) amended 50460
12.15–7 (b) amended 50460
12.15–13 (a)(4) amended 50460
12.15–15 (a)(4) amended 50460
12.20–1—12.20–5 (Subpart 12.20) Removed; interim; eff. 3–31–96 17142
12.25–35 (a) amended 50460
12.25–40 Amended 50460
13 Added; interim; eff. 3–31–96 17142
14.01–3 Amended 50460
14.20–15 (d) amended 50460
15 Authority citation revised 24796
15.301 (a) and (c) revised; (d) added; interim; eff. 3–31–96 17154
Regulation at 59 FR 4841 confirmed; (a) amended 20652
15.812 Regulation at 59 FR 4842 confirmed; (a)(1) and (e) revised 20652
(f) added 20653
15.815 (c) added; interim 53759
(c) revised; interim 8309
15.860 Added; interim; eff. 3–31–96 17154

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15.1001—15.1040 (Subpart I) Added 24796
16.105 Amended 62226
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16.205 (d) removed 62226
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16.207 (b) revised 65501
16.220 Revised 4525
16.230 (c) and (e) revised; (f) redesignated as (k); new (f) and (g) through (j) added 62227
16.260 (b)(1) revised 4526
16.500 (a) and (c) amended 50461
25 Authority citation revised 2485, 48048
25.01–3 (a) and (b) amended 50461
25.25–5 (f) revised 2485
25.40–1 (c) removed; (d) and (e) redesignated as (c) and (d) 48048
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25.45–1 (a) amended 50461
25.45–2 (a) amended 50461
28 Authority citation revised 48048
28.40 (a) amended 50461
28.110 (a) amended 48048
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28.115 (a) amended 48048
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28.135 (a) amended 48048
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28.145 Amended 48048
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28.210 (c), (d) and (e) revised 48048
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28.240 (a) amended 48048
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28.270 (c) revised 48048
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28.575 Table amended 50461
30 Regulation at 57 FR 36246 confirmed 13324
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30.01–5 Regulation at 57 FR 36246 confirmed 13324
30.01–25 Removed 48049
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30.10–44 Removed 48049
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30.10–71 Revised; interim; eff. 3–31–96 17155
30.25–1 Table amended 34042, 34045
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30.30–7 Amended 50461
31 Authority citation revised 17155, 48049
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31.05–10 (a) revised; (b) amended 48049
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31.10–1 (b) amended 50461
31.10–5 Regulation at 60 FR 48049 eff. date corrected to 10–1–95 50120
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31.10–33 (a)(1) and (2) amended 50461
31.15–1 Revised; interim; eff. 3–31–96 17155
31.40–1 Revised 48049
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31.40–30 Removed 48049
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31.40–40 (e) removed; (f) redesignated as (e) 48049
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32.01–1 (a) and (b) amended 50461
32.53–3 (b) amended 50461
32.60–1—32.60–45 (Subpart 32.60) Regulation at 57 FR 36246 confirmed 13324
32.95–1 (Subpart 32.95) Regulation at 57 FR 36246 confirmed 13324
33.01–3 (a) amended 50461
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35 Authority citation revised 17155, 48049
35.01–1 (a) amended 50462
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39.20–1 (a)(1) amended.....50462
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56 Authority citation revised 24772, 48049
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57.02–2 (a)(1) amended 48050
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57.06–5 (a) revised.....48050
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57.201–1 (a) amended 50462
58 Authority citation revised 24775, 48050
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67.113 (e) amended 31604
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67.117 (a) introductory text and (c) amended 31604
67.119 (d) and (e) revised 31604
67.130 Revised 31604
67.133 (a) introductory text, (1), (b) and note amended 31604
67.141 (a) introductory text amended 31604
67.145 (a) and (c) amended; (d) removed 31604
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67.211 (b) amended 31605
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67.550 Table amended 31605, 40242
67 Appendix A removed 31605
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68.01–9 (a) and (b) amended 31605
68.01–17 Revised 31606
68.05–11 (a) through (d) amended; (e) removed 31606
68.05–13 (a) and (b) amended 31606
69 Authority citation revised 50508
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69.55 (b) revised 31606
69.105 (b) revised 31606
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70 Authority citation revised 48050
70.05–12 Removed 48050
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70.05–30 Regulation at 57 FR 36246 confirmed 13324
70.10–30 Removed 48050
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70.35–5 (a) amended 50463
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71.20–15 (a) designation and (b) removed 48051
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71.25–10 (a) designation and (b) removed 48051
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71.50–3 (f) amended 50463
71.60–1 (a) amended 50463
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71.75–20 (c) amended 48051
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72 Authority citation revised 48051
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75.01–3 (a) amended 50463
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78 Authority citation revised 48051
78.05–1 (c) amended 50463
78.30–30 Removed 48051
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78.95–1 Added; interim; eff. 3–31–96 17157
79 Removed 48051
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90 Authority citation revised 48051
90.05–35 Regulation at 57 FR 36246 confirmed 13324
90.05–40 Removed 48051
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90.10–24 Removed 48051
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90.35–5 (a) amended 50464
91 Authority citation revised 48051
91.01–10 (a) revised 48051
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91.20–15 (c) removed 48051
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91.25–10 (a) designation and (b) removed 48051
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91.40–3 (e)(1), (3) and (g) amended 50464
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96.01–3 (a) amended 50464
97 Authority citation revised 48051
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98.25–90 (c) amended 50464
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106 Removed 48051
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110.10–1 (a) amended 50465
110.20–1 Introductory text amended 50465
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150 Technical correction 37923
150.105—150.170 (Subpart A) Designation and heading removed 48051
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150.140 Amended 50465
150.150 Introductory text amended 50465
150.160 (a) amended 50465
150.200—150.550 (Subpart B) Removed 48051
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150.210 (b) amended 50465
150 Table I amended ...34042, 34045, 34046, 34047
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151.05–2 Revised 34050
151.12–5 Amended 34043
151.45–2 (f)(1) revised; interim; eff. 3–31–96 17158
151.45–4 Heading and (a) revised; interim; eff. 3–31–96 17158
151.50–20 (i) amended 50465
151.50–22 (d) amended 50465
151.50–23 (e) amended 50465
151.50–36 (b) amended 50465
151.50–50 (n) amended 50465
151.50–75 Amended 50465
151.50–76 (b), (c) and (g) amended 50465
151.50–77 (a) amended 50465
151.50–80 (c) amended 50465
151.50–84 (e)(2) amended 50465
153 Authority citation revised Authority citation revised 17158, 34050
153.7 (b)(4) introductory text, (ii) and (c)(3) through (6) amended 50465
153.10 (a)(1), (3) and (b) amended 50465
153.15 (b)(4) amended 50465
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153.219 (b)(3) amended 50465
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153.336 (a)(3) and (b)(2) amended 50465
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153.460 (b) and (c) amended 50465
153.490 (b)(1) amended 50465
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153.525 (d)(3) amended 50465
153.530 (c) introductory text, (1), (2) and (o) amended 50465
153.556 (a) amended 50466
153.557 (a)(3) and (b) amended 50466
153.558 (b) amended 50466
153.809 (a), (b)(1), (c) and (d) amended 50465
153.902 Amended 50465
153.921 Amended 50466
153.935a (a)(2) amended 50466
153.957 Revised; interim; eff. 3–31–96 17158
153.1003 Added 34050
153.1010 (b)(4) amended 50466
153.1011 (a)(2) and (3) amended 50466
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153.1502 (a) amended 50466
153.1608 Note amended 50466
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154 Authority citation revised 17158
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154.151 (a), (b)(1) and (c) amended 50466
154.170 (b)(1) and (2) amended 50466
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154.406 (c) amended 50466
154.409 (a) amended 50466
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154.411 Introductory text amended 50466
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154.425 Amended 50466
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154.448 Introductory text amended 50466
154.449 Introductory text amended 50466
154.453 Amended 50466
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154.467 Introductory text amended 50466
154.503 (e) amended 50466
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154.520 Introductory text amended 50466
154.522 (a) introductory text amended 50466
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154.546 (a) amended 50466
154.610 (c) and (f) amended 50466
154.620 (b) amended 50466
154.630 (a) and (c) amended 50466
154.650 (d) and (e) amended 50466
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154.703 (b)(3) and (d)(2) amended 50466
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154.1135 (a)(3) amended 50466
154.1335 (b)(1) and (c)(1) amended 50466
154.1340 (c)(1) and (d) amended 50466
154.1345 (b)(2)(i) amended 50466
154.1725 (a)(2), (4) and (b)(1) amended 50466
154.1735 (a) amended 50466
154.1745 Revised 48051
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154.1755 Amended 50466
154.1803 (b) amended 50466
154.1831 Revised; interim; eff. 3–31–96 17158
154.1860 Amended 50466
160 Authority citation revised 2486, 32847
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160.001–1 (d) amended 50467
160.002–1 (c) amended 50467
160.010–1 (a) amended 50467
160.010–2 (c) amended 50466
160.010–4 (b), (c)(1), (2) and (3) amended 50466
160.010–7 (a) amended 50466
160.021–9 (b) amended 50467
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160.047–1 (c)(1) amended 50467
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160.054–1 (b) amended 50467
160.055–1 (c) amended 50467
160.057–1 (c) amended 50467
160.057–9 (b) amended 50467
160.060 (c)(1) amended 50467
160.066–18 (b) amended 50467
160.072–09 (a) amended 50467
160.073–5 (b) amended 50467
160.076–5 Amended 50466
160.076–11 (a) amended 50467
160.076–1—160.076–39 (Subpart 160.076) Added; interim 32848
160.077–1 (b), (c) introductory text and (d) revised 2486
160.077–2 Redesignated from 160.077–3; (a), (h) and (j) revised; (l) added 2486
(j) table corrected 7131
(a) amended 50466
160.077–3 Redesignated as 160.077–2; new 160.077–3 redesignated from 160.077–5; (a), (c)(1) and (2) revised 2486
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160.077–5 Redesignated as 160.077–3; new 160.077–5 redesignated from 160.077–9 2486
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160.077–6 Redesignated from 160.077–33; (b) introductory text and (c)(1) revised; (a)(3)(vi) added 2492
160.077–7 Redesignated as 160.077–4 2486
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160.077–9 Redesignated as 160.077–5 2486
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160.077–11 (b)(1)(iii) and (j) heading revised 2487
160.077–13 Heading revised; (d) removed 2487
160.077–15 (b)(13) redesignated as (b)(14); heading, (a)(2)(ii), (b)(3), new (14), (c)(2)(ii) and (d)(3) revised; new (b)(13) added 2487
160.077–17 Heading and (b)(4) revised; (b)(8) through (11) added 2487
160.077–19 (b)(3)(iii), (6) and (e) revised 2487
160.077–21 Heading, (c)(1), (2), (3), (4)(i), (ii) and (g) revised; (c)(5) and (d)(3) added 2488
(c)(4)(i) and (5)(i) corrected 7131
(c)(4)(i) note added 50466
160.077–23 (a)(2), (b)(1)(i), (2)(ii), (iv), (d)(4), (g)(2), (3)(iii), (h)(4), (5), (j)(4)(iii), (k)(1) and (2) revised; Table 160.077–23B amended; (b)(2)(v), (d)(5) and (g)(3)(x) added 2488
160.077–27 (a) revised; (d) and (e) added 2489
160.077–29 (b) and (c) revised; (d) and (e) added 2490
160.077–30 Revised 2491
160.077–31 (e)(5) removed; (e)(6), (j)(2) and (3) redesignated as (e)(5), (j)(3) and (4); (c), (d), (g), (h), (j) introductory text, (1), new (3), new (4) and (k) revised; new (j)(2) added 2491
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160.077–33 Redesignated as 160.077–6 2491
160.077–35 Redesignated as 160.077–7 2492
160.077–37 Redesignated as 160.077–9 2492
160.171–3 (a) amended 50467
160.174–3 (a) amended 50467
160.176–3 (a) amended 50466
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161.002–1 (c) amended 50467
161.004–1 (d) amended 50467
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161.010–1 (a) amended 50467
161.010–4 (a) and (b) amended 50467
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164.007–1 (c)(1) amended 50467
164.008–1 (c)(1) amended 50467
164.009–9 (a) and (d) amended 50467
164.009–11 (a) amended 50467
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167.30–10 (a) amended 50468
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169.115 (c)(3) amended 50468
169.229 (e) amended 50468
169.529 (j) amended 50468
169.551 (b) amended 50468
170.015 (a) amended 50468
171 Authority citation revised 48052
171.001 (b) revised 48052
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172.060 Regulation at 57 FR 36246 confirmed 13324
174 Authority citation revised 48052
174.005 Revised 48052
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174.007 (a) amended 50468
174.110—174.125 (Subpart D) Removed 48052
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174.150—174.170 (Subpart F) Removed 48052
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174.335 (a) and (b) amended 50468
175.10–2 (b) amended 50468

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175.25–1 (a) amended 50468
175.27–5 (a) amended 50468
180.05–1 (a) amended 50468
180.10–5 (b) amended 50468
180.10–15 (b) amended 50468
180.10–20 (b) amended 50468
180.25–20 (a) amended 50468
180.25–25 (a) amended 50468
181.05–1 (b) amended 50468
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182.15–40 (a)(3) amended 50468
182.20–40 (a)(2)(ii) amended 50468
183.01–15 (b)(3), (4) and (5) amended 50468
183.05–45 (i) amended 50468
184.01–3 (b) amended 50469
188 Authority citation revised 48052
188.05–15 Removed 48052
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188.10–47 Removed 48052
Regulation at 60 FR 48052 eff. date corrected to 10–1–95 50120
188.35–5 (a) and (b) amended 50469
189 Authority citation revised 48052
189.01–10 (a) revised 48052
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189.20–15 (c) removed 48052
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189.25–10 (b) removed; (c) redesignated as (b) 48052
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189.40–3 (e)(1), (3) and (g) amended 50469
189.50–1 (a) amended 50649
189.55–15 (a)(2) amended 50469
189.60–1 Revised 48052
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189.60–30 Removed 48052
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189.60–40 (e) removed; (f) redesignated as (e) 48052
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190.01–3 (a) amended 50469
190.20–10 (b) amended 50469
192.41–5 (c) and (d) amended 50469
193.01–3 (a) amended 50469
196.03–1 (b) amended 50469
197.484 (a) amended 50469
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201 Authority citation revised 38735
201.4 Removed 38735
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201.25 Amended 38735
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206 Removed 38735
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276 Authority citation revised 38735
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290 Removed 38735
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310.58 (e)(2) amended 44438
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345 Authority citation revised 38736
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346 Authority citation revised 38736
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347 Authority citation revised 38737
350 Revised 49804
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401 Authority citation revised 18369
401.110 (a) introductory text and (9) revised; (a)(16) added 18369
403 Revised 18369
404 Revised 18370

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500 Revised 9787
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(l) heading revised 67227
501.4 (b) revised 67227
501.5 (g) and (h) amended 54396

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(f)(4) added; (k) introductory text revised; (k)(3) removed; (k)(4) redesignated as (k)(3) 62329
(f)(1)(i), (g) and (l)(2) revised 67227
(k) introductory text correctly revised 5322
(h) introductory text amended 27229
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501.24 (h) revised 67227
501.25 Heading and introductory text revised; (c) and (d) added 62330
501.26 (n) added 54396
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(i), (j) and (k) revised 27229
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501.28 Revised 27698
501.30 (a) and (b) removed; (c) and (d) redesignated as (a) and (b) 62330
501.41 (c)(7) revised 67228
501 Appendix A revised 67229
502 Authority citation revised 59170
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502.404 (a) amended 59170
503 Authority citation revised 59170
503.32 (d) revised 27229
503.41 Introductory text revised 59170
503.43 (c)(2) amended; (f) and (i) removed; (g), (h) and (j) redesignated as (f), (g) and (h); (c)(1)(i), (ii), (3)(ii), (4), (d)(1), (2), (3), (e), new (f) and new (g) revised 59170
503.69 (b)(1) and (2) revised 59171
504.4 (a)(2), (4) and (5) amended; (a)(6) and (7) revised 27229
510 Authority citation revised 59171
510.12 (b) revised 59171
510.14 (b) amended 59171
510.19 (e) amended 59171
514.1 Heading revised; (f) added 63908
(c)(1)(iii)(E) amended 27229
514.3 (b)(5) added 44437
514.15 (b)(23)(ii) removed 27230
514.21 (c), (e) introductory text, (1), (f), (j) and (k) revised 59171
(i) added 63908
515 Removed 27229
540 Authority citation revised 59172
540.4 (b) amended 59172
540.23 (b) amended 59172
550 Removed 27229
552 Authority citation revised 63908
552.1 (a) amended 27230
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552.2 (a) amended 54396
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(a) revised 67230
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552.5 (b) and (c) revised 27230
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552.6 (a)(2) amended; (d)(3), (4), (e) and (f) redesignated as (f)(1), (2), (g) and (h); (a)(1), (b)(5), (9) heading, (c)(5), (10), (d)(1), (2), new (f)(1) heading and new (2) heading revised; new (e) added; eff. 10–5–95 46059
560 Authority citation revised 63908
560.301 (f) revised 67230
560.302 (c) added 63908
560.303 (c) added 63908
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560.306 (f) added 63908
560.307 (g) added 63908
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560.309 (d) added 63908
560.401 Heading revised; (c) added 63908
560.602 (e) revised 67230
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572 Authority citation revised 63908
572.301 (f) revised 67230
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572.311 (d) added 63908
572.401 Heading revised; (f) added 63908
572.606 (a) revised 67230
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582.1 (b) amended 27230
583 Authority citation revised 59172
583.3 (c) revised 44437
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583 Appendix A amended 44437
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0.453 (d)(1) and (g)(3) removed; (d)(2) and (3) redesignated as (d)(1) and (2); (g)(2) revised; (m) added 5325
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0.455 (b)(12) revised; (b)(14) removed; (b)(15) and (16) redesignated as (b)(14) and (15); (g) added 5325
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1.420 Heading, (a) and (b) revised 59503
1.742 Introductory text amended 59503
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1.743 (a) revised; (e) added 59503
1.821 Revised.....59503
1.823 Heading, (b)(1), (2) heading and (3) heading revised 59503
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1.901 Revised.....59949
1.922 Revised.....59949
1.924 (b)(2)(i) heading and (vi) revised; (b)(2)(vii) added 59949
1.925 (g) and (h) amended 59949
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1.1111 Redesignated as 1.1112; new 1.1111 redesignated from 1.1110 5326
1.1112 Redesignated as 1.1113; new 1.1112 redesignated from 1.1111 5326
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1.1116 Redesignated as 1.1117; new 1.1116 redesignated from 1.1115 5326
1.1117 Redesignated as 1.1118; new 1.1117 redesignated from 1.1116 5326
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1.1164 Redesignated as 1.1166; new 1.1164 redesignated from 1.1162 5333
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1.1168 Redesignated from 1.1166 5333
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1.1181 Added 38280
1.1182 Added 38280
1.1204 (b)(8) added **53759**
1.2001 Revised 39269
1.2002 (a) revised 39269
1.2003 Amended (OMB number pending) **63051**
Regulation at 59 FR 63051 eff. date confirmed as 12–20–94 10511
1.2102 (a)(8) added 40718
1.2105 (c) revised **64162**
2 Memorandum opinion and order **61284**
Reconsideration petition **66254**
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2.106 Table amended; Footnotes 599A, 599B, 608A, 608B, 608C, 609B, 647A and 647B added; Footnotes US318, US319, US320, US322, US323, US324, US325 and US326 revised 20910
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Table amended 35508, 39657
Table amended; Footnote US78 revised 37829
Table amended; Footnote US334 added; Footnote G117 revised 39659
Table corrected 48905
2.947 Reinstated; CFR correction 37596
2.948 Reinstated in part; CFR correction 37596
2.1515 (b) corrected 47302
5 Memorandum opinion and order **61284**
5.207 Revised 13637
11 Added **67092**
13.9 (d) and (e) redesignated as (e) and (f); new (d) added 27699
13.13 (d) and (e) redesignated as (e) and (f); new (d) added 27699
13.19 (b)(3) and (c) revised 27700
15 Reconsideration petition **66254**
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15.205 (a) table amended 28068

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15.233 Heading, (b) and (d) revised 21985
15.301 Revised 13073
15.303 (g) revised 13073
15.307 (a) revised 27425
15.311 Revised 13073
15.319 (a) amended 13073
15.321 Heading, (a) and (b) revised; (e) amended 13073
15.323 (c)(1), (5) and (e) revised **55373**
(e) corrected 3303
18.121 Correctly revised 47302
20.6 Added **59953**
(d)(9) and (10) added **61829**
(d)(2) revised 37795
21 Report **53363**
21.2 Amended 36551
21.7 Amended 36551
21.13 (a)(4) and (b) introductory text revised 36551
21.15 (a)(1) amended; (a)(3), (c), (e) introductory text and (g) revised 36551
21.27 (a)(7) and (8) added 36552
21.35 (a) introductory text revised 36552
21.41 (b)(7) added 36552
21.42 (a), (b)(3), (c)(3)(ii) and (d) revised; (b)(4) and (c)(3)(iii) added 36552
21.43 (a) amended 36552
21.44 (a)(1) revised 36552
21.900 Concluding text revised 36552
21.901 (d)(5) amended; (d)(7) revised 36552
21.902 (a), (b) introductory text, (1), (3), (4), (c) introductory text, (1) introductory text, (i), (2), (3), (d), (f) introductory text, (g) and (h) revised; (b)(5), (6), (f)(4) through (7) added; (c)(5) removed; (f)(1) and (2) amended 36553
(d)(1) and (i) revised 36739
21.904 (c) revised 36554
21.913 (b) through (e) and (g)(8) revised 36554
21.921 Added 36554
21.922 Added 36555
21.923 Added 36555
21.924 Added 36555
21.925 Added 36555
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21.955 Added 36559
21.956 Added 36559
21.957 Added 36559
21.958 Added 36559
21.959 Added 36560
21.960 Added 36560
21.961 Added 36562
22 Revised (effective date pending in part) **59507**
Authority citation revised **59954**
22.105 Table B–1 amended **59954**
Table correctly revised 9889
22.115 (a)(2) amended **59954**
22.121 (d) corrected **64856**
22.131 Revised **59954**
22.137 (c)(1)(ii) amended **59954**
22.142 (c) introductory text and (d) introductory text amended **59954**
22.165 (d)(2) corrected **64856**
22.301 Revised **59955**
22.313 (a)(4), (b) and (c) revised; (a)(5) added **59955**
22.357 Introductory text amended **59954**
Revised **59956**
22.361 Table correctly revised 9889
22.411 (d)(1) amended **59954**
22.413 (b)(1) amended **59954**
22.415 (b)(1) amended **59954**
22.417 (b)(1) amended **59954**
22.507 Amended **59954**
22.509 Added **59956**
22.529 (a) introductory text and (b) introductory text amended **59954**
22.531 (c) amended **59954**
22.541 Removed **59956**
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22.561 Table correctly revised 9889

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22.577 Heading, introductory text, (a) introductory text, (1), (2), (b) and (d) revised 15495
22.591 Table correctly revised 9889
22.621 Table correctly revised 9890
22.627 (b)(1)(i) table correctly revised 9890
22.651 Table correctly revised 9891
22.709 (b) introductory text amended **59954**
22.717 Revised **59956**
22.725 Table correctly revised 9891
22.757 Table correctly revised 9891
22.803 (a) introductory text and (b) introductory text amended **59954**
22.901 (d) introductory text corrected **64856**
(c) revised 15495
22.905 Table correctly revised 9891
22.911 (b) introductory text amended **59954**
22.929 (a) introductory text and (b) introductory text amended **59954**
22.941 (c) amended **59954**
22.947 (b) introductory amended **59954**
22.949 (a)(2), (b) introductory text, (2), (c), (d)(1) and (3) revised **59956**
22.953 (a)(2)(iii) amended **59954**
22.1007 (a)(1) table, (2) through (6), (b), (c) introductory text and (1) correctly revised 9891
24 Reconsideration petition **66254**
24.101 Revised 13917
(b) corrected 26375
24.204 (f) introductory text revised; (f)(3)(i) amended **55374**
(d)(2)(ix) and (x) added; (f) introductory text, (1), (2) and (3) redesignated as (f)(1), (2), (3) and (4); new (f)(1) revised **61830**
(d)(2)(viii) redesignated as (d)(2)(viii)(A); (d)(2)(viii)(B) added 13917
(d)(2)(ii) revised 37795
24.229 (c) revised 13917
(c) correctly revised 26375
24.238 Revised **55374**
24.307 Amended **59957**
24.309 (b)(1) revised **50511**
24.406 (b) amended **59957**
24.409 (b) amended **59957**
24.413 (a) introductory text amended **59957**
24.426 (a) amended **59957**
24.427 (b) amended **59957**
24.703 (f) revised; (h) added **53371**
24.707 (b) amended **59957**
24.709 Revised **63232**
(b)(5)(i)(B), (C), (6)(i)(B) and (C) correctly revised 5335
Heading, (a), (b)(5)(i)(C), (6), (c)(1) introductory text, (2) introductory text, (ii) and (e) revised 37795
24.711 Revised **63235**
(b)(1) and (2) correctly revised 5335
Heading, (a)(1), (b) introductory text and (3) revised; (b)(4) and (5) removed 37796
24.712 (d) revised **63235**
(d)(1) and (2) correctly revised 5335
Heading and (a) revised; (b) and (c) removed; (d) redesignated as (b) 37796
24.713 Removed 37796
24.715 Added 37796
24.716 Added 37799
24.717 Added 37800
24.720 Revised **63236**
(f) and (h) correctly revised 5335
(l)(3) correctly revised 8571
(o) correctly revised 8572
(a), (b)(2), (c)(2), (j)(2), (l)(11)(i), (ii), (n)(1) and (3) revised; (n)(4) added 37800
24.806 (b) amended **59957**
24.809 (b) amended **59957**
24.813 (a)(1) revised **53371**
(a) introductory text amended **59957**
(a)(2) revised 13917
24.816 Removed **53371**
24.822 (b) revised **53371**
24.826 (a) amended **59957**
24.827 (b) amended **59957**
24.829 (b) removed; (c) redesignated as (b) **53371**
24.833 Added **53371**
24.839 (a) and (d) revised **63238**
25.110 (b) revised 5333
25.114 (c)(6), (18) and (26) revised; (c)(28) and (d) added **53326**
25.115 (d) revised **53327**
25.120 (d) and (e) revised 53327
25.130 (b) revised **53327**

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25.133 (b) revised **53327**
25.136 Added **53327**
25.141 (a) and (f) revised **53328**
25.143 Added **53328**
25.201 Amended **53329**
25.202 (a)(4) and (5) added **53329**
25.203 (c)(2)(vii) revised; (j) and (k) added **53329**
25.208 (c) revised **53329**
25.213 Added **53329**
25.278 Added **53331**
25.279 Added **53331**
26 Added 40718
26.104 OMB number pending 40722
32.2000 (c)(2)(x) revised 12138
32.2003 Heading, (a) and (c) revised 12138
32.2004 Removed 12138
32.7340 Revised 12138
36.101 Revised 12138
36.171 Revised 12138
36.222 (c) revised 12138
43 Order 29485
43.61 (d) revised 5333
43.81 (b) amended 5333
61 Memorandum opinion and order 4108
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61.3 (p) through (ll) redesignated as (q) through (mm); new (p) added 19527
(e) amended 20052
61.42 (a)(1) and (b)(1) amended; (c)(17) redesignated as (c)(18); new (c)(17) added 4569
(b)(3) revised 13639
61.45 (b), (c), (d) introductory text and (1) introductory text, (ii), (vi) and (e) revised 19527
61.47 (e), (g)(1), (2), (4) and (h)(2) revised 19528
61.48 (h)(3)(ii)(B), (5)(i), (i)(3)(ii)(B) and (4)(ii) revised 19528
63 Authority citation revised **63920**
Report and order 31924
63.16 Added 44281
63.54 (d) revised; (e)(5), (6), (f) and (g) added **63921**
63.62 Introductory text revised; (e) removed; (f) and (g) redesignated as (e) and (f) 35509
63.64 Removed 35510
63.69 Removed 35510
63.70 Removed 35510
63.90 (a) introductory text revised 35510
64 Memorandum opinion and order 7131
Technical correction 46537
64.1001 (1)(2) amended 5333
64.1100 (a) revised 35853
64.1150 Added 35853
64.1200 (e)(2)(iv), (vi) and (f)(3)(iii) revised 42069
64.1301 (f) revised; eff. 10–23–95 49234
64.1600 Revised 29490
64.1601 Stayed 15496
Revised; eff. 12–1–95 29490
64.1602 Revised 29490
64.1603 Stayed 15496
Revised; eff. 12–1–95 29491
64.1604 Revised 29491
65 Authority citation revised 28543
65.1 Revised 28543
65.100 Revised 28544
65.101 Revised 28544
65.102 Revised 28544
65.103 Revised 28544
65.104 Revised 28544
65.105 Revised 28544
65.106 Removed 28545
65.200 Removed 28545
65.201 Removed 28545
65.300 Revised 28545
65.301 Revised 28545
65.302 Revised 28545
65.303 Revised 28545
65.304 Revised 28545
65.305 Added 28546
65.306 Added 28546
65.400 Removed 28545
65.450 (d) revised 12139
65.500 Revised 28546
65.510 Removed 28545
65.600 (b) revised 28546
65.700 (c) removed; (d) redesignated as (c) 28546
65.701 Revised 28546
65.702 (a) removed; (b) and (c) redesignated as (a) and (b) 28546
65.703 Removed 28546
65.820 (a) revised 12139
68.318 (c)(3) revised 42069
69 Memorandum opinion and order 4108
Technical correction 46537
69.110 (a) and (e) revised; eff. 10–30–95 50121
69.111 (b) and (g) revised; eff. 10–30–95 50121

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69.112 (a) and (e) revised; eff. 10–30–95 50121
69.601 (c) added 19530
69.602 Revised 19530
69.605 (e) added 19530
73 Technical correction **51867, 51868, 51869, 55374, 55375**
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Reconsideration petition **55594**
Authority citation revised **62344**
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73.202 (b) table corrected **50169**
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(b) table amended; eff. 10–2–95 43981
(b) table amended; eff. 10–5–95 43982
(b) table amended; eff. 10–10–95 ..... 45373, 45374, 45375
(b) table amended; eff. 10–16–95 46063
(b) table amended; eff. 10–27–95 ..... 47876, 48126
(b) table amended; eff. 11–3–95 ..... 49234, 49235
(b) table corrected; CFR correction 49348
(b) table amended; eff. 11–6–95 49806
(b) table amended; eff. 11–9–95 50122
73.606 (b) table amended **63726, 64613**
(b) table amended 15497, 43028
(b) table amended; eff. 10–16–95 46064
(b) table corrected 47491
73.658 (f) and (l) removed 15689
(k) removed 44780
73.659 Removed 48912
73.660 Removed 48912
73.661 Removed 48912
73.662 Heading and introductory text revised; eff. 9–21–95 to 8–30–96; removed eff. 8–30–95 48912
73.663 Removed 48912
73.900 (Subpart G) Heading revised **67102**
73.900 Added **67102**
73.901—73.902 Undesignated center heading removed **67102**
73.901 Removed **67102**
73.902 Removed **67102**
73.903—73.922 Undesignated center heading removed **67102**
73.903 Removed **67102**
73.904 Removed **67102**
73.905 Removed **67102**
73.906 Removed **67102**
73.907 Removed **67102**
73.908 Removed **67102**
73.909 Removed **67102**
73.910 Removed **67102**
73.912 Removed **67102**
73.913 Removed **67102**
73.914 Removed **67102**
73.915 Removed **67102**
73.916 Removed **67102**
73.917 Removed **67102**
73.918 Removed **67102**
73.919 Removed **67102**
73.920 Removed **67102**
73.921 Removed **67102**
73.922 Removed **67102**
73.926—73.927 Undesignated center heading removed **67102**
73.926 Removed **67102**
73.927 Removed **67102**
73.931—73.933 Undesignated center heading removed **67102**
73.931 Removed **67102**
73.932 Removed **67102**
73.933 Removed **67102**
73.935—73.937 Undesignated center heading removed **67102**

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73.935 Removed **67102**
73.936 Removed **67102**
73.937 Removed **67102**
73.940—73.943 Undesignated center heading removed **67102**
73.940 Removed **67102**
73.941 Removed **67102**
73.942 Removed **67102**
73.943 Removed **67102**
73.961—73.962 Undesignated center heading removed **67102**
73.961 Removed **67102**
73.962 Removed **67102**
73.1020 (a)(1) through (18) revised (OMB number pending) **63051**
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73.1207 (b)(1) revised; (c)(4) added **67102**
73.1250 (c) revised; (h) amended **67102**
73.1650 Amended 5333
73.1820 (a)(1)(iii) revised **67103**
73.3500 Amended (OMB number pending) **63051**
Regulation at 59 FR 63051 eff. date confirmed as 12–20–94 10511
73.3526 (g) added (OMB number pending) **62344**
73.3527 (g) added (OMB number pending) **62344**
73.3549 Heading revised; amended **67103**
73.3555 (a)(3)(iii) and (e)(1)(i) revised **62613**
73.3999 Revised 44439
73.4017 Revised **52086**
73.4050 (b) amended; (c) added **52086**
73.4097 Heading revised **67103**
73.4107 (a) and (b) amended **52086**
73.4163 (d) amended; (e) added **52087**
73.4165 Revised **52087**
73.4170 Revised **52087**
73.4180 (c) added **52087**
73.4185 Revised **52087**
73.4190 Existing text designated as (a); (b) added **52087**
73.4255 (b) amended **52087**
73.4267 Existing text designated as (a); (b) and (c) added **52087**
73.4280 Revised **52087**
73 Index amended **67103**
74 Heading revised **63052**
Regulation at 59 FR 63052 eff. date confirmed as 12–20–94 10511
74.15 (d) revised (OMB number pending) **63052**
Regulation at 59 FR 63052 eff. date confirmed as 12–20–94 10511
74.550 Revised 14225
74.733 Note amended **63052**
Regulation at 59 FR 63052 eff. date confirmed as 12–20–94 10511
74.902 (d)(1) amended 20246
Regulation at 60 FR 20246 eff. date corrected to 5–25–95 28547
74.903 (a)(5) and (f) added; (e) amended 20246
Regulation at 60 FR 20246 eff. date corrected to 5–25–95 28547
74.910 Amended 20247
Regulation at 60 FR 20247 eff. date corrected to 5–25–95 28547
74.911 (a)(1) amended; (c) revised 20247
Regulation at 60 FR 20247 eff. date corrected to 5–25–95 28547
74.913 (d)(1) amended; (d)(5) added 20247
Regulation at 60 FR 20247 eff. date corrected to 5–25–95 28547
74.932 (e) added 20247
Regulation at 60 FR 20247 eff. date corrected to 5–25–95 28547
74.991 (a) amended 20247
Regulation at 60 FR 20247 eff. date corrected to 5–25–95 28547
76 Memorandum, opinion and order **52087**
Report **53363**
Authority citation revised **62344**
Petition denied 3099
Order 21464
76.3 Amended **67103**
76.5 (qq) added **67103**
76.7 (c)(4)(i), (ii) and (iii) revised; (c)(4)(iv) added **62344**
76.51 (a)(28) revised 28359
(a)(28) revised; eff. 10–2–95 45376
76.55 (a)(2) and (e)(3) note revised; (a)(3)(iii) note, (b)(3) and (d)(6) note added **62344**
76.56 (a)(1)(iii), (5) and (b)(1) revised **62344**
76.57 (a) revised **62345**
76.60 (c) added **62345**
76.62 (a) revised **62345**
76.64 (b)(2), (e), (f)(4) and (k) revised; (l), (m) and (n) added **62345**
76.301 Revised **67103**

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76.305 (a)(1) added **67103**
76.501 (b) notes 1 through 4 transfered; (d) and (e) revised; (f) and note 5 added 37834
76.502 Revised 37835
76.901 (d) added **62623**
(c) revised; (e) added 35864
Regulation at 60 FR 35864 eff. 8–21–95 47876
76.922 (d)(3)(iv)(F) added **53115**
(d)(3)(x), (xi) and (e) revised (OMB number pending) **62623**
(e)(7) revised 4865
(d)(2) revised 10514
(b)(4), (l), (ii), (5)(i)(A), (B), (C) and (e)(7) revised 35864
Regulation at 60 FR 35864 eff. 8–21–95 47876
76.924 (f)(5) and (6) redesignated as (f)(6) and (7); new (f)(5) added **53115**
(d) revised 35865
Regulation at 60 FR 35865 eff. 8–21–95 47876
76.933 (e) and (f) added **53115**
76.934 Heading revised; (e) added **51871**
(f) added (OMB number pending) 14377
Revised 35865
Regulation at 60 FR 35865 eff. 8–21–95 47876
76.953 (a) removed; (b) and (c) redesignated as (a) and (b) 35868
Regulation at 60 FR 35868 eff. 8–21–95 47876
76.964 Heading revised **62625**
76.981 Revised **62625**
76.986 Revised **62625**
76.987 Added (OMB number pending) **62625**
76.1002 (c)(3)(i) removed; (c)(3)(ii) and (iii) redesignated as (c)(3)(i) and (ii) and revised **66259**
76.1003 (h) revised **66258**
80.5 Amended 35510
80.21 (b)(2) amended; eff. 10–31–95 50122
80.59 (e) introductory text amended; eff. 10–31–95 50122
80.371 (c) table amended 35510
80.373 (f) table amended 35510
80.385 (a)(3) added 15687
80.417 Amended; eff. 10–31–95 50122
80.514 Introductory text revised; eff. 10–31–95 50122
80.1085 (a)(3) revised; eff. 10–31–95 50122
87.187 (p) revised 37829
(p) corrected 40227
87.303 (d)(1) and (2) revised 37829
90 Order on reconsideration 3773
Interpretation 9787
Waiver 18999
Policy statement 20247
Authority citation revised 21990, 37156, 48917
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Clarification 43720, 47303
90.5 (h) through (k) redesignated (l) through (l); new (h) added **59957**
90.7 Amended 15251, 21990, 35510
Amended; eff. 10–23–95 48917
90.17 (b) table, (c)(13), (24) and (e)(3) revised; (c)(28), (29) and (30) added 37156
90.19 (d) table, (e)(26) and (g)(5) revised; (e)(19) removed; (e)(32), (33), (34) and (g)(3)(iii) added; (f)(5)(ii) amended 37163
(e)(5) through (8) removed; eff. 10–31–95 50123
90.21 (b) table, (c)(16) and (e)(3) revised; (c)(20), (21) and (22) added 37173
90.23 (b) table, (c)(18) and (e)(2) revised; (c)(20) through (23) added 37178
90.25 (b) table, (c)(22) and (e)(2) revised; (c)(24) through (27) added 37183
90.27 (b) table, (c)(2), (11), (13) introductory text, (i) and (ii) revised; (c)(12) removed; (c)(27) and (28) added 37188
90.53 (a) table, (b)(30) and (d)(5) revised; (b)(35) through (38) added 37193
90.63 (c) table, (d)(24) and (f)(3) revised; (d)(28), (29) and (30) added 37195
90.65 (b) table amended; (c)(44) added 21986
(b) table, (c)(41) and (e)(4) revised; (c)(45), (46) and (47) added 37200
90.67 (b) table amended; (c)(38) added 21986

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(b) table, (c)(36) and (e)(3) revised; (c)(39) through (42) added 37206
90.69 (b) table, (c)(12) and (e)(3) revised; (c)(14) and (15) added 37213
90.71 (b) table and (e)(3) revised; (c)(12) through (15) added 37214
90.73 (c) table, (d)(35), (e)(4) table and (f)(4) revised; (d)(38) through (41) added 37215
90.75 (a) introductory text revised; (c)(10) amended **59957**
(b) table, (c)(23) table and (24) revised; (c)(38) removed; (c)(46) through (51) added 37220
90.79 (c) table, (d)(23) and (f)(3) revised; (d)(29), (30) and (31) added 37239
90.81 (c) table, (d)(11) and (f)(3) revised; (d)(16), (17) and (18) added 37244
90.89 (b) table amended; (c)(23) added 21986
(b) table, (c)(21) and (e)(2) revised; (c)(24), (25) and (26) added 37247
90.91 (b) table, (c)(18) and (e)(2) revised; (c)(22), (23) and (24) added 37252
90.93 (b) table, (c)(15) and (d)(2) revised; (c)(17), (18) and (19) added 37257
90.95 (c) table, (d)(2), (6), (18) and (e)(2) revised; (d)(20) through (23) added 37260
90.101 Revised 15252
90.103 (d) removed; (e) redesignated as (d) 15252
90.115 Revised **59957**
90.119 Revised **59957**
90.129 (n) revised; eff. 10–31–95 50123
90.131 Introductory text added **59958**
90.135 (c) revised **59958**
90.145 (c) amended; (d) and (e) added **59958**
90.149 (a) revised **59958**
90.153 Introductory text amended; (a) through (d) added **59958**
90.155 (a) revised **59958**
(a) revised; (d) and (e) added 15252
90.159 (a), (b) and (c) amended **59959**
90.160—90.169 Undesignated center heading and note added **59959**
90.160 Added **59959**
90.161 Added **59959**
90.162 Added **59960**
90.163 Added **59961**
90.164 Added **59961**
90.165 Added **59961**
90.166 Added **59962**
90.167 Added **59963**
90.168 Added **59963**
90.169 Added **59964**
90.173 (f) revised; (l) and (m) added 37261
(k) revised; eff. 10–23–95 48917
90.175 (a) revised 37261
90.179 (g) added **59965**
(f) revised 15252
90.203 (b)(7) added 15252
(j) added 37261
90.205 (b) table amended 15252
Revised 37262
90.207 (g) removed 15252
Introductory text revised; (a) through (l) redesignated as (b) through (m); new (a) and (n) added 37263
90.209 (b)(10) added 15252
Revised 37263
90.210 Added 37264
90.211 Revised 37266
90.213 (a) table amended 15253
Revised 37266
90.214 Added 37267
90.217 Revised 37267
90.235 (e) revised; eff. 10–31–95 50123
90.238 (e) revised 37268
90.239 Removed 15253
90.243 (b)(2) revised 37268
90.257 (b) introductory text revised 37268
90.261 (f) revised 37268
90.267 Revised 37268
90.271 Removed 37269
90.273 (a) revised 37269
90.283 Added 35510
90.311 Introductory text, (a) table, (b) introductory text, table, (2) and (4) revised; (a)(3) added 37272
90.315 (j) revised; (l) and (m) removed 37277
90.350—90.363 (Subpart M) Added 15253
90.357 (a) table amended 37277
90.403 (c) revised **59965**
90.405 (b) revised **59965**
90.415 (b) revised **59965**

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90.425 (e) added **59965**
90.437 (b) and (c) revised **59965**
90.449 Revised **59965**
90.461 (c)(4) revised; eff. 10–31–95 50123
90.476 (c) added **59965**
90.483 Introductory text revised **59966**
90.494 (c) revised **59966**
90.555 (a) and (b) amended 35511
Removed 37277
90.603 (c) revised **59966**
(c) revised 15495
90.607 (b) introductory text and (c) introductory text revised **59966**
90.617 (d) introductory text revised 21990
(d) table amended; eff. 10–23–95 48918
90.619 (a)(5) table revised; eff. 10–23–95 48918
90.623 (c) introductory text revised **59966**
90.627 (b) introductory text revised; (b)(2) amended; (b)(3) removed **59966**
90.631 (a) amended; (b) and (c) revised **59966**
(f) and (i) revised 21991
(f) revised; eff. 10–23–95 48918
90.633 (a) revised; (e) amended **59966**
90.635 (b) revised; eff. 10–31–95 50123
90.645 (c) revised **59966**
90.661 Undesignated center heading and section added 21991
90.663 Added 21991
90.665 Added 21991
(c) and (d) revised; eff. 10–23–95 48918
90.667 Added 21991
Revised; eff. 10–23–95 48918
90.669 Added 21992
90.671 Added 21992
90.703 (c) revised **59966**
(c) revised 15495
90.733 (a)(3) revised **59967**
90.737 (e) revised; eff. 10–31–95 50123
90.741 Table amended 37277
90.801—90.815 (Subpart U) Added; eff. 10–23–95 48919
94.59 (b) and (f) revised **65503**
94.61 (b) table amended **53331**
95.39 Amended; eff. 10–31–95 50123
95.72 Revised; eff. 10–31–95 50123
95.107 (d) revised; eff. 10–31–95 50123
95.111 Amended; eff. 10–31–95 50123
95.225 (b) revised; eff. 10–31–95 50123
95.428 (b) revised; eff. 10–31–95 50123
97.3 (a)(11) through (45) redesignated as (a)(12) through (46); new (a)(11) added 7460
97.5 Revised **54831**
97.7 Revised **54832**
97.9 Revised **54832**
97.15 (a) revised; eff. 10–31–95 50123
97.17 Revised **54832**
(f) revised; (h) added 7460
97.19 Removed **54832**
Added 7460
(b) revised; eff. 10–31–95 50123
97.21 Revised **54832**
(a)(3) revised 7460
97.23 Revised **54833**
97.25 Revised **54833**
97.27 Revised **54833**
97.29 Added **54833**
97.109 (d) and (e) revised 26001
97.201 (b) revised 15687
97.207 (g) introductory text, (h) and (i) revised; eff. 10–31–95 50124
97.221 Added 26001
97.301 (a) through (f) introductory texts revised **54833**
(a) table amended 15687
97.303 (e) added 15687
97.305 (c) table amended 15688
97.307 (f)(13) added 15688
97.313 (h) added 15688
97.501 Introductory text, (d) and (e) revised; (f) added **54834**
97.505 Revised **54834**
97.507 (a) introductory text and (3) revised **54834**
97.509 Revised **54834**
97.511 Revised **54835**
97.515 Removed **54835**
97.517 Removed **54835**
97.519 (b) revised; (d) added **54835**
99.411 (d) correctly revised **55210**

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TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

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1.102 Redesignated as 1.103; new 1.102 added 34733
1.102–1 Added 34744
1.102–2 Added 34744
1.102–3 Added 34744
1.102–4 Added 34744
1.103 Redesignated as 1.104; new 1.103 redesignated from 1.102 34733
1.104 Redesignated as 1.105; new 1.104 redesignated from 1.103 34733
1.105 Revised (OMB numbers) **67065**
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1.106 Redesignated from 1.105 34733

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1.601 Revised 49721
1.601—1.603-4 (Subpart 1.6) Heading revised **67015**
1.602-3 (c)(2) revised 48225
1.603-1 Revised **67015**
1.603-3 Revised; interim **64787**
2.101 Amended; interim 34736
Amended 42653, 48235
2.201 Revised; interim 34744
3 Applicability date 48258
3.102 Removed 37773
3.102-1 Removed 37773
3.102-2 Amended; interim 34744
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3.103-1 (a) revised; interim 34744
3.104-4 (h)(5) added; interim **64787**
3.104-9 (b)(1)(iii) amended 37774
3.104-10 (c) revised; interim 34744
3.404 (b)(1) and (c) revised; interim 34744
(b)(4) amended; (b)(5) redesignated as (b)(6); new (b)(5) added; (c) revised 48235
3.502-2 (i) introductory text revised 48235
3.502-3 Revised; interim 34744
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3.503-2 Revised; interim 34744
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3.900—3.906 (Subpart 3.9) Added 37776
4.000 Revised; interim 28493
4.101 Revised; interim 34736
4.201 (a)(1), (b) and (d) amended; interim 34736
4.300—4.304 (Subart 4.3) Added; interim 28493
4.304 Amended; interim 34744
4.505—4.507 (Subpart 4.5) Added; interim 34744
4.601 (d) redesignated as (e); new (d) added 42653
4.602 (a)(2) revised 48259
4.603 Added 48259
4.702 (a) revised 42650
(a)(3) added 48211
4.703 (d) redesignated as (e); new (d) added **67015**
(a), (b) introductory text and (2) amended; (c) revised; (d) removed; (e) redesignated as (d) 42650
4.706 Removed 42650
4.706-1 Removed 42650
4.706-2 Removed 42650
4.706-3 Removed 42650
4.800—4.805 (Subpart 4.8) Heading revised **67016**
4.800 Amended; interim **64787**
Revised; interim 34746
4.802 (f) added **67016**
4.803 (a)(17) and (b)(4) revised 48211
4.804-1 (a)(1) and (2) revised; interim 34746
4.804-2 (a) revised; interim 34746
4.805 Introductory text redesignated as (a); heading and new (a) revised; (b) and (c) added; table amended **67016**
(b) table amended; interim 34746
5.002 (c) amended 48259
5.101 (a)(2)(iv) added; interim 34736
(a)(1), (2) introductory text and (ii) revised; interim 34746
5.102 (a)(4)(i) revised; interim 34737
5.201 (a) revised 42653
5.202 (a)(11) and (12) amended; (a)(13) and (14) added; interim 34746
(a)(13) and (14) amended; (a)(15) added 42653
(a)(6) amended 49725
5.203 (b) through (f) redesignated as (c) through (g); new (b) added; new (c), new (d) and new (e) revised; interim 34747
(a), (b) and (c) revised 48236
5.205 (d)(1) revised; interim 34747
5.207 (c)(2)(xvii) added; interim 34737
(c)(2)(xi) through (xv) redesignated as (c)(2)(xii) through (xvi); new (c)(2)(xi) added; new (c)(2)(xiv) revised; interim 34747
(e)(4) added 48236
(c)(2)(xiii) and (d) amended 48259
(b)(4) and (6) amended 48272
5.301 (b)(5) and (6) amended; (b)(7) added; interim 34747
(b)(6) and (7) amended; (b)(8) added 42653
(b)(4) amended 49725
5.303 (a) revised **67017**
(b) introductory text revised; interim 34747
(b)(2) amended 42653
5.404-1 (b)(6)(ii) amended 48259
5.503 (c)(1) revised; interim 34747
(a) amended 48259

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6.001 (a) revised; interim 34747
(f) added 49725
6.102 (d)(3) revised **53716**
6.202 (a)(1) revised; (a)(2) and (3) amended; (a)(4), (5) and (6) added 42653
6.203 Revised 48259
6.302-1 (b)(3) revised **67018**
6.302-3 Heading and (a)(2) revised; (b)(3) added 42654
(a)(2)(ii) corrected 44548
6.302-5 (c)(1) revised; (c)(3) added 42654
6.303-2 (a)(8) revised 48236
6.304 (a)(2) revised 42654
(a)(1)(i) through (iv) removed 42665
6.501 (c) amended 48259
6.502 Revised 48236
7.101 Amended 48236
7.102 Amended; interim **64785**
Revised; interim 28495
Regulation at 59 FR 64785 confirmed 37777
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7.103 (a) through (l) redesignated as (b) through (m); new (a) and (m) added; interim 28495
(b) revised; (m) amended 48236
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7.105 (b)(15) revised; (b)(17) amended; interim 28495
(a)(5), (8)(iii), (b)(6) and (7) amended; (b)(1) and (12)(i) revised 48237
7.304 (b)(3) amended; interim 34737
7.306 (a)(1)(i) revised; interim 34747
7.307 (b) amended; interim 34747
7.402 (b)(4) added **67026**
7.404 Added **67026**
8.001 (a) introductory text, (1)(iv) and (2)(i) revised **53716**
(a)(1)(iv) and (2)(i) revised **67027**
8.002 (b) revised **67018**
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8.203-1 (a)(1) revised; interim 34747
8.300—8.309 (Subpart 8.3) Removed **67018**
8.401—8.408 (Subpart 8.4) Heading revised **53716**
8.401 (a) and (b) amended **53716**
8.402 (a) and (b) designation removed **53716**
8.403 Removed **53716**
8.403-1 Removed **53716**
8.403-2 Removed **53716**
8.403-3 Removed **53716**
8.403-4 Removed **53716**
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(c)(1) and (2) correctly revised **60319**
(a) amended; interim 34747
8.404-1 Removed **53717**
8.404-2 Removed **53717**
8.405 Existing text removed **53717**
8.405-1 Removed **53717**
8.405-2 Introductory text amended; interim 34737
8.405-4 Introductory text amended **53717**
8.405-5 (a)(3) amended **53717**
8.406 Removed **53717**
8.407 Removed **53717**
8.408 Removed **53717**
8.500—8.505 (Subpart 8.5) Added **67030**
8.603 (a) revised **67027**
8.700—8.715 (Subpart 8.7) Heading revised **67027**
8.700 Revised **67027**
8.701 Revised **67027**
8.702 Revised **67028**
8.703 Revised **67028**
8.704 (a) introductory text, (1)(ii), (2)(i) and (c) amended **67028**
8.705-1 (a) revised **67028**
(b) amended **67029**
8.705-2 Amended **67029**
8.705-3 (a) and (c) amended **67029**
(a) amended; interim 34737
8.705-4 (c) revised; (d) amended **67028**
(a) and (b) amended **67029**
8.706 (a) amended; (b)(1) revised **67028**
(b)(2) amended **67029**
8.707 (a) amended **67028**
(d) and (e) amended **67029**
8.708 (d) revised **67028**
8.709 Revised **67028**
8.710 Introductory text amended **67029**
8.711 (a)(1), (2) and (b) revised **67029**
8.712 (a) revised; (c) and (d) amended **67029**
8.713 (a) and (b) amended **67029**
8.714 Revised **67029**
8.715 Amended **67029**
8.802 (c) redesignated as (c)(1); (c)(2) added **67032**
8.1104 (e)(1) amended 48237

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9.104–1 (c) revised 16718
9.104–3 (c) amended 48260
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33.208 (c) amended 48230
33.211 (a)(4)(v), (c)(1), (2) and (e) amended; (f) revised 48230
33.214 (b), (c) and (d) redesignated as (c), (d) and (e); new (b) added 48230
34.000—34.005–6 (Subpart 34.0) Heading added; interim **67048**
34.100–34.104 (Subpart 34.1) Added; interim **67048**
35.010 (b) revised **67049**
36.202 (a) amended 48249
36.206 Amended 48249
36.212 Added **67049**
36.303 (c)(4) amended 48249
36.304 Introductory text amended; interim 34739
Introductory text revised 42657
36.305 Removed **67050**
36.402 (b) introductory text and (1) revised 48218
36.502 Amended; interim 34759
36.503 Amended; interim 34759
36.506 Amended; interim 34759
36.508 Amended; interim 34759
36.509 Amended; interim 34759
36.510 Amended; interim 34759
36.511 Amended; interim 34759
36.512 Amended; interim 34759
36.513 (a) amended; interim 34759
36.515 Amended; interim 34759
36.521 Amended; interim 34759
36.522 Added **67050**
36.523 Added **67050**
36.601–3 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added; interim 28498
36.602–1 (a)(6) redesignated as (a)(7); new (a)(6) added; interim 28498
36.602–3 (c) revised; interim 28498
36.602–5 Heading revised; interim 34759
Introductory text amended; interim 34759
36.606 (a) amended 37777
36.607 Existing text designated as (a); (b) added 42657
36.701 (b) and (c) amended; interim 34759
36.702 (b)(2) amended; interim 34759
37.101 Amended; interim **67051**
37.103 (d) added; interim **67051**
37.106 Revised 37778
37.113 Added 42661
37.113–1 Added 42661
37.113–2 Added 42661
37.200—37.205 (Subpart 37.2) Revised 49722
38.000 Revised **53717**

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38.101 (a) and (b) amended; (d) removed; (e) redesignated as (d) **53717**
38.102 Removed **53717**
38.102–1 Removed **53717**
38.102–2 Removed **53717**
38.102–3 Removed **53717**
38.102–4 Removed **53717**
38.201 (a) introductory text and (b) revised **53718**
38.202 Removed **53718**
38.203 Removed **53718**
38.204 Removed **53718**
38.205 Removed **53718**
41 Added **67018**
41.103 (a)(2) amended 37777
41.201 (b) amended; interim 34759
41.401 Amended; interim 34759
42.203 (a) revised **67043**
42.302 (a)(11) introductory text and (iv) revised **67043**
(b)(11) added 16719
(a)(68) added; interim 28498
(a)(52) through (55) revised 48264
(a)(12) revised; (a)(69) added 49717
42.501 (b) amended 48264
42.502 (i) and (j) revised 48264
42.703 (c)(2) revised 42661
Redesignated as 42.703–1; new 42.703 added 42664
42.703–1 Redesignated from 42.703 42664
42.703–2 Added 42664
42.705–1 (b)(4) revised; (b)(5)(v) added 42661
42.705–2 (b)(2)(ii) removed; (b)(2)(iii) through (vi) redesignated as (b)(2)(ii) through (v) **67052**
42.709 Added 42658
42.709–1 Added 42658
42.709–2 Added 42658
42.709–3 Added 42659
42.709–4 Added 42659
42.709–5 Added 42659
42.709–6 Added 42659
42.903 Amended; interim 34759
42.1104 (b) amended; interim 34759
42.1105 Amended 48249
42.1301—42.1305 (Subpart 42.13) Redesignated from 12.501—12.505 (Subpart 12.5) 48241
42.1304 (a) and (d) amended 48249
42.1305 (a), (b)(1), (c) and (d) amended 48249
42.1500—42.1503 (Subpart 42.15) Added 16719
42.1601 (Subpart 42.16) Added 48230
43.205 (d)(2) and (e) amended; interim 34760
44.201–1 (b) revised 67052
44.201–2 (c) revised; (d) removed **67052**
(b) amended; interim 34760
44.202–2 (a)(13) amended 33066
(a)(4) amended 48264
44.204 (a)(3) revised 67053
(e) amended; interim 34760
44.205 Removed **67053**
44.302 (b) revised **67054**
44.303 (c) amended 33066
(e) amended 48264
44.304 (a) and (b) amended **67054**
44.305–3 (a)(2) revised **67043**
44.400—44.403 (Subpart 44.4) Added 48249
45.103 (b)(1) revised 48218
45.106 (e) revised; interim 34760
(b)(2) revised 48218
45.311 Added **67054**
45.603 Introductory text amended **67054**
45.606–5 (b)(3) and (4) revised; interim 34739
46.101 Amended 48249
46.102 (e) amended; (f) redesignated as (g); new (f) added 48249
46.202 Amended 48249
46.202–1 (a) amended; interim 34760
Redesignated as 46.202–2; new 46.202–1 added 48249
46.202–2 Redesignated as 46.202–3; new 46.202–2 redesignated from 46.202–1; (b)(1) amended 48249
46.202–3 Redesignated as 46.202–4; new 46.202–3 redesignated from 46.202–2 48249
46.202–4 Redesignated from 46.202–3; (a)(1) amended 48249
46.203 (a)(1) revised; (a)(2) and (3) amended 48249
46.204 Removed 48250
46.301 Introductory text amended; interim 34760
Amended 48250
46.302 Amended; interim 34760
46.304 Amended; interim 34760
46.307 (a)(3) and (b) amended; interim 34760

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46.311 Amended 48250
46.312 Amended; interim 34760
46.316 Amended; interim 34760
46.402 (e) amended 48250
46.404 (a) and (b)(1) amended; interim 34760
(a), (b) introductory text and (2) amended 48250
46.709 Revised 48250
46.710 Introductory text amended; (a)(2) and (b)(2) removed; (a)(3) through (6) and (b)(3), (4) and (5) redesignated as (a)(2) through (5) and (b)(2), (3) and (4) 48250
46.804 Amended 48218
46.805 (a) heading and introductory text amended; (b) revsied; interim 34760
47.104-4 Heading revised; (c) added **67055**
(a)(2) amended; interim 34760
47.200 (b)(4) amended; interim 34760
47.205 (b) amended; interim 34760
47.305-16 (b)(1) amended; interim 34760
47.405 Amended; interim 34760
Amended 48250
47.504 (d) revised; interim 34760
(e) added 48250
49.208 Introductory text amended 48218
49.402-7 (a) amended 48250
49.501 Revised 48250
49.504 (a)(1), (b) and (c)(1) amended; interim 34760
49.603-1 (b)(7)(iii) amended 37773
(b)(7)(i) amended 49723
49.603-2 (b)(8)(iii) amended 37773
(b)(8)(i) amended 49723
49.603-3 (b)(7)(iii) amended 37773
(b)(7)(i) amended 49723
49.603-4 (b)(4)(ii) amended 37773
(b)(4)(i) amended 49723
49.607 Introductory text amended 48250
50.303 Redesignated as 50.303-1; new 50.303 heading added 48230
50.303-1 Redesignated from 50.303 48230
50.303-2 Added 48230
50.304 (a) introductory text amended 48230
50.305 (a) amended 48230
50.306 Introductory text amended 48230
50.307 (b) amended 42650
51.101 (a)(1) and (2) amended; (a)(3) added 42657
51.102 (a) introductory text amended 42657
52 Derivation lines removed 48218
52.202-1 Amended 48250
52.203-1 Removed 37773
52.203-4 Introductory text amended 48251
52.203-6 Amended; interim 34761
Amended 48251
52.203-7 Amended; interim 34761
52.203-8 Amended 37774
52.203-9 Amended 37774
52.204-4 Added; interim 28494
52.204-5 Added 48264
52.207-5 Added **67026**
52.208-3 Removed **67023**
52.208-8 Added **67031**
52.209-1 Amended **67056**
52.209-6 Amended 33066
Amended; interim 34761
52.209-7 Amended 49723
52.210-1 Redesignated as 52.211-1 48251
52.210-2 Redesignated as 52.211-2 48251
52.210-3 Redesignated as 52.211-3 48251
52.210-4 Redesignated as 52.211-4 48251
52.210-5 Revised; interim 28498
Redesignated as 52.211-5 48251
52.210-6 Revised; interim 28498
Redesignated as 52.211-6 48251
52.210-7 Revised; interim 28499
Redesignated as 52.211-7 48251
52.211-1 Redesignated from 52.210-1 48251
Amended 48256
52.211-2 Redesignated from 52.210-2 48251
Amended 48256
52.211-3 Redesignated from 52.210-3 48251
Amended 48256
52.211-4 Redesignated from 52.210-4 48251
Amended 48256
52.211-5 Redesignated from 52.210-5 48251
Amended 48256
52.211-6 Redesignated from 52.210-6 48251
Amended 48256

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52.211-7 Redesignated from 52.210-7 48251
Amended 48256
52.211-8 Redesignated from 52.212-1 48251
Amended 48256
52.211-9 Redesignated from 52.212-2 48251
Amended 48256
52.211-10 Redesignated from 52.212-3 48251
Amended 48256
52.211-11 Redesignated from 52.212-4 48251
Amended 48256
52.211-12 Redesignated from 52.212-5 48251
Amended 48256
52.211-13 Redesignated from 52.212-6 48251
Amended 48256
52.211-14 Redesignated from 52.212-7 48251
Amended 48256
52.211-15 Redesignated from 52.212-8 48251
Amended 48256
52.211-16 Redesignated from 52.212-9 48251
Amended 48256
52.211-17 Redesignated from 52.212-10 48251
Amended 48256
52.211-18 Redesignated from 52.212-11 48251
Amended 48256
52.212-1 Amended; interim 34739
Redesignated as 52.211-8; new 52.212-1 added 48251
52.212-2 Amended; interim 34739
Redesignated as 52.211-9 48251
Added 48252
52.212-3 Redesignated as 52.211-10 48251
Added 48252
52.212-4 Redesignated as 52.211-11 48251
Added 48254
52.212-5 Redesignated as 52.211-12 48251
Added 48255
52.212-6 Redesignated as 52.211-13 48251
52.212-7 Redesignated as 52.211-14 48251
52.212-8 Redesignated as 52.211-15 48251
52.212-9 Redesignated as 52.211-16 48251
52.212-10 Redesignated as 52.211-17 48251
52.212-11 Redesignated as 52.211-18 48251
52.212-12 Redesignated as 52.242-14 48251
52.212-13 Redesignated as 52.242-15 48251
52.212-14 Redesignated as 52.242-16 48251
52.212-15 Redesignated as 52.242-17 48251
52.213-2 Amended; introductory text revised; interim 34761
52.213-3 Amended; introductory text revised; interim 34761
52.214-5 Amended; interim 34739
52.214-7 Amended; interim 34739
52.214-9 Amended; interim 34740
52.214-23 Amended; interim 34740
52.214-26 Revised 42651
Corrected 44548
52.214-27 Amended; interim **62499**
Amended 48218
52.214-28 Amended; interim **62499**
Amended 48218
52.214-29 Introductory text amended; interim **62500**
Introductory text amended 48218
52.214-32 Amended; interim 34740
52.214-33 Amended; interim 34740
52.215-1 Amended; interim 34761
Removed 42651
52.215-2 Amended; interim 34761
Revised 42651
52.215-9 Amended; interim 34740
52.215-10 Amended; interim 34740
52.215-15 Revised; interim 34740
52.215-16 Amended 42657
52.215-22 Amended 48218
52.215-23 Amended; interim **62500**
Amended 48219
52.215-24 Amended; interim **62500**
Amended 48219
52.215-25 Amended; interim **62500**
Amended 48219
52.215-26 Amended 48219
52.215-32 Removed; interim **62500**
52.215-36 Amended; interim 34740
52.215-37 Removed; interim **62500**
52.215-39 Amended **67046**
52.215-40 Added **67035**

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52.215-41 Added 48219
52.215-42 Added 48220
52.215-43 Added 48221
52.216-1 Amended; introductory text revised; interim 34761
52.216-2 Amended 48221
52.216-3 Amended 48221
52.216-5 Amended 48221
52.216-6 Amended 48221
52.216-13 Amended **67052**
52.216-18 Revised 49727
52.216-19 Amended; heading and introductory text revised 49727
52.216-20 Amended; heading and introductory text revised 49727
52.216-21 Amended 48264
Introductory text revised; (b) amended 49727
52.216-22 Amended; introductory text revised 49727
52.216-25 Amended 48221
52.216-27 Added 49727
52.216-28 Added 49728
52.219-1 Amended **67037**
Revised 48264
52.219-2 Removed; new 52.219-2 redesignated from 52.220-1 and revised 48265
52.219-3 Removed 48265
52.219-4 Removed; interim 34761
52.219-5 Amended; interim 34761
Removed 48265
52.219-6 Amended 48265
52.219-7 Amended; interim 34761
Amended 48265
52.219-8 Amended 48265
52.219-9 Amended **67057**
Amended 48265
52.219-10 Amended 48266
52.219-13 Removed 48267
52.219-16 Amended 48267
52.219-18 Amended 48267
52.219-22 Removed 48267
52.220-1 Introductory text revised; interim 34761
Redesignated as 52.219-2 48265
52.220-2 Amended; introductory text revised; interim 34761
Removed 48267
52.220-3 Amended; interim 34761
Removed 48267
52.220-4 Removed 48267
52.222-4 Amended; interim 34761
52.222-6 Amended **67038**
52.222-48 Amended 48221
52.223-3 Amended; interim 34740
52.223-4 Revised; interim 28499
52.223-5 Amended; interim 34761
52.223-8 Added; interim 28499
52.223-9 Added; interim 28499
52.223-10 Added; interim 28499
52.223-11 Added; interim 28501
52.223-12 Added; interim 28501
52.225-15 Amended 28502
52.225-17 Amended 28502
52.225-18 Amended 28502, 28503
52.225-19 Amended 28502, 28503
52.227-1 Amended; interim 34761
52.227-3 Amended; interim 34761
52.228-12 Added 48274
52.230-1 Regulation at 57 FR 39591 confirmed **67042**
Amended **67043**
52.230-2 Regulation at 57 FR 39592 confirmed **67042**
52.230-3 Regulation at 57 FR 39592 confirmed **67042**
Amended **67044**
52.230-4 Regulation at 57 FR 39593 confirmed **67042**
52.230-5 Regulation at 57 FR 39593 confirmed **67042**
Amended **67044**
52.230-6 Regulation at 57 FR 39591 confirmed **67042**
52.232-29 Added 49717
52.232-30 Added 49717
52.232-31 Added 49718
52.232-32 Added 49718
52.233-1 Amended 48230
52.233-2 Amended 48231
52.233-3 Amended 48231
(f) added 48276
52.234-1 Added; interim **67048**
Corrected 5870
52.236-2 Amended; introductory text revised; interim 34761
52.236-3 Amended; introductory text revised; interim 34761
52.236-6 Amended; introductory text revised; interim 34761
52.236-8 Amended; introductory text revised; interim 34761
52.236-9 Amended; introductory text revised; interim 34761
52.236-10 Amended; introductory text revised; interim 34761
52.236-11 Amended; introductory text revised; interim 34761
52.236-12 Amended; introductory text revised; interim 34761

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52.236-15 Amended; introductory text revised; interim 34761
52.236-21 Amended; introductory text revised; interim 34761
52.236-26 Added **67050**
52.236-27 Added **67050**
Corrected 14377
52.237-8 Added 42661
52.237-9 Added 42662
52.241 Added **67023**
52.241-1 Added **67023**
52.241-2 Added **67023**
52.241-3 Added **67023**
52.241-4 Added **67023**
52.241-5 Added **67023**
52.241-6 Added **67024**
Corrected 5870
52.241-7 Added **67024**
52.241-8 Added **67024**
52.241-9 Added **67024**
52.241-10 Added **67025**
52.241-11 Added **67025**
52.241-12 Added **67025**
52.241-13 Added **67025**
52.242-3 Added 42659
52.242-4 Added 42664
52.242-12 Amended; interim 34740
52.242-13 Amended; interim 34741
52.242-14 Redesignated from 52.212-12 48251
Amended 48256
52.242-15 Redesignated from 52.212-13 48251
Amended 48256
52.242-16 Redesignated from 52.212-14 48251
Amended 48256
52.242-17 Redesignated from 52.212-15 48251
Amended 48256
52.243-5 Amended; introductory text revised; interim 34761
52.244-1 Amended **67053**
52.244-2 Amended **67053**
Amended; interim 34762
52.244-5 Amended; introductory text revised; (a) and (b) removed; interim 34762
52.244-6 Added 48256
52.246-1 Amended; introductory text revised; interim 34762
52.246-7 Amended; introductory text revised; interim 34762
52.246-11 Introductory text amended 48256
52.246-12 Amended; introductory text revised; interim 34762
52.246-16 Amended; introductory text revised; interim 34762
52.246-17 Amended 48256
52.246-18 Amended 48256
52.246-23 Amended; introductory text revised; interim 34762
52.246-24 Amended; introductory text revised; interim 34762
52.246-25 Amended; introductory text revised; interim 34762
52.247-1 Amended; introductory text added; (a) and (b) removed; interim 34762
52.247-48 Amended; introductory text revised; interim 34741
52.247-51 Amended; introductory text revised **67058**
52.247-64 Amended; introductory text revised; interim 34762
52.247-67 Added **67055**
52.249-8 Amended; introductory text revised; interim 34762
52.249-9 Amended; introductory text revised; interim 34762
52.249-10 Amended; introductory text revised; interim 34762
53.105 Revised; interim 34741
53.212 Added 48256
53.213 (a) amended **67058**
Heading, introductory text, (a), (c), (e) heading, and (1) revised; interim 34762
53.214 (g) revised **67033**
(a) amended; interim 34741
53.215-1 (h) added **67034**
(a) amended **67059**
Introductory text revised; (a) amended; interim 34762
53.215-2 Revised 48221
53.219 Revised 48267
53.228 (k) and (l) heading revised **67061**
53.236-1 (e) and (f) amended; interim 34763
53.301-18 Revised **67059**
Revised; interim 34763
53.301-294 Revised 48268
53.301-295 Revised 48270
53.301-1411 Revised 48222
53.301-1414 Revised **67061**
53.301-1415 Revised **67063**
53.301-1418 Added 48223
53.301-1449 Added 48256
53.302-17 Revised **67034**

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53.302–347 Revised; interim 34764

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201 Authority citation revised..... 40106
202 Authority citation revised 29497, 40106
202.101 Amended 29497
203 Authority citation revised 29497, 40106
203.502–2 (h)(ii) amended 29497
204 Authority citation revised..... 34468, 40106
204.7101 Amended 34468
204.7102 (b) introductory text revised 34468
204.7103–1 (a) introductory text amended; (a)(4) added 34468
204.7104–1 (a)(3) added; (b)(1) introductory text and (i) revised 34468
204.7104–2 (e)(5) amended; (e)(7) and (8) redesignated as (e)(8) and (9); new (e)(7) added 34468
204.7107 Revised 34469
205 Authority citation revised..... 40106
206 Authority citation revised..... 29497, 40106, 40107
206.102 (Subpart 206.1) Added; interim..... 2888
206.302–5 Regulation at 59 FR 36089 confirmed..... 29496
(c)(1)(B) amended..... 29497
(b)(i) revised; interim..... 40107
206.304 (a)(4)(A)(*2*) and (B) revised 29497
207 Authority citation revised 29497, 40106, 40107
207.105 (b)(2)(v) removed 29497
207.470 Added; interim 40107
208 Authority citation revised..... 40106
209 Authority citation revised 29497, 40106
209.101 Revised **51132**
Regulation at 58 FR 28464 confirmed **51132**
209.103 (a)(i)(C) amended..... 29497
209.104–1 (g)(i) heading revised; (g)(iii) added..... **51131**
Regulation at 58 FR 28464 confirmed; (g)(ii)(A) revised; (g)(ii)(C) amended..... **51132**
Regulation at 59 FR 51131 confirmed..... 29496
(e) revised..... 29497
209.104–70 Heading and (a) revised; (c) and (d) added..... **51131**
Regulation at 58 FR 28464 confirmed **51132**
Regulation at 59 FR 51131 confirmed..... 29496
209.106–2 Regulation at 58 FR 28464 confirmed..... **51132**
209.405–1 Added 29497
209.406–2 Regulation at 58 FR 28464 confirmed..... **51132**
209.406–4 Regulation at 58 FR 28464 confirmed..... **51132**
209.470 Added 13074
209.470–1 Added 13074
209.470–2 Added 13074
209.470–3 Added 13074
210 Authority citation revised..... 40106
211 Authority citation revised 33471, 40106
211.7004–1 (h) removed; (p)(2)(ii) amended 33471
211.7004–6 (a)(3) amended..... 33471
211.7005 (a)(29), (b)(34) and (35) removed; (a)(30) through (33), (b)(36) through (51), (52), (53) and (54) redesignated as (a)(29) through (32), (b)(34) through (49), (51), (52) and (53); (b)(18), (c)(6) and (10) amended; new (b)(50) added 33471
212 Authority citation revised..... 40106
213 Authority citation revised..... 40106
213.000 Revised **50851**
213.101 Revised **50851**
213.404 (a) revised **50851**
213.505–3 Revised..... **50851**
214 Authority citation revised..... 40106
215 Authority citation revised 29497, 34468, 40106, 40107
215.406–2 Added 34470
215.806–1 (a)(1) revised..... 29497
215.871 Removed; interim..... 40107
215.871–1 Removed..... 43721
215.871–2 Removed..... 43721
215.871–3 Removed..... 43721
215.871–4 Removed..... 43721
215.871–5 Removed..... 43721
216 Authority citation revised..... 40106
216.307 Added **53116**
217 Authority citation revised 29497, 34468, 40106
217.7404–3 (a)(2) revised 29498
217.7404–4 Revised 29498
217.7404–5 Revised 29498

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217.7405 Revised 34470
217.7406 Added..... 34470
219 Authority citation revised 29497, 35668, 40106, 40107
219.000 Regulation at 59 FR 27670 confirmed 29496
219.502–2–70 Regulations at 59 FR 24959 and 27670 confirmed 29496
(a)(1)(ii) revised..... 29498
219.504 Regulation at 59 FR 12192 confirmed 29496
219.602–1 (a) removed; interim 40107
219.602–70 Removed; interim 40107
219.702 (a) introductory text and (i)(A)(*1*) revised 35668
219.703 (a) introductory text revised..... 13075
(a) corrected..... 41157
219.705–2 Regulation at 59 FR 27670 confirmed..... 29496
219.808–1 Regulation at 59 FR 27670 confirmed..... 29496
219.1005 Regulation at 59 FR 27670 confirmed..... 29496
219.7001 (b)(3) and (4) revised; (b)(5) added..... 43563
219.7100—219.7105 (Subpart 219.71) Regulation at 59 FR 27670 confirmed 29496
222 Authority citation revised..... 40106
222.7100—222.7102 (Subpart 222.71) Regulation at 59 FR 36089 confirmed 29496
222.7200 (Subpart 222.72) Regulation at 59 FR 36089 confirmed 29496
223 Authority citation revised..... 40106
223.7102 (a)(9) added 13076
223.7103 Revised 13076
224 Authority citation revised..... 40106
225 Authority citation revised 29497, 34470, 34471, 40106
225.9 Regulation at 58 FR 28467 confirmed..... **51132**
225.000–70 Regulation at 59 FR 1289 confirmed 29497
225.000–71 Regulation at 59 FR 1289 confirmed 29497
225.102 (a)(3) revised; interim..... 34470
225.105 Regulation at 59 FR 1289 confirmed 29497
225.109 Regulation at 59 FR 1289 confirmed 29497
225.401 Regulation at 59 FR 1289 confirmed 29497
225.402 Regulation at 59 FR 1289 confirmed 29497
225.403–70 Regulation at 59 FR 1289 confirmed 29497
225.407 Regulation at 59 FR 1289 confirmed 29497
225.408 Regulation at 59 FR 1289 confirmed 29497
(a)(4)(B) revised..... 29498
225.602 Regulation at 59 FR 1290 confirmed 29497
225.603 Regulation at 59 FR 1290 confirmed 29497
(b)(i)(D) and (ii) amended..... 29498
225.605–70 Regulation at 59 FR 1290 confirmed 29497
225.702 Regulation at 58 FR 28467 confirmed..... **51132**
Revised..... **51133**
225.770–1 Regulation at 58 FR 28467 confirmed..... **51132**
225.872–5 (a) amended..... 29498
225.872–6 (b) amended..... 29498
225.7002–2 Regulation at 58 FR 28467 confirmed..... **51132**
225.7002–4 Regulation at 58 FR 28467 confirmed..... **51132**
225.7003–2 Regulation at 58 FR 28467 confirmed..... **51132**
225.7004 Revised 19532
225.7004–1 Revised 19532
225.7004–2 Revised 19532
(b) revised..... 29498
225.7004–3 Revised 19532
225.7004–4 Revised 19532
225.7004–5 Revised 19532
225.7004–6 Added..... 19532
(c) added..... 29498
225.7005 Regulation at 58 FR 28467 confirmed..... **51132**
225.7007 Revised 19532
225.7007–1 Added..... 19533
225.7007–2 Added..... 19533
225.7007–3 Added..... 19533
225.7007–4 Added..... 19533
225.7010 Revised 19533
225.7010–1 Added..... 19533
225.7010–2 Added..... 19533
225.7010–3 Added..... 19533
225.7014–1 Regulation at 58 FR 28467 confirmed..... **51132**
225.7014–2 Regulation at 58 FR 28467 confirmed..... **51132**
225.7014–3 Regulation at 58 FR 28467 confirmed..... **51132**

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225.7015–1 Regulation at 58 FR 28467 confirmed **51132**
225.7015–3 Regulation at 58 FR 28467 confirmed **51132**
225.7016–1 Revised 19533
225.7016–2 Revised 19533
225.7016–3 Revised 19533
225.7016–4 Removed; new 225.7016–4 redesignated from 225.7016–5 and revised 19534
225.7016–5 Redesignated as 225.7016–4 19534
225.7017–1 Regulation at 58 FR 28468 confirmed **51132**
225.7017–2 Regulation at 58 FR 28468 confirmed **51132**
225.7018 Regulation at 58 FR 28468 confirmed **51132**
225.7018–1 Regulation at 58 FR 28468 confirmed **51132**
225.7018–2 Regulation at 58 FR 28468 confirmed **51132**
225.7018–3 Regulation at 58 FR 28468 confirmed **51132**
225.7019 Regulation at 58 FR 28468 confirmed **51132**
225.7019–1 Regulation at 58 FR 28468 confirmed **51132**
Revised 19534
225.7019–2 Regulation at 58 FR 28468 confirmed **51132**
Revised 19534
225.7019–3 Regulation at 58 FR 28468 confirmed **51132**
Revised 19534
225.7019–4 Regulation at 58 FR 28468 confirmed **51132**
Revised 19534
225.7021 Regulation at 59 FR 11729 confirmed 29497
225.7021–1 Revised 29498
225.7021–3 Revised 29498
225.7022 Regulation at 59 FR 19146 confirmed 29497
225.7022–1 Revised 29498
225.7023 Added; interim 34471
225.7023–1 Added; interim 34471
225.7023–2 Added; interim 34471
225.7023–3 Added; interim 34471
225.7102 Regulation at 58 FR 28468 confirmed **51132**
225.7103 Regulation at 58 FR 28468 confirmed **51132**
225.7104 Regulation at 58 FR 28468 confirmed **51132**
225.7200—225.7203 (Subpart 225.72) Regulation at 58 FR 28469 confirmed **51132**
Regulation at 59 FR 28469 confirmed 29497
225.7202 Amended 29499
225.7303–2 (a) revised **50511**
226 Authority citation revised 29497, 40106
226.7000 Regulation at 59 FR 27672 confirmed 29496
226.7100—226.7103 (Subpart 226.71) Regulation at 59 FR 12192 confirmed 29496
226.7100 Revised 5870
226.7101 Revised 29499
226.7103 Revised 29499
226.7104 Added 5870
226.7200 (a) amended 29499
227 Authority citation revised 33471, 40106
227.400 (Subpart 227.4) Revised 33471
227.7100—227.7108 (Subpart 227.71) Added 33471
227.7103–6 (b)(2) corrected 41157
227.7200—227.7207 (Subpart 227.72) Added 33482
228 Authority citation revised 29497, 40106
228.102–1 Introductory text revised 29499
228.171 Added; interim 45377
228.171–1 Added; interim 45377
228.171–2 Added; interim 45377
228.171–3 Added; interim 45377
229 Authority citation revised 40106
230 Authority citation revised 40106
231 Authority citation revised 29497, 40106
231.205–6 (a)(2) added; interim 2331
231.205–70 Added; interim 1748
(b)(4) amended 29499
231.303 (3) added 2331
Regulation at 59 FR 26144 confirmed 29496
231.603 Introductory text, (1) through (10), (11) introductory text, (i), (ii) and (12) through (15) redesignated as (1) introductory text, (i) through (x), (xi) introductory text, (xi)(A), (B) and (xii) through (xv); new (2) added; interim 2331
231.703 Revised 2331
(1) amended 29499

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232 Authority citation revised 29497, 40106
232.108 (1)(i) amended 29499
232.503–6 (b) added 29499
233 Authority citation revised 40106
234 Authority citation revised 40106
235 Authority citation revised 4570, 29497, 40106
235.001 Revised 29499
235.006 (a) and (b)(iv) added; interim 4570
(b)(i)(C)(*1*)(*iii*) revised 29500
235.010 Revised 29500
235.015–70 (d)(3)(ii) amended 29500
235.017–1 Added 13077, 29500
Correctly removed 40107
235.071 (c) and (d) added 29500
235.7000—235.7006 (Subpart 235.70) Added **52443**
235.7002 (a)(2) revised 15690
235.7003 (d)(9) added 15690
235.7004–1 (b) amended 15690
235.7004–2 (b) amended 15690
235.7004–3 (c) revised 15690
235.7006 (a) and Exhibit amended; (c) redesignated as (d); new (c) added 15690
236 Authority citation revised 40106
237 Authority citation revised 29497, 40106
237.104 (b)(ii) revised; interim 2888
237.7302 Amended 29500
237.7400—237.7402 (Subpart 237.74) Regulation at 59 FR 36089 confirmed 29496
237.7400 Amended 29500
237.7401 (c) amended; (d) added 29500
237.7402 Amended 29500
239 Authority citation revised 40106
241 Authority citation revised 40106
242 Authority citation revised 29497, 40106
242.302 (a)(7) added 29500
242.705–3 Added **53116**
242.1104 Revised 29500
242.1202 Added; interim 1749
242.1204 Added; interim 1749
242.7302 (a) revised; (d) added 29500
242.7500—242.7503 (Subpart 242.75) Added 29500
243 Authority citation revised 34468, 40106
243.171 Added 34470
244 Authority citation revised 29497, 40106
244.202—244.202–2 (Subpart 244.2) Added 29501
245 Authority citation revised 29497, 40106
245.608–70 (a)(3) revised 29501
246 Authority citation revised 33145, 40106
246.101 Amended; interim 33145
246.102 (4) amended; interim 33145
246.202–3 Revised; interim 33145
246.204 Revised; interim 33145
246.704 (4) revised; interim 33145
247 Authority citation revised 29497, 40106
247.270–5 Revised; interim **50852**
Regulation at 59 FR 50852 confirmed 29496
247.270–6 Revised; interim **50852**
247.305–70 Revised 29501
247.571 (c) revised; (d) removed; (e) redesignated as (d) 29501
247.573 (d) revised 29501
248 Authority citation revised 40106
249 Authority citation revised 29497, 40106
249.7003 Regulation at 59 FR 27674 confirmed 29497
(b)(1), (2) introductory text and (3) introductory text amended 29501
250 Authority citation revised 40106
251 Authority citation revised 29497, 40106
251.102 (e) introductory text revised; (f) added 29501
251.105 Added 29501
252 Authority citation revised 29497, 33471, 34471, 35668, 40106, 40107
252.203–7001 Regulation at 58 FR 28471 confirmed **51132**
252.209–7001 Revised; interim **51131**
Regulation at 58 FR 28471 confirmed **51132**
Regulation at 59 FR 51131 confirmed 29496
252.209–7002 Regulation at 58 FR 28471 confirmed **51132**
Amended; (a)(1), (2), (3) and (b) revised **51133**
252.209–7003 Added; interim **51131**
Regulation at 59 FR 51131 confirmed 29496
252.209–7004 Added; interim **51131**
Regulation at 59 FR 51131 confirmed 29496
(b)(5) amended 29502

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252.209–7007 Added; interim 13074
252.211–7015 Removed 33490
252.211–7016 Removed 33490
252.211–7017 Removed 33490
252.211–7021 Amended 33490
252.216–7002 Added 53116
252.219–7001 Regulation at 59 FR 24959 confirmed 29497
Amended 29502
252.219–7002 Regulation at 59 FR 24959 confirmed 29497
Amended 29502
252.219–7003 Regulation at 58 FR 28472 confirmed 51132
Regulation at 59 FR 27672 confirmed 29496
252.219–7004 Amended 35668
252.219–7006 Regulation at 59 FR 24959 confirmed 29497
Amended 29502
252.219–7007 Regulation at 58 FR 28472 confirmed 51132
252.219–7008 Regulation at 59 FR 27672 confirmed 29496
252.219–7009 Regulation at 58 FR 28472 confirmed 51132
Removed; interim 40107
252.222–7001 Regulation at 58 FR 28472 confirmed 51132
252.223–7006 Regulation at 58 FR 28472 confirmed 51132
Amended; introductory text revised 13076
252.225–7001 Regulation at 59 FR 1290 confirmed 29497
252.225–7006 Regulation at 59 FR 1290 confirmed 29497
252.225–7007 Regulation at 59 FR 1290 confirmed 29497
252.225–7009 Amended 29502
252.225–7010 Regulation at 59 FR 1291 confirmed 29497
Amended 29502
252.225–7011 Added; interim 34471
252.225–7016 Regulation at 58 FR 28473 confirmed 51132
252.225–7017 Amended; interim 19534
252.225–7025 Regulation at 58 FR 28473 confirmed 51132
252.225–7026 Regulation at 58 FR 28474 confirmed 51132
Regulation at 59 FR 28474 confirmed 29497
Amended 29502
252.225–7029 Revised; interim 19534
252.225–7033 Regulation at 58 FR 28474 confirmed 51132
252.225–7035 Regulation at 59 FR 1291 confirmed 29497
Amended 29502
252.225–7036 Regulation at 59 FR 1291 confirmed 29497
Amended 29502
252.225–7037 Regulation at 59 FR 1292 confirmed 29497
Amended 29503
252.225–7038 Regulation at 59 FR 11729 confirmed 29497
252.225–7039 Regulation at 59 FR 19146 confirmed 29497
252.225–7040 Added 29503
252.227–7013 Regulation at 58 FR 28474 confirmed 51132
Revised 33490
252.227–7014 Added 33493
252.227–7015 Added 33497
252.227–7016 Added 33498
252.227–7017 Added 33498
252.227–7018 Revised 33499
252.227–7019 Revised 33503
252.227–7020 Revised 33504
252.227–7021 Introductory text revised 33504
252.227–7022 Introductory text revised 33504
252.227–7023 Introductory text revised 33505
252.227–7024 Introductory text revised 33505
252.227–7025 Added 33505
252.227–7026 Introductory text revised 33505
252.227–7027 Introductory text revised 33505
252.227–7028 Revised 33505
252.227–7029 Removed 33505
252.227–7030 Introductory text revised 33505
252.227–7031 Removed 33505
252.227–7032 Introductory text revised 33505
252.227–7033 Introductory text revised 33505
252.227–7036 Introductory text revised 33505
252.227–7037 Revised 33505
252.228–7007 Added; interim 45377
252.231–7001 Regulation at 58 FR 28474 confirmed 51132
252.233–7000 Regulation at 58 FR 28475 confirmed 51132

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252.235–7010 Added 29503
252.235–7011 Added 29503
252.237–7020 Regulation at 58 FR 28475 confirmed 51132
252.237–7021 Regulation at 58 FR 28475 confirmed 51132
252.237–7022 Regulation at 59 FR 36090 confirmed 29496
Amended 29503
252.247–7021 Revised 29503
252.247–7025 Revised 29503
252.249–7002 Regulation at 59 FR 27677 confirmed 29497
Amended 29503
252.251–7000 Amended 29503
253 Authority citation revised 29497, 35868, 40106
253.204–70 (b)(13)(iv), (ix), (c)(4)(viii) and (d)(5)(iv)(A)(*2*) revised; (c)(4)(iii)(A)(*6*) added; (d)(5)(iv)(A)(*7*) removed 35868
253.204–71 (e)(2)(i)(A)(*3*) revised 35869
253.209–1 (a)(i)(E) revised 29504
253.215–70 Amended 29504
Chapter 2 Appendix C amended 29497, 29504
Appendixes A through I amended 40106

Chapter 3—Department of Health and Human Services (Parts 300—399)

Chapter 3 Attachment I corrected; CFR correction 36740

Chapter 5—General Services Administration (Parts 500—599)

501.103 (b) revised 42794
501.105 Revised (OMB numbers) 63260
501.601 Revised 40108
501.602–1 Removed 40108
501.603 Removed 40108
501.603–3 Removed 40108
501.603–4 Removed 40108
501.603–70 Removed 40108
502.101 Amended 21467
503.104–10 (a), (b)(3) and (c) revised 42794
503.404 (a) revised 42794
503.570–2 Amended 42802
504.800 Amended 42802
505.101 (c) introductory text revised 42794
(b) amended 42802
505.202 (a) introductory text revised; (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2) 42794
505.203 (b) revised 42794
505.240–70 (b) amended 42802
505.303–70 (a)(4) and (b)(1) amended 42802
505.503 Amended 42802
506.001 Added 42794
506.304 Introductory text revised 21467
507.100 Removed 42794
507.102 Amended 42802
507.104 (c), (e) introductory text and (2) revised 42802
510.004 (b)(2) amended 42802
510.011 (a), (e), (g) and (i) revised; (j) removed 42802
512.104 (b) amended 42803
513 Heading revised 42803
513.106 (c)(2) revised 21467
Revised 42803
513.204 Removed 42803
513.501 Removed 42803
513.505–2 (c) and (d) amended 42803
513.505–3 (a) revised 42803
513.505–70 Revised 42803
513.7001 (d)(1), (2) and (4) removed; (b)(3) and (d)(3) redesignated as (b)(4) and (d)(2); new (b)(3) and new (d)(1) added; new (b)(4) and (c) revised 42803
514.203–1 Heading revised 42803
514.205–1 (a) amended 42803
514.370 Amended 42803
514.402–1 (b) amended 42803
514.406 Redesignated as 514.407 42804
514.406–3 Redesignated as 514.407–3 42804
514.406–4 Redesignated as 514.407–4 42804
514.407 Redesignated as 514.408 42803
Redesignated from 514.406 42804
514.407–1 Redesignated as 514.408–1 42803
514.407–3 Redesignated from 514.406–3 and revised 42804
514.407–4 Redesignated from 514.406–4 42804
514.407–6 Redesignated as 514.408–6 42803
514.407–70 Redesignated as 514.408–70 42803

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514.407–71 Redesignated as 514.408–71 42803
514.407–72 Redesignated as 514.408–72 42803
514.408 Redesignated as 514.409 42803
Redesignated from 514.407 42803
514.408–1 Redesignated as 514.409–1 42803
Redesignated from 514.407–1; (a), (b) and (c) amended 42803
(c) corrected 44387
514.408–6 Redesignated from 514.407–6 42803
514.408–70 Redesignated as 514.409–70 42803
Redesignated from 514.407–70 42803
514.408–71 Redesignated from 514.407–71 42803
514.408–72 Revised 42803
Redesignated from 514.407–72 42803
514.409 Redesignated from 514.408 42803
514.409–1 Redesignated from 514.408–1 42803
514.409–70 Redesignated from 514.408–70 42803
515.1001 Removed 42804
515.1070 (b), (c) introductory text and (1) amended 42804
519.001 Revised 39661
519.201 Revised 39661
519.202–2 (c) revised 39661
519.304 Removed 39661
519.705–2 Revised 42794
519.708 (c) revised; (d)(1) removed; (d)(2) and (3) redesignated as (d)(1) and (2) 42795
523.370 Revised 42804
525.203 Revised **64856**
525.205 Revised **64857**
525.402 (a) revised **64857**
528.310 Amended 42804
529.401–70 Revised 42804
532.111 (c) and (d) revised 42804
536.570–2 Amended 42804
536.570–4 (c) amended 42804
536.570–5 Amended 42804
536.570–8 Amended 42804
536.570–9 Amended 42804
536.570–13 Amended 42804
536.570–14 Amended 42804
538.203–7 (d) revised **63260**
538.203–71 Heading revised; (e) added **52451**
(a) revised; (f) added 19361
538.272 Added **52451**
543.205 (a) and (b)(2) amended 42804
546.403 Introductory text amended 42804
546.710 (e) amended 42804
552.203–72 Amended 42795
552.219–1 Removed 39661
552.225–8 Revised **64857**
552.225–9 Revised **64857**
552.225–72 Amended **64858**
Amended 21467
552.225–75 Revised **64858**
552.238–72 Heading revised; amended 19361
552.238–75 Revised **63260**
552.238–76 Added **52452**
552.238–77 Added 19362
(b)(1) corrected 45528
552.270–1 Introductory text revised 42795
552.270–2 Introductory text revised 42795
552.270–3 Amended; introductory text revised 42795
552.270–4 Amended **52253**
Introductory text revised 42795
552.270–5 Introductory text revised 42795
552.270–6 Introductory text revised 42795
552.270–10 Introductory text revised 42795
552.270–11 Introductory text revised 42795
552.270–12 Introductory text revised 42795
552.270–13 Introductory text revised 42795
552.270–15 Introductory text revised 42795
552.270–16 Introductory text revised 42795
552.270–17 Introductory text revised 42795
552.270–18 Introductory text revised 42795
552.270–19 Introductory text revised 42795
552.270–20 Amended 19363
Introductory text revised 42795
552.270–21 Amended **52253**
Amended; introductory text revised 42795
552.270–22 Introductory text revised 42796
552.270–23 Removed 42796
552.270–24 Removed 42796

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552.270–25 Amended **52253**
Introductory text revised 42796
552.270–27 Introductory text revised 42796
552.270–28 Amended **52253**
Introductory text revised 42796
552.270–30 Introductory text revised 42796
552.270–31 Revised **52253**
Introductory text revised 42796
552.270–32 Introductory text revised 42796
552.270–33 Introductory text revised 42796
552.270–34 Introductory text revised 42796
552.270–35 Introductory text revised 42796
552.270–36 Introductory text revised 42796
552.270–37 Introductory text revised 42796
552.270–38 Introductory text revised 42796
552.270–39 Introductory text revised 42796
552.270–40 Introductory text revised 42796
552.270–41 Added **52253**
Introductory text revised 42796
552.300 Amended 42804
570.102 Amended 19363, 42796
570.104 Revised 42796
570.105 Revised 42796
570.201—570.204–5 (Subpart 570.2) Revised 42796
570.208–3 Removed 19363
570.301—570.311 (Subpart 570.3) Revised 42797
570.304–5 Revised 19363
570.501 (d) and (e) removed 19363
570.502 (a) (b)(1), (2), (3)(ii) and (iii)(B) revised 42799
570.503 (a), (b) introductory text and (c) revised 42799
570.504 Revised 42800
570.505 (a) revised 42800
570.602–1 (a) and (b) amended 42800
570.602–2 (c)(3) amended 19363
(e)(3) and (g) amended 42800
570.701—570.704 (Subpart 570.7) Revised 42800
570.702–22 Revised **52254**
570.702–32 Added **52254**
570.801 Revised 42801
570.802 (c), (e), (f) and (g) removed; (d) redesignated as (c) 19363
Revised 42801

Chapter 6—Department of State (Parts 600—699)

600.000 Amended **66750**
601 Authority citation revised **66750**
601.101—601.105 (Subpart 601.1) Added **66750**
601.201–1 Amended **66750**
601.301 Revised **66751**
601.302 (a) amended **66751**
601.303 (c) revised **66751**
601.403 Amended **66751**
601.404 Amended **66751**
601.405 Amended **66751**
601.470 Amended **66751**
601.471 (a) introductory text amended; (a)(1) and (b) revised **66751**
601.570 Revised **66751**
601.601—601.603–70 (Subpart) Heading revised 39662
601.602–1 (a) and (b) amended **66751**
601.602–3 (b)(1) and (c) amended; (b)(2) revised **66751**
601.602–3–70 Revised **66751**
601.603–3 Revised **66752**
601.603–70 Revised **66752**
(b)(5) and (6) amended 39662
601.670 Revised **66753**
602 Authority citation revised **66750**
602.101–70 Amended **66753**
Amended 39662
602.201—602.201–70 (Subpart 602.2) Removed **66753**
603 Authority citation revised **66750**
603.104—603.104–11 (Subpart 603.1) Added **66753**
603.203 Amended **66754**
603.303 (c) amended **66754**
603.601 Added **66754**
603.670 Added **66754**
603.704—603.705 (Subpart 603.7) Added **66754**
604 Authority citation revised **66750**
604.202 Amended **66754**
604.7002 (a) and (b) revised; (c) amended **66754**
605 Authority citation revised **66750**
605.202–70 (a), (c)(1) and (2) introductory text amended; (b), (c)(2)(i), (ii) and (d) revised; (e) added **66754**

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Revised 39662
605.207 (a)(1) added 66755
605.303 (Subpart 605.3) Added 66755
605.403 Added 66755
605.502 Revised 66755
606 Authority citation revised 66750
606.101–70 Amended 66755
606.302–1 Added 66755
606.302–4 Added 66755
606.302–6 Added 66755
606.303–1 Amended 66755
606.304 (a)(2) and (d) added 66755
606.304–70 Revised 66756
606.370 Added 66756
606.501 Revised 66756
606.570 Added 66756
Revised 39662
608 Authority citation revised 66750
608.402—608.402–70 (Subpart 608.4) Removed 66756
609 Authority citation revised 66750
609.202 Amended 66756
609.404 Amended 66756
609.405 Revised 66756
(d)(4)(i) amended 39662
609.405–70 (c) removed; introductory text, (a) and (b) redesignated as (a), (b) and (c); new (a) revised 66756
610 Added 66756
610.002–70 (d)(5)(i) amended 39662
613 Authority citation revised 66750
Heading revised 39662
613.6–70 Added 66758
613.103–70 (a) and (b) designation removed 66757
Amended 39662
613.403 Redesignated from 613.404 and amended 39662
613.404 Redesignated as 613.403 39662
613.502–2 Revised 66758
613.505–1 Added 66757
Revised 39662
613.505–2 Removed 39663
613.505–70 Added 66758
613.507 Revised 39663
613.507–70 Amended 66758
Revised 39663
613.601–70 (b) revised 39663
614 Authority citation revised 66750
614.201–7–70 (a)(1) and (d) removed; (a)(2) redesignated as (a); (b) amended; (c) revised 66758
614.404–1 Amended 66758
615 Authority citation revised 66750
615.106–70 Amended 66758
615.403—615.413–2 (Subpart 615.4) Added 66758
615.504—615.506 (Subpart 615.5) Added 66758
615.604 Added 66759
615.607 Amended 66759
615.608 Amended 66759
616 Authority citation revised 66750
616.000 Added 39663
616.102–70 Revised 66759
616.203–4 Amended 66759
616.301–3 Amended 66759
616.306 Amended 66759
616.603–2 Amended 66759
617 Authority citation revised 66750
617.102–2 Amended 66759
617.102–3 Added 66759
617.201–70 Amended 66759
617.204 Added 66759
617.207 Removed 66759
617.207–70 Removed 66759
617.502 Amended 66759
617.504–70 Added 66759
619 Authority citation revised 66750
Nomenclature change 66759
619.201 (c) and (d)(5) amended 66759
(d)(5) amended 39663
619.501 Added 66759
(c) amended 39663
619.506 Added 66759
619.705–1 Added 66760
619.705–3 Amended 66760
619.705–6–70 (b) amended 66760
619.708–70 Added 66760
619.801 Revised 66760
619.810 Added 66760
619.812 Added 66760
619.870 (b) amended 66760
622 Authority citation revised 66750
622.401 Added 66760
622.404–6 (b)(6) added 66760
622.406–3 Added 66760
623 Authority citation revised 66750
623.302–70 (Subpart 623.3) Added 66760
623.470—623.480 (Subpart 623.4) Added 66760
625 Authority citation revised 66750
625.102 Revised 66762
625.108 Amended 66762
625.202 Revised 66762
625.203 Added 66762
625.304 Amended 66762
625.703 Revised 39663
625.901 Revised 66762

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625.1003 (Subpart 625.10) Removed 66762
627 Added 66763
628 Authority citation revised 66750
628.101—628.106–6 (Subpart 628.1) Added 66763
628.203—628.203–7 (Subpart 628.2) Added 66763
628.305—628.307–70 (Subpart 628.3) Added 66763
631 Added 66764
632 Authority citation revised 66750
632.111—632.111–70 (Subpart 632.1) Removed 66764
632.402 Existing text designated as (c)(1)(iii); (b) added 66764
632.407 Added 66764
632.703–3 (Subpart 632.7) Added 66764
632.803 (Subpart 632.8) Added 66764
632.908 Added 66764
633 Authority citation revised 66750
633.104 Introductory text removed; (a)(1) amended 66764
633.105 Introductory text removed; (a) and (c) amended 66764
633.214–70 Added 66764
634 Authority citation revised 66750
634.001 (b) and (c) amended 66766
634.001–70 Amended 66766
634.003 (a) revised; (b) amended 66766
634.005 Added 66766
634.005–6 Added 66766
636 Authority citation revised 66750
636.101–70 Amended 66766
636.602 Revised 66766
636.602–5 Amended 39663
637 Authority citation revised 66750
637.104–70 (f) amended 66766
(b) and (c) amended 39663
637.106 Added 66766
637.110 Revised 66766
637.204—637.270 (Subpart 637.2) Removed 66766
639 Added 66766
642 Authority citation revised 66750
642.270 Revised 66766
642.271 Amended 66766
643 Authority citation revised 66750
643.102–70 (b) revised 66767
647 Added 66767
649 Added 66767
651 Added 66767
652 Authority citation revised 66750
652.202–70 Removed 66767
652.203–70 Added 66767
652.203–71 Added 66767
652.206–70 Added 66767
652.214–70 Removed; new 652.214–70 redesignated from 652.214–71 and amended 66767
652.214–71 Redesignated as 652.214–70; new 652.214–71 redesignated from 652.214–72 and amended 66767
652.214–72 Redesignated as 652.214–71 66767
652.216–70 Amended 66768
652.216–71 Added 66768
652.219–70 Added 66768
652.223–70 Added 66768
652.223–71 Added 66768
652.223–72 Added 66768
652.223–73 Added 66769
652.223–74 Added 66769
652.223–75 Added 66769
652.223–76 Added 66769
652.223–77 Added 66769
652.223–78 Added 66769
652.228–71 Added 66770
652.228–72 Added 66770
652.228–73 Added 66770
652.228–74 Added 66771
652.228–75 Added 66771
652.228–76 Added 66771
652.228–77 Added 66771
652.232–70 Revised 66771
652.232–71 Revised 66772
652.237–70 Revised 66772
652.237–71 Added 66772
652.237–72 Added 66772
652.242–70 Amended 66772
652.242–72 Amended 66772
653 Authority citation revised 66750
653.213 Heading revised 39663
653.213–70 Revised 66773
Heading revised; (b) amended 39663
653.217 Added 66773
653.217–70 Added 66773
653.219 Added 66773
653.219–70 Added 66773
Heading revised 39663
653.302 Removed 66773
670 (Subchapter I) Removed 66773

Chapter 7—Agency for International Development (Parts 700—799)

701 Technical correction 12825
701.601 (b)(4) amended 11912

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703 Technical correction 12825
703.104–5 (Subpart 703.1) Added 11912
703.403 Amended 11912
715 Technical correction 12825
715.413–2 (Subpart 715.4) Added 11912
731 Technical correction 12825
731.205–6 (d) amended 11913
731.371 (b) amended 11913
752 Technical correction 12825
752.7004 (b)(5) amended 11913
752.7035 Amended 11913
Chapter 7 Appendix G revised 11913
Appendix G corrected 13212

Chapter 9—Department of Energy (Parts 900—999)

901.103 Amended; eff. 10–12–95 47307
901.103–70 Removed; eff. 10–12–95 47307
901.104–3 (a) amended; (a) designation and (b) removed; eff. 10–12–95 47307
901.170 Removed; eff. 10–12–95 47307
901.301–71 Removed; eff. 10–12–95 47307
901.301–72 (a), (b) and (c) removed; eff. 10–12–95 47307
901.601–70 Removed; eff. 10–12–95 47307
901.603–70 Removed; eff. 10–12–95 47307
901.603–71 Removed; eff. 10–12–95 47307
901.603–72 (a) designation and (b) removed; eff. 10–12–95 47307
902.101 (Subpart 902.1) Removed; eff. 10–12–95 47307
903.101–3 Amended; eff. 10–12–95 47307
904.402 (b) amended; (c), (d) and (k) removed; eff. 10–12–95 47307
904.403 Removed; eff. 10–12–95 47307
904.601 Removed; eff. 10–12–95 47307
904.601–70 Removed; eff. 10–12–95 47307
904.601–71 (a), (b) and (c) designation removed; eff. 10–12–95 47307
904.702 (b) amended; eff. 10–12–95 47307
905.205 (Subpart 905.2) Removed; eff. 10–12–95 47307
905.303 (Subpart 905.3) Removed; eff. 10–12–95 47307
906.303–1 (a) amended; eff. 10–12–95 47307
907.102 (Subpart 907.1) Removed; eff. 10–12–95 47307
907.401—907.402–70 (Subpart 907.4) Removed; eff. 10–12–95 47307
908.802 (b) amended; eff. 10–12–95 47307
908.7001 (Subpart 908.70) Removed; eff. 10–12–95 47307
908.7200—908.7201 (Subpart 908.72) Removed; eff. 10–12–95 47307
909.404 Removed; eff. 10–12–95 47307
909.500 Amended **66264**
909.570–3 Amended **66264**
909.570–4 (a) amended; (b)(4) and (7) revised **66264**
909.570–5 Revised **66264**
909.570–6 Revised **66265**
909.570–7 Revised **66265**
909.570–8 Revised **66265**
909.570–9 (a) introductory text revised; (a)(3) amended **66265**
909.570–10 Revised **66266**
909.570–12 Revised **66266**
909.570–14 (b)(4), (5), (7), (8) and (12) revised; (b)(6), (9) and (11) amended **66266**
909.570–15 (a) amended **66266**
910 Removed; eff. 10–12–95 47307
912.503 (Subpart 912.5) Removed; eff. 10–12–95 47307
913.505–3 Removed; eff. 10–12–95 47308
914.201–5—914.201–70 (Subpart 914.2) Removed; eff. 10–12–95 47308
914.401 Removed; eff. 10–12–95 47308
914.402–1 Removed; eff. 10–12–95 47308
915.406–5 Removed; eff. 10–12–95 47308
915.610 Removed; eff. 10–12–95 47308
915.801 Removed; eff. 10–12–95 47308
915.804–8 Removed; eff. 10–12–95 47308
915.804–70 Revised 18032
Removed; eff. 10–12–95 47308
915.805–5 (c)(1) revised 30004
915.805–70 (a), (b), (c) and (f) removed; (d) and (e) redesignated as (a) and (b); eff. 10–12–95 47308
915.807 Removed; eff. 10–12–95 47308
915.808 Removed; eff. 10–12–95 47308
915.970–8 (d)(1) introductory text revised 30004
916.207 Removed; eff. 10–12–95 47308

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916.301–3 Removed 18032
916.303 Removed; eff. 10–12–95 47308
916.603—916.603–2 (Subpart 916.6) Removed; eff. 10–12–95 47308
917.502—917.505–71 (Subpart 917.5) Removed **64790**
919.705–2 Removed; eff. 10–12–95 47308
919.705–5 Removed; eff. 10–12–95 47308
919.708 Removed; eff. 10–12–95 47308
920 Removed; eff. 10–12–95 47308
922.470—922.473 (Subpart 922.4) Removed; eff. 10–12–95 47308
923.471 (Subpart 923.4) Added; eff. 10–13–95 47492
924 Removed; eff. 10–12–95 47308
925.501 (Subpart 925.5) Removed; eff. 10–12–95 47308
926 Added 22300
927.200—927.207–1 (Subpart 927.2) Added 11815
927.300 Added 11815
927.302 Added 11815
927.303 Added 11815
927.304 Added 11815
928.103–2 Removed; eff. 10–12–95 47308
928.202–1—928.202–71 (Subpart 928.2) Removed; eff. 10–12–95 47308
931.205–18 Revised 30004
933.104 (b)(1) and (c) amended; (c)(1) and (2) designation removed; eff. 10–26–95 49516
933.170 Removed 28740
933.211 (Subpart 933.2) Removed; eff. 10–12–95 47308
935.007 Removed; eff. 10–12–95 47308
935.015 Removed; eff. 10–12–95 47308
936.202 (a) and (b) removed; (c) through (j) redesignated as (a) through (h); eff. 10–12–95 47308
937.207 (Subpart 937.2) Removed; eff. 10–12–95 47308
937.7010 Removed; eff. 10–12–95 47308
937.7020 Removed; eff. 10–12–95 47308
937.7030 Removed; eff. 10–12–95 47308
939 Added 39873
Corrected 45528
942.000 Removed; eff. 10–12–95 47308
942.001 Removed; eff. 10–12–95 47308
942.002 Removed; eff. 10–12–95 47308
942.003 (a) revised 30004
Removed; eff. 10–12–95 47308
942.101 (a)(2) removed; (a)(3) redesignated as (a)(2); (c) revised 30004
Removed; eff. 10–12–95 47308
942.202 (Subpart 942.2) Removed; eff. 10–12–95 47308
942.705–1 Revised 30004
942.705–3 Revised 30005
942.705–4 Revised 30005
942.705–5 Revised 30005
942.708 Removed; eff. 10–12–95 47308
942.1004—942–1008 (Subpart 942.10) Removed 30005
942.1401—942.1403–2 (Subpart 942.14) Removed; eff. 10–12–95 47308
942.7003–6 Revised 30005
942.7004 Revised 30005
943 Removed; eff. 10–12–95 47308
944.101 (Subpart 944.1) Removed; eff. 10–12–95 47308
944.202–1—944.203 (Subpart 944.2) Removed; eff. 10–12–95 47308
945.104–70 Removed; eff. 10–12–95 47308
945.304 Removed; eff. 10–12–95 47308
945.501 Removed; eff. 10–12–95 47308
945.502–70 Removed; eff. 10–12–95 47308
945.502–71 Removed; eff. 10–12–95 47308
945.502–72 Removed; eff. 10–12–95 47308
945.508 Removed; eff. 10–12–95 47308
945.570 Removed; eff. 10–12–95 47308
945.570–1 Removed; eff. 10–12–95 47308
945.570–3 Removed; eff. 10–12–95 47308
945.570–4 Removed; eff. 10–12–95 47308
945.570–5 Removed; eff. 10–12–95 47309
945.570–6 Removed; eff. 10–12–95 47309
945.570–9 Removed; eff. 10–12–95 47309
947.102—947.104–3 (Subpart 947.1) Removed; eff. 10–12–95 47309
949.108–4 Removed; eff. 10–12–95 47309
949.108–8 Removed; eff. 10–12–95 47309
949.112–1 Removed; eff. 10–12–95 47309

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949.206-1—949.206-2 (Subpart 949.2) Removed; eff. 10-12-95 47309
949.303-1 (Subpart 949.3) Removed; eff. 10-12-95 47309
951.201 (Subpart 951.2) Removed; eff. 10-12-95 47309
951.7000 Revised 30005
Removed; eff. 10-12-95 47309
951.7001 Revised 30005
Removed; eff. 10-12-95 47309
952.209-70 Revised 66266
952.209-71 Removed 66267
952.209-72 Heading revised; amended 66267
952.226-70 Added 22301
952.226-71 Added 22301
952.226-72 Added 22302
952.226-73 Added 22302
952.227-9 Added 11817
952.227-11 Added 11817
952.227-13 Added 11819
952.227-71 Removed 11822
952.251-70 (a) amended 30005
970 Authority citation revised 18032
970.2304 Added; eff. 10-13-95 47492
970.2601 (Subpart 970.26) Added 22302
970.2701 Revised 11822
970.2702 Revised 11822
970.2703 Added 11823
970.2704 Added 11823
970.2705 Added 11823
970.2706 Added 11823
970.3001-1 Revised 30006
970.3001-2 Revised 30006
970.3102-17 (c)(2)(i) revised; (c)(6) added 30006
970.5203-1 Amended; eff. 10-26-95 49516
970.5204-7 Added; eff. 10-26-95 49516
970.5204-21 Amended; eff. 10-26-95 49516
970.5204-22 Revised; eff. 10-26-95 49516
970.5204-24 Amended 18032
Amended; eff. 10-26-95 49517
970.5204-36 Heading revised; amended 66267
970.5204-39 Added; eff. 10-13-95 47492
970.5204-44 Added; eff. 10-26-95 49517
970.5204-45 Introductory text amended; eff. 10-26-95 49518
970.5204-50 Introductory text amended; eff. 10-26-95 49518
970.5204-71 Added 11824
970.5204-72 Added 11824
970.7101 (c) and (d) removed 28741
970.7102 (a), (b)(3) and (4) amended 28741
970.7103 Revised 28741
970.7104 Removed; eff. 10-26-95 49518
970.7104-1 Removed; eff. 10-26-95 49518
970.7104-2 Removed; eff. 10-26-95 49518
970.7104-3 Removed; eff. 10-26-95 49518
970.7104-4 Removed; eff. 10-26-95 49518
970.7104-5 Removed; eff. 10-26-95 49518
970.7104-6 Removed; eff. 10-26-95 49518
970.7104-7 Removed; eff. 10-26-95 49518
970.7104-8 Removed; eff. 10-26-95 49518
970.7104-9 Removed; eff. 10-26-95 49518
970.7104-10 Removed; eff. 10-26-95 49518
970.7104-11 (a)(1)(i) and (ii) revised 18032
Removed; eff. 10-26-95 49518
970.7104-12 (f) redesignated as (g); new (f) added 22302
Removed; eff. 10-26-95 49518
970.7104-13 Removed; eff. 10-26-95 49518
970.7104-14 Removed; eff. 10-26-95 49518
970.7104-15 Removed; eff. 10-26-95 49518
970.7104-16 Removed; eff. 10-26-95 49518
970.7104-17 Removed; eff. 10-26-95 49518
970.7104-18 Removed; eff. 10-26-95 49518
970.7104-19 Removed; eff. 10-26-95 49518
970.7104-20 Removed; eff. 10-26-95 49518
970.7104-21 Removed; eff. 10-26-95 49518
970.7104-22 Removed; eff. 10-26-95 49518
970.7104-23 Removed; eff. 10-26-95 49518
970.7104-24 Removed; eff. 10-26-95 49518

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970.7104-25 Removed; eff. 10-26-95 49518
970.7104-26 Removed; eff. 10-26-95 49518
970.7104-27 Removed; eff. 10-26-95 49518
970.7104-28 Removed; eff. 10-26-95 49518
970.7104-29 Removed; eff. 10-26-95 49518
970.7104-30 Removed; eff. 10-26-95 49518
970.7104-31 Removed; eff. 10-26-95 49518
970.7104-32 Removed; eff. 10-26-95 49518
970.7104-33 Revised 30006
Removed; eff. 10-26-95 49518
970.7104-34 Removed; eff. 10-26-95 49518
970.7104-35 Removed; eff. 10-26-95 49518
970.7104-36 Removed; eff. 10-26-95 49518
970.7104-37 Removed; eff. 10-26-95 49518
970.7104-38 Removed; eff. 10-26-95 49518
970.7104-39 Removed; eff. 10-26-95 49518
970.7104-40 Removed; eff. 10-26-95 49518
970.7104-41 Removed; eff. 10-26-95 49518
970.7104-42 Removed; eff. 10-26-95 49518
970.7104-43 Removed; eff. 10-26-95 49518
970.7104-44 Removed; eff. 10-26-95 49518
970.7104-45 Removed; eff. 10-26-95 49518
970.7104-46 Removed; eff. 10-26-95 49518
970.7104-47 Removed; eff. 10-26-95 49518
970.7106 Removed 28741
970.7107 Removed 28741
971.200—971.203 (Subpart 971.2) Removed; eff. 10-12-95 47309
971.300—971.301 (Subpart 971.3) Removed; eff. 10-12-95 47309

Chapter 13—Department of Commerce (Parts 1300—1399)

1301.201-1 (Subpart 1301.2) Removed 47309
1301.301—1301.303 (Subpart 1301.3) Removed 47309
1301.402 (Subpart 1301.4 Removed 47309
1301.501 (Subpart 1301.5) Removed 47309
1301.601 Removed 47309
1301.601-70 Removed 47309
1301.603 Removed 47309
1301.603-70 (a)(2) and (3) removed; (a)(4) redesignated as (a)(2) 47309
1301.603-71 Removed 47309
1302 Removed 47309
1304 Removed 47309
1305 Removed 47309
1306 Removed 47309
1307 Removed 47309
1308 Removed 47309
1309.470—1309.470-7 (Subpart 1309.4) Revised 47309
1314 Removed 47309
1315.501 Removed 47309
1315.504 (a) removed; (b) and (c) redesignated as (a) and (b) 47309
1315.506 (a), (b) and (c) removed; (d) through (g) redesignated as (a) through (d) 47309
1315.608—1315.612 (Subpart 1315.6) Removed 47309
1315.804-3 Removed 47309
1315.805-70 (a) and (b) removed; (c) redesignated as (a) 47309
1316.306 (Subpart 1316.3) Removed 47309
1316.603-3 (Subpart 1316.6) Removed 47309
1317.402 (Subpart 1317.4) Removed 47309
1317.502 (Subpart 1317.5) Removed 47309
1319.201 Removed 47310
1319.705-5 Removed 47310
1319.7001 Removed 47310
1319.7002 (b) removed 47310
1322 Removed 47310
1324 Removed 47310
1325 Removed 47310
1331 Removed 47310

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1332.402 (Subpart 1332.4) Removed 47310
1332.605—1332.616 (Subpart 1332.6) Removed 47310
1333.102 Removed 47310
1333.104 (a)(3), (4) and (f) removed 47310
1333.105 (a)(2), (b) and (d) removed 47310
1333.209 Removed 47310
1334 Removed 47310
1336.602–4 Removed 47310
1336.603 Removed 47310
1337 Removed 47310
1342.102–70 (c) and (d) removed 47310
1345 Removed 47310

Chapter 14—Department of the Interior (Parts 1400—1499)

1404 Removed 30792
1405 Removed 30792
1406 Removed 30792
1407 Removed 30792
1409 Removed 30792
1410 Removed 30792
1413 Removed 30792
1414 Removed 30792
1419 Removed 30792
1420 Removed 30792
1424 Removed 30792
1432 Removed 30792
1433 Removed 30792
1436 Removed 30792
1437 Removed 30792
1442 Removed 30792

Chapter 15—Environmental Protection Agency (Parts 1500—1599)

1501.101 Revised 38505
1501.303 Removed 38505
1501.304 Removed 38505
1501.404 Removed 38505
1501.602–3 (c)(2) revised 38505
1503.101–3 Removed 38505
1503.103–2 Removed 38505
1503.203 Amended 21993
Removed 38505
1503.270 (b) amended 21993
1503.301 Removed 38505
1503.406–1 Removed 38505
1503.409 Removed 38505
1503.502 Removed 38505
1503.602 Revised 38505
1503.603 Removed 38505
1505.202 Revised 38505
1505.270 Removed 38505
1505.271 Removed 21993
1505.401 Removed 38505
1505.502 Removed 38505
1506.202 Removed 38505
1506.301 Removed 38505
1506.302 Removed 38505
1506.302–1 Removed 38505
1506.303 Removed 38505
1506.370 Removed 38505
1506.372 Removed 38505
1509.105–2 Removed 38505
1509.105–3 Removed 38505
1509.506 Removed 38505
1509.508 Removed 38505
1513.570 (c) revised 21993
1514.205–1 Removed 38505
1514.404–1 Removed 38505
1514.406–3 Amended 21993
Removed 38505
1514.406–4 Removed 38505
1515.403 Removed 38505
1515.506 Amended 21993
1515.608 (b)(2) and (c)(2) removed; (b)(3), (c)(1) introductory text, (i), (ii) and (iii) redesignated as (b)(2), (c) introductory text, (1), (2) and (3); (b) introductory text, new (2) introductory text and new (c) heading revised 38505
1515.610–70 Removed 38505
1515.612 (a)(1) introductory text and (2) introductory text amended 21993
1515.804–3 Removed 38505
1515.1003 Removed 38505
1516.404–270 Revised; eff. 10–20–95 43404
1516.404–271 Revised; eff. 10–20–95 43404
1516.404–272 Revised; eff. 10–20–95 43404
1516.404–273 Revised; eff. 10–20–95 43404
1516.404–274 Revised; eff. 10–20–95 43404
1516.404–275 Removed; eff. 10–20–95 43404
1516.404–276 Removed; eff. 10–20–95 43404
1516.404–277 Removed; eff. 10–20–95 43404
1516.404–278 Removed; eff. 10–20–95 43404

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1516.404–279 Removed; eff. 10–20–95 43404
1516.404–2710 Removed; eff. 10–20–95 43404
1516.405 Revised; eff. 10–20–95 43404
1517.202 Removed 12713
1517.204 Added 12713
1519.602–1 Removed 38505
1520.102 Removed 38505
1520.303 Removed 38505
1522.103–4 Removed 38505
1522.608–3 Amended 21993
Removed 38505
1522.608–4 Removed 38505
1522.608–6 Removed 38505
1522.1003 Revised 21994
Removed 38505
1522.1306 Removed 38505
1522.1403 Removed 38505
1522.1406 Removed 38505
1524.202 Removed 38505
1525.102 Revised 21994
Removed 38505
1530.304 Removed 38505
1531.101 Removed 38505
1532.102 Revised 38505
1532.402 Removed 38505
1532.407 Removed 38505
1532.409–2 Removed 38505
1532.412 Removed 38505
1533.209 Removed 38505
1533.211 Removed 38505
1536.203 Removed 38505
1536.602–4 Removed 38505
1536.602–5 Removed 38505
1536.604 Removed 38505
1536.605 Removed 38505
1542.708 (a)(1) and (2) amended 21994
1545.403 Removed 38505
1552.210–75 Introductory text amended 21994
1552.210–76 Introductory text amended 21994
1552.210–77 Introductory text amended 21994
1552.210–78 Introductory text amended 21994
1552.216–70 Revised; eff. 10–20–95 43404
1552.216–75 Added; eff. 10–20–95 43404

Chapter 16—Office of Personnel Management Federal Employees Health Benefits Acquisition Regulation (Parts 1600—1699)

1604.7101 (Subpart 1604.71) Added; interim 16057
1652.204–72 Added; interim 16057
1652.215–70 Heading revised; amended; interim 62346

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1801.000 Revised 40509
1801.101 Removed 40509
1801.102 (a) and (b) revised 40509
Redesignated as 1801.103 47704
1801.103 Redesignated as 1801.104; new 1801.103 redesignated from 1801.102 47704
1801.104 Redesignated as 1801.105; new 1801.104 redesignated from 1801.103 47704
1801.104–1 (a)(3) revised 40509
Redesignated as 1801.105–1 47704
1801.104–2 Revised 40509
Redesignated as 1801.105–2 47704
1801.104–3 Revised 40509
Redesignated as 1801.105–3 47704
1801.104–370 (a) amended 66268
(a), (e) and (f) amended 16059
Revised 40509
Redesignated as 1801.105–370 47704
1801.105 Revised (OMB numbers) 40509
Redesignated as 1801.106; new 1801.105 redesignated from 1801.104 47704
1801.105–1 Redesignated from 1801.104–1; (b) amended 47704
1801.105–2 Redesignated from 1801.104–2 47704
1801.105–3 Redesignated from 1801.104–3 47704
1801.105–370 Redesignated from 1801.104–370 47704
1801.106 Redesignated from 1801.105 47704
1801.270—1801.272 (Subpart 1801.2) Revised 40509
1801.270 Amended 66268

NOTE: Boldface page numbers indicate 1994 changes.

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1801.271 (a)(1) amended; (a)(2) revised **66268**
1801.272–1 Amended **66268**
1801.301 (b) introductory text, (1) introductory text and (2)(i) revised 40510
1801.303 Revised 40510
1801.400 Revised 40510
1801.401 Removed 40510
1801.402 Removed 40510
1801.403 Removed 40510
1801.404 Removed 40510
1801.405 Removed 40510
1801.470 Removed 40510
1801.471 (a) and (b)(2) revised; (c) added 40510
1801.602–3 (a) revised 47704
1801.603–2 (d)(3) revised **66268**
(d)(1) introductory text amended 16059
Revised 47704
1801.603–3 Removed 47705
1801.603–4 Removed 47705
1801.670 Revised 47705
1801.703 Removed 47705
1801.704 Amended 47705
1801.770 Added 47705
1802.101 (b) amended 18033
1803.104–5 (c) introductory text revised; (c)(11) added 47099
1803.104–11 (b) amended **66268**
(b) and (c) amended 40510
1803.303 (a) introductory text and (c) amended 40510
1803.804 (a) and (b) amended **66268**
1803.806 Amended 40510
1804.601 Amended **66268**
Revised 47705
1804.602 Amended **66268**
1804.671 Revised 47705
1804.671–1 Revised 47705
1804.671–2 Removed 47705
1804.671–4 (k) and (zz)(3) amended **66268**
Revised 47705
1804.671–6 Revised 47712
1804.672 Removed 47712
1804.674 Removed 47712
1804.676 Amended 47712
1804.802—1804.805–70 (Subpart 1804.8) Heading revised 16059
1804.805 Heading revised 16059
1804.7101 (a) amended **66269**
1805.202 Regulation at 58 FR 69246 confirmed **66268**
1805.303–70 Redesignated as 1805.303–71; new 1805.303–70 added 14378
1805.303–71 Redesignated as 1805.303–72; new 1805.303–71 redesignated from 1805.303–70 14378
(a)(1)(iv) amended 14379
1805.303–72 Redesignated from 1805.303–71 14378
1806.303–1 (b) amended 16059
1806.303–270 Amended **66269**
1807.7102 Revised **66269**
1807.7103–1 Revised **66269**
1807.7204 (b) amended **66269**
1808.002–71 Removed 16059
1808.002–76 Removed 16059
1808.301—1808.309 (Subpart 1808.3) Removed 16059
1808.302 (a) amended **66269**
1808.405 (a) and (b) redesignated from 1808.405–1; new (a) amended **66269**
1808.405–1 Heading removed; (a) and (b) redesignated as 1808.405 (a) and (b) **66269**
1808.605 (c) amended 40511
1808.705—1808.705–1 (Subpart 1808.7) Heading revised 16059
1808.705–1 (b) amended 16059
1809.104–70 Removed 40511
1809.404 (a) and (c) amended 40511
1809.405 Amended 40511
1809.405–1 (b) amended 40511
1809.405–2 Amended 40511
1809.406–3 Amended 40511
1809.407–3 Amended 40511
1809.408 (d) and (e) amended 40511
1809.470–1 Introductory text amended 40511
1809.470–3 Amended 40511
1810 Revised 40511
1812.103 Amended 47712
1812.302 (a) amended 40512
1812.303–70 (e) amended **66269**
(e) amended 40512
1813.302 (b) revised 47712
1813.402 Redesignated from 1813.403 47712
1813.402–70 Redesignated from 1813.403–70; (b) amended 47712
1813.403 Redesignated as 1813.402; new 1813.403 redesignated from 1813.404; (b)(5) amended 47712

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1813.403–70 Redesignated as 1813.402–70 47712
1813.404 Redesignated as 1813.403; new 1813.404 redesignated from 1813.405; (e)(3) amended 47712
1813.405 Redesignated as 1813.404 47712
1813.505–1 Redesignated from 1813.505–2; heading revised 47712
1813.505–2 Redesignated as 1813.505–1 47712
1813.7003 (a) amended 47712
1813.7104 (a) amended 16059
1814.201–2 Removed 40512
1814.201–5 (a) revised; (b) removed; (c) redesignated as (b) 40512
1814.201–670 (b) and (c) amended; (d) revised 40513
1814.404–1 Revised 40513
1814.404–170 Removed 40513
1814.406 Redesignated as 1814.407 47712
1814.406–3 (a) revised; (b) amended 40513
Redesignated as 1814.407–3 47712
1814.406–4 Introductory text amended; (c) removed 40513
Redesignated as 1814.407–4 47712
1814.407 Redesignated as 1814.408; new 1814.407 redesignated from 1814.406 47712
1814.407–1 (a) and (f) revised; (b) through (e) and (g) amended 40513
Redesignated as 1814.408–1 47712
1814.407–3 Redesignated from 1814.406–3; (a), (b) and (c) amended 47712
1814.407–4 Redesignated from 1814.406–4 and amended 47712
1814.408 Redesignated from 1814.407 47712
1814.408–1 Redesignated from 1814.407–1 47712
1815.102—1815.170 (Subpart 1815.1) Removed 40513
1815.405–1 Revised 40513
1815.405–70 Removed 40513
1815.405–71 (b) introductory text amended 40513
1815.406 (b) revised 40513
1815.406–5 (b)(1) removed; (b)(2) through (8) redesignated as (b)(1) through (7); new (b)(8) added 40513
1815.412 Introductory text revised 40514
Heading revised 47712
1815.413 (b) amended 47712
1815.502 Amended 40514
1815.503 (a), (b) and (c) amended 40514
1815.504–70 Amended 40514
1815.506 (a)(3) removed 40514
1815.606–72 Added 16064
1815.611 Revised 40514
1815.613–71 (a) designation, heading and (b) removed 40514
1815.804–3 (a)(4) and (d) amended **66269**
1815.805–5 (e) amended **66269**
1815.871 Removed 16059
1815.872 Removed 16059
1815.1002 Redesignated as 1815.1003 47712
1815.1003 Redesignated as 1815.1004; new 1815.1003 redesignated from 1815.1002 and amended 47712
1815.1003–1 Redesignated as 1815.1004–1 47712
1815.1003–2 (a) introductory text revised 40514
Redesignated as 1815.1004–2 47712
1815.1003–3 Redesignated as 1815.1004–3 47712
1815.1003–4 Redesignated as 1815.1004–4 47712
1815.1004 Redesignated from 1815.1003 47712
1815.1004–1 Redesignated from 1815.1003–1 47712
1815.1004–2 Redesignated from 1815.1003–2; (a) amended 47712
1815.1004–3 Redesignated from 1815.1003–3 47712
1815.1004–4 Redesignated from 1815.1003–4 47712
1815.7001—1815.7002 (Subpart 1815.70) Added 47100
1816.301 Removed 16059
1816.301–3 Removed 16059
1816.403 Removed 16059
1819.219–77 Added 15503
1819.219–78 Added 15503
1819.219–79 Added 15503
1819.502–3 (a)(1) revised 47712
1819.505–70 Regulation at 59 FR 38131 confirmed **66268**

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1819.708–70 (b) amended **66269**
1819.7201—1819.7219 (Subpart 1819.72) Added 15500
1822.406–13 Amended **66269**
Amended 40514
1822.804–2 Amended 40514
1822.807 Amended **66269**
Amended 40514
1825.402–70 Removed 37599
1825.901 Revised 47713
1825.7002 Revised 37599
1825.7003 Removed; new 1825.7003 redesignated from 1825.7004 and revised 37599
1825.7004 Redesignated as 1825.7003; new 1825.7004 redesignated from 1825.7005 and revised 37599
1825.7005 Redesignated as 1825.7004 37599
1825.7006 Removed 37599
1825.7200 Amended **66270**
Amended 40514
1827.372 (a)(2), (3), (b)(1), (i)(1) and (2) amended 40514
1827.373 (f) removed; (g) redesignated as (f); (a)(1), (b) introductory text, (c) introductory text, (1), (2), (d) and new (f) amended 40514
1827.374–1 (a), (b) and (c) amended; (f) revised 40514
(g) amended 40515
1827.374–3 (a) amended 40515
1827.375–1 (b)(1), (2)(ii) and (4) amended 40515
1827.375–2 (a)(1) introductory text and (2) amended 40515
1827.375–3 (a) introductory text, (e)(3) and (f) amended 40515
1827.404 (e)(1), (3) and (g) amended 40515
(d)(1) and (e)(1) revised; (e)(4) and (5) added 47311
1827.405 (a)(1) and (3) amended 40515
(c) added 47312
1827.406 (a), (b)(1) introductory text, (i), (ii), (iii), (v) and (2) amended 40515
1827.409 (a), (b) and (e) through (i) amended 40515
1827.670–1 Amended 40515
1828.001 Removed **65729**
1828.371 Revised **65729**
1829.203 (a) amended **66270**
(a) amended 40515
1831.101 (Subpart 1831.1) Removed 40515
1831.205–32 Revised 29505
1831.205–70 Revised 29505
1831.231–70 Revised 29505
1832.402 (a)(1) amended 16059
1833.103 (a) revised; (c) amended **66270**
(c) amended 40515
1833.104 (a) revised 40515
(b)(1), (c)(1), (2), (d) and (e) amended 40516
1834.005–1 (k) removed; (l) redesignated as (k) 47713
1835.003 (b) removed; (c) redesignated as (b) and amended 40516
1835.003–70 Removed 40516
1835.003–71 Removed 40516
1835.015 (b) amended 40516
1835.016–70 (b)(6) removed **66270**
Revised 40516
(e)(9) amended 47713
1835.070 (b) amended 40518
1835.071 Removed 40518
1836.304 Amended 47713
1836.600 Removed 16059
1836.600–70 Removed 16059
1836.602–2 Revised 16059
1836.602–4 Revised 16060
1836.602–5 Revised 16060
Heading revised 47713
1836.602–70 (b)(1) amended 16060
1836.602–71 (a)(1) revised; (a)(3) amended 16060
1837 Technical correction 11634
Revised 60916
1837.000 Removed 40518
1837.101 Revised **60917**
1837.102 Added 16064
1837.110 Revised 16065, 60916
1837.170 Revised 60916
1837.202–71 Amended **66270**
1839.7001 (a) amended; (b) revised 40518
1839.7003–1 (a)(2) and (c) revised 40518
1839.7003–2 (b) introductory text revised; (b)(1) through (4) removed; (b)(5), (6) and (7) redesignated as (b)(1), (2) and (3); new (b)(1) amended 40518
1839.7003–3 (e) revised 40518
1839.7003–4 (a) introductory text revised; (a)(1) through (5) removed; (a)(6) and (b) redesignated as (b) and (c) 40518

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1839.7003–5 Revised 40518
1839.7003–6 (b) and (c) revised 40519
1839.7004 Amended 40519
1839.7006 (a) and (b) amended; (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f); new (d) and new (e) revised 40519
1841 Added 16060
1842.101 Amended **66270**
Amended 40519
1842.202–70 (d) amended 16062
1842.1004 Amended **66270**
1842.1203 (a) introductory text and (c)(1) amended **66270**
1842.1203–70 (c) amended **66270**
1842.7301 (Subpart 1842.73) Added 16062
1844.305 Amended **66270**
1845.106–70 (e) amended 16063
1845.405 (b) amended 16063
1845.407 (a) amended 16063
1845.608–6 Amended 16063
1845.610–2 Amended 16063
1845.7203 Amended 16063
1845.7205 (f)(1) and (i) amended 16063
1845.7213 (c)(1) introductory text amended 16063
1846.470–1 Amended 40519
1846.470–2 (b) amended 40519
1846.670–1 (a), (b)(1) and (c) revised 40519
1846.670–2 (a)(3) revised; (a)(4) removed 40519
1846.670–4 (c) revised 40519
1846.670–5 Revised 40519
1846.671 (a) revised 40520
1846.672–1 (a)(1), (r)(1)(i), (2) introductory text, (ii) and (w) introductory text amended; (a)(4), (b), (c), (d)(1) introductory text, (ii), (g)(1) and (h)(1) revised 40520
1846.672–3 Introductory text revised 40520
1846.672–5 Introductory text revised 40520
1846.703–70 (b) and (c) revised 40520
1849.102–70 (a) revised; (b) introductory text, (c) and (d) amended 40520
1849.111–71 (a)(1) and (2)(ii) amended 40520
1849.111–72 Amended 40520
1849.111–74 Amended 40520
1849.603–70 (d) introductory text, (1) and (2) revised 40520
1850.202 Revised 18033
1850.402 Removed 18033
1850.403–1 Revised 18033
1850.403–2 Revised 18033
1850.403–3 Removed 18034
1850.403–70 Removed 18034
1850.403–370 Removed 18034
1851.102 (b) amended 16063
1852 Technical correction 22095
1852.103–70 Amended **66270**
1852.204–70 Amended **66270**
Removed 47713
1852.208–70 Removed 16063
1852.208–71 Removed 16063
1852.208–72 Removed 16063
1852.208–73 Removed 16063
1852.208–74 Removed 16063
1852.208–75 Redesignated as 1852.241–70 16063
1852.208–76 Removed 16063
1852.208–77 Removed 16063
1852.208–78 Removed 16063
1852.208–79 Removed 16063
1852.208–80 Removed 16063
1852.208–83 Removed 16063
1852.215–84 Added 47100
1852.227–14 Amended 47312
1852.227–15 Added 47312
1852.227–70 Amended 40521
1852.228–72 Revised **65730**
1852.228–76 Revised **65730**
1852.228–78 Revised **65731**
1852.237–71 Revised **60917**
1852.237–72 Added 16065
1852.241–70 Redesignated from 1852.208–75; introductory text revised 16063
1852.246–72 Amended 40521
1852.250–70 Removed 18034
1852.250–72 Removed 18034
1853.101 Amended 40521
1853.103 Amended **66270**
Amended 40521
1853.104 Amended 40521
1853.105 Revised 40521
1853.108 Amended **66270**
Amended 40521
1853.204–70 Revised 40521
1853.216–70 Revised 40521
1853.242–70 Heading revised; (g) added 40521
1853.242–71 Removed 40521
Redesignated from 1853.242–72 40522

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1853.242–72 Redesignated as 1853.242–71 40522
1853.249 (b) revised 40522
1870.000 Revised 40522
1870.101—1870.102 (Subpart 1870.1) Revised 40522
1870.102 Appendix I amended 47713
1870.103 Appendix I amended 66271
Appendix I amended 16063
1870.202 (b) revised 40535
1870.203 Revised 40535
1870.303 Appendix I amended 66270
Appendix I amended 47713
1871 Revised 59378

Chapter 24—Department of Housing and Urban Development (Parts 2400—2499)

2401.601—2401.603–3 (Subpart 2401.6) Heading revised; interim; eff. 10–5–95 46154
2401.601–73 Revised; interim; eff. 10–5–95 46154
2401.602–3 Revised; interim; eff. 10–5–95 46154
2402.101 Amended; interim; eff. 10–5–95 46154
2404 Authority citation revised 46154
2404.805 Redesignated from 2404.805–1; heading and (a) revised; interim; eff. 10–5–95 46155
2404.805–1 (Subpart 2404.8) Heading revised; interim; eff. 10–5–95 46155
2404.805–1 Redesignated as 2404.805; interim; eff. 10–5–95 46155
2405 Authority citation revised 46155
2405.301 (Subpart 2405.3) Removed; interim; eff. 10–5–95 46155
2406 Authority citation revised 46155
2406.304–70 Revised; interim; eff. 10–5–95 46155
2406.304–71 Removed; interim; eff. 10–5–95 46155
2406.501 Revised; interim; eff. 10–5–95 46155
2413 Heading revised; interim; eff. 10–5–95 46155
2413.106–2 Redesignated from 2413.107 and revised; interim; eff. 10–5–95 46155
2413.107 Redesignated as 2413.106–2; interim; eff. 10–5–95 46155
2413.402 Redesignated from 2413.403 and revised; interim; eff. 10–5–95 46155
2413.403 Redesignated as 2413.402; new 2413.403 redesignated from 2413.404 and revised; interim; eff. 10–5–95 46155
2413.404 Redesignated as 2413.403; interim; eff. 10–5–95 46155
2413.505–1 Redesignated from 2413.505–2 and revised; interim; eff. 10–5–95 46155
2413.505–2 Redesignated as 2413.505–1; interim; eff. 10–5–95 46155
2413.601 (Subpart 2413.6) Added; interim; eff. 10–5–95 46155
2414 Authority citation revised 46155
2414.406–4 Revised; interim; eff. 10–5–95 46155
2415 Authority citation revised 46155
2415.407 (b) and (c) added; interim; eff. 10–5–95 46155
2415.408 Removed; interim; eff. 10–5–95 46156
2415.411 Removed; interim; eff. 10–5–95 46156
2415.411–70 Removed; interim; eff. 10–5–95 46156
2415.604 Revised; interim; eff. 10–5–95 46156
2415.605 Revised; interim; eff. 10–5–95 46156
2415.608 (a) revised; interim; eff. 10–5–95 46156
2415.609 Removed; interim; eff. 10–5–95 46156
2415.611 Added; interim; eff. 10–5–95 46156
2415.612 Removed; interim; eff. 10–5–95 46156
2415.612–70 Removed; interim; eff. 10–5–95 46156
2415.613 (a) revised; interim; eff. 10–5–95 46156
2415.613–70 Revised; interim; eff. 10–5–95 46156
2415.613–72 (a) revised; interim; eff. 10–5–95 46156

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2416 Authority citation revised 46156
2416.301—2416.301–3 (Subpart 2416.3) Removed; interim; eff. 10–5–95 46156
2426.101 Removed; interim; eff. 10–5–95 46156
2426.101—2426.103 (Subpart 2426.1) Heading redesignated as Subpart 2426.70 heading; interim; eff. 10–5–95 46156
2426.102 Removed; interim; eff. 10–5–95 46156
2426.103 Removed; interim; eff. 10–5–95 46156
2426.202—2426.202–70 (Subpart 2426.2) Removed; interim; eff. 10–5–95 46156
2426.701 Added; interim; eff. 10–5–95 46156
2426.702 Added; interim; eff. 10–5–95 46157
2426.703 Added; interim; eff. 10–5–95 46157
2428.204—2428–204–70 (Subpart 2428.2) Removed; interim; eff. 10–5–95 46157
2429 Authority citation revised 46157
2429.101 Revised; interim; eff. 10–5–95 46157
2432.402 Revised; interim; eff. 10–5–95 46157
2432.906 Revised; interim; eff. 10–5–95 46157
2432.908 Revised; interim; eff. 10–5–95 46157
2436 Authority citation revised 46157
2436.602–2 (a) introductory text, (2) and (c) revised; (a)(3) removed; interim; eff. 10–5–95 46157
2436.602–4 Revised; interim; eff. 10–5–95 46158
2437.205 Revised; interim; eff. 10–5–95 46158
2452.215–70 Revised; interim; eff. 10–5–95 46158
2452.219–70 Amended; heading revised; interim; eff. 10–5–95 46159
2452.219–71 Amended; interim; eff. 10–5–95 46159
2452.226–70 Revised; interim; eff. 10–5–95 46159
2452.232–70 Amended; interim; eff. 10–5–95 46159
2452.237–77 Amended; interim; eff. 10–5–95 46159
2453 Authority citation revised 46159
2453.213–71 Revised; interim; eff. 10–5–95 46159
2453.213–72 Removed; interim; eff. 10–5–95 46159
2453.237–70 Added; interim; eff. 10–5–95 46159

Chapter 28—Department of Justice (Parts 2800—2899)

2801.000 Removed 40108
2801.270–2 Removed 40108
2801.270–4 Revised 40108
2801.304 (b) revised 40108
2801.403 Revised 40108
2801.470 Revised 40109
2801.601—2801.603–4 (Subpart 2801.6) Heading revised 16065
2801.601 (d) revised 16065
2801.602–3 Revised 40109
2801.602–70 (f) removed 40109
2801.603 Revised 16066
2801.670 Added 16066
2801.7001–702 (d)(1) and (g) revised 40109
2802.000 Removed 40109
2802.102 (f) through (m) redesignated as (g) through (n); new (f) added; new (g) revised 40109
2804.000 Removed 40109
2804.800—2804.803–70 (Subpart 2804.8) Removed 40109
2804.900 Removed 40109
2804.7000 (Subpart 2804.70) Removed 40109
2805.101 (Subpart 2805.1) Removed 40109
2805.502 (a) revised 40109
2807.700 Removed 40109
2808.000 Removed 40109
2808.102–80 (Subpart 2808.1) Removed 40109
2809.400 Removed 40109
2809.403 Removed 40109
2809.405–2 Removed 40109
2809.471 Removed 40109
2810.000 Removed 40109
2812.000 Removed 40109
2812.170 Revised 40109
2813.570 Removed 40110
2813.7002 (c) revised 40110

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2814.000 Removed 40110
2814.401 Removed 40110
2814.402 Removed 40110
2815.406 Revised 40110
2815.804–370 Revised 40110
2816.000 Removed 40110
2816.601 Added 40110
2816.602 Added 40110
2816.603–370 Added 40110
2817.200 (Subpart 2817.2) Removed 40110
2828.105 Removed 40110
2829.000 Removed 40110
2830.201–270 Revised 40110
2832.000 Removed 40110
2832.400 Removed 40110
2832.7000 Removed 40110
2833.000 Removed 40110
2835.000 Removed 40110
2845.000 Removed 40110
2852.000 Removed 40111
2852.100 Removed 40111
2852.200 Removed 40111
2870.000 Removed 40111

Chapter 54—Defense Logistics Agency, Department of Defense (Parts 5400—5499)

Chapter 54 Established 21992

Chapter 61—General Services Administration Board of Contract Appeals (Parts 6100—6199)

6101.0 Revised 17026
6101.1 (b)(12) through (15) redesignated as (b)(13) through (16); (b)(2) and new (13) through (16) revised; new (b)(12) added 17026
6101.2 (c) revised 17026
6101.13 Heading revised; (a)(1) and (2) amended 17027
6101.14 (a)(1) and (2) amended 17027
6101.18 (b) introductory text revised 17027
6101.19 (a)(2), (3) and (d) revised 17027
6101.28 (a) redesignated as (a)(1); (a)(2) and (d) added 17027
6101.29 (b) revised 17027
6101.35 (a) and (d)(1) amended; (c)(5) and (6) added 17028
6101.36 (c) amended 17028
6101 Appendix amended 17028

Chapter 99—Cost Accounting Standards Board, Office of Federal Procurement Policy, Office of Management and Budget (Parts 9900—9999)

Chapter 99 Interpretation 12711
9903.102 Amended; OMB number **55753**
9903.201–1 (a) revised; (b)(10) removed **55753**
(b)(11) removed 16540
9903.201–2 (a) amended; (c) added **55753**
9903.201–3 Amended; introductory heading redesignated as (a) heading; introductory text and (a) through (d) redesignated as (a)(1) introductory text and (i) through (iv); (a)(2) added **55754**
9903.201–4 (a)(1) and (2) revised; (e) added **55755**
9903.201–6 (a) revised **55756**
9903.201–7 Added **55756**
9903.202–1 (f) added **55756**
9903.202–5 Revised **55757**
9903.202–6 Added **55757**
9903.202–10 Added **55757**
9903.301 Existing text designated as (a); (b) added **55770**
9904.412–30 (a) revised 16540
9904.412–40 Revised 16541
9904.412–50 Revised 16542
9904.412–60 Revised 16544
9904.412–63 Revised 16547
9904.412–64 Added 16547
(a)(1) corrected 20248
9904.413–30 (a) revised 16549
9904.413–40 (b) and (c) revised 16550
9904.413–50 Revised 16550
9904.413–60 Revised 16553
(c)(16) corrected 20248
9904.413–63 Revised 16557
9904.413–64 Added 16557
9905 Added **55770**

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3 ..... **61738, 61740**
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1523 37982
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1815 ..... **51154**
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1819 ..... **51154**

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TITLE 48 *Proposed Rules:—Con.*

1627 ..... **51936**
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5452 ..... **64185**
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6101 ..... **61861**
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9903 ..... **60948**
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TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

1.2 (j) added 30196
1.3 (b)(10) added 30196
1.4 (l) added 30196
1.22 (c) revised 14226
(f) revised 15877
1.23 (l) revised 2891
1.45 (a)(10) revised 2891
(a)(18) added 14226
1.46 (a) removed; interim; eff. 10–30–95 38971
1.49 (jj) added 13639
1.52 (d) and (e) added; interim; eff. 10–30–95 38971
1.53 (g) removed 30196
1.54 (b)(11) added 2891
1.56a (i) added 11046
Amended 15877
1.56b Amended 15877
1.57 (s) added 15877
1.57a Revised 15877
1.59 (b)(2) and (j) removed; (b)(3) through (9) and (k) through (q) redesignated as (b)(2) through (8) and (j) through (p); new (b)(4)(ii) removed 2891
1.61 (d) removed 15877
1.66 (q) revised 37372
(k) revised 48672
1.70 Added 2891
1.71 Added 30196
10 Appendix A amended 43983
18.6 (b)(1) and (c)(1) added 19546
18.36 (d), (g), (h) and (i) revised 19639, 19647
29 Authority citation revised 33064
29.100 Revised; interim 33040, 33064
29.105 Amended; interim 33041, 33064
29.110 (c) revised; interim 33041, 33064
29.200 Revised; interim 33041, 33064
29.215 Revised; interim 33041, 33064
29.220 Revised; interim 33041, 33064
29.225 Revised; interim 33041, 33064
29 Appendixes A and B revised; interim 33042, 33064
40.23 (a) revised 19536
40.51 (c) amended 19679
40.59 Heading revised; (c) removed 19679
40.63 (d)(1) revised; (e)(4) removed; (e)(3) redesignated as (e)(4); new (e)(3) and (h) added 19679
40.65 (b) amended 19679
40.91—40.111 (Subpart D) Added 19679
40 Appendix A amended 19536

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

107.201 (c) amended 49108
107.311 (c) amended 49108
107.335 Amended 49108
107.299—107.339 (Subpart D) Appendix A Added 12141
107.601 (c) revised; eff. 7–1–96 27233
107.606 Revised; eff. 7–1–96 27233
1071—170.123 Appendix A amended 49108
171.7 (a)(3) table amended **55172, 64744, 67405**
(a)(3) table amended 40032
(a)(3) table amended; eff. 7–1–96 49072
(a)(3) table amended; eff. 4–1–96 50301
171.8 Amended **67406**
Amended; eff. 2–2–96 39609
Amended 48786, 49108
Amended; eff. 4–1–96 50302
171.10 (c)(2) table amended 49108
(c)(2) table amended; eff. 4–1–96 50302
171.11 (d)(5) amended **67406**
(d)(6)(iii) revised; (d)(6)(iv) amended; eff. 4–1–96 50302
171.12 (b) introductory text amended **67406**
(b)(5) amended 49108

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(d) heading, introductory text and (4) revised; (d)(5) amended; (d)(6) added; eff. 4–1–96 50302
171.14 Regulation at 59 FR 48763 eff. date confirmed as 9–22–94 ..... **53116**
Revised **67406**
(b) introductory text amended 26799
(a)(2)(ii), (b) introductory text, (1) and (2) amended 26800
Amended 48786
171.15 (a)(3) and (b) introductory text amended 48786
(b) introductory text amended 49108
172.101 (c)(3), (13) and (k)(1) through (5) revised; (g) amended **67407**
(c)(11) introductory text and (12)(iii) amended **67408**
Table revised **67409**
Appendix B amended **67485**
Table amended 26800, 26804, 40032, 48786, 49109
Table and Appendix B amended 26805
Appendix A amended; eff. 2–2–96 39609
Table corrected 39991
Table amended; eff. 7–1–96 49072
(l)(4) and table amended 49108
Table and Appendix A amended 49110
Table amended; eff. 4–1–96 ..... 50303, 50304
172.102 (c)(1), (2) and (3) amended **67485**
(c)(1) amended 26805, 49110
(c)(2) amended 48787
(c)(3) amended; eff. 7–1–96 49072
172.203 (k)(3) amended; (l)(3) and (o) added **67486**
(m)(1) amended **67487**
(d)(1), (4) and (7) revised; (d)(10) and (11) added; eff. 4–1–96 50304
172.204 (a)(2) amended **67487**
(a)(2) revised 26805
172.308 (b) removed; (c) and (d) redesignated as (b) and (c); new (c) amended 49110
172.310 Revised; eff. 4–1–96 50304
172.320 (b) amended **67488**
172.322 (d)(2)(i) amended 49110
172.325 (c) amended **67489**
172.400a (c) and (d) added **67490**
(a)(1) introductory text amended 49110
172.402 (a)(1) revised; (a)(2) amended; (f) and (g) added **67490**
(a)(2) table amended 26805
172.403 Heading, (b), (c), (d), (g)(1) and (2) revised; eff. 4–1–96 50305
172.407 (g) added; eff. 4–1–96 50305
172.411 (d) amended **67490**
172.416 (b) amended **67490**
172.430 (b) amended **67490**
172.504 (e) Table 1 amended; eff. 4–1–96 50305
172.507 (a) revised; eff. 4–1–96 50305
172.519 (g) added; eff. 4–1–96 50305
172.540 (b) amended **67490**
172.547 (b) amended **67490**
172.554 (b) amended **67490**
172.704 (a)(2)(i) amended 49110
172.801—172.807 (Subpart I) Added; eff. 4–1–96 50305
172 Appendix B added; eff. 4–1–96 50306
173.2a (b) table amended **67490**
(c)(3) revised 48787
(c)(5) amended; eff. 4–1–96 50307
173.4 (a)(1)(iv) and (b) revised; eff. 4–1–96 50307
173.9 (e) added **67490**
173.21 (f)(2) amended **67490**
173.22 (a)(2)(iii) and (iv) redesignated as (a)(2)(iv) and (v); new (a)(2)(iii) added; (a)(3)(i) and (4) revised **67491**
173.23 (f) added 17400
(g) added 26805
173.24 (c)(1) and (e)(4)(ii) amended; (d) revised **67491**
(c)(1) and (d)(2) introductory text amended 26805
173.24b (d)(2) revised 40038
173.25 (a) introductory text revised; (b) added **67491**
173.28 (b)(4) revised; (b)(7) and (c)(4) added **67491**
(c)(1)(i) and (3) amended **67492**
(b)(4) table corrected 7627
(b)(2)(ii) amended; (b)(7) introductory text, (i) and (ii) revised; (b)(7)(iii) redesignated as (b)(7)(iv); new (b)(7)(iii) added 26805
(b)(4) table amended 26806
173.31 Revised; eff. 7–1–96 49072
173.32 (e)(3) amended 49110

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173.33 (d)(3) amended; (h) added 55172
(c)(5) amended 67492
173.34 (d)(3) and (7) amended 49110
173.35 (j) amended; (l) added 40038
173.52 (b) Table 1 amended 67492
173.59 Amended 67492
173.60 (b)(15) added 67492
173.62 (a), (c) table and (d) revised; (b) table amended 67492
(e) amended 67506
(b) table and (c) table amended 26806
(c) table amended 49110
173.115 Heading and (b) introductory text revised 67506
173.120 (a) revised; (b)(2) amended 67506
(c)(1)(i)(A), (B) and (ii)(A) amended 67507
173.121 (b)(1)(ii) amended; (b)(1)(iv) table and (2)(i) revised 67507
173.124 Heading and (a)(2) revised 67507
173.128 (a) introductory text, (c)(2) and (3) amended; (b)(7) revised; (c)(4) removed; (d) redesignated as (e); new (d) added 67508
173.134 Revised 48787
173.136 (a) revised 67508
173.137 Introductory text amended; (a), (b) and (c) revised 67508
173.150 Heading and (d) revised; (a), (b) introductory text and (3) amended 67508
(d)(2) amended 26806
(b)(3) amended 49110
173.152 (b)(3) revised 67508
173.158 (f)(3) added 67509
173.159 (c)(3) amended 49110
173.164 (b), (c) and (d) redesignated as (c), (d) and (e); new (c) introductory text revised; (a)(1), (2) and new (c)(1) amended; new (b) added 67509
(c)(1) and (5) amended 49110
173.166 Heading, (b) and (d)(1) revised; (a), (c), (d)(2) and (f) amended 67509
173.171 (a) amended 67509
173.173 Heading and (b) introductory text revised 67509
173.185 Revised 67509
(e)(6), (h)(1) and (j) amended 26806
173.189 Added 67511
173.196 (f) amended 67511
173.201 (b) and (c) amended 67518
173.202 (b) and (c) amended 67518
173.203 (b) and (c) amended 67518
173.211 (c) amended 67511
(b) and (c) amended 67518
173.212 (c) amended 67511
(b) and (c) amended 67518
173.213 (c) amended 67511
(b) and (c) amended 67518
173.224 Revised 67511
(b) table amended 26806
(b) introductory text amended 49110
173.225 (e)(2) amended 55172
(a) amended; (b) table and (e)(3)(ii) revised; (c)(5) added 67511
(b) table amended 26806
173.226 (c)(1) amended 67517
173.242 (d)(2)(i) amended 40038
(b)(1) amended 49110
173.243 (d)(2) amended 40038
(b)(1) amended 49110
173.304 (a)(2) table amended 67517
173.306 (a)(3)(v) revised; (a)(4) added 67517
(a)(3)(v) amended 26806
(e)(1)(i) revised; (e)(1)(iii), (v) and (vi) amended 40038
(d)(3)(iii) amended 49110
173.314 Heading and (c) revised; (j) through (o) added; eff. 7-1-96 49074
173.315 (o)(1) revised; (o)(2) amended 55172
173.319 (e) added; eff. 7-1-96 49075
(a)(4)(iii) amended; eff. 7-1-96 49076
173.323 (c)(1) revised; eff. 7-1-96 49076
173.401—173.478 (Subpart I) Revised; eff. 4-1-96 50307
173 Appendix A removed; Appendixes E and F amended; Appendix H added 67517
Appendix G removed 48787
174.61 Heading revised; (a) amended; (c) removed 64744
174.63 Revised 64744
174.67 (k) amended 49111
174.700 Revised; eff. 4-1-96 50331
174.705 Added; eff. 4-1-96 50332
174.715 Revised; eff. 4-1-96 50332
174.750 (a) revised; eff. 4-1-96 50332

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175.10 (a)(4) introductory text and (13) revised; (a)(12) introductory text amended; (a)(17) removed; (a)(26) added 67518
175.33 (a)(1) introductory text, (6) and (7) amended 67518
175.45 (a)(3) amended 49111
175.700 (b) and (c) revised; eff. 4-1-96 50333
175.703 (c) introductory text and (d) revised; eff. 4-1-96 50333
175.704 Added; eff. 4-1-96 50333
175.706 Added; eff. 4-1-96 50333
176.27 (c) added 67518
176.76 (i) added 67519
(h)(1) amended 49111
176.83 (c)(2)(iv) amended 49111
176.136 (a) amended 49111
176.358-3 (a) amended 49111
176.410 (b) amended 49111
176.700 (a) removed; (c) revised; eff. 4-1-96 50333
176.703 Added; eff. 4-1-96 50333
176.704 Revised; eff. 4-1-96 50333
176.706 Table III redesignated as Table IV; (a) revised; (b) through (f) added; eff. 4-1-96 50334
176.715 Revised; eff. 4-1-96 50334
177.827 Added; eff. 4-1-96 50334
177.841 (e)(3) amended 67519
177.842 Revised; eff. 4-1-96 50334
177.843 (a) and (b) revised; eff. 4-1-96 50335
177.861 (a) revised; notes 1 and 2 removed; eff. 4-1-96 50335
178.2 (a) revised; (e) added 67519
178.3 (a) introductory text and (b) revised; (a)(2) and (4) amended; (a)(5) added 67519
178.53-5 Amended 49111
178.58-5 Amended 49111
178.337-1 (a)(3), (e)(1) and (2) amended 55172
178.337-3 (c) revised 17401
178.337-9 (b)(7)(i) removed; (b)(7)(ii) and (iii) redesignated as (b)(7)(i) and (ii) 55173
178.337-11 (a)(2) introductory text revised 55173
178.338-9 (c)(2) revised 55173
178.338-11 (c) introductory text amended 55173
(c) introductory text amended 17402
178.345-1 (c) amended; (i)(2) revised 55173
178.345-3 (b) and (c) revised 55173
(d) removed; (e), (f) and (g) redesignated as (d), (e) and (f); (a)(1), (3) and new (d) amended 55174
(c)(1)(iii)(B) and (2)(iii)(B) amended 17402
178.345-5 (f) added 55175
178.345-6 (a) and (b) amended 55175
178.345-8 (a)(3), (b) introductory text, (1), (c) introductory text, (1) and (d)(3) revised; (e) added 55175
178.345-10 (b)(3)(i) and (ii) revised 55175
178.345-13 (c) heading added 55176
178.345-14 (d) amended 55176
(b)(3) amended 17402
178.345-15 (b)(2) amended; (e) added 55176
178.346-1 (d)(9) and (10) added 55176
178.346-2 (a) designation removed; amended 55176
178.346-10 (b)(1) and (2) amended; (b)(3) added; (c)(1) and (d)(1) revised 55176
178.346-13 (c) revised 55176
178.350 Revised; eff. 4-1-96 50336
178.350-1 Removed; eff. 4-1-96 50336
178.350-2 Removed; eff. 4-1-96 50336
178.350-3 Removed; eff. 4-1-96 50336
178.502 (a) introductory text, (1) introductory text and (3) amended 67519
178.503 (d) redesignated as (e); (a) introductory text, (9), (10), (c) and new (e)(3) illustration revised; (a)(11) and new (d) added 67519
(e)(2) amended 67521
(e)(3) illustration revised 26806
178.504 (b)(1) amended 49111
178.508 (b)(2) amended 67521
178.512 (a)(1), (2) and (b)(2) revised; (a)(3) and (4) removed 67521
178.513 (b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added 67521
178.516 (b)(1) and (2) amended; (b)(3)(iii), (4) and (5) redesignated as (b)(4), (5) and (6) 67521
178.521 (b)(2) amended 67521

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178.522 (a)(9), (b)(4) and (5) amended; (a)(10) and (b)(3)(viii) revised; (a)(11) and (b)(3)(ix) added 67521
178.601 (k) redesignated as (l); (b), (g)(2)(i), (vi) and new (l) revised; new (k) added 67521
(g)(2) introductory text, (5)(i) and (ii) amended 67522
178.602 (c) amended 67522
178.603 (a) introductory text and (c) amended; (f)(1) revised 67522
178.604 (d) amended 67522
178.606 (c)(1) amended 67522
178.609 (i) added 48787
178.700 (c)(1) revised 40038
178.705 (c)(2)(ii) amended 40038
178.710 (c)(5) amended 40038
178.801 (b) revised 40038
178.803 Revised 40039
178.819 (b)(2) amended 40039
(b)(2) corrected 49111
178 Appendix C added 67522
179.1 (c) amended; eff. 7-1-96 49076
179.2 (a)(10) redesignated as (a)(11); new (a)(10) added; eff. 7-1-96 49076
179.7 Added; eff. 7-1-96 49076
179.16 Added; eff. 7-1-96 49077
179.18 Added; eff. 7-1-96 49077
179.20 Added; eff. 7-1-96 49077
179.22 Added; eff. 7-1-96 49077
179.100-4 (a) amended; eff. 7-1-96 49077
179.100-21 Removed; eff. 7-1-96 49077
179.100-23 Removed; eff. 7-1-96 49077
179.101-1 (a) amended; eff. 7-1-96 49077
179.103-1 (c) removed; eff. 7-1-96 49077
179.103-2 (a) revised; eff. 7-1-96 49077
179.103-5 (a)(1) amended; eff. 7-1-96 49077
179.105 Removed; eff. 7-1-96 49077
179.105-1 Removed; eff. 7-1-96 49077
179.105-4 Removed; eff. 7-1-96 49077
179.105-5 Removed; eff. 7-1-96 49077
179.105-7 Removed; eff. 7-1-96 49077
179.105-8 Removed; eff. 7-1-96 49077
179.200 (a) amended; eff. 7-1-96 49077
179.200-25 Removed; eff. 7-1-96 49078
179.200-27 Removed; eff. 7-1-96 49078
179.203 Removed; eff. 7-1-96 49078
179.203-1 Removed; eff. 7-1-96 49078
179.203-2 Removed; eff. 7-1-96 49078
179 Appendixes A and B added; eff. 7-1-96 49078
180.403 Amended 55177
Amended 17402
180.405 (f)(1)(iii) and (4) introductory text amended; (h) revised 55177
180.407 (c) table, (i)(4)(viii) and (ix) amended; (e)(1) and (h)(2) revised; (i)(5), (6) and (7) redesignated as (i)(6), (7) and (8); (i)(4)(x) and new (5) added 55177
(d)(1)(ii), (e)(2)(ii) and (g)(1)(iv) amended; (e)(4) removed; (e)(5) redesignated as (e)(4) 55178
(c) table and (h)(2) amended; (d)(1)(i) and (ii) revised 17402
180.413 Revised 55178
(b)(6), (d)(3) introductory text, (iii), (iv) and (10) revised; (d)(3)(v) added 17402
180.501—180.519 (Subpart F) Added; eff. 7-1-96 49079
192 Compliance date suspension 7133
Authority citation revised 14650, 41828
Technical correction 43028
192.16 Added 41828
192.605 (b) introductory text and (c)(1)(v) revised; (c)(5) added 14381
192.614 (c)(1) and (2) revised 14650
192.707 (b) revised 14650
195 Authority citation revised 14650
195.410 (a)(2) revised; (b)(2)(i) amended 14650
195.442 Added 14651
199 Authority citation revised 62227, 62239, 62246
199.3 Amended 62227
199.11 (c) revised 62227
199.225 (a)(2), (b)(4)(ii) and (iii) redesignated as (a)(2)(i), (b)(4)(iii) and (iv); (a)(2)(ii) and new (b)(4)(ii) added 62239
(d)(1) revised 62246

Chapter II—Federal Railroad Administration, Department of Transportation (Parts 200—299)

213 Policy statement 20654
218 Authority citation revised 11049
218.5 Amended 11049
218.22 (c)(3), (4), (d) and (e) amended 11050
218.24 Added 11050
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218 Appendix A amended 11050
219 Authority citation revised 60563, 62228, 62239
Announcement 67641
219.5 Amended 62228
219.209 Corrected 50699
219.300 (d) added 62239
219.302 (f) removed 62239
219.303 Revised 60563
219.501 (e) removed; (a) through (d) redesignated as (b) through (e); new (a) added; new (b) through (e) revised 60564
(f) added 24766
219.602 Added 62228
219.801 Corrected 50699
219 Appendix C revised 19539
229 Authority citation revised 27905
229.5 (i) revised 27905
229.25 (e)(2) revised 27905
229.135 (a) through (d) revised 27905

Chapter III—Federal Highway Administration, Department of Transportation (Parts 300-399)

Chapter III Nomenclature change 60323
Nomenclature change 38742
325.13 (d)(3) amended 38743
325.93 (b) revised 38743
350 Authority citation revised 38743
350—399 (Subchapter B) Request for comments 27700
350.3 Amended 38743
350 Appendix C amended 38743
382 Authority citation revised 60323
Authority citation revised 2032, 38743
382.103 Revised; eff. 10-23-95 49325
382.107 Amended 60323, 62229
382.115 (a) revised 2032
Revised; eff. 10-23-95 49325
382.301 (e) added 24766
382.303 (b)(2) redesignated as (b)(4); new (b)(2) and (3) added 62240
382.305 Revised 62229
382.307 (e)(2) and (3) redesignated as (e)(4) and (5); new (e)(2) and new (3) added 62240
382.401 (b)(1)(vi) revised 13370
382.403 (a) revised 13370
383 Waiver denied 34188
385 Authority citation revised 38743
385.23 Amended 38743
387 Authority citation revised 38743
387.3 (c) revised 63923
387.5 Amended 63923
387.7 (d)(3) revised 63923
387.9 Revised 63923
387.15 Amended 63924
387.17 Revised 63924
387.31 (b)(3)(i) removed; (b)(3)(ii) and (iii) redesignated as (b)(3)(i) and (ii) 38743
388.5 (a) amended 38743
390 Authority citation revised 60323, 67554
Authority citation revised 38743
390.3 (b) through (f) redesignated as (c) through (g); new (b) added 67554
Regulation at 59 FR 67554 eff. date extended to 9-27-95 26002
Regulation at 59 FR 67554 eff. date extended to 9-1-96 40761
390.5 Amended 60323
Amended 38743, 44440
390.7 (a)(3) removed; (a)(4) redesignated as (a)(3) 38744
390.15 (b)(1)(vi) amended 38744
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390.19 Amended 38744
390.21 (b)(1), (2), (4), (5), (c)(1), (3), (d), (e)(1), (2) introductory text, (ii), (iv)(B)(2), (iv)(C) and (v) amended 38744
390.23 (a)(3)(i) and (b) amended 38744
390.27 Heading revised 38744
390.33 Amended; heading revised 38744
390.50—390.60 (Subpart C) Added 67554
Regulation at 59 FR 67554 eff. date extended to 9-27-95 26002
Regulation at 59 FR 67554 eff. date extended to 9-1-96 40761
391 Determination 59386
Authority citation revised 60323
Authority citation revised 38744
391.1 (a) amended 38744
391.2 (a), (b), (c) and (d)(4) revised 38745
391.11 (b)(11) removed; (b)(12) redesignated as (b)(11) 60323

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(a), (b) introductory text, (3) through (6) and (9) amended 38744
(b)(7) revised 38745
391.15 (c)(2)(ii) and (v) amended 38744
(c)(2)(ii) Footnote 1, (iii) Footnote 1 and (d)(2)(iv) revised 38745
391.21 (a) and (b)(5) amended 38744
391.25 Amended 38744
391.27 (c) amended 38745
391.31 (a), (b), (c) introductory text and (3) through (8) amended 38744
391.31—391.37 (Subpart D) Heading revised 38746
391.33 (a) introductory text and (1) amended 38744
391.35 Removed 60323
391.37 Removed 60323
391.41 (a), (b) introductory text, (2)(ii) and (5) through (9) amended 38744
(b)(12) amended 38745
391.43 (e) and (f) amended 38745
(g) introductory text revised 38746
391.47 (c), (d)(1), (2) and (f) amended 38746
391.49 (a), (d)(3)(i)(A), (e)(4) and (g) amended 38745
(c)(2)(v), (3) introductory text, (vii) and (viii) revised 38746
391.51 (b)(2), (c)(3), (4) and (d)(2) amended; (c)(5) and (d)(3) removed; (d)(4) redesignated as (d)(3) 60323
(b)(1), (5), (d)(1), (3), (e) and (h)(1) amended 38745
391.61 Revised 60323
Amended 38745
391.63 (a) introductory text and (b) amended 38745
391.65 (a)(2), (iv) and (vii) amended 38745
391.67 Revised 60324
Introductory text amended 38745
Heading revised; (d) removed; (e) redesignated as (d) 38746
391.68 Revised 60324
Revised 38746
391.69 Revised 60324
Amended 38745
391.71 (a) amended 60324
Heading, (a)(1) and (b)(3) revised 63924
(a) introductory text and (b) introductory text amended 38745
Heading revised 38746
391.73 Revised 60324
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391.83 (c) revised 56
391.85 Amended 38746
391.87 (h)(1) amended; (h)(3) revised; (h)(4) added 13370
392 Authority citation revised 60324, 63924
Heading revised 38746
392.1 Amended 38746
392.2 Amended 38746
392.3 Amended 38746
392.4 (a)(1) footnote 1 revised; (a)(4) and (c) amended 38746
392.6 Amended 38746
392.7 Amended 38746
392.8 Amended 38746
392.9 (a) introductory text, (1), (2), (3), (b)(1), (2), (3) introductory text, (ii), (iii) and (4) amended 38746
392.9a Removed 60324
392.10 (a)(2) through (5) and (b)(1) revised 63924
(a) introductory text, (2) and (3) amended 38746
(b)(3) amended 38747
392.10—392.18 (Subpart B) Heading revised 38746
392.11 Amended 38747
392.12 Removed 60324
392.13 Amended; heading revised 38747
392.14 Amended 38747
392.15 (a) through (e) amended 38747
392.16 Amended 38747
392.18 Removed 60324
392.20 Amended; heading revised 38747
392.20—392.25 (Subpart C) Heading revised 38746
392.21 Removed 60324
392.22 Heading revised; (a), (b)(1) introductory text, (i), (ii), (iii), (2)(i) through (vi) amended 38747
392.24 Amended 38747
392.25 Revised 63925
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392.30 Removed 60324

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392.31 Removed 60324
392.32 Removed 60324
392.33 Amended 38747
392.40 Removed 60324
392.41 Removed 60324
392.42 (Subpart E) Heading revised 60324
392.50 (a), (b) and (c) amended 38747
392.51 Amended 38747
392.60 Revised 38747
392.61 Removed 60324
392.62 Removed 60324
392.63 Amended 38747
392.64 Amended; heading revised 38747
392.65 Removed 60324
392.66 Revised 38747
392.67 Amended; heading revised 38747
392.68 Amended 38747
392.69 Removed 60324
393 Waiver 12146
Authority citation revised 46245
393.53 Added; eff. 10–6–95 46245
395 Authority citation revised 60324
Authority citation revised 38748
395.1 (b) revised; (d)(2) amended 38748
395.2 Amended 60324
Amended 38748
395.3 Heading and (b) revised 38748
395.8 (f)(5), (6), (h)(2), (3) and (4) revised; (k)(2) amended 38748
395.13 (c)(1)(i), (ii), (d)(1), (2) and (4) amended 38748
395.15 (d)(2), (g) introductory text, (i)(2), (4), (7) and (j)(2)(iv) revised 38748
396 Authority citation revised 60324
Authority citation revised 38749
396.3 (b)(4) removed; (b)(5) redesignated as (b)(4); (b)(3) amended 60324
396.23 (a) revised 38749
397 Authority citation revised 51830, 63925
397.1 (a) revised 38749
397.5 Revised 63925
397.7 Revised 63925
397.9 Removed 51830
397.13 Revised 63925
397.19 Revised 63925
397.61—397.77 (Subpart C) Added 51830
397.201 (a) revised; (c) amended 51834
397.203 (a)(3) revised 51834
350—399 (Subchapter B) Appendixes A and C removed 60324
Appendix H added 67556
Regulation at 59 FR 67556 eff. date extended to 9–27–95 26002
Appendix B amended 38743, 38749
Regulation at 59 FR 67556 eff. date extended to 9–1–96 40761

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

501.2 Revised 43029
501.3 (c)(1) heading and (2) heading amended 15504
(a) introductory text amended; (a)(1)(i), (2), (3) and (c) revised; (d) removed 43029
501.4 (d) and (e) amended 15504
Revised 43030
501.7 (a)(2) and (3) revised; (a)(4) added 64163
Revised 43030
501.8 (f) introductory text and (g) heading revised 64163
(g)(3) removed; (l) added 9789
(f) and (g) amended 15504
(d)(2) revised 20435
Revised 43030
531 Authority citation revised 47877
531.5 (b)(12) added; eff. 10–30–95 47877
541 Authority citation revised 64168
541.3 Revised; eff. 10–25–95 64168
541.4 Revised; eff. 10–25–95 64168
541.5 Revised; eff. 10–25–95 64168
541 Appendix A heading and Appendix B revised; eff. 10–25–95 64169
Appendixes A, A–I and II revised 36233
544 Authority citation revised 33148
544.2 Revised 33148
544.4 (a) revised 33148
544.5 (a) revised 33149
544 Appendixes A and B revised 33149
552 Authority citation revised 17267
552.1 Revised 17267
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552.2 Revised 17267
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552.3 Revised 17267
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552.6 Revised 17267
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552.8 Revised 17267
Regulation at 60 FR 17267 eff. date delayed to 7–7–95 26002
Regulation at 60 FR 17267 eff. 7–7–95 50476
554 Authority citation revised 17267
554.2 Revised 17267
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554.3 Revised 17267
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Regulation at 60 FR 17267 eff. 7–7–95 50476
554.10 (a), (b), (c) introductory text, (2) and (4) revised; (e) removed 17267
Regulation at 60 FR 17267 eff. date delayed to 7–7–95 26002
Regulation at 60 FR 17268 eff. 7–7–95 50476
554.11 Revised 17268
Regulation at 60 FR 17268 eff. date delayed to 7–7–95 26002
Regulation at 60 FR 17268 eff. 7–7–95 50476
555 Authority citation revised 1750
555.9 (c)(1) revised 1750
564 Authority citation revised 14228
564.1 Revised 14228
564.2 Revised 14228
564.3 Revised 14228
564.5 Revised 14228
567 Authority citation revised 64170
567.4 (k) introductory text amended 64170
571 Technical correction 51229
Technical correction 42804
571.3 Amended 13254
(b) amended; eff. 3–25–96 15509
Regulation at 60 FR 13254 eff. date corrected to 9–26–95 49518
571.5 (b)(9) removed 37843
571.101 Table 2 amended 6432
Table 2 revised 13254
Regulation at 60 FR 13254 eff. date corrected to 9–26–95 49518
571.102 Amended 13642
571.103 Amended 13642
571.104 Amended 13643
571.105 Amended 6434
Amended; eff. 3–1–99 ..... 13256, 13303
571.106 Amended 30198
571.108 Amended; eff. 11–1–95 54839
Corrected 61656
Amended 1752, 8200, 8201, 8202
Figure 10 amended 19682
Amended; eff. 3–1–96 46066
571.109 Corrected 51229
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Appendix A amended 11914
571.110 Amended 13643
571.111 Amended 15692
571.112 Amended 13643
571.114 Amended 13644, 30011
Corrected 41028
571.115 Amended 13644
571.116 Amended 30198
571.118 Amended 13644
571.120 Amended 13644
571.121 Amended 2896, 36742, 38765
Amended; eff. 3–1–97 ..... 13257, 13296
571.124 Amended 13645
571.126 Amended 13645
571.131 Regulation at 59 FR 26761 eff. date delayed to 7–7–95 5337
571.135 Added 6434
Amended 37847
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571.201 Amended 43050
Figure 1 and Figure 2 added 43055
571.205 Amended 13646
571.206 Amended 13646
Amended; eff. 9–1–97 50134
571.207 Amended 13647
571.208 Amended 60918
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571.210 Amended 3775
571.212 Amended 13647
571.213 Amended 7464, 24799, 35139, 35144
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571.214 Amended; eff. 9–1–98 38761
571.216 Amended 13647, 13648
571.217 Amended 24570

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571.303 Amended 2543
571.304 Amended 66776
Amended 37843
572 Authority citation revised 2897
Heading revised 43058
572.1 Revised 43058
572.41 (a) introductory text, (3), (4), (5) and (c) revised 52091
572.42 (a) introductory text revised 52091
572.43 (a) revised 52091
572.44 (b)(1) and (c) revised 52091
572.40—572.44 (Subpart F) Appendix A added 52092
572.74 (c)(2) revised 2897
572.100—572.103 (Subpart L) Added 43058
572 Figure 50 added 43060
573 Authority citation revised 17268
573.3 (b) through (f) revised 17268
Regulation at 60 FR 17268 eff. date delayed to 7–7–95 26002
Regulation at 60 FR 17268 eff. 7–7–95 50476
573.4 Amended 17268
Regulation at 60 FR 17268 eff. date delayed to 7–7–95 26002
Regulation at 60 FR 17268 eff. 7–7–95 50476
573.5 (c)(1) amended; (c)(2) introductory text revised; (c)(8) redesignated as (c)(8)(i); (c)(2)(iv), (v), (8)(ii) through (vi), (10) and (11) added 17268
Regulation at 60 FR 17268 eff. date delayed to 7–7–95 26002
Regulation at 60 FR 17268 stayed in part 35458
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573.6 (a) amended; (b)(6) and (d) added 17269
Regulation at 60 FR 17269 eff. date delayed to 7–7–95 26002
Regulation at 60 FR 17269 eff. 7–7–95 50476
573.7 Heading, (d) and (e) added 17269
Regulation at 60 FR 17269 eff. date delayed to 7–7–95 26002
Regulation at 60 FR 17269 stayed 35458
Regulation at 60 FR 17269 eff. 1–2–96 50746
573.8 Revised 17270
Regulation at 60 FR 17270 eff. date delayed to 7–7–95 26002
Regulation at 60 FR 17270 eff. 7–7–95 50746
575 Authority citation revised 32921
575.01 Removed 32921
575.104 (g) Table 1 revised 11914
Appendix D added 39271
576 Authority citation revised 17270
576.5 Revised 17270
Regulation at 60 FR 17270 eff. date delayed to 7–7–95 26002
Regulation at 60 FR 17270 stayed 35458
Regulation at 60 FR 17270 eff. 1–2–96 50746
576.6 Revised 17270
Regulation at 60 FR 17270 eff. date delayed to 7–7–95 26002
Regulation at 60 FR 17270 stayed 35458
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577 Authority citation revised 17270
577.4 Amended 17270
Regulation at 60 FR 17270 eff. date delayed to 7–7–95 26002
Regulation at 60 FR 17270 eff. 7–7–95 50746
577.5 Heading, (c)(1) and (2) revised; (a) and (g)(1)(vii) amended; (h) and (i) added 17270
Regulation at 60 FR 17270 eff. date delayed to 7–7–95 26002
Regulation at 60 FR 17271 stayed in part 35458
Regulation at 60 FR 17270 eff. in part 7–7–95 and in part 1–2–96 50746
577.6 Heading, (a), (b)(2)(i), (ii), (3), (5), (9)(i)(A), (C), (10)(iv), (11) and (c)(1) revised 17271
Regulation at 60 FR 17271 eff. date delayed to 7–7–95 26002
Regulation at 60 FR 17271 eff. 7–7–96 50746
577.7 (a)(1) and (2)(i) amended; (a)(2)(iv) added; (a)(2)(ii)(B) revised 17271
Regulation at 60 FR 17271 eff. date delayed to 7–7–95 26002
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577.8 Revised 17272

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Regulation at 60 FR 17272 eff. 7-7-95 50746
577.10 Added 17272
Regulation at 60 FR 17272 eff. date delayed to 7-7-95 26002
Regulation at 60 FR 17272 eff. 7-7-95 50746
582 Authority citation revised 15512
582.5 Revised 15512
583.5 (i) revised 14229
(e)(3) revised; eff. 10-16-95 47893
583.6 Revised; eff. 10-16-95 47894
583.7 (c)(1) and (f) revised; eff. 10-16-95 47895
583.8 (c)(1) and (e) revised; eff. 10-16-95 47895
589 Added 43061
591 Authority citation revised 52097
591.4 Introductory text revised 52097
591.6 (c) revised 52097
591.10 (b) and (c) revised 52097
591 Appendix A amended; Appendix B added 52097
592 Authority citation revised 52098
592.1 Revised 52098
592.4 Introductory text revised 52098
592.6 (g)(2)(i) revised 52098
592.7 (c) amended 52098
592.8 (g) revised 52098

Chapter VI—Federal Transit Administration, Department of Transportation (Parts 600—699)

604.9 (b)(8)(iv) revised 51134
653 Authority citation revised 62230
653.5 (b) and note amended 12297
653.7 Amended 62230
Amended 12297, 39620
653.13 (a) and (b) amended 12297
653.37 (a) amended 12297
653.43 (c) redesignated as 653.65 12297
653.45 (a)(1), (2)(i) and (ii) amended 12297
(a)(2)(i) amended 39620
653.47 Revised 62230
653.65 Redesignated from 653.43(c) 12297
653 Appendix A removed 12297
654 Authority citation revised 62240
654.3 (b) and note amended 12299
654.7 Amended 12299, 39620
654.15 (a) and (b) amended 12299
654.31 Stayed 24766
654.33 (b) redesignated as (b)(1); (b)(2) added 62240
(a)(1), (2)(i) and (ii) amended 12300
(a)(2)(i) amended 39620
654.35 (c)(1) revised; (j) and (k) added 12300
654.37 (d)(2) and (3) redesignated as (d)(3) and (4); new (d)(2) added 62240
654.45 Added 12300
654 Appendix A removed 12300
661 Authority citation revised 14175
661.7 Appendix A amended 14176, 37932

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800 Authority citation revised 40112
800.3 (a) revised 40112
821 Authority citation revised 59046
821.1 Amended 59046
Regulation at 58 FR 11380 confirmed 59054
821.2 Regulation at 58 FR 11380 confirmed; revised 59054
821.3 Added 59046
821.6 (d) revised 59046
821.7 (a) and (b) revised 59046
821.8 Revised 59047
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821.11 Revised 59047
821.12 Revised 59047
821.14 (a) revised 59047
821.19 (b) revised; (d) added 59047
821.20 (b) and (c) revised 59048
821.24 (a), (d) and (e) revised 59048
821.30 (a) revised 59048
Regulation at 58 FR 11381 confirmed 59054
821.31 (a) revised 59048
821.35 (a) revised 59048
821.37 (a) revised 59048
821.38 Revised 59048
821.42 (c) removed; (d) redesignated as (c) 59049
821.43 Revised 59049
821.47 Revised 59049
821.48 (e) revised; (f) removed; (g) redesignated as (f) 59049
(e) revised 25620
821.49 Revised 59049
821.50 (a) and (b) revised 59049
821.54—821.57 (Subpart I) Heading revised 59049

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821.54 (a) revised 59049
821.55 (a), (b) and (c) revised; (f) added 59049
821.56 (a) revised 59050
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821.63 (b) revised 59050
821.64 Revised 59050
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826.2 Regulation at 58 FR 11381 confirmed 59054
826.3 Regulation at 58 FR 11381 confirmed; (a) revised 59054
830 Authority citation revised 40112
830.1 Revised 40112
830.2 Amended 40112
830.5 Introductory text revised 40113
830.15 (a) revised 40113
830.20 (Subpart E) Removed 40113
831 Authority citation revised 40113
831.2 (a)(1) revised 40113
831.9 (b) revised 40113

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1002 Policy statement 22303
1002.1 (d), (e)(1) and (f)(6) table revised 67643
1002.2 Table corrected 52372
(c) and (d)(1) revised 63727
(f) revised 67643
(f) table amended 2544
(f) table corrected 4477
1011 Authority citation revised 65505
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1011.6 (a)(1)(iv) added 65505
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1023.5 Revised 30012
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1039.11 (a) table amended 51134, 59663, 63725
(a) table amended 26840, 38281
1043.12 Added 16810
1084.10 Added 16811
1105.7 (b)(9) amended; (b)(11) redesignated as (b)(10); new (b)(10) added 32277
1130 Authority citation revised 2544
1130.2 (f) amended; (g) added 2544
1160 Revised 63728
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1161 Removed 63730
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1162 Removed 63730
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1163 Removed 63730
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TITLE 50—WILDLIFE AND FISHERIES

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2.2 (a), (d) and (e) revised.....40302
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INQUIRIES AND SUGGESTIONS

Rob Sheehan was Chief Editor of the LSA, assisted by Brad Brooks. The LSA was prepared under the direction of Richard L. Claypoole, assisted by Maxine L. Hill. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Richard L. Claypoole, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

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1, 2 (2 Reserved)	(869–026–00001–8)	$5.00	Jan. 1, 1995
3 (1994 Compilation and Parts 100 and 101)	(869–026–00002–6)	40.00	[1] Jan. 1, 1995
4	(869–026–00003–4)	5.50	Jan. 1, 1995
5 Parts:			
1–699	(869–026–00004–2)	23.00	Jan. 1, 1995
700–1199	(869–026–00005–1)	20.00	Jan. 1, 1995
1200–End, 6 (6 Reserved)	(869–026–00006–9)	23.00	Jan. 1, 1995
7 Parts:			
0–26	(869–026–00007–7)	21.00	Jan. 1, 1995
27–45	(869–026–00008–5)	14.00	Jan. 1, 1995
46–51	(869–026–00009–3)	21.00	Jan. 1, 1995
52	(869–026–00010–7)	30.00	Jan. 1, 1995
53–209	(869–026–00011–5)	25.00	Jan. 1, 1995
210–299	(869–026–00012–3)	34.00	Jan. 1, 1995
300–399	(869–026–00013–1)	16.00	Jan. 1, 1995
400–699	(869–026–00014–0)	21.00	Jan. 1, 1995
700–899	(869–026–00015–8)	23.00	Jan. 1, 1995
900–999	(869–026–00016–6)	32.00	Jan. 1, 1995
1000–1059	(869–026–00017–4)	23.00	Jan. 1, 1995
1060–1119	(869–026–00018–2)	15.00	Jan. 1, 1995
1120–1199	(869–026–00019–1)	12.00	Jan. 1, 1995
1200–1499	(869–026–00020–4)	32.00	Jan. 1, 1995
1500–1899	(869–026–00021–2)	35.00	Jan. 1, 1995
1900–1939	(869–026–00022–1)	16.00	Jan. 1, 1995
1940–1949	(869–026–00023–9)	30.00	Jan. 1, 1995
1950–1999	(869–026–00024–7)	40.00	Jan. 1, 1995
2000–End	(869–026–00025–5)	14.00	Jan. 1, 1995
8	(869–026–00026–3)	23.00	Jan. 1, 1995
9 Parts:			
1–199	(869–026–00027–1)	30.00	Jan. 1, 1995
200–End	(869–026–00028–0)	23.00	Jan. 1, 1995
10 Parts:			
0–50	(869–026–00029–8)	30.00	Jan. 1, 1995
51–199	(869–026–00030–1)	23.00	Jan. 1, 1995
200–399	(869–026–00031–0)	15.00	[6] Jan. 1, 1993
400–499	(869–026–00032–8)	21.00	Jan. 1, 1995
500–End	(869–026–00033–6)	39.00	Jan. 1, 1995
11	(869–026–00034–4)	14.00	Jan. 1, 1995
12 Parts:			
1–199	(869–026–00035–2)	12.00	Jan. 1, 1995
200–219	(869–026–00036–1)	16.00	Jan. 1, 1995
220–299	(869–026–00037–9)	28.00	Jan. 1, 1995
300–499	(869–026–00038–7)	23.00	Jan. 1, 1995
500–599	(869–026–00039–5)	19.00	Jan. 1, 1995
600–End	(869–026–00040–9)	35.00	Jan. 1, 1995
13	(869–026–00041–7)	32.00	Jan. 1, 1995
14 Parts:			
1–59	(869–026–00042–5)	33.00	Jan. 1, 1995
60–139	(869–026–00043–3)	27.00	Jan. 1, 1995

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Title	Stock Number	Price	Revision Date
140–199	(869–026–00044–1)	13.00	Jan. 1, 1995
200–1199	(869–026–00045–0)	23.00	Jan. 1, 1995
1200–End	(869–026–00046–8)	16.00	Jan. 1, 1995
15 Parts:			
0–299	(869–026–00047–6)	15.00	Jan. 1, 1995
300–799	(869–026–00048–4)	26.00	Jan. 1, 1995
800–End	(869–026–00049–2)	21.00	Jan. 1, 1995
16 Parts:			
0–149	(869–026–00050–6)	7.00	Jan. 1, 1995
150–999	(869–026–00051–4)	19.00	Jan. 1, 1995
1000–End	(869–026–00052–2)	25.00	Jan. 1, 1995
17 Parts:			
1–199	(869–026–00054–9)	20.00	Apr. 1, 1995
200–239	(869–026–00055–7)	24.00	Apr. 1, 1995
240–End	(869–026–00056–5)	30.00	Apr. 1, 1995
18 Parts:			
1–149	(869–026–00057–3)	16.00	Apr. 1, 1995
150–279	(869–026–00058–1)	13.00	Apr. 1, 1995
280–399	(869–026–00059–0)	13.00	Apr. 1, 1995
400–End	(869–026–00060–3)	11.00	Apr. 1, 1995
19 Parts:			
1–140	(869–026–00061–1)	25.00	Apr. 1, 1995
141–199	(869–026–00062–0)	21.00	Apr. 1, 1995
200–End	(869–026–00063–8)	12.00	Apr. 1, 1995
20 Parts:			
1–399	(869–026–00064–6)	20.00	Apr. 1, 1995
400–499	(869–026–00065–4)	34.00	Apr. 1, 1995
500–End	(869–026–00066–2)	34.00	Apr. 1, 1995
21 Parts:			
1–99	(869–026–00067–1)	16.00	Apr. 1, 1995
100–169	(869–026–00068–9)	21.00	Apr. 1, 1995
170–199	(869–026–00069–7)	22.00	Apr. 1, 1995
200–299	(869–026–00070–1)	7.00	Apr. 1, 1995
300–499	(869–026–00071–9)	39.00	Apr. 1, 1995
500–599	(869–026–00072–7)	22.00	Apr. 1, 1995
600–799	(869–026–00073–5)	9.50	Apr. 1, 1995
800–1299	(869–026–00074–3)	23.00	Apr. 1, 1995
1300–End	(869–026–00075–1)	13.00	Apr. 1, 1995
22 Parts:			
1–299	(869–026–00076–0)	33.00	Apr. 1, 1995
300–End	(869–026–00077–8)	24.00	Apr. 1, 1995
23	(869–026–00078–6)	22.00	Apr. 1, 1995
24 Parts:			
0–199	(869–026–00079–4)	40.00	Apr. 1, 1995
200–219	(869–026–00080–8)	19.00	Apr. 1, 1995
220–499	(869–026–00081–6)	23.00	Apr. 1, 1995
500–699	(869–026–00082–4)	20.00	Apr. 1, 1995
700–899	(869–026–00083–2)	24.00	Apr. 1, 1995
900–1699	(869–026–00084–1)	24.00	Apr. 1, 1995
1700–End	(869–026–00085–9)	17.00	Apr. 1, 1995
25	(869–026–00086–7)	32.00	Apr. 1, 1995

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CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
26 Parts:			
§§ 1.0-1–1.60	(869–026–00087–5)	21.00	Apr. 1, 1995
§§ 1.61–1.169	(869–026–00088–3)	34.00	Apr. 1, 1995
§§ 1.170–1.300	(869–026–00089–1)	24.00	Apr. 1, 1995
§§ 1.301–1.400	(869–026–00090–5)	17.00	Apr. 1, 1995
§§ 1.401–1.440	(869–026–00091–3)	30.00	Apr. 1, 1995
§§ 1.441–1.500	(869–026–00092–1)	22.00	Apr. 1, 1995
§§ 1.501–1.640	(869–026–00093–0)	21.00	Apr. 1, 1995
§§ 1.641–1.850	(869–026–00094–8)	25.00	Apr. 1, 1995
§§ 1.851–1.907	(869–026–00095–6)	26.00	Apr. 1, 1995
§§ 1.908–1.1000	(869–026–00096–4)	27.00	Apr. 1, 1995
§§ 1.1001–1.1400	(869–026–00097–2)	25.00	Apr. 1, 1995
§§ 1.1401–End	(869–026–00098–1)	33.00	Apr. 1, 1995
2–29	(869–026–00099–9)	25.00	Apr. 1, 1995
30–39	(869–026–00100–6)	18.00	Apr. 1, 1995
40–49	(869–026–00101–4)	14.00	Apr. 1, 1995
50–299	(869–026–00102–2)	14.00	Apr. 1, 1995
300–499	(869–026–00103–1)	24.00	Apr. 1, 1995
500–599	(869–026–00104–9)	6.00	[4]Apr. 1, 1990
600–End	(869–026–00105–7)	8.00	Apr. 1, 1995
27 Parts:			
1–199	(869–026–00106–5)	37.00	Apr. 1, 1995
200–End	(869–026–00107–3)	13.00	[6]Apr. 1, 1994
28 Parts:			
1–42	(869–026–00108–1)	27.00	July 1, 1995
43–end	(869–026–00109–0)	22.00	July 1, 1995
29 Parts:			
0–99	(869–026–00110–3)	21.00	July 1, 1995
100–499	(869–026–00111–1)	9.50	July 1, 1995
500–899	(869–026–00112–0)	36.00	July 1, 1995
900–1899	(869–026–00113–8)	17.00	July 1, 1995
1900–1910 (§§ 1901.1 to 1910.999)	(869–022–00111–6)	33.00	July 1, 1994
1910 (§§ 1910.1000 to end)	(869–026–00115–4)	22.00	July 1, 1995
1911–1925	(869–022–00113–2)	26.00	July 1, 1994
1926	(869–022–00114–1)	33.00	July 1, 1994
1927–End	(869–022–00115–9)	36.00	July 1, 1994
30 Parts:			
1–199	(869–022–00116–7)	27.00	July 1, 1994
200–699	(869–026–00120–1)	20.00	July 1, 1995
700–End	(869–026–00121–9)	30.00	July 1, 1995
31 Parts:			
0–199	(869–026–00122–7)	15.00	July 1, 1995
200–End	(869–026–00123–5)	25.00	July 1, 1995
32 Parts:			
1–39, Vol. I		15.00	[2]July 1, 1984
1–39, Vol. II		19.00	[2]July 1, 1984
1–39, Vol. III		18.00	[2]July 1, 1984
1–190	(869–026–00124–3)	32.00	July 1, 1995
191–399	(869–026–00125–1)	38.00	July 1, 1995
400–629	(869–026–00126–0)	26.00	July 1, 1995
630–699	(869–026–00127–8)	14.00	[5]July 1, 1991

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700–799	(869–026–00128–6)	21.00	July 1, 1995
800–End	(869–026–00129–4)	22.00	July 1, 1995
33 Parts:			
1–124	(869–022–00127–2)	20.00	July 1, 1994
125–199	(869–022–00128–1)	26.00	July 1, 1994
200–End	(869–026–00132–4)	24.00	July 1, 1995
34 Parts:			
1–299	(869–026–00133–2)	25.00	July 1, 1995
300–399	(869–026–00134–1)	21.00	July 1, 1995
400–End	(869–022–00132–9)	40.00	July 1, 1994
35	(869–026–00136–7)	12.00	July 1, 1995
36 Parts			
1–199	(869–026–00137–5)	15.00	July 1, 1995
200–End	(869–026–00138–3)	37.00	July 1, 1995
37	(869–026–00139–1)	20.00	July 1, 1995
38 Parts:			
0–17	(869–026–00140–5)	30.00	July 1, 1995
18–End	(869–026–00141–3)	30.00	July 1, 1995
39	(869–026–00142–1)	17.00	July 1, 1995
40 Parts:			
1–51	(869–026–00143–0)	40.00	July 1, 1995
52	(869–022–00141–8)	39.00	July 1, 1994
53–59	(869–026–00145–6)	11.00	July 1, 1995
60	(869–026–00146–4)	36.00	July 1, 1995
61–80	(869–022–00144–2)	41.00	July 1, 1994
81–85	(869–022–00145–1)	23.00	July 1, 1994
86–99	(869–022–00146–9)	41.00	July 1, 1994
100–149	(869–022–00147–7)	39.00	July 1, 1994
150–189	(869–026–00151–1)	25.00	July 1, 1995
190–259	(869–026–00152–9)	17.00	July 1, 1995
260–299	(869–022–00150–7)	36.00	July 1, 1994
300–399	(869–022–00151–5)	18.00	July 1, 1994
400–424	(869–022–00152–3)	27.00	July 1, 1994
425–699	(869–022–00153–1)	30.00	July 1, 1994
700–789	(869–026–00157–0)	25.00	July 1, 1995
790–End	(869–026–00158–8)	15.00	July 1, 1995
41 Chapters:			
1, 1–1 to 1–10		13.00	[3]July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3]July 1, 1984
3–6		14.00	[3]July 1, 1984
7		6.00	[3]July 1, 1984
8		4.50	[3]July 1, 1984
9		13.00	[3]July 1, 1984
10–17		9.50	[3]July 1, 1984
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18, Vol. II, Parts 6–19		13.00	[3]July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3]July 1, 1984
19–100		13.00	[3]July 1, 1984
1–100	(869–026–00159–6)	9.50	July 1, 1995
101	(869–026–00160–0)	29.00	July 1, 1995
102–200	(869–026–00161–8)	15.00	July 1, 1995

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201–End	(869–026–00162–6)	13.00	July 1, 1995
42 Parts:			
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400–429	(869–022–00161–2)	26.00	Oct. 1, 1994
430–End	(869–022–00162–1)	36.00	Oct. 1, 1994
43 Parts:			
1–999	(869–022–00163–9)	23.00	Oct. 1, 1994
1000–3999	(869–022–00164–7)	31.00	Oct. 1, 1994
4000–End	(869–022–00165–5)	14.00	Oct. 1, 1994
44	(869–022–00166–3)	27.00	Oct. 1, 1994
45 Parts:			
1–199	(869–022–00167–1)	22.00	Oct. 1, 1994
200–499	(869–022–00168–0)	15.00	Oct. 1, 1994
500–1199	(869–022–00169–8)	32.00	Oct. 1, 1994
1200–End	(869–022–00170–1)	26.00	Oct. 1, 1994
46 Parts:			
1–40	(869–022–00171–0)	20.00	Oct. 1, 1994
41–69	(869–022–00172–8)	16.00	Oct. 1, 1994
70–89	(869–022–00173–6)	8.50	Oct. 1, 1994
90–139	(869–022–00174–4)	15.00	Oct. 1, 1994
140–155	(869–022–00175–2)	12.00	Oct. 1, 1994
156–165	(869–022–00176–1)	17.00	[7]Oct. 1, 1993
166–199	(869–022–00177–9)	17.00	Oct. 1, 1994
200–499	(869–022–00178–7)	21.00	Oct. 1, 1994
500–End	(869–022–00179–5)	15.00	Oct. 1, 1994
47 Parts:			
0–19	(869–022–00180–9)	25.00	Oct. 1, 1994
20–39	(869–022–00181–7)	20.00	Oct. 1, 1994
40–69	(869–022–00182–5)	14.00	Oct. 1, 1994
70–79	(869–022–00183–3)	24.00	Oct. 1, 1994
80–End	(869–022–00184–1)	26.00	Oct. 1, 1994
48 Chapters:			
1 (Parts 1–51)	(869–022–00185–0)	36.00	Oct. 1, 1994
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7–14	(869–022–00190–6)	30.00	Oct. 1, 1994
15–28	(869–022–00191–4)	32.00	Oct. 1, 1994
29–End	(869–022–00192–2)	17.00	Oct. 1, 1994
49 Parts:			
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178–199	(869–022–00195–7)	21.00	Oct. 1, 1994
200–399	(869–022–00196–5)	30.00	Oct. 1, 1994
400–999	(869–022–00197–3)	35.00	Oct. 1, 1994
1000–1199	(869–022–00198–1)	19.00	Oct. 1, 1994
1200–End	(869–022–00199–0)	15.00	Oct. 1, 1994
50 Parts:			
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200–599	(869–022–00201–5)	22.00	Oct. 1, 1994

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(Comprising a Complete CFR Set)

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600–End	(869–022–00202–3)	27.00	Oct. 1, 1994
CFR Index and Findings Aids	(869–026–00053–1)	36.00	Jan. 1, 1995
Complete 1995 CFR set		883.00	1995
Microfiche CFR Edition:			
Complete set (one-time mailing)		188.00	1992
Complete set (one-time mailing)		223.00	1993
Complete set (one-time mailing)		244.00	1994
Subscription (mailed as issued)		264.00	1995
Individual copies		1.00	1995

[1]Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4]No amendments to this volume were promulgated during the period April 1, 1990 through March 31, 1994. The CFR volume issued as of April 1, 1990 should be retained.

[5]No amendments to this volume were promulgated during the period July 1, 1991 through June 30, 1994. The CFR volume issued as of July 1, 1991 should be retained.

[6]No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1993. The CFR volume issued as of January 1, 1993 should be retained.

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4410 Revoked in part by PLO 7165 52864
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12131 Continued by EO 12974 51875
12163 *See* Memorandum of Feb. 16, 1995 10793
12196 Continued by EO 12974 51875
12216 Continued by EO 12974 51875
12345 Continued by EO 12974 51875
12356 Revoked in part by EO 12958 19825
12367 Continued by EO 12974 51875
12382 Continued by EO 12974 51875
12425 Amended by EO 12971 48617
12473 *See* EO 12960 26647
12484 *See* EO 12960 26647
12550 *See* EO 12960 26647
12586 *See* EO 12960 26647
12613 Revoked in part by EO 12959 24757
12640 Amended by EO 12945 4527
12708 *See* EO 12960 26647
12722 *See* Notice of July 28, 1995 39099
12724 *See* Notice of July 28, 1995 39099
12767 *See* EO 12960 26647
12826 Superseded by EO 12944 309
12844 Revoked in part by EO 12974 51875
12852 Amended by EO 12965 34087
12864 Amended by EO 12970 48359
12865 Continued by Notice of Sept. 8, 1995 48621
12869 Superseded by EO 12974 51875
12878 Revoked by EO 12974 51875
12882 Continued by EO 12974 51875
12886 Superseded by EO 12944 309
12887 *See* EO 12974 51875
12888 *See* EO 12960 26647
12898 Amended by EO 12948 6381
12900 Continued by EO 12974 51875
12901 Amended by EO 12973 51665
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12903 Superseded by EO 12955 13365
12905 Continued by EO 12974 51875
12912 See EO 12974 51875
12936 *See* EO 12960 26647
12944 309
12945 4527
12946 4829
12947 5079
12948 6381
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12951 10789
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12953 11013
12954 13023
12955 13365
12956 14199
12957 14615
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12958 *See* Order of Oct. 13, 1995 53845
12958 19825
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12959 24757
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12968 40245
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June 29, 1995 35113
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No. 95–50 of Sept. 30, 1995 53093

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TITLE 4—ACCOUNTS

Chapter I—General Accounting Office (Parts 1—99)

21 Revised 40739
28 Comment date extension 9773
Regulation at 59 FR 59105 confirmed 35119
28.1 Regulation at 59 FR 59105 confirmed 35119
28.11 Regulation at 59 FR 59106 confirmed 35119
28.17 Regulation at 59 FR 59106 confirmed 35119
28.18 Regulation at 59 FR 59106 confirmed 35119
28.90 Regulation at 59 FR 59106 confirmed 35119
28.98 Regulation at 59 FR 59106 confirmed 35119
28.100 Regulation at 59 FR 59106 confirmed 35119
28.101 Regulation at 59 FR 59106 confirmed 35119
29 Comment date extension 9773
Regulation at 59 FR 59106 confirmed 35119
29.3 (c) removed 35119
29.6 (a)(2) revised; (d) removed 35119
29.8 (b)(2) revised 35119
29.12 Removed 35119
29.13 Heading revised; (a) removed; (b) redesignated as (a); new (b) added 35119

Proposed Rules:

21 5871

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

185 Added 7891
185.139 (g) correctly revised 22249
211 Revised 3056
211.102 (a)(3) corrected 6595
213 Authority citation revised 55173
213.3102 (i) revised; (m) removed 10006
(j) revised; interim 55174
213.3301 Revised 35120
213.3301b Removed 35120
213.3302 Revised 35120
214.203 Added 6385
214.204 Added 6385
230 Authority citation revised 3057
230.402 (a) through (h) redesignated as (b) through (i); new (a) added; new (b), new (d)(1) and new (h)(2) revised 3057
300 Authority citation revised 3057
300.104 (b) revised 3057
(c)(2) revised 47040
300.201 (b) through (e) redesignated as (c) through (f); new (b) added 3057
300.301 (Subpart C) Added 3057
300.407 (b) revised 3057
301.203 (c) revised; (d) added 3057
302.101 (c)(11) added 10006
304 Added 45648
307.102 (c) removed 3058
307.103 Revised 3058
307.104 Added 3058
310.202 Revised 3058
315 Technical correction 3948
315.201 Regulation at 59 FR 68104 confirmed; (b)(3)(x) revised 53504
315.401 Regulation at 59 FR 68107 confirmed; (a) and (c)(13) revised 53504
315.501 Revised 53504
315.502 Revised 53504
315.801 (a)(5), (6) and (7) amended; (a)(8), (9) and (d) added 53504
315.802 Revised 53504
315.804 Existing text designated as (a); (b) added 53505
315.902 Revised 53505
315.906 (b) revised; (c), (d) and (e) added 53505
315.907 (b) revised 53505
316 Authority citation revised 3058
316.201 Revised 3058
316.301 Revised 3058
316.302 (c)(3) revised 3058
316.403 (b)(3) revised 35120
316.701 (c) revised 39101
316.702 (b)(1) and (c) revised; (d) added 39101
317.301 (a)(4) redesignated as (a)(5); new (a)(4) added 6385
317.401 Existing text designated as (a); (b) added 6385
317.501 (a) amended; (b)(2) revised; (f) added 6385
317.502 (b) amended; (d) revised; (e) redesignated as (f); new (e) added 6385
317.503 (b) amended; (c) and (d) redesignated as (d) and (e); new (c) and (f) added 6386
317.601 Revised 6386
317.602 Heading revised; (a) amended 6386
317.603 Heading revised; amended 6386
317.604 Heading revised; introductory text, (a) and (b) redesignated as (b) introductory text, (1) and (2); new (a) added 6386
317.605 (a) and (b) revised 6386
317.703 (a) redesignated as (a)(1); (a)(2) added 6386
317.801 (b) heading revised; (b) redesignated as (b)(1); (b)(2) and (3) added; (d) removed 6386
317.901 (d) added 6387
317.903 (b)(2) revised; (b)(3) and (4) added 6387
319 Revised 6387
330.201 Revised 3058
330.202 (a)(1) revised; (c) added 3059
330.203 (a)(4) and (c) revised; (d) through (g) added 3059
330.204 (a) and (b)(3) revised; (c) added 3059
330.205 Revised 3059
330.206 (a)(1), (2) and (b) revised 3060
330.207 (a), (b), (c)(1) and (d) revised 3060
330.208 (a)(1) and (b) introductory text revised; (a)(4) added 3061
333.101 Revised 3061
333.102 Revised 3061

339.102 (b) revised 3061
340.202 (c) revised 3061
340.401—340.403 (Subpart D) Revised 3061
351 Authority citation revised 2678
351.202 (c)(7) added 3062
351.203 Amended 3062
351.301 Existing text designated as (a); (b) added 3062
351.302 (f) and (g) added 3062
351.303 (a) revised; (c)(3) added 3062
351.403 (a) revised; (b)(5) removed; (b)(6) redesignated as (b)(5) 3062
351.501 (b)(1) and (2) revised 3062
351.502 Revised 3063
351.506 (b) revised 3063
351.605 Revised 2678
351.608 (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added 2678
351.701 (a) revised 3063
(c)(3) revised; interim 44254
351.702 (a)(4) revised 3063
351.704 (b)(5) added 3063
351.801—351.807 (Subpart H) Regulation at 58 FR 32047 confirmed 2678
Revised 2679
351.801 (a)(2) revised; interim 44254
351.802 (a)(1) revised; interim 44254
351.803 Regulation at 59 FR 32873 confirmed 2678
351.807 Regulations at 57 FR 21890 and 59 FR 32873 confirmed 2678
(b)(3) revised; interim 44254
353 Revised 3063
Revised; interim 45652
353.103 (a)(2) corrected 6595
359.601 (b)(3) added 6388
359.602 (a)(2) amended; (a)(4) added 6388
359.603 (a)(1) and (d)(2) amended; (a)(4) and (d)(3) added; (f) revised 6388
359.605 Revised 6389
359.705 (b) redesignated as (d); new (b), (c) and (e) added 6389
359.803 Amended 6389
362 Added; interim 11017
430.101—430.102 (Subpart A) Revised 43943
430.201 (b) corrected 47646
430.201—430.210 (Subpart B) Revised 43943
430.204 (b)(3)(iv) corrected 47646
430.303 Amended 43946
430.310 Revised 43946
430.501—430.506 (Subpart E) Removed 43946
432 Technical correction 47646
432.103 (b) revised 43946
451 Heading revised 43946
Authority citation revised 43946
451.101—451.107 (Subpart A) Revised 43946
451.101 (c) corrected 47646
451.103 (c)(2) corrected 47646
451.104 (f) revised 33098
451.201 (a) second introductory text removed; (b), (c) and (d) redesignated as (c), (d) and (e); new (b) added 43947
451.301—451.307 (Subpart C) Removed 43947
531 Authority citation revised 33098, 33325
Technical correction 47646
531.101 Amended 33325
531.401 (c) revised 33098
531.402 (a) revised 43947
531.403 Amended 33098, 43947
531.404 Introductory text and (a) introductory text revised 43948
531.408 Removed 43948
531.409 (b) and (d) revised 43948
531.501 Revised 43948
531.503 Revised 43948
531.504 Revised 43948
531.506 Revised 43948
531.507 Revised 43948
531.508 Revised 43948
532.279 Regulation at 59 FR 54787 confirmed 319
(j)(5) removed; (j)(6) through (10) redesignated as (j)(5) through (9); interim 5312
Regulation at 60 FR 5312 confirmed 22455
(j)(5) removed; (j)(6) through (9) redesignated as (j)(5) through (8); interim 26341
Regulation at 60 FR 26341 confirmed 40744
(j)(5) through (8) removed; interim 46214
532.201—532.283 (Subpart B) Appendix C amended 12395
Regulation at 59 FR 60294 confirmed 12396

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TITLE 5 Chapter I—Con.

Appendixes B and D amended; interim 16363, 35468
Appendix A amended 36203
Regulation at 60 FR 16363 confirmed 36204
Appendix D amended; interim 51881
Appendixes B and D amended 55175
532.285 Added 5310
534 Authority citation revised 6389
534.401 (c)(3) and (f) revised 6389
534.403 (a)(1) revised; (a)(2) redesignated as (a)(3); new (a)(2) and (4) added; (c) and (f) amended 6389
534.405 Added 6390
550.101—550.187 (Subpart A) Authority citation revised 33098
550.103 (o) revised 33098
550.171 Revised 33098
550.404 (b)(2) corrected 3303
550.803 Amended 47040
575.101 Revised 33325
575.103 Amended 33325
575.104 (b)(2), (c)(1), (2)(i) and (iii) revised 33326
575.105 Revised 33326
575.106 Revised 33326
575.108 Revised 33326
575.201 Revised 33326
575.203 Amended 33326
Corrected 35601
575.204 (c)(1), (2)(i), (iii) and (d) revised 33326
575.205 (a) and (b) revised 33326
575.206 Revised 33327
575.208 Revised 33327
575.302 (c) revised 33327
575.303 Amended 33327
575.304 (a) and (b) revised 33327
(a) corrected 35601
575.305 (c)(1) revised 33327
575.306 (d) added 33327
575.308 Revised 33327
581 Authority citation revised 5044, 35468
Technical correction 18949
581.104 (i)(3) removed 5044
581 Appendix A revised 5044
Appendix B added 35468
Appendix A corrected 42425, 42428, 42429
Appendixes A and B corrected 54937
582 Revised 13030
591.205 (b)(3) amended 46750
591.210 (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f) 46750
630 Authority citation revised 33328
630.201 (b) corrected 5252
(b)(7), first (8) and second (8) redesignated as (b)(8), (9) and (7) 26979
630.301 (b) revised 33328
630.306 Regulation at 59 FR 62972 confirmed 22456
630.308 Regulation at 59 FR 62973 confirmed 22456
630.401 (c) revised 26979
630.403 Heading corrected 3032
630.905 (b) and (c) amended 26979
630.907 (a)(1), (2) and (d)(1) amended 26979
(c) introductory text and (d)(2) amended 26979
630.1007 (b) and (c) amended 26979
630.1008 (a)(1), (2) and (d)(1) amended 26979
630.1011 (b)(2) amended 26979
731.501 (Subpart E) Regulation at 59 FR 47527 confirmed 13613
752.203 (f) revised 47040
771 Revised 47040
831.204 (e)(2) revised 47041
831.644 (d) revised 14202
831.902 Amended 3339
831.907 (c) revised 3339
831.910 Revised 3339
831.2203 (e) revised; (h)(1) introductory text, (i) and (ii) redesignated as (h)(1)(i) introductory text, (A) and (B); (h)(1)(ii) added; interim 54586
(h)(1)(i) introductory text and (2) introductory text amended; interim 54587
831.2207 (c)(3)(i), (ii)(B), (H), (K) and (M) revised; (c)(3)(ii)(G) and (V) removed; interim 54586
831.2208 (a) introductory text, (b) and (c)(2)(ii) amended; interim 54587
838.101 Regulations at 59 FR 66637 and 66638 confirmed 54938
838.102 Regulation at 59 FR 66637 confirmed 54938
838.103 Regulation at 59 FR 66637 confirmed 54938
838.122 Regulation at 59 FR 66638 confirmed 54938

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838.131 Regulation at 59 FR 66638 confirmed 54938
838.132 Regulation at 59 FR 66638 confirmed 54938
838.134 Regulation at 59 FR 66638 confirmed 54938
838.1101—838.1121 (Subpart K) Regulation at 59 FR 66637 confirmed 54938
842.106 (e)(2) revised 47041
842.612 (h) added 14202
842.703 (d)(1) introductory text, (i) and (ii) redesignated as (d)(1)(i) introductory text, (A) and (B); new (d)(1)(i) introductory text and (2) introductory text amended; new (d)(1)(ii) added; interim 54587
842.704 (b) revised; interim 54587
842.707 (c)(3)(i), (ii)(B), (H), (K) and (M) revised; (c)(3)(ii)(G) and (V) removed; interim 54587
842.708 (a) introductory text, (b) and (c)(2)(ii) amended; interim 54587
842.802 Amended 3339
842.805 (d) revised 3340
843.102 Amended 13035
870 Technical correction 5461
Authority citation revised 31372
870.203 (e) added 31372
870.204 (h) added 31372
870.301 (c) added 31373
870.402 Added 31373
870.501 (a) revised 31373
(d) amended; interim 45657
870.601 (c) introductory text and (4) revised 31373
(g) added; interim 51883
870.602 Existing text designated as (a); (b) added 31373
870.701 (c) introductory text and (4) revised 31373
(e) added; interim 51883
870.702 Existing text designated as (a); (b) added 31373
870.801 Existing text designated as (a); (b) added 31374
(a) revised; interim 51883
870.1101—870.1107 (Subpart K) Added 31374
871 Technical correction 5461
871.501 (a) revised 31375
871.701 Revised; interim 51883
872 Technical correction 5461
872.501 (a) revised 31375
872.701 Revised; interim 51883
873 Technical correction 5461
873.501 (a) revised 31375
874 Technical correction 5461
Revised; interim 51883
874.201 (g) added 31375
890 Technical correction 5461
890.101 (a) amended 16038
890.105 Revised 16038
890.107 Revised 16039
(c) corrected 21590
890.303 (i) added; interim 45657
890.304 (a)(1)(vi) revised; (a)(1)(vii) and (viii) added; interim 45658
890.305 (a) revised; interim 45658
890.307 Regulation at 59 FR 67607 confirmed 28511
890.501 (e) revised; (f) and (g) added; interim 45658
890.502 (g) revised; interim 45658
890.808 Regulation at 59 FR 67607 confirmed 28511
890.901—890.907 (Subpart I) Heading revised; interim 26668
890.901 Revised; interim 26668
890.902 (c) and (d) revised; interim 26668
890.903 Revised; interim 26668
890.904 Existing text designated as (a); new (a) amended; (b) added; interim 26668
890.905 Revised; interim 26668
(b) and (c) corrected 28019
890.906 Redesignated as 890.909; new 890.906 added; interim 26668
890.907 Redesignated as 890.910; new 890.907 added; interim 26668
890.908 Added; interim 26668
890.909 Redesignated from 890.906; interim 26668
890.910 Redesignated from 890.907; interim 26668
890.1109 Regulation at 59 FR 67607 confirmed 28511
930.105 (a) revised 3067
930.106 Revised 3067
930.108 Revised 3067
930.109 (b) revised 3067
970.100 Revised 33040, 33043
970.105 Amended 33041, 33043
970.110 (c) revised 33041, 33043
970.200 Revised 33041, 33043
970.215 Revised 33041, 33043
970.220 Revised 33041, 33043
970.225 Revised 33041, 33043

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TITLE 5 Chapter I—Con.
970 Appendixes A and B revised 33042, 33043

Chapter II—Merit Systems Protection Board (Parts 1200—1299)

1201 Appendixes II and III revised 40744
Appendix II corrected 43001
Appendix III corrected 44255

Chapter III—Office of Management and Budget (Parts 1300—1399)

1300 Revised 12397
1320 Revised 44984
1320.5 Corrected 46149

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

1601.1 Amended 36633
1601.4 (c) removed 47837
1601.5 Revised 36633
1601.6 Revised 36633
1603 Authority citation revised 24535
1603.1 Amended; interim 24535
1603.3 (a) and (b) amended; interim 24535
1620 Authority citation revised 19990
1620.100—1620.107 (Subpart H) Added; interim 19990
1650 Revised 9603
1653 Added 13609
Authority citation revised 45624
1653.20—1653.25 (Subpart B) Added; interim 45624

Chapter XIV—Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400—2499)

Chapter XIV Appendix A amended 49493

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2604 Added 10007
2610.106 (a) amended 38666
2635.203 (b)(7) note amended 51667
2635.403 (a) note amended 6391
2635.803 Note amended 6391
2635 Appendix B added 6391
2640 Added; interim 44709

Chapter XXI—Department of the Treasury (Parts 3100—3199)

Chapter XXI Established 22251

Chapter XXII—Federal Deposit Insurance Corporation (Parts 3201—3299)

3201 Added 20174

Chapter XXX—Farm Credit System Insurance Corporation (Part 4001)

Chapter XXX Established; interim 30776

Chapter XXXI—Farm Credit Administration (Part 4101)

Chapter XXXI Established; interim (effective date pending) 30781
Regulation at 60 FR 30781 confirmed; eff. 9–13–95 47453

Chapter XXXIII—Overseas Private Investment Corporation (Part 4301)

Chapter XXXIII Regulation at 58 FR 33320 confirmed 37556

Chapter LII—Export-Import Bank of the United States (Part 6201)

Chapter LII Established 17626

Chapter LIII—Department of Education (Parts 6301—6399)

Chapter LIII Established 5817

Chapter LX—United States Postal Service (Part 7001)

Chapter LX Established 47240

Chapter LXXVII—Office of Management and Budget (Part 8701)

Chapter LXXVII Established 12397

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300 ..... 2546, 46780
315 43724
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2421 39878
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2640 47208
7001 (Ch. LX) 15702
7501 (Ch. XLV) 34420, 15074

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture (Parts 0—26)

0 Authority citation revised 8454
0.735–11 (b)(6) amended 8454
(b)(7) amended 8455
1.130—1.151 (Subpart H) Authority citation revised 8455, 33329
1.131 (a) amended 8455, 33329
1.132 Amended 8455
1.133 (a)(1) amended 8455
1.140 (a)(1) and (b) amended; (c) revised 8455
1.141 (e) and (g)(7) amended; (g) and (h) redesignated as (h) and (i); (b) and new (i) revised; new (g) added 8455
1.142 (a) heading, (1), (2), (3) and (c)(2) amended 8456
1.144 (c)(2) revised; (c)(9) and (10) redesignated as (c)(13) and (14); new (c)(9), new (10), (11) and (12) added 8456
1.145 (a) and (c) amended 8456
1.147 (c)(2) and (d) amended 8456
1.148 (b) revised; (f) heading, (1), (2) and (3) amended 8456
1.149 (b) amended 8457
1.160—1.175 (Subpart I) Authority citation revised 8457
1.161 Amended 8457
1.162 (b) amended 8457
1.164 (a) amended 8457
1.167 Revised 8457
1.168 (e)(1), (2), (3) and (6) amended; (b) through (e) redesignated as (c), (d), (e) and (g); new (b), (f) and (h) added 8457
1.169 (a) heading, (1), (2), (3) and (c) amended 8458
1.170 (a), (c) and (i) amended 8458
1.171 Amended 8458
1.172 (a) amended 8458
1.173 (b)(1), (2), (d) introductory text and (e) amended; (d)(2) revised; (d)(7) redesignated as (d)(9); new (d)(7) and (8) added 8458
1.174 (c) amended 8459
6 Authority citation revised 47454
6.20—6.34 (Subpart) Heading revised; interim 1990
Authority citation revised 1990
6.20 Revised; interim 1990
6.21 Revised; interim 1990
6.22 (a) revised; interim 1991
6.23 Revised; interim 1991
6.24 Revised; interim 1991
6.25 (a), (c)(1) introductory text, (ii), (iii), (2) and (3) revised; interim 1992
(c)(2) amended; interim 21426
(c)(2) removed; (c)(3) redesignated as (c)(2); (b)(4) and new (c)(2)(ii) revised; interim 47454
6.26 (a)(3) through (6), (b)(5) and (f) removed; (b)(1) table, (c) introductory text and (3) introductory text revised; (d) and (e) redesignated as (e) and (f); new (d) added; interim 1992
(c)(3)(ii) amended; (d)(2), (3)(i) and (ii) revised; interim 21426
6.27 (f) and (h) amended; interim 1993
6.28 Amended; interim 1993
6.29 (b)(3) amended; interim 1993

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TITLE 7 Subtitle A—Con.

6.30 (a) introductory text amended; (a)(1) and (2) removed; interim.....1993
6.34 Removed; interim.....1993
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70.210 (a), (b) and (e) introductory text revised; (e)(10) through (16) redesignated as (e)(12) through (18); new (e)(10) and new (11) added.....6640
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70.240 (a) revised; (d) removed 6642
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75 Authority citation revised 21035
75.41 Amended 21035
75.47 Amended 21035
97 Authority citation revised 8464, 17189
97.1 Amended; interim 17189
97.2 Amended; interim 17189
97.5 (a)(2) amended; interim 17189
97.6 (d) amended; interim 17189
97.7 Removed; interim 17189
97.11 (b) amended; interim 17189
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97.19 Amended; interim 17189
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97.130 (c) and (d) amended; interim 17190
97.140 Amended; interim 17190
97.141 Amended; interim 17190
97.142 Amended; interim 17190
97.175 Revised; interim 17190
97.201 (e) amended; interim 17190
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97.300 (d) amended 8464
97.303 (b) amended; interim 17190
97.500 Amended; interim 17190
97.800 Amended; interim 17190
110 Authority citation revised 8123
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Regulation at 60 FR 8123 eff. date delayed to 8–1–95 25119
110.3 (b) through (g) redesignated as (c) through (h); (a) and new (c) revised; new (b) added 8123
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110.5 Revised 8123
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201.66 Removed 35830
201.104 Removed; new 201.104 redesignated from 201.107 16979
201.105 Removed; new 201.105 redesignated from 201.108 16979
Revised 35830
201.106 Removed; new 201.106 redesignated from 201.109 16979
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Chapter II Nomenclature change 19490
210.2 Amended 31207
210.4 (b)(3) introductory text amended 31207
210.7 (c)(1)(v) and (d) amended 31207
210.8 (a)(2), (4) and (b)(2)(i) amended; (a)(2)(i) and (ii) added; (a)(3) revised 31207
210.9 (b)(5), (c) introductory text and (1) amended 31208
210.10 (c)(1) table correctly revised 10150
Redesignated as 210.10a; new 210.10 added 31208
210.10a Redesignated from 210.10 31208
Heading revised; (c) table amended 31214
210.14 (c) revised 31215
210.15 (b)(2) revised; (b)(3) amended; (b)(4) removed; (b)(5) redesignated as (b)(4) 31215
210.16 (b)(1) and (c)(3) amended 31215
210.18 (c) introductory text, (1), (2), (3), (d)(3) and (h)(2) amended 31215
210.19 (a)(1) through (5) redesignated as (a)(2) through (6); new (a)(1) and (c)(6)(iii) added; new (a)(2) revised; new (a)(3), (6), (c) introductory text, (1), (6)(i) and (ii) amended 31215
210 Appendixes A and C amended 31216
220.2 (b) and (t) amended; (m), (p–1) and (w–1) added 31217
220.7 (e)(2) amended 31217
220.8 (a)(1) table corrected 10150
Redesignated as 220.8a; new 220.8 added 31217
220.8a Redesignated from 220.8 31217
Heading revised 31222
220.9 (a) amended 31222
220.13 (f)(3) and (4) redesignated as (f)(4) and (5); new (f)(3) added 31222
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220 Appendixes A and C amended 31222
235.1 Amended 15461
235.2 (r) and (s)(2) amended 15461
235.4 (a), (b) introductory text, (c), (d) and (e) redesignated as (a)(1), (2), (d), (e) and (f); new (a) introductory text, new (b) introductory text, new (c), new (d) heading, new (e) heading, new (f) heading and (g) added; new (a)(1), new (2), (b), (3)(iv) and new (f) amended; (b)(2), (3) introductory text and (4) revised 15461
235.5 (b)(1) amended; (e) revised 15462
235.6 (a) amended; (c) revised; (e), (g) and (h) redesignated as (d), (e) and (f); new (g) added 15462
235.7 (b) and (c) amended 15463
235.11 (b)(2), (3), (4) and (7) amended 15463
246.7 (e)(2)(ii), (iv), (4) introductory text and (vii) revised 19490
248.2 Amended 49745
248.4 (a)(16) removed; (a)(10)(ii) through (viii) and (17) through (20) redesignated as (a)(10)(iii) through (ix), and (16) through (19); (a)(8)(i), (15) and new (16) revised; new (a)(10)(ii) and new (20) added 49746
248.8 (a) revised 49746
248.10 (a) introductory text, (e)(2) and (4) amended; (a)(4) and (d) introductory text revised 49746
248.11 (g) amended 49747
248.12 (a)(1)(ii) redesignated as (a)(1)(iii); (a)(1)(i) and new (a)(1)(iii) amended; new (a)(1)(ii) and (b)(8) through (14) added 49747
248.14 (a)(1)(i), (iii), (d)(1), (2) and (e)(1) amended; (h), (i) and (j) redesignated as (i), (j) and (k); (a)(1)(ii), (b), (c), (d)(3), (g), new (i), new (j) and new (k) revised; new (h) added 49747
248.16 (f) amended 49748
248.17 (b) introductory text, (c)(1)(i) and (ii) amended 49748
248.25 (a) revised 49748
248.26 Revised 49748
271.2 Amended 45996, 48869
272.1 (g)(139) added 1708
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(g)(138) revised 17631
(g)(140) added 20182
(g)(141) added 43349
(g)(142) added 43515
(g)(143) added 45996
(g)(144) added 48869
272.2 (a)(2) amended; (d)(1)(xi) added 20182
(a)(2) amended; (d)(1)(xii) added 45996
273.2 (f)(1)(xii) added 48869
273.5 (b)(1), (2) and (3) redesignated as (b), (c) and (d); (a) and new (b) revised 48869
273.7 (d)(1)(i)(C) revised 1708
(d)(1)(i)(C) correctly designated 37556
273.8 (e)(18) added 43349
(e)(11)(vi) removed; (e)(11)(vii) through (e)(11)(xi) redesignated as (e)(11)(vi) through (x) 48869
273.10 Regulation at 59 FR 50155 confirmed 17630
(d)(4) amended 17631
273.12 Regulation at 59 FR 50155 confirmed 17630
273.16 (a)(1), (e)(4), (9)(iii) and (i)(5) amended; (b), (e)(3), (8)(iii), (f)(2)(iii), (g)(2)(ii) and (h)(1)(ii)(C) revised 43515

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273.18 (g)(5) and (6) added 45996
273.21 Regulation at 59 FR 50155 confirmed 17630
(f)(2)(iv) and (i) revised; (j)(3)(iii)(C) revised 17631
274.2 (b)(2), (3) and (4) removed; (b)(1), (c), (d) and (e) redesignated as (b), (d), (e) and (f); (d)(2) and (3) redesignated as (d)(3) and (4); (a) and new (b) amended; (b) heading, new (d)(1) and new (3) revised; new (c), new (d)(2) and (g) added 20182
274.3 (e)(1) revised 20183
274.11 Heading, (a) heading, introductory text and (1) revised 20183

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

300 Revised 27673
300.1 (a) revised 6958, 14208, 50384
301.38–2 (b) amended 38667
Regulation at 60 FR 38667 eff. date confirmed 49494
301.45–3 Regulation at 59 FR 46902 confirmed 5836
301.50–3 (c) amended; (d) revised; interim 2322
301.52–2a Amended; interim 44416
301.64 Regulation at 59 FR 51840 confirmed 5087
301.64–3 Regulation at 59 FR 51840 confirmed 5087
301.78–3 (c) amended; interim 40054
301.78–10 (c) amended 52834
301.80–2a Amended; interim 39836
Regulation at 60 FR 39836 confirmed 54939
301.81–3 (e) amended; interim 52832
301.83 (a) amended 39103
301.93–3 (c) revised 18728
Regulation at 60 FR 18728 confirmed 40993
319 Authority citation revised 27674
319.19 (a) through (d) revised 27674
319.28 (a)(1), (b) introductory text and (1) amended 39103
(b)(2), (4)(ii) and (f) amended; (b)(7) removed 39104
319.34 (Subpart) Heading revised 27674
319.34 (a) and (c) removed; (b) and (d) redesignated as (a) and (b); new (a) revised 27674
319.37–1 Amended 3077, 27674
319.37–2 (a) table amended 8924
319.37–3 (a)(3) amended; (a)(17) added 8924
319.37–5 (n) amended 4530
(o) added 8924
319.37–8 (e) revised; (g) added 3077
319.37–9 Amended 3078
319.37–13 Footnote 11 redesignated as Footnote 12 3077
319.40–1—319.40–11 (Subpart) Revised 27674
319.40–6 (b)(2) and (c) corrected 30157
319.56–2aa Heading, introductory text, (a) and (c) amended 50386
319.56–2ee Added 50386
319.56–2f Removed 6958
319.56–2q Removed 6958
319.56–2r (a)(1) and (g)(1) amended 14208
319.56–2t Table amended 14208, 50384
319.56–2u Heading revised; (a) added 50385
319.56–2x (a) table amended 6958, 14209, 50385
319.69 Introductory text and (b)(3) removed; (a) and (b) amended; (b)(4) and (5) redesignated as (b)(3) and (4) 27682
319.69a (a) amended 27682
319.76–2 Footnote 1 revised 6000
322.1 Heading and (c) amended; Footnote 1 removed; (e) redesignated as (f); new (e) added 6000
354.2 Table amended 11898, 17632, 24536
Table corrected 20306
360.200 (a) and (c) amended 35832
372 Added 6002
372.5 (d) corrected 13212
372.6 Corrected 13212
372.7 Corrected 13212
381.66 (f)(2) amended 44412
381.129 (b)(6) amended 44412
381.134 (b)(15) amended 44413

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

400 Comment period reopening and extension 40055
400.4 Amended 40055

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400.161—400.177 (Subpart L) Authority citation revised 21036
400.169 Revised; interim 21036
400.451—400.500 (Subpart R) Authority citation revised 37323
400.454 (a) revised 37323
400.458 Added 37324
400.459 Added 37324
Correctly revised 51321
400.650—400.658 (Subpart T) Added; interim 1997
401 Authority citation revised 29749, 29960
401.101 Regulation at 58 FR 67631 confirmed 37934
401.103 Regulation at 58 FR 67633 confirmed 37934
401.105 Regulation at 58 FR 67634 confirmed 37934
401.107 (e) revised 40056
401.109 Amended 29960
Regulation at 58 FR 67635 confirmed 37934
401.111 Regulation at 58 FR 67637 confirmed 37934
401.113 Regulation at 58 FR 67638 confirmed 37934
401.117 Regulation at 58 FR 67639 confirmed 37934
401.119 Regulation at 58 FR 67641 confirmed 37934
401.120 Amended 29960
Regulation at 58 FR 67642 confirmed 37934
401.121 Regulation at 58 FR 67643 confirmed 37934
401.143 Amended; interim 29750
402 Added; interim 2002
Comment period reopening and extension 40055
404 Added; interim 26671
Comment period reopening and extension 40055
404.41 OMB number 26676
443 Authority citation revised 29960
443.7 (d) amended 29960
457.9 Regulation at 59 FR 45972 confirmed 16765
457.101 Amended 35834
457.104 Amended 35834
457.105 Amended 35834
457.108 Amended 29960
457.110 Regulation at 59 FR 9615 confirmed 37934
457.113 Amended 35834
457.114 Added 31378
457.115 Added 31380
457.116 Added 25602

Chapter VI—Soil Conservation Service, Department of Agriculture (Parts 600—699)

Chapter VI Heading revised; nomenclature change; interim 28514
620 Added; interim 28514
620.2 (1) corrected 33034
620.4 (d)(3), (3)(iv) and (f) corrected 33034
620.12 (a)(1) corrected 33034
620.14 (d) corrected 33034

Chapter VII—Consolidated Farm Service Agency, Department of Agriculture (Parts 700—799)

704.20 (a)(4) added; interim 22458
718.1 Regulation at 59 FR 59287 confirmed 33331
718.2 Regulation at 59 FR 59287 confirmed 33331
718.3 Regulation at 59 FR 59287 confirmed 33331
(b) amended; interim 44257
718.10 Regulation at 59 FR 59287 confirmed 33331
718.12 Regulation at 59 FR 59287 confirmed 33331
718.13 Regulation at 59 FR 59288 confirmed 33331
718.21 Regulation at 59 FR 59288 confirmed 33331
(e) revised; interim 44257
718.22 Regulation at 59 FR 59288 confirmed 33331
(d) removed; (e), (f) and (g) redesignated as (d), (e) and (f); interim 44257
718.24 Regulation at 59 FR 59288 confirmed 33331
718.25 Regulation at 59 FR 59289 confirmed 33331
718.26 Regulation at 59 FR 59289 confirmed 33331
718.40 (a)(1) and (b)(3) removed; (a)(2) and (b)(4) redesignated as (a)(1) and (b)(3); (c) introductory text, (1) and (2) introductory text revised; interim 44257
Regulation at 59 FR 59289 confirmed 33331

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Corrected 48203
718.42 Regulation at 59 FR 59289 confirmed 33331
718.43 Regulation at 59 FR 59289 confirmed 33331
718.45 Regulation at 59 FR 59289 confirmed 33331
718.46 Regulation at 59 FR 59289 confirmed 33331
718.47 Regulation at 59 FR 59290 confirmed 33331
723.111 (c) added 22460
723.112 (c) added 27868
723.113 (c) added 38234
723.114 (c) added 38234
723.115 (c) added 38234
723.116 (c) added 38234
723.117 (c) added 38234
723.118 (c) added 38234
729.214 (e) added 7430
782 Added 5089
790 Regulation at 59 FR 59290 confirmed 33331
791 Regulation at 59 FR 59290 confirmed 33331
792.7 (l) revised 43706

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

Chapter VIII Heading revised 5835
Policy statement 10303
800.0 (b)(3) and (91) revised; Footnote 1 removed 5835
800.2 Revised 5835
800.7 Revised 5836
800.8 (b), (d) and (e) revised 5836
800.76 (a) revised 39243
800.186 (c)(3) introductory text revised 39243
800.195 (f)(5)(ii) revised 39243
800.196 (g)(6)(ii) revised 39243
802.0 Revised 31910
Regulation at 60 FR 31910 eff. date confirmed 42429
810.108 Reinstated; CFR correction 51667
868 Redesignated from Part 68; new Part 868 heading revised 16364
868.20 (a) and (b) amended 16364
868.21 (e), (f) and (j) amended 16364
868.22 Amended 16364
868.24 (a) amended 16364
868.26 Amended 16364
868.33 (a)(2) and (3) amended 16364
868.42 (a) amended 16364
868.43 Amended 16364
868.51 (a) amended 16364
868.52 (a) and (b) amended 16364
868.61 (a) amended 16364
868.71 (e) amended 16364
868.74 (f) amended 16364
868.75 (c) amended 16364
868.81 (d) amended 16364
868.82 Amended 16365
868.83 Amended 16365
868.90 Amended; (a), (b) and (c) revised 36029
868.92 (a) introductory text, (5) and (f) amended 16365
868.103 Amended 16365
868.134 Revised 36030
868.140 Revised 36031
868.141 Amended 16365
868.201 Amended 16365
868.205 Amended 16365
868.211 (a)(5) and (b)(5) amended 16365
868.212 Introductory text, (b) note and (d) note amended 16365
868.256 Amended 16365
868.262 (a)(5) amended 16365
868.263 Introductory text and (c) note amended 16365
868.310 Heading, Footnotes 1, 2 and 5 amended 16365
868.311 Heading, Footnotes 1, 2 and 3 amended 16365
868.312 Heading, Footnotes 1, 2 and 3 amended 16365
868.313 Heading, Footnotes 1 and 2 amended 16365
868.315 Heading, (c) note, (d) note and (e) note amended 16365
868.316 Amended 16365
868.403 (b) amended 16365
868.406 Amended 16365
868.408 Amended 16365
868.409 Amended 16365
868.502 (b) amended 16365
868.503 Amended 16365
868.507 Amended 16365
868.601 (c) and (d) amended 16365
868.603 Amended 16365
868.604 Amended 16365
868.607 Amended 16365
868.611 Amended 16365

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Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

905 Budget of expenses 33330, 40058
905.306 Regulation at 59 FR 55573 confirmed 8926
906 Budget of expenses 32258, 49749
906.120 (c)(4) revised 13892
906.365 (a)(7) added 33679
(a)(4) revised; interim 54292
911 Budget of expenses 8524, 24539
915 Budget of expenses 8524, 8926, 24539
915.306 (a)(7) revised; interim 42770
916 Budget of expenses 43351, 52068
916.350 (a)(4)(iv) Table I and (b) revised 14894
Regulation at 60 FR 14894 confirmed 30997
916.356 (a) introductory text, (1) introductory text, (i), Table I, (2) introductory text, (4) introductory text and (6) introductory text revised 14894
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1415.15 (b)(1)(ii), (2)(i) through (v), (e) and (h) revised; (f) amended; interim 44258
1415.20 (f) and (g) revised; interim 44259
1416 Regulation at 59 FR 59320 confirmed 33331
1416.100 (a) introductory text revised; interim 44259
1416.101 (a) introductory text revised; interim 44259
1416.103 (b) and (e) revised; interim 44259
1416.400 (b) revised; interim 44259
1421.1 Regulation at 59 FR 34347 confirmed 1709
1421.3 Regulation at 59 FR 34348 confirmed 1709
1421.4 Regulation at 59 FR 34348 confirmed 1709
1421.5 Regulation at 59 FR 34348 confirmed 1709
1421.7 Regulation at 59 FR 34348 confirmed 1709
(b)(8)(iv) revised; (b)(8)(v) added 27870
(b)(7)(v) added 43002
(b)(1)(v), (2)(v), (3)(v), (4)(v), (5)(v), (6)(v), (9)(v) and (10)(v) added 48020
1421.8 Regulation at 59 FR 34348 confirmed 1709
1421.9 Regulation at 59 FR 34348 confirmed 1709
1421.11 Regulation at 59 FR 34349 confirmed 1709
1421.14 Regulation at 59 FR 34349 confirmed 1709
1421.16 Regulation at 59 FR 34349 confirmed 1709
1421.17 Regulation at 59 FR 34349 confirmed 1709
1421.18 Regulation at 59 FR 34350 confirmed 1709
1421.19 Regulation at 59 FR 34350 confirmed 1709
1421.20 Regulation at 59 FR 34350 confirmed 1709
1421.22 Regulation at 59 FR 34350 confirmed 1709
1421.27 (a)(2)(iv) revised; (a)(2)(v) added 27870
1421.29 Regulation at 59 FR 34351 confirmed 1709
1421.202 Regulation at 59 FR 34351 confirmed 1709
1421.205 Regulation at 59 FR 34351 confirmed 1709
1421.206 Regulation at 59 FR 34351 confirmed 1709
1421.207 Regulation at 59 FR 34351 confirmed 1709
1421.208 Regulation at 59 FR 34352 confirmed 1709
1421.210 Regulation at 59 FR 34352 confirmed 1709
1421.211 Regulation at 59 FR 34353 confirmed 1709
1421.215 Regulation at 59 FR 34353 confirmed 1709
1421.217 (e) added 48020
1421.320 Regulation at 59 FR 34353 confirmed 1709
1421.321 Regulation at 59 FR 34353 confirmed 1709
1421.323 Regulation at 59 FR 34353 confirmed 1709
1421.324 Regulation at 59 FR 34353 confirmed 1709
1425 Authority citation revised 2680
1425.3 (i) and (j) redesignated as (j) and (k); (d), new (j) and new (k) revised; new (i) added 2680
1425.4 (a), (b)(7) and (c) introductory text revised; (e) and (f) added 2681
1425.6 (b)(2) revised 2681
1425.7 (a) revised 2681
1425.8 (b)(2) and (e) revised 2681
1425.9 Introductory text, (d) and (g) revised 2681
1425.10 (b)(3) revised 2682
1425.11 (c)(3) revised 2682
1425.14 (c) revised 2682
1425.16 Redesignated as 1425.17; new 1425.16 added 2682
1425.17 Redesignated as 1425.18; new 1425.17 redesignated from 1425.16; (a)(2), (b)(1)(i), (ii), (iii), (2) and (c)(2) revised; (c)(5) added 2682
1425.18 Redesignated as 1425.19; new 1425.18 redesignated from 1425.17 2682
(a) and (1) revised; (b)(5) added 2683
1425.19 Redesignated as 1425.20; new 1425.19 redesignated from 1425.18 2682
1425.20 Redesignated as 1425.21; new 1425.20 redesignated from 1425.19 2682
Revised 2683
1425.21 Redesignated as 1425.22; new 1425.21 redesignated from 1425.20 2682
1425.22 Redesignated as 1425.24; new 1425.22 redesignated from 1425.21 2682
1425.23 Redesignated as 1425.25 2682
Added 2683
1425.24 Redesignated from 1425.22 2682
1425.25 Redesignated from 1425.23 2682
1427.1 Regulation at 59 FR 39252 confirmed 1710
1427.3 Regulation at 59 FR 39252 confirmed 1710
1427.4 Regulation at 59 FR 39253 confirmed 1710
1427.5 Regulation at 59 FR 39253 confirmed 1710
(b)(2)(iii) introductory text and (A) revised 38477
1427.6 Regulation at 59 FR 39253 confirmed 1710
1427.8 (a)(2)(iii) and (iv) revised; (a)(2)(v) added 17985
(a)(1)(iii) and (iv) revised; (a)(1)(v) added 31624
1427.11 Regulation at 59 FR 39253 confirmed 1710
1427.14 Regulation at 59 FR 39253 confirmed 1710
1427.18 Regulation at 59 FR 39253 confirmed 1710
1427.23 Regulation at 59 FR 39254 confirmed 1710
1427.168 Regulation at 59 FR 39254 confirmed 1710
1427.171 Regulation at 59 FR 39254 confirmed 1710
1427.174 Regulation at 59 FR 39254 confirmed 1710
1427.175 Regulation at 59 FR 39254 confirmed 1710
1434.1 Regulation at 59 FR 23790 confirmed 322
1434.6 Regulation at 59 FR 23790 confirmed 322
1434.7 Regulation at 59 FR 23791 confirmed 322
1434.13 Regulation at 59 FR 23791 confirmed 322
1434.14 Regulation at 59 FR 23791 confirmed 322
1434.16 Regulation at 59 FR 23791 confirmed 322
1434.17 Regulation at 59 FR 23791 confirmed 322
1434.23 Regulation at 59 FR 23791 confirmed 322
1434.24 Regulation at 59 FR 23792 confirmed 322
1434.25 Regulation at 59 FR 23792 confirmed 322
1434.26 Regulation at 59 FR 23792 confirmed 322
1434.27 Regulation at 59 FR 23792 confirmed 322
1435.4 (c) redesignated as (e); new (c) and (d) added 5837
1435.500—1435.529 (Subpart) Regulation at 58 FR 36124 confirmed 7700
1435.500 (a)(1) and (2) revised 7700
1435.502 Amended 7700
1435.507 (a) introductory text 7700
1435.510 (d) revised 7700
1435.513 (f) revised; (g) removed; (h) redesignated as (g) 7700
1435.514 (a) revised 7701

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1435.520 (b) revised 7701
1435.521 (c)(1) revised 7701
1435.528 (a) and (b) revised 7701
1435.530 Regulation at 58 FR 41995 confirmed 7701
1443 Removed 51886
1446.103 Amended 35835
1464.7 (f) added; interim 21037
1464.11 (f) added; interim 19667
1464.12 (c) added 22460
1464.13 (c) added 38234
1464.14 (c) added 38234
1464.15 (c) added 38234
1464.16 (c) added 38234
1464.17 (c) added 38234
1464.18 (c) added 38234
1464.19 (c) added 27868
1464.102 (c) and (d) added; interim 19667
1468.3 Amended 22461
1468.4 (b)(1)(ii)(E), (2)(v) and (3)(v) added 28524
1468.18 (d) added 22461
1477.1 Revised 52610
1477.2 Revised 52610
1477.3 Amended 52611
1477.4 (d) redesignated as (e); (c)(2) and new (e) revised; new (d) added 52611
1477.5 (g) redesignated as (h); (a) introductory text, (1), (2), (3), (b)(5), (c)(1), (2), (f) and new (h) revised; (c)(6) and new (g) added 52612
(a) corrected 54409
1477.6 Revised 52612
1477.7 (a) revised; (b)(7), (8) and (9) redesignated as (b)(8), (9) and (10); new (b)(7) added 52613
1477.9 (a)(1) and (3) revised 52613
1477.10 (d)(2) and (e) introductory text revised 52613
1477.11 (c) added 52613
1477.13 (d) revised 52613
1477.19 (h) through (m) redesignated as (i) through (n); new (h) and (o) added 52613
1477.21 Introductory text revised; (b) through (e) redesignated as (c) through (f); new (b) added 52613
1477.22 (a)(1) introductory text revised; (a)(3) added 52613
1477.23 Added 52614
1477.24 Added 52614
1477.25 Redesignated as 1477.26 52614
1477.26 Redesignated from 1477.25 52614
1478 Authority citation revised 52614
1478.1 Revised 52614
1478.2 (a) and (d) revised; (c)(3) and (4) added 52614
1478.3 Revised 52615
1478.4 Revised 52616
1478.5 (a), (c) and (d) revised; (e) added 52616
1478.6 (a) revised; (e) added 52616
1478.7 (b) amended 52617
1478.8 (b)(4), (c) and (d) revised 52617
1478.9 Revised 52617
1478.10 Revised 52617
1478.11 Revised 52617
1478.12 Revised 52618
1478.14 Revised 52618
1478.16 Revised 52618
1485 Revised 6363
1494.201 (q) revised; interim 21039
1494.301 (a)(1) and (b) removed; (a)(2) through (6) and (c) through (g) redesigntated as (a)(1) through (5) and (b) through (f); introductory text, (a) introductory text, new (b), new (d), new (e) and new (f) revised; new (a)(6) and new (g) added; interim 21039

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

1710.2 Amended 3730
1710.7 (d)(1)(vi) removed 3730
1710.106 (d) redesignated as (e); new (d) and (f) added 3730
1710.110 (c)(1)(ii) revised; (c)(3) added 3730
1710.112 (b)(10) added 3731
1710.115 (b) revised 3731
1710.116 Removed 3731
1710.251 (b) revised 3731
1710.252 (b) revised 3731
1710.400—1710.407 (Subpart I) Added 3731
1710.401 OMB number 3732
1712 Removed 3734
1714.6 (a)(2) revised 3734
1714.55—1714.59 (Subpart B) Added 3734

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1717.650—1717.659 (Subpart N) Revised 48877
1717.856 (d) removed 3735
1717.860 (e) removed 3735
1718 Added 36888
1719 Removed 3735
1726 Revised 10155
1726.37 OMB number 10159
1751 Revised 8174
1755 Authority citation revised 44729
1755.97 Table amended 5097
Amended 44729
1755.98 Table amended 1712, 5097
1755.200 Added 5097
(d)(4)(ii) table corrected 9079
1755.390 OMB number 1711
1755.397 Introductory text amended 1711
Revised 44729
1755.522 OMB number 1711
1755.525 OMB number 1711
1755.860 OMB number 1711
1755.870 OMB number 1711
1755.890 OMB number 1711
1755.900 OMB number 1711
1773.2 Corrected 2874
1785.17 (Subpart A) Removed 3735

Chapter XVIII—Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Consolidated Farm Service Agency, Department of Agriculture (Parts 1800—2099)

Chapter XVIII Heading corrected; nomenclature change; CFR correction 20005
1900 Authority citation revised 55122
1900.52 (l) added 55122
1910.1 (d) added 55122
1910.4 (a) revised 55122
1910.5 (c)(6) amended; (e) added 55122
1910.6 (g) introductory text and (1) amended 55122
1924 Authority citation revised 24543
1924.6 (c) introductory text amended 55122
1924.9 (a) amended 55122
1924.101 Revised 24543
1924.101—1924.150 (Subpart C) Exhibit A removed 24547
1924.102 Revised 24543
1924.103 Revised 24543
1924.104 Added 24544
1924.105 Revised 24544
1924.106 Revised 24544
1924.107 Revised 24545
1924.108 Revised 24546
1924.109 Removed 24546
1924.110 Removed 24546
1924.114 Removed 24546
1924.115 Revised 24546
1924.116 Removed 24546
1924.117 Removed 24546
1924.118 Removed 24546
1924.119 Revised 24546
1924.120 Removed 24546
1924.121 Removed 24546
1924.122 Revised 24546
1924.123 Removed 24547
1924.124 Removed 24547
1924.150 Revised (OMB number) 24547
1940 Authority citation revised 55123
1940.401 (c)(3)(ii) amended 55123
1940.903 Amended 55123
1942 Authority citation revised 52839
1942.17 (g)(2)(ii) and (3)(ii) revised 11019
(b)(6) added 46216
1942.50 Revised (OMB number) 11019
1942.307 (a)(6) added 52839
1942.460 (g) added 52839
1944 Authority citation revised 55123
1944.1—1944.50 (Subpart A) Revised 55123
1944.151—1944.200 (Subpart D) Exhibits A and A–1 amended 4070
1944.158 (i) revised 4070
1944.452 Amended 55143
1944.453 (d) added 55143
1944.456 (a)(1), (2), (i), (l) and (m) introductory text amended; (m)(2) removed; (m)(3) redesignated as (m)(2); new (m)(3) added 55143
1944.457 Heading and (a)(4) revised; (a)(1) and (2) amended 55143
1944.458 (d)(1) and (2) revised; (d)(3) amended 55144

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1944.461 (a) introductory text, (1)(iii)(A), (b)(1), (3) introductory text and (d)(2) amended; (b)(3)(i), (iii) and (iv) revised 55144
1944.463 (a) introductory text, (d) introductory text, (e)(1) and (2) amended; (d)(1) revised 55144
1944.467 (a) introductory text and (3) revised; (c) and (d) removed; (e) through (h) redesignated as (d) through (g); (a)(1) and new (e) amended 55144
1944.468 (b) amended 55144
1944.469 Introductory text and (d) amended; (b) and (c) removed 55144
1944.472 Amended 55144
1944.500 Revised (OMB number) 55144
1950 Authority citation revised 55122
1950.105 (c) amended 55122
1951 Authority citation revised 46756, 55122
1951.155 (c) introductory text amended 55145
1951.301 Amended 55145
1951.304 (d) added 55145
1951.312 (b) amended 55145
1951.313 Redesignated as 1951.314; new 1951.313 added 55145
1951.314 Redesignated as 1951.315; new 1951.14 redesignated from 1951.313 55145
(e) amended 55146
1951.315 Redesignated as 1951.316; new 1951.15 redesignated from 1951.314 55145
1951.316 Redesignated as 1951.317; new 1951.16 redesignated from 1951.315 55145
1951.317 Redesignated as 1951.318; new 1951.17 redesignated from 1951.316 55145
1951.318 Redesignated as 1951.319; new 1951.18 redesignated from 1951.317 55145
1951.319 Redesignated as 1951.320; new 1951.19 redesignated from 1951.318 55145
1951.320 Redesignated from 1951.319 55145
1951.330 (b)(4) and (c) amended 55146
1951.401 Revised 55146
1951.457 (b) revised 55146
1951.602 (g), (h) and (i) redesignated as (h), (i) and (j); new (g) added 55146
1951.604 (a)(1)(iv)(E) amended 55146
1951.608 (a)(3)(ii) amended 55146
1951.951—1951.1000 (Subpart T) Revised 46756
1955 Authority citation revised 55122
1955.3 Amended 55147
1955.10 (f)(2)(ii) amended 28320
1955.15 (d)(2)(iv) amended 55147
1955.18 (a) through (d) and (f) through (l) removed 34455
1955.20 (b)(2) amended 28320
1955.63 (a) and (b) revised; introductory text, (c) introductory text and (3) amended; (d) removed 34455
(c) introductory text and (1) amended 55147
1955.64 Removed 34455
1955.66 (i), (k)(1) and (l) through (o) removed; (j) amended 34455
(e)(2) amended 55122
1955.72 Amemded 34455
1955.80 Removed 34455
1955.107 Introductory text, (d)(3), (f) introductory text, (1) introductory text, (v), (2) and (3) amended; (a) revised; (b), (d)(1), (2) and (6) removed 34455
1955.108 Amended 34455
1955.109 (a), (c) and (g) amended; (b), (d), (e) and (i) removed 34455
1955.137 (b)(1)(ii), (iii), (2) introductory text, (6), (7), (d), (e)(1) introductory text, (ii), (2) and (4) amended; (c) and (h) removed 34455
1955.140 (a) and (b) amended 34455
1955.141 (a), (b) and (c) removed 34455
1955.142 Removed 34455
1955.143 Removed 34455
1955.144 Amended 34455
1956.86 Removed 28322
1956.146 Removed 28322
1962.34 (h) amended 28321
1965 Authority citation revised 55122
1965.26 (f)(5)(ii) amended 28321
(c)(2) introductory text and (3) amended 55122

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(c)(2)(iv)(C) and (3) amended 55147
1965.27 (f) amended 28321
1965.101 Revised 55147
1965.126 (b)(3), (4)(i), (ii)(A) and (8) amended 55147
1980 Authority citation revised 52839, 53255
1980.11 Revised 53255
1980.12 Removed 53255
1980.13 (a) introductory text, (2), (b) introductory text, (2), (4), (5) and (c) amended 53255
1980.20 (a) introductory text revised; (a)(1) and (b) introductory text amended 53255
1980.83 (b) removed 53256
1980.84 Heading and (b) introductory text revised; (a) removed 53256
1980.100 Revised 53256
1980.1—1980.100 (Subpart A) Appendix A revised 53256
Appendix C revised 53258
Appendix D revised 53259
Appendix E revised 53260
Appendixes K and L added 53263
1980.124 (a)(4), (6), (7), (b)(6), (12) and (e) revised; (d)(1) removed; (a)(8), (d)(2) and (3) redesignated as (a)(9), (d)(1) and (2); new (a)(8) added; (b)(8), (10), (c)(3), new (d)(2) and (f) amended 53264
1980.125 (a) introductory text, (4), (8) introductory text and (b)(1)(i) amemded; (a)(10) removed 53264
1980.191 (e) revised 53264
1980.200 Revised 53264
1980.101—1980.200 (Subpart B) Exhibit D amended 53264
1980.301—1980.399 (Subpart D) Revised 26985
1980.469 (c)(3) revised 26350
1980.613 Existing text designated as (a); (b) added 52839

Chapter XXVI—Office of Inspector General, Department of Agriculture (Parts 2600—2699)

2610 Revised 52840
2620 Revised 52842

Chapter XXVIII—Office of Operations, Department of Agriculture (Parts 2800—2899)

2812 Added 34456

Chapter XXX—Office of Finance and Management, Department of Agriculture (Parts 3000—3099)

3015.1 (a)(1) revised; (a)(4) added; interim 44124
3015.2 (d)(6) added; interim 44124
3015.194 Revised; interim 44124
3016.36 (d), (g), (h) and (i) revised 19639, 19641
3017.100 Revised 33040, 33043
3017.105 Amended 33041, 33043
3017.110 (c) revised 33041, 33043
3017.200 Revised 33041, 33043
3017.215 Revised 33041, 33043
3017.220 Revised 33041, 33043
3017.225 Revised 33041, 33043
3017 Appendixes A and B revised 33042, 33043
3019 Added; interim 44124

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Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—499)

3 Authority citation revised.....29468
3.0 Existing text designated as (a); new (a) heading and (b) added.....29468
3.1 (a)(1) revised.....29468
3.3 (a) amended.....34089
3.7 Amended.....34089
3.11 Amended.....34090
3.13 Amended.....34089
3.14 (a) amended.....34089
3.15 (b)(6), (7), (c)(1) and (2) amended.....34089
3.17 (a) amended.....34089
3.18 Amended.....34089
3.19 (c)(1), (2), (3) and (g) amended.....34089
3.20 (a) and (b) amended.....34089
3.23 (b)(1) amended.....34089
3.25 Revised.....26353
3.31 (a) amended.....34089
3.36 Amended.....34089
3.38 (b) amended.....34089
3.40 Introductory text and (b) amended.....34090
103 Authority citation revised.....34090
103.6 (a)(2)(ii) and (iii) amended.....21974
103.7 Regulation at 56 FR 50480 confirmed.....6650
Regulation at 58 FR 30699 confirmed.....9774
Regulation at 56 FR 21919 confirmed.....16040
(b)(1) amended.....21974, 37328, 40068
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(b)(1) amended; interim.....50388
204.1 Regulation at 58 FR 48778 eff. date delayed to 3–20–96.....14353
204.2 (a)(1)(iii)(A)(2) amended.....34090
(b)(4) revised; interim.....38948
204.5 Regulation at 59 FR 27229 confirmed; (m)(1) amended.....29753
204.10 (a) amended; (g) redesignated as (h); (b), (d), (e)(2) and new (h) revised; new (g) added; interim.....54030
208 Technical correction.....52068
208.2 (b) amended.....34090
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208.3 (a) amended.....34090
208.4 (c) introductory text, (1), (2) and (3) amended.....34090
208.7 (a)(1) and (c) amended.....21974
(e) amended.....21975
(c)(2) amended.....34090
208.16 (a) amended; interim.....44264
208.19 (b)(2) amended.....34090
210.2 (c)(4)(iii) amended.....21975
210.4 (b)(1), (2) and (3) amended.....21975
211.1 Regulation at 58 FR 48778 eff. date delayed to 3–20–96.....14353
211.3 Regulation at 58 FR 48778 eff. date delayed to 3–20–96.....14353
211.5 Regulation at 58 FR 48778 eff. date delayed to 3–20–96.....14353
212 Authority citation revised.....34090
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212.1 (m) added; interim.....44264
212.3 (a)(2) amended.....34090
212.4 Heading revised; (i) added; interim.....44264
(i)(2) corrected.....52248
212.6 (e) revised.....40068
212.7 (c)(9) and (10) redesignated as (c)(10) and (11); new (c)(9) added; interim.....26681
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212.14 Added; interim.....44265
214 Technical correction.....52068
214.1 (a)(2) table, (c)(3)(iv) and (v) amended; (c)(3)(vi) added; interim.....44266
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286.9 Added 40069
292.3 (b)(1)(vi) amended 34090
292.5 Regulation at 58 FR 49911 confirmed 6650
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78.1 Amended 48367
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92.424 (a) introductory text amended; (a)(1), (2) and (3) redesignated as (a)(3)(i), (ii) and (iii); new (a)(1), new (2) and new (3) introductory text added; interim 13900
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92.503 (b) and (e) amended 16045
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94.1 (a)(2) amended 21429
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94.11 (a) amended 21429
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94.16 (d) added 15858
97.2 Table amended 2876
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102.4 (b)(3) amended; (h) removed 48021
102.6 Introductory text and (a) amended 48021
112.1 Regulation at 59 FR 43445 eff. date delayed to 8–19–95 2876
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112.6 Regulation at 59 FR 43445 eff. date delayed to 8–19–95 2876
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113.3 (b)(7), (8), (9) and (c) revised; (b)(10) removed; (d) and (e) added; OMB number 14356
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114.2 (b) and (d) removed; (c) redesignated as (b); new (c) added 48021
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201.5 Removed 42778
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202 Authority citation revised 8465
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202.105 (f)(2) amended 8465
202.109 (a)(5) and (d) revised; (c)(2), (g) through (j) and (l) amended 8465
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317.19 (a) amended; (c) added 12884
317.20 (a) amended 12884

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317.300 Heading and (a) revised; (b) amended 176
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318.7 (c)(4) table amended 54296
318.19 Footnote 1 removed; (b) amended; Footnote 2 redesignated as Footnote 1 10304
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327.2 (b) amended 10306
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Regulation at 60 FR 38668 eff. date confirmed 54297
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381.121b (a) amended; (c) added 12885
381.121c (a) amended 12885
381.129 (b)(6) added 44412
381.134 (b)(15) added 44413
381.153 Footnote 4 revised 10305
Regulation at 59 FR 66448 confirmed 19492
381.190 (b) amended; (b) in part designated as (b)(1), (b)(2)(i), (ii) and (iii); new (b)(2)(i) revised; new (b)(2)(ii) designated in part as (b)(2)(ii)(A), (B) and (C); new (b)(3) added 43358
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381.221 Amended 49495
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381.412 (a) revised; (d) redesignated as (g); new (d), (e) and (f) added 207
381.413 (b), (g), (i), (j), (k), (p) and (q)(4) revised; (c) through (f) added 208
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20.1902 (e) amended 20185
20.1905 (a) and (b) amended 20185
20.1906 (c) and (d) amended 20185
20.2003 (a)(2)(i) and (3)(i) amended 20185
20.2006 Revised; eff. 3–1–98 15663
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20.2101 (b) redesignated as (c); new (b) added; eff. 3–1–98 15663
20.2103 (b)(1) through (4) revised 20185
20.2104 (f) revised 20186
(a) revised 36043
20.2106 (f) revised 20186
20.2108 (b) revised 20186
20.2201 (a)(1)(i), (ii) and (b)(2)(ii) amended 20186
20.2203 (d) amended 20186
20.2204 Amended 20186
20.2205 Added 36043
20 Appendix G added; eff. 3–1–98 15664
Appendixes C and F revised 20186
Appendix D amended 24551
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21.2 (d) amended 48373
21.3 Amended 48373
21.6 (a) revised 48374
21.21 (a) introductory text revised; (c) and (d) redesig-

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21.31 Revised 48374
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21.51 (a) introductory text and (b) revised 48374
21.61 Revised 48374
25.21 (c) revised 26355
30.6 (a)(2)(ii) revised 24551
30.7 (e)(2) amended 24551
30.35 (b)(2), (c)(2), (3) and (e) revised; (c)(4) added 38238
30.36 (e) through (j) redesignated as (f) through (k); new (e) added 38238
32.52 (a) revised 3737
32.56 Revised 3737
32.72 (a)(4) revised 324
32.210 (b) amended 24551
34.20 (a) revised; (f) added 28325
35.2 Amended 48626
35.33 (a)(2), (3), (4), (b) and (c) revised 48626
40.5 (a)(2)(ii) revised 24551
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40.23 (b)(1), (2)(ix), (c) and (d) amended 24551
40.25 (c)(1) introductory text, (2) and (d)(4) amended 24551
40.36 (b)(2), (c)(2), (3) and (d) revised; (c)(4) added 38238
40.42 (e) through (k) redesignated as (f) through (l); new (e) added 38239
40.66 (a), (b)(5) and (c) amended 24551
40.67 (a), (c) and (d) amended 24551
50 Authority citation revised 49504
50.4 (c) and (f) amended 24551
50.7 (e) amended 24551
50.34 (c) revised 53506
50.36 (c)(2) and (3) revised 36959
50.55a Footnote 7 amended 24551
50.74 (c) revised 13616
50 Appendix J amended 13616, 49504
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51 Authority citation revised 22491
51.22 (c)(3) revised 22491
51.40 (c)(1) through (5) amended 24552
51.121 (a) through (e) amended 24552
54 Revised 22491
55 Meeting 43358
55.25 Revised 13617
60.9 (e) Note amended 24552
61.9 (e) Note amended 24552
61.12 (n) added; eff. 3-1-98 15666
61.80 (f) and (i)(1) revised; (l) added; eff. 3-1-98 15666
70.5 (a)(2)(ii) revised 24552
70.7 (e)(2) Note amended 24552
70.20b (f)(1), (2)(ii), (iii) and (g)(1) amended 24552
70.22 (h)(1) revised 53506
70.25 (b)(2), (c)(2), (3) and (e) revised; (c)(4) added 38239
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71.97 (c)(3)(iii) amended 24552
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72.10 (e)(2) amended 24552
72.32 Revised 32441
72.46 (d) revised 20886
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73.57 (d)(1) amended 24552
73.71 (c)(2) removed; (c)(1) redesignated as (c); (d) added 13618
73.72 (a)(1), (4) and (5) amended 24552
73.73 (a)(1) and (b) amended 24553
73.74 (a)(1) and (b) amended 24553
73 Appendix G amended 13618
Appendix A amended 24553
74.57 (c) introductory text and (f)(2) amended 24553
74.59 (f)(1)(iii) amended 24553
76.7 (e)(3) amended 24553
110.2 Amended 37562
110.19 Revised 37563
110.20 (a) revised 37563
110.21 (a) introductory text, (b) introductory text and (c) revised; (d) and (e) added 37563
110.22 (a) introductory text, (b), (c) and (d) revised; (e) and (f) added 37563
110.23 (a) introductory text, (b) and (c) revised; (d) and (e) added 37564
110.27 (a) introductory text revised; (c) redesignated as (d); new (c) added 37564

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110.32 Heading revised; (f)(5) redesignated as (f)(7); new (f)(5) and (6) added 37564
110.40 (a) revised 37564
110.41 (a)(7) and (8) redesignated as (a)(8) and (9); new (a)(8) added 37564
110.42 (a) introductory text, (3) and (c) revised; (d) added 37564
110.43 Redesignated as 110.44; new 110.43 added 37565
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110.72 Introductory text revised 37565
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150.17 (b) and (c) amended 24553
170.11 (a)(5) revised 32238
170.20 Revised 32239
170.21 Introductory text and table amended 32239
170.31 Revised 32239
171.13 Revised 32244
171.15 (a), (b)(3), (c)(1), (2), (d) and (e) revised 32244
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171.17 (b) revised 32248
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305 Removed 49198
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763 Removed 49198
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794 Removed 49198
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797 Removed 49198
798 Removed 49198
799 Removed 49198
810.8 (a) revised 43004
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1008.12 (a)(2)(ii), (b)(1)(ii)(I), (J), (2)(ii)(K), (L), (3)(ii)(M) and (N) added 35836
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345.21—345.29 (Subpart B) Added 22202
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345.51 (Subpart D) Added 22209
Removed; eff. 7–1–97 22212

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345.101 Undesignated center heading and section removed 22212
345.102 Removed 22212
345 Appendix A added 22209
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346.20 (a) amended 31384
346.101 (g) revised 31384
360 Authority citation revised 35488
360.3 (f) revised 35488
360.4 Revised 35488
361.7 (b) amended 31384
362.6 Revised 31384
364 Added 35685
364 Appendix A added 35678, 35685

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400 Revised 17628
401 Removed 16045
402 Removed 16045
406 Removed 16045
409 Removed 9613

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506.1 (b) table amended (OMB numbers) 28031
509.9 (a) and (b) revised; (e) added 28035
510 Authority citation revised 28031
510.5 Revised 28031
563 Authority citation revised 35288
563.48 (f) added; eff. 1–2–96 35288
563.93 (b) introductory text, (9), (c) introductory text, (d)(3)(ii), (f)(1) and appendix amended; (b)(6) and (11) revised; interim 15863
563e Authority citation revised 22212
563e.1 Removed 22223
563e.2 Removed 22223
563e.3 Removed; eff. 7–1–97 22223
563e.4 Removed; eff. 7–1–97 22223
563e.5 Removed; eff. 7–1–97 22223
563e.6 Removed; eff. 7–1–97 22223
563e.7 Removed; eff. 7–1–97 22223
563e.8 Removed 22223
563e.11—563e.12 (Subpart A) Added 22212
563e.21—563e.29 (Subpart B) Added 22213
563e.41—563e.45 (Subpart C) Added 22217
563e.51 (Subpart D) Added 22220
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563e Appendix A added 22220
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565.2 (f) revised; interim 39232
567 Authority citation revised 45621
567.1 (m) revised; interim 39232
(d) revised 42028
567.5 (a)(2) heading, (i) and (ii) revised; interim 39232
567.6 (a)(1)(iv)(L) and (M) revised; interim 39232
(a) and (2)(i)(C) amended; (a)(3) added; interim 45621
567.9 (c)(1) revised; interim 39232
567.12 Heading and (a) through (f) revised; interim 39232
570 Added 35686
570 Appendix A added 35678, 35687

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601 Revised; interim (effective date pending) 30782
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607.2 Regulation at 59 FR 37403 eff. 12–31–94 325
611.1125 (b)(2) amended (effective date pending) 34099
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612 Regulation at 59 FR 24894 eff. 12–31–94 325
614 Authority citation revised 35289
614.4240—614.4267 (Subpart F) Regulation at 59 FR 46730 eff. 1–4–95 2683
614.4260 (c)(5) introductory text revised 2687
614.4351 Regulation at 59 FR 37403 eff. 12–31–94 325
614.4443 Regulation at 59 FR 46734 eff. 1–4–95 2683
614.4470 (b)(1) and (3) amended (effective date pending) 20010
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614.4710 Regulation at 59 FR 37404 eff. 12–31–94 325
614.4940 (Subpart S) Added; eff. 1–2–96 35289
615.5104 Removed (effective date pending) 20011

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615.5105 (c) removed (effective date pending) 20011
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615.5131 Regulation at 59 FR 37404 eff. 12–31–94 325
615.5170 (a) designation and (b) through (e) removed (effective date pending) 20011
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615.5190 Removed (effective date pending) 20011
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615.5201 Regulation at 59 FR 37404 eff. 12–31–94 325
615.5210 Regulation at 59 FR 37404 eff. 12–31–94 325
615.5498 Removed (effective date pending) 20011
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615.5500—615.5530 (Subpart P) Removed (effective date pending) 20011
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618.8000—618.8030 (Subpart A) Revised (effective date pending) 34099
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618.8025 (a) corrected 42029
618.8030 Redesignated as 618.8040 (effective date pending) 34099
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618.8040 (b)(10) removed; (b)(2) through (9) redesignated as (b)(3) through (10); (b)(1) and new (6) revised; new (b)(2) added; new (b)(3) amended (effective date pending) 34101
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618.8220 Removed (effective date pending) 20011
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618.8320 Regulation at 59 FR 46734 eff. 1–4–95 2683
618.8325 Regulation at 59 FR 46734 eff. 1–4–95 2683
620.1 Regulation at 59 FR 37406 eff. 12–31–94 325
620.5 (a)(3) amended (effective date pending) 34102
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620.21 Heading, (c)(3), (d)(1), (3), (5) and (6) revised (effective date pending) 20013
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630 Regulation at 59 FR 46742 eff. 1–4–95 2493

Chapter VII—National Credit Union Administration (Parts 700—799)

701.14 (a) amended 31911
701.21 (c)(8) revised 51889
707 Compliance date extension 25121
707 Appendix C amended 21699
708a Regulation at 59 FR 48792 confirmed 12661
708a.1 Revised 12661
708a.2 Revised 12661
708a.3 Added 12661
708a.4 Added 12662
708a.5 Added 12662
708a.6 Added 12662
708a Appendix A added 12662
722.3 Heading, (a) and (d) revised; (e) added 51894
722.4 Revised 51894
722.5 (b) revised 51895
722 Appendix A removed 51895
747.901 Amended 31911
747.902 Amended 31911
747.904 (b)(2) amended 31911
760 Authority citation revised 35289
760.12 Added; eff. 1–2–96 35289
790.2 (b)(14) revised; (c)(2) amended 31911
792 Authority citation revised 31912
792.2 (f) amended 31911
792.34 (b)(3) added 31912

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900 Authority citation revised 49199
900.51 Revised 49199
922.6 Revised 49199
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934.15 Regulation at 55 FR 50545 confirmed 42779
937 Removed 36967
939 Removed 36967
960 Authority citation revised 49330
960.4 (a) amended 49330
960.5 (a)(1) revised; (g) added 49330

Chapter XIV—Farm Credit System Insurance Corporation (Parts 1400—1499)

1401 Added; interim 30778

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1617 Revised 7663

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Chapter XVIII Established; interim 54115

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101 Authority delegation 15864
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106 Removed 54590
107 Appendix I revised; interim 7393
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108.2 Amended 20392
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108.503–8 (b)(2) revised 4074
108.508–1 Undesignated center heading added 20392
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108.508–2 Added 20392
108.508–3 Added 20392
108.508–4 Added 20392
108.508–5 Added 20392
108.509–1 Undesignated center heading added; interim 20393
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108.509–2 Added; interim 20393
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108.509–4 Added; interim 20394
108.509–5 Added; interim 20394
109 Removed 54590
110 Removed 54590
111 Removed 54590
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120.202–5 Introductory text revised 42780
121 Technical correction 18981
121.401 (b) revised 29974
121.2001 Revised 15478
121.2004 (c)(1) and (5) revised 15478
121.2005 (c)(1) revised 15478
122.5–6 Added 42781
122.54–1 Revised 4373
122.57–3 Revised 4373
122.61–11 (a) amended 42781
123 Authority citation revised 22496
123.2 Amended 22496
124 Authority citation revised 29974
124.7 (b)(1) removed; (b)(2) redesignated as (b) 29974
124.100 Amended 29974
124.101 (a) and (b) amended 29974
124.102 (a) revised 29974
124.103 Introductory text revised; (h) amended 29975
124.104 Introductory text revised 29975
124.109 (d) revised 29975
124.111 (a)(2) revised 29975
124.114 Added 29975
124.208 (c)(2) removed; (c)(3), through (6) redesignated as (c)(2) through (5); new (c)(2) amended 29975
124.209 (b)(2) removed; (b)(3) through (6) redesignated as (b)(2) through (5); (a)(6)(i) and new (b)(3) amended; new (b)(2) revised 29975
124.302 (c)(1)(i)(A) and (2) revised 29976
124.303 (c)(3) and (4) removed; (c)(5), (6) and (7) redesignated as (c)(3), (4) and (5); (d)(1) amended 29976
124.304 Removed 29976
124.305 Removed 29976
124.307 (d) and (e) redesignated as (e) and (f); new (d) added 29976
124.308 (d) and (f)(2) revised; (e)((1)(iii) and (f)(1) amended 29976
124.311 (b) removed; (c) through (i) redesignated as (b) through (h); (a)(2), new (g)(3) and new (4) revised; new (d) introductory text amended; new (d)(1) and new (2) removed 29976
(e)(4)(iii), (5)(iii) and (7) amended; (e)(5)(iv) removed; (e)(5)(v) redesignated as (e)(5)(iv); new (e)(5)(iv) revised 29977
124.312 (b)(4), (5), (6), (c)(2), (3) and (9) removed; (b)(7), (c)(4) through (8), (10), (11) and (12) redesignated as (b)(4) and (c)(2) through (9); new (b)(4), (c)(1), (7), (8) and (9) amended 29977
124.321 (i) added 29977
124.501 (c) redesignated as (d); new (c) added 29977
128 Removed 54590
129 Removed 54590
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143.36 (d), (g), (h) and (i) revised 19639, 19642
144 Removed 54590
145.100 Revised 33040, 33044
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145.110 (c) revised 33041, 33044
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145 Appendixes A and B revised 33042, 33044

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1.1 Amended 5075, 30749
11 Authority delegation 12108
11.25 (b)(3) revised; (b)(4) and (5) amended; (b)(6) added 5075
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21 Policy on enforcement 10480
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25.119 (a) revised 30749
25.121 (d)(1) revised 30749
25.125 (a)(2) revised 30749
25.143 (c), (d) and (e) revised; (f) added 30749
25.145 (b) introductory text, (3), (4) and (c)(1) revised 30749
25.149 (f), (g) and (h) revised 30749
25.201 (b), (c) and (d) revised 30750
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25 Appendix F amended 6623
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39 Authority citation revised 38670
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61 SFAR No. 73 added; 3–27–95 through 5–30–97 11256

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SFAR No. 58 amended 51851

61.57 (f) revised 34081

63 Authority citation revised 51851

SFAR No. 58 amended 51851

65 Authority citation revised 51851

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71 Authority citation revised 36341, 36343, 36345, 36637, 40070, 48022, 48024

71.1....339, 2007, 2008, 2009, 3534, 3535, 3538, 3742, 4079, 5571, 5572, 6657, 6959, 6960, 7116, 7117, 7440, 7442, 7443, 8164, 8167, 9282, 9283, 9284, 9286, 9287, 10014, 10015, 10488, 12109, 13627, 13901, 14363, 15867, 15868, 16567, 17197, 17443, 20021, 20623, 21434, 21700, 24555, 24556, 24557, 26597, 27405, 27688, 27689, 27875, 27876, 27877, 30458, 31631, 33105, 33106, 34846, 35331, 35332, 35333, 35334, 36341, 36342, 36343, 36344, 36345, 36346, 36637, 37566, 37567, 38671, 39247, 39639, 40070, 41798, 41799, 42430, 42431, 43366, 43367, 45326, 45327, 45328, 45329, 48022, 48023, 48024, 48352, 48641, 48642, 48643, 48886, 48888, 52847

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71.5 Amended; eff. 9–16–95 through 9–15–96 47267

71.31 Amended; eff. 9–16–95 through 9–15–96 47267

71.33 (c) amended; eff. 9–16–95 through 9–15–96 47267

71.41 Amended; eff. 9–16–95 through 9–15–96 47267

71.51 Amended; eff. 9–16–95 through 9–15–96 47267

71.61 Amended; eff. 9–16–95 through 9–15–96 47267

71.71 (b) through (f) amended; eff. 9–16–95 through 9–15–96 47267

71.79 Amended; eff. 9–16–95 through 9–15–96 47267

71.901 (a) amended; eff. 9–16–95 through 9–15–96 47267

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SFAR No. 65 removed 48644

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SFAR 61–2 added 49139

91.123 (a) and (c) revised 50679

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97 Authority citation revised 33690, 33691, 33693, 37332, 40071, 40072, 42782, 42785, 43966, 45330, 46219, 48025, 48026, 54300, 54301, 55195, 55196, 55198

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107 Authority citation revised.....51867

Technical correction 53830

107.1 (b)(3), (4) and (5) redesignated as (b)(4), (5) and (6); new (b)(3) added; eff. 1–31–96 51867

107.31 Added; eff. 1–31–96 51868

108 Authority citation revised 51851, 51869

SFAR No. 58 amended 51851

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108.33 Added; eff. 1–31–96 51869

121 Technical correction 2497, 2687, 12034

SFAR No. 38–2 amended 5075, 29754

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SFAR No. 58 amended 51851

Compliance date 52625

121.312 (a)(1) through (6) and (b) revised; (a)(8) added 6628

(a)(8) corrected 11194

121.356 (b) corrected 3303

121.431 (b) revised 20869

121.434 Heading, (a) introductory text, (b) introductory text, (2), (c) introductory text, (2), (3) introductory text, (i), (ii) and (f) revised; (a)(3), (g) and (h) added; (b) and (c)(1)(ii) amended; concluding text designated as (i) 20870

121.438 Added 20870

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125 Authority citation revised.....29754

SFAR No. 38–2 amended 29754

Compliance date 52625

127 Authority citation revised.....29754

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129 Technical correction 2497

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SFAR No. 38–2 amended 29754

135 Technical correction 2497

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SFAR NO. 38–2 amended.....29754

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SFAR No. 58 amended 51851

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135.169 (a) revised 6628

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(b) introductory text revised 13011

187.15 Revised 19631

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200 Authority citation revised.....43523

200.1 Introductory text, (d) and (e) amended; (f) and (g) added 43523

201 Heading revised 43523

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201.1 (a) amended 43523

201.4 (c) amended 43523

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201.7 (a), (d) and (e) amended 43523

203 Authority citation revised.....43523

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204 Authority citation revised.....43523

204.1 Amended 43523

204.2 (a), (f) and (i) removed; (b), (c), (d), (e), (g), (h), (j), (k), (l), (m), (n) and (o) redesignated as (a), (b), (c), (d), (e), (f), (g), (i), (j), (k), (l) and (m); new (a), (b), (c), (e), (f) and (g) revised; new (h) added 43523

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204.4 Heading revised; introductory text amended.....43524

206 Authority citation revised.....43524

206.1 Amended 43524

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206.4 Amended 43524
206.5 (a) introductory text and (b) amended 43524
215 Authority citation revised 43524
232 Authority citation revised 43524
232.1 (a) and (b) introductory text amended 43524
232.4 (a) and (b) introductory text amended 43524
271 Authority citation revised 43524
271.1 Revised 43524
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271.3 Introductory text and (a) through (d) amended 43524
271.4 (a) introductory text, (1)(i), (2)(i), (ii), (4), (ii) and (b) amended 43524
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271.5 (a) introductory text, (1) and (2) amended 43524
271.6 Amended 43524, 43525
271.7 (a) and (b)(1) amended 43524
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271.8 (a) introductory text, (1) through (4) and (c) amended 43524
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271.9 (a)(2), (3) and (c) amended 43525
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272.1 Amended 43525
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272.7 (a) introductory text, (1) and (2) amended 43525
272.8 (a) through (d) amended 43525
272.9 Heading, (a) through (e), (f) introductory text, (1), (2), (g), (h) introductory text, (2), (3) and (5)(i) amended 43525
272.10 (a) introductory text, (1), (b) and (c) amended 43525
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291 Heading revised 43525
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291.1 Revised 43525
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291.10 (Subpart B) Heading revised 43525
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291.23 (a) and (b) amended 43526
291.24 Amended 43526
291.30—291.34 (Subpart D) Heading revised 43526
291.30 Amended 43526
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291.42 Heading revised; (a)(1) and (b) introductory text amended 43526
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294.1 Amended 43526
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294.10 Introductory text, (a), (b) and (c) amended 43526
294.20 Introductory text and (b) amended 43526
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294.22 Introductory text amended 43526
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294.50 (b) amended 43526
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296 Authority citation revised 43527
296.1 Amended 43527
296.10 Heading revised; (a) introductory text, (1) through (7) and (d) amended 43527
296.20 Amended 43527
297 Authority citation revised 43527
297.1 Amended 43527
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297.10 Heading revised; (a) introductory text, (1) through (6) and (b) amended 43527
297.12 (a), (b) and (c) amended 43527
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298.2 (a) removed; (b) through (x) redesignated as (a) through (w); new (b), (d-1) and (d-2) revised 43527
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298.11 Introductory text, (a), (b)(1), (c) introductory text, (d), (e) and (f) amended 43528
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298.21 (c)(1), (4) and (d) amended 43528
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313.3 (a) and (d) removed; (b), (c), (e) and (f) redesignated as (a) through (d); new (e) added 43529
313.4 (b)(1) revised; (c)(1) amended 43529
313.7 (b) amended 43528
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325 Authority citation revised 43529
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372.1 Amended 43529
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1204.1403 (c) and (d) revised; (e) and (f) added 37568
1204.1404 (a)(3) added 37568
1204.1405 (c) added 37568
1215 Appendix A revised 25843
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1262 Authority citation revised 12668
1262.101 (b)(1) revised 12668
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1262.104 (b)(4) amended 12668
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26 Appendixes A and B revised.....33042, 33044

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291 Added.....4082
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777.6 (d)(1)(xii) and (k) added.....15672
778.8 (a)(3) revised.....38957
(a)(1) introductory text, (i), (5)(i), (iv)(B) and (v) revised.....54032
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778 Supplement No. 3 added.....54033
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799.1 Supplement No. 2 reinstated; CFR correction.....36638
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806 Authority citation revised.....10490
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TITLE 16—COMMERCIAL PRACTICES

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1.17 Removed 37747
2.7 (b)(1), (2) and (3) amended; (b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added 37747
2.41 (a) revised 37747
3.22 (a) amended 39641
3.26 Added 39641
3.45 (a), (b) and (c) revised 37748
3.56 Added 37748
4.7 (a) and (f) amended 37748
4.9 Heading, (a)(1), (2), (3), (b) heading, introductory text, (3) heading, (5), (6), (8) heading, (c) heading, (2) and (3) revised; (c)(1) amended 37749
4.10 Heading, (a) introductory text, (8) through (11), (d), (e), (f), (g) introductory text and concluding text revised 37749
4.11 Heading, (e) heading, (1) through (5) revised; (b) and (c) amended 37750
4.12 (a) and (c) revised 37751
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248 Removed 40270
252 Removed 40453
305 Energy efficiency ranges 15198
305.8 (a)(4)(v) revised 14210
305.9 (a) revised 9296
305.11 (f)(1) amended 14210
(e)(1)(iii), (iv) and (vi) revised 31081
305.13 (a)(4) revised 14211
305.14 (d) revised 14211
305 Appendix F revised 19845, 27691
Appendixes C and D4 revised 43368
Appendixes D5, D6, E and J1 revised 43369
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309 Added 26955
310 Added 43864
311 Added 55421
429 Heading revised 54186
Authority citation added 54186
429.0 Redesignated from 429.1 note 1 and revised 54186
429.1 (b), (d), (e) and (i) revised; authority citation removed; note 1 redesignated as 429.0 54186
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429.2 Redesignated from 429.1 note 2 and revised 54187
429.3 Added 54187
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600 Appendix amended 45660
800 Removed 40706
803 Appendix amended 40706

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1000.7 (b) amended 26825
1000.12 Revised 26825
1000.19 Amended 26825
1000.24 Amended; heading revised 26825
1000.26 Revised 26825
1000.32 Revised 26825
1117 Added 10493
1117.2 (a) revised; (h) added 41801
1203 Added; interim 15232
1500 Authority citation revised 10752
Clarification 53266
1500.14 (b)(8)(iv) added 8193
1500.18 (a) introductory text; (a)(17) added 10752
1500.19 Added 10752
(b)(1) introductory text revised 41802
1700 Authority citation revised 37734
1700.14 (a)(22) added 4541
(a)(23) and (24) added 18004
(a) introductory text amended; eff. 7–22–96 37739
(a)(25) added; eff. 2–6–96 38674
Regulation at 60 FR 37739 eff. date corrected to 7–22–96 48890
(a)(13) revised 53701

1700.15 (b)(2) revised; eff. 7–22–96 37734
1700.20 (a) revised; eff. in part 1–24–96 and in part 7–22–96 37734
(d) added 37738

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TITLE 17—COMMODITY AND SECURITIES EXCHANGES

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Technical correction 50244
1.55 (a)(1)(iii) added 38182
1.62 (b) amended 49334
1.65 (d) amemded 49334
1.66 (b)(2), (3) and (5)(ii) amended 54801
1.70 (a), (b) and (d) amended; (c) revised 49334
1 Appendix B amended 49334
3.33 (e) amended 49334
3.50 (c) amended 49334
(d) amended 54801
3.55 (b), (c) and (e)(2) amended 54801
3.56 (b)(3), (c) and (e)(2) amended 54801
3.60 (b) introductory text, (2)(ii), (c) introductory text, (d)(3), (h)(4) and (5)(i) amended 54801
3.64 (a), (b)(1), (2) and (d) amended 54801
3.70 (a) amended 49334
4 Technical correction 50244
4.2 (a) amended 49334
4.7 (a)(2)(i)(A), (4), (b)(2)(i)(A) and (4) amended 38182
4.8 Heading, (a) and (b) amended 38182
4.10 (d) redesignated as (d)(1); (d)(2) through (5), (h) through (l) added; (e) revised 38182
4.12 (b)(2)(i) and (5)(i) revised 38183
4.21 Revised 38183
4.23 (a)(3) revised 38183
4.24 Added 38183
4.25 Added 38186
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4.31 Revised 38189
4.32 Redesignated as 4.33 38189
4.33 Redesignated from 4.32; (a)(2) revised 38189
4.34 Added 38189
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5 Fee schedule 25988
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10.2 (i) revised 54801
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10.10 (a)(1)(iii) and (iv) revised 54801
10.12 (a)(3), (b), (e)(1), (2), (5), (6) and (f)(1) amended; (d) and (g) removed 54802
10.22 (b) amended 54802
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10.42 (c)(1) amended 54802
10.44 (d)(2)(ii) and (f)(1) amended 54802
10.65 (b) amended 54802
10.68 (a)(1) and (b)(3) amended 54802
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10.92 (a), (b)(2) and (3) amended 54802
10.102 (a) and (c) amended 54802
10.103 (a) amended 54802
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10.108 (d) amended 54802
10.109 Introductory text, (a)(2)(ii), (b) and (c) amended 54802
11.2 (a) amended 54802
11 Appendix A amended 49334
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12.10 (a)(2) amended 49335
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30 Technical correction 50244
30.6 (b)(1) and (2) revised 38193
30 Appendix B amended 19494, 34459, 41803
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31 Fee schedule 25988
31 Appendix A amended 49335
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145 Appendixes A, C and D amended 49335
146.3 (a) amended 49335
146.4 (b) amended 49335
146.5 (f) amended 49335
146.6 (d) amended 49335
146.8 (a) and (d) amended 49335
146.9 (c) amended 49336
146.11 (b) amended 49336
146 Appendix A amended 49336
147.4 (d)(1) revised 49336
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200.19c Added 39644
200.30–3 (a)(60) added 28718
200.30–4 (a)(5) amended 32794
200.30–7 (a)(1) through (5) and (9) amended; (a)(10) added 32794
200.30–9 Revised 32794
200.30–10 (a)(6) removed; (a)(7) and (8) redesignated as (a)(6) and (7); (a)(1) through (5) and new (6) amended 32794
200.30–14 (g)(1) introductory text, (2) and (4) through (7) revised; (g)(1)(x) through (xiv) added 32794
200.30–18 Added 39644
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200.735–13 (c) amended 32795
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201.430 (a) and (c) corrected 46500
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202.3a Introductory text amended 26613
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203.3 Amended 32823
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228.502 Introductory text and (f) revised; (a)(1) heading removed; (a)(1), (b) and (c) amended 26613
228.503 (b) and (c) revised 26613
228.512 (a)(1)(ii) amended 26614

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228.601 (b)(24) amended 26614
229.10 (d) added 32824
229.501 (c)(4) revised 26614
229.502 Introductory text, (a) introductory text and (g) revised; (b), (c) and (f) introductory text amended 26614
229.503 (b) and (c) revised; authority citation removed 26614
229.512 (a)(1)(ii) revised 26615
229.601 (b)(24) amended 26615
229.801 (d) amended 26615
230 Authority citation amended 26615
230.110 (a) amended; (d) added 26615
230.111 Existing text designated as (a); (b) added 26615
230.402 (d) and (e) added 26615
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230.424 (b)(7) amended 26615
230.429 Authority citation removed 26615
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230.430A (a)(3) and Instruction amended 26616
230.434 Added 26616
230.439 Authority citation removed 26615
Existing text designated as (a); (b) added 26617
230.455 Amended 26617
230.457 (o) revised 26617
230.461 Authority citation removed 26615
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230.462 Heading revised; existing text designated as (a); (b) and (c) added 26617
230.472 (e) added 26618
230.483 (b) amended; (c) redesignated as (c)(1); (c)(2) added 26618
230.497 (h) redesignated as (h)(1); (h)(2) added 26618
231 Table amended 35666
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232.13 (a)(3) added 26618
232.101 (c)(13) amended 32824
232.102 (a) amended 32824
232.301 Revised 27692
239.9 Form SB–1 amended 26618
239.10 Form SB–2 amended 26618
239.11 Form S–1 amended 26619
239.12 Form S–2 amended 26619
239.13 Form S–3 amended 26620
239.14 Form N–2 amended 26623, 38924
239.15A Form N–1A amended 38923, 38924
239.17a Form N–3 amended 38924
239.17b Form N–4 amended 38925
239.18 Form S–11 amended 26620
239.31 Form F–1 amended 26620
239.32 Form F–2 amended 26621
239.33 Form F–3 amended 26621
240 Phase-in period extension 40994
240.8b–11 (e) added 26622
240.12b–11 (d) added 26622
240.12b–23 (b) amended 32825
240.12b–32 (a) amended 32825
240.12f–1 (a)(5) and (6) redesignated as (a)(6) and (7); heading, (a) introductory text and new (6) revised; new (a)(5) added 20896
240.12f–2 Revised 20896
240.12f–3 (b) revised 20896
240.12f–5 Added 20896
240.12f–6 Removed 20896
240.14a–101 Note D1 amended 32825
240.14d–1 (d) added 26622
240.15c2–8 (b), (c) and (d) amended; (j) added; authority citation removed 26622
240.15c6–1 (a) and (b) amended; (b)(2) removed; (b)(3) redesignated as (b)(2); (c) and (d) added 26622
240.16a–3 (i) added 26622
240.17a–23 Regulation at 59 FR 66702 eff. date delayed to 7–1–95 28717
240.19d–2 Revised 32825
240.19d–3 Revised 32825
240.24b–2 (d)(2), (e)(1) and (2) amended 32825
(b)(2) redesignated in part as (b)(3); (b)(1) and new (3) revised 47692
241 Interpretive releases 53467
249.27 Removed 20896
249.28 Removed 20896
250.22 (b)(1) amended 32825
250.45 (b)(4) revised 33639
250.52 Revised 33639
260.7a–29 (a) amended 32825
270.0–4 (a) amended 32825
270.0–6 (a) and note amended 32825
270.8b–32 (a) amended 32825
270.24e–2 (a)(1) amended 47045

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270.24f-1 (a) and (c)(1) amended 47045
270.24f-2 (b)(1), (3) and (c) revised; (e) and (f) added 47045
271 Interpretive releases 53467
274.11A Form N-1A amended 38923, 38924
274.11a-1 Form N-2 amended 38923, 38924
274.11b Form N-3 amended 38924
274.11c Form N-4 amended 38925
274.24 Added 47046

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400.6 OMB number 18734
403.4 OMB number 18734
404 Authority citation revised 20399
404.2 (b) and (c) redesignated as (c) and (d); new (b) amended; new (c) added 20399
405 Authority citation revised 20400
405.3 OMB number 18734
405.5 Added (OMB number) 20401
449 Authority ciation revised 18735
449.3 Form G–FIN–4 amended 18736
449.5 Form G–405 amended 18734

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239 ..... 17172, 33375, 35604, 35656, 47844, 53468
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270 ..... 17172, 33375, 38467, 39574, 39592, 47844, 53152, 53468
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TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

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2 Order 22503
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2.25 Regulation at 59 FR 65938 confirmed 22260
(e) revised 22261
2.104 (a) amended 53064
34 Order 22503
34.4 (e) ammended 27882
35 Order 22503, 39251
35.23 Regulation at 59 FR 65938 confirmed 22260
35.32—35.33 (Subpart E) Added 34123
35.32 (a)(1), (4) and (f) stayed in part 39252
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131 Order 22503
154 Revised 52996
157.53 Heading, (a) and (b) amended 53065
158.10 Revised 53065
158.11 Revised 53065
158.12 Amended 53065
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250.2 Revised 53070
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250.5 Removed 53071
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250.8 Removed 53071
250.9 Removed 53071
250.10 Removed 53071
250.12 Removed 53071
250.14 Removed 53071
250.16 (c)(3) and (d)(2) amended; (d)(1) revised 53071
260.1 (a) amended; (b) revised 53071
260.2 (a) amended; (b) revised 53071
260.3 Revised 53071
260.4 Removed 53071
260.9 (b) introductory text, (c) and (e) revised 53071
260.11 Removed 53072
260.13 Removed 53072
260.15 Removed 53072
284 Order 39253
284.2 (b) revised 53072
284.3 (a) amended 53072

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284.4 Revised 53072
284.6 (b) revised 53072
284.7 (b) removed; (c) and (d) redesignated as (b) and (c); new (c)(5)(iv) removed; (c)(6) added 53072
284.8 (b)(4)(iii) and (5)(i) amended 53072
284.10 Removed 53072
284.11 (d)(1), (2) heading and designation removed 53072
284.13 Removed 53072
284.14 Removed 53072
284.102 (e) revised 53072
284.105 Removed 53072
284.106 (b) through (f) removed; (g) redesignated as (b); (a) and new (b) introductory text revised; new (c) added 53072
284.122 (e) removed 53073
284.123 (e) revised 53073
284.125 Removed 53073
284.126 (b), (e) and (f) removed; (c) and (g) redesignated as (b) and (c); (a) and new (b) revised 53073
284.142 Revised 53073
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284.144 Removed 53073
284.145 Removed 53073
284.146 Removed 53073
284.147 Removed 53073
284.148 Removed 53073
284.161—284.165 (Subpart E) Removed 53073
284.221 (b)(1) introductory text revised; (d)(1) and (f)(2) amended 53073
284.222 Removed 53074
284.223 Heading revised; (b) through (f) removed; new (b) added 53074
284.224 Heading, (b)(3), (c) introductory text, (d)(1), (e)(1) and (g) revised; (e)(5)(i) redesignated as (e)(5); (e)(5)(ii) removed 53074
284.225 Removed 53074
284.226 Removed 53074
284.227 (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f) 53074
284.243 (h) revised 16983
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284.286 (e) revised 53074
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284.402 (c)(1) revised; (c)(2) amended 53074
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294 Order 22503
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343.1 (a), (b) and (d) through (h) removed; (c) and (i) redesignated as (a) and (b) 19505
343.5 Revised 19505
357 Authority citation revised 53117
357.2 Revised 53117
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381.303 (a) amended 31390
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381.305 (a) amended 31390
381.403 Amended 31391
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381.801 Amended 31391
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382.102 (c) revised 53117
385 Order 22503
385.503 (a) revised 19505
385.504 (b)(7) revised 19505
385.601 (a) revised 19505
385.602 (b)(3) and (f)(4) added; (h)(1)(ii) introductory text, (iii), (2)(iii) and (iv) revised 19505
385.604—385.606 (Subpart F) Added 19506
385.710 (d) added 19508
385.2011 (b), (c)(4) and (d) revised 53074

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803 Revised 31394
804 Added 31401
805 Added 31401

Chapter XIII—Tennessee Valley Authority (Parts 1300—1399)

1301.1 (b) introductory text, (c)(1)(i), (2)(i), (ii) and (3)(ii) revised; (c)(2)(iii) added 38479

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4.35 Amended; interim.....50022
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24.23 (c)(1)(v) amended 18348
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24.70 (c) amended; interim 50027
24.72 Amended; interim 50027
54 Authority citation revised 18348
54.5 (b) amended; interim 50027
54.6 (c) introductory text and (4) amended; interim 50027
(b) amended 52295
101 Authority citation revised 18348, 18990, 50011
101.0 Amended; interim 50027
101.1 Regulation at 59 FR 30293 confirmed 18990
Amended; (a), (b) and (c) removed; interim 50011
101.3 (b) amended 41804, 52628
Revised; interim 50011
101.4 Regulation at 59 FR 30293 confirmed 18990
(c) table revised; interim 50018
(a), (b) introductory text and (d) amended; interim 50027
(c) amended 52628
101.5 Table amended; interim 50027
101.6 (e) amended; interim 50019
(c) amended; interim 50027
102 Authority citation revised 18348, 46197
102.0 Amended 46197
102.11 Introductory text amended 46197
102.21 Added 46197
103.0 Amended; interim 50027
103.1 Amended; interim 50019
103.5 (b)(1), (2), (d)(1) and (2) amended; interim 50027
103.6 (a)(1) and (2) amended; interim 50028
103.7 (a), (b)(6) and (c) amended; interim 50028
103.8 (a) introductory text and (3) amended; interim 50028
103.10 (d)(3) amended; interim 50028
103.14 (d)(1)(iii), (2)(iii) and (e)(2) amended; interim 50028
103.16 Amended; interim 50028
111 Authority citation amended 18348, 50019
111.1 Amended; interim 50019
111.3 Regulation at 59 FR 30294 confirmed 18990
(b)(1) and (2) amended; interim 50028
111.11 (b)(2) and (c)(3) amended; interim 50028
111.12 Amended; interim 50028
111.13 (f) removed; interim 50019
111.15 Amended; interim 50028
111.16 (a) amended; interim 50028
111.19 (d) amended; interim 50019
(b) and (d) amended; interim 50028
111.22 (b) introductory text, (2), (c) and (e) amended; interim 50028
111.23 (e)(3) removed; interim 50019
(a)(1), (b) introductory text, (d)(1), (5), (e)(2) and (f) amended; interim 50028
111.24 Amended; interim 50028
111.27 Amended; interim 50028
111.28 (b)(1), (2), (3) and (c) amended; interim 50028

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111.30 (a), (b) and (d) amended; interim 50028
111.45 (c) amended; interim 50019
111.54 Amended; interim 50028
111.55 Amended; interim 50028
111.56 Amended; interim 50028
111.57 Amended; interim 50028
111.59 (a) and (b) introductory text amended; interim 50028
111.60 Amended; interim 50028
111.61 Amended; interim 50028
111.62 (e) amended; interim 50028
111.63 (a) introductory text, (3), (4), (b) introductory text, (3) and (4) amended; interim 50028
111.64 (a) amended; interim 50028
111.67 (d) amended; interim 50029
111.72 Amended; interim 50029
111.78 Amended; interim 50029
111.91 Amended; interim 50029
111.92 Amended; interim 50029
111.94 Amended; interim 50029
111.95 Amended; interim 50029
111.96 (a) and (c) amended; interim 50029
112.1 Amended; interim 50019
112.2 Amended; interim 50020
112.11 (a) amended; interim 50029
112.12 (a), (b) introductory text, (3) and (4)(ii) amended; interim 50029
112.13 Introductory text amended; interim 50029
112.14 Amended; interim 50029
112.21 Amended; interim 50029
112.22 (a) introductory text, (1), (b)(1), (2) and (c) amended; interim 50029
112.23 Amended; interim 50029
112.24 Introductory text amended; interim 50029
112.27 (c) amended; interim 50029
112.29 Amended; interim 50029
112.30 (a) introductory text, (7), (8), (10), (b), (c), (d)(2) and (e) amended; interim 50029
112.41 Amended; interim 50029
112.42 Amended; interim 50029
112.44 Amended; interim 50029
112.45 Introductory text amended; interim 50029
112.46 Amended; interim 50029
112.48 (a) introductory text, (b), (c), (d)(2) amd (e) amended; interim 50029
112.49 Amended; interim 50029
113.1 Amended; interim 50029
113.11 Amended; interim 50029
113.12 (a), (b) introductory text and (2) amended; interim 50029
113.13 (b), (c) and (d) amended; interim 50029
113.14 Amended; interim 50029
113.15 Amended; interim 50029
113.23 (d) amended; interim 50029
113.24 (a) introductory text and (b) amended; interim 50029
113.26 (e) amended; interim 50029
113.27 (a) and (b) amended; interim 50029
113.32 (a)(1) amended; interim 50029
113.33 (c) and (d) amended; interim 50029
113.35 (a), (c)(2), (d) and (e) amended; interim 50029
(b)(4) and (c)(1)(ii) amended; interim 50030
113.37 (a) amended; (g)(2) revised; interim 50020
(a), (f), (g)(1)(iii), (4) and (5) amended; interim 50030
113.38 (c)(2) removed; (c)(3) through (7) redesignated as (c)(2) through (6); interim 50020
(c)(1), (2), (4) and (6) amended; interim 50030
113.39 (a) introductory text amended; interim 50020
Introductory text, (a) introductory text and (5) amended; interim 50030
113.40 (a), (b) and (c) amended; interim 50030
113.43 (a) and (b) amended; interim 50030
113.53 (b) amended; interim 50030
113.55 (a)(1), (c)(2), (3) and (d) amended; interim 50030
113.62 (a)(3) amended; interim 50030
114 Authority citation revised 18348
114.25 Amended; interim 50030
114.26 (a) and (b) amended; interim 50030
114.34 (a) and (b) amended; interim 50030
118.1 Amended; interim 50030
118.2 Amended; interim 50030
118.4 (g) and (l) amended; interim 50020
(f), (g) and (k) amended; interim 50030
118.5 Amended; interim 50030

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118.11 (b) and (h) amended; interim 50030
118.12 Amended; interim 50030
118.13 Amended; interim 50030
118.21 (a) introductory text and (b) introductory text amended; interim 50030
118.22 Amended; interim 50030
118.23 Amended; interim 50030
118.24 Removed; interim 50020
122.1 (c)(2) amended; interim 50030
122.3 Amended; interim 50030
122.5 (b) amended; interim 50030
122.11 (a) amended; interim 50030
122.12 (d) amended; interim 50030
122.14 (e) amended; interim 50020
(a)(1), (2), (3) introductory text, (ii) and (e) amended; interim 50030
122.15 (b) amended 41804
122.25 (a), (b) and (d)(4)(iv) amended; interim 50030
122.31 (b) amended; interim 50020
(b), (c) and (f) amended; interim 50030
122.35 (b)(1) amended; interim 50030
122.37 (c) amended; interim 50030
122.38 (d), (e) and (f) amended; interim 50030
122.49 (a)(1), (b)(1), (d) and (e)(1) amended; interim 50030
122.54 (f) and (g) amended; interim 50030
122.63 (b) amended; interim 50030
122.64 Amended; interim 50030
122.65 Amended; interim 50030
122.71 (a)(1) amended; interim 50031
122.73 (a)(2) and (b)(2) amended; interim 50031
122.74 (a)(1) and (b)(2) amended; interim 50031
122.76 (a)(1) and (2) amended; interim 50031
122.77 (a) and (b) amended; interim 50031
122.79 (b) amended; interim 50031
122.82 Amended; interim 50031
122.92 (a)(3) introductory text and (iv) amended; interim 50031
122.93 (a) amended; interim 50031
122.102 (a) amended; interim 50031
122.114 (d) amended; interim 50031
122.118 (a) amended; interim 50031
122.119 (a), (d)(1) introductory text, (ii) and (2) amended; interim 50031
122.120 (b)(1) and (k) amended; interim 50031
122.132 (b)(2) and (c) amended; interim 50031
122.134 (a) and (c) amended; interim 50031
122.135 (b), (c) and (e) amended; interim 50031
122.143 (b) amended; interim 50031
122.144 (b) amended; interim 50031
122.153 Amended; interim 50031
122.162 (a)(2) and (4) amended; interim 50031
122.163 (c) introductory text and (2) amended; interim 50031
122.165 (b) amended; interim 50031
122.173 (a) and (b) amended; interim 50031
122.175 Amended; interim 50031
122.176 (a) and (b) amended; interim 50031
122.181 Amended; interim 50031
122.182 (b) through (g) amended; interim 50031
122.183 Amended; interim 50031
122.184 Amended; interim 50031
122.185 Amended; interim 50031
122.186 Amended; interim 50031
122.187 (a) introductory text, (4), (b), (c), (d) and (f) amended; interim 50031
122.188 (a), (b) and (d) amended; interim 50031
123 Authority citation amended 18348, 18991
123.0 Regulation at 58 FR 69471 confirmed 46361
123.1 (a)(1), (2), (3), (b) and (d) amended; interim 50031
123.4 (b) amended; interim 50031
123.8 (a), (b)(1) and (2) amended; interim 50031
123.9 (b)(1), (2), (d)(1)(iv) and (v) amended; interim 50031
123.12 Regulation at 59 FR 30294 confirmed 18990
123.14 (b) amended; interim 50031
123.24 (c) amended; interim 50031
123.25 (a) amended; interim 50031
123.34 Amended; interim 50031
123.63 Revised 54188
123.72 Amended; interim 50031
125.11 (b) and (c) amended; interim 50031
125.12 Amended; interim 50031
125.13 Amended; interim 50031

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125.14 Amended; interim 50031
125.23 Amended; interim 50031
125.31 (c) and (d) removed; (e) redesignated as (c) 52295
125.33 (c) amended; interim 50031
125.35 Amended; interim 50031
125.36 Amended; interim 50031
125.42 Amended; interim 50031
127.1 Introductory text, (c), (d) and (e) amended; interim 50031
127.12 (b)(1) amended; interim 50031
127.13 (a) amended; interim 50031
127.21 Amended; interim 50031
127.22 Revised; interim 50020
127.25 Amended; interim 50032
127.27 Amended; interim 50032
127.28 (c), (d), (g) and (h) amended; interim 50032
127.29 Amended; interim 50032
127.35 Amended; interim 50032
127.36 (a) and (c) amended; interim 50032
128 Authority citation revised 18348
128.1 (d) and (e) amended; interim 50032
128.11 (a), (b)(7)(iv) and (c) amended; interim 50032
128.12 (a) and (c) amended; interim 50032
128.21 Regulation at 59 FR 30294 confirmed 18990
128.23 Regulation at 59 FR 30294 confirmed 18990
(b)(3) amended; interim 50032
128.24 Regulation at 59 FR 30294 confirmed 18990
(e) amended 18991
(c) amended; interim 50032
128.25 Regulation at 59 FR 30295 confirmed 18990
128.26 Regulation at 59 FR 30295 confirmed 18990
132 Authority citation revised 18348
Authority citation amended 39109
132.11a (c) amended; interim 50032
132.12 (a) amended; interim 50032
132.13 (a)(1) amended; interim 50032
132.14 (a)(4)(i) introductory text, (D), (ii) introductory text and (C) amended; interim 50032
132.15 Added; interim 39109
132.23 (a), (b) and (d) amended; interim 50032
132.25 Amended; interim 50032
133.23 (b)(2) and (c)(2) amended; interim 50032
133.24 Amended; interim 50032
133.42 (c) amended; interim 50032
133.43 (a), (b) introductory text, (2), (c) introductory text, (1) introductory text, (i), (ii) and (2) amended; interim 50032
133.44 Amended; interim 50032
133.46 Amended; interim 50032
133.47 Amended; interim 50032
134 Authority citation revised 18348
Authority citation amended 46362
134.0 Regulation at 58 FR 69471 confirmed 46361
134.1 Regulation at 58 FR 69471 confirmed 46361
(k) added 46362
134.3 (b) introductory text and (2) amended; interim 50032
134.22 Regulation at 58 FR 69471 confirmed 46361
134.23 Regulation at 58 FR 69471 confirmed 46361
134.24 Regulation at 58 FR 69471 confirmed 46361
134.25 (a) and (c) amended; interim 50032
134.26 (a) and (c) amended; interim 50032
134.32 Regulation at 58 FR 69472 confirmed 46361
134.33 Amended 49752
134.34 (a) introductory text and (b) amended; interim 50032
134.35 Regulation at 58 FR 69472 confirmed 46361
134.43 Regulation at 58 FR 69472 confirmed 46361
134.44 Regulation at 58 FR 69472 confirmed 46361
134.45 Regulation at 58 FR 69472 confirmed 46361
134.51 Amended; interim 50032
134.52 (a) through (e) amended; interim 50032
134.53 (a)(2) amended; interim 50032
134.54 (a), (b) and (c) amended; interim 50032
141.4 (a) amended 18348
Regulation at 59 FR 30295 confirmed 18990
(b)(1) corrected 21043
141.5 Amended; interim 50032
141.11 (a)(2) and (5) amended; interim 50032
141.13 Amended; interim 50032
141.15 (a) amended; interim 50032

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141.16 Amended; interim 50032
141.20 (a)(1) and (2) amended; interim 50032
141.35 Amended; interim 50032
141.38 Amended; interim 50032
141.44 Amended; interim 50032
141.45 Revised; interim 50020
141.46 Amended; interim 50032
141.52 Introductory text and (i) amended; interim 50032
141.54 (a) and (c) amended; interim 50032
141.55 Amended; interim 50032
141.56 Amended; interim 50032
141.61 (e)(2) introductory text, (ii) and (4) amended; interim 50032
(a)(2), (e)(1)(i)(A), (ii)(B), (C) and (f)(2)(i) amended 52295
141.62 (a) amended; interim 50032
141.63 (a) introductory text, (b) and (c) amended; interim 50032
141.68 (g)(1) and concluding text amended 52295
141.69 (b) and (c) amended; interim 50032
141.83 (c)(2) amended; interim 50032
141.84 (c) amended; interim 50032
141.85 Amended; interim 50032
141.86 (a)(11) amended; interim 50032
141.88 Amended; interim 50032
141.90 (a) amended; interim 50032
141.91 (a) and (d) amended; interim 50032
141.92 (a) introductory text and (b)(4) amended; interim 50033
141.103 Amended; interim 50033
141.105 Amended; interim 50033
141.112 (b), (c), (d), (g) and (h) amended; interim 50033
141.113 (a) through (d), (f) and (h) amended; interim 50033
142.2 (a) amended; interim 50033
142.3 (c) amended; interim 50033
142.4 (c)(1) and (2) amended; interim 50033
142.6 (a)(4) amended; interim 50033
142.7 Amended; interim 50033
142.11 (b) amended; interim 50033
142.13 (a)(4) added; (b) removed; (c) redesignated as (b); interim 50020
(a) heading and introductory text amended; interim 50033
142.14 (a), (b) heading and (c) amended; interim 50033
142.15 Amended; interim 50033
142.17 (a) introductory text amended; interim 50033
142.18 (a) introductory text amended; interim 50033
142.19 (b)(2) amended; interim 50033
142.21 (a), (e)(1), (2), (f)(1) introductory text and (ii) amended; interim 50033
142.24 (a) amended; interim 50033
142.25 (a)(4) added; (b) removed; (c) redesignated as (b); interim 50020
(a) heading and introductory text amended; interim 50033
142.26 (a), (b) heading and (c) amended; interim 50033
142.27 Amended; interim 50033
142.28 (a) introductory text amended; interim 50033
142.42 Introductory text, (a) and (c) amended; interim 50033
142.43 Amended; interim 50033
142.44 Amended; interim 50033
142.45 (a) and (c) amended; interim 50033
142.48 (c) amended; interim 50033
142.49 Amended; interim 50033
142.50 Amended; interim 50033
142.51 Amended; interim 50033
142.52 Heading, (a) and (b) amended; interim 50033
143.2 Introductory text amended; interim 50033
143.3 (a) introductory text and (b) amended; interim 50033
143.3a (c) and (d) amended; interim 50033
143.5 Amended; interim 50033
143.6 Amended; interim 50033
143.7 (a), (b) and (c) amended; interim 50033
143.8 Amended; interim 50034
143.11 (a) introductory text and (b) amended; interim 50034
143.17a (a) introductory text amended; interim 50033
143.21 Regulation at 59 FR 30295 confirmed 18990
143.22 Amended; interim 50034
143.23 Regulation at 59 FR 30295 confirmed 18990

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(j)(5) amended; (j)(6) redesignated as (j)(7); new (j)(6) added 18991
Introductory text amended; interim 50034
143.26 Regulation at 59 FR 30296 confirmed 18990
(a) and (b) amended 18991
143.37 (c) and (d) amended; interim 50034
144 Authority citation amended 52295
144.11 (b) amended; interim 50034
144.12 Amended; interim 50034
144.13 Amended; interim 50034
144.22 (c) removed; (a) revised 52295
144.34 (a) amended; interim 50034
144.36 (c) and (h) amended; interim 50034
144.37 (a), (b)(3), (d), (e), (f), (h)(2) introductory text, (ii) and (v) amended; interim 50034
(a) amended 52295, 52296
144.38 (d) amended; interim 50034
(a) and (e) amended 52296
144.41 (b) and (h) amended; interim 50034
144.42 (b)(3) amended; interim 50034
145 Authority citation amended 18348
145.4 (b), (c) and (d) amended; interim 50034
145.12 (a)(1) and (c) amended; interim 50034
145.14 (b) amended; interim 50034
145.22 (a) and (b) amended; interim 50034
145.23 Amended; interim 50034
145.24 Amended; interim 50034
145.25 Amended; interim 50034
145.31 Regulation at 59 FR 30296 confirmed 18990
Amended; interim 50034
145.32 Regulation at 59 FR 30296 confirmed 18990
Amended; interim 50034
145.35 Amended; interim 50034
145.36 Amended; interim 50034
145.41 Amended; interim 50034
145.42 Amended; interim 50034
145.54 (c) introductory text and (3) amended; interim 50034
146 Authority citation amended 18348, 20632, 50020
146.1 (b)(2) amended; interim 50034
146.2 Amended; interim 50034
146.3 (b) amended; interim 50034
146.4 (h) amended; interim 50020
(g) and (h) amended; interim 50034
146.6 (a), (c), (d) and (e) amended; interim 50034
146.7 Amended; interim 50034
146.8 Amended; interim 50034
146.9 Amended; interim 50034
146.10 Amended; interim 50034
146.13 Amended; interim 50034
146.21 (b) amended; interim 50034
146.22 (b) amended; interim 50034
146.23 (c) amended; interim 50034
146.25 (a) and (c) amended; interim 50034
146.26 Amended; interim 50034
146.31 (a) amended; interim 50034
146.32 (a), (b)(5), (c) introductory text, (3) and (d)(2)(i) amended; interim 50034
146.34 (a) and (b) amended; interim 50034
146.35 (b), (d) and (e) amended; interim 50034
146.36 Amended; interim 50034
146.37 (b), (c)(1) and (d) amended; interim 50034
146.38 Amended; interim 50034
146.39 (b), (c) introductory text, (d) and (e) amended; interim 50034
146.40 (b) amended; interim 50020
(a)(2), (5), (7), (c)(1), (2), (3)(i) and (4) amended; interim 50034
146.41 (a), (c) and (d) amended; interim 50034
146.42 (c) amended; interim 50034
146.44 (c)(2) amended; interim 50035
146.51 Amended; interim 50035
146.52 (a) through (d) and (e) amended; interim 50035
146.53 (a) introductory text, (3), (b), (c) and (d) amended; interim 50035
146.61 Amended; interim 50035
146.62 (c) amended; interim 50035
146.63 (c)(1) amended; interim 50035
146.64 (c) amended; interim 50035
146.65 (a)(1) amended 20632
(b)(3) and (c) amended; interim 50035
146.66 (a) amended; interim 50035
146.67 (d) amended; interim 50035
146.68 Amended; interim 50035

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146.69 (b) and (c) amended; interim 50035
146.70 (b) and (c) amended; interim 50035
146.71 Amended; interim 50035
146.81 (b) amended; interim 50035
146.82 (a) introductory text, (b)(1), (2) and (3) amended; interim 50035
146.83 (a) amended; interim 50035
146.91—146.96 (Subpart H) Added 20632
146.95 (a)(3)(i) amended; interim 50035
147.1 (d) amended; interim 50035
147.3 Amended; interim 50035
147.13 (b) amended; interim 50035
147.14 (a) amended; interim 50035
147.32 Amended; interim 50035
147.33 Amended; interim 50035
147.41 Amended; interim 50035
148 Authority citation amended 18349, 54188
148.6 (b) amended; interim 50035
148.8 (d) amended; interim 50035
148.12 Regulation at 59 FR 30296 confirmed 18990
148.21 Revised 54188
148.25 (b) amended; interim 50035
148.32 (b) amended; interim 50035
148.37 (a) amended; interim 50035
148.39 (b) amended; interim 50035
148.46 (b) amended; interim 50035
148.51 Regulation at 59 FR 30296 confirmed 18990
148.52 (b) and (d) amended; interim 50035
148.54 (c) amended; interim 50035
148.63 (a) introductory text amended; interim 50035
148.64 Regulation at 59 FR 30296 confirmed 18990
148.66 (b)(2) amended; interim 50035
148.77 (a), (c)(1) and (2) amended; interim 50035
148.84 (a)(2) amended; interim 50035
148.90 (a), (b), (c), (d)(1)(ii), (2)(i) and (iii) amended; interim 50035
148.105 (a) amended; interim 50035
148.115 (e) amended; interim 50035
151 Authority citation amended 18349
151.1 Amended; interim 50035
151.2 (a)(1) and (2) amended; interim 50035
151.4 (b) introductory text, (c)(1) and (2) amended; interim 50035
151.6 Amended; interim 50035
151.7 Introductory text and (a) through (d) amended; interim 50035
151.8 (b) and (c) amended; interim 50035
151.9 Amended; interim 50035
151.10 Amended; interim 50035
151.11 Amended; interim 50035
151.13 (a) introductory text, (2), (b) introductory text, (9), (d), (e), (f), (g)(2), (h), (j), (k) and (l)(2) amended; interim 50035
151.15 (a), (b) introductory text and (d) amended; interim 50035
(c) and (d) amended; interim 50036
151.26 Amended; interim 50036
151.28 Amended; interim 50036
151.42 (a)(1), (2), (3) and (c) amended; interim 50036
151.44 (a) and (c) amended; interim 50036
151.51 (b) amended; interim 50036
151.52 (c) amended; interim 50036
151.54 Introductory text amended; interim 50036
151.55 Amended; interim 50036
151.65 Amended; interim 50036
151.68 (c) amended; interim 50036
151.69 (b) amended; interim 50036
151.70 Amended; interim 50036
151.71 (a), (b) and (c) amended; interim 50036
151.73 (b) and (c) amended; interim 50036
151.74 Amended; interim 50036
151.75 Amended; interim 50036
151.76 (a), (b) and (c) amended; interim 50036
151.84 Amended; interim 50036
151.85 Amended; interim 50036
152 Authority citation amended 18349
152.1 (c) amended; interim 50036
152.2 Amended; interim 50036
152.13 (b)(1), (2), (c) introductory text, (1), (2), (3) and (d) amended 18349
(a), (c)(1), (3) and (d) amended; interim 50036
152.16 (c) amended; interim 50036
152.26 Introductory text, (b), (d) and (e) amended; interim 50036

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152.101 (c) and (d) amended; interim 50036
152.103 (a)(5)(iii), (d), (l)(1), (2)(iii) and (m) amended; interim 50036
152.105 (i)(2) amended; interim 50036
152.106 (f)(2) amended; interim 50036
158.1 (b) introductory text amended; interim 50036
158.3 Amended; interim 50036
158.5 (a) amended; interim 50036
158.6 Amended; interim 50036
158.11 (a), (b)(1) and (3) amended; interim 50036
158.12 (a) amended; interim 50036
158.13 (a) and (b) amended; interim 50036
158.14 Amended; interim 50036
158.24 Amended; interim 50036
158.25 Amended; interim 50036
158.27 (b) amended; interim 50036
158.28 Amended; interim 50036
158.29 Amended; interim 50036
158.30 Amended; interim 50036
158.42 (b), (c) and (d) amended; interim 50036
158.43 (a), (c) and (e) amended; interim 50036
158.44 (a) and (c) amended; interim 50036
159 Authority citation amended 18991
159.6 Regulation at 59 FR 30296 confirmed 18990
159.7 (a) introductory text, (b) and (c) amended; interim 50036
159.12 (a)(1) introductory text, (ii) and (b) through (e) amended; interim 50036
159.22 (d)(2) amended; interim 50036
159.36 (b), (c) and (d) amended; interim 50036
159.38 Amended; interim 50036
159.44 Amended; interim 50036
159.58 Amended; interim 50036
161.3 Amended; interim 50036
161.16 Amended; interim 50036
162.0 Regulation at 58 FR 69472 confirmed 46361
162.1d (b) amended; interim 50036
162.3 (b) amended; interim 50036
162.21 (b) amended; interim 50036
162.32 (a) and (c) amended; interim 50037
162.42 Amended; interim 50037
162.44 (a), (b) and (c) amended; interim 50037
162.45 (a)(3), (4) and (c) amended; interim 50037
162.45a Amended; interim 50037
162.46 (c) introductory text, (2) heading, introductory text, (ii) and (d) amended; interim 50037
162.47 (a), (d) and (e) amended; interim 50037
162.48 (a) amended; interim 50037
162.49 (a) amended; interim 50037
162.50 (a) amended; interim 50037
162.52 (b)(2) and (4) amended; interim 50037
162.64 Amended; interim 50037
162.65 (c), (d), (e) introductory text and (1) amended; interim 50037
162.71 (e)(4) amended; interim 50037
162.72 (a) amended; interim 50037
162.74 (a), (b)(4), (c), (d)(3), (4)(i), (e)(1), (h) and (j) amended; interim 50037
162.75 (c), (d)(1), (2) introductory text, (i) and (3) amended; interim 50037
162.76 (a) amended; interim 50037
162.77 (a) amended; interim 50037
162.78 (a), (b) and (d) amended; interim 50037
162.79 (a) and (b)(1) amended; interim 50037
162.79b Amended; interim 50037
162.80 (a)(1), (2)(i) and (iii) amended; interim 50037
171.12 (a) and (e) amended; interim 50037
171.15 (a) introductory text, (4) and (7) amended; interim 50037
171.21 Amended; interim 50037
171.22 Amended; interim 50037
171.31 Amended; interim 50037
171.33 (a) introductory text, (b)(1), (2) and (c) amended; interim 50037
171.52 (d) amended; interim 50037
171 Appendixes A, B and C amended; interim 50037
172.2 Amended; interim 50037
172.12 (a) and (b)(1) amended; interim 50037
172.21 Amended; interim 50037
172.22 Heading, (a), (b)(3) introductory text, (ii), (c), (d)(1), (2), (4) and (e) amended; interim 50037

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172.31 (a) amended; interim 50037
172.33 (a) introductory text, (b)(1) introductory text, (i), (ii), (2) and (c)(1) amended; interim 50038
173.1 Amended; interim 50038
173.2 Introductory text amended; interim 50038
173.3 (a) amended; interim 50038
173.4 (a) and (c) amended; interim 50038
173.4a Amended; interim 50038
173.5 Amended; interim 50038
173.6 Amended; interim 50038
174.0 Regulation at 58 FR 69472 confirmed 46361
Amended; interim 50038
174.1 Amended; interim 50020, 50038
174.3 (b)(1), (c) and (d) amended; interim 50038
174.11 Introductory text amended; interim 50038
174.12 Regulation at 58 FR 69472 confirmed 46361
(e)(2) revised 46363
(b) and (d) amended; interim 50038
174.13 (b) amended; interim 50038
174.14 (e) amended; interim 50038
174.15 Regulation at 58 FR 69472 confirmed 46361
(b)(2) amended; interim 50038
174.16 Amended; interim 50038
174.21 Amended; interim 50038
174.22 (a), (c) and (d) amended; interim 50038
174.23 Amended; interim 50038
174.24 Introductory text and (a) amended; interim 50038
174.26 (a), (b) introductory text and (2) amended; interim 50038
174.27 Amended; interim 50038
174.29 Regulation at 58 FR 69472 confirmed 46361
Amended; interim 50038
174.30 (b) and (c) amended; interim 50038
175.25 (a) and (b) amended; interim 50038
176.1 Amended; interim 50038
177 Authority citation amended 18349
177.0 Regulation at 58 FR 69473 confirmed 46361
177.1 Regulation at 58 FR 69473 confirmed 46361
(d)(3) amended; interim 50038
177.2 (a), (b)(2)(ii)(A), (B) and (C) amended; interim 50038
177.22 (c) amended; interim 50038
178 Authority citation revised 46363
178.2 Table amended (OMB number) 18991
Table amended 46204
Regulation at 58 FR 69473 confirmed 46361
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181 Authority citation amended 18349
Regulation at 58 FR 69473 confirmed 46361
Revised 46364
Technical correction 48645
181 Appendix corrected; CFR correction 35122
191 Authority citation amended 18349, 46463
Interpretation 40995
191.0 Regulation at 58 FR 69565 confirmed 46361
191.2 (d) and (f) amended; interim 50038
191.10 (a), (b) and (d) amended; interim 50038
(e)(1)(i), (ii), (iii) and (2) amended; interim 50039
191.21 (c), (d) and (e) amended; interim 50039
191.22 (d) amended; interim 50039
191.23 (a) and (b) amended; interim 50039
191.24 Amended; interim 50039
191.25 (b)(1) and (2) introductory text amended; interim 50039
191.26 Amended; interim 50039
191.42 (b) introductory text amended; interim 50039
191.43 Amended; interim 50039
191.44 Amended; interim 50039
191.53 (b), (c), (d) and (e)(3) amended; interim 50039
191.56 Amended; interim 50039
191.57 Amended; interim 50039
191.62 (a)(1), (2) introductory text and (3) amended; interim 50039
191.64 Amended; interim 50039
191.65 (a) amended; interim 50039
191.66 (e) amended; interim 50039
191.67 (a)(1), (e)(1) and (2) amended; interim 50039

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191.71 (d) and (f) amended; interim 50039
191.72 (b) and (c) amended; interim 50039
191.82 (d)(2) amended; interim 50039
191.83 (b)(2)(vi) and (3) amended; interim 50039
191.84 (a), (b)(9) and (d) amended; interim 50039
191.85 Amended; interim 50039
191.93 (a), (c)(5), (d), (e)(2), (4), (g), (h), (i), (j) introductory text and (4) amended; interim 50039
191.133 (a), (c) and (d)(2) amended; interim 50039
191.134 Amended; interim 50039
191.136 (d) and (e) amended; interim 50040
191.138 Amended; interim 50040
191.141 (b)(1), (2)(i), (ii), (d), (f)(1), (2) and (g)(1) amended; interim 50040
191.142 (b)(1), (3), (4) and (5) amended; interim 50040
191.153 (b) amended; interim 50040
191.156 (b) amended; interim 50040
191.158 Amended; interim 50040
191.163 (b)(2) and (c) amended; interim 50040
191.164 (b) and (c) amended; interim 50040
191.165 (b) and (c) amended; interim 50040

Chapter II—United States International Trade Commission (Parts 200—299)

201.2 (b) through (i) redesignated as (c) through (j); new (b) added 37336
201.18 (a) revised 37336
201.24 (d) revised 37336
201.28 (b) revised 37336
201.29 Revised 37336
201.30 (b) revised 37336
206.2—206.8 (Subpart A) Regulation at 60 FR 10 confirmed 46500
206.11—206.19 (Subpart B) Regulation at 60 FR 12 confirmed 46500
206.34 Regulation at 60 FR 16 confirmed 46500
206.35 Regulation at 60 FR 17 confirmed 46500
206.51—206.55 (Subpart F) Regulation at 60 FR 17 confirmed 46500
210.4 (f)(3) revised 32443
210.5 (a) revised 32444
210.7 Revised 53119
210.8 (a) revised 32444
210.11 (a) revised 53119
210.21 (b)(2), (c)(2)(i), (ii) and (d) revised 53120
210.41 Revised 53120
210.42 (e) and (i) revised 53120
210.43 (d)(3) revised 53120
210.45 (c) revised 53120
210.52 (e) revised 32444
210.66 (d) and (f) revised 53121
210.74 (b) revised 53121

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

353 Authority citation revised 25133
353.1 Revised 25133
353.12 (b)(2) revised 25134
353.13 (a) revised 25134
353.15 (a)(1), (b) and (c) revised 25134
353.22 (c)(4) and (7) revised; (h) added 25134
353.31 (a)(1) and (c) revised 25135
353.38 (i) added 25136
355 Authority citation revised 25136
355.1 Revised 25136
355.12 (b)(2) revised 25136
355.13 (a) revised 25136
355.15 (a)(1), (2)(ii), (4), (b) and (c) revised 25136
355.20 (a)(2)(ii), (4) and (e) revised; (d) removed 25136
355.22 (a), (c), (i)(5)(ii), (6), (9)(ii) and (10) revised; (d) and (f) removed; (j) added 25137
355.31 (a)(1) and (c) revised 25139
355.38 (i) added 25139
355.40 Added 25139

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10 ..... 22312, 27378, 29520
12 ..... 22312, 27378, 29520
101 ..... 25176, 47504, 47505, 52347
102 ..... 22312, 27378, 29520, 35878, 38982
133 36249
134 ..... 22312, 29520
162 ..... 21778, 35881, 37856

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177 ..... 22312, 29520
201 ..... 26851, 51748
207 51748
210 20463

TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board (Parts 200—399)

200.4 (o) and (p) added 29984
217.8 (t) and (u) added 21982
226 Revised 22262
232 Removed 22268
320.6 (b) and (d) revised; interim 29534
335.3 (a)(6) and (7) amended; (a)(8) and (9) added 40073
335.4 (d)(5) amended 40073
344 Removed 21982

Chapter III—Social Security Administration (Parts 400—499)

Chapter III Heading revised 18992
404.213 (a)(3) amended 17444
404.460 (c)(3) amended 17444
404.503 (b)(3) and (6) revised 17445
404.510 (l) revised 17445
404.721 (b) revised 19164
404.722 Added 19165
404.900—404.999d (Subpart J) Authority citation revised 34131
404.906 Revised 20026
404.942 Added 34131
404.943 Added 47475
404.988 (c)(4) introductory text and (i) revised 19165
404.1220 (a) and (e) revised 42433
404.1501—404.1599 (Subpart P) Authority citation revised 43710
404.1501—404.1599 (Subpart P) Appendix 1 amended 43710
Appendix 1 corrected 53267
416.1400—416.1499 (Subpart N) Authority citation revised 34132
416.1406 Revised 20028
416.1442 Added 34132
416.1443 Added 47476
422.101—422.140 (Subpart B) Authority citation revised 32446, 42433
422.107 (c) amended; interim 32446
422.112 Revised 42433
422.114 Added 42433
422.115 Removed 42434
422.120 Revised 42434
422.122 Added 42434
423 Added 18992

Chapter IV—Employees' Compensation Appeals Board, Department of Labor (Parts 500—599)

507 Enforcement position 49505

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

625.6 Revised; interim 25568
638.524 (b) and (c) revised 18993
641 Redesignated from Title 29, Part 89 and revised 26581
655 Enforcement position 49505
655.104 Regulation at 59 FR 41875 confirmed 26970
655.112 Regulation at 59 FR 41876 confirmed 26970
655.204 Regulation at 59 FR 41876 confirmed 26970
655.206 Regulation at 59 FR 41876 confirmed 26970
655.212 Regulation at 59 FR 41876 confirmed 26970
655.900 (b)(2)(i) and (d) amended; (e) revised; interim 34133, 34134, 38958, 38959
(b)(2)(i), (d) and (e) amended; interim 49753, 49754
655.910 (b)(2)(i) and (e) amended; interim 34133, 34134, 38958, 38959, 49754
655.940 (d)(1)(i)(B), (h)(1) and (3) amended; interim 34133, 34134, 38959, 49754
(d)(1)(i)(B) amended; interim 38958

Chapter VI—Employment Standards Administration, Department of Labor (Parts 700—799)

702 Authority citation revised 51348
702.101 Removed 51348
702.102 Heading revised; (a) and (b) redesignated as (b) and (c); new (a) added 51348
702.224 Amended 51348
702.243 (b) amended 51348
702.316 Amended 51348
702.413 Revised 51348
702.414 (a) and (c) revised 51348
703 Authority citation revised 51348

703.121 Removed 51348

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220 47122
230 ..... 42482, 43999
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367 42818
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404 ..... 19008, 28767, 30482, 47126
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416 ..... 19008, 26387, 30482, 40542, 45110, 47126
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703 22537

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

5.10 (a)(37) added 24767
5.22 (a)(1) through (13), (b)(1) and (2) revised; (a)(14) and (b)(3) added 26826
5.61 (h) added 36594
5.81 Added 54424
5.85 Revised 47268
5.99 Removed 38626
10.50 (c)(21) removed 38626
16 Workshop 27406
17 Added 38626
19.21 (a), (b) and (c) amended 47478
20.63 (f) added 16968
20.86 Amended 38633
25.22 (a)(10) revised 36594
25.31a (a) introductory text, (b)(1) introductory text and (2) introductory text revised 36594
73.35 Added 18738
(b) and (d)(3) stayed 41805
73.250 (a)(1) amended 52629
73.260 (a)(1) amended 52629
73.3106 Regulation at 60 FR 10497 confirmed as 3–30–95 32264
101.2 (d)(1) revised 17205
101.9 (i) revised; (j)(17) revised 17205
(j)(17) corrected 30788
101.13 (j)(2)(iv)(B) revised 17205
101.54 (e)(1)(iii)(B) and (2)(iii)(B) revised 17206
101.56 (b)(3)(ii), (c)(1)(ii)(B), (2)(ii)(B) and (g) amended 17206
101.60 (b)(4)(ii)(B), (5)(ii)(B), (c)(4)(ii)(B) and (5)(ii)(B) revised 17206
101.61 (b)(6)(ii)(B), (7)(ii)(B) and (c)(2)(iii) revised 17206
101.62 (b)(4)(ii)(B), (5)(ii)(B), (c)(4)(ii)(B), (5)(ii)(B), (d)(1)(ii)(F)(*2*), (2)(iii)(E)(*2*), (iv)(E)(*2*), (4)(i)(C)(*2*), (ii)(D)(*2*), (5)(i)(C)(*2*) and (ii)(D)(*2*) revised 17207
102.50 Table amended 34460
170.3 (e) redesignated as (e)(1); (e)(2) added 36595
170.39 Added 36595
171.8 Added 36596
172.120 (b)(1) table amended 33710
172.723 Added 32903
172.800 (c)(12) added 21702
172.841 (a)(1) revised 54425
172.859 (c)(1) and (2) revised 44756
173.340 (a)(3) table amended 54036
174.6 Added 36596
175.105 (c)(5) table amended 47480, 49337
175.250 (a), (b)(1) and (2) amended 39645
175.300 (b)(3)(viii)(*b*) and (xxxiii) amended 48646
(b)(3)(xi) amended 49337
176.170 (b)(2) table amended 18350
(a)(5) table amended 34135, 39646, 44757
Regulation at 60 FR 34135 eff. date corrected to 7–31–95 47205
176.180 (b)(2) table amended 18350
177.1520 (a)(3)(i)(*a*) redesignated as (a)(3)(i)(*a*)(*1*); (a)(3)(i)(*a*)(*2*) added; (c) table amended 40074
(a)(6) added; (c) table amended 54189
177.2440 (a) and (b) revised 48649
177.2600 (c)(4)(ii)(*a*) and (*b*) amended 39648
177.2910 Introductory text revised; (e) and (f) redesignated as (f) and (g); (a)(4) and new (e) added 54426
178.1010 (b)(44) and (c)(38) added 18740
178.2010 (b) table amended 18353, 22269, 33711, 43371, 49338, 49507, 54428
178.3130 (b) table amended 18351, 54430
178.3297 (e) table amended 31244, 39649
178.3400 (c) table amended 18351
178.3570 (a)(3) table amended 44758
184.1024 Added 32910

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184.1034 Added 32910
184.1316 Added 32910
184.1415 Added 32911
184.1443a Added 32911
184.1444 (a) amended; (b) revised 48893
184.1583 Added 32911
184.1595 Added 32911
184.1914 Added 32911
184.1985 Added 54193
189.240 Added 33109
202.1 (e)(4)(i)(*b*)(*3*) amended 38480
206.10 (a) amended 19846
210 Compliance date extension 20897
211 Compliance date extension 20897
310 Technical correction 17611
310.201 (a)(10) and (15) removed; eff. 10–7–96 52507
310.543 Added 20165
310.545 (a)(9) removed; (d)(1) revised 20165
(d)(1) corrected 20898
(a)(6)(iv), (d)(19) and (20) added 38642
(a)(15)(ii) stayed in part 42436
(a)(2) redesignated as (a)(2)(i); (a)(2)(i) heading, (ii) and (d)(24) added; (d) introductory text and (1) revised; eff. 10–7–96 52507
355 Added; eff. 10–7–96 52507
369.21 Amended; eff. 10–7–96 52510
436.215 (b) table amended; (c)(9) revised 27221
442.52 (b)(1)(iv) and (3) revised 33712
442.119 Redesignated as 442.119a; new 442.119 added 27222
442.119a Redesignated from 442.119 27222
442.119b Added 27222
453.522d Added 49508
500.26 (a) amended 38480
500.27 (a)(3) amended 38480
501:4 (b)(13) amended 38480
510.413 (b) amended 38480
510.600 (c)(1) table and (2) table amended 29755, 32447, 33110, 33342, 34135, 35122, 35838, 39846, 40454, 40455, 47052, 47480, 54193
520.445b (d)(4) introductory text amended 26827
(b) and (d)(4)(iii)(C) amended 47052
520.1289 Added 20402
520.1445 (c)(2) and (3) amended 50097
520.1560 Removed 39847
520.1560a Removed 39847
520.1560b Removed 39847
520.1660d (b)(2) amended; (c) removed 40455
520.1696b (b) revised 26359
520.1801 Removed 39847
520.1801a Removed 39847
520.2095 Added 50097
522.313 (d)(1)(ii) amended 51719
522.540 (a)(2) revised 29985
522.723 (c) amended 39847
522.883 (c) amended 39847
522.970 (b) revised 48650, 54942
522.1044 (a) and (b)(1) revised; (b)(4) added 29985
522.1060 Removed 27223
522.1060a Removed 27223
522.1060b Removed 27223
522.1085 (b) amended 27223
522.1086 Added 27223
522.1192 Heading and (a)(3) heading revised; (d)(5) added 45041
522.1222a (a) and (d) removed; (c) revised 49339
522.1362 Added 49340
522.1563 Removed 39847
522.1660 (b) and (c)(2)(iii) amended 29755
522.1662a (h)(2) revised 48651
522.1720 (c) and (d) amended; (b)(2) revised 53509
522.2662 (b) amended 33110, 35122, 35123
522.2680 (d)(3) added 26360
524.575 Added 48651
524.1580a Removed 39847
529.1044a (b) amended 45042, 48894
529.1186 (b) revised 40456
556.594 Added 50098
558.4 (d) table amended 39848
558.62 (c)(2)(v) removed; (c)(2)(vi) redesignated as (c)(2)(v) 39847
558.76 (d)(3)(v) added 29483
558.95 (b)(1)(x)(*b*) and (xi)(*b*) amended 18741
(a)(4) amended 47052
558.105 Removed 39847
558.128 (c)(5)(iii) removed 39847
558.195 (c)(2) removed; (d) table amended 34461
(d) table amended 53702
558.274 (a)(7), (c)(1)(i) table and (ii) table amended 47052
558.300 (c)(1)(i) and (iii) revised 39848

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558.305 (a) amended 53509
558.311 (e)(1) table amended 18741
(b)(6) and (e)(1) table amended; (b)(7) added 29481
(b)(7) revised; (e)(1) table amended 29482
(b)(3) and (e)(1) table amended 54194
558.325 (c)(3)(iv) removed 39847
558.355 (f)(1)(xii)(*b*) and (xx)(*b*) amended 18741
558.366 (c) table amended 29483
(a) amended 33343
558.460 (c)(2)(v) removed 39847
558.485 (a)(11) amended 47052
558.530 (d)(3)(vii) removed 39847
558.550 (b)(1)(ii)(c) amended 18741
558.625 (b)(52) amended 47053
558.630 (b)(3), (8) and (10) amended 47053
573.920 Introductory text and (a) through (f) redesignated as (a) through (g); new (a) revised; interim 53703
579.40 Added 50099
862.2310 (b) revised 38899
862.2320 (b) revised 38900
862.2485 (b) revised 38900
862.2720 (b) revised 38900
862.2800 (b) revised 38900
862.2920 (b) revised 38900
866.2560 (b) revised 38482
872.3740 (b) revised 38900
872.3810 (b) revised 38900
872.6100 (b) revised 38900
876 Authority citation revised 17216
876.3750 (c) revised 17216
882.5800 (c) revised 43969
886 Compliance date extension 54942
892.1990 Added 36639
1000 Authority citation revised 48380
1000.3 Revised 48380
1002 Authority citation revised 48382
1002.1 Revised 48382
1002.2 Removed 48385
1002.3 Revised 48385
1002.7 Introductory text and (b) amended; (c) added 48385
1002.10—1002.13 (Subpart B) Revised 48386
1002.20 (c) amended 48386
1002.30 (a) introductory text amended; (a)(5) added 48386
1002.31 (c) amended 48386
1002.40 (a) revised 48386
1002.50 Revised 48387
1002.61 (Subpart G) Removed 48387
1220.40 (a) revised 29987
1270 Workshop 27406

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1301 Policy statement 55310
1301.24 (b), (c) introductory text and (5) revised 36621
1301.37 (a) revised 32101
1301.43 (a) revised 32101
1301.44 (b) redesignated as (c); new (b) added 32101
1301.54 (a) through (d) revised 32101
1301.55 (a) revised 32102
1306.05 (b) revised 36621
1307.03 Revised 32454
1308.11 (d)(3) through (30) redesignated as (d)(4) through (31); new (d)(3) added; (g)(3) removed 28719
1309 Added 32454
1309.02 (f), (g) and (h) correctly redesignated as (e), (f) and (g) 42436
1309.04 (f)(1)(xxii) and (xxiii) corectly redesignated as (f)(1)(xxi) and (xxii) 42436
1309.12 (b) corrected 35264, 36334
1310 Technical correction 54409
1310.01 (b) through (e), (f)(1) and (g) revised; (k) redesignated as (m); new (k) and (l) added 32459
1310.02 (b)(10) added 19510
Introductory text, (a) and (b) revised 32460
1310.04 (a), (b), (f)(1) and (2) introductory text revised; (f)(1)(xiv), (xx) and (xxii) removed; (f)(1)(xv) through (xix), (xxi), and (xxiii) redesignated as (f)(1)(xiv) through (xviii), (xix) and (xx); new (f)(1)(xxi) and (xxii) added 32460
(f)(2)(v) added 19510
1310.06 Regulation at 59 FR 51364 confirmed 17628
(a) introductory text, (1), (c) and (d) revised 32461
1310.07 (a) and (b) revised 32461
1310.08 (c), (d) and (e) added 19510

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(b) introductory text revised 32461
1310.09 Revised; interim 53122
1310.10 Added 32461
1310.11 Added 32462
1310.14 Added 32462
1310.15 Added 32463
1313.01 Amended 32465
1313.02 (c), (d) introductory text, (1), (h) and (i) revised; (m) redesignated as (o); new (m) and (n) added 32463
1313.12—1313.15 Undesignated center heading amended 32465
1313.12 (c) revised; (d), (e) and (f) added 32464
1313.13 (a) amended 32465
1313.14 Introductory text and (a) amended 32465
1313.15 Revised 32464
1313.21—1313.25 Undesignated center heading amended 32465
1313.21 (d) redesignated as (g); (c) and new (g) revised; new (d), (e) and (f) added 32464
1313.22 (a) amended 32465
1313.23 Introductory text and (a) amended 32465
1313.31 Undesignated center heading added 32465
1313.32 Added 32465
1313.33 Added 32465
1313.34 Added 32465
(a) corrected 35264, 36334
1316 Authority citation revised 32465
1316.02 (c)(2) revised 32465
(c)(2) corrected 35264, 36334
1316.03 (b) through (e) revised 32465
1316.09 (a)(3) revised 32466

Chapter III—Office of National Drug Control Policy (Parts 1400—1499)

1403.36 (d), (g), (h) and (i) revised 19639, 19642
1404.100 Revised 33040, 33045
1404.105 Amended 33041, 33045
1404.110 (c) revised 33041, 33045
1404.200 Revised 33041, 33045
1404.215 Revised 33041, 33045
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1404.225 Revised 33041, 33045
1404 Appendixes A and B revised 33042, 33045

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208 44182
250 53480
310 ..... 21590, 38643, 43091, 43421, 44787, 53480
312 ..... 46794, 49086
314 ..... 34486, 44182, 46794, 49086
330 52058
341 ..... 38643, 43091, 43421, 44787
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610 49811
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630 53480
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801 ..... 41314, 53480, 53560
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804 ..... 41314, 53560
812 49086
814 49086
820 38956
862 ..... 38901, 38902, 45685
864 ..... 38901, 46718

866 ..... 38901, 38902, 45685
868 ..... 38901, 38902, 45685, 46718
870 ..... 38902, 45685, 46718
872 ..... 30032, 35713, 38902, 45685, 46718
874 ..... 38902, 45685
876 ..... 17611, 38902, 45685, 46718
878 ..... 38902, 45685
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882 ..... 38902, 45685, 46718
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886 ..... 38901, 38902, 45685
888 ..... 38902, 45685, 46718, 51946
890 ..... 38902, 45685, 46718
892 ..... 38902, 45685
895 ..... 32406, 44548, 46251
896 26854
897 ..... 32406, 41314, 44548, 53560
898 ..... 44451, 46251
1270 32128
1301 ..... 43732, 50244
1303 ..... 43732, 50244
1304 ..... 43732, 50244
1305 ..... 43732, 50244
1309 ..... 49527, 55348
1310 ..... 49527, 49529, 55348
1313 55348

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

21 Added 29988
41.3 (e) revised 30188
41.58 Added 42036
42 Authority citation revised 35839
42.32 (d)(1)(ii) revised 35839
92 Authority citation revised 51721
92.1 (d) added 51721
92.2 Revised 51721
92.3 Amended 51723
92.4 Heading, (a), (b) and (c) revised 51721
92.5 Revised 51721
92.6 Introductory text and (b) revised 51721
92.7 Heading and (b) revised 51721
92.8 Amended 51723
92.9 (a) and (b) amended 51723
92.10 Amended 51723
92.11 (a) and (b) amended 51723
92.12 Amended 51723
92.15 Amended 51723
92.17 Amended 51723
92.23 Amended 51723
92.24 Amended 51723
92.27 (a) and (b) amended 51723
92.29 Amended 51723
92.31 (a) amended 51722
Amended 51723
92.32 (b) amended 51723
92.33 Amended 51723
92.35 Amended 51723
92.51 Revised 51722
92.52 Revised 51722
92.55 Revised 51722
92.56 Introductory text amended 51723
92.57 Amended 51723
92.59 Concluding text amended 51723
92.60 Amended 51723
92.61 Amended 51723
92.62 Amended 51723
92.63 Concluding text amended 51723
92.64 (b) amended 51723
92.66 (a) and (d) revised 51722
94.2 Revised 25843
135.36 (d), (g), (h) and (i) revised 19639, 19642
137.100 Revised 33040, 33045
137.105 Amended 33041, 33045
137.110 (c) revised 33041, 33045
137.200 Revised 33041, 33045
137.215 Revised 33041, 33045
137.220 Revised 33041, 33045
137.225 Revised 33041, 33045
137 Appendixes A and B revised 33042, 33045

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

208.100 Revised 33040, 33045
208.105 Amended 33041, 33045
208.110 (c) revised 33041, 33045
208.200 Revised 33041, 33045
208.215 Revised 33041, 33045
208.220 Revised 33041, 33045
208.225 Revised 33041, 33045
208 Appendixes A and B revised 33042, 33045
211.4 (e)(3) added 36991
213 Authority citation revised 40456
213.21—213.27 (Subpart C) Added 40456

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Chapter III—Peace Corps (Parts 300—399)

310.100 Revised 33040, 33045
310.105 Amended 33041, 33045
310.110 (c) revised 33041, 33045
310.200 Revised 33041, 33045
310.215 Revised 33041, 33045
310.220 Revised 33041, 33045
310.225 Revised 33041, 33045
310 Appendixes A and B revised 33042, 33045

Chapter V—United States Information Agency (Parts 500—599)

502.2 Amended 29989
502.3 (d) and (e) added 29989
513 Authority citation revised 33045
513.100 Revised 33040, 33045
513.105 Amended 33041, 33045
513.110 (c) revised 33041, 33045
513.200 Revised 33041, 33045
513.215 Revised 33041, 33045
513.220 Revised 33041, 33045
513.225 Revised 33041, 33045
513 Appendixes A and B revised 33042, 33045
514 Authority citation revised 16787
514.44 (a)(2) and (3) amended; interim 16787
(e), (f) and (g) redesignated as (f), (g) and (h); new (e) added; (d)(3) and new (g)(4)(i) amended; interim 16788
Regulations at 60 FR 16787 and 16788 confirmed; (e) revised 53124

Chapter VII—Overseas Private Investment Corporation, International Development Cooperation Agency (Parts 700—799)

705 Regulation at 58 FR 33320 confirmed 37556

Chapter X—Inter-American Foundation (Parts 1000—1099)

1006.100 Revised 33040, 33046
1006.105 Amended 33041, 33046
1006.110 (c) revised 33041, 33046
1006.200 Revised 33041, 33046
1006.215 Revised 33041, 33046
1006.220 Revised 33041, 33046
1006.225 Revised 33041, 33046
1006 Appendixes A and B revised 33042, 33046

Chapter XV—African Development Foundation (Parts 1500—1599)

1508 Authority citation revised 33046
1508.100 Revised 33040, 33046
1508.105 Amended 33041, 33046
1508.110 (c) revised 33041, 33046
1508.200 Revised 33041, 33046
1508.215 Revised 33041, 33046
1508.220 Revised 33041, 33046
1508.225 Revised 33041, 33046
1508 Appendixes A and B revised 33042, 33046

Proposed Rules:

51 ..... 51760, 54103
181 54319
502 19385

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

630 Authority citation revised 36992
630.102—630.114 (Subpart A) Authority citation removed; interim 36992
630.110 Authority citation removed; interim 36992
630.112 Authority citation removed; interim 36992
630.201—630.205 (Subpart B) Authority citation removed; interim 36992
630.701—630.711 (Subpart G) Revised; interim 36993
630.1002—630.1010 (Subpart J) Authority citation removed; interim 36992
635 Authority citation revised 44273
635.101—635.126 (Subpart A) Authority citation removed 44273
635.410 Authority citation removed 44273
635.413 Revised; interim 44274
635.501—635.509 (Subpart E) Authority citation removed 44273
637 Revised 33717

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640 Revised; interim 47483
645.109 (b) amended 34850
645.113 (f) and (g)(1) amended 34850
645.117 (d)(1) and (i)(2) revised; (i)(4) removed 34850
645.207 Amended 34850
645.209 (a) and (b) amended 34851
645.215 (a) amended 34851
655.601 (a) revised 18521

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1204 Removed 36654

Proposed Rules:

655 ..... 31008, 49136

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

1 Appendix A removed 47262
3 Removed 47262
8 Appendixes A and B removed 47262
11 Removed 47262
15.31—15.33 (Subpart D) Removed 47262
16 Appendix A removed 47262
24 Authority citation revised 33048
24.100 Revised 33040
Revised; (e) and (f) added 33048
24.105 Amended 33041
Amended; (1) and (2) removed 33048
24.110 (c) revised 33041
Amended; (a)(1)(i)(A)(3) and (3) added; (c) revised; (d) amended 33048
24.115 (d) removed 33048
24.200 Revised 33041
Revised; (c)(8), (9) and (d) added 33048
24.215 Revised 33041, 33048
24.220 Revised 33041, 33048
24.225 Revised 33041, 33048
24.305 (d) revised 33049
24.313 Revised 33049
24.314 Revised 33049
24.400 (d) removed 33050
24.410 (c) removed 33050
24.411 Revised 33050
24.412 Revised 33050
24.413 Revised 33050
24.415 (d) removed 33051
24.705 (c) amended 33051
24.710 (a)(3) amended 33051
24.711 Revised 33051
24.712 Revised 33051
24.713 Revised 33051
24.714 Added 33051
24 Appendixes A and B revised 33042, 33048
Appendixes A, B and C removed 47262
25 Authority citation revised 39237
25.2 Revised 39237
25.3 Amended 39237
25.5 (c)(1), (2) and (d)(4)(iii) revised 39237
25.7 Revised 39237
25.8 Revised 39238
25.9 (i), (w), (x) and (bb) revised; (ee) added 39238
25.12 (a) amended 39238
25.16 Revised 39238
25.17 Removed 39238
26 Authority citation revised 39238
26.1 Amended 39239
39 Removed 47262
40 Appendix A removed 47262
49 Removed 47262
58.2 (a)(7)(ii) introductory text and (D) revised; (a)(7)(ii)(E) added; interim 48611
58.10 Amended; interim 48611
58.77 (d) heading revised; (d)(2) amended; interim 48611
84 Regulation at 59 FR 47011 confirmed 32104
85.36 (d), (g), (h) and (i) revised 19639, 19642
86 Appendixes A and B removed 47262
90 Removed 47262
91.15 (a)(2) amended 45043
91.600 Added 50802
92.2 Regulations at 59 FR 18631 and 44261 eff. date extended to 6-30-96 34136
Amended; interim 36023

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92.4 Regulations at 59 FR 18631 and 44261 eff. date extended to 6-30-96 34136
92.5 Regulation at 59 FR 44261 eff. date extended to 6-30-96 34136
Revised; interim 36024
92.50 Regulation at 59 FR 19631 eff. date extended to 6-30-96 34136
92.61 Regulations at 59 FR 18631 and 44261 eff. date extended to 6-30-96 34136
92.64 Regulation at 59 FR 18632 eff. date extended to 6-30-96 34136
92.150 Regulations at 59 FR 18632 and 44261 eff. date extended to 6-30-96 34136
92.204 Regulation at 59 FR 18632 eff. date extended to 6-30-96 34136
92.205 Regulations at 59 FR 18632 and 44261 eff. date extended to 6-30-96 34136
(b) revised; interim 36024
92.206 Regulations at 59 FR 18632 and 44261 eff. date extended to 6-30-96 34136
92.207 Regulation at 59 FR 18633 eff. date extended to 6-30-96 34136
92.208 Regulation at 59 FR 18633 eff. date extended to 6-30-96 34136
92.209 Regulation at 59 FR 18633 eff. date extended to 6-30-96 34136
92.210 (f) revised; interim 36024
92.211 Regulations at 59 FR 18633 and 44261 eff. date extended to 6-30-96 34136
Revised; interim 36024
92.214 Regulations at 59 FR 18634 and 44262 eff. date extended to 6-30-96 34136
92.216 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.218 Regulations at 59 FR 18634 and 44262 eff. date extended to 6-30-96 34136
(f) added; interim 36025
92.219 Regulation at 59 FR 18634 eff. date extended to 6-30-96 34136
92.220 Regulation at 59 FR 18634 eff. date extended to 6-30-96 34136
(a)(1)(ii)(A). (2) and (5) introductory text revised; interim 36025
92.221 Regulation at 59 FR 18635 eff. date extended to 6-30-96 34136
92.222 Regulation at 59 FR 18635 eff. date extended to 6-30-96 34136
92.252 Regulations at 59 FR 18635 and 44262 eff. date extended to 6-30-96 34136
(a)(2) revised; interim 36025
92.254 Regulations at 59 FR 18636 and 44262 eff. date extended to 6-30-96 34136
(a)(4)(ii) revised; interim 36026
92.255 Regulation at 59 FR 18636 eff. date extended to 6-30-96 34136
92.256 Regulation at 59 FR 18636 eff. date extended to 6-30-96 34136
92.257 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.259 Regulation at 59 FR 18636 eff. date extended to 6-30-96 34136
92.300 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.352 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.353 Regulation at 59 FR 44262 eff. date extended to 6-30-96 34136
92.354 Regulations at 59 FR 18637 and 44263 eff. date extended to 6-30-96 34136
92.356 (a)(1) and (2) revised; interim 36026
92.502 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.504 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136
92.505 Revised; interim 36026
92.508 Regulation at 59 FR 18637 eff. date extended to 6-30-96 34136

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92.625 Regulation at 59 FR 18638 eff. date extended to 6-30-96 34136
92.633 Regulation at 59 FR 44263 eff. date extended to 6-30-96 34136
0—99 (Subtitle A) Appendix D removed 47262

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

100 Authority citation revised 43327
100.304 Revised 43327
100.305 Added 43327
100.306 Added 43328
100.307 Added 43329
100.310 Added 43330
100.315 Added 43330
100.316 Added 43330
103 Appendix removed 47262
106 Removed 47262
120 Removed 47262
130 Removed 47262
135.2 Revised 28326

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.5—200.39 (Subpart B) Removed 47262
200.93 Regulation at 59 FR 31522 confirmed 35692
200.155 Regulation at 59 FR 50143 confirmed 21937
200.213 Regulation at 59 FR 31522 confirmed 35692
200.217 Regulation at 59 FR 31522 confirmed 35692
200.517—200.533 (Subpart L) Removed 47262
200.700—200.710 (Subpart N) Removed 47262
200.946 Revised 47841
200.1301 (Subpart W) Added 47262
202.9 (a) revised; (c) and (d) removed 39239
203 Authority citation revised 42758
203.3 (b)(4) revised; interim 42758
203.5 (b) revised; interim 42759
203.255 (b)(11) amended; (b)(12) redesignated as (b)(13); new (b)(12) added; (c) introductory text and (3) revised; interim 42759
203.259a (b) amended 34138
203.269 Added 34138
203.284 (f) revised 34138
203.285 (c) revised 34138
203.355 Regulation at 59 FR 50143 confirmed 21937
203.356 Regulation at 59 FR 50144 confirmed 21937
203.360 Regulation at 59 FR 50144 confirmed 21937
203.365 Regulation at 59 FR 50144 confirmed 21937
203.370 Regulation at 59 FR 50144 confirmed 21937
203.401 Regulation at 59 FR 50144 confirmed 21937
203.402 Regulation at 59 FR 50145 confirmed 21937
203.403 Regulation at 59 FR 50145 confirmed 21937
203.410 Regulation at 59 FR 50145 confirmed 21937
203.501 Regulation at 59 FR 50145 confirmed 21937
205 Removed 47263
206 Authority citation revised 42759
206.3 Amended; interim 42759
206.5 Amended; interim 42759
206.7 Revised; interim 42759
206.9—206.51 (Subpart B) Heading revised; interim 42759
206.9 (b) heading revised; interim 42759
206.13 Removed; interim 42759
206.15 Revised; interim 42759
206.19 (f) added; interim 42760
206.21 (c)(2) and (d) revised; interim 42760
206.25 (b)(1) revised; interim 42760
206.26 (b)(1) and (2) revised; interim 42760
206.27 (b)(3) revised; interim 42760
206.40 Added; interim 42760
206.43 (a) revised; (c) added; interim 42760
206.45 (a), (b) and (d) revised; interim 42760
206.47 (a) revised; interim 42760
206.102 Added; interim 42761

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206.107 (a)(1) introductory text revised; (a)(1)(v) added; interim 42761
206.113 (b) revised; interim 42761
206.116 Added; interim 42761
206.121 (c) amended; interim 42761
206.123 (a)(4) revised; interim 42761
206.125 (a)(2) amended; (b), (d)(1), (2), (g)(1) and (3) revised; interim 42761
206.129 (d)(2)(i), (ii), (iv), (3)(ii), (e)(1) and (2) revised; (d)(2)(v) and (vi) added; interim 42761
206.203 (b) revised; interim 42762
206.205 (a) revised; interim 42762
206.207 (a) revised; interim 42762
209 Removed 47263
210 Removed 47263
211 Removed 47263
215 Policy statement 20356
215.2 Added; interim 17391
215.21 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17391
224 Removed 47263
225 Removed 47263
226 Removed 47263
227 Removed 47263
228 Removed 47263
229 Removed 47263
235 Policy statement 20356
236 Policy statement 20356
236.3 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17392
236.6 Added; interim 17392
236.72 (a) revised; (b) introductory text amended; interim 17392
238 Removed 47263
240 Removed 47263
250 Removed 47263
251.3 Added; interim; eff. 10–19–95 through 4–21–97 48598
251.4 Added; interim; eff. 10–19–95 through 4–21–97 48598
251.5 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.3 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.4 Added; interim; eff. 10–19–95 through 4–21–97 48599
252.5 Added; interim; eff. 10–19–95 through 4–21–97 48600
255.3 Added; interim; eff. 10–19–95 through 4–21–97 48600
255.4 Added; interim; eff. 10–19–95 through 4–21–97 48600
255.5 Added; interim; eff. 10–19–95 through 4–21–97 48601
270 Removed 47263
271 Removed 47263
277 Removed 47263
278 Removed 47263
280 Policy statement 20356
291.300—291.307 (Subpart D) Added; eff. 10–2–95 through 9–30–96; interim 45333
291.303 Correctly revised 52296

Chapter III—Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

300—310 (Subchapter A) Designation and heading removed 42015
300 Revised 42015
310 Revised 42015
320—350 (Subchapter B) Designation and heading removed 42015
320 Revised 42015
330 Revised 42018
340 Revised 42019
350 Removed 42020
360—380 (Subchapter C) Designation and heading removed 42015
360 Removed 42020
370 Removed 42020
380 Removed 42020
390—395 (Subchapter D) Designation and heading removed 42015
390 Removed 42020
395 Removed 42020

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

500 Removed 47263
511.20—511.21 (Subpart C) Removed 47263
511.40 (Subpart E) Removed 47263
511.65 (Subpart G) Removed 47263
570.200 (f)(2) amended 17445
570.208 (a)(1)(v) revised; (a)(4)(vi)(B) and (F)(2) amended 17445
570.209 (b) introductory text amended 17445
570.483 (b)(4)(vi)(B)(2) and (F)(2) amended 17445
570.500 (a)(4)(ii) and (c) amended 17445
572.5 Amended; interim 36018
572.120 (a)(1) revised; interim 36018
572.135 (c) revised; interim 36018
572.210 (e)(1) and (f) amended; (g) added; interim 36018
572.220 (a)(1) and (b)(2)(ii) amended; interim 36018
572.400 Revised; interim 36018
575 Removed 47263
577 Removed 47263
578 Removed 47263
579 Removed 47263
580 Removed 47263
586 Added; interim 42975
586.1 Eff. 9–18–95 through 9–17–96 42975
586.5 Eff. 9–18–95 through 9–17–96 42975
586.10 Eff. 9–18–95 through 9–17–96 42976
586.15 Eff. 9–18–95 through 9–17–96 42976
586.20 Eff. 9–18–95 through 9–17–96 42977
586.25 Eff. 9–18–95 through 9–17–96 42978
586.30 Eff. 9–18–95 through 9–17–96 42978
586.35 Eff. 9–18–95 through 9–17–96 42979
586.40 Eff. 9–18–95 through 9–17–96 42979
586.45 Eff. 9–18–95 through 9–17–96 42980
595 Removed 47263
596 Removed 47263
598 Removed 47263
599 Removed 47263

Chapter VI—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 600—699)

600 Removed 47263

Chapter VII—Office of the Secretary, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

791 Authority citation revised 35126
791.401 Revised 35126
791.403 (a), (b)(1)(ii) and (2) revised 35126
791.405 Revised 35126
791.407 (a) introductory text revised 35126

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

811.201—811.211 (Subpart B) Removed 47263
813 Authority citation revised 17393
Policy statement 20356
813.1 Added; interim 17393
813.106 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17393
882 Heading revised (effective date pending) 34694
Authority citation revised 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.101 (b) revised; (c) and (d) added (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.103 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.104 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661

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882.105 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.107 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.116 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.117 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.119 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.121 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.123 (a) through (d), (f) and (i) removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.201 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.202 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.203 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.204 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.205 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.206 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.207 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.208 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.209 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.210 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.211 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.213 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.215 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.216 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.212—882.219 (Subpart B) Appendix I removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.701 Revised (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.702 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.703 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.704 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.705 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661

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882.706 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.707 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.708 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.709 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.710 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.711 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.712 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.713 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.716 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.720 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.721 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.722 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.723 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.724 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.725 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.730 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.731 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.732 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.733 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.740 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.741 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.750 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.751 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.752 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.753 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.754 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.755 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.756 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661

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882.757 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.758 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
882.759 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
887 Authority citation revised 34694
887.3 Revised (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
887.5 Removed (effective date pending) 34694
Regulation at 60 FR 34694 eff. 10–2–95 45661
887.51—887.65 (Subpart B) Removed (effective date pending) 34695
Regulation at 60 FR 34694 eff. 10–2–95 45661
887.101—887.111 (Subpart C) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.151—887.167 (Subpart D) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.201—887.215 (Subpart E) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.251—887.261 (Subpart F) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.301—887.305 (Subpart G) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.401—887.405 (Subpart I) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
887.551—887.567 (Subpart L) Removed (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
888 Authority citation revised 42226
Fair market rent schedules 42230, 48278
888.101 Removed 42226
888.105 Removed 42226
888.111 Revised 42226
888.113 Revised 42226
888.115 Revised 42227

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

900 Removed 47263
905 Removed 18186
905.102 Amended; interim; eff. in part 5–5–95 through 5–6–96 17393
905.103 Added; interim 17394
905.160 Regulation at 59 FR 31522 confirmed 35692
905.642 Regulation at 59 FR 31523 confirmed 35692
905.681 Regulation at 59 FR 31523 confirmed 35692
907 Removed 47263
913 Policy statement 20356
913.1 Added; interim 17394
913.106 (b)(4), (5) and (c) revised; interim; eff. in part 5–5–95 through 5–6–96 17394
941.502 Regulation at 59 FR 31523 confirmed 35692
950 Added 18186
Policy statement 20356
950.102 Corrected 36667
950.103 Correctly added 36668
950.126 (d)(2) correctly revised 36668
950.175 (d)(1)(iii) correctly revised 36668
950.437 (c)(1) correctly redesignated as (c) 36668
950.455 (c) corrected 36668
950.458 (c) corrected 36668
950.503 (c) corrected 36668
950.553 (c) correctly revised 36668
950.555 OMB number 18236
950.570 OMB number 18237
(c) correctly revised 36669
950.575 OMB number 18238

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950.1008 OMB number 18281
950.1017 OMB number 18285
950.1018 OMB number 18285
950.1019 OMB number 18285
950.1020 OMB number 18285
950.1021 OMB number 18285
955 Regulation at 59 FR 42734 eff. date extended 37337
965.501—965.504 (Subpart F) Removed 47263
967 Removed 47263
968.235 Regulation at 59 FR 31523 confirmed 35692
968.335 Regulation at 59 FR 31523 confirmed 35692
982 Authority citation revised 34695
982.1—982.5 (Subpart A) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.3 Amended (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.51—982.54 (Subpart B) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.52 OMB number 45661
982.53 OMB number 45661
982.54 OMB number 45661
982.101—982.103 (Subpart C) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.102 OMB number 45661
982.151—982.163 (Subpart D) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.151 OMB number 45661
982.153 OMB number 45661
982.155 OMB number 45661
982.156 OMB number 45661
982.157 OMB number 45661
982.158 OMB number 45661
982.159 OMB number 45661
982.160 OMB number 45661
982.163 Corrected 43840
982.201 (f)(2) revised (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.202 (b)(1) and (d) amended (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.204 (a) amended (effective date pending) 34717
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.206 (a)(2) and (b)(2) revised (effective date pending) 34717
OMB number 45661
Regulation at 60 FR 34717 eff. 10–2–95 45661
982.301—982.315 (Subpart G) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.301 OMB number 45661
982.302 OMB number 45661
982.303 OMB number 45661
982.304 OMB number 45661
982.305 OMB number 45661
982.307 OMB number 45661
982.310 OMB number 45661
982.351—982.355 (Subpart H) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.352 OMB number 45661
982.401—982.406 (Subpart I) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.403 OMB number 45661
982.404 OMB number 45661
982.406 OMB number 45661
982.451—982.457 (Subpart J) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.452 OMB number 45661
982.455 OMB number 45661
982.551—982.555 (Subpart L) Added (effective date pending) 34695
Regulation at 60 FR 34695 eff. 10–2–95 45661
982.551 OMB number 45661
982.552 OMB number 45661
982.554 OMB number 45661
982.555 OMB number 45661
983 Added (effective date pending) 34717

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Regulation at 60 FR 34717 eff. 10–2–95 45661
983.3 OMB number 45661
983.12 OMB number 45661
983.51 OMB number 45661
983.52 OMB number 45661
983.54 OMB number 45661
983.55 OMB number 45661
983.57 OMB number 45661
983.103 OMB number 45661
983.104 OMB number 45661
983.151 OMB number 45661
983.202 OMB number 45661
983.203 OMB number 45661
983.205 OMB number 45661
983.207 OMB number 45661

Chapter X—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Interstate Land Sales Registration Program) (Parts 1700—1799)

1710 Order 42436
1730 Removed 47263

Chapter XI—Solar Energy and Energy Conservation Bank, Department of Housing and Urban Development (Parts 1800—1899)

1800 Removed 47263
1895 Removed 47263

Chapter XV—Mortgage Insurance and Loan Programs under the Emergency Homeowners' Relief Act, Department of Housing and Urban Development (Parts 2700—2799)

2700 Removed 47263

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3699)

3500 Announcement 16985
3500.8 (c)(1) amended 24735
3500.17 (o) added 24735
3500 Appendixes A and G–2 amended; Appendixes G–1, I–1, I–2, I–5 and I–6 revised; 24735

Proposed Rules:

0 34420
10 27058
29 17968
58 49466
92 36012
120 19191
206 32630
234 32630
811 19695
882 ..... 51658, 54979
888 42290
900—999 (Ch. IX) 21058
950 ..... 24597, 37294
965 49480
966 27058
990 ..... 24597, 37294
3500 ..... 47650, 54794

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

151 Authority citation revised 32878
Technical correction 45528
151.2 (a) revised 32879
151.10 Heading and introductory text revised; (h) added 32879
151.11 Redesignated as 151.12; new 151.11 added 32879
Heading, (b) and (d) corrected 48894
151.12 Redesignated as 151.13; new 151.12 redesignated from 151.11 32879
151.13 Redesignated as 151.14; new 151.13 redesignated from 151.12 32879
151.14 Redesignated as 151.15; hew 151.14 redesignated from 151.13 32879
151.15 Redesignated from 151.14; new 151.15 revised 32879
163 Revised 52260
164 Removed 51723
165 Removed 51724
261 Removed 32896

Proposed Rules:

1—299 (Ch. I) 20250, 34488, 38928, 47131

1 37621
63 45982
301 37621
900 19387
1000—1099 (Ch. VI) 37416

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended 17218, 18743, 20898, 36679, 37581, 39649, 40078, 41004, 42787, 44275, 46507, 53128
Technical correction 52077
1.30–1 Added 39649
1.61–2 (a)(1) amended; (b) revised 40076
1.61–22T Removed 40077
1.83–6 (a)(1) and (2) revised; (a)(5) added 36997
1.108–3 Added 36680
1.162–20 (c)(5) and (d) added 37573
1.162–20T Removed 37573
1.162–28 Added 37573
1.162–29 Added 37575
1.167(a)–11 (d)(3)(v)(*b*) amended 36679
(d)(3)(v)(*e*) *Example 3* amended 36680
1.167(c)–1 (a)(5) amended 36679
1.170A–13 (f) added 53128
1.170A–13T Removed 53128
1.179A–1 Added 39651
1.217–2 (g)(6) added 40077
1.217–2T Removed 40077
1.263A–1 (j)(1)(ii)(B) amended 36680
1.263A–1T (b)(2)(vi)(B), (e)(1)(ii) and (iii)(A) *Example* amended 36679
1.263A–9 (f)(3) *Example 3* amended 47053
1.267(f)–1 Revised 36680
1.267(f)–1T Removed 36683
1.267(f)–2T Removed 36683
1.267(f)–3 Removed 36683
1.274–2 (a)(2)(ii), (3)(iii), (e) heading, (1) and (3)(ii) revised; (a)(2)(iii) added 36994
1.274–5T (c)(6)(iii) amended 36995
1.337(d)–1 (a)(5) *Example 8* amended 36679
1.337(d)–2 (g)(1) amended 36679
1.338–0 Amended 54944
1.338–2 (c)(3) added 54944
1.338–4 (f)(4) *Example 2* amended 36679
1.341–7 (e)(10) amended 36679
1.401(e)–5 (a) amended 21435
1.401(k)–1 (h)(4)(ii) revised 25140
1.401(a)(31)–1 Added 49204
1.401(a)(31)–1T Removed 49204
1.402(c)–2 Added 49208
1.402(c)–2T Removed 49204
1.402(f)–1 Revised 49213
1.402(f)–2T Removed 49204
1.403(b)–2 Added 49214
1.403(b)–2T Removed 49204
1.411(a)–11 (c)(2)(ii) revised; (c)(2)(iii) removed 49221
1.411(a)–11T Added 49221
1.417(e)–1 (d) revised 17219
(b)(3) revised 49221
1.417(e)–1T Added 17219
(b) added 49221
1.446–1 (e)(3) revised 40078
1.460–0 Amended 36683
1.460–4 Heading revised; (j) added 36684
1.461–0 Removed 18743
1.461–4 (k)(1), (m)(1)(i), (ii), (iii) and (2)(ii) revised 18743
1.461–5 (d)(1), (2)(i) and (ii) revised 18743
1.461–7T Removed 18744
1.469–0 Amended 36684
1.469–1 (c)(8), (h)(1), (2) and (6) added 36684
1.469–1T (c)(8), (h)(1), (2) and (6) removed 36685
1.481–1 (a)(2) and (c)(1) amended; (c)(2), (3), (4) and (d) revised; (c)(6), (7) and (e) removed 40078
1.481–2 (a), (b) introductory text, (c)(1), (2), (3) introductory text, (6) and (d) amended; (c)(4) revised 40078
1.481–3 Amended 40079
1.481–4 Removed; new 1.481–4 redesignated from 1.481–5 and revised 40079
1.481–5 Redesignated as 1.481–4; new 1.481–5 added 40079
1.481–6 Removed 40079
1.701–2 (a)(3) and (f) introductory text amended; (d) *Examples 5* and *6* removed; (d) *Examples 7* through *13* and (h) redesignated as (d) *Examples 5* through *11* and (i); new (h) added 18741

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1.860A–0 Amended 42787
1.860A–1 (b)(4) added 42787
1.860G–1 (a)(2)(v) redesignated as (a)(2)(vi); new (a)(2)(v) added; (a)(3)(i) revised 42787
1.860G–1T Removed 42787
1.861–8 (e)(2) correctly revised; CFR correction 36669
1.861–8T (d)(2)(i) concluding text amended 36679
1.861–9T (g)(2)(iv) heading amended 36679
1.863–1 (d) added 44275
1.871–1 (b)(7) added 41004
1.881–0 Added 41004
1.881–3 Added 41005
(e) *Example 25* corrected 55312
1.881–4 Added 41014
1.952–3 Removed 46508
1.954–0 Added 46506
1.954–0T Redesignated as 4.954–0 46530
1.954–1 Added 46509
1.954–1T Redesignated as 4.954–1 46530
1.954–2 Added 46517
1.954–2T Redesignated as 4.954–2 46530
1.954A–1 Removed 46530
1.954A–2 Removed 46530
1.957–1 (a), (c) *Examples 8* through *10* and (d) added 46529
1.957–1T Removed 46530
1.1015–5 (a) heading and (b) heading revised; (c) redesignated as (d); new (c) added 43537
1.1244(e)–1 Heading and (b) revised; (a)(1) amended 20898
1.1361–0 Revised 37581
1.1361–1 (a) and (c) through (k) added 37581
Heading, (j)(2)(ii), (4) and (k)(1) corrected 49976
1.1441–3 (j) added; OMB number 41014
1.1441–7 (d) added; OMB number 41014
(d)(2)(ii) *Example 4* corrected 55312
1.1502–3 (a)(2) amended 36679
1.1502–4 (j) *Example 1* amended 36679
1.1502–9 (f) *Example 6* amended 36679
1.1502–12 (a) and (g)(2) amended 36679
1.1502–13 Revised 36685
1.1502–13T Added (temporary) 36670
Removed 36708
1.1502–14 Removed 36708
1.1502–14T Removed 36708
1.1502–17 (c) redesignated as (d); new (d) *Example* redesignated as (d) *Example 1*; (b), new (a) heading and introductory text revised; new (c), (d) *Examples 2, 3* and (e) added; new (d) *Example 1* amended 36708
1.1502–18 (f) heading revised; (g) added 36709
1.1502–20 (a)(5) *Example 6*, (b)(6) *Examples 5, 7*, (c)(4) *Example 3* and (h)(1) amended; (c)(4) *Example 9* added; (e)(3) *Examples 2* and *8* removed; (e)(3) *Examples 3* through *7* redesignated as (e)(3) *Example* 36709
1.1502–22 (a)(3) and (5) *Example* amended 36679
1.1502–26 (b) amended 36679
(b) revised 36710
1.1502–33 (c)(2) revised 36710
1.1502–47 (e)(4)(iii) and (iv) *Example 4* amended 36679
(e)(4) *Example 4*, (f)(3) and (r) amended 36680
1.1502–79 (f) removed 36710
1.1502–80 (e) and (f) added 36710
1.1503–2 (d)(4) *Example 1* amended 36680
1.1552–1 (a)(2)(ii)(c) amended 36680
1.6038A–7 (b)(5) and (c)(2)(vii) added 41015
1.6662–0 Amended 45663
1.6662–1 Amended 45664
1.6662–2 (d) heading revised; (d) redesignated as (d)(1); new (d)(1) amended; (d)(2) and (3) added 45664
1.6662–3 (a) amended; (b)(3), (c)(1) and (2) revised 45664
1.6662–4 (d)(2) removed; (e)(2), (g)(1), (4) and (5) revised 45665
1.6662–7 Added 45665
1.6662–7T Removed 45666
1.6664–0 Amended 45666
1.6664–1 (b) revised 45666
1.6664–4 (c), (d) and (e) redesignated as (d), (f) and (g); (a), (b)(1), (2) introductory text, *Example* 1 and new (d) revised; new (c) and new (e) added 45666
1.6695–1T Added (temporary) 37589
1.7701(l)–1 Added 41015

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4 Added 46530
4.954–0 Redesignated from 1.954–0T; heading, (a)(1) and (b) amended 46530
4.954–1 Redesignated from 1.954–1T and heading amended 46530
4.954–2 Redesignated from 1.954–2T and heading amended 46530
18 Authority citation revised 37588
18.0 Revised 37588
18.1361–1 Removed 37588
18.1366–5 Removed 37588
18.1378–1 (b)(2)(i) and (ii) amended; (b)(3), (c) and (e) removed 37589
20.2056–0 Amended 43538
20.2056(d)–1 Redesignated as 20.2056(d)–2; new 20.2056(d)–1 added 43538
20.2056(d)–2 Redesignated as 20.2056(d)–3; new 20.2056(d)–2 redesignated from 20.2056(d)–1 43538
20.2056(d)–3 Redesignated from 20.2056(d)–2 43538
20.2056A–0 Added 43538
Amended 43538
20.2056A–1 Added 43539
20.2056A–2 Added 43540
20.2056A–2T Added (temporary) 43557
20.2056A–3 Added 43540
20.2056A–4 Added 43541
20.2056A–5 Added 43546
20.2056A–6 Added 43547
20.2056A–7 Added 43549
20.2056A–8 Added 43549
20.2056A–9 Added 43550
20.2056A–10 Added 43550
20.2056A–11 Added 43551
20.2056A–12 Added 43551
20.2056A–13 Added 43551
20.2101–1 Revised 43551
20.2102–1 (c) added 43552
20.2106–1 (a)(3) revised; (b) amended; (c) removed 43552
20.2106–2 (c) removed 43552
25 Authority citation revised 43552
25.2503–2 (a) amended; (f) added 43552
25.2523(i)–1 Added 43552
25.2523(i)–2 Added 43553
25.2523(i)–3 Added 43554
25.2702–1 (c)(8) added 43554
31 Authority citation amended 53510
31.3402(p)–1 (a) amended 49215
31.3405(c)–1 Added 49215
31.3405(c)–1T Removed 49218
31.3505–1 (b)(1), (2) *Examples 1* and *2*, (d)(1) and (2)(iii) amended; (d)(3) and (g) added 39110
31.6011(a)–4 (b) revised 53510
31.6011(a)–4T Added 53511
40 Technical correction 54803
40.6302(c)–0 Removed 40081
40.6302(c)–1 (e)(4) added 40081
40.6302(c)–5T Added 44759
48 Authority citation amended 40081
48.4041–8 (f)(1) introductory text and (i) revised; (f)(1)(ii) redesignated as (f)(1)(iii); new (f)(1)(ii) added; (f)(2) amended 40081
48.4041–21 Revised 40082
(c)(4) corrected 50245
48.4081–0 Removed 40082
48.4081–3 (b)(1) revised 40082
48.4081–6 Revised 40082
48.4081–7 Heading, (b)(4), (c)(1), (3), (d) and (g) revised; (a), (b), (c)(2), (4)(i)(A), (B), (ii)(A), (B), (iii), (iv)(A), (B) and (f) *Example 1* amended; (c)(5) removed 40085
48.4101–3 Added 40086
52 Authority citation amended 52849
52.4681–0 Removed 52849
52.4681–1 (a)(3)(ii), (c)(7)(iii)(A) and (d)(3) revised 52849
52.4682–1 (a), (b)(2)(ii) introductory text, (f) and (g) revised; (b)(2)(iv), (v), (h) and (j) added 52849
52.4682–2 (a)(1)(iii), (iv), (b)(3), (4), (d)(4) and (5) added; (a)(2), (b)(1)(i) and (2)(i) amended; (d) heading and (1)(i) revised 52850
52.4682–5 Added 52853
56.4682–4 (b)(2) introductory text removed; (b)(2)(i)(B)(*1*) and (d)(1)(i) amended; (e)(5) redesignated as (e)(6); (b)(2)(vi), (vii), (viii), (d)(4) and new (e)(5) added; (d)(1)(iv)(A)(*1*), (e)(4)(i) and new (6) *Example 5* revised 52852
301 Authority citation amended 37589, 40087

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301.6061–1T Added (temporary) 37589
301.6109–2 (c) through (g) revised; (h) added.....51725
301.6311–1 (a)(1)(i) amended; (a)(2) and (b) revised; (a)(3) removed; (d) and (e) added.....20899
301.6867–1 Added.....39653
301.6867–1T Removed.....39654
301.7425–4 (b)(3)(ii) amended.....28720
301.7514–1 (a)(2) through (7) redesignated as (a)(3) through (8); new (a)(2) added.....54945
301.7701(i)–0 Added 40088
301.7701(i)–1 Added 40088
(c)(4)(ii) and (g)(3) corrected.....49754
301.7701(i)–2 Added 40091
301.7701(i)–3 Added 40092
301.7701(i)–4 Added 40092
602.101 (c) table amended (OMB numbers).....18744, 20899, 36710, 36998, 37589, 40086, 41016, 43554, 43563, 46530, 49218, 49221, 52856, 53128, 53511

Proposed Rules:

1 .....17286, 17731, 18377, 18378, 19387, 19868, 20922, 21475, 21482, 21779, 26854, 27453, 30487, 31660, 35882, 36755, 37621, 38291, 39896, 39902, 40792, 40794, 40796, 42819, 43091, 46548, 47723, 49236
18 35882
20 43574
31.....50508, 53561
40 44788
301.....24811, 24813, 30211, 30487, 36756, 37621, 39903, 43091, 49356, 55228

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

6 Authority citation revised.....20421
6.1 Revised.....20421
6.4 (b) amended.....20421
6.5 Added (OMB number) 20421
6.11 Amended.....20421
6.25 Revised 20421
6.27 (a) revised 20421
6.31 Revised 20421
6.33 (a) revised 20421
6.41 Revised 20421
6.42 Revised 20421
6.43 Amended.....20422
6.46 Removed 20422
6.47 Removed 20422
6.51 Revised 20422
6.61 Revised 20422
6.65 Revised 20422
6.67 Added.....20422
6.71 Revised 20422
6.72 Revised 20422
6.81 Revised (OMB number) 20422
6.82 Removed 20422
6.83 Revised 20422
6.84 Revised 20423
6.85 Revised 20423
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19.523 (a) revised; (c) added.....33668
24.246 Table corrected; CFR correction.....38959
24.271 (b) revised; (c) added 33669
25.163 Amended 33669
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53.24 Added 33670
53.142 Heading, (a) introductory text, (4) and (b) revised.....33671
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53.158 (b)(2) and (3) amended 33671
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55.1 (a) revised 17449
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178.11 Amended 17450
178.23 (b)(2) revised 17450
178.25a Added 17451
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178.32 (a)(6), (7), (d)(6) and (7) revised; (a)(8) and (d)(8) added 17451
178.33 Revised 17451
178.39a Added (OMB number).....17451
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178.40a Added (OMB number).....17452
178.44 Revised 17452
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178.47 (a), (b) introductory text, (c) and (d) amended; (b)(6) added; OMB number 17453
178.52 Revised (OMB number) 17453
178.57 Existing text designated as (a); (b) and (c) added 17453
178.92 Heading and (a) revised; (c) added.....17454
178.99 (c)(6) and (7) amended; (c)(8) added 17454
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178.127 Amended 17455
178.129 (b) revised; (e) added; OMB number 17455
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250.112 (b) and (d) revised; (c)(1) amended 33674
270.163 Revised.....33675
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270.165 (a) revised; (b) removed; (c) redesignated as (b) 33675
275.113 Revised.....33675
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285.25 (c) revised; (f) amended; (g) added.....33676

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TITLE 28—JUDICIAL ADMINISTRATION

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0 Authority citation revised 35335, 36711
0.77 (j) revised 36711
0.116 Amended 53268
0.137 Revised 35335
0.138 Revised 35335
0.157 Heading, (c) and (d) revised; (e) added 35335
0.100—0.104 (Subpart R) Appendix amended 46019
2.1 (h) revised 51350
2.12 (a) amended 51350
2.14 (a)(1)(ii), (2)(iv) and (b)(3) amended 51350
2.20 Paroling policy guidelines amended 40093, 40271
2.23 Amended 51349
2.29 (b) amended 51350
2.40 (g) revised 51349
2.59 Revised 40094
2.60 (g) and (h) added; interim 40095
49 Revised; interim 44277
70 Added 38242

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

501 Authority citation revised 53490
501.2 Added; interim 53490
541.46 (c) amended; (g) revised 46484
541.48 (b) revised 46484
541.49 (a) amended 46484
541.50 (b)(2) revised 46485
548 Authority citation revised 46486
548.10—548.20 (Subpart B) Revised; interim 46486
549.10—549.18 (Subpart A) Revised; interim 52279
549.40—549.43 (Subpart C) Regulation at 57 FR 53820 confirmed 49444
549.41 (b) revised 49444
549.43 (b) revised 49444

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TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

4.7 Removed 51727
20 Regulation at 59 FR 47250 confirmed 41016
20.101—20.111 (Subpart E) Regulation at 59 FR 47250 confirmed 41016
20.105 Revised 41017
20.106 (b) revised 41017

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

502 Removed 54804
503 Removed 54804
508.900 (b)(2)(i) and (d) amended; (e) revised; interim 38958, 38959
(b)(2)(i), (d) and (e) amended; interim 49573, 49574
508.910 (b)(2)(i) and (e) amended; interim 38958, 38959, 49754
508.940 (d)(1)(i)(B) amended; interim 38958
(d)(1)(i)(B), (h)(1) and (3) amended; interim 38959, 49754
517 Removed 54805
526 Removed 54805
552 Authority citation revised 46766
552.2 (b)(1) revised 46766
552.100 (a)(1), (c) and (d) revised 46768
552.101 (a) amended 46768
552.104 (b) revised 46768
552.105 (a) amended 46768
697.1 (a)(1), (b)(1), (2)(ii), (iii), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1), (h)(1), (i)(1), (j)(1), (k)(1), (l)(1), (m)(1) and (n)(1) revised 47485
697.3 Revised 47485
801.53 (a) revised 46531

Chapter XIV—Equal Employment Opportunity Commission (Parts 1600—1699)

1601.70 (b) and (e) amended 46220

TITLE 29 Chapter XIV—Con.

1601.71 (a), (b) and (c) amended 46220
1602 Deadline extension 51350
1613 Removed 43372
1614.501 (a) amended 43372

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1910.266 (e)(2)(iv), (vi), (xiii), (f)(2)(iv), (x), (xi), (3)(vii), (viii), (7)(i) and (ii), (h)(1)(iii), (1)(ix), (2)(i), (vi), (vii), (3) heading, (i), (5)(v), (viii) and (6)(ii) revised; (f)(3)(i) and (ii) amended; (f)(3)(ii) redesignated as (f)(3)(ii)(C); (f)(3)(ii)(A) and (B) added 47036
Note revised 40458
(c), (d)(1)(iv), (v) and (2)(i) amended; (d)(1)(iii), (vii), (5), (6)(iii), (9)(iii) and (iv) revised 47035
(i)(7)(ii) removed; (i)(7)(iii) redesignated as (i)(7)(ii); appendix A amended 47037
1910.1025 (e)(1)(ii) Table I, (f)(1)(i), (j)(2)(ii) and (k)(1)(i) revised; (e)(4), (k)(1)(i)(A), (B), (iii)(A)(*1*) and (*2*) removed; (e)(5), (6), (k)(1)(i)(C), (D), (iii)(A)(*3*) and (*4*) redesignated as (e)(4), (5), (k)(1)(i)(A), (B), (iii)(A)(*1*) and (*2*); Appendixes B and C amended 52859
1915.1001 (g)(7)(iii) redesignated as (g)(7)(ii)(C); new (g)(7)(iii) and (12)(vi) added; (g)(8)(iv)(B) removed; (g)(8)(iv)(C), (12) introductory text, (h)(2)(v) and (o)(4)(i) revised 50412
(b) corrected 36044
1926.104 Regulation at 59 FR 40729 withdrawn 39255
1926.105 Regulation at 59 FR 40729 withdrawn 39255
1926.107 Regulation at 59 FR 40729 withdrawn 39255
1926.500 (a)(2)(iii), (3)(iv) and (4) revised 39255
1926.753 Regulation at 59 FR 40729 withdrawn 39255
1926.1001 (b) corrected 36044
1926.1101 (g)(7)(iii) redesignated as (g)(7)(ii)(C); new (g)(7)(iii) and (11)(vi) added; (g)(8)(iv)(B) removed; (g)(8)(iv)(C), (11) introductory text and (h)(2)(v) revised 50412
(o)(4)(i) revised 50413
1952.297 (b) through (h) added 43972
1960.1 (f) revised 34852
1960.66 (f) added 34852

Chapter XX—Occupational Safety and Health Review Commission (Parts 2200—2499)

2200.200—2200.211 (Subpart M) Revised 41809
2200.203 Eff. in part 10–1–95 through 9–30–96 41809

Chapter XXVI—Pension Benefit Guaranty Corporation (Parts 2600—2699)

2606.33 Regulation at 59 FR 62573 confirmed 39848
2606.53 Regulation at 59 FR 62573 confirmed 39848
2609 Regulation at 59 FR 62574 confirmed 39846
2609.1 Regulation at 59 FR 62573 confirmed 39848
2609.31—2609.34 (Subpart C) Regulation at 59 FR 62573 confirmed 39848
2610 Appendixes A and B amended 36209, 53269
2619 Appendix B amended 36211, 42038, 47868, 53270
2622 Appendix A amended 36210, 53269
2627.3 (a) correctly revised 36998
2627.11 Added (OMB number) 50413
2644 Appendix A amended 36213, 53272
2645.5 Added (OMB number) 50413
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2676 Appendix B amended 36212, 42039, 47868, 53271

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TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

18.6 (a) amended 35693
18.81 (a) amended 35693
18.82 (a) and (c) amended 35693
19.3 (a) revised 35693
19.4 (a) amended 35693
20.3 Amended 35693
20.5 (a) amended 35693
20.14 Introductory text and (a) revised 35693
22.4 Amended 35694
22.5 (a) revised 35694
22.11 Introductory text and (a) revised 35694
27.3 Amended 35694
27.4 (a) amended 35694
28.10 (a) revised; (c) amended 35694
28.31 (b) amended 35694
28.40 (d) amended 35694
35.3 Amended 35694
35.6 (a) and (g) amended 35694
36.3 Amended 35695
36.6 (a) amended 35695
50 Authority citation revised 35695
50.20 (a) amended 35695
50.20–1 Amended 35695
50.30 Amended 35695
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56.1000 Amended 35695
56.5001 (a) amended 35695
56.5005 (b) amended 35695
56.5050 (a) amended 35695
56.12407 Amended 35695
57.2 Amended 35695
57.1000 Amended 35695
57.5001 (a) amended 35695
57.5005 (b) amended 35695
57.5040 (b)(4) amended 35695
57.5047 (b) amended 35695
57.5050 Amended 35695
57.12407 Amended 35695
70.209 (a) amended 35695
71 Authority citation revised 35695
71.209 (a) amended 35695
74.6 (a) amended 35695
77.403b Amended 35695
90 Authority citation revised 35696
90.209 (a) amended 35696

Chapter II—Minerals Management Service, Department of the Interior (Parts 200—699)

Chapter II Guidance availability 36711

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

901 Decision 38675
901.25 (e) added 42042
902 Decision 38482
902.10 (b) revised 54592
902.20 (b) revised 54593
906.10 (b) revised 54593
906.20 Revised 54593
906.25 Added 54593
914.15 (nnn) added 54595
904 Decision 38487
906 Decision 38491
913 Decision 38677
913.15 (r) added 35697
913.25 (f) added 35699
914 Decision 38680
914.15 (kkk) added 47695
(lll) added 53513
915 Decision 38496
916 Decision 38496
917 Decision 38682
918 Decision 38487
920 Decision 38685
924 Decision 38675
925 Decision 38496
925.15 (s) added 36050
925.16 (b)(4), (q)(1), (3), (4) and (5) removed; (q)(2) revised; (u) added 36050
925.20 Revised 43976

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925.25 (c) added 43976
926 Decision 38482
926.20 Revised 37002
926.25 Added 37002
931 Decision 38491
934 Decision 38482
934.15 (u) added 36223
934.16 Introductory text revised; (b) through (i), (w) and (x) removed; (aa) and (bb) added 36223
935 Decision 38500
935.15 (xxx) added 36355
(yyy) added 37940
936 Decision 38487
938 Decision 38685
943 Decision 38487
944 Decision 38491
944.10 (b) revised 54593
944.15 (ff) added 37011
(gg) added 47699
944.16 (b) removed; (e) through (i) added 37012
944.20 (b) revised 54593
944.25 (c) added 37012
946 Decision 38689
946.15 (ii) added 40276
946.16 (a) added 40276
948 Decision 38691
948.15 (n) added 42443
(o) added 51917
948.16 (ww) removed; (jjj), (kkk) and (lll) added 51918
950 Decision 38482
950.15 (w) added 47700

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TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury (Parts 0—50)

0 Regulation at 60 FR 28535 confirmed 42042

Chapter I—Monetary Offices, Department of the Treasury (Parts 51—199)

103.11 Regulation at 60 FR 228 eff. date delayed to 4–1–96 44144
103.25 Regulation at 60 FR 229 eff. date delayed to 4–1–96 44144
103.33 Regulation at 60 FR 229 eff. date delayed to 4–1–96 44144
Regulation at 60 FR 238 eff. date delayed to 4–1–96 44145

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

321 Appendix corrected; CFR correction 35126

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

515.206 Heading and (a) revised; (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b) amended 39256
515.322 (a) revised 54195
515.332 Revised 39256
515.413 Removed 54195

515.416 (a) introductory text and (1) revised 54195
515.417 Added 54195
515.419 Added 54196
515.527 Revised 54196
515.528 Heading and (a) introductory text revised 54196
515.542 Heading, (b) and (c) revised 39256
515.545 Heading and (a) revised 39257
515.560 (a), (b) and (g) revised 54196
515.561 Removed 54196
515.563 Revised 54196
515.565 (c) added 54197
515.570 Removed 39257
515.572 Added 54197
515.573 Added 54197
515.574 Added 54197
550 Appendix A amended 37941
560 Revised 47063

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TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

67 Added; interim 54302
90 Revised 37341
91 Revised 37341
92 Added; interim 40280
Removed 46020
199.1 (r) added 52094
199.2 (b) amended 52094
199.4 (a)(1) redesignated as (a)(1)(i); (a)(1)(ii) and (9)(vi) added; (a)(9)(i)(C) revised 52094
199.14 (h)(1)(i)(C) removed; (h)(1)(i)(D) redesignated as (h)(1)(i)(C) 52094
199.15 (n) added 52095
199.17 Added 52095
199.18 Added 52101
247 Revised 38960
290.4 Footnote 3 revised 35699
290.7 (e) and (f)(7)(iii) amended 35699
290 Appendixes A, B and C amended 35699
311.7 (c)(1) added 36051
(c)(8) added 54198
341 Removed 35839
356 Removed 44277
358 Removed 44277
372 Removed 44277
393 Removed 44277

Chapter V—Department of the Army (Parts 400—699)

505.5 (e) amended 48652, 51919

Chapter VI—Department of the Navy (Parts 700—799)

706.2 Tables Four and Five amended 50101
Table Three amended 50102
Tables Two and Five amended 52860
Table One amended 53273
Table Five amended 54198
Table Four amended 54199

Chapter VII—Department of the Air Force (Parts 800—1099)

806b Appendix C amended 36224
855 Revised 37349

Chapter XX—Information Security Oversight Office (Parts 2000—2099)

2001 Revised 53492

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TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1.05–55 Added 49224
100 Temporary regulations lists 44428
100.T0535–537 Added (temporary) 36357
100.35–T02–046 Added (temporary) 45044
100.35–T02–061 Added (temporary) 45045

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TITLE 33 Chapter I—Con.

100.35–T02–062 Added (temporary) 53274
100.35–T07–028 Added (temporary) 45668
100.35–T09–015 Added (temporary) 35700
100.35–T09–016 Added (temporary) 40096
100.35–T09–024 Added (temporary) 43979
100.35–T09–025 Added (temporary) 45046
100.35–07–060 Added (temporary) 52297
100.35–07–061 Added (temporary) 52298
100.35T07–008 Added (temporary) 36356
100.109 Added 50103
100.111 Added 43977
100.502 Implementation (temporary) 43978
100.508 Implementation (temporary) 47269
100.901 Table 1 revised 44425
100.1105 Implementation (temporary) 47269
100.1303 Implementation (temporary) 36355
110.157 (b)(2) stayed; (d) added; eff. 9–20–95 through 10–31–95 52104
110.159 (a)(5) corrected 45776
110.168 (a)(3)(i)(A), (B) and (ii)(D) stayed; eff. 8–18–95 through 8–21–95 43373
117.261 (n) removed 47270
(e) and (f) redesignated as (f) and (g); new (e) added 53275
117.391 Revised 52311
117.465 (a) through (e) redesignated as (b) through (f); new (a) added 43374
117.595 (a)(4), (b)(1) and (c) revised; (d) added 51728
117.600 Added 51729
117.603 Stayed; eff. 7–17–95 through 9–30–95 36359
117.604 Added; eff. 7–17–95 through 9–30–95 36359
117.611 Revised 54432
117.615 Revised 54431
117.618 (c) added 51730
117.622 Added 51731
117.731a (a) revised 51732
117.733 (b) stayed; (k) added; eff. 7–17–95 through 9–4–95 36361
(e) revised 53130
117.821 Regulation at 59 FR 67630 confirmed 37366
117.833 Revised 40098
117.997 (g) redesignated as (h); new (g) added 37365
117.1025 Regulation at 60 FR 31247 confirmed 54806
117.1049 (a) and (c) revised; (d) removed 54434
117 Appendix A amended 51729, 53130
126 Technical correction 49509
126.05 (a) amended 39794
126.10 (d) removed 39794
126.15 (o) removed 39794
127 Heading revised 39794
127.001 Revised 39794
127.003 Revised 39794
Corrected 49509
127.005 Amended 39795
127.007 (c), (d)(5), (6) and (e)(2) amended 39795
127.009 Introductory text amended 39795
127.011 Heading revised 39795
127.013 (a) introductory text amended 39795
127.019 (b) and (c) amended 39795
127.101—127.711 (Subpart B) Heading revised 39795
127.101 Introductory text amended 39795
127.103 (a) amended 39796
127.105 Heading revised; (a) amended 39796
127.109 (a) amended 39795
127.111 (a) amended 39795
127.113 (a) introductory text amended 39796
127.201—127.207 (Subpart C) Designation removed; transferred to subpart B 39795
127.203 Amended 39796
127.207 (a) and (b) amended 39796
127.301—127.321 (Subpart D) Designation removed; transferred to subpart B 39795
127.301 (a) introductory text and (b) amended 39796
127.303 Amended 39796
127.305 (d) and (e) amended 39796
127.307 (f) amended 39796
127.309 (a) amended 39796

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127.313 (a) introductory text amended 39796
127.315 (g) amended 39796
127.317 (b) and (c)(1) amended 39796
127.319 (a) introductory text, (1) and (b)(3)(i) amended 39796
127.321 (a) introductory text amended 39796
127.401—127.409 (Subpart E) Designation removed; transferred to subpart B 39795
127.401 Amended 39796
127.405 (a)(1) amended 39796
127.501—127.503 (Subpart F) Designation removed; transferred to subpart B 39795
127.601—127.617 (Subpart G) Designation removed; transferred to subpart B 39795
127.601 Undesignated heading removed 39795
127.603 Introductory text amended 39796
127.607 (a) amended 39796
127.609 (a) amended 39796
127.611 Amended 39796
127.613 Undesignated heading removed 39795
Amended 39796
127.615 Amended 39796
127.701—127.711 (Subpart H) Designation removed; transferred to subpart B 39795
127.703 Heading, (a) introductory text, (1) and (b) amended 39796
127.705 Introductory text amended 39796
127.711 Amended 39796
127.1101—127.1605 (Subpart C) Added 39796
127.1203 (a) corrected 49509
127.1205 (b)(4) corrected 49509
127.1207 (b) corrected 49509
127.1301 (a)(2) corrected 49509
127.1307 (b) corrected 49509
137 Authority citation revised 39851
137.601—137.603 (Subpart G) Added 39851
151.01—151.77 (Subpart A) Authority citation revised 43377
151.05 Amended 43377
151.06 Added 43377
151.13 (a), (b)(1), (2) and (3) revised; (h) added 43377
151.32 Added 43378
151.53 Revised 43378
151.71 Revised 43378
155 Authority citation revised 43378
155.400 (b)(2) revised 43378
156 Authority citation revised 45017
156.110 (a) introductory text revised 45017
156.111 Added 45017
156.200 Revised 45017
156.205 (a) and (b) introductory text revised; (b) amended 45017
156.210 (d) added 45017
156.215 (d) added 45017
156.300—156.330 (Subpart C) Added 45017
162.134 (f) added 35701
162.138 Revised 35702
164.03 (b) revised 51734
165 Temporary regulations lists 44428
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165.T01–096 Added (temporary) 42788
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165.T02–003 Added (temporary) 47273
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165.T02–047 Added (temporary) 35703
165.T02–049 Added (temporary) 54434
165.T02–056 Added (temporary) 47870
165.T02–064 Added (temporary) 47271
165.T02–200 Added (temporary) 41017
165.T02–201 Added (temporary) 42790
165.T02–202 Added (temporary) 42791
165.T05–051 Added (temporary) 43373
165.T05–066 Added (temporary) 52104
165.T09–009 Added (temporary) 45670
165.T13–036 Added (temporary) 48895
165.T14–002 Added (temporary) 44430
165.T14–003 Added (temporary) 44430
165.T5068 Added (temporary) 54807
165.167 Added 42789
165.714 Added 45047
165.803 Regulation at 59 FR 21935 confirmed; introductory text, (e)(1) and (2) revised 37944
165.905 Added 52862

Chapter II—Corps of Engineers, Department of the Army (Parts 200—399)

322.5 (l)(1)(i) through (l)(1)(vi) redesignated as (l)(1)(ii) through (l)(1)(vii); new

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TITLE 33 Chapter II—Con.

(l)(1)(i) added; (l)(I) introductory text and new (ii) revised 44761
334.1240 Revised; interim 43379

Proposed Rules:

1 39130
84 53726
100 38291
110 53317
117 ..... 37417, 39287, 40138, 42826, 42827, 46069, 47317, 54823
162 ..... 47905, 53318
165 ..... 36374, 40543, 47907
166 49237
183 ..... 40545, 49531
187 53727
320 37280
326 37280
331 37280

TITLE 34—EDUCATION

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)

74 Authority citation revised 46493
74.1 Authority citation revised 46493
74.2 Authority citation revised 46493
74.3 Authority citation revised 46493
74.4 Authority citation revised 46493
74.5 Authority citation revised 46493
74.10 Authority citation revised 46493
74.11 Authority citation revised 46493
74.12 Authority citation revised 46493
74.13 Authority citation revised 46493
74.14 Authority citation revised 46493
74.15 Authority citation revised 46493
74.16 Authority citation revised 46493
74.17 Authority citation revised 46493
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74.23 Authority citation revised 46493
74.24 Authority citation revised 46493
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74.26 Authority citation revised 46493
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74.32 Authority citation revised 46493
74.33 Authority citation revised 46493
74.34 Authority citation revised 46493
74.35 Authority citation revised 46493
74.36 Authority citation revised 46493
74.37 Authority citation revised 46493
74.40 Authority citation revised 46493
74.41 Authority citation revised 46493
74.42 Authority citation revised 46493
74.43 Authority citation revised 46493
74.44 Authority citation revised 46493
74.45 Authority citation revised 46493
74.46 Authority citation revised 46493
74.47 Authority citation revised 46493
74.48 Authority citation revised 46493
74.50 Authority citation revised 46493
74.51 Authority citation revised 46493
74.52 Authority citation revised 46493

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74.53 (b) introductory text, (1), (3), (g)(1) and (2) amended 46493
74.60 Authority citation revised 46493
74.61 Authority citation revised 46493
74.62 Authority citation revised 46493
74.70 Authority citation revised 46493
74.71 Authority citation revised 46493
74.72 Authority citation revised 46493
74.73 Authority citation revised 46493
74 Appendix A amended 46493
75.1 Authority citation revised 46493
75.2 Authority citation revised 46493
75.4 Authority citation revised 46493
75.50 Authority citation revised 46493
75.51 Authority citation revised 46493
75.60 Authority citation revised 46493
75.61 Authority citation revised 46493
75.62 Authority citation revised 46493
75.100 Authority citation revised 46493
75.101 Authority citation revised 46493
75.102 Authority citation revised 46493
75.103 Authority citation revised 46493
75.104 Authority citation revised 46493
75.105 Authority citation revised 46493
75.109 Authority citation revised 46493
75.112 Authority citation revised 46493
75.117 Authority citation revised 46493
75.119 Authority citation revised 46493
75.125 Heading and authority citation revised 46493
Authority citation revised 46493
75.126 Authority citation revised 46493
75.127 Authority citation revised 46493
75.128 Authority citation revised 46493
75.129 Authority citation revised 46493
75.155 Authority citation revised 46493
75.156 Authority citation revised 46493
75.158 Authority citation revised 46493
75.159 Authority citation revised 46493
75.190 Authority citation revised 46493
75.191 Authority citation revised 46493
75.192 Authority citation revised 46493
75.200 Authority citation revised 46493
75.201 Authority citation revised 46493
75.210 Authority citation revised 46493
75.215 Authority citation revised 46493
75.216 Authority citation revised 46493
75.217 Authority citation revised 46493
75.218 Authority citation revised 46493
75.219 Authority citation revised 46493
75.220 Authority citation revised 46493
75.222 Authority citation revised 46493
75.230 Authority citation revised 46493
75.231 Authority citation revised 46493
75.232 Authority citation revised 46493
75.233 Authority citation revised 46493
75.234 Authority citation revised 46493
75.235 Authority citation revised 46493
75.236 Authority citation revised 46493

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TITLE 34 Subtitle A—Con.

75.250 Authority citation revised 46493
75.251 Authority citation revised 46493
75.253 Authority citation revised 46493
75.260 Authority citation revised 46493
75.261 Authority citation revised 46493
75.262 Authority citation revised 46493
75.500 Authority citation revised 46493
75.511 Authority citation revised 46493
75.515 Authority citation revised 46493
75.516 Authority citation revised 46493
75.517 Authority citation revised 46493
75.519 Authority citation revised 46493
75.524 Authority citation revised 46493
75.525 Authority citation revised 46493
75.530 Authority citation revised 46493
75.531 Authority citation revised 46493
75.532 Authority citation revised 46493
75.533 Authority citation revised 46493
75.534 Authority citation revised 46493
75.560 Authority citation revised 46493
75.561 Authority citation revised 46493
75.562 Authority citation revised 46493
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75.600 Authority citation revised 46493
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75.617 Authority citation revised 46493
75.618 Authority citation revised 46493
75.620 Authority citation revised 46493
75.621 Authority citation revised 46493
75.622 Authority citation revised 46493
75.626 Authority citation revised 46493
75.650 Authority citation revised 46493
75.681 Authority citation revised 46493
75.682 Authority citation revised 46493
75.683 Authority citation revised 46493
75.700 Authority citation revised 46493

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75.701 Authority citation revised 46493
75.702 Authority citation revised 46493
75.703 Authority citation revised 46493
75.707 Authority citation revised 46493
75.708 Authority citation revised 46493
75.720 Authority citation revised 46493
75.730 Authority citation revised 46493
75.731 Authority citation revised 46493
75.732 Authority citation revised 46493
75.734 Removed 46493
75.740 (a) and (b) amended; authority citation revised 46493
75.900 Authority citation revised 46493
75.901 Authority citation revised 46493
75.903 Authority citation revised 46493
75.910 Authority citation revised 46493
76.1 Authority citation revised 46494
76.2 Authority citation revised 46494
76.50 Authority citation revised 46494
76.51 Authority citation revised 46494
76.100 Authority citation revised 46494
76.101 Amended; authority citation revised 46493
76.102 Authority citation revised 46494
76.103 Heading and (a) revised; (b) amended 46493
76.104 Authority citation revised 46494
76.106 Authority citation revised 46494
76.125 Authority citation revised 46494
76.140 Authority citation revised 46494
76.141 Authority citation revised 46494
76.142 Authority citation revised 46494
76.201 Authority citation revised 46494
76.202 Authority citation revised 46494
76.235 Authority citation revised 46494
76.261 Authority citation revised 46494
76.300 Authority citation revised 46494
76.301 Amended; authority citation revised 46493
76.302 Authority citation revised 46494
76.303 Authority citation revised 46494
76.304 Authority citation revised 46494
76.400 Authority citation revised 46494
76.401 (d)(8) and authority citation revised 46493
76.500 Authority citation revised 46494
76.530 Authority citation revised 46494
76.532 Authority citation revised 46494
76.533 Authority citation revised 46494
76.534 Authority citation revised 46494
76.560 Authority citation revised 46494
76.561 Authority citation revised 46494
76.563 Authority citation revised 46494
76.580 Authority citation revised 46494
76.591 Authority citation revised 46494
76.600 Authority citation revised 46494
76.650 Authority citation revised 46494
76.651 Authority citation revised 46494
76.652 Authority citation revised 46494
76.653 Authority citation revised 46494
76.654 Authority citation revised 46494

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TITLE 34 Subtitle A—Con.

76.655 Authority citation revised 46494
76.656 Authority citation revised 46494
76.657 Authority citation revised 46494
76.658 Authority citation revised 46494
76.659 Authority citation revised 46494
76.660 Authority citation revised 46494
76.661 Authority citation revised 46494
76.662 Authority citation revised 46494
76.677 Authority citation revised 46494
76.681 Authority citation revised 46494
76.683 Authority citation revised 46494
76.700 Authority citation revised 46494
76.701 Authority citation revised 46494
76.702 Authority citation revised 46494
76.703 (a) and (b) removed; (c) redesignated as (h); new (a), new (b) and (c) through (g) added 41294
Authority citation revised 46494
76.704 Redesignated as 76.708 41295
Added 41296
Authority citation revised 46494
76.705 Redesignated as 76.709 41295
Authority citation revised 46494
76.706 Redesignated as 76.710 41295
76.707 Authority citation revised 46494
76.708 Redesignated from 76.704 41295
76.709 Redesignated from 76.705 41295
76.710 Redesignated from 76.706 41295
76.711 Added 41296
76.720 Authority citation revised 46494
76.722 Authority citation revised 46494
76.731 Authority citation revised 46494
76.734 Removed 46494
76.740 Authority citation revised 46494
76.760 Authority citation revised 46494
76.761 Authority citation revised 46494
76.770 Authority citation revised 46494
76.902 Authority citation revised 46494
80 Announcement 50413
81 Authority citation revised 46494
81.1 Authority citation revised 46494
81.2 Authority citation revised 46494
81.4 Authority citation revised 46494
81.5 Authority citation revised 46494
81.6 Authority citation revised 46494
81.7 Authority citation revised 46494
81.8 Authority citation revised 46494
81.9 Authority citation revised 46494
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81.11 Authority citation revised 46494
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81.14 Authority citation revised 46494
81.15 Authority citation revised 46494
81.17 Authority citation revised 46494
81.19 Authority citation revised 46494
81.21 Authority citation revised 46494
81.22 Authority citation revised 46494
81.23 Authority citation revised 46494
81.24 (b)(1) and authority citation revised 46494
Authority citation revised 46494
81.25 Authority citation revised 46494

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81.26 Authority citation revised 46494
81.27 Authority citation revised 46494
81.28 Authority citation revised 46494
81.29 Authority citation revised 46494
81.30 Authority citation revised 46494
81.31 Authority citation revised 46494
81.32 Authority citation revised 46495
81.33 Authority citation revised 46495
81.34 Authority citation revised 46495
81.37 (b) amended; authority citation revised 46494
81.43 (a) redesignated as (a)(1); (a)(2) added; authority citation revised 46494
81 Appendix amended 46495

Chapter II—Office of Elementary and Secondary Education, Department of Education (Parts 200—299)

200 Revised 34802
201 Removed 34802
203 Removed 34802
205 Removed 34802
212 Removed 34802
218 Removed 50778
219 Removed 50778
221 Removed 50778
222 Revised 50778
223 Removed 50778
263 Technical correction 35111

Chapter III—Office of Special Education and Rehabilitative Services, Department of Education (Parts 300—399)

366 Authority citation revised 39221
366.5 Redesignated as 366.6; new 366.5 added 39221
366.6 Redesignated from 366.5 39221
366.60—366.63 (Subpart G) Added 39221

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

667.1 (d)(1)(iii) revised 41296
668.3 OMB number 42408
668.8 OMB number 42408
668.15 OMB number 42408
668.16 OMB number 42408
668.17 OMB number 42408
668.22 OMB number 42408
668.23 OMB number 42408

Chapter VII—Office of Educational Research and Improvement, Department of Education (Parts 700—799)

700 Added 47810

Chapter XI—National Institute for Literacy (Part 1100—1199)

Chapter XI Established 35798

Proposed Rules:

75 48844
98 44696
345 40688
371 ..... 38608, 42490
668 ..... 49114, 49156, 49178
674 49114
675 49114
676 49114
682 ..... 49114, 49130
685 ..... 48848, 48858, 49114
690 ..... 49114, 46004

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

5.4 (a) amended 35841
7.3 (b) and (c) removed; (d) through (g) redesignated as (b) through (e); (a) and new (d) revised; new (e) heading and new (f) added 35841
7.32 (c) added 47703
7.33 (c) added; interim 39258
7.100 (c) added; interim 36225

TITLE 36 Chapter I—Con.
68 Revised 35843

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

223 Authority citation revised 46920
Compliance date suspension and comment period reopening 53704
223.87 Revised 46920
223.130 (a) revised 46921
223.131 Revised 46921
223.133 Amended 46921
223.135 Revised 46921
223.136 (b) revised 46921
223.137 (g) added 46921
223.139 (a) and (b) amended 46921
223.159 Revised 46922
223.161 Removed 46922
223.163 Removed 46922
223.185—223.203 (Subpart F) Revised 46922
242 Policy statement 40459
242.24 (a)(1) table amended 40464
242.25 (k)(15)(iii)(D) table amended; eff. 8-10-95 through 6-30-96 40464
251.50 Heading, (a), (c) introductory text and (3) revised 45293
251.51 Amended 45293
Corrected 54409
251.54 (a) introductory text, (e)(1) and (h) revised; (e) introductory text removed; (e)(2) through (5), (f) introductory text in part, (1) and (2) redesignated as (e)(3) through (6), (f)(1), (2) and (3); new (e)(2), (f)(4) and (5) added 45293
251.56 (e) revised 45294
251.57 (d) through (h) redesignated as (e) through (i); new (d) added 45294
251.60 (a) and (b) revised 45295
261 Authority citation revised 45295, 46934
Technical correction 54409
261.2 Amended 45295
261.6 (i) added 46934
261.10 (g) revised; (h) through (n) redesignated as (i) through (o); new (h) added 45295
261.14 (p) removed; (q) redesignated as (p) 45295

Chapter VII—Library of Congress (Parts 700—799)

701.5 Existing text designated as (b); new (a) added 34853
701.6 Existing text designated as (a); new (a) amended; (b), (c) and (d) added 34853

Chapter XII—National Archives and Records Administration (Parts 1200—1299)

1210 Added; interim 53515
1220.14 Amended 44639
1220.42 Revised 44639
1222 Heading revised 44639
1222.20 (b)(1) and (5) revised 44640
1222.30 (b) revised 44640
1222.32 Introductory text revised 44640
1222.34 (d) redesignated as (f); new (d), (e) and (g) added 44640
1222.50 (b)(3) through (8) redesignated as (b)(4) through (9); (a), (b)(2), new (4), new (6) and new (8) revised; new (b)(3) added 44640
1228 Authority citation revised 44640
1228.1 (e) added 44640
1234.1 Revised 44640
1234.2 Amended 44641
1234.10 (e) through (l) redesignated as (f) through (m); (d), new (f), new (g), new (h) and new (m) amended; new (e) added 44641
1234.20 (a) and (b) amended 44641
1234.22 (a) and (b) amended 44641
1234.24 Redesignated as 1234.26; new 1234.24 added 44641
1234.26 Redesignated as 1234.28; new 1234.26 redesignated from 1234.24 44641
1234.28 Redesignated as 1234.30; new 1234.28 redesignated from 1234.26 44641
1234.30 Redesignated as 1234.32; new 1234.30 redesignated from 1234.28 44641
1234.32 Redesignated as 1234.34; new 1234.32 redesignated from 1234.30 44641
Heading revised; (a) amended; (d) added 44642

1234.34 Redesignated from 1234.32 44641
(c) added 44642
1253.3 Introductory text added; (a) through (f), (h), (i) and (j) revised; interim 40416
1253.4 Revised; interim 40417
1253.5 Revised; interim 40417
1253.6 Revised; interim 40417
1253.7 Revised; interim 40417

Chapter XIV—Assassination Records Review Board (Parts 1400—1499)

1405 Added 45336
1410 Added 45339

Proposed Rules:

7 ..... 35887, 46562, 50509, 54633
13 ..... 36082, 40798, 47513
215 36767
217 36767
219 36767
242 ..... 42085, 44000
1206 46798
1228 ..... 49532, 50158
1232 50158
1415 39905

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent and Trademark Office, Department of Commerce (Parts 1—199)

1 Technical correction 36462, 44120
1.16 (a), (b), (d) and (f) through (i) revised 41022
1.17 (b) through (g), (j), (m) through (p), (r) and (s) revised 41022
1.18 Revised 41022
1.19 (a)(1)(ii), (iii), (b)(1)(i) and (ii) revised 41022
1.20 (c), (e), (f), (g), (i)(1), (2) and (j) revised 41022
1.21 (a)(1) revised 41022
1.445 (a) revised 41023
1.482 (a)(1) and (2)(ii) revised 41023
1.492 (a), (b) and (d) revised 41023
2 Technical correction 44120
2.6 (b)(1)(ii), (iii), (2)(i) and (ii) revised 41023
3 Technical correction 36462
7 Technical correction 44120
7.1 Revised 41023

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

201 Authority citation revised 50420
201.31 (a) amended 50420
201.33 Added 50420
202 Authority citation revised 50422
202.12 Added 50422

Chapter IV—Assistant Secretary for Technology Policy, Department of Commerce (Parts 400—499)

401.2 (j) revised; (k) through (m) added; interim 41812
401.5 (f)(2) revised; interim 41812
401.13 (c)(2) revised; interim 41812
401.16 Redesignated as 401.17; new 401.16 added; interim 41812
401.17 Redesignated from 401.16 and revised; interim 41812

Proposed Rules:

1 ..... 41035, 42352
3 42352
5 42352
201 35522
202 35522

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

1 Authority citation revised 48387
Authority citation amended 53276
1.700 Revised 48387
1.701 Revised 48388
1.702 (b), (c), (d) and (h) amended 48388
1.703 Revised 48388
1.705 (a), (c) and (e) amended 48388
1.770—1.776 Undesignated center heading removed 48029
1.770 Removed 48029
1.771 Removed 48029
1.772 Removed 48029
1.773 Removed 48029
1.774 Removed 48029
1.775 Removed 48029

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TITLE 38 Chapter I—Con.

1.776 Removed 48029
1.783 (l)(1)(i) and (ii) amended 48029
1.955—1.970 Authority citation revised 53276
1.955 (a)(1) amended 53276
1.956 (a)(3) revised 53276
1.957 (a)(1)(iv) removed 53276
1.963a Revised 53276
1.967 (c) revised 53276
2.1 Revised; interim 40757
2.5 (b) amended 48029
2.62 Removed 48029
2.63 Removed 48029
2.63a Removed 48029
2.64 Removed 48029
2.65 Removed 48029
2.65a Removed 48029
3.55 (a)(2) introductory text amended 52863
3.202 Regulation at 59 FR 46338 confirmed 46533
3.204 Regulation at 59 FR 46338 confirmed 46533
3.205 Regulation at 59 FR 46338 confirmed 46533
3.207 Regulation at 59 FR 46338 confirmed 46533
3.209 Regulation at 59 FR 46338 confirmed 46533
3.210 Regulation at 59 FR 46338 confirmed 46533
3.211 Regulation at 59 FR 46338 confirmed 46533
3.256 Revised 51922
3.277 Heading, (b) and (c) revised; (d) added 51922
3.311 (b)(2)(xix) and (xx) amended; (b)(2)(xxi) and (xxii) added 53277
3.326 Revised; interim 52864
3.400 (u)(3), (4), (v) heading, (3), (4) and (w) amended 52863
4 Authority citation revised 49227
4.88a Regulation at 59 FR 60902 confirmed 37013
4.88b Regulation at 59 FR 60902 confirmed 37013
4.88c Regulation at 59 FR 60902 confirmed 37013
4.117 Revised 49227
20.900 (c) amended; authority citation revised 51923
21.5820 (b) revised 46533
(b)(2)(ii)(B) corrected 54435
21.5822 (b)(1)(i), (ii), (2)(i) and (ii) revised 46535
36.4201—36.4287 Authority citation revised 38257
36.4203 (a)(2) and (3) amended; (a)(4) added 38257
36.4212 Revised 38257
36.4223 (a)(4) revised 38258
36.4231 (b) revised 38259
36.4232 (a)(2), (5), (6) and (7) amended; (a)(8) added; (e)(1) revised 38259
36.4254 (a)(7) redesignated as (a)(8); new (a)(7) and (8) authority citation added; (d)(1) revised 38259
36.4300—36.4375 Authority citation revised 38259
36.4302 (c) through (j) redesignated as (d) through (j) and (l); (a)(4), (b), new (e), new (j)(2), new (3) and(4) revised; new (c) and (k) added 38259
36.4306a (a) introductory text and (3) revised 38260
36.4311 Revised 38260
36.4312 (d)(1)(viii) redesignated as (d)(1)(ix); new (d)(1)(viii) and (e) introductory text added; (d)(7)(iv) authority citation revised; (e)(1) revised; (e)(3) amended 38261
36.4320 (a)(1)(ii)(B) revised 38262
36.4336 (a)(2)(i) revised; (a)(4) added 38262

Proposed Rules:

4 54825
17 47133

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

20 DMM amended; incorporation by reference 49756
111 DMM amended; incorporation by reference 34854, 43005, 49758
Corrected 39112
233.2 (b)(2) note amended 54305
265.11 Heading revised; (b) and (c) removed 36712
265.13 Added 36712
447 Authority citation revised 47243
Heading revised 47243
447.11—447.12 (Subpart A) Revised 47243

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447.21 Removed; new 447.21 redesignated from 447.23; introductory text and (a) through (i) removed; (j) and (k) redesignated as (a) and (b); heading and new (a) revised; new (c) and new (d) through (g) redesignated from 447.25(a) and 447.25(c) through 47244
447.22 Removed 47244
447.23 Redesignated as 447.21 47244
447.25 (b) removed; (a) and (c) through (f) redesignated as 447.21(c) and 447.21(d) through 447.21(g) 47244
447.26 Removed 47244
447.27 Removed 47244
447.31—447.34 (Subpart C) Heading revised 47244
447.31 Revised 47244
447.32 Removed; new 447.32 redesignated from 447.33 and revised 47244
447.33 Redesignated as 447.32 47244
447.34 Removed 47245
447.41 Removed; new 447.41 redesignated from 447.51 47245
447.42 Removed; new 447.42 redesignated from 447.52 47245
447.43 Redesignated from 447.53 and revised 47245
447.51—447.52 (Subpart E) Heading redesignated as 447.41—447.43 (Subpart D) heading 47245
Heading redesignated from 447.61—447.62 (Subpart F) heading 47245
447.51 Redesignated as 447.41; new 447.51 redesignated from 447.51 47245
447.52 Redesignated as 447.42; new 447.52 redesignated from 447.62; (d)(2) revised 47245
447.53 Redesignated as 447.43 47245
447.61 (Subpart F) Redesignated as 447.51; new 447.61 redesignated from 447.71 47245
Heading redesignated from 447.71 (Subpart G) heading 47245
447.61—447.62 (Subpart F) Heading redesignated as 447.51—447.52 (Subpart E) heading 47245
447.62 Redesignated as 447.52 47245
447.71 Redesignated as 447.61 47245
447.81 (Subpart H) Removed 47245
447.91 (Subpart I) Removed 47245

Proposed Rules:

111 ..... 36179, 36376, 39080, 45298, 49357
955 47514
3001 54981

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

9 Technical correction 35452
9.1 Table amended (OMB numbers) 34598, 40496, 42792, 43258, 43886, 48399
Table amended 45956
51 Authority citation revised 40100
51.112 (a)(1) and (2) amended 40468
51.160 (f)(1) and (2) amended 40468
51.166 (l)(1) and (2) amended 40468
51.350 (a)(4), (6), (7), (8), (9) and (b)(4) revised; (a)(5) removed 48034
51.351 (a) introductory text and (b) revised; (e) removed; (f) and (g) added 48035
51.360 Introductory text, (a)(1), (5), (6), (7) introductory text, (9) and (b) revised 48036
51.372 (c) introductory text, (3), (4) and (e) revised 48036
51.394 (b)(3)(i) revised; interim 44763
51.448 (a)(3), (b)(1) introductory text and (d)(3) revised; (g)(1) and (2) removed; (b)(2), (c)(2) and (g)(3) redesignated as (b)(3), (c)(3) and (g)(1); new (b)(2) and (c)(2) added 40100
51 Appendix W amended 40468, 40469, 40470, 40471
52 State implementation plan determinations 34866, 36225, 55314
52.21 (l)(1) and (2) amended 40474
52.70 (c)(20) added 46024
(c)(24) added 49767
(c)(22) added 54439
52.82 Added 47280
52.120 (c)(70) and (78) added 46025
52.220 (c)(217)(i)(B) added 36069
(c)(215)(i)(A)(3), (219), (220) and (222) added 36230
(c)(214)(i)(B), (215)(i)(A)(2) and (B) added 40286

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(c)(223) added 43017
(c)(204) added 43383
(c)(207)(i)(B) and (C) added 43386
(c)(194)(i)(A)(*3*), (196)(i)(B) and (202)(i)(E) added 43714
(c)(198)(i)(H)(*1*) added 46222
(c)(188)(i)(D)(*3*), (198)(i)(C)(*3*), (202)(i)(C)(*2*), (208)(i)(A)(*2*) and (210)(i)(B) added 46536
(c)(198)(ii) removed 47076
(c)(222)(i)(B) added 47275
(c)(183)(i)(A)(*13*) added 49512
(c)(193)(i)(B), (199)(i)(B), (202)(i)(D) and (207)(i)(D) added 49775
(c)(198)(i)(F) added 54597
(c)(225) added 55314
52.222 Added 47076
52.322 Added 52315
52.326 Added 40291
52.370 (c)(68) added 47081
(c)(69) added 55320
52.376 Added 55320
52.420 (c)(53) added 38712
52.430 Added 47084
52.470 (c)(34) added 44434
52.480 Added 47084
52.570 (c)(46) added 45051
52.720 (c)(111) added 36063
(c)(112) added 36065
(c)(114) added 49772
(c)(113) added 49780
(c)(116) added 54806
(c)(115) added 54806
52.726 (j) added 48899
52.741 (u)(8) added; (z)(1) removed 43387
(e)(10) added; (z)(4) removed 43393
(x)(14) added 43395
52.770 (c)(96) added 34859
(c)(97) and (98) added 43012
52.777 (h) added 38722
52.788 Added 43012
52.820 (c)(61) removed 45055
(c)(62) added 54598
(c)(61) added 55199
52.870 (c)(30) added 36364
52.872 Added 36364
52.920 (c)(72) added 38707
(c)(76) added 47094
(c)(81) added 49778
52.930 Regulation at 60 FR 32469 withdrawn 40101
52.970 (c)(66) added 54308
52.975 Added 43025
Existing text redesignated as (a); (b) added 47285
(c) added 51360
52.1020 (c)(40) added 45059
(c)(38) added 47288
52.1031 Table amended 45059
52.1070 (c)(117) added 55326
52.1075 Added 55326
52.1080 Added 47084
52.1170 (c)(99) added 54310
52.1174 (k) removed 37013
(k) added 37370
52.1320 (c)(89) added 39855
(c)(88) added 49342
52.1323 (i) added 49343
52.1370 (c)(39) added 36721
(c)(41) added 45054
52.1384 (a) removed; (c) added 36722
52.1386 Removed 36722
52.1519 (c)(3) added 47290
52.1582 (d) added 51354
52.1770 (c)(83) added 34866
(c)(74) added 38710
(c)(70) added 38718
(c)(82) added 39262
(c)(81) added 46021
(c)(86) added 51924
52.1782 Regulation at 60 FR 32469 withdrawn 40101
52.1820 (c)(26) added 43401
52.1834 Added 43401
52.1870 (c)(105) added 39122
(c)(106) added 54949
(c)(98) added 55201
52.1879 (e) added 36060
52.1885 (x) added 36060
(b)(5) added 39122
(w) removed 44278
52.1888 Revised 55202
52.1889 Added 42045
52.1919 (a)(2) removed 55202
52.1970 (c)(111) added 37015
(c)(112) added 46029
52.2020 (c)(98) added 40294
(c)(101) added 40760
(c)(99) added 43015
(c)(102) added 46770
52.2023 (j) added 47085
52.2026 Removed 47085
52.2035 Added 47084
52.2037 (b) added 37018
52.2170 (c)(16) added 46227
52.2184 Added 46228
52.2220 (c)(126) added 38700
(c)(130) added 38715
(c)(131) added 47087

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52.2235 (b) added 38700, 47290
Regulation at 60 FR 32469 withdrawn 40101
Added 40292
52.2236 Added 43020
52.2270 (c)(97) added 49788
52.2332 Regulation at 60 FR 30192 withdrawn 36722
Added 36729
52.2420 (c)(105) added 43717
(c)(106) added 49769
(c)(104) added 50105
52.2423 (m) and (n) added 43717
52.2426 Added 47084
52.2450 Added 45056
52.2470 (c)(55) added 43713
(c)(56) added 54441
(c)(57) added 54604
(c)(58) added 54806
52.2472 Added 47280
52.2520 (c)(34) added 39857
(c)(36) added 39861
(c)(37) added 46030
52.2531 Added 39862
52.2570 (c)(82) added 38724
52.2585 (h) added 47089
52.2620 (c)(22) added 47292
55.14 (e)(3)(ii)(F), (G) and (H) revised 47293
(e)(6)(i)(A) revised 55327
55 Appendix A amended 47293, 55328
58.1 (aa) through (ii) added 52319
58 Appendix A amended 52320
Appendix B amended 52321
Appendix D amended 52323
Appendix E amended 52324
60 Technical correction 35452
Authority delegation notices 52329, 52331
60.17 (a)(63) added 47096
60.481 Amended 43258
60.482–5 Revised 43258
60.482–10 (f) and (g) revised; (h) through (l) added 43258
60.691 Amended 43259
60.692–3 (d) revised 43259
60.693–2 (a)(1)(i) introductory text and (A) revised 43259
60.695 (a)(3)(i) and (ii) added 43259
60.697 (f)(3)(i) and (ii) revised; (f)(3)(x)(A) and (B) added 43259
60.698 (d)(3)(i) and (ii) added 43260
60 Appendix A amended 47096
61 Clarification 38725
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61.04 (c) table revised 43401
Corrected 50244
61.100 Revised 46212
61.107 (c)(1) removed; (c)(2) and (3) redesignated as (c)(1) and (2) 46212
61.109 Removed 46212
62.11601 (c) removed; (g) added 50105
62.11602 Removed 50105
63 State operating permit program approvals 37825
63.14 (b)(7) added 45980
63.420 (i) added 43260
63.560—63.567 (Subpart Y) Added 48399
63.640—63.654 (Subpart CC) Added 43260
63.652 (g)(4)(vi)(B) corrected 49976
63.740—63.759 (Subpart GG) Added 45956
69.11 (c) added 48038
70 Appendix A amended 35338, 36069, 36072, 39864, 42046, 46774, 47297, 49347, 50108, 53875
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75.18 (b)(2) revised; (b)(3) removed 40296
75.20 (f) revised 40296
75.41 (a)(1), (b)(1)(i), (2)(iv)(A), (C), (c)(1)(i), (ii) and (2)(ii) revised 40296
75.47 Revised 40297
75.48 Revised 40297
80.70 (j) introductory text revised 35491
80.91 (e)(7)(iv) added 40006
80.101 (b)(1)(v) added 40008
81 Attainment status determinations 47097
81.307 Table revised 55320
81.318 Table amended 47094, 48654
81.319 Table amended 43026, 47285, 51360
81.320 Table amended 45060
81.321 Table amended 55326
81.323 Table amended 40300
Regulation at 60 FR 40300 withdrawn 51360
81.324 Table corrected 34461
81.332 Table amended 52336
81.334 Table amended 34867, 39262
81.336 Table amended 39122
81.338 Table amended 50425
81.343 Table amended 43020
81.345 Table amended 38729
81.347 Table amended 54311

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81.348 Table amended....50425
81.349 Table amended....39862
81.350 Amended....47487
81.351 Table amended....47299
82 Acceptable substitutes listing....38729
82.152 Amended....40439
82.156 (a)(2)(i)(A), (B) and (i) revised; (a)(2)(i)(C) added....40440
82.166 (n) through (q) added....40443
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86.081–8 Removed....43886
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86.094–17 (j) revised....37945
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86.094–38 Added....40496
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86.096–9 OMB number....43880
(b) introuuctory text and (c) through (k) revised; (b)(5)(iv) added....43887
86.096–10 OMB number....43880
(b) introductory text revised; (b)(5)(iv) added....43887
86.096–11 (b)(5)(i) revised....43887
86.096–14 OMB number....43880
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86.096–30 OMB number....43880
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86.097–9 OMB number....43880
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86.098–11 (b)(3)(iii)(A) revised....43888
86.098–23 OMB number....43880
86.098–26 (a)(3)(i)(B) through (ii)(B) removed; (a)(3)(i)(D) through (ii)(B) added....43888
86.099–8 OMB number....43880
(b) introductory text revised....43888
86.099–9 OMB number....43880
(b) introductory text revised....43888
86.099–10 OMB number....43880
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86.106–96 (a) introductory text revised....43888
86.107–96 (a)(1) introductory text, (ii)(A), (B), (2), (3)(i), (ii), (c)(1), (d), (e) and (f) revised....43888
86.107–98 (e)(1) revised....43890
86.109–82 Removed....43886

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86.111–82 Removed....43886
86.112–82 Removed....43886
86.116–82 Removed....43886
86.117–96 Introductory text, (a)(1)(ii), (iii), (7), (b), (c) heading, (1) introductory text, (iv), (v), (vii), (d)(1) introductory text and equation, (v) and (e)(1)(iii) revised; (d)(1)(iii) and (iv) removed; (d)(3) added....43890
86.119–78 Removed....43886
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86.130–96 (e) added; figure revised....43893
86.131–96 (d) revised....43895
86.132–96 (c), (f), (h) introductory text, (1)(i), (2), (j) introductory text, (j)(1) introductory text, (i) and (vi) revised....43895
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86.138–90 (b) revised....43897
86.138–96 (a)(2), (b)(2)(v)(A) and (viii) revised....43897
86.139–82 Removed....43886
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86.143–96 (b)(1)(i) introductory text and equation, (D), (2)(i)(B) and (ii)(B) revised; (b)(1)(iii) added; (b)(1)(i)(C) and (E) removed....43897
86.144–78 Removed....43886
86.146–96 (f), (i)(1) and (2) revised....43898
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86.154–98 (e)(3) revised....43898
86.401–78 Removed....43886
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86.511–78 Removed....43886
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86.608–90 (a)(2)(ii) revised....43898
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86.1207–96 (a)(1) introductory text, (ii)(A), (B), (2), (3)(i), (ii), (c)(1), (d), (e) and (f) revised....43898
86.1217–96 Introductory text, (a)(1)(ii), (iii), (7), (b), (c) heading, (1) introductory text, (v), (vii), (d)(1) introductory text and equation, (v) and (e)(1)(iii) revised; (c)(1)(iv), (d)(1)(iii) and (iv) removed; (d)(1)(xiii), (xiv) and (3) added....43900
86.1229–85 (d)(1), (2)(iii), (3)(ii), (iii), (4)(i), (ii), (iii), (7)(iii) and (iv) revised; (d)(7)(v) added....43901
86.1230–96 (e) added; figure revised....43902
86.1231–96 (d) revised....43904
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86.1233–96 (c), (h) and (i)(5) revised....43905
86.1234–96 (a), (f), (g)(1)(v), (vii), (viii), (xii) introductory text, (A), (xiv), (xv), (xvi), (2)(v), (vii), (x) and (xii) revised; (g)(1)(xx)(C) and (2)(xv) added....43905
86.1238–90 (i) revised....43906
86.1238–96 (a)(2), (b)(2)(v)(A) and (viii) revised....43906
86.1243–96 (b)(1)(i) introductory text and equation, (D), (2)(i)(B) and (ii)(B) revised; (b)(1)(iii) added; (b)(1)(i)(C) and (E) removed....43906
86.1246–96 (f), (i)(1) and (2) revised....43906
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86.1341–84 Removed 43887
86.1342–84 Removed 43887
86.1344–84 Removed 43887
86.1344–88 Removed 43887
86.1501–84 Removed 43887
86.1504–84 Removed 43887
86.1506–84 Removed 43887
86.1513–84 Removed 43887
86.1513–87 Removed 43887
90 Added 34598
93 Authority citation revised 40100
93.102 (b)(3)(i) revised; interim 44763
93.128 (a)(3), (b)(1) introductory text and (d)(3) revised; (g)(1) and (2) removed; (b)(2), (c)(2) and (g)(3) redesignated as (b)(3), (c)(3) and (g)(1); new (b)(2) and (c)(2) added 40100
122.21 Regulation at 60 FR 17956 withdrawn 40230
(c)(1) amended 40235
122.26 Regulation at 60 FR 17956 withdrawn 40230
(a)(1) introductory text and (e)(1)(ii) amended; (a)(9) and (g) added; (e) heading revised 40235
124.52 Regulation at 60 FR 17957 withdrawn 40230
(c) amended 40235
125.104 (b)(4)(iii) amended 53875
131.36 (b)(1) table corrected 44120
136.3 (a) Tables IC and ID amended 39588
(b) amended 39590
(a) table and (b) amended 44672
(a) Table IA revised; (b) amended 53542
(e) Table II amended 53543
180 Technical correction 52248
180.1 (h) table amended 42448
180.2 Revised 42460
180.186 Removed 49799
180.203 Removed 49799
180.204 (a) table amended 42447
(b) table amended 45065
180.232 Revised 34870
180.233 Removed 49799
180.247 Removed 49799
180.260 Removed 49799
180.268 Revised 49799
180.280 Removed 49799
180.302 Removed 49799
180.308 Removed 49799
180.310 Removed 49799
180.319 Removed 49799
180.322 Removed 49799
180.327 Removed 49799
180.329 Removed 49800
180.336 Removed 49800
180.337 Revised 34871
180.351 Removed 49800
180.361 (a) table amended 48660
180.364 (d) table amended 45064
180.376 Removed 34869
180.400 Removed 49800
180.422 Table revised 49798
180.425 Table amended 54605
180.435 Revised 42455
180.436 Existing text designated as (a); (b) added 34876
180.438 Table revised 34878
180.441 (c) revised 49790
180.443 (a) table, (b) table and (c) table revised 40503
180.458 Table amended 40505
180.459 Revised 36731
180.466 Table amended 49795
180.472 (a) table amended; (d) removed 45067
(e) added 45069
180.474 Table revised 40500
180.482 Corrected 34874
180.483 Added 34873
180.484 Added 42458
180.485 Added 49796
180.486 Added 49792
180.487 Added 54610
180.900 Heading revised; (d) added 45069
180.1001 (d) table amended 35846, 38263, 54607
180.1015 Removed 42460
180.1027 Revised 42460
180.1033 Revised 42460
180.1068 Revised 34871
180.1082 Removed 35846
180.1100 Revised 48659
180.1115 Revised 37021
180.1117 Added 43719
180.1148 Added 42450
180.1149 Added 37020
180.1150 Added 34869
180.1151 Added 42453
180.1152 Added 42446
180.1153 Added 45062
180.1154 Added 47489
180.1155 Added 47874
180.1156 Added 48657
185.1075 Added 40505
185.1310 Redesignated as 185.3765 34878

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185.1580 Revised 42455
185.3300 Removed 49800
185.3385 Added 42458
185.3575 Revised 42462
185.3765 Redesignated from 185.1310; heading revised; (c) added 34878
185.4150 Revised 42460
185.5450 Revised 38265
(c) added 54612
186.3300 Removed 49800
186.3575 Revised 42462
186.3765 Revised 34878
186.5450 Added 38266
(b) and (c) redesignated as (a)(1) and (2); new (b) added 54612
195.20 Revised 41816
228.15 (h)(4) removed; (h)(5)(v) and (vi) revised 49230
(l)(10) added 50114
258.1 (d)(3) and (e)(4) revised 52342
258.2 Amended 52342
258.50 (e) revised 52342
258.70 (b) revised 52342
258.74 (a)(3), (4), (6), (c)(3) and (d)(3) revised 40105
(a)(5) revised; (b)(1), (c)(1) and (d)(1) amended 52342
260 Technical correction 35452
261 Interpretation 41817
261 Appendix IX amended 54312, 54313
262 Technical correction 35452
264 Technical correction 35452
264.314 (e)(2)(ii) amended; (e)(2)(iii) added 35705
264.1080 (d) added 50428
264.1089 (i) added 50429
265 Technical correction 35452
265.314 (f)(2)(ii) amended; (f)(2)(iii) added 35705
265.1080 (d) added 50429
265.1090 (i) added 50429
270 Technical correction 35452
271 Technical correction 35452
Authority citation revised 35705
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271.1 (j) table amended 35705
272.151 Revised 44279
272 Appendix A amended 44280
279.10 (b)(2) amended 55206
280 Authority citation revised 46711
280.200—280.230 (Subpart I) Added 46711
281 State underground storage tank program authorizations 34879
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281.39 Added 46715
282.94 Added 52344
282.95 Added 47301
282 Appendix A amended 47301, 52344
300 Appendix B amended 37828, 47490, 49231, 49347, 50115, 50430, 50431, 50439, 51927
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302.4 Table and appendix A corrected 35492, 35992
Table corrected 35991
355 Appendixes A and B corrected 35998
372.65 (c) table amended 49804
(a) table and (b) table amended 54953
403 Appendix G revised 54768
436.22 (a) corrected 35796
436.32 (a) corrected 35796
436.42 (a) corrected 35796
436.122 (a) corrected 35796
436.132 (a) corrected 35796
436.142 (a) corrected 35796
436.152 (a) corrected 35796
436.182 (a) corrected 35796
436.192 (a) corrected 35796
436.232 (a) corrected 35796
436.242 (a) corrected 35796
436.252 (a) corrected 35796
436.262 (a) corrected 35796
436.382 (a) corrected 35796
503.13 (b) revised 54769
704.9 Revised 34463
704.25 (g) revised 34463
704.30 (e) revised 34463
704.104 (g) revised 34463
707.20 (c)(3) revised 34463
707.65 (c) revised 34463
712.28 (c) revised 34463
712.30 (c) amended 34463
(e) amended 34882, 39655
(e) corrected 37946
716.20 (b)(4) added 34884
716.30 (c) revised 34463
716.35 (c) revised 34463
716.60 (c) amended 34464
716.105 (c) amended 34464
716.120 (d) amended 34884
(a) table and (d) table amended 48662

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717.17 (c) revised 34464
720.75 (b)(2) and (e)(1) amended 34464
720.95 Amended 34464
720.102 (d) revised 34464
721.5 (d)(1)(iii) revised 34464
721.11 (b) introductory text revised 34464
721.30 (b) introductory text revised 34464
721.185 (b)(1) amended 34464
721.562 Added 45080
721.639 Added 45080
721.1193 Added 45081
721.1643 Added 45081
721.2089 Added 45081
721.2815 Added 45081
721.3152 Added 45081
721.3486 Added 45082
721.3760 Added 45082
721.4300 (a)(2)(iv)(A)(7) revised 34464
721.4463 Added 45082
721.4466 Added 45082
721.4473 Added 45082
721.5192 Added 45082
721.5278 Added 45083
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721.5763 Added 45083
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721.5867 Added 45083
721.6110 Added 45084
721.7046 Added 45084
721.8090 Added 45084
721.9526 Added 45084
721.9656 Added 45084
721.9658 Added 45085
721.9892 Added 45085
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61.47 (g)(6) added 52346
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[Two Sessions]

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–ANE–47; Amendment 39–9437; AD 95–24–05]

Airworthiness Directives; McCauley Accessory Division, The Cessna Aircraft Company, Model C35, C72, C74, C75, C80, C86, C87, C92, and C93 Series Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to McCauley Accessory Division, The Cessna Aircraft Company, Model C35, C72, C74, C75, C80, C86, C87, C92, and C93 series propellers. This action requires initial and repetitive visual and dye penetrant inspections of the propeller hub for cracks. This action also requires a one-time eddy current inspection for cracks in the threaded areas of the propeller hub followed by modification of the hub to contain oil with red dye as a terminating action to the repetitive inspections. This amendment is prompted by reports of cracked propeller hubs. The actions specified in this AD are intended to prevent propeller blade separation due to a cracked propeller hub, which could result in separation of the engine from the aircraft and subsequent loss of aircraft control.

DATES: Effective December 18, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 18, 1995.

Comments for inclusion in the Rules Docket must be received on or before January 30, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–47, 12 New England Executive Park, Burlington, MA 01803–5299.

The service information referenced in this AD may be obtained from McCauley Accessory Division, The Cessna Aircraft Company, 3535 McCauley Dr., Vandalia, OH 45377–0430; telephone (513) 890–5246, fax (513) 890–6001. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patricia Bonnen, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Ave., Room 232, Des Plaines, IL 60018; telephone (708) 294–7134, fax (708) 294–7834.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has received several reports of cracked propeller hubs on McCauley Accessory Division, The Cessna Aircraft Company, Model C35, C72, C74, C75, C80, C86, C87, C92, and C93 series propellers. Additionally, two incidents have occurred where the propeller blades separated during flight. This condition, if not corrected, could result in propeller blade separation due to a cracked propeller hub, which could result in separation of the engine from the aircraft and subsequent loss of aircraft control.

The FAA has reviewed and approved the technical contents of the following service documents:

(a) McCauley Accessory Division, The Cessna Aircraft Company, Service Bulletin (SB) No. 200C, dated January 20, 1994, that describes procedures for an initial and repetitive visual and dye penetrant inspections of propeller hubs for cracks, and

(b) McCauley Service Letter (SL) No. 1993–11A, dated June 20, 1995, that describes procedures for eddy current inspection for cracks in the threaded areas of the propeller hub and modification of the hub to contain oil with red dye, which provides a built-in means of crack detection, as well as improved lubrication and corrosion protection.

Since an unsafe condition has been identified that is likely to exist or develop on other propellers of the same type design, this airworthiness directive (AD) is being issued to prevent propeller blade separation due to a cracked propeller hub, which could result in separation of the engine from the aircraft and subsequent loss of aircraft control. This AD requires initial and repetitive visual and dye penetrant inspections of the propeller hub for cracks. This AD also requires a one-time eddy current inspection for cracks in the threaded areas of the propeller hub followed by modification of the hub to contain oil with red dye, which constitutes terminating action to the repetitive visual and dye-penetrant inspections. The actions are required to be accomplished in accordance with the service documents described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of

the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–ANE–47." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–24–05 McCauley Accessory Division, The Cessna Aircraft Company: Amendment 39–9437. Docket 94–ANE–47.

Applicability: McCauley Accessory Division, The Cessna Aircraft Company, Model C35, C72, C74, C75, C80, C86, C87, C92, and C93 series propellers, incorporating the following Hub Models:

D3AF32C35–( )
3AF32C72–( )
3AF34C74–( )
3AF32C75–( )
D3AF32C80–( )
3AF34C86–( )
3AF32C87–( )
D3AF32C87–( )
3AF34C92–( )
3AF32C93–( )

The parentheses used in the above list indicate the presence or absence of an additional letter(s) which vary the basic propeller hub model designation. These letter(s) define minor changes that do not affect interchangeability or eligibility, and therefore, this airworthiness directive (AD) still applies regardless of whether these letters are present or absent on the propeller hub model designation.

These propellers are installed on but not limited to the following aircraft: Beech 58, 58A, 95–C55, –C55A, –D55, –D55A, –E55, –E55A.

British Aerospace B–206 Series 2.

Cessna 310K, 310L, 310N, 310P, 310Q, 310R, T310P, T310Q, T310R, 320D, 320E, 320F, 335, 340, 340A, 401, 401A, 401B, 402, 402A, 402B, 402C, 411, 411A, 414, 414A, 421, 421A, 421B.

Colemill Executive 600 (Conversion of Cessna 310I, 310J, 310K, 310L, 310N).

RAM Conversion of Cessna 340.

Note 1: The above is not an exhaustive list of aircraft which may contain the affected McCauley Model C35, C72, C74, C75, C80, C86, C87, C92, and C93 series propellers, incorporating Models D3AF32C35, 3AF32C72, 3AF34C74, 3AF32C75, D3AF32C80, 3AF34C86, 3AF32C87, D3AF32C87, 3AF34C92, and 3AF32C93 propeller hubs because of installation approvals made by Supplemental Type Certificate or Federal Aviation Administration (FAA) Form 337 "Major Repair and Alteration," etc. It is the responsibility of the owner, operator and person returning the aircraft to service to determine if an aircraft has an affected propeller

Note 2: This AD applies to each propeller identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For propellers that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (g) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any propeller from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent propeller blade separation due to a cracked propeller hub, which could result in separation of the engine from the aircraft and subsequent loss of aircraft control, accomplish the following:

(a) Within the next 25 hours time in service (TIS) after the effective date of this AD, unless already accomplished within the last 35 hours TIS, and thereafter at intervals not to exceed 60 hours TIS, perform a visual and dye penetrant inspection for cracks in propeller hubs in accordance with McCauley Accessory Division, The Cessna Aircraft Company, Service Bulletin (SB) No. 200C, dated January 20, 1994. Any propeller hubs found cracked during this inspection are to be permanently retired from service and replaced with a serviceable hub modified in accordance with paragraph (c) of this AD, or with an equivalent initial production propeller which has incorporated a hub containing oil with red dye.

(b) For affected propellers identified with the change letter "R" following the hub model designation and having an oil-fill plug in the side of the hub, compliance is required only with paragraphs (d) and (f) of this AD.

(c) Perform a one-time eddy current inspection and modify serviceable propeller hubs in accordance with the following schedule and requirements:

Propeller Time-In-Service (TIS) on the effective date of this AD	Compliance required
Greater than 900 hours or 59 calendar months since last overhaul/penetrant inspection or installed new, or prior TIS unknown.	Within the next 300 hours or at the next annual inspection or within 12 months after the effective date of this AD, whichever occurs first.
Less than or equal to both 900 hours and 59 calendar months since last overhaul/penetrant inspection or installed new.	Prior to the accumulation of 1,200 hours or 60 calendar months since last overhaul/penetrant inspection or installed new, whichever occurs first.

(1) Perform a one-time eddy current inspection for cracks in the threaded areas of the propeller hubs in accordance with McCauley Accessory Division, The Cessna Aircraft Company, Service Letter (SL) No. 1993–11A, dated June 20, 1995.

(2) Any propeller hubs found cracked during the eddy current inspection are to be permanently retired from service and replaced with a serviceable hub modified in accordance with paragraph (c) of this AD, or with an equivalent initial production propeller which has incorporated a hub containing oil with red dye.

(3) Modify affected propeller hubs to contain oil with red dye, in accordance with McCauley Accessory Division, The Cessna Aircraft Company, SL No. 1993–11A, dated June 20, 1995. Completion of this modification of the hub to contain oil with red dye constitutes terminating action to the repetitive inspections required by paragraph (a) of this AD.

Note: The modification of the propeller hub assembly to contain oil with a red dye provides an "on-condition" (in-service) means of early crack detection of the propeller assembly and also improves lubrication and corrosion protection. The oil will add approximately 4.0 lbs. to the weight of the propeller assembly.

(4) Previous compliance with McCauley Accessory Division SL 1993–11, dated September 15, 1993, also constitutes compliance with paragraphs (a) and (c) of this AD.

(5) Install Decal-Warning "Oil Filled", part number B–6493, in accordance with McCauley Accessory Division, The Cessna Aircraft Company, SL No. 1993–11A, dated June 20, 1995, Figure F–9.

(d) If leakage of oil containing red dye is detected in service (whether during flight or while on the ground), determine, prior to further flight, the source of leakage in accordance with the procedures specified in Section A–7 of McCauley SL No. 1993–11A, dated June 20, 1995. Remove from service, prior to further flight, propeller assemblies that exhibit cracks and replace with a serviceable unit, modified in accordance with paragraph (c) of this AD, or with an equivalent initial production propeller that has incorporated a hub containing oil with red dye. Oil-filled propellers are identified with the change letter "R" following the Hub Model Designation and have an oil-fill plug in the side of the hub.

(e) The "calendar month" compliance times stated in this AD allow the performance of the required action up to the last day of the month in which compliance is required. For example, a required eddy current inspection and modification 60 calendar months from last overhaul/penetrant inspection that was performed on December 15, 1991, would allow the eddy current inspection and modification to be performed no later than December 31, 1996.

(f) Report in writing any cracks found during the accomplishment of paragraphs (a), (c) or (d) of this AD to the Manager, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Room 232, Des Plaines, IL 60018; telephone (708) 294–7134, fax (708) 294–7834, within 10 days of the inspection. Information collection requirements contained in the regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96–511) and has been assigned OMB Control Number 2120–0056.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago Aircraft Certification Office.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(i) The inspections and modification required by this AD shall be done in accordance with the following McCauley Accessory Division, The Cessna Aircraft Company, service documents:

Document No.	Pages	Date
SB 200C	1–4	January 20, 1994.
Total pages: 4.		
SL 1993–11A:		
Cover Page	1	June 20, 1995.
Section A	1–4	June 20, 1995.
Section B	1	June 20, 1995.
Section C	1	June 20, 1995.
Section D	1–7	June 20, 1995.
Section E	1–10	June 20, 1995.
Section F	1–15	June 20, 1995.
Section G	1	June 20, 1995.
Section H	1–4	June 20, 1995.
Section I	1–4	June 20, 1995.
Total pages: 48.		

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McCauley Accessory Division, The Cessna Aircraft Company, 3535 McCauley Dr., Vandalia, OH 45377–0430; telephone (513) 890–5246, fax (513) 890–6001. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on December 18, 1995.

Issued in Burlington, Massachusetts, on November 7, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–28957 Filed 11–30–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–219–AD; Amendment 39–9444; AD 95–24–14]

Airworthiness Directives; de Havilland Model DHC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–8 series airplanes. This action requires eddy current inspections to detect cracking of the pivot tubes in the drag strut of the nose landing gear (NLG), and repair or replacement of any cracked tube with a serviceable or new tube. This amendment is prompted by reports that the pivot tubes cracked or failed completely due to fatigue. The actions specified in this AD are intended to prevent such fatigue cracking and subsequent failure of the pivot tube, which could result in a nose gear-up landing.

DATES: Effective December 18, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 18, 1995.

Comments for inclusion in the Rules Docket must be received on or before January 30, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–219–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, Airframe Branch, ANE–172, FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7523; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: Transport Canada Aviation, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain de Havilland Model DHC–8 series airplanes. Transport Canada Aviation advises that it has received reports indicating that the pivot tube located in the drag strut of the nose landing gear (NLG) cracked or failed completely on several Model DHC–8 series airplanes. During one incident, the NLG failed to extend, which resulted in damage to the airplane during the subsequent landing. The cause of these pivot tube failures has been attributed to fatigue. Fatigue cracking and subsequent failure of the pivot tube in the drag strut of the NLG, if not detected and corrected in a timely manner, could result in a nose gear-up landing.

Bombardier, Inc., has issued Service Bulletin S.B. 8–32–131, dated September 8, 1995, which includes (as an attachment) Messier-Dowty Service Bulletin M–DT DHC8–32–77, dated July 5, 1995. The Messier-Dowty service bulletin describes procedures for repetitive high frequency eddy current inspections to detect cracking of the pivot tube, part number 8225–3, located in the drag strut of the NLG. The service bulletin also describes procedures for repair or replacement of any cracked pivot tube with a serviceable tube having the same part number, or with a new strengthened tube having part number 8225–5 (de Havilland Modification 8/2266). This new strengthened tube contains more material in the waisted area of the center arm. Installation of a new strengthened pivot tube would eliminate the need for inspections of the pivot tubes. Transport Canada Aviation classified the Bombardier service bulletin as mandatory and issued Canadian airworthiness directive CF–95–15, dated September 11, 1995, in order to assure the continued airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent failure of the pivot tube in the drag strut of the NLG and a subsequent nose gear-up landing. This AD requires repetitive eddy current inspections to detect cracking of the pivot tubes in the drag strut of the NLG, and repair or replacement of any cracked tube with a serviceable tube having the same part number or with a new strengthened tube. Installation of a new strengthened pivot tube, if accomplished, constitutes terminating action for the inspection requirements of this AD. The actions are required to be accomplished in accordance with the Bombardier service bulletin described previously.

Operators should note that the service bulletin recommends accomplishing the initial eddy current inspection at the following times: Prior to the accumulation of 13,400 total landings (for drag strut assemblies with 12,650 or less total landings); within the next 750 landings (for drag strut assemblies with between 12,651 and 20,000 total landings); or within the next 500 landings (for drag strut assemblies with 20,001 or more total landings). However, the FAA has determined that these compliance times would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the recommendation specified in the service bulletin, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, the time necessary to perform the inspection (less than one hour), and the availability of replacement parts. In light of all of these factors, the FAA finds that a compliance time of prior to the accumulation of 13,400 total landings on the drag strut assembly, or within 30 days after the effective date of this AD, is appropriate for initiating the required actions in that it represents the maximum interval of time allowable for affected airplanes to continue to operate without compromising safety.

Although installation of new strengthened pivot tubes is provided as an optional terminating action, the FAA is considering further rulemaking to require the installation of those pivot tubes on all affected airplanes. Therefore, this AD is considered to be interim action.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–219–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–24–14 De Havilland, Inc.: Amendment 39–9444. Docket 95–NM–219–AD.

Applicability: Model DHC–8 series airplanes, serial numbers 003 through 403 inclusive; and Model DHC–8 series airplanes on which a drag strut having serial numbers DEC 001/83 through DCL 432/94 inclusive is installed; as listed in Bombardier Service Bulletin S.B. 8–32–131, dated September 8, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the pivot tube in the drag strut of the nose landing gear (NLG) and a subsequent nose gear-up landing, accomplish the following:

(a) Prior to the accumulation of 13,400 total landings on the drag strut assembly, or within 30 days after the effective date of this AD, whichever occurs later: Perform an eddy current inspection to detect cracking of the pivot tube, part number (P/N) 8225–3, located in the drag strut of the NLG, in accordance with Bombardier Service Bulletin S.B. 8–32–131, dated September 8, 1995.

Note 2: The Bombardier service bulletin includes (as an attachment) Messier- Dowty Service Bulletin M-DT DHC8–32–77, dated July 5, 1995. The Messier-Dowty service bulletin details the specific procedures for accomplishment of the requirements of this AD.

(1) If no cracking is found, repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 2,000 landings.

(2) If any cracking is found that can be removed completely by reworking the pivot tube in accordance with the service bulletin, prior to further flight, repair the pivot tube in accordance with the service bulletin. Thereafter, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 1,000 landings.

(3) If any cracking is found that cannot be removed completely by reworking the pivot tube in accordance with the service bulletin, prior to further flight, accomplish paragraph (a)(3)(i) or (a)(3)(ii) of this AD in accordance with the service bulletin.

(i) Replace the cracked pivot tube with a serviceable tube having P/N 8225–3. Thereafter, perform the repetitive inspections required by paragraph (a) of this AD. Or

(ii) Replace the cracked pivot tube with a new strengthened tube having P/N 8225–5. No further action is required by this AD.

(b) Replacement of a pivot tube having P/N 8225–3 with a pivot tube having P/N 8225–5 (de Havilland Modification 8/2266), in accordance with Bombardier Service Bulletin S.B. 8–32–131, dated September 8, 1995, constitutes terminating action for the inspection requirements of this AD.

(c) As of the effective date of this AD, no person shall install a drag strut assembly having serial numbers DEC 001/83 through DCL 432/94 inclusive on any airplane unless that assembly has been inspected and found to be crack-free, or unless that assembly has been inspected and repaired, in accordance with the requirements of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The actions shall be done in accordance with Bombardier Service Bulletin S.B. 8–32–131, dated September 8, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on December 18, 1995.

Issued in Renton, Washington, on November 22, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–29329 Filed 11–30–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–244–AD; Amendment 39–9429; AD 95–23–09]

Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes and KC–10A (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes, that currently requires the implementation of a program of structural inspections to detect and correct fatigue cracking in order to ensure the continued airworthiness of these airplanes as they approach the manufacturer's original fatigue design life goal. This amendment requires clarification of some Principle Structural Elements (PSE) and some

non-destructive inspection (NDI) procedures. This amendment is prompted by new data submitted by the manufacturer indicating that certain revisions to the program are necessary in order to clarify some PSE's and some NDI procedures. The actions specified by this AD are intended to prevent fatigue cracking that could compromise the structural integrity of these airplanes.

DATES: Effective January 2, 1996.

The incorporation by reference of McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," Volume I, Revision 5, dated October 1994; Volume II, Revision 5, dated October 1994; and Volume III–94, dated November 1994, as listed in the regulations, is approved by the Director of the Federal Register as of January 2, 1996.

The incorporation by reference of McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," Volume I, Revision 3, dated December 1992, Volume II, Revision 3, dated December 1992, and Volume III–92, dated October 1992, as listed in the regulations, was approved previously by the Director of the Federal Register as of November 24, 1993 (58 FR 54949, October 25, 1993).

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–1771, Attention: Business Unit Manager, Contract Data Management C1–255 (35–22). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Maureen Moreland, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5238; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 93–17–09, amendment 39–8680 (58 FR 54949, October 25, 1993), which is applicable to McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes, was published as a supplemental notice of proposed rulemaking in the **Federal Register** on September 7, 1995 (60 FR 46544). The action proposed to require the implementation of a program of structural inspections to detect and correct fatigue cracking in order to ensure the continued airworthiness of these airplanes as they approach the manufacturer's original fatigue design life goal.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Several commenters support the proposed rule.

One commenter notes that Volume III–94 of McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," dated November 1994 (referenced in the proposal as the appropriate source of service information) changed 18 Principle Structural Elements (PSE) from Fleet Leader Operator Sample (FLOS) inspections to Fleet Leader Sample (FLS) inspections. The commenter states that these changes were made because operators submitted an insufficient number of results from FLOS inspections. The commenter requests that, in future revisions of the document, these FLS inspections be changed to 100 percent inspections, which would simplify scheduling and be more cost effective.

The FAA does not concur with the commenter's request to change FLS inspections to 100 percent inspections. The FAA finds that Volume III–94 of the SID changed eight PSE's from FLOS inspections to FLS inspections because of a decrease in the sample size (i.e., fewer Model DC–10 series airplanes in the SID program). The inspections in the McDonnell Douglas SID programs were established using specific criteria for determining whether a PSE should be defined as FLOS, FLS, or 100 percent. The manufacturer established these criteria only after extensive and detailed consultations with large numbers of operators and with the FAA. Because of the decrease in sample size, these PSE's meet the criteria of FLS, but not that of FLOS or 100 percent. The 100 percent inspection is only applicable if an insufficient number of samples exists in the sample size to utilize sampling concepts.

One operator requests that the proposed rule be revised to include provisions for operators that combine fleets with other operators under the same maintenance program. The FAA does not concur. The FAA does not consider it appropriate to include various provisions in an AD applicable to a single operator's unique use of its airplanes. Paragraph (d) of this AD provides for the approval of alternative methods of compliance to address these types of unique circumstances. Further, this commenter does not compile sufficient data for each of its airplanes so that an individual airplane's age and inspection requirements can be adequately evaluated.

One commenter requests that the reporting requirement in proposed paragraph (b)(4) be revised to clarify that "all inspection results (negative or positive)" includes reporting the results of findings of discrepancies. The FAA does not concur. Section 2 of Volume III–94 of the SID provides detailed instructions for reporting the results of all inspection findings, including findings of discrepancies.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 419 Model DC–10 series airplanes and KC–10A (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 249 airplanes of U.S. registry and 13 U.S. operators will be affected by this AD.

The incorporation of the SID program into an operator's maintenance program, as required by AD 93–17–09, takes approximately 1,270 work hours (per operator), at an average labor rate of $60 per work hour. Based on these figures, the cost to the 13 affected U.S. operators to incorporate the SID program is estimated to be $990,600.

The incorporation of the revised procedures in this AD action will take approximately 20 additional work hours per operator to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost to the 13 affected U.S. operators to incorporate these revised procedures into the SID program into an operator's maintenance program is estimated to be $15,600, or $1,200 per operator.

The recurring inspection costs, as required by AD 93–17–09, are estimated to be 365 work hours per airplane per year, at an average labor rate of $60 per work hour. Based on these figures, the recurring inspection costs required by AD 93–17–09 are estimated to be $21,900 per airplane, or $5,453,100 for the affected U.S. fleet.

Since no new recurring inspection procedures have been added to the program by this new AD action, there is no additional economic burden on affected operators to perform any additional recurrent inspections.

Based on the above figures, the cost impact of this AD on U.S. operators is estimated to be $5,468,700 for the first year, and $5,453,100 for each year thereafter. These "cost impact" figures assume that no operator has yet accomplished any of the requirements of this AD. However, it can be reasonably assumed that a majority of the affected operators have already initiated the SID program (as required by AD 93–17–09).

Additionally, the number of required work hours for each inspection (and the SID program), as indicated above, is presented as if the accomplishment of those actions were to be conducted as "stand alone" actions. However, in actual practice, these actions for the most part will be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional work hours will be minimal in many instances. Further, any costs associated with special airplane scheduling can be expected to be minimal.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8680 (58 FR 54949, October 25, 1993), and by adding a new airworthiness directive (AD), amendment 39–9429, to read as follows:

95–23–09 McDonnell Douglas: Amendment 39–9429. Docket 94–NM–244–AD. Supersedes AD 93–17–09, Amendment 39–8680.

Applicability: Model DC–10 series airplanes and KC–10A (military) airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure the continuing structural integrity of these airplanes, accomplish the following:

(a) Within 6 months after November 24, 1993 (the effective date of AD 93–17–09, amendment 39–8680), incorporate a revision into the FAA-approved maintenance inspection program which provides for inspection(s) of the Principal Structural Elements (PSE's) defined in Section 2 of Volume I of McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," Revision 3, dated December 1992, in accordance with Section 2 of Volume III–92, dated October 1992, of the SID. The non-destructive inspection (NDI) techniques set forth in Section 2 and Section 4 of Volume II, Revision 3, dated December 1992, of the SID provide acceptable methods for accomplishing the inspections required by this paragraph. All inspection results (negative or positive) must be reported to McDonnell Douglas, in accordance with the instructions contained in Section 2 of Volume III–92, dated October 1992, of the SID. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For those Fleet Leader Operator Sampling (FLOS) PSE's that do not have a Normal Maintenance Visual Inspection specified in Section 4 of Volume II, Revision 3, dated December 1992, of the SID, the procedure for general visual inspection is as follows: Perform an inspection of the general PSE area for cleanliness, presence of foreign objects, security of parts, cracks, corrosion, and damage.

(2) For PSE's 53.10.031E/.032E, 53.10.047E/.048E, and 57.10.029E/.030E: The ENDDATE for these PSE's is October 1993. (For these PSE's, disregard the June 1993 ENDDATE specified in Section 2 of Volume III–92, dated October 1992, of the SID.)

(b) Within 6 months after the effective date of this AD, replace the revision of the FAA-approved maintenance inspection program required by paragraph (a) of this AD with a revision that provides for inspection(s) of the PSE's defined in Section 2 of Volume I of McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," Revision 5, dated October 1994, in accordance with Section 2 of Volume III–94, dated November 1994, of the SID. The NDI techniques set forth in Section 2 of Volume II, Revision 5, dated October 1994, of the SID provide acceptable methods for accomplishing the inspections required by this paragraph.

(1) Prior to reaching the threshold (N_{th}), but no earlier than one-half of the threshold ($N_{th}/2$), specified for all PSE's listed in Volume III–94, dated November 1994, of the SID, inspect each PSE sample in accordance with the NDI procedures set forth in Section 2 of Volume II, Revision 5, dated October 1994. Thereafter, repeat the inspection for that PSE at intervals not to exceed DNDI/2 of the NDI procedure that is specified in Volume III–94, dated November 1994, of the SID.

(2) This AD does not require visual inspections of FLOS PSE's on airplanes listed in Volume III–94, dated November 1994, of the SID planning data at least once during the specified inspection interval, in accordance with Section 2 of Volume III–94, dated November 1994, of the SID.

(3) For PSE's 53.10.055/.056E, 55.10.013/.014B, 53.10.005/.006E, 53.10.031/.032E, 53.10.047/.048E, 57.10.029/.030E: The EDATE for these PSE's is June 1998. (For these PSE's, disregard the June 1996 EDATE specified in Section 2, of Volume III–94, dated November 1994, of the SID.)

(4) All inspection results (negative or positive) must be reported to McDonnell Douglas in accordance with the instructions contained in Section 2 of Volume III–94, dated November 1994, of the SID. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(c) Any cracked structure detected during the inspections required by paragraph (a) or (b) of this AD must be repaired before further flight, in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 1: Requests for approval of any PSE repair that would affect the FAA-approved maintenance inspection program required by this AD should include a damage tolerance assessment for that PSE repair.

(d) (1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(2) Alternative methods of compliance previously granted for AD 93–17–09, amendment 39–8680, continue to be considered as acceptable alternative methods of compliance with this amendment.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The actions shall be done in accordance with McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," Volume I, Revision 5, dated October 1994, Volume II, Revision 5, dated October 1994, and Volume III–94, dated November 1994; and McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," Volume I, Revision 3, dated December 1992, Volume II, Revision 3, dated December 1992, and Volume III–92, dated October 1992. The incorporation by reference of McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," Volume I, Revision 5, dated October 1994, Volume II, Revision 5, dated October 1994, and Volume III–94, dated November 1994; which contains the following list of effective pages:

Volume number referenced and date	Page No.	Revision level shown on page	Date shown on page
I—All Series, Revision 5, October 1994	List of Effective Pages A, B, C, D, E, and F.	5	October 1994.
II—All Series, Revision 5, October 1994	List of Effective Pages A, B, C, D, E, F, G, H, J, K, L, M, N, O, and P.	5	October 1994.
III–94—All Series, Original November 1994	Entire Document	Original	November 1994.

The incorporation by reference of McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," Volume I, Revision 5, dated October 1994, Volume II, Revision 5, dated October 1994, and Volume III–94, dated November 1994; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The incorporation by reference of McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," Volume I, Revision 3, dated December 1992, Volume II, Revision 3, dated December 1992, and Volume III–92, dated October 1992, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of November 24, 1993 (58 FR 54949, October 25, 1993). Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–1771, Attention: Business Unit Manager, Contract Data Management C1–255 (35–22). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(g) This amendment becomes effective on January 2, 1996.

Issued in Renton, Washington, on November 6, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–29328 Filed 11–30–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 95–AWP–23]

Establishment of Class E Airspace; Springerville, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class E airspace area at Springerville, AZ. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 21 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Springerville/Babbitt Field Airport, Springerville, AZ.

EFFECTIVE DATE: 0901 UTC, February 29, 1996.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP 530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6533.

SUPPLEMENTARY INFORMATION:

History

On October 10, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class E airspace area at Springerville, AZ (60 FR 52637). The development of a GPS SIAP at Springerville/Babbitt Field Airport has made this action necessary.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. Class E airspace designations listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes a Class E airspace area at Springerville, AZ. The development of a GPS SIAP at Springerville/Babbitt Field Airport has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for aircraft executing the GPS RWY 21 SIAP at Springerville/Babbitt Field Airport, AZ.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Springerville, AZ [New]

Springerville/Babbit Field Airport, AZ
(lat. 34°07'43" N, long. 109°18'41" W)

That airspace extending upward from 700 feet above the surface within a 4.2-mile radius of Springerville/Babbit Field Airport; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 34°09'00" N, long. 109°28'00" W; to lat. 34°19'00" N, long. 109°00'00" W; to lat. 34°03'00" N, long. 109°05'00" W; to lat. 34°03'00" N, long. 109°28'00" W, thence to the point of beginning.

* * * * *

Issued in Los Angeles, California, on November 21, 1995.

James H. Snow,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 95–29349 Filed 11–30–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–AWP–8]

Establishment of Class E Airspace; Mammoth Lakes, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace areas at Mammoth Lakes, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 27 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Mammoth Lakes Airport, Mammoth Lakes, CA.

EFFECTIVE DATE: 0901 UTC February 29, 1996.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6533.

SUPPLEMENTARY INFORMATION:

History

On October 17, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace areas at Mammoth Lakes, CA (60 FR 53724). The development of a GPS SIAP at Mammoth Lakes Airport has made this action necessary.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in Paragraphs 6002 and 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. Class E airspace designations listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace areas at Mammoth Lakes, CA. The development of a GPS SIAP at Mammoth Lakes Airport has made this action necessary. The intended effect of this action is to provide adequate Class E airspace for aircraft executing the GPS RWY 27 SIAP at Mammoth Lakes Airport, Mammoth Lakes, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area or an airport.

* * * * *

AWP CA E2 Mammoth Lakes, CA [New]

Mammoth Lakes Airport, CA
(lat. 37°37'26" N, long. 118°50'19"W)

Within a 4.1-miles radius of the Mammoth Lakes Airport and within 1.8 miles each side of the 099° bearing from the Mammoth Lakes Airport, extending from the 4.1-miles radius to 5.6 miles southeast of the Mammoth Lakes Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Mammoth Lakes, CA [New]

Mammoth Lakes Airport, CA
(lat. 37°37'26" N, long. 118°50'19" W)

That airspace extending upward from 700 feet above the surface within a 4.1-mile radius of the Mammoth Lakes Airport and within 1.8 miles each side of the 099° bearing from the Mammoth Lakes Airport, extending from the 4.1-miles radius to 5.6 miles southeast of the Mammoth Lakes Airport. That airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at lat. 37°49'00" N, long. 118°58'00" W; to lat. 37°49'00" N, long. 119°13'00" W; to lat. 38°10'00" N, long.

119°13'00" W; to lat. 36°10'00" N, long. 118°34'00" W, thence to the point of beginning.

* * * * *

Issued in Los Angeles, California, on November 21, 1995.

James H. Snow,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 95–29348 Filed 11–30–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 93F–0166]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of pyromellitic dianhydride as a modifier in the manufacture of polyethylene terephthalate copolymers intended for food-contact applications. This action is in response to a petition filed by M. & G. Ricerche S.p.A.

DATES: Effective December 1, 1995; written objections and requests for a hearing by January 2, 1996.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 12, 1993 (58 FR 42975), FDA announced that a food additive petition (FAP 3B4375) had been filed by M. & G. Ricerche, S.p.A., c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001 (formerly c/o Delta Analytical Corp., 7910 Woodmont Ave., suite 1000, Bethesda, MD 20814). The petition proposed to amend the food additive regulations in § 177.1630 *Polyethylene phthalate polymers* (21 CFR 177.1630) to provide for the safe use of pyromellitic dianhydride as a modifier in the manufacture of polyethylene terephthalate copolymers intended for food-contact applications.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use in polyethylene terephthalate food-contact articles is safe, and the regulation in § 177.1630 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before January 2, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 177.1630 is amended in paragraph (e)(4) by alphabetically adding a new substance to paragraph (i) in the "List of Substances and Limitations" to read as follows:

§ 177.1630 Polyethylene phthalate polymers.

* * * * *

(e) * * *

(4) * * *

List of Substances and Limitations

(i) * * *

Ethylene terephthalate copolymers: Prepared by the condensation of dimethyl terephthalate or terephthalic acid with ethylene glycol, modified with one or more of the following: Azelaic acid, dimethyl azelate, dimethyl sebacate, sebacic acid, pyromellitic dianhydride. The level of pyromellitic dianhydride shall not exceed 0.5 percent by weight of the finished copolymer which may be used under conditions of use E through H as described in Table 2 of § 176.170(c) of this chapter.	

* * * * *

Dated: November 21, 1995.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–29219 Filed 11–30–95; 8:45 am]

BILLING CODE 4160–01–F

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 253

[Docket No. 95–3 CARP]

Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office of the Library of Congress announces a cost of living adjustment of 2.8% in the royalty rates paid by colleges, universities, or other nonprofit educational institutions that are not affiliated with National Public Radio, for the use of copyrighted published nondramatic musical compositions. The cost of living adjustment is based on the change in the Consumer Price Index from October, 1994, to October, 1995.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, or Tanya Sandros, Copyright Arbitration Royalty Panel Specialist, at Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: On December 22, 1992, the Copyright Royalty Tribunal published in the **Federal Register** final rules governing the terms and rates of copyright royalty payments with respect to certain uses by noncommercial educational broadcast stations of published nondramatic musical works and published pictorial, graphic and sculptural works. 57 FR 60957 (December 22, 1992). The Copyright Royalty Tribunal determined in that proceeding that colleges, universities, and other noneducational institutions which are not affiliated with National Public Radio would pay a royalty rate adjusted each year according to changes in the Consumer Price Index for the use of copyrighted published nondramatic musical compositions. 37 CFR 304.10. Accordingly, the Tribunal published a cost of living adjustment on December 1, 1993. 58 FR 63294 (December 1, 1993).

On December 17, 1993, Congress abolished the Copyright Royalty Tribunal. Copyright Royalty Tribunal Reform Act of 1993 (CRT Reform Act), Public Law 103–198, 107 Stat. 2304. The CRT Reform Act directed the Library of Congress and the Copyright Office to adopt the rules and regulations of the CRT as found in 37 CFR Chapter III. 17 U.S.C. 802(d). The Office subsequently reissued the CRT regulations on December 22, 1993. 58 FR 67690 (December 22, 1993).

In a later action, former 37 CFR 304.10, which calls for the annual cost of living adjustments to rates paid by college and university radio stations, was renumbered 37 CFR 253.10. 59 FR 23964 (May 9, 1994).

Accordingly, the Copyright Office of the Library of Congress is hereby performing the annual cost of living adjustment pursuant to the 1992 public broadcasting rate adjustment proceeding.

The change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published before December 1, 1994, to the most recent Index published before December 1, 1995, was 2.8% (1994's figure was 149.5; 1995's figure was 153.7, based on 1982–1984=100 as a reference base). Rounding off to the nearest dollar, the adjustment in the royalty rate for the use of musical compositions in the repertory of ASCAP and BMI is $211 each and $49 for the use of musical compositions in the repertory of SESAC.

List of Subjects in 37 CFR Part 253

Copyright, Radio, Television.

PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

1. The authority citation for part 253 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1) and 803.

2. Section 253.5 is amended by revising paragraphs (c)(1) through (c)(3).

§ 253.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

* * * * *

(c) * * *

(1) For all such compositions in the repertory of ASCAP, $211 annually.

(2) For all such compositions in the repertory of BMI, $211 annually.

(3) For all such compositions in the repertory of SESAC, $49 annually.

* * * * *

Dated: November 21, 1995.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 95–29145 Filed 11–30–95; 8:45 am]

BILLING CODE 1410–33–P

37 CFR Part 255

[Docket No. RM 95–4 CARP]

Digital Performance Right in Sound Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Initiation of voluntary negotiation period and final rule.

SUMMARY: The Copyright Office is initiating the six month voluntary negotiation period for negotiating terms and rates for a compulsory license for digital subscription transmissions, and adopting the rate for a compulsory license for digital phonorecord delivery as required by the Digital Performance Right in Sound Recordings Act of 1995.

DATES: The effective date of this document is December 1, 1995. The initiation of the six month voluntary negotiation period is December 1, 1995. The effective date of the rate for digital phonorecord deliveries is February 1, 1996.

ADDRESSES: Copies of voluntary license agreements and petitions, if sent by mail, should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. If hand delivered, they should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM–407, First and Independence Avenue, S.E. Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT: Marilyn Kretsinger, Acting General Counsel, or William Roberts, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024, (202) 707–8380.

SUPPLEMENTARY INFORMATION: On November 1, 1995, the President signed into law the "Digital Performance Right in Sound Recordings Act of 1995" ("Digital Performance Act"), Pub. L. 104–39. The Digital Performance Act creates an exclusive right for copyright owners of sound recordings, subject to certain limitations, to perform publicly the sound recordings by means of certain digital audio transmissions. *See* 17 U.S.C. 106(6).

Among the limitations on the performance of a sound recording publicly by means of a digital audio transmission is the creation of a new compulsory license for nonexempt subscription transmissions. The Digital Performance Act defines a "subscription transmission" as one that "is a transmission that is controlled and limited to particular recipients, and for which consideration is required to be paid or otherwise given by or on behalf of the recipient to receive the transmission or a package of transmissions including the transmission." 17 U.S.C. 114(j)(8). All nonexempt subscription transmissions are eligible for section 114 compulsory licensing provided they are not made by an "interactive service," which is defined in part as "one that enables a member of the public to receive, on request, a transmission of a particular sound recording chosen by or on behalf of the recipient." *See* 17 U.S.C. 114(j)(4).

The terms and rates of the section 114 statutory license are determined by voluntary negotiation among the affected parties and, where necessary, compulsory arbitration conducted under chapter 8 of the Copyright Act. The voluntary negotiation period was triggered on enactment of the Digital Performance Act, which directs the Librarian of Congress, within 30 days of enactment, to publish in the **Federal Register** a notice initiating "voluntary negotiation proceedings for the purpose of determining reasonable terms and rates of royalty payments * * *" 17 U.S.C. 114(f)(1). The voluntary negotiation period is to last for six months, and any terms and rates negotiated during the period are to be effective from February 1, 1996, the effective date of the Digital Performance Act,[1] through December 31, 2000. The Digital Performance Act requires that the terms and rates should be established separately for each different type of digital audio transmission service then in operation, but does not require or suggest that the terms and rates established must be different. The negotiations between copyright owners of sound recordings and the entities performing such recordings under the § 114 license are to be governed by the provisions of section 114(e) (which grants the negotiating parties an antitrust exemption), and each party is responsible for bearing its own costs.

In the legislative history to the Digital Performance Act, the Committee expressed hope that the voluntary negotiation period will lead to an industry-wide agreement concerning royalty terms and rates. S. Rep. No. 128, 104th Cong., 1st Sess. 29 (1995). If an agreement as to rates and terms is reached and there is no further controversy, then it is not necessary for the parties to submit to arbitration. In such cases, the Librarian of Congress will follow current rate regulation procedures and notify the public of the proposed agreement in a notice and comment proceeding and, if no opposing comment is received from a party with a substantial interest and intent to participate in an arbitration proceeding, the Librarian will adopt the terms and rates embodied in the agreement without convening a copyright arbitration royalty panel. 37 CFR 251.63(b). If, however, no industry-wide agreement is reached, or only certain parties negotiate license agreements, then those copyright owners and entities performing sound recordings not subject to a voluntary agreement shall be bound by the terms and rates set by a CARP. Arbitration proceedings are initiated upon the filing of a petition for ratemaking with the Librarian of Congress during the 60 days immediately following the six month voluntary negotiation period. Arbitration cannot take place without the filing of a petition even if no voluntary license agreements are negotiated.

[1] The effective date of the Digital Performance Act is February 1, 1996, with the exception of sections 114 (e) and (f) of the law, which became effective upon date of enactment.

Initiation of Voluntary Negotiations

Pursuant to 17 U.S.C. 114(f)(1), the Copyright Office of the Library of Congress is initiating the six month voluntary negotiation period for sound recording copyright owners and entities that perform or authorize the performance of sound recordings by means of nonexempt digital subscription transmissions. The negotiation period is to run from December 1, 1995 to June 1, 1996. Parties which negotiate a voluntary license agreement during this period are encouraged to submit two copies of the agreement to the Copyright Office at the above listed address within 30 days of its execution.

Petitions

Pursuant to 17 U.S.C. 114(f)(2), those sound recording copyright owners and entities that perform or authorize the performance of sound recordings by means of nonexempt digital transmissions and who have not negotiated license agreements under section 114(f)(1) are subject to arbitration upon the filing of a petition. Only those parties with a significant interest in the establishment of terms and rates for the section 114 license may file a petition. Petitions must be submitted in accordance with 17 U.S.C. 803(a)(1), and may be filed at any time during the period commencing on June 2, 1996, and ending on August 1, 1996. Petitions should be submitted to the Copyright Office at the address listed in this notice. The petitioner must deliver an original and five copies of the petition to the Office.

If all the affected parties negotiate a single industry-wide agreement during the period described in section 114(f)(1), they must petition the Librarian of Congress for acceptance of the agreement during the same 60 day period. The Librarian will then follow the notice and comment procedures of 37 CFR 251.63(b). If a party with a significant interest and an intent to participate in an arbitration proceeding files an objection to the agreement during the notice and comment proceeding, then the Librarian shall initiate an arbitration proceeding in accordance with chapter 8 of the Copyright Act and 37 CFR 251 part.

Digital Phonorecord Delivery

The Digital Performance Act also provides that the section 115 compulsory license to make and distribute phonorecord includes the right of the compulsory licensee to make or authorize digital phonorecord deliveries. The Act identifies that the rate for all digital phonorecord deliveries made or authorized under a compulsory license on or before December 31, 1997, shall be the same as the rate in effect for the making and distribution of a physical phonorecord.[2] As a result, the Office is amending part 255 of its rules to reflect the new royalty rate for digital phonorecord deliveries, and to adopt the same definition of digital phonorecord delivery as appears in the Digital Performance Act. The effective date of the rule change is February 1, 1996, the date on which the Digital Performance Act takes effect.

Good Cause Finding

Section 553(b)(3)(B) states that notice of a proposed rulemaking is not required "when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."

Because the Digital Performance Act requires that the new rate for digital phonorecord deliveries is to be the same as for the making and distribution of physical phonorecords until December 31, 1997, the Office is without any discretion in the matter. Therefore, it would be impracticable, unnecessary, and contrary to the public interest to solicit comments on a rule that is mandated by law.

List of Subjects in 37 CFR Part 255

Copyright, Recordings.

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR part 255 as follows:

PART 255—ADJUSTMENT OF ROYALTY PAYABLE UNDER COMPULSORY LICENSE FOR MAKING AND DISTRIBUTING PHONORECORDS

1. The authority citation for part 255 continues to read as follows:

[2] After December 31, 1997, the rate for digital phonorecord deliveries could be the same or different than the rate for making and distributing a physical phonorecord, depending on the outcome of negotiations or CARP proceedings scheduled to take place that year.

Authority: 17 U.S.C. 801(b)(1) and 803.

2. Section 255.1 is revised to read as follows:

§ 255.1 General.

This part 255 adjusts the rates of royalties payable under the compulsory license for making and distributing phonorecords, including digital phonorecord deliveries, embodying nondramatic musical works, under 17 U.S.C. 115.

3. A new § 255.4 is added to read as follows:

§ 255.4 Definition of digital phonorecord delivery.

A "digital phonorecord delivery" is each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording, regardless of whether the digital transmission is also a public performance of the sound recording or any nondramatic musical work embodied therein. A digital phonorecord delivery does not result from a real-time, noninteractive subscription transmission of a sound recording where no reproduction of the sound recording or the musical work embodied therein is made from the inception of the transmission through to its receipt by the transmission recipient in order to make the sound recording audible.

4. A new § 255.5 is added to read as follows:

§ 255.5 Royalty rate for digital phonorecord deliveries.

For every digital phonorecord delivery made on or before December 31, 1997, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 6.95 cents, or 1.3 cents per minute of playing time or fraction thereof, whichever amount is larger.

Dated: November 24, 1995.

Marilyn Kretsinger,

Acting General Counsel.

Approved:

James H. Billington,

The Librarian of Congress.

[FR Doc. 95–29146 Filed 11–30–95; 8:45 am]

BILLING CODE 1410–33–P

37 CFR Part 259

[Docket No. 94–3 CARP]

Representation for Claiming DART Royalties in Musical Works

AGENCY: Copyright Office, Library of Congress.

ACTION: Amendment of regulation and policy statement.

SUMMARY: The Copyright Office currently requires a performing rights organization to have separate, specific and written authorization from its members or affiliates in order to file a claim on behalf of its members for DART royalties in the Musical Works Fund. The performing rights organization had sought reconsideration of this rule. This document establishes that the Office retains this practice, but amends the rule and applies the requirement to all organizations and associations that act as common agents for the purposes of filing claims, negotiating settlements and receiving digital royalties on behalf of their members or affiliates. Under this amended rule, organizations and associations that act only as common agents must specify in their claim how the parties entitled to receive royalties, i.e., their members or affiliates, fit the definition of interested copyright party under the Act.

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, or Tanya Sandros, CARP Specialist. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, Congress enacted the Audio Home Recording Act (AHRA). This Act requires manufacturers and importers to pay royalties on digital audio recording devices and media (DART) that are distributed in the United States. The royalties are deposited with the Copyright Office and distributed in one of two ways. Parties may negotiate settlements among themselves; or if they cannot settle, a Copyright Arbitration Royalty Panel (CARP), convened by the Copyright Office (hereafter "Office"), and the Librarian of Congress, allocates royalty payments among the joint and individual claimants.

To qualify for DART royalties, interested copyright parties entitled to receive funds under section 1006 must file a claim in January or February of each calendar year for royalties collected during the preceding year. 17 U.S.C. 1006(a)(2), 1007(a)(1). The DART royalties are divided into two funds—the Sound Recording Fund, which accounts for 66⅔% of the royalties, and the Musical Works Fund, which accounts for the remaining 33⅓% of the royalties.

The Copyright Royalty Tribunal (CRT) had the original authority to promulgate the rules and regulations to administer the AHRA. Shortly after the October 28, 1992, enactment of the AHRA, the CRT faced the issue of defining the extent of proof required of a performing rights organization to demonstrate that it had the proper authorization to represent its members or affiliates before the CRT in a DART proceeding. The CRT invited public comment in an Advance Notice of Rulemaking. 57 FR 54542 (November 19, 1992). On January 29, 1993, the CRT adopted a rebuttable presumption that performing rights organizations represented their respective members or affiliates in royalty proceedings for the 1992 fund. 58 FR 6441, 6444 (January 29, 1993). The interim regulations also directed the parties to file a report, by June 1, 1993, on this issue. Subsequently, on October 18, 1993, the CRT published final regulations which required performing rights organizations to obtain separate, specific, written authorization from its members. 58 FR 53822 (October 18, 1993); 37 CFR 259.2 (formerly 37 CFR 311.2).

On November 3, 1993, the American Society of Composers, Authors, and Publishers (ASCAP), Broadcast Music, Inc. (BMI) and SESAC, Inc. (SESAC) filed with the CRT a petition to reopen for reconsideration the rulemaking proceeding that resulted in the CRT's final rule. On December 3, 1993, the CRT officially held the petition in abeyance. Order, dated December 3, 1993, In the Matter of Digital Recording Technology Act; Implementation, CRT Docket No. 92–3 DART.

Shortly thereafter, on December 17, 1993, the President signed the Copyright Royalty Tribunal Reform Act of 1993, Public Law 103–198, 107 Stat. 2304, thereby eliminating the CRT and replacing it with a system of ad hoc Copyright Arbitration Royalty Panels administered by the Librarian of Congress and the Copyright Office. The new Act directed the Librarian of Congress to convene CARPs to adjust rates and distribute royalties, *see* 17 U.S.C. 111, 115, 116, 118, 119 and Chapter 10, and to immediately adopt the rules and regulations of the former CRT. In response to these directions, the Copyright Office issued a notice adopting the full text of the rules and regulations of the former CRT on an

interim basis. 58 FR 67690 (December 22, 1993).

On January 18, 1994, the Copyright Office published proposed regulations that revised the adopted CRT rules and adapted them for the administration of the new ad hoc arbitration panels. 59 FR 2550 (January 18, 1994). At this time, the Office concluded that it was not a successor agency of the CRT, and would therefore, not continue any matter before the CRT at the time the CRT Reform Act became law. Instead, parties who had issues pending before the Tribunal would need to initiate new action under the rules and regulations governing the administration of the CARPs.

On February 15, 1994, the performing rights organizations filed a comment with the Copyright Office seeking reconsideration of the rule, now adopted by the Copyright Office, that required separate, specific, written authorization from the members of the performing rights societies. In the Matter of Copyright Arbitration Royalty Panels; Rules and Regulations, Copyright Office Docket No. RM 94–1. Essentially, in response to our Notice of Proposed Rulemaking, the performing rights organizations asked that their comments either serve to reopen the CRT's former rulemaking proceeding or that the Office consider the matter anew. PRO Comment at 4. The Gospel Music Coalition and Copyright Management, Inc. filed a joint reply on February 23, 1994, to the performing rights organizations' comment and opposed reconsideration of the issue. Id.

On May 9, 1994, the Copyright Office issued interim regulations which noted that the Office considered the performing rights organizations' comment as a petition for reconsideration of a pending CRT matter and would consider the petition anew in a separate rulemaking. 59 FR 23964, 23966 (May 9, 1994). Subsequently, the Office initiated a review of the rule with a request for comments on the issue of whether performing rights organizations need specific, separate, written authorization to represent their members' or affiliates' interest in the collection and distribution of DART royalties. 59 FR 63043 (December 7, 1994).

II. The Parties

The American Society of Composers, Authors and Publishers ("ASCAP"), Broadcast Music, Inc. ("BMI"), and SESAC, Inc. (SESAC) (collectively, "Performing Rights Organizations or PRO") filed joint comments advocating the adoption of a rebuttable presumption of agency between the Performing Rights Organizations and their members or affiliates for the collection and distribution of royalties.

The Gospel Music Coalition ("GMC") and James Cannings filed comments with the former CRT supporting the present requirement for specific, separate, written authorization. In response to the notice for comments in this proceeding, GMC and Mr. Cannings requested that these former comments be incorporated into the present review.

III. Discussion

Section 1007(a)(1) of the Copyright Code defines the class of eligible claimants as "every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006."

Section 1006 describes the entitlement to royalties as belonging to those interested copyright parties whose works were embodied in a digital or analog musical recording, and distributed, or disseminated to the public in transmissions.

Therefore, a performing rights society is not eligible by itself to file claims because it does not own the works described in section 1006. However, it could be eligible to file claims if it were authorized by someone who does own a work described in section 1006.

This was explained in the House Report:

> Section 1001(7)(D) refers to * * * (4) any association or organization that is 'engaged in licensing rights in musical works to music users on behalf of writers and publishers,' i.e., performing rights societies such as ASCAP and BMI. These various associations and organizations are not themselves directly entitled to receive royalties; only those individuals or organizations specified in section 1006(a) receive royalties directly. Nevertheless, these associations and organizations may be designated as common agents to negotiate and receive payment for royalties on behalf of others pursuant to section 1007(a)(2) * * *. For example, with respect to the 50 percent of the Musical Works Fund allocated to writers, writers eligible to file a claim can negotiate among themselves regarding who should receive how much of the 50 percent, or could appoint common agents, for example, one of the interested copyright parties defined in section 1007(7)(D), to negotiate and *file claims on their behalf* (emphasis ours). H.R. Rep. No. 873, 102nd Cong., 2d Sess. 23 (1992).

The issue, therefore, is, not whether a performing rights society can file claims by itself. Clearly, it can not. The issue is whether it can file claims on behalf of its members or affiliates based on a rebuttable assumption that its members or affiliates have granted it the authority to do so, or whether a specific, separate, written authorization to represent a member or affiliate is required.

Previously rulings requiring a performing rights society to obtain specific, separate, written authorizations were based on the fact a performing rights society represent its members or affiliates for the public performing right only, and not for any other right. Because the DART royalty was intended as a compensation for the reproduction right (i.e., home taping), the former Copyright Royalty Tribunal could not conceptually accept the performing rights societies' assertion that they had a right to represent their members or affiliates based on a rebuttable assumption.

However, throughout the rulemaking proceedings for the regulations governing the administration of the AHRA, the performing rights organizations have argued strenuously for a rebuttable presumption of agency which would allow them to file for royalties on behalf of their members or affiliates without specific authorization. The past three filing periods, the former CRT and the Copyright Office granted the presumption for the filing years in question to these organizations for two fundamental reasons: (1) To avoid disenfranchising an unwary claimant, and (2) to grant sufficient time to the performing rights organizations to complete the enormous task of contacting their members and obtaining the necessary authorization.

The Office shares the PROs concern over disenfranchising an unwary claimant, but believes the strength of this argument has steadily diminished over time. Similarly, the Office believes the performing rights organizations have had sufficient time to obtain the proper authorization. In fact, the performing rights organizations have had over two years to meet the requirements of the disputed rule, since it went into effect on October 18, 1993. 58 FR 53822. Therefore, the Office no longer finds these reasons, which are still put forth by the performing rights organizations, see PRO Comment 1 at 4, compelling; and now seeks to equalize the filing process with respect to all organizations and associations that file on behalf of their members.

In support of their position, the performing rights organizations have argued that their members do not distinguish their right to recover royalties under DART from their right to recover royalties under the compulsory licenses, especially in light of the historical practice where a performing rights organization represented its members' interests before the former CRT in cable, satellite, and jukebox

distribution proceedings and noncommercial educational broadcasting proceedings. Id.

While this observation may be valid, the Office notes that, historically, these organizations have represented their members' only for their public performance rights in the designated proceedings, and not the reproduction right addressed under DART.

The Office does not find that any misunderstanding on the part of a member as to the performing rights organization role vis-a-vis the former CRT, and now the Copyright Office, can be a valid basis for a rebuttable presumption. Furthermore, the Office believes the performing rights societies have had sufficient time to correct any misunderstanding.

Alternatively, the PRO argue that the regulation imposes a penalty on their members because the performing rights societies use broad, generalized agency terms in place of specific language that directly addresses the right to collect royalties under AHRA. Id. To that extent, § 259.2(c)(2) which we are adopting here does permit general agency terms to be sufficient if a court with the authority to interpret a PRO contract rules that the terms in question do extend to the filing of claims for DART royalties.

Under the regulation which requires separate, written and specific authorization, the Office provides an exception. The exception allows the membership or affiliation agreement to authorize the performing rights organization to represent its members before the Copyright Office or the Copyright Arbitration Royalty Panel in royalty filing and fee distribution proceedings, and pointedly does not require the agreement to articulate which exclusive right under the Copyright Act of 1976 the organization represents. 37 CFR 259.2(c)(1).

This exception supports an earlier argument raised by Mr. James Cannings, and incorporated by reference in the present proceeding, which asserted that the standard agreements between performing rights societies and their members did not grant a society an automatic right to represent its members before the Tribunal. See Cannings comment to Interim Regulations, 58 FR 6441 (January 29, 1993). While the Office cannot interpret the terms of the membership contracts, the Office will accept express statements in a membership agreement which authorize the organization to represent a member before the Copyright Office or a CARP as an appropriate grant of authority to the performing rights society to act on behalf of the signatory.

Another earlier argument raised by GMC in support of the present regulation concerned the confusion arising from duplicative and overlapping claims. GMC comment and reply comment to NPRM, 57 FR 54542, (November 18, 1992). The Office finds this argument moot under the present regulations, since it requires all joint claimants to file a list of all individual claimants to the joint claim. This requirement allows the parties to spot overlapping claims quickly and to resolve the issue among themselves.

Additionally, the Gospel Music Coalition has argued on several occasions that the rebuttable presumption allows the performing rights societies to file on behalf of all its members, whether entitled or not under the Act, thereby inflating the magnitude of their initial claim. See GMC comment and reply comment to NPRM, 57 FR 54542 (November 18, 1992); and GMC comment to Interim Regulations, 58 FR 6441 (January 29, 1993). The Office concurs and acknowledges the fact that to allow the performing rights organizations to avail themselves continually of the rebuttable presumption grants the performing rights societies a preferential position in the filing process.

The PRO state a corollary to this argument and assert that failure to grant the rebuttable presumption will create a windfall for the other claimants at the expense of unsuspecting, disenfranchised claimants. The Office recognizes that both positions depict potential outcomes under different final rules, but neither argument addresses the main concerns underpinning the current rule; namely, the language and intent of the Act.

On another front, the PRO stress that the adoption of a permanent rebuttable inference of agency will not impair the rights of individuals to file their own claim, or join their claims together. See PRO Comment at 7. While the Office agrees with this statement, the Office cannot reconcile the use of the inference with the plain language of the Act and its intent as depicted in the underlying legislative history. Clearly, the Act contemplated a process where an individual takes the initiative to file on his or her own behalf, or expressly authorizes a common agent to act on his or her behalf.[1]

The Office does not refute the Performing Rights Organizations' assertion that Congress recognized a licensing association or organization's status as an interested copyright party. But recognition of this fact still does not provide adequate grounds for allowing a performing rights organization to assert a rebuttal inference of agency when the statute clearly denies it a right to file a claim or negotiate on behalf of its members without an express grant of authority.

In fact, Congress made no presumptions about the agency status of any organization or association which (1) represents parties entitled to royalties under AHRA, or (2) engages in licensing rights in musical works to music users on behalf of writers and publishers, i.e., an interested copyright party under 17 U.S.C. 1001(7)(D). As GMC pointed out, the language in the Act and the legislative history merely permits the performing rights organizations to act as common agents, if so designated. See discussion of GMC comment and reply to NPRM, 57 FR 54542, (November 18, 1992). The Copyright Office agrees with this interpretation and will not open a door which Congress expressly left closed.

For all the reasons stated above, the Copyright Office affirms the original regulation requiring separate, specific and written authorization and applies the rule to all organizations and associations acting as common agents, and thereby declines to grant a permanent, rebuttable inference of agency to the performing rights organizations.

IV. Clarification of a Filing Requirement

The Copyright Office further notes that organizations and associations that are interested copyright parties pursuant to 17 U.S.C. 1001(7)(D) are not entitled to file claims on their own behalf unless the organization or association is also an interested copyright party as defined under 17 U.S.C. 1001(7)(A), (B) or (C). These organizations and associations, however, may act as common agents on behalf of their members or affiliates, if so authorized. But, common agents, which are also interested copyright parties under the Act, cannot satisfy the requirement under 37 CFR 259.3(a)(3), to state "how the claimant fits within the definition of interested copyright party pursuant to 17 U.S.C. 1001(7)" by stating that the common agent is an interested copyright party pursuant to

[1] Performing rights organizations, which are interested copyright parties under the Act pursuant to 17 U.S.C. 1001(7)(D), are never mentioned in section 1006, much less granted agency status for purposes of filing claims for their members. Additional support for this interpretation is found in 17 U.S.C. 1007(a)(2) which allows interested copyright parties specified in section 1006(b) to designate a common agent, including any organization described in section 1001(7)(D), to negotiate or receive payment on their behalf.

17 U.S.C. 1001(7)(D). Rather, the common agent must state how its members or affiliates, who are the actual claimants, fit into the definition of interested copyright party under 17 U.S.C. 1001(7)(A), (B) or (C) in order to satisfy this filing requirement.

Additionally, the Copyright Office requires only a concise statement of the authorization for the filing of the joint claim. See 37 CFR 259.3(d). Copies of the separate, specific and written authorizations should not be filed with the Office.

List of Subjects in 37 CFR Part 259

Claims, Copyright, Recordings.

PART 259—FILING OF CLAIMS TO DIGITAL AUDIO RECORDING DEVICES AND MEDIA ROYALTY PAYMENTS

1. The authority citation for part 259 continues to read as follows:

Authority: 17 U.S.C. 1007(a)(1).

2. Sec. 259.3 is revised to read as follows:

§ 259.2 Time of filing.

(a) *General.* During January and February of each succeeding year, every interested copyright party claiming to be entitled to digital audio recording devices and media royalty payments made for quarterly periods ending during the previous calendar year shall file a claim with the Copyright Office. Claimants may file claims jointly or as a single claim.

(b) *Consequences of an untimely filing.* No royalty payments for the previous calendar year shall be distributed to any interested copyright party who has not filed a claim to such royalty payments during January or February of the following calendar year.

(c) *Authorization.* Any organization or association, acting as a common agent, shall be required to obtain from its members or affiliates separate, specific, and written authorization, signed by members, affiliates, or their representatives, to file claims to the Musical Works Fund or the Sound Recording Fund, apart from their standard agreements, for purposes of royalties filing and fee distribution. Such written authorization, however, will not be required in cases where either:

(1) The agreement between the organization or association and its members or affiliates specifically authorizes such entity to represent its members or affiliates before the Copyright Office and/or the Copyright Arbitration Royalty Panels in royalty filing and fee distribution proceedings; or

(2) The agreement between the organization or association and its members or affiliates, as specified in a court order issued by a court with authority to interpret the terms of the contract, authorizes such entity to represent its members or affiliates before the Copyright Office and/or Copyright Arbitration Royalty Panels in royalty filing and fee distribution proceedings.

Dated: November 24, 1995.

Marilyn J. Kretsinger,

Acting General Counsel.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 95–29147 Filed 11–30–95; 8:45 am]

BILLING CODE 1410–33–P

POSTAL SERVICE

39 CFR Part 20

Implementation of International Package Consignment Service

AGENCY: Postal Service.

ACTION: Amendment to interim rule.

SUMMARY: This amendment to International Package Consignment Service (IPCS) provides an additional entry option to IPCS mailers whose plants are more than 500 miles from the John F. Kennedy (JFK) Processing Facility at the JFK International Airport. In the original interim regulations, which took effect December 1, 1994 (59 FR 65961–65971), any mailer whose plant is more than 500 miles from the JFK Processing Facility must present IPCS packages for verification at the mailer's plant and then transport them as a drop shipment to the JFK Processing Facility according to a schedule agreed upon by the mailer and the Postal Service. At the JFK Processing Facility, the Postal Service processes the mailer's IPCS packages and dispatches them by air to Japan.

Although that entry option remains available to all qualifying IPCS mailers, an alternative option has been developed that allows mailers to share some of the processing of the mail and to avoid transporting the packages to the JFK Processing Facility. Under this alternative option, those mailers whose plants are more than 500 miles from the JFK Processing Facility, and who choose to do so, may process their IPCS packages, using Postal Service-provided workstations to sort and prepare the packages as required by the Postal Service. The Postal Service then verifies and accepts the packages at the mailers' plants and transports the packages by truck to the nearest Postal Service air mail facility (AMF) according to a schedule agreed upon by the mailer and the Postal Service. From the AMF, the Postal Service dispatches the IPCS packages directly to Japan, bypassing the JFK Processing Facility. Under this option, mailers save the cost of transporting their packages to the JFK Processing Facility, and the Postal Service saves the cost of processing and sorting individual packages. The interim implementing regulations are amended and set forth below for comment before their adoption in final form.

DATES: The amended interim regulations took effect September 1, 1995. Comments must be received on or before January 2, 1996.

ADDRESSES: Written comments should be mailed or delivered to International Business Unit, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4400–E, Washington, DC 20260–6500. Copies of all written comments will be available at the above address for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Frank Richards, (202) 268–5743.

SUPPLEMENTARY INFORMATION:

International Package Consignment Service (IPCS) provides a mailing service that meets the needs of mail-order companies and other mailers that send merchandise packages from the United States to multiple international addresses. Currently, IPCS is available only to Japan.

IPCS benefits all users of other services provided by the Postal Service by decreasing the total revenue that the Postal Service needs to recover from those services. At the same time, IPCS makes it easier and more economical for mail-order companies and other mailers in the United States to export their products to international markets.

After the December 1, 1994, implementation of IPCS (59 FR 65961–65971), the Postal Service determined that it could further reduce costs and improve service by allowing mailers to share the package processing workload if they met certain conditions. An alternative entry option was thus conceived for those mailers that had transportation costs associated with IPCS and that agreed to share the processing workload of their IPCS packages.

A mailer that wishes to use this alternative entry option for IPCS will be required to enter into a service agreement with the Postal Service that provides the same commitments as required of all other IPCS mailers. In addition to those commitments, the mailer will be required to install and use Postal Service-provided workstations to process IPCS packages and to sort and prepare them for dispatch, as the service dictates.

The Postal Service hereby amends IPCS to Japan to allow an alternative entry option for those qualifying mailers whose plants are more than 500 miles from the JFK Processing Facility.

Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments, and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites interested persons to submit written data, views, or arguments concerning this amendment to the interim rule.

List of Subjects in 39 CFR Part 20

International postal service, Foreign relations.

The Postal Service adopts the following amendments to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Subchapter 620 of the International Mail Manual is amended as follows:

620 International Package Consignment Service

* * * * *

625 IPCS Service Agreements

* * * * *

625.2 Required Provisions

Each service agreement must contain the following:

* * * * *

d. For a mailer processing packages at the mailer's plant, the mailer's commitment to use Postal Service-provided workstations to process all IPCS packages and to sort and prepare those packages for dispatch as specified by the Postal Service.

* * * * *

626 IPCS to Japan

626.1 Description

626.11 General

IPCS to Japan provides the mailer with three delivery options and with preparation by the Postal Service (or on Postal Service-provided equipment) of the customs forms required by Japan Post.

626.12 JFK Processing Facility

All IPCS packages processed by the Postal Service are processed at, and dispatched to Japan from, a dedicated facility (the JFK Processing Facility) at JFK International Airport.

626.13 Delivery Options

* * * * *

626.132 Standard Air Service. Packages sent as Standard Air Service are transported by air to Japan, where they enter Japan Post's domestic airmail system for delivery. The mailer can track Standard Air Service packages through dispatch from the JFK Processing Facility or the appropriate air mail facility.

626.133 Economy Air Service. Packages sent as Economy Air Service are transported by air to Japan, where they enter Japan Post's domestic surface mail system for delivery. The mailer can track Economy Air Service packages through dispatch from the JFK Processing Facility or the appropriate air mail facility.

626.2 Acceptance

* * * * *

626.22 More Than 500 Miles From JFK

* * * * *

626.221 Drop Shipment to JFK. If the plant at which the mailer's IPCS packages originate is more than 500 miles from the JFK Processing Facility, the mailer may present the packages for verification at the plant and transport them as a drop shipment to the JFK Processing Facility for acceptance according to a schedule agreed upon by the mailer and the Postal Service.

626.222 Transport to Air Mail Facility. Alternatively, the mailer may process the packages, using Postal Service-provided workstations, and prepare dispatches as specified by the Postal Service. The Postal Service verifies and accepts the dispatches at the mailer's plant according to a schedule agreed upon by the mailer, and the Postal Service transports the packages to an appropriate air mail facility for dispatch to Japan.

* * * * *

627 Customs Forms Required

The mailer is not normally required to affix customs forms to IPCS packages sent to Japan if the packages are processed at the JFK Processing Facility. In such cases, the Postal Service prints the necessary customs forms, based on the package-specific information transmitted by the mailer, and affixes the forms to the packages. If the packages are processed at the mailer's plant on Postal Service-provided workstations, those workstations print the necessary forms that the mailer normally affixes to the packages. During the interim period in which the Postal Service and the mailer are establishing the information system linkages to enable the Postal Service to accomplish this, the mailer must affix the appropriate customs forms to the packages, as follows:

* * * * *

628 Preparation Requirements

628.1 Express Service

628.11 Processing at JFK

Every package sent through Express Service must bear a label identifying it as an Express Service package. The mailer is not normally required to affix this label when such packages are processed at the JFK Processing Facility. In this case, the Postal Service prints the necessary label and affixes it to the Express Service package. During the interim period in which the Postal Service and the mailer are establishing the information systems linkages to enable the Postal Service to accomplish this, the mailer is required to affix to every Express Service package Label 11–B, Express Mail Post Office to Addressee, or an alternative label as directed by the Postal Service.

628.12 Processing at Mailer's Plant

When packages are processed at the mailer's plant on Postal Service-provided workstations, the workstations print the necessary label, and the mailer affixes it to the Express Service package.

* * * * *

A transmittal letter making the changes in the International Mail Manual will be published and transmitted automatically to subscribers. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 20.3.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95–29323 Filed 11–30–95; 8:45 am]

BILLING CODE 7710–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 95–213]

Changes in the Delegated Authority of Various Bureaus

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations (FCC 95–213), which were published July 10, 1995 (60 FR 35503). The regulations related to the delegated authority of various bureaus.

EFFECTIVE DATE: December 1, 1995.

FOR FURTHER INFORMATION CONTACT: Sue McNeil, (202) 418–0660.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction modify the delegated authority of various bureaus.

Need for Correction

The correction is needed because the final regulations inadvertently reinstated language in the delegation of authority of the Compliance and Information Bureau which had been modified while adoption of the regulations was under consideration by the Commission.

List of Subjects in 47 CFR Part 0

Authority delegations (Government agencies), Organization and functions (Government agencies).

Accordingly, 47 CFR Part 0 is corrected by making the following correcting amendments:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

§ 0.311 [Amended]

2. In § 9.311, paragraph (f), the phrase "deemed relevant in the investigation of an alleged violation or violations of section 301 (unlicensed operation) or 302a (illegal marketing of radio frequency devices) of the Communications Act of 1934, as amended" is revised to read "relating to investigations under the authority of the Communications Act of 1934, as amended. Before issuing a subpoena, the bureau shall obtain the approval of the Office of General Counsel".

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–27299 Filed 11–30–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 90

[PR Docket No. 92–235, DA 95–2354]

Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of requests for stay.

SUMMARY: On June 15, 1995, the Commission adopted a *Report and Order* which established technical rules and guidelines aimed at improving the efficiency of the PLMR spectrum and facilitating the introduction of advanced technologies into the private mobile services (60 FR 37152, July 19, 1995). In addition, the *Report and Order* mandated the consolidation of the Part 90 Private Land Mobile Radio (PLMR) services, including the Public Safety Radio Services. The PLMR industry was given three months from the effective date of the rules in the *Report and Order* to develop and submit a comprehensive consolidation consensus plan. The *Report and Order* stated that the industry report on radio service consolidation would be required to be submitted on November 20, 1995. The Public Safety Communications Council, the Association of Public-Safety Communications Officials-International, Inc., the International Municipal Signal Association, and the International Association of Fire Chiefs request that the Commission stay consolidation of the Part 90 Public Safety Radio Services until such time as the charter of the Public Safety Wireless Advisory Committee (Advisory Committee) has expired and the Commission has had the opportunity to review and consider the recommendations of the Advisory Committee. Included in the work of the Advisory Committee is the examination of the definition, structure, functions, and ways to enhance telecommunications for the existing Public Safety Radio Services. According to its Charter, the Advisory Committee report is due by September 11, 1996. This order denies the requests for stay as the Petitioners do not meet the standards required for grant of a stay. Specifically, Petitioners have failed to make the required showing of irreparable harm as both the Advisory Committee and the Commission would benefit by the submission of proposals or comments as to how best to accomplish the consolidation of the radio services. Second, Petitioners' requests for stay will harm other Public Safety Radio Services parties and non-public safety radio services as it will remove a specific class of land mobile services from the consolidation planning process and unnecessarily delay and detrimentally affect the PLMR community efforts to achieve more efficient and flexible spectrum use. Finally, we find that a stay is contrary to the public interest because the Commission should continue its efforts to examine and discuss the range of issues facing public safety communications and a failure to submit proposals and comments would delay efforts to consolidate the radio services.

EFFECTIVE DATE: December 1, 1995.

FOR FURTHER INFORMATION CONTACT: Sonia Greenaway of the Wireless Telecommunications Bureau at (202) 418–0680.

SUPPLEMENTARY INFORMATION:

Adopted: November 20, 1995.
Released: November 20, 1995.

By the Deputy Chief, Wireless Telecommunications Bureau.

1. *Introduction.* On June 15, 1995, the Commission adopted a *Report and Order*[1] that, among other matters, mandated consolidation of the Part 90 Private Land Mobile Radio (PLMR) services, including the Public Safety Radio Services.[2] The Public Safety Communications Council (PSCC),[3] the Association of Public-Safety Communications Officials-International, Inc. (APCO), the International Municipal Signal Association (IMSA), and the International Association of Fire Chiefs (IAFC) request that the Commission stay consolidation of the Part 90 Public Safety Radio Services until such time as the charter of the Public Safety Wireless Advisory Committee (Advisory Committee) has expired and the Commission has had the opportunity to review and consider the recommendations of the Advisory Committee.[4] For the reasons stated below, we deny the requests for stay.

[1] *Report and Order*, PR Docket No. 92–235, FCC 95–255, 60 FR 37152 (July 19, 1995).

[2] The Part 90 Public Safety Radio Services (subpart B) include the Fire, Emergency Medical, Forestry-Conservation, Highway Maintenance, Local Government and Police Radio Services, 47 CFR subpart B.

[3] We note that the Executive Committee members of the Council include the Association of Public-Safety Communications Officials-International, Inc. and the International Municipal Signal Association/ International Association of Fire Chiefs. PSCC also seeks a stay with respect to the Subpart C Special Emergency Radio Service.

[4] Parties emphasize that this request for stay does not relate to non-public safety radio services.

2. *Background.* The *Report and Order* established technical rules and guidelines aimed at improving the efficiency of the PLMR spectrum and facilitating the introduction of advanced technologies into the private mobile services. In addition to the technical rules adopted, the Commission concluded that the number of PLMR service pools should be reduced and consolidated. The Commission decided that maintaining twenty service pools is administratively burdensome and that consolidating the PLMR services into 2–4 service pools would lead to greater operational efficiency for users and promote more flexible use of the spectrum.[5] Instead of dictating a specific plan and structure for the radio services under a consolidated system, the Commission encouraged the PLMR community, including users, manufacturers, and frequency coordinators, to submit a consensus plan that would reflect the interests and needs of the community which in turn would assist the Commission in consolidating the service pools. The PLMR industry was given three months from the effective date of the rules in the *Report and Order* to develop and submit a comprehensive consolidation consensus plan. This industry report on radio service consolidation is due November 20, 1995. The Commission stated in the *Report and Order* that it would issue its final rule amendments on consolidation approximately six months after the effective date of the *Report and Order*. Further, if noted that consolidation of the PLMR services will incorporate the PLMR community's recommendations if consensus is achieved but will proceed regardless of the participation of the PLMR community.[6]

3. Independently of this rulemaking, the National Telecommunications and Information Administration (NTIA) and the Commission have established the Advisory Committee to prepare a final report to the NTIA and the Commission on operational, technical and spectrum requirements of Federal, state and local public safety entities through the year 2010. Included in the work of the Advisory Committee is the examination of the definition, structure, and functions of the existing Public Safety Radio Services. According to its Charter, the Advisory Committee will submit a report to the Commission within twelve months of the first formal meeting.[7]

4. *Contention of the Parties.* Petitioners each present similar reasons in support of their requests for stay of the Public Safety Radio Service consolidation, including the filing of a proposal as to how best to consolidate the services pursuant to the Commission's *Report and Order*. Petitioners argue that it would be premature and inappropriate for the Commission to require the filing of a consensus plan and immediate consolidation of the existing Public Safety Radio Services before the Advisory Committee has completed its work.[8] According to PSCC "[i]t would be needlessly expensive and burdensome on all involved, including the Commission, for the Public Safety services to implement changes * * * and then have to make significant changes again at the conclusion of the (Advisory Committee's) studies and recommendations."[9] IMSA and IAFC further contend that they are entitled to a stay under the four-prong test[10] set forth in *Washington Metropolitan Transit Commission* v. *Holiday Tours, Inc.*, 559 F.2d 841 (D.C. Cir. 1977) (Holiday Tours).[11] We will address each applicable "prong" below.[12]

5. *Irreparable Harm.* First, IMSA/IAFC contend that failure to allow the Advisory Committee to do its job and provide crucial information which would determine the best way to consolidate existing stations could cause irreparable harm to new applicants as well as existing licensees. They argue that a stay will allow the Commission sufficient time to ensure that policies developed for the Public Safety Radio Services maximize interoperability, efficiency and enhancement of public safety telecommunications and minimize chances for interference or mismanagement of these important services.[13]

6. A stay is an extraordinary remedy which the Commission grants upon request in limited circumstances. Based on the factors presented by the above parties, we conclude that Petitioners do not meet the standards required for grant of a stay. Specifically, we find that Petitioners have failed to make the required showing of irreparable harm. To show irreparable harm, "the injury must be both certain and great; it must be actual and not theoretical."[14] We believe that Petitioners overstate the impact of not granting their request.

7. The Advisory Committee's work and recommendations will be an important vehicle in the Commission's endeavor to ensure that public safety communications are effective, efficient and respond to the increasing demands placed on the public safety community. The consolidation of services is but one of a myriad of issues that the Advisory Committee may address within the extremely confined time frame it is working under. The Advisory Committee will be meeting throughout the coming months to examine issues and make recommendations. The resolution of every issue does not necessarily await articulation in the Advisory Committee's final report. Throughout the process, a number of recommendations may emerge as consensus agreements or be acted upon formally. Importantly, because of its time constraints, the Advisory Committee itself would benefit by the submission of proposals or comments as to how best to accomplish the consolidation of services. Moreover, the Commission's review and analysis of consolidation alternatives can commence while still affording the Advisory Committee an opportunity to make a recommendation on the issue. Under these circumstances, as both the Advisory Committee and the Commission would benefit by the submission of proposals or views addressing the consolidation of services, we find that Petitioners have failed to

[5] The twenty (20) PLMR services which are the focus of this proceeding are the Public Safety Radio Services (Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation and Emergency Medical) the Special Emergency Radio Service, the Industrial Radio Services (Power, Petroleum, Forest Products, Video Production, Relay Press, Special Industrial, Business, Manufacturers, and Telephone Maintenance), and the Land Transportation Radio Services (Motor Carrier, Railroad, Taxicab, and Automobile Emergency).

[6] *Report and Order* at para. 55.

[7] The first formal meeting of the Advisory Committee was held on September 11, 1995. The Advisory Committee report therefore is due by September 11, 1996.

[8] *See*, for example, APCO petition at 2, PSCC petition at 4, and IMSA/IAFC petition at 2.

[9] Public Safety Communication Council comments at 5.

[10] Under this test, a party moving for a stay must show: (1) A strong likelihood of prevailing on the merits; (2) irreparable harm; (3) issuance of a stay will not harm others; and (4) that granting a stay will serve the public interest. IMSA/IAFC note, however, that its pleading addresses only three prongs of the test as there is no underlying litigation and no issue with respect to prevailing on the merits.

[11] *See also Virginia Petroleum Jobbers Ass'n* v. *Federal Power Commission*, 259 F.2d 921, 925 (D.C. Cir. 1958).

[12] We do not herein address "likelihood of prevailing on the merits." This prong is inapposite because these petitions are not filed in conjunction with a contested cause of action between opposing parties.

[13] IMSA/IAFC comments at 6.

[14] *Wisconsin Gas Co.* v. *FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985); *In the Matter of Cincinnati Bell Telephone Company, Requests for Stay of Orders Finding Violations of the Commission's Rate of Return Prescriptions*, 8 FCC Rcd 6709 (1993).

make the required showing of if irreparable harm.[15]

8. *Harm to Others.* Second, IMSA/IAFC allege that the stay will benefit, not harm, other Public Safety Radio Service parties because the Commission's grant of this request will aid in the establishment of a fair and safe frequency coordination process, avoid the implementation of a consolidation plan that conflicts with the intent and direction of the Advisory Committee report, and avert the disruption of dismembering and reconstructing the finalized consolidation plan should the plan prove unworkable in light of the Advisory Committee's recommendations.[16] Further, IMSA/IAFC maintain that non-public safety radio services will remain unaffected as this request for stay does not relate to non-public safety radio services.

9. As we have stated, we are not faced with the circumstance of proceeding in light of contrary recommendations of the Advisory Committee. Those recommendations have not been formulated and in fact, both the Advisory Committee and Commission would benefit by the proposals and comments of industry of how best to accomplish the consolidation of services. Significant potential for harm to others in the PLMR community will accrue if we were to impose a stay in the consolidation of the Public Safety Radio Services. In the *Report and Order*, the Commission noted that it sought a consensus from all users in the PLMR community in developing a consolidation plan. The Commission recognized that this action represented a significant change for all PLMR services. The Commission viewed consolidation as a unified effort by the PLMR community to maximize the effective and efficient operations of the private services. The *Report and Order* emphasized the importance of developing a consolidation plan for all of the PLMR services. A specific comprehensive consolidation plan must include clear guidelines for the structure of the Public Safety Radio Services. Should the public safety community not participate in discussions to develop a consensus for consolidating the radio services, the PLMR community efforts to achieve more efficient and flexible spectrum use could be unnecessarily delayed and detrimentally affected. In short, removing a specific class of land mobile services from the consolidation planning process would significantly and adversely affect the entire "Reframing" initiative.

10. *Public Interest.* Third, IMSA/IAFC argue that it is in the public interest to use the Advisory Committee to its maximum potential, and not to risk conflicting directives from the Advisory Committee and the rulemaking proceeding concerning the consolidation of the Public Safety Radio Services.[17] Moreover, these parties state that the delay resulting from this request will be minimal. Again, the Commission is not at a point where it risks even a potential conflict with a recommendation of the Advisory Committee. The Commission is committed to a process that provides the Advisory Committee an opportunity to examine the range of issues facing public safety communications. Our pervading interest is that proposals and comments on the consolidation of services be submitted so that the Commission can continue its efforts in implementing the Reframing initiative, which includes the benefit of any Advisory Committee recommendation addressing the consolidation of services. A stay would likely delay these efforts and be contrary to the public interest.

11. *Conclusion.* For these reasons, and pursuant to § 1.43 of the Commission's rules, the Requests for Stay filed by the Association of Public-Safety Communications Officials-International, Inc., the International Municipal Signal Association and the International Association of Fire Chiefs, and the Public Safety Communications Council are denied.

12. The deadline for filing a consensus plan for consolidation remains November 20, 1995. We will consider, however, the views of the petitioners and the Advisory Committee in conjunction with the recommendations submitted November 20th, prior to issuing a final order on consolidation of the PLMR services.

Federal Communications Commission.

Gerald P. Vaughan,

Deputy Chief, Wireless Telecommunications Bureau.

[FR Doc. 95–29089 Filed 11–30–95; 8:45 am]

BILLING CODE 6712–01–M

[15] "The most important of [the] factors is irreparable harm, without which other factors need not be considered." *In the Matter of Cincinnati Bell Telephone Company, Requests for Stay of Orders Finding Violations of the Commission's Rate of Return Prescriptions*, 8 FCC Rcd at 6710, note 23.

[16] Comments of IMSA/IAFC at 7.

[17] IMSA/IAFC comments at 8.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket No. RSOR–6; Notice No. 43]

RIN 2130–AA51

Random Drug Testing: Announcement of 1996 Minimum Testing Rate; Designation of New Laboratory for Post-Accident Toxicology Testing

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule and notice of determination.

SUMMARY: Using data from Management Information System (MIS) annual reports, FRA has calculated that the rail industry random drug testing positive rate for 1994 was 0.808 per cent. Since the industry-wide random drug positive rate continues to be below 1.0 per cent, the Federal Railroad Administrator (Administrator) has determined that the minimum annual random drug testing rate for the period January 1, 1996 through December 31, 1996 will remain at 25 percent of covered railroad employees.

This rule also announces that FRA intends to award a contract to Northwest Toxicology, Inc. (Northwest), to conduct post-accident toxicological analysis, effective December 1, 1995.

DATES: This final rule is effective December 1, 1995.

The minimum annual random drug testing rate is 25 percent of covered railroad employees for the period January 1, 1996 through December 31, 1996.

ADDRESSES: Any petition for reconsideration should be submitted to the Docket Clerk, Docket No. RSOR–6, Office of the Chief Counsel, Federal Railroad Administration, 400 7th Street, SW., Room 8201, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Lamar Allen, Alcohol and Drug Program Manager, Office of Safety Enforcement, Operating Practices Division, Federal Railroad Administration, 400 7th Street, SW., Room 8314, Washington, DC 20590, (Telephone: (202) 366–0127) or James T. Schultz, Chief, Operating Practices Division, Office of Safety Enforcement, Federal Railroad Administration, 400 7th Street, SW., Room 8314, Washington, DC 20590, (Telephone: (202) 366–9178).

SUPPLEMENTARY INFORMATION:

Administrator's Determination of 1996 Random Drug Testing Rate

In a final rule published on December 2, 1994 (59 FR 62218), FRA announced that it will set future minimum random drug testing rates according to the rail industry's overall random drug positive rate, which is determined using annual railroad drug program data taken from FRA's Management Information System. Under this performance-based system, FRA will lower the minimum random drug testing rate to 25 percent whenever the industry-wide random drug positive rate is less than 1.0 percent for two calendar years while testing at 50 percent. FRA will return the rate to 50 percent if the industry-wide random drug positive rate is 1.0 percent or higher in any subsequent calendar year. Each year, the Administrator will publish a **Federal Register** notice announcing the minimum random drug testing rate for the following year.

In 1994, FRA set the 1995 minimum random drug testing rate at 25 percent because 1992 and 1993 industry drug testing data indicated a random drug positive rate below 1.0 percent. In this rule, FRA announces that the minimum random drug testing rate will continue to be 25 per cent of covered railroad employees for the period January 1, 1996 through December 31, 1996, since the industry random positive rate for 1994 was 0.808 per cent.

FRA implemented a parallel performance-based system for random alcohol testing, which will not be fully implemented until January 1, 1996. Since FRA has less than one year of data, the current random alcohol minimum testing rate of 25 per cent will remain the same for 1996.

Designation of New Post-Accident Testing Laboratory

Beginning December 1, 1995, all post-accident toxicological analysis under Subpart C of Part 219 will be conducted by Northwest Toxicology, Inc. Therefore, FRA amends Appendix B to Part 219 to designate Northwest as its laboratory for post-accident toxicological testing.

This rule is being made effective in less than the 30 days from publication otherwise required by law so that FRA can immediately commence testing at its newly designated post-accident testing laboratory. FRA has therefore determined that good cause exists under the provisions of 5 U.S.C. 553(d)(3) to warrant an expedited effective date.

Executive Order 12866 and DOT Regulatory Policies and Procedures

FRA has determined that this rule is nonsignificant under Executive Order 12866 and under the Department of Transportation's Regulatory Policy and Procedures.

The Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. FRA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism Impact

This rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, FRA has determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism assessment.

Paperwork Reduction Act

FRA has determined that this rule does not significantly change any previously approved information collection requirements.

List of Subjects in 49 CFR Part 219

Alcohol and drug abuse, Railroad safety.

Accordingly, for the reasons stated above, FRA amends 49 CFR Part 219 as follows:

PART 219—CONTROL OF ALCOHOL AND DRUG USE

1. The authority for Part 219 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20111–20113, 20140, 21301 and 21304; Pub. L. 103–272 (July 5, 1994); and 49 CFR 1.49(m).

2. Appendix B to Part 219 is revised to read as follows:

Appendix B to Part 219—Designation of Laboratory for Post-Accident Toxicological Testing

The following laboratory is currently designated to conduct post-accident toxicological analysis under Subpart C of this part: Northwest Toxicology, Inc., 1141 E. 3900 S., Suite A–110, Salt Lake City, UT 84124, telephone: (801) 288–2431 (Day), (801) 483–3383 (Night/Weekend).

Issued in Washington, DC on November 22, 1995.

S. Mark Lindsey,

Acting Administrator, Federal Railroad Administration.

[FR Doc. 95–29288 Filed 11–30–95; 8:45 am]

BILLING CODE 4910–06–P

Proposed Rules

Federal Register
Vol. 60, No. 231
Friday, December 1, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–ACE–11]

Proposed Amendment to Class E Airspace; Charles City, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Charles City Municipal Airport, Charles City, IA. The development of a new Standard Instrument Approach Procedure (SIAP) based on the relocated Non-Directional Radio Beacon (NDB) has made the proposal necessary. The intended effect of this proposal is to provide an additional 1 mile of controlled airspace for departing aircraft and aircraft executing the SIAP at Charles City Municipal Airport.

DATES: Comments must be received on or before January 6, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Operations Branch, ACE–530, Federal Aviation Administration, Docket No. 95–ACE–11, 601 East 12th Street, Kansas City, Missouri 64106.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Operations Branch, Air Traffic Division, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Air Traffic Operations Branch, ACE–530C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 95–ACE–11." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to provide additional controlled airspace for a new Instrument Flight Rules (IFR) procedure at the Charles City Municipal Airport. The additional airspace would segregate aircraft operating under VFR conditions from aircraft operating under IFR procedures. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Charles City, IA [Revised]

Charles City Municipal Airport, IA
(Lat. 43°04′21″ N, long. 92°36′39″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Charles City Municipal Airport.

* * * * *

Issued in Kansas City, MO, on November 14, 1995.

Richard L. Day,

Acting Manager, Air Traffic Division Central Region.

[FR Doc. 95–29356 Filed 11–30–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–ACE–12]

Proposed Amendment to Class E Airspace; Clinton, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Clinton Municipal Airport, Clinton, IA. The development of a new Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) has made the proposal necessary. The intended effect of this proposal is to provide additional controlled airspace for aircraft executing the SIAP at Clinton Municipal Airport.

DATES: Comments must be received on or before January 8, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Operations Branch, ACE–530, Federal Aviation Administration, Docket No. 95–ACE–12, 601 East 12th Street, Kansas City, Missouri 64106.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Operations Branch, Air Traffic Division, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Air Traffic Operations Branch, ACE–530c, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 95–ACE–12." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to provide additional controlled airspace for a new Instrument Flight Rules (IFR) procedure at the Clinton Municipal Airport. The additional airspace would segregate aircraft operating under VFR conditions from aircraft operating under IFR procedures. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective

September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Clinton, IA [Revised]

Clinton Municipal Airport, IA
(Lat. 41°49'52"N, long. 90°19'45"W)
Davenport VORTAC
(Lat. 41°42'30"N., long. 90°29'01"W)
Clinton NDB
(Lat. 41°49'43"N., long. 90°19'40"W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Clinton Municipal Airport and within 1.8 miles each side of he 044° radial of the Davenport VORTAC extending from the 6-mile radius to the VORTAC and within 4.5 miles each side of the 316° bearing from the Clinton NDB extending to 10.5 miles northwest of the NDB and within 1 mile each side of the 146° bearing from the Clinton Municipal Airport extending from the 6-mile radius to 9.5 miles southeast of the airport.

* * * * *

Issued in Kansas City, MO, on November 14, 1995.

Richard L. Day,

Acting Manager, Air Traffic Division Central Region.

[FR Doc. 95–29355 Filed 11–30–95; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 95–AEA–05]

Proposed Establishment of Class E Airspace; Clarksville, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish Class E Airspace at Clarksville, VA. A standard instrument approach procedure (SIAP), based on the Global Positioning System (GPS), has been developed for Runway (RWY) 4 at Marks Municipal Airport, Clarksville, VA. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations to the airport. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before February 29, 1996.

ADDRESSES: Send comments on the proposed rule in triplicate to: Manager, System Management Branch, AEA–530, Docket No. 95–AEA–05 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

An informal docket may also be examined during normal business hours in the System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 95–AEA–05". The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace extending upward from 700 feet above the surface (AGL) at Clarksville, VA. A GPS RWY 4 SIAP has been developed for Marks Municipal Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace extending upward from 700 feet above the surface are published in Paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA VA E5 Clarksville, VA

Marks Municipal Airport, VA
(Lat. 36°35'45" N, long. 78°33'37" W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Marks Municipal Airport excluding that portion within the Chase City Municipal Airport 700 foot Class E Airspace Area.

* * * * *

Issued in Jamaica, New York, on November 30, 1995.

John S. Walker,

Manager, Air Traffic Division.

[FR Doc. 95–29353 Filed 11–30–95; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 95–AEA–07]

Proposed Amendment to Class E Airspace; Elkins, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Elkins, WV. The development of a new Standard Instrument Approach Procedure (SIAP) at Elkins-Randolph County-Jennings Randolph Field based on the Global Positioning System has made this proposal necessary. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before February 29, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, AEA–530, Docket No. 95–AEA–07, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined in the during normal business hours in the System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 95–AEA–07." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class E airspace area at Elkins, WV. A GPS RWY 23 SIAP has been developed for the Elkins-Randolph County-Jennings Randolph Field. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA WV E5 Elkins, WV

Elkins-Randolph County-Jenings Randolph Field Airport, WV
(Lat 38°53'22" N, long. 79°51'25" W)

That airspace extending upward from 700 feet above the surface within a 11-mile radius of Elkins-Randolph County-Jennings Randolph Field Airport.

* * * * *

Issued in Jamaica, New York, on November 30, 1995.

John S. Walker,

Manager, Air Traffic Division.

[FR Doc. 95-29352 Filed 11-30-95; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 801, 803, 804, and 897

[Docket No. 95N-0253]

Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents: Findings of the Focus Group Testing of Brief Statements for Cigarette Advertisements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of findings.

SUMMARY: The Food and Drug Administration (FDA) is announcing the findings of focus groups concerning the brief statements that would be required on all cigarette advertising. On August 11, 1995, FDA issued a proposed rule which, among other things, would require cigarette advertising to carry a brief statement on the relevant warnings, precautions, side effects, and contraindications pertaining to cigarette use. The agency said it would perform extensive focus group testing on the proposed brief statement. This document announces the findings of that focus group testing.

DATES: Written comments by January 2, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Policy (HF-23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-3380.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 11, 1995 (60 FR 41314), FDA published a proposed rule that would restrict the sale and distribution of cigarettes and smokeless tobacco products in order to protect children and adolescents. The proposed rule, among other things, would require cigarette advertising to carry a brief statement, such as "About one out of three kids who become smokers will die from their smoking." The preamble to the proposed rule stated that FDA would conduct focus group testing of this proposed brief statement to evaluate the content and various formats for the brief statement to determine if the warnings are communicated effectively (60 FR 41314 at 41338). FDA also stated that it would base the design, format, and content of the brief statement which is required by section 502(r) of the Federal Food, Drug, and Cosmetic Act on all advertisements and other descriptive printed matter pertaining to restricted devices) on the results of the focus group testing and on comments to the proposed rule.

FDA has completed the focus group testing and, through this document, is announcing the focus groups' findings. FDA will use the report, as well as comments submitted on the report, to determine the design, format, and content of the brief statement when preparing a final rule. The report is accompanied by sample graphics illustrating how a brief statement might be presented and by two moderator's guides.

Interested persons may on or before January 2, 1996, submit to the Dockets Management Branch (address above) written comments on the focus group report. Two copies are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The report, entitled, "Findings of the Focus Group Testing of Brief Statements for Cigarette Advertisements," is as follows:

Executive Summary

Macro International, a research firm which provides survey, market research, and focus group services worldwide, was awarded a contract from the U.S. Food and Drug Administration (FDA) to conduct a series of focus groups with adolescents to compare and evaluate brief statements directed to teens that address the risks of smoking. Macro has done nationally-representative surveys and demographic studies in 80 countries and has offices with state-of-the-art focus group facilities in its headquarters outside Washington DC, New York City, Moscow, Warsaw, Prague, Budapest, and Burlington VT.

This contract included two series of focus groups. The purpose of the first series of groups, held in Calverton, Maryland, was to examine a number of brief statements about smoking to determine which of several kinds of messages teens found most compelling. The purpose of the second series of focus groups, held in cities around the U.S., was to evaluate a shortened list of messages and consider methods of presentation that would be most effective in informing teens about the risks of smoking Participants in these focus groups were 12-17 year old males and females, and included both smokers and non-smokers. The focus groups were held during October and November, 1995.

I. Assumptions and Basic Perceptions of Adolescent Smoking

According to the participants in the focus groups, smoking among teenagers is widespread. Almost all teens will try smoking at some point during their adolescence. There is little stigma attached to experimentation with smoking, since many teens consider it to be a "rite of passage". Few teens who are just beginning to smoke consider themselves at risk for becoming addicted to cigarettes because they are convinced that they can quit at any time. The groups said that teens try smoking because of peer pressure; the desire to do something that they perceive to be an adult activity; and as a way to rebel against their parents, either overtly or covertly.

Some of the focus groups did have active, regular smokers as part of the group, and the attitudes about smoking expressed by these participants was quite different than those expressed by non-smokers or occasional smokers. Participants who indicated that they were regular smokers did not mention any of the reasons given by "social smokers" as their reasons for smoking. They do not smoke in groups, nor do they smoke for social acceptance. Rather, they smoke because it "calms them down" or satisfies a physical need. Non-smokers or infrequent smokers indicated that they felt most people could stop smoking at any time; the teens who said they were addicted to smoking made it clear that, for them, smoking was no longer a matter of choice but a matter of need.

II. Perceptions of Cigarette Advertising

All of the groups expressed familiarity with the cigarette advertisements shown to them, and many were aware of incentive programs sponsored by major cigarette manufacturers, whereby cigarette smokers could receive clothing items or other products by cashing in "Camel dollars" or "Marlboro miles" for products from a catalog. The focus groups said that they felt the primary target of cigarette ads were teens and young adults, and that ads show people having a good time so that kids will think that their lives will improve if they smoke.

III. Perceptions of Surgeon General's Warnings

Unless prompted, the participants did not think of the Surgeon General's warning as part of the advertisement. They are aware that it is there, but it is considered a required element that is skipped over as a matter of course. Participants thought that it was required by the government or that it was there to keep people from suing the manufacturer for smoking-related illnesses or death. Participants did not think that the current Surgeon General's warnings were effective. They said that the terminology used was too complex (emphysema and carbon monoxide were two terms cited repeatedly as being too complex for them to understand), and that the ads seem to be designed to make the messages as unnoticeable as possible.

IV. Perceptions of New Brief Statements

All groups were shown a variety of new brief statements that were intended to be directed primarily toward teenagers. Responses to the messages appeared to fall into three general categories: positive responses from most or all of the participants; mixed responses, where some groups responded positively but others did not; and messages that were poorly received by all groups. A "positive" response was defined as one where participants indicated that teens their age would read the message, consider the implications of the message, and perhaps change behavior because of it. Mixed responses included some positive responses, but also included neutral or negative responses to the brief statement. A response was categorized as negative if a whole group never liked the message.

The message that received the most positive response from groups across the country was one that said, "Tobacco kills more Americans each year than AIDS, alcohol, accidents, murder, suicides, illegal drugs, and fires * * * combined." Other messages that received generally positive responses from most groups were, "About one out of three kids who become smokers will die from their smoking," "Of the 3000 young people who begin smoking each day, 1000 will die from their smoking," and "Tobacco causes shortness of breath, coughing, yellow teeth and wrinkles." It is notable that the messages that received the most positive responses from the groups were those which presented facts and figures.

Messages that received mixed consideration from the groups were those that were directed at a limited audience such as "Smoking hurts your athletic performance"; or those that the groups considered to be "slogans," such as "Addiction happens much faster than you think" or "Everyone now addicted to cigarettes started out 'just trying' cigarettes."

Several brief statements received negative responses from all groups to whom they were shown. They included most of the messages addressing the issue of addiction, such as "Addiction sucks you in to a lifetime of smoking." "Smoking is a deadly addiction," and "Kids who start smoking find they can't stop—once it's too late."

V. Perceptions of Possible Design Elements for the Brief Statements

The major design elements that groups saw as leading to visual prominence were type size, distinctive borders, a color that contrasted with the rest of the ad, and to a lesser extent use of a distinctive icon. Most groups recommended using a very large type size to increase the visual prominence of the brief statement and to make it easier to read. All groups were enthusiastic about the use of a jagged border to draw attention to the brief statement. They also recommended varying the message and varying its appearance over time so that consumers would not habituate to its appearance.

Participants said that a brief statement would be most effective if it was visually prominent in the ad, and that the optimal design of the brief statement would necessarily depend upon the design of a particular advertisement. Thus, several groups recommended that the brief statements should be added after the advertisement was designed to minimize the likelihood of it being designed to reduce the impact of the brief statement. If that was not possible, many groups indicated that placing the message at the top of the advertisement or in the middle would be optimal for getting attention.

Many of the groups said that the new brief statement should be more visually prominent than the Surgeon General's warning, and that the new statement should be distinct from the Surgeon General's warning.

VI. Other Findings

1. A common sentiment expressed by participants in some groups was that the best way to present the information would be as a stand-alone advertisement portraying the risks of smoking rather than as part of a cigarette advertisement.

2. Smokers and non-smokers expressed similar sentiments about messages that were effective, and about how to convey messages about the risks of smoking in ways that would appeal to adolescents.

3. Most groups expressed the belief that any messages about the risks of smoking would be most effective with younger children or with people who had not yet started to smoke, rather than with current smokers.

Methodology

Number and Composition of Groups

A total of 19 focus groups were held in five cities across the United States. Cities were selected to reflect a diversity of populations. The cities used for this study included Calverton, Maryland (a suburb of Washington, DC); Minneapolis, Minnesota; Charlotte, North Carolina; Houston, Texas; and San Francisco, California. Groups included participants that represented the ethnic diversity of the geographical area. All groups were segmented by age, with approximately one-half of the groups comprised of 12-14 year olds and the rest of 15-17 year olds. All groups were single sex groups with the exception of a mixed group of 15-17 year old males and females in Calverton. The groups in Calverton, Charlotte and Minneapolis were pre-screened to determine smoking status of participants; the groups in San Francisco and Houston were not pre-screened for smoking status since the recruiting experiences from Calverton, Charlotte and Minneapolis assured the project personnel that both smokers and non-smokers would be included in all groups regardless of whether or not participants were pre-screened.

All of the focus groups for this project were 90-120 minutes long. During Phase I of the project (the Calverton groups), the primary objective was to determine which of 15 messages presented to participants were received the most positively. During Phase II of the project, the primary objectives were to refine the list of acceptable messages even further; and to obtain feedback about how the brief statements could be presented to showcase the message most effectively.

Schedule of Groups

Calverton, Maryland: 3 groups at Macro's focus group facility
October 17, 5:30 p.m. - 8 Boys, 12-14 years old - Smokers
October 18, 4:30 p.m. - 8 Girls, 12-14 years old - Mix of smokers and non-smokers
October 18, 6:30 p.m. - 8 Boys and Girls, 15-17 years old - Smokers
Charlotte, North Carolina: 4 groups at FacFind, Inc.
October 24, 4:30 p.m. - 7 Girls, 12-14 years old - Smokers
October 24, 6:30 p.m. - 8 Girls, 15-17 years old - Smokers
October 25, 4:30 p.m. - 8 Boys, 12-14 years old - Mix of smokers and non-smokers
October 25, 6:30 p.m. - 9 Boys, 15-17 years old - Smokers
Minneapolis, Minnesota: 4 groups at Orman Guidance Research
October 24, 4:30 p.m. - 8 Girls, 12-14 years old - Mix of smokers and non-smokers
October 24, 6:30 p.m. - 8 Girls, 15-17 years old - Smokers
October 25, 4:30 p.m. - 8 Boys, 12-14 years old - Mix of smokers and non-smokers
October 25, 6:30 p.m. - 8 Boys, 15-17 years old - Mix of smokers and non-smokers
Houston, Texas: 4 Groups at CQS Research Inc.
October 31, 4:30 p.m. - 8 Girls, 12-14 years old - Mix of smokers and non-smokers
October 31, 6:30 p.m. - 5 Girls, 15-17 years old - Mix of smokers and non-smokers
November 1, 4:30 p.m. - 9 Boys, 12-14 years old - Mix of smokers and non-smokers
November 1, 6:30 p.m. - 7 Boys, 15-17 years old - Mix of smokers and non-smokers
San Francisco, California: 4 groups at Fleischman Field Research, Inc.
November 8, 4:00 p.m. - 8 Girls, 12-14 years old - Mix of smokers and non-smokers
November 8, 6:00 p.m. - 8 Girls, 15-17 years old - Mix of smokers and non-smokers
November 9, 4:00 p.m. - 8 Boys, 12-14 years old - Mix of smokers and non-smokers
November 9, 6:00 p.m. - 8 Boys, 15-17 years old - Mix of smokers and non-smokers

Recruitment

Calverton Groups

Macro used Olchak Market Research, Inc. (OMR) to recruit the 3 groups in Calverton. OMR had been used successfully by Macro in the past to conduct recruitment efforts for focus groups. OMR maintains a randomly collected database of individuals who are likely to participate in focus groups or other market research projects. To maintain and add to this database, OMR calls individuals at random and explains that they are a market research firm which periodically performs market surveys and recruits for focus groups. They inform the individual that participants in these projects are paid for their time, then they ask whether the individual would be interested in participating in a future project. If the individual is interested in participating, his/her demographic information is recorded for future use. OMR does not use address lists provided by organizations, nor does it use individuals who contact them and ask to be placed on their list since many of these people are "professional" survey and focus group participants.

To ensure that a sufficient sample of adolescents attended, 14 youths were recruited for each group so that each group had 9 participants. OMR called adult individuals who were known to have children in the desired age range (12–17 years old), and used the attached screening instrument in their recruiting efforts. OMR made first contact with the parents of each youth. If the parents approved of their child's participation in the group, the child was then screened to determine if his/her age group (12–14 or 15–17 years old), gender, ethnicity, and smoking status fit the profiles called for in any of the 3 Calverton groups. If the youth's profile matched the desired profile for one of the groups, he/she was asked to participate and offered a $40 incentive. Cash incentives are routinely used in focus group projects to ensure that participants attend groups that they have been asked to attend. All recruits were sent a confirmation letter by OMR, and OMR also telephoned them within 36 hours of the focus group to confirm their attendance. Each confirmation letter also contained a parental permission form which had to be completed and signed before any youth was allowed to participate in a group or receive the incentive payment.

Other Cities

Recruiting in Charlotte, Minneapolis, Houston, and San Francisco was performed by the individual focus group facilities with guidance from Macro staff. Each facility's recruiting methodology mirrored OMR's in most respects, except that the facilities in Houston and San Francisco did not screen participants for their smoking status for any group. Pre-screening for these groups was not required because the recruiting patterns in Calverton, Charlotte and Minneapolis indicated that a mix of smokers and non-smokers would result whether smoking status was pre-screened or not.

Statement of Limitations

In market research, the focus group approach seeks to develop insight and direction rather than quantitatively precise or absolute measures. Because of the limited number of respondents and the restrictions of recruiting, this research must be considered in a qualitative frame of reference.

This study cannot be considered reliable or valid in a statistical sense since the recruiting of participants cannot be replicated, nor can the moderator ask the same questions of other respondents. This type of research is intended to provide guidance in determining knowledge, awareness, attitudes and opinions about concepts, products, or advertising formats.

Certain biases are inherent in this type of study and are stated here to remind the reader that focus group data cannot be projected to any universe of individuals. First, participants tend to be risk takers and may be somewhat more assertive than non-participants. Second, participants in a focus group study "self-select" themselves by the very fact that they are those people who were available at a time a particular group was scheduled. Participants thus were not selected randomly so that each person in a pool of possible participants did not have an equal chance of being selected. Third, participants who attend focus group sessions may be more articulate and willing to express opinions in a group than non-participants. And finally, people in groups may respond differently to a question than if asked the same question individually. They may follow the lead of a strong speaker or someone they perceive as "expert," despite efforts of the moderator to eliminate this bias.

This report cannot accurately detail the wealth of information in the non-verbal area, such as "body language," (posture, sleepiness, wiggling in the chair, etc.) or the amount of time elapsed between questions from the moderator and actual responses from the group. It also cannot report on the subtle area of "peer pressure"—the willingness to avoid making a particular response because of fear of what others in the group might think, or quickly changing a response when others in the group appear to oppose a particular position.

Finally, the reader is reminded that this report is intended primarily to clarify cloudy issues and point the direction for future research, and that data here cannot be projected to a universe of similar respondents.

Moderators

Two moderators were used for this project. Both are Macro employees with professional moderator training and significant practical experience moderating focus groups. The moderator for the Charlotte and San Francisco groups was trained at the Burke Institute in Cincinnati, Ohio. The moderator for the groups in Calverton, Minneapolis, and Houston was trained at the Riva Institute in Bethesda, Maryland.

Data analysis

All of the focus groups were taped. The tapes were used to develop transcriptions of the sessions for preparation of the report. All direct quotations in this report were identified via the professional transcriptions, which were produced by SAG Corporation in Washington, DC with tapes supplied by Macro.

Protection of privacy of participants

All participants and their parents were promised anonymity for their participation in this study. Thus, no participant names or other identifying characteristics appear in this report.

Format for Discussion

Phase I—Calverton

The primary objective of the Calverton groups was to obtain adolescents' reactions to 15 messages that had been developed as possible brief statements directed towards teens. In addition, participants were queried about attitudes toward smoking among their contemporaries and attitudes toward cigarette advertising among this population. Thus, the discussion for these groups followed the following format:

A. Discussion of Cigarette Advertising

Participants were queried about their knowledge of cigarette advertising and their perceptions of what messages cigarette advertisements were attempting to convey. Sample cigarette advertisements were present to aid the discussion.

B. Discussion of Surgeon General's Warnings

The moderator focused discussion upon the Surgeon General's warnings currently appearing on cigarette advertisements and elicited reactions to those warnings.

C. Presentation of Sets of Brief Statements

Participants were presented with four sets of brief statements, with each set containing messages that addressed different aspects of smoking. Statements were presented in sets to ease the process of comparison and selection of the most effective messages, due to the large number of brief statements that were presented to this group. The four sets of messages presented to the Calverton groups were:

Set 1

Kids who smoke like adults get addicted like adults.

Tobacco kills more Americans each year than AIDS, alcohol, accidents, murder, suicides, illegal drugs and fires * * * combined.

The earlier you start smoking the greater your risk of lung cancer.

Smoking harms your baby.

Set 2

Most teen smokers believe they can quit but after six years 75% still smoke.

About one out of three kids who become smokers will die from it.

Tobacco causes shortness of breath, coughing, wheezing, yellow teeth and wrinkles.

Cigarette smoke has more than 4000 chemicals including ones that cause cancer.

Set 3

Tobacco kills more people every day than 2 jumbo jets crashing with no survivors.

Smoking is a deadly addiction.

Smoking today leads to fewer tomorrows.

Set 4

Kids who start smoking find they can't stop—once it's too late.

Everyone now addicted to cigarettes started out 'just trying' cigarettes.

Most smokers wish they could quit but can't.

70% of smokers wish they could quit.

Addiction happens much faster than you think.

D. Discussion of Similarities and Differences of Preferred Messages

Based upon the responses to the messages listed above, each group selected their preferred messages and discussed the reasons why they chose certain messages over the others presented.

Phase II—Charlotte, Minneapolis, Houston, San Francisco

The primary objective of the groups in the cities outside the Washington, DC area was to further refine the list of appropriate messages and then develop presentation criteria that would make the brief statements most effective within the context of cigarette advertisements.

A. Discussion about Kids and Smoking

Participants were asked to talk about the number of their peers that smoked, reasons teenagers smoke, and situations in which teens would most likely be smoking. The topic of addiction and how teens perceive addiction also was discussed in many of the groups. Participants were told at the outset that whether or not they personally smoked was their own business, and that what the moderator was interested in was their perception of how teens in general regarded smoking. Participants also were told about and asked to discuss recent trends in the rate of adult and teen smokers.

B. Cigarette Advertising

Examples of cigarette ads on pasteboard displays were shown to the groups and the participants' familiarity with the ads, as well as their reactions to them, were discussed. The moderator also focused discussion upon the Surgeon General's warnings currently appearing on cigarette advertisements and elicited reactions to those warnings.

C. Presentation of New Brief Statements

Based upon the responses to the brief statements of the Calverton groups, seven message were tested in the focus groups held in Charlotte and Minneapolis. These messages were discussed individually and favorite messages were selected by each group. The messages presented included:

Smoking today leads to fewer tomorrows.

Of the 3000 young people who begin smoking each day, 1000 will die from their smoking.

About one out of three kids who become smokers will die from their smoking.

Tobacco kills more Americans each year than AIDS, alcohol, accidents, murder, suicide, illegal drugs and fires * * * combined.

Everyone now addicted to cigarettes started out "just trying" cigarettes.

Tobacco causes shortness of breath, coughing, yellow teeth and wrinkles.

Addiction happens much faster than you think.

In addition to the seven messages listed above, three new messages were tested in Houston and San Francisco. These messages were:

Smoking hurts your athletic performance.

Addiction sucks you into a lifetime of smoking.

Non-smokers run faster than smokers.

D. Discussion of Message Format and Placement

Each group then was asked to discuss the issue of presentation of brief statements on advertisements. Using the pasteboards of existing advertisements, each group examined issues such as: the size of the message; position of the message; different types of boundaries; whether or not attribution of the message was effective (for example, attribution of a factual statement to the Centers for Disease Control); the use of icons to draw attention to a message; or other factors identified by the groups. To evaluate each of these factors, sample messages in different sizes, shapes, with/without attribution, with/without icons, and with/without specialized borders were developed so that the moderator (or participants) could demonstrate placement of the brief statements in various configurations.

Participants were presented with sample brief statements in three sizes. The "large" messages were 25 percent of the total height of the ads used as samples for the groups. The statements identified as "medium" sized were 15 percent of the total height, and the "small" versions were 8 percent of the total height, which is the approximate size of the Surgeon General's warning.

E. Summary of Preferences

Each group summarized its preferences for the messages that participants preferred and the placement and design elements that would be most effective in drawing the attention of adolescents to the dangers of smoking. Participants also used this occasion to make other recommendations that might make the messages more effective.

General Findings

I. Assumptions and Basic Perception of Adolescent Smoking

1. All of the groups indicated that a high percentage of adolescents will try cigarette smoking at some point during their teenage years. Estimates of the number of teens who will try smoking ranged from 50 to 99 percent. The major reasons given for why teens try smoking included: peer pressure; doing something that adults would not approve of; the perception of smoking as a "cool" activity; curiosity; and being around parents, other family members and friends who smoke.

"pressure from your friends"

"It's kind of like you go out and somebody offers you a cigarette and everybody else has one * * *."

"It's more they're being rebels."

"Some people, well, you know, like, do it to be cool."

"Lots of people, most of the kids I know, my friends, their, like, their brothers and sisters give them a cigarette, saying, 'You want to try it yet?'"

2. The adolescents in our groups indicated that teens attach little stigma to smoking because it is seen as an exploratory behavior rather than as a permanent lifestyle choice. Smoking appears to be not a lifestyle choice, but rather a matter of "trying it out," "exploring what it is like," and an informational pre-decisional behavior.

"* * * you know, other people are doing it, so why not try it?"

"At the beginning, it would be like just curiosity and wanting to know what it's like."

3. When asked where they get cigarettes, the adolescents in these groups indicated that they get them from family or friends who smoke; they buy them at convenience stores or other retail outlets known for allowing minors to purchase cigarettes; or they steal them.

"Well, I'm speaking from experience because when I was growing up my brother would buy them for me."

"You just go up to the counter, and even if you don't have any ID, you can still get them."

4. Teens that are just trying smoking stated very different reasons for smoking than teens who regularly smoke. The teens in these focus groups said that people try smoking to feel cool; to experience something that they consider to be "adult" behavior; and because of social pressures to try smoking in group situations. In contrast, the participants who identified themselves as smokers said that they smoked because it calms them down, or because smoking satisfies a physical and mental need. They indicated that they do not smoke in groups, nor do they smoke for social acceptance, but rather to meet bodily needs.

"It's like, oh, I smoke but I just do it after school. Have a cigarette to calm down or something."

"I used to be real jittery and nervous all the time, and it really calms me down."

"Your body craves it. You don't think about it anymore. It just becomes part of your life, just to have a cigarette."

5. Some of the practiced smokers in the groups expressed a very fatalistic attitude about their lives, and they questioned the likelihood of whether they would live a long time.

"They're going to die anyway. At least they're doing something they want to do."

6. Non-smokers in these groups were often critical of people who smoke regularly as adults, calling the behavior "stupid" or "unhealthy." However, their criticism often was tempered by the fact that they know family members, relatives or other respected adults who are or have been longtime smokers.

"People smoke because they're putting lots of nicotine in their blood and killing themselves."

"I mean, it's like suicide, you know?"

II. Perceptions of Cigarette Advertising

1. The adolescent participants in the focus groups were very familiar with cigarette advertising. There was 100% recognition of familiar ads, such as Camel, Marlboro, Virginia Slims, and Newport ads. There also was high awareness of the availability of promotional items with cigarette logos on them, such as T-shirts, book bags, etc. Participants explained how one could accumulate "Marlboro Miles" or "Camel C Dollars" to acquire such items.

"Yeah, you get, like, at certain brands you get points for them and you can turn them points in for, like, Zippo lighters or jackets and bags."

"They're every camel with a cigarette in his mouth. They go like, 'Everyone have a good time.'"

2. There was high awareness in all of the groups of familiar slogans, logos on billboards, and point-of-purchase displays. Some participants expressed the belief that cigarettes are advertised on television, although others in the groups usually pointed out that cigarette advertising was not allowed on TV.

"It showed him smoking a Winston and said, 'See, you really can be a winner!'"

"Everyone associates that orange and green with Newport * * *"

3. Most of the participants indicated that they did not believe that they were influenced by cigarette advertisements.

"I mean, it has nothing to do with the ads. They don't keep me from it, nor they don't make me do it."

"If you're just flipping through a magazine and you see it, you might stop and you might see something you like about it, and then flip on through. You don't really think of smoking or not smoking."

4. Participants in all of the groups responded that text-only ads are less attractive and less likely to be effective than ads with pictures. Although they indicated that consumers would be less likely to read the new warnings on text-only advertisements, they felt that text-only ads may serve to lessen teen smoking. The younger participants in particular said that anything requiring reading was boring and much less likely to attract their attention.

"I probably wouldn't look at it in the first place because it's black and white."

"People like pictures, not a whole bunch of words."

"Yeah, you won't even look at it. It's just a bunch of words."

"It's like a birthday card. You get a birthday card that has too many words, you just skim through it and get the money out of it."

III. Perceptions of Surgeon General's Warning Statements

1. All of the groups recognized the Surgeon General's warnings, but unless they were prompted, they did not appear to consider the Surgeon General's warning a part of the advertisement. Participants expressed the belief that it was there because it was required by the government, or because cigarette manufacturers were trying to protect themselves from lawsuits.

"They are required by law. They wouldn't put it on there if they weren't."

"If they didn't put them on there, they would get sued."

2. Participants also commented that the Surgeon General's warnings often were too small and camouflaged within the context of the ad, either through the use of colors that helped the warning "blend in" with the background colors—the Marlboro ad, for example, which features white snow or sand surrounding the white Surgeon General's warning—or with images that directed the eye away from the warning message. Most groups also mentioned that the warning itself was often quite small in relation to the ad on which it appeared.

"You can see, like, on that one [Virginia Slims ad], they put it down in the bottom corner, when you're looking, like, at that lady."

"They glance at it, but what they see is the thing that's being advertised. They don't notice that little small print."

"They blend it in with that white with the white snow on it, they just put it right at the bottom in the white snow."

3. Many participants expressed the belief that the Surgeon General's warnings were difficult to understand. They did not know what effect carbon monoxide would have on them, for example, and many participants did not know what emphysema was.

"Kids are not going to know what carbon monoxide is."

IV. Perception of New Brief Statements

1. There was a high degree of consensus about which statements were more or less liked.

2. The statements that were received most positively were those that included factual statements about the health risks associated with regular (i.e. long term) smoking.

"Dying means a lot."

"I think the numbers * * * might make it a little more noticeable."

"It makes it more real."

"Picture like 1,000 people dying at once, you know?"

3. The one brief statement that consistently was identified as effective was the one that stated, "Tobacco kills more Americans each year than AIDS, alcohol, accidents, murder, suicides, illegal drugs and fires * * * combined." Most of the participants indicated that, although they knew that smoking was not good for them, they were unaware that smoking was as dangerous as this statement indicated. They mentioned AIDS, accidents, illegal drugs, and suicide as well-publicized causes of death, but that cigarette-related deaths were not so obvious because they generally occurred among older people as a result of long illnesses rather than in sensational situations that were covered by the nightly news.

"You are always hearing about how many people die from AIDS and alcohol and murder, and tobacco kills more than all of them combined. That ought to freak them out."

"I think even little kids who are younger, people do realize the serious effect of AIDS, and if they think that AIDS is bad then they have to realize that tobacco is worse."

"Because you hear about those things more than you ever hear about tobacco."

4. A message that stated that "About 1 in 3 kids who become smokers will die from it" also was considered effective by many of the groups. A similar statement that said "1000 out of 3000" was also considered effective by some participants, while others said that teens would be likely to think that they could "beat the odds" if they became smokers.

"Well, they'll think, 'It won't happen to me. I'll go ahead and do it anyway.' They'll think they'll be one of the two."

5. Many of the groups indicated that, if one of the brief statements listed above was included on advertising, it is likely that people who were considering smoking might reconsider, due to the seriousness of the consequences.

6. The message about the short term effects of smoking on physical appearance and fitness appealed to some groups, particularly the girls, who were more concerned about yellow teeth and wrinkles. Groups thought that such a message about the more immediate effects smoking would be useful because it spoke to everyday concerns of kids.

"That will make them realize that if they are going to smoke, it will have an effect on their looks."

"I think people like are more worried about what they look like on the outside than like maybe like lung cancer or something."

"* * * that's one of the main reasons why I don't smoke because it affects how I run and stuff like that."

7. No other message of those tested received support from more than a few groups. Individual groups were favorable toward "Everyone now addicted to cigarettes started out 'just trying,'" "Smoking today leads to fewer tomorrows," or "Smoking hurts your athletic performance," but other groups did not see these messages as particularly effective.

8. Other messages were universally disliked or ineffective.

9. There was no discernible difference in reactions to messages between smokers and non-smokers. Both smokers and non-smokers appeared to have similar taste in messages.

10. Several messages addressing the addiction aspect of smoking were tried and proved ineffectual.

V. Perception of Possible Design Elements for New Brief Statements

1. All groups indicated that the guiding design principle for the brief statements was for the statements to be visually prominent in the ad.

2. All groups recognized that the optimal design of the brief statement, particularly placement, would necessarily depend on the design of the particular advertisement. For example, all groups indicated that advertisers would try to design their ads to diminish the visual performance of the brief statement, like they do with the Surgeon General's warning. Some groups recommended that the brief statements be added after the advertisement was designed to minimize the possibility of it being designed to reduce the impact of the brief statement.

"Well, if it's in the middle then they will be forced to read it, because you have to look at it."

"If it's possible, right in the middle."

"I am an artist and I notice that a lot of propaganda is, they have a pattern through the picture, so your eyes tend to follow the pattern. Like when you see the cigarette it sort of points to her face, you see the pizza and her laughing and you see him, and the Surgeon General's warning is always somewhere obscured."

"They'll design the picture to avoid it, I think."

3. Many of the groups said that the new brief statement should be more visually prominent than the Surgeon General's warning—which led them to say that the new brief statements needed to be distinct from the existing Surgeon General's warning.

"I mean, because if you have one of those, except bigger, you know, 'Oh, it's another Surgeon General's warning.' I mean, you skip over it again. But they do it, say, right in the middle, if they do write it in the same kind of style but make it look different some sort of way, you know, have it kind of in similar writing but not necessarily the block writing, it might be—people are more apt to read it."

"The little one is almost the size of the Surgeon General's itself, so you're not improving it too much."

4. Although placement was seen as the design element most dependent upon the specific advertisement, many groups recommended that, if possible, the message be put at the top of the ad or in the middle to ensure the greatest visibility.

"Because when you pick it up that's where you start reading."

"If you put it in a place where it stays away from all the words, it would do a lot to make it stand out."

"Put either one [Surgeon General's warning or brief statement] at the top. You are going to read that before you read the thing [ad]."

5. The major design elements that groups saw as contributing to visual prominence were type size, distinctive borders, and to a lesser extent, the use of a distinctive icon. Most groups said that the bigger the type size, the better, because it made it easier to read and more likely that the brief statement would be read. In fact, none of the groups felt that the smallest type size would be acceptable, although several groups approved of the middle type size if it would be placed appropriately. Several of the groups said that the middle size represented the best trade-off of the needs of the advertiser and the need to have the brief statement noticeable.

"Something flashy."

"If they're going to allow people to sell cigarettes, then I don't think they should have them put big letters on the cigarette box that make people not want to smoke."

6. Groups were mixed about the desirability of the "arrow-type" border for a brief statement, but were universally enthusiastic about the properties of a jagged-type border as a way to capture the attention of readers.

"Because it's [the jagged edge border] almost like a coupon."

"It catches your eye more."

7. Some groups were positive about the icon, with others less so. While most group said it would marginally improve the salience of a message, some groups thought the icon itself was not optimal and suggested other alternatives. Some groups worried that the trade-off between the extra space required by the icon and a larger message was not justified.

8. Groups frequently suggested that the appearance of a message be changed regularly so that consumers would not habituate to its appearance.

"You ought to change it periodically. I don't know what all you could change it to, but have it somehow different because I'm sure when they first started putting the Surgeon General's warning on there it caught peoples' eyes because it was new."

9. Most groups mentioned that color would be a good way to increase the prominence of a message. Almost every group mentioned neon shades, either in jest or in a serious manner, or at the very least a shade that contrasted with the colors in the advertisement itself.

"I just think that in general a different color from the whole poster, but still where it doesn't look tacky. It still blends in, but not in a similar color."

"If it was in a different color, that stands out no matter how much you try to avoid some of the stuff, it's going to catch your eye no matter what."

"A vibrant color."

"I think it should be like a neon orange."

"I think there should be like two or three colors that it can be and you have to not use that color in your ad."

10. Some participants suggested that the best way to present the information would be as a stand-alone advertisement rather than as part of a cigarette advertisement.

"Just have more ads against smoking."

"I know. Yeah, for a good commercial, you go, put, like, for a commercial, somebody smokes, put, like, you know, on the Indiana Jones where all his skin comes off and the blood's running out!"

11. The reaction to attribution to a source of information (Centers for Disease Control, FDA, other sources of attribution) also received a mixed response. While some groups said that attribution would strengthen a statement, others disagreed with that viewpoint.

"It doesn't really matter (who said it) * * * as long as it's fact."

"Someone with a degree who graduated—the Surgeon General."

Addenda

1. Sample graphics
2. Moderator's Guides
   a. Phase I
   b. Phase II

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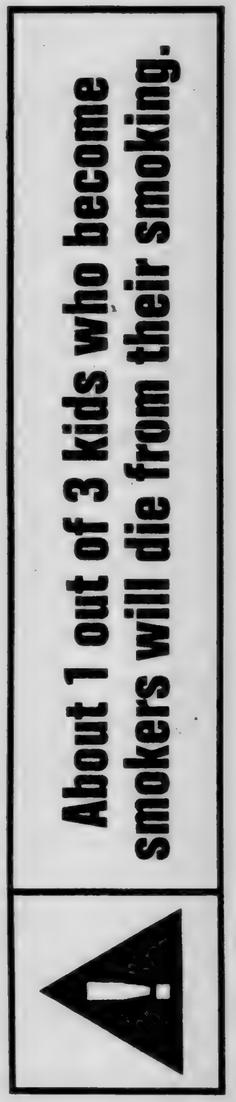

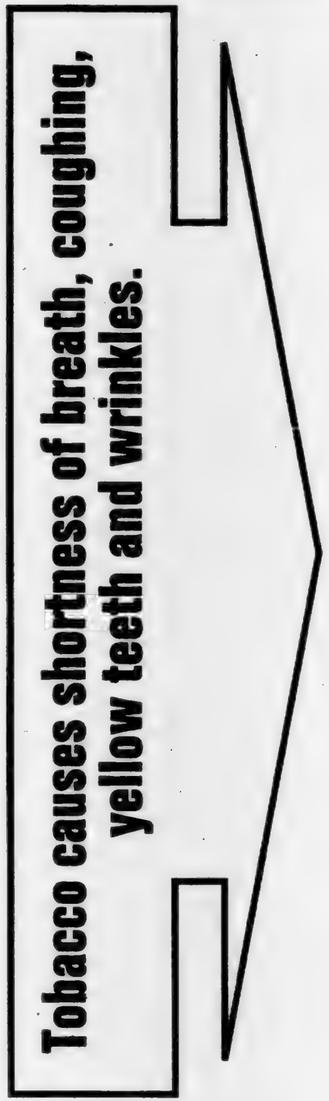

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Cigarette Advertising Focus Groups Phase I Moderator's Guide

Outline

1. Introductions
2. Presentation of Examples of Cigarette Ads
3. Discussion of Cigarette Advertising in General
4. Discussion of Warning Statements
5. Presentation and Discussion of First Set
6. Presentation and Discussion of Second Set
7. Presentation and Discussion of Third Set
8. Presentation and Discussion of Fourth Set
9. Discussion of Similarities and Differences of the Winners

Materials:

3–5 Examples of Cigarette Ads (Relevant to this Age Group).

Sheets of Paper with 3 or 4 Possible Brief Statement Wordings. Each Participant Will Get Four of These During the Session.

1. Introductions

Summary:

Moderator and respondents introduce themselves to one another. Overall plan for the focus groups is discussed. "Today, we'll be looking and talking about some examples of cigarette advertising." Important points to emphasize in the introduction. We are not here to talk about whether you do or do not smoke. That's your business. Nothing you say in the group will get back to your parents or anyone else. We care about how cigarette advertising works, and we want to talk to people of your age to get a better idea of how they see and understand advertising.

2,3. Discussion of Cigarette Advertising: General

Materials:

Examples of cigarette ads on pasteboard displays are shown to the group and remain on display throughout the session.

"Here are some examples of cigarette advertising."

Have you seen these kinds of ads before?

Where do you usually see them?

Do you notice anything different or special about cigarette ads compared to other kinds of products that are advertised, or are they basically the same as other ads?

What other kinds of ads do cigarette ads remind you of?

What kind of person is most likely to look at cigarette ads?

Who is not likely to pay much attention to these kinds of ads?

—The 3 ads are present at this point, but they are not the focus of the discussion. Smokers and non-smokers will almost certainly be brought up in this discussion, but we do not want participants to focus on their own behavior at this point.

—Warning statements are not cued by the moderator, but will probably come up in the discussion. Moderator needs to explore issues as they arise, but there is no need to focus on warning messages at this point.

—An important point here is to let people reveal their own *natural categories* about cigarette advertising and warning statements before the concept of "warning statements" is explicitly introduced.

Do you think these 3 ads are different from each other, or are they basically the same?

How are they different/same?

4. Discussion of Warning Messages

—The discussion is turned toward issues related to the warning statements, which may or may not have been discussed already. The moderator needs to explore the issues below without being repetitive or redundant with any previous discussion.

"Let's talk a little bit about the warning messages in the ads—which you may or may not have noticed."

—The moderator refers here to the Surgeon General's Warning statements in the ads as examples of warning messages.

Why are these messages there?

Do you think they work?

Why? Why not?

Who looks at these messages?

Who is supposed to look at these messages?

When did you first notice that these messages were in cigarette advertising? What did you think when you first saw them?

How could you improve these kinds of messages?

5. Presentation of Set of Warning Messages

Materials: 81/2" X 11" pages, containing several different possible warning messages.

"The warning messages that we have seen so far are not the only possible warning messages. What I'd like to do now is show you possible wordings for warning statements and get your reactions to these. These messages could be used in cigarette advertisements in the same way as in the ads we have here today.

"Here are some possible wordings for warning statements."

—Each participant gets a sheet with examples of possible warning messages. The sets of possible warning messages will have to be determined. The intent is to present participants with a small number of statements they can compare and contrast rather than one at a time or in one big list. The selection of statements should take advantage of the ability to elicit direct comparisons.

Do you feel any of these statements is particularly good or bad? credible/not credible personally relevant/not relevant Why?

What does (pick one of the messages at a time/but get reactions to as many as you think are necessary) mean to you?

How would you describe the differences, if any, between these messages?

Would you be more likely to pay attention to some of these messages? Which ones? Why?

What sort of young person would be likely to pay/not pay attention to these messages?

Do they all have the same target audience?

Which messages will appeal to which groups?

Which one(s) do you like best? (Get them to rate the messages and record consensus choice(s).)

6,7,8. Repeat the same discussion above for each new set of warning statements

9. Discussion of similarities and differences of the 4 winners.

"Here are the messages the group thought were best"

Are there other kinds of warning messages that we haven't included that you think should be in cigarette advertising? What would those be? Why do you think they would be good?

—moderator needs to include suggestions that are reasonably well received by the group as part of the final set of messages that will be discussed below.

How would you describe the differences, if any, between these messages?

Is there anything that these messages have in common that makes them superior to the other kinds of messages that did not make the final cut?

How would you describe the intended audiences for the different messages? Same? Different? Which messages appeal to what kinds of people?

Of all these messages, which one do you think is most likely to be effective? Why?

Which one(s) do you personally like the most?

At the end of the session, the participants will fill out a short outtake questionnaire that will contain some questions about smoking status, number of cigarettes smoked, brands smoked, and other relevant information.

Cigarette Advertising Focus Groups Phase II Moderator's Guide

Outline:

1. Introductions
2. Kids and Smoking
3. Information Piece
4. Cigarette Advertising
5. Warning Messages
6. Presentation of New Warning Messages: Content
7. Size of Message
8. Position
9. Boundaries
10. Attribution
11. Icons
12. Summary

Materials:

3–5 Examples of Cigarette Ads (Relevant to this Age Group).

Visuals Examples of Ads (Could Be Same Ads as Used Above) That Embody Various Format and Design Features That We Want to Evaluate—as Many as Needed.

1. Introductions

Summary:

A. Moderator and respondents introduce themselves to one another.

B. Overall plan for the focus groups is discussed:

Today, we want to talk about kids and smoking. Some of you may be smokers, but we're not here to talk about whether you smoke or not. That's your business.

But what we do care about is how kids in general think about smoking. In particular, we want to get a better idea of how kids in your age group think about smoking.

Nothing you say in the group will get back to your parents or anyone else. The best way

you can help us is to tell us what you really think, not what you think we want to hear, or what you think you should say.

2. Kids and Smoking

This is a warmup activity. Questions below are suggestions, not requirements. You don't need to ask every question. Try to get people interested and comfortable. Should take about 5–10 minutes

A. Do kids smoke at your school? How many kids smoke? Who smokes? Are boys as likely to smoke as girls?

B. When do kids first try smoking? How old are they? Is it the same for girls and boys? What kinds of things make a difference in kids' decision to try a cigarette?

C. What kinds of situations are kids in when they try smoking? Is this the same for girls and boys? Is the situation the same for younger and older kids?

D. Are the kinds of things that lead kids to try a first cigarette the same kinds of things that lead them to smoke regularly? If not, what are the differences?

E. Where do kids get cigarettes? Where do they smoke?

Other possible questions.

Who do they smoke with? Do they smoke alone, or mostly with others? Who are the others? Does this change as they smoke more regularly? Is how kids get cigarettes different if they smoke occasionally or regularly?

3. Information Piece

I want to get your reaction to this piece of information—I assure you that it is true.

Did you know that over the last 25 years the number of adults who smoke has gone down. And the number of adults who smoke keeps going down.

But the number of young people who smoke has not gone down, and is actually going up in some groups—such as 12–14 year olds.

Are you surprised by this? Why do you think this is happening?

4. Cigarette Advertising

Materials:

Examples of cigarette ads on pasteboard displays are shown to the group and remain on display throughout the session.

Here are some examples of cigarette advertising.

Have you seen these kinds of ads before?

Where do you usually see them?

What other kinds of ads do cigarette ads remind you of?

Who is most likely to look at cigarette ads?

Who is not likely to pay much attention to these kinds of ads?

—Warning statements are not cued by the moderator, but will probably come up in the discussion. Moderator needs to explore issues as they arise but does not need to focus on warning messages at this point.

—An important point here is to let people reveal their own natural categories about cigarette advertising and warning statements before the concept of "warning statements" is explicitly introduced.

5. Discussion of Warning Messages

"Let's talk a little bit about the warning messages in the ads—which you may or may not have noticed."

—The moderator refers here to the Surgeon General's Warning statements in the ads as examples of warning messages.

Why are these messages there?

Do you think they work?

Why? Why not?

Who looks at these messages?

Who is supposed to look at these messages?

What do you think about the placement of the Surgeon General's warning?

What about the size of the warning message?

How could you improve these kinds of messages?

6. Presentation of New Warning Messages: Content

Materials: Sheet containing six messages

As background for the next section, laws are being considered to require that all cigarette advertisements have information about the risks of teenage smoking. This would be in addition to the Surgeon General's warning already required on cigarette advertisements.

What I want to do now is show you some examples of possible messages and see what you think.

Let's look at these 6 messages. Moderator reads the 6 messages.

Moderator re-reads the first message.

What does this mean to you?

Do you think it is effective?

Would it appeal to kids your age?

Repeat with the other 5 messages—re-read each, one at a time, and discuss the content.

What does this mean to you?

Do you think it is effective?

Would it appeal to kids your age?

Ask them which they think is most effective. As much as possible, use that one for the example in the other tasks.

7. Size of Message

Materials: A message (perhaps the message chosen in 6) in the three different sizes on appropriate ads

Here are some examples of how these messages might actually look in cigarette advertising.

Which of these ads presents the warning information in the best way? Why do you say that?

Does the size of the warning information change the way kids are likely to react to an ad.

Will the size of the message have the same kind of effect on all ads, or will it work differently for some ads.

Would it make a difference whether the ad it was on was in color like this or only black and white?

8. Position

Materials: Three more ads with the same message and size in the 3 different placements on the ad.

Which of these ads presents the warning information in the best way? Why do you say that?

Does the placement of the warning information change the way kids are likely to react to an ad.

Will the placement of the message have the same kind of effect on all ads, or will it work differently for some ads.

Would it make a difference whether the ad it was on was in color like this or only black and white?

9. Boundaries

Materials: Three more ads with messages in the same size and placement (probably top placement) but with different boundaries.

Which of these ads presents the warning information in the best way? Why do you say that?

Does the boundary of the warning information change the way kids are likely to react to an ad.

Will the kind of boundary for the message have the same kind of effect on all ads, or will it work differently for some ads.

Would it make a difference whether the ad it was on was in color like this or only black and white?

10. Attribution

Materials: Two ads with the same message, size and placement, but one with the CDC attribution

Which of these ads presents the warning information in the best way? Why do you say that?

Does giving the source of the warning information change the way kids are likely to react to an ad.

Will giving the source for the message have the same kind of effect on all ads, or will it work differently for some ads.

Would it make a difference whether the ad it was on was in color like this or only black and white?

Are there other organizations that kids would be more likely to believe? What?

11. Icons

Materials: Three ads with more or less the same message, boundary, size, placement, but one without an icon, one with a larger icon, and one with a smaller icon.

Which of these ads presents the warning information in the best way? Why do you say that?

Does having an icon for the warning information change the way kids are likely to react to an ad.

What does the icon look like to you.

Will having an icon for the message have the same kind of effect on all ads, or will it work differently for some ads.

Would it make a difference whether the ad it was on was in color like this or only black and white?

Are there other icons that kids would be more likely to understand? What?

12. Summary

As you see, there are many possible features that make up a total presentation. We couldn't show you all possible combinations, but we want your opinions and ideas about how different features go together or don't go together. You may have suggestions about trying combinations that we haven't tried, and that's good. Let's look think about the whole picture you have put together from your choices.

Do you think this message, size, placement, with this boundary and picture (icon), and with the organization you chose it should come from, would look right? Would it be an effective whole ad? Why or why not? How might it be improved?

At the end of the session, the participants will fill out a short outtake questionnaire that will contain some questions about smoking status, number of cigarettes smoked, brands smoked, and other relevant information.

Dated: November 28, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–29299 Filed 11–30–95; 8:45 am]

BILLING CODE 4160–01–F

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Modifications to Role of National Labor Relations Board's Administrative Law Judges Including: Assignment of Administrative Law Judges as Settlement Judges; Discretion of Administrative Law Judges to Dispense With Briefs, to Hear Oral Argument in Lieu of Briefs, and to Issue Bench Decisions

AGENCY: National Labor Relations Board.

ACTION: Proposed permanent modification of rules upon expiration of one-year experiment.

SUMMARY: The National Labor Relations Board (NLRB) issues a document proposing to make permanent, following expiration of the one-year experimental period on January 31, 1996, the experimental modification to its rules authorizing the use of settlement judges and providing administrative law judges (ALJs) with the discretion to dispense with briefs, to hear oral argument in lieu of briefs, and to issue bench decisions.

DATES: Comments must be received on or before December 29, 1995.

ADDRESSES: Comments should be sent to: Office of the Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Room 11600, Washington, D.C. 20570. Telephone: (202) 273–1940.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Acting Executive Secretary, Telephone: (202) 273–1940.

SUPPLEMENTARY INFORMATION: On September 8, 1994, the Board issued a Notice of Proposed Rulemaking (NPR) which proposed certain modifications to the Board's rules to permit the assignment of ALJs to serve as settlement judges, and to provide ALJs with the discretion to dispense with briefs, to hear oral argument in lieu of briefs, and to issue bench decisions (59 FR 46375). The NPR provided for a comment period ending October 7, 1994.

Thereafter, on December 22, 1994, following consideration of the comments received to the NPR, the Board [1] issued a notice implementing, on a one-year experimental basis, the proposed modifications (59 FR 65942). The notice provided that the modifications would become effective on February 1, 1995, and would expire at the end of the one-year experimental period on January 31, 1996, absent renewal by the Board.

Recently, on November 6 and 8, 1995, the Board met with the Management and Union-side Panels of the NLRB Advisory Committee on Agency Procedure to discuss, among other matters, the experience to date with the experimental modifications and whether the modifications should be extended or made permanent following expiration of the one-year experimental period.[2] The following is a summary of the information that the Board provided to the members of the Advisory Committee Panels on this question.

Settlement Judges

Since February 1, 1995, settlement judges have been assigned in 55 cases. There have been settlements in 35 of the cases. Eighteen cases did not settle and went to trial. Settlement is still possible in some of the remaining cases. Some of the cases which settled did so after a trial judge was assigned and occurred either after conference calls conducted by the trial judge or at the hearing site. Twenty seven, or just about half of the cases in which settlement judges were assigned, were Region 4 (Philadelphia) cases in which the region played an active role in setting up settlement conferences. In about half a dozen other cases appointment of a settlement judge was requested by the General Counsel or a party. In the remaining 22 cases, settlement judges were assigned at the initiative of the Division of Judges. The Division of Judges has suggested appointment of settlement judges in other cases, but not all the parties have agreed. At the end of August 1995, there were a total of 577 settlements by ALJs compared to 544 at the end of August 1994. The difference is almost the same as the number of cases in which settlement judges were assigned and settlements were reached.

Bench Decisions

Ten bench decision have issued since February 1, 1995 (out of approximately 400 total ALJ decisions). Several of the bench decisions turned on simple credibility determinations. None of the cases involved complex legal issues. The average transcript length was 144 pages; the median length was slightly higher. All of the cases took less than one day. In six of the 10 cases, no exceptions were filed to the ALJ's bench decision, and the Board therefore adopted the ALJ's decision in the absence of exceptions. Of the four other bench-decision cases, the Board short-form adopted the ALJ's decision in three of the cases,[3] and the other case is still pending before the Board on exceptions.

The response of both the Management and the Union-side Panel of the Advisory Committee generally favored a continuation of the modifications, with the exception of the modification authorizing bench decisions, which received a mixed response from the Management-side Panel. The response of the Management-side Panel of the Advisory Committee generally favored a continuation of the modification authorizing the use of settlement judges. Several members of the Panel stated that they favored extending the settlement judge procedure, provided that the use of settlement judges continued to be consensual as currently provided. One member, however, stated the view that the emphasis with respect to settlement should be on the trial judges themselves and the Regional Office staff rather than on settlement judges. With respect to bench decisions, one member of the Management-side Panel stated the view that this procedure should also be extended and used in more cases. However, two other members expressed concern about the lack of discovery and the absence of an opportunity to file a brief.

The Union-side Panel also generally favored continuation of the settlement judge procedure. The Panel emphasized, however, that the settlement judge should not have the authority to postpone the trial date. Further, the Panel indicated that it was not necessarily opposed to eliminating the requirement that all parties agree to the use of a settlement judge or mandating that parties appear at an initial settlement conference. Finally, the

[1] Chairman Gould and Members Devaney and Browning; Members Stephens and Cohen dissenting in part.

[2] A notice of these meetings was issued on October 19, 1995, advising the public of the agenda and of the right to attend and file written comments on the matters discussed within 30 days thereafter (60 FR 54090). To date, no written public comments have been received.

[3] *Sylvan Industrial Piping, Inc.*, 317 NLRB 772 (1995); *The Riverboat Hotel*, 319 NLRB No. 30 (Sept. 29, 1995); and *Kinco, Ltd.*, 319 NLRB No. 56 (Oct. 23, 1995) (Member Cohen dissenting in part).

Panel indicated support for continuing the bench decision procedure and encouraging its greater use.

Having reviewed the experience to date with the modifications and the views of the Advisory Committee, the Board is proposing to extend the modifications in their current form by making them permanent following the expiration of the one-year experimental period on January 31, 1996. The modifications are set forth below without change. The Board is providing a period for public comment on this proposal.

As required by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the NLRB certifies that these rules will not have a significant impact on small business entities.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

For the reasons set forth above, the NLRB proposes to permanently amend 29 CFR Part 102 as follows upon expiration of the one-year experimental period on January 31, 1996:

PART 102—RULES AND REGULATIONS, SERIES 8

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.35 is revised to read as follows:

§ 102.35 Duties and powers of administrative law judges; assignment and powers of settlement judges.

(a) It shall be the duty of the administrative law judge to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice affecting commerce as set forth in the complaint or amended complaint. The administrative law judge shall have authority, with respect to cases assigned to him, between the time he is designated and transfer of the case to the Board, subject to the Rules and Regulations of the Board and within its powers:

(1) To administer oaths and affirmations;

(2) To grant applications for subpoenas;

(3) To rule upon petitions to revoke subpoenas;

(4) To rule upon offers of proof and receive relevant evidence;

(5) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(6) To regulate the course of the hearing and, if appropriate or necessary, to exclude persons or counsel from the hearing for contemptuous conduct and to strike all related testimony of witnesses refusing to answer any proper question;

(7) To hold conferences for the settlement or simplification of the issues by consent of the parties, but not to adjust cases;

(8) To dispose of procedural requests, motions, or similar matters, including motions referred to the administrative law judge by the Regional Director and motions for summary judgment or to amend pleadings; also to dismiss complaints or portions thereof; to order hearings reopened; and upon motion order proceedings consolidated or severed prior to issuance of administrative law judge decisions;

(9) To approve a stipulation voluntarily entered into by all parties to the case which will dispense with a verbatim written transcript of record of the oral testimony adduced at the hearing, and which will also provide for the waiver by the respective parties of their right to file with the Board exceptions to the findings of fact (but not to conclusions of law or recommended orders) which the administrative law judge shall make in his decisions;

(10) To make and file decisions, including bench decisions delivered within 72 hours after conclusion of oral argument, in conformity with Public Law 89–554, 5 U.S.C. 557;

(11) To call, examine, and cross-examine witnesses and to introduce into the record documentary or other evidence;

(12) To request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(13) To take any other action necessary under the foregoing and authorized by the published Rules and Regulations of the Board.

(b) Upon the request of any party or the judge assigned to hear a case, or on his or her own motion, the chief administrative law judge in Washington, D.C., the deputy chief judge in San Francisco, the associate chief judge in Atlanta, or the associate chief judge in New York may assign a judge who shall be other than the trial judge to conduct settlement negotiations. In exercising his or her discretion, the chief, deputy chief, or associate chief judge making the assignment will consider, among other factors, whether there is reason to believe that resolution of the dispute is likely, the request for assignment of a settlement judge is made in good faith, and the assignment is otherwise feasible. *Provided*, however, that no such assignment shall be made absent the agreement of all parties to the use of this procedure.

(1) The settlement judge shall convene and preside over conferences and settlement negotiations between the parties, assess the practicalities of a potential settlement, and report to the chief, deputy, or associate the status of settlement negotiations, recommending continuation or termination of the settlement negotiations. Where feasible settlement conferences shall be held in person.

(2) The settlement judge may require that the attorney or other representative for each party be present at settlement conferences and that the parties or agents with full settlement authority also be present or available by telephone.

(3) Participation of the settlement judge shall terminate upon the order of the chief, deputy, or associates issued after consultation with the settlement judge. The conduct of settlement negotiations shall not unduly delay the hearing.

(4) All discussions between the parties and the settlement judge shall be confidential. The settlement judge shall not discuss any aspect of the case with the trial judge, and no evidence regarding statements, conduct, offers of settlement, and concessions of the parties made in proceedings before the settlement judge shall be admissible in any proceeding before the Board, except by stipulation of the parties. Documents disclosed in the settlement process may not be used in litigation unless voluntarily produced or obtained pursuant to subpoena.

(5) No decision of a chief, deputy, or associate concerning the assignment of a settlement judge or the termination of a settlement judge's assignment shall be appealable to the Board.

(6) Any settlement reached under the auspices of a settlement judge shall be subject to approval in accordance with the provisions of Section 101.9 of the Board's Statements of Procedure.

3. Section 102.42 is revised to read as follows:

§ 102.42 Filings of briefs and proposed findings with the administrative law judge and oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which may include presentation of proposed findings and conclusions, and shall be included in the stenographic report of the hearing. In the discretion of the administrative law judge, any party may, upon request made before the close of the hearing, file a brief or proposed findings and conclusions, or both, with the administrative law judge, who may fix a reasonable time for such filing, but not in excess of 35 days from the close of the hearing. Requests for further extensions of time shall be made to the chief administrative law judge in Washington, D.C., to the deputy chief judge in San Francisco, California, to the associate chief judge in New York, New York, or to the associate chief judge in Atlanta, Georgia, as the case may be. Notice of the request for any extension shall be immediately served on all other parties, and proof of service shall be furnished. Three copies of the brief or proposed findings and conclusions shall be filed with the administrative law judge, and copies shall be served on the other parties, and a statement of such service shall be furnished. In any case in which the administrative law judge believes that written briefs or proposed findings of fact and conclusions may not be necessary, he or she shall notify the parties at the opening of the hearing or as soon thereafter as practicable that he or she may wish to hear oral argument in lieu of briefs.

4. In § 102.45, paragraph (a), is revised to read as follows:

§ 102.45 Administrative law judge's decision; contents; service; transfer of case to the Board; contents of record in case.

(a) After hearing for the purpose of taking evidence upon a complaint, the administrative law judge shall prepare a decision. Such decision shall contain findings of fact, conclusions, and the reasons or basis therefor, upon all material issues of fact, law, or discretion presented on the record, and shall contain recommendations as to what disposition of the case should be made, which may include, if it be found that the respondent has engaged in or is engaging in the alleged unfair labor practices, a recommendation for such affirmative action by the respondent as will effectuate the policies of the Act. The administrative law judge shall file the original of his decision with the Board and cause a copy thereof to be served on each of the parties. If the administrative law judge delivers a bench decision, promptly upon receiving the transcript the judge shall certify the accuracy of the pages of the transcript containing the decision; file with the Board a certified copy of those pages, together with any supplementary matter the judge may deem necessary to complete the decision; and cause a copy thereof to be served on each of the parties. Upon the filing of the decision, the Board shall enter an order transferring the case to the Board and shall serve copies of the order, setting forth the date of such transfer, on all the parties. Service of the administrative law judge's decision and of the order transferring the case to the Board shall be complete upon mailing.

* * * * *

Dated, Washington, D.C., November 27, 1995.

By direction of the Board:

John J. Toner,

Acting Executive Secretary.

[FR Doc. 95–29297 Filed 11–30–95; 8:45 am]

BILLING CODE 7545–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[FRL–5337–5]

National Emissions Standards for Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission and Federal Facilities not Covered by Subpart H

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of comment period and notice of public hearings.

SUMMARY: The Office of Radiation and Indoor Air, Radiation Protection Division is reopening the comment period for the proposal to rescind subpart I for NRC and Agreement State licensees other than nuclear power reactors; and will also hold public hearings on this proposed rule to rescind 40 CFR part 61, subpart I.

We are reopening the comment period to allow the public the opportunity to view NRC's proposed constraint level rule. When EPA first published it's notice of proposed rulemaking on September 28, 1995 (60 FR 50161, No.188), it was with the expectation that NRC's proposal was forthcoming and at that point we placed a draft of the proposal provided to us in the public docket (A–92–50). Due to NRC's delay in publishing their proposed constraint level rule, EPA needs to provide additional time for the public to review the actual proposal from NRC.

DATES: The reopening of the comment period allows comments to be received by EPA on or before January 20, 1996. The hearings will be held on Tuesday, January 9, 1996, from 9:00 am to 5:00 pm.

ADDRESSES: The hearings will take place at the Marriott Hotel, 1999 Jefferson Davis Highway, in Arlington, VA (accessed from the Crystal City Metro stop). Comments should be submitted (in duplicate if possible) to: Central Docket Section, Environmental Protection Agency, Attn: Air Docket No. A–92–50, Washington, DC 20460. Docket A–92–50 contains the rulemaking record. The docket is available for public inspection between the hours of 8:00 am and 5:30 pm, Monday through Friday, in room M1500 of Waterside Mall, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying. The fax number is (202) 260–4400.

FOR FURTHER INFORMATION CONTACT: Eleanor Thornton, Program Analyst, Center for Federal Guidance and Air Standards, Radiation Protection Division, Office of Radiation and Indoor Air (6602J), Environmental Protection Agency, Washington, DC 20460, (202) 233–9773.

SUPPLEMENTARY INFORMATION: This meeting is open to any member of the public. As noted in the notice reopening the comment period (60 FR 50161, No.188, September 28, 1995), requests to participate in the public hearing should be made in writing to the Director, Lawrence G. Weinstock, Radiation Protection Division, Office of Radiation and Indoor Air (6602J), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, by January 3, 1996. Requests may also be faxed to EPA at (202) 233–9629 or 233–9626. Requests to participate in the public hearing should also include an outline of the topics to be addressed, the amount of time requested, and the names of the participants. EPA may also allow testimony to be given at the hearing without prior notice, subject to time restraints and at the discretion of the hearing officer. Three (3) copies of testimony should be submitted at the time of appearance at the hearings.

Dated: November 22, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95–29361 Filed 11–30–95; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 60, No. 231
Friday, December 1, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Special Provision for Frozen Concentrated Orange Juice Under the North American Free Trade Agreement Implementation Act

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of determination of termination of existence of price conditions necessary for imposition of temporary duty on frozen concentrated orange juice from Mexico.

SUMMARY: This is notification that for 5 consecutive business days the daily price for frozen concentrated orange juice was greater than the applicable average daily closing price of the New York Cotton Exchange. This precludes at this time imposition of a snapback tariff on Mexican frozen concentrated orange juice.

FOR FURTHER INFORMATION CONTACT: Joseph Somers, Horticultural and Tropical Products Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250–1000 or telephone at (202) 720–2974.

SUPPLEMENTARY INFORMATION: The North American Free Trade Agreement Implementation Act ("NAFTA Implementation Act") authorizes the imposition of a temporary duty (snapback) for Mexican frozen concentrated orange juice when certain conditions exist. Mexican articles falling under subheading 2009.11.00 of the Harmonized Tariff Schedule of the United States (HTS) are subject to the snapback duty provision.

Under section 309(a) of the NAFTA Implementation Act, certain price conditions must exist before the United States can apply a snapback duty on imports of Mexican frozen concentrated orange juice. In addition, such imports must exceed specified amounts before the snapback duty can be applied. The price conditions exist when for each period of 5 consecutive days the daily price for frozen concentrated orange juice is less than the trigger price.

For the purpose of this provision, the term "daily price" means the daily closing price of the New York Cotton Exchange, or any successor as determined by the Secretary of Agriculture (the "Exchange"), for the closest month in which contracts for frozen concentrated orange juice are being traded on the Exchange. The term "business day" means a day in which contracts for frozen concentrated orange juice are being traded on the Exchange. The term "trigger price" means the average daily closing price of the Exchange for the corresponding month during the previous 5-year period, excluding the year with the highest average price for the corresponding month and the year the lowest average price for the corresponding month.

Price conditions no longer exist when the Secretary determines that for a period of 5 consecutive business days the daily price for frozen concentrated orange juice has exceeded the trigger price.

Whenever the price conditions are determined to exist or to cease to exist the Secretary is required to immediately notify the Commissioner of Customs of such determination. Whenever the determination is that the price conditions exist and the quantity of Mexican articles of frozen concentrated orange juice entered exceeds (1) 264,978,000 liters (single strength equivalent) in any of calendar years 1994 through 2002, or (2) 340,560,000 liters (single strength equivalent) in any of calendar years 2003 through 2007, the rate of duty on Mexican articles of frozen concentrated orange juice that are entered after the date on which the applicable quantity limitation is reached and before the date of publication in the **Federal Register** of the determination that the price conditions have ceased to exist shall be the lower of—(1) the column 1—General rate of duty in effect for such articles on July 1, 1991; or (2) the column 1—General rate of duty in effect on that day. For the purpose of this provision, the term "entered" means entered or withdrawn from warehouse for consumption in the customs territory of the United States.

In accordance with Section 309(a) of the NAFTA Implementation Act, it has been determined that for the period October 18–24, 1995, the daily price for frozen concentrated orange juice exceeded the trigger price.

Issued at Washington, DC the 24th day of November, 1995.

August Schumacher, Jr.,
Administrator, Foreign Agricultural Service.

[FR Doc. 95–29344 Filed 11–30–95; 8:45 am]
BILLING CODE 3410–10–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an export trade certificate of review, application No. 95–00005.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to The Connell Company on November 13, 1995. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1993).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

A. Export Trade

1. Products

Japonica brown rice.

2. Export Trade Facilitation Services (as They Relate to the Export of Products)

Communication and processing of export orders; inspection, fumigation and stevedoring; transportation; freight forwarding and trade documentation; insurance; billing of foreign buyers; collection of letters of credit and other financial instruments.

B. Export Markets

The export markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

C. Export Trade Activities and Methods of Operation

To engage in Export Trade in the Export Markets, The Connell Company may:

(i) solicit orders from foreign purchasers;

(ii) receive information on a one-to-one basis from individual Suppliers regarding inventories and near-term production schedules for the purpose of determining the availability of Products for purchase and export;

(iii) confer from time to time, on a one-to-one basis, with individual Suppliers regarding a potential purchase by The Connell Company with regard to the quantities, price, delivery schedule, and other pertinent matters pertaining thereto;

(iv) allocate export sales among individual Suppliers, provided that The Connell Company does not intentionally disclose to any Supplier any information about other Suppliers' sales to The Connell Company for export;

(v) enter into purchase agreements with one or more Suppliers for the purchase of Products in the United States, and sales agreements with one or more foreign purchasers for the sale of Products in the Export Markets;

(vi) refuse to purchase from one or more Suppliers for reasons The Connell Company deems fit; and

(vii) as the single buyer of Products, coordinate schedules for delivery of Products to the dock among Suppliers; allocate dock space; allocate Products to various vessels; coordinate stevedoring from the inland trucks to the dock and from the dock to the vessels; arrange for inspection by both U.S. and foreign inspection services; arrange for fumigation of the Products; arrange for various documentation regarding the cargo; and provide for other Export Trade Facilitation Services as they relate to the export of Products.

D. Terms and Conditions of Certificate

1. In engaging in the above Export Trade Activities and Methods of Operation, The Connell Company will not intentionally disclose, directly or indirectly, to any Supplier any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, or U.S. business plans, strategies, or methods that is not already generally available to the trade or public.

2. The Connell Company will comply with requests made by the Secretary of Commerce on behalf of the Secretary of Commerce or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of Section 303(a) of the Act.

E. Definitions

"Supplier" means a person that produces, provides, or sells Products.

F. Protection Provided by Certificate

The Certificate protects The Connell Company, its directors, officers, and employees acting on its behalf, from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

G. Effective Period of Certificate

The Certificate continues in effect from the effective date indicated below until it is relinquished, modified, or revoked as provided in the Act and the Regulations.

H. Other Conduct

Nothing in the Certificate prohibits The Connell Company from engaging in conduct not specified in the Certificate, but such conduct is subject to the normal application of the antitrust laws.

I. Disclaimer

The issuance of the Certificate of Review to The Connell Company by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion by the Secretary or by the Attorney General concerning either (a) the viability or quality of the business plans of The Connell Company or (b) the legality of such business plans of The Connell Company under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country. The application of the Certificate to conduct in export trade where the United States Government is the buyer or where the United States Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V.(D.) of the "Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition)", 50 Fed. Reg. 1786 (January 11, 1985).

Dated: November 21, 1995.

W. Dawn Busby,
Director, Office of Export Trading Company Affairs.

[FR Doc. 95–29283 Filed 11–30–95; 8:45 am]
BILLING CODE 3510–DR–P

National Oceanic and Atmospheric Administration

[I.D. 112195A]

Mid-Atlantic Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Surf Clam and Ocean Quahog Industry Advisory Committee will hold a public meeting.

DATES: The meeting will be held on December 12, 1995, from 10:00 a.m. until 5:00 p.m.

ADDRESSES: The meeting will be held at the Doubletree Guest Suites Philadelphia International Airport, 4101 Island Avenue, Philadelphia, PA; telephone: (215) 365-6600.

Council Address: Mid-Atlantic Fishery Management Council, 300-S. New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director; telephone: (302) 674-2331.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss the overfishing definition for Surf Clams and Ocean Quahogs.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for

sign language interpretation or other auxiliary aids should be directed to Joanna Davis at (302) 674-2331 at least 5 days prior to the meeting date.

Dated: November, 24, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29285 Filed 11–30–95; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the procurement list.

SUMMARY: This action adds to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: January 2, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On September 15, 1995, the Committee for Purchase from People who are Blind or Severely Disabled published notice (60 F.R. 47937) of proposed addition to the Procurement List.

Comments were received from an association representing small disadvantaged businesses and from a company which was a contractor for related services at the same Government installation. The association questioned the Committee's practice of providing notice of the proposed addition to the Procurement List only in the **Federal Register**, and claimed, without providing any supporting information, that the proposed addition would have a severe economic impact on small businesses that support the installation. The company claimed that the addition would have a severe adverse impact on it, and also claimed that procurement regulations had been violated in connection with the current contract to provide these services to the Government.

The Committee is required by its statute, at 41 U.S.C. 47(a)(2), to follow the informal rulemaking procedure set forth in 5 U.S.C. 553 when adding commodities and services to the Procurement List. The latter statute requires notices of proposed rulemakings to be published in the **Federal Register**. In addition, 44 U.S.C. 1507 provides that **Federal Register** notice is legally sufficient notice of a Government action to all concerned. Consequently, the Committee believes it acted as Congress intended when it gave notice of the proposal to add these services to the Procurement List.

The contracting officer for the services informed the Committee that, prior to the start of the current contract with the non-profit agency, the services being added to the Procurement List were being performed by Government personnel and were not part of the contract which the commenting contractor had with the installation. Accordingly, addition of these services to the Procurement List should have no effect on the commenting contractor or on any of the businesses represented by the commenting association because they will not lose any work they already had with this Government installation.

Award of the current contract for these and other services was not done under authority of the Committee's statute, as the services were not on the Procurement List. The Committee has been informed that the commenting contractor is pursuing its claim that procurement regulations were violated in a forum which is better equipped than the Committee to address them.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service, fair market price, and impact of the additions on the current or most recent contractor, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will not have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List: Administrative Services, Naval Air Warfare Center, Training Systems Division, Orlando, Florida.

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–29326 Filed 11–30–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the procurement list.

SUMMARY: This action adds to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: January 2, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On September 29, 1995, the Committee for Purchase from People who are Blind or Severely Disabled published notice (60 F.R. 50559) of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will not have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List: Janitorial/Custodial, Beaver U.S. Army Reserve Center, 2001 Industrial Park Road, Beaver, West Virginia.

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–29325 Filed 11–30–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 2, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Office Supplies
(Requirements for Fort Bragg, North Carolina)
NPA: Lions Club Industries, Durham, North Carolina

Office Supplies
(Requirements for Fort Jackson, South Carolina) NPA: Lions Club Industries, Durham, North Carolina

Services

Administrative Services for the following General Services Administration locations:

Denver Federal Center
Buildings 1, 41 and 44
6th & Kipling
Lakewood, Colorado

Denver Field Office
1961 Stout Street
Denver, Colorado

Colorado Field Office
730 Simms Street
Golden, Colorado
NPA: Bayaud Industries, Denver, Colorado

Janitorial/Custodial
Schofield Barracks, Building T–913
Fort Shafter, Hawaii
NPA: Goodwill Industries of Honolulu, Inc., Honolulu, Hawaii

Janitorial/Custodial
Carl D. Perkins Federal Building and U.S. Courthouse
1504 Greenup Avenue
Ashland, Kentucky
NPA: Goodwill Industries of KYOWVA Area, Inc., Huntington, West Virginia

Recycling Service
Basewide
Goodfellow Air Force Base, Texas
NPA: Mental Health/Mental Retardation Services for the Concho Valley, San Angelo, Texas

Switchboard Operation
VA Medical Center
1601 Perdido Street
New Orleans, Louisiana
NPA: Goodwill Industries of Southeastern Louisiana, New Orleans, Louisiana

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–29327 Filed 11–30–95; 8:45 am]

BILLING CODE 6820–33–P

COMMODITY FUTURES TRADING COMMISSION

Application of the New York Futures Exchange, Inc., as a Contract Market in Futures and Futures Options on the PSE Technology Index

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and futures option contracts.

SUMMARY: The New York Futures Exchange, Inc (NYFE or Exchange) has applied for designation as a contract market in futures and futures options on the PSE Technology Index.

The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before January 2, 1996.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Reference should be made to the NYFE contract markets on the PSE technology index.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the

Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, telephone 202–418–5277.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5097.

Other materials submitted by the NYFE in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 C.F.R. Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 C.F.R. 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 C.F.R. 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the NYFE, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on November 28, 1995.

Blake Imel,

Acting Director.

[FR Doc. 95–29303 Filed 11–30–95; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Impact Statement (FEIS) on the Disposal and Reuse of the Materials Technology Laboratory, Watertown, MA

AGENCY: Department of the Army, DOD.

ACTION: Notice of availability.

SUMMARY: The proposed action evaluated by this FEIS is the disposal of the Materials Technology Laboratory (MTL).

This action will result in the disposal of 37 acres of excess property at MTL in accordance with the Defense Base Closure and Realignment Act of 1988, Public Law 100–526. The FEIS addresses the environmental and socioeconomic effects of the disposal and subsequent reuse of the 37 acres. Three alternative methods of disposal are analyzed: Encumbered Disposal, Unencumbered Disposal and Retention of the Property in a Caretaker Status (i.e., the No Action Alternative).

The Encumbered Disposal Alternative addresses natural or man-made encumbrances to the future reuse. The Unencumbered Disposal Alternative evaluates the potential to remove encumbrances, thereby allowing the property to be disposed with fewer or no Army-imposed restrictions on future use. The impacts of reuse are evaluated in terms of low, medium and high land use intensities.

No significant environmental or human health effects are anticipated from the disposal of MTL. Hazardous waste remediation will have a beneficial effect on soils, surface water, and groundwater. Reuse measures that future owners could take include exercise of discretion in land use planning and infrastructure development. Adherence to deed restrictions and enforcement of zoning, subdivision regulation, and building permits could help maintain visual resources inherent at the MTL site.

DATES: Inquiries will be accepted within 30 days of the publication of this Notice of Availability.

ADDRESSES: Copies of the Final Environmental Impact Statement can be obtained by writing to Mr. James Davidson, at the U.S. Army Materiel Command, ATTN: AMCSO, 5001 Eisenhower Avenue, Alexandria, VA 22333–0001.

Dated: November 13, 1995.

Raymond J. Fatz,

Acting Deputy Assistant Secretary of the Army, (Environmental, Safety and Occupational Health), OASA, (I, L&E).

[FR Doc. 95–29284 Filed 11–30–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of teleconference meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the Executive and Nominations Committees of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: Executive Committee December 6, 1995 and Nominations Committee December 8, 1995.

TIME: Executive Committee 11:00 a.m. (et) to completion of business and Nominations Committee 4:00 p.m. (et) to completion of business.

LOCATION: 800 North Capitol Street NW., Suite 825, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Stephen Swearingen, Budget and Finance Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street NW., Washington, D.C., 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994), (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

On December 6, the Executive Committee of the National Assessment Governing Board will meet via teleconference from 11:00 a.m. until the completion of business. Following the roll call and introductory remarks, the Committee will review the agenda for a NAGB meeting in St. Louis on Saturday, January 13, 1996.

The meeting of the Nominations Committee, scheduled for December 8, 1995, will be held from 4:00 p.m. until the completion of business. After the roll call and introductory remarks, the Committee will review procedures to be used for the solicitation of the names of individuals to succeed the Board members whose terms expire September 30, 1996. The expiring terms are in the following categories: local superintendent, general public (2), testing and measurement expert (2), state superintendent, and 12th grade teacher.

Because these are teleconference meetings, facilities will be provided so the public will have access to the Committee's deliberations. These facilities will be provided in the location listed in the portion of this notice titles "LOCATION."

The public is being given less than fifteen days notice of this teleconference because there was no funding available to hold the previously announced Board Meeting in Seattle and plans have to be approved to hold another Board Meeting as soon as possible and to begin the Nominations process.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street NW., Washington, D.C., from 8:30 a.m. to 5:00 p.m.

Dated: November 28, 1995.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 95–29377 Filed 11–30–95; 8:45 am]

BILLING CODE 4000–01–M

Privacy Act of 1974; Computer Matching Program; Notice

AGENCY: Department of Education.

ACTION: Notice of Computer Matching Programs to comply with Public Law (Pub. L.) 100–503, the Computer Matching and Privacy Protection Act of 1988.

SUMMARY: Section 484(p) of title IV of the Higher Education Act of 1965, as amended (HEA) requires the Secretary of Education, in cooperation with the Commissioner of the Social Security Administration (SSA), to verify any social security number (SSN) provided by an applicant for student financial assistance. Section 484(g) of the HEA authorizes the Secretary to verify statements provided by title IV applicants with regard to their citizenship and immigration status, using an automated or other system of verification.

In order to ensure that applicants for title IV student financial assistance have a valid SSN and citizenship status for the purpose of meeting eligibility requirements under the title IV programs, the Department of Education (ED) and the SSA will exchange relevant verifying information using a computer matching program. The purpose of this notice is to announce the operation of the computer matching program and to provide certain required information concerning the computer matching program.

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a) as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (see 54 FR at 25818, June 19, 1989), and OMB Circular A–130, the following information is provided:

1. Names of Participating Agencies

The Department of Education and the Social Security Administration.

2. Purpose of the Match

Section 484(p) of the HEA requires ED to verify the SSN provided by any applicant for assistance under title IV of that Act. Section 484(g) of the HEA authorizes the Secretary to verify statements provided by title IV applicants with regard to their citizenship and immigration status using an automated or other system, with other Federal agencies that may be in possession of information relevant to such statements and supporting documentation.

The purpose of this new matching program is to expand ED's matching program that verifies the accuracy of each applicant's SSN. The expanded matching program will further verify the accuracy of applicant claims of U.S. citizenship. The new match will supplement the Department's ability to track title IV loan defaulters using SSNs, by preventing disbursements of title IV assistance to applicants whose citizenship status do not comply with the requirements of section 484(a)(5) of the HEA.

3. Authority for Conducting the Matching Program

Sections 484 (g) and (p) of the HEA; Section 1106(a) of the Social Security Act.

4. Categories of Records and Individuals Covered by the Match

ED will submit for verification from its Central Processing Systems files the SSN and other identifying information for each applicant for title IV assistance. This information will be matched against the SSA Numident, which contains the SSN, citizenship status and identifying information for all SSN holders.

5. Effective Dates of the Matching Program

The matching program will become effective 40 days after a copy of the agreement, as approved by the Data Integrity Board of each agency, is sent to Congress and the Office of Management and Budget (OMB) (or later if OMB objects to some or all of the agreement), or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months after the effective date and may be extended for an additional 12 months thereafter, if the conditions specified in 5 U.S.C. 522a(o)(2)(D) have been met.

6. Address for Receipt of Public Comments or Inquiries

Individuals wishing to comment on this matching program or obtain additional information about the program including a copy of the computer matching agreement between ED and SSA should contact Ms. Edith Bell, Program Specialist, Policy Development Division, U.S. Department of Education, 600 Independence Avenue SW, (Room 3053, ROB–3), Washington, DC 20202, Telephone (202) 708–7888.

Written comments should be submitted to Ms. Bell at this address. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Dated: November 27, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 95–29338 Filed 11–30–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Record of Decision; Safe Interim Storage of Hanford Tank Wastes, Hanford Site, Richland, WA

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of record of decision (ROD).

SUMMARY: DOE and the Washington State Department of Ecology (Ecology) have jointly prepared the Safe Interim Storage of Hanford Tank Wastes Final Environmental Impact Statement (SIS EIS) (DOE/EIS–0212) to assess the environmental and human health impacts associated with the construction and operation of facilities and systems to continue the safe management of high-level, mixed radioactive wastes stored in tanks at the Hanford Site. After careful consideration of environmental impacts, lifecycle costs, public, agency, and tribal comments, and engineering evaluations, DOE has decided to implement most of the actions of the preferred alternative evaluated in the Final SIS EIS and are documenting this determination in this

ROD. The actions will involve the continued operation of the existing cross-site transfer system (ECSTS) until replaced by the construction and operation of a new replacement cross-site transfer system (RCSTS) consisting of buried, double-wall, insulated pipes, and continued operation of the mixer pump installed in Tank 101–SY to mitigate the unacceptable accumulation of hydrogen and other flammable gases.

Pending resolution of a recently identified safety issue, DOE is deferring a decision on the retrieval of solids from Tank 102–SY, and limiting the transfer of wastes through Tank 102–SY to non-complexed wastes. Evaluation of this issue will be addressed under DOE's NEPA procedures as necessary. DOE and Ecology have determined that new storage tanks will not be necessary at the present time to mitigate the flammable gas safety issue, based on the demonstrated success of the mixer pump.

FOR FURTHER INFORMATION CONTACT: For further information on DOE and Ecology activities related to this project or copies of the Final SIS EIS, please contact:

Carolyn Haass, U.S. Department of Energy, PO Box 550, MSIN S7–51, Richland, WA 99352, (509) 372–2731

Geoff Tallent, Washington Department of Ecology, PO Box 47600, Olympia, WA 98504–7600, (360) 407–7112

For further information on DOE's National Environmental Policy Act (NEPA) process, please contact: Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0002, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: DOE has prepared this ROD pursuant to the Council on Environmental Quality (CEQ) regulations for implementing the provisions of NEPA (40 CFR parts 1500–1508) and the DOE NEPA regulations (10 CFR part 1021). The ROD is based on the analyses of environmental impacts identified in the Final SIS EIS (DOE/EIS–0212); consideration of project costs; compliance requirements for systems involved in the handling, transport, and storage of high-level mixed radioactive waste, and public, agency, and tribal comments.

Because NEPA and SEPA are very comparable in their purpose, intent, and procedures, Ecology and DOE decided to prepare one EIS addressing the requirements of both SEPA and NEPA. In February 1994, a memorandum of understanding (MOU) was signed between the DOE, Richland Operations Office and Ecology. The MOU called for the joint preparation of the SIS EIS, the contents of which have been determined to satisfy both SEPA and NEPA requirements.

Purpose and Need

DOE and Ecology identified the need to continue to provide safe storage of high-level radioactive tank wastes while supporting tank farm management and operations prior to implementing decisions made in the ROD for the Tank Waste Remedial System (TWRS) EIS. The TWRS EIS is evaluating the alternatives for permanent disposal of wastes currently stored in tanks at the Hanford Site. To minimize the risk of managing tank wastes prior to the TWRS ROD, a modern, safe, reliable, and compliant replacement cross-site transfer capability is needed to move wastes between the 200 West and 200 East Area tank farms. This transfer capability is required because the 200 West Area has far less useable double shell tank (DST) capacity than there is waste in single shell tanks (SSTs).

The replacement waste transfer capability would provide the means to move waste from the 200 West Area to the available DST capacity located in the 200 East Area.

The ECSTS has been used to transfer wastes from the 200 West Area to the 200 East Area for the past 40 years. This underground pipeline system is at the end of its original design life. Currently, four of six lines are out of service and unavailable to perform transfers due to plugging. The two useable lines do not meet current engineering standards such as, double containment and leak detection, required for waste management facilities.

Based on current tank waste management and operation activities, the SIS EIS addressed the need to do the following:

- Remove Salt Well Liquids (SWLs) from older SSTs to reduce the likelihood of liquid waste escaping from the corroded tanks into the environment. Many of these tanks have leaked and new leaks are developing in these tanks at a rate of more than one per year.
- Provide ability to transfer the tank wastes via a compliant system to mitigate any future safety concerns and use current or future tank space allocations.
- Provide adequate tank waste storage capacity for future waste volumes associated with tank farm operations and other Hanford facility operations.
- Mitigate the flammable gas safety issue in Tank 101–SY.

Summary of Alternatives and Impacts

DOE and Ecology have identified four action alternatives in addition to the no action alternative to satisfy the need to continue to provide safe storage of high-level waste until decisions are made based on the TWRS EIS. The alternatives consist of the preferred alternative, truck transfer alternative, rail transfer alternative, and new storage alternative. DOE evaluated the construction and operation phases of each alternative to assess potential impacts to the following environmental categories:

- Geology, Seismology, Soils.
- Population and Socioeconomics.
- Water Resources and Hydrology.
- Transportation.
- Air Quality.
- Land Use.
- Radiation.
- Cultural Resources.
- Noise.
- Health Effects.
- Biological Resources.

The impact analysis showed that there would be no impacts related to geology, seismology, water resources and hydrology, radiation, noise, population and socioeconomics, or cultural resources for any of the alternatives. Environmental categories where potential impacts were identified are discussed under each alternative as applicable.

Preferred Alternative

The preferred alternative consists of the following components:

- Construction and operation of the RCSTS for cross-site transfer of SWLs, and 200 West Area Facility wastes from Tank 102–SY to DSTs in the 200 East Area;
- Construction of a waste retrieval system in Tank 102–SY to retrieve solids;
- Continued operation of a mixer pump in Tank 101–SY;
- Transfer of liquid wastes through the ECSTS until the proposed RCSTS becomes operational in 1998.

Transuranic solids from Tank 102–SY would be retrieved, transferred via the RCSTS and consolidated in 200 East Area DSTs to provide space for transfer of complexed SWLs. The consolidation of tank waste is an ongoing tank farm management action evaluated under prior environmental impact statements and a supplement (ERDA 1538, DOE/EIS–0063, DOE/EIS–0113). Although such retrieval is addressed in the decisions resulting from these NEPA documents, the retrieval of Tank 102–SY sludge was discussed in the SIS EIS for a comprehensive consideration of impacts.

Impacts. Environmental effects identified under the preferred alternative are primarily related to construction activities and include impacts to soils, land use, and biological resources. Construction of the RCSTS and associated facilities would disturb approximately 30 hectares (74 acres) of land, none of which are considered to be prime or unique farmland. Fugitive dust emissions are anticipated during earth moving activities, but would be mitigated by dust suppression measures.

Of the 30 hectares (74 acres) of land that would be disturbed while constructing the RCSTS, approximately 9 hectares (23 acres) would be mature sagebrush/cheatgrass habitat, a State designated Priority Habitat and important habitat for the loggerhead shrike, a Federal and State candidate species; the sagebrush lizard, a Federal candidate species; and the sage sparrow, a State candidate species. The 9 hectares (23 acres) represents 0.01 percent of the total sagebrush habitat at Hanford. The preferred alternative would include establishing habitat restoration sites to mitigate the disturbance of native soil and removal of vegetation in the construction area.

Truck Transfer Alternative

This alternative includes truck transfer of all wastes listed under the preferred alternative, with the exception of solids from Tank 102–SY which would not be retrieved under this alternative. Mitigation of the Tank 101–SY safety issue by continued operation of the mixer pump would also occur under the truck transfer alternative. The alternative would transfer SWL from interim stabilization of 200 West Area SSTs and 200 West Area facility wastes to DSTs in the 200 East Area by truck, without using Tank 102–SY as a staging tank for complexed wastes. The SIS EIS evaluated the 3,800 liters (1,000 gallons) LR–56(H) truck and a hypothetical 19,000 liter (5,000 gallon) tanker truck. The alternative would utilize existing roadways and include construction and operation of a new load facility in 200 West Area and an unload facility in 200 East Area, including underground transfer piping to and from the facilities, and some additional roadway segments.

Impacts. Environmental effects from implementing the truck transfer alternative include impacts to soils, transportation, and worker health, due to the construction of load and unload facilities and roadway segments, and operation of the truck transfer system.

Construction of the load and unload facilities and roadways would disturb approximately 2 hectares (5 acres) of land, none of which is considered to be prime or unique farmland, or mature sagebrush habitat. During construction activities, dust suppression measures would be implemented to reduce fugitive dust emissions.

The truck transfer alternative would use existing Hanford Site roadways and new onsite road extensions to transport approximately 1.9 million liters (5 million gallons) of radioactive waste. Using the LR–56 truck (3,800 liters (1,000 gallons) capacity), approximately 4,691 truck trips would be required over 1,564 working days assuming three trips per day. If the 19,000 liters (5,000 gallons) capacity truck is used, approximately 938 truck trips over 313 working days would be required, assuming three trips per day. Potential traffic circulation impacts could occur from barricaded roads, speed limitations, escorts, and other administrative controls. However, based on a frequency of three truck trips per day, shipping during off-peak hours, and providing advanced notice of truck shipments, no significant adverse traffic circulation impacts are anticipated.

Operators and health physics technicians would be exposed to radiation within acceptable limits during operation of the load and unload facilities. However, estimates for radiation dose to the truck driver yielded an unacceptably high dose. Additional shielding analysis or restrictions on the quantities of radioactive materials would be necessary to ensure that radiation exposures would be as low as reasonably achievable for the drivers.

Rail Transfer Alternative

This alternative includes rail transfer of all wastes listed under the preferred alternative, with the exception of solids from Tank 102–SY which would not be retrieved under this alternative. Mitigation of the Tank 101–SY safety issue by continued operation of the mixer pump would also occur under the rail transfer alternative. The alternative would transfer salt well liquids from interim stabilization of SSTs, and 200 West Area facility wastes by a hypothetical 38,000 liter (10,000 gallon) rail car. The alternative includes use of existing Hanford Site rail lines, construction and operation of some additional onsite rail line segments, as well as construction and operation of a new load facility in 200 West Area and a new unload facility in 200 East Area.

Impacts. Environmental effects associated with the rail transfer alternative include impacts to soils and transportation. Construction of the load and unload facilities and rail spurs would disturb approximately 2 hectares (5 acres) of land, none of which is considered to be prime or unique farmland, or mature sagebrush habitat. During construction activities, dust suppression measures would be implemented to reduce fugitive dust emissions.

Approximately 470 train trips, assuming one tank car per trip, would be required to transfer the subject waste. Assuming 2 train trips per day, 235 days would be required to transfer the wastes. The two additional daily trips would not impact existing rail operations. Significant impacts to road traffic from road closures during rail transport are not expected because of advance notice of shipments, restricting shipments to off-peak hours, and the short duration of road closures.

New Storage Alternative

This alternative includes mitigation of the Tank 101–SY flammable gas safety issue by dilution and retrieval of the waste. Facilities constructed and operated to accomplish this action would include a new tank facility (NTF), including two new DSTs and associated facilities, a waste retrieval system in Tank 101–SY, a waste retrieval system in Tank 102–SY, and the RCSTS. This alternative also includes transfer of waste from Tank 102–SY, SWL from interim stabilization of SSTs in the 200 West Area, and transfer of 200 West Area facility wastes as described for the preferred alternative. This alternative would provide additional storage capacity that could be used for other future waste management needs.

Impacts. Environmental effects identified under the new storage alternative are primarily related to construction activities and include impacts to soils, land use, biological resources, and worker exposure. Construction of the RCSTS and NTF would disturb approximately 30 hectares (74 acres) and 20 hectares (50 acres) of land, respectively, none of which are considered to be prime or unique farmland. Fugitive dust emissions are anticipated during earth moving activities, but would be mitigated by dust suppression measures. The 50 hectares (124 acres) of land would be a small incremental addition of land committed to waste management at Hanford.

Approximately 30 hectares (74 acres) of mature sagebrush/cheatgrass habitat would be disturbed from constructing the RCSTS and NTF. The new storage alternative would include establishing habitat restoration sites to mitigate the disturbance of native soil and removal of vegetation in the construction area.

No health effects are anticipated for routine operation of any facilities under the new storage alternative.

No Action Alternative

This alternative would not construct any new tanks, tank retrieval systems, or cross-site transfer systems. The flammable gas safety issue in Tank 101–SY would be managed through continued operation of the existing mixer pump. The remaining supernatant in Tank 102–SY, SWLs from interim stabilization of SSTs, and liquid waste from 200 West Area facilities would be transported from the 200 West Area to the 200 East Area via the ECSTS.

Impacts. There are no environmental impacts associated with normal operations of the no action alternative. However, due to lack of secondary containment and poor leak detection capabilities of the aging ECSTS, leaks to the environment are considered more likely than under the other alternatives evaluated in the SIS EIS. To avoid environmental impacts from a failure of the ECSTS during waste transfer, operational controls prior to waste transfers such as, pressure testing at levels in excess of operational pressures, would be used to confirm the integrity of the ECSTS before waste is introduced into the system.

Environmentally Preferred Alternative

Normal operations under the no action alternative would not result in the loss of State-designated Priority Habitat, would not result in the generation of additional contaminated materials requiring decommissioning and disposal, and would not cause additional worker exposures over existing levels, as would occur under the preferred, truck transfer, rail transfer, and new storage alternatives. Therefore, the no action alternative is considered the environmentally preferred alternative under normal operating conditions.

However, because the existing cross-site transfer system is over 40 years old, there is a higher probability of system failure or an accident than under the other transfer alternatives evaluated in the Final SIS EIS. Additionally, because the existing transfer system is not compliant with current engineering standards requiring double containment and leak detection systems, there is a higher likelihood of a release to the environment under accident conditions than would be anticipated under the other transfer alternatives.

Other Considerations

In addition to the assessment of environmental impacts provided by the SIS EIS, DOE and Ecology considered costs, comments on the Final SIS EIS, and nuclear criticality safety in determining a course of action to meet the need for interim management of Hanford tank wastes.

Costs

Comparative analysis of construction, operation, and decommissioning costs among the alternatives was generated for an interim period of five years and lifecycle operations till 2028. The analysis was based on a comparable set of baseline assumptions regarding waste volumes and transfer schedules, and accurately reflects relative costs among alternatives. However, the estimates may not accurately represent the true cost of implementing a specific alternative once final decisions are reached on waste transfers. Based on the unresolved criticality safety issues described below, retrieval costs for solids removal from Tank 102–SY have been excluded from the preferred and new storage alternatives. The results of the analysis are as follows:

Alternative	Interim costs (1995 dollars in millions)	Lifecycle costs[b] (1995 dollars in millions)
Preferred	[a]$105.2	$243
Truck transfer	125.9	532.8
Rail transfer	113.7	491.8
New storage	[a]328.1	589.6
No action	48.9	NA

[a] Excludes costs for retrieval of solids from Tank 102–SY as proposed in the SIS EIS.
[b] Includes costs for retrieval of solids from Tank 102–SY under all alternatives.

The lifecycle costs for the no action alternative were not estimated because the ECSTS could not meet waste transfer requirements beyond the interim time period. All alternatives include a $36 million decontamination and decommissioning cost for the ECSTS.

Comments Received

DOE and Ecology received comments from two individuals on the Final SIS EIS.

Comment. One individual agreed with continued operation of the mixer pump in Tank 101–SY to mitigate flammable gas accumulation.

Response. DOE will continue the operation of the mixer pump in Tank 101–SY.

Comment. "The fundamental assumption is that the best way to maintain Safe storage is to suck liquid waste out of single shell tanks and then move it to a safer double shell tank. Why is that safer? A lot of things can go wrong when you pressurize the waste and move it that can't happen if you leave it in the single shell tanks. Look at the spray leaks from your ITRS and PPSS that can kill hundreds of people. Compare that to the lack of impacts to people if you leave the waste in the single shell tanks as laid out in the Hanford EIS that produced the empty grout vaults and the unbuilt vitrification plant. [Assumed DOE/EIS–0113] Those facilities weren't needed either and the Department rushed to the wrong decision spending millions of dollars unnecessarily."

Response. In the Record of Decision based on the Final Environmental Impact Statement for the Disposal of Hanford Defense High-Level, Transuranic, and Tank Wastes (HDW–EIS) (53 FR 12449), and again in the Finding of No Significant Impact for an environmental assessment for the Waste Tank Safety Program (DOE/EA–0915), DOE decided to continue to safely store the SST waste prior to making a decision on the disposal of this waste. The decision on the final disposition of the SST waste will be made by the Department in the TWRS EIS. The SST interim stabilization program is an ongoing program initiated in late 1970s to reduce the potential for release of high-level wastes into the environment and allow continued safe storage of the high-level sludge, salt cake, and non-pumpable liquid waste. Although no adverse radiological impacts were postulated by the HDW-EIS for leaking SSTs, including the ultraconservative 40,000 m^3 (10.5 million gallons) release scenario evaluated, DOE policy is to reduce the potential for any liquid release whenever practicable [DOE/EIS–0113]. Further, all retrievals and waste transfers will occur at subcritical levels in accordance with existing procedures. There are currently 67 SSTs which have been declared confirmed or assumed leakers. These SSTs have released 2.3 to 3.4 million liters (600,000 to 900,000 gallons) of waste to the environment. Therefore, it is DOE's policy that the continued safe storage of the SST waste pending a final disposal decision requires the continuation of the SST interim stabilization program, which is scheduled to be completed by the year 2000.

The postulated spray releases from Initial Tank Retrieval System (ITRS) and Past Practice Sluicing System (PPSS) evaluated in the Final SIS EIS have a probability of extremely unlikely to incredible or 10-5 to 10-7 per year. When compared to the almost certain release to the environment if liquid wastes are left in SSTs, DOE has determined that the risks of transfer are acceptable and that the risks to the environment from suspension of the interim stabilization program are unacceptable.

Comment. "What are the true impacts of leaving the waste in the single shell tanks? Are they any greater now than they were in the old EIS?"

Response. The SIS EIS is an interim action EIS which considers only near term actions required to safely manage tank wastes until disposal decisions are made through the TWRS ROD. Leaving waste in the SSTs is beyond the scope of the SIS EIS. The TWRS EIS is currently re-evaluating the consequences which would result from leaving wastes in single shell tanks.

Comment. "How much money will you waste this time on an action that isn't needed?"

Response. The costs of the alternative actions are specified above. DOE believes that the action is needed and the costs are justified.

Comment. "Your purpose and need statement basically says you need it because the State told you to do it in the TPA. So you already made the decision in a fundamentally flawed way without regard to NEPA. Once again the NEPA process at DOE is a sham . . . The bottom line is that the DOE NEPA process is a sham, and now the State is a part of it. You make decisions and then try to justify them with EISs."

Response. This EIS was prepared to comply with the requirements of NEPA. An EIS document identifies and evaluates the environmental impacts of the proposed action and reasonable alternatives. The Tri Party Agreement defines the schedules and milestones for taking certain cleanup actions at the Hanford Site. The Tri Party Agreement is annually revisited and can be changed if new information arises or situations change. For example, the Tri Party Agreement had milestones for the six new double shell tanks which were identified in Draft SIS EIS. Public comments received on the Draft SIS EIS as part of the NEPA process and new studies indicated that six new double shell tanks were not needed. As a result, an adjustment to DOE's preferred alternative was made in the Final SIS EIS and the Tri Party Agreement was modified to delete the milestones for construction of new double shell tanks.

Comment. "Even if you absolutely had to move some waste you already have an existing pipeline system that can move liquids. This year you moved over 400,000 gallons of waste through it. Why can't you use it for more transfers? In fact your EIS says you plan to do just that. For this EIS most of the waste is planned to go through the existing pipelines. Why can't you send a few more transfers through the existing lines? This would undoubtedly be cheaper and less damaging to the environment. Before the last transfer the line was pressured tested to make sure it would be safe. Why not just do that every time? You could take very little risk by doing this and you'd save the people of this country tens of millions of dollars."

Response. The existing lines are planned to be used for liquid waste transfers as indicated in the comment. However, due to the age of the lines and likelihood of failure of these lines, DOE believes it is prudent to replace these lines with a modern, safe, reliable and compliant waste transfer system. This will provide DOE with a more certain ability to meet its need for cross-site waste transfers.

Comment. "A new line isn't needed just to move the amount of liquid waste specified in this EIS. The State is making DOE build this line to service the TWRS planned mission of vitrifying all the waste in the tanks. If that's the true need, then this action needs to be covered in the TWRS EIS where there might be a real need. Building it for this trumped up need will prejudice the TWRS decision (which already seems to have been made.)"

Response. DOE has a need to move waste cross-site prior to implementing decisions based on the TWRS EIS. This need exists independent of the decisions that may be reached based on the TWRS EIS. The replacement cross site transfer system could become a component of the TWRS, but DOE does not believe that its existence would be prejudicial to any of the alternatives being considered within the TWRS EIS.

Comment. "How in the world can you be privatizing TWRS if you haven't already made the decision?"

Response. Privatization of TWRS is not an action that was considered in this EIS.

Tank Farm Criticality Control

Through an ongoing safety evaluation process, DOE recently revisited its operational assumptions regarding the potential for the occurrence of a nuclear criticality event during waste storage and transfers. Changes to the Tank Farm Authorization Basis for Criticality that were approved in September 1995, were rescinded by DOE in October 1995, pending the outcome of a criticality safety evaluation process outlined for the Defense Nuclear Facilities Safety Board (DNFSB) on November 8, 1995. Until these criticality safety evaluations are completed, Hanford will operate under the historic limits which maintain reasonable assurance of subcritical conditions during tank farm storage and transfer operations. Of the actions evaluated in the Final SIS EIS, only the retrieval of solids from Tank 102–SY is affected by the technical uncertainties regarding criticality. Based on the quantities of plutonium in Tank 102–SY sludge, retrieval of the solids falls within the scope of the criticality safety issues which will be evaluated over the next few months. As a result, a decision on retrieval of solids from Tank 102–SY is being deferred in this ROD. Tank 101–SY mixer pump operations, interim operation of the ECSTS, operation of the RCSTS, SWL retrievals, and 200 West Area Facility waste generation, would all occur within the applicable criticality limits and would be subcritical.

Decision

Based on the consideration of environmental impacts, cost, engineering standards, criticality safety, and comments received on the Final SIS EIS, DOE will construct and operate the RCSTS on the proposed route identified in the Final SIS EIS, continue operating the mixer pump in Tank 101–SY, and transfer waste from the interim stabilization program and other facility waste in the 200 West Area. During construction of the RCSTS, SWLs and 200 West Area facility wastes will be transferred through the ECSTS to DST storage in the 200 East Area. These actions will provide safe, compliant, and reliable high-level waste transfer capabilities and will operate with wastes at subcritical levels under the existing Hanford Tank Farm Interim Safety Basis, until final disposal decisions are made under the TWRS EIS.

The RCSTS will provide Hanford with a waste transfer capability that meets current engineering standards for double containment and leak detection. As compared to other transfer alternatives, the RCSTS will:

- More effectively minimize worker exposures and meet ALARA requirements through remote operations and underground transfers;
- Cost less during both the interim time period and less over a lifecycle operation than the other action alternatives;
- Provide greater operational flexibility by conducting transfers that are independent of weather or site traffic;
- More efficiently manage the transfer of millions of gallons of wastes required in the near term and potentially required in the future.

The RCSTS will be built on the proposed route identified in the Final SIS EIS. Alternative routes evaluated in the EIS would have environmental impacts identical to the proposed route except with respect to impacts on Priority Habitat. The western segment optional route would reduce habitat impacts by only 0.6 hectares (1.6 acres) but at a significant cost increase. The eastern option would result in an increase in habitat loss by 2.1 hectares (5.3 acres) over the proposed route. Because habitat impacts will be mitigated, engineering siting criteria are more favorable, and construction costs would be less, the proposed RCSTS route is selected.

The continued operation of a mixer pump in Tank 101–SY is selected to mitigate the flammable gas safety issue in that tank. The mixer pump has been proven to be effective mitigation during more than one year of operations. A replacement pump is available and will be maintained as a contingency should the existing pump fail. Dilution as a mitigation was not selected due to the success of the mixer pump, and because it would increase waste volumes requiring new tanks for storage and generate more waste for future disposal.

DOE will continue to use the ECSTS until the RCSTS is operational to provide access to 200 East Area DSTs for storage of 200 West Area facility wastes and retrieved SWLs. SWL retrievals will continue to reduce the risk to the environment from leaking SSTs. Operational procedures will assure the integrity of the ECSTS prior to any waste transfers. The current planning base estimates that the ECSTS will operate for approximately 625 hours during five transfers before the RCSTS is operational.

Based on the new information available to DOE, since the issuance of the Final SIS EIS, regarding nuclear criticality safety concerns during retrieval, transfer, and storage actions, DOE has decided to defer a decision on the construction and operation of a retrieval system in Tank 102–SY. Pending the outcome of the technical initiative to resolve the tank waste criticality safety issue, transfers of wastes through Tank 102–SY will be limited to non-complexed wastes.

Mitigation

All practical means to avoid or mitigate environmental impacts from the actions to be implemented by this ROD have been adopted by DOE. With the exception of habitat losses and dust generation from construction activities, and the potential to encounter cultural resources during subsurface disturbance, all potentially significant impacts have been avoided.

Construction of the RCSTS will result in impacts that can be either avoided or minimized through the implementation of mitigation measures. The surface and subsurface disturbance required for the installation of the RCSTS, a 10 kilometer (6.2 mile) double-wall pipeline, has the potential to affect biota, dust emissions, and cultural resources. Biota will be displaced due to the loss of habitat. Particulate emissions in the form of dust releases from exposed soils will occur if not mitigated. Cultural resources may be encountered during subsurface excavations necessitating mitigation actions.

Impacts to biota resulting from the loss of habitat will be mitigated through a program of transplantation of mature sagebrush from the RCSTS construction corridor to a mitigation site located in close proximity to the impacted area. In addition, tublings will be cultivated and transferred to the mitigation site. For the 9 hectares (23 acres) of mature sagebrush lost to the RCSTS construction, 27 hectares (69 acres) of sagebrush habitat will be planted.

Dust emissions will be mitigated by a combination of watering and reseeding of disturbed areas. In areas of active construction, water will be applied at frequencies sufficient to prevent unacceptable releases of dust. After RCSTS construction is completed, those areas not required for routine access or maintenance will be reseeded with native grass species.

No archaeological or historical sites were identified in the corridor to be disturbed by RCSTS construction. However, one potential archaeological site was identified within the compensation area to be utilized for habitat mitigation. Impacts to this site will be mitigated through avoidance. All ground-disturbing actions that occur during RCSTS construction or habitat mitigation activities will be monitored. A qualified archaeologist identified by DOE will assess the significance of any resources uncovered. The archaeologist will coordinate with DOE to initiate consultation with the State Historic Preservation Officer (SHPO) and the appropriate tribal representatives, including members of the Wanapum People, Yakama Indian Nation, Confederated Tribes of the Umatilla Indian Reservation, and Nez Perce Tribe. To the extent possible, all materials determined significant will be avoided during subsequent activities and will be left in place. If this is not possible, removal will be conducted in consultation with DOE, the SHPO, and appropriate tribal representatives.

In accordance with § 1021.331(a) of the DOE regulations implementing NEPA (10 CFR part 1021), a Mitigation Action Plan (MAP) will be prepared that addresses mitigation actions associated with the course of action directed by this ROD.

Issued

The State of Washington concurred on this Record of Decision via letter to the Department of Energy on November 21, 1995. This Record of Decision for the Safe Interim Storage of Hanford Tank Wastes is issued by the Department of Energy, Richland Operations Office, Richland, Washington on November 21, 1995.

John D. Wagoner,

Manager, DOE Richland Operations Office.

[FR Doc. 95–29313 Filed 11–30–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Fernald

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Fernald.

DATES: Thursday, December 7, 1995: 6:00 p.m.–8:30 p.m.

ADDRESSES: The Joint Information Center, 6025 Dixie Highway, Route 4, Fairfield, Ohio.

FOR FURTHER INFORMATION CONTACT: John S. Applegate, Chair of the Fernald Citizens Task Force, P.O. Box 544, Ross, Ohio 45061, or call the Fernald Citizens Task Force message line (513) 648–6478.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of future use, cleanup levels, waste disposition and cleanup priorities at the Fernald site.

Tentative Agenda

Thursday, December 7, 1995

6:00 p.m.—Task Force Administration (Call to order, Approval of Minutes, Chair's Remarks).
6:15 p.m.—Report of Membership Committee.
6:45 p.m.—Review of 1996 Workplan: Schedule
Issues
Committee Structure
7:30 p.m.—Discussion of Upcoming Site Design Related Activities.
7:45 p.m.—Opportunity for Public Comment.
8:00 p.m.—Wrap Up.
8:15 p.m.—Adjourn.

A final agenda will be available at the meeting, Thursday, December 7, 1995.

Public Participation

The meeting is open to the public. Written statements may be filed with the Task Force chair either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Task Force chair at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official, Kenneth Morgan, Public Affairs Officer, Ohio Field Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. Due to programmatic issues that had to be resolved prior to publication, this notice is being published less than 15 days before the date of the meeting.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to John S. Applegate, Chair, the Fernald Citizens Task Force, P.O. Box 544, Ross, Ohio 45061 or by calling the Task Force message line at (513) 648–6478.

Issued at Washington, DC on November 22, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–29312 Filed 11–30–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Department of Energy/Los Alamos National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos National Laboratory.

DATES: Tuesday, December 12, 1995: 6:30 pm–9:30 pm; 8:00 pm to 9:00 pm (public comment session).

ADDRESSES: The Senior Stroke Center, 735 Viet Nam Memorial Parkway Road, Espanola, New Mexico 87352.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa Roybal, EM SSAB, Los Alamos National Laboratory, Northern New Mexico Community College, 1002 Onate Street, Espanola, NM 87352, (800)753–8970, or (505)753–8970.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Tuesday, December 12, 1995

6:30 PM—Call to Order and Welcome.
7:00 PM— Sub-Committee Reports.
8:00 PM— Input from the Public.
9:30 PM— Adjourn.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ms. Lisa Roybal, at the telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. This notice is being published less than 15 days before the date of the meeting, due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Herman Le-Doux, Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87185–5400.

Issued at Washington, DC on November 28, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–29307 Filed 11–30–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Project No. 2496–006 Oregon]

Eugene Water & Electrical Board; Notice of Intent to Hold a Public Meeting in Springfield, Oregon, to Discuss the Draft Environmental Impact Statement (DEIS) for the Proposed Relicensing of the Leaburg-Walterville Hydroelectric Project

November 27, 1995.

On October 13, 1995, the Commission staff mailed the DEIS to the Environmental Protection Agency, resource and land management agencies, and interested organizations and individuals. This document evaluates the environmental consequences of the proposed relicensing of the Leaburg-Walterville Hydroelectric Project at the installed capacity of 21.5 megawatts. The project is located on the Mckenzie River in Land County, Oregon.

The public meeting will be recorded by a court reporter and is scheduled to be held at 7 p.m. on Tuesday, December 19, 1995, at the Thurston High School auditorium which is located just off Highway 126, at 333 North 58th Street, Springfield, Oregon.

At the meeting, Commission Staff will summarize major DEIS findings and recommendations. Resource agency personnel and other interested persons will have an opportunity to submit oral and written comments on the DEIS for the Commission's public record. Written comments on the DEIS may also be sent to: The Federal Energy Regulatory Commission, 888 First Street N.E., Washington, DC. 20426. Comments must be received before December 26, 1995. All correspondence should include the project name and number on the first page of the correspondence.

The DEIS considers recommendations of government agencies, nongovernmental organizations, affected Indian tribes, the public, Eugene Water & Electric Board (EWEB), and the Commission's staff. It evaluates natural and social resource benefits, the economic costs, and the project-specific

and cumulative environmental impacts associated with relicensing the project.

To maintain and enhance the project's power generation efficiency and capacity, the DEIS recommends raising Leaburg Lake by 1.5 feet, installing structures in the McKenzie River near the Walterville intake, excavating the Walterville tailrace, and upgrading powerhouse generation equipment. The environmental impacts of these actions would be minor and could be mitigated by staff recommended measures.

To enhance highly valued McKenzie River fishery resources, EWEB would install a fish screen in the Walterville canal intake and would install tailrace barriers in the Leaburg and Walterville tailraces. To further improve fish habitat and boating opportunities, enhanced year-around minimum in-stream flows, including a flow allotment that could be used during late-summer low-flow conditions are recommended.

To enhance recreation access and opportunities along the McKenzie River, EWEB proposes trust fund donations to acquire lands along the river for access and habitat protection. EWEB also proposes several lesser measures to enhance wildlife habitat values and recreation opportunities on project lands.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29290 Filed 11–30–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2544–009 Washington]

Washington Water Power Co.; Notice of Availability of Environmental Assessment

November 27, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR Part 380 (Order 486, 52 FR 47897), the Commission's Office of Hydropower Licensing has reviewed an application for a reservoir drawdown to install a manual sluice gate at the Meyers Falls Project, Project No. 2544–009. The Meyers Falls Project is located on the Colville River, in Stevens County, Washington. The application is for a reservoir drawdown associated with the installation of a manual sluice gate. An Environmental Assessment (EA) was prepared for the application. The EA finds that approving the application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29289 Filed 11–30–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–77–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

November 27, 1995.

Take notice that on November 20, 1995, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP96–77–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to operate as a jurisdictional facility, a delivery tap placed in service under Section 311(a) of the Natural Gas Policy Act and § 284.3(c) of the Commission's Regulations, under Koch Gateway's blanket certificate issued in Docket No. CP82–430–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch Gateway states that the proposed certification of facilities will enable it to provide transportation under its blanket transportation certificate through an existing delivery tap serving Entex, Inc. a local distribution company, in Neshoba County, Mississippi.

Koch Gateway asserts that it will operate the delivery tap in compliance with 18 CFR Part 157, Subpart F and that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29291 Filed 11–30–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–76–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

November 27, 1995.

Take notice that on November 20, 1995, Northern Natural Gas Company (Northern), P.O. Box 3330, Omaha, Nebraska, 68103–0330, filed in Docket No. CP96–76–000 a request pursuant to §§ 157.205, and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, and 157.216(b)) for approval to abandon certain small volume measuring station facilities under Northern's blanket certificate authority issued in Docket No. CP82–401–000, pursuant to Section 7(b) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern proposes to abandon a total of 140 measuring station facilities, located in Iowa, Kansas, Minnesota, Nebraska, and South Dakota, all as more fully set forth in the request on file with the Commission. Northern states that the facilities to be abandoned are jurisdictional facilities under the NGA and were constructed pursuant to superseded 2.55 regulations, budget, or blanket authority, depending on the year the facilities were originally placed in-service. Northern indicates that Peoples Natural Gas Company's end-users have requested the removal of these stations from their property.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to § 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29292 Filed 11–30–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Research

Health and Environmental Research Advisory Committee; Renewal

AGENCY: Department of Energy.

ACTION: Notice of renewal.

SUMMARY: Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act, and in accordance with title 41 of the Code of Federal Regulations, section 101–6.1015(a), and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Health and Environmental Research Advisory Committee has been renewed for a two-year period beginning in November 1995. The Committee will provide advice to the Director, Office of Energy Research, on the Biological and Environmental Research Program managed by the Office of Health and Environmental Research.

The renewal of the Health and Environmental Research Advisory Committee has been determined to be essential to the conduct of the Department of Energy business and to be in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act, the Department of Energy Organization Act (Public Law 95–91), and rules and regulations issued in implementation of those Acts.

Further information regarding this Advisory Committee can be obtained from Mrs. Rachel Murphy Samuel at (202) 586–3279.

Issued in Washington, D.C. on November 22, 1995.

JoAnne Whitman,

Deputy Advisory Committee Management Officer.

[FR Doc. 95–29309 Filed 11–30–95; 8:45 am]

BILLING CODE 6450–01–M

Energy Research Financial Assistance Program Notice 96–04; Energy Biosciences

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant preapplications.

SUMMARY: The Office of Basic Energy Sciences of the Office of Energy Research (ER), U.S. Department of Energy (DOE) invites preapplications from potential applicants for research funding in the Energy Biosciences program area. The intent in asking for a preapplication is to save the time and effort of applicants in preparing and submitting a formal project application that may be inappropriate for the program. The preapplication should consist of a two- to three-page concept paper on the research contemplated for an application to the Energy Biosciences program. The concept paper should focus on the scientific objectives and significance of the planned research, and include an outline of the approaches planned, and any other information relating to the planned research. No budget information or biographical data need be included; nor is an institutional endorsement necessary. The preapplication gives us the opportunity to advise potential applicants on the suitability of their research ideas to the mission of the DOE Energy Biosciences program. A response indicating the appropriateness of submitting a formal application will be sent from the Division of Energy Biosciences office in time to allow for an adequate preparation period for a formal application.

DATES: For timely consideration, all preapplications should be received by February 26, 1996. However, earlier submissions will be gladly accepted. A response to timely preapplications will be communicated by April 18, 1996. The deadline for receipt of formal applications is June 5, 1996.

ADDRESSES: Preapplications referencing Program Notice 96–04 should be forwarded to: U.S. Department of Energy, Office of Basic Energy Sciences, ER–17, Division of Energy Biosciences, 19901 Germantown Road, Germantown, MD 20874–1290, Attn: Program Notice 96–04. Fax submissions are acceptable (Fax Number (301) 903–1003).

FOR FURTHER INFORMATION CONTACT: Ms. Pat Snyder, Division of Energy Biosciences, Office of Basic Energy Sciences, ER–17, 19901 Germantown Road, Germantown, MD 20874–1290, telephone (301) 903–2873.

SUPPLEMENTARY INFORMATION: Before preparing a formal application, potential applicants should submit a brief preapplication in accordance with 10 CFR 600.10 (d)(2), which consists of two to three pages of narrative describing research objectives. These will be reviewed relative to the scope and the research needs of the Energy Biosciences program. The Energy Biosciences program has the mission of generating fundamental biological information about plants and non-medical related microorganisms that can provide support for future energy related biotechnologies. The objective is to pursue basic biochemical, genetic and physiological investigations that may contribute towards providing alternate fuels, petroleum replacement products, energy conservation measures as well as other technologies such as phytoremediation related to DOE programs. Areas of interest include bioenergetic systems, including photosynthesis; control of plant growth and development, including metabolic, genetic, and hormonal and ambient factor regulation, metabolic diversity, ion uptake, transport and accumulation, stress physiology and adaptation; genetic transmission and expression; plant-microbial interactions, plant cell wall structure and function; lignocellulose degradative mechanisms; mechanisms of fermentations, genetics of neglected microorganisms, energetics and membrane phenomena; thermophily (molecular basis of high temperature tolerance); microbial interactions; and one-carbon metabolism, which is the basis of biotransformations such as methanogenesis. The objective is to discern and understand basic mechanisms and principles.

Funds are expected to be available for new grant awards in FY 1997. The magnitude of these funds available and the number of awards which can be made will depend on the budget process. The awards made during FY 1995 ranged on the average from about $63,000 to $175,000 per year, mostly for a three-year duration. The principal purpose in using preapplications at this time is to reduce the expenditure of time and effort of all parties. Information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures may be found in the 10 CFR Part 605 and the Guide. The Application Guide for the Office of Energy Research Financial Assistance Program for formal submissions and copies of 10 CFR Part 605 are available from U.S. Department of Energy, Office of Basic Energy Sciences, ER–17, Division of Energy Biosciences, 19901 Germantown Road, Germantown, MD 20874–1290. Telephone requests may be made by calling (301) 903–2873. Instructions for preparation of an application are included in the application guide. Electronic access to ER's Financial Assistance Guide is possible via the

Internet using the following E-mail address: http://www.er.doe.gov/

The Catalog of Federal Domestic Assistance number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, D.C., on November 17, 1995.

D. D. Mayhew,

Associate Director, Office of Resource Management, Office of Energy Research.

[FR Doc. 95–29308 Filed 11–30–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Fossil Energy

National Coal Council; Renewal

Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act and in accordance with title 41 of the Code of Federal Regulations, section 101–6.1007 and following consultation with the Committee Management Secretariat of the General Services Administration, notice is hereby given that the National Coal Council has been renewed for a two-year period ending November 23, 1997. The Council will continue to provide advice, information, and recommendations to the Secretary of Energy, on a continuing basis, regarding general policy matters relating to coal issues.

Council members are chosen to assure a well balanced representation from all sections of the country, all segments of the coal industry, including large and small companies, and commercial and residential consumers. The Council also has members who represent interests outside the coal industry, including environmental interests, labor, research, academia, and minorities. Membership and representation of all interests will continue to be determined in accordance with the requirements of the Federal Advisory Committee Act, section 624(b) of the Department of Energy Organization Act (Public Law 95–91), and implementing regulations.

The renewal of the Council has been determined essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Council will continue to operate in accordance with the provisions of the Federal Advisory Committee Act (Public Law 92–463), the Department of Energy Organization Act (Public Law 95–91), and the implementing regulations.

Further information regarding this advisory committee may be obtained from Rachel M. Samuel at (202) 586–3279.

Issued at Washington, D.C. on November 22, 1995.

JoAnne Whitman,

Deputy Advisory Committee Management Officer.

[FR Doc. 95–29311 Filed 11–30–95; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council; Renewal

Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act and in accordance with title 41 of the Code of Federal Regulations, section 101–6.1007 and following consultation with the Committee Management Secretariat of the General Services Administration, notice is hereby given that the National Petroleum Council has been renewed for a two-year period ending November 23, 1997. The Council will continue to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industry.

Council members are chosen to assure a well-balanced representation from all sections of the country, all segments of the petroleum industry, and from large and small companies. The Council also has members who represent interests outside the petroleum industry, including representatives from environmental, labor, research, academia, minorities, and state utility regulatory commissions. Membership and representation of all interests will continue to be determined in accordance with the requirements of the Federal Advisory Committee Act, section 624(b) of the Department of Energy Organization Act (Public Law 95–91), and implementing regulations.

The renewal of the Council has been determined essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Council will operate in accordance with the Federal Advisory Committee Act (Public Law 92–463), the Department of Energy Organization Act (Public Law 95–91), and the implementing regulations.

Further information regarding this advisory committee may be obtained from Rachel M. Samuel at 202/586–3279.

Issued at Washington, DC on November 22, 1995.

JoAnne Whitman,

Deputy Advisory Committee Management Officer.

[FR Doc. 95–29310 Filed 11–30–95; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[AMS–FRL–5338–1]

Agency Information Collection Activities Up for Renewal; Request for Comments: Investigation Into Possible Noncompliance of Motor Vehicles With Federal Emission Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before January 30, 1996.

ADDRESSES: Requests for a copy of the ICR should be sent to Karl Simon, U.S. EPA, 401 M Street S.W. (6405J), Washington, D.C., 20460. Please include a daytime telephone number, a current mailing address, and if available, an E-mail address, with any request.

FOR FURTHER INFORMATION CONTACT: Karl Simon, Vehicle Programs and Compliance Division, U.S. EPA, 401 M Street, S.W. (6405J), Washington, D.C., 20460; (202) 233–9299, FAX (202) 233–9596, E-mail address: Simon.Karl@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Parties potentially affected by this action are those individuals and businesses who either own cars or trucks or repair such vehicles in the Washington, D.C., Ann Arbor, Michigan, or Denver, Colorado metropolitan areas.

Title: Investigation into Possible Noncompliance of Motor Vehicles with Federal Emission Standards, OMB No. 2060–0086, Expiration Date March 31, 1996.

Abstract: This information collection is composed of instruments used by the U.S. Environmental Protection Agency in its Mobile Source Control Program to elicit information from the public needed for fulfilling its responsibilities under the Clean Air Act. The information collected, specifically motor vehicle or engine operational and maintenance histories, is used to identify properly maintained and used motor vehicles and engines that might

be subsequently tested in the Agency's in-use emissions testing programs. The self-addressed postcard and owner telephone questionnaire are completed using information readily available to and given by owner of vehicles from a vehicle class under investigation for possible emissions noncompliance. The maintenance verification form is administered to representatives of repair facilities that performed maintenance on vehicles whose owners have responded to the owner telephone questionnaire. The main method of information collection is through telephone calls between vehicle or engine owners and EPA contractor or grantee staff. Respondents are not required to develop or maintain data records solely due to this information request since requested data comes from records vehicle or engine owners would keep as part of their personal or business records. Responses to these information requests are completely voluntary. Data received under this ICR is made available only to EPA and the automobile manufacturer whose engine class is being tested.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: EPA's burden estimates for this information collection are broken down according to the three different items in this collection, namely the postcard, telephone questionnaire, and the maintenance verification form. EPA estimates that the 15,000 people annually who receive a postcard will require six minutes to read and respond to it. The 2,100 people who will respond to administered telephone questionnaires, based on annual averages, will require one-half an hour on average to respond. Parties responding to the postcards and telephone questionnaires will only do so once per year. Parties responding to the maintenance verification form, an estimated total of 50 repair facility personnel, will need approximately one-quarter hour to respond, and might be required to provide the requested information twice a year. Costs to respondents associated with this ICR are attributed to individual or staff time involved in responding to the information requests. The costs of responding to the postcard, the telephone questionnaire, and the maintenance verification form are $2.00, $10.00, and $10.00, respectively. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: November 9, 1995.

Donald Zinger,

Acting Director, Office of Mobile Sources.

[FR Doc. 95–29360 Filed 11–30–95; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–5230–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared November 13, 1995 Through November 17, 1995 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 1995 (60 FR 19047).

Draft EISs

ERP No. D–AFS–D61044–PA Rating LO, Allegheny National Wild and Scenic River Management Plan, Implementation, Allegheny National Forest, Venango, Warren and Forest Counties, PA.

SUMMARY: EPA expressed lack of objections to the Allegheny Wild and Scenic River Management Plan Draft EIS.

ERP No. D–AFS–J65242–MT Rating EC2, Checkerboard Land Exchange, Plan of Approval and Implementation, Kootenai, Lolo and Flathead National Forests, Lincoln, Flathead and Sanders Counties, MT.

SUMMARY: EPA expressed environmental concerns about potential adverse impacts to water quality and fisheries. EPA believed that specific modifications and mitigations to protect watersheds, water quality and fisheries should be presented in the FEIS which would demonstrate compliance with Montana's Water Quality Standards and Nondegradation Policy.

ERP No. D–AFS–K67031–NV Rating EO2, Dash Open Pit and Underground Mining Project, Implementation, Expanding existing Gold Mining Operations at the Jerritt Canyon Project, Plan of Operation Approval and COE Section 404 Permit, Humboldt Toiyabe National Forest, Independence Mountain Range, Elko County, NV.

SUMMARY: EPA expressed environmental objections to the proposed project's potential impacts to water quality from design and placement of waste rock dumps in drainages. The FEIS should address impacts to water quality, waste rock handling, waste rock dump design, mitigation measures, baseline water quality, alternatives to the proposed project, air quality impacts and cumulative impacts.

ERP No. D–BLM–J02009–00 Rating EC2, Express Crude Oil Pipeline Project, Construction, Operation and Maintenance, Issuance of Right-of-Way Grant, Hill, Chouteau, Fergus, Judith Basin, Wheatland, Golden Valley, Stillwater and Carbon Counties, MT and Bighorn, Washakies, Hot Springs, Freemont and Watrona Counties, WY.

SUMMARY: EPA expressed environmental concerns regarding the proposed pipeline crossings of rivers, streams and wetlands, and asked that additional information on the proposed leak detection systems and emergency spill response plans be provided. EPA requested that the final EIS include additional resource information to fully assess and mitigate environmental impacts.

ERP No. D–BLM–K67020–AZ Rating EO2, Cyprus Bagdad Copper Mine, Mill Tailings and Waste Rock Storage Expansion, Plan of Operation Approval,

NPDES and COE Section 404 Permits Issuance, Yavapai County, AZ.

SUMMARY: EPA expressed environmental objections based on the projects potential impacts to water quality and need for additional information in the final EIS on surface water, groundwater, geochemistry, monitoring, alternatives to the proposed action, facility design and hazardous materials management.

ERP No. D–FHW–E40762–AL Rating EC2, Montgomery Outer Loop Construction, US 80 southwest of Montgomery to I–85 east of Montgomery, Funding and COE Section 404 Permit Issuance, Montgomery County, AL.

SUMMARY: EPA expressed environmental concerns with all the proposed alternatives due to potential impacts to wetland and upland forest resources and the lack of detail contained in the proposed mitigation plan. EPA requested that additional information on these issues be provided in the final document.

ERP No. D–FHW–J40212–CO Rating LO, CO–82 Highway Transportation Project, Improvements to "Entrance to Aspen", Funding and COE Section 404 Permit, City of Aspen, Pitkin County, CO.

SUMMARY: EPA expressed lack of objections to the proposed action.

ERP No. D–FHW–K40214–CA Rating EC2, Alternatives to Replacement of the Embarcadero Freeway and the Terminal Separator Structure, (Formerly CA–480) Implementation, Permit Approvals and Funding, San Francisco County, CA.

SUMMARY: EPA raised environmental concerns over the cumulative impacts of the project, since there are several transportation development projects in the area, as well as environmental concerns with runoff, erosion and hazardous materials found in the soils at the project site.

ERP No. D–FRC–J05076–MT Rating LO, Kerr Hydroelectric Project (FERC No. 5–021), License Modification Issuance to Existing License, Flathead River, Flathead and Lake Counties, MT.

Summary: While EPA had no objection to the proposed action it did recommend that some clarification on shore stabilization and water flows be provided in the final EIS.

ERP No. D–NPS–G61035–NM Rating), Petroglyph National Monument, General Management Plan and Development Concept Plan, Implementation, Bernalillo County, NM.

Summary: EPA had no objections to the proposed action described in the DEIS.

Final EISs

ERP No. F–AFS–J65222–ND, Southern Little Missouri and Cedar River Oil and Gas Leasing, Approvals, Custer National Forest, Medora Ranger District, Cedar River National Grassland, Grant River Ranger District, Billings, Golden Valley, Slope, Grant and Sioux Counties, ND.

Summary: EPA expressed environmental concerns about project impacts to air and water resources. EPA recommended a Conditions of Approval section be included in the document to describe development subsurface requirements for protecting water resources. EPA suggested that screening models be run with emissions calculated for the EIS, to evaluate potential impacts to air quality and visibility.

ERP No. F–AFS–J65228–UT, Jacob/Swale Vegetation Management Project, Implementation, Dixie National Forest, Escalante Ranger District, Garfield County, UT.

Summary: EPA expressed environmental concerns over wildlife habitat and potential adverse impacts from road management practices to elk and deer and the Northern Goshawk.

ERP No. F–BLM–J03022–WY, Greater Wamsutter Area II Natural Gas Development Project, Approvals and Permits Issuance, Carbon and Sweetwater Counties, WY.

Summary: EPA continued to express environmental concerns about cumulative effects of the anticipated intensive development through out southwest Wyoming.

ERP No. F–BOP–G81008–LA, Pollock US Penitentiary and Federal Prison Camp (FPC), Construction and Operation and Site Selection of a former World War II Military Installation, Grant Parish, LA.

Summary: EPA's previous environmental concerns have been addressed, therefore EPA has no objection to the proposed action.

ERP No. F–FAA–C51013–NJ, Expanded East Coast Plan, Changes in Aircraft Flight Patterns over the State of New Jersey, Implementation, NJ.

Summary: EPA believed that the proposed project, including the Solberg Mitigation Proposal, will not result in significant adverse environmental impacts; therefore, EPA has no objection to its implementation.

ERP No. F–FHW–E40728–AL, I–59/I–759 Interchange to US 11 and US 431/US 278, Construction, Funding, Etowah County, AL.

Summary: EPA's review found that the proposed alternative would have no major impacts on the natural environment provided Best Management Practices and mitigation are utilized.

ERP No. F–GSA–K80036–CA, Fresno—United States Courthouse, Site Selection and Construction, City of Fresno, Fresno County, CA.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–NOA–C91002–PR, U. S. Virgin Islands and Puerto Rico Corals and Reef Associated Plants and Invertebrates Fishery Management Plan, Implementation and NPDES Permit, PR and VI.

Summary: EPA believed that the proposed project will not result in significant adverse environmental impacts; therefore, EPA had no objection to its implementation.

Regulations

ERP No. R–NRC–A06177–00, 10 CFR Parts 60, 72, 73 and 75—Safeguards for Spent Nuclear Fuel or High-Level Radioactive Waste RIN–3150–AF32.

Summary: EPA had no comments to the proposed rule.

Dated: November 28, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–29335 Filed 11–30–95; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–5230–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075. Weekly receipt of Environmental Impact Statements Filed November 20, 1995 Through November 24, 1995 Pursuant to 40 CFR 1506.9.

EIS No. 950546, Draft EIS, AFS, OR, Foss Perkins Analysis Area, Vegetation Management and Timber Sale, Ochoco National Forest, Snow Mountain Ranger District, Harney County, OR, Due: January 16, 1996, Contact: Bill Rice (541) 573–7292.

EIS No. 950547, Draft EIS, FHW, UT, Norman H. Bangerter Highway (Previously Known as the West Valley Highway) 12300 South Street to I–15, Funding and COE Section 404 Permit, in the Cities of Bluffdale, Riverton and Draper, Salt Lake County, UT, Due: January 16, 1996, Contact: Tom Allen (801) 963–0184.

EIS No. 950548, Draft EIS, FRC, MI, WI, Menominee River Basin Multiple Project, Application for New Licenses and (Relicense) for Four Existings Projects, FERC Nos. 2536, 2357, 2394 and 2433, Menominee and Dickerson Cos., MI and Michigan and Marinette Cos., WI, Due: January 16, 1996, Contact: Thomas Camp (202) 219–2832.

EIS No. 950549, Final EIS, USN, IL, Glenview Naval Air Station Disposal and Reuse, Implementation, COE Section 404 Permit and EPA Permits Issuance, Cook County, IL, Due: January 02, 1996, Contact: Thomas Burst (803) 743–0590.

EIS No. 950550, Final EIS, AFS, Gypsy Moth Management in the United States: A Cooperative Approach, Implementation, UT, Due: January 02, 1996, Contact: John W. Hazel (610) 975–4150.

EIS No. 950551, Final EIS, DOE, WA, OR, Resource Contingency Program, Construction and Operation, Site Specific, Satsop Combustion Turbine Unit 1 and Chehalis Generation Facility, Lewis, Gray Harbor and Thurston Counties, WA, Due: January 02, 1996, Contact: Rob Diffely (503) 230–4213.

Amended Notices

EIS No. 950422, Draft EIS, COE, CA, Delta Wetlands Project, Construction and Operation Water Storage Project on Four Islands in the Sacramento-San Joaquin Delta, Approval of Permits, San Joaquin and Contra Costa Counties, CA, Due: December 21, 1995, Contact: Jim Monroe (916) 557–5266.

Published FR 09–22–95—Review period extended.

Dated: November 28, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–29336 Filed 11–30–95; 8:45 am]

BILLING CODE 6560–50–U

[FRL–5338–3]

National Environmental Justice Advisory Council Notifications of Public Advisory Committee Meeting(s); Open Meeting

Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, a revised notice of the National Environmental Justice Advisory Council (NEJAC) Meeting along with the subcommittees meeting will be described below. All times noted are Eastern Standard Time (EST). All meetings are open to the public. Due to limited space, seating at the NEJAC meeting will be on a first-come basis. Documents that are the subject of NEJAC reviews are normally available from the originating EPA office and are *not* available from the NEJAC. The meetings will occur at the Omni Shoreham Hotel, 2500 Calvert Street, NW, Washington, DC 20008, phone: 202/234–0700, FAX: 202/265–5333.

The full NEJAC will meet Tuesday, December 12, from 8:30 a.m. to 8:30 p.m. and Thursday, December 14 from 1 p.m. to 5 p.m. to discuss the role of the new subcommittees, follow-up on pending items from the July meeting, and discuss new business for the NEJAC. This meeting was previously announced in the October 2, 1995 **Federal Register** on page 51475. Today's notice of the revised public comment period for the meeting was delayed due to the exceptional circumstance of the government shutdown.

Public Comment Period

Puerto Rico: This public comment period is extended from 5:30–8:30 p.m. EST on Tuesday, December 12. There will be two downlink sites located at the University of Puerto Rico as follows:

(1) University of Puerto Rico, Central Administration Office, Apartado 4984, Correo General, San Juan, PR 00936, phone: 809/765–5610, and

(2) University of Puerto Rico, Technological University College, Box 7186, Ponce, PR 00732, phone: 809/844–8181.

Written comments of any length should be received no later than November 20, because of the need for translation, comments received after that date will be provided to the Council as logistics allow.

Washington, DC participants: This public comment period is from 11 a.m.–12 p.m. EST on Thursday, December 14. Written comments of any length (at least 35 copies) should be received no later than December 1, comments received after that date will be provided to the Council as logistics allow.

The six subcommittees will meet on Wednesday, December 13, from 8 a.m. to 5 p.m. and on Thursday, December 14, from 8 a.m. to 11 p.m. Any member of the public wishing further information on the subcommittee meetings should contact the specific Designated Federal Official at the telephone number listed below.

Members of the public who wish to make a brief oral presentation should contact Dee Richardson of PRC Environmental Management, Inc. no later than December 1, 1995 in order to have time reserved on the agenda. In general, each individual or group making an oral presentation will be limited to a total time of five minutes. Written comments of any length should be received no later than November 20 (for translation purposes for the Puerto Rico public comment period) and no later than December 1, (for the Washington, DC public comment period). Comments received after that date will be provided to the Council as logistics allow. They should be sent to PRC Environmental Management, Inc., 1593 Spring Hill Road, Suite 300, Vienna, VA 22182. Telephone number is 703/287–8808 or FAX: 703/287–8910.

Subcommittee	Federal official and telephone number
Enforcement	Ms. Sherry Milan, 202/260–9807.
Health & Research	Mr. Lawrence Martin, 202/260–0673.
International	Ms. Lorraine Frigerio, 202/260–6623.
Indigenous Peoples	Ms. Elizabeth Bell, 202/260–8106.
Public Participation	Mr. Robert Knox, 202/260–8195.
Waste/Facility Siting	Ms. Jan Young, 202/260–1691.

FOR FURTHER INFORMATION CONTACT: For hearing impaired individuals or non-English speaking attendees wishing to make arrangements for a sign language or foreign language interpreter, please call or fax Dee Richardson of PRC Environmental Management, Inc. at Phone: 703/287–8808 or Fax: 703/287–8910.

Dated: November 8, 1995.

Clarice E. Gaylord,

Designated Federal Official, National Environmental Justice Advisory Council.

[FR Doc. 95–29314 Filed 11–30–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission, Comments Requested

November 22, 1995.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission,

including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before [insert date 60 days after date of publication in the Federal Register]. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: New Collection.

Title: Annual Updating of Maximum Permitted Rates for Regulated Cable Services.

Form No.: FCC Form 1240.

Type of Review: New Collection.

Respondents: Business or other for-profit; State, Local or Tribal Governments.

Number of Respondents: 5,850.

Estimated Time Per Response: 15 hours.

Total Annual Burden: 116,438 hours.

Needs and Uses: The Commission has created the FCC Form 1240 Annual Updating of Maximum Permitted Rates for Regulated Cable Services as a filing alternative to the FCC Form 1210, which is filed quarterly. The Form 1240, like the Form 1210, is filed by cable operators seeking to adjust maximum permitted rates for regulated services to reflect changes in external costs. Cable operators will submit the Form 1240 to their respective local franchising authorities upon certification to regulate basic service tier rates and associated equipment; or with the Commission (in situations where the Commission has assumed jurisdiction). The Form 1240 will also be filed with the Commission when responding to a complaint filed with the Commission about cable programming service rates and associated equipment. The data will be used by the Commission and local franchising authorities to adjudicate permitted rates for regulated cable services and equipment, for the addition of new programming tiers and to account for the addition and deletion of channels and the allowance for pass throughs of external costs and costs due to inflation.

OMB Approval Number: 3060-0536.

Title: Rules and Requirements for Telecommunications Relay Services (TRS) Interstate Cost Recovery.

Form No.: FCC Form 431.

Type of Review: Extension.

Respondents: Businesses or other for profit.

Number of Respondents: 5000.

Estimated Time Per Response: 9.26 hours.

Total Annual Burden: 46,330.

Needs and Uses: The Americans with Disabilities Act of 1990 requires the Commission to ensure that telecommunications relay services are available, to the extent possible, to individuals with hearing and speech disabilities in the united States. To fulfill this mandate, the Commission adopted rules which require the provision of TRS services, set minimum standards for TRS providers and establish a shared-funding mechanism for recovering the costs of providing interstate TRS. See 47 CFR Sections 64.601 - 64.605. FCC Form 431 is used in implementing the shared-funding program for the recovery of interstate telecommunications relay services (TRS) costs. All common carriers must contribute to the TRS Fund and complete FCC 431 form. The information is used to administer the program.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–29279 Filed 11–30–95; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL ELECTION COMMISSION

[Notice 1995–22]

Schedule of Submission Dates for Statements of Net Outstanding Campaign Obligations Required from 1996 Presidential Candidates Post Date of Ineligibility

AGENCY: Federal Election Commission.

ACTION: Notice of submission dates for statements of net outstanding campaign obligations required from 1996 Presidential candidates post Date of Ineligibility.

SUMMARY: The Federal Election Commission is publishing submission dates for statements of net outstanding campaign obligations ("NOCO statements") which are required to be submitted by 1996 publicly funded Presidential primary candidates following their date of ineligibility ("DOI"). Candidates are required to submit a NOCO statement prior to each regularly scheduled date on which they receive federal matching funds, on dates to be determined by the Commission.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Lisi, Audit Division, 999 E Street, N.W., Washington, D.C. 20463, (202) 219–3720 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: Under 11 CFR 9034.5, a candidate who receives federal matching funds must submit a NOCO statement to the Commission within 15 calendar days after the candidate's date of ineligibility, as determined under 11 CFR 9033.5. The candidate's net outstanding campaign obligations is equal to the difference between the total of all outstanding obligations for qualified campaign expenses plus necessary winding down costs less cash on hand, the fair market value of capital assets, and accounts receivable. 11 CFR 9034.5(a). Candidates will be notified of their DOI by the Commission.

Candidates who have net outstanding campaign obligations post-DOI may continue to submit matching payment requests as long as the candidate certifies that the remaining net outstanding campaign obligation equal or exceed the amount submitted for matching. 11 CFR 9034.5(f)(1). If the candidate so certifies, the Commission will process the request and certify the appropriate amount of matching funds.

Candidates must also file revised NOCO statements in connection with each matching fund request submitted after the candidate's DOI. These statements are due just before the next regularly scheduled payment date, on a date to be determined by the Commission. They must reflect the financial status of the campaign as of the close of business three business days before the due date of the statement and must also contain a brief explanation of each change in the committee's assets and obligations from the most recent NOCO statement. 11 CFR 9034.5(f)(2).

Please note that this is a change from past procedure. Previously, candidates were required to submit a revised NOCO statement at the same time as they submitted a matching payment request. This new approach will allow the Commission to adjust a committee's certification to reflect any change in the committee's financial position that occurs after submission of the matching payment request and the date of the revised NOCO statement.

The following schedule includes both matching fund submission dates and the corresponding dates on which revised NOCO statements are due.

Submission dates	NOCO submission dates
December 1, 1995	December 18, 1995.
January 2, 1996	January 22, 1996.
February 1, 1996	February 20, 1996.
March 1, 1996	March 20, 1996.
April 1, 1996	April 19, 1996.
May 1, 1996	May 22, 1996.
June 3, 1996	June 19, 1996.
July 1, 1996	July 22, 1996.
August 1, 1996	August 21, 1996.
September 3, 1996	September 19, 1996.
October 1, 1996	October 22, 1996.
November 1, 1996	November 19, 1996.
December 2, 1996	December 19, 1996.
January 2, 1997	January 22, 1997.
February 3, 1997	February 19, 1997.
March 3, 1997	March 20, 1997.

Dated: November 28, 1995.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 95–29305 Filed 11–30–95; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010982–019.

Title: Florida-Bahamas Shipowners and Operators Association Agreement.

Parties:

Tropical Shipping and Construction Co., Ltd.
Pioneer Shipping, Ltd.
Seaxpress, Inc.
CS Med Shipping (Bahamas) Ltd.
Savoy Shipping Company
Crowley American Transport, Inc.
Kirk Line, A Division of Seaboard Marine, Ltd.

Synopsis: The proposed amendment clarifies Article 5—Agreement Authority to state that the members have the authority to meet and discuss matters relating to the Trade or sections of the Trade, and service contracts.

By order of the Federal Maritime Commission.

Dated: November 28, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–29317 Filed 11–30–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Revocations

The Federal Maritime Commission hereby gives notice that the following freight forwarder licenses are revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, effective on the corresponding revocation dates shown below:

License Number: 2901

Name: Marco's, Inc.

Address: 400 South 4th Street, Ste. 206, Minneapolis Grain Exchange, Minneapolis, MN 55415

Date Revoked: October 18, 1995

Reason: Failed to maintain a valid surety bond.

License Number: 3631

Name: In Joong Yoon

Address: P.O. Box 74346, Los Angeles, CA 90004

Date Revoked: October 21, 1995

Reason: Failed to maintain a valid surety bond.

License Number: 3652

Name: Lasha Enterprises, Inc. dba Lasha Cargo

Address: 3401–H NW 72nd Ave., Miami, FL 33122

Date Revoked: November 2, 1995

Reason: Surrendered license voluntarily.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 95–29315 Filed 11–30–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Rescission of Order of Revocation

Notice is hereby given that the Orders of Revocation pertaining to the licenses of the following ocean freight forwarders have been rescinded by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License No.	Name/Address
3640	Ruben Posada dba Posada International Cargo, 9432 Bellanca Avenue, Suite 200, Los Angeles, CA 90045.
3787	Matrix Express, Inc., 154–09 146th Avenue, Jamaica, NY 11434.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 95–29316 Filed 11–30–95; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Federal Allotments to States for Social Services Expenditures, Pursuant to Title XX, Block Grants to States for Social Services; Promulgation for Fiscal Year 1997

AGENCY: Administration for Children and Families, Department of Health and Human Services.

ACTION: Notification of allocation of title XX—social services block grant allotments for Fiscal Year 1997.

SUMMARY: This issuance sets forth the individual allotments to States for Fiscal Year 1997, pursuant to title XX of the Social Security Act, as amended (Act). The allotments to the States published herein are based upon the authorization set forth in section 2003 of the Act and are contingent upon Congressional appropriations for the fiscal year. If Congress enacts and the President approves a different authorization or appropriation amount, the allotments will be adjusted proportionately.

FOR FURTHER INFORMATION CONTACT: Frank A. Burns, (202) 401–5536.

SUPPLEMENTARY INFORMATION: Section 2003 of the Act authorizes $2.8 billion for Fiscal Year 1997 and provides that it be allocated as follows:

(1) Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands each receives an amount which bears the same ratio to $2.8 billion as its allocation for Fiscal Year 1981 bore to $2.9 billion.

(2) American Samoa receives an amount which bears the same ratio to the amount allotted to the Northern Mariana Islands as the population of American Samoa bears to the population of the Northern Mariana Islands determined on the basis of the most recent data available at the time such allotment is determined.

(3) The remainder of the $2.8 billion is allotted to each State in the same proportion as that State's population is to the population of all States, based upon the most recent data available from the Department of Commerce.

For Fiscal Year 1997, the allotments are based upon the Bureau of Census population statistics contained in its reports "Updated National and State Population Estimates" (CB95–39 Table 1) released March 1, 1995, and "1990 Census of Population and Housing" (CPH–6–AS and CPH–6–CNMI) published April 1992, which are the most recent data available from the Department of Commerce at this time as to the population of each State and each Territory.

EFFECTIVE DATE: The allotments shall be effective October 1, 1996.

Fiscal Year 1997 Federal Allotments to States for Social Services—Title XX Block Grants

Total	$2,800,000,000
Alabama	45,122,270
Alaska	6,481,179
American Samoa	104,188
Arizona	43,582,187
Arkansas	26,234,873
California	336,155,028
Colorado	39,100,976
Connecticut	35,026,175
Delaware	7,550,681
Dist. of Col	6,096,159
Florida	149,227,549
Georgia	75,453,333
Guam	482,759
Hawaii	12,609,423
Idaho	12,117,452
Illinois	125,687,820
Indiana	61,517,728
Iowa	30,256,198
Kansas	27,315,069
Kentucky	40,929,824
Louisiana	46,148,991
Maine	13,261,819
Maryland	53,539,247
Massachusetts	64,608,588
Michigan	101,559,865
Minnesota	48,844,135
Mississippi	28,544,996
Missouri	56,448,291
Montana	9,154,933
Nebraska	17,358,010
Nevada	15,582,637
New Hampshire	12,160,232
New Jersey	84,533,401
New Mexico	17,689,555
New York	194,317,733
North Carolina	75,613,758
North Dakota	6,823,420
No. Mariana Islands	96,552
Ohio	118,736,060
Oklahoma	34,844,360
Oregon	33,004,817
Pennsylvania	128,896,325
Puerto Rico	14,482,759
Rhode Island	10,662,930
South Carolina	39,186,536
South Dakota	7,711,106
Tennessee	55,346,704
Texas	196,552,992
Utah	20,406,089
Vermont	6,203,109
Virgin Islands	482,759
Virginia	70,073,740
Washington	57,143,467
West Virginia	19,486,318
Wisconsin	54,352,068
Wyoming	5,090,827

Dated: November 21, 1995.

Dr. Thornell Page,

Special Assistant to the Director, Office of Community Services.

[FR Doc. 95–29346 Filed 11–30–95; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Establishment Prescription Drug User Fee Revenues and Rates Fiscal Year 1996

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is establishing user fee revenues and rates for Fiscal Year (FY) 1996. The Prescription Drug User Fee Act of 1992 (the PDUFA) authorizes FDA to collect user fees for certain applications for approval of drug and biological products, on establishments where the products are made, and on such marketed products. Fees for applications, establishments, and products for FY 1993 were established by the PDUFA. Fees for future years are to be determined by FDA using criteria delineated in the statute.

FOR FURTHER INFORMATION CONTACT: Michael E. Roosevelt, Office of Financial Management (HFA–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4872.

SUPPLEMENTARY INFORMATION:

I. Background

The PDUFA (Pub. L. 102–571) establishes three different kinds of user fees. Fees are assessed on: (1) Certain types of applications and supplements for approval of drug and biologic products, (2) certain establishments where such products are made, and (3) certain marketed products (21 U.S.C. 379h(a))). When certain conditions are met, FDA may waive or reduce fees (21 U.S.C. 379h(d)). Under the PDUFA, one-third of the total user fee revenue for each FY must come from each of the three types of fees.

For FY 1993, the total revenues to be derived from fees and the fee rates for each of the categories were established in the PDUFA (21 U.S.C. 379h(b)(1)). For FY 1994 through 1997, however, the PDUFA establishes only target total fee revenues and fees. For these years, FDA is authorized to increase the total fee revenues and to establish new fee rates for each of the three categories so that the revised total fee revenues are realized (21 U.S.C. 379h(c)).

This notice establishes total fee rates for FY 1996. These fees are retroactive to October 1, 1995, and will remain in effect through September 30, 1996. For fees already paid on applications and supplements submitted on or after October 1, 1995, FDA will refund applicants for the difference between fees paid and fees due under the new fee schedules. For applications and supplements submitted after December 31, 1995, the new fee schedule should be used. Invoices for establishment and product fees for FY 1996 will be issued in December 1995, using the new fee schedules.

I. Revenue Increase and Fee Adjustment Process

The PDUFA provides that total fee revenues for each FY, as set out in the original fee schedule (see 21 U.S.C. 379h(b)(1)), shall be increased by notice in the **Federal Register**. The increase must reflect the greater of : (1) The total percentage increase that occurred during the FY in the Consumer Price Index (the CPI) (all items; U.S. city average), or (2) the total percentage pay increase for that FY for Federal employees, as adjusted for any locality-based payment applicable to employees stationed in the District of Columbia (see 21 U.S.C. 379h(c)(1)). The PDUFA also provides that within 60 days after the end of each FY, FDA shall adjust the user fee rates in each of the three categories of fees (application, establishment, and product) to achieve the revised total fee revenues. The new individual user fees must be adjusted in a manner that maintains the proportions established in the original fee schedules, so that approximately one-third of the revenues will come each from applications, establishments, and product fees (21 U.S.C. 379h(c)(2)).

III. Total Fee Revenue Adjustment

For FY 1995, the total percentage increase in the CPI was 2.54 percent, whereas the increase in applicable Federal salaries for FY 1996 is 2.54 percent. Thus, for computing the total fee revenues for FY 1996, the percentage is 2.54. The new adjusted total fee revenue is computed by applying the increase as a percentage (102.54 percent) to the FY 1996 target fee revenue amount from the PDUFA schedule ($78 million). The FY 1996 total adjusted fee revenue amount then totals $79,981,200.

IV. Fee Calculations for Application, Establishment, and Product Fees

The PDUFA provides that in making adjustments to the user fee rates, the one-third proportionality must be maintained among application, product, and establishment fees. Thus, the amount of revenues to be obtained from each category are $26,660,400 ($79,981,200 divided by 3).

A. Application Fees

Application fees are assessed on each "human drug application," as defined in the PDUFA (see 21 U.S.C. 379g(1)). Application fees are levied for: (1) Review of certain new drug applications submitted after September 1, 1992, under section 505(b)(1) of the act (21 U.S.C. 355(b)(1)); (2) for review of an application for certain molecular entities or indications for use submitted after September 30, 1992, under section 505(b)(2) of the act; (3) review of applications for initial certifications or approvals of antibiotic drugs submitted after September 1, 1992, under section 507 of the act (21 U.S.C. 357); and (4) for review of applications for licensure of certain biological products under the Public Health Service Act (42 U.S.C. 262).

Fees are assessed at different rates for qualifying applications depending on whether the applications require clinical data on safety and effectiveness (other than bioavailability or bioequivalence studies) (21 U.S.C. 379h(a)(1)(A) and 379h(b)). Applications that require clinical data are subject to the full application fee. Applications that do not require clinical data and supplements that require clinical data are assessed one-half the fee of applications with clinical data.

In most cases, a first payment of 50 percent of an application or supplement fee is due at the time the application or supplement is submitted (21 U.S.C. 379h(a)(1)(B)(i)). The final payment is due 30 days from the date FDA issues an invoice after issuance of an action letter for the application (see 21 U.S.C. 379g(6)(B)), or at the time an application is withdrawn, unless FDA waives this portion of the fee (21 U.S.C. 379h(a)(1)(A)(ii)). If FDA refuses to file an application or supplement, one-half of the first payment is refunded to the applicant (21 U.S.C. 379h(a)(1)(D)).

In setting the specific rate for each type of fee, FDA is required to estimate the numbers of applications, supplements, establishments, and products that it expects will qualify for fees in FY 1996. FDA makes this estimate based on the number of products, establishments, or applications subject to fees in FY 1995.

For FY 1995, FDA received and assessed fees for 87 filed applications that require clinical data, 36 applications that did not require clinical data, and 62 supplements that require clinical data. Because applications that do not require clinical data and supplements that require clinical data are assessed only one-half the full fee (that is, one-half the fee due on an application that requires clinical data), the equivalent number of these applications subject to the full fee is determined by summing these categories and dividing by 2. This amount is then added to the number of applications that require clinical data to arrive at the equivalent number of applications subject to full application fees.

In addition, as of September 30, 1995, FDA refused to file, or there were withdrawn before filing, two applications that required clinical data, and four applications that did not require clinical data. After refunds, each of the former applications paid one-fourth the full application fee and are counted as one-fourth of an application. Similarly, after refunds, each of the latter applications paid one-eighth of the full application fee rate and are counted as one-eighth of an application.

Using this methodology, the approximate equivalent number of applications that required clinical data and were assessed fees in FY 1995 was 137, before any further decisions were made on requests for waivers or reductions. Additional waivers or reductions of FY 1995 fees are expected to account for approximately 6 equivalents of applications that require clinical data. Therefore, FDA estimates that approximately 131 equivalent applications that require clinical data will qualify for fees in FY 1996, after allowing for possible waivers or reductions. Thus, the FY 1996 application fee rate is determined by dividing the adjusted total fee revenue to be derived from applications ($26,660,400) by the equivalent number of applications projected to qualify for fees in FY 1996 (131), for a fee of $204,000 per application that requires clinical data (rounded to the nearest $1,000). A fee of one-half this amount or $102,000 applies to applications that do not require clinical data and to supplements that require clinical data. The following calculations summarize the determination of FY 1996 application fee rates:

- 87 applications that require clinical data, + (36÷2) applications that do not require clinical data, + (62÷2) supplements that require clinical data, + (2÷4) applications that require clinical data and which FDA refuses to file or the sponsor withdraws before filing, + (4÷8) other applications that FDA refuses to file or the sponsor withdraws before filing minus 6 waivers or reductions = 131 (the estimated number of "full fee" applications for FY 1996 based on FY 1995 experience).
- $26,660,400 (FY 1996 estimated revenue to be derived from applications)

+131 (the estimated number of applications for FY 1996) = $204,000 per application (rounded to the nearest $1,000).

• For applications that do not require clinical data and supplements that require clinical data, the rate will be one-half the full application fee or $102,000.

B. Establishment Fees

The FY 1995 establishment fee was based on an estimate of 200 establishments subject to fees. In FY 1995, 203 establishments qualified for fees before any decisions on requests for waivers or reductions were made. FDA estimates that approximately 197 establishments will qualify for fees in FY 1996 after allowing for possible waivers or reductions. Thus, the number 197 was used in setting the new establishment fee rate. The fee per establishment is determined by dividing the adjusted total fee revenue to be derived from establishments ($26,660,400), by the estimated 197 establishments, for an establishment fee rate for FY 1996 of $135,300 (rounded to the nearest $100).

C. Product Fees

The FY 1995 product fee was based on an estimate that 2,116 products would be subject to product fees in FY 1995. For FY 1995, 2,135 products qualified for fees before any decisions on requests for waivers or reductions were made. However, FDA estimates that only 2,115 products will qualify for product fees in FY 1996, after allowing for estimated waivers or reductions. Accordingly, the FY 1996 product fee rate was determined by dividing the adjusted total fee revenue to be derived from product fees ($26,660,400) by the estimated 2,115 products for a product fee rate of $12,600 (rounded to the nearest $100).

V. Adjusted Fee Schedules for FY 1996

The fee rates for FY 1996 are set out in the following table:

Fee category	Fee rates for FY 1996
Applications	
Requiring clinical data	$204,000
Not requiring clinical data	102,000
Supplements requiring clinical data	102,000
Establishments	135,300
Products	12,600

VI. Implementation of Adjusted Fee Schedule

A. Application Fees

Any application or supplement subject to fees under the PDUFA that is submitted after December 31, 1995, must be accompanied by the appropriate application fee established in the new fee schedule. FDA will refund applicants who submitted application fees between October 1, 1995, and December 31, 1995, based on the adjusted rate schedule.

B. Establishment and Product Fees

By December 31, 1995, FDA will issue invoices for establishments and product fees for FY 1996 under the new fee schedules. Payment will be due by January 31, 1996. FDA will issue invoices in October 1996 for any products and establishments subject to fees for FY 1996 that qualify for fees after the December 1995 billing.

Dated: November 28, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–29420 Filed 11–29–95; 11:13 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[OPL–006–N]

Medicare Program; Request for Nominations for Members for the Practicing Physicians Advisory Council

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: In accordance with section 1868(a) of the Social Security Act, this notice requests nominations from medical organizations representing physicians for individuals to serve on the Practicing Physicians Advisory Council. There will be four vacancies on February 29, 1996.

DATES: Nominations from medical organizations will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on January 5, 1996.

ADDRESSES: Mail or deliver nominations for membership to the following address: Health Care Financing Administration, Office of the Associate Administrator for External Affairs, Attention: Sam S. Shekar, M.D., Room 425H, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Sam S. Shekar, M.D., (202) 260–5463.

SUPPLEMENTARY INFORMATION: Section 4112 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), enacted on November 5, 1990, added a new section 1868 to the Social Security Act (the Act), which established the Practicing Physicians Advisory Council (the Council). The Council advises the Secretary (the Secretary) of the Department of Health and Human Services on proposed regulations and manual issuances related to physicians' services. An advisory committee created by the Congress, such as this one, is subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), and, since this committee advises the Secretary, it is also subject to our regulations in 45 CFR Part 11—Committee Management.

Section 1868(a) of the Act requires the Council consist of 15 physicians, each of whom must have submitted at least 250 claims for physicians' services under Medicare in the previous year. At least 11 Council members must be physicians as defined in section 1861(r)(1) of the Act; that is, State-licensed physicians of medicine or osteopathy. The other four Council members may include dentists, podiatrists, optometrists, and chiropractors. The Council must include both participating and nonparticipating physicians as well as physicians practicing in rural and underserved urban areas. In addition, section 1868(a) of the Act provides that nominations to the Secretary for Council membership must be made by medical organizations representing physicians.

This notice is an invitation to all medical organizations representing physicians to submit nominees for membership on the Council. Current members whose terms expire in 1996 will be considered for reappointment, if renominated. The Secretary will appoint the new members to the Council from among those candidates determined to have the expertise required to meet specific agency needs and in a manner to ensure appropriate balance of membership.

Each nomination must state that the nominee has expressed a willingness to serve as a Council member and must be accompanied by a short resume or description of the nominee's experience. To permit evaluation of possible sources of conflict of interest, potential candidates will be asked to provide detailed information concerning financial holdings, consultant positions, research grants, and contracts.

Section 1868(b) of the Act provides that the Council meet once each calendar quarter, as requested by the Secretary, to discuss proposed changes in regulations and manual issuances that relate to physicians' services. Council members are expected to participate in all meetings.

Section 1868(c) of the Act provides for payment of expenses and a per diem allowance for Council members at a rate equal to payment provided members of other advisory committees. In addition to making these payments, the Department of Health and Human Services provides management and support services to the Council.

(Section 1868 of the Social Security Act (42 U.S.C. 1395ee); 5 U.S.C. App. 2; and 45 CFR Part 11)

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 27, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–29298 Filed 11–30–95; 8:45 am]

BILLING CODE 4120–01–P

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Clinical Sciences.

Date: November 28, 1995.

Time: 3:30 p.m.

Place: NIH, Rockledge 2, Room 4104, Telephone Conference.

Contact Person: Dr. Priscilla Chen, Scientific Review Administrator, 6701 Rockledge Drive, Room 4104, Bethesda, Maryland 20892, (301) 435–1787.

Name of SEP: Multidisciplinary Sciences.

Date: December 1, 1995.

Time: 1 p.m.

Place: NIH, Rockledge 2, Room 5112, Telephone Conference.

Contact Person: Dr. Harish Chopra, Scientific Review Administrator, 6701 Rockledge Drive, Room 5112, Bethesda, Maryland 20892, (301) 435–1169.

Name of SEP: Microbiological and Immunological Sciences.

Date: December 4, 1995.

Time: 1:30 p.m.

Place: NIH, Rockledge 2, Room 4182, Telephone Conference.

Contact Person: Dr. William Branche, Jr., Scientific Review Administrator, 6701 Rockledge Drive, Room 4182, Bethesda, Maryland 20892, (301) 435–1148.

Name of SEP: Microbiological and Immunological Sciences.

Date: December 7, 1995.

Time: 10:30 a.m.

Place: NIH, Rockledge 2, Room 4182, Telephone Conference.

Contact Person: Dr. William Branche, Jr., Scientific Review Administrator, 6701 Rockledge Drive, Room 4182, Bethesda, Maryland 20892, (301) 435–1742.

Name of SEP: Chemistry and Related Sciences.

Date: December 13, 1995.

Time: 2 p.m.

Place: NIH, Rockledge 2, Room 5150, Telephone Conference.

Contact Person: Dr. Zakir Bengali, Scientific Review Administrator, 6701 Rockledge Drive, Room 5150, Bethesda, Maryland 20892, (301) 435–1742.

Name of SEP: Behavioral and Neurosciences.

Date: December 13, 1995.

Time: 10 a.m.

Place: NIH, Rockledge 2, Room 5172, Telephone Conference.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

Name of SEP: Behavioral and Neurosciences.

Date: December 14, 1995.

Time: 2 p.m.

Place: NIH, Rockledge 2, Room 5172, Telephone Conference.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 27, 1995.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 95–29281 Filed 11–30–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Biological Chemistry.

Date: December 4, 1995.

Time: 8:30 a.m.

Place: Hyatt Regency Hotel, Bethesda, Maryland.

Contact Person: Dr. Joseph Kimm, Scientific Review Administrator, 6701 Rockledge Drive, Room 5178, Bethesda, Maryland 20892, (301) 435–1249.

Name of SEP: Behavioral and Neurosciences.

Date: December 8, 1995.

Time: 2:00 p.m.

Place: NIH, Rockledge 2, Room 5172, Telephone Conference.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

Name of SEP: Behavioral and Neurosciences.

Date: December 11, 1995.

Time: 9:00 a.m.

Place: Hyatt Regency Hotel, Bethesda, Maryland.

Contact Person: Dr. Joseph Kimm, Scientific Review Administrator, 6701 Rockledge Drive, Room 5178, Bethesda, Maryland 20892, (301) 435–1249.

Name of SEP: Clinical Sciences.

Date: December 12, 1995.

Time: 12:00 p.m.

Place: NIH, Rockledge 2, Room 4138, Telephone Conference.

Contact Person: Dr. Anthony Chung, Scientific Review Administrator, 6701 Rockledge Drive, Room 4136, Bethesda, Maryland 20892, (301) 435–1213.

Name of SEP: Clinical Sciences.

Date: December 13, 1995.

Time: 2:00 p.m.

Place: NIH, Rockledge 2, Room 4122, Telephone Conference.

Contact Person: Dr. Krish Krishnan, Scientific Review Administrator, 6701

Rockledge Drive, Room 4122, Bethesda, Maryland 20892, (301) 435–1779.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 27, 1995.

Anna Snouffer,

Committee Management Specialist.

[FR Doc. 95–29280 Filed 11–30–95; 8:45 am]

BILLING CODE 4145–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3778–N–64]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnson, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses. GSA: Ed Guilford, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 501–2059; Dept. of Interior: Lola D. Knight, Property Management Specialist, Dept. of Interior, 1849 C St. NW., Mailstop 5512–MIB, Washington, DC 20240; (202) 208–4080; Dept. of Transportation: Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW., room 10319, Washington, DC 20590; (202) 366–4246; U.S. Navy: John J. Kane, Deputy Division Director, Dept. of Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–0474; U.S. Air Force: Barbara Jenkins, Air Force Real Estate Agency (Area/MI), Bolling AFB, 112 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332–8020; (202) 767–4184; Dept. of Energy: Tom Knox, Realty Specialist, AD223.1, 1000 Independence Ave. SW., Washington, DC 20585; (202) 586–1191; (These are not toll-free numbers).

Note: Due to the government shutdown, a notice did not appear in the November 24, 1995, **Federal Register**.

Dated: November 24, 1995.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report For 12/01/95

Suitable/Available Properties

Buildings (by State)

Delaware

Regional Poultry Research Lab
Georgetown Co: Sussex DE 19947–
Landholding Agency: GSA
Property Number: 549540001
Status: Excess
Comment: 5 bldgs., brick/aluminum siding, most recent use—office/laboratories/storage poultry raising, off-site use only
GSA Number: 4–A–DE–0459

New Hampshire

Naval & Marine Corp. Rsv. Ctr.
199 North Main St.
Manchester NH 03102–
Landholding Agency: Navy
Property Number: 779530005
Status: Excess
Comment: 3 bldgs. on 2.53 acres of land, limited utilities, limited use prior to environmental cleanup

Land (by State)

California

Excess Land at Eureka Housing
Eureka Co: Humboldt CA 95501–
Landholding Agency: DOT
Property Number: 879540001
Status: Unutilized
Comment: .5 acres, encroachment by adjoining land owners, easement

Suitable/Unavailable Properties

Buildings (by State)

Puerto Rico

Bldgs. 501 & 502
U.S. Naval Radio Transmitter Facility
State Road No. 2
Juana Diaz PR 00795–
Landholding Agency: Navy
Property Number: 779530007
Status: Underutilized
Comment: Reinforced concrete structures, limited access, needs rehab, most recent use—transmitter and power house

Land (by State)

Virgin Islands

Ham's Bluff Test Site
Freddriksted Co: St. Croix VI 00840–
Landholding Agency: Navy
Property Number: 779530006
Status: Unutilized
Comment: 22.5 acres, bldg. construction underway, secured area w/alternate access, property reverts to Transportation when Navy vacates

Unsuitable Properties

Buildings (by State)

Alaska

Bldg. 21–737
Elmendorf Air Force Base
Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189540001
Status: Unutilized
Reason: Secured Area, Extensive deterioration

California

Bldg. 20186
Observation Tower, Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 779540001
Status: Excess
Reason: Extensive deterioration

Bldg. 120
Naval Air Weapons Station, Point Mugu
San Nicholas Island Co: Ventura CA 97042–
Landholding Agency: Navy
Property Number: 779540002
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Colorado

Bldg. 34
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 419540001
Status: Underutilized
Reason: Other, Secured Area
Comment: Contamination

Bldg. 35
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 419540002
Status: Underutilized
Reason: Other Secured Area
Comment: Contamination

Bldg. 36
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 419540003
Status: Underutilized
Reason: Other Secured Area
Comment: Contamination

Florida

Bldg. 243
Eglin Air Force Base
Eglin AFB Co: Okaloosa FL 32542–5000
Landholding Agency: Air Force
Property Number: 189540002
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 510
Eglin Air Force Base
Eglin AFB Co: Okaloosa FL 32542–5000
Landholding Agency: Air Force
Property Number: 189540003
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 521
Eglin Air Force Base
Eglin AFB Co: Okaloosa FL 32542–5000
Landholding Agency: Air Force
Property Number: 189540004
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 872
Eglin Air Force Base
Eglin AFB Co: Okaloosa FL 32542–5000
Landholding Agency: Air Force
Property Number: 189540005
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 30004
Eglin Air Force Base
Eglin AFB Co: Okaloosa FL 32542–5000
Landholding Agency: Air Force
Property Number: 189540006
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 12513
Eglin Air Force Base
Eglin AFB Co: Okaloosa FL 32542–5000
Landholding Agency: Air Force
Property Number: 189540007
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Alpha Site
Naval Security Group Activity
Homestead Co: Dade FL 33018–
Landholding Agency: GSA
Property Number: 549540009
Status: Excess
Reason: Floodway
GSA Number: 4–N–FL–1079

Maryland

Bldgs. 38–39, 41, 43–46, 56
U.S. Coast Guard Yard
Baltimore MD 21226–
Landholding Agency: DOT
Property Number: 879540005
Reason: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 53
U.S. Coast Guard Yard
Baltimore MD 21226–
Landholding Agency: DOT
Property Number: 879540006
Reason: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Montana

Bldg. 546, Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189540008
Status: Underutilized
Reason: Secured Area

Bldg. 548, Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189540009
Status: Underutilized
Reason: Secured Area

Bldg. 557, Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189540010
Status: Underutilized
Reason: Secured Area

Bldg. 666, Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189540011
Status: Underutilized
Reason: Secured Area

Bldg. 766, Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189540012
Status: Underutilized
Reason: Secured Area

Bldg. 1189, Malmstrom AFB

Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189540013
Status: Underutilized
Reason: Secured Area

Bldg. 1308, Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189540014
Status: Underutilized
Reason: Secured Area

Bldg. 1309, Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189540015
Status: Underutilized
Reason: Secured Area

New Hampshire

Bldg. 116
New Boston Air Station
Amherst Co: Hillsborough NH 03031–1514
Landholding Agency: Air Force
Property Number: 189540016
Status: Underutilized
Reason: Extensive deterioration

North Carolina

Bldg. 633, Pope Air Force Base
Fayetteville Co: Cumberland NC 28308–
Landholding Agency: Air Force
Property Number: 189540019
Status: Underutilized
Reason: Secured Area, Extensive deterioration

Oregon

Bldg. 0210
500 Nevada Street
Klamath Falls Co: Klamath OR 97601–
Landholding Agency: Interior
Property Number: 619540002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 0211
500 Nevada Street
Klamath Falls Co: Klamath OR 97601–
Landholding Agency: Interior
Property Number: 619540003
Status: Unutilized
Reason: Extensive deterioration

Bldg. 0213
500 Nevada Street
Klamath Falls Co: Klamath OR 97601–
Landholding Agency: Interior
Property Number: 619540004
Status: Unutilized
Reason: Extensive deterioration

Bldg. 0214
500 Nevada Street
Klamath Falls Co: Klamath OR 97601–
Landholding Agency: Interior
Property Number: 619540005
Status: Unutilized
Reason: Extensive deterioration

Bldg. 0510
Wilson Dam Residence
Klamath Falls Co: Klamath OR 97601–
Landholding Agency: Interior
Property Number: 61954006
Status: Unutilized
Reason: Extensive deterioration

Texas

Bldg. 00153
Reese Air Force Base
Lubbock Co: Lubbock TX 79489–5000
Landholding Agency: Air Force
Property Number: 189540017
Status: Unutilized
Reason: Secured Area

Bldg. 03130
Reese Air Force Base
Lubbock Co: Lubbock TX 79489–5000
Landholding Agency: Air Force
Property Number: 189540018
Status: Unutilized
Reason: Secured Area

Wisconsin

Rawley Point Light
Two Rivers Co: Manitowoc WI
Landholding Agency: DOT
Property Number: 879540004
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Land (by State)

Arizona

John Bevel Surplus Land
Central Arizona Project
Co: Maricopa AZ 85207–
Landholding Agency: Interior
Property Number: 619540001
Status: Excess
Reason: Other
Comment: no legal access

Missouri

86 Tracts–Lake Proj. Lands
Harry S. Truman Dam
Co: Henry, St. Clai MO
Landholding Agency: GSA
Property Number: 549540010
Status: Excess
Reason: Floodway
GSA Number: 7D–MO–607F

[FR Doc. 95–29229 Filed 11–30–95; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

National Park Service

Delaware and Lehigh Navigation Canal National Heritage Corridor Commission Meeting

AGENCY: National Park Service, Interior.
ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

Meeting Date and Time: Wednesday, December 13, 1995; 1:30 p.m. until 4:30 p.m.

Address: Commission Offices, 10 E. Church Street, Bethlehem, PA 18018.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission was established by Public Law 100–692, November 18, 1988.

FOR FURTHER INFORMATION CONTACT: Acting Executive Director, Delaware and Lehigh Navigation Canal, National Heritage Corridor Commission, 10 E. Church Street, Room P–208, Bethlehem, PA 18018, (610) 861–9345.

Dated: November 20, 1995.

Donald M. Bernhard,

Chairman, Delaware and Lehigh Navigation Canal NHC Commission.

[FR Doc. 95–29304 Filed 11–30–95; 8:45 am]
BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–463X]

Alabama Railroad Co.—Abandonment Exemption—in Monroe County, AL

Alabama Railroad Co. (AR) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a 3.68-mile portion of its rail line between milepost 662.62 at Beatrice and milepost 666.3 at Corduroy, in Monroe County, AL.

AR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on this line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line is either pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 31, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by December 11, 1995.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 21, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423–2191.

A copy of any petition filed with the Commission should be sent to applicant's representative: Patricia E. Dietrich, 1224 Seventeenth Street NW., Washington, DC 20036.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

AR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an Environmental Assessment (EA) by December 6, 1995. Interested persons may obtain a copy of the EA by writing to SEA (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or other trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: November 27, 1995.

[1] The Commission will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Commission in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for stay should be filed as soon as possible so that the Commission may take appropriate action before the exemption's effective date.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–29340 Filed 11–30–95; 8:45 am]
BILLING CODE 7035–01–P

[Finance Docket No. 32801]

Norfolk Southern Railway Company, Central of Georgia Railroad Company and Georgia Southwestern Division, South Carolina Central Railroad, Inc.—Joint Relocation Project Exemption—between Columbus and Albany, GA

On October 31, 1995, Norfolk Southern Railway Company (NS), Central of Georgia Railroad Company (CofG) (collectively Norfolk Southern), and Georgia Southwestern Division, South Carolina Central Railroad, Inc. (GSWR), jointly filed a notice of exemption under 49 CFR 1108.2(d)(5) to relocate a line of railroad between Columbus and Albany, GA. The proposed transaction was expected to be consummated on or after November 7, 1995.

GSWR operates a railroad line from Columbus to Bainbridge, GA, which includes a segment between Cusseta to Richland and Cuthbert, GA. GSWR also operates a line between Americus and Richland, GA. The Georgia & Alabama Division of South Carolina Central Railroad (GAD), an affiliate of GSWR, operates a line between Smithville and Cuthbert, GA.

CofG owns, and NS operates, a railroad line from Columbus to Americus and Albany, GA. From Columbus to Ochillee, GA, the CofG line runs parallel to the GSWR line. The CofG line connects with GSWR at Americus and with GAD at Smithville, GA.

Under the joint relocation project, the parties propose the following transactions: (1) Norfolk Southern will grant GSWR overhead trackage rights, including rights of ingress and egress, over its line between its yard at milepost 291.4–S in Columbus and milepost 12.0–O in Ochillee; (2) Norfolk Southern will lease its line between milepost 12.0–O in Ochillee and milepost 61.5–O, the BV&E Junction, near Americus, to GSWR; [1] (3) Norfolk Southern will grant GSWR overhead trackage rights, with rights of ingress and egress, between milepost 61.5–O, the BV&E Junction, near Americus and milepost 297.0–J in Albany; (4) GSWR will abandon its line of railroad between milepost SLB23 near Cusseta, Chattahoochee County and milepost 160, SLC746, near Cuthbert, Randolph County, a total of 38.1 miles, all in Chattahoochee, Stewart, and Randolph Counties, GA; and (5) NS and GSWR will construct a new track connection at Ochillee that will permit GSWR trains operating via trackage rights over the CofG line to enter and exit GSWR's line between Columbus and Cusseta. The notice states that service to shippers will not be disrupted and that the proposed construction and abandonment are incidental to this relocation project.

The joint relocation project will relocate GSWR's linehaul railroad operations serving the Columbus area from its existing line between Cusseta and Cuthbert, which has no active customers, to Norfolk Southern's parallel line, which though underutilized is in better physical condition. The project will allow GSWR to liquidate its investment in the Cusseta-Cuthbert segment of its existing line and to continue to provide competitive linehaul service to customers in Columbus. It will also result in more intensive utilization of Norfolk Southern's line and generate trackage rights income for Norfolk Southern.

The Commission will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into new territory. *See City of Detroit* v. *Canadian National Ry. Co., et al.*, 9 I.C.C.2d 1208 (1993). The Commission has determined that line relocation projects may embrace trackage rights transactions such as the one involved here. *See D.T.&I.R.—Trackage Rights*, 363 I.C.C. 878 (1981). Under these standards, the embraced incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

[1] The Commission exempted this lease from regulation under 49 U.S.C. 10505 in *Georgia Southwestern Division, South Carolina Central R. Co.—Lease and Operation Exemption—Norfolk Southern Ry. Co. and Central of Georgia Railroad Company*, Finance Docket No. 32738 (ICC served Oct. 5, 1995).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Robert J. Cooney, Norfolk Southern Railway Company, Central of Georgia Railroad Company, Three Commercial Place, Norfolk, VA 23510–2191; and Michael W. Blaszak, 211 South Leitch Avenue, LaGrange, IL 60525–2162.

Decided: November 27, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–29339 Filed 11–30–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address show below, not later than December 11, 1995.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than December 11, 1995.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 13th day of November, 1995.

Russell Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 11/13/95]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
31,617	Acme Stamping & Wire (USWA)	Pittsburgh, PA	10/31/95	Leon Parts for Automobiles.
31,618	Count Romi Ltd (ILGWU)	New York, NY	10/30/95	Ladies' Raincoats.
31,619	Destec Energy, Inc. (Wkrs)	Houston, TX	10/31/95	Energy Plant.
31,620	Elaine Sportswear Inc. (UNITE)	New York NY	11/02/95	Ladies' Sportswear.
31,621	Greenwood/East-West (Wkrs)	El Paso, TX	10/23/95	Pants, Jeans, Jackets.
31,622	Hill Company, Inc. (Comp)	Forth Smith, AR	10/26/95	Western Shirts.
31,623	Hill Company, Inc. (Comp)	Charleston, AR	10/26/95	Western Shirts.
31,624	Leroy Industries, Inc (UAW)	Leroy, NY	10/31/95	Knuckles and Spindles for Pick-Up's.
31,625	Ms. Interpret (ILGWU)	Carlstadt, NJ	10/26/95	Ladies' Sportswear.
31,626	North by Northeast (Wkrs)	Pawtucket, RI	11/01/95	Fleece Outewear.
31,627	Willit's Footwear (Wkrs)	Newville, PA	11/01/95	Children's Shoes.
31,628	Cal-Style Furniture (Comp)	Compton, CA	11/02/95	Tables, Chairs and Barstools.
31,629	Vanity Fair Mills Inc. (Comp)	Robertsdale, AL	11/01/95	Intimate Apparel.
31,630	Vanity Fair Mills Inc (Comp)	Butler, AL	11/01/95	Intimate Apparel.
31,631	Thomas Industries (IBEW)	Hopskinsville, KY	11/02/95	Residential Lighting Fixtures.
31,632	Mustang Fuel Corporation (Comp)	Oklahoma City, OK	11/03/95	Crude Oil and Natural Gas.

[FR Doc. 95–29333 Filed 11–30–95; 8:45 am]

BILLING CODE 4510–30–M

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of November 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–31,413; Anderson's Peanuts, Opp, AL

TA–W–31,549; Johnstown America Corp., Johnstown, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–31,426; Wonder Well Service, Inc., Glenville, WV

The investigations revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–31,591; Georgia Pacific Corp., Atlanta, GA (Maderas Howrey, S.A. de C.V.) (Ciudad Juarez, Mexico)

The investigations revealed that criteria (2) and (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location for each determination references the impact date for all workers for such determination.

TA–W–31,596; Mr. T's Apparel of Wesson, Wesson, MS: October 19, 1994.

TA–W–31,471; Sterling Last Corp., Long Island City, NY: September 14, 1994.

TA–W–31,528; Meshoppen Manufacturing Co., Meshoppen, PA: September 28, 1994.

TA–W–31,406; Integrated Circuit Systems, Inc., Valley Forge, PA: August 29, 1994.

TA–W–31,582; Somerville Mills Div. of I. Appel Corp., Somerville, TN: October 30, 1994.

TA–W–31,490; Alura Fashions, Inc., Carbondale, PA: September 21, 1994.

TA–W–31,430; Pennant Service Co., Denver, CO: August 29, 1994.

TA–W–31,518; Samson International Ltd, Tulsa, OK: September 28, 1994.

TA–W–31,569, TA–W31,570; Mapa Pioneer, Willard, OH, Attica, OH: October 10, 1994.

TA–W–31,597; Niedner, Inc., York, PA: October 12, 1994.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a) subchapter D, chapter 2, title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of November, 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–00657; Georgia Pacific Corp., Atlanta, GA (Maderas Howrey, S.A. de C.V.) (Ciudad Juarez, Mexico)

NAFTA–TAA–00638; Johnstown America Corp., Johnstown, PA

NAFTA–TAA–00633; General Electric Co, GE Transportation Systems—Erie, Erie, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

None.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location of each determination references are impact date for all workers for such determination.

NAFTA–TAA–00637; Twinpak (USA), Plattsburgh, NY: October 11, 1994.

NAFTA–TAA–00654; Rome Cable Corp., Rome, NY: October 17, 1994.

NAFTA–TAA–00660; ITT Automotive Aftermarket Div., Amherst, NY: October 23, 1994.

NAFTA–TAA–00668; Christian Fashions (Formerly Montana Fashions) El Paso, TXL: October 25, 1994.

NAFTA–TAA–00656; Nieder, Inc., York, PA: October 12, 1994.

NAFTA–TAA–00626 A & B; Capital Pants, Co., Woolfolk Manufacturing Louisa, VA, Urbana, VA, Fork Union, VA: October 2, 1994.

NAFTA–TAA–00628 A & B; Springtown Sportswear, Inc., Milledgeville, GA, Springtown Apparel Corp., Wrightsville, GA, Springtown Knitwear, Inc., Cartersville, GA: October 2, 1994.

I hereby certify that the aforementioned determinations were issued during the month of November, 1995. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 21, 1995.

Russell Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–29331 Filed 11–30–95; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations

will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than December 11, 1995.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than December 11, 1995.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 20th day of November, 1995.

Russell Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 11/20/95]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
31,633	Columbia Footwear Corp. (UFCW)	Hazleton, PA	11/09/95	Casual Footwear.
31,634	Carter Footwear, Inc. (UFCW)	Wilkes-Barre, PA	11/09/95	Athletic Footwear.
31,635	Distribution Auto Service (IBT)	Seattle, PA	11/08/95	Auto Accessories—Distribution.
31,636	Frank Ix and Sons (Wkrs)	Charlottesville, VA	11/07/95	Synthetic Yarn.
31,637	Guin Manufacturing Co. (Wkrs)	Guin, AL	11/07/95	Ladies' Sleepwear, Robes, Panties.
31,638	Greenfield Research, Inc. (Wkrs)	Howe, IN	11/02/95	Automobile Seating Units.
31,639	J & H Manufacturing Co. (Wkrs)	New York, NY	11/08/95	Raincoats and Coats.
31,640	Knapp Shoe (Wkrs)	Lewiston, ME	11/03/95	Work Shoes, Work Boots.
31,641	Sons Transportation (Wkrs)	Springfield, MA	11/08/95	Styrene Monomer.
31,642	Teledyne Wah Chang (Wkrs)	Albany, OR	11/06/95	Specialty Metals.
31,643	Inland Steel Company (USWA)	East Chicago, IN	11/07/95	Holt Rolled Coils.
31,644	Texaco Trading & (Wkrs)	Tulsa, OK	10/31/95	Crude oil.

Employment Standards Administration

Proposed Information Collection Request

Proposed Information Collection Request Submitted for Public Comment and Recommendations;

1. Application for Special Industrial Homeworker's Certificate (WH–2), Application for Authorization to Employ Student-Learner at Subminimum Wages (WH–205), Application for Authority to Employ Workers With Disabilities at Special Minimum Wages (WH–226–MIS), Supplemental Data Sheet for Application for Authority to Employ Workers with Disabilities at Special Minimum Wages (WH–225A–MIS);
2. Claim for Continuance of Compensation (CA–12);
3. Overpayment Recovery Questionnaire (OWCP–20);
4. Pre-Hearing Statement (LS–18);
5. Miner's Claim for Benefits Under the Black Lung Benefits Act (CM–911), Employment History (CM–911A), Miner Medical Reimbursement Form (CM–915).

AGENCY: Employment Standards Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed extension collection of: (1) Application for Special Industrial Homeworker's Certificate, Application for Authorization to Employ a Student-Learner at Subminimum Wages, Application for Authority to Employ Workers with Disabilities at Special Minimum Wages, and Supplemental Data Sheet for Application for Authority to Employ Workers with Disabilities at Special Minimum Wages; (2) Claim for Continuance of Compensation; (3) Overpayment Recovery Questionnaire; (4) Pre-Hearing Statement; Miner's Claim for Benefits Under the Black Lung Benefits Act, Employment History, and Miner Reimbursement Form.

Copies of the proposed information collection requests can be obtained by contacting the employee listed below in the addressee section of this notice.

DATES: Written comments must be submitted on or before February 1, 1996. Written comments should address whether the proposed information collection is necessary for the proper performance of the functions of the agency; the accuracy of the burden (time and financial resources) estimates; ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology; and other relevant aspects of the information collection request.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW, Room S–3201, Washington, DC 20210, telephone (202) 219–7601 (this is not a toll-free number), fax 202–219–6592.

SUPPLEMENTARY INFORMATION:

Application for Special Industrial Homeworker's Certificate (WH–2), Application for Authorization to Employ a Student-Learner at Subminimum Wages (WH-205), Application for Authority to Employ Workers with Disabilities at Special Minimum Wages (WH–226–MIS), and Supplemental Data Sheet for Application for Authority to Employ Workers with Disabilities at Special Minimum Wages (WH–226A–MIS):

I. *Background:* Section 11(d) of the Fair Labor Standards Act authorizes the Secretary to Labor to regulate, restrict, or prohibit industrial homework as necessary to prevent evasion of the minimum wage requirement of the Act. Employers may obtain general certificates to employ homeworkers in certain industries. The WH–2 is used by employers to obtain such certificates. Section 14(a) of the Fair Labor Standards Act provides in part that the Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall provide for the employment of learners at subminimum wage rates, and to set limitations on such employment as to time, number, proportion, and length of service. The WH–205 is used by employers to obtain certificates to employ student-learners at wages lower than the Federal minimum wage. Section 14(c) of the Fair Labor Standards Act provides for the employment of workers with disabilities at subminimum wages in sheltered workshops, competitive employment, and hospitals and institutions in order to prevent curtailment of employment opportunities for such individuals. The WH–226–MIS and the WH–226A–MIS are used by employers to obtain such authorization.

II. *Current Actions:* The Department of Labor seeks the extension of approval to collect this information to continue to provide employers with the certification necessary to employ individuals under the described special circumstances, in order to prevent the curtailment of employment opportunities for affected individuals.

Claim for Continuance of Compensation (CA–12)

I. *Background:* Under 5 USC 8133, eligible dependents of deceased employees receive compensation benefits after the death of the employee. The CA–12 is an annual form which is filled out by the beneficiaries and used by the Office of Workers' Compensation Programs to ensure that the eligibility status of the beneficiary has not changed and that they remain entitled to receive benefits.

II. *Current Actions:* The Department of Labor seeks the extension of this information collection in order to ensure that the death benefits continue to be paid correctly and that payments are not made to ineligible survivors.

Overpayment Recovery Questionnaire

I. *Background:* When an overpayment to a beneficiary of the Office of Workers' Compensation Programs has been made because of an error of fact of law, adjustments are to be made under regulations prescribed by their Secretary of Labor by decreasing later payments to which the individual is entitled. Under certain circumstances, recovery of the overpayment must be waived. This collection of information is used to determine whether or not the recovery of the overpayment may be waived, compromised, terminated, or collected in full.

II. *Current Actions:* The Department of Labor seeks the extension of approval to collect this information in order to provide the beneficiary the opportunity to explain why he/she is without fault in an overpayment, and to determine whether or not the recovery should be waived.

Pre-Hearing Statement (LS–18)

I. Background: Title 20, CFR 702.317 provides for the referral of claims under the Longshore and Harbor Workers' Act for formal hearings. The Pre-Hearing Statement is used to refer cases for formal hearing.

II. *Current Actions:* The Department of Labor seeks the extension of approval to collect the information. The information is necessary to establish and clarify the issues involved in the case.

Miner's Claim for Benefits Under the Black Lung Benefits Act (CM–911), Employment History (CM–911A), and Miner Reimbursement Form (CM–915)

I. Background: Title IV of the Federal Mine Safety and Health Act of 1977 as amended by the Black Lung Benefits Reform Act of 1977 and subsequent amendments, 30 USC 901 et seq, provide for the payment of benefits to a coal miner who is totally disabled due to black lung disease, and to certain survivors of the entitled miner. The CM–911 is the miner's application form for benefits. The CM–911A, completed at the same time as the CM–911, is an employment history used to establish that the miner currently works or formerly worked in a coal mine. The CM–915 is completed by miners payees who are requesting reimbursement for black lung related medical services covered under the program.

II. Current Actions: The Department of Labor seeks the extension of approval to collect this information in order to ensure that beneficiaries are paid all benefits to which they are entitled by law.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Application for Special Industrial Homeworker's Certificate (WH–2), Application for Authorization to Employ Student-Learner at Subminimum Wages (WH–205), Application for Authority to Employ Workers With Disabilities at Special Minimum Wages (WH–226–MIS), Supplemental Data Sheet for Application for Authority to Employ Workers with Disabilities at Special Minimum Wages (WH–225A–MIS).

OMB Number: 1215–0158.

Agency Numbers: WH–2, WH–205, WH–226–MIS, WH–226A–MIS.

Frequency: On occasion.

Affected Public: Individuals or households; Businesses or other for-profit; Not for-profit institutions; Farms; State, Local or Tribal Government.

Form	No. respondents	Est. time per respondent	Subtotal
WH–2	50	30 min	25 hrs.
WH–205	600	30 min	300 hrs.
WH–226–MIS	5,000	45 min	3,750 hrs.
WH–226A–MIS	7,200	45 min	5,400 hrs.

Total Estimated Cost: Unknown.

Total Burden Hours: 9,475.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Claim for Continuation of Compensation.

OMB Number: 1215–0154.

Agency Number: CA–12.

Frequency: Annually.

Affected Public: Individuals or households.

Number of Respondents: 6,537.

Estimated Time per Respondent: 5 minutes.

Total Estimated Cost: $2,091.84.

Total Burden Hours: 545.
Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Overpayment Recovery Questionnaire.
OMB Number: 1215–0144.
Agency Number: OWCP–20.
Frequency: On occasion.
Affected Public: Individuals or households.
Number of Respondents: 4,500.
Estimated Average Time per Respondent: 1 hour.
Total Estimated Cost: $1,440.
Total Burden Hours: 4,500.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Pre-Hearing Statement.
OMB Number: 1215–0085.
Agency Number: LS–18.
Frequency: On occasion.
Affected Public: Individuals or households; Businesses or other for-profit.
Number of Respondents: 6,800.
Estimated Time per Respondent: 10 minutes.
Total Estimated Cost: $2,176.
Total Burden Hours: 1,088.
Type of Review: Extension.

Agency: Employment Standards Administration.
Title: Miner's Claim for Benefits Under the Black Lung Benefits Act (CM–911), Employment History (CM–911A), Miner Reimbursement Form (CM–915).
OMB Number: 1215–0052.
Agency Numbers: CM–911, CM911A, CM–915.
Frequency: On occasion.
Affected Public: Individuals or households; Businesses or other for-profit.

Form	No. respondents	Est. time per respondent	Subtotal
CM–911	4,800	45 min	3,600
CM–911A	5,900	40 min	3,933
CM–915	9,500	10 min	1,583

Total Estimated Cost: $3,424.
Total Burden Hours: 9,116.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: November 24, 1995.

Margaret J. Sherrill,

Chief, Branch of Management, Review and Analysis, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 95–29334 Filed 11–30–95; 8:45 am]

BILLING CODE 4510–27–M

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA950001 (Feb. 10, 1995)
MA950002 (Feb. 10, 1995)
MA950003 (Feb. 10, 1995)
MA950006 (Feb. 10, 1995)
MA950007 (Feb. 10, 1995)
MA950009 (Feb. 10, 1995)
MA950013 (Feb. 10, 1995)
MA950017 (Feb. 10, 1995)
MA950018 (Feb. 10, 1995)
MA950019 (Feb. 10, 1995)
New York
NY950003 (Feb. 10, 1995)
NY950004 (Feb. 10, 1995)
NY950014 (Feb. 10, 1995)
NY950016 (Feb. 10, 1995)
NY950017 (Feb. 10, 1995)

Volume II

District of Columbia
DC950001 (Feb. 10, 1995)
Maryland
MD950048 (Feb. 10, 1995)
Pennsylvania
PA950001 (Feb. 10, 1995)
PA950002 (Feb. 10, 1995)
PA950003 (Feb. 10, 1995)
PA950004 (Feb. 10, 1995)
PA950017 (Feb. 10, 1995)
PA950018 (Feb. 10, 1995)
PA950020 (Feb. 10, 1995)
PA950022 (Feb. 10, 1995)
PA950033 (Feb. 10, 1995)
PA950042 (Feb. 10, 1995)
PA950051 (Feb. 10, 1995)
PA950065 (Feb. 10, 1995)

Volume III

None

Volume IV

Illinois
IL950019 (Feb. 10, 1995)
Ohio
OH950001 (Feb. 10, 1995)
OH950002 (Feb. 10, 1995)
OH950012 (Feb. 10, 1995)
OH950029 (Feb. 10, 1995)
OH950034 (Feb. 10, 1995)
OH950035 (Feb. 10, 1995)
OH950036 (Feb. 10, 1995)

Volume V

Arkansas
AR950001 (Feb. 10, 1995)
Iowa
IA950004 (Feb. 10, 1995)
IA950012 (Feb. 10, 1995)
Louisiana
LA950004 (Feb. 10, 1995)
LA950005 (Feb. 10, 1995)
LA950009 (Feb. 10, 1995)
LA950015 (Feb. 10, 1995)
LA950017 (Feb. 10, 1995)
LA950018 (Feb. 10, 1995)
Missouri
MO950001 (Feb. 10, 1995)
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MO950070 (Feb. 10, 1995)
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MO950074 (Feb. 10, 1995)
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MO950076 (Feb. 10, 1995)
MO950077 (Feb. 10, 1995)
MO950078 (Feb. 10, 1995)

Volume VI

Arizona
AZ950001 (Feb. 10, 1995)
AZ950002 (Feb. 10, 1995)
AZ950003 (Feb. 10, 1995)
AZ950004 (Feb. 10, 1995)
AZ950005 (Feb. 10, 1995)
AZ950006 (Feb. 10, 1995)
AZ950007 (Feb. 10, 1995)
AZ950010 (Feb. 10, 1995)
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AZ950013 (Feb. 10, 1995)
AZ950016 (Feb. 10, 1995)
AZ950017 (Feb. 10, 1995)
Hawaii
HI950001 (Feb. 10, 1995)
Montana
MT950001 (Feb. 10, 1995)
MT950006 (Feb. 10, 1995)
Oregon
OR950001 (Feb. 10, 1995)
Washington
WA950001 (Feb. 10, 1995)
WA950002 (Feb. 10, 1995)
WA950003 (Feb. 10, 1995)
WA950005 (Feb. 10, 1995)
WA950006 (Feb. 10, 1995)
WA950007 (Feb. 10, 1995)
WA950008 (Feb. 10, 1995)
WA950010 (Feb. 10, 1995)
WA950011 (Feb. 10, 1995)
WA950013 (Feb. 10, 1995)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 24th day of November 1995.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 95–29192 Filed 11–30–95; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Cross Disciplinary Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Cross Disciplinary Activities (#1193).
Date and Time: December 19, 1995; 8:30 a.m. to 5 p.m.
Place: Room 320, 340, 365 and 370.
Type of Meeting: Closed.
Contact Person(s): Tse-yun Feng, Program Director, CISE/CDA, Room 1160, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1980.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate Research Infrastructure proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a

proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 28, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–29362 Filed 11–30–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Adequacy and Compatibility for Agreement State Radiation Control Programs; Working Group

AGENCY: Nuclear Regulatory Commission.

ACTION: Establishment of Working Group on Adequacy and Compatibility Implementing Procedures.

SUMMARY: A working group consisting of representatives from Agreement States and from the Nuclear Regulatory Commission (NRC) has been formed to respond to Commission direction in Staff Requirement Memorandum (SRM) dated June 29, 1995, which instructed staff to develop implementing procedures for the Policy Statement on Adequacy and Compatibility of Agreement State Programs.

FOR FURTHER INFORMATION CONTACT: Ms. Cardelia H. Maupin, Office of State Programs (OSP), U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301–415–2312.

SUPPLEMENTARY INFORMATION: On August 2, 1995 (60 FR 39464), the Commission published in the **Federal Register** an announcement of the status and availability of the Policy Statement on Adequacy and Compatibility of Agreement State Programs. The Commission approved, in principle, the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" with the stipulations discussed below.

The Commission deferred implementation of the policy statement until implementing procedures are developed and approved by the Commission. The NRC staff is to develop the implementing procedures and any necessary changes to the policy statement and resubmit the policy statement and implementing procedures to the Commission by September 30, 1996. To respond to the Commission's direction, a working group consisting of representatives from the Agreement States and from the NRC has been formed.

Scope of Work

The common and non-common performance indicators of the Integrated Materials Performance Evaluation Program (IMPEP), discussed in 60 FR 54734, published October 25, 1995, are tied to the adequacy component under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs." The efforts of the Working Group will also reflect experience obtained through the interim implementation of IMPEP to ensure ease of application for the Policy Statement implementing procedures when used to conduct Agreement State program reviews. In developing implementing procedures for the Policy Statement, the Working Group will analyze all aspects (program elements and regulations) of an Agreement State regulatory program and determine which elements and regulations should be identical and which elements and regulations a State should incorporate into its program but may incorporate in a manner different from the NRC, i.e., assign each to a compatibility component, as necessary.

Tasks

In development of the implementing procedures for the "Policy Statement on Adequacy and Compatibility of Agreement State Programs," the Working Group will be performing the following tasks:

1. Identification of program elements (excludes regulations) which should be considered as being necessary for compatibility.

2. A. Analyze each NRC regulation applicable to the regulation of certain Atomic Energy Act (AEA) materials (those covered by an AEA 274b Agreement) and determine the compatibility component to be assigned to each, as necessary.

B. Analyze each program element identified in 1 above, and determine the compatibility component to be assigned to each, as necessary.

3. Develop draft implementing procedures for the Policy Statement which address the following:

A. Identification of regulations necessary for compatibility by Agreement States which should be adopted by the States as soon as possible after adoption by NRC, but in no case later than three (3) years following the effective date of the NRC final rule.

B. Identification of program elements (other than regulations) that are needed for compatibility by Agreement States within six months of notification by NRC. However, if adoption of such an element requires public notice and comment pursuant to an Agreement State's Administrative Procedures Act, the NRC and the State will establish a mutually acceptable adoption date.

C. i. Documentation of Commission-approved guidance for when an Agreement State need not adopt a specific regulation if the State has no licensees that would be subject to that regulation. The guidance will provide that in such cases the State would need to commit to adopt the regulation to impose the regulation through license conditions or through other legally binding measures, if an application for that type of license were to be received by the State.

ii. Documentation of Commission-approved guidance for when an Agreement State may adopt and implement regulatory requirements for specific classes of licensees, through imposition of the requirement as a license condition or through other legally binding measures (e.g., orders), instead of formal regulations. The guidance will provide that basic radiation protection standards in 10 CFR Part 20 and other regulations applicable to all licensees that are necessary for compatibility should be adopted by regulation.

D. Recommend modifications to the policy statement, as necessary, based upon completed implementing procedures.

Committee Organization and Operations

Cardelia H. Maupin, NRC, OSP, and Robert R. Kulikowski, New York City have been selected as co-chairs by the NRC and Agreement States, respectively. Other members are Aubrey Godwin, Arizona; Roland Fletcher, Maryland; Hampton Newsome, NRC, Office of General Counsel (OGC); John Telford, NRC, Office of Nuclear Regulatory Research (RES); Richard Woodruff, NRC, Region II; and Paul Lohaus, NRC, OSP will serve as a resource person.

Committee Meetings

Working Group meetings will be announced in advance through the NRC Public Meeting Notice System. Maximum use will be made of other appropriate media for facilitating interaction with the Working Group, e.g., conference calls, facsimiles, and electronic mail. Working Group meetings will be open to the public and will be held in the Washington, DC area, or other locations as agreed upon by the Working Group members. Persons attending Working Group meetings will be welcome to provide comments to the Working Group for its consideration in either written form or orally at times specified by the Working Group co-chairs.

A telephonic meeting of the Working Group has been scheduled for 2:00 pm eastern time on Tuesday, December 5, 1995. All future meetings will be announced through the NRC meeting announcement schedule. The Working Group expects to meet at approximately monthly intervals. Information on future meetings will be available to the public:

- By telephone recording on the toll-free NRC Public Meeting Announcement System, 1–800–952–9674;
- By electronic bulletin board on the toll-free NRC bulletin board, 1–800–952–9676;
- By postings in the NRC Public Document Room at the Gelman Building, 2120 L St., N. W., Washington, D. C. 20037 and Local Public Document Rooms; and
- By Internet on the toll-free NRC at FedWorld, 1–800–303–9672, access through the GATEWAY option.

A conference room at the NRC One White Flint Building, 11555 Rockville Pike, Rockville, Md., 20852–2738, Room 1F7&9, has been reserved for members of the public who wish to participate in the December 5, 1995 telephonic meeting. Any questions can be directed to Ms. Cardelia Maupin at 301–415–2312. In addition, conference space has been reserved at the Arizona Radiation Regulatory Agency, 4814 South 40th Street, Phoenix, Arizona 85040 for persons wishing to participate telephonically in the meeting and the contact person is Mr. Aubrey Godwin, Director, Arizona Radiation Regulatory Agency, 602–223–2212.

Dated at Rockville, Maryland this 27th day of November, 1995.

For the Nuclear Regulatory Commission.

Richard L. Bangart,

Director, Office of State Programs.

[FR Doc. 95–29295 Filed 11–30–95; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements; Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: 10 CFR Part 36, Licenses and Radiation Safety Requirements for Irradiators.

2. Current OMB Approval Number: 3150–0158.

3. How often the collection is required: There is a one-time submittal of information to receive a license. Once a specific license has been issued, there is a 5-year resubmittal of the information for renewal of the license. In addition, recordkeeping must be performed on an on-going basis, and reports of accidents and other abnormal events must be reported on an as-necessary basis.

4. Who is required or asked to report: All irradiators licensed by NRC or an Agreement State.

5. The number of annual respondents: 60 NRC licensees and 120 Agreement State licensees.

6. The number of hours needed annually to complete the requirement or request: 84,030 (approximately 467 per licensee).

7. Abstract: 10 CFR Part 36 contains requirements for the issuance of a license authorizing the use of sealed sources containing radioactive materials in irradiators used to irradiate objects or materials for a variety of purposes in research, industry, and other fields. The subparts cover specific requirements for obtaining a license or license exemption; design and performance criteria for irradiators; and radiation safety requirements for operating irradiators, including requirements for operator training, written operating and emergency procedures, personnel monitoring, radiation surveys, inspection, and maintenance. Part 36 also contains the recordkeeping and reporting requirements that are necessary to ensure that the irradiator is being safely operated so that it poses no danger to the health and safety of the general public and the irradiator employees.

Submit, by January 30, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 22nd day of November, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–29294 Filed 11–30–95; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements; Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: 10 CFR Part 26, "Fitness for Duty Program."
2. Current OMB approval number: 3150–0146.
3. How often the collection is required: On occasion.
4. Who is required or asked to report: All licensees authorized to construct or operate a nuclear power reactor and all licensees authorized to possess, use, or transport unirradiated Category 1 nuclear material.
5. The number of annual respondents:
a. 148 semi-annual reports (an average of 40 hours per response).
b. 74 telephonic event reports (an average of 15 minutes per response).
c. 44,000 written statements from applicants for unescorted access authorization to protected areas (an average of 30 seconds per response).
6. The number of hours needed annually to complete the requirement or request: 63,960 (7,210 hours of reporting burden and 56,750 hours of recordkeeping burden).
7. Abstract: 10 CFR Part 26, "Fitness for Duty Program," requires licensees of nuclear power plants and licensees authorized to possess, use, or transport unirradiated Category 1 nuclear material to implement fitness-for-duty programs to assure that personnel are not under the influence of any substance or mentally or physically impaired, to retain certain records associated with the management of these programs, and to provide reports concerning significant events. Compliance with these requirements is mandatory for licensees subject to 10 CFR Part 26.

Submit by January 30, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW. (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 22nd day of November, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–29296 Filed 11–30–95; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

[Docket No. A96–4; Order No. 1089]

Manchester, Wisconsin 53945 (Janice Guderski, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued November 27, 1995.

Docket Number: A96–4
Name of Affected Post Office: Manchester, Wisconsin 53945
Name(s) of Petitioners(s): Janice Guderski
Type of Determination: Closing
Date of Filing of Appeal Papers: November 20, 1995
Categories of Issues Apparently Raised:
1. Effect on postal services [39 U.S.C. § 404(b)(2)(C)].
2. Effect on the community [39 U.S.C. § 404(b)(2)(A)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. § 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission Orders

(a) The Postal Service shall file the record in this appeal by December 5, 1995.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Margaret P. Crenshaw,

Secretary.

Appendix

November 20, 1995
Filing of Appeal letter
November 27, 1995
Commission Notice and Order of Filing of Appeal
December 15, 1995
Last day of filing of petitions to intervene [see 39 C.F.R. § 3001.111(b)]
December 26, 1995
Petitioner's Participant Statement or Initial Brief [see 39 C.F.R. § 3001.115(a) and (b)]
January 15, 1996
Postal Service's Answering Brief [see 39 C.F.R. § 3001.115(c)]
January 29, 1996
Petitioner's Reply Brief should Petitioner choose to file one [see 39 C.F.R. § 3001.115(d)]
February 5, 1996
Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 C.F.R. § 3001.116]
March 19, 1996
Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. § 404(b)(5)]

[FR Doc. 95–29341 Filed 11–30–95; 8:45 am]

BILLING CODE 7710–FW–P

[Docket No. A96–5; Order No. 1090]

Shade, Ohio 45776, (Julie Wagner, et al., Petitioners); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. § 404(b)(5)

Issued November 27, 1995.

Docket Number: A96–5
Name of Affected Post Office: Shade, Ohio 45776
Name(s) of Petitioner(s): Julie Wagner, et al.
Type of Determination: Consolidation
Date of Filing of Appeal Papers: November 21, 1995
Categories of Issues Apparently Raised:
1. Effect on postal services [39 U.S.C. § 404(b)(2)(C)].
2. Effect on the community [39 U.S.C. § 404(b)(2)(A)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. § 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission Orders

(a) The Postal Service shall file the record in this appeal by December 6, 1995.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Margaret P. Crenshaw,

Secretary.

APPENDIX

November 21, 1995
Filing of Appeal letter
November 27, 1995
Commission Notice and Order of Filing of Appeal
December 15, 1995
Last day of filing of petitions to intervene [see 39 C.F.R. § 3001.111(b)]
December 26, 1995
Petitioners' Participant Statement or Initial Brief [see 39 C.F.R. § 3001.115(a) and (b)]
January 15, 1996
Postal Service's Answering Brief [see 39 C.F.R. § 3001.115(c)]
January 30, 1996
Petitioners' Reply Brief should Petitioner choose to file one [see 39 C.F.R. § 3001.115(d)]
February 6, 1996
Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 C.F.R. § 3001.116]
March 20, 1996
Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. § 404(b)(5)]

[FR Doc. 95–29342 Filed 11–30–95; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Programmatic Environmental Assessment; Priority Mail Processing System

AGENCY: Postal Service.

ACTION: Notice of finding of no significant impact.

SUMMARY: The Postal Service intends to implement a redesign program for the processing and distribution of Priority Mail, as announced in the **Federal Register** on October 20, 1995 (60 FR 54265). This program is needed to improve the handling of Priority Mail for achieving a level of on-time delivery higher than current levels. An environmental assessment, prepared by the Postal Service and dated November 1, 1995, concluded that the redesign program will have no effect or only a negligible effect on the components of the physical and cultural environments examined.

EFFECTIVE DATE: December 1, 1995.

FOR FURTHER INFORMATION CONTACT: Anthony M. Pajunas, (202) 268–3669. Copies of the environmental assessment are available from Operations Networks Redesign, U.S. Postal Service, 425 L'Enfant Plaza SW, Washington, DC 20260–7165.

SUPPLEMENTARY INFORMATION: The Postal Service redesign program for its Priority Mail Processing System includes establishing Priority Mail processing centers at several new facilities along the East Coast. This program will segregate Priority Mail from other mail classes and process and distribute Priority Mail through dedicated facilities. Program performance will be evaluated during a test period, after which the Postal Service will determine further action.

An environmental assessment of the redesign program, dated November 1, 1995, was prepared by the Postal Service. The assessment concluded that, because of the small size of the proposed Priority Mail processing centers relative to the urban areas in which they are to be situated, implementation of the program is expected to have no effect or only a negligible effect on the components of the physical and cultural environments examined. The program is expected, however, to have a significant effect on improving the on-time delivery performance of Priority Mail, as well as on the remaining components of the postal environment.

Based on the environmental assessment, the Postal Service finds and declares that the proposed action will not have a significant effect on the environment and, therefore, will not require the preparation of an environmental impact statement.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95–29324 Filed 11–30–95; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36508; File No. 600–23]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving Application for Extension of Temporary Registration as a Clearing Agency

November 27, 1995.

On February 3, 1995, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") a request pursuant to Section 19(a)[1] of the Securities Exchange Act of 1934 ("Act") that the Commission grant GSCC full registration as a clearing agency under Section 17A of the Act[2] or in the alternative extend GSCC's temporary registration as a clearing agency until such time as the Commission is able to grant GSCC permanent registration.[3] The Commission published notice of GSCC's request in the **Federal Register** on October 26, 1995.[4] No comments were received. This order extends GSCC's

[1] 15 U.S.C. 78s(a) (1988).

[2] 15 U.S.C. 78q–1 (1988).

[3] Letter from Charles A. Moran, President, GSCC, to Brandon Becker, Director, Division of Market Regulation ("Division"), Commission (February 3, 1995) ("February Registration Letter"). GSCC supplemented the February Registration letter in its letter from Charles A. Moran, President, GSCC, to Brandon Becker, Director, Division, Commission (September 15, 1995) ("September Registration Letter").

[4] Securities Exchange Act Release No. 36398 (October 20, 1995), 60 FR 54895.

temporary registration as a clearing agency through November 30, 1996.[5]

GSCC provides clearance and settlement services for its members' transactions in government securities. GSCC offers its members services for next-day settling trades, forward settling trades, auction takedown activity, repurchase transactions ("repos"), the multilateral netting of trades, the novation of netted trades, and daily marking-to-the-market. In connection with GSCC's clearance ad settlement services, GSCC provides a centralized loss allocation procedure and maintains margin to offset netting and settlement risks.

At the time of GSCC's initial temporary registration, the Commission granted GSCC exemptions from compliance with the participation standards in Sections 17A(b)(3)(B) and 17A(b)(4)(B)[6] and with the fair representation requirements in Section 17A(b)(3)(C). GSCC has requested that the Commission rescind GSCC's exemption from the participation standards in Sections 17A(b)(3)(B) and 17A(b)(4)(B). As more fully set forth in the February Registration Letter, GSCC believes that it has adequately addressed the Commission's concerns regarding GSCC's membership eligibility standards by establishing new categories of membership.[7] In the February Registration Letter, GSCC also stated that it believes its current method of selecting its Board of Directors assures members fair representation.[8]

GSCC has made substantial progress toward satisfying the requirements enumerated in Section 17A(b) of the Act. The Commission believes that while GSCC's new categories of membership are not extensively used at this time, GSCC is in compliance with the requirements of Sections 17A(b)(3)(B) and 17A(b)(4)(B) of the Act.[9] Therefore, the Commission is eliminating GSCC's exemption from the provisions of Sections 17A(b)(3)(B) and 17A(b)(4)(B).

GSCC has recently introduced clearance and settlement services for certain repurchase agreement transactions.[10] Because institutional entities are much more involved in the repo market than in the cash market, GSCC expects much greater utilization of its nontraditional membership categories (*e.g.*, those membership categories for entities other than dealers and banks) in the coming years. The Commission believes that as the number of members in these nontraditional categories grows, GSCC should continue to review its criteria for membership in the various categories.

The Commission will continue GSCC's exemption from the fair representation standards of Section 17A(b)(3)(C) during the temporary registration period. Prior to granting permanent registration, the Commission will evaluate GSCC's criteria for selecting its Board of Directors to ensure that the selection criteria is sufficiently flexible to assure adequate representation of members in each of GSCC's membership categories consistent with Section 17A(b)(3)(C) of the Act.

It is therefore ordered that GSCC's temporary registration as a clearing agency (File No. 600–23) be and hereby is extended through November 30, 1996, subject to the terms set forth above.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 95–29319 Filed 11–30–95; 8:45 a.m.]

BILLING CODE 8010–01–M

[5] On May 24, 1988, the Commission granted GSCC's initial application for registration as a clearing agency pursuant to Sections 17A and 19(a) of the Act and Rule 17Ab2–1 [17 CFR 240.17Ab2–1 (1994)] thereunder for a period of three years. Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19639. The Commission subsequently extended GSCC's registration until November 30, 1995. Securities Exchange Act Release Nos. 29067 (April 11, 1991), 56 FR 15632; 32385 (June 3, 1993), 58 FR 32405; and 35787 (May 31, 1995), 60 FR 30324.

[6] The Commission determined that GSCC's rules did not provide for all the statutory categories of membership required by Section 17A(b)(3)(B) or the financial standards for such applicants and members as contemplated by Section 17A(b)(4)(B). 15 U.S.C. 78q–1(b)(3)(B), 78q–1(b)(4)(B) (1988).

[7] Since the Commission's original order granting GSCC temporary registration, the Commission has approved two proposed rule changes that increased the categories of those eligible for membership in GSCC's netting system. Securities Exchange Act Release Nos. 34935 (November 3, 1994), 59 FR 56100 (order approving establishing of new categories of netting system membership for futures commission merchants) and 32722 (August 5, 1993), 58 FR 42093 (order approving establishment of new categories of netting system membership for Category 2 dealers and interdealer brokers, issuers of government securities, insurance companies, registered clearing agencies, and registered investment companies). Under GSCC's rules, a Category 2 dealer netting member has a lower net worth threshold but more stringent margin requirements than Category 1 dealer members.

[8] GSCC's current selection process for its Board of Directors permits any GSCC member to nominate candidates for election to the Board and to vote for candidates so nominated. In the February Registration Letter, GSCC stated that it recognizes future membership growth may require GSCC to adjust the selection process to ensure fair member representation on the Board.

[9] Currently, GSCC has one Category 2 dealer netting member and one futures commission merchant. None of the other membership categories discussed *supra* in note 7 are being used.

[10] Securities Exchange Act Release No. 36491 (November 17, 1995).

[11] 17 CFR 200.30–3(a)(50)(i) (1994).

[Release No. 34–36509; File No. SR–CHX–95–27]

Self-Regulatory Organizations; The Chicago Stock Exchange, Incorporated; Notice of Filing of Proposed Rule Change Relating to Chicago Stock Exchange, Incorporated's Decision To Withdraw From the Clearance and Settlement and Securities Depository Businesses

November 27, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on November 16, 1995, the Chicago Stock Exchange, Incorporated ("CHX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–CHX–95–27) as described in Items I, II, and III below, which items have been prepared primarily by CHX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change involves proposed arrangements relating to a decision by CHX to withdraw from the clearance and settlement, securities depository, and branch receive businesses conducted through its subsidiaries, the Midwest Clearing Corporation ("MCC"), Midwest Securities Trust Company ("MSTC"), and Securities Trust Company of New Jersey ("STC/NJ").[2] Parties to the proposed arrangements are The Depository Trust Company ("DTC"), CHX, MSTC, the National Securities Clearing Corporation ("NSCC"), MCC, and STC/NJ. The proposed arrangements as they relate to CHX would provide for the following:

(1) MSTC and MCC would cease providing securities depository and securities clearing services, respectively, by January 15, 1996.

(2) DTC would offer sole MSTC participants an opportunity to become DTC participants, if they meet DTC's qualifications. NSCC would offer sole MCC participants the opportunity to become NSCC participants if they meet NSCC's qualifications.

(3) DTC and MSTC would cooperate to assure the orderly transfer of securities from the custody of MSTC to the custody of DTC for DTC participants that authorize such transfers. Open positions of MCC participants that are or that become NSCC participants and that authorize the transfer of their positions will be transferred to the books of NSCC.

(4) DTC would acquire certain assets and assume certain lease and other contractual obligations of STC/NJ.

(5) DTC would assume certain lease obligations of CHX.

(6) DTC and NSCC would make certain payments to CHX, MSTC, MCC, and STC/NJ.

(7) In general, for a period of ten years CHX, MCC, MSTC, and STC/NJ would not engage in the businesses from which they have decided to withdraw (*i.e.*, the securities clearing, securities depository, and branch receive businesses). However, CHX and its subsidiaries would be free to provide specified securities depository-related and securities clearing-related services and products to CHX members and certain third-parties under certain circumstances.[3]

The proposed rule change also seeks to modify CHX's Constitution to reduce the size of the Board of Governors.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the propose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CHX has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.[5]

[1] 15 U.S.C. § 78s(b)(1)(1988).

[2] STC/NJ is a wholly-owned subsidiary of CHX that currently provides certain services, including a securities custody service. STC/NJ is not a clearing agency as defined in the Act and therefore is not required to register with the Commission.

[3] A more detailed description of these proposed arrangements is contained in Exhibit 2 to the filing. A copy of the filing and all exhibits is available for copying and inspection in the Commission's Public Reference Room.

[4] The text of these proposed changes is contained in Exhibit A to the filing. A copy of the filing and all exhibits is available for copying and inspection in the Commission's Public Reference Room.

[5] The Commission has modified the text of the summaries prepared by CHX.

(A) Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CHX has determined to close its clearance and settlement and securities depository business in order to focus its resources on the operations of the exchange itself. The primary purpose of the proposed arrangements is to permit CHX to achieve this objective while affording MCC participants an opportunity to become NSCC participants and affording MSTC participants an opportunity to become DTC participants and transfer their open positions and securities to NSCC and DTC. Both MCC and MSTC participants, however, would be free to utilize any other service provider of their choosing. This is consistent with the industry's effort to eliminate redundant infrastructure costs associated with operating separate organizations.

The timing of the proposal is related to the industry's planned conversion to same-day funds settlement.[6] Currently, transactions in equities, corporate debt, and municipal debt are settled in next-day funds.[7] Transactions in commercial paper and other money market instruments are settled in same-day funds. As the Commission is aware, the registered clearing agencies have been working with the industry over the least few years to develop a system that will provide for the settlement of virtually all securities transactions in same-day funds. These efforts have been encouraged by the Commission, the Board of Governors of the Federal Reserve System, and the Federal Reserve Banks of New York and Chicago, and these plans have been monitored by the staffs of these regulatory bodies.[8] Under the conversion plan, all issues currently settling in DTC's next-day funds settlement system will be transferred to DTC's same-day funds settlement system on a single day. Several months ago, a consensus was reached that the conversion date will be February 22, 1996. As a result of this scheduled conversion date, CHX has determined to cease providing securities depository, securities clearing, and branch receive services by January 15, 1996.

The proposed arrangements should result in substantial savings for the securities industry. In connection with this proposal, former sole MSTC participants may become DTC participants if they qualify, and former sole MCC participants may become NSCC participants if they qualify or utilize any other clearing and depository service provider. Moreover, interdepository and clearing interfaces involve the maintenance of substantial facilities, communications networks, and account and inventory reconciliation mechanisms. As a result of the proposal, the substantial costs incurred by both DTC, NSCC, MCC, and MSTC in operating interfaces would be eliminated.

Another purpose of the proposed rule change is to reduce the size of the CHX's Board of Governors. This reduction conforms with the simultaneous reductions in the size of the boards of directors of MCC and MSTC. Because of its withdrawal from the businesses described above, CHX no longer believes it is necessary to maintain such a large board of directors. As a result, CHX is eliminating the Participant Governor positions. Those current board members whose slots have been eliminated may serve out the remainder of their terms.

CHX believes that proposed rule change is consistent with Section 6(b)(5) of the Act[9] in that it will enable the CHX to focus its energies on its core business, the exchange. This, in turn, will promote just and equitable principles of trade, remove impediments and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The proposal also will foster cooperation and coordination with persons engaged in clearing and settling transactions in securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

CHX does not believe the proposed arrangements will improve any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Securities depositories and securities clearing corporations registered under Section 17A of the Act are not conventional

[6] The term "same-day funds" refers to payment in funds that are immediately available and generally are transferred by electronic means.

[7] The term "next-day funds" refers to payment by means of certified check that is for value on the following day.

[8] In approving certain modifications of DTC's existing system in order to accommodate the overall conversion to same-day funds settlement, the Commission stated that it "believes that the overall conversion to an SDFS system will help reduce systemic risk by eliminating overnight credit risk. The SDFS system also will reduce risk by achieving closer conformity with the payment methods used in the derivatives markets, government securities markets and other markets." Securities Exchange Act Release No. 35720 (May 16, 1995), 60 FR 27360 [File No. SR–DTC–95–06] (order granting accelerated approval to proposed rule change modifying the same-day funds settlement system).

[9] 15 U.S.C. 78f(b)(5) (1988).

businesses but utilities created to serve members of the securities industry for the purpose of providing certain services that are ancillary to the businesses in which industry members compete with one another. Operating a securities depository and securities clearing corporation requires a substantial and continuing investment in infrastructure, including securities vaults, telecommunications links with users, data centers, and disaster recovery facilities in order to meet the increasing needs of participants and respond to regulatory requirements. Both the Boston Stock Exchange in 1981 and the Pacific Stock Exchange in 1987 terminated the operations of their securities depositories and substantially terminated the operations of their securities clearing corporations.

After consummation of the proposed arrangements, securities industry members will continue to have access to high-quality, low-cost depository and clearing services provided under the mandate of the Act. The overall cost to the industry of having such services available will be reduced, thereby permitting a more efficient and productive allocation of industry resources. Furthermore, because most of a depository's and a clearing corporation's interface costs must be mutualized, thereby requiring some participants to subsidize costs incurred by others, CHX's withdrawal from maintaining depository and clearing facilities should reduce costs to participants and thereby remove impediments to competition. Finally, CHX's ability to focus its resources on the operations of its exchange should help enhance competition among securities markets.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposal have not been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of such filing also will be available for inspection and copying at the principal office of CHX. All submissions should refer to the file number SR–CHX–95–27 and should be submitted by December 22, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29321 Filed 11–30–95; 8:45am]

BILLING CODE 8010–01–M

[Release No. 34–36511; File No. SR–MCC–95–04]

Self-Regulatory Organizations; Midwest Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Midwest Clearing Corporation's Decision To Withdraw From the Clearance and Settlement Business

November 27, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on November 16, 1995, the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by MCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change involves proposed arrangements relating to a decision by the Chicago Stock Exchange, Incorporated ("CHX") to withdraw from the clearance and settlement, securities depository, and branch receive businesses conducted through its subsidiaries, MCC, Midwest Securities Trust Company ("MSTC"), and the Securities Trust Company of New Jersey ("STC/NJ").[2] Parties to the proposed arrangements are The Depository Trust Company ("DTC"), CHX, MSTC, the National Securities Clearing Corporation ("NSCC"), MCC, and STC/NJ. The proposed arrangements as they relate to MCC, would provide for the following:

(1) MCC would cease providing securities clearing services by January 15, 1996.

(2) NSCC would offer MCC participants an opportunity to become NSCC participants if they meet NSCC's qualifications.

(3) Open positions of MCC participants that are or that become NSCC participants and that authorize the transfer of their open positions will be transferred to the books of NSCC.

(4) DTC and NSCC would make certain payments to MCC.

(5) In general, for a period of ten years MCC would not engage in the business from which it has decided to withdraw (*i.e.*, the securities clearing business). However, MCC would be free to provide specified securities clearing-related services and products to CHX members and certain third-parties under certain circumstances.[3]

The proposed rule change also seeks to modify MCC's By-Laws to reduce the size of its Board of Directors.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MCC included statements concerning

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[10] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] STC/NJ is a wholly-owned subsidiary of CHX that currently provides certain services, including a securities custody service. STC/NJ is not a clearing agency as defined in the Act and therefore is not required to register with the Commission.

[3] A more detailed description of these proposed arrangements is contained in Exhibit 2 to the filing. A copy of the filing and all exhibits is available for copying and inspection in the Commission's Public Reference Room.

[4] The text of these proposed changes is contained in Exhibit A to the filing. A copy of the filing and all exhibits is available for copying and inspection in the Commission's Public Reference Room.

the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MCC has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.[5]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CHX has determined to close its clearance and settlement and securities depository business in order to focus its resources on the operations of the exchange. The primary purpose of the proposed arrangements is to permit CHX and MCC to achieve this objective while affording MCC participants an opportunity to become NSCC participants. MCC participants, however, would be free to utilize any other service provider of their choosing. This is consistent with the industry's effort to eliminate redundant infrastructure costs associated with operating separate organizations.

The timing of the proposal is related to the industry's planned conversion to same-day funds settlement.[6] Currently, transactions in equities, corporate debt, and municipal debt are settled in next-day funds.[7] Transactions in commercial paper and other money market instruments are settled in same-day funds. As the Commission is aware, the registered clearing agencies have been working with the industry over the least few years to develop a system that will provide for the settlement of virtually all securities transactions in same-day funds. These efforts have been encouraged by the Commission, the Board of Governors of the Federal Reserve System, and the Federal Reserve Banks of New York and Chicago, and these plans have been monitored by the staffs of these regulatory bodies.[8] Under the conversion plan, all issues currently settling in DTC's next-day funds settlement system will be transferred to DTC's same-day funds settlement system on a single day. Several months ago, an industry consensus was reached that the conversion date will be February 22, 1996. As a result of this scheduled conversion date, CHX and MCC have determined to cease providing securities clearing services by January 15, 1996.

The proposed arrangements should result in substantial savings for the securities industry. In connection with this proposal, former sole MCC participants may become NSCC participants if they qualify or utilize any other clearing service provider. Moreover, clearing interfaces involve the maintenance of substantial facilities, communications networks, and account reconciliation mechanisms. As a result of the proposal, the substantial costs incurred by both NSCC and MCC in operating an interface would be eliminated.

Another purpose of the proposed rule change is to reduce the size of MCC's board of directors. This reduction conforms with the simultaneous reductions in the size of the boards of directors of MSTC and CHX. Because of their withdrawal from the businesses described above, CHX and MCC no longer believe it is necessary to maintain such a large board of directors. As a result, MCC is elimination of the Participant Governor positions. Those current board members whose slots have been eliminated, however, may serve out the remainder of their terms.

MCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because the rule proposal will facilitate the industry's conversion to same-day funds settlement for virtually all securities transactions and thereby facilitate the prompt and accurate clearance and settlement of such transactions. The proposal will provide qualified sole MCC participants with access to NSCC's facilities and will be implemented consistently with the safeguarding of securities and funds in MCC's custody and control. In addition, the proposal will foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MCC believes the proposed arrangements will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Securities clearing corporations registered under Section 17A of the Act are not conventional businesses but utilities created to serve members of the securities industry for the purpose of providing certain services that are ancillary to the businesses in which industry members compete with one another. Operating a securities clearing corporation requires a substantial and continuing investment in infrastructure, including telecommunications links with users, data centers, and disaster recovery facilities in order to meet the increasing needs of participants and respond to regulatory requirements. Both the Boston Stock Exchange in 1981 and the Pacific Stock Exchange in 1987 substantially terminated the operation of their securities clearing corporations.

After consummation of the proposed arrangements, securities industry members will continue to have access to high-quality, low-cost clearing services provided under the mandate of the Act. The overall cost to the industry of having such services available will be reduced thereby permitting a more efficient and productive allocation of industry resources. Furthermore, because most of a clearing corporation's interface costs must be mutualized, thereby requiring some participants to subsidize costs incurred by others, CHX's and MCC's withdrawal from maintaining clearing facilities will reduce costs to participants and thereby remove impediments to competition. Finally, CHX's ability to focus its resources on the operations of the exchange should help enhance competition among securities markets.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposal have not been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory

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[5] The Commission has modified the text of the summaries prepared by MCC.

[6] The term "same-day funds" refers to payment in funds that are immediately available and generally are transferred by electronic means.

[7] The term "next-day funds" refers to payment by means of certified check that is for value on the following day.

[8] In approving certain modifications of DTC's existing system in order to accommodate the overall conversion to same-day funds settlement, the Commission stated that it "believes that the overall conversion to an SDFS system will help reduce systemic risk by eliminating overnight credit risk. The SDFS system also will reduce risk by achieving closer conformity with the payment methods used in the derivatives markets, government securities markets and other markets." Securities Exchange Act Release No. 35720 (May 16, 1995) 60 FR 27360 [File No. SR–DTC–95–06] (order granting accelerated approval to proposed rule change modifying the same-day funds settlement system).

organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552 will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of such filing also will be available for inspection and copying at the principal office of MCC. All submissions should refer to the file number SR–MCC–95–04 and should be submitted by December 22, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29320 Filed 11–30–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36510; File No. SR–MSTC–95–10]

Self-Regulatory Organizations; Midwest Securities Trust Company; Notice of Filing of Proposed Rule Change Relating to Midwest Securities Trust Company's Decision To Withdraw From the Securities Depository Business

November 27, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on November 16, 1995, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–MSTC–95–10) as described in items, I, II, and III below, which items have been prepared primarily by MSTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change involves proposed arrangements relating to a decision by the Chicago Stock Exchange, Incorporated ("CHX") to withdraw from the clearance and settlement, securities depository, and branch receive businesses conducted through its subsidiaries, the Midwest Clearing Corporation ("MCC"), MSTC, and the Securities Trust Company of New Jersey ("STC/NJ").[2] Parties to the proposed arrangements are The Depository Trust Company ("DTC"), CHX, MSTC, the National Securities Clearance Corporation ("NSCC"), MCC, and STC/NJ. The proposed arrangements as they relate to MSTC would provide for the following:

(1) MSTC would cease providing securities depository services by January 15, 1996.

(2) DTC would offer sole MSTC participations an opportunity to become DTC participants if they meet DTC's qualifications.

(3) DTC and MSTC would cooperate to assure the orderly transfer of securities from the custody of MSTC to the custody of DTC for DTC participants that authorize such transfers.

(4) DTC and NSCC would make certain payments to MSTC.

(5) In general, for a period of ten years MSTC would not engage in the business from which it has decided to withdraw (*i.e.*, the securities depository business). However, MSTC would be free to provide specified securities depository-related services and products to CHX members and certain third-parties under certain circumstances.[3]

The proposed rule change also seeks to modify MSTC's By-Laws to reduce the size of its board of director.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MSTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MSTC has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.[5]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CHX has determined to close its clearance and settlement and securities depository businesses it conducts through its subsidiaries MCC, MSTC, and STC/NJ in order to focus its resources on the operations of the exchange itself. The primary purpose of the proposed arrangements is to permit CHX and MSTC to achieve this objective while affording MSTC participants on opportunity to become DTC participants and transfer their securities to DTC. MSTC participants, however, would be free to utilize any other service provider of their choosing. This is consistent with the industry's effort to eliminate redundant infrastructure costs associated with operating separate organizations.

The timing of the proposal is related to the industry's planned conversion to same-day funds settlement.[6] Currently, transactions in equities, corporate debt, and municipal debt are settled in next-day funds.[7] Transactions in commercial paper and other money market instruments are settled in same-day funds. As the Commission is aware, the registered clearing agencies have been working with the industry over the last few years to develop a system that will provide for the settlement of virtually all securities transactions in same-day funds. These efforts have been encouraged by the Commission, the Board of Governors of the Federal Reserve System, and the Federal Reserve Banks of New York and Chicago, and these plans have been monitored by the staffs of these

[9] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] STC/NJ is a wholly-owned subsidiary of CHX that currently provides certain services, including a securities custody service. STC/NJ is not a clearing agency as defined in the Act and therefore is not required to register with the Commission.

[3] A more detailed description of these proposed arrangements is contained in Exhibit 2 to the filing. A copy of the filing and all exhibits is available for copying and inspection in the Commission's Public Reference Room.

[4] The text of these proposed changes is contained in Exhibit A to the filing. A copy of the filing and all exhibits is available for copying and inspection in the Commission's Public Reference Room.

[5] The Commission has modified the text of the summaries prepared by MSTC.

[6] The term "same-day funds" refers to payment in funds that are immediately available and generally are transferred by electronic means.

[7] The term "next-day funds" refers to payment by means of certified check that is for value on the following day.

regulatory bodies.[8] Under the conversion plan, all issues currently settling in DTC's next-day funds settlement system will be transferred to DTC's same-day funds settlement system on a single day. Several months ago, an industry consensus was reached that the conversion date will be February 22, 1996. As a result of this scheduled conversion date, CHX and MSTC have determined to cease providing securities depository services by January 15, 1996.

The proposed arrangements should result in substantial savings for the securities industry. In connection with this proposal, former sole MSTC participants may become DTC participants if they qualify or utilize any other depository service provider. Moreover, interdepository interfaces involve the maintenance of substantial facilities, communications networks, and account and inventory reconciliation mechanisms. As a result of the proposal, the substantial costs incurred by both DTC and MSTC in operating an interface would be eliminated.

Another purpose of the proposed rule change is to reduce the size of MSTC's board of directors. This reduction conforms with the simultaneous reductions in the size of the boards of directors of MCC and CHX. Because of their withdrawal from the businesses described above, CHX and MSTC no longer believe it is necessary to maintain such a large board of directors. As a result, MSTC is eliminating four board positions in conjunction with the CHX's elimination of the Participant Governor positions. Those current board members whose slots have been eliminated, however, may serve out the remainder of their terms.

MSTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because the rule proposal will facilitate the industry's conversion to same-day funds settlement for virtually all securities transactions and thereby facilitate the prompt and accurate clearance and settlement of such transactions. The proposal will provide qualified sole MSTC participants with access to DTC's facilities and will be implemented consistently with the safeguarding of securities and funds in MSTC's custody and control. In addition, it will foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MSTC believes the proposed arrangements will not impose any burden or competition not necessary or appropriate in furtherance of the purposes of the Act. Securities depositories registered under Section 17A of the Act are not conventional businesses but utilities created to serve members of the securities industry for the purpose of providing certain services that are ancillary to the businesses in which industry members compete with one another. Operating a securities depository requires a substantial and continuing investment in infrastructure, including securities vaults, telecommunications links with users, data centers, and disaster recovery facilities in order to meet the increasing needs of participants and to respond to regulatory requirements. Both the Boston Stock Exchange in 1982 and the Pacific Stock Exchange in 1987 terminated the operation of their securities depositories.

After consummation of the proposed arrangements, securities industry members will continue to have access to high-quality, low-cost depository services provided under the mandate of the Act. The overall cost to the industry of having such services available will be reduced thereby permitting a more efficient and productive allocation of industry resources. Furthermore, because most of a depository's interface costs must be mutualized, thereby requiring some participants to subsidize costs incurred by others, CHX's and MSTC's withdrawal from maintaining depository facilities will reduce costs to participants and thereby remove impediments to competition. Finally, CHX's ability to focus its resources on the operations of the exchange should help enhance competition among securities markets.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposal have not been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of such filing also will be available for inspection and copying at the principal office of MSTC. All submissions should refer to the file number SR–MSTC–95–10 and should be submitted by December 22, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29322 Filed 11–30–95; 8:45 am]

BILLING CODE 8010–01–M

[8] In approving certain modifications of DTC's existing system in order to accommodate the overall conversion to same-day funds settlement, the Commission stated that it "believes that the overall conversion to an SDFS system will help reduce systemic risk by eliminating overnight credit risk. The SDFS system also will reduce risk by achieving closer conformity with the payment methods used in the derivatives markets, government securities markets and other markets." Securities Exchange Act Release No. 35720 (May 16, 1995) 60 FR 27360 [File No. SR–DTC–95–08] (order granting accelerated approval to proposed rule change modifying the same-day funds settlement system).

[9] 17 CFR 200.30–3(a)(12) (1994).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this

notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before January 30, 1996.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Management Analyst, Small Business Administration, 409 3rd Street, SW., Suite 5000, Washington, DC 20416. Phone Number: 202–205–6629. Copies of these collections can also be obtained.

SUPPLEMENTARY INFORMATION:

Title: Request for Advance Payment and schedule of Advance Payment.

Type of Request: Extension of a currently approved information collection.

Description of Respondents: 8(a) firms seeking advance payments.

Annual Responses: 700.

Annual Burden: 7,000.

Title: Request for Approval of Joint Venture Agreement.

Type of Request: Extension of a currently approved information collection.

Description of Respondents: 8(a) firms entering into a joint venture agreement.

Annual Responses: 20.

Annual Burden: 100.

Comments: Send all comments regarding this information collection to Krupakar Revanna, Office of Minority Enterprise Development, 409 3rd Street, SW., Suite 8000, Washington, DC 20416. Phone Number: 202–205–6416.

Title: Application for Associate Development Company.

Type of Request: Extension of a currently approved information collection.

Description of Respondents: Certified Development Companies.

Annual Responses: 10.

Annual Burden: 200.

Title: Associate Development Company Annual Report Guide.

Type of Request: Extension of a currently approved information collection.

Description of Respondents: Associate Certified Development Companies.

Annual Responses: 100.

Annual Burden: 100.

Comments: Send all comments regarding the two information collections listed above to Learn Oliver, Small Business Administration, Office of Rural and Economic Development, Suite 8300, 409 3rd Street, SW., Washington, DC 20416. Phone Number: 202–205–6485.

Title: Small Business Investment Company (SIC) Leverage Forms and Documents.

Type of Request: Extension of a currently approved information collection.

Description of Respondents: Small Business Investment Companies.

Annual Responses: 260.

Annual Burden: 1,040.

Comments: Send all comments regarding the above collection to Johnnie Kitts, Small Business Administration, Office of Investment, Suite 6300, 409 3rd Street, SW., Washington, DC 20416. Phone Number: 202–205–6517. Send comments regarding whether these information collections are necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Dated: November 17, 1995.

Jacqueline White,

Acting Chief, Administrative Information Branch.

[FR Doc. 95–29318 Filed 11–30–95; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that will require submission to the Office of Management and Budget (OMB) for clearance in compliance with P.L. 96–511, as amended (P.L. 104–13 effective October 1, 1995), The Paperwork Reduction Act. Since the last list was published in the **Federal Register** on November 17, 1995, the following information collections have been proposed or will require extension of the current OMB approvals.

(Call the Reports Clearance Officer on (410) 965–4142 for a copy of the form(s) or package(s), or write to her at the address listed after the information collections.)

SSA REPORTS CLEARANCE OFFICER: Charlotte S. Whitenight.

1. *Quarterly Statistical Report on Recipients and Payments Under State-administered Assistance Programs for Aged, Blind and Disabled (Individuals and Couples) Recipients—0960–0130.* The information collected on the SSA–9741 is used to provide statistical data on recipients and assistance payments under the SSI State-administered State supplementation programs. These data are needed to complement the data available for the federally administered programs under SSA and to more fully explain the impact of the public income support programs on the needy, aged, blind and disabled. The respondents are state agencies who administer supplementary payment programs under SSI.

Number of Respondents: 23

Frequency of Response: 4 times annually

Average Burden Per Response: 1 hour

Estimated Annual Burden: 92 hours

2. *Record of SSI Inquiry—0960–0140.* The information collected on form SSA–3462 is used to document the earliest possible filing date and to determine potential eligibility for SSI benefits. The respondents are individuals who inquire about SSI eligibility for themselves or another individual.

Number of Respondents: 1,200,000

Frequency of Response: 1

Average Burden Per Response: 5 minutes

Estimated Annual Burden: 100,000

3. *Request for Workers' Compensation/Public Disability Information—0960–0098.* The information collected on form SSA–1709 is used to verify workers compensation and public disability benefits payment amounts and to compute the correct reduction to the disability insurance benefits. The respondents are state and local governments and/or business that administer workers' compensation or other disability benefits.

Number of Annual Responses: 140,000

Frequency of Response: As needed to verify changes in the amount of workers compensation/public disability benefits

Average Burden Per Response: 15 minutes

Estimated Annual Burden: 35,000 hours

4. *Employee Work Activity Questionnaire—0960–0483.* The information collected on form SSA–3033 is used to determine if a disability claimant has or has not either engaged in substantial gainful activity or received a non-specific subsidy. Such a determination is necessary in evaluating a claimant's eligibility for Social Security disability benefits. The respondents are current or former employers of disability claimants.

Number of Respondents: 12,500

Frequency of Response: 1

Average Burden Per Response: 15 minutes

Estimated Annual Burden: 3,125 hours

5. *Followup Survey for the Project Network Evaluation—0960–NEW.* Project Network is a demonstration project that tests alternative approaches to assisting people with disabilities in finding and maintaining employment. Followup information collected from project participants (treatment and control group members) will be used to evaluate the extent to which the different demonstration service-delivery systems assisted people with disabilities to find and maintain employment. The respondents are selected participants in the initial Project Network survey.

Number of Respondents: 1,558

Frequency of Response: 1

Average Burden Per Response: 90 minutes

Estimated Annual Burden: 2,337 hours

Written comments and recommendations regarding these information collections should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Charlotte S. Whitenight, 6401 Security Blvd., 1–B–22 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

The following information collections, which were published in the **Federal Register** on October 6, 1995, have been submitted to OMB:

1. *Request To Be Selected As Payee—0960–0014.* The information collected on form SSA–11–BK is used by the Social Security Administration to help determine the proper payee for a person who cannot receive his or her own Social Security benefits. The respondents will be individuals who apply to receive Social Security benefits on behalf of someone else.

Number of Respondents: 605,000.

Frequency of Response: 1.

Average Burden per Response: 10.5 minutes.

Estimated Annual Burden: 105,875 hours.

2. *Disability Update Report—0960–0511.* The information on form SSA–455 is used by the Social Security Administration to determine if a full medical continuing disability review (CDR) should be conducted. The respondents will be Social Security disability insurance beneficiaries who are scheduled to receive a CDR.

Number of Respondents: 431,200.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 107,800 hours.

3. *Statement Regarding Marriage—0960–0017.* The information collected via form SSA–753 is used by the Social Security Administration to make determinations regarding entitlement to spouse's benefits when a common law marriage is alleged. The respondents are third parties who can supply evidence concerning the existence of a common law marriage.

Number of Respondents: 40,000.

Frequency of Response: 1

Average Burden Per Response: 9 minutes.

Estimated Annual Burden: 6,000 hours.

4. *State Contribution Return—0960–0041.* The information on form SSA–3961 is used by the Social Security Administration to identify and account for all contributions due and paid by the states (or interstate instrumentalities) under Section 218 of the Social Security Act. The respondents are state agencies.

Number of Respondents: 117.

Frequency of Response: on occasion.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 500 hours.

5. *Statement of Death by Funeral Director—0960–0142.* The information collected on the SSA–721 is used by the Social Security Administration to verify the death of an individual insured under the Social Security Act and to determine if there is a survivor eligible for a lump sum death payment. The respondents will be funeral directors with knowledge of the death of a person insured for Social Security benefits.

Number of Respondents: 900,000.

Frequency of Response: 1.

Average Burden Per Response: 3.5 minutes.

Estimated Annual Burden: 52,500 hours.

6. *Annual Report of Earnings (long and short forms)—0960–0057.* The information on forms SSA–777 and SSA–7770 is used by the Social Security Administration to determine the amount of yearly earnings of beneficiaries so that the proper benefit amounts are paid to them. The respondents will be beneficiaries under age 70 who have earned over the exempt amount for the year and still received benefits.

Number of Respondents: (SSA–777)-200,000; (SSA–7770)–1,000,000.

	SSA–777	SSA–7770
Frequency of Response	1	1.
Average Burden per Response	17 minutes	8 minutes.
Estimated Annual Burden	190,000 hours	190,000 hours.

7. *Public Information Campaigns and News Releases—0960–0544.* The purpose of the public information campaigns and news releases is to better inform the public about the programs and activities of the Social Security Administration (SSA).

The information is used by SSA to determine media interest in airing and printing the public information materials and news releases and to determine which materials are used, how often, its effectiveness, and the need for more local announcements. The respondents are newspapers and public broadcasting systems such as television, cable, and radio stations.

Number of Respondents: TV–500, Newspaper—500, Radio—1,500, Cable—148.

Frequency of Response: Public Service Announcements—4, News Releases—4, Educational Tapes—2.

Average Burden Per Response: 1 minute (solicitation card) 2 minutes (business reply card).

Estimated Annual Burden: 298 hours.

8. *Work Reintegration Study—0960–0543.* The information on the two forms used in this study will aid the Social Security Administration in determining what steps it can take to help beneficiaries who are disabled due to a back condition to return to work.

Number of Respondents: 1,500.

Frequency of Response: 1.

Average Burden Per Response: 1 hour.

Estimated Annual Burden: 1,500 hours.

Written comments and recommendations regarding these information collections should be sent within 30 days of the date of this publication. Comments may be directed to OMB and SSA at the following addresses:

(OMB) Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, Washington, DC 20503.

(SSA) Social Security Administration, DCFAM, Attn: Charlotte S. Whitenight, 6401 Security Blvd, 1–A–21 Operations Bldg., Baltimore, MD 21235.

Dated: November 21, 1995.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 95–29139 Filed 11–30–95; 8:45 am]

BILLING CODE 4190–29–P

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Affordable Housing Advisory Board Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., announcement is hereby published for a meeting of the Affordable Housing Advisory Board. The meeting is open to the public.

DATES: The Affordable Housing Advisory Board will hold its meeting on Wednesday, December 6, 1995, in Arlington, Virginia from 12:30 to 3:30 p.m.

ADDRESSES: The meeting will be held at the Key Bridge Marriott, 1401 Lee Highway, Arlington, Virginia, Room Potomac A, Lobby Level.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Thrift Depositor Protection Oversight Board, 808 17th Street NW., Washington, D.C. 20232, 202/416–2626.

SUPPLEMENTARY INFORMATION: Section 14(b) of the Resolution Trust Corporation Completion Act, Public Law No. 103–204, established the Affordable Housing Advisory Board to advise the Thrift Depositor Protection Oversight Board (Oversight Board) and the Board of Directors of the Federal Deposit Insurance Corporation (FDIC) on policies and programs related to the provision of affordable housing. The Board consists of the Secretary of Housing and Urban Development (HUD) or delegate; the Chairperson of the Board of Directors of the FDIC, or delegate; the Chairperson of the Oversight Board, or delegate; four persons appointed by the Secretary of HUD who represent the interests of individuals and organizations involved in using the affordable housing programs, and two former members of the National housing Advisory Board. The Board's charter was issued March 9, 1994.

Agendas: A detailed agenda will be available at the meeting. Topics to be addressed include: the status of the merger of the RTC and FDIC affordable housing programs, the Affordable Housing Task Force costs analysis of the FDIC's affordable housing program and other affordable housing issues. The Board's chair or its Designated Federal Officer may authorize a member or members of the public to address the Board during the public forum portion of the meeting.

Statements: Interested persons may submit, in writing, data, information or views on the issues pending before the Affordable Housing Advisory Board prior to or at the December 6 meeting. Seating is available on a first-come first-served basis for each session of the meeting.

Dated: November 29, 1995.

Jill Nevius,

Committee Management Officer.

[FR Doc. 95–29341 Filed 11–30–95; 8:45 am]

BILLING CODE 2221–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–95–42]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 21, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on November 27, 1995.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28375.
Petitioner: Captain Cleburne F. Baker.
Sections of the FAR Affected: 14 CFR 121.383(c).
Description of Relief Sought: To permit Captain Baker to act as a pilot in operations conducted under part 121 after reaching his 60th birthday.

Docket No.: 28387.
Petitioner: Mr. Charles E. DeCosterd.
Sections of the FAR Affected: 14 CFR 121.383(c).
Description of Relief Sought: To permit Mr. DeCosterd to act as pilot in operations conducted under part 121 after reaching his 60th birthday.

Dispositions of Petitions

Docket No.: 12638.
Petitioner: Air Transport Association of America.
Sections of the FAR Affected: 14 CFR 121.99 and 121.351(a).
Description of Relief Sought/Disposition: To extend and amend Exemption No. 2081, as amended, which permits ATA member airlines and other similarly situated part 121 operators to conduct extended overwater operations over certain oceanic areas with a single, functional HF communication system installed on the aircraft. The amendment adds condition No. 12, which permits ATA member airlines and other similarly situated part 121 operators to conduct extended overwater operations with a single, functional HF communication system or other approved long-range communications system. *Grant, October 25, 1995, Exemption No. 2081P.*

Docket No.: 26152.
Petitioner: Sierra Academy of Aeronautics.
Sections of the FAR Affected: 14 CFR paragraphs (c)(III)(a)(2) (i) and (ii), appendix F, part 141.
Description of Relief Sought/Disposition: To extend Exemption No. 5245, as amended, which permits the Sierra Academy of Aeronautics and the Sierra Academy of Aeronautics-Technical Institute to graduate students from the approved commercial helicopter course with 100 hours of flight instruction in helicopters and 50 hours of directed solo training in helicopters. *Grant, October 24, 1995, Exemption No. 5245D.*

Docket No.: 27372.
Petitioner: Fly BVI.
Sections of the FAR Affected: 14 CFR 61.89(a)(5).
Description of Relief Sought/Disposition: To extend Exemption No. 5796, which permits Fly BVI's student pilots to fly between Tortola, in the British Virgin Islands, and the airports of the U.S. Virgin Islands and Puerto Rico while fulfilling the cross-country requirements for a private pilot certificate. *Grant, October 24, 1995, Exemption No. 5796A.*

Docket No.: 27754.
Petitioner: Eagle Air Transport, Inc.
Sections of the FAR Affected: 14 CFR 105.43(a).
Description of Relief Sought/Disposition: To allow foreign parachutists to participate in parachute jumping events in which Eagle Air Transport, Inc., aircraft provide lift and drop services without complying with the parachute equipment and packing requirements of the FAR. *Denial, October 25, 1995, Exemption No. 6192.*

Docket No.: 27953.
Petitioner: Aero Sports Connection, Inc.
Sections of the FAR Affected: 14 CFR 103.1(a) and (e)(1) through (e)(4).
Description of Relief Sought/Disposition: To extend and amend Exemption No. 6080, which permits individuals authorized by Aero Sports Connection, Inc., (ASC) to give instruction in powered ultralights that have a maximum empty weight of not more than 496 pounds, have a maximum fuel capacity of not more than 10 U.S. gallons, are not capable of 75 knots calibrated airspeed at full power in level flight, and have a power-off stall speed which does not exceed 32 knots calibrated airspeed. The amendment corrects a typographical error and permits individuals authorized by ASC to give instruction in powered ultralights that have a power-off stall speed which does not exceed 35 knots calibrated airspeed. *Grant, October 24, 1995, Exemption No. 6080A.*

Docket No.: 28218.
Petitioner: American Trans Air, Inc.
Sections of the FAR Affected: 14 CFR 121.133(c).
Description of Relief Sought/Disposition: To allow American Trans Air, Inc., to use various electronic data storage and transfer media, such as compact disc read-only (CD-ROM); the American Trans Air Airline Maintenance Engineering Resource Inventory & Component Accounting computer; and other universally recognized and available forms of data creation, storage, extraction, and communication, to prepare certain maintenance information and instructions for aircraft operated by American Trans Air, Inc., in lieu of printed page form or microfilm, subject to certain conditions and limitations. *Partial Grant, October 25, 1995, Exemption No. 6193.*

Docket No.: 28238.
Petitioner: Louisiana Tech University.
Sections of the FAR Affected: 14 CFR 141.65.
Description of Relief Sought/Disposition: To permit Louisiana Tech University to hold examining authority for flight instructor written tests. *Grant, October 17, 1995, Exemption No. 6189.*

Docket No.: 28292.
Petitioner: Asplund Air, Inc.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/Disposition: To allow appropriately trained employed by Asplund Air, Inc., to remove and reinstall aircraft cabin seats in its aircraft that are type certificated for nine or fewer passenger seats and used in operations conducted under part 135. *Grant, October 30, 1995, Exemption No. 6197*

Docket No.: 28317.
Petitioner: Eagle Canyon Airlines.
Sections of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Eagle Canyon Airlines to operate the following cessna aircraft under part 135 without TSO-C112 (mode S) transponders installed: one 207A airplane (Registration No. N73426); one T207 airplane (Registration No. N1562U); two T207A airplanes (Registration Nos. N101EN and N6372H); one 402 airplane (Registration No. N3500T); four 402B airplanes (Registration Nos. N1547T, N4616G, N8049Q, and N97158); and nine 402C airplanes (Registration Nos. N26150, N2714B, N2719T, N3189M, N3283M, N5809C, N5872C, N760EA, and N763EA). *Grant, October 25, 1995, Exemption No. 6195.*

[FR Doc. 95–29337 Filed 11–30–95; 8:45 am]

BILLING CODE 4910–13–M

UNITED STATES INFORMATION AGENCY

Summer Institute for the Study of the United States: Focus on American Literature

ACTION: Notice—Request for Proposals.

SUMMARY: The Branch for the Study of the U.S. of the Office of Academic Programs of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award program for the Summer Institute for the Study of the United States: Focus on American Literature. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c)(3)–1 may apply to develop a six-week graduate-level program designed for a group of 18 foreign university educators from around the world, in order to deepen their understanding of U.S. society, culture, values and institutions, using American literature as the central vehicle, and to give them further grounding in American literature and American studies, so that textbooks, curricular materials, and courses in foreign universities will benefit.

USIA is seeking detailed proposals from colleges, universities, consortia of colleges and universities, and other not-for-profit academic organizations that have an established reputation in American literature and/or American studies and related sub-disciplines, and that can demonstrate expertise in conducting graduate-level programs for foreign educators. Applicant institutions must have a minimum of four years' experience in conducting international exchange programs. The project director or one of the key program staff responsible for the academic program must have an advanced degree in American literature, American studies, or a related discipline. Staff escorts traveling under the USIA cooperative agreement support must be U.S. citizens with demonstrated qualifications for this service.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite as with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world."

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Announcements Name and Number: All communications with USIA concerning this announcement should refer to the above title and reference number E/AAS–96–02.

Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Monday, January 29, 1996. Faxed documents will not be accepted, nor will documents postmarked January 29, 1996 but received at a later date. It is the responsibility of each applicant to ensure that proposal submissions arrive by the deadline. Tentative program dates are June 29 to August 9, 1996. Participants will likely be booked to arrive in the U.S. on or about June 28, and depart on August 10, 1996.

FOR FURTHER INFORMATION CONTACT: To request a Solicitation Package, which includes more detailed award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget, applicants should contact: U.S. Information Agency, Office of Academic Programs, Branch of the Study of the United States, E/AAS, room 256, 301 4th Street SW., Washington, DC 20547, Attn: Program Officer Richard Taylor; telephone number (202) 619–4557; fax number (202) 619–6790; internet address rtaylor@usia.gov. Please specify USIA Program Officer Richard Taylor on all inquiries and correspondence. Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the office listed above or submitting their proposals. Once the RFP deadline has passed, USIA staff may not discuss this competition in any way with applicants until after the Bureau proposal review process has been completed.

To Download a Solicitation Package via Internet: The Solicitation Package may be downloaded form USIA's website at http://www.usia.gov, or from the Internet Gopher at gopher.usia.gov, under "New RFPs on Educational and Cultural Exchanges."

Submissions: Applicants must follow all instructions given in the RFP and the complete Solicitation Package. The original and 14 copies of the complete application should be sent to: U.S. Information Agency, Ref.: E/AAS–96–02, Office of Grants Management, E/XE, room 326, 301 4th Street, SW., Washington, DC 20547.

Diversity Guidelines: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character, and should be balanced and representative of the diversity and broad range of responsible views present in American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into the total proposal.

SUPPLEMENTARY INFORMATION:

Overview

The Summer Institute for the Study of the U.S.: Focus on American Literature is intended to provide foreign university teachers of American literature and/or American studies with opportunities to deepen their understanding of the U.S., especially its society, culture, values and institutions, past and present, through an in-depth examination of American literature. It is intended to encourage and support their efforts to improve the quality of teaching and curricular materials about the United States at universities abroad.

The program should be six weeks in length, including a residency segment at a U.S. college or university campus (a minimum of four weeks in length), and a study tour segment (a maximum of two weeks in length, including visits to one or two other regions of the U.S.). If desired, and if and only if it is supportive of the academic program content, the program can conclude with a visit to Washington, D.C. (including a program debriefing at USIA).

The program should offer participants a specially-designed series of lectures, presentations, discussions, and site visits, each related to a central program theme in American studies and/or American literature.

Institute Objectives

—To present an intensive, academically stimulating program that presents a multi-dimensional view of the United States, using American literature as the main vehicle, through an integrated series of lectures, readings, interactive discussions, research and independent study opportunities, and site visits.

—To deepen participants' understanding U.S. society, culture, values and institutions, in both a historical and contemporary sense:

—And, to enhance teaching about the U.S., and of American literature in particular, in foreign universities by making appropriate scholarly resources, pedagogical materials, and ideas available to participants. Participants should return home with an ability to communicate a deeper and more informed view of the U.S. to students and colleagues.

Participants

The program should be designed for a total of 18 highly-motivated foreign university educators, including teachers, administrators, department chairs, curriculum developers and textbook writers, who are interested in using American literature as a means to further the understanding of the U.S. in their home institutions and countries. They will have demonstrated a willingness and ability to include American literature and aspects of American civilization in their teaching and professional work.

Participants will be drawn from all regions of the world, and will be fluent in the English language.

Participants will be nominated by U.S. Information Service posts abroad, and selected by the staff of USIA's Branch of the Study of the United States in Washington, D.C. USIA will cover all international travel costs directly.

Guidelines

The conception and structure of the institute program is entirely the responsibility of the organizers. However, as the possibilities are quite numerous for the design of a program focusing on aspects of U.S. society, culture, values and institutions, as seen through literature, an overarching institute theme should be chosen to focus the content and scope of the program. The best proposals will clearly articulate the overall institute theme, essential topics and sub-topics being covered, and will discuss the means by which the program content will be communicated to participants. Proposals should also provide bibliographies of texts and materials to be used in the program.

While literature must be the main program vehicle for helping the participants develop a deeper understanding of U.S. civilization, past and present, the program may also be enriched by the occasional engagement of other disciplines and sub-disciplines that make up American studies (e.g. history, political science, economics, geography, sociology, demography, etc.). The program should provide participants with a clearer understanding of the diversity, complexity, and unity of U.S. life and society.

At the outset, the program should review the recent history and current status of American literature as an academic discipline, surveying major schools of interpretation and examining the current debates within American literature and literary studies generally. The program should also explore how American literature has informed and been informed by the interdisciplinary and multi-disciplinary approaches to the study of the U.S. represented by the field of American Studies. The program itself should include a balanced mix of traditional and contemporary approaches for examining the institute theme.

It is extremely important that the institute organizers devise a way to integrate all aspects of the program. Assigned readings, lectures, discussions, and field trips should relate to and further illuminate the central institute theme, and contribute to a better understanding of the U.S.

The institute should not simply replicate an existing lecture course or a graduate seminar. Rather, through a combination of lectures, presentations, discussions, and site visits, it should be designed to facilitate the development of a collegial atmosphere in which faculty and participants discuss relevant texts, issues, and concepts.

The equivalent of one day a week should be available to participants to pursue individual research interests, curriculum development projects, or to do assigned readings. Participants should be paired with faculty mentors to guide them in their research, and assist them in adjustment to the U.S. academic environment.

The program should also provide access to leading American scholars and scholarly resources (libraries, archives, databases, etc.). An essential element of the program is the exposure to an accumulation of teaching ideas and scholarly resources, including primary texts, supplementary works, and curricular materials (including Internet resources and training). The Summer Institute should facilitate participants' acquisition of the maximum amount of such materials to take back to their home countries, to be used in the development of new courses and programs, and the improvement of existing ones.

The program should ideally bring in outside presenters (representatives from academia, community organizations, media, government) in addition to the core faculty of the host institution. Presenters must be fully briefed about the institute, its goals, general themes and content, readings, and especially the background and needs of the participants themselves. Information about presenters and how they will be utilized should be included in the proposal submission.

A residential program of a minimum of four weeks on a college/university campus is mandatory. The program should include an integrated study tour segment to one or two other regions of the country of up to two weeks in length. If appropriate, and if it contributes to the academic program content, a visit to Washington, D.C. at the conclusion of the program can be included. If this visit is arranged, it should include a half-day session at the United States Information Agency for a grantee debriefing session. The selected grantee organization would be asked to consult closely with USIA in the planning of the Washington itinerary, if included in the proposal. The study tour segment must be directly supportive of the academic program content. Day trips to various locations (historical sites, classrooms, community centers) are also encouraged if such trips will further enhance understanding of the U.S. and enrich the participants' experience.

Details of the academic residency and tour programs may be modified in consultation with USIA's Branch for the Study of the U.S. following the grant award.

The selected grant organization will be responsible for most arrangements associated with this program. This includes the organization and implementation of all presentations and program activities, arrangement of all domestic travel, lodging, subsistence, airport reception and ground transportation for participants, orientation and briefing of participants, preparation of any necessary support materials (including a pre-program mailing to participants), and working with program presenters to achieve maximum program coordination and effectiveness.

Please refer to the Solicitation Package for further details on program design and implementation.

Additional Information

Confirmation letters from U.S. co-sponsors noting their intention to participate in the program will enhance a proposal. Proposals incorporating participant/observer site visits will be more competitive if letters committing prospective host institutions to support these efforts are provided.

Visa/Insurance/Tax Requirements

Programs must comply with J–1 visa regulations. Visas will be issued by USIS posts abroad. USIA insurance will be provided to all participants, unless otherwise indicated in the proposal submission. Grantee organization will be responsible for enrolling participants in the chosen insurance plan. Please indicate in the proposal if host institutions have any special tax withholding requirements on participant or staff escort stipends or allowances.

Proposed Budget

Total USIA-funded budget award may not exceed $157,000. USIA-funded administrative costs should be as low as possible and should not exceed $47,000. The U.S. recipient should try to maximize cost-sharing in all facets of the program and to stimulate U.S. private sector (foundation and corporate) support. Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as a break-down reflecting both the administrative budget and the program budget. For better understanding or further clarification, applicants may provide separate sub-budgets for each program component, phase, location, or activity in order to facilitate USIA decisions on funding. Please refer to the "POGI" in the Solicitation Package for complete budget guidelines and formatting instructions for the institute program.

Review Process

The USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of

USIA officers for advisory review. All eligible proposals will also be reviewed by the Agency contracts office, as well as the USIA Area Offices and the USIA post overseas, where appropriate. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grant officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered, and all carry equal weight in the proposal evaluation:

1. Overall Quality: Proposals should exhibit originality and substance, consonant with the highest standards of American teaching and scholarship. Program design should reflect the main currents as well as the contemporary debates within the discipline.

2. Program Planning: Proposals should demonstrate careful planning. The organization and structure of the Institute should be clearly delineated and be fully responsive to all program objectives. The travel component should be an integral and substantive part of the program, reinforcing and complementing its academic segment.

3. Institutional Capacity: Proposed personnel, including faculty and administrative staff as well as outside presenters, should be fully qualified to achieve the project's goals. Library and media resources should be accessible to participants; housing, transportation and other logistical arrangements should be fully adequate to the needs of participants and should be conducive to a collegial atmosphere.

4. Diversity: Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity throughout the program. This can be accomplished through documentation, such as a written statement, summarizing past and/or on-going activities and efforts that further the principle of diversity within the organization and its activities. Program activities that address this issue should be highlighted.

5. Experience: The proposal should demonstrate an institutional record of successful exchange program activity, indicating the experience that the organization and its professional staff have had in working with foreign educators.

6. Evaluation and Follow-up: The proposal should include a plan for evaluating activities during the Institute and at its conclusion. Proposals should comment on provisions made for follow-up with returned grantees as a means of establishing longer-term individual and institutional linkages.

7. Administration and Management: The proposals should indicate evidence of continuous on-site administrative and managerial capacity as well as the means by which program activities will be implemented.

8. Cost Effectiveness: The proposals should maximize cost-sharing through direct institutional contributions, in-kind support, and other private sector support. Overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible.

Notice: The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funding. Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about April 1, 1996. Awards made will be subject to periodic reporting and evaluation requirements.

Dated:

John P. Loiello,

Associate Director for Educational and Cultural Affairs.

[FR Doc. 95–29286 Filed 11–30–95; 8:45 am]

BILLING CODE 8230–01–M

Summer Institute for the Study of the United States for Foreign Secondary School Educators

ACTION: Notice—Request for proposals.

SUMMARY: The Branch for the Study of the U.S. of the Office of Academic Programs of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award program for the Summer Institute for the Study of the United States for Foreign Secondary School Educators. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c)(3)–1 may apply to develop a six-week graduate-level program designed for a group of 28 secondary school educators from around the world, in order to deepen their understanding of the United States so that American studies textbooks, curricula and teaching in foreign secondary schools and teacher training institutions will be improved.

USIA is seeking detailed proposals from colleges, universities, consortia of colleges and universities, and other not-for-profit academic organizations that have an established reputation in the disciplines and sub-disciplines that comprise American Studies, and that can demonstrate expertise in conducting graduate-level programs for foreign educators. Applicant institutions must have a minimum of four years' experience in conducting international exchange programs. The project director or one of the key program staff responsible for the academic program must have an advanced degree in American studies or a related discipline. Staff escorts traveling under the USIA cooperative agreement support must be U.S. citizens with demonstrated qualifications for this service.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world."

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Announcement Name and Number: All communications with USIA concerning this announcement should refer to the above title and reference number E/AAS–96–03.

Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5:00 p.m. Washington D.C. time on Monday, January 29, 1996. Faxed documents will not be accepted, nor will documents postmarked January 29, 1996 but received at a later date. It is the responsibility of each applicant to ensure that proposal submissions arrive by the deadline. Tentative program dates are June 22 to August 2, 1996. Participants will likely be booked to arrive in the U.S. on or about June 21, and depart on August 3, 1996.

FOR FURTHER INFORMATION CONTACT: To request a Solicitation Package, which includes more detailed award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget, applicants should contact: U.S. Information Agency, Office of Academic Programs, Branch of the Study of the United States, E/AAS, Room 256, 301 4th Street SW., Washington, D.C. 20547, Attn: Program Officer Richard Taylor; telephone number (202) 619–4557; fax number (202) 619–6790; internet address rtaylor@usia.gov. Please specify USIA Program Officer Richard Taylor on all inquiries and correspondence. Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the office listed above or submitting their proposals. Once the RFP deadline has passed, USIA staff may not discuss this competition in any way with applicants until after the Bureau proposal review process has been completed.

To Download a Solicitation Package Via Internet: The Solicitation Package may be downloaded from USIA's website at http://www.usia.gov, or from the Internet Gopher at gopher.usia.gov, under "New RFPs on Educational and Cultural Exchanges."

Submissions: Applicants must follow all instructions given in the RFP and the complete Solicitation Package. The original and 14 copies of the complete application should be sent to: U.S. Information Agency, Ref.: E/AAS–96–03, Office of Grants Management, E/XE, Room 326, 301 4th Street SW., Washington, D.C. 20547.

Diversity Guidelines: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character, and should be balanced and representative of the diversity and broad range of responsible views present in American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into the total proposal.

SUPPLEMENTARY INFORMATION:

Overview

The Summer Institute for the Study of the U.S. for Foreign Secondary School Educators aims to provide a deeper understanding of U.S. civilization among foreign educators who are concerned professionally with teaching about the United States. It is further intended to encourage and support their efforts to improve the quality of teaching, textbooks, and curricular materials about the United States at secondary schools and teacher training institutions abroad.

The program should offer participants a specially-designed series of lectures, presentations, discussions, site visits, and curricular research opportunities, each related to a central theme in U.S. civilization, which examine various aspects U.S. society, culture, values and institutions, past and present. It should provide an overview of the United States in the context of American studies and its constituents disciplines.

The program should be six weeks in length, including a residency segment at a U.S. college or university campus (a minimum of four weeks in length), and a study tour segment (a maximum of two weeks in length) to two or three additional regions of the U.S., including a visit to Washington, D.C. at the conclusion of the program.

Institute Objectives

—To present an intensive, academically stimulating program that presents a multi-dimensional view of the United States through an integrated series of lectures, readings, interactive discussions, individual research and study opportunities, and site visits.

—To draw from a variety of academic disciplines in order to deepen the participants' understanding of the unity, diversity, and complexity of U.S. society, culture, and institutions. Major issues, debates, and conflicts in U.S. society, past and present, including their origins and the role they have played in the development of U.S. civilization, should also be examined.

—To enhance teaching about the U.S. in foreign secondary schools and teacher training institutions by making appropriate scholarly resources, pedagogical materials and ideas available to participants. Participants should return home with an ability to communicate a deeper and more informed view of the U.S. to students and colleagues.

Participants

The program should be designed for a total of 28 highly-motivated foreign secondary school teacher trainers, textbook writers, curriculum developers, education ministry officials and classroom teachers, whose professional assignments require significant knowledge of U.S. civilization, and who have broad responsibility for curriculum design and improvement. All participants will be involved in the teaching of English language, American literature, U.S. government, history, geography, social studies, or other courses including U.S. studies content in their home countries. Participants will be drawn from all regions of the world, and will be fluent in the English language.

Participants will be nominated by U.S. Information Service posts abroad, and selected by the staff of USIA's Branch of the Study of the United States in Washington, D.C. USIA will cover all international travel costs directly.

Guidelines

The conception and structure of the institute program is entirely the responsibility of the organizers. However, as the possibilities for the design of a program on U.S. civilization are quite numerous, an overarching institute theme, and supporting sub-themes, should be chosen to focus the content and scope of the program. The best proposals will clearly articulate the institute theme(s), essential topics and sub-topics being covered, and will discuss the means by which the program content will be communicated to participants.

The program should engage the constellation of disciplines and sub-disciplines that make up American studies (e.g. literature, history, political science, economics, geography, sociology, etc.) as vehicles for helping foreign educators understand the development and current status of selected essential aspects of U.S. society, culture, values and institutions (governmental, educational, judicial, religious, media, etc.), and of broader themes associated with the U.S. experience and U.S. civilization. It should provide participants with a clearer understanding of the diversity, complexity, and unity of U.S. life and society.

It is extremely important that the institute organizers devise a way to integrate all aspects of the program. Assigned readings, lectures, discussions, and field trips should relate to and further illuminate the institute theme(s).

The institute should not simply replicate an existing lecture course or a graduate seminar. Rather, through a combination of lectures, presentations, discussions, and site visits, it should be designed to facilitate the development of a collegial atmosphere in which faculty and participants discuss relevant texts, issues, and concepts.

The equivalent of one day a week should be available to participants to pursue individual research and study interests, curriculum development projects, or to do assigned readings. The institute should provide access to leading American scholars and research resources (libraries, archives, databases, etc.). Participants should be paired with faculty mentors to assist in research and other scholarly matters.

An essential element of the institute is the exposure to and accumulation of texts, curricular materials, and teaching ideas (including Internet and computer resources training), which can be used by participants in the development and improvement of their American studies courses abroad.

The program should ideally bring in outside presenters (representatives from academia, community organizations, media, government) in addition to the core faculty of the host institution. Presenters must be fully briefed about the institute, its goals, general themes and content, readings, and especially the background and needs of the participants themselves. Information about presenters and how they will be utilized should be included in the proposal submission.

A residential program segment of a minimum of four weeks on a college/university campus is mandatory. The program should also include an integrated study tour segment (up to two weeks in length) to two or three other regions of the U.S., including a minimum of two to three days in Washington, D.C. at the conclusion of the program. This visit should include a half-day session at USIA. The selected grantee organization/institution will be asked to consult closely with USIA in the planning of the Washington itinerary. The study tour segment must be directly supportive of the academic program content. Day trips to various locations (historical sites, classrooms, community centers) are also encouraged if such trips will further enhance understanding of the U.S. and enrich the participants' experience.

Details of the academic and tour programs may be modified in consultation with USIA's Branch for the Study of the U.S. following the grant award.

The selected grant organization will be responsible for most arrangements associated with this program. This includes the organization and implementation of all presentations and program activities, arrangement of all domestic travel, provision of appropriate lodging, subsistence, and ground transportation for participants, orientation and briefing of participants, preparation of any necessary support materials (including a pre-program mailing to participants), and working with program presenters to achieve maximum program coordination and effectiveness.

Please refer to the Solicitation Package for further details on program design and implementation.

Additional Information

Confirmation letters from U.S. cosponsors noting their intention to participate in the program will enhance a proposal. Proposals incorporating participants/observer site visits will be more competitive if letters committing prospective host institutions to support these efforts are provided.

Visa/Insurance/Tax Requirements

Programs must comply with J–1 visa regulations. Visas will be issued by USIS posts abroad. USIA insurance will be provided to all participants, unless otherwise indicated in the proposal submission. Grantee organization will be responsible for enrolling participants in the chosen insurance plan. Please indicate in the proposal if host institutions have any special tax withholding requirements on participant or staff escort stipends or allowances.

Proposed Budget

Total USIA-funded budget award may not exceed $211,600. USIA-funded administrative costs should be as low as possible and should not exceed $49,000. The U.S. recipient should try to maximize cost-sharing in all facets of the program and to stimulate U.S. private sector (foundation and corporate) support. Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as a breakdown reflecting both the administrative budget and the program budget. For better understanding or further clarification, applicants may provide separate sub-budgets for each program component, phase, location, or activity in order to facilitate USIA decisions on funding. Please refer to the "POGI" in the Solicitation Package for complete budget guidelines and formatting instructions for the institute program.

Review Process

The USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the Agency contracts office, as well as the USIA Area Offices and the USIA post overseas, where appropriate. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Education and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grant officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered, and all carry equal weight in the proposed evaluation:

1. Overall Quality: Proposals should exhibit originality and substance, consonant with the highest standards of American teaching and scholarship. Program design should reflect the main currents as well as the contemporary debates within the discipline.

2. Program Planning: Proposals should demonstrate careful planning. The organization and structure of the Institute should be clearly delineated and be fully responsive to all program objectives. The travel component should be an integral and substantive part of the program, reinforcing and complementing its academic segment.

3. Institutional Capacity: Proposed personnel, including faculty and administrative staff as well as outside presenters, should be fully qualified to achieve the project's goals. Library and media resources should be accessible to participants; housing, transportation and other logistical arrangements should be fully adequate to the needs of participants and should be conductive to a collegial atmosphere.

4. Diversity: Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity throughout the program. This can be accomplished through documentation, such as written statement, summarizing past and/or on-going activities and efforts that further the principle of diversity within the organization and its activities. Program activities that address this issue should be highlighted.

5. Experience. The proposal should demonstrate an institutional record of successful exchange program activity, indicating the experience that the organization and its professional staff have had in working with foreign educators.

6. Evaluation and Follow-up: The proposal should include a plan for evaluating activities during the Institute and at its conclusion. Proposals should comment on provisions made for follow-up with returned grantees as a means of establishing longer-term individual and institutional linkages.

7. Administration and Management: The proposals should indicate evidence of continuous on-site administrative and managerial capacity as well as the means by which program activities will be implemented.

8. Cost Effectiveness: The proposals should maximize cost-sharing through direct institutional contributions, in-kind support, and other private sector support. Overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible.

Notice: The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funding. Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about April 1, 1996. Awards made will be subject to periodic reporting and evaluation requirements.

Dated: November 21, 1995.

John P. Loiello,

Associate Director for Educational and Cultural Affairs.

[FR Doc. 95–29287 Filed 11–30–95; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 231
Friday, December 1, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:03 a.m. on Tuesday, November 28, 1995, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Mr. Stephen R. Steinbrink, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: November 28, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 95–29428 Filed 11–29–95; 11:05 am]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

Announcing an Open Meeting of the Board

TIME AND DATE: 10:00 a.m. Friday, December 8, 1995.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED DURING PORTIONS OPEN TO THE PUBLIC:

- Approval of the 1996 Federal Home Loan Bank System Budgets
- Office of Finance Debt Issuance Authorization for 1996
- Federal Home Loan Bank Presidents' Appointments and Salaries for 1996
- Declaration of the Results of the 1995 Election of Federal Home Loan Bank System Directors
- Federal Home Loan Bank of Cincinnati Request for Exception to Limit on Charitable Contribution
- Federal Home Loan Bank of Dallas' CIP Request
- Amendment to the Financial Management Policy

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

Rita I. Fair,

Managing Director.

[FR Doc. 95–29409 Filed 11–29–95; 8:45 am]

BILLING CODE 6725–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:30 a.m., Wednesday, December 6, 1995, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a closed meeting on November 6, 1995.)
2. Proposed 1996 Federal Reserve Board officer salary structure and merit program.
3. Proposed recommendations regarding the Federal Reserve Board's affirmative action policy.
4. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
5. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 29, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29427 Filed 11–29–95; 11:05 am]

BILLING CODE 6210–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, December 6, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda: Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Publication for comment of proposed amendments to Regulation U (Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks).

Discussion Agenda:

2. Proposed 1996 Federal Reserve Board budget.
3. Proposed 1996 budget for the Office of Inspector General.
4. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: November 29, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29426 Filed 11–29–95; 11:05 am]

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Friday
December 1, 1995

Part II

Pension Benefit Guaranty Corporation

29 CFR Part 2606, et al.
Missing Participants; Final Rule

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2606, 2616, 2617, and 2629

RIN 1212–AA81

Missing Participants

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is amending its regulations to implement the new missing participants program under section 4050 of the Employee Retirement Income Security Act of 1974. Section 4050 applies to single-employer defined benefit plans distributing benefits in accordance with the standard termination procedures of Title IV.

EFFECTIVE DATE: January 1, 1996. The missing participants program is effective for distributions in plan years beginning on or after January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Deborah C. Murphy, Attorney, Office of the General Counsel, Suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: On August 24, 1995, the PBGC published in the **Federal Register** (60 FR 44158) a proposed rule to implement section 4050 of ERISA.

When a participant or beneficiary cannot be located in a standard termination a plan administrator can either purchase an annuity or pay funds to the PBGC. If funds are paid to the PBGC, the PBGC will search for the participant or beneficiary and pay benefits to those who are located.

The missing participants regulation describes the "diligent search" that must be made for a missing participant before funds are paid to the PBGC. (The term "missing participant" includes beneficiaries as well as participants, and thus may include alternate payees under qualified domestic relations orders.) It also sets forth rules on how to determine the amount to be paid to the PBGC (the "designated benefit"), how to pay funds and submit information to the PBGC, and how the PBGC will pay benefits when missing participants (or their survivors) are found.

There were five statements commenting on the rule.

Diligent Search

A plan administrator must conduct a diligent search before paying a missing participant's benefit to the PBGC. Commenters suggested that the PBGC should not require plan administrators to use a commercial locator service. They suggested that it should be sufficient if the plan administrator uses the Internal Revenue Service or Social Security Administration letter-forwarding programs, or simply uses the search methods required by the prudence requirements of Title I of ERISA. One commenter suggested that the PBGC should allow searches to be conducted by persons other than the plan administrator and to start before the plan begins the termination process.

The PBGC searches for participants in plans that the PBGC trustees. It is the PBGC's experience that commercial locator services are cost-effective, timely, and thorough. The IRS and SSA programs simply forward letters, and a missing participant who receives a letter may or may not contact the plan. Furthermore, IRS and SSA letter forwarding times may vary, and the forwarding area may in some cases be limited to one region of the country.

The diligent search requirement is independent of the prudence requirement of ERISA. The diligent search requirement is intended to ensure that plan administrators make every effort to search out a missing participant before turning the effort over to the government.

The PBGC is changing the regulation to allow a search by someone other than the plan administrator, as long as the plan administrator certifies on the missing participant forms that a diligent search was made, and to allow searches to commence up to six months before the termination process begins. The final regulation also makes clear that missing participants cannot be charged, nor their benefits reduced, to pay search costs.

Payments to the PBGC (Designated Benefit)

One commenter questioned the assumptions used for calculating the designated benefit. The commenter felt that the $300 administrative load was inappropriate, especially for small benefits, that the designated benefit should not be based on the "most valuable" benefit, and that, in most cases, the plan administrator should be able to use plan assumptions.

The regulations include an explicit $300 per participant administrative load that the plan administrator must pay when valuing the participant's benefit using the missing participant annuity assumptions. This load is a simplified version of the administrative load that must be paid under the PBGC's single-employer annuity valuation regulation. (The "missing participant lump sum assumptions" include an implicit load; insurance company annuity rates include similar loads.) The final regulation provides that the $300 load will not apply to benefits whose value is $3,500 or less.

The final regulation retains the proposed structure of the designated benefit determination rules. Use of the most valuable benefit is consistent with insurance company annuity pricing practices. Use of the PBGC annuity assumptions is consistent with section 4050(b)(2)(C), which makes the designated benefit equal to the greater of the lump sum (under plan assumptions) or the value of the annuity (under PBGC assumptions).

Benefit Payments by the PBGC

The PBGC received no comments on provisions regarding its payment of benefits, but is making clarifications in those provisions.

Procedural Requirements

One commenter stated that the PBGC's standard termination process already had sufficient procedural deadlines and that the PBGC should not add additional deadlines for the missing participants program. The commenter also felt that the six-year recordkeeping requirement was too long.

The regulation coordinates the missing participant filing requirements with the termination requirements. The proposed regulation's changes from the standard termination deadlines provide relief from situations where, late in the termination process, the plan administrator located a missing participant ("late-discovered participant") or discovered that a participant was missing ("recently-missing participant"). The final regulation provides further relief for these situations by allowing the PBGC in its sole discretion, where there are unusual circumstances, to grant additional extensions.

The final regulation leaves the recordkeeping requirement as six years. This parallels the recordkeeping period for the rest of the termination program and also the recordkeeping provisions of section 107 of ERISA.

Finally, in response to a commenter's question, the PBGC reminds plan administrators that ERISA section 4071 prescribes penalties for failure to provide certain material information timely, including information under the missing participants regulation.

Forms and Instructions

One commenter claimed that the PBGC does not need the information in items 3, 4, and 5 of Attachment B to Schedule MP. This is minimal and simple information that tells the PBGC what benefit to pay and when to pay it. The information is essential to the proper functioning of the missing participants program.

In response to a comment, the PBGC has revised the instructions for Schedule MP to clarify that unavailable or inapplicable information need not be submitted. The PBGC has also made other minor modifications to the missing participant forms and instructions.

The PBGC has implemented the revisions to Forms 501 and 602 and their instructions that were published with the proposed missing participants regulation. The termination forms booklets, which will include Schedule MP (with attachments and instructions), can be obtained from the PBGC's Standard Termination Compliance Division, 1200 K Street, N.W., Suite 930, Washington, DC 20005–4026, or by calling 202–326–4000 (202–326–4179 for hearing-impaired persons).

Compliance With Rulemaking and Paperwork Guidelines

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

The PBGC certifies under section 605(b) of the Regulatory Flexibility Act that this regulation will not have a significant additional economic impact on a substantial number of small entities, given existing procedures. Pension plans with fewer than 100 participants have traditionally been treated as small plans. Plan administrators of terminating plans of all sizes already have a duty to determine the amounts of all benefits, to attempt to locate all persons entitled to benefits, and to annuitize or provide cash accounts for those who cannot be found. The primary effect of this regulation is to substitute a formal procedure involving the PBGC for the informal procedures already being followed. The PBGC does not expect the standardization of these procedures to have a significant effect on plan administrators' burdens. Accordingly, sections 603 and 604 of the Regulatory Flexibility Act do not apply.

The collections of information contained in this part, and the forms and instructions to be used under the missing participants program, have been approved by the Office of Management and Budget under OMB control number 1212–0036. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

List of Subjects

29 CFR Part 2606

Employee benefit plans, Pension insurance, Pensions, Administrative practice and procedure.

29 CFR Parts 2616, 2617, and 2629

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR chapter XXVI is amended as follows.

1. Part 2629 is added to subchapter C to read as follows:

PART 2629—MISSING PARTICIPANTS

Sec.

2629.1 Purpose and scope.
2629.2 Definitions.
2629.3 Method of distribution for missing participants.
2629.4 Diligent search.
2629.5 Designated benefit.
2629.6 Payment and required documentation.
2629.7 Benefits of missing participants—in general.
2629.8 Automatic lump sum.
2629.9 Annuity or elective lump sum—living missing participant.
2629.10 Annuity or elective lump sum—beneficiary of deceased missing participant.
2629.11 Limitations.
2629.12 Special rules.
2629.13 OMB control number.

Appendix A to Part 2629—Examples of designated benefit determinations for missing participants under § 2629.5.

Appendix B to Part 2629—Examples of benefit payments for missing participants under § 2629.8 through § 2629.10.

Authority: 29 U.S.C. 1302(b)(3), 1350.

§ 2629.1 Purpose and scope.

(a) Purpose. This part prescribes rules for distributing benefits under a terminating plan for any individual whom the plan administrator has not located when distributing benefits under § 2617.28(c) of this chapter.

(b) Scope. This part applies to a plan if the plan's deemed distribution date (or the date of a payment made in accordance with § 2629.12) is in a plan year beginning on or after January 1, 1996.

§ 2629.2 Definitions.

For purposes of this part:

(a) Act means the Employee Retirement Income Security Act of 1974, as amended.

(b) Code means the Internal Revenue Code of 1986, as amended.

(c) Deemed distribution date means the date selected by the plan administrator of a terminating plan that is on or after the date when all benefit distributions have been made under the plan except for distributions to missing participants whose designated benefits are paid to the PBGC, but not later than the last day of the period in which distribution may be made (determined without regard to the provisions of this part) under § 2616.29(a) or 2617.28(a) of this chapter (whichever applies).

(d) Designated benefit means the amount payable to the PBGC for a missing participant pursuant to § 2629.5.

(e) Designated benefit interest rate means the rate of interest applicable to underpayments of guaranteed benefits by the PBGC under § 2623.11(d) of this chapter.

(f) Guaranteed benefit form means, with respect to a benefit, the form in which the PBGC would pay a guaranteed benefit to a participant or beneficiary in the PBGC's program for trusteed plans under parts 2613 and 2621 of this chapter (treating the deemed distribution date as the date of plan termination for this purpose).

(g) Late-discovered participant means a participant or beneficiary entitled to a distribution under a terminating plan whom the plan administrator locates before the plan administrator pays the individual's designated benefit to the PBGC (or distributes the individual's benefit by purchasing an irrevocable commitment from an insurer) and not more than 90 days before the deemed distribution date.

(h) Missing participant means a participant or beneficiary entitled to a distribution under a terminating plan whom the plan administrator has not located as of the date when the plan administrator pays the individual's designated benefit to the PBGC (or distributes the individual's benefit by purchasing an irrevocable commitment from an insurer). In the absence of proof of death, individuals not located are presumed living.

(i) Missing participant annuity assumptions means the interest rate assumptions and actuarial methods (using the interest rates for annuity valuation in Appendix B to part 2619 of this chapter) for valuing a benefit to be paid by the PBGC as an annuity under part 2619 of this chapter, applied—

(1) As if the deemed distribution date were the date of plan termination;

(2) Using unisex mortality rates that are a fixed blend of 50 percent of the male mortality rates and 50 percent of the female mortality rates from the 1983 Group Annuity Mortality Table as prescribed in Rev. Rul. 95–6, 1995–1 C.B. 80 (Cumulative Bulletins are available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402);

(3) Without using the expected retirement age assumptions in Subpart D to part 2619 of this chapter;

(4) Without making the adjustment for expenses provided for in § 2619.49(a)(4) of this chapter; and

(5) By adding $300, as an adjustment (loading) for expenses, for each missing participant whose designated benefit without such adjustment would be greater than $3,500.

(j) Missing participant forms and instructions means PBGC Forms 501 and 602, Schedule MP thereto, and related forms, and their instructions.

(k) Missing participant lump sum assumptions means the interest rate assumptions and actuarial methods (using the interest rates for lump sum valuations in Appendix B to part 2619 of this chapter) for valuing a benefit to be paid by the PBGC as a lump sum under part 2619 of this chapter, applied—

(1) As if the deemed distribution date were the date of plan termination;

(2) Using mortality assumptions for healthy lives only (from Table I of Appendix A to part 2619 of this chapter, substituting x+1 for x); and

(3) Without using the expected retirement age assumptions in Subpart D to part 2619 of this chapter.

(l) Pay status means, with respect to a benefit under a plan, that the plan administrator has made or (except for administrative delay or a waiting period) would have made one or more benefit payments.

(m) Post-distribution certification means the post-distribution certification required by § 2616.29(b) or 2617.28(b) of this chapter.

(n) Plan administrator means the administrator as defined in section 4001(a)(1) of the Act.

(o) Recently-missing participant means a participant or beneficiary whom the plan administrator discovers to be a missing participant on or after the 90th day before the deemed distribution date.

(p) Unloaded designated benefit means the designated benefit reduced by $300; except that the reduction shall not apply in the case of a designated benefit determined using the missing participant annuity assumptions without adding the $300 load described in paragraph (i)(5) of this section.

§ 2629.3 Method of distribution for missing participants.

The plan administrator of a terminating plan shall distribute benefits for each missing participant by—

(a) purchasing from an insurer an irrevocable commitment that satisfies the requirements of § 2617.28(c) or § 2616.29(a)(1) of this chapter (whichever is applicable); or

(b) paying the PBGC a designated benefit in accordance with §§ 2629.4 through 2629.6 (subject to the special rules in § 2629.12).

§ 2629.4 Diligent search.

(a) Search required. A diligent search shall be made for each missing participant whose designated benefit (or voluntary employee contributions under § 2629.12(d)(2)) is paid to the PBGC. The search shall be made before the payment is made.

(b) Diligence. A search is a diligent search only if the search—

(1) Begins not more than 6 months before notices of intent to terminate are issued and is carried on in such a manner that if the individual is found, distribution to the individual can reasonably be expected to be made on or before the deemed distribution date (or, in the case of a recently-missing participant, on or before the 90th day after the deemed distribution date);

(2) Includes inquiry of any plan beneficiaries (including alternate payees) of the missing participant whose names and addresses are known to the plan administrator; and

(3) Includes use of a commercial locator service to search for the missing participant (without charge to the missing participant or reduction of the missing participant's plan benefit).

§ 2629.5 Designated benefit.

(a) Amount of designated benefit. The amount of the designated benefit shall be the amount determined under paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this section (whichever is applicable) or, if less, the maximum amount that could be provided under the plan to the missing participant in the form of a single sum in accordance with section 415 of the Code.

(1) Mandatory lump sum. The designated benefit of a missing participant required under a plan to receive a mandatory lump sum as of the deemed distribution date shall be the lump sum payment that the plan administrator would have distributed to the missing participant as of the deemed distribution date.

(2) De minimis lump sum. The designated benefit of a missing participant not described in paragraph (a)(1) of this section whose benefit is not in pay status as of the deemed distribution date and whose benefit has a *de minimis* actuarial present value ($3,500 or less) as of the deemed distribution date under the missing participant lump sum assumptions shall be such value.

(3) No lump sum. The designated benefit of a missing participant not described in paragraph (a)(1) or (a)(2) of this section who, as of the deemed distribution date, cannot elect an immediate lump sum under the plan shall be the actuarial present value of the missing participant's benefit as of the deemed distribution date under the missing participant annuity assumptions.

(4) Elective lump sum. The designated benefit of a missing participant not described in paragraph (a)(1), (a)(2), or (a)(3) of this section shall be the greater of the amounts determined under the methodologies of paragraph (a)(1) or (a)(3) of this section.

(b) Assumptions. When the plan administrator uses the missing participant annuity assumptions or the missing participant lump sum assumptions for purposes of determining the designated benefit under paragraph (a) of this section, the plan administrator shall value the most valuable benefit, as determined under paragraph (b)(1) of this section, using the assumptions described in paragraph (b)(2) or (b)(3) of this section (whichever is applicable).

(1) Most valuable benefit. For a missing participant whose benefit is in pay status as of the deemed distribution date, the most valuable benefit is the pay status benefit. For a missing participant whose benefit is not in pay status as of the deemed distribution date, the most valuable benefit is the benefit payable at the age on or after the deemed distribution date (beginning with the participant's earliest early retirement age and ending with the participant's normal retirement age) for which the present value as of the deemed distribution date is the greatest. The present value as of the deemed distribution date with respect to any age is determined by multiplying:

(i) The monthly (or other periodic) benefit payable under the plan; by

(ii) The present value (determined as of the deemed distribution date using the missing participant annuity assumptions) of a $1 monthly (or other periodic) annuity beginning at the applicable age.

(2) Participant. A missing participant who is a participant, and whose benefit is not in pay status as of the deemed distribution date, is assumed to be married to a spouse the same age, and the form of benefit that must be valued is the qualified joint and survivor annuity benefit that would be payable under the plan. If the participant's benefit is in pay status as of the deemed distribution date, the form and beneficiary of the participant's benefit are the form of benefit and beneficiary of the pay status benefit.

(3) Beneficiary. A missing participant who is a beneficiary, and whose benefit is not in pay status as of the deemed distribution date, is assumed not to be married, and the form of benefit that must be valued is the survivor benefit that would be payable under the plan. If the beneficiary's benefit is in pay status as of the deemed distribution date, the form and beneficiary of the beneficiary's benefit are the form of benefit and beneficiary of the pay status benefit.

(4) Examples. See Appendix A to this Part for examples illustrating the provisions of this section.

(c) Missed payments. In determining the designated benefit, the plan administrator shall include the value of any payments that were due before the deemed distribution date but that were not made.

(d) Payment of designated benefits. Payment of designated benefits shall be made in accordance with § 2629.6 and shall be deemed made on the deemed distribution date.

§ 2629.6 Payment and required documentation.

(a) Time of payment and filing—(1) General rule. The plan administrator shall pay designated benefits, and file the information and certifications (of the plan administrator and the plan's enrolled actuary) specified in the missing participant forms and instructions, by the time the post-distribution certification is due (determined in accordance with §§ 2616.7(a) and 2617.8(a) of this chapter). Except as otherwise provided in the missing participant forms and instructions, the plan administrator shall submit the designated benefits, information, and certifications with the post-distribution certification.

(2) Recently-missing participants. In the case of a recently-missing participant, the plan administrator shall pay the designated benefit by the time the amended post-distribution certification is due under paragraph (a)(2)(ii) of this section. Except as otherwise provided in the missing participant forms and instructions—

(i) Payment. The plan administrator shall submit the designated benefit with the amended post-distribution certification described in paragraph (a)(2)(ii) of this section; and

(ii) Filing. If the diligent search is not complete when the plan administrator submits the filing described in paragraph (a)(1) of this section, the plan administrator shall so indicate in that filing and submit an amended filing (including an amended post-distribution certification) within 120 days after the deemed distribution date (subject to extension under § 2629.12(h)) in accordance with the missing participant forms and instructions.

(3) Late-discovered participants. When it is impracticable for the plan administrator to include complete and accurate final information on a late-discovered participant in a timely post-distribution certification, the plan administrator shall submit an amended post-distribution certification within 120 days after the deemed distribution date (subject to extension under § 2629.12(h)) in accordance with the missing participant forms and instructions.

(b) Interest on late payments. If the plan administrator does not pay a designated benefit by the time specified in paragraph (a) of this section, the plan administrator shall pay interest as assessed by the PBGC for the period beginning on the deemed distribution date and ending on the date when the payment is received by the PBGC. Interest will be assessed at the rate provided for late premium payments in § 2610.7 of this chapter. Interest assessed under this paragraph shall be deemed paid in full if payment of the amount assessed is received by the PBGC within 30 days after the date of a PBGC bill for such amount.

(c) Supplemental information. Within 30 days after the date of a written request from the PBGC, a plan administrator required to provide the information and certifications described in paragraph (a) of this section shall file supplemental information, as requested, for the purpose of verifying designated benefits, determining benefits to be paid by the PBGC under this part, and substantiating diligent searches.

(1) Information mailed. Supplemental information filed under this paragraph (c) is considered filed on the date of the United States postmark stamped on the cover in which the information is mailed, if—

(i) The postmark was made by the United States Postal Service; and

(ii) The information was mailed postage prepaid, properly addressed to the PBGC.

(2) Information delivered. When the plan administrator sends or transmits the information to the PBGC by means other than the United States Postal Service, the information is considered filed on the date it is received by the PBGC. Information received on a weekend or Federal holiday or after 5:00 p.m. on a weekday is considered filed on the next regular business day.

§ 2629.7 Benefits of missing participants—in general.

(a) If annuity purchased. If a plan administrator distributes a missing participant's benefit by purchasing an irrevocable commitment from an insurer, and the missing participant (or his or her beneficiary or estate) later contacts the PBGC, the PBGC will inform the person of the identity of the insurer and the relevant policy number.

(b) If designated benefit paid. If the PBGC locates or is contacted by a missing participant (or his or her beneficiary or estate) for whom a plan administrator paid a designated benefit to the PBGC, the PBGC will pay benefits in accordance with §§ 2629.8 through 2629.10 (subject to the limitations and special rules in §§ 2629.11 and 2629.12).

(c) Examples. See Appendix B to this part for examples illustrating the provisions of §§ 2629.8 through 2629.10.

§ 2629.8 Automatic lump sum.

This section applies to a missing participant whose designated benefit was determined under § 2629.5(a)(1) (mandatory lump sum) or § 2629.5(a)(2) (de minimis lump sum).

(a) General rule—(1) Benefit paid. The PBGC will pay a single sum benefit equal to the designated benefit plus interest at the designated benefit interest rate from the deemed distribution date to the date on which the PBGC pays the benefit.

(2) Payee. Payment shall be made—

(i) To the missing participant, if located;

(ii) If the missing participant died before the deemed distribution date, and if the plan so provides, to the missing participant's beneficiary or estate; or

(iii) If the missing participant dies on or after the deemed distribution date, to the missing participant's estate.

(b) De minimis annuity alternative. If the guaranteed benefit form for a missing participant whose designated benefit was determined under § 2629.5(a)(2) (de minimis lump sum) (or the guaranteed benefit form for a beneficiary of such a missing participant) would provide for the

election of an annuity, the missing participant (or the beneficiary) may elect to receive an annuity. If such an election is made—

(1) The PBGC will pay the benefit in the elected guaranteed benefit form, beginning on the annuity starting date elected by the missing participant (or the beneficiary), which shall not be before the later of the date of the election or the earliest date on which the missing participant (or the beneficiary) could have begun receiving benefits under the plan; and

(2) The benefit paid will be actuarially equivalent to the designated benefit, i.e., each monthly (or other periodic) benefit payment will equal the designated benefit divided by the present value (determined as of the deemed distribution date under the missing participant lump sum assumptions) of a $1 monthly (or other periodic) annuity beginning on the annuity starting date.

§ 2629.9 Annuity or elective lump sum—living missing participant.

This section applies to a missing participant whose designated benefit was determined under § 2629.5(a)(3) (no lump sum) or § 2629.5(a)(4) (elective lump sum) and who is living on the date as of which the PBGC begins paying benefits.

(a) Missing participant whose benefit was not in pay status as of the deemed distribution date. The PBGC will pay the benefit of a missing participant whose benefit was not in pay status as of the deemed distribution date as follows.

(1) Time and form of benefit. The PBGC will pay the missing participant's benefit in the guaranteed benefit form, beginning on the annuity starting date elected by the missing participant (which shall not be before the later of the date of the election or the earliest date on which the missing participant could have begun receiving benefits under the plan).

(2) Amount of benefit. The PBGC will pay a benefit that is actuarially equivalent to the unloaded designated benefit, i.e., each monthly (or other periodic) benefit payment will equal the unloaded designated benefit divided by the present value (determined as of the deemed distribution date under the missing participant annuity assumptions) of a $1 monthly (or other periodic) annuity beginning on the annuity starting date.

(b) Missing participant whose benefit was in pay status as of the deemed distribution date. The PBGC will pay the benefit of a missing participant whose benefit was in pay status as of the deemed distribution date as follows:

(1) Time and form of benefit. The PBGC will pay the benefit in the form that was in pay status, beginning when the missing participant is located.

(2) Amount of benefit. The PBGC will pay the monthly (or other periodic) amount of the pay status benefit, plus a lump sum equal to the payments the missing participant would have received under the plan, plus interest on the missed payments (at the plan rate up to the deemed distribution date and thereafter at the designated benefit interest rate) to the date as of which the PBGC pays the lump sum.

(c) Payment of lump sum. If a missing participant whose designated benefit was determined under § 2629.5(a)(4) (elective lump sum) so elects, the PBGC will pay his or her benefit in the form of a single sum. This election is not effective unless the missing participant's spouse consents (if such consent would be required under section 205 of the Act). The single sum equals the designated benefit plus interest (at the designated benefit interest rate) from the deemed distribution date to the date as of which the PBGC pays the benefit.

§ 2629.10 Annuity or elective lump sum—beneficiary of deceased missing participant.

This section applies to a beneficiary of a deceased missing participant whose designated benefit was determined under § 2629.5(a)(3) (no lump sum) or § 2629.5(a)(4) (elective lump sum) and whose benefit is not payable under § 2629.9.

(a) If deceased missing participant's benefit was not in pay status as of the deemed distribution date. The PBGC will pay a benefit with respect to a deceased missing participant whose benefit was not in pay status as of the deemed distribution date as follows:

(1) General rule—(i) Beneficiary. The PBGC will pay a benefit to the surviving spouse of a missing participant who was a participant (unless the surviving spouse has properly waived a benefit in accordance with section 205 of the Act).

(ii) Form and amount of benefit. The PBGC will pay the survivor benefit in the form of a single life annuity. Each monthly (or other periodic) benefit payment will equal 50% of the quotient that results when the unloaded designated benefit is divided by the present value (determined as of the deemed distribution date under the missing participant annuity assumptions, and assuming that the missing participant survived to the deemed distribution date) of a $1 monthly (or other periodic) joint and 50% survivor annuity in the form described in § 2619.49(f)(1) of this chapter beginning on the annuity starting date.

(iii) Time of benefit. The PBGC will pay the survivor benefit beginning at the time elected by the surviving spouse (which shall not be before the later of the date of the election or the earliest date on which the surviving spouse could have begun receiving benefits under the plan).

(2) If missing participant died before deemed distribution date. Notwithstanding the provisions of paragraph (a)(1) of this section, if a beneficiary of a missing participant who died before the deemed distribution date establishes to the PBGC's satisfaction that he or she is the proper beneficiary or would have received benefits under the plan in a form, at a time, or in an amount different from the benefit paid under paragraph (a)(1)(ii) or (a)(1)(iii) of this section, the PBGC will make payments in accordance with the facts so established, but only in the guaranteed benefit form.

(3) Elective lump sum. Notwithstanding the provisions of paragraphs (a)(1) and (a)(2) of this section, if the beneficiary of a missing participant whose designated benefit was determined under § 2629.5(a)(4) (elective lump sum) so elects, the PBGC will pay his or her benefit in the form of a single sum. The single sum will be equal to the actuarial present value (determined as of the deemed distribution date under the missing participant annuity assumptions) of the death benefit payable on the annuity starting date, plus interest (at the designated benefit interest rate) from the deemed distribution date to the date as of which the PBGC pays the benefit.

(b) If deceased missing participant's benefit was in pay status as of the deemed distribution date. The PBGC will pay a benefit with respect to a deceased missing participant whose benefit was in pay status as of the deemed distribution date as follows.

(1) Beneficiary. The PBGC will pay a benefit to the beneficiary (if any) of the benefit that was in pay status as of the deemed distribution date.

(2) Form and amount of benefit. The PBGC will pay a monthly (or other periodic) amount equal to the monthly (or other periodic) amount, if any, that the beneficiary would have received under the form of payment in effect, plus a lump sum payment equal to the payments the beneficiary would have received under the plan subsequent to the missing participant's death and prior to the date as of which the benefit is paid under paragraph (b)(4) of this section, plus interest on the missed payments (at the plan rate up to the deemed distribution date and thereafter at the designated benefit interest rate) to the date as of which the benefit is paid under paragraph (b)(4) of this section.

(3) Lump sum payment to estate. The PBGC will make a lump sum payment to the missing participant's estate equal to the payments that the missing participant would have received under the plan for the period prior to the missing participant's death, plus interest on the missed payments (at the plan rate up to the deemed distribution date and thereafter at the designated benefit interest rate) to the date when the lump sum is paid. Notwithstanding the preceding sentence, if a beneficiary of a missing participant other than the estate establishes to the PBGC's satisfaction that the beneficiary is entitled to the lump sum payment, the PBGC will pay the lump sum to such beneficiary.

(4) Time of benefit. The PBGC will pay the survivor benefit beginning when the beneficiary is located.

(5) Spouse deceased. If the PBGC locates the estate of the deceased missing participant's spouse under circumstances where a benefit would have been paid under this paragraph (b) if the spouse had been located while alive, the PBGC shall pay to the spouse's estate a lump sum payment computed in the same manner as provided for in paragraph (b)(2) of this section based on the period from the missing participant's death to the death of the spouse.

§ 2629.11 Limitations.

(a) Exclusive benefit. The benefits provided for under this part shall be the only benefits payable by the PBGC to missing participants or to beneficiaries based on the benefits of deceased missing participants.

(b) Limitation on benefit value. The total actuarial present value of all benefits paid with respect to a missing participant under §§ 2629.8 through 2629.10, determined as of the deemed distribution date, shall not exceed the missing participant's designated benefit.

(c) Guaranteed benefit. If a missing participant or his or her beneficiary establishes to the PBGC's satisfaction that the benefit under §§ 2629.8 through 2629.10 (based on the designated benefit actually paid to the PBGC) is less than the minimum benefit in this paragraph (c), the PBGC shall instead pay the minimum benefit. The minimum benefit shall be the lesser of:

(1) The benefit as determined under the PBGC's rules for paying guaranteed benefits in trusteed plans under parts 2613 and 2621 of this chapter (treating the deemed distribution date as the date of plan termination for this purpose); or

(2) The benefit based on the designated benefit that should have been paid under § 2629.5.

(d) Limitation on annuity starting date. A missing participant (or his or her survivor) may not elect an annuity starting date after the later of—

(1) The required beginning date under section 401(a)(9) of the Code; or

(2) The date when the missing participant (or the survivor) is notified of his or her right to a benefit.

§ 2629.12 Special rules.

(a) Late-discovered participants. The plan administrator of a plan that terminates with one or more late-discovered participants shall (after issuing notices to each such participant in accordance with §§ 2616.22 and 2616.27 or 2617.22 and 2617.23 of this chapter (whichever apply)), distribute each such late-discovered participant's benefit within the period (determined without regard to the provisions of this part) described in § 2616.29(a) or 2617.28(a) of this chapter (whichever applies) if practicable or (if not) as soon thereafter as practicable, but not more than 90 days after the deemed distribution date (subject to extension under § 2629.12(h)).

(b) Missing participants located quickly. Notwithstanding the provisions of §§ 2629.8 through 2629.10, if the PBGC or the plan administrator locates a missing participant within 30 days after the PBGC receives the missing participant's designated benefit, the PBGC may in its discretion return the missing participant's designated benefit to the plan administrator, and the plan administrator shall treat the missing participant like a late-discovered participant.

(c) Qualified domestic relations orders. Plan administrators and the PBGC shall take the provisions of qualified domestic relations orders (QDROs) under section 206(d)(3) of the Act or section 414(p) of the Code into account in determining designated benefits and benefit payments by the PBGC, including treating an alternate payee under an applicable QDRO as a missing participant or as a beneficiary of a missing participant, as appropriate, in accordance with the terms of the QDRO. For purposes of calculating the amount of the designated benefit of an alternate payee, the plan administrator shall use the assumptions for a missing participant who is a beneficiary under § 2629.5(b).

(d) Employee contributions—(1) Mandatory employee contributions. Notwithstanding the provisions of § 2629.5, if a missing participant made mandatory contributions (within the meaning of section 4044(a)(2) of the Act), the missing participant's designated benefit shall not be less than the sum of the missing participant's mandatory contributions and interest to the deemed distribution date at the plan's rate or the rate under section 204(c) of the Act (whichever produces the greater amount).

(2) Voluntary employee contributions—(i) Applicability. This paragraph (d)(2) applies to any employee contributions that were not mandatory (within the meaning of section 4044(a)(2) of the Act) to which a missing participant is entitled in connection with the termination of a defined benefit plan.

(ii) Payment to PBGC. A plan administrator, in accordance with the missing participant forms and instructions, shall pay the employee contributions described in paragraph (d)(2)(i) of this section (together with any earnings thereon) to the PBGC, and shall file Schedule MP with the PBGC, by the time the designated benefit is due under § 2629.6. Any such amount shall be in addition to the designated benefit and shall be separately identified.

(iii) Payment by PBGC. In addition to any other amounts paid by the PBGC under §§ 2629.8 through 2629.10, the PBGC shall pay any amount paid to it under paragraph (d)(2)(ii) of this section, with interest at the designated benefit interest rate from the date of receipt by the PBGC to the date of payment by the PBGC, in the same manner as described in § 2629.8 (automatic lump sums), except that if the missing participant died before the deemed distribution date and there is no beneficiary, payment shall be made to the missing participant's estate.

(e) Residual assets. The PBGC shall determine, in a manner consistent with the purposes of this part and section 4050 of the Act, how the provisions of this part shall apply to any distribution, to participants and beneficiaries who cannot be located, of residual assets remaining after the satisfaction of benefit liabilities in connection with the termination of a defined benefit plan. Unless the PBGC otherwise determines, the deadline for payment of residual assets for a missing participant and for submission to the PBGC of a Schedule MP (or an amended Schedule MP) is the 30th day after the date on which all residual assets have been distributed to all participants and beneficiaries other than missing participants for whom payment of residual assets is made to the PBGC.

(f) Sufficient distress terminations. In the case of a plan undergoing a distress termination (under section 4041(c) of the Act) that is sufficient for at least all guaranteed benefits and that distributes its assets in the manner described in section 4041(b)(3) of the Act, the benefit assumed to be payable by the plan for purposes of determining the amount of the designated benefit under § 2629.5 shall be limited to the Title IV benefit (as defined in § 2616.2 of this chapter) plus any benefit to which funds under section 4022(c) of the Act have been allocated.

(g) Similar rules for later payments. If the PBGC determines that one or more persons should receive benefits (which may be in addition to benefits already provided) in order for a plan termination to be valid (e.g., upon audit of the termination), and one or more of such individuals cannot be located, the PBGC shall determine, in a manner consistent with the purposes of this part and section 4050 of the Act, how the provisions of this part shall apply to such benefits.

(h) Discretionary extensions. The PBGC may in its sole discretion extend the 120-day amended filing periods in § 2629.6(a) (2)(ii) and (3) and the 90-day distribution period in paragraph (a) of this section—

(1) Where a recently-missing participant becomes a late-discovered participant,

(2) Where the PBGC returns the designated benefit of a missing participant who is located quickly to the plan administrator under § 2629.12(b), or

(3) In other unusual circumstances.

(i) Payments beginning after age 70½. If the PBGC begins paying an annuity under § 2629.9(a) or 2629.10(a) to a participant or a participant's spouse after the January 1 following the date when the participant attained or would have attained age 70½, the PBGC shall pay to the participant or the spouse (or their respective estates) or both, as appropriate, the lump sum equivalent of the past annuity payments the participant and spouse would have received if the PBGC had begun making payments on such January 1. The PBGC shall also pay lump sum equivalents under this paragraph (i) if the PBGC locates the estate of the participant or spouse after both are deceased. (Nothing in this paragraph (i) shall increase the total value of the benefits payable with respect to a missing participant.)

§ 2629.13 OMB control number.

The collection of information requirements contained in this part have been approved by the Office of Management under OMB Control Number 1212–0036.

Appendix A to Part 2629—Examples of Designated Benefit Determinations for Missing Participants Under § 2629.5

The calculation of the designated benefit under § 2629.5 is illustrated by the following examples.

Example 1. Plan A provides that any participant whose benefit has a value at distribution of $1,750 or less will be paid a lump sum, and that no other lump sums will be paid. P, Q, and R are missing participants.

(1) As of the deemed distribution date, the value of P's benefit is $1,700 under plan A's assumptions. Under § 2629.5(a)(1), the plan administrator pays the PBGC $1,700 as P's designated benefit.

(2) As of the deemed distribution date, the value of Q's benefit is $3,700 under plan A's assumptions and $3,200 under the missing participant lump sum assumptions. Under § 2629.5(a)(2), the plan administrator pays the PBGC $3,200 as Q's designated benefit.

(3) As of the deemed distribution date, the value of R's benefit is $3,400 under plan A's assumptions, $3,600 under the missing participant lump sum assumptions, and $3,450 under the missing participant annuity assumptions. Under § 2629.5(a)(3), the plan administrator pays the PBGC $3,450 as R's designated benefit.

Example 2. Plan B provides for a normal retirement age of 65 and permits early commencement of benefits at any age between 60 and 65, with benefits reduced by 5 percent for each year before age 65 that the benefit begins. The qualified joint and 50 percent survivor annuity payable under the terms of the plan requires in all cases a 16 percent reduction in the benefit otherwise payable. The plan does not provide for elective lump sums.

(1) M is a missing participant who separated from service under plan B with a deferred vested benefit. M is age 50 at the deemed distribution date, and has a normal retirement benefit of $1,000 per month payable at age 65 in the form of a single life annuity. M's benefit as of the deemed distribution date has a value greater than $3,500 using either plan assumptions or the missing participant lump sum assumptions. Accordingly, M's designated benefit is to be determined under § 2629.5(a)(3).

(2) For purposes of determining M's designated benefit, M is assumed to be married to a spouse who is also age 50 on the deemed distribution date. M's monthly benefit in the form of the qualified joint and survivor annuity under the plan varies from $840 at age 65 (the normal retirement age) ($1,000×(1–.16)) to $630 at age 60 (the earliest retirement age) ($1,000×(1–5×(.05))×(1–.16)).

(3) Under § 2629.5(a)(3), M's benefit is to be valued using the missing participant annuity assumptions. The select and ultimate interest rates on Plan B's deemed distribution date are 7.50 percent for the first 20 years and 5.75 percent thereafter. Using these rates and the blended mortality table described in the definition of "missing participant annuity assumptions" in § 2629.2(i)(2), the plan administrator determines that the benefit commencing at age 60 is the most valuable benefit (i.e., the benefit at age 60 is more valuable than the benefit at ages 61, 62, 63, 64 or 65). The present value as of the deemed distribution date of each dollar of annual benefit (payable monthly as a joint and 50 percent survivor annuity) is $5.4307 if the benefit begins at age 60. (In accordance with § 2619.49(d)(5), the mortality of the spouse during the deferral period is ignored.) Thus, without adjustment (loading) for expenses, the value of the benefit beginning at age 60 is $41,056 (12×$630×5.4307). The designated benefit is equal to this value plus an expense adjustment of $300, or a total of $41,356.

Appendix B to Part 2629—Examples of Benefit Payments for Missing Participants Under §§ 2629.8 Through 2629.10

The provisions of §§ 2629.8 through 2629.10 are illustrated by the following examples.

Example 1. Participant M from Plan B (see Example 2 in Appendix A of this part) is located. M's spouse is ten years younger than M. M elects to receive benefits in the form of a joint and 50 percent survivor annuity commencing at age 62.

(1) M's designated benefit was $41,356. The unloaded designated benefit was $41,056. As of Plan B's deemed distribution date (and using the missing participant annuity assumptions), the present value per dollar of monthly benefit (payable monthly as a joint and 50 percent survivor annuity commencing at age 62 and reflecting the actual age of M's spouse) is $4.7405. Thus, the monthly benefit to M at age 62 is $722 ($41,056/(4.7405×12)). M's spouse will receive $361 (50 percent of $722) per month for life after the death of M.

(2) If M had instead been found to have died on or after the deemed distribution date, and M's spouse wanted benefits to commence when M would have attained age 62, the same calculation would be performed to arrive at a monthly benefit of $361 to M's spouse.

Example 2. Participant P is a missing participant from Plan C, a plan that allows elective lump sums upon plan termination. Plan C's administrator pays a designated benefit of $10,000 to the PBGC on behalf of P, who was age 30 on the deemed distribution date.

(1) P's spouse, S, is located and has a death certificate showing that P died on or after the deemed distribution date with S as spouse. S is the same age as P, and would like survivor benefits to commence immediately, at age 55 (as permitted by the plan). S's benefit is the survivor's share of the joint and 50 percent survivor annuity which is actuarially equivalent, as of the deemed distribution date, to $9,700 (the unloaded designated benefit).

(2) The select and ultimate interest rates on Plan C's deemed distribution date were 7.50 percent for the first 20 years and 5.75 percent thereafter. Using these rates and the blended mortality table described in § 2629.2(i)(2), the present value as of the deemed distribution date of each dollar of annual benefit (payable monthly as a joint and 50 percent survivor annuity) is $2.4048 if the benefit begins when S and P would have been age 55. Thus, the monthly benefit to S commencing at age 55 is $168 (50 percent of $9,700/(2.4048 x 12)). Since P could have elected a lump sum upon plan termination, S may elect a lump sum. S's lump sum is the present value as of the deemed distribution date (using the missing participant annuity assumptions) of the monthly benefit of $168, accumulated with interest at the designated benefit interest rate to the date paid.

PART 2606—RULES FOR ADMINISTRATIVE REVIEW OF AGENCY DECISIONS

2. The authority citation for part 2606 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3).

3. In § 2606.1, paragraph (b)(8) is amended by removing the word "and"; paragraph (b)(9) is amended by removing the period at the end of the paragraph and adding in its place "; and"; and a new paragraph (b)(10) is added to read as follows:

§ 2606.1 Purpose and scope.

* * * * *

(b) Scope. * * *

* * * * *

(10) Determinations—

(i) That the amount of a participant's or beneficiary's benefit under section 4050(a)(3) of the Act has been correctly computed based on the designated benefit paid to the PBGC under section 4050(b)(2) of the Act, or

(ii) That the designated benefit is correct, but only to the extent that the benefit to be paid does not exceed the participant's or beneficiary's guaranteed benefit.

* * * * *

§ 2606.51 [Amended]

4. Section 2606.51 is amended by removing the words "§ 2606.1(b) (5) through (9)" and adding in their place the words "§ 2606.1(b) (5) through (10)".

PART 2616—DISTRESS TERMINATIONS OF SINGLE-EMPLOYER PLANS

PART 2617—STANDARD TERMINATIONS OF SINGLE-EMPLOYER PLANS

5. The authority citations for parts 2616 and 2617 are revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341, 1344, 1350.

§§ 2616.2, 2617.2 [Amended]

6. In §§ 2616.2 and 2617.2, the definition of "date of distribution" is amended by removing the period at the end of paragraph (2); adding in its place a semicolon; and adding after the semicolon the words "except that date of distribution means the deemed distribution date in the case of a designated benefit paid to the PBGC, or a benefit provided after the deemed distribution date to a late-discovered participant, in accordance with part 2629 of this chapter (dealing with missing participants)."

§ 2617.3 [Amended]

7. In § 2617.3, paragraph (b)(5) is amended by removing the words "and (f), in satisfaction" and adding in their place the words "and (f) (or, where applicable, within the time prescribed in part 2629 of this chapter), in satisfaction".

§ 2616.6 [Amended]

§ 2617.6 [Amended]

8. In §§ 2616.6 and 2617.6, paragraph (a) is amended by removing the words "this section, when a plan" and adding in their place the words "this section (or, where applicable, in part 2629 of this chapter), when a plan".

§§ 2616.7, 2617.8 [Amended]

9. In §§ 2616.7 and 2617.8, paragraph (b) is amended by removing the words "Any document" and adding in their place the words "Except as may otherwise be provided in applicable forms and instructions, any document"; and by removing the words "Case Operations and Compliance Department" and adding in their place the words "Standard Termination Compliance Division, Insurance Operations Department".

§ 2617.25 [Amended]

10. In § 2617.25, paragraph (b)(2)(i) is amended by removing the words "Case Operations and Compliance Department" and adding in their place the words "Standard Termination Compliance Division, Insurance Operations Department".

§ 2616.29 [Amended]

11. Paragraph (a)(1) of § 2616.29 is amended by adding before the period at the end of the first sentence the words "or, where applicable, within the time prescribed in part 2629 of this chapter".

§ 2617.28 [Amended]

12. Paragraph (a)(1) of § 2617.28 is amended by adding parentheses around the words "or, if applicable, the date on which the PBGC revokes the notice of noncompliance" and by adding before the period at the end of the paragraph the words "or, where applicable, within the time prescribed in part 2629 of this chapter".

§§ 2616.29, 2617.28 [Amended]

13. Paragraph (b) of § 2616.29 and paragraph (h) of § 2617.28 are amended by adding at the end of § 2616.29(b) and § 2617.28(h) the words "The plan administrator shall be considered to have satisfied this requirement if, in accordance with § 2629.6(a) of this chapter, the plan administrator timely files an amended post-distribution certification that otherwise satisfies all applicable requirements."

14. In § 2617.28, paragraph (c) is amended by adding at the end a new sentence to read as follows:

§ 2617.28 Closeout of plan.

* * * * *

(c) Method of distribution. * * * The plan administrator shall comply with part 2629 of this chapter (dealing with missing participants), if applicable.

* * * * *

Issued in Washington, D.C., this 22nd day of November, 1995.

Robert B. Reich,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this final rule.

James J. Keightley,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 95–29120 Filed 11–30–95; 8:45 am]

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December 1, 1995

Part III

Department of Education

34 CFR Part 682
Federal Family Education Loan Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 682

RIN 1840–AC21

Federal Family Education Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Federal Family Education Loan (FFEL) Program. The FFEL regulations govern the Federal Stafford Loan Program, the Federal Supplemental Loans for Students (Federal SLS) Program, the Federal PLUS Program, and the Federal Consolidation Loan Program, collectively referred to as the Federal Family Education Loan Program. The Federal Stafford Loan, the Federal SLS, the Federal PLUS and the Federal Consolidation Loan programs are hereinafter referred to as the Stafford, SLS, PLUS and Consolidation Loan programs. The Secretary is making changes to the FFEL Program regulations to conform the FFEL program regulations with regulations and policies in effect in the William D. Ford Federal Direct Student Loan Program, hereinafter referred to as the Direct Loan Program.

EFFECTIVE DATE: These regulations take effect on July 1, 1996. However, affected parties do not have to comply with the information collection requirements in sections 682.207, 682.209, 682.210, 682.211, 682.401, 682.412, 682.603, 682.604, and 682.605 until after the information collection requirements contained in these sections have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Patricia Newcombe, FFELP Policy Section Chief, or Barbara Bauman, FFELP Program Specialist, Loans Branch, Policy Development Division, Policy, Training, and Analysis Service, U.S. Department of Education, 600 Independence Avenue, S.W. (room 3053, ROB–3), Washington, DC 20202–5449. Telephone: (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The Secretary is amending 34 CFR Part 682 of the Department's regulations to adopt certain policies and procedures that have been used in the Direct Loan Program.

On September 21, 1995, the Secretary published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (60 FR 49130) proposing changes to the FFEL regulations to conform with certain regulations and policies in the Direct Loan program, wherever possible, to provide a consistent approach in both programs. Many of the proposed changes included in the NPRM were identified by commenters in response to an earlier NPRM, published on October 7, 1994, also intended to conform the two loan programs, but were outside the scope of the proposals in that NPRM. In the final regulations published on November 29, 1994, the Secretary promised to evaluate the merits and implications of these additional proposals and include some of them in future regulations. These final regulations reflect many of those proposals. These regulations contain clarifying changes to certain existing provisions of the FFEL program regulations.

The NPRM published for Part 682 in the **Federal Register** on September 21, 1995 (59 FR 49130–49131) included a discussion of the major issues surrounding the proposed changes, and the discussion will not be repeated here. The following list summarizes those issues and identifies the pages of the preamble to the NPRM on which a discussion of those issues may be found:

- Clarification of the definition of satisfactory repayment arrangements for a borrower to renew eligibility for Title IV student financial assistance (page 49130);
- Borrower eligibility for a FFEL Consolidation loan for a borrower in default status (page 49130);
- Codification of the existing FFEL policy to allow a loan to be disbursed in a single installment under certain circumstances (page 49130);
- Clarification of late disbursement provisions under documented exceptional circumstances in sections 682.207(d)(2)(iii) and 682.604(e)(3) through amendments to those provisions (page 49130);
- Lender application of borrower loan payments and treatment of prepayments (page 49130);
- Clarification of deferment eligibility for a borrower in default status (page 49131);
- Extension of administrative forbearance to a borrower who ends an authorized deferment period in delinquent status (page 49131);
- Treatment of loan insurance premiums when a school refunds a loan or a portion thereof to a lender on behalf of a borrower (page 49131);
- Treatment of payments received after loan discharge (page 49131);
- Minor changes to provisions governing school loan certification (page 49131); and
- Technical changes to conform provisions governing a school's determination of a borrower's withdrawal with the refund provisions of section 668.22(j) (page 49131).

Substantive Revisions to the Notice of Proposed Rulemaking

Section 682.207 Due Diligence in Disbursing a Loan

The final regulations reflect an additional provision that allows a single installment containing more than one loan disbursement to be made prior to the midpoint of the loan period if the date of the scheduled disbursement coincides with the beginning of the next scheduled term for which the school has requested a disbursement as provided for under law.

Section 682.209 Payment Application and Prepayment

The final regulations allow a lender to use a statement included in the borrower's monthly billing statement or coupon book, in lieu of a separate notice, to inform a borrower who submits full payments in excess of the scheduled payment amount (without instructions to the lender) regarding how those payments will be credited to the borrower's account and how that crediting affects the borrower's next scheduled due date for payment.

Section 682.211 Forbearance

The Secretary has changed the regulations to authorize lenders to grant administrative forbearance to borrowers to cover any period of delinquency that may exist after the close of a period of mandatory forbearance, in addition to the close of an authorized deferment period.

Section 682.607 Payment of a Refund to a Lender

The final regulations include a change to section 682.607(c)(1) to clarify the interaction between sections 682.605 and 682.607 and 668.22(j) of the General Provisions regulations.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 40 parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are generally not addressed.

General

Comments: Similar to the comments received in response to the October 7, 1994 NPRM to conform the FFEL and Direct Loan programs, some commenters suggested changes to the FFEL program regulations that were not included in the NPRM. Some of the changes had nothing to do with conforming the two loan programs. For example, one commenter suggested that the Secretary revise the provisions in section 682.411(c) to change the time frame within which a lender must send the first notice of delinquency to a borrower. Some of the commenters repeated the suggestions made in response to the October 7, 1994 NPRM to conform the Direct Loan program regulations to the FFEL program regulations by incorporating into the Direct Loan regulations the various requirements in the FFEL regulations for documenting deferment and forbearance eligibility, tracking deferments with statutory time maximums, and backdating the start of deferment eligibility. Additionally, these commenters recommended that FFEL regulations be revised to provide an extended repayment option to FFEL borrowers, and to eliminate the regulatory requirement in section 682.209(a)(6)(ii) that if a borrower chooses a graduated or income-sensitive repayment schedule, the lender may not provide the borrower with a repayment schedule that contains any single installment that is more than three times greater than any other installment.

Discussion: The Secretary does not believe that he currently has the statutory authority to provide through regulations additional repayment options for FFEL borrowers. Because of the constraints presented by the statutory 10-year maximum time frame for repayment of most FFEL program loans, the Secretary also does not believe that it is advisable from a consumer protection standpoint to delete the provision that restricts a lender's ability to establish a repayment schedule that would provide for payments that are three times or more what the borrower's normally scheduled payment would be. The Secretary does not believe that an FFEL borrower is well served by establishing a graduated or income-sensitive repayment schedule that provides low payments initially only to lead to balloon payments that the borrower is unable to meet later in the repayment period despite the use of authorized forbearance. The Secretary also wishes to reiterate what he said in the November 29, 1994 final regulations in response to commenters who indicated that they believed the Secretary is required to make the regulations and processes in the Direct Loan program strictly conform to the FFEL regulations. The Secretary continues to disagree with these commenters. There is no legal requirement that the Secretary issue regulations to regulate internal agency processes in the Direct Loan Program. The Department continues to assure FFEL program participants that policies and procedures in the administration of the Direct Loan program are consistent with FFEL regulatory requirements to the extent practicable. Moreover, the Secretary is committed to continuing to examine areas that affect substantive or procedural rights of program participants that may require additional regulations to ensure conformity between the programs. In regard to the proposal to change the time frame for a lender to send the first notice of delinquency to a borrower, the Secretary does not consider this recommendation appropriate for this regulations package because it has nothing to do with conformity between the FFEL and Direct Loan programs. However, the Secretary will consider this proposal for future regulations.

Section 682.200 Definitions

Comments: Most commenters agreed with the Secretary's decision to clarify that a borrower may make satisfactory repayment arrangements on a defaulted FFEL debt for purposes of regaining Title IV eligibility only once. A couple of commenters urged the Secretary to allow a lender to make documented exceptions to this requirement. Many commenters recommended that the Secretary retain the terms "consecutive" and "voluntary" in current regulations to describe the series of full monthly payments a borrower must make to regain eligibility. The commenters believe it is necessary to clarify that a borrower cannot regain eligibility through a lump sum payment and that payments secured through involuntary means, such as wage garnishment or litigation, do not count as one of the six required payments. Several commenters also wanted the Secretary to clarify that the restriction on a borrower in default status regaining Title IV eligibility only once did not apply to that borrower's ability to make payments sufficient to move out of default status on a loan.

Discussion: The Secretary agrees with the commenters that retaining the terms "consecutive" and "voluntary" to describe the full payments that must be made by the borrower to regain eligibility for Title IV student assistance is essential for the reasons suggested by the commenters. These terms were dropped from the NPRM proposal inadvertently. The Secretary does not agree with the recommendation that the regulations should be revised to authorize lenders to allow a borrower to renew eligibility more than one time under certain circumstances. This one-time restriction is statutory. The Secretary wishes to clarify that this one-time restriction on regaining eligibility in no way restricts the same borrower from bringing a loan out of default status more than once.

Changes: A change has been made. The terms "consecutive" and "voluntary" have been reinserted into the definition to modify the consecutive full payments that must be made by the borrower to regain eligibility.

Section 682.201 Eligible Borrowers

Comments: Many commenters did not support the proposal to allow a borrower to include a defaulted loan in an FFEL Consolidation loan simply by agreeing to repay the Consolidation loan under an income-sensitive repayment plan rather than by making the currently required series of three consecutive payments on the defaulted loan. The commenters also felt strongly that the similar borrower option that exists in the Direct Loan program should be deleted from regulations. These commenters believe that such a borrower should be required to make actual payments on the defaulted loan to demonstrate an intent and ability to repay the loan before the borrower is granted an additional extension of federal credit in the form of a Consolidation Loan and, possibly, additional Title IV student assistance to return to school. These commenters also believe that this policy encourages the "gaming of the [student loan] system" by allowing a borrower who has already defaulted on one or more loans to avoid making any payments on any Title IV student loan debt for a considerable period of time if the borrower returns to school. One of these commenters pointed out that if such a borrower cannot afford to make the three "reasonable and affordable" payments on the defaulted debt, they would be equally unable and unlikely to make scheduled payments on the Consolidation loan. A couple of other commenters recommended that the regulations be revised to retain the three

payment requirement, with the lender authorized to waive the requirement based on documented exceptional circumstances if the borrower demonstrates a willingness and ability to repay the Consolidation loan. Some commenters supported the provision as proposed in order to maintain parity between the FFEL and Direct Loan programs, but some of those commenters questioned how the holder of the loan would know or be able to verify that a borrower has agreed to repay the loan under an income-sensitive repayment plan.

Discussion: The Secretary acknowledges the commenters' concerns regarding providing this option to borrowers already in default on an FFEL program loan. However, the Secretary believes that a significant number of borrowers in the past have defaulted because they could not afford to make required loan payments. When a borrower consolidates a defaulted loan or loans under an income-sensitive repayment plan (or, in the Direct Loan program, under an income-contingent repayment plan) the amount the borrower will be required to repay will be one the borrower can afford. The Secretary believes that an income-sensitive payment amount coupled with the extended repayment period generally available in the FFEL Consolidation loan program, significantly lessens the risk that the borrower will default again. The Secretary also does not believe that three consecutive monthly "reasonable and affordable" payments from the borrower, which could be as low, for example, as $2 per month, necessarily is a more significant indicator of whether a borrower will default on the new Consolidation loan. It is correct that borrowers paying off defaulted loans through loan consolidation regain immediate eligibility for additional Title IV student assistance and perhaps represent a slightly greater risk of default on an even larger debt load. However, this risk was created when Congress amended the HEA to allow borrowers to repay defaulted loans through a Consolidation loan. The Secretary's decision to allow defaulted borrowers to receive a Consolidation loan by agreeing to repay the loan through an income-sensitive repayment arrangement does not significantly increase that risk, and in fact, is likely to reduce defaults. The Secretary believes that borrowers consolidating their defaulted loans and regaining eligibility for Title IV student assistance in order to obtain additional education or training are worth the risk if this second chance leads to gainful employment that will ultimately translate into greater returns to the FFEL program and the federal taxpayers.

Mindful of the unease with which many in the student aid community view this conforming change in FFEL regulations, the Secretary is committed to monitoring the repayment records of these borrowers through the use of the National Student Loan Data System over the next few years. If the repayment patterns of such borrowers in the FFEL and Direct Loan programs reach an unacceptable level of repeat defaults by these borrowers, the Secretary will reconsider this policy in the FFEL and Direct Loan programs.

With regard to the question about how a loan holder asked to provide a certification to the consolidating lender is to know or verify that the borrower has agreed to an income-sensitive repayment plan option, the Secretary notes that it is the obligation of the consolidating lender to determine if the borrower qualifies for the consolidation loan. The consolidating lender will have to determine whether the borrower has chosen an income-sensitive repayment plan or needs to make the required monthly payments to the holder of the defaulted loan. The Secretary also wishes to remind those commenters who expressed concern about this approach that lenders in the FFEL program always have the option not to make an FFEL Consolidation loan.

Changes: None.

Section 682.207 Due Diligence in Disbursing a Loan

Section 682.207(c)(4)

Comments: All of the commenters agreed with the proposal to codify into the FFEL regulations the existing policy that allows a lender to include more than one disbursement of a multiply-disbursed loan in the same installment scheduled to be sent to the school if the midpoint of the loan period has expired when the first disbursement is scheduled to be made. Several commenters, however, asked that the provision be revised to reflect the exception provided in the law for term-based schools that allows a second or subsequent disbursement to be made prior to the mid-point of the loan period if that is necessary to coincide with the school's next scheduled term. The commenters pointed out that the proposed rule would prevent a term-based school from receiving two disbursements in a single installment if the start of the next scheduled term was before the mid-point of the loan period. Another commenter asked that the phrase "for which the loan was made" be inserted after the phrase "loan period" to clarify what the midpoint is based on.

Discussion: The Secretary agrees with the commenters that these revisions to the proposed provision are warranted.

Changes: Section 682.207(c)(4) has been revised to provide that such a single installment can be made on the earlier of the mid-point of the loan period for which the loan was made or the beginning of the school's next scheduled term.

Section 682.207(d)(4)

Comments: All the commenters endorsed the clarifying changes made to the late disbursement provisions in section 682.207(d)(4) and corresponding changes made in section 682.604. One commenter suggested an additional change to section 682.207(d)(2)(iii) to clarify that a lender is not required to wait for notification from the school but may presume that exceptional circumstances exist when making a disbursement from the 61st day through the 90th day after the date the student ceased enrollment on at least a half-time basis or the expiration date of the period of enrollment for which the loan was intended. Upon receipt of the disbursement, the school would be required to determine and document in the student's file that exceptional circumstances existed and deliver the loan proceeds or return the disbursement to the lender.

Discussion: The Secretary agrees that this further clarification is useful. The Secretary believes these procedures for lender and school handling of a late disbursement during this period will be simple and efficient for both the lender and school.

Changes: Section 682.207(d)(2)(iii) has been revised to reflect the respective lender and school responsibilities and processes for handling late disbursements during the last 30 days of the 90-day period during which late disbursements may be made.

Section 682.209(b) Payment Application and Prepayment

Comments: One commenter recommended an additional change to section 682.209(b)(1) to clarify that a lender has the option to apply any payment to late charges, collection costs, outstanding interest, and outstanding principal in whatever order the lender chooses. The commenter believes that the provision, as currently written, requires application of payments first to late charges and collection costs, then to outstanding interest, and finally to outstanding principal. Most commenters supported the reduction (from three to one) in section 682.209(b)(2)(ii) of the number of full excess payments a lender must receive before the lender, absent instructions from the borrower, is authorized to interpret the borrower's intent on the handling of the prepayment and to apply them to future installment payments on the loan. Some commenters, however, objected to changing what had been a lender option in the handling of prepayments submitted without borrower instructions to a requirement that the lender treat them as intended for future installments. These commenters believe that the lender is in the best position to review the borrower's repayment pattern and to determine the borrower's intentions in making multiple payments. Several commenters also noted that they interpreted the prepayment provision of (b)(2)(ii) to apply to multiple partial payments made by the borrower that the lender accumulates as well as additional full payments. Other commenters recommended clarifying that a lender's determination of whether a prepayment amount equals one or more full scheduled payments should be made only after late charges and collection costs have been paid. These same commenters also requested that an additional sentence be added to (b)(2)(ii) to clarify that the required notice to the borrower that the borrower's due date has been advanced did not apply to borrowers making prepayments while they are in an in-school, grace, deferment, or forbearance period because they do not have a scheduled due date to which a future payment would be applied. Many commenters disagreed strongly with the requirement in (b)(2)(ii) that a lender provide the borrower with a notice informing the borrower that the payments have been applied to future installments and reminding the borrower of the repayment obligation and the next scheduled due date. The commenters believe that this requirement is overly prescriptive and burdensome to lenders and that it is unnecessary to routinely notify the borrower that the due date has been advanced. They also believe that a separate notification of this nature outside the normal billing process is confusing to borrowers, especially if the lender is generating them routinely to a borrower who continues to submit additional full payments without instructions for their handling. Many of these commenters recommended that a lender be provided the alternative of providing this information through the use of the billing statement or coupon book rather than providing a separate notification after the funds have been applied as the regulation proposes. They indicated that borrower coupon books and billing statements are already being used to provide this kind of information.

Discussion: The Secretary disagrees with the one commenter that recommended that the payment application instruction in (b)(1) should be modified to clarify that a lender may apply payments in any order to late charges, collection costs, outstanding accrued interest and principal. The language on payment application was modified, at the request of lenders, in the FFEL regulations published on December 18, 1992 to clarify that a lender had the option to apply payments or prepayments to outstanding late charges, collection costs, and outstanding accrued interest before applying the remainder to principal. The Secretary believes that the provision as currently written provides lenders with the necessary flexibility in applying payments and is consistent with how the Secretary is applying payments in the Direct Loan Program.

The Secretary also disagrees that the treatment of additional full payments submitted without instructions from the borrower for their handling (e.g., multiple payment coupons enclosed with the check, a written note on the billing statement or other written instructions, or oral instructions to the lender documented in the borrower's file) should be at the option of the lender. The Secretary now believes that, absent the borrower's instruction, the most responsible approach to handling additional full payments, and the likely intent of the borrower in the majority of cases, is to apply that amount to future installment payments on the loan and to advance the borrower's next scheduled due date. In many instances, this approach will protect a borrower who has submitted a large prepayment to cover a period when he or she will not be available to make the normally scheduled payments from entering a delinquent status. Mandating this treatment of such prepayments by lenders also provides for a consistent, standardized approach for all borrowers and is consistent with the Secretary's treatment of additional full payments submitted without borrower instructions in the Direct Loan program. The Secretary also wishes to clarify that some commenters' interpretation that the provisions in (b)(2)(ii) apply to accumulated partial payments received over time from the borrower without instructions is incorrect. The Secretary believes that a lender should only interpret that the borrower's intent, absent instructions, is to apply the excess payments to future installments if the prepayment amount submitted is at least one additional full payment. The Secretary does not believe that this is generally the borrower's intent when a borrower submits small additional amounts in excess of the scheduled payment amount. The Secretary expects these partial payment amounts, unless a lender receives specific instructions from the borrower directing the lender to accumulate them and eventually apply them to a future installment, to be applied to outstanding principal (unless the borrower has outstanding late or collection charges or outstanding accrued interest to which the lender wishes to apply the partial payment before applying the remainder to principal, as provided for under (b)(1) of this section) with no advancement of the borrower's next scheduled due date. The Secretary agrees that the determination of whether the excess payment amount is sufficient to require the handling specified in (b)(2)(ii) should be made after any late or collection charges and outstanding interest are taken care of but does not believe that this needs to be clarified in the regulations. The Secretary has made it clear that the payment application provisions in (b)(1) apply to all payments, including prepayments, so the Secretary believes any further clarification in the regulations is unnecessary. The Secretary agrees with the many commenters who recommended that the Secretary allow the use of payment coupons and billing statements as alternatives to the borrower notification required in (b)(2)(ii), provided the borrower is effectively notified of the lender's handling of the excess payment amounts and the advancement of the borrower's next scheduled due date. The Secretary also agrees that notification of the advancement of the payment due date is inappropriate for borrowers who make prepayments without instructions during in-school, grace, deferment, and forbearance periods when no payments are due.

Changes: The regulations have been revised in section 682.209(b)(2)(ii) to allow a lender to use a billing statement or a payment coupon book to provide information to the borrower on how the lender will treat additional full payment amounts if the borrower submits one or more additional payments without instructions to the lender as to their handling. The Secretary believes that a

prominent standard statement on each billing statement or in the payment coupon book informing the borrower that the lender will apply the payments to future installments and will advance the borrower's next scheduled payment due date consistent with the number of additional full payments received is comparable to the separate notification the lender may send after receipt of such additional payments. A sentence has also been added to this provision to clarify that information related to advancing the borrower's scheduled payment due date need not be provided if the borrower makes the prepayment during an in-school, grace, deferment, or forbearance period.

Section 682.210 Deferment

Comments: Many commenters objected to the proposed clarifying language that would restrict a defaulted borrower's eligibility for deferment, as a result of arrangements made with the holder of the loan, to the period up to the lender's filing of a default claim with the guaranty agency. Many of these commenters felt strongly that a lender should have the maximum flexibility in working with a borrower, at least up until the default claim is paid by the guaranty agency, to avert the claim payment, the point at which the borrower is subject to adverse consequences of the default and the default becomes a cost to the federal government. These commenters felt this more restrictive language would severely hamper supplemental preclaims assistance efforts of guaranty agencies that take place during this period. A couple of these commenters recommended that the clarifying language be revised to allow a lender to retrieve a loan from a guaranty agency even after default claim payment if satisfactory arrangements can be made with the borrower. One commenter recommended that the provision be revised to provide that a borrower is not eligible for deferment after default unless the borrower's eligibility for the deferment began prior to the default or, if that is not the case, unless the borrower makes satisfactory repayment arrangements with the lender prior to guaranty agency payment of the default claim. Another commenter recommended that language be included in this provision that clarifies that a lender's granting of a deferment after the filing of the default claim is at the lender's discretion. Several commenters recommended eliminating the word "repayment" from the phrase "satisfactory repayment arrangements" in order to clarify that the payment arrangements made with the holder for the purposes of this provision need only be acceptable to the holder, as opposed to meeting the statutory requirement for a borrower who is in default to regain eligibility for additional Title IV student assistance. Another commenter recommended that the Secretary retain the current regulatory language because the commenter interprets the provision as allowing a borrower in default to be entitled to a deferment if satisfactory repayment arrangements are made with the holder, regardless of whether the holder is a lender, a guaranty agency, or the Secretary.

Discussion: The Secretary believes that clarification of this provision is necessary because, as currently written, it suggests that a borrower who has defaulted on the repayment of a loan and whose loan is held by a guaranty agency or the Secretary can become eligible for deferment of repayment on that loan by making satisfactory repayment arrangements as that term is defined for regaining eligibility for Title IV student assistance. This has never been the Secretary's interpretation of the law with regard to deferment eligibility. The HEA excludes defaulted borrowers from certain program benefits, a major one of these being deferments. However, through this regulatory provision, lenders have always had the ability, at their option, to make payment arrangements with a borrower even after 180 days of delinquency in order to avert a default claim. After a guaranty agency has paid a claim, however, a borrower can regain eligibility for deferment on that loan only through loan rehabilitation or lender repurchase of that loan. A borrower who makes satisfactory repayment arrangements with a guaranty agency to regain eligibility for Title IV student assistance, as provided for under section 428F(b) of the HEA, does not regain deferment eligibility on that defaulted loan that remains with the agency. Borrowers are expected to continue to make payments on that loan after the six required payments necessary to regain eligibility, but guaranty agencies are strongly encouraged to provide forbearance to such borrowers on the loan during the borrower's in-school period. Only if the loan is successfully rehabilitated or a lender repurchase is arranged does the borrower regain deferment eligibility. After consideration of the comments, the Secretary has decided that lenders and guaranty agencies should be allowed to work with defaulted borrowers to avert default claim payment through the granting of deferments and other administrative methods provided in the FFEL program until the guaranty agency pays the claim. This provides borrowers with ample opportunity to avert the consequences of default. The Secretary does not believe this provision should apply after default claim payment unless the lender determines the default claim was filed in error and recalls the loan from the agency. At the point a default claim is paid, Federal taxpayer funds have been used to repay the borrower's debt and the guaranty agency has lost the use of that money for other program purposes. The Secretary agrees that the phrase "satisfactory repayment arrangements" needs to be modified to avoid any misinterpretation of what is required for purposes of this provision. The term satisfactory repayment arrangements, as currently defined, is intended to apply only to the requirements a defaulted borrower must meet to regain Title IV eligibility. For purposes of this provision, the arrangements must only be acceptable to the lender and are left to the lender and borrower to work out. The Secretary also agrees that a lender's acceptance of payments or granting of deferments or forbearance as part of satisfactory arrangements to avert a default claim payment at the post-180 or post-240 day stage of delinquency are strongly encouraged, but optional on the part of the lender.

Changes: A change has been made. This provision of the regulations has been revised to provide for deferment eligibility of a defaulted borrower up to the payment of a default claim on the loan if the lender agrees to make payment arrangements with the borrower. The phrase "satisfactory repayment arrangements" has been revised to read "payment arrangements acceptable to the lender."

Section 682.211 Forbearance

Comments: All commenters agreed with the Secretary's proposal to allow lenders to apply an administrative forbearance in situations when a borrower ends a period of deferment in a delinquent status. Many commenters also recommended that the provision be expanded to include those borrowers ending a period of mandatory forbearance in a delinquent status. Another commenter recommended the addition of the phrase "until the next due date is established in accordance with section 682.209(a)(3)(ii)(B)" at the end of the provision.

Discussion: The Secretary agrees with the commenters.

Changes: A change has been made to include borrowers who have ended a period of mandatory forbearance in a delinquent status and the recommended

phrase related to next payment due date has been added.

Section 682.401(b)(10)(vi)(B) Basic Program Agreement

Comments: Several commenters requested clarification as to whether the amount of the insurance premium to be returned was to be proportional in instances where a school refunds a portion of a loan that is less than a full disbursement to a lender, and the lender must refund the insurance premium to the borrower. Many commenters requested that the phrase "a portion of the loan" be replaced with the phrase "full disbursement of the loan" to reflect the fact that the Secretary was maintaining his existing policy that such a refund is necessary only if at least a full disbursement of the loan is returned. Another commenter requested that the regulations be revised to be consistent with the Direct Loan program by requiring that the refund of the insurance premium be applied to the borrower's loan balance rather than be refunded to the borrower. Other commenters suggested that the phrase "within 120 days of disbursement" be inserted to clarify the timeframe during which the refund of the insurance premium must be done.

Discussion: The Secretary clarifies that the lender should pro-rate the insurance premium fee. The Secretary also agrees that the refunds of the insurance premium should be refunded through application to the borrower's account, not a cash refund to the borrower. The Secretary does not agree that reference to "within 120 days of disbursement" should be inserted in section 682.401(b)(10)(vi)(B)(1) because the Secretary believes that the timing of the school's refund to the lender on behalf of the student should not prevent the borrower from receiving the benefit of the refund of the insurance premium.

Changes: The regulations have been revised to reflect that a proportional amount of the insurance premium should be refunded if the refund is less than the amount of a loan disbursement and that a refund for this purpose is an application against the borrower's loan account by the lender.

Section 682.402 (l)(1) Death, Disability, Closed School, False Certification and Bankruptcy Discharge

Comments: Many commenters agreed with the concept of the proposed regulations but requested that the regulations be revised to clarify that all payments should be returned to the sender, as is the case in the Direct Loan program, and that any notification of no further obligation to repay a loan discharged in bankruptcy or loan cancelled due to the borrower's total and permanent disability should be sent to the borrower. Many comments also recommended that the regulations be revised to provide that the lender return payments received only after the guaranty agency has paid the claim. The commenters were concerned that until the agency has reviewed and made a determination on the lender's claim, it is risky to refund payments.

Discussion: The Secretary agrees with the commenters that lenders and guaranty agencies should return payments on all discharged loans to the sender consistent with the handling of discharges in the Direct Loan program. However, the notification that there is no further obligation to repay the loan should always be directed to the borrower. The Secretary also agrees that payments received on discharged loans should not be returned until the discharge claim is paid by the guaranty agency.

Changes: The regulations have been revised to reflect the commenters' recommendations.

Section 682.412(c) Consequences of the Failure of a Borrower or Student To Establish Eligibility

Comments: Most commenters supported the Secretary's clarification to allow a borrower 30 days from the date a final demand letter is *mailed* by the lender to repay a loan amount that the borrower was ineligible to receive. One commenter disagreed with the proposal, stating that in a large agency it may be impossible to verify the date the letter is mailed unless the borrower retains the envelope with the post office cancellation stamp on it.

Discussion: The Secretary notes that lenders and guaranty agencies are currently required to maintain records establishing the dates certain collection notices are mailed (as required by 34 CFR 682.410(b)(1)(vi) and 682.411). Therefore, the Secretary believes that lenders will be able to determine when a letter is mailed for this purpose. The Secretary is concerned by the commenter's claim that large agencies are not tracking these dates and will evaluate whether reviews of lender operations in this area are necessary.

Changes: None.

Section 682.603 Certification by a Participating School in Connection With a Loan Application

Comments: All commenters agreed with the Secretary's proposal that in loan proration situations where a student is enrolled in a program of study with less than a full academic year remaining, the school will not be required to recalculate the amount of the loan if the number of hours for which an eligible student is enrolled changes after the school certifies the loan. One commenter suggested the insertion of the phrase "or the student in the case of a PLUS loan" in section 682.603(g) of the regulations because the commenter was concerned that in the case of the PLUS loan, the school would likely assess the dependent student any fee since they would be unable to assess the parent borrower.

Discussion: The Secretary agrees with the minor technical correction to section 682.603(g).

Change: The phrase recommended by the commenter has been inserted in section 682.603(g).

Section 682.605 Determining the Date of a Student's Withdrawal

Comments: All the commenters agreed with the Secretary's proposal to reinsert into the regulations the guidance on determining the date of a student's withdrawal in the case of a summer period of nonenrollment ("summer break") that had been inadvertently deleted from the regulations. One commenter suggested the provision be revised to reference the fact that the summer break could include summer terms during which the school offers classes, but most students are generally not required to attend. One commenter recommended that the "summer break" approach be extended to other periods of nonenrollment during the regular academic year. Several commenters also pointed out that an earlier revision of the regulations in section 682.607(c), governing the school's timeframe for making a refund to a lender for a student who has withdrawn, could create, in the case of unofficial withdrawals, unintended potential liability for schools. The commenters recommended that the 60 days for a timely refund be based on the date the school determines that a student has unofficially withdrawn as it was formerly, not the date of withdrawal, which may have taken place weeks, if not months, before the school determines the student has dropped out. The commenters also suggested that section 682.607(c)(1) also be revised to clarify what constitutes timely payment to the lender under the "summer break" language of section 682.605.

Discussion: The Secretary does not agree that the approach to determining student withdrawal following a period of summer nonenrollment should be more broadly applied to other periods of nonenrollment during the academic

year. Since this information is used to convert a borrower to repayment in a timely manner, the Secretary believes it is not generally appropriate, except in connection with a summer period, to delay the school's determination of student withdrawal. The Secretary agrees that the summer period of nonenrollment can include summer terms during which the school offers classes, but most students are generally not expected to attend. The Secretary also agrees that the technical changes to section 682.607(c)(1) are needed for successful coordination between section 668.22(j) of the General Provisions regulations and sections 682.605 and .607 of the FFEL program regulations.

Change: None.

Assessment of Educational Impact

In the NPRM, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 682

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

(Catalog of Federal Domestic Assistance Number 84.032, Federal Family Education Loan Program)

Dated: November 24, 1995.

Richard W. Riley,

Secretary of Education.

The Secretary amends Part 682 of Title 34 of the Code of Federal Regulations as follows:

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

1. The authority citation for Part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

§ 682.200 [Amended]

2. Section 682.200, paragraph (b) is amended by revising the definition of "Satisfactory repayment arrangement" by adding at the end of the paragraph (1), "A borrower may only obtain the benefit of this paragraph with respect to renewed eligibility once." and by removing in paragraph (2) the reference to "34 CFR 682.201(c)(iii)(C)" and adding, in its place, "34 CFR 682.201(c)(1)(iii)(C)."

3. Section 682.201 is amended by revising paragraph (c)(1)(iii)(C) to read as follows:

§ 682.201 Eligible borrowers.

* * * * *

(c) * * *

(1) * * *

(iii) * * *

(C) In a default status and has either made satisfactory repayment arrangements as defined in section 682.200(b)(2) or has agreed to repay the consolidation loan under the income-sensitive repayment plan described in § 682.209(a)(6)(viii).

* * * * *

4. Section 682.207 is amended by revising paragraph (c) introductory text; adding a new paragraph (c)(4) and revising paragraphs (d)(1) and (d)(2)(iii) to read as follows:

§ 682.207 Due diligence in disbursing a loan.

* * * * *

(c) A lender shall disburse any Stafford or PLUS loan as follows:

* * * * *

(4) If the first disbursement of a loan is scheduled to be made on the date of the second scheduled disbursement, the loan may be disbursed in a single installment. This date may be on the earlier of—

(i) The midpoint of the loan period for which the loan was made; or

(ii) A date which coincides with the beginning of the next scheduled term as provided for in the exception clause of paragraph (c)(3) of this section.

(d)(1) A lender may disburse loan proceeds after the student has ceased to be enrolled on at least a half-time basis or after the expiration date of the period of enrollment for which the loan was intended, in accordance with paragraphs (d) (2) and (3) of this section.

(2) * * *

(iii) In exceptional circumstances within 30 days after the period described in paragraph (d)(2)(ii) of this section. Between the 61st and up through the 90th day, a lender may presume that exceptional circumstances exist and make the disbursement. The school shall review the borrower's circumstances and either determine that exceptional circumstances exist or return the loan proceeds to the lender. The school shall document the exceptional circumstances in the student's file.

* * * * *

5. Section 682.209 is amended by revising paragraph (b) to read as follows:

§ 682.209 Repayment of a loan.

* * * * *

(b) *Payment application and prepayment.* (1) The lender may credit the entire payment amount first to any late charges accrued or collection costs and then to any outstanding interest and then to outstanding principal.

(2)(i) The borrower may prepay the whole or any part of a loan at any time without penalty.

(ii) If the prepayment amount equals or exceeds the monthly payment amount under the repayment schedule established for the loan, the lender shall apply the prepayment to future installments by advancing the next payment due date, unless the borrower requests otherwise. The lender must either inform the borrower in advance using a prominent statement in the borrower coupon book or billing statement that any additional full payment amounts submitted without instructions to the lender as to their handling will be applied to future scheduled payments with the borrower's next scheduled payment due date advanced consistent with the number of additional payments received, or provide a notification to the borrower after the payments are received informing the borrower that the payments have been so applied and the date of the borrower's next scheduled payment due date. Information related to next scheduled payment due date need not be provided to borrower's making such prepayments while in an in-school, grace, deferment, or forbearance period when payments are not due.

* * * * *

6. Section 682.210 is amended by revising paragraph (a)(8) to read as follows:

§ 682.210 Deferment.

(a) * * *

(8) A borrower whose loan is in default is not eligible for a deferment, unless the borrower has made payment arrangements acceptable to the lender prior to the payment of a default claim by a guaranty agency.

* * * * *

7. Section 682.211 is amended by adding a new paragraph (f)(9) to read as follows:

§ 682.211 Forbearance.

* * * * *

(f) * * *

(9) For a period of delinquency that may remain after a borrower ends a period of deferment or mandatory forbearance until the next due date is established in accordance with § 682.209(a)(3)(ii)(B).

* * * * *

8. Section 682.401(b)(10)(vi)(B), is revised to read as follows:

§ 682.401 Basic program agreement.

* * * * *

(b) * * *

(10) * * *

(vi) * * *

(B) The premium or an appropriate prorated amount of the premium must be refunded by application to the borrower's account if—

(*1*) The loan or a portion of a loan is returned by the school to the lender;

(*2*) Within 120 days of disbursement, the loan is repaid in full;

(*3*) Within 120 days of disbursement, the loan check has not been negotiated; or

(*4*) Within 120 days of disbursement, the loan proceeds disbursed by electronic funds transfer or master check in accordance with § 682.207(b)(1)(ii) (B) and (C) have not been released from the restricted account maintained by the school.

* * * * *

9. Section 682.402 is amended by revising paragraph (c)(3) and by revising paragraphs (l)(1) and (l)(2) as set forth below; by amending paragraph (l)(3) by replacing the reference to "(l)(2)" with "(l)(1)."

§ 682.402 Death, disability, closed school, false certification, and bankruptcy payments.

* * * * *

(c) * * *

(3) After being notified that the guaranty agency has paid a disability discharge claim, the lender shall return to the sender any payments received by the lender after the date that the borrower became totally and permanently disabled as certified by the physician. At the same time that the lender returns the payment, it shall notify the borrower that there is no obligation to repay a loan discharged on the basis of disability.

* * * * *

(l) * * *

(1) If the guaranty agency receives any payments from or on behalf of the borrower on or attributable to a loan that has been discharged in bankruptcy on which the Secretary previously paid a bankruptcy claim, the guaranty agency shall return 100 percent of these payments to the sender. The guaranty agency shall promptly return, to the sender, any payment on a cancelled or discharged loan made by the sender and received after the Secretary pays a closed school or false certification claim. At the same time that the agency returns the payment, it shall notify the borrower that there is no obligation to repay a loan discharged on the basis of death, disability, bankruptcy, false certification, or closing of the school.

(2) The guaranty agency shall remit to the Secretary all payments received from a tuition recovery fund, performance bond, or other third party with respect to a loan on which the Secretary previously paid a closed school or false certification claim.

* * * * *

10. Section 682.412 is amended by revising paragraph (c) to read as follows:

§ 682.412 Consequences of the failure of a borrower or student to establish eligibility.

* * * * *

(c) In the final demand letter transmitted under paragraph (a) of this section, the lender shall demand that within 30 days from the date the letter is mailed the borrower repay in full any principal amount for which the borrower is ineligible and any accrued interest, including interest and all special allowance paid by the Secretary.

* * * * *

11. Section 682.603 is amended by adding a new paragraph (f)(4) and by revising paragraph (g) to read as follows:

§ 682.603 Certification by a participating school in connection with a loan application.

* * * * *

(f) * * *

(4) In prorating a loan amount for a student enrolled in a program of study with less than a full academic year remaining, the school need not recalculate the amount of the loan if the number of hours for which an eligible student is enrolled changes after the school certifies the loan.

(g) A school may not assess the borrower, or the student in the case of a PLUS loan, a fee for the completion or certification of any FFEL Program form or information or for providing any information necessary for a student or parent to receive a loan under part B of the Act or any benefits associated with such a loan.

12. Section 682.604 is amended by removing paragraph (e)(3), redesignating paragraph (e)(4) as paragraph (e)(3), in redesignated paragraph (e)(3), in the introductory text, remove "the lender or guaranty agency has not informed the school that it prohibits a late disbursement as permitted by § 682.207(d)(2)(i), and if".

13. Section 682.605 is revised to read as follows:

§ 682.605 Determining the date of a student's withdrawal.

(a) Except in the case of a student who does not return for the next scheduled term following a summer break, which includes any summer term(s) in which classes are offered but students are not generally required to attend, a school shall follow the procedures in 34 CFR 668.22(j) for determining the student's date of withdrawal. In the case of a student who does not return from a summer break, the school must follow the procedures in 34 CFR 668.22(j) except that the school shall determine the student's withdrawal date no later than 30 days after the first day of the next scheduled term.

(b) The school shall use the withdrawal date determined under 34 CFR 668.22(j) for the purpose of reporting to the lender the date that the student has withdrawn from the school.

(c) For the purpose of a school's reporting to a lender, a student's withdrawal date is the month, day and year of the withdrawal date.

* * * * *

14. Section 682.607(c) is revised to read as follows:

§ 682.607 Payment of a refund to a lender.

* * * * *

(c) *Timely payment.* A school shall pay a refund that is due—

(1) Within 60 days of the date that the student officially withdraws, is expelled, or the institution determines that a student has unofficially withdrawn, as determined in accordance with 34 CFR 668.22(j) and § 682.605.

(2) In the case of a student who does not return to school at the expiration of an approved leave of absence under 34 CFR 668.22(j), within 30 days of the earlier of the date of expiration of the leave of absence or the date the student notifies the institution that the student will not be returning to the institution after the expiration of an approved leave of absence.

* * * * *

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Federal Register

Friday
December 1, 1995

Part IV

Department of Education

34 CFR Part 668
Student Assistance General Provisions;
Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840–AC17

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final Regulations.

SUMMARY: The Secretary amends the Student Assistance General Provisions (General Provisions) regulations. The General Provisions regulations govern elements common to all of the Federal Student Financial Aid Programs authorized by Title IV of the Higher Education Act of 1965, as amended (HEA) (hereafter Title IV Programs). These amendments modify the Secretary's Federal Family Education Loan (FFEL) Program default reduction initiative and implement default prevention measures in the William D. Ford Federal Direct Loan (Direct Loan) Program. These regulations also streamline the limitation, suspension, and termination (L, S, and T) actions against an institution and prevent an institution from evading the consequences of a high FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate.

EFFECTIVE DATE: These regulations take effect July 1, 1996. However, affected parties do not have to comply with the information collection requirements in § 668.17 until the Department of Education publishes in the **Federal Register** the control number assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control number notifies the public that OMB has approved these collection requirements under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas Laine, Program Specialist, Direct Loan Policy Group, Policy Development Division, U.S. Department of Education, 600 Independence Avenue, SW, room 3045, Regional Office Building 3, Washington, DC 20202–5400, telephone: (202) 708–9406. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On September 21, 1995, the Secretary published a Notice of Proposed Rulemaking (NPRM) for part 668 in the **Federal Register** (60 FR 49178). The NPRM included a discussion of the major issues surrounding the proposed changes which will not be repeated here. The following list summarizes those issues and identifies the pages of the preamble to the NPRM on which a discussion of those changes can be found:

The Secretary proposed to define a measurement similar to the FFEL Program cohort default rate under the Direct Loan Program, a "cohort rate" for Direct Loans, and to establish institutional eligibility requirements, based on the repayment of Direct Loans by the institution's former students, that are similar to those in the FFEL Program (pages 49179–49181).

Further, the Secretary proposed that a Direct Loan institution with an excessive Direct Loan Program cohort rate or weighted average cohort rate be permitted to avoid a loss of participation by showing the existence of exceptional mitigating circumstances (pages 49182–49184).

The Secretary proposed to modify the cohort default rate appeal process and the exceptional mitigating circumstances under which an institution may appeal its statutory loss of eligibility to participate in the FFEL Program on the basis of its cohort default rate (page 49184).

Finally, the Secretary proposed to streamline the current L, S, and T procedures and to limit the grounds on which a hearing officer may decide when an L, S, and T action is unwarranted (pages 49182–49185).

The Secretary has combined in a separate new paragraph the provisions that were contained in § 668.17(d)(1)(iii) and (iv), (e) (5) through (11), and (f) (5) through (10). These paragraphs established an institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, and weighted average cohort rate, respectively, when an institution changes status during a fiscal year. A change of status occurs, for example, when an institution merges with another institution or a branch of an institution joins a free-standing institution. These provisions have been consolidated into a new paragraph (g).

Substantive Changes to the NPRM

The following discussion reflects substantive changes made to the NPRM in the final regulations. The provisions are discussed in the order in which they appear in the proposed rules.

Section 668.17 Default Reduction and Prevention Measures

Participation Rate Index Formula

A change has been made to the formula used to determine the percentage of an institution's students who borrow under the FFEL or Direct Loan programs for calculating the participation rate index under § 668.17(c)(1)(ii)(A). The proposed rules provided that an institution would base the percentage of its students that borrow under the FFEL or Direct Loan programs on the number of students enrolled at least half-time at the institution.

The final rules have been changed to provide that an institution must base the percentage of its students that borrow under the FFEL or Direct Loan programs on the number of its "regular students" enrolled at least half-time. A "regular student" is a student who is enrolled or accepted for enrollment at an institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution. This definition is contained in 34 CFR 600.2.

Economically Disadvantaged Rate Formula

A change has been made to the formula used to determine the percentage of an institution's students who come from economically disadvantaged backgrounds under § 668.17(c)(1)(ii)(B). The proposed rules provided that the percentage of an institution's students coming from economically disadvantaged backgrounds would be based on all of the institution's students.

The final rules have been changed to provide that the percentage of an institution's students that come from disadvantaged economic backgrounds must be based on the institution's regular students.

Placement Rate Formula

A number of changes have been made to the formula used to calculate an institution's placement rate under § 668.17(c)(1)(ii)(B)(*2*). The formula contained in the proposed rules considered a former student who was initially enrolled full-time as successfully placed if, on the date the institution submits the appeal, the former student:

(1) is employed, or had been employed for at least 13 weeks, following his or her last day of attendance at the institution; or

(2) is enrolled or was enrolled for at least 13 weeks in a higher level program at another institution for which the institution's program provided substantial preparation.

The placement rate calculation has been revised to provide that: (a) only former regular students who were initially enrolled at least half-time be considered in the placement rate; and (b) a student will be considered as successfully placed by the institution if the former student:

(1) has been employed in an occupation for which the institution's program provided training for at least 13 weeks within the 12-month period after the date of the student's last day of attendance; or

(2) is employed in an occupation for which the institution's program provided training on the day after 12 months following the date of the student's last day of attendance.

The final regulations provide that a student who is still enrolled in the institution on the day after 12 months after the date of the student's last day of attendance and is making satisfactory academic progress in the program in which he or she was initially scheduled to complete is excluded from the cohort of students used to determine the institution's placement rate. The proposed rules would have included such students in the placement rate.

Further, under the final regulations, a student or former student may not be considered successfully placed if the institution is the student's or former student's employer.

Finally, the final regulations provide that, in calculating the placement rate formula under § 668.17(c)(2), a student who is initially enrolled at least half-time, but less than full-time, will be considered to be scheduled to complete his or her program during the amount of time normally it would take that student to complete the program based on his or her initial enrollment.

Completion Rate Formula

A change has been made to the formula used to calculate an institution's completion rate under § 668.17(c)(1)(ii)(B)(*1*). The formula contained in the proposed rules would have based the institution's completion rate on all initially enrolled full-time students. The final rules have been amended to base the institution's completion rate on all initially enrolled full-time regular students.

Submission of Appeal Information

A change has been made to § 668.17(c)(1)(ii) to provide that an appeal on the basis of exceptional mitigating circumstances must be submitted to the Secretary in a format prescribed by the Secretary and must include data elements requested by the Secretary. The proposed rules identified specific detailed information an institution would have to provide in an appeal. The Secretary has removed this detailed information from the final regulations. Instead, the final regulations provide that any information an institution submits regarding an appeal must:

- be submitted in a format prescribed by the Secretary, and
- include information the Secretary has determined is necessary to evaluate the appeal.

The Secretary expects that institutions will be provided with the format in which the appeal must be submitted and the data elements that must be included when the institution is notified of its cohort default rate data in accordance with § 668.17(i).

The information that the Secretary may require in an appeal may include, but is not necessarily limited to, information relating to student enrollment, loan periods, expected family contributions (EFC), adjusted gross incomes, withdrawal dates, graduation dates, transfers, job placement, employer information, job titles, and dates employed. This information is the same information currently required of institutions submitting appeals. Institutions will likely be familiar with these data items since the Official Default Rate Guide (formerly Enclosure B), which is provided to institutions along with their cohort default rates, lists these data elements. The Secretary does not expect these items to change substantially.

Section 668.17(c)(6) of the final regulations has been revised to require the chief executive officer of an institution to certify, under penalty of perjury, that the appeal information is true and correct.

Completion and Placement Rate Appeals

In § 668.17(c)(1)(ii)(B), a change has been made to an institution's right to appeal using the exceptional mitigating circumstances appeal based on both the percentage of an institution's students that come from disadvantaged economic backgrounds and the institution's completion rate or placement rate. The proposed rules limited the exceptional mitigating circumstance appeal that included the completion rate to public and private nonprofit institutions, and limited the exceptional mitigating circumstances appeal that included the placement rate to proprietary institutions.

The final regulations have been revised to require degree-granting proprietary institutions as well as public or private nonprofit degree-granting institutions, to appeal using the completion rate component, whereas nondegree-granting institutions, public, private nonprofit, or proprietary, may only appeal based on the placement rate component.

Guaranty Agency Verification of Data

The final regulations have been changed in § 668.17(c)(8) to provide that an institution will not lose its eligibility to participate in the FFEL or Direct Loan programs during the appeal process if a guaranty agency does not respond in a timely manner to the institution's timely request to verify data included in the institution's FFEL Program cohort default rate that the institution believes is inaccurate. The proposed rules had provided that an institution would lose its eligibility to continue to participate in the appeal process if it did not submit all of its appeal information to the Secretary within 30 days following notification of the loss of eligibility.

Section 668.17(c)(1) now requires an institution that appeals on the basis of inaccurate data to inform the Secretary that it is appealing on this basis at the same time it submits its request to verify its FFEL Program cohort default rate data to the guaranty agency. Further, an institution must provide its verified data to the Secretary within five working days after it receives that data from the guaranty agency.

Independent Audit of Appeals

The final regulations have been changed in § 668.17(c)(7) to provide that an institution choosing to appeal its loss of eligibility on the basis of exceptional mitigating circumstances must provide a statement from an independent auditor that verifies the information included in the appeal within 60 days following the institution's notification of the loss of eligibility. The proposed rules provided that this information be submitted by the 30th day following notification of the loss of eligibility. The final rules continue to require that the rest of the appeal be submitted by that 30th day.

Further, the regulations have been amended to provide more specific guidance concerning the methodology that must be used by an independent auditor to determine if the information contained in the appeal is correct.

Data Period

The final regulations have been changed in § 668.17(c)(1)(ii)(B) to clarify that the 12-month period used to determine the percentage of the institution's student body that comes from disadvantaged economic backgrounds must be the same 12-month period the institution uses to determine its placement rate or completion rate. The proposed rules were read to allow the institution the option to choose a different 12-month

period for the placement rate or completion rate than the one used for the percentage of the institution's student body that comes from disadvantaged economic backgrounds.

Direct Loan Program Cohort Rate and Weighted Average Cohort Rate

The final regulations have been changed in §§ 668.17(e)(1)(ii) and 668.17(f)(1)(ii) to provide that a Direct Loan borrower who is in the income-contingent repayment (ICR) plan on his or her loan and, for 270 days, had scheduled monthly payments that are less than $15 and less than the interest that is accruing on the loan each month will be included in an institution's Direct Loan Program cohort rate or weighted average cohort rate. Under the proposed rules, such a borrower would be included in the Direct Loan Program cohort rate or weighted average cohort rate only if such conditions existed at the end of the fiscal year following the fiscal year the borrower entered repayment on the loan.

L, S, and T

The final regulations have been revised in § 668.17(a)(5) so that the Secretary will cease any L, S, and T action taken against an institution solely on the basis of its FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate if the institution successfully appeals under the exceptional mitigating circumstances. The proposed rules provided that the Secretary would withdraw an L, S, and T action against an institution's participation only in the FFEL Program if the institution successfully appeals under exceptional mitigating circumstances.

The final regulations have been revised in § 668.17(c)(1)(ii)(A) to provide that an institution with an FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate that exceeds 40 percent will not be eligible to appeal a loss of eligibility to participate in the FFEL or Direct Loan programs under the participation rate index.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 150 parties submitted comments on the proposed regulations. An analysis of the comments and the changes follows. Major issues are grouped according to subject, with references to the appropriate sections of the regulation. Technical and other minor changes, and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority, generally are not addressed.

General

Comments: Many commenters argued that the HEA requires that these regulations be subject to a negotiated rulemaking process.

Discussion: The Secretary does not agree with the commenters. Section 457 of the HEA requires the Secretary, to the extent practicable, to promulgate regulations that implement the provisions of Part D of the HEA (which authorizes the Direct Loan Program) through a negotiated rulemaking process. Although these rules will affect Direct Loan institutions, these regulations do not directly implement any provisions contained in Part D of the HEA. The HEA does not require the Secretary to institute a negotiated rulemaking process for every regulation that has an affect on the Direct Loan Program. Moreover, the HEA does not require negotiated rulemaking for amendments to existing regulations. In any case, it was not practicable to conduct negotiated rulemaking for these amendments.

Changes: None.

Comments: Many commenters believed that the comment period for this proposed rule was too short, especially due to the fact that the Secretary published six proposed rules during the same week. The commenters indicated that it would be more appropriate for the Secretary to provide a longer comment period to allow them to provide more complete responses to the proposed rules.

Discussion: In the six sets of proposed rules mentioned above, the Secretary proposed numerous improvements and necessary changes to the Student Financial Assistance Programs. The "Master Calendar" provisions contained in section 482 of the HEA require that regulations be published in final form by December 1 prior to the start of the award year for which they will become effective. Because of the importance of implementing these changes and improvements for the award year beginning July 1, 1996, the Secretary established a comment period that allows publication of these final regulations by December 1, 1995, as required by the "Master Calendar" timeframe. The Secretary always endeavors to provide as long a comment period as possible.

Changes: None.

Comment: A number of commenters representing proprietary institutions questioned the Secretary's decision to distinguish between non-degree-granting proprietary and public or private nonprofit institutions for purposes of calculating Direct Loan Program cohort rates and weighted average cohort rates. These commenters argued that there was no basis for this distinction because proprietary institutions offer the same programs as public institutions (such as community colleges), which offer job training in a broader educational context. These commenters criticized the proposal to include in the cohort default rate calculation for proprietary non-degree granting institutions, Direct Loans repaid through an ICR plan under which the borrower makes payments less than $15 a month and that payment results in negative amortization. Other commenters representing other types of educational institutions supported the distinctions included in the draft regulations.

Discussion: The Secretary believes it is appropriate to distinguish between different types of institutions in calculating cohort default rates. First, numerous reports by congressional committees (including the Senate's Permanent Subcommittee on Investigations) and the General Accounting Office, as well as the Department's own reviews of individual institutions, have concluded that many proprietary institutions (particularly non-degree-granting institutions) use promises of job training and placement to entice students to enroll and then the institutions fail to provide worthwhile services. Second, those commenters who urged the Secretary not to distinguish between different types of institutions are asking the Secretary to ignore the overwhelming evidence that student loan default rates (and the associated costs to students and taxpayers) are much higher in the proprietary sector than in any other sector of higher education. For example, among the institutions for whom cohort default rates were calculated for Fiscal Year 1992 (which are the most recent final rates available), 444 institutions were subject to loss of FFEL eligibility for the first time based on default rates over 25 percent for the three most recent fiscal years. Of those institutions, 396 (89 percent) were proprietary institutions. Similarly, of the 205 institutions whose loss of eligibility was extended based on excessive default rates, 186 (91 percent) were proprietary; and of the 376 institutions subject to limitation, suspension or termination from participation in all Title IV programs based on excessive default rates, 324 (86 percent) were proprietary. Propreitary institutions represented 44 percent of all institutions for whom cohort default rates were calculated based on students and former students entering repayment on FFEL Program loans in fiscal year 1992.

Further, the Fiscal Year 1992 data show that proprietary institutions had default rates of 30.2 percent, twice the national average for all institutions, and that public two-year institutions had rates of 14.5 percent. These data do not support the commenters' arguments that public institutions that offer vocational programs similar to those offered by many proprietary institutions should be treated the same as proprietaries for purposes of calculating Direct Loan Program cohort rates or weighted average cohort rates.

In analyzing this information, the Secretary has concluded that non-degree-granting proprietary institutions present a particular risk to students and taxpayers. The Secretary believes that these institutions would have a particular incentive to encourage their student borrowers to request an ICR plan in an attempt to mask their failure to provide worthwhile training, which results in employment that only allows a borrower to make minimal loan payments while falling further behind on the loan through negative amortization.

Changes: None.

Comments: Many commenters responded to the Secretary's invitation to comment regarding whether the Secretary should implement measures to prevent an institution from evading the proposed rule under which a Direct Loan Program cohort rate and weighted average cohort rate are calculated for non-degree-granting proprietary institutions using an ICR component if such an institution switched to a nonprofit status. The commenters felt that the current Internal Revenue Service requirements to establish nonprofit status are sufficiently rigorous, costly, and lengthy so as to prevent an institution from switching from profit to nonprofit status to avoid the consequences of a high default rate. Commenters argued that this type of decision would more likely be made for business reasons rather than for the purpose of evading regulatory requirements.

Discussion: The Secretary has carefully evaluated the comments received on this issue and believes that further consideration is warranted prior to implementing any regulatory or procedural changes that would prevent an institution from switching from profit to nonprofit status to avoid the consequences of a high default rate.

Changes: None.

Comments: Many commenters responded to the Secretary's request for public comment regarding adding a measure to the default rate definition for borrowers for whom payment has been deferred for an extended period of time under the economic hardship or unemployment deferments, or a forbearance. The commenters argued that including borrowers whose payments had been deferred for an extended period of time in the default rate definition results in "punishing" an institution for informing students of their rights to defer or forbear payments in certain circumstances. Further, some commenters argued that the benefits to students of avoiding defaults through the use of deferments and forbearance would outweigh the potential for abuse by unscrupulous institutions that might try to artificially lower their default rates.

Discussion: The Secretary agrees with the commenters that the use of deferments and forbearances benefit students by preventing defaults. The Secretary believes that this issue warrants further consideration prior to implementing any changes. The Secretary will continue to monitor the use of deferments and forbearances in both the Direct Loan and FFEL Programs to determine if further action is needed.

Changes: None.

Comments: Many commenters suggested that if the Secretary was planning to provide Direct Loan Program institutions with tools, such as reports on delinquent borrowers, access to borrower information on a toll-free servicing telephone number, and free loan counseling materials for entrance and exit counseling, to help it reduce its default rate, similar tools should be provided to the FFEL Program institutions. The commenters stated that the Secretary has obligations to help reduce default rates in the FFEL Program.

Discussion: The Secretary assures these commenters that he is equally concerned about reducing defaults in both the FFEL and Direct Loan programs and agrees that it is in the best interests of institutions, borrowers, and taxpayers to help reduce the incidence of student loan defaults by providing institutions with default prevention tools. The HEA and the FFEL Program regulations provide FFEL institutions with numerous tools to reduce their default rates. The Secretary, guaranty agencies, and various institutional associations have offered institutions training opportunities and information designed to reduce FFEL Program cohort default rates. Direct Loan institutions will be treated similarly. Some commenters suggested specific measures that could be taken to assist institutions in reducing defaults. The Secretary will carefully consider these suggestions to enhance default prevention techniques in both the FFEL and Direct Loan programs.

Changes: None.

Section 668.17(a)(1)

Comments: Many commenters were concerned that the language in § 668.17(a)(1) implies that an institution will not be notified of its FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate if that rate is equal to or less than 20 percent. The commenters suggested that all institutions should be notified of their FFEL Program cohort default rates, Direct Loan Program cohort rates, or weighted average cohort rates.

Discussion: The Secretary notes that this language is in current regulations and was originally included in an NPRM published on February 28, 1994 (59 FR 9526, 9572) and that no commenters raised questions about this provision. The Secretary has traditionally provided default rate notices to all institutions and all institutions receive their default rate prior to publication under 34 CFR 668.17(j)(1) (ii) and (iii). However, it is most important that institutions with rates over 20 percent receive notice of their final rates since it is these institutions that may face sanctions based on their rate. The Secretary originally provided that only institutions with rates over 20 percent would be guaranteed to receive a notice because of the possibility that future budget reductions would require cuts in this area. The Secretary agrees with the commenters that, whenever feasible, all institutions should be notified of their FFEL Program cohort default rates, Direct Loan Program cohort rates, or weighted average cohort rates. The Secretary plans to notify all institutions of their rates.

Changes: None.

Section 668.17(a)(2)

Comments: Many commenters suggested that the Secretary should not take L, S, and T action against an institution that is appealing its loss of eligibility to participate in the FFEL or Direct Loan programs under exceptional mitigating circumstances until a final decision is made on the appeal. The commenters reasoned that it is unfair to eliminate an institution from participating in all of the Title IV programs before the institution has had a chance to prove to the Secretary that exceptional mitigating circumstances

justify the institution's continued participation in the FFEL or Direct Loan programs. Other institutions argued that it would be unfair to take L, S, and T action against an institution before the institution has had a chance to demonstrate to the Secretary that its rate is not accurate and that a recalculated rate would be equal to or less than 40 percent.

Other commenters suggested that the Secretary should not initiate an L, S, and T action against an institution that has few participants in the FFEL or Direct Loan programs.

Discussion: First, the Secretary notes that the initiation of an L, S, and T action is discretionary. The Secretary does not plan to initiate such action against an institution unless the FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate on which the action is based is final. Moreover, institutions are further protected since the hearing officer will find that the action is not warranted if the rate is not final. The Secretary believes that these provisions will ensure that an institution will not be harmed from action taken against it on the basis of a cohort default rate that is not final.

The Secretary does not agree with the commenters that an institution should be exempt from L, S, and T action until an institution's appeal under exceptional mitigating circumstances is decided. However, the Secretary does agree with the commenters that if an institution successfully appeals its loss of eligibility based on its FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate on the basis of exceptional mitigating circumstances, any L, S, and T action taken solely on the basis of that cohort rate should be withdrawn.

With respect to the commenter's concerns that an institution with few participants in the FFEL and Direct Loan programs should be exempt from L, S, and T action, the Secretary would like to assure the commenters that he does not intend to take L, S, and T action against an institution if that institution has less than five students borrowing under the FFEL and Direct Loan programs.

Changes: The final regulations have been revised in § 668.17(a)(5) so that the Secretary will cease any L, S, and T action taken against an institution solely on the basis of its FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate if the institution successfully appeals under the exceptional mitigating circumstances.

Comments: Many commenters believed that the Secretary should take L, S, and T action against an institution's participation in the Direct Loan Program if that institution has FFEL Program cohort default rates that are equal to or exceed 25 percent for three consecutive fiscal years. The commenters believed that this change is needed for comparability in the FFEL and Direct Loan programs, because the Secretary is proposing to take L, S, and T action against an institution's participation in the FFEL Program if it has a Direct Loan Program cohort rate or weighted average cohort rate that equals or exceeds 25 percent for three consecutive fiscal years.

Discussion: The Secretary does not agree with the commenters that a change is needed for purposes of comparability between the FFEL and Direct Loan programs. The statute provides the Secretary the authority to establish institutional participation requirements for the Direct Loan Program. Under the current Direct Loan Program regulations in 34 CFR 685.400, an institution is not eligible to continue to participate in the Direct Loan Program if it has an FFEL Program cohort default rate that equals or exceeds 25 percent for three consecutive fiscal years. The Secretary does not have the authority to establish similar institutional participation requirements for FFEL Program institutions. Therefore, the Secretary believes that the regulations already address the commenter's concerns.

Changes: None.

Section 668.17(c)

Comments: Many commenters suggested that the 30-day timeframe under which an institution may appeal a loss of eligibility under inaccurate data or exceptional mitigating circumstances be extended. The commenters argued that 30 days did not provide enough time to compile the data needed to support an appeal under exceptional mitigating circumstances, nor did it provide a guaranty agency enough time to verify any inaccurate data in the institution's rate. Many commenters also suggested that the proposed requirement to have an appeal under exceptional mitigating circumstances verified by an independent auditor would not be possible within the 30-day timeframe.

Discussion: The 30-day timeframe to appeal under exceptional mitigating circumstances or inaccurate data is mandated by section 435(a)(2) of the HEA. The Secretary does not have the authority to extend this timeframe. The Secretary believes that an institution and a guaranty agency should, in most cases, be able to comply with the 30-day timeframe, particularly in light of the draft cohort default rate review process.

However, the Secretary realizes that there may be exceptional cases in which a guaranty agency fails to respond to an institution in a timely manner. Therefore, the Secretary has decided to retain the current regulations and permit an institution to continue to participate in the FFEL Program during the appeal process when a guaranty agency's failure to respond to an institution's timely request results in the appeal being submitted later than 30-day deadline, provided the institution notifies the Secretary that it is appealing its FFEL Program cohort default rate data at the same time it requests verification of its cohort default rate data from the relevant guaranty agency(ies). An institution will be required to submit its verified data to the Secretary within five working days from the date it receives the verified data from such guaranty agency(ies).

Based on the comments received, the Secretary appreciates that an institution may have difficulty obtaining an independent auditor's verification of the information that must be submitted in the appeal within the 30-day timeframe. However, the Secretary believes that this verification is necessary. The Secretary has been persuaded that a 60-day timeframe would be more appropriate for submission of the independent auditor's verification. The institution must submit the appeal data within 30 days; only the auditor's attestation may be submitted after the 30-day deadline.

Changes: The final regulations have been amended in § 668.17(c)(8) to provide that an institution may continue to participate in the FFEL Program if that institution fails to submit an appeal based on inaccurate data by the 30-day deadline if that failure is the result of a guaranty agency's failure to respond to the institution's timely request for verification of its FFEL Program cohort default rate data. The final regulations have also been amended in § 668.17(c)(7) to provide that the independent auditor's verification of the information in the appeal must be submitted to the Secretary within 60 days after the institution is notified that it will lose its eligibility to participate in the FFEL or Direct Loan programs.

Comments: Many commenters suggested that an independent auditor should be able to verify the accuracy of the information submitted in an exceptional mitigating circumstances appeal based on a sample. The commenters indicated that this would greatly assist them in meeting the appeal deadlines, as well as reduce the cost of an appeal.

Discussion: The Secretary believes that the verification process should be the same for all institutions. Further, the Secretary believes that requiring an independent auditor's statement on management's assertions in accordance with the Standards for Attestation Engagement #3 would ensure consistency and allow a sample as an acceptable means for an independent auditor to verify the information submitted in an appeal based on exceptional mitigating circumstances.

Changes: The final regulations have been amended in § 668.17(c)(7) to provide that an independent auditor must provide a statement on management's assertions that the information contained in the appeal is complete, accurate, and determined in accordance with the requirements of § 668.17. The examination level engagement must be performed in accordance with the Statement on Standards for Attestation Engagements #3. This authorizes an independent auditor to do whatever testing of management's assertions that the auditor feels is necessary. Sampling may be an acceptable technique for an auditor to use under this situation.

Comments: Some commenters suggested that the chief executive officer of an institution be required to certify under penalty of perjury that the information submitted in an appeal is true and correct.

Discussion: The Secretary agrees with the commenters. The Secretary believes that this additional certification is appropriate to help ensure that the information submitted in an appeal is correct. The Secretary's experience in reviewing such appeals based on exceptional mitigating circumstances has demonstrated that some institutions have submitted false or erroneous information in their appeals.

Changes: The final regulations have been changed in § 668.17(c)(6) to provide that an institution's chief executive officer must certify under penalty of perjury that the information included in the appeal is true and correct.

Section 668.17(c)(1)(ii)(A)

Comments: Many commenters suggested that the institution's participation rate index and the determination of the percent of students coming from disadvantaged economic backgrounds should be calculated based on the number of regular students at the institution rather than all the students enrolled at the institution. The commenters argued that, for purposes of the economically disadvantaged rate, it would be difficult to determine if a student who was not a regular student had an EFC of zero if that student did not apply for a Pell Grant or if the student was not eligible for a Pell Grant. Further, many of the commenters indicated that they do not maintain data relating to students who are not regular students, therefore, it would be difficult to provide data regarding such students in an appeal.

Discussion: The Secretary is willing to accommodate the commenters' concerns to the fullest extent possible and to minimize any burden associated with preparing an exceptional mitigating circumstances appeal when these changes do not undermine the integrity of the appeal process. The Secretary understands that it may be problematic for some institutions to obtain EFC data or other data relevant to an appeal for a student who is not a regular student. The Secretary believes that using data for regular students will provide an accurate assessment of an institution's students with economically disadvantaged backgrounds.

Also, the Secretary believes that it is appropriate to base the institution's participation rate index on the percentage of the institution's students who are eligible for loans and who actually borrow under the FFEL or Direct Loan programs. The Secretary agrees that the inclusion of students who are not eligible for loans would not contribute to a meaningful indicator of the percentage of an institution's students who participate in the loan programs.

Changes: The Secretary has amended the formula in § 668.17(c)(1)(ii)(A) for the participation rate index to base the index on regular students enrolled at least half-time at the institution. The Secretary has also amended the formula in § 668.17(c)(1)(ii)(B) for determining the percent of an institution's students that come from economically disadvantaged backgrounds to be based on regular students at the institution.

Comments: Many commenters objected to the Secretary's statement in the preamble of the proposed rule that only institutions with FFEL Program cohort default rates, Direct Loan Program cohort rates, or weighted average cohort rates equal to or less than 40 percent would be eligible to appeal under the participation rate index. The commenters argued that an institution with a high default rate but an extremely low percentage of students that borrow under the FFEL or Direct Loan programs was not abusing the loan programs. Commenters also argued that the establishment of the participation rate index would only help institutions with exceedingly low participation rates and, thus, would help very few institutions. For example, one commenter pointed out that an institution could have a 50 percent FFEL Program cohort default rate if, over three consecutive fiscal years, only two borrowers entered repayment and one of those borrowers defaulted.

Discussion: The Secretary does not agree with the commenters that an institution with an FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate, that exceeds 40 percent, but a participation rate index that is equal to or less than 0.0375 has such a low percentage of borrowers that it is likely the institution is not abusing the loan programs. An institution with a large number of students and a low student loan participation rate could still have a significant number of defaulters if the participation rate index were used without the 40 percent cap. For example, an institution with 10,000 students could have a low participation rate of 7 percent, which would equal 700 students. If 50 percent of these students defaulted in a given cohort that would represent 350 students. This would result in a participation rate index of 0.035. The Secretary considers this number of students to be significant. Further, given that the lowest annual loan limit is $2,625, 325 student defaults could represent hundreds of thousands of dollars in loss to the Federal government and U.S. taxpayers. The Secretary believes that it would represent an unreasonable risk to students and Federal taxpayers to permit such an institution to remain eligible to participate in the FFEL or Direct Loan programs.

Changes: The Secretary has added a provision to the final regulations in § 668.17(c)(1)(ii)(A) that prohibits an institution from appealing a loss of eligibility to participate in the FFEL or Direct Loan programs under the participation rate index criterion if that institution has an FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate, that exceeds 40 percent.

Section 668.17(c)(1)(ii)(B)

Comments: Many commenters argued that the 70 percent threshold of an institution's students coming from disadvantaged economic backgrounds is too high. Many commenters cited a study that demonstrated that only 21.6 percent of postsecondary students received Pell Grants. The commenters believed that due to such a low national

percentage of postsecondary students receiving Pell Grants, the 70 percent threshold would be too high for an institution to meet.

Many commenters also argued that the 70 percent completion rate threshold component of an exceptional mitigating circumstances appeal is too high. The commenters argued that it is inappropriate for the Secretary to require institutions with longer programs to meet a completion rate threshold that is required by the HEA for a program of study that is less than 600 hours in length. The commenters pointed out that institutions offering longer programs of study most likely would not meet this standard.

Discussion: The Secretary does not agree with the commenters that either of these thresholds is too high. The study referenced by the commenters is based on the percentage of Pell Grant recipients across all postsecondary institutions. This study does not appear to be relevant to institutions that generally have high cohort default rates. Based on the Secretary's experience in processing exceptional mitigating circumstances appeals, many institutions will not have any difficulty meeting this threshold. Almost every institution that has applied under the exceptional mitigating circumstances provisions has met the requirement that two-thirds of its students are economically disadvantaged. Further, previous appeals show that the postsecondary institutions most likely to have high FFEL Program cohort default rates are institutions that have higher percentages of low-income students than those institutions with low default rates. Because the Secretary's experience in reviewing exceptional mitigating circumstances appeals has proven that many institutions can meet this standard, the Secretary does not believe that a 70 percent threshold is too high.

In regard to the completion rate threshold, the 70 percent completion rate standard that a short-term program must meet in order to participate in the FFEL Program is a minimum eligibility standard. This standard is unrelated to the institution's FFEL Program cohort default rate. The Secretary has chosen a 70 percent completion rate threshold as a component of an exceptional mitigating circumstance because he believes that an institution that has a high FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate must be able to demonstrate that it is properly serving a large majority of its students, as evidenced by their completion of their academic program, despite having consecutively high default rates. The Secretary reminds the commenters that the purpose of exceptional mitigating circumstances is to allow institutions to continue to participate in the loan programs even though more than one out of every four students who receive loans have defaulted and that has occurred for at least three years. To protect both students and taxpayers, only institutions that can truly demonstrate unusual circumstances should be allowed to continue to participate in the loan programs.

Changes: None.

Comments: A number of commenters suggested that the completion rate component of the exceptional mitigating circumstances be revised to mirror the proposed Student-Right-to-Know regulations regarding completion rates. These commenters urged the Secretary to issue regulations with as much consistency as possible.

Discussion: The Secretary is committed to reducing regulatory burden and providing consistency in program requirements wherever possible. The Secretary does not believe that using completion rates as calculated under the Student-Right-to-Know provisions is appropriate at this time for establishing exceptional mitigating circumstances for institutions with high cohort default rates. This is because the requirements of Student-Right-to-Know include certain statutory exclusions, specific timeframes, and definitions of which students are included in the calculation. Further, the Student-Right-to-Know provisions offer institutions flexibility in determining their completion rates, which are not appropriate for an institution that is appealing its loss of eligibility due to high FFEL Program cohort default rates, Direct Loan Program cohort rates, or weighted average cohort rates.

Changes: None.

Comments: Many commenters suggested that the completion rate and placement rate formulas be amended to include only students who were regular students. The commenters agreed that an institution would be unfairly penalized if its completion or placement rate included students who initially enrolled in the institution without the intention of obtaining a degree or certificate.

Discussion: After careful consideration of the many comments received on this issue, the Secretary has determined that an institution's completion or placement rate should not include students who are not enrolled for the purpose of obtaining a degree or certificate. The Secretary believes that an institution should not be held responsible for the completion or placement of a student who did not enroll in the institution with the intent to complete a degree or certificate program.

Change: The completion rate and placement rate formulas in section 668.17(c)(1)(ii)(B) (*1*) and (*2*) have been changed. The final regulations provide that the placement and completion rates will be based on the percentage of an institution's students who initially enrolled as regular students.

Comments: Many commenters suggested that the placement rate should only include students who have actually completed their training at the institution. These commenters do not think it is reasonable for an institution to be responsible for the placement of students who do not complete their educational programs. Other commenters suggested that the Secretary should provide a five percent allowance in the placement rate for former students at the institution who are not able to work due to an injury or pregnancy.

Many commenters also suggested that the Secretary should change the placement rate calculation to permit a student who has obtained employment in an occupation for which the training is intended while the student is still enrolled in the institution's program to be considered successfully placed. The commenters indicated that this often occurs with part-time students who work and go to school at the same time. The commenters do not believe that it is fair to exclude such a student from the placement rate calculation.

Discussion: The Secretary expects that a high percentage of an institution's students will receive a job related to the training or educational program undertaken at the institution. The formula under which the placement rate is calculated provides that an institution will meet this standard if only 50 percent of the institution's students receive employment in an occupation that is related to the training they receive. For an institution that is appealing a loss of eligibility to participate in the FFEL or Direct Loan programs on the basis that it places an exceptionally high percentage of its students, the Secretary believes that a 50 percent placement rate is reasonable.

Further, the Secretary does not agree that only students who complete their programs should be included in the placement rate calculation. The Secretary believes that the placement rate formula as written in the proposed rule does not need to provide any extra allowance for an institution's former students who do not complete the program or are unable to work.

However, the Secretary agrees with the commenters who suggested that a student who obtains employment in an occupation related to the training he or she is receiving while enrolled at the institution should not be excluded from the former students an institution may consider as successfully placed. The Secretary realizes that students are often able to obtain employment in a field for which they are receiving training while they are still enrolled. This provision was included in the NPRM, However, an institution may not consider a student as successfully placed if the institution is the student's or former student's employer.

Changes: None.

Comments: None.

Discussion: In reviewing the comments received on the placement rate calculation, the Secretary concluded that it is unnecessary to include a student who transferred to a higher level program of study as successfully placed. The Secretary believes that this is unnecessary because the institutions that may appeal under this criteria will not be offering programs that prepare its students for higher level programs.

The Secretary further believes that in order to demonstrate the effectiveness of the training an institution provides, with respect to students obtaining employment, the Secretary has limited the timeframe during which a student or former student must have received employment, or have been employed for at least 13 weeks, in order to be considered successfully placed. Under the proposed rules, a former student would be considered as successfully placed if that student had been employed for at least 13 weeks between his or her last date of attendance and the date the institution submits the appeal, which could generally occur at least two-years after the student left the institution.

Changes: The Secretary has removed from the final regulations a provision contained in § 668.17(c)(1)(ii)(B)(*2*) of the proposed rule that provided that a former student of an institution may be considered successfully placed if that former student transfers to a higher level program at another institution. The final regulations provide that a student or former student may be considered as successfully placed only if the student or former student was employed in an occupation related to the training for at least 13 weeks before, or was employed on, the day after 12 months following the date of the student's last day of attendance.

Comments: Many commenters also suggested that students enrolled less than full-time should not be counted in the placement rate calculation. The commenters suggested that students enrolled less than full-time are less likely to complete their programs than full-time students.

Discussion: The Secretary does not agree with the commenters that students enrolled less than full-time should be excluded from the institution's placement rate. The Secretary believes that the inclusion of regular students who are enrolled on at least a half-time basis will provide the most complete portrait of the success of an institution's programs. The final regulations have been changed to provide that the placement rate calculation will be based on an institution's regular students who are initially enrolled on at least a half-time basis. This change is addressed in a previous comment.

Changes: None

Comments: Many commenters suggested that the Secretary should clarify in the regulations what constitutes a week of employment. The commenters indicated that the requirement that a student be employed for 13 weeks was too vague. The commenters wanted to know if there was a minimum number of days or hours during the week a student must be employed in order to constitute a week of employment.

Discussion: The Secretary does not agree with the commenters. The Secretary's experience in working with institutions regarding the placement rate element of an exceptional mitigating circumstances appeal has shown that this issue has not been an area of confusion nor have institutions needed clarification of this issue. Further, the Secretary does not believe that it is necessary to define in regulations what constitutes a week of employment.

Changes: None.

Comments: Many commenters objected to limiting the use of the completion rate component of the exceptional mitigating circumstances to public and private nonprofit institutions and limiting the use of the placement rate component to proprietary institutions. Many commenters indicated that it is more appropriate for a public vocational institution to appeal a potential loss of eligibility to participate in the FFEL or Direct Loan programs under the placement rate component. The commenters indicated that because these institutions provide training for their students to receive employment in specific occupations, they would more likely be able to meet the placement rate threshold.

Other commenters suggested that proprietary institutions of higher education that offer associate or baccalaureate degrees should be able to appeal under the exceptional mitigating circumstances criteria that include the completion rate component. These commenters argued that it is inappropriate to distinguish the educational programs at these institutions from their public and private nonprofit institution counterparts.

Many commenters suggested that an institution should be able to appeal under any of the exceptional mitigating circumstances.

Discussion: The Secretary disagrees with the commenters that an institution should be able to appeal under either the placement rate or completion rate components of the exceptional mitigating circumstances. The Secretary believes that it is appropriate for an institution to appeal under a criterion that is designed to measure the performance of its programs. The Secretary agrees with the commenters that the type of program offered by an institution should determine whether that institution should be able to appeal under the exceptional mitigating circumstances appeal that includes the placement rate or completion rate components. Placement rate is an appropriate measure for those institutions that are non-degree-granting, whereas completion rate is a more appropriate and relevant measure for institutions that offer degrees.

Changes: The final regulations have been amended in § 668.17(c)(1)(ii)(B) to permit only a non-degree-granting institution, whether it is a public, private nonprofit, or proprietary institution, to appeal under the exceptional mitigating circumstances criterion that includes the placement rate component. The final regulations have also been amended to permit only a degree-granting institution, regardless of whether it is a public, private nonprofit, or proprietary institution, to appeal under the exceptional mitigating circumstances criterion that includes the completion rate component.

Comments: Many commenters objected to some of the data elements that must be submitted to substantiate the percentage of an institution's students that come from disadvantaged economic backgrounds. Many commenters believed that the addresses of such students were not necessary.

Discussion: The Secretary is interested in minimizing the burden associated with an appeal and is reexamining the data elements that will be required in an appeal to ensure that

information is requested only if it is essential to the appeal and only if it is not available to the Secretary in existing databases. The Secretary will notify institutions of the specific information that must be included in the appeal in the "Pre-Publication Review Booklet" that is sent to institutions when the Secretary provides the institution the opportunity to review its draft FFEL Program cohort default rate data. This information will also be contained in the "Official Cohort Default Rate Guide" which is issued to an institution when the Secretary provides notification of loss of eligibility based on a final FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate.

The Secretary expects to require institutions to submit substantially the same information that is currently requested in the Official Default Rate Guide.

Changes: The Secretary has removed from the regulations the specific description of the information an institution must submit in an appeal. These information submission requirements were contained in the proposed rules in sections 668.17(c)(7)(ii) through (v). The Secretary will inform an institution of the information that is necessary to appeal a loss of eligibility when the Secretary provides an institution the opportunity to verify its cohort default rate data and when he notifies the institution of its final rate.

Section 668.17(d)

Comments: Many commenters suggested that the Secretary should amend the date an SLS loan enters repayment. The commenters suggested that the Secretary should establish in regulations, provisions that would define when an SLS loan enters repayment if that loan is "linked" to a Stafford loan.

Discussion: For purposes of calculating an FFEL Program cohort default rate, Congress has mandated the parameters for establishing the date an SLS loan enters repayment. Those parameters are also contained in the regulations in section 668.17(d)(1)(ii)(D). Consistent with the parameters established by Congress, the Secretary regularly provides guaranty agencies and institutions with the rules for the application of the definition of the date an SLS loan enters repayment for purposes of an FFEL Program cohort default rate. Institutions are now apprised of the rules at least twice annually through the "Pre-Publication Booklet" for cohort default rates and the "Official Cohort Default Rate Guide."

The Secretary has found the dissemination of the rules for the application of the definition of the date an SLS loan enters repayment through the "Pre-Publication Booklet" and the "Official Cohort Default Rate Guide" provides sufficient notice to the institutions, while simultaneously allowing the definition to be refined as needed based on upon Congressional changes to the definition and changes in the information collecting capacity of the Department. The Secretary further believes that it is also appropriate to disseminate the rules for linking SLS loans to Stafford loans through the "Pre-Publication Booklet" and the "Official Cohort Default Rate Guide."

Changes: None

Sections 668.17(e)(1)(ii) and (f)(1)(ii)

Comments: Many commenters objected to the Secretary's inclusion in a Direct Loan Program cohort rate or weighted average cohort rate a loan that is in repayment under the ICR plan if the borrower's scheduled payments on that loan are less than 15 dollars and that 15 dollar payment is less than the interest that is accruing on the loan each month. The commenters argued that it is inappropriate to consider a loan that is not even delinquent as in default for purposes of an institution's Direct Loan Program cohort rate or weighted average cohort rate. Many commenters pointed out that most of the borrowers that choose ICR will be entry-level employees and will start out with low incomes that may result in the borrower having scheduled payments of 15 dollars or less, which may be less than the interest that is accruing on the loans. The commenters suggested that this would unfairly penalize institutions since ICR is a legitimate payment option for all students and an institution cannot control a borrower's selection of a repayment plan.

A commenter pointed out that, under the proposed rules, if a borrower enters into ICR at the end of the fiscal year and that borrower's monthly payment is 15 dollars and that payment is less than the interest that is accruing on the loan, the borrower would be included in the institution's Direct Loan Program cohort rate or weighted average cohort rate. The commenter indicated that it would be more appropriate to include such a borrower in an institution's rate if that borrower was in ICR and had scheduled payments of less than $15 that are less than the interest accruing on the loan for 270 days; this would more closely mirror a default.

Discussion: The Secretary appreciates the commenters' concerns that many of the borrowers who choose ICR will be entry level employees and will likely have low payments. However, the Secretary believes that even entry level employees who have received a quality education or training from an institution will be able to obtain employment that will provide them with enough income to pay back at least the interest that is accruing on their loans each month.

The Secretary also appreciates the commenters' concerns regarding the inclusion of a loan in an institution's Direct Loan Program cohort rate or weighted average cohort rate that may not even be delinquent. However, the Secretary believes that this is an appropriate performance-based measure to assess both a borrower's ability to repay a student loan and an institution's quality of training. The Secretary is concerned that, without such a measure, an institution could have a low Direct Loan Program cohort rate or weighted average cohort rate when a large proportion of its former students are making only minimal or no payments on their loans. The Secretary is concerned that this is a potential area for abuse in the Direct Loan Program and believes that it is imperative to protect students and taxpayers from such abuse.

The Secretary agrees with the commenter that, to more closely approximate a default, a borrower should have been, by the end of the fiscal year following the fiscal year the loan entered repayment, for at least 270 days, in repayment under the ICR plan with scheduled payments that were less than 15 dollars per month and those payments result in negative amortization.

Changes: The final regulations have been revised to provide that a loan that is in the ICR plan will not be included in a Direct Loan Program cohort rate or weighted average cohort rate unless, for at least 270 days, the scheduled monthly payments on that loan have been $15 dollars or less and that payment is less than the monthly interest accruing on the loan.

Section 668.17(f)

Comments: Many commenters did not understand how the proposed weighted average cohort rate would be calculated when the institution had a borrower enter repayment on both a Direct Loan and FFEL Program loan in a fiscal year. The commenters believed that the Secretary should clarify the formula.

Discussion: The weighted average cohort rate is determined by comparing the number of borrowers, both FFEL and Direct Loan, who enter repayment in a fiscal year against those borrowers who default before the end of the following fiscal year. Each borrower and each default is counted only once even if a borrower has both FFEL and Direct Loan program loans entering repayment in a fiscal year. This has been the Secretary's practice when a borrower with multiple FFEL Program loans enters repayment on those loans in a fiscal year. The Secretary does not believe that the regulations need to be clarified in this area.

Changes: None.

Section 668.17(h)

Comments: Many commenters suggested that institutions should be able to appeal their Direct Loan Program cohort rates or weighted average cohort rates on the basis of improper servicing. The commenters argued that the appeal criteria should be parallel to the FFEL Program. In addition the commenters believed that a loan that is improperly serviced should not be included in an institution's Direct Loan Program cohort rate or weighted average cohort rate and that an institution should be given a chance to verify that such a loan is not included in its rate.

Discussion: In the FFEL Program, Congress chose to provide high default rate institutions with an appeal from the loss of eligibility to participate in that program based on loan servicing. That decision was based, in large measure, on the existence of detailed Departmental regulations governing loan servicing by lenders and a number of instances in which large lenders failed to comply with those requirements with a demonstrable effect on institutional default rates. In the Direct Loan Program, those detailed servicing rules do not exist; instead, loan servicing is controlled by contracts between the Department and its contractors. Moreover, there is no history of abuse in the Direct Loan Program and the Department's contractors do not have the same incentive or opportunity to hide non-compliance as FFEL Program lenders. Accordingly, the Secretary does not believe it is appropriate or necessary to provide a loan servicing appeal for a Direct Loan Program cohort rate or weighted average cohort rate.

Changes: None.

Section 668.90

Comments: Many commenters objected to the removal of an institution's ability to demonstrate that it has diligently administered the provisions contained in appendix D of the Student Assistance General Provisions regulations as a defense to loss of eligibility. The commenters argued that the measures contained in appendix D have been proven effective in reducing defaults. Other commenters suggested that the use of appendix D as the only defense to an L, S, and T action provides a very powerful incentive to an institution that has a high cohort default rate to take action to reduce its default rate.

Discussion: The Secretary agrees with the commenters that the measures contained in appendix D, if diligently implemented by an institution, are effective in reducing the incidence of default. However, many of the most effective measures in appendix D have become specific regulatory requirements for most institutions. Moreover, the Secretary's experience has shown that the reviews of claims of appendix D compliance are very time-consuming and rarely helpful. In fact, the Secretary believes that the removal of the use of appendix D as a defense will provide a more powerful incentive for an institution to try to keep its cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate low.

Changes: None.

Executive Order 12866

These regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering the title IV, HEA programs effectively and efficiently.

In assessing the potential costs and benefits, both quantitative and qualitative, the Secretary has determined that the benefits of the regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, or tribal governments in the exercise of their governmental functions.

Summary of Potential Costs and Benefits

The potential costs and benefits of these final regulations are discussed elsewhere in this preamble under the following heading: Analysis of Comments and Changes.

Assessment of Educational Impact

In the NPRM published on September 21, 1995, the Secretary requested comment on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Supplemental Educational Opportunity Grant Program; 84.032 Stafford Loan Program; 84.032 PLUS Program; 84.032 Supplemental Loans for Students Program; 84.033 College Work-Study Program; 84.038 Perkins Loan Program; 84.063 Pell Grant Program; 84.069 State Student Incentive Grant Program; and 84.226 Income Contingent Loan Program; 84.268, William D. Ford Federal Direct Loan Program)

Dated: November 24, 1995.

Richard W. Riley,

Secretary of Education.

The Secretary amends part 668 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1148, unless otherwise noted.

2. Section 668.17 is amended by redesignating paragraphs (f), (g), and (h) as paragraphs (h), (i) and (j) respectively, revising paragraphs (a) through (e), and adding new paragraphs (f) and (g) to read as follows:

§ 668.17 Default reduction and prevention measures.

(a) *Default rates.* (1) If the FFEL Program cohort default rate, Direct Loan Program cohort rate, or if applicable, weighted average cohort rate for an institution exceeds 20 percent for any fiscal year, the Secretary notifies the institution of that rate.

(2) The Secretary may initiate a proceeding under subpart G of this part to limit, suspend, or terminate the participation of an institution in the Title IV, HEA programs, if the institution has an FFEL Program cohort default rate, Direct Loan Program cohort rate, or a weighted average cohort rate that exceeds 40 percent for any fiscal year.

(3) Unless an institution is subject to loss of eligibility to participate in the FFEL Program under paragraph (b)(1) of this section, the Secretary initiates a proceeding under subpart G of this part to limit, suspend, or terminate an institution's participation in the FFEL Program if the institution, for each of the three most recent consecutive fiscal years, has any combination of an FFEL Program cohort default rate, a Direct Loan Program cohort rate, or weighted average cohort rate that is equal to or greater than 25 percent.

(4) The Secretary may require an institution that meets the criteria under paragraph (a)(2) of this section to submit to the Secretary, within a timeframe determined by the Secretary, any reasonable information to help the Secretary make a preliminary determination as to what action should be taken against the institution.

(5) The Secretary ceases any limitation, suspension, or termination action against an institution under this paragraph if the institution satisfactorily demonstrates to the Secretary that, pursuant to an appeal that is complete and timely submitted under paragraph (c) of this section, the institution meets one of the exceptional mitigating circumstances under paragraph (c)(1)(ii)(B) of this section.

(b) *End of participation.* (1) Except as provided in paragraph (b)(6) of this section, an institution's participation in the FFEL Program ends 30 calendar days after the date the institution receives notification from the Secretary that its FFEL Program cohort default rate for each of the three most recent fiscal years for which the Secretary has determined the institution's rate, is equal to or greater than 25 percent.

(2) Except as provided in paragraph (b)(6) of this section, an institution's participation in the Direct Loan Program ends 30 calendar days after the date the institution receives notification from the Secretary that for each of the three most recent fiscal years the institution has any combination of an FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate that is equal to or greater than 25 percent.

(3) Except as provided in paragraph (b)(6) of this section, an institution's participation in the FFEL Program or Direct Loan Program ends under paragraph (b) (1) or (2) of this section respectively may not participate in that program on or after the 30th calendar day after the date it receives notification from the Secretary that its FFEL Program cohort default rate, Direct Loan Program cohort rate, or, if applicable, weighted average cohort rate exceeds the thresholds specified in paragraph (b) (1) or (2) of this section and continuing—

(i) For the remainder of the fiscal year in which the Secretary determines that the institution's participation has ended under paragraph (b) (1) or (2) of this section; and

(ii) For the two subsequent fiscal years.

(4) An institution whose participation in the FFEL Program or Direct Loan Program ends under paragraph (b) (1) or (2) of this section may not participate in that program until the institution satisfies the Secretary that the institution meets all requirements for participation in the FFEL Program or Direct Loan Program and executes a new agreement with the Secretary for participation in that program following the period described in paragraph (b)(3) of this section.

(5) Until July 1, 1998, the provisions of paragraph (b) (1) or (2) of this section and the provisions of 34 CFR 668.16(m) do not apply to a historically black college or university within the meaning of section 322(2) of the HEA, a tribally controlled community college within the meaning of section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978, or a Navajo community college under the Navajo Community College Act.

(6) An institution may, notwithstanding 34 CFR 668.26, continue to participate in the FFEL Program or Direct Loan Program until the Secretary issues a decision on the institution's appeal if the Secretary receives an appeal that is complete, accurate, and timely in accordance with paragraph (c) of this section.

(c) *Appeal procedures.* (1) An institution may appeal the loss of participation in the FFEL Program or Direct Loan Program under paragraph (b)(1) or (2) of this section by submitting an appeal in writing to the Secretary by the 30th calendar day following the date the institution receives notification of the end of participation. An appeal or any portion of an appeal under this section will not be accepted after the 30th calendar day following the date the institution receives notification from the Secretary that it has lost its eligibility to participate in the FFEL or Direct Loan programs, except that an institution may submit an appeal under section (c)(1)(i) of this section later than the 30th calendar day if the appeal is submitted in accordance with paragraph (c)(8) and the information required by paragraph (c)(7) may be submitted in accordance with that paragraph. The appeal must include all information required by the Secretary to substantiate the appeal and all information must be submitted in a format prescribed by the Secretary. The additional 30-day period specified in paragraph (c)(7) of this section is an extension for the submission of the auditor's statement only and does not affect the date by which the appeal data must be submitted. An institution that is eligible for an extension under paragraph (c)(8) of this section must submit all required data within five working days following the agency's response to the institution's request for verification of data. The institution may appeal on the grounds that—

(i)(A) The calculation of the institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, or, if applicable, weighted average cohort rate, for any of the three fiscal years relevant to the end of participation is not accurate; and

(B) A recalculation of the institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate, with corrected data verified by the cognizant guaranty agency or agencies for the FFEL Program loans, or the Secretary for Direct Loan Program loans would produce an FFEL Program cohort default rate, a Direct Loan Program cohort rate, or weighted average cohort rate for any of those fiscal years that is below the threshold percentage specified in paragraph (b) (1) or (2) of this section; or

(ii) The institution meets one of the following exceptional mitigating circumstances:

(A) The institution has a participation rate index of 0.0375 or less. The participation rate index is determined by multiplying the institution's FFEL Program cohort default rate, Direct Loan Program cohort rate or weighted average cohort rate, by the percentage of the institution's regular students, as defined in 34 CFR 600.2, enrolled on at least a half-time basis who received a loan made under either the FFEL Program or Direct Loan Program for a 12-month period that has ended during the six months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's rate is determined. An institution that has an FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate that exceeds 40 percent may not appeal its loss of eligibility under paragraphs (b) (1) or (2) of this section on the basis of its participation rate index.

(B) For a 12-month period that has ended during the six months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's rate is determined, 70 percent or more of the institution's regular students, as defined in 34 CFR 600.2, are individuals from disadvantaged economic backgrounds, as established by documentary evidence submitted by the institution. Such evidence must relate to either qualification by those students for an expected family contribution (EFC) of zero for any award year that generally coincides with the 12-month period, or attribution to those students of an adjusted gross income of the student and his or her parents or spouse, if applicable, reported for any award year that generally coincides with the 12-month period, of less than the poverty level, as determined under criteria established by the Department of Health and Human Services; and,

(*1*) For a degree-granting institution, 70 percent or more of the institution's regular students who were initially enrolled on a full-time basis and were scheduled to complete their programs during the same 12-month period the institution has chosen to determine the percentage of its students that come from disadvantaged economic backgrounds under paragraph (c)(1)(ii)(B) of this section, completed the educational programs in which they were enrolled. This rate is calculated by comparing the number of regular students who were classified as full-time at their initial enrollment in the institution and were originally scheduled, at the time of enrollment, to complete their programs within the relevant 12-month period, with the number of these students who received a degree from the institution; transferred from the institution to a higher level educational program; or, at the end of the 12-month period, remained enrolled and were making satisfactory academic progress toward completion of their educational programs; or

(*2*) For a non-degree-granting institution, the institution had a placement rate of 50 percent or more with respect to its former regular students who remained in the program beyond the point the students would have received a 100 percent tuition refund from the institution. A student or former student may not be considered successfully placed if the institution is the student's or former student's employer. This rate is based on those regular students who were initially enrolled on at least a half-time basis and were originally scheduled, at the time of enrollment, to complete their educational programs during the same 12-month period the institution has chosen to determine the percentage of its students that come from disadvantaged economic backgrounds under paragraph (c)(1)(ii)(B) of this section. This rate does not include those students who are still enrolled and making satisfactory progress in the educational programs in which they were originally enrolled on the date following 12 months after the date of the student's last day of attendance. This rate is calculated by determining the percentage of all those former regular students who;

(*i*) are employed in an occupation for which the institution provided training on the date following 12 months after the date of their last day of attendance at the institution; or

(*ii*) were employed in an occupation for which the institution provided training for at least 13 weeks before the date following 12 months after the date of their last day of attendance at the institution.

(2) For purposes of the completion rate and placement rate described in paragraph (c)(1)(ii)(B) (*1*) and (*2*) of this section, a student is originally scheduled, at the time of enrollment, to complete the educational program on the date when the student will have been enrolled in the program for the amount of time normally required to complete the program. The "amount of time normally required to complete the program" for a student who is initially enrolled full-time is the period of time specified in the institution's enrollment contract, catalog, or other materials, for completion of the program by a full-time student, or the period of time between the original date of enrollment and the anticipated graduation date appearing on the student's loan application, if any, whichever is less. The "amount of time normally required to complete the program" for a student who is initially enrolled less than full-time is the amount of time it would take that student to complete the program if the student remained enrolled at that level of enrollment.

(3) The Secretary issues a decision on the institution's appeal within 45 calendar days after the institution submits a complete appeal that addresses the applicable criteria in paragraph (c)(1) (i) or (ii) of this section to the Secretary.

(4) The Secretary's decision is based on the consideration of written material submitted by the institution. No oral hearing is provided.

(5) The Secretary withdraws the notification of loss of participation in the FFEL Program or Direct Loan Program sent to an institution under paragraph (b) (1) or (2) of this section, if he determines that the institution's appeal satisfies one of the exceptional mitigating circumstances specified in paragraph (c)(1) (i) or (ii) of this section.

(6) An institution must include in its appeal a certification, under penalty of perjury, by the institution's chief executive officer that all information provided by the institution in support of its appeal is true and correct.

(7) An institution that appeals on the grounds that it meets the exceptional mitigating circumstances criteria contained in paragraph (c)(1)(ii) of this section must include in its appeal an opinion from an independent auditor on management's assertions that the information contained in the appeal is complete, accurate, and determined in accordance with the requirements of this section. The examination level engagement will be performed in accordance with Statement on Standards for Attestation Engagements #3. This opinion must be received by the Secretary within 60 days following the date the institution receives notification of its loss of eligibility under paragraph (b) of this section.

(8) An institution that appeals under paragraph (c)(1)(i) of this section will not lose its eligibility to continue to participate during the appeal process due to a guaranty agency's failure to comply with 34 CFR 682.401(b)(14) which requires the agency to respond to an institution's request for verification of data within 15 working days, provided the institution:

(i) requested such verification within 10 working days from the date it received notification of its loss of eligibility under paragraph (b) of this section; and

(ii) provided a copy of the request for verification of data to the Secretary at the same time it requested such verification by the relevant guaranty agency(ies).

(d) *FFEL Program Cohort Default Rate.* (1)(i) For purposes of the FFEL Program, except as provided in paragraph (d)(1)(ii) of this section, the term FFEL Program cohort default rate means—

(A) For any fiscal year in which 30 or more current and former students at the institution enter repayment on Federal Stafford loans or Federal SLS loans (or on the portion of a loan made under the Federal Consolidation Loan Program or Direct Consolidation Loan Program that is used to repay such loans) received for attendance at the institution, the percentage of those current and former students who enter repayment in that fiscal year on those loans who default before the end of the following fiscal year; or

(B) For any fiscal year in which fewer than 30 of the institution's current and

former students enter repayment on Federal Stafford loans or Federal SLS loans (or on the portion of a loan made under the Federal Consolidation Loan Program or Direct Consolidation Loan Program that is used to repay such loans) received for attendance at the institution, the percentage of those current and former students who entered repayment on such loans in any of the three most recent fiscal years, who default before the end of the fiscal year immediately following the fiscal year in which they entered repayment.

(C) In determining the number of students who default before the end of that following fiscal year, the Secretary includes only loans for which the Secretary or a guaranty agency has paid claims for insurance, and Direct Consolidation Loan Program loans that repaid FFEL Program loans that entered default.

(ii)(A) In the case of a student who has attended and borrowed at more than one institution, the student (and his or her subsequent repayment or default) is attributed to each institution for attendance at which the student received a loan that entered repayment in the fiscal year.

(B) A loan on which a payment is made by the institution, its owner, agent, contractor, employee, or any other affiliated entity or individual, in order to avoid default by the borrower, is considered as in default for purposes of this definition.

(C) Any loan that has been rehabilitated under section 428F of the HEA before the end of that following fiscal year is not considered as in default for purposes of this definition.

(D) For the purposes of this definition, an SLS loan made in accordance with section 428A of the HEA (or a loan made under the Federal Consolidation Loan Program or Direct Consolidation Loan Program, a portion of which is used to repay a Federal SLS loan) shall not be considered to enter repayment until after the borrower has ceased to be enrolled in an educational program leading to a degree, certificate, or other recognized educational credential at the participating institution on at least a half-time basis (as determined by the institution) and ceased to be in a period of forbearance or deferment based on such enrollment. Each eligible lender of a loan made under section 428A (or a loan made under the Federal Consolidation Loan Program, a portion of which is used to repay a Federal SLS loan) of the HEA shall provide the guaranty agency with the information necessary to determine when the loan entered repayment for purposes of this definition, and the guaranty agency shall provide that information to the Secretary.

(2) Fiscal year means the period from and including October 1 of a calendar year through and including September 30 of the following calendar year.

(e) *Direct Loan Program cohort rate.* (1) For purposes of the Direct Loan Program, except as provided in paragraph (e)(2) of this section, the Secretary calculates Direct Loan Program cohort rates using the following formulas:

(i) For public institutions, private nonprofit institutions, or proprietary degree-granting institutions—

(A) For any fiscal year in which 30 or more current and former students at the institution enter repayment on a Direct Loan Program loan (or on the portion of a loan made under the Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who enter repayment in that fiscal year on those loans who are in default before the end of the following fiscal year; or

(B) For any fiscal year in which fewer than 30 of the institution's current and former students enter repayment on a Direct Loan Program loan (or on the portion of a loan made under the Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who entered repayment on those loans in any of the three most recent fiscal years, who are in default before the end of the fiscal year immediately following the year in which they entered repayment.

(ii) For proprietary non-degree-granting institutions—

(A) For any fiscal year in which 30 or more current and former students at the institution enter repayment on a Direct Loan Program loan (or on the portion of a loan made under the Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who enter repayment in that fiscal year on those loans who are in default before the end of the following fiscal year; or, who, before the end of that following fiscal year, have, for 270 days, been in repayment under the income-contingent repayment plan with scheduled payments that are less than 15 dollars per month and those payments result in negative amortization; or

(B) For any fiscal year in which fewer than 30 of the institution's current and former students enter repayment on a Direct Loan Program loan (or on the portion of a loan made under the Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who entered repayment on those loans in the three most recent fiscal years, who are in default before the end of the fiscal year immediately following the year in which they entered repayment, or who, before the end of that following fiscal year, have for 270 days, been in repayment under the income-contingent repayment plan with scheduled payments that are less than 15 dollars per month and those payments result in negative amortization.

(2)(i) In the case of a student who has attended and borrowed at more than one institution, the student (and his or her subsequent repayment or default) is attributed to each institution for attendance at which the student received a loan that entered repayment in the fiscal year.

(ii) A loan on which a payment is made by the institution, its owner, agent, contractor, employee, or any other affiliated entity or individual, in order to avoid default by the borrower, is considered as in default for purposes of this definition.

(iii) Any loan on which the borrower has made 12 consecutive monthly on-time payments under 34 CFR 685.211(e) before the end of that following fiscal year is not considered as in default for purposes of this definition.

(3) For purposes of an institution's Direct Loan cohort rate, a Direct Loan Program loan is considered in default when the borrower's or endorser's failure to make an installment payment when due has persisted for 270 days.

(f)(1) *Weighted average cohort rate.* For purposes of an institution that has former students entering repayment in a fiscal year on both Direct Loan Program and FFEL Program loans, except as provided under paragraph (f)(2) of this section, the Secretary calculates a weighted average cohort rate using the following formulas:

(i) For public institutions, private nonprofit institutions, or proprietary degree-granting institutions—

(A) For any fiscal year in which 30 or more current and former students at the institution enter repayment on an FFEL Program or Direct Loan Program loan (or on the portion of a loan made under the Federal Consolidation Loan Program or Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who enter repayment on those loans in the three most recent fiscal years, who are in default before the end of the fiscal year immediately following the year in which they entered repayment, or who, before the end of that following fiscal year, have, for 270 days, been in repayment under the income-contingent repayment plan with scheduled payments that are less than 15 dollars per month and those payments result in negative amortization; or

(B) For any fiscal year in which fewer than 30 of the institution's current and former students enter repayment on an FFEL Program or Direct Loan Program loan (or on the portion of a loan made under the Federal Consolidation Loan Program or Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who entered repayment on those loans in the three most recent fiscal years, who are in default before the end of the fiscal year immediately following the year in which they entered repayment.

(ii) For proprietary non-degree-granting institutions—

(A) For any fiscal year in which 30 or more current and former students at the institution enter repayment on an FFEL Program or Direct Loan Program loan (or on the portion of a loan made under the Federal Consolidation Loan or Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who enter repayment in that fiscal year on such loans who are in default before the end of the following fiscal year, or who, before the end of that following fiscal year, have for 270 days: been in repayment under the income-contingent repayment plan with scheduled payments that are less than 15 dollars per month and those payments result in negative amortization; or

(B) For any fiscal year in which fewer than 30 of the institution's current and former students enter repayment on an FFEL Program or Direct Loan Program loan (or on the portion of a loan made under the Federal Consolidation Loan Program or Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who entered repayment on those loans in the three most recent fiscal years, who are in default before the end of the fiscal year immediately following the year in which they entered repayment.

(iii) Any Direct Loan Program loan on which the borrower has made 12 consecutive monthly on-time payments under 34 CFR 685.211(e) or has an FFEL Program loan that has been rehabilitated under section 428F of the HEA before the end of that following fiscal year is not considered as in default for purposes of this definition.

(3) For purposes of an institution's weighted average cohort rate, a Direct Loan Program loan is considered in default when a borrower's or endorser's failure to make an installment payment when due has persisted for 270 days.

(g) *Applicability of Rates to Institutions.* (1)(i) An FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate of an institution applies to all locations of the institution as the institution exists on the first day of the fiscal year for which the rate is calculated.

(ii) An FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate of an institution applies to all locations of the institution from the date the institution is notified of that rate until the institution is notified by the Secretary that the rate no longer applies.

(2)(i) For an institution that changes its status from that of a location of one institution to that of a free-standing institution, the Secretary determines the FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate, based on the institution's status as of October 1 of the fiscal year for which the rate is being calculated.

(ii) For an institution that changes its status from that of a free-standing institution to that of a location of another institution, the Secretary determines the FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate, based on the combined number of students who enter repayment during the applicable fiscal year and the combined number of students who default during the applicable fiscal years from both the former free-standing institution and the other institution. This rate applies to the new, consolidated institution and all of its current locations.

(iii) For free-standing institutions that merge to form a new, consolidated institution, the Secretary determines the FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate based on the combined number of students who enter repayment during the applicable fiscal year and the combined number of students who default during the applicable fiscal years from all of the institutions that are merging. This rate applies to the new consolidated institution.

(iv) For a location of one institution that becomes a location of another institution, the Secretary determines the FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate based on the combined number of students who enter repayment during the applicable fiscal year and the number of students who default during the applicable fiscal years from both of the institutions in their entirety, not limited solely to the respective locations.

3. Section 668.85 is amended by revising paragraph (b)(1)(ii) and revising paragraph (b)(3) to read as follows:

§ 668.85 Suspension proceedings.

* * * * *

(b)(1) * * *

(ii)(A) Specifies the proposed effective date of the suspension, which is at least 20 days after the date of mailing of the notice of intent; or

(B) In the case of a suspension action taken due to the institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, or, if applicable, weighted average cohort rate, the proposed effective date of the suspension is no more than 30 days after the date of the mailing of the notice of intent.

* * * * *

(3) If the institution or servicer requests a hearing by the time specified in paragraph (b)(1)(iii) of this section, the designated department official sets the date and place. The date is at least 15 days after the designated department official receives the request. In the case of a hearing for an institution subject to suspension action because of its FFEL Program cohort default rate, Direct Loan Program cohort rate, or, if applicable, weighted average cohort rate, the hearing is set no later than 20 days after the date the designated department official receives the request. The suspension does not take place until after the requested hearing is held.

* * * * *

4. Section 668.86 is amended by revising paragraph (b)(1)(ii) and revising paragraph (b)(3) to read as follows:

§ 668.86 Limitation or termination proceedings.

* * * * *

(b)(1) * * *

(ii)(A) Specifies the proposed effective date of the limitation or termination, which is at least 20 days after the date of mailing of the notice of intent; or

(B) In the case of a limitation or termination action based on an institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, or, if applicable, weighted average cohort rate, the proposed effective date of the termination is no more than 30 days after the date of the mailing of the notice of intent.

* * * * *

(3) If the institution or servicer requests a hearing by the time specified in paragraph (b)(1)(iii) of this section, the designated department official sets the date and place. The date is at least 15 days after the designated department official receives the request. In the case of a hearing for an institution subject to limitation or termination action because of its FFEL Program cohort default rate, Direct Loan Program cohort rate, or, if applicable, weighted average cohort rate, the hearing is set no later than 20 days after the date the designated department official receives the request. The limitation or termination does not take place until after the requested hearing is held.

* * * * *

5. Section 668.90 is amended by adding a new paragraph (a)(1)(iii)(D), and revising paragraph (a)(3)(iv) to read as follows:

§ 668.90 Initial and final decisions.

* * * * *

(a)(1) * * *

(iii) * * *

(D) For hearings regarding the limitation, suspension, or termination of an institution based on an institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, or, if applicable, weighted average cohort rate, the 30th day after the conclusion of the hearing.

* * * * *

(3) * * *

(iv) In a limitation, suspension, or termination proceeding commenced on the grounds described in § 668.17(a) (2) and (3), if the hearing official finds that an institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, or, if applicable, weighted average cohort rate meets the conditions specified in § 668.17(a) (2) and (3) for initiation of limitation, suspension, or termination proceedings, the hearing official also finds that the sanction sought by the designated department official is warranted, except that the hearing official finds that no sanction is warranted if the institution presents clear and convincing evidence demonstrating that the FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate on which the proposed action is based is not the final rate determined by the Department and that the correct rate would result in the institution having an FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate that is beneath the thresholds that make the institution subject to limitation, suspension, or termination action.

(Authority:) 20 U.S.C. 1082, 1085, 1094, 1099c.)

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December 1, 1995

Part V

Department of Education

34 CFR Part 668

Student Assistance General Provisions; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840–AB44

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final rule.

SUMMARY: The Secretary amends the Student Assistance General Provisions. These amendments are necessary to implement the Student Right-to-Know Act, as amended by the Higher Education Amendments of 1991, and the Higher Education Technical Amendments of 1993. These final regulations require an institution that participates in any student financial assistance program under Title IV of the Higher Education Act of 1965, as amended (title IV, HEA program) to disclose information about graduation or completion rates to current and prospective students. The final regulations also require an institution that participates in any title IV, HEA program and awards athletically-related student aid to provide certain types of data regarding the institution's student population, and the graduation or completion rates of categories of student-athletes, to potential student-athletes, and to the athletes' parents, coaches, and high school counselors.

EFFECTIVE DATE: These regulations take effect on July 1, 1996, and apply to the 1996–1997 and subsequent award years. However, affected parties do not have to comply with the information requirements in § 668.41, § 668.46, and § 668.49 until the Department of Education publishes in the **Federal Register** the control numbers assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control numbers notifies the public that OMB has approved these information requirements under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Paula Husselmann or Mr. David Lorenzo, U.S. Department of Education, 600 Independence Avenue, S.W., Regional Office Building 3, Room 3053, Washington, D.C. 20202. Telephone: (202) 708–7888. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern time Monday through Friday.

SUPPLEMENTARY INFORMATION: The Student Assistance General Provisions (34 CFR part 668) apply to all institutions that participate in the student financial assistance programs authorized by Title IV of the Higher Education Act of 1965 as amended (HEA). These final regulations are necessary to implement changes to the HEA made by the Student Right-to-Know Act, Pub. L. 101–542, as amended by the Higher Education Technical Amendments of 1991, Pub. L. 102–26, and the Higher Education Technical Amendments of 1993, Pub. L. 103–208. The Secretary published a proposed rule on July 10, 1992 to implement the Student Right-to-Know and Campus Security Act. Over three hundred commenters responded to those proposed rules. Final regulations implementing the Campus Security Act were published separately on April 29, 1994. A second proposed rule addressing the Student Right-to-Know portion of Pub. L. 101–542 was published on September 21, 1995.

Background

The September 21, 1995 Notice of Proposed Rulemaking (NPRM) contained regulations that would implement the Student Right-to-Know portion of Pub. L. 101–542 for consumer information purposes only. In that NPRM the Secretary emphasized that the proposed regulations were meant to provide flexibility and create a minimum of burden to institutions, while generating useful and comparable data for student consumer information purposes. The Secretary's discussion and solicitation of comments on these and related issues are contained in 60 FR 49156–49157.

The September 21, 1995 NPRM also included a discussion of major issues regarding the proposed regulations that will not be repeated here. The following list summarizes those issues and identifies the pages of the preamble to the NPRM on which a discussion of those issues can be found.

Disclosure of information on graduation or completion rates for the general student population contained in § 668.41(a) (page 49157).

Disclosure of information on the general student population, and on the completion or graduation rates of various categories of student athletes, and the report of that information to the Secretary, contained in § 668.41(b) (page 49157).

Issues concerning the definitions of "full-time," "normal time," "athletically-related student aid," and "prospective student," as contained in § 668.41(a) (pages 49157–49158).

Issues concerning the composition of students who make up the denominator of the institution's graduation or completion rate fraction, as contained in 668.46(a) (page 49158).

Issues concerning the tracking of students, related to § 668.46(a) (page 49158).

Issues concerning the latest dates on which institutions must disclose their completion or graduation rate information, contained in § 668.46(a)(2) (pages 49158–49159).

The students an institution may include in the numerator of its completion or graduation rate fraction, and issues related to the documentation of those students, as contained in § 668.46(b) (pages 49159–49160).

The students who may be excluded from the institution's calculation of a completion or graduation rate, as contained in § 668.46(b)(2) (page 49160).

The disclosure of the components of the numerator of the institution's completion or graduation rate fraction, as contained in § 668.46(c) (page 49160).

The provisions for waivers for institutions that are members of athletic conferences or associations that provide substantially comparable data, as contained in § 668.46(d) (page 49160).

The requirement that institutions that award athletically-related student aid disclose data regarding the completion or graduation rates of student athletes, and other general information, to a student offered athletically-related student aid, and to his or her parents, coaches, and high school counselors, and send a report of that data to the Secretary, as contained in § 668.49(a) (page 49160).

The requirement that such institutions report and disclose that data by July 1 of every year, beginning July 1, 1997, as contained in § 668.49(a) (page 49160).

The kinds of general data to be reported and disclosed, and the categories of students for whom completion or graduation rates are to be calculated, reported, and disclosed, as contained in § 668.41(a) (pages 49160–49161).

The definition of "sport", as contained in § 668.49(a)(2) (page 49161).

The requirement that completion or graduation rates be calculated in the same manner as specified in § 668.46 (b) and (c), as contained in § 668.49(b).

The provision that an institution, if it wishes, may provide information to potential student-athletes and the Secretary regarding the completion or graduation rate of students who transfer into the institution, and the number of students who transfer out of the institution, as contained in § 668.49(c) (page 49161).

The provision that allows institutions that are members of athletic conferences or associations to obtain waivers if the conference or association of which it is a member provides substantially comparable information, as contained in § 668.49(d) (page 49161).

Summary of Changes From the Proposed Regulations

The Secretary has added definitions of "first-time freshman students," "certificate- or degree-seeking students," and "undergraduate students". The Secretary has also changed the definitions of "full-time students" and "normal time".

The Secretary requires institutions to disclose information on completion or graduation rates and transfer-out rates for the general student body by the January 1 immediately following the expiration of 150% of normal time for the group of students on which the institution bases its completion or graduation rate calculation.

The Secretary requires an institution that offers a predominant number of programs based on standard terms (semesters, trimesters, or quarters) to establish a fall cohort, consisting of undergraduate students who are enrolled as of October 15, or the end of the institution's drop-add period, on which to calculate its completion or graduation rate. The Secretary also requires such an institution to count as an entering student an undergraduate student who is enrolled at the institution as of October 15.

The Secretary requires an institution that does not offer a predominant number of programs based on standard terms (semesters, trimesters, or quarters) to count as entering students all full-time undergraduate students who enter the institution between July 1 and June 30 for purposes of calculating its completion or graduation rate. Such an institution will consider a student to have entered for these purposes if the student attends at least one day of class.

The Secretary requires an institution to count as an entering student only first-time freshman students as defined in the regulations. An institution may calculate a completion or graduation rate or rates for students who transfer into the institution as separate and supplemental rate or rates.

The Secretary requires institutions to publish two rates: one, the rate at which students complete or graduate, and the other, the rate at which students transfer out of the institution.

The Secretary allows institutiens to count as completers those students who complete a transfer preparatory program described in § 668.8(b)(1)(ii).

The Secretary is dropping the proposal that would have allowed institutions to count as completers those students still enrolled in good standing in programs longer than the program on which the institution bases its disclosure date.

The Secretary will require documentation of a transfer in order for an institution to count a student as a transfer-out, and will accept such documentation as a certification letter, electronic certification, confirmation of enrollment data from a legally-mandated tracking system, or institutional data exchange information confirming that a student has enrolled in another institution.

The Secretary is clarifying that an institution that is covered by waivers for substantially comparable data gathered by an athletic association or conference must still comply with the information dissemination provisions of the statute and these regulations.

The Secretary is including a *de minimus* exception to the disclosure requirements for the completion or graduation rates of student athletes that allows institutions not to disclose those rates for categories that include five or fewer students.

Preparation of Final Regulations

The Secretary has formulated these regulations in accordance with Executive Order 12866, the Administration's initiative on regulatory reinvention, and the Department's own Principles for Regulating.

The Secretary believes that the Student Right-to-Know Act establishes important consumer information disclosure standards for institutions. In promulgating these regulations, the Secretary's goal is to ensure that institutions provide consistent and useful information on completion and graduation rates. With this information in hand, the Secretary believes that prospective students, and prospective student athletes, will be better able to make informed choices when they choose a postsecondary institution.

The Secretary believes that these final regulations strike an appropriate balance between establishing a basic level of useful consumer information for students, and keeping burden on institutions to a minimum.

Analysis of Comments

In response to the Secretary's invitation in the September 21, 1995 NPRM, approximately 100 parties, including representatives of large and small institutions, athletic associations, college and university associations, associations of collegiate registrars and institutional researchers, student advocacy groups, and student right-to-know advocates, submitted comments on the proposed regulations. A summary of those comments, and an analysis of changes in the regulations since the publication of the NPRM, follows.

Substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

General

Comments: Some commenters agreed that the amount of flexibility contained in the proposed rules was appropriate for the purpose of providing consumer information. These commenters believed that the added flexibility of these proposed rules reduced burden, reflected the letter and spirit of the statute, or took into account changes in technology. Some of these commenters maintained that nationwide comparability of data should not be the most important factor in the implementation of the statute, and expressed appreciation that these proposed rules, unlike earlier proposals, recognized the diversity of institutions of higher education. Other commenters agreed that the level of flexibility was appropriate because the only relevant comparisons to be made were within different sectors of the higher education community, and that these proposed rules provided adequate guidance to make such comparisons possible.

Some commenters believed that any degree of flexibility defeated the purpose of the statute in providing meaningful and useful consumer information, and asked the Department to establish and require the use of a standard federal methodology and a set of standard federal definitions.

A majority of commenters appreciated the Secretary's attempt to provide flexibility, but believed the amount of flexibility contained in the proposed rules did not serve well the consumer purpose of this statute. These commenters maintained that the proposed rules would result in the provision of inconsistent, incomparable data that would be of little use to student consumers.

Of these commenters, many believed that for reasons of comparability and burden reduction, the final rules should require all institutions to report according to the definitions and methods contained in the forthcoming National Center for Education Statistics (NCES) Integrated Postsecondary Education Data System (IPEDS) Graduation Rate Survey (GRS). These

commenters maintained that only a mandatory system would generate meaningful, comparable, and useful consumer information, and that this goal would be met with the least burden by requiring the use of the GRS rather than the imposition of another, different methodology. These commenters noted that all institutions would soon be required to report to the NCES through the GRS.

Many others asked that the Secretary give serious consideration to following the recommendations of the report on graduation rates and other statistics the Joint Commission on Accountability Reporting (JCAR) is now developing. These commenters argued that (1) graduation rate statistics alone are not meaningful consumer information, and that the JCAR survey will provide better information in the form of statistics on graduation, completion, transfers, advancement, and persistence, and (2) the JCAR statistics are fair, consistent among all institutions, and easy to calculate.

A number of commenters asked that the GRS, the JCAR survey, or the National Collegiate Athletic Association (NCAA) survey be approved as ways of meeting the requirements of this statute. One commenter asked that the IPEDS GRS be adopted as the model methodology. One commenter asked that the Secretary implement final regulations that would provide consistency among those reports and the report required by this statute.

Several commenters maintained that the simple model the Secretary put forth would lead to meaningless or dishonest reporting, in that it attempts to condense necessary information into a single statistic. One of these commenters argued that the type of information needed for student consumers was more complex than that required by other types of consumers, and that such information could only be gathered by closely scrutinizing an institution's mission and programs in the context of the student's own interests, abilities, and willingness to complete a program.

Discussion: The Secretary continues to believe that the provision of graduation rate data will provide meaningful information to student consumers, and that a degree of flexibility is consonant with generating useful consumer information. However, the Secretary has been persuaded by the number and nature of comments that the degree of flexibility contained in the proposed rules may present problems of comparability.

Therefore, based on these comments, the Secretary is making changes to the final regulations that address problems of comparability. The Secretary requires institutions to use the definitions of "certificate- or degree-seeking students," "first time students," and "undergraduate students" that are based on those definitions as they are published in the IPEDS GRS Glossary, NCES 95–822. These definitions have been changed slightly from the IPEDS definition to conform to the statute, but are the functional equivalent of the IPEDS definitions. Because institutions will in the future be required to report these data according to these definitions under IPEDS, the Secretary believes that using definitions based on the IPEDS definitions that are slightly changed to fit the requirements of the statute, will increase comparability without increasing burden.

Also in the interests of comparability, the Secretary has removed from the definitions the flexible definition of "full-time students" included in the proposed rules. Institutions must instead use the definition of "full-time student" as defined in § 668.2 of the Student Assistance General Provisions regulations. This definition that is functionally equivalent to the definition found in the IPEDS Glossary.

In order to increase comparability and to decrease the possibility that institutions will need to calculate duplicate graduation or completion rates, the Department will work with organizations such as the NCES, the JCAR, athletic conferences or associations, and state agencies, or other organizations that are attempting to gather completion or graduation rate data, to help those organizations develop protocols that will generate data substantially comparable to the data required by the statute and these regulations. If these organizations do develop such protocols that meet the methodological and definitional standards set by the statute and regulations, the Secretary will inform institutions that the use of those protocols meet the requirements for the compilation of these data under the statute and the regulations. The Secretary, however, will not accept the protocols of these organizations for these purposes, nor grant waivers to athletic associations or conferences for their protocols, nor deem the protocols of any organization or institution to be in compliance with the statute and these regulations, if those protocols fail to incorporate the provisions of the statute and regulations.

Changes: Section 668.41(c) has been changed to include definitions of "degree- or certificate-seeking student" and "first-time freshman student" that are based on the definitions published by IPEDS. "Full-time student" is defined in accordance with the definition in § 668.2.

Comments: Many commenters expressed concern that these proposed rules would create another set of reporting criteria that institutions must meet, in addition to other reports on the same topic now required of institutions by the NCES, the NCAA, JCAR, and accrediting agencies, and that therefore these proposed rules were overly burdensome. Some of these commenters maintained that smaller institutions, which employ small staffs, would find it impossible to meet any new reporting requirements in addition to those which they must already meet. Some commenters reported that their institutions already were collecting information based on the NCAA model (in which completion or graduation rates are calculated for a cohort of first-time, full-time, baccalaureate students who enter an institution during the institution's fall term), the model set forth in the 1991 Dear Colleague letter, or another system, and that to force them to change systems to comply with new regulations would be prohibitively expensive and extremely burdensome. One commenter asked that the final rules not differ significantly from the guidance provided by Dear Colleague Letter GEN–91–27. One commenter reported that the flexibility of the rules allowing institutions to set their own definitions would prevent coordinating bodies from collecting information from groups of institutions.

One commenter believed that the provision of graduation rate information as a regulatory issue was moot, given that several athletic associations and news publications now provide statistics, and expressed the belief that a regulatory system for providing this information would only add to the current confusion.

Discussion: The Secretary recognizes that the calculation of these rates in different ways as required by different organizations would represent a burden on institutions. However, the Secretary is bound by statute to require that these rates be calculated and published, and that they be calculated according to statutory requirements. Insofar as is possible within the terms of the statute, the Secretary is providing flexibility for institutions to report according to protocols by which institutions will be required to calculate completion or graduation rates in the future, notwithstanding these regulations, e.g., the IPEDS GRS and the JCAR survey, as well as surveys by state agencies and the NCAA. However, if any particular organization on this list fails to develop protocols that accord with the statute and these regulations, the Secretary cannot simply waive the requirements of this statute or change the specifics of the statutory calculation to fit those circumstances. Institutions must calculate and publish these rates, and do so in accordance with the statute and regulations.

With regard to the particular case of the GRS survey to be conducted by the NCES, the Secretary appreciates that while the Statement of Educational Impact contained below is technically correct in maintaining that no agency of the federal government is currently gathering this information, commenters were concerned that the forthcoming NCES GRS and these regulations may in the future require institutions to submit the same types of information, compiled in different ways, to the Federal Government. Because the NCES is a federal entity, the Secretary will insure that the results of future NCES GRS surveys will be acceptable for purposes of this statute and these regulations.

The Secretary also notes that the definitions and suggested protocols included in these final regulations substantially mirror the provisions of Dear Colleague Letter GEN–91–27.

Changes: None.

Comments: Several commenters suggested that the Secretary encourage institutions to supply additional information to place their graduation rate reports in context, as a way of providing greater comparability and usefulness without significantly increasing burden. One commenter asked that all institutions be required to provide such contextual information.

Discussion: The Secretary strongly encourages institutions to provide contextual information. There is, however, no statutory authority to require institutions to provide such information.

Changes: None.

Comments: Several commenters asked that the disclosure requirements for short-term programs at proprietary schools regarding job placement, licensure requirement, and licensure pass rate information that had been previously included in the Student Assistance General Provisions regulations be reinstated as part of these final regulations. One of these commenters argued that the types of students who enter these programs tended to be the consumers most in need of information and protection. This commenter maintained that such provisions would embody the spirit and intent of both the statute and other Congressional commentary on consumer information issues regarding short-term programs. This commenter also recommended that the information generated by such requirements be reported to a government agency to be compiled and published.

Discussion: Because these provisions are no longer included in the statute, the Secretary will not include them in these regulations.

Changes: None.

Section 668.41 Information Disclosure

Comments: Several commenters proposed that the Department mandate the Campus Security model for the placement of this information in publications. These commenters maintained that this model was not burdensome.

Several commenters opposed the Campus Security model. Several commenters opposed any regulation of the placement of this information, besides the general requirement that it be published in publications that students and prospective students receive. These commenters maintained that each individual institution was the best judge of where such information be published. One commenter believed that no regulation was necessary so long as institutions provided the information before the student entered into any financial obligation. One commenter asked that nonbinding guidance rather than regulations be promulgated in this matter. One commenter objected to the Campus Security model as now formulated in the regulations, in that it requires the distribution of information.

One commenter asked that the Department mandate publication in the institution's catalog or other similar publication that provides meaningful context to this information. One commenter maintained that trade schools be required to publish this information in their catalog. One commenter asked that the Secretary clarify that publication in a catalog or other such publication meets the requirements of the statute.

One commenter maintained that the requirement to make this information available through publications and mailing to prospective students would be overly burdensome. This commenter argued that general availability through literature racks and provision upon request should be deemed as fulfilling the requirements of this statute.

Discussion: The Secretary agrees that the level of specificity contained in the Campus Security model of disclosure need not apply to these regulations. The Secretary believes that such publications as catalogs, admission literature, or other similar types of publication are appropriate places for this material. Because the statute requires that this material be available in "appropriate mailings," the Secretary disagrees that the mere maintenance of this material in literature racks would satisfy the requirements of the statute.

Changes: None.

Comments: One commenter maintained that the suggestion that institutions also provide this information to secondary schools and guidance counselors was too expensive and burdensome.

Discussion: The Secretary will not require institutions to provide this information automatically to secondary schools and guidance counselors, but strongly encourages institutions to provide this information on request to parties such as guidance counselors.

Changes: None.

Comments: One commenter asked for a clarification of the standard that students have this information before they enter into "financial obligation," and inquired whether payment of an application fee would count as a financial obligation, as opposed, for example, to the payment of tuition. This commenter argued that if the former were the case, insurmountable problems would arise, since some students apply for admission without first contacting the institution.

Discussion: The Secretary interprets "financial obligation" to mean any agreement that obliges the student to pay significant sums of money. This would include, for example, tuition or room and board deposits, advance payments for tuition, room and board, and books and supplies. The Secretary does not interpret the tacit agreement to pay an application fee when submitting an application to fall within the scope of "financial obligation" as that term is used in the statute.

Changes: None.

Section 668.41 Disclosures of Information on Student-Athletes

Comments: One commenter asked the Secretary to reformulate the requirement that institutions provide the graduation rate data for athletes to the student's parents, given that locating and providing materials to both parents in cases of separation or divorce was very burdensome. This commenter recommended that the relevant language be changed to indicate that provision of these data to a single parent or a guardian, when appropriate, would satisfy this requirement.

Several commenters asked that only general guidelines regarding the medium in which the information is transmitted be promulgated, as

institutions are attempting to move away from paper formats to electronic means of transmitting and disseminating information.

Discussion: The Secretary interprets this provision of the statute to require the notification of the parent who acts as the student's guardian.

The Secretary agrees that general guidelines will allow institutions flexibility in adapting to technological changes, and believes the regulatory text is consistent with that intent. However, the Secretary also believes that institutions should have paper copies available for parties who do not have electronic access.

Changes: None.

Definitions

Comments: Most commenters requested the Secretary to require the use of standard definitions. Their reasoning was to ensure uniformity, comparability among institutions, and ease of understanding for the consumer of this information. The commenters stated that flexibility with many of the definitions proposed in the NPRM is undesirable because it will produce noncomparable data that would be confusing to the consumer.

Most of the commenters recommended that the regulations require the use of IPEDS definitions. The commenters explained that institutions are already familiar with these definitions, that they are already being used by the Secretary, and they would not require additional classifications of students beyond those already used. As such, these definitions would significantly reduce burden on institutions.

A much smaller number of commenters appreciated the flexibility provided by the NPRM to use varying definitions so long as the definitions were part of the information disclosed. A considerable number of commenters recommended that the Secretary require the definitions used by JCAR. JCAR also uses some of the IPEDS definitions. In particular, most commenters recommended the IPEDS definitions for the following terms: full-time, certificate or degree-seeking, first-time freshman student, and undergraduate student.

Discussion: Upon reviewing the comments, the Secretary agrees that statutory definitions of key terms will increase comparability and benefit consumers. The Secretary also agrees that any definitions promulgated in these regulations should be definitions with which institutions are already familiar.

Changes: Particular changes to the "definitions" section of these regulations are addressed below.

Comments: A majority of commenters argued that the amount of flexibility in these proposed rules with regard to the definition of "normal time" would result in incomparable data. Many of these commenters asked that the sector (less than two year, two year, and four year) definitions promulgated by IPEDS be placed in the regulations. Many others asked that the JCAR definitions of catalog award-time, extended award-time, and eventual award-time be adopted as mandatory definitions.

One commenter believed that defining "normal time" as "minimal time" is inappropriate, given the number of students who enter institutions with a large number of credits by means such as Advanced Placement Tests and summer sessions, as well as the number of students who take overloads and independent study courses. This commenter believed that normal time instead be defined as "designated completion time." One commenter maintained that normal time should be the advertised time to graduation or completion published in an institution's advising worksheets, catalog, or similar publications, and that if the institution does not publish such information, that normal time for that institution be one year (twelve months) for a certificate program, two years (twenty-four months) for an associate degree, and four years (forty-eight months) for a bachelor's degree.

One commenter supported the use of normal time rather than average time, because the latter would tend to change. One commenter supported the definition of normal time as minimal time to complete or graduate from a certificate or degree program, but asked that this be clarified to exclude summer terms.

Several commenters supported the use of some type of "average" time rather than minimal time as the definition of normal time, given that outside factors, such as family commitments, work time, and availability of funds, affect the time students need to graduate or complete. These commenters suggested that institutions be permitted to determine "normal time" using other means, for example, measuring the "normal time" to completion experienced by the most recent cohort of students, or using sampling techniques of student populations. One commenter believed that the concept of normal time itself as used in the statute and defined in these regulations was a misnomer, given that students now routinely switch between full-time and part-time status, and are affected by a whole range of non-academic factors.

Several commenters believed that the definition of normal time should not include the term full-time, given that full-time represents only a minimum number, not a particular number, and so two students who take different full-time loads would have different normal times to graduation or completion. One commenter believed that the definition of normal time could contain the term full-time only if the latter term was clarified to mean the greater of the institution's definition of full-time, or the title IV, HEA definition of full-time.

Several commenters asked the Department to mandate that institutions report their definition of normal time as part of their graduation rate report.

Discussion: The Secretary agrees that the term "normal time" should not include the term "full-time" because the meaning of the term "full-time" with regard to academic workloads may vary from student to student.

The Secretary agrees with the commenters who concurred that "normal time" not be defined to mean "average time." The Secretary believes that Congress meant to address such issues as stop outs, work, remediation, and other factors when it set the time for graduation or completion at 150% of normal time. The Secretary also believes that Congress meant "normal time" itself to be the standard, traditional time to degree, *e.g.*, four years for a bachelor's degree, two years for an associate degree, and the scheduled time for clock hour programs. The Secretary agrees that to make these points clear, the definition of "normal time" in the regulations should make reference to an institution's catalog time. The Secretary also agrees to include the specific time in standard terms (semesters, trimesters, or quarters, not including summer terms) to completion that have been traditionally associated with degrees. The Secretary acknowledges that measuring time to completion in standard terms (semesters, trimesters, or quarters) rather than months for degree programs is a change from earlier guidance, but believes this change is necessary in order for this information to be provided in a timely fashion. Time to completion measured in months, for example, for a four year institution, would end after the July 30 date for completors or graduates to count, and would therefore delay disclosure for up to 15 months after the end of the students' 150% of normal time, given the change to the January 1 disclosure date discussed below. Measured in standard terms, the data will only be six

months old by the December 1 disclosure date.

With regard to completion or graduation rate, or transfer-out rate calculations based on "extended catalog time" (more than 150% of normal time), the statute does not require that such rates be calculated or disclosed. Institutions may always disclose such rates as supplemental information.

Changes: A definition of "normal time," based on the JCAR definition of normal time, has been inserted in § 668.41(c), which defines normal time as the time necessary for a student to complete all requirements for a degree or certificate according to an institution's catalog. This is typically 4 years (8 semesters or trimesters, or 12 quarters, excluding summer terms) for a bachelor's degree, 2 years (4 semesters or trimesters, or 6 quarters, excluding summer terms) for an associate's degree, and the scheduled times for certificate programs.

Comments: A majority of commenters believed that the degree of flexibility permitted institutions to define full-time would lead to non-comparable data. Most of these commenters supported the mandatory use of the IPEDS definition of full-time.

Several commenters supported the proposed regulatory definition. One commenter asked that an institution be required to disclose any differences between its definition of full-time for academic purposes and its definition of full-time for tuition purposes. Several commenters asked that the Secretary require institutions to publish their definitions with their graduation rate data.

Discussion: Upon further consideration, the Secretary agrees with the commenters who asked that a definition of "full-time" be included in the regulations. Because the definition of "full-time" in § 668.2 is familiar to all institutions, was the definition provided in Dear Colleague Letter GEN–91–27, and is functionally the same as the IPEDS definition of "full-time," the Secretary applies that definition to this section of the regulations. The Secretary believes that for these reasons referring to this definition in the regulations will increase comparability and decrease potential confusion.

Changes: The definition of "full-time student" has been removed from § 668.41(c). Institutions are required to use the definition of "full-time student" found in § 668.2.

Comments: Most commenters recommended the use of the first-time freshman student definition under IPEDS. This definition provides for a student attending any institution for the first time at the undergraduate level; this includes students enrolled in the fall term who attended college for the first time in the prior summer term, and also includes students who entered with advanced standing.

Discussion: The Secretary agrees with the commenters that for reasons of comparability, consistency, and burden reduction, the regulations should mandate the use of a particular definition of "first-time freshman student," and that the definition should be the IPEDS' definition or its functional equivalent. Promulgating such a definition will ensure consistency of data among institutions, and is less burdensome to institutions because institutions are already familiar with the IPEDS definitions.

Changes: Section 668.41(c) has been changed to require institutions to use a definition of "first-time freshman student" that is based on the IPEDS definition found in the IPEDS Glossary, NCES 95–22.

Comments: Many commenters asked that the IPEDS definition of "undergraduate student" be included in the final regulations.

Discussion: For reasons of consistency and familiarity, the Secretary agrees to include the IPEDS definition of "undergraduate student" in the final regulations.

Changes: The definition of "undergraduate student" as found in the IPEDS Glossary, NCES95–822, has been added to § 668.41(c).

Section 668.46 Information on Completion or Graduation Rates and Transfer-Out Rates

Comments: Many commenters objected to the October 1 disclosure date for this information. In general these commenters maintained that the amount of time between June 30 and October 1 was insufficient for institutions to calculate these graduation rates. Several of these commenters maintained that the statute provided institutions with one year between the point in time when a group's 150% of normal time elapsed and the required disclosure date. Several other commenters suggested disclosure dates in the November or December immediately following the elapse of 150% of normal time.

Discussion: The Secretary agrees to allow a disclosure date in the next calendar year following the expiration of 150% of normal time. However, in the interest of consumers, the Secretary believes that this date should be the earliest possible. Therefore, the Secretary changes the disclosure date to the first January 1 following the expiration of 150% of normal time for the entire group of students on which the institution bases its completion or graduation rate calculation.

Changes: Section 668.46(a)(5) has been changed to require that an institution, beginning with the group of students who enter the institution on or after July 1, 1996, disclose this information no later than the January 1 immediately following the point in time that 150% of normal time has elapsed for the entire group of students on which the institution bases its completion or graduation rate, and every January 1 thereafter.

Comments: Most commenters recommended that the Secretary require the use of a snapshot approach for tracking students, that is, taking a snapshot of a cohort that does not change for the entire length of the analysis. Electronically, this methodology means comparing only two files. For institutions that will make calculations from paper records, the "snapshot" methodology requires looking at records from only two academic years. The commenters explained that a snapshot methodology will limit the requirement to comparison of a cohort's file for only two years—at the time of entry and at the time of disclosure. The commenters' concern is that continuous tracking would be an added and unnecessary burden on institutions. The commenters also indicated that the snapshot methodology is sufficient to produce the required information under the statute. Very few commenters supported the concept of tracking individual students.

Discussion: The Secretary agrees that a snapshot methodology is appropriate for purposes of these regulations. To help institutions implement this methodology, the Secretary is adjusting other elements of the methodology, such as the characterization of an entering student.

Changes: None.

Comments: The commenters almost unanimously recommended that the Secretary require the use of a fall cohort to calculate an institution's graduation rate. Most institutions' believe that students entering in this term will be a representative sample of students entering during the entire year. Institutions argue that using the same methodology will produce more consistent and comparable data. The commenters stated that using a full-year cohort would dramatically increase data tracking and reporting burden on institutions. Moreover, use of the fall cohort methodology is consistent with both the IPEDS GRS under development and the JCAR methodology, and many

institutions and state-level agencies have already developed data systems using the fall cohort methodology recommended by Dear Colleague Letter GEN–91–27. A number of institutions opposed extrapolation to a full-year rate; a small number supported such extrapolation. Some institutions believe flexibility should be given to institutions for whom a fall cohort is not representative.

Discussion: The Secretary accepts the commenters' assertion that the use of a fall cohort is the best approach for some institutions, namely standard term-based (semester, trimester, quarter) institutions, which primarily commented on this issue. To be a standard term-based institution for these purposes, the institution must offer predominantly standard term-based programs, that is, greater than 50% of its programs must be term-based. In order to accommodate institutions for whom a fall cohort may not suffice, the regulations require the use of a year-long cohort (July 1-June 30) for institutions that do not operate on a standard term basis.

Changes: Section 668.46(a)(2) has been added to require institutions that offer a predominant number of semester, trimester, or quarter based programs to use a fall cohort of students entering between every July 1 and October 15. An institution using a snapshot methodology may use a census date of October 15 or another appropriate date to identify that cohort. Institutions that do not have a predominant number of programs based on standard semesters, trimesters, and quarters must use a year-long cohort of students who enter between every July 1 and June 30. The Secretary believes this is a reasonable differentiation because most non-term based institutions are proprietary schools, and the Secretary understands that these institutions are now required by their accrediting agencies to track all their students.

Comments: All commenters who addressed the concept of an entering student's attendance for at least one day of class opposed the proposal. The commenters explained that many students register, add and drop courses, and withdraw after the first day of class. Moreover, institutions generally use an enrollment date or census date to record a snapshot of their enrollment. Typically this date is at least ten days to thirty-five days after the beginning of a term; some states mandate the actual census date. The commenters indicated that, realistically, institutions simply do not have mechanisms to know if a student attends only one day of class. Therefore, the commenters feel the Secretary should refer institutions to the definition of entering (or first-time) student under the IPEDS Fall Enrollment Survey (the count of students by the NCES that counts the number of students enrolled as of October 15 for the purpose of providing annual projections of college enrollment for the NCES publications *Condition of Education* and *The Digest of Education*). As previously indicated, institutions are generally familiar with these definitions.

Discussion: The Secretary is concerned by the issues raised by the commenters, in part because it is important for other parts of the regulations governing the title IV, HEA programs (e.g., refunds) that institutions know when students withdraw or drop out of an institution. However, given the number and nature of the comments received on this issue, the Secretary agrees that it will reduce burden and increase comparability to require institutions to use the enrollment date (October 15) set by the IPEDS Fall Enrollment Survey, or the end of the institution's drop-add period, for purposes of identifying an entering student for institutions that are required by these regulations to use a fall cohort.

For institutions that use a year-long cohort, an entering student is a student who attends at least one day of class. The Secretary believes that this differentiation among schools on this issue is logical since non-term based schools are better able to track their students from the first day because such institutions do not have drop-add periods.

Changes: A change has been made in § 668.46(a) that mandates institutions that offer a predominant number of programs based on semesters, trimesters, or quarters to base their calculations on the students who enter during the institution's fall term, beginning July 1, 1996. An entering student shall be considered to have entered for these purposes if that entering student is enrolled as of October 15 or the end of the institution's drop-add period. All other institutions must count all students who enter between every July 1 and June 30, and attend at least one day of class, beginning July 1, 1996.

Comments: The primary concern raised by the commenters concerning the definition of entering students was the treatment of students transferring into an institution. Almost unanimously the commenters favored a separate cohort and graduation rate for these students. The commenters believed that including students who transfer into colleges and universities in the same cohort with first-time freshman students will lead to inconsistent and noncomparable data among institutions, because institutions evaluate transfer students differently and at different times, and different levels of credit may be awarded for different curriculum choices. Some commenters recommended that the progress of transfers-in should be accounted for by using a snapshot methodology at 150% of the normal time to complete from their time of entrance into the new institution. That is, their status should be measured at the time of entry and at the time of disclosure and be reported separately. Other commenters noted that the inclusion of transfers-in with first-time freshman students requires a continuing adjustment to the entering cohort. This approach would violate the snapshot methodology recommended by so many commenters. Moreover, some commenters believe that such a methodology complicates the calculations, creates a burden on the institutions, and ultimately confuses the consumer. Other commenters note that separate reporting for first-time freshman students and transfers-in is consistent with established tracking methodologies in the states, which for the most part concentrate on tracking first-time freshmen.

Discussion: In response to the commenters' concerns, the Secretary has reconsidered the position taken in the NPRM and excludes from the definition of "entering" students those students who transfer into an institution. The Secretary will now consider reporting on students who transfer into an institution to be an optional disclosure for Student Right-to-Know purposes. If an institution does choose to establish a cohort of transfers-in, the calculation of the completion or graduation rate of these students must be separate from the calculation of the completion or graduation rate of the first-time cohort, and the two rates must be published and labeled as two separate rates.

Changes: Section 668.46(a) is revised to make optional and separate the reporting on students transferring into an institution.

Comments: Many commenters urged the Secretary to consider adopting the JCAR methodology, which includes the disclosure of completion or graduation rates, and other information, on part-time as well as full-time undergraduate students. These commenters maintained that information on part-time students was necessary to meet the needs of a large number of student consumers who do not fit into the traditional category of full-time students.

Discussion: The statute only requires that institutions compile and disclose information on full-time, certificate- or degree-seeking undergraduate students. Institutions may always disclose completion or graduation rates and other information on part-time students or other types of students as supplemental information.

Changes: None.

Comments: Many commenters recommended that the Secretary not consider students who transfer to a new institution to be completers. These commenters believed that considering transfers-out to be completers is inaccurate because an individual could be counted as a completer by two separate institutions. These commenters also asserted that students who transfer out of an institution are not equivalent to completers, since their final outcome is unknown.

Many other commenters recommended that the Secretary should regulate what types of documentation the Secretary will accept to define "substantial preparation." Moreover, these commenters recommended that the Secretary not define substantial preparation because these definitions would place a burden on institutions, since they would require evaluation of transfer credits at entry, an uncommon practice in higher education. The absence of a standard practice for evaluating transfer credits and the varying definitions of academic standing minimizes the comparability of data from one institution to another and introduces the possibility of data manipulation. Both produce poor consumer information in the eyes of these commenters.

Some commenters appreciated the flexibility to allow transfers-out in good standing to be completers and request that the institutions be allowed to define good standing.

A number of commenters consider a request for a transcript an insufficient indicator of students' transfer behavior; transcript requests do not provide the necessary certification, as they are generated for many reasons unrelated to a student's intent to transfer.

Some commenters indicate that surveys are also insufficient. Such estimates introduce considerable uncertainty and variation in the data. Other commenters support the idea of surveys as a viable means of dealing with this statutory requirement.

Many commenters recommended that the regulations allow one of four types of documentation that a student has transferred to another institution. First, a certification letter or document from the registrar of the receiving institution that a student is enrolled is evidence of transfer. Second, an electronic certification, such as a SPEEDE/ExPRESS or a secure e-mail message, from the registrar of the receiving institution is evidence of transfer. Third, the confirmation of enrollment data from a legally-mandated, statewide or regional tracking system (or shared information from such systems) is evidence of transfer. Fourth, other documentation of enrollment at the receiving institution, such as institutional data exchanges of students enrolled as of the official enrollment date, is evidence of transfer. Some commenters requested that the Secretary specify these means of evidence in the regulations. A number of commenters believed that enrollment at a new institution alone is evidence of substantial preparation. Further, institutions should be permitted to use a variety of sources for this rate, without being required to have documented proof of transfer on a student-by-student basis. It must be emphasized that an approximate rate is more useful to the student than a rate which is clearly underrepresented because of difficulties in student-by-student data collection and documentation.

Most commenters urged the Secretary to adopt separate reporting of completion and transfer-out rates if it is legally necessary to address transfers-out. The resulting statistics represent distinct pieces of consumer information depending upon an entering student's own objective. The commenters indicate that combining these rates into a single statistic will not help students make the choices that actually face them.

Many of the commenters petitioned the Secretary to work with the academic community to devise procedures which would facilitate the transfer of data among institutions which chose to participate in such data transfer mechanisms. A significant number of commenters recommended that the Secretary consider the method employed by the GRS because of its flexibility in reporting students who transfer out of an institution. Some commenters recommended that transfers-out be considered completers if they are "transfer-ready." In other words, if the student enrolled in a transfer preparation program had achieved a certain grade point average and completed a certain number of credits, the student could be considered to have received "substantial preparation" and therefore, be "transfer-ready." This student, the commenters maintained, is a completer.

Discussion: The Secretary agrees that combining graduates with transfers-out in a single rate will lead to confusing and sometimes misleading information. Therefore, the Secretary requires that institutions publish separately its transfer-out rate.

The Secretary recognizes the variety of serious problems associated with the statutory provision that transfers-out be reported. Because the provision is mandated by law, institutions may not ignore it. However, the Secretary wishes to provide institutions with flexibility to address transfers-out. Therefore, consistent with the treatment of transfers-out in the GRS, an institution is only required to report on those students the institution knows have transferred to another institution.

For the reasons cited by the commenters, the Secretary agrees that merely requesting a transcript is insufficient evidence of transfer. There must be reasonable evidence of a transfer in order for an institution to consider a student a transfer-out. The four examples of valid documentation suggested by many of the commenters have been incorporated into the regulations per their request.

Moreover, in order to resolve the conflict between the transfer-out provision and the particular mission of community colleges in preparing students for transfer to other institutions, these regulations provide that institutions that offer transfer preparatory programs as described in § 668.8(b)(1)(ii) may consider a student who is "transfer-ready" to be a completer. A transfer-ready student is a student who has successfully completed his or her transfer program.

With respect to the Student Right-to-Know Act disclosures, in response to the commenters' concerns, an institution must disclose the transfer-out rate separately from its graduation rate, but may provide additional information that combines the completion or graduation rate with its transfer-out rate.

Changes: A change has been made in § 668.46(c) that mandates that institutions report their transfer-out rate separately. Section 668.46(c) has also been changed to require an institution to document that a student has transferred to another institution, and provides examples of the types of documentation necessary to document a transfer-out.

A change has been made to § 668.46(b) which allows an institution to count in its completion or graduation rate a student who has successfully completed a transfer-preparatory program as described in § 668.8(b)(1)(ii).

Comments: Some commenters believe the use of a persistence rate for programs longer than the predominant

program is necessary because it shows recognition that not all programs are defined in the same way among all institutions. Other commenters believe that persistence rates should not be allowed to substitute for graduation rates in any cases because an institution cannot determine whether a persister will graduate. These commenters believe that counting persisters as completers distorts the graduation rate. These commenters therefore believe that students who are enrolled in a program that is longer than the program on which the institution bases its disclosure, should not be counted as completers. These commenters recommended use of the GRS.

Other commenters recommended that institutions be given an option of calculating a persistence rate until they are able to calculate a graduation rate.

Discussion: While the Secretary is concerned that graduation rates be disclosed as early as is legally possible so that students may receive current information, the Secretary has been persuaded by the commenters that any type of equation of persisters with graduates is misleading. Therefore, the Secretary has eliminated the proposal that an institution consider students in good standing who are enrolled in programs longer than the predominant programs' length as completers for the purpose of disclosing its graduation or completion rate.

As for the disclosure of a persistence rate in general, either before a disclosure date, or at the disclosure date, an institution may disclose such a rate as supplemental information, but must clearly mark the rate as a persistence rate.

Changes: A change has been made to § 668.46(b) that eliminates the inclusion of students persisting in programs longer than the program on which the disclosure date is based as completers.

Comments: Most commenters support the cohort's exclusion of students who die or become permanently and totally disabled. A number of commenters pointed out the small number of these students would have little effect on graduation rates.

Some commenters expressed serious concern that the graduation rates at institutions with a significant number of legal exclusions may appear artificially low. For example, an institution with a large percentage of its students who serve on church missions will report a low graduation rate if those students do not complete within the statutory time frame. Many commenters objected to the statutory exclusions and believe that any post-hoc adjustment of the cohort based on subsequent student behavior will affect comparability of data. These commenters recommend use of the GRS to allow reporting these students as not enrolled if the time of reporting coincides with the time of the special circumstance, and separate statistics for students who have left the institution for various reasons, *e.g.*, performing church missions, joining the Armed Forces, etc. One commenter argued that in order to be excluded, the student must leave school for the express purpose of joining the Armed Forces, going on a church mission, etc., and not just subsequently join such an endeavor after leaving school for another reason.

Discussion: In response to the commenters' support, the regulations retain the exclusions for students who die or become totally and permanently disabled.

The Secretary appreciates the concerns raised regarding the other statutory exclusions, such as church missionary activity. However, the Secretary is unable to extend the time frame within which graduation or completion may take place for the student to be counted as a completor or graduate in the institution's completion or graduation rate, because this time frame (150% of normal time) is a statutory provision. An institution, however, may choose to deal with the difficulties of this situation in several ways. It could explain the reasons why only a few students are in its cohort, if it excludes these students through the statutory provisions. Or it could include these students in its cohort, and supplement the required calculation with additional information on the graduation rate of those students when an extended time frame is applied. The Secretary encourages institutions to provide supplementary information and data concerning these and other limitations of its graduation rate disclosure.

The Secretary also agrees that a student must leave the institution due to one of the circumstances described in § 668.46(d) in order to be excluded from the denominator of the completion or graduation rate fraction.

Changes: None.

Comments: Most commenters recommended that institutions not report a single graduation rate number based on a ratio of completers, transfers and persisters. Institutions strongly recommend the reporting of separate rates for graduates, students still enrolled, transfers-out, transfers-in and students not enrolled or graduated. The commenters believe that combining these rates will lead to a meaningless statistic.

Discussion: As noted above, the Secretary has dropped the proposal that institutions be allowed to count students persisting in programs longer than the program on which the institution bases its disclosure date as completers. The Secretary also mandates a separate completion or graduation rate, and a separate transfer-out rate. Therefore, the provisions in the proposed § 668.46(c) that required the break out of the different factors of the institution's graduation or completion rate have been eliminated.

As noted above, an institution may also supply supplemental information describing the transfer rate of the students who transfer into the institution. It may also publish supplemental information describing the rate of those who complete or graduate when combined with the rate of those students who transferred-out.

Changes: Section 668.46(c) is revised as described above.

Comments: Several commenters supported the provisions that allow the Secretary to waive the requirements of §§ 668.46 and 668.49 if an athletic association or conference of which it is a member satisfies the Secretary that it compiles and publishes substantially comparable data. Some of these commenters asked that the standard process for obtaining a waiver be published with the final regulations. One of these commenters also expressed the belief that the granting of the waiver should be *pro forma*. One of these commenters asked that an institution that is a member of such an athletic association or conference be allowed to maintain, publish, and distribute its own set of data as well. One commenter asked that an athletic conference or association be allowed to apply on behalf of all its members at once, rather than for each institution individually.

One commenter asked that state higher education agencies be given the opportunity to request similar waivers for their member institutions. This commenter argued that such additional waivers would not result in any more incomparability than would already be generated under the flexible rules the Secretary is proposing.

Several commenters argued that the Secretary should not give institutions the opportunity to obtain a waiver. These commenters maintained that in the interests of accurate and comparable consumer information, the Department recognize only the GRS as an acceptable method for gathering this information, and that athletic associations or conferences not be allowed to determine the methodology by which any of these data is gathered.

Several commenters asked that waivers granted to institutions for substantially comparable data supplied to athletic conferences or associations not exempt those institutions from the requirement to supply information to students, prospective students, the public, or high school counselors and coaches, as stipulated in §§ 668.41(a)(3) and 668.41(b).

One commenter asked that small institutions be allowed to request waivers exempting them entirely from these regulations. This commenter argued that small denominators in graduation rate fractions would lead to huge variances in rates from year to year. If waivers could not be granted, this commenter asked that such institutions be permitted to report data for several years together in order to cure this problem.

Discussion: The statute provides institutions the opportunity to ask for waivers through their athletic conferences or associations. The Secretary does not have the authority to remove this opportunity, or to withhold waivers to associations or conferences that submit applications that meet reasonable criteria. The Secretary will not approve waivers if the application does not specify that the methodology by which the conference or association is to gather these data meets the criteria set forth by the statute and these regulations. The Secretary believes that these approval criteria will provide comparable data between those institutions that report according to athletic association or conference protocols, and those that do not.

As noted above, the Secretary will also consider the protocols of state higher education agencies or other associations as acceptable methodologies if those protocols meet the requirements set by the statute and these regulations.

The statute is clear in requiring that all institutions that participate in any title IV, HEA program must comply with the requirements for supplying completion or graduation rate information and transfer-out rate information for their undergraduate populations, and that all institutions that participate in any title IV, HEA program and award athletically-related student aid must comply with the requirements to supply information on their general student population and the completion or graduation rate and transfer-out rate of their student-athletes. The statute only allows waivers for substantially comparable data submitted to an athletic conference or association. It does not empower the Secretary either to exempt an institution from these requirements, or to allow institutions to make these disclosures and reports on any but an annual basis.

In response to the concerns of small schools, institutions are always able to provide additional information, such as prior years' data, and explanations of factors affecting their completion or graduation rates.

The Secretary does not construe the statute to prohibit institutions from compiling and publishing these data even if its athletic conference or association has successfully requested waivers on its behalf, so long as the institution generates the information in compliance with the requirements of the statute, these regulations, and other Departmental guidance regarding acceptable protocols.

The Secretary agrees with the commenter that the successful application for waivers of data collection requirements on behalf of an institution by an athletic association or conference does not also exempt that institution from supplying this information to the parties identified in the statute. Institutions that obtain such waivers must still comply with the information dissemination requirements set by § 668.41.

The Secretary will publish at a later date the procedures by which an athletic association or conference may request waivers for its member institutions.

Changes: A change has been made to § 668.46(e) that clarifies that an institution that obtains waivers through its athletic association or conference for the generation of this data must still comply with the provisions of § 668.41.

Section 668.49 Graduation or Completion Rate and Transfer-out Rates of Student-athletes

Comments: Several commenters expressed concern over the July 1, 1997 reporting date for the data on graduation and completion rates of student athletes. These commenters contended that requiring institutions to meet this date would entail gathering information on students who had entered as far back as 1993, and because institutions who were not members of the NCAA are not tracking those students, the result would be inaccurate and flawed data, as well as a heavy burden on those institutions. These commenters believed that the tracking of these students should begin with the students entering after July 30, 1996, and that the Department not require the first report to be compiled and issued until after the 150% of the time for graduation or completion for that group of students has elapsed.

Discussion: The Secretary appreciates the concerns of these commenters with regard to the issue of disclosing completion or graduation rates for students entering before July 1, 1996.

With regard to the students on which institutions must compile completion or graduation rate information, the Secretary will not require institutions to provide this information for students who enter before July 1, 1996, subject to the regulatory provisions regarding the provision of average rates for previous years. However, the Secretary is aware that a large number of schools will have in hand data on students entering prior to that date as a result of complying with the requirements of organizations such as the NCAA. The Secretary strongly encourages those institutions to report those data.

All institutions must disclose the information other than the completion or graduation rate data required by this section beginning July 1, 1997. Institutions affected by these regulations must disclose the information on completion or graduation rates for student-athletes beginning on the July 1 immediately following the expiration of 150% of normal time for the group of students entering on or after July 1, 1996 on which the institution bases its completion or graduation rate, in accordance with § 668.46(a)(2).

The Secretary also wishes to clarify that the disclosure and reporting date for this information is the July 1 of the calendar year following the expiration of the 150% of normal time for the students whose graduation or completion rate performance is measured. Institutions thus will not be required to disclose this information for approximately one year after the expiration of the 150% period. The Secretary encourages institutions to disclose earlier, for example, along with the January 1 disclosures for non-student athletes.

Changes: None.

Comments: Several comments expressed concern that the level of detail the statute requires regarding the gender and race of athletes within particular sports will result in the possibility that particular students will be identifiable from the data an institution reports. These commenters contended that such a situation would violate the privacy provisions of the Buckley Amendment (Family Educational Rights and Privacy Act), and therefore asked that the Department allow institutions to leave blank those categories in their reports in which the status of a very few students (less than five) would be reported.

Discussion: The Secretary agrees with the commenters, and will not require institutions to report this information if five or fewer students are involved. The institution must supply a note stating that the disclosure was not made due to privacy concerns.

Changes: A change has been made in § 668.49 to add a provision that an institution need not disclose a completion or graduation rate or a transfer-out rate for categories that include five or fewer students.

Comments: Several commenters supported the provision that the same cohort of students be the subject of the reports in both §§ 668.46 and 668.49.

Discussion: The Secretary appreciates these commenters' support.

Changes: None.

Comments: Several commenters noted the absence of a definition of the term "athlete" in the proposed rules, and maintained that such a definition should be supplied in the final rules in order for the regulations to generate comparable data among institutions. One of these commenters inquired whether the term referred only to athletes who receive athletically-related student aid, whether it would include only participants in intercollegiate athletic sports, and how long participants need participate before being deemed "athletes."

Discussion: The Secretary does not agree that it is necessary to define the term "athlete." The Secretary notes that the statutory term "athletically-related student aid" governs the selection of students upon whose performance completion or graduation rates are reported, and to whom information on performance is provided. The Secretary believes that for the purposes of the information required by § 668.49(a)(1)(ii), students who receive athletically-related student aid are all students who receive that aid at any time during the previous reporting year. For purposes of § 668.49(a)(1)(iv), entering students who receive athletically-related student aid are those students who receive athletically-related student aid for any period of time between July 1 and June 30 of their entering year. The Secretary notes that this is a methodology similar to that now employed for these purposes by the NCAA.

Changes: None.

Executive Order 12866

These regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of the regulatory action.

The potential costs associated with the regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of these regulations, the Secretary has determined that the benefits of the regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal government in the exercise of their governmental functions.

Summary of Potential Costs and Benefits

The potential costs and benefits of these final regulations are discussed elsewhere in this preamble under the following heading: *Analysis of Comment and Changes.*

Paperwork Reduction Act of 1995

Sections 668.41, 668.46 and 668.49 all contain information collection requirements. As required by the Paperwork Reduction Act of 1995, the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for review.

Collection of Information: Student Right-to-Know

These regulations affect the following types of entities eligible to participate in the Title IV, HEA programs: Educational institutions that are public or nonprofit institutions, and businesses and other for-profit institutions.

Institutions of higher education that participate in title IV, HEA programs will need and use the information required by these regulations to meet the eligibility requirements for participation in those programs that were added by the Student Right-to-Know Act.

Section 668.41—Institutions must make available to students and potential students information on the completion or graduation rates and transfer out rates of the general full-time undergraduate population.

Institutions that award athletically-related student aid must provide the potential student athlete, and his or her parents, coaches, and high school counselor information on the completion or graduation rates and transfer-out rates of student-athletes. Institutions must also provide a copy of this information to the Secretary. The Secretary needs and uses this report to fulfill statutory requirements under the Student Right-to-Know Act to publish that information broken down by institution and athletic conference.

Section 668.46—The information to be collected includes the completion or graduation rate, and the transfer-out rate of full-time, certificate- or degree-seeking undergraduate students entering the institution.

Section 668.49—The information to be collected includes the number of students attending the institution who received athletically related student aid, broken down by race and gender; the completion or graduation rate and transfer-out rate of full-time, certificate- or degree-seeking undergraduate students broken down by race and gender; the completion or graduation rate and transfer-out rate of full-time, certificate- or degree-seeking undergraduate students who received athletically related student aid, broken down by race and gender with each sport; and the average graduation or completion rate and transfer-out rate of full-time, certificate- or degree-seeking undergraduate students for the four most recent graduating or completing classes, broken down by race and gender.

Information is to be collected and disclosed once each year for institutions covered by §§ 668.41(a) and 668.46, and collected, disclosed, and reported to the Secretary once each year for institutions covered by §§ 668.41(b) and 668.49. Annual public reporting and recordkeeping burden is estimated to average 24.5 hours for each response for 8,000 respondents for § 668.46 and 24.5 hours for each response for 1,800 respondents for § 668.49. Thus the total annual reporting and recordkeeping burden for this collection is estimated to be 240,100 hours. These hours include the time needed for searching existing data sources and gathering, maintaining, and disclosing the data.

OMB is required to make a decision concerning the collections of information contained in these final regulation between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for U.S. Department of Education.

Regulatory Flexibility Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. Small entities affected by these regulations are small institutions of higher education.

Assessment of Educational Impact

In the Notice of Proposed Rulemaking, the Secretary solicited comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency of the United States.

Based on the response to the proposed rule, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs— education, Loan programs—education, Reporting and recordkeeping requirements, Student aid.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Federal Stafford Loan Program; 84.032 Federal PLUS Program; 84.032 Federal Supplemental Loans for Students Program; 84.033 Federal Work-Study Program; 84.038 Perkins Loan Program; 84.063 Federal Pell Grant Program; 84.069 Federal State Student Incentive Grant Program; 84.268 Federal Direct Student Loan Program; and 84.272 National Early Intervention Scholarship and Partnership Program.)

Dated: November 24, 1995.

Richard W. Riley,

Secretary of Education.

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099c and 1141, unless otherwise noted.

2. Section 668.41 is amended by adding a new paragraph (a)(3); redesignating paragraph (b) as paragraph (c) and revising the redesignated paragraph (c); and by adding new paragraph (b) to read as follows:

§ 668.41 Scope and special definitions.

(a) * * *

(3) The institution's completion or graduation rate and its transfer-out rate, produced in accordance with § 668.46.

(b)(1) Each institution participating in any title IV, HEA program, when it offers a potential student-athlete athletically-related student aid, shall provide to the potential student-athlete, and his or her parents, high school coach, and guidance counselor, the information on completion and graduation rates, transfer-out rates, and other data produced in accordance with § 668.49.

(2) The institution shall also submit to the Secretary the report produced in accordance with § 668.49 by July 1, 1997 and by every July 1 every year thereafter.

(c) The following definitions apply to this subpart:

Athletically-related student aid means any scholarship, grant, or other form of financial assistance, offered by an institution, the terms of which require the recipient to participate in a program of intercollegiate athletics at the institution.

Certificate or degree-seeking student means a student enrolled in a course of credit who is recognized by the institution as seeking a degree or certificate.

First-time freshman student means an entering freshman who has never attended any institution of higher education. Includes a student enrolled in the fall term who attended a postsecondary institution for the first time in the prior summer term, and a student who entered with advanced standing (college credit earned before graduation from high school).

Normal time is the amount of time necessary for a student to complete all requirements for a degree or certificate according to the institution's catalog. This is typically four years (8 semesters or trimesters, or 12 quarters, excluding summer terms) for a bachelor's degree in a standard term-based institution, two years (4 semesters or trimesters, or 6 quarters, excluding summer terms) for an associate degree in a standard term-based institution, and the various scheduled times for certificate programs.

Prospective students means individuals who have contacted an eligible institution requesting information concerning admission to that institution.

Undergraduate students, for purposes of this section only, means students enrolled in a 4- or 5-year bachelor's degree program, an associate's degree program, or a vocational or technical program below the baccalaureate.

(Authority: 20 U.S.C. 1092)

3. Section 668.46 is added to subpart D, to read as follows:

§ 668.46 Information on completion or graduation rates.

(a)(1) An institution shall prepare annually information regarding the completion or graduation rate and the transfer-out rate of the certificate- or degree-seeking, full-time undergraduate students entering that institution on or after July 1, 1996.

(2)(i) An institution that offers a predominant number of programs based on semesters, trimesters, or quarters shall base its completion or graduation rate and transfer-out rate calculations on the group of certificate- or degree-seeking, full-time undergraduate students who enter the institution during the fall term.

(ii) An institution not covered by the provisions of paragraph (a)(2)(i) of this section shall base its completion or graduation rate and transfer-out rate calculations on the group of certificate- or degree-seeking, full-time undergraduate students who enter the institution between every July 1st of one year and June 30th of the following year.

(3)(i) For purposes of the completion or graduation rate and transfer-out rate calculations required in paragraph (a)(1) of this section, an institution shall count as entering students only first-time freshman students, as defined in § 668.41(c).

(ii) An institution may also calculate the completion or graduation rate of students who transfer into the institution as a separate, supplemental rate.

(4)(i) An institution covered by the provisions of paragraph (a)(2)(i) of this section shall count as an entering student a first-time freshman student who is enrolled as of October 15, or the end of the institution's drop-add period.

(ii) An institution covered by the provisions of paragraph (a)(2)(ii) of this section shall count as an entering student a first-time freshman student who has attended at least one day of class.

(5)(i) Beginning with the group of students who enter the institution between July 1, 1996 and June 30, 1997, an institution shall disclose its completion or graduation rate and transfer-out rate information no later than the January 1 immediately following the point in time that 150% of the normal time for completion or graduation has elapsed for all of the students in the group on which the institution bases its completion or graduation rate and transfer-out rate calculations.

(ii) An institution shall disclose no later than January 1 each year thereafter its completion or graduation rate information for each succeeding group

of students who completed or graduated within 150% of the normal time for completion or graduation from their programs as of June 30 of the preceding year.

(b) In calculating the completion or graduation rate under paragraph (a) of this section, an institution shall count as completed or graduated—

(1) Students who have completed or graduated within 150% of the normal time for completion or graduation from their program;

(2) Students who have completed a transfer program as described in § 668.8(b)(1)(ii) within 150% of normal time for completion from that program may be counted as completers.

(c)(1) In calculating the transfer-out rate under section paragraph (a) of this section, an institution shall count as students who have transferred out those students who, within 150% of the normal time for completion or graduation from the program in which the student was enrolled, subsequently enroll in any program of an eligible institution for which the prior program provides substantial preparation;

(2) An institution shall document that its program provided substantial preparation to a student by obtaining a copy of any of the following:

(i) Certification letter from the receiving institution stating that a student is enrolled in that institution;

(ii) Electronic certification from the receiving institution stating that a student is enrolled in that institution;

(iii) Confirmation of enrollment data from a legally-authorized statewide or regional tracking system (or shared information from those systems) confirming that a student has enrolled in another institution;

(iv) Institutional data exchange information confirming that a student is enrolled in another institution; or

(v) An equivalent level of documentation.

(d) For the purpose of calculating a completion or graduation rate and a transfer-out rate, an institution may exclude from the calculation of its completion or graduation rate and its transfer-out rate students who—

(1) Have left school to serve in the Armed Forces;

(2) Have left school to serve on official church missions;

(3) Have left school to serve with a foreign aid service of the Federal Government, such as the Peace Corps; or

(4) Are deceased, or totally and permanently disabled.

(e)(1) The Secretary grants a waiver of the requirements of this section to any institution that is a member of an athletic association or conference that has voluntarily published completion or graduation rate data, or has agreed to publish data, that the Secretary determines are substantially comparable to the data required by this section.

(2) An institution that receives a waiver of the requirements of this section must still comply with the requirements of §§ 668.41(a)(3) and 668.41(b) of this subpart.

(3) An institution, or athletic association or conference applying on behalf of an institution that seeks a waiver under paragraph (e)(1) of this section shall submit a written application to the Secretary that explains why it believes the data the athletic association or conference publishes are accurate and substantially comparable to the information required by this section.

(Authority: 20 U.S.C. 1092)

4. Section 668.49 is added to subpart D, to read as follows:

§ 668.49 Report on completion or graduation rates for student-athletes.

(a)(1) By July 1, 1997, and by every July 1 every year thereafter, each institution that is attended by students receiving athletically-related student aid shall produce an annual report containing the following information:

(i) The number of students, categorized by race and gender, who attended that institution during the year prior to the submission of the report.

(ii) The number of students described in paragraph (a)(1)(i) of this section who received athletically-related student aid, categorized by race and gender within each sport.

(iii) The completion or graduation rate and transfer-out rate of all the entering, certificate- or degree-seeking, full-time, undergraduate students described in § 668.46(a) (1), (2), (3) and (4).

(iv) The completion or graduation rate and transfer-out rate of the entering students described in § 668.46(a) (1), (2), (3)and (4) who received athletically-related student aid, categorized by race and gender within each sport.

(v) The average completion or graduation rate and transfer-out rate for the four most recent completing or graduating classes of entering students described in § 668.46(a) (2), (3), and (4) categorized by race and gender. If an institution has completion or graduation rates and transfer-out rates for fewer than four of those classes, it shall disclose the average rate of those classes for which it has rates.

(2) For purposes of this section, *sport* means—

(i) Basketball;

(ii) Football;

(iii) Baseball;

(iv) Cross-country and track combined; and

(v) All other sports combined.

(3) If a category of students identified in paragraph (a)(1)(iv) above contains five or fewer students, the institution need not disclose information on that category of students.

(b) The provisions of § 668.46 (a), (b) and (c) apply for purposes of calculating the completion or graduation rates and transfer-out rates required under paragraphs (a)(1)(iii), (a)(1)(iv), and (a)(1)(v) of this section.

(c) Each institution of higher education described in paragraph (a) of this section may also provide to students and the Secretary supplemental information containing—

(1) The graduation or completion rate of the students who transferred into the institution; and

(2) The number of students who transferred out of the institution.

(d) Section 668.46(d) applies for purposes of this section.

(Authority: 20 U.S.C. 1092)

[FR Doc. 95–29181 Filed 11–30–95; 8:45 am]
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federal register

Friday
December 1, 1995

Part VI

Department of Education

34 CFR Part 685
William D. Ford Federal Direct Loan Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 685

RIN 1840–AC22

William D. Ford Federal Direct Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education amends the William D. Ford Federal Direct Loan (Direct Loan) Program regulations. The regulations apply to loans under the Federal Direct Stafford/Ford Loan (Direct Subsidized Loan) Program, the Federal Direct Unsubsidized Stafford/Ford Loan (Direct Unsubsidized Loan) Program, the Federal Direct PLUS Loan (Direct PLUS Loan) Program, and the Federal Direct Consolidation Loan (Direct Consolidation Loan) Program, collectively referred to as the Direct Loan Program. These regulations provide schools with more flexibility in performing origination functions, and clarify the date of loan origination. Further, these regulations set timelines for the submission of promissory notes, disbursement records, and origination records.

EFFECTIVE DATE: These regulations take effect July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Katrina Ingalls, Program Specialist, Direct Loan Policy Group, Policy Development Division, U.S. Department of Education, Room 3053, ROB–3, 600 Independence Avenue, SW., Washington, DC 20202–5400. Telephone: (202) 708–9406. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The Secretary is amending the Direct Loan Program regulations to improve the program based on experience gained during the first year of operation. These amended regulations reflect programmatic changes that the Secretary believes will improve services to student and parent borrowers, increase institutional flexibility, and enhance the Department's administrative and fiscal oversight capabilities.

On September 20, 1995, the Secretary published the proposed amended regulations in a notice of proposed rulemaking (NPRM) for part 685 in the **Federal Register** (60 FR 48858). The major issues surrounding the proposed changes were discussed in the NPRM and thus will not be repeated here.

The following section summarizes the two revisions to the proposed rule.

Substantive Revisions to the Proposed Rule

Section 685.215(h)(2) Repayment Plans

The NPRM proposed to revise the repayment plan regulations to reflect the Secretary's current operational practice regarding repayment plan selection for certain Direct Consolidation Loan borrowers. Under the NPRM, borrowers who consolidate only one FFEL Program loan into the Direct Loan Program would be required to select initially a repayment plan other than the standard repayment plan. The Secretary has determined that this restriction will not be included in the final regulations.

Section 685.301 Origination of a Loan by a Direct Loan Program School

The NPRM proposed that the date of loan origination be the earlier of the date the promissory note is printed or the date the origination record is accepted by the Secretary. The Secretary has revised § 685.301(a)(5) to provide that the date of loan origination is the date the school creates the electronic loan origination record for a borrower. Beginning with the 1996–1997 academic year, enhanced loan origination software will record the date of origination permanently on the borrower's loan file when the borrower's origination record is created by the school. Modifying the Direct Loan school software to record automatically the date the school creates the origination record will ensure that a school is able to document clearly the date that it certified the borrower's eligibility for the loan, the loan amount, and anticipated disbursement dates. The date the electronic origination record is created occurs earlier in loan processing than either printing the promissory note or the origination record being accepted by the Secretary. This change will result in improved service to schools by automatically generating the information necessary to document the origination process and will improve services to borrowers by promoting flexibility in processing loans.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, ten parties submitted comments on the proposed regulations. An analysis of the comments appears below, beginning with a general discussion of the comments received concerning the length of the comment period. This is followed by a general discussion of the comments received regarding the Secretary's consideration of establishing foreign school participation requirements for the Direct Loan Program.

A discussion of the major issues that generated comments follows. The major issues are grouped according to subject, with references to the appropriate sections of the regulations. Technical and other minor changes, and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority, generally are not addressed.

General Discussion of Length of Comment Period

Several commenters argued that the comment period was too short, especially considering that the Department published six NPRMs, all with comment periods ending at approximately the same time.

In the six NPRMs referred to above, the Secretary proposed numerous improvements and necessary changes to the Student Financial Assistance Programs. The "Master Calendar" provisions contained in section 482 of the Higher Education Act of 1965 (HEA) require that regulations be published in final form by December 1 prior to the start of the award year for which they will become effective. Because of the importance of implementing these changes and improvements for the award year beginning July 1, 1996, the Secretary established a comment period that would allow publication of these final regulations by December 1, 1995, consistent with the "Master Calendar" timeframe. The Secretary always endeavors to provide as long a comment period as possible.

General Discussion of Foreign School Participation Comments

In the preamble of the NPRM, the Secretary asked for comments and supporting arguments on:

- What, if any, additional standards should be established for foreign schools that participate in the Direct Loan Program;
- Potential financial risks as well as benefits of admitting foreign schools into the Direct Loan Program; and
- Potential losses or benefits to students related to foreign school participation in the Direct Loan Program.

One foreign school responded to the Secretary's invitation for comments. This school expressed enthusiasm about the Direct Loan Program because it views potential participation as a way to solve some of the problems the school is currently experiencing in receiving loan funds under the FFEL Program. The commenter supported foreign school participation in the Direct Loan Program.

Further, the commenter suggested that the Secretary should not group all foreign schools together for purposes of participation in the Direct Loan Program and recommended that a separate category be established for schools that are located outside of the U.S. but are U.S. accredited. It is the school's opinion that this group would present a lower potential financial risk for the Federal Government since these schools maintain a U.S. Admissions Office and a U.S. dollar bank account. This commenter also pointed out the importance of making sure that foreign schools have trained individuals processing loans for their students.

Another commenter felt that it was premature to consider foreign school participation in the Direct Loan Program and recommended that processing system changes be implemented prior to allowing foreign school participation.

A third commenter recommended that foreign schools be allowed to participate, but not allowed to originate loans. This commenter suggested that foreign schools be required to use an alternative originator. This suggestion was made based on the commenter's opinion that all foreign schools are not uniform in their ability to administer the Title IV programs.

The Secretary understands and appreciates the issues raised by these commenters. As discussed in the NPRM, the Secretary is aware that, due to the nature of the Direct Loan Program, additional fiscal oversight and administrative requirements are warranted for participating foreign schools. The Direct Loan Program is unique among the financial aid programs with respect to its funds disbursement processes and requirements. Because there is no authorized limit to the amount of funds that schools may draw down in the Direct Loan Program, the Department must rigorously oversee the funds disbursement process. To prevent potential program abuse, the Secretary is committed to the careful monitoring of the drawdown of funds to schools and the disbursement to students.

Based on the comments received, the Secretary has determined that the issue of foreign school participation in the Direct Loan Program warrants further consideration. Therefore, no specific provisions related to foreign school participation are included in these regulations.

Discussion of Major Issues

Section 685.102 Definitions

School Origination Option 1, School Origination Option 2, and Standard Origination

Section 685.102(b)

Comments: Several commenters responded to the proposed revisions of the current definitions of school origination option 1, school origination option 2, and standard origination. These commenters viewed these changes as a positive step that would allow institutions greater flexibility to have the origination process modified based on the their unique capabilities and individual needs.

Several other commenters did not support the proposed change. These commenters argued that the Secretary should not amend the "origination requirements."

Discussion: It appeared from the comments that there may be some confusion regarding the proposed change. The Secretary is not changing the origination criteria, nor is the Secretary redesignating the functions performed at a given level of origination. The purpose of this amendment is to allow a school the flexibility to ask the Secretary to perform a function that the school must, under current regulation, perform, at a given origination level. If the Secretary approves the school's request, the Secretary will perform the functions, but the school would not be required to change its origination level.

For example, during the 1996–1997 academic year, an origination option 2 level school is fully qualified to perform all loan origination functions and to draw down loan funds. If a school wanted to ask the Secretary to handle the promissory note functions, but still wanted to be able to draw down funds (for which the school is fully qualified), current regulations would not allow this option. The proposed change would allow the Secretary to establish this type of individual agreement with the school.

The proposed regulatory amendment would not undermine the integrity of the program or the Secretary's ability to provide sound oversight. Furthermore, the change is consistent with the Secretary's current initiative to promote regulatory flexibility and reduce unnecessary burden on institutions. The Secretary is confident that this regulatory change allows schools to customize the origination process in a manner that would be beneficial for schools, as well as the Direct Loan Program.

Change: For clarity, the word "status" has been changed to "options" in each of the definitions.

Comments: A number of commenters recommended that any revisions to the origination criteria be established through negotiated rulemaking. These commenters noted that the existing origination criteria were developed through extensive negotiated rulemaking.

Discussion: Section 457 of the HEA requires the Secretary to conduct negotiated rulemaking for the Direct Loan Program only to the extent practicable. This section does not require negotiated rulemaking for amendments to existing regulations. Further, the Secretary does not believe that it is practicable to conduct negotiated rulemaking for amendments to these regulations. Negotiated rulemaking is a lengthy process that would have prevented implementation of the revised definitions of school origination option 1, school origination option 2, and standard origination for the 1996/1997 academic year. For these amendments, the Secretary has decided not to use the negotiated rulemaking process to solicit input from the higher education community. In the Secretary's opinion, these changes are a positive step that allow institutions the flexibility to modify the origination process based on their individual needs and capabilities. Because this is an improvement over the existing process, schools should be able to benefit from these regulatory revisions as soon as possible. The majority of the commenters supported the Secretary's proposal to revise these definitions of origination criteria.

Changes: None.

Section 685.208 Repayment Plans, Section 685.210 Choice of Repayment Plans, and Section 685.215 Consolidation

Comments: None of the commenters supported these proposed amendments. One commenter argued that borrowers with one FFEL Program loan should not be precluded from initially consolidating into the Direct Loan Program using the standard repayment plan. The commenter felt that a borrower's repayment options should not be limited by the number of loans the borrower wishes to consolidate. The commenter also asserted that, if the standard repayment plan offered the best terms for that Direct Consolidation Loan borrower, that option should be available to the borrower.

Discussion: The Departmental practice of requiring borrowers who consolidate only one FFEL Program loan into the Direct Loan Program to initially select a repayment plan other than the standard repayment plan had been implemented in response to the concerns of the FFEL community. However, none of the commenters wrote in support of this provision. Further, the only specific comment addressing this proposal was received from a member of the FFEL community, and that commenter urged the Secretary to delete this provision.

Change: Proposed amendments to §§ 685.208, 685.210 and 685.215 have been removed.

Section 685.301 Origination of a Loan by a Direct Loan Program School

Section 685.301(a)(5) Determining Eligibility and Loan Amount

Comments: Several commenters supported the amendment to clarify the date of loan origination. One commenter objected to the Secretary's clarification of the date of loan origination for the Direct Loan Program. This commenter felt that both the Direct Loan and FFEL Programs should establish the same definition for the "date of origination." If this is not possible, the commenter suggested the Secretary create another term for "the date of origination" in the Direct Loan Program to avoid possible confusion among Direct Loan and FFEL Program participants.

Discussion: It is important to establish clearly the date of origination, because a school may only originate a loan while the borrower meets the eligibility requirements. The NPRM proposed that the date of loan origination be the earlier of the date the promissory note is printed or the date the origination record is accepted by the Secretary. Beginning with the 1996–1997 academic year, enhanced loan origination software will record the date of origination permanently on the borrower's loan file when the borrower's origination record is created by the school. Modifying the Direct Loan school software to record automatically the date the school creates the origination record will ensure that the school is able to document clearly the date that it certified a borrower's eligibility for a loan, the loan amount, and anticipated disbursement dates. Further, because the electronic origination record is created earlier in loan processing than either printing the promissory note or the origination record being accepted by the Secretary, this change will result in improved service to both schools and borrowers. Service to schools is improved because the information necessary to document the origination process is automatically generated in the student's electronic file; service to borrowers is improved by promoting flexibility in processing loans.

The Secretary is making every effort to ensure conformity between the Direct Loan and the FFEL Programs whenever possible. However, there is no definition of "date of origination" in the FFEL Program. Further, the programs operate differently and it is impossible to attain absolute conformity between the programs in all aspects. For example, loan origination in the Direct Loan Program is similar to certification of the loan application in the FFEL Program but because of the inherent operational differences between the program, the two events are not necessarily identical. In the FFEL Program, school officials certify borrower information on a combined application and promissory note. In the Direct Loan Program, the application process is separate from certification of loan information. Therefore, Direct Loan eligibility is certified by means of the electronic origination record and a written statement provided by the school after submitting the origination record. On the origination record, a school certifies a borrower's eligibility, the loan amount, and the anticipated disbursement dates. Due to these operational differences, it is not appropriate to have the same provision in both loan programs. Further, because very few schools participate in both the Direct Loan and FFEL Programs, the Secretary does not believe that this terminology will cause confusion.

The Secretary wants to clarify that the use of the phrase "date of loan origination" in the Direct Loan Program is intended for operational purposes only and does not constitute a commitment on the part of the Federal Government to make a loan. This distinction is important to avoid possible confusion with the use of the term "origination" for Federal budgetary purposes.

Changes: The regulation has been revised to reflect that the date of loan origination is the date a school creates an electronic loan origination record.

Section 685.301(d) Reporting to the Secretary

Comments: Three commenters felt that the requirement for schools to submit the promissory note, disbursement record, and origination record no later than 30 days following the date of disbursement of loan funds was too restrictive. One of these commenters asked the Secretary to reconsider this timeline because the 30-day deadline would be too burdensome to adhere to in light of other program requirements, such as reconciliation reporting requirements. Another of these commenters suggested that the timeline be extended to 45 days to aid financial aid administrators during their demanding Fall season. This commenter felt that the extra 15 days would make a significant difference in the management of financial aid processes.

Several other commenters strongly endorsed the 30-day reporting requirement. They argued that if schools are required to submit these documents to the Secretary quickly, borrowers will be better served. Additionally, these commenters felt this requirement would result in the reconciliation processing working more smoothly and occurring on a more timely basis—ultimately leading to better fiscal control over federal funds.

One commenter recommended that regulations be added to limit a school's ability to draw down funds until the school had reconciled the funds it had already disbursed. Another commenter recommended that, even though the commenter supported the 30-day reporting requirement, the Secretary should grant schools a brief extension if this requirement presents unanticipated compliance difficulties.

Discussion: The Secretary disagrees with the commenters that assert that this requirement is too restrictive and overly burdensome for the schools. In previous guidance, the Department has advised all Direct Loan schools that they should reconcile and submit all loan origination records, promissory notes, and disbursement records on a monthly basis [see the April 26, 1994, Announcement of Criteria for Loan Origination—1995–1996 Academic Year (59 FR 21804) and Chapter 7 of the *Direct Loan School Guide*]. This requirement is needed to ensure that borrowers receive disbursement disclosure information and loan servicing information shortly after the loan is disbursed. Further, Direct PLUS Loan borrowers enter repayment when the loan is fully disbursed and the Department must receive disbursement information in a timely manner in order to establish repayment terms. Requiring the timely submission of program data by schools to the Direct Loan Servicer will enhance the Department's administrative and fiscal oversight capabilities and will help ensure that up-to-date data are maintained in the National Student Loan Data System.

After a year of experience in administering the Direct Loan Program, the Secretary is convinced that services to borrowers would be substantially improved by requiring schools to submit the promissory note, disbursement record, and origination record no later than 30 days following the date of disbursement of loan funds. The implementation of this 30-day requirement is in the best interest of federal taxpayers as well as Direct Loan schools. Furthermore, the timely submission of origination records, promissory notes, and initial and subsequent disbursement records is particularly critical at the end of the Federal fiscal year (September 30).

Ultimately, the result of this requirement will be that borrowers will have fewer questions and problems in the initial phase of the loan process. Also, schools will benefit from this change because schools that do not report disbursements in a timely manner appear to have excess cash even when they have properly disbursed funds to borrowers in compliance with the cash management regulations. The Secretary is confident that the 30-day reporting requirement will help the reconciliation process to work more smoothly and on a more timely basis, ultimately leading to better fiscal control over federal funds and improved services to borrowers.

The Secretary understands that, particularly for Direct Loan schools during their first year of participation in the program, the Department may initially need to extend reasonable lenience when enforcing this requirement. These schools may need additional time or assistance until they become familiar with the Direct Loan processes and procedures. Furthermore, the Secretary has already committed to current program participants that the Secretary will assist any schools having difficulty in complying with this requirement. The Secretary is ready to provide technical support to schools and is willing to review a school's on-site operations, if requested, to make suggestions regarding changes that will enable the school to meet this requirement.

Based on the comments received on this issue, it appears that some commenters are confused about when a borrower receives the disclosure of loan information in the Direct Loan Program. Every Direct Loan borrower receives disclosure information on the Direct Loan promissory note prior to disbursement. The disclosure that is mailed from the Direct Loan Servicing Center following any disbursement is in addition to the initial disclosure.

Changes: None.

Executive Order 12866

These final regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the final regulations are those resulting from statutory requirements and those determined by the Secretary as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of these final regulations, the Secretary has determined that the benefits of the regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of Potential Costs and Benefits

The potential costs and benefits of these final regulations are discussed elsewhere in this preamble under the following heading: *Analysis of Comments and Changes.*

Assessment of Educational Impact

In the NPRM, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by, or is available from, any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by, or is available from, any other agency or authority of the United States.

List of Subjects in 34 CFR Part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

(Catalog of Federal Domestic Assistance Numbers: 84.268, William D. Ford Federal Direct Loan Program)

Dated: November 22, 1995.

Richard W. Riley,

Secretary of Education.

The Secretary amends part 685 of title 34 of the Code of Federal Regulations to read as follows:

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

1. The authority citation for Part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a et seq., unless otherwise noted.

2. Section 685.102, paragraph (b) is amended by revising the definition of "School origination option 1," "School origination option 2," and "Standard origination."

§ 685.102 Definitions.

* * * * *

(b) * * *

School origination option 1: In general, under this option the school performs the following functions: creates a loan origination record, transmits the record to the Servicer, prepares the promissory note, obtains a completed and signed promissory note from a borrower, transmits the promissory note to the Servicer, receives the funds electronically, disburses a loan to a borrower, creates a disbursement record, transmits the disbursement record to the Servicer, and reconciles on a monthly basis. The Servicer initiates the drawdown of funds for schools participating in school origination option 1. The Secretary may modify the functions performed by a particular school.

School origination option 2: In general, under this option the school performs the following functions: creates a loan origination record, transmits the record to the Servicer, prepares the promissory note, obtains a completed and signed promissory note from a borrower, transmits the promissory note to the Servicer, determines funding needs, initiates the drawdown of funds, receives the funds electronically, disburses a loan to a borrower, creates a disbursement record, transmits the disbursement record to the Servicer, and reconciles on a monthly basis. The Secretary may modify the functions performed by a particular school.

* * * * *

Standard origination: In general, under this option the school performs the following functions: creates a loan origination record, transmits the record to the Servicer, receives funds electronically, disburses funds, creates a disbursement record, transmits the disbursement record to the Servicer, and reconciles on a monthly basis. The Servicer prepares the promissory note, obtains a completed and signed promissory note from a borrower, and initiates the drawdown of funds for schools participating in standard

origination. The Secretary may modify the functions performed by a particular school.

(Authority: 20 U.S.C. 1087a *et seq.*)

3. Section 685.201 is amended by revising paragraph (a)(2) introductory text, and paragraph (b) to read as follows:

§ 685.201 Obtaining a loan.

(a) * * *

(2) If the student is eligible for a Direct Subsidized Loan or a Direct Unsubsidized Loan, the Secretary or the school in which the student is enrolled shall perform specific functions. Unless a school's agreement with the Secretary specifies otherwise, the school shall perform the following functions:

* * * * *

(b) *Application for a Direct PLUS Loan.* To obtain a Direct PLUS Loan, the parent shall complete the application and promissory note and submit it to the school at which the student is enrolled. The school shall complete its portion of the application and promissory note and submit it to the Servicer, which makes a determination as to whether the parent has an adverse credit history. Unless a school's agreement with the Secretary specifies otherwise, the school shall perform the following functions: A school participating under school origination option 2 shall draw down funds and disburse the funds. For a school participating under school origination option 1 or standard origination, the Servicer initiates the drawdown of funds, and the school disburses the funds.

* * * * *

(Authority: 20 U.S.C. 1087a *et seq.*, 1091a)

4. Section 685.301 is amended by redesignating paragraphs (a)(5) and (a)(6) as paragraphs (a)(6) and (a)(7), respectively, adding a new paragraph (a)(5) and by adding a new paragraph (d) to read as follows:

§ 685.301 Origination of a loan by a Direct Loan Program school.

(a) * * *

(5) The date of loan origination is the date a school creates the electronic loan origination record.

* * * * *

(d) *Reporting to the Secretary.* (1) A school that originates a loan must submit the promissory note, loan origination record, and initial and subsequent disbursement records to the Secretary no later than 30 days following the date of disbursement. A school must submit the loan origination record and disbursement record to the Secretary no later than 30 days following the date of disbursement for each subsequent disbursement.

(2) A school that participates under standard origination must submit the initial and subsequent disbursement record to the Secretary no later than 30 days following the date of disbursement. A school must submit the disbursement record to the Secretary no later than 30 days following the date of disbursement for each subsequent disbursement.

(Authority: 20 U.S.C. 1087a *et seq.*)

(Approved by the Office of Management and Budget under Control Number 1840–0672)

[FR Doc. 95–29126 Filed 11–30–95; 8:45 am]

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federal register

Friday
December 1, 1995

Part VII

Department of Education

34 CFR Part 668, et al.

Higher Education Act of 1965; Student Financial Assistance Programs; Federal Regulatory Review; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 668, 674, 675, 676, 682, 685, and 690

RIN 1840–AC20

Student Assistance General Provisions, Federal Perkins Loan Program, Federal Work-Study Programs, Federal Supplemental Educational Opportunity Grant Program, Federal Family Education Loan Programs, William D. Ford Federal Direct Loan Program, and Federal Pell Grant Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended (title IV, HEA programs). These programs include the campus-based programs (Federal Perkins Loan, Federal Work-Study (FWS), and Federal Supplemental Educational Opportunity Grant (FSEOG) programs), the Federal Family Education Loan (FFEL) programs, the William D. Ford Federal Direct Loan (Direct Loan) programs, the Federal Pell Grant Program, and the State Student Incentive Grant (SSIG) program. These amendments, which eliminate unnecessary regulations and improve the existing regulations, are part of a planned series of regulatory reform and relief measures for the title IV, HEA programs. The Secretary is making these changes in response to the President's Regulatory Reform Initiative.

The title IV, HEA programs support the National Education Goals by enhancing opportunities for postsecondary education. The National Education Goals call for increasing the rate at which students graduate from high school and pursue high quality postsecondary education, and for supporting life-long learning.

EFFECTIVE DATE: These regulations take effect on July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Harold McCullough or Rachael Sternberg, U.S. Department of Education, 600 Independence Avenue SW., Regional Office Building 3, Room 3053, Washington, D.C. 20202, (202) 708–7888; or

1. For the Student Assistance General Provisions: Claude Denton, Student Eligibility and Verification Section, General Provisions Branch at (202) 708–7888;

2. For the Federal Perkins Loan Program: Sylvia R. Ross, Campus-Based Loan Programs Section, Loans Branch at (202) 708–8242;

3. For the FWS and FSEOG programs: Kathy S. Gause, Campus-Based Programs Section, Grants Branch at (202) 708–4690;

4. For the FFEL Programs: Ralph Madden, GSL Programs Section, Loans Branch at (202) 708–8242;

5. For the Direct Loan Programs: Doug Laine, Direct Loan Policy Group at (202) 708–9406; and

6. For the Federal Pell Grant Program: Mike Oliver, Pell and State Grant Section, Grants Branch at (202) 708–4607. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time Monday through Friday.

SUPPLEMENTARY INFORMATION: On March 4, 1995, the President directed every Federal agency to review its rules and procedures to reduce regulatory and paperwork burden, and directed Federal agencies to eliminate or revise those regulations that are outdated or otherwise in need of reform. Responding to the President's Regulatory Reform Initiative, the Secretary announced plans to eliminate or revise 93 percent of the Department's regulations. To launch the Department's reinvention effort, the Secretary published a notice in the May 23, 1995 **Federal Register** (60 FR 27223–27226) eliminating more than 30 percent of the Department's regulations, primarily in areas not related to student financial assistance.

The Secretary is conducting a page-by-page review of all student financial assistance regulations to identify those that should be eliminated or improved. The Secretary is also considering developing proposals for statutory amendments to eliminate unnecessary administrative burden.

As part of his response to the President's regulatory reinvention initiative, on September 21, 1995 the Secretary published a Notice of Proposed Rulemaking (NPRM) for parts 668, 674, 675, 676, 682, 685, and 690 in the **Federal Register** (60 FR 49114). The NPRM included a discussion of the proposed changes that will not be repeated here. The following list summarizes those changes and identifies the pages of the preamble to the NPRM on which the discussion can be found.

Part 668—Student Assistance General Provisions

Subpart A—General

The Secretary proposed to remove and reserve § 668.7 "Student Eligibility," and move the "eligible student" provisions to a revised subpart C of 34 CFR 668 (page 49114).

Subpart B—Standards for Participation in Title IV, HEA Programs

The Secretary proposed to allow institutions to obtain information from the National Student Loan Data System (NSLDS) that would otherwise be found on a financial aid transcript, once the Secretary publishes a notice in the **Federal Register** informing institutions that the NSLDS can be used to satisfy this purpose (pages 49114–49115).

Subpart C—Student Eligibility

The Secretary proposed to expand the data match with the Social Security Administration (SSA), starting in the 1996–97 award year, in order to confirm claims of U.S. citizenship by applicants for title IV, HEA program assistance on the Free Application for Federal Student Aid (FAFSA) (page 49115).

The Secretary proposed to allow students to satisfy the requirement of filing a Statement of Educational Purpose with the institution by completing the FAFSA, which will include this statement starting with the 1996–97 award year.The Secretary's proposal did not affect current FFEL requirements with regard to this statement on loan applications (page 49115).

The Secretary proposed to eliminate the model Statement of Educational Purpose. A model statement would be duplicative because the statement will appear on the FAFSA (page 49115). The Secretary proposed to eliminate the Statement of Registration Status. A male student's Selective Service registration status is now confirmed through a data match with the Selective Service System. This data match eliminates the need for the collection of a separate statement (page 49115).

The Secretary proposed to amend and reorganize the provisions under which a student who owes a debt under the HEA or to the United States may nevertheless be eligible to receive title IV, HEA program assistance. The Secretary also proposed to conform the regulations to existing statutory requirements pertaining to bankruptcy (pages 49115–49116).

Subpart I—Immigration Status Confirmation

The Secretary proposed to amend § 668.133(b) to remove the requirements for requesting secondary confirmation from the Immigration and Naturalization Service for a student if (1) the student presents documents to his or her institution verifying his or her immigration status that are identical to documents presented to that institution in a previous year, (2) that institution determined the student to be an eligible noncitizen using secondary confirmation of those same documents in a previous award year, and (3) the institution does not have conflicting information or reason to doubt the student's claim of eligible noncitizen status (page 49116).

Subpart K—Cash Management

The Secretary proposed to amend § 668.164(a)(2) to eliminate the UCC–1 filing requirement for institutions that (1) disclose clearly in the name of the account in which Federal funds are deposited that Federal funds are maintained in that account, or (2) are backed by the full faith and credit of a State (page 49116).

The Secretary proposed to modify § 668.165(b)(1) to provide an institution with as much flexibility as possible with respect to how it notifies a student or parent borrower that FFEL or Direct Loan program funds have been credited to the student's account. That flexibility allows an institution to provide notification electronically or through the use of telecommunication devices (page 49116).

The Secretary proposed to amend § 668.165(b)(1) and (3) to provide that under certain circumstances, and with the student's permission, an institution may use current year title IV, HEA program funds to pay for minor charges from a prior year (pages 49116–49117).

Parts 674, 675, and 676—Campus-Based Programs

The Secretary proposed to eliminate the duplicative definitions of "full-time graduate or professional student" and "full-time undergraduate student from §§ 674.2(b), 675.2(b), and 676.2(b), as applicable, and instead incorporate the definition of "full-time student" set forth in § 668.2(b) for all three of the campus-based programs (page 49117).

The Secretary proposed to eliminate the provisions of §§ 674.17(a), 675.17, and 676.17 which provide that title IV, HEA program funds are held in trust for the Secretary and intended student beneficiaries and cannot be used or hypothecated for any other purpose, because these very provisions are included in § 668.161(b) of the Student Assistance General Provisions regulations (page 49117).

The Secretary proposed to amend §§ 674.19(e)(4)(v), 675.19(c)(3), and 676.19(c)(3) to allow institutions the additional flexibility of using optical disk technology in complying with record retention requirements (page 49117).

Part 674—Federal Perkins Loan Program

The Secretary proposed to amend the definition of "making of a loan" under § 674.2(b) by removing the reference to a borrower signing for each advance of funds (page 49117).

The Secretary proposed to eliminate the requirement under § 674.16 that a student sign for each loan advance, and require instead that the institution simply must obtain the borrower's signature on a promissory note for each award year before it disburses any loan funds under that promissory note for that award year (page 49117).

The Secretary proposed to amend § 674.31(a) to indicate that the Secretary will provide sample promissory notes to institutions, and that institutions may add items to the sample notes so long as the new items do not alter the substance of these sample notes (page 49117).

The Secretary proposed to amend § 674.33(a)(2) by allowing institutions to combine the last scheduled Federal Perkins loan payment with the next-to-the-last payment if the last payment is $25 or less (page 49117).

The Secretary proposed to amend § 674.47(g) to allow an institution to cease collection activity on a defaulted account with a balance of less than $25, while continuing to require the institution to consider the loan as in default for purposes of calculating its cohort default rate. The Secretary further proposed to amend § 674.47 by adding a new paragraph (h) to allow institutions to cease collection activity and write off loan accounts with a balance of less than $1, including outstanding principal, accrued interest, collection costs, and late fees (pages 49117–49118).

Part 675—Federal Work-Study Programs

Appendix B—Model Off-Campus Agreement

The Secretary proposed to eliminate this sample agreement as an appendix to the FWS regulations. The Secretary will include a model off-campus agreement in the Federal Student Financial Aid Handbook (page 49118).

Parts 682 and 685—Federal Family Education Loan Program and Direct Loan Program

The Secretary proposed to expand the pool of borrowers under §§ 682.201 and 685.200 of the Federal PLUS and Federal Direct PLUS programs, respectively, to include the spouse of a student's parent if that parent remarried (page 47118).

The Secretary proposed to eliminate § 682.600 (a) through (c) because they duplicate provisions in 34 CFR part 600 or 668. The provisions of § 682.600(d) that deal with foreign schools, however, are necessary and the Secretary proposed to include those provisions in a new section, § 682.611 (page 49118).

The Secretary proposed to eliminate the provisions contained in § 682.602 that deal with students enrolled in correspondence programs, because those students are not eligible to receive FFEL program funds unless they are enrolled in a program that leads to an associate, bachelor's, or graduate degree (page 49118).

Part 690—Federal Pell Grant Program

Subpart A—Scope, Purpose and General Definitions

The Secretary proposed to revise § 690.7 by deleting paragraph (a)(1) because the provisions contained in that paragraph duplicate provisions in 34 CFR part 600 or 668 (page 49118).

Subpart G—Administration of Grants Payments

The Secretary proposed to eliminate the last sentence in §§ 690.71, 690.72, 690.73, and 690.74, respectively, because they duplicate provisions contained in 34 CFR part 668 (page 49118).

The Secretary proposed to revise § 690.83 by consolidating in one paragraph the procedures that allow institutions to receive payment or credit for Federal Pell Grants they previously disbursed if that situation is disclosed by an initial audit or program review (page 49118).

Substantive Changes to the NPRM

The following discussion reflects substantive changes made to the NPRM in the final regulations. The provisions are discussed in the order in which they appear in the proposed rules.

Student Assistance General Provisions

Subpart C—Student Eligibility

The proposed subpart C is further reorganized to clarify the difference between what the general provisions for student eligibility are, and how each of

those elements of student eligibility are established.

Subpart I—Immigration-Status Confirmation

Section 668.133 Conditions Under Which an Institution Shall Require Documentation and Request Secondary Confirmation

Currently, in the absence of a data match with the Immigration and Naturalization Service (INS) confirming a student as an eligible noncitizen, institutions are required to use the secondary confirmation process to determine if a student is an eligible noncitizen in accordance with section 484(a)(5) of the HEA. Secondary confirmation requires institutions to mail requests for immigration status information to the INS and to use INS responses (also by mail) in determining the student's noncitizen eligibility. This determination has been required for each award year that the student applies for title IV, HEA assistance. The NPRM proposed to delete secondary confirmation requirements, in most cases, if the student produces immigration status documents that are identical to documents received by the institution in a previous award year. In response to comments received, this section is further revised to eliminate the need for the student to produce immigration status documents in subsequent award years if the documents previously submitted by the student remain valid.

Subpart K—Cash Management

Section 668.163 Requesting Funds

The Secretary amends this section to require that for any request for cash, an institution must identify the title IV, HEA program under which it requests funds by its Catalog of Federal Domestic Assistance (CFDA) number and the total amount of funds for each CFDA number included in that request.

Section 668.164 Maintaining Funds

In response to public comment, this section is revised to exclude all public institutions from the UCC–1 filing requirement.

Section 668.165 Disbursing Funds

In response to public comment, this section is revised to clarify that if an institution provides an electronic notice to a student or parent that title IV, HEA loan program funds were credited to the student's account, it must request confirmation from the student or parent of the receipt of that notice and maintain a record of that confirmation. In addition, this section is revised to provide that an institution may consider prior-year charges that do not exceed $100 to be minor charges.

Federal Perkins Loan Program

Section 674.5 Definitions

The definition of "satisfactory arrangements to repay the loan" for purposes of the Federal Perkins Loan Program will be amended to include those loans that are "paid in full." This change allows an institution to exclude a defaulted loan that has been paid in full from the institution's cohort default rate.

Section 674.31 Promissory Note

The proposal to provide "sample" Federal Perkins loan promissory notes to participating institutions has been removed. A national promissory note will be maintained for the Federal Perkins Loan Program. Institutions may make only nonsubstantive changes to these notes.

Section 674.47 Costs Chargeable to the Fund

The September 21, 1995 NPRM offered a proposal to allow an institution to cease collection activity on a defaulted account with a balance of less than $25. In an effort to reduce administrative burden on institutions that are handling defaulted accounts with balances larger than $25, the cessation of collection activity provision has been modified. Institutions will be allowed to cease collection activity on a defaulted account with a balance of less than $200, if all due diligence has been performed in attempting to collect the defaulted account and there has not been any activity on the account for at least four years.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 74 parties submitted comments on the proposed reform and relief regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows. Major issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under applicable statutory authority—are not addressed.

Comments and Responses

Regulatory Reform and Relief Effort

Comments: Numerous commenters indicated support for the Secretary's efforts to eliminate unnecessary regulations and to improve the existing regulations. However, some commenters stated that more needs to be done to streamline the regulations for the title IV, HEA programs.

Discussion: The Secretary is encouraged by the expression of support from the public for the reform and relief regulation activities that are part of the Department's reinvention effort. The Secretary realizes that additional amendments to the regulations for the title IV, HEA programs are possible. The amendments in this regulatory package represent only one part of a planned series of regulatory reform and relief amendments for the student financial assistance regulations. The Secretary restates his plans to propose additional reform and relief regulatory changes for the title IV, HEA programs in the upcoming months.

Changes: None.

Part 668—Student Assistance General Provisions

Subpart B—Standards for Participation in Title IV, HEA Programs

Section 668.19 Financial Aid Transcript

Comments: Most commenters supported the Secretary's proposal to allow use of the National Student Loan Data System (NSLDS) in lieu of the financial aid transcript when the NSLDS becomes operational. A few commenters were concerned about the accuracy of the NSLDS and urged the Secretary to fully test the system before requiring its use and suggested the National Student Loan Clearinghouse as an acceptable alternative while the testing takes place. One commenter requested sufficient notice before the NSLDS is placed into operation to allow institutions with limited computer resources to obtain the necessary equipment and expertise. One commenter questioned the frequency with which the Secretary would require institutions to access the NSLDS, and expressed concern that NSLDS inquiries would be required at the time of each disbursement. Several commenters suggested that the terms "loan period or period of enrollment for which the loan is made" be used in lieu of "award year" as it pertains to FFEL and Direct Loans because annual loan limits are not based on award years. They also suggested that annual loan limits could be affected by loans made in the preceding award year, and that the financial aid transcripts should include this information. One commenter was concerned about obtaining information from institutions that are unable to use, or fail to meet requirements for providing information to, the NSLDS. One commenter asked whether an institution could assume, if the NSLDS contains no financial data on a particular student, that the student did not receive aid from any previously-attended institution, or if no data appears for a given institution, that the student did not receive aid from that particular institution. One commenter inquired as to whether the NSLDS will provide data regarding the student's receipt of title IV, HEA assistance at a closed institution, and whether the NSLDS will provide notice that the institution is closed. One commenter expressed concern that institutions would not be able to ascertain from the NSLDS that a student transferred during the current award year. One commenter questioned why paragraph (a)(3) continues to address the withholding or limited disbursement of title IV, HEA assistance pending receipt of financial aid transcripts, but does not address those issues for the NSLDS, and whether the Secretary intends to provide for limited disbursements in the event the NSLDS becomes temporarily inoperative. The same commenter suggested that the Secretary provide regulatory instructions with regard to how the institution should proceed when NSLDS data conflicts with other information available to the institution.

Discussion: With regard to the concerns expressed about the accuracy of NSLDS data, the Secretary notes that the NSLDS underwent extensive testing of its executable programs and support functions and successfully passed those initial test reviews prior to becoming operational in November, 1994. The National Student Loan Clearinghouse would not be an acceptable alternative because it serves only a few of the institutions currently participating in title IV, HEA programs, and because it contains information pertaining to students who are not title IV, HEA recipients in addition to those who are. The Clearinghouse also does not include any financial aid history information but only enrollment data.

With regard to the concern about limited computing resources at some institutions, the Secretary specifically designed the NSLDS to require minimal computer equipment. The NSLDS can be accessed using a personal computer with 486 megahertz of processing power, eight megabytes of random access memory, and 50 megabytes of hard disk storage space. In addition, the NSLDS will be available as an alternative to, not as a replacement for, the paper financial aid transcript, so that institutions with insufficient computer equipment can continue to use the paper financial aid transcript. An institution receiving a paper financial aid transcript request will continue to be required to complete and return it to the requesting institution, in accordance with 34 CFR 668.19.

With regard to the comment concerning required frequency of access, the Secretary has taken steps to include NSLDS financial aid history information in the Student Aid Report/Institutional Student Information Record (SAR/ISIR). The SAR/ISIR will, at a minimum, inform the institution as to whether the student previously received title IV, HEA financial aid. If there is no financial aid history, the institution will not be required to obtain a financial aid transcript or access the NSLDS since it can be assumed that the student either did not attend another school or attended but did not receive any title IV aid. With regard to the comments that suggested that the proposed financial aid transcript does not provide the necessary information on FFEL loan history to compute annual loan limits, the Secretary agrees with these commenters' concerns and will reinstate provisions requiring inclusion of "period of enrollment" or "loan period" and loans made in preceding award years under the FFEL as well as the Direct Loan programs. With regard to the concern about institutions who are unable to use, or fail to meet requirements for providing information to, the NSLDS, the Secretary assures the commenter that complete guidance to institutions will be provided in using the NSLDS, and that compliance with regular reporting requirements will be monitored and enforced. With regard to closed institutions, the NSLDS contains the cumulative loan history of title IV, HEA aid recipients, including aid awarded at institutions that are closed at the time of inquiry. The NSLDS will not, however, provide specific notification that any particular institution has closed. With regard to the concern about whether institutions will be able to determine from the NSLDS that a student has transferred during the current award year, the Secretary assures the commenter that the NSLDS will receive information on current year awards from guaranty agencies, the Direct Loan servicers, and from institutions. However, the Secretary notes that the flexible reporting requirements of data providers does present a problem with so called "mid-year transfers" and is committed to keeping any burden related to the accessing of financial aid history for such students to a minimum. With regard to the applicability of the withholding and limited disbursement provisions to the NSLDS, the Secretary believes that the provisions of § 668.19 are applicable only to the paper financial aid transcript process. If the NSLDS becomes temporarily inoperative, the paper financial aid transcript process could be used and these provisions would apply. However, the Secretary believes that any such "downtime" of the NSLDS would be brief and encourages institutions to re-query the NSLDS as soon as it is available. If NSLDS data conflicts with other information available to the institution, the conflict must be resolved before any title IV, HEA disbursement can be made.

Changes: Paragraph (c) is revised to provide that a financial aid transcript must include the loan period covered by each loan made under the FFEL and Direct Loan programs, and the loan history must also include information concerning loans made in preceding award years. Paragraph (a)(2)(ii) is revised to clarify that in a **Federal Register** Notice, the Secretary will inform institutions both when, and under what conditions, the NSLDS may be used.

Subpart C—Student Eligibility

Comments: Many commenters expressed support for the proposal to move the student eligibility regulations to subpart C.

Discussion: The Secretary appreciates the favorable comments received regarding the reorganization of the student eligibility provisions. After further examination, the Secretary believes that additional refinements are warranted to minimize any confusion that may be caused by the proposed organization. In particular, the Secretary believes that the basic requirements for establishing a student's eligibility for title IV, HEA assistance (formerly § 668.7(a)) should be clearly separated from requirements placed on institutions (formerly § 668.7(b)) for assessing the student's compliance with these requirements.

Changes: The Secretary has made technical revisions that establish a general student eligibility section, followed by sections addressing, in detail, how each of the elements of student eligibility are established.

Section 668.32 Student Eligibility—General (Section 668.33 in NPRM)

Compulsory School Attendance

Comments: Several commenters noted that the Secretary has removed provisions requiring students to be above the age of compulsory school attendance to be eligible for title IV, HEA assistance. One commenter

questioned the wisdom of allowing very young students to borrow these funds. Another commenter expressed concern that the removal of these provisions would increase the potential of abuse in the use of title IV, HEA funds.

Discussion: In proposing this deletion of regulatory language, the Secretary had no intention of removing the policy regarding compulsory school attendance. Since the definitions of "institution of higher education" in § 600.4 and "proprietary institution of higher education" in § 600.5 include provisions containing this requirement, the Secretary believes there is no reason to duplicate the requirement in the student eligibility regulations.

Changes: None.

Statement of Educational Purpose

Comments: Most commenters supported the Secretary's proposal to provide a Statement of Educational Purpose on the Free Application for Student Aid (FAFSA) that satisfies § 668.33(e) requirements for filing the Statement of Educational Purpose. One commenter suggested that the regulations specifically authorize use of the FAFSA in this manner.

Discussion: The Secretary prefers to use non-specific regulatory language to minimize the potential of redrafting regulations each time the application delivery system changes.

Changes: None.

Section 668.33 Citizenship/Residency Requirements U.S. Citizenship Match

Comments: Several commenters expressed support for the proposed enhancement of the existing social security match to include matching on U.S. citizenship data. They predicted that this enhancement would improve the integrity of the title IV, HEA application process by making it more difficult to avoid checking eligibility status with the INS. Other commenters, however, expressed concern that the proposed enhancement represents an additional unjustified burden caused by the need to collect evidence of U.S. citizenship. These commenters suggested that the Secretary should provide data to support the claim that misreporting of U.S. citizenship is a significant problem. If misreporting exists, one commenter questioned whether detection of a few such cases justifies the additional burden that would be imposed on the many applicants who complete this item truthfully. Another commenter questioned the accuracy of the Social Security Administration (SSA) data to be used for this matching program in light of information received by the commenter that citizenship data has only been collected by SSA since the early 1980's. Several commenters expressed concern that a student's U.S. citizenship status that was not confirmed would also prevent or delay that student from receiving confirmation of the accuracy of the student's social security number, or that such interference could also occur in reverse order.

Discussion: The Secretary disagrees with the comments portraying the U.S. citizenship match as an unjustified burden. On September 9, 1994, the Department's Office of Inspector General issued an audit report indicating that, during the 1992–1993 award year, 45,000 Federal Pell Grant awards were made to students claiming U.S. citizenship on their applications for federal student assistance who were not confirmed as U.S. citizens by the Social Security Administration (SSA). Since SSA records do not contain alien registration numbers, it is virtually impossible to track the status of these 45,000 individuals to determine whether they were naturalized citizens or eligible noncitizens at the time they applied. However, if even only 10% of the 45,000 applications were completed by ineligible aliens, the savings more than offset the expense of matching, and will provide additional grant funds for eligible students. The Secretary disagrees with the commenters who are concerned about additional burden being placed on students who will be required to provide evidence of U.S. citizenship. The vast majority of students will be confirmed by SSA as U.S. citizens, and no further action will be required. Many noncitizens who falsely claim U.S. citizenship will provide alien registration numbers, and their applications will be processed using the INS data match in the same manner as other noncitizen applications. Undocumented illegal aliens will tend to drop out of the application process without burden to the institution. For the most part, the Secretary believes that only naturalized citizens who have not kept their records updated with SSA are likely to be affected by this new requirement. With regard to the commenter's concern that SSA has only collected citizenship data since the early 1980's, the Secretary confirms this fact. However, SSA has collected "place of birth" data for many years, and the match will access both "place of birth" and "citizenship" data elements before issuing match results. With regard to concerns about delays and other impacts of U.S. citizenship matching on social security number matching, the Secretary wishes to assure the commenter that there will be no impact of one match on the other. Social security numbers and U.S. citizenship status are generated from separate data fields within the SSA data base, and will generate separate messages.

Changes: None.

Section 668.35 Student Debts Under the HEA and to the U.S. (Section 668.34 in NPRM)

Comments: One commenter suggested that the Secretary reverse the order of proposed paragraphs (b)(2)(i) and (b)(2)(ii) to prevent the possibility of a student making six consecutive monthly payments on a defaulted loan before approaching a lender to make satisfactory repayment arrangements. Another commenter noted that the definition of "satisfactory repayment arrangement" in § 682.200 already provides for six consecutive monthly payments, and that the language proposed in paragraph (b)(2) could be interpreted as requiring twelve consecutive monthly payments. One commenter suggested that proposed paragraph (d)(1)(ii) be revised to include the phrase "satisfactory to the holder" instead of "satisfactory to the institution," which the commenter believes is inappropriate for the FFEL and Direct Loan programs. Several commenters urged the Secretary to reinstate references in proposed paragraph (d)(2) to the specific title IV, HEA programs for which overpayments are applicable, asserting that such a correction would alleviate confusion concerning the relevance of overpayments to the FFEL and William D. Ford Federal Direct Loan programs.

Discussion: The Secretary agrees with the commenters' concerns with regard to the order of proposed paragraphs (b)(2)(i) and (b)(2)(ii). Although the phrase "makes arrangements, satisfactory to the holder" used in this paragraph is not identical to the phrases used in the individual title IV, HEA loan programs, the Secretary emphasizes that those specific provisions that govern how a defaulted borrower can regain eligibility are found in the individual title IV, HEA loan program regulations. The Secretary also agrees with the comment suggesting that proposed paragraph (d)(1)(ii) be revised to require a student who has received a grant or loan overpayment to make arrangements, satisfactory to the holder of the overpayment debt, to pay the overpayment. With regard to the comment requesting reinstatement in proposed paragraph (d)(2) of the specific programs for which overpayments are applicable, the Secretary agrees and has included specific references to the Federal Perkins Loan Program to eliminate any confusion.

Changes: The Secretary reverses the order of proposed paragraphs (b)(2)(i) and (b)(2)(ii) and revises proposed paragraph (b)(2)(i) to clarify that the six consecutive monthly payments are to be incorporated as part of satisfactory arrangements to repay the loan balance, and that those arrangements are to be made in accordance with the individual title IV, HEA loan program. Proposed paragraph (d)(1)(ii) is revised to clarify that a student who receives a grant or Federal Perkins loan overpayment is to make arrangements, satisfactory to the holder of the overpayment debt, to repay the overpayment.

Section 668.36 Social Security Number Verification (Section 668.33 NPRM)

Comments: One commenter supported the change to proposed § 668.33(d)(3)(iii) which clarifies that the student bears primary responsibility for reporting corrected social security numbers to the Secretary. In addition, the commenter also expressed support for the change to proposed § 668.33(d)(4), which relaxes the prohibition from disbursing or certifying aid if the student fails to meet the institution's deadline for submission of a correct social security number. The commenter suggested that the Secretary provide similar "waiver" authority to institutions in regulations governing the other data matches.

Discussion: As explained in the discussion regarding the selective service match, the Secretary is amending regulatory sections governing data matches to consistently implement provisions of the Computer Matching and Privacy Protection Act of 1988. In particular, the revised provisions will clarify the Secretary's policy with respect to the 30-day due process standard and the setting of deadlines by institutions for students submitting documents in order to contest match results.

Changes: Proposed paragraph (b)(2) is revised to provide that the institution must give a student at least 30 days from the date the institution is notified of the results of the data match, or until the end of the award year, whichever is later, to produce evidence of an accurate social security number.

Section 668.37 Selective Service Registration (Sections 668.33(b) and 668.36 in NPRM)

Statement of Registration Status

Comments: One commenter requested a clarification concerning whether the Statement of Registration Status may be necessary if the Selective Service data match does not confirm the student's status, or if some other statement is required. Two commenters suggested that proposed § 668.33(b)(1) be corrected to remove the unintended requirement that a student must provide evidence of exemption from the selective service registration requirement when the student's output document already confirms the student's exemption status. Another commenter requested that the model Statement of Registration Status be retained as an efficient way of collecting information concerning a student's exemption from selective service registration.

Discussion: The Secretary envisions no circumstances in which the Statement of Registration Status would continue to be required. If the student's claim to have registered with Selective Service is not confirmed by the Selective Service data match, the student bears responsibility for submitting evidence to the institution that he registered, or is exempt from registration. The institution may consult the *Federal Student Financial Aid Handbook* to determine if this evidence is valid, or it may require the student to obtain a Status Information Letter from Selective Service to further clarify the student's status. Instructions for interpreting Status Information Letters are also available in the Handbook. Given the thorough procedures in place for verifying evidence of registration or exemption, the Secretary does not wish to retain vestiges of an earlier system based primarily on self-certification, and would prefer to completely eliminate the Statement of Registration Status. The Secretary finds little validity to the commenter's concern that the regulations would require students, confirmed as exempt from registration requirements by the data match, to nevertheless provide evidence of exemption. The data match is designed to automatically screen out certain applicants who are clearly exempt from these requirements. An output document containing a message attesting to the applicant's exemption is quite sufficient to establish that "the student is not, or was not required to be, registered with Selective Service," as provided in proposed § 668.33(b)(2)(i).

Changes: None.

Selective Service Data Match

Comments: One commenter noted that the Secretary has changed proposed paragraph (b)(2) with regard to the time period for providing documentation of Selective Service registration status. As currently worded, the student has 30 days from the date the institution is notified of the results of the data match or the end of the award year, whichever is later, to provide such documentation. The commenter noted that this language differs from § 668.33(b)(2), which does not provide the "end of the award year" option.

Discussion: In practice, the "end of the award year" option is not new. The institution can set its deadline for receiving documentation of Selective Service registration status on any date, as long as it allows the student the statutorily-required minimum of 30 days to produce the documents. By rephrasing the requirement in this manner, the Secretary is clarifying that institutions need not impose arbitrary deadlines that prevent the student from establishing eligibility later in the award year and receiving title IV, HEA assistance for that award year, if the institution's overall policy would not normally set such deadlines for all students. The Secretary is aware that the phrasing of this requirement is inconsistent among the various regulatory provisions governing the data matches, and will revise all applicable sections to resolve this inconsistency.

Changes: The Secretary is revising sections that govern data matches to include the requirement that the student must provide evidence of his or her eligibility, within 30 days from the date the institution is notified of the results of the data match, or until the end of the award year, whichever is later.

Subpart I—Immigration Status Confirmation

Section 668.133 Conditions Under Which an Institution Shall Require Documentation and Request Secondary Confirmation

Comments: Many commenters supported the Secretary's proposal to limit secondary confirmation requirements. Many also suggested that the Secretary should take the additional step of waiving collection of immigration status documents if the documents collected in a previous award year remain valid.

Discussion: The Secretary agrees with commenters who questioned the need for students to present immigration status documents in subsequent award years if they had been confirmed as eligible noncitizens in a previous award year. The Secretary cautions institutions, however, that some eligible noncitizen statuses are subject to expiration and that institutions should consult the student's file from that previous award year to determine if the

student's immigration status remains valid.

Changes: Section 668.133(b) is revised to delete the provision requiring a student to present evidence of immigration status in years subsequent to an award year in which secondary confirmation with INS was used to confirm the student's eligible noncitizen status.

Subpart K—Cash Management

Section 668.163 Requesting Funds

Comments: None. Proposed rulemaking waived under 5 U.S.C. 553 (b)(A).

Discussion: The Secretary amends § 668.163, which describes the procedures under which institutions request and receive title IV, HEA program funds The amendment requires an institution to include in any request for cash (1) the Catalog of Federal Domestic Assistance (CFDA) number identifying the source of program funds, and (2) the amount of funds for each CFDA number included in that request. Under current practice, an institution reports its expenditure of title IV, HEA funds, by program, on a quarterly basis. However, to monitor the expenditure of Federal appropriations, the Department of the Treasury and the Office of Management and Budget require the Department of Education to report on a monthly basis the amount and source of program funds provided to participating institutions. Obviously, the Secretary cannot provide to Treasury and OMB an accurate and timely report of the Department's use of appropriated funds, unless institutions identify the title IV, HEA funds by program and amount when those funds are requested.

The Secretary will use the information provided by this new report format not only to give more timely reports of amounts provided to institutions, but will consider whether this information can be used to reduce the number of expenditure reports institutions would otherwise be required to make. Moreover, this minor procedural change poses almost no additional burden on institutions.

In accordance with this subpart and the procedures contained in the *Recipients Guide for the Department of Education Payment Management System*, under the advance payment method, an institution must first determine its immediate disbursement needs before submitting a request for cash; under the reimbursement payment method, an institution requests funds for specific students whom the institution demonstrates to the satisfaction of the Secretary are eligible to receive the requested amount of program funds. In either case, the institution will know both the program for which it seeks funds and the amount needed to make disbursements to students. This change merely requires the institution to disclose that information on a standardized form.

Changes: Section 668.163(a)(2) and (3) are amended to require that in any request for cash, an institution must identify the title IV, HEA program under which the institution requests funds by its appropriate Catalog of Federal Domestic Assistance (CFDA) number and the total amount of program funds for each CFDA number included in the request.

Section 668.164 Maintaining Funds

Comments Regarding UCC–1 Filings

Comments: Most of the commenters agreed with the proposal to eliminate the UCC–1 filing requirement for institutions that are backed by the full faith and credit of a State, and for bank accounts that do not contain the phrase "Federal funds" in their name.

One commenter writing on behalf of business officers opined that the term "backed by the full faith and credit of the State" is a poor designator of institutional control, estimating that about one-half of all public institutions would not meet this requirement due to the diversity of governing arrangements for State-supported institutions. According to the commenter, these State-supported institutions pose no greater risk to Federal funds than other public institutions that technically satisfy the proposed requirement. One other commenter echoed these sentiments, adding that a UCC–1 filing is not appropriate for government agencies. Another commenter expressed concern that many State auditors and offices of general counsel are interpreting the phrase "backed by the full faith and credit of the State" quite literally and concluding that it does not apply to State schools. All of these commenters recommend that the Secretary modify the proposed requirement to exempt all public institutions from having to file UCC–1 statements.

One commenter writing on behalf of business officers stated that a UCC–1 filing is unnecessary for any institution because institutions are otherwise required to provide written notification to their bank of the accounts that contain Federal funds.

Discussion: The commenters have convinced the Secretary that for the purpose of protecting Federal funds, a UCC–1 filing is not necessary for public institutions, regardless of whether these institutions are backed by the full faith and credit of the State.

The Secretary disagrees with the commenter that written notification to the bank in which the account is maintained provides sufficient protection of Federal funds. The abuse cited by the Secretary in the final regulations for the cash management regulations (see, 59 FR 61724), that certain institutions have used or misrepresented Federal funds to obtain a loan or secure credit, may continue to occur where an institution seeks to obtain a loan or credit from a bank other than the bank to which it provided written notification. It is this situation where a UCC–1 filing provides an additional safeguard because it serves to alert other banks or potential creditors that the institution's account contains Federal funds.

Changes: Section 668.164(a)(2) is revised to exempt all public institutions from filing a UCC–1 statement.

Section 668.165 Disbursing Funds

Comments Regarding Electronic Notification of Student and Parent Borrowers

Comments: Most commenters supported the proposal under which an institution could notify a student or parent borrower that his or her account was credited with Direct Loan or FFEL Program funds electronically or through the use of telecommunications devices. Two commenters contended that the "return receipt" requirement for documenting notifications transmitted via electronic mail (e-mail), as discussed in the preamble to the proposed rules, departs from and exceeds the documentation requirements for written notifications delivered by regular mail. The commenters saw no reason why a return receipt should be required for e-mail transmissions when no corresponding proof of delivery is required for notifications sent by regular mail.

For the following reasons, one commenter writing on behalf of a student legal services organization strongly urged the Secretary to delete the proposed electronic notification provisions. First, the commenter contended that electronic notification would allow schools short on time or resources to cut corners on notice to students, thereby diminishing a borrower's rights. At worst, it would open the door to abuse by unscrupulous schools or individuals who want to minimize borrower knowledge about his or her control over loan funds. Given the increasing use of electronic funds transfers (EFT), the commenter contended that students have lost their key means of control over loan proceeds, *i.e.*, their power to refuse to endorse the loan check. Amplifying this point, the commenter asserted that when the EFT process is used, timely, clear notice that the loan proceeds have been credited to the student's account is the equivalent of requesting a check endorsement—it triggers the student's ability to refuse the loan in whole or part. Thus, the commenter concluded that adequate, verifiable notice of receipt of loan proceeds has serious legal and financial implications for borrowers. Moreover, the commenter implied that adequate and verifiable notice is notably absent in the proposed rules, despite the preamble explanation that the Secretary expects schools to "have a means of documenting that the student or parent received this information." According to the commenter, the reality is that schools will use, or purport to use, telephone or in-person conversations as the means of notification and document that notification with notes to a borrower's file. Armed with only notes of such alleged contacts, the Secretary would be hard pressed to prove violations of the disclosure rule. The commenter concluded by saying the minimal requirement that schools notify a student in witting that his or her account has been credited—implicit notice that the borrower's legal liability for loan has begun—should not be abandoned.

Discussion: The Secretary disagrees that requiring a "return receipt" for e-mail transmissions expands any documentation requirements. In fact, the Secretary believes the opposite is true.

As a general rule, in the absence of any documentation specified by the Secretary to satisfy a particular requirement, an institution must be able to document that it satisfied that requirement. Thus, the Secretary believes that the burden and cost of documenting that a written notification was mailed to a student far exceed the burden and cost of a receipted e-mail notification.

With regard to whether e-mail should be subject to a return receipt requirement because there is no corresponding proof of delivery for notices sent by regular mail, the Secretary notes that the courts have developed a presumption that mail deposited with the U.S. Postal Service is actually received (*See, Cook* v. *Providence Hospital*, 820 F.2d 176,n.3 (6th Cir. 1987); and *McPartlin* v. *Commissioner*, 653 F.2d 1185, 1191 (7th Cir. 1981)). The same presumption does not apply to e-mail messages.

In response to the comment by student legal services, the Secretary disagrees that the proposed change minimizes borrower rights. Rather, in recognition of the less burdensome and more cost effective methods afforded by electronic technologies, the Secretary sought only to expand the means by which an institution may notify a student or parent. That the notice may now be provided by additional, equivalent means has no bearing on borrower rights.

The purpose of the notice, whether that notice is provided in writing or electronically, is to remind students of their loan obligation and to give students the opportunity to replace credited loan proceeds with other funds thereby reducing their loan when an institution return the loan proceeds. The Secretary wishes to make clear that an institution cannot be compelled to return loan proceeds that were properly disbursed or delivered to the student solely at the request of a student.

On the other hand, the Secretary agrees that telephonic and in-person conversations are not adequate and verifiable methods of providing notice.

The Secretary did not propose that this requirement apply to Federal Perkins Loan Program funds because under that program the student had to sign for each loan advance. However, since the Secretary has decided to eliminate this Federal Perkins Loan Program requirement, this section is amended to provide that an institution must also notify a borrower that his or her account was credited with Federal Perkins loan funds.

Changes: Section 668.165(b)(1) is amended to clarify that an electronic notice must be the equivalent of a written notice by incorporating the NPRM preamble statement that if an institution notifies a student or parent electronically, it must request a return receipt and maintain a record of that receipt. In addition, the phrase "by other means" is removed to preclude the use of telephone or in-person conversations as the sole means by which an institution may notify a student. Also, this section is revised to include notification to Federal Perkins Loan Program borrowers.

Comments Regarding Prior-Year Charges

Comments: Most of the commenters supported the proposal allowing an institution, under limited circumstances and with a student's permission, to use a student's current year title IV, HEA program funds to pay for minor prior year charges. A few of these commenters, mostly business officers, stated that the current prohibition on the payment of prior-year charges has created difficulties for many students and institutions, resulting in increased transaction costs. These commenters believed that the proposed change will allow for smoother processing of student accounts and expedite the registration process. One commenter, writing on behalf of a higher education association, suggested that a student be asked to approve a specific amount of funds that an institution could use to pay for prior-year charges when the institution obtains the student's permission. The commenter believed that this would protect the student's need to have sufficient current year funds to pay for living and other necessary expenses. Another commenter suggested that after this provision is tested, some room for refinement may become evident, such as whether it is necessary to actually credit funds for current year charges before identifying that funds will be left over to pay prior year balances. Still another commenter questioned the role and authority of an aid officer in determining whether the payment of "minor prior-year charges" would hamper a student's ability to satisfy current year obligations, particularly when the aid officer and the student are not in agreement as to the amount of funds needed for current obligations.

While the majority of commenters appreciated that the Secretary did not specify a dollar amount for minor prior-year charges, a few commenters lamented this lack of specificity. One of these commenters argued that the small dollar amount involved in most cases where this provision would apply does not warrant the administrative burden associated with obtaining a student's permission. Instead, the commenter suggested that the Secretary define minor prior-year charges as falling between $250 to $500 and not require written permission from the student.

Two commenters argued that the cost and burden imposed by this proposal on students and institutions is unwarranted since any outstanding balance must be paid before a student is allowed to enroll or continue at an institution. These commenters suggested that the Secretary either simplify the process under which prior-year charges may be paid or, notwithstanding the concerns expressed by the Secretary in the NPRM, allow these charges to be paid without restriction.

One commenter writing on behalf of a student legal services organization contended that schools should not be allowed to control student credit

balances (particularly if those balances contain loan proceeds) in this manner even with the student's permission. The commenter's contention was based on the following reasons.

The commenter's first reason was based on the Secretary's failure to specify a dollar amount of prior-year charges. As a result, the commenter believed that fly-by-night schools, whose motivation is to maximize profits rather than maintain credibility with the Department, would take advantage of this provision. The commenter indicated that while a university might define a "minor charge" as up to $10 in library fines, a high-cost trade school could define it as several hundred dollars of overpriced vocational equipment. The commenter warned that the Secretary will be left to assess the reasonableness of school practices in program reviews, *i.e.*, after the fact and after the student's loan proceeds have been used.

The commenter's second reason was that prior-year charges may have been unpaid because they were contested by the student. The commenter saw no valid reason to allow the school to determine the validity of the charges and then use loan proceeds to cover them. The commenter asserted that the fact that the borrower has to give permission for these sorts of charges provides little comfort since the authorization will probably be a generic, blanket authorization given at the beginning of the term with a sheaf of other forms before specific charges are ever incurred.

Further, the commenter noted that in order to accommodate this change in the regulation, § 668.165(b)(1) has also been amended to delete the current generic bar on applying title IV, HEA program funds "to any charges assessed the student in a prior award year or period of enrollment." Thus, it appeared to the commenter that the proposed rules open the door to using current year funds to pay for prior year tuition, room, board, or other miscellaneous charges. For these reasons, the commenter urged the Secretary to leave the regulation as currently written.

Discussion: The Secretary offers the following guidance with respect to the comments dealing with student authorizations. An authorization must contain an explanation of the provisions regarding the activities that an institution seeks to perform on behalf of a student. This does not mean that the authorization must detail every aspect pertaining to an activity. On the other hand, the Secretary does not consider acceptable a blanket authorization which only identifies the activities to be performed.

Regarding the comment that an institution must first credit a student's account with title IV, HEA program funds before the institution may use any balance that remains to pay for prior-year charges, the Secretary notes that while this is technically correct, it has broader implications. The proposed language "provided that a student has or will have a title IV, HEA program credit balance" was intended to extend the benefits of this provision to institutions that draw down funds after a student starts classes. These institutions would have the assurance that agreed-to prior-year charges will be paid.

The Secretary has carefully considered the arguments made by student legal services asking the Secretary to retract the proposed prior-year charges provisions. The Secretary acknowledges that while it may be possible for an unscrupulous school to benefit from an abuse of these provisions, the Secretary notes that prior-year balances occur mainly at established two- and four-year schools—such schools can not be characterized as "fly-by-night."

In response to comment that the current prohibition on the payment of prior-year charges has now created problems for students and institutions, the Secretary reminds institutions that title IV, HEA program funds have never been permitted to be used to pay prior-year charges. However, it appears from these comments, and from comments previously received on the cash management regulations, that some institutions were either unaware of or ignored this prohibition. The Secretary does not wish to admonish institutions that otherwise administer the title IV, HEA programs properly, but believes that had these institutions structured student billing and accounting systems that identified and prevented the payment of prior-year charges with current year funds, they would not now be experiencing difficulties brought about by the policy change allowing for the payment of these charges under limited circumstances.

Moreover, the Secretary cannot in these regulations make the changes that would be necessary to allow institutions to use a student's funds without restriction. To do so would require changes in the statutory provisions that limit, without permission, the use of a student's title IV, HEA program funds to specified allowable charges and in the Secretary's longstanding interpretation of the precepts underlying need analysis and award determinations. The proposal to allow for the payment of prior-year charges under limited circumstances is consistent with current law and, as a policy matter, was formulated merely as an administrative convenience to students and institutions in recognition of a problem that the Secretary believes should not occur with regularity or involve large sums of money. The Secretary did not intend to take sides in disputes between students and institutions regarding the legitimacy of prior-year charges. In putting forth this proposal, the Secretary was mindful of the need to protect student rights while at the same time meeting the administrative needs of institutions.

To this end, the Secretary will keep the general prohibition against using a student's current year title IV, HEA program funds to pay for prior-year charges. The Secretary will allow for payment of minor prior-year charges as proposed, but with one modification. The modification addresses the comments regarding whether a student may authorize in advance a specific amount of funds to pay for prior-year charges and whether the Secretary will establish a dollar amount for these charges. The Secretary believes that it would be difficult to determine in advance what the specific amount should be, and whether the payment of that amount in a future period would create financial problems for a student. Such a determination should be made in view of the student's circumstances when the situation arises. However, an institution may consider prior-year charges that do not exceed $100 to be minor without making this determination and may obtain a student's authorization in advance to pay for these charges should they occur.

Changes: Section 668.165(b)(1) is revised to reinstate the general prohibition that a student's current year title IV, HEA program funds may not be used to pay for prior-year charges. This section is also amended by removing proposed paragraph (b)(3)(iv)(C) and adding a new paragraph (e) that provides that an institution may use a student's current year funds to pay for minor prior-year charges if the student's current year institutional charges are satisfied and the institution obtains the student's permission. In addition, an institution may consider prior-year charges that do not exceed $100 to be minor. To pay prior-year charges for amounts over $100, an institution must determine if that payment would prevent the student from paying for his or her educational expenses.

Campus-Based Programs

Sections 674.2, 675.2, and 676.2 Definitions

Comments: Two commenters expressed their support for the proposal to delete the duplicative definitions of the terms "full-time graduate or professional student" and "full-time undergraduate student" from § 674.2(b) and § 675.2(b) and the term "full-time undergraduate student" from § 676.2(b). One commenter felt clarification was needed in the "full-time student" definition in § 668.2 of the Student Assistance General Provisions regulations to distinguish a full-time course load for undergraduate students from that of graduate/professional students.

Discussion: The Secretary believes that the definition of "full-time student" in the Student Assistance General Provisions regulations adequately addresses the determination of a full-time course load for both undergraduates and graduate/professional students. As stated in § 668.2, in the definition of a "full-time student," "* * * academic workload (other than by correspondence) as determined by the institution under a standard applicable to all students enrolled in a particular educational program. The student's workload may include any combination of courses, work, research, or special studies that the institution considers sufficient to classify the student as a full-time student." This part of the definition provides the institution with the discretion to determine a full-time course load for all classifications of students. The definition then proceeds to provide *minimum* standards for an undergraduate student.

Changes: None.

Sections 674.17, 675.17, and 676.17 Federal Interest in Allocated Funds

Comments: Several commenters supported the proposal to delete the provisions in § 674.17(a), § 675.17, and 676.17 that provide that Federal Perkins Loan, FWS, and FSEOG program funds are to be held in trust for the intended students and the Secretary and cannot be used or hypothecated for any other purpose. The commenters agreed that the elimination of these sections reduces redundancy since this provision is contained in the Student Assistance General Provisions regulations, § 668.161(b).

One commenter, while agreeing that regulations should not be repetitive, pointed out that § 668.161(b) of the General Provisions regulations only excepts funds used for administrative expenses, whereas § 675.17 of the FWS Program regulations, includes other allowable uses besides awards to students, such as use of funds for establishment of a Job Location and Development (JLD) Program.

The commenter also observed that under the Federal Perkins Loan Program regulations certain collection costs may also be charged to the fund; these charges are outside of the administrative expense allowance. The commenter further indicated that § 674.17(a) also reinforces the requirement that funds received by the institution includes repayments on loans. The commenter suggested clarifying § 668.161(b) to include other uses of campus-based funds.

Discussion: Federal Perkins Loan Program. The Secretary does not agree with the comment that § 668.161(b) needs clarification if § 674.17(a) is deleted. Section § 668.161(b) provides for uses of title IV, HEA allocated funds. Once loans are made and students begin making repayments, the repayments on these loans become part of the Federal Perkins Loan Program Fund (Fund). Also the charges for certain costs incurred in collecting a loan, when not paid by the borrower, are to be made against the Fund. Uses of the Fund are provided for in other sections of the Federal Perkins Loan Program regulations.

Federal Work-Study Program. The Secretary agrees with the commenter that § 668.161(b) excepts only funds used for administrative expenses, whereas § 675.17 allows funds allocated under the FWS Program to also be used for establishment of a Job Location and Development Program; and that if § 675.17 is deleted, § 668.161(b) needs clarification.

Changes: The Secretary is amending the language of this provision in § 668.161(b) to incorporate the uses of allocated FWS funds for certain activities under the Job Location and Development Program.

Sections 674.19, 675.19 and 676.19 Fiscal Procedures and Records

Comment: Several commenters commended the Secretary for the proposal to allow institutions the additional flexibility of using optical disk technology in complying with recordkeeping requirements. The commenters viewed this as additional proof of the Department's goal to simplify and modernize the regulations, and they commended the Secretary on his recognition of the importance of paper reduction. One of these commenters stated that this change will greatly enhance their ability to comply with the regulations to maintain records while utilizing their personnel and physical spaces more efficiently.

One commenter, while recognizing the benefit to schools in reducing the paper they have to retain, expressed concern of the danger for borrowers and the Department in having records that are more difficult to read or use as proof in legal cases. This commenter pointed out the fact that forgeries and alterations are not likely to be discernible under these alternative formats. The commenter recommended against allowing alternative forms of record retention for key Federal Perkins loan documents, such as promissory notes.

Discussion: The Secretary appreciates the commenters' support for new technology for the maintenance of records. However, the Secretary recognizes that he needs to allow for future technologies that provide an actual image of the original document. In response to the one commenter who was concerned about alternative forms of record retention, it has never been the Secretary's intention to allow alternative means of recordkeeping for key documents. Section 674.19(e)(4)(i) of the Federal Perkins Loan Program regulations provides that institutions must keep the *original* promissory notes and repayment schedules in a locked, fireproof container. These provisions remain and are not affected by the addition of the use of optical disk technology for maintaining other records.

Changes: The Secretary is amending this provision to provide for additional optical imaging technology.

Federal Perkins Loan Program

Section 674.2 Definitions

Comments: The commenters supported the Secretary's proposal to redefine the term "making of a loan." However, several commenters requested that the Secretary clarify when a Federal Perkins loan is made, because the date on which the student signs the promissory note and the date on which the funds are disbursed may differ.

Discussion: In response to the commenters' clarification requests, under the provisions of this regulation, the Secretary considers that a Federal Perkins loan has been "made" when two events have occurred: the borrower has signed the Federal Perkins loan promissory note *and* the institution makes the first disbursement of loan funds to the borrower under that note. This new definition represents a significant departure from long-standing Federal Perkins Loan Program policy, because under the old policy, each

disbursement of a Federal Perkins loan to a borrower was considered a separate Federal Perkins loan.

Changes: The Secretary is modifying the definition of "making of a loan" to state that a Federal Perkins loan is "made" when the borrower has signed the promissory note and the first disbursement of loan funds has occurred.

Section 674.16 Making and Disbursing Loans

Comments: Many commenters strongly supported the Secretary's proposal to eliminate the requirement that a student sign for each loan advance. Most commenters agreed that this was the single most important proposal to reduce burden in the administration of the Federal Perkins Loan Program. One commenter strongly objected to the elimination of the requirement that a student sign for each loan advance. This commenter stated that signing for each advance reinforced in the students' minds the amounts they borrowed. This commenter was also concerned that, without the borrower's signature authorizing each loan advance, the institution may not be able to obtain a judgment or assign the loan without incurring additional legal costs to prove that the student had actually borrowed the total amount owed on the loan.

Discussion: The Secretary appreciates the support the community has shown for this regulatory effort. The Secretary respects the commenter's concern for the integrity of the Federal Perkins Loan Program. However, the Secretary believes that the value of the borrower's signing for each advance is outweighed by the burden this requirement imposes on institutions and borrowers. On the other hand, under the regulations, an institution may choose to continue to require that the borrower sign for each advance. Moreover, the Secretary disagrees with the commenter that the failure to obtain a signature for each advance will preclude the institution from assigning the note or obtaining a judgment against the borrower.

The Secretary notes that § 668.165(b)(1) is being amended to require an institution to notify a student that a disbursement of Federal Perkins loan funds is being credited to the student's account.

Changes: None.

Section 674.31 Promissory Note

Comments: While many commenters supported the proposal to allow the Secretary's promissory note under the Federal Perkins Loan Program to be used as a sample note, thereby allowing institutions to add items to the note as long as the substance of the note remains unchanged, many also requested clarification of this provision. Commenters asked whether changing the "substance" of the note meant changing the format of the note. Several commenters asked the Secretary to define "substance." Several commenters asked whether new items on the promissory note that imposed additional requirements, penalties, or benefits were acceptable to the Secretary, and if not, what was an acceptable additional item. One commenter recommended that the Secretary not make the proposed change. This commenter stated that other federal loan programs use a national note that requires no additions by the schools. This commenter felt strongly that the language and provisions used in the Federal Perkins Loan Program promissory notes should be consistent across the Program and urged the Secretary to maintain § 674.31 unchanged.

Discussion: The Secretary has reevaluated his proposal to amend § 674.31(a). The Secretary agrees with commenters that the proposed change allowing institutions to make nonsubstantive additions to the sample promissory notes is too vague. The Secretary believes that the addition of provisions to the promissory note that would impose additional requirements, penalties, or benefits constitutes a substantive change to the note.

The Secretary agrees with the commenter who recommended that the promissory note should remain a national note and with consistent provisions. The Secretary is, therefore, requiring institutions to use the promissory notes approved by the Secretary, rather than providing "sample" promissory notes. An institution may not change the text of the promissory note or rearrange the order of the text. An institution may make nonsubstantive changes, such as changing the size or style of the type or requiring a student to include his or her driver's license number.

Changes: The Secretary is changing § 674.31(a) to provide that institutions must use the promissory note provided by the Secretary and that institutions may only make changes to the notes provided that are nonsubstantive.

Section 674.33 Repayment

Comments: Commenters unanimously supported the Secretary's proposal to combine the last scheduled Federal Perkins loan payment with the next-to-last payment if the last payment is $25 or less, an increase from $15. One commenter suggested that institutions be allowed to combine the last scheduled payment with the next-to-last payment if the last payment is $50 or less.

Discussion: The Secretary's purpose in amending § 674.33 is to remove administrative burden and to improve an institution's success in collecting small loan balances. However, the Secretary does not wish to overly burden student borrowers. The Secretary believes that combining the last scheduled payment with the next-to-last payment if the last payment is $50 or less may place a financial strain on student borrowers, thereby compromising the borrower's ability to pay off his or her loan.

Changes: None.

Section 674.47 Costs Chargeable to the Fund

Section 674.47 (g)

Comments: Of all the Federal Perkins Loan Program proposals in the NPRM, the Secretary's proposals related to ceasing collection activity generated the most comments. Most of these commenters made suggestions on ways to amend this provision. One commenter felt that, rather than ceasing collection activity, this provision should be modified to permit the write-off of defaulted accounts with outstanding balances between $5 and $25 after sending a first overdue notice. The commenter further noted that the proposed rule would require institutions to maintain accounts which would continue to accrue interest and would age over the years. Thus, loans under $25 would eventually reach $25. At that point the institution would have to perform due diligence on that loan under subpart C. The commenter noted that as a result there is no net gain to the institution in terms of administrative costs.

A commenter applauded the Secretary's attempt to provide relief for institutions handling defaulted accounts with outstanding balances of less than $25, but the commenter felt the regulations should reflect a higher amount, *i.e.* $100 or less.

Discussion: The Secretary does not agree with the commenter's suggestion to write off defaulted accounts with outstanding balances between $5 and $25 because it is inappropriate to write off debts of that amount. These are borrowers who are in default on a Federal loan. The borrower owes these amounts and the failure to collect these funds affects the future level of the Fund. However, the Secretary agrees with other commenters' suggestions to raise the level at which an institution can stop collection efforts on a loan.

The Secretary agrees with the commenters that it may not be cost effective for an institution to continue collection efforts on small loan balances. Therefore, the Secretary will allow an institution to cease collection activity on defaulted accounts with balances of between $25 and $200, if the institution carried out the subpart C due diligence requirements and the account has not had any activity for four years. The Secretary chose a $200 threshold because $200 is the level at which an institution must make an annual determination to litigate a defaulted account.

If an institution chooses this option, these accounts may be included in its cohort default rate, if applicable. The borrower will still be in default and ineligible for further title IV, HEA program funds.

The Secretary agrees with the commenter's point regarding an institution's election to cease collection efforts on an account under $25. Therefore, the institution will not have to exercise due diligence required under subpart C, even though interest will continue to accrue and may put the account over $25, if it documents that it ceased collection activity when the account was under $25. However, the institution would not be able to assign the account to the Secretary and the borrower will remain responsible for repaying the account, including accrued interest. In addition, the Secretary notes that these accounts will still be included in the institution's cohort default rate, if applicable, and the borrower is still in default and ineligible for title IV, HEA program funds.

Changes: The Secretary has modified paragraph (g)(1) to reflect the noted changes.

Comments: One commenter felt that there should be some way for an institution to use its own funds to pay off larger balance accounts with outstanding balances as high as $100. The commenter did not feel it was cost effective to continue to track small amounts as defaults.

Discussion: An institution may pay off loan balances of its borrowers. However, under section 462(h)(2)(D) of the HEA, any such loans will be considered in default for purposes of calculating the institution's cohort default rate.

Changes: None.

Comments: A few commenters wanted a further explanation from the Secretary regarding proposed § 674.47(g)(2). These commenters did not understand how a loan which is not closed or paid-in-full could reduce the assets of the Fund. One commenter felt that this proposal would not only be counter-intuitive, since loans in this category would remain as balances due, accruing interest and carrying penalties associated with default, but would also create a new area of administrative complexity for this new category of loans "in limbo." These commenters indicated that this change would burden institutions with additional costs in order to maintain this category of "due" but "non-asset" loans.

Discussion: The Secretary agrees with the commenters' points and apologizes for any confusion this proposed provision might have caused. It was the Secretary's intent to reduce burden in the administration of the Federal Perkins Loan Program. It was not the Secretary's intent to burden institutions with additional costs and a new systems design. Because these accounts are still "open," institutions must include the amounts of these accounts as assets of the Fund when they choose to cease collection activities of defaulted accounts. However, when an institution writes off an account, in accordance with paragraph (h) of this section, these accounts would not remain an asset of the Fund.

Changes: The Secretary is amending paragraph (g) to remove the provision that would require an account on which the institution has chosen to cease collection activity to no longer be considered as an asset of the Fund.

Section 674.47(h)

Comments: While most commenters appreciated the Secretary's proposal to allow institutions to write off loan accounts with balances of less than $1.00, all commenters were unanimously opposed to the proposed write-off amount. Commenters felt that $1.00 was too stringent, that it was not cost effective in terms of real administration and collection costs, and that it would not accomplish the proposal's intended purpose: to provide relief to institutions in the administration of the Federal Perkins Loan Program. Commenters encouraged the Secretary to consider a higher amount, with the commenters suggesting amounts ranging from $2 to $25. A few commenters stated that the majority of their accounts with small remaining balances were $5.00 or less, and that it would be clearly more effective and efficient to raise the amount to $5.00.

Discussion: The commenters have convinced the Secretary that the proposed $1 figure was too low. The Secretary has adopted the commenters' suggestions that the amount be raised to $5. Once these accounts have been written off, the account is considered as paid-in-full. The account will no longer be considered as an asset to the Fund, the account will not be counted in the institution's cohort default rate, if applicable, and the promissory note will be returned to the borrower marked as paid-in-full.

Changes: The Secretary is amending 674.47(h) to increase the write-off threshold to $5.00. The Secretary is also amending paragraph (h) to provide that an account that has been written off may not be considered as an asset to the Fund.

Federal Work-Study Programs

Appendix B—Model Off-Campus Agreement

Comments: Four commenters supported the Secretary's proposal to remove the model off-campus agreement from regulation and include the agreement in the Federal Student Financial Aid Handbook. They felt that the Handbook is a more appropriate document and that this will make the sample agreement more easily accessible by aid administrators. One of these commenters suggested that the Secretary also include a model community service agreement in the Handbook.

Discussion: The off-campus agreement in Appendix B is a suggested model for the development of a written agreement between an institution of higher education and a federal, state, or local public agency or private nonprofit organization which employs students participating in the FWS Program. As stated in the model, institutions and agencies or organizations may devise additional or substitute paragraphs that are consistent with the statute or regulations and add any pertinent information that orients the agreement towards community services. Therefore, one sample off-campus agreement will be provided in the *Federal Student Financial Aid Handbook* for use in the FWS Program.

Changes: None.

Federal Family Educational Loan Program, and Direct Loan Program

Sections 682.201 and 685.200 Eligible Borrowers

Comments: Many commenters supported the proposal in the FFEL and Direct Loan Programs to allow a student's stepparent to borrow under the PLUS and Federal Direct PLUS Programs.

One commenter suggested that a stepparent should remain eligible to borrow on behalf of a stepchild if the

natural or adoptive parent to whom the stepparent is married, dies. The commenter indicated that a situation may arise where, if the other natural parent is still alive, the student will not become an independent student. The commenter indicated that the student's relationship with the surviving stepparent may be more akin to a parental bond than is the student's relationship with the surviving parent.

Another commenter suggested that the language of the regulations be amended to provide that a stepparent would be eligible to borrow on behalf of a stepchild if the stepparent's income was not used to determine the expected family contribution (EFC) of the stepchild. The commenter indicated that a parent could marry after the Free Application for Federal Student Aid (FAFSA) had been filed. The commenter believed that the new stepparent should be eligible to borrow a PLUS loan on behalf of the student.

Discussion: The Secretary appreciates the mostly positive comments he received on his proposal to allow stepparents to borrow under the FFEL and Direct Loan PLUS programs. While the Secretary agrees that the situation suggested by the commenter could, on rare occasions happen, he points out that he would expect that, in most instances, the financial aid officer would use professional judgement and make the student independent, while perhaps assessing some amount of untaxed income to the student as a result of support received from the stepparent. In this instance the student would be considered eligible for additional unsubsidized loans to replace whatever PLUS proceeds are not available. For these reasons, the Secretary does not believe there is need to make additional changes to the eligibility criteria for stepparents to borrow under the title IV PLUS programs.

The Secretary acknowledges, as pointed out by the second commenter, that the proposed language could have been interpreted to exclude certain stepparents from participation in PLUS Loan Programs because their income and assets were not taken into account when determining the student's EFC. Such a condition could exist when the student did not complete a FAFSA or in the case cited by the commenter when the natural parent married after the FAFSA was filed. The Secretary will change the eligibility requirement under which a stepparent may borrow a PLUS loan to include the income and assets "that would have been taken into account" rather than "are taken into account" when determining the student's EFC.

Changes: Sections 682.201 and 685.200 are changed to allow a stepparent to borrow under the FFEL and Direct Loan PLUS programs "if that spouse's income and assets would have been taken into account when calculating a dependent student's expected family contribution."

Section 682.600 Agreement Between an Eligible School and the Secretary for Participation in the FFEL Programs

Comments: All commenters supported the proposal to eliminate the provisions of § 682.600 (a) through (c) and to include the provisions that deal with foreign schools (§ 682.600(d)) in a new § 682.611. One commenter requested clarification of the Secretary's intent to eliminate § 682.600.

Discussion: The Secretary noted in the preamble of the NPRM (60 FR 49118) that the provisions of § 682.600(a) through (c) are unnecessary because they duplicate existing provisions found in 34 CFR Part 600 (Institutional Eligibility Under the Higher Education Act of 1965, As Amended) and 34 CFR Part 668 (Student Assistance General Provisions). The Secretary also noted that the provisions included in § 682.600(d) that deal with foreign schools are needed and would be retained in a new section, § 682.211.

Changes: None.

Section 682.602 Schedule Requirements for Courses of Study by Correspondence

Comments: All commenters supported the proposal to eliminate the provisions contained in § 682.602.

Discussion: Commenters agreed with the Secretary that the provisions of § 682.602 are no longer needed since students enrolled in correspondence programs are not eligible to receive FFEL Program loans unless they are enrolled in a program that leads to an associate, bachelor, or graduate degree.

Changes: None.

Federal Pell Grant Program

Comments: Various commenters expressed support for the proposed changes to the Federal Pell Grant Program.

Discussion: The Secretary appreciates the commenters' support of efforts to eliminate duplicative provisions from the regulations.

Changes: None.

Executive Order 12866

These regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of the regulatory action.

The potential costs associated with the regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering the title IV, HEA programs effectively and efficiently. Burdens specifically associated with information collection requirements, if any, are identified and explained elsewhere in the preamble under the heading *Paperwork Reduction Act of 1995.*

In assessing the potential costs and benefits—both qualitative and quantitative—of these regulations, the Secretary has determined that the benefits of the regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of Potential Costs and Benefits

The potential costs and benefits of these final regulations are discussed elsewhere in this preamble under the following heading: *Analysis of Comments and Changes.*

Regulatory Flexibility Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. Small entities affected by these regulations are small institutions of higher education.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education provisions Act, 20 U.S.C. 1232(b)(2)(A), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules and regulations. However, the Secretary amends § 668.163(a)(2) and (3) as a final rule to revise the procedure for presenting cash requests to the Department under the exemption from rulemaking requirements in 5 U.S.C. 553(b)(A) for rules of agency procedure.

Assessment of Educational Impact

In the NPRM published September 21, 1995, the Secretary requested comment on whether the proposed regulations in this document would require transmission of information that is being gathered by, or is available from, any other agency or authority of the United States.

Based on the response to the proposed rules on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by, or is available from, any other agency or authority of the United States.

List of Subjects

34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs— education, Loan programs—education, Reporting and recordkeeping requirements, Student aid.

34 CFR Part 674

Loan programs—education, Student aid, Reporting and recordkeeping requirements.

34 CFR Part 675

Loan programs—education, Student aid, Reporting and recordkeeping requirements.

34 CFR Part 676

Loan programs—education, Student aid, Reporting and recordkeeping requirements.

34 CFR Part 682

Administrative practice and procedure, Colleges and universities, education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

34 CFR Part 685

Administrative practice and procedure, Colleges and universities, education, Loan programs—education, Reporting and recordkeeping requirements, Student aid.

34 CFR Part 690

Grant programs—education, Reporting and recordkeeping requirements, Student aid.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Consolidation Program; 84.032 Federal Stafford Loan Program; 84.032 Federal PLUS Program; 84.032 Federal Supplemental Loans for Students Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; 84.069 Federal State Student Incentive Grant Program; 84.268 William D. Ford Federal Direct Loan Program; and 84.272 National Early Intervention Scholarship and Partnership Program.)

Dated: November 24, 1995.

Richard W. Riley,

Secretary of Education.

The Secretary amends parts 668, 674, 675, 676, 682, 685, and 690 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099c, and 1141, unless otherwise noted.

§ 668.2 [Amended]

2. In § 668.2, paragraph (b) is amended by revising paragraph (1) of the definition of "Payment period" and by adding a sentence to the end of the definition of "Federal Perkins Loan Program" to read as follows:

§ 668.2 General definitions.

* * * * *

Federal Perkins Loan Program: * * * Unless otherwise noted, as used in this part, the Federal Perkins Loan Program includes the National Direct Student Loan Program and the National Defense Student Loan Program.

* * * * *

Payment period: (1) With respect to the Federal Pell Grant Program, a payment period as defined in 34 CFR 690.3;

* * * * *

§ 668.7 [Removed and Reserved]

3. Section 668.7 is removed and reserved.

4. Section 668.19 is revised to read as follows:

§ 668.19 Financial aid transcript.

(a) (1) An institution shall determine whether a student who is applying for assistance under any title IV, HEA program has previously attended another eligible institution.

(2) Before a student who previously attended another eligible institution may receive any title IV, HEA program assistance the institution the student is, or will be, attending—

(i) Must request each eligible institution the student previously attended to provide to it a financial aid transcript; or

(ii) May use information it obtains from the National Student Loan Data System (NSLDS) to satisfy the requirements of paragraphs (a)(1) and (a)(2)(i) of this section, after the Secretary informs institutions through a Notice in the **Federal Register** that the NSLDS is available for this purpose, and information on how the NSLDS can be used.

(3) Except as provided in paragraph (b)(5) of this section, if an institution requests a financial aid transcript from any institution a student previously attended, until the institution receives each requested financial aid transcript; the institution—

(i) May withhold payment of Federal Pell Grant and campus-based funds to the student;

(ii) May disburse Federal Pell Grant and campus-based funds to the student for one payment period only;

(iii) May decline to certify the student's Federal Stafford Loan application or the parent's Federal PLUS application under the FFEL Program;

(iv) May decline to originate the student's Federal Direct Stafford Loan or the parent's Federal Direct PLUS under the Direct Loan Program;

(v) May not deliver Federal Stafford or disburse Federal Direct Stafford Loan proceeds to a student; and

(vi) May not deliver Federal PLUS or disburse Federal Direct PLUS proceeds to a parent or student.

(4) (i) An institution may not hold Federal Stafford or Federal PLUS loan proceeds under paragraph (b)(3) of this section for more than 45 days. If an institution does not receive all required financial aid transcripts for a student within 45 days of the receipt of such proceeds, the institution shall return the loan proceeds to the appropriate lender.

(ii) An institution that certifies a Federal Stafford or Federal PLUS loan application before receiving all required financial aid transcripts shall return to the lender the appropriate amount of any Federal Stafford or Federal PLUS proceeds if it receives a financial aid transcript indicating that the student is not eligible for all, or a part, of the loan proceeds.

(5) An institution may disburse title IV, HEA program funds to a student without receiving a financial aid transcript from an eligible institution the student previously attended if the institution the student previously attended—

(i) Has closed, and information concerning the student's receipt of title IV, HEA program assistance for attendance at that institution is not available;

(ii) Is not located in a State; or

(iii) Provides the disbursing institution with the written certification described in paragraph (b)(2)(ii) of this section.

(b) Upon request, each institution located in a State shall promptly

provide to the institution that requested a financial aid transcript—

(1) All information in its possession concerning whether the student in question attended institutions other than itself and the requesting institution; and

(2) (i) A financial aid transcript for that student, if the student received or benefitted from any title IV, HEA program assistance while attending the institution; or

(ii) A written certification that—

(A) The student did not receive or benefit from any title IV, HEA program assistance while attending the institution; or

(B) The transcript would cover only years for which the institution no longer has records and is no longer required to keep records under the applicable title IV, HEA program recordkeeping requirements.

(c) An institution must disclose on a financial aid transcript for a student—

(1) The student's name and social security number;

(2) To the extent the institution is aware, whether the student is in default on any title IV, HEA program loan;

(3) To the extent the institution is aware, whether the student owes an overpayment on any title IV, HEA program grant or Federal Perkins Loan;

(4) For the award year for which a financial aid transcript is requested, the student's Scheduled Federal Pell Grant and the amount of Pell Grant funds disbursed to the student;

(5) The aggregate amount of loans made to the student under each of the title IV, HEA loan programs for attendance at the institution;

(6) For the award year in which a financial aid transcript is requested, the total amount of Federal Perkins loan funds disbursed to the student;

(7) Whether the student owed an outstanding balance on July 1, 1987 on either a National Direct Student Loan made for attendance at the institution;

(8) Whether the student owed an outstanding balance on October 1, 1992 on either a Federal Perkins loan or a National Direct Student Loan made for attendance at the institution; and

(9) The amount of, and period of enrollment for, the most current loan made to the student under the FFEL, and Direct Loan programs for attendance at the institution.

(d) (1) A financial aid transcript must be signed by an official authorized by the institution to disclose information in connection with title IV, HEA programs.

(2) An institution must base the information it includes on financial aid transcripts on records it maintains under the title IV, HEA programs recordkeeping requirements.

(Approved by the Office of Management and Budget under control number 1840–0537)

(Authority: 20 U.S.C. 1091, 1094)

5. The heading for § 668.21 is revised to read as follows:

§ 668.21 Treatment of Federal Perkins Loan, FSEOG, and Federal Pell Grant program funds if the recipient withdraws, drops out, or is expelled before his or her first day of class.

6. Section 668.22 is amended by removing paragraph (h)(1)(i) and redesignating paragraphs (h)(1)(ii) through (xiii) as paragraphs (h)(1)(i) through (xii), respectively; and by revising paragraph (d)(1)(i) to read as follows:

§ 668.22 Institutional refunds and repayments.

* * * * *

(d) * * *

(1) * * *

(i) If a student withdraws, drops out, or is expelled from the institution before the first day of classes for the period of enrollment for which the student was charged, the institution must follow the provisions under § 668.21 for the treatment of Federal Perkins Loan, FSEOG, and Federal Pell Grant Program funds, the provisions under § 682.604(d)(3) or (4) for the treatment of FFEL Program funds, and the provisions under § 685.303(b)(3) for the treatment of Direct Loan Program funds, as appropriate;

* * * * *

7. Subpart C is revised to read as follows:

Subpart C—Student Eligibility

Sec.

668.31 Scope.
668.32 Student eligibility - general.
668.33 Citizenship and residency requirements.
668.34 Satisfactory progress.
668.35 Student debts under the HEA and to the U.S.
668.36 Social security number.
668.37 Selective Service registration.
668.38 Enrollment in telecommunications and correspondence courses.
668.39 Study abroad programs.

Subpart C—Student Eligibility

§ 668.31 Scope.

This subpart contains rules by which a student establishes eligibility for assistance under the title IV, HEA programs. In order to qualify as an eligible student, a student must meet all applicable requirements in this subpart.

(Authority: 20 U.S.C. 1091)

§ 668.32 Student eligibility—general.

A student is eligible to receive title IV, HEA program assistance if the student—

(a)(1) (i) Is a regular student enrolled, or accepted for enrollment, in an eligible program at an eligible institution;

(ii) For purposes of the FFEL and Direct Loan programs, is enrolled for no longer than one twelve-month period in a course of study necessary for enrollment in an eligible program; or

(iii) For purposes of the Federal Perkins Loan, FWS, FFEL, and Direct Loan programs, is enrolled or accepted for enrollment as at least a half-time student at an eligible institution in a program necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State;

(2) For purposes of the FFEL and Direct Loan programs, is at least a half-time student;

(b) Is not enrolled in either an elementary or secondary school;

(c)(1) For purposes of the Federal Pell Grant, FSEOG, and SSIG programs, does not have a baccalaureate or first professional degree; and

(2)(i) For purposes of the Federal Perkins Loan, FFEL, and Direct Loan programs, is not incarcerated; and

(ii) For purposes of the Federal Pell Grant program, is not incarcerated in a Federal or State penal institution;

(d) Satisfies the citizenship and residency requirements contained in § 668.33 and subpart I of this part;

(e)(1) Has a high school diploma or its recognized equivalent;

(2) Has obtained within 12 months before the date the student initially receives title IV, HEA program assistance, a passing score specified by the Secretary on an independently administered test in accordance with subpart J of this part; or

(3) Is enrolled in an eligible institution that participates in a State "process" approved by the Secretary under subpart J of this part;

(f) Maintains satisfactory progress in his or her course of study according to the institution's published standards of satisfactory progress that satisfy the provisions of § 668.16(e), and, if applicable, the provisions of § 668.34;

(g) Except as provided in § 668.35—

(1) Is not in default, and certifies that he or she is not in default, on a loan made under any title IV, HEA loan program;

(2) Has not obtained loan amounts that exceed annual or aggregate loan limits made under any title IV, HEA loan program;

(3) Does not have property subject to a judgment lien for a debt owed to the United States; and

(4) Is not liable for a grant or Federal Perkins loan overpayment. A student receives a grant or Federal Perkins loan overpayment if the student received grant or Federal Perkins loan payments that exceeded the amount he or she was eligible to receive; or if the student withdraws, that exceeded the amount he or she was entitled to receive for non-institutional charges;

(h) Files a Statement of Educational Purpose in accordance with the instructions of the Secretary, or in the case of a loan made under the FFEL Program, with the lender;

(i) Has a correct social security number as determined under § 668.36, except that this requirement does not apply to students who are residents of the Federated States of Micronesia, Republic of the Marshall Islands, or the Republic of Palau;

(j) Satisfies the Selective Service registration requirements contained in § 668.37, and, if applicable, satisfies the requirements of § 668.38 and § 668.39 involving enrollment in telecommunication and correspondence courses and a study abroad program, respectively; and

(k) Satisfies the program specific requirements contained in—

(1) 34 CFR 674.9 for the Federal Perkins Loan program;

(2) 34 CFR 675.9 for the FWS program;

(3) 34 CFR 676.9 for the FSEOG program;

(4) 34 CFR 682.201 for the FFEL programs;

(5) 34 CFR 685.200 for the Federal Direct Student Loan programs;

(6) 34 CFR 690.75 for the Federal Pell Grant program; and

(7) 34 CFR 692.40 for the SSIG program.

(Authority: 20 U.S.C. 1091, 28 U.S.C. 3201(e))

§ 668.33 Citizenship and residency requirements.

(a) Except as provided in paragraph (b) of this section, to be eligible to receive title IV, HEA program assistance, a student must—

(1) Be a citizen or national of the United States; or

(2) Provide evidence from the U.S. Immigration and Naturalization Service that he or she—

(i) Is a permanent resident of the United States; or

(ii) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident;

(b) (1) A citizen of the Federated States of Micronesia, Republic of the Marshall Islands, or the Republic of Palau is eligible to receive funds under the FWS, FSEOG, and Federal Pell Grant programs if the student attends an eligible institution in a State, or a public or nonprofit private eligible institution of higher education in those jurisdictions.

(2) A student who satisfies the requirements of paragraph (a) of this section is eligible to receive funds under the FWS, FSEOG, and Federal Pell Grant programs if the student attends a public or nonprofit private eligible institution of higher education in the Federated States of Micronesia, Republic of the Marshall Islands, or the Republic of Palau.

(c) (1) If a student asserts that he or she is a citizen of the United States on the Free Application for Federal Student Aid (FAFSA), the Secretary attempts to confirm that assertion under a data match with the Social Security Administration. If the Social Security Administration confirms the student's citizenship, the Secretary reports that confirmation to the institution and the student.

(2) If the Social Security Administration does not confirm the student's citizenship assertion under the data match with the Secretary, the student can establish U.S. citizenship by submitting documentary evidence of that status to the institution. Before denying title IV, HEA assistance to a student for failing to establish citizenship, an institution must give a student at least 30 days notice to produce evidence of U.S. citizenship.

(Authority: 20 U.S.C. 1091, 5 U.S.C. 552a)

§ 668.34 Satisfactory progress.

(a) If a student is enrolled in an program of study of more than two academic years, to be eligible to receive title IV, HEA program assistance after the second year, in addition to satisfying the requirements contained in § 668.32(f), the student must be making satisfactory under the provisions of paragraphs (b), (c) and (d) of this section.

(b) A student is making satisfactory progress if, at the end of the second year, the student has a grade point average of at least a "C" or its equivalent, or has academic standing consistent with the institution's requirements for graduation.

(c) An institution may find that a student is making satisfactory progress even though the student does not satisfy the requirements in paragraph (b) of this section, if the institution determines that the student's failure to meet those requirements is based upon—

(1) The death of a relative of the student;

(2) An injury or illness of the student; or

(3) Other special circumstances.

(d) If a student is not making satisfactory progress at the end of the second year, but at the end of a subsequent grading period comes into compliance with the institution's requirements for graduation, the institution may consider the student as making satisfactory progress beginning with the next grading period.

(e) At a minimum, an institution must review a student's academic progress at the end of each year.

(Authority: 20 U.S.C. 1091(d))

§ 668.35 Student debts under the HEA and to the U.S.

(a) A student who is in default on a loan made under a title IV, HEA loan program may nevertheless be eligible to receive title IV, HEA program assistance if the student—

(1) Repays the loan in full; or

(2) (i) Makes arrangements, that are satisfactory to the holder of the loan and in accordance with the individual title IV, HEA loan program regulations, to repay the loan balance; and

(ii) Makes at least six consecutive monthly payments under those arrangements.

(b) A student who is not in default on a loan made under a title IV, HEA loan program, but has inadvertently obtained loan funds under a title IV, HEA loan program in an amount that exceeds the annual or aggregate loan limits under that program, may nevertheless be eligible to receive title IV, HEA program assistance if the student—

(1) Repays in full the excess loan amount; or

(2) Makes arrangements, satisfactory to the holder of the loan, to repay that excess loan amount.

(c) A student who receives an overpayment under the Federal Perkins Loan Program, or under a title IV, HEA grant program may nevertheless be eligible to receive title IV, HEA program assistance if the student—

(1) Pays the overpayment in full; or

(2) Makes arrangements, satisfactory to the holder of the overpayment debt, to pay the overpayment.

(d) A student who has property subject to a judgement lien for a debt owed to the United States may nevertheless be eligible to receive title IV, HEA program assistance if the student-

(1) Pays the debt in full; or

(2) Makes arrangements, satisfactory to the United States, to pay the debt.

(e) (1) A student is not liable for a Federal Pell Grant overpayment received in an award year if the institution can eliminate that overpayment by adjusting subsequent

Federal Pell Grant payments in that same award year.

(2) A student is not liable for a FSEOG or SSIG overpayment or Federal Perkins loan overpayment received in an award year if the institution can eliminate that overpayment by adjusting subsequent title IV, HEA program (other than Federal Pell Grant) payments in that same award year.

(f) A student who otherwise is in default on a loan made under a title IV HEA loan program, or who otherwise owes an overpayment on a title IV, HEA program grant or Federal Perkins loan, is not considered to be in default or owe an overpayment if the student—

(1) Obtains a judicial determination that the debt has been discharged or is dischargeable in bankruptcy; or

(2) Demonstrates to the satisfaction of the holder of the debt that—

(i) When the student filed the petition for bankruptcy relief, the loan, or demand for the payment of the overpayment, had been outstanding for the period required under 11 U.S.C. 523(a)(8)(A), exclusive of applicable suspensions of the repayment period for either debt of the kind defined in 34 CFR 682.402(m); and

(ii) The debt otherwise qualifies for discharge under applicable bankruptcy law.

(Authority: 20 U.S.C. 1091 and 11 U.S.C. 523 and 525)

§ 668.36 Social security number.

(a) (1) Except for residents of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, the Secretary attempts to confirm the social security number a student provides on the Free Application for Federal Student Aid (FAFSA) under a data match with the Social Security Administration. If the Social Security Administration confirms that number, the Secretary notifies the institution and the student of that confirmation.

(2) If the student's verified social security number is the same number as the one he or she provided on the FAFSA, and the institution has no reason to believe that the verified social security number is inaccurate, the institution may consider the number to be accurate.

(3) If the Social Security Administration does not verify the student's social security number on the FAFSA, or the institution has reason to believe that the verified social security number is inaccurate, the student can provide evidence to the institution, such as the student's social security card, indicating the accuracy of the student's social security number. An institution must give a student at least 30 days, or until the end of the award year, whichever is later, to produce that evidence.

(4) An institution may not deny, reduce, delay, or terminate a student's eligibility for assistance under the title IV, HEA programs because verification of that student's social security number is pending.

(b) (1) An institution may not disburse any title IV, HEA program funds to a student until the institution is satisfied that the student's reported social security number is accurate.

(2) The institution shall ensure that the Secretary is notified of the student's accurate social security number if the student demonstrates the accuracy of a social security number that is not the number the student included on the FAFSA.

(c) If the Secretary determines that the social security number provided to an institution by a student is incorrect, and that student has not provided evidence under paragraph (a)(3) of this section indicating the accuracy of the social security number, and a loan has been guaranteed for the student under the FFEL program, the institution shall notify and instruct the lender and guaranty agency making and guaranteeing the loan, respectively, to cease further disbursements of the loan, until the Secretary or the institution determines that the social security number provided by the student is correct, but the guaranty may not be voided or otherwise nullified before the date that the lender and the guaranty agency receive the notice.

(d) Nothing in this section permits the Secretary to take any compliance, disallowance, penalty or other regulatory action against—

(1) Any institution of higher education with respect to any error in a social security number, unless the error was the result of fraud on the part of the institution; or

(2) Any student with respect to any error in a social security number, unless the error was the result of fraud on the part of the student.

(Authority: 20 U.S.C. 1091)

§ 668.37 Selective Service registration.

(a) (1) To be eligible to receive title IV, HEA program funds, a male student who is subject to registration with the Selective Service must register with the Selective Service.

(2) A male student does not have to register with the Selective Service if the student—

(i) Is below the age of 18, or was born before January 1, 1960;

(ii) Is enrolled in an officer procurement program the curriculum of which has been approved by the Secretary of Defense at the following institutions:

(A) The Citadel, Charleston, South Carolina;

(B) North Georgia College, Dahlonega, Georgia;

(C) Norwich University, Northfield, Vermont; or

(D) Virginia Military Institute, Lexington, Virginia; or

(iii) Is a commissioned officer of the Public Health Service and/or a member of the Reserve of the Public Health Service who is on active duty as provided in section 6(a)(2) of the Military Selective Service Act.

(b) (1) When the Secretary processes a male student's FAFSA, the Secretary determines whether the student is registered with the Selective Service under a data match with the Selective Service.

(2) Under the data match, Selective Service reports to the Secretary whether its records indicate that the student is registered, and the Secretary reports the results of the data match to the student and the institution the student is attending.

(c) (1) If the Selective Service does not confirm through the data match, that the student is registered, the student can establish that he—

(i) Is registered;

(ii) Is not, or was not required to be, registered;

(iii) Has registered since the submission of the FAFSA; or

(iv) Meets the conditions of paragraph (d) of this section.

(2) An institution must give a student at least 30 days, or until the end of the award year, whichever is later, to provide evidence to establish the condition described in paragraph (c)(1) of this section.

(d) An institution may determine that a student, who was required to, but did not register with the Selective Service, is not ineligible to receive title IV, HEA assistance for that reason, if the student can demonstrate by submitting clear and unambiguous evidence to the institution that—

(1) He was unable to present himself for registration for reasons beyond his control such as hospitalization, incarceration, or institutionalization; or

(2) He is over 26 and when he was between 18 and 26 and required to register—

(i) He did not knowingly and willfully fail to register with the Selective Service; or

(ii) He served as a member of one of the U.S. Armed Forces on active duty and received a DD Form 214, "Certificate of Release or Discharge from Active Duty," showing military service with other than the reserve forces and National Guard.

(e) For purposes of paragraph (d)(2)(i) of this section, an institution may consider that a student did not knowingly and willfully fail to register with the Selective Service only if—

(1) The student submits to the institution an advisory opinion from the Selective Service System that does not dispute the student's claim that he did not knowingly and willfully fail to register; and

(2) The institution does not have uncontroverted evidence that the student knowingly and willfully failed to register.

(f) (1) A student who is required to register with the Selective Service and has been denied title IV, HEA program assistance because he has not proven to the institution that he has registered with Selective Service may seek a hearing from the Secretary by filing a request in writing with the Secretary. The student must submit with that request—

(i) A statement that he is in compliance with registration requirements;

(ii) A concise statement of the reasons why he has not been able to prove that he is in compliance with those requirements; and

(iii) Copies of all material that he has already supplied to the institution to verify his compliance.

(2) The Secretary provides an opportunity for a hearing to a student who—

(i) Asserts that he is in compliance with registration requirements; and

(ii) Files a written request for a hearing in accordance with paragraph (f)(1) of this section within the award year for which he was denied title IV, HEA program assistance or within 30 days following the end of the payment period, whichever is later.

(3) An official designated by the Secretary shall conduct any hearing held under paragraph (f)(2) of this section. The sole purpose of this hearing is the determination of compliance with registration requirements. At this hearing, the student retains the burden of proving compliance, by credible evidence, with the requirements of the Military Selective Service Act. The designated official shall not consider challenges based on constitutional or other grounds to the requirements that a student state and verify, if required, compliance with registration requirements, or to those registration requirements themselves.

(g) Any determination of compliance made under this section is final unless reopened by the Secretary and revised on the basis of additional evidence.

(h) Any determination of compliance made under this section is binding only for purposes of determining eligibility for title IV, HEA program assistance.

(Authority: 20 U.S.C. 1091 and 50 App. 462)

§ 668.38 Enrollment in telecommunications and correspondence courses.

(a) If a student is enrolled in correspondence courses, the student is eligible to receive title IV, HEA program assistance only if the correspondence courses are part of a program that leads to an associate, bachelor's, or graduate degree.

(b) (1) For purposes of this provision, the Secretary considers that a student enrolled in a "telecommunications course" is enrolled in a correspondence course unless the total number of telecommunication and correspondence courses the institution provides is fewer than 50 percent of the courses the institution provides during an award year and the student is enrolled in a program that leads to an associate, bachelor's, or graduate degree.

(2) In making the determination required under paragraph (b)(1) of this section, the institution shall use its latest complete award year, and shall calculate the number of courses using the provisions contained in 34 CFR 600.7(b)(2).

(Authority: 20 U.S.C. 1091)

§ 668.39 Study abroad programs.

A student enrolled in a program of study abroad is eligible to receive title IV, HEA program assistance if—

(a) The student remains enrolled as a regular student in an eligible program at an eligible institution during his or her program of study abroad; and

(b) The eligible institution approves the program of study abroad for academic credit. However, the study abroad program need not be required as part of the student's eligible degree program.

(Authority: 20 U.S.C. 1091(o))

8. Section 668.133 is amended by revising paragraph (b) to read as follows:

§ 668.133 Conditions under which an institution shall request documentation and request secondary confirmation.

* * * * *

(b) *Exclusions from secondary confirmation.* (1) An institution may not require the student to produce the documentation requested under § 668.33(a)(2) and may not request that INS perform secondary confirmation, if the student—

(i) Demonstrates eligibility under the provisions of § 668.33 (a)(1) or (b); or

(ii) Demonstrated eligibility under the provisions of § 668.33(a)(2) in a previous award year as a result of secondary confirmation and the documents used to establish that eligibility have not expired; and

(iii) The institution does not have conflicting documentation or reason to believe that the student's claim of citizenship or immigration status is incorrect.

* * * * *

(Approved by the Office of Management and Budget under control number 1840–0650)

9. Section 668.161 is amended by revising paragraph (b) to read as follows:

§ 668.161 Scope and purpose.

* * * * *

(b) *Federal interest in title IV, HEA program funds.* Except for funds received by an institution for administrative expenses and for funds used for the Job Location and Development Program, under the Federal Work-Study Programs, funds received by an institution under the title IV, HEA programs are held in trust for the intended student beneficiaries and the Secretary. The institution, as a trustee of Federal funds, may not use or hypothecate (i.e., use as collateral) title IV, HEA program funds for any other purpose.

(Authority: 20 U.S.C. 1094)

* * * * *

10. Section 668.163 is amended by adding a new paragraph (a)(2)(iii); and by revising paragraph (a)(3)(i)(A) to read as follows:

§ 668.163 Requesting funds.

* * * * *

(a) * * *

(2) * * *

(iii) In submitting a request for cash, an institution must identify the title IV, HEA program under which the institution requests funds by its appropriate Catalog of Federal Domestic Assistance (CFDA) number and the total amount of program funds for each CFDA number included in the request.

* * * * *

(3) * * *

(i) * * *

(A) Identify the students for whom the institution is seeking reimbursement that will be included in the institution's request for cash. The institution's request for cash must identify the title IV, HEA program under which the institution seeks reimbursement by its appropriate CFDA number and the total

amount of program funds for each CFDA number included in the request;

* * * * *

11. Section 668.164, paragraph (a)(2)(iii) is revised to read as follows:

§ 668.164 Maintaining funds.

* * * * *

(a) * * *

(2) * * *

(iii) Except for public institutions, file with the appropriate State or municipal government entity a UCC–1 statement disclosing that the account contains Federal funds and maintain a copy of that statement in its records.

* * * * *

(Approved by the Office of Management and Budget under control number 1840–0697)

12. Section 668.165 is amended by revising paragraph (b)(1); and by adding a new paragraph (e) to read as follows:

§ 668.165 Disbursing funds.

* * * * *

(b) *Crediting a student's account at the institution* (1) *General.* An institution may disburse title IV, HEA program funds by crediting the student's account at the institution. Except as provided in paragraph (e) of this section, in crediting the student's account with title IV, HEA program funds, the institution may use those funds only to satisfy allowable charges described under paragraph (b)(3) of this section for the current award year or period of enrollment. An institution must notify expeditiously a student or parent borrower in writing or by equivalent electronic means that the institution has credited the student's account with Direct Loan, FFEL, or Federal Perkins Loan program funds. If an institution notifies a student or parent electronically, it must request the student or parent to confirm the receipt of the notice and maintain a record of that confirmation.

* * * * *

(e) *Prior-year charges.* An institution may use a student's title IV, HEA program funds to pay minor prior-year institutional charges if—

(1) The student has, or will have, a title IV, HEA credit balance as determined under paragraph (b)(2) of this section;

(2) The institution obtains the student's authorization to pay these charges; and

(3) The prior-year charges do not exceed $100; or

(4) The payment of these charges does not, or will not, prevent the student from paying his or her current-year education costs.

* * * * *

(Approved by the Office of Management and Budget under control number 1840–0697)

PART 674—FEDERAL PERKINS LOAN PROGRAM

13. The authority citation for part 674 continues to read as follows:

Authority: 20 U.S.C. 1087aa–1087ii and 20 U.S.C. 421–429, unless otherwise noted.

§ 674.2 [Amended]

14. Section 674.2 paragraph (a) is amended by adding, in alphabetical order, "Full-time student".

15. Section 674.2 paragraph (b) is amended by removing the definitions of "Full-time graduate or professional student", "Full-time undergraduate student", and "Satisfactory arrangements to repay the loan" and by revising the definition of "making of a loan" to read as follows:

§ 674.2 Definitions.

* * * * *

(b) * * *

Making of a loan: When the borrower signs the promissory note for the award year and the institution makes the first disbursement of loan funds under that promissory note for that award year.

* * * * *

16. Section 674.5 is amended by redesignating paragraph (e) as paragraph (f), by adding new paragraph (e), and by revising redesignated paragraph (f) to read as follows:

§ 674.5 Federal Perkins loan program cohort default rate and penalties.

* * * * *

(e) *Satisfactory arrangements to repay the loan.* The Secretary considers that the borrower has made satisfactory arrangements to repay the loan when the borrower has—

(1) Paid the loan in full; or

(2) Executed a new written repayment agreement; and

(3) Made one payment each month for six consecutive months.

(f) *Loan rehabilitation.* (1) The Secretary considers that the borrower has rehabilitated the loan when the borrower has—

(i) Paid the loan in full; or

(ii) Executed a new written repayment agreement; and

(iii) Made one payment each month for 12 consecutive months.

(2) Within 30 days of the date of the rehabilitation, the institution shall report the rehabilitation to any national credit bureau.

17. Section 674.16 is amended by revising paragraph (d) to read as follows:

§ 674.16 Making and disbursing loans.

* * * * *

(d)(1) The institution shall disburse funds to a student or the student's account in accordance with 34 CFR 668.165.

(2) The institution shall obtain the borrower's signature on a promissory note for each award year before it disburses any loan funds to the borrower under that note for that award year.

* * * * *

(Approved by the Office of Management and Budget under control number 1840–0535)

§ 674.17 [Amended]

18. Section 674.17 is amended by removing paragraph (a) and by redesignating paragraphs (b)(1) introductory text, (b)(1)(i), (b)(1)(ii), (b)(1)(iii), (b)(2), (b)(3), (b)(4) introductory text, (b)(4)(i), (b)(4)(ii), and (b)(5) as paragraphs (a) introductory text, (a)(1), (a)(2), (a)(3), (b), (c), (d) introductory text, (d)(1), (d)(2), and (e), respectively.

19. Section 674.19 is amended by revising paragraph (e)(4)(v) to read as follows:

§ 674.19 Fiscal procedures and records.

* * * * *

(e) * * *

(4) * * *

(v) An institution may keep the records required in this section on microforms, optical disk, other comparable imaging technology, or in computer format. If an institution keeps its records in computer format, it shall maintain, in either hard copy, microforms, optical disk, or other comparable imaging technology, the source documents supporting the computer input.

* * * * *

(Approved by the Office of Management and Budget under control number 1840–0535)

20. Section 674.31 is amended by revising paragraph (a)(1) to read as follows:

§ 674.31 Promissory note.

(a) *Promissory note.* (1) An institution may use only the promissory note that the Secretary provides. The institution may make only nonsubstantive changes, such as changes to the type style or font, or the addition of items such as the borrower's driver's license number, to this note.

* * * * *

(Approved by the Office of Management and Budget under control number 1840–0535)

§ 674.33 [Amended]

21. Section 674.33 paragraph (a)(2) is amended by removing "$15" and adding in its place "$25", by redesignating the second paragraph (d)(3) as paragraph (d)(6), by redesignating the second paragraph (d)(4) as paragraph (d)(7), and by removing "(d)(2)(i)" in redesignated paragraph (6) and adding in its place "(d)(5)(i)".

22. Section 674.34 paragraphs (e)(4) and (e)(6)(ii) are amended by changing the reference to "(e)(8)" to read "(e)(9)"; the introductory text of paragraph (e)(6) is amended by adding "or (e)(5)" after "(e)(4)"; paragraph (e)(7) is amended by removing "or (4)" and adding in its place "(e)(4), or (e)(5)"; and by revising paragraph (e)(5) to read as follows:

§ 674.34 Deferment of repayment—Federal Perkins loans and Direct loans made on or after July 1, 1993.

* * * * *

(e) * * *

(5) Is working full-time and has a Federal education debt burden that equals or exceeds 20 percent of the borrower's total monthly gross income, and the borrower's income minus such burden is less than 220 percent of the amount calculated under paragraph (3) of this section.

* * * * *

23. Section 674.47 is amended by revising paragraph (g) and by adding a new paragraph (h) to read as follows:

§ 674.47 Costs chargeable to the fund.

* * * * *

(g) *Cessation of collection activity of defaulted accounts.* (1) An institution may cease collection activity on a defaulted account with a balance of less than $25, including outstanding principal, accrued interest, collection costs, and late charges, if the borrower has been billed for this balance in accordance with section 674.43(a).

(2) An institution may cease collection activity on a defaulted account with a balance of less than $200, including outstanding principal, accrued interest, collection costs, and late charges, if—

(i) The institution has carried out the due diligence procedures described in subpart C of the part with regard to this account; and

(ii) For a period of at least 4 years, the borrower has not made a payment on the account, converted the account to regular repayment status, or applied for a deferment, postponement, or cancellation on the account.

(h) *Write-offs of accounts of less than $5.* (1) Notwithstanding any other provision in this subpart, an institution may write off an account with a balance of less than $5, including outstanding principal, accrued interest, collection costs, and late charges.

(2) An institution that writes off an account under this paragraph may no longer include the amount of the account as an asset of the Fund.

* * * * *

(Approved by the Office of Management and Budget under control number 1840–0581)

PART 675—FEDERAL WORK-STUDY PROGRAMS

Subpart A—Federal Work-Study Program

24. The authority citation for part 675 continues to read as follows:

Authority: 42 U.S.C. 2571–2756b, unless otherwise noted.

§ 675.2 [Amended]

25. Section 675.2, paragraph (a) is amended by adding in alphabetical order, the term "Full-time student".

26. Section 675.2, paragraph (b) is amended by removing the definitions of "Full-time graduate or professional student" and "Full-time undergraduate student".

§ 675.17 [Removed and Reserved]

27. Section 675.17 is removed and reserved.

28. Section 675.19 is amended by revising paragraph (c)(3) to read as follows:

§ 675.19 Fiscal procedures and records.

* * * * *

(c) * * *

(3) An institution may keep the records required in this section on microforms, optical disk, other comparable imaging technology, or in computer format. If an institution keeps its records in computer format, it shall maintain, in either hard copy, microforms, optical disk, or other comparable imaging technology, the source documents supporting the computer input.

* * * * *

(Approved by the Office of Management and Budget under control number 1840–0535)

Appendix B to Part 675—[Removed]

29. Appendix B—Model Off-Campus Agreement is removed.

PART 676—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

30. The authority citation for part 676 continues to read as follows:

Authority: 20 U.S.C. 1070b-1070–3, unless otherwise noted.

§ 676.2 [Amended]

31. Section 676.2, paragraph (a) is amended by adding in alphabetical order, the term "Full-time student".

32. Section 676.2, paragraph (b) is amended by removing the definition of "Full-time undergraduate student".

§ 676.17 [Removed and Reserved]

33. Section 676.17 is removed and reserved.

34. Section 676.19 is amended by revising paragraph (c)(3) to read as follows:

§ 676.19 Fiscal procedures and records.

* * * * *

(c) * * *

(3) An institution may keep the records required in this section on microforms, optical disk, other comparable imaging technology, or in computer format. If an institution keeps its records in computer format, it shall maintain, in either hard copy, microforms, optical disk, or other comparable imaging technology, the source documents supporting the computer input.

* * * * *

(Approved by the Office of Management and Budget under control number 1840–0535)

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

35. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

36. Section 682.201, paragraph (b) is amended by removing "and" at the end of paragraph (b)(6); redesignating paragraphs (b)(1) through (b)(6) as paragraphs (b)(1)(i) through (b)(1)(vi), respectively; by designating the undesignated introductory text following "(b) *Parent borrower.*" as the introductory text of paragraph (b)(1); by redesignating paragraphs (b)(7)(i) through (b)(7)(vi) as (b)(1)(vii)(A) through (b)(1)(vii)(F), respectively, and paragraphs (b)(7)(iii)(A) and (b)(7)(iii)(B) as (b)(1)(vii)(C)(*1*) and (b)(1)(vii)(C)(*2*), respectively; by redesignating paragraph (b)(8) as paragraph (b)(1)(viii) and removing the reference to "(7)(iii)" and adding, in its place "(b)(1)(vii)(C)"; and by adding a new paragraph (b)(2) to read as follows:

§ 682.201 Eligible borrowers.

* * * * *

(b) * * *

(2) For purposes of paragraph (b)(1) of this section, a "parent" includes the individuals described in the definition of "parent" in 34 CFR 668.2 and the spouse of a parent who remarried, if that spouse's income and assets would have been taken into account when calculating a dependent student's expected family contribution.

§ 682.600 [Removed and Reserved]

37. Section 682.600 is removed and reserved.

§ 682.602 [Removed and Reserved]

38. Section 682.602 is removed and reserved.

39. A new § 682.611 is added to Subpart F to read as follows:

§ 682.611 Foreign schools.

A foreign school is required to comply with the provisions of this part, except to the extent that the Secretary states in this part or in other official publications or documents that those schools need not comply with those provisions.

(Authority: 20 U.S.C. 1077, 1078, 1078–1, 1078–2, 1078–3, 1082, 1088, and 1094)

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

40. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. § 1078a *et seq.*, unless otherwise noted.

41. Section 685.200, paragraph (b) is amended by redesignating paragraphs (b)(1) through (b)(6) as paragraphs (b)(1)(i) through (b)(1)(vi), respectively; redesignating paragraph (b)(7) as (b)(1)(vii), paragraphs (b)(7)(i) through (b)(7)(iii) as (b)(1)(vii)(A) through (b)(1)(vii)(C), respectively, (b)(7)(i)(A) through (b)(7)(i)(C) as (b)(1)(vii)(A)(*1*) through (b)(1)(vii)(A)(*3*), respectively, and (b)(7)(ii)(A) and (b)(7)(ii)(B) as (b)(1)(vii)(B)(*1*) and (b)(1)(vii)(B)(*2*), respectively; by designating the undesignated introductory text following "(b) *Parent borrower.*" as the introductory text of paragraph (b)(1); by removing the references to "(b)(7)(i)" in redesignated paragraphs (b)(1)(vii)(B) and (b)(1)(vii)(C) and adding, in their place "(b)(1)(vii)(A)"; and by adding a new paragraph (b)(2) to read as follows:

§ 685.200 Borrower eligibility.

* * * * *

(b) * * *

(2) For purposes of paragraph (b)(1) of this section, a "parent" includes the individuals described in the definition of "parent" in 34 CFR 668.2 and the spouse of a parent who remarried, if that spouse's income and assets would have been taken into account when calculating a dependent student's expected family contribution.

* * * * *

PART 690—FEDERAL PELL GRANT PROGRAM

42. The authority citation for part 690 continues to read as follows:

Authority: 20 U.S.C. § 1070a, unless otherwise noted.

43. Section 690.2 is amended by removing the definition of "Payment Voucher" and by adding, in alphabetical order, the definition of "Payment Data" to read as follows:

§ 690.2 Definitions.

* * * * *

(b) * * *

Payment Data: An electronic or magnetic record that is provided to the Secretary by an institution showing a student's expected family contribution, cost of attendance, enrollment status, and student disbursement information.

§ 690.7 [Amended]

44. Section 690.7, paragraph (a)(1) is removed and paragraph (a)(2) is redesignated as paragraph (a).

§ 690.71 [Amended]

45. Section 690.71 is amended by removing the second sentence.

§§ 690.72, 690.73, 690.74 [Removed and Reserved]

46. Sections 690.72, 690.73, and 690.74 are removed and reserved.

47. Section 690.83 is amended by revising paragraphs (a) through (d) to read as follows:

§ 690.83 Submission of reports.

(a) (1) An institution may receive either a payment from the Secretary for an award to a Federal Pell Grant recipient, or a corresponding reduction in the amount of Federal funds received in advance for which it is accountable, if—

(i) The institution submits to the Secretary the student's Payment Data for that award year in the manner and form prescribed in paragraph (a)(2) of this section by September 30 following the end of the award year in which the grant is made, or, if September 30 falls on a weekend, on the first weekday following September 30; and

(ii) The Secretary accepts the student's Payment Data.

(2) The Secretary accepts a student's Payment Data that is submitted in accordance with procedures established through publication in the **Federal Register**, and that contain information the Secretary considers to be accurate in light of other available information including that previously provided by the student and the institution.

(3) An institution that does not comply with the requirements of this paragraph may receive a payment or reduction in accountability only as provided in paragraph (d) of this section.

(b) (1) An institution shall report to the Secretary any change in enrollment status, cost of attendance, or other event or condition that causes a change in the amount of a Federal Pell Grant for which a student qualifies by submitting to the Secretary the student's Payment Data that discloses the basis and result of the change in award for each student. Through publication in the **Federal Register**, the Secretary divides the award year into periods and establishes the deadlines by which the institution shall report changes occurring during each period. The institution shall submit the student's Payment Data reporting a change to the Secretary by the end of that reporting period that next follows the reporting period in which the change occurred.

(2) An institution shall submit in accordance with deadline dates established by the Secretary, through publication in the **Federal Register**, other reports and information the Secretary requires in connection with the funds advanced to it and shall comply with the procedures the Secretary finds necessary to ensure that the reports are correct.

(3) An institution that timely submits, and has accepted by the Secretary, the Payment Data for a student in accordance with this section shall report a reduction in the amount of a Federal Pell Grant award that the student received when it determines that an overpayment has occurred, unless that overpayment is one for which the institution is not liable under § 690.79(a).

(c) In accordance with 34 CFR 668.84 the Secretary may impose a fine on the institution if the institution fails to comply with the requirements specified in paragraphs (a) or (b) of this section.

(d) (1) Notwithstanding paragraphs (a) or (b) of this section, if an institution demonstrates to the satisfaction of the Secretary that the institution has provided Federal Pell Grants in accordance with this part but has not received credit or payment for those grants, the institution may receive payment or a reduction in accountability for those grants in accordance with paragraphs (d)(4) and either (d)(2) or (d)(3) of this section.

(2) The institution must demonstrate that it qualifies for a credit or payment by means of a finding contained in an audit report of an award year that was the first audit of that award year and that was conducted after December 31, 1988 and timely submitted to the Secretary under 34 CFR 668.23(c).

(3) An institution that timely submits the Payment Data for a student in accordance with paragraph (a) of this section but does not timely submit to the Secretary, or have accepted by the Secretary, the Payment Data necessary to document the full amount of the award to which the student is entitled, may receive a payment or reduction in accountability in the full amount of that award, if—

(i) A program review demonstrates to the satisfaction of the Secretary that the student was eligible to receive an amount greater than that reported in the student's Payment Data timely submitted to, and accepted by the Secretary; and

(ii) The institution seeks an adjustment to reflect an underpayment for that award that is at least $100.

(4) In determining whether the institution qualifies for a payment or reduction in accountability, the Secretary takes into account any liabilities of the institution arising from that audit or program review or any other source. The Secretary collects those liabilities by offset in accordance with 34 CFR part 30.

* * * * *

(Approved by the Office of Management and Budget under control number 1840–0688)

[FR Doc. 95–29180 Filed 11–30–95; 8:45 am]
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December 1, 1995

Part VIII

Department of Education

34 CFR Part 685
William D. Ford Federal Direct Loan Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 685

RIN 1840–AC19

William D. Ford Federal Direct Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education amends provisions of the regulations governing the income contingent repayment plan under the William D. Ford Federal Direct Loan (Direct Loan) Program regulations. The Secretary is amending these provisions to provide benefits to borrowers and protect the taxpayers' interests.

EFFECTIVE DATE: These regulations take effect July 1, 1996. However, affected parties do not have to comply with the information collection requirements in § 685.209 until the Department of Education publishes in the **Federal Register** the control number assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control number notifies the public that OMB has approved these information collection requirements under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Rachel Edelstein, Program Specialist, Direct Loan Policy Group, Policy Development Division, U.S. Department of Education, Room 3053, ROB–3, 600 Independence Avenue, SW, Washington, D.C. 20202–5400. Telephone: (202) 708–9406. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1994, the Secretary published final regulations that included provisions for the income contingent repayment plan during Year One of the Direct Loan Program. The Higher Education Act of 1965, as amended (HEA), directed the Secretary, to the extent practicable, to develop proposed rules for the Direct Loan Program through a negotiated rulemaking process for the second and subsequent years of the program (1995–1996 and beyond). Therefore, following negotiated rulemaking, the Secretary published a Notice of Proposed Rulemaking (NPRM) on August 18, 1994, and final regulations on December 1, 1994, both of which included new provisions for the income contingent repayment plan of the Direct Loan Program. On December 22, 1994, the Secretary published regulations that revised the July 1, 1994, regulations to provide that provisions for income contingent repayment would be identical for Year One and Year Two of the Direct Loan Program.

On September 20, 1995, the Secretary published a notice of proposed rulemaking (60 FR 48848), proposing to make improvements to the existing income contingent repayment plan. These changes were proposed for Year Three of the program and beyond. The following section summarizes the major revisions to the proposed rule.

Substantive Revisions to the Proposed Rule

Section 685.209(a)(3)

- The definition of "discretionary income" under the proposed income contingent repayment plan has been revised. Under these final regulations, discretionary income is now defined as the borrower's adjusted gross income (AGI) minus the United States Department of Health and Human Services (HHS) poverty level appropriate to the borrower's family size. This is the same definition of discretionary income as in existing regulations.

Appendix A

- The income percentage factor chart has been revised so that there are only two categories of borrowers: single and married/head of household. Therefore, married and head-of-household borrowers with the same family size, income, and debt make the same payments. Under the proposed income contingent repayment plan, head-of-household borrowers actually made higher payments than married borrowers with the same income and debt levels; the Secretary has determined that head-of-household borrowers should not be required to make higher payments than married borrowers with the same debt and income.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 19 parties submitted comments on the proposed regulations. An analysis of the comments and the changes follows. Major issues are grouped according to subject, with references to the appropriate sections of the regulations. Technical and other minor changes, and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority, generally are not addressed.

Revising Income Contingent Repayment

Comments: A number of commenters recommended that any revisions to the plan be brought about through negotiated rulemaking. These commenters noted that the existing repayment plan was developed through extensive negotiated rulemaking.

Discussion: Section 457 of The HEA requires the Secretary to conduct negotiated rulemaking for the Direct Loan Program only to the extent practicable. This section does not require negotiated rulemaking for amendments to existing regulations. Further, the Secretary does not believe that it is practicable to conduct negotiated rulemaking for amendments to these regulations. Negotiated rulemaking is a lengthy process that would have prevented implementation of the revised income contingent repayment plan for the 1996–1997 academic year. For these amendments, the Secretary has decided not to use the negotiated rulemaking process to solicit input from the higher education community. In the Secretary's opinion, the revised income contingent repayment plan is an improvement over the existing plan, and borrowers should be able to benefit from these regulatory revisions as soon as possible. Further, a number of commenters supported the Secretary's proposal to revise the existing plan.

Changes: None.

Required Minimum Payment

Comments: In response to the Secretary's request for comments regarding a required minimum payment for all borrowers, one commenter recommended establishing a minimum payment of $15.00 for all borrowers, including those with a calculated repayment amount of $0. Another commenter advocated establishing a minimum payment of $2.00, if the Secretary were to require a minimum payment from all borrowers. A third commenter suggested that borrowers simply send in a coupon on a monthly basis in place of a payment amount.

Most commenters argued against requiring a payment from a borrower whose calculated repayment amount is $0. In addition, many commenters questioned whether collecting $2.00 payments would be cost-effective. One commenter stated that borrowers with a calculated payment of less than $2.00 would not likely have a checking account and that the requirement to make these minimal payments would, therefore, be burdensome. To reduce burden and improve the cost-effectiveness of collection efforts, several commenters suggested that the Secretary bill borrowers with minimal monthly payments on a quarterly or annual basis.

One commenter questioned whether the Secretary would send delinquency notices to borrowers with $2.00 monthly payments who are $4.00 behind in payments (that is, two months behind in payments).

Discussion: The Secretary agrees with those commenters who argued that borrowers with a calculated monthly payment amount of $0 should not be required to make monthly payments. In addition, the Secretary agrees with commenters that collecting $2.00 monthly payments may not be cost-effective. The Secretary has determined that requiring a $5.00 minimum monthly payment of borrowers whose calculated monthly payment amount is greater than $0 but less than or equal to $5.00 would be more cost-effective and would better promote responsible repayment practices than establishing a minimum $2.00 payment amount. In addition, the Secretary believes that this change in policy will not impose a significant burden on borrowers. Therefore, the Secretary has decided to require a $5.00 minimum monthly payment of borrowers whose calculated monthly payment amount is greater than $0 but less than or equal to $5.00.

In response to concerns that monthly billing will be burdensome for borrowers with minimal monthly repayment amounts, the Secretary will consider carefully the option of billing these borrowers on a quarterly or other less frequent basis. The Secretary has not prescribed billing cycles or billing frequency in these regulations and thus has the flexibility to change billing frequency if this action is warranted.

The Secretary considers a borrower to be delinquent after the borrower has missed a monthly payment. Therefore, a borrower with required $5.00 monthly payments who is $10.00 behind in payments is considered to be delinquent, and the Secretary would send a delinquency notice to the borrower.

Changes: None.

Comment Period

Comments: Several commenters were concerned that the comment period was too short, especially considering that the Department published six NPRMs, all with comment periods ending at approximately the same time.

Discussion: In the six NPRMs referred to above, the Secretary proposed numerous improvements and necessary changes to the Student Financial Assistance Program. The "Master Calendar" provisions contained in section 482 of the HEA require that regulations be published in final form by December 1 prior to the start of the award year for which they will become effective. Because of the importance of implementing these changes and improvements for the award year beginning July 1, 1996, the Secretary established a comment period that would allow publication of these final regulations by December 1, 1995, consistent with the "Master Calendar" timeframe. The Secretary always endeavors to provide as long a comment period as possible.

Changes: None.

Section 685.209(a) Repayment Amount Calculation

Comments: Several commenters expressed support for the new repayment amount calculation provisions. Many commenters approved of the Secretary's simplifying the existing income contingent repayment plan, which requires borrowers to choose between two formulas, so that there is only one formula. However, several commenters expressed objections to the new formula. For example, in response to the Secretary's statement in the preamble to the NPRM that the revised income contingent repayment plan will discourage over-borrowing, several commenters argued that the Secretary should not attempt to discourage over-borrowing through the income contingent repayment plan. One commenter suggested that the Secretary's efforts to discourage over-borrowing will result in a repayment plan that will prevent borrowers from entering public service and will discourage borrowers from choosing high-tuition institutions, even if they wish to attend such institutions.

With regard to specific problems commenters identified in the new income contingent repayment plan, numerous commenters noted that the new formula makes no adjustment for family size. To address this problem, several commenters recommended that the Secretary incorporate into the new plan the current income contingent repayment plan's definition of discretionary income, which takes family size into account. Another commenter suggested offering forbearance to borrowers with larger households. Similarly, several commenters were concerned that the levels of discretionary income the plan established are well below the poverty level for borrowers with dependents. In addition, commenters argued that the level of discretionary income for single borrowers and head-of-household borrowers should not be identical.

Other commenters noted that head-of-household borrowers would make higher payments than married borrowers with the same level of income and debt, due to the income percentage factors applicable to the two categories of borrowers. These commenters questioned whether this outcome of the proposed formula is appropriate. Another commenter who commented on the income percentage factors asked when the Secretary would apply the annually updated income percentage factors—each January 1st or when the Secretary obtains updated income data.

One commenter stated that the proposed revision to the income contingent repayment plan violates section 455(e)(4) of the HEA because the proposed calculation amount is relative to income and debt, and the statute states only that payments should be relative to income.

Finally, one commenter questioned whether the effect of the revised income contingent repayment plan would result in middle-class borrowers supporting lower-income borrowers.

Discussion: The Secretary agrees with the commenters that using only one formula to calculate repayment under the income contingent repayment plan will simplify the income contingent repayment option. While several commenters objected to the Secretary's attempt to discourage over-borrowing, the Secretary believes that it is fiscally irresponsible to structure an income contingent repayment plan that encourages over-borrowing. As stated in the preamble to the September 20, 1995, NPRM, the Secretary believes that the existing income contingent repayment plan may encourage over-borrowing because borrowers' payments increase only negligibly as debt increases. To remove this incentive to over-borrow, the Secretary believes it is appropriate to revise the plan so that payments increase significantly with amounts borrowed.

The Secretary disagrees with the commenter who stated that the proposed revision to the income contingent repayment plan is in violation of the HEA because it bases payments on income and debt. The existing plan also bases payments on income and debt. The new plan simply takes the amount borrowed into greater consideration than the existing plan. Contrary to this commenter's suggestion, section 455(e)(4) of the HEA does not prohibit the Secretary from taking into account a borrower's debt

level when determining repayment schedules. The statute requires that income be included but does not address the factors which the Secretary may, in his discretion, include.

The Secretary agrees with the commenters that payments should be adjusted for family size, that discretionary income levels for single and head-of-household borrowers should not be identical, and that payments for head-of-household borrowers should not be higher than those for married borrowers with the same income and debt levels. In order to revise the regulations accordingly, the Secretary has amended the definition of discretionary income. Under the revised regulations, discretionary income is now defined as AGI minus poverty levels established by HHS; these poverty levels take family size into account.

In response to the commenter's question as to when the Secretary would apply the adjusted income percentage factor, the Secretary will apply new income percentage factors and new HHS Poverty Guidelines at the same time that new interest rates are applied: each July 1st.

Finally, the Secretary assures the commenter who suggested that middle-income borrowers may be supporting lower-income borrowers that there is no cross-subsidization under either the existing or the revised income contingent repayment plan.

Changes: The income percentage chart has been revised to reflect only two categories of borrowers: single and married/head of household. Because the income percentage factors applicable to married and head-of-household borrowers will be identical, married and head-of-household borrowers with the same family size, income, and debt make the same monthly payments.

Section 685.209(a)(3) has been revised so that discretionary income is now defined as AGI minus the amount of the "HHS Poverty Guidelines for all States (except Alaska and Hawaii) and the District of Columbia" as published by the United States Department of Health and Human Services on an annual basis. For residents of Alaska and Hawaii, discretionary income is defined as a borrower's AGI minus the amounts in the "HHS Poverty Guidelines for Alaska" and the "HHS Poverty Guidelines for Hawaii" respectively. These guidelines adjust for family size.

Comments: One commenter stated that the Secretary should make the new income contingent repayment plan formula available on software, so that borrowers can calculate their payments. This commenter suggested extending the comment period until 30 days after this software becomes available. In addition, this commenter suggested that the final regulation should include charts showing typical repayments over 25 years. In these charts, the commenter suggested that the Secretary show both the accrual and capitalization of interest during periods of negative amortization and during periods of positive amortization.

Discussion: The Secretary is considering making available to the public software for income contingent repayment calculations. However, the Secretary cannot extend the comment period until this software is available without seriously delaying the effective date of the regulations. In addition, the Secretary is not including charts showing typical repayments over 25 years. The Secretary will make such charts available in informational repayment materials provided to borrowers.

Changes: None.

Section 685.209(b) Treatment of Married Borrowers

Comments: Several commenters approved of the Secretary's treatment of married borrowers under the new income contingent repayment plan. However, one commenter argued against the Secretary's requiring borrowers who file their income tax separately from their spouse to obtain consent to disclosure of tax return information from their spouse. This commenter stated that the proposed policy would prohibit borrowers whose spouses are unwilling to provide this consent to disclosure from repaying under the income contingent repayment plan. Also, this commenter asked how the Secretary would determine whether the borrower is married.

One commenter suggested an alternative to the wording in the NPRM that provides that married borrowers who are legally separated are not required to obtain their spouse's consent to tax return disclosure. This commenter stated that the regulations should provide that the borrower is not required to obtain this consent to disclosure if the borrower provides proof that he or she is living apart from the spouse and has filed for divorce. According to this commenter, some states do not recognize the status of being legally separated.

One commenter questioned whether there were any provisions for married couples who choose to repay their loans jointly under the income contingent repayment plan and subsequently divorce and wish to separate their payments.

Discussion: The Secretary feels strongly that repayment amounts for married borrowers must be based on the income of the borrower and the borrower's spouse. This policy will ensure that payments from married borrowers are calculated based on an accurate assessment of the borrower's ability to repay. The Direct Loan Program offers borrowers a variety of repayment plans; therefore, a married borrower who is unable to repay under the income contingent repayment plan because the spouse is unwilling to provide consent to disclosure of tax return information would be eligible to repay under any of the other Direct Loan repayment plans. Further, the Secretary intends to update income information concerning borrowers' spouses annually.

To respond to the commenter's concern regarding how the Secretary would determine whether or not the borrower is married, the Secretary obtains a borrower's filing status (married, single, or head of household) from the Internal Revenue Service (IRS) when AGI information is reported. The Secretary acknowledges that some states do not recognize the status of "legally separated" and has made a change accordingly. Finally, with regard to the commenter's concern that married borrowers who have been repaying jointly should be able to begin repaying separately should they divorce, the Secretary assures the commenter that borrowers in joint repayment can always begin repaying separately at any time by changing their repayment plan option.

Changes: Section 685.209(b)(1) has been revised so that a married borrower who has filed taxes separately from his or her spouse and is "separated", rather than "legally separated", is not required to provide his or her spouse's written consent to disclosure of tax return information.

Section 685.209(c)(2) Alternative Documentation of Income

Comments: One commenter advocated allowing all borrowers to submit alternative documentation of income to establish monthly payments under the income contingent repayment plan while the Direct Loan Servicer is waiting for adjusted gross income (AGI) information from the IRS. Another commenter asked the Secretary to clarify whether the Secretary would require alternative documentation of income from borrowers who have been in repayment for a number of years but are in their first year of repayment under a Direct Consolidation Loan. In addition, this commenter noted that a borrower may be in the first two years of repayment on some loans but may have been in repayment for a longer period of time on other loans. Finally, this commenter asked whether the Secretary would collect alternative documentation of income from a borrower and the borrower's spouse, if the borrower is in his or her first or second year of repayment and is married.

Discussion: With regard to the comment that all borrowers be allowed to submit alternative documentation of income while the Servicer is waiting for AGI, the Secretary may use other documentation of income provided by the borrower if AGI is not available or if, in the Secretary's opinion, the borrower's reported AGI does not reasonably reflect current income. Therefore, if a borrower's AGI will not reflect current income, the borrower can submit alternative documentation of income to the Servicer before IRS-reported AGI becomes available.

The Secretary intends to collect alternative documentation of income from borrowers in their first and second years of repayment, when IRS-reported AGI does not reasonably reflect the borrower's current income. The Secretary will likely collect alternative documentation of income from borrowers who are in their first and second years of repayment on any of their loans, even if they have been in repayment for a longer period of time on other loans. These borrowers have recently completed school and, therefore, the prior year's AGI is unlikely to reflect current income.

On the other hand, the Secretary does not intend to collect alternative documentation of income from borrowers who have been in repayment for more than two years but have recently changed into the income contingent repayment plan or from borrowers who have recently consolidated and chosen to repay under this plan. These borrowers have not recently left school and have likely been working. For these borrowers, the prior year's AGI will probably reflect the current year's income.

Finally, the Secretary intends to collect alternative documentation of income from the borrower and the borrower's spouse if the borrower is in his or her first or second year of repayment and AGI does not, in the Secretary's opinion, accurately reflect the borrower's current income. The Secretary will collect this alternative documentation of income from the spouse of these borrowers in order to assess accurately the borrower's ability to repay.

Changes: None.

Section 685.209(c)(5) Limitation on Capitalization of Interest

Comments: One commenter mistakenly believed that the Secretary has removed the existing limit on capitalization.

Discussion: The Secretary has not removed the existing limit on capitalization, which provides that unpaid interest is capitalized only until the outstanding principal amount is ten percent greater than the original principal amount. While the Secretary has revised certain provisions under the income contingent repayment plan, the Secretary has not altered the provision that limits interest capitalization under the income contingent repayment plan.

Changes: None.

Section 685.209(c)(4)(iv) Forgiveness after 25 Years of Repayment

Comments: Several commenters asked whether the Secretary is pursuing a legislative solution to the current tax problem under the income contingent repayment plan (that is, the problem that any amount forgiven at the end of 25 years is treated as income).

Discussion: The Secretary is working with the Department of the Treasury to pursue a legislative solution to the tax liability problem under the income contingent repayment plan. The Department included its proposal to remove the tax liability under the income contingent repayment plan in the Administration's Sallie Mae privatization bill that was submitted to Congress.

Changes: None.

Executive Order 12866

These final regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the final regulations are those resulting from statutory requirements and those determined by the Secretary as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of these final regulations, the Secretary has determined that the benefits of the regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of Potential Costs and Benefits

The potential costs and benefits of these final regulations are discussed elsewhere in this preamble under the following heading: *Analysis of Comments and Changes.*

Assessment of Educational Impact

In the NPRM, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States. Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by, or is available from, any other agency or authority of the United States.

List of Subjects in 34 CFR Part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

(Catalog of Federal Domestic Assistance Number 84.268, William D. Ford Federal Direct Loan Program)

Dated: November 27, 1995.

Richard W. Riley,

Secretary of Education.

The Secretary amends Part 685 of Title 34 of the Code of Federal Regulations as follows:

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

1. The authority citation continues to read as follows:

Authority: 20 U.S.C. 1087a et seq.

2. Section 685.209 is amended by revising paragraphs (a) and (b); removing paragraph (c) and redesignating paragraph (d) as paragraph (c); redesignating newly redesignated paragraphs (c)(2) through (5) as (c)(4) through (7), respectively; and adding new paragraphs (c)(2) and (c)(3) to read as follows:

§ 685.209 Income contingent repayment plan.

(a) *Repayment amount calculation.* (1) The amount the borrower would repay is based upon the borrower's Direct Loan debt when the borrower's first loan enters repayment, and this basis for calculation does not change unless the borrower obtains another Direct Loan or the borrower and the borrower's spouse obtain approval to repay their loans jointly under paragraph (b)(2) of this

section. If the borrower obtains another Direct Loan, the amount the borrower would repay is based on the combined amounts of the loans when the last loan enters repayment. If the borrower and the borrower's spouse repay the loans jointly, the amount the borrowers would repay is based on both borrowers' Direct Loan debts at the time they enter joint repayment.

(2) The annual amount payable under the income contingent repayment plan by a borrower is the lesser of—

(i) The amount the borrower would repay annually over 12 years using standard amortization multiplied by an income percentage factor that corresponds to the borrower's adjusted gross income (AGI) as shown in the income percentage factor table in Appendix A to this part; or

(ii) 20 percent of discretionary income.

(3) For purposes of this section, discretionary income is defined as a borrower's AGI minus the amount of the "HHS Poverty Guidelines for all States (except Alaska and Hawaii) and the District of Columbia" as published by the United States Department of Health and Human Services on an annual basis.[1] For residents of Alaska and Hawaii, discretionary income is defined as a borrower's AGI minus the amounts in the "HHS Poverty Guidelines for Alaska" and the "HHS Poverty Guidelines for Hawaii" respectively. If a borrower provides documentation acceptable to the Secretary that the borrower has more than one person in the borrower's family, the Secretary applies the HHS Poverty Guidelines for the borrower's family size.

(4) For exact incomes not shown in the income percentage factor table in Appendix A, an income percentage factor is calculated, based upon the intervals between the incomes and income percentage factors shown on the table.

(5) Each year, the Secretary recalculates the borrower's annual payment amount based on changes in the borrower's AGI, the variable interest rate, the income percentage factors in the table in Appendix A, and updated HHS Poverty Guidelines (if applicable).

(6) For purposes of the annual recalculation described in paragraph (a)(5) of this section, after periods in which a borrower makes payments that are less than interest accrued on the loan, the payment amount is recalculated based upon unpaid accrued interest and the highest outstanding principal loan amount (including amount capitalized) calculated for that borrower while paying under the income contingent repayment plan.

(7) For each calendar year after calendar year 1996, the Secretary publishes in the **Federal Register** a revised income percentage factor table reflecting changes based on inflation. This revised table is developed by changing each of the dollar amounts contained in the table by a percentage equal to the estimated percentage changes in the Consumer Price Index (as determined by the Secretary) between December 1995 and the December next preceding the beginning of such calendar year.

(8) Examples of the calculation of monthly repayment amounts and tables that show monthly repayment amounts for borrowers at various income and debt levels are included in Appendix A to this part.

(b) *Treatment of married borrowers.* (1) A married borrower who wishes to repay under the income contingent repayment plan and who has filed an income tax return separately from his or her spouse must provide his or her spouse's written consent to the disclosure of certain tax return information under paragraph (c)(5) of this section (unless the borrower is separated from his or her spouse). The AGI for both spouses is used to calculate the monthly repayment amount.

(2) Married borrowers may repay their loans jointly. The outstanding balances on the loans of each borrower are added together to determine the borrowers' payback rate under (a)(1) of this section.

(3) The amount of the payment applied to each borrower's debt is the proportion of the payments that equals the same proportion as that borrower's debt to the total outstanding balance, except that the payment is credited toward outstanding interest on any loan before any payment is credited toward principal.

(c) * * *

(2) *First and second year borrowers.* The Secretary requires alternative documentation of income from borrowers in their first and second years of repayment, when in the Secretary's opinion, the borrower's reported AGI does not reasonably reflect the borrower's current income.

(3) *Adjustments to repayment obligations.* The Secretary may determine that special circumstances, such as a loss of employment by the borrower or the borrower's spouse, warrant an adjustment to the borrower's repayment obligations.

* * * * *

3. Appendix A to part 685 is revised to read as follows:

Appendix A to Part 685—Income Contingent Repayment

Examples of the Calculation of Monthly Repayment Amounts

Example 1. A single borrower with $12,500 of Direct Loans, 8.25 percent interest, and an AGI of $25,000.

Step 1: Determine annual payments based on what the borrower would pay over 12 years using standard amortization. To do this, multiply the principal balance by the constant multiplier for 8.25% interest (0.1315452). The constant multiplier is a factor used to calculate amortized payments at a given interest rate over a fixed period of time. (See the constant multiplier chart below to determine the constant multiplier you should use for the interest rate on the loan. If the exact interest rate is not listed, choose the next highest rate for estimation purposes.)

- 0.1315452×12,500=1,644.315

Step 2: Multiply the result by the income percentage factor shown in the income percentage factor table that corresponds to the borrower's income (if the income is not listed, you can calculate the applicable income percentage factor by following the instructions under the interpolation heading below):

- 85.55% (0.8555)×1,644.315=1,406.7115

Step 3: Determine 20 percent of discretionary income. To do this, subtract the lowest income for single borrowers shown in the income percentage factor table (HHS poverty level for a family of one) from the borrower's income and multiply the result by 20%:

- $25,000−$7,470=$17,530
- $17,530×0.20=$3,506

Step 4: Compare the amount from step 2 with the amount from step 3. The lower of the two will be the borrower's annual payment amount. This borrower will be paying the amount calculated under step 2. To determine the monthly repayment amount, divide the annual amount by 12.

- 1,406.7115÷12=$117.23

Example 2. Married borrowers both repaying under the income contingent repayment plan with a combined Adjusted Gross income (AGI) of $30,000. The husband has a Direct Loan balance of $5,000, and the wife has a Direct Loan balance of $15,000. This couple has no children.

Step 1: Add the Direct Loan balances of the husband and wife together to determine the aggregate loan balance.

- $5,000+$15,000=$20,000

Step 2: Determine the annual payments based on what the couple would pay over 12 years using standard amortization. To do this, multiply the aggregate principal balance by the constant multiplier for 8.25% interest (0.1315452). (See the constant multiplier chart to determine the constant multiplier you should use for the interest rate on the loan. If the exact interest rate is not listed, choose the next highest rate for estimation purposes.)

- 0.1315452×20,000=2630.904

Step 3: Multiply the result by the income percentage factor shown in the income percentage factor table that corresponds to the couple's income (if the income is not listed, you can calculate the applicable income percentage factor by following the instructions under the interpolation heading below):

- 82.74% (0.8274)×2,630.904=2,176.80997

Step 4: Determine 20 percent of the couple's discretionary income. To do this, subtract the lowest income for married borrowers shown in the income percentage factor table (HHS poverty level for a family of 2) from the couple's income and multiply the result by 20%:

- $30,000−$10,030=$19,970
- $19,970×0.20=$3,994

Step 5: Compare the amount from step 3 with the amount from step 4. The lower of the two will be the annual payment amount. The married borrowers will be paying the amount calculated under step 3. To determine the monthly repayment amount, divide the annual amount by 12.

- $2,176.80997÷12=$181.40

Interpolation: If your income does not appear on the income percentage factor table, you will have to calculate the income percentage factor through interpolation. For example, let's say you are single and your income is $26,000. To interpolate, you must first find the interval between the closest income listed that is less than $26,000 and the closest income listed that is greater than $26,000 (for this discussion, we'll call the result "the income interval"):

- $27,112−$25,000=$2,112

Next, find the interval between the two income percentage factors that are given for these incomes (for this discussion, we'll call the result, the "income percentage factor interval"):

- 88.77−85.55=3.22

Subtract the income shown on the chart that is immediately less than $26,000 from $26,000:

- $26,000−$25,000=1,000

Divide the result by the number representing the income interval:

- 1,000÷2,112=0.4735

Multiply the result by the income percentage factor interval:

- 0.4735×3.22=1.52

Add the result to the lower income percentage factor used to calculate the income percentage factor interval for $26,000 in income:

- 1.52+85.55=87.07%

BILLING CODE 4000-01-P

[1] The HHS Poverty Guidelines are available from the Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services (HHS), Room 438F, Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201

Income Percentage Factors
(Based on Annual Income)

Single		Married and Head of Household	
Income	% Factor	Income	% Factor
7,470	55.40%	10,030	54.95%
9,752	57.79%	11,183	56.68%
10,000	58.03%	13,328	59.56%
12,548	60.57%	15,000	62.92%
15,000	65.42%	17,424	67.79%
15,409	66.23%	20,000	72.39%
18,139	71.89%	21,585	75.22%
20,000	76.44%	25,000	82.87%
21,585	80.33%	27,112	87.61%
25,000	85.55%	30,000	92.80%
27,112	88.77%	34,003	100.00%
30,000	93.48%	35,000	100.00%
34,003	100.00%	40,000	100.00%
35,000	100.00%	40,895	100.00%
40,000	100.00%	50,000	108.28%
40,895	100.00%	51,233	109.40%
49,152	111.80%	60,000	117.34%
50,000	112.52%	68,462	125.00%
60,000	121.01%	70,000	125.99%
62,935	123.50%	80,000	132.46%
70,000	128.27%	90,000	138.93%
80,000	135.03%	92,583	140.60%
89,137	141.20%	100,000	142.49%
90,000	141.78%	129,481	150.00%
100,000	148.52%	150,000	162.50%
102,205	150.00%	200,000	192.95%
150,000	179.93%	211,581	200.00%
182,045	200.00%		

CONSTANT MULTIPLIER CHART FOR 12-YEAR AMORTIZATION

Interest Rate	7.00%	7.25%	7.43%	7.50%	7.75%	8.00%	8.25%	8.38%	8.50%	8.75%	9.00%
Annual Constant Multiplier	0.1234056	0.1250812	0.126174	0.1266276	0.1282548	0.129894	0.1315452	0.132408	0.1332072	0.13488	0.1365636

Income Contingent Repayment Plan
Sample First Year Monthly Repayment Amounts for a Single Borrower at Various Income and Debt Levels

	Initial Debt																							
Income	$2,500	$5,000	$7,500	$10,000	$12,500	$15,000	$17,500	$20,000	$22,500	$25,000	$30,000	$35,000	$40,000	$45,000	$50,000	$55,000	$60,000	$65,000	$70,000	$75,000	$80,000	$85,000	$90,000	$100,000
$1,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
9,000	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9
10,000	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26	26
12,500	42	42	42	42	42	42	42	42	42	42	42	42	42	42	42	42	42	42	42	42	42	42	42	42
15,000	59	59	59	59	59	59	59	59	59	59	59	59	59	59	59	59	59	59	59	59	59	59	59	59
17,500	76	76	76	76	76	76	76	76	76	76	76	76	76	76	76	76	76	76	76	76	76	76	76	76
20,000	93	93	93	93	93	93	93	93	93	93	93	93	93	93	93	93	93	93	93	93	93	93	93	93
22,500	110	110	110	110	110	110	110	110	110	110	110	110	110	110	110	110	110	110	110	110	110	110	110	110
25,000	127	127	127	127	127	127	127	127	127	127	127	127	127	127	127	127	127	127	127	127	127	127	127	127
30,000	161	161	161	161	161	161	161	161	161	161	161	161	161	161	161	161	161	161	161	161	161	161	161	161
35,000	195	195	195	195	195	195	195	195	195	195	195	195	195	195	195	195	195	195	195	195	195	195	195	195
40,000	229	229	229	229	229	229	229	229	229	229	229	229	229	229	229	229	229	229	229	229	229	229	229	229
45,000	263	263	263	263	263	263	263	263	263	263	263	263	263	263	263	263	263	263	263	263	263	263	263	263
50,000	297	297	297	297	297	297	297	297	297	297	297	297	297	297	297	297	297	297	297	297	297	297	297	297
55,000	331	331	331	331	331	331	331	331	331	331	331	331	331	331	331	331	331	331	331	331	331	331	331	331
60,000	365	365	365	365	365	365	365	365	365	365	365	365	365	365	365	365	365	365	365	365	365	365	365	365
65,000	399	399	399	399	399	399	399	399	399	399	399	399	399	399	399	399	399	399	399	399	399	399	399	399
70,000	433	433	433	433	433	433	433	433	433	433	433	433	433	433	433	433	433	433	433	433	433	433	433	433
75,000	467	467	467	467	467	467	467	467	467	467	467	467	467	467	467	467	467	467	467	467	467	467	467	467
80,000	501	501	501	501	501	501	501	501	501	501	501	501	501	501	501	501	501	501	501	501	501	501	501	501
85,000	535	535	535	535	535	535	535	535	535	535	535	535	535	535	535	535	535	535	535	535	535	535	535	535
90,000	569	569	569	569	569	569	569	569	569	569	569	569	569	569	569	569	569	569	569	569	569	569	569	569
95,000	603	603	603	603	603	603	603	603	603	603	603	603	603	603	603	603	603	603	603	603	603	603	603	603
100,000	637	637	637	637	637	637	637	637	637	637	637	637	637	637	637	637	637	637	637	637	637	637	637	637

Sample repayment amounts are based on an interest rate of 8.25%.

Income Contingent Repayment Plan

Sample First-Year Monthly Repayment Amounts for a Married or Head-of-Household Borrower at Various Income and Debt Levels

(Family Size = 3)

	Initial Debt																							
Income	$2,500	$5,000	$7,500	$10,000	$12,500	$15,000	$17,500	$20,000	$22,500	$25,000	$30,000	$35,000	$40,000	$45,000	$50,000	$55,000	$60,000	$65,000	$70,000	$75,000	$80,000	$85,000	$90,000	$100,000
$1,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
9,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12,500	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
15,000	17	34	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
17,500	19	37	56	74	82	82	82	82	82	82	82	82	82	82	82	82	82	82	82	82	82	82	82	82
20,000	20	40	60	79	99	119	124	124	124	124	124	124	124	124	124	124	124	124	124	124	124	124	124	124
22,500	21	42	64	85	106	127	148	165	165	165	165	165	165	165	165	165	165	165	165	165	165	165	165	165
25,000	23	45	68	91	114	136	159	182	204	207	207	207	207	207	207	207	207	207	207	207	207	207	207	207
30,000	25	51	76	102	127	153	178	203	229	254	290	290	290	290	290	290	290	290	290	290	290	290	290	290
35,000	27	55	82	110	137	164	192	219	247	274	374	374	374	374	374	374	374	374	374	374	374	374	374	374
40,000	27	55	82	110	137	164	192	219	247	274	457	457	457	457	457	457	457	457	457	457	457	457	457	457
45,000	28	57	85	114	142	171	199	227	256	284	540	540	540	540	540	540	540	540	540	540	540	540	540	540
50,000	30	58	89	119	148	178	208	237	267	297	624	624	624	624	624	624	624	624	624	624	624	624	624	624
55,000	31	62	93	124	155	185	216	247	278	309	707	707	707	707	707	707	707	707	707	707	707	707	707	707
60,000	32	64	96	129	161	193	225	257	289	322	790	790	790	790	790	790	790	790	790	790	790	790	790	790
65,000	33	67	100	134	167	200	234	267	301	334	874	874	874	874	874	874	874	874	874	874	874	874	874	874
70,000	35	69	104	138	173	207	242	276	311	345	957	957	957	957	957	957	957	957	957	957	957	957	957	957
75,000	35	71	106	142	177	212	248	283	319	354	1,040	1,040	1,040	1,040	1,040	1,040	1,040	1,040	1,040	1,040	1,040	1,040	1,040	1,040
80,000	36	73	109	146	182	218	254	290	327	363	1,124	1,124	1,124	1,124	1,124	1,124	1,124	1,124	1,124	1,124	1,124	1,124	1,124	1,124
85,000	37	74	112	149	186	223	260	298	335	372	1,207	1,207	1,207	1,207	1,207	1,207	1,207	1,207	1,207	1,207	1,207	1,207	1,207	1,207
90,000	38	76	114	152	190	228	267	305	343	381	1,290	1,290	1,290	1,290	1,290	1,290	1,290	1,290	1,290	1,290	1,290	1,290	1,290	1,290
95,000	39	77	116	155	194	232	271	310	348	387	1,374	1,374	1,374	1,374	1,374	1,374	1,374	1,374	1,374	1,374	1,374	1,374	1,374	1,374
100,000	39	78	117	156	195	234	273	312	351	390	1,457	1,457	1,457	1,457	1,457	1,457	1,457	1,457	1,457	1,457	1,457	1,457	1,457	1,457

Sample repayment amounts are based on an interest rate of 8.25%.

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December 1, 1995

Part IX

Department of Education

34 CFR Part 668
Student Assistance General Provisions; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840–AB84

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Student Assistance General Provisions regulations by adding a new Subpart J. These regulations govern the approval and administration of tests that may be used to determine a student's eligibility for assistance under the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (Title IV, HEA programs), if that student does not have a high school diploma or its recognized equivalent. The regulations also provide for a passing score for each approved test. The regulations implement changes made to section 484(d) of the Higher Education Act of 1965 (HEA), as amended by the Higher Education Amendments of 1992, Public Law 102–325.

EFFECTIVE DATE: These regulations take effect on July 1, 1996 and apply to the 1996–97 and subsequent award years. However, affected parties do not have to comply with the information collection requirements in §§ 668.143, 668.144, 668.145, 668.146, 668.147, 668.148, 668.149, 668.150, 668.151, 668.152, 668.153, and 668.155 until the Department of Education publishes in the **Federal Register** the control numbers assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control numbers notifies the public that OMB has approved these information collection requirements under the Paperwork Reduction Act of 1995. The incorporation by reference of the publication listed in the regulations is approved by the Director of the **Federal Register** as of July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Lorraine Kennedy, U.S. Department of Education, 600 Independence Avenue, S.W., Regional Office Building 3, Room 3045, Washington, DC 20202–5451. Telephone: (202) 708–7888. Individuals that use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: These regulations implement section 484(d) of the HEA which provides that a student who does not have a high school diploma or its recognized equivalent is eligible to receive Title IV, HEA program funds only if—

- The student takes an independently administered examination and achieves a score specified by the Secretary, demonstrating that the student has the ability to benefit from the education or training being offered; or
- The student is determined to have the ability to benefit from the education or training being offered in accordance with a "process" prescribed by the State in which the institution the student is attending or plans on attending is located and that has been approved by the Secretary.

The Secretary estimates that each year there are approximately 150,000 individuals without a high school diploma or its recognized equivalent who take ability to benefit tests under section 484(d) of the HEA in order to become eligible to receive Title IV, HEA Program funds. There are also approximately another 150,000 individuals without a high school diploma or its recognized equivalent who enroll in postsecondary educational institutions who do not apply for Title IV, HEA Program funds or who enroll in educational programs that do not qualify as eligible programs under the Title IV, HEA programs. (In addition, there are n any other people who take basic skills tests for reasons other than seeking Title IV, HEA program assistance.) However, these regulations apply only to the first group.

The Secretary published a notice of proposed rulemaking in the **Federal Register** on August 16, 1994, 52 FR 42134–42144. The NPRM included a discussion of the major issues involving the proposed regulations that will not be repeated here. The following list summarizes those issues and identifies the pages in the preamble to the NPRM on which a discussion of those issues can be found.

The Secretary proposed that students had to provide documentation to institutions that they had high school diplomas or the recognized equivalent (52 FR 42134–5);

The Secretary proposed that approved tests assess secondary school level basic verbal and quantitative skills and general learned abilities (52 FR 42136);

The Secretary proposed that students without a high school diploma or a GED should be eligible for Title IV, HEA program funds because they demonstrate on that test secondary school level basic verbal and quantitative skills and general learned abilities comparable to the range of scores of students who have a high school diploma or GED (52 FR 42136);

The Secretary proposed that the passing score on a test be one standard deviation below the mean for students with high school diplomas who have taken the test within three years before the date on which the test was submitted for approval (52 FR 42136);

The Secretary proposed a scheme for test administration that provided for tests being administered independent of the institutions that use the test (52 FR 42136–42137); and

The Secretary proposed to approve a State "process" based upon the "success rate" of students enrolled in that State process as compared to the success rate of high school graduates. (page 42137).

Substantive Changes to the NPRM

The following discussion reflects substantive changes made to the NPRM in the final regulations. The provisions are discussed in the order in which they appeared in the proposed rule.

Section 668.7 Eligible Student

In response to public comments, the Secretary has withdrawn the proposed requirement that institutions document that their students have high school diplomas or GEDs. Moreover, the Secretary is recodifying the provisions of § 668.7 in Subpart C of part 668 in another regulations package.

Section 668.143 Approval of State Tests or Assessments (No Comparable Provision in NPRM)

In response to public comments and the Secretary's proposal in the preamble, the Secretary has included an additional type of approved tests. Those approved tests are tests that have been developed by States to measure a student's skills and abilities for the purpose of determining whether the student has the skills and abilities the State expects of a high school graduate in that State. These tests will supplement rather than substitute for the other type tests discussed in this regulation.

Section 668.146 Criteria for Approving Tests (Section 668.145 in NPRM)

In response to public comment, the Secretary will approve tests that consist of a series of subtests. If a test publisher does not provide for a composite passing score for a series of basic verbal tests and a composite passing score for a series of basic quantitative tests, the test publisher must present evidence that allows the Secretary to prescribe a cut score for each subtest. To pass that test, a student must score at or above the cut score for each of the subtests.

Agreement Between the Secretary and a Test Publisher, and Agreement Between an Institution and a Certified Test Administrator (Sections 668.150 and 668.151 in NPRM)

In response to public comment, the Secretary eliminated the requirements that a test publisher enter into an agreement with a certified test administrator and that the certified test administrator also enter into an agreement with an institution whose students are to be tested. The sections that contained those requirements in the NPRM, §§ 668.150 and 668.151 were also eliminated.

The important aspects of those sections that related to the integrity and independence of test administration were incorporated into § 668.151 *Test administration.*

Section 668.152 Administration of Tests by Assessment Centers (No Comparable Provision in NPRM)

In response to public comment, a new section dealing with test administration at assessment centers was added.

Section 668.155 Transitional Rule for the 1996–97 Award Year (No Comparable Provision in NPRM)

The Secretary has added a rule to facilitate the transition from the old to the new system.

These regulations go into effect on July 1, 1996 and govern the determination of student eligibility for Title IV, HEA programs under section 484(d) of the HEA starting with the 1996–97 award year. The Secretary strongly encourages test publishers that wish to have their tests approved for use in the 1996–97 award year to submit an application that satisfies the requirements of this subpart as soon as possible. Upon receipt of such an application, the Secretary will evaluate it to determine if it meets the requirements of this subpart.

If the test meets the requirements of this subpart, the Secretary will notify the test publisher. The Secretary will also publish in the **Federal Register** the name of the test, the passing score for that test, and the name of the test publisher.

To allow for a smooth transition from the current practice to the new regulatory practice, the Secretary will permit institutions to continue to use the current system for making an ability-to-benefit determination for a student until 60 days after the Secretary publishes in the **Federal Register** the first approved test and passing score that is appropriate for that student. Therefore, an institution may continue to use a test and test score that was an approved test and test score as of June 30, 1996, the day before the new regulatory provisions go into effect, until 60 days after the Secretary publishes in the **Federal Register** the first test and passing score for each general category of test approved under these regulations. For example, if the Secretary approves a test in Spanish on August 1, 1996, an institution may continue to use a test in Spanish that was approved as of June 30, 1996 until October 1, 1996.

If an institution properly based a student eligibility determination under the current system, it does not have to redetermine the student's eligibility under the new system.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 142 parties submitted comments on the proposed regulations. An analysis of the comments and any changes made in the regulations in response to those comments follows.

Substantive issues are discussed under the regulations to which they pertain. If comments apply to more than one regulatory provision, they will be discussed under the first mentioned provision. Technical and other minor changes—and suggested changes that the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

General Comments

Comments: In the preamble to the NPRM, 59 FR 42134–42135, the Secretary solicited comments with regard to an alternative method of implementing section 484(d) of the HEA. This alternative method would link the ability-to-benefit (ATB) testing system to State educational practices under the Goals 2000: Educate America Act. The Secretary invited public comment on these alternatives. Three comments were received in support of this alternative approach.

Discussion: The Secretary agrees with these commenters that there is merit to an approach that links an ability-to-benefit testing system under section 484(d) of the HEA with State educational practices under the Goals 2000: Educate America Act and other State education reform initiatives. The Secretary believes, however, that such an approach should supplement rather than replace the testing system described in the NPRM.

Therefore, in developing the criteria for approved examinations and the passing scores for those examinations, the Secretary took cognizance of the focus and purpose of the Goals 2000: Educate America Act in raising the educational standards of the country. Accordingly, to the extent that States have developed educational standards that reflect the skills and abilities expected of a high school graduate in that State, and have developed tests or other assessments to measure whether a student meets those standards, the Secretary will approve those tests and assessments for purposes of the provisions of section 484(d) of the HEA as well as the passing scores on those tests and assessments.

Because each State is responsible for determining the educational standards that reflect the skills and abilities expected of a high school graduate in that State, State standards may differ. Moreover, States also may choose different tests or assessments to measure whether students meet those standards, and may also differ on the passing scores on those tests and assessments. Therefore, if the Secretary approves a State's tests and assessments and passing scores, that test or assessment, and the passing score on that test or assessment, may be used for purposes of section 484(d) of the HEA only for students who attend eligible institutions located in that State. In this way, the Secretary will not impose one State's standards on another State.

If the Secretary approves a State's tests or assessments and the passing scores for those tests or assessments, a student must obtain a passing score on each required test or assessment in order to qualify for Title IV, HEA program funds under section 484(d) of the HEA.

Moreover, the educational standards that a State develops, and the tests or assessments that a State establishes to measure those standards, apply to all students in the State. Therefore, the tests that the Secretary approves to measure whether a student meets those standards for Title IV, HEA programs purposes do not include tests that are used solely for admission to a State public postsecondary institution or for admission to an institution that is part of a State system of public postsecondary institutions.

Changes: Sections 668.143 to 668.149 were redesignated as §§ 668.144 to 668.150, respectively, and a new section, § 668.143, was added. That new section provides for the approval of State tests or other assessments submitted by a State that the State uses to determine whether a student has the skills and abilities the State expects of a high school graduate in that State. The new section also provides for the approval of the State's passing scores on

the State tests, and further provides that an approved State test may be used as an ability-to-benefit test for Title IV, HEA program purposes only by institutions located in that State.

Comments: In their introduction to comments on specific sections of the proposed rule, roughly one-third of the commenters stated that in their opinion the statutory phrase "benefit from the education or training offered" refers to specific educational or training programs and the relative cognitive demands of those programs. The commenters concluded that ability-to-benefit is dependent on existing cognitive demands of occupations, and must be measured and judged individually for each of the hundreds of occupation-specific training programs in postsecondary education, even if the current cognitive demands of an occupation are not "postsecondary."

Discussion: The Secretary disagrees with the commenters. The Secretary believes that there is a basic minimum competency that a student must achieve to benefit from any postsecondary education program. That basic competency is appropriately measured in terms of secondary school level basic skills and general learned abilities. Therefore, the Secretary requires approved tests to measure those skills and abilities. Further, as indicated in the preamble to the NPRM, the Secretary believes that earning a high school diploma or GED certificate should be the primary basis for qualifying to receive Title IV, HEA program assistance. The Secretary believes that students who do not have those credentials and qualify to receive such assistance by taking a test should demonstrate through that test a level of verbal and quantitative skills and general learned abilities at least comparable to those other categories of students.

Moreover, the Secretary objects to the position expressed by the commenters on the grounds that it is an approach that accustoms people to the lowest level of functioning in an occupation. It excuses institutions from critical aspects of instruction that will enable individuals to advance in their jobs or to change careers, and it falsely assumes that the nature of specific occupations will never change. The approach thus does not advance the quality of the nation's workforce. When the expenditure of Federal funds for education and training is at issue, the Secretary wishes to encourage more than a minimalist approach that only reinforces social and labor market stratification. The Secretary has encouraged generic academic competence in the School-to-Work transition programs, and is taking a consistent position here.

Changes: None.

Comments: Nearly half the commenters contended that the receipt of a high school diploma is no guarantee that a student possesses minimum basic skills necessary to pursue postsecondary education, and that the regulations make an assumption about achievement associated with a secondary school credential that is unfounded.

Discussion: The Secretary agrees with the commenters that a high school diploma may not necessarily indicate that the holder of that diploma has sufficient skills to successfully pursue postsecondary education. However, students with a high school diploma or its recognized equivalent are statutorily eligible to receive Title IV, HEA Program funds. The Secretary interprets section 484(d) of the HEA as requiring students who do not have a high school diploma or its equivalent to be comparable to those that do in order to be eligible to receive Title IV, HEA program funds. Therefore, the Secretary established the passing score on ATB tests to reflect the scores received by high school graduates.

Changes: None.

Section 668.7 Eligible Student

Comments: Many commenters argued that the paperwork requirement to document receipt of a high school diploma was onerous, particularly at institutions to which students apply while they are still in high school and at open door institutions that, under state law, are required to admit anyone. Two other commenters pointed to the difficulty older students sometimes have in obtaining copies of records, and two commenters asked why students who had attended secondary school in another country were required to provide affidavits in both their native language and English. With few exceptions, commenters questioned whether there was sufficient evidence that students improperly claimed to have a high school diploma or its equivalent to warrant a rule affecting all students in postsecondary education.

One commenter asserted that the requirements weaken current federal standards and advocated stricter provisions for documenting evidence of receipt of a high school diploma or its equivalent. Another commenter, indirectly concurring with this position, suggested that, if an applicant for Title IV, HEA Program funds graduated from a secondary school in the United States but was unable to secure a copy of his or her diploma or transcript, a statement from the state or local education agency confirming that the records were unavailable should be required.

Discussion: The Secretary is persuaded by the commenters that the added burden of documenting a student's declaration that he or she has a high school diploma or its recognized equivalent outweighs the benefit of requiring institutions to document that claim and has, therefore, decided not to require documentation of a high school diploma at this time. However, the Secretary will continue to investigate any alleged abuses in this area and, after consulting with the postsecondary education community and others, may pursue alternative means of ensuring that this student eligibility requirement is being enforced.

Changes: The Secretary has deleted the requirements relating to the documentation of a student's claim that he or she has a high school diploma. Moreover, the Secretary is recodifying the provisions of § 668.7 in Subpart C of part 668 in another regulations package.

Comments: Two commenters took opposite positions on the requirement that a student could use a passing score on an approved ATB test for 12 months. One commenter recommended a shorter period on the grounds that the most current score is the most valid measure. The other commenter recommended that a passing score should be used indefinitely since a test score on a valid ATB test reflects a permanent level of verbal and quantitative skills. Another commenter asserted that the NPRM fails to incorporate changes made to the definition of a "recognized equivalent of a high school diploma" in § 600.2 of the Institutional Eligibility regulations, 34 CFR 600.2.

Discussion: The Secretary believes that a passing score should not be used indefinitely because psychometric research demonstrates that the "current status" of knowledge is a more reliable predictor of imminent performance than previous status of such knowledge. However, such research also indicates that a period shorter than a year does not measurably increase the predictive power of a test.

The commenter is correct in the observation that proposed § 668.7 did not take into account the change in the definition of "recognized equivalent of a high school diploma" in § 600.2 of the Institutional Eligibility regulations, 34 CFR 600.2. However, since the Secretary is deleting the requirements for documenting a student's claim to have a high school diploma or its equivalent, the Secretary is not amending § 668.7 in this regulation package.

Changes: Changes to § 668.7 have been deleted from these final regulations.

Section 668.142 Special Definitions

Comments: One commenter suggested that the definition of the term "assessment center" be changed so that the location of an assessment center be at a neutral site rather than at an educational site. Another commenter suggested that "assessment centers" be located only at public institutions because public governing authorities would serve as an additional guarantee of integrity.

Discussion: The Secretary's definition of the term "assessment center" describes an organizational unit at an eligible institution that offers two-year or four-year degrees or qualifies as an eligible public vocational institution, *i.e.* a postsecondary vocational institution. The Secretary believes that the integrity of tests given at assessment centers will not be compromised by the geographical location of the center, or if they are given at private institutions that offer a two year or four year degree, given the long-term nature of those programs.

Changes: None.

Section 668.144 Application for Test Approval (Section 668.143 in NPRM)

Comments: Some commenters requested the Secretary's approval of placement examinations already used by their institutions. One commenter requested that the requirements for the populations participating in norming studies explicitly exclude students from schools at which the test publisher has received notice that improper test administrations have taken place.

Discussion: The Secretary will approve placement examinations used by an institution if the institution using that test submits an acceptable application and the examination satisfies all the regulatory requirements for test approval. In such a case, the institution would be considered the test publisher.

The Secretary believes that test publishers will be careful when selecting a norming sample to avoid invalidating the results of that sample. Therefore, the Secretary believes that the commenter's suggestion is not needed to obtain valid norming studies.

Changes: None.

Comments: One commenter requested that the Secretary clarify the requirement that an approved test be "validated," and pointed out that a test is validated with respect to a criterion, not a population.

Discussion: The Secretary acknowledges a confusion in the grouping of requirements listed under the "application for test approval," and has changed the verb, "validated" to "normed" in describing the contents of the technical manual in § 668.144(c)(11)(iv). In a narrow sense, validation is the process of determining the accuracy of inferences made from a test score, *e.g.*, if a student scores above a given percentage, the more likely he or she is to complete a subsequent course. In a broader sense, validation is the process of determining the soundness of all interpretations made of the test. The Secretary notes that there are many kinds of validity, and all of them are at stake in the review of tests submitted under § 668.144.

Changes: Section 668.144(c)(11)(iv) is amended to change "validated" to "normed."

Section 668.145 Test Approval Procedures (Section 668.144 in NPRM)

Comments: One commenter suggested that when the Secretary chooses experts to evaluate tests, the Secretary only choose experts who have substantial experience in psychometrics, familiarity with the *Standards for Educational and Psychological Testing* (Standards) prepared by a joint committee of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education, and membership in one of those three organizations. This commenter also recommended that if a test did not satisfy the criteria for test approval and the test publisher appealed that decision, the test publisher would have to submit only those sections of a test subject to question and that a different group of experts be assembled to judge the appeal. The commenter further suggested that any appeal by a test publisher of the disapproval of a test be subject to the provisions of the Administrative Procedure Act.

Discussion: The Secretary agrees that professional credentials and experience are important criteria in selecting reviewers of tests, and will select experts who have substantial experience in psychometrics and familiarity with the *Standards*. The Secretary assumes that anyone who holds a graduate degree in psychometrics or evidences substantial experience in test development is familiar with the *Standards*. The Secretary believes that membership in a specific organization should not be a prerequisite to being selected as a test evaluator.

If a test is disapproved for specific discrete reasons applicable to a particular portion of a test and the test publisher appeals that result, the appeal would be based on the portion of the test that caused the disapproval. Therefore, the test publisher would presumably limit its appeal to that portion of its test, and if the appeal was successful the entire test would be approved without the need for reapplication.

The Secretary believes that the review of a test and any appeal of that review should not be conducted, and is not required to be conducted, in an adversarial, formal, or legalistic setting. Therefore, the Secretary will not subject those processes to the provisions of the Administrative Procedure Act. Moreover, the Secretary believes it is unnecessary to select another panel of experts to advise the Secretary when a test publisher appeals an adverse decision regarding its test. The Secretary makes a decision in response to an appeal, and wishes to retain the discretion to seek the advice of experts the Secretary considers appropriate to analyze the test publisher's arguments on appeal.

In most instances, the Secretary will seek the advice of the original panel of experts regarding those arguments. In reviewing over 100 tests since January 1991, the Secretary has found that when the original panel of experts reviewed an appeal, they focused on only those issues that were not satisfactorily addressed in the original submission and provided fair and valuable advice with regard to those issues.

Changes: None.

Section 668.146 Criteria for Approving Tests (Section 668.145 in NPRM)

Comments: Many commenters from community colleges objected that approved tests must measure "knowledge of high school curricula," claiming that this was inappropriate.

Discussion: The Secretary disagrees with the commenters' interpretation of the questioned regulatory provision. The provision does not state that approved tests are based on "knowledge of high school curricula." Rather, the provision states that the tests will assess basic verbal and quantitative skills and general learned abilities at the secondary school level. These skills and general learned abilities can be acquired anywhere. The tests will not be equivalent to final exams in specific high school subject areas, such as Algebra 1, Chemistry, or Civics.

Changes: The term knowledge has been deleted as redundant.

Comments: Some test publishers asked whether a reading test would suffice to cover the assessment of secondary school level verbal skills, or whether tests of usage and, particularly, writing samples must also be included. Some of the publishers of tests that provide subtest scores, but not composite scores, objected to the use of a single composite score for verbal skills and quantitative skills.

A few commenters addressed the point of reference of the passing score, namely, the performance of high school graduates on a specific test, and pointed out that the educational background of test-takers is not always known, particularly in norming studies that may have been conducted prior to changes in the law. One commenter expressed a similar concern with respect to ESL test-takers since the normed students must be ESL test-takers who have entered high school equivalency programs. The commenter pointed out that this latter group was very small, and the mean scores for them would not be very reliable.

Discussion: Verbal skills, such as usage, mechanics, and comprehension, must be assessed. If, however, a test measured only one language skill, such as punctuation or word recognition, that test would not be appropriate. A reading test is appropriate because it is highly correlated with other verbal skills and is a fundamental measurement of verbal ability. Writing is highly related to reading comprehension and to other verbal skills, and would, therefore, be redundant for this purpose. Therefore, an approved test does not have to have a writing sample.

The Secretary will approve a test that consists of a series of subtests. However, if the test publisher does not establish a composite verbal score and a composite quantitative score, the test publisher must present evidence that allows the Secretary to prescribe a cut score for each subtest. To pass that test, a student must score at or above the cut score for each of the subtests.

Based on existing evidence from a number of major testing programs, the Secretary believes that all test publishers can gather information on the educational background of test-takers in the ordinary course of test administration, *e.g.*, on the cover sheet of an examination. More critically, for data necessary for setting a passing score, the educational background of participants in a norming sample can easily be ascertained, and in the case of tests requiring new norming studies, there has been ample time since the law was passed to conduct such studies.

The Secretary is persuaded by data on ESL test-takers to enlarge the reference group beyond those who have entered high school equivalency programs, but believes that entrance into some kind of formal education or training program is an important criterion with which to define this group for purposes of setting a passing score.

Changes: Section 668.146(c)(5) has been changed. The Secretary will continue to approve a test that consists of a series of subtests. However, if the test publisher does not establish a composite verbal score and a composite quantitative score, the test publisher must present evidence that allows the Secretary to prescribe a cut score for each subtest.

The Secretary has also amended § 668.148(b)(2) to enlarge the reference population for setting the passing score on ESL tests by including not only ESL test-takers who have entered high school equivalency programs, but also ESL test-takers who have entered other education or training programs, including bilingual vocational programs.

The Secretary has also modified the wording of § 668.148(a)(2)(v)(A) so that, in cases where the test is in Spanish, the test publisher provides tables of distributions of test scores with a clear indication of the mean score and standard deviation for Spanish-speaking students with high school diplomas so that the Secretary will be able to indicate the passing score. The reference to the most recent three-year period is changed to a five-year period to allow a sample of sufficient size.

Comments: Several commenters expressed confusion with regard to the establishment of a passing score in proposed § 668.145(c)(3).

Discussion: The Secretary acknowledges a misprint, hence an understandable confusion, in the proposed § 668.145(c)(3). This section should have read, and is corrected in § 668.146(c)(3) of the final regulation to read, as follows:

> Except as indicated in §§ 668.148 and 668.149, provide tables of distributions of test scores that clearly indicate the mean score and standard deviation for high school graduates who have taken the test within three years before the date on which the test is submitted to the Secretary for approval;

The misprint led to a more general confusion as to who has the responsibility for designating the passing score on tests used for ability-to-benefit determinations and communicating those scores to the public. For the general population of test-takers for whom § 668.147 is applicable, the Secretary determines the passing score for which the publisher has provided the data. For special populations and special types of administration such as those described in §§ 668.148 and 668.149, the Secretary requests the publisher to "recommend" a passing score based on the publisher's experience with the special population and/or type of administration. The Secretary reviews the recommendation, and either certifies it or, if necessary, requests clarifications prior to certification. The Secretary recognizes that this procedure needs to be modified in the case of tests given in Spanish.

The Secretary will publish the approved passing scores in the **Federal Register**.

Changes: Section 668.145(c)(1) has been amended to indicate that the Secretary will publish in the **Federal Register** the names of approved tests and the passing scores on those tests.

Section 668.147 Passing Score (Section 668.146 in NPRM)

Comments: The majority of comments received from commenters on the passing score formula took five positions. The first position was that the proposed score was too low and inconsistent with the standards included in Title IV of the Goals 2000: Educate America Act and in the School-to-Work Opportunities Act. The second position was that the proposed score was too high. The third was that the proposed score was right. The fourth position was that the proposed score should vary by program of study. The fifth position was that the proposed score should be determined by predictive validity studies using program completion as a criterion.

Two commenters also advocated using the performance of students with GEDs as the reference point for the passing score on the grounds that these people have passed a de facto national high school equivalency examination. Their performance is thus more public than that of high school graduates, hence it offers a more reliable point of comparison. And one commenter presented a plan for a "documented qualification process" that would allow institutional variations on passing scores.

Discussion: As noted earlier, the Secretary believes that there is a basic minimum competency that a student must achieve to benefit from any postsecondary education program. That basic competency is measured in terms of secondary school level basic skills and general learned abilities. Further, the Secretary believes that under section 484(d) of the HEA, in order for a person without a high school diploma or its recognized equivalent to receive Title IV, HEA Program funds, that person should enter postsecondary education with roughly the same comparable secondary school level basic skills and general learned abilities as those of the typical range of high school graduates.

The Secretary established the passing score on approved tests as the score that represents one standard deviation below the mean for students with high school diplomas who took the test. The score means theoretically that 84 percent of the high school graduates who took the test passed the test. The Secretary established this score based upon a recognition that the secondary school level basic skills and general learned abilities of high school graduates in the United States vary widely.

As noted earlier in the general comments, the Secretary disagrees with the commenters who contended that passing scores should be established on a program-by-program basis. The Secretary also disagrees with those commenters who contended that the passing score was either too high or too low, or was inconsistent with the Goals 2000: Educate America Act and the School-to-Work Opportunity Act. The Secretary believes it is difficult to make definitive judgments regarding whether a passing score is too high or too low until tests are approved and test-takers take the test. Moreover, until performance standards are set for "Certificate of Initial Mastery" under school-to-work models, it is premature to contend that the Secretary's passing score is inconsistent with those standards. When that information is forthcoming, the Secretary may revisit the question of the appropriate passing score for these ATB tests.

The Secretary acknowledges the commenters' point that there is a logic to using the performance of students with GEDs as the reference point for the passing score. However, the Secretary chose not to use that group as a reference because the GED population that subsequently takes the types of examinations used for ability-to-benefit determinations is small and not representative of the general postsecondary school population in the United States. As for the suggestion to adopt institutional variations on the passing score for institutions that provide sufficient remediation and instructional resources for ATB students, the Secretary suggests that this approach is better suited for the "state process" as described in § 668.156.

Finally, the Secretary agrees that the fifth position, basing the passing score on predictive validity studies using program completion as the criterion, is theoretically the best approach to take in establishing a passing score. However, the Secretary chose not to use that approach because it was impossible to administer, given the small size of the ATB population, the cost of predictive validity studies, and the additional time that would be necessary to review and approve that approach. Moreover, adopting that suggestion would further delay the publication of these regulations implementing section 484(d) of the HEA.

Changes: None.

Section 668.148 Additional Criteria for the Approval of Performance-Based Tests, Tests for Non-Native Speakers of English, Modified Tests for Persons With Disabilities, and Computer-Based Tests and Tests for ESL Programs (Section 668.47 in NPRM)

Comments: One commenter suggested that performance assessments, as described in proposed § 668.147, not be included in the potential pool of approved tests, because the commenter asserted that these tests "are still in a developmental stage, with substantial false negative and false positive reports." Another commenter recommended additional security measures, including the requirement that a student show a photo identification for computer-based tests.

Discussion: The validity and reliability of any assessment tests will be based upon the evidence provided by the test publisher, and the Secretary will not rule, *a priori*, that any category of tests is inappropriate. The Secretary will rely on the security requirements of test publishers with regard to the use of photo identification for computer-based tests.

Changes: None.

Section 668.150 Agreement Between the Secretary and a Test Publisher (Section 668.149 in NPRM)

Comments: Two commenters saw no necessity for this or any of the agreements specified in proposed §§ 668.149, 668.150, and 668.151 on the grounds that the practices specified in these agreements and the abuses they are designed to address are already accounted for in normal industry practice.

Discussion: In the Secretary's opinion, test publishers are key to the integrity of the ability-to-benefit testing process, and the agreement between the Secretary and the test publisher is designed to assure that the tests are being independently administered in a proper and impartial manner. Past practice has indicated that integrity in the administration of ability-to-benefit tests is not uniform throughout the industry, and that this agreement is necessary to protect both students and the public interest.

However, the Secretary agrees with the commenters that formal agreements between a test publisher and a test administrator and between a test administrator and an institution are not necessary to the integrity of test administration. Therefore, the Secretary has eliminated those two agreements although key provisions in those agreements have been incorporated in the section dealing with test administration, § 668.151.

Changes: The Secretary has deleted the requirement that a test publisher enter into an agreement with a test administrator and that the test administrator also enter into an agreement with an institution. In fact, the Secretary has deleted the proposed regulatory sections in which those requirements were contained, proposed §§ 668.150 and 668.151.

Comments: One commenter asked that language be added to ensure that test publishers exercise equal employment opportunity principles in certifying test administrators. Another commenter suggested language be inserted to require the publisher to decertify a test administrator if he or she is found to have compromised the integrity of the testing process. Another commenter asked whether decertified test administrators could appeal and whether they could subsequently be recertified.

Discussion: The Secretary believes that it would be inappropriate to include a provision in the agreement regarding the test publisher's employment practices because it is not within his legal jurisdiction to do so.

The proposed rule included a provision for decertifying a test administrator for violating the integrity of the test. The Secretary has revised this provision to indicate that the decertification would coincide with the period for which the test publisher's test was approved. During this period, the test administrator could not be recertified. No appeal is provided for a test publisher's decision to decertify a test administrator.

Changes: Section 668.150(b)(3) is revised to provide that if a test publisher decertifies a test administrator, the decertification coincide with the period for which the test publisher's test was approved.

Comments: Half the commenters suggested that institutions should be allowed to score the ATB test at the educational location, rather than send the test to the publisher for scoring.

These commenters cited the extra time and costs associated with test-publisher scoring.

Discussion: The purpose of the regulatory scheme regarding test administration is to remove institutions from giving or scoring tests. In return, the Secretary will not hold institutions financially responsible if they award Title IV, HEA Program funds to an ability-to-benefit students who present evidence that they passed approved tests as long as the institutions did not interfere with the independence of the testing process and were not involved in the testing process. Therefore, the Secretary strongly disagrees with the commenter's suggestion that an institution should be able to score a test. Moreover, the Secretary anticipates that there will be little delay between the time a student takes a test and the time the institution and the student receive the test results.

Changes: None.

Comments: Test publishers objected to the Secretary's requirement that an analysis of scoring patterns be performed every two years to determine irregularities. One commenter asked that the agreement between the Secretary and a test publisher explicitly forbid the publisher from requiring institutions to administer instruments in addition to those required and approved by the Secretary.

Discussion: The Secretary believes that quality control is a critical aspect of test administration, and an analysis of scoring patterns of tests is useful tool for that purpose. However, to reduce burden, the Secretary is requiring that an analysis of scoring patterns of tests be performed every three years.

The Secretary is not including in the agreement between the Secretary and a test publisher a provision that precludes the publisher from requiring institutions to administer tests in addition to those approved by the Secretary because he believes that such a provision is beyond the scope of his authority. Moreover, the Secretary notes that when faced with such a test publisher, an institution can simply choose another test and another test publisher.

Changes: The Secretary is requiring that an analysis of scoring patterns of tests be performed every three years.

Proposed Section 668.150 Agreement Between a Test Publisher and a Test Administrator

Comments: One commenter recommended that test publishers, and not educational institutions, retain the power to hire and dismiss on-site test administrators. The commenter also suggested that test publishers be responsible for training test administrators. Another commenter suggested that the test publisher make an agreement with the institution and independent test administrators under which the institution would agree to respect the security and integrity of test administration by selling the administrators an annual license. The commenter believes that the purchase of a license will ensure proper administration of the test.

Discussion: The Secretary believes that an institution should have the option of selecting a test administrator that has been certified by a test publisher to give its students an approved ATB test. Therefore, the Secretary disagrees with the suggestion made by the first commenter.

Since a test publisher certifies test administrators to give its tests, a test publisher would presumably provide whatever training it felt necessary to obtain a sufficient number of certified test administrators for its test.

Finally, the Secretary does not see the need to have test publishers sell licenses to test administrators.

Changes: The Secretary has deleted this section, but the provisions discussed by the commenters have been incorporated into § 668.151(a) dealing with test administration.

Comments: Many commenters expressed confusion about the role of an assessment center in the test administration process. Commenters requested clarification regarding the rights and responsibilities of assessment centers. At least one commenter representing a test publisher requested the right to enter into agreements with an assessment center as a condition for the assessment center to give its test.

Discussion: The Secretary agrees with the commenters that the role of an assessment center was not sharply defined in the proposed regulations. The Secretary envisions that an assessment center may give tests to ATB students without threatening the integrity and independence of the test. An assessment center may give an approved test to students without necessarily entering into an agreement with the test publisher. However, the Secretary agrees with the suggestion of the commenter that the test publisher should have the right to control the use of its test by allowing an assessment center to give its test only if the assessment center enters into an agreement with the test publisher.

If a student takes a test at an assessment center, the test administrator must be certified by the test publisher whose test is being given. The test administrator must also give the test only in accordance with the test publisher's instructions, must make the test available only to a test taker during a regularly scheduled test, must collect the test from the test taker after the test is given, and must secure the test against disclosure or release.

An assessment center may, however, score the test and notify the institution and the test taker of the test results instead of forwarding the test to the publisher for scoring and notification. If the assessment center scores tests, it must provide a copy of the test takers' performances and test scores to the test publisher on at least an annual basis.

Changes: A new section, § 668.152, has been added to describe the role and responsibilities of an assessment center.

Proposed § 668.151 Agreement Between the Institution and a Certified Test Administrator

Comments: One commenter recommended that, as part of this agreement, the institution must keep complete records of all testing activity conducted by a test administrator on its behalf, including situations in which testing was not completed.

Discussion: The purpose of the regulatory scheme regarding test administration is to remove institutions from giving or scoring tests. Therefore, the Secretary disagrees with the commenter's recommendation.

Changes: The agreement between an institution and a test administrator in § 668.151 has been deleted, as has the section dealing with this relationship. However, the important aspects of this section relating to the integrity and independence of test administration were incorporated into § 668.151 *Test administration.*

Section 668.151 Administration of Tests (Section 668.152 in the NPRM)

Comments: A number of commenters objected to the proposed procedures for scoring tests by the test publishers in those cases in which "assessment centers" are not available. Those who objected claimed that the process was inequitable and would result in considerable delays in determining student eligibility. One commenter objected to the policy that allows repeated taking of tests on the grounds that repetition compromises the validity of the tests. Two commenters requested clarification about the roles of assessment centers with respect to recordkeeping, reporting of scores and background information on test takers to test publishers, and whether agreements between assessment centers and institutions that wish to use their services are required.

Discussion: The Secretary believes that it is not inequitable to require test publishers to score tests and that considerable delays will not be the result of such a requirement. A test administrator must send the test publisher the test taker's examination within two days of administration of the test, and the test publisher must "immediately" generate a test score and "promptly" notify the test taker and the institution of the test results. If the test is a computer-based test, the test taker and the institution will receive the test results even more quickly. With regard to the retaking of tests, the Secretary points out that many people retake major national examinations and licensing examinations every year without compromising the validity of those tests. However, the Secretary recognizes that the practice of retesting can be abused, and that the criteria for test approval in proposed § 668.145 were not explicit in the matter of acceptable retesting procedures.

Changes: The Secretary has modified § 668.146(b) to add the requirement that the publishers have guidelines for retesting, including time between test-taking, and that such guidelines be based on empirical analyses.

Section 668.154 Institutional Accountability

Comments: One commenter suggested that those professionals who abuse the system be accountable for their actions, and institutions without a history of abuse should be permitted to continue their practices of local administration and scoring of ATB tests. Another commenter felt that the institutional accountability section was too lenient, and suggested strengthening the language so that students would not be liable for repayment of fraudulently disbursed funds unless the student knowingly caused the erroneous determination.

Discussion: As indicated earlier, the Secretary has developed a regulatory scheme that eliminates institutions from test administration. In return, the Secretary will not make institutions financially responsible if an institution awards Title IV, HEA Program funds to a student who presents evidence that he or she passed an approved test, if the institution does not interfere with the independence of the testing process. Therefore, the Secretary strongly disagrees with the commenters' suggestion that an institution should be able to administer and score a test.

Changes: None.

Section 668.156 Approved State Process (Section 668.155 in NPRM)

Comments: All commenters from community colleges and several other commenters objected to the 95% "success rate" criterion as both arbitrary and too high and suggested that the Secretary use an 85% "success rate" as an alternative. Some commenters added that this requirement does not reflect the statutory mandate that the judgment of success take into account the diversity of the populations served by participating institutions. Nearly all commenters from community colleges requested consistency of calculation of "success rate" with that of the Student Right-to-Know Act. A few commenters also interpreted the "State process" provisions as excluding students at for-profit institutions. One commenter pointed out that the data required for such a calculation were not immediately available, and that State agencies submitting applications for approval of a "State process" should be allowed three years to assemble the data necessary to support their case.

Discussion: In the NPRM provisions governing the "State process" alternative to ATB testing, the Secretary proposed that the "success rate" for students without a high school diploma or its equivalent must, in effect, be equal to the success rate for students who possess a high school diploma. "Success" was defined as the sum of program completion and continued enrollment, although this definition was not explicit in including successful transfers in the category of continued enrollment. The 95% rate was chosen since it represents an equivalency minus a theoretical standard error of measurement. The Secretary wishes to make sure that institutions participating in a State process are truly serious and not casual in their execution of responsibilities to ATB students. If a special State process for students without high school diplomas is truly effective, the success rate of the students it services should at least equal the success rate of students with high school diplomas who did not receive the special services under the process. To account for variances in the measurement of this outcome, the Secretary chose a standard rule of chance that 1 out of 20 results might be attributable to faulty measurement. One out of 20 is 5%. An equivalency minus 5% is 95%.

The commenters who objected to the 95 percent rate claimed that such a rate was too high and arbitrary and suggested that the rate be reduced to 85%. However, those commenters provided no justification for that lower percentage.

The Secretary disagrees with the commenters who contended that the regulation does not take into account the diversity of the population served by institutions included in the State process. The regulations give States maximum flexibility to design their processes under which States are free to choose how to respond to the needs of the diverse group of students served by the process. The Secretary measures whether the process is successful in satisfying the needs of these students by evaluating whether the success rate of these students, and all the others in the State process, are equal to the success rate of high school graduates.

As for the calculation of the "success rate" in terms similar to those required under the Student Right-to-Know Act, the Secretary proposed a simple "success rate" to avoid the complexities necessitated by implementing that Act.

The Secretary is not requiring any condition or limitation with regard to the type of institutions that may or must participate in a State process. Therefore, the type of institutions that may or must participate will be determined by the State.

Finally, the Secretary believes that a State does not need three years to collect data to support the approval of its State process. The Secretary believes that when this regulation goes into effect on July 1, 1996, the States will have had adequate lead-time to assemble data to support the approval of their State processes. States may, of course, wait a longer period of time before applying to the Secretary for approval of their State process.

Changes: The Secretary amends § 668.157(h)(1) to provide that the transfer of a student who remains enrolled in another institution at the end of that award year can be included in the "success rate" for the institution from which the student transferred.

Executive Order 12866

These regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering this program effectively and efficiently. Burdens specifically associated with information collection requirements, if any, are identified and explained

elsewhere in this preamble under the heading

Paperwork Reduction Act of 1995

In assessing the potential costs and benefits—both quantitative and qualitative—of these regulations, the Secretary has determined that the benefits of the regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of Potential Costs and Benefits

The potential costs and benefits of these final regulations are discussed elsewhere in this preamble under the following heading: *Analysis of Comments and Changes.*

Paperwork Reduction Act of 1995

Sections 668.143, 668.144, 668.145, 668.146, 668.147, 668.148, 668.149, 668.150, 668.151, 668.152, 668.153, and 668.155 contain information collection requirements.

Collection of information: Student Assistance General Provisions—

These regulations contain records that would affect test publishers, postsecondary institutions, and students that do not have high school diplomas or recognized equivalents and that wish to apply for Title IV, HEA programs.

The collection activity associated with the State Process is incorporated in various sections throughout these final regulations. All other burden associated with the maintenance of records of the student's ability-to-benefit is already cleared under the individual programs of Federal financial assistance for which these students may be applying.

Institutions are to collect this information annually. An estimate of the total annual reporting and recordkeeping burden that will result from the collection of the information is 0.5 hours per response for 158,180 respondents, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total annual recordkeeping and reporting burden equals 79,090 hours.

The Department considers comments by the public on these proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have a practical use;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

The Department request comments concerning the collection of information contained in these final regulations by January 30, 1996.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to Patrick Sherrill, U.S. Department of Education, 600 Independence Avenue, S.W., Room 5624, ROB–3, Washington, D.C. 20202.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs-education, Incorporation by reference, Loan programs-education, Reporting and recordkeeping requirements, Student aid.

(Catalog of Federal Domestic Assistance Number: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Federal Family Educational Loan Program; 84.032 Federal PLUS Program; 84.032 Federal Supplemental Loans for Students Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; 84.069 Federal State Student Incentive Grant Program.)

Dated: November 24, 1995.

Richard W. Riley,

Secretary of Education.

The Secretary amends Part 668 of Title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for Part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099c, and 1141, unless otherwise noted.

2. Part 668 is amended by adding a new Subpart J to read as follows:

Subpart J—Approval of Independently Administered Tests; Specification of Passing Score; Approval of State Process

Sec.

668.141 Scope.
668.142 Special definitions.
668.143 Approval of State tests or assessments.
668.144 Application for test approval.
668.145 Test approval procedures.
668.146 Criteria for approving tests.
668.147 Passing score.
668.148 Additional criteria for the approval of certain tests.
668.149 Special provisions for the approval of assessment procedures for special populations for whom no tests are reasonably available.
668.150 Agreement between the Secretary and a test publisher.
668.151 Administration of tests.
668.152 Administration of tests by assessment centers.
668.153 Administration of tests for students whose native language is not English or for persons with disabilities.
668.154 Institutional accountability.
668.155 Transitional rule for the 1996–97 award year.
668.156 Approved State process.

Subpart J—Approval of Independently Administered Tests; Specification of Passing Score; Approval of State Process

§ 668.141 Scope.

(a) This subpart sets forth the provisions under which a student who has neither a high school diploma nor its recognized equivalent may become eligible to receive Title IV, HEA program funds by—

(1) Achieving a passing score, specified by the Secretary, on an independently administered test approved by the Secretary under this subpart; or

(2) Being enrolled in an eligible institution that participates in a State process approved by the Secretary under this subpart.

(b) Under this subpart, the Secretary sets forth—

(1) The procedures and criteria the Secretary uses to approve tests;

(2) The basis on which the Secretary specifies a passing score on each approved test;

(3) The procedures and conditions under which the Secretary determines that an approved test is independently administered; and

(4) The procedures and conditions under which the Secretary determines that a State process demonstrates that students in the process have the ability to benefit from the education and training being offered to them.

(Authority: 20 U.S.C. 1091(d))

§ 668.142 Special definitions.

The following definitions apply to this subpart:

Assessment center: A center that—

(1) Is located at an eligible institution that provides two-year or four-year degrees, or qualifies as an eligible public vocational institution, *i.e.* a "postsecondary vocational institution;"

(2) Is responsible for gathering and evaluating information about individual students for multiple purposes, including appropriate course placement;

(3) Is independent of the admissions and financial aid processes at the institution at which it is located;

(4) Is staffed by professionally trained personnel; and

(5) Does not have as its primary purpose the administration of ability-to-benefit tests.

Computer-based test: A test taken by a student on a computer and scored by a computer.

Disabled student: A student who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

General learned abilities: Cognitive operations, such as deductive reasoning, reading comprehension, or translation from graphic to numerical representation, that may be learned in both school and non-school environments.

Non-native speaker of English: A person whose first language is not English and who is not fluent in English.

Secondary school level: As applied to "content," "curricula," or "basic verbal and quantitative skills," refers to basic knowledge or skills generally learned in the 9th through 12th grades in United States secondary schools.

Test administrator: An individual who may give tests under this subpart.

Test item: A question on a test.

Test publisher: An individual, organization, or agency that owns a registered copyright of a test, or is licensed by the copyright holder to sell or distribute a test.

(Authority: 20 U.S.C. 1091(d))

§ 668.143. Approval of State tests or assessments.

(a) The Secretary approves tests or other assessments submitted by a State that the State uses to measure a student's skills and abilities for the purpose of determining whether the student has the skills and abilities the State expects of a high school graduate in that State.

(b) The Secretary approves passing scores or other methods of evaluation established by the State for each test or assessment described in paragraph (a) of this section.

(c) If the Secretary approves a State's tests and assessments and the passing scores on those tests and assessments under paragraphs (a) and (b) of this section, that test or assessment may be used, for purposes of section 484(d) of the HEA, only for students who attend eligible institutions located in that State.

(d) If a State wishes to have the Secretary approve its tests or assessments under this section, the State shall—

(1) Submit to the Secretary those tests and assessments, its passing scores on those tests and assessments, and the educational standards those tests and assessments measure at such time and in such manner as the Secretary may prescribe;

(2) Provide the Secretary with an explanation of how the tests, assessments, and passing scores are appropriate in light of the State's educational standards; and

(3) Provide the Secretary with an assurance that the tests and assessments will be administered in an independent, fair, and secure manner.

(Authority: 20 U.S.C. 1091(d))

§ 668.144 Application for test approval.

Except as provided in § 668.143—

(a) The Secretary only reviews tests under this subpart that are submitted by the publisher of that test;

(b) A test publisher that wishes to have its test approved by the Secretary under this subpart must submit an application to the Secretary at such time and in such manner as the Secretary may prescribe. The application shall contain all the information necessary for the Secretary to approve the test under this subpart, including but not limited to, the information contained in this section; and

(c) A test publisher shall include with its application—

(1) A summary of the precise editions, forms, levels, and (if applicable) sub-tests and abbreviated tests for which approval is being sought;

(2) The name, address, and telephone number of a contact person to whom the Secretary may address inquiries;

(3) Each edition and form of the test for which the publisher requests approval;

(4) The distribution of test scores for each edition, form, level, sub-test, or partial battery, for which approval is sought, that allows the Secretary to prescribe the passing score for each test in accordance with § 668.147;

(5) Documentation of test development, including a history of the test's use;

(6) Norming data and other evidence used in determining the distribution of test scores;

(7) Material that defines the content domains addressed by the test;

(8) For tests first published five years or more before the date submitted to the Secretary for review and approval, documentation of periodic reviews of the content and specifications of the test to ensure that the test continues to reflect secondary school level verbal and quantitative skills;

(9) If a test has been revised from the most recent edition approved by the Secretary, an analysis of the revisions, including the reasons for the revisions, the implications of the revisions for the comparability of scores on the current test to scores on the previous test, and data from validity studies of the test undertaken subsequent to the revisions;

(10) A description of the manner in which test-taking time was determined in relation to the content representativeness requirements in § 668.146(b)(2), and an analysis of the effects of time on performance;

(11) A technical manual that includes—

(i) An explanation of the methodology and procedures for measuring the reliability of the test;

(ii) Evidence that different forms of the test, including, if applicable, short forms, are comparable in reliability;

(iii) Other evidence demonstrating that the test permits consistent assessment of individual skill and ability;

(iv) Evidence that the test was normed using—

(A) Groups that were of sufficient size to produce defensible standard errors of the mean and were not disproportionately composed of any race or gender; and

(B) A contemporary population representative of persons who are beyond the usual age of compulsory school attendance in the United States;

(v) Documentation of the level of difficulty of the test;

(vi) Unambiguous scales and scale values so that standard errors of measurement can be used to determine statistically significant differences in performance; and

(vii) Additional guidance on the interpretation of scores resulting from any modifications of the tests for persons with documented disabilities.

(12) The manual provided to test administrators containing procedures and instructions for test security and administration, and the forwarding of tests to the test publisher;

(13) An analysis of the item-content of each edition, form, level, and (if applicable) sub-test to demonstrate compliance with the required secondary school level criterion specified in § 668.146(b);

(14) For performance-based tests or tests containing performance-based sections, a description of the training or certification required of test administrators and scorers by the test publisher;

(15) A description of retesting procedures and the analysis upon which the criteria for retesting are based; and

(16) Other evidence establishing the test's compliance with the criteria for approval of tests as provided in § 668.146.

(Authority: 20 U.S.C. 1091(d))

§ 668.145 Test approval procedures.

Except as provided in § 668.143—

(a)(1) When the Secretary receives a complete application from a test publisher, the Secretary selects experts in the field of educational testing and assessment, who possess appropriate advanced degrees and experience in test development or psychometric research, to determine whether the test meets the requirements for test approval contained in §§ 668.146, 668.147, 668.148, or 668.149, as appropriate, and to advise the Secretary of their determinations;

(2) If the test involves a language other than English, the Secretary selects at least one individual described in paragraph (a)(1) of this section who is fluent in the language in which the test is written to advise the Secretary on whether the test meets the additional criteria, provisions, and conditions for test approval contained in §§ 668.148 and 668.149;

(b) The Secretary determines whether the test publisher's test meets the criteria and requirements for approval after taking the advice of the experts into account;

(c)(1) If the Secretary determines that a test satisfies the criteria and requirements for test approval, the Secretary notifies the test publisher of the Secretary's decision, and publishes the name of the test and the passing scores in the **Federal Register**.

(2) If the Secretary determines that a test does not satisfy the criteria and requirements for test approval, the Secretary notifies the test publisher of the Secretary's decision, and the reasons why the test did not meet those criteria and requirements.

(3) The test publisher may request that the Secretary reevaluate the Secretary's decision. Such a request must be accompanied by—

(i) Documentation and information that address the reasons for the non-approval of the test; and

(ii) An analysis of why the information and documentation submitted meet the criteria and requirements for test approval notwithstanding the Secretary's earlier decision to the contrary.

(d)(1) The Secretary approves a test for a period not to exceed five years from the date of the Secretary's written notice to the test publisher.

(2) The Secretary extends the approval period of a test to include the period of review if the test publisher re-submits the test for review and approval under § 668.144 at least six months before the date on which the test approval is scheduled to expire;

(e) The approval of a test may be withdrawn if the Secretary determines that the publisher violated any terms of the agreement described in § 668.150, or that the information the publisher submitted as a basis for approval of the test was inaccurate;

(f) If the Secretary revokes approval of a previously approved test, the Secretary publishes a notice of that revocation in the **Federal Register**. The revocation becomes effective 120 days from the date the notice of revocation is published in the **Federal Register**; and

(g) For test batteries that contain multiple sub-tests measuring content domains other than verbal and quantitative domains, the Secretary reviews only those subtests covering verbal and quantitative domains.

(Authority: 20 U.S.C. 1091(d))

§ 668.146 Criteria for approving tests.

Except as provided in § 668.143—

(a) Except as provided in § 668.148, the Secretary approves a test under this subpart if the test meets the criteria set forth in paragraph (b) of this section and the test publisher satisfies the requirements set forth in paragraph (c) of this section;

(b) To be approved under this subpart, a test shall—

(1) Assess secondary school level basic verbal and quantitative skills and general learned abilities;

(2) Sample the major content domains of secondary school level verbal and quantitative skills with sufficient numbers of questions to—

(i) Adequately represent each domain; and

(ii) Permit meaningful analyses of item-level performance by students who are representative of the contemporary population beyond the age of compulsory school attendance and have earned a high school diploma;

(3) Require appropriate test-taking time to permit adequate sampling of the major content domains described in paragraph (a)(2) of this section;

(4) Have all forms (including short forms) comparable in reliability;

(5) If the test is revised, have new scales, scale values, and scores that are demonstrably comparable to the old scales, scale values, and scores; and

(6) Meet all primary and applicable conditional and secondary standards for test construction provided in the 1985 edition of the *Standards for Educational and Psychological Testing*, with amendments dated June 2, 1989, prepared by a joint committee of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education incorporated by reference in this section. Incorporation by reference of this document has been approved by the Director of the Office of the Federal Register pursuant to the Director's authority under 5 U.S.C. 552(a) and 1 CFR part 51. The incorporated document is on file at the Department of Education, Office of Postsecondary Education, Room 4318, ROB–3, 600 Independence Avenue, S.W., Washington, D.C. 20202 and at the Office of the Federal Register, 800 North Capitol Street, N.W., Suite 700, Washington, DC. The standards may be obtained from the American Psychological Association, Inc., 750 First Street, N.W., Washington, DC 20026.

(7) Have publisher's guidelines for retesting, including time between test-taking, be based on empirical analyses that are part of the studies of test reliability; and

(c) In order for a test to be approved under this subpart, a test publisher shall—

(1) Include in the test booklet or package—

(i) Clear, specific, and complete instructions for test administration, including information for test takers on the purpose, timing, and scoring of the test; and

(ii) Sample questions representative of the content and average difficulty of the test;

(2) Have two or more secure, equated, alternate forms of the test;

(3) Except as provided in §§ 668.148 and 668.149, provide tables of distributions of test scores which clearly indicate the mean score and standard deviation for high school graduates who have taken the test within three years prior to the date on that the test is submitted to the Secretary for approval under § 668.144;

(4) Norm the test with—

(i) Groups that were of sufficient size to produce defensible standard errors of the mean and were not disproportionately composed of any race or gender; and

(ii) A contemporary population representative of persons who are beyond the usual age of compulsory school attendance in the United States; and

(5) If test batteries include sub-tests assessing different verbal and/or quantitative skills, a distribution of test scores as described in paragraph (c)(3) of this section that allows the Secretary to prescribe either—

(i) A passing score for each sub-test; or

(ii) One composite passing score for verbal skills and one composite passing score for quantitative skills.

(Authority: 20 U.S.C. 1091(d))

§ 668.147 Passing scores.

Except as provided in §§ 668.143, 668.148 and 668.149, to demonstrate that a test taker has the ability to benefit from the education and training offered, the Secretary specifies that the passing score on each approved test is one standard deviation below the mean for students with high school diplomas who have taken the test within three years before the date on which the test is submitted to the Secretary for approval.

(Authority; 20 U.S.C. 1091(d))

§ 668.148 Additional criteria for the approval of certain tests.

Except as provided in § 668.143—

(a) In addition to satisfying the criteria in § 668.146, to be approved by the Secretary, a test or a test publisher must meet the following criteria, if applicable:

(1) In the case of a test that is performance-based, or includes performance-based sections, for measuring writing, speaking, listening, or quantitative problem-solving skills, the test publisher must provide—

(i) A minimum of four parallel forms of the test; and

(ii) A description of the training provided to test administrators, and the criteria under which trained individuals are certified to administer and score the test.

(2) In the case of a test developed for a non-native speaker of English who is enrolled in a program that is taught in his or her native language, the test must be—

(i) Linguistically accurate and culturally sensitive to the population for which the test is designed, regardless of the language in which the test is written;

(ii) Supported by documentation detailing the development of normative data;

(iii) If translated from an English version, supported by documentation of procedures to determine its reliability and validity with reference to the population for which the translated test was designed;

(iv) Developed in accordance with guidelines provided in the 1985 edition of the "Testing Linguistic Minorities" section of the *Standards for Educational and Psychological Testing*, with amendments dated June 2, 1989, prepared by a joint committee of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education incorporated by reference in this section. Incorporation by reference of this document has been approved by the Director of the Office of the Federal Register pursuant to the Director's authority under 5 U.S.C. 552(a) and 1 CFR part 51. The incorporated document is on file at the Department of Education, Office of Postsecondary Education, Room 4318, ROB–3, 600 Independence Avenue, S.W., Washington, D.C. 20202 and at the Office of the Federal Register, 800 North Capitol Street, N.W., Suite 700, Washington, DC. The standards may be obtained from the American Psychological Association, Inc., 750 First Street, N.W., Washington, DC 20026; and

(v)(A) If the test is in Spanish, accompanied by a distribution of test scores that clearly indicates the mean score and standard deviation for Spanish-speaking students with high school diplomas who have taken the test within 5 years before the date on which the test is submitted to the Secretary for approval; and

(B) If the test is in a language other than Spanish, accompanied by a recommendation for a provisional passing score based upon performance of a sample of test takers representative of the intended population and large enough to produce stable norms.

(3) In the case of a test that is modified for use for persons with disabilities, the test publisher must—

(i) Follow guidelines provided in the "Testing People Who Have Handicapping Conditions" section of the *Standards for Educational and Psychological Testing;*

(ii) Provide documentation of the appropriateness and feasibility of the modifications relevant to test performance; and

(iii) Recommend passing score(s) based on the previous performance of test-takers.

(4) In the case of a computer-based test, the test publisher must—

(i) Provide documentation to the Secretary that the test complies with the basic principles of test construction and standards of reliability and validity as promulgated in the *Standards for Educational and Psychological Testing*, as well as specific guidelines set forth in the American Psychological Association's *Guidelines for Computer-based Tests and Interpretations* (1986);

(ii) Provide test administrators with instructions for familiarizing test takers with computer hardware prior to test-taking; and

(iii) Provide two or more parallel, equated forms of the test, or, if parallel forms are generated from an item pool, provide documentation of the methods of item selection for alternate forms; and

(b) If a test is designed solely to measure the English language competence of non-native speakers of English—

(1) The test must meet the criteria set forth in § 668.146(b)(6), and § 668.146 (c)(1), (c)(2), and (c)(4); and

(2) The test publisher must recommend a passing score based on the mean score of test takers beyond the age of compulsory school attendance who entered U.S. high school equivalency programs, formal training programs, or bilingual vocational programs.

(Authority: 20 U.S.C. 1091(d))

§ 668.149 Special provisions for the approval of assessment procedures for special populations for whom no tests are reasonably available.

If no test is reasonably available for persons with disabilities or students whose native language is not English and who are not fluent in English, so that no test can be approved under §§ 668.146 or 668.148 for these students, the following procedures apply:

(a) *Persons with disabilities.* (1) The Secretary considers a modified test or testing procedure, or instrument that

has been scientifically developed specifically for the purpose of evaluating the ability to benefit from postsecondary training or education of disabled students to be an approved test for purposes of this subpart provided that the testing procedure or instrument measures both basic verbal and quantitative skills at the secondary school level.

(2) The Secretary considers the passing scores for these testing procedures or instruments to be those recommended by the test developer, provided that the test administrator—

(i) Uses those procedures or instruments;

(ii) Maintains appropriate documentation, including a description of the procedures or instruments, their content domains, technical properties, and scoring procedures; and

(iii) Observes recommended passing scores.

(b) *Students whose native language is not English.* The Secretary considers a test in a student's native language for a student whose native language is not English to be an approved test under this subpart if—

(1) The Secretary has not approved any test in that native language;

(2) The test was not previously rejected for approval by the Secretary;

(3) The test measures both basic verbal and quantitative skills at the secondary school level; and

(4) The passing scores and the methods for determining the passing scores are fully documented.

(Authority: 20 U.S.C. 1091(d))

§ 668.150 Agreement between the Secretary and a test publisher.

(a) If the Secretary approves a test under this subpart, the test publisher must enter into an agreement with the Secretary that contains the provisions set forth in paragraph (b) of this section before an institution may use the test to determine a student's eligibility for Title IV, HEA program funds.

(b) The agreement between a test publisher and the Secretary provides that the test publisher shall—

(1) Allow only test administrators that it certifies to give its test;

(2) Certify test administrators who have—

(i) The necessary training, knowledge, and skill to test students in accordance with the test publisher's testing requirements; and

(ii) The ability and facilities to keep its test secure against disclosure or release;

(3) Decertify a test administrator for a period that coincides with the period for which the publisher's test is approved if the test publisher finds that the test administrator—

(i) Has repeatedly failed to give its test in accordance with the publisher's instructions;

(ii) Has not kept the test secure;

(iii) Has compromised the integrity of the testing process; or

(iv) Has given the test in violation of the provisions contained in § 668.151;

(4) Score a test answer sheet that it receives from a test administrator;

(5) If a computer-based test, provide the test administrator with software that will:

(i) Immediately generate a score report for each test taker;

(ii) Allow the test administrator to send to the test publisher a secure write-protected diskette copy of the test taker's performance on each test item and the test taker's test scores; and

(iii) Prohibit any changes in test taker responses or test scores.

(6) Promptly send to the student and the institution the student indicated he or she is attending or scheduled to attend a notice stating the student's score for the test and whether or not the student passed the test;

(7) Keep for a period of three years each test answer sheet or electronic record forwarded for scoring and all other documents forwarded by the test administrator with regard to the test;

(8) Three years after the date the Secretary approves the test and for each subsequent three-year period, analyze the test scores of students to determine whether the test scores produce any irregular pattern that raises an inference that the tests were not being properly administered, and provide the Secretary with a copy of this analysis; and

(9) Upon request, give the Secretary, a guaranty agency, or an accrediting agency access to test records or other documents related to an audit, investigation, or program review of the institution, test publisher, or test administrator.

(c)(1) The Secretary may terminate an agreement with a test publisher if the test publisher fails to carry out the terms of the agreement described in paragraph (b) of this section.

(2) Before terminating the agreement, the Secretary gives the test publisher the opportunity to show that it has not failed to carry out the terms of its agreement.

(3) If the Secretary terminates an agreement with a test publisher under this section, the Secretary notifies institutions through publication in the **Federal Register** when they may no longer use the publisher's test(s) for purposes of determining a student's eligibility for Title IV, HEA program funds.

(Authority: 20 U.S.C. 1091(d))

§ 668.151 Administration of tests.

(a)(1) To establish a student's eligibility for Title IV, HEA program funds under this subpart, if a student has not passed an approved state test, under § 668.143, an institution must select a certified test administrator to give an approved test.

(2) An institution may use the results of an approved test to determine a student's eligibility to receive Title IV, HEA programs funds if the test was independently administered and properly administered.

(b) The Secretary considers that a test is independently administered if the test is—

(1) Given at an assessment center by a test administrator who is an employee of the center; or

(2) Given by a test administrator who—

(i) Has no current or prior financial or ownership interest in the institution, its affiliates, or its parent corporation, other than the interest obtained through its agreement to administer the test, and has no controlling interest in any other educational institution;

(ii) Is not a current or former employee of or consultant to the institution, its affiliates, or its parent corporation, a person in control of another institution, or a member of the family of any of these individuals;

(iii) Is not a current or former member of the board of directors, a current or former employee of or a consultant to a member of the board of directors, chief executive officer, chief financial officer of the institution or its parent corporation or at any other institution, or a member of the family of any of the above individuals; and

(iv) Is not a current or former student of the institution.

(c) The Secretary considers that a test is not independently administered if an institution—

(1) Compromises test security or testing procedures;

(2) Pays a test administrator a bonus, commission, or any other incentive based upon the test scores or pass rates of its students who take the test;

(3) Otherwise interferes with the test administrator's independence or test administration.

(d) The Secretary considers that a test is properly administered if the test administrator—

(1) Is certified by the test publisher to give the publisher's test;

(2) Administers the test in accordance with instructions provided by the test publisher, and in a manner that ensures the integrity and security of the test;

(3) Makes the test available only to a test-taker, and then only during a regularly scheduled test;

(4) Secures the test against disclosure or release;

(5) Submits the completed test to the test publisher within two business days after test administration in accordance with the test publisher's instructions; and

(6) Upon request, gives the Secretary, guaranty agency, licensing agency, accrediting agency, and law enforcement agencies access to test records or other documents related to an audit, investigation, or program review of the institution, or test publisher.

(e) Except as provided in § 668.152, a certified test administrator may not score a test.

(f) A student who fails to pass a test approved under this subpart may not retake the same form of the test for the period prescribed by the test's publisher.

(g) An institution shall maintain a record for each student who took a test under this subpart of—

(1) The test taken by the student;

(2) The date of the test; and

(3) The student's scores as reported by the test publisher, assessment center, or State.

(Authority: U.S.C. 1091(d))

§ 668.152 Administration of tests by assessment centers.

(a)(1) If a test is given by an assessment center, the assessment center shall properly administer the test as described in § 668.151(d).

(b)(1) Unless an agreement between a test publisher and an assessment center indicates otherwise, an assessment center scores the tests it gives and promptly notifies the institution and the student of the student's score on the test and whether the student passed the test.

(2) If the assessment center scores the test, it must provide annually to the test publisher—

(i) All copies of completed tests; or

(ii) A report listing all test-takers' scores and institutions to which the scores were sent.

(Authority: U.S.C. 1091(d))

§ 668.153 Administration of tests for students whose native language is not English or for persons with disabilities.

Except as provided in § 668.143—

(a) *Students whose native language is not English.* For a student whose native language is not English and who is not fluent in English, the institution shall use the following tests, as applicable:

(1) If the student is enrolled in a program conducted entirely in his or her native language, the student must take a test approved under §§ 668.146 and 668.148(a)(2), or 668.149(b).

(2) If the student is enrolled in a program that is taught in English with an ESL component, and the student is enrolled in that program and the ESL component, the student must take either an ESL test approved under § 668.148(b), or a test in the student's native language approved under §§ 668.146, 668.148 or 668.149.

(3) If the student is enrolled in a program that is taught in English without an ESL component, or the student does not enroll in the ESL component if the institution offers such a component, the student must take a test in English approved under § 668.146.

(4) If the student enrolls in an ESL program, the student must take an ESL test approved under § 668.148(b); and

(b) *Persons with disabilities.* (1) An institution shall use a test described in § 668.148(a)(3) or 668.149(a) for a student with a documented impairment who has neither a high school diploma nor its equivalent and who is applying for Title IV, HEA program funds.

(2) The test must reflect the student's skills and general learned abilities rather than reflect the student's impairment.

(3) The institution shall document that a student is disabled and unable to be evaluated by the use of a conventional test from the list of tests approved by the Secretary.

(4) Documentation of a student's impairment may be satisfied by—

(i) A written determination, including a diagnosis and recommended testing accommodations, by a licensed psychologist or medical physician; or

(ii) A record of such a determination by an elementary or secondary school or a vocational rehabilitation agency, including a diagnosis and recommended testing accommodations.

(Authority: U.S.C. 1091(d))

§ 668.154 Institutional accountability.

An institution shall be liable for the Title IV, HEA program funds disbursed to a student whose eligibility is determined under this subpart only if the institution—

(a) Used a test administrator who was not independent of the institution at the time the test was given;

(b) Compromises the testing process in any way; or

(c) Is unable to document that the student received a passing score on an approved test.

(Authority: U.S.C. 1091(d))

§ 668.155 Transitional rule for the 1996–97 award year.

(a) Notwithstanding any other provision of this part, an institution may continue to base an eligibility determination under section 484(d) of the HEA for a student on a test that was an approved test as of June 30, 1996, and the passing score on that test, until 60 days after the Secretary publishes in the **Federal Register** the name of an approved test and the passing score on that test that is appropriate for that student.

(b) If an institution properly based a student's eligibility determination for purposes of section 484(d) of the HEA on a test and passing score that was in effect on June 30, 1996, the institution does not have to redetermine the student's eligibility based upon a test and passing score that was approved under §§ 668.143 through 668.149.

(Authority: U.S.C. 1091(d))

§ 668.156 Approved State process.

(a)(1) A State that wishes the Secretary to consider its State process as an alternative to achieving a passing score on an approved, independently administered test for the purpose of determining a student's eligibility for Title IV, HEA program funds must apply to the Secretary for approval of that process.

(2) To be an approved State process, the State process does not have to include all the institutions located in that State, but must indicate which institutions are included.

(b) The Secretary approves a State's process if—

(1) The State administering the process can demonstrate that the students it admits under that process without a high school diploma or its equivalent, who enroll in participating institutions have a success rate as determined under paragraph (h) of this section that is within 95 percent of the success rate of students with high school diplomas; and

(2) The State's process satisfies the requirements contained in paragraphs (c) and (d) of this section.

(c) A State process must require institutions participating in the process to provide each student they admit without a high school diploma or its recognized equivalent with the following services—

(1) Orientation regarding the institution's academic standards and requirements, and student rights;

(2) Assessment of each student's existing capabilities through means other than a single standardized test;

(3) Tutoring in basic verbal and quantitative skills, if appropriate;

(4) Assistance in developing educational goals;

(5) Counseling, including counseling regarding the appropriate class level for that student given the student's individual's capabilities; and

(6) Follow-up by teachers and counselors regarding the student's classroom performance and satisfactory progress toward program completion.

(d) A State process must—

(1) Monitor on an annual basis each participating institution's compliance with the requirements and standards contained in the State's process;

(2) Require corrective action if an institution is found to be in noncompliance with the State process requirements; and

(3) Terminate an institution from the State process if the institution refuses or fails to comply with the State process requirements.

(e)(1) The Secretary responds to a State's request for approval of its State's process within six months after the Secretary's receipt of that request. If the Secretary does not respond by the end of six months, the State's process becomes effective.

(2) An approved State process becomes effective for purposes of determining student eligibility for Title IV, HEA program funds under this subpart six months after the date on which the State submits the process to the Secretary for approval, if the Secretary approves, or does not disapprove, the process during that six month period.

(f) The Secretary approves a State process for a period not to exceed five years.

(g)(1) The Secretary withdraws approval of a State process if the Secretary determines that the State process violated any terms of this section or that the information that the State submitted as a basis for approval of the State process was inaccurate.

(2) The Secretary provides a State with the opportunity to contest a finding that the State process violated any terms of this section or that the information that the State submitted as a basis for approval of the State process was inaccurate.

(h) The State shall calculate the success rates as referenced in paragraph (b) of this section by—

(1) Determining the number of students with high school diplomas who, during the applicable award year described in paragraph (i) of this section, enrolled in participating institutions and—

(i) Successfully completed education or training programs;

(ii) Remained enrolled in education or training programs at the end of that award year; or

(iii) Successfully transferred to and remained enrolled in another institution at the end of that award year;

(2) Determining the number of students with high school diplomas who enrolled in education or training programs in participating institutions during that award year;

(3) Determining the number of students calculated in paragraph (h)(2) of this section who remained enrolled after subtracting the number of students who subsequently withdrew or were expelled from participating institutions and received a 100 percent refund of their tuition under the institutions' refund policies;

(4) Dividing the number of students determined in paragraph (h)(1) of this section by the number of students determined in paragraph (h)(3) of this section;

(5) Making the calculations described in paragraphs (h)(1) through (h)(4) of this section for students without a high school diploma or its recognized equivalent who enrolled in participating institutions.

(i) For purposes of paragraph (h) of this section, the applicable award year is the latest complete award year for which information is available that immediately precedes the date on which the State requests the Secretary to approve its State process, except that the award year selected must be one of the latest two completed award years preceding that application date.

(Authority: 20 U.S.C. 1091(d))

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Part X

Department of Housing and Urban Development

24 CFR Part 81

The Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) Regulations; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 81

[Docket No. FR–3481–F–03]

RIN 2501–AB56

The Secretary of HUD's Regulation of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac)

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule implements the Secretary's regulatory authorities respecting the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") (collectively the "Government-Sponsored Enterprises" or "GSEs") under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 ("FHEFSSA"). FHEFSSA's purpose is to establish a new regulatory framework for the GSEs that reflects their unique status as shareholder-owned corporations that receive substantial public benefits. FHEFSSA substantially overhauled the regulatory authorities and structure for GSE regulation and required the issuance of this rule.

FHEFSSA directs the Secretary to establish three separate housing goals for the GSEs' mortgage purchases financing: housing for low- and moderate-income families; housing located in central cities, rural areas, and other underserved areas; and special affordable housing to meet the unaddressed needs of low-income families in low-income areas and very-low-income families. Under this rule, the Secretary sets the level of each goal and specifies the requirements for counting mortgage purchases toward meeting the goals. The rule also includes procedures for monitoring and enforcing performance under the goals.

In addition, FHEFSSA requires the Secretary to prohibit discrimination by the GSEs in their mortgage purchases and establishes new responsibilities for the Secretary and the GSEs with respect to the Fair Housing Act and the Equal Credit Opportunity Act. This rule implements these authorities. The rule also sets forth requirements for the Secretary's review and approval of new programs of the GSEs, GSE submission of mortgage purchase data and reports to the Secretary, the Secretary's dissemination of data and protection of proprietary information, and enforcement and other proceedings under this rule.

EFFECTIVE DATE: January 2, 1996, except that § 81.62(c) shall not be effective until April 1, 1996, so that the first mortgage report required to be submitted by the GSEs under that section will cover mortgage purchases through the second quarter of 1996 and will not be due until September 1, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Tasker, Director, Office of Government-Sponsored Enterprises, Room 6154, telephone (202) 708–2224; or, for questions on data or methodology, Harold Bunce, Director, Financial Institutions Regulation, Office of Policy Development and Research, Room 8204, telephone (202) 708–2770; or, for legal questions, Kenneth A. Markison, Assistant General Counsel for Government Sponsored Enterprises/RESPA, Office of the General Counsel, Room 9262, telephone (202) 708–3137. The address for all of these persons is: Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. A telecommunications device for deaf persons (TDD) is available at (202) 708–9300. (The telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), as implemented by OMB in regulations at 5 CFR part 1320. No person may be required to respond to, or may be subjected to a penalty for failure to comply with, these information collection requirements until they have been approved and HUD has announced the assigned OMB control number. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**. In accordance with § 1320.11(h) of the implementing regulations, OMB has 60 days from today's publication date in which to approve, disapprove, or instruct HUD to make a change to the information collection requirements in this rule.

The final rule addresses comments submitted to OMB and HUD on the collection of information requirements in the proposed rule. In addition, HUD has consulted with members of the public and affected agencies regarding these collections of information. In revising the requirements from those that appeared in the proposed rule, HUD has evaluated the necessity and usefulness of the collection of information; reevaluated HUD's estimate of the information collection burden, including the validity of the underlying methodology and assumptions; and minimized the burden on respondents for the information collection requirements, to the extent compatible with the Secretary's responsibilities under the authorizing statute. This final rule provides for the use of electronic collection techniques.

General

Purpose

This final rule establishes new regulations implementing the Secretary of Housing and Urban Development's ("the Secretary's") authority to regulate the GSEs. The authority exercised by the Secretary is established under:

(1) The Federal National Mortgage Association Charter Act ("Fannie Mae Charter Act"), which is Title III of the National Housing Act, section 301 *et seq.* (12 U.S.C. 1716 *et seq.*);

(2) The Federal Home Loan Mortgage Corporation Act ("Freddie Mac Act"), which is Title III of the Emergency Home Finance Act of 1970, section 301 *et seq.* (12 U.S.C. 1451 *et seq.*);[1] and

(3) FHEFSSA, enacted as Title XIII of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992, and codified, generally, at 12 U.S.C. 4501–4641). FHEFSSA substantially changed the Secretary's authorities respecting the GSEs, requiring the Secretary to promulgate new regulations.

This rule implements these authorities and authorities under the Charter Acts, replaces the Secretary's current regulations governing Fannie Mae and, for the first time, establishes regulations governing Freddie Mac.

Background

Fannie Mae and Freddie Mac are congressionally chartered, shareholder-owned corporations that have been regulated by HUD since 1968 and 1989, respectively. The GSEs were chartered by Congress to:

(1) Provide stability in the secondary market for residential mortgages;

(2) Respond appropriately to the private capital market;

(3) Provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a

[1] This rule refers to the Fannie Mae Charter Act and the Freddie Mac Act collectively as the "Charter Acts."

reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing; and

(4) Promote access to mortgage credit throughout the Nation (including central cities, rural areas, and other underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing.[2]

In exchange for carrying out their public purposes, the GSEs enjoy substantial public benefits not provided to other private corporations in the secondary mortgage market, which include: (1) Conditional access to a $2.25 billion line of credit from the U.S. Treasury;[3] (2) exemption from securities registration requirements of the Securities and Exchange Commission and the States;[4] and (3) exemption from all State and local taxes, except property taxes.[5] In addition to these benefits, the GSEs enjoy the implicit benefit of the financial market's assumption that, even though no Federal guarantee exists,[6] should a GSE fail to meet its obligations, the Federal Government and, ultimately, the American taxpayer would stand behind the obligations of the GSEs. As a result of their Government-sponsored status, the GSEs borrow at approximately the same rates as the Department of Treasury,[7] and their cost of doing business is less than that of other competitors in the mortgage market. In return for the substantial benefits that the GSEs receive, they are expected to serve certain public purposes, and are subject to congressionally imposed limitations on their undertakings and to HUD's regulation.

Provisions of FHEFSSA

Because Congress perceived a need to increase protection to the taxpayers from any potential financial losses or risks posed by the GSEs, FHEFSSA established an independent financial regulator within HUD—the Office of Federal Housing Enterprise Oversight (OFHEO)—which is responsible for the financial safety and soundness of the GSEs.

At the same time, to assure that the GSEs accomplish their public purposes, Congress clarified and expanded the Secretary's specific powers and authorities respecting the GSEs. FHEFSSA provides that, except for the authority of the Director of OFHEO over all matters related to financial safety and soundness, the Secretary has general regulatory power over the GSEs and is required to make all rules and regulations necessary to ensure that the purposes of FHEFSSA and the Charter Acts are carried out.[8]

FHEFSSA specifically requires the Secretary to establish, monitor, and enforce three separate goals for the GSEs' mortgage purchases on:

(1) Housing for low- and moderate-income families (Low- and Moderate-Income Housing Goal);

(2) Housing located in central cities, rural areas, and other underserved areas (Geographically Targeted Goal); and

(3) Special affordable housing meeting the "unaddressed housing needs of low-income families in low-income areas and very low-income families" (Special Affordable Housing Goal).

Under FHEFSSA, the Secretary is to establish each of the housing goals after consideration of certain statutorily prescribed factors relevant to the particular goal. The Secretary's findings concerning each of these factors are set forth in the appendices to this rule, which are published in today's **Federal Register** after the text of the rule. These appendices will not be codified in the Code of Federal Regulations.

FHEFSSA also establishes new fair lending requirements for the GSEs. Under FHEFSSA, the Secretary must, by regulation, prohibit the GSEs from discriminating in their mortgage purchases because of "race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect."[9] The Secretary must also:

(1) By regulation, require the GSEs to submit data to assist the Secretary in investigating whether a mortgage lender has failed to comply with the Fair Housing Act and the Equal Credit Opportunity Act ("ECOA");

(2) Obtain and make available to the GSEs information from other regulatory and enforcement agencies on violations by lenders of the Fair Housing Act and ECOA;

(3) Direct the GSEs to take various remedial actions against lenders found to have engaged in discriminatory lending practices in violation of the Fair Housing Act or ECOA; and

(4) Periodically review and comment on the GSEs' underwriting and appraisal guidelines, to ensure that the guidelines are consistent with the Fair Housing Act and FHEFSSA.

FHEFSSA also details the Secretary's authority to review and approve new programs of the GSEs and establishes procedures under which the GSEs may contest determinations on new program requests. FHEFSSA maintains the Secretary's authority to require reports from the GSEs on their activities and requires the GSEs to submit detailed, specific data on their mortgage purchases. FHEFSSA assigns the Secretary other responsibilities, including establishing a public-use database containing data gathered from the GSEs on mortgage purchases, and protecting proprietary information provided by the GSEs. FHEFSSA terminates the former regulations governing Fannie Mae and requires that the Secretary issue new regulations governing both GSEs.

Transition Period

FHEFSSA established a transition period of calendar years 1993 and 1994, to provide time for the Secretary to collect data and implement FHEFSSA's provisions. For the transition period, FHEFSSA established targets for mortgage purchases by the GSEs on housing for low- and moderate-income families and housing located in central cities, rural areas, and other underserved areas. For the transition years, the targets for both of these goals were set at 30 percent of the GSEs' mortgage purchases. The target amounts were the same as the percentage goals established under HUD's Fannie Mae regulations, which were originally promulgated in 1979 and codified under the former Fannie Mae regulations in 24 CFR part 81. During the transition, only mortgages located in central cities, as designated by the Office of Management and Budget (OMB), counted toward the Geographically Targeted Goal. FHEFSSA required that the Secretary establish interim goals to improve the GSEs' performance relative to these targets, so that the GSEs would meet the targets by the end of the transition

[2] Sections 301(b) of the Freddie Mac Act and 301 of the Fannie Mae Charter Act.

[3] Sections 306(c)(2) of the Freddie Mac Act and 304(c) of the Fannie Mae Charter Act.

[4] Sections 306(g) of the Freddie Mac Act and 304(d) of the Fannie Mae Charter Act.

[5] Sections 303(e) of the Freddie Mac Act and 309(c)(2) of the Fannie Mae Charter Act.

[6] The GSEs' obligations are not guaranteed by the United States. See, e.g., sections 1302(4), 1381(f), and 1382(n) of FHEFSSA (requiring each GSE to state in its obligations and securities that such obligations and securities "are not guaranteed by the United States").

[7] Congressional Budget Office, *Controlling the Risks of Government-Sponsored Enterprises*, at 10 (April 1991).

[8] Section 1321 of FHEFSSA.

[9] Section 1325(1).

period. FHEFSSA also established specific dollar amounts for purchases by the GSEs of mortgages under the Special Affordable Housing Goal. For the transition years, the legislative history of FHEFSSA indicates that the goal should be higher than the GSEs' 1992 performance.

Interim Notices

As required by FHEFSSA, on October 13, 1993, the Secretary published notices of interim housing goals establishing requirements necessary to implement the transition housing goals; [10] the GSEs reviewed and commented on the notices prior to publication.

The Interim Notice for Fannie Mae established that, of the dwelling units financed by Fannie Mae's mortgage purchases: (1) In 1993 and 1994, 30 percent should be affordable to low- and moderate-income families; (2) in 1993, 28 percent and, in 1994, 30 percent should be located in central cities; and (3) during the 1993–94 period, at least $16.4 billion in mortgages should meet the Special Affordable Housing Goal.

The Interim Notice for Freddie Mac established that, of the dwelling units financed by Freddie Mac's mortgage purchases: (1) In 1993, 28 percent and, in 1994, 30 percent should be affordable to low- and moderate-income families; (2) in 1993, 26 percent and, in 1994, 30 percent should be located in central cities; and (3) during the 1993–94 period, at least $11.9 billion in mortgages should meet the Special Affordable Housing Goal.

In late 1994, when it became apparent that this rulemaking would not be completed in time to establish new housing goals for 1995, the Secretary issued a final regulation extending the 1994 goals for both GSEs into 1995.[11]

The Proposed Rule

On February 16, 1995 (60 FR 9154), HUD published a proposed rule to implement the Secretary's authorities under FHEFSSA and the Charter Acts. The proposed rule raised the level of the goals. It also provided that, in accordance with FHEFSSA, the Geographically Targeted Goal would be expanded to include rural and other underserved areas, and that the goal would be directed to the underserved portions of these areas. The proposal reformulated the categories of the Special Affordable Housing Goal and proposed new counting requirements based on experience gained in the transition period. The proposed rule also would have established procedures for review of new programs, detailed prohibitions against discrimination, scaled back reporting requirements from the former Fannie Mae regulations and the Interim Notices, and included detailed requirements for book entry of GSE securities and procedures under FHEFSSA.

Final Rule

In response to the proposed rule, HUD received 163 comments. The comments came from the GSEs; individuals; representatives of lending institutions, community, and consumer groups; Members of Congress; local and State governments; and others. Following full consideration of the comments and discussions with the GSEs and outside entities, HUD developed this final rule. The final rule is consistent with the approach announced in the proposed rule, but includes significant revisions in light of the comments. The final rule:

(1) Establishes housing goals that are greater than those established under the regulations for the transition and will ensure that the GSEs continue and strengthen their efforts to carry out Congress's intent that the GSEs provide the benefits of a secondary market to families throughout the Nation;

(2) Requires the GSEs to take appropriate steps to facilitate fair housing for all citizens, recognizing the GSEs' leadership role in the lending industry without forcing the GSEs to act in an enforcement capacity better left to the Government;

(3) Establishes conditions and procedures by which the Secretary will exercise his or her statutory authority to review new programs of the GSEs, but in a manner that will not create a disincentive for the GSEs to be innovative in developing new mortgage finance initiatives;

(4) Implements reporting requirements for the GSEs that are not unduly burdensome and will allow the Secretary and Congress to monitor the GSEs' activities appropriately;

(5) Requires dissemination of information on the GSEs' activities to the public, while protecting the GSEs' legitimate commercial interests in proprietary data; and

(6) Establishes fair procedures for enforcement actions and other regulatory procedures under FHEFSSA.

Discussion Of Public Comments

Overview of the Public Comments

Of the 163 comments received, by far the most detailed were the submissions of the two directly affected GSEs—Fannie Mae and Freddie Mac. Each GSE submitted comments of more than 200 pages, supported by numerous appendices, exhibits, and footnotes. Although occasionally voicing approval of provisions of the proposed rule, the GSEs' comments, in the main, registered substantial opposition to key features.

In addition, comments were received from 26 national or regional industry-related groups or associations; 26 nonprofit organizations; 10 Members of Congress; 22 governors and mayors, 10 State and local agencies; 24 banks, lenders, or other real estate professionals; 40 individuals; [12] and 3 legal organizations. HUD reviewed and considered all of these comments in writing the final rule.

The portion of the rule most frequently discussed by the commenters was Subpart B—Housing Goals, some aspect of which attracted comments from 146 of the 163 commenters. Eighty-three of these comments reflected general approval of the proposed rule's approach to the goals. Fifty-three others were in opposition, in whole or in part, while 10 contained mixed statements of support and opposition.

Other major subject areas of the proposed rule (subpart C—Fair Housing, subpart D—New Program Approval,and Subpart E—Access to Information) attracted the attention of only a minority of the commenters. Fifty-five of the 62 commenters who addressed the new program approval provisions opposed them in whole or in part, with only 3 commenters setting out unqualified approval, and 4 others expressing a mixture of favorable and unfavorable comments.

Thirty commenters opposed one or more major elements of the rule's treatment of fair housing concerns, while 11 favored the rule. Two comments featured well-mixed supporting and opposing views. The majority of the institutional commenters and lenders who did address the issues of fair housing stated their opposition to the rule's treatment. Only among the nonprofit organizations did a majority of the commenters addressing the issue express support for the proposed rule's handling of the subject. Commenters often addressed Subpart E, Reporting Requirements, in the context of other statements pertaining to housing goals, fair housing, or both. Accordingly, the commenters' views on reporting are largely included in the discussion of subparts B and C.

Only 10 commenters addressed the access to information issue. Of these, six (including the GSEs) were substantially opposed to the rule's provisions, while four supported the rule or urged stronger provisions in favor of broader public disclosure of GSE information.

In all subject areas, the GSEs' expressions of opposition to important features of the rule were backed by a majority of the national or regional industry associations submitting comments, as well as by commenters representing banks and other lenders. On the other hand, several associations expressed notable support for some of the same features.

A higher proportion of the commenting nonprofit organizations supported important aspects of the rule as proposed, although many of these commenters also opposed individual features of the proposal and offered suggestions for modifications or compromises that would accomplish similar aims. A number of nonprofit organizations also recommended further strengthening of the rule, especially as it relates to housing goals.

Comments from Governors and Mayors tended to concentrate on the goals. In general, these comments opposed the definitions in the proposed rule of "central city," "rural area," and other key terms that determine the transactions that count toward achievement of the housing goals. Twelve of the 22 State and local political leaders who commented expressed opposition to the program approval portions of the rule. The 10 comments from State and local governmental agencies focused largely on housing goals issues, but were more diverse in their views, with 5 agencies generally supporting the rule, 4 opposing significant portions of it, and 1 expressing a mixture of favorable and unfavorable comments.

Members of Congress submitting comments mainly addressed housing goals issues, with 6 of the 10 criticizing the rule. Six Members also opposed aspects of the new program approval subpart. Three Members voiced support for the proposed rule's approach to housing goals, and one expressed support for the rule's fair housing provisions.

A discussion of general and specific comments on the rule follows. HUD has read and considered all of the comments received from the public in developing this final rule. Although not all of the comments are addressed explicitly in this preamble, often because HUD's response is implicit in the general discussion of the rule or other comments or because the comments were minor, HUD acknowledges the value of all of the comments submitted in response to the proposed rule.

Other Public Input

In addition to the comments received, HUD sought information from the GSEs and other market participants to verify or revise assumptions and data HUD used in developing the rule. During this rulemaking, HUD held numerous meetings with the GSEs, lenders, developers, nonprofit groups, public-interest representatives, and other Federal agencies to discuss issues related to the rule, including the methodology used to establish market shares, current conditions in rural lending, and current conditions in the multifamily market. Additional information on these meetings is contained in the public docket file of this rule in Room 10276 at HUD Headquarters. HUD also conducted a series of detailed analyses of various technical issues raised in the comment letters. To assist in analyzing these issues, HUD contracted with researchers and academicians in universities and the private sector to carry out independent evaluations of HUD's methodology. HUD also consulted broadly with researchers and economists at other Government agencies, the GSEs, and housing trade groups to critique and refine the underlying analytical work used in establishing the housing goals.

Subpart A—General

Overview

The GSEs commented that various parts of the proposed rule were not legally sustainable because the Secretary's actions were, for example, "unreasonable," "arbitrary," "capricious," "not supported by a cogent rationale," "in direct conflict with the plain meaning of the Act," or "an improper exercise of the Secretary's discretion." HUD has carefully reviewed these concerns and applicable case law,[13] and has concluded that its exercise of regulatory authority in promulgating this final rule is, in all respects, well within the discretion accorded to HUD by Congress under FHEFSSA and is well-supported by ample evidence and considered reasoning.

Section 81.2—Definitions

Many of the definitions remain the same as in the proposed rule or have been modified for purposes of clarity only. This final rule, however, does change some definitions substantially in response to comments. This section of the preamble mainly discusses changes in definitions relating to housing goals. The preamble text concerning subpart D discusses the definition of "new program", and the text concerning subpart F discusses the definitions of "proprietary information" and "public data".

Contract Rent. Freddie Mac asked that the definition of "contract rent" be revised to allow the GSEs to decrease contract rent by the amount of any "rent concessions." Supporting, generally, the rule's contract rent definition, Freddie Mac commented that: underwriting determinations are based on post-concession rents; Freddie Mac adheres to that general practice; and allowing rent concessions to be taken into account would materially increase affordability of some units.

Under FHEFSSA, the affordability of housing units and their eligibility for counting towards a goal is based on their rents. Rent concessions are relatively short-term in nature. Their consideration in calculating rents would result in unrealistically low levels of rent, considering that after the rent concession period ends, the rents are increased. Accordingly, it is not appropriate to consider rent concessions in defining or determining rent.

Dwelling unit. Freddie Mac objected to the inclusion of a definition for "dwelling unit" in the rule. Freddie Mac asserted that under section 302(h) of the Freddie Mac Act, which defines "residential mortgage," Freddie Mac is authorized to define "dwelling unit."

Although Freddie Mac is authorized to define the term "dwelling unit" under the Freddie Mac Act, it is appropriate that this final rule define the term under FHEFSSA. The Secretary is charged with measuring the extent of compliance with the housing goals under section 1336 of FHEFSSA. Because FHEFSSA specifically authorizes the Secretary to consider units in formulating the goal, a definition of the term "unit" or "dwelling unit" is integral to counting GSEs' purchases toward achievement of the goals.

The GSEs also commented that, if "dwelling unit" is defined under the rule, the definition of "dwelling unit" should include the following types of housing: (1) A single-family dwelling with a home office; (2) dwelling units in an apartment complex with retail space or a day care center; and (3) single-room-occupancy buildings and group homes that may lack separate kitchens

[10] 58 FR 53048 and 53072.

[11] 59 FR 61504 (November 30, 1994).

[12] The 40 comments from individuals were form letters, signed by persons from several different States but containing identical information except for, in a few instances, written-in additional observations. These comments were limited to housing goals issues and generally favored, and recommended strengthening of, the rule.

[13] *See, e.g., Chevron, U.S.A., Inc.* v. *Natural Resources Defense Council*, 467 U.S. 837 (1984).

or bathrooms for each unit of residence. In response to this point, the definition of "dwelling unit" is changed in the final rule to include single room properties, dwellings that include offices, and dwellings located in mixed-use properties.

Median Income. Freddie Mac, addressing the Low- and Moderate-Income Goal, commented that the definition of "median income" should be revised to permit household income in nonmetropolitan areas to be measured against the greater of the county median income or the statewide nonmetropolitan median. Freddie Mac noted that "the proposed rule would classify a borrower with an income of $12,000 living in a county with median income of $11,000 as 'upper income.'" The final rule (in § 81.15) clarifies that "median income" for families outside of metropolitan statistical areas (MSAs) means the greater of the county median income or the statewide nonmetropolitan median income for the area where the property is located.

Mortgages and Interests in Mortgages. The GSEs commented that, in tracking the Freddie Mac Act, the definition of "mortgage" appears to have dropped a line relating to interests in mortgages. Freddie Mac suggested adding to the rule's definition "* * * and includes interests *in mortgages. Such term shall also include a mortgage, lien, or other security interest on* the stock or membership certificate." (Emphasis in original.)

FHEFSSA requires the Secretary to establish goals for the "purchases of mortgages." The proposed and final rules specifically allow certain interests in mortgages, such as participations and credit enhancements, to count toward achievement of the goals, because these transactions are essentially the same as mortgage purchases. The final rule provides that "interests in mortgages" are mortgages and count toward achievement of the housing goals. Because defining mortgages to include all "interests in mortgages" is potentially over-inclusive and may encompass transactions or activities that are not equivalent and should not appropriately count toward achievement of the goals, the counting provisions in § 81.16(b) list specific types of transactions that do not count toward achievement of the goals, including certain "interests in mortgages."

Refinancing. Freddie Mac commented that, by excluding from the definition of "refinancing" the renegotiation of a multifamily mortgage when a balloon payment is due within one year, it is not clear whether the excluded activity is intended to be treated as a "mortgage purchase." The final rule includes as new mortgages multifamily mortgages that have balloon payments due within 1 year after the date of closing of the renegotiated mortgages.

Very-low-Income. Freddie Mac commented that the term "very-low-income" should be defined consistently with certain other HUD regulations and programs. Freddie Mac noted that these programs' formulas for determining eligibility sets the "very-low-income" limit above 60 percent of the local area median income in 48 metropolitan areas and 1,502 nonmetropolitan counties with either unusually low income or unusually high housing costs. Freddie Mac urged HUD to create exceptions to the definition of "very-low-income" for multifamily projects benefiting from a Federal assistance program, where such projects are located in areas with either unusually low income or unusually high housing costs.

As part of the Special Affordable Housing Goal, Congress specifically required the Secretary to establish a housing subgoal that targets very-low-income families. Section 1303(19) of FHEFSSA defines "very low-income" as:

(1) In the case of owner-occupied units, income not in excess of 60 percent of area median income; and

(2) In the case of rental units, income not in excess of 60 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

In certain HUD programs the Secretary has statutory authority to make the type of adjustments that Freddie Mac has requested HUD to make under FHEFSSA. However, FHEFSSA does not provide similar authority. The only adjustments to the definition of "very-low-income" that are permissible under FHEFSSA are adjustments for smaller and larger families in the case of rental units.

Subpart B—Housing Goals

Overview

The greatest amount of controversy in the public comments centered on the housing goals. Fannie Mae and a number of commenters focused on the levels of the goals, the concept of "leading the industry," and the methodology used to estimate the size of the conventional market for each of the goals. In its critique of the housing goals portion of the proposed rule, Freddie Mac advanced six major concerns: (1) The market estimates are flawed and will result in infeasible goals over time; (2) the proposed rule does not establish a link between identified housing needs and the housing goals; (3) HUD has not adequately taken market volatility into account in establishing the goals; (4) the GSEs' previous performance is incorrectly assessed; (5) the proposed rule presents too narrow a concept of leading the industry; and (6) the proposed rule does not adequately address the risks posed by increased levels of multifamily purchases. Freddie Mac also expressed concern that in establishing the goals as proposed, HUD would micromanage the type and location of the GSEs' mortgage purchases, severely limiting the GSEs' ability to respond to the market in a timely manner.

General comments on the housing goals are discussed in this section. More detailed analyses of some of these issues are presented in four technical appendices immediately following the text of the rule, as well as in an economic analysis of the rule prepared by HUD.

Levels of the Goals

Fannie Mae requested that the levels of the goals be set lower than in the proposed rule, commenting that the housing goals should be set at a "reasonable and appropriate share" of Fannie Mae's business. Fannie Mae also urged HUD to refrain from frequent adjustments in the goals and to avoid increasing the goals if Fannie Mae exceeded them. Similarly, Freddie Mac stressed the necessity of setting "conservative" goals that are capable of being met under a variety of economic conditions.

Both GSEs agreed that HUD had not adequately considered the impact that changes in national economic conditions could have on the size of the conventional, conforming market. The GSEs commented that HUD was assuming, in its market estimates, that the unusually favorable economic and housing market conditions of 1993–1994 would continue in the future.

A number of commenters, mainly representing public-interest organizations, asked for more aggressive goal-setting, urging that the levels of the goals were too low, given the benefits provided to the GSEs by virtue of their Federal charters, their current levels of performance, and the scope of the nation's housing problems.

Some commenters, primarily industry representatives, expressed concern with the proposed rule's stated intention to set future goals at higher levels. A number of commenters joined with the GSEs in recommending that goals remain stable over the long term and be imposed at reasonable levels that not only assure the GSEs will increase their support of low- and moderate-income housing, but also reflect that economic conditions may influence the capacity of the GSEs to support such housing in any given year.

The GSEs held differing views on how far into the future the goals should be fixed. Fannie Mae commented that the goals should be fixed for a substantial period of time, to allow the GSEs to incorporate the goals into their long-range business plans and corporate strategies. Freddie Mac expressed serious doubt that meaningful goals could be established for a period more than two years into the future.

Under the rule, the following goals are established: the annual goal for each GSEs' purchases of mortgages on housing for low- and moderate-income families is—for 1996, 40 percent of the total number of dwelling units financed by that GSE's mortgage purchases in 1996 and, for each of the years 1997–99, 42 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years; the annual goal for each GSEs' purchases of mortgages on housing located in central cities, rural areas, and other underserved areas is—for 1996, 21 percent of the total number of dwelling units financed by that GSE's mortgage purchases in 1996 and, for each of the years 1997–99, 24 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years; and the annual goal for each GSEs' purchases of mortgages on special affordable housing is—for 1996, 12 percent of the total number of dwelling units financed by that GSE's mortgage purchases in 1996 and, for each of the years 1997–99, 24 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years; additionally, the special affordable housing goal for each of these years shall include mortgage purchases financing dwelling units in multifamily housing totalling not less than 0.8 percent of the dollar volume of mortgages purchased by the respective GSE in 1994. For 2000 and thereafter the Secretary shall establish new annual goals; pending establishment of goals for 2000 and thereafter, the annual goal for each of those years for each of the three goals shall be the same as the 1999 goals.

The levels of the housing goals established in this final rule meet the following objectives: they are reasonable and appropriate, they reflect consideration of the statutory factors for establishing housing goals, and they are set far enough into the future to allow the GSEs to engage in long-term planning.

First, the levels of the three housing goals are reasonable and appropriate, as summarized below in the discussion of each of the housing goals and detailed further in the appendices. The goals have been set judiciously in relation to reasonable estimates of the market share of the mortgages originated that would qualify under the goals. The levels of the goals also reflect the cyclical nature of the mortgage markets and the need to provide a margin for unforeseen macroeconomic impacts.

Second, the levels of the goals reflect a full consideration of all factors for consideration under FHEFSSA. The GSEs expressed concern that the process used by the Secretary for establishing the levels of the goals was too rigid, driven primarily by the market-share estimates for each of the goals. This concern is unfounded. In establishing the goals, the Secretary carefully considered the factors mandated by FHEFSSA. These factors, which encompass more than just the estimate of the market for each goal, include housing needs, the financial conditions of the GSEs, economic and demographic conditions, previous performance, and the GSEs' leadership role within the industry. The appendices that accompany this rule explain in detail the evaluation of these factors.

The levels of the goals represent a benchmark against which the GSEs' performance can be measured. The levels are designed to be standards, not ceilings. They are not so high that the GSEs are likely to fail to meet the goals. Instead, the levels of the goals represent a reasonable and appropriate share of the GSEs' business that—at a minimum—should be devoted to meeting the needs of lower-income renters and home buyers and of residents of areas underserved by the mortgage markets. The final rule has been revised to allow the GSEs maximum flexibility in choosing how they achieve the goals. The levels of the goals also reflect careful consideration of the concerns expressed by the GSEs and other commenters that economic and demographic conditions be taken into account. The levels of the goals have been set so that they should be attainable in economic conditions more adverse than those experienced in the past few years.

Third, HUD considered carefully the comments expressing concern about the future levels of the goals. To provide the GSEs with the predictability needed to manage their operations, the levels of the goals have been established for the next four years. The Secretary can, by regulation, change the level of the goals for the years 2000 and beyond based on the experience of the previous years. If the Secretary elects not to change them, they will be left at the 1999 levels for future years.

Leading the Industry

The proposed rule asserted that the GSEs have a responsibility because of their Federal charters to lead the industry in expanding housing opportunities for low-income home buyers and renters and for residents of underserved areas. The proposed rule requested comment on how the Secretary should consider "leading the industry" in establishing the levels of the housing goals.

Freddie Mac commented that the proposed rule's presentation of "leading the industry" was too narrow. Freddie Mac argued that HUD, in suggesting that leading the industry only be judged on percentage terms, ignored the GSEs' non-goal-related activities that provide stability and liquidity to the mortgage markets. Freddie Mac suggested that HUD should view industry leadership to include GSE activities that broaden the entire market, including "pioneering innovation, the establishment of new business practices and programs, and the generation of market efficiencies." Further, HUD should evaluate the GSEs' charge to lead the industry in quali ative, and not just quantitative, terms.

Several industry commenters echoed Freddie Mac's concerns about considering "leading the industry" in merely percentage terms. They commented that Congress had included the ability of the GSEs to lead the industry as one of several factors to be considered. Further, they noted that leading the industry can be demonstrated in many ways beyond just the level of mortgage purchases. Reaching reasonable goals would be a component of leadership, the Mortgage Bankers Association ("MBA") commented, but "the attainment of steadily increasing benchmarks should not be regarded as a prerequisite for leadership."

Other commenters differed with this approach. The National Training and Information Center ("NTIC") commented that the proposed goals were "too low" and "do not ensure that the GSEs will 'lead the market' in the production of affordable housing and housing in underserved areas." NTIC stated that, although the GSEs achieved the 1993 goals, the goals and the GSEs "ha[d] not made a significant presence in these neighborhoods." The Los Angeles Housing Department argued

that the GSEs ought to purchase "a higher percentage of mortgages than are originated by the market under each housing goal."

The GSEs' efforts to create liquidity and stability in the mortgage markets, as well as the introduction of innovative products, technology, and processes, clearly demonstrate their leadership role within the industry. These activities have strengthened the mortgage industry and increased its ability to serve homeowners and renters of all incomes throughout the country. Congress chartered the GSEs to carry out four public purposes: (1) To provide stability; (2) to respond appropriately to the mortgage markets; (3) to assist the residential mortgage market, including serving low- and moderate-income families; and (4) to promote access to mortgage credit throughout the nation. In FHEFSSA, Congress acknowledged, as does HUD, the substantial contributions the GSEs have made and continue to make in creating liquidity and stability in the overall mortgage market. However, in FHEFSSA, Congress developed a mechanism to ensure that the GSEs served lower-income families and underserved areas. HUD, through its focus on the housing goals and performance-based measurements, is carrying out that congressional intent.

Purpose of the Goals

Freddie Mac commented that HUD had premised the proposed rule on the mistaken belief that the GSEs are not fulfilling their statutory purposes. Freddie Mac asserted that its 1993 and 1994 performance under the housing goals "demonstrate[s] that Freddie Mac is strongly committed to fulfilling its obligation to serve [lower-income households and residents of specific areas]."

Both GSEs commented that a clear connection had not been established between the general housing needs of low- and moderate-income households and those needs that can be addressed by the GSEs. Freddie Mac stated that it is not a problem of availability of mortgage credit that dominates the unaddressed needs of low-income families, but a lack of sufficient incomes or subsidies to support homeownership or rental payments.

Freddie Mac expressed concern that the proposed rule was based upon a "fundamental misinterpretation" of what Congress had intended to achieve through FHEFSSA. Freddie Mac denied that FHEFSSA's passage reflected a congressional presumption that the GSEs had failed to serve lower-income households or certain geographic areas adequately.

Both GSEs suggested that the goals amounted to using the GSEs to allocate credit. Fannie Mae also suggested that the goals were being used to assign to the GSEs the responsibility for alleviating specific housing needs. Both GSEs argued that Congress had no such intent.

The GSEs' comments that the housing goals result in credit allocation by the Secretary are difficult to understand. Congress created the GSEs and provided them federally derived benefits to achieve national housing purposes. Congress also required the establishment of explicit goals for the GSEs' purchases of mortgages financing housing for lower-income households and in communities underserved by the mortgage markets. Congress created the GSEs to develop liquidity and stability in the mortgage markets, and Congress specifically charged the GSEs to provide credit to low- and moderate-income households and to all areas. Congress clearly believed that doing so was not inconsistent with the GSEs' operation as profitmaking, shareholder-owned entities.

Criticism that HUD failed to establish a clear connection between identified housing needs and the proposed housing goals reflects a misunderstanding of the requirements placed on the Secretary by FHEFSSA. FHEFSSA directs the Secretary to establish the housing goals after analyzing a number of factors, including national housing needs. HUD's analysis, set forth in the appendices, describes the decline in homeownership rates and the loss of affordable rental stock, and provides background information on the current state of the nation's housing needs. These analyses are not designed as a blueprint for the GSEs' achievement of the housing goals. Nor do they suggest that all those needs identified can or should be met through GSE activities. These analyses do, however, set forth the bases for establishing these goals.

Credit Risk of Multifamily Purchases

Freddie Mac commented that the proposed rule had not adequately addressed the higher credit risk it might face in meeting higher housing goals. Freddie Mac claimed that it would have to purchase "significantly higher levels" of multifamily mortgages, a business with a different and higher level of risk than single-family lending. Further, Freddie Mac argued that any additional losses it might experience in order to achieve higher goals would be a direct subsidy on the part of Freddie Mac—something not required by FHEFSSA.

HUD agrees that multifamily financing is a different business than single-family financing, posing a different level of risk. In considering the issue of credit quality in the multifamily market, HUD finds it instructive to compare the levels of activity between the two GSEs. In 1994, Fannie Mae purchased five times as many multifamily mortgages as Freddie Mac. Even after factoring in the relative sizes of the businesses of each GSE—Fannie Mae's overall dollar volume of business is about 25 percent larger than Freddie Mac's—a substantial disparity still exists. Fannie Mae's significantly greater volume of multifamily purchases has not impaired the company's financial health. Further, the economic analysis prepared for this rule does not support the argument that the goals will expose the GSEs to unacceptably high levels of credit risk. Sufficient investment-quality opportunities exist in the marketplace to allow Freddie Mac to achieve all of the housing goals without resorting to the purchase of riskier mortgages.

HUD recognizes that Freddie Mac experienced losses on its multifamily business in the late 1980s, in part because of flawed corporate oversight mechanisms, resulting in Freddie Mac's withdrawal from the multifamily market. However, half a decade has passed since that experience, providing Freddie Mac with sufficient time to develop a multifamily business. Indeed, Freddie Mac has publicly committed itself to this market. Leland Brendsel, Chairman and Chief Executive Officer of Freddie Mac, articulated the GSE's attitude toward this market segment, noting that "our re-entry into the multifamily market [is] * * * our most important next step in meeting our nation's housing needs. We are committed to having the right people, programs, and systems in place so that our multifamily mortgage purchases will be sustainable over the long term." [14] HUD accepts as sincere Freddie Mac's repeated public statements and representations that it is committed to a long-term, meaningful role in the multifamily market; the housing goals take that commitment into account.

[14] Prepared statement of Leland C. Brendsel before the Subcommittee on General Oversight, Investigations, and the Resolution of Failed Financial Institutions of the Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, April 20, 1994, pp. 4–5.

Market Estimates in Establishing the Goals

In establishing the goals, the Secretary is required to assess, among a number of factors, the size of the conventional market for each goal. HUD developed a straightforward technique for estimating the size of the conventional conforming market for each of the goals. This technique draws on the existing major sources of data on mortgage market activity.

Both GSEs expressed strong criticism of HUD's use of specific data elements in constructing its estimates of market size; for example, estimates of the proportion of 1- to 4-unit rental properties or the levels of multifamily originations. Although both GSEs criticized how data had been interpreted in HUD's market-share models, neither GSE, nor any other commenter, objected to HUD's basic model for calculating the size of the markets relevant to each of the housing goals. However, Freddie Mac provided a detailed set of objections to the use of certain data sources or assumptions, concluding that HUD's market estimates were "fatally flawed." Fannie Mae argued that market estimates employed by HUD "created an artificial market description based on interpretations of the data available to [HUD], which are not consistent." Fannie Mae commented that the Secretary deliberately selected existing data interpretations to yield higher goals. Several other commenters, all industry trade groups, also criticized aspects of HUD's market-share estimates.

Freddie Mac maintained that the flaws in HUD's estimation process would result in goals that were too high, because HUD had overestimated the size of the rental market. Freddie Mac presented a comparison of available market-share estimates, explained deficiencies it believed were present in the data employed by HUD, and claimed that HUD had chosen the least-favorable of the databases that could have been employed in reckoning appropriate goals for the GSEs.

Both GSEs argued that the role of multifamily financing in the mortgage market was consistently overstated in the proposed rule. Freddie Mac provided data to support its assertion that the rule's estimates of multifamily originations overstated both the total amount of originations to be expected and the degree to which multifamily originations are available to the secondary market.

Both GSEs commented that HUD's analysis ignored the impact that changes in national economic conditions can have on the size of the mortgage market. The GSEs noted that their recent efforts to expand the reach of the secondary market in support of lower-income households were assisted by highly favorable interest rates and economic conditions that will likely not persist. Several commenters suggested that HUD consider more fully the impact of changing economic conditions.

In considering the levels of the goals, HUD examined carefully the comments on the methodology used to establish the market share for each of the goals. HUD contracted with the Urban Institute to conduct an independent review that drew upon its resources of well-respected academicians and others in evaluating HUD's methodology. Based on that thorough evaluation, as well as HUD's additional analysis, the basic methodology employed by HUD is a reasonable and valid approach to estimating market share, and Freddie Mac's claim that the methodology is "fatally flawed" is without merit.

HUD agrees that a comprehensive source of information on mortgage markets is not available. HUD considered and analyzed a number of data sources for the purpose of estimating market size, because no single source could provide all the data elements needed. In the appendices, HUD has carefully defined the range of uncertainty associated with each of these data sources and has conducted sensitivity analyses to show the effects of various assumptions. Technical papers prepared by the Urban Institute and other academicians support HUD's analysis.

A number of technical changes have been made in response to the comments and the evaluation by outside experts, but the approach for determining market size has not been modified substantially. The detailed evaluations show that the methodology, as modified, produces reasonable estimates of the market share for each goal.

In response to concerns expressed about the volatility of the mortgage markets over time, HUD has taken three steps with regard to the methodology. First, HUD conducted detailed sensitivity analyses for each of the housing goals to reflect economic conditions that are less conducive to homeownership than those that existed during 1993 and 1994. Second, HUD elaborated further on the impact of increased interest rates on long-term affordability and the ability of lower-income households to become homeowners. Third, with regard to volatility in the multifamily market, the Urban Institute, at HUD's request, designed a "steady-state" multifamily originations model that produces an alternative means of estimating multifamily originations. This alternative model is designed to generate conservative forecasts of future multifamily loan originations because it omits refinancing activity and balloon loans due to mature in the next several years. This model is less sensitive to year-to-year fluctuations in the historical volume of mortgage originations.

Criticism of the methodology focused, in part, on the estimated size of the multifamily market. The GSEs proposed that HUD use the volume of originations as reported in the Home Mortgage Disclosure Act ("HMDA") database—$15 billion in 1994—as the accurate number of multifamily originations, as opposed to HUD's $30 billion estimate derived from other data sources. Four of the studies HUD commissioned from the Urban Institute considered various aspects of the multifamily market. HUD also consulted with experts at the Federal Reserve Board, at the Bureau of the Census, and in industry trade groups to assist HUD in carefully evaluating the GSEs' claim that HMDA data provide an accurate number of total multifamily originations.

HUD found a consensus that HMDA data underreports multifamily originations. HMDA, alone, is not an accurate survey of the total market; it was not designed to be one. It includes only information reported by a subset of institutions that originate multifamily loans: large commercial banks, thrifts, and mortgage bankers in metropolitan areas. In addition, HMDA underestimates multifamily lending by both mortgage bankers and commercial banks. The additional analyses conducted in response to the comments support the $30 billion multifamily estimate used by HUD.

Three-Year Rolling Average

Fannie Mae and an industry commenter suggested that HUD measure performance against each goal using a 3-year rolling average. Fannie Mae contended that a 3-year average "will ameliorate the difficulty that can arise in managing to a specific goal when major factors in the marketplace that are outside of our control can heavily influence our ability to manage to a specific goal level."

FHEFSSA and the legislative history do not support use of a 3-year rolling average. Instead, they provide a scheme whereby the Secretary is to set goals for each year and performance is to be evaluated during and at the end of each year by the Secretary. FHEFSSA provides that the housing goals are

"annual" goals. Moreover, if the Secretary determines that there is a substantial probability that the GSE will fail to meet a goal *"in the current year"* and a housing plan is required, the housing plan is to describe the actions the GSE will take "to make such improvements as are reasonable in the remainder of such year."[15] Similarly, if the Secretary determines that a GSE has failed to meet a housing goal, the requisite housing plan is to describe the actions the GSE will take "to achieve the goal for the next calendar year."[16] The legislative history also refers to the goals as annual goals.[17]

Interpreting the statute to allow the use of a 3-year rolling average, instead of an annual goal with performance assessed by whether the GSE meets each year's individual goal, would render the statutory provisions insignificant or inoperative. Such a structure would ignore an "elementary rule of [statutory] construction that effect must be given, if possible, to every word clause and sentence of a statute."[18] Accordingly, the Secretary has determined that using a 3-year rolling average was not intended by or permitted under FHEFSSA and, therefore, the final rule contains annual goals. Fannie Mae's root concern—that macroeconomic and other conditions outside its control may render a goal infeasible—is addressed in those provisions of the rule concerning evaluation of GSE performance; these conditions are considered in determining whether a goal was or is feasible. The Secretary can modify a goal, or determine that it was infeasible, if economic conditions change.

Low- and Moderate-Income Goal, Section 81.12

The proposed rule provided that 38 percent of the total number of dwelling units financed by each GSE's 1995 mortgage purchases and 40 percent of their 1996 purchases finance housing for low- and moderate-income families. In 1994, Fannie Mae reported that its performance was 45.83 percent under the Low- and Moderate-Income Goal in the Interim Notice of Housing Goals; Freddie Mac reported its performance as 37.46 percent. As detailed in the appendices, the Secretary determined that the conventional conforming market for this goal is 48–52 percent. This final rule requires that 40 percent of the total number of dwelling units financed by each GSE's mortgage purchases in 1996 and 42 percent in 1997–1999 be affordable to low- and moderate-income families.

Fannie Mae objected to the goal set forth in the proposed rule, recommending a permanent goal of 38 percent, unless and until the economic environment changes significantly. Other commenters stated that the goal was not high enough to challenge the GSEs to increase their mortgage purchases for low- and moderate-income housing. These commenters emphasized the leadership capacity of the GSEs and indicated that an increase in secondary market activity by Fannie Mae and Freddie Mac would help the industry as a whole, because the GSEs' business decisions influence the rest of the market.

The Low- and Moderate-Income Housing Goal established in the final rule is reasonable and appropriate considering the factors set forth in FHEFSSA. HUD addressed the comments on the potential for fluctuations in the market by setting the level of the goal conservatively, relative to market estimates, with the understanding that dramatic changes in the market may require reevaluation of the level of the goal. However, current examination of the size of the market available to the GSEs demonstrates that the number of mortgages secured by housing for low- and moderate-income families is more than sufficient for the GSEs to achieve the goal. Appendices A and D provide extensive detail on the statutory factors considered in establishing the level of the goal.

A number of commenters also requested that the goal include subgoals, targeting a portion of the GSEs' business to multifamily housing and a portion to single-family housing. One commenter also requested the establishment of subgoals to focus a percentage of the GSEs' business on low-income households and another percentage on moderate-income households. Such subgoals would ensure that the GSEs undertake more complex and more time-consuming, and less standard, business to achieve the goal. Subgoals are not established at this time because: (1) The statute provides that subgoals under the Low- and Moderate-Income Goal are unenforceable; (2) subgoals suggest micromanagement of the GSEs' business decisions and unnecessary regulatory interference by HUD; and (3) the Low- and Moderate-Income Goal was designed to focus a portion of the GSEs' business on housing for both low- and moderate-income families, whether that housing is single-family or multifamily, rental or owner-occupied: a unitary goal should achieve this purpose.

Central Cities, Rural Areas, and Other Underserved Areas Goal, Section 81.13

This section of the preamble discusses the public comments on the Central Cities, Rural Areas, and Other Underserved Areas Goal ("Geographically Targeted Goal"), first for urban and then for rural mortgage purchases financing housing in these areas. It also addresses a cross-cutting issue of the legal basis for defining the Geographically Targeted Goal in the manner implemented by this rule.

Level of Geographically Targeted Goal

The Central Cities, Rural Areas, and Other Underserved Areas Goal ("Geographically Targeted Goal") is established in this rule at 21 percent of GSE business in 1996, and 24 percent in 1997–1999. Under the proposed rule, the Geographically Target Goal would have been established: for 1995, at 18 percent; for 1996, at 21 percent; for 1997 and 1998, a percentage ranging from 21 percent to the proportion or percentage or mortgages qualifying under the goal that are originated in that year's market ("the amount of the market") or the amount of the market plus an additional percentage; and for each year after 1998, a percentage ranging from 21 percent to the amount of the market or the amount of the market plus an additional percentage or, if HUD does not set an annual goal for those years, the goal for such years shall be the same as the most recent goal established by HUD pending further adjustment by HUD through rulemaking. In Appendix D, HUD estimates that the mortgage market in the areas covered by this goal will account for 25–28 percent of the total number of newly mortgaged dwelling units. In 1994, 29 percent of Fannie Mae's purchases financed dwelling units located in all underserved areas, as defined in the final rule, compared with 24.2 percent of Freddie Mac's purchases.

Mortgage Purchases in Metropolitan Areas, Including Central Cities and Other Underserved Areas

The rule provides that for properties in metropolitan areas, mortgage purchases will count toward the goal when such purchases finance properties that are located in census tracts where either the median income of families in the tract does not exceed 90 percent of the area median income, *or* minorities comprise 30 percent or more of the residents and the median income of families in the tract does not exceed 120 percent of the area median income. This definition has been revised from that in the proposed rule which encompassed areas at 80 percent (rather than 90 percent) of median income.

As detailed in Appendix B, this goal emerges from HUD's consideration of the six statutorily mandated factors for establishing the goal, supported by HUD's and other researchers' analyses of mortgage lending data. The final rule's use of a census-tract-based approach to identify underserved metropolitan areas is supported by the legislative history of FHEFSSA.

The final rule's definitions of central cities and other underserved areas, as the underserved census tracts of these areas, encompass 47 percent of metropolitan census tracts and 44 percent of metropolitan residents. The average mortgage denial rate in these tracts is 21 percent—almost twice the denial rate in the non-included tracts. The definition in the final rule adds 3,657 tracts to the definition in the proposed rule. These added tracts also have significant problems with access to mortgage credit, as evidenced by relatively high mortgage denial rates.

The commenters' recommendations for the underserved area definition as it applies to central cities and other underserved areas can be organized into three categories: (1) count all mortgages in OMB-defined central cities; (2) count mortgages in certain census tracts, as in the proposed rule or defined more broadly than under the proposed rule; and (3) modify the list of OMB-defined central cities to include or exclude various cities.

Tract-Based Versus Whole-City Approaches

Fannie Mae strongly objected to HUD's census-tract-based formulation of this goal, insisting that the goal should include "central cities," as defined as such on lists issued periodically by OMB, in addition to high-minority or low-income census tracts in the remaining portions of metropolitan areas as well as rural areas. Fannie Mae's objections were based on both policy and legal arguments; the discussion of the policy issues follows immediately and the legal arguments are considered at the end of this section of the preamble.

Fannie Mae commented that its experience in developing partnerships with central cities demonstrates that including only underserved segments of central cities and rural areas, thereby focusing Fannie Mae's attention especially on low-income or minority communities, would be a mistake. Fannie Mae stated that "community leaders, Congress, and many national policy makers argue that the health of low-income and minority communities within central cities is tied directly to the overall health of the community."

A number of commenters also disagreed with the proposed rule's use of a census-tract-based approach, arguing that it did not reflect the manner in which political leaders, real estate professionals, and lenders work in cities. According to the Mortgage Insurance Companies of America, "rewriting the geographic goals to narrow them substantially is inconsistent with the objective of improving cities." The MBA expressed concern that the criteria for the Geographically Targeted Goal would exclude areas that are experiencing or are about to experience "transitioning minority and low-income demographic patterns"; MBA recommended that HUD broaden the areas covered. The National Association of Realtors (NAR) noted that, conceptually, excluding certain parts of central cities from the definition should not result in less mortgage activity for those cities, because "such an approach could actually improve overall credit flows by focusing GSE attention on those specific areas most in need." However, NAR went on, "actual marketplace dynamics are more complex than the theory," and called for a "more holistic approach to addressing the mortgage credit needs of the central cities."

Other commenters supported the idea of targeting by means of census tracts, as proposed. Although Freddie Mac commented that the scope of the goal should be broadened, Freddie Mac "applaud[ed] the Secretary's general methodological approach in defining what areas should be included" in the Geographically Targeted Goal. Representative Joseph P. Kennedy "strongly support[ed] the idea of not using the OMB definition of central cities for this goal, since it is clear that the OMB definition does not identify areas underserved by the mortgage markets." The American Bankers Association (ABA) commented that using the OMB list of central cities "has not done enough to focus the GSEs on the truly underserved portions of urban markets;" it favored targeting the GSEs' activities on underserved areas, rather than entire cities. The Local Initiatives Support Corporation (LISC) agreed that jurisdictional boundary lines were not particularly useful in identifying places that need better access to mortgage credit and noted with approval that the proposed rule "dovetails with new regulations implementing the Community Reinvestment Act which also focus on low-income geographies."

HUD's Analysis of Metropolitan Underserved Areas

Under FHEFSSA, HUD may define the terms "central cities", "rural areas", and "other underserved areas". The research conducted by the GSEs, other mortgage-market economists, and HUD supports the premise that the location of a census tract—whether it is within a central city or not—has minimal impact on whether the tract is underserved. Instead, these studies have found that mortgage availability in a census tract is strongly correlated with the minority concentration or median income of that tract. The most thorough studies available demonstrate that areas with lower incomes and higher shares of minority residents consistently have poorer access to mortgage credit, with higher denial rates and lower origination rates for mortgages. With income, minority composition, and other relevant census tract variables controlled for, differences in credit availability between central cities and suburbs are minimal.

Under its contract with HUD, the Urban Institute evaluated the proposed definition of central cities and underserved areas, as well as the use of various alternatives advanced by commenters. The Urban Institute researchers criticized the use of the OMB definition of central cities—encompassing all areas of designated cities—because that definition treats all areas in central cities as if they have equal mortgage-access problems, when, in fact, areas within central cities are not homogeneous in this regard.[19] Use of the OMB definition of central cities, as advanced by Fannie Mae, would add 8,833 central city tracts to the 13,554 central city tracts included under this final rule's definition. Credit access is not a problem in these added tracts—their mortgage denial rate is 11 percent, or half of the average denial rate in the tracts covered by this final rule. Based on comparisons such as these, HUD has concluded that a targeted approach for defining underserved areas is required, to target the goal and the GSEs' activities to assuring access to mortgage credit in central cities.

HUD considered the comments that this goal should facilitate coordination of GSE outreach with the efforts of city governments to expand investment in

[15] Section 1336(c)(2)(B).

[16] Section 1336(c)(2)(A).

[17] *See, e.g.*, S. Rep. No. 282, 102d Cong., 2d Sess, at 5 (1992) (S. Rep.); H.R. Rep. No. 206, 102 Cong., 1st Sess., at 34 and 36 (1991) (H. Rep.); 138 Cong. Rec. S8607 (daily ed. June 23, 1992) (statement of Sen. Riegle); 138 Cong. Rec. S17908 (daily ed. Oct. 8, 1992) (statement of Sen. Cranston).

[18] 2A Norman J. Singer, *Sutherland on Statutory Construction* § 46.06 (5th ed. 1993).

[19] Urban Institute, George Galster, "Comments on Defining 'Underserved' Areas in Metropolitan Regions," prepared for the U.S. Department of Housing and Urban Development, August 15, 1995.

their jurisdictions. The Secretary does not believe the more targeted approach adopted in this rule inhibits such valuable coordination. Many urban revitalization programs and reinvestment efforts, in fact, target specific neighborhoods and areas, rather than an entire city. These programs operate on the common-sense premise that targeting all areas would result in no meaningful targeting. Cities use a neighborhood-based approach, for example, in implementing their Community Development Block Grant programs, defining enterprise communities and empowerment zones, and focusing the activities of redevelopment authorities.

HUD also considered the argument that the lending industry is oriented toward market areas defined in city-wide terms. However, the lending industry does not generally approach lending activity from a city-wide perspective. Lenders generally try to achieve geographic diversification within a city, making distinctions among submarkets. Further, the efforts of lenders to comply with the Community Reinvestment Act[20] are clearly census-tract-based and are targeted to neighborhoods, not to all parts of a city.

Broaden Tract-Based Approach

Freddie Mac's major observation on the scope of the goal was that the definition of underserved areas should be expanded to include census tracts where: (1) the median income of families is not greater than 100 percent of the area median income; or (2) 20 percent or more of the residents in the census tracts are minority.

This alternative definition would add substantially more tracts to the goal, and these tracts have substantially lower denial rates than the tracts included under the final rule. This is noteworthy because it indicates that Freddie Mac believes that access to credit is more limited in more areas throughout the nation than does HUD. The mortgage credit denial rate for the tracts added by the Freddie Mac definition is 15 percent, which is only slightly higher than the denial rate for all metropolitan areas and is significantly less than the 21 percent denial rate in the tracts covered by the goal established in the final rule.

Freddie Mac commented further that if the Secretary increased the scope of the goal to include moderate-income census tracts, a broad, geographically-based goal would be established, which would be consistent with the Low- and Moderate-Income Goal and Congress's intention not to "force the enterprises to 'target' to meet niche markets." HUD does not believe that the final rule's definition, which covers nearly half of all metropolitan residents, defines a niche market.

Finally, HUD notes in response to criticism that the goals overlap, that the three goals established by Congress are distinct. In contrast to the other goals, income of borrowers is not used in the Geographically Targeted Goal as a requirement, but as a proxy for those areas that are underserved by mortgage markets, based on the lower origination and higher denial rates found in low-income census tracts. The Geographically Targeted Goal does not depend on the income or minority status of the individual borrower; the location of the property determines whether units count under the goal. Some overlap, however, among the goals can be expected, given the close relationship between the purposes of serving low- and moderate-income families and promoting "access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) * * *."[21] To the extent that overlap exists, the rule takes this into account, by providing that mortgage purchases may count toward each of the goals.

Modify OMB List of Central Cities

Fannie Mae suggested that HUD could exclude from the OMB "central cities" list some central cities that do not qualify, statistically, as underserved. MBA, which recognized problems with the OMB list, and the National Association of Affordable Housing Lenders recommended developing criteria for excluding well-served cities from the OMB list. A large mortgage company commented that the Secretary should use OMB's list of central cities and then add other cities that clearly have underserved needs, but are not on OMB's list. The National Association of Home Builders (NAHB) recommended that HUD develop a formula for excluding from the OMB list the higher-income cities, and then adding "underserved" areas of other central cities and certain other non-rural jurisdictions.

The Secretary has carefully considered whether modifying the OMB list of Central Cities will address the fundamental concern with continued use of the OMB definition: is it consistent with the congressional intent to focus a portion of the GSEs' business on communities that are underserved by the mortgage markets? Modifying the OMB list to eliminate well-served cities, or retaining the OMB list and adding distressed non-central cities, does not meet this fundamental concern. In most cities, some parts are not underserved. Retaining the bulk of OMB-defined central cities would include many well-off areas that are not experiencing mortgage credit problems, and it would not appropriately focus the GSEs on those urban neighborhoods that require particular attention from the mortgage markets.

Mortgage Purchases in Nonmetropolitan Areas

The final rule provides that for properties in non-metropolitan areas, mortgage purchases will count toward the Geographically Targeted Goal where such purchases finance properties that are located in counties where: either minorities comprise at least 30 percent of the residents and the median income in the county does not exceed 120 percent of the State nonmetropolitan median income; *or* the median income does not exceed 95 percent of the greater of the State or nationwide nonmetropolitan median income.[22]

This section of the preamble briefly discusses the nature of rural lending, describes the basic characteristics of HUD's definition of rural areas, and provides HUD's responses to comments received on the definition of rural areas.

Problems in Rural Lending

Defining "rural areas" requires a different approach than defining "central cities" and "other underserved areas" because of the lack of mortgage data in nonmetropolitan areas, differences in housing needs between urban and rural areas, and the difficulty of implementing mortgage programs at the census tract-level[23] in rural areas. As discussed in Appendix B, evaluating which rural locations are underserved in terms of access to mortgage credit cannot be done with HMDA data, on which HUD mainly relied in defining urban underserved areas. There are few conclusive studies on access to mortgage credit in rural areas, and the studies that do exist only suggest broad conclusions about credit flows in these areas.

For this reason, HUD consulted with researchers from academia, the Department of Agriculture (USDA), the Census Bureau, and the Housing Assistance Council (HAC). HUD also conducted a series of forums to solicit information on rural mortgage markets from rural lenders, rural housing groups, and the GSEs. The discussions at the forums focused on the unique nature of mortgage lending and the role of the secondary market in rural areas.

Mortgage lending in rural areas is very different from lending in urban areas. The heterogeneity of housing types, the nontraditional and often seasonal incomes of rural borrowers, and the lack of credit history for many rural borrowers make underwriting in rural areas difficult for lenders. Appraisers lack comparable sales data or must rely on comparables over 1-year old or in a nearby town in order to determine the value of a property.

Participation of rural lenders in the secondary market is limited. The low volume of loans originated by rural lenders serving smaller rural communities makes rural lending business less profitable, and thus less attractive, to secondary market firms. Based on 1991 Residential Finance Survey data, which is supported by information from rural lenders and the USDA, rural lenders are more likely than urban lenders to make short-term loans, 3- to 5-year balloon mortgages, or adjustable rate mortgages and to hold mortgages in portfolio. Larger financial institutions, which have experience with the secondary market, often target the larger rural communities and focus less on remote areas.

Some studies report significant barriers to accessing mortgage credit in remote areas and areas with high concentrations of minorities and low-income households. Barriers include lower lender participation in Federal mortgage credit programs such as those of the Rural Housing and Community Development Service, the Federal Housing Administration, and the Department of Veterans Affairs, lack of financial capacity among lenders, lack of private mortgage insurance, and a decreasing number of lending institutions located in rural communities as a result of the savings and loan crisis of the 1980s.

Characteristics of HUD's Rural Areas Definition

Recognizing both the difficulty in defining rural areas and the need to encourage GSE activity in such areas, HUD has chosen a relatively broad, county-based definition of rural areas as the underserved areas outside of a metropolitan area. HUD's definition includes 1,511 of the 2,305 counties in nonmetropolitan areas and accounts for 54 percent of the nonmetropolitan population.

Response to Public Comments

County-Based Definition. Most commenters, including the GSEs, had argued that a definition based on rural census tracts was ill-advised because lenders in rural areas do not understand or lend on the basis of census tracts. Fannie Mae commented that census tracts have "no practical meaning" in rural areas from a marketing standpoint and that geographic measurements used in the rule should be "widely understood, easily measured, and practical from a marketing point of view," but that census tracts in rural areas "fail these tests."

Freddie Mac joined Fannie Mae in arguing that the use of a rural definition based on census tracts was ill-advised because of geocoding inaccuracies.[24] Freddie Mac added that the rule, as proposed would have automatically excluded single census-tract counties, such as parts of Texas, which, Freddie Mac noted, include some of the poorest counties in the country.[25]

In contrast, some commenters, such as HAC, noted that a county-based definition is not as targeted as a tract definition, because it excludes tracts that could be considered underserved in otherwise-served counties and includes tracts that could be considered adequately served in underserved counties. HAC cited its own analysis of a multitude of data and commented that the appropriate criterion for rural underserved areas would be census tracts with at least 20 percent minority residents and not more than 100 percent of area-wide median income, and that the secondary "income-only" criterion should be 90 percent of area-wide median. HAC presented statistical evidence to show that its recommended definitions would: (1) capture a higher percentage of underserved nonmetropolitan areas; and (2) solve the problem of omission of census tracts with predominantly white populations. HAC also recommended supplementing the income and income/minority population criteria with a special rural area criterion related to remoteness (such as the Beale codes[26]) and sparse population.

This final rule uses the county designation, rather than a census tract-based definition. Counties are easy to identify and geocode, which will simplify the reporting process for lenders who provide the GSEs with loan-level data on mortgages. County boundaries in rural areas are commonly recognized by housing industry representatives involved in the loan and marketing process, including lenders and appraisers.

Even though HUD recognizes that a census-tract definition better targets underserved areas, HUD has decided to use a county-based definition in rural areas because the operational difficulties associated with applying census tract boundaries outweigh the benefits of improved targeting of underserved rural areas. HUD recognizes that, under its county-based definition, the GSEs could achieve the goal by purchasing mortgages primarily located in the parts of underserved counties that have higher incomes. Although 21 percent of the homeowners who live in underserved counties under this definition reside in served tracts, these tracts accounted for 39 percent of GSE purchases in 1994. HUD will require the GSEs to continue to report nonmetropolitan mortgage purchases at the tract level as they have done for 1993 and 1994, to enable HUD to assess the desirability of refinement of the definition in the future.

Area for Median Income. Both Freddie Mac's and Fannie Mae's comments on the proposed rule's census tract definition in non-metropolitan areas recommended that tract median income be compared to the greater of county median income or statewide nonmetropolitan median income, to ensure the inclusion of poor tracts in poor counties. Freddie Mac noted that using only county median income could have the result that census tracts "that would be considered poor by any realistic measure * * * would nonetheless be excluded from the goal's coverage because they happen to be in a very poor county." Accordingly, for purposes of the definition of "rural areas," the rule's new definition of "underserved areas" provides that the median income for a county is compared to the greater of State or nationwide nonmetropolitan median

[20] The Community Reinvestment Act, 12 U.S.C. 2901 *et seq.*, generally requires financial institutions to meet the credit needs of the communities in which the institutions are located.

[21] Sections 1381(a)(4) and 1382(a)(4) of FHEFSSA.

[22] In New England, portions of counties that are outside metropolitan areas are used in place of counties.

[23] Block Numbering Areas (BNAs) in rural areas correspond to census tracts in metropolitan areas. For the sake of simplicity, in this section this rule refers to BNAs as census tracts.

[24] Geocoding is the process by which a lender or the GSE identifies the location of a property's address by census tract, postal code, or some other geographic identifier.

[25] Freddie Mac noted that, by definition, these tracts will have median family income equal to 100 percent of the county [tract] median, thus making them, under the proposed rule, ineligible for the Geographically Targeted Goal based on income.

[26] Beale codes are used by the Economic Research Service (ERS) to classify nonmetropolitan counties according to urban population size and adjacency to metropolitan areas.

income. Comparing county median income to the greater of statewide nonmetropolitan or nationwide nonmetropolitan median income ensures that poor counties in poor States will be included in the definition of rural areas.

Moreover, the addition of the nationwide designation of median income addresses a concern expressed by HAC that the proposed definition cover states that have counties with high poverty rates but low minority concentrations. With the nationwide designation, counties in poor States, such as Fulton County, Kentucky, which has a 30 percent poverty rate, will be included as rural areas. The county median income is low relative to national median income, but not low relative to State median income. Without availability of comparison to nationwide income, Fulton County would not be considered a rural area.

Remote Areas. HAC expressed concern that remote rural areas are more likely to be underserved than those closer to urban areas. NAHB also addressed the issue of rural remoteness and recommended that HUD include counties in certain Beale Codes based on their rural character, low urbanization, and non-adjacency to a metropolitan area. The rule's revised nonmetropolitan county definition adequately targets remote counties. The definition picks up 84 percent of the population that reside in remote counties, as determined by Beale Codes.

Geographic Coverage of Rural Areas and Demographic Indicators. HUD uses two demographic indicators—median income and minority concentration—to identify rural areas. These two indicators correlate with the common characteristics of underservedness. Fannie Mae recommended that the rural definition include no demographic indicators, stating "the geographic goal was not supposed to focus on fractions of geographic areas." Fannie Mae's definition of rural areas, therefore, would include all nonmetropolitan counties. As noted below, HUD does not agree that the Geographically Targeted Goal was meant to include all rural areas.

Freddie Mac suggested that HUD use a definition covering rural areas where median income was at or below 100 percent of State median or where 20 percent of the population was minority. Under Freddie Mac's definition, 221 counties in addition to those covered by the definition on the final rule, covering an additional 5.97 million people, would be considered rural areas. Because HUD does not consider these additional counties as being underserved by the mortgage market, HUD is not including these additional counties in its definition of rural areas.

Legal Authority To Limit Goal to Underserved Portions

As noted above, part of Fannie Mae's justification of a definition using whole "central cities" as defined by OMB was based on Fannie Mae's interpretation of FHEFSSA. HUD believes that Fannie Mae has interpreted the statutory language too narrowly, and that FHEFSSA did grant HUD latitude to select from among reasonable definitional approaches to establish a goal that is appropriately targeted toward areas underserved by the mortgage lending industry.

Fannie Mae's comments and an opinion prepared for Fannie Mae by the law firm of Arnold and Porter, and submitted with Fannie Mae's comments, raised several legal objections to the proposed rule. One argument was that HUD cannot apply the qualifier "underserved" to limit central cities or rural areas to only portions of central cities or rural areas that are underserved.

While FHEFSSA does not refer to "underserved areas of central cities" or "underserved areas in rural areas," a general rule of statutory construction provides that, to determine the word or words to which the antecedent applies, one may look to legislative history.[27] "Where the sense of the entire act requires that a qualifying word or phrase apply to several preceding or even succeeding sections, the word or phrase will not be restricted to its immediate antecedent."[28]

The legislative history of FHEFSSA makes clear that the goal is to address underserved areas. In explaining the conference bill on the floor of the Congress, then-Chairman Gonzalez stated: "In establishing the definition of a central city and in determining compliance with such a goal, the Secretary should, to the extent possible, exclude purchases made in non-low income census tracts that happen to otherwise be within the central cities area."[29] Focusing on "inner-cities" rather than entire OMB cities, the legislative history provides that "[t]he purpose of these goals is * * * to service the mortgage finance needs of low- and moderate-income persons, racial minorities and *inner-city* residents," and noted that "mortgage discrimination and redlining have effectively disadvantaged certain geographic areas, particularly *inner city* and rural areas."[30]

The "Plain Meaning"

Fannie Mae commented that the plain meaning of FHEFSSA had been breached by HUD in changing the definition of "central cities" from the transition definition and that Congress did not intend that HUD revise that definition in the years following the 2-year transition period. For the transition years of 1993–94, FHEFSSA mandated that the Geographically Targeted Goal be directed only to "central cities" as defined by OMB, and HUD extended this approach to 1995 by regulation. However, following the transition, FHEFSSA authorized the Secretary to define central cities and to expand the goal to target "rural areas" and "other underserved areas." Fannie Mae commented that Congress intended that only "other" underserved areas—that is, areas in addition to central cities and rural areas generally (which, Fannie Mae declared, also were to be considered "underserved")—be subject to HUD redefinition in the rule. Fannie Mae commented that "Congress actually provided the definition of 'central cities' in the subsection on the two-year transition period. . . . There is no indication in the statute that Congress intended the definition of 'central cities' to be restricted or narrowed after the two-year transition period."

Section 1334(d)(3) of FHEFSSA did define "central cities" as the OMB list of central cities. Congress, however, placed that definition in the transitional provisions of the Geographically Targeted Goal and thereby limited it to the transition period (1993–94). Had Congress chosen for HUD to continue using that definition after the transition period, Congress could have placed the definition in the general definition section of FHEFSSA. Congress did not do so.

Fannie Mae's argument that HUD must continue with the transition period definition of central cities would effectively render superfluous the language of the statute that explicitly limits the application of the definition to the transition period. The argument, thus, would controvert the general rule of statutory construction that effect must be given, if possible, to every word, clause and sentence of a statute.[31] "A statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant, and so that one section will not destroy another unless the provision is the result of obvious mistake or error."[32]

"Rural Areas" and "Central Cities" Are Not Terms of Art

Fannie Mae also asserted that "central cities" is a term of art in housing legislation and that "rural areas" has a clear meaning. Fannie Mae commented that OMB has never limited its list of cities in the manner contemplated by the proposed rule. HUD's definition, therefore, is inconsistent with commonly understood meaning and contradicts FHEFSSA's purpose. Fannie Mae argued that the definition of "central cities" for the transition period "is a clear indication of the type of definition that Congress had in mind when considering this goal."

The terms "central cities" and "rural areas" are not terms of art and do not have clear meanings. While other statutes and regulations contain definitions of "central cities" and "rural areas," these definitions are not uniform. With respect to "central cities," the fact that Congress felt the need to define "central cities" for the transition period indicates that the term may have more than one reasonable interpretation. In fact, different Federal agencies define central cities differently.[33]

Fannie Mae's comments concede that the term "rural areas" has no established meaning in housing legislation. While other statutes and regulations contain definitions of "rural areas," these are not uniform.[34] Moreover, while the terms "central cities" and "rural areas" have been used in other statutes, the purposes of those statutes have been very different, *i.e.*, they have not been designed to set goals for providing mortgage credit to such areas. For example, OMB's statutory authority for defining central cities is the Paperwork Reduction Act, and OMB's purpose is to define areas that are "central" to a large geographic area. OMB established criteria for central cities which were relevant to this charge. Were HUD to focus on the same criteria, HUD would be taking into account factors that are not directly relevant to determining whether an area is underserved by mortgage credit.

The construction given to a term in one statute is not to be imparted to the construction of the same or similar term in another act, or even another section of the same act, if the purposes of the two acts or sections are different.[35] Given the different purposes of the statutes and regulations defining "central cities" and "rural areas," those definitions do not bar HUD from, and in fact mitigate in favor of HUD's, adopting definitions for these terms more consistent with the overall structure and purposes of FHEFSSA and its legislative history.

Special Affordable Housing Goal, Section 81.14

FHEFSSA requires the Secretary to establish Special Affordable Housing Goals for the GSEs' mortgage purchases on rental and owner-occupied housing to meet the then-existing unaddressed needs of, and to be affordable to, low-income families in low-income areas and very-low-income families. Under the proposed rule, the goal was equally divided between rental (single-family and multifamily) and owner-occupied housing. The rental portion of the goal was targeted to very-low-income families while the owner-occupied portion targeted very-low-income families in addition to low-income families in low-income areas.

In response to comments received and upon further consideration by the Secretary, this final rule substantially changes the proposed rule's formulation of the Special Affordable Housing Goal. First, mortgage purchases financing housing for low-income renters in low-income areas now count toward achievement of the goal. Second, the equal division between rental and owner-occupied housing has been removed. Instead, each GSE may choose the type of housing (rental, owner-occupied, single-family, or multifamily) to finance to achieve the goal. However, the goal does require a set minimum of each GSE's purchases to be multifamily mortgages. Finally, the goal allows dwelling units affordable to low-income families in multifamily properties to count where thresholds, based on the LIHTC thresholds, are met.

The final rule provides that the Special Affordable Housing Goal for 1996 is 12 percent of the total number of dwelling units financed by each GSE's mortgage purchases. The goal for 1997–1999 and pending new goals is 14 percent. Of the total Special Affordable Housing Goal, each GSE must annually purchase multifamily mortgages in an amount at least equal to 0.8 percent of the total dollar volume of mortgages purchased by the respective GSE in 1994. In Appendix D, HUD estimates that 20–23 percent of the conventional conforming mortgage market would qualify under the Special Affordable Housing Goal. In 1994, 16.7 percent of Fannie Mae's purchases financed dwelling units that would count toward the achievement of this goal, as defined in the final rule, compared with 11.4 percent of Freddie Mac's purchases. In 1994, Fannie Mae purchased $1.91 billion of mortgages on multifamily housing that would have counted toward the achievement of this goal, or 1.25 percent of its total 1994 business. In 1994, Freddie Mac purchased $425 million of mortgages on multifamily housing that would have counted toward this goal, or 0.36 percent of its total 1994 business.

Rental and Owner Subgoals

Both GSEs' objected to the fact that the proposed rule would have imposed a 50–50 split between rental and owner-occupied housing for the Special Affordable Housing Goal. Fannie Mae commented that the Secretary "failed to provide an acceptable rationale" for dividing the Special Affordable Housing Goal equally between rental and owner-occupied dwelling units and provided "no compelling justification" for such a split. Freddie Mac also commented that the creation of subgoals for rental and owner-occupied housing made it more difficult to attain the overall goal—even under circumstances in which performance on the owner-occupied subgoal might far surpass the level set by the regulation.

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[27] *United States v. Brandenburg*, 144 F.2d 656, 660–61 (3d Cir. 1944) ("a clause modifies that antecedent which the draftsman intended it to modify").

[28] *Sutherland* §§ 47.33 and 47.28. *See also State v. McGee*, 122 Wash.2d 783, 864 P.2d 912, 914 (1993); *Nemzin v. Sinai Hospital*, 143 Mich. App. 798, 372 N.W.2d 667, 668–69 (1985).

[29] 138 Cong. Rec. H11453, H11457 (daily ed. Oct. 5, 1992). Rep. Gonzalez made the identical statement at 138 Cong. Rec. H11077, H11099 (daily ed. Oct. 3, 1992).

[30] S. Rep. at 32, 34, and 41 (emphases added). *See also* 138 Cong. Rec. S8606 (daily ed. June 23, 1992) (statement of Sen. Riegle) ("inner-city lending * * * is a very important part of this legislation").

[31] *Sutherland* § 46.06. *See also United States v. Menasche*, 348 U.S. 528, 538–39 (1955); *Moskal v. United States*, 498 U.S. 103, 109–10 (1990).

[32] *Sutherland* § 46.06. *See also United States v. Talley*, 16 F.3d 972, 975–76 (8th Cir. 1994); *Bridger Coal Co./Pacific Minerals, Inc. v. Director, Office of Workers' Compensation Programs, United States Dept. of Labor*, 927 F.2d 1150, 1153 (10th Cir. 1991).

[33] *Compare* 55 Fed. Reg. 12155 (Mar. 30, 1990) (definition of "central cities" used by the Statistical Policy Office of OMB) *with* 41 C.F.R. § 101–17.003–35 (General Services Administration's Federal Property Management Regulations).

Related definitions used by the Bureau of the Census, define "urbanized area central places" in a manner which indicates that the "central" area could be only a portion of a political unit. The Bureau of the Census provides that for extended cities, an "urbanized area central place" includes those metropolitan area central cities entirely or partially within the urbanized area, but that only the urban portion of an extended city is classified as central. 55 Fed. Reg. 42593 (Oct. 22, 1993).

[34] *See, e.g.*, 42 U.S.C. 11501(a)(2)(B); 24 CFR 596.3 (definition based on having population of less than 50,000 and being outside of a Metropolitan Statistical Area (MSA)); 12 U.S.C. 2019(b)(3) (definition based simply on having a population of 2500 or less); 42 U.S.C. 2940(e) (definition based simply on being outside of an MSA).

[35] *Laffey v. Northwest Airlines, Inc.*, 567 F.2d 429, 461–62 n. 230 (D.C. Cir. 1976), *cert. denied*, 434 U.S. 1086 (1978).

Fannie Mae also commented that the even split between rental and owner-occupied housing would "significantly alter" the basic character of the goal. While Fannie Mae achieved all four subgoals during the transition years 1993–1994, Fannie Mae stated that it had done so by "significantly larger margins" in its single-family business, and that this relative ease in meeting subgoals in owner-occupied housing reflected the relative shares of Fannie Mae business represented by single-family and multifamily acquisitions.

Congress intended that the Secretary have broad authority to redesign the sub-categories under the goal. The Senate Report states, "During a transition period, specific dollar amounts are set for four separate income and housing categories to emphasize that each of these areas needs attention. After the experience of the first two years, the [Secretary] may redesign the categories to target more effectively low-income family needs and reflect any gaps in GSE performance."[36] Moreover, FHEFSSA provides that goals should be established for "rental and owner occupied housing."[37] The Secretary considered the statutorily prescribed factors in section 1333(a)(2) prior to establishing the proposed goal and, therefore, the Secretary's actions were neither arbitrary nor capricious. Notwithstanding the fact that the proposed rule would have withstood judicial scrutiny, the Secretary determined for policy reasons to revise the Special Affordable Housing Goal. These revisions include removing the 50–50 split between renter and owner-occupied housing; and replacing it with a more flexible division.

Level of Special Affordable Housing Goal

Freddie Mac commented that the Special Affordable Housing Goals proposed for 1995 and 1996 are "unrealistically high and very likely infeasible within the meaning of the Act." Fannie Mae agreed, arguing that the proposed level of the goal is unreasonable and recommending that the Secretary establish the Special Affordable Housing Goal at no more than 8 percent. Fannie Mae considered the proposed 11 and 12 percent goals "less unreasonable" if the Special Affordable Housing Goal included low-income renters in low-income areas. Other commenters, largely nonprofit organizations, felt that the proposed goals both for home ownership and rental housing were too low.

[36] S. Rep. at 37.

[37] Paragraph 1333(a)(1).

The levels of the Special Affordable Housing Goal in the proposed and final rules are both feasible and reasonable. The Special Affordable Housing Goal is consistent with updated and further refined market share data and analyses, and is reasonable given the GSEs' past performance. While the specifics of the analyses are detailed in Appendices C and D, the major findings supporting this goal level are summarized below.

The proposed rule contained an appendix that analyzed market share data from the American Housing Survey and HMDA. That analysis demonstrated that the GSEs were purchasing much smaller proportions of mortgages of very-low-income families originated by the market than they were purchasing loans of higher-income families. Based on additional and updated analysis of the market data, the original conclusion, discussed in the proposed rule—that there are available mortgages in the very-low-income end of the mortgage market for the GSEs to increase the share of very-low-income mortgage originations they purchase—is unchanged. Additionally, analysis of market share estimates indicates that approximately 20–23 percent of the conventional conforming mortgage market would qualify under the Special Affordable Housing Goal as it is defined in the final rule. This analysis provides further support that the Special Affordable Housing Goal is both feasible and eminently reasonable.

The GSEs' 1994 performance also indicates that the goal is achievable. Using the final rule's conventions for what will count toward the goal, 16.7 percent of Fannie Mae's 1994 business and 11.4 percent of Freddie Mac's would have qualified under the goal.

Authority To Establish Special Affordable Subgoals

Freddie Mac commented that FHEFSSA provides that the Secretary shall establish "a" Special Affordable Housing Goal. Freddie Mac argued that the Secretary's proposed approach to implementing the Special Affordable Housing Goal was not authorized by law because, as proposed, it was either two completely separate goals (one for rental housing and one for owner-occupied housing) or one goal with two subgoals.

FHEFSSA authorizes the Secretary, both during the transition and thereafter, to establish the goal and define portions thereof. It does not indicate that subgoals are unenforceable or otherwise prevent the Secretary from defining enforceable portions. For the transition period, FHEFSSA itself subdivided the Special Affordable Housing Goal into two separate portions—single-family and multifamily—and went on to define specifically what counted towards each portion. For the period following the transition, FHEFSSA provides that the Secretary "shall establish a special affordable housing goal."[38] FHEFSSA did not define the structure of the goal, but specified that it should meet the then-existing unaddressed needs of low-income families in low-income areas and very-low-income families. The legislative history indicated that, following the transition, the Secretary was to redefine the goal. Under FHEFSSA and legislative intent, the Secretary has adequate flexibility to adjust the goals "to target more effectively low-income family needs and reflect any gaps in GSE performance."[39]

Freddie Mac also commented that section 1333 of FHEFSSA, in establishing the Special Affordable Housing Goal, does not refer to subgoals. Freddie Mac emphasized that, in contrast, section 1332 of FHEFSSA, establishing the Low- and Moderate-Income Housing Goal, and section 1334, establishing the Geographically Targeted Goal, specifically provided that the Secretary may establish subgoals. To Freddie Mac, the omission of a similar provision from section 1333 means that such subgoals are not authorized. Freddie Mac relies on the doctrine of *in pari materia*, which provides that statutes dealing with the same matter or subject shall be construed together. Thus, Freddie Mac argues that sections 1332–34 deal with the same matter, *i.e.*, housing goals, and that the Secretary failed to construe those sections together.

The provisions on subgoals referred to by Freddie Mac at sections 1332 and 1334 concerning the Low- and Moderate-Income Housing Goal and the Geographically Targeted Goal provide that while the Secretary may establish subgoals, they are not enforceable. The omission of a similar provision in section 1333 is not an indication that subgoals or subcategories within the overall goal are prohibited; rather, such omission indicates that to the extent that subgoals or subcategories are promulgated for the Special Affordable Housing Goal, no bar exists to enforcing them. Since section 1333 contemplates the use of enforceable subgoals or subcategories, section 1333 does not include the same type of restriction against enforcing subgoals as do sections 1332 and 1334.

[38] Section 1333(a)(1) (emphasis added).

[39] S. Rep. at 37.

Rental Versus Multifamily

A number of commenters, including the MBA, the Enterprise Foundation, the NTIC, the National Low Income Housing Coalition (NLIHC), and the California Reinvestment Committee, expressed concern that the proposed Special Affordable Housing Goal did not have an explicit focus on the multifamily market. They argued that the GSEs should have some explicit regulatory requirement to purchase multifamily mortgages, in order to sustain a secondary market for affordable multifamily loans. These commenters and others recommended that the Secretary establish a subgoal for the purchase of multifamily mortgages. Other commenters, including CANICCOR, the National League of Cities, and the City of Los Angeles, while not recommending an explicit multifamily subgoal, urged the Secretary to require that the GSEs support an active secondary market for multifamily loans.

In light of these comments and additional analysis, the Secretary reconsidered the proposed rule's focus on rental—as opposed to multifamily—mortgages and has revised the goal. The final rule provides that a relatively small portion of the goal must be achieved through the purchase of multifamily mortgages. The remainder of the goal can be achieved through the purchase of multifamily or single-family mortgages—whether owner-occupied or 1- to 4-unit rental properties. A secondary market providing liquidity for financing of 1- to 4-unit rental properties already exists. In the multifamily arena, however, a secondary market for affordable multifamily mortgages is still developing. Given the GSEs' overall experience and financial strength, it is reasonable to expect that they play major roles in the development of a stable secondary market for affordable multifamily mortgages.

Freddie Mac raised concerns that an increased level of multifamily purchases within the Special Affordable Housing Goal could lead to credit risk problems. Freddie Mac argued that a higher level of multifamily purchases may not be possible without relaxing underwriting standards and purchasing higher-risk properties.

It is the Secretary's intention that the goal ensure that the GSEs maintain a consistent focus on the very-low-income portion of the housing market where housing needs are great. Clearly, the intention of the goal is not to promote or encourage the undertaking of unnecessary credit risks on the part of the GSEs. The market data presented and analyzed demonstrates that the level of the Special Affordable Housing Goal is attainable, and the structure of the goal provides the GSEs with adequate flexibility to achieve it without taking unnecessary credit risk. In addition, the Secretary notes that Congress indicated that "Freddie Mac should be expected to implement strong multifamily programs in the near future. The Committee intends that the [goals] be set at levels consistent with each enterprise having a significant multifamily program."[40]

Units Versus Dollars

Freddie Mac argued that the Secretary's decision to express the Special Affordable Housing Goal as a percentage of overall units financed by a GSE is not supported by FHEFSSA and that the statute requires the Special Affordable Housing Goal to be established in dollars of mortgage purchases. NAHB provided a critique of a percent-of-business measurement and urged HUD to retain a dollar-volume target that could be reset each year based on "assessment of need, subsidy availability, and refined market estimates." NAHB's concern grows out of its belief that the Special Affordable Housing Goal, because of its focus on very-low-income mortgages, is tied to the availability of public subsidies, which are not market-driven.

Fannie Mae, on the other hand, did not oppose the change to a percentage-of-business goal and stated that such a goal will "more accurately reflect contemporaneous market trends because it is 'self-adjusting'. It is a more equitable and sensible approach to a changing, and sometimes volatile, market." Other commenters, including the National Council of State Housing Agencies and America's Community Bankers agreed, describing the percentage-of-business approach as a more appropriate way to measure the impact of the GSEs' mortgage purchases.

The Secretary has concluded that the statute permits the Secretary to set the goals as a percentage of units financed by the GSEs, as long as the percentage arrived at exceeds the dollar floor prescribed in FHEFSSA. Section 1333(a)(1) of FHEFSSA provides: "The special affordable housing goal established under this section for [a GSE] shall *not be less than* one percent of the dollar amount of the mortgage purchases by the [GSE] for the previous year." (emphasis added)

When interpreting a statute, a court should only go beyond the text of a statute if the text is ambiguous.[41] Such interpretation of FHEFSSA reveals that it requires the Secretary to: (1) Establish a Special Affordable Housing Goal; and (2) establish the Special Affordable Housing Goal so that it will equal or exceed the one percent dollar amount in section 1333(a)(1). Courts will not reject the literal meaning of a statute unless such an interpretation "leads to absurd results when applied."[42] In this case, the Secretary's interpretation of section 1333(a)(1)—to allow the Secretary to establish the Special Affordable Housing Goal as a percentage of dwelling units financed, while ensuring that the Special Affordable Housing Goal will be set high enough to meet the floor or minimum required under section 1333(a)(1)—is consistent with FHEFSSA and appropriate policy.

The Secretary recognizes the validity of the concerns expressed by Freddie Mac and several other commenters that financing for affordable multifamily units is tied to the availability of public subsidies, which are not market-driven. Therefore, the final rule establishes the multifamily portion of the goal as a percentage of each GSE's business in 1994, rather than for each year. The Secretary believes that 1994 was a reasonable baseline year for the GSEs, given the decline in mortgage originations. Consequently, 1994 represents a reasonable baseline from which to calculate a portion of the Special Affordable Housing Goal that should be devoted to multifamily mortgages.

Low-Income Renters in Low-Income Areas

Under the proposed rule, the Special Affordable Housing Goal would have been directed to rental housing for very-low-income families and to owner-occupied housing for low-income families in low-income areas and very-low-income families. Both GSEs argued that the Special Affordable Housing Goal must also be targeted to mortgage purchases on housing for low-income renters in low-income areas and that this category was improperly excluded from the proposed goal.

The Secretary agrees that the statute requires the inclusion of low-income rental units in low-income areas. Section 1333 of FHEFSSA provides that the goal should address "the then-existing unaddressed needs of, and affordable to, low-income families in low-income areas and very low-income

[40] S. Rep. at 35–36.

[41] *National Tax* v. *Havlik*, 20 F.3d 705 (7th Cir. 1994).

[42] *Blue Cross* v. *Weitz*, 913 F.2d 1544, 1548 (11th Cir. 1990).

families." Inasmuch as there are unaddressed needs of low-income renters in low-income areas and of very-low-income renters, the Secretary has determined that mortgages for low-income renters in low-income areas should be included under the goal. The final rule reflects this change.

Counting of Rental Units

The proposed rule specified that only rental units affordable to very-low-income families (i.e., families whose incomes are 60 percent of area median income or less) would count toward the goal. This altered a convention applicable to the Special Affordable Housing Goal in 1993–1995 that any low-income rental unit in a multifamily property where at least 20 percent of the units are affordable to especially low-income families (i.e., families whose incomes are 50 percent of area median income or less) or where at least 40 percent of the units are affordable to very-low-income families (i.e. families whose incomes are 60 percent of area median income or less) would count toward the goal.

A number of commenters, including both GSEs, the MBA, the Association of Local Housing Finance Agencies, and the Enterprise Foundation, argued that the proposed rule's approach would create a regulatory incentive for the GSEs to focus only on mortgage purchases for buildings that are entirely occupied by very-low-income tenants, at the expense of financing mixed-income buildings. These commenters argued that an exclusive focus on 100-percent very-low-income buildings is contrary to HUD policy established in other contexts emphasizing mixed-income rental developments as more beneficial for residents and communities. The Secretary concluded that the comments have validity and has revised the final rule to use the transition-period convention of counting all low-income units in buildings where the percentage of such units meets the thresholds used during the transition which, in turn, were modeled on the LIHTC.

Refinancings From Portfolio

Under the Interim Notices establishing transition goals, HUD did not allow any credit toward the Special Affordable Housing Goal for the refinancing of mortgages held by the GSEs in portfolio. The proposed rule provided credit for these refinancings—as long as they were economically motivated transactions initiated by the borrower—to count toward the goal. Both Fannie Mae and Freddie Mac supported this approach. Several commenters expressed concern that including refinancings would create a disincentive for the GSEs to focus on new originations for lower-income households.

The exclusion of refinancings, as provided in the Interim Notices, imposed significant compliance burdens on the GSEs in order to identify those purchases of refinanced mortgages that represented mortgages previously purchased by the GSEs. Further, this provision was contrary to the common method of financing multifamily properties using relatively short-term balloon mortgages, which by their nature must be refinanced frequently to maintain project viability. Refinancings in this context serve the goal of continued availability of housing meeting the goals. For these reasons, the final rule maintains that economically motivated, arm's-length refinancings will count toward the Special Affordable Housing Goal.

General Requirements, Section 81.15

Insufficient Information

Performance under each of the housing goals is based on a fraction that is converted into a percentage. The numerator of this fraction is the number of dwelling units that count toward the achievement of a particular housing goal. The denominator is the number of dwelling units (for all mortgages purchased) that could, under appropriate circumstances, count toward achievement of a goal. Under § 81.15(b) of the proposed rule, dwelling units with insufficient information to determine whether the unit scored toward a GSE's goal performance would be excluded from the numerator, but included in the denominator. Freddie Mac objected that this provision was too strict and "distorts the reports to Congress on * * * purchases of mortgages counted within * * * the goals." Freddie Mac recommended that, when a given threshold of completeness of data is met, the GSE be permitted to eliminate from the denominator up to a given percentage of units lacking sufficient data.

HUD is aware that the GSEs have incomplete data for mortgages originated before 1993. Consequently, when a GSE lacks sufficient information to determine whether a mortgage originated before 1993 counts toward achievement of any of the housing goals, the purchase of that mortgage may be excluded from the denominator for purposes of measuring goal performance. However, the goals must be structured in a manner that will create incentives for the GSEs to obtain and provide the data necessary to determine whether the purchase of mortgages originated during or after 1993 count toward the housing goals. Permitting the GSEs to exclude from the denominator, because a GSE lacked complete information, mortgage purchases (of post-1992 originations) that did not meet the goals would create a disincenti .e to the collection of such information. This result is contrary to the legislative history, which emphasizes the importance of accurate and comprehensive data. Accordingly, the final rule requires all mortgages originated after 1992 to be included in the determination of the GSE's performance under each of the housing goals.

Double-Counting

Some dwelling units financed by a GSE mortgage purchase count toward achievement of one, two, or all three housing goals under § 81.15(d) of the proposed rule. Two commenters objected to permitting double- or triple-counting. One commenter noted that the GSEs may not have to alter their "programmatic focus to any great extent" to meet the goals. In the final rule, HUD has allowed counting mortgage purchases toward one or more of the goals, because double counting is consistent with congressional intent. The Senate Report on FHEFSSA [43] provides that the goals be "overlapping, in that each [GSE] activity counts toward the achievement of each goal, if any, for which the activity qualifies."

Use of Rent

Freddie Mac commented that § 81.15(f)(5) should be clarified so that use of average rent-by-unit-type continues to be an acceptable means for reporting rent levels and determining affordability of non-owner-occupied units. Freddie Mac claimed that requiring it to obtain individual unit rent data would be a large drain on resources and would place Freddie Mac at a competitive disadvantage relative to its non-GSE competitors. Because the current reporting system has worked satisfactorily and the GSEs' reporting burden is an important consideration, the rule has been changed to conform to Freddie Mac's suggestion.

Seasoned Mortgages

In determining whether mortgages count toward the goals, Freddie Mac asked for revision of §§ 81.15(f)(6) and 81.16(c)(6), to allow the GSEs to use tenant information (for 2- to 4-unit mortgages) and income or rent level information (for single-family mortgages) as of the time of origination, regardless of the age of the mortgages when acquired by the GSE. According to Freddie Mac, the rule would then conform to industry practice and would avoid requiring the modification of data collection and underwriting practices for these types of units. This practice was also allowed under the Notice of Interim Housing Goals published in October 1993, to avoid costly reverification of information. For the same reasons, the final regulation continues this requirement.

[43] S. Rep. at 63.

Split Areas

Freddie Mac criticized § 81.15(g) of the proposed rule, which would have provided an allocation formula for split census tracts in measuring performance under the Geographically Targeted Goal, as "cumbersome and inconsistent with HMDA requirements" in its treatment of determining area median income in census tracts that cross metropolitan area boundaries in New England. Freddie Mac stated that the additional precision in reporting that HUD was apparently seeking was not worth the cost. Freddie Mac recommended that where the "area" cannot be determined and the census tract or property lies in a "split area," the GSEs should be permitted to use the convention adopted by the Federal Financial Institutions Examination Council (FFIEC) for HMDA reports. The final rule adopts this suggestion, which uses an allocation that distinguishes only portions of the county within a metropolitan area from those portions outside of a metropolitan area.

Special Counting Requirements, Section 81.16

Low-Income Housing Tax Credit Purchases (LIHTC) and Mortgage Revenue Bonds (MRB)

Fannie Mae objected to §§ 81.16(b) (1) and (2) of the proposed rule, which would have provided that the GSEs' LIHTC equity investments and MRB purchases would not count toward any of the goals, including the Special Affordable Housing Goal. Fannie Mae commented that the Secretary's position on these forms of investment is "inconsistent and counter-productive." Several other commenters agreed with Fannie Mae. One commented that the Secretary should at least give credit for LIHTCs in central cities and underserved areas. Another commenter stated that LIHTC equity investments are not mortgage purchases and, therefore, it might be appropriate to place "an upper limit on the amount of credit to be taken for such activities."

The final rule does not change the provision that the purchase of LIHTCs will not count toward the housing goals. The GSEs' support of affordable housing through the provision of equity in exchange for tax benefits is an important activity. Although the legislative history states that equity investments should not count toward the achievement of the Special Affordable Housing Goal, the legislative history indicates that it is the Secretary's decision whether the purchase of LIHTCs should count toward achievement of the other two housing goals.[44] Because the purchase of LIHTCs is not the equivalent of the purchase of a mortgage, equity investments in LIHTCs do not count toward achievement of any of the housing goals.

Freddie Mac commented that the purchase of MRBs should receive full credit. Freddie Mac commented that:

> * * * where revenue bonds are issued that are not supported by any pledge or promise from the state or local issuer of the bonds, or by any other credit enhancement or collateral, other than the payments from the mortgage itself, the purchaser of these bonds would be in the exact same economic position as the purchaser of the mortgage itself.

The final rule allows units financed by a mortgage revenue bond purchased by the GSEs to count under the housing goals with certain restrictions to assure that such MRB purchases are the functional equivalent of mortgage purchases by the GSEs. Under the rule, purchases of MRBs count only where the MRB is to be repaid from the principal and interest of the underlying mortgages originated with funds made available by the MRB. Purchase of an MRB which is either a general obligation of a state or local government or agency or is otherwise credit enhanced, by any government or agency, third party guarantor or surety, will not count.

Risk-Sharing Arrangements

Freddie Mac commented that the exception in § 81.16(b)(3) should be modified so that mortgages purchased by the GSEs under risk-sharing arrangements with HUD or other Federal agencies would receive full credit under the Special Affordable Housing Goal. Freddie Mac stated that such an approach would better comport with the statutory language and would provide an incentive for completing mortgage purchases that may entail greater underwriting risks and a higher level of monitoring. Freddie Mac commented that HUD's rationale in the proposed rule for denying full credit under risk-sharing arrangements of the kind described was "flawed," and that the Secretary lacked authority under FHEFSSA to refuse to give credit, or to provide for only partial credit.

NTIC disagreed with Freddie Mac's comment and with the proposed rule's provision of partial credit for risk-sharing activities. NTIC asserted that the GSEs' risk-sharing activities should supplement affordable housing programs, not replace them. NTIC stated: "The legislation was enacted to ensure regular, conventional business is available to all citizens and neighborhoods. Allowing Fannie and Freddie to use the government's money to make their goals is unacceptable!"

Under section 1333(b)(1)(A) of FHEFSSA, the Secretary is required to give full credit toward the Special Affordable Housing Goal for the purchase or securitization of federally-insured or guaranteed mortgages where: (1) such mortgages cannot be readily securitized through the Government National Mortgage Association or any other Federal agency; (2) the GSEs' participation substantially enhances the affordability of the housing subject to such mortgages; and (3) the mortgages involved are on housing that otherwise qualifies under the Special Affordable Housing Goal to be considered for purposes of that goal. The Secretary has determined that the GSEs' current risk-sharing activities meet the requirements in (1) and (2). To the extent the third requirement is satisfied, risk-sharing activities will receive full credit toward achievement of the Special Affordable Housing Goal under the final rule, as long as the dwelling units financed meet the other requirements of the goal.

Furthermore, the final rule provides full credit under the Low- and Moderate-Income Goal and the Geographically Targeted Goal for mortgages purchased under risk-sharing arrangements where the GSE assumes substantial risk, which serve to increase available housing opportunities. HUD intends to monitor future GSE purchases under risk-sharing arrangements to assure that providing full credit for such purchases remains warranted.

Forward Commitments

Freddie Mac commented that § 81.16(b)(4) should be revised to permit commitments to purchase mortgages to count as mortgage purchases in the year the commitments were made. Freddie Mac stated that such revision would make the rule consistent with requirements imposed under FHEFSSA, which mandate that Freddie Mac hold

[44] *See, e.g.*, S. Rep. at 38; H. Rep. at 60 and 61.

capital against forward commitments. Freddie Mac added that the rule could add language to ensure against "double counting."

Under FHEFSSA, the Secretary is to establish housing goals for mortgage purchases. Section 1303(11) of FHEFSSA defines mortgage purchases to include mortgages purchased for portfolio or securitization. The use of the past tense of the verb, i.e., "purchased," rather than the future tense, i.e., "purchased or to be purchased," indicates that a transaction does not constitute a mortgage purchase simply because a mortgage may be purchased in the future based on a commitment, but that the mortgage must actually have been "purchased." Accordingly, this section of the rule has not been revised.

Second Homes

Freddie Mac commented that § 81.16(b)(5) should be eliminated so that the purchase of mortgages on secondary residences would receive full credit toward the goals. Freddie Mac stated that the majority of secondary residences are located in low- and moderate-income census tracts and "serve an important role in bolstering local housing markets and providing a supplement to the local housing stock."

Many second homes, which are frequently owned by affluent families, are located in predominantly low- or moderate-income areas. These second homes provide few, if any, affordable housing opportunities for the permanent residents of areas defined as underserved. Accordingly, the final rule does not provide goal credit for secondary residences.

Credit Enhancements

Freddie Mac expressly supported the Secretary's decision to allow credit enhancements to count toward achievement of the housing goals. However, Freddie Mac commented that certain revisions should be made to § 81.16(c)(1): (1) the requirement that the GSE provide specific mortgages as collateral should be dropped because it does not relate to the economic substance of a credit enhancement or to the rating of the bonds; (2) in a credit enhancement, Freddie Mac does not "guarantee bonds," but ensures that payments are made on the underlying mortgages; thus, the reference to guaranteeing should be omitted; (3) the proposed rule was unclear because it referred to "State or local housing finance agency" in one place and "any entity" in another place; Freddie Mac commented that "any entity" should be used; and (4) the rule should include credit enhancements where a GSE "'reinsures' mortgage insurance provided by a public purpose mortgage insurance entity or fund." Freddie Mac provided revised language for this section consistent with its comments.

The National Council of State Housing Agencies stated that it was "pleased" that HUD proposed to count the GSEs' credit enhancement transactions, and it opposed the rule's limitation of this credit to transactions in which a GSE provides specific mortgages as collateral.

The counting of a credit enhancement should not depend on whether a GSE's insurance of mortgage payments is provided through collateralizing specific mortgages. This section of the rule has been modified to require the GSE to provide only a specific contractual obligation to ensure mortgage payments. In addition, the Secretary agrees with Freddie Mac that reinsurance of mortgage insurance provided by a public purpose mortgage insurance entity or fund is beneficial to the mortgage markets. Accordingly, the Secretary has decided that, on a case-by-case basis, a GSE may seek the Secretary's approval for counting such transactions toward the achievement of the housing goals.

The Secretary does not want to create a regulatory distortion of corporate decisions on how to develop and initiate credit enhancement transactions. The inconsistency in the proposed rule—limiting credit enhancement transactions to State and local agencies—referred to by Freddie Mac has been removed, and the broader language that it recommended has been adopted.

Real Estate Mortgage Investment Conduits (REMICS)

Freddie Mac commented that § 81.16(c)(2) should be drafted so that purchases of REMICs would count toward fulfillment of all three housing goals "to the extent that the purchase of the mortgages underlying the REMICs would provide credit under the goals and there is no resulting 'double counting' of these mortgages." Freddie Mac stated that this type of transaction increases the liquidity of the mortgage-backed securities market and lowers costs for borrowers.

Fannie Mae commented that the purchase of REMICs should count toward the goals because such activity is functionally equivalent to a mortgage purchase. Fannie Mae commented: "REMICs that do not contain MBS [Mortgage-Backed Securities] or mortgages purchased by Fannie Mae, Freddie Mac, or a government insured entity do not cause 'double counting' . . . ." Fannie Mae noted that it has never purchased a REMIC that contained anything other than mortgages and property related to mortgages. (Under the Internal Revenue Service (IRS) Code, 26 CFR 1.860G–2(a)(4) and 1.856–3(c), REMICs may include other interests in real property such as "options to acquire land or improvements thereon" and "timeshare interests.")

In large measure, HUD agrees with these comments concerning purchases of REMICs. Accordingly, the purchase of REMICs by the GSEs may count toward the goals as long as the underlying mortgages or mortgage-backed securities were not previously purchased or issued by the GSEs or otherwise would result in double counting. Subject to the same restrictions, the guarantee of a REMIC by a GSE may also count toward the goals.

HUD recognizes that the development of new and distinct REMIC structures is dynamic and HUD does not in any manner seek to impede these developments. However, the GSEs are advised that when there is any question about whether a new structure meets these restrictions for counting under the goals, the GSEs should seek the advice of HUD before counting the transaction.

Participations

Instead of counting participations in mortgages toward achievement of the housing goals based on the percentage of the participation purchased by a GSE, as proposed under § 81.16(c)(4), Freddie Mac commented that the rule should provide for full credit whenever the GSE's participation percentage is 50 percent or more and no credit when a participation is below 50 percent.

Freddie Mac's proposal would reduce the reporting and compliance burden, and the final rule adopts this proposal. Participations have played, and are expected to play, a *de minimis* role in the GSEs' purchases, and for that reason the counting approach adopted should have little impact on housing goal performance.

Second Mortgages

In response to the proposed rule's questions concerning whether and how to count second mortgages, Freddie Mac commented that second mortgages should receive full, rather than partial, credit under the goals, because of the difficulty in arriving at an appropriate means of allocating partial credit and because second mortgages frequently fulfill the same purpose as refinancing, at lesser cost to the borrower. Fannie Mae generally agreed. The Los Angeles Housing Department commented:

> If a second mortgage loan is made to a low income or minority borrower who otherwise would have had to resort to the loan companies which charge exorbitant interest rates and points ("hard money lenders") the loan should carry full GSE credit. Otherwise, the loan is being made to borrowers who have already shown themselves to be a good risk, and should not generate full credit.

To simplify counting and monitoring for goals purposes and encourage the GSEs to purchase second mortgages, including low- and moderate-income rehabilitation loans, the final rule, by revising the definition of "mortgage," provides that second mortgages will receive full credit toward achievement of the housing goals. This change will be monitored closely by HUD, to assure, for example, that a GSE does not purchase an excessive number of second mortgages with low unpaid principal balances solely to enhance goal performance.

Income Level Definitions—Tenants (Family Size Not Known), Section 81.18

Freddie Mac commented that § 81.18 (determining affordability for rental units where family size is not known) should apply to actual tenants because Freddie Mac normally has data on unit size, instead of family size, for actual tenants.

HUD agrees and has inserted "actual or" before the word "prospective" where it appears in § 81.18. Unit size serves as an adequate proxy for family size in instances where the data on family size is not readily available, and requiring family size information could, in some cases, impose an unnecessary cost on the GSEs in exchange for very little information.

Rent Level Definitions for Tenants (Income Not Known), Section 81.19

Freddie Mac objected to § 81.19(d), which would have provided that, for purposes of determining whether a rental unit is affordable, units without data on the number of bedrooms must be counted as efficiency units in making affordability calculations. Freddie Mac commented that this assumption would have the effect of understating the GSEs' performance against the goals, and if information is available on the number of bedrooms of a high percentage of units in a property, the GSE should be allowed to apply the known percentages of efficiencies, one-bedrooms, etc., to the unknown units.

The formulation in the proposed rule has been maintained has been maintained in the final rule. It provides an incentive for the GSEs to secure necessary information regarding bedroom size. Freddie Mac's suggestion would increase HUD's burden in monitoring performance without improving accuracy of the data, and this is contrary to the intent in estimating affordability. Therefore, the assumption respecting efficiency units is not changed.

Additional Goals/Subgoals

Several commenters suggested that the Secretary should, in some manner, provide for additional goals and subgoals. One commenter advocated additions to the regulation to ensure that members of minority communities have access to housing finance from the GSEs commensurate with the minority groups' locally determined percentage shares of single-family mortgage purchases. Similarly, several other commenters suggested subgoals for purchases of mortgages on properties occupied by minority households. Another commenter recommended that regional goals be set, taking into account the variation in housing markets from city to city, as well as urban-rural variations. In a similar vein, another commenter suggested that the Secretary "require the GSEs to increase their . . . purchases in areas of acute need."

Two commenters recommended that the Secretary establish a goal under which the GSEs would receive full credit toward achievement of the goals for the disposition of real property to nonprofits.

HUD is refraining from establishing a range of subgoals in this final rule. HUD is concerned about micromanaging the GSEs' efforts to achieve the housing goals. In addition, the objectives sought by the commenters can be served through the three existing goals.

Notice and Determination of Failure To Meet Goals, Section 81.21

Although Freddie Mac supported the proposed rule's "close adherence" to the language of FHEFSSA in §§ 81.21 and 81.22 of the proposed rule on monitoring and enforcement, Freddie Mac commented on several points. Under the proposed § 81.21(a), the Secretary, in determining whether a GSE has failed or there is a substantial probability that a GSE will fail to meet a housing goal, will consider the GSEs' reports and "other data available to the Secretary." Freddie Mac noted that it did not understand what "other data" referred to and Freddie Mac commented that the phrase should be clarified or removed.

In response to this comment and to mirror FHEFSSA, § 81.21 no longer refers to the information that the Secretary will consider in making the determination.

Freddie Mac commented that § 81.21(b)(1) should be revised to track section 1336(b)(2) of FHEFSSA so that a GSE has 30 days from the date of notice to respond to a preliminary determination from the Secretary. The final regulation has been revised to reference the requirement of section 1336(b).

Housing Plans, Section 81.22

In determining feasibility of a housing goal under § 81.22(a), Fannie Mae commented that the final rule should note specifically that the economic environment and fiscal and monetary policies outside Fannie Mae's control will sometimes determine a particular goal's feasibility.

Section 1336(b)(3)(A)(ii) of FHEFSSA provides that, in determining the feasibility of a housing goal, the Secretary must consider market and economic conditions and the GSE's financial condition. The regulation includes this language and the specific reference suggested by Fannie Mae is not needed.

Under § 81.22(b)(4), the proposed rule would have allowed the Secretary to require a GSE's housing plan to address additional matters as required by the Secretary. Freddie Mac objected to the "any additional matters" language and insisted that only the statutory description should be used.

The final rule does not make this change because the Secretary may find it necessary and proper to require the GSE to include specific additional matters relevant to achieving the goal in a housing plan.

Citing section 1336(c)(3) of FHEFSSA, which provides that the Secretary shall, by regulation, establish a deadline for submission of housing plans and that such deadline may not be longer than 45 days after notice to the GSE, Freddie Mac asked for 45 days for submission of a housing plan, rather than the 30-day period provided for in § 81.22(c).

FHEFSSA allows the Secretary to establish a time period of less than 45 days and the Secretary has determined that 30 days is necessary to avoid further delay in achieving the housing goal.

Under § 81.22(e), where the first two housing plans submitted by a GSE are disapproved by the Secretary, Freddie Mac commented that the GSEs be granted 30 days to submit a third housing plan, rather that the 15-day period provided for in § 81.22(e).

In the event that a GSE's housing plans are so deficient that the Secretary disapproves the first two submitted by

the GSE, the Secretary notes that the GSE will have already had a total of 60 days to develop the first two plans. At that point, the GSE's plan should be sufficiently developed so that an additional 30 days is unnecessary to develop a third plan. Accordingly, this provision has not been changed.

Subpart C—Fair Housing

The GSEs' Role

While expressing their strong commitment to participating in the elimination of discriminatory practices in the mortgage lending process, both GSEs, in similar arguments, objected to certain features of Subpart C—Fair Housing.

Both enterprises outlined their efforts to encourage fair lending practices by primary mortgage lenders through outreach, consumer education, and innovative products. The GSEs stressed their interest in contributing to the elimination of unlawful discrimination in the mortgage finance industry. However, both objected to a fair housing enforcement role which they argued the proposed rule would have imposed on them.

Fannie Mae saw its appropriate role in fair lending as being a provider of outreach, consumer education, and flexible, innovative mortgage products to its customers. Freddie Mac also maintained that its primary role should be to provide a ready source of financing for all creditworthy borrowers and to provide market leadership. Freddie Mac took issue with what it saw as the proposed rule's implication that it should be doing more with respect to fair lending.

Several other commenters endorsed the GSEs' position in this regard and stated that, for the GSEs, the role of regulator is inconsistent with the business partnership relationship that exists between the GSEs and their customers. A major mortgage company commented that GSEs ought not be required to develop fair lending plans, because such plans would, in effect, establish the GSEs as "primary market regulators." Referencing its long established business partnership with both GSEs, the commenter said it did not want these entities "to also be our regulators."

On the other hand, the San Diego Housing Commission had no objection to an expanded role for GSEs associated with fair housing:

> The proposed rule essentially requires the GSEs to cooperate with HUD in providing data and other information to assist in the investigation of mortgage discrimination by a lender with which either does business. * * *

In general Fannie Mae and Freddie Mac have been successful in expanding the availability of credit, lowering interest rates, and in stabilizing and liquefying the finance market. However, there have been shortcomings in the extent to which they help meet the housing needs of households at the lower end of the housing market. Given their size and the key role they play in housing finance, they are in a position to wield a significant amount of influence.

This final rule follows the clearly expressed intention of Congress that the GSEs comply with the Fair Housing Act and the Equal Credit Opportunity Act ("ECOA") and aid the efforts of investigators.[45] HUD does not intend that the GSEs will become the Federal government's regulatory or enforcement operation for the primary mortgage market. The Federal fair lending enforcement agencies, not the GSEs, enforce the fair lending laws.

HUD has carefully examined the various points made by the GSEs and other commenters on subpart C of the proposed rule. This final rule contains modifications which respond to the commenters' concerns about the proposed rule's nondiscrimination requirements, assessment of disparate results, and information and recordkeeping requirements. Additionally, many suggestions made by the commenters for language changes and modifications of other aspects of the proposal have been accepted and incorporated. These revisions are discussed elsewhere in this preamble.

Disparate Impact

Freddie Mac argued that section 1325(1) of FHEFSSA reaches only *intentional* discrimination and that application of a disparate impact test is therefore unauthorized. Both GSEs claimed that, even if the disparate impact standard was supported by FHEFSSA, HUD had misstated the standard as articulated by the courts, and had shifted the burden of proof from the plaintiff to the GSE. Other commenters shared this view, although there was little comment in support of Freddie Mac's assertion that FHEFSSA prohibits only intentional discrimination. Fannie Mae claimed that there is no statutory basis and little case law in support of applying a disparate impact analysis to matters arising under ECOA or the Fair Housing Act.

Several other industry commenters joined in this criticism of the proposed rule. The ABA, the MBA, the Western League of Savings Institutions and a major mortgage lender all characterized the application of disparate impact analysis or an "effects test" standard in this particular rule as premature and a potential source of marketplace uncertainty.

Both GSEs urged HUD to postpone application of the disparate impact standard in this rule until the issue is addressed in the HUD's broader Fair Housing Act regulations. Adopting the standard in FHEFSSA rules first, the GSEs claimed, would create confusion and increase the likelihood of the development of divergent standards governing mortgage finance. Both GSEs and several major industry organizations argued that subpart C would result in a dual enforcement mechanism, applicable to their operations but not to other segments of the housing marketplace, and would subject them to the application of legal theories that are "largely untested in mortgage finance." The GSEs urged the Secretary not only to delay implementation of a disparate impact standard in advance of a fair lending addition to HUD's Fair Housing regulations, but also to coordinate the development of any such revisions with primary market financial institution regulators and the Department of Justice. Fannie Mae claimed that none of these regulators or enforcers has provided industry-wide guidance to date.

The American Bankers Association questioned the proposed rule's explanation of business necessity, suggesting that it failed to afford the GSEs adequate guidance. It further maintained that HUD's position on the meaning of business necessity was inconsistent with and constituted a more difficult legal test than the understanding of the term reflected in the Interagency Policy Statement on Discrimination in Lending ("Interagency Policy Statement").[46]

Fannie Mae also claimed that the proposed rule would create a potential "litigation and enforcement nightmare" for the GSEs and that the rule would inhibit innovation. Freddie Mac argued that the rule would also inhibit the GSEs' efforts to identify and eradicate barriers in their underwriting guidelines.

Section 1325(1) of FHEFSSA requires the Secretary to prohibit the GSEs from discriminating "in any manner"—including a prohibition on any consideration of the age or location of a dwelling or neighborhood in a manner that has a "discriminatory effect." The use of the phrases "in any manner" and "discriminatory effect" in section 1325(1) makes clear Congress's intent

[45] *See* S. Rep. at 43–44.

[46] 59 FR 18266 (1994).

that the statute's prohibitions extend beyond intentional discrimination. The Senate Report states that Congress intended to proscribe "policies and practices, including inappropriate underwriting guidelines, [which] may *unintentionally* yield discriminatory patterns in mortgage lending."[47] The Senate Committee report cited testimony that ". . .there are other business practices of the enterprises which have the *effect of discriminating* against minorities. . . ."[48] Examples cited by the Senate Report included differential pricing and fee structures for mortgage products which effectively discouraged lending in minority and low-income communities.[49]

However, HUD has taken into account the considerable comments it received from the GSEs and others, and has determined to track the statutory prohibition as enacted by Congress.

In response to the GSEs' comments regarding a lack of guidance, the disparate impact (or discriminatory effect) theory is firmly established by Fair Housing Act case law. That law is applicable to all segments of the housing marketplace, including the GSEs. All of the circuit courts, except for the D.C. Circuit which has not considered the issue, have held that the Fair Housing Act includes claims based upon the disparate impact theory.[50]

All the Federal financial regulatory and enforcement agencies recognize the role that disparate impact analysis plays in scrutiny of mortgage lending. In the Interagency Policy Statement, the bank, thrift, and credit union regulators, the Justice Department, Treasury, OFHEO, Federal Trade Commission (FTC), and HUD jointly recognized the disparate impact standard as a means of proving lending discrimination under the Fair Housing Act and ECOA. The disparate results assessment requirement included in this final rule mirrors the statutory requirement and is consistent with the Interagency Policy Statement, which explicitly applies a similar "disparate impact" standard to proving violations of the Fair Housing Act and ECOA.[51]

Congress, in enacting FHEFSSA, expressly stated that it was concerned with the subtle, often "*unintentional*" forms of discrimination that are the hallmark of present-day unlawful conduct, and that the law was enacted to ensure that the enterprises would in no way contribute to the continuance of such discrimination in mortgage lending.[52]

Prohibitions Against Discrimination

Freddie Mac objected to the use, in § 81.42(b)(1) of the proposed rule, of the term "*based on* race, color . . ." (etc.), suggesting that the statutory phrase "because of" be substituted. This final rule, which now mirrors the language of the statute, incorporates this suggestion. Section 81.43 of this final rule also follows the language of the statute in requiring assessments "based on" protected status. In the context of this rule, HUD considers the terms "based on" and "because of" to be synonymous.

Appraisals

Freddie Mac found the proposed rule's treatment of age and location troubling, even where the purpose of the rule was to set forth specific exemptions allowing consideration of such factors. Freddie Mac stated that the listed exemptions might be limiting and that the exemption as set out conflicted with the appraisal exemption in the Fair Housing Act. Freddie Mac also asked that the age/location-related exemption be removed from this final rule, asserting that the use of age or location in underwriting is appropriate so long as it is not used to discriminate.

In this final rule, § 81.42 parallels the language of the statute and no longer contains the list of examples of location factors which may properly be considered in an appraisal and in other aspects of the underwriting process. Section 805(c) of the Fair Housing Act, 42 U.S.C. 3605(c) addresses appraisals. The HUD regulation which implements this section provides that "nothing in this section prohibits a person engaged in the business of making or furnishing appraisals of residential real property from taking into account factors other than race, color, religion, sex, handicap, familial status or national origin." 24 CFR 100.135. It is HUD's view that the Fair Housing Act and FHEFSSA allow the consideration of the age or location of a dwelling as long as that consideration is not used in a manner that discriminates unlawfully.

Assessment of Disparate Results

Both GSEs objected to conducting a disparate results assessment as part of the Annual Housing Activities Report (AHAR) required by FHEFSSA, a report further discussed in § 81.63 of subpart E. Both GSEs objected to the manner in which the disparate results assessment would have been implemented by § 81.43 of the proposed rule, insofar as that section would have required the GSEs to set forth fully the basis for their conclusions that a business necessity exists for any policies and practices which yield disparate results. Freddie Mac contended that the Secretary has no authority to require the assessments. Freddie Mac also stated that the business practices assessment requirement would result in a massive diversion of resources from Freddie Mac's core business activities and detract from its abilities to fulfill its mission.

Fannie Mae stated that the proposed rule, as well as HUD administrative law decisions, suggest that Fannie Mae must accompany the demonstration of business necessity with a showing that no less discriminatory alternative exists for serving that business necessity, and that this would involve proving a negative assumption. Similar objections were stated with reference to the provisions requiring the GSEs to assess their underwriting and appraisal guidelines. Fannie Mae also claimed that the proposed rule provided no effective guidance to the GSEs concerning how to apply this test to their operating procedures and how to measure whether facially-neutral policies have a disparate impact on a protected class.

The GSEs further asserted that the business practices assessment and underwriting appraisal guidelines requirements place an excessive burden on the GSEs and that HUD underestimated this burden in its Regulatory Impact Analysis. Fannie Mae and Freddie Mac both objected to what they perceived as a shift in responsibility for analysis of data and enforcement from HUD to the GSEs.

MBA opposed the inclusion of the "less discriminatory alternative" prong of the disparate impact analysis set out in the rule, arguing that making it the GSE's burden to establish this prong would be unfair and inconsistent with case law on which the theory is based. Although opposing any requirements for GSEs to develop fair lending plans, and joining the objections to the disparate impact provisions, MBA nevertheless saw it as the proper function of the GSEs to develop a business practices assessment along the lines required by subpart D.

Finally, Freddie Mac claimed that the system of "self-testing" required by the business practices assessment conflicts with the clear trend set by the

[47] S. Rep. at 43 (emphasis added).

[48] Id. at 31 (emphasis added).

[49] *See id.*

[50] No courts have ever held in Fair Housing Act or ECOA cases that the disparate impact standard does not apply to lenders.

[51] Additionally, the Federal Reserve, in its Regulation B, recognizes the role of disparate impact analysis under ECOA. 12 CFR 202.6(a)(2); Federal Reserve System Handbook at 1–24.

[52] S. Rep. at 42–43.

Department of Justice and federal financial regulatory institutions.

The Fair Housing Act and its implementing regulations, which were promulgated in 1989, apply to the GSEs and include a detailed prohibition against discrimination in the purchasing of loans and set forth the business necessity defense to a disparate impact claim involving the purchasing of loans.[53] Thus, when taken together, the Fair Housing Act regulations and case law, the Civil Rights Act of 1991, and the Interagency Policy Statement provide sufficient guidance concerning the application of the statutorily required assessment of disparate results.

The GSEs' assertions concerning the regulatory burden of compliance with the requirements outlined in § 81.43 of the proposed rule have been given careful consideration. Accordingly, HUD has substantially modified this section of the rule, which, as revised, now largely tracks the statutory language of sections 1381 and 1382 of FHEFSSA. These sections of the statute require the GSEs to include, in their AHAR to the Secretary and Congress, assessments of disparate results of various types of policies and practices. The GSEs are directed specifically to "assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures * * * that may yield disparate results based on the race of the borrower" in their annual reports.[54]

The disparate results assessment is a statutorily-mandated part of the AHAR under FHEFSSA. This final rule implements that statutory mandate by requiring that the GSEs assess whether their business practices are discriminatory on the bases of race, color, religion, sex, handicap, familial status, age or national origin, since all of these are prohibited bases listed in section 1325(1) of FHEFSSA and the Secretary is charged with prohibiting the GSEs from discriminating in any manner based on all of these prohibited factors. The Secretary is authorized to implement the statute's disparate results assessment requirement in this manner. Sections 1381(p) and 1382(s) of FHEFSSA authorize the Secretary to require the GSEs to submit any other information in their AHARs that the Secretary considers appropriate. However, the Secretary recognizes that data may not be currently available to assess whether certain practices are discriminatory on the bases of handicap, familial status and religion.

[53] 24 CFR 100.125.

[54] Sections 1381(p) and 1382(s) of FHEFSSA.

This rule does not impose a requirement upon the GSEs to ask lenders to report information regarding the religion or handicap of potential borrowers. Nor is it intended, for purposes of this section, that the GSEs ask lenders to report any information other than that which the lenders currently report, or any information which lenders may not inquire about under ECOA or the Fair Housing Act. ECOA regulations generally prohibit creditors from inquiring about an applicant's race, color, religion, or national origin. The Fair Housing Act also generally prohibits inquiries regarding an applicant's race, color, national origin, religion, sex, familial status or handicap. However, ECOA regulations do allow a creditor to collect information regarding an applicant's race, national origin, sex, marital status, and age for monitoring purposes. Additionally, HMDA regulations require lenders to collect information on race or national origin and sex of an applicant or borrower.

These revisions address the GSE's concerns regarding undue regulatory burden. The streamlining of the reporting requirements included in § 81.43 of this final rule reduces the GSEs' compliance burden and requires fewer submissions to HUD. The AHARs under subpart E already require the GSEs to assess the impact of their own decisions with a conscious goal of ensuring that they do not violate the law, and to include, as the statute requires, "revisions thereto to promote affordable housing and fair lending."

In developing this final rule, HUD has recognized that regulatory provisions intended as guidance may sometimes become prescriptive and can lead unnecessarily to micromanagement. The GSEs themselves should be afforded the opportunity to use their capabilities to develop a functional assessment method that ensures the fulfillment of the precise statutory directive. The regular assessment by the GSEs of policies and practices to determine whether they may be yielding disparate results, and the evaluation of that assessment by HUD, will carry out FHEFSSA's mandate to prohibit discrimination in any manner.

Additionally, section 1325(6) of FHEFSSA requires review by the Secretary of the GSEs' underwriting and appraisal guidelines to ensure that they are consistent with the Fair Housing Act and that section. The language in § 81.43(b) mirrors the language of the statute.

Data Submission

Freddie Mac raised a series of concerns about the proposed rule's implementation of sections 1325(2) and (3) of FHEFSSA, authorizing the Secretary to require submission of information to assist the Secretary to determine whether a lender with which the enterprise does business has failed to comply with the Fair Housing Act and ECOA. Freddie Mac objected to being required to respond to requests from any agency other than the Secretary, pointing out that § 81.44(b) of the proposed rule suggested that other Federal agencies might make direct requests to the GSEs.

Freddie Mac objected to the rule's suggestion that information could be requested by the Secretary pertaining to the mortgage sales of lenders operating in the "same or similar areas" as a lender about whom a request for data had been made. Freddie Mac objected on cost and resources grounds, and requested that the rule be limited to requiring only the provision of data pertaining to lenders (a) against whom a complaint has been filed; (b) where other evidence supports an investigation; and (c) where the data in Freddie Mac's possession is not otherwise publicly available.

Freddie Mac also objected to HUD's characterization, in the proposed rule, of materials to be sought from it as "information." Freddie Mac argued that "data" meant facts that were a matter of direct observation, while "information" included "knowledge gained through communication, research, instruction, etc." Insisting on the distinction, Freddie Mac objected to the creation of "an unfettered right of the Secretary to require the enterprises to conduct sophisticated statistical analyses that * * * might be helpful to complete an investigation * * *." Fannie Mae asked that the rule be revised to state that GSEs are required to provide only data: (a) owned by the GSE; (b) in response to requests by the Secretary; (c) in connection with an ongoing investigation by the Secretary (rather than other organizations); (d) pertaining only to a particular lender pursuant to specific allegations of discrimination; and (e) that has not already been supplied and is not readily obtainable from other sources.

Other housing industry commenters also requested that investigative data sought by HUD be limited to active investigations already in progress, because requiring the GSEs to produce an analysis of each of their lenders could poison the business relationship between GSEs and their customers, and

involve high additional costs for the GSEs. The National Association of Mortgage Brokers (NAMB), the California Association of Realtors, the Western League of Savings Institutions, the ABA, the NAR, and a major mortgage company all joined in protesting what they considered the prospect of excessive information collection, employing GSE resources. NAR raised concerns about "privileged data on lenders" and indicated that the organization's concern was "magnified when the proposed requirement to provide information is coupled with a request that the GSEs conduct an analysis of the data." It urged that HUD's requests for data and analysis be limited to situations involving allegations of discrimination.

To address these concerns, § 81.44(b)(1) of this final rule has been modified to clarify that other Federal agencies responsible for ECOA enforcement which wish to request information from the GSEs pursuant to FHEFSSA must do so by submitting that request through the Secretary. The words "without limitation" referencing, in the proposed rule, the types of information that may be requested, have been removed in this final rule at § 81.44(b)(1) and (2). Section 81.44(a) also has been modified to make it clear that the GSEs are only required to submit such information under FHEFSSA after it has been requested by the Secretary.

Additionally, in accordance with the President's initiative on regulatory reform, the examples provided in § 81.44(b)(1) and (2) of information which may be requested have been removed from this final rule. By removing those examples, HUD does not intend to limit, in any way, the information it may request pursuant to section 1325 of FHEFSSA and § 81.44 regarding violations by lenders of the Fair Housing Act and ECOA. Requested information may include information on mortgages sold to the GSE by the lender or lenders under investigation, the mortgage sales of lenders operating in the same or similar areas, and information on representations and certifications to the GSEs by the lender or lenders under investigation. Information requested from the GSEs' established data systems may include comparing the loans purchased by the GSE from a particular lender to data on the racial composition of census tracts or providing data on loans sold to the GSE by lenders operating in the same geographical area. In the interests of regulatory reform, the reference to comparative and other data that would be collected under § 81.44(b)(1) and (2) has been removed, but HUD will seek such data when appropriate.

Where comparative data about the performance of other lenders is considered relevant to an ongoing investigation, HUD has the authority under the Fair Housing Act to require anyone, including the GSEs, to provide material or testimony. 24 CFR 103.200, 103.215, 103.220. It is consistent for the GSEs to provide such information pursuant to this section.

Although no other commenters repeated Freddie Mac's distinction between "data" and "information," several joined Fannie Mae in arguing that only information about an identified object of investigation, and not available from other sources, should be sought through the GSEs. Freddie Mac also asserted that HUD has grossly underestimated the resource drain on Freddie Mac that § 81.44 would entail. Again referencing the Regulatory Impact Analysis for the proposed rule, Freddie Mac objected that HUD had misstated and oversimplified the work burden associated with the GSE's provision of required data. Several industry commenters echoed Freddie Mac's position on this issue.

Section 1325(3) of FHEFSSA uses the terms "data" and "information" interchangeably. The legislative history shows that the Congress intended that the GSEs would actively assist HUD by providing data for "investigative purposes."[55] Nor does the statute, or its goals, support Fannie Mae's suggestion that the rule be revised to state that the GSEs are required to provide only information owned by them and not readily available from another source. Congress intended that the GSEs submit information that they are "privy to and collect," and there is no requirement that the GSEs own such information.[56] That language indicates Congress' intent that the Secretary have access, upon request, to information other than that owned by the GSEs.

HUD is sensitive to the need to limit reporting burdens upon both lenders and the GSEs to the minimum level consistent with effectively implementing statutory requirements. As a practical matter, HUD does not anticipate that requests for information from the GSEs pursuant to an investigation will generally require the GSEs to seek additional information from lenders, nor does it expect that it generally will seek information from the GSEs when that information is readily available from other sources. Rather, as mandated by the statute, the GSEs will assist HUD in investigations by providing existing and available data and information upon request by HUD. HUD does not expect that § 81.44 will result in new reporting burdens on lenders, and does not expect that it will impose onerous burdens on the GSEs. Nor does HUD intend for the GSEs to conduct fair lending investigations or otherwise act as an enforcement arm of the Federal government.

For matters involving the Fair Housing Act, the Secretary will only issue requests for information about lender-based data in circumstances involving investigations, as defined by the Fair Housing Act regulations found at 24 CFR part 100, subpart D. For matters involving only ECOA, § 81.44(b)(1) provides that the Secretary will only issue requests for information from the GSEs upon a request from the responsible Federal financial regulatory agency.

In response to comments, the revised § 81.44 omits the provisions in the proposed rule which would have required the GSEs to volunteer information regarding potential violations of the Fair Housing Act or ECOA and which would have required the GSEs to submit other information to HUD or the other lending regulators.[57]

Finally, Freddie Mac objected that HUD ought to revise § 81.44 to assure that any data-providing burdens fall equally on the two competing GSEs.

HUD anticipates that regular reporting and data-provision requirements imposed upon the GSEs will not differ. However, the subject matter of § 81.44 is the provision of information to assist in investigations. The nature of each particular investigation will determine what information is necessary. Because information will only be sought as needed, it would be unnecessarily burdensome, both for the GSEs and HUD, for the Secretary routinely to make duplicate requests for information to both GSEs when it is not otherwise necessary.

Evidentiary Value of Data

Freddie Mac argued strongly that it could not make determinations, in any event, concerning whether its practices produced disparate results among its lenders, since Freddie Mac has no means of collecting data for loans that were declined as a proximate result of Freddie Mac requirements. There was

[55] *See* S. Rep. at 43–44.

[56] *See* S. Rep. at 43–44.

[57] While the requirement to volunteer information about violations has been removed from the rule, this change does not shield the GSEs from potential legal liability if they participate in discrimination. *See* section 1325(1) of FHEFSSA; sections 804 and 805 of the Fair Housing Act, 42 U.S.C. 3604–3605; and 24 CFR 100.125.

support among the other industry commenters concerning what they considered the limited evidentiary value of GSE application data. MBA noted that information solely from the GSEs would "give a distorted view of a lender's performance since lenders originate loans for other investors and loans with FHA insurance are sold into the secondary market through Ginnie Mae."

HUD is aware that lender information received from the GSEs generally will include only those transactions in which a GSE has been a participant. However, that is not a basis for concluding that there is no evidentiary value in information provided by the GSEs in accordance with the requirements of FHEFSSA and this final rule. The legislative history of FHEFSSA clearly indicates that Congress considered information possessed by the GSEs to be of potential value in investigations.[58]

Submission of Information to the GSEs

HUD will make information regarding violations of ECOA or the Fair Housing Act available to the GSEs pursuant to § 81.45. Information to be made available regarding violations will include decisions by Administrative Law Judges, Federal courts, the Secretary, or decisions of other courts applying Federal, State or local fair lending laws. HUD recognizes that the information to be made available to the GSEs will be limited by applicable law, memoranda of understanding between the agencies and other arrangements regarding such issues as confidentiality, the right to privacy, and the protection of supervisory information.

HUD recognizes that because the GSEs may take action pursuant to their own policies and agreements, the clause in the proposed rule at § 81.45(b) which authorized them to do so was not necessary. Therefore, the clause has been deleted from this final rule.

In consultations, the federal financial regulators raised concern that § 81.45 of the proposed rule, which directed the Secretary to obtain information from federal financial regulators and others regarding violations of the Fair Housing Act and ECOA, would require the reporting of violations which might be unrelated to mortgage lending discrimination.

In response to these concerns, § 81.45(b) of this final rule limits the information required to be obtained from other Federal regulatory or enforcement agencies to violations by lenders involving discrimination with respect to the availability of credit in a residential real-estate-related transaction. This change more clearly describes the scope of the data required by this final rule.

In addition, while the rule directs the Secretary to obtain information regarding single violations of the Fair Housing Act in real-estate-related transactions, in response to federal financial regulator concerns involving ECOA violations, the Secretary will obtain information from regulators regarding violations of ECOA by lenders only in circumstances in which there is either more than a single ECOA violation, or the ECOA violation could also be a violation of the Fair Housing Act.

Remedial Actions

Section 1325(5) of FHEFSSA authorizes the Secretary to direct the GSEs to take various remedial actions against lenders that have been found to have engaged in discriminatory lending practices in violation of the Fair Housing Act or ECOA, pursuant to a final adjudication on the record, and after opportunity for an administrative hearing. Freddie Mac commented that HUD had not defined "final adjudication on the record" in the proposed rule, and had employed the term "final determination" in its place, contrary to section 1325(5) of FHEFSSA. Freddie Mac requested that the term "final adjudication on the record" be defined to include recognition that such an adjudication could only result from a United States court or established administrative proceeding, with an unappealable decision on the merits having found a lender to have violated substantive (i.e., not technical or recordkeeping) provisions of ECOA or the Fair Housing Act.

Congress intended that remedial actions would be imposed only on lenders that had been found to have violated the Fair Housing Act or ECOA by a court or administrative law judge, after a trial on the merits, and after that decision was no longer subject to appeal.[59]

Section 81.46(c)(1) provides that the Secretary shall direct a GSE to take remedial action only after a final determination has been made that a lender has violated ECOA or the Fair Housing Act. The term "final determination" means, within the context of § 81.46, a final administrative or judicial decision, after hearing or trial on the merits, which is not subject to appeal. For the purposes of finding that there has been a final determination that a lender violated the Fair Housing Act, the implementing regulations at 24 CFR 104.930 and 104.950 establish that a final decision may be made by the Secretary or a HUD Administrative Law Judge, and that a final decision becomes conclusive unless appealed within the statutory period. If a party to the case elects to have that case heard in U.S. District Court pursuant to section 812(o) of the Fair Housing Act, 42 U.S.C. 3612(o), the District Court may decide the case, and that decision becomes conclusive unless appealed within the period established by the Federal Rules of Appellate Procedure. For the purposes of finding a violation of ECOA, a final determination means that a final decision on a complaint must have been made by an appropriate United States District Court or any other court of competent jurisdiction, and that decision must be no longer subject to appeal.

Congress also indicated that after a final determination has been made that a lender violated the Fair Housing Act or ECOA, HUD should conduct a hearing on the record before imposing any remedial action.[60] The term "final adjudication on the record," as used in section 1325(5) of the statute, provides for the use of the formal adjudicative process set forth in §§ 554–557 of the Administrative Procedure Act.

Freddie Mac objected to the phrase "indefinite suspension" as used in the rule. Freddie Mac claimed that, as used in the statute, "suspension" clearly implied a temporary (and definite) remedial action, and that HUD's use of the term "indefinite" suspension constituted a rule-created additional, more severe, form of remedy.

MBA addressed a related concern. In light of the broad scope of remedies outlined in the statute, MBA objected to the rule's use of the phrase "other remedial action," saying that it was inappropriate for the Secretary to assert general discretion to take any other action against lenders without providing the opportunity for notice and comment rulemaking as to what that action might be.

This final rule no longer includes the phrase "other remedial action." However, HUD does not agree with Freddie Mac's assertion that the statutory term "suspension" is a limiting one. The terms "temporary" and "indefinite" clarify the statutory term, which did not provide any time limits for suspensions to be applied. Accordingly, this final rule continues to provide for temporary suspension or indefinite suspension as alternative remedial actions, depending upon the severity of the discriminatory conduct.

Freddie Mac also objected to the fact that the rule does not provide it with a role in connection with any administrative hearing concerning remedial action against a lender. In contrast, the ABA, although supportive of GSE positions on several issues, found no fault with the procedural protections in the proposed rule, and stated its belief that the rule provides necessary and appropriate procedural safeguards for lenders. The statute does not provide a role for the GSEs in connection with an administrative hearing concerning remedial action against a lender.

Additionally, Freddie Mac regarded the list of factors to be considered in determining whether to apply a remedial action, found at § 81.46(c)(3) of the proposed rule, as excessively broad, inclusive of potentially irrelevant considerations, and in contravention of the statute's express intent to limit remedial actions to final adjudications. This final rule provides useful guidance in carrying out the statutory requirement, in section 1325(5), that the Secretary shall direct the GSEs to undertake appropriate remedial actions. The rule states that before giving the GSEs and the lender notice of any remedial action to be taken, the Secretary shall, as a threshold matter, solicit and fully consider the views of the Federal financial regulatory agency responsible for the subject lender. If such responsible Federal financial regulatory agency makes a written determination that a particular remedial action will threaten the financial safety and soundness of the lender, the Secretary shall consider other remedial actions. For the purposes of § 81.46, "remedial actions" will include only those actions relating to the business relationship between the GSE and the lender.

The rule provides a list of factors to be considered when directing remedial action. This list has been shortened in this final rule to combine similar factors, in accordance with the President's initiative on regulatory reform. For example, in determining the appropriate remedial action, the Secretary may consider a lender's history with respect to enforcement actions or lawsuits brought against it under ECOA, the Fair Housing Act, or substantially equivalent state or local laws, including cases that are conciliated, settled, or otherwise resolved, as well as private fair housing lawsuits and judgments, settlements, conciliations, or other resolutions. Conciliations and settlements may be considered as mitigating or aggravating factors. For example, a broad class settlement with comprehensive remedial relief may evidence a lender's good faith and affirmative attempts to correct discrimination and may be a mitigating factor when determining whether to impose a remedial action pursuant to § 81.46 against that lender based on an adjudicated finding involving isolated discriminatory acts of a single employee. On the other hand, if a lender enters into a similar settlement, but fails to adhere to it, that may be viewed as an aggravating factor when determining whether to impose a remedial action based on an adjudicated finding that the lender has engaged in discrimination. Similarly, if a GSE has taken action against a lender under its own policies or contractual agreements, such action may also be considered as a mitigating or aggravating factor, depending upon the circumstances and the remedial action under consideration.

HUD recognizes that in selling loans to the secondary market, lenders are required to use the secondary market's underwriting guidelines. Under § 81.46(c)(3)(viii) of this final rule, to the extent that a primary lender is found liable under the Fair Housing Act or ECOA for use of a facially neutral, appropriately applied underwriting guideline that is required in order to sell loans to a secondary mortgage market, the Secretary will take that into account in determining the appropriate sanction, if any, to direct the GSE to impose on the primary lender. In such instances, the Secretary will generally direct a settlement or a reprimand as a remedial action.

The statute did not provide for any special consideration of the effect of remedial actions on the GSEs. However, as provided in § 81.46(c)(3), where warranted, the Secretary shall solicit and fully consider the views of the Director regarding the effect of the action(s) that are contemplated on the safety and soundness of the GSE. In addition, § 81.46(c)(3)(ix) of this final rule provides that "[a]ny other information deemed relevant by the Secretary" may be taken into account in determining the level of remedial action, and information concerning the impact on the GSEs may be relevant in particular cases.

Additional Fair Lending Issues

The Western League of Savings Institutions encouraged HUD to approach the task of overseeing fair lending practices from an entirely different perspective. HUD, the commenter said, should be concerned with marketplace entities "not currently subject" to Federal regulation, and objected to what it perceived as "dual oversight" of some depositary institutions. It also recommended that, since HUD will review and comment on existing and revised GSE underwriting guidelines under the regulation, lenders who rely on those underwriting guidelines should be provided a "safe harbor" in the regulation.

Regarding the commenter's concern about "dual oversight," FHEFSSA requires HUD to assume certain enforcement responsibilities, and it does not permit HUD to limit this oversight to particular institutions. In response to the request for a "safe harbor," HUD does not believe this regulation is the appropriate vehicle to address the liability of lenders under the Fair Housing Act. The statute speaks only to the sanctions which the Secretary shall mandate that a GSE impose on a primary lender after an adjudication that the primary lender has discriminated. In directing a sanction under FHEFSSA, the Secretary relies on a prior judicial or administrative determination of a Fair Housing Act or ECOA violation. HUD recognizes that lenders are subject to the investigative and enforcement powers under the fair lending laws of HUD, the Department of Justice, the federal financial regulatory agencies and the FTC. To limit duplicative enforcement activities, HUD will ordinarily ensure that remedial actions the Secretary directs a GSE to take against a lender will not be in the nature of those which could have been, but were not, imposed directly against a lender in the course of an enforcement action by HUD, the Department of Justice, or the lender's primary regulator. HUD will consider, as factors in this determination, whether HUD, the Department of Justice, or the lender's primary regulator took an enforcement action, whether the sanction was a result of private litigation, whether additional facts have come to light, and whether the law has changed.

[58] "In the course of their day-to-day operations the enterprises are privy to and collect certain data which may be instructive regarding the practices of mortgage lenders. The reporting of such data should aid investigative efforts." S. Rep. at 43–44; *see also* sections 1325(2) and (3) of FHEFSSA.

[59] "This section also provides for remedial actions against lenders who have been found to have violated the Fair Housing Act or the Equal Opportunity Act [sic] by the appropriate administrative agency with enforcement responsibility . . . . Any hearing regarding a remedial action should be held only after there has been a final administrative or judicial decision, after hearing or trial on the merits, and not subject to appeal, as provided in the applicable statute." S. Rep. at 44.

[60] "Before imposing any remedial action, HUD shall conduct a hearing on the record in accordance with the Administrative Procedure Act." S. Rep. at 44.

Industry commenters generally opposed the "fair lending plan" suggestion on which HUD sought comment and posed questions. Other commenters asserted that the GSEs should be required to prepare a fair lending plan. In the interest of reducing regulatory burden, HUD has not included a fair lending plan as a requirement in the final rule.

Subpart D—New Program Approval

In General

Section 1322(a) of FHEFSSA charges the Secretary with "requir[ing] each [GSE] to obtain the approval of the Secretary for any new program of the [GSE] before implementing the program."

The provisions of the proposed rule which sought to implement this authority met with strong objections from the GSEs and others. In light of the comments, which are detailed below, these provisions have been significantly revised to assure that: (1) the program review process is *not* unnecessarily burdensome; (2) ambiguity in the definition of terms cannot conceivably lead to required HUD approval of undertakings other than those reasonably recognizable as "new programs"; and (3) constructive innovations by the GSEs, involving variations on existing programs, will be neither delayed nor derailed by HUD review processes. The revision of subpart D consists, in large measure, of conforming its language in key areas with the provisions of the statute with only the addition of necessary housekeeping provisions.

In light of the significant changes in the provisions on new program approval included in this final rule, this preamble summarizes the positions of the GSEs and other commenters in less detail than would be necessary were the proposed rule to have been adopted with only minor alteration. However, all of the comments on the proposal have been thoroughly reviewed by HUD. In general, the comments argued that: (1) HUD did not have statutory authority to promulgate the new program approval provisions of the proposed rule; and (2) these provisions would result in inappropriate micromanagement of the GSEs by HUD, which would inhibit the GSEs' flexibility and ability to adopt new products quickly. The Secretary is confident that: (1) HUD does have the statutory authority to establish new program approval procedures as described in the proposed rule; and (2) these procedures would not have inevitably led to micromanagement. Nonetheless, substantial changes were made to this section to address the concern of the GSEs and other commenters with the proposed procedures. The changes should not be interpreted as reflecting concurrence with the bulk of the comments but rather as an effort toward streamlining the final rule.

The Comments

Both entities read the proposal's definitions of "new program" and "significantly different programs" as effectively requiring that the Secretary's approval be sought for "product variations, pilots, and demonstrations" within existing GSE programs. Based on this expansive interpretation, the GSEs argued that the proposal would exceed the Secretary's authority.[61] Each GSE recommended that the Secretary withdraw the entire subpart,[62] or, in the alternative, simply track the statutory language, without embellishment.

Fannie Mae claimed that these provisions were: (1) arbitrary and capricious, and failed to consider relevant "business necessities"; (2) an impermissible attempt by the Secretary to "micro-manage" the GSEs; (3) inconsistent with expressed congressional intent; (4) not contemplated by FHEFSSA, and unauthorized under the Secretary's general regulatory authority; and (5) inconsistent with the "general principles" set out by HUD as governing its own approach to rulemaking in this instance. Fannie Mae also argued that, during its 20 years of experience with HUD's existing program approval process, no evidence exists that a detailed regulation similar to that proposed was necessary.

Freddie Mac's comments were nearly identical. Freddie Mac concluded that the definitions contained in the proposed rule would lead to an enormous expansion of GSE activities subject to Secretarial review. Freddie Mac's comments suggested that: (1) The only threshold for submission of matters for new program review should be whether they are "significantly different" from prior programs; (2) only section 305 of the Freddie Mac Charter may serve as a basis for denying a new program approval request; (3) the term "program" should be defined to refer only to "any broad and general plan or course of action for the purchasing, servicing, selling, lending on the security of, or otherwise dealing in conventional mortgages;" (4) any reference to "pilot or demonstration program"—the only part of the proposed definition that does not appear in the statute—be stricken; and (5) no attempt should be made to define when a program is "significantly different," relying, instead, on the GSEs' to submit "truly significant new initiatives" for prior approval.

Some industry commenters, including the ABA, that joined the GSEs in questioning the scope of subpart D clearly believed that a more carefully tailored version of the approval provisions would be useful. These commenters believed it important that HUD ensure that "the GSEs' activities are restricted to those activities they were chartered to do—purchase and securitize mortgages."

Commenters, whether supportive of the GSE position or concerned about restricting the GSEs to Charter Act purposes, consistently argued that flexibility and the ability to move quickly to adopt new products were essential elements of the GSEs' contribution to affordable housing. A few commenters suggested that the Secretary allow the GSEs greater latitude to begin implementation of new programs, but to review the new activity "as it is being introduced, to determine if it should be curtailed or modified."

The Secretary's Response

Section 1322—new program approval—is an essential responsibility of HUD and the Federal Government to ensure that the GSEs remain faithful to their statutory purposes and serve the public interest. Accordingly, while significant revisions have been made, the final rule does not diminish the importance of this function. The GSEs argued that no regulation was required to carry out this function. The Secretary believes the final rule properly recognizes this statutory duty and establishes a mechanism for carrying out the responsibility assigned.

The Final Rule

The rule has been streamlined considerably to address the GSEs' apprehension about micromanagement to which the proposed rule apparently gave rise. The Secretary has removed the definition of "significantly different programs" contained in § 81.52(e) of the proposed rule and will use only the statutory definition of new program. Although many believed the proposed definition included virtually all new GSE activities in new products, the definition was intended to clarify that the Secretary's authority extended only to genuinely new programs—and not to new products. Because the definition seems to have added to, not reduced, the confusion, the definition has been dropped.

The final rule also eliminates, in the definition of "new program" in § 81.2, the reference to *pilot or demonstration program*(s). The proposed § 81.52(d) has been eliminated. That section provided that "grandfathered" programs remained subject to any limitations and requirements included in the Secretary's approval of the new programs. This concept is inherent in FHEFSSA's definition of "new program" and was superfluous. For similar reasons, the rule also eliminates specific reference to activities carried out under sections 309(h) of the Fannie Mae Charter Act or 303(d) of the Freddie Mac Act.

In lieu of the proposed requirement that the GSEs submit requests for programs that "reasonably raise questions" as to whether they are significantly different, the final rule maintains only, in § 81.52(d), the provision that the Secretary may request information about a program where the Secretary believes that the program may be subject to HUD review. Where, based on the information submitted, the Secretary determines such a request is warranted under the statute, the rule preserves the Secretary's authority to require that the GSE submit a request. This provision is consistent with the legislative intent that a new program that differs significantly "must be submitted for prior approval."[63]

Freddie Mac commented that the GSEs have a "right * * * not to submit matters for approval that are beyond the scope of * * * the Act." Submissions for programs will only be required where the program is within the scope of FHEFSSA's review requirements. In the course of any such submission, the regulation invites the affected GSE to indicate in its response its views respecting whether the program is, in fact, subject to the Secretary's review.

Section 1322(c)(1) of FHEFSSA requires that a GSE "submit to the Secretary a written request for approval * * * that *describes* the program." This final rule sets out the precise information the Secretary regards as necessary for the "description" of a new program. The information requested in § 81.53(b) of the final rule is the minimum necessary to carry out the Secretary's statutory duty. These are essential housekeeping requirements; they place no excessive burdens on the GSEs and are tailored to the principal goals of the Secretary's review: assurance that new program initiatives comport with the Charter Acts and are in the public interest. Under FHEFSSA, unless additional information is required, the Secretary must complete a new program review within 45 days. The housekeeping requirements will facilitate the review process and likely obviate the need for additional information.

With the substantial revisions that have been made, the final rule represents an effort to demonstrate that the Secretary will act in the least intrusive manner possible. The Secretary does not want to promulgate a regulation that imposes excessive burdens on the GSEs, or that addresses problems that are not expected to arise. The Secretary believes that new program requests can be acted upon in a less intrusive manner than the procedures set out in the proposed rule may have suggested.

The Secretary has reason to believe, based on experience, that the GSEs will act properly. In the event the Secretary believes that a GSE has undertaken a "new program" within the meaning of the statute without prior approval, FHEFSSA and the final rule contain adequate mechanisms for effective inquiry. Furthermore, the Secretary has adequate statutory and regulatory authority to revise this rule in the future, should events prove that a more detailed rule is necessary to carry out the Secretary's mandate.

Subpart E—Reporting Requirements

Sections 309(m) and (n) of the Fannie Mae Charter Act and 307(e) and (f) of the Freddie Mac Act require that the GSEs submit data about their mortgage purchases to the Secretary and submit reports to Congress and the Secretary concerning the GSEs' housing activities. FHEFSSA, at section 1326, mandates that the Secretary require each GSE "to submit reports on its activities to the Secretary as the Secretary considers appropriate." Section 1324 of FHEFSSA requires that the Secretary report to Congress by June 30 of each year on the activities of the GSEs. This final rule implements all of the applicable reporting requirements, to enable the Secretary to monitor the GSEs' activities and report to Congress appropriately.

In promulgating the proposed rule, the Secretary reviewed the reporting requirements for Fannie Mae, contained in the then-existing Fannie Mae regulation, which required Fannie Mae to submit numerous reports to the Secretary. The Secretary determined that a simpler, more effective and less burdensome reporting system should be instituted for both GSEs.

Mortgage Reports, Section 81.62

Although reporting requirements in the proposed rule were streamlined compared to earlier requirements imposed by the Secretary, Freddie Mac found the reporting requirements "excessive." In particular, Freddie Mac objected to submitting loan-level data on a quarterly basis. Freddie Mac asserted that quarterly loan-level data submissions were never contemplated by Congress and that Congress intended that a level of information equivalent only to that obtained from annual reporting under HMDA would be required. Fannie Mae argued that quarterly reports of loan-level data could potentially provide a misleading picture of performance.

Consistent with the Administration's efforts to streamline regulations and reduce reporting requirements, the Secretary has further reduced the frequency and the volume of data submissions. Section 81.62 requires the following information:

- First- and third-quarters reports—tables aggregating loan-level mortgage data; and
- Second- and fourth-quarter reports—tables aggregating loan-level mortgage data as well as loan-level data.

Thus, instead of requiring the submission of the loan-level data with each quarterly report, as proposed, the final rule now requires submission of loan-level data only with the second and fourth quarter reports. (The fourth quarter mortgage report also now serves as the Annual Mortgage Report and is designated as such.) In response to GSE comments, the final rule also clarifies that the quarterly mortgage reports need only include year-to-date data, not quarterly data plus year-to-date data as suggested in the proposed rule.

FHEFSSA charges the Secretary with responsibility for monitoring and enforcing the GSEs' compliance with the housing goals during the course of each year, and requires that the Secretary take action where a GSE fails—or there is a substantial probability that a GSE will fail—to meet any housing goal. The Secretary has determined that quarterly reports, with semiannual reporting of loan-level data, are essential to ensuring that the

[61] Comments from NAR took a different view: "We are not contesting the Department's authority to conduct such program approval, since we believe the statute is very clear on this point." Nevertheless, NAR believed the proposed rule's new program review authority was "too broad and ambiguous" and recommended that the "parameters for identifying new programs need to be clarified."

[62] Although many other commenters also were critical of features of the New Program Approvals subpart, only a few joined the GSEs in recommending the subpart's total withdrawal. The MBA, NAMB, and the California Association of Realtors did recommend withdrawal of the subpart. MBA recommended, alternatively, elimination of the New Program Approvals provisions or limiting them to the precise terms of FHEFSSA, which, MBA declared, "are self-implementing."

[63] S. Rep. at 2.

Secretary has the minimum information needed to carry out these monitoring, compliance, and other regulatory responsibilities.

Requiring quarterly reporting is well within the Secretary's authority under FHEFSSA. The Secretary, under section 1321, has "general regulatory power over each enterprise and shall make such rules and regulations as shall be necessary and proper to ensure that this part and the purposes of the [Charter Acts] are accomplished." Section 1327 mandates that the Secretary require reports on the GSEs' activities "as appropriate," and FHEFSSA's amendments to the Charter Acts specifically require the GSEs to collect, maintain, and provide to the Secretary detailed data on mortgages purchased financing both single-family and multifamily properties "in a form determined by the Secretary."[64]

No convincing indication[65] exists that Congress intended the HMDA schedules or procedures to serve as a controlling model.[66] FHEFSSA did not seek to lessen reporting. Indeed, FHEFSSA required detailed reporting of mortgage data and extensive annual reporting on GSE housing activities to both Congress and the Secretary. In enacting FHEFSSA, Congress was particularly concerned about the lack of information on the GSEs' mortgage purchases. The legislative history describes FHEFSSA's reporting requirements and states:

> * * * an information vacuum has severely impeded Congressional efforts to measure Fannie Mae's compliance with regulatory housing goals that have been in force since 1978. The committee believes that enactment of this bill will fill this vacuum on an expeditious basis by mandating the creation of modern state of the art data systems by both enterprises.[67]

Freddie Mac also expressed concern about the disclosure of mortgage data on less than an annual basis; *e.g.*, if Freddie Mac provided first-quarter loan-level data, it did not want that data released until after the end of the year, and Freddie Mac wanted the data included with all other data from that year so that the timing of its mortgage purchases could not be determined.

It was not intended that quarterly or semi-annual loan-level data be placed in the public-use database. Loan-level data submitted with the second-quarter report are required only so that the Secretary can assess the GSE's current condition under the goals, to facilitate the Secretary's monitoring functions; the final rule so indicates. Because other-than-year-end loan-level data are by nature preliminary, submitted as a condition report, subject to revision, and may cause substantial harm if prematurely released, the inclusion of such data in the public-use database would be inappropriate. Of the mortgage data submitted under section 309(m) of the Fannie Mae Charter Act and section 307(e) of the Freddie Mac Act, the only loan-level mortgage data that shall be placed in the public-use database is year-end data, consistent with subpart F of this rule.

Freddie Mac stated that developing and modifying its systems to comply with these reporting requirements would take some time and, because of this, Freddie Mac requested an exemption from reporting for a reasonable time following the issuance of final regulations. In response, notwithstanding the effective date for other provisions of this rule, the second-quarter mortgage report for 1996 is the first such report required.

Annual Housing Activities Report, Section 81.63

FHEFSSA requires the GSEs to submit an Annual Housing Activities Report (AHAR) to Congress and the Secretary. Under FHEFSSA, the AHAR must, among other things, describe actions that the GSE has undertaken during the preceding year or is planning to undertake to: promote and expand its attainment of its statutory purposes; standardize credit terms and underwriting guidelines for multifamily housing and securitize multifamily housing mortgages; and promote and expand opportunities for first-time home buyers. FHEFSSA also requires that, for the AHAR, the GSEs assess underwriting standards and other business practices and procedures that affect the purchase of mortgages for low- and moderate-income families or that may yield disparate results. The AHAR also must include annual compilations of year-to-date mortgage data (but not loan-level data) and any other information that the Secretary considers necessary for the report and requests in writing.

Fannie Mae objected to the requirement that the AHAR provide information on the extent to which the mortgages purchased "have been used in conjunction with public subsidy programs." Fannie Mae argued that it was only required to report on subsidy programs "under Federal law" and that the proposed "public subsidy" requirement was too broad, administratively burdensome, time-consuming, and unreliable, because lenders frequently do not report the presence of State/local subsidy programs.

While the Charter Act amendments do specifically require the GSEs to provide information on the extent to which mortgage purchases have been used in conjunction with public subsidy programs under Federal law, the Secretary may require information concerning the presence of non-Federal subsidies under FHEFSSA's authorization to the Secretary to "request other information [for the AHAR] that the Secretary considers appropriate." Nevertheless, HUD has decided to remove this requirement because information on public subsidies is frequently unavailable and often inaccurate, and generally cannot be obtained in sufficient detail to be useful.

The proposed rule would have required each GSE to provide an AHAR within 60 days after the end of each calendar year. Fannie Mae asked that this period be extended to 90 days. Since FHEFSSA requires that the Secretary report to Congress by June 30 of each year on the activities of each GSE, the GSEs' AHARs are needed substantially prior to that date in order to allow sufficient time for HUD to develop the Secretary's report. In an attempt to address the needs of the GSEs and HUD, the final rule provides that AHARs will be due 75 days after the end of the calendar year. The first AHAR required under this rule will be the report covering calendar year 1996 (due in 1997).

Periodic Reports, Section 81.64

Fannie Mae objected to the requirement in § 81.64 of the proposed rule that all releases of information disclosed to entities outside the GSE be submitted to HUD. Fannie Mae argued that the requirement: was excessive, expensive, and of no practical use to HUD; violated the principles of Executive Order 12866; and could compromise the GSE's competitive position and the need for confidentiality. Fannie Mae suggested that the requirement be removed from the regulation or modified to specify that the GSEs need provide to HUD only "significant announcements" and could provide those simultaneously with public announcement.

While the burden of compliance with § 81.64 has been exaggerated, no necessity exists for transmittal of

[64] Sections 307(e)(1)(E) of the Freddie Mac Act and 309(m)(1) of the Fannie Mae Charter Act.

[65] The House Bill, H.R. 2900, 102d Cong., 1st Sess., did require "annual" reporting in the HMDA manner. However, sections 121(l) and 122(k) of that bill were changed substantially before the law was enacted.

[66] The Senate Report expressed Congressional intent that the Secretary should be more aggressive in monitoring the GSEs' activities. *See* S. Rep. at 33.

[67] S. Rep. at 38–39.

insignificant data. For this reason, HUD has revised § 81.64 to create a self-policing mechanism. The specific categories of information listed in the section—*i.e.*, Housing Advisory Council material, press releases, investor reports, proxy statements, and seller-servicer guides—must all be provided to the Secretary. For all other information released to entities outside the GSE, if the GSE determines that such information is relevant to the Secretary's regulatory responsibilities under FHEFSSA or its Charter Act, the GSE must provide the information to the Secretary. At the same time, the Secretary continues to have the authority to request information on an as-needed basis.

Other Information and Analyses, Section 81.65

Freddie Mac opposed § 81.65 of the proposed rule, which stated that "GSEs shall furnish to the Secretary the data underlying the reports required under this subpart." Freddie Mac called such "open-ended" requirements burdensome, costly, and not reasonably related to the Secretary's mission. Freddie Mac said that any additional reports the Secretary may wish to require must be related to Charter Act activities of the GSEs. Fannie Mae also objected to this requirement and suggested that "underlying data" should instead be requested by HUD on a case-by-case and "as-needed" basis.

The Secretary's broad authority to require reports under section 1327 of FHEFSSA encompasses the authority to require additional analyses and reports that the Secretary considers "appropriate." However, requirements in the proposed rule for the GSEs to submit "underlying data" were not intended to require that the GSEs submit a massive quantity of data as a matter of course in support of each report. In fact, underlying data will only be sought by the Secretary on a case-by-case basis. Therefore, any required submission of underlying data will be the subject of a specific request from the Secretary to one or both GSEs and will be based on an actual need for supporting data in order to fulfill the Secretary's responsibilities. The final rule has been clarified to this effect.

Other Reporting Issues

Published simultaneously with this final rule is an Appendix E which is a list entitled "Required Loan-level Data Elements" which details the reporting formats and the loan-level data elements required to be collected and compiled by each GSE on each single-family and multifamily mortgage purchased. The Secretary may revise the list of loan-level data by notice to the GSEs. Fannie Mae, referencing the proposed rule's loan-level data listings, objected to submitting the following data elements, identified by their numerical listing in the Appendix to the proposed rule:

- For single-family mortgage purchases—Number 24, Refinancing Loan from Own Portfolio; Number 31, Lender Institution; Number 38, Public Subsidy Program; Numbers 45 and 46, Family size of borrower (and co-borrower); and Numbers 54 and 55, Low- and Moderate-Income Goal flag and Special Affordable Housing Goal flag; and
- For multifamily mortgage purchases—Number 26, Lender institution; Number 36, Low and Moderate-Income Goal flag; and Number 37, Special Affordable Housing Goal flag.

Fannie Mae's objections to these data elements were based, variously, on relevancy, unavailability of the data in existing information databases, unreliability of data furnished by lenders, and availability of the data to HUD by other means. In addition, Fannie Mae commented that the furnishing of "lender institution" data would violate confidentiality between Fannie Mae and its lenders.

Data Element Number 24, Refinancing Loan from Own Portfolio, is not required in the final rule, because these data were required under the interim notices for technical monitoring purposes that no longer apply.

Data Elements Number 31 (Single-family) and Number 26 (Multifamily), designating Lender Institution (Element Number 27 in Appendix E of this final rule), are important elements for the monitoring of GSE reporting. The name of the lender institution will facilitate the Secretary's verification of loans reported as being sold to the GSEs. Since these data are already reported by lenders under HMDA, disclosing the lender institution would not violate confidentiality between the GSEs and their lenders.

Data Element Number 38, Public Subsidy Program data (for single-family properties), have not been reported by Fannie Mae because it asserts that the data are of such poor quality that the data are not meaningful. Freddie Mac has reported public subsidy data to HUD, but Freddie Mac's data indicates that public subsidies are involved in less than one-quarter of one percent of its single-family mortgage purchases. Given the available data, this data element has been deleted from the list of required data elements.

Data Elements Numbers 45 and 46, Family size of borrower (and co-borrower), are not currently collected by the GSEs, and the final rule does not require the GSEs to collect these data at this time. However, because family size is an important element for determining the affordability of units, the Secretary reserves the right to collect these data at a later date.

Data Elements Numbers 54 and 55 (Single-family) and Numbers 36 and 37 (Multifamily), Low- and Moderate-Income Goal flag and Special Affordable Housing Goal flag, are not required fields under the final rule. The Secretary has determined that this information can be derived from other data elements.

Although HAC commented that the Secretary should use census tracts/BNAs instead of counties, in the definition of rural areas, HAC also commented that, if a county-based definition is used, the Secretary should insist that the GSEs at least report their progress under the Geographically Targeted Goal by census tract/BNA, "so that HUD can determine the extent to which the GSEs are meeting the goal in purchasing mortgages in 'served' portions of counties." Accordingly, although the Secretary has changed the definition of rural areas from a census tract to a county basis (as discussed above), the final rule (at Data Element Number 7) requires the BNA locations for mortgage purchases, to facilitate research and analyses of GSE purchases in non-metropolitan areas. Since 1993, the GSEs have been reporting to HUD BNA locations of mortgages located in non-metropolitan areas.

Subpart F—Access to Information

FHEFSSA requires the Secretary to establish a public-use database and release to the public certain categories of information submitted by the GSEs concerning their mortgage purchases. The statute also requires protection of proprietary information the GSEs submit to the Secretary.

FHEFSSA requires a public-use database so that the public will have access to data and information on the GSEs' performance toward meeting the Charter Act purposes of providing mortgage credit to the broadest range of families throughout the nation. Congress indicated its intent that the GSE public-use database supplement HMDA data.[68] In complying with the public-use database requirements, HUD will make publicly available maximum nonproprietary mortgage purchase data and information to the widest range of

[68] *See, e.g.*, S. Rep. at 39.

housing groups, State and local governmental entities, academicians, and other persons and entities, so that, for example, these entities may monitor the efforts of the GSEs toward meeting their Charter Act purposes.

"Balancing" Test

The preamble to the proposed rule stated that, in making as much data as possible available, the Secretary would engage in "balancing the proprietary concerns of the GSEs." Freddie Mac commented, however, that Congress did not intend the Secretary to balance the public interest to determine whether information was proprietary; rather Congress encouraged the Secretary to "be creative in finding ways to release certain types of information—without revealing proprietary information."

Neither the preamble nor the final rule incorporates a balancing test for determining whether information is proprietary. While the legislative history of FHEFSSA does discuss "balanc[ing] the sometimes competing interests of the enterprises against the public's interest in access to information," it also provides that HUD should "whenever possible develop disclosure and access methods that take into account any proprietary concerns, while continuing public access to information."[69] Therefore, the Secretary has determined that the public interest in knowing about the GSEs' activities must be addressed through the careful and considered design of a public-use database that makes maximum appropriate data and information available to the public in creative ways—including aggregating—while protecting proprietary information.

Definition of "Proprietary Information"

Section 1326 of FHEFSSA authorizes the Secretary to provide, by regulation or order, that certain information shall be treated as "proprietary information" and not subject to disclosure to the public either (1) in the public-use database established pursuant to section 1323 (which consists of mortgage data submitted by the GSEs under section 309(m) of the Fannie Mae Charter Act and section 307(e) of the Freddie Mac Act); or (2) through public dissemination of the AHARs of the GSEs (which the GSEs submit to the Secretary and Congress pursuant to sections 309(n)(3) of the Fannie Mae Charter Act and 307(f)(3) of the Freddie Mac Act). Section 81.2 of the proposed rule defined the term "proprietary information" as "all categories of information and data submitted to the Secretary by a GSE that contain trade secrets or privileged or confidential, commercial or financial information that, if released, would cause the GSE substantial competitive harm."

Consistent with the statutory language of section 1326 of FHEFSSA and in light of the comments by the GSEs, the final rule clarifies that the designation "proprietary information" for purposes of this rule applies only to mortgage data (that the GSEs submit to the Secretary under sections 309(m) of the Fannie Mae Charter Act and 307(e) of the Freddie Mac Act), and AHAR information (that the GSEs submit to the Secretary under sections 309(n) of the Fannie Mae Charter Act and 307(f) of the Freddie Mac Act), since other types of information are not candidates for inclusion in the public-use data base. However, as discussed more fully below, where a GSE seeks to protect from disclosure confidential business information that is not mortgage data that the GSE submits to the Secretary under section 309(m) of the Fannie Mae Charter Act or section 307(e) of the Freddie Mac Act, and is not information that the GSE submits to the Secretary in the AHARs under section 309(n) of the Fannie Mae Charter Act or section 307(f) of the Freddie Mac Act, the GSE may seek protection of such confidential business information under HUD regulations at 24 CFR Part 15. This final rule clarifies and supplements Part 15 with respect to GSE information. FHEFSSA's specific designation of data and information as "proprietary information" is designed to distinguish that mortgage data and AHAR information that is to be included in the public-use database and disseminated to the public and data that may be withheld. It is not to be confused with the function that the designation of information as "confidential business information" serves under Part 15. (That term distinguishes business information, as defined in 24 CFR 15.54, which a submitter may seek to have withheld from public disclosure under the Freedom of Information Act (FOIA)[70], from other information.)

The issue of the scope of mortgage data that should be treated as "proprietary" and withheld from public disclosure drew only limited comment. Only ten of the 163 public comments treated the issue in any level of detail.

Both GSEs commented extensively on this subpart of the rule, recommending protections against the release of certain identified data elements the GSEs considered proprietary. Six of the other ten commenters (including MBA and NAHB) supported the GSEs' position favoring strong controls on release of proprietary information. In contrast, the American Civil Liberties Union Foundation (ACLU), in comments filed on behalf of ACLU, the NAACP Legal Defense and Educational Fund, Inc., the Puerto Rican Legal Defense and Education Fund, and the National Council of La Raza, favored strict limitations on treating information provided by the GSEs under FHEFSSA as proprietary.

The Prospect of Competitive Harm

While Freddie Mac indicated that the definition of proprietary information in the proposed rule was "generally consistent" with definitions of the term in similar contexts, Freddie Mac proposed several additions to the scope of the definition. Freddie Mac, citing FHEFSSA's legislative history, contended that it was the intention of Congress that the Secretary withhold data if it "would be likely to cause the GSE substantial competitive or financial harm, or substantial harm to the GSE's ability to fulfill its statutory purposes." In suggesting that the term "financial harm" be added, Freddie Mac criticized the use of the term "competitive harm" by itself as too narrow. In suggesting that the ability to fulfill statutory purposes be added, Freddie Mac argued that because the GSEs have "express public purposes," it is not merely competitive harm that must be averted, but also the possibility that disclosure of data could "frustrate the GSEs' ability to fulfill their statutory purposes, by decreasing the liquidity of the secondary mortgage market and [thus] decreasing market stability."

Fannie Mae pointed out that it had asked for proprietary protection for only 23 of 80 database elements. Fannie Mae, in supplementary comments dated July 24, 1995, urged the adoption of the revisions to the definition of "proprietary information" indicated in Freddie Mac's comments.

The final rule adopts the GSEs' comment that the definition include a "likely to cause competitive harm" standard. HUD finds this formulation to be consistent with the body of case law interpreting Exemption 4 of FOIA,[71] which focuses on likely competitive harm,[72] as well as related regulations of other Federal financial regulators governing the confidentiality of business information.[73]

[69] S. Rep. at 44.

[70] 5 U.S.C. 552.

[71] 5 U.S.C. 552(b)(4); 24 CFR 15.21(a)(4).

[72] *See Critical Mass Energy Project v. NRC*, 975 F.2d 871 (D.C. Cir. 1992), *cert. denied*, 113 S. Ct. 1579 (1993).

[73] *See, e.g.*, 40 CFR 2.208(e)(1); 19 CFR 201.6(a).

Exemption 4 of FOIA authorizes the withholding of "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Accordingly, the exemption covers material that is substantively very similar to the information protected as proprietary under FHEFSSA. Because the case law interpreting the FOIA exemption is well-developed and FHEFSSA does not define the term "proprietary," HUD has chosen to formulate a definition that largely tracks interpretations of the FOIA exemption, so that interpretation of the term as it applies to mortgage data and AHAR information under FHEFSSA may draw upon the body of FOIA law.

It is not necessary to add a specific reference to "financial" harm to the definition of "proprietary information." The exclusion of this term from the definition keeps the definition more consistent with FOIA provisions respecting confidential business information and related law. Section 81.74(b)(1) of the rule provides that the Secretary will consider information on adverse financial consequences that would result from disclosure, in determining what information is proprietary. In general, "financial" harm will also involve "competitive" harm. Even where the disclosure of information would not harm one GSE relative to the other, the disclosure may nonetheless cause competitive harm, because the GSEs also compete with other private-sector firms, as well as individuals seeking an advantage with respect to the GSEs. The definition, as modified, will protect against financial harm by protecting the GSEs against substantial competitive harm.

It is not necessary to expand the definition to refer specifically to the GSE's ability to fulfill statutory purposes. Again, exclusion of this terminology avoids inconsistency with FOIA and similar definitions. The final rule allows the GSEs to advance arguments, for the Secretary's consideration, regarding any effect that disclosure would have on the GSEs' ability to fulfill statutory purposes.

Plain Meaning

In its original comments—prior to its July 24, 1995, letter endorsing much of Freddie Mac's approach to the definition of "proprietary"—Fannie Mae's comments on the definition of "proprietary information" focused on an assertion that the term "proprietary" has a settled "plain" meaning which should be incorporated into the rule, i.e., the entire range of business information that a GSE holds closely as an owner of private property. Fannie Mae supported its claim based on the definition in *Webster's* dictionary.

Supreme Court precedent, however, reveals that the established approach under case law is more complicated. The mere fact that a statutory term is defined in a dictionary does not establish the term's plain meaning or deny the agency charged with administration of the statute the authority to provide a reasonable interpretation.[74]

The term "proprietary" has several alternative dictionary definitions, depending on the dictionary consulted. Aside from the fact that the designation as "proprietary information" for purposes of FHEFSSA only applies to mortgage data and AHAR information, HUD's definition, as revised in this final rule, is similar to the definition Congress has ascribed to the term in other legislation, including statutes enacted just days before FHEFSSA's October 28, 1992, enactment date.[75] In addition, HUD's definition is generally consistent with the definitions of other Federal administrative agencies.[76]

The definition that Fannie Mae advanced is not legally supported and is too broad. If any information obtained and held by a person by virtue of being an owner of property qualifies as proprietary, all such information submitted to HUD would have to be withheld from disclosure. Such a definition would effectively undermine the Secretary's ability to release nonproprietary information; it would allow the GSEs to force proprietary treatment of any information by merely labeling it as such. Such a definition would also improperly apply the specific designation "proprietary information" under FHEFSSA to materials other than mortgage data and AHAR information.

Other Comments on Definition

Freddie Mac also asked that § 81.73 be augmented to provide that HUD take into account the extent to which particular information, when taken together with other information, could reveal proprietary information. This final rule has been modified to specify that this is one of the additional facts that the Secretary will consider.[77]

[74] *See, e.g., National R.R. Passenger Corp. v. Boston & Me. Corp.*, 503 U.S. 407, 418–19 (1992).

[75] *See, e.g.*, 42 U.S.C. 13293 (Energy Policy Act of 1992, enacted Oct. 24, 1992); 10 U.S.C. 2506(e)(3) (Defense Conversion Reinvestment and Transition Assistance Act of 1992, enacted Oct. 23, 1992); 15 U.S.C. 5104(a) (Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988).

[76] *See, e.g.*, 48 CFR 1805.202(d); 10 CFR 51.16(a); 10 CFR 1504.204(a).

[77] *See* § 81.74(b)(6).

Public-use Database

Consistent with section 1323(a) of FHEFSSA, this final rule establishes a public-use database of mortgage data concerning the characteristics of individual mortgage purchases of the GSEs, including census tract, location, race, and gender of mortgagors.

In accordance with FHEFSSA, this final rule provides that the Secretary may not, by regulation or order, make available to the public information that the Secretary determines is proprietary information. The Secretary, however, may not restrict access to the income, census tract location, race, and gender data of single-family properties. When the Secretary grants a GSE's request for proprietary treatment of mortgage data, the Secretary will issue an order or promulgate a regulation providing that the mortgage data is proprietary and shall not be included in the public-use database.

In addition to mortgage data, the Secretary will make publicly available in the public-use database information in the GSEs' AHARs, which are submitted to the Secretary and Congress, and comprise a detailed picture of the GSEs' activities. Proprietary information in the AHARs may be withheld from the public if the GSE requests, and the Secretary agrees with, designation of the information as proprietary information, pursuant to a regulation or order.

On June 7, 1994, the Secretary published a Temporary Order[78] protecting GSE data and information deemed to be proprietary, pending public comment and further review. Published simultaneously with this final rule and adopted by the Secretary through this rule, is an Appendix 7 containing an Order entitled "GSE Mortgage Data and AHAR Information: Proprietary Information/Public-use Data" which Appendix F of this final rule contains the most current listing of data and information deemed proprietary by the Secretary and supersedes the Temporary Order. The Secretary may revise this list by regulation or order.

The public-use database also will not include information the release of which would invade personal privacy,[79]

[78] 59 FR 29514.

[79] A bank commented that it was concerned about "right to privacy issues" regarding communication between HUD and the GSEs: "We hope that rights of individual borrowers are not compromised due to creative interpretations of the laws and regulations for the sake of political expediency."

The Privacy Act of 1974, 5 U.S.C. 552a, and FOIA exemption 6, 5 U.S.C. 552(b)(6), pertain to the disclosure of information on individuals. HUD may

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or information required to be withheld under the Trade Secrets Act.[80]

Availability of "Public Data"

Section 81.2 of the rule revises the proposed rule's definition of "public data" to clarify that it only includes mortgage data submitted to the Secretary by the GSEs (under section 309(m) of the Fannie Mae Charter Act or 307(e) of the Freddie Mac Act) relating to the GSEs' mortgage purchases, and AHAR information (submitted to the Secretary by the GSEs under sections 309(n) of the Fannie Mae Charter Act or 307(f) of the Freddie Mac Act), to the extent that the Secretary determines such mortgage data or AHAR information is not proprietary and should be made publicly available. Freddie Mac was concerned that the definition in the proposed rule could be misconstrued to require HUD to disclose all nonproprietary mortgage data submitted to HUD, including data submitted for reasons unrelated to the rule's reporting requirement in § 81.62. Similarly, Fannie Mae had recommended that the definition be revised to limit its scope.

Under section 1323 of FHEFSSA, HUD has authority to include in the public-use database mortgage data required under section 309(m) of the Fannie Mae Charter Act or section 307(e) of the Freddie Mac Act. In addition, HUD will make publicly available the information in the GSEs' AHARs, except for information the Secretary determines to be proprietary.[81]

HUD's public-use database will only include mortgage data submitted by the GSEs under section 309(m) of the Fannie Mae Charter Act or section 307(e) of the Freddie Mac Act and information in the GSEs' AHARs, except for information the Secretary determines to be proprietary, and only where the Secretary determines that it "should be made publicly available." Since other information or data that the GSEs may submit pursuant to subpart E would not fit the definitions of "mortgage data" or "public data" used in the rule, that information or data will not be included in the public-use database.

Timing of Disclosure

In its comments on the proposed rule, Fannie Mae addressed public comments on the June 7, 1994, Temporary Order. Fannie Mae regarded as unpersuasive arguments that competitive harm to the GSEs would not occur because data would be outdated when finally released publicly. Fannie Mae commented that, for single-family products, a time lag of less than 12 months would be insufficient to allow adequate recovery of investment. In the case of multifamily products, Fannie Mae claimed that even the passage of 2 years would be insufficient protection, because competitive harm is caused by affording competitors crucial information allowing them to "pick the loans off at liquidation, thereby eroding our market share and investment return on the market research and development that preceded our booking the loan initially."

NAHB strongly supported the creation of a public-use database, but suggested compromise on the question of release of proprietary information. To address the GSEs' concerns regarding confidentiality of data, NAHB suggested that the Secretary grant requests for proprietary treatment for a specified time period, such as two years.

In analyzing whether information is proprietary, the Secretary will, when appropriate, consider the effect of the passage of time in determining if the release of information would likely cause substantial competitive harm.

Requests for Proprietary Treatment

The regulation establishes procedures for the GSEs to request proprietary treatment of mortgage data and AHAR information submitted to the Secretary and clarifies and supplements HUD regulations at 24 CFR Part 15 as they apply to GSE requests for confidential treatment of other business information. When a GSE submits information to the Secretary, the GSE shall designate what part of the information the GSE deems to be mortgage data or AHAR information that is "proprietary information" under FHEFSSA or other types of confidential business information for purposes of FOIA. Depending on the type of information submitted, HUD either will process the request in accordance with the procedures in §§ 81.73–81.75, or upon a FOIA request, in accordance with the procedures in 24 CFR Part 15 as clarified and supplemented in this subpart.

Section 81.73(d) of this final rule makes clear that while any request for proprietary treatment is pending, none of the information that is the subject of the request will be disclosed. Part 15 contains a similar protection, which applies to GSE submissions designated as confidential. HUD will not release material marked confidential except in accordance with Part 15 and this final rule.

Fannie Mae objected to the requirement in § 81.73 of the proposed rule that the GSE submit a certification and justification for the Secretary to designate mortgage data or information as "proprietary information" under FHEFSSA.

In response to Fannie Mae's comment, HUD has greatly streamlined the regulation. First, under § 81.73, it is now optional for the GSE to submit a statement explaining the bases for the GSE's assertion that mortgage data or AHAR information is proprietary. In instances in which HUD has not previously issued an order or regulation determining the data or information to be proprietary, HUD urges the GSEs to provide such a supporting statement and address in the statement the factors that the Secretary will consider in making determinations of whether data or information is proprietary. Conclusory statements that particular data or information would aid competitors or would impair business dealings, or similar statements, will not provide the kind of views that will be useful to the Secretary.

Second, the final rule eases the requirements by providing that where there is an existing regulation or order designating mortgage data or AHAR information as proprietary, it is sufficient for the GSE to stamp the information as proprietary and reference the order or regulation. When a GSE supports a request for proprietary treatment by citing an existing order or regulation, HUD will determine whether the data or information comes within the order or regulation. If the data or information is proprietary under such order or regulation, it will not be disclosed except in accordance with other provisions in this subpart, *e.g.*, Congressional requests.

The factors the Secretary will apply in making a determination in response to a request for proprietary treatment are identified in § 81.74. The factors in § 81.74(b) will be applied where the request for proprietary treatment pertains to data submitted by the GSEs in the reports required under section 309(m) of the Fannie Mae Charter Act or section 307(e) of the Freddie Mac Act, or AHAR information for which there is no order or regulation covering the materials for which proprietary treatment is requested.

When the Secretary accords proprietary treatment to mortgage data or AHAR information, the rule establishes procedures for the Secretary to issue a temporary order, an order, or a regulation to withhold proprietary information and to inform the public of the withholding. If the Secretary does not determine such mortgage data or AHAR information to be proprietary information, the Secretary will provide the GSE with an opportunity for a meeting on the matter, during which the GSE may provide comments and additional views. After the meeting, the Secretary will determine, in writing, which data or information is proprietary and will notify the GSE 10 working days before the data or information is made available to the public. The rule is now more consistent with HUD FOIA regulations regarding protections for confidential business information in general.[82]

FOIA Requests

Information on the GSEs may be requested by the public pursuant to FOIA. Subpart F of this rule clarifies and supplements HUD's FOIA regulations[83] with respect to information submitted by the GSEs.

FOIA provides that several classes of records are exempt from mandatory disclosure. A memorandum dated October 4, 1993, from the President to Heads of Departments and Agencies, emphasizes the importance of public disclosures under FOIA. The implementing memorandum from the Attorney General, attached to the President's memorandum, instructed agencies to disclose information unless disclosure would harm an interest protected by a FOIA exemption.

Additional Safeguards for Proprietary and Confidential Information

FOIA Exemption 8 protects from mandatory disclosure information "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Department in connection with its responsibility for the regulation or supervision of financial institutions."[84] Section 1319F of FHEFSSA specifically provides that HUD is an agency responsible for the regulation and supervision of financial institutions for purposes of this exemption. Accordingly, where appropriate, the Secretary may invoke this exemption to withhold GSE information.

To address comments of Fannie Mae requesting additional safeguards for the protection of information, the rule also has been revised to clarify that while HUD may make information available for the confidential use of other government agencies in their official duties or functions, all such information remains the property of HUD, and unauthorized use or disclosure of information may be subject to the penalties provided in 18 U.S.C. 641.

FOIA Exemption 4 covers "trade secrets and commercial or financial information obtained from a person and privileged or confidential."[85] When appropriate, the Secretary may invoke this exemption to withhold GSE information in response to a FOIA request. In addition, the Trade Secrets Act forbids Government officers and employees from releasing trade secrets and other confidential business information. HUD will not disclose information in violation of the Trade Secrets Act, notwithstanding the indication in 24 CFR 15.21 that a requested record will not be withheld under FOIA unless it both comes within one of the FOIA exemptions and there is need in the public interest to withhold the record.

Fannie Mae commented that the Secretary should review the rules of the financial institution regulators governing the confidentiality of materials, and should incorporate the same protections for proprietary information. Fannie Mae commented that OFHEO was adopting its own confidentiality rules to parallel financial institution regulators' protections, and HUD and OFHEO should assure that all submitted materials receive "consistent protection."

On March 3, 1995, HUD promulgated new amendments to its FOIA regulations that incorporate explicit protections for business information in accordance with Executive Order 12600.[86] Part 15 regulations are fully applicable to GSE data and information provided to HUD. Indeed, Part 15 applies to a broader range of information that the GSEs submit to HUD, since they are not limited in applicability to mortgage data that the GSEs submit under section 309(m) of the Fannie Mae Charter Act or section 307(e) of the Freddie Mac Act and AHAR information the GSEs submit under section 309(n) of the Fannie Mae Charter Act or section 307(f) of the Freddie Mac Act. HUD has carefully reviewed the safeguards afforded by these new FOIA regulation amendments and this subpart and has concluded that many of the concerns raised by Fannie Mae regarding the protection of proprietary information were previously addressed through those amendments.

As indicated in the preamble to the revised FOIA rules, "[t]he amendment consolidates the FOIA process under the supervision of a designated officer, which assures more consistent and prompt response to FOIA requests." Centralized control also serves to protect against erroneous disclosure. The FOIA amendments state that, except as otherwise provided, HUD officers and employees are prohibited from disclosing business information, except to other HUD officers or employees who are properly entitled to such information for the performance of their official duties.[87] This provision is similar to that of other financial regulators.[88]

In response to another Fannie Mae comment about disclosures by HUD's agents, HUD notes that its amended FOIA rules prohibit HUD officers and employees from directly or indirectly using or allowing the use of business information obtained through or in connection with Government employment that has not been made available to the general public.[89] Also, § 81.76(e) of this final rule includes safeguards against disclosure of GSE data and information by contractors. The FOIA regulations also provide other safeguards consistent with Executive Order 12600, which Fannie Mae commented should be included in HUD's regulations.[90]

When a GSE desires that HUD accord confidential treatment to information other than the mortgage data submitted by the GSEs in the reports required under section 309(m) of the Fannie Mae Charter Act or section 307(e) of the Freddie Mac Act, and other than AHAR information, the GSE should follow the procedures for protection from disclosure of such information in 24 CFR Part 15, as clarified and supplemented by this subpart.

Release of Information to Congress, Comptroller General, or Pursuant to Legal Process

Paragraph 81.76(d) of the proposed rule stipulated that the Secretary would provide information requested by Congress, the Comptroller General, or pursuant to subpoena or other legal process "without regard to the provisions of this section." Both GSEs

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withhold information from the public pursuant to the Privacy Act or FOIA Exemption 6.

[80] 18 U.S.C. 1905.

[81] The GSEs are required by sections 309(n)(3)(B) and 307(f)(3)(B) their Charter Acts to make available publicly reports they provide to HUD pursuant to sections 309(n) and 307(f) of the Charter Acts, unless HUD has determined such information to be proprietary under section 1326 of FHEFSSA. HUD will facilitate this requirement by providing public access to this information.

[82] *See* 24 CFR 15.54(g).

[83] 24 CFR Part 15.

[84] 5 U.S.C. 552(b)(8); 24 CFR 15.21(a)(8).

[85] 5 U.S.C. 552(b)(4), 24 CFR 15.21(a)(4).

[86] *See* 24 CFR part 15, subpart F.

[87] 24 CFR 15.54(l)(2).

[88] *See, e.g.*, 12 CFR 309.6(b) (FDIC).

[89] 24 CFR 15.54(l)(1).

[90] *See* 24 CFR 15.54(f), (g), (i).

objected to this provision, and were supported by the MBA. Freddie Mac commented that the Secretary has a fiduciary duty to maintain the confidentiality of GSE proprietary information and that duty would be breached by proposed § 81.76(d) to the extent the provision allowed disclosure without any exercise of judgment on the part of the Secretary. Furthermore, Freddie Mac argued that materials disclosed based on a subpoena should be safeguarded to the extent possible against further disclosure to third parties. Freddie Mac asked for provisions, similar to those found in existing HUD regulations,[91] to the effect that the Secretary and his or her counsel would determine whether to honor particular subpoenas or requests. Fannie Mae asserted that HUD's "unconditional commitment" to provide congressional access to all committees and subcommittees "totally conflicts with practices observed by other financial institution regulators."

The intention of the proposed rule was not that HUD would provide GSE data or information to Congress without any appropriate safeguards; rather, that nothing in this subpart of the rule should be construed to grant authority to the Secretary to withhold information from or to prohibit the disclosure of information to Congress, the Comptroller General, a court of competent jurisdiction pursuant to a subpoena, or where otherwise required by law. HUD safeguards for handling such requests would still apply. Accordingly, § 81.77 of the final rule provides that "nothing in this subpart F may be construed to grant authority to the Secretary under FHEFSSA to withhold any information from or to prohibit the disclosure of any information" to Congress, the Comptroller General, or pursuant to a subpoena or legal process. This formulation is in keeping with the practice of other agencies.[92] HUD notes that Congress, the Comptroller General, and the courts all have procedures to safeguard proprietary and confidential information.[93]

This final rule specifies that HUD—in providing data or information in response to requests from Congress, the Comptroller General, and the courts—will, where applicable, include a statement to the effect that the GSE regards the data or information as proprietary or confidential, public disclosure of the information may cause competitive harm to the GSE, and the Secretary has determined that the information is proprietary or confidential. In addition, the rule provides that, to the extent practicable, HUD will provide notice to the GSEs after such a request for proprietary or confidential information is received and before HUD provides information in response to the request.

The revised rule makes clear that HUD's discretion to take additional steps to protect GSE data or information in appropriate circumstances is not precluded. These steps could include, for example, seeking on a GSE's behalf, or supporting a GSE motion for, a protective order when a court subpoenas HUD to produce GSE data or information.

Section 81.77 also clarifies the scope of requests that are to be considered official requests from Congress. This change responds to a specific GSE comment that the request must be from a committee with appropriate jurisdiction, to conform more closely to FOIA procedures and similar authorities. The rule has also been modified to conform language concerning HUD disclosures to the Comptroller General to the language in other HUD regulations.[94]

Furthermore, in response to a comment by Fannie Mae, § 81.77(c) of the final rule now makes clear that safeguards under HUD regulations at 24 CFR 15.71–15.74 apply. These provisions govern the production of documents or testimony when a subpoena, order, or other demand of a court or other authority is issued. The rule extends these protections to situations in which demands are made on non-HUD employees (including contractor employees) who have custody of exempt records, and is modeled after regulations of other financial regulators.[95] The Secretary notes that a recent decision [96], may limit the ability to withhold information pursuant to such a regulation and that case law on this issue is evolving. In response to Fannie Mae's comment that OFHEO and HUD should adopt consistent procedures on this point, the Secretary notes that OFHEO is in the process of promulgating rules applicable to OFHEO employees.[97]

Pro-Disclosure Comments

Comments received from the ACLU, which dealt exclusively with proprietary information issues, advocated more expansive disclosure of GSE data. The ACLU argued that only information elements that both GSEs considered proprietary should even be considered for designation as proprietary. The ACLU commented that, even then, proprietary treatment frequently should be declined in an exercise of the Secretary's discretion. The ACLU asserted the public-interest purposes of the Fair Housing Act, ECOA, and FHEFSSA, and stated:

> Given these factors, we believe that Fannie Mae and Freddie Mac cannot be considered similar to purely private, profit-making enterprises. The true measure of the effectiveness of the GSEs is not their maximization of profit, but their compliance with mandates established by the Congress and the Secretary. "Proprietary" for the GSEs should not mean "will harm competition" but rather "will harm the ability to carry out governmental mandates. * * *"

The ACLU favored a presumption that information is not proprietary and suggested a standard for determining whether information is proprietary. Under the ACLU formulation, the burden would be on the GSEs to establish the need for nondisclosure. To meet this burden, the GSEs would have to establish that disclosure would frustrate the goals set by the statute or the Secretary, not "merely" that disclosure would hurt the GSEs' competitive positions.

HUD, however, must recognize congressional intent, as expressed through the Charter Acts and legislative history, that the GSEs be self-supporting, profit-making entities. Although the GSEs receive substantial Federal benefits, they are not Government agencies. The GSEs do face competition from each other and from other private sector firms and, accordingly, have legitimate proprietary interests that the Congress explicitly intended to be respected. The ACLU's definition would unjustifiably dismiss any competition-based arguments for withholding sensitive information.

The ACLU also objected to the possibility that the Secretary would make determinations that particular material was proprietary solely on the basis of submissions by the GSEs. Such determinations, the ACLU insisted, should be subjected to public participation and comment before any information is deemed "proprietary."

Under FHEFSSA, there is no requirement that any party other than the GSEs be afforded a right to comment before determining that GSE information is proprietary. To the extent that the Secretary employs the rulemaking process in making determinations of the proprietary nature of mortgage data submitted by the GSEs, the Secretary will follow applicable Administrative Procedure Act procedures.

Issues Regarding Specific Data Elements

Freddie Mac commented that information on pricing, fees and other key aspects of business strategy were to be considered proprietary and protected from disclosure to the public. Information on pricing, fees, and other key aspects of business strategy will be withheld to the extent they are proprietary under this rule or otherwise protected from public disclosure under other authorities and HUD regulations.

NAHB suggested that some of the "data fields" sought to be protected by the GSEs as proprietary have been provided in HMDA data "with apparently little harm to either the borrowers or the lending institutions." These fields, NAHB added, would be very helpful, in utilizing HUD and HMDA databases together. These fields include: Purpose of Loan; Occupancy Code; Loan Balance at Acquisition.

Additionally, NAHB asserted, certain fields claimed as possibly proprietary were needed for use in research by academicians and governmental entities. NAHB requested, "at a minimum," that the following data fields be included:

For single-family housing:

- Loan to Value Ratio at Origination
- Purpose of Loan, Product Type, and Loan Term
- Occupancy Code, Number of Units.

And for multifamily housing:

- Purpose of Loan, Loan Type, and Loan Term
- Mortgagor Type
- Average Reported Rent OR Rent Plus Utilities OR Rent Affordability Level
- Public Subsidy Program.

With respect to single-family loan-level data, HUD must consider the GSEs' proprietary concerns in determining whether a data element can be released at the census tract level or whether some form of aggregation would be sufficient to protect the proprietary nature of the data in a public release. HUD developed a national-level database file structure that has no geographic identifiers. Certain data elements are recoded into categories to prevent exact identification of specific elements. The national data files are used to supplement census-tract-based public use data files.

For single-family purchases by the GSEs, the national data files contain purpose of the loan, occupancy code, number of units, and the loan-to-value ratio at origination which are recoded into five categories (0–60, 60–80, 80–90, 90–95, and over 95). The census tract and national files do not contain Product Type or Loan Term data since, taken together, these two elements have been deemed proprietary by the Secretary.

For multifamily purchases by the GSEs, a number of elements were deemed proprietary because of the nature of the multifamily market—the size of the market and the way multifamily properties are financed. The fact that these data elements were proprietary led the Secretary to deem Loan Type, Loan Term, Mortgagor Type, and Public Subsidy Program fields as proprietary to protect these data elements. HUD does release the Purpose of the Loan and the affordability of the units, by category, on the national multifamily public use data file.

CANICCOR, an Interfaith Council on Corporate Accountability, urged that, at a minimum, the public be provided all the information that is provided for each loan by primary market lenders under HMDA. This data, CANICCOR said, includes:

- Geocoding to the census tract level;
- Income of borrower;
- Borrower's/Co-borrower's race or national origin;
- Borrower's/Co-borrower's gender or sex;
- Whether owner or non-owner occupancy;
- Purchaser (i.e., which GSE);
- Type of loan (e.g., conventional);
- Purpose (i.e., home purchase, refinance, home improvement);
- Dollar amount of loan; and
- Seller identification.

HUD, in its development of the public-use database, considered the availability of the data to the public through sources outside of the GSE data, including HMDA. The public-use database, either through the census tract file or the national data file, contains all of the above elements.

Subpart G—Procedures for Actions and Review of Action

This subpart establishes procedures for hearings, disclosures of orders and agreements between the Secretary and the GSEs in enforcement actions, and judicial review. Generally, these procedures concern actions by the Secretary to enforce housing goal-related matters under subpart B of the rule and reporting requirements under subpart E. In addition, this portion of the preamble addresses certain procedural issues involving the approval of new programs.

As stated in the proposed rule's preamble, the housing goal requirements of this rule are enforced through the imposition of cease-and-desist orders and civil money penalties. FHEFSSA is prescriptive because of the seriousness of these actions; therefore this final rule often references or restates the statutory requirements. However, in a few instances, which are discussed in more detail throughout this portion of the preamble, the final rule augments the statutory procedures to promote the purposes of the legislation and to better recognize the legitimate interests of the GSEs in these proceedings.

Both GSEs submitted detailed comments on the provisions of subpart G. The arguments and suggestions for change submitted by the two GSEs were markedly similar. On this subject matter, Freddie Mac presented the more detailed objections, so the Freddie Mac comments will be the principal focus of the discussion of the subpart.

Closely Following the Statutory Text

Freddie Mac asserted that this subpart of the regulation should mirror the procedural requirements set forth in FHEFSSA. However, Freddie Mac commented that the proposed rule's provisions "variously depart from [FHEFSSA], or from the Administrative Procedure Act." Additionally, to avoid the "inefficiencies of litigation," Freddie Mac recommended an explicit provision in HUD's enforcement procedures for a HUD/GSE exchange of views before any enforcement action is initiated.

Freddie Mac objected to provisions in §§ 81.82 and 81.83 on the grounds that cease-and-desist orders and imposition of civil penalties were limited to violations of the statute, whereas provisions of the rule could be read as authorizing sanctions for violations of the procedural rule itself. Freddie Mac commented that FHEFSSA permits the Secretary to seek an order only for violations of the statute—not its implementing regulations. Similarly, Freddie Mac urged, the Administrative Procedure Act (APA) requires that no sanction or order may be imposed

[91] 24 CFR 15.71–15.74.

[92] *See* 12 CFR 309.6(c)(8) (Federal Deposit Insurance Corporation); *see also* 40 CFR 2.209(b)(1) and 2.209(d); 15 CFR 325.16; 21 CFR 20.86 and 20.87.

[93] *See, e.g., United States v. American Tel. & Tel. Co.*, 551 F.2d 384, 386–87 and nn.2–3 (D.C. Cir. 1976) (discussing congressional rules); 4 CFR Part 81–83 (General Accounting Office regulations governing the disclosure of information); Fed. R. Civ. Proc. 26(c) (judicial protective orders).

[94] *See* 24 CFR 16.11(a)(5).

[95] *See, e.g.*, 12 CFR 792.41 and 792.42.

[96] *In re Bankers Trust Co.*, 61 F.3d 465 (6th Cir. 1995).

[97] *See* 60 FR 25162 (1995) (proposed rule May 11, 1995).

"except within jurisdiction delegated to the agency and as authorized by law."[98]

While HUD agrees that it is the statute, and not the regulations, that serves as the foundation for any order sought by the Secretary, Freddie Mac's argument suggests that regulatory elaboration may never properly be employed to augment the recitation of statutory authority in connection with an enforcement provision. This is incorrect; it is clear that regulatory references legitimately may be included. Only reference to a regulatory section that exceeds the Secretary's authority would raise a valid legal issue; the references Freddie Mac refers to are reasonably related to the purposes of the enabling legislation. Rather than causing "confusion," these regulatory references help to clarify, and even to limit, the statutory language. The change sought might itself create confusion. Accordingly, the rule retains the regulatory cross-references, and cites both them and the statutory references.

Freddie Mac suggested that the final rule include various procedures to avoid enforcement actions. Freddie Mac cited Executive Order 12778 on Civil Justice Reform in support of its argument that the rule should mandate a preenforcement process, which could include informal discussions, negotiations, and compromise.

HUD expects that, in connection with a pending enforcement action against a GSE, it will frequently be appropriate to solicit the GSE's views in order to explore mutually agreeable resolutions of perceived problems. This option is always available to the Secretary; every reason exists to expect it will be used. However, Freddie Mac's suggestion that the rule should provide expressly for preenforcement procedures in every case—that is, to turn an existing option of the Secretary into a right of the GSEs—is unwarranted. Fact situations may differ too markedly to expect that obligatory preenforcement procedures would always be the proper course. Under § 81.21, the GSE already is afforded an opportunity to respond to the Secretary's preliminary determination that it has failed to meet its housing goals—a response that will precede any HUD requirement for submission of a housing plan. Settlement following the issuance of charges also is permitted under hearing procedures at 24 CFR 30.420. (Part 30 procedures are incorporated by reference into this final rule.)

Given the already-available procedures that will foster the amicable resolution of most disputes, the change Freddie Mac has proposed is unnecessary and is contrary to the spirit of the Administration's efforts to simplify regulations. Potentially, the change could result in institutionalized delay in the hearing process.

Executive Order 12278 is, in relevant part, directed at encouraging techniques to avoid full litigation after charges have been filed. By its own terms, the Executive Order creates no obligation on an agency's part to alter its standards for the acceptance of settlements, or to change existing delegations of settlement or litigation authority. While the Secretary shares the GSEs' interest in minimizing needless litigation, the existing authority to attempt a voluntary pre-charge resolution on a case-by-case basis will accomplish this goal as well as Freddie Mac's suggested procedure.

Freddie Mac also asked for modification of the rule to allow a GSE to recommend and request the appointment (at the GSE's expense and with the Secretary's approval) of "special expert" hearing officers to hear all or part of any enforcement action. These special officers would then sit in lieu of, or under the supervision of, a HUD Administrative Law Judge (ALJ).

Freddie Mac commented that these enforcement actions are likely to involve "highly technical statistical and financial proof on arcane issues * * *." While the Secretary hopes and believes that the ALJs will not be called upon to hear these matters often, the ALJs do have experience with handling technical, statistical, and financial matters; there is every reason to believe they will make well-reasoned decisions in any enforcement actions brought under this rule.

Furthermore, the option suggested by Freddie Mac is not available: the person who must preside over the taking of evidence in these proceedings is prescribed by the APA. While procedures authorized under the Alternative Dispute Resolution Act[99] could be used in particular instances—when the parties agreed to their use—a regulatory procedure calling for unilateral Secretarial designation of a special expert at the behest of a GSE would conflict with the APA, as applicable under FHEFSSA. No necessity exists to cite in the rule the existence of alternatives that are available via agreement of the parties.

The Public Interest

Freddie Mac commented that § 81.83(c) (calling for the Secretary's consideration of "other factors that the Secretary determines in the public interest warrant consideration" in the course of imposing civil money penalties) cannot be adopted in the manner set out in the proposed rule. Rather, Freddie Mac claimed, FHEFSSA required the Secretary to establish, by rule, following notice and comment, those "other factors" to be considered in measuring the conduct of violators.

The reference in the proposed rule to "other factors * * *" is too broad, and that formulation has been deleted. However, inasmuch as the Secretary is authorized to consider the nature of the injury to the public in establishing the amount of the penalty and other factors that the Secretary may determine by regulation to be appropriate, the final rule eliminates the "other factors" phrase in favor of a "public interest" formulation like that contained in FHEFSSA.

Freddie Mac also commented that the statutory language permits the Secretary to consider only "actual" injury to the public, and that the use of the term "nature of the injury to the public" in the proposed rule is unacceptably subjective. Clearly, under the Secretary's authority to adopt other factors through rulemaking, the rule could include "nature of the injury to the public" as a separate factor, if necessary. The final rule, however, returns to the concise statutory formulation, "injury to the public," without regulatory elaboration. HUD does not intend to place narrow limits on the interpretation of the statutory phrase, and will consider, in evaluating a particular fact situation, reasonable application of this factor, including the nature of the injury involved.

Consultation

Freddie Mac also requested that the Secretary limit consultation with the Director of OFHEO concerning any enforcement proceeding against a GSE to consultation before the enforcement proceeding is actually undertaken. Freddie Mac suggested that the proposed rule's formulation allowing the Director's participation in an ongoing enforcement proceeding would be "inconsistent with the Director's independence from the Secretary, and would be in the nature of a prohibited *ex parte* contact." However, Freddie Mac said, *ex parte* problems could be avoided if the consultation (which Freddie Mac favored) took place only before institution of an enforcement proceeding.

Freddie Mac asserted that once an adversary proceeding has commenced, due process requires that any review by the Director be conducted openly, in writing, and included in the administrative record. Further, the affected GSE should be provided an opportunity to supplement the record and to respond.

Limiting the Secretary's consultations with the Director of OFHEO to communications that occur before the institution of an action would needlessly limit the Secretary's authority in a manner not contemplated by FHEFSSA. Section 81.83(d)(5) of the rule, cited by Freddie Mac as the source of its comments on the subject matter, is, with one minor exception, a recitation of the statutory language.[100]

Freddie Mac's suggestion that these communications between the Secretary and the Director would be "in the nature of" *ex parte* communications prohibited by the APA simply is off the mark. Section 1345(c)(1)(C) of FHEFSSA provides that, in establishing standards and procedures governing the imposition of civil money penalties, the Secretary may provide for such review by the Director. Under this provision, Congress intended that open communication between the Secretary and the Director of OFHEO be permitted without implicating the *ex parte* prohibitions in 5 U.S.C. 557(d)(1).

With reference to Freddie Mac's due process concerns, the Secretary is mindful of the need for fairness and openness throughout the process leading to a possible imposition of penalties. An affected GSE would have full access to discovery procedures that will permit review of any decisionmaking process that involves the Director of OFHEO. Accordingly, the final rule does not place limits on Secretary/Director communications.

Standard of Proof

Both GSEs commented on the standard of proof in cease-and-desist and civil money penalty proceedings. Freddie Mac cited *Steadman* v. *SEC*, 450 U.S. 91 (1981) as authority for application of the "preponderance of the evidence" standard of proof to both types of proceedings. Fannie Mae stated that the APA's standard of proof is "substantial evidence," and that this standard should be made consistent in provisions governing both cease-and-desist and civil money penalty proceedings.[101]

Under FHEFSSA, the standard of proof to be applied is governed by the APA.[102] As Freddie Mac noted in its comments, the Supreme Court in *Steadman* has found the statutory "substantial evidence" phrase to mean a "preponderance of the evidence" burden of proof for the proponent of an order, and the final rule reflects this change.

General Procedural Questions

Freddie Mac asked for a variety of other revisions affecting § 81.84 on Hearings:

Freddie Mac requested a "clarification" to the effect that the ALJ must modify a hearing schedule at the GSE's request, unless HUD can show good reason why the GSE's request should be denied. Freddie Mac urged that the GSE, rather than the hearing officer, is in the best position to judge the feasibility of a particular hearing schedule. Furthermore, Freddie Mac argued, FHEFSSA "suggests a congressional determination that such requests should ordinarily be allowed."

The proposed rule at § 81.84(c) provided that the ALJ would set a hearing schedule "[u]nless an earlier or later date is requested by a GSE and is granted by the Administrative Law Judge * * *." The regulatory formulation is similar to the statute, which provides, at section 1342(a)(2), "* * * unless an earlier or later date is set by the hearing officer at the request of the enterprise * * *." Therefore, on its face, the statute provides for the setting of the date by the ALJ, with an opportunity for the GSE to "request" a change. The Secretary sees no basis for limiting the ALJ's discretion, and the rule is unchanged.

Freddie Mac also asked that the rule be modified to provide a procedure for a GSE to request the Secretary to seek enforcement of a subpoena issued and served in connection with a hearing or in discovery proceedings under the rule. The Secretary is sympathetic to the thrust of this comment by Freddie Mac, i.e., that the GSE should have the same right to enforcement of a subpoena as does the Secretary. However, FHEFSSA does not grant a right to subpoenaing parties to apply directly for a judicial order requiring compliance with a subpoena. The Secretary, under FHEFSSA, can only request that the Attorney General bring judicial actions to enforce subpoenas. Because direct judicial enforcement by either party is not specifically provided as a matter of law, HUD has developed an administrative mechanism in the final rule providing for recognition of the GSEs' interest in requesting enforcement action through the Secretary. Consistent with the availability of remedies under the statute, this will improve equity between HUD and the GSEs in discovery.

Freddie Mac asked that the final rule be amended to specify that waiver, by a GSE, of an ALJ hearing on the disapproval of a new program on public interest grounds would not constitute a "failure to appear" within the meaning of § 81.84(g). (As proposed, the rule stated that a failure to appear by a GSE shall be taken as consent to the disapproval of a new program.) Freddie Mac said that, in cases involving program disapprovals, a GSE may sometimes wish to expedite judicial review, and urged that the GSE's waiver of an administrative hearing on program disapproval not be treated as a consent to the HUD action.

The final rule does not adopt the change. The statute requires, in section 1322, that HUD provide the GSEs with "notice of, and opportunity for, a hearing on the record" after the Secretary submits a report to the Congress to the effect that a new program has been disapproved. The Secretary concludes that this language indicates a preference for providing the GSEs with administrative remedies. Therefore, if the Secretary has refused to approve a new program because the Secretary believes it is not in the public interest, HUD should provide the forum in which appeal of the Secretary's initial disapproval is heard and in which the GSE can offer further evidence on the matter.

Both GSEs requested language indicating more expressly that conduct is only "alleged" in notices of charges for cease-and-desist proceedings. (The proposed rule at § 81.82(b)(1)(i), in describing the content of a "charge" notification, made reference to a "* * * concise statement of the facts constituting the conduct upon which the Secretary has relied * * *.") The final rule includes the word "alleged" before "conduct" where the reference is to conduct that remains to be proven. However, it is not necessary to reiterate in the rule that the conduct remains to be proven in a hearing.

Fannie Mae recommended revising § 81.84(e) of the rule to increase its specificity regarding how the Secretary will serve notices and filings required under this subpart G. Fannie Mae suggested that HUD follow the Federal Reserve Board rules of service—rules that provide, among other things, details on what types of U.S. mail may be used, and when electronic transmission is acceptable.

[98] 5 U.S.C. 558(b).

[99] 5 U.S.C. 571–583.

[100] Only a reference to the Notice of Intent—a reference to which Freddie Mac made no objection—contains material not found in the text of FHEFSSA.

[101] The proposed rule set out the preponderance of the evidence standard to govern civil money penalty cases, and the substantial evidence standard for other administrative proceedings under FHEFSSA.

[102] 5 U.S.C. 556(d).

The proposed rule adopted by incorporation the requirements of 24 CFR 30.425(c)(3) governing how service is to be made. The final rule has been revised to accept the GSEs' suggestion and to model the rule governing service after the provisions in the Uniform Rules of Practice and Procedure that have been adopted by the Federal financial regulators.

Closed Proceedings

Freddie Mac requested that the final rule provide explicitly for motions by the GSE to close a hearing, with any ALJ determination on that question to be made reviewable by the Secretary on an interlocutory basis. Freddie Mac argued that the affected GSE is more likely than the ALJ to appreciate how an open hearing would affect its employees, shareholders, customers and borrowers, and its ability to perform its public mission. Freddie Mac proposed that the motion first be made before the ALJ, with discretionary review by the Secretary during an established, brief time period before the hearing is permitted to continue.

FHEFSSA permits the Secretary to determine that a hearing should be closed to the public, or that a document or part of a document should be sealed. The proposed rule implemented this authority in §§ 81.84(h) and 81.85(c), but did not provide additional procedures, beyond those available under the statute or part 30, subpart E, as incorporated.

Under 24 CFR part 30, subpart E, a GSE may move for an order from the ALJ providing for a closed hearing or sealed document. In response to Freddie Mac's comment, the final rule also provides an additional mechanism for interlocutory review by the Secretary of an ALJ's decision in both of these situations. Section 81.84(h) allows a GSE to request the Secretary to review an ALJ's denial of a timely motion for a closed hearing. The hearing is stayed while the Secretary makes a determination on the need to close the hearing. Section 81.85(c) provides that a party may request immediate review by the Secretary of an ALJ's denial of a protective order relating to documents for which disclosure would be contrary to the public interest. However, unless request for protection of the documentary evidence meets specific timing requirements or the Secretary directs otherwise, the obligation to produce the documents at a hearing will not be affected by the request for review by the Secretary of the ALJ's decision on disclosure.

Appeal-Related Issues

Freddie Mac urged that provisions in the final rule "conform to statutory requirements" limiting the Secretary to 90 days to decide an appeal of an ALJ ruling. Proposed § 81.84(k) allowed the Secretary an additional 30 days, at his or her discretion, in addition to the statutory 90-day period set out in section 1342(b)(1). Additionally, Freddie Mac objected to the provision in § 81.84(l), permitting remand of a case to an ALJ for additional proceedings, to the extent that remand might have the effect of extending the 90-day time provision established for a final decision. Freddie Mac asked that the Secretary's authority to remand to an ALJ be limited, unless the parties consent to any remand that extends the time for an ultimate decision. The final rule eliminates any reference to a discretionary extension of time triggered by written notice to the parties. However, under the final rule the Secretary's remand of a case to an ALJ for additional proceedings is a "decision" within the meaning of FHEFSSA. This approach is consistent with recent case law.[103]

Freddie Mac also commented on the proposed rule's procedural provisions on time-to-file and page limitations on appeals. Freddie Mac stated that procedures set out in § 30.910 for the Secretary's review of ALJ decisions were inadequate in cases involving the GSEs, because of the complex, fact-intensive nature of anticipated cases and the broad public policy implications likely to be involved. Freddie Mac requested that the rule make clear that provisions of § 30.910, including 15-day time and 10-page statement limits for appeals, may be waived by the Secretary upon the motion of a party. Although Freddie Mac agreed that expeditiousness and simplicity are "generally desirable," it asserted that such limits may not be appropriate in cases involving national housing policies.

As a general matter the Secretary has authority to waive HUD regulations, including those provisions to which Freddie Mac has raised objection, as well as other procedural rules from 24 CFR part 30 that are incorporated by reference. Nevertheless, the page-limit, and, in some cases, the time-limit, provisions set out in § 30.910 might be inadequate in cases arising under this rule. For that reason, the final rule makes waiver of those specific provisions easier, by providing that any such waiver of the part 30 page- and time-limits for notices of appeal or any other waivers under this subpart will not trigger publication requirements for general waivers. Waiver requests, when reasonable in light of the subject matter of a particular proceeding and other factors, can be expected to be dealt with suitably by an ALJ or the Secretary.

Freddie Mac asked that, because of the importance of these decisions, the Secretary provide for oral argument on appeal at the request of a GSE. Predicting that cases arising under FHEFSSA will be rare, Freddie Mac argued that providing for oral argument by right would not impose a significant burden on the Secretary.

Nothing in the proposed rule would prevent the Secretary from granting a right to oral argument in connection with a particular appeal of an ALJ decision. A GSE may petition for such an opportunity and the Secretary may, in an appropriate case, agree to it. However, it is unnecessary to provide in the regulation for additional mandatory procedural rights that may be provided in the Secretary's discretion, when necessary.

Freddie Mac commented that the rule need not repeat FHEFSSA's provisions governing judicial review of HUD enforcement actions. For example, Freddie Mac criticized the provisions of proposed § 81.83(e), which detailed the procedures through which the Secretary could seek the aid of the U.S. District Court to collect a civil money penalty. Provisions that only detail functions of the reviewing court have been stricken in the final rule. The final rule now cross-references statutory provisions governing judicial procedures.

Fannie Mae asked for clarification on an "apparent inconsistency" between FHEFSSA and the proposed rule concerning who is responsible for filing the record of an administrative proceeding with the appellate court. The statute says the Secretary shall file, while the proposed rule stated the Office of Administrative Law Judges shall file. The provision Fannie Mae questioned is an intentional delegation to the Office of Administrative Law Judges, in the interest of efficiency, and is unchanged in the final rule.

Commenting on § 81.86 of the proposed rule, Freddie Mac said that the rule ignored the fact that FHEFSSA treats enforcement of cease-and-desist orders and civil money penalties orders differently. Freddie Mac argued that the two enforcement actions had been dealt with differently in FHEFSSA to reflect a congressional judgment that fact situations involving cease-and-desist orders may require immediate action, while the collection of a civil money penalty might more readily be deferred. The rule has been revised to reflect the statutory language.

Freddie Mac also questioned the inclusion of a provision in § 81.86(c) providing that the Secretary "may obtain such other relief as may be available, including attorney fees and other expenses * * *." FHEFSSA, Freddie Mac asserted, made explicit reference to attorney fees only in instances where a GSE has refused, after adjudication, to pay a civil money penalty. The final rule eliminates, from § 81.86, the reference to attorney fees. The provision more specifically addressing failures to comply with an order imposing a civil money penalty (§ 81.83(e)) cross-references the statutory provision.

New Program Procedures

The proposed rule provided, under the procedures for review of the Secretary's disapproval of a program request on grounds that the program is not authorized, that the GSE may request an opportunity to review and supplement the record, or may request a meeting with the Secretary. The final rule allows the GSE to supplement the record timely in writing and/or through a meeting. Freddie Mac expressed concern in its comments about the procedures outlined in § 81.54. The proposed rule provided that such a meeting "shall not be on the record * * *." Freddie Mac's concern was that materials furnished in response to the invitation to supplement the record—or statements made at the meeting with the Secretary or his designee—might belong on the record, because they might help a court to decided that the Secretary's decision was not arbitrary and capricious, or would otherwise assist in pinpointing the issues in dispute. Additionally, Freddie Mac said, a record would help to avoid arguments about what happened at such a meeting.

Because there is no statutory requirement that any opportunity be provided for a meeting with an affected GSE to review a program disapproval on these grounds, the question of how such a meeting should be conducted is one solely within the Secretary's discretion.[104] The intention of the proposed "off the record" provision was to afford GSE representatives some assurance that statements made by them at such a meeting would not be used in a manner adverse to the interests of the GSE.

While the Secretary does not want to reverse the position taken in the proposed rule and provide that all such post-decision meetings will be held on the record, the final rule removes the above-quoted negative declaration from § 81.54(a). Instead, the Secretary will establish procedures for any such meeting on a case-by-case basis.[105]

Subpart H—Book Entry Procedures

Both the GSEs and the Book-Entry Treasury Regulations Task Force of the Investment Securities Subcommittee of the UCC Committee of the Business Law Section of the American Bar Association ("ABA Task Force") stated that revising book-entry procedures would be premature in light of continuing work on a comprehensive revision of the Treasury Department book-entry regulations.[106] The Federal Reserve Bank of New York—which operates the book-entry system—also urged HUD to delay implementation of new book-entry provisions.

Fannie Mae discussed the book-entry provisions briefly, indicating that the proposed rule's revisions to the book-entry provisions were so minor that any revision was unnecessary. Pending the overhaul of the book-entry system by Treasury, Fannie Mae recommended preserving the current book-entry regulations to "avoid confusion and certain regulatory inefficiency." However, Fannie Mae recommended deleting § 81.45(b) of the current book-entry regulations, consistent with the proposed rule, because without this deletion, Fannie Mae must request a waiver whenever it issues securities in definitive form.

Freddie Mac commented that it "strongly opposes" adoption of proposed Subpart H, calling it "at best premature and at worst potentially destructive." Freddie Mac requested that, if HUD determines it is necessary to promulgate subpart H at this time, §§ 81.94(d) and 81.95 be "recast" to allow Freddie Mac to maintain its ability to decide whether to allow conversion of its securities to definitive form. Current Freddie Mac regulations allow a depositor to withdraw securities from the book-entry system and convert to definitive form *only* if the securities provide for such conversion pursuant to the offering materials. Since 1985, Freddie Mac's offering materials have not provided such a right of conversion—a practice it comments is in keeping with current market practice. Freddie Mac said that while the proposed HUD rules appear to mirror part O of Treasury's regulations, the Treasury Department has informed Freddie Mac "that in practice it has not issued its own offerings in definitive form since 1986, notwithstanding the language of Part O, unless the offering circular specifically allows." Freddie Mac therefore concluded that the HUD proposal could put the GSEs at a competitive disadvantage respecting other competing issuers, including Treasury.

The GSEs' current book-entry regulations date back to the late 1970s and are codified in separate parts of the CFR.[107] These regulations are essential to permit the GSEs to avail themselves of Federal Reserve book-entry systems. Under HUD's general regulatory power respecting the GSEs, the proposed rule sought to establish a uniform, modern set of book-entry regulations applicable to both Fannie Mae and Freddie Mac modelled on the current book-entry procedures established by the Treasury.[108] Recently, by regulation and at the request of Fannie Mae, the Secretary specifically extended the Fannie Mae book-entry regulations to allow Fannie Mae to continue to use the book-entry system pending the issuance of this comprehensive rule.[109]

Based on the comments, the Secretary has decided to postpone adopting uniform book-entry regulations for the GSEs pending completion of the revised Treasury Department book-entry regulations. For HUD to act now to finalize a complete set of regulations for both GSEs, and then shortly to revise them, would only lead to confusion. HUD will work with the Treasury Department to adopt revised regulations simultaneously. These regulations will be substantively identical for both GSEs and will provide a level playing field. In the interim, Fannie Mae and Freddie Mac book-entry regulations shall remain effective, essentially in their current form. The final rule makes only three changes.

The Fannie Mae book-entry regulations are modified to delete § 81.45(b), as requested by Fannie Mae.

[103] *Mountain Side Mobile Estates Partnership v. Secretary of HUD*, 56 F.3d 1243, 1248 (10th Cir. 1993). Furthermore, under the rule, if a decision is remanded for further proceedings, the ALJ is required to issue an initial decision on remand within 60 days of the date of issuance of the final decision, unless it is impractical to do so.

[104] However, written materials submitted at such a meeting, or in lieu of requesting a meeting, are considered as having been submitted with the intention of supplamenting the record, as permitted under § 81.54(a)(1).

[105] As a note of further clarification, the final rule continues to permit a GSE freely to supplement the record in writing, either at the meeting with the Secretary or designee, or in a separate submission.

[106] The Treasury Department is revising its book entry regulations to reflect a major revision to Article 8 of the Uniform Commercial Code (UCC). Treasury withdrew proposed changes to its own regulations pending the completion of additional UCC work. *See* 57 FR 12244 (Apr. 9, 1992), and 58 FR 59972 (Nov. 12, 1993).

[107] 24 CFR part 81, subpart E (Fannie Mae) and 1 CFR part 462 (Freddie Mac).

[108] *See* 31 CFR 306.115 *et seq.*

[109] 59 FR 54366 (Oct. 28, 1994).

This provision requires use of book-entry procedures and has necessitated that Fannie Mae formally request a waiver each time definitive certificates are to be issued. Fannie Mae's requests for waivers under this section have always been granted. Nonetheless, work on these requests has frequently tied up both HUD and Fannie Mae staff. In removing this section, HUD recognizes that under Freddie Mac's regulations, securities may be issued in definitive form only where the offering circular so provides. While HUD considered adding this provision to current Fannie Mae regulations, it determined instead to await Treasury Department revisions before addressing the matter.

In addition, the current Fannie Mae book-entry regulations are moved to subpart H and renumbered, using the numbering scheme in the proposed regulation, §§ 81.91–99. HUD explored the possibility of maintaining the book-entry procedures as subpart E, and redesignating and renumbering subparts E through I of the proposed rule, as had been suggested by Fannie Mae. HUD determined, however, that the organization of the regulation was more sensible if the book-entry provisions were placed near the end of the part, because other subparts were of more universal interest. Moreover, moving and redesignating five sections of the proposed rule would be more confusing to the public than moving the book-entry procedures. Finally, in the interest of consistency, the term "Fannie Mae" is substituted for the term "Federal National Mortgage Association" in this subpart.

Subpart I—Other Provisions

Both GSEs commented on a provision of HUD's proposed rule that provided that the Secretary could conduct regulatory examinations of the GSEs at any time, to determine whether the GSEs were complying with statutory requirements. The primary argument made by both GSEs was that the Secretary does not possess examination authority, because Congress specifically took this authority away from the Secretary under FHEFSSA and gave it to the Director of OFHEO. Freddie Mac also argued that the Secretary does not possess this authority pursuant to FHEFSSA's grant to the Secretary of "general regulatory authority," because examination authority may only be implied if that authority is necessary, indispensable, and essential. Freddie Mac argued that the authority is not necessary, indispensable, or essential, because the Secretary may monitor the GSEs' compliance by using the reports and data that the GSEs provide to HUD.

The section on regulatory examinations has been removed. However another provision, making clear the Secretary's authority to verify information, has been added to the rule at § 81.102. Sections 1381(k) and 1382(e) of FHEFSSA removed the Secretary's explicit statutory authority to "examine and audit the books and financial transactions" of the GSEs. However, that elimination of the Secretary's explicit statutory grant of authority to conduct examinations does not mean that the Secretary has no alternative but to accept, as accurate and complete, whatever data, information, or reports the GSEs may provide. Rather, the Secretary may independently verify the accuracy and completeness of the data, information, and reports, including conducting on-site verification, when verification is reasonably related to determining whether the GSEs are complying with the law. The Secretary does not anticipate exercising this authority often, but only where such verification is necessary.

The authority to verify information when necessary is derived from section 1321 of FHEFSSA, which accords the Secretary "general regulatory power over each enterprise," as well as the enumerated powers conferred on the Secretary by FHEFSSA. The Supreme Court has repeatedly held that a grant to an agency of "general regulatory authority," extends to the agency those unenumerated powers that are "reasonably related to the purposes of the enabling legislation."[110] This standard has been accepted by every Federal Court of Appeals.[111] Independent verification of the information provided by the GSEs is reasonably related to the Secretary's performing out his or her statutory duties.

Freddie Mac acknowledged in its comments that "HUD could have implicit examination authority only if that authority were necessary, indispensable and essential to monitor GSE compliance with" provisions of the Charter Acts. In support of its "necessary, indispensable, and essential" standard, Freddie Mac cited one Circuit Court decision,[112] which involved the authority of bankruptcy judges to conduct jury trials. That case is distinguishable on several grounds and does not represent the correct standard to apply here, in light of Supreme Court holdings adopting a "reasonably related" standard, which every Federal Circuit Court has followed.

In a landmark decision, the Supreme Court specifically addressed the scope of an agency's authority to investigate a regulated entity absent an explicit grant of statutory authority to conduct such investigations.[113] In that case, the Court held that the Federal Trade Commission (FTC) possessed authority to require additional reports from a corporation it regulated, even though the FTC did not have specific authority to require such reports under applicable law or the consent decree that it sought to enforce.

In reaching its decision, the Court rejected Morton Salt's argument that enforcing compliance with the decree had to "rest upon respondents' honor unless evidence of a violation fortuitously comes to the Commission." Rather, "the Commission, in view of its residual duty of enforcement," could "affirmatively satisfy itself that the decree is being observed."[114] The Court indicated that the FTC's authority to investigate compliance with consent decrees in this manner derived from its authority to initiate contempt proceedings for the violation of such decrees, concluding that the authority to initiate contempt proceedings "must have contemplated that the Commission could obtain accurate information from time to time on which to base a responsible conclusion that there was or was not cause for such a proceeding."[115]

The Secretary, like the FTC, is charged with the authority to initiate enforcement actions upon determining that the law has been violated. This enforcement responsibility contemplates that the Secretary will obtain accurate information on which to base a responsible conclusion that there is or is not cause for such a proceeding. The Secretary, like the FTC, is accorded a number of investigative functions. For the Secretary, these investigatory functions include the authority to require reports (*e.g.*, FHEFSSA, section 1327), gather data from the GSEs on their mortgage purchases (FHEFSSA, sections 1381(o) and 1382(r)),[116] monitor compliance with the housing goals (FHEFSSA, section 1336), and issue subpoenas (FHEFSSA, section 1348).[117] The Secretary's functions, like the FTC's functions, include making factual determinations. For the Secretary these determinations include: (1) Whether a GSE is complying with the housing goals; (2) whether a GSE has made a good-faith effort to comply with a housing plan; and (3) whether a GSE has submitted the mortgage information and reports required under sections 1381(o), 1382(r), or 1337 of FHEFSSA. Under *Morton Salt*, these functions, along with the Secretary's general regulatory powers, support the Secretary's authority to verify independently the completeness and accuracy of data, information, and reports submitted by the GSEs, including conducting on-site verification when doing so is reasonably related to determining whether the GSEs are complying with the law.

Freddie Mac maintains that the Secretary can sufficiently monitor compliance through the extensive data and reports that the GSEs are required to provide. Freddie Mac points out that the Secretary can use the mortgage purchase data required to be submitted to verify the accuracy of the housing goal performance reported in the annual reports. Freddie Mac asserts, "If a GSE fails to submit required reports or data required under the Act or its charter, HUD can initiate enforcement proceedings and, incidental to those proceedings, can issue subpoenas for the production of documents and witnesses."

However, without the authority to verify the completeness and accuracy of the data, information, or reports submitted by each GSE, the Secretary would be hampered in making the determinations that are required. Such a situation could result in the Secretary erroneously concluding that the GSEs are complying with FHEFSSA's requirements when they are not, or that they are not complying with FHEFSSA's requirements when they are. Thus, where the Secretary determines that it is necessary to verify independently the data, information, or reports provided by the GSEs, including conducting on-site verification, such verification is "reasonably related to the purposes of the enabling legislation."

Information Collection and Cost/Benefit Analysis

Freddie Mac argued that HUD's estimates of the cost of GSE compliance with the reporting requirements were grossly understated in the analysis provided with the proposed rule. Freddie Mac noted that HUD's estimate of its own costs to review the data was much higher than the costs estimated for the GSEs.

HUD did not act arbitrarily in estimating its own costs to review data as substantially higher than the costs to the GSEs of providing the data. HUD's estimates of costs did not include the GSEs' costs of amassing the data, including systems costs, because the cost estimates were intended to measure the incremental costs associated with compiling the data from the GSEs data systems, i.e., producing the tables, reports, and loan-level data tapes. The estimates also are not intended to reflect costs associated with data elements that the GSEs would collect in the absence of the final rule. Moreover, the costs should not reflect any analytical research conducted by the GSEs with respect to the data or the housing goals.

However, the Secretary does appreciate the GSEs' commitment to diligence in checking the accuracy of the data, and those costs have been accounted for in reviewing the information collection provisions in the final rule. In addition, after reviewing the comments on all areas of the rule in which information collection considerations were a factor, HUD revised its cost estimates to reflect more accurately the costs of producing each of the reports required by the rule. These revised cost estimates have been provided to OMB, and the Economic Analysis that analyzes the costs and benefits associated with the provisions of this final rule is available to the public, as noted under "Significant Regulatory Action" in the "Other Matters" section of this preamble.

Other Matters

Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20 of the HUD regulations, the policies and procedures contained in this rule do not affect a physical structure or property and relate only to statutorily required accounting and reporting procedures, and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

Executive Order 12866

This rule constitutes a "significant regulatory action" as that term is defined in subsection 3(f) of Executive Order 12866 on Regulatory Planning and Review issued by the President on September 30, 1993. A preliminary review of the rule indicated that it might, as defined in that Order, have an annual effect on the economy of $100 million or more. Accordingly, an economic Analysis was prepared and is available for review and inspection in Room 10276, Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule would not have a significant economic impact on a substantial number of small entities. The requirements of the proposed rule are directed toward the accounting procedures used in the mortgage servicing industry and the disclosure to consumers of related information.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under subsection 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule would not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. The requirements of the rule are directed toward the accounting procedures used in the mortgage servicing industry and the disclosure to consumers of related information.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have the potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those

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[110] *Mourning* v. *Family Publications Service, Inc.*, 411 U.S. 356, 369 (1973) (quoting *Thorpe* v. *Housing Authority of City of Durham*, 393 U.S. 268, 280–81 (1969)).

[111] *See, e.g., Action on Smoking and Health* v. *CAB*, 699 F.2d 1209, 1212 (D.C. Cir. 1983).

[112] *In re United Mo. Bank of Kansas City, N.A.*, 901 F.2d 1449, 1456 (8th Cir. 1990).

[113] *United States* v. *Morton Salt Co.*, 338 U.S. 632 (1950).

[114] 338 U.S. at 640.

[115] *Id.* at 639.

[116] Sections 1381(o) and 1382(r) of FHEFSSA require that the GSEs "collect, maintain, and provide to the Secretary, in a form determined by the Secretary," mortgage data pertaining to single-family and multifamily mortgages. These provisions provide the Secretary with broad discretion to determine the "form" in which the data is to be provided, as well as what information, other than the mortgage characteristics indicated in the statute, the Secretary may also require.

[117] "Administrative authority to inspect and copy business records was implied as a reasonable projection of a principle reflected in a statutory grant of subpoena power." 2B Norman J. Singer, *Sutherland on Statutory Construction* § 55.04 (5th ed. 1992) (citing *Porter* v. *Gantner & Mattern Co.*, 156 F.2d 886 (9th Cir. 1946)).

policies and programs relate to family concerns.

List of Subjects in 24 CFR Part 81

Accounting, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

1. For the reasons set out in the preamble, part 81 of Title 24 of the Code of Federal Regulations is revised to read as follows:

PART 81—THE SECRETARY OF HUD'S REGULATION OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FANNIE MAE) AND THE FEDERAL HOME LOAN MORTGAGE CORPORATION (FREDDIE MAC)

Subpart A—General

Sec.
81.1 Scope of part.
81.2 Definitions.

Subpart B—Housing Goals

Sec.
81.11 General.
81.12 Low- and Moderate-Income Housing Goal.
81.13 Central Cities, Rural Areas, and Other Underserved Areas Housing Goal.
81.14 Special Affordable Housing Goal.
81.15 General requirements.
81.16 Special counting requirements.
81.17 Affordability—Income level definitions—family size and income known (owner-occupied units, actual tenants, and prospective tenants).
81.18 Affordability—Income level definitions—family size not known (actual or prospective tenants).
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Subpart A—General

§ 81.1 Scope of part.

(a) *Authority.* The Secretary has general regulatory power respecting the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") (referred to collectively as Government-sponsored enterprises ("GSEs")) and is required to make such rules and regulations as are necessary and proper to ensure that the provisions of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 ("FHEFSSA"), codified generally at 12 U.S.C. 4501–4641; the Fannie Mae Charter Act, 12 U.S.C. 1716–1723h; and the Freddie Mac Act, 12 U.S.C. 1451–59, are accomplished.

(b) *Relation between this part and the authorities of OFHEO.* The Director of the Office of Federal Housing Enterprise Oversight ("OFHEO") will issue separate regulations implementing the Director's authority respecting the GSEs. In this part, OFHEO and the Director are only referenced when the Director's responsibilities are connected with the Secretary's responsibilities.

§ 81.2 Definitions.

(a) *Statutory terms.* All terms defined in FHEFSSA (12 U.S.C. 4502) are used in accordance with their statutory meaning unless otherwise defined in paragraph (b) of this section.

(b) *Other terms.* As used in this part, the term—

AHAR means the Annual Housing Activities Report that a GSE submits to the Secretary under sections 309(n) of the Fannie Mae Charter Act or 307(f) of the Freddie Mac Act.

AHAR information means data or information contained in the AHAR.

AHS means the American Housing Survey published by HUD and the Department of Commerce.

Balloon mortgage means a mortgage providing for payments at regular intervals, with a final payment ("balloon payment") that is at least 5 percent more than the periodic payments. The periodic payments may cover some or all of the periodic principal or interest. Typically, the periodic payments are level monthly payments that would fully amortize the mortgage over a stated term and the balloon payment is a single payment due after a specified period (but before the mortgage would fully amortize) and pays off or satisfies the outstanding balance of the mortgage.

Central city means the underserved areas located in any political subdivision designated as a central city by the Office of Management and Budget of the Executive Office of the President.

Charter Act means the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 *et seq.*) or the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 *et seq.*).

Contract rent means the total rent that is, or is anticipated to be, specified in the rental contract as payable by the tenant to the owner for rental of a dwelling unit, including fees or charges for management and maintenance services and those utility charges that are included in the rental contract. In determining contract rent, rent concessions shall not be considered, *i.e.*, contract rent is not decreased by any rent concessions. Contract rent is rent net of rental subsidies.

Conventional mortgage means a mortgage other than a mortgage as to which a GSE has the benefit of any guaranty, insurance or other obligation by the United States or any of its agencies or instrumentalities.

Day means a calendar day.

Director means the Director of OFHEO.

Dwelling unit means a room or unified combination of rooms intended for use, in whole or in part, as a dwelling by one or more persons, and includes a dwelling unit in a single-family property, multifamily property, or other residential or mixed-use property.

ECOA means the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*).

Familial status has the same definition as is set forth at 24 CFR 100.20.

Family means one or more individuals who occupy the same dwelling unit.

Fannie Mae means the Federal National Mortgage Association and any affiliate thereof.

FHEFSSA means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, codified generally at 12 U.S.C. 4501–4651.

FOIA means the Freedom of Information Act (5 U.S.C. 552).

Freddie Mac means the Federal Home Loan Mortgage Corporation and any affiliate thereof.

Freddie Mac Act means the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 *et seq.*).

Government-sponsored enterprise or *GSE* means Fannie Mae or Freddie Mac.

Handicap has the same definition as is set forth at 24 CFR 100.201.

HUD means the United States Department of Housing and Urban Development.

Lender means any entity that makes, originates, sells, or services mortgages, and includes the secured creditors named in the debt obligation and document creating the mortgage.

Low-income area means a census tract or block numbering area in which the median income does not exceed 80 percent of the area median income.

Median income means, with respect to an area, the unadjusted median family income for the area, as most recently determined and published by the Secretary.

Metropolitan area means a metropolitan statistical area ("MSA"), primary metropolitan statistical area ("PMSA"), or consolidated metropolitan statistical area ("CMSA"), designated by the Office of Management and Budget of the Executive Office of the President.

Minority means any individual who is included within any one of the following racial and ethnic categories:

(1) American Indian or Alaskan Native—a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition;

(2) Asian or Pacific Islander—a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands;

(3) African-American—a person having origins in any of the black racial groups of Africa; and

(4) Hispanic—a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

Mortgage means a member of such classes of liens, including subordinate liens, as are commonly given or are legally effective to secure advances on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, or a manufactured home that is personal property under the laws of the State in which the manufactured home is located, together with the credit instruments, if any, secured thereby, and includes interests in mortgages. "Mortgage" includes a mortgage, lien, including a subordinate lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member by a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code of 1986, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation.

Mortgage data means data obtained by the Secretary from the GSEs under subsection 309(m) of the Fannie Mae Charter Act and subsection 307(e) of the Freddie Mac Act.

Mortgage purchase means a transaction in which a GSE bought or otherwise acquired with cash or other thing of value, a mortgage for its portfolio or for securitization.

Multifamily housing means a residence consisting of more than 4 dwelling units. The term includes cooperative buildings and condominium projects.

New England means Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

OFHEO means the Office of Federal Housing Enterprise Oversight.

Ongoing program means a program that is expected to continue for the foreseeable future.

Other underserved area means any underserved area that is in a metropolitan area, but not in a central city.

Owner-occupied unit means a dwelling unit in single-family housing in which a mortgagor of the unit resides.

Participation means a fractional interest in the principal amount of a mortgage.

Portfolio of loans means 10 or more loans.

Proprietary information means all mortgage data and all AHAR information that the GSEs submit to the Secretary in the AHARs that contain trade secrets or privileged or confidential, commercial, or financial information that, if released, would be likely to cause substantial competitive harm.

Public data means all mortgage data and all AHAR information that the GSEs submit to the Secretary in the AHARs, that the Secretary determines are not proprietary and may appropriately be disclosed consistent with other applicable laws and regulations.

Real estate mortgage investment conduit (REMIC) means multi-class mortgage securities issued by a tax-exempt entity.

Refinancing means a transaction in which an existing mortgage is satisfied or replaced by a new mortgage undertaken by the same borrower. The term does not include:

(1) A renewal of a single payment obligation with no change in the original terms;

(2) A reduction in the annual percentage rate of the mortgage as computed under the Truth in Lending Act, with a corresponding change in the payment schedule;

(3) An agreement involving a court proceeding;

(4) A workout agreement, in which a change in the payment schedule or collateral requirements is agreed to as a result of the mortgagor's default or delinquency, unless the rate is increased or the new amount financed exceeds the unpaid balance plus earned finance charges and premiums for the continuation of insurance;

(5) The renewal of optional insurance purchased by the mortgagor and added to an existing mortgage; and

(6) A renegotiated balloon mortgage on a multifamily property where the balloon payment was due within 1 year after the date of the closing of the renegotiated mortgage.

Rent means, for a dwelling unit:

(1) When the contract rent includes all utilities, the contract rent; or

(2) When the contract rent does not include all utilities, the contract rent plus:

(i) The actual cost of utilities not included in the contract rent; or

(ii) A utility allowance.

Rental housing means dwelling units in multifamily housing and dwelling units that are not owner occupied in single-family housing.

Rental unit means a dwelling unit that is not owner-occupied and is rented or available to rent.

Residence means a property where one or more families reside.

Residential mortgage means a mortgage on single-family or multifamily housing.

Rural area means any underserved area located outside of any metropolitan area.

Seasoned mortgage means a mortgage on which the date of the mortgage note is more than 1 year before the GSE purchased the mortgage.

Second mortgage means any mortgage that has a lien position subordinate only to the lien of the first mortgage.

Secondary residence means a dwelling where the mortgagor maintains (or will maintain) a part-time place of abode and typically spends (or will spend) less than the majority of the calendar year. A person may have more than one secondary residence at a time.

Secretary means the Secretary of Housing and Urban Development and, where appropriate, any person designated by the Secretary to perform a particular function for the Secretary, including any HUD officer, employee, or agent.

Single-family housing means a residence consisting of one to four dwelling units. Single-family housing includes condominium dwelling units and dwelling units in cooperative housing projects.

Underserved area means:

(1) For purposes of the definitions of "central city" and "other underserved area," a census tract having:

(i) A median income at or below 120 percent of the median income of the metropolitan area and a minority population of 30 percent or greater; or

(ii) A median income at or below 90 percent of median income of the metropolitan area.

(2) For purposes of the definition of "rural area":

(i) In areas other than New England, a county having:

(A) A median income at or below 120 percent of the State nonmetropolitan median income and a minority population of 30 percent or greater; or

(B) A median income at or below 95 percent of the greater of the:

(1) State non-metropolitan median income; or

(2) Nationwide non-metropolitan median income; and

(ii) In New England, an entire county having the characteristics in paragraph (2)(i)(A) or (B) of this definition or the remainder of a county, where a portion of the county is in a metropolitan area and the remainder of the county has the characteristics in paragraph (2)(i)(A) or (B) of this definition.

Utilities means charges for electricity, piped or bottled gas, water, sewage disposal, fuel (oil, coal, kerosene, wood, solar energy, or other), and garbage and trash collection. Utilities do not include charges for telephone service.

Utility allowance means either:

(1) The amount to be added to contract rent when utilities are not included in contract rent (also referred to as the "AHS-derived utility allowance"), as issued annually by the Secretary; or

(2) The utility allowance established under the HUD Section 8 Program (42 U.S.C. 1437f) for the area where the property is located.

Very-low-income has the same definition as "very low-income" has in FHEFSSA.

Wholesale exchange means a transaction in which a GSE buys or otherwise acquires mortgages held in portfolio or securitized by the other GSE, or where both GSEs swap such mortgages.

Working day means a day when HUD is officially open for business.

Subpart B—Housing Goals

§ 81.11 General.

This subpart establishes: three housing goals, as required by FHEFSSA; requirements for measuring performance under the goals; and procedures for monitoring and enforcing the goals.

§ 81.12 Low- and Moderate-Income Housing Goal.

(a) *Purpose of goal.* This annual goal for the purchase by each GSE of mortgages on housing for low- and moderate-income families ("the Low- and Moderate-Income Housing Goal") is intended to achieve increased purchases by the GSEs of such mortgages.

(b) *Factors.* In establishing the Low- and Moderate-Income Housing Goals, the Secretary considered the factors in 12 U.S.C. 4562(b). A statement documenting the Secretary's considerations and findings with respect to these factors, entitled "Secretarial Considerations to Establish the Low- and Moderate-Income Housing Goal," was published in the **Federal Register** on December 1, 1995.

(c) *Goals.* The annual goals for each GSE's purchases of mortgages on housing for low- and moderate-income families are:

(1) For 1996, 40 percent of the total number of dwelling units financed by that GSE's mortgage purchases in 1996;

(2) For each of the years 1997–99, 42 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years; and

(3) For 2000 and thereafter the Secretary shall establish annual goals; pending establishment of goals for 2000 and thereafter, the annual goal for each of those years shall be 42 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years.

§ 81.13 Central Cities, Rural Areas, and Other Underserved Areas Housing Goal.

(a) *Purpose of the goal.* This annual goal for the purchase by each GSE of mortgages on housing located in central cities, rural areas, and other underserved areas is intended to achieve increased purchases by the GSEs of mortgages financing housing in areas that are underserved in terms of mortgage credit.

(b) *Factors.* In establishing the Central Cities, Rural Areas, and Other Underserved Areas Goals, the Secretary considered the factors in 12 U.S.C. 4564(b). A statement documenting the Secretary's considerations and findings with respect to these factors, entitled "Secretarial Considerations to Establish the Central Cities, Rural Areas, and Other Underserved Areas Housing Goal," was published in the **Federal Register** on December 1, 1995.

(c) *Goals.* The annual goals for each GSE's purchases of mortgages on housing located in central cities, rural areas, and other underserved areas are:

(1) For 1996, 21 percent of the total number of dwelling units financed by that GSE's mortgage purchases in 1996;

(2) For each of the years 1997–99, 24 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years; and

(3) For 2000 and thereafter the Secretary shall establish annual goals; pending establishment of goals for 2000 and thereafter, the annual goal for each of those years shall be 24 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years.

(d) *Measuring performance.* The GSEs shall determine on a mortgage-by-mortgage basis, through geocoding or any similarly accurate and reliable method, whether a mortgage finances one or more dwelling units located in a central city, rural area, or other underserved area.

§ 81.14 Special Affordable Housing Goal.

(a) *Purpose of the goal.* This goal is intended to achieve increased purchases by the GSEs of mortgages on rental and owner-occupied housing meeting the then-existing unaddressed needs of, and affordable to, low-income families in low-income areas and very-low-income families.

(b) *Factors.* In establishing the Special Affordable Housing Goals, the Secretary considered the factors in 12 U.S.C. 4563(a)(2). A statement documenting the Secretary's considerations and findings with respect to these factors, entitled "Secretarial Considerations to Establish the Special Affordable Housing Goal," was published in the **Federal Register** on December 1, 1995.

(c) *Goals.* The annual goals for each GSE's purchases of mortgages on rental and owner-occupied housing meeting the then-existing, unaddressed needs of and affordable to low-income families in low-income areas and very-low-income families are:

(1) For 1996, 12 percent of the total number of dwelling units financed by each GSE's mortgage purchases in 1996. The goal shall include mortgage purchases financing dwelling units in multifamily housing totalling not less than 0.8 percent of the dollar volume of mortgages purchased by the respective GSE in 1994;

(2) For each of the years 1997–99, 14 percent of the total number of dwelling units financed by each GSE's mortgage purchases in each of those years. The goal for each year shall include mortgage purchases financing dwelling units in multifamily housing totalling not less than 0.8 percent of the dollar volume of mortgages purchased by the respective GSE in 1994; and

(3) For 2000 and thereafter the Secretary shall establish annual goals. Pending establishment of goals for 2000 and thereafter, the annual goal for each of those years shall be 14 percent of the total number of dwelling units financed by each GSE's mortgages purchases in each of those years; the goal for each such year shall include mortgage purchases financing dwelling units in multifamily housing totalling not less than 0.8 percent of the dollar volume of mortgages purchased by the respective GSE in 1994.

(d) *Counting of multifamily units.* (1) Dwelling units affordable to low-income families and financed by a particular purchase of a mortgage on multifamily housing shall count toward achievement of the Special Affordable Housing Goal where at least:

(i) 20 percent of the dwelling units in the particular multifamily property are affordable to families whose incomes do not exceed 50 percent of the area median income; or

(ii) 40 percent of the dwelling units in the particular multifamily property are affordable to very-low-income families.

(2) Where only some of the units financed by a purchase of a mortgage on multifamily housing count under the multifamily component of the goal, only a portion of the unpaid principal balance of the mortgage attributable to such units shall count toward the multifamily component. The portion of the mortgage counted under the multifamily requirement shall be equal to the ratio of the total units that count to the total number of units in the mortgaged property.

(e) *Full Credit Activities.* (1) For purposes of 12 U.S.C. 4563(b)(1) and this paragraph (e), full credit means that each unit financed by a mortgage purchased by a GSE and meeting the requirements of this section shall count toward achievement of the Special Affordable Housing Goal for that GSE.

(2) Consistent with § 81.16(b)(3)(ii), the Secretary will give full credit toward achievement of the Special Affordable Housing Goals for the activities in 12 U.S.C. 4563(b)(1).

(3) Mortgages under HUD's Home Equity Conversion Mortgage ("HECM") Insurance Demonstration Program, 12 U.S.C. 1715z-20, and the Farmers Home Administration's Guaranteed Rural Housing Loan Program, 7 U.S.C. 1933, meet the requirements of 12 U.S.C. 4563(b)(1)(A)(i) and (ii).

(4) (i) For purposes of determining whether a seller meets the requirement in 12 U.S.C. 4563(b)(1)(B), a seller must currently operate on its own or actively participate in an ongoing program that will result in originating additional loans that meet the goal. Actively participating in such a program includes actively participating with a qualified housing group that operates a program resulting in the origination of loans that meet the requirements of the goal.

(ii) To determine whether a seller meets the requirement in paragraph (e)(4)(i) of this section, the GSE shall verify and monitor that the seller meets the requirement and develop any necessary mechanisms to ensure compliance with this requirement.

(iii) Where a seller's primary business is originating mortgages on housing that qualifies under this Special Affordable Housing Goal, such seller is presumed to meet the requirements in paragraph (e)(4)(i) of this section.

(f) *No credit activities.* Neither the purchase nor the securitization of mortgages associated with the refinancing of a GSE's existing mortgage or mortgage-backed securities portfolios shall receive credit toward the achievement of the Special Affordable Housing Goal. Refinancings that result from the wholesale exchange of mortgages between the two GSEs shall not count toward the achievement of this goal. Refinancings of individual mortgages shall count toward achievement of this goal when the refinancing is an arms-length transaction that is borrower-driven and the mortgage otherwise counts toward achievement of this goal. For purposes of this paragraph (f), "mortgage or mortgage-backed securities portfolios" includes mortgages retained by Fannie Mae or Freddie Mac and mortgages utilized to back mortgage-backed securities.

§ 81.15 General requirements.

(a) *Calculating the numerator and denominator.* Performance under each of the housing goals shall be measured using a fraction that is converted into a percentage. The numerator of each fraction is the number of dwelling units financed by a GSE's mortgage purchases in a particular year that count toward achievement of the housing goal. The denominator of each fraction is, for all mortgages purchased, the number of dwelling units that could count toward achievement of the goal under appropriate circumstances. The denominators shall not include GSE transactions or activities that are not mortgages or mortgage purchases. When a GSE lacks sufficient information to determine whether the purchase of a mortgage originated after 1992 counts toward achievement of a particular housing goal, that mortgage purchase shall be included in the denominator for that housing goal.

(b) *Properties with multiple dwelling units.* For the purposes of counting toward the achievement of the goals, whenever the property securing a mortgage contains more than one dwelling unit, each such dwelling unit shall be counted as a separate dwelling unit financed by a mortgage purchase.

(c) *Credit toward multiple goals.* A mortgage purchase (or dwelling unit financed by such purchase) by a GSE in a particular year shall count toward the achievement of each housing goal for which such purchase (or dwelling unit) qualifies in that year.

(d) *Counting owner-occupied units.* For purposes of counting owner-occupied units toward achievement of the Low- and Moderate-Income Housing

Goal or the Special Affordable Housing Goal, mortgage purchases financing such units shall be evaluated based on the income of the mortgagors and the area median income at the time of origination of the mortgage. To determine whether mortgagors may be counted under a particular family income level, *i.e.*, very-low-, low-, or moderate-income, the income of the mortgagors is compared to the median income for the area at the time of mortgage origination, using the appropriate percentage factor provided under § 81.17.

(e) *Counting rental units.* (1) *Use of income, rent.* (i) *Generally.* For purposes of counting rental units toward achievement of the Low- and Moderate-Income Housing Goal or the Special Affordable Housing Goal, mortgage purchases financing such units shall be evaluated based on the income of actual or prospective tenants where such data is available, *i.e.*, known to a lender.

(ii) *Availability of income information.* (A) Each GSE shall require lenders to provide to the GSE tenant income information under paragraphs (e)(3) and (4) of this section, but only when such information is known to the lender.

(B) When such tenant income information is available for all occupied units, the GSE's performance shall be based on the income of the tenants in the occupied units. For unoccupied units that are vacant and available for rent and for unoccupied units that are under repair or renovation and not available for rent, the GSE shall use the income of prospective tenants, if paragraph (e)(4) of this section is applicable. If paragraph (e)(4) of this section is not applicable, the GSE shall use rent levels for comparable units in the property to determine affordability.

(2) *Model units and rental offices.* A model unit or rental office in a multifamily property may count toward achievement of the housing goals only if a GSE determines that:

(i) It is reasonably expected that the units will be occupied by a family within one year;

(ii) The number of such units is reasonable and minimal considering the size of the multifamily property; and

(iii) Such unit otherwise meets the requirements for the goal.

(3) *Income of actual tenants.* When the income of actual tenants is available, to determine whether a tenant is very-low-, low-, or moderate-income, the income of the tenant shall be compared to the median income for the area, adjusted for family size as provided in § 81.17.

(4) *Income of prospective tenants.* When income for tenants is available to a lender because a project is subject to a Federal housing program that establishes the maximum income for a tenant or a prospective tenant in rental units, the income of prospective tenants may be counted at the maximum income level established under such housing program for that unit. In determining the income of prospective tenants, the income shall be projected based on the types of units and market area involved. Where the income of prospective tenants is projected, each GSE must determine that the income figures are reasonable considering the rents (if any) on the same units in the past and considering current rents on comparable units in the same market area.

(5) *Use of rent.* When the income of the prospective or actual tenants of a dwelling unit is not available, performance under these goals will be evaluated based on rent and whether the rent is affordable to the income group targeted by the housing goal. A rent is affordable if the rent does not exceed 30 percent of the maximum income level of very-low-, low-, or moderate-income families as provided in § 81.19. In determining contract rent for a dwelling unit, the actual rent or average rent by unit type shall be used.

(6) *Timeliness of information.* In determining performance under the housing goals, each GSE shall use tenant and rental information as of the time of mortgage:

(i) Acquisition for mortgages on multifamily housing; and

(ii) Origination for mortgages on single-family housing.

(f) *Application of Median income.* (1) For purposes of determining an area's median income under §§ 81.17 through 81.19 and for the definition of "low-income area," the area is:

(i) The metropolitan area, if the property which is the subject of the mortgage is in a metropolitan area; and

(ii) In all other areas, the county in which the property is located, except that where the State nonmetropolitan median income is higher than the county's median income, the area is the State nonmetropolitan area.

(2) When a GSE cannot precisely determine whether a mortgage is on dwelling unit(s) located in one area, the GSE shall determine the median income for the split area in the manner prescribed by the Federal Financial Institutions Examination Council for reporting under the Home Mortgage Disclosure Act, if the GSE can determine that the mortgage is on dwelling unit(s) located in:

(i) A census tract;

(ii) A census place code;

(iii) A block-group enumeration district;

(iv) A nine-digit zip code; or

(v) Another appropriate geographic segment that is partially located in more than one area ("split area").

(g) *Sampling not permitted.* Performance under the housing goals for each year shall be based on a complete tabulation of mortgage purchases for that year; a sampling of such purchases is not acceptable.

(h) *Newly available data.* When a GSE uses data to determine whether a mortgage purchase counts toward achievement of any goal and new data is released after the start of a calendar quarter, the GSE need not use the new data until the start of the following quarter.

§ 81.16 Special counting requirements.

(a) *General.* In determining whether a GSE shall receive full credit for a transaction or activity toward achievement of any of the housing goals, the Secretary shall consider whether a transaction or activity of the GSE is substantially equivalent to a mortgage purchase and either creates a new market or adds liquidity to an existing market.

(b) *Not counted.* The following transactions or activities shall not count toward achievement of any of the housing goals and shall not be included in the denominator in calculating either GSE's performance under the housing goals:

(1) Equity investments in housing development projects;

(2) Purchases of State and local government housing bonds except as provided in 81.16(c)(8);

(3) Purchases of non-conventional mortgages except:

(i) Where such mortgages are acquired under a risk-sharing arrangement with a Federal agency; or

(ii) As provided in § 81.14(e)(2);

(4) Commitments to buy mortgages at a later date or time;

(5) Options to acquire mortgages;

(6) Rights of first refusal to acquire mortgages;

(7) Any interests in mortgages that the Secretary determines, in writing, shall not be treated as interests in mortgages;

(8) Mortgage purchases to the extent they finance any dwelling units that are secondary residences; and

(9) Any combination of (1) through (8) above.

(c) *Other special rules*—(1) *Credit enhancements.* (i) Dwelling units financed under a credit enhancement entered into by a GSE shall be treated as mortgage purchases and count toward achievement of the housing goals when:

(A) The GSE provides a specific contractual obligation to ensure timely payment of amounts due under a mortgage or mortgages financed by the issuance of housing bonds (such bonds may be issued by any entity, including a State or local housing finance agency);

(B) The GSE assumes a credit risk in the transaction substantially equivalent to the risk that would have been assumed by the GSE if it had securitized the mortgages financed by such bonds; and

(C) Such dwelling units otherwise qualify under this part.

(ii) When a GSE provides a specific contractual obligation to ensure timely payment of amounts due under any mortgage originally insured by a public purpose mortgage insurance entity or fund, the GSE may, on a case-by-case basis, seek approval from the Secretary for such activities to count toward achievement of the housing goals.

(2) *Real estate mortgage investment conduits ("REMICs").* (i) A GSE's purchase or guarantee of all or a portion of a REMIC shall be treated as a mortgage purchase and receive credit toward the achievement of the housing goals provided:

(A) The underlying mortgages or mortgage-backed securities for the REMIC were not:

(*1*) Guaranteed by the Government National Mortgage Association; or

(*2*) Previously counted toward any housing goal by the GSE; and

(B) The GSE has the information necessary to support counting the dwelling units financed by the REMIC, or that part of the REMIC purchased or guaranteed by the GSE, toward the achievement of a particular housing goal.

(ii) For REMICs that meet the requirements in paragraph (c)(2)(i) of this section and for which the GSE purchased or guaranteed:

(A) The whole REMIC, all of the units financed by the REMIC shall be treated as a mortgage purchase and count toward achievement of the housing goals; or

(B) A portion of the REMIC, the GSE shall receive partial credit toward achievement of the housing goals. This credit shall be equal to the percentage of the REMIC purchased or guaranteed by the GSE (the dollar amount of the purchase or guarantee divided by the total dollar amount of the REMIC) multiplied by the number of dwelling units that would have counted toward the goal(s) if the GSE had purchased or guaranteed the whole REMIC. In calculating performance under the housing goals, the denominator shall include the number of dwelling units included in the whole REMIC multiplied by the percentage of the REMIC purchased or guaranteed by the GSE.

(3) *Risk-sharing.* Mortgage purchases under risk-sharing arrangements between the GSEs and any Federal agency where the units would otherwise count toward achievement of the housing goal under which the GSE is responsible for a substantial amount (50 percent or more) of the risk shall be treated as mortgage purchases and count toward achievement of the housing goal or goals.

(4) *Participations.* Participations purchased by a GSE shall be treated as mortgage purchases and count toward the achievement of the housing goals, if the GSE's participation in the mortgage is 50 percent or more.

(5) *Cooperative housing and condominium projects.* (i) The purchase of a mortgage on a cooperative housing unit ("a share loan") or a condominium unit is a mortgage purchase. Such a purchase is counted toward achievement of a housing goal in the same manner as a mortgage purchase of single-family owner-occupied units, *i.e.*, affordability is based on the income of the owner(s).

(ii) The purchase of a mortgage on a cooperative building ("a blanket loan") or a condominium project is a mortgage purchase and shall count toward achievement of the housing goals. Where a GSE purchases both "a blanket loan" and mortgages for units in the same building ("share loans"), both the blanket loan and the share loan(s) are mortgage purchases and shall count toward achievement of the housing goals. Where a GSE purchases both a condominium project mortgage and mortgages on condominium dwelling units in the same project, both the condominium project mortgages and the mortgages on condominium dwelling units are mortgage purchases and shall count toward achievement of the housing goals.

(6) *Seasoned mortgages.* A GSE's purchase of a seasoned mortgage shall be treated as a mortgage purchase for purposes of these goals except:

(i) Where the GSE has already counted the mortgages under a housing goal applicable to 1993 or any subsequent year; or

(ii) As provided in 12 U.S.C. 4563(b)(1)(B).

(7) *Purchase of refinanced mortgages.* Except as provided in § 81.14(f), the purchase of a refinanced mortgage by a GSE is a mortgage purchase and shall count toward achievement of the housing goals to the extent the mortgage qualifies.

(8) *Mortgage revenue bonds.* (i) The purchase of a state or local mortgage revenue bond shall be treated as a mortgage purchase and units financed under such MRB shall count toward achievement of the goals where:

(A) the MRB is to be repaid only from the principal and interest of the underlying mortgages originated with funds made available by the MRB; and

(B) the MRB is not a general obligation of a state or local government or agency or is not credit enchanced by any government or agency, third party guarantor or surety.

(ii) Dwelling units financed by a mortgage revenue bond meeting the requirements of paragraph (c)(8)(i) of this section shall count toward a housing goal to the extent such dwelling units otherwise qualify under this part.

§ 81.17 Affordability—income level definitions—family size and income known (owner-occupied units, actual tenants, and prospective tenants).

In determining whether a dwelling unit is affordable to very-low-, low-, or moderate-income families, where the unit is owner-occupied or, for rental housing, family size and income information for the dwelling unit is known to the GSE, the affordability of the unit shall be determined as follows:

(a) *Moderate-income* means:

(1) In the case of owner-occupied units, income not in excess of 100 percent of area median income; and

(2) In the case of rental units, where the income of actual or prospective tenants is available, income not in excess of the following percentages of area median income corresponding to the following family sizes:

Number of persons in family	Percentage of area median income
1	70
2	80
3	90
4	100
5 or more	(*)

*100% plus (8% multiplied by the number of persons in excess of 4).

(b) *Low-income* means:

(1) In the case of owner-occupied units, income not in excess of 80 percent of area median income; and

(2) In the case of rental units, where the income of actual or prospective tenants is available, income not in excess of the following percentages of area median income corresponding to the following family sizes:

Number of persons in family	Percentage of area median income
1	56
2	64
3	72
4	80
5 or more	(*)

*80% plus (6.4% multiplied by the number of persons in excess of 4).

(c) *Very-low-income* means:

(1) In the case of owner-occupied units, income not in excess of 60 percent of area median income; and

(2) In the case of rental units, where the income of actual or prospective tenants is available, income not in excess of the following percentages of area median income corresponding to the following family sizes:

Number of persons in family	Percentage of area median income
1	42
2	48
3	54
4	60
5 or more	(*)

*60% plus (4.8% multiplied by the number of persons in excess of 4).

§ 81.18 Affordability—income level definitions—family size not known (actual or prospective tenants).

In determining whether a rental unit is affordable to very-low, low-, or moderate-income families where family size is not known to the GSE, income will be adjusted using unit size, and affordability determined as follows:

(a) *For moderate-income*, the income of prospective tenants shall not exceed the following percentages of area median income with adjustments, depending on unit size:

Unit size	Percentage of area median income
Efficiency	70
1 bedroom	75
2 bedrooms	90
3 bedrooms or more	(*)

*104% plus (12% multiplied by the number of bedrooms in excess of 3).

(b) *For low-income*, income of prospective tenants shall not exceed the following percentages of area median income with adjustments, depending on unit size:

Unit size	Percentage of area median income
Efficiency	56
1 bedroom	60
2 bedrooms	72
3 bedrooms or more	(*)

*83.2% plus (9.6% multiplied by the number of bedrooms in excess of 3).

(c) *For very-low-income*, income of prospective tenants shall not exceed the following percentages of area median income with adjustments, depending on unit size:

Unit size	Percentage of area median income
Efficiency	42
1 bedroom	45
2 bedrooms	54
3 bedrooms or more	(*)

*62.4% plus (7.2% multiplied by the number of bedrooms in excess of 3).

§ 81.19 Affordability—Rent level definitions—tenant income is not known.

For purposes of determining whether a rental unit is affordable to very-low-, low-, or moderate-income families where the income of the family in the dwelling unit is not known to the GSE, the affordability of the unit is determined based on unit size as follows:

(a) *For moderate-income*, maximum affordable rents to count as housing for moderate-income families shall not exceed the following percentages of area median income with adjustments, depending on unit size:

Unit size	Percentage of area median income
Efficiency	21
1 bedroom	22.5
2 bedrooms	27
3 bedrooms or more	(*)

*31.2% plus (3.6% multiplied by the number of bedrooms in excess of 3);

(b) *For low-income*, maximum affordable rents to count as housing for low-income families shall not exceed the following percentages of area median income with adjustments, depending on unit size:

Unit size	Percentage of area median income
Efficiency	16.8
1 bedroom	18
2 bedrooms	21.6
3 bedrooms or more	(*)

*24.96% plus (2.88% multiplied by the number of bedrooms in excess of 3); and

(c) *For very-low-income*, maximum affordable rents to count as housing for very-low-income families shall not exceed the following percentages of area median income with adjustments, depending on unit size:

Unit size	Percentage of area median income
Efficiency	12.6
1 bedroom	13.5
2 bedrooms	16.2
3 bedrooms or more	(*)

*18.72% plus (2.16% multiplied by the number of bedrooms in excess of 3).

(d) *Missing Information.* Each GSE shall make every effort to obtain the information necessary to make the calculations in this section. If a GSE makes such efforts but cannot obtain data on the number of bedrooms in particular units, in making the calculations on such units, the units shall be assumed to be efficiencies.

§ 81.20 Actions to be taken to meet the goals.

To meet the goals under this rule, each GSE shall operate in accordance with 12 U.S.C. 4565.

§ 81.21 Notice and determination of failure to meet goals.

If the Secretary determines that a GSE has failed or there is a substantial probability that a GSE will fail to meet any housing goal, the Secretary shall follow the procedures at 12 U.S.C. 4566(b).

§ 81.22 Housing plans.

(a) If the Secretary determines, under § 81.21, that a GSE has failed or there is a substantial probability that a GSE will fail to meet any housing goal and that the achievement of the housing goal was or is feasible, the Secretary shall require the GSE to submit a housing plan for approval by the Secretary.

(b) *Nature of plan.* Each housing plan shall:

(1) Be feasible;

(2) Be sufficiently specific to enable the Secretary to monitor compliance periodically;

(3) Describe the specific actions that the GSE will take:

(i) To achieve the goal for the next calendar year; or

(ii) If the Secretary determines that there is substantial probability that the GSE will fail to meet a housing goal in the current year, to make such improvements as are reasonable in the remainder of the year; and

(4) Address any additional matters relevant to the plan as required, in writing, by the Secretary.

(c) *Deadline for submission.* The GSE shall submit a housing plan to the Secretary within 30 days after issuance of a notice under § 81.21 requiring the GSE to submit a housing plan. The Secretary may extend the deadline for submission of a plan, in writing and for a time certain, to the extent the Secretary determines an extension is necessary.

(d) *Review of housing plans.* The Secretary shall review and approve or disapprove housing plans in accordance with 12 U.S.C. 4566(c)(4) and (5).

(e) *Resubmission.* If the Secretary disapproves an initial housing plan submitted by a GSE, the GSE shall submit an amended plan acceptable to the Secretary within 30 days of the Secretary disapproving the initial plan; the Secretary may extend the deadline if the Secretary determines an extension is in the public interest. If the amended plan is not acceptable to the Secretary, the Secretary may afford the GSE 15 days to submit a new plan.

Subpart C—Fair Housing

§ 81.41 General.

In this subpart, the Secretary: prohibits discrimination by the GSEs in their mortgage purchases because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of a dwelling or age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect; requires that the GSEs submit information to the Secretary to assist Fair Housing Act and ECOA investigations; provides for advising the GSEs of Fair Housing Act and ECOA violations; provides for reviewing the GSEs' underwriting and appraisal guidelines to ensure compliance with the Fair Housing Act; and requires that the GSEs take actions as directed by the Secretary following Fair Housing Act and ECOA adjudications. Because FHEFSSA provides, generally, that the Director of OFHEO shall enforce violations by the GSEs of FHEFSSA and regulations in this subpart, this subpart also provides for referral of such cases to the Director.

§ 81.42 Prohibitions against discrimination.

Neither GSE shall discriminate in any manner in making any mortgage purchases because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect.

§ 81.43 Reports; underwriting and appraisal guideline review.

(a) *Reports.* Each GSE, in the AHAR required under § 81.63, shall assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race, color, religion, sex, handicap, familial status, age, or national origin of the borrower, including revisions thereto to promote affordable housing or fair lending.

(b) *Review of Underwriting and Appraisal Guidelines.* The Secretary shall periodically review and comment on the underwriting and appraisal guidelines of each enterprise to ensure that such guidelines are consistent with the Fair Housing Act and 12 U.S.C. 4545.

§ 81.44 Submission of information to the Secretary.

(a) *General.* Upon request from the Secretary, the GSEs shall submit information and data to the Secretary to assist in investigating whether any mortgage lender with which the GSE does business has failed to comply with the Fair Housing Act or ECOA.

(b) *Information requests and submissions.* (1) *Information requests by the Secretary.* The Secretary may require the GSEs to submit information to assist in Fair Housing Act or ECOA investigations of lenders. Under FHEFSSA, other Federal agencies responsible for the enforcement of ECOA must submit requests for information from the GSEs through the Secretary. For matters involving only ECOA, the Secretary will only issue requests for information upon request from the appropriate Federal agency responsible for ECOA.

(2) *Information from established data systems.* The Secretary may request that a GSE generate information or reports from its data system(s) to assist a Fair Housing Act or ECOA investigation.

(3) *GSE replies.* A GSE receiving any request(s) for information under this section shall reply in a complete and timely manner with any and all information that it is privy to and collects that is responsive to the request.

(c) *Submission to ECOA enforcers.* The Secretary shall submit any information received under paragraph (b) of this section concerning compliance with ECOA to appropriate Federal agencies responsible for ECOA enforcement, as provided in section 704 of ECOA.

§ 81.45 Obtaining and disseminating information.

(a) The Secretary shall obtain information from other regulatory and enforcement agencies of the Federal Government and State and local governments regarding violations by lenders of the Fair Housing Act, ECOA, and/or State or local fair housing/lending laws, and shall make such information available to the GSEs as the Secretary deems appropriate in accordance with applicable law regarding the confidentiality of supervisory information and the right to financial privacy, and subject to the terms of memoranda of understanding and other arrangements between the Secretary and Federal financial regulators and other agencies. In addition, the Secretary shall make information that the Secretary possesses regarding violations of the Fair Housing Act available to the GSEs.

(b) As contemplated in paragraph (a) of this section, the Secretary shall obtain information regarding violations by lenders of the Fair Housing Act or ECOA involving discrimination with respect to the availability of credit in a residential real-estate-related transaction from other Federal regulatory or enforcement agencies. The Secretary will obtain information from regulators regarding violations of ECOA by lenders only in circumstances in which there is either more than a single ECOA violation, or the ECOA violation could also be a violation of the Fair Housing Act.

§ 81.46 Remedial actions.

(a) *General.* The Secretary shall direct the GSEs to take one or more remedial actions, including suspension, probation, reprimand or settlement, against lenders found to have engaged in discriminatory lending practices in violation of the Fair Housing Act or ECOA, pursuant to a final adjudication on the record and an opportunity for a hearing under subchapter II of chapter 5 of title 5, United States Code.

(b) *Definitions.* For purposes of this subpart, the following definitions apply:

Indefinite suspension means that, until directed to do otherwise by the Secretary, the GSEs will refrain from purchasing mortgages from a lender.

Probation means that, for a fixed period of time specified by the Secretary, a lender that has been found to have violated the Fair Housing Act or ECOA will be subject automatically to more severe sanctions than probation,

e.g., suspension, if further violations are found.

Remedial action includes a reprimand, probation, temporary suspension, indefinite suspension, or settlement.

Reprimand means a written letter to a lender from a GSE, which has been directed to be sent by the Secretary, stating that the lender has violated the Fair Housing Act or ECOA and warning of the possibility that the Secretary may impose more severe remedial actions than reprimand if any further violation occurs.

Temporary Suspension means that, for a fixed period of time specified by the Secretary, the GSEs will not purchase mortgages from a lender.

(c) *Institution of remedial actions.* (1) The Secretary shall direct the GSE to take remedial action(s) against a lender charged with violating ECOA only after a final determination on the charge has been made by an appropriate United States District Court or any other court of competent jurisdiction. The Secretary shall direct the GSE to take remedial action(s) against a lender charged with violating the Fair Housing Act only after a final determination on the matter has been made by a United States Court, a HUD Administrative Law Judge, or the Secretary.

(2) Following a final determination sustaining a charge against a lender for violating the Fair Housing Act or ECOA, in accordance with paragraph (c)(1) of this section, the Secretary shall determine the remedial action(s) that the GSE is to be directed to take for such violation.

(3) In determining the appropriate remedial action(s), the Secretary shall solicit and fully consider the views of the Federal financial regulator responsible for the subject lender concerning the action(s) that are contemplated to be directed against such lender, prior to directing any such action(s). If such responsible Federal financial regulator makes a written determination that a particular remedial action would threaten the financial safety and soundness of a Federally-insured lender, the Secretary shall consider other remedial actions. Where warranted, the Secretary also shall solicit and fully consider the views of the Director regarding the effect of the action(s) that are contemplated on the safety and soundness of the GSE. In determining what action(s) to direct, the Secretary will also, without limitation, consider the following:

(i) The gravity of the violation;

(ii) The extent to which other action has been taken against the lender for discriminatory activities;

(iii) Whether the lender's actions demonstrate a discriminatory pattern or practice or an individual instance of discrimination;

(iv) The impact or seriousness of the harm;

(v) The number of people affected by the discriminatory act(s);

(vi) Whether the lender operates an effective program of self assessment and correction;

(vii) The extent of any actions or programs by the lender designed to compensate victims and prevent future fair lending violations;

(viii) The extent that a finding of liability against a lender is based on a lender's use of a facially-neutral underwriting guideline of a secondary mortgage market entity applied appropriately by the lender in order to sell loans to that secondary mortgage market entity; and

(ix) Any other information deemed relevant by the Secretary.

(d) *Notice of remedial action(s).* (1) Following the Secretary's decision concerning the appropriate remedial action(s) that the GSE is to be directed to take, the Secretary shall prepare and issue to the GSE and the lender a written notice setting forth the remedial action(s) to be taken and the date such remedial action(s) are to commence. The Notice shall inform the lender of its right to request a hearing on the appropriateness of the proposed remedial action(s), within 20 days of service of the Notice, by filing a request with the Docket Clerk, HUD Office of Administrative Law Judges.

(2) Where a lender does not timely request a hearing on a remedial action, the GSE shall take the action in accordance with the Notice.

(e) *Review and decision on remedial action(s).* (1) Where a lender timely requests a hearing on a remedial action, a hearing shall be conducted before a HUD Administrative Law Judge (ALJ) and a final decision rendered in accordance with the procedures set forth in 24 CFR 30.10, 30.15, and subpart E of part 30 of this title, to the extent such provisions are not inconsistent with this subpart or FHEFSSA. The lender and the Secretary, but not the GSE, shall be parties to the action. At such hearing, the appropriateness of the remedial action for the violation(s) will be the sole matter for review. The validity or appropriateness of the underlying determination on the violation(s) shall not be subject to review at such hearing.

(2) The Secretary shall transmit to the GSEs each final decision by HUD on a remedial action and any dispositive settlement of a proceeding on such action.

(3) The GSE shall take the action(s) set forth in a final decision by HUD on remedial action(s) or any dispositive settlement of such a proceeding setting forth remedial action(s) in accordance with such decision or settlement.

§ 81.47 Violations of provisions by the GSEs.

(a) FHEFSSA empowers the Director of OFHEO to initiate enforcement actions for GSE violations of the provisions of section 1325 of FHEFSSA and these regulations. The Secretary shall refer violations and potential violations of 12 U.S.C. 4545 and this subpart C to the Director.

(b) Where a private complainant or the Secretary is also proceeding against a GSE under the Fair Housing Act, the Assistant Secretary for Fair Housing and Equal Opportunity shall conduct the investigation of the complaint and make the reasonable cause/no reasonable cause determination required by section 810(g) of the Fair Housing Act. Where reasonable cause is found, a charge shall be issued and the matter will proceed to enforcement pursuant to sections 812(b) and (o) of the Fair Housing Act.

Subpart D—New Program Approval

§ 81.51 General.

This subpart details the requirements and procedures for review of requests for new program approval by the Secretary.

§ 81.52 Requirement for program requests.

(a) Before implementing a new program, a GSE shall submit a request for new program approval ("program request") to the Secretary for the Secretary's review. Submission of a program request is not required where the program that the GSE proposes to implement is not significantly different from:

(1) A program that has already been approved in writing by the Secretary; or

(2) A program that was engaged in by the GSE prior to October 28, 1992.

(b) If a GSE does not submit a program request for a program, the Secretary may request information about the program and require that the GSE submit a program request. The GSE shall comply with the request and may indicate in such response its views respecting whether the program is subject to the Secretary's review.

§ 81.53 Processing of program requests.

(a) Each program request submitted to the Secretary by a GSE shall be in writing and shall be submitted to the Secretary and the Director, Office of Government-Sponsored Enterprises, Department of Housing and Urban Development, Washington, D.C. For those requests submitted before 1 year after the effective date of the regulations issued by the Director of OFHEO under 12 U.S.C. 4611(e), the GSE shall simultaneously submit the program request to the Director.

(b) Each program request shall include:

(1) An opinion from counsel stating the statutory authority for the new program (Freddie Mac Act section 305(a) (1), (4), or (5), or Fannie Mae Charter Act section 302(b)(2)–(5) or 304);

(2) A good-faith estimate of the anticipated dollar volume of the program over the short- and long-term;

(3) A full description of: (i) The purpose and operation of the proposed program;

(ii) The market targeted by the program;

(iii) The delivery system for the program;

(iv) The effect of the program on the mortgage market; and

(v) Material relevant to the public interest.

(c) Following receipt of a program request, the Secretary and, where a program request is submitted to the Director pursuant to paragraph (a) of this section, the Director shall review the program request.

(d) *Transition standard for approval.* Program requests submitted by the GSEs before the date occurring 1 year after the effective date of the regulations issued by the Director under 12 U.S.C. 4611(e) shall be approved or disapproved by the Secretary as provided in 12 U.S.C. 4542(b)(2).

(e) *Permanent standard for approval by the Secretary.* Program requests submitted after the date occurring one year after the effective date of the regulations issued by the Director under 12 U.S.C. 4611(e) establishing the risk-based capital test shall be approved by the Secretary in accordance with 12 U.S.C. 4542(b)(1).

(f) *Time for review.* Unless the Secretary and, where appropriate, the Director of OFHEO, need additional information, a program request shall be approved or disapproved within 45 days from the date it is received by the Director, Office of Government-Sponsored Enterprises, and, where applicable, the Director of OFHEO. If within 45 days after receiving a request, the Secretary or the Director of OFHEO determine that additional information is necessary to review the matter and request such information from the GSE, the Secretary may extend the time period for consideration for an additional 15 days.

(1) Where additional information is requested, the GSE must provide the requested information to the Secretary and, where appropriate, the Director, within 10 days after the request for additional information.

(2) If the GSE fails to furnish requested information within 10 days after the request for information, the Secretary may deny the GSE's request for approval based on such failure and so report to the Committees of Congress in accordance with paragraph (g) of this section.

(g) *Approval or report.* Within 45 days or, if the period is extended, 60 days following receipt of a program request, the Secretary shall approve the request, in writing, or submit a report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, explaining the reasons for not approving the request. If the Secretary does not act within this time period, the GSE's program request will be deemed approved.

§ 81.54 Review of disapproval.

(a) *Programs disapproved as unauthorized.* (1) Where the Secretary disapproves a program request on the grounds that the new program is not authorized, as defined in § 81.53(d) or (e), the GSE may, within 30 days of the date of receipt of the decision on disapproval, request an opportunity to review and supplement the administrative record for the decision, in accordance with paragraphs (a) (2) and (3) of this section.

(2) *Supplementing in writing.* A GSE supplementing the record in writing must submit written materials within 30 days after the date of receipt of the decision on disapproval, but no later than the date of a meeting, if requested, under paragraph (a)(3) of this section.

(3) *Meeting.* Within 10 days of the date of receipt of the decision of disapproval, the GSE may request a meeting. If the request for the meeting is timely, the Secretary shall arrange such a meeting, which shall be conducted by the Secretary or the Secretary's designee within 10 working days after receipt of the request. The GSE may be represented by counsel and may submit relevant written materials to supplement the record.

(4) *Determination.* The Secretary shall:

(i) In writing and within 10 days after submission of any materials under paragraph (a)(2) of this section or the conclusion of any meeting under paragraph (a)(3) of this section, whichever is later, withdraw, modify, or affirm the program disapproval; and

(ii) Provide the GSE with that decision.

(b) *Programs disapproved under public interest determination.* When a program request is disapproved because the Secretary determines that the program is not in the public interest or the Director makes the determination in 12 U.S.C. 4542(b)(2)(B), the Secretary shall provide the GSE with notice of, and opportunity for, a hearing on the record regarding such disapproval. A request for a hearing must be submitted by a GSE within 30 days of the Secretary's submission of a report under § 81.53(g) disapproving a program request or the provision of the notice under this paragraph (b), whichever is later. The procedures for such hearings are provided in subpart G of this part.

Subpart E—Reporting Requirements

§ 81.61 General.

This subpart establishes data submission and reporting requirements to carry out the requirements of the GSEs' Charter Acts and FHEFSSA.

§ 81.62 Mortgage reports.

(a) *Loan-level data elements.* To implement the data collection and submission requirements for mortgage data and to assist the Secretary in monitoring the GSEs' housing goal activities, each GSE shall collect and compile computerized loan-level data on each mortgage purchased in accordance with 12 U.S.C. 1456(e) and 1723a(m). The Secretary may, from time-to-time, issue a list entitled "Required Loan-level Data Elements" specifying the loan-level data elements to be collected and maintained by the GSEs and provided to the Secretary. The Secretary may revise the list by written notice to the GSEs.

(b) *Quarterly Mortgage reports.* Each GSE shall submit to the Secretary quarterly a Mortgage Report. The fourth quarter report shall serve as the Annual Mortgage Report and shall be designated as such.

(1) Each Mortgage Report shall include:

(i) Aggregations of the loan-level mortgage data compiled by the GSE under paragraph (a) of this section for year-to-date mortgage purchases, in the format specified in writing by the Secretary; and

(ii) Year-to-date dollar volume, number of units, and number of mortgages on owner-occupied and rental properties purchased by the GSE that do and do not qualify under each housing goal as set forth in this part.

(2) To facilitate the Secretary's monitoring of the GSE's housing goal activities, the Mortgage Report for the second quarter shall include year-to-date computerized loan-level data consisting of the data elements required under paragraph (a) of this section.

(3) To implement the data collection and submission requirements for mortgage data and to assist the Secretary in monitoring the GSE's housing goal activities, each Annual Mortgage Report shall include year-to-date computerized loan-level data consisting of the data elements required by under paragraph (a) of this section.

(c) *Timing of Reports.* The GSEs shall submit the Mortgage Report for each of the first 3 quarters of each year within 60 days of the end of the quarter. Each GSE shall submit its Annual Mortgage Report within 75 days after the end of the calendar year.

(d) *Revisions to Reports.* At any time before submission of its Annual Mortgage Report, a GSE may revise any of its quarterly reports for that year.

(e) *Format.* The GSEs shall submit to the Secretary computerized loan-level data with the Mortgage Report, in the format specified in writing by the Secretary.

§ 81.63 Annual Housing Activities Report.

To comply with the requirements in sections 309(n) of the Fannie Mae Charter Act and 307(f) of the Freddie Mac Act and assist the Secretary in preparing the Secretary's Annual Report to Congress, each GSE shall submit to the Secretary an AHAR including the information listed in those sections of the Charter Acts and as provided in § 81.43(a) of this part. Each GSE shall submit such report within 75 days after the end of each calendar year, to the Secretary the Committee on Banking and Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate. Each GSE shall make its AHAR available to the public at its principal and regional offices. Before making any such report available to the public, the GSE may exclude from the report any information that the Secretary has deemed proprietary under subpart F of this part.

§ 81.64 Periodic reports.

Each GSE shall provide to the Secretary all:

(a) Material distributed to the GSE's Housing Advisory Council;

(b) Press releases;

(c) Investor reports;

(d) Proxy statements;

(e) Seller-servicer guides; and

(f) Other information disclosed by the GSE to entities outside of the GSE, but only where the GSE determines that such information is relevant to the Secretary's regulatory responsibilities.

§ 81.65 Other information and analyses.

When deemed appropriate and requested in writing, on a case by-case basis, by the Secretary, a GSE shall furnish the data underlying any of the reports required under this part and shall conduct additional analyses concerning any such report. A GSE shall submit additional reports or other information concerning its activities when deemed appropriate to carry out the Secretary's responsibilities under FHEFSSA or the Charter Acts and requested in writing by the Secretary.

§ 81.66 Submission of reports.

Each GSE shall submit all hard copy reports or other written information required under this subpart to the Secretary and the Director, Office of Government-Sponsored Enterprises. Each GSE shall submit computerized data required under this subpart to the Director, Financial Institutions Regulations, Office of Policy Development and Research. The address for both of these offices is Department of Housing and Urban Development, 451 7th Street, S.W. Washington, D.C. 20410.

Subpart F—Access to Information

§ 81.71 General.

This subpart:

(a) Provides for the establishment of a public-use database to make available to the public mortgage data that the GSEs submit to the Secretary under subsection 309(m) of the Fannie Mae Charter Act and subsection 307(e) of the Freddie Mac Act, and AHAR information that the GSEs submit to the Secretary in the AHAR under subsection 309(n) of the Fannie Mae Charter Act and subsection 307(f) of the Freddie Mac Act;

(b) Establishes mechanisms for the GSEs to designate mortgage data or AHAR information as proprietary information and for the Secretary to determine whether such mortgage data or AHAR information is proprietary information which should be withheld from disclosure;

(c) Addresses the availability of HUD procedures to protect from public disclosure proprietary information and other types of confidential business information submitted by or relating to the GSEs;

(d) Addresses protections from disclosure when there is a request from Congress for information and sets forth protections for treatment of data or information submitted by or relating to the GSEs by HUD officers, employees, and contractors; and

(e) Provides that data or information submitted by or relating to the GSEs that would constitute a clearly unwarranted invasion of personal privacy shall not be disclosed to the public.

§ 81.72 Public-use database and public information.

(a) *General.* Except as provided in paragraph (c) of this section, the Secretary shall establish and make available for public use, a public-use database containing public data as defined in § 81.2.

(b) *Examination of submissions.* Following receipt of mortgage data and AHAR information from the GSEs, the Secretary shall, as expeditiously as possible, examine the submissions for mortgage data and AHAR information that:

(1) Has been deemed to be proprietary information under this part by a temporary order, final order, or regulation in effect at the time of submission;

(2) Has been designated as proprietary information by the GSE in accordance with § 81.73;

(3) Would constitute a clearly unwarranted invasion of personal privacy if such data or information were released to the public; or

(4) Is required to be withheld or, in the determination of the Secretary, is not appropriate for public disclosure under other applicable laws and regulations, including the Trade Secrets Act (18 U.S.C. 1905) and Executive Order 12600.

(c) *Public data and proprietary data.* The Secretary shall place public data in the public-use database. The Secretary shall exclude from the public-use database and from public disclosure:

(1) All mortgage data and AHAR information within the scope of paragraphs (b)(1), (b)(3), and (b)(4) of this section;

(2) Any other mortgage data and AHAR information under (b)(2) when determined by the Secretary under § 81.74 to be proprietary information; and

(3) Mortgage data that is not year-end data.

(d) *Access.* The Secretary shall provide such means as the Secretary determines are reasonable for the public to gain access to the public-use database. To obtain access to the public-use database, the public should contact the Director, Office of Government-Sponsored Enterprises, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708–2224 (this is not a toll-free number).

(e) *Fees.* The Secretary may charge reasonable fees to cover the cost of providing access to the public-use database. These fees will include the costs of system access, computer use, copying fees, and other costs.

§ 81.73 GSE request for proprietary treatment.

(a) *General.* A GSE may request proprietary treatment of any mortgage data or AHAR information that the GSE submits to the Secretary. Such a request does not affect the GSE's responsibility to provide data or information required by the Secretary. Where the Secretary grants a request for proprietary treatment, HUD will not include the data or information in the public-use database or publicly disclose the data or information, except as otherwise provided in accordance with this subpart.

(b) *Request for proprietary treatment of mortgage data and AHAR information.* Except as provided in paragraph (c) of this section, a GSE requesting proprietary treatment of mortgage data or AHAR information shall:

(1) Clearly designate those portions of the mortgage data or AHAR information to be treated as proprietary, with a prominent stamp, typed legend, or other suitable form of notice, stating "Proprietary Information—Confidential Treatment Requested by [name of GSE]" on each page or portion of page to which the request applies. If such marking is impractical, the GSE shall attach to the mortgage data or information for which confidential treatment is requested a cover sheet prominently marked "Proprietary Information—Confidential Treatment Requested by [name of GSE];"

(2) Accompany its request with a certification by an officer or authorized representative of the GSE that the mortgage data or information is proprietary; and

(3) Submit any additional statements in support of proprietary designation that the GSE chooses to provide.

(c) *Alternative procedure available for mortgage data or AHAR information subject to a temporary order, final order, or regulation in effect.* When the request for proprietary treatment pertains to mortgage data or AHAR information that has been deemed proprietary by the Secretary under a temporary order, final order, or regulation in effect, the GSE may reference such temporary order, final order, or regulation in lieu of complying with paragraphs (b)(2) and (3) of this section.

(d) *Nondisclosure during pendency.* Except as may otherwise be required by law, during the time any Request for Proprietary Treatment under § 81.73 is pending determination by the Secretary, the data or information submitted by the GSE that is the subject of the request shall not be disclosed to, or be subject to examination by, the public or any person or representative of any person or agency outside of HUD.

§ 81.74 Secretarial determination on GSE request.

(a) *General.* The Secretary shall review all Requests for Proprietary Treatment from the GSEs, along with any other information that the Secretary may elicit from other sources regarding the Request.

(b) *Factors for proprietary treatment.* Except as provided in paragraph (c) of this section, in making the determination of whether to accord proprietary treatment to mortgage data or AHAR information, the Secretary's considerations shall include, but are not limited to:

(1) The type of data or information involved and the nature of the adverse consequences to the GSE, financial or otherwise, that would result from disclosure, including any adverse effect on the GSE's competitive position;

(2) The existence and applicability of any prior determinations by HUD, any other Federal agency, or a court, concerning similar data or information;

(3) The measures taken by the GSE to protect the confidentiality of the mortgage data or AHAR information in question, and similar data or information, before and after its submission to the Secretary;

(4) The extent to which the mortgage data or AHAR information is publicly available including whether the data or information is available from other entities, from local government offices or records, including deeds, recorded mortgages, and similar documents, or from publicly available data bases;

(5) The difficulty that a competitor, including a seller/servicer, would face in obtaining or compiling the mortgage data or AHAR information; and

(6) Such additional facts and legal and other authorities as the Secretary may consider appropriate, including the extent to which particular mortgage data or AHAR information, when considered together with other information, could reveal proprietary information.

(c) *Alternative criterion for mortgage data or AHAR information subject to a temporary order, final order, or regulation in effect.* Where the request for proprietary treatment pertains to mortgage data or AHAR information that has been deemed proprietary by the Secretary under a temporary order, final order, or regulation in effect, the Secretary shall grant the request with respect to any mortgage data or AHAR information which comes within the order or regulation.

(d) *Determination of proprietary treatment.* The Secretary shall determine, as expeditiously as possible, whether mortgage data or AHAR information designated as proprietary by a GSE is proprietary information, or whether it is not proprietary and subject to inclusion in the public-use database and public release notwithstanding the GSE's request.

(e) *Action when according proprietary treatment to mortgage data and AHAR information.* (1) When the Secretary determines that mortgage data or AHAR information designated as proprietary by a GSE is proprietary, and the mortgage data or AHAR information is not subject to a temporary order, a final order, or a regulation in effect providing that the mortgage data or AHAR information is not subject to public disclosure, the Secretary shall notify the GSE that the request has been granted. In such cases, the Secretary shall issue either a temporary order, a final order, or a regulation providing that the mortgage data or information is not subject to public disclosure. Such a temporary order, final order, or regulation shall:

(i) Document the reasons for the determination; and

(ii) Be provided to the GSE, made available to members of the public, and published in the **Federal Register**, except that any portions of such order or regulation that would reveal the proprietary information shall be withheld from public disclosure. Publications of temporary orders shall invite public comments when feasible.

(2) Where the Secretary determines that such mortgage data or information is proprietary, the Secretary shall not make it publicly available, except as otherwise provided in accordance with this subpart.

(f) *Determination not to accord proprietary treatment to mortgage data and AHAR information or to seek further information.* When the Secretary determines that such mortgage data or AHAR information designated as proprietary by a GSE may not be proprietary, that the request may be granted only in part, or that questions exist concerning the request, the following procedure shall apply:

(1) The Secretary shall provide the GSE with an opportunity for a meeting with HUD to discuss the matter, for the

purpose of gaining additional information concerning the request.

(2) Following the meeting, based on the Secretary's review of the mortgage data or AHAR information that is the subject of a request and the GSE's objections, if any, to disclosure of such mortgage data or AHAR information, the Secretary shall make a determination:

(i) If the Secretary determines to withhold from the public-use database as proprietary the mortgage data or AHAR information that is the subject of a request, the procedures in paragraph (e) of this section shall apply; or

(ii) If the Secretary determines that any mortgage data or AHAR information that is the subject of a request is not proprietary, the Secretary shall provide notice in writing to the GSE of the reasons for this determination, and such notice shall provide that the Secretary shall not release the mortgage data or AHAR information to the public for 10 working days.

§ 81.75 Proprietary information withheld by order or regulation.

Following a determination by the Secretary that mortgage data or AHAR information is proprietary information under FHEFSSA, the Secretary shall expeditiously issue a temporary order, final order, or regulation withholding the mortgage data or AHAR information from the public-use database and from public disclosure by HUD in accordance with 12 U.S.C. 4546. The Secretary may, from time-to-time, by regulation or order, issue a list entitled "GSE Mortgage Data and AHAR Information: Proprietary Information/Public-Use Data" providing that certain information shall be treated as proprietary information. The Secretary may modify the list by regulation or order.

§ 81.76 FOIA requests and protection of GSE information.

(a) *General.* HUD shall process FOIA requests for information submitted to the Secretary by the GSEs in accordance with:

(1) HUD's FOIA and Privacy Act regulations, 24 CFR parts 15 and 16;

(2) 12 U.S.C. 4525, 4543, and 4546 and this subpart; and

(3) Other applicable statutes, regulations, and guidelines, including the Trade Secrets Act, 18 U.S.C. 1905, and Executive Order 12600. In responding to requests for data or information submitted by or relating to the GSEs, the Secretary may invoke provisions of these authorities to protect data or information from disclosure.

(b) *Protection of confidential business information other than mortgage data and AHAR information.* When a GSE seeks to protect from disclosure confidential business information, the GSE may seek protection of such confidential business information pursuant to the provisions of HUD's FOIA regulations at 24 CFR part 15, without regard to whether or not it is mortgage data or AHAR information.

(c) *Processing of FOIA requests*—(1) *FOIA Exemption (b)(4).* HUD will process FOIA requests for confidential business information of the GSEs to which FOIA exemption 4 may apply in accordance with 24 CFR part 15, and the predisclosure notification procedures of Executive Order 12,600.

(2) *FOIA Exemption (b)(8).* Under section 1319F of FHEFSSA, the Secretary may invoke FOIA exemption (b)(8) to withhold from the public any GSE data or information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of HUD. HUD may make data or information available for the confidential use of other government agencies in their official duties or functions, but all data or information remains the property of HUD and any unauthorized use or disclosure of such data or information may be subject to the penalties of 18 U.S.C. 641.

(3) *Other FOIA exemptions.* Under 24 CFR part 15, the Secretary may invoke other exemptions including, without limitation, exemption (b)(6) (5 U.S.C. 552(b)(6)), to protect data and information that would constitute a clearly unwarranted invasion of personal privacy.

(d) *Protection of information by HUD officers and employees.* The Secretary will institute all reasonable safeguards to protect data or information submitted by or relating to either GSE, including, but not limited to, advising all HUD officers and employees having access to data or information submitted by or relating to either GSE of the legal restrictions against unauthorized disclosure of such data or information under HUD Standards of Conduct regulations, 24 CFR part O; the Government-wide Standards of Ethical Conduct, 5 CFR part 2635; and the Trade Secrets Act, 18 U.S.C. 1905. Officers and employees shall be advised of the penalties for unauthorized disclosure, ranging from disciplinary action under 24 CFR part O and 5 CFR part 2635 to criminal prosecution.

(e) *Protection of information by contractors.* (1) In contracts and agreements entered into by HUD where contractors have access to data or information submitted by or relating to either GSE, HUD shall include detailed provisions specifying that:

(i) Neither the contractor nor any of its officers, employees, agents, or subcontractors may release data submitted by or relating to either GSE without HUD's authorization; and

(ii) Unauthorized disclosure may be a basis for:

(A) Terminating the contract for default;

(B) Suspending or debarring the contractor; and

(C) Criminal prosecution of the contractor, its officers, employees, agents, or subcontractors under the Federal Criminal Code.

(2) Contract provisions shall require safeguards against unauthorized disclosure, including training of contractor and subcontractor agents and employees, and provide that the contractor will indemnify and hold HUD harmless against unauthorized disclosure of data or information belonging to the GSEs or HUD.

§ 81.77 Requests for GSE information on behalf of Congress, the Comptroller General, a subpoena, or other legal process.

(a) *General.* With respect to information submitted by or relating to the GSEs, nothing in this subpart F may be construed to grant authority to the Secretary under FHEFSSA to withhold any information from or to prohibit the disclosure of any information to the following persons or entities:

(1) Either House of Congress or, to the extent of matters within its jurisdiction, any committee or subcommittee thereof, or any joint committee of Congress or subcommittee of any such joint committee;

(2) The Comptroller General, or any of the Comptroller General's authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(3) A court of competent jurisdiction pursuant to a subpoena; or

(4) As otherwise compelled by law.

(b) *Notice of proprietary or confidential nature of GSE information.* (1) In releasing data or information in response to a request as set out in paragraph (a) of this section, the Secretary will, where applicable, include a statement with the data or information to the effect that:

(i) The GSE regards the data or information as proprietary information and/or confidential business information;

(ii) Public disclosure of the data or information may cause competitive harm to the GSE; and

(iii) The Secretary has determined that the data or information is proprietary information and/or confidential business information.

(2) To the extent practicable, the Secretary will provide notice to the GSE after a request from the persons or entities described in paragraphs (a)(1)–(4) of this section for proprietary information or confidential business information is received and before the data or information is provided in response to the request.

(c) *Procedures for requests pursuant to subpoena or other legal process.* The procedures in 24 CFR 15.71–15.74 shall be followed when a subpoena, order, or other demand of a court or other authority is issued for the production or disclosure of any GSE data or information that:

(1) Is contained in HUD's files;

(2) Relates to material contained in HUD's files; or

(3) Was acquired by any person while such person was an employee of HUD, as a part of the performance of the employee's official duties or because of the employee's official status.

(d) *Requests pursuant to subpoena or other legal process not served on HUD.* If an individual who is not a HUD employee or an entity other than HUD is served with a subpoena, order, or other demand of a court or authority for the production or disclosure of HUD data or information relating to a GSE and such data or information may not be disclosed to the public under this subpart or 24 CFR part 15, such individual or entity shall comply with 24 CFR 15.71–15.74 as if the individual or entity is a HUD employee, including immediately notifying HUD in accordance with the procedures set forth in 24 CFR 15.73(a).

(e) *Reservation of additional actions.* Nothing in this section precludes further action by the Secretary, in his or her discretion, to protect data or information submitted by a GSE from unwarranted disclosure in appropriate circumstances.

Subpart G—Procedures for Actions and Review of Actions

§ 81.81 General.

This subpart sets forth procedures for:

(a) The Secretary to issue cease-and-desist orders and impose civil money penalties to enforce the housing goal provisions implemented in subpart B of this part and the information submission and reporting requirements implemented in subpart E of this part; and

(b) Hearings, in accordance with 12 U.S.C. 4542(c)(4)(B), on the Secretary's disapproval of new programs that the Secretary determines are not in the public interest.

§ 81.82. Cease-and-desist proceedings.

(a) *Issuance.* The Secretary may issue and serve upon a GSE a written notice of charges justifying issuance of a cease-and-desist order, if the Secretary determines the GSE:

(1) Has failed to submit, within the time prescribed in § 81.22, a housing plan that substantially complies with 12 U.S.C. 4566(c), as implemented by § 81.22;

(2) Is failing or has failed, or there is reasonable cause to believe that the GSE is about to fail, to make a good-faith effort to comply with a housing plan submitted to and approved by the Secretary; or

(3) Has failed to submit any of the information required under sections 309(m) or (n) of the Fannie Mae Charter Act, sections 307(e) or (f) of the Freddie Mac Act, or subpart E of this part.

(b) *Amount of penalty.* The amount of the penalty shall not exceed:

(1) For any failure described in paragraph (a)(1) of this section, $25,000 for each day that the failure occurs; and

(2) For any failure described in paragraphs (a)(2) or (a)(3) of this section, $10,000 for each day that the failure occurs.

(c) *Factors in determining amount of penalty.* In determining the amount of a penalty under this section, the Secretary shall consider the factors in 12 U.S.C. 4585(c)(2) including the public interest.

(d) *Procedures—(1) Notice of Intent.* The Secretary shall notify the GSE in writing of the Secretary's determination to impose a civil money penalty by issuing a Notice of Intent to Impose Civil Money Penalties ("Notice of Intent"). The Notice of Intent shall provide:

(i) A concise statement of the facts constituting the alleged misconduct;

(ii) The amount of the civil money penalty;

(iii) Notice of the GSE's right to a hearing on the record;

(iv) The procedures to follow to obtain a hearing;

(v) A statement of the consequences of failing to request a hearing; and

(vi) The date the penalty shall be due unless the GSE contests the matter.

(2) To appeal the Secretary's decision to impose a civil money penalty, the GSE shall, within 20 days of service of the Notice of Intent, file a written Answer with the Chief Docket Clerk, Office of Administrative Law Judges, Department of Housing and Urban Development, at the address provided in the Notice of Intent.

(3) *Administrative Law Judge.* A HUD ALJ shall preside over any hearing conducted under this section, in accordance with § 81.84 and, to the extent the provisions are not inconsistent with any of the procedures in this part, FHEFSSA, or §§ 30.10 and 30.15 and subpart E of part 30 of this title.

(4) *Issuance of order.* If the GSE consents to the issuance of the order or the ALJ finds, on the hearing record, that a preponderance of the evidence establishes the conduct specified in the notice of charges, the ALJ may issue an order imposing a civil money penalty.

(e) *Reservation of additional actions.* Nothing in this section precludes further action by the Secretary, in his or her discretion, to protect data or information submitted by a GSE from unwarranted disclosure in appropriate circumstances.

Subpart G—Procedures for Actions and Review of Actions

§ 81.81 General.

This subpart sets forth procedures for:

(a) The Secretary to issue cease-and-desist orders and impose civil money penalties to enforce the housing goal provisions implemented in subpart B of this part and the information submission and reporting requirements implemented in subpart E of this part; and

(b) Hearings, in accordance with 12 U.S.C. 4542(c)(4)(B), on the Secretary's disapproval of new programs that the Secretary determines are not in the public interest.

§ 81.82. Cease-and-desist proceedings.

(a) *Issuance.* The Secretary may issue and serve upon a GSE a written notice of charges justifying issuance of a cease-and-desist order, if the Secretary determines the GSE:

(1) Has failed to submit, within the time prescribed in § 81.22, a housing plan that substantially complies with 12 U.S.C. 4566(c), as implemented by § 81.22;

(2) Is failing or has failed, or there is reasonable cause to believe that the GSE is about to fail, to make a good-faith effort to comply with a housing plan submitted to and approved by the Secretary; or

(3) Has failed to submit any of the information required under sections 309(m) or (n) of the Fannie Mae Charter Act, sections 307(e) or (f) of the Freddie Mac Act, or subpart E of this part.

(b) *Procedures—(1) Content of notice.* The notice of charges shall provide:

(i) A concise statement of the facts constituting the alleged misconduct and the violations with which the GSE is charged;

(ii) Notice of the GSE's right to a hearing on the record;

(iii) A time and date for a hearing on the record;

(iv) A statement of the consequences of failing to contest the matter; and

(v) The effective date of the order if the GSE does not contest the matter.

(2) *Administrative Law Judge.* A HUD Administrative Law Judge (ALJ) shall preside over any hearing conducted under this section. The hearing shall be conducted in accordance with § 81.84 and, to the extent the provisions are not inconsistent with any of the procedures in this part or FHEFSSA, with §§ 30.10 and 30.15 and subpart E of part 30 of this title.

(3) *Issuance of order.* If the GSE consents to the issuance of the order or the ALJ finds, based on the hearing record, that a preponderance of the evidence established the conduct specified in the notice of charges, the ALJ may issue and serve upon the GSE an order requiring the GSE to:

(i) Submit a housing plan that substantially complies with 12 U.S.C. 4566(c), as implemented by § 81.22;

(ii) Comply with a housing plan; or

(iii) Provide the information required under subpart E of this part.

(4) *Effective date.* An order under this section shall be effective as provided in 12 U.S.C. 4581(c) and § 81.84(m).

§ 81.83 Civil money penalties.

(a) *Imposition.* The Secretary may impose a civil money penalty on a GSE that has failed:

(1) To submit, within the time prescribed in § 81.22, a housing plan

(5) *Consultation with the Director.* In the Secretary's discretion, the Director of OFHEO may be requested to review any Notice of Intent, determination, order, or interlocutory ruling arising from a hearing.

(e) *Action to collect penalty.* The Secretary may request the Attorney General of the United States to bring an action to collect the penalty, in accordance with 12 U.S.C. 4585(d). Interest on, and other charges for, any unpaid penalty may be assessed in accordance with 31 U.S.C. 3717.

(f) *Settlement by Secretary.* The Secretary may compromise, modify, or remit any civil money penalty that may be, or has been, imposed under this section.

§ 81.84 Hearings.

(a) *Applicability.* The hearing procedures in this section apply to hearings on the record to review cease-and-desist orders, civil money penalties, and new programs disapproved based upon a determination by the Secretary that such programs are not in the public interest, in accordance with 12 U.S.C. 4542(c)(4)(B).

(b) *Hearing requirements.* (1) Hearings shall be held in the District of Columbia.

(2) Hearings shall be conducted by a HUD ALJ authorized to conduct proceedings under 24 CFR part 30.

(c) *Timing.* Unless an earlier or later date is requested by a GSE and the request is granted by the ALJ, a hearing shall be fixed for a date not earlier than 30 days, nor later than 60 days, after:

(1) Service of the notice of charges under § 81.82;

(2) Service of the Notice of Intent to Impose Civil Money Penalty(ies) under § 81.83; or

(3) Filing of a request for a hearing under § 81.54(b).

(d) *Procedure.* Hearings shall be conducted in accordance with the procedures set forth in 24 CFR 30.10, 30.15, and subpart E of part 30 of this title to the extent that such provisions are not inconsistent with any of the procedures in this part or FHEFSSA.

(e) *Service.* (1) *To GSE.* Any service required or authorized to be made by the Secretary under this subpart G may be made to the Chief Executive Officer of a GSE or any other representative as the GSE may designate in writing to the Secretary.

(2) *How service may be made.* A serving party shall use one or more of the following methods of service:

(i) Personal service;

(ii) Delivering the papers to a reliable commercial courier service, overnight delivery service, or the U.S. Post Office for Express Mail Delivery; or

(iii) Transmission by electronic media, only if the parties mutually agree. The serving party shall mail an original of the filing after any proper service using electronic media.

(f) *Subpoena authority*—(1) *General.* In the course of or in connection with any hearing, the Secretary and the ALJ shall have the authority to:

(i) Administer oaths and affirmations;

(ii) Take and preserve testimony under oath;

(iii) Issue subpoenas and subpoenas duces tecum; and

(iv) Revoke, quash, or modify subpoenas and subpoenas duces tecum issued under this paragraph (f).

(2) *Witnesses and documents.* The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State. A witness may be required to appear, and a document may be required to be produced, at:

(i) The hearing; and

(ii) Any place that is designated for attendance at a deposition or production of a document under this section.

(3) *Enforcement.* In accordance with 12 U.S.C. 4588(c), the Secretary may request the Attorney General of the United States to enforce any subpoena or subpoena duces tecum issued pursuant to this section. If a subpoenaed person fails to comply with all or any portion of a subpoena issued pursuant to this paragraph (f), the subpoenaing party or any other aggrieved person may petition the Secretary to seek enforcement of the subpoena. A party's petition to the Secretary for enforcement of a subpoena in no way limits the sanctions that may be imposed by the ALJ on a party who fails to comply with a subpoena issued under this paragraph (f).

(4) *Fees and expenses.* Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States and may seek reasonable expenses and attorneys fees in any court having jurisdiction of any proceeding instituted under this section. Such expenses and fees shall be paid by the GSE or from its assets.

(g) *Failure to appear.* If a GSE fails to appear at a hearing through a duly authorized representative, the GSE shall be deemed to have consented to the issuance of the cease-and-desist order, the imposition of the penalty, or the disapproval of the new program, whichever is applicable.

(h) *Public hearings.* (1) All hearings shall be open to the public, unless the ALJ determines that an open hearing would be contrary to the public interest. Where a party makes a timely motion to close a hearing and the ALJ denies the motion, such party may file with the Secretary within 5 working days a request for a closed hearing, and any party may file a reply to such a request within 5 working days of service of such a motion. Such motions, requests, and replies are governed by § 30.515 of this title. When a request for a closed hearing has been filed with the Secretary under this paragraph (h)(1), the hearing shall be stayed until the Secretary has advised the parties and the ALJ, in writing, of the Secretary's decision on whether the hearing should be closed.

(2) Failure to file a timely motion, request or reply is deemed a waiver of any objection regarding whether the hearing will be public or closed. A party must file any motion for a closed hearing within 10 days after:

(i) Service of the notice of charges under § 81.82;

(ii) Service of the Notice of Intent to Impose Civil Money Penalt(ies) under § 81.83; or

(iii) Filing of a request for a hearing under § 81.54(b).

(i) *Decision of ALJ.* After each hearing, the ALJ shall issue an initial decision and serve the initial decision on the GSE, the Secretary, any other parties, and the HUD General Counsel. This service will constitute notification that the case has been submitted to the Secretary.

(j) *Review of initial decision*—(1) *Secretary's discretion.* The Secretary, in the Secretary's discretion, may review any initial decision.

(2) *Requested by a party.* Any party may file a notice of appeal of an initial decision to the Secretary in accordance with § 30.910 of this title. Any waiver of the limitations contained in § 30.910(c) and (d) of this title on the number of pages for notices of appeal and responses, of the time limitation in § 30.910 of this title for filing a notice of appeal of the initial decision, or any other waivers under this subpart shall not be subject to the publication requirements in 42 U.S.C. 3535(q).

(k) *Final decision.* (1) The initial decision will become the final decision unless the Secretary issues a final decision within 90 days after the initial decision is served on the Secretary.

(2) *Issuance of final decision by Secretary.* The Secretary may review any finding of fact, conclusion of law, or order contained in the initial decision of the ALJ and may issue a final decision in the proceeding. Any decision shall include findings of fact upon which the decision is predicated. The Secretary may affirm, modify, or set aside, in whole or in part, the initial decision or may remand the initial decision for further proceedings. The final decision shall be served on all parties and the ALJ.

(l) *Decisions on remand.* If the initial decision is remanded for further proceedings, the ALJ shall issue an initial decision on remand within 60 days of the date of issuance of the decision to remand, unless it is impractical to do so.

(m) *Modification.* The Secretary may modify, terminate, or set aside any order in accordance with 12 U.S.C. 4582(b)(2).

§ 81.85 Public disclosure of final orders and agreements.

(a) *Disclosure.* Except as provided in paragraph (b) of this section, the Secretary shall make available to the public final orders; written agreements and statements; and modifications and terminations of those orders, agreements, and statements, as set forth in 12 U.S.C. 4586(a) and the implementing regulations in this subpart G. The retention of records of these orders, agreements, and statements, and their modifications and terminations, are governed by 12 U.S.C. 4586(e).

(b) *Exceptions to disclosure.* Exceptions to disclosure will be determined in accordance with 12 U.S.C. 4586 (c), (d), and (f) and paragraph (c) of this section.

(c) *Filing documents under seal*—(1) *Request by party.* Upon the denial by the ALJ of a motion for a protective order, any party may request the Secretary to file any document or part of a document under seal if the party believes that disclosure of the document would be contrary to the public interest. Any other party may file with the Secretary a reply to such a request within 5 working days after a request is made or some other time to be determined by the Secretary. Such requests and replies are governed by § 30.515 of this title.

(2) *Effect of request.* A document or part of a document that is the subject of a timely request to the Secretary to file under seal will not be disclosed under this section until the Secretary has advised the parties and the ALJ, in writing, of the Secretary's decision on whether the document or part of a document should be filed under seal. The ALJ shall take all appropriate steps to preserve the confidentiality of such documents or parts of documents, including closing portions of the hearing to the public.

(3) *Time of request.* Failure to file with the Secretary a timely request or a reply is deemed a waiver of any objection regarding the decision on whether a document is to be disclosed. A party must make its request to file a document under seal at least 10 days before the commencement of the hearing. A request may be filed at any other time before or during the course of the hearing, but the requesting party's obligation to produce the document or parts of the document will not be affected by the party's pending request to the Secretary, unless the Secretary expressly directs the ALJ to treat the document as protected from disclosure until the Secretary makes a final written decision on whether the document should be filed under seal. If the Secretary's direction to the ALJ is made orally, that direction must be reduced to writing and filed with the ALJ within 3 working days of the making of the oral order or the document will then be subject to disclosure pending the Secretary's final written decision on disclosure.

§ 81.86 Enforcement and jurisdiction.

If a GSE fails to comply with a final decision, the Secretary may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for the enforcement of the notice or order. Such request may be made:

(a) *For a cease-and-desist order:*

(1) Upon expiration of the 30-day period beginning on the service of the order on the GSE; or

(2) Upon the effective time specified in an order issued upon consent; and

(b) *For a civil money penalty,* when the order imposing the penalty is no longer subject to review under 12 U.S.C. 4582 and 4583 and the implementing regulations at §§ 81.84 and 81.87.

§ 81.87 Judicial review.

(a) *Commencement.* In a proceeding under 12 U.S.C. 4581 or 4585, as implemented by §§ 81.82 or 81.83, a GSE that is a party to the proceeding may obtain review of any final order issued under § 81.84 by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Secretary be modified, terminated, or set aside.

(b) *Filing of record.* Upon receiving a copy of a petition, the Chief Docket Clerk, Office of Administrative Law Judges, shall file in the court the record in the proceeding, as provided in 28 U.S.C. 2112.

(c) *No automatic stay.* The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Secretary.

Subpart H—Book-Entry Procedures

§ 81.91 Definitions.

As used in this subpart H, the term—

(a) *Reserve bank* means a Federal Reserve bank and its branches acting as Fiscal Agent of Fannie Mae and, when indicated, acting in its individual capacity or as Fiscal Agent of the United States.

(b) *Fannie Mae security* means any obligation of Fannie Mae (except short-term discount notes and obligations convertible into shares of common stock) issued under 12 U.S.C. 1719 (b), (d), and (e) in the form of a definitive Fannie Mae security or a book-entry Fannie Mae security.

(c) *Definitive Fannie Mae security* means a Fannie Mae security in engraved or printed form.

(d) *Book-entry Fannie Mae security* means a Fannie Mae security in the form of an entry made as prescribed in this part on the records of a Reserve bank.

(e) *Pledge* includes a pledge of, or any other security interest in, Fannie Mae securities as collateral for loans or advances or to secure deposits of public moneys or the performance of an obligation.

(f) *Date of call* is, with respect to Fannie Mae securities issued under 12 U.S.C. 1719 (d) and (e), the date fixed in the authorizing resolution of the Board of Directors of Fannie Mae on which the obligor will make payment of the security before maturity in accordance with its terms, and, with respect to Fannie Mae securities issued under 12 U.S.C. 1719(b), the date fixed in the offering notice issued by Fannie Mae.

(g) *Member bank* means any National bank, State bank, or bank or trust company which is a member of a Reserve bank.

§ 81.92 Authority of Reserve Bank.

Each Reserve bank is hereby authorized, in accordance with the provisions of this part, to:

(a) Issue book-entry Fannie Mae securities by means of entries on its records which shall include the name of the depositor, the amount, the loan title (or series) and maturity date;

(b) Effect conversions between book-entry Fannie Mae securities and definitive Fannie Mae securities;

(c) Otherwise service and maintain book-entry Fannie Mae securities; and

(d) Issue a confirmation of transaction in the form of a written advice (serially numbered or otherwise) which specifies

the amount and description of any securities, that is, loan title (or series) and maturity date, sold or transferred, and the date of the transaction.

§ 81.93 Scope and effect of book-entry procedure.

(a) (1) A Reserve bank as Fiscal Agent of Fannie Mae may apply the book-entry procedure provided for in this part to any Fannie Mae securities which have been or are hereafter deposited for any purpose in accounts with it in its individual capacity under terms and conditions which indicate that the Reserve bank will continue to maintain such deposit accounts in its individual capacity, notwithstanding application of the book-entry procedure to such securities. This paragraph (a) is applicable, but not limited, to securities deposited:

(i) As collateral pledged to a Reserve bank (in its individual capacity) for advances by it;

(ii) By a member bank for its sole account;

(iii) By a member bank held for the account of its customers;

(iv) In connection with deposits in a member bank of funds of States, municipalities, or other political subdivisions; or

(v) In connection with the performance of an obligation or duty under Federal, State, municipal, or local law, or judgments or decrees of courts.

(2) The application of the book-entry procedure under this paragraph (a) shall not derogate from or adversely affect the relationships that would otherwise exist between a Reserve bank in its individual capacity and its depositors concerning any deposits under this section. Whenever the book-entry procedure is applied to such Fannie Mae securities, the Reserve bank is authorized to take all action necessary in respect of the book-entry procedure to enable such Reserve bank in its individual capacity to perform its obligations as depositary with respect to such Fannie Mae securities.

(b) A Reserve bank as Fiscal Agent of the corporation may apply the book-entry procedure to Fannie Mae securities deposited as collateral pledged to the United States under Treasury Department Circulars Nos. 92 and 176, both as revised and amended, and may apply the book-entry procedure, with the approval of the Secretary of the Treasury, to any other Fannie Mae securities deposited with a Reserve bank, as Fiscal Agent of the United States.

(c) Any person having an interest in Fannie Mae securities which are deposited with a Reserve bank (in either its individual capacity or as Fiscal Agent of the United States) for any purpose shall be deemed to have consented to their conversion to book-entry Fannie Mae securities pursuant to the provisions of this part, and in the manner and under the procedures prescribed by the Reserve bank.

(d) No deposits shall be accepted under this section on or after the date of maturity or call of the securities.

§ 81.94 Transfer or pledge.

(a) A transfer or pledge of book-entry Fannie Mae securities to a Reserve bank (in its individual capacity or as Fiscal Agent of the United States), or to the United States, or to any transferee or pledgee eligible to maintain an appropriate book-entry account in its name with a Reserve bank under §§ 81.91 through 81.98 is effected and perfected, notwithstanding any provision of law to the contrary, by a Reserve bank making an appropriate entry in its records of the securities transferred or pledged. The making of such an entry in the records of a Reserve bank shall:

(1) Have the effect of a delivery in bearer form of definitive Fannie Mae securities;

(2) Have the effect of a taking of delivery by the transferee or pledgee;

(3) Constitute the transferee or pledgee a holder; and

(4) If a pledge, effect a perfected security interest therein in favor of the pledgee. A transfer or pledge of book-entry Fannie Mae securities effected under this paragraph (a) shall have priority over any transfer, pledge, or other interest, theretofore or thereafter effected or perfected under paragraph (b) of this section or in any other manner.

(b) A transfer or a pledge of transferable Fannie Mae securities, or any interest therein, which is maintained by a Reserve bank (in its individual capacity or as Fiscal Agent of the United States) in a book-entry account under §§ 81.91 through 81.98, including securities in book-entry form under § 81.93(a)(3), is effected, and a pledge is perfected, by any means that would be effective under applicable law to effect a transfer or to effect and perfect a pledge of the Fannie Mae securities, or any interest therein, if the securities were maintained by the Reserve bank in bearer definitive form. For purposes of transfer or pledge hereunder, book-entry Fannie Mae securities maintained by a Reserve bank shall, notwithstanding any provision of law to the contrary, be deemed to be maintained in bearer definitive form. A Reserve bank maintaining book-entry Fannie Mae securities either in its individual capacity or as Fiscal Agent of the United States is not a bailee for purposes of notification of pledges of those securities under this section, or a third person in possession for purposes of acknowledgment of transfer thereof under this section. Where transferable Fannie Mae securities are recorded on the books of a depositary (a bank, banking institution, financial firm, or similar party, which regularly accepts in the course of its business Fannie Mae securities as a custodial service for customers, and maintains accounts in the names of such customers reflecting ownership of or interest in such securities) or account of the pledgor or transferor thereof and such securities are on deposit with a Reserve bank in a book-entry account, hereunder, such depositary shall, for purposes of perfecting a pledge of such securities or affecting delivery of such securities to a purchaser under applicable provisions of law, be the bailee to which notification of the pledge of the securities may be given or the third person in possession from which acknowledgment of the holding of the securities for the purchaser may be obtained. A Reserve bank will not accept notice or advice of a transfer or pledge effected or perfected under this section, and any such notice or advice shall have no effect. A Reserve bank may continue to deal with its depositor in accordance with the provisions of this part, notwithstanding any transfer or pledge effected or perfected under this paragraph (b).

(c) No filing or recording with a public recording office or officer shall be necessary or effective with respect to any transfer or pledge of book-entry Fannie Mae securities or any interest therein.

(d) A Reserve bank shall, upon receipt of appropriate instructions, convert book-entry Fannie Mae securities and deliver them in accordance with such instructions; no such conversion shall affect existing interest in such Fannie Mae securities.

(e) A transfer of book-entry Fannie Mae securities within a Reserve bank shall be made, in accordance with procedures established by the Reserve bank not inconsistent with this part. The transfer of book-entry Fannie Mae securities by a Reserve bank may be made through a telegraphic transfer procedure.

(f) All requests for transfer or withdrawal must be made prior to the maturity or date of call of the securities.

§ 81.95 Withdrawal of Fannie Mae securities.

For all book-entry Fannie Mae securities issued prior to March 10, 1978:

(a) A depositor of book-entry Fannie Mae securities may withdraw them from a Reserve bank by requesting delivery of like definitive Fannie Mae securities to itself or on its order to a transferee.

(b) Fannie Mae securities which are actually to be delivered upon withdrawal may be issued either in registered or in bearer form.

§ 81.96 Delivery of Fannie Mae securities.

A Reserve bank which has received Fannie Mae securities and effected pledges, made entries regarding them, or transferred or delivered them according to the instructions of its depositor is not liable for conversion or for participation in breach of fiduciary duty even though the depositor had no right to dispose of or take other action in respect of the securities. Customers of a member bank or other depositary (other than a Reserve bank) may obtain Fannie Mae securities only by causing the depositor of the Reserve bank to order the withdrawal thereof from the Reserve bank under the conditions set forth in § 81.95.

§ 81.97 Registered bonds and notes.

No formal assignment shall be required for the conversion to book-entry Fannie Mae securities of registered Fannie Mae securities held by a Reserve bank (in either its individual capacity or as Fiscal Agent of the United States) on the effective date of this part for any purpose specified in § 81.93(a). Registered Fannie Mae securities deposited thereafter with a Reserve bank for any purpose specified in § 81.93 shall be assigned for conversion to book-entry Fannie Mae securities. The assignment, which shall be executed in accordance with the provisions of subpart F of 31 CFR part 306, so far as applicable, shall be to "Federal Reserve Bank of _____, as Fiscal Agent of the Federal National Mortgage Association, for conversion to book-entry Fannie Mae securities."

§ 81.98 Servicing book-entry Fannie Mae securities; payment of interest; payment at maturity or upon call.

Interest becoming due on book-entry Fannie Mae securities shall be charged to Fannie Mae's account at the New York Federal Reserve Bank on the interest due date and remitted or credited in accordance with the depositor's instructions. Such securities shall be redeemed and charged to Fannie Mae's account at the New York Federal Reserve Bank on the date of maturity, call or advance refunding, and the redemption proceeds, principal and interest, shall dispose of in accordance with the depositor's instructions.

§ 81.99 Treasury Department regulations; applicability to Fannie Mae.

The provisions of Treasury Department Circular No. 300, 31 CFR part 306 (other than subpart O), as amended from time to time, shall apply, insofar as appropriate, to obligations of Fannie Mae for which a Reserve bank shall act as Fiscal Agent of Fannie Mae and to the extent that such provisions are consistent with agreements between Fannie Mae and the Reserve banks acting as Fiscal Agents of Fannie Mae. Definitions and terms used in Treasury Department Circular No. 300 should read as though modified to effectuate the application of the regulations to Fannie Mae.

Subpart I—Other Provisions

§ 81.101 Equal employment opportunity.

Fannie Mae and Freddie Mac shall comply with sections 1 and 2 of Executive Order 11478 (3 CFR, 1966–1970 Compilation, p. 803), as amended by Executive Order 12106, (3 CFR, 1978, Compilation, p. 263), providing for the adoption and implementation of equal employment opportunity, as required by section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833e).

§ 81.102 Independent verification authority.

The Secretary may independently verify the accuracy and completeness of the data, information, and reports provided by each GSE, including conducting on-site verification, when such steps are reasonably related to determining whether a GSE is complying with 12 U.S.C. 4541–4589 and the GSE's Charter Act.

Dated: November 21, 1995.

Henry G. Cisneros,

Secretary.

2. The following Appendices A through F will not appear in the Code of Federal Regulations.

Appendix A—Secretarial Considerations to Establish the Low- and Moderate-Income Housing Goal

A. Introduction

1. Establishment of Goal

In establishing the annual Low- and Moderate-Income Housing Goal, the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 requires the Secretary to consider:

1. National housing needs;
2. Economic, housing, and demographic conditions;
3. The performance and effort of the enterprises toward achieving the Low- and Moderate-Income Housing Goal in previous years;
4. The size of the conventional mortgage market serving low- and moderate-income families relative to the size of the overall conventional mortgage market;[1]
5. The ability of the enterprises to lead the industry in making mortgage credit available for low- and moderate-income families; and
6. The need to maintain the sound financial condition of the enterprises.

2. Underlying Data

In considering the statutory factors in establishing these goals, HUD relied upon data from the American Housing Survey, the 1990 Census of Population and Housing, the 1991 Residential Finance Survey, other government reports, the Home Mortgage Disclosure Act (HMDA) reports, and the GSEs. HUD used data provided by the GSEs to determine their financial condition and their prior performance in meeting the needs of low- and moderate-income families. These data included loan-level information on all mortgages purchased by the GSEs in 1993 and 1994.

Section B responds to comments from the GSEs and other commenters on Appendix A in the proposed rule and Section C presents an updated discussion of each of the factors listed above. Section D summarizes the Secretary's rationale for selecting the levels of the Low- and Moderate-Income Housing Goals for 1996 and 1997–99 and thereafter.

B. Summary and Response to Public Comments

The GSEs and several other commenters furnished comments on Appendix A as it appeared in the proposed rule. Because the GSEs' comments covered all of the points made by other commenters, this appendix refers exclusively to the GSEs' comments. The GSEs took issue with HUD's application of the factors identified in Section A above and the analysis by which HUD determined the levels of the goals. The GSEs commented that Appendix A: (1) confused general housing needs with those for which the GSEs have an

[1] "Conventional" mortgages are those which do not carry any government insurance, guarantee, or other obligation. That is, conventional mortgages exclude Federal Housing Administration (FHA), Farmers Home Administration (FmHA), and Veterans Administration (VA) loans.

appropriate responsibility; (2) failed to identify the broad range of economic conditions which might be relevant over the coming years; (3) incorrectly assessed the past performance of the GSEs and postulated a very narrow concept of market leadership; (4) minimized the potential economic impact of higher-risk multifamily mortgage purchases and assumed the GSEs should have equal penetration of single-family and multifamily markets; and (5) used flawed data estimates for calculating the size of the conventional market for the Low- and Moderate-Income Housing Goal.[2]

1. "Linking" Housing Needs to GSEs

The GSEs expressed concern that HUD did not distinguish between general housing needs of low- and moderate-income households and those needs that the GSEs could reasonably be expected to address. HUD conducted an analysis of general housing needs to comply with FHEFSSA, which requires the Secretary to consider such needs when establishing the housing goals. HUD's examination of national housing needs does not suggest that the GSEs can or should meet all of those needs. Rather, the analysis was intended to provide background on the evolution and current state of the housing markets for low- and moderate-income households. HUD recognizes that the GSEs can do little to mitigate the more extreme problems, such as homelessness, identified in this analysis (Section C.1 below).

With focused effort the GSEs can assist in addressing problems discussed in the Appendix with regard to single-family and multifamily housing. On the single-family side, the GSEs support of more customized mortgage products and underwriting with greater outreach will likely have mutually beneficial effects for both investors and low- and moderate-income borrowers who have not been served with traditional products, underwriting, and marketing. The GSEs have already embarked on this path and continued efforts are encouraged.

On the multifamily side, with new product development and partnerships the GSEs can reduce the credit gaps in the current market for affordable rental housing—specifically small existing properties, redevelopment projects, housing for the elderly, and new construction in some markets. By sustaining a secondary market in units that meet the low- and moderate-income goal, the GSEs will bring increased liquidity, added stability, and ultimately lower rents for lower-income families in these segments of the market.

Moreover, the GSEs can work to improve overall efficiency and stability of the market for financing multifamily housing by promoting increased standardization, which would allow more direct links to capital markets independent of specific financial intermediaries or investors. The GSEs have been immensely successful in this area with regard to the financing of single-family housing. While HUD recognizes that multifamily finance is different from single-family finance, improvements may well be possible through, for example, creative partnerships and risk-sharing with local institutions.

2. Mortgage Market Volatility

Both GSEs expressed concern that establishing the levels of the housing goals on the basis of experience under the recent unusually favorable mortgage market conditions for financing homeownership could place unreasonable expectations on the GSEs. The GSEs commented that the market for home purchase and finance is very dynamic and susceptible to significant changes in conditions that affect whether home purchase is feasible or accessible to low- and moderate-income households. The current levels of interest rates, home prices, borrower incomes, alternative rental costs, and consumer confidence, as well as expectations about their future levels, play a role in determining whether homeownership is feasible or desirable for any particular household. HUD agrees that forecasting all these factors for upcoming years to obtain a picture of the future climate for home purchase and finance is difficult.

However, setting goals so that they can be met even under the worst of circumstances is unreasonable. If macroeconomic conditions change dramatically, then the levels of the goals can be revised to reflect the changed conditions. FHEFSSA and HUD recognize that conditions could change in ways that would require revised expectations. Thus, HUD is given the statutory discretion: (1) to revise the goals if the need arises and (2) if a GSE fails to meet a housing goal, to determine that the goal was not feasible, and not take further action. Furthermore, as discussed in Appendix D, HUD conducted detailed sensitivity analysis for each of the housing goals to reflect economic conditions that are less conducive to homeownership than those that existed during 1993 and 1994.

3. GSEs Already Innovate and Serve Low- and Moderate-Income Borrowers

The GSEs commented that Appendix A and the proposed rule failed to recognize that the GSEs already make a sizable contribution toward serving the housing needs of a wide range of American families, including low- and moderate-income households, in diverse geographic areas, through their overall operations. Congress chartered the GSEs to carry out four public purposes: (a) provide stability; (b) respond appropriately to the private capital market; (c) provide assistance to the residential mortgage market, including serving low- and moderate-income families; and (d) promote access to mortgage credit throughout the nation. In FHEFSSA, Congress developed a mechanism to ensure that the GSEs finance housing for and provide services to low- and moderate-income families and housing in underserved areas. Congress acknowledged, as does HUD, the substantial contributions the GSEs have made and continue to make in creating liquidity and stability in the overall mortgage market. No additional measures were thought necessary to ensure that such contributions continue to take place. However, in FHEFSSA, Congress focused on enhancing the GSEs' efforts to carry out their other Charter purposes. HUD, through its focus on the goals, is carrying out that Congressional intent.

4. Multifamily Market Is Different

The GSEs commented that the origination and purchase of multifamily mortgages is fundamentally different from the origination and purchase of single-family mortgages. Both GSEs commented that the GSEs do not dominate the multifamily market to the same extent as the single-family market and that they should not be required to obtain the same multifamily market share that they have in the single-family market. Freddie Mac argued that the purchase of creditworthy multifamily loans is far more difficult than for single-family loans.

HUD agrees that the multifamily mortgage business is a different business from single-family finance, posing a different level of risk. Underwriting multifamily mortgages is more like underwriting business loans than underwriting many small and relatively uniform single-family mortgages. However, with regard to the argument that multifamily lending is much more difficult, the evidence is not convincing. Much of the difficulty with multifamily mortgages in recent years was related to the aftermath of wide swings in the tax treatment of multifamily housing. The tax-driven rather than market-driven overbuilding of the early and mid-1980s was followed by the subsequent withdrawal of tax support and the resulting credit crunch in the late 1980s and the early 1990s. During the early 1990s, underwriting of creditworthy multifamily loans may have been difficult. These conditions have now improved markedly.

Currently, multifamily properties offer less risk of loss than most commercial property classes, according to Moody's Investors Service.[3] In overbuilt markets, vacancies have declined due to depressed construction levels in the early 1990s. Accordingly, competition for multifamily loans has increased and securitization has increased in 1993 and again in 1994. Credit risk remains a concern to investors, but new techniques in multi-class securitization have helped mitigate credit risk on multifamily mortgage pools.

HUD realizes that achievement of the housing goals may require deeper penetration of the multifamily mortgage market than the GSEs have heretofore achieved. As discussed in Section C.2 below, Fannie Mae purchased a large portion (nearly half) of the large multifamily loans (those with balances of $1.0 million or more) that were originated in 1993 and reported in the HMDA data. An alternative to very deep penetration of the large loan market would be for the GSEs to broaden their penetration by shifting their focus toward purchase of smaller multifamily loans. There is no evidence that smaller loans represent higher credit risks. Such a shift may require the GSEs to develop additional capabilities to underwrite smaller loans, such as forming new partnerships with community lenders. This may pose some initial difficulty, but the suggestion that there are long-term fundamental difficulties in the purchase of smaller (less than $1 million) multifamily loans is not consistent with the current market trends toward higher multifamily lending activity and new techniques of credit risk management.

5. HUD's Market Methodology

In establishing the goals, the Secretary is required to assess, among a number of factors, the size of the conventional market for each goal. HUD developed a straightforward technique for estimating the size of the conventional conforming market for each of the goals. This technique draws on the existing major sources of data on mortgage market activity.

Both GSEs expressed strong criticism of HUD's use of specific data elements in constructing its estimates of market size, for example, estimates of the proportion of 1- to 4-unit rental properties or the level of multifamily originations. Although both GSEs criticized how data had been interpreted in HUD's market-share models, neither GSE, nor any other commenter, objected to HUD's basic model for calculating the size of the markets relevant to each of the housing goals. However, Freddie Mac provided a detailed set of objections to the use of certain data sources or assumptions, concluding that HUD's market estimates were "fatally flawed." Fannie Mae argued that market estimates employed by HUD "created an artificial market description based on interpretations of the data available to [HUD], which are not consistent." Fannie Mae commented that the Secretary deliberately selected existing data interpretations to yield higher goals.

Freddie Mac maintained that the flaws in HUD's estimation process would result in goals that were too high, because HUD had overestimated the size of the rental market. Freddie Mac presented a comparison of available market-share estimates, explained deficiencies it believed were present in the data employed by HUD, and claimed that HUD had chosen the least-favorable of the data bases that could have been employed in establishing appropriate goals for the GSEs.

Both GSEs argued that the role of multifamily financing in the mortgage market was consistently overstated in the proposed rule. Freddie Mac provided data to support its assertion that the rule's estimates of multifamily originations overstated both the total amount of originations to be expected and the degree to which multifamily originations are available to the secondary market.

In considering the levels of the goals, HUD examined carefully the comments on the methodology used to establish the market share for each of the goals. HUD contracted with the Urban Institute to conduct an independent review that drew upon its resources of well-respected academics and others in evaluating HUD's methodology. Based on that thorough evaluation, as well as HUD's additional analysis, the basic methodology employed by HUD is a reasonable and valid approach to estimating market share, and Freddie Mac's claim that the methodology is "fatally flawed" is without merit.

HUD agrees that a comprehensive source of information on mortgage markets is not available. HUD considered and analyzed a number of data sources for the purpose of estimating market size, because no single source could provide all the data elements needed. In the appendices, HUD has carefully defined the range of uncertainty associated with each of these data sources and has conducted sensitivity analyses to show the effects of various assumptions. Technical papers prepared by the Urban Institute and other academics support HUD's analysis.

A number of technical changes have been made in response to the comments and the evaluation by outside experts and HUD, but the approach for determining market size has not been substantially modified. The detailed evaluations show that the methodology, as modified, produces reasonable estimates of the market share for each goal.

Criticism of the methodology focused, in part, on the estimated size of the multifamily market. The GSEs proposed that HUD use the volume of originations as reported in the Home Mortgage Disclosure Act (HMDA) data base—$15 billion in 1994—as the accurate number of multifamily originations, as opposed to HUD's $30 billion estimate derived from other data sources. Four of the studies HUD commissioned from the Urban Institute considered various aspects of the multifamily market. HUD also consulted with experts at the Federal Reserve Board, the Bureau of the Census, and in industry trade groups to assist HUD in carefully evaluating the GSEs' claim that HMDA data provide an accurate number of total multifamily originations.

HUD found consensus that HMDA data underreport multifamily originations. HMDA, alone, is not an accurate survey of the total market; it was not designed to be one. It includes only information reported by a subset of institutions that originate multifamily loans: large commercial banks, thrifts, and mortgage bankers in metropolitan areas. In addition, HMDA underestimates multifamily lending by both mortgage bankers and commercial banks. The additional analyses conducted in response to the comments support the $30 billion multifamily estimate used by HUD.

c. Consideration of the Factors

Overview of Sections C.1 and C.2. These sections cover a range of topics on housing needs and economic and

[2] The credit risk criticism is addressed in the Economic Analysis that accompanies this rule and the market share criticism is addressed in Appendix D.

[3] "Moody's: Multifamily Offers Less Loss Risk," *National Mortgage News*, May 1, 1995.

demographic trends that are important for understanding mortgage markets. Most of the information, such as trends in refinancing activity, is provided because it describes the market environment in which the GSEs must operate and is therefore useful for gauging the reasonableness of specific levels of the Low- and Moderate-Income Housing Goal. In addition, the severe housing problems faced by lower-income families are discussed.

This information has led the Secretary to the following conclusions:

- The volume of mortgage originations fell from its 1993 record level of one trillion dollars to $773 billion in 1994 and is expected to be about $650 and $700 billion in 1995 and 1996, respectively. Purchase mortgages, including those for first-time homebuyers, have replaced refinance mortgages as the dominant mortgage type.
- The increase in interest rates from the 25-year lows of 1993 could make it more difficult for marginal borrowers to afford homeownership. However, interest rates continue to remain lower and housing more affordable than any previous extended period since 1977. Borrowers also have been helped by the rising incomes that accompany economic growth, which helped to boost the GSEs' purchases of low- and moderate-income mortgages in 1994, beyond levels recorded in 1993.
- Purchasing a home became increasingly difficult for lower-income and younger families during the 1980s. Low-income families with children, who could most benefit from the advantages of ownership, bore the brunt of the decline in ownership rates. The share of the nation's children living in owner-occupied homes fell from 71 percent to 63 percent between 1980 and 1991.
- Very-low-income renters often must pay an unduly high share of their income for rent.
- Several demographic changes will affect the demand for housing over the next few years. The continued influx of immigrants will increase the demand for both rental and owner-occupied housing and help to offset declines due to the aging of the baby-boom generation. Non-traditional households will become more important as overall household formation rates have slowed. With later marriage, divorce, and other non-traditional living arrangements, the fastest-growing household groups will be single-parent and single-person households.
- The multifamily mortgage market is far less integrated into the broader capital markets than the single-family market. Increased liquidity will bring more capital, at lower cost, to fill current and future credit gaps for maintenance of existing affordable stock and construction of affordable units in higher growth markets.

1. National Housing Needs

This section reviews the general housing problems of both low- and moderate-income homeowners and then discusses past and current economic conditions affecting the single-family and multifamily housing markets. HUD recognizes that the GSEs can do little to mitigate many of the more extreme problems discussed in the next sections. These sections are meant to portray the general state of the housing markets for low- and moderate-income households as they exist today and are expected to continue in the near future.

a. Housing Problems Among Low- and Moderate-Income Owners and Renters

Under the income definitions in FHEFSSA, almost three-fifths of U.S. households in 1993 qualified as low- or moderate-income families. Almost half of all homeowners (48 percent) had incomes below their (unadjusted) area median family income, while 76 percent of renters had income below their area's HUD-adjusted median family income.[4]

Housing needs vary with income. In 1993, roughly 21 percent of owners with moderate incomes (income 80 to 100 percent of area median) and 24 percent of moderate-income renters had a housing problem, compared to 25 percent of low-income owners and 36 percent of low-income renters (with income 60 to 80 percent of area median). Moreover, two-thirds of the 14 million households with incomes below 30 percent of median paid more than 30 percent of income for housing or lived in inadequate or crowded housing.[5]

[4] HUD is required by statute to adjust median family income in developing its official income cutoffs for each Metropolitan Statistical Area (MSA) and non-metropolitan county. Income limits based on HUD-Adjusted Area Median Family Incomes (HAMFI) are adjusted 1) with upper and lower caps for areas with low or high ratios of housing costs to income; 2) by setting state nonmetropolitan average income as a floor for nonmetropolitan counties; and 3) by household size. The adjusted annual estimates of area median family income provide the base for the "50 percent" and "80 percent" of HAMFI cutoffs that are assigned to a household of four. Household size adjustments then range from 70 percent of the base for a 1-person household to 132 percent of the base for an 8-person household.

[5] Tabulations of U.S. Departments of Housing and Urban Development and Commerce, *American Housing Survey for the United States in 1993* (April 1995) performed by HUD Office of Policy Development and Research.

b. Unmet Demands for Homeownership

Homeownership is a key aspiration for most Americans and a basic concern of government. Homeownership fosters family responsibility and self-sufficiency, expands housing choice and economic opportunity, and promotes community stability. Ownership also improves access to the larger homes and better neighborhoods particularly needed by families with children. Children of homeowners are more likely to graduate from high school, less likely to commit crime, and less likely to bear children as teenagers than children of renters.[6] Recent surveys indicate that lower-income and minority families who do not own their homes will make considerable sacrifices to attain this goal.

Ownership rates rose dramatically in the late 1940s and 1950s, increasing from 43.6 percent to 61.9 percent between 1940 and 1960. During the 1960s, homeownership rates rose more slowly, reaching 62.9 percent by 1970, and—after several years of high house price appreciation—an all-time high of 65.6 percent in 1980. In the early 1980s, historically high interest rates, low price appreciation, and a series of deep regional recessions caused the homeownership rate to decline to 63.9 percent by 1985. The rate increased only slightly between 1985 and 1994.[7]

During the 1980s, the goal of homeownership became more elusive for low- and moderate-income families. Declines in ownership rates during the 1980s were most pronounced for younger, lower-income households, particularly those with children:

Between 1980 and 1992, homeownership among younger households dropped roughly 10 percentage points, from 43.3 percent to 33.1 percent for households with the head aged 25 to 29, and from 61.1 percent to 50.0 percent for households with the head aged 30 to 34. These declines were concentrated among single-parent households and married couples with children.[8]

Homeownership rates fell by 4 percentage points each for moderate-income households and low-income households during the 1980s, and by 3 percentage points for households below 50 percent of area median, adjusted for family size. At each income level, declines were greatest for families with children. Among very low-income families with children, homeownership rates dropped by nearly a fourth.[9]

[6] These tendencies are especially strong for lower-income households. Children of low-income homeowners are 15 percent more likely to stay in school than children of non-homeowners. Michelle White and Richard Green, "Measuring the Benefits of Homeowning: Effects on Children," University of Chicago, unpublished paper, February 1994.

[7] The stability in ownership after 1985 resulted from increases among elderly households and single individuals, offset by further declines among families with children.

[8] Joint Center for Housing Studies of Harvard University, *The State of the Nation's Housing*, 1993, Table A–4.

In sum, the families with children who could most benefit from ownership were most adversely affected by declines in ownership. Between 1980 and 1991, the dip in the total ownership rate from 65.6 to 64.2 percent included a fall of seven percentage points among families with children, from 70.4 percent to 63.4 percent.

c. Obstacles to Homeownership

Insufficient income, high debt burdens, and limited savings are obstacles to homeownership for younger families. As home prices skyrocketed during the late 1970s and early 1980s, real incomes stagnated, with earnings growth particularly slow for blue collar and less educated workers. Through most of the 1980s, the combination of slow income growth and increasing rents made saving for home purchase more difficult and relatively high interest rates required larger fractions of family income for homeowner mortgage payments. Thus, fewer households had the financial resources to meet down payment requirements, closing costs, and monthly mortgage payments. One-fifth of first-time homeowners had to rely on their relatives for most of their down payment.[10] One-third of recent first-time homeowners relied on gifts and loans from parents.[11]

In addition to low income, high debts are a primary reason households cannot afford to purchase a home. Nearly 53 percent of renter families have both insufficient income and excessive debt problems that may cause difficulty in financing a home purchase.[12] High debt-to-income ratios frequently make potential borrowers ineligible for mortgages based on the underwriting criteria established in the conventional mortgage market.

d. Affordability Problems and Worst Case Housing Needs

Finding affordable housing is by far the most common housing problem for American families nationwide.[13] Between 1979 and 1991, shares of households paying more than 30 percent of their income for housing fluctuated around 42 percent among renters and rose from 17 percent to 20 percent among owners.[14] Over this period, the number of low-income renter households spending 50 percent or more of their income on housing rose from 4.3 million in 1978 to 6.0 million in 1991.[15] Poor homeowners also paid high proportions of their income for housing costs. Between 1978 and 1989, the share of poor homeowners spending over 60 percent of income on housing rose from 30.6 percent to 33.1 percent.[16]

Although affordability problems affect two-fifths of low-income renters and one-eighth of low-income owners, they are most frequent and severe among the very lowest income owners and renters. In 1991, when the average gross rent/income ratio for renters with incomes above area median income was 23 percent, this ratio was 72 percent for renters with incomes below 30 percent of area median income and 41 percent for renters with incomes between 30 and 49 percent of median.[17]

Priority problems—defined as paying more than half of income for rent and utilities, being displaced, or living in severely inadequate housing—were heavily concentrated among renters with incomes below 50 percent of area median. Half of renters with incomes below 30 percent of median, and one-fourth of those with incomes 31–50 percent of median, had these severe "worst case" housing needs.[18]

According to HUD's third Congressionally-mandated study of worst case needs, severe affordability problems were not only the overwhelming cause of worst case needs but often a family's only housing problem.[19] Fully 94 percent of the 5.3 million households with worst case needs reported severe rent burden as a problem, and for almost three-fourths, severe rent burden was their only problem.

The number of households with worst case needs increased by nearly 400,000 between 1989 and 1991, rising most rapidly among families with children. Large families were more likely than smaller ones to have priority problems and to need to move to another housing unit because of crowding or excessive rent burden. Between 1989 and 1991, worst case needs among very-low-income families with three or more children increased from 34.7 percent to 40.2 percent. Elderly households were the least likely to have worst case needs.

2. Economic, Housing, and Demographic Conditions

A number of economic, housing, and demographic considerations have influenced the Secretary's establishment of the Low- and Moderate-Income Housing Goals. Increasing income inequality and changes in household composition suggest that needs for housing affordable to very-low-income families will continue to be most acute, placing additional pressure on the inadequate stock of rental housing affordable to families with incomes below 30 percent of median income. Although volatile interest rates strongly influence both single-family starts and mortgage market activity, rates that are relatively low by historical standards have improved affordability for first-time homebuyers.

a. Underlying Demographic Conditions

(1) *Household Formations.* The demand for housing and mortgages depends heavily on household formations. During the 1970s, as the leading edge of the baby boom generation (born between 1946 and 1964) entered adulthood, household formation surged to an annual average of 1.7 million. Aided by rising incomes and low real interest rates, household heads aged 25–34 purchased homes in record numbers. During the 1980s, annual household growth fell slightly to an average of 1.5 million. Many in the "housing upgrade" group (aged 35–44) had benefitted from substantial increases in the prices of their first homes, and were able to afford bigger and higher quality homes during the 1980s. Household formation is expected to drop sharply during the 1990s. The

[9] Kathryn Nelson and Jill Khadduri, "To Whom Should Limited Housing Resources Be Directed?" *Housing Policy Debate*, Vol. 3, 1992, pp. 1–55, Table 3.

[10] National Association of Home Builders, *Profile of the New Home Buyer Survey*, 1991.

[11] National Association of Realtors, *Survey of Homeowners and Renters*, 1991.

[12] Howard Savage and Peter Fronczak, *Who Can Afford to Buy A House in 1991?*, U.S. Bureau of the Census, Current Housing Reports H121/93–3, July 1993, p. ix.

[13] "Affordable housing" is generally interpreted as housing for which the homeowner or renter pays no more than 30 percent of family income for housing costs, including utilities.

[14] U.S. Departments of Housing and Urban Development and Commerce, *American Housing Survey for the United States in 1991*, April 1993.

[15] 1974–1979 figures from Nelson and Khadduri, "To Whom Should Limited Housing Resources Be Directed," 3 *Housing Policy Debate* 1, 16. 1992. 1991 figure from *Worst Case Needs for Housing Assistance in the United States in 1990 and 1991*. HUD–1481–PDR, June 1994.

[16] Center on Budget and Policy Priorities and Low Income Housing Service, *A Place to Call Home*, April 1989; and U.S. Departments of Housing and Urban Development and Commerce, *American Housing Survey for the United States in 1989*, July 1991.

[17] Tabulations of U.S. Departments of Housing and Urban Development and Commerce, *American Housing Survey for the United States in 1991*, April 1993, performed by HUD Office of Policy Development and Research.

[18] Congress defines "worst case needs" for housing assistance as unassisted renters with incomes below 50 percent of area median income who have priority problems.

[19] *Worst Case Needs for Housing Assistance in the United States in 1990 and 1991*, HUD–1481–PDR, June 1994.

Census Bureau projects that the older baby boomers (aged 45 to 54) will be the fastest growing population group during this decade.

The effects of these demographic trends on housing demand have been debated in the economics literature for several years. In 1989, Gregory Mankiw and David Weil predicted that the aging of the baby boomers and the small size of the following "baby bust" generation would substantially reduce housing demand and cause housing prices to collapse during the 1990s.[20] Other researchers disagree. Reductions in housing demand due to aging of the baby boom generation could be offset by many factors, including rising incomes, pent-up demand for homeownership by those priced out of the housing market during the 1980s, and high levels of immigration.[21]

(2) *Immigration.* The continued increase in immigration during the 1990s will help offset declines in the demand for housing caused by the aging of the baby boom generation. During the 1980s, 6 million legal immigrants entered the United States, up from 4.2 million during the 1970s and 3.2 million during the 1960s. The Hispanic population residing in the U.S. increased by 50 percent during the 1980s, while the Asian population doubled. About one-quarter of the Hispanics living in the U.S. in 1990 had immigrated during the 1980s. Immigration is projected to add even more new Americans in the 1990s than it did during the 1980s. Asians and Pacific Islanders are expected to be the fastest growing group, with annual growth rates that may exceed 4 percent in the 1990s. Total population is now projected to rise by 25 million in each of the decades from 1991 to 2020. The tendency of immigrants, particularly Hispanics, to locate in certain "gateway" cities (e.g., Los Angeles and Miami) will place increased demands on the housing stock in some major urban areas.

(3) *Non-traditional Households.* While overall growth in new households has slowed, non-traditional households have become more important. With later marriages, divorce, and other non-traditional living arrangements, household growth has been fastest among single-parent and single-person households. The number of single parents with one or more children under 18 was 10.5 million in 1992; the vast majority of those single parents were women.[22] About 62 percent of African-American families with children were single-parent families in 1992, compared with 34 percent for Hispanics and 24 percent for Whites. Since only 35 percent of single-parent households are homeowners compared to 74 percent of married couples, their increase should spur demand for rental housing and for affordable ownership opportunities. In addition, HUD's analysis of the nation's worst case housing needs shows that female-headed households suffer some of the most severe housing problems.

(4) *Single Person Households* are playing an increasingly important role in the housing market. Singles accounted for one-fourth of all households in 1990. While one-half owned their own home, many of these were elderly people with little or no mortgage debt and probably no intention of entering the housing market. Never-married singles, on the other hand, have been a significant factor in the homebuying market in large urban areas. Never-married singles rose as a proportion of first-time homebuyers from just over one-quarter in 1990 and 1991 to roughly a third in 1992 and 1993 before declining to about a 30 percent share in 1994.[23] As discussed above, ownership rates among non-elderly single individuals rose steadily during the 1980s. Low interest rates during the past two years apparently enticed even more single renters to become homeowners.

(5) *Growing Income Inequality* in the distribution of income over the last 20 years has made it more difficult for those at the bottom of the income distribution to purchase adequate shelter. The share of the nation's income received by the richest 5 percent of American families rose from 18.6 percent in 1977 to 24.5 percent in 1990, while the share received by the poorest 20 percent fell from 5.7 percent to 4.3 percent. This widening income inequality was due in large part to a widening disparity in earned incomes; as the economy has moved away from manufacturing to more service industry jobs and more advanced computer and technologically-intensive industry jobs, the wages of unskilled, entry-level, and blue collar workers have fallen relative to the wages of professional and technical workers. The result has been an increase in the working poor and a decrease in the middle class.

In addition, higher real interest rates and declining inflation through the 1980s increased the return to capital, raising nonwage incomes of upper and upper middle income families. This too contributed to the increasing inequality in the distribution of income.

b. Economic and Housing Conditions—Single-Family Market

(1) *Interest Rate Trends.* As the 1980s began, mortgage interest rates were above 12 percent and rose quickly to over 15 percent. After 1982, they drifted slowly downward to the 9 percent range in 1987 before rising to over 10 percent in the 1989–1990 period. Rates returned to 9.3 percent in 1991 and then fell further to 8.2 percent in 1992 and 7.2 percent in 1993. The October 1993 rate of 6.80 percent was the lowest level in more than twenty years.[24] Rates rose nearly a full percentage point in 1994, and peaked at 8.3 percent in early 1995, but have since fallen by about 50 basis points.

Volatile interest rates were a principal cause of the housing market volatility of the 1980s and they continue to be a major determinant of housing and mortgage market activity. During 1992 and 1993, homeowners responded to the record low rates by refinancing existing mortgages. While refinancing accounted for less than 25 percent of mortgage originations in 1989–90 when interest rates exceeded 10 percent, the sharp decline in interest rates led refinancings to account for over 50 percent of all mortgage originations in 1992 and 1993.[25] Because of the heavy refinancing activity, single-family mortgage originations surged from less than $500 billion in 1990 to record levels of $894 billion in 1992 and over $1 trillion in 1993. As mortgage rates rebounded from the 1993 lows, refinancing subsided and home purchase returned as the predominant component of mortgage originations. Origination volume totalled $773 billion in 1994 and is projected to be about $650 and $700 billion in 1995 and 1996, respectively.

Single-family housing starts have also responded to interest rates, with record low volumes in 1981 and 1982, peaks in 1986 and 1987, and less severe lows in 1990 and 1991. Low interest rates and economic recovery in 1992 and 1993 made homeownership more affordable

[20] W. Gregory Mankiw and David N. Weil, "The Baby Boom, the Baby Bust, and the Housing Market," *Regional Science and Urban Economics*, May 1989.

[21] See, for example, Joint Center for Housing Studies of Harvard University, *The State of the Nation's Housing 1994*, 1994.

[22] U.S. Department of Commerce, Bureau of the Census, *How We're Changing: Demographic State of the Nation: 1993*. Special Studies Series, P–23, No. 184, February 1993.

[23] Chicago Title and Trust Family of Insurers, *Who's Buying Homes in America*, 1992, 1993, 1994, and 1995.

[24] Council of Economic Advisers, *Economic Indicators*, August 1995 and *Economic Report of the President*, February 1995.

[25] Monthly average refinancing data obtained from Freddie Mac's *Primary Mortgage Market Survey*.

and helped to turn the housing market around. Single-family starts increased from less than 900,000 during the recessionary years of 1990 and 1991 to 1.03 million in 1992, 1.13 million in 1993, and 1.20 million in 1994. Volume in 1994 was 43 percent higher than 1991's recessionary low of 840,000.

(2) *First-time Homebuyers* have been the driving force in the recovery of the nation's housing market over the past several years. First-time homebuyers are typically people in the 25–34 year-old age group that purchase modestly priced houses. As the post-World War II baby boom generation ages, the percentage of Americans in this age group has shrunk, from 28.3 percent in 1980 to 25.4 percent in 1992.[26] Nonetheless, first-time homebuyers have bucked these demographic trends to increase their share of home sales. During the 1980s, first-time buyers accounted for about 40 percent of home sales; this figure rose to 45 percent in 1991, 48 percent in 1992, receding to 46 percent in 1993, and rebounding to 47 percent in 1994.[27] The 1992 figure was the highest percentage for first-time buyers since the annual Home Buyers Survey was initiated in 1976.

Among the first-time buyers was a record number of single-individual households. The 1992 and 1993 Home Buyers Surveys found that approximately 30 percent of first-time buyers in these years were single, compared to 21 percent in 1991. The more affluent, move-up home buyers, on the other hand, have recently played a smaller role. A sluggish economy, uncertain outlooks for many white-collar jobs, and slow house price appreciation have kept many trade-up buyers out of the housing market.

Reflecting these trends, the average income for recent home buyers has fallen. In 1991, one of every three buyers had a family income of $50,000 or less; in 1993, those earning less than $50,000 accounted for 44 percent of all home buyers. Apparently, two years of low interest rates induced many renters who had previously been priced out of the market to become homeowners. A strong pent-up demand to own a home is not surprising given the large reductions in homeownership rates experienced by several groups during the 1980s (see Section C.1.d above). A recent survey of renters by the National Association of Realtors (NAR) indicated that only one-third prefer to remain renters for the foreseeable future.[28] Thus there are many potential home buyers among the 34 million households that are currently renting.

(3) *Potential Homebuyers.* As noted above, immigration is expected to be a major source of future homebuyers. Fannie Mae's *1995 National Housing Survey* revealed that immigrant renter households are almost 3 times as likely as renter households in general to list home purchase as their "number-one priority." Immigrants as a group are currently more than one-and-two-thirds times as likely to be renters although they appear as financially capable as the population at large.[29] The Joint Center for Housing Studies estimates that if the homebuying potential of immigrant households were realized—i.e., they purchased with the same propensity as non-immigrants with similar characteristics—that the number of homeowners in the largest 40 metropolitan areas would increase by about 900,000. In addition, the Joint Center estimates that another 950,000 native-born minority households in the same metropolitan areas would become homeowners if their rate of homeownership matched that of their native-born white counterparts with similar income and demographic characteristics.[30]

As part of the process of revising the GSE rule, HUD sought information on two key questions: how large is the underserved potential homebuyer market and what are the default risks associated with expanded homeownership among lower-income, underserved households? To help answer these questions, the Urban Institute and HUD developed a logit-based analysis of households in the 1990 Survey of Income and Program Participation (SIPP). The probability of a renter making the transition to homeownership was then estimated directly by applying a logit regression to the mid-1992 sub-sample of white suburban renters and recently-transitioned homeowners. These probabilities were then linked to all the remaining renter SIPP households to identify renters having relatively good prospects for transitioning to homeownership. Of the 20.3 million remaining renter households (i.e., 84 percent of all remaining renters) having low or moderate incomes, roughly 16 percent had a probability of transitioning into homeownership which was greater than that for half of the renter households who actually did become homeowners over the sample period. When one also took into account their likelihood of defaulting relative to the average expected for those actually transitioned to homeownership, 13.4 percent of all remaining low- and moderate-income renters had better-than-median probability of transitioning to homeownership and lower than average probability of default, assuming the purchase of a lower-cost home priced at the 10th percentile of area home prices. The proportion of high-probability, low-risk potential low- and moderate-income homebuyers declines to 10.6 percent if the purchase of homes priced at the median price for the area is assumed for these households.[31] These results indicate the existence of a significant population of lower-risk, potential homebuyer households that might be reached with more aggressive outreach.

(4) *Affordability.* Potential homebuyers in 1992–1994 enjoyed the most affordable market in almost twenty years. The National Association of Realtors (NAR) tracks housing affordability by measuring the degree to which an average family can afford monthly mortgage payments on a typical house, assuming that the family has enough cash for a 20 percent down payment. Specifically, NAR's composite affordability index measures the ratio of median family income to the income required to qualify for a conventional loan on a median-priced house. After averaging slightly over 110 between 1986 and 1991, the index jumped to 125 in 1992 and 133 in 1993, before slipping to 130 in 1994. The 1994 figure indicates that the U.S median family income was 30 percent more than was needed to qualify for a mortgage on the nation's median priced house.[32]

In addition to its overall affordability index, NAR also estimates the ability of first-time home buyers to purchase modestly-priced homes. When this index equals 100, the typical first-time buyer can afford the typical starter home under existing financial conditions with a 10 percent down payment; a score

[26] U.S. Department of Commerce, Bureau of the Census, *Money Income of Households, Families, and Persons in the United States: 1992*, Special Studies Series P–60, No. 184, Table B–25, October 1993.

[27] Chicago Title and Trust Family of Insurers, *Who's Buying Homes in America*, 1992, 1993, 1994, and 1995.

[28] National Association of Realtors, *Survey of Homeowners and Renters*, 1991.

[29] *Fannie Mae National Housing Survey 1995*, pp. 3 and 5.

[30] *State of the Nation's Housing, 1995*, Joint Center for Housing Studies of Harvard University, p. 30, Table A–8.

[31] George Galster and others, "Estimating the Size, Characteristics, and Risk Profile of Potential Homebuyers," (The Urban Institute, September 1995) mimeo.

[32] The South and North Central census regions were the most affordable for homebuyers, with affordability indexes of 141 and 176, respectively, in 1993. Affordability remained much more of a problem in the Northeast and West, where NAR's indexes were 110–117.

below 100 indicates that the monthly mortgage payment places a significant burden on first-time home buyers, even during a period of record low interest rates. NAR's first-time home buyer index ranged from 75 to 86 between 1991 and 1993 (84 in 1994).

(5) *Increased Interest Rates.* The 1994 jump in interest rates reduced housing affordability. According to Freddie Mac's primary market survey, interest rates for conventional, 30-year, fixed rate mortgages increased from a 25-year low of 7.05 percent in the fourth quarter of 1993 to 9.10 percent in the fourth quarter of 1994, with a subsequent decline to 7.95 percent in the second quarter of 1995. The 1994 increase made it more difficult for potential first-time home buyers to qualify for conventional mortgages, as reflected in the decline in NAR's composite affordability index from 142 in the fourth quarter of 1993 to 127 in the fourth quarter of 1994. The first-time home buyer's index dropped from 92.3 to 82.4 during this period. Both indexes would have fallen further if incomes had not risen to partially offset the effects of increased interest rates.[33] However, interest rates continue to remain lower and housing more affordable than was true for any previous extended period since 1977. Moreover, as the economic recovery continues, rising incomes should continue to offset the effects of higher interest rates.

While all of the factors identified above are subject to change, interest rates are perhaps the most volatile. HUD assessed the impact on Fannie Mae's and Freddie Mac's business from a 100- or 200-basis-point increase above actual 1993 and 1994 interest rates, that averaged 7.33 and 8.35 percent, respectively.[34] Table A.1. shows the resulting changes in purchases, assuming no offsetting increases in income or reductions in loan amounts for households with less than median incomes.

Holding everything else constant, a 100-basis-point increase in mortgage interest rates would result in a 2–3 percentage point drop in the GSEs' purchases of lower-income mortgages.[35] While the percentage of business in the lower-income category changes by less than 2 to 3 percentage points, the proportional change relative to its small base is far greater than that on the GSEs' share of higher-income business. This is because the lower the income classification, the greater the concentration of households near the 28 percent limit on the qualifying payment-to-income ratio. As Table A.1 shows, the pattern becomes more exaggerated with a 200 basis point change.

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[33] The qualifying payment-to-income ratio depends essentially on three elements: The interest rate, loan amount, and borrower's income. It can be shown that for every 100 basis point increase in interest rates (one percentage point), payment-to-income ratios rise by approximate 8 percent. However, this effect can be offset with either an 8 percent increase in income or an 8 percent reduction in the loan amount.

[34] The GSE data were limited to long-term, fixed-rate loans for one-unit, owner-occupied properties in metropolitan areas. A payment ratio was estimated for each loan using the Freddie Mac coupon rate prevailing 2 months prior to the origination date, an assumed annual tax and insurance rate of 1.8 percent, acquisition unpaid principal balance, and borrower's income. Estimated payment ratios would be biased upward to the extent the associated monthly Freddie Mac coupon rate or tax and insurance percentages exceed actual loan-specific rates. Because the monthly average of interest rates varied by less than one-half percentage point over any two-month period in 1993 or 1994, the potential bias is likely to be less than 1 percentage point in either direction.

[35] It was assumed that the lower-income, i.e., below-median-income, households whose payment-to-income ratios rose above 28 percent would leave the GSE distribution and either pursue non-GSE conventional or FHA mortgages to maintain their loan amount or defer their home purchase. Above-median-income households whose payment-to-income ratios rose above 28 percent were retained in the subsequent distributions under the expectation that they would either lower their loan amounts, raise their down payments, or switch to an ARM.

Table A.1

Distribution of GSEs' Business by Borrower Income Under Various Interest Rate Scenarios*

Fannie Mae

Income Class (% of Median)	Actual Rates	+100 Basis Points	+200 Basis Points
Percent of 1993 Business			
Above 100%	64.68	67.28	70.21
80 to 100%	15.68	14.60	13.36
60 to 80%	11.88	10.93	9.87
Under 60%	7.13	6.52	5.95
Percent of 1994 Business			
Above 100%	59.61	62.34	65.33
80 to 100%	16.85	15.84	14.65
60 to 80%	13.61	12.66	11.61
Under 60%	9.12	8.38	7.66

Freddie Mac

Percent of 1993 Business			
Above 100%	67.09	69.54	72.20
80 to 100%	15.28	14.27	13.11
60 to 80%	11.08	10.19	9.25
Under 60%	6.36	5.84	5.27
Percent of 1994 Business			
Above 100%	66.44	68.93	71.67
80 to 100%	15.43	14.41	13.17
60 to 80%	11.33	10.46	9.51
Under 60%	6.70	6.12	5.55

* Distributions of business by income level for 1993 and 1994 interest rates are limited to 30-year, fixed-rate home purchase mortgages and may differ from distributions reported elsewhere.

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c. Economic and Housing Conditions: Multifamily Market

(1) *The Secondary Mortgage Markets: Multifamily Differs from Single-Family.* Over the past two decades, the single-family mortgage market has evolved from a fragmented set of local markets to an efficient, national market that is well integrated into the broader capital markets. In particular, the development of the secondary market for single-family mortgages has increased the flow of capital available to homeowners and lowered its cost.

The same cannot be said of multifamily rental housing. The secondary market has increased its purchase volume for multifamily mortgages in recent years, but remains much less of a factor in providing capital for multifamily housing than it does for single-family housing. About one-third of multifamily mortgage originations are sold to the secondary market, compared to about three-fourths of single-family mortgages in some years. The GSEs do not dominate the multifamily mortgage market like they dominate the single-family market—the GSE's purchases of multifamily mortgages in 1994 were $5.7 billion out of a total market estimated to be in excess of $30 billion.

(2) *Multifamily Continues to Rely on Portfolio Lenders.* As a result, debt financing for multifamily mortgages remains very dependent on portfolio lenders, many of whom are depository institutions (banks and thrifts). Yet several institutional changes in the past two decades have made it increasingly difficult for depository institutions to originate and hold multifamily mortgages.

These changes include a significant downsizing of the thrift industry after the savings and loan (S&L) debacle of the 1980s, and the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989 which imposed new risk standards for depository institutions to prevent a recurrence of the S&L scandal.[36]

(3) *A Role for the GSEs in Multifamily Housing.* In addition to institutional changes, the difficulty with multifamily lending in recent years was also related to market conditions. The tax-driven overbuilding of the early 1980s was followed by a credit crunch due to the Tax Reform Act of 1986, FIRREA, and the soft market conditions for all properties (both new and existing properties) caused by the overbuilding. As a result, underwriting creditworthy multifamily deals was difficult in the early 1990s, especially for portfolio lenders. These conditions have now improved markedly.

Currently, multifamily properties offer less risk of loss than most other commercial property classes according to Moody's Investors Service.[37] In overbuilt markets, vacancies have declined due to depressed construction levels in the early 1990s. Accordingly, competition for multifamily loans has increased and spreads over Treasury rates of these loans have declined in the past year.

Credit risk remains a concern of investors, but new techniques in multiclass securitization have helped mitigate credit risk on multifamily mortgage pools.[38]

Much of the benefit of increased competition for multifamily mortgages results from reduced spreads on these mortgages, which lower capital costs for owners, and ultimately reduce rents for borrowers. As discussed in background section (7) below, the recent market upturn has not been equally beneficial to multifamily properties affordable to lower-income households. Among these are smaller, inner-city properties, which comprise a significant portion of the existing affordable stock, as well as larger redevelopment projects, seniors' housing, and affordable new construction in faster-growing markets.

By sustaining a secondary market for multifamily mortgages, the GSEs can extend the benefits that come from increased mortgage liquidity to many more lower-income families while helping private owners to maintain the quality of the existing affordable housing stock. That is, greater liquidity and stability in the secondary market due to a significant presence by the GSEs will benefit lower-income renters without the need for subsidy—much as the GSEs now provide benefits to homebuyers without subsidies. Providing liquidity and stability is the main role for the GSEs in the multifamily market, just as in the single-family market.

(4) *The Current Availability of Credit is not the Key Issue Regarding the Role of the GSEs.* As described above, an important consideration in determining the appropriate role for the GSEs in the multifamily housing market is the potential benefit from increased liquidity in the long term. The current "snapshot" of market conditions and recent trends in the availability of mortgage credit are temporary features of the mortgage market.

Today's ample supply of credit for certain multifamily properties and credit gaps for other classes of properties (see part vi of Section 7 below) are temporary features of a changeable market. For example, the current return to multifamily lending by banks and thrifts may be driven in part by a desire by these institutions to maintain loan volume and fee income following the single-family refinance boom of 1993–1994, and in part by Community Reinvestment Act considerations.

Portfolio lenders may eventually feel the burden of FIRREA standards or other portfolio management pressures and seek to reduce their holdings of multifamily mortgages. This could rather rapidly reverse many of the private investment decisions that have contributed to current market conditions. In such circumstances, the liquidity of an efficient secondary market for multifamily mortgages would help these lenders and other lenders maintain a presence in the primary market during such shifts in investment strategy.

(5) *The Importance of Increased Liquidity.* Anecdotal information available to HUD indicates that lack of liquidity, rather than credit risk, is a major obstacle preventing lenders from holding more affordable housing investments in portfolio. HUD examined the current sources of multifamily capital to determine if mortgages originated were available for purchase by the GSEs, including institutional mortgage originators and holders such as life insurance companies and pension funds.

Investors in multifamily mortgages make their investment decisions based on how well the characteristics of an asset matches their portfolio objectives. Increasing the liquidity of an asset like multifamily mortgages would increase the interest of all investors in holding these assets.

Life insurance companies report, for example, that it is generally true that they buy mortgages with the original intent of holding them. However, life insurance companies do sell multifamily mortgages from time to time, particularly when they need to make adjustments in the composition of their portfolios. These companies would increase their sales of multifamily mortgages if these investments were more liquid. In the current market, absent a highly liquid and efficient secondary market for multifamily mortgages, life companies that wish to sell a mortgage must pay the high transaction costs for a private placement. These companies might even buy and hold more multifamily mortgages, including mortgages on affordable units, in portfolio if there were a more active secondary market for these assets that made them more liquid.

(6) *Increased Liquidity Will Make More Multifamily Mortgages Available for GSE Purchase.* The GSEs have the ability to expand the multifamily secondary market and to bring increased liquidity to multifamily mortgages. The increases in liquidity that their sustained presence in this market would bring would make investments in multifamily mortgages more attractive for all investors. As noted above, even traditional portfolio investors can be a source of mortgages for GSE purchase through sales of existing, seasoned mortgages.[39]

Existing multifamily mortgages currently lack standardization with regard to loan-to-value, debt coverage, and other underwriting ratios, as well as with regard to loan terms, property use restrictions, and other factors. Not all existing mortgages would be suitable for GSE purchase. However, the GSEs can play an important role in bringing basic standards to this market, much as they have done with the single-family market, increasing the supply of seasoned mortgages available for purchase in the future.

(7) *Background on Multifamily Market Conditions.* The following discussion provides a more detailed overview of multifamily market conditions and trends.

(i) *Historical Trend: Decline in Debt Financing.* As mentioned above, the downsizing of the thrift industry in the late 1980s and the FIRREA changes contributed to a credit crunch for multifamily lending. Debt financing for multifamily housing became difficult to obtain in the early 1990s. Conventional multifamily mortgage originations peaked at $41 billion in 1986, and then declined every year to a trough of about $25 billion in 1992. In 1993 the level rose to almost $29 billion, and rose again in 1994 when originations were estimated to be about $33 billion. The recent increases in originations suggest that the credit crunch is effectively over.

The thrift industry's problems played a major role in the decline of the multifamily market. In 1985, thrift institutions originated 42 percent of multifamily mortgages. The thrifts' share of multifamily originations declined every year since that peak. Their holdings have decreased by $41 billion since 1988, due to defaults and write-offs, failure of institutions and refinancing of thrift-held mortgages. Multifamily mortgages remained close to 8.5 percent of total thrift assets from 1985 to 1992, but the high failure rate of these institutions has reduced their total assets. After passage of FIRREA in 1989, multifamily mortgage holdings by thrifts continued to decline.[40]

(ii) *Historical Trend: Decline in New Construction.* Multifamily mortgage construction activity has paralleled the decline in multifamily mortgage originations. Along with the decline in debt financing, the value of new multifamily construction declined for seven consecutive years until it edged up again in 1994 to $12.1 billion.[41] However, peaks and troughs have always characterized multifamily construction starts. The most recent peak year was 1985, in which 576,000 multifamily units were started.[42] The downturn from this peak was particularly severe. Over the next 3 years, multifamily housing production reached the lowest levels recorded since the Government began collecting these data 35 years ago. In 1993, the number of new multifamily units started fell to a low of 132,600. Multifamily starts rose to 223,500 in 1994, but even this level was far below the annual average of 435,000 units from 1964 through 1992.

Much of the current production of affordable multifamily housing is due to Low-Income Housing Tax Credits[43]—about 100,000 units per year since 1992.[44] An increasing share of affordable housing is being produced by non-traditional developers, particularly community-based, nonprofit developers. Although current production levels do not meet the demand for low-cost rental housing, housing affordable to lower-income families is a significant share of the multifamily units that are being produced.

(iii) *Supply and Demand Considerations.* Other market forces besides the thrift industry downsizing and FIRREA contributed to the decline in multifamily lending and construction in the early 1990s. For example, the generous tax treatment allowed by the Economic Recovery Tax Act of 1981 resulted in overbuilding of multifamily housing in many markets. When the Tax Reform Act of 1986 reduced the favorable tax treatment, investment decisions on multifamily mortgages appropriately returned to sound market fundamentals of supply and demand at the local market level. Accordingly, an excess supply of multifamily units in many markets kept the demand for both new construction and debt financing low for many years.

The 1994 upturn in multifamily construction is evidence that local rental markets are now stabilizing. Multifamily production has resumed in these markets, but it has been generally limited to higher-rent luxury units. HUD has anecdotal evidence of this happening throughout the Southeast, for example, and elsewhere.[45]

(iv) *Outlook for New Construction and Debt Financing.* Despite the upturn in starts, the demand for new multifamily construction, but not multifamily mortgage credit, is likely to be weak for the remainder of the decade. The aging of the baby-boom generation means that single-family tradeup homes will dominate the new-construction market, while declines in households under age 35 will limit the demand for new rental housing, except in very fast-growing areas in which migration from other parts of the nation and foreign immigration will offset the decline.[46]

HUD believes that the weak demand for new multifamily construction for the remainder of the decade will not result in a reduction in the overall demand for multifamily mortgage credit. The new

[36] Two specific changes instituted by FIRREA that affect multifamily mortgages are risk-based capital requirements under which most multifamily mortgages are assigned 100 percent risk weights (compared to 50 percent risk weights for single-family loans which are not backed by a federal credit agency), and a lending limitation to a single borrower of 15 percent of an institution's unimpaired capital.

[37] "Moody's: Multifamily Offers Less Loss Risk," *National Mortgage News*, May 1, 1995.

[38] For example, Fannie Mae "swap transactions" in which Fannie Mae swaps its securities for the top 85 percent, or the "A" piece, of a multifamily mortgage pool, leaves the riskier "B" piece, which absorbs the first credit losses from the pool, to be sold at discount on the market. Recently there has been considerable investor interest in these higher yielding B pieces.

[39] A potential new source of existing multifamily mortgages that may be available for GSE purchase in 1996 and well into the next decade could come from the Department's proposed "mark-to-market" solution to reducing the long-term costs of Section 8 project-based assistance programs. If Congress enacts the Department's proposal, several billion dollars of existing mortgages on privately-owned low-income multifamily properties could be sold as current Section 8 assistance contracts expire and are not renewed.

[40] Thrift holdings of multifamily mortgages fell by over one-third between 1989 and 1994, reducing their share of holdings among financial institutions from 34.5 percent to 23.3 percent according to the Federal Reserve Board.

[41] Joint Center for Housing of Harvard University, *State of the Nation's Housing*, 1995.

[42] The record high was 906,200 multifamily units started in 1972.

[43] The Low Income Housing Tax Credit (LIHTC) program was introduced by the Tax Reform Act of 1986.

[44] Exact figures for the LIHTC program are not yet available. The estimate in the text includes existing units under rehabilitation as well as new construction, although the majority are estimated to be new construction. Not all of these units have actually started construction or rehabilitation.

[45] HUD, Office of Policy Development and Research. May 1995. "U.S. Housing Market Conditions," pp. 27–47.

[46] Joint Center for Housing of Harvard University, 1995.

construction weakness will be offset by a growing demand associated with the existing stock. Specifically, mortgage demand in the remainder of the decade will include refinancings of long-term loans to reduce interest rates, rollover of shorter-term balloon loans coming due, refinancings to rehabilitate buildings, and existing property sales. Some observers expect that the $33 billion origination volume in 1994 to increase to over $35–$40 billion in 1996 and 1997.[47]

(v) *Interpreting the Trends.* These trends have been interpreted by some as evidence that the private capital markets in the mid-1990s are capable of providing the necessary liquidity to the multifamily market. However, there are other considerations to be weighed.

Despite the upturn in lending for new construction and the increased participation by banks, private conduits and REITs, there are indications that the private credit markets may not be meeting the full range of multifamily credit needs. The loans most likely to be originated by banks or sold to private conduits and real estate investment trusts (REITs) are not secured by affordable rental units. One market observer noted, "* * * while Wall Street has recently sought to fill multifamily lending gaps through conduits, these conduits barely nick the surface of affordable housing, concentrating primarily on market-rate multifamily properties."[48]

There are several reasons for the continued gap in multifamily finance. First, multifamily mortgages, like small business loans, lack standardization. This is particularly true for affordable housing loans because the developments often require a mix of financing sources in order to make the project affordable to low-income households. Second, multifamily loans are also relatively large, making multifamily mortgage pools more difficult to diversify than single-family pools. Third, there is far less information about the performance of multifamily mortgages than there is for single-family mortgages, particularly those secured by affordable developments.

(vi) *Current Credit Gaps: Property Types.* HUD has anecdotal evidence that credit shortages exist currently for certain classes of existing affordable properties: smaller multifamily properties (i.e., 5 to 20 unit properties) in older urban areas, and properties of all sizes in inner cities in need of rehabilitation.[49] While some may consider these to be market "niches," they are not insignificant markets. For example, small multifamily properties actually comprise a major component of the nation's affordable housing stock: the 1991 Residential Finance Survey shows that there were about 470,000 properties in the U.S. with between 5 and 19 units, but only 150,000 with 20 or more units.

Affordable housing for seniors is another class of properties that the conventional market has had difficulty financing. The primary reason for this difficulty appears to be uncertainty by the market over the nature of seniors' housing.[50] Compared to other multifamily rental housing, seniors' housing is more specialized and non-homogeneous. It is a currently evolving product, and investors are especially uncertain of its financial performance.

Finally, there is inadequate capital to finance construction of new affordable units, which usually involve low-income housing tax credits, in higher-growth markets.

(vii) *Current Credit Gaps: Lending Terms.* Terms of conventional financing can also restrict access to credit for units intended for lower-income families. For example, an obstacle to the financing of new construction or substantial rehabilitation of housing for lower-income families is the inability to lock-in an interest rate (without payment of an exorbitant fee) for the permanent loan. Over 60 percent of outstanding multifamily debt either carries a variable interest rate, or will have a balloon payment due in less than 10 years.

The construction financing for most new construction or substantial rehabilitation projects covers both the actual construction and the initial rent-up periods, while the interest rate usually floats until the project has reached the required occupancy level and is ready for permanent loan takeout and possible securitization. The inability to lock-in permanent rates without paying prohibitive lock-in fees, makes it much more difficult to finance affordable housing because a rate increase during construction and rent-up can make an affordable project infeasible.[51] If the GSEs are able to provide new financial instruments that include forward rate commitments at reasonable cost, for example, the credit gaps for affordable units can be reduced.

(viii) *The Impact of Credit Gaps.* A major problem facing low-income households is that low-cost housing units continue to disappear from the existing stock.[52] The ability of the nation to maintain the quality of the affordable housing stock and to stabilize inner city neighborhoods depends on the availability of adequate capital for small existing properties, redevelopment projects, and senior housing.

The current availability of multifamily credit for certain types of multifamily mortgages is not a valid argument that the GSEs are unneeded in the multifamily credit markets. Rather, the current competition for multifamily mortgages on amenity-rich apartments and the tightening spreads between the yields of privately issued multifamily MBS and comparable maturity Treasury bonds demonstrate the benefits that increased liquidity in multifamily markets could provide to the affordable rental housing market. That is, the GSEs' participation in the market can reduce the cost of capital and ultimately improve housing quality and/or decrease rents paid by low-income families.

(ix) *Rentals in 1- to 4-Unit Buildings.* HUD is also aware that a significant portion of the demand for rental housing is satisfied by rental units in properties containing 1 to 4 units. In 1993, about 57 percent of the rental housing in the nation was in buildings with fewer than 5 units. However, there is considerable variation across local markets in the portion of the rental stock that is contained in 1- to 4-unit properties. The New York area, for example, has only 30 percent of its rental units in 1- to 4-unit properties, while Chicago has 46 percent and Boston has 56 percent of its rental stock in 1- to 4-unit buildings. The market-specific variations suggest that rental housing in 1- to 4-unit properties is not a perfect substitute for multifamily rental housing. The need for multifamily housing is relatively greater in some cities.

The financing of 1- to 4-unit properties is provided by the standard single-family primary and secondary mortgage markets if one of the units is owner-occupied. This segment is relatively well-served by the existing capital-delivery system. If the 1- to 4-unit property is investor-owned, the single-family market is still used, but with greater restrictions such as tighter underwriting ratios. These restrictions are generally in response to the greater credit risk posed by investor-owned 1- to 4-unit properties. The investor-owned side of the 1- to 4-unit rental market also has access to the liquidity of the single-family secondary market, albeit with restrictions.

(x) *Credit Risk of Affordable Housing.* Credit risk is an important factor to be considered by the GSEs in their participation in the multifamily mortgage markets. Does credit risk pose a major obstacle to the development of an efficient and highly liquid secondary market for multifamily mortgages that addresses the full range of multifamily credit needs? If the GSEs broaden their penetration of the multifamily market to purchase more small (under $1 million) mortgages, will the GSEs be taking on additional risk? Unfortunately, the academic literature is deficient in addressing these questions. However, numerous sources suggest that credit risk is not an insurmountable obstacle.

On a whole loan basis, risk levels of multifamily lending are often higher than for single family. There are four major reasons for this. First, multifamily loans, like small business loans, lack standardization. This is particularly true for affordable housing because the financial package often involves tax credits or local subsidy which complicates the loans. Second, multifamily loans are also relatively large, making multifamily portfolios more difficult to diversify than single-family portfolios. Third, there is far less information about the performance of multifamily mortgages than there is for single-family mortgages, particularly those secured by affordable units. And finally, private mortgage insurance is not generally available for multifamily loans as it is for single-family loans.

However, multifamily investments in today's market often involve mortgage pools rather than whole loans. Credit risk remains a concern of investors, but new techniques in multiclass securitization have helped mitigate credit risk on multifamily mortgage pools. For example, Fannie Mae "swap transactions" in which Fannie Mae swaps its securities for the top 85 to 90 percent, or the "A" piece, of a multifamily mortgage pool, leaves the riskier "B" piece, which absorbs the first credit losses from the pool, to be sold at discount in the market.

The B-piece that absorbs all credit losses up to 15 percent of the total unpaid balance on a typical multiclass multifamily pool provides considerable loss protection. This makes the A-piece highly marketable. Recently there has been considerable investor interest in these higher yielding B-pieces as well.

A source of anecdotal information on the credit risk involved with affordable multifamily housing comes from participants in the low-income housing tax credit (LIHTC) program which was created by the 1986 Tax Reform Act. Tax credits are the only major Federal assistance program for new or rehabilitated low-income housing that is currently active. Detailed data on the composition and performance of tax credit projects are not yet available. However, both academic and industry experts have been observing the tax credit program since its inception, and a number of them have shared their observations with HUD.

These market observers tell HUD that tax credit deals typically are financed with 30 to 40 percent equity obtained from investors receiving the tax credits, first mortgage debt of about 40 to 60 percent, and the remaining amount up to 30 percent comes from local subsidies often in the form of "soft" second mortgages. Market observers tell us that the trend in tax credit deals is toward increased equity as a share of the total development cost due to increased competition among tax credit syndicators.

The lenders who provide first mortgage financing for tax credit deals consider their loans on these affordable units to be less risky than loans for market-rate multifamily projects. There are several reasons for this conclusion. First, the loan-to-value ratio on these deals is at most 60 percent, which gives lenders substantial protection from credit risk. If the lender must foreclose, the tax credits stay with the property, giving the lender the ability to attract equity from new investors. Other reasons that first mortgage financing on affordable tax credit deals is considered less risky are the low turnover rates of affordable units which keeps project vacancies low, the high potential for future appreciation of the property, and the close scrutiny to initial underwriting by the equity provider or syndicator.[53] This anecdotal experience suggests that not all mortgages on affordable multifamily loans need be high-credit-risk lending.

Continued achievement of the housing goals in this rule may require the GSEs to develop additional capabilities to underwrite classes of multifamily loans such as smaller existing properties, redevelopment projects, seniors' housing, and tax credit deals. This may pose some initial administrative difficulty for the GSEs, but there are no apparent fundamental difficulties in multifamily mortgage origination and purchase activities, such as unmanageable risks. If there were, such risks would be difficult to explain, given the current market trends toward higher multifamily lending activity and new techniques of risk management.

3. Performance and Effort of the GSEs toward Achieving the Low- and Moderate-Income Goal in Previous Years

Each GSE has submitted data on its 1993 and 1994 performance to the Secretary. This is the first time that such detailed information has been made available on the GSEs' activities, which in 1993 involved the purchase of 2.97 million mortgages on 3.24 million dwelling units by Fannie Mae and the purchase of 2.32 million mortgages on 2.38 million dwelling units by Freddie Mac. In 1994, due to rising interest rates and the decline in mortgage refinancings, aggregate purchase volume (in dwelling units) fell by 43 percent, with Fannie Mae purchasing 1.66 million mortgages on 1.97 million units, and Freddie Mac purchasing 1.25 million mortgages on 1.34 million units.

Each GSE also has submitted detailed loan-level data on each loan it purchased in 1993 and 1994. HUD has done extensive analyses to verify the GSEs' stated performance and to measure aspects of their mortgage purchase activities in 1993–94 not contained in tables submitted to HUD in which the GSEs' aggregate data in various ways.[54]

Fannie Mae's data for 1993 show that 34.3 percent of total units financed by its mortgage purchases were affordable to low- and moderate-income families.

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[47] Robert Dunsky, James Follain, and Jan Ondrich, "An Alternative Methodology to Estimate the Volume of Multifamily Mortgage Originations," Report prepared for the Department of Housing and Urban Development, September 1995.

[48] Stuart J. Boesky, "Tax Credits at Work," *Mortgage Banking*, September 1995.

[49] Participants at numerous industry forums and working group meetings sponsored by the Department have attested to the existence of these credit gaps.

[50] Campbell, W. Donald. 1995. "Seniors Housing Finance." Paper prepared for AARP/White House Mini-Conference "Expanding Housing Choices for Older People," January 26–27, 1995, in Washington, D.C.

[51] Another example of the terms of conventional financing that restricts access to credit for affordable units is the lack of long-term fixed rate loans. About 60 percent of conventional multifamily loans are adjustable rates or fixed rate balloon loans with terms of 10 years or less. The rollover of a balloon loan generally resets the interest rate. In either case, if the rate increases at a scheduled adjustment period, the higher debt service expense may be more difficult for an affordable property to absorb.

[52] The Joint Center's *State of the Nation's Housing* for 1995 finds that the number of unsubsidized low-cost units in the Northeast has fallen by half since 1974. In the Midwest the addition of new subsidized units has offset the loss of unsubsidized low-cost units, but in every other region the total low-cost stock (subsidized and unsubsidized) is below 1974 levels.

[53] See Stuart J. Boesky, "Tax Credits at Work," *Mortgage Banking*, September 1995.

[54] In the following discussion, the GSEs' performance is measured using the counting rules which will be in effect under the final rule, not those under the Interim Notice, which have been used by the GSEs in reporting performance to HUD. For this reason, in some cases the following data differ slightly from the data reported by the GSEs.

This represented a significant increase in the low- and moderate-income percentage from an estimated 28 percent in 1992, and Fannie Mae's performance substantially exceeded the 30 percent goal established for Fannie Mae by the Secretary.[55] A further gain was recorded in 1994, as 45.4 percent of Fannie Mae's purchases qualified for the Low- and Moderate-Income Housing Goal, which was also 30 percent in 1994.[56]

Freddie Mac's data for 1993 show that 30.0 percent of total units financed by its mortgage purchases were affordable to low- and moderate-income families. There was a significant increase from an estimated 24 percent in 1992, and Freddie Mac's performance exceeded the 28 percent goal established for Freddie Mac by the Secretary. A further gain was also recorded in 1994, when 38.0 percent of total units financed by Freddie Mac's mortgage purchases qualified for the low- and moderate-income goal, which was raised from 28 percent in 1993 to 30 percent in 1994 for Freddie Mac.

Although the GSEs surpassed the low- and moderate-income goals in 1993 and 1994, approximately 50 percent of their one-unit single-family owner-occupied purchases, the bulk of their business, were secured by housing for families with incomes in excess of 120 percent of area median income, as indicated in Table A.2.[57] These results indicate that achievement of the Low- and Moderate-Income Goal in 1993 and 1994 did not impede the GSEs from buying many mortgages on properties purchased by higher-income families.

TABLE A.2.—DISTRIBUTION OF DWELLING UNITS IN GSE SINGLE-FAMILY OWNER-OCCUPIED 1–UNIT PURCHASES BY INCOME CLASS OF MORTGAGOR, 1993–1994

Income of mortgagor(s) relative to area median income (%)	Fannie Mae, 1993 (%)	Fannie Mae, 1994 (%)	Freddie Mac, 1993 (%)	Freddie Mac, 1994 (%)
0–60	6.8	8.8	6.2	6.8
60–80	11.3	13.2	10.8	11.3
80–100	15.0	16.5	14.9	15.2
100–120	15.4	15.8	15.6	16.0
> 120	51.5	45.7	52.5	50.7
Total	100.0	100.0	100.0	100.0

4. Size of the Conventional Conforming Mortgage Market Serving Low- and Moderate-Income Families Relative to the Overall Conventional Conforming Market

The low- and moderate-income share of the mortgage market is estimated to be 48–52 percent. Appendix D presents in detail the underlying analysis for this estimate.

5. GSEs' Ability to Lead the Industry

FHEFSSA requires the Secretary to consider the GSEs' ability to lead the market in determining the level of the Low- and Moderate-Income Goal. The GSEs' ability to lead the industry depends on their dominant role in the mortgage market, their ability—through their underwriting standards and new programs and products—to influence the types of loans that private lenders are willing to make, their utilization of cutting edge technology, their highly competent and well-trained staffs, and their financial resources.

a. Dominant Role in Market

The GSEs purchased 71 percent of all conventional conforming single-family mortgages in 1993—up from 15 percent in 1980, 34 percent in 1985, 50 percent in 1991, and 64 percent in 1992.[63] The GSEs' share of the relevant market fell to 55 percent in 1994. This was due in part to the increase in the adjustable rate mortgage (ARM) share of the mortgage market, from 20 percent in 1993 to 39 percent in 1994.[64] However, the GSEs' market share in 1994 exceeded that in all years except 1992 and 1993.

Most of the mortgages purchased by the GSEs are securitized, but sizable amounts are held in portfolio—in fact Fannie Mae and Freddie Mac have the first- and fourth-largest mortgage portfolios, respectively, of all mortgage holders in the United States. The GSEs now hold or securitize about 30 percent of the total dollar volume of mortgages outstanding, compared to about 7 percent in 1980, and they have accounted for over 40 percent of the net increase in mortgages outstanding between 1980 and 1992 and over 70 percent of the net increase between 1989 and 1992.[65]

The dominant position of the GSEs is reinforced by their relationship to other market institutions. Banks and savings and loans are both their competitors and their customers—they compete as portfolio lenders, but at the same time they sell mortgages to the GSEs and buy mortgage securities from them, and also buy the debt securities that the GSEs use to finance their portfolios.

b. Set Underwriting Standards for Market

The GSEs' underwriting guidelines are followed by virtually all mortgage originators, including lenders who do not sell many of their mortgages to Fannie Mae or Freddie Mac.[66] The guidelines are also commonly followed in underwriting "jumbo" mortgages, which exceed the maximum principal amount which can be purchased by the GSEs (the conforming loan limit), because such mortgages eventually might be sold to the GSEs as the principal balance is amortized or the conforming loan limit is increased. By setting the credit standards against which the mortgage applications of lower-income families will be judged, the GSEs influence the rate at which mortgage funds flow to low-income borrowers and underserved neighborhoods. Congress realized the crucial role played by the GSEs' underwriting guidelines when it required each enterprise to submit a study on its guidelines to the Secretary and to Congress.

c. Leading Edge Technology

Both GSEs are in the forefront of new developments in mortgage industry technology. For example, Fannie Mae has developed FannieMaps®, a computerized mapping service offered to lenders, nonprofit organizations, and state and local governments to help them implement community lending programs. Both GSEs released automated underwriting systems in 1995. The Freddie Mac system is based on credit scoring, which allows explicit consideration of compensating factors, while the Fannie Mae system automates current underwriting standards. Such systems have the potential to reduce the cost of loan origination, particularly for low-risk loans.

d. Staff Resources

Both GSEs are well-known throughout the mortgage industry for the expertise of their staffs in carrying out their current programs, researching and developing improvements in the mortgage market in general, developing innovative new programs, and conducting research that may lead to new programs in the future. Their key executives frequently testify before Congressional committees on a wide range of housing issues, and both GSEs have developed extensive working relationships with a broad spectrum of mortgage market participants, including various nonprofit groups and government housing authorities.

e. Financial Strength

The benefits that accrue to the GSEs because of their GSE status and solid management have made them two of the nation's most profitable businesses. Fannie Mae's net income has increased steadily from $807 million in 1989 to $2.1 billion in 1994, and for the first two quarters of 1995 net income was accruing at an annual rate of $2.3 billion, despite a 46 percent drop in mortgage purchases and a 60 percent drop in MBS issued in comparison with the first half of 1994. Through the second quarter of 1995, Fannie Mae has recorded 30 consecutive quarters of increased net income. Fannie Mae's return on equity averaged 27.5 percent over the 1990–94 period—far above the rates achieved by most financial corporations. In addition, Fannie Mae's dividends per share more than tripled over this period, rising from $0.72 in 1990 to $2.40 in 1994.

Freddie Mac has shown similar trends. Freddie Mac's net income has increased steadily from $414 million in 1990 to $983 million in 1994, and for the first two quarters of 1995 net income was accruing at an annual rate of $1.04 billion, despite declines in business volume similar to those experienced by Fannie Mae. Freddie Mac's return on equity averaged 20.9 percent over the 1990–94 period—also well above the rates achieved by most financial corporations. Freddie Mac's dividends per share nearly doubled over this period, rising from $0.53 in 1990 to $1.04 in 1994.

One measure of the strength of the GSEs was provided by a recent ranking of American corporations. This survey found that Fannie Mae was first of all companies in total assets and Freddie Mac ranked 17th; with regard to total profits, Fannie Mae ranked 20th and Freddie Mac ranked 52nd.[67]

Under FHEFSSA, beginning with the second quarter of 1994, the GSEs must meet fully phased-in minimum core capital requirements of 2.5 percent of on-balance sheet assets and 0.45 percent of outstanding mortgage-backed securities and other off-balance sheet obligations, except as adjusted by the Director of OFHEO.[68] For the transition period from June 30, 1993 through March 31, 1994, the corresponding percentages were 2.25 percent and 0.40 percent respectively. Based on the relation between actual core capital and minimum core capital, a GSE is classified as adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized.

The Director has found both GSEs adequately capitalized for all nine quarters ending June 30, 1993 through June 30, 1995. At the end of the second quarter of 1995, Fannie Mae's core capital of $10.323 billion exceeded its minimum capital requirement of $9.684 billion by $639 million, and Freddie Mac's core capital of $5.538 billion exceeded its minimum capital requirement of $5.256 billion by $282 million.

f. Conclusion About Leading the Market

In light of these factors, the Secretary has determined that the GSEs have the ability to lead the industry in making mortgage credit available for low- and moderate-income families.

6. The Need to Maintain the Sound Financial Condition of the GSEs

HUD has undertaken a separate, detailed economic analysis of this rule, which includes consideration of the financial safety and soundness implications of the housing goals. The analysis considered the likely mortgage default implications of the goals and implications for the profitability of the GSEs under various alternative economic assumptions. Among the conclusions are: that the goals will have, at most, only limited impacts on credit risk, which the GSEs should be able to handle without significant lowering of underwriting standards; that risks associated with increased multifamily mortgage purchase volumes under the goals are manageable, considering the scope of the increases implied by the goals; and that the goals imply no meaningful increase in risk to the sound financial condition of the GSEs' operations. Based on this analysis, HUD concludes that the goals raise minimal, if any, safety and soundness concerns.

D. Determination of the Low- and Moderate-Income Housing Goals

The annual goal for 1996 for each GSE's purchases of mortgages financing housing for low- and moderate-income families is established at 40 percent of the total number of dwelling units financed by each GSE's mortgage purchases. The goal for 1997 and thereafter, unless changed, is 42 percent. These goals represent an increase over the statutorily-mandated 1994 goal of 30 percent, but they are conservative relative to the market share estimates in Appendix D, below Fannie Mae's low-mod performance in 1994, and only slightly above Freddie Mac's performance in 1994. The Secretary's considerations of the six statutory factors led to the choice of these goals.

1. Housing Need

Almost three-fifths of American households qualify as low- and moderate-income under FHEFSSA's definitions—half of owners and 70 percent of renters. Data from the Census and from the American Housing Surveys demonstrate that housing problems and needs for affordable housing are indeed substantial among

[55] Some mortgage purchases are not eligible for inclusion under the low- and moderate-income goal, such as federally guaranteed mortgages, mortgages on second homes, and mortgages originated prior to January 1, 1993 that were missing relevant borrower income or rent data. Such mortgages were excluded from both the numerator and the denominator in calculating the performance under this goal. These exclusions amounted to 14 percent of Fannie Mae's purchases and 9 percent of Freddie Mac's purchases.

[56] A portion of the increase from 1993 reflects a decline in the share of refinancings, which have been less common among low- and moderate-income families.

[57] Cases with missing data have been excluded from the table.

[63] Estimates provided by Fannie Mae's Economics Department.

[64] Federal Housing Finance Board, "Rates & Terms on Conventional Home Mortgages," Annual Summary, 1994, Table 3. ARMs present less interest rate risk to lenders than fixed-rate mortgages, and therefore are more likely to be retained in portfolio.

[65] John C. Weicher, "The New Structure of the Housing Finance System," *Federal Reserve Bank of St, Louis Review*, July/August 1994, pp. 51–52.

[66] The underwriting guidelines published by the two GSEs are not identical, but they are very similar in most aspects. And since November 30, 1992, Fannie Mae and Freddie Mac have provided lenders the same Uniform Underwriting and Transmittal Summary (Fannie Mae Form 1008/Freddie Mac Form 1077), which is used by originators to collect certain mortgage information that they need for data entry when mortgages are sold to either GSE.

[67] *Business Week*, March 27, 1995, p. 154.

[68] Core capital is defined as the sum of the par or stated value of outstanding common or perpetual, noncumulative preferred stock, paid-in capital, and retained earnings.

low- and moderate-income families. These households, particularly those with very-low-incomes, are burdened by high rent payments and will likely continue to face serious housing problems, given the dim prospects for earnings growth in entry-level occupations.

With respect to homeownership, many younger, minority, and lower-income families did not become homeowners during the 1980s due to the slow growth of earnings, high real interest rates, and continued house price increases. Recently, low interest rates and low inflation have improved affordability conditions and first-time homeowners have become a major driving force in the home purchase market. A large pent-up demand for homeownership exists on the part of low-income families closed out of the market during the 1980s, particularly families with children in need of larger units and better neighborhoods.

Several demographic changes will strain the housing finance system during the 1990s. The continued influx of immigrants will increase demand for both rental and owner-occupied housing. Non-traditional households have become more important as overall household formation rates have slowed. With later marriages, divorce, and non-traditional living arrangements, the fastest growing household groups are single-parent and single-person households.

The multifamily mortgage market is far less integrated into the broader capital markets than is the single-family market. The GSEs do not dominate the multifamily secondary mortgage market as they do the single-family market, and they may never dominate the multifamily market to this extent—multifamily loans are more complex than single-family mortgages, and because of the large size of the component loans, multifamily mortgage pools are more difficult to diversify. Portfolio lending may remain a greater factor in multifamily markets.

Current market conditions indicate that the supply of multifamily mortgage credit is adequate for amenity-rich, suburban garden style apartments. However, credit gaps do exist, particularly with regard to the maintenance of the existing affordable stock and construction of affordable units in higher growth markets. Increased liquidity can make investments in affordable multifamily housing more attractive to all investors, including portfolio lenders, which would bring more capital at lower cost to fill current and future multifamily credit gaps. The GSEs' active participation in the market can lead to this needed increase in liquidity.

2. Past Performance and Ability to Lead the Industry

The GSEs have been assisting the overall secondary market, increasing their share of purchases of conventional conforming single-family mortgage origination from 42 percent in 1989 to 70 percent in 1993 before dropping to 55 percent in 1994. In fact, most industry observers would agree that the recent growth in the secondary market was the reason the decline of the thrift industry had only minor effects on the nation's housing finance system.

The GSEs' performance on the low- and moderate-income goal has also been improving. Fannie Mae's performance increased from 34.3 percent in 1993 to 45.4 percent in 1994. Freddie Mac's performance also increased from 30.0 to 38.0 percent during this period.

Single-family Market. The Secretary is concerned about the GSEs' assistance to the lower-income end of the market. Figure A.1 presents the distribution of the GSEs' single-family mortgage purchases by income category. In 1994, homeowners with incomes less than 60 percent of median represented roughly 7 percent of GSE purchases, and those with incomes less than 80 percent of median represented no more than 19 percent of GSE purchases. Families with incomes over 120 percent of median, on the other hand, accounted for approximately 50 percent of single-family mortgages purchased by the GSEs.

While the GSEs have improved their performance, they continue to purchase a smaller proportion of mortgages for very-low-income homebuyers than do portfolio lenders operating in the conforming market. According to the AHS, about 10 percent of conforming loans were originated for very-low-income homebuyers in 1993, compared to about 5 percent of GSE purchases in 1993. Figure A.2 uses HMDA data to compare the GSEs with the non-GSE portion of the conforming market. In 1993 and 1994, very-low-income loans accounted for a higher percentage of the business of portfolio (non-GSE) lenders than they did of GSE business. The 1993 and 1994 HMDA data suggest that there is room for the GSEs to improve their performance in purchasing loans at the lower-income end of the market.

Moreover, there is evidence that there is a significant population of potential homebuyers who might well respond to aggressive outreach. As mentioned above, both Fannie Mae and the Joint Center expect immigration to be a major source of future homebuyers. Furthermore, analysis by The Urban Institute indicates the existence of a large untapped potential. Indeed, the GSE's recent experience with new outreach and affordable housing initiatives is important confirmation of this potential.

Multifamily Market. The Secretary is particularly concerned about the level of Freddie Mac's activity in the multifamily area. In 1994, Freddie Mac purchased $913 million in multifamily mortgages, which was an increase over its purchase of $191 million in 1993. Given the affordability problems faced by renters and the need for a well-functioning secondary market for multifamily loans, it is imperative that Freddie Mac's multifamily business be increased. By sustaining a secondary market in units that meet the special affordable goal, the GSEs will bring increased liquidity, added stability, and ultimately lower rents for lower-income families in these segments of the market. In addition, their promotion of increased standardization in multifamily finance would allow for more direct links to capital markets and improve overall market efficiency and stability. The 1996 and 1997–99 goals are intended to encourage a minimum level of multifamily activity by Freddie Mac.

3. Market Feasibility and Changing Market Conditions

As detailed in Appendix D, the low- and moderate-income mortgage market is quite large, accounting for 48 to 52 percent of dwelling units financed by conventional conforming mortgages. Figure A.3 compares recent GSE performance, the 1996 and 1997–1999 goals, and the size of the low- and moderate-income market. Having considered the projected market and economic and demographic conditions for 1996–1999 and the GSEs' recent performance, HUD has determined that goals for low- and moderate-income purchases of 40 percent for 1996, 42 percent for 1997–1999, and 42 percent thereafter pending establishment of a new goal, are feasible.

In estimating the size of the market, HUD also used assumptions about future economic and market conditions that were less favorable than those that existed over the last two years. HUD is well aware of the volatility of mortgage markets and the possible impacts on the GSE's ability to meet the housing goals. Should conditions change such that the goals are no longer reasonable or feasible, the Secretary has the authority to revise the goals.

4. Parity Between the GSEs

The Secretary is establishing identical goals for both Fannie Mae and Freddie Mac. Freddie Mac consistently lags behind Fannie Mae on the housing goals. In part, this is due to Freddie Mac's limited multifamily activity—their 1994 multifamily mortgage purchases accounted for only 8.9 percent of their overall performance under this housing goal (versus 23.8 percent for Fannie Mae). Freddie Mac has used the past four years to rebuild its multifamily operations and has recently brought on new staff, developed new systems, and is pursuing an aggressive acquisition strategy. On the single-family side, Freddie Mac serves the same lenders and offers the same products as Fannie Mae. Therefore, Freddie Mac should be able to match Fannie Mae's performance in achieving the single-family goals. Moreover, the legislative history supports the idea of parity after the transition period, noting that "because the enterprises have essentially equal opportunities, their respective annual goals should generally be set at comparable levels."[69]

5. Conclusions

The Secretary has determined that the 1996 and 1997–1999 goals set forth above address national housing needs and current economic, housing, and demographic conditions, and that they take into account the GSEs' performance in the past in purchasing low- and moderate-income mortgages, as well as the size of the conventional mortgage market serving low- and moderate-income families. Moreover, the Secretary has considered the GSEs' ability to lead the industry as well as the GSEs' financial condition. The Secretary has determined that the goals are necessary and achievable.

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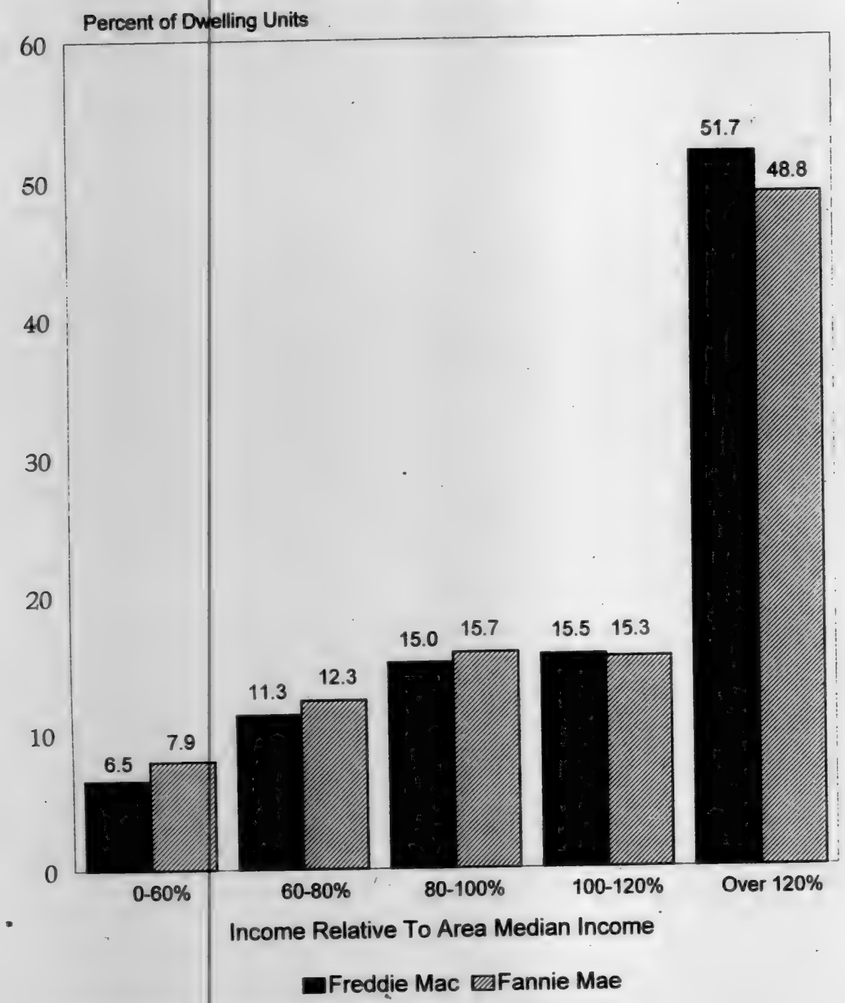
[69] Senate Report 102–282, p. 36.

FIGURE A.1

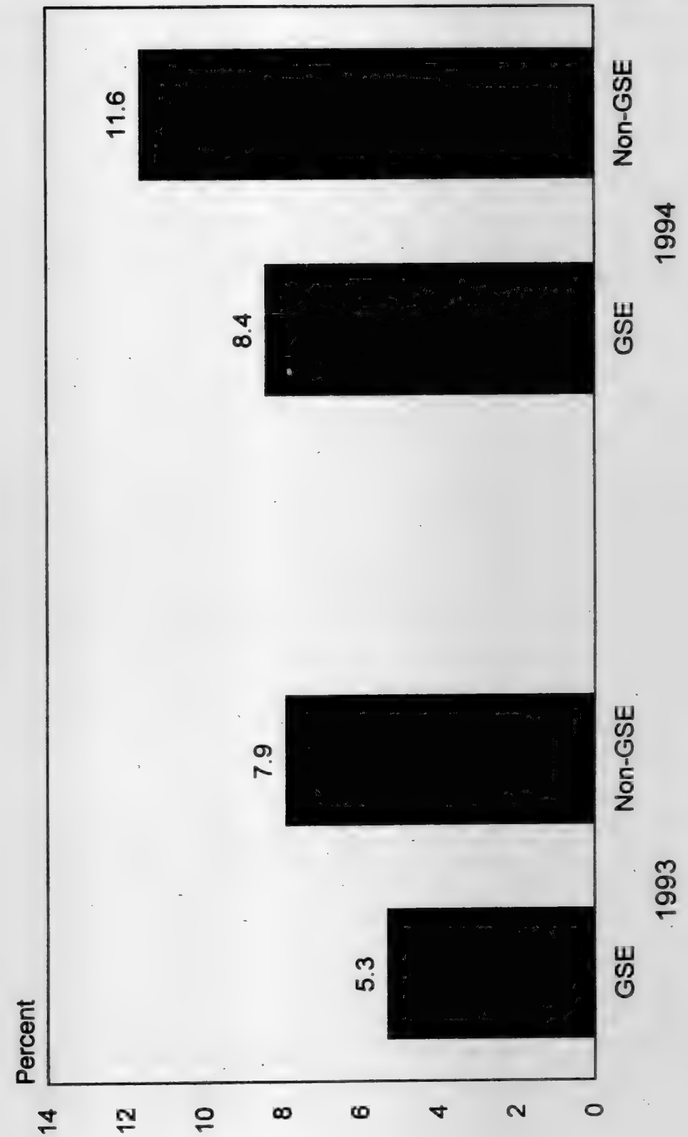
Distribution Of Total GSE Purchases Of Single-Family Owner-Occupied Dwelling Units By Income Class of Mortgagor For 1994



* Performances based on assumptions in final rule.

FIGURE A.2

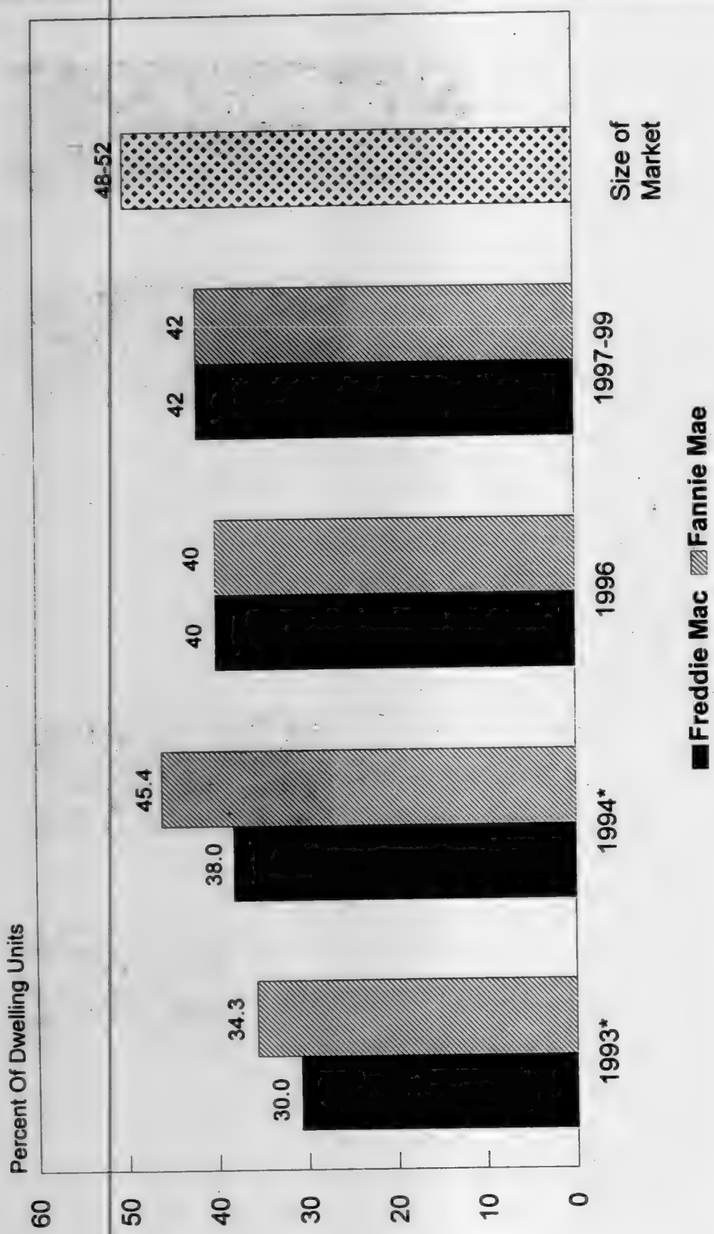
The Share Of GSE And Non-GSE Mortgages To Very-Low-Income Borrowers 1993 and 1994



Source: 1993 and 1994 HMDA Data

FIGURE A.3

Low- And Moderate-Income Activity And Goals For Freddie Mac And Fannie Mae, 1993-99



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Appendix B—Secretarial Considerations to Establish the Central Cities, Rural Areas, and Other Underserved Areas Goal

A. Establishment of Goal

1. Introduction

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (FHEFSSA) requires the Secretary to establish an annual goal for the purchase of mortgages on housing located in central cities, rural areas, and other underserved areas (the "Geographically Targeted Goal").

In establishing this annual housing goal, FHEFSSA requires the Secretary to consider:

1. Urban and rural housing needs and the housing needs of underserved areas;
2. Economic, housing, and demographic conditions;
3. The performance and effort of the GSEs toward achieving the Geographically Targeted Goal in previous years;
4. The size of the conventional mortgage market for central cities, rural areas, and other underserved areas relative to the size of the overall conventional mortgage market;
5. The ability of the GSEs to lead the industry in making mortgage credit available throughout the United States, including central cities, rural areas, and other underserved areas; and
6. The need to maintain the sound financial condition of the GSEs.

Organization of Appendix. Section A defines the goal and summarizes HUD's assessment of other proposed definitions of the Geographically Targeted Goal. Section B reports findings on access to mortgage credit and Section C addresses the factors listed above. Section D summarizes the Secretary's rationale for setting the level for the Geographically Targeted Goal.

2. HUD's Geographically Targeted Goal

As required by FHEFSSA, during 1993–1995 only mortgages located in central cities, as designated by the Office of Management and Budget (OMB), counted toward the Geographically Targeted Goal. FHEFSSA directed the Secretary to expand the Geographically Targeted Goal to include rural areas and other underserved areas.

HUD's definition of the Geographically Targeted Goal is based on studies of mortgage lending and mortgage credit flows conducted by academic researchers, community groups, the GSEs, HUD and other government agencies. While more research must be done before mortgage access for different types of people and neighborhoods is fully understood, one finding from the existing research literature stands out—minority and low-income neighborhoods have higher mortgage denial rates and lower mortgage origination rates than other neighborhoods. A neighborhood's minority composition and its level of income are useful proxies for measuring access to mortgage credit.

Metropolitan Areas. The rule provides that within metropolitan areas, mortgage purchases will count toward the goal when those mortgage purchases finance properties that are located in census tracts where either the median income of families in the tract does not exceed 90 percent of the area median income, or minorities comprise 30 percent or more of the residents and the median income of families in the tract does not exceed 120 percent of the area median income.

The final rule's definition includes 20,326 of the 43,232 census tracts (47 percent) in metropolitan areas and accounts for 44 percent of the metropolitan population.[1] The tracts included in this definition suffer from poor mortgage access and depressed socioeconomic conditions. The average mortgage denial rate in these tracts is 21 percent, almost twice the denial rate in non-included tracts.

The definition in the final rule adds 3,657 additional tracts to the definition in the proposed rule. These tracts have significant problems with access to credit, as evidenced by relatively high mortgage denial rates and low origination rates.

Nonmetropolitan Areas. The final rule provides that in non-metropolitan areas, mortgage purchases that finance properties that are located in counties will count toward the Geographically Targeted Goal where: minorities comprise 30 percent or more of the residents and the median income of families does not exceed 120 percent of the state nonmetropolitan median income; *or* the median income of families does not exceed 95 percent of the greater of the state nonmetropolitan median income or the nationwide nonmetropolitan median income.

Two important factors influenced HUD's definition of nonmetropolitan underserved areas—lack of available data for measuring mortgage availability in rural areas and the difficulty in operating mortgage programs at the census-tract level in rural areas. Because of these factors, the final rule uses a more inclusive, county-based definition of underservedness in rural areas. HUD's definition includes 1,511 of the 2,305 counties (66 percent) in nonmetropolitan areas and accounts for 54 percent of the nonmetropolitan population.

Goal Levels. The Geographically Targeted Goal is 21 percent in 1996 and 24 percent in 1997 and thereafter. HUD estimates that the mortgage market in areas included in the Geographically Targeted Goal accounts for 25–28 percent of the total number of newly-mortgaged dwelling units. In 1994, 29 percent of Fannie Mae's purchases financed dwelling units located in these areas, compared with 24 percent of Freddie Mac's purchases.

3. Alternative Definitions

Fannie Mae and Freddie Mac each proposed alternative definitions of underserved areas. Several other commenters suggested alternative definitions similar to those proposed by the GSEs. Fannie Mae would define all central city and nonmetropolitan census tracts as underserved; a suburban or non-central city tract would be considered underserved if minorities comprise 50 percent or more of the residents; or if the median income of families does not exceed 80 percent of the area median income. Freddie Mac would define a tract as underserved if minorities comprise 20 percent or more of the residents; or if the median income of families does not exceed 100 percent of the area median income.

HUD conducted extensive analysis of these and other alternative definitions of underserved areas. HUD also contracted with the Urban Institute to evaluate the alternative definitions of underserved areas.[2] That analysis, which is reported in Section B of this appendix, concluded that HUD's definitions in both the proposed rule and this final rule provide much better measures of mortgage access problems.

Fannie Mae Definition. The research conducted by the GSEs, other mortgage

[1] Tracts are excluded from the analysis if median income is suppressed or there are no population or owner-occupied 1–4 unit properties. There are 2,033 of these tracts. When reporting denial, origination, and application rates, tracts are excluded from the analysis if there are no purchase or refinance applications. Tracts are also excluded from the analysis if: (1) group quarters constitute more than 50 percent of housing units or (2) there are less than 15 home purchase applications in the tract and the tract denial rates equal 0 or 100 percent. Excluded tracts account for a small percentage of mortgage applications (1.4 percent). These tracts are not excluded from HUD's underserved areas if they meet the income and minority thresholds. Rather, the tracts are excluded to remove the effects of outliers from the analysis.

[2] George Galster, "Comments on Defining 'Underserved' Areas in Metropolitan Regions," Urban Institute, prepared for the U.S. Department of Housing and Urban Development, August 15, 1995.

market economists, and HUD supports the premise that the location of a census tract—whether within a central city or a suburb—has minimal relationship to whether the tract is underserved. Instead, these studies have found that mortgage flows in a census tract are strongly correlated with the minority concentration or median income of that tract. The Urban Institute criticized the continued use of OMB-designated central cities in the goal because it treats all areas in central cities as if they have access problems. However, substantial evidence shows that mortgage access problems are not the same across central city neighborhoods.

Use of the definition advanced by Fannie Mae would add 8,833 central-city tracts to 13,554 central city tracts under this rule's definition. Credit access is not a problem in these added tracts—their average mortgage denial rate is 11 percent, which is one-half of the 22 percent denial rate for central city tracts covered by this final rule.

Freddie Mac Definition. Use of the definition proposed by Freddie Mac would add substantially more tracts and tracts that have lower denial rates than the definition in the final rule. Credit access does not appear to be a problem in the 5,367 tracts added by the Freddie Mac definition. The denial rate for the added tracts is 15 percent, which is only slightly above the 13 percent denial rate for all metropolitan tracts and significantly less than the 21 percent denial rate for metropolitan area tracts covered by this final rule.

B. Underlying Data and Identifying Underserved Areas

1. Introduction and Overview

Data on mortgage credit flows are far from perfect, and issues regarding the identification of areas with inadequate access to credit are both complex and controversial. For this reason, before considering housing needs and past GSE performance, it is essential to define "underserved areas" as accurately as possible from existing data. To provide essential background for understanding the final rule's definition of underserved areas for this goal, this section carefully reviews the literature investigating access to credit and reports findings from HUD's analysis of 1993 and 1994 HMDA and Census data bases. The first part of this section discusses research and data analysis in urban areas; the latter part discusses rural areas.

Three main points are made in this section:

- The existence of substantial geographic disparities in mortgage credit is well documented for metropolitan areas. Research has demonstrated that areas with lower incomes and higher shares of minority population consistently have poorer access to mortgage credit, with higher mortgage denial rates and lower origination rates for mortgages. Thus, the income and minority composition of an area is a good method of determining whether that area is being underserved by the mortgage market.
- The research supports a targeted definition. Studies conclude that characteristics of the applicant and the neighborhood where the property is located are the major determinants of mortgage denials and origination rates. Once these characteristics are accounted for, other influences such as location in an OMB-designated central city play only a minor role in explaining disparities in mortgage lending.[3]
- Research on mortgage credit needs in rural areas is not extensive because of the lack of mortgage data. The available research does suggest that income and minority composition identify rural areas that experience housing and mortgage access problems. The lack of mortgage data, however, suggests the use of a broader underserved definition than in metropolitan areas.

2. Evidence About Access to Credit in Urban Areas

The viability of neighborhoods—whether urban, rural, or suburban—depends on the access of their residents to mortgage capital to purchase and improve their homes. While neighborhood problems are caused by a wide range of factors, including substantial inequalities in the distribution of the nation's income and wealth, there is increasing agreement that imperfections in the nation's housing and mortgage markets are hastening the decline of distressed neighborhoods. Disparate denial of credit based on geographic criteria can lead to disinvestment and neighborhood decline. Discrimination and other factors, such as inflexible and restrictive underwriting guidelines, limit access to mortgage credit and leave potential borrowers in certain areas underserved.

a. Early Credit Flow Studies

Most studies of geographical disparities have used Home Mortgage Disclosure Act (HMDA) data. A number of studies using the early HMDA data sought to test for the existence of geographical redlining, which is the refusal of lenders to make loans in certain neighborhoods regardless of the creditworthiness of the individual applicant.[4] Consistent with the redlining hypothesis, these studies found lower volumes of loans going to low-income and high-minority neighborhoods.[5] However, such analyses were criticized because they did not distinguish between demand and supply effects[6]—that is, whether loan volume was low because people in high-minority and low-income areas were unable to afford home ownership and therefore were not applying for mortgage loans, *or* because lenders refused to make loans in these areas. Moreover, the early HMDA data were incomplete because non-depository lenders (e.g., mortgage bankers, who originate most FHA loans) were not included.

Like early HMDA studies, an analysis of deed transfer data in Boston found lower rates of mortgage activity in minority neighborhoods.[7] The discrepancies held even after controlling for income, house values and other economic and non-racial factors that might explain differences in demand and housing market activity.[8]

[3] For the sake of brevity, in the remainder of this appendix, the term "central city" is used to mean "OMB-designated central city."

[4] Prior to 1990, HMDA data showed only the total number and aggregate dollar volume of loans made in each census tract for depository institutions; no information was reported on individual borrowers or on applications denied.

[5] These studies, which were conducted at the census tract level, typically involved regressing the number of mortgage originations (relative to the number of properties in the census tract) on characteristics of the census tract including its minority composition. A negative coefficient estimate for the minority composition variable was often interpreted as suggesting redlining. For a discussion of these models, see Eugene Perle, Kathryn Lynch, and Jeffrey Horner, "Model Specification and Local Mortgage Market Behavior," *Journal of Housing Research*, Volume 4, Issue 2, 1993, pp. 225–243.

[6] For critiques of the early HMDA studies, see Andrew Holmes and Paul Horvitz, "Mortgage Redlining: Race, Risk, and Demand," *The Journal of Finance*, Volume 49, No. 1, March 1994, pp. 81–99; and Michael H. Schill and Susan M. Wachter, "A Tale of Two Cities: Racial and Ethnic Geographic Disparities in Home Mortgage Lending in Boston and Philadelphia," *Journal of Housing Research*, Volume 4, Issue 2, 1993, pp. 245–276.

[7] Katherine L. Bradbury, Karl E. Case, and Constance R. Dunham, "Geographic Patterns of Mortgage Lending in Boston, 1982–1987," *New England Economic Review*, September/October 1989, pp. 3–30.

[8] Using an analytical approach similar to that of Bradbury, Case, and Dunham, Anne Shlay found evidence of fewer mortgage loans originated in black census tracts in Chicago and Baltimore. See Anne Shlay, "Not in That Neighborhood: The Effects of Population and Housing on the Distribution of Mortgage Finance within the Chicago SMSA," *Social Science Research*, Volume 17, No. 2, 1988, pp. 137–163; and "Financing Community: Methods for Assessing Residential Credit Disparities, Market Barriers, and Institutional Reinvestment Performance in the Metropolis," *Journal of Urban Affairs*, Volume 11, No. 3, 1989, pp. 201–223.

In addition, a larger percentage of transactions in such neighborhoods were financed by the seller or other non-traditional institutional lenders (e.g., credit unions, governments, universities, business leaders, real estate trusts, and pension funds). Greater seller financing may suggest unmet demand for mortgages, since it is not likely that minority sellers prefer, more than whites, to finance the sale of their homes rather than being paid in cash.[9] The study concluded that "the housing market and the credit market together are functioning in a way that has hurt African American neighborhoods in the city of Boston."

b. Improved HMDA Data—Wider Coverage and Mortgage Denial Rates

HMDA reporting was expanded in 1990 to provide information on the disposition of loan applications (originated, approved but not accepted by the borrower, denied, withdrawn, or not completed), to include the activity of large independent mortgage companies, and to provide information on the race and income of individual loan applicants. An additional expansion in 1993 covered mortgage companies that originated 100 or more home purchase loans in the preceding calendar year. HUD's analysis using the expanded HMDA data for 1993 and 1994 shows that high-minority and low-income census tracts have both higher loan application denial rates and lower loan origination rates.[10]

Table B.1 presents mortgage denial and origination rates by the minority composition and median income of census tracts for metropolitan areas. Two patterns are clear:

- Census tracts with higher percentages of minority residents have higher mortgage denial rates and lower mortgage origination rates than all-white or substantially-white tracts. For example, the denial rate for census tracts that are over 90 percent minority is over two-and-a-half times that for census tracts with less than 10 percent minority.
- Census tracts with lower incomes have higher denial rates and lower origination rates than higher income tracts. The average number of 1993 mortgage originations in the highest-income census tracts (i.e., tracts with a median income over 150 percent of area median) was 20.0 per 100 owner-occupants; this compares with a range of 4.4 to 9.0 originations for the census tract deciles with income less than 90 percent of area median.[11]

Denial rates in 1993 increased from 10.7 to 29.3 percent as minority concentration changes from low-minority to 90-percent-minority tracts.[12] They declined from 24.2 to 7.8 percent as tract income increases from 60 percent of area median to over 150 percent of area median. Similar patterns arose in 1994.

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[9] Analysis of 1985 American Housing Survey data also showed a greater reliance on non-institutional financing by low- and moderate-income owners in both metropolitan and rural areas. See the Urban Institute, "The Availability and Use of Mortgage Credit in Rural Areas," 1990.

[10] HUD's previous analysis of 1992 HMDA produced comparable results. For a similar analysis based on 1992 HMDA data, see Glenn B. Canner, Wayne Passmore, and Dolores S. Smith, "Residential Lending to Low-Income and Minority Families: Evidence from the 1992 HMDA Data," *Federal Reserve Bulletin*, Volume 80, February 1994, pp. 79–108.

[11] Origination rates in 1994 are lower than origination rates in 1993 for all income and minority levels because of the lower number of refinance mortgages.

[12] The denial rates in Table B.1 are for purchase mortgages. Denial rates are several percentage points lower for refinance loans than for purchase loans, but denial rates follow the same pattern for both types of loans: rising with minority concentration and falling with increasing income.

Table B.1

Origination and Denial Rates for Conventional Mortgages

Minority Percentage	Originations Per 100 Owner-Occupied Units (Purchases and Refinances) 1993	1994	Denial Rates (Purchases) 1993	1994
Less than 10%	14.6	8.2	10.7 %	10.9 %
10-20	13.7	8.0	13.2	13.7
20-30	11.9	7.3	16.2	16.7
30-40	11.1	6.8	18.4	18.5
40-50	10.1	6.5	20.1	20.2
50-60	9.4	6.4	22.0	21.1
60-70	9.2	6.3	22.7	21.6
70-80	8.5	6.3	23.2	22.1
80-90	7.0	5.6	25.3	23.9
90-100	4.1	3.9	29.3	27.3

Tract Income Relative to MSA Median	Originations Per 100 Owner-Occupied Units (Purchases and Refinances) 1993	1994	Denial Rates (Purchases) 1993	1994
Less than 20%	5.9	1.4	30.6 %	28.7 %
20-30	6.3	4.2	25.8	28.4
30-40	4.4	3.9	28.2	27.9
40-50	4.7	4.4	28.0	26.8
50-60	5.1	4.4	25.8	26.0
60-70	6.2	5.0	24.2	23.8
70-80	7.3	5.5	21.6	21.4
80-90	9.0	6.2	18.7	19.3
90-100	10.7	6.8	15.9	16.3
100-110	12.7	7.6	13.3	13.6
110-120	14.9	8.5	11.3	11.3
120-150	18.1	9.6	9.4	9.3
150+	20.0	9.9	7.8	7.5

Source: HUD Analysis of 1993 and 1994 HMDA Data

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Table B.2 aggregates the data in Table B.1 into six minority and income combinations that exhibit very different credit flows. The low-minority (less than 30 percent minority), high-income (over 120 percent of area median) group has a denial rate of 8 percent and an origination rate of 19 per 100 owner occupants. The high-minority (over 50 percent), low-income (under 90 percent of area median) group has a denial rate of 27 percent and an origination rate of only 6 per 100 owner occupants. The other groupings fall between these two extremes.

The advantages of HUD's underserved area definition can be seen by examining the minority-income combinations highlighted in Table B.2. The sharp differences in denial rates and origination rates between the underserved and remaining served categories illustrate that HUD's definition delineates areas that have significantly less success in receiving mortgage credit. Underserved areas have almost twice the average denial rate of served areas (21 percent versus 11 percent) and half the average origination rate per 100 owner occupants (8 versus 16). HUD's definition does not include high-income (over 120 percent of area median) census tracts even if they meet the minority threshold. The mortgage origination rate per 100 owner occupants (15) for high-income tracts with a minority share of population over 30 percent is about the same as the average (16) for all served areas.

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Table B.2

Mortgage Denial and Origination Rates By Minority and Income Characteristics of the Census Tract

Denial Rates (Purchase Mortgages Only)				
	Minority Composition			
Tract Income	< 30%	30 - 50%	50 - 100%	Total
Less Than 90%	19.0%	22.1%	26.9%	21.3%
90 - 120%	12.8%	18.1%	21.6%	13.5%
120+	8.4%	15.1%	16.7%	8.9%
Total	11.8%	19.1%	24.4%	13.3%
Origination Rates per 100 owner occupants (Purchase and Refinance Mortgages)				
	Minority Composition			
Tract Income	< 30%	30 - 50%	50 - 100%	Total
Less Than 90%	8.3%	8.0%	5.7%	7.5%
90 - 120%	12.9%	11.3%	9.7%	12.6%
120+	19.1%	15.9%	13.8%	18.8%
Total	14.1%	10.7%	7.2%	13.1%

Source: HUD Analysis of 1993 HMDA Data

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c. Recent HMDA Studies—Controlling for Applicant Credit Risk

An important question is whether variations in denial rates reflect lender bias against certain kinds of neighborhoods and borrowers, or simply the credit quality of the potential borrower (as indicated by the applicant's available assets, credit rating, employment history, etc.). The technical improvements offered by recent studies of credit disparities have attempted to control for credit risk factors that might influence a lender's decision to approve a loan. Without fully accounting for the creditworthiness of the borrower, racial differences in denial rates cannot be attributed to lender bias. The best example of accounting for credit risk is the study by researchers at the Federal Reserve Bank of Boston, which analyzed mortgage denial rates.[13] To control for credit risk, the Boston Fed researchers included 38 borrower and loan variables indicated by lenders to be critical to loan decisions. The study found that minorities' higher denial rates could not be explained fully by income and credit risk factors. African Americans and Hispanics were about 60 percent more likely to be denied credit than Whites, even after controlling for credit risk characteristics such as credit history, employment stability, liquid assets, self-employment, age, and family status and composition. Although almost all highly-qualified applicants of all races were approved, differential treatment was observed among borrowers with lesser qualifications.[14]

A recent HUD study also found mortgage denial rates for minorities to be higher in ten metropolitan areas, even after controlling for credit risk.[15] In addition, the higher denial rates observed in minority neighborhoods were not purely a reflection of the higher denial rates experienced by minorities. Whites experienced higher denial rates in some minority neighborhoods than in some predominantly white neighborhoods.

A more recent reassessment and refinement of the data used by the Federal Reserve Bank of Boston has confirmed the findings of that study.[16] William C. Hunter of the Federal Reserve Bank of Chicago also found that race was a factor in denial rates of marginal applicants. While denial rates were comparable for borrowers of all races with "good" credit ratings, among those with "bad" credit ratings or high debt ratios, minorities were significantly more likely to be denied than similarly-situated whites. The study concludes that the racial differences in denial rates are due to a cultural gap between white loan officers and minority applicants, and conversely, a cultural affinity with white applicants.

The two Fed studies and the HUD study concluded that the effect of borrower race on mortgage rejections persists even after controlling for legitimate determinants of lenders' credit decisions. Thus, they give some legitimacy to denial rate comparisons such as those in Tables B.1 and B.2. However, the independent race effect identified in these studies is still difficult to interpret. In addition to lender bias, access to credit can be limited by loan characteristics that reduce profitability[17] and by underwriting standards that have disparate effects on minority and lower income borrowers and neighborhoods.[18]

d. Recent HMDA Studies—Controlling for Neighborhood Risk and Demand and Tests of the Redlining Hypothesis

Two recent statistical studies sought to test the redlining hypothesis by more completely controlling for differences in neighborhood risk and demand. These studies do not support claims of racially induced mortgage redlining—the explanatory power of neighborhood race is reduced to the extent that the effects of neighborhood risk and demand are accounted for. However, these studies cannot reach definitive conclusions about redlining because of the correlation of neighborhood race with other explanatory variables included in their models.

First, Andrew Holmes and Paul Horvitz used 1988–1991 HMDA data to examine the flow of conventional mortgage originations across census tracts in Houston.[19] Their regression model included as explanatory variables the economic viability of the loan and characteristics of residents of the tract (e.g., house value, income, age distribution and education level), measures of demand (e.g., recent movers and change in owner-occupied units between 1980 and 1990), and measures of credit risk (defaults on government-insured loans and change in tract house values between 1980 and 1990). To determine the existence of racial redlining, the model also included as explanatory variables the percentages of African American and Hispanic residents in the tract and the increase in the tract's minority percentage between 1980 and 1990. Most of the neighborhood risk and demand variables were significant determinants of the flow of conventional loans in Houston. The coefficients of the racial composition variables were insignificant which, led Holmes and Horvitz to conclude that allegations of redlining could not be supported, at least in the Houston market.

One of their more interesting findings, however, was that the racial composition variables became significant and negative, thus suggesting the existence of redlining, when they re-estimated their model twice, once without the credit risk variables and once without the demand variables. This finding is consistent with earlier credit flow studies that concluded that redlining exists. Holmes and Horvitz caution against relying on findings from these earlier studies because they did not adequately account for differences in neighborhood risk and demand. The authors conclude that "a claim of racially based geographic discrimination in mortgage lending must be based on a consideration of race *after* taking

[13] Alicia H. Munnell, Lynn E. Browne, James McEneaney, and Geoffrey M. B. Tootell, "Mortgage Lending in Boston: Interpreting HMDA Data," Federal Reserve Bank of Boston, Working Paper Series, No. 92–7, October 1992.

[14] This study was the subject of substantial criticism with regard to data quality and model specification, but even after accounting for these problems, the race conclusions were found to persist in a re-estimation of the model by Fannie Mae. See James H. Carr and Isaac F. Megbolugbe, "The Federal Reserve Bank of Boston Study on Mortgage Lending Revisited," *Journal of Housing Research*, Volume 4, Issue 2, 1993, pp. 277–313. Other criticisms, however, have also been mentioned. For instance, the fact that the credit risk variables included in the model are correlated with the minority variable suggests that the latter may be picking up the effects of still other credit risk variables omitted from the model. See John Straka, "Boston Federal Reserve Study of Mortgage Discrimination," *Secondary Mortgage Markets*, Volume 10, No. 1, Winter 1993, pp. 8–9, for a useful discussion of other aspects of the Boston Fed study.

[15] Ann B. Schnare and Stuart A. Gabriel, "The Role of FHA in the Provision of Credit to Minorities," ICF Incorporated, prepared for the U.S. Department of Housing and Urban Development, April 25, 1994.

[16] William C. Hunter, "The Cultural Affinity Hypothesis and Mortgage Lending Decisions," WP–95–8, Federal Reserve Bank of Chicago, 1995.

[17] Lenders are discouraged from making smaller loans in older neighborhoods. Since upfront loan fees are frequently determined as a percentage of the loan amount, such loans generate lower revenue and thus are less profitable to lenders.

[18] Standard underwriting practices may exclude lower income families that are, in fact, creditworthy. Such families tend to pay cash, leaving them without a credit history. In addition, the usual front-end and back-end ratios applied to applicants' housing expenditures and other on-going costs may be too stringent for lower income households, who typically pay higher shares of their income for housing than higher income households.

[19] Holmes and Horvitz also analyzed the flow of government-insured loans and obtained what are now standard results in the literature—compared with conventional loans, government-insured loans are more targeted to lower income and risky neighborhoods.

account of variables that are rationally connected with the economics of the mortgage lending process."[20]

In the second study, Michael Schill and Susan Wachter attempt to improve on earlier studies of redlining by examining whether mortgage denials are related to neighborhood racial composition.[21] Schill and Wachter argue that HMDA data on mortgage rejections, first released in 1990, allow researchers to address perhaps the major shortcoming of earlier credit flow studies—the inability to separate demand influences from supply influences. Analyzing information on whether lenders accept or reject individual loan applicants permits Schill and Wachter to study the determinants of the supply decision separately.[22]

In their empirical work, Schill and Wachter focused on loan acceptances rather than denials. Their model posits that the probability that a lender will accept a specific mortgage application depends on characteristics of the individual loan application[23] and characteristics of the neighborhood where the property collateralizing the loan is located. Because they rely on public data, Schill and Wachter did not have information on several loan and property risk variables, such as loan-to-value ratio, that are known to affect the mortgage decision. To compensate for the lack of these variables, the study includes neighborhood risk proxies that are likely to affect the future value of the properties.[24] Finally, to test for the existence of racially-induced lending patterns across census tracts, Schill and Wachter included the percentage of persons in the census tract that were African American and Hispanic.

The authors tested their model for conventional mortgages in Philadelphia and Boston. They first estimated their model including as explanatory variables only the individual loan and racial composition variables. The applicant race variables—whether the applicant was African American or Hispanic—showed significant negative effects on the probability that a loan would be accepted. Schill and Wachter stated that this finding does not provide evidence of individual race discrimination because applicant race is most likely serving as a proxy for credit risk variables omitted from their model (e.g., credit history, wealth and liquid assets). In this first analysis, the percentage of the census tract that was African American also showed a significant and negative coefficient, a result that is consistent with redlining. However, when the neighborhood risk proxies were included in the model along with the individual loan variables, the percentage of the census tract that was African American becomes insignificant. Thus, similar to Holmes and Horvitz, Schill and Wachter stated that "once the set of independent variables is expanded to include measures that act as proxies for neighborhood risk, the results do not reveal a pattern of redlining."[25]

In their conclusion, however, Schill and Wachter stated that while their results did not support the hypothesis of redlining, they could not say definitively that neighborhood race is unrelated to lenders' decisions to accept or reject loan applications. One reason for their hesitancy is that many of their individual loan variables (as well as their neighborhood risk variables) are correlated with the racial composition of the census tract. For instance, the applicant's race variable (i.e., whether the applicant is African American or Hispanic) remained highly significant and negative in all their estimations. Because of the high degree of racial segregation that exists in urban areas, the applicant race variable was positively correlated with the census tract race variable. It may be that the applicant race variable was picking up effects that should properly be attributed to the census tract race variable.[26] If this were the case, Schill and Wachter's conclusions about the existence of racially induced redlining would necessarily change.

e. Geographic Dimensions of Underserved Areas—Targeted versus Broad Approaches

An important issue for the GSE regulations is whether geographic areas under this goal should be broadly or narrowly defined. Is central city location an adequate proxy for lack of access to mortgage credit? What is gained by more targeted neighborhood-based definitions? This section reports findings from three studies that address these questions. All three support defining underserved areas in terms of the minority and/or income characteristics of census tracts, rather than in terms of a broad definition such as all areas of all central cities.

HUD's Analysis. Tables B.1 and B.2 documented the relatively high denial rates and low mortgage origination rates in underserved areas as defined by HUD. This section extends that analysis by comparing underserved and served areas within central cities and suburbs. Figure B.1 shows that HUD's definition targets central city neighborhoods that are experiencing problems obtaining mortgage credit. The 22 percent denial rate in these neighborhoods is twice the 11 percent denial rate in the remaining areas of central cities. Similarly, the average mortgage origination rate (per 100 owner occupants) in HUD-defined underserved areas of central cities is 7, much lower than the average of 15 for the remaining areas of central cities.

A broad, inclusive definition of "central city" that includes all areas of all OMB-designated central cities would include the "remaining" portions of these cities. Figure B.1 shows that these areas, which account for approximately 42 percent of the population in OMB-designated central cities, appear to be well served by the mortgage market. They are not experiencing problems obtaining access to mortgage credit.[27]

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[20] Holmes and Horvitz, page 97 (emphasis added). The authors recognize that many of the risk and demand variables in their model are rather highly correlated with the racial composition variables also included in their model. Thus, one could argue that their risk and demand variables are serving, to a certain extent, as proxies for race, which would mean that their results suggest a high degree of redlining in the Houston market. Holmes and Horvitz dismiss this argument by stating that several of their non-racial variables are reasonable proxies for other prudent lending variables such as wealth and job stability for which they did not have direct data.

[21] Schill and Wachter. Although their methodology and findings are similar to those of studies discussed in the next section, it is informative to review Schill and Wachter's study in detail because it illustrates issues that must be dealt with before definitive conclusions can be reached about redlining.

[22] Perle also agrees that micro-based models of mortgage denial rates are more appropriate for studying redlining than macro-based credit flow models that fail to separate demand and supply effects.

[23] Individual loan characteristics include loan size (economies of scale cause lenders to prefer large loans to small loans) and all individual borrower variables included in the HMDA data (the applicant's income, sex, and race).

[24] Their neighborhood risk proxies include median income and house value (inverse indicators of risk), percent of households receiving welfare, median age of houses, homeownership rate (an inverse indicator), vacancy rate, and the rent-to-value ratio (an inverse indicator). A high rent-to-value ratio suggests lower expectations of capital gains on properties in the neighborhood.

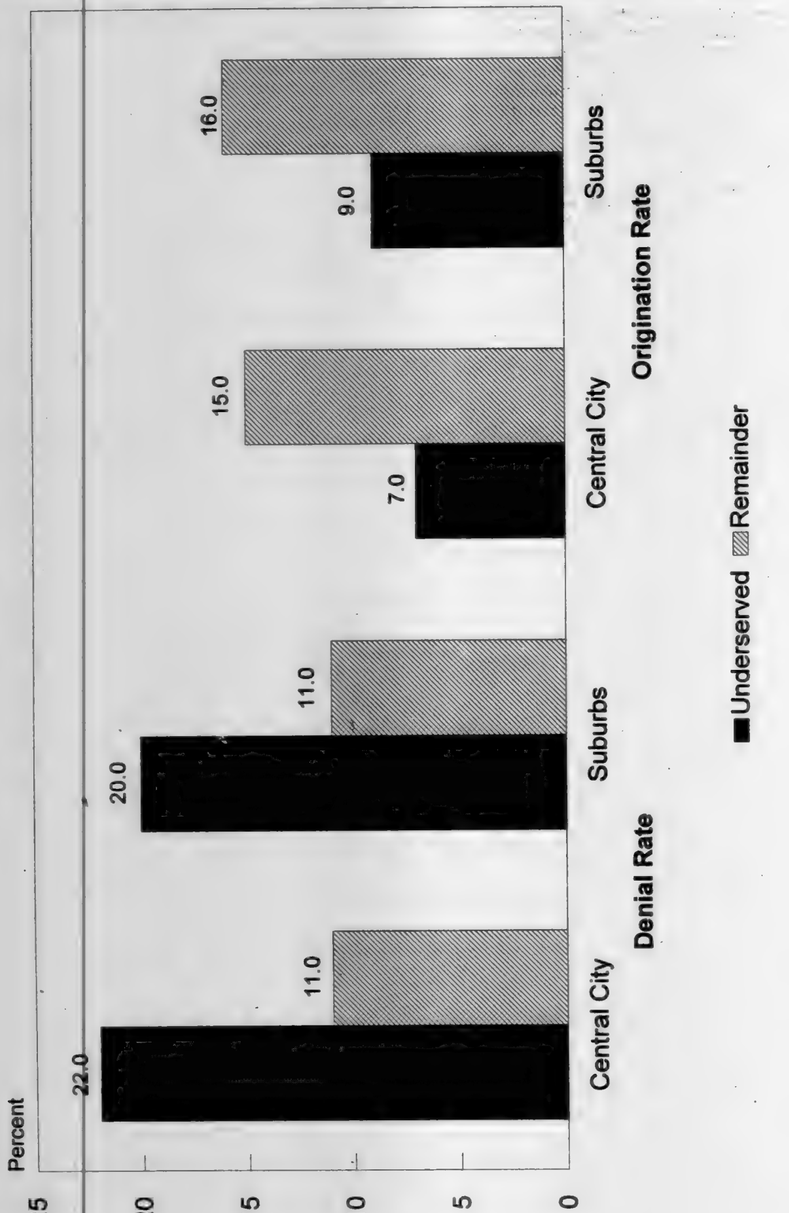
[25] Schill and Wachter, page 271. Munnell, *et al.* reached similar conclusions in their study of Boston. They found that the race of the individual mattered, but that once individual characteristics were controlled, racial composition of the neighborhood was insignificant.

[26] In their study of individual loan denial rates, Avery, Beeson, and Sniderman obtain significant and positive coefficients for the individual applicant's race. Unlike Schill and Wachter, they found that denial rates were higher in low-income tracts even after controlling for the effects of the applicant's race and income. Although denial rates were not higher overall for purchase and refinance loans in minority tracts after controlling for the race of the applicant, denial rates were higher in minority tracts for white applicants. In other words, minorities have higher denial rates wherever they attempt to borrow, but whites face higher denials when they attempt to borrow in areas dominated by minorities. In addition, denial rates were higher in minority areas for home-improvement loans. See Robert B. Avery, Patricia E. Beeson, and Mark S. Sniderman, "Underserved Mortgage Markets: Evidence from HMDA Data," Working Paper Series 94–16, Federal Reserve Bank of Cleveland, October 18, 1994.

[27] The Preamble to this rule provides additional reasons why central city location should not be used as a proxy for underserved areas.

FIGURE B.1

1993 Denial And Origination Rates
Underserved Areas And Remainder
By Central Cities And Suburbs



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HUD's definition also targets in the suburbs as well as in central cities—for example, the average denial rate in underserved suburban areas is almost twice that in the remaining served areas of the suburbs. Low-income and high-minority suburban tracts appear to have credit problems similar to their central city counterparts. These suburban tracts, which account for 31 percent of the suburban population, are encompassed by the definition of other underserved areas. Thus, the advantage of HUD's targeted definition of underserved areas is illustrated by sharp differences in measures of mortgage access between served and underserved areas within both central cities and suburbs.

William Shear, James Berkovec, Ann Dougherty, and Frank Nothaft, economists at Freddie Mac, recently completed an analysis of mortgage flows and application acceptance rates in 32 metropolitan areas that also supported a targeted definition of underserved areas.[28] These researchers regressed the number of mortgage originations per 100 properties in the census tract on several independent variables that are intended to account for some, but admittedly not all, of the demand and supply (i.e., credit risk) influences at the census tract level. Examples of the demand and supply variables at the census tract level include: tract income relative to the area median income, the increase in house values between 1980 and 1990, the percentage of units boarded up, and the age distributions of households and housing units. The tract's minority composition and central city location were included to test if these characteristics are associated with underserved neighborhoods after controlling for the demand and supply variables. Several of their findings relate to the issue of defining underserved areas:

- Census tracts with high concentrations of African American and Hispanic families have lower rates of applications, originations, and acceptance rates. For instance, the regression estimates suggest that all-White census tracts would have an average 10.5 originations per 100 properties, while all-African American and all-Hispanic census tracts would have about 7 originations per 100 properties.
- Tract income influences mortgage flows—tracts at 80 percent of median income are estimated to have 8.6 originations per 100 owners as compared with 10.8 originations for tracts over 120 percent of median income.
- Once census tract influences are accounted for, central city location has only a minimal effect on credit flows.

Shear, Berkovec, Dougherty, and Nothaft recognized that it is difficult to interpret their estimated minority effects—the effects may indicate lender discrimination, supply and demand effects not included in their model but correlated with minority status, or some combination of these factors. They explain the implications of their results for measuring underserved areas as follows:

> * * * While it is not at all clear how we might rigorously define, let alone measure, what it means to be underserved, it is clear that there are important housing-related problems associated with certain location characteristics, and it is possible that, in the second or third best world in which we live, mortgage markets might be useful in helping to solve some of these problems. We then might use these data to help single out important areas or at least eliminate some bad choices. * * * The regression results indicate that income and minority status are better indicators of areas with special needs than central city location.[29]

HUD Analysis. HUD used 1993 HMDA data to update the analysis of Shear *et al.* HUD focused on denial and origination rates for conforming conventional applications and included all metropolitan areas in the analysis.[30] HUD's analysis also supports a targeted underserved definition. Lower-income census tracts and census tracts with concentrations of African American and Hispanic families have lower origination rates and higher denial rates. For example, the regression estimates suggest that all-White census tracts would have an average 13.7 percent denial rate and 13.4 originations per 100 properties, while census tracts that are 50 percent African American (Hispanic) would have an average 22.3 (19.7) percent denial rate and 9.8 (12.0) originations per 100 properties. Furthermore, the regression analysis indicates central-city location has a minimal effect on denial and origination rates, after controlling for census tract effects.[31]

Robert Avery, Patricia Beeson, and Mark Sniderman of the Federal Reserve Bank of Cleveland recently presented a paper specifically addressing the issue of underserved areas in the context of the GSE legislation.[32] Their study examines variations in application rates and denial rates for all individuals and census tracts included in the 1990 and 1991 HMDA data base. They seek to isolate the differences that stem from the characteristics of the neighborhood itself rather than the characteristics of the individuals that apply for loans in the neighborhood or lenders that happen to serve them. Similar to the two studies of redlining reviewed in the previous section, Avery, Beeson and Sniderman hypothesize that variations in mortgage application and denial rates will be a function of several risk variables such as the income of the applicant and changes in neighborhood house values; they test for independent racial effects by adding to their model the applicant's race and the racial composition of the census tract. Econometrics are used to separate individual applicant effects from neighborhood effects.

Based on their empirical work, Avery, Beeson and Sniderman reach the following conclusions:

- The individual applicant's race exerts a strong influence on mortgage application and denial rates. African American applicants, in particular, have unexplainably high denial rates.
- Once individual applicant and other neighborhood characteristics are controlled for, overall denial rates for purchase and refinance loans were only slightly higher in minority census tracts than non-minority census tracts.[33] For white applicants, on the other hand, denial rates were significantly higher in minority tracts.[34] That is, minorities

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[28] William Shear, James Berkovec, Ann Dougherty, and Frank Nothaft, "Unmet Housing Needs: The Role of Mortgage Markets," presented at mid-year meeting of the American Real Estate and Urban Economics Association, June 1, 1994. See also Susan Wharton Gates, "Defining the Underserved," *Secondary Mortgage Markets,* 1994 Mortgage Market Review Issue, pp. 34–48.

[29] Shear *et al.*, p. 18.

[30] Including FHA applications in the analysis—as in Shear *et al.*—does not significantly change the results reported in this section.

[31] Central city location had no significant effect on origination rates. For denial rates, the difference between the average central city denial rate and the average suburban denial rate was .56 percent.

[32] See Avery, *et al.*

[33] Avery *et al.* find very large unadjusted differences in denial rates between white and minority neighborhoods, and although the gap is greatly reduced by controlling for applicant characteristics (such as race and income) and other census tract characteristics (such as house price and income level), a significant difference between white and minority tracts remains (for purchase loans, the denial rate difference falls from an unadjusted level of 16.7 percent to 4.4 percent after controlling for applicant and other census tract characteristics, and for refinance loans, the denial rate difference falls from 21.3 percent to 6.4 percent). However, when between-MSA differences are removed, the gap drops to 1.5 percent and 1.6 percent for purchase and refinance loans, respectively. See Avery, *et al.*, p. 16.

[34] Avery, *et al.*, page 19, note that, other things equal, a black applicant for a home purchase loan is 3.7 percent more likely to have his/her application denied in an all-minority tract than in an all-white tract, while a white applicant from an all-minority tract would be 11.5 percent more likely to be denied.

have higher denial rates wherever they attempt to borrow but whites face higher denials when they attempt to borrow in minority neighborhoods. In addition, Avery *et al.* found that home improvement loans had significantly higher denial rates in minority neighborhoods. Given the very strong effect of the individual applicant's race on denial rates, Avery *et al.* note that since minorities tend to live in segregated communities, a policy of targeting minority neighborhoods may be warranted.

- The median income of the census tract had strong effects on both application and denial rates of purchase and refinance loans, even after other variables were accounted for.
- There is little difference in overall denial rates between central cities and suburbs, once individual applicant and census tract characteristics are controlled for.

Avery, Beeson and Sniderman conclude that a tract-level definition would be a more effective way to define underserved areas in the GSE regulation than using the list of OMB-designated central cities as a proxy.

The next section will also document that there are equally widespread and pervasive differences in socioeconomic conditions across neighborhoods.

f. Conclusions From HUD's Analysis and the Economics Literature About Urban Underserved Areas

The implications of studies by HUD and others for defining underserved areas can be summarized briefly. First, the existence of large geographic disparities in mortgage credit is well documented. HUD's analysis of 1993 and 1994 HMDA data shows that low-income and high minority neighborhoods receive substantially less credit than other neighborhoods and, by most reasonable criteria, fit the definition of being underserved by the nation's credit markets.

Second, researchers are testing models that more fully account for the various risk, demand, and supply factors that determine the flow of credit to urban neighborhoods. The studies by Holmes and Horvitz and Schill and Wachter are good examples of this recent research. Their attempts to test the redlining hypothesis show the analytical insights that can be gained by more rigorous modeling of this issue. However, as those two studies show, the fact that our urban areas are highly segregated means that the various loan, applicant, and neighborhood characteristics currently being used to explain credit flows are often highly correlated with each other which makes it difficult to reach definitive conclusions about the relative importance of any single variable such as neighborhood racial composition. Thus, the need continues for further research on the underlying determinants of geographic disparities in mortgage lending.[35]

Finally, much research strongly supports a targeted definition of underserved areas. Studies by Shear, *et al.* and Avery, Beeson, and Sniderman conclude that characteristics of both the applicant and the neighborhood where the property is located are the major determinants of mortgage denials and origination rates—once these characteristics are controlled for, other influences such as central city location play only a minor role in explaining disparities in mortgage lending. HUD's analysis shows that both credit and socioeconomic problems are highly concentrated in underserved areas within central cities and suburbs. The remaining, high-income portions of central cities and suburbs appear to be well served by the mortgage market.

HUD recognizes that the mortgage origination and denial rates forming the basis for the research mentioned in the preceding paragraph, as well as for HUD's definition of underserved areas, are the result of the interaction of individual risk, demand and supply factors that analysts have yet to disentangle and interpret. The need continues for further research addressing this problem. HUD believes, however, that the economics literature is consistent with a targeted rather than a broad approach for defining underserved areas.

3. Alternative Underserved Area Definitions for Urban Areas[36]

This section compares the final rule's underserved definition to the alternative definitions advanced by Freddie Mac and Fannie Mae. Other comments were essentially variations on the two distinct approaches suggested by the GSEs. Therefore, rather than analyzing all variants, this section analyzes the two major alternative definitions—using all central cities and all rural areas, or expanding on the proposed rule's tract-based approach. The tracts added by these two alternative definitions have lower denial rates and higher origination rates than the tracts covered by the final rule. A study by the Urban Institute, summarized below, criticized both alternative definitions for being too broad in coverage.

a. The Fannie Mae Definition

Fannie Mae urged that HUD use the following definition for the geographically targeted goal: All central cities as defined by OMB, all non-metropolitan areas, *and all other* metropolitan census tracts that are more than 50 percent minority *or* that have an income less than 80 percent of area median income. The alternative definition proposed by Fannie Mae includes central city tracts that are substantially better off and have fewer problems accessing credit than underserved tracts covered by the final rule's definition. In suburban areas, the Fannie Mae definition excludes suburban tracts that appear to have mortgage access problems.

Table B.3 reports mortgage denial and origination rates and socioeconomic characteristics of served and underserved census tracts under the Fannie Mae definition. Credit access does not appear to be a problem in the added tracts—mortgage denial rates are one-half of mortgage denial rates in central city tracts covered by HUD's underserved definition. Moreover, the added central city census tracts appear substantially better off than the central-city census tracts covered by HUD's definition. The 7 percent poverty rate for the central city tracts added by Fannie Mae's underserved definition is only about one-third the 22 poverty rate for tracts included in central cities under the final rule.

The suburban tracts excluded from Fannie Mae's definition do not appear as distressed as other suburban underserved tracts covered by the final rule. For example, the 10 percent poverty rate in the excluded tracts is lower than the 14 percent poverty rate in all HUD suburban underserved tracts. But these tracts do appear to have problems accessing mortgage credit as evidenced by their high denial rates. The denial rate in the excluded tracts is 18 percent compared to the 20 percent denial rate in all underserved suburban tracts covered by the final rule.

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[35] Methodological and econometric challenges that researchers will have to deal with are discussed in Mitchell Rachlis and Anthony Yezer, "Serious Flaws in Statistical Tests for Discrimination in Mortgage Markets," *Journal of Housing Research*, Volume 4, 1993, pp. 315–336.

[36] The analysis in this section relies on 1993 HMDA data.

Table B.3

Characteristics of HUD's and Fannie Mae's Underserved Areas In Metropolitan Areas

	Denial Rate	Tract Income/ MSA Income	Relative Median House Value*	Minority Percentage	Poverty Rate
Central City					
HUD (Base)	21.5%	69.7	71.7	51.6%	21.9%
Additional Fannie Mae Tracts	10.8%	130.2	128.2	13.4%	7.1%
Suburbs					
HUD (Base)	20.4%	80.8	78.5	34.4%	14.0%
Tracts Excluded from Fannie Mae Definition	18.4%	88.8	86.3	18.8%	10.1%
Metropolitan Areas					
HUD (Base)	21.0%	70.9	72.3	46.9%	20.0%
Fannie Mae Definition	15.5%	89.2	89.7	39.0%	16.6%

* Median house value in tract relative to median house value in metropolitan area.

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b. The Freddie Mac Definition

A tract is underserved, according to Freddie Mac, if minorities comprise 20 percent or more of the residents *or* the median income of families does not exceed 100 percent of area median income. Freddie Mac's definition includes areas covered by the Geographically Targeted Goal as well as 5,367 additional tracts where median family income is between 90 and 100 percent of area median income or minorities comprise 20–30 percent of tract population.

Table B.4 reports characteristics of the census tracts added by Freddie Mac's underserved area definition. Mortgage credit access does not appear to be a major problem in these added tracts. Their 15 percent mortgage denial rate is only slightly above average and much lower than the 21 percent denial rate for tracts included in the Geographically Targeted Goal. Mortgage origination patterns in these tracts show a similar disparity.

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Table B.4

Characteristics of HUD's and Freddie Mac's Underserved Areas In Metropolitan Areas

	Denial Rate	Tract Income/ MSA Income	Relative Median House Value*	Minority Percentage	Poverty Rate
Central City					
HUD (Base)	21.5%	66.3	69.0	54.4%	23.6%
Added Freddie Mac Tracts	14.5%	98.1	96.2	14.6%	9.5%
Suburbs					
HUD (Base)	20.4%	80.0	78.5	34.4%	14.0%
Added Freddie Mac Tracts	15.3%	97.0	95.4	10.7%	7.7%
Metropolitan Areas					
HUD (Base)	21.0%	70.9	72.3	46.9%	20.0%
Added Freddie Mac Tracts	15.0%	97.4	95.7	12.1%	8.3%

* Median house value in tract relative to median house value in metropolitan area.

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c. The Urban Institute Study.

HUD commissioned the Urban Institute to evaluate the Department's effort to define underserved metropolitan areas. The Urban Institute analysis examined how HUD's, Fannie Mae's, and Freddie Mac's underserved definitions are related to a measure of credit flow problems. An underserved definition can be judged on how accurately it predicts the "credit flow measure." In its analysis, the Urban Institute used mortgage denial rates as the credit flow measure.

The Urban Institute tested each of the definitions using a denial rate threshold of 22 percent.[37] The proposed rule's definitions correctly predict the credit flow measure for 71 percent of the tracts, while the Freddie Mac definition correctly predicts only 63 percent of the tracts, and the Fannie Mae definition only 58 percent of the tracts. Moreover, the HUD definition is not sensitive to changes in the threshold that defines credit flow problems. The Urban Institute also concluded that the final rule's definition is superior to the Freddie Mac and Fannie Mae definitions when the tract denial rate threshold is reduced to 17 percent.

4. Identifying Underserved Locations in Rural Areas[38]

This section discusses the final rule's definition of rural underserved areas, reviews the existing literature on rural housing needs and rural mortgage credit problems, and summarizes discussions held with rural lenders, rural housing developers, public interest groups, and the GSEs at forums on rural lending sponsored by HUD.[39] In addition, this section explains why defining underservedness in rural areas is more difficult than in metropolitan areas.

a. Basic Characteristics of Rural Areas

Identifying underserved rural areas is more difficult than identifying underserved metropolitan areas. In part, this difficulty results from the use of multiple definitions of "rural" by researchers, policy makers, and Federal agencies. The Census Bureau defines rural as communities with fewer than 2,500 residents. The Department of Agriculture's Rural Housing and Community Development Service (formerly the Farmers Home Administration) uses several definitions of rural, each specific to one of its housing programs. Maps outlining the areas covered by the various RHCDS programs are available only at local agriculture field offices.[40]

For the purposes of the final rule, HUD defines rural to be any area that lies outside of metropolitan boundaries established by OMB. The OMB nonmetropolitan definition is easily understood by lenders and the GSEs. Approximately 21 percent of the United States population lives in nonmetropolitan areas, with 75 percent of the nonmetropolitan population concentrated in the South and Midwest.

Proportionately more poor people and fewer minorities live in nonmetropolitan areas than in metropolitan areas. The poverty rate in nonmetropolitan areas is 17 percent, compared to 12 percent in metropolitan areas; minorities make up 15 percent of the population in nonmetropolitan areas compared to 27 percent in metropolitan areas. The South and West nonmetropolitan regions have the highest poverty rates and minority percentages. The South, for example, has a 21 percent poverty rate and a 23 percent minority concentration. Poverty rates are highest in remote counties that are not adjacent to a metropolitan area and have less than 2,500 in urban areas. These remote counties account for 12 percent of nonmetropolitan population.

b. Data Issues and Previous Research

Defining rural underserved areas requires a different approach than in metropolitan areas because of the lack of mortgage flow data, differences in housing needs between urban and rural areas, and the difficulty of implementing mortgage programs at the census tract level in rural areas. Evaluating which rural areas are underserved in terms of access to mortgage credit cannot be done with HMDA data, the source used for most studies of credit needs, because HMDA does not provide geographic identifiers on mortgage activity outside of metropolitan statistical areas.[41]

There are few conclusive studies on access to mortgage credit in rural areas because of the lack of adequate data.[42] The studies that do exist only suggest broad conclusions about credit flows in rural areas. Recognizing this lack of research on credit flows in rural areas, the Department consulted with researchers from academia, the Department of Agriculture, the Census Bureau, the Housing Assistance Council, and the Congressional Budget Office. The Department also conducted a series of forums to solicit information on rural mortgage markets from lenders, rural housing groups, and the GSEs. The following section summarizes the existing research on rural credit flows and describes further analysis conducted by HUD.

The Urban Institute Study ("The Availability and Use of Mortgage Credit in Rural Areas" 1990) concludes that while little data on mortgage credit in rural areas is available, evidence suggests that there is no rural credit shortage that would warrant changes in federal mortgage credit policy. Symptoms of credit shortage identified by the Urban Institute include low homeownership rates, limited borrowing to finance home purchase, adverse credit terms for qualified borrowers, and larger portions of income spent on housing. Because these symptoms do not exist in the majority of rural areas, the Urban Institute concluded that most rural areas suffering from inactive local mortgage markets have weak economies in which demand for home mortgages is low.

The Urban Institute's indicators of a credit shortage and their focus on fixed-rate conventional mortgages could have led to the wrong conclusions about mortgage credit availability in rural areas. Higher homeownership rates in rural areas, for example, are not necessarily indicative of the lack of a credit shortage. Although nonmetropolitan households are more likely to own their homes than metropolitan households—the homeownership rate is 73 and 62 percent, respectively, in nonmetropolitan and metropolitan areas—the higher homeownership rate likely reflects the lack of rental opportunities and the high percentage of mobile homes in rural areas. Mobile homes account for 15 percent of owner-occupied units in nonmetropolitan areas, compared with only 6 percent in metropolitan areas. Mobile homes are starter homes for many rural households because of their affordability and the availability of dealer financing. The homeownership rate, exclusive of mobile homes, is approximately equal in metropolitan and nonmetropolitan areas indicating that nonmetropolitan households who buy mobile homes are the counterparts of metropolitan households who live in rental housing.

Furthermore, it is not surprising that studies that focus on fixed-rate home purchase mortgages lead to the conclusion that credit terms in rural areas do not differ significantly from credit terms in urban areas.[43] Properties that meet the underwriting criteria for fixed-rate mortgages are similar to urban properties that meet these criteria. Many rural properties, however, do not satisfy the criteria designed for mortgages underwritten in urban areas.

The Center for Community Change Study ("Location, Location, Location", 1990) suggests that financing of housing in rural areas is made difficult by underwriting standards designed for urban areas: "Interviews with bankers and realtors indicate that federal mortgage assistance programs and secondary market underwriting criteria continue to be geared to an urban market with a fire hydrant on every block and hard surface roads throughout." Moreover, the Center for Community Change reports that in many remote areas and areas with high concentrations of minorities and low-income households, a number of barriers prevent borrowers from accessing mortgage credit. These barriers include lower lender participation in federal mortgage assistance programs, lack of financial expertise among rural lenders, lack of private mortgage insurance, and a decreasing number of lending institutions located in rural communities as a result of the savings and loan crisis of the 1980s.

Housing Assistance Council Study. The connection between high-minority, low-income populations and poor access to mortgage credit was examined in a 1995 study conducted by the Housing Assistance Council (HAC) for HUD. HAC focused on the impact of alternative combinations of HUD's proxies of underserved areas—minority concentration and median income. The HAC study reiterated the difficulty of establishing an underserved areas definition that balances the priority of targeting those areas with the most severe credit problems with the priority of including enough areas so that the GSEs could build an infrastructure to facilitate and stimulate mortgage lending in rural areas. HAC suggested that the income criteria be high enough to include persistent poverty areas with low minority concentrations.

USDA's Economic Research Service. "Rural Conditions and Trends", a periodic research publication, shows that urban proximity is important: Economic conditions and housing problems tend to be worse in counties most remote from metropolitan areas or smaller cities.[44] In particular, counties with "persistent low-income," which are disproportionately more rural and remote, have had little recent economic activity, stagnation in real family income during the 1980s, and continue to have the highest incidence of housing lacking complete plumbing. These high poverty counties are concentrated in Appalachia and in areas with high proportions of minority residents.

The ICF Study. Prepared for the Federal Housing Finance Board, this 1993 study examines the effect of the Federal Home Loan Bank System (FHLBS) District Banks on the housing financing system in rural areas. The study concluded that nonmetropolitan commercial banks and savings and loans are more likely than their metropolitan counterparts to hold loans in portfolio than to participate in the secondary market. Banks and savings and loans are the largest holders of fixed-rate mortgages in nonmetropolitan communities. In metropolitan areas, however, conventional mortgages are more often held or securitized by GSEs. Membership in the FHLBS is beneficial to commercial banks, savings and loans, and thrifts because the Bank System can provide them with capital, in the form of advances secured by the portfolio loans, to originate additional mortgage loans.[45] The importance of the FHLBS to rural lenders suggests that increased access to the secondary market would also be important for rural lenders.

RFS Analysis. HUD's analysis of the Residential Finance Survey shows that 17 percent of all mortgages originated between 1989 and 1991 were in nonmetropolitan areas. This percentage is consistent with the overall percentage of owner-occupied units in nonmetropolitan areas, especially after taking into account the lower mobility of nonmetropolitan residents and the fact that more households use cash and other non-bank sources to finance home purchases.[46]

Nonmetropolitan households are less likely to hold FHA mortgages than their metropolitan counterparts. According to RFS data, FHA's share of mortgages originated in nonmetropolitan areas is approximately half its share of mortgages in metropolitan areas. In part, the lower FHA share is attributable to the presence of the Rural Housing and Community Development Service (formerly the Farmers Home Administration) in nonmetropolitan areas. According to RFS data, the RHCDS 502 Direct Loan Program accounted for 5 percent of rural home purchase mortgages between 1989 and 1991.[47] The funds for this program, however, have been dwindling from $1.8 billion dollars in 1994 to $900 million in 1995. In 1991, the RHCDS created the 502 Guaranteed Rural Housing Loan Program, which guarantees losses up to 90 percent of the loan amount on 100-percent loan-to-value loans. The borrower's income cannot exceed 115% of county median income to qualify for these loans. Having to hold a 30-year fixed-rate mortgage in portfolio and being subject to recourse on the loan prevents many lenders from participating in the program.

According to the RFS, conventional mortgages held by financial institutions differ in metropolitan and nonmetropolitan areas. First, fewer nonmetropolitan mortgages are privately insured—16 percent of mortgages in nonmetropolitan areas are insured compared to 22 percent of mortgages in metropolitan areas.[48] Second,

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[37] The unweighted average of denial rates across metropolitan census tracts is 17 percent. The weighted average, which takes into account the number of applications in a tract, is 13 percent.

[38] In this Appendix definition, "rural" is used synonymously with "nonmetropolitan," which differs from the terminology employed by the Census Bureau.

[39] Records of these forums are part of the public docket for this rule, and are available for public inspection at the HUD Headquarters Building, Room 10276.

[40] For example, the Rural Housing and Community Development Service (RHCDS) defines rural for its Rural Guaranteed Housing Program as any community with less than 10,000 people in a metropolitan area and less than 20,000 outside an MSA.

[41] Lenders are not required to report under HMDA the location of those mortgage applications for properties outside MSA boundaries. Moreover, a large portion of the data compiled by banking regulators does not distinguish between mortgage activity of rural branches of large regional banks and mortgage activity of the bank's metropolitan headquarters.

[42] Studies include: "Analysis of Underserved Rural Areas," Housing Assistance Council, 1995; "Effect of Federal Home Loan Bank System District Banks on the Housing Finance System in Rural Areas," ICF Incorporated, 1993; "The Availability and Use of Mortgage Credit in Rural Areas," The Urban Institute, 1990; and "Location, Location, Location: Report on Residential Mortgage Credit Availability in Rural Areas," The Center for Community Change, 1990.

[43] The ICF study also concludes that credit terms do not differ significantly between metropolitan and nonmetropolitan mortgages but their focus is only on fixed-rate and adjustable rate conventional mortgages.

[44] *Rural Conditions and Trends*, Volume 4, No. 3, Fall 1993, a special 1990 census issue, documents differences among counties in population, education, employment, income, poverty, and housing.

[45] ICF Incorporated, "Effect of Federal Home Loan Bank System District Banks on the Housing Finance System in Rural Areas," p.30.

[46] Using 1989 AHS data, ICF reports that the mobility rate of nonmetropolitan owners is 18 percent lower than the mobility rate of metropolitan owners. Data from the Residential Finance Survey show that 10 percent of metropolitan households and 18 percent of nonmetropolitan households use cash to acquire their homes.

[47] This Program offers 100-percent loan-to-value (including closing costs) fixed-rate mortgages for 30 years at subsidized interest rates; it is targeted to rural households at 80 percent of area median income or less. To make Program funds go further, the RHCDS created the Rural Direct Leveraging Program where the lender and the RHCDS each make a 50-percent loan-to-value loan.

[48] According to the Center for Community Change study, the higher percentage of uninsured conventional mortgages could imply that

Continued

nonmetropolitan households rely more on short-term loans with balloon payments than their metropolitan counterparts.[49] Finally, the mortgage term for conventional fixed-rate mortgages is shorter for nonmetropolitan households.[50]

Rural Forums. In addition to examining available research, HUD convened three forums on rural housing issues with rural lenders, rural housing groups, housing industry organizations, the Department of Agriculture's Economic Research Service and Rural Housing and Community Development Service, the Congressional Budget Office, and the GSEs, which focused on the unique nature of mortgage lending and the role of the secondary market in rural areas. Participants agreed that some of the difficulty associated with financing housing in rural areas results from inappropriate underwriting and appraisal standards, inadequate resources, and the lack of access to government programs and secondary mortgage funds.

Participants emphasized that mortgage lending in rural areas is very different from lending in urban areas. The heterogeneity of housing types, nontraditional and often seasonal incomes of rural borrowers, and lack of credit history for many rural borrowers make underwriting in rural areas difficult for urban-oriented lenders. Appraisers may lack comparable sales or must rely on comparables over one year old or in a nearby town in order to determine a property's value.

Participation of rural lenders in the secondary market is limited. The low volume of loans originated by rural lenders serving smaller nonmetropolitan communities makes this business less profitable, and thus less attractive, to the secondary marketing firms.[51] Rural lenders are more likely to make short-term loans, 3-to-5 year balloons or adjustable rate mortgages, and hold them in portfolio. Many rural lenders do not participate in federal housing programs because they do not want to deal with the "red tape" of government or they are unaware of how the programs work and do not have the resources necessary to train staff. Moreover, some small rural banks may not be equipped to do the kind of labor-intensive loans that are required to qualify low-income borrowers.

Larger financial institutions, which do have experience with government programs and the secondary market, target more urbanized nonmetropolitan communities because of the higher demand for loans and lower costs of business. These lenders concentrate on loans with larger loan amounts and lower servicing costs, focus less on remote areas, and originate loans that are more easily sold to the secondary market.

nonmetropolitan residents make higher down payments than metro residents because private market insurance is unavailable.

[49] In nonmetropolitan areas with fewer than 10,000 people, for example, 63 percent of conventional mortgages are fixed-rate, 16 percent are short-term with balloon payments, and 21 percent are adjustable rate mortgages. In nonmetropolitan areas with more than 10,000 people, 68 percent of conventional mortgages are fixed rate, 11 percent are short-term with balloon payments, and 20 percent are adjustable rate. In metro areas, however, 75 percent are fixed-rate, 5 percent are short-term balloons, and 19 percent are adjustable rate.

[50] In metro areas, 72 percent of fixed-rate mortgages have mortgage terms greater than 20 years, compared with only 33 percent in nonmetropolitan communities with less than 10,000 population and 59 percent in nonmetropolitan communities with more than 10,000 population. A similar story can be told for adjustable rate mortgages although the differential in percentages between metro and nonmetropolitan is not as pronounced. In particular, nonmetropolitan areas with more than 10,000 people have similar terms as metro areas. Nonmetropolitan areas with fewer than 10,000 people have shorter mortgage terms than other in nonmetropolitan and metropolitan areas.

[51] Twenty-nine percent of commercial banks (including the branches of banks headquartered elsewhere) are community banks. Fifty percent of these banks are in towns with 2,500 or fewer residents. The average community bank has only $50 million in assets.

Efforts have been made to overcome housing finance difficulties in rural areas. For example, the Farm Credit System, Farmer Mac, and Fannie Mae recently created a conduit to provide affordable loans to residents of rural communities with populations under 2,500.[52] The underwriting provisions of the program accommodate the unique features of rural housing, such as large lot sizes and few comparable sales for appraisal. In 1994, Fannie Mae established new, more flexible, underwriting guidelines for rural areas. These changes in the industry could contribute to increased secondary market activity and account for the increase in the proportion of Fannie Mae's business in rural areas. In 1994, Fannie Mae's purchases in rural areas increased to 9.3 percent of its total business, compared to 8.3 percent in 1993. Rural areas accounted for about 12.5 percent of Freddie Mac's business in both 1993 and 1994.

c. HUD's Definition of Underserved Counties

The Secretary has determined that in nonmetropolitan areas "underserved areas" are defined as counties where: minorities comprise 30 percent or more of the residents and the median income of families does not exceed 120 percent of the state nonmetropolitan median income; *or* the median income of families does not exceed 95 percent of the greater of the state nonmetropolitan median income or the nationwide nonmetropolitan median income. Comparing county median income to state nonmetropolitan median income ensures that poor counties in high-income states are included as underserved rural areas and comparing county median income to national nonmetropolitan median income ensures that poor counties in poor states are included as underserved rural areas.

Table B.5 compares the final rule's definition with Freddie Mac's and Fannie Mae's definitions of rural underserved areas as well as with a 90/30 definition that is analogous to HUD's metropolitan underserved areas definition.[53] HUD, however, chose the broader 95/30 definition for rural areas because the 90/30 definition did not include a significant number of persistent poverty counties.[54]

The final rule's definition of rural underserved areas balances the competing priorities of a targeted definition that provides greater mortgage opportunities to counties experiencing the worst problems and of a broad definition that encourages the GSEs to provide a secondary market infrastructure that encourages mortgage lending in all nonmetropolitan areas. The final rule's definition covers 54 percent of the nonmetropolitan population, 67 percent of poor persons, and 75 percent of the minority population.[55] The counties included have poverty rates (21 percent) and minority percentages (21 percent) well above the average poverty rate (17 percent) and minority percentage (15 percent) for all nonmetropolitan areas. Thus, HUD's definition encompasses 66 percent of all nonmetropolitan counties, including the most distressed nonmetropolitan counties.

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[52] Conduits provide assistance to smaller lenders so that they have access to secondary market funds. Moreover, conduits can provide guarantees and recourse to secondary market investors that low volume lenders cannot provide.

[53] Freddie Mac's definition includes counties as underserved if county median income does not exceed state nonmetropolitan median income or minority composition exceeds 20 percent. Fannie Mae's underserved definition includes all nonmetropolitan counties.

[54] A county experiences persistent poverty if its poverty rate is at least 20 percent over the last 3 decades.

[55] The 54 percent coverage rate in nonmetropolitan areas is similar to the 58 percent coverage rate in central cities.

Table B.5

Nonmetropolitan Counties

	All Nonmetropolitan Areas	Coverage Rates In Underserved Rural Counties				Rates In Underserved Rural Counties				
		90/30	95/30 Absolute	Freddie Mac	Fannie Mae	All Nonmetropolitan Areas	90/30	95/30 Absolute (Base)	Added by Freddie Mac	Added by Fannie Mac
Counties	2,305	42.7 %	66.0 %	75.0 %	100 %					
Population	50,860,983	33.3	54.0	66.0	100					
Poor	8,421,751	45.3	67.0	76.0	100					
Minority Population	7,495,007	63.5	75.0	83.0	100					
Substandard Housing Units	915,866	51.3	69.0	78.0	100					
Mobile Homes	2,033,730	39.7	62.0	73.0	100					
Poverty Rate						17.0 %	23.3 %	21.0 %	14.0 %	12.0 %
Minority Percentage						15.0	28.1	21.0	9.0	8.0
Substandard Housing						5.0	7.7	6.0	4.0	3.0
Mobile Homes						15.0	18.1	17.0	14.0	12.0

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Counties not included under the final rule's definition but included by the broader Freddie Mac or Fannie Mae definitions have relatively low poverty rates and low minority percentages. The Freddie Mac definition includes an additional 221 counties and approximately 6 million additional people. These additional counties have a 14 percent poverty rate and minorities comprise 9 percent of the population. The Fannie Mae definition includes an additional 794 counties and approximately 23 million people. These additional counties have a 12 percent poverty rate and minorities comprise 8 percent of the population.

The HUD definition also targets specific geographic areas with high poverty and minority concentrations. For example, 71 percent of the nonmetropolitan population in the South is covered by HUD's definition. Similarly, HUD's definition includes 84 percent of the population that reside in remote counties that are not adjacent to metropolitan areas and have fewer than 2,500 residents in towns.

d. Tract Versus County Definition

A number of commenters, including the GSEs, argued that a definition based on rural census tracts was ill-advised because lenders in rural areas do not understand or lend on the basis of census tracts. Fannie Mae commented that use of census tract data was inappropriate because census tracts have "no practical meaning" in rural areas from a marketing standpoint; that geographic measurements used in the rule should be "widely understood, easily measured, and practical from a marketing point of view;" and that census tracts in rural areas "fail these tests."

In contrast, some commenters, such as HAC, noted that a county-based definition is not as targeted as a tract definition since it excludes tracts which could be considered underserved in served counties and includes tracts which could be considered adequately served in underserved counties.

The final rule uses the county designation, as opposed to a census tract-based definition. Counties are easy to identify and geocode, which will simplify the reporting process for the GSEs and for the lenders who provide the GSEs with loan level data. County boundaries are commonly recognized by housing industry representatives involved in the loan and marketing process, including lenders and appraisers.

Under this county-based definition, the GSEs may have an incentive to buy mortgages in the parts of underserved counties that have higher incomes. Although 21 percent of the homeowners that live in underserved rural areas reside in served tracts, these tracts accounted for 39 percent of GSE purchases. Even though HUD recognizes that a census tract definition better targets underserved areas, HUD decided to use a county-based definition because the operational difficulties associated with census tract and Block Numbering Area (BNA) boundaries outweigh the benefits of improved targeting of underserved areas.

C. Consideration of the Housing, Economic, and Demographic Factors

As Section B shows, the most thorough studies available provide strong evidence that in metropolitan areas low income and minority composition identify neighborhoods that are underserved by the mortgage market. As this section discusses, geographical differentials in housing, social, and economic problems and past discrimination against minorities confirm that problems are greater throughout the nation in the areas covered by the Geographically Targeted Goal. Section C.1. briefly describes housing, social, and economic problems of distressed neighborhoods. Section C.2. discusses discrimination and other housing problems faced by minorities. Although few studies have yet analyzed the specific geographic areas targeted by the final rule, the segregation of minorities within the nation's inner cities and poorer rural counties makes this information pertinent to analysis of underserved areas and to the goal set by the Secretary.

1. Urban and Rural Housing Needs and the Housing Needs of Underserved Areas

Over the past three decades evidence of growing poverty concentrations has increased concern about poor living conditions in the nation's distressed neighborhoods. John Kasarda has focused on trends in the neighborhood concentration of poverty and measures of the "underclass" population such as school dropouts, unemployed and underemployed adult males, single-parent families, and families dependent upon welfare.[56] Kasarda has not only documented the extreme deprivation that exists in minority and low-income neighborhoods throughout our major urban areas, but he has also shown that neighborhood distress and concentrations of lower-income residents in tracts with high poverty worsened during the 1980s.

Analysis within 44 major metropolitan areas showed that in the late 1980s renters were most likely to have worst case needs in the poorest neighborhoods.[57] Although only one-tenth of households lived in neighborhoods with poverty rates above 20 percent, those poorest neighborhoods housed almost one-fourth of worst case renters. These poorest zones closely resemble tracts identified as poor ghettos or underclass areas. They contained older, smaller units that were more often physically inadequate and crowded than other housing in the metropolitan areas studied.[58] Additional discussion of housing needs is contained in Appendix A.

2. Economic, Housing, and Demographic Conditions

Appendix A includes detailed discussion of economic, housing, and demographic conditions. That discussion was considered in establishing the Geographically Targeted Goal. This section discusses other conditions.

a. Discrimination in the Housing Market

In addition to discrimination in the lending market, substantial evidence exists of discrimination in the housing market. The 1989 Housing Discrimination Study sponsored by HUD found that minority home buyers encounter some form of discrimination about half the time when they visit a rental or sales agent to ask about advertised housing.[59] The incidence of discrimination was higher for African Americans than for Hispanics and for homebuyers than for renters. For renters, the incidence of discrimination was 46 percent for Hispanics and 53 percent for African Americans. The incidence among buyers was 56 percent for Hispanics and 59 percent for African Americans.

While discrimination is rarely overt, minorities are more often told the unit of interest is unavailable, shown fewer properties, offered less attractive terms, offered less financing assistance, or provided less information than similarly situated non-minority homeseekers.

[56] "Inner-City Concentrated Poverty and Neighborhood Distress: 1970 to 1990." *Housing Policy Debate*, 4(3): 253–302.

[57] U.S. Dept. of Housing and Urban Development, 1992. *The Location of Worst Case Needs in the Late 1980s: A Report to Congress*. HUD–1387–PDR.

[58] Kathryn P. Nelson, 1993. "Intra-urban Mobility and Location Choice in the 1980s," pp. 53–95 in Thomas Kingsley and Margery Turner, eds., *Housing Markets and Residential Mobility*, Washington, DC: The Urban Institute Press.

[59] Margery A. Turner, Raymond J. Struyk, and John Yinger. *Housing Discrimination Study: Synthesis*, Washington, D.C., U.S. Department of Housing and Urban Development: 1991.

Some evidence indicates that properties in minority and racially-diverse neighborhoods are marketed differently from those in White neighborhoods. Houses for sale in non-White neighborhoods are rarely advertised in metropolitan newspapers, open houses are rarely held, and listing real estate agents are less often associated with a multiple listing service.[60]

b. Housing Problems of Minorities and their Neighborhoods

Because they face discrimination in access to housing or lending, minorities and their neighborhoods face severe housing problems:

• Discrimination in the housing and lending markets is evidenced by racial disparities in homeownership. In 1991, the homeownership rate was 68 percent for Whites, 43 percent for African Americans, and 39 percent for Hispanics. Although differences in income, wealth, and family structure explain much of the differences, racial disparities persist after accounting for these factors.[61]

• Discrimination, while not the only cause, contributes to the pervasive level of segregation that persists between African Americans and Whites in our urban areas.

• Hispanics are the group most likely to have worst case needs for housing assistance, but least likely to receive assistance; in 1991, only 21 percent of very low-income Hispanics lived in public or assisted housing. The 1989 to 1991 increase in worst case needs was the largest for Hispanic households, rising from 39.2 to 44.4 percent of very low-income Hispanic renters.

Homeownership rates vary consistently by neighborhood characteristics. As Table B.6 shows, on average homeownership rates decrease as the minority concentration in census tracts increases, and as income falls relative to the area median. These patterns are consistent with the demographic patterns described earlier, that minorities and low-income households have lower homeownership rates. An exception to this pattern occurs in tracts with incomes below 50 percent of the area median, in which homeownership rates rise with minority concentration in some cases. However, only a very small proportion of households live in these tracts.

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[60] Margery A. Turner, "Discrimination in Urban Housing Markets: Lessons from Fair Housing Audits," *Housing Policy Debate*, Vol. 3, Issue 2, 1992, pp. 185–215.

[61] Susan M. Wachter and Isaac F. Megbolugbe, "Racial and Ethnic Disparities in Homeownership," *Housing Policy Debate*, Vol. 3, Issue 2, 1992, pp. 333–370.

Table B.6

Homeownership Rates for Metropolitan Census Tracts

Tract Median Income as a Percentage of Area Median Income	Percentage of Minority Households in Census Tracts										
	LT 10%	10-20%	20-30%	30-40%	40-50%	50-60%	60-70%	70-80%	80-90%	90-100%	Total
30% or Less	27%	23%	34%	34%	37%	33%	35%	37%	33%	35%	35%
30-40%	35%	26%	38%	40%	39%	38%	40%	38%	40%	43%	41%
40-50%	45%	44%	43%	44%	44%	44%	43%	45%	45%	48%	46%
50-60%	63%	49%	51%	47%	48%	51%	52%	50%	53%	54%	52%
60-90%	74%	66%	63%	62%	60%	62%	63%	64%	63%	65%	67%
90-100%	80%	74%	72%	70%	69%	71%	70%	71%	74%	79%	77%
100-120%	84%	78%	76%	75%	73%	77%	78%	77%	79%	75%	81%
Greater than 120%	88%	83%	81%	82%	81%	80%	84%	84%	82%	78%	86%
Total	83%	76%	71%	68%	65%	65%	64%	63%	60%	56%	75%

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3. Previous Performance and Effort of the GSEs In Connection With the Central Cities, Rural Areas and Other Underserved Areas Goal

Table B.7 summarizes GSE acquisitions in underserved areas during 1993 and 1994. Fannie Mae's performance in underserved metropolitan areas increased from 23 percent in 1993 to 29 percent in 1994, and Freddie Mac's performance increased from 21 percent to 24 percent.

Table B.7 also shows the level of the GSEs' purchases in rural underserved areas. Slightly more than 25 percent of their 1994 purchases in rural areas were in underserved areas.

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Table B.7

Fannie Mae and Freddie Mac Acquisitions of Single-Family and Multifamily Units in Underserved Metro and Nonmetro Areas in 1993 and 1994

	Fannie Mae		Freddie Mac	
	1993	1994	1993	1994
Metropolitan				
Number Of Units	642,843	502,270	429,313	275,276
Percent of Total Metro	22.6%	29.2%	20.9%	23.9%
Total Eligible	2,839,471	1,721,417	2,049,807	1,153,010
Nonmetropolitan				
Number Of Units	76,547	47,945	69,110	42,718
Percent of Total Metro	24.8%	26.9%	23.6%	26.3%
Total Eligible	308,088	177,965	292,802	162,462
Overall				
Number Of Units	719,390	550,215	498,423	317,994
Percent of Total Metro	22.9%	29.0%	21.3%	24.2%
Total Eligible	3,147,559	1,899,382	2,342,609	1,315,472

Source: HUD\ Policy Development and Research

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4. Size of the Conventional Conforming Mortgage Market for Underserved Areas

HUD estimates that underserved areas account for 25–28 percent of the conventional conforming mortgage market. The analysis underlying this estimate is detailed in Appendix D.

5. Ability to Lead the Industry

This factor is the same as the fifth factor considered under the goal for mortgage purchases on housing for low- and moderate-income families. Accordingly, see Section C.5 of Appendix A for discussion of this factor.

6. Need to Maintain the Sound Financial Condition of the Enterprises

HUD has undertaken a separate, detailed economic analysis of this rule, which includes consideration of the financial safety and soundness implications of the housing goals. The analysis considered the likely mortgage default implications of the goals and implications for the profitability of the GSEs under various alternative economic assumptions. Among the conclusions are: that the goals will have, at most, only limited impacts on credit risk, which the GSEs should be able to handle without significant lowering of underwriting standards; that risks associated with increased multifamily mortgage purchase volumes under the goals are manageable, considering the scope of the increases implied by the goals; and that the goals imply no meaningful increase in risk to the sound financial condition of the GSEs' operations. Based on this analysis, HUD concludes that the goals raise minimal, if any, safety and soundness concerns.

D. Determination of the 1995 and 1996 Central Cities, Rural Areas, and Other Underserved Areas Goal

This section summarizes the Secretary's rationale for choosing targeted definitions of central cities, rural areas, and other underserved areas, compares the characteristics of served and underserved areas, and addresses other issues related to determining the goal. The section draws heavily from earlier sections which have reported findings from HUD's analyses of mortgage credit needs as well as findings from other research studies investigating access to mortgage credit.

1. Market Failure

The nation's housing finance market is a highly efficient system where most homebuyers can put down relatively small amounts of cash and obtain long-term funding at relatively small spreads above the lender's borrowing costs. Indeed, the growth of the secondary mortgage market during the 1980s integrated a previously thrift-dominated mortgage market with the nation's capital markets so that mortgage funds are more readily available and mortgage costs are more closely tied to movements in Treasury interest rates.

Unfortunately, this highly efficient financing system does not work everywhere or for everyone. Access to credit often depends on improper evaluation of characteristics of the mortgage applicant and the neighborhood in which the applicant wishes to buy. HUD's analysis of 1993 and 1994 HMDA data shows that mortgage credit flows are substantially lower in minority and low-income neighborhoods and mortgage denial rates are much higher for minority applicants.

Admittedly, disagreement exists in the economics literature regarding the underlying causes of these disparities in access to mortgage credit, particularly as related to the roles of discrimination, "redlining" of specific neighborhoods, and the barriers posed by underwriting guidelines to potential minority and low-income borrowers. Because the mortgage system is quite complex and involves numerous participants, it will take more data and research to gain a fuller understanding of why these disparities exist. Still, studies reviewed in Section B of this Appendix found that the individual's race and the racial and income composition of neighborhoods influence mortgage access even after accounting for demand and risk factors that may influence borrowers' decisions to apply for loans and lenders' decisions to make those loans. Therefore, the Secretary concludes that minority and low-income communities are underserved by the mortgage system.

2. Identifying Urban Underserved Areas

To identify areas underserved by the mortgage market, HUD focused on two traditional measures used in a number of HMDA studies: [62] application denial rates and mortgage origination rates per 100 owner-occupied units.[63] Tables B.1 and B.2 in Section B presented detailed data on denial and origination rates by the racial composition and median income of census tracts for metropolitan areas.[64] Aggregating those data is useful for examining denial and origination rates for broader groupings of census tracts:

[62] HMDA data have been expanded in 1993 to cover independent mortgage companies that originated 100 or more home purchase loans in the preceding calendar year. HMDA provides no useful information on rural areas. In addition, although HMDA data now include applications to provide some measure of overall loan demand, pre-screening discrimination can discourage would-be homebuyers from applying for a mortgage, leading to an underestimation of demand. Nevertheless, the HMDA data, while not necessarily definitive, are still useful in helping to define underserved areas.

[63] Analysis of application rates are not reported here. Although application rates are sometimes used as a measure of mortgage demand, they provide no additional information beyond that provided by looking at both denial and origination rates. The patterns observed for application rates are still very similar to those observed for origination rates.

[64] As shown in Table B.1, no sharp breaks occur in the denial and origination rates across the minority and income deciles—mostly, the increments are somewhat similar as one moves across the various deciles that account for the major portions of mortgage activity.

Minority composition (percent)	Denial rate (percent)	Origination rate	Tract income (percent)	Denial rate (percent)	Origination rate
0–30	11.8	14.1	Less than 90	21.3	7.5
30–50	19.1	10.7	90—120	13.5	12.6
50–100	24.4	7.2	Greater than 120	8.9	18.8

Two points stand out from these data. First, census tracts with higher percentages of minority residents have higher denial and lower origination rates. Tracts that are over 50 percent minority have twice the denial rate and half the origination rate of tracts that are under 30 percent minority.[65] Second, census tracts with lower incomes have higher denial rates and lower origination rates than higher income tracts. Tracts with income less than or equal to 90 percent of area median have more than two times the denial rate and less than one-half the origination rate of tracts with income over 120 percent of area median.

HUD chose over 30-percent minority and under 90-percent of area median income as the thresholds for defining metropolitan underserved areas. There are two advantages to HUD's definition. First, the cutoffs produce sharp differentials in denial and origination rates between served and underserved areas. For instance, the overall denial rate (21 percent) in underserved areas is almost double that (11 percent) in served areas. Thus, an advantage of a targeted definition of underserved areas is illustrated by sharp differences in mortgage access between served and underserved areas.[66]

A second advantage is that the minority and income cutoffs are useful for defining mortgage problems in the suburbs as well as in OMB-defined central cities. Underserved areas account for 31 percent of the suburban population, compared with 58 percent of the central city population. The average denial rate in underserved suburban areas is almost twice that in the remaining areas of the suburbs. (See Figure B.1 in Section B.) Thus, the minority and income thresholds in HUD's definition identify those suburban tracts that seem to be experiencing mortgage credit problems.

[65] The differentials in denial rates are due, in part, to differing risk characteristics of the prospective borrowers in different areas. However, use of denial rates is supported by the findings in the Boston Fed study which found that denial rate differentials persist, even after controlling for risk of the borrower. See Section B for a review of that study.

[66] The Final Rule changed the income threshold from 80 percent to 90 percent. This added 3,645 tracts with a denial rate of 18 percent.

3. Characteristics of Urban Underserved Areas

The final rule's definition of metropolitan underserved areas includes 20,326 of the 43,232 census tracts in metropolitan areas, covering 44 percent of the metropolitan population, 58 percent of the OMB-defined central city population, and 31 percent of the suburban population. As shown in Table B.8, the final rule's definition covers most of the population of the nation's most distressed OMB-defined central cities: Newark (99 percent), Detroit (96 percent), Hartford (97 percent), Baltimore (90 percent), and Cleveland (90 percent). The nation's five largest cities also contain large concentrations of underserved areas: New York (62 percent), Los Angeles (69 percent), Chicago (77 percent), Houston (67 percent), and Philadelphia (80 percent).

High-Income-Minority Tracts. It should be noted that the final rule's definition of underserved areas excludes high minority tracts with median income above 120 percent of area median income. As shown in Table B.9, these tracts, which represent about two percent of metropolitan area population, appear to be relatively well off: they have low levels of poverty (7 percent), and high relative house values (122 percent). The high-income-minority tracts are concentrated in a few metropolitan areas: 7 percent of Los Angeles' population lives in them; the corresponding figures are 7 percent for New York, 5 percent for Miami, 25 percent for Honolulu, and 12 percent for San Antonio. By contrast, most relatively distressed metropolitan areas have few households in such areas—for example, Cleveland (1 percent), Detroit (2 percent), Memphis (1 percent), Milwaukee (0 percent), and Philadelphia (1 percent).

Income Threshold. Among other issues considered in setting the underserved definition for metropolitan areas included raising the area income threshold, to include more moderate-income census tracts. This alternative would add tracts with incomes between 90 and 100 percent of the area median. However, it should be noted that high-minority tracts (over 30 percent minority) at this income level are already included in HUD's underserved areas definition, and that raising the income limit to 100 percent would add only tracts with low-minority concentration (below 30 percent). These areas represent 4,486 census tracts, and comprise 11 percent of metropolitan population.[67]

These low-minority moderate-income tracts have denial rates almost 30 percent below the tracts that meet HUD's underserved definition (15 versus 21 percent). By contrast, high-minority moderate-income tracts have a denial rate almost identical to the overall underserved denial rate. The origination rate in moderate-income low-minority tracts (11 per 100 owner occupants) is noticeably higher than that in underserved tracts (8 per 100 owner occupants).

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[67] In addition to including tracts with income between 90 and 100 percent of area median as underserved, the Freddie Mac definition includes tracts between 20 and 30 percent minority concentration; this would add an additional 881 tracts. Table B.4 compares the HUD and Freddie Mac definitions.

Table B.8

Needy Areas in Central Cities Would Be Covered

Large Cities with High Concentrations of Tracts Included in the Geographically Targeted Goal (Percent of Population)	
Newark	99%
Hartford	97%
Gary	96%
Detroit	96%
Jersey City	92%
Miami	91%
Baltimore	90%
Cleveland	90%
St. Louis	85%

Five Largest Cities	
New York	62%
Los Angeles	69%
Chicago	77%
Houston	67%
Philadelphia	80%

Central Cities with Small Concentrations			
Large Cities		**Small Cities**	
Raleigh	33%	Appleton, WI	6%
Tulsa	38%	Cedar Falls, IA	8%
Nashville-Davidson	41%	Scottsdale, AZ	11%
Oklahoma City	42%	Naples, FL	13%
Wichita	43%	Orem, UT	14%
Colorado Springs	44%	Wheeling, WV	20%
Columbus	46%	Salem. OR	19%
Phoenix	51%	Elkhart, IN	20%

Table B.9

Characteristics of High Income Minority Tracts (HIMTS) and Moderate Income Tracts

	Served Tracts			Underserved Tracts
HIMTS	90- 100% of Area Median Income	Remaining Served Tracts		
Unemployment Rate	4.9 %	5.1 %	3.9 %	8.9 %
Denial Rate	15.7	15.1	9.7	21.0
Tract/MSA Income	145.2	95.2	133.2	70.9
Relative Median House Value*	122.2	93.4	136.0	72.3
Poverty Rate	7.0	8.4	5.1	20.0
African American	16.2	3.8	2.9	23.9
Hispanic	21.8	3.5	3.4	17.9
Asian	12.7	1.5	2.4	4.3

Note: High-income minority tracts (HIMTS) are census tracts with income greater than 120 percent of area median and minority percentage greater than 30 percent. Moderate-income tracts are census tracts with income between 90 and 100 percent of area median and minority percentage less than 30 percent. Tracts with zero population, zero owner-occupied units, or suppressed income are not included.

* Median house value in tract relative to median house value in metropolitan area.

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4. Rural Underserved Areas

Recognizing both the difficulty of defining rural underserved areas and the need to encourage GSE activity in such areas, HUD has chosen a rather broad, county-based definition of underservedness in rural areas. Its definition includes 1,511 of the 2,305 counties in nonmetropolitan areas and covers 54 percent of the nonmetropolitan population. Still, HUD's definition targets the most disadvantaged rural counties. It covers 67 percent of the nonmetropolitan poor and 75 percent of nonmetropolitan minorities. The average poverty rate of underserved counties is 21 percent, significantly greater than the 12 percent poverty rate in counties designated as "served".

The HUD definition also targets specific geographic areas with high poverty and minority concentrations. For example, HUD's definition includes 84 percent of the population that reside in remote counties that are not adjacent to metropolitan areas and have fewer than 2,500 residents in towns.

5. GSE Activity in Underserved Areas

Figure B.2 uses 1993 and 1994 HMDA data for single-family mortgages to compare GSE and non-GSE funding in underserved areas. The non-GSE part of the conventional conforming market consists mainly of bank and thrift portfolio lenders. The share of funding going to underserved areas increased between 1993 and 1994 for both GSEs and non-GSEs. A larger proportion of non-GSE mortgages finance properties in underserved areas than do mortgages purchased by the GSEs. This was particularly the case for Freddie Mac in 1994—22 percent of Freddie Mac's single-family business was in underserved areas, compared with 27 percent of non-GSE business.[68]

In terms of overall business, 29 percent of Fannie Mae's 1994 business was in underserved areas as was 24 percent of Freddie Mac's. The fact that underserved areas have much lower incomes than other areas does not mean that GSE purchase activity in underserved areas derives totally from lower income families. In 1993, above-median income households accounted for 48 percent of the mortgages that the GSEs purchased in underserved areas and in 1994, they accounted for 37 percent. This suggests these areas are quite diverse.

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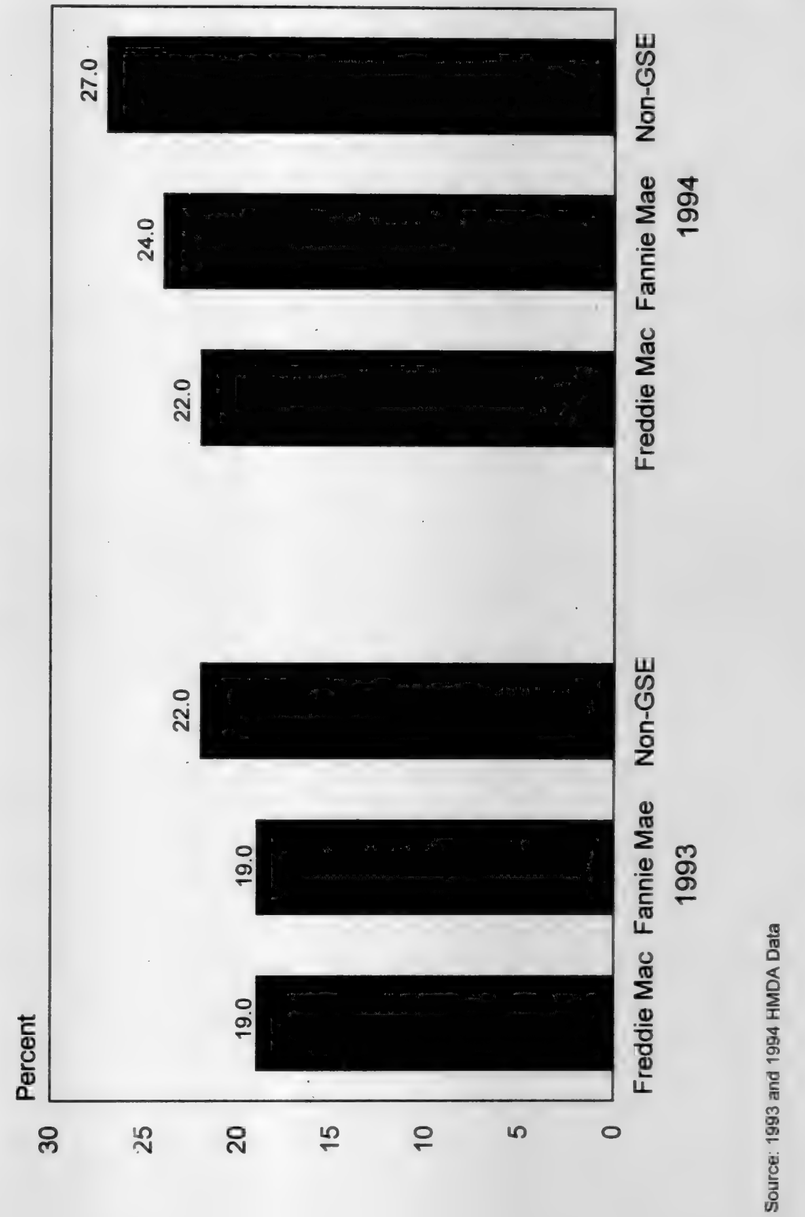
[68] The HMDA data has been adjusted for 100,000 mobile homes along the lines discussed in Appendix D.

FIGURE B.2

The Share Of GSE And Non-GSE Mortgages in Areas Included in the Geographically Targeted Goal, 1993 and 1994



Source: 1993 and 1994 HMDA Data

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6. Market Feasibility and Changing Market Conditions

As detailed in Appendix D, the market for mortgages in underserved areas accounts for 25 to 28 percent of dwelling units financed by conventional conforming mortgages. Figure B.3 compares recent GSE performance, the 1996 and 1997–1999 goals, and the size of the market. Having considered the projected market and economic and demographic conditions for 1996–1999 and the GSEs' recent performance, HUD has determined that goals for mortgage purchases in central cities, rural areas, and other underserved areas 21 percent for 1996, 24 percent for 1997–1999, and 24 percent thereafter pending establishment of a new goal, are feasible.

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FIGURE B.3

Previous Performance and Goals in Central Cities, Rural Areas, and Other Underserved Areas For Freddie Mac And Fannie Mae, 1993-99

* Performances based on assumptions in final rule.

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7. Conclusion

The Secretary has determined that the goals of 21 percent in 1996 and 24 percent in 1997 and thereafter are necessary and feasible.

Appendix C—Secretarial Considerations To Establish the Special Affordable Housing Goal

A. Introduction

1. Establishment of the Goal

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (FHEFSSA) requires the Secretary to establish a special annual goal designed to adjust the purchase by each GSE of mortgages on rental and owner-occupied housing to meet the unaddressed needs of, and affordable to, low-income families in low-income areas and very-low-income families (the Special Affordable Housing Goal).

In establishing the Special Affordable Housing Goal, FHEFSSA requires the Secretary to consider:

(1) Data submitted to the Secretary in connection with the Special Affordable Housing Goal for previous years;

(2) The performance and efforts of the GSEs toward achieving the Special Affordable Housing Goal in previous years;

(3) National housing needs of targeted families;

(4) The ability of the GSEs to lead the industry in making mortgage credit available for low-income and very-low-income families; and

(5) The need to maintain the sound financial condition of the enterprises.

2. The Goal

The final rule provides that the Special Affordable Housing Goal for 1996 is 12 percent of the total number of dwelling units financed by each GSE's mortgage purchases. The goal for 1997 and subsequent years is 14 percent. Of the total Special Affordable Housing Goal for each year, each GSE must purchase multifamily mortgages in an amount at least equal to 0.8 percent of the total dollar volume of mortgages purchased by the GSE in 1994.

Approximately 20–23 percent of the conventional conforming mortgage market would qualify under the Special Affordable Housing Goal as defined in the final rule. Using the final rule's conventions for what will count toward the goal, 16.7 percent of Fannie Mae's 1994 business and 11.4 percent of Freddie Mac's would have qualified toward the goal.

Units that count toward the goal: Subject to further provisions specified below, units that count toward the Special Affordable Housing Goal include units occupied by low-income owners and renters in low-income areas, and very-low-income owners and renters. Low-income rental units in multifamily properties where at least 20 percent of the units are affordable to families whose incomes are 50 percent of area median income or less or where at least 40 percent of the units are affordable to families whose incomes are 60 percent or less of area median income count toward the goal.

B. Underlying Data

In considering the factors under FHEFSSA to establish the Special Affordable Housing Goal, HUD relied upon data gathered from the American Housing Survey, the Census Bureau's 1991 Residential Finance Survey, the 1990 Census of Population and Housing, other government reports, Home Mortgage Disclosure Act (HMDA) data and reports, and the GSEs. Among other new data resources, full-year 1994 data from the GSEs, as well as HMDA data for 1994, became available to HUD since publication of the proposed rule. Appendix D discusses in detail how these data resources were used and how the size of the conventional conforming market for this goal was estimated.

Section C discusses the factors listed above, and Section D provides the Secretary's rationale for establishing the special affordable goal.

C. Consideration of the Factors

1 and 2. Data Submitted to the Secretary in Connection With the Special Affordable Housing Goal for Previous Years, and the Performance and Efforts of the Enterprises Toward Achieving the Special Affordable Housing Goal in Previous Years

The discussions of these two factors have been combined because they overlap to a significant degree.

a. GSE Performance Relative to the 1993–94 Goals

For the 1993–94 transition period the Special Affordable Housing Goal was established in dollar terms. FHEFSSA called for special affordable purchases of $2.0 billion by Fannie Mae and $1.5 billion by Freddie Mac, and the legislative history made it clear that such purchases should be "above and beyond their existing performance and commitments."[1] The specified amounts of the goals were evenly divided between multifamily and single family housing.

The Special Affordable Housing Goals for 1993–94 were $12.7 billion single family and $3.6 billion multifamily for Fannie Mae, and $11.1 billion single family and $0.8 billion multifamily for Freddie Mac.[2]

Fannie Mae's qualifying mortgage purchases in 1993 and 1994 together amounted to $16.7 billion single-family and $4.5 billion multifamily. Thus Fannie Mae surpassed the 1993–94 single-family and multifamily portions of the goal by 32 percent and 26 percent, respectively.

Freddie Mac's qualifying mortgage purchases in 1993 and 1994 together amounted to $12.2 billion single-family and $495 million multifamily. Thus Freddie Mac surpassed the 1993–94 single-family goal by 10 percent but fell short on the multifamily portion of the goal by 38 percent.

b. 1993–94 GSE Performance Relative to Final Rule Special Affordable Housing Goals for 1996–1999

Owner-occupied housing. Between 1993 and 1994, both GSEs increased significantly the purchase of mortgages on owner-occupied housing that would qualify under this goal. (See Table C.1.)

Rental housing. As in the case of owner-occupied housing, between 1993 and 1994 both GSEs increased significantly the purchase of mortgages financing rental units affordable to very-low-income families. (See Table C.2.)

In this final rule, the Special Affordable Housing Goal has been broadened relative to the proposed rule, to include low-income renters in low-income areas. This change increases the number of qualifying mortgages by 8.5 percent for Fannie Mae in 1993 and 10.2 percent in 1994, and 6.1 percent for Freddie Mac in 1993 and 6.5 percent in 1994. (See Table C.3.)

This final rule also includes as eligible all rental units affordable to low-income families in properties where at least 40 percent of the units qualify as very-low-income, or where at least 20 percent of the units qualify as especially-low-income. (Especially-low-income means no more than 50 percent of area median.) This provision makes a difference of approximately 5,100 units in Fannie Mae's 1993 performance, and 11,600 in 1994. For Freddie Mac, there is no effect for 1993, and approximately 1,300 units for 1994. (See Table C.4.)

Summary. Table C.5 summarizes the GSEs' purchases in 1993 and 1994 that would qualify under the final rule's Special Affordable Housing Goal: Fannie Mae's and Freddie Mac's qualifying purchases in 1994 were 16.7 percent and 11.4 percent of total eligible purchases, respectively. Thus Fannie Mae would have achieved both the 1996 goal and the goal for 1997 and thereafter, and Freddie Mac would nearly have achieved the 1996 goal.

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[1] Senate Report, p. 36.

[2] The 1993–94 dollar-based goals were extended on a pro-rated basis for 1995.

Table C.1
GSEs' Purchases Qualifying as Special Affordable Under the Final Rule:
Single-Family Owner-Occupied Units*

	Fannie Mae		Freddie Mac	
	1993	1994	1993	1994
Low-Income Families in Low-Income Areas				
Number of Units	27,258	24,538	21,408	15,460
Percent	0.9%	1.3%	1.0%	1.2%
Very-Low-Income Families				
Number of Units	135,364	119,253	97,053	76,279
Percent	4.7%	6.5%	4.5%	5.9%
Subtotal				
Number of Units	162,622	143,791	118,461	91,739
Percent	5.6%	7.9%	5.5%	7.1%
Total Eligible	2,905,406	1,827,584	2,167,994	1,291,275

*Includes owner-occupied units in 2-4 unit properties

Table C.2
GSEs' Purchases Qualifying as Special Affordable Under the Final Rule:
Rental Units Affordable To Very-Low-Income Families

	Fannie Mae		Freddie Mac	
	1993	1994	1993	1994
Units in 2-4 Unit Owner-Occupied Properties				
Number of Units	12,890	13,556	7,787	8,151
Percent	0.4%	0.7%	0.4%	0.6%
Units in 1-4 Unit Investor-Owned Properties				
Number of Units	19,296	24,309	13,005	13,925
Percent	0.7%	1.3%	0.6%	1.1%
Units in Multifamily Properties				
Number of Units	67,437	84,561	7,683	22,770
Percent	2.3%	4.6%	0.4%	1.8%
Subtotal				
Number of Units	99,623	122,426	28,475	44,846
Percent	3.4%	6.7%	1.3%	3.5%
Total Eligible	2,905,406	1,827,584	2,167,994	1,291,275

Table C.3
GSEs' Purchases Qualifying as Special Affordable Under the Final Rule:
Rental Units Affordable To Low-Income Families in Low-Income Areas*

	Fannie Mae		Freddie Mac	
	1993	1994	1993	1994
Units in 2-4 Unit Owner-occupied Properties				
Number of Units	3,918	4,241	2,667	2,351
Percent	0.1%	0.2%	0.1%	0.2%
Units in 1-4 Unit Investor-Owned Properties				
Number of Units	7,681	7,953	5,740	3,960
Percent	0.3%	0.4%	0.3%	0.3%
Units in Multifamily Properties				
Number of Units	10,764	15,022	577	2,609
Percent	0.4%	0.8%	0.0%	0.2%
Subtotal				
Number of Units	22,363	27,216	8,984	8,920
Percent	0.8%	1.5%	0.4%	0.7%
Total Eligible	2,905,406	1,827,584	2,167,994	1,291,275

*Other than units affordable to very-low-income families counted in Table C.2.

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Table C.4
GSEs' Purchases Qualifying as Special Affordable Under the Final Rule:
Rental Units Affordable to Low-Income Families Outside Low-Income Areas*

	Fannie Mae		Freddie Mac	
	1993	1994	1993	1994
Number of Units	5,122	11,631	0	1,316
Percent	0.2%	0.6%	0%	0.1%
Total Eligible	2,905,406	1,827,584	2,167,994	1,291,275

*Units affordable to low-income families in properties where at least 40 percent of the units are affordable to very-low-income families or at least 20 percent of the units are affordable to especially low-income families, other than units counted in Table C.2 or C.3.

Table C.5
GSEs' Purchases Qualifying as Special Affordable Under the Final Rule:
Summary Table Showing All Single-Family and Multifamily Units

	Fannie Mae		Freddie Mac	
	1993	1994	1993	1994
Number of Units	289,729	305,065	155,921	146,821
Percent	10.0%	16.7%	7.2%	11.4%
Total Eligible	2,905,406	1,827,584	2,167,994	1,291,275

3. National Housing Needs of Low-Income Families in Low-Income Areas and Very-Low-Income Families

The following discussion closely follows HUD's analysis of national housing needs in Appendix C of the proposed rule, which has been updated in various respects. As in the proposed rule, this discussion concentrates on very-low-income families with the greatest needs, because Section C of Appendix A presents detailed analyses of housing problems and demographic trends for lower-income families.

a. Housing Problems Among Very-low-income Families

Data from the 1990 Census and from the 1989, 1991, and 1993 American Housing Surveys demonstrate that housing problems and needs for affordable housing are more pressing in the lowest-income categories than among moderate-income families. Analyses of special tabulations of the 1990 Census prepared for use in developing Comprehensive Housing Affordability Strategies (the CHAS database), which have been updated to 1993 using American Housing Survey Data, show clearly that sharp differentials by income characterized all regions of the nation as well as their city, suburban, and nonmetropolitan portions. Nationally, approximately one-fourth of moderate-income renters and owners experienced one or more housing problems, compared to nearly three-fourths of very-low-income renters and nearly half of very-low-income owners.[3] Severe cost burdens—paying more than half of income for housing and utilities—varied even more markedly by income, involving less than 2 percent of moderate-income households, but nearly two-fifths of the 10.5 million owners with incomes below 30 percent of area median income.

The CHAS tabulations are based on HUD-adjusted median income for both owners and renters, rather than on unadjusted median income for owners, as FHEFSSA specifies for mortgages counted toward the housing goals.[4] But tabulations of the 1993 AHS using the GSE income definitions reveal the same pattern of problems for lower-income families. As the following table details, for both owners and renters, housing problems are much more frequent for the lowest-income groups.[5] Priority problems of severe cost burden or severely inadequate housing are noticeably concentrated among renters and owners with incomes below 35 percent of area median income.

Income as % of area median income (percent)	Renters		Owners	
	Any problems (percent)	Priority problems (percent)	Any problems (percent)	Priority problems (percent)
Less than 35	89	44	62	36
35–50	78	17	40	13
51–80	48	5	29	7
81–100	24	1	21	4

Comparisons by income reveal that owners and renters (with incomes between 50 and 80 percent of area median) resemble moderate-income households in seldom having priority problems. Priority problems are heavily concentrated among households with incomes below 50 percent of median.[6] In 1991, 5.3 million unassisted renter households with incomes below 50 percent of area median income had "worst case" housing needs.[7] This total does not include homeless persons and families, although they also qualify for preference. For three-fourths of the renter families with worst case problems, the only problem was affordability—they do not have problems with housing adequacy or crowding.

b. Needs for Housing Affordable to Very-Low-Income Families

The existing housing stock satisfies the physical needs of most very-low-income renters. In most cases families are able to find adequate housing. The problem is that much of this housing is not affordable to very-low-income families—i.e., these families must pay more than 30 percent of their income for housing. The main exception to this generalization occurs among extremely-low-income families (defined as families below 30 percent of area median income) with three or more children. The 1993 American Housing Survey shows that 47 percent of these families live in crowded housing. A certain amount of variation in need exists, by region and degree of urbanization. Although 22 percent of worst case renters experience crowding or severe inadequacy, this figure varies from 11 percent in the Northeastern suburbs to 35 percent in the South's nonmetropolitan areas. Shortages of affordable housing units continued to be greatest and vacancy rates lowest in California.

The relative decline in inexpensive dwelling units has been concentrated among the least expensive rental units—those with rents affordable to families with incomes below 30 percent of area median income. In 1979, the number of units in this rent range was 28 percent less than the number of renters with incomes below 30 percent of area median income; by 1989, the gap had widened to 39 percent, a shortage of 2.7 million units.[8] This shortage is a problem particularly at the extremely low end of the rent distribution. Both nationally and in most states, there are surpluses of rental housing affordable to families with incomes between 30 and 50 percent of area median income and to those in the 50–80 percent range.[9] Furthermore, in most states, vacancy rates were high in 1990 among units with rents affordable to families with incomes at or below 50 percent of median.[10] Thus, like housing problems, unmet needs for affordable housing are heavily concentrated in rent ranges affordable to renters with incomes below 30 percent of area median income.

[3] The problems covered by the Census include paying over 30 percent of income for housing, lacking complete kitchen or plumbing, and overcrowding. See Appendix Tables 18A and 19A of Amy Bogdon, Joshua Silver, and Margery A. Turner, *National Analysis of Housing Affordability, Adequacy, and Availability: A Framework for Local Housing Strategies*, HUD–1448–PDR, 1994.

[4] To determine eligibility for Section 8 and other HUD programs, HUD adjusts income limits derived from the median family income for household size. The "very low" and "low" income limits at 50 percent and 80 percent of median apply to 4-person households. Relative to the income limits for a 4-person household, the limit is 70 percent for a 1-person household, 80 percent for a 2-person household, 90 percent for a 3-person household, 108 percent for a 5-person household, 116 percent for a 6-person household, etc.

[5] Tabulations of the 1993 American Housing Survey by HUD's Office of Policy Development and Research. The results in the table categorize renters reporting housing assistance as having no housing problems. Almost one-third of renters with incomes 0–30 percent of median and one-fifth of those with incomes 30–50 percent of median are assisted.

[6] For all housing programs of HUD (other than the GSE goals) and the Department of Agriculture, "very-low-income" is defined as not exceeding 50 percent of area median income.

[7] "Worst case housing needs" for housing assistance are defined as unassisted renters with income below 50 percent of area median income who meet a Federal preference for admission to rental assistance because they pay more than half of income for rent and utilities, have been displaced, or live in severely substandard housing (which includes being homeless).

[8] Tabulations by HUD's Office of Policy Development and Research, based on U.S. Departments of Housing and Urban Development and Commerce, *American Housing Survey for the United States in 1989*, July 1991.

[9] HUD's Office of Policy Development and Research, *Worst Case Needs for Housing Assistance in the United States in 1990 and 1991*, 1994, Table 8.

[10] Id., Table 6.

4. The Ability of the Enterprises to Lead the Industry in Making Mortgage Credit Available for Low-Income and Very-Low-Income Families

The discussion of the ability of Fannie Mae and Freddie Mac to lead the industry in Section C.5 of Appendix A is relevant to this factor—the GSEs' dominant role in the market, their role in establishing widely-applied underwriting standards, their role in the development of new technology for mortgage origination, their strong staff resources, and their financial strength. Additional analysis on the potential ability of the enterprises to lead the industry in the low- and very-low-income market appears below—in Section D.2 generally, and in Section D.3 with respect to multifamily housing.

The ability of the GSEs to lead the industry in the special affordable market is best demonstrated by the significant gains both enterprises have made in this market. As a percentage of total units in the properties whose mortgages they purchased, the special affordable share for the GSEs combined rose from 7.7 percent in 1993 to 13.9 percent in 1994 and 16.4 percent for the first half of 1995. The 1994 increase was truly impressive, as special affordable units rose by 6 percent while total units declined by 41 percent.

5. The Need to Maintain the Sound Financial Condition of the GSEs

HUD has undertaken a separate, detailed economic analysis of this rule, which includes consideration of the financial safety and soundness implications of the housing goals. The analysis considered the likely mortgage default implications of the goals and implications for the profitability of the GSEs under various alternative economic assumptions. Among the conclusions are: that the goals will have, at most, only limited impacts on credit risk, which the GSEs should be able to handle without significant lowering of underwriting standards; that risks associated with increased multifamily mortgage purchase volumes under the goals are manageable, considering the scope of the increases implied by the goals; and that the goals imply no meaningful increase in risk to the sound financial condition of the GSEs' operations. Based on this analysis, HUD concludes that the goals raise minimal, if any, safety and soundness concerns.

D. Determination of the Goal

Several considerations, many of which have been reviewed in earlier sections of this Appendix, led to the determination of the Special Affordable Housing Goal.

1. Severe Housing Problems

The data presented in Section C.3 demonstrate that housing problems and needs for affordable housing are much more pressing in the lowest-income categories than among moderate-income families. The high incidence of severe problems among the lowest-income renters reflects severe shortages of units affordable to those renters. At incomes below 30 percent of median, two-thirds of owners and 70 percent of renters pay more than 30 percent of their income for housing, live in inadequate housing, or are crowded. As the analysis presented above shows, priority problems—paying more than half of income for housing or living in severely inadequate housing—are heavily concentrated among renters with incomes below 50 percent of median. Housing and affordability problems are particularly acute for renters with income below 30 percent of area median income.

2. GSE Performance and the Market

The Special Affordable Housing Goal is designed, in part, to ensure that the GSEs maintain a consistent focus on serving the very-low-income portion of the housing market where housing needs are greatest. The bulk of the GSEs' low- and moderate-income mortgage purchases are for the higher-income portion of the low- and moderate-income category. The lowest-income borrowers accounted for a very small percentage of each GSEs' purchases. Five percent of the GSEs' 1993 mortgage purchases financed homes for single-family homeowners with incomes below 60 percent of area median, and 7 percent in 1994. (See Figure A.1 in Appendix A.)

Specification of the goal. The Special Affordable Housing Goal is established as percentages of the GSEs' total business for the 1996–99 period. This kind of specification is preferable to a fixed, dollar-based specification because: (1) The size of the market for housing eligible to count toward the Special Affordable Housing Goal fluctuates with the size of the overall market rather than remaining at any fixed dollar level (as shown by analysis of HMDA data); and (2) fixed-dollar goals, if based on a high-volume year, could be unattainable in a low-volume year; if based on a low-volume year, could represent insufficient support by the GSEs for the special affordable market in a high-volume year; and if based on an average-volume year, could alternate between being unattainable in some years and insufficient in other years.

GSEs' Performance Relative to the Market. Analysis of American Housing Survey and HMDA data shows that the GSEs are purchasing a smaller proportion of loans for very-low-income homebuyers than are portfolio lenders operating in the conforming market (see the discussion of Figure A.2 in Appendix A). That analysis suggests that there is room in the very-low-income end of the homebuyer market for the GSEs to improve their performance.

A reasonable estimate of the size of the market for both single family and multifamily mortgages that would be eligible to count toward the Special Affordable Housing Goal is 20–23 percent of the overall conventional conforming market, as explained in Section H.2 of Appendix D.

Under the final rule's counting conventions 16.7 percent (7.9 percent owner-occupied and 8.8 percent rental) of units covered by Fannie Mae's mortgage purchases in 1994 would have been eligible to count toward this goal, and 11.4 percent (7.1 percent owner-occupied and 4.3 percent rental) of units covered by Freddie Mac's mortgage purchases would have been eligible to count toward this goal. Figure C.1 compares recent GSE performance, the 1996 and 1997–99 Special Affordable Housing Goals, and the size of the market.

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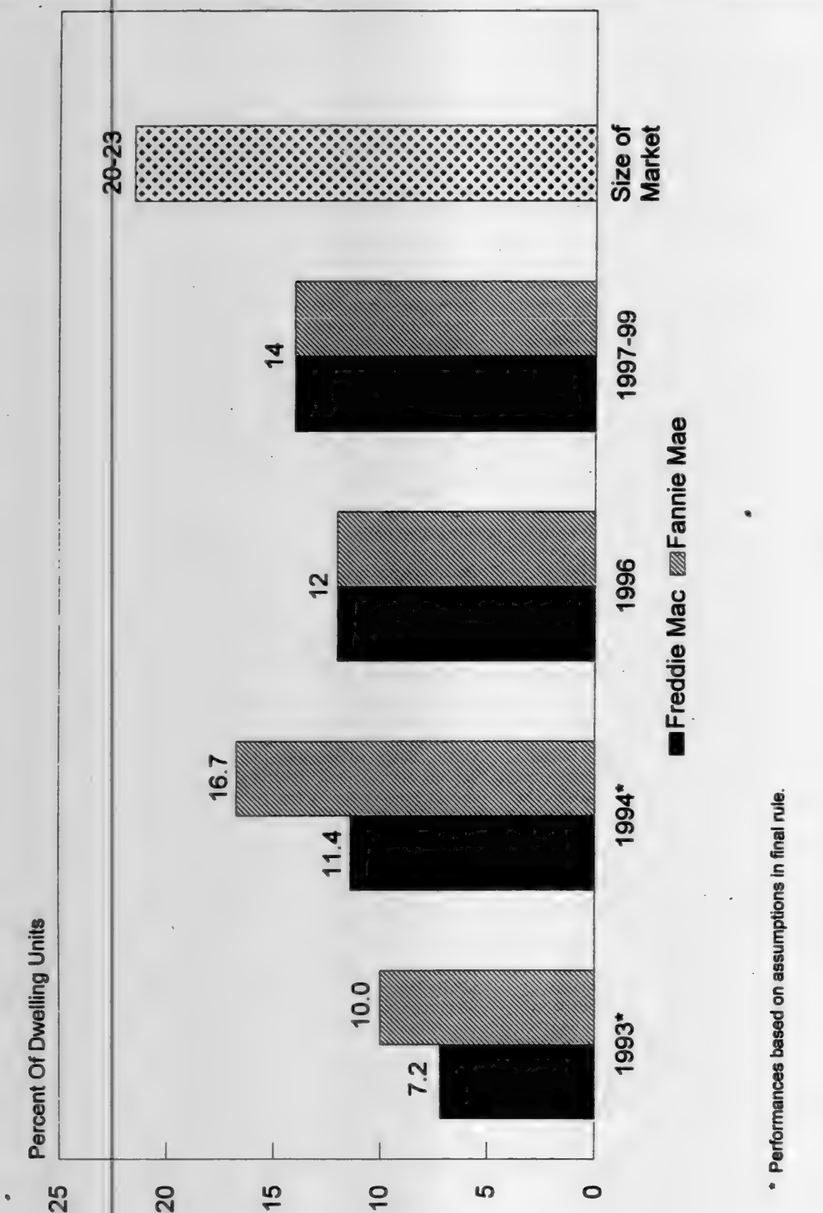
FIGURE C.1



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3. Multifamily Purchases

The GSEs can bring an important benefit to the multifamily market in the form of long-term liquidity. In the multifamily arena, however, a secondary market is only in its infancy (see Section C.2.c in Appendix A). Given the GSEs' overall experience and financial strength, it is reasonable to expect that they would play major roles in this development.

Recent tightening of interest rate spreads for "better" multifamily mortgage originations demonstrates that increased liquidity can lower spreads. This suggests that participation by the GSEs can lower financing costs and ultimately rents across the broad range of multifamily properties, including properties occupied by low- and very-low-income tenants. (Section C.2.c of Appendix A elaborates on these themes.)

A minimum multifamily special affordable volume of 0.8 percent of total 1994 volume of business is reasonable, both relative to the size of the market and relative to the GSEs' recent volume of qualifying multifamily purchases. The implied volumes are $950 million for Freddie Mac (relative to $118.8 billion total volume) and $1.22 billion for Fannie Mae (relative to $153.0 billion total volume). Their 1994 volumes of multifamily business that would have qualified as special affordable under this final rule were $425 million for Freddie Mac (0.36 percent of 1994 business), or half of the necessary volume for 1996, and $1.91 billion for Fannie Mae (1.25 percent of 1994 business), or $690 million more than necessary for 1996. The size of the total multifamily market that would qualify under the Special Affordable Housing Goal is approximately $10 billion annually.

Expressing the multifamily subgoals for every year covered by this rule as percentages of total 1994 purchases is a reasonable approach, since multifamily subgoals expressed as percentages of current-year total business could be difficult to achieve in some years. Total volume is driven by the single-family business, which is subject to wide swings due to refinancing waves, as in 1992–93, and to changes in the ARM share of the market.

The Secretary selected 0.8 percent of total 1994 business volume after careful review of the GSEs' past performance and consideration of the need to maintain a minimum level of attention to multifamily housing. This percentage may seem small, but that is because the multifamily market (measured in dollar terms) comprises only a fraction of the total mortgage market, and the special affordable share of the GSEs' multifamily purchases in 1994 was just above 50 percent.[11] For this same reason, changes in this subgoal of even 0.1 percent are significant.

These subgoals are below recent levels of special affordable multifamily purchases by Fannie Mae, but above recent levels of such purchases by Freddie Mac. It should be emphasized that these are minimum purchase amounts; thus HUD in no way is encouraging Fannie Mae to reduce its volume of multifamily business, which is important in its overall efforts to meet the Special Affordable Housing Goal and Low- and Moderate-Income Housing Goals. HUD very much supports Freddie Mac's actions to rebuild its multifamily business, and encourages further efforts in this area. To date Freddie Mac has had no delinquencies on its multifamily business since it reentered this market, and the GSE's multifamily business has been creditworthy and profitable.[12]

4. Conclusion

HUD has determined that the Special Affordable Housing Goal established in the final rule addresses national housing needs within the income categories specified for this goal, while accounting for the GSEs' performance in the past in purchasing mortgages meeting the needs of very-low-income families and low-income families in low-income areas. HUD has also considered the size of the conventional mortgage market serving very-low-income families and low-income families in low-income areas. Moreover, HUD has considered the GSEs' ability to lead the industry as well as their financial condition. HUD has determined that goals of 12 percent in 1996, 14 percent in 1997–1999, and 14 percent thereafter pending establishment of a new goal, with fixed multifamily subgoals of 0.8 percent of 1994 volumes of business, are both necessary and achievable.

Appendix D—Estimating the Size of the Conventional Conforming Market for Each Housing Goal

In establishing the three housing goals, the Secretary is required to assess, among a number of factors, the size of the conventional market for each goal. This Appendix explains HUD's methodology for estimating the size of the conventional market for each of the three housing goals. Section A provides an overview of public comments on the methodology described in the proposed rule. Section B describes the main components of HUD's market-share model and identifies those parameters that have a large effect on the relative market shares. Sections C and D discuss two particularly important market parameters—the size of the multifamily market and the share of the single-family mortgage market accounted for by rental properties. With this as background, Section E provides a more systematic presentation of the model's equations and main assumptions. Sections F, G, and H report HUD's estimates for the Low- and Moderate-Income Goal, the Central Cities, Rural Areas, and other Underserved Areas Goal, and the Special Affordable Housing Goal, respectively.

A. Overview of Comments on Market Methodology

1. Overall Issue

Both GSEs expressed strong criticism of HUD's use of specific data elements in constructing its estimates of market size. Although both GSEs criticized how data had been interpreted in the proposed rule's market share model, neither GSE, nor any commenter, objected to HUD's basic model for calculating the size of the markets relevant to each of the goals. However, Freddie Mac presented a detailed set of objections to the use of certain data sources or assumptions, concluding that HUD's market estimates were "fatally flawed." Freddie Mac commented that "the Proposed Rule uses a combination of data sources and a set of arbitrary assumptions in order to estimate the size of the current conforming, conventional market," adding that "in nearly every case, HUD has chosen an estimate at the highest end of calculable estimates."

Freddie Mac proposed a number of revisions to the assumptions or data sets used in the proposed rule, for example—using HMDA data to estimate the size of the multifamily and single-family rental markets, using American Housing Survey rent data on recently-completed properties to estimate the affordability of the newly-mortgaged rental properties, using discount factors to reduce the size of the rental and low-income owner markets, etc. HUD has carefully considered these comments in revising the market estimates for each of the goals. However, HUD disagrees with Freddie Mac's overarching comment that because data are not always available in the form and format desired, HUD should use minimal estimates of market activity. Such an

[11] Multifamily properties account for a much higher percentage of dwelling units financed by mortgages than their percentage of total dollar mortgage volume.

[12] *American Banker*, October 12, 1995, p. 12.

approach does not take advantage of the wealth of information currently available on mortgage activity.

In revising the rule, HUD has carefully reviewed existing information on mortgage activity in order to understand the weakness of various data sources, has conducted sensitivity analyses to show the effects of alternative parameter assumptions, and has hired independent researchers to assist in determining best estimates for the more important determinants of the housing goal market shares. HUD is well aware of uncertainties with some of the data and much of this Appendix is spent discussing the effects of these uncertainties on the market estimates.

The remainder of this section responds to several major comments about the market share methodology made by Freddie Mac and others. But with respect to Freddie Mac's statements that HUD's methodology is "fatally flawed" and based on "arbitrary assumptions," HUD has three specific comments here:

(A) HUD contracted with Urban Institute researchers to independently evaluate its methodology for estimating market shares for the various goals. They concluded that HUD's conceptual approach is "a reasonable approach to determining the size of the low- and moderate-income, underserved areas, and special affordable markets relative to the size of the overall conventional, conforming mortgage market."[1] They also concluded that Freddie Mac's approach for measuring mortgage market property shares was the wrong approach (see discussion below).

(B) Freddie Mac commissioned Abt Associates to evaluate HUD's methodology for the proposed rule. Abt Associates concluded that "the point is not that HUD misused the data. On the contrary, HUD made reasonable attempts to arrive at plausible estimates."[2] (Emphasis added.)

(C) HUD has set conservative goals. For example, the Low- and Moderate-Income Goal is 40 percent for 1996 and 42 percent for 1997 and subsequent years. These goals are well below the market shares projected by HUD and the Urban Institute. In addition, the Abt study estimated that the low- and moderate-income market was 41–57 percent, placing the Low- and Moderate-Income Goal for 1997 and subsequent years at the bottom of Abt's range of estimates of market size. It should further be noted that Abt's estimates were made based on the proposed rule. A number of liberalizations in the counting rules have been made in the final rule, which mean that market estimates should be revised upward in light of these changes.

It also should be emphasized that neither GSE objected to HUD's basic model for calculating the size of the markets relevant to each of the housing goals, which involves estimating (1) the share of the market (in dwelling units) by type of property (single-family-owner, single-family-rental, and multifamily), (2) the proportion of dwelling units financed by mortgages for each type of property meeting each goal, and (3) projecting the size of the market by weighting each such goal share by the corresponding market share. The GSEs' comments focused on how the underlying estimates were derived and the resulting impacts on the size of the market for each goal. As noted above, HUD recognizes the uncertainty regarding some of these estimates, which led the Department to undertake a number of sensitivity analyses and to contract with Urban Institute researchers to reduce some of this uncertainty.

2. Major Issues

(1) Market volatility. Freddie Mac commented that HUD's analysis ignores the impact that changes in national economic conditions can have on the size of the market, stating that its recent efforts to expand the reach of the secondary market in support of low- and moderate-income people "were aided by very favorable interest rates and macroeconomic conditions that made housing extraordinarily affordable." However, Freddie Mac observed, fluctuations of interest rates of approximately 250 basis points in the past year have demonstrated that housing can become much less affordable in a short period, but "HUD's market estimates assume that the favorable conditions of 1993 and 1994 will continue indefinitely."

HUD response. HUD has addressed the concerns about market volatility in two major ways:

(A) HUD has conducted detailed sensitivity analyses for each of the housing goals. These analyses present different estimates of market size by varying key assumptions: the size of the multifamily market; the low- and moderate-income shares of single-family owner-occupied homes[3], single-family rental homes, and multifamily units; the breakdown of the single-family market between owner-occupied units and rental units; and the multifamily loan amount per unit. These analyses support the feasibility of the goals under a wide range of conditions.

(B) With regard to volatility in the multifamily market, Freddie Mac stated the HUD's use of Residential Finance Survey (RFS) data is inappropriate, because they draw on a period when multifamily lending was unusually high. HUD did not use the RFS data in its baseline model. As the proposed rule noted, the RFS, based on a period with a high level of multifamily originations, overstates the probable level of multifamily originations in the 1996–97 period.

HUD recognizes that there is volatility in the multifamily market, and for this reason contracted with Urban Institute researchers to develop a "steady-state" multifamily originations model which abstracts from the volatility of interest rates, refinancings, and waves of maturing balloon mortgages.[4] This model generated projections of multifamily activity no less than, and in some cases substantially greater than, those used by HUD in this rule.

(2) Size of the multifamily market. Both GSEs commented that in the proposed rule the role of multifamily financing is consistently overstated. In particular, both GSEs advocated the use of data from the Home Mortgage Disclosure Act (HMDA) reports, rather than the Survey of Mortgage Lending Activity (SMLA), used by HUD in the proposed rule.

HUD response. HUD addressed this comment in two ways:

(A) HUD commissioned four papers on the multifamily market by Urban Institute researchers[5] and held two seminars on this topic with a wide range of participants, including the GSEs. These papers compared and evaluated

[1] Dixie M. Blackley and James R. Follain, "A Critique of the Methodology Used to Determine Affordable Housing Goals for the Government-Sponsored Housing Enterprises," October 1995, p. 21.

[2] Abt Associates, "Evaluation of HUD-Proposed Housing Goals for the GSEs," February 6, 1995, p. 12.

[3] The GSEs have generally advocated use of the HMDA data. In a number of the sensitivity analyses, the percentages of single-family owner-occupied homes which qualify for the low-mod goal have been reduced below the levels reported by the 1993 and 1994 HMDA data.

[4] Robert Dunsky, James R. Follain, and Jan Ondrich, "An Alternative Methodology to Estimate the Volume of Multifamily Mortgage Originations," September 1995.

[5] These are: The previously cited papers by Blackely and Follain (1995) and Dunsky, Follain, and Ondrich (1995); "Estimating the Volume of Multifamily Mortgage Originations by Commercial Banks Using the Survey of Mortgage Lending Activity and Home Mortgage Disclosure Act data," by Amy D. Crews, Robert Dunsky, and James Follain (October 1995); and "What We Know About Multifamily Mortgage Originations," by Amy D. Crews, Robert M. Dunsky, and James R. Follain (October 1995).

information about the size of the multifamily market in detail. They supported HUD's projections of the size of the market, and at least one of their analyses suggested that higher estimates were reasonable. They concluded that the HMDA data base underreports multifamily originations. Details are presented in section C.2, below.

(B) In its sensitivity analyses, HUD has used lower estimates of the size of the multifamily market than the base case in the proposed rule.

Section C below provides a more detailed response to the GSEs' comments about the size of the multifamily market.

(3) Size of the single-family rental market. Freddie Mac stated that HUD's use of the Survey of Mortgage Lending Activity (SMLA) caused it to overstate the size of the single-family rental market, arguing that a more accurate estimate is derived from HMDA.

HUD response. HUD did not use the SMLA to estimate the rental share of the single-family market—rather, it closely analyzed data from the Residential Finance Survey (RFS) and the HMDA reports. In its base case HUD projected the investor share of the single-family market at 10.0 percent, well below the 17.3 percent reported by the RFS, but slightly above the 8.0 percent reported by the 1994 HMDA data. Again, the Urban Institute researchers concluded that the HMDA estimate was too low and a 10–12 percent estimate was reasonable. At the same time, HUD has acknowledged that there is some uncertainty about the rental share of the single-family market, and has reflected this in its sensitivity analyses (Table D.3).

(4) Multifamily market penetration. Fannie Mae stated that the multifamily lending industry is fundamentally different from the single-family industry and that the GSEs do not dominate the multifamily market to the degree that they dominate the single-family market. Fannie Mae concluded that "origination volumes in multifamily lending are not a reliable indicator of what is available to either Fannie Mae or Freddie Mac in the secondary market." Freddie Mac concurred with this view.

HUD response. The GSEs are able to purchase loans from any multifamily lender. Explicitly considering only multifamily loans originated by certain lenders in the estimate of market size would implicitly amount to intervention in the GSEs' mortgage purchase decisions, and be tantamount to "micromanagement" of the GSEs' operations, which both HUD and the GSEs wish to avoid. (Appendix A discusses HUD's response to this issue in more detail.)

At the same time, HUD realizes that the GSEs have been and are likely to continue to be less active in the multifamily market than in the single-family market. It is also true that multifamily originations play a significant role in estimating the size of the Low- and Moderate-Income and Special Affordable Housing Goals. For these reasons, both of these goals have been conservatively set in relation to HUD's estimates of the size of these markets, including all multifamily originations.

Other Issues

(5) Distortions caused by mobile home loans in the HMDA data. Fannie Mae commented that the HMDA data used in HUD's analysis included mobile home loans, which "are an important source of affordable housing for low- and moderate-income families, but which are not a significant product line for either Fannie Mae or Freddie Mac," adding that if mobile home originations are eliminated, "the amount of mortgages meeting this [low- and moderate-income] goal available to Fannie Mae and Freddie Mac is significantly reduced." Freddie Mac was in general agreement with this view.

HUD response. HUD has undertaken discussions with industry representatives and mobile home lenders and has examined the effects of adjusting the HMDA data for mobile homes.[6] However, as Section F discusses in detail, it is not clear how many mobile home loans are included in the HMDA data. Thus, HUD also uses American Housing Survey data that does not include mobile homes. To a certain extent, HUD had anticipated this issue in its proposed rule by excluding small loans from its analysis of HMDA data.

(6) American Housing Survey (AHS) data on housing affordability. Freddie Mac stated that HUD's use of the AHS led to an overstatement of housing affordability, because "it is well known that income reported in the AHS [is] lower than other independent estimates of income."

HUD response. This issue requires distinguishing between owner-occupied and rental units using special 1990 Census tabulations. HUD compared data on household income to official HUD estimates of area median income for each location in the country. These Census tabulations should be more accurate than the AHS in two ways—because the Census income data are better, and because the Census income data were compared to accurate median family income data for each metro area or nonmetro county in the country. The AHS estimates of the income of very-low-, low-, and moderate-income homeowners are about two percentage points higher than the corresponding Census data. However, these comparisons fail to take into account the changes which were made in the AHS in 1993, which has reduced income underreporting by the AHS. (See Section F.1.c below.) Thus, it appears that income underreporting is not a serious problem with the recent AHS data. As noted above, one advantage of the AHS data is that it excludes mobile home loans.

The Census tabulations show that the AHS and the Census data are remarkably similar with regard to renters' incomes. But the Department used rent data, not income data, in measuring affordability of rental units. The AHS asks more questions about rent components than any other survey and it is the only source of information on gross rent (contract rent plus the cost of utilities), thus it is the best source of information about rents.

(7) Use of rent levels inflates rental housing importance. Freddie Mac stated that the proposed rule uses rent levels to qualify rental units as serving low- or moderate-income levels. They added that "This is reasonable, but has the effect of increasing the importance of rental housing in meeting goals," because "many higher income households live in lower cost rental units."

HUD response. It is true that many higher-income households live in lower-rent units, but this is irrelevant. If the GSEs undertook a concerted effort to gather comprehensive data on renter income, as allowed (but not required) by the FHEFSSA, HUD would base its low- and moderate-income rental share on renters' income data. But in fact both GSEs have repeatedly said that data on tenant income is not generally available, and HUD has therefore allowed the GSEs to use data on rents in determining affordability. To be consistent with this practice, HUD has used rents in estimating the size of the market related to the various goals. This procedure does not inflate the importance of rental housing relative to what is available for purchase by the GSEs.

[6] These adjustments involved identifying all loans originated by four mobile home lenders, examining borrower income data for these loans, extrapolating from this data to estimate the size of the total mobile home market by income level in the HMDA data, and deducting the resulting estimates from the HMDA data.

B. Overview of HUD's Market Share Methodology

1. Definition

The size of the market for each housing goal is one of the factors that the Secretary is required to consider when setting the level of each housing goal.[7] Using the Low- and Moderate-Income Housing Goal as an example, the market share in a particular year is defined as follows:

Low- and Moderate-Income Share of Market: The number of dwelling units financed by the primary mortgage market in a particular calendar year that are occupied by (or affordable to, in the case of rental units) families with incomes less than the area median income *divided by* the total number of dwelling units financed in the conforming conventional primary mortgage market.

There are three important aspects to this definition. First, the market is defined in terms of "dwelling units" rather than, for example, "value of mortgages" or "number of properties." Second, the units are "financed" units rather than the entire stock of all mortgaged dwelling units; that is, the market-share concept is based on the mortgage flow in a particular year, which will be smaller than total outstanding mortgage debt. Third, the low- and moderate-income market is expressed relative to the overall conforming conventional market, which is the relevant market for the GSEs.[8] The low- and moderate-income market is defined as a percentage of the conforming market; this percentage approach maintains consistency with the method for computing each GSE's performance under the low- and moderate-income goal (that is, the number of low- and moderate-income dwelling units financed by GSE mortgage purchases relative to the overall number of dwelling units financed by GSE mortgage purchases).

2. Three-Step Procedure

Ideally, computing the low- and moderate-income market share would be straightforward, consisting of three steps:

(Step 1) Projecting the market shares of the four major property types included in the conventional conforming mortgage market:

(a) Single-family owner-occupied dwelling units (SF-O units);

(b) Rental units in 2–4 unit properties where the owner occupies one unit (SF 2–4 units);[9]

(c) Rental units in one-to-four unit investor-owned properties (SF investor units); and,

(d) Rental units in multifamily (5 or more units) properties (MF units).[10]

(Step 2) Projecting the "goal percentage" for each of the above four property types (for example, the "low- and moderate-income goal percentage for single-family owner-occupied properties" is the percentage of those dwelling units financed by mortgages in a particular year that are occupied by households with incomes below the area median).

(Step 3) Multiplying the four percentages in (2) by their corresponding market shares in (1), and summing the results to arrive at an estimate (weighted average) of the overall share of dwelling units financed by mortgages that are occupied by low- and moderate-income families.

The four property types are analyzed separately because of their differences in low- and moderate-income occupancy. Rental properties have substantially higher percentages of low- and moderate-income occupants than owner-occupied properties. This can be seen by the following illustration of Step 3's basic formula for calculating the size of the low- and moderate-income market: [11]

Property type	(Step 1) share of market (percent)	(Step 2) low-mod share (percent)	(Step 3) multiply (1) x (2) (percent)
(a) SF–O	71.0	36	25.6
(b) SF 2–4	2.0	85	1.7
(c) SF Investor	10.6	85	9.1
(d) MF	16.4	90	14.8
Total Market	100.0		51.2

In this example, low- and moderate-income dwelling units are estimated to account for slightly over 51 percent of the total number of dwelling units financed in the conforming mortgage market. To examine the other housing goals, the "goal percentages" in Step 2 would be changed and the new "goal percentages" would be multiplied by Step 1's property distribution, which remains constant.

3. Data Issues

Unfortunately, complete and consistent mortgage data are not readily available for carrying out the above three steps. A single data set for calculating either the property shares or the housing goal percentages does not exist. However, there are several major data bases that provide a wealth of useful information on the mortgage market. HUD combined information from the following sources: the Home Mortgage Disclosure Act (HMDA) reports, the American Housing Survey (AHS), HUD's Survey of Mortgage Lending Activity (SMLA), and the Census Bureau's Residential Finance Survey (RFS).

Property Shares. To derive the property shares, HUD started with forecasts of single-family mortgage originations. These forecasts, which are readily available from industry groups and the GSEs, are based on HUD's SMLA. The SMLA does not provide information on conforming mortgages, on owner versus renter mortgages, or on the number of units financed. Thus, to estimate the number of single-family units financed in the conforming conventional market, HUD had to project certain market parameters based on its judgment about the reliability of different data sources. Sections D and E report HUD's findings related to the single-family market.

Total market originations are obtained by adding multifamily originations to the single-family estimate. Because of the wide range of estimates available, the size of the multifamily mortgage market turned out to be one of the most controversial issues raised in the public comments. In 1994, HMDA reported about $15 billion in conventional multifamily originations while the SMLA reported double that amount ($30 billion). Because most renters qualify under the low- and moderate-income goal, the chosen market size for multifamily can have a substantial effect on the overall estimate of the low- and moderate-income market (as well as on the estimate of the special affordable market). Thus, it is important to have a reliable estimate of the size of the multifamily market. Section C discusses this issue in detail.

Goal Percentages. To derive the goal percentages for each property type, HUD relied heavily on HMDA and AHS data. For single-family owner originations, HMDA provides comprehensive information on borrower incomes and census tract locations for metropolitan areas. Unfortunately, it provides no information on the incomes of renters living in mortgaged properties (either single-family or multifamily) or on the affordability of rental units in mortgaged properties. The AHS, however, does provide a wealth of information on the affordability of rental properties. Thus, an important issue here concerns whether affordability data from rental properties can serve as a proxy for the affordability of newly-mortgaged rental properties. This issue as well as other technical issues related to the goal percentages (such as the need to exclude mobile homes from HMDA data) are discussed in Sections F, G, and H.

4. Conclusions

HUD has attempted to reduce the range of uncertainty around its market estimates by carefully reviewing all known major mortgage data sources and by conducting numerous sensitivity analyses to show the effects of alternative assumptions. The remainder of this Appendix reports findings from the additional analyses that HUD has conducted in response to public comments received. Sections C, D, and E report findings related to the property share distributions called for in Step 1, while Sections F, G, and H report findings related to the goal-specific market parameters called for in Step 2. These latter sections also report the overall market estimates for each housing goal calculated in Step 3.

HUD contracted with the Urban Institute to comment on the reasonableness of its market share approach and to conduct analyses related to specific comments received from the public about its market share methodology. Findings from several Urban Institute reports will be discussed throughout this Appendix.

C. Size of the Multifamily Mortgage Market

This section derives projections of multifamily mortgage originations, in dollars and in numbers of units in mortgaged properties.

The multifamily sector is especially important in the establishment of housing goals for Fannie Mae and Freddie Mac because multifamily properties are overwhelmingly occupied by low- and moderate-income families. For example, in 1994 11 percent of units financed by Fannie Mae were multifamily, but 93 percent of those units were low- and moderate-income units, accounting for 23 percent of all of Fannie Mae's low- and moderate-income purchases for that year.

This discussion is organized as follows: Section 1 reviews the proposed rule's approach to multifamily market estimation, the public comments on the methodology, and HUD's approach to resolve various questions raised. Section 2 identifies and evaluates available historical data resources. Section 3 undertakes an analysis of projected aggregate origination volume for 1996 and 1997 for the entire multifamily market and then considers the portion of the market relevant as a basis for establishing housing goals for Fannie Mae and Freddie Mac.

1. The Proposed Rule, Public Comments, and HUD's Approach to Resolving Issues Raised

Proposed rule. The proposed rule presented two projections of the size of the multifamily market. The first, based on the Bureau of the Census's 1991 Survey of Residential Finance (RFS), was $35 billion of conventional multifamily originations, which was projected to be 7 percent of the total dollar volume of conventional originations. The second, based on HUD's Survey of Mortgage Lending Activity (SMLA), was $33 billion of conventional multifamily originations, which was projected to be 5 percent of the total dollar volume of conventional originations.

Public comments. Both GSEs maintained that in deriving market-share estimates for all three of the statutory goals, HUD had made projections of the size of the multifamily market that were unreasonably high. They claimed that HUD had chosen the poorest and least-favorable of the data bases that could have been employed for this purpose.

The following points were made by the GSEs in support of this general criticism:

a. HUD's reliance on the Survey of Mortgage Lending Activity (SMLA): The GSEs commented that this survey's estimates of multifamily lending volumes in the early 1990s are based on data for a sample of commercial banks that is known to be out-of-date and too small, yet this survey is the one on which HUD relied most heavily.

b. HUD's use of the Residential Finance Survey (RFS): The GSEs commented that HUD used mortgage assumptions data that should have been excluded in estimating mortgage origination volumes; that HUD improperly ignored the nature of RFS as a survey of outstanding mortgages still outstanding after a period of time had passed since their origination and did not adequately allow for differential prepayment rates between multifamily and single-family mortgages over that passage of time; that HUD had relied on RFS data for mortgages originated over a longer-than-necessary time interval (1987–1991, when 1989–91 could have been used); that HUD had not recognized the decline in origination rates that occurred in the early 1990s, after the end of the period reflected in RFS and after a period of turmoil in the market in 1990–91; that HUD had failed to recognize that originations in 1990–91 included significant numbers of multifamily loan restructurings that would have been reported as new loans in RFS (as well as SMLA) but would not have been available for GSE purchase.

c. HUD's neglect of evidence on the multifamily market in the Home Mortgage Disclosure Act (HMDA) data base: The GSEs stated their belief that HMDA covers nearly 100 percent of the relevant lender base; and that commercial banks are known to file HMDA reports reliably, making this a better source of information on banks than SMLA. As a general matter, Fannie Mae and Freddie Mac contended that the HMDA figure for 1993 mortgage originations is the more accurate one, based on what they understood to be methodological deficiencies in SMLA and limited applicability of RFS.

Activities to resolve issues. HUD contracted with the Urban Institute for a wide-ranging evaluation of data sources and exploration of factors that could potentially affect multifamily originations in the next few years. This work included analyses of RFS, SMLA, and HMDA data, investigations of the methodologies used to construct these three data sources, and discussions with knowledgeable individuals in the lending community. This was supplemented by HUD in-house analyses of RFS, HMDA, SMLA, and GSE data on multifamily volumes. In addition, HUD convened two meetings with experts involved in the collection and compilation of RFS, SMLA, and HMDA data and other experts on mortgage originations. HUD also organized a discussion of affordable multifamily development and the secondary market involving a diverse group of lenders, with Urban Institute researchers. Representatives of Fannie Mae and Freddie Mac were present at all of these meetings. The results of these analyses are summarized below.

2. Multifamily Origination Volumes, 1987–1994

The principal sources of evidence on historical multifamily origination volumes are RFS, SMLA, and HMDA. RFS data show the aggregate face value of mortgage loans by year of origination

[7] Sections 1332(b)(4), 1333(a)(2), and 1334(b)(4).

[8] So-called "jumbo" mortgages, greater than $203,150 for 1-unit properties, are excluded in defining the conforming market. There is some overlap of loans eligible for purchase by the GSEs with loans insured by the FHA and guaranteed by the Veterans Administration.

[9] The owner of the SF 2–4 property is counted in (a).

[10] Property types (b), (c), and (d) consist of rental units. Property types (b) and (c) must sometimes be combined due to data limitations; in this case, they are referred to as "single-family rental units" (SF-R units).

[11] The property shares and low-mod percentages reported here are based on one set of model assumptions; other sets of assumptions are discussed in Section E.

(in groups of years in the public use RFS data base) which were still outstanding as of the spring 1991 survey date. SMLA and HMDA data represent annual aggregate dollar volumes of loan originations. Table D.1 presents figures for 1987 through 1994.

TABLE D.1.—MULTIFAMILY MARKET ESTIMATES

[Billions of dollars]

Origination year	RFS mortgages outstanding, spring 1991	SMLA originations	HMDA originations
1987	35.7 (avg.)	45.1	.....
1988	35.7 (avg.)	38.2	.....
1989	37.4 (avg.)	31.1	.....
1990	37.4 (avg.)	23.6	.....
1991	37.4 (avg.)	25.5	.....
1992	37.4 (avg.)	25.7	10.2
1993	37.4 (avg.)	31.7	13.3
1994	37.4 (avg.)	31.3	15.2

The RFS figures in Table D.1 are expressed on an annualized basis, i.e., value of mortgages originated in 1987 and 1988 (and still outstanding as of 1991) divided by 2, and value originated in 1989–1991 (similarly), divided by 2⅓ (based on the survey date approximately one-third of the way through 1991).

To address the public comments, it is necessary to understand the methods used to compile each of these sources. Findings from HUD's comparative analysis will then be presented.

RFS begins with a sample of properties based on the lists of properties constructed for the decennial censuses of population and housing. The owner of each property is then located and interviewed—whether an owner-occupant or an absentee owner of a property that contains entirely rental or vacant units. The survey instrument includes questions on the mortgage(s) that apply to the property, as well as on property and owner characteristics. Each owner is asked to identify the holder or servicer of any applicable mortgage loans, and a separate lender survey instrument is administered. Responses from the owner questionnaires are linked to responses from the lender questionnaires in the data base as released by the Census Bureau. The strength of this survey is that it presents a highly comprehensive picture of residential financing, since it is based on a property sample rather than on a survey of lenders. Consistent and rigorous statistical and operational quality control procedures are applied throughout.

The data that enter into SMLA are compiled by HUD from source materials generated in various ways from the different institutional types of mortgage lenders. Data on savings associations are collected for HUD by the Office of Thrift Supervision; these data cover all thrifts, not a sample. Mortgage company and life insurance company data are collected through sample surveys conducted by the Mortgage Bankers Association of America and the American Council of Life Insurance, respectively. Data on commercial banks and mutual savings banks are collected on a HUD form from samples of such lenders. The Federal credit agencies and State credit agencies report their data directly to HUD. Local credit agency data are collected by HUD staff from a publication that lists their mortgage financing activities. HUD contracted with ICF, Inc., in 1994 to evaluate the methodology used in constructing the SMLA.[12] ICF concluded that, with respect to the survey of commercial banks and mutual savings banks, "while there do not appear to be any significant problems with the sampling plan, the sample has never been redrawn since the origination of the [SMLA], and . . . has very likely become seriously outdated . . .."[13] With respect to mortgage bankers, ICF said that MBA staff had expressed "concern that estimated data on multifamily . . . originations may not be as reliable as corresponding data on single-family mortgage originations." Subsequently, MBA has stopped reporting multifamily originations data to HUD and has begun work to revise its survey procedures. With these two exceptions, ICF concluded that no efforts to improve data collection methodologies appeared warranted.

HMDA data are collected by lending institutions and reported to their respective regulators as required by law. HMDA was enacted as a mechanism to permit the public to determine locations of properties on which local depository institutions make mortgage loans, "to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located . . ." (12 USC 2801). HMDA reporting requirements apply to lenders which have offices in Metropolitan Statistical Areas and which have more than $10 million in total assets. (For mortgage bankers, the $10 million includes assets of any parent corporations, reporting is required only if home purchase loan originations exceed 10 percent of total loan originations, and reporting since 1993 has been required only if the institution's annual home purchase loan origination volume is at least 100.) Reporting is required for all loans closed in the name of the lending institution and loans approved and later acquired by the lending institution, including multifamily loans. Thus, the HMDA data base concentrates on lending by depository institutions in metropolitan areas but, unlike SMLA and RFS, it is not a sample survey; it is intended to include loan-level data on all loans made by the institutions that are required to file reports.

The Urban Institute researchers concluded, based on comparison of the methodologies used in the three surveys and on reported problems with SMLA and HMDA (reviewed above), and on direct analyses of each data base (discussed below) that the RFS is "an excellent survey which represents a good source of information about multifamily originations in the years just prior to the survey, i.e., 1989–1991".[14] They infer from RFS an estimate of at least $30 billion per year of multifamily originations in 1987–1991.

With this in mind, we proceed to an examination of origination volumes reported by the three data sources by type of lender. Table D.2 shows the basic figures. The column headed "RFS" shows the annualized aggregate face value of multifamily loans outstanding as of the 1991 survey date that were originated in the indicated years, as in Table D.1, but disaggregated in table D.2 by category of loan servicer as of the 1991 survey date. The columns headed "SMLA" and "HMDA" show aggregate dollar volumes of loan originations by category of originator in the indicated years.

In addition to category of loan servicer, RFS also reports the category of holder. Use of data from the servicer category, as in Table D.2, produces the more reliable comparison with the other surveys because multifamily loans that are sold into the secondary market tend to remain serviced by the same category of originating lender. There are several major differences between the servicer and holder breakdowns in RFS. Commercial banks hold 20–30 percent more loans for each origination period than they service. Mortgage bankers hold about one-quarter of the value of loans that they service—one would expect even fewer. Since independent mortgage banking companies are not

[12] Evaluation of Design and Implementation of the Gross Flows Survey of Mortgage Lending Activity, Final Report submitted to HUD, July 31, 1994.

[13] HUD's Office of Housing has issued a Request for Proposals for help with improving the commercial banks component of SMLA.

[14] "What We Know About Multifamily Mortgage Originations", p. 5.

chartered to hold loans, these holdings presumably reflect a mis-categorization problem such as loans held by depository institutions of which the mortgage bankers are affiliates. Life insurance companies, pension funds, and REITs hold more than double the value of loans than they service. Federally-sponsored secondary market agencies and pools, and to a lesser extent conventional pools, are significant non-servicing holders of mortgages.

The total SMLA figure for 1987–88 is greater than the corresponding total RFS figure, consistent with attrition from the inventory of multifamily mortgages outstanding before the date of administration of the RFS. SMLA figures are also greater than RFS figures for lender categories, except for mortgage bankers.

The total RFS figure for 1989–91 is greater than the corresponding SMLA figure. To a significant extent, the difference reflects categories of lenders that SMLA does not cover: finance companies, individuals and estates, and "other" lenders—these include trust accounts administered by banks, nonprofit organizations, and insurance companies other than life insurance companies.

The main question raised by this comparison is why SMLA and HMDA report such different multifamily estimates for 1993. SMLA reports $31.7 billion while HMDA reports $13.3 billion. The Urban Institute conducted extensive analysis to answer this question. The researchers concluded both that the SMLA multifamily origination volume was too high and the HMDA estimate was too low, creating the large gap in reported 1993 multifamily originations. They concluded that the 1993 lending volume was actually in the range of $25–30 billion, i.e., the SMLA figure may be as much as $7 billion too high and the 1993 HMDA figure is likely at least $12 billion too low. This conclusion is supported by the following analyses:

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Table D.2
Comparison of RFS, SMLA, and HMDA Figures
(billions of dollars)

	1987-88		1989-91		1993	
Type of lender	SMLA	RFS	SMLA	RFS	SMLA	HMDA
Commercial banks	7.6	5.5	9.7	7.8	18.8	4.8
Savings & loans; mutual savings banks	21.6	13.6	11.4	9.5	7.3	6.5
Credit unions	--	0.06	--	0.01	--	0.01
Finance companies	--	0.6	--	3.0	--	--
Mortgage companies	3.5	7.2	4.6	8.6	2.0	1.9
Life insurance companies	3.6	2.5	2.4	2.3	1.5	--
Pension funds (including State & local governments)	0.07	0.08	0.04	0.2	0.2	--
Real estate investment trusts	--	0.09	--	0.2	--	--
State and local government credit agencies	4.1	0.6	1.5	0.3	1.0	--
Federal credit agencies	1.1	1.4	1.3	0.7	0.9	--
Federally sponsored secondary market agencies & pools and private conduits	0	0.3	0	0.1	--	--
Individuals and estates	--	0.9	--	0.9	--	--
Other	--	1.5	--	1.3	--	--
Not reported	--	4.4	--	4.3	--	--
TOTAL	41.6	38.6	30.9	39.1	31.7	13.3

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(a) A commercial banks figure of $7–8 billion is more plausible than SMLA's $18.8 billion for 1993. Comparison of HMDA and SMLA data on loans purchased in 1993 indicates that HMDA missed a significant volume of multifamily loan originations; thus the $4.8 billion HMDA figure is too low. A $7–8 billion figure is implied by combining the HMDA and SMLA data.[15]

(b) The SMLA overestimate for banks is offset by underestimation of multifamily loans for some lender categories, particularly mortgage bankers, loans by individuals, and life insurance companies.[16]

(c) A conclusion that HMDA underreports multifamily originations is supported by a comparison between HMDA and Fannie Mae data. Loans reported in HMDA as sold to Fannie Mae in 1993 tend to be smaller in size than Fannie Mae's 1993 multifamily originations as shown in the Fannie Mae data base. In addition, 41 percent of Fannie Mae's 1993 multifamily mortgage purchases were found to be in tracts where HMDA reported no multifamily originations. It appears that larger multifamily loans tend not to be reported in HMDA. Further evidence of the poor quality of the HMDA multifamily data is the fact that it reported that in 1993 more multifamily loans were sold to Freddie Mac than to Fannie Mae, when in fact Freddie Mac's purchases were only a small fraction of Fannie Mae's purchases.

(d) In addition, the HMDA data base does not cover a number of important categories of multifamily lenders such as life insurance companies and State housing finance agencies, providing another reason that the HMDA data understates the size of the multifamily market.

(e) The conclusion regarding HMDA is further supported by an analysis of RFS data, projecting loan terminations for to 1993 based on RFS's estimates of loans outstanding by maturity in 1991, using a hazard modeling framework.[17]

The SMLA figures, with the adjustments for 1993 discussed above, indicate a volume of multifamily mortgage originations of at least $30 billion around 1990, dropping to around $25 billion in the early 1990s. The inconsistency between the revised SMLA estimate and the HMDA 1993 estimate is the result of HMDA's underestimation for commercial banks and mortgage companies, and omission of several important lending categories shown in SMLA and RFS.

The estimate of $25–30 billion annual lending volume for 1993 and other years in the early 1990s represents around 10 percent of the aggregate value of multifamily mortgage debt outstanding, which was estimated by RFS at $329 billion as of Spring 1991.[18] Such an originations-to-outstanding debt ratio is consistent with the value of this ratio during the preceding several years, which provides further support both for the conclusion regarding 1993 and for HUD's extrapolation to 1996 and beyond.

3. Projections for 1996 and Beyond

Of the three data bases described above, the greatest confidence appears warranted for the RFS. The Urban Institute researchers therefore developed a model to project multifamily origination volumes from the 1991 survey date forward, based on RFS data on mortgages by year since origination. They applied a statistical model of mortgage terminations based on Freddie Mac's experience from the mid-1970s to around 1990. While mortgage characteristics in 1990 are not wholly similar to the characteristics of these historical mortgages financed by Freddie Mac, nevertheless the prepayment propensities of contemporary mortgages may at least be approximated by the prepayment experience of these historical mortgages. The research methodology took account of the influence of interest rate fluctuations on prepayments of the historical mortgages; the projections assumed that prepayments are motivated mainly by property sales.[19]

The analysis began with the $273 billion of outstanding first mortgage debt shown by RFS for 1991. Forecast mortgage origination volumes based on mortgages existing in 1991 were: $27 billion for 1993 (providing a useful point of comparison with the HMDA and SMLA figures referenced earlier), $37 billion for 1996 and $40 billion for 1997, the years to which this rulemaking applies. New construction was projected to add slightly less than $7 billion of mortgage lending volume each year to these figures.

These analyses imply an aggregate volume approaching $40 billion for the whole multifamily market in 1996. To derive an estimate of the market relevant to Fannie Mae and Freddie Mac, we exclude (a) FHA-insured loans, and (b) loans insured by State bonding agencies and held by State and local credit agencies. Other categories of mortgages, considering the type of insurer, servicer, or holder, do not tend to have mortgage characteristics that differ substantially from the multifamily mortgages that are purchased by Fannie Mae and Freddie Mac. There is thus no particular basis for excluding them.

Based on this analysis, $30-$35 billion per year are reasonable projections of multifamily mortgage origination volumes for 1996. Urban Institute analysis indicates an increasing level in 1997 and beyond.[20]

D. Single-Family Owner and Rental Mortgage Market Shares

1. Available Data

HUD projects that originations for single-family properties will total $700 billion in 1996. Because this projection is based on HUD's Survey of Mortgage Lending Activity, it combines mortgage originations for the three different types of single-family properties: owner-occupied, one-unit properties (SF-O); 2–4 unit rental properties (SF 2–4); and 1–4 unit rental properties owned by investors (SF-Investor). The fact that the goal percentages are much higher for the two rental categories argues strongly for disaggregating single-family mortgage originations by property type. This section discusses available data for estimating the relative size of the single-family rental mortgage market.

The RFS and HMDA are the two data sources for estimating the relative size of the single-family rental market. The RFS provides mortgage origination estimates for each of the three single-family property types. HMDA divides single-family mortgage originations into two property types:[21]

(1) Owner-occupied originations, which include both SF–O and SF 2–4.

(2) Non-owner-occupied mortgage originations, which include SF Investor.

The percentage distributions of mortgages from these data sources are as follows:

[15] "Estimating the Volume of Multifamily Mortgage Originations for Commercial Banks."

[16] "What We Know About Mortgage Originations," p. 20.

[17] "An Alternative Methodology to Estimate the Volume of Multifamily Mortgage Originations."

[18] SMLA's figure is $245 billion as of the end of 1992. SMLA's coverage is less than RFS's. This figure is based on call reports and not subject to the methodological comments concerning SMLA's bank origination volume estimates.

[19] This is the methodology used to construct the 1993 RFS-based estimate cited above.

[20] "An Alternative Methodology to Estimate the Volume of Multifamily Mortgage Originations."

[21] This ignores the HMDA loans with "non-applicable" for owner type.

	1993 HMDA (percent)	1994 HMDA (percent)	1987–91[22] RFS (percent)	HUD's proposed rule (percent)
SF–O	94.3	92.0	80.4	86.0
SF 2–4	(Included above).		2.3	2.0
SF Investor	5.7	8.0	17.3	10.0
Total	100.0	100.0	100.0	100.0

Because HMDA combines the first two categories, the comparisons between the data bases must necessarily focus on the SF investor category. The RFS estimate of 17.3 percent is over twice HMDA's highest estimate. In its proposed rule, HUD projected a 10.0 percent share for the SF investor group, only two percentage points higher than the 1994 HMDA figure. In fact, HUD's projection appears quite conservative relative to the RFS estimate of 17.3 percent.

2. Urban Institute Analysis—Investor Market Share

HUD asked the Urban Institute to analyze the differences between the RFS and HMDA investor shares and determine which was the more reasonable. The Urban Institute's analysis of this issue is contained in a report by Dixie Blackley and James Follain.[23] Blackley and Follain provide reasons why HMDA should be adjusted upward as well as reasons why the RFS should be adjusted downward. One reason for adjusting HMDA's investor share upward is that the investor share of mortgage originations as reported by HMDA is much lower that the investor share of the single-family rental stock as reported by the AHS. The fact that investor loans prepay at a faster rate than other single-family loans suggests to Blackley and Follain that the investor share of single-family mortgage originations should be higher—not lower—than the investor share of the single-family housing stock. Follain and Blackley conclude that "this brings into question the investor share based upon HMDA data" (page 15).

The RFS's investor share should be adjusted downward in part because the RFS assigns all vacant properties to the rental group, but some of these are likely intended for the owner market, especially among one-unit properties. Blackley and Follain's analysis of this issue suggests lowering the investor share from 17.3 percent to about 14–15 percent.

Blackley and Follain note that a conservative estimate of the SF investor share is advisable because of the difficulty of measuring the magnitudes of the various effects that they analyzed.[24] They conclude that 10 percent and 12 percent are reasonable estimates of the investor share of single-family mortgage originations.[25] As noted earlier, HUD projected an investor share of 10 percent in its proposed rule. Blackley and Follain caution that uncertainty exists around these estimates because data bases needed to estimate these parameters do not provide precise measures of their size.

3. Single-Family Market in Terms of Unit Shares

The market share estimates for the housing goals need to be expressed as percentages of units rather than as percentages of mortgages. Thus, it is necessary to compare unit-based distributions of the single-family mortgage market under the alternative estimates discussed so far. The mortgage-based distributions given above in Section D.1 were adjusted in two ways. First, the owner-occupied HMDA data were disaggregated between SF–O and SF 2–4 mortgages based on RFS data, which show that SF 2–4 mortgages represent approximately 2 percent of all single-family mortgages. Second, the resulting mortgage-based distributions were shifted to unit-based distributions by applying the unit-per-mortgage assumptions in HUD's proposed rule. HUD assumed 2.25 units per SF 2–4 property and 1.35 units per SF investor property; both figures were derived from the 1991 RFS.[26]

[22] The year-by-year distributions from the RFS were not too different from the average distribution given in the text.

[23] Dixie M. Blackley and James R. Follain, "A Critique of the Methodology Used to Determine Affordable Housing Goals for the Government Sponsored Housing Enterprises," October 1995.

[24] For example, they note that discussions with some lenders suggest that because of higher mortgage rates on investor properties, some HMDA-reported owner-occupants may in fact be "hidden" investors; however, it would be difficult to quantify this effect. They also note that some properties may switch from owner to renter properties soon after the mortgage is originated. While such loans would be classified by HMDA as owner-occupied at the time of mortgage origination, they could be classified by the RFS as rental mortgages. Again, it would be difficult to quantify this effect given available data.

[25] *Ibid.*, page 22.

[26] The unit-per-mortgage data from the 1991 RFS match closely the GSE purchase data for 1993 and 1994. Blackley and Follain show that an adjustment for vacant investor properties would raise the average units per mortgage to 1.4; however, this increase is so small that it has little effect on the overall market estimates.

	1994 HMDA (percent)	1987–91 RFS (percent)	HUD's proposed rule (percent)	Blackley/Follain alternative (percent)
SF–O	85.4	73.8	83.0	80.6
SF–2–4 Owner[27]	1.9 (est.)	2.1	1.9	1.9
SF 2–4 Renter	2.4 (est.)	2.7	2.4	2.3
SF Investor	10.3	21.4	12.7	15.2
Total	100.0	100.0	100.0	100.0
SF-Rental	12.7	24.1	15.1	17.5

Three points should be made about these data. First, notice that the "SF-Rental" row highlights the share of the single-family mortgage market accounted for by all rental units.

Second, notice that the rental categories represent a larger share of the unit-based market than they did of the mortgage-based market reported earlier. This, of course, follows directly from applying the loan-per-unit expansion factors.

Third, notice that the rental share under HMDA's unit-based distribution is again about one-half of the rental share under the RFS's distribution. The rental share in HUD's proposed rule is slightly larger than that reported by HMDA. The rental share in the "Blackley-Follain" alternative is slightly above that in HUD's proposed rule.[28]

4. Conclusions

This section has reviewed data and analyses related to determining the rental share of the single-family mortgage market. There are two main conclusions:

(1) The analytical findings do not support public commenters who argued that HUD had overestimated the single-family rental market in its proposed rule. While there is uncertainty concerning the relative size of this market, the projections made by HUD appear reasonable and, in fact, are below one set of the "best estimates" provided by Blackley and Follain.

(2) HMDA likely underestimates the single-family rental mortgage market. Thus, this part of the HMDA data are not considered reliable enough to use in computing the market shares for the housing goals. HMDA's rental data are included, however, in various sensitivity analyses of the market shares conducted in Sections F, G, and H. These analyses will show the effects on the overall market estimates of the different projections about the size of the single-family rental market.

E. HUD's Market Share Model

This section integrates findings from the previous two sections about the absolute size of the multifamily mortgage market and the relative distribution of single-family owner and rental mortgages into a single model of the mortgage market. The section provides the basic equations for HUD's market share model and identifies the remaining parameters that must be estimated.

The output of this section is a unit-based distribution for the four property types discussed in Section B.[29] Sections F–H will apply goal percentages to this property distribution in order to determine the size of the mortgage market for each of the three housing goals.

1. Basic Equations for Determining Units Financed in the Mortgage Market

The model first estimates the number of dwelling units financed by conventional conforming mortgage originations for each of the four property types. It then determines each property type's share of the total number of dwelling units financed.

a. Single-Family Units

This section estimates that 5.11 million single-family units will be financed in the conventional conforming market in 1996, where single-family units (SF–UNITS) are defined as:

SF–UNITS = SF–O + SF 2–4 + SF–INVESTOR

First, we estimate the dollar volume of conventional conforming single-family mortgages (CCSFM$):

(1) CCSFM$ = CONF% * CONV% * SFORIG$

Where:

CONF% = conforming mortgage originations as a percent (measured in dollars) of conventional single-family originations; estimated to be 83%.[30]

CONV% = conventional mortgage originations as a percent of total mortgage originations; forecasted to 78% by industry and GSEs.[31]

SFORIG$ = dollar volume of single-family one-to-four unit mortgages; projected to be $700 billion[32] in 1996 based on industry and GSE market forecasts.[33]

Substituting these values into (1) yields an estimate for CCSFM$ of $453 billion.

[27] Notice that the SF 2–4 category has been divided into its owner and renter subcomponents. This is easily done based on the assumption of 2.25 units per SF 2–4 mortgage. For each mortgage, one unit represents the owner occupant and 1.25 additional units represent renter occupants. The owner-occupant is included in the SF–O category in this Appendix. This is necessary because different data sources are used to estimate the owner's income and the affordability of the rental units. The income of owners of 2–4 properties are included in the borrower income data reported by HMDA. The AHS will be used to estimate the affordability of the rental units.

[28] Blackley and Follain say that 10 or 12 percent are reasonable estimates. Since HUD's proposed rule was approximately 10 percent, the "Blackley-Follain" alternative assumes that investors account for 12 percent of all single-family mortgages.

[29] The property distribution reported in Section A is an example of the output of the market share model. Thus, this section completes Step 1 of the three-step procedure outlined in Section A.

[30] The model projects that the conventional market share will increase slightly over its 81.4 percent of total mortgage originations in 1994.

[31] Data provided by Fannie Mae show that conforming loans have been about 78 percent of total conventional loans over the past few years.

[32] Single-family mortgage originations are estimated to be $700 billion in 1996, a reduction of $310 billion from the record setting $1,010 billion in 1993 and a reduction of $70 billion from the $770 billion in 1994. These reductions are due to the decline in refinance activity which is projected to fall from almost 60 percent of originations in 1993 to 25 percent in 1996.

[33] Fannie Mae, Freddie Mac, and the Mortgage Bankers Association have provided HUD with projections of 1996 single-family originations. Because the 1997 market is expected to be similar to the 1996 market, the discussion focuses on the 1996 market. The various market estimates reported in Sections E, F, and G for the 1996 market serve as a proxy for the 1997 market.

Second, we estimate the number of conventional conforming single-family mortgages (CCSFM#):

(2) CCSFM# = CCSFM$/SFLOAN$

Where:

SFLOAN$ = the average conventional conforming mortgage amount for single-family properties; estimated to be $94,000.[34]

Substituting this value into (2) yields an estimate of 4.82 million mortgages in 1996.

Third, we estimate the total number of single-family mortgages among the three single-family property types. Using the 88/2/10 percentage distribution for single-family mortgages from HUD's proposed rule (see Section C), the following results are obtained:

(3a) SF–OM# = .88 * CCSFM# = number of owner-occupied, one-unit mortgages = 4.24 million.

(3b) SF–2–4M# = .02 * CCSFM# = number of owner-occupied, two-to-four unit mortgages = .10 million.

(3c) SF–INVM# = .10 * CCSFM# = number of one-to-four unit investor mortgages = .48 million.

Fourth, we determine the number of dwelling units financed by these single-family mortgages:

(4a) SF–O = SF–OM# + SF–2–4M# = number of owner-occupied dwelling units financed = 4.34 million.

(4b) SF 2–4 = 1.25 * SF–2–4M# = number of rental units in 2–4 properties where a owner occupies one of the units = .12 million.[35]

(4c) SF–INVESTOR = 1.35 * SF–INVM# = number of single-family investor dwelling units financed = .65 million.

Summing equations 4a–4c gives 5.11 million for the projected number of newly-mortgaged single-family units (SF–UNITS).

b. Multifamily Units

The number of dwelling units financed by conventional conforming multifamily originations is:

(5) MF–UNITS = CCMFM$/MFLOAN$

Where:

CCMFM$ = conventional conforming mortgage originations, which are projected to be $30 billion; as discussed in Section C, alternative estimates of the multifamily market will be included in the analysis.

MFLOAN$ = average loan amount per housing unit in multifamily properties = $30,000.[36]

Substituting these values into (5) yields a projection for MF–UNITS of 1.0 million.

c. Total Units Financed

The total number of dwelling units financed by the conventional conforming mortgage market (TOTAL) can be expressed in three useful ways:

(6a) TOTAL = SF–UNITS + MF–UNITS = 6.11 million

(6b) TOTAL = SF–O + SF 2–4 + SF–INVESTOR + MF–UNITS

(6c) TOTAL = SF–O + SF–RENTAL + MF–UNITS

Where SF–RENTAL equals SF–2–4 plus SF–INVESTOR.

2. Property Distributions

The next step is to express the number of dwelling units financed for each property type as a percentage of the total number of units financed by conventional conforming mortgage originations.[37]

The projections used above in equations (1)–(6) produce the following distributions of financed units by property type:

	Percent share		Percent share
SF–O	71.0		
SF 2–4	2.0	SF–O	[38]71.8
SF INVESTOR.	10.6	SF–RENTER.	12.6
MF–UNITS	16.4	MF–UNITS	16.4
Total	100.0		100.0

Sections C and D discussed alternative projections for the volume of the multifamily originations and the investor share of single-family mortgages. The analysis in this appendix will consider three multifamily origination levels—$23 billion, $30 billion, and $35 billion—and three projections about the investor share of single-family mortgages—7 percent, 10 percent, and 12 percent. The middle values ($30 billion and 10 percent) will be considered the "baseline" projections throughout the Appendix.

Table D.3 reports the unit-based distributions produced by HUD's market share model for different combinations of these projections. The effects of the different projections can best be seen by examining the owner category which varies by 9 percentage points, from a low of 67.2 percent (multifamily originations of $35 billion coupled with an investor mortgage share of 12 percent) to a high of 76.0 percent (multifamily originations of $23 billion coupled with an investor mortgage share of 7 percent). The owner share under the baseline projections ($30 billion and 10 percent) is 71.0 percent.

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[34] The Federal Housing Finance Board's 1994 Mortgage Interest Rate Survey (MIRS) reported an average loan size of $109,900 for one-unit, owner-occupied conventional mortgages. Assuming that 78 percent of the dollar volume of conventional single-family originations is conforming and that 90 percent of the number of conventional originations are conforming, the average loan amount for one-unit, owner-occupied mortgages in the conforming market is obtained by multiplying $109,900 by (.78/.90); this produces $95,240. A small adjustment (based on GSE data) is applied to this figure to reflect the fact that SFORIG$ includes a relatively small volume of mortgages for two-to-four-unit and investor properties (see Section C above). This produces an average loan size of about $94,000 for the conventional conforming market.

[35] Based on the RFS, there is an average of 2.25 housing units per mortgage for 2–4 properties. 1.25 is used here because one (i.e., the owner occupant) of the 2.25 units is allocated to the SF–O category. The RFS is also the source of the 1.35 used in (4c).

[36] Blackley and Follain, *op. cit.*, p. 10.

[37] The share of the mortgage market accounted for by owner occupants is (SF–O)/TOTAL; the share of the market accounted for by all single-family rental units is SF–RENTAL/TOTAL; and so on.

[38] Owners of 2–4 properties account for 1.6 percentage points of the 71.0 percent for SF–O.

Table D-3

Distribution of Financed Dwelling Units by Property Type For Different Projections of Multifamily and Single-Family Investor Originations

Investor Share Percentage / Single-Family Mortgage Market	Size of Multifamily Market: $23 Billion	$30 Billion	$35 Billion
10 Percent			
Single-Family Owner-Occupied	73.0 %	71.0 %	69.1 %
Single-Family Rental	12.9	12.6	12.3
Multifamily	14.1	16.4	18.6
Total	100.0	100.0	100.0
7 Percent			
Single-Family Owner-Occupied	76.0 %	74.0 %	72.0 %
Single-Family Rental	9.8	9.5	9.3
Multifamily	14.2	16.5	18.7
Total	100.0	100.0	100.0
12 Percent			
Single-Family Owner-Occupied	70.9 %	69.1 %	67.2 %
Single-Family Rental	15.1	14.7	14.3
Multifamily	14.0	16.3	18.5
Total	100.0	100.0	100.0

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Comparison with the RFS. The Residential Finance Survey is the only mortgage data source that provides unit-based property distributions similar to those reported in Table D.3. Based on RFS data for 1987 to 1991, HUD estimated that, of total dwelling units in properties financed by recently acquired conventional conforming mortgages, 56.5 percent were owner-occupied units, 17.9 percent were single-family rental units, and 25.6 percent were multifamily rental units.[39] Thus, the RFS presents a much lower owner share than does HUD's model. This difference is due mainly to the relatively high level of multifamily originations during the mid- to late-1980s, which is the period covered by the RFS.[40]

3. Sensitivity of Property Distributions to Changes in Other Model Parameters

The multifamily and single-family rental markets are not the only areas where some degree of uncertainty exists about their magnitudes. HUD examined the sensitivity of the property distributions given in Table D.3 to changes in several other model parameters. Most of these sensitivity analyses will be reported when discussing the market estimates for each of the housing goals. Suffice it to say here that any changes that reduce the owner category—such as reducing the overall level of single-family origination activity or raising the per unit loan amounts for single-family mortgages—tend to increase the market estimates for each of the housing goals. This occurs because the goal percentages for owner mortgages are lower than those for rental housing.

F. Size of the Conventional Conforming Mortgage Market Serving Low- and Moderate-Income Families

This section estimates the size of the low- and moderate-income market by applying low- and moderate-income percentages to the property shares given in Table D.3. This section essentially accomplishes Steps 2 and 3 of the three-step procedure discussed in Section B.

Technical issues and data adjustments related to the low- and moderate-income percentages for owners and renters are discussed in the first two subsections. Then, estimates of the size of the low- and moderate-income market are presented along with several sensitivity analyses. Based on these analyses, HUD concludes that 48–52 percent is a reasonable estimate of the mortgage market's low- and moderate-income share for 1996 and 1997. It is assumed that similar shares will exist following 1997.

The final rule establishes the Low- and Moderate-Income Goal for 1996 at 40 percent of the total number of dwelling units financed by the GSE's mortgage purchases for 1996. The level of the goal for 1997 and subsequent years is 42 percent of each year's mortgage purchases.

1. Low- and Moderate-Income Percentage for Single-Family Owner Mortgages

a. HMDA Data

The most important determinant of the low- and moderate-income share of the mortgage market is the income distribution of single-family borrowers. HMDA reports annual income data for families living in metropolitan areas who purchase a home or refinance their existing mortgage.[41] Table D.4 gives the percentage of mortgages taken out by low- and moderate-income families for the years 1992, 1993, and 1994. For each year, an unadjusted low- and moderate-income percentage is reported as well as one based on the adjustments that HUD made in its proposed rule, that is, excluding loans less than $15,000 and excluding loans where the loan-to-income ratio was greater than six.[42] The additional adjustments reported for 1993 and 1994 will be discussed below.

Table D.4 also reports similar data for very-low-income families (that is, families with incomes less than 60 percent of area median income). These data will be used in Section H to estimate the special affordable mortgage market.

Two trends in the income data should be mentioned. First, the percentage of borrowers with less than area median income has increased significantly over the past three years—borrowers with less than median income increased from 33.5 percent of the home purchase market in 1992 to 42.6 percent of that market in 1994. This jump in low-income lending has been attributed to historically low interest rates during this period and to affordable lending initiatives and outreach efforts on the part of lenders, private mortgage insurers, and the GSEs. Second, the characteristics of borrowers refinancing mortgages appears to have changed between 1993 and 1994. During the refinancing waves of 1992 and 1993, refinancing borrowers had much higher incomes than borrowers purchasing homes. But during 1994 these two groups exhibited practically the same income distributions.

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[39] Restricting the RFS analysis to 1991 resulted in only minor changes to the market shares.

[40] Between 1987 and 1991, annual multifamily mortgage originations averaged $32 billion, representing 7.2 percent of conventional mortgage originations. In 1994, conventional multifamily originations stood at $30 billion but because of the increase in single-family originations since the late 1980s, the multifamily share of total originations had dropped to 4.5 percent. In HUD's projection model, the $30 billion in multifamily originations represents 4.9 percent of total conventional originations for 1996.

[41] As noted earlier, HMDA data are expressed in terms of number of loans rather than number of units. In addition, HMDA data do not distinguish between owner-occupied one-unit properties and owner-occupied 2–4 properties. This is not a particular problem for this section's analysis of owner incomes.

[42] The purpose of the first adjustment was to drop from the analysis small loans (such as mobile home loans) which the GSEs do not typically purchase; the purpose of the second adjustment was to cleanse the data base of outliers and likely coding errors. As discussed below, a more direct adjustment for mobile homes is made in this final rule.

Table D-4

Single-Family Owner-Occupied Mortgage Market by Borrower Income

	Low- and Moderate- Income			Very- Low- Income		
	Purchase	Refinance	Total	Purchase	Refinance	Total
1992 HMDA						
A. All Loans	35.0%	26.2%	29.0%	9.4%	5.4%	6.7%
B. Proposed Rule	33.5%	25.1%	27.8%	7.8%	4.2%	5.4%
1993 HMDA						
A. All Loans	39.6%	30.1%	32.9%	11.5%	6.4%	7.9%
B. Proposed Rule	38.2%	29.3%	32.0%	10.0%	5.6%	6.9%
C. All Without Mobile Homes						
(1) 75,000	37.9%	30.1%	32.3%	10.3%	6.4%	7.5%
(2) 100,000	37.3%	30.0%	32.1%	9.9%	6.4%	7.3%
(3) 125,000	36.6%	30.0%	31.9%	9.4%	6.3%	7.2%
(4) 150,000	36.0%	30.0%	31.7%	9.0%	6.3%	7.1%
D. C Plus Additional Adjustments						
(1) 75,000	36.9%	29.4%	31.5%	9.1%	5.6%	6.6%
(2) 100,000	36.4%	29.4%	31.3%	8.8%	5.6%	6.5%
1994 HMDA						
A. All Loans	42.6%	40.4%	41.6%	13.1%	11.8%	12.5%
B. Proposed Rule Method	41.1%	39.1%	40.2%	11.2%	10.4%	10.9%
C. All Without Mobile Homes						
(1) 100,000	40.8%	40.3%	40.6%	11.9%	11.7%	11.8%
(2) 125,000	40.3%	40.3%	40.3%	11.5%	11.7%	11.6%
(3) 150,000	39.8%	40.3%	40.0%	11.2%	11.7%	11.4%
(4) 200,000	38.7%	40.2%	39.4%	10.5%	11.7%	11.1%
D. C Plus Additional Adjustments						
(1) 100,000	39.6%	39.1%	39.4%	10.3%	10.4%	10.2%
(2) 125,000	39.2%	39.1%	39.1%	10.1%	10.4%	10.4%
American Housing Survey						
1985			27.0%			9.0%
1987			32.0%			10.0%
1989			34.0%			11.0%
1991			36.0%			14.0%
1993	38.7%	28.6%	33.0%	12.9%	8.1%	10.1%
Average(1985-93)			32.3%			10.6%

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b. Adjustment for Mobile Home Loans

The GSEs do not purchase mobile home loans under their seller/servicer guidelines unless they are real estate loans, that is, the home must have a permanent foundation and the site must be either purchased as part of the transaction or already owned by the borrower. A 1993 study estimated that only 10 percent of existing mobile homes could qualify under GSE guidelines, but industry trends (more homes on private lots and on concrete foundations) suggest that this percentage has grown in the past few years.[43] Mobile home loans present a problem for this analysis because an unknown number of them are included in the HMDA data. Since mobile homes are disproportionately occupied by lower-income families, their inclusion in HMDA data overstates the number of low-income loans eligible for GSE purchase under their seller/servicer guidelines. In other words, the 42.6 percent share for less-than-median-income home purchasers given in Table D.4 overstates the low- and moderate-income share of home purchase loans available to the GSEs in 1994.

According to industry representatives, it is unclear how many mobile home lenders report to HMDA, and for those that do report to HMDA, how many provide information on their non-real estate loans. HUD was able to identify four lenders in the HMDA data that primarily originate mobile home loans.[44] According to HMDA, these lenders originated 101,493 owner-occupied loans in 1993 and 124,251 in 1994. Reflecting the fact that over half of all mobile homes are sold in nonmetropolitan areas, only 33,813 (33 percent) of the four lenders' 1993 loans and 48,400 (39 percent) of their 1994 loans had geocode information (such as census tract or MSA code) indicating that the loans were for properties located in metropolitan areas.

With this information, "ineligible" mobile home loans under the GSE seller/servicer guidelines could be deducted from the unadjusted HMDA data in three steps. First, the percentage income distribution of the above-mentioned geocoded mobile home loans[45] could be applied to an "estimate" of the total number of geocoded mobile home loans included in the HMDA data base. (As discussed below, obtaining this "estimate" is the difficult part.) This would produce numbers of projected mobile home loans by income category. Next, the projected mobile home loans could be deducted from HMDA's unadjusted numbers for each income category. This would produce estimates of HMDA-reported, non-mobile-home loans by income category. Finally, a percentage income distribution could be calculated from these adjusted HMDA data.

HUD examined other data on the size of the mortgage market for mobile homes in order to determine some upper bounds for the "estimate" required in the first step. According to the American Housing Survey, there were 235,000 newly-constructed mobile homes in 1993, and 99,300 of these were located in metropolitan areas. About 85,000 of the newly-constructed mobile homes in metropolitan areas were financed with a mortgage or installment contract, rather than purchased "free and clear." The other major category of mobile home lending involves purchases of existing mobile homes.[46] According to the AHS, 95,000 existing mobile homes located in metropolitan areas were sold and purchased using a mortgage or installment contract during 1993. Thus, the AHS estimates that there were about 180,000 owner-occupied mobile homes purchased and financed during 1993.[47] Assuming that 10–15 percent of these 180,000 loans are "eligible" under the GSE guidelines would reduce the estimate of ineligible loans to the 155,000–165,000 range.

Adjusted HMDA Data. Table D.4 shows the effects of a series of estimates of the size of the mobile home loan market included in HMDA. Adjusting HMDA data in the manner described earlier reduces the low- and moderate-income percentage for 1993 home purchase loans from the unadjusted HMDA figure of 39.6 percent to 37.9 percent if one assumes that 75,000 ineligible mobile home loans are included in HMDA income data, and to 37.3 percent if one assumes 100,000.[48] Increasing the assumptions to 125,000 and 150,000 ineligible mobile home loans reduces the low- and moderate-income percentage further to 36.6 percent and 36.0 percent, respectively.

As shown in Table D.4, the market share for very-low-income families is proportionately more affected by the adjustment than is the market share for less-than-median-income families. For instance, the home purchase share for very-low-income home purchase borrowers falls from 11.5 percent to 10.3 percent assuming that 75,000 mobile home loans are included in the 1993 HMDA data, and to 9.0 percent assuming that 150,000 mobile home loans are included in the HMDA data.

Mobile home loans were excluded from the AHS income data reported in Table D.4. For home purchase loans, that data show a 38.7 percent low- and moderate-income percentage and a 12.9 percent very-low-income percentage for 1993. Thus, the AHS income data suggest that the larger deductions for mobile homes (125,000 and 150,000) are probably too high.[49] In addition, when the 150,000 "estimate" was applied in the above three-step procedure, mobile homes accounted for all of the low- and moderate-income loans less than $15,000 included in the 1993 HMDA data base.[50] While the appropriate deduction of mobile home loans from HMDA data is not known, it appears to be much less than the higher estimates reported in Table D.4.

[43] See the study conducted by The Hamilton Securities Group (dated September 1993) for the National Commission on Manufactured Housing. Data supporting the 10 percent estimate for existing mobile homes was not provided by Hamilton.

[44] These lenders were Green Tree Acceptance, Vanderbilt Mortgage, The CIT Group, and Oakwood. Green Tree is estimated to account for 20–30 percent of the mobile home market.

[45] The income distribution for the 48,400 loans included in the 1994 HMDA data is: 34.5% had income less than 60% of AMI, 23.6% had income 60–80% of AMI, 17.2% had income 80–100% of AMI, and 24.7% had income greater than 100% of AMI. This can be compared with the income distribution for all HMDA loans reported in Table D.4. A mobile home loan borrower is almost three times more likely to have a very low income than the typical borrower (34.5% versus 12.5%). (Similar results were obtained for 1993 HMDA data.)

[46] Only about 5 percent of the identified mobile home loans were refinance loans. This explains why the income percentages for refinance loans in Table D.4 do not change very much, and why the change in total loans is much less than the change in home purchase loans. Manufactured Housing insurance staff tell us that mobile home refinance loans are uncommon. Even if mobile home refinance loans were important, the 25 percent refinance share for 1996 loans in HUD's model would reduce the importance of this issue.

[47] It should be noted that the AHS sample for recent movers purchasing mobile homes was small which means that this estimate is subject to some degree of uncertainty.

[48] It should be noted that the adjustments made in HUD's proposed rule produce about the same effects as the mobile home adjustments discussed above; this can be seen by comparing percentages in row B with those in rows C(1) and C(2) of Table D.4. One reason for this similarity is that many mobile home loans are less than $15,000 and these were excluded from HUD's analysis in the proposed rule.

[49] Even adjusting the 12.9 percent figure for possible underreporting of income in the AHS (see discussion below) would not affect this conclusion. The AHS estimate of the very-low-income percentage would remain much higher than the 9.4 (9.0) percent figure associated with deducting 125,000 (150,000) mobile home loans from the 1993 HMDA data.

[50] This also happened when the 200,000 "estimate" was applied to 1994 HMDA data. Table D.4 gives higher "estimates" for 1994 HMDA because the U.S. Census reports that newly-constructed mobile homes increased by 50,000 (on a nationwide basis) between 1993 and 1994. Whether purchases of existing mobile homes also increased, or even declined, is not known.

c. Additional Adjustments to HMDA Data

Proposed Rule Adjustments. After deducting estimates of ineligible mobile home loans, HUD made the same deductions as in its proposed rule—that is, from the remaining estimate of non-mobile-home loans, HUD deducted loans less than $15,000 and loans with a loan-to-income ratio greater than six. The effects of these adjustments are shown in rows D(1) and D(2) of Table D.4. For instance, the low- and moderate-income percentage for 1994 home purchase loans falls from 42.6 percent (unadjusted HMDA) to 40.6 percent (due to dropping 100,000 mobile homes) to 39.6 percent (due to the proposed rule adjustments). In this case, the 1994 market share for very-low-income borrowers falls from 13.1 percent to 11.9 percent to 10.3 percent—a reduction of over 20 percent. When the AHS percentages given in Table D.4 are adjusted for loans less than $15,000 and for loans with a loan-to-income ratio greater than six, the low- and moderate-income percentage for home purchase loans falls from 38.7 to 37.2, while the very-low-income percentage for home purchase loans falls from 12.9 to 11.1.

Possible Bias in HMDA Data. There is evidence that HMDA may be over-reporting lower-income loans relative to higher-income loans. Jim Berkovec and Peter Zorn compared loans that were reported by HMDA as being sold to Freddie Mac with loans that Freddie Mac's own records show as being purchased by Freddie Mac.[51] Their major conclusion was that 1992 and 1993 HMDA data contain only 65–70 percent of conventional mortgage loans. They also found that HMDA's coverage varied across census tracts, with coverage being higher in lower-income census tracts.[52] While there was some correlation with the percent minority population in the census tract, it largely disappeared when controlling for income.

For a census tract configuration approximating the underserved area definition in HUD's proposed rule, Berkovec and Zorn's simulations suggest that the market share for these tracts should be adjusted by a factor of 90%-95% in 1992 and by 85%-95% in 1993.[53] However, Berkovec and Zorn caution that their analysis does not look at the whole mortgage market; rather, it looks only at HMDA loans reported as being sold to Freddie Mac. Loans sold to Fannie Mae are not included in Berkovec and Zorn's analysis. Thus, systematic over-reporting of low income loans sold to Freddie Mac could also explain their findings.

The low- and moderate-income goal is defined in terms of borrower incomes, not census tract incomes as analyzed by Berkovec and Zorn. Thus, HUD compared income distributions of loans that HMDA reports were originated in 1993 and 1994 and sold to one of the GSEs in the year of origination with income distributions of loans that the GSEs report were purchased by them in 1993 and 1994 in the same year as origination. The results were consistent with Berkovec and Zorn's findings that HMDA may be over-reporting lower-income loans and that the over-reporting may be greater the lower the income. In 1993, the low- and moderate-income share of loans reported by HMDA as being sold to the GSEs was 1.7 percentage points greater than the low- and moderate-income share of loans that the GSEs report they purchased in 1993 (34.2 percent versus 32.5 percent); this translates into a five percent rate of over-reporting. The corresponding very-low-income shares, on the other, differed by almost ten percent (7.1 percent based on HMDA data versus 6.5 percent based on GSE data). But as noted by Berkovec and Zorn, the absolute difference (0.6 percent in this case) is not so great because of the relatively small number of loans originated for very-low-income borrowers. Similar results were obtained when comparing 1994 HMDA and GSE data.

The above comparisons suggest that low- and moderate-income percentages reported in row D of Table D.4 may need a slight further adjustment for HMDA's over-reporting of lower income loans. But, as noted earlier, 1993 AHS data suggest that HMDA data does not need to be adjusted downward. Because of this uncertainty, HUD considers several possible values of the low- and moderate-income percentage for owners when computing the low- and moderate-income market share estimates in Section F.3 below.

d. American Housing Survey Data

Borrower income data from the American Housing Survey are included in Table D.4.[54] The low- and moderate-income percentages from the 1993 AHS are similar to those reported by 1993 HMDA data. According to the AHS, 38.7 percent of those families who recently purchased their homes, and who obtained conventional mortgages below the conforming loan limit, had incomes below the area median; this compares with 37.3 percent based on 1993 HMDA data that excludes 100,000 mobile homes.

A longer-term perspective of the mortgage market can be gained by examining income data from the last five American Housing Surveys, conducted in 1985, 1987, 1989, 1991, and 1993. The low- and moderate-income share was in the 32–34 percent range except for 1985 (27 percent) and 1991 (36 percent). The overall average during the 1985–93 period was 32.3 percent.

AHS Under-Reporting of Income. In commenting on the proposed rule, the GSEs criticized HUD's reliance on AHS data on the grounds that income reported in the AHS is lower than other independent estimates of income,[55] and questioned AHS estimates that 60 percent of all households qualify as low- or moderate-income under definitions of the Act.[56] The reported discrepancy is

[51] Jim Berkovec and Peter Zorn, "How Complete is HMDA?: HMDA Coverage of Freddie Mac Purchases," Freddie Mac, January 4, 1995.

[52] Berkovec and Zorn offer two possible reasons for why HMDA reporting may be better in low-income areas. First, regulatory and CRA pressure is greater on larger banks and thrifts and all of these are required to report to HMDA. Smaller suburban lenders making loans in higher income tracts are not all required to report to HMDA and less likely to encounter intense regulatory pressure. Second, lenders have more incentive to report lower-income loans and thus are more careful in reporting these loans.

[53] These percentages were derived from their Tables 8 and 9 by comparing market shares under the three adjustment methods with the market share actually reported by HMDA. To approximate the underserved definition in HUD's proposed rule, high-minority tracts (31–100 percent) with incomes between 100 and 120 percent of area median income were assigned one-half of the market share of the high-minority tracts with income greater than area median income.

[54] The AHS data reported in this final rule were derived using different methods than the corresponding data reported in HUD's proposed rule. The differences will be explained below when discussing AHS data on rent affordability.

[55] See *Codebook for the American Housing Survey Data Base: 1973–1993*, at page 1–11.

[56] Claiming that 50 percent of the country's households are "below the true median by definition," Freddie Mac proposed adjusting for AHS underreporting of income by inflating incomes of all households until 50 percent of AHS households are "above median income." This suggestion has a major flaw: it fails to distinguish between median household income and the Act's definition of "median income" as: the unadjusted median family income for the area, as determined and published annually by the Secretary. [Sec. 1303 (9), emphasis added.] Because more than 30 percent of households are occupied by single persons or unrelated individuals and families often have more earners than households, median family income is appreciably higher than median household income. In 1990, for example, U.S. median family income was $35,353, 18 percent above the median household income of $29,943. Interpolating from the household income distribution, in 1990 58.3 percent of households had income less than national median family income. Table 695 of the 1992 Statistical Abstract gives the 1990 household income distribution in dollars with $35,000 as one cutoff. It shows that 57.9% of households had

Continued

based on a comparison with sources such as Gross Domestic Product (GDP) and the Social Security Administration, and relates to specific sources of income, such as interest income and assistance income, which are more significant portions of the incomes of households at the upper and lower ends of the spectrum. AHS estimates of wage and salary income are quite comparable to these aggregate sources. It is unclear how these discrepancies affect the percentages of interest here.

A more relevant issue is a comparison of AHS sample data with special tabulations of 1990 Census data, which has more accurate income data, since it explicitly asks amounts of income by source for each individual. Moreover, decennial Census data on median family income are the basic source of HUD's official estimates of area median income that define "median income" for this rule.[57]

In special Comprehensive Housing Affordability Strategy (CHAS) tabulations, 1990 Census data on household income were compared to official HUD estimates of area median income for each location in the country. These CHAS tabulations should be more accurate than the AHS in two ways—because the Census income data are better, and because the CHAS income data were compared to accurate median family income data for each metro area or nonmetro county in the country.

Comparison between the 1989 AHS income distribution (which, taken in fall of 1989, is the closest in time to the April 1, 1990 Census) and the CHAS tabulations shows that two income distributions are remarkably similar for renters:

Income cutoff	Percent of total below cutoff	
	CHAS	AHS
50% of median	38.7%	38.5%
80% of median	59.0%	59.0%
95% of median	68.0%	67.5%

For owners, shares appear to differ by about 2 percentage points throughout the very low- to moderate-income range.[58]:

Income cutoff	Percent of total below cutoff	
	CHAS	AHS
50% of median	15.5%	17.6%
80% of median	29.7%	32.2%
95% of median	37.8%	40.1%

This suggests that reducing the 1989 AHS estimates for owners by no more than 2 percentage points would appropriately adjust for income underreporting.

Improvements to the 1993 Survey. Income underreporting in the AHS was reduced after changes were made in the questionnaire for the 1993 Survey. Formerly, the AHS reported dividend and interest income for a household only if it exceeded $400. Now the Survey reports all dividend and interest income, regardless of the amount, and various sources of interest are specified. In addition to unemployment and worker's compensation and "any other income," Survey respondents were explicitly asked about "other disability payments," and "veterans' payments." As a result, the percentage of respondents reporting income in this category rose from 9.6 percent in 1991 to 13.8 percent in 1993. In general, the percentage of AHS households reporting income other than wages or salaries rose sharply, from 63 percent in 1991 to 79 percent in 1993.

income below $35,000 in 1990 and 17.5% had income in the $35,000–$49,999 category.

[57] Note that in setting the median family income for an MSA, HUD compares the Census estimate to the AHS estimate. The Census estimate is used, unless it falls outside the confidence interval for the AHS estimate, in which case the AHS estimate is used. Currently, the Census estimate is used for all MSAs.

[58] These estimates of income are adjusted for family size, and therefore should not be taken as direct estimates of shares of owners qualifying as "low or moderate income" under GSE income definitions. The comparison should however provide a valid estimate of the effect of income underreporting on the AHS estimates of low or moderate income made without family size adjustments.

Thus, it is not clear that AHS underreporting of income is a major problem, especially since the 1993 improvement. In any event, there does not appear to be a need for an adjustment of more than a couple of percentage points for owner-occupied units surveyed prior to 1993, and no adjustment is needed for rental units.

2. Low- and Moderate-Income Percentage for Renter Mortgages

a. American Housing Survey Data

The American Housing Survey does not include data on mortgages for rental properties; rather, it includes data on the characteristics of the existing rental housing stock and recently completed rental properties. Current data on the income of prospective or actual tenants has also not been readily available for rental properties. Where such income information is not available, FHEFSSA provides that a rent level is affordable if it does not exceed 30 percent of the maximum income level for the low- and moderate-income category, with appropriate adjustments for family size as measured by the number of bedrooms. The GSEs' performance under the housing goals is measured in terms of the affordability of the rental dwelling units that are financed by mortgages that the GSEs purchase; the income of the occupants of these rental units is generally not considered in the calculation of goals' performance. Thus, it is appropriate to base estimates of market size on rent affordability data rather than on renter income data.[59]

Table D.5 presents AHS data on the affordability of the rental housing stock for the survey years between 1985 and 1993. The 1993 AHS shows that for 1–4 unit unsubsidized rental properties, 98 percent of all units, and 92 percent of units constructed in the preceding three years had gross rent (contract rent plus the cost of all utilities) less than or equal to 30 percent of area median income. For multifamily unsubsidized rental properties, the corresponding figures are 96 percent of all units, and 88 percent of units constructed in the preceding three years. The AHS data for 1989 and 1991 are similar to the 1993 data.

Several commenters expressed concern about using affordability data from the outstanding rental stock to proxy affordability data for mortgage flows. Some have argued that data based on the recently completed stock would be a better proxy for mortgage flows. In the above case, there is not a large difference between the affordability percentages for the recently constructed stock and those for the outstanding stock of rental properties. But this is not the case when affordability is defined at the very-low-income level. As shown in Table D.5, the recently completed stock houses substantially fewer very-low-income renters than does the existing stock. Because this issue is important for the special affordable goal, it will be further analyzed in Section H when that goal is considered.

For purposes of the Low- and Moderate-Income Goal, the analysis in Section H concludes that the existing stock is an adequate proxy for the mortgage flow when rent affordability is defined in terms of less than 30 percent of area median income. More specifically, that analysis suggests that 85 percent of single-family rental units and 90 percent of multifamily units are reasonable estimates for projecting the percentage of financed units affordable at the low- and moderate-income level.[60]

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[59] Because the "low- and moderate-income share" of rental units is based on rents rather than incomes, Freddie Mac's comment on the proposed rule, that estimates of the low-mod share for rental units should be adjusted for AHS income underreporting, is not valid.

[60] In 1994, 87 percent of GSE purchases of single-family investor rental units and 95 percent of their purchases of multifamily units qualified under the low-mod goal.

Table D-5

Rental Market By Affordability of Dwelling Unit: American Housing Survey, 1985-1993

Units Affordable at 100% of Area Median Income	Recently Constructed Stock(a)	Stock 4 Years Or Older	Existing Stock
1-4 Properties			
1985	75%	94%	93%
1987	80%	93%	92%
1989	90%	97%	97%
1991	92%	97%	97%
1993	92%	98%	98%
Average (1985-93)	84%	96%	95%
Multifamily (5+) Properties			
1985	88%	94%	93%
1987	86%	93%	92%
1989	88%	96%	95%
1991	88%	97%	96%
1993	88%	96%	96%
Average (1985-93)	87%	95%	95%
Units Affordable at 60% of Area Median Income			
1-4 Properties			
1985	8%	56%	54%
1987	17%	54%	52%
1989	24%	60%	59%
1991	26%	64%	63%
1993	37%	61%	61%
Average (1985-93)	20%	59%	58%
Multifamily (5+) Properties			
1985	14%	44%	41%
1987	18%	43%	40%
1989	13%	51%	47%
1991	18%	54%	51%
1993	12%	53%	51%
Average (1985-93)	15%	49%	46%

Source: American Housing Surveys, 1985, 1987, 1989,1991, 1993
a. Constructed in last 3 years.

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b. Improvements to AHS Analysis

The AHS data for both owners and renters differ from those reported in HUD's proposed rule due to several improvements in HUD's methodology. The major changes are as follows:

- The income limits for the 1989–93 surveys are now based on 1990 Census results, and those for the 1985 and 1987 survey are now based on 1980 Census results. Previous versions had used income limits from 1970 Census data for 1985, and from 1980 Census data for all other years. These changes basically use income limits that are more "correct" for each year than was the case in the earlier analysis. The newly available income limits based on 1990 Census data should more accurately describe income distributions in 1989 and 1991 than the ones extrapolated from 1980 Census data.
- A bedroom-size adjustment factor used by HUD for units with four or more bedrooms has been added; this is important because these large-bedroom units represent almost one-fourth of rental units with three or more bedrooms. This change increases accuracy because earlier, the 3-plus bedroom adjustment factor was used for all units with more than three bedrooms.
- Utility payments in the 1985 and 1987 surveys are constrained to independent (lower) estimates so that they are comparable with procedures begun by the Census Bureau for the 1989 AHS. The new Census Bureau procedures were instituted to correct errors in reported utility payments that were known to cause upward bias. This change should also increase accuracy.

The main effects of these changes are higher affordability estimates than reported in the proposed rule. The portion of the outstanding stock that is affordable at less than area median income goes up by only 3–6 percentage points across the five survey years; however, the portion of the recently completed stock shows increases from 5 to 20 percentage points. The portion of the outstanding stock affordable at the very-low-income level rises from 4 to 14 percent in four of the survey years and declines in the other one.[61]

3. Size of the Low- and Moderate-Income Mortgage Market

a. Market Estimates

This section provides estimates for the size of the low- and moderate-income mortgage market. Three alternative sets of projections about property shares and property low- and moderate-income percentages are given in Table D.6. Case 1 projections represent the baseline and intermediate case; it assumes that investors account for 10 percent of the single-family mortgage market. Case 2 assumes a lower investor share (7 percent) based on HMDA data and slightly more conservative low- and moderate-income percentages for single-family rental and multifamily properties (80 percent and 85 percent, respectively). Case 3 assumes a higher investor share (12 percent) consistent with Follain and Blackley's suggestions.

The low- and moderate-income percentage for owners is the most important determinant of the market estimates. Thus, Table D.7 provides market estimates for different owner percentages as well as for different sizes of the multifamily market—the $30 billion baseline projection bracketed by $23 and $35 billion. Most low- and moderate-income estimates reported for the baseline projections are around 50 percent. The market estimate is 53 percent if the owner percentage is at its 1994 level (40 percent), and it is 51 percent if the owner percentage is at its 1993 level (37 percent). If the low- and moderate-income percentage for owners falls to 32 percent (about its 1992 level), the overall market estimate falls to 48 percent. Under HUD's baseline projections, the owner percentage can fall to as low as 30 percent—about ten (seven) percentage points lower than its 1994 (1993) level—and the low- and moderate-income market share would still be at 46 percent.

The size of the multifamily market is also an important determinant of the low- and moderate-income market share. The market estimates increase by about a percentage point as multifamily volume moves from $23 billion to $35 billion. The market estimates for Case 2 and Case 3 bracket those for Case 1. The smaller rental market and lower low- and moderate-income percentages for rental properties result in the Case 2 estimates being almost three percentage points below the Case 1 estimates.

The various market estimates presented in Table D.7 are not all equally likely. Most of them equal or exceed 48 percent, suggesting that this is a reasonable lower bound for the size of the low- and moderate-income market.

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[61] Except for 1991, which showed an increase from 31 to 36 percent in the percentage of borrowers with less than median income, the income percentages for owners showed only slight increases or no increases at all.

Table D-6

Alternative Assumptions for Single-Family Rental Mortgage Shares and other Variables

	Case 1	Case 2	Case 3
1. Single-Family Mortgage Shares			
Single-Family Owner-Occupied	88.0%	91.0%	86.0%
Single-Family 2-4	2.0%	2.0%	2.0%
Single-Family 1-4 Investor	10.0%	7.0%	12.0%
2. Units Per Single-Family Mortgage			
Single-Family 2-4	2.25	2.25	2.25
Single-Family 1-4 Investor	1.35	1.35	1.40
3. Multifamily Loan Per Unit			
$23 Billion	$27,500	$27,500	$27,500
$30-$35 Billion	$30,000	$30,000	$30,000
4. Percentage Affordable at Area Median Income (AMI):			
Single-Family Rental	85.0%	80.0%	85.0%
Multifamily	90.0%	85.0%	90.0%
5. Percentage Underserved			
Single-Family Rental	37.5%	35.0%	40.0%
Multifamily	42.5%	40.0%	45.0%
6. Percentage Affordable at 60% of AMI			
Single-Family Rental	45.0%	40.0%	50.0%
Multifamily	42.0%	40.0%	45.0%
7. Percentage Low-Income in Low-Income Areas:			
Single-Family Rental	10.0%	8.0%	10.0%
Multifamily	10.0%	8.0%	10.0%

Table D-7

Low- and Moderate- Income Mortgage Market: Sensitivity Analysis

Case 1 with Different Percentages for Single-Family Owner-Occupied's With Incomes less than AMI:	Size of Multifamily Market		
	$23 Billion	$30 Billion	$35 Billion
Single-Family: [1] 40% (1994 HMDA adjusted)	52.1 %	53.2 %	54.1 %
38%	50.7	51.7	52.7
37% (1993 HMDA adjusted)	50.0	51.1	52.1
36%	49.2	50.3	51.4
34%	47.8	48.9	50.0
32%	46.3	47.5	48.6
30%	44.9	46.1	47.2
28%	43.4	44.6	45.8
Single-Family: 36% With:			
Case 1	49.2 %	50.3 %	51.4 %
Case 2	46.5	47.5	48.5
Case 3	50.4	51.4	52.5
Single-Family: 34% With:			
Case 1 (above)	47.8 %	48.9 %	50.0 %
Case 2	45.0	46.0	47.1
Case 3	49.0	50.1	51.1

[1] These percentages are used for home purchase loans. Refinanced loans were assumed to be 4 percentage points less for each alternative .

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b. Economic Conditions, Market Estimates, and the Feasibility of the Low- and Moderate-Income Housing Goal

The public comments indicated a concern that the market share estimates and the housing goals failed to recognize the volatility of housing markets and the existence of macroeconomic cycles. There was particular concern that the market shares and housing goals were based on a period of record low interest rates and high affordability. This section discusses these issues, noting that the Secretary can consider shifts in economic conditions when evaluating the performance of the GSEs on the goals, and noting further that the market share estimates can be examined in terms of less favorable market conditions than existed during 1993 and 1994.

Volatility of Market. Industry forecasts of the 1996 mortgage market are the starting point for HUD's estimates of market share for each housing goal. HUD projected $700 billion in single-family originations for 1996 based on forecasts of $720 billion by the Mortgage Bankers Association and $700 billion by Fannie Mae. These industry forecasts are based on certain underlying economic conditions. Unanticipated shifts in economic activity will obviously affect the degree to which these forecasts are borne out. Thus, changing economic conditions can affect the validity of HUD's market estimates as well as the feasibility of accomplishing the housing goals.

One only has to recall the volatile nature of the mortgage market in the past few years to appreciate the uncertainty around projections of that market. Large swings in refinancing, consumers switching between adjustable-rate mortgages and fixed-rate mortgages, increased first-time homebuyer activity due to record low interest rates, and shifts in FHA activity have all characterized the recent mortgage market. These conditions are beyond the control of the GSEs but they would affect their performance on the housing goals. A mortgage market dominated by heavy refinancing on the part of middle-income homeowners would reduce the GSEs' ability to reach a specific target on the low- and moderate-income goal, for example. A jump in interest rates would reduce the availability of very-low-income mortgages for the GSEs to purchase. But on the other hand, the next few years may be highly favorable to achieving the goals because of the high refinancing activity in 1993. A period of low interest rates would sustain affordability levels without causing the rush to refinance seen in 1993. A high percentage of potential refinancers have already done so, and are less likely to do so again. Year-to-date 1995 data support this argument.

Feasibility Determination. HUD is well aware of the volatility of mortgage markets and the possible impacts on the GSEs' ability to meet the housing goals. FHEFSSA allows for changing market conditions.[62] If HUD has set a goal for a given year and market conditions change dramatically during or prior to the year, making it infeasible for the GSE to attain the goal, HUD must determine "whether (taking into consideration market and economic conditions and the financial condition of the enterprise) the achievement of the housing goal was or is feasible." This provision of FHEFSSA clearly allows for a finding by HUD that a goal was not feasible due to market conditions, and no subsequent actions would be taken.

Affordability and Market Estimates. The market share estimates rely on 1993 and 1994 HMDA data for the percentage of low- and moderate-income borrowers. As discussed earlier, record low interest rates and affordability initiatives of the private sector encouraged first-time buyers and low-income borrowers to enter the market during this period. A significant increase in interest rates over their 1993–94 levels would reduce the presence of low-income families in the mortgage market and the availability of low-income mortgages for purchase by the GSEs.

HUD simulated the effects of a two-percentage point increase in interest rates on the payment-to-income ratios of 1993 and 1994 GSE borrowers (see Appendix A). Lower-income borrowers started with higher payment ratios and were thus disproportionately affected by the simulated increase in interest rates. Dropping from the GSE data all less-than-median income borrowers whose payment-to-income ratios increased to above 28 percent reduced the low- and moderate-income percentage of GSE business by 15 percent (about 5 percentage points) and the very-low-income percentage by 17 percent (about 1.25 percentage points). While this is only a partial look at the effects of higher interest rates, it indicates that the effects will be concentrated at the lower-income end of the market. A counter-balancing effect would be that a rise in interest rates reduces the refinance rate. In 1993, refinance borrowers had higher incomes than home purchase borrowers, but in 1994, purchase and refinance mortgage borrowers had more similar incomes.

As discussed in Appendix A, the effects of higher interest rates on affordability have to be considered in the context of other market changes. Rising employment, incomes, and consumer confidence, for example, can mitigate the effects of higher rates on the demand for mortgage credit. Unfortunately, it is difficult to quantify the impacts of these economic changes on the market estimates for the housing goals. What one can do, however, is examine the sensitivity of the market estimates to changes in the percentage of borrowers that have an income less than area median income. As noted earlier, reducing that percentage to 30 percent from its 1993–94 level of 37–40 percent drops the overall low- and moderate-income estimate to 46 percent under the baseline projections.

The market model was re-estimated assuming an even higher interest rate environment—lower origination volumes ($535 billion for single-family and $23 billion for multifamily) and an owner low- and moderate-income percentage (26) that was only two-thirds of the 1994 level.[63] In this case, the market estimate of 44 percent remains above HUD's goals of 40 percent for 1996 and 42 percent for 1997. Obviously, there are combinations of projections that would drive the low- and moderate-income market estimate even lower; however, setting the goals to ensure their feasibility under the most pessimistic of economic conditions is not appropriate, given that the Secretary can re-evaluate goal feasibility if market conditions change dramatically.

c. Conclusions About the Size of Low- and Moderate-Income Market

Based on the above findings as well as numerous sensitivity analyses, HUD concludes that 48–52 percent is a reasonable estimate of the mortgage market's low- and moderate-income share for 1996 and beyond. HUD recognizes that shifts in economic conditions could increase or decrease the size of the low- and moderate-income market during that period.

4. Further Considerations—Factors Not Taken Into Account in Developing the Market Estimates

The 48–52 percent low- and moderate-income market estimate does not take into account several factors which could enhance the GSEs' performance with regard to the goals.

[62] Section 1336(b)(3)(A).

[63] The $535 billion is a lower bound estimate provided by Freddie Mac.

a. Purchases of Seasoned Mortgages

Both GSEs buy a number of seasoned mortgages, where the date of the mortgage note is more than one year before the date the GSE purchased the mortgage. HUD's market share estimates are based on current mortgage originations, thus there is no way for HUD to take into account the availability of seasoned mortgages. But many such mortgages would qualify for one or more of the goals.

b. Small Second Loans

The final rule will allow the GSEs to count second mortgages for full credit toward the housing goals. In 1993, the GSEs purchased only a small number of second mortgages: Fannie Mae purchased 658 seconds, totalling $28.1 million, and Freddie Mac purchased 27 seconds, totalling $1.4 million. In 1994, the GSEs purchased both fewer such loans and smaller loans. Fannie Mae's second mortgage purchases fell to 207 loans, totalling $7.8 million, while Freddie Mac's purchases of second mortgages fell to 1, in the amount of $24,000.

It is unclear how the GSEs will react to the fact that seconds will be eligible under the goals. One scenario might involve a substantial increase in their purchases of small home improvement loans in inner-city areas which would increase their performance under the goals. Another scenario might involve only incremental changes to their current business which would only marginally increase their performance under the goals. It is also unclear how to delineate the overall market in which the GSEs might be operating, because their past purchases have been so small. Admittedly, they could purchase second mortgages in all segments of the market (from inner city low-income loans to suburban high-income loans); however, given their current small share of the overall market, it might not be appropriate to assume their purchases would cover the entire market. In any case, HUD has made no adjustments in its market estimate to allow for the possible effects of making second mortgages eligible under the goals.

The HMDA data do include information on home improvement loans (HILs). In 1993, 620,000 home improvement loans were originated, with an average loan amount of $20,700. Using RFS data, for the period 1989–1991, the average loan amount for HILs was $26,700. The loan distribution for all HILs shows that 59 percent of these loans were for amounts less than $15,000. Compared with purchase mortgages, HILs are more targeted to lower-income borrowers. Almost 47 percent of conforming conventional owner-occupied HILs went to low- and moderate-income borrowers.

G. Size of the Conventional Conforming Market Serving Central Cities, Rural Areas, and Other Underserved Areas

The following discussion presents the estimates of the size of the conventional conforming market for the Central City, Rural Areas, and other Underserved Areas Goal (Geographically-Targeted Goal). The first two sections focus on central cities and other underserved areas. Section 1 presents area percentages for different property types while section 2 presents market estimates for these areas. Section 3 discusses rural areas.

The final rule establishes the Central Cities, Rural Areas, and other Underserved Areas Goal for 1996 at 21 percent of the total number of dwelling units financed by the GSE's mortgage purchases. The level of the goal for 1997 and subsequent years is 24 percent.

1. Central City and Other Underserved Area Shares by Property Type

For purposes of the definitions of central cities and other underserved areas, underserved areas are defined as census tracts with:

(a) Tract median income at or below 90 percent of the MSA median income; or

(b) A minority composition equal to 30 percent or more and a tract median income no more than 120 percent of MSA median income.

Table D.8 presents central cities and other underserved areas percentages for mortgages on owner, single-family rental, and multifamily properties. In 1994, 24.6 percent of home purchase loans financed properties located in these areas; this represents an increase from 22.4 percent for 1993.[64] In 1994, refinance loans were slightly more likely than home purchase loans to be located in these areas (27.7 versus 24.6 percent) while in 1993 the situation was reversed (20.1 versus 22.4 percent). As table D.8 shows, the adjustments for mobile home loans are not nearly as large as those reported earlier for the borrower income data. The possibility that HMDA over-reports loans in low-income areas suggests that these percentages should be adjusted by another percent or two (see discussion of the Berkovec-Zorn paper in section F.1.c). Because of the importance of owner properties, the sensitivity analyses will examine a range of values for this variable.

Based on 1993 and 1994 HMDA data, the central cities and other underserved areas percentage for single-family rental units is 41–43 percent while that for multifamily properties is 48–51 percent. Thus, rental mortgages are about twice as likely as owner mortgages to finance properties located in these areas.

2. Market Estimates for Central Cities and Other Underserved Areas

Table D.9 presents estimates for the central cities and other underserved areas market for the same combinations of projections used to analyze the Low- and Moderate-Income Goal. Table D.6 in Section F.3 defines Cases 1, 2, and 3; Case 1 (the baseline) projects a 37.5 percent share for single-family rentals and a 42.5 percent share for multifamily properties while the more conservative Case 2 projects 35.0 percent and 40.0 percent, respectively.

The single-family owner percentages are the driving force in the market for the estimate, even more so than in the low- and moderate-income analysis. Table D.9 reports results under the baseline projections but for owner percentages ranging from 25 percent (1994 HMDA without mobile homes) to 20 percent (1993 HMDA) to 17 percent. The market share estimates are mostly in the 25–28 percent range if the single-family owner central cities and other underserved areas percentage is 18 percent or more. If the owner percentage is at the 1994 HMDA level of 25 percent, the market share estimate is as high as 29 percent.

At the lower extreme, the single-family owner percentage can go as low as 17 percent, which is 8 percentage points lower than the 1994 HMDA value, and the market estimate is still 24 percent in the base case. Thus, the Geographically Targeted Goal allows for a market not as affordable as the 1993–94 period.

Unlike the low- and moderate-income goal, the market estimates differ only slightly as one moves from Case 1 to Case 3 and from $23 billion to $35 billion in the size of the multifamily market. This is because the central cities and other underserved areas differentials between the owner and rental properties are not as large as the low- and moderate-income differentials reported earlier.

[64] The corresponding percentages for the definitions in the proposed rule are 15.4 percent for 1993 and 17.1 percent in 1994. Thus, the effect of the additional 3,657 census tracts is to increase the home purchase percentage by 7.0 percent in 1993 and by 7.5 percent in 1994.

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Table D-8

Central Cities and Other Underserved Areas Mortgage Market: 1993 and 1994 HMDA Data

	Purchase	Refinance	Total
Single-Family Owner-Occupied			
1993 HMDA			
A. All Loans	22.4%	20.1%	20.8%
B. Without Mobile Homes			
(1) 75,000	21.4%	20.1%	20.5%
(2) 100,000	21.1%	20.1%	20.4%
(3) 150,000	20.4%	20.1%	20.2%
1994 HMDA			
A. All Loans	24.6%	27.7%	26.0%
B. Without Mobile Homes			
(1) 100,000	23.5%	27.7%	25.4%
(2) 125,000	23.2%	27.7%	25.3%
(3) 150,000	22.9%	27.7%	25.1%
(4) 200,000	22.3%	27.7%	24.8%
Non-owner			
1993 HMDA	39.6%	41.3%	41.0%
1994 HMDA	39.8%	46.7%	43.1%
Multifamily			
1993 HMDA			47.7%
1994 HMDA			50.6%

Table D-9

Central Cities and Other Underserved Areas Market Estimates: Sensitivity Analysis

	Size of Multifamily Market		
Case 1 With Different Central Cities and Other Underserved Area Percentages for Single-Family Owner-Occupied's:	$23 Billion	$30 Billion	$35 Billion
Single-Family Owner-Occupied: [a] 25% (1994 HMDA adjusted)	29.1 %	29.4 %	29.8 %
23%	27.6	28.0	28.4
21%	26.2	26.6	27.0
20% (1993 HMDA adjusted)	25.4	25.9	26.3
19%	24.7	25.2	25.6
18%	24.0	24.5	24.9
17%	23.2	23.8	24.3
Single-Family Owner-Occupied: 21% With:			
Case 1 (above)	26.2 %	26.6 %	27.0 %
Case 2	25.1	25.5	25.9
Case 3	27.3	27.8	28.2
Single-Family Owner-Occupied: 19% With:			
Case 1 (above)	24.7 %	25.2 %	25.6 %
Case 2	23.5	24.0	24.4
Case 3	25.9	26.4	26.9

[a] These percentages are used for both purchase and refinance loans.

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3. Size of Rural Underserved Area Market

Rural areas are nonmetropolitan counties with:

(a) County median income at or below 95 percent of the greater of statewide nonmetropolitan median income or nationwide nonmetropolitan income; or

(b) A minority composition equal to 30 percent or more and a county median income no more that 120 percent of statewide nonmetropolitan median income.

HMDA does not provide mortgage data for nonmetropolitan counties, which makes it impossible to estimate the size of the mortgage market in rural areas. However, all indicators suggest that counties in rural areas comprise a larger share of the nonmetropolitan mortgage market than the census tracts in central cities and other underserved areas comprise of the metropolitan mortgage market. Counties within rural areas include 54 percent of nonmetropolitan residents as well as 54 percent of nonmetropolitan homeowners. Central cities and other underserved census tracts, on the other hand, account for 44 percent of metropolitan population and 34 percent of metropolitan homeowners.

In 1994, 26.9 percent of Fannie Mae's total purchases in nonmetropolitan areas were in rural areas while 29.2 percent of Fannie Mae's purchases in metropolitan areas were in central cities and other underserved areas. The corresponding percentages for Freddie Mac were 26.3 and 23.9, respectively. These data suggest that if the market share for counties in rural areas were available, it would be similar to the market share for census tracts in central cities and other underserved areas. Thus, HUD will use the metropolitan estimate to proxy the overall market for this goal, including rural areas.

4. Conclusions

Based on the above findings as well as numerous sensitivity analyses, HUD concludes that 25–28 percent is a reasonable estimate of mortgage market originations that would qualify toward achievement of the Geographically Targeted Goal if purchased by a GSE. HUD recognizes that shifts in economic and housing market conditions could affect the size of this market; however, the market estimate allows for the possibility that adverse economic conditions can make housing less affordable than it has been in the last two years.

H. Size of the Conventional Conforming Market for the Special Affordable Housing Goal

This section presents estimates of the conventional conforming mortgage market for the Special Affordable Housing Goal. The special affordable market consists of owner and rental dwelling units which are occupied by: (a) very-low-income families; *or* (b) low-income families in low-income census tracts[65]; *or* (c) low-income families in multifamily projects that meet minimum income thresholds patterned on the low-income housing tax credit (LIHTC).[66] HUD estimates that the special affordable market is 20–23 percent of the conventional conforming market. This market share estimate is three percentage points higher than the estimate in HUD's proposed rule mainly because low-income renters living in low-income census tracts or rural counties now qualify under the goal as defined in the final rule.

The final rule establishes the Special Affordable Housing Goal for 1996 at 12 percent of the total number of dwelling units financed by each GSE's mortgage purchases. The goal for 1997 and subsequent years is 14 percent. Of the total Special Affordable Housing Goal, each GSE must purchase annually in multifamily mortgages at least an amount equal to 0.8 percent of the total dollar volume of mortgages purchased by the GSE in 1994.

Section F described HUD's methodology for estimating the size of the low- and moderate-income market. Essentially the same methodology is employed here except that the focus is on the very-low-income market (0–60 percent of Area Median Income) and that portion of the low-income market (60–80 percent of Area Median Income) that is located in low-income areas. Data do not exist to estimate the number of renters with incomes between 60 and 80 percent of Area Median Income who live in projects that meet the tax credit thresholds. Thus, this part of the Special Affordable Housing Goal is not included in the market estimate.

1. Special Affordable Shares by Property Type

The basic approach involves estimating for each property type the share of dwelling units financed by mortgages in a particular year that are occupied by very-low-income families or by low-income families living in low-income areas. HUD has combined mortgage information from HMDA and the American Housing Survey in order to estimate these special affordable shares.

a. Very-Low-Income Owner Percentages

The percentage of borrowers with very-low-incomes was reported earlier when discussing the Low- and Moderate-Income Goal. HMDA data show that very-low-income borrowers accounted for 9.4 percent of all conforming home purchase loans in 1992, 11.5 percent in 1993, and 13.1 percent in 1994. Several adjustments were made to the HMDA data (see Table D.4). Excluding mobile home loans, for instance, reduced the 1993 and 1994 very-low-income borrower percentages to the 9–10 percent range. The AHS reports a higher very-low-income percentage of 12.9 percent for home purchase loans in 1993.

b. Very-Low-Income Rental Percentages

Table D.5 in Section F reported the percentages of the single-family rental and multifamily stock affordable to very-low-income families. According to the AHS, 61 percent of single-family units and 51 percent of multifamily units were affordable to very-low-income families in 1993. The corresponding average values for the AHS's five surveys between 1985 and 1993 were 58 percent and 46 percent, respectively.

c. Outstanding Housing Stock versus Mortgage Flow

An important issue concerns whether affordability data based on the existing rental stock can be used to proxy affordability of mortgaged rental units. Previous analysis of this issue has focussed on the relative merits of data from the recently completed stock versus data from the outstanding stock. The very-low-income percentages are much lower for the recently completed stock—for instance, the averages across the five AHS surveys were 15 percent for recently completed multifamily properties versus 46 percent for the multifamily stock. But it seems obvious that data from the recently completed stock would underestimate the affordability of newly-mortgaged units because they exclude purchase and refinance transactions involving older buildings, which generally charge lower rents than newly-constructed buildings. Blackley and Follain concluded that newly-constructed properties did not provide a satisfactory basis for estimating the affordability of newly-mortgaged properties.[67]

The remaining question is how much the affordability percentages from the existing rental stock should be reduced to reflect the flow of mortgage financing.[68] HUD used the 1991 Residential Finance Survey to compare rents of the outstanding stock with rents of properties receiving mortgages. There were two main findings. The first finding—and the important one for the Special Affordable Housing Goal—was that rents of newly-mortgaged properties were higher than those of the existing stock. About 44 percent of the units in newly-mortgaged, multifamily properties were affordable to very-low-income families; this compares with 52 percent for the entire multifamily stock.[69]

The corresponding percentages for single-family rental properties showed an even greater gap—47 percent for the newly-mortgaged stock and 60 percent for the existing stock. These comparisons suggest that in order to serve as a proxy for mortgage flows, the affordability percentages reported by the AHS should be adjusted downward by about 15 percent in the case of multifamily properties and 20 percent in the case of single-family properties. The baseline analysis below will use very-low-income percentages of 42.5 percent for multifamily properties and 45 percent for single-family rentals.[70]

The second finding—and the one important for the low- and moderate-income goal—was that the percentage of newly-mortgaged properties renting at a level affordable to families with less than median income was only slightly lower than the percentage of the stock renting at that level. This finding is not particularly surprising given that most of the rental stock rents at levels affordable to median income families. It suggests that only a small reduction (about 5 percent) in the affordability percentage of the existing stock is needed for it to proxy the mortgage flow.

d. Low-Income in Low-Income Areas

According to HMDA data, the percentage of home purchase borrowers who had an income between 60 and 80 percent of area median income and who lived in a low-income census tract was 1.7 percent in 1992, 1.8 percent in 1993, and 2.2 percent in 1994. The analysis below will vary this rate between 1 and 2 percent, depending on the percentage of very-low-income owners being assumed at the time.

[65] Or in the case of rural areas, in low-income counties.

[66] There are two LIHTC thresholds: at least 20 percent of the units are affordable at 50 percent of AMI or at least 40 percent of the units are affordable at 60 percent of AMI.

[67] "A Critique of the Methodology Used to Determine Affordable Housing Goals for the Government Sponsored Housing Enterprises."

[68] Some might argue that no adjustment is needed because the existing stock represents the underlying demand for mortgage credit and thus mortgage flows will have the same characteristics as the stock. While appealing at first sight, particularly if one takes a longer-run perspective, this argument ignores the host of reasons why the mortgage flow might not take on the characteristics of the underlying rental stock—the most obvious being that new construction mortgages are a significant part of mortgage activity (almost 15 percent in 1994) but new properties represent only a minute part of the outstanding housing stock.

[69] First, HUD computed the distribution of units by rent category for existing and newly-mortgaged properties in the RFS. Because only average rent per property is reported in the RFS, all units in a particular property were assigned the same rent. Next, HUD computed the percentage of units that were affordable to families with less than 60 percent of area median income based on 1989 and 1991 AHS data; this was about 50 percent for multifamily units. This 50 percent figure was used to define the absolute rent amount ($400) in the RFS that included the bottom 50 percent of rental units. (Because the rent brackets were in $100 increments, the bottom 52 percent of rents had to be used in the RFS analysis.) Finally, HUD computed the percentage of newly-mortgaged units below $400; as the text discusses, only 44 percent of the newly-mortgaged units were below $400.

[70] Another approach would simply take the weighted average of the very-low-income percentages for newly-constructed multifamily properties (15 percent) and remaining stock (46 percent) with the weights determined by the estimated share of new construction mortgages (almost 15 percent in 1994). Doing this for multifamily also gives 42 percent.

HMDA does not provide similar data for renters. As a substitute, HUD examined the rental housing stock located in low-income zones of 41 metropolitan areas surveyed as part of the AHS between 1989 and 1993. While the low-income zones do not exactly coincide with low-income tracts, they were the only proxy readily available to HUD.[71] Slightly over 13 percent of single-family rental units were both affordable at the 60–80 percent of AMI level and located in low-income zones; almost 16 percent of multifamily units fell into this category.[72] The baseline analysis below assumes that 10 percent of the financed rental units are affordable at 60–80 percent of AMI and located in low-income areas.

2. Size of the Special Affordable Market

The size of the special affordable market depends in large part on the size of the multifamily market and on the very-low-income percentages of both owners and renters. Table D.10 gives market estimates for different combinations of these factors.[73] As before, Case 2 is slightly more conservative than the baseline projections (Case 1) mentioned above. For instance, Case 2 assumes that only 7 percent of rental units are affordable to low-income renters living in low-income areas.

The market estimates in Table D.10 suggest that 20–23 percent is a conservative estimate of the special affordable market. Under HUD's baseline projections, the market estimates remain above 20 percent even if the very-low-income percentage for owners falls as low as 6 percent. Thus, HUD's market estimate allows for the possibility that adverse economic conditions could keep very-low-income families out of the housing market. On the other hand, if the very-low-income percentage stays at its recent levels of 10 percent, the market estimate is as high as 24 percent.

The market estimate drops by approximately one percent if the estimate of the multifamily mortgage market changes from $30 billion to $23 billion. The market estimates under the more conservative Case 2 projections are almost 3 percentage points below those under the Case 1 projections. This is due mainly to Case 2's lower share of single-family rental mortgages (7 percent versus 10 percent in Case 1) and its lower affordability and low-income-area percentages for rental housing (e.g., a combined 48 percent for single-family rental units versus 55 percent for Case 1).

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[71] It would have been ideal for this purpose if AHS had identified its respondents by whether they live in a low-income census tract within a metropolitan area or low-income nonmetropolitan county (i.e., a tract or county whose median income is no more than 80 percent of metropolitan area or statewide non-metro median income). AHS would then have yielded an estimate of the percentage of rental units located in such areas whose median income is less than 80 percent of area median, and this could have been combined with an AHS estimate of the percentage of those units whose rents are affordable at 60–80 percent of area median income to generate the desired figure. Instead, AHS identifies respondents in its metropolitan area surveys by a variable called ZONE and provides no corresponding variable outside of metropolitan areas. Zones were defined in the 1970s to be areas of at least 100,000 population that were socioeconomically homogeneous, and their boundaries have been fixed since then. HUD estimated the percentage of rental units in metropolitan areas affordable at 60–80 percent of area median income based on the AHS distribution of rental units by income of zone (relative to 80 percent of area median) and the AHS percentages of units affordable at 60–80 percent of area median within each zone. Because of the size difference between tracts and zones—around 100,000 vs. around 4,000—the percentages that would have been generated if a tract-based analysis had been feasible would probably have been at least as large as the 13 percent and 16 percent figures generated in this analysis. This is because the larger the zones, the closer their median income would tend to be to the metropolitan area median income. HUD has no basis for estimating the degree of bias in extrapolating from this analysis of metropolitan area data to nonmetropolitan areas.

[72] The corresponding figures for the recently completed stock were 8 and 9 percent, respectively.

[73] Table D.10 shows the size of the special affordable market based on alternative assumptions about the share of single-family owner-occupied units that are occupied by very-low-income households. Special affordable units also include those that are occupied by low-income households in low-income areas. For a very-low-income assumption of 10 percent, the low-income in low-income area assumption is 2 percent. The 2 percent low-income in low-income area assumption is prorated downward as the very-low-income assumption is reduced, falling to 1.2 percent for a very-low-income assumption of 7 percent.

Table D-10
Special Affordable Mortgage Market:
Sensitivity Analysis

	Size Of Multifamily Market		
	$23 Billion	$30 Billion	$35 Billion
Case 1 With:			
(a) Rent Affordable at 60% AMI: Single-Family Rental Percentage= 45%, Multifamily= 42%;			
(b) Low-Income in Low-Income Areas for Single-Family Rental and Multifamily= 10%; and			
(c) Single-Family Owner-Occupied's Income less than 60% AMI: [a]			
10.0% (1994 HMDA Adjusted)	22.9 %	23.7 %	24.4 %
9.0% (1993 HMDA Adjusted)	21.9	22.7	23.4
8.5%	21.4	22.3	23.0
8.0%	21.0	21.8	22.6
7.5%	20.6	21.4	22.2
7.0%	20.1	21.0	21.8
6.0%	19.3	20.2	21.0
Case 2 With:			
(a) Rent Affordable at 60% AMI: Single-Family Rental Percentage= 40%, Multifamily= 40%;			
(b) Low-Income in Low-Income Areas for Single-Family Rental and Multifamily= 8%; and			
(c) Single-Family Owner-Occupied's Income less than 60% AMI:			
10.0%	20.3 %	21.0 %	21.8 %
9.0%	19.2	20.0	20.8
8.0%	18.3	19.1	19.9
Case 3 With:			
(a) Rent Affordable at 60% AMI: Single-Family Rental Percentage= 50%, Multifamily= 45%;			
(b) Low-Income in Low-Income Areas for Single-Family Rental and Multifamily= 10%; and			
(c) Single-Family Owner-Occupied's Income less than 60% AMI:			
10.0%	25.1 %	25.9 %	26.7 %
9.0%	24.1	24.9	25.7
8.0%	23.3	24.1	24.9

[a] These percentages are used for home purchase loans. Refinaced loans were assumed to be 1.75 percentage points lower for each alternative.

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Tax Credit Definition. Data are not available to measure the increase in market share associated with including low-income units located in multifamily buildings that meet threshhold standards for the low-income housing tax credit. Currently, the effect on GSE performance under the Special Affordable Housing Goal is rather small. For instance, adding the tax credit condition increases Fannie Mae's 1994 performance by only 0.6 percentage points, from 16.1 to 16.7 percent. At first glance, this small effect seems at odds with the fact that almost 25 percent of Fannie Mae's multifamily purchases during 1994 involved properties with a very-low-income occupancy of 100 percent, and 57 percent involved properties with a very-low-income occupancy of over 40 percent. The explanation, of course, is that most of the rental units in these "tax-credit" properties are covered by the very-low-income part of the special affordable goal.

3. Conclusions

Sensitivity analyses were conducted for the market shares of each property type, for the very-low-income shares of each property type, and for various assumptions in the market projection model. These analyses suggest that 20–23 percent is a reasonable estimate of the size of the conventional conforming market for the Special Affordable Housing Goal. This estimate allows for the possibility that homeownership will not remain as affordable as it has over the past two years.

Appendix E—Required Loan-Level Data Elements

As required under 24 CFR part 81, subpart E, the GSEs are required to provide to the Secretary the loan level mortgage data listed below.

(a) Loan level data on single family mortgage purchases. Each GSE's submission of loan level data shall include the following information for each single family mortgage purchased by the GSE:

(1) Loan number—a unique numerical identifier for each mortgage purchased;

(2) U.S. postal state—the two-digit numerical Federal Information Processing Standard (FIPS) code;

(3) U.S. postal zip code—the five digit zip code for the property;

(4) MSA code—the four-digit numerical code for the property's metropolitan statistical area (MSA) if the property is located in an MSA;

(5) Place code—the five-digit numerical FIPS code;

(6) County—the county, as designated in the most recent decennial census by the Bureau of the Census, in which the property is located;

(7) Census tract/Block Numbering Area (BNA)—the tract/BNA number as used in the most recent decennial census by the Bureau of the Census;

(8) 1990 census tract—percent minority—the percentage of a census tract's population that is minority based on the most recent decennial census by the Bureau of the Census;

(9) 1990 census tract—median income—the median family income for the census tract;

(10) 1990 local area median income—the median income for the area;

(11) Tract income ratio—the ratio of the 1990 census tract median income to the 1990 local area median income;

(12) Borrower(s) annual income—the combined income of all borrowers;

(13) Area median family income—the current median family income for a family of four for the area as established by the Secretary;

(14) Borrower income ratio—the ratio of borrower(s) annual income to area median family income;

(15) Acquisition UPB—the unpaid principal balance (UPB) in whole dollars of the mortgage when purchased by the GSE; where the mortgage purchase is a participation, the acquisition UPB reflects the participation percentage;

(16) Loan-to-Value Ratio at Origination—the loan-to-value (LTV) ratio of the mortgage at the time of origination;

(17) Date of Mortgage Note—the date the mortgage note was created;

(18) Date of Acquisition—the date the GSE purchased the mortgage;

(19) Purpose of Loan—indicates whether the mortgage was a purchase money mortgage, a refinancing, a second mortgage;

(20) Cooperative Unit Mortgage—indicates whether the mortgage is on a dwelling unit in a cooperative housing building;

(21) Special Affordable, Seasoned Loan Proceeds Recycled—for purposes of the special affordable housing goal, indicates whether the mortgage purchased by the GSE meets the requirements in section 81.14(h)(1)(B);

(22) Product Type—indicates the product type of the mortgage, *i.e.*, fixed rate, adjustable rate mortgage (ARM), balloon, graduated payment mortgage (GPM) or growing equity mortgages (GEM), reverse annuity mortgage, or other;

(23) Federal guarantee—a numeric code that indicates whether the mortgage has a federal guarantee from: the Federal Housing Administration (FHA) or the Department of Veterans Affairs (VA); the Farmers Home Administration's Guaranteed Rural Housing Loan program; or other federal guarantee;

(24) RTC/FDIC—for purposes of the special affordable housing goal, indicates whether the mortgage purchased by the GSE meets the requirements in section 81.14(h)(1)(C);

(25) Term of Mortgage at Origination—the term of the mortgage at the time of origination in months;

(26) Amortization Term—for amortizing mortgages, the amortization term of the mortgage in months;

(27) Lender Institution—the name of the institution that loaned the money for the mortgage;

(28) Lender City—the city location of the institution that loaned the money for the mortgage;

(29) Lender State—the State location of the institution that loaned the money for the mortgage;

(30) Type of Seller Institution—the type of institution that sold the mortgage to the GSE, *i.e.*, mortgage company, Savings Association Insurance Fund (SAIF) insured depositary institution, Bank Insurance Fund (BIF) insured depositary institution, National Credit Union Association (NCUA) insured credit union, or other seller;

(31) Number of borrowers—the number of borrowers;

(32) First-time home buyer—a numeric code that indicates whether the mortgagor(s) are first-time home buyers; second mortgages and refinancings are treated as not first-time home buyers;

(33) Mortgage Purchased under GSE's Community Lending Program—indicates whether the GSE purchased the mortgage under its community lending program;

(34) Acquisition Type—indicates whether the GSE acquired the mortgage with cash, by swap, with a credit enhancement, a bond or debt purchase, reinsurance, risk-sharing, real estate investment trust (REIT), or a real estate mortgage investment conduit (REMIC), or other;

(35) GSE Real Estate Owned—indicates whether the mortgage is on a property that was in the GSE's real estate owned (REO) inventory;

(36) Borrower race or national origin—a numeric code that indicates whether the borrower is: an American Indian or Alaskan Native; an Asian or Pacific Islander; black; Hispanic; white; or other;

(37) Co-borrower race or national origin—a numeric code that indicates whether the co-borrower is: an American Indian or Alaskan Native; an Asian or Pacific Islander; black; Hispanic; white; or other

(38) Borrower gender—a numeric code that indicates whether the borrower is male or female;

(39) Co-borrower gender—a numeric code that indicates whether the co-borrower is male or female

(40) Age of borrower;

(41) Age of co-borrower;

(42) Occupancy Code—indicates whether the mortgaged property is an owner-occupied principal residence, a second home, or a rental/investment property;

(43) Number of Units—indicates the number of units in the mortgaged property;

(44) Number of Bedrooms—where the property contains non-owner-occupied dwelling units, the number of bedrooms in each of those units;

(45) Owner-Occupied—indicates whether each of those units are owner-occupied;

(46) Affordability Category—where the property contains non-owner-occupied dwelling units, indicates under which, if any, of the special affordable goals the units qualified;

(47) Reported Rent Level—where the property contains non-owner-occupied dwelling units, the rent level for each unit in whole dollars;

(48) Reported Rent Plus Utilities—where the property contains non-owner-occupied dwelling units, the rent level plus the utility cost for each unit in whole dollars;

(b) Loan level data on multifamily mortgage purchases. Each GSE's submission of loan level data shall include the following information for each multifamily mortgage purchased by the GSE:

(1) Loan number—a unique numerical identifier for each mortgage purchased;

(2) U.S. postal state—the two-digit numerical Federal Information Processing Standard (FIPS) code;

(3) U.S. Postal Zip Code—the five digit zip code for the property;

(4) MSA code—the four-digit numerical code for the property's metropolitan statistical area (MSA) if the property is located in an MSA;

(5) Place code—the five-digit numeric FIPS code;

(6) County—the county, as designated in the most recent decennial census by the Bureau of the Census, in which the property is located;

(7) Census tract/Block Numbering Area (BNA)—the tract/BNA number as used in the most recent decennial census by the Bureau of the Census;

(8) 1990 census tract—percent minority—the percentage of a census tract's population that is minority based on the most recent decennial census by the Bureau of the Census;

(9) 1990 census tract—median income—the median family income for the census tract;

(10) 1990 local area median income—the median income for the area;

(11) Tract income ratio—the ratio of the 1990 census tract median income to the 1990 local area median income;

(12) Area median family income—the current median family income for a family of four for the area as established by the Secretary;

(13) Affordability Category—indicates under which, if any, of the special affordable goals the property qualified;

(14) Acquisition UPB—the unpaid principal balance (UPB) in whole dollars of the mortgage when purchased by the GSE; where the mortgage purchase is a participation, the acquisition UPB reflects the participation percentage;

(15) Participation Percent—where the mortgage purchase is a participation, the percentage of the mortgage that the GSE purchased;

(16) Date of Mortgage Note—the date the mortgage note was created;

(17) Date of Acquisition—the date the GSE purchased the mortgage;

(18) Purpose of Loan—indicates whether the mortgage was a purchase money mortgage, a refinancing, a new construction mortgage, a mortgage financing property rehabilitation;

(19) Cooperative Project Loan—indicates whether the mortgage is a project loan on a cooperative housing building;

(20) Refinancing Loan from Own Portfolio—indicates, where the GSE has purchased a refinanced mortgage, whether the GSE owned the previous mortgage on the same property;

(21) Special Affordable, Seasoned Loans: Proceeds Recycled?—for purposes of the special affordable housing goal, indicates whether the mortgage purchased by the GSE meets the requirements in section 81.14(h)(1)(ii);

(22) Mortgagor Type—indicates the type of mortgagor, *i.e.*, an individual, a for-profit entity such as a corporation or partnership, a nonprofit entity such a corporation or partnership, a public entity, or other type of entity;

(23) Term of Mortgage at Origination—the term of the mortgage at the time of origination in months;

(24) Loan Type—indicates the type of the loan, *i.e.*, fixed rate, adjustable rate mortgage (ARM), balloon, or graduated payment mortgage (GPM);

(25) Construction Loan—indicates whether the mortgage is for a construction-loan;

(26) Amortization Term—for amortizing mortgages, the amortization term of the mortgage in months;

(27) Lender Institution—the name of the institution that loaned the money for the mortgage;

(28) Lender City—the city location of the institution that loaned the money for the mortgage;

(29) Lender State—the State location of the institution that loaned the money for the mortgage;

(30) Type of Seller Institution—the type of institution that sold the mortgage to the GSE, *i.e.*, mortgage company, Savings Association Insurance Fund (SAIF) insured depositary institution, Bank Insurance Fund (BIF) insured depositary institution, National Credit Union Association (NCUA) insured credit union, or other seller;

(31) Government insurance—indicates whether any part of the mortgage has government insurance;

(32) FHA Risk Share Percent—the percentage of risk assumed for the mortgage purchased under a risk-sharing arrangement with the Department.

(33) Acquisition Type—indicates whether the GSE acquired the mortgage with cash, by swap, with a credit enhancement, a bond or debt purchase, reinsurance, risk-sharing, real estate investment trust (REIT), or a real estate mortgage investment conduit (REMIC), or other;

(34) GSE Real Estate Owned—indicates whether the mortgage is on a property that was in the GSE's real estate owned (REO) inventory;

(35) Public Subsidy Program—indicates whether the mortgage property is involved in a public subsidy program and which level(s) of government are involved in the subsidy program, *i.e.*, Federal government only, state or local government only, other only, Federal government and either state or local government, Federal government and other, state or local government and other, and Federal, state, or local government and other;

(36) Total Number of Units—indicates the number of dwelling units in the mortgaged property;

(37) The following data apply to unit types in a particular mortgaged property. The unit types are defined by the GSEs for each property and are differentiated based on the number of bedrooms in the units and on the average contract rent for the units. A unit type must be included for each bedroom size category represented in the property:

(A) Unit Type XX—Number of Bedroom(s)—the number of bedrooms in the unit type;

(B) Unit Type XX—Number of Units—the number of units in the property within the unit type;

(C) Unit Type XX—Average Reported Rent Level—the average rent level for the unit type in whole dollars;

(D) Unit Type XX—Average Reported Rent Plus Utilities—the average reported rent level plus the utility cost for each unit in whole dollars; and

(E) Unit Type XX—Affordability Level—the ratio of the average reported rent plus utilities for the unit type to the adjusted area median income;

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APPENDIX F

ORDER

GSE MORTGAGE DATA AND AHAR INFORMATION:
PROPRIETARY INFORMATION/PUBLIC-USE DATA

THIS ORDER SETS FORTH THAT CERTAIN INFORMATION SUBMITTED BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION AND THE FEDERAL HOME LOAN MORTGAGE CORPORATION TO HUD IS PROPRIETARY AND SHALL NOT BE DISCLOSED TO THE PUBLIC AT THIS TIME. THIS ORDER SHALL BE EFFECTIVE UNTIL SUCH TIME AS IT IS DETERMINED NECESSARY AND/OR APPROPRIATE TO WITHDRAW OR MODIFY IT.

Note: The following matrices distinguish proprietary from public-use mortage data elements. A "YES" designation indicates that the data element is included in the public-use data base in the format indicated. For some data elements, where disclosure of census tract information would divulge proprietary information, alternative formats for disclosure that will not divulge proprietary information are indicated.

GSE Single-Family Mortgage Data
Owner- and Renter-Occupied 1- to 4-Unit Properties
Proprietary Information/Public-Use Data

#	Field Description	Values	Release on Census Tract File	Release on National File A	Release on National File E
0	Agency Flag	1=Fannie Mae 2=Freddie Mac	YES	YES	YES
1	Loan Number		Recode Using Random Number*	Recode Using Random Number*	Recode Using Random Number*
2	US Postal State	0=Missing	YES		
3	US Postal Zip Code				
4	MSA Code	0=Missing	YES		
5	Place Code - FIPS				
6	County - 1990 Census	0=Missing	YES		
7	Census Tract/BNA - 1990 Census	0=Missing	YES		
8**	Census Tract Geographic Designation	1=Tract Entirely Within Central City 2=Tract Entirely Outside Central City 3=Central City Split Tract 9=Not Able To Code	YES		
9**	Central City Flag 1	9999=Not Able To Code	YES		
10**	Central City Flag 2	9998=Not Available 9999=Not Applicable	YES		
11	1990 Census Tract - Percent Minority	9999=Not Available	YES	YES, but recode as: 1=0-<10% 2=10-<30% 3=30-100% 9=Missing	YES, but recode as: 1=0-<10% 2=10-<30% 3=30-100% 9=Missing
12	1990 Census Tract - Median Income	999999=Not Available	YES		
13	1990 Local Area Median Income	999999=Not Available	YES		
14	Tract Income Ratio	9999=Not Applicable	YES	YES, but recode as: 1=0-<=80% 2=80-<=120% 3= >120% 9=Missing Add Underserved Areas indicator	YES, but recode as: 1=0-<=80% 2=80-<=120% 3= >120% 9=Missing Add Underserved Areas indicator
15	Borrower(s) Annual Income	999999=Not Available	YES		
16	Area Median Family Income	999999=Not Available	YES		
17	Borrower Income Ratio	9999=Not Applicable/not available	YES - recode to include ratios for investor-owned properties	YES, but recode as: 1=0- <=60% 2=60- <=100% 3= >100 9=Not Applicable	YES, but recode as: 1=0- <=60% 2=60- <=100% 3= >100 9=Not Applicable
18	Acquisition UPB		YES, but recode as: Actual values for < $200,000 999998= >=$200,000 999999=Missing		
19	LTV @ Origination	999=Not Applicable		YES, but recode as: 1=0-60% 2=60+-80% 3=80+-90% 4=90+-95% 5=95%+	
20	Date of Mortgage Note				YES, but recode as: 1=Seasoned 2=Unseasoned
21	Date of Acquisition				
22	Purpose of Loan	1=Purchase 2=Refinancing 3=Second 9=Not Applicable			YES
23	Cooperative Unit Mortgage	1=Yes 2=No 8=Not Available 9=Not Applicable			

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#	Field Description	Values	Release on Census Tract File	Release on National File A	Release on National File B
24***	Refinancing Loan from Own Portfolio	1=Yes 2=No 9=Not Applicable			
25	Special Affordable, Seasoned Loan; Are Proceeds Recycled?	1=Yes 2=No 9=Not Applicable			
26	Product Type	01=Fixed Rate 02=ARM 03=Balloon 04=GPM/GEM 05=Reverse Annuity Mortgage 06=Other 07 - 98=List Other Distinct Products 99=Not Available			
27	Federal Guarantee	1=FHA/VA 2=FMHA-Guaranteed Rural Housing Loan 3=Other Federal Guarantee 4=No Federal Guarantee		YES	YES
28	RTC/FDIC	1=Yes 2=No			
29	Term of Mortgage at Origination				
30	Amortization Term	666=Non-Amortizing Loan 999=Not Available			
31***	Lender Institution Name				
32***	Lender City				
33***	Lender State				
34	Type of Seller Institution	1=Mortgage Company 2=SAIF Insured Depository Institution 3=BIF Insured Depository Institution 4=NCUA Insured Credit Union 5=Other			YES
35	Number of Borrowers		YES		
36	First-Time Home Buyer	1=Yes 2=No 9=Not Available	YES		
37	Mortgage Purchased under GSE's Community Lending Program	1=FNMA's Community Homebuyer Program 2=FNMA's Community Lending Other 3=FNMA's Other Housing Impact Programs OR 1=FHLMC's Affordable Gold 2=FHLMC's Alternative Qualifying 9=Not Applicable			
38	Acquisition Type	1=Cash 2=SWAP 3=Credit Enhancement 4=Bond or Debt Purchase 5=Reinsurance 6=Risk Sharing 7=REIT 8=REMIC 9=Other			
39	GSE's Real Estate Owned	1=Yes 2=No 3=Not Available			
40***	Public Subsidy Programs	1=Federal only 2=State or Local only 3=Other/Private Subsidy only 4=Federal and State or Local 5=Federal and Other 6=State or Local and Other 7=Federal, State or Local and Other 9=Data Not Provided			
41	Borrower Race or National Origin	1=American Indian or Alaskan Native 2=Asian or Pacific Islander 3=Black 4=Hispanic 5=White 6=Other 7=Information Not Provided by Applicant In Mail or Telephone Application 8=Not Applicable 9=Not Available	YES	Combine Fields 41 and 42 1=American Indian or Alaskan Native 2=Asian or Pacific Islander 3=Black 4=Hispanic 5=White 6=Other 7=Borrower/Co-Borrower Are Different 9=Original 7, 8, 9	Combine Fields 41 and 42 1=American Indian or Alaskan Native 2=Asian or Pacific Islander 3=Black 4=Hispanic 5=White 6=Other 7=Borrower/Co-Borrower Are Different 9=Original 7, 8, 9
42	Co-Borrower Race or National Origin	1=American Indian or Alaskan Native 2=Asian or Pacific Islander 3=Black 4=Hispanic 5=White 6=Other 7=Information Not Provided by Applicant In Mail or Telephone Application 8=Not Applicable 9=Not Available	YES		

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#	Field Description	Values	Release on Census Tract File	Release on National File A	Release on National File B
43	Borrower Gender	1=Male 2=Female 3=Information Not Provided by Applicant in Mail or Telephone Application 4=Not Applicable 9=Not Available	YES	Combine Fields 43 and 44 1=Male(s) only 2=Female(s) Only 3=Male and Female 9=Original 3, 4, 9	Combine Fields 43 and 44 1=Male(s) only 2=Female(s) Only 3=Male and Female 9=Original 3, 4, 9
44	Co-Borrower Gender	1=Male 2=Female 3=Information Not Provided by Applicant in Mail or Telephone Application 4=Not Applicable 9=Not Available	YES		
45	Age of Borrower	999=Data Not Provided	YES		
46	Age of Co-Borrower	999=Data Not Provided	YES		
47	Occupancy Code	1=Principal Residence/Owner Occupied 3=Investment Property (Rental)			YES
48	Number of Units			YES	YES
49	Unit 1 - Number of Bedrooms	99=Data Not Provided			
50	Unit 1 - Owner Occupied	1=Yes 2=No			
51	Unit 1 - Affordability Category	1=Low-Income Family (but not Very Low-Income) in a Low-Income Area 2=Very Low-Income Family, in a Low-Income Area 3=Very Low-Income Family, Not in a Low-Income Area 4=Other 9=Not Available		YES	YES
52	Unit 1 - Reported Rent Level	99999=Not Applicable			
53	Unit 1 - Reported Rent Plus Utilities	99999=Not Applicable			
54	Unit 2 - Number of Bedrooms	99=Data Not Provided			
55	Unit 2 - Owner Occupied	1=Yes 2=No			
56	Unit 2 - Affordability Category	1=Low-Income Family (but not Very Low-Income) in a Low-Income Area 2=Very Low-Income Family, in a Low-Income Area 3=Very Low-Income Family, Not in a Low-Income Area 4=Other 9=Not Available		YES	YES
57	Unit 2 - Reported Rent Level	99999=Not Applicable			
58	Unit 2 - Reported Rent Plus Utilities	99999=Not Applicable			
59	Unit 3 - Number of Bedrooms	99=Data Not Provided			
60	Unit 3 - Owner Occupied	1=Yes 2=No			
61	Unit 3 - Affordability Category	1=Low-Income Family (but not Very Low-Income) in a Low-Income Area 2=Very Low-Income Family, in a Low-Income Area 3=Very Low-Income Family, Not in a Low-Income Area 4=Other 9=Not Available		YES	YES
62	Unit 3 - Reported Rent Level	99999=Not Applicable			
63	Unit 3 - Reported Rent Plus Utilities	99999=Not Applicable			
64	Unit 4 - Number of Bedrooms	99=Data Not Provided			
65	Unit 4 - Owner Occupied	1=Yes 2=No			
66	Unit 4 - Affordability Category	1=Low-Income Family (but not Very Low-Income) in a Low-Income Area 2=Very Low-Income Family, in a Low-Income Area 3=Very Low-Income Family, Not in a Low-Income Area 4=Other 5=Not Available		YES	YES
67	Unit 4 - Reported Rent Level	99999=Not Applicable			
68	Unit 4 - Reported Rent Plus Utilities	99999=Not Applicable			
69	Fannie Mae Exclusions	1=Excluded from Goal Reporting			

* Different random number on each of the tract and national files.
** Not applicable to 1996 and beyond data sets.
*** Not applicable to 1993-1995 data sets.

GSE Multifamily Mortgage Data
Property Level
Proprietary Information/Public-Use Data

#	Field Description	Values	Release on Census Tract file	Release on National File
0	Agency Flag	1=Fannie Mae 2=Freddie Mac	YES	YES
1	Loan Number		Recode Using Random Number*	Recode Using Random Number*
2	US Postal State		YES	
3	US Postal Zip Code			
4	MSA Code		YES	
5	Place Code - FIPS			
6	County - 1990 Census		YES	
7	Census Tract/BNA - 1990 Census		YES	
8**	Census Tract Geographic Designation	1=Tract Entirely Within Central City 2=Tract Entirely Outside Central City 3=Central City Split Tract 9=Not Able To Code	YES	
9**	Central City Flag 1	9998=Not Able To Code	YES	
10**	Central City Flag 2	9998=Not Available 9999=Not Applicable	YES	
11	1990 Census Tract - Percent Minority	9999=Not Available	YES	YES, but recode as: 1=0-<10% 2=10-<30% 3=30-100% 9=Missing
12	1990 Census Tract - Median Income	999999=Not Available	YES	
13	1990 Local Area Median Income	999999=Not Available	YES	
14	Tract Income Ratio	9999=Not Applicable	YES	YES, but recode as: 1=0-<=80% 2=80-<=120% 3= >120% 9=Missing Add Underserved Areas Indicator
15	Area Median Family Income	999999=Not Available	YES	
16	Affordability Category	1. >=20% especially low income and <40% very low income 2. <20% & >=40% 3. >=20% & >=40% 4. <20% & <40% 8=Not Available 9=Not Eligible 0=Missing-Eligible But Does Not Qualify		YES
17	Acquisition UPB		YES, but recode as: 1= <= $500,000 2= $500k-<=$1m 3= $1m-<=$2m 4= $2m-<=$4m 5= > $4m 9= Missing	
18	Participation Percent			
19	Date of Mortgage Note			
20	Date of Acquisition			
21	Purpose of Loan	1=Purchase 2=Refinancing 3=New Construction 4=Rehabilitation 9=Not Applicable		YES
22	Cooperative Project Loan	1=Yes 2=No 8=Not Available 9=Not Applicable		
23**	Refinancing Loan from Own Portfolio	1=Yes 2=No 9=Not Applicable		
24	Special Affordable, Seasoned Loan: Are Proceeds Recycled?	1=Yes 2=No 9=Not Applicable		
25	Mortgagor Type	1=Individual 2=For Profit Entity 3=Nonprofit Entity 4=Public Entity 5=Other		

#	Field Description	Values	Release on Census Tract file	Release on National File
26	Term of Mortgage at Origination			
27	Loan Type	1=Fixed Rate 2=ARM 3=GPM		
28	Construction Loan	1=Yes 2=No		
29	Amortization Term	998=Non-Amortizing Loan 999=Not Available		
30***	Lender Institution			
31***	Lender City			
32***	Lender State			
33	Type of Seller Institution	1=Mortgage Company 2=SAIF Insured Depository Institution 3=BIF Insured Depository Institution 4=NCUA Insured Credit Union 5=Other	YES	YES
34	Government Insurance	1=Yes 2=No 9=Not Available		YES
35	FHA Risk Share Percent			
36	Acquisition Type	1=Cash 2=Swap 3=Other 4=Credit Enhancement 5=Bond/Debt Purchased 6=REMIC 7=Reinsurance 8=Risk Sharing 9=REIT		
37	GSE Real Estate Owned	1=Yes 2=No 3=Not Available		
38	Public Subsidy Program	1=Federal only 2=State or Local only 3=Other/Private Subsidy only 4=Federal and State or Local 5=Federal and Other 6=State or Local and Other 7=Federal, State or Local and Other 9=Data Not Provided		
39	Total Number of Units			YES
40***	Special Affordable - 45 Percent			YES
41***	Special Affordable - 55 Percent			YES
42	Fannie Mae Exclusions	1=Excluded from Goal Reporting		

* Different random numbers on tract and national files
** Not applicable to 1996 and beyond data sets.
*** Not applicable to 1993-1995 data sets.

GSE Multifamily Mortgage Data
Unit Level
Proprietary Information/Public-Use Data

0	Agency Flag			YES
1	Loan Number			Recoded As A Random Number****
43	Unit Type XX-Number of Bedrooms			YES, but recode as: 1=0-1 Bedroom 2= 2+ Bedrooms
44	Unit Type XX-Number of Units			YES, but recode to correspond to #43
45	Unit Type XX-Average Rent Level			
46	Unit Type XX-Average Rent Plus Utilities			
47	Unit Type XX-Affordability Level			YES, but recode as: 1=0-50% 2=50-60% 3=60-80% 4=80-100% 5= > 100% 9=Not Available

**** This number will match the property level random number on the national file.

[FR Doc. 95–28902 Filed 11–30–95; 8:45 am]
BILLING CODE 4210–32–C

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federal register

Friday
December 1, 1995

Part XI

Environmental Protection Agency

Resource Conservation and Recovery Act; OUST Docket: Relocation; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5338–2]

Resource Conservation and Recovery Act OUST Docket: Relocation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice to extend closing of OUST Docket during the move.

SUMMARY: As announced in the November 14, 1995, **Federal Register**, the Office of Underground Storage Tanks (OUST) Docket will move from M2616, 401 M Street, SW, Washington, DC to Crystal Gateway, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. Due to the shutdown of the federal government, the Office of Underground Storage Tanks Office must extend the time the OUST Docket will be closed. The OUST Docket, originally scheduled to be closed from November 14, 1995 through November 24, 1995, will now be closed through December 1, 1995. Closing the OUST Docket during the move will facilitate the moving of the Docket's collection and ensure the integrity of the regulatory dockets. The move will allow the OUST Docket to provide improved services to its patrons.

FOR FURTHER INFORMATION CONTACT: OUST Docket (5305W), 401 M Street, SW, Washington, DC 20460, (202/260–9720). Beginning December 4, the phone number will be 703/603–9231.

Dated: November 27, 1995.

Dana Tulis,

Acting Director, Office of Underground Storage Tanks.

[FR Doc. 95–29359 Filed 11–30–95; 8:45 am]

BILLING CODE 6560–50–M

federal register

Friday
December 1, 1995

Part XII

Department of Commerce

Bureau of the Census

1996 Race and Ethnic Targeted Test; Notice

DEPARTMENT OF COMMERCE

Bureau of the Census

1996 Race and Ethnic Targeted Test (RAETT) and Its Content Reinterview, Also Identified as the 1996 Census Survey

ACTION: Proposed Agency Information Collection Activity; Request for comments.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 30, 1996.

ADDRESSES: Direct all written comments to Gerald Taché, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Nampeo R. McKenney, Assistant Division Chief, Population Division, at the Bureau of the Census, Room 2011, FOB#3, Washington, D.C. 20233; or call (301) 457-2075.

SUPPLEMENTARY INFORMATION:

I. Abstract

The June 1996 Race and Ethnic Targeted Test (RAETT) is the principal vehicle for testing and evaluating several major proposed changes in, or alternatives to, the 1990 census race and ethnic questions. These include:

- A "Multiracial or biracial" category;
- A "Check more than one category" approach to reporting as multiracial;
- Alternative sequencing of the race and Hispanic origin items;
- A combined race, Hispanic origin and ancestry question;
- A combined "Indian (Amer.) or Alaska Native" category; and
- A "Native Hawaiian" category.

These proposals arose from:

- The Office of Management and Budget's (OMB) review of the Federal standards for racial and ethnic classification (Statistical Policy Directive No. 15), with particular attention to the research agenda developed by the Research Subcommittee of the OMB Interagency Committee for the Review of Racial and Ethnic Standards;
- Evaluation research on the 1990 census data, on early tests of alternative 2000 census forms (e.g., the Alternative Questionnaire Experiment and the Simplified Questionnaire Test), and on the Current Population Survey, May 1995 Supplement on Race and Ethnicity funded by the Bureau of Labor Statistics; and
- Consultations with the Census Advisory Committees and other data users, including a conference on undercounted ethnic populations, an international conference on the measurement of race and ethnicity, and recommendations in reports by the National Research Council and the General Accounting Office.

The RAETT is essential for evaluating how proposed changes to Directive No. 15, such as a multiracial classification and combined race and Hispanic origin questions, might affect the distribution and quality (e.g., reinterview consistency) of responses in the current race and Hispanic origin items. Substantial changes could affect the historical continuity of race and ethnic data and the usefulness of data for Federal agencies that monitor and enforce legislation (e.g., the Voting Rights Act). In addition, the RAETT is needed to determine whether alternative sequencing of the race and Hispanic origin items or combining the Indian (Amer.) and Alaska Native categories provide improvements over the 1990 census. The RAETT will also be used for evaluating the terminology of "Native Hawaiian."

The RAETT will target about 90,000 urban and rural households representing American Indians, Alaska Natives, Asians, Pacific Islanders, Hispanics, Blacks, White ethnic groups, and multiracial persons.

The RAETT will include a reinterview which will permit assessments of effects of changes on relatively smaller populations not reliably measured in national samples.

The test will also assess alternative approaches to household rostering, including special probes designed to improve coverage in undercounted minority households.

The RAETT will include six forms (one control and five experimental). We are only including the questions on race and ethnicity in this notice because they are pertinent to the survey. If you want to obtain a copy of the questionnaire in its entirety, you may write to Nampeo R. McKenney, Assistant Division Chief, Population Division, at the address listed above. The following is a list of the form numbers and précis of the race and ethnicity questions.

Form No.	Précis of race and ethnic questions on forms
DL–1A	Control.
DL–1B	Separate Hispanic origin and race questions; multiracial category; combined "Indian (Amer.) or Alaska Native" category.
DL–1C	Separate Hispanic origin and race questions; mark more than one race; combined "Indian (Amer.) or Alaska Native" category.
DL–1D	Race question followed by Hispanic origin question; combined "Indian (Amer.) or Alaska Native" category; "Native Hawaiian" category.
DL–1E	Combined race, Hispanic origin, and ancestry; multiracial category.
DL–1F	Combined race, Hispanic origin, and ancestry; mark more than one box.

Attachment A, "Proposed Race and Ethnic Questions for RAETT," is included to assist with the review of the race and ethnic questions. Attachment B contains the race and ethnic questions that will appear on forms DL–1A through DL–1F.

II. Method of Collection

The proposed information collection will be a one-time mailout-mailback census test needed for planning the 2000 census. The mailing operations for the proposed RAETT will be conducted through the U.S. Postal Service, using first-class postage rates for all pieces.

The RAETT will also include a Computer Assisted Telephone Interview (CATI) reinterview, which will compare individual responses collected on the self-enumeration forms to those collected in the CATI reinterview. Measures of response error will be generated from the reinterview to estimate the error associated with question wording.

Repeated callbacks will be made to each household to obtain a completed reinterview. The automatic call scheduler in the CATI instrument is designed to maximize response by optimizing the callback times based on prior call records for the household.

III. Data

OMB Number: Not Available

Form Number: DL–1A, DL–1B, DL–1C, DL–1D, DL–1E, and DL–1F.

Type of Review: Regular Submission.

Affected Public: Households and Individuals.

Estimated Number of Respondents: 90,000 Households.

Estimated Time Per Response: Mailout—10 minutes Reinterview—20 minutes.

Estimated Total Annual Burden Hours: Mailout—15,000 hours; Reinterview—15,000 hours.

Estimated Total Annual Cost: $2.2 Million.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 22, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

BILLING CODE 3510-07-P

ATTACHMENT A

11/9/95

PROPOSED RACE AND ETHNIC QUESTIONS FOR RAETT

CONTROL: Separate Race, Hispanic Origin	EXPERIMENTAL FORMS				
	Separate Race, Hispanic Origin			Combined Race, Hispanic Origin, Ancestry	
	DL-1A	DL-1B	DL-1C	DL-1E	DL-1F
Modified 1990 Race Question		Separate w/ "multiracial or biracial" category	Separate w/ "Check more than one box"	Combined w/ "multiracial or biracial" category	Combined "Check more than one box"
Separate categories for: Indian (Amer.) Eskimo Aleut		Indian (Amer.) or Alaska Native category	Indian (Amer.) or Alaska Native category		
			Native Hawaiian category		
Modified 1990 Hispanic origin Question		Separate	Separate		
1990 Census Sequence--Race followed by age, marital status, and then Hispanic origin		Hispanic origin first immediately followed by race	Hispanic origin first immediately followed by race	Race first immediately followed by Hispanic origin	

Note: Terminology for the Black and Hispanic Origin populations will be consistent across all panels.

ATTACHMENT B

Form DL-1A

4. What is this person's race? Mark ☒ ONE box for the race that the person considers himself/herself to be.

- ☐ White
- ☐ Black, African Am., or Negro
- ☐ Indian (Amer.) – Print name of enrolled or principal tribe.
- ☐ Eskimo
- ☐ Aleut
- ☐ Chinese
- ☐ Filipino
- ☐ Hawaiian
- ☐ Korean
- ☐ Vietnamese
- ☐ Japanese
- ☐ Asian Indian
- ☐ Samoan
- ☐ Guamanian
- ☐ Other Asian or Pacific Islander – Print race, for example: Hmong, Fijian, Laotian, Thai, Tongan, Pakistani, Cambodian, and so on.
- ☐ Other race – Print race.

7. Is this person Spanish/Hispanic/Latino? Mark ☒ the "No" box if **not** Spanish/Hispanic/Latino.

- ☐ **No**, not Spanish/Hispanic/Latino
- ☐ Yes, Mexican, Mexican-Am., Chicano
- ☐ Yes, Puerto Rican
- ☐ Yes, Cuban
- ☐ Yes, other Spanish/Hispanic/Latino – Print one group, for example: Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on.

Form DL-1B

Note: Please answer both Questions 5 and 6.

5. Is this person Spanish/Hispanic/Latino? Mark ☒ the "No" box if **not** Spanish/Hispanic/Latino.

- ☐ **No**, not Spanish/Hispanic/Latino
- ☐ Yes, Mexican, Mexican-Am., Chicano
- ☐ Yes, Puerto Rican
- ☐ Yes, Cuban
- ☐ Yes, other Spanish/Hispanic/Latino – Print one group.

6. What is this person's race? Mark ☒ ONE box for the race that the person considers himself/herself to be.

- ☐ White
- ☐ Black, African Am., or Negro
- ☐ Indian (Amer.) or Alaska Native (Print name of enrolled or principal tribe.)
- ☐ Chinese
- ☐ Filipino
- ☐ Hawaiian
- ☐ Korean
- ☐ Vietnamese
- ☐ Japanese
- ☐ Asian Indian
- ☐ Samoan
- ☐ Guamanian
- ☐ Other Asian or Pacific Islander – Print race.
- ☐ Some other race – Print race.
- ☐ Multiracial or biracial – Print races.

Form DL-1C

Note: Please answer both Questions 5 and 6.

5. Is this person Spanish/Hispanic/Latino? Mark ☒ the "No" box if **not** Spanish/Hispanic/Latino.

- ☐ **No**, not Spanish/Hispanic/Latino
- ☐ Yes, Mexican, Mexican-Am., Chicano
- ☐ Yes, Puerto Rican
- ☐ Yes, Cuban
- ☐ Yes, other Spanish/Hispanic/Latino – Print one group.

6. What is this person's race? Mark one or more races to indicate what this person considers himself/herself to be.

- ☐ White
- ☐ Black, African Am., or Negro
- ☐ Indian (Amer.) or Alaska Native (Print name of enrolled or principal tribe.)
- ☐ Chinese
- ☐ Filipino
- ☐ Hawaiian
- ☐ Korean
- ☐ Vietnamese
- ☐ Japanese
- ☐ Asian Indian
- ☐ Samoan
- ☐ Guamanian
- ☐ Other Asian or Pacific Islander – Print race.
- ☐ Some other race – Print race.

Form DL-1D

Note: Please answer both Questions 5 and 6.

5. What is this person's race? Mark ☒ ONE box for the race that the person considers himself/herself to be.

- ☐ White
- ☐ Black, African Am., or Negro
- ☐ Indian (Amer.) or Alaska Native (Print name of enrolled or principal tribe.)
- ☐ Native Hawaiian
- ☐ Chinese
- ☐ Filipino
- ☐ Korean
- ☐ Vietnamese
- ☐ Japanese
- ☐ Asian Indian
- ☐ Samoan
- ☐ Guamanian
- ☐ Other Asian or Pacific Islander – Print race.
- ☐ Some other race – Print race.
- ☐ Multiracial or biracial – Print races.

6. Is this person Spanish/Hispanic/Latino? Mark ☒ the "No" box if **not** Spanish/Hispanic/Latino.

- ☐ **No**, not Spanish/Hispanic/Latino
- ☐ Yes, Mexican, Mexican-Am., Chicano
- ☐ Yes, Puerto Rican
- ☐ Yes, Cuban
- ☐ Yes, other Spanish/Hispanic/Latino – Print one group.

Form DL-1E

NOTE – Please answer **both** 4a and 4b.

4a. What is this person's race or origin? – Mark ☒ ONE box for the race or origin that this person considers himself/herself to be.

- ☐ White
- ☐ Black, African Am., or Negro
- ☐ Indian (Amer.) or Alaska Native (Print name of enrolled or principal tribe)
- ☐ Asian or Pacific Islander
- ☐ Hispanic, Latino, or Spanish origin
- ☐ Multiracial or biracial
- ☐ Some other race

4b. What is this person's ancestry or ethnic group? For example, Italian, African Am., Mexican, Korean, Amer. Indian, Cape Verdean, Ecuadorian, Haitian, Lebanese, Nigerian, Polish, Samoan, Taiwanese, Ukrainian, or any other ancestry.

[FR Doc. 95–29122 Filed 11–30–95; 8:45 a.m.]
BILLING CODE 3510–07–P

Form DL-1F

NOTE – Please answer **both** 4a and 4b.

4a. What is this person's race or origin? – Mark one or more boxes to indicate what this person considers himself/herself to be.

- ☐ White
- ☐ Black, African Am., or Negro
- ☐ Indian (Amer.) or Alaska Native (Print name of enrolled or principal tribe)
- ☐ Asian or Pacific Islander
- ☐ Hispanic, Latino, or Spanish origin
- ☐ Some other race

4b. What is this person's ancestry or ethnic group? For example, Italian, African Am., Mexican, Korean, Amer. Indian, Cape Verdean, Ecuadorian, Haitian, Lebanese, Nigerian, Polish, Samoan, Taiwanese, Ukrainian, or any other ancestry.

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Federal Register

Vol. 60, No. 231

Friday, December 1, 1995

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FEDERAL REGISTER PAGES AND DATES, DECEMBER

61645–62016.....1

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List November 30, 1995

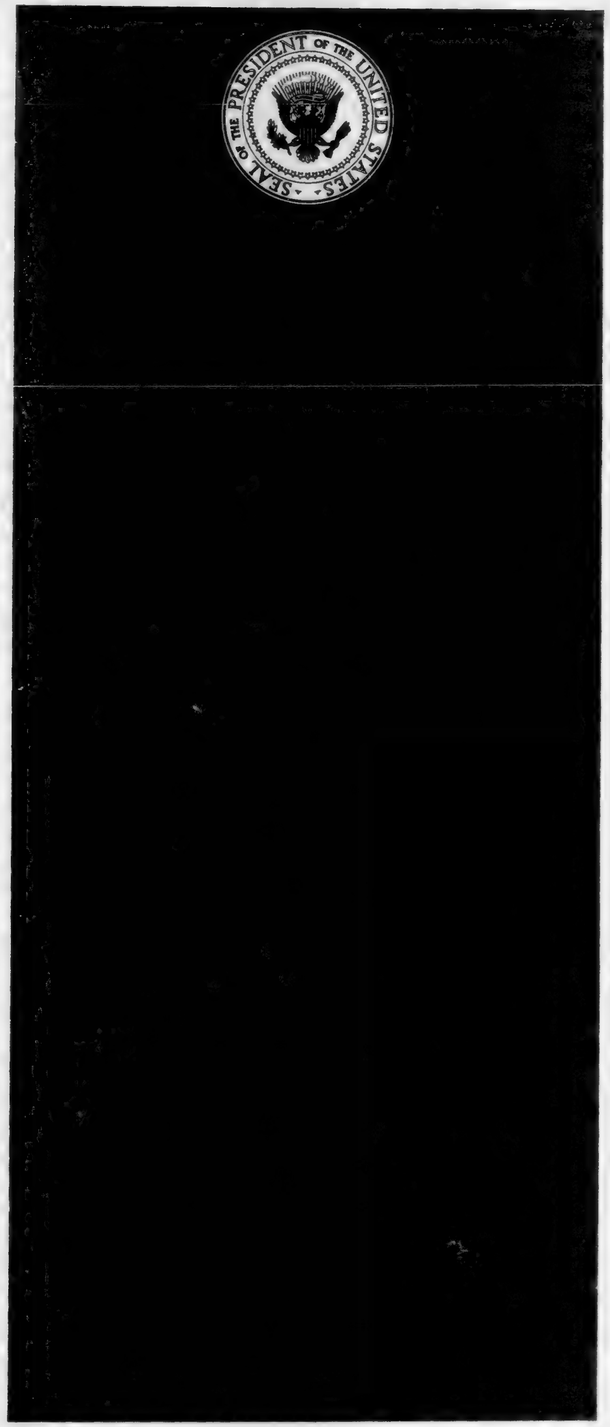
TABLE OF EFFECTIVE DATES AND TIME PERIODS—DECEMBER 1995

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
December 1	December 18	January 2	January 16	January 30	February 29
December 4	December 19	January 3	January 18	February 2	March 4
December 5	December 20	January 4	January 19	February 5	March 4
December 6	December 21	January 5	January 22	February 5	March 5
December 7	December 22	January 8	January 22	February 5	March 6
December 8	December 26	January 8	January 22	February 6	March 7
December 11	December 26	January 10	January 25	February 9	March 11
December 12	December 27	January 11	January 26	February 12	March 11
December 13	December 28	January 12	January 29	February 12	March 12
December 14	December 29	January 16	January 29	February 12	March 13
December 15	January 2	January 16	January 29	February 13	March 14
December 18	January 2	January 17	February 1	February 16	March 18
December 19	January 3	January 18	February 2	February 20	March 18
December 20	January 4	January 19	February 5	February 20	March 19
December 21	January 5	January 22	February 5	February 20	March 20
December 22	January 8	January 22	February 5	February 20	March 21
December 26	January 10	January 25	February 9	February 26	March 25
December 27	January 11	January 26	February 12	February 26	March 26
December 28	January 12	January 29	February 12	February 26	March 27
December 29	January 16	January 29	February 12	February 27	March 28



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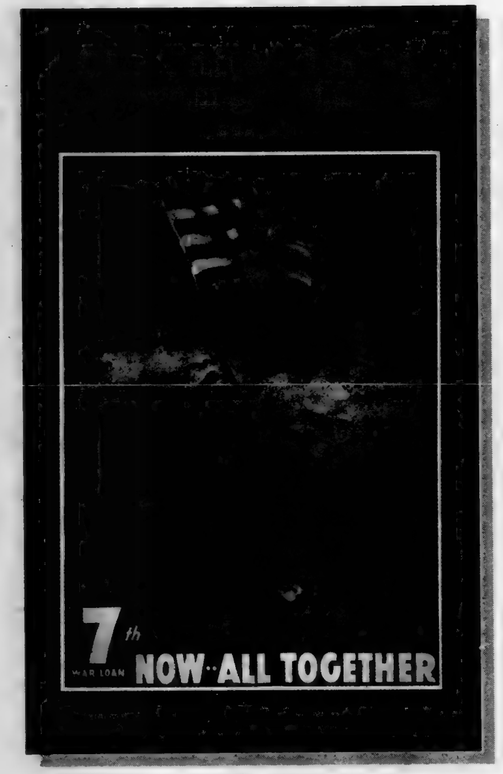

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Monday
December 4, 1995

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Beginning with the issue of December 4, 1995, a new listing will appear each day in the Reader Aids section of the **Federal Register** called "Reminders". The Reminders will have two sections: "Rules Going Into Effect Today" and "Comments Due Next Week". Rules Going Into Effect Today will remind readers about Rules documents published in the past which go into effect "today". Comments Due Next Week will remind readers about impending closing dates for comments on Proposed Rules documents published in past issues. Only those documents published in the Rules and Proposed Rules sections of the **Federal Register** will be eligible for inclusion in the Reminders.
The Reminders feature is intended as a reader aid only. Neither inclusion nor exclusion in the listing has any legal significance.
The Office of the Federal Register has been compiling data for the Reminders since the issue of November 1, 1995. No documents published prior to November 1, 1995 will be listed in Reminders.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1002

[DA–95–23A]

Milk in the New York-New Jersey Marketing Area; Removal of Certain Regulations Under the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document removes certain provisions in the regulations issued under the New York-New Jersey Federal milk marketing order (Order 2) from publication in the Code of Federal Regulations. Specifically, this action removes the Order 2 subparts that contain the market administrator's Classification and Accounting Rules and Regulations, and the Determination and Public Announcement of Freight Zones. The market administrator will continue to maintain these provisions as separate documents. This action is taken to reduce printing costs and to comply with the President's regulatory reform initiative.

EFFECTIVE DATE: December 4, 1995.

FOR FURTHER INFORMATION CONTACT: Gino Tosi, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1366.

SUPPLEMENTARY INFORMATION: This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

The Department is issuing this rule in conformance with Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule reduces the cost involved with publishing in the Code of Federal Regulations a publication that is already made publicly available. Furthermore, this action makes no changes to the operation of the order or the provision of the rules and regulations issued thereunder.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

This rule is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the New York-New Jersey marketing area. It is hereby found and determined that the following provisions of the regulations issued under the order do not need to be published in the Code of Federal Regulations:

1. Subpart—Classification and Accounting Rules and Regulations (§§ 1002.100 through 1002.260).

2. Subpart—Determination and Public Announcement of Freight Zones (§§ 1002.500 and 1002.501).

Findings and Determinations

This action removes the aforementioned subparts issued by the market administrator of the New York-New Jersey order (Order 2) from publication in annual Code of Federal Regulations.

The market administrator will continue to promulgate and maintain classification and accounting rules and regulations and to determine and publicly announce freight zones pursuant to the provisions of the order and subject to the approval of the Secretary. The market administrator will also continue to publish these documents and make them available upon request from any interested party. Industry representatives may request a copy of these documents from the market administrator at any time.

The publication of the aforementioned subparts for Order 2 is furnished to the industry by the market administrator in the performance of his duties. The provisions of these subparts are issued and administered by the Order 2 market administrator as specified in § 1002.46 and § 1002.52 of the order. Thus, it is not necessary to replicate the administrator's efforts in this regard by publishing these subparts in the Code of Federal Regulations. Furthermore, this removal action is consistent with the President's regulatory reform initiative.

Pursuant to 5 U.S.C. 553, it is hereby found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice or to engage in further public procedure prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because the removal of these subparts will not affect the operation or administration of the order or the provisions issued thereunder.

List of Subjects in 7 CFR Part 1002

Milk marketing orders.

For the reasons set forth in the preamble, 7 CFR Part 1002 is amended as follows:

PART 1002—MILK IN NEW YORK-NEW JERSEY MARKETING AREA

1. The authority citation for 7 CFR Part 1002 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 1002.100–1002.260 [Removed]

2. In part 1002, Subpart—Classification and Accounting Rules and Regulations, §§ 1002.100 through 1002.260 and their undesignated centerheadings and the subpart heading are removed.

§ 1002.500–1002.501 [Removed]

3. In part 1002, Subpart—Determination and Public Announcement of Freight Zones, §§ 1002.500 through 1002.501, and their subpart heading are removed.

Dated: November 27, 1995.

Shirley R. Watkins,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95–29460 Filed 12–1–95; 8:45 am]

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7 CFR Part 1002

[DA–95–23B]

Milk in the New York-New Jersey Marketing Area; Interim Rule: Termination of Certain Order Provisions and Removal of Certain Regulations of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim Rule terminating certain provisions with request for comments.

SUMMARY: This document removes certain provisions of the New York-New Jersey Federal milk marketing order (Order 2) and removes two subparts of provisions issued thereunder from publication in the Code of Federal Regulations. Specifically, this document terminates the requirement that certain changes to the market administrator's rules and regulations be published in the **Federal Register**. Additionally, this document removes the publication of two Order 2 subparts containing the market administrator's rules and regulations—Conduct of Hearings Relating to Suspended Cooperative Payments, and Cooperative Payment Rules and Regulations Approval of Tentative Amendment—from the annual Code of Federal Regulations. Nevertheless, the provisions of the subparts will continue to apply to the administration of the order and will be maintained by the market administrator as separate documents. This action is taken to reduce printing costs and to comply with the President's regulatory reform initiative.

DATES: Effective: December 4, 1995. Comments are due on or before January 3, 1996.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Gino Tosi, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202)690–1366.

SUPPLEMENTARY INFORMATION: This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force. The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that these actions would not have a significant economic impact on a substantial number of small entities. These actions would reduce the cost involved with publishing in the Code of Federal Regulations regulations that are available to the industry from the market administrator. Furthermore, except for order provisions concerning publication in the **Federal Register**, this action makes no changes in the operation of the order or the provisions of the rules and regulations issued thereunder.

The Department is issuing these interim rules in conformance with Executive Order 12866.

These interim rules have been reviewed under Executive Order 12778, Civil Justice Reform. They are not intended to have a retroactive effect. These interim rules will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rules.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the provisions of the Agricultural Marketing Agreement Act, the following provisions of the order regulating the handling of milk in the New York-New Jersey marketing area are terminated by this interim rule:

1. In § 1002.77(I)(1), the following words: "published in the **Federal Register** and".

2. In § 1002.77(I)(3), the following words: "approval, and shall be published in the **Federal Register** following such".

In addition, the following provisions of the rules and regulations issued under the order do not need to be published in the Code of Federal Regulations:

3. Subpart—Conduct of Hearings Relating to Suspended Cooperative Payments (§§ 1002.300 through 1002.353).

4. Subpart—Cooperative Payment Rules and Regulations Approval of Tentative Amendment (§§ 1002.400 through 1002.444).

All persons who want to send written data, views, or arguments about these interim actions should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 30th day after the publication of this document in the **Federal Register**.

The comments that are received will be made available for public inspection in the Dairy Division during normal business hours (7 CAR 1.27(b)).

Statement of Consideration

This interim rule terminates the requirement which provides that certain rules and regulations issued by the market administrator of the New York-New Jersey order (Order 2) be published in the **Federal Register** after they have been approved by the Secretary. Additionally, two Order 2 subparts, which contain the market administrator's rules and regulations involving the conduct of hearings related to suspended cooperative payments and cooperative payment rules and regulations, would no longer be published in the annual Code of Federal Regulations.

The market administrator will continue to issue any specific rules and regulations that are needed to effectuate the provisions of the order regulating the handling of milk in the Order 2 marketing area. These rules and regulations are, and will continue to be, issued to facilitate the administration of the order and are updated as necessary, published, and made available to interested parties. Industry representatives may request a copy of the rules and regulations from the market administrator at any time.

This action will not change the rules and regulations previously issued by the Order 2 market administrator and now in effect to carry out the regulatory provisions of the order. Order 2 establishes specific procedures that must be followed by the market administrator in revising the rules and regulations. It also sets forth methods whereby interested parties are informed about proposals to change the rules and regulations and how they may participate in the promulgation process.

The printing and procedural functions involving the implementation of rules and regulations for Order 2 are accomplished by the market administrator in the performance of his duties. These matters are being adequately performed by the Order 2 market administrator. Thus, it should not be necessary to replicate the market administrator's efforts by requiring that certain portions of the rules and regulations, all of which must be approved by the Secretary, be published in the **Federal Register** or that the Order 2 subparts containing the rules and regulations be published in the Code of Federal Regulations each year. Furthermore, this action is consistent with the President's regulatory reform initiative.

Accordingly, with regard to the termination of the provisions of the order as hereinafter set forth, it is found in accordance with the Act that these provisions no longer tend to effectuate the declared policy of the Act. Pursuant to 5 U.S.C. 553, it is hereby found and determined, upon good cause, That it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule in effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because, except for order provisions concerning publication in the **Federal Register**, this action will not affect the operation or administration of the order or the provisions issued thereunder.

Written comments are invited from interested parties concerning this action.

List of Subjects in 7 CFR Part 1002

Milk marketing orders.

Order

For the reasons set forth in the preamble, 7 CFR part 1002 is amended as follows:

PART 1002—MILK IN NEW YORK-NEW JERSEY MARKETING AREA

1. The authority citation for 7 CFR part 1002 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 1002.77 [Amended]

2. In § 1002.77, paragraph (i)(1), the words "published in the **Federal Register** and" are removed.

3. In § 1002.77, paragraph (i)(3), the words "approval, and shall be published in the **Federal Register** following such" are removed.

§§ 1002.300–1002.353 [Removed]

4. In part 1002, Subpart—Conduct of Hearings Relating to Suspended Cooperative Payments (§§ 1002.300 through 1002.353) is removed.

§§ 1002.400–1002–444 [Removed]

5. Subpart—Cooperative Payment Rules and Regulations Approval of Tentative Amendment, §§ 1002.400 through 1002.444 and their undesignated centerheadings and the subpart heading are removed.

Dated: November 27, 1995.

Shirley R. Watkins,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95–29461 Filed 12–1–95; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 1260

[No. LS–95–007]

Beef Promotion and Research; Reapportionment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adjusts representation on the Cattlemen's Beef Promotion and Research Board (Board), established under the Beef Promotion and Research Act (Act) of 1985, to reflect changes in cattle inventories and cattle and beef imports that have occurred since the Board was reapportioned in 1993. These adjustments are required by the Beef Promotion and Research Order (Order) and would result in an increase in Board membership from 107 to 111, effective with the Secretary's 1996 appointments.

EFFECTIVE DATE: January 3, 1996.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, Livestock and Seed Division, Agricultural Marketing Service (AMS), USDA, Room 2606–S, P.O. Box 96456, Washington, DC 20090–6456. 202/720–1115.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

This final rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. Section 11 of the Act provides that nothing in the Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator of AMS has determined that this final rule will not have a significant impact on a substantial number of small entities as defined by RFA since it only adjusts representation on the Board to reflect changes in domestic cattle inventory and imports.

The Board was initially appointed August 4, 1986, pursuant to the provisions of the Act (7 U.S.C. 2901 *et seq.*) and the Order issued thereunder (7 CFR 1260.101 *et seq.*). Domestic representation on the Board is based on cattle inventory numbers, and importer representation is based on the conversion of the volume of imported cattle, beef, or beef products into live animal equivalencies.

Section 1260.141(b) of the Order provides that the Board shall be composed of cattle producers and importers appointed by the Secretary from nominations submitted by certified producer and importer organizations. A producer may only be nominated to represent the unit in which that producer is a resident.

Section 1260.141(c) of the Order provides that at least every 3 years and not more than every 2 years, the Board shall review the geographic distribution of cattle inventories throughout the United States and the volume of imported cattle, beef, and beef products and, if warranted, shall reapportion

units and/or modify the number of Board members from units in order to reflect the geographic distribution of cattle production volume in the United States and the volume of cattle, beef, or beef products imported into the United States.

Section 1260.141(d) of the Order authorizes the Board to recommend to the Secretary modifications in the number of cattle per unit necessary for representation on the Board.

Section 1260.141(e)(1) provides that each geographic unit or State that includes a total cattle inventory equal to or greater than 500,000 head of cattle shall be entitled to one representative on the Board. Section 1260.141(e)(2) provides that States that do not have total cattle inventories equal to or greater than 500,000 head shall be grouped, to the extent practicable, into geographically-contiguous units, each of which have a combined total inventory of not less than 500,000 head. Such grouped units are entitled to at least one representative on the Board. Each unit that has an additional 1 million head of cattle within a unit qualifies for additional representation on the Board as provided in § 1260.141(e)(4). As provided in § 1260.141(e)(3), importers are represented by a single unit, with the number of Board members based on a conversion of the total volume of imported cattle, beef, or beef products into live animal equivalencies.

The initial Board appointed in 1986 was composed of 113 members. Reapportionment based on a 3-year average of cattle inventory numbers and import data, reduced the Board to 111 members in 1990 and 107 members in 1993.

The current Board representation by States or units has been based on an average of the January 1, 1990, 1991, and 1992 inventory of cattle in the various States as reported by the National Agricultural Statistics Service of the Department of Agriculture (USDA). Importer representation has been based on a combined total average of the 1989, 1990, and 1991 live cattle imports as published by the Foreign Agricultural Service (FAS) of USDA and the average of the 1989, 1990, and 1991 live animal equivalents for imported beef products.

Recommendations concerning Board reapportionment were approved by the Board at its July 24, 1995, meeting. In considering reapportionment, the Board reviewed cattle inventories as well as cattle, beef, and beef product import data for the period January 1, 1992, to January 1, 1995. The Board recommended that a 3-year average of cattle inventories and import numbers should be continued. The Board determined that an average of the January 1, 1993, 1994, and 1995 USDA cattle inventory numbers would best reflect the number of cattle in each State or unit since the 1993 reapportionment.

The Board reviewed the March 1995 FAS circular, "U.S. Trade and Prospects, Dairy, Livestock, and Poultry," to determine proper importer representation. The Board recommended the use of a combined total of the average of the 1992, 1993, and 1994 cattle import data and the average of the 1992, 1993, and 1994 live animal equivalents for imported beef products. The method used to calculate the total number of live cattle equivalents was the same as that used in the previous reapportionment of the Board. The recommendation for importer representation is based on the most recent 3-year average of data available to the Board at its July 24, 1995, meeting to be consistent with the procedures used for domestic representation.

On September 8, 1995, AMS published in the **Federal Register** (60 FR 46781) for public comment a proposed rule providing for the adjustment in Board membership.

The Department did not receive any comments concerning the proposed rule. Thus, the reapportionment of the Board in this final rule is unchanged from the proposed rule. This final rule increases the number of representatives on the Board from 107 to 111. Two States—Iowa and Ohio—lose one member each; three States—Missouri, Montana, and South Dakota—gain one member each; Texas gains two members; and the importer unit gains one member. Nevada loses its only member. Nevada will be merged with Oregon, a contiguous State that has only one member, to form a Western unit. The combined cattle inventory of Nevada and Oregon will entitle the Western unit to two seats on the Board, thus enabling both States to be jointly represented. The States and units affected by the reapportionment plan and the current and revised member representation per unit are as follows:

States	Current representation	Revised representation
1. Iowa	5	4
2. Missouri	4	5
3. Montana	2	3
4. Ohio	2	1
5. South Dakota	3	4
6. Texas	13	15
7. Western	0	2
Nevada	1	
Oregon	1	

New Board representation for the entire 40 units is shown in the revised § 1260.141(a) contained herein. The new Board reapportionment will become effective with 1996 nominations and appointments.

This action makes final the provisions of the proposed rule published at 60 FR 46781 on September 8, 1995.

List of Subjects in 7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural research, Imports, Marketing agreement, Meat and meat products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, 7 CFR part 1260 is amended as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

1. The authority citation for 7 CFR part 1260 continues to read as follows:

Authority: 7 U.S.C. 2901 *et seq.*

2. In section 1260.141, paragraph (a) and the table immediately following it, are revised to read as follows:

§ 1260.141 Membership of Board.

(a) For Board nominations and appointments beginning with those in 1996, the United States shall be divided into 39 geographical units and 1 unit representing importers, and the number of Board members from each unit shall be as follows:

CATTLE AND CALVES [1]

State/unit	(1,000 head)	Directors
1. Alabama	1,677	2
2. Arizona	853	1
3. Arkansas	1,837	2
4. California	4,617	5
5. Colorado	2,967	3
6. Florida	1,977	2
7. Georgia	1,477	1
8. Idaho	1,720	2
9. Illinois	1,813	2
10. Indiana	1,163	1
11. Iowa	4,183	4
12. Kansas	6,067	6
13. Kentucky	2,617	3
14. Louisiana	943	1
15. Michigan	1,210	1
16. Minnesota	2,750	3
17. Mississippi	1,353	1
18. Missouri	4,600	5
19. Montana	2,583	3
20. Nebraska	6,017	6
21. New Mexico	1,437	1
22. New York	1,503	2
23. North Carolina	1,063	1
24. North Dakota	1,857	2
25. Ohio	1,480	1
26. Oklahoma	5,333	5
27. Pennsylvania	1,783	2
28. South Carolina	513	1
29. South Dakota	3,833	4
30. Tennessee	2,450	2
31. Texas	[1] 4,667	15
32. Utah	867	1
33. Virginia	1,713	2
34. Wisconsin	3,883	4
35. Wyoming	1,383	1
36. Northwest		2
Alaska	9	
Hawaii	173	
Washington	1,353	
Total	1,535	
37. Northeast		1
Connecticut	76	
Delaware	30	
Maine	116	
Massachusetts	59	
New Hampshire	49	
New Jersey	57	
Rhode Island	7	
Vermont	292	
Total	706	
38. Mid-Atlantic		1
District of Columbia	0	
Maryland	310	
West Virginia	477	
Total	787	
39. Western		2
Nevada	497	
Oregon	1,420	
Total	1,917	
40. Importer [2]	7,016	7

[1] 1993, 1994, and 1995 average.
[2] 1992, 1993, and 1994 average.

* * * * *

Dated: November 27, 1995.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 95–29459 Filed 12–1–95; 8:45 am]

BILLING CODE 3410–02–P

CATTLE AND CALVES [1]—Continued

State/unit	(1,000 head)	Directors
30. Tennessee	2,450	2
31. Texas	[1] 4,667	15
32. Utah	867	1
33. Virginia	1,713	2
34. Wisconsin	3,883	4
35. Wyoming	1,383	1
36. Northwest		2
Alaska	9	
Hawaii	173	
Washington	1,353	
Total	1,535	
37. Northeast		1
Connecticut	76	
Delaware	30	
Maine	116	
Massachusetts	59	
New Hampshire	49	
New Jersey	57	
Rhode Island	7	
Vermont	292	
Total	706	
38. Mid-Atlantic		1
District of Columbia	0	
Maryland	310	
West Virginia	477	
Total	787	
39. Western		2
Nevada	497	
Oregon	1,420	
Total	1,917	
40. Importer [2]	7,016	7

[1] 1993, 1994, and 1995 average.
[2] 1992, 1993, and 1994 average.

* * * * *

Dated: November 27, 1995.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 95–29459 Filed 12–1–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS No. 1654–94]

RIN 1115–AD66

Temporary Alien Workers Seeking H Classification for the Purpose of Obtaining Graduate Medical Education or Training

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: After consideration of comments filed and the relevant issues, the Immigration and Naturalization Service (Service) has decided not to implement one of the changes previously proposed, to preclude the use of the H–1B non-immigrant classification for graduates of foreign medical schools pursuing medical residencies in the United States. However, this rule amends the Service's regulations in other respects by modifying the filing procedures for certain H nonimmigrant petitions involving multiple beneficiaries. The rule allows a petitioner to file a single petition even when the beneficiaries listed on the petition will be applying for nonimmigrant visas at different consulates or for entry into the United States at different Ports-of-Entry, provided that the aliens will be performing the same service or receiving the same training, for the same period of time, and in the same location. This rule further amends the Service's regulations by clearly differentiating between an H–3 alien trainee and an H–3 special education trainee with respect to the time limitations on admission for these types of classifications. This rule will ease the burden on the public when filing H petitions involving multiple beneficiaries and will correct a regulatory inconsistency regarding the limitations on stay for H–3 nonimmigrant aliens.

EFFECTIVE DATE: December 4, 1995.

FOR FURTHER INFORMATION CONTACT: John W. Brown, Adjudications Officer, Adjudications Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 514–3240.

SUPPLEMENTARY INFORMATION: On July 14, 1994, at 59 FR 35866–35867, the Immigration and Naturalization Service (Service) published a proposed rule in the **Federal Register** addressing three issues within the H nonimmigrant classification. The principal proposal related to the treatment of certain foreign medical graduates seeking to be classified under the H–1B nonimmigrant classification as amended by the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (MTINA). The Service proposed that graduates of foreign medical schools should be prohibited from seeking H–1B classification for the purpose of pursuing a medical residency in the United States and that, instead, these aliens should be required to avail themselves of the J–1 nonimmigrant classification. The Service also proposed that those aliens already admitted to the United States as H–1B nonimmigrant aliens for the purpose of pursuing a medical residency be required to seek a change of nonimmigrant status to that of a J–1 nonimmigrant alien to complete the residency. After reviewing the comments received from the public, the Service has decided not to promulgate this portion of the proposed rule.

The comment period for the proposed rule ended on September 12, 1994. In response to the proposed rule, the Service received a total of 325 comments. The following is a discussion of the comments and the Service's response.

Multiple Beneficiaries and Time Limitations on Certain H–3 Trainees

Of the 325 comments received, only one addressed the Service's proposal relating to multiple beneficiaries on H petitions and its proposal regarding time limitations for H–3 alien trainees. The commenter opined that these two proposals comported with Congressional intent and recommended that they be adopted. The Service concurs and accordingly will incorporate those two proposals in the final rule.

Medical Residencies Under the H–1B Nonimmigrant Classification

The Service received 325 comments addressing the issue of medical residencies under the H–1B nonimmigrant classification. Only 11 commenters agreed with the Service's proposal that graduates of foreign medical schools be prohibited from using the H–1B nonimmigrant classification for the purpose of pursuing a medical residency. The remainder of the commenters expressed the opinion that Congress intended that graduates of foreign medical schools be permitted to pursue medical residencies under the H–1B nonimmigrant classification. In addition, 235 of the commenters stated that it was not fair or appropriate for the Service to require that an alien already admitted into the United States as an H–1B nonimmigrant alien in order to pursue a medical residency be required to change his or her nonimmigrant status to a J–1 nonimmigrant alien in order to complete the residency.

In proposing this rule, the Service expressed its opinion that Congress did not intend the H–1B nonimmigrant classification to be used by graduates of foreign medical schools coming to the United States to pursue medical residencies or otherwise receive graduate medical education or training, and that, therefore, these aliens should

seek classification as J–1 nonimmigrant aliens. This opinion was based on the Service's examination of the relevant legislation, including the Health Professionals Education Assistance Act of 1976 (HPEAA), Pub. L. 94–484 and MTINA. The Service took note that the HPEAA established the J–1 classification as the sole vehicle, with certain limited exceptions, for graduates of medical schools to obtain graduate medical education or training in the United States, including medical residencies. *See* sections 101(a)(15)(J) and 212(j)(1) of the Act; *see also* pre-IMMACT (Immigration and Nationality Act of 1990) section 101(a)(15)(H)(i) of the Act. The Service further noted that, by amending sections 101(a)(15)(H)(i)(b) and 212(j)(2) of the Act, MTINA provided an avenue for foreign medical graduates to enter the United States in H–1B status to perform services in the medical professions. The Service opined, however, that MTINA did not alter the HPEAA's requirement, as set forth in section 212(j)(1) of the Act, that a graduate of a foreign medical school seeking education or training do so only as a J–1 nonimmigrant alien. In support of this position, the Service expressed its belief that Congress would not have placed in juxtaposition two such clearly different statutory provisions as section 212(j)(1) and section 212(j)(2) of the Act had it intended for the H–1B and J–1 classifications to overlap with respect to foreign medical graduates seeking graduate medical education or training.

After a careful review of the comments received in response to the proposed rule and a further review of the relevant legislative history, the Service has opted to withdraw this portion of the proposed rule. The Service is now of the opinion that the statute can be reasonably interpreted either to provide that as proposed by the Service, the H–1B classification is not available for graduates of foreign medical schools to take medical residencies or, as is the current practice, the H–1B classification is available for graduates of foreign medical schools for medical residencies.

The Service has elected to adopt the second interpretation and continue its current practice of allowing graduates of foreign medical schools to take residencies under the H–1B classification. In so doing, the Service notes first that nothing in the statute or the relevant legislative history specifically precludes H–1B classification for aliens seeking graduate medical training, and second, under the language of section 214(i) of the Act, a graduate medical education program, such as a residency, could in some cases meet the definition of "specialty occupation" for H–1B purposes. *See also* 8 CFR 214.2(h)(4)(i). In addition, we note, as did some commenters, that a medical residency can reasonably be considered to be either a training program or a specialty occupation. This position is consistent with that taken by the Service in *Matter of Bronx Municipal Hospital Center*, 12 I&N Dec. 768 (1968), where the Regional Commissioner held that a medical residency is primarily clinical in nature and, therefore, does not qualify as an H–3 training program.

In deciding to withdraw this portion of the rule, the Service also found persuasive the comments submitted by a number of large urban medical facilities indicating that they would be unable to recruit qualified individuals to pursue residencies under the J–1 program. These commenters indicated that they have relied heavily on the use of the H–1B program to staff their residency programs and that the requirement that these aliens use the J–1 program would result in a curtailment of medical services which could otherwise be provided to the surrounding community.

Finally, the Service was also impressed by the sheer number of comments received in opposition to the rule. While three major organizations involved in the medical health field supported the Service's proposed rule, over 300 other commenters expressed the opinion that graduates of foreign medical schools should be permitted to pursue medical residencies as H–1B nonimmigrant aliens. The three commenters based their opinion on the belief that medical residencies should be characterized as training programs as opposed to temporary employment as a specialty occupation. However, as indicated above, the Service is of the opinion that a medical residency can be considered either a training program or a specialty occupation. *See Bronx Municipal Hospital Center, supra.*

As a result of the Service's withdrawal of this portion of the proposed rule, graduates of foreign medical schools will continue to be permitted to pursue a medical residency under the H–1B classification provided, of course, that all regulatory and statutory requirements for the classification are met. In addition, graduates of foreign medical schools will also continue to be eligible to pursue medical residencies under the J–1 nonimmigrant classification.

Prospective petitioners for H–1B nonimmigrant aliens seeking to pursue medical residencies should be aware of the obligations which are assumed when an H–1B petition is filed. These obligations include both the requirement that the prospective employer pay the alien's return transportation if the alien is dismissed before the expiration of the validity of the petition and compliance with section 212(n) of the Act.

This rule will have no adverse effect on family well-being.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities. This regulation merely modifies certain filing procedures for H petitions.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulation proposed herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Organization and functions (Government agencies).

Accordingly, part 214 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; 8 CFR part 2.

2. Section 214.2 is amended by:

a. Revising paragraph (h)(2)(ii); and by

b. Revising paragraph (h)(13)(iv), to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(2) * * *

(ii) *Multiple beneficiaries.* More than one beneficiary may be included in an H–2A, H–2B, or H–3 petition if the beneficiaries will be performing the same service, or receiving the same training, for the same period of time, and in the same location.

* * * * *

(13) * * *

(iv) *H–2B and H–3 limitation on admission.* An H–2B alien who has spent 3 years in the United States under section 101(a)(15)(H) and/or (L) of the Act; an H–3 alien participant in a special education program who has spent 18 months in the United States under section 101(a)(15)(H) and/or (L) of the Act; and an H–3 alien trainee who has spent 24 months in the United States under section 101(a)(15)(H) and/or (L) of the Act may not seek extension, change status, or be readmitted to the United States under section 101(a)(15)(H) and/or (L) of the Act unless the alien has resided and been physically present outside the United States for the immediate prior 6 months.

* * * * *

Dated: November 1, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 95–29417 Filed 12–1–95; 8:45 am]

BILLING CODE 4410–10–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1145

Regulation of Products Subject to Other Acts Under the Consumer Product Safety Act

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; revocation of rules.

SUMMARY: The Commission revokes seven rules transferring regulation of risks of injury from the Federal Hazardous Substances Act to the Consumer Product Safety Act. The Commission is revoking these rules because they are no longer needed.

EFFECTIVE DATE: December 4, 1995.

FOR FURTHER INFORMATION CONTACT: Allen F. Brauninger, Attorney, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0980, extension 2216.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Act (CPSA) (15 U.S.C. 2051 *et seq.*) established the Consumer Product Safety Commission (the Commission) to protect the public from unreasonable risks of injury associated with consumer products. Section 3(a)(1) of the CPSA (15 U.S.C. 2052(a)(1)) defines the term "consumer product" to mean an article which is produced or distributed for sale to, or use by, consumers.

Section 30(a) of the CPSA (15 U.S.C. 2079(a)) transferred to the Commission the authority formerly exercised by the Secretary of Health, Education, and Welfare under the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261 *et seq.*). Section 30(d) of the CPSA requires the Commission to regulate under the FHSA any risk of injury associated with a "consumer product" which can be eliminated or reduced to a sufficient extent by action under the FHSA, unless the Commission issues a rule to transfer regulation of that risk of injury to the CPSA.

B. Regulation of Toys and Children's Articles

Toys and other articles intended for use by children are "consumer products," as that term is defined by section 3(a)(1) of the CPSA, because they are articles which are produced for sale to consumers. Sections 2(f) and 3(e) of the FHSA (15 U.S.C. 1261(f), 1262(e)) authorize the Commission to issue rules to ban any "toy or other article intended for use by children" which presents a "mechanical hazard." The procedural steps required to issue a banning rule are set forth in sections 3(e) through (i) of the FHSA (15 U.S.C. 1262(e)–(i)).

C. Corrective Action Under the FHSA

Before 1984, the Commission's authority to order corrective action for toys and children's articles under section 15 of the FHSA (15 U.S.C. 1264) was limited to those items which violated an applicable banning rule.

Between 1981 and 1984, the Commission received reports of deaths and injuries associated with several types of toys and children's articles. These products included:

- Stuffed toys suspended from cords or strings which presented a risk of strangulation death or injury.
- Squeeze toys which presented a risk of suffocation death or injury.
- Mesh-sided playpens and mesh-sided portable cribs which presented a risk of asphyxia to children from airway blockage or chest compression.
- Expandable enclosures made from criss-crossed slats which presented a strangulation hazard to children.
- Baby cribs with hardware failures or omissions which presented risks of death or injury to children.
- Baby bassinets with legs that collapsed and presented risks of death or injury to infants.

All of these products were "toys or other articles intended for use by children" which presented a "mechanical hazard." However, none of these products was subject to a banning rule issued under provisions of the FHSA. The Commission estimated that issuance of a banning rule would take about two years for each product.

D. Corrective Action Under the CPSA

Then as now, provisions of section 15 of the CPSA (15 U.S.C. 2064) authorized the Commission to issue a corrective action order for any consumer product which contains a defect which creates a "substantial risk of injury to the public" whether or not the product is in violation of a consumer product safety rule or other regulation.

E. Issuance of Transfer Rules

After considering the risks of injury to children presented by the products described above and the provisions of the FHSA and the CPSA, the Commission decided to transfer regulation of those risks from the FHSA to the CPSA. Although the risks of injury might ultimately be eliminated or reduced to a sufficient extent by action under the FHSA, issuance of rules to ban the products under consideration would be required before the Commission could issue a corrective action under the FHSA. The Commission concluded that transfer of regulation of the risks of injury from the FHSA to the CPSA was necessary because corrective action, if appropriate, could be accomplished more efficiently and expeditiously under the CPSA than under the FHSA.

From 1982 through 1984, the Commission issued seven rules under provisions of section 30(d) of the CPSA to transfer regulation of risks of injury associated with toys and children's articles from the FHSA to the CPSA. Those rules are codified in title 16 of the Code of Federal Regulations as:

§ 1145.9 Certain stuffed toys; risk of strangulation injury (issued March 31, 1982, 47 FR 13516).

§ 1145.10 Certain squeeze toys; risk of strangulation injury and/or suffocation injury from lodging in the throat (issued March 15, 1984, 49 FR 9722).

§ 1145.11 Certain play yards (playpens) with mesh sides; risk of asphyxia from airway blockage or chest compression (issued July 27, 1983, 48 FR 34023).

§ 1145.12 Certain portable cribs with mesh sides; risk of asphyxia from airway blockage or chest compression (issued July 27, 1983, 48 FR 34023).

§ 1145.13 Certain expandable children's enclosures; risk of strangulation (issued March 5, 1984).

§ 1145.14 Baby cribs with certain hardware failures or omissions; risks of death or injury (issued April 10, 1984, 49 FR 14101).

§ 1145.15 Baby bassinets having legs that collapse; risks of death or injury (issued July 27, 1984, 49 FR 30171).

Thereafter, the Commission obtained voluntary corrective action plans from manufacturers of the products which were the subjects of the transfer rules.

F. Amendment of the FHSA

On October 17, 1984, the Toy Safety Act of 1984 (Pub. L. 98–491, 98 Stat. 2269) became law. This legislation is codified as section 15(c) of the FHSA (15 U.S.C. 1274(c)). It authorizes the Commission to order corrective action with regard to any toy or children's article which is not in violation of a banning rule but which nevertheless presents a "substantial risk of injury to children." With the addition of section 15(c) to the FHSA, the provisions of the FHSA and the CPSA authorizing the Commission to order corrective action are now substantially similar.

G. Revocation of Transfer Rules

Manufacturers of the products subject to the transfer rules described above have taken all actions required by the corrective action plans accepted by the Commission. If, in the future, the Commission learns of similar risks of injury presented by such toys and children's articles, section 15(c) of the FHSA authorizes the Commission to issue an order for corrective action without first issuing a banning rule. Consequently, the Commission is revoking the transfer regulations codified at 16 CFR 1145.9 through 1145.14 because they are no longer needed.

Generally, the Administrative Procedure Act (APA) (5 U.S.C. 553) requires agencies to publish a notice of proposed rulemaking before issuing or revoking a regulation. However, the APA provides at 5 U.S.C. 553(b)(A) that requirements for a notice of proposed rulemaking are not applicable to rules of agency procedure or practice. Because the rules being revoked are procedural rules, notice of proposed rulemaking is not required.

The APA also requires at 5 U.S.C. 553(d) that a substantive rule must be published at least 30 days before its effective date. However, the rules being revoked are procedural rules which do not have any substantive effect. Because the rules at issue meet these criteria, this revocation shall become effective immediately.

H. Conclusion

Therefore, under the authority of section 553 of the Administrative Procedure Act and section 30(d) of the Consumer Product Safety Act, the Commission hereby amends title 16 of the Code of Federal Regulations, Chapter II, Subchapter B, Part 1145 to read as follows:

PART 1145—AMENDED

1. The authority for Part 1145 continues to read as follows:

Authority: Sec. 30(d), Pub. L. 92–573, 86 Stat. 1231 as amended 90 Stat. 510; 15 U.S.C. 2079(d).

§§ 1145.9 through 1145.15 [Removed and reserved]

2. Sections 1145.9, 1145.10, 1145.11, 1145.12, 1145.13, 1145.14, and 1145.15 are removed and reserved.

Dated: November 28, 1995.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 95–29375 Filed 12–1–95; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8618]

RIN 1545–AM15

Definition of a Controlled Foreign Corporation, Foreign Base Company Income and Foreign Personal Holding Company Income of a Controlled Foreign Corporation; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations (TD 8618) which were published in the **Federal Register**, Thursday, September 7, 1995 (60 FR 46500), governing the definition of a controlled foreign corporation and the definitions of foreign base company income and foreign personal holding company income of a controlled foreign corporation.

EFFECTIVE DATE: September 7, 1995.

FOR FURTHER INFORMATION CONTACT: Valerie Mark, (202) 622–3840 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections amend the Income Tax Regulations (26 CFR Part 1) under sections 954(b), 954(c) and 957(a) of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 8618) contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 8618), which was the subject of FR Doc. 95–21838, is corrected as follows:

1. On page 46501, column 3, in the preamble under the paragraph heading "*Section 1.954–1: Foreign Base Company Income*", paragraph 1 in the column, the sixth line from the bottom of the paragraph, the language "904(f)(5). Commentators stated that" is corrected to read "904(f)(5). Commenters stated that".

2. On page 46503, column 2, in the preamble under the paragraph heading "*Section 1.954–2: Foreign Personal Holding Company Income*", the first full paragraph in the column, line 6, the language "transactions entered on or after March 7," is corrected to read "transactions entered into on or after March 7,".

3. On page 46505, column 2, in the preamble under the paragraph heading "*Section 1.954–2: Foreign Personal Holding Company Income*", the second full paragraph in the column, line 3, the language "1.952–2(e)(3)(iv) excludes from foreign" is corrected to read "1.954–2(e)(3)(iv) excludes from foreign".

§ 1.954–0 [Corrected]

4. On page 46509, middle of column 1, § 1.954–0 (b), the entry for § 1.954–2(b)(3), "(3) Treatment of tax-exempt interest. [RESERVED.]" is corrected to read "(3) Treatment of tax-exempt interest. [RESERVED]".

§ 1.954–1 [Corrected]

5. On page 46513, column 2, § 1.954–1(d)(7)(i), paragraph (ii) of Example 1, line 7, the language "subpart F under the rules of this paragraph" is corrected to read "subpart F income under the rules of this paragraph".

6. On page 46513, column 2, § 1.954–1(d)(7)(i), paragraph (ii) of Example 1, line 18, the language "year is 34 percent. Accordingly, the net item" is corrected to read "year is 35 percent. Accordingly, the net item".

7. On page 46513, column 2, § 1.954–1(d)(7)(i), paragraph (ii) of Example 1, the third and fourth lines from the bottom of the paragraph, the language "that is greater that 30.6 percent (90 percent of 34 percent). However, for purposes of" is corrected to read "that is greater than 31.5 percent (90 percent of 35 percent). However, for purposes of".

8. On page 46513, column 2, § 1.954–1(d)(7)(i), paragraph (ii) of Example 2, line 2, the language "greater than 30.6 percent. The net item of" is corrected to read "greater than 31.5 percent. The net item of".

9–11. On page 46513, column 3, § 1.954–1 (d)(7)(i), paragraph (ii) of Example 3, line 3, the language "greater than 30.6 percent, but Item 2 is not." is corrected to read "greater than 31.5 percent, but Item 2 is not.".

12–13. On page 46513, column 3, § 1.954–1 (d)(7)(i), Example 4, line 7, the language "effective rate greater than 30.6 percent. The" is corrected to read "effective rate greater than 31.5 percent. The".

14. On page 46514, column 2, § 1.954–1 (d)(7)(ii), paragraph (iv) of Example 1, the last two lines of the paragraph, the language "States rate of taxation under section 11 is 34 percent." is corrected to read "States rate of taxation under section 11 is 35 percent.".

15. On page 46514, column 3, § 1.954–1 (d)(7)(ii), paragraph (v) of Example 1, the fourteenth line from the bottom of the column, the language "tax rate ..... 30.6%" is corrected to read "tax rate ..... 31.5%".

16. On page 46515, column 1, § 1.954–1 (d)(7)(ii), paragraph (v) of Example 1, in item "(29)", the last line, the language

"line (27) over line (26) ..... 100" is corrected to read

"line (27) over line (26)) ..... 100".

17. On page 46515, column 2, § 1.954–1 (d)(7)(ii), paragraph (iv) of Example 2, the last line, the language "of taxation under section 11 is 34 percent" is corrected to read "of taxation under section 11 is 35 percent".

18. On page 46515, column 3, § 1.954–1 (d)(7)(ii), paragraph (v) of Example 2, in item "(15)", the last line, the language "tax rate ..... 30.6%" is corrected to read

"tax rate ..... 31.5%".

19. On page 46517, column 1, § 1.954–1 (f)(2)(iv), line 4, the language "the principles of section 958(a) shall be" is corrected to read "the principles of section 958 shall be".

§ 1.954–2 [Corrected]

20. On page 46521, column 3, § 1.954–2 (b)(4)(x), is corrected to read as follows:

§ 1.954–2 Foreign personal holding company income.

* * * * *

(b) * * *

(4) * * *

(x) *Treatment of certain stock interests.* Stock in a controlled foreign corporation (lower-tier corporation) that is incorporated in the same country as the payor and that is more than 50-percent owned, directly or indirectly, by the payor within the meaning of section 958(a) shall be considered located in the payor's country of incorporation and, solely for purposes of section 954(c)(3), used in a trade or business of the payor in proportion to the value of the assets of the lower-tier corporation that are used in a trade or business in the country of incorporation. The location of assets used in a trade or business of the lower-tier corporation shall be determined under the rules of this paragraph (b)(4).

* * * * *

21. On page 46523, column 2, § 1.954–2 (d)(1)(i), line 6, the language "creation, or production of, or in the" is corrected to read "creation or production of, or in the".

22. On page 46523, column 3, § 1.954–2 (d)(3), Example 1, line 4, the language "country X. At the research facility employees" is corrected to read "country X. At the research facility, employees".

23. On page 46523, column 3, § 1.954–2 (d)(3), Example 1, line 18, the language "creation, or production of, or in the" is corrected to read "creation or production of, or in the".

24. On page 46524, column 3, § 1.954–2 (e)(2)(ii) introductory text, line 2, the language "the sale, exchange, or retirement of a" is corrected to read "the sale, exchange or retirement of a".

25. On page 46525, column 2, § 1.954–2 (f)(2)(iii)(A), line 6, the language "merchant, or handler of commodities if" is corrected to read "merchant or handler of commodities if".

26. On page 46525, column 2, § 1.954–2 (f)(2)(iii)(B) introductory text, line 5, the language "producer, processor, merchant, or" is corrected to read "producer, processor, merchant or".

27. On page 46525, column 3, § 1.954–2 (f)(2)(iii)(C), line 4, the language "processor, merchant, or handler of" is corrected to read "processor, merchant or handler of".

28. On page 46525, column 3, § 1.954–2 (f)(2)(iii)(E), line 4, the language "producer, processor, merchant, or" is corrected to read "producer, processor, merchant or".

29. On page 46526, column 1, § 1.954–2 (g)(2)(ii)(A), line 1, the language "*General Rule.* Foreign currency gain or" is corrected to read "*General rule.* Foreign currency gain or".

30. On page 46527, column 2, § 1.954–2 (g)(3)(iv), paragraph (ii) of the Example, third line from the bottom of the paragraph, the language "transactions generate a net foreign currency" is corrected to read "transactions generate a net foreign base company sales".

31. On page 46528, column 1, § 1.954–2 (h)(2)(i)(A), line 3, the language "payments, cash flows, or return" is corrected to read "payments, cash flows or return".

32. On page 46528, column 1, § 1.954–2 (h)(2)(i)(G), lines 2 and 3, the language "provide financing, whether or not such financing actually is provided;" is corrected to read "provide financing, if any portion of such financing is actually provided;".

33. On page 46528, column 3, § 1.954–2 (h)(4)(iv), Example 1, line 10, the language "receivable is acquired by *FS*). *FS* purchases" is corrected to read "receivables are acquired by *FS*). *FS* purchases".

34. On page 46528, column 3, § 1.954–2 (h)(4)(iv), Example 1, line 13, the language "obligor under the receivable on Day 40." is corrected to read "obligor under the receivables on Day 40.".

35. On page 46528, column 3, § 1.954–2 (h)(4)(iv), Example 2, lines 4 through 9, the language "under the factored receivable on Day 40, *FS* sells the receivable to controlled foreign corporation *Y* on Day 15 for $97. Both the income derived by *FS* on the factored receivable and the income derived by *Y* (other than stated interest) on the receivable" is corrected to read "under the factored receivables on Day 40, *FS* sells the receivables to controlled foreign corporation *Y* on Day 15 for $97. Both the income derived by *FS* on the factored receivables and the income derived by *Y* (other than stated interest) on the receivables".

36. On page 46529, column 1, § 1.954–2 (h)(4)(iv), Example 5, line 3, the language "receivable to *Y* for $99 on day 45, at which" is corrected to read "receivables to *Y* for $99 on Day 45, at which".

37. On page 46529, column 1, § 1.954–2 (h)(4)(iv), Example 5, lines 7 through 10, the language "receivable at a rate equal to at least 120 percent of the applicable Federal short-term rate, income derived by *Y* from the factored receivable is excluded from factoring income" is corrected to read "receivables at a rate equal to at least 120 percent of the applicable Federal short-term rate, income derived by *Y* from the factored receivables is excluded from factoring income".

38. On page 46529, column 1, § 1.954–2 (h)(4)(iv), Example 6, line 4, the language "controlled foreign corporation. On Day 1" is corrected to read "controlled foreign corporation. On Day 1,".

39. On page 46529, column 2, § 1.954–2 (h)(6), Example 1, is corrected to read as follows:

§ 1.954–2 Foreign personal holding company income.

* * * * *

(h) * * *

(6) * * *

Example 1. *CFC*, a controlled foreign corporation, promises that Corporation *A* may borrow up to $500 in principal for one year beginning at any time during the next three months at an interest rate of 10 percent. In exchange, Corporation *A* pays *CFC* a commitment fee of $2. Pursuant to this agreement, *CFC* lends $80 to Corporation *A*. As a result, the entire $2 fee is included in the computation of *CFC*'s foreign personal holding company income under paragraph (h)(2)(i)(G) of this section.

* * * * *

40. On page 46529, column 2, § 1.954–2 (h)(6), paragraph (i) of Example 3, lines 7 and 8, the language "a floating rate of interest set at the London Interbank Offered Rate (LIBOR) plus one" is corrected to read "a floating rate of interest set at LIBOR plus one".

41. On page 46529, column 3, § 1.954–2 (h)(6), paragraph (i) of Example 4, line 1 in the column, the language "contemporaneously, enters into a 3 month" is corrected to read "contemporaneously, enter into a 3-month".

§ 1.957–1 [Corrected]

42. On page 46529, column 3, § 1.957–1 (a)(2), the third line from the bottom of the paragraph, the language "association, joint stock company, or" is corrected to read "association, joint stock company or".

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95–28802 Filed 12–1–95; 8:45 am]

BILLING CODE 4830–01–P

26 CFR Part 1

[TD 8629]

RIN 1545–AL57

Certain Publicly Traded Partnerships Treated as Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the classification of certain publicly traded partnerships as corporations. These regulations provide guidance needed by taxpayers to comply with changes to the law made by the Omnibus Budget Reconciliation Act of 1987. The regulations affect the classification of certain partnerships for federal tax purposes.

DATES: These regulations are effective December 4, 1995.

For dates of applicability of these regulations, see § 1.7704–1(l).

FOR FURTHER INFORMATION CONTACT: Christopher T. Kelley, (202) 622–3080 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Introduction

This document adds § 1.7704–1 to the Income Tax Regulations (26 CFR part 1) relating to the definition of a publicly traded partnership under section 7704(b) of the Internal Revenue Code (Code).

Background

Section 7704 was added to the Code by section 10211(a) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), as amended by sections 2004(f)(1)–(5) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100–647). Section 7704(a) provides that a publicly traded partnership is treated as a corporation for federal tax purposes unless the partnership meets the 90 percent qualifying income test of section 7704(c) or qualifies as an existing partnership. The term *existing partnership* is defined in § 1.7704–2. Under section 7704(b), a partnership is a publicly traded partnership if interests in the partnership are traded on an established securities market or are readily tradable on a secondary market or the substantial equivalent thereof. Section 7704 applies to all domestic and foreign entities treated as partnerships under section 7701, including limited liability companies and other entities treated as partnerships for federal tax purposes.

Notice 88–75 (1988–2 C.B. 386) was issued to provide interim guidance on the definition of a publicly traded partnership under section 7704(b). Notice 88–75 provides that interests in a partnership are not treated as readily tradable on a secondary market or the substantial equivalent thereof for purposes of section 7704(b)(2) if the interests are: (1) Issued in certain private placements; (2) transferred pursuant to transfers not involving trading; (3) traded in amounts that meet the requirements of a 5-percent or 2-percent safe harbor; (4) transferred through a matching service that meets certain requirements; or (5) transferred pursuant to a qualifying redemption or repurchase agreement. Notice 88–75 does not address when partnership interests are treated as traded on an established securities market for purposes of section 7704(b)(1).

On May 2, 1995, the IRS published in the **Federal Register** a notice of proposed rulemaking (60 FR 21475) to provide guidance regarding section 7704(b). A number of public comments were received concerning the proposed regulations, and a public hearing was held on July 31, 1995. After consideration of the comments received, the proposed regulations are adopted as revised by this Treasury decision.

Summary of Significant Comments and Revisions

The significant comments on the proposed regulations and the revisions made in the final regulations are discussed below.

Public Trading

Several commentators requested clarification of the definition of an established securities market, a secondary market, and the substantial equivalent of a secondary market. The definitions in the proposed regulations, however, are drawn directly from the legislative history to section 7704(b) and incorporate the most important elements of public trading within the meaning of section 7704(b). As a result, the final regulations generally adopt the definitions in the proposed regulations.

The final regulations contain two changes to the definition of a secondary market and the substantial equivalent thereof. The final regulations clarify that the determination of whether interests in a partnership are readily tradable on a secondary market or the substantial equivalent thereof is based on all the facts and circumstances. In addition, the final regulations eliminate the separate definitions of a secondary market and the substantial equivalent thereof. This distinction is relevant in the proposed regulations because several of the safe harbors apply only to the substantial equivalent of a secondary market. As discussed below, this distinction is eliminated in the safe harbors. As a result, the separate definitions of a secondary market and the substantial equivalent thereof are no longer necessary, and they are combined into one definition in the final regulations.

The proposed regulations provide that the transfer of an interest in a partnership is taken into account for purposes of section 7704(b) only if the partnership recognizes the transfer of the interest or the interest is redeemed by the partnership. The preamble to the proposed regulations explains that this provision is intended to prevent a partnership from becoming publicly traded without the knowledge or participation of the partnership. Several commentators requested a clarification of this provision because the definition of a secondary market requires only that the interests be readily tradable, thereby creating some concern that the partnership could be publicly traded even if there were no actual transfer of an interest in the partnership.

The final regulations address this concern by providing more explicitly that interests in a partnership will not be treated as readily tradable on a secondary market or the substantial equivalent thereof unless (i) the partnership participates in the establishment of the market or the inclusion of its interests thereon, or (ii) the partnership recognizes transfers made on that market. This rule also applies to an established securities market that consists of an interdealer quotation system that regularly disseminates firm buy or sell quotations. These modifications will prevent a partnership from being publicly traded without the participation or consent of the partnership. This rule is not extended to established securities markets that consist of the exchanges described in the regulation because these exchanges list interests in the partnership only with the knowledge and participation of the partnership. In addition, the final regulations provide that transfers not recognized by the partnership are treated as private transfers and therefore do not count for purposes of the two-percent and 10-percent limitations in the safe harbors described below.

Safe Harbors

Several commentators requested clarification that, as in Notice 88–75, the failure of a partnership to satisfy the safe harbors does not establish or give rise to a presumption that the partnership was publicly traded. In response, the final regulations clarify that the fact that a partnership does not qualify for a safe harbor or that a transfer of an interest in the partnership is not within a safe harbor is disregarded in determining whether interests in the partnership are readily tradable on a secondary market or the substantial equivalent thereof. Thus, these transfers are examined under the general facts and circumstances test in the regulations.

Private Transfers

Several commentators requested that the definition of a block transfer be expanded to include transfers by a partner or any person related to the partner within the meaning of section 267(b) or section 707(b)(1). The commentators noted that interests in a partnership are often held by related persons and that, while the related group as a whole may hold more than a two-percent interest in the partnership, no individual partner in the group might hold more than a two-percent interest. This comment is adopted in the final regulations.

One commentator also suggested that the exception for transfers at death be clarified to include transfers from an estate or a testamentary trust. This comment is adopted in the final regulations.

Another commentator suggested that the exception for transfers by one or more partners of interests representing more than 50 percent of the total interests be expanded to include transfers of less than 50 percent. This comment is not adopted in the final regulations. The exception is provided to allow acquisition of control of a partnership without raising a concern that the transfers pursuant to the acquisition would result in the partnership being publicly traded. The exception is, however, amended by reducing the required amount to 50 percent or more of the interests in partnership capital and profits to coordinate the exception with section 708(b)(1)(B) terminations.

Redemption and Repurchase Agreements

Several commentators suggested that redemptions by an investment partnership for the net asset value of the redeemed interest should not be treated as a transfer for purposes of section 7704(b) because these transfers do not involve a third party broker or a commission or mark-up. This comment is not adopted in the final regulations. The redemption of a partnership interest combined with the issuance of an interest to a new partner can result in the creation of a secondary market or the substantial equivalent thereof within the meaning of section 7704(b), even if no third party or commission is present.

Qualified Matching Service

The proposed regulations provide that, to qualify as a matching service, the selling partner cannot enter into a binding agreement to sell an interest until the 15th calendar day after the date information regarding the offering is made available to potential buyers and the closing cannot occur until the 30th calendar day after the date the selling partner can enter into a binding agreement. One commentator suggested a reduction in these fixed time periods. This comment is not adopted in the final regulations. The time periods are necessary to ensure that the matching service does not rise to the level of a secondary market or the substantial equivalent thereof.

Several commentators raised various concerns about the provisions in the proposed regulations requiring subscribers to make certain representations and the provisions preventing the operator of the matching service from quoting certain prices and buying or selling interests for itself or on behalf of others. These provisions are deleted in the final regulations because the requirements for a matching service already provide that the service cannot list quotes that commit any person to buy or sell an interest. This modification, however, does not affect the general rule that a secondary market may exist if anyone, including the operator of a matching service, quotes prices at which it stands ready to buy or sell partnership interests.

Private Placements

The proposed regulations generally provide that interests in a partnership are not readily tradable on the substantial equivalent of a secondary market if (i) all interests in the partnership were issued in a transaction not required to be registered under the Securities Act of 1933; (ii) the partnership does not have more than 500 partners or the initial offering price of each unit was at least $20,000; and (iii) if the partnership has more than 50 partners, no more than 10 percent of the total interests in capital or profits are transferred during the year. Several

commentators suggested expanding this safe harbor to apply to the determination of a secondary market. Other commentators suggested eliminating the 10-percent limitation. Several commentators suggested increasing the 50-partner limit, such as to 100, and modifying the rule for counting the number of partners that looked through partners that were partnerships, grantor trusts, or S corporations. In response to these comments, the final regulations modify the private placement exception in the following respects.

First, the safe harbor is expanded to apply to a secondary market as well as the substantial equivalent of a secondary market. As a result, interests in a partnership that qualifies for the private placement safe harbor will not be readily tradable on a secondary market or the substantial equivalent thereof.

Second, the final regulations provide that the safe harbor does not apply to partnerships subject to Regulation S (17 CFR 230.901 et seq.), unless the offering and sale of interests in the partnership would not have been required to be registered if offered and sold within the United States. Regulation S, adopted after the issuance of Notice 88–75, provides an exception from registration for any offerings and sales outside of the United States, even if registration would have been required if the interests were offered and sold within the United States. This modification ensures that the private placement exception applies in a similar manner to offerings within and outside of the United States.

Third, the 10-percent limitation is not adopted in the final regulations. Instead, the final regulations provide that the safe harbor applies only if the partnership has no more than 100 partners at any time during the taxable year of the partnership.

Finally, the final regulations provide a new rule for determining the number of partners in a partnership. Under the proposed regulations, each person owning an interest in a partnership (lower-tier partnership) through another partnership, an S corporation, or a grantor trust (flow-through entity) is treated as a partner in the lower-tier partnership. The final regulations provide that an owner of a flow-through entity is treated as a partner in the lower-tier partnership only if (i) substantially all of the value of the flow-through entity is attributable to the lower-tier partnership interest, and (ii) a principal purpose for the tiered arrangement is to permit the partnership to satisfy the 100-partner requirement. The requirement that substantially all of the value of the flow-through entity be attributable to the lower-tier partnership is intended to limit the look-through rule to flow-through entities that are economically equivalent to an interest in the lower-tier partnership. For example, if the only asset held by a flow-through entity is an interest in a lower-tier partnership, an interest in the flow-through entity is economically equivalent to an interest in the lower-tier partnership and the members of the flow-through entity should be counted as partners in the partnership. The requirement that there be a principal purpose to avoid the 100 partner rule recognizes that looking through a flow-through entity is not appropriate in all cases, even if the flow-through entity owns no interest other than an interest in the lower-tier partnership, but should be limited to situations in which a principal purpose of the flow-through entity is to avoid the 100 partner limitation.

Lack of Actual Trading

The proposed regulations provide that interests in a partnership are not readily tradable on the substantial equivalent of a secondary market if the sum of the percentage interests transferred during the taxable year does not exceed two percent. Several commentators suggested expanding this safe harbor to secondary markets so that partnerships could be assured that some level of trading would not result in public trading. This comment is adopted in the final regulations.

Qualifying Income

Several commentators requested guidance on the definition of *qualifying income* and *financial business* for purposes of the qualifying income exception of section 7704. These regulations are intended to address only the definition of public trading and therefore do not provide guidance on the definition of qualifying income. The IRS and Treasury, however, are actively considering guidance on the definition of qualifying income and financial businesses for investment partnerships and other partnerships engaged in various types of securities transactions. The IRS and Treasury invite comments on the scope and form of such guidance.

Transitional Relief

The proposed regulations provide that they will be effective for taxable years of a partnership beginning on or after the date final regulations are published. The preamble to the proposed regulations requests comments on whether transitional relief is necessary for partnerships that qualified for an exclusion under Notice 88–75. Many commentators suggested some form of transitional relief, ranging from 180 days to a permanent grandfather provision.

The final regulations provide that, for partnerships that were actively engaged in an activity before December 4, 1995, the regulations apply for taxable years beginning after December 31, 2005. This ten-year grandfather provision is similar to the grandfather rule provided on the enactment of section 7704. The final regulations provide that this transitional relief expires if the partnership adds a substantial new line of business within the meaning of § 1.7704–2. The transitional relief is not affected by a termination of the partnership under section 708(b)(1)(B). Finally, partnerships subject to transitional relief may continue to rely on Notice 88–75 for guidance.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information. The principal author of these regulations is Christopher T. Kelley, Office of Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.7704–1 is added to read as follows:

§ 1.7704–1 Publicly traded partnerships.

(a) *In general*—(1) *Publicly traded partnership.* A domestic or foreign partnership is a publicly traded partnership for purposes of section 7704(b) and this section if—

(i) Interests in the partnership are traded on an established securities market; or

(ii) Interests in the partnership are readily tradable on a secondary market or the substantial equivalent thereof.

(2) *Partnership interest*—(i) *In general.* For purposes of section 7704(b) and this section, an interest in a partnership includes—

(A) Any interest in the capital or profits of the partnership (including the right to partnership distributions); and

(B) Any financial instrument or contract the value of which is determined in whole or in part by reference to the partnership (including the amount of partnership distributions, the value of partnership assets, or the results of partnership operations).

(ii) *Exception for non-convertible debt.* For purposes of section 7704(b) and this section, an interest in a partnership does not include any financial instrument or contract that—

(A) Is treated as debt for federal tax purposes; and

(B) Is not convertible into or exchangeable for an interest in the capital or profits of the partnership and does not provide for a payment of equivalent value.

(iii) *Exception for tiered entities.* For purposes of section 7704(b) and this section, an interest in a partnership or a corporation (including a regulated investment company as defined in section 851 or a real estate investment trust as defined in section 856) that holds an interest in a partnership (lower-tier partnership) is not considered an interest in the lower-tier partnership.

(3) *Definition of transfer.* For purposes of section 7704(b) and this section, a transfer of an interest in a partnership means a transfer in any form, including a redemption by the partnership or the entering into of a financial instrument or contract described in paragraph (a)(2)(i)(B) of this section.

(b) *Established securities market.* For purposes of section 7704(b) and this section, an established securities market includes—

(1) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f);

(2) A national securities exchange exempt from registration under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) because of the limited volume of transactions;

(3) A foreign securities exchange that, under the law of the jurisdiction where it is organized, satisfies regulatory requirements that are analogous to the regulatory requirements under the Securities Exchange Act of 1934 described in paragraph (b) (1) or (2) of this section (such as the London International Financial Futures Exchange; the Marche a Terme International de France; the International Stock Exchange of the United Kingdom and the Republic of Ireland, Limited; the Frankfurt Stock Exchange; and the Tokyo Stock Exchange);

(4) A regional or local exchange; and

(5) An interdealer quotation system that regularly disseminates firm buy or sell quotations by identified brokers or dealers by electronic means or otherwise.

(c) *Readily tradable on a secondary market or the substantial equivalent thereof*—(1) *In general.* For purposes of section 7704(b) and this section, interests in a partnership that are not traded on an established securities market (within the meaning of section 7704(b) and paragraph (b) of this section) are readily tradable on a secondary market or the substantial equivalent thereof if, taking into account all of the facts and circumstances, the partners are readily able to buy, sell, or exchange their partnership interests in a manner that is comparable, economically, to trading on an established securities market.

(2) *Secondary market or the substantial equivalent thereof.* For purposes of paragraph (c)(1) of this section, interests in a partnership are readily tradable on a secondary market or the substantial equivalent thereof if—

(i) Interests in the partnership are regularly quoted by any person, such as a broker or dealer, making a market in the interests;

(ii) Any person regularly makes available to the public (including customers or subscribers) bid or offer quotes with respect to interests in the partnership and stands ready to effect buy or sell transactions at the quoted prices for itself or on behalf of others;

(iii) The holder of an interest in the partnership has a readily available, regular, and ongoing opportunity to sell or exchange the interest through a public means of obtaining or providing information of offers to buy, sell, or exchange interests in the partnership; or

(iv) Prospective buyers and sellers otherwise have the opportunity to buy, sell, or exchange interests in the partnership in a time frame and with the regularity and continuity that is comparable to that described in the other provisions of this paragraph (c)(2).

(3) *Secondary market safe harbors.* The fact that a transfer of a partnership interest is not within one or more of the safe harbors described in paragraph (e), (f), (g), (h), or (j) of this section is disregarded in determining whether interests in the partnership are readily tradable on a secondary market or the substantial equivalent thereof.

(d) *Involvement of the partnership required.* For purposes of section 7704(b) and this section, interests in a partnership are not traded on an established securities market within the meaning of paragraph (b)(5) of this section and are not readily tradable on a secondary market or the substantial equivalent thereof within the meaning of paragraph (c) of this section (even if interests in the partnership are traded or readily tradable in a manner described in paragraph (b)(5) or (c) of this section) unless—

(1) The partnership participates in the establishment of the market or the inclusion of its interests thereon; or

(2) The partnership recognizes any transfers made on the market by—

(i) Redeeming the transferor partner (in the case of a redemption or repurchase by the partnership); or

(ii) Admitting the transferee as a partner or otherwise recognizing any rights of the transferee, such as a right of the transferee to receive partnership distributions (directly or indirectly) or to acquire an interest in the capital or profits of the partnership.

(e) *Transfers not involving trading*—(1) *In general.* For purposes of section 7704(b) and this section, the following transfers (private transfers) are disregarded in determining whether interests in a partnership are readily tradable on a secondary market or the substantial equivalent thereof—

(i) Transfers in which the basis of the partnership interest in the hands of the transferee is determined, in whole or in part, by reference to its basis in the hands of the transferor or is determined under section 732;

(ii) Transfers at death, including transfers from an estate or testamentary trust;

(iii) Transfers between members of a family (as defined in section 267(c)(4));

(iv) Transfers involving the issuance of interests by (or on behalf of) the partnership in exchange for cash, property, or services;

(v) Transfers involving distributions from a retirement plan qualified under section 401(a) or an individual retirement account;

(vi) Block transfers (as defined in paragraph (e)(2) of this section);

(vii) Transfers pursuant to a right under a redemption or repurchase agreement (as defined in paragraph (e)(3) of this section) that is exercisable only—

(A) Upon the death, disability, or mental incompetence of the partner; or

(B) Upon the retirement or termination of the performance of services of an individual who actively participated in the management of, or performed services on a full-time basis for, the partnership;

(viii) Transfers pursuant to a closed end redemption plan (as defined in paragraph (e)(4) of this section);

(ix) Transfers by one or more partners of interests representing in the aggregate 50 percent or more of the total interests in partnership capital and profits in one transaction or a series of related transactions; and

(x) Transfers not recognized by the partnership (within the meaning of paragraph (d)(2) of this section).

(2) *Block transfers.* For purposes of paragraph (e)(1)(vi) of this section, a block transfer means the transfer by a partner and any related persons (within the meaning of section 267(b) or 707(b)(1)) in one or more transactions during any 30 calendar day period of partnership interests representing in the aggregate more than 2 percent of the total interests in partnership capital or profits.

(3) *Redemption or repurchase agreement.* For purposes of section 7704(b) and this section, a redemption or repurchase agreement means a plan of redemption or repurchase maintained by a partnership whereby the partners may tender their partnership interests for purchase by the partnership, another partner, or a person related to another partner (within the meaning of section 267(b) or 707(b)(1)).

(4) *Closed end redemption plan.* For purposes of paragraph (e)(1)(viii) of this section, a redemption or repurchase agreement (as defined in paragraph (e)(3) of this section) is a closed end redemption plan only if—

(i) The partnership does not issue any interest after the initial offering (other than the issuance of additional interests prior to August 5, 1988); and

(ii) No partner or person related to any partner (within the meaning of section 267(b) or 707(b)(1)) provides contemporaneous opportunities to acquire interests in similar or related partnerships which represent substantially identical investments.

(f) *Redemption and repurchase agreements.* For purposes of section 7704(b) and this section, the transfer of an interest in a partnership pursuant to a redemption or repurchase agreement (as defined in paragraph (e)(3) of this section) that is not described in paragraph (e)(1) (vii) or (viii) of this section is disregarded in determining whether interests in the partnership are readily tradable on a secondary market or the substantial equivalent thereof only if—

(1) The redemption or repurchase agreement provides that the redemption or repurchase cannot occur until at least 60 calendar days after the partner notifies the partnership in writing of the partner's intention to exercise the redemption or repurchase right;

(2) Either—

(i) The redemption or repurchase agreement requires that the redemption or repurchase price not be established until at least 60 calendar days after receipt of such notification by the partnership or the partner; or

(ii) The redemption or repurchase price is established not more than four times during the partnership's taxable year; and

(3) The sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership (other than in private transfers described in paragraph (e) of this section) does not exceed 10 percent of the total interests in partnership capital or profits.

(g) *Qualified matching services*—(1) *In general.* For purposes of section 7704(b) and this section, the transfer of an interest in a partnership through a qualified matching service is disregarded in determining whether interests in the partnership are readily tradable on a secondary market or the substantial equivalent thereof.

(2) *Requirements.* A matching service is a qualified matching service only if—

(i) The matching service consists of a computerized or printed listing system that lists customers' bid and/or ask quotes in order to match partners who want to sell their interests in a partnership (the selling partner) with persons who want to buy those interests;

(ii) Matching occurs either by matching the list of interested buyers with the list of interested sellers or through a bid and ask process that allows interested buyers to bid on the listed interest;

(iii) The selling partner cannot enter into a binding agreement to sell the interest until the 15th calendar day after the date information regarding the offering of the interest for sale is made available to potential buyers and such time period is evidenced by contemporaneous records ordinarily maintained by the operator at a central location;

(iv) The closing of the sale effected by virtue of the matching service does not occur prior to the 45th calendar day after the date information regarding the offering of the interest for sale is made available to potential buyers and such time period is evidenced by contemporaneous records ordinarily maintained by the operator at a central location;

(v) The matching service displays only quotes that do not commit any person to buy or sell a partnership interest at the quoted price (nonfirm price quotes) or quotes that express interest in a partnership interest without an accompanying price (nonbinding indications of interest) and does not display quotes at which any person is committed to buy or sell a partnership interest at the quoted price (firm quotes);

(vi) The selling partner's information is removed from the matching service within 120 calendar days after the date information regarding the offering of the interest for sale is made available to potential buyers and, following any removal (other than removal by reason of a sale of any part of such interest) of the selling partner's information from the matching service, no offer to sell an interest in the partnership is entered into the matching service by the selling partner for at least 60 calendar days; and

(vii) The sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership (other than in private transfers described in paragraph (e) of this section) does not exceed 10 percent of the total interests in partnership capital or profits.

(3) *Closing.* For purposes of paragraph (g)(2)(iv) of this section, the closing of a sale occurs no later than the earlier of—

(i) The passage of title to the partnership interest;

(ii) The payment of the purchase price (which does not include the delivery of funds to the operator of the matching service or other closing agent to hold on behalf of the seller pending closing); or

(iii) The date, if any, that the operator of the matching service (or any person related to the operator within the meaning of section 267(b) or 707(b)(1)) loans, advances, or otherwise arranges for funds to be available to the seller in anticipation of the payment of the purchase price.

(4) *Optional features.* A qualified matching service may be sponsored or operated by a partner of the partnership (either formally or informally), the underwriter that handled the issuance of the partnership interests, or an unrelated third party. In addition, a qualified matching service may offer the following features—

(i) The matching service may provide prior pricing information, including information regarding resales of interests and actual prices paid for interests; a description of the business of the partnership; financial and reporting information from the partnership's financial statements and reports; and information regarding material events involving the partnership, including special distributions, capital distributions, and refinancings or sales of significant portions of partnership assets;

(ii) The operator may assist with the transfer documentation necessary to transfer the partnership interest;

(iii) The operator may receive and deliver funds for completed transactions; and

(iv) The operator's fee may consist of a flat fee for use of the service, a fee or commission based on completed transactions, or any combination thereof.

(h) *Private placements*—(1) *In general.* For purposes of section 7704(b) and this section, except as otherwise provided in paragraph (h)(2) of this section, interests in a partnership are not readily tradable on a secondary market or the substantial equivalent thereof if—

(i) All interests in the partnership were issued in a transaction (or transactions) that was not required to be registered under the Securities Act of 1933 (15 U.S.C. 77a et seq.); and

(ii) The partnership does not have more than 100 partners at any time during the taxable year of the partnership.

(2) *Exception for certain offerings outside of the United States.* Paragraph (h)(1) of this section does not apply to the offering and sale of interests in a partnership that was not required to be registered under the Securities Act of 1933 by reason of Regulation S (17 CFR 230.901 through 230.904) unless the offering and sale of the interests would not have been required to be registered under the Securities Act of 1933 if the interests had been offered and sold within the United States.

(3) *Anti-avoidance rule.* For purposes of determining the number of partners in the partnership under paragraph (h)(1)(ii) of this section, a person (beneficial owner) owning an interest in a partnership, grantor trust, or S corporation (flow-through entity), that owns, directly or through other flow-through entities, an interest in the partnership, is treated as a partner in the partnership only if—

(i) Substantially all of the value of the beneficial owner's interest in the flow-through entity is attributable to the flow-through entity's interest (direct or indirect) in the partnership; and

(ii) A principal purpose of the use of the tiered arrangement is to permit the partnership to satisfy the 100-partner limitation in paragraph (h)(1)(ii) of this section.

(i) [Reserved].

(j) *Lack of actual trading*—(1) *General rule.* For purposes of section 7704(b) and this section, interests in a partnership are not readily tradable on a secondary market or the substantial equivalent thereof if the sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership (other than in transfers described in paragraph (e), (f), or (g) of this section) does not exceed 2 percent of the total interests in partnership capital or profits.

(2) *Examples.* The following examples illustrate the rules of this paragraph (j):

Example 1. Calculation of percentage interest transferred. (i) ABC, a calendar year limited partnership formed in 1996, has 9,000 units of limited partnership interests outstanding at all times during 1997, representing in the aggregate 95 percent of the total interests in capital and profits of ABC. The remaining 5 percent is held by the general partner.

(ii) During 1997, the following transactions occur with respect to the units of ABC's limited partnership interests—

(A) 800 units are sold through the use of a qualified matching service that meets the requirements of paragraph (g) of this section;

(B) 50 units are sold through the use of a matching service that does not meet the requirements of paragraph (g) of this section; and

(C) 500 units are transferred as a result of private transfers described in paragraph (e) of this section.

(iii) The private transfers of 500 units and the sale of 800 units through a qualified matching service are disregarded under paragraph (j)(1) of this section for purposes of applying the 2 percent rule. As a result, the total percentage interests in partnership capital and profits transferred for purposes of the 2 percent rule is .528 percent, determined by—

(A) Dividing the number of units sold through a matching service that did not meet the requirements of paragraph (g) of this section (50) by the total number of outstanding limited partnership units (9,000); and

(B) Multiplying the result by the percentage of total interests represented by limited partnership units (95 percent) ([50/9,000]×.95=.528 percent).

Example 2. Application of the 2 percent rule. (i) ABC operates a service consisting of computerized video display screens on which subscribers view and publish nonfirm price quotes that do not commit any person to buy or sell a partnership interest and unpriced indications of interest in a partnership interest without an accompanying price. The ABC service does not provide firm quotes at which any person (including the operator of the service) is committed to buy or sell a partnership interest. The service may provide prior pricing information, including information regarding resales of interests and actual prices paid for interests; transactional volume information; and information on special or capital distributions by a partnership. The operator's fee may consist of a flat fee for use of the service; a fee based on completed transactions, including, for example, the number of nonfirm quotes or unpriced indications of interest entered by users of the service; or any combination thereof.

(ii) The ABC service is not an established securities market for purposes of section 7704(b) and this section. The service is not an interdealer quotation system as defined in paragraph (b)(5) of this section because it does not disseminate firm buy or sell quotations. Therefore, partnerships whose interests are listed and transferred on the ABC service are not publicly traded for purposes of section 7704(b) and this section as a result of such listing or transfers if the sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership (other than in transfers described in paragraph (e), (f), or (g) of this section) does not exceed 2 percent of the total interests in partnership capital or profits. In addition, assuming the ABC service complies with the necessary requirements, the service may qualify as a matching service described in paragraph (g) of this section.

(k) *Percentage interests in partnership capital or profits*—(1) *Interests considered*—(i) *General rule.* Except as otherwise provided in this paragraph (k), for purposes of this section, the total interests in partnership capital or profits are determined by reference to all outstanding interests in the partnership.

(ii) *Exceptions*—(A) *General partner with greater than 10 percent interest.* If the general partners and any person related to the general partners (within the meaning of section 267(b) or 707(b)(1)) own, in the aggregate, more than 10 percent of the outstanding interests in partnership capital or profits at any one time during the taxable year of the partnership, the total interests in partnership capital or profits are determined without reference to the interests owned by such persons.

(B) *Derivative interests.* Any partnership interests described in paragraph (a)(2)(i)(B) of this section are taken into account for purposes of determining the total interests in partnership capital or profits only if and to the extent that the partnership satisfies paragraph (d) (1) or (2) of this section.

(2) *Monthly determination.* For purposes of this section, except in the

case of block transfers (as defined in paragraph (e)(2) of this section), the percentage interests in partnership capital or profits represented by partnership interests that are transferred during a taxable year of the partnership is equal to the sum of the percentage interests transferred for each calendar month during the taxable year of the partnership in which a transfer of a partnership interest occurs (other than a private transfer as described in paragraph (e) of this section). The percentage interests in capital or profits of interests transferred during a calendar month is determined by reference to the partnership interests outstanding during that month.

(3) *Monthly conventions.* For purposes of paragraph (k)(2) of this section, a partnership may use any reasonable convention in determining the interests outstanding for a month, provided the convention is consistently used by the partnership from month to month during a taxable year and from year to year. Reasonable conventions include, but are not limited to, a determination by reference to the interests outstanding at the beginning of the month, on the 15th day of the month, or at the end of the month.

(4) *Block transfers.* For purposes of paragraph (e)(2) of this section (defining block transfers), the partnership must determine the percentage interests in capital or profits for each transfer of an interest during the 30 calendar day period by reference to the partnership interests outstanding immediately prior to such transfer.

(5) *Example.* The following example illustrates the rules of this paragraph (k):

Example. Conventions. (i) ABC limited partnership, a calendar year partnership formed in 1996, has 1,000 units of limited partnership interests outstanding on January 1, 1997, representing in the aggregate 95 percent of the total interests in capital and profits of ABC. The remaining 5 percent is held by the general partner.

(ii) The following transfers take place during 1997—

(A) On January 15, 10 units of limited partnership interests are sold in a transaction that is not a private transfer;

(B) On July 10, 1,000 additional units of limited partnership interests are issued by the partnership (the general partner's percentage interest is unchanged); and

(C) On July 20, 15 units of limited partnership interests are sold in a transaction that is not a private transfer.

(iii) For purposes of determining the sum of the percentage interests in partnership capital or profits transferred, ABC chooses to use the end of the month convention. The percentage interests in partnership capital and profits transferred during January is .95 percent, determined by dividing the number of transferred units (10) by the total number of limited partnership units (1,000) and multiplying the result by the percentage of total interests represented by limited partnership units ([10/1,000]×.95). The percentage interests in partnership capital and profits transferred during July is .7125 percent ([15/2,000]×.95). ABC is not required to make determinations for the other months during the year because no transfers of partnership interests occurred during such months. ABC may qualify for the 2 percent rule for its 1997 taxable year because less than 2 percent (.95 percent+.7125 percent=1.6625 percent) of its total interests in partnership capital and profits was transferred during that year.

(iv) If ABC had chosen to use the beginning of the month convention, the interests in capital or profits sold during July would have been 1.425 percent ([15/1,000]×.95) and ABC would not have satisfied the 2 percent rule for its 1997 taxable year because 2.375 percent (.95 + 1.425) of ABC's interests in partnership capital and profits was transferred during that year.

(l) *Effective date*—(1) *In general.* Except as provided in paragraph (l)(2) of this section, this section applies to taxable years of a partnership beginning after December 31, 1995.

(2) *Transition period.* For partnerships that were actively engaged in an activity before December 4, 1995, this section applies to taxable years beginning after December 31, 2005, unless the partnership adds a substantial new line of business after December 4, 1995, in which case this section applies to taxable years beginning on or after the addition of the new line of business. Partnerships that qualify for this transition period may continue to rely on the provisions of Notice 88–75 (1988–2 C.B. 386) (see § 601.601(d)(2) of this chapter) for guidance regarding the definition of readily tradable on a secondary market or the substantial equivalent thereof for purposes of section 7704(b).

(3) *Substantial new line of business.* For purposes of paragraph (1)(2) of this section—

(i) Substantial is defined in § 1.7704–2(c); and

(ii) A new line of business is defined in § 1.7704–2(d), except that the applicable date is "December 4, 1995" instead of "December 17, 1987".

(4) *Termination under section 708(b)(1)(B).* The termination of a partnership under section 708(b)(1)(B) due to the sale or exchange of 50 percent or more of the total interests in partnership capital and profits is disregarded in determining whether a partnership qualifies for the transition period provided in paragraph (l)(2) of this section.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: November 21, 1995.

Leslie Samuels,
Assistant Secretary of the Treasury.

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BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–5339–1]

Title V Clean Air Act Final Interim Approval of Operating Permits Program; State of Delaware

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: EPA is promulgating interim approval of the operating permits program submitted by the State of Delaware. This program was submitted by the State for the purpose of complying with federal requirements for an approvable program to issue operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: January 3, 1996.

ADDRESSES: Copies of the State of Delaware's submittal and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

FOR FURTHER INFORMATION CONTACT: Robin M. Moran, (3AT23), Air, Radiation and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597–3023.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

Title V of the 1990 Clean Air Act Amendments (section 501–507 of the Clean Air Act (CAA)), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that states seeking to administer a Title V operating permits program develop and submit a program to EPA by November 15, 1993, and that EPA act to approve or disapprove each program

within 1 year after receiving the submittal. EPA's program review is conducted pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval of an operating permits program submittal. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by November 15, 1995, or, in the case of interim approval, by the expiration of the interim approval period, it must establish and implement a federal program.

On September 21, 1995, EPA proposed interim approval of the operating permits program for the State of Delaware. (See 60 FR 48944). EPA compiled a Technical Support Document (TSD) which describes the operating permits program in greater detail. In this notice, EPA is taking final action to promulgate interim approval of the operating permits program for the State of Delaware.

II. Analysis of State Submittal

On November 15, 1993, the State of Delaware submitted an operating permits program to satisfy the requirements of the CAA and 40 CFR part 70. The submittal was supplemented by additional materials on November 22, 1993, and was found to be administratively incomplete pursuant to 40 CFR 70.4(e)(1) on January 18, 1994. Additional materials were submitted on February 9, 1994, and May 15, 1995. Based on the additional information, EPA found the submittal to be administratively complete on May 19, 1995. The State submitted supplemental information on September 5, 1995. EPA reviewed Delaware's program against the criteria for approval in section 502 of the CAA and the part 70 regulations. EPA determined, as fully described in the notice of proposed interim approval of Delaware's operating permits program (see 60 FR 48944; September 21, 1995) and the TSD for this action, that Delaware's operating permits program substantially meets the requirements of the CAA and part 70.

III. Public Comments

EPA received no public comments on the notice of proposed interim approval.

IV. Insignificant Activities

In the notice of proposed interim approval, EPA generally described Delaware's list of insignificant activities contained in Appendix A of Regulation No. 30. Today, EPA is clarifying its rationale for approving Delaware's insignificant activities provision. Although Delaware's Regulation No. 30 states that any information required by the permit application need not be submitted for insignificant activities listed or described in Appendix A, sources must provide a list of any activities excluded because of size, emissions rate, or production rate. The application form reflects this requirement and provides detail on the specific information that must be included. Delaware's regulation also requires applications to include information needed to determine the applicability of, or to impose, any applicable requirement, and that the emissions from insignificant activities shall be included when determining the applicability of any applicable requirement.

Paragraph (i) of Appendix A allows sources flexibility to consider as insignificant those activities for which no applicable requirement applies and which are not otherwise listed in the rule if they have the potential to emit at less than the following aggregate rates: 25 tons per year (tpy) of VOC in New Castle or Kent Counties or 50 tpy of VOC in Sussex County; 40 tpy of particulate [matter]; 15 tpy of PM–10; 40 tpy of sulfur dioxide (SO2); and 25 tpy of nitrogen oxides (NOx) in New Castle or Kent Counties or 100 tpy of NOx in Sussex County. While these emission levels for insignificant activities are higher than those approved by EPA for other states, EPA believes that Delaware's program is acceptable because Delaware, in fact, requires the application to contain more detailed information about these activities than many other State programs. Delaware's permit application form (#AQM–1001DD, submitted on February 9, 1994 and May 15, 1995) requires sources to identify the following information for insignificant activities based on emissions levels: the pollutant, emission rate (e.g., tons per year, pounds per day), number of units and type of source. This level of detail should ensure that Delaware has enough information to adequately establish permitting requirements and the applicable requirements of the Act. Because Delaware requires an acceptable level of information in the permit application form, EPA believes that the emission thresholds established in paragraph (i) of Appendix A need not be an interim approval issue for Delaware's program. Since this decision depends on the safeguard provided by the requirements in the application form, EPA will process changes to the application form that may reduce the quality or level of information relative to insignificant activities as a formal program revision; that is, application form revisions relative to insignificant activities will not be approved by way of an exchange of letters between EPA and the State of Delaware. Further, EPA's approval of Delaware's insignificant activities is based on Section 5(d) of Regulation No. 30 (Standard Application Form and Required Information) which states that the activities listed in Appendix A are to be included for purposes of determining whether a source is subject to the regulation. This provision ensures that the emissions levels established in paragraph (i) of Appendix A will not interfere with the determination of whether a source is major under the Clean Air Act.

Final Action

EPA is promulgating interim approval of the operating permits program submitted by the State of Delaware on November 15, 1993, with supplemental submittals on November 22, 1993, February 9, 1994, May 15, 1995, and September 5, 1995. The State of Delaware must make the changes identified in the notice of proposed rulemaking in order to fully meet the requirements of the July 21, 1992 version of part 70. (See 60 FR 48944, September 21, 1995). Delaware must adopt acid rain regulations by July 1, 1996, consistent with the commitment made in a September 5, 1995 letter to EPA.

The scope of the State's part 70 program applies to all part 70 sources ("covered sources" as defined in the State's program) within the State, except for sources of air pollution over which an Indian Tribe has jurisdiction. See, e.g., 59 FR 55813, 55815–18 (Nov. 9, 1994). The term "Indian Tribe" is defined under the CAA as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." See section 302(r) of the CAA; see also 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

This interim approval, which may not be renewed, extends until January 5, 1998. During the interim approval period, Delaware is protected from sanctions for failure to have a fully approved Title V, part 70 program, and EPA is not obligated to promulgate, administer and enforce a federal permits program in the State. Permits issued

under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of interim approval, as does the 3-year time period for processing the initial permit applications.

If the State fails to submit a complete corrective program for full approval by July 7, 1997, EPA will start an 18-month clock for mandatory sanctions. If the State then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the CAA, which will remain in effect until EPA determines that the State has corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator finds a lack of good faith on the part of the State, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determines that the State has come into compliance. In any case, if, six months after application of the first sanction, the State still has not submitted a corrective program that EPA finds complete, a second sanction would be required.

If EPA disapproves the State's complete corrective program, EPA would be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to the date on which the sanction would be applied the State has submitted a revised program and EPA has determined that this program corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator finds a lack of good faith on the part of the State, both sanctions under section 179(b) would apply after the expiration of the 18-month period until the Administrator determines that the State has come into compliance. In all cases, if, six months after EPA applies the first sanction, the State has not submitted a revised program that EPA has determined corrects the deficiencies that prompted disapproval, a second sanction is required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if the State has not timely submitted a complete corrective program or EPA has disapproved a submitted corrective program. Moreover, if EPA has not granted full approval to the State's program by the expiration of the interim approval period, EPA must promulgate, administer and enforce a federal operating permits program for the State upon the date the interim approval period expires.

Requirements for approval, specified in 40 CFR 70.4(b), encompass the CAA's section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

Additionally, EPA is promulgating approval of Delaware's operating permit program under the authority of Title V and part 70 for the purpose of implementing section 112(g) to the extent necessary during the transition period between promulgation of the federal section 112(g) rule and adoption of any necessary State rules to implement EPA's section 112(g) regulations. However, since this approval is for the purpose of providing a mechanism to implement section 112(g) during the transition period, the approval of the operating permits program for this purpose will be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until state regulations are adopted. Although section 112(l) generally provides the authority for approval of state air toxics programs, Title V and section 112(g) provide authority for this approval because of the direct linkage between implementation of section 112(g) and Title V. The duration of this approval is limited to 18 months following promulgation by EPA of section 112(g) regulations, to provide the State with adequate time to adopt regulations consistent with federal requirements.

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action to propose interim approval of the State of Delaware's operating permits program pursuant to Title V of the CAA and 40 CFR part 70 does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

EPA has determined that this action, promulgating interim approval of the State of Delaware's operating permits program, does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 22, 1995.

W. Michael McCabe,

Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding the entry for Delaware in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Delaware

(a) Department of Natural Resources and Environmental Control: submitted on November 15, 1993 and amended on November 22, 1993, February 9, 1994, May 15, 1995 and September 5, 1995; interim approval effective on January 3, 1996; interim approval expires January 5, 1998.

(b) [Reserved]

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[FR Doc. 95–29555 Filed 11–30–95; 1:07 pm]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 25 and 32

RIN 1018–AC80

Refuge-Specific Hunting and Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) adds and/or amends certain regulations governing sport fishing and hunting for migratory game bird, upland/small game, and big game on individual national wildlife refuges. Refuge Managers continuously review hunting and fishing programs to respond to visitor interest in recreation activities and to ensure compatibility with the purposes for which the individual refuges were established. Modifications to existing programs may include programs deleted, modified or expanded based on fluctuating environmental conditions, changes to State and other Federal regulations, and other factors. Modifications are also designed, to the extent practical, to make refuge hunting and fishing programs consistent with existing State hunting and fishing regulations.

EFFECTIVE DATE: December 4, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service; Telephone (703) 358–2029, X–5242.

SUPPLEMENTARY INFORMATION: 50 CFR part 25 contains general administrative provisions which govern national wildlife refuges. 50 CFR part 32 contains provisions governing hunting and fishing on national wildlife refuges (NWRs). Hunting and fishing are regulated on refuges to: (1) Ensure compatibility with refuge purposes, (2) properly manage the wildlife resource, (3) protect other refuge values, and (4) ensure refuge user safety. On many refuges, the Service policy of adopting State hunting regulations is adequate in meeting these objectives. On other refuges, it is necessary to supplement State regulations with more restrictive Federal regulations to ensure that the Service meets its management responsibilities, as outlined under the section entitled "Conformance with Statutory and Regulatory Authorities." Refuge-specific hunting and fishing regulations may be issued only after a wildlife refuge is opened to migratory game bird hunting, upland or other small game hunting, big game hunting or sport fishing through publication in the **Federal Register**. These regulations may list the wildlife species that may be hunted or the species subject to sport fishing, seasons, bag limits, methods of hunting or fishing, descriptions of open areas, and other provisions as appropriate. Previously issued refuge-specific regulations for hunting and fishing are contained in 50 CFR part 32. Many of the amendments to these sections are being promulgated to standardize and clarify the existing language of these regulations.

In the August 16, 1995, issue of the **Federal Register**, 60 FR 42668, the Service published a proposed rulemaking and invited public comment on the proposed annual additions and/or modifications to the National Wildlife Refuge Hunting and Fishing Regulations. All substantive comments were reviewed and considered following a 30-day public comment period. The following represents a cross-section of the total concerns expressed.

Four State conservation agencies, one non-government organization, and 28 individuals commented on the proposed rulemaking. Nearly all comments were concerning the proposal to require the use or expansion of nontoxic shot on several refuges. This specific proposal would require the use of nontoxic shot while hunting on refuges for one or more species of wildlife other than waterfowl and coots, because of the likelihood of depositing toxic lead shot pellets on the land with resulting impacts to waterfowl and other migratory birds.

After evaluating the comments received, the Service has decided to delay nontoxic shot implementation until the 1996–97 hunting season on those refuges which were proposed to convert to nontoxic shot during the 1995–96 season. This action is being taken to allow adequate time for additional coordination and educational outreach with the affected States, hunting organizations and the general public on the effects of toxic lead shot to waterfowl and other migratory birds. Voluntary hunter use of nontoxic shotshells is requested during the 1995–96 hunting season.

The State of Wisconsin, Department of Natural Resources expressed the opinion that the Service has:

1. Not adequately documented the need for requiring nontoxic shot for hunting certain wildlife species other than ducks, geese and swans; and

2. Not provided the results of the scientific nontoxic shot studies to the public. The State believes the public is supportive of biologically sound regulations, but opposed to regulations without justification; and

3. Proposed the required use of nontoxic shot in an inconsistent manner. The State used Necedah NWR as an example where nontoxic shot would be required to hunt ruffed grouse, but not for hunting woodcock in the same general habitat.

Response

1. Lead shot from hunters' shotguns that is deposited in wetlands, seasonally flooded habitats, and upland habitats in close proximity to these wetlands is toxic to wildlife that directly ingest lead pellets during feeding, and secondarily toxic to predators and carrion feeders that consume these toxic wildlife carcasses. The documented scientific evidence is clear in this regard, and is available as indicated at the end of this response. What has not been adequately communicated to, and considered by some hunters and habitat managers, is the deposition of toxic lead shot into marginal or fringe wetland areas by hunting activities other than waterfowl and coot hunting. Nationwide, efforts are now underway to educate and activate programs to reduce this threat to waterfowl, raptors and other susceptible wildlife species. The proposed regulations were specific to point out that a scientifically recognized toxic lead problem exists in uplands that are periodically flooded and become feeding grounds for waterfowl and secondarily for bald eagles.

Scientific research has established that lead pellets ingested by waterfowl and secondarily by raptors including bald eagles results in the death of these animals due to toxic lead poisoning. When lead shot pellets are deposited during upland or small game hunting in dry areas that are subject to seasonal flooding, waterfowl and other migratory birds that feed in these areas during the period of high water are vulnerable to lead poisoning. Scientific information on the "Toxicity of Lead Shot to Wildlife" may be obtained by calling the U.S. Fish and Wildlife Reference Service at 1–800–582–3421 or by accessing the bibliographic databases information directly on the INTERNET at "http://www.fws.gov/fwrefser.html".

2. News articles concerning proposed regulations to address the adverse affects of hunting upland and other small game with toxic lead shot in upland areas subject to periodic flooding and seasonal wetland areas have been published in newspapers during the last 3 years. Nontoxic shot for hunting upland and other small game was first introduced to west coast refuges in the 1991–92 hunting season,

and to southwestern refuges during the 1992–93 hunting season. Refuges in Alaska and waterfowl production areas in the lower 48 States are scheduled to phase in nontoxic shot to hunt certain upland and small game by the 1997–98 and 1998–99 seasons respectively. Additional scientific information and data that forms the basis for these regulations will be provided to the States and public over the next few months, or may be requested as indicated in the previous paragraph.

3. The original proposal to require nontoxic shot while hunting woodcock at Necedah NWR was based on the fact that past hunting occurred in some areas subject to periodic flooding. After receiving public comments expressing concern that this specific requirement would cause confusion among hunters, the Service has agreed that neither grouse nor woodcock hunting will require nontoxic shot at Necedah NWR. This decision was based on the fact that areas subject to flooding can be partitioned away from the hunt area.

The Illinois Department of Conservation expressed general support for reducing the risks of lead poisoning in waterfowl, endangered species, and improving environmental quality, but could not support the proposed rule without the Service:

1. Providing adequate scientific evidence showing that a problem exists from upland/small game hunting with lead shot.

2. Conducting more site-specific studies in relation to lead shotshells and lead rifle bullets for hunting squirrels. Their recent study indicated that 47% of squirrel hunters in the northern half of Illinois hunted with shotguns, and the remainder used .22 caliber rimfire rifles and other weapons.

3. Providing adequate lead-time for hunters to become educated to toxic lead shot problems when hunting upland and other small game and supportive of corrective actions before the Service imposes this rule.

4. Delaying of the rule until at least the 1996–97 hunting season.

Response

1. Refer to Wisconsin number 1 response.

2. The regulations relating to nontoxic shot requirements were not intended to apply to rifle bullets and large buckshot. The rule has been clarified on this point. Site-specific evidence will be determined in accordance with Service policy before nontoxic shot will be required for hunting with larger shot such as buckshot, small rifle bullets such as .22 caliber or for shotgun hunting on nonseasonally flooded uplands.

3. The nontoxic shot program will be phased in starting in the 1996–97 season, rather than the 1995–96 hunting season. Voluntary compliance is requested during the 1995–96 season (refer to Wisconsin number 2 response).

4. The final rules adopting requirements to use nontoxic shot to hunt wildlife species other than waterfowl and coots on certain refuges will be applicable beginning with the 1996–97 hunting season, however, voluntary compliance will be requested prior to that time. Delays until the 1997–98 season are also authorized for Alaska, to allow coordination with the State and the outlying villages. Delays are also provided for the waterfowl production areas principally in the Dakotas, Montana, Wisconsin, and Iowa until the 1998–99 season, with voluntary compliance requested in the meantime.

The Florida Game and Freshwater Fish Commission requested that the Service reconsider the proposal to require nontoxic shot for hunting upland and other small game on certain National Wildlife Refuges. They expressed concern that:

1. requiring use of nontoxic shot for hunting small game in the absence of documented lead ingestion problems amounts to regulatory overkill.

2. the Service should require nontoxic shot only where specific documentation of toxic lead problems exist.

Response

1. Refer to Wisconsin number 1 response.

2. For the reasons, and based on the data referred to in the Wisconsin number 1 response, the Service has concluded that it is well documented that toxic problems indeed exist in the hunting situation as described in the regulations developed for the specific refuges.

The State of Indiana, Department of Natural Resources expressed the opinion that:

1. the amount of lead deposited in the wetlands of Muscatatuck NWR by the estimated 122 quail hunter visits would be very incidental and would contribute insignificantly to the adverse welfare of waterfowl using the refuge; and

2. they would rather not see this proposed regulation, which is a disparity to their State regulations, imposed on Indiana's upland game hunters at this time.

Response

After evaluating the comments from the State of Indiana, and re-evaluating the on-ground relationship of where quail and rabbit hunting occurs on the refuge, the Service has decided to remove Muscatatuck NWR from the listing of refuges requiring nontoxic shot to hunt upland and other small game. The Service believes it is possible to adequately zone the hunting area away from the margins of existing wetlands and those refuge lands subject to periodic flooding. Migratory waterfowl and other migratory birds will be adequately protected by implementing this measure.

The National Rifle Association of America objects to the proposed rule because:

1. The document fails to inform the public of the basis and purposes for imposing the nontoxic shot restrictions for upland game hunting on listed refuges.

2. The public has not been afforded a meaningful opportunity to comment on the proposal.

For these reasons, they recommend:

3. That a clear and concise statement of basis and purpose for the nontoxic shot requirements for upland game hunting on specific refuges be provided before a procedurally correct rulemaking on this issue is moved forward.

4. That this rulemaking be withdrawn and a new rulemaking initiated that recognizes this deficiency.

Response

As a basis for this rule, the Service has a responsibility to protect migratory birds as well as threatened and endangered species of wildlife from the toxic effects of lead shot poisoning due to hunting. The purpose of this rulemaking is to avoid the use of a known toxic substance, such as lead shot pellets, while hunting upland and other small game in an area where waterfowl and other migratory birds could be harmed or killed. The Service does not agree that there are any deficiencies in its procedures, but in order to more adequately educate and inform hunters and the general public of the new requirements, and coordinate with affected States, the Service will delay application of the nontoxic shot requirements until the 1996–97 season. Also, refer to Wisconsin number 1 response.

With respect to number 2 concern, a 30-day public comment period has been afforded the public to comment on the proposed rule. News articles concerning proposed regulations that address the adverse affects of hunting upland and other small game with toxic lead shot in upland areas subject to periodic flooding and seasonal wetland areas have been published in newspapers during the last 3 years. Nontoxic shot for hunting upland and small game was first introduced to west coast refuges in the 1991–92 hunting season, and to southwestern refuges during the 1992–93 hunting season. Refuges in Alaska and waterfowl production areas in the lower 48 states are scheduled to phase in nontoxic shot to hunt certain upland and other small game by the 1997–98 and 1998–99 seasons respectively. Refer to Wisconsin number 2. response.

Individual comments received ranged from strong, general support for the proposed rule to total disagreement with the need to implement regulations. Specific concerns included:

1. All refuge lands should be off-limits to lead deposition because lead is a toxic environmental pollutant.

Response

The use of lead shot on National Wildlife Refuges will continue to be monitored and its use will be prohibited in those habitats where scientific evidence shows it is detrimental to wildlife resource values.

2. Support for a lead shot ban on refuge hunt areas, if the Service does not encourage the States to impose lead shot restrictions on State lands.

Response

The Service will continue to cooperate with State wildlife agencies to understand the toxic effects of lead shot deposition from hunting. The Service will also work with States in which waterfowl production areas are located to explore opportunities for conversion of both State and Federal areas where it will reduce threats to wildlife and minimize confusion to hunters.

3. Support for prohibition on private and public trap and skeet ranges using lead shot.

Response

Trap and skeet ranges are located outside of Service jurisdiction and, therefore, are regulated by private landowners, or in certain cases local jurisdictions.

4. Nontoxic shot is not readily available for purchase in the smaller shot sizes, and this will prevent the use of .410, 28 ga., and 20 ga. shotguns. Also, this would pose a disadvantage to young hunters and women who regularly use these shotguns for hunting.

Response

The Service acknowledges that commercial manufacture of steel shot is very limited in .410 and 28 gauge shotshells, however steel is being reloaded in these gauges by individual hunters. The Service's decision, however, must be based on its responsibilities to protected migratory birds from toxic shot hazards.

5. Most hunting for upland and small game is on high and dry terrain and not in wetlands.

Response

The intent of the Service's policy is to protect migratory birds whenever there are potential lead poisoning impacts in wetlands and associated uplands. Refuge managers followed national policy in selecting which refuges and what areas of those refuges to include in the regulations. Nontoxic shot conversions were proposed following these policy guidelines:

1. Nontoxic shot would be required for nonwaterfowl hunting programs that take place in wetlands, lands adjacent to wetlands, and lands seasonally flooded that have a potential for lead poisoning impacts to waterfowl and other migratory birds. 2. Nontoxic shot requirements do not apply to small-caliber rifle hunting for mammals or birds, or shotgun hunting for mammals in the absence of site-specific evidence of a significant impact. 3. This policy does not affect big game hunting programs, including turkey hunting.

6. A significant law enforcement problem exists when hunters are allowed to use both lead and nontoxic shot within the same hunt area at the same time, even though for different game species.

Response

Nontoxic shot hunting zones within refuges include those upland areas that are interspersed with wetlands, or where no distinct geographical or physical boundaries (fences, dikes, or roads) exist to distinguish the upland areas from the seasonal wetland areas. When hunters can easily distinguish wetlands from uplands through posting or mapping, then this entire area can be managed for both lead shot on the uplands and nontoxic shot on the lowlands. Likewise, a particular hunt program (i.e., a species hunt) that occurs on both wetlands *and* uplands will be converted to nontoxic shot refuge-wide when there are significant hunter compliance and/or enforcement problems. In general, if hunt areas can be posted, mapped or regulated adequately so that the hunter can reasonably expect to distinguish a nontoxic shot zone from a lead shot zone, then lead shot may be used within that respective zone. Also, if State game laws require nontoxic shot for hunting a particular species, then the refuges in that State will also require nontoxic shot for hunting that species.

7. Nontoxic shot (steel) is not compatible with shooting older, softer metal barreled shotguns, such as certain doubles, over-and-unders, general Damascus type, and the original Winchester Model 12 shotguns.

Response

Steel shot is definitely harder than lead shot, however modern shotgun barrels are designed to handle this shot without difficulty. The Service is aware that possible damage may occur from shooting modern loads in older model shotguns. However, the Service's responsibility is to protect migratory birds from the toxic shot impacts.

8. Cost of nontoxic shot is prohibitively expensive and hard to locate.

Response

Nontoxic shot (steel) costs more than the equivalent lead shotshell loads. Competition between manufacturers, due to waterfowl hunting nontoxic shot requirements, has increased the supply and somewhat reduced the overall price of steel shot. Nontoxic shot usually sells for $2–12 per box more than the equivalent size lead shot. Again, the Service's objective and responsibilities are to protect the migratory bird populations.

9. Crippling loss using nontoxic shot far outweighs the potential loss from using lead shot for hunting upland and other small game in fringe wetland areas.

Response

Most hunters find that if the target is within the 30–45 yard range, clean kills will occur. Some experienced hunters find that steel shot will penetrate better than lead shot. As hunters become more proficient with shooting nontoxic shot, crippling loss will be reduced dramatically.

10. Required use of nontoxic shot will cause hunters to abandon the sport, thereby resulting in a significant loss to Federal taxes on sporting arms and ammunition, and therefore less money for wildlife/habitat enhancement projects.

Response

Long-range indications are that hunting will account for less and less of the total percentage of recreational use on refuges, and funding sources for habitat protection and management will be harder to find in times of shrinking budgets. However, the Service does not believe that conversion to nontoxic shot

on selected refuges will contribute significantly to that trend.

11. The 104th Congress has banned Federal agencies from imposing new regulations, and this proposed rule is just another form of gun control, an anti-hunting ploy and a slap at our fundamental freedom.

Response

The regulation setting process is not intended as a manner of gun control, but rather as a resource protection measure and was drawn as narrowly as possible in order to provide the least restrictive hunting opportunity.

The intent of Congress is to reduce Federal regulatory burdens, and the Administration is in the process of reducing outdated and unnecessary rules. Congress, however, realizes that the hunting of migratory birds involves several treaty obligations with neighboring countries where migratory birds spend part of the year. Whether migratory birds are using national wildlife refuges or being hunted on State or private lands, there must be certain fair and equitable rules established. Therefore annual regulations are promulgated based on annual biological determinations of harvestable surpluses of game species.

Also, fishing on national wildlife refuges would be closed to the public without the establishment of annual regulations. Therefore, Congress has been receptive to appropriate rulemakings which allow hunters and fishermen the opportunity to participate in annual harvests.

The following questions and answers respond to the range of additional comments received from individuals concerning this proposed rule:

• What is the history of nontoxic shot requirements while hunting?

A nationwide phase-out program on the use of lead shot for waterfowl hunting began in 1986. By the 1991–92 season, only nontoxic (steel) shot was allowed for waterfowl and coot hunting. Prior to 1986 many national wildlife refuges required the use of steel shot because of locally documented lead poisoning in waterfowl.

• How will I know where to use nontoxic shot?

Site-specific brochures and information are available. Contact the refuge manager of the refuge you plan to hunt, and ask for an explanation of the nontoxic boundaries.

• Where can upland game continue to be hunted using lead?

Since State wildlife agencies and national wildlife refuges have limited the use of lead shot for the hunting of waterfowl and coots and now several areas are phasing in controls on upland and other small game hunting around wetlands, hunters should consult specific wildlife refuge regulations. The refuges proposed for nontoxic shot conversion in this rulemaking will remain open to the use of lead shot for upland and small game in the 1995–96 season, although voluntary use of nontoxic shot will be requested. Most waterfowl production areas of the prairie pothole country will remain open to the use of lead shot until the 1998–99 hunting season. Again, the Service will encourage the voluntary use of nontoxic shot on those areas.

• Where will hunters be required to use nontoxic shot?

A list of refuges by State is available from the Service's 7 regional offices, and from local refuge offices. The **Federal Register**, which also lists each refuge, is accessible from The National Wildlife Refuge Home Page on the INTERNET, location: "http://bluegoose.ARW.R9.FWS.gov/", or by calling 1–800–344–WILD and requesting a refuge brochure and a 1996–97 list of refuges where nontoxic shot is required to hunt one or more species of wildlife other than waterfowl and coot.

• How many kinds of nontoxic shot can hunters purchase?

Even though manufacturers are experimenting with other metals and alloys, steel shot is still the best and most readily available nontoxic shot. Bismuth shot has only recently become available on a limited and conditional basis.

• Where can nontoxic shot be purchased?

Steel shot is available locally at many large sporting goods stores that cater to waterfowl hunters. If they don't have exactly what you are looking for, they will no doubt recommend an alternate source.

• Are states requiring the use of nontoxic shot?

Many State wildlife agencies have imposed nontoxic shot regulations on wildlife management areas where waterfowl hunting also takes place, such as Indiana (for dove hunting), Missouri (for snipe and rail), and Tennessee (for doves). Other States, such as Nebraska, require nontoxic shot for all bird hunting on certain State management areas. In Utah, nontoxic shot is required to hunt sandhill cranes, and for all upland and small game hunting on two State management areas.

• Why do you permit hunting at all on National Wildlife Refugues?

Hunting is a part of our country's heritage. Many refuges were purchased with funds derived from the sale of duck stamps to waterfowl hunters. The National Wildlife Refuge System Administration Act authorizes recreation that is compatible with the primary purpose for which the refuges were established. Some refuges have hunting as a specific purpose of being acquired.

• Will big game (buckshot deer hunting) be included in the nontoxic shot requirement?

No. The regulation requires the use of nontoxic shot for certain upland and other small game only when hunting takes place in or near permanent or seasonal wetlands.

• What wildlife are considered upland or small game and covered by this regulation?

Each specific refuge regulation will specify what wildlife species can be hunted on that particular refuge. The intent of the regulation is to include all species of upland and small game that are hunted by shotgun in or near a permanent or seasonal wetland. The hunted species present there may include, but are not limited to, the following: pheasants, quail, snipe, dove, rabbits, woodcock, partridge, grouse, and rails.

• Why do raptors including bald eagles die from ingesting lead shot?

When a duck ingests lead shot into the gizzard/stomach while feeding, the lead will be deposited and lodge in the gizzard and stay there while being worn away through natural grinding processes. A mallard, for example, may ingest 2 pellets of #4 lead shot in the gizzard, and as the bird becomes weak and disoriented from the lead poisoning, it becomes an easy food source for all predators including raptors. When the bird is eaten by a marsh hawk or bald eagle, the lead is now going to enter the raptor's body. The toxic (secondary) effect of the lead may have caused the death of both the prey and the predator.

• Will small bore rifle hunting be included in the nontoxic shot regulation.

No, small bore rifle hunting is not included in the nontoxic shot requirement.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act (NWRSAA) of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the NWRSAA authorizes the Secretary of the Interior to permit the use of any area within the Refuge System for any purpose, including but not limited to, hunting, fishing, other public recreation, accommodations, and access, when the Secretary determines that such uses are compatible with the major purpose(s) for which the area was established.

The Refuge Recreation Act authorizes the Secretary to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purpose(s) for which the areas were established. The Refuge Recreation Act also authorizes the Secretary to issue regulations to carry out the purposes of the Act. Hunting and sport fishing plans are developed for each refuge prior to opening it for hunting or fishing. In many cases, refuge-specific hunting and fishing regulations are included in the hunting and sport fishing plans to ensure the compatibility of the hunting and sport fishing programs with the purposes for which the refuge was established. Initial compliance with the NWRSAA and Refuge Recreation Act is ensured when hunting and sport fishing plans are developed, and the determinations required by these acts are made prior to the addition of refuges to the lists of areas open to hunting and fishing in 50 CFR part 32. Continued compliance is ensured by annual review of hunting and sport fishing programs and regulations.

Consideration was given to delaying this final rule for a 30-day period, however, the Service determined that any further delay in the implementation of these refuge-specific hunting and fishing regulations will hinder the effective planning and administration of the programs. Public comment was received on this proposal during the 30-day comment period for this rule. A delay of an additional 30 days will jeopardize holding the hunts or fishing programs this year, or shorten their duration and thereby lessen the management effectiveness of this regulation. Many of these rules also relieve restrictions and allow the public to participate in recreational activities on a number of refuges. In addition, good cause exists in that, in order to continue to provide for previously authorized hunting opportunities while at the same time provide for adequate resource protection, the Service must immediately put into place modifications to some of the hunting programs on some refuges. Therefore, in accordance with (5 U.S.C. 553(d)(3), these rules will become effective as of the date of publication in the **Federal Register**.

Economic Effect

This rulemaking is not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) has revealed that the rulemaking would not have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. Hunting and fishing programs take place throughout the United States on a very broad scale. No single program has a significant localized impact. While the proposed hunting and fishing programs could increase the number of hunting and fishing licenses purchased and boost sales of hunting and fishing gear, the impact would still not be considered significant when compared to other commercial activities in the surrounding area. This proposed rule would have minimal effect on such entities.

Paperwork Reduction Act

The information collection requirements for part 32 are found in 50 CFR part 25 and have been approved by the Office of Management and Budget under Public law 104–13 and assigned clearance number 1018–0014. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form may be sent to the Service Information Collection Clearance Office, U.S. Fish and Wildlife Service, 1849 C Street NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20530.

Federalism

This final rule will not have substantial direct effects on the States, in their relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Considerations

Compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) is ensured when hunting and sport fishing plans are developed, and the determinations required by this act are made prior to the addition of refuges to the lists of areas open to hunting and fishing in 50 CFR Part 32. The changes in hunting and fishing have been reviewed with regard to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and have been found to either, have no affect on, or are not likely to adversely affect listed species or critical habitat. The amendment of refuge-specific hunting and fishing regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of a particular national wildlife refuge. The B.(5) Service exclusion is employed here as these amendments are considered "[m]inor changes in the amounts or types of public use on FWS or State-managed lands, in accordance with regulations, management plans, and procedures." These refuge-specific hunting and fishing revisions to existing regulations simply qualify or otherwise define an existing hunting or fishing activity for purposes of resource management. Information regarding hunting and fishing permits and the conditions that apply to individual refuge hunts, sport fishing activities and maps of the respective areas are retained at refuge headquarters and can be obtained from the regional offices of the U.S. Fish and Wildlife Service at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington.
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Eastside Federal Complex, Suite 1692, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; Telephone (503) 231–6214.

Region 2—Arizona, New Mexico, Oklahoma and Texas.
Assistant Regional Director—Refuges and Wildlife U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 766–1829.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin.
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Building, Fort

Snelling, Twin Cities, Minnesota 55111; Telephone (612) 725–3507.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, South Carolina, Puerto Rico and the Virgin Islands.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Room 324, Atlanta, Georgia 30345; Telephone (404) 679–7152.

Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035; Telephone (413) 253–8550.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 236–8145.

Region 7—Alaska.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786–3545.

Primary Author. Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240, is the primary author of this rulemaking document.

List of Subjects

50 CFR Part 25

Administrative practice and procedures, Reporting and recordkeeping requirements, Concessions, Safety, Wildlife refuges.

* * * * *

50 CFR Part 32

Hunting, Fishing, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

Accordingly, Parts 25 and 32 of Chapter I of Title 50 of the *Code of Federal Regulations* are amended as follows:

PART 25—[AMENDED]

1. The authority citation for Part 25 continues to read as follows:

Authority: 16 U.S.C. 460k, 664, 668dd, and 715i, and 3901 et seq.

§ 25.12 [Amended]

2. Section 25.12(a) is amended by adding the definition of nontoxic shot following the definition of National Wildlife Refuge System.

§ 25.12 Definitions.

* * * * *

Nontoxic shot means steel shot or other shot approved pursuant to 50 CFR 20.134.

* * * * *

PART 32—[AMENDED]

3. The authority citation for Part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

§ 32.7 [Amended]

4. Section 32.7 is amended by adding the alphabetical listing of "North Platte National Wildlife Refuge" under the State of Nebraska.

5. Section 32.22 Arizona, is amended by revising paragraph A. of the Bill Williams River National Wildlife Refuge; and by adding paragraphs A., 8., through A.13. inclusive, revising paragraph B.4., and adding paragraphs B.5. and B.6. to Cibola National Wildlife Refuge to read as follows:

§ 32.22 Arizona.

* * * * *

Bill Williams River National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of mourning and white-winged doves is permitted on designated areas of the refuge subject to the following condition: Legal weapon is shotgun only.

* * * * *

Cibola National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

8. Hunting is not permitted within 50 yards of any road or levee.

9. Decoys are required for waterfowl hunting and must be removed from the refuge daily.

10. Waterfowl hunters are limited to 10 shells per day in Farm Unit 2.

11. During the Arizona waterfowl season, Farm Unit 2 is closed to dove hunting until noon each day.

12. In Farm Unit 2, waterfowl hunters must remain within 50 feet of designated station while hunting except when actively retrieving downed birds.

13. During the goose season the Hart Mine Marsh Area is closed to hunting until 10 a.m. daily.

B. Upland Game Hunting. * * *

4. Hunting of cottontail rabbit is permitted from September 1 through the last day of the respective State's quail season.

5. During the Arizona waterfowl season, hunting of quail and rabbit is not permitted in Farm Unit 2 until noon.

6. Hunting is not permitted within 50 yards of any road or levee.

* * * * *

6. Section 32.23 *Arkansas* is amended by revising paragraphs B. and C. of Felsenthal National Wildlife Refuge; by revising paragraphs B. and C. of Overflow National Wildlife Refuge; and by revising paragraphs D.1. and D.4. of White River National Wildlife Refuge to read as follows:

§ 32.23 Arkansas.

* * * * *

Felsenthal National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of quail, squirrel, rabbit, raccoon, opossum, beaver, nutria, and coyote is permitted on designated areas of the refuge subject to the following condition: Permits are required.

C. Big Game Hunting. Hunting of white-tailed deer, turkey, and feral hogs is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

Overflow National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of quail, squirrel, rabbit, raccoon, opossum, beaver, nutria, and coyote is permitted on designated areas of the refuge subject to the following condition: Permits are required.

C. Big Game Hunting. Hunting of white-tailed deer, turkey, and feral hogs is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

White River National Wildlife Refuge

* * * * *

D. Sport Fishing. * * *

1. Fishing is permitted from March 1 through November 30 except as posted and as follows: fishing is permitted year-round in LaGrueu, Essex, Prairie, and Brooks Bayous, Big Island Chute, Moon Lake and Belknap Lake next to Arkansas Highway 1, Indian Bay, the Arkansas Post Canal and adjacent drainage ditches, those borrow ditches located adjacent to the West bank of that portion of the White River Levee north of the Arkansas Power and Light Company power line right-of-way, and all refuge owned waters located North of Arkansas Highway 1.

* * * * *

4. Frogging is permitted on all refuge owned waters open for sport fishing as follows: South of Arkansas Highway 1, frogging is permitted from the beginning of the State season through November 30; North of Arkansas Highway 1, frogging is permitted for the entire State season. The use of bow and arrow for taking bullfrogs is prohibited.

7. Section 32.24 *California* is amended by revising paragraphs A.1., A.2., and A.3. of Delevan National Wildlife Refuge; by adding new paragraph A.5. to Kesterson National Wildlife Refuge; by revising paragraphs A.1. and A.2. of Modoc National Wildlife Refuge; by revising paragraphs A.1., A.2., and B.1. of Sacramento National Wildlife Refuge; and by adding new paragraph A.5. and revising paragraph B. of San Luis National Wildlife Refuge to read as follows:

§ 32.24 California.

* * * * *

Delevan National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

1. Firearms must be unloaded while being transported between parking areas and spaced blind areas.

2. Snipe hunting is not permitted in the spaced blind area.

3. Hunters assigned to the spaced blind area are restricted to within 100 feet of their assigned hunt site except for retrieving downed birds, placing decoys, or traveling to and from the area.

* * * * *

Kesterson National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

5. Access to Salt Slough is via boats only. Boats may only be launched at the Highway 140 (Fremont Ford State Recreational Area) and Highway 165 access points. the use of air-thrust and/or inboard water thrust boats is not permitted. The speed limit of 5 mph is in effect.

* * * * *

Modoc National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

1. A permit issued by the refuge to hunters with advance reservations only is required for the first weekend.

2. After the first weekend of the open season, hunting is permitted only on Tuesdays, Thursdays, and Saturdays.

Hunters must check in and out of the refuge by use of self-service permits.

* * * * *

Sacramento National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

1. Firearms must be unloaded while being transported between parking areas and spaced blind areas.

2. Snipe hunting is not permitted in the spaced blind area.

* * * * *

B. Upland Game Hunting. * * *

1. A special one-day only, pheasant hunt is permitted in the spaced blind area on the first Monday after the opening of the State pheasant hunting season.

* * * * *

San Luis National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

5. Vehicles may stop only at designated parking areas. Dropping of passengers or equipment, or stopping between designated parking areas is prohibited.

B. Upland Game Hunting. Hunting of pheasants is permitted on designated areas of the refuge subject to the following conditions:

1. Hunters shall possess and use, while in the field, only nontoxic shotshells (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

2. Hunters may not possess more than 25 shotshells while in the field.

* * * * *

7a. Section 32.25 *Colorado* is amended by revising paragraphs A. and B. of Arapaho National Wildlife Refuge to read as follows:

§ 32.25 Colorado.

* * * * *

Arapaho National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of migratory game birds is allowed on designated areas of the refuge pursuant to State law.

B. Upland Game Hunting. Upland game hunting is allowed on designated areas of the refuge pursuant to State law and subject, also, to the following condition: Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

8. Section 32.27 *Delaware* is amended by adding new paragraph B.4., revising introductory language of paragraph C., and adding new paragraph C.4. to Bombay Hook National Wildlife Refuge; and by adding new paragraph B.4. to Prime Hook National Wildlife Refuge to read as follows:

§ 32.27 Delaware.

* * * * *

Bombay Hook National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

4. Shotgun hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

C. Big Game Hunting. Hunting of deer and turkey is permitted on designated areas of the refuge subject to the following conditions: * * *

4. A valid State permit is required for turkey hunting.

* * * * *

Prime Hook National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

4. Shotgun hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

9. Section 32.31 *Idaho* is amended by revising paragraph D. of Kootenai National Wildlife Refuge to read as follows:

§ 32.31 Idaho.

* * * * *

Kootenai National Wildlife Refuge

* * * * *

D. Sport Fishing. Fishing is permitted only on Myrtle Creek subject to the following condition: Only bank fishing is permitted. Fishing from boats, float tubes, or other personal flotation devices is prohibited.

* * * ** *

10. Section 32.32 *Illinois* is amended by revising paragraph D.1. and adding new paragraph D.5. to Chautauqua National Wildlife Refuge; by adding new paragraphs A.3., A.4. and B.3. to Crab Orchard National Wildlife Refuge; by adding new paragraph (B.3., and revising paragraph C. of Cypress Creek National Wildlife Refuge; by adding new paragraph B.3. to Mark Twain National Wildlife Refuge; and by adding new paragraph B.4. to Upper Mississippi River National Wildlife Refuge to read as follows:

§ 32.32 Illinois.

* * * * *

Chautauqua National Wildlife Refuge

* * * * *

D. Sport Fishing. * * *

1. Sport fishing is allowed on Lake Chautauqua from February 15 through October 15. Sport fishing is not allowed in the Waterfowl Hunting Area during waterfowl hunting season.

* * * * *

5. Weis Lake on the Cameron Unit is closed to all public entry from October 16 through February 14.

Crab Orchard National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

* * * * *

3. Waterfowl hunters may not possess more than 20 shells during the combined duck and goose seasons. Goose hunters may not possess more than 10 shells during the goose season.

4. Hunting in the Cambria Neck dove field is closed on Tuesdays and Thursdays. All Cambria Neck dove hunters are required to sign in and out and report their harvest.

B. Upland Game Hunting. * * *

3. Only nontoxic shot may be used or possessed while hunting all permitted birds, except wild turkeys (nontoxic shot regulation to be effective starting with the 1996–97 hunting season). The possession and use of lead shot is still permitted for wild turkey hunting.

* * * * *

Cypress Creek National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

3. Only nontoxic shot may use used or possessed while hunting bobwhite quail (nontoxic shot regulations to be effective starting with the 1996–97 hunting season).

C. Big Game Hunting. Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

1. Hunters must check in and out of the refuge each day of hunting.

2. Hunting blinds may not be left overnight on the refuge.

* * * * *

Mark Twain National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

3. Only nontoxic shot may be used or possessed while hunting all permitted birds, except wild turkeys (nontoxic shot regulation to be effective starting with the 1996–97 hunting season). The possession and use of lead shot is still permitted for wild turkey hunting.

* * * * *

Upper Mississippi River National Wildlife and Fish Refuge

* * * * *

B. Upland Game Hunting. * * *

4. Shotgun hunters may only use or possess nontoxic shot when hunting for any permitted birds or other small game, except wild turkey (nontoxic shot regulation to be effective starting with the 1996–97 hunting season). The possession of lead shot is still permitted for wild turkey hunting.

* * * * *

11–12. Section 32.34 *Iowa* is amended by revising paragraph B. of Union Slough National Wildlife Refuge; and by adding new paragraph B.3. to Walnut Creek National Wildlife Refuge to read as follows:

§ 32.34 Iowa.

* * * * *

Union Slough National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of upland game is permitted in designated areas of the refuge subject to the following condition: Only nontoxic shot may be used or possessed while hunting all permitted birds, except wild turkeys (nontoxic shot regulation to be effective starting with the 1996–97 hunting season). The possession and use of lead shot is still permitted for wild turkey hunting.

* * * * *

Walnut Creek National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

3. All hunters must wear one or more of the following articles of visible, external, solid blaze orange clothing: a vest, coat, jacket, sweatshirt, sweater, shirt or coveralls.

* * * * *

13. Section 32.35 *Kansas* is amended by revising paragraphs B. and C. of Flint Hills National Wildlife Refuge; and by revising paragraphs A. and B. of Quivira National Wildlife Refuge to read as follows:

§ 32.35 Kansas.

* * * * *

Flint Hills National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

1. Dogs may not be used for hunting furbearing animals or non-game animals.

2. Hunters shall possess and use, while in the field, only nontoxic shot or rimfire firearms (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

C. Big Game Hunting. Hunting of big game is permitted on designated areas of the refuge subject to the following conditions:

1. Only shotguns, muzzleloading firearms, or bow and arrow are permitted except during controlled hunts.

2. Hunters shall possess and use, while in the field, only nontoxic shot while shotgun hunting for turkey.

* * * * *

Quivira National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of geese, ducks, coots, rails (Virginia and Sora only), mourning doves, and common snipe is permitted on designated areas of the refuge subject to the following condition: Nontoxic shot is required when hunting any game on the refuge. The possession of lead shot in the field is prohibited.

B. Upland Game Hunting. Hunting of pheasant, bobwhite quail, squirrel, and rabbit is permitted on designated areas of the refuge subject to the following conditions:

1. The refuge is closed to all hunting from March 1 through August 31.

2. Squirrels and rabbits may only be hunted during the portion of the Kansas seasons that fall outside the March 1 through August 31 closed period.

* * * * *

14. Section 32.36 *Kentucky* is amended by revising paragraph D.1. of Reelfoot National Wildlife Refuge to read as follows:

§ 32.36 Kentucky.

* * * * *

Reelfoot National Wildlife Refuge

* * * * *

D. Short Fishing. * * *

1. Fishing is permitted on the Long Point Unit (north of Upper Blue Basin) from March 15 through November 15 and on the Grassy Island Unit (south of the Upper Blue Basin) from February 1 through November 15.

* * * * *

15. Section 32.37 *Lousiana* is amended by revising paragraphs A, B, C, and D of Bayou Cocodrie National Wildlife Refuge; revising paragraphs B., D.1., D.4. and removing paragraph D.5. of Catahoula National Wildlife Refuge to read as follows:

§ 32.37 Louisiana.

* * * * *

Bayou Cocodrie National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of woodcock is permitted on designated areas of the refuge subject to the following conditions: Permits are required.

B. Upland Game Hunting. Hunting of squirrel, rabbit, raccoon, opossum and coyote is permitted on designated areas of the refuge subject to the following condition: Permits are required.

C. Big Game Hunting. Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions: Permits are required.

D. Sport Fishing. [Reserved]

* * * * *

Catahoula National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of raccoon, squirrel, rabbit, and feral hogs is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

D. Sport Fishing. * * *

1. Fishing is permitted from one hour before sunrise until one-half hour after sunset. Only pole and line or rod and reel fishing is permitted. Snagging is prohibited.

* * * * *

4. All other refuge waters, including Duck Lake, Muddy Bayou, ditches, all outlet waters, and all flooded woodlands are open to fishing and boating from March 1 through October 31.

* * * * *

16. Section 32.38 *Maine* is amended by revising paragraph B.2. of Rachel Carson National Wildlife Refuge; and by revising paragraphs A. and B. of Sunkhaze Meadows National Wildlife Refuge to read as follows:

§ 32.38 Maine.

* * * * *

Rachel Carson National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

2. Shotgun hunters will possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

Sunkhaze Meadows National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of migratory game birds is permitted on designated areas of the refuge pursuant to State law.

B. Upland Game Hunting. Hunting of upland game is permitted on designated areas of the refuge subject to the following condition: Shotgun hunters will and possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

17. Section 32.39 *Maryland* is amended by adding new paragraph B.6. to Patuxent Wildlife Research Center to read as follows:

§ 32.39 Maryland.

* * * * *

Patuxent Wildlife Research Center

* * * * *

B. Upland Game Hunting. * * *

6. Shotgun hunters will possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

18. Section 32.40 *Massachusetts* is amended by adding new paragraph B.3. to Oxbow National Wildlife Refuge to read as follows:

§ 32.40 Massachusetts.

* * * * *

Oxbow National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

3. Hunters will possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

19. Section 32.42 *Minnesota* is amended by adding new paragraph B.1. to Big Stone National Wildlife Refuge; by adding new paragraph B.3. to Minnesota Valley National Wildlife Refuge; by revising paragraphs A., B., C., and D. of Morris Wetland Management District; by adding new paragraphs A.1. and B.1. and revising paragraph C.4. of Rice Lake National Wildlife Refuge; by adding new paragraphs A.5. and B.1. to Sherburne National Wildlife Refuge; and by revising introductory language of paragraph A. and revising paragraph B. of Tamarac National Wildlife Refuge to read as follows:

§ 32.42 Minnesota.

* * * * *

Big Stone National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

1. Only nontoxic shot may be used or possessed while hunting for partridge or ring-necked pheasant (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

Minnesota Valley National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

3. Only nontoxic shot may be used or possessed while hunting for ring-necked pheasant (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

Morris Wetland Management District

A. Hunting of Migratory Game Birds. Hunting of migratory game birds is permitted throughout the district.

B. Upland Game Hunting. Upland game hunting is permitted throughout the district.

C. Big Game Hunting. Big game hunting is permitted throughout the district.

D. Sport Fishing. Sport fishing is permitted throughout the district.

Rice Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds * * *

1. Shotgun hunters may only use or possess nontoxic shot while hunting migratory game birds.

B. Upland Game Hunting. * * *

1. Shotgun hunters may only use or possess nontoxic shot while hunting upland game species (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

C. Big Game Hunting. * * *

4. Hunting of deer on the Rice Lake Unit is by firearm and archery; hunting on the Sandstone Unit is by archery only.

* * * * *

Sherburne National Wildlife Refuge

* * * * *

A. Hunting of Migratory Game Birds. * * *

5. Shotgun hunters may use or possess only nontoxic shot while hunting for migratory game birds.

B. Upland Game Hunting. * * *

1. Shotgun hunters may use or possess only nontoxic shot while hunting for all upland game species (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

Tamarac National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of geese, ducks, coots, woodcock and snipe is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

B. Upland Game Hunting. Hunting of ruffed grouse, gray and fox squirrel,

cottontail rabbit, jackrabbit, snowshoe hare, red fox, raccoon, and striped skunk is permitted on designated areas of the refuge subject to the following conditions:

1. Hunting by tribal members is in accordance with White Earth Indian Reservation regulations on those parts of the Reservation that are part of the refuge.

2. Red fox, raccoon, and striped skunk may be hunted only from one-half hour before sunrise until sunset during open seasons for other small game species. Dogs may not be used for fox or raccoon hunting.

* * * * *

20. Section 32.45 *Montana* is amended by revising paragraph B. of Black Coulee National Wildlife Refuge; by adding paragraph B.3. to Bowdoin National Wildlife Refuge; by revising paragraph B. of Lake Mason National Wildlife Refuge; by revising paragraphs A., C., and D. of Lee Metcalf National Wildlife Refuge; and by revising paragraph B. of Warhorse National Wildlife Refuge to read as follows:

§ 32.45 Montana.

* * * * *

Black Coulee National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of upland game is permitted on designated areas of the refuge subject to the following condition: Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

Bowdoin National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

3. Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

Lake Mason National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of upland game is permitted on designated areas of the refuge subject to the following condition: Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

Lee Metcalf National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

1. Hunters may not use or possess more than 15 shells per day.

2. Shooting is permitted only from or within 10 feet of designated blinds.

3. Maximum of 5 hunters per blind.

4. Hunters are required to record hunt information at Hunter Access Points.

* * * * *

C. Big Game Hunting. Hunting of white-tailed deer and mule deer is permitted on designated areas of the refuge subject to the following conditions:

1. Only archery hunting is permitted.

2. Hunters are required to enter and exit and record hunt information at Hunter Access Points.

3. Deer stands left on the refuge must be identified with a name and address and be accessible to other hunters.

4. Deer may not be retrieved from closed areas without prior consent from the refuge staff.

D. Sport Fishing. Fishing is permitted on designated areas of the refuge. All fishing is pursuant to State law.

* * * * *

Warhorse National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of upland game birds is permitted on designated areas of the refuge subject to the following condition: Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

21. Section 32.46 *Nebraska* is amended by revising the alphabetical listing of North Platte National Wildlife Refuge to read as follows:

§ 32.46 Nebraska.

* * * * *

North Platte National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. Sport fishing is allowed on designated areas of the refuge pursuant to State law.

* * * * *

22. Section 32.47 *Nevada* is amended by revising paragraphs A. of Ash Meadows National Wildlife Refuge; revising paragraph C. of Desert National Wildlife Refuge; revising paragraphs A. of Pahranagat National Wildlife Refuge; and revising paragraphs A. of Ruby Lake National Wildlife Refuge to read as follows:

§ 32.47 Nevada.

* * * * *

Ash Meadows National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of geese, ducks, coots, moorhens, snipe, and doves is permitted on designated areas of the refuge.

* * * * *

Desert National Wildlife Refuge

* * * * *

C. Big Game Hunting. Hunting of bighorn sheep is permitted on designated areas of the range subject to the following conditions:

1. Bighorn sheep guides are required to obtain a Special Use Permit prior to taking clients onto the range.

2. Natural bighorn sheep mortality (pick-up heads) found on the range are government property and possession or removal of them from the range is not permitted.

* * * * *

Pahranagat National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of geese, ducks, coots, moorhens, snipe, and mourning doves is permitted on designated areas of the refuge subject to the following conditions;

1. Only nonmotorized boats or other motorless flotation devices are permitted on the refuge hunting area during the migratory waterfowl hunting season.

2. Hunting of waterfowl, coots, and moorhens is permitted only on the opening weekend and Tuesday, Thursday, and Saturday throughout the remainder of the season.

* * * * *

Ruby Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of geese, ducks, coots, moorhens, and snipe is permitted on designated areas of the refuge.

* * * * *

23. Section 32.49 *New Jersey* is amended by adding paragraph A.7 to Edwin B. Forsythe National Wildlife Refuge to read as follows:

§ 32.49 New Jersey.

* * * * *

Edwin B. Forsythe National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

7. Shotgun hunters will possess and use, while in the field, only nontoxic shot.

* * * * *

24. Section 32.50 *New Mexico* is amended by adding paragraphs A.5 and 6; revising paragraphs B.; and revising paragraph C. to *Bitter Lake National Wildlife Refuge* to read as follows:

§ 32.50 New Mexico.

* * * * *

Bitter Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

5. Hunting in Hunt Area B is permitted on all days within the State authorized season.

6. Hunting in Hunt Area C is permitted from mid-October through the end of January, on Tuesday, Thursday, and Saturday of each week from one-half hour before sunrise to 1 p.m. Dove hunting is prohibited in Hunt Area C.

B. Upland Game Hunting. Hunting of pheasant, quail, cottontail, and jack rabbits is permitted on designated areas of the refuge subject to the following conditions:

1. Hunters shall possess and use, while in the field, only nontoxic shot.

2. Hunting in Hunt Area B is permitted on all days within the State authorized seasons.

3. The hunting of rabbit and quail is prohibited in Hunt Area C.

C. Big Game Hunting. Hunting of mule deer and white-tailed deer is permitted on designated areas of the refuge.

* * * * *

25. Section 32.51 *New York* is amended by adding new paragraph B.4. to Iroquois National Wildlife Refuge to read as follows:

§ 32.51 New York.

* * * * *

Iroquois National Wildlife Refuge

* * * * *

B. Upland Game Hunting * * *

4. Shotgun hunters will possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

26. Section 32.52 *North Carolina* is amended by revising paragraph D.1. of Pee Dee National Wildlife Refuge; and by revising introductory language of paragraph B., revising paragraph C.2., and adding new paragraphs B.7., B.8., C.8. and C.9. to Pocosin Lakes National Wildlife Refuge to read as follows:

§ 32.52 North Carolina.

* * * * *

Pee Dee National Wildlife Refuge

* * * * *

D. Sport Fishing. * * *

1. Fishing is permitted from March 15 thru October 15.

* * * * *

Pocosin Lakes National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of quail, squirrel, raccoon, opossum, rabbit, and fox is permitted on designated areas of the refuge subject to the following conditions: * * *

7. Hunters shall use only shotguns and/or 22 caliber rim-fire rifles for upland game hunts.

8. Hunters shall possess and use, while in the field, only nontoxic shot on designated areas of the refuge (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

C. Big Game Hunting. * * *

2. Only shotguns, muzzle-loaders, and bow and arrow are allowed for big game hunts.

* * * * *

8. Archery hunting on the Pungo Unit is permitted during the regular State archery season and from November 1 through 30. State bag limits apply.

9. Shotgun, muzzle-loaders, and bow and arrow are permitted on the Pungo Unit subject to the following condition: Permits are required.

* * * * *

27. Section 32.53 *North Dakota* is amended by revising paragraph B. of Arrowwood National Wildlife Refuge; by revising paragraphs B., C.1., C.2., and adding paragraphs C.3. through C.7. inclusive to Audubon National Wildlife Refuge; by adding paragraph B.3. to J. Clark Salyer National Wildlife Refuge; by revising paragraph B. of Lake Alice National Wildlife Refuge; by revising paragraph C. of Lake Nettie National Wildlife Refuge; by revising paragraphs B., C., and D. of Long Lake National Wildlife Refuge; by adding paragraph B.3. to Lostwood National Wildlife Refuge; by revising paragraph C. of Slade National Wildlife Refuge; and by revising paragraphs B. and C. of Tewaukon National Wildlife Refuge to read as follows:

§ 32.53 North Dakota.

* * * * *

Arrowwood National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of pheasant, sharp-tailed grouse, partridge, rabbit and fox is permitted on designated areas of the refuge subject to the following conditions:

1. Hunting is permitted from December 1st through the end of the regular seasons.

2. Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

Audubon National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of ring-necked pheasants, gray partridge and sharp-tailed grouse is permitted on designated areas of the refuge subject to the following conditions:

1. Hunting is permitted from December 1 until the close of the State season.

2. Only nontoxic shot is permitted for upland game hunting (nontoxic shot regulation to be effective starting with the 1996–97 hunting seasons).

3. All islands are closed to hunting.

4. Vehicle use is restricted to the tour route road only.

C. Big Game Hunting. * * *

1. Rifle and muzzleloader deer hunting opens according to State regulations.

2. Refuge and State permits are required for the first one and one-half days of the State rifle season.

3. Orange clothing is required for deer hunters as per State regulations.

4. Hunting with bow and arrow is permitted only the day following the close of the State deer firearms season through the close of the State archery season.

5. All islands are closed to hunting.

6. All refuge roads are closed for use by rifle deer hunters except for retrieval of deer.

7. Muzzleloader and archery deer hunters may use the auto tour route for access during the hunt and all roads for retrieval of deer.

* * * * *

J. Clark Salyer National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

3. Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

Lake Alice National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of upland game and fox is permitted on designated areas of the refuge subject to the following condition: Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

Lake Native National Wildlife Refuge

* * * * *

C. Big Game Hunting. Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

1. Deer hunting with rifle and muzzleloader is subject to all State regulations and license units.

2. Deer archery hunting is open the day following the close of the rifle deer hunting season through the close of the State archery season.

* * * * *

Long Lake National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of ring-necked pheasant, sharp-tailed grouse and gray partridge is permitted on designated areas of the refuge subject to the following conditions:

1. Only steel shot may be used (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

2. Upland gamebird season is from December 1 through the end of the State season.

C. Big Game Hunting. Hunting of deer only is permitted on designated areas of the refuge subject to the following conditions:

1. Hunters must enter the refuge on foot only.

2. Archery hunting is not allowed during the firearm deer season.

D. Sport Fishing. Fishing is permitted on designated areas of the refuge subject to the following conditions:

1. Bank fishing is restricted to public use areas on Unit 1, Unit 2, and Long Lake Creek.

2. Boat fishing is restricted to Unit 1.

3. Boats are restricted to 25 HP maximum.

4. Boats are restricted to the period from May 1 through September 30.

5. Ice fishing is restricted to Unit 1.

6. Ice houses must be removed by March 1 annually.

Lostwood National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

3. Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

Slade National Wildlife Refuge

* * * * *

C. Big Game Hunting. Deer hunting is permitted on designated areas of the refuge subject to the following conditions:

1. Hunters may enter the refuge on foot only.

2. Archery hunting is not allowed during the firearm deer season.

* * * * *

Tewaukon National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of ring-necked pheasant is permitted on designated areas of the refuge.

C. Big Game Hunting. Hunting of white-tailed deer is permitted on designated areas of the refuge.

* * * * *

28. Section 32.55 *Oklahoma* is amended by revising paragraphs C. and D.4. of Wichita Mountains Wildlife Refuge to read as follows:

§ 32.55 Oklahoma.

* * * * *

Wichita Mountains National Wildlife Refuge

* * * * *

C. Big Game Hunting. Hunting of elk and white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits and payment of a fee are required.

D. Sport Fishing. * * *

4. Lake Elmer Thomas is open to fishing. Bass fishing on Lake Elmer Thomas is restricted to catch and release.

* * * * *

29. Section 32.56 *Oregon* is amended by revising paragraphs A.1., A.2., A.5., B., D.1., D.3., and removing paragraphs A.6., A.7., B.5., and D.5. of Cold Springs National Wildlife Refuge; by revising paragraphs A.2. and B.1. of Malheur National Wildlife Refuge; by revising paragraphs A.1., A.2., A.4., A.5., A.6., B., D.1., and D.2., and adding new paragraph D.3., and removing paragraph A.7. of McKay Creek National Wildlife Refuge; and by revising paragraphs A.1., A.4., A.5., revising introductory language of paragraph B., revising paragraphs B.1., B.3., B.4., B.5., D.1. through D.4. inclusive, and removing paragraphs A.6. through A.8. inclusive of Umatilla National Wildlife Refuge to read as follows:

§ 32.56 Oregon.

* * * * *

Cold Springs National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

1. The refuge is open from 5 a.m. to one and one-half hours after sunset. Decoys and other personal property may not be left on the refuge overnight.

2. Hunting is permitted only on Tuesdays, Thursdays, Saturdays, Thanksgiving Day, Christmas Day and New Year's Day.

* * * * *

5. Hunters may not possess more than 25 shells while in the field.

B. Upland Game Hunting. Hunting of pheasant, chukar, Hungarian partridge, and quail is permitted on designated areas of the refuge subject to the following conditions:

1. The refuge is open from 5 a.m. to one and one-half hours after sunset.

2. Hunting is permitted only on Tuesdays, Thursdays, Saturdays, Thanksgiving Day, Christmas Day and New Year's Day.

3. Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

4. Hunters may not possess more than 25 shells while in the field.

* * * * *

D. Sport Fishing. * * *

1. Use of non-motorized boats and boats with electric motors is permitted from March 1 through September 30.

* * * * *

3. Fishing is permitted only with hook and line.

* * * * *

Malheur National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

2. Snipe and dove hunters shall possess and use, while in the field, only nontoxic shot.

B. Upland Game Hunting. * * *

1. Hunting of pheasant, quail, partridge, and rabbit is permitted from the third Saturday in November to the end of the State pheasant season in designated zones of the Blitzen Valley east of Highway 205. Hunting is also permitted on Malheur Lake during the waterfowl hunting season.

* * * * *

McKay Creek National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

1. The refuge is open from 5 a.m. to one and one-half hours after sunset. Decoys and other personal property may not be left on the refuge overnight.

2. Hunting is permitted only on Tuesdays, Thursdays and Saturdays, Thanksgiving Day, Christmas and New Year's Day.

* * * * *

4. Hunters may not possess more than 25 shells while in the field.

5. Permits are required for the opening weekend of the season when it coincides with the season opening for upland game birds.

6. The use of boats is prohibited.

B. Upland Game Hunting. Hunting of pheasant, chukar, Hungarian partridge, and quail is permitted on designated areas of the refuge subject to the following conditions:

1. The refuge is open from 5 a.m. to one and one-half hours after sunset.

2. Hunting is permitted only on Tuesdays, Thursdays, Saturdays, Thanksgiving Day, Christmas Day and New Year's Day.

3. Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

4. Hunters may not possess more than 25 shells while in the field.

5. Permits are required for the opening weekend of the season.

* * * * *

D. Sport Fishing. * * *

1. The refuge is open from 5 a.m. to one and one-half hours after sunset.

2. Fishing permitted from March 1 through September 30.

3. Fishing is permitted only with hook and line.

* * * * *

Umatilla National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

1. The refuge is open from 5 a.m. to one and one-half hours after sunset except for the Hunter Check Station parking lot at the McCormack Unit which is open each morning two hours prior to State shooting hours for waterfowl. Decoys, boats and other personal property must be removed from the refuge following each day's hunt.

* * * * *

4. Hunters may not possess more than 25 shells while in the field.

5. Permits are required for hunting on the McCormack Unit.

B. Upland Game Hunting. Hunting of pheasant, chukar, Hungarian partridge, and quail is permitted on designated areas of the refuge subject to the following conditions:

1. Hunting of upland game birds is not allowed until noon of each hunt day.

* * * * *

3. Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

4. Hunters may not possess more than 25 shells while in the field.

5. Permits are required for hunting on the McCormack Unit.

* * * * *

D. Sport Fishing. * * *

1. The refuge is open from 5 a.m. to one and one-half hours after sunset.

2. Fishing is permitted on refuge impoundments and ponds from February 1 through September 30. Other refuge waters (Columbia River and its backwaters) are open in accordance with State regulations.

3. Only non-motorized boats and boats with electric motors are permitted on refuge impoundments and ponds.

4. Fishing is permitted only with hook and line.

* * * * *

30. Section 32.57 *Pennsylvania* is amended by adding new paragraph B.5. to Erie National Wildlife Refuge to read as follows:

§ 32.57 Pennsylvania.

* * * * *

Erie National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

5. Shotgun hunters will possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

31. Section 32.60 *South Carolina* is amended by revising paragraph A. of Santee National Wildlife Refuge to read as follows:

§ 32.60 South Carolina.

* * * * *

Santee National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of mourning doves, ducks, and coots is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

32. Section 32.61 *South Dakota* is amended by revising paragraph B. of Pocasse National Wildlife Refuge to read as follows:

§ 32.61 South Dakota.

* * * * *

Pocasse National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of pheasant is permitted on designated areas of the refuge subject to the following condition: Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

33. Section 32.62 *Tennessee* is amended by revising paragraph D.1. of Cross Creeks National Wildlife Refuge; and by revising introductory language of paragraph D. and revising paragraph D.1. of Lake Isom National Wildlife Refuge to read as follows:

§ 32.62 Tennessee.

* * * * *

Cross Creeks National Wildlife Refuge

* * * * *

D. Sport Fishing. * * *

1. Fishing is permitted on refuge pools and reservoirs from March 15 through October 31 from sunrise to sunset.

* * * * *

Lake Isom National Wildlife Refuge

* * * * *

D. Sport Fishing. Fishing is permitted on designated areas of the refuge subject to the following conditions:

1. Fishing is permitted from March 15 through October 15 only from sunrise to sunset.

* * * * *

34. Section 32.64 *Utah* is amended by revising paragraph B. of Ouray National Wildlife Refuge to read as follows:

§ 32.64 Utah.

* * * * *

Ouray National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of pheasant is permitted on designated areas of the refuge subject to the following condition: Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

35. Section 32.65 *Vermont* is amended by revising paragraphs B.1. and B.2., and adding new paragraphs B.3, B.4., C.3. and C.4. to Missisquoi National Wildlife Refuge to read as follows:

§ 32.65 Vermont.

* * * * *

Missisquoi National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

1. All hunters must register at Refuge Headquarters prior to hunting on the refuge.

2. The use of rifles is not permitted on that portion of the refuge lying east of the Mississippi River.

3. Hunting is not permitted from January 1 through August 31.

4. Shotgun hunters will possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

C. Big Game Hunting. * * *

3. All hunters must register at Refuge Headquarters prior to hunting on the refuge.

4. Only portable tree stands are allowed. Unattended tree stands are prohibited.

* * * * *

36. Section 32.66 *Virginia* is amended by adding paragraph A.8 to Chincoteague National Wildlife Refuge to read as follows:

* * * * *

§ 32.66 Virginia.

* * * * *

Chincoteague National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

8. Shotgun hunters will possess and use, while in the field, only nontoxic shot.

* * * * *

37.1 Section 32.67 *Washington* is amended by revising paragraphs A.2 through A.7. inclusive, removing paragraph A.8., revising introductory language of paragraph B., revising paragraphs B.1. and D., and adding paragraphs B.4., B.5., and B.6. to McNary National Wildlife Refuge; by revising paragraphs A.1., A.2., A.3., B., and adding new paragraph A.4. to Toppenish National Wildlife Refuge; and by revising paragraphs A.3., A.4., A.5., introductory language of paragraphs B., B.1., B.3., and D., and removing paragraph A.6. of Umatilla National Wildlife Refuge to read as follows:

§ 32.67 Washington.

* * * * *

McNary National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

2. The refuge is open from 5 a.m. to one and one-half hours after sunset. Decoys and other personal property may not be left on the refuge overnight.

3. Hunting is permitted only Wednesdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

4. Hunters in the marked hunt site area of the McNary Division must hunt within fifty (50) feet of designated blind sites except when shooting to retrieve crippled birds.

5. Hunters may not possess more than 25 shells while in the field.

6. On the first Saturday in December, only youth aged 10–17 and an accompanying adult aged 18 or over may hunt.

7. The furthest downstream island (Columbia River mile 341–343) in the Hanford Islands Division is closed to hunting.

B. Upland Game Hunting. Hunting of pheasant is permitted on designated areas of the refuge subject to the following conditions:

1. Hunting is not allowed until noon of each hunt day.

* * * * *

4. Hunters may not possess more than 25 shells while in the field.

5. On the first Saturday in December, only youth aged 10–17 and an accompanying adult aged 18 or over may hunt.

6. The furthest downstream island (Columbia River mile 341–343) in the Hanford Islands Division is closed to hunting.

* * * * *

D. Sport Fishing. Fishing is permitted on designated areas of the McNary Division subject to the following conditions:

1. The refuge is open from 5 a.m. to one and one-half hours after sunset.

2. Fishing is permitted from February 1 through September 30.

3. The use of boats and other floatation devices is not permitted.

4. Fishing is permitted only with hook and line.

* * * * *

Toppenish National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

1. The refuge is open from 5 a.m. to one and one-half hours after sunset. Decoys and other personal property may not be left on the refuge overnight.

2. Hunters may not possess more than 25 shells while in the field.

3. Hunters in the marked hunt site areas must hunt within fifty (50) feet of designated blind sites except when shooting to retrieve crippled birds.

4. On the first Saturday in December, only youth aged 10–17 and an accompanying adult aged 18 or over may hunt.

B. Upland Game Hunting. Hunting of pheasant and quail is permitted on designated areas of the refuge subject to the following conditions:

1. Hunting of upland game birds is not allowed until noon of each hunt days.

2. Hunters shall possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

3. Hunters may not possess more than 25 shells while in the field.

4. On the first Saturday in December, only youth aged 10–17 and an accompanying adult aged 18 or over may hunt.

* * * * *

Umatilla National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

3. The refuge is open from 5 a.m. to one and one-half hours after sunset. Decoys, boats, and other personal property may not be left on the refuge overnight.

4. Hunters may not possess more than 25 shells while in the field.

5. Digging or hunting from pit blinds is prohibited.

B. Upland Game Hunting. Hunting of pheasant, chukar, Hungarian partridge, and quail is permitted on designated areas of the refuge subject to the following conditions:

1. Hunting of upland game birds is not allowed until noon of each hunt day.

* * * * *

3. Hunters may not possess more than 25 shells while in the field.

D. Sport Fishing. Fishing is permitted on designated areas of the refuge subject to the following conditions:

1. The refuge is open from 5 a.m. to one and one-half hours after sunset.

2. Fishing is permitted on refuge impoundments and ponds from February 1 through September 30. Other refuge waters (Columbia River and its backwaters) are open in accordance with State regulations.

3. Fishing is permitted only with hook and line.

* * * * *

38. Section 32.68 *West Virginia* is amended by adding new paragraph B.4. to Ohio River Islands National Wildlife Refuge to read as follows:

§ 32.68 West Virginia.

* * * * *

Ohio River Islands National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

4. Hunters will possess and use, while in the field, only nontoxic shot (nontoxic shot regulation to be effective starting with the 1996–97 hunting season).

* * * * *

39. Section 32.69 *Wisconsin* is amended by adding new paragraph B.1. to Horicon National Wildlife Refuge to read as follows:

§ 32.69 Wisconsin.

* * * * *

Horicon National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

1. Shotgun hunters may use or possess only nontoxic shot while hunting upland game species.

* * * * *

40. Section 32.70 *Wyoming* is amended by revising paragraph B. of Pathfinder National Wildlife Refuge; and by revising paragraph B. of Seedskadee National Wildlife Refuge to read as follows:

§ 32.70 Wyoming.

* * * * *

Pathfinder National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of sage grouse and cottontail rabbit is permitted on designated areas of the refuge subject to the following condition: Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

Seedskadee National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of sage grouse and cottontail rabbit is permitted on designated areas of the refuge subject to the following condition: Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

Dated: October 20, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–29099 Filed 12–1–95; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 60, No. 232
Monday, December 4, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 250

[Docket No. R–0902]

Transactions With Affiliates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board is proposing to conform the definition of capital stock and surplus for purposes of section 23A of the Federal Reserve Act to the definition of unimpaired capital and unimpaired surplus used in Regulation O and to the definition of capital and surplus used by Office of the Comptroller of the Currency (OCC) in calculating the limit on loans by a national bank to a single borrower. The proposed rule seeks to reduce the burden for member banks and other insured depository institutions monitoring lending to their affiliates.

DATES: Comments must be submitted on or before January 8, 1996.

ADDRESSES: Comments should refer to Docket No. R–0902, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments also may be delivered to the Board's mail room in the Eccles Building between 8:45 am and 5:15 pm weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP 500 of the Martin Building between 9 am and 5 pm weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FOR FURTHER INFORMATION CONTACT: Pamela G. Nardolilli, Senior Attorney (202/452–3289) Legal Division, or Barbara Bouchard, Supervisory Financial Analyst (202/452–3072), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For users of the Telecommunications Device for the Deaf (TDD) only, please contact Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION: Section 23A of the Federal Reserve Act, 12 U.S.C. 371c, regulates certain transactions between insured depository institutions and their affiliates, including transactions between affiliated depository institutions. Section 23A is designed to protect insured depository institutions from abuses that may result from lending and asset purchase transactions with their affiliates. In general, section 23A prohibits an insured depository institution from engaging in covered transactions (which include extensions of credit and purchases of assets) with any single affiliate in excess of 10 percent of the institution's capital stock and surplus. A 20 percent aggregate limit is imposed on the total amount of covered transactions by an insured depository institution with all affiliates. Under section 23A, all extensions of credit between an insured depository institution and its affiliate must meet certain collateral requirements. Section 23A also prohibits an insured depository institution from purchasing any low-quality assets from an affiliate, and requires that all transactions with an affiliate must be conducted on terms that are consistent with safe and sound banking practices. Although section 23A, by its terms, applies only to member banks, the Federal Deposit Insurance Act applies section 23A to all nonmember insured banks (12 U.S.C. 1828 (j)) and the Home Owners' Loan Act applies section 23A to savings associations (12 U.S.C. 1468).

Section 23A does not include an explicit definition of "capital stock and surplus." A 1964 Board interpretation refers to the definition of capital as "the amount of unimpaired common stock plus the amount of preferred stock outstanding and unimpaired" but explicitly excluded debt-like instruments from the definition of capital and surplus. 12 CFR 250.161. In the interpretation, the Board recognized that certain notes and debentures could be considered as capital or capital stock for purposes of membership in the Federal Reserve System, but concluded that for purposes of certain Federal Reserve Act limitations and requirements, such instruments could not be regarded as part of either capital or capital stock. A subsequent Board interpretation issued in 1971 states that capital stock and surplus, as used in provisions of the Federal Reserve Act, includes reserves for loan losses and valuation reserves for securities. 12 CFR 250.162. As a practical matter, this definition of capital and surplus has been implemented as total equity capital and the allowance for loan and lease losses (ALLL) as set forth in the bank's Report of Condition and Income (Call Report).

Revisions to the Definition of Capital and Surplus

In February 1995, the OCC amended its regulation, 60 FR 8526 (February 15, 1995) (to be codified at 12 CFR 32.2(b)), setting forth lending limits on the amount a national bank may lend to a single counterparty and revised the definition of capital and surplus upon which lending limits are based. In June 1995, the Board amended its Regulation O, 60 FR 31053 (June 13, 1995) (to be codified at 12 CFR 215.2), to revise the definition of unimpaired capital and unimpaired surplus used to limit loans to insiders, to a definition that is consistent with that used for purposes of the OCC's single borrower lending limits to eliminate discrepancies in the definitions of capital used for different lending limit purposes and to reduce regulatory burden for banks monitoring lending to their insiders. Under the revised OCC regulation, capital and surplus is defined as Tier 1 and Tier 2 capital as calculated under the risk-based capital guidelines plus the balance of the allowance for loan and lease losses (ALLL) excluded from Tier 2 capital.[1]

The Board is recommending the adoption of a definition of "capital stock and surplus" for purposes of section 23A that is the same as the general capital definitions that are used for Regulation O and the national bank lending limits. Based on June 1995 Call Report data, the revised definition would decrease the limits for

[1] Under the banking agencies' risk-based capital guidelines, Tier 1 capital includes common stock, some noncumulative perpetual preferred stock and related surplus, and minority interest in equity accounts of consolidated subsidiaries. Tier 2 capital includes the ALLL up to 1.25 percent of the bank's weighted risk assets, perpetual preferred stock and related surplus, hybrid capital instruments, and certain subordinated debt.

transactions with affiliates for a majority of banks. Unlike the current capital stock and surplus definition for section 23A, the revised definition would permit banks to include in the calculation of capital stock and surplus, subordinated debt that qualifies for inclusion in Tier 2 capital. On the other hand, unlike equity capital, Tier 1 capital does not include securities revaluation reserves, in particular gains and losses on available-for sale securities, which under Statement of Financial Accounting Standards Number 115 (FAS 115) are considered a component of equity capital. Overall, it is estimated that the revised definition of capital stock and surplus would result in a change for most banks of 5 percent or less from their current limit, although a few community and mid-sized banks would experience substantial changes as a result of their having large gains or losses on available-for-sale securities.

Notwithstanding the decrease for many banks in the amount of capital stock and surplus that would be used to calculate their section 23A limit under the revised definition, the Board believes that, over all, revising the definition would be beneficial for all insured depository institutions for two reasons. First, it would provide consistency in the capital definition used for Regulation O and the national bank lending limits. Second, the revised definition would result in a more stable limit over time than the current definition because it excludes revaluation gains and losses on available-for-sale securities, a component of equity capital that tends to be volatile.

The Board also proposes to amend 12 CFR 250.161 and 12 CFR 250.162 to delete the reference to section 23A to reflect the proposed change.

Initial Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b))—a description of the reasons why the action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule—are contained in the supplementary information above.

Another requirement for the initial regulatory flexibility analysis is a description of, and where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposed rule would apply to all insured depository institutions, regardless of size. The Board has determined that its proposed rule would impose no additional reporting or recordkeeping requirements, and that there are no relevant federal rules that duplicate, overlap, or conflict with the proposed rule. In addition, the proposed rule is not expected to have a significant economic impact on small institutions. Instead, the proposed rule is expected to relieve the regulatory burden on a majority of insured depository institutions.

Paperwork Reduction Act

In accordance with section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.; 5 CFR 1320 Appendix A.1.), the Board reviewed the proposed rule under authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the proposed rule.

List of Subjects in 12 CFR Part 250

Credit, Federal Reserve System.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 250 as set forth below:

PART 250—MISCELLANEOUS INTERPRETATIONS

1. The authority citation for part 250 would continue to read as follows:

Authority: 12 U.S.C. 248(i) and 371c(e).

§ 250.161 [Amended]

2. In § 250.161 paragraph (d) is amended by removing the words "loans to affiliates (12 U.S.C. 371c)," in the first sentence.

§ 250.162 [Amended]

3. In § 250.162, paragraph (a) is amended by removing the words "Loans to affiliates (12 U.S.C. 371c), purchases" in the first sentence and adding "Purchases" in their place.

4. A new § 250.242 is added to read as follows:

§ 250.242 Section 23A of the Federal Reserve Act—definition of capital and surplus.

(a) An insured depository institution's capital stock and surplus for purposes of section 23A of the Federal Reserve Act (12 U.S.C. 371c) is defined as:

(1) An institution's Tier 1 and Tier 2 capital included in the institution's risk-based capital under the capital guidelines of the appropriate Federal banking agency, based on the institution's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3); and

(2) The balance of an institution's allowance for loan and lease losses not included in the institution's Tier 2 capital for purposes of the calculation of risk-based capital by the appropriate Federal banking agency, based on the institution's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3).

(b) *Definitions.* For purposes of this section, the terms *appropriate Federal banking agency* and *insured depository institution* are defined as those terms are defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813.

By order of the Board of Governors of the Federal Reserve System, November 28, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–29425 Filed 12–1–95; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–58–AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes. This proposal would require modification of the thrust reverser doors, and replacement of the Collins multifunction display units (MFDU) with new MFDU's. This proposal would also require installation of a placard, for certain airplanes. This proposal is prompted by a report that cracks were found in the flanges of the main hinge fittings of the horizontal stabilizer due to higher than anticipated loads induced during thrust reverser operation. The actions specified by the proposed AD are intended to ensure structural integrity of the horizontal stabilizer by reducing the thrust reverser loads on the horizontal stabilizer.

DATES: Comments must be received by January 16, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–58–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments

may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2141; Fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–58–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–58–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD advises that, during full scale fatigue testing of the horizontal and vertical stabilizers, cracks were found in the flanges of the left- and right-hand main hinge fittings of the horizontal stabilizer on a Model F28 Mark 0100 test article. Investigation revealed that such cracking is the result of higher than anticipated loads induced on the tail of the airplane during thrust reverser operation. This condition, if not corrected, could lead to a deteriorated fatigue life of the main hinge fitting structure on the horizontal stabilizer and reduced structural integrity of the horizontal stabilizer.

Fokker has issued Service Bulletin SBF100–78–010, Revision 1, dated April 26, 1994, which describes procedures for modification of the thrust reverser doors. This modification involves installation of extended bumper fittings on the thrust reverser doors. Accomplishment of this modification will reduce the reverse thrust at a given engine pressure ratio by increasing the spillage gap.

Fokker has also issued Service Bulletin SBF100–31–036, dated February 7, 1994, which describes procedures for replacement of the Collins multifunction display units (MFDU) having part number (P/N) 622–8047–412 or 622–8047–422 with new MFDU's having P/N 622–8047–414 or 622–8047–423, respectively. Accomplishment of this replacement will reduce thrust reverser loads on the horizontal stabilizer.

Additionally, Fokker has issued Service Bulletin SBF100–31–038, dated April 26, 1994, which describes procedures for installation of a placard on the main instrument panel, if the replacement of the MFDU is accomplished prior to modification of the thrust reverser door. The placard provides current engine limits for these airplanes.

The RLD classified these service bulletins as mandatory and issued Netherlands airworthiness directive BLA 94–062(A), dated April 29, 1994, in order to assure the continued airworthiness of these airplanes in the Netherlands.

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the thrust reverser doors. The proposed AD would also require replacement of certain Collins multifunction display units (MFDU) with certain new MFDU's, and installation of a placard, if the replacement of the MFDU is accomplished prior to modification of the thrust reverser door. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 102 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 127 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $19,000 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $2,715,240, or $26,620 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket.

A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 95–NM–58–AD.

Applicability: Model F28 Mark 0100 series airplanes; serial numbers 11244 through 11460 inclusive, 11463 through 11469 inclusive, 11471, 11474, 11476, 11478, and 11479; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To ensure structural integrity of the horizontal stabilizer by reducing the thrust reverser loads on the horizontal stabilizer, accomplish the following:

(a) Prior to the accumulation of 15,000 total flight cycles, or within 1 year after the effective date of this AD, whichever occurs later, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD concurrently, except as provided by paragraph (b) of this AD.

(1) Modify the thrust reverser doors in accordance with Fokker Service Bulletin SBF100–78–010, Revision 1, dated April 26, 1994; and

(2) Replace the Collins multifunction display units (MFDU) having part number (P/N) 622–8047–412 or 622–8047–422 with new MFDU's having P/N 622–8047–414 or 622–8047–423, respectively; as applicable; in accordance with Fokker Service Bulletin SBF100–31–036, dated February 7, 1994.

(b) Paragraph (a)(2) of this AD may be accomplished prior to paragraph (a)(1) of this AD provided that a placard is installed on the main instrument panel in accordance with Fokker Service Bulletin SBF100–31–038, dated April 26, 1994, and removed, prior to further flight, after accomplishment of the requirements of paragraph (a)(1) of this AD.

(c) For airplanes that have been modified in accordance with paragraphs (a)(1) and (a)(2) of this AD: No person may install a Grumman Aerospace aft engine cowling having part number 1159P41440 on any airplane unless it has been previously modified in accordance with Fokker Component Service Bulletin P41440–78–02, dated December 17, 1993, as revised by Fokker Component Service Bulletin Change Notification P41440–78–02/001, dated February 25, 1995.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 28, 1995.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–29443 Filed 12–1–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 95–ACE–13]

Proposed Amendment to Class E Airspace; Webster City, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Webster City Municipal Airport, Webster City, IA. The development of a new Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) has made the proposal necessary. The intended effect of this proposal is to provide additional controlled airspace for aircraft executing the SIAP at Webster City Municipal Airport.

DATES: Comments must be received on or before January 8, 1996.

ADDRESSES: Send comments on the proposed in triplicate to: Manager, Air Traffic Operations Branch, ACE–530, Federal Aviation Administration, Docket No. 95–ACE–13, 601 East 12th Street, Kansas City, Missouri 64106.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Central Region at the same address between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Operations Branch, Air Traffic Division, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Air Traffic Operations Branch, ACE–530C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number: (816)426–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 95–ACE–13." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments

received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to provide additional controlled airspace for a new Instrument Flight Rules (IFR) procedure at the Webster City Municipal Airport. The additional airspace would segregate aircraft operating under VFR conditions from aircraft operating under IFR procedures. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Webster City, IA [Revised]

Webster City Municipal Airport, IA
(lat. 42°26′12″ N., long. 93°52′08″ W)
Webster City NDB
(lat. 42°26′29″ N., long. 93°52′10″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Webster City Municipal Airport and within 2.6 miles each side of the 155° bearing from the Webster City NDB extending from the 6.4-mile radius to 7.4 miles southeast of the airport.

* * * * *

Issued in Kansas City, MO, on November 14, 1995.

Richard L. Day,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 95–29354 Filed 12–1–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 960

[Docket No. 951031259–5259–01]

Licensing of Private Remote-Sensing Space Systems

AGENCY: National Environmental Satellite, Data, and Information Service (NESDIS), NOAA, Commerce.

ACTION: Notice of inquiry and request for public comment.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is considering revisions to its regulations for the licensing of private remote sensing space systems under Title II of the Land Remote Sensing Policy Act of 1992, 15 U.S.C. 5601 *et seq.* To promote the process, NOAA is using an informal Task Group, of NOAA and Commerce employees, to compile and consider public comment on the more significant issues involved in the licensing process. NOAA will use these comments to decide the extent to which it needs to revise its regulations and what issues should be addressed. Should NOAA decide that new regulations are necessary a proposed rule would be published to solicit public comment. NOAA will then circulate its final draft of proposed regulations in the informal rulemaking process. NOAA intends that soliciting comments on the issues proposed in this notice prior to the issuance of any proposed rule will ensure that NOAA's regulations include provisions advantageous to industry, as well as to Government. This Notice solicits such comments, particularly from the regulated industry.

DATES: Comments must be received on or before February 2, 1996.

ADDRESSES: Comments should be sent to, Michael Mignogno, NOAA, National Environmental Satellite, Data, and Information Service, Federal Building 4, Room 3301–E, Washington, D.C. 20233.

FOR FURTHER INFORMATION CONTACT: Michael Mignogno at (301) 457–5210 or Catherine Shea, NOAA, Office of General Counsel at (301) 713–0053. Additional Discussion Packages are available from Michael Mignogno at the above address.

SUPPLEMENTARY INFORMATION: In 1987, NOAA published its licensing regulations that set forth procedures for submission and Government review of an application pursuant to the Land Remote Sensing Commercialization Act of 1984. Only one license was issued under this act. When Congress passed the Land Remote Sensing Policy Act of 1992 (the Act), it made several revisions to the licensing process to stimulate commercial interest in operating systems. On March 10, 1994, the President issued his policy to promote U.S. competitiveness in remote sensing space capabilities while protecting U.S. national security and foreign policy interests. Since 1993, NOAA has issued nine licenses.

NOAA is considering updating its 1987 regulations to reflect statutory changes, intervening events, and recent licensing experiences and to ensure that the Government's oversight is simple, transparent, and predictable. Particularly, NOAA seeks to support the President's policy that long term U.S. national security and foreign policy interests are best served by ensuring the U.S. industry continues to lead this emerging market.

In order to foster the policy of transparency in the licensing process, NOAA is seeking public input on whether extensive new regulations are necessary and, if so, what issues should be addressed in such rule. To assist this process, NOAA developed, for the Task Group, a series of Discussion Packages that highlight some of the more significant areas for discussion. NOAA is seeking early public input on these and on other significant aspects of the licensing process. NOAA is especially interested in suggestions for innovative methods to carry out its statutory licensing responsibilities in ways that enhance U.S. competitiveness. The significant issues identified to date and highlighted in the discussion packages can be summarized as follows:

1. Review Procedures for License Applications

A. How can the process be improved and modified to provide greater transparency and predictability and shorter response time?

NOAA seeks to eliminate uncertainty from the licensing process that could potentially threaten commercial practices while preserving essential national security and foreign policy interests. For each new system, these interests are first addressed during the review of the license application. The review must be thorough and careful, but at the same time transparent, predictable, and timely so as not to deter pursuit of and investment in potential systems. The Government must complete its review within the statutory time limit of 120 days or, if possible, within a shorter time limit.

To address these legitimate interests and comply with the intent of the Act and the President's policy, NOAA is considering whether the Government should institute more formal administrative time limits and more detailed record keeping requirements in making determinations on a license application. It is contemplated that under such a system any reviewing agency unable to comply with a time limit would be required to submit a satisfactory explanation and specify the additional time required. The administrative record would be opened as soon as an application is received and would include all comments on that application. *Ex parte* communications would not be permitted and oral input should not influence the process in any way. The applicant would have the right to inspect this record during business hours.

To promote timely and transparent decisions NOAA is considering additional procedures pursuant to its enforcement authority under section 203 of the Act. This section establishes the right to a hearing on the record in the event NOAA takes certain adverse actions such as the denial of a license or imposition of conditions in a license. NOAA is considering defining adverse actions to include the Government's failure to act within the applicable time limit and/or advise the applicant of the reasons for the delay.

In the event of an appeal, the administrative record would stand alone as evidence for all determinations made during the application review. NOAA would have to demonstrate that a preponderance of the evidence in this record establishes, for example, that the system proposed would compromise identified national security or foreign policy interests. As such, the record would have to include information from the appropriate secretary sufficient to identify the interest at risk and describe why the proposed system would not preserve that interest. (This information may be classified where necessary). Should NOAA establish such an appeal process, the record would have to contain this information and the evidence would have to be sufficient to meet the requisite test or the agency determination would not prevail.

B. What are the minimum informational requirements for a complete application?

A related issue in terms of ensuring expeditious review is determining when an application is considered complete. It is important that applicants and the Government agree on what basic information must be provided in order to enable the Government to perform a thorough review and, at the same time, avoid over-burdening the applicant. Such an understanding also will avoid frequent requests for additional information which delay the process. Particularly important is the information that describes the operational aspects of a proposed system which are significant in terms of its national security and foreign policy implications. NOAA is interested in assessing what information is necessary before a review can begin and what level of burden is imposed by gathering the information necessary for a complete application. Any comments received on this issue also will be relevant in terms of compliance with the Paperwork Reduction Act.

The existing informational requirements are found at 15 CFR 960.6. A more complete list, that includes additional items identified as significant by the reviewing agencies during recent license application reviews, is contained in Discussion Package 1. This Discussion Package also sets forth in more detail the type of process that NOAA is considering for reviewing license applications.

2. Restricting Imaging To Preserve National Security/Foreign Policy Interests—What Standard Must Be Applied and What Procedures Must Be Followed?

Once a license is issued and a remote sensing satellite is operational, the most critical issue for the licensee is when the Government might restrict imaging of a particular area and for how long because of national security or foreign policy considerations.

The basic license condition, derived from the President's policy, provides:

The Secretary of Commerce may, after consulting with the Secretary of Defense or State, as appropriate, require the licensee to limit imaging an area and/or limit distributing data from an area during any period when national security or foreign policy interests may be compromised.

To ensure that restrictions will be invoked only where appropriate, this consultation and any decision to implement this condition will be controlled at the Secretarial level and any Secretarial disagreement will be elevated to the Presidential level.

While the above standard and process appears to have achieved considerable consensus, questions have been raised whether such a standard is too vague. For example, representatives of the media addressed this issue in the 1989 Petition for Rulemaking. The media representatives have maintained that imaging could be restricted only if "there is clear evidence that such action is necessary to prevent serious and immediate injury to distinct and

compelling national security and foreign policy interests of the United States." (Petition for Rulemaking filed by Radio Television News Directors Association, April 5, 1988)

In 1989, NOAA responded to this Petition for Rulemaking announcing that it would reopen its regulations and would incorporate the principle that "conditions imposed in a license will be the least burdensome possible." 54 FR 1945. This rulemaking was interrupted by passage of the Act in 1992 and NOAA is now considering a number of provisions to implement the President's policy. These could include ensuring that limitations on imaging would be imposed only over the smallest area and for the shortest period of time possible and would not be imposed at all if comparable data is otherwise available.

Ultimately, any standard and process for making decisions concerning the need for restrictions on imaging must ensure that the Government has the ability to protect its national security and international obligation interests adequately while preserving First Amendment rights and other U.S. interests, including that of protecting industry's position in global competition. NOAA believes that it is now an appropriate time for a full discussion of this issue before systems become operational. Comments from previous rulemaking actions and other relevant material are contained in Discussion Package 2.

3. Review of Foreign Agreements

Section 202(b)(6) of the Act requires that licensees "notify the Secretary [of Commerce] of any agreement the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations, or entities." To implement this section, NOAA's licenses now require licensees to provide notice of a significant or substantial foreign agreement at least 60 days before conclusion. This requirement reflects interagency consensus that sixty days is needed for meaningful notification but that, consistent with the President's policy, this burden is justified only if agreements are significant or substantial. As required by the President's policy, NOAA anticipates defining such agreements in these regulations and solicits comments on this issue (as well as the appropriateness of the 60 day review period).

This provision of the Act is subject to differing legal opinions. One view of the Act is that it requires that licensees notify the Secretary of *every* agreement. The Department of Commerce disagrees with this interpretation. Legislation has been introduced on this subject; however, to date no subsequent legislative action has occurred.

Should NOAA's legal interpretation not be upheld and no legislation be passed, comments might want to address whether NOAA should consider defining different classes of agreements with corresponding notification requirements. For example, the regulations could retain a 60 day notice requirement for significant or substantial agreements while requiring that notice of other agreements be provided only prior to their effective date.

A. What agreements must be submitted for review?

The threshold question with respect to the notification requirement of section 202(b)(6) of the Act is what agreements are covered. The purpose of such notification is to ensure continued preservation of U.S. national security and foreign policy interests. Existing licenses require notification of those types of agreements that could have particular national security or foreign policy implications such as: those that give a foreign party control over the operation of the system, e.g., the ability to operate the spacecraft, task the sensors, or exercise managerial control; and those that provide for a significant role in distributing the data from the system, e.g., by operating a foreign ground station.

Routine data sales have traditionally been excluded from the definition of significant agreement because an advance notice requirement would put U.S. companies at a competitive disadvantage. Furthermore, scrutinizing all direct sales to foreign customers would not effectively preserve U.S. interests inasmuch as a determined buyer could purchase any scene or scenes desired through a variety of legal channels.

More specifically, existing licenses require notice of the following types of foreign agreements:

(1) cooperation in the launch and/or operation of the spacecraft;

(2) Tasking of the satellite sensors, modifying satellite tasking commands, revising the priority of tasking requests, or otherwise providing an opportunity to exercise managerial control over the system's operation;

(3) Real-time direct access to unenhanced data; or

(4) Distributorship arrangements involving the receipt of high volumes of unenhanced data;

(5) An equity interest in the Licensee. (A license amendment is required if the aggregate equity interest in the Licensee by foreign nations and/or persons exceeds or will exceed 25 percent.)

These licenses exclude agreements that provide only for the sale of data or value added products, or for the establishment of marketing outlets in foreign countries established in the ordinary course of business if described in the plan for sale and distribution contained in the license application.

NOAA seeks comment on whether the above criteria are adequate to define "significant or substantial" agreements. In particular, NOAA is searching for appropriate criteria to determine when review is necessary for agreements providing solely for foreign investment in a licensee. Every sale of stock to a foreign investor cannot be subject to review. On the other hand, a threshold for review is necessary to ensure that the technology remains secure and that the operator remains sufficiently under U.S. ownership or control that it must respond appropriately when necessary to preserve national security. Furthermore, in accordance with the President's policy, aggregate foreign investment in excess of a particular amount would not only be subject to notification but to approval, i.e., by amendment to the license. NOAA is particularly interested in industry views about what criteria should trigger a review of a foreign investment agreement.

B. What process should be in place to inform applicants when the Government has identified a concern with a potential foreign agreement? When the Government raises a concern and issues negative advice, what rights of appeal should be available to an applicant or licensee?

To promote more timely and transparent decisions on the review of significant foreign agreements NOAA is considering a process that would be similar to the review of an initial license application in that the Government would institute more formal administrative time limits and more detailed record keeping requirements. However, this process would recognize that, unlike the case of an initial application, the Secretary does not have the legal authority to approve or disapprove these agreements. Therefore, if the Secretary does not advise a licensee of any conflicts within sixty days of notification, the licensee is free to enter into the agreement.

A possible process to be considered and on which NOAA seeks comments is as follows: If the Secretary does advise a licensee of a conflict, i.e., that the proposed agreement will compromise national security or foreign policy interests, the licensee may at that point request a hearing on the record to determine whether a preponderance of the evidence in the record supports that conclusion. In circumstances where waiting for the normal hearing process could jeopardize relations among parties to the agreement, NOAA would provide an expedited hearing process.

Discussion Package 3 sets forth in more detail the type of process under consideration.

6. Miscellaneous

Comments on the above issues are specifically solicited but all comments on improving and simplifying the regulations are welcome and will be reviewed and considered in the course of the normal agency process of issuing proposed regulations, should such regulations be deemed necessary. NOAA is also interested in comments on whether or not NOAA should sponsor a public meeting on the issues presented in this notice or others related to the regulations.

NOAA intends that all information obtained from the public in connection with this Notice be a matter of public record. Consequently, comments must be in writing to be considered. Oral comments are discouraged. NOAA will not accept submissions made on a confidential basis. The record containing all comments will be maintained with the above listed contacts, NOAA, Federal Building 4, Room 3301, Suitland, MD. From 9 a.m. to 3 p.m., it may be inspected, by appointment, and any comments copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Further information about inspection and copying of records at this facility may be obtained from the above contacts.

Commentors can request copies of the Discussion Packages referenced in this document from the contacts listed above.

Robert S. Winokur,

Assistant Administrator for Satellite and Information Services.

[FR Doc. 95–29330 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–12–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM 95–7]

Registration of Claims to Copyright, Group Registration of Photographs

AGENCY: Copyright Office, Library of Congress.

ACTION: Proposed regulations with request for comments.

SUMMARY: The Copyright Office of the Library of Congress is proposing regulations that permit group registration of unpublished or published photographs without the deposit of copies of the works. These proposed regulations would enable photographers and photography businesses to seek the benefits of registration by making it less burdensome for them to register a claim to copyright in a large number of photographs taken by a single photographer or photography business. The Office seeks comment on the proposed regulations.

DATES: Comments on the proposed regulation should be in writing and received on or before January 18, 1996. Reply comments should be received February 2, 1996.

ADDRESSES: If sent BY MAIL, fifteen copies of written comments should be addressed to Marilyn J. Kretsinger, Acting General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366. If BY HAND, fifteen copies should be brought to: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room LM–407, First and Independence Avenue, S.E., Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, Telephone: (202) 707–8380 or Telefax (202) 707–8366.

SUPPLEMENTARY INFORMATION: Section 408 of 17 U.S.C. provides that a copyright owner may obtain registration of a copyright claim by delivering to the Copyright Office a deposit, an application and a fee. With respect to the deposit, the nature of the copy to be deposited is set out in general terms, e.g., one complete copy of an unpublished work. However, broad authority is granted to the Register to provide for alternative forms of deposit. Section 408(c)(1) provides that the Register may require or permit the deposit of identifying material in lieu of an actual copy of the work. Congress' intent is reflected in the various legislative reports that accompanied the enactment of the copyright law. Congress instructed the Office to keep the deposit provisions flexible "so that there will be no obligation to make deposit where it serves no purpose, so that only one copy or phonorecord may be deposited where two are not needed, and so that reasonable adjustments can be made to meet practical needs in special cases." H.R. Rep. No. 1476, 94th Cong., 2d Sess. 151 (1976); S. Rep. No. 473, 94th Cong., 1st Sess. 134 (1975). The law also authorizes the Register to require or permit "a single registration of a group of related works."

Registration can be made at any time. Section 412 of 17 U.S.C. prohibits the awarding of statutory damages and attorney's fees where the work has not been registered before an infringement occurs.[1] Although actual damages as well as injunctions are always available remedies, the Copyright Office recognizes the significant benefits of early registration.

Registration Concerns Raised by Photographers

During the congressional hearings on the Copyright Reform Act of 1993, photographers complained that they were unable to take advantage of the benefits of registration because the Copyright Office practices were exceedingly burdensome. Photographers stated that it required a tremendous amount of time and effort to submit a copy of each image included in a collection and was financially burdensome. Prior to 1993, the Office revised its practices in an attempt to make registration easier for photographers. However, a copy of each image continued to be required. These changes did not sufficiently ease the burdens, and few photographers have registered their works. Consequently, photographers urge that they have been given a clear legal right by the copyright law, but no effective remedy; and this reality encourages infringers to continue unlawful conduct. *See*, Copyright Reform Act of 1993: Hearings on H.R. 897 Before the Subcomm. on Intellectual Property and Judicial Administration of the House Comm. on the Judiciary, 103d Cong., 1st Sess. 370 (1993). *See also* Copyright Reform Act of 1993: Hearing on S. 373 Before the Subcomm. on Patents, Copyrights and Trademarks of the Senate Comm. on the Judiciary, 103d Cong., 1st Sess. 169 (1993). (Testimony of Andrew Foster, Executive Director of the Professional Photographers of America, Inc.)

In June 1993, the Librarian of Congress appointed an Advisory Committee on Registration and Deposit (ACCORD). That Committee recommended that the Copyright Office "greatly expand the use of group registration and optional deposit to reduce the present burdens" and "consult more actively and frequently with present and potential registrants to

[1] A three month grace period, measured from the date of first publication, is provided for published works.

hear their problems and to respond to them whenever possible." Library of Congress, Advisory Committee on Copyright Registration and Deposit 31 (1993).

For the past year the Office has met with photographers and their representatives who have urged that the nature of photography, where thousands of images may be created with only a few, if any, being published makes registration difficult. At the time registration may be sought, the photographer does not know which photographs, if any, will be published. The definition of publication was also cited as problematic; in many cases it is unclear whether a photograph has been published. Even when it is clear that a photograph has been published, the photographer may be unaware of the publication. Finally, photographers and their representatives noted that often the film is turned over to the photographer's client for processing and use, thus leaving the photographer with nothing to deposit with the Copyright Office.

Photographs are generally copyrightable; an individual selects a camera, lens, film, and an image to capture taking into consideration choices such as lighting and composition. Since photographs are usually entirely new works, for examination purposes there is no issue with respect to whether or not a photograph is copyrightable. Therefore, it is possible to consider registration without an actual deposit of the work. Moreover, in the past the Library of Congress has not relied on the copyright registration system as a source for its photography collections. This is not the case with works such as music, motion pictures, plays, poems, choreography or novels. If the Library depended on the copyright deposits for its photograph collections, the Copyright Office would not be able to consider registration without a deposit of a copy of the work. In proposing this regulation, the Office is not waiving the Library's rights to receive photographs that are registered. The Library may select from five to ten photographs from each registered group of photographs.

Recognizing the difficulties that photographers face in registering their works and desiring to ameliorate these problems, the Office is seeking a workable solution for photographers which does not cause unforeseen problems for publishers, photofinishers and other users of photographs. To this end, under the authority granted in 17 U.S.C. 408(c)(1), the Office is proposing regulations that permit a single registration for a group of unpublished and published related works and also permit registration with identifying material in place of actual photographs.

We believe that those who use photographs should not be adversely affected. The Office already will register a claim in an unlimited number of photographs as an unpublished collection; that collection would bear only a collective title, and the deposit would consist of contact sheets or a videotape. There would be no individual identifiers for individual images contained in the collection.

Guidelines for Group Registration of Photographs

The proposed regulations permit group registration of unpublished and published photographs on a single application with a fee of $40, and a deposit of identifying material, if certain conditions are met. The conditions are that the photographs must be by a single author, be owned by the same copyright claimant (who need not be the author), be created on or after March 1, 1989, be created during a single calendar year, and bear a title which identifies the group as a whole. Published works whose exact date of publication is known may be included in a collection as long as the dates of publication do not exceed a three month period. For example, in one collection a photographer may include both unpublished photographs created in 1995, and photographs that are known to have been published between March 1, 1995, and May 31, 1995.

The approximate number of photographs in the group must be indicated on the application and in the identifying material; where the collection contains clearly published works, the approximate number of such photographs must be included in the identifying material. Where a group contains both unpublished and published photographs, the Copyright Office will assign a registration number, VAu (for unpublished works) or VA (for published works) based on the preponderant status of the photographs as indicated in the identifying material.

Identifying Material

The identifying material must contain the following information: name of the author; the name and address of the claimant; the title given to the group as a whole; the approximate number of photographs included in the group, and, if the group includes photographs known to be published, an approximate number of the works that have been published. It must also contain the range of dates (month, year) during which the photographs were created (taken)—i.e., the earliest and the latest; the range of dates of first publication (month, day, year) for those photographs that have been published; a general description of the subject matter captured by the photographs; where more than one subject is included, a general description of each, with particular emphasis on newsworthy subjects, e.g., bombing of Federal Building in Oklahoma City, April 1995; ghost towns of Arizona; Million Man March in Washington, D.C., October 1995. The identifying material must include the name of the person to contact about using the work if that information is not already given.

It may also contain any additional identifiers, such as an identification coding that is used to administer rights. Since the deposit will not be a copy of each photograph and a question could arise as to whether or not a particular photograph has been registered, it is in the claimant's best interest to include as much information as possible to describe the photographs covered by the registration.

Other Group Registration Possibilities

The Office already permits or requires a single registration for a number of works. These include the following: contributions to periodicals by the same author who is an individual (not an employee for hire) which are published in a twelve month period. For this, a basic application, for example Form VA for photographs, must be submitted with an adjunct application, Form GR/CP. All component parts of a multipart work that are owned by the same claimant and that are part of the unit of publication should be registered together on a single application. A single registration may be made for all categories of unpublished works as unpublished collections if certain conditions are met. The deposit must contain the entire copyrightable content of each work included in the collection. 37 CFR 202.20

Separate Registration for an Individual Photograph

Individual photographs may be separately registered. To make a separate registration for an individual photograph, an applicant should submit a Form VA, a fee of $20, and a copy of the photograph which complies with the existing deposit requirements found at 37 CFR 202.20.

Selection of Archival Prints for the Collections for the Library of Congress

One of the conditions of this proposed group registration procedure is that the Library of Congress be able to select between five to ten photographs from each registration for its collections. Within six months of registration, the Library of Congress will determine whether it wishes to consider certain photographs for its collections. Generally, the Library is interested in photographs covering newsworthy events by specific photographers, and it does not anticipate making a large number of requests for samples or archival quality prints.

Submission of Sample, if Requested

In order for the Library of Congress to determine whether it wishes to make a selection, it will need to examine a sample of the photographs included in the registration. The Library will first review the application and identifying material which identify the photographs included in the group registration. The Library may then request that the photographer or photography business send a sample of from fifty to one hundred images of the photographs in the format that is the least expensive, but will still facilitate the Library's selection process, *e.g.*, slides, contact prints in black and white or in color, or good quality photocopies in black or white. For registrations of up to five thousand photographs, fifty images may be requested as a sample; for registrations of over five thousand photographs, another ten images may be requested for each additional one thousand photographs covered in the registration. A maximum of one hundred images may be requested for registrations covering over ten thousand photographs.

Deposit of Archival Quality Photographs

After reviewing the sample, the Library of Congress may request from five to ten archival quality photographs, depending on the number of photographs included in the group registration. The Library's guidelines for deposit of photographs are included in the new proposed Copyright Office regulation found at 37 CFR 202.20(c)(2)(xx).

The number of photographs that the Library may select depends on the number of photographs covered in one group registration. For any group registration of up to five thousand photographs, the Library may select five photographs for its collections; for each additional one thousand photographs included in a group registration up to ten thousand, the Library may select another photograph. For any group over ten thousand, the deposit would remain ten, archival quality photographs.

Effective Date

The proposed regulations permitting group registration of photographs will be effective upon publication of an interim or final rule. They may be used to register photographs created on or after March 1, 1989, the effective date of the Berne Convention Implementation Act of 1988. Prior to March 1, 1989, the copyright law required that a copyright notice be placed on all copies of published works; however, for works published after that date, use of the notice is optional. Therefore, these regulations cover only photographs where the use of a copyright notice is not an issue.

Further Public Comment

The Office has met with various parties, and has been made aware both of certain concerns and also the guidelines agreed upon by The Board of Directors of the American Society of Media Photographers, the Professional Photographers of America, Photo Marketing Association International, the Association of Professional Color Laboratories, the Professional School Photographers Association International and the Coalition for Consumers' Picture Rights. One of that group's agreements is to work to eliminate the 17 U.S.C. 412 requirement as a precondition for statutory damages and attorneys fees for photographers. The Office takes no position on this particular proposal but observes that photographers need real relief now; we believe the proposed rule offers that relief.

The Copyright Office seeks comment on these proposed rules. Following review of all comments, the Office will adopt interim or final regulations. The Copyright Office is interested in receiving information based on actual experience, if possible, including answers to the following questions.

1. How have courts dealt with deposits consisting of only identifying material rather than a complete copy of the work?

2. Have such registrations been accorded prima facie evidentiary effect with respect to copyrightability as well as to the facts in the certificate?

3. How would the problems of photographs registered under this regulation differ from those of other registered collections, e.g., in collections where there are no individual identifiers for the works but the Copyright Office has a copy of each work included in the collection?

4. How does this proposed group registration differ from a group registration for a database covering a three month period of time where the deposit consists of only a small sample of the copyrightable authorship from a representative day?

5. What problems would be caused by registrations made under these proposed regulations that include both unpublished and published works?

6. Will inclusion of information about the agent or licensing entity be helpful?

7. What might be the abuses, if any?

8. Is the Office proposing too many photographs to be registered on one application? If yes, what number would be more appropriate?

9. Are there other identifiers that could assist in identifying the registered works?

Conforming Amendments

The Copyright Office also is proposing to amend 37 CFR 202.3(b)(3)(ii) and footnote 6 to 37 CFR 202.3(c)(2) to conform to the addition of new 37 CFR 202.3(b)(9).

List of Subjects in 37 CFR Part 202

Claims, Copyright.

Proposed Rule

In consideration of the foregoing, the Copyright Office proposes to amend 37 CFR part 202 in the manner set forth below:

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

1. The authority citation for part 202 is revised to read as follows:

Authority: 17 U.S.C. 408 and 702.

§ 202.3 [Amended]

2. Section 202.3(b)(3)(ii) is amended by removing "(b)(8)" and adding "(b)(9)."

3. In § 202.3, paragraph (b)(9) is redesignated as paragraph (b)(10) and a new paragraph (b)(9) is added to read as follows:

§ 202.3 Registration of copyright.

* * * * *

(b) * * *

(9) Group registration of photographs.

(i) Pursuant to the authority granted by 17 U.S.C. 408(c)(1), and without waiving any rights of the Library of Congress to review and acquire copies of individual photographs, the Register of Copyrights has determined that, on the basis of a single application, and a single filing fee of $40, a single registration may be made for a group of photographs, if the following conditions are met:

(A) The group bears a single title identifying the group as a whole;

(B) All of the photographs were created by the same author;

(C) All of the photographs have the same copyright claimant;

(D) All of the photographs were created on or after March 1, 1989;

(E) All of the photographs were created, and if published, were both created and published during the same year; and

(F) All photographs known to be published were published within a three month span, *e.g.*, from January 1–March 31, from February 1–April 30.

(ii) Identifying material must consist of:

(A) The name of the author;

(B) The name and address of the claimant;

(C) The title given to the group as a whole;

(D) The approximate number of photographs included in the group;

(E) If the group includes published photographs, an approximate number of the works that have been published;

(F) The range of dates (month, year) during which the photographs were created (taken)—*i.e.*, the earliest and the latest;

(G) The range of dates of first publication (month, day, year) for those photographs that have been published;

(H) A general description of the subject matter captured by the photographs; where more than one subject is included, a general description of each, with particular emphasis on newsworthy subjects, for example, "Bombing of Federal Building in Oklahoma City, April, 1995;" "Ghost Towns of Arizona;" "Million Man March in Washington, D.C., October, 1995;" and

(I) The identifying material may also contain any additional identifiers, for example, the identification coding that is used to administer rights in the photographs.

(iii) The application for group registration must include:

(A) At line 1 of the VA form, a title that identifies the group as a whole;

(B) Following the title at line 1, the approximate number of photographs included in the group;

(C) Where all the published works included in the group were published on the same day, the exact date of first publication; alternatively, the span of time during which all the published works were first published, *e.g.*, June 1, 1995 through August 31, 1995; and

(D) If the claimant listed in space 4 is not the agent or licensing entity for all or some of the photographs in the group, the name, addresses, telephone and fax numbers of such person or entity. Space 4 should state "Licensing Information," followed by the name, *etc.*

(iv) If the Library of Congress wishes to review a collection for possible inclusion of photographs in its collection, the claimant of record must supply the appropriate material.

(A) The Library may request a maximum of fifty sample images for the first five thousand photographs covered by one group registration, and ten more sample images for each additional one thousand photographs covered, with a maximum of one hundred images for a group registration covering more than ten thousand or more photographs.

(B) The Library may then select between five and ten specified photographs to be supplied in prints from each group registration. For registrations of fewer than five thousand photographs, no more than five photographs may be selected, and for registrations of ten thousand or more, no more than ten photographs may be selected.

(C) When photographs from a requested sample have been selected, the photographer or photography business must provide archival quality copies of the selected photographs, meeting Library guidelines in accordance with the deposit requirements of § 202.20(c)(2)(xx).

(D) If any photographer or photography business registering photographs under this regulation does not provide the required samples and archival quality copies as requested by the Library, the Copyright Office may rescind that party's privilege of making further group registrations under this section.

(v) The fee is $40.

4. Footnote 6 to § 202.3(c)(2) is revised to read as follows:

[6] In the case of applications for group registration of newspapers, contributions to periodicals, newsletters, and photographs, under paragraphs (b)(6), (b)(7), (b)(8) and (b)(9) of this section, the deposits and fees shall comply with those specified in the respective paragraphs.

5. Section 202.20 is amended by adding a new paragraph (c)(2)(xx) to read as follows:

§ 202.20 Deposit of copies and phonorecords for copyright registration.

* * * * *

(c) * * *

(2) * * *

(xx) *Group registration of photographs.* For group photographs registered under § 202.3(b)(9), works selected for acquisition by the Library of Congress must consist of prints that:

(A) Measure at least 8″×10″ and do not exceed 20″×24″;

(B) Are made on fiber-based paper and archivally processed;

(C) Are not mounted in any way; and

(D) Are marked as follows:

Titles or caption information may be written lightly on the back of photographs with a #1 soft lead pencil or (preferably) supplied on a separate sheet of paper and keyed to the prints. Archival ink, supplied by the Library, may be used on the back of the print, if desired, for copyright stamps and photographer identification. Adhesive labels, pressure-sensitive tapes, and ballpoint ink should never be applied to the backs of the photographs. Photographs should be mailed flat between two sturdy pieces of cardboard.

§ 202.21 [Amended]

6. In § 202.21(a), remove "and (g)" and add ", (g) and (i)."

7. In § 202.21, add a new paragraph (i) to read as follows:

§ 202.21 Deposit of identifying material instead of copies.

* * * * *

(i) For purposes of group registration of photographs under § 202.3(b)(9), identifying material may consist of titles, descriptions, or lists identifying the photographs included in the registration.

Dated: November 22, 1995.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 95–29293 Filed 12–1–95; 8:45 am]

BILLING CODE 1410–30–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–171; RM–8724]

Radio Broadcasting Services; Jackson, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Roy E. Henderson d/b/a Mountain Broadcasting Co., proposing the allotment of Channel 227C at Jackson, Wyoming, as the community's third local commercial FM transmission service. Channel 227C can be allotted to Jackson in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at center city coordinates. The coordinates for Channel 227C at Jackson are North Latitude 43–28–42 and West Longitude 110–45–42.

DATES: Comments must be filed on or before January 16, 1996 and reply comments on or before January 31, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Henry E. Crawford, Esq., 1150 Connecticut Ave., NW., Suite 900, Washington, DC 20036 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95–171, adopted November 3, 1995, and released November 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–29369 Filed 12–1–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–169, RM–8722]

Radio Broadcasting Services; Machias, ME

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Dr. James Whalen proposing the allotment of Channel 266B to Machias, Maine, as that community's second FM broadcast service. Canadian concurrence will be requested for the alotment of Channel 266B at coordinates 44–45–22 and 67–36–50. There is a site restriction 12.8 kilometers (7.9 miles) west of the community.

DATES: Comments must be filed on or before January 8, 1996, and reply comments on or before January 23, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: John C. Dodge, Cole, Raywid & Braverman, 1919 Pennsylvania Ave., NW., Suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95–169, adopted October 31, 1995, and released November 15, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–29370 Filed 12–1–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95–93; Notice 01]

RIN 2127–AF76

Federal Motor Vehicle Safety Standards; Accelerator Control Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for comments.

SUMMARY: NHTSA is considering issuing a proposal to amend the Federal motor vehicle safety standard on accelerator control systems. The standard was last revised in 1973, when only mechanical systems were common on motor vehicles. In order to determine whether to propose amending the standard to include requirements specifically tailored for electronic accelerator control systems and to clarify possibly ambiguous language, NHTSA poses a series of questions in this document. NHTSA undertakes this action as part of its effort to implement the President's Regulatory Reinvention Initiative to make regulations easier to understand and to apply.

DATES: Comments must be received on or before February 2, 1996.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to: Docket Section, Room 5109, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590. It is requested, but not required, that 10 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: For non-legal issues: Mr. Patrick Boyd, Office of Vehicle Safety Standards, Office of Safety Performance Standards, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590. Mr. Boyd's telephone number is (202) 366–6346, and his FAX number is (202) 366–4329.

For legal issues: Ms. Dorothy Nakama, Rulemaking Division, Office of Chief

Counsel, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590. Ms. Nakama's telephone number is (202) 366–2992, and her FAX number is (202) 366–3820. Please note that written comments should be sent to the Docket Section rather than faxed to the above contact persons.

SUPPLEMENTARY INFORMATION:

President's Regulatory Reinvention Initiative

Pursuant to the March 4, 1995 directive "Regulatory Reinvention Initiative" from the President to the heads of departments and agencies, NHTSA undertook a review of its regulations and directives. During the course of this review, the agency identified rules that it could propose to eliminate as unnecessary or to amend to improve their comprehensibility, application or appropriateness. As described below, NHTSA has identified Federal Motor Vehicle Safety Standard (FMVSS) No. 124, *Accelerator control systems*, as one rule that may benefit from amendments.

Background of Standard No. 124

Standard No. 124's purpose is to reduce deaths and injuries resulting from loss of control of a moving vehicle's engine, due to malfunctions in the vehicle's accelerator control system. Since 1972, Standard No. 124 has specified requirements for ensuring the return of a vehicle's throttle to the idle position under each of the following two circumstances, (1) when the driver removes the actuating force (typically, the driver's foot or cruise control) from the accelerator control, and (2) when there is a severance or disconnection in the accelerator control system. Standard No. 124 applies to passenger cars, multipurpose passenger vehicles, trucks, and buses.

Paragraph S5.1 of Standard No. 124 requires that, under any load condition, and within the time specified in S5.3, the throttle must return to the idle position from any accelerator position or any speed of which the engine is capable, whenever the driver removes the actuating force. The standard defines the throttle as "the component of the fuel metering device that connects to the driver-operated accelerator control system and that by input from the driver-operated accelerator control system controls the engine speed."

Standard No. 124 has two further requirements to provide safety in the event of accelerator control failure. The first, specified at S5.1, requires "at least two sources of energy," each capable of returning the throttle to idle position within the time limit for normal operation, from any accelerator position or speed whenever the driver removes the opposing actuating force. The second, specified at S5.2, requires that the throttle return to idle "whenever any one component of the accelerator control system is disconnected or severed at a single point" and the driver releases the pedal.

Paragraph S5.3 requires that the throttle return to idle within 1 second for vehicles of 10,000 pounds or less gross vehicle weight rating (GVWR) and within 2 seconds for vehicles with a GVWR greater than 10,000. The maximum allowable time is increased to 3 seconds for any vehicle that is exposed to ambient air at O degrees to −40 degrees F. during the test or for any portion of a 12 hour conditioning period.

Standard No. 124 Applies to Electronic Accelerator Control Systems

When promulgated, the definitions and requirements of Standard No. 124 were easy to understand and apply because their language was strongly influenced by the design of mechanical accelerator control systems and because all control systems were mechanical then. The "throttle" of a gasoline engine was the carburetor shaft that opened and closed the air passages in the base plate. The "throttle" of a diesel engine was the control rod, or rack that controlled fuel flow to the high pressure injectors. The two energy sources were simply two return springs acting on the linkages and/or cables between the accelerator pedal and the throttle. If at least one of those springs was connected directly to the carburetor or to the diesel fuel injection rack, it would cause the throttle to return to idle in the event of a disconnection of the linkage. And, if the single contemplated failure occurred at one spring, the other would permit continued driver control.

Subsequent to the promulgation of Standard No. 124, electronic accelerator controls with on-board computer systems were introduced on motor vehicles. Their use is steadily increasing, especially in heavy trucks.

The introduction of electronic systems led to questions about their status and treatment under the Standard. Stating that some of the language in Standard No. 124 seemed more appropriate for mechanical accelerator control systems than for electronic ones, Isuzu Motors America, Inc., asked the agency a variety of questions concerning electronic systems. Its central question was whether the Standard applies to electronic systems. In an August 8, 1988 interpretation letter to Isuzu, NHTSA stated that the Standard does apply to electronic accelerator control systems. Among its other questions, Isuzu asked whether a severance in electric wires in its electronic accelerator control system is a severance within the meaning of S5.2 of Standard No. 124. Isuzu expressed its belief that because the electric wires were not a "moving part," the answer should be "no." NHTSA disagreed.

It interpreted Standard No. 124's requirement that the throttle return to idle "whenever any one component of the accelerator control system is disconnected or severed at a single point," to include all severances or disconnections of any component of the accelerator control system as within the standard, not just disconnections of moving parts.

Need To Amend Standard No. 124

Most accelerator linkages on the largest classes of trucks (i.e., those over 33,001 lbs. GVWR) are now electronic. A mechanical accelerator linkage controlling a fuel rack (i.e., a device that controls fuel flow to the high pressure injectors) is now rare on the largest classes of trucks. Most of today's heavy diesel trucks have no mechanical connection between the accelerator pedal and the throttle.

Although the agency has been issuing interpretations about the Standard's application to electronic accelerator control systems for the last seven years, the flow of interpretation requests remains unabated. Manufacturers continue to ask the basic question of whether the Standard applies to electronic accelerator control systems. One correspondent presumed that since those systems do not include springs and linkages, as described in Standard No. 124, electronic accelerator controls are not regulated. Another asked for a legal interpretation of "throttle," as applied to electronic accelerator control systems. Other correspondents have understood Standard No. 124 to mean simply that two return springs should be placed on the treadle assembly. In response, the agency has recited in its interpretation letters the requirement that the sources of energy must be capable of returning the throttle to idle in the event of a single severance or disconnection. The correspondents did not submit sufficient information to enable the agency to determine whether the proper mechanical operation of the treadle was sufficient to assure return to idle in the event of an electrical severance.

NHTSA notes that although the use of two springs on the treadle assembly may represent good treadle design, it does not intrinsically overcome a disconnection anywhere within an electronic accelerator control system. Thus, good treadle design does not provide an electronic accelerator control system with the same degree of fail-safe operation provided a mechanical system by redundant return springs on a traditional fuel control rack. Those springs on a traditional rack could overcome an accelerator control disconnection and return the throttle to idle. Further, providing good treadle design does not solve the problem of single point disconnection in electronic systems which now would include connectors, wires, computer components and possibly even software elements. Even parties recognizing the analogy between wire severance and linkage severance have asked whether the standard applies to subsequent short circuits as well as open disconnections.

NHTSA believes that the volume of requests for interpretation might be reduced if, instead of answering these questions by drawing analogies between traditional mechanical components and new electronic systems, it amended the Standard to include provisions and language specifically tailored to electronic systems. There are limitations to the agency's ability to make regulatory language, which reflects the design of mechanical systems, serve the purpose of regulating both mechanical and electronic systems. NHTSA also believes that amending the Standard not only to update it, but also possibly to redefine what constitutes fail safe operation might give manufacturers more flexibility in designing electronic systems and enable the agency to better ensure that electronic systems function safely. In order to do this, the agency must identify the most common predictable failures for electronic systems and ascertain the most appropriate response to those failures.

NHTSA is also concerned that regulating electronic systems by drawing analogies to mechanical systems may have the effect of limiting the permissible responses to failures in electronic systems to the fail-safe modes of mechanical systems. At present, the failure modes (i.e., disconnection and severance) specified in Standard No. 124 are the predictable failure modes of a mechanical system. The agency believes that the regulation of electronic systems in a manner tailored to them can be beneficial to manufacturers, vehicle users, and the public. For example, with electronic systems, there may be failure modes in which it is wiser to either shut down the engine or to provide for a fail-safe mode in which the engine has just enough power to permit the vehicle to be driven to the side of the road, than to require that the engine be returned to idle. Since such choices were not feasible with mechanical controls, they were not included in Standard No. 124.

Through this request for comments, NHTSA wishes to determine whether it can propose amendments which identify the predictable failure modes of electronic systems and specify an acceptable safe response for each mode.

Normal v. Failure Modes

On many trucks, locking hand controls are necessary for the operation of engine-driven vocational equipment, i.e., work-performing equipment such as garbage compactors or cement mixers, when the vehicle is parked. Similar locking hand controls are also provided to facilitate engine warm-up. Obviously, locking hand controls can be thought of as preventing the return to normal idle speed when the accelerator pedal is released (defined in the Standard as a failure). Several requests for interpretation have resulted. However, locking hand controls do not affect highway safety because the locking controls are not meant to be used to drive vehicles. Explicit specification in the standard of what is or is not permissible with respect to the operation of locking hand controls could eliminate a source of ambiguity.

Likewise, the lack of absolute repeatability in the normal operation of some electronic accelerator controls results in the return to a range of idle speeds instead of a single idle speed. While this range is narrow enough to permit safe operation of a vehicle, the return to a range of speeds instead of a single speed nevertheless introduces questions about whether a range is narrow enough to be regarded as complying with the requirements of the standard for return to idle speed. A revision of the standard offers an opportunity to adopt language that distinguishes between normal safe characteristics of accelerator controls and instances of failure.

Questions for Comment

In order to determine whether the agency should propose to amend Standard No. 124 and to obtain a better idea of technology that is presently available, NHTSA asks the following questions to clarify engineering issues. Sections A and B apply to electronic systems only. Sections C, D, E and F are of general applicability.

A. Industry Consensus

The Society of Automotive Engineers (SAE) has developed recommended practices for electronic signal interfaces for heavy diesel vehicle engine control processors and for some aspects of accelerator pedal position sensor performance. The SAE's recommended practice specifies that the accelerator position sensor (APS) assembly shall comply with all appropriate Federal motor vehicle safety standards.

A1. Has the SAE or other industry consensus standards organizations considered fail-safe provisions for electronic accelerator controls? Is there industry agreement (informal or formal) concerning what fail-safe provisions should be adopted for electronic accelerator control systems?

A2. What fail-safe strategies are now being employed by vehicle and component manufacturers?

B. Technical Considerations of a Fail-Safe Electronic Accelerator Control System

NHTSA believes that the potential points of failure of an electronic accelerator control system are:

—the mechanical linkage and return springs between the pedal and the accelerator position sensor (APS);
—the electrical connections between the APS and the engine control processor;
—the electrical connections between the engine control processor and other critical sensors;
—the electrical connections between the engine control processor and fuel or air metering devices which determine engine speed;
—power to the engine control processor, the APS and critical sensors; and
—the integrity of the engine control processor, APS, and other critical sensors.

A single point disconnection would mean the severance of a single wire or the disconnection of all the terminals housed in a single connector. The consequences both of an open circuit or a short circuit would ordinarily be relevant, but NHTSA does not exclude the possibility that some designs could prevent either a short circuit or an open circuit in the event of a disconnection. Critical sensors are those whose malfunction or disconnection could cause a significant uncontrolled engine overspeed. The agency is not aware that sensors other than the APS are critical in a safety sense.

With this background, NHTSA asks the following questions:

B1. Are there other predictable points of failure of an electronic control system?

B2. Are sensors other than the APS critical to safety on either gasoline or diesel engines?

B3. Are engine development trends pushing other sensors toward safety critical operation (i.e., to become a sensor whose malfunction or disconnection could cause a significant uncontrolled engine overspeed)?

B4. Is it practical (from an engineering standpoint) to expect a fail-safe design of a unitary electronic accelerator control system, even in the limited sense of ensuring fail-safe performance in the case of single point failures at predictable locations? Would it be more practical (and still meet the need for safety) to use a redundant, simplified APS and engine controller, active only at the idle position of the pedal? Is the use of redundant systems more practical than a single system to achieve fail-safe performance?

B5. Do any currently produced vehicles with electronic accelerator control systems use redundancy to achieve fail-safe operation?

C. Vehicle Drive Functions v. Vocational Functions

NHTSA legal interpretations regarding hand throttle controls view their operation as setting a new idle speed to which the throttle should return in the prescribed time limits "upon release of the driver-operated accelerator control system." This view is accurate for traditional "fast idle" setting devices for cold engine operation. But, it may also have resulted in interpretations that do not distinguish between accelerator control systems that drive the vehicle, and auxiliary accelerator controls meant to allow the operation of vocational equipment (such as the compactor on a garbage truck) on a parked vehicle.

C1. How is the cold engine fast idle function accomplished with electronic accelerator controls?

C2. How is the engine of a parked vehicle held at the appropriate speed to operate vocational equipment when the vehicle is equipped with an electronic accelerator control system?

C3. Is there a general way to distinguish between accelerator controls affecting the driving of the vehicle and those affecting only the vehicle's operation as a power source for vocational equipment, presumably without effect on highway safety?

D. Initial Idle Speed

Manufacturers have been concerned with the question of how consistently a vehicle's engine must return to exactly the same idle speed to meet Standard No. 124. Apparently, the resolution and hysteresis of the various sensors and the discrete nature of digital systems create idle speed variations that do not in any way indicate failure.

D1. Would it be practical to designate a range about a vehicle's initial idle speed to clarify the difference between normal and abnormal performance of an accelerator control system? Please describe the desirable extent of such a range and provide a rationale for that range.

E. Public Technical Meeting

NHTSA believes that the development of any proposal to amend Standard No. 124 may benefit from a direct, oral exchange of ideas among NHTSA, vehicle manufacturers, and other affected parties. Reliance solely on written public comments may not be the most effective means of assessing the appropriate steps for ensuring the safe operation of electronic accelerator control systems.

E1. Once the agency has analyzed the written comments submitted in response to this document, should it hold a public technical meeting to discuss possible proposals for amending the Standard No. 124? If so, on which issues should such a public technical meeting focus?

F. Other Issues

F1. Should the agency propose to amend Standard No. 124 in any other respect that has not been discussed above? If so, please describe how the agency should propose to amend the Standard, and provide a rationale for the recommended change.

Rulemaking Analyses and Notices

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

This request for comment was not reviewed under Executive Order 12866 (Regulatory Planning and Review). NHTSA has analyzed the impact of this request for comment and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The agency anticipates if a proposal and ultimately a final rule should result from this request for comment, new requirements would not be imposed on manufacturers with respect to the currently regulated systems. The request for comment seeks to find cost effective means to make Standard No. 124 more understandable when applied to electronic accelerator control systems. If NHTSA decides to initiate rulemaking, it is NHTSA's intent that the rulemaking not impose any additional costs.

Procedures for Filing Comments

Interested persons are invited to submit comments on this request for comment. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received after the comment due date will be considered as suggestions for any future rulemaking action. Comments on the request for comment will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: November 28, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–29453 Filed 12–1–95; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 60, No. 232

Monday, December 4, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Robinson/Scott Landscape Management Project, Willamette National Forest, Lane and Linn Counties, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) on a proposal to thin and/or regenerate forest stands, construct roads, and use prescribed fire in the Upper McKenzie Watershed. The landscape management project is needed to: (1) Provide landscape-level health and vegetation diversity within the project area to meet issues identified during watershed analysis and public scoping; and (2) provide timber products as directed by the Willamette Forest Plan, as amended. Project is proposed for fiscal years 1997–2002. The Willamette National forest invites written comments on the scope of the analysis. The agency will give full notice of the full environmental analysis and decision making process for the proposal so interested and affected people may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis should be received in writing by March 1, 1996.

ADDRESSES: Send written comments to Eugene Skrine, District Silviculturist, McKenzie Ranger District, McKenzie Bridge, Oregon 97413.

FOR FURTHER INFORMATION CONTACT: Eugene Skrine, District Silviculturist, McKenzie Ranger District, McKenzie Bridge, Oregon 97413, Phone (541) 822–3381.

SUPPLEMENTARY INFORMATION: The USDA, Forest Service proposal includes: treatment of approximately 900–1500 acres with various regeneration harvest methods approximating the pattern and scale of relatively frequent stand-replacement fires; treatment of approximately 500–2000 acres with commercial thinning treatments that approximate the pattern of frequent low to moderate intensity fires; provide long term sustainable habitat for big game and other wildlife species; develop a long term vegetation management plan for high quality riparian habitat to benefit bull trout; maintain major components of the landscape-level ecosystem within the range of historic variability; reset some meadows to historic conditions with use of fire; produce "no net increase" in permanent roads.

Preliminary issues have been identified and include: historical disturbance patterns; biological diversity at the stand and landscape levels; recreation experience and scenic byway; threatened, endangered, and sensitive plant and animal species; High Emphasis Elk Area management. A range of alternatives will be developed including a no action alternative.

This draft EIS will tier to the 1990 Final EIS for the Willamette National Forest Land and Resource Management Plan as amended by the Northwest Forest Plan (ROD) (1994). The Forest Service is the lead agency.

Initial scoping will begin in November 1995. A public participation plan is being developed with public meeting and public tour dates to be announced. The public is invited to offer suggestions and comments in writing.

The draft EIS is expected to be completed in September 1996. The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978), Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts, *City of Angoon* v. *Hodel,* 803 f. 2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The final EIS is scheduled to be completed in December 1996. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding the Santiam Forest Health Project. Darrel L. Kenops, Forest Supervisor, is the Responsible Official. As the Responsible Official, he will decide whether to implement the project. The Responsible Official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to the Forest Service Appeal Regulations (36 CFR Part 215).

Dated: November 21, 1995.

Darrel L. Kenops,

Forest Supervisor.

[FR Doc. 95–29441 Filed 12–1–95; 8:45 am]

BILLING CODE 3410–01–M

ASSASSINATION RECORDS REVIEW BOARD

Formal Determinations on Records Release

AGENCY: Assassination Records Review Board.

ACTION: Notice of Formal Determinations.

SUMMARY: The Assassination Records Review Board (Review Board) met in a closed meeting on November 13 and 14, 1995, and made formal determinations on the release of records under the President John F. Kennedy Assassination Records Collection Act of 1992 (JFK Act). By issuing this notice, the Review Board complies with the section of the JFK Act that requires the Review Board to publish the results of its decisions on a document-by-document basis in the **Federal Register** within 14 days of the date of the decision.

FOR FURTHER INFORMATION CONTACT: T. Jeremy Gunn, General Counsel and Associate Director for Research and Analysis, Assassination Records Review Board, Second Floor, 600 E Street, NW., Washington, DC 20530, (202) 724–0088, fax (202) 724–0457.

SUPPLEMENTARY INFORMATION: This notice complies with the requirements of the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. 2107.9(c)(4)(A) (1992). On November 13 and 14, 1995, the Review Board made formal determinations on records it reviewed under the JFK Act. These determinations are listed below. The assassination records are identified by the record identification number assigned in the President John F. Kennedy Assassination Records Collection database maintained by the National Archives. For each document, the number of releases of previously redacted information is noted as well as the number of sustained postponements.

REVIEW BOARD DETERMINATIONS

Record No.	ARRB releases	Sustained postponements	Status of document	Next review date
FBI Documents				
124–10003–10063	1	0	Open in Full	n/a
124–10018–10356	0	1	Postponed in Part	2017
124–10018–10365	0	1	Postponed in Part	2017
124–10018–10491	1	1	Postponed in Part	2005
124–10018–10498	0	2	Postponed in Part	2017
124–10026–10413	1	0	Open in Full	n/a
124–10027–10028	0	2	Postponed in Part	2017
124–10027–10033	0	1	Postponed in Part	2017
124–10027–10161	5	5	Postponed in Part	2017
124–10027–10232	5	0	Open in Full	n/a
124–10027–10233	3	0	Open in Full	n/a
124–10035–10116	0	5	Postponed in Part	2017
124–10037–10125	0	4	Postponed in Part	2017
124–10053–10346	0	1	Postponed in Part	2017
124–10058–10009	2	2	Postponed in Part	2017
124–10058–10084	4	0	Open in Full	n/a
124–10058–10085	5	0	Open in Full	n/a
124–10058–10086	3	0	Open in Full	n/a
124–10058–10311	0	2	Postponed in Part	2017
124–10058–10403	0	1	Postponed in Full	2017
124–10073–10368	3	0	Open in Full	n/a
124–10073–10383	4	0	Open in Full	n/a
124–10079–10223	0	2	Postponed in Part	2017
124–10087–10334	2	4	Postponed in Part	2017
124–10143–10002	0	1	Postponed in Part	2017
124–10144–10082	0	1	Postponed in Part	2017
124–10159–10038	0	2	Postponed in Part	2017
124–10160–10008	0	2	Postponed in Part	2017
124–10160–10412	0	2	Postponed in Part	2017
124–10170–10009	0	1	Postponed in Part	2017
124–10170–10034	0	1	Postponed in Part	2017
124–10170–10094	0	1	Postponed in Part	2017
124–10173–10008	0	1	Postponed in Part	2017
124–10178–10003	4	0	Open in Full	n/a
124–10193–10067	1	0	Postponed in Part	2017
124–10228–10385	0	2	Postponed in Part	2017
124–10228–10416	0	5	Postponed in Part	2017
124–10239–10385	2	2	Postponed in Part	2017
124–10241–10124	4	0	Open in Full	n/a
124–10243–10077	0	2	Postponed in Part	2017
124–10243–10078	0	1	Postponed in Full	2017
124–10243–10386	0	1	Postponed in Part	2017
124–10254–10419	5	5	Postponed in Part	2017
124–10256–10179	3	0	Open in Full	n/a
124–10260–10408	3	0	Open in Full	n/a
124–10267–10400	0	1	Postponed in Part	2017
124–10269–10256	0	2	Postponed in Part	2017
124–10270–10014	0	1	Postponed in Part	2017

REVIEW BOARD DETERMINATIONS—Continued

Record No.	ARRB releases	Sustained postponements	Status of document	Next review date
124–10270–10190	0	1	Postponed in Part	2017
124–10272–10033	1	1	Postponed in Part	2017
124–10275–10359	2	2	Postponed in Part	2017
124–10275–10486	0	1	Postponed in Part	2017
124–10276–10104	1	2	Postponed in Part	2017
CIA Documents				
104–10015–10049	5	0	Open in Full	n/a
104–10015–10258	15	4	Postponed in Part	2005
104–10015–10263	2	0	Open in Full	n/a
104–10015–10316	1	1	Postponed in Part	12/1995
104–10015–10350	2	0	Open in Full	n/a
104–10015–10353	10	1	Postponed in Part	2005
104–10015–10356	5	1	Postponed in Part	2005
104–10015–10384	2	0	Open in Full	n/a
104–10015–10392	9	1	Postponed in Part	12/1995
104–10015–10398	6	2	Postponed in Part	12/1995
104–10015–10412	5	0	Open in Full	n/a
104–10015–10415	5	0	Open in Full	n/a
104–10015–10416	5	0	Open in Full	n/a
104–10015–10417	3	0	Open in Full	n/a
104–10015–10428	3	1	Postponed in Part	2005
104–10016–10036	3	0	Open in Full	n/a
104–10016–10040	8	1	Postponed in Part	2005
104–10016–10045	2	0	Open in Full	n/a
104–10017–10003	1	0	Open in Full	n/a
104–10017–10012	20	0	Open in Full	n/a
104–10017–10038	8	0	Open in Full	n/a
104–10017–10053	3	0	Open in Full	n/a
104–10017–10065	9	0	Open in Full	n/a
104–10018–10002	2	0	Open in Full	n/a
104–10018–10028	1	0	Open in Full	n/a
104–10018–10029	1	0	Open in Full	n/a
104–10018–10031	1	0	Open in Full	n/a
104–10018–10032	1	0	Open in Full	n/a
104–10018–10046	2	0	Open in Full	n/a
104–10018–10049	1	0	Open in Full	n/a
104–10018–10056	1	0	Open in Full	n/a
104–10018–10074	23	0	Open in Full	n/a
104–10018–10084	2	1	Postponed in Part	2005
HSCA Documents				
180–10071–10165	2	0	Open in Full	n/a
180–10074–10079	4	0	Open in Full	n/a
180–10074–10394	2	0	Open in Full	n/a
180–10074–10396	1	0	Open in Full	n/a
180–10074–10397	1	0	Open in Full	n/a
180–10078–10384	0	1	Postponed in Part	2017
180–10078–10493	2	0	Open in Full	n/a
180–10080–10131	0	2	Postponed in Part	2017
180–10080–10231	0	1	Postponed in Part	2017
180–10080–10497	1	0	Open in Full	n/a
180–10082–10452	1	0	Open in Full	n/a
180–10082–10453	2	0	Open in Full	n/a
180–10082–10454	2	0	Open in Full	n/a
180–10083–10419	2	0	Open in Full	n/a
180–10087–10136	129	0	Open in Full	n/a
180–10087–10137	15	0	Open in Full	n/a
180–10087–10138	31	0	Open in Full	n/a
180–10087–10191	3	0	Open in Full	n/a
180–10089–10262	10	0	Open in Full	n/a
180–10090–10027	1	0	Open in Full	n/a
180–10090–10123	1	0	Open in Full	n/a
180–10093–10022	2	0	Open in Full	n/a
180–10093–10118	1	0	Open in Full	n/a
180–10097–10345	31	0	Open in Full	n/a
180–10099–10491	1	0	Open in Full	n/a

REVIEW BOARD DETERMINATIONS—Continued

Record No.	ARRB releases	Sustained postponements	Status of document	Next review date
180–10104–10331	4	0	Open in Full	n/a
180–10104–10481	2	0	Open in Full	n/a
180–10105–10305	1	0	Open in Full	n/a
180–10109–10358	0	1	Postponed in Part	2017
180–10112–10218	11	0	Open in Full	n/a
180–10117–10149	9	0	Open in Full	n/a
180–10118–10032	13	0	Open in Full	n/a
180–10118–10033	14	0	Open in Full	n/a
180–10118–10038	0	1	Postponed in Part	2017
180–10118–10041	13	0	Open in Full	n/a
180–10125–10075	0	23	Postponed in Part	2017
180–10125–10076	0	23	Postponed in Part	2017
180–10125–10077	0	79	Postponed in Part	2017
180–10125–10078	0	87	Postponed in Part	2017
180–10125–10079	0	89	Postponed in Part	2017
180–10125–10080	0	89	Postponed in Part	2017
180–10125–10081	0	87	Postponed in Part	2017
180–10125–10082	0	91	Postponed in Part	2017
180–10125–10083	0	96	Postponed in Part	2017
180–10125–10084	0	114	Postponed in Part	2017
180–10125–10085	0	116	Postponed in Part	2017
180–10125–10086	0	15	Postponed in Part	2017
180–10125–10087	0	114	Postponed in Part	2017
180–10125–10088	0	122	Postponed in Part	2017
180–10125–10089	0	114	Postponed in Part	2017
180–10125–10090	0	114	Postponed in Part	2017
180–10125–10091	0	118	Postponed in Part	2017
180–10125–10092	0	018	Postponed in Part	2017
180–10125–10093	0	017	Postponed in Part	2017
180–10125–10094	0	017	Postponed in Part	2017
180–10125–10095	0	012	Postponed in Part	2017
180–10125–10096	0	012	Postponed in Part	2017
180–10125–10097	0	010	Postponed in Part	2017
180–10125–10098	0	001	Postponed in Part	2017
180–10125–10100	0	54	Postponed in Part	2017
180–10125–10101	0	79	Postponed in Part	2017
180–10125–10102	0	66	Postponed in Part	2017
180–10125–10103	0	66	Postponed in Part	2017
180–10125–10104	0	73	Postponed in Part	2017
180–10125–10105	0	73	Postponed in Part	2017
180–10125–10106	0	126	Postponed in Part	2017
180–10125–10107	0	146	Postponed in Part	2017

On October 24, 1995, the Review Board made the formal determination to release in full FBI document number 124–10020–10093. The FBI subsequently supplied additional information to the Review Board in support of its original redaction. On November 14, 1995, the Review Board voted to reconsider the record at a future date and decided to provide the FBI additional time to supply evidence in support of its proposed redactions.

Dated: November 28, 1995.

David G. Marwell,

Executive Director.

[FR Doc. 95–29389 Filed 12–1–95; 8:45 am]

BILLING CODE 6118–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Sheryl Pinsonnault

In the matter of Sheryl Pinsonnault, 126 S. 293 Place, Federal Way, Washington 98003, Respondent.

Order

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (Department), having notified Sheryl Pinsonnault (Pinsonnault) of its intention to initiate an administrative proceeding against her pursuant to section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. 2401–2420 (1991 and Supp. 1995)) (the Act),[1] and part 788 of the Export Administration Regulations (currently codified at 15 CFR parts 768–799 (1995)) (the Regulations), based on allegations that, on six different occasions between on or about March 6, 1990 and on or about October 3, 1990, Pinsonnault caused, aided, and abetted the export, without the validated license required by Section 772.1(b) of the Regulations, of U.S.-origin aircraft parts from the United States to Belgium for use in repairing a Lockheed L–100 aircraft owned by Libya, in violation of section 787.2 of the Regulations;

[1] The Act expired on August 20, 1994. Executive Order No. 12924 (59 FR 43437, August 23, 1994), extended by Presidential Notice of August 15, 1995 (60 *FR* 42767, August 17, 1995), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991)).

The Department and Pinsonnault having entered into a Consent Agreement whereby the Department and Pinsonnault have agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Consent Agreement having been approved by me;

It Is Therefore Ordered

First, that a civil penalty of $10,000 is assessed against Pinsonnault, $5,000 of which shall be paid to the Department within 30 days from the date of this Order. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining $5,000 shall be suspended for a period of three years from the date from the entry of this Order and shall thereafter be waived, provided that, during the period of suspension, Pinsonnault has committed no violation of the Act, or any regulation, order, or license issued thereunder.

Second, that, Sheryl Pinsonnault, 126 S. 293 Place, Federal Way, Washington 98003, shall, for a period of three years from the date of this Order, be denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, and subject to the Regulations.

A. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

B. After notice and opportunity for comment as provided in Section 788.3(c) of the Regulations, any person, firm, corporation, or business organization related to Pinsonnault by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

C. As provided by Section 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Exporter Services, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

D. As authorized by Section 788.17(b) of the Regulations, the last two years of the denial period shall be suspended for a period of two years beginning one year from the date of entry of this Order, and shall thereafter be waived, provided that, during the peric l of suspension, Pinsonnault commits no violation of the Act or any regulation, order or license issued thereunder.

Third, that the proposed Charging Letter, the Consent Agreement and this Order shall be made available to the public.

This Order is effective immediately.

Entered this 27th day of November 1995.

John Despres,

Assistant Secretary for Export Enforcement.

[FR Doc. 95–29432 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–DT–M

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA).

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 10/16/95–11/20/95

Firm name	Address	Date petition accepted	Product
BARRETT TRAILERS, INC	2115 HARDCASTLE BOULEVARD, PURCELL, OK 73080.	10/27/95	LIVESTOCK TRAILERS AND ACCESSORIES.
COLONIAL KNIFE COMPANY, INC	AGNES AT MAGNOLIA ST., PROVIDENCE, RI 02909.	11/02/95	POCKET KNIVES AND HUNTING KNIVES.
FLORENCE SPORTSWEAR, INC	4400 HELTON DRIVE, FLORENCE, AL 35630.	11/03/95	WOMEN'S KNIT TOPS.
GKN WALTERSCHEID, INC	16W030 83RD STREET, BURR RIDGE, IL 60521.	11/09/95	DRIVE SHAFTS, CLUTCHES AND REPAIR PARTS FOR AGRICULTURAL POWER TAKE-OFFS.
LMC OPERATING CORP	2503 N. MAIN STREET, LOGAN, UT 98341.	11/13/95	SNOW GROOMING EQUIPMENT AND INDUSTRIAL ALL TERRAIN UTILITY VEHICLES.
MISSION VALLEY TEXTILE, INC	360 McKENNA AVENUE, NEW BRAUNFELS, TX 78131.	10/23/95	COTTON FABRICS.
NOA MEDICAL INDUSTRIES, INC	205 N. TWO STREET, MARTHASVILLE, MO 63357.	11/14/95	HOSPITAL FURNITURE.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 10/16/95–11/20/95—Continued

Firm name	Address	Date petition accepted	Product
PIDIDDLY-LINKS LTD	85 KATRINE LAND, P.O. BOX 700, LAKE KATRINE, NY 12449.	10/18/95	IMITATION JEWELRY OF BASE METAL (BRASS).
PLATOON UNIFORMS & SPORTSWEAR, INC	P.O. BOX 156, COMER, GA 30629	11/06/95	MEN'S TROUSERS.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, Room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: November 27, 1995.

Lewis R. Podolske,

Director, Trade Adjustment Assistance Division.

[FR Doc. 95–29366 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–24–M

Foreign-Trade Zones Board

[Order No. 789]

Approval of Manufacturing Authority Within Foreign-Trade Zone 172; Oneida County, New York, Low Complexity Manufacturing Group, Inc. (Copier/Laser Printer Components)

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, § 400.28(a)(2) of the Board's regulations requires approval of the Board prior to commencement of new manufacturing/ processing activity within existing zone facilities;

Whereas, County of Oneida, New York, grantee of FTZ 172, Oneida County, New York, has requested authority under § 400.32(b)(1) of the Board's regulations on behalf of Low Complexity Manufacturing Group, Inc. (subsidiary of Xerox Corporation), to manufacture copier and laser printer components within FTZ 172 (filed 9/20/95, FTZ Docket A(32b1)–18–95; Docket 73–95, assigned 11/8/95);

Whereas, pursuant to § 400.32(b)(1), the Commerce Department's Assistant Secretary for Import Administration has the authority to act for the Board in making such decisions on new manufacturing/ processing activity under certain circumstances, including situations where the proposed activity is similar to activity recently approved by the Board (§ 400.32(b)(1)(i)); and,

Whereas, the FTZ Staff has reviewed the proposal, taking into account the criteria of § 400.31, and the Executive Secretary has recommended approval;

Now, therefore, the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation and hereby approves the request subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 21st day of November 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 95–29465 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Opportunity To Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 353.22 or 355.22 of the Department of Commerce (the Department) Regulations (19 CFR 353.22/355.22 (1993)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than December 31, 1995, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in December for the following periods:

	Period
Antidumping Duty Proceedings	
Brazil: Certain Carbon Steel Butt-Weld Pipe Fittings (A–351–602)	12/01/94–11/30/95
Brazil: Silicomanganese (A–351–824)	06/17/94–11/30/95
Canada: Elemental Sulphur (A–122–047)	12/01/94–11/30/95
Germany: Animal Glue and Inedible Gelatin (A–428–062)	12/01/94–11/30/95
India: Stainless Steel Wire Rods (A–533–808)	12/01/94–11/30/95
Japan: Certain Small Business Telephone Systems and Subassemblies Thereof (A–588–809)	12/01/94–11/30/95
Japan: Cellular Mobile Telephones and Subassemblies (A–588–405)	12/01/94–11/30/95
Japan: Certain Electric Motors of 150–500 Horsepower (A–588–091)	12/01/94–11/30/95
Japan: Drafting Machines and Parts Thereof (A–588–811)	12/01/94–11/30/95
Japan: Polychloroprene Rubber (A–588–046)	12/01/94–11/30/95
Japan: Steel Wire Strand for Prestressed Concrete (A–588–068)	12/01/94–11/30/95
Korea: Certain Welded Stainless Steel Pipes (A–580–810)	12/01/94–11/30/95
Korea: Photo Albums and Filler Pages (A–580–501)	12/01/94–11/30/95
Mexico: Porcelain-on-Steel Cooking Ware (A–201–504)	12/01/94–11/30/95
New Zealand: Low-Fuming Brazing Cooper Rod and Wire (A–614–502)	12/01/94–11/30/95
Sweden: Welded Stainless Steel Hollow Products (A–401–603)	12/01/94–11/30/95
Taiwan: Certain Carbon Steel Butt-Weld Pipe Fittings (A–583–605)	12/01/94–11/30/95
Taiwan: Certain Small Business Telephone Systems and Subassemblies Thereof (A–583–806)	12/01/94–11/30/95
Taiwan: Certain Welded Stainless Steel Pipe (A–583–815)	12/01/94–11/30/95
Taiwan: Porcelain-on-Steel Cooking Ware (A–583–508)	12/21/94–11/30/95
The People's Republic of China: Certain Cased Pencils (A–570–827)	12/01/94–11/30/95
The People's Republic of China: Porcelain-on-Steel Cooking Ware (A–570–506)	06/17/94–11/30/95
The People's Republic of China: Silicomanganese (A–570–824)	
Countervailing Duty Proceedings	
Mexico: Porcelain-on-Steel Cooking Ware (C–201–505)	12/01/94–11/30/95

In accordance with sections 353.22(a) and 355.22(a) of the regulations, an interested party as defined by section 353.2(k) may request in writing that the Secretary conduct an administrative review. The Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 19 CFR 355.22(a) of the Department's Interim Regulations (60 FR 25137 (May 11, 1995)), an interested party must specify the individual producers or exporters covered by the order for which they are requesting a review. Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S., Department of Commerce, Washington, D.C. 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping Compliance, Attention: Pamela Woods, in room 3065 of the main Commerce Building. Further, in accordance with section 353.31(g) or 355.31(g) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by December 31, 1995. If the Department does not receive, by December 31, 1995, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: November 28, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–29464 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–DS–M

Intent To Revoke Antidumping Duty Orders and Findings and To Terminate Suspended Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Intent To Revoke Antidumping Duty Orders and Findings and To Terminate Suspended Investigations.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the antidumping duty orders and findings and to terminate the suspended investigations listed below. Domestic interested parties who object to these revocations and terminations must submit their comments in writing no later than the last day of December 1995.

EFFECTIVE DATE: December 4, 1995.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke an antidumping duty order or finding or terminate a suspended investigation if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are

notifying the public of our intent to revoke the following antidumping duty orders and findings and to terminate the suspended investigations for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months:

Antidumping Proceeding

Brazil
Certain Carbon Steel Butt-Weld Pipe Fittings
A–351–602
51 FR 45152
December 17, 1986
Contact: Thomas Schauer at (202) 482–4852

Germany
Animal Glue and Inedible Gelatin
A–428–062
42 FR 64116
December 22, 1977
Contact: Arthur N. DuBois at (202) 482–6312

Japan
Cellular Mobile Telephones and Subassemblies
A–588–405
50 FR 51724
December 19, 1985
Contact: Charles Riggle at (202) 482–0650

Japan
Drafting Machines and Parts Thereof
A–588–811
54 FR 53671
December 29, 1989
Contact: Mathew Blaskovich at (202) 482–5831

Japan
Large Electric Motors
A–588–091
45 FR 84994
December 24, 1980
Contact: Elizabeth Urfer at (202) 482–4052

Japan
Steel Wire Strand
A–588–068
43 FR 57599
December 8, 1978
Contact: Kris Campbell at (202) 482–3813

New Zealand
Low-Fuming Brazing Copper Rod & Wire
A–614–502
50 FR 49740
December 4, 1985
Contact: Karin Price at (202) 482–3782

Taiwan
Porcelain-On-Steel Cooking Ware
A–583–508
51 FR 43416
December 2, 1986
Contact: Amy Wei at (202) 482–1131

If no interested party requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, and no domestic interested party objects to the Department's intent to revoke or terminate pursuant to this notice, we shall conclude that the antidumping duty orders, findings, and suspended investigations are no longer of interest to interested parties and shall proceed with the revocation or termination.

Opportunity To Object

Domestic interested parties, as defined in § 353.2(k)(3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke these antidumping duty orders and findings or to terminate the suspended investigations by the last day of December 1995. Any submission to the Department must contain the name and case number of the proceeding and a statement that explains how the objecting party qualifies as a domestic interested party under § 353.2(k)(3), (4), (5), and (6) of the Department's regulations.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, D.C. 20230. You must also include the pertinent certification(s) in accordance with § 353.31(g) and § 353.31(i) of the Department's regulations. In addition, the Department requests that a copy of the objection be sent to Michael F. Panfeld in Room 4203. This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: November 22, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–29364 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–DS–P

Carnegie Mellon University, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–062. *Applicant:* Carnegie Mellon University, Pittsburgh, PA 15213. *Instrument:* Electron Microscope, Model H-7100. *Manufacturer:* Nissei Sangyo, Japan. *Intended Use:* See notice at 60 FR 40823, August 10, 1995. *Order Date:* March 28, 1995.

Docket Number: 95–065. *Applicant:* University of Utah, Salt Lake City, UT 84112. *Instrument:* Electron Microscope, Model H-7100. *Manufacturer:* Hitachi Ltd., Japan. *Intended Use:* See notice at 60 FR 42847, August 17, 1995. *Order Date:* March 30, 1995.

Docket Number: 95–069. *Applicant:* Saint Barnabas Medical Center, Livingston, NJ 07039. *Instrument:* Electron Microscope, Model JEM-1210. *Manufacturer:* JEOL, Japan. *Intended Use:* See notice at 60 FR 48505, September 19, 1995. *Order Date:* December 27, 1994.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–29467 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–DS–F

Miami University, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 94–145R. *Applicant:* Miami University, Oxford, OH 45056. *Instrument:* Cryostage. *Manufacturer:* Linkham Scientific Instruments, Ltd., United Kingdom. *Intended Use:* See notice at 60 FR 442, January 4, 1995. *Reasons:* The foreign instrument provides: (1) an on-line video image analysis system with ability to perform calibrations, line measurements, angle measurements and circle area measurements, (2) minimum cooling/warming rate of 0.01°C/min and (3) a nitrogen purge chamber surrounding the cryostage and sample. *Advice Received From:* National Institutes of Health, September 21, 1995.

Docket Number: 95–012. *Applicant:* University of California, Berkeley, CA 94720-4767. *Instrument:* Electron Microprobe, Model SX50, *Manufacturer:* Cameca, France. *Intended Use:* See notice at 60 FR 16618, March 31, 1995. *Reasons:* The foreign instrument provides: (1) a co-axial high resolution light optical microscope, (2) multiple vertically mounted wave length dispersive spectrometers with Rowland circle radius of 160mm and (3) an automated optical encoded precision stage for sample relocation to <0.5 microns. *Advice Received From:* National Institutes of Health, April 28, 1995.

Docket Number: 95–055. *Applicant:* Dartmouth College, Hanover, NH 03755-3571. *Instrument:* Thermal Ionization Mass Spectrometer, Model MAT 262/RPQ. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* See notice at 60 FR 39711, August 3, 1995. *Reasons:* The foreign instrument provides magnetic sector performance with an inductively-coupled plasma ion source for an isotope ratio sensitivity of 0.005%. *Advice Received From:* National Institutes of Health, September 22, 1995.

The National Institutes of Health advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–29363 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–DS–F

Texas A&M University, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–073. *Applicant:* Texas A&M University, College Station, TX 77843. *Instrument:* Automatic Carbonate Preparation Device, Model Kiel II. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* See notice at 60 FR 48506, September 19, 1995.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an instrument previously imported for the use of the applicant.

The accessory is pertinent to the intended uses and we know of no domestic accessory which can be readily adapted to the previously imported instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–29466 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–DS–F

Minority Business Development Agency

Business Development Center Applications: West Palm Beach, Florida

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications from organizations to operate the West Palm Beach Minority Business Development Center (MBDC).

The purpose of the MBDC Program is to provide business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business. The MBDC will provide service in the West Palm Beach, Florida Metropolitan Area. The award number of the MBDC will be 04–10–96003–01.

DATES: The closing date for applications is January 3, 1996. Applications must be received in the MBDA Headquarters' Executive Secretariat on or before January 3, 1996. A pre-application conference will be held on December 20, 1995, at 9 a.m., at the Atlanta Regional Office, 401 W. Peachtree Street, N.W., Suite 1715, Atlanta, Georgia 30308–3516, (404) 730–3300. Proper identification is required for entrance into any Federal building.

ADDRESSES: Completed application packages should be submitted to the U.S. Department of Commerce, Minority Business Development Agency, Executive Secretariat, 14th and Constitution Avenue, N.W., Room 5073, Washington, D.C. 20230.

FOR FURTHER INFORMATION AND AN APPLICATION PACKAGE, CONTACT: Robert Henderson at (404) 730–3300.

SUPPLEMENTARY INFORMATION: Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from April 1, 1996 to April 30, 1997, is estimated at $198,971. The total Federal amount is $169,125 and is composed of $165,000 plus the Audit Fee amount of $4,125. The application must include a minimum cost share of 15%, $29,846 in non-federal (cost-sharing) contributions for a total project cost of $198,971. Cost-sharing contributions may be in the form of cash, client fees, third party in-kind contributions, non-cash applicant contributions or combinations thereof.

The funding instrument for this project will be a cooperative agreement. If the recommended applicant is the current incumbent organization, the award will be for 12 months. For those applicants who are not incumbent organizations or who are incumbents that have experienced closure due to a break in service, a 30-day start-up period will be added to their first budget period, making it a 13-month award. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: the knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of

minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award. Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

The MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Outstanding Account Receivable—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, Section 26.105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR Part 26, Section 26.605) are subject to 15 CFR Part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, Section 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF-LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF-LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American-made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–121, Sections 606 (a) and (b).

11.800 Minority Business Development Center (Catalog of Federal Domestic Assistance)

Dated: November 27, 1995.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 95–29365 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–21–P

National Oceanic and Atmospheric Administration

[I.D. 112295A]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of modification 1 to permit 924.

SUMMARY: Notice is hereby given that on November 16, 1995, NMFS issued Modification 1 to Permit Number 924 to the National Marine Fisheries Service Southwest Region (P772#66) to take listed sea turtles for the purpose of scientific research, subject to certain conditions set forth therein.

ADDRESSES: The application, permit, and related documents are available for review by appointment in the following offices:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Hwy., Room 13307, Silver Spring, MD 20910–3226 (301–713–1401); and

Director, Southwest Region, NMFS, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (310–980–4016).

SUPPLEMENTARY INFORMATION: On November 6, 1995, a request was received from the National Marine Fisheries Service Southwest Region (P772#66), to modify the due date of annual reporting on the take of listed sea turtles under Permit 924.

As required by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–222), issuance of this modification was based on a finding that such modification: (1) Was applied for in good faith, (2) will not operate to the disadvantage of the listed species that are the subject of this modification, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: November 27, 1995.

Russell J. Bellmer,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–29445 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 112295B]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of application for a scientific research permit (P423B).

SUMMARY: Notice is hereby given that Drs. Mary Moser and Steve W. Ross have applied in due form for a permit to take listed shortnose sturgeon for the purpose of scientific research.

DATES: Written comments or requests for a public hearing on this application must be received on or before January 3, 1996.

ADDRESSES: The application and related documents are available for review by appointment in the following offices:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Hwy., Room 13307, Silver Spring, MD 20910–3226 (301–713–1401); and

Director, Southeast Region, NMFS, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141).

Written comments, or requests for a public hearing on this application should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION: Application (P423B) requests a permit under the authority of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227). The applicant requests a 2-year permit to collect shortnose sturgeon in North Carolina to determine the distribution and habitat use.

Those individuals requesting a hearing should set out the specific reasons why a hearing on this particular application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: November 27, 1995.

Russell J. Bellmer,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–29446 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–22–F

Patent and Trademark Office

[Docket No. 950921236–5236–01]

RIN 0651–XX04

Request for Comments on Interim Guidelines for Examination of Design Patent Applications for Computer-Generated Icons; Comment Period Extension

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of extension of comment period.

SUMMARY: A request for comments on interim guidelines for the examination of design patent applications for computer-generated icons was published at 60 FR 52170, October 5, 1995. This notice extends the deadline for accepting comments. The deadline for accepting comments is being extended to accommodate members of the public who requested an extension.

DATES: Written comments on the interim guidelines must now be received on or before December 6, 1995.

ADDRESSES: Written comments should be addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231, marked to the attention of John Kittle, Director, Group 1100/2900, Crystal Plaza 3, 8D19. Comments may also be submitted by telefax at (703) 305–3600 or by electronic mail through the INTERNET to "icon-pat@uspto.gov."

FOR FURTHER INFORMATION: Contact John Kittle by telephone at (703) 308–1495 or by mail to his attention addressed to the Assistant Commissioner for Patents, Group 1100/2900, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: Written comments should include the following information:

—Name and affiliation of the individual responding;

—An indication of whether the comments offered represent views of the respondent's organization's or are the respondent's personal views; and

—If applicable, information on the respondent's organization, including the type of organization and general areas of interest.

Parties presenting written comments are requested, where possible, to provide their comments in machine-readable format. Such submissions may be provided by electronic mail messages sent over the Internet, or on a 3.5" floppy disk formatted for use in either a Macintosh or MS–DOS based computer. Machine-readable submissions should be provided as unformatted text (e.g., ASCII or plain text).

Dated: November 22, 1995.

Lawrence J. Gaffney, Jr.,

Acting Deputy Assistant Secretary of Commerce and Deputy Commissioner of Patents and Trademarks.

[FR Doc. 95–29429 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of a New Export Visa Arrangement for Certain Cotton, Wool, Man-Made Fiber, Silk-Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Mauritius

November 28, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing export visa requirements.

EFFECTIVE DATE: December 1, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and Mauritius agreed to establish a new Export Visa Arrangement for certain cotton, wool, man-made fiber, silk-blend and other vegetable fiber textiles and textile products, produced or manufactured in Mauritius and exported from Mauritius on and after December 1, 1995. Goods exported during the period December 1, 1995 through December 31, 1995 shall not be denied entry for lack of a visa. All goods exported after January 1, 1996 must be accompanied by an appropriate export visa.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to prohibit entry of certain textile products, produced or manufactured in Mauritius and exported from Mauritius on and after December 1, 1995 for which the Government of the Mauritius has not issued an appropriate export visa.

A facsimile of export visa stamp is on file at the U.S. Department of Commerce in Room 3100.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

Interested persons are advised to take all necessary steps to ensure that textile products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa and certification requirements set forth in the letter published below to the Commissioner of Customs.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 28, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Export Visa Arrangement of September 12, 1995 between the Governments of the United States and Mauritius; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on December 1, 1995, entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk-blend, and other vegetable fiber textiles and textile products in Categories 200–239, 300–369, 400–469, 600–670, and 800–899, including merged and part categories, produced or manufactured in Mauritius and exported from Mauritius on and after December 1, 1995 for which the Government of the Mauritius has not issued an appropriate export visa fully described below. Should additional categories, merged categories or part categories become subject to import quota the entire category(s) or part category(s) shall be included in the coverage of this arrangement. Goods exported during the period December 1, 1995 through December 31, 1995 shall not be denied entry for lack of an export visa.

A visa must accompany each commercial shipment of the aforementioned textile products. A circular stamped marking in blue ink will appear on the front of the original commercial invoice. The original visa shall not be stamped on duplicate copies of the invoice. The original invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numerical digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO) (the code for Mauritius is "MU"), and a six digit numerical serial number identifying the shipment; e.g., 5MU123456.

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The original signature of the issuing official and the printed name of the issuing official of the Government of Mauritius.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity in the shipment as set forth in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule of the United States, annotated or successor documents shall be reported in the spaces provided within the visa stamp (e.g., "Cat. 434–210 DZ").

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted. Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment (e.g., Categories 347/348 may be visaed as 347/348 or if the shipment consists solely of 347 merchandise, the shipment may be visaed as "Cat. 347," but not as "Cat. 348"). If, however, a merged quota category such as 340/640 has a quota sublimit on Category 340, then there must be a "Category 340" visa for the shipment if it includes Category 340 merchandise.

U.S. Customs shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

The complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa shall be provided on the front of the textile document.

If the visa is not acceptable then a new correct visa or a visa waiver must be presented to the U.S. Customs Service before any portion of the shipment will be released. A visa waiver may be issued by the U.S. Department of Commerce at the request of the Government of Mauritius. The waiver, if used, only waives the requirement to present a visa with the shipment. It does not waive the quota requirement.

If the visaed invoice is deficient, the U.S. Customs Service will not return the original document after entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice, or a visa waiver.

If import quotas are in force, U.S. Customs Service shall charge only the actual quantity in the shipment to the correct category limit. If a shipment from Mauritius has been allowed entry into the commerce of the United States with either an incorrect visa or no visa, and redelivery is requested but cannot be made, the shipment will be charged to the correct category limit whether or not a replacement visa or waiver is provided.

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked or commercial sample shipments valued at U.S.$250 or less, do not require an export visa for entry and shall not be charged to existing quota levels.

A facsimile of the visa stamp is enclosed.

The actions taken concerning the Government of Mauritius with respect to imports of textiles and textile products in the foregoing categories have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1). This letter will be published in the **Federal Register.**

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29468 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Request for Comments Concerning Proposed Extension of Approval of a Collection of Information—Electrically Operated Toys and Children's Articles

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed extension of approval of a collection of information from manufacturers and importers of certain electrically operated toys and children's articles. The collection of information consists of testing and recordkeeping requirements in regulations entitled "Requirements for Electrically Operated Toys or Other Electrically Operated Articles Intended for Use by Children," codified at 16 CFR part 1505.

The Commission will consider all comments received in response to this notice before requesting an extension of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than February 2, 1996.

ADDRESSES: Written comments should be captioned "Electrically Operated Toys" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, room 502, 4330 East West Highway, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: For information about the proposed extension of the collection of information, or to obtain a copy of 16 CFR part 1505, call or write Nicholas V. Marchica, Director, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0416, extension 2243.

SUPPLEMENTARY INFORMATION: In 1973, the Commission issued safety requirements for electrically operated toys and children's articles to protect children from unreasonable risks of injury from electric shock, electrical burns, and thermal burns. These regulations are codified at 16 CFR part 1505 and were issued under the authority of sections 2 and 3 of the Federal Hazardous Substances Act (15 U.S.C. 1261, 1262).

A. Requirements for Electrically Operated Toys

These regulations are applicable to toys, games, and other articles intended for use by children which are powered by electrical current from a 120 volt circuit. Video games and articles designed primarily for use by adults which may be incidentally used by children are not subject to these regulations.

The regulations prescribe design, construction, performance, and labeling requirements for electrically operated toys and children's articles. The regulations also require manufacturers and importers of those products to develop and maintain a quality assurance program. Additionally, section 1505.4(a)(3) of the regulations requires those firms to maintain records for three years containing information about: (1) Material and production specifications; (2) the quality assurance program used; (3) results of all tests and inspections conducted; and (4) sales and distribution of electrically operated toys and children's articles.

The Office of Management and Budget (OMB) approved the collection of information requirements in the regulations under control number 3041–0035. OMB's most recent extension of approval expired on February 28, 1995. The Commission now proposes to request a reinstatement of approval without change for the information collection requirements in the regulations.

The safety need for this collection of information remains. Specifically, if a manufacturer or importer distributes products that violate the requirements of the regulations, the records required by section 1505.4(a)(3) can be used by the firm and the Commission (i) to identify specific lots or production lines of products which fail to comply with applicable requirements, and (ii) to notify distributors and retailers in the event the products are subject to recall.

B. Estimated Burden

The Commission staff estimates that about 40 firms are subject to the testing and recordkeeping requirements of the regulations. The Commission staff estimates further that the burden imposed by the regulations on each of these firms is approximately 160 hours per year for testing, and about 40 hours a year for recordkeeping. Thus, the total annual burden imposed by the regulations on all manufacturers and importers is about 8,000 hours.

The Commission staff estimates that the hourly wage for the time required to perform the required testing and to maintain the required records is about $13, and that the annual total cost to the industry is approximately $104,000.

During a typical year, the Commission will expend approximately one week of professional staff time reviewing records required to be maintained by the regulations for electrically operated toys. The annual cost to the Federal government of the collection of information collection in these regulations is estimated to be $1,400.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed extension of approval of the collection of information in the regulations for electrically operated toys and children's articles. The Commission specifically solicits information about the hourly burden and monetary costs imposed by the collection of information on firms subject to this collection of information. The Commission also seeks information relevant to the following topics:

- Whether the collection of information is necessary for the proper performance of the Commission's functions;
- Whether the information will have practical utility for the Commission;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological

collection techniques, or other form of information technology.

Dated: November 28, 1995.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 95–29376 Filed 12–1–95; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Revision of the National Senior Service Corps' Project Profile and Volunteer Activity (PPVA) Information Collection Instruments

AGENCY: Corporation for National and Community Service.

ACTION: Notice of 60-Day Review and Comment Period on Draft 1996 PPVA Information Collection Instruments.

SUMMARY: The National Senior Service Corps announces a 60-day review and comment period during which project sponsors and the public are encouraged to submit comments on revised draft PPVA information collection instruments to be used during the September 1996 annual information collection: PPVA instruments are used to annually collect project and aggregate volunteer demographic and activity information from project sponsors funded under the Retired and Senior Volunteer Program (RSVP), Foster Grandparent Program (FGP), and Senior Companion Program (SCP).

Comments are invited on (1) whether the proposed instruments collect information appropriate and sufficient to meet operational management, planning and reporting needs of the Senior Corps programs; (2) ways to enhance the quality, utility and clarity of the information to be collected; (3) accuracy of agency estimates of reporting burden; and (4) ways to further reduce burden on respondents while meeting program needs.

DATES: The National Senior Service Corps will consider written comments on the proposed instruments and record-keeping requirements received within 60 days from the date of publication.

ADDRESS TO SEND COMMENTS: Janice Forney Fisher, National Senior Service Corps (NSSC), Corporation for National Service, 1201 New York Avenue, N.W., Washington, D.C. 20525.

ESTIMATED ANNUAL REPORTING OR DISCLOSURE BURDEN: 8,267 hours.

Program	No. of respondents	Annual responses per respondent	Average burden per respondent (hours)	Total annual burden on all respondents
RSVP	759	1	8.1	6,148
FGP	279	1	5.1	1,423
SCP	188	1	3.7	696

*This document will be made available in alternate format upon request. TDD (202) 606–5000 ext. 164.

FOR FURTHER INFORMATION PLEASE CONTACT: Janice Forney Fisher (202) 606–5000 ext. 275.

Regulatory Authority: National Service Trust Act of 1993.

Dated: November 28, 1995.

Thomas E. Endres,

Deputy Director, National Senior Service Corps.

[FR Doc. 95–29475 Filed 12–1–95; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Third Annual National Security Education Program (NSEP) Institutional Grants Competition

AGENCY: Department of Defense, National Security Education Program (NSEP).

ACTION: Notice.

SUMMARY: The NSEP announces the opening of its Third Annual Competition for Grants to U.S. Institutions of Higher Education.

DATES: Grants Solicitations (applications) will be available beginning Monday, February 5, 1996. Preliminary Proposals are due Friday, April 19, 1996.

ADDRESSES: Request copies of the solicitations (applications) from NSEP, Institutional Grants, Rosslyn P.O. Box 20010, 1101 Wilson Blvd., Suite 1210, Arlington, VA 22209–2248, by FAX to (703) 696–5667, or via INTERNET: nsepo@nsep.policy.osd.mil

FOR FURTHER INFORMATION CONTACT: Mr. Edmond J. Collier, Deputy Director for External Affairs, National Security Education Program, 1101 Wilson Boulevard, Suite 1210, Arlington, Virginia 22209–2248; (703) 696–1991 Electronic mail address: collier@nsep.policy.osd.mil.

Dated: November 29, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–29449 Filed 12–1–95; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary of Defense

Privacy Act of 1974; Notice to Amend a Record System

AGENCY: Office of the Secretary of Defense, DOD.

ACTION: Notice to Amend a Record System.

SUMMARY: The Office of the Secretary of Defense proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective on January 3, 1996 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Chief, Records Management and Privacy Act Branch, Washington Headquarter Services, Correspondence and Directives, Directives and Records Division, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 695–0970 or DSN 225–0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system. The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety.

Dated: November 24, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DHA 05

SYSTEM NAME:

Persian Gulf Veterans Illnesses Files *(August 23, 1995, 60 FR 43774).*

CHANGES

* * * * *

SYSTEM LOCATION:

Add the following four paragraphs 'Comprehensive Clinical Evaluation Program, 5205 Leesburg Pike, Skyline 1, Suite 1135, Falls Church, VA 22041–3802.

Commander, U.S. Army Center for Health Promotion and Preventive Medicine, ATTN: MCHB-DE-HR, Aberdeen Proving Ground, MD 21010–5422.

U.S. Army Joint Services Support Group, 7798 Cissna Road, Suite 101, Springfield, VA 22150–3197.

Naval Health Research Center, Division of Clinical Epidemiology, 271 Catalina Boulevard, Barracks Building 322, San Diego, CA 92152–5302.'

* * * * *

DHA 05

SYSTEM NAME:

Persian Gulf Veterans Illnesses Files.

SYSTEM LOCATION:

Department of Defense Persian Gulf Veterans Illnesses Investigative Team, 5205 Leesburg Pike, Falls Church, VA 22041–3881; and Assistant Secretary of Defense (Health Affairs), 1200 Defense Pentagon, Washington, DC 20301–1200.

Comprehensive Clinical Evaluation Program, 5205 Leesburg Pike, Skyline 1, Suite 1135, Falls Church, VA 22041–3802.

Commander, U.S. Army Center for Health Promotion and Preventive Medicine, ATTN: MCHB-DE-HR, Aberdeen Proving Ground, MD 21010–5422.

U.S. Army Joint Services Support Group, 7798 Cissna Road, Suite 101, Springfield, VA 22150–3197.

Naval Health Research Center, Division of Clinical Epidemiology, 271 Catalina Boulevard, Barracks Building 322, San Diego, CA 92152–5302.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who served in Operation Desert Storm and/or Operation Desert Shield who feel they may have been exposed to biological, chemical, disease, or environmental agents. Those individuals may contact the Persian Gulf Veterans Illnesses Investigative Team by dialing 1–800–472–6719 to report experiences of unusual illness or health conditions following service during the Persian Gulf conflict.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of individual's name, Social Security Number or service number, last known or current address, occupational information, date and extent of involvement in Persian Gulf military operations, perceived exposure information, medical treatment information, medical history of subject, and other documentation of reports of possible exposure to biological, chemical, disease, or environmental agents.

The system contains information from unit and historical records and information provided to the Department of Defense by individuals with first-hand knowledge of reports of possible biological, chemical, disease, or environmental incidents.

Information from health care providers who have evaluated patients with illnesses possibly related to service in the Persian Gulf is also included. Records include those documents, files, and other matter in the medical, operational, and intelligence communities that could relate to possible causes of Persian Gulf War Veterans illnesses.

Records of diagnostic and treatment methods pursued on subjects following reports of possible incidental exposure are also included in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 131, 10 U.S.C. 136, and E.O. 9397.

PURPOSE(S):

Records are collected and assembled to permit investigative examination and analysis of reports of possible exposure to biological, chemical, disease, or environmental agents incident to service in the Persian Gulf War and to conduct scientific or related studies or medical follow-up programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Veterans Affairs and the Social Security Administration for appropriate consideration of individual claims for benefits for which that agency is responsible.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders; electronic records are stored on magnetic media; microfilm/microfiche are maintained in appropriate storage containers.

RETRIEVABILITY:

Records are retrieved by case number, name, Social Security Number or service number.

SAFEGUARDS:

Access to areas where records maintained is limited to authorized personnel. Areas are protected by access control devices during working hours and intrusion alarm devices during non-duty hours.

RETENTION AND DISPOSAL:

Files will be retained permanently. They will be maintained in the custody of the Persian Gulf Veterans Illnesses Investigative Team under the oversight of the Assistant Secretary of Defense (Health Affairs) until completion of the Team's investigative mission. Upon disbanding of the Team, custody of the records will be transferred to OASD(HA) where they will be held for five years, and then transferred to the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Secretary of Defense (Health Affairs), 1200 Defense Pentagon, Washington, DC 20301–1200.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Persian Gulf War Veterans Illnesses Investigative Team, Suite 810, 5205 Leesburg Pike, Falls Church, VA 22041–3881, or to the Assistant Secretary of Defense (Health Affairs), 1200 Defense Pentagon, Washington, DC 20301–1200.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Director, Persian Gulf War Veterans Illnesses Investigative Team, Suite 810, 5205 Leesburg Pike, Falls Church, VA 22041–

3881, or to the Assistant Secretary of Defense (Health Affairs), 1200 Defense Pentagon, Washington, DC 20301–1200.

CONTESTING RECORDS PROCEDURES:

The OSD's rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is from the individuals themselves, witnesses to a possible agent event, health care providers who have evaluated patients with illnesses possibly related to service in the Persian Gulf, as well as extracts from historical records to include: personnel files and lists, unit histories, medical records, and related sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 95–29450 Filed 12–1–95; 8:45 am]

BILLING CODE 5000–04–F

Proposed Information Collection Available for Public Comment; Notice

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information collection; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness) (Requirements and Resources), ATTN: Reports Clearance Officer, Room 3C980, 4000 Defense Pentagon, Washington, DC 20301–4000. Consideration will be given to all comments received within 60 days of the date of publication of this notice.

Title: Department of Defense Domestic Dependent Elementary and Secondary Schools (DDESS): 1996 Impact Aid Funding Surveys.

Summary: This information collection consists of telephone interviews with both state education officials and local school district officials regarding the levels and sources of funding for local education agencies (LEAs) that have over 30 percent of students as military dependents. The proposed information collection will use a computer-assisted telephone interview (CATI) technique, in which telephone interviewers enter responses into a computerized data file. The primary purpose of this survey effort is to determine the feasibility of transferring the Domestic Dependent Elementary and Secondary Schools (DDESS) to local education agencies.

Needs and Uses: The Department of Defense (DoD) currently funds the operation of 58 Domestic Dependent Elementary and Secondary Schools (DDESS) on 15 military installations within the United States (excluding Puerto Rico). These schools were originally funded because the local communities could not provide a suitable education for military dependents living on these installations. In recent years, changes in local conditions and in federal funding priorities have led Congress to reconsider federal funding for the DDESS schools. In 1985, Congress required that the DoD submit a plan for the transfer of the DDESS schools to local education agencies. Although DoD conducted case studies of each DDESS, no action was taken regarding transfer. However, continuing efforts to reduce the federal deficit led the 103rd Congress to request a new study of the transfer issue. House of Representatives Conference Report 103–701 (pp. 963–964) requires that the Department of Defense collect information concerning the possibility of transferring the remaining 15 DDESS schools to neighboring local education agencies. Since a transfer to LEAs would require some mechanism to ensure adequate funding, the appropriate means and sources of funds for LEAs that enroll high proportions of military students is a critical determinant of the feasibility and success of any transfer effort. The House Conference Report, therefore, directs the DoD to conduct a survey of school districts operated by local education agencies in which over 30 percent of enrolled students are military dependents, in order to determine the level of funding for such schools and the sources of that funding. The legislation further specifies that the survey collect information on (1) the previous level of financial support provided by DoD and other federal agencies, and the timing of fiscal decisions concerning the education of military-connected students; (2) the positions of the LEAs and their corresponding state education officials regarding the responsibility of LEAs to educate military-connected students who reside on military installations; and (3) how funding of these school districts compares with other districts within the state that do not have a large percentage of military-dependent students. Findings from the data collection (along with findings from required surveys of military parents regarding the quality of education at the DDESS schools and at the highly impacted LEAs) will be submitted in a report to Congress. Congress will use this information in its consideration of the feasibility of transferring the DDESS schools to local education agencies.

Affected Public: State and local governments.

Annual Burden Hours (Including Recordkeeping): 65.5 hours.

Number of Respondents: 131.

Responses per Respondent: One.

Average Burden per Response: 30 minutes.

Frequency: One time.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call the Office of the Under Secretary of Defense (Personnel and Readiness) Reports Clearance Officer at (703) 614–4989.

Dated: November 29, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–29447 Filed 12–1–95; 8:45 am]

BILLING CODE 5000–04–M

Proposed Information Collection Available for Public Comment; Notice

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the

burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness) (Requirements and Resources), ATTN: Reports Clearance Officer, Room 3C980, 4000 Defense Pentagon, Washington, DC 20301–4000. Consideration will be given to all comments received within 60 days of the date of publication of this notice.

Title: Record of Military Processing—Armed Forces of the United States; DD Form 1966; OMB Control Number 0704–0173.

Summary: This information collection is used by all Military Services for obtaining data to determine eligibility of applicants for enlistment into the Armed Forces and for establishing enlistment records. The DD Form 1966, "Record of Military Processing—Armed Forces of United States," used in this collection, requests information about name, age, education, previous military service, family, and citizenship. it requires validation that a recruiter has reviewed the information and requires witnesses for verification of the applicants' signature.

Needs and Uses: In accordance with Title 10 USC Sections 504, 505, 508, 510, and 520a; Title 14 USC Sections 351 and 632; and Title 50 USC Appendix, Section 451, applicants must meet minimum standards for enlistment into the Armed Forces. This information collection, which is used by the Military Services and the Coast Guard, gathers the necessary data for determining eligibility in the Armed Forces and for establishing personnel records on those enlisted.

Affected Public: Individuals or households.

Annual Burden Hours: 423,300 hours.

Number of Respondents: 510,000.

Responses per Respondent: 1.

Average Burden per Response: .83 hours.

Frequency: One-time.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call the Office of the Under Secretary of Defense (Personnel and Readiness) Reports Clearance Officer at (703) 614–8989.

Dated: November 29, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–29448 Filed 12–1–95; 8:45 am]

BILLING CODE 5000–4–M

Department of the Army

Proposed Information Collection Available for Public Comment; Record of Preparation and Disposition of Remains

AGENCY: Director of Information Systems for Command, Control, Communications, and Computers (DISC4), U.S. Army.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. Title 10, USC Sections 1481 & 1482 authorize disposition of remains and payments of necessary expenses incident to the death of active duty military personnel.

Title, Applicable Forms, and OMB Control Number

Record of Preparation and Disposition of Remains (Within CONUS), DD FORM 2063, OMB CONTROL NUMBER (0702–0014)

Needs and Uses: DD FORM 2063 provides technical information regarding preparation and condition of remains. Information is used to substantiate claims and provide information for inquiries into death cases.

Affected Public: Individuals or households.

Annual Burden Hours: 403.

Number of Respondents: 1,613.

Responses per Respondents: 1.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

FOR FURTHER INFORMATION CONTACT: Written comments and recommendations on the proposed information collection should be sent to Department of the Army, Deputy Chief of Staff for Personnel, 300 Army Pentagon, DAPE–ZXI–IC (ATTN: Phyllis Miller) Washington, DC 20310–0300. Consideration will be given to all comments received within 60 days of the date of publication of this notice.

SUPPLEMENTARY INFORMATION: To request more information on this proposed information collection or to obtain a copy of the proposed association collection instruments, please write to the above address or call the Department of the Army Reports Clearance Officer at (703) 614–0454.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–29415 Filed 12–1–95; 8:45 am]

BILLING CODE 3710–08–M

Proposed Information Collection Available for Public Comment; Request for Payment of Funeral

AGENCY: Director of Information Systems for Command, Control, Communications, and Computers (DISC4), U.S. Army.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. Title 10, USC Sections 1485 & 1486 provides the next-of-kin of deceased military personnel a monetary reimbursement of certain costs incurred by the next-of-kin in the interment of the deceased.

Title, Applicable Forms, and OMB Control Number

Disposition of Remains—Reimbursable Basis, Request for Payment of Funeral and/or Interment Expenses, DD FORMS 2065 AND DD

FORM 1375, OMB CONTROL NUMBER (0704–0030).

Needs and Uses: DD FORM 2065 records disposition instructions and costs for preparation and final disposition of remains. DD FORM 1375 provides next-of-kin an instrument to apply for reimbursement of funeral/interment expenses. This information is used to adjudicate claims for reimbursement of these expenses.

Affected Public: Individuals or households.

Annual Burden Hours: 208.

Number of Respondents: 1,140.

Responses per Respondents: 1.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

FOR FURTHER INFORMATION CONTACT: Written comments and recommendations on the proposed information collection should be sent to Department of the Army, Deputy Chief of Staff for Personnel, 300 Army Pentagon, DAPE–ZXI–IC (ATTN: Phyllis Miller) Washington, DC 20310–0300. Consideration will be given to all comments received within 60 days of the date of publication of this notice.

SUPPLEMENTARY INFORMATION: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call the Department of the Army Reports Clearance Officer at (703) 614–0454.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–29416 Filed 12–1–95; 8:45 am]

BILLING CODE 3710–08–M

Scientific Conference on Frozen Platelets and Platelet Substitutes in Transfusion Medicine

AGENCY: Walter Reed Army Institute of Research, Washington, DC.

ACTION: Notice of open meeting.

SUMMARY: This conference is sponsored by the Medical Research Combat Casualty Care Program of the United States Army and Navy, with the participation of the Center for Biologics Evaluation and Research, Food and Drug Administration, and the Blood Resources Program of the National Heart, Lung and Blood Institute, NIH.

The purpose of the two-day meeting will be to review frozen platelet preparations as well as platelet substitutes that are in development for hospital and field use. Topics to be discussed include appropriate in vitro studies to assess activity as well as preclinical and clinical trails to validate efficacy. Poster preparations are welcome.

All individuals wishing to present posters must register and provide a 250 word abstract no later than January 20, 1996. All others should register by February 1, 1996. The registration fee is $100 payable to SAIC. Registration forms and initial agenda are available from SAIC, ATTN: Ms. Lea Ann Lehmann, 5340 Spectrum Drive, Suite N, Frederick, Maryland 21701 (FAX 301–698–6188).

Date of Meeting: March 7, 1996 to March 8, 1996.

Place: Uniformed Services University of the Health Sciences (main auditorium), 4301 Jones Bridge Road, Bethesda, MD.

Time: 8 a.m. to 9 p.m., March 7 and 8:30 a.m. to 11:30 a.m., March 8.

FOR FURTHER INFORMATION CONTACT: Barbara Alving, M.D., Colonel Chief, Department of Hematology and Vascular Biology, Walter Reed Army Institute of Research, Washington, DC 20307–5100 (TEL 301–782–3385, FAX 202–782–0703).

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–29411 Filed 12–1–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 27 & 28 November 1995.

Time of Meeting: 1400–1800, 27 November 1995, 0800–1700, 28 November 1995.

Place: Ft. Leavenworth, Kansas.

Agenda

The Army Science Board (ASB) TRADOC Panel on "Operational Architecture" will meet for briefings provided by Army representatives from the TRADOC Program Integration Office—Army Battle Command Systems (TPIO-ABCS). This meeting will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of this meeting.

For further information, please contact Michelle Diaz at (703) 695–0781.

Jacqueline Y. Ladd,

Database Manager, Acting Administrative Officer, Army Science Board.

[FR Doc. 95–29472 Filed 12–1–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 28, 29 & 30 November 1995.

Time of Meeting: 0830–1730, 28 November 1995, 0815–1630, 29 November 1995, 0815–1130, 30 November 1995.

Place: WRAIR/NMRI, 29 November 1995, USUHS, 29 & 30 November 1995.

Agenda

The Army Science Board (ASB) Personnel and Medical Issue Group will meet for continuing discussions on the design and staffing required to support the medical research, development, test and evaluation (RDTE) programs of the proposed Army and Navy consolidated laboratory management organization currently proposed to be called the Armed Forces Medical Research Development Agency (AFMRDA). These meetings will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information, please call Michelle Diaz at (703) 695–0781.

Jacqueline Y. Ladd,

Database Manager, Acting Administrative Officer, Army Science Board.

[FR Doc. 95–29473 Filed 12–1–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: November 29, 1995.

Time of Meeting: 0900–1200.

Place: BDM HQ-McLean, VA.

Agenda

The Army Science Board's Acquisition sub-panel to "Reengineering the Acquisition and Modernization Processes of the Institutional Army" will meet to discuss the current status of Army Modernization and to discuss plans to reengineer the Acquisition and Modernization processes. Discussion will include the current shortfalls in modernization and the attendant vulnerabilities to the U.S. Army. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of this morning. For further information, please contact Michelle Diaz at (703) 695–0781.

Jacqueline Y. Ladd,

Acting Administrative Officer, Army Science Board.

[FR Doc. 95–29374 Filed 12–1–95; 8:45 am]

BILLING CODE 3710–08–M

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning a Bacterial Delivery System

AGENCY: U.S. Army Medical Research and Materiel Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of U.S. Patent Application Serial No. 08/523,855 entitled "Bacterial Delivery System" and filed September 6, 1995. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Staff Judge Advocate, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Moran, Patent Attorney, (301) 619–2065 or telefax (301) 619–7714.

SUPPLEMENTARY INFORMATION: This invention describes a bacterial delivery system for the delivery of DNA and antigens to cells. Said system consists of an attenuated bacterial vector which enters mammalian cells and ruptures, thus delivering functional plasmid DNA and antigens into the cell cytoplasm. This *Shigella* vector was designed to deliver DNA to colonic surfaces, thus opening the possibility of oral and other mucosal DNA immunization and gene therapy strategies. The attentuated *Shigella* is also useful as a vaccine for reducing disease symptoms caused by *Shigella.*

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–29413 Filed 12–1–95; 8:45 am]

BILLING CODE 3710–08–M

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Encapsulated High-Concentration Lipid A Composition as Immunogenic Agents

AGENCY: U.S. Army Medical Research and Materiel Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of U.S. Patent Application Serial No. 07/601,090 filed October 22, 1990 and entitled "Encapsulated High-Concentration Lipid A Compositions as Immunogenic Agents to Produce Human Antibodies to Prevent or Treat Gram-Negative Bacterial Infections". This Notice also announces the withdrawal of the intent to grant exclusive patent license to Univax Biologics, Inc. as indicated in the **Federal Register**, Volume 57, Number 99, page 21648 (May 21, 1992). This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Staff Judge Advocate, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Moran, Patent Attorney, (301) 619–2065 or telefax (301) 619–7714.

SUPPLEMENTARY INFORMATION: This invention is directed to the production of antibodies against lipid A by using encapsulating slow-releasing delivery materials or devices containing concentrations of lipid A that are greater than could be given safely to humans in the absence of said materials or devices. The antibodies to lipid A can be used for binding the antibodies to the lipid A that is present in the lipopolysaccharide that coats the surface of the Gram-negative bacteria.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–29414 Filed 12–1–95; 8:45 am]

BILLING CODE 3710–08–M

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of Fuze Technology

AGENCY: Picatinny Arsenal, New Jersey.

ACTION: Notice.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive, or non-exclusive licenses under patent application Serial Number 177,493, filed January 5, 1994, Docket # DAR 8–93, by Michael Tari, Louis J. Adimari, and Frank Diorio entitled "Self-Destruct Fuze for Improved Conventional Munitions", now U.S. patent number 5,387,257, issued on February 7, 1995. Licenses shall comply with 35 USC 209 and 37 CFR 404.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Goldberg, Chief, Intellectual Property Law Division, AMSTA–AR–GCL, U.S. Army ARDEC, Picatinny Arsenal, NJ 07806–5000, telephone number (201) 724–6950.

SUPPLEMENTARY INFORMATION: Written objections must be filed within 30 days from the date of publication of this notice in the **Federal Register**.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–29412 Filed 12–1–95; 8:45 am]

BILLING CODE 3710–08–M

Availability of Non-Exclusive, Exclusive, or Partially Exclusive Licensing of Training Ammunition Technology

AGENCY: Picatinny Arsenal, New Jersey.

ACTION: Notice.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive, or non-exclusive licenses under patent application Serial Number 08/273,032 filed July 7, 1994, Docket # DAR 6–94, by Anthony Farina and Mark Young, entitled "Training Projectile". Licenses shall comply with 35 U.S.C. 209 and 37 CFR Part 404.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Goldberg, Chief, Intellectual Property Law Division, AMSTA–AR–GCL, U.S. Army ARDEC, Picatinny Arsenal, NJ 07806–5000, telephone number (201) 724–6950.

SUPPLEMENTARY INFORMATION: Written objections must be filed within 30 days from the date of publication of this notice in the **Federal Register**.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–29410 Filed 12–1–95; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Notice of Availability of Surplus Land and Buildings in Accordance With Public Law 103–421 Located at Defense Personnel Support Center, Philadelphia, PA

AGENCY: Corps of Engineers, DOD.

ACTION: Public notice of availability.

SUMMARY: The Department of the Army, in accordance with the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, announces that approximately 77.5 acres containing the buildings listed below, at the Defense Personnel Support Center have been determined surplus. The Center is located in south Philadelphia in the block bordered by Oregon Avenue on the North, 20th Street on the East, and Schuylkill Expressway on the South and West. The property is scheduled for closure by July 2, 1999. State and local governments, representatives of the homeless, and other interested parties should be aware that the outreach screening process whereby McKinney Homeless providers and state and local governmental agencies express their interest in the property will be conducted by Lori Flynn of the Philadelphia Industrial Development Corporation, Office of Defense Conversion, 2600 Centre Square West, 1500 Market Street, Philadelphia, PA 19102, telephone: 215–496–8167. The screening process will commence upon the publishing of notices in local newspapers, currently scheduled for early 1996.

4 Office Buildigns—Totaling 808,200 SF
7 Storage Buildings—Totaling 1,561,000 SF
9 Other Type Buildings—Totaling 294,100 SF

FOR FURTHER INFORMATION CONTACT: Ms. Lori Flynn at the above address and phone number.

Gregory D. Showalter,
Army Federal Register Liaison Officer.

[FR Doc. 95–29434 Filed 12–1–95; 8:45 am]

BILLING CODE 3710–41–M

Intent To Prepare A Draft Environmental Impact Statement (DEIS) for A Multiuser Disposal Site Program for Contaminated Sediments in Puget Sound, WA

ACTION: Notice of intent to prepare a draft EIS.

SUMMARY: The following are joint lead agencies for the combined Federal and State Programmatic Environmental Impact Statement (EIS): Federal (NEPA): Seattle District, U.S. Army Corps of Engineers, Department of Defense; State (SEPA): Washington Department of Ecology and Washington Department of Natural Resources.

The U.S. Army Corps of Engineers, the Washington Department of Ecology, and the Washington Department of Natural Resources, intend to prepare a joint federal-state Programmatic Environmental Impact Statement under the National Environmental Policy Act (NEPA) and the Washington State Environmental Policy Act (SEPA). The EIS will evaluate disposal alternatives for contaminated sediments from Puget Sound. Disposal alternatives that will be evaluated include: (1) Level bottom capping and confined aquatic disposal, (2) nearshore confined disposal, (3) upland disposal, (4) disposal in solid waste landfills, and (5) multiuser access to larger fill projects.

The need for disposal of contaminated sediments comes from (1) dredging of federal and non-federal navigation channels, (2) waterfront development projects, (3) environmental cleanup projects directed through federal or state enforcement actions, and (4) projects with restoration of aquatic habitat as their primary purpose. Preliminary investigations estimate there are currently about 20–30 million cubic yards of contaminated sediment in Puget Sound, primarily in the urbanized bays.

The current practice of resolving contaminated dredged material issues is on a project-by-project basis, resulting in a greater number of smaller confined disposal sites that must be monitored and accounted for, rather than a few large sites. Because of difficulties with disposal, the discovery of contaminated sediments often forces project proponents to redesign or abandon a project to avoid dredging. This avoidance does not resolve the ongoing adverse effects of the contaminated sediments remaining in the environment, and it limits the potential economic development of the contaminated waterfront site.

Development of an effective solution for the safe disposal and containment of contaminated sediments from multiple sources in Puget Sound is needed. A process to establish, implement, and operate a system of multiuser confined disposal sites, and criteria to site the facilities, will be developed as part of the EIS. Siting criteria will include biological and physical factors, as well as proximity to existing sources of contamination. Using siting criteria and the evaluation of feasible disposal alternatives, zones of siting feasibility in Puget Sound, where multiuser confined disposal sites could be located, will be identified in the EIS. Once zones of feasible sites are determined, site-specific NEPA/SEPA compliance evaluations for all potential sites will be tiered from the completed programmatic EIS.

DATES: The lead and cooperating agencies invite and encourage agencies and the public to provide written comments on the proposed programmatic EIS throughout the scoping process to ensure that all relevant environmental issues are considered. Persons or organizations wishing to submit scoping comments should do so no later than January 21, 1996.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by: Mr. Steve Babcock, Seattle District, U.S. Army Corps of Engineers, Planning Branch, 4735 E. Marginal Way S., Seattle, Washington 98124–3755, Telephone (206) 764–3651 or Mr. Keith Phillips, Washington Department of Ecology, Environmental Investigation and Lab Service Program, P.O. Box 47710, Olympia, Washington 98504–7710 Telephone (360) 407–6699 or Mr. Timothy Goodman, Aquatic Resources Division, Washington Department of Natural Resources, P.O. Box 47000, Olympia, Washington 98504, Telephone (360) 902–1057.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The proposed action is to evaluate alternatives for siting one or more contaminated sediment disposal facilities in Puget Sound, Washington. This evaluation will be part of an effort to develop a federal/state program to establish one or more multiuser disposal siting processes.

Puget Sound is an estuary of 2,500 square miles. There are 34 public port districts along Puget Sound, 54 miles of federal navigation channels, 10 miles of port terminal ship berths along these channels, and more than 200 small boat harbors that require periodic dredging. There is currently a lack of capacity for disposal of contaminated sediments derived from (1) dredging of federal and non-federal navigation channels, (2) waterfront development projects, (3) environmental cleanup projects directed through federal or state enforcement actions, and (4) projects with restoration of aquatic habitat as their primary purpose. The lack of suitable disposal alternatives is a major obstacle to effective improvement and maintenance of navigation and the most substantial impediment to the progress of

environmental cleanup and habitat restoration programs. The lack of predictable and cost-effective disposal options for contaminated sediments leads to cancellation or delay of waterfront development projects, resulting in adverse economic effects.

Based on preliminary investigations of 20 percent of Puget Sound, Ecology estimates that the areal extent of known sediment contamination is nearly 88 million square feet. Assuming all of the material is dredged to a depth of four feet, this area represents roughly 20–30 million cubic yards of contaminated dredged material. Over the next 20 years, an estimated 35 million cubic yards will be dredged for navigation purposes by the Corps and Navy, port districts and the private sector, of which as much as 10 million cubic yards may require confined disposal. In addition to navigation dredging projects, a large volume of contaminated sediment may be generated by future cleanup actions under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and state Model Toxics Control Act (MTCA). A preliminary estimate of future contaminated sediment volumes from these cleanup actions in Puget Sound is in the range of 20 to 30 million cubic yards.

2. Alternatives

The alternatives which will be evaluated in the EIS are:

a. No action;
b. Level bottom capping and confined aquatic disposal;
c. Nearshore confined disposal;
d. Upland disposal;
e. Disposal in solid waste landfills; and
f. Multiuser access to larger fill projects.

These are preliminary alternatives; during the scoping process, the public may provide additional alternatives to be considered.

No action—This alternative would continue the practice of resolving contaminated dredged material issues on a project-by-project basis. This practice is time-consuming, unpredictable, and expensive for the regulated community, the regulatory agencies, and the public. It also results in a greater number of smaller confined disposal sites that must be monitored and accounted for rather than a few large sites. Because of difficulties with disposal, the discovery of contaminated sediments will often force project proponents to redesign or abandon a project to avoid dredging. This avoidance does not resolve the ongoing adverse effects of the contaminated sediments on the environment, and it limits the potential economic development of the contaminated waterfront site.

Level bottom capping and confined aquatic disposal—Both of these disposal options involve consolidating contaminated sediments from numerous dredging projects at one location and then covering them with a cap layer of clean material. The clean cap layer isolates the marine environment from the chemicals of concern in the contaminated sediment. Level bottom capping is the placement of contaminated sediment in a mounded configuration with the clean cap layer on top. Confined aquatic disposal uses natural or excavated depressions for placement of the contaminated material, or places the material behind constructed submerged dikes for containment. In both cases, the contaminated material is covered with a clean cap layer.

Nearshre confined disposal—A nearshore confined disposal facility is a diked disposal site adjacent to land in the intertidal and/or subtidal zone. The confinement dikes enclose the disposal site from adjacent water surfaces and isolate dredged material from adjacent waters during placement. Contaminated material would be added to a diked cell to a specific elevation and then capped with clean material. The site would likely be developed in phases, and cells would be filled and capped in stages over the life of the facility. Nearshore sites are either finished to grade to allow beneficial use of the site after completion, or the finished grade of the clean cap layer is located in the intertidal zone to allow planting of aquatic vegetation and habitat restoration.

Upland disposal—This alternative includes the placement of contaminated material in an area not influenced by tidal waters. The upland site would be diked to confine the dredged material and capped with a layer of clean material at completion of the fill. The site would be developed in stages and would be filled and closed serially over the life of the facility. Design standards for an upland site would include liners, monitoring of leachate seeping into soils, groundwater monitoring, and a leachate collection and treatment system.

Disposal in solid waste landfills—Potential disposal of contaminated sediments in solid waste landfills would be evaluated under this alternative. Municipal landfills are short on capacity and subject to water content restrictions. Demolition debris landfills have been used in the past for disposal of contaminated sediments, but this practice is ending as these sites are closed or subject to additional environmental controls. An initial State survey of landfill agencies concluded that use of contaminated material as landfill cover would not address the needed capacity, and the facilities were not planned to accommodate the volume or substantial regulatory, technical, or cost issues associated with managing contaminated sediments.

Multiuser access to larger fill projects—This alternative examines the option of providing multiuser access to large fill sites constructed and/or maintained by proponents of waterfront activities. Proponents of larger fill projects have been reluctant to provide multiuser access to their sites because of lost capacity for their own projects, extended timeframes for site development and closure, and inherited liability.

3. Scoping and Public Involvement

Public involvement will be sought during the scoping process and throughout the course of the project in accordance with NEPA/SEPA procedures. A public involvement plan will be developed in early 1996. As part of the scoping process, all affected Federal, state, and local agencies, Indian Tribes, general public, and other interested private organizations, including environmental interest groups, are invited to comment on the scope of the EIS.

To date, the following areas have been identified for analysis in the programmatic EIS:

1. Water quality.
2. Sediment quality.
3. Fish and wildlife habitat.
4. Shoreline and land use.
5. Recreation.
6. Transportation.
7. Human Health.

Two scoping meetings are scheduled: December 13, 1995, at the World Trade Center in Tacoma from 7 to 9 p.m.; and December 14, 1995, at the Port of Everett Commissioner Hearing Room 7 to 9 p.m. Public workshops are tentatively scheduled to precede these scoping meetings from 6 to 7 p.m. Ongoing communication with agencies, Native American tribes, public interest groups, and interested citizens will take place throughout the project through the use of public workshops, newsletters, and mailings.

4. Schedule

The scoping summary document is scheduled to be available in June 1996, and the Draft Programmatic Environmental Impact Statement is

tentatively scheduled to be available for review in 1997.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–29433 Filed 12–1–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM96–2–20–001]

Algonquin Gas Transmission company; Notice of Proposed Changes in FERC Gas Tariff

November 28, 1995.

Take notice that on November 21, 1995, Algonquin Gas Transmission Company (Algonquin) tendered the instant filing in compliance with the Commission's letter order issued in Docket No. TM96–2–20–000 on November 9, 1995.

Algonquin states that the purpose of this filing is to provide an explanation and workpaper to support the estimated throughput figures shown in Appendix C of Algonquin's October 12, 1995, filing in Docket No. TM96–2–20–000. The October 12, 1995, filing revised Algonquin's fuel reimbursement percentages and the annual calculation of the fuel reimbursement quantity deferral allocation.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR Section 385.211 of the Commission's Rules of Practice and Procedure. Under Section 154.209, all such protests should be filed on or before December 4, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29397 Filed 12–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–5–001]

Carnegie Interstate Pipeline Company; Notice of Proposed Change in FERC Gas Tariff

November 28, 1995.

Take notice that on November 17, 1995, Carnegie Interstate Pipeline Company (CIPCO) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet, to become effective on November 1, 1995:

Fourth Revised Sheet No. 7

CIPCO states that this filing revises its Annual Transportation Cost Rate (TCR) filing made on October 2, 1995, which the Commission accepted and suspended, effective November 1, 1995, in a letter order issued October 26, 1995. In this filing, CIPCO has recalculated its TCR to reflect its recent settlement of litigation with its customer, New Jersey Natural Gas Company. As a result of that settlement the unrecovered TCR costs attributable to New Jersey Natural Gas Company are restored to CIPCO's Unrecovered Transportation Cost subaccount. In addition CIPCO has recalculated its TCR to utilize the actual billing determinants in effect as of November 1, 1995, as required by its tariff. The filing reflects a TCR of $1.1162, compared to the TCR of $1.5249 set forth in the October 2, 1995 filing.

CIPCO states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. Under Section 154.209, all such protests should be filed on or before November 29, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29399 Filed 12–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–173–007]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

November 28, 1995.

Take notice that on November 21, 1995, Koch Gateway Pipeline Company (Koch Gateway) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets effective September 1, 1995:

2nd Sub First Revised Sheet No. 1901

Koch Gateway states that the above referenced tariff sheet is submitted in compliance with the November 9, 1995, Commission's order in this proceeding. Pursuant to the Commission's order, Koch Gateway's revised tariff language states that, if Koch Gateway has received prior authorization from a shipper, the shipper signature is not required for Predetermined Allocation Agreements submitted after gas flow.

Koch Gateway also states that the tariff sheets are being mailed to all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 1A, Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. Under Section 154.209, all such protests should be filed on or before December 4, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29403 Filed 12–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–301–004]

Stingray Pipeline Company; Notice of Compliance Filing

November 28, 1995.

Take notice that on November 22, 1995, Stingray Pipeline Company (Stingray) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff), revised tariff sheets to be effective December 1, 1995.

Stingray states that the purpose of the filing is to comply with Article VII of the Stipulation and Agreement (Settlement) approved by Federal Energy Regulatory Commission (Commission) letter order issued October 11, 1995 in Docket Nos. RP94–301–000 and RP94–301–003. The filed tariff sheets reflect the rates as set out on Appendix A of the Settlement to be effective December 1, 1995, and revisions to Sections 10 and 11 of the General Terms and Conditions of Stingray's Tariff as set forth in Article V of the Settlement. Stingray has also made conforming changes to its Tariff to reflect a thermal billing basis consistent with the thermal content which underlies the settlement rates.

Stingray requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective December 1, 1995.

Stingray states that copies of its filing were served on all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. Under Section 154.209, all such protests should be filed on or before December 4, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29405 Filed 12–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG88–47–008]

Texas Gas Transmission Corporation; Notice of Filing

November 28, 1995.

Take notice that on November 15, 1995, Texas Gas Transmission Corporation (Texas Gas) submitted revised standards of conduct under Order Nos. 497 *et seq.*[1] and Order Nos. 566 *et seq.*[2] Texas Gas states that it is revising its standards to incorporate the changes required by the Commission's October 31, 1995, Order on Standards of Conduct.[3]

Texas Gas states that copies of this filing have been mailed to all parties on the official service list compiled by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before December 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29408 Filed 12–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–375–003 and RP95–215–002]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 28, 1995.

Take notice that on November 21, 1995, Texas Gas Transmission Corporation (Texas Gas) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with an effective date of November 21, 1995:

First Revised Sheet No. 222
Second Revised Sheet No. 223
Second Revised Sheet No. 224
Second Revised Sheet No. 225
Second Revised Sheet No. 226
First Revised Sheet No. 226A
First Revised Sheet No. 226B
First Revised Sheet No. 226C
First Revised Sheet No. 226D

Texas Gas states that the revised tariff sheets are being filed to institute conditions under Article IV of a Stipulation and Agreement of Settlement (Settlement) filed on August 21, 1995, and approved by the Commission by letter order dated October 11, 1995. The Settlement resolves all issues related to the termination of Texas Gas's purchased gas adjustment (PGA) clause and the allocation, direct billing and recovery of Texas Gas's Account No. 191 balances arising out of the above captioned proceeding.

Texas Gas states that copies of the revised tariff sheets are being mailed to Texas Gas's affected customers, interested state commissions, and those who are parties on the official service lists of the referenced dockets listed above.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 Commission's Rules and Regulations. Under Section 154.209, all such protests should be filed on or before December 4, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29404 Filed 12–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–454–001]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

November 28 1995.

Take notice that on November 16, 1995, Transwestern Pipeline Company (Transwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Effective November 14, 1995

15th Revised Sheet No. 90A
6th Revised Sheet No. 91

On September 29, 1995, Transwestern made a filing pursuant to Section 25.6, Interest Rate Adjustment Filings, of the General Terms and Conditions of Transwestern's FERC Gas Tariff, and in accordance with the Stipulation and Agreements in Docket Nos. RP93–56 (TCR–11), RP93–86 (TCR–12), RP93–139 (TCR–13) and RP94–60 (TCR–14) (TCR Settlements). In the filing Transwestern proposed to adjust TCR Surcharge C (Nos. 11–13) and TCR Surcharging C (No. 14) to: (1) True-up for the actual quarterly interest rates published by the Commission for the

[1] Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Regs. 1986–1990 ¶ 30,820 (1988); Order No. 497–A, *order on rehearing*, 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986–1990 ¶ 30,868 (1989); Order No. 497–B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. 1986–1990 ¶ 30,908 (1990); Order No. 497–C, *order extending sunset date*, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F.2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date*, III FERC Stats. & Regs. ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, *order on rehearing and extending sunset date*, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,361 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date*, 59 FR 32884 (June 27, 1994), III FERC Stats. & Regs. ¶ 30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), III FERC Stats. & Regs. ¶ 30,997 (June 17, 1994); Order No. 566–A, *order on rehearing*, 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566–B, *order on rehearing*, 59 FR 65707 (December 21, 1994); 69 FERC ¶ 61,334 (December 14, 1994); *appeal docketed sub nom. Conoco, Inc. v. FERC*, D.C. Cir. No. 94–1745 (December 14, 1994).

[3] 73 FERC ¶ 61,144 (1995).

period October 1, 1994 through September 30, 1995; and (2) estimate the interest expense for the upcoming period of October 1, 1995 through October 31, 1996.

Transwestern states that the Public Utilities Commission of the State of California (CPUC) and Pacific Gas and Electric Company (PG&E) both filed timely motions to intervene and requests for clarification. CPUC stated that it believed Transwestern calculated the interest adjustment correctly but that Section 25.6 of Transwestern's tariff references an earlier period of Transwestern's TCR filings, beginning November 1, 1989, and limits such adjustments to three filings. CPUC acknowledged that the TCR Surcharge C interest rate filing is consistent with Transwestern's previous TCR Settlements but was not clear whether Tranwestern's tariff needs to be revised for clarification purposes. In that regard, the CPUC recommended that Section 25.6 of Transwestern's tariff be revised to delete the word "three." PG&E also sought clarification of the same tariff provisions.

On October 30, 1995, FERC issued a letter order (Order) in this docket, accepting Transwestern's filing and directing Transwestern to file tariff language to revise Section 25.6, consistent with its underlying TCR Settlements.

Transwestern states that in compliance with such Order, rather than simply deleting the word "three" from Section 25.6 it has separated Section 25.6 into two sections. First, the existing language in Section 25.6 has been modified to indicate that such language refers only to TCR B. Second, a new subsection (b) has been added that applies the interest rate adjustment mechanism to TCR Surcharge C, using language consistent with TCR Surcharge B. Transwestern believes these changes will eliminate any confusion the previous tariff language may have caused.

Transwestern states that due to an inadvertent administrative oversight, it is making this filing two days after the due date specified in the Order. Transwestern apologizes for any inconveniences this late filing may have caused the Commission or to the parties in this proceeding.

Transwestern states that copies of the filing were served on its gas utility customers, interested state commissions, and all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. Under Section 154.209, all such protests should be filed on or before November 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29400 Filed 12–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–148–001]

Trunkline Gas Company; Notice of Compliance Filing

November 28, 1995.

Take notice that on November 22, 1995, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets proposed to be effective October 29, 1995:

Sub First Revised Sheet No. 154
Sub First Revised Sheet No. 170

Trunkline states that this filing is being made in compliance with the Commission's Order Rejecting Tariff Sheets and Accepting and Suspending Tariff Sheets Subject to Refund and Conditions and Establishing a Technical Conference issued October 25, 1995 and the November 8, 1995 Errata Notice in Docket No. RP95–449–000.

Trunkline states that copies of this filing are being mailed to all parties to this proceeding and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. Under Section 154.209, all such protests should be filed on or before December 4, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29401 Filed 12–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–447–001 and RP89–183–058]

Williams Natural Gas Company; Notice of Proposed Change in FERC Gas Tariff

November 28, 1995.

Take notice that on November 22, 1995, Williams Natural Gas Company (WNG) made a filing in compliance with Commission order dated October 25, 1995 in Docket No. RP95–447 and RP89–183.

WNG states that this filing contains a response to the Missouri Public Service Commission's assertion that the filing should reflect the effect of deferred tax reserves and a breakdown of cumulative balances on which interest is calculated showing whether it offsets the balance for the deferred tax reserves. Attached to the filing are schedules showing the calculation of interest on the amounts WNG proposes to direct bill in this docket. WNG did not reduce the principal amounts by deferred income taxes for purposes of calculating interest.

WNG states that a copy of its filing was served on all participants listed on the service list maintained by the Commission in the dockets referenced above and on interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. Under Section 154.209, all such protests should be filed on or before December 4, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29402 Filed 12–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–1–121–002]

WestGas Interstate, Inc.; Notice of Filing of Refund Report

November 28, 1995.

Take notice that on November 17, 1995, WestGas Interstate, Inc. (WGI) filed a refund report in Docket No. TM96–1–121–000. WGI states that the filing and refunds were made in compliance with the Letter Order issued October 6, 1995, in the above referenced proceeding.

WGI stats that the report summarizes WGI's refund of Annual Charge Adjustment (ACA) surcharges over-collected from its customers, as required by the October 6, 1995 Letter Order. WGI further states that such refunds were issued on October 31, 1995.

WGI states that a copy of its filing was served on each of its jurisdictional customers and affected state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. Under Section 154.209, all such protests should be filed on or before November 29, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29398 Filed 12–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–296–009]

Williams Natural Gas Company; Notice of Revised Refund Report

November 28, 1995.

Take notice that on November 15, 1995, Williams Natural Gas Company (WNG) tendered for filing a revised refund report in compliance with Commission order issued October 16, 1995 in Docket No. RP94–296–004, et al.

WNG states that the refund report reflects refunds as they would have been made if the "CIG T&E adjustment" of $5,144,697 had been included in WNG's unrecovered purchased gas cost, as permitted by the October 16 order.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. Under Section 154.209, all such protests should be filed on or before November 27, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29406 Filed 12–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–296–008]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 28, 1995.

Take notice that on November 15, 1995, Williams Natural Gas Company (WNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 the following tariff sheets:

To Be Effective September 19, 1994

Second Substitute Third Revised Sheet No. 9
Second Substitute Second Revised Sheet No. 10

To Be Effective March 31, 1995

Third Substitute Fourth Revised Sheet No. 9
Third Substitute Third Revised Sheet No. 10

WNG states that this filing is being made in compliance with Commission order issued October 16, 1995 in Docket No. RP94–296–004, et al. WNG was directed to file revisions to conform with the order within 30 days of the issuance of the order. The tendered tariff sheets reflect an increase in the amount of unrecovered purchased gas costs of approximately $5.1 million.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. Under Section 154.209, all such protests should be filed on or before November 27, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–20407 Filed 12–1–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5338–2]

Clean Air Scientific Advisory Committee Science Advisory Board; Emergency Notification of Public Advisory Committee Meeting

December 14–15, 1995.

This is an Emergency Notification of a Federal Advisory Committee Meeting. This notice is being published less than fifteen calendar days prior to the date of the announced meeting due to delays caused by Federal budgetary exigencies.

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Clean Air Scientific Advisory Committee (CASAC) of the Science Advisory Board (SAB) will meet on December 14 and 15, 1995 at the Omni Europa Hotel, One Europa Drive, Chapel Hill, North Carolina 27514. The hotel phone number is 919–968–4900. The meeting will begin at 8:30 a.m. and end no later than 5 p.m. on both days (times noted are Eastern Time). The meeting is open to the public. Due to limited space, seating at the meeting will be on a first-come first-serve basis. *Important Notice:* Documents that are the subject of SAB reviews are normally available from the originating EPA office and are *not* available from the SAB Office—information concerning document availability from the relevant Program area is included below.

PURPOSE OF THE MEETING: At this meeting, the Committee will review and provide advice to EPA on the draft criteria document for particulate matter (*Air Quality Criteria for Particulate Matter*) and the draft staff paper for particulate matter (*Review of National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information*). The purpose of the staff paper is to evaluate and interpret the most relevant scientific and technical information reviewed in the air quality criteria document in order to better specify the critical elements which the EPA staff believes should be considered in any possible revisions to the national ambient air quality standards (NAAQS) for particulate matter. This document is intended to bridge the gap between the

scientific review contained in the criteria document and the judgments required of the Administrator in setting a NAAQS. The Committee will consider presentations from Agency staff and the interested public prior to making recommendations to the Administrator.

AVAILABILITY OF REVIEW MATERIALS: (a) Air Quality Criteria for Particulate Matter (The Draft Criteria Document)—For the benefit of interested parties, an electronic version of the revised draft Particulate Matter Criteria materials (EPA 600/BP–95/001 a–c) will be available on the Agency's TTN Bulletin Board (reachable via modem on (919) 541–5742). To access the TTN Bulletin Board, a modem and communications software will be necessary. The terminal emulation needs to be VT100, VT102 or ANSI. The following parameters on the communications software are required: Data bits—8; Parity—N; and Stop Bits—1. The document will be located under the Clean Air Act Amendments BBS under Title I, Policy and Guidance. For INTERNET access—go to Telenet Site and enter TTNBBS.RTPNC.EPA.GOV or IP Number 134.67.234.17. For INTERNET, we do not have FTP to download documents. Requester must have Kermit Protocol Program or pay a fee for SLIP account for downloading capabilities. Once in the TTN Bulletin Board, you must register (there is no charge for this). At the prompt for name, you should enter your name; at the prompt for password, make up a password (8 characters); select registration and enter registration information including company name. Then follow instructions.

For assistance in assessing the draft materials, please contact the Help Desk at (919) 541–5384 in Research Triangle Park, NC. Copies of figures for some chapters (e.g., Chapter 6) may not be available by this electronic bulletin board, but can be obtained by contacting Ms. Diane Ray at the numbers given below. Hard copies of the revised materials will be available in the Air Docket at EPA Headquarters, 401 M Street, Washington, DC, and in each of the EPA Regional Office Libraries. To arrange for copies of specific figures/graphs, not adequately reproduced with the TTN Bulletin Board, contact Ms. Diane Ray (phone (919) 541–3637; fax (919) 541–1818). For information regarding locations and office hours for the EPA Air Docket or Regional Office Libraries, please consult 60 FR 20085, April 24, 1995. Full copies of all PM Criteria Document draft chapters will also be available for public inspection at the December 14–15, 1995 CASAC meeting. The Office of Research and Development (ORD) will accept written comments from the public on the revised draft PM Criteria Document through December 22, 1995. Any public comments on the revised draft PM Criteria Document should be submitted in writing to: Diane Ray, NCEA/RTP (MD–52), U.S. EPA, 3200 Highway 5400, Research Triangle Park, NC 27711.

(b) Review of National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information (The Draft Staff Paper)—Single copies of the draft particulate matter staff paper may be obtained from Ms. Tricia Crabtree, Office of Air Quality Planning and Standards (MD–15), U.S. EPA, Research Triangle Park, NC 27711. Ms. Crabtree can also be reached by telephone at (919) 541–5655 or by fax at (919) 541–0237. The Office of Air Quality Planning and Standards (OAQPS) will accept written comments from the public on all aspects of their revised external review draft particulate matter staff paper through December 22, 1995. Written comments should be sent to Ms. Trish Koman at the previously stated address.

FOR FURTHER INFORMATION CONTACT: Members of the public desiring additional information about the meeting should contact Mr. Robert Flaak, Designated Federal Official, Clean Air Scientific Advisory Committee, Science Advisory Board (1400F), U.S. EPA, 401 M Street, SW., Washington, DC 20460; telephone/voice mail at (202) 260–5133; fax at (202) 260–7118; or via the INTERNET at FLAAK.ROBERT@EPAMAIL.EPA.GOV. Those individuals requiring a copy of the draft Agenda should contact Ms. Connie Valentine at (202) 260–6552 or by FAX at (202) 260–7118 or via the INTERNET at VALENTINE.CONNIE@EPAMAIL.EPA.GOV. Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found in The Annual Report of the Staff Director which is available by contacting Ms. Lori Gross at (202) 260–8414.

Members of the public who wish to make a brief oral presentation to the Committee must contact Mr. Flaak in writing (by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Friday, December 8, 1995 in order to be included on the Agenda. Public comments will be limited to five minutes per speaker or organization. The request should identify the name of the individual who will make the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or the presentation itself.

PROVIDING ORAL OR WRITTEN COMMENTS AT SAB MEETINGS: The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes. For conference call meetings, opportunities for oral comment are limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments of any length (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of its meeting, unless other publicly announced arrangements have been made.

Dated: November 28, 1995.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 95–29452 Filed 11–29–95; 1:12 pm]

BILLING CODE 6560–50–P

[OPP–00412; FRL–4962–8]

State FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) will hold a 2–day meeting, beginning on Monday, December 4, 1995, and ending on Tuesday, December 5, 1995. This notice announces the location and times for the meeting and sets forth tentative agenda topics. The meeting is open to the public.

DATES: The SFIREG will meet on Monday, December 4, 1995, from 8:30 a.m. to 5 p.m., and Tuesday, December 5, 1995, from 8:30 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at: The DoubleTree Hotel, National Airport—Crystal City, 300 Army-Navy Drive, Arlington, Virginia 22202, 703-892-4100.

FOR FURTHER INFORMATION CONTACT: By mail: Shirley M. Howard, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 1101, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, 703-305-5306, e-mail: howard.shirley@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG includes the following:

1. Regional and SFIREG committee reports.
2. Discussion of old and new issue papers.
3. Update on acetochlor registration partnership.
4. Update on genetically-engineered plant pesticides registration issues.
5. Update on bulk repackaging.
6. Office of Enforcement and Compliance Assurance Status Report.
7. Discussion of State involvement with pesticide labeling.
8. Other topics as appropriate.

List of Subjects

Environmental protection.

Dated: November 28, 1995.

William L. Jordan,

Director, Field Operations Division, Office of Pesticide Programs.

[FR Doc. 95–29456 Filed 11–29–95; 3:04 pm]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission, Comments Requested

November 22, 1995.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before February 2, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St. NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0444.

Title: Station Construction/ Operational Status Inquiry.

Form No.: FCC 800A.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit; Small businesses or organizations; Individuals or households.

Number of Respondents: 11,500.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 11,500 hours.

Needs and Uses: The Commission requests this collection of information as a method for licensees to provide information to verify a station has been placed into operation and to notify the Commission of the actual number of mobile units placed in operation after license grant. From this data, the Commission is able to determine full capacity channel loading, making frequencies available for assignment and modifying or cancelling licenses. The data collected ensures licensees are not authorized for more mobiles than they are actually using. The data collected is required by the Communications Act and FCC Rules 90.155, 90.313, 90.495, 90.496, 90.631, 90.633, 90.651, 90.725 and 90.737. The entities identified in the current 800A letter , such as trunked, conventional, etc., have been re-named as CMRS and PMRS. The current 800A letter requests a breakdown in the types of mobiles and control stations, while the proposed 800A letter asks for a total number of mobiles and the number of parties affiliated with, controlled by, or related to the provider. The number of responses and estimated burden remains unchanged.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 95–29367 Filed 12–1–95; 8:45 am]

BILLING CODE 6712–01–F

[Report No. 2114]

Petition for Reconsideration of Actions in Rulemaking Proceedings

November 28, 1995.

Petition for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed December 19, 1995. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject:
Tariff Filing Requirements for Nondominant Common Carriers (CC Docket No. 93–36)
Number of Petitions Filed: 2

Subject:
Amendment of the Amateur Service Rules to Implement a Vanity Call Sign System (PR Docket No. 93–305)
Number of Petitions Filed: 4

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 95–29368 Filed 12–1–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons

should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011479–001.
Title: SERPAC Service Agreement.
Parties:
Compania Sudamericana de Vapores, S.A.
Flota Mercante Grancolombiana, S.A.
Hamburg Sudamerikanische Dampschifffahrts Gesellschaft Eggert & Amsinck d/b/a Columbus Line

Synopsis: The proposed amendment provides that the Agreement shall not terminate before December 31, 1996.

Dated: November 29, 1995.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–29451 Filed 12–1–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Caisse Nationale de Credit Agricole, S.A.; Notice of Proposal to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has given notice under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether commencement of the activity can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 18, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Caisse Nationale de Credit Agricole S.A., Paris, France; to engage *de novo* through its subsidiaries Credit Agricole Lazard Financial Products Bank, London, England, and CAL FP (US), Inc., New York, New York, in providing investment advisory services, pursuant to §§ 225.25(b)(4), 225.25(b)(15)(i), and (ii) of the Board's Regulation Y; acting as an agent in the private placement of all types of securities, including providing related advisory services, pursuant to *Bankers Trust New York Corporation*, 75 Fed. Res. Bull. 829 (1989); providing riskless principal brokerage services, pursuant to *Bankers Trust New York Corporation*, 75 Fed. Res. Bull. 829 (1989); acting as broker or agent with respect to interest rate and currency swaps and swap derivative products relating thereto, pursuant to *Swiss Bank Corporation*, 81 Fed. Res. Bull. 185 (1995); acting as broker or agent with respect to swaps and swap derivative products, and over-the-counter option transactions, linked to certain commodities, stock, bond, or commodity indices, or a hybrid of interest rates and such commodities or indices, a specially tailored basket of securities selected by the parties, or single equity securities, pursuant to *Swiss Bank Corporation*, 81 Fed. Res. Bull. 185 (1995); providing financial and transactional advice regarding the structuring and arranging of swaps, swap derivative products, and similar transactions relating to interest rates, currency exchange rates or prices, and economic and financial indices, and similar transactions, pursuant to § 225.25(b)(4) of the Board's Regulation Y, and regarding commodity and index swap transactions, pursuant to *Swiss Bank Corporation*, 81 Fed. Res. Bull. 185 (1995); providing investment advice, including counsel, publication, written analyses and reports, with respect to the purchase and sale of futures contracts and options on futures contracts, pursuant to *Security Pacific Corp.*, 74 Fed. Res. Bull. 820 (1988); *J.P. Morgan & Company Incorporated*, 80 Fed. Res. Bull. 151 (1994); and *Swiss Bank Corporation*, 81 Fed. Res. Bull. 185 (1995); providing foreign exchange advisory and transactional services, including providing general information and statistical forecasting with respect to foreign exchange markets; advisory services designed to assist customers in monitoring, evaluating, and managing their foreign exchange exposures; and transactional execution of foreign exchange by arranging for the execution of foreign exchange transactions, pursuant to § 225.25(b)(17) of the Board's Regulation Y; providing portfolio investment advice to customers; furnishing economic information and advice, general economic statistical forecasting services and industry studies; and providing advice, including rendering fairness opinions and providing evaluation services, in connection with mergers, acquisitions, divestitures, joint ventures, leverage buyouts, recapitalizations, capital structurings, and financing transactions (including private and public financing and loan syndications), and conducting feasibility studies, pursuant to § 225.25(b)(4) of the Board's Regulation Y. These activities will be conducted worldwide.

Board of Governors of the Federal Reserve System, November 28, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29390 Filed 12–1–95; 8:45 am]

BILLING CODE 6210–01–F

Compagnie Financiere de Paribas; Application to Engage in Nonbanking Activities

Compagnie Financire de Paribas, Paris, France (Applicant), has given notice pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) to engage *de novo* through its indirect subsidiary, Sema Group, London, England (Company),[1] in providing software to mobile telephone network operators (client networks). The software would enroll new subscribers; identify subscribers and control access by subscribers to client networks; generate subscriber billing statements for and monitor subscriber payments to client networks; calculate and reconcile fund transfers between client networks; and monitor subscriber usage patterns. Company currently provides these services to client networks outside the United States. Applicant proposes that Company would expand its operations to offer these services to client networks on a nationwide basis inside the United States.

[1] Applicant owns 50.1 percent of Financiere Sema, and France Telecom owns the remaining 49.9 percent. Financiere Sema in turns owns approximately 40 percent of the voting shares of Company.

Section 4(c)(8) of the BHC Act provides that a bank holding company may engage in any activity that the Board, after due notice and opportunity for hearing, has determined by order or regulation to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, closely related to banking. Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed services, that banks generally provide services that are operationally or functionally similar to the proposed services so as to equip them particularly well to provide the proposed services, or that banks generally provide services that are so integrally related to the proposed services as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (January 5, 1984); *Securities Industry Ass'n v. Board of Governors*, 468 U.S. 207, 210-11, n.5 (1984).

Applicant states that the Board previously has determined by regulation that providing certain data processing and data transmission services and facilities (including software) and providing access to such services and facilities by any technological means are closely related to banking for purposes of section 4(c)(8) of the BHC Act. In order to be found to be closely related to banking, the data to be handled must be "financial, banking, or economic" in nature, and such activities must be conducted within certain additional limitations established by the Board. *See* 12 CFR 225.25(b)(7). Applicant maintains that Company's proposed activities would relate primarily to financial, banking, or economic data, and would otherwise conform to Regulation Y.

Applicant also contends that, to the extent the proposed activities involve processing nonfinancial data, a bank holding company may engage in these activities as part of its offering of a larger package of data processing services, when processing nonfinancial data is an "essential component" of such package. *See Banc One Corporation*, 80 Fed. Res. Bull. 139 (1994). Applicant represents that Company's proposed activities with respect to nonfinancial data satisfy these criteria.

In order to approve the proposal, the Board also must determine that the proposed activities to be engaged in by Company are a proper incident to banking that "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." 12 U.S.C. 1843(c)(8). Applicant contends that its proposal would produce public benefits that outweigh any potential adverse effects.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the notice and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington DC 20551, not later than December 18, 1995. Any request for a hearing on this notice must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, November 28, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29393 Filed 12–1–95; 8:45 am]

BILLING CODE 6210–01–F

Dakotah Bankshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than December 29, 1995.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Dakotah Bankshares, Inc., Fairmount, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples State Bank, Fairmount, North Dakota.

Board of Governors of the Federal Reserve System, November 28, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29391 Filed 12–1–95; 8:45 am]

BILLING CODE 6210–01–F

Dresdner Bank AG; Notice to Engage in Certain Nonbanking Activities

Dresdner Bank AG, Frankfurt, Germany (Dresdner), has provided notice, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and section

225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), to retain its interest in the United States operations of the Kleinwort Benson Group, plc, London, England. These operations include engaging in leasing activities, pursuant to 12 CFR 225.25(b)(5) through Parc Tec, Inc, and engaging in investment advisory activities, pursuant to 12 CFR 225.25(b)(4) through Kleinwort Benson Investment Management Americas, Inc., KB-LPL Holdings, Inc., and Kleinwort Benson U.S. Asset Managers, LLC, all of New York, New York. Dresdner also proposes to retain Kleinwort Benson (USA), Inc. (KB USA) and Kleinwort Benson North America, Inc. (KB NA), both of New York, New York, and to establish a section 20 subsidiary, Dresdner Kleinwort Benson, New York, New York (DKB), through the combination of KB NA, KB USA, and Dresdner Securities (USA), Inc., New York, New York (DSI), a wholly owned subsidiary of Dresdner that currently operates, pursuant to section 8(c) of the International Banking Act of 1978 (IBA). DKB would engage in the following activities:

1. Underwriting and dealing in debt and equity securities, other than interests in open-end investment companies;

2. Acting as agent in the private placement of all types of securities;

3. Acting as riskless principal in the purchase and sale of all types of securities on behalf of customers;

4. Providing full service securities brokerage services; and

5. Providing investment advisory services.

Dresdner proposes to engage in these activities throughout the world.

Dresdner - NY, Incorporated, New York, New York (DNY), a subsidiary of DSI that engages in certain securities dealing activities, would continue to operate as a subsidiary of Dresdner, pursuant to section 8(c) of the IBA. Dresdner has stated that DNY and the U.S. operations of Dresdner engaged in pursuant to section 4 of the BHC Act will remain completely separate and will not engage in any business with, or on behalf of, each other in the United States.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, closely related to banking. Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks generally have provided the proposed activity, that banks generally provide services that are operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed activity, or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 794, 806 (January 5, 1984).

Dresdner maintains that the Board previously has determined by regulation that several of the proposed activities are closely related to banking. See 12 CFR 225.25(b)(4), (b)(5), and (b)(15); and *PNC Financial Corp.*, 75 Fed. Res. Bull. 396 (1989) (PNC). Dresdner has stated that it would engage in these activities in accordance with the limitations and conditions established by the Board, except that Dresdner has proposed that DKB not be subject to one of the disclosure requirements relied on by the Board in PNC in authorizing a section 20 subsidiary to engage in full service brokerage activities. In particular, Dresdner proposes that DKB not be required to disclose at the time any brokerage order is taken whether DKB is acting as agent or principal with respect to the security.

Dresdner also states that the other proposed activities have been approved by Board order. See *Bankers Trust New York Corporation*, 75 Fed. Res. Bull. 829 (1989) (acting as agent in the private placement of securities and purchasing and selling securities on the order of investors as a riskless principal); *Canadian Imperial Bank of Commerce*, 76 Fed. Res. Bull. 158 (1990) (CIBC); *J.P. Morgan & Co. Incorporated, et al.*, 75 Fed. Res. Bull. 192 (1989), aff'd sub nom. *Securities Industries Ass'n v. Board of Governors of the Federal Reserve System*, 900 F.2d 360 (D.C. Cir. 1990); and *Citicorp, et al.*, 73 Fed. Res. Bull. 473 (1987), aff'd sub nom. *Securities Industry Ass'n v. Board of Governors of the Federal Reserve System*, 839 F.2d 47 (2d Cir.), cert. denied, 486 U.S. 1059 (1988).

In light of the fact that it has acquired a going concern, Dresdner has requested authority to calculate DKB's compliance with the revenue limitation imposed on section 20 companies on an annualized basis during the first year after consummation of the acquisition and thereafter on a rolling quarterly basis. See *Dauphin Deposit Corporation*, 77 Fed. Res. Bull. 672 (1991). Dresdner has stated that DKB would engage in the proposed activities in accordance with the limitations and prudential guidelines established by the Board in previous orders.

In order to approve the proposal, the Board must determine that the proposed activities to be conducted by Dresdner "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." 12 U.S.C. 1843(c)(8). Dresdner believes that the proposal would produce public benefits that outweigh any potential adverse effects. In particular, Dresdner maintains that the proposal would not materially reduce competition in the relevant markets and would enable Dresdner to offer its customers a broader range of products.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act. Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 29, 1995. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, November 28, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29392 Filed 12–1–95; 8:45 am]

BILLING CODE 6210–01–F

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Notice of monthly meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that the regular monthly meeting of the Federal Accounting Standards Advisory Board will be held on Thursday, December 14 from 9 a.m. to 4 p.m. in room 7C13 of the General Accounting Office, 441 G St., NW., Washington, DC.

The purpose of the meeting is to discuss issues arising from the December 5 public hearing on Supplementary Stewardship Reporting exposure draft and also to discuss issues related to the Accounting for Revenue and Other Financing Sources exposure draft.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Ronald S. Young, Executive Staff Director, 750 First St., NE., Room 1001, Washington, DC 20002, or call (202) 5–7350.

Authority: Federal Advisory Committee Act. Pub. L. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: November 28, 1995.

Ronald S. Young,

Executive Director.

[FR Doc. 95–29381 Filed 12–1–95; 8:45 am]

BILLING CODE 1610–01–M

GENERAL SERVICES ADMINISTRATION

Performance Review Board; Membership; Senior Executive Service

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Gail T. Lovelace, Director of Personnel, General Services Administration, 18th & F Streets NW., Washington, DC 20405, (202) 501–0398.

SUPPLEMENTARY INFORMATION: Section 4313(c) (1) through (5) of Title 5 U.S.C. requires each agency to establish in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Board(s). The Board(s) shall review the performance rating of each senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Members of the Review Board are:

1. Thurman M. Davis (Chairperson), Deputy Administrator.
2. Karen R. Adler, Regional Administrator, Northeast and Caribbean Region (New York).
3. Marcella F. Banks, Acting Associate Administrator for Management Services and Human Resources.
4. Paul E. Chistolini, Regional Administrator, Mid-Atlantic Region (Philadelphia).
5. Dennis J. Fischer, Chief Financial Officer.
6. Glen W. Overton, Acting Commissioner, Public Buildings Service.
7. Frank P. Pugliese, Commissioner, Federal Supply Service.
8. Barbara O. Silby, Chief of Staff, Office of the Administrator.
9. Joe M. Thompson, Commissioner, Information Technology Service.
10. Robert J. Woods, Commissioner, Federal Telecommunications Service.

Dated: November 22, 1995.

Gail T. Lovelace,

Director of Personnel.

[FR Doc. 95–29373 Filed 12–1–95; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health Meeting: Date Change

Federal Register Citation of Previous Announcement: 60 FR 55845—dated November 3, 1995.

SUMMARY: Notice is given that the meeting and dates for the Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH), of the Centers for Disease Control and Prevention (CDC) has changed. The meeting times, place, status, purpose, and matters to be discussed announced in the original notice remain unchanged.

Original Dates: November 20–21, 1995.

New Date: December 19, 1995.

Contact Person for More Information: Richard A. Lemen, Ph.D., Executive Secretary, BSC, NIOSH, and Deputy Director, NIOSH, CDC, 1600 Clifton Road, NE, Mailstop D–35, Atlanta, Georgia 30333, telephone 404/639–3773.

Dated: November 28, 1995.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–29442 Filed 12–1–95; 8:45 am]

BILLING CODE 4163–19–M

National Institute for Occupational Safety and Health (NIOSH); Meeting

Name: Setting a National Occupational Research Agenda: Researchers Working Group Meeting.

Time and Date: 10 a.m.–4 p.m., December 12, 1995.

Place: The Latham Hotel, Presidential Ballroom, 3000 M Street, NW, Washington, DC 20007.

Status: Open to the public, limited only by the space available. The room accommodates approximately 80 people. Public comments will be taken at the end of the meeting.

Purpose: NIOSH will sponsor three meetings of groups with different expertise to assist in the development of a national agenda for occupational safety and health research for the next decade. At each meeting, invited participants will discuss and contribute their perspectives in work sessions open to the public. Three work groups comprising researchers, health professionals, and others in the occupational health and safety community, will meet in public sessions to discuss research needs and provide recommendations from individual members of the work groups. A limited amount of time will be reserved to provide members of the public attending these work group meetings the opportunity to comment.

The tentative agenda of the meetings will include: Discussion and enumeration of items for potential inclusion into the national research agenda. Research priorities for consideration include health effects, hazardous exposures, work environments, industries, occupations, and populations associated with significant occupational disease, injury, disability, fatalities, or topics of growing importance in the future.

Matters To Be Discussed

As the lead federal health agency for research into the causes and prevention of work injuries and diseases, NIOSH has a responsibility to continually assess the state of existing knowledge and define future research needs and priorities. The development of a national research agenda will assist NIOSH and the occupational safety and health research community in establishing priorities and targeting some of the scientific needs of the next decade that offer the greatest potential for advancing the safety and health of workers. Establishing these priorities is especially important in light of increasing fiscal constraints on occupational safety and health research in both the public and private sectors. The agenda is intended to serve decision-makers and scientists working throughout the field, employed in government, corporate, labor, university, and private research programs.

NIOSH has developed a discussion list of possible items for the national research agenda. A small group of scientists reviewed a wide array of information ranging from the scope of occupational safety and health problems to future employment projections. Other scientific agenda-setting processes were also considered. In addition, the group agreed on the scope of agenda items it would propose. For example, it decided that a category such as "occupational lung diseases" would be too inclusive to serve as a research priority, that items of this breadth would encompass the field rather than provide decision-makers and scientists with focussed direction to meet some of the greatest needs and opportunities for prevention. The group ultimately listed approximately 50 items:

Health response	Exposure
Traumatic Injury: —Eye Injury —Electrocutions —Falls Neck, Shoulder & Other Upper Extremity Disorders Low Back Disorders Fertility and Pregnancy Outcomes Occupational Asthma Pneumoconioses Inhalation Injury Hypersensitivity Lung Disease Occupational Chronic Diseases (Selected): —Chronic Obstructive Lung Disease —Chronic Renal Disease —Ischemic Heart Disease —Neurodegenerative Disease (Cognitive & Movement Disorders) Occupational Infectious Diseases Depression and Anxiety Immune Dysfunction Neuroimmune Function Hearing Loss Contact Dermatitis	Chemical Mixtures (Including Hazardous Waste). Pesticides. Solvents. Oils and related derivatives. (e.g., Cutting Fluids, Diesel). Indoor Environment. Thermal stresses. Mineral and Synthetic Fibers. Metals and Related Compounds. Hormonally Active Substances. Violence/Assaults. Motor Vehicles. Heavy Machinery. Hand Tools. Mechanical Stressors Noise. Electric and Magnetic Fields. Behavioral Risk Factors.

Sector—work environment—workforce	Research process
Construction Agriculture Small Businesses Work Organization (Changing Economy and Workforce) Emerging Technologies Vulnerable Populations Service Workers	Intervention and Prevention Effectiveness Research Engineering and Technologic Solutions Exposure Assessment Methods Development Hazard Surveillance Disease Surveillance Injury Surveillance Risk Assessment Methodology Identification of Molecular Correlates of Cancer and other Chronic Diseases Occupational Health Services Research (e.g., Manpower Needs; Clinical Outcomes Research)

From this list and additional items that are recommended, NIOSH anticipates producing a final agenda of 15–25 of the highest scientific priorities for advancing safety and health. The following criteria were used in developing this initial discussion list and are proposed for the development of the research agenda: (1) The seriousness of the hazard in terms of death, injury, disease, disability, and economic impact; (2) the number of workers exposed or the magnitude of the risk; (3) the potential for risk reduction; (4) the expected trend in the importance of the subject; and, (5) the likelihood that the results of targeted research over the next decade will improve disease and injury prevention to protect worker health.

NIOSH is seeking input over the next five months to assure that the final agenda includes input from the broadest base of occupational safety and health expertise. In addition to the three meetings described in this announcement, the process for public input includes the following elements: (1) Corporate and worker liaison committees and a broader-based stakeholders outreach committee will assist NIOSH in obtaining involvement and input from employers, employees, health officials, health professionals, scientists, and public health, advocacy, scientific, industry and labor organizations; (2) A public meeting was held on November 30, 1995, to obtain early input on the research priorities, criteria for selection of priorities, and the process for developing the agenda; (3) Regional public meetings will be held in increase the opportunities for input from employers, employees, scientists, and other public stakeholders across the United States; (4) A final public meeting will be held in March 1996 to present a preliminary research agenda and provide the opportunity for public review and comment; and, (5) Public input throughout the process; the public is encouraged to provide oral comments at the public meetings and written comments through March 6, 1996.

The final agenda will be presented at a scientific symposium commemorating the 25th anniversary of the Occupational Safety and Health Act on April 29, 1996.

NIOSH encourages the public to provide recommendations on research priorities, criteria for determining priorities, and the process of developing the research agenda throughout the process. To attend, any or all of these three meetings, or to receive additional information, please contact Mr. Chris Olenec as indicated below. On-site registration will be available; however, to assist in planning for the meeting, advance registration is requested.

ADDRESSES: Written public comments on the National Occupational Research Agenda should be mailed to Ms. Diane Manning, NIOSH, CDC, Robert A. Taft Laboratories, M/S C34, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Mr. Chris Olenec, NIOSH, CDC, 200 Independence Avenue, Room 317B, Washington, DC 20201, telephone 202/205–2640 or by FAX (202) 260–1898.

Dated: November 28, 1995.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–29529 Filed 12–1–95; 8:45 am]

BILLING CODE 4163–19–M

Health Resources and Services Administration

Program Announcement for Grant and Cooperative Agreement Programs Administered by the Division of Disadvantaged Assistance, Bureau of Health Professions for Fiscal Year 1996

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for three grant programs for fiscal year (FY) 1996 under the authority of title VII of the Public Health Service (PHS) Act, as amended by the Health Professions Education Extension Amendments of 1992, Pub. L. 102–408, dated October 13, 1992. These programs include:

Grants for Centers of Excellence (COE) in Minority Health Professions Education (section 739, PHS Act)

Grants for Health Careers Opportunity Program (HCOP) (section 740, PHS Act)

Grants for the Minority Faculty Fellowship Program (MFFP) (section 738(b), PHS Act)

This program announcement is subject to reauthorization of the legislative authority and to the appropriation of funds. Applicants are advised that this program announcement is a contingency action being taken to assure that should authority and funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. At this time, given a continuing resolution and the absence of FY 1996 appropriations for title VII programs, the amount of available funding for these specific grant programs cannot be estimated.

Funding factors will be applied in determining funding of approved applications for some of these programs. A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of approved applications. A funding priority is defined as the favorable adjustment of aggregate review scores of individual approved applications when applications meet specified criteria. It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Definitions

The following definitions were established after public comment at 56 FR 22440, dated May 15, 1991.

"A significant number of minority individuals enrolled in the school" means that to be eligible to apply for a Hispanic COE, a medical, osteopathic medicine, or dental school must have at least 25 enrolled Hispanic students. Schools of pharmacy must have at least 20 enrolled Hispanic students. To apply as a Native American COE, an eligible medical or dental school must have at least eight enrolled Native American students and a school of pharmacy or osteopathic medicine must have at least five enrolled Native American students. To be eligible to apply for an "Other" Minority Health Professions Education COE, an eligible school must have above the national average of underrepresented minorities (medicine 13%, osteopathic medicine 8%, dentistry 15%, pharmacy 11%) enrolled in the school. Applicants must evidence that any particular subgroup of Asian individuals is underrepresented in a specific discipline. These numbers represent the critical mass necessary for a viable program. A viable program is one in which there is a sufficient number of students to warrant a Center of Excellence level educational program. Stated numerical levels are just above the median for schools reporting a critical mass necessary for a viable program. The requirement that schools applying for Other Minority Health Professions Education Centers have an enrollment of underrepresented students that is above the national average for that discipline is statutory.

"Effectiveness in Providing Financial Assistance" will be evaluated by examining the data on scholarships and other financial aid provided to the targeted group in relation to the scholarships and financial aid provided to the total school population.

"Effectiveness in Recruitment" will be evaluated by examining the first-year and total enrollments of targeted students in relation to the first-year and total enrollments for the entire school.

"Effectiveness in Retaining Students" will be determined by retention rates for the targeted group and academic and non-academic support systems operative for the target group of students at the school.

"Minority" means an individual whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black, or Hispanic.

"Underrepresented Minority" means, with respect to a health profession,

racial and ethnic populations that are underrepresented in the health profession relative to the number of individuals who are members of the population involved. This definition encompasses Blacks, Hispanics, Native Americans, and, potentially, various subpopulations of Asian individuals. Applicants must evidence that any particular subgroup of Asian individuals is underrepresented in a specific discipline.

The following definitions were established in OMB Directive No. 15.

"American Indian or Alaskan Native" means a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition. This definition applies to the Health Careers Opportunity Program.

"Asian or Pacific Islander" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.

"Black" means a person having origins in any of the black racial groups of Africa.

"Hispanic" means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

Following are additional definitions.

As defined in section 799, "accredited," when applied to a school of medicine, optometry, podiatry, pharmacy, public health or chiropractic, or a graduate program in health administration, clinical psychology, clinical social work, or marriage and family therapy, means a school or program that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education, except that a new school or program that, by reason of an insufficient period of operation, is not, at the time of application for a grant or contract under this title, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this title, if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school or program will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school or program.

"Community-based Program" means a program with organizational headquarters located in and which primarily serves: a Metropolitan Statistical Area, as designated by the Office of Management and Budget; a Bureau of Economic Analysis, U.S. Department of Commerce designated nonmetropolitan economic area or a county; or Indian tribe(s) as defined in 42 CFR 36.102(c), i.e., an Indian tribe, band, nation, rancheria, Pueblo, colony or community, including an Alaska Native Village or regional or village corporation.

As defined in section 799, "graduate program in health administration" and "graduate program in clinical psychology" mean an accredited graduate program in a public or nonprofit private institution in a State that provides training leading, respectively, to a graduate degree in health administration or an equivalent degree and a doctoral degree in clinical psychology or an equivalent degree.

For the Health Careers Opportunity Program, "health professions schools" means schools of allopathic medicine, dentistry, osteopathic medicine, pharmacy, optometry, podiatric medicine, veterinary medicine, public health, chiropractic, or graduate programs in clinical psychology and health administration, as defined in sections 799 (l)(A) and (l)(B) of the Public Health Service Act and as accredited in section 799(l)(E) of the Act.

For the Centers of Excellence Program, "health professions schools" means schools of medicine, osteopathic medicine, dentistry and pharmacy, as defined in section 739(h), which are accredited as defined in section 799(l)(E) of the Act. For purposes of the Historically Black Colleges and Universities (HBCUs), this definition means those schools described in section 799(l)(A) of the Act and which have received a contract under section 788B of the Act (Advanced Financial Distress Assistance) for fiscal year 1987.

As defined in 42 CFR 57.1804(b)(2), an "individual from a disadvantaged background" means an individual who: (a) Comes from an environment that has inhibited the individual from obtaining the knowledge, skills and abilities required to enroll in and graduate from a health professions school or from a program providing education or training in an allied health profession or; (b) comes from a family with an annual income below a level based on low-income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index and adjusted by the Secretary for use in all health professions programs.

The following income figures determine what constitutes a low-income family for purposes of these Health Careers Opportunity Program grants for fiscal year 1996:

Size of parents' family[1]	Income level[2]
1	$10,000
2	12,900
3	15,400
4	19,700
5	23,200
6 or more	26,100

[1] includes only dependents listed on Federal income tax forms.

[2] adjusted gross income for calendar year 1994, rounded to nearest $100.

As defined in section 739, the term "Native Americans" means American Indians, Alaskan Native, Aleuts, and Native Hawaiians. This definition applies to the Centers of Excellence Program.

For the Minority Faculty Fellowship Program, "minority" means an individual from a racial or ethnic group that is underrepresented in the health professions, as defined in section 738.

"Program of Excellence" means any programs carried out by a health professions school with funding under section 739 Grants for Centers of Excellence in Minority Health Professions Education.

As defined in section 799, the term "school of allied health" means a public or nonprofit private college, junior college, or university or hospital-based educational entity that: a) provides, or can provide, programs of education to enable individuals to become allied health professionals or to provide additional training for allied health professionals; b) provides training for not less than a total of 20 persons in the allied health curricula (except that this subparagraph shall not apply to any hospital-based educational entity); c) includes or is affiliated with a teaching hospital; and d) is accredited by a recognized body or bodies approved for such purposes by the Secretary of Education or which provides to the Secretary satisfactory assurance by such accrediting body or bodies that reasonable progress is being made toward accreditation.

As defined in section 799, "school of medicine," "school of dentistry," "school of osteopathic medicine," "school of pharmacy," "school of optometry," "school of podiatric medicine," "school of veterinary medicine," "school of public health," and "school of chiropractic" mean an accredited public or nonprofit private school in a State that provides training leading, respectively, to a degree of doctor of medicine, a degree of doctor of dentistry or an equivalent degree, a degree of doctor of osteopathy, a degree of bachelor of science in pharmacy or an equivalent degree or a degree of doctor of pharmacy or an equivalent degree, a degree of doctor of optometry or an equivalent degree, a degree of doctor of podiatric medicine or an equivalent degree, a degree of doctor of veterinary medicine or an equivalent degree, a graduate degree in public health or an equivalent degree, and a degree of doctor of chiropractic or an equivalent degree, and including advanced training related to such training provided by any such school.

As defined in section 799, "State" includes the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, the Federated States of Micronesia, Virgin Islands, Guam and American Samoa.

Centers of Excellence (COE) in Minority Health Professions Education

Purposes: Grants for eligible Historically Black Colleges and Universities (HBCUs), Hispanic, Native American and Other Centers of Excellence must be used by the schools for the following purposes:

1. To establish, strengthen, or expand programs to enhance the academic performance of minority students attending the school;

2. To establish, strengthen, or expand programs to increase the number and quality of minority applicants to the school;

3. To improve the capacity of such schools to train, recruit, and retain minority faculty;

4. With respect to minority health issues, to carry out activities to improve the information resources and curricula of the school and clinical education at the school; and

5. To facilitate faculty and student research on minority health issues.

Applicants must address all five legislative purposes. In addition, grants for eligible HBCUs as described in section 799(l)(A) and which have received a contract under section 788B of the Act (Advanced Financial Distress Assistance) for FY 1987 may also be used to develop a plan to achieve institutional improvements, including financial independence, to enable the school to support programs of excellence in health professions education for minority individuals, and to provide improved access to the library and informational resources of the school.

Other Requirements: For Hispanic Centers of Excellence, the health professions schools must agree to give priority to carrying out the duties with respect to Hispanic individuals.

Regarding Native American Centers of Excellence, the health professions school must agree to:

1. Give priority to carrying out the duties with respect to Native Americans;

2. Establish a linkage with one or more public or nonprofit private institutions of higher education whose enrollment of students has traditionally included a significant number of Native Americans for purposes of identifying potential Native American health professions students of the institution who are interested in a health professions career and facilitating their educational preparation for entry into the health professions school; and

3. Make efforts to recruit Native American students, including those who have participated in the undergraduate program of the linkage school, and assist them in completing the educational requirements for a degree from the health professions school.

With respect to meeting these requirements, a grant for a Native American Center of Excellence may be made not only to a school of medicine, osteopathic medicine, dentistry, or pharmacy that individually meets eligibility conditions but also to such school that has formed a *consortium* of schools that collectively meet conditions, without regard to whether the schools of the consortium individually meet the conditions. The consortium would be required to consist of the school seeking the grant and one or more schools of medicine, osteopathic medicine, dentistry, pharmacy, nursing, allied health, or public health. The schools of the consortium must have entered into an agreement for the allocation of the grant among the schools. Each of the schools must have agreed to expend the grant in accordance with requirements of this program. Each of the schools of the consortium must be part of the same parent institution of higher education as the school seeking the grant or be located not more than 50 miles from the school (the applicant).

To qualify as an "Other" Minority Health Professions Education Center of Excellence, a health professions school (*i.e.*, a school of medicine, osteopathic medicine, dentistry, or pharmacy) must have an enrollment of underrepresented minorities above the national average for such enrollments of health professions schools. (See definition for "A significant number of minority individuals enrolled in the school.")

Eligibility: Section 739 authorizes the Secretary to make grants to schools of medicine, osteopathic medicine, dentistry and pharmacy for the purpose of assisting the schools in supporting programs of excellence in health professions education for Black, Hispanic and Native American individuals, as well as for HBCUs as described in section 799(l)(A) and which have received a contract under section 788B of the Act (Advanced Financial Distress Assistance) for FY 1987.

To qualify as a COE, a school is required to:

1. Have a significant number of minority individuals enrolled in the school, including individuals accepted for enrollment in the school (see definition for "A significant number of minority individuals enrolled in the school");

2. Demonstrate that it has been effective in assisting minority students of the school to complete the program of education and receive the degree involved;

3. Show that it has been effective in recruiting minority individuals to attend the school, including providing scholarships and other financial assistance to such individuals, and encouraging minority students of secondary educational institutions to attend the health professions school; and

4. Demonstrate that it has made significant recruitment efforts to increase the number of minority individuals serving in faculty or administrative positions at the school.

These entities must be located in a State.

Payments under grants for Centers of Excellence may not exceed 3 years, subject to annual approval by the Secretary, the availability of appropriations, and acceptable progress toward meeting originally stated objectives.

Review Criteria: The review of applications will take into consideration the following criteria:

1. The degree to which the applicant can arrange to continue the proposed project beyond the Federally-funded project period;

2. The degree to which the proposed project meets the purposes described in the legislation;

3. The relationship of the objectives of the proposed project to the goals of the plan that will be developed;

4. The administrative and managerial ability of the applicant to carry out the project in a cost effective manner;

5. The adequacy of the staff and faculty to carry out the program;

6. The soundness of the budget for assuring effective utilization of grant funds, and the proportion of total program funds which come from non-Federal sources and the degree to which they are projected to increase over the grant period;

7. The number of individuals who can be expected to benefit from the project; and

8. The overall impact the project will have on strengthening the school's capacity to train the targeted minority health professionals and increase the supply of minority health professionals available to serve minority populations in underserved areas.

Established Funding Preference: A funding preference will be given to competing continuation (renewal) applications for Centers of Excellence programs whose current project periods end in fiscal year 1996 and which score at or above the 50th percentile of all applications which are recommended for approval. The purpose of this preference is to maximize Federal and non-Federal investments in accomplishing the nature and scope of the legislative purposes of the Centers of Excellence Program. To realize the intended impact of the COE program more than one grant period is required. This funding preference is intended to direct assistance to quality COE programs that have documented sustained or increased accomplishments under this program.

This funding preference was established in FY 1995, following public comment (60 FR 6719, dated February 3, 1995) and is continued in FY 1996 with the addition of the requirement to score at or above the 50th percentile.

Maintenance of Effort: A health professions school receiving a grant will be required to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the school for the fiscal year preceding the fiscal year for which the school receives such a grant. In addition, the school agrees that before expending grant funds, the school will expend amounts obtained from sources other than the grant.

Funding: The statute requires that, of the amount appropriated for any fiscal year, the first $12 million will be allocated to certain Historically Black Colleges and Universities (HBCUs) described in section 799(1)(A) of the Act and which received a contract under section 788B of the Act (Advanced Financial Distress Assistance) for the fiscal year 1987. Of the remaining balance, sixty (60) percent must be allocated to Hispanic and Native American Centers of Excellence, and forty (40) percent must be allocated to the "Other" Centers of Excellence. A grant made for a fiscal year may not be made in an amount that is less than $500,000 for each Center.

Health Careers Opportunity Program (HCOP)

Purpose and Eligibility: Section 740 authorizes the Secretary to make grants to and enter into contracts with schools of allopathic medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic and podiatric medicine and public and nonprofit private schools which offer graduate programs in clinical psychology and other public or private nonprofit health or educational entities to carry out programs which assist individuals from disadvantaged backgrounds to enter and graduate from such schools. The assistance authorized by this section may be used to: (1) Identify, recruit, and select individuals from disadvantaged backgrounds for education and training in a health profession; (2) provide for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education designed to assist them to complete successfully such regular course of education at such a school or referring such individuals to institutions providing such preliminary education; (3) facilitate the entry and retention of such individuals in health and allied health professions schools; and (4) provide counseling and advice on financial aid to assist such individuals to complete successfully their education at such schools. Applicants must address at least 2 purposes. The period of Federal support will not exceed 3 years.

Project Requirements for Postbaccalaureate Programs: The following project requirements for postbaccalaureate programs were established as a preference after public comment at 55 FR 11264, dated March 27, 1990. Postbaccalaureate programs may also combine the following requirements with other HCOP activities as defined in the statutory purposes described above.

A. A health professions school will meet the requirements for a postbaccalaureate program if:

1. Either the applicant health professions school or an undergraduate school with which it has a formal arrangement:

a. Identifies and selects a cohort of seven or more disadvantaged students that have completed an undergraduate prehealth professions program and applied but were not accepted into a health professions school, or made a late decision to enter a new health professions school for participation in the program; and

b. Provides the selected student cohort with one calendar year (including the initial 6 to 8 week summer program) of rigorous postbaccalaureate (undergraduate and/or professional) level science and other appropriate educational experiences to prepare the students for entry into the applicant health professions school; and

2. The applicant health professions school:

a. Accepts for enrollment in the first year of its health professions school class, upon entry into the post-baccalaureate program, members of the cohort who successfully complete the program; or assures enrollment, at the election of the student at another health professions school; and

b. Provides members of the cohort and other disadvantaged enrollees retention services including a 6 to 8 week prematriculation summer program to ease their transition into the health professions school curriculum.

Stipends would be available through the grant for the targeted students during their summer programs and undergraduate academic year participation.

B. A school of allied health will meet the requirements for a postbaccalaureate program if:

1. Either the applicant allied health school or an undergraduate school offering pre-allied health preparation with which the school has a formal arrangement:

a. Identifies and selects a cohort of five or more disadvantaged students for participation in the program who have completed an undergraduate degree with a significant science focus and made a late decision to enter an allied health professions school and are in pursuit of a baccalaureate level degree in physical therapy, physician assistant, respiratory therapy, medical technology, or occupational therapy; and

b. Provides the selected student cohort with one calendar year (including an initial 6 to 8 week summer program) of rigorous science and other education experiences (e.g., allied health basic science, and quantitative and reading skills), to prepare them for entry at the end of that year into one of the above-named baccalaureate level training programs of the applicant allied health school; and

2. The applicant allied health school:

a. Accepts for enrollment in the first-year class of one of the specified baccalaureate level training programs of the applicant allied health school under entry into the preprofessional phase, members of the cohort who complete the program, or assures enrollment, at the election of the student at another health professions school; and

b. Provides members of the cohort and other disadvantaged enrollees with retention services including a 6 to 8 week prematriculation summer program to ease the transition into the specified allied health professions school curriculum.

Review Criteria: The review of applications will take into consideration the following:

(a) The degree to which the proposed project adequately provides for the requirements in the program regulations;

(b) The number and types of individuals who can be expected to benefit from the project;

(c) The administrative and management ability of the applicant to carry out the proposed project in a cost effective manner;

(d) The adequacy of the staff and faculty;

(e) The soundness of the budget;

(f) The potential of the project to continue without further support under this program.

Statutory Funding Priority: Public Law 102–408 requires the Secretary to give priority in funding to the following schools:

1. A school which previously received an HCOP grant and increased its first-year enrollment of individuals from disadvantaged backgrounds by at least 20 percent over that enrollment in the base year 1987 (for which the applicant must supply data) by the end of 3 years from the date of the award of the HCOP grant; and

2. A school which had not previously received an HCOP grant that increased its first-year enrollment of individuals from disadvantaged backgrounds by at least 20 percent over that enrollment in the base year 1987 (for which the applicant must supply data) over any period of time (3 consecutive years).

Established Funding Priority: The following funding priority was established in fiscal year 1990 after public comment at 55 FR 11264, dated March 27, 1990, and is being continued in FY 1996, with the exception that wording related to alternative means of documenting enrollment in terms of increases and retention rates for disadvantaged students has been deleted. Progress in these areas is considered as a part of the merit review process for this program and applicants will be informed of relevant benchmarks in application materials.

A funding priority will be given to HCOP applications from health professions schools that have a disadvantaged student enrollment of 35 percent or more. Traditionally, disadvantaged students have been disproportionally underrepresented in the health profession schools and the health professions. A funding priority will also be given to schools of allied health offering baccalaureate or higher level programs in physical therapy, physician assistant, respiratory therapy, medical technology or occupational therapy that have a disadvantaged student enrollment of 35 percent or more among those programs.

Funding Preference: The following preference was established following public comment at 57 FR 61914, dated December 29, 1992 and will be applied in FY 1996. Preference be given to competing continuation applications (renewals) for postbaccalaureate programs funded under the fiscal year 1990 HCOP Funding Preference (as defined in the **Federal Register** notice of March 27, 1990, 55 FR 11264) which score at or above the 50th percentile of all applications which are recommended for approval, and which can evidence the following: (1) disadvantaged students were recruited into the postbaccalaureate program at a level at least equal to the number of students originally projected in FY 1990, and (2) the cohort of first year disadvantaged students entering the health or allied health professions school in September 1996 exceeds the number of disadvantaged students enrolled in the first year class in September 1995 by a number equal to 50 percent of the postbaccalaureate participants projected for enrollment in 1996.

In addition, consideration will be given to an equitable geographic distribution of projects, and the assurance that a combination of all funded projects represents a reasonable proportion of the health professions specified in the legislation.

Funding: The statute requires that, of the amount appropriated for any fiscal year, 20 percent must be obligated for stipends to disadvantaged individuals of exceptional financial need who are students at schools of allopathic medicine, osteopathic medicine, or dentistry.

Grants for the Minority Faculty Fellowship Program (MFFP)

Purpose: The purpose of the MFFP is to increase the number of underrepresented minority faculty members in health professions schools, i.e., schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, health administration, clinical psychology, and other public or private nonprofit health or educational entities.

Specifically, these grant awards are intended to allow institutions an opportunity to provide a fellowship to individuals who have the potential for teaching, administering programs, or conducting research as faculty members. Institutions must demonstrate a commitment and ability to identify, recruit, and select underrepresented minorities in health professions. The institutions' training programs provide the fellows with the techniques and skills needed to secure an academic career including competence in: pedagogical skills, research methodology, development of research grant proposals, writing and publication skills, and the ability to work with minority populations and provide health services to medically underserved communities. In addition, the fellows must work under the direct supervision of a senior level faculty member engaged in the disciplines mentioned above, and upon successful completion of the program would be assured a teaching position at the institution.

Section 738(b) authorizes the Secretary to provide a one-year fellowship award to an eligible health professions school which includes a stipend in an amount not exceeding 50 percent of the regular salary of a similar faculty member, or $30,000, whichever is less. Grant funds are available to support fellow costs *only* and are limited to stipend, tuition and fees, and travel. Stipends must be paid by the grantee institution in accordance with its usual institutional payment policy, schedule and procedures. Stipend funds may be supplemented through other resources. Direct financial assistance to fellows may not be received concurrently with any other Federal education award (fellowship, traineeship, etc.), except for educational assistance under the Veterans Readjustment Benefits Act ("GI Bill"). Loans from Federal funds are not considered Federal awards. Any fellow who continues to receive full institutional salary is not eligible for stipend support from these grant funds.

Period of Support: The period of Federal support will not exceed one year for each fellowship award to an applicant institution. However, a fellowship award to an individual recipient must be for a minimum of two years. The program *does not* contribute to the support of the fellow in the second year. The applicant institution (school) will be required to support the fellow for the second year at a level not less than the total of Federal and institutional funds awarded for the first year.

Eligibility Requirements for the Applicant Institution: Eligible applicants for this program are schools of allopathic medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, health administration, clinical psychology, and other public or private nonprofit health or educational entities.

In addition, to receive a fellowship award, an applicant institution must demonstrate to the Secretary that it has the commitment and ability to:

- Identify, recruit and select individuals from underrepresented minorities in health professions who have the potential for teaching, administering programs, or conducting research at a health professions institution;
- Provide such individuals with the skills necessary to enable them to secure an academic career. Training may include: pedagogical skills, program administration, the design and conduct of research, grant writing, and the preparation of articles suitable for publication in peer reviewed journals;
- Provide services designed to assist such individuals in their preparation for an academic career, including the provision of mentors; and
- Provide health services to rural or medically underserved populations.

In Addition, the Applicant Institution Shall Agree to the Following Assurances:

- Provide an assurance that the applicant institution will make available (directly through cash donations) $1 for every $1 of Federal funds received under the fellowship (each fellowship must include a stipend in an amount not exceeding 50 percent of the regular salary of a similar faculty member, or $30,000, whichever is less);
- Provide an assurance that institutional support will be provided for the individual for a second year at a level not less than the total amount of Federal and institutional funds provided in the year in which the grant was awarded;
- Provide an assurance that the fellowship recipient is from a minority group underrepresented in the health professions; has at a minimum, appropriate advanced preparation (such as a master's or doctoral degree in a health profession) and special skills necessary to enable that individual to teach and practice;
- Provide an assurance that the recipient of the fellowship will be a member of the faculty of the applicant institution; and
- Provide an assurance that the recipient of the fellowship has not been a member of the faculty of any school at any time during the 18-month period preceding the date on which the individual submits a request for the fellowship.

Eligibility Requirements for the Fellows: Fellowship awards must be for two years, and are provided for an individual who meets the following criteria:

- Individual must be from a minority group underrepresented in the health professions;
- Individual must have appropriate advanced preparation (such as a master's or doctoral degree in a health profession) and special skills necessary to enable that individual to teach and practice;
- Individual must not have been a member of the faculty of any school at any time during the 18-month period preceding the date on which the individual submits a request for the fellowship;
- Individual must have completely satisfied any other obligation for health professional service which is owed under an agreement with the Federal Government, State Government, or other entity prior to beginning the period of service under this program;
- Individual must be a U.S. citizen, noncitizen national, or foreign national who possesses a visa permitting permanent residence in the United States.

Breach of Fellowship Funds: The school will be required to return fellowship funds received if it fails to honor the terms of the fellowship award. Such sums must be paid within 1 year from the day the Secretary determines that the breach occurred. If payment is not received by the payment date, additional interest, penalties, and administrative charges will be assessed in accordance with Federal Law (45 CFR 30.13).

Review Criteria: The review of applications will take into consideration the following review criteria:

1. The extent to which the institution demonstrates that it has the commitment and ability to identify, recruit, and select underrepresented minority faculty, and its ability to provide health services to rural or medically underserved populations;
2. The extent to which the institution's training program will provide the fellow with the preparation, training, and skills needed to secure an academic career. Training may include: pedagogical skills, program administration, grant writing and publication skills, research methodology and development of research grant proposals, and community service abilities;
3. The degree to which the institution's senior faculty are involved in the training and preparation of fellows pursuing an academic career, and the potential of the institution to continue the program without Federal support beyond the approved project period; and
4. The extent to which the institution meets the eligibility requirements set forth in section 738(b) of the Public Health Service Act.

In determining awards, the Secretary will also take into consideration equitable distribution among health disciplines and geographic areas.

National Health Objectives for the Year 2000

The Public Health Service urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017–001–00474–0) or *Healthy People 2000* (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (telephone 202–783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthen linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, heath care, and early childhood development services are provided to children.

Application Availability

Application materials are available on the World Wide Web at address: http://www.os.dhhs.gov/hrsa/. Click on the file name you want to download to your computer. It will be saved as a self-extracting WordPerfect 5.1 file. Once the file is downloaded to the applicant's PC, it will still be in a compressed state. To decompress the file, go to the directory where the file has been downloaded and type in the file name followed by a <return>. The file will expand into a WordPerfect 5.1 file. Applicants are strongly encouraged to obtain application materials from the World Wide Web via the Internet.

Questions regarding grants policy and business management issues should be directed to Ms. Wilma Johnson, Acting Chief, Centers and Formula Grants Section (wjohnson@hrsa.ssw.dhhs.gov), Grants Management Branch, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857. Completed applications should be returned to the Grants Management Branch at the above address.

If additional programmatic information is needed, please contact Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A–17, 5600 Fishers Lane, Rockville, Maryland 20857. The table below provides specific names, phone numbers and deadline dates for each program. If you are unable to obtain the application materials electronically, you may obtain application materials in the mail by sending a written request to the Division of Disadvantaged Assistance at the address above. Written requests may also be sent via FAX (301) 443–5242 or via the Internet (e-mail address: bbrooks@hrsa.ssw.dhhs.gov).

TABLE 1

PHS section No., title, CFDA No., regulation	Grants management contact e-mail: wjohnson @hrsa.ssw.dhhs.gov FAX: (301) 443–6343	Programmatic contact e-mail: bbrooks @hrsa.ssw.dhhs.gov FAX: (301) 443–5242	Deadline date
739, Centers of Excellence, 93.157, 42 CFR part 57 subpart V.	Wilma Johnson, (301) 443–5880.	A. Roland Garcia, Ph.D. (301) 443–4493	2/9/96
740, Health Careers Opportunity Program, 93.822, 42 CFR part 57 subpart S.	Wilma Johnson (301) 443–5880.	Mario A. Manecci, MPH (301) 443–4493	2/9/96
738(b), Minority Faculty Fellowship Program	Wilma Johnson (301) 443–5880.	Lafayette Gilchrist (301) 443–3680	2/9/96

Paperwork Reduction Act

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, and General Instructions have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB Clearance Number is 0915–0060.

The deadline dates for receipt of applications for each of these programs are shown in Table 1. Applications will be considered to be "on time" if they are either:

(1) *Received on or before* the established deadline date, or

(2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant. In addition, applications which exceed the page limitation and/or do not follow format instructions will not be accepted for processing and will be returned to the applicant.

These programs are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). These programs are also not subject to the Public Health System Reporting Requirements.

Dated: November 28, 1995.

John D. Mahoney,

Acting Administrator.

[FR Doc. 95–29421 Filed 12–1–95; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and other Communication Disorders Special Emphasis Panel.

Date: December 12, 1995.

Time: 9 am to 12 noon.

Place: 6120 Executive Boulevard, Room 400C, Rockville, MD 20852.

Contact Person: Mary Nekola, Ph.D., Scientific Review Administrator, NIH, NIDCD, EPS Room 400C, 6120 Executive Boulevard, MSC 7180, Bethesda, MD 20892–7180, 301/496–8683.

Purpose/Agenda: To review and evaluate Training Grant applications (T32).

The meeting, which will be conducted as a telephone conference call, will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: November 28, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–29463 Filed 12–01–95; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies and Laboratories that Have Withdrawn from the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS (Formerly: National Institute on Drug Abuse, ADAMHA, HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, Room 13A–54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443–6014.

SUPPLEMENTARY INFORMATION:

Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are *not* to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Rd., Suite 21, Nashville, TN 37211, 615–331–5300

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/205–263–5745

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 22021, 703–802–8900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–227–2783 (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Bayshore Clinical Laboratory, 4555 W. Schroeder Dr., Brown Deer, WI 53223, 414–355–4444/800–877–7016

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5810

Centinela Hospital Airport Toxicology Laboratory, 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310–215–6020

Clinical Reference Lab, 11850 West 85th St., Lenexa, KS 66214, 800–445–6917

CompuChem Laboratories, Inc., 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263/800–833–3984 (formerly: CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

CompuChem Laboratories, Inc., Special Division, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263 (formerly: Roche CompuChem Laboratories, Inc., Special Division, A Member of the Roche Group, CompuChem Laboratories, Inc.— Special Division)

CORNING Clinical Laboratories, South Central Divison, 2320 Schuetz Rd., St. Louis, MO 63146, 800–288–7293 (formerly: Metropolitan Reference Laboratories, Inc.)

CORNING Clinical Laboratories, 8300 Esters Blvd., Suite 900, Irving, TX 75063, 800–526–0947 (formerly: Damon Clinical Laboratories, Damon/MetPath)

CORNING Clinical Laboratories, 24451 Telegraph Rd., Southfield, MI 48034, 800–444–0106 ext. 650 (formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath)

CORNING Clinical Laboratories Inc., 1355 Mittel Blvd., Wood Dale, IL 60191, 708–595–3888 (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories)

CORNING MetPath Clinical Laboratories, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5000 (formerly: MetPath, Inc.)

CORNING National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485 (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science)

CORNING Nichols Institute, 7470–A Mission Valley Rd., San Diego, CA 92108–4406, 800–446–4728/619–686–3200 (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT))

Cox Medical Centers, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–836–3093

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38–H, Great Lakes, IL 60088–5223, 708–688–2045/708–688–4171

Diagnostic Services Inc., dba DSI, 4048 Evans Ave., Suite 301, Fort Myers, FL 33901, 813–936–5446/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

Drug Labs of Texas, 15201 I–10 East, Suite 125, Channelview, TX 77530, 713–457–3784

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800–898–0180/206–386–2672 (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Harrison Laboratories, Inc., 9930 W. Highway 80, Midland, TX 79706, 800–725–3784/915–563–3300 (formerly: Harrison & Associates Forensic Laboratories)

Holmes Regional Medical Center Toxicology Laboratory, 5200 Babcock St., N.E., Suite 107, Palm Bay, FL 32905, 407–726–9920

Jewish Hospital of Cincinnati, Inc., 3200 Burnet Ave., Cincinnati, OH 45229, 513–569–2051

LabOne, Inc., 8915 Lenexa Dr., Overland Park, Kansas 66214, 913–888–3927 (formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America, 13900 Park Center Rd., Herndon, VA 22071, 703–742–3100 (formerly: National Health Laboratories Incorporated)

Laboratory Corporation of America, 21903 68th Ave. South, Kent, WA 98032, 206–395–4000 (formerly: Regional Toxicology Services)

Laboratory Corporation of America Holdings, 1120 Stateline Rd., Southaven, MS 38671, 601–342–1286 (formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 800–437–4986 (formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Specialists, Inc., 113 Jarrell Dr., Belle Chasse, LA 70037, 504–392–7961

Marshfield Laboratories, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–222–5835

MedExpress/National Laboratory Center, 4022 Willow Lake Blvd., Memphis, TN 38175, 901–795–1515

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699–0008, 419–381–5213

Medlab Clinical Testing, Inc., 212 Cherry Lane, New Castle, DE 19720, 302–655–5227

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800–832–3244/612–636–7466

Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587

Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Ave., Peoria, IL 61636, 800–752–1835/309–671–5199

MetPath Laboratories, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 412–931–7200 (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon)

MetroLab-Legacy Laboratory Services, 235 N. Graham St., Portland, OR 97227, 503–413–4512, 800–237–7808(x4512)

National Psychopharmacology Laboratory, Inc., 9320 Park W. Blvd., Knoxville, TN 37923, 800–251–9492

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805–322–4250

Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 503–687–2134

Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400

PDLA, Inc. (Princeton), 100 Corporate Court, So. Plainfield, NJ 07080, 908–769–8500/800–237–7352

PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 415–328–6200/800–446–5177

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–595–0294 (formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–338–4070/800–821–3627 (formerly: Physicians Reference Laboratory Toxicology Laboratory)

Poisonlab, Inc., 7272 Clairemont Mesa Rd., San Diego, CA 92111, 619–279–2600/800–882–7272

Presbyterian Laboratory Services, 1851 East Third Street, Charlotte, NC 28204, 800–473–6640

Puckett Laboratory, 4200 Mamie St., Hattiesburgh, MS 39402, 601–264–3856/800–844–8378

Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130

Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 800–749–3788

S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505–244–8800

Sierra Nevada Laboratories, Inc., 888 Willow St., Reno, NV 89502, 800–648–5472

SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91045, 818–989–2520

SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 904–787–9006 (formerly: Doctors & Physicians Laboratory)

SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 708–885–2010 (formerly: International Toxicology Laboratories)

SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 800–523–5447 (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301 (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 1737 Airport Way South, Suite 200, Seattle, WA 98134, 206–623–8100

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176

Southwest Laboratories, 2727 W. Baseline Rd., Suite 6, Tempe, AZ 85283, 602–438–8507

St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee St., Oklahoma City, OK 73102, 405–272–7052

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 314–882–1273

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260

TOXWORX Laboratories, Inc., 6160 Variel Ave., Woodland Hills, CA 91367, 818–226–4373 (formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.)

UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 800–492–0800/818–343–8191 (formerly: MetWest-BPL Toxicology Laboratory)

The following laboratory is withdrawing from the Program on November 30, 1995:

Laboratory Corporation of America, d.b.a. LabCorp Reference Laboratory, Substance Abuse Division, 1400 Donelson Pike, Suite A–15, Nashville, TN 37217, 615–360–3992/800–800–4522 (formerly: National Health Laboratories Incorporated, d.b.a. National Reference Laboratory, Substance Abuse Division)

Richard Kopanda,

Acting Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 95–29379 Filed 12–1–95; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Advisory Committee Establishment

AGENCY: Office of the Secretary, Interior.

ACTION: Notice, establishment of Advisory Committee.

SUMMARY: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2 (1988) and 41 CFR part 101–6, section 101–6, 1015(a). Following consultation with the General Services Administration and the Office of Management and Budget, notice is hereby given that the Secretary of the Interior is administratively establishing an advisory committee known as the Alaska Land Managers Forum. The purpose of the committee is to advise the Secretary of the Interior, the Governor of Alaska, and others on Alaska land and resources issues.

EFFECTIVE DATE: This decision is effective December 4, 1995.

FOR FURTHER INFORMATION CONTACT: Deborah Williams, Special Assistant to the Secretary of the Interior for Alaska, Office of the Secretary, Department of the Interior, 1689 C Street, Suite 100, Anchorage, Alaska 99501–5151, (907) 271–5485.

SUPPLEMENTARY INFORMATION: In the 36 years since Statehood, land ownership and management in Alaska has undergone a massive change. In 1959, nearly all of Alaska (99.8 percent) was owned by the Federal Government, and most of this land (332 million acres) was public domain under the jurisdiction of the Bureau of Land Management. Today, the State has received title to 85 million acres of a 104 million acre entitlement. Alaskan Natives, through village and regional corporations established under the Alaska Native Claims Settlement Act of 1971, have become major land holders (35 million acres interim conveyed or patented) with the eventual ownership of 45.5 million acres. Finally, over 150 million acres in Federal ownership are in national forests, parks, and wildlife refuges. These changes in land status have, in turn, generated changes in the roles and relationships of the State and Federal agencies in Alaska. Also, Native corporations, as owners of 12 percent of the State's land area, have become major participants in the complexities of land and resource management.

Since Statehood there have been several different types of cooperative planning entities charged with making an overview of Alaska issues and developing comprehensive recommendations to the State and Federal Governments. None of these planning entities exist today. The Secretary of the Interior is establishing the Alaska Land Managers Forum advisory committee, with concurrence of the Governor of Alaska, in accordance with the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. app.), for the purpose of advising him and others on land and resource issues in Alaska.

Membership on the Forum will consist of individuals appointed by the Secretary of the Interior. To be appointed as cochairs will be the Special Assistant to the Secretary of the Interior for Alaska as the Federal

Cochair and the Lt. Governor of the State of Alaska as the State Cochair. In addition, the charter provides for appointing the commissioners or directors of specified State agencies, the State directors of specified Federal land management agencies, and the heads of two Alaska Native organizations.

Administrative establishment of the Alaska Land Managers Forum is necessary and in the public interest.

Dated: November 28, 1995.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 95–29380 Filed 12–1–95; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Land Management

[NM–932–4120–06; OKNM 96155]

Notice of 5-year Extension of Current Qualification of the Designated Nine (9) County "Area" of Oklahoma Federal Coal for "Category 5" Royalty Rate Reductions

AGENCY: Bureau of Land Management, Interior.

ACTION: Notices.

SUMMARY: This announcement gives notice that since the lands within the nine (9) Oklahoma Counties of Atoka, Coal, Haskell, Latimer, LeFlore, McIntosh, Muskogee, Pittsburg, and Sequoyah were designated in 1990 by the New Mexico State Office of the Bureau of Land Management as a Federal Coal "Area", and that said Area was determined to be "Qualified" as eligible for "Category 5" royalty rate reductions in order to establish fair and competitive royalties, and since no basic changes in the Area coal market have occurred, the State Director of the New Mexico State Office of the Bureau of Land Management has extended the Qualification of the Designated Area for "Category 5" Royalty Rate Reductions from December 17, 1995 to, and inclusive of, December 17, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Darwyn F. Pogue, Geologist/Minerals Review Appraiser, Minerals Support Team, Division of Planning, Use and Protection, New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Mail Stop 93000, Santa Fe, New Mexico 87502–0115, Phone (505) 438–7466.

SUPPLEMENTARY INFORMATION: According to data contained in the latest available Annual Report to the Governor of Oklahoma by the Oklahoma Mining Commission, Department of Mines, the nine (9) Oklahoma Counties of Atoka, Coal, Haskell, Latimer, LeFlore, McIntosh, Muskogee, Pittsburg, and Sequoyah contain approximately 80% of the known coal resources of Oklahoma, as determined by the latest studies of the Oklahoma Geological Survey. These same nine (9) counties also contain 100% of the known Federally owned and economically recoverable coal resources in Oklahoma. The Federally owned coal resources are "acquired minerals" contained within coal deposits that were purchased from the Choctaw and Chickasaw Native American Tribes in the late 1940's. Therefore, the New Mexico Bureau of Land Management State Director in 1990 designated the aforementioned nine (9) counties as a Federal Coal area, hereinafter referred to as the "Area", for the purposes of Federal coal management under the guidelines set forth in Bureau of Land Management (BLM) Manual 3485—Reports, Royalties, and Records; in 43 CFR Part 3400—Coal Management: General; and in Subpart 3485—Reports, Royalties, and Records. BLM Manual 3485 sets forth five (5) Categories by which the holder and/or operator of a Federal Coal Lease may apply for a royalty that is less than the base royalty stated in the lease. Categories 1 through 4 refer to royalty reductions based mainly upon mining and financial criteria, or combinations thereof, that are specific to the mining operation requesting relief. Category 5, however, refers to royalty reductions granted within a designated State or Area that the BLM has concluded to have met all of the following criteria:

1. The Federal Government is not market dominant.
2. Federal royalty rates are above the current market royalty rates for non-Federal coal in the Area.
3. Federal coal would be bypassed or remain undeveloped due to royalty rate differentials.
4. The above conditions exist throughout the Area.
5. A royalty rate reduction under this Category is not likely to result in undue competitive advantages over neighboring areas.

Studies supplementary to those completed in 1990 that resulted in the present Area and subsequent "Category 5" reduced royalties, and continuous Area coal economic studies since 1990, have shown, and continue to show, that there have not been any basic changes in the Area coal markets that would substantiate the discontinuation of the present policy. As a result, the State Director has determined that the Qualification of the nine (9) county Area should be extended for another five (5) years, as provided by the Guidelines in BLM Manual 3485—Reports, Royalties, and Records. This will allow operators and/or holders of Federal Coal leases within the Area the continued opportunity to obtain fair and competitive Federal royalty rates; i.e., 2% for Federal coal mined by accepted underground methods, and 4% for Federal coal mined by accepted surface methods. It will further allow for the continued economic viability of the Area.

All Oklahoma coal operators that currently hold Federal coal leases within the Area have been mailed a copy of the above notice.

Dated: November 22, 1995.

Rich Whitley,

Deputy State Director, Division of Planning, Use and Protection, Bureau of Land Management, New Mexico State Office.

[FR Doc. 95–29237 Filed 12–1–95; 8:45 am]

BILLING CODE 4310–84–M

[NM–030–7122–03–8546]

Proposed Expansion of the Continental Mine in Grant County, New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Rescheduled public scoping meeting and extension of public comment period.

SUMMARY: Due to the Federal Government shutdown, the public scoping meeting scheduled by BLM on Wednesday, November 15, 1995 in Silver City, New Mexico (**Federal Register**, Vol. 60, No. 205, October 24, 1995, pages 54508–54509) to discuss Cobre Mining Company's proposed Continental Mine Expansion Project was postponed. The meeting is rescheduled at the following time and location:

Time/date	Location
7 p.m., December 19, 1995.	Grant County Courthouse Building, 2nd Floor Courtroom, 201 North Cooper Street, Silver City, New Mexico.

DATES: The public comment period has been extended through January 2, 1996. Written comments should be sent to the address listed below.

ADDRESSES: Comments should be sent to BLM, Las Cruces District, 1800 Marquess, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Chuck O'Donnell, BLM, Las Cruces District Office at (505)525–4373.

Dated: November 29, 1995.

Linda S.C. Rundell,

District Manager.

[FR Doc. 95–29530 Filed 12–1–95; 8:45 am]

BILLING CODE 4310–FB–P

[WY–920–06–1320–00]

Powder River Regional Coal Team Activities: Announcement of Public Meeting

AGENCY: BLM, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Powder River Regional Coal Team (RCT) announces that it will hold a public meeting on January 10, 1996 for the following purposes: (1) Review current and past activities in the Powder River Coal Region, (2) review pending coal lease applications (LBA), and (3) make recommendations on pending applications.

DATES: The RCT meeting will begin at 9 a.m. MST on January 10, 1996, at the Hitching Post Inn, in the Cheyenne Club Room, 1700 W. Lincolnway, Cheyenne, Wyoming. The meeting is open to the public.

ADDRESSES: The meeting will be held at the Hitching Post Inn, Cheyenne Club Room, 1700 W. Lincolnway, Cheyenne, WY 82001, telephone (307) 638–3301. Attendees may wish to make their personal room reservations from a block of rooms which has been set aside until December 27, 1995. For room reservations call 1–800–221–0125.

FOR FURTHER INFORMATION CONTACT: Pam Hernandez or Eugene Jonart, Wyoming State Office, Attn. (MLA), P.O. Box 1828, Cheyenne, Wyoming 82003: telephone (307) 775–6270 or 775–6257.

SUPPLEMENTARY INFORMATION: Primary purpose of the meeting is to discuss the following new coal lease applications (LBA): Spring Creek Coal Comp., Kennecott, (MTM83859), filed March 22, 1995; Powder River Coal Company (PRCC), Peabody, (WYW136142), filed March 23, 1995; and Jacob's Ranch, Kerr-McGee, (WYW136458), filed April 14, 1995. This is the initial public notification of the pending applications listed above, in accordance with the Powder River Operational Guidelines. The pending applications are to sustain existing coal mining operations. Generally, a coal lease application filed under the LBA portion of the regulations (43 CFR 3425) takes two to four years to be processed to the competitive lease sale stage, depending on informational and environmental study requirements. The RCT may generate recommendation(s) for any or all of the pending LBAs.

The meeting will serve as a forum for public discussion on Federal coal management issues of regional concern. Any party interested in providing comments or data related to the above pending applications may either do so in writing to the State Director (925), Wyoming State Office, Bureau of Land Management, P.O. Box 1828, Cheyenne, WY 82003 no later than January 3, 1996, or by addressing the RCT with his/her concern at the meeting on January 10, 1996.

A copy of the new RCT Charter can be obtained from either of the following offices: Wyoming State Office; ATTN: Eugene Jonart 925; P.O. Box 1828; Cheyenne, WY 82003; Montana State Office; ATTN: Ed Hughes (921); P.O. Box 36800; Billings, MT 59107.

The proposed agenda for the meeting follows:

1. Introduction of RCT Members and guests.
2. Approval of the Minutes of the June 16, 1993 Regional Coal Team Meeting held in Billings, Montana.
3. Organizational Changes within BLM.
4. New Powder River RCT Charter.
5. Regional Coal Activity Status:
   a. Current Production and trends
   b. Activity Since Last RCT Meeting: Competitive Sales: Wyoming—Eagle Butte LBA, April 5, 1995; Montana—Spring Creek LBA, August 9, 1995.
   c. Pending LBAs previously reviewed by RCT:
   —Antelope LBA; (Antelope Coal Comp.) filed 12/29/92; 60 million tons; est. sale date is June 1996. EA review to be completed December 1995.
   —North Roundup LBA; (Zeigler), filed 7/22/92; 140 million tons; est. sale date is December 1996. EIS will be started December 1995.
   d. Status of Coal Exchanges—Texaco/Lake DeSmet; Belco/Hay Creek
   e. Coal Lease Modifications Pending (if any): Montana/Wyoming
   f. Pending coal lease applications (LBAs):
   —Spring Creek Coal Comp.—MTM83859; (Montana); Kennecott Energy; est. 37.8 million tons, 285 acres; no schedule yet.
   —PRCC—WYW136142; (Wyoming), Peabody, est. 550 million tons, 4,020 acres, no schedule yet.
   —Jacob's Ranch—WYW136458; (Wyoming), Kerr-McGee; est 432 million tons, 4,000 acres, no schedule yet.
6. Executive Summary/Comparison of Previous Leasing Activities.
7. Review of Regional Market Conditions—Demand.
8. Industry Presentations:
   —Kennecott Energy.
   —PRCC.
   —Kerr-McGee.
9. Other Regional Issues:
   —Status of Buffalo Resource Area's Management Plan, (Wyoming).
10. RCT Activity Planning Recommendations:
   —Review and recommendation(s) on pending lease Application(s).
11. Discussion of next meeting date and location.
12. Adjourn.

Public discussion opportunities will be provided on all agenda items.

Alan R. Pierson,

State Director, Wyoming.

[FR Doc. 95–29454 Filed 12–1–95; 8:45 am]

BILLING CODE 4310–22–M

Sport Fishing and Boating Partnership Council Workshop; Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: As provided in Section 10(a)(2) of the Federal Advisory Committee Act, the Service announces a meeting designed to foster partnerships to enhance recreational fishing and boating in the United States. This meeting sponsored by the Sport Fishing and Boating Partnership Council, is open to the public, and interested persons may make oral statements to the Council or may file written statements for consideration. Summary minutes of the conference will be maintained by the Coordinator for the Sport Fishing and Boating Partnership Council at 4040 North Fairfax Drive, Arlington, VA 22203, and will be available for public inspection during regular business hours within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

DATES: December 20, 1995, beginning at 2 p.m.

ADDRESSES: The meeting will be held at the Stouffer Renaissance Crystal City Hotel located at 2399 Jefferson Davis Highway, Arlington, Virginia, telephone (703) 418–6800.

Agenda

The Council will hear reports from its Initiatives Committee on the draft strategic plan for the U.S. Fish and Wildlife Service's Recreational Fisheries Program. The Council will also consider recommendations from the Initiatives Committee on cost savings measures to reduce the Service's Fisheries Program

expenditures in Fiscal Year 1996 by approximately $2.1 million. The Council will hear a report from its Boating Committee and a status report on Executive Order 12963 for Recreational Fisheries. Public input will be received at approximately 4:40 p.m.

FOR FURTHER INFORMATION CONTACT: Doug Alcorn, Council Coordinator, at 703/358–1777.

Dated: November 24, 1995.

Bruce Blanchard,

Acting Director.

[FR Doc. 95–29372 Filed 12–1–95; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 C.F.R. § 50.7 and 42 U.S.C. 9622(d)(2), notice is hereby given that a proposed consent decree in *United States* v. *Brandywine Chemical Company*, Civil Action No. 95–699, was lodged on November 9, 1995, with the United States District Court for the District of Delaware. A complaint was filed simultaneously with the lodging of the consent decree.

The consent decree pertains to the Halby Chemical Site ("Site"), located in New Castle County, Delaware. Based on EPA's assessment of the present inability of Brandywine Chemical Company ("BCC"), the current Site owner/operator, to pay a substantial portion of response costs, the proposed consent decree requires BCC to: (1) Make a $10,000 payment to the United States within 120 days after entry of the consent decree; (2) pay 75% of the Fair Market Value ("FMV") of the BCC property to the United States between 5 and 10 years from the date EPA certifies that the response actions are complete; (3) pay to the United States 50% of its cash as reported in its Federal Income Tax Return for the year its property is sold or a FMV payment is made; (4) pay the expenses necessary to retain title to the BCC property until the obligations of the consent decree are satisfied; (5) remove and dispose of all bulk chemicals stored in tanks at the Site within 90 days of the signing of the consent decree; and (6) cease its operations at the Site.

The consent decree includes a covenant not to sue by the United States under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.* ("CERCLA), and under Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6973.

The Department of justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Brandywine Chemical Company*, DOJ Ref. #90–11–2–719A. Commentors may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA.

The proposed consent decree may be examined at the Office of the United States Attorney, District of Delaware, Chemical Bank Building, Suite 1100, 1201 Market Street, Wilmington, Delaware, 198909–2046; the Region III Office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy of the body of the proposed decree, please refer to the referenced case and enclose a check in the amount of $8.75 (25 cents per page reproduction costs), for each copy. The check should be made payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–29435 Filed 12–1–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Notice is hereby given that a proposed consent decree in *United States* v. *Dec-Tam Corporation*, Civil Action No. 93–10438–RCL, was lodged on November 13, 1995 with the United States District Court for the District of Massachusetts.

The complaint in this action was filed in March 1993 against Dec-Tam Corporation, pursuant to section 113(b) of the Clean Air Act ("Act"), 42 U.S.C. 7413(b). The complaint sought penalties and injunctive relief for violations of Section 112 of the Act, 42 U.S.C. 7412, and of the National Emission Standard for Hazardous Air Pollutants for asbestos, 40 C.F.R. part 61, Subpart M ("Asbestos NESHAP"). The action is based on violations of the Asbestos NESHAP associated with renovation operations at the following locations: Stowe Village Housing Project, Hartford, Connecticut; St. Mark's School, Southborough, Massachusetts; New England Baptist Hospital, Boston, Massachusetts; Remsen Building, Hanover, New Hampshire; Greenwich Hospital, Greenwich, Connecticut; Boiler Plant at Dartmouth College, Hanover, New Hampshire; Southbury Training School, Southbury Connecticut; Norwalk Harbor Facilities, Norwalk, Connecticut; and Cabot Paint & Stains Co., Chelsea, Massachusetts.

The proposed consent decree embodies an agreement by Dec-Tam to pay a civil penalty in the amount of $19,450. In addition, Dec-Tam has agreed to implement certain measures to reduce the likelihood of future violations of the Asbestos NESHAP.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Dec-Tam Corporation*, DOJ Ref. # 90–5–2–1–1674.

The proposed Consent Decree may be examined at the Region I Office of the Environmental Protection Agency, J.F.K. Federal Building, Boston, Massachusetts at the United States Attorney's Office located at 1107 J.W. McCormack POCH, Boston, Massachusetts, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $3.75 payable to the Consent Decree Library.

Joel M. Gross,

Acting Section Chief, Environmental Enforcement Section.

[FR Doc. 95–29436 Filed 12–1–95; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Joint Research and Development Venture Agreement for Developing Plasma Source Ion Implantation

Notice is given that, on September 18, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Robert L. Henry, Jr., Corporate Counsel for Environmental Research Institute of Michigan, has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture agreement. The notifications were filed for the purpose of involving the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are ABB High Power Semiconductors, Pittsburgh, PA, AO Smith Corp., Milwaukee, WI, Diversified Technologies Inc., Bedford, MA, Empire Hard Chrome, Inc., Chicago, IL, Environmental Research Institute of Michigan, Ann Arbor, MI, General Motors, Warren, MI, Harley-Davidson, Inc., Milwaukee, WI, IONEX, Bellaire, MI, Kwikset Corp., Anaheim, CA, Litton Electron Devices, San Carlos, CA, Los Alamos National Laboratory, Los Alamos, NM, NANO Instruments Inc., Oak Ridge, TN, PVI, Oxnard, CA, and the University of Wisconsin-Madison, Madison, WI, and the general areas of their planned activity are to develop plasma-source ion implantation for the processing of lightweight materials to provide enhanced performance of tooling, dies and manufactures parts for motor vehicle components and for other manufacturing applications; an award by the National Institute of Standards and Technology, U.S. Department of Commerce will partially fund this joint venture.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29470 Filed 12–1–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993 Casting Aluminum Components Consortium

Notice is hereby given that, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Casting Aluminum Components Consortium ("the Consortium"), has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the Consortium and (2) the nature and objectives of the Consortium. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the Consortium and its general areas of planned activity are given below.

The parties to the Consortium are: AlliedSignal Inc., 101 Columbia Road, Morristown, NJ 07962; Stahl Specialty Company, 111 E. Pacific Street, Kingsville, MO 64061; and The Top Die Casting Company, Inc., 13910 Dearborn Ave., South Beloit, IL 61080.

The purpose of the Consortium is cooperative research and production to develop and demonstrate the technology for casting aluminum components with low porosity.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29469 Filed 12–1–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Perceptual-Based Video Encoding and Quality Measurement

Notice is hereby given that, on September 1, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), David Sarnoff Research Center has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the project. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: LSI Logic Corporation, Milpitas, CA; Sun Microsystems Computer Corp., Menlo Park, CA; Bell Atlantic Network Services, Arlington, VA; and David Sarnoff Research Center, Princeton, NJ. The nature and objectives of the research program is to develop and demonstrate "Perceptual-Based Video Encoding and Quality Measurement". The activities of the joint venture project will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Membership in the project remains open, and the parties intend to file additional written notifications disclosing all changes in the membership or planned activities.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29438 Filed 12–1–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Joint Research and Development Venture Agreement for Developing Cubic Boron Nitride Coatings for Cutting and Specialty Tools

Notice is given that, on September 7, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), John J. Prizzi, Chief Counsel for Intellectual Property, Kennametal Inc., has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture agreement. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Kennametal Inc., Latrobe, Pennsylvania, and Extrude Hone Corporation, Irwin, Pennsylvania, and the general areas of their planned activity are to develop and demonstrate techniques for depositing superhard coatings of cubic boron nitride onto carbide tool blanks to provide a new class of more capable cutting tools suitable for machining harder and more wear resistant materials and in specialty tool dies to improve life and tool performance; an award by the National Institute of Standards and Technology, U.S. Department of Commerce will partially fund this joint venture.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29471 Filed 12–1–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Plastic Packaging Consortium

Notice is hereby given that, on August 30, 1995, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Plastic Packaging Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the Consortium. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are: National Semiconductor Corporation, Santa Clara, CA; Amoco Chemical Company, Naperville, IL; Leading Technologies, Incorporated, Apollo, PA; Delco Electronics Corporation, Kokomo, IN; Dexter Electronic Materials, Olean, NY; IPAC, San Jose, CA; Olin Corporation Metals Research Laboratory, New Haven, CT; Plaskon Electronic Materials, Inc., Rohm and Haas Company, Spring House, PA; Sheldahl, Incorporated, Northfield, MN; and Sandia National Laboratories, Albuquerque, NM.

The purpose of the Plastic Packaging Consortium is to advance the technology and enhance the United States production capabilities of plastic packaging for integrated microcircuits with the goal of promoting both military and commercial customers to employ plastic encapsulated integrated circuits in a wide variety of applications.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29439 Filed 12–1–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Portland Cement Association

Notice is hereby given that, on September 20, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ABB Raymond (headquartered in Lisle, IL) has resigned as an associate member of PCA, and Allis Mineral Systems has changed its name to Svedala Industries, Inc. (headquarters in York, PA).

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PCA intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 5, 1985, 50 FR 5015. The last notification was filed with the Department on July 18, 1995. A notice has not yet been published in the **Federal Register.**

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29440 Filed 12–1–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Cost Effective Processes for Manufacturing Advanced Combustion Turbine Blades

Notice is hereby given that, on September 15, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Advanced Technology Program Project No. 95–07–0017, "Cost Effective Processes for Manufacturing Advanced Combustion Turbine Blades" has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the Identities of the parties and (2) the nature and objectives of the venture. The notifications were filed as required by the Act. Pursuant to Section 6(b) of the Act, the identities of the parties are Westinghouse Electric Corporation, Orlando, FL; and PCC Airfoils, Inc., Beachwood, OH. The general area of planned activity is to develop processes for manufacturing advanced combustion turbine blades for the power generation industry under the subject Advanced Technology Program of NIST.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29437 Filed 12–1–95; 8:45 am]

BILLING CODE 4410–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Notice of Pending Submittal to The Office of Management and Budget (OMB) for Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: U.S. Nuclear Regulatory Commission Acquisition Regulation (NRCAR).

2. Current OMB approval number: 3150–0169.

3. How often the collection is required: On occasion; one time.

4. Who is required to asked to report: Offerors responding to NRC solicitations and contractors receiving contract awards from NRC.

5. The number of annual respondents: 750.

6. The number of hours needed annually to complete the requirement or request: 11,372 (10.7 hours per response).

7. Abstract: The mandatory requirements of the NRCAR implement and supplement the government-wide Federal Acquisition Regulation, and ensure that the regulations governing the procurement of goods and services within the NRC satisfy the needs of the agency.

Submit by February 2, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW, (lower level), Washington DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld at 703–321–3339. Members of the public who are located outside the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions should be directed to the NRC Clearance Officer, Brenda Jo Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, D.C., 20555–0001, (301) 415–7233, or by Internet electronic mail at BJS@NRC.GOV.

Dated at Rockville, Maryland, this 28th day of November, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–29424 Filed 12–1–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–344 and 50–412]

Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company, Beaver Valley Power Station, Units 1 and 2; Notice of Partial Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request by Duquesne Light Company (the licensee) to withdraw a portion of its September 13, 1995, application for a proposed amendment to Facility Operating License Nos. DPR–66 and NPF–73 for Beaver Valley Power Station, Units 1 and 2 (BVPS–1 and BVPS–2), located in Beaver County, Pennsylvania.

The proposed amendment involved revision of the Administrative Controls section (Technical Specifications (TS) 6.8.6.a.2), 6.8.6.a.7), and 6.14.a.2)) and the Bases section for TS 3/4.11.1.4 of the BVPS–1 and BVPS–2 TSs to be consistent with the requirements of the Offsite Dose Calculation Manual (ODCM). The ODCM was recently updated to reflect the radioactive liquid and gaseous effluent release limits and the liquid holdup tank activity limit of BVPS–1 License Amendment No. 188 and BVPS–2 License Amendment No. 70 which were issued June 12, 1995.

On October 16, 1995, the licensee submitted a letter to the NRC requesting withdrawal of the proposed changes to TS 6.14.a.2) and to the Bases for TS 3/4.11.1.4 because these changes incorrectly referenced superseded sections of 10 CFR Part 20.

The Commission has previously issued a Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing, which was published in the **Federal Register** on September 22, 1995 (60 FR 49292).

For further details with respect to this action, see the application for amendment dated September 13, 1995, and the licensee's letter of October 16, 1995, which withdrew the portion of the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Dated at Rockville, Maryland, 21st day of 1995.

For the Nuclear Regulatory Commission.

Donald S. Brinkman,

Senior Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–29423 Filed 12–1–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–245]

Northeast Nuclear Energy Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–21 issued to Northeast Nuclear Energy Company (NNECO) for operation of the Millstone Nuclear Power Station, Unit 1, located in Waterford, Connecticut.

The proposed amendment would remove the Limiting Condition for Operation (LCO) and Surveillance Requirements for the loss-of-normal power (LNP) trip function from Tables 3.2.2 and 4.2.1 and insert new LCO 3.2.F and Surveillance Requirement 4.2.F. In addition, the proposed amendment will add a new table to specify the required LNP instrumentation for each bus, will update the Table of Contents, will make some editorial changes, and will revise the associated Bases section.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed change against the criteria set forth in 10 CFR 50.92 and has concluded that the change does not involve a Significant Hazards Consideration (SHC). The bases for this conclusion are that the three criteria of 10 CFR 50.92(c), discussed separately below, are not compromised. The proposed change does not involve an SHC because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed:

These changes do not increase the probability of a loss of offsite power event or the occurrence of any accidents which assume loss of offsite power. This is ensured by the LNP instrumentation system design which uses multiple sensing relays and qualified Class 1E components, as well as conservative operability and surveillance requirements.

The LNP instrumentation for a safety division consists of discrete voltage sensing, time delay, initiation, and auxiliary logic relaying. The LNP instrumentation for a safety division is a single trip system (initiation channel) controlled by two instrument channels. Each instrument channel consists of a loss of voltage trip function and a degraded voltage trip function. The two instrument channels each provide a trip signal. The LNP trip signal is comprised of two instrument channels made up of a loss of voltage relay and its timer, and a degraded voltage relay and its timer. The signals from the two instrument channels feed into a delay timer, producing the LNP initiation system for the safety division. The S1 LNP instrumentation is powered from the

S1 125V dc bus, and the S2 LNP instrumentation is powered from the S2 125V dc bus. The loss of voltage, and degraded voltage, sensing relays can be placed in the tripped condition by removing the relay from the case. To minimize the likelihood of an inadvertent safety division initiation, the loss of voltage trip requires 3/3 relays and the degraded voltage trip requires 2/3 relays.

If the LNP instrumentation senses that the preferred offsite power source has been lost for that safety division, the safety related buses for that safety division are disconnected from the offsite source and connected to their emergency power source. If the LNP instrumentation determines that the preferred offsite power source is in a degraded condition for that safety division, and that an ECCS [emergency core cooling system] signal is present, then the safety related buses for that safety division are disconnected from the offsite source and connected to their emergency power source. For a degraded voltage condition on either safety division, without ECCS actuation, the operators are alerted to this condition by an annunciator and will initiate the appropriate corrective actions. This design fulfills the safety functions assumed in the accident analyses relating to loss of normal power/loss of offsite power.

If one instrument channel for a safety division were to fail in the non-conservative state, the safety division's other instrument channel would provide the loss of voltage trip and the degraded voltage trip for that safety division. The ability of the safety division to detect an undervoltage condition and respond is maintained. Each instrument channel has a separate feed, from separate breakers, from the 125 V dc power supply associated with that safety division. The seven day LCO of section 3.2.F.2 is justified based on continued operability of the safety division's redundant trip channel. Seven days allows reasonable time to perform repairs.

The time delays and voltage setpoints specified in Table 3.2.4 ensure that the emergency power source starting and loading times continue to meet the current technical specification requirements. Also, these time delays are long enough to precluded false trips due to voltage transients (e.g., during motor starts). The relay calibration surveillance procedure will establish acceptance criteria for each relay to ensure that the total times specified in Table 3.2.4 are not exceeded. The proposed surveillance testing and calibration frequency of every refueling outage is consistent with the requirements in the current technical specification.

Some of the redundancy in the existing LNP logic will be lost as a result of separating the two divisions of LNP logic, yielding a small increase in the probability of failure of certain portions of LNP logic. However, this impact is not significant, and is outweighed by the beneficial automatic repowering of a deenergized division following an LNP.

Based on the above, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously evaluated:

Following the proposed changes, plant response to an LNP on one division would be improved, since a deenergized division would be automatically repowered by its emergency power source while the other division remains aligned to offsite power. There are no malfunctions which would adversely impact both safety divisions while in this alignment.

There are no new failure modes associated with these changes which will prevent the LNP instrumentation from performing its intended safety function. Each individual voltage sensing relay, when removed from its case, provides the tripped contact configuration. The proposed technical specifications would allow relays to be placed in the tripped condition as long as this would not inhibit the LNP function or cause an inadvertent initiation. Additionally, since the design function to ensure that adequate power is available to operate the emergency safeguards equipment has not changed, no new accident or accident of a different kind is created.

The test switches provided for load shed logic testing are similar to the existing test switches on the secondary side of the Potential Transformers. Moreover, they require preplanned removal of a switch box cover, and require the switch to be in its original position before the switch box cover can be replaced. These switches help to avoid operator error in the present practice of sleeving contacts, installing jumpers, and pulling fuses. Administrative controls and personnel training ensure that there are no new failure modes or new or different accident scenarios than those previously evaluated.

A keylock bypass switch when placed in the "Bypass" position will block LNP actuation, thus, preventing the starting and loading of the emergency generator for the associated division, if an LNP were to occur. This is not a new failure mode since similar blocking mechanisms currently exist for each of the emergency generators. Currently, the EDG [emergency diesel generator] and GTG [gas turbine generator] can be prevented from starting on an ECCS signal by placement of an existing keylock switch in the "Off-Normal" position. To minimize the impact of inadvertent use of the bypass switch, an annunciation is provided. Also, these switches would be strictly administratively controlled to prevent their use during power operation. This restriction on the use of the keylock bypass switches during non-power operation is discussed in the Bases section of these proposed technical specifications. Operation of a keylock switch will result in the emergency power source being declared inoperable per proposed Technical Specification 3.2.F.3. The current logic will not actuate the LNP logic if power is removed from bus 14E or bus 14F individually. These switches will help avoid inadvertent actuation of equipment during surveillance testing by eliminating the need for sleeving of relay contacts, installing jumpers and pulling fuses to perform testing. Administrative controls and personnel training ensure that there are no new failure modes. Careful isolation of a bus for preplanned maintenance is part of the existing maintenance and surveillance activities, and the provision of the keylock switches does not change the infrequent need for these activities. Administrative controls and personnel training ensure that there are no new failure modes or new or different accident scenarios than those previously evaluated.

Although the proposed design does not provide an LNP signal if the 14C/E tie breaker is inadvertently opened, the loss of voltage on bus 14E (which would result from the failure or the inadvertent opening of the tie breaker) is enveloped by the single failure of one safety division. This would be mitigated by the redundant safety division. For a division S1 loss of normal power, plus LOCA [loss of coolant accident], the S2 division is available to power the A and C LPCI [low pressure coolant injection] trains and the A train of core spray. This scenario is no different than the existing design.

Based on the above, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

3. Involve a significant reduction in the margin of safety.

The protective boundaries (i.e., fuel cladding, reactor coolant system, containment building) are not affected because the consequences of a design basis accident are not changed. Since the protective boundaries are not affected, any margin of safety is also unaffected. The proposed changes ensure that adequate electrical power is available to operate the emergency safeguards equipment. By maximizing the operability of the LNP Instrumentation without requiring high risk testing, the proposed changes will improve the margin of safety as related to availability of electric power to safety related loads.

Based on the above, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed NNECO's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 03, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Phillip F. McKee: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 3, 1995,

which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Dated at Rockville, Maryland, this 28th day of November 1995.

For the Nuclear Regulatory Commission.

James W. Andersen,

Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–29422 Filed 12–1–95; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Policy Advisory Committee

AGENCY: Office of the United States Trade Representative.

ACTION: Notice that the December 8, 1995 meeting of the Industry Policy Advisory Committee will be held from 10 a.m. to 2 p.m. The meeting will be closed to the public from 10 a.m. to 2 p.m.

SUMMARY: The Industry Policy Advisory Committee will hold a meeting on December 8, 1995 from 10 a.m. to 2 p.m. The meeting will be closed to the public. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, I have determined that this portion of the meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States.

DATES: The meeting is scheduled for December 8, 1995, unless otherwise notified.

ADDRESSES: The meeting will be held at the White House Conference Center, located at 726 Jackson Place, N.W., Washington, D.C., unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Michaelle Burstin, Director of Public Liaison, Office of the United States Trade Representative, (202) 395–6120.

Michael Kantor,

United States Trade Representative.

[FR Doc. 95–29419 Filed 12–1–95; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36516; File No. SR–CBOE–95–16]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Multi-Market Orders

November 27, 1995.

I. Introduction

On June 1, 1995, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] to amend CBOE Rule 6.48 to specify certain duties of CBOE members in effecting an options transaction on the CBOE that is part of a stock-option or stock-option combination order. The Exchange filed Amendment No. 1 to the propsoal on June 22, 1995.[3]

Notice of the proposal, as amended, was published for comment and appeared in the **Federal Register** on August 16, 1995.[4] No comment letters were received on the proposed rule change. This order approves the Exchange's proposal, as amended.

II. Description of the Proposal

The purpose of this proposal is to set forth in existing CBOE Rule 6.48 the duties of CBOE members executing an options order that is a component of a "package" stock-option order, as defined by CBOE Rule 1.1(ii)(a) ("stock-option order") or stock-option combination order, as defined by CBOE Rule 1.1(ii)(b) ("stock-option combination order"),[5] the execution of which involves transactions in CBOE's options market and in another market (a "multi-market" order), and to specify the sole basis on which an options trade that is a component of a multi-market order may be cancelled by the members that are parties thereto. The proposed rule change would also make it inconsistent with just and equitable principles of trade, and consequently a violation of Exchange Rule 4.1, for a member to fail to fulfill the new requirements.

CBOE Rule 6.48 currently provides that bids or offers made and accepted in accordance with Exchange rules constitute binding contracts, but that Rule does not address the execution and cancellation of complex multi-market orders. Because such orders have become more prevalent at the CBOE as trading strategies have become more intricate, and because such orders involve concurrent executions at the CBOE and in markets other than the CBOE, the Exchange proposes to adopt new paragraph (b) to Rule 6.48. The Exchange believes that this amendment should establish well-defined conditions and requirements in its Rules that members must observe in executing and cancelling such transactions.

Proposed CBOE Rule 6.48(b) would apply to stock-option and stock-option combination orders, other than orders respecting index options,[6] and would impose two requirements on CBOE members who are parties to such multi-market orders. First, a member announcing such an order to a trading crowd must disclose all legs of the order and must identify the specific markets and prices at which the non-option leg(s) are to be filled. Second, concurrent with the execution of the option leg of any multi-market order, the initiating member and each member that is a counterparty to the trade must take steps immediately to execute the non-option leg(s) in the identified market(s).[7] Because both of these requirements are essential to fair and efficient order execution, proposed new paragraph (c) of Rule 6.48 would provide that any failure to observe either requirement will constitute a violation of CBOE's Rule 4.1, which prohibits conduct inconsistent with just and equitable principles of trade. The Exchange believes that these new provisions will clarify members' expectations about the execution of multi-market orders covered by the proposed rule and will promote prompt execution of each non-option component of such orders.

In addition to establishing requirements incident to execution, the proposed rule change sets forth one exclusive basis on which members may cancel an executed options transaction that is part of a multi-market order. Proposed Rule 6.48(b)(ii) indicates that any member that is a party to an options transaction that is part of a multi-market order may have the options transaction cancelled only in the event that market conditions in any of the identified non-CBOE markets prevent the execution of one or more of the non-option legs of the order. The Exchange believes that cancellation under this exclusive circumstance is fair and appropriate.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of change, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange proposes to amend subparagraph (b)(ii) of CBOE Rule 6.48 to clarify that the existence of market conditions that prevent the execution of the non-option leg(s) at the agreed upon price(s) would be the only basis for any one party to a trade representing the options leg of a multi-market order to cancel such trade. *See* Letter from Michael Meyer, Attorney, Schiff Hardin & Waite, to John Ayanian, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, dated June 22, 1995 ("Amendment No. 1").

The types of "market conditions" arising in a no-CBOE market that would be sufficient under proposed Rule 6.48(b)(ii) to justify cancellation of the CBOE leg(s) of a multi-market order, include, but are not limited to, a sudden change in the price of the underlying Securities prior to execution of the stock trade, and a trading halt or systems failure that precludes immediate execution of the stock trade at the agreed upon price. *See* Letter from Dan Schneider, Attorney, Schiff Hardin & Waite, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated June 30, 1995 ("June 30 Letter").

[4] *See* Securities Exchange Act Release No. 36082 (August 10, 1995), 60 FR 42636.

[5] A stock-option order is an order to buy or sell a stated number of units of an underlying or a related security coupled with either (a) the purchase or sale of option contract(s) of the same series on the opposition side of the market representing the same number of units of the underlying or related security or (b) the purchase and sale of an equal number of put and call option and numbers of units of the underlying or related Securities, on the opposite aside of the market representing in the aggregate twice the number of units of the underlying related security. *See* CBOE Rule 1.1.(ii).

[6] The CBOE believes that paragraph (iii) of proposed Rule 6.48(b) makes it clear that the proposed rule change will not apply to bids or offers included in combination orders that entail the purchase or sale of index options.

[7] The CBOE represents that it expects the order for the non-option leg(s) of the multi-market order will be enacted concurrently with the execution of the option leg of the order. Additionally, the CBOE represents that it will advise members of this expectation in a Regulatory Circular. *See* Letter from Barbara J. Casey, Vice President, Department of Market Regulation, CBOE, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated November 7, 1995 ("November 7 Letter").

III. Commission Finding and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[8] Specifically, the Commission finds that the Exchange's proposal to specify certain duties of CBOE members in effecting an options transaction on the CBOE that is part of a stock-option or stock-option combination order strikes a reasonable balance between the Commission's mandate under Section 6(b)(5) to remove impediments to and perfect the mechanism of a free and open market and a national market system, while protecting investors and the public interest.

The Commission believes that it is appropriate for the Exchange to clarify the conditions and requirements that CBOE members must observe when executing and cancelling multi-market orders. The Commission understands that complex multi-market orders have become more prevalent, and believes that the proposed rule change addresses the special considerations that apply when executing and cancelling such transactions. The Commission believes that it is reasonable to require a member announcing a multi-market order to a trading crowd to disclose all legs of the order and identify the specific markets and prices at which the non-option leg(s) are to be filled.

Moreover, the Commission believes that it is reasonable to require the parties to the transaction to take steps immediately to transmit the non-option leg(s) to the identified markets for execution. The Commission understands that if a party to the transaction does not take steps immediately to execute the non-option leg(s) of a multi-market order, that party is subject to CBOE Rule 4.1, which prohibits conduct inconsistent with just an equitable principles of trade. Accordingly, the Commission believes that by clarifying the duties and obligations regarding the execution of multi-market orders, this proposal will help to ensure that the non-option leg(s) of a multi-market order are sent immediately to the identified markets for execution.[9]

The Commission also believes that members executing multi-market orders should only be allowed to cancel the option leg(s) of the stock-option transaction under limited circumstances. The Exchange proposes that a trade may be cancelled at the request of any member that is a party to that trade only if market conditions in any non-Exchange market prevent the execution of the non-option leg(s) at the price(s) agreed upon.[10] The types of "market conditions" arising in a non-CBOE market that would be sufficient under proposed Rule 6.48(b)(ii) to justify cancellation of the CBOE leg(s) of a multi-market order, include a sudden change in the price of the underlying securities prior to execution of the stock trade, and a trading halt or systems failure that precludes immediate execution of the stock trade at the agreed upon price.[11]

The Commission also notes that the priority principles regarding stock-option, and stock-option combination orders, apply to transactions covered by this proposed rule change.[12] In light of the priorities afforded to such transactions, the Commission believes that the option leg(s) of a multi-market order should be allowed to be cancelled only under the limited circumstances described above. The Commission believes that the Exchange's proposed rule change appropriately addresses this concern.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (File No. SR–CBOE–95–16), as amended, is approved.

For the Commission, by the Division of Market Regulation, prusuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29382 Filed 12–1–95; 8:45 am]

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[8] 15 U.S.C. 78f(b)(5).

[9] *See* November 7 Letter, *supra* note 7.

[10] *See* CBOE Rule 6.48(b)(ii). *See also* Amendment No. 1, *supra* note 3.

[11] *See* June 30 Letter, *supra* note 3.

[12] Under CBOE Rule 6.45, stock-option orders, as defined in CBOE Rule 1.1(ii)(a), may attain priority over the trading crowd (but never over the limit order book) when the option leg trades at a price that is at least equivalent to quotes in the crowd. Additionally, stock-option combinations will take priority over orders in the crowd when all legs of the combination trade at a price that is at least equivalent to quotes in the crowd. Stock-option combinations will also attain priority over the limit order book, when one leg of the transaction trades at a price that is better than the corresponding bid or offer in the book and the remaining legs of the transaction trades at a price that is at least equivalent to the established bids or offers in the crowd or book. *See* Securities Exchange Act Release No. 34764 (September 30, 1994), 59 FR 51223 (October 7, 1994).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

[Release No. 34–36517; File No. SR–NASD–95–51]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Rearranging of Rules and New Rule Numbering System

November 27, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 3, 1995 the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is herewith filing a proposed rule change to its Rules and various interpretations thereto. This and other material now contained in the NASD Manual is proposed to be rearranged, so that the complete contents of the Manual will be replaced. A binder containing the complete text of the revised Rules of the Association as well as a chart converting the old manual into its revised format is available for inspection at the Commission's Public Reference Room. A summary of the order of material filed with the Commission is reprinted below:

* * * * *.

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II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The proposed rule change is part of a multi-phase program in which the NASD is reorganizing the NASD Manual to make it more usable by members and other users of the Manual. The present rule change is a non-substantive reordering of the existing Rules, interpretations, and other provisions of the Manual to establish a more logical progression of Rules within the Manual. All Rules in the NASD Manual, including not only the current Rules of Fair Practice but also such specialized Rules as the PORTAL Rules, Nasdaq Rules, Code of Arbitration Procedure, and so forth, have been numbered consecutively throughout the Manual and considered together as "Rules." In addition, a common numbering and naming scheme for subdivisions within a Rule has been used. Discussion of specific changes is set forth below.

(1) Rules Terminology. The change in terminology from "Rules of Fair Practice" to "Rules" has been made in all Rules in which such terminology appears. As described above, the Rules now include not only the former Rules of Fair Practice, but also all other Rules and Codes of the NASD, by whatever name they have been known. Rules and other material that did not previously have titles have been given descriptive titles as part of the revision.

(2) Categories. The Rules are no longer divided into Articles, but are numbered from beginning to end. Major categories, numbered in the thousands, include Membership and Registration Rules, Conduct Rules, Marketplace Rules, and Procedural Rules. Subcategories of Rules are numbered in the hundreds or tens, as appropriate, with individual Rules at the tens or unit level. Where individual Rules that would normally be numbered at the tens level exceed the numbers available, they have been numbered at the unit level instead, to allow adequate numbers for each Rule.

(3) Paragraph Numbering. A uniform method of numbering the various paragraph levels within Rules have been used throughout. Thus, subdivisions within a Rule have been renumbered as follows:

(a)
(1)
(A)
(i)
a.
1.
A.
i.

Where there were unnumbered subparagraphs within a Rule, they have generally been given numbers to facilitate reference to them.

(4) Names of Rule Subdivisions. The terms used to refer to parts of Rules have been made uniform as follows:

Rule 1001
paragraph (a)
subparagraph (1)
subparagraph (A)
subparagraph (i)
etc.

In referring to a provision that has multiple levels, the name of the largest level has been used wherever possible, such as Rule 1000(a)(1), or paragraph (a)(1)(A). In this method, the term "subparagraph" is normally used only when referring to lower levels within the same Rule, as in "subparagraph (i) of this Rule," or to multiple subparagraphs, as in "subparagraphs (2)(A) and (B) of paragraph (a)."

(5) Interpretive Material. Some Interpretations have been converted to Rule form as part of this rule change. Interpretative material that has not been converted to Rule form, including Interpretations, Resolutions, Explanations, Policies, and Guidelines, has been given the designation "IM," for "Interpretative Material." This was done to provide uniformity to the various designations in the current Manual. All Interpretive Material in the Rules of the Association is numbered with "IM–" followed by the number(s) of the Rule or Rules it interprets. Interpretive Material in the By-Laws and Schedules A and B has been left as it is currently, since those sections are not part of the Rules numbering scheme.

(6) Terms and Abbreviations. The terms "Association," "Corporation" and "NASD" are presently used alternately in some of the Association's existing Rules when referring to the NASD. To establish uniformity, the term "Association" has been used throughout the Rules when referring to the NASD. The By-laws will continue to use the term "Corporation." When reference is made in the Rules or Interpretative Material to the "Securities and Exchange Commission," it has been shortened to "SEC" or "Commission." In the same way, other terms that are adequately defined in the By-Laws or the definitional portion of the Rules (Rule 0120) have not been redefined in individual Rules. Therefore, such terms as "the Act" have been used without further description unless such usage would be confusing in the particular context. References to SEC Rules are preceded by the designation "SEC," such as in "SEC Rule 11Aa3–2," in order to avoid confusion with the Rules of the Association. Code of Federal Regulations (CFR) citations to well-known SEC rules have been deleted. They were infrequently used in the Manual and are not thought to be helpful for most users of the Manual; therefore, only the SEC Rule number has been used in most instances.

(7) Indentation. A common system of indentation and paragraph structure has been used within the Rules, whereby each succeeding subdivision level is indented about five spaces further than the next higher level. This system, together with the new paragraph numbering system, should make it easier for Manual users to determine which provisions are subsidiary to others.

(8) Technical Corrections. In several instances, a careful review of the Rules for this rule change revealed typographical, grammatical, or cross-referencing errors, which were corrected when it was obvious to NASD staff that an error had occurred. Many such corrections have been footnoted in the rule change. Minor changes to punctuation and capitalization have also been made for consistency.

The NASD plans to train key staff members in the above style and numbering conventions, so that future rule changes will conform to the new style and keep the Manual clear and consistent.

(b) The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[1] in that the proposed rule change does not alter the substance of the NASD's By-Laws or Rules; rather, the proposed rule change simplifies the layout of the NASD Manual and makes it easier to use. Making the NASD Manual easier to use enhances the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statements on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments were solicited or received by the NASD.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

[1] 15 U.S.C. 78o–3.

available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by December 26, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29430 Filed 12–1–95; 8:45 am]

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[Release No. 34–36514; International Series Release No. 890; File No. SR–NYSE–95–36]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Specifications and Content Outline for the Japan Module of the General Securities Registered Representative Examination (Series 47)

November 27, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on October 25, 1995, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has filed with the Commission specifications and a content outline for the Japan module (Series 47) of the General Securities Registered Representative Examination (Series 7).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Presently, registered representatives in Japan who wish to sell securities in the United States must qualify as registered representatives in the U.S. by successfully completing the Series 7. In Japan, U.S. and other foreign securities professionals may qualify as securities sales representatives by passing a qualification exam [2] or by meeting experiential requirements. In order to reduce duplication of qualification requirements, the Exchange has developed the Series 47 as a subset of the Series 7 to test the Japanese registered representatives' knowledge of U.S. securities laws, markets, investment products, and sales practices. Qualified Japanese securities professionals can satisfy the Exchange's examination requirements by obtaining a passing score on the Series 47 module.

Since 1991, the Exchange has provided a similar, 90-question qualification vehicle for United Kingdom approved registered representatives wishing to sell securities in the U.S., the Limited Registered Representative Examination (Series 17).[3] The Exchange also has filed for Commission approval examination specifications and a content outline for a Canadian module of the General Securities Registered Representatives Examination (Series 37 & Series 38).[4] The Series 47 module has been developed following procedures like those used for the Series 17 and 37 modules.

To determine the applicable Series 7 content areas not covered in the qualification examinations for Japanese registered representatives, the Exchange's staff conducted a thorough review of the content covered by the Securities Sales Representative Qualification Examination and supporting materials, including translations of Japan's securities laws and regulations. in addition, the Exchange's staff exchanged detailed correspondence and had discussions with the staff of the Japan Securities Dealers Association.[5] Through this review, the Exchange's staff identified for inclusion in the Series 47 those topics that are included in the Series 7 but are not covered, or covered in sufficient detail, in the Japanese qualification materials. As a result, the Series 47 consists of 160 questions covering subject matter that is unique to the U.S. The topics are weighted in the module to correspond to the relative emphasis given these topics in the Series 7.

The Exchange understands that the National Association of Securities Dealers, Inc. ("NASD") will submit a proposal to the Commission that would amend the NASD's rules such that the Series 47 would satisfy the NASD's qualification requirements. The Series 47, however, will not qualify Japanese securities professionals to transact business in municipal securities. Any individuals wishing to do so will be required to pass the Series 52 (Municipal Securities Representative Examination).

2. Statutory Basis

The statutory basis for the Series 47 is in Section 6(c)(3)(B)[6] of the Act. Under this section, it is the Exchange's responsibility to prescribe standards of training, experience, and competence for persons associated with Exchange members and member organizations. Pursuant to this statutory obligation, the Exchange has developed examinations that are administered to establish that persons associated with Exchange members and member organizations have attained specified levels of competence and knowledge.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the New York Stock Exchange. All submissions should refer to File No. SR–NYSE–95–36 and should be submitted by December 26, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29387 Filed 12–1–95; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] All of the applicants, both foreign and domestic, who do not meet the experiential requirements must pass the Securities Sales Representative Qualification Examination. This test is composed of the Class 1 examination, the Class 2 examination, and the Investment, Trust, and Bond examination. An applicant's experience and area of interest determines which parts of the examination are applicable. Telephone conversation between Mary Anne Furlong, Director, Rule & Interpretive Standards, NYSE, and Anthony Pecora, Attorney, SEC (Nov. 6, 1995).

[3] Securities Exchange Act Release No. 27967 (May 1, 1990), 55 FR 19131 (approving File No. SR–NYSE–89–22).

[4] Securities Exchange Act Release No. 36378 (Oct. 16, 1995), 60 FR 54401 (noticing File No. SR–NYSE–95–29).

[5] The Japan Securities Dealers Association is the regulatory authority responsible for developing course materials, test materials, and qualification examinations for people wishing to become a registered representative in Japan. Telephone conversation between Mary Anne Furlong, Director, Rule & Interpretive Standards, NYSE, and Anthony Pecora, Attorney, SEC (Nov. 6, 1995).

[6] 14 U.S.C. 78f(c)(3)(B).

[1] 17.C.F.R. 200.30–3(a)(12).

[Release No. 34–36515; File No. SR–Phlx–95–58]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Trader Registration and the Use of the Series 7A Examination

November 27, 1995.

On September 22, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, a proposed rule change to require registration of persons who solicit or handle business in securities and are compensated by a member or participant organization for which the Phlx is the Designated Examining Authority ("DEA"). On October 6, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change amending paragraph (c)(ii) of Rule 604, which names the Series 7A as the appropriate examination for Limited Registration/Floor Members,[1] to clarify that this is the appropriate examination for such members only, not all members who conduct a public business from the equity trading floor.[2]

The proposed rule change and Amendment No. 1 were published for comment in Securities Exchange Act Release No. 36395 (October 20, 1995), 60 FR 54904 (October 26, 1995). No comments were received on the proposal.

Currently, the Exchange requires Series 7 Registered Representatives to register with the Exchange on Form U–4 pursuant to Rule 604(a) and Limited Registration/Floor Members to register pursuant to Rule 604(c). However, there is no requirement for proprietary "upstairs" traders (*i.e.*, those who trade for the firm's own account) to register with the Exchange. This proposal adopts such a requirement as Rule 604(d). Similar to Rules 604 (a) and (c), the proposal would require registration on Form U–4. This form is currently used in the Exchange's membership application process for prospective members or participants, as well as the officers, shareholders and directors of such organizations. In order to prevent duplicative registration, the proposal would not apply to persons who are otherwise registered with the Exchange.

The proposed rule change also seeks to amend paragraph (c)(ii) of Rule 604. Although the organization of Rule 604, as well as the intent behind its adoption, indicates that paragraph (c) and subparagraph (ii) thereunder apply only to Limited Registration/Floor Members,[3] on its face the text of 604(c)(ii) can be construed to apply to all members conducting a public business. The amendment adds limiting language to Rule 604(c)(ii) to clarify that the Series 7A is the appropriate examination for Limited Registration/Floor Members, not all members conducting a public business from the equity trading floor.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[4] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public.

The Commission believes that requiring a firm's proprietary traders to register with the Exchange will aid in the prevention of fraudulent and manipulative acts by allowing the Exchange to maintain a complete record of those trading for a member or participant organization, not just persons handling customer accounts. The Form U–4 will provide background information on such traders, as well as a basis for further Exchange research if needed, thereby enhancing the Exchange's examination program.

The Commission also believes that the amendment to Rule 604(c)(ii) will enhance member compliance with this rule. By specifically naming floor members as the parties for whom the

[1] A Limited Registration/Floor Member is a member who conducts a public business that is limited to accepting orders from professional customers for execution on the trading floor. The Series 7A examination is a module of the Series 7 (the General Securities Registered Representative Examination) developed to test the knowledge of relevant securities laws and Exchange rules required of such members. *See* Securities Exchange Act Release No. 32698 (July 29, 1993), 58 FR 41539 (August 4, 1993) (File No. SR–NYSE–93–10).

[2] *See* letter from Gerald O'Connell, First Vice President Market Regulation and Trading Operations, Phlx, to Glen Barrentine, Senior Counsel, SEC, dated October 3, 1995. In Amendment No. 1 the Exchange explained the purpose of its proposed amendment to Rule 604(c)(ii).

[3] *See* Securities Exchange Act Release No. 35258 (January 20, 1995), 60 FR 5449 (January 27, 1995) (File No. SR–Phlx–94–15) (order approving the Phlx's adoption of the Limited Registration/Floor Member status and its use of the Series 7A for such members).

[4] 15 U.S.C. 78f(b).

Series 7A is the appropriate examination, members will be able to readily discern whether the Series 7A requirement is applicable to them.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change (SR–Phlx–95–58) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29388 Filed 12–1–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 21543; 812–8972]

Allied Capital Corporation; Notice of Application

November 27, 1995.

AGENCY: Securities and Exchange Commission (the "SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANT: Allied Capital Corporation (the "Company").

RELEVANT ACT SECTIONS: Order requested under section 61(a)(3)(B)(i)(II) of the Act.

SUMMARY OF APPLICATION: The Company requests an order approving a proposal to issue stock options to directors who are not officers or employees of the Company.

FILING DATE: The application was filed on May 5, 1994 and amended on June 24, 1994, July 31, 1995, and November 22, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 22, 1995, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reasons for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 1666 K Street, N.W., Ninth Floor, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Special Counsel, at (202) 942–0582, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. The Company is a closed-end management investment company that has elected to be regulated as a business development company under the Act. It has two active wholly-owned subsidiaries: Allied Investment Corporation ("Allied Investment") and Allied Capital Financial Corporation ("Allied Financial"), which are registered under the Act as closed-end investment companies. Allied Investment is licensed by the U.S. Small Business Administration (the "SBA") as a small business investment company, and Allied Financial is licensed by the SBA as a specialized small business investment company.

2. The Company invests in and lends to privately-owned small businesses directly and through its wholly-owned subsidiaries. It provides debt, mezzanine and equity financing for small growth companies, for leveraged buyouts of such companies, for note purchases and loan restructurings and for special situations, such as acquisitions, buyouts, recapitalizations and bridge financings of such companies. The Company also provides financing to private and small public companies through its purchase of convertible debentures. The Company's investments generally take the form of loans with equity features, such as warrants or conversion privileges. The typical maturity of such a loan made by the Company is seven years, although loan maturities vary. The Company also makes senior loans without equity features. The Company's emphasis is on low- to medium-technology businesses, such as broadcasting, packaging manufacturers, franchise operations, speciality manufacturing, environmental concerns, wholesale distribution and commodities storage and retail operations. The Company makes available significant managerial assistance to its portfolio companies, as do the Company's subsidiaries.

3. The Company and its investment adviser have entered into an investment advisory agreement that provides that the fees paid and payable to the investment adviser are based on the value of the Company's assets, and do not depend in any respect upon any capital gains of the Company or the capital appreciation of any of its funds. The Company does not have a profit-sharing plan described in section 57(n) of the Act.

4. The Company's stock option plan (the "Option Plan") was adopted and approved in 1983, and has been amended on several occasions. In February 1994, the Company's board of directors adopted further amendments to the Option Plan, which were approved by the Company's stockholders in May 1994. Those amendments increased the number of shares reserved for issuance under the Option Plan and provided for the automatic, one-time grant to each person who serves as a director of the Company and is not an officer or employee of the Company or an employee of its investment adviser (each, a "non-officer director") of an option to purchase 10,000 shares of the Company's common stock.

5. The Option Plan provides for an automatic, one-time option grant to each person serving as a non-officer director on the date on which the issuance of options to non-officer directors is (i) authorized by the stockholders of the Company or (ii) approved by SEC order, whichever is later. The Option Plan also provides for an automatic, one-time option grant to each person who thereafter is elected initially as a non-officer director. Any automatic, one-time grant to a non-officer director will entitle the recipient to acquire 10,000 shares of the Company's common stock at an exercise price that is not less than the fair market value[1] of a share of the Company's common stock at the date of issuance of the option. Each option vests in three annual installments, with the first installment vesting on the date of issuance of the option and the other two installments vesting on the first and second anniversaries of the date of issuance of the option. Each option expires on the earliest of (a) the tenth anniversary of its date of issuance, (b) 60 days after the optionee ceases to serve as a director of the Company for any reason other than death or permanent and total disability, (c) one year after the date on which the optionee dies or becomes permanently and totally disabled, or (d) the date on which the option is fully exercised. The Option Plan provides that all such options are non-transferable, except for disposition by will or intestacy, and are exercisable during the life of the optionee only by him or her.

6. The Company currently has five non-officer directors. Upon the SEC's issuance of an order approving the option grants, those persons will receive options covering an aggregate of 50,000 shares. The 10,000 shares covered by each grant to a non-officer director would represent 0.16%, and the 50,000 shares covered by the grants to the five current non-officer directors would represent 0.81%, of the 6,174,047 shares of the Company's common stock outstanding as of June 30, 1995. As of June 30, 1995, there was an aggregate of 866,572 shares subject to then-outstanding options granted to officers of the Company under the Option Plan, and 84,951 shares available for future grants under the Option Plan (not including the 50,000 shares underlying the options proposed to be issued to the current non-officer directors). The shares subject to such then-outstanding options represent 14.03% of the Company's common stock outstanding on June 30, 1995; if those shares are increased by the 50,000 shares underlying the options proposed to be grated to current non-officer directors, they represent 14.85% of the Company's shares then outstanding. The Company has no other outstanding options, warrants or rights.

7. Non-officer directors are actively involved in managing the Company and monitoring the operation of its portfolio companies. Each non-officer director serves on at least one committee of the Company's board, and serves as a director of at least one of the Company's subsidiaries. In addition, many of the non-officer directors have experience in the industries in which the Company regularly invests, and provide analysis and advice to the Company regarding prospective investments and in managing the portfolio companies in which the Company has invested.

8. Every investment transaction by the Company requires prior express approval by its board of directors. Each director is provided, well in advance of each board meeting, a detailed narrative outlining the format of each proposed investment, restructuring and follow-on financing transaction under consideration. Whether in the context of a new investment or restructuring, follow-on financing, or disposition of an existing investment, the Company's directors analyze the reports and materials provided, discuss questions and issues with the responsible investment officer and with each other and make and approve recommendations with respect to each such investment decision.

9. The Company also relies upon its directors to review and consider the best use of the Company's resources. The directors review and evaluate reports of outstanding commitments, required reserves for follow-on financing and funds available for future investment for the purpose of evaluating and making these resource allocations. At least once each calendar quarter, directors of the Company review portfolio investments that are non-performing or performing inadequately and evaluate the best course of action for the Company to take under the circumstances. In addition, on a calendar quarter basis, the directors of the Company undertake a good faith valuation of the Company's investments for which no independent market valuations are available, which constitute substantially all of the Company's investments.

10. Non-officer directors frequently advise the investment officers serving the Company in the due diligence process regarding any proposed investment in companies operating in industries of which they have knowledge and expertise. Non-officer directors with industry or other relevant expertise also participate in the analysis of portfolio companies that are performing below expectations or are in a work-out situation.

11. Non-officer directors participate in the analysis of portfolio companies that are performing at or above expectations, and advise the investment officers serving the Company in efforts to monitor or improve performance by such portfolio companies, improve banking or other commercial relationships and consider or prepare for public offerings, acquisitions or the like.

12. For these services, the Company pays its non-officer directors (as well as its officer-directors) $1,000 for each meeting of its Board or any committee thereof[2] attended. Allied Investment and Allied Financial each also pays its directors $1,000 for each meeting of its board of directors that the director attends, although a director is not paid for attending such meetings of the Allied Investment or Allied Financial Boards on the same day as a meeting of the Company's Board.

Applicant's Legal Analysis

1. Section 61(a)(3)(B)(i)(II) of the Act permits a business development company to issue options to purchase its voting securities to its non-officer, non-employee directors pursuant to an executive compensation plan subject to certain requirements, which include the proposal to issue such options being authorized by the stockholders of the company and approved by the SEC on the basis that the terms of the proposal are fair and reasonable and do not involve overreaching of such company or its stockholders.

2. The Company believes that its proposal to issue options to its non-officer directors satisfies all of such statutory requirements other than SEC approval (including the requirement that if the amount of voting securities that would result from the exercise of outstanding options issued to the Company's directors, officers, and employees would exceed 15% of the Company's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding options at the time of issuance may not exceed 20% of the outstanding voting securities of the Company) and that granting each non-officer director an option under the Option Plan is fair and reasonable. Non-officer directors provide to the Company skills and experience necessary for management and oversight of the Company's investments and operations, and often have specific experience with respect to industries in which the Company makes a significant number of investments. The Company believes that its ability to make an automatic option grant under the Option Plan to non-officer directors provides a means of retaining the services of its current non-officer directors and of attracting qualified persons to serve as non-officer directors in the future. The Company also believes that such options are a necessary adjunct to its directors' fees to provide fair and reasonable compensation for the services and attention devoted by the non-officer directors. Each current non-officer director makes a significant contribution to the management of the Company's business and to analysis and supervision of its portfolio investments. The Company believes that any non-officer directors who are elected initially after issuance of the SEC's order will provide similar services and devote similar time and attention to serving the Company.

3. The projected compensatory value of an automatic, one-time grant to the Company's non-officer directors of a

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[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(12).

[1] For purposes of the Option Plan, the fair market value of the shares is defined as the closing sale price as quoted on the National Association of Securities Dealers Automated Quotation System for the date of issuance of the option.

[2] Non-officer directors are paid $500 for participation in any committee meeting held on the same day as a meeting of the Company's Board.

stock option to purchase 10,000 shares at fair market value is well within the range of reasonable director compensation in consideration of the time commitment described above, especially given that realization of such compensation is contingent upon the Company's market performance. Automatic, one-time option grants to current and future non-officer directors permit the Company to devote its cash resources to additional investments and not to increases in directors' fees to retain qualified non-officer directors or to attract replacements. Most importantly, as a method of compensation which is contingent on the Company's stock performance, such stock option awards serve the best interest of the stockholders of the Company by reinforcing the alignment of the interests of non-officer directors and stockholders of the Company.

4. For all of these reasons, the Company believes that providing for the automatic, one-time grant of stock options to purchase 10,000 shares at fair market value to each of the Company's current and future non-officer directors is fair and reasonable and does not involve overreaching of the Company or its stockholders.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29385 Filed 12–1–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 21544; 812–8985]

Allied Capital Corporation II; Notice of Application

November 27, 1995.

AGENCY: Securities and Exchange Commission (the "SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANT: Allied Capital Corporation II (the "Company").

RELEVANT ACT SECTIONS: Order requested under section 61(a)(3)(B)(i)(II) of the Act.

SUMMARY OF APPLICATION: The Company requests an order approving a proposal to issue stock options to directors who are not officers or employees of the Company.

FILING DATE: The application was filed on May 12, 1994 and amended on June 24, 1994, July 31, 1995, and November 22, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 22, 1995, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reasons for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 1666 K Street, N.W., Ninth Floor, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Special Counsel, at (202) 942–0582, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. The Company is a closed-end management investment company that has elected to be regulated as a business development company under the 1940 Act. It has two wholly-owned subsidiaries: Allied Investment Corporation II ("Allied Investment II") and Allied Financial Corporation II ("Allied Financial II"), which are registered under the Act as closed-end investment companies. Allied Investment II is licensed by the U.S. Small Business Administration (the "SBA") as a small business investment company ("SBIC"). Allied Financial II has applied to the SBA to be licensed as a specialized small business investment company ("SSBIC"), and makes certain investments pending issuance of its license as a SSBIC.

2. The Company invests in and lends to privately-owned small businesses directly and through its subsidiaries. It provides debt, mezzanine and equity financing for small growth companies, for leveraged buyouts of such companies, for note purchases and loan restructurings and for special situations, such as acquisitions, buyouts, recapitalizations and bridge financings of such companies. The Company also provides financing to private and small public companies through its purchase of convertible debentures. The Company's investments generally take the form of loans with equity features, such as warrants or conversion privileges. The Company also makes senior loans without equity features. The Company's emphasis is on low- to medium-technology businesses, such as broadcasting, manufacturing, wholesale distribution and commodities storage, software and service providers and wholesale and retail operations. The Company makes available significant managerial assistance to its portfolio companies, as do the Company's subsidiaries.

3. The Company and its investment adviser have entered into an investment advisory agreement that provides that the fees paid and payable to the investment adviser are based on the value of the Company's assets and do not depend in any respect upon any capital gains of the Company or the capital appreciation of any of its funds. The Company does not have a profit-sharing plan described in Section 57(n) of the Act.

4. The Company's stock option plan (the "Option Plan") was adopted and approved in 1990, and has been amended on several occasions. In February 1994, the Company's Board of Directors adopted further amendments to the Option Plan, which were approved by the Company's stockholders in May 1994. Those amendments increased the number of shares reserved for issuance under the Option Plan and provided for the automatic, one-time grant to each person who serves as a director of the Company and is not an officer or employee of the Company or an employee of its investment adviser (each, a "non-officer director") of an option to purchase 10,000 shares of the Company's common stock.

5. The Option Plan provides for an automatic, one-time option grant to each person serving as a non-officer director on the date on which the issuance of options to non-officer directors is (i) authorized by the stockholders of the Company or (ii) approved by SEC order, whichever is later. The Option Plan also provides for an automatic, one-time option grant to each person who thereafter is elected initially as a non-officer director. Any automatic, one-time grant to a non-officer director will entitle the recipient to acquire 10,000 shares of the Company's common stock at an exercise price that is not less than the fair market value of a share of the Company's common stock at the date of issuance of the option. Each option vests in three annual installments, with the first installment vesting on the date of issuance of the option and the other two installments vesting on the first and second anniversaries of the date of the issuance of the option. Each option expires on the earliest of (a) the tenth anniversary of its date of issuance, (b) 60 days after the optionee ceases to serve as a director of the Company for any reason other than death or permanent and total disability, (c) one year after the date on which the optionee dies or becomes permanently and totally disabled, or (d) the date on which the option is fully exercised. The Option Plan provides that all such options are non-transferable, except for disposition by will or intestacy, and are exercisable during the life of the optionee only by him or her.

6. The Company currently has five non-officer directors. Upon the Commission's issuance of an order approving the option grants under the Option Plan to non-officer directors, those persons will receive options covering an aggregate of 50,000 shares. The 10,000 shares covered by each grant to a non-officer director would represent 0.14%, and the 50,000 shares covered by the grants to the five current non-officer directors would represent 0.72%, of the 6,938,191 shares of the Company's common stock outstanding as of June 30, 1995. As of June 30, 1995, there was an aggregate of 719,600 shares subject to then-outstanding options granted to officers of the Company under the Option Plan, and 317,744 shares available for future grants under the Option Plan (not including the 50,000 shares underlying the options proposed to be issued to the current non-officer directors). The shares subject to such then-outstanding options represent 10.37% of the Company's common stock outstanding on June 30, 1995; if those shares are increased by the 50,000 shares underlying the options proposed to be granted to current non-officer directors, they represent 11.09% of the Company's shares then outstanding. The Company has no other outstanding options, warrants or rights.

7. Non-officer directors are actively involved in managing the Company and in monitoring of the operation of its portfolio companies. Each non-officer director serves on at least one committee of the Company's Board, and serves as a director of at least one of the Company's subsidiaries. In addition, many of the non-officer directors have experience in the industries in which the Company regularly invests, and provide analysis and advice to the Company regarding prospective investments and in managing the portfolio companies in which the Company has invested.

8. Every investment transaction by the Company requires prior express approval by its board of directors. Each director is provided, well in advance of each board meeting, a detailed narrative outlining the format of each proposed investment, restructuring and follow-on financing transaction under consideration. Whether in the context of a new investment or restructuring, follow-on financing, or disposition of an existing investment, the Company's directors analyze the reports and materials provided, discuss questions and issues with the responsible investment officer and with each other and make and approve recommendations with respect to each such investment decision.

9. The Company also relies upon its directors to review and consider the best use of the Company's resources. The directors review and evaluate reports of outstanding commitments, required reserves for follow-on financing and funds available for future investment for the purpose of evaluating and making these resource allocations. At least once each calendar quarter, directors of the Company review portfolio investments that are non-performing or performing inadequately and evaluate the best course of action for the Company to take under the circumstances. In addition, on a calendar quarter basis, the directors of the Company undertake a good faith valuation of the Company's investments for which no independent market valuations are available, which constitute substantially all of the Company's investments.

10. Non-officer directors frequently advise the investment officers serving the Company in the due diligence process regarding any proposed investment in companies operating in industries of which they have knowledge and expertise. Non-officer directors with industry or other relevant expertise also participate in the analysis or portfolio companies that are performing below expectations or are in a work-out situation.

11. Non-officer directors participate in the analysis of portfolio companies that are performing at or above expectations, and advise the investment officers serving the Company in efforts to monitor performance of such portfolio companies, improve banking or other commercial relationships and consider or prepare for public offerings, acquisitions or the like.

12. For these services, the Company pays its non-officer directors (as well as its officer-directors) $1,000 for each meeting of its Board or any committee thereof[1] attended. Allied Investment II and Allied Financial II each also pays its directors $1,000 for each meeting of its board of directors that the director attends, although a director is not paid for attending such meetings of the Allied Investment II or Allied Financial II Boards on the same day as a meeting of the Company's Board.

Applicant's Legal Analysis

1. Section 61(a)(3)(B)(i)(II) of the Act permits a business development company to issue options to purchase its voting securities to its non-officer, non-employee directors pursuant to an executive compensation plan subject to certain conditions, which include the proposal to issue such options being authorized by the stockholders of the company and approved by the SEC on the basis that the terms of the proposal are fair and reasonable and do not involve overreaching of such company or its stockholders.

2. The Company believes that its proposal to issue options to its non-officer directors satisfies all of such statutory conditions other than SEC approval (including the requirement that if the amount of voting securities that would result from the exercise of outstanding options issued to the Company's directors, officers, and employees would exceed 15% of the Company's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding options at the time of issuance may not exceed 20% of the outstanding voting securities of the Company) and that granting each non-officer director an option under the Option Plan is fair and reasonable. Non-officer directors provide to the Company skills and experience necessary for management and oversight of the Company's investments and operations, and often have specific experience with respect to industries in which the Company makes a significant number of investments. The Company believes that its ability to make an automatic option grant under the Option Plan to non-officer directors provides a means of retaining the services of its current non-officer directors and of attracting qualified persons to serve as non-officer directors in the future. The Company also believes that such options are a necessary adjunct to its directors' fees to provide fair and reasonable compensation for the services and attention devoted by the non-officer

[1] Non-officer directors are paid $500 for participation in any committee meeting held on the same day as a meeting of the Company's Board.

directors. Each current non-officer director makes a significant contribution to the management of the Company's business and to analysis and supervision of its portfolio investments. The Company believes that any non-officer directors who are elected initially after issuance of the SEC's order will provide similar services and devote similar time and attention to serving the Company.

3. The projected compensatory value of an automatic, one-time grant to the Company's non-officer directors of a stock option to purchase 10,000 shares at fair market value is well within the range of reasonable director compensation in consideration of the time commitment described above, especially given that realization of such compensation is contingent upon the Company's market performance. Automatic, one-time option grants to current and future non-officer directors permit the Company to devote its cash resources to additional investments and not to increases in directors' fees to retain qualified non-officer directors or to attract replacements. Most importantly, as a method of compensation which is contingent on the Company's stock performance, such stock option awards serve the best interest of the stockholders of the Company by reinforcing the alignment of the interests of non-officer directors and stockholders of the Company.

4. For all of these reasons, the Company submits that providing for the automatic, one-time grant of stock options to purchase 10,000 shares at fair market value to each of the Company's current and future non-officer directors is fair and reasonable and does not involve overreaching of the Company or its stockholders.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-29384 Filed 12-1-95; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No. 21542; 812-9010]

Allied Capital Lending Corporation; Notice of Application

November 27, 1995.

AGENCY: Securities and Exchange Commission (the "SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANT: Allied Capital Corporation (the "Company").

RELEVANT ACT SECTIONS: Order requested under section 61(a)(3)(B)(i)(II) of the Act.

SUMMARY OF APPLICATION: The Company requests an order approving a proposal to issue stock options to its directors who are not officers or employees of the Company.

FILING DATE: The application was filed on May 20, 1994 and amended on June 24, 1994, July 31, 1995, and November 22, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 22, 1995, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reasons for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 1666 K Street, N.W., Ninth Floor, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Special Counsel, at (202) 942-0582, or Robert A. Robertson, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. The Company is a closed-end management investment company that has elected to be regulated as a business development company under the Act. The Company is a small business lending company ("SBLC") approved by the U.S. Small Business Administration (the "SBA"). The Company participates in the SBA's section 7(a) guaranteed loan program, under which the SBA will guarantee up to 90% of certain qualifying loans to small business concerns. The Company, through a subsidiary, also provides first mortgage commercial loans in conjunction with the SBA 504 loan program and as companion loans to section 7(a) guaranteed loans.

2. The Company lends to privately-owned small businesses directly. It provides loans to qualifying small businesses to acquire or refinance real estate, machinery or equipment, or to provide working capital. Loans made by the Company are secured by a mortgage or other lien on the assets of the borrower and, frequently, of its principals. The Company's loans are diversified in different industries and geographic regions of the United States. At December 31, 1994, the Company had in its portfolio or was servicing loans to, among others, hotels and motels, restaurants, manufacturers, retail shops, food stores, professional service providers, laundries and cleaners, home furnishings concerns, gasoline stations, business services firms, recreational services providers, automobile exhaust repair shops, personal services providers and automotive repair concerns. The Company makes available significant managerial assistance to companies in its portfolio.

3. As permitted by SBA regulations, the Company systematically sells to investors, without recourse, the guaranteed portions of its loans. Such loan sales generally take place approximately three months after the closing of the loan. The Company continues to service those loans for a servicing fee. At December 31, 1994, the Company was servicing over $116 million aggregate principal amount of loans, of which approximately 72% had been sold to investors.

4. The Company and its investment adviser have entered into an investment advisory agreement that provides that the fees paid and payable to the investment adviser are based on the value of the Company's assets, as determined from time to time, and do not depend in any respect upon any capital gains of the Company or the capital appreciation of any of its funds. The Company does not have a profit-sharing plan described in section 57(n) of the Act.

5. The Company's stock option plan (the "Option Plan") was adopted and approved in 1993. In February 1994, the Company's board of directors adopted amendments to the Option Plan, which were approved by the Company's stockholders in May 1994. Those amendments increased the number of shares reserved for issuance under the Option Plan and provided for the automatic, one-time grant to each person who serves as a director and is not an officer or employee of the Company or an employee of its

investment adviser (each, a "non-officer director"). The grant will consist of giving each non-officer director an option to purchase 10,000 shares of the Company's common stock.

6. The Option Plan provides for an automatic, one-time option grant to each non-officer director on the date on which the issuance of options is (i) authorized by the stockholders of the Company of (ii) approved by SEC order, whichever is later. The Option Plan also provides for an automatic, one-time option grant to each person who thereafter is elected initially as a non-officer director. Any automatic, one-time grant to a non-officer director will entitle the recipient to acquire 10,000 shares of the Company's common stock at an exercise price that is not less than the fair market value of a share of the Company's common stock at the date of issuance of the option or $15.00 per share (the Company's initial public offering price), whichever is greater. Each option vests in three annual installments, with the first installment vesting on the date of issuance of the option and the other two installments vesting on the first and second anniversaries of the date of issuance of the option. Each option expires on the earliest of (a) the tenth anniversary of its date of issuance, (b) 69 days after the optionee ceases to serve as a director of the company for any other reason other than death or permanent and total disability, (c) one year after the date on which the optionee dies or becomes permanently and totally disabled, or (d) the date on which the option is fully exercised. The Option Plan provides that all such options are non-transferable, except for disposition by will or intestacy, and are exercisable during the life of the optionee only by him or her.

7. The Company currently has six non-officer directors. Upon the SEC's issuance of an order approving the option grants, those persons will receive options covering an aggregate of 60,000 shares. The 10,000 shares covered by each grant to a non-officer director would represent 0.23%, and the 60,000 shares covered by the grants to the six current non-officer directors would represent 1.37%, of the Company's 4,377,334 shares outstanding as of June 30, 1995. As of June 30, 1995, there was an aggregate of 433,290 shares subject to then-outstanding options granted to officers of the Company under the Option Plan, and 11,570 shares available for future grants under the Option Plan (not including such 60,000 shares underlying the options proposed to be issued to the current non-officer directors). The shares subject to such then-outstanding options represent 9.90% of the Company's common stock outstanding on June 30, 1995; if those shares are increased by the 60,000 shares underlying the options proposed to be granted to current non-officer directors, they represent 11.27% of the company's shares outstanding on that date; if those shares are increased by the shares remaining available for future grants under the Option Plan, they represent 11.53% of the Company's shares outstanding on that date. The Company has no other outstanding options, warrants or rights.

8. Non-officer directors are actively involved in managing the Company and in reviewing the operation of its portfolio companies. Non-officer directors also generally serve on at least one committee of the Company's Board. Due to their experience and expertise, the non-officer directors make material, substantive contributions in managing the business of the company and the operation of its portfolio companies.

9. The Company recruits persons to serve as non-officer directors who possess specialized knowledge and expertise in business development, small business financing techniques or the industries in which the company focuses its investments. Their experience and expertise permits the Company's non-officer directors to provide unique analysis and advice to the Company regarding prospective loans and management of portfolio companies.

10. The Company's directors establish, review and revise, when necessary, a strict set of criteria for many of the loans that are made by the Company. The Company's directors also review those proposed lending transactions that do not fit within that set of criteria. Each director is provided, well in advance of each Board meeting, a detailed underwriting or credit report regarding each lending transaction under consideration. The Company's directors analyze the reports and materials provided, discuss questions and issues with the Company's management, its responsible officer, and with each other and make and approve recommendations with respect to each such lending decision.

11. The Company also relies upon its directors to review and consider the best use of the Company's resources. The directors review and evaluate reports of outstanding commitments and funds available for future lending for the purpose of evaluating and making these resource allocations. At least once each calendar quarter, directors of the Company review portfolio loans that are non-performing or performing inadequately and evaluate the best course of action for the Company to take under the circumstances. On a calendar quarter basis, the directors of the Company also undertake a good faith valuation of the Company's loans in privately-held portfolio companies, which constitute substantially all of the Company's investments, as independent market valuations rarely are available.

12. For these services, the Company pays its non-officer directors (as well as its officer-directors) $1,000 for each meeting of its Board or any committee thereof [1] attended.

Applicant's Legal Analysis

1. Section 61(a)(3)(B)(i)(II) of the Act permits a business development company to issue options to purchase its voting securities to its non-officer, non-employee directors pursuant to an executive compensation plan subject to certain conditions, which include the proposal to issue such options being authorized by the company's stockholders and approved by the SEC on the basis that the terms of the proposal are fair and reasonable and do not involve overreaching of such company or its stockholders.

2. The Company believes that its proposal to issue options to its non-officer directors satisfies all of such statutory conditions other than SEC approval (including the requirement that if the amount of voting securities that would result from the exercise of outstanding options issued to the Company's directors, officers, and employees would exceed 15% of the Company's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding options at the time of issuance may not exceed 20% of the outstanding voting securities of the Company) and that granting each non-officer director an option under the Option Plan is fair and reasonable. Non-officer directors provide to the Company skills and experience necessary for management and oversight of the Company's loan portfolio and operations, and often have specific experience with commercial lending or with respect to industries in which the Company makes a significant number of loans. The Company believes that its ability to make an automatic option grant under the Option Plan to non-officer directors provides a means of retaining the services of its current non-officer directors and of attracting qualified persons to serve as non-officer

[1] Non-officer directors are paid $500 for participation in any committee meeting held on the same day as a meeting of the Company's board.

directors in the future. The Company also believes that such options are a necessary adjunct to its directors' fees to provide fair and reasonable compensation for the services and attention devoted by the non-officer directors. Each current non-officer director makes a significant contribution to the management of the Company's business and to analysis and supervision of its loan portfolio. The Company believes that any non-officer directors who are elected initially after issuance of the SEC's order will provide similar services and devote similar time and attention to serving the Company.

3. The projected compensatory value of an automatic, one-time grant to the Company's non-officer directors of a stock option to purchase 10,000 shares at fair market value is well within the range of reasonable director compensation in consideration of the time commitment described above, especially given that realization of such compensation is contingent upon the Company's market performance. Automatic, one-time option grants to current and future non-officer directors permit the Company to devote its cash resources to additional investments and not to increases in directors' fees to retain qualified non-officer directors or to attract replacements. Most importantly, as a method of compensation which is contingent on the Company's stock performance, such stock option awards serve the best interest of the Company's stockholders by reinforcing the alignment of the interests of non-officer directors and stockholders of the Company.

4. For all of these reasons, the Company believes that providing for the automatic, one-time grant of stock options to purchase 10,000 shares to each of the Company's current and future non-officer directors is fair and reasonable and does not involve overreaching of the Company or its stockholders.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29386 Filed 12–1–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21545; No. 812–9668]

National Life Insurance Company, et al.

November 27, 1995.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of Application for an Exemption pursuant to the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: National Life Insurance Company (the "Company"), National Variable Life Insurance Account (the "Account"), any other separate account established in the future by the Company (the "Future Accounts", collectively, with the Account, the "Accounts") to support flexible premium variable life insurance policies (the "Future Contracts," collectively, with the Existing Contracts, the "Contracts") and Equity Securities, Inc. (the "Underwriter").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 6(c) of the 1940 Act seeking exemptions from the provisions of Section 27(c)(2) thereof and from Rule 6e–3(T)(c)(4)(v) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order permitting them to deduct from premiums received under the Contracts issued by the Company and the Accounts a charge in an amount that is reasonable in relation to the Company's increased federal income tax burden related to the receipt of such premium payments and that results from the application of Section 848 of the Internal Revenue Code of 1986, as amended (the "Code").

FILING DATE: The application was filed on July 14, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on December 22, 1995, and must be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o D. Russell Morgan, Counsel, National Life Insurance Company, One National Life Drive, Montpelier, Vermont 05604.

FOR FURTHER INFORMATION CONTACT: Kevin M. Kirchoff, Senior Counsel, or Wendy Friedlander, Deputy Chief, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

Applicant's Representations

1. The Company, a mutual life insurance company chartered pursuant to the law of the State of Vermont in 1848, is authorized to transact life insurance and annuity business in Vermont and in 50 other jurisdictions. The Company is depositor and sponsor of the Account.

2. The Company established the Account pursuant to Vermont law to support variable life insurance contracts. The Account is registered with the Commission as a unit investment trust and is a "separate account" as defined by Rule 0–1(e) under the 1940 Act. The Company anticipates that any Future Account would be registered under the 1940 Act as a unit investment trust and would meet the definition of a separate account in Rule 0–1(e) thereunder.

3. The Account currently has nine sub-accounts, each of which invests in a corresponding portfolio of one of two series-type mutual funds registered with the Commission as open-end, diversified management investment companies: the Market Street Fund and Variable Insurance Products Fund.

4. The Underwriter, an indirect, wholly-owned subsidiary of the Company, is registered as a broker-dealer pursuant to the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

5. The Existing Contracts are flexible premium variable life insurance contracts.

6. In the Omnibus Budget Reconciliation Act of 1990, Congress amended the Code by, among other things, enacting Section 848 thereof. Section 848 changed the federal income taxation of life insurance companies by requiring them to capitalize and amortize over a period of ten years part of their general expenses for the current year. Under prior law, these expenses were deductible in full from the current year's gross income.

7. The amount of expenses that must be capitalized and amortized under Section 848 is generally determined with reference to premium payments for certain categories of life insurance and other contracts ("Specified Contracts"). Thus, for each Specified Contract, an amount of expenses must be capitalized and amortized equal to a percentage of the current year's net premium payments (*i.e.*, gross premium payments minus return premium payments and reinsurance premium payments) for that contract. The percentage varies, depending on the type of Specified Contract in question, according to a schedule set forth in Section 848(c)(1).

8. Although framed in terms of requiring a portion of a life insurance company's general expenses to be capitalized an amortized, Section 848 in effect accelerates the realization of income from Specified Contracts for federal income tax purposes, and therefore, the payment of taxes on the income generated by those contracts. When the time value of money is taken into account, this has the economic consequence of increasing the tax burden borne by the Company that is attributable to such contracts. Because the amount of general deductions that must be capitalized and amortized is measured by premium payments paid for Specified Contracts, an increased tax burden results from the receipt of those premium payments.

9. The Contracts to which Applicants wish to apply the tax burden charge are among the Specified Contracts. They fall into the category of life insurance contracts for which the percentage of net premium payments that determines the amount of otherwise currently deductible general expenses to be capitalized and amortized with respect to such contracts is 7.7%.

10. The increased tax burden resulting from the applicability of Section 848 to every $10,000 of net premium payments received may be quantified as follows. In the year when the premium payments are received, the Company's general deductions are reduced by $731.50—*i.e.*, an amount equal to (a) 7.7% of $10,000, or $770, minus (b) one-half year's portion of the ten-year amortization, or $38.50. Using a 35% corporate tax rate, this results in an increase in tax for the current year of $256.03. This reduction will be partially offset by increased deductions that will be allowed during the next ten years as a result of amortizing the remainder of the $770—$77 in each of the following nine years and $38.50 in the tenth year.

11. In the Company's business judgment, a discount rate of at least 8% is appropriate for use in calculating the present value of its future tax deductions resulting from the amortization described above. For business relating to participating insurance policies, the Company seeks an after tax rate of return on the investment of its surplus of at least 8%. To the extent that surplus must be used by the Company to satisfy its increased federal tax burden under Section 848 resulting from the receipt of premium payments, such surplus is not available to the Company for investment. Thus, the cost to the Company of "capital" used to satisfy its increased federal tax burden under Section 848 is, in essence, the Company's after tax rate of return on surplus, and accordingly, the rate of return on surplus is appropriate for use in this present value calculation.[1]

12. Again using a corporate tax rate of 35% and assuming a discount rate of 8%, the present value of the tax effect of the increased deductions allowable in the following ten years, which (as noted above) partially offsets the increased tax burden, comes to $174.59. The effect of Section 848 on the Company in connection with the Existing Contracts is therefore an increased tax burden with a present value of $81.44 for each $10,000 of net premium payments received, (*i.e.*, $256.03 minus $174.59).

13. State premium taxes are deductible in computing federal income taxes. Thus, the Company does not incur incremental income tax when it passes on state premium taxes to contract owners. In contrast, federal income taxes are *not* tax-deductible in computing the Company's federal income taxes. Therefore, in order to compensate fully for the impact of Section 848, the Company must impose an additional charge that would make it whole not only for the $81.44 additional tax burden attributable to Section 848, but for the tax on the additional $81.44 itself. This additional charge can be determined by dividing $81.44 by the complement of the 35% federal corporate income tax rate (*i.e.*, 65%), resulting in an additional charge of $125.29 for each $10,000 of net premium payments, or approximately 1.25% of net premium payments.

14. Tax deductions are of value to the Company only to the extent that it has sufficient gross income to fully use the deductions. However, based on its prior experience, the Company believes that it can reasonably expect to use virtually all future deductions available. That is, the Company believes that it can reasonably expect to have sufficient taxable income in future years to use all deferred acquisition cost deduction.

15. The Company also represents that the 1.25% charge is reasonably related to the Company's increased tax burden under Section 848 of the Code, taking into account the benefit to the Company of the amortization permitted by Section 848, and the use by the Company of a 8% discount rate in computing the future deductions resulting from such amortization, such rate being the equivalent of the Company's cost of capital.

16. The Company believes that a charge of 1.25% of premium payments would reimburse it for the impact of Section 848 (as currently written) on its federal tax liabilities. The Company believes, however, that it would have to increase this charge if future changes in, or interpretations of, Section 848 or any successor provision result in a further increased tax burden due to the receipt of premium payments. Such an increase could result from a change in the corporate tax rate, a change in the 7.7% figure, or a change in the amortization period. The Contracts will or may reserve the right to increase or decrease the 1.25% charge in response to future changes in, or interpretations of, Section 848 or any successor provision that increase or decrease the Company's tax burden. The Company understands, however, that it would need additional exemptions before increasing the charge above 1.25%.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act provides, in relevant part, that the Commission, by order upon application, may exempt any person, security or transaction (or any class or classes of persons, securities or transactions) from provisions of the 1940 Act or any rules thereunder, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Applicants request an order of the Commission pursuant to Section 6(c) of the 1940 Act, exempting them from the provisions of Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder to the extent necessary to permit Applicants to deduct from premium payments received in connection with the Contracts an amount that is reasonable in relation to the Company's increased federal tax burden related to the receipt of such premium payments and that results from the application of Section 848 of

[1] In determining the cost of capital, the Company considered a number of factors. First, the Company considered its anticipated long-term growth rate. The Company seeks an after-tax rate of return earned on investments that is at least equal to its long-term growth rate. The cost of capital should also represent a fair after-tax rate of return to the Company for investing surplus. This rate can be thought of as consisting of a "risk-free" rate of return plus a "risk premium" for engaging in this type of business. Other factors taken into consideration were market interest rates and information about the rates of return obtained by other insurance companies. The Company represents that these are appropriate factors to consider in determining its cost of capital.

the Code. The deduction would not be treated as sales load.

Relief From Provisions of Section 27(c)(2) and Rule 6e–3(T)(c)(4)(v)

3. Section 2(a)(35) of the 1940 Act defines "sales load" as the difference between the price of a security offered to the public and that portion of the proceeds from its sale which is received and invested or held for investment by the issuer (or in the case of a unit investment trust, by the depositor or trustee), less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities.

4. Section 27(c)(2) of the 1940 Act prohibits a registered investment company or a depositor or underwriter for such company from making any deduction from purchase payments made under periodic payment plan certificates other than a deduction for sales load. Sections 27(a)(1) and 27(h)(1) of the 1940 Act, in effect, limit sales loads on periodic payment plan certificates to 9 percent of total payments.

5. Paragraph (a) of Rule 6e–3(T) requires that a separate account (such as the Accounts) that issues flexible premium variable life insurance contracts, its principal underwriter and its depositor, comply with all provisions of the 1940 Act and rules thereunder applicable to a registered investment company issuing periodic payment plan certificates.

6. Paragraph (b) of Rule 6e–3(T) provides numerous limited conditional exemptions from most such provisions and rules in connection with the offer, sale and administration of flexible premium variable life insurance contracts. For example, Rule 6e–3(T)(b)(13)(iii)(E) provides relief from Section 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of certain charges other than sales load, including "[t]he deduction of premium or other taxes imposed by any state or other governmental entity." Applicants request the relief from Section 27(c)(2) sought in this application only to preclude the possibility that a charge related to the increased burden resulting from Section 848 of the Code is not covered by the exemption provided by Rule 6e–3(T)(b)(13)(iii)(E). Applicants submit that the public policy reasons underlying Rule 6e–3(T)(b)(13)(iii)(E) provide support for the exemption from Section 27(c)(2) requested herein.

7. Paragraph (c)(4) of Rule 63–3(T) defines "sales load" (for purposes of the rule) as the excess of any purchase payments over certain itemized charges and adjustments. A tax burden charge, such as the one the Company proposes to deduct, may not fall squarely into any of the itemized categories of charges or adjustments. Consequently, a literal reading of paragraph (c)(4) arguably does not exclude such a charge from sales load. Applicants maintain, however, that there is no public policy reason why a tax burden charge designed to cover the expense of federal taxes should be treated as sales load or otherwise subject to the sales load limits of Rule 6e–3(T). Applicants assert that nothing in the administrative history of the Rule (or in the administrative history of Rule 6e–2, its predecessor) suggests that the Commission intended to treat tax charges as sales load.

8. The exemption requested by Applicants is necessary in order for them and any Future Account to rely on certain provision of Rule 6e–3(T)(b)(13), including sub-paragraph (b)(13)(i) thereof, which provides critical exemptions from Sections 27(a)(1) and 27(h)(1) of the 1940 Act. Issuers and their affiliates only may rely, however, on sub-paragraph (b)(13)(i) if they meet its alternate limits that apply to sales load as defined in paragraph (c)(4). Applicants and Future Accounts generally could not meet these limits if the tax burden charge is included in sales load.

9. The public policy that underlies sub-paragraph (b)(13)(i), like that which underlies Sections 27(a)(1) and 27(h)(1), is to prevent excessive sales loads from being charged in connection with the sale of periodic payment plan certificates. Applicants assert that the treatment of a tax burden charge attributable to the receipt of purchase payments as sales load would not in any way further this legislative purpose because such a deduction has no relation to the payment of sales commissions or other distribution expenses.

10. Applicants assert that the genesis of Rule 6e–3(T)(c)(4) supports this analysis, and suggest that Section 2(a)(35) provides a scale against which the percentage limits of Sections 27(a)(1) and 27(h)(1) may be measured. Applicants submit that Rule 6e–3(T)(c)(4), is simply a more specific articulation of the requirements of Section 2(a)(35) as applied to flexible premium variable life insurance policies. Section 2(a)(35), like Rule 6e–3(T)(c)(4), defines sales load derivatively, treating as sales load the: difference between the price of a security to the public and that portion of the proceeds from its sale which is invested or held for investment [illegible] less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, *issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities.* (Emphases added.)

Applicants maintain that the Commission's intent in adopting paragraph (c)(4) of Rule 6e–3(T) was to tailor the general terms of Section 2(a)(35) to flexible premium variable life insurance policies in order, among other things, to facilitate verification by the Commission of compliance with the sales load limits set forth in sub-paragraph (b)(13)(i). According to their analysis, paragraph (c)(4) does not depart, in principal, from Section 2(a)(35).

11. Section 2(a)(35) excludes deductions from purchases payments for "issue taxes" from the definition of sales load under the 1940 Act. Applicants suggest that this indicates that it is consistent with the protection of investors and the purposes intended by the policies and provisions of the 1940 Act to exclude charges for expenses attributable to federal taxes from sales load. Applicants argue that, by extension, it is equally consistent to exclude such charges, including the tax burden charge described above, from the Rule 6e–3(T)(c)(4) definition of sales load.

12. Applicants argue that the Section 2(a)(35) reference to administrative expenses or fees that are "not properly chargeable to sales or promotional activities" (quoted and emphasized above) suggests that the only charges or deductions intended to fall within the definition of sales load are those that *are* properly chargeable to such activities. Because the proposed tax burden charge will be used to pay costs attributable to the Company's federal tax liabilities, which are not properly chargeable to sales or promotional activities, Applicants assert that language is another indication that not treating such deductions as sales load is consistent with the purposes intended by the policies and provisions of the 1940 Act.

13. Applicants note that the Rule 6e–3(T)(c)(4)(v) limitation of the premium tax exclusion from the definition of "sales load" to state premium taxes is probably a historical accident, related to the fact that, when Rule 6e–3(T) was initially adopted in 1984 and when it was amended in 1987, the additional Section 848 tax burden attributable to the receipt of premiums did not exist.

14. Applicants represent that, for the reasons summarized above, deducting a charge from variable life insurance policy premium payments for an insurer's tax burdens attributable to its receipt of such payments, and excluding the charge from sales load, is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. This is because such a charge is, Applicants represent, for a legitimate expense of the insurer and is not designed to cover sales and distribution expenses. Applicants assert that, in adopting Rule 6e–3(T), the Commission considered similar deductions for tax burdens in respect of premium taxes and permitted deductions for such taxes to be made and to be treated as other than sales load. Applicants assert that the propriety of a charge for an insurer's tax burden attributable to premium payments received is the same whether such burden arises under state or federal law.

Request for "Class Relief"

15. Applicants also request exemptions for any Future Account that the Company may establish to support flexible premium variable life insurance contracts as defined in Rule 6e–3(T)(c)(1). Applicants believe that the terms of any exemption sought for Future Accounts to permit the deduction of a tax burden charge would be substantially identical to those they describe in the application. Applicants assert that any additional requests for exemptive relief for such Future Accounts would present no issues under the 1940 Act that have not already been addressed in the application. Nevertheless, the Company would have to obtain exemptions for each Future Account it establishes unless class relief is granted in response to the application.

16. The requested exemptions are appropriate in the public interest because they would promote competitiveness in the variable life insurance market by eliminating the need for the Company to file redundant exemptive applications, thereby reducing its administrative expenses and maximizing the efficient use of its resources. The delay and expense involved in having repeatedly to seek the same exemptions would impair the Company's ability to effectively take advantage of business opportunities as they arise. Likewise, the requested exemptions are consistent with the protection of investors and the purposes intended by the policy and provisions of the 1940 Act for the same reasons. Investors would receive no benefit or additional protection if the Company were required repeatedly to seek Commission orders with respect to the same issues addressed in the application. Indeed, they might be disadvantaged as a result of the Company's increased expenses.

Applicants' Conditions

1. The Company will monitor the reasonableness of the 1.25% charge.

2. The registration statement for the Existing Contracts and any Future Contracts under which the 1.25% charge is deducted will include:

(a) disclosure of the charge;

(b) disclosure explaining the purpose of the charge; and

(c) a statement that the charge is reasonable in relation to the Company's increased tax burden as a result of Section 848 of the Code.

3. The Company also will include as an exhibit to the registration statement for the Existing Contracts and any Future Contracts under which the 1.25% charge is deducted an actuarial opinion as to:

(a) the reasonableness of the charge in relation to the Company's increased tax burden as a result of Section 848 of the Code;

(b) the reasonableness of the after tax rate of return used in calculating the charge; and

(c) the appropriateness of the factors taken into account by the Company in determining the after tax rate of return.

Conclusion

For the reasons summarized above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29383 Filed 12–1–95; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

1994–95 Advisory Council on Social Security; Meeting

AGENCY: Social Security Administration.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces a meeting of the 1994–95 Advisory Council on Social Security (the Council).

DATES: Thursday, December 14, 1995, 9 a.m. to 5 p.m.

ADDRESSES: Sheraton City Centre, 1143 New Hampshire Avenue, NW, Washington D.C., 20037, (202) 775–0800.

FOR FURTHER INFORMATION CONTACT: By mail—Nick Curabba, 1994–95 Advisory Council on Social Security, Suite 705, 1825 Connecticut Avenue, NW, Washington, DC 20009; By telephone—(202) 482–7119; By telefax—(202) 482–7123.

SUPPLEMENTARY INFORMATION:

I. Purpose

Under section 706 of the Social Security Act (the Act), the Secretary of Health and Human Services (the Secretary) appoints the Council every 4 years. The Council examines issues affecting the Social Security Old-Age, Survivors, and Disability Insurance (OASDI) programs, as well as the Medicare program and impacts on the Medicaid program, which were created under the Act.

In addition, the Secretary has asked the Council specifically to address the following:

- Social Security financing issues, including developing recommendations for improving the long-range financial status of the OASDI programs;
- General program issues such as the relative equity and adequacy of Social Security benefits for persons at various income levels, in various family situations, and various age cohorts, taking into account such factors as the increased labor force participation of women, lower marriage rates, increased likelihood of divorce, and higher poverty rates of aged women.

In addressing these topics, the Secretary suggested that the Council may wish to analyze the relative roles of the public and private sectors in providing retirement income, how policies in both sectors affect retirement decisions and the economic status of the elderly, and how the disability insurance program provisions and the availability of health insurance and health care costs affect such matters.

The Council is composed of 12 members in addition to the chairman: Robert Ball, Joan Bok, Ann Combs, Edith Fierst, Gloria Johnson, Thomas Jones, George Kourpias, Sylvester Schieber, Gerald Shea, Marc Twinney, Fidel Vargas, and Carolyn Weaver. The chairman is Edward Gramlich.

The Council met previously on June 24–25, 1994 (59 FR 30367), July 29, (59 FR 35942), September 29–30 (59 FR 47146), October 21–22 (59 FR 51451), November 18–19 (59 FR 55272), January

27, 1995 (60 FR 3416), February 10–11 (60 FR 5433), March 8–9 (60 FR 10091), March 10–11 (60 FR 10090), April 21–22 (60 FR 18419), May 19–20 (60 FR 24961), June 2–3 (60 FR 27372) July 27–28 (60 FR 35097), August 31–September 1 (60 FR 41142), October 12–13 (60 FR 50234).

II. Agenda

The following topics will be presented and discussed:

* Previously developed plans that would revise the OASDI program along different lines;
* The preliminary findings and recommendations of the Advisory Council;
* Other issues before the Advisory Council.

The meeting is open to the public to the extent that space is available. Interpreter services for persons with hearing impairments will be provided. A transcript of the meeting will be available to the public on an at-cost-of duplication basis. The transcript can be ordered from the Executive Director of the Council.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.803, Social Security-Retirement Insurance; 93.805, Social Security-Survivors Insurance.)

Dated: November 29, 1995.

Daniel Wartonick,

Acting Executive Director, 1994–95 Advisory Council on Social Security.

[FR Doc. 95–29563 Filed 11–30–95; 1:16 pm]

BILLING CODE 4190–29–P

Privacy Act of 1974; Computer Matching Program (SSA/Internal Revenue Service (IRS))

AGENCY: Social Security Administration (SSA).

ACTION: Notice of Computer Matching Program.

SUMMARY: In accordance with the provisions of the Privacy Act, this notice announces a computer matching program that SSA plans to conduct.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–5138 or writing to the Associate Commissioner for Program and Integrity Reviews, 860 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Program and Integrity Reviews at the above address.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by establishing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. Among other things, it requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the Data Integrity Boards' approval of the match agreements;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching; and

(5) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: November 21, 1995.

Shirley S. Chater,

Commissioner of Social Security.

Notice of Computer Matching Program, Social Security Administration (SSA) With the Internal Revenue Service (IRS)

A. Participating Agencies

SSA and IRS.

B. Purpose of the Matching Program

The purpose of this matching program is to establish conditions under which IRS agrees to the disclosure of tax return information relating to unearned income. SSA will use the match results to verify the eligibility for, and the correct amount of benefits payable to, individuals under the Supplemental Security Income (SSI) program, which provides payments under title XVI of the Social Security Act (the Act) to aged, blind and disabled recipients with income below levels established by law and regulations, and federally-administered supplementary payments under section 1616 of the Act including payments under section 212 of Pub.L. 93–66, 87 Stat. 152.

C. Authority for Conducting the Matching Program

Section 1631(e)(1)(b) of the Act and Section 6103(l)(7) of the Internal Revenue Code.

D. Categories of Records and Individuals Covered by the Match

IRS will provide SSA with an electronic or magnetic tape file extracted from the Wage and Information Returns Processing File. The extracted file will contain tax return information about unearned income. Each record on the IRS file will be matched to SSA's Supplemental Security Income Record, HHS/SSA/OSR 90–60–0103, to identify individuals potentially subject to benefit reductions or termination of payment eligibility under the statutory provisions listed above.

E. Inclusive Dates of the Match

The matching agreement for this program shall become effective no sooner than 40 days after a copy of the agreement, as approved by the Data Integrity Boards of both agencies, is sent to Congress and the Office of Management and Budget (OMB) (or later if OMB objects to some or all of the agreement) or 30 days after publication of this notice in the **Federal Register**, whichever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 95–29474 Filed 12–1–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending November 24, 1995

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–95–850
Date Filed: November 20, 1995
Parties: Members of the International Air Transport Association
Subject:
TC2 Reso/P–1827 dated November 10, 1995 r1–r6
TC2 Reso/P–1828 dated November 10, 1995 r7–r14
Expedited Within Africa Resolutions
Intended effective date: expedited December 31/January 1, 1996

Myrna F. Adams,

Acting Chief, Documentary Services Division.

[FR Doc. 95–29396 Filed 12–1–95; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending November 24, 1995

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–95–851
Date Filed: November 20, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 18, 1995
Description: Application of Alaska Airlines, Inc., pursuant to 49 U.S.C. 41101, and Subpart Q of the Regulations, requests a permanent certificate of public convenience and necessity authorizing Alaska to engage in the scheduled foreign air transportation of persons, property and mail between San Francisco, California, on the one hand, and Mazatlan and Puerto Vallarta, Mexico, on the other hand, and between Los Angeles, California, on the one hand, and Los Cabos, Mexico, on the other hand.

Docket Number: OST–95–855
Date Filed: November 21, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 19, 1995
Description: Application of Scandinavian Airlines System (SAS), pursuant to 49 U.S.C. Section 41302 and Subpart Q of the Regulations, applies for amendment of its foreign air carrier permit, last issued by the Department pursuant to Order 87–8–55 in Docket 44249 adopted on August 14, 1987, to engage in foreign air transportation of persons, property and mail between a point or points in Denmark, Norway and Sweden, via intermediate points, to a point or points in the United States, and beyond.

Docket Number: OST–95–856
Date Filed: November 21, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 19, 1995
Description: Application of American Airlines, Inc., pursuant to 49 U.S.C. Section 41108 and Subpart Q of the Regulations, applies for renewal of its certificate of public convenience and necessity for Route 605, authorizing foreign air transportation of persons, property, and mail between New York, New York and Manchester, England.

Docket Number: OST–95–861
Date Filed: November 22, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 20, 1995
Description: Application of Reno Air, Inc., pursuant to 49 U.S.C. Section 41108 and Subpart Q of the Regulations, requests a Certificate of Public Convenience and Necessity authorizing Reno Air to engage in foreign air transportation of persons, property and mail between any point in the United States and any point in Canada.

Docket Number: OST–95–862
Date Filed: November 22, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 20, 1995
Description: Application of United Parcel Service Co., pursuant to 49 U.S.C. Section 4110 and Subpart Q of the Regulations, requests a certificate of public convenience and necessity authorizing it to engage in scheduled foreign air transportation of cargo (property and mail) between Anchorage, Alaska, on the one hand, and Manila, The Philippines, on the other hand, via the intermediate points Seoul, Korea; Taipei, Taiwan; and to the beyond points Singapore; Kuala Lampur, Malaysia; Taipei, Taiwan and Seoul, Korea.

Docket Number: OST–95–866
Date Filed: November 22, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 20, 1995
Description: Application of Delta Air Lines, Inc., pursuant to 49 U.S.C. Sections 41102 and 41108 and Subpart Q of the Regulations, applies for renewal of its Certificate of Public Convenience and Necessity for Route 606, as issued by Order 91–4–45 (served April 24, 1991), authorizing Delta to engage in foreign air transportation of persons, property and mail between the terminal points Atlanta, Georgia and Manchester, England. Delta's certificate for Route 606 expires on May 23, 1996. Delta requests renewal of its certificate for a period of five years.

Docket Number: OST–95–869
Date Filed: November 24, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 22, 1995
Description: Application of Continental Micronesia, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart Q of the Regulations, applies for a five-year renewal of its Route 171 certificate authority to provide scheduled foreign air transportation of persons, property and mail between Guam and Tokyo, Japan.

Myrna F. Adams,

Acting Chief, Documentary Services Division.

[FR Doc. 95–29395 Filed 12–1–95; 8:45 am]

BILLING CODE 4910–62–P

Sunshine Act Meetings

Federal Register
Vol. 60, No. 232
Monday, December 4, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: November 28, 1995, 60 FR 58728.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: November 29, 1995, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Numbers have been added on the Agenda scheduled for November 29, 1995:

Item No., Docket No., and Company

CAG-24—RP95-452-000 and TM96-2-22-000, CNG Transmission Corporation

Lois D. Cashell,

Secretary.

[FR Doc. 95-29521 Filed 11-30-95; 8:45 am]

BILLING CODE 6717-01-M

NATIONAL SCIENCE FOUNDATION

NATIONAL SCIENCE BOARD

DATE AND TIME:

December 14, 1995, 2:30 p.m. Closed Session

December 14, 1995, 2:45 p.m. Open Session

PLACE: National Science Foundation, 4201 Wilson Boulevard, Room 1235, Arlington, Virginia 22230.

STATUS:

Part of this meeting will be open to the public.

Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Thursday, December 14, 1995

(Closed Session (2:30 p.m.–2:45 p.m.))

—Minutes, October 1995 Meeting
—Grants and Contracts

Thursday, December 14, 1995

(Open Session (2:45 p.m.–3:30 p.m.))

—Minutes, October 1995 Meeting
—Closed Session Agenda Items for February 1996 Meeting
—Chairman's Report
—Director's Report
—Program Approval
—Committee Reports
—Other Business
—Adjourn

Marta Cehelsky,

Executive Officer.

[FR Doc. 95-29520 Filed 11-29-95; 4:39 pm]

BILLING CODE 7555-01-M

federal register

Monday
December 4, 1995

Part II

Department of the Interior

Office of the Secretary

43 CFR Part 10

Native American Graves Protection and Repatriation Act Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 10

RIN 1024–AC07

Native American Graves Protection and Repatriation Act Regulations

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: This final rule establishes definitions and procedures for lineal descendants, Indian tribes, Native Hawaiian organizations, museums, and Federal agencies to carry out the Native American Graves Protection and Repatriation Act of 1990. These regulations develop a systematic process for determining the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations to certain Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony with which they are affiliated.

EFFECTIVE DATE: This final rule will take effect on January 3, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Francis P. McManamon, Departmental Consulting Archeologist, Archeological Assistance Division, National Park Service, Box 37127, Washington DC 20013–7127. Telephone: (202) 343–4101. Fax: (202) 523–1547.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1990, President George Bush signed into law the Native American Graves Protection and Repatriation Act, hereafter referred to as the Act. The Act addresses the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations to certain Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony with which they are affiliated. Section 13 of the Act requires the Secretary of the Interior to publish regulations to carry out provisions of the Act.

Preparation of the Rulemaking

The proposed rule (43 CFR Part 10) for carrying out the Act was published in the **Federal Register** on May 28, 1993 (58 FR 31122). Public comment was invited for a 60-day period, ending on July 27, 1993. Copies of the proposed rule were sent to the chairs or chief executive officers of all Indian tribes, Alaska Native villages and corporations, Native Hawaiian organizations, national Indian organizations and advocacy groups, national scientific and museum organizations, and State and Federal agency Historic Preservation Officers and chief archeologists.

Eighty-two written comments were received representing 89 specific organizations and individuals. These included thirteen Indian tribes, ten Native American organizations, nine museums, seven universities, three national scientific and museum organizations, eleven state agencies, nineteen Federal agencies, nine other organizations, and eight individuals. Several letters represent more than one organization. Comments addressed nearly all sections and appendices of the proposed rule. All comments were fully considered when revising the proposed rule for publication as a final rulemaking.

Given the volume of comments, it is impractical to respond in detail in the preamble to every question raised or suggestion offered. Some commenters pointed out errors in spelling, syntax, and minor technical matters. Those errors were corrected and are not mentioned further in the preamble. In addition, many commenters made similar suggestions or criticisms, or repeated the same suggestion for different sections of the proposed rule. In the interest of reducing the length of the text, comments that are similar in nature are grouped and discussed in the most relevant section in the preamble. Some comments pointed out vague and unclear language. Clarifying and explanatory language was added to the rule and preamble.

Changes in Response to Public Comment

Section 10.1

This section outlines the purpose and applicability of the regulations. Three commenters recommended including specific reference to the applicability of the rule to provisions of the United States Code regarding illegal trafficking. Section 4 of the Act, which deals with illegal trafficking in "Native American Human Remains and Cultural Items," is incorporated directly into Chapter 53 of title 18, United States Code, and does not require implementing regulations. For that reason, a section regarding section 4 of the Act has not been included in these regulations.

One commenter recommended including language to guarantee "that these collections will remain intact and always be available to qualified researchers..." Another commenter recommended amending the regulations to preclude the removal of prehistoric skeletal and cultural materials from the nation's museums. The drafters consider the proposed changes contrary to the intent of the Act as reflected in statutory language and legislative history.

One commenter recommended additional language addressing Federal trust responsibilities and tribal sovereignty. These regulations are consistent with the United States' trust responsibilities to Indian tribes.

Three commenters recommended amending the rule to apply to territories of the United States. The rule of statutory construction stipulates that Federal law applies to United States territories only when specifically indicated. No such reference is indicated in either the statute or its legislative history. It is inappropriate to use regulations to extend applicability to areas not defined in the Act.

Section 10.2

This section defines terms used throughout the regulations. One commenter recommended listing the definitions alphabetically instead of thematically under the present categories of "participants," "human remains and cultural items," "cultural affiliation," "location," and "procedures." A thematic organization has been retained. However, the subsections have been retitled and reorganized. The new subsections are (a) who must comply with these regulations?; (b) who has standing to make a claim under these regulations?; (c) who is responsible for carrying out these regulations?; (d) what objects are covered by these regulations?; (e) what is cultural affiliation?; (f) what types of lands do the excavation and discovery provisions of these regulations apply to?; and (g) what procedures are required by these regulations?

Subsection 10.2 (a) includes definitions of those persons or organizations who must comply with these regulations.

One commenter asked for clarification as to whether all Federal agencies as defined in § 10.2 (a)(4) (renumbered as § 10.2 (a)(1)) must comply with provisions of the Act. All Federal agencies, except the Smithsonian Institution, are responsible for completing summaries and inventories of collections in their control and with ensuring compliance regarding inadvertent discoveries and intentional excavations conducted as part of activities on Federal or tribal lands. Three commenters and the Review Committee authorized under section 8 of the Act requested clarification of the exclusion of the Smithsonian Institution as a Federal agency. Sections 2 (4) and 2 (8) of the Act specifically exclude the

Smithsonian Institution from having to comply with the provisions of the Act. The legislative history of the Act is silent as to the reason for this exclusion. The exclusion is likely to have been based on prior passage of the National Museum of the American Indian Act in 1989 that included provisions requiring the repatriation of human remains from all of the Smithsonian Institution's constituent museums.

Seven commenters requested clarification of the definition of Federal agency official in § 10.2 (a)(5) (renumbered as § 10.2 (a)(2)). One commenter recommended changing the term to Federal land manager. The definition included in the proposed rule applies to both individuals with authority for the management of Federal lands and individuals with responsibility for the management of Federal collections that may contain human remains, funerary objects, sacred objects, or objects of cultural patrimony. Since responsibility for the latter task may fall to Federal agency officials who do not manage land, the recommended change has not been made. Four commenters recommended changes in the definition of Federal agency official to reflect that a Federal agency may have more than one delegated authority. The definition was rewritten to reflect this concern. One commenter recommended stipulation of a specific date by which each agency must delegate individuals to perform the duties relating to these regulations. Such a deadline is unnecessary as all Federal agencies have already named their contacts. A listing of Federal agency officials for each agency is available from the Departmental Consulting Archeologist.

Seven commenters requested clarification of the definition of museum in § 10.2 (a)(6) (renumbered § 10.2 (a)(3)). One commenter recommended replacing the term "human remains or cultural items" with "Native American artifacts" to reflect the expanded reporting of "collections that may contain unassociated funerary objects, sacred objects, or objects of cultural patrimony" in the summaries required in § 10.8. The specific focus of the Act and the rule remains limited to Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony, and not the broader category of Native American artifacts.

One commenter recommended providing a definition of the term "possession of, or control over" in the first sentence of the definition. One commenter recommended requiring museums take responsibility for all human remains, funerary objects, sacred objects, or objects of cultural patrimony in their possession that were originally excavated intentionally or discovered inadvertently by Federal agencies on non-Federal lands. All museums or Federal agencies with Native American collections should consider carefully whether they have possession or control of human remains, funerary objects, sacred objects, or objects of cultural patrimony as defined in § 10.2 (a)(3)(i) and (a)(3)(ii).

Eleven commenters recommended changes to the definitions of possession in § 10.2 (e)(5) (renumbered § 10.2 (a)(3)(i)) and control in § 10.2 (e)(6) (renumbered § 10.2 (a)(3)(ii)). One commenter recommended giving both terms their ordinary and customary meaning in the regulations. Two commenters objected to use of "legal interest" in both definitions on the grounds that under common law, museums and Federal agencies do not have sufficient legal interest in human remains to do anything with them. Two commenters questioned including items on loan to a museum in a summary or inventory since the items are not the property of the museum. One commenter recommended deleting the definition of control as it would require Federal bureaucrats and museum officials to make complicated legal determinations. Examples designed to clarify the uses of possession and control have been added to these sections to address the concerns reflected in these comments. Two commenters questioned whether "control" applied to museum collections or to Federal lands. The term applies to human remains, funerary objects, sacred objects, or objects of cultural patrimony in museum or Federal agency collections or excavated intentionally or discovered inadvertently on Federal or tribal lands. One commenter recommended that the definition specifically address Federal agency responsibilities for collections from Federal lands being held by non-governmental repositories. Federal agencies are responsible for the appropriate treatment and care of such collections.

One commenter requested clarification of the exclusion of procurement contracts from "Federal funds" in § 10.2 (a)(6) (renumbered § 10.2 (a)(3)(iii)). Procurement contracts are not considered a form of Federal-based aid but are provided to a contractor in exchange for a specific service or product. One commenter requested deletion of the last two sentences of the definition that clarify the applicability of the rule to museums that are part of a larger entity that receives Federal funds, questioning if the legislative history supports such an interpretation. One commenter supported the present definition of institutions receiving Federal funds. Application of Federal laws to institutions that receive Federal funds is common, being used with such recent legislation as the Americans with Disabilities Act. These laws typically are interpreted to apply to organizations that are part of larger entities that receive Federal funds. Two commenters recommended specifying the applicability of the rule to museums affiliated with certified local governments and Indian tribal museums. The rule applies to museums that are part of certified local governments. A tribal museum is covered by the Act if the Indian tribe of which it is part receives Federal funds through any grant, loan, or contract (other than a procurement contract).

Subsection 10.2(b) includes definitions of those persons or organizations that have standing to make a claim under these regulations.

Eight commenters recommended changes in the definition of lineal descendant in § 10.2 (a)(14) (renumbered § 10.2 (b)(1)). Two commenters identified the definition as too restrictive. The drafters realize that claims of lineal descent require a high standard but feel that this standard is consistent with the preference for repatriation to lineal descendants required by the Act. Another commenter presented a statistical argument to indicate that all members of Indian tribes might be recognized as lineal descendants of human remains over 1,000 year old. Regardless of the statistical possibilities that someone might be related to another, the definition of lineal descent requires that the human remains, funerary objects, or sacred objects under consideration be from a known individual. It is highly unlikely that the identity of an individual that lived 1,000 years ago is known, or that it is possible to trace descent directly and without interruption from that known individual to a living individual. One commenter recommended replacing the "known Native American individual" from which lineal descent is traced with "known individual of a tribe." The term Indian tribe as used in these regulations refers only to those contemporary tribes, bands, nations, or other organized Indian groups or communities that are recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. Requiring the known individual to have been a member of the

same Federally recognized Indian tribe as their lineal descendant would limit repatriation to only the most recent human remains, funerary objects, or sacred objects and is not supported by the statutory language or legislative history. One commenter recommended deleting reference to use of the "traditional kinship system." Reference to traditional kinship systems is designed to accommodate the different systems that individual Indian tribes use to reckon kinship. One commenter recommended that the definition should also allow more conventional means of reckoning kinship. The definition has been amended to include the common law system of descendance as well as the traditional kinship system of the appropriate Indian tribe or Native Hawaiian organization. One commenter recommended defining an additional class of "lineage members" or "kindred"—individuals that are not lineal descendants in the biological sense of the term but are related by the traditional kinship system—and then giving these individuals a secondary priority for making a claim after lineal descendants but before culturally affiliated Indian tribes. Determinations of priority between blood descendants and descendants by some other traditional kinship system are more properly resolved in specific situations rather than through general regulations.

One commenter recommended clarifying the definition of Indian tribe in § 10.2 (a)(9) (renumbered § 10.2 (b)(2)) to ensure timely notification. Seventeen commenters recommended expanding the definition to include a broader spectrum of Indian groups than those recognized by the Bureau of Indian Affairs (BIA). Several commenters identified specific groups they felt should have standing, including: various bands or tribes in California, Washington, and Ohio; Native American organizations such as the American Indian Movement; Native American groups that "would be eligible for recognition by the BIA if they so chose to be"; and "bands recognized by other Federal agencies." Section 12 of the Act makes it clear that Congress based the Act upon the unique relationship between the United States government and Indian tribes. That section goes on to state that the Act should not be construed to establish a precedent with respect to any other individual or organization. The statutory definition of Indian tribe, which specifies that such tribes must be "recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians," precludes extending applicability of the Act to Indian tribes that have been terminated, that are current applicants for recognition, or have only State or local jurisdiction legal status.

As was explained in the preamble of the proposed regulations, the definition of Indian tribe used in the Act was drawn explicitly from an earlier version of the bill (H.R. 5237, 101th Congress, 2nd Sess. sec. 2 (7), (July 10, 1990)) using a specific statutory reference. The final language of the Act is verbatim from the American Indian Self Determination and Education Act (25 U.S.C. 450b). The earlier statute has been carried out since 1976 by the BIA to apply to a specific list of eligible Indian tribes which has been published in the **Federal Register**.

Four commenters found this interpretation unduly narrow and recommended interpreting the statutory definition to apply to Indian tribes that are recognized as eligible for benefits for the special programs and services provided by "any" agency of the United States to Indians because of their status as Indians. The Review Committee concurred with this recommendation. Based on the above recommendations, the definition of Indian tribe included in the regulations was amended by deleting all text describing the process for obtaining recognition from the BIA. In place of this text, the final regulations include a statement identifying the Secretary as responsible for creating and distributing a list of Indian tribes for the purpose of carrying out the Act. This list is currently available from the Departmental Consulting Archeologist and will be updated periodically.

One commenter recommended deleting the reference to Alaska Native corporations in the definition of Indian tribe. The American Indian Self Determination and Education Act, the source for the definition of Indian tribe in the Act, explicitly applies to Alaska Native corporations and, as such, supports their inclusion under the Act. Alaska Native corporations are generally considered to have standing under these regulations if they are recognized as eligible for a self-determination contract under 25 U.S.C. 450b.

Two commenters recommended deleting the final line of the definition of Indian tribe in which Native Hawaiian organizations are subsumed for purposes of the regulations. The Review Committee concurred with this recommendation. The final sentence has been deleted and the applicability of the regulations to Native Hawaiian organizations has been specified where appropriate throughout the text. The term Indian tribe official defined in § 10.2 (b)(4) has not been changed, though the drafters wish to stress the term's applicability to the representatives of both Indian tribes and Native Hawaiian organizations.

Two commenters recommended changes to the definition of Native Hawaiian organization in § 10.2 (a)(11) (renumbered § 10.2 (b)(3)). One commenter recommended specifying that such organizations should have a primary and stated purpose of the "preservation of Hawaiian history," and have expertise in Native Hawaiian "cultural" affairs. Two commenters recommended requiring a Native Hawaiian organization verify that more than 50% of its membership is Native Hawaiian. The statutory definition of Native Hawaiian organization in section 2 (11) of the Act precludes expansion of the criteria for identifying Native Hawaiian organizations. An earlier version of the bill (S. 1980, 101st Cong. 2nd sess. section 3 (6)(c), (September 10, 1990)) that eventually became the Act included a provision requiring Native Hawaiian organization to have "a membership of which a majority are Native Hawaiian." This provision was not included in the Act. The legislative history confirms that Congress considered the additional criterion and decided not to include it in the Act.

One commenter recommended rewriting the definition of Native Hawaiian in § 10.2 (a)(10) (renumbered § 10.2 (b)(3)) to include Pacific Islanders. The statutory definition of Native Hawaiian in section 2 (10) of the Act precludes expansion of this definition to include Pacific Islanders who are not descendants of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

Three commenters recommended changes to the definition of Indian tribe official in § 10.2 (a)(12) (renumbered § 10.2 (b)(4)). One commenter recommended specifying that Indian tribe official means the tribal chair or officially designated individual. One commenter recommended allowing designation by the governing body of an Indian tribe "or as otherwise provided by tribal code, policy, or procedure." One commenter recommended that the designated person need not be a member of that Indian tribe. The definition of Indian tribe official was amended to identify the principal leader or the individual officially designated or otherwise provided by tribal code, policy or established procedure. This person need not necessarily be a member of the particular Indian tribe.

Subsection 10.2 (c) includes definitions of those persons or organizations that are responsible for carrying out these regulations.

One commenter requested clarification of the role of the Departmental Consulting Archeologist defined in Section 10.2 (a)(3) (renumbered § 10.2 (c)(3)). The Departmental Consulting Archeologist was delegated by the Secretary of the Interior with responsibilities for drafting regulations, providing staff support to the Review Committee, administering grants, and providing technical aid under the Act.

Subsection 10.2 (d) includes definitions of the objects covered by these regulations.

One commenter recommended that the definition of Native American in § 10.2 (a)(8) (renumbered § 10.2 (d)) specifically include Native Hawaiians. The definition already includes Native Hawaiians. To clarify the applicability of the rule, the definition of Native American was rewritten to specifically include tribes, people, or cultures indigenous to the United States, "including Alaska and Hawaii." The drafters point out that "Native American" is used in the Act and in these rules only to refer to particular human remains, funerary objects, sacred objects, or objects of cultural patrimony and not to any living individual or group of individuals.

Thirteen commenters recommended changes to the definition of human remains in § 10.2 (b)(1) (renumbered § 10.2 (d)(1)). One commenter recommended expanding the definition to include all human remains, not just those of Native Americans. The Act is designed specifically to address the disposition or repatriation of Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony and not to cover all human remains. Three commenters recommended excluding disarticulated and unassociated human remains, such as isolated teeth and finger bones, from repatriation. Two commenters recommended amending the definition to include only those human remains "associated with the body at the time of death," to eliminate such things as extracted or lost teeth, cut finger nails, coprolites, blood residues, and tissue samples taken by coroners. One commenter recommending deleting the exemplary clause—"including but not limited to bones, teeth, hair, ashes, or mummified or otherwise soft tissue"—as being overly limiting. The Act makes no distinction between fully-articulated burials and isolated bones and teeth. Additional text has been added excluding "naturally shed" human remains from consideration under the Act. This exclusion does not include any human remains for which there is evidence of purposeful disposal or deposition. The exemplary clause has been deleted. One commenter requested clarification as to whether the regulations would apply to blood sold or given to a blood bank by an individual of Native American ancestry. The blood bank would not be subject to repatriation having been freely given. One commenter supported considering human remains that had been incorporated into a sacred object or object of cultural patrimony be considered as part of that cultural item for the purpose of determining cultural affiliation. Two commenters recommended excluding human remains incorporated into cultural items from repatriation since, as one said, they were "objectified by their original makers and owners, not the institutions that might house them now." One commenter requested clarification regarding the status of human remains that were not freely given but that have been incorporated into objects that are not cultural items as defined in these regulations. The legislative history is silent on this issue. Determination of the proper disposition of such human remains must necessarily be made on a case-by-case basis. One commenter recommended deleting reference to human remains that have been incorporated into a funerary object, sacred object, or object of cultural patrimony, in that any change in the character of the human remains, including the definition, would only further their dishonor. Three commenters asked for clarification in how to determine whether human remains incorporated into a funerary object, sacred object, or object of cultural patrimony were freely given. The provision regarding determination of the cultural affiliation of human remains that had been incorporated into a funerary object, sacred object, or object of cultural patrimony was recommended by the Review Committee to preclude the destruction of items that might be culturally affiliated with one Indian tribe that incorporate human remains culturally affiliated with another Indian tribe.

Two commenters recommended changing the definition of cultural items in § 10.2 (b)(2). One commenter recommended broadening the definition to include any and all objects deemed to have cultural significance by an Indian tribe. Cultural items are defined in the Act to include human remains, funerary objects, sacred objects, and objects of cultural patrimony. The term was redefined in the proposed regulations to include funerary objects, sacred objects, and objects of cultural patrimony, and not human remains to address the objections some individuals had expressed over referring to human remains as "cultural items." Two commenters recommended retaining the statutory definition. The term has been changed to read "human remains, funerary object, sacred object, or object of cultural patrimony" throughout the rule to ensure clarity. The definition of "cultural item" has been deleted throughout the text.

One commenter recommended combining the definitions of associated funerary object in § 10.2 (b)(3) and unassociated funerary object in § 10.2 (b)(4) into a single definition of funerary object. The two definitions have been combined in § 10.2 (d)(2).

Ten commenters recommended changes to the definition of associated funerary object in § 10.2 (b)(3) and unassociated funerary object in § 10.2 (b)(4) (combined and renumbered § 10.2 (d)(2)). One commenter recommended rewriting both definitions to make a distinction between objects associated with individual human remains and objects for which a funerary context is suspected, but association with individual human remains is not possible. Another commenter objected to what he considered an overly rigorous standard of proof. The statutory language makes it clear that only those objects that are associated with individual human remains are considered funerary objects. The distinction between associated and unassociated funerary objects is based on whether the individual human remains are in the possession or control of a museum or Federal agency. One commenter recommended deleting the word "intentionally" in § 10.2 (b)(3)(i) and § 10.2 (b)(4) since the term does not occur in the statutory language. The term is included to emphasize the intentional nature of death rites or ceremonies. Items that inadvertently came into proximity or contact with human remains are not considered funerary objects. One commenter questioned whether any objects excavated intentionally or discovered inadvertently on Federal or tribal land after November 16, 1990, would fit these definitions, since it requires the objects be in the possession or control of a Federal agency, and section 3 of the Act seems to preclude Federal ownership of such objects. Possession of funerary objects excavated intentionally or discovered inadvertently on Federal or

tribal land is sufficient to apply the provisions of the statute to such intentional excavations or inadvertent discoveries.

Two commenters recommended deletion of the clause "or near" from § 10.2 (b)(3) (renumbered § 10.2 (d)(2)), indicating that it would require museums to enter into debates about the proximity of objects to human remains. The clause was included to accommodate variations in Native American death rites or ceremonies. Some Indian tribes, particularly those from the northern plains, have ceremonies in which objects are placed near, but not with, the human remains at the time of death or later. The drafters consider these funerary objects.

One commenter recommended clarifying § 10.2 (b)(3)(i) (renumbered § 10.2 (d)(2)(i)) by specifying that funerary objects are "associated" even when another institution has possession or control of the human remains. The drafters consider the statutory definition, which is repeated in the rule, to support this interpretation without any additional modification. One commenter recommended clarifying § 10.2 (a)(3)(ii) [renumbered § 10.2 (d)(2)(i)] by specifying that items made exclusively for burial purposes are considered as associated funerary objects even if there are no associated human remains. Items made exclusively for burial purposes are considered associated funerary objects even if there are no associated human remains. Four commenters recommended deleting the final sentence of the definition of unassociated funerary object in § 10.2 (b)(4) [renumbered § 10.2 (d)(2)], objecting to the requirement that such human remains were removed from a "specific" burial site. Another commenter recommended deleting reference to the "preponderance of the evidence" in the same sentence, because it implies an adversarial context which is inappropriate for the process of identifying unassociated funerary objects. In both of these instances, the text of the regulations reflects exactly the statutory text and has not been modified. The final sentence of this section was drawn from an explanation of the definition in House Report 101–877 (1990: page 2) and is taken to represent Congressional intent. Another commenter recommended deleting "reasonably believed to have been" from § 10.2 (b)(2)(ii). The phrase has been deleted.

One commentor recommended clarifying the definition of unassociated funerary objects in § 10.2 (b)(4) to exempt items exhibited intentionally with individual human remains but subsequently returned or distributed to living descendants or other individuals. The recommended language has been added to § 10.2 (d)(2)(ii).

Ten commenters recommended changes to the definition of sacred objects in § 10.2 (b)(5) (renumbered § 10.2 (d)(3)). One commenter recommended broadening the definition to include any and all objects deemed to have sacred significance by Indian tribes and not just those objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Another commenter recommended broadening the definition to include specific objects or geological features identified by traditional Native American practitioners as endowed with sacredness due to the object's past role in traditional Native American religious ceremony or on the basis of similar objects having contemporaneous religious significance or function in the continued observance or renewal or a ceremony. The statutory language and legislative history indicate that this definition was written carefully and precisely. Expanding the definition to include the types of items identified above in the comments runs counter to Congressional intent.

Four commenters recommended changes in the definition of traditional religious leader in § 10.2 (a)(13) (renumbered § 10.2 (d)(3)). Two commenters recommended replacing the phrase allowing such leaders to be recognized "by members of that Indian tribe" with "that Indian tribe." The drafters realize that allowing members of an Indian tribe or Native Hawaiian organization to recognize traditional religious leaders may result in conflicting claims. However, such issues are best resolved by the members of the Indian tribe or Native Hawaiian organization themselves. One commenter recommended replacing the word "or" at the end of § 10.2(a)(13)(i) with "and." The two criteria listed are intended as alternative methods for identifying traditional religious leaders and not as cumulative criteria. Another commenter recommended specifying that an individual's leadership role must be based on "traditional" religious practices. The drafters consider whether or not an individual's leadership in a religion is based upon traditional practice an inappropriate concern for Federal regulations.

Two commenters recommended deleting the word "current" from the first line of the definition of sacred object since the term was not included in the statutory text. The term was deleted. One commenter objected to "use" being the measure to decide whether an object should be repatriated, suggesting instead right of possession as the relevant standard. The necessity of an object for use by present day adherents of a traditional Native American religion is critical in identifying a sacred object, while determination of right of possession is necessary to determine whether the sacred object must be repatriated to the Indian tribe or Native Hawaiian organization or may be retained by the museum or Federal agency.

One commenter recommended deleting the second sentence of the definition of sacred object which he considers to depart in major ways from the statutory definition. The second sentence of the definition was drawn from the Senate Select Committee Report (S.R. 101–473: p. 7) and helps clarify the precise, limited use of this category intended by Congress.

One commenter recommended including clarification in the definition that: 1) sacred objects can not be associated with human remains, as they would then be funerary objects, and 2) only in rare circumstances can prehistoric items be sacred objects. While this usually may be so, blanket exclusion of any funerary object from also being a sacred object is not considered appropriate in that the categories are not mutually exclusive. Similarly, identification of sacred objects from prehistoric contexts must be made on a case-by-case basis.

One commenter agreed with the inclusion of sacred objects that have religious significance or function in the continued observance or renewal of a traditional Native American religious ceremony or ritual. Another commenter recommended deleting reference to "renewal" in the second sentence, stating that the issue was debated during the legislative process and final statutory language does not include reference to renewal of a traditional Native American religious ceremony. Language specifying the inclusion of objects that function in the continued observance or renewal of a traditional Native American religious ceremony as sacred objects was drawn from the Senate Select Committee Report (S.R. 101–473: p. 7) and is thought to reflect Congressional intent.

Three commenters requested clarification as to who is responsible for making the determination that a particular item fits the definition of sacred object. In all cases, the museum or Federal agency official has the initial responsibility for deciding whether an object in its possession or control fits the definition of sacred object. However, if an Indian tribe or Native Hawaiian organization does not agree with this decision, it has recourse to challenge directly the decision of the museum or Federal agency. The Indian tribe or Native Hawaiian organization may seek the involvement of the Review Committee if it is unsuccessful in its direct appeal to the museum or Federal agency.

Six commenters recommended changes to the definition of objects of cultural patrimony in § 10.2 (b)(6) (renumbered § 10.2 (d)(4)]) One commenter recommended deleting the word "cultural" from the term "cultural items" in the first sentence, in that the current phrasing is circular. The word has been deleted. One commenter cautioned that the definition does not recognize that internal disagreements may occur within an Indian tribe or Native Hawaiian organization about the importance of an object of cultural patrimony. Another commenter recommended broadening the definition to include those objects of ongoing historical, traditional, or cultural importance central to any sub-group of an Indian tribe, such as a band, clan, lineage, ceremonial society, or other subdivisions. Claims for human remains, funerary objects, sacred objects, or objects of cultural patrimony by such sub-groups must be made through an Indian tribe or Native Hawaiian organization.

One commenter requested clarification of the example of the Zuni War Gods that appear to be both objects of cultural patrimony and sacred objects. An object can fit both categories depending upon the nature of the traditional religion and the system of property rights used by a particular Indian tribe or Native Hawaiian organization. Zuni War Gods present such a case. In other cases, sacred objects may have been owned privately and, thus, are not considered objects of cultural patrimony. One commenter requested clarification as to who is responsible for making the determination that a particular item fits the definition of object of cultural patrimony. In all cases, the museum or Federal agency official has the initial responsibility for deciding whether an object in its possession or control fits the definition of object of cultural patrimony. However, if an Indian tribe or Native Hawaiian organization does not agree with this decision, it has recourse to challenge directly the decision with the museum or Federal agency.

Section 10.2 (e) includes the definition of cultural affiliation. One commenter recommended deleting reference to Native Hawaiian organizations as they are included under the definition of Indian tribe in § 10.2 (b)(2). The text has been changed to read "Indian tribe or Native Hawaiian organization" throughout the regulations. One commenter requested inclusion of a short characterization of the threshold criteria applicable to determining cultural affiliation. A second sentence clarifying this threshold has been added to the definition. Three commenters requested additional clarification of the definition of cultural affiliation. Procedures for determining cultural affiliation are included in § 10.14 (c).

Section 10.2 (f) includes definitions of the types of lands that the excavation and discovery provisions of these regulations apply.

Six commenters asked for clarification regarding the applicability of statutory provisions for intentional excavation or inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony to private lands. Unlike provisions of the National Historic Preservation Act (NHPA) that are applicable to Federal undertakings regardless of who owns the land on which the project is being conducted, the intentional excavation and inadvertent discovery provisions of these regulations apply only to Federal and tribal lands.

Five commenters recommended changes to the definition of Federal lands in § 10.2 (d)(1) (renumbered § 10.2 (f)(1)). One commenter recommended deleting the definition of "control" as it will require Federal bureaucrats to make complicated legal determinations as to what is "a sufficient legal interest to permit it to apply these regulations without abrogating the rights of a person." Another commenter recognized the need for a definition of Federal "control," but suggested that the present definition fails to clarify the issue. Another commenter requested clarification whether Federal control, and thus the intentional excavation and inadvertent discovery provisions of these regulations, extends to the Wetlands Reserve Program or to the Forest Legacy Program. One commenter requested clarification of the applicability of Federal control to real property instruments such as easements, rights-of-way, and rights-of-entry for performance of specific activities. One commenter requested clarification of the applicability of Federal control to private lands through issuance of a Federal permit, license, or funding. One commenter recommended including the existence of a long term lease by a Federal agency or an interest under which the land owner has authorized the United States to undertake intentional excavation or other land disturbance as under Federal control. As indicated above, the intentional excavation and inadvertent discovery provisions of the Act apply only to Federal and tribal lands. Whether Federal control of programs such as those mentioned above is sufficient to apply these regulations to the lands covered by the program depends on the circumstances of the Federal agency authority and on the nature of state and local jurisdiction. Such determinations must necessarily be made on a case-by-case basis. Generally, however, a Federal agency will only have sufficient legal interest to "control" lands it does not own when it has some other form of property interest in the land such as a lease or easement. The fact that a Federal permit is required to undertake and activity on non-Federal land generally is not sufficient legal interest in and of itself to "control" the land within the meaning of these regulations and the Act. In situations when two or more Federal agencies share regulatory or management jurisdiction over Federal land, the Federal agency with primary management authority will generally have control for purposes of implementing the Act.

Nineteen commenters recommended changes to the definition of tribal lands in § 10.2 (c)(2) (renumbered § 10.2 (f)(2)). One commenter recommended broadening the exclusion of privately owned lands within the exterior boundaries of an Indian reservation to encompass state and Federal land holdings. Thirteen commenters objected to the exclusion of privately owned lands within the exterior boundaries of an Indian reservation and recommended returning to the statutory language. The proposed exclusion was intended to rectify a contradiction between the statutory definition of tribal lands in section 2 (15) of the Act and the guarantee in section 2 (13) of the Act that no taking of property without compensation within the meaning of the Fifth Amendment of the United States Constitution is intended. The drafters concur with the majority of commenters that the blanket exclusion of private lands within the exterior boundaries of an Indian reservation from the intentional excavation and inadvertent discovery provisions of the regulations is overly broad. The exclusion was deleted and a new subsection added at § 10.2 (f)(2)(iv) stating that the regulations will not apply to tribal lands to the extent that any particular action

authorized or required will result in a taking of property without just compensation within the meaning of the Fifth Amendment to the United States Constitution.

Three commenters recommended broadening the definition of tribal lands to apply to allotments held in trust for Indian tribes or individuals, regardless of whether the allotments are inside or outside the boundaries of an Indian reservation. This suggestion is inconsistent with the Act's definition of tribal lands. One commenter stated that the reference to 18 U.S.C. 1151 in § 10.2 (d)(2)(ii) (renumbered § 10.2 (f)(2)(ii)) does not clarify the nature of dependent Indian community. Dependent Indian communities, as defined in 18 U.S.C. 1151 (b), include those Indian communities under Federal protection that were neither "reserved" formally, nor designated specifically as a reservation. Cohen, in *The Field of Indian Law* (1982:38) concludes that "it is apparent that Indian reservations and dependent Indian communities are not two distinct definitions of place but rather definitions which largely overlap. All Indian reservations are also dependent Indian communities unless they are uninhabited." In addition to Indian reservations, dependent Indian communities also include patented parcels of land and rights-of-way within residential Indian communities under Federal protection. One commenter recommend joining § 10.2 (d)(2)(i), (ii), and (iii) (renumbered § 10.2 (f)(2)(i), (ii), and (iii)) with "or" at the end of the first two lines. This change has been made.

Nine commenters recommended changes to the definition of aboriginal lands in § 10.2 (c)(3). Four commenters challenged use of Indian Claims Commission judgements to determine aboriginal territories. One commenter recommended using Native American origin stories and anthropological evidence instead. A second commenter recommended that the limits of aboriginal territory must come directly from the Indian tribe itself. A third commenter recommended expanding the definition to include all ceded lands and all lands traditionally used by an Indian tribe, regardless of whether there may have been overlapping usage by neighboring Indian tribes. The Indian Claims Commission was established in 1949 specifically to adjudicate tribal land claims against the United States. Over 200 cases were settled between 1949 and 1978 when the Commission was terminated. Since 1978, Indian land claims have been adjudicated by the United States Court of Claims. The Commission and the Court have considered a wide range of information, including oral history and anthropological evidence, in reaching their decisions. Section 3 (a)(1)(C) of the Act specifically gives Indian tribes the right to claim human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal land that is recognized by a final judgement of the Indian Claims Commission or United States Court of Claims as part of their aboriginal land. The drafters consider the final judgements of the Indian Claims Commission a valuable tool for identifying area occupied aboriginally by a present-day Indian tribe. Other sources of information regarding aboriginal occupation should also be consulted. The definition has been deleted from the rule.

One commenter questioned whether provisions of the Act regarding intentional excavation or inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony apply to all aboriginal lands, or just to that portion of an Indian tribe's aboriginal territory that is now in Federal ownership or control. These regulations apply to claims for human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands. One commenter requested reference information for final judgements by the Court of Claims. One commenter stated that the map of aboriginal lands included with the final report of the Indian Claims Commission is out of print, out of date, and difficult to use as neither counties nor detailed geographic indicators are provided. The United States Geological Survey has recently republished the 1978 map. Efforts are underway to update the map to include land claims settled since 1978. One commenter inquired about the status of Indian tribes that have filed a land claim for a particular area, but for which a court judgement or ruling from the court has been made. An Indian tribe's status to make a claim under the Act based upon aboriginal occupation of an area is recognized when a favorable court judgement or ruling has been made. However, this situation will only affect the disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal land where no lineal descendants or culturally affiliated Indian tribe has made a claim.

Subsection 10.2 (g) includes definitions of procedures required to carry out these regulations. Two commenters asked for clarification of the difference between the items included on the summary in § 10.2 (e)(1) (renumbered § 10.2 (g)(1)) and the items on the inventory in § 10.2 (e)(2) (renumbered § 10.2 (g)(2)). Summaries are written general descriptions of collections or portions of collections that may contain unassociated funerary objects, sacred objects, and objects of cultural patrimony. Inventories are item-by-item descriptions of human remains and associated funerary objects. The distinction between the documents reflects not only their subject matter, but also their detail (brief overview vs. item-by-item list), and place within the process. Summaries represent an initial exchange of information prior to consultation while inventories are documents completed in consultation with Indian tribe officials and representing a decision by the museum official or Federal agency official about the cultural affiliation of human remains and associated funerary objects.

One commenter recommended including a definition of "repatriation" in the regulations. The rules of statutory construction require interpreting undefined terms according to their common meaning. Repatriation means the return of someone or something to its nation of origin.

One commenter recommended inclusion of a definition for "appropriate care and treatment" of human remains, funerary objects, sacred objects, or objects of cultural patrimony. The appropriateness of particular types of care and treatment will necessarily depend on the nature of the particular human remains, funerary objects, sacred objects, or objects of cultural patrimony under consideration and the concerns of any lineal descendants or affiliated Indian tribes or Native Hawaiian organizations.

Three commenters recommended changes to the definition of intentional excavation in 10.2 (e)(3) (renumbered § 10.2 (g)(3)). One commenter recommended deleting the word "planned" from the definition to embrace all kinds of archeological removal, whether planned or occasioned by an encounter with human remains, funerary objects, sacred objects, or objects of cultural patrimony during construction or land use. One commenter recommended expanding the definition to include intentional excavations on private lands. One commenter recommended replacing the definition with "means intentional removal for the purposes of discovery, study, or removal of such items" from section 3 (c) of the statute. These changes are unnecessary or inappropriate and were not made.

Two commenters recommended changes to the definition of inadvertent discovery in 10.2 (e)(4) (renumbered § 10.2 (g)(4)). One commenter recommended replacing "inadvertent" with "accidental, unintended, unpredictable, or unexpected in spite of all precaution," to avoid any presumption that such discoveries were made without forethought or through negligence. Another commenter recommended expanding the definition to include inadvertent discoveries on private lands. These changes are unnecessary or not appropriate and were not made.

Section 10.3

This section carries out section 3 (c) of the Act regarding the custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony that are excavated intentionally from Federal or tribal lands after November 16, 1990. One commenter recommended stating explicitly that the section applies only to Native American human remains and not to non-Native American human remains such as mountain men or early settler burials. The language has not been changed as all provisions of these regulations apply only to Native American human remains, funerary objects, sacred objects or objects of cultural patrimony. One commenter requested reviewing use of the term "intentional excavation" throughout the section to ensure consistency with the statutory language. Section 3 (c) of the Act applies to the "intentional removal from or excavation of Native American [human remains and] cultural items from Federal or tribal lands for the purposes of discovery, study, or removal." This definition includes scientific archeological excavations for independent research, public interpretation, or as part of planned removal of human remains during land-disturbing activities such as construction projects.

One commenter recommended the regulations focus on "more protection of archeological sites ... for research by the scientific community." The Act certainly has as one goal improved protection of *in situ* archeological sites. However, this protection is afforded not simply to allow for more scientific study. Rather, the intent is to preserve and protect Native American graves, allowing for their scientific examination only as necessary and appropriate.

Two commenters requested clarification of the clause "if otherwise required" regarding the necessity for obtaining a permit issued pursuant to the Archeological Resources Protection Act (ARPA) in § 10.3 (b)(1). The clause has been deleted. The Review Committee recommended additional clarification in § 10.3 (b)(1) regarding issuance of ARPA permits on private holdings within the exterior boundaries of Indian reservations and on lands administered for the benefit of Native Hawaiians pursuant to the Hawaiian Homes Commission Act. Language regarding issuance of permits on these lands has been included.

One commenter recommended requiring the consent of culturally affiliated Indian tribes and Native Hawaiian organizations for intentional excavations on both Federal and tribal lands. Another commenter recommended requiring the consent of traditional religious leaders for intentional excavations on both Federal and tribal lands. These changes have not been made. Section 3 (c)(2) of the Act authorizes excavation or removal of human remains, funerary objects, sacred objects, or objects of cultural patrimony only after consultation with or, in the case of tribal lands, consent of the appropriate Indian tribe or Native Hawaiian organization. One commenter recommended that § 10.3 (b)(4) not be "the only requisite for intentional excavation." The requirements of § 10.3 (b)(1) through (4) must all be met before conducting an intentional excavation.

One commenter recommended changing the title of § 10.3 (c) from "Procedures" to "Disturbances during authorized land use." The procedures outlined in this subsection apply to intentional removal or excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony from Federal or tribal land and not disturbance during authorized land use, which is dealt with under § 10.4 regarding inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony on Federal or tribal lands. One commenter suggested that § 10.3 (c)(1) confuses the issue of who — "any person" or the Federal official — is responsible for complying with the provisions of the regulations regarding intentional excavations, and recommended deleting the section. Two commenters requested clarification of an "activity" as referred to in the first sentence of § 10.3 (c)(1). The subsection has been deleted and subsequent subsections renumbered.

One commenter requested clearly defining "responsible Federal agency." The Federal agency with the responsibility for issuing approvals or permits on actions within their designated Federal lands is the responsible Federal agency under the Act. In situations when two or more Federal agencies share regulatory or management jurisdiction of Federal land, the Federal agency with primary management authority will have control for purposes of carrying out these regulations unless otherwise agreed.

One commenter recommended requiring any person who proposes to undertake an activity on Federal or tribal lands that may result in the intentional excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony to notify all affected parties, including culturally affiliated Indian tribes and Native Hawaiian organizations. The Federal agency official — and not a person proposing to undertake an activity on Federal lands — is responsible for the management of lands under his or her control and is the appropriate person to notify Indian tribes and Native Hawaiian organizations of intentional excavations. The Federal agency official, once notified by a person of such an activity, is required to take reasonable steps to determine whether the planned activity may result in the intentional excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony. Prior to issuing any approvals or permits, the Federal agency official must notify in writing the Indian tribe or Native Hawaiian organizations that are likely to be affiliated with any excavated items. A person proposing to undertake an activity on tribal lands should contact the appropriate tribal official directly.

One commenter recommended requiring the Federal official identified in the first sentence of § 10.3 (c)(2) (renumbered § 10.3 (c)(1)) to meet the Secretary's standards for persons conducting ethnohistoric research. There currently are no Secretary's standards for ethnohistoric research. Each agency is responsible for ensuring that their employees are qualified to conduct the work required of them. One commenter recommended clarifying the "reasonable steps" required of Federal officials to explicitly include completion of Stage I surveys for of all planned ground-disturbing activities as required under section 106 of the NHPA. The type of steps taken by a Federal agency official are expected of vary from case-to-case and have not been specified in these regulations.

One commenter recommended requiring Federal officials to take reasonable steps regarding planned activities "or Federal actions." The recommended language has not been

added as it might be interpreted to refer to Federal actions on non-Federal lands. Provisions of the Act regarding intentional excavations and inadvertent discoveries apply only to activities occurring on Federal and tribal lands.

One commenter questioned whether the responsible Federal agency official need be notified regarding planned activities for which there is no indication that disturbance of human remains, funerary objects, sacred objects, or objects of cultural patrimony is likely. These regulations do not require notification of the responsible Federal agency official regarding planned activities for which intentional excavation or removal of human remains, funerary objects, sacred objects, or objects of cultural patrimony is not anticipated. Human remains, funerary objects, sacred objects, or objects of cultural patrimony discovered inadvertently during such an activity would require cessation of activity for thirty (30) days while the Federal official consults with affiliated Indian tribes and Native Hawaiian organizations.

One commenter questioned whether the phrase "otherwise required by law" in the second sentence of § 10.3 (c)(2) (renumbered § 10.3 (c)(1)) referred to "approvals or permits" or to "activities." The sentence has been rewritten as "required approvals or permits for activities." One commenter recommended including language requiring Federal agency officials to notify both Indian tribe officials and traditional religious leaders and obtaining that written approval from the traditional leaders prior to issuance of required approvals or permits. The Act requires Federal agency officials to consult with Indian tribes and Native Hawaiian organizations regarding the disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal or tribal lands. Consultation with traditional religious leaders is required regarding the identification of cultural items in museum or Federal agency collections. The consent of traditional religious leaders prior to the issuance of approvals or permits is not required by the Act. One commenter recommended inclusion of provisions requiring a minimum of at least ten days advance warning of any proposed meeting in the Federal agency official's notification to culturally affiliated Indian tribes or Native Hawaiian organizations. The recommended requirement could needlessly delay consultation between Federal and tribal officials. Federal officials should include adequate advance notice of upcoming meetings, but the necessary time will vary according to the situation and existing relationship between the Federal agency and the Indian tribes or Native Hawaiian organizations. The text has not been changed.

One commenter questioned the necessity of distinguishing in the third sentence of § 10.3 (c)(2) (renumbered § 10.3 (c)(1)) between culturally affiliated Indian tribes and those Indian tribes that aboriginally occupied an area. The priority order for evaluating claims of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal or tribal lands, provided in Section 3 of Act, includes Indian tribes that are recognized as aboriginally occupying the area in which the objects were identified. The regulatory language ensures that those Indian tribes that aboriginally occupied an area are notified of planned activities that may result in the intentional excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony. Another commenter recommended including state-recognized intertribal councils in the notification process. Section 12 of the Act makes clear the special relationship between the Federal government and Indian tribes. Federal officials are thus directed to consult directly with Indian tribes. Indian tribes may however, delegate their consultation responsibilities to other organizations, including state inter-tribal councils. One commenter recommended following written notification by telephone contact if there is no response in 15 days. Language to that effect has been inserted as the second to last line of the section. One commenter recommended that, after consultation, Federal officials are required to complete a written plan of action as described in § 10.5 (e) and to execute the actions called for in the plan of action. The recommended text has been inserted as § 10.3 (c)(2) and all subsequent subsections renumbered.

Two commenters objected to § 10.3 (c)(3) on the grounds that by exhorting Federal agencies to coordinate activities required by these regulations with the compliance procedures for section 106 of the NHPA, the regulations give the impression that human remains, funerary objects, sacred objects, or objects of cultural patrimony would be eligible for the National Register of Historic Places. Four other commenters recommended the subsection either be left as is, or edited to require such coordination to ensure consistency between and among Federal agencies. One commenter recommended excluding such "secondary agencies as the State Historic Preservation Officers" from the consultation process. The subsection is intended to remind Federal agencies of similarities between the two consultation processes while providing the necessary latitude for designing effective and situation-specific procedures. The text has not been changed.

Two commenters objected to identification in § 10.3 (c)(4) of the Indian tribe as being responsible for compliance with provisions of the Act regarding intentional excavations on their lands. Section 3 (a)(2)(A) of the Act makes it clear that Indian tribes have preference regarding custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on their tribal lands second only to lineal descendants. The regulatory text is consistent with Federal recognition of an Indian tribe's sovereignty regarding administration of their lands and has not been changed. Another commenter requested clarification of whether the intentional excavation provisions apply to lands exchanged by Indian tribes. In general, the provisions regarding intentional excavations and inadvertent discoveries apply to Federal lands and those lands currently held in trust by the United States for an Indian tribe. Lands outside the exterior boundary of an Indian reservation that are held in trust by the United States for an Indian tribe do not meet the statutory definition of tribal lands. These lands are under Federal control, and the provisions for intentional excavation and inadvertent discovery on Federal lands apply. The provisions of these regulations do not apply to lands owned by an Indian tribe that have not been accepted into trust by the United States. Another commenter requested clarification regarding which Federal agency would have primary responsibility for compliance with the intentional excavation and inadvertent discovery provisions of these regulations for proposed or existing coal mining operations on tribal lands. Any person who proposes to undertake an activity on tribal lands that may result in the intentional excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony must immediately notify in writing the responsible Indian tribe official. The tribal official then decides what, if any, steps to take. One commenter recommended including a deadline for Indian tribe response to notification of an activity planned for tribal lands. A deadline for Indian tribal response regarding proposed intentional excavations on tribal land is not considered appropriate as section 3 (c)(2) of the Act makes it clear that any intentional excavation or removal of human remains, funerary objects, sacred objects, or objects of cultural patrimony on tribal land requires the consent of the appropriate Indian tribe or Native Hawaiian organization. Another commenter recommended clarifying that the Indian tribe should take appropriate steps to make certain that the "treatment and disposition" of human remains, funerary objects, sacred objects, or objects of cultural patrimony be carried out. The recommended language has been included.

Section 10.4

This section carries out section 3 (d) of the Act regarding the custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony that are discovered inadvertently on Federal or tribal lands after November 16, 1990. One commenter requested replacement of the word "inadvertent" in the section title with "unintended." Section 3 (d) of the Act addresses the inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony as part of approved work projects as well as other, unintentional discoveries on Federal or tribal lands. The statutory term covers both meanings adequately and has been retained in the title and throughout the text.

One commenter felt the entire section needed to be more specific. One commenter recommended editing the general statement in § 10.4 (a) to state explicitly that the provisions apply only to "Native American" human remains, funerary objects, sacred objects, or objects of cultural patrimony. The definition of human remains, funerary objects, sacred objects, or objects of cultural patrimony in § 10.2 (d) make it clear that these regulations only apply to Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony.

One commenter requested clarification in the regulations regarding treatment of disarticulated and unassociated human remains. Section 10.4 of the Act covers the treatment and disposition of such human remains under "Inadvertent Discoveries."

Two commenters recommended revising the first sentence of § 10.4 (b) to require the person making an inadvertent discovery, and not just anyone that knows of an inadvertent discovery, to notify the responsible Federal official. The phrase has been revised to more closely reflect the statutory language. Another commenter recommended that the notification of the responsible Federal official be immediate, via telephone or fax, to ensure that the activity is ceased as soon as possible. The text has been modified to require immediate telephone notification of the inadvertent discovery with written confirmation following. One commenter recommended inclusion of language in this subsection restating that determination of lineal descent or cultural affiliation usually require physical anthropological study, laboratory analysis, radiocarbon dating, and other study to make a legally defendable statement. The criteria for determining lineal descent and cultural affiliation, which may include these kinds of examinations, are contained in § 10.14, and apply throughout these regulations; they have not been repeated in this section. Another commenter recommended requiring professional investigation sufficient to complete an accurate identification of the nature of the inadvertent discovery prior to notifying the responsible Federal agency official or Indian tribe official to ensure that the procedures are not carried out unnecessarily. The drafters consider requiring the complete professional identification of inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony prior to notification of the responsible Federal or Indian tribe officials inconsistent with the statutory language and the legislative history. One commenter requested clarification of the responsibilities of the person making an inadvertent discovery for notifying other agencies, such as the local police, coroner, and the State Historic Preservation Officer. Requirements for notification of local or state officials vary by jurisdiction and have not been addressed in this rule. Subsection 10.4 (f) of these regulations suggests Federal land managers coordinate their responsibilities under this section with their emergency discovery responsibilities under section 106 of the NHPA which includes notification of the State Historic Preservation Officer. One commenter recommended modifying the text to require Federal agency employees working on tribal lands to immediately notify their supervisor, who in turn will notify the Indian tribe official. Section 3 (d)(1) of the Act requires notification of Indian tribe officials regarding inadvertent discoveries on tribal lands. Federal agency officials conducting activities on tribal lands should ensure that their employees are familiar with the notification procedures of these regulations. One commenter recommended expanding this subsection to include provisions to ensure that a Federal agency documents and acts on reported inadvertent discoveries. Federal agency officials are required to comply with the provisions of these regulations.

One commenter recommended applying the cessation of activity following inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony on Federal or tribal lands in § 10.4 (c) only to burials in areas that will not be disturbed and in emergency discovery situations. This suggestion runs counter to the statutory requirements and the regulatory language has not been changed. Two commenters requested clarification of the phrases "in the area of the discovery" and a "reasonable effort" regarding protection of human remains, funerary objects, sacred objects, or objects of cultural patrimony following inadvertent discovery. The terms have not been precisely defined in recognition of the variability of site locations and types. In general, the terms are interpreted in a fashion that adequately protects the human remains, funerary objects, sacred objects, or objects of cultural patrimony from additional damage.

One commenter recommended editing and renumbering § 10.4 (a), (e), and (f) to more accurately reflect the distinctions between procedures on Federal lands and those for tribal lands. The text of § 10.4 (d) has been renumbered § 10.4 (d)(1) and § 10.4 (e) has been renumbered as § 10.4 (d)(2).

Two commenters recommended including additional text in § 10.4 (d)(1) (renumbered section 10.4 (d)(1)(i)) directing Federal agencies to establish a process for certifying the receipt of inadvertent discovery notifications and training personnel responsible for such certifications by a specific date. Certification procedures for the receipt of notifications — such as those resulting from inadvertent discoveries — are already in place with all land management Federal agencies and need only be modified to the specifics of these regulations. One commenter recommended including additional examples of steps to secure and protect inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony — such as fencing, 24–hour surveillance in populated areas — in § 10.4 (d)(2) (renumbered section 10.4 (d)(1)(i)). Specific steps to secure and protect inadvertently discovered human

remains, funerary objects, sacred objects, or objects of cultural patrimony will vary from site-to-site and have not been specified in this rule.

Seven commenters recommended extending the one (1) day deadline for notification of affiliated Indian tribes by Federal agency officials in § 10.4 (d)(3), with suggestions ranging anywhere from three to ten days. The one (1) day deadline was designed to ensure that Federal agency officials and Indian tribe officials maximize the amount of time available for consultation regarding the treatment and disposition of inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony. The Act requires that the thirty (30)-day cessation of the activity begins with the Federal agency official certifying receipt of notification from the inadvertent discoverer of the human remains, funerary objects, sacred objects, or objects of cultural patrimony. As a result, any additional time provided the Federal agency official to contact the appropriate Indian tribe official is time taken away from the consultation process. In recognition of the inherent notification difficulties, the drafters have modified the initial notification requirements to require the person making the inadvertent discovery to provide immediate telephone notification with written confirmation to the Federal official. Certification of the notification by the Federal official and the required notification of the Indian tribe official occurs upon receipt of the written confirmation, thus providing the Federal agency official with some additional time between the telephone call and receipt of the written notice to identify the appropriate Indian tribe officials. The one (1) day notification deadline has been extended to three (3) working days. One commenter requested clarification for the phrase "Indian tribe or tribes known or likely to be affiliated." It should be noted that this initial contact is designed to notify those Indian tribes or Native Hawaiian organizations that are "likely" to be affiliated with the inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony. Federal agencies are encouraged to compile a listing of the appropriate Indian tribes or Native Hawaiian organizations and their officials as soon as possible to facilitate rapid notification when an inadvertent discovery is made. Determination of the specific affiliation of the inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony can be made during the thirty (30) day cessation of activity. Two commenters requested clarification of the phrase "if known" in § 10.4 (d)(3) (renumbered § 10.4 (d)(1)(iii)) regarding the required notification of Indian tribes which aboriginally occupied the area in which human remains, funerary objects, sacred objects, or objects of cultural patrimony have been discovered inadvertently. Information regarding the aboriginal lands of Indian tribes is readily available to Federal agency officials from the results of Indian Land Claims Commission and Court of Claims decisions. "If known" has been deleted.

One commenter recommended suspending the initiation of consultation required in § 10.4 (d)(1) (renumbered § 10.4(d)(1)(ii)) for up to thirty (30) days in cases of illegal excavation or violation of Federal law, specifically in cases where confidential criminal investigation are being conducted. As the likely custodians of illegally excavated human remains, funerary objects, sacred objects, or objects of cultural patrimony pursuant to section 3 of the Act, the appropriate Indian tribe or Native Hawaiian organization should be notified of the inadvertently discovery and consulted as part of any ongoing investigation. The responsibility to pursue ARPA investigations does not devolve from the land manager's law enforcement agency merely because consultation is required under this Act. If an ARPA investigation is under way, the law enforcement agents involved should immediately notify their superiors and other Federal agency officials involved in NAGPRA consultation if any aspect of NAGPRA consultation is likely to interfere with the investigation.

Six commenters recommended changing the length of the required cessation of activities in § 10.4 (e) (renumbered § 10.4 (d)(2)). Four commenters recommended reducing the period — to fifteen (15) days, seven (7) days, or deleted entirely — while two commenters recommended extending the period until the affiliated Indian tribe or Native Hawaiian organization consents to continuation of the project. The thirty (30) day period for cessation of activities in the area of an inadvertent discovery is stipulated in section 5 (d) of the Act and has not been changed. Three commenters requested clarification of the stipulation that activity may resume after thirty (30) days, "if the resumption of the activity is otherwise lawful." The phrase is used to acknowledge that provisions of other statutes, such as section 106 of the NHPA, may also apply to a particular inadvertent discovery and the resumption of activities in the area of the inadvertent discovery must comply with other legal requirements as well as those of these regulations.

Four commenters requested clarification of the procedures following the thirty (30)-day cessation of activity. After consulting with the affiliated Indian tribe or Native Hawaiian organization during the thirty day (30) cessation of activity, the Federal agency official must make a decision regarding the treatment, excavation, and disposition of any inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony. The options may include preservation *in situ* or excavation of the human remains, funerary objects, sacred objects, or objects of cultural patrimony. This decision must be informed by the consultation process, but obviously will take into account other considerations as well. One commenter requested clarification regarding the responsibility for costs incurred during the required work cessation. Responsibility for costs incurred during the required work cessation will depend upon the nature of the contract drawn between the Federal agency and the appropriate contractor. One commenter recommended additional language indicating that resumption of an activity in the area of inadvertent discovery can occur only after the human remains, funerary objects, sacred objects, or objects of cultural patrimony have been removed or treated. Determining the disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony discovered inadvertently on Federal and tribe land can only occur after consultation with affiliated Indian tribes and Native Hawaiian organizations. The drafters consider it premature to stipulate the outcomes.

One commenter recommended accompanying the written, binding agreement between the Federal agency and the affiliated Indian tribes or Native Hawaiian organizations in the second sentence of § 10.4 (e) (renumbered 10.4 (d)(2)) by a letter from the appropriate Indian tribe official expressing agreement with a proposed course of action. The nature of agreements between Federal agencies and Indian tribes and Native Hawaiian organizations will depend upon the specific situation and have not been defined precisely in these regulations. Four commenters recommended clarifying the phrase "necessary parties." The phrase has been replaced with "Federal agency and the affiliated Indian tribes or Native Hawaiian

organizations." One commenter inquired whether a memorandum of agreement signed and executed under the NHPA prior to any inadvertent discovery would take priority standing. Such an agreement might apply if the agreement specifies the plan for the removal, treatment, and disposition of the human remains, funerary objects, sacred objects, or objects of cultural patrimony; the agreement is considered binding by both the Federal agency and the affiliated Indian tribes or Native Hawaiian organizations; and, the agreement is consistent with the requirements of the Act and these regulations.

One commenter identified § 10.4 (f) (renumbered section 10.4 (e)) as an "absurd attempt to fob off the Federal agency's responsibilities onto the tribes." Requiring a Federal agency to act as intermediary between the person inadvertently discovering human remains, funerary objects, sacred objects, or objects of cultural patrimony and the Indian tribe on whose land the human remains, funerary objects, sacred objects, or objects of cultural patrimony have been discovered inadvertently is counter to the goal of the statute, as expressed in the legislative history, of facilitating direct dialogue. One commenter recommended inclusion in this subsection of a listing of those actions required of Indian tribe officials under the Act. The subsection has been amended to include the recommended text. One commenter recommended inclusion of a specified deadline for an Indian tribe to respond following notification of the inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony. The drafters consider it inappropriate to impose a deadline for Indian tribe response following notification. One commenter recommended inclusion of a section regarding the resumption of activity on tribal lands. The recommended section has been included as § 10.4 (e)(2).

One commenter identified § 10.4 (g) (renumbered § 10.4 (f)) as serving only to confuse requirements and procedures stemming from distinct laws with distinct purposes and recommended deleting the subsection. Other commenters identified § 10.4 (g) as being most welcome, but recommended omitting the specific regulatory citations in light of current efforts to amend regulations for the NHPA. The citations have been retained to facilitate cross-referencing. One commenter recommended clarifying the subsection to indicate that the inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony does not necessarily require an agreement under section 106 of the NHPA. Not all human remains, funerary objects, sacred objects, or objects of cultural patrimony are deemed eligible for the National Register of Historic Places and thus do not fall within the purview of the NHPA. Their inadvertent discovery would thus not require such an agreement. Two commenters recommended including specific language to outline the relationship between provisions of the Act and those of ARPA, NHPA, and the American Indian Religious Freedom Act (AIRFA). The details of how Federal agencies coordinate their responsibilities under the various statutes will depend on their procedures and specific situations; the text has not been modified. However, section 110 (a)(2)(E)(iii) of the NHPA requires Federal agencies to provide for the disposition of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony in a manner consistent with the Act. Further, section 112 (b)(3) and (b)(4) require the Secretary of the Interior to publish guidelines to encourage private owners as well as Federal, state, and tribal governments to protect Native American human remains, funerary objects, sacred objects, and object of cultural patrimony.

One commenter recommended including language at § 10.4 (g) requiring all authorizations to carry out land use activities on Federal lands or tribal lands, including all leases and permits, to include a requirement for the holder of the authorization to notify the appropriate Federal or tribal official immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony. The language is included in the text.

Section 10.5

This section establishes requirements for consultation as part of the intentional excavation or inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony on Federal lands. One commenter objected to the implication in the first sentence of the section that consultation is necessarily "part of" the intentional excavation or inadvertent discovery process. The Act requires consultation as part of intentional excavation and inadvertent discovery situations. The language has been retained. One commenter recommended replacing the phrase "Federal lands" with "land in the United States, its territories, or possessions." Provisions of section 3 of the Act are clearly limited to Federal and tribal lands. The language has been retained. One commenter recommended that "a minimum set of standards be identified for the scientific study of human remains and associated grave goods." Section 5 (a)(2) of the Act precludes using the Act as an authorization for the initiation of new scientific studies of human remains and associated funerary objects. The recommended language has not been included.

Two commenters recommended revising the first sentence of § 10.5 (a) to coordinate contact with traditional religious leaders through the appropriate Indian tribe. The most appropriate method for contacting traditional religious leaders will vary between Indian tribes. The language has been retained to provide this necessary flexibility. Another commenter recommended clarifying that consultation must be conducted without regard to state boundaries. The widespread relocation of Indian tribes during the eighteenth and nineteenth centuries means that consultation may often require contact with Indian tribes that are no long resident in the area of the intentional excavation or inadvertent discovery. Lineal descendants and affiliated Indian tribes and Native Hawaiian organizations must be contacted and consulted with regardless of where they are living presently.

One commenter recommended inserting "the" before "human remains" in § 10.5 (a)(1) to make it clear that the consulting parties may vary from case-to-case. The text has been changed. One commenter recommended changing the "and" between § 10.5 (a)(1) and (a)(2) to "or." The original text has been retained to emphasize the necessity of consulting with Indian tribes that are or are likely to be culturally affiliated with the human remains, funerary objects, sacred objects, or objects of cultural patrimony as well as the Indian tribe on whose aboriginal lands the human remains, funerary objects, sacred objects, or objects of cultural patrimony have been located or are expected to be found and the Indian tribe or Native Hawaiian organization have a demonstrated cultural relationship with the human remains, funerary objects, sacred objects, or objects of cultural patrimony. One commenter recommended deleting § 10.5 (a)(2) in that it assumes a relationship between prehistoric archeological sites and historic use of an area. Section 3 of the Act makes it clear that Indian tribes on whose aboriginal lands human remains, funerary objects, sacred objects, or objects of cultural

patrimony have been or are likely to be located need not be culturally affiliated with those human remains, funerary objects, sacred objects, or objects of cultural patrimony to be considered their legitimate custodian. One commenter recommended substituting "excavation" for "activity" in § 10.5 (a)(2). The term "activity" in this sentence refers to "an activity on Federal or tribal lands that may result in the excavation of human remains or cultural items" as defined in § 10.3 (c). The text has been modified to incorporate this clarification.

One commenter recommended deleting "likely" cultural affiliation in the first sentence of § 10.5 (b) since the term is not defined in either the Act or these regulations. The term has been deleted. One commenter recommended replacing the term "objects" in the same sentence with "human remains, funerary objects, sacred objects, or objects of cultural patrimony." The term has been replaced. One commenter recommended deleting the phrase "other Indian tribes that may have a relationship..." in the second sentence. The existing phrase is drawn from section 3 (a)(2)(C)(2) of the Act and has been retained. One commenter recommended provisions that require the notice include information regarding the proposed time and place for meetings and the Federal agency's proposed treatment and disposition of the intentionally excavated or inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony. The suggested language has been included in the text. One commenter recommended revising the last sentence of § 10.5 (b) to require traditional religious leaders be consulted and their recommendations followed. The requested revision runs counter to the requirements of the Act and has not been included in the text.

Two commenters requested further clarification of the type of activities that constitute consultation. Additional text has been added throughout § 10.5 to clarify the consultation process.

One commenter recommended inclusion of additional language in § 10.5 (c) requiring Federal agencies to provide in writing information regarding the nature and general location of any inadvertent discovery or proposed activity. The recommended text has been added. One commenter recommended rewriting § 10.5 (c)(2) to indicate that additional documentation will be supplied if it has been used to identify the cultural affiliation of human remains, funerary objects, sacred objects, or objects of cultural patrimony. The proposed language has been included in the text.

One commenter recommended amending § 10.5 (d) to indicate that failure to respond to the Federal agency's request for information could be taken to signify an Indian tribe's voluntary withdrawal from standing under these sections. Indian tribes or Native Hawaiian organizations that have been duly notified of an intentional excavation or inadvertent discovery are not required to respond to the Federal agency's request for information. One commenter recommended including language to insure that information provided to Federal agency officials will, at the request of the Indian tribe or Native Hawaiian organization, be held in confidence. The Act provides no specific exemptions from provisions for the Freedom of Information Act for culturally sensitive information. However, Federal agency officials may, at the request of an Indian tribe or Native Hawaiian organization official, take such steps as are considered necessary pursuant to otherwise applicable law to ensure that information of a particularly sensitive nature is not made available to the general public. One commenter recommended changing "collections" in § 10.5 (d)(3) to "human remains, funerary objects, sacred objects, or objects of cultural patrimony." The recommended change has been made. Two commenters identified § 10.5 (d)(5) as being too broad and unlikely to give useful guidance and recommended deleting the subsection. Although not determinant, information about the kinds of cultural items that the Indian tribe or Native Hawaiian organization considers as funerary objects, sacred objects, or objects of cultural patrimony is important and useful for Federal agency officials to make decisions required of them under these regulations. The subsection has been retained.

One commenter recommended tying the requirements in § 10.5 (e) explicitly to the coordinated preparation of individual environmental and cultural resource management plans for projects, facilities, and land units. Integration of the requirements of these regulations with those of other statutes and policies has been left to the discretion of each affected Federal agency. One commenter considered § 10.5 (e) fine as it stands. One commenter recommended requiring the completion of a written plan of action as a result of consultation. The text has been rewritten to make it clear that completion of a written plan of action, approved and signed by the Federal agency official, is required. One commenter recommended requiring the approval and signature of the written plan of action by the affiliated Indian tribe officials. While the approval and signature of Indian tribe officials and other parties is desirable, the concurrence of these officials to the written plan of action is not required. One commenter recommended the written plan of action include *in situ* preservation to offset what the commenter perceived as a bias toward "excavation, analysis and recordation of imbedded materials," and too narrow a definition of custodial interest in imbedded materials. One commenter requested clarification of the term "treatment" as used in § 10.5 (e)(3) and (e)(7). The term is used throughout these regulations according to its common meaning, that is, a specific manner of dealing with human remains, funerary objects, sacred objects, or objects of cultural patrimony. The specifics of treatment must be considered as part of the consultation process. Two commenters recommended including *in situ* preservation specifically as a treatment option in § 10.5 (e)(3). Preservation of human remains, funerary objects, sacred objects, or objects of cultural patrimony in place should be considered whenever possible. Because case-by-case examples have not been provided, the option has not been added to the regulatory text. Three commenters recommended including language under § 10.5 (e)(4) to indicate that archeological recording must comply with certain standards. Any archeological activity conducted on Federal or tribal lands, including the intentional excavation or removal of human remains, funerary objects, sacred objects, or objects of cultural patrimony, must meet the standards provided by ARPA. One commenter recommended requiring radiocarbon dating as part of the archeological reporting. Determining the necessity of radiocarbon or other types of analysis must be on a case-by-case basis. One commenter recommended deleting § 10.5 (e)(5) since analysis should only be permitted in the rare circumstance where the cultural affiliation of human remains, funerary objects, sacred objects, or objects of cultural patrimony is not clear. The subsection has been retained to ensure that analysis is discussed thoroughly during the consultation process. One commenter recommended specifying the steps to be followed to contact traditional religious leaders should under § 10.5 (e)(6). The Act does not require consultation between Federal agency officials and traditional religious leaders regarding the intentional excavation or inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony. Identification of traditional religious leaders and the recommended steps in contacting them is left to the discretion of Indian tribe officials. Three commenters recommended specification of a deadline for completion of the written plan of action. Written plans of action should generally be completed during the thirty (30) day consultation period following an inadvertent discovery or prior to issuance of an ARPA permit for intentional excavations.

Three commenters recommended changing the title of § 10.5 (f) from "Programmatic agreements" to "Comprehensive agreements" to avoid confusion between agreements developed regarding the treatment and disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands and programmatic agreements developed pursuant to provisions of the NHPA. The term "programmatic agreements" has been changed in the title and throughout the subsection to "comprehensive agreements." Two commenters identified such agreements as "an awkward means of accomplishing the intent of the law," and recommended deleting the subsection. Comprehensive agreements are intended to provide Federal agency officials and Indian tribe officials with an efficient means of ensuring intentionally excavated and inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony receive the appropriate treatment and disposition. The subsection has been retained. One commenter objected to the reference to "specific" human remains, funerary objects, sacred objects, or objects of cultural patrimony referenced in the first section of § 10.5 (f) on the grounds that such agreements should define proactively the procedures and criteria for the treatment and disposition of any human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently. The term has been deleted from the text. One commenter recommended that comprehensive agreements address not only Federal agency land management activities, but Federal agency regulatory responsibilities as well. These regulations address Federal agency responsibilities under the Act. While Federal agency responsibilities under other statutory, regulatory, and policy mandates need to be considered in preparation of such documents, the inclusion of such requirements in these rules is not appropriate. One commenter recommended including language requiring the consent of traditional religious leaders to any comprehensive agreements in the text. The Act does not require consultation between Federal agency officials and traditional religious leaders regarding the treatment or disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands. One commenter recommended modifying the last sentence of the subsection to indicate that the "signed" comprehensive agreement should be considered proof of consultation. The text has been edited as recommended.

One commenter recommended requiring Indian tribe officials to consult with and make recommendations following the advice of traditional religious leaders. The Act does not require consultation between Indian tribe officials and traditional religious leaders regarding the intentional excavation or inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony. Consultation with traditional religious leaders is left to the discretion of Indian tribe officials.

Section 10.6

This section carries out section 3 (a) of the Act, subject to the limitations in § 10.15, regarding custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal or tribal lands after November 16, 1990. One commentor objected to the terms "legal interest in" and "ownership" as applied to human remains, funerary objects, and objects of cultural patrimony; and recommended replacing the terms with "custodial responsibility." The terms have been changed to "custody" throughout the text. This change, however, is only editorial and does not alter the requirements of the Act. One commenter recommended deleting reference to the limitations in § 10.15 from this section. Limitations on the custodial criteria presented in section 3 (a) of the Act are drawn from section 7 (b), (c), and (e) of the Act. Both § 10.15 and the cross-reference in this section have been retained. One commenter recommended setting limits in this section on just how temporally and culturally far afield claims of custody can be extended reasonably. Applicability of the custody criteria in this section is dependant on the facts of each case and will vary. The type of limits recommended by the commenter are considered inappropriate to such a case-by-case evaluation process. One commenter recommended including language in this section to identify the party responsible for substantiating claims. Lineal descendants or Indian tribes or Native Hawaiian organizations must provide information to substantiate their claims as outlined in § 10.10 (a) and (b).

One commenter recommended concluding the search for the custodian of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal or tribal lands with the first legitimate claimant identified under § 10.6 (a) that declines to make and substantiate a claim. One commenter recommended limiting custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony found on tribal lands to those human remains, funerary objects, sacred objects, or objects of cultural patrimony dating after establishment of the reservation. Two commenters recommended reversing the order of the custody criteria in § 10.6 (a)(2)(i) and (a)(2)(ii) so that culturally affiliated Indian tribes or Native Hawaiian organizations are given preference over tribal land owners. Another commenter recommended giving culturally affiliated Indian tribes preference over tribal land owners in claims for sacred objects or objects of cultural patrimony found on tribal lands. One commenter recommended deleting the custody criteria in § 10.6 (a)(2)(ii) and (a)(2)(iii) and instead have human remains, funerary objects, sacred objects, or objects of cultural patrimony found on Federal lands revert to the United States. One commenter recommended including language under § 10.6 (a)(2)(iii)(A) that would restrict any Indian tribe making a claim based upon its aboriginal occupation of Federal land from any action that would irreparably damage the interests of another Indian tribe who might have a superior claim. The custody criteria in § 10.6 (a) are taken virtually verbatim from section 3 (a) of the Act. All of the above recommendations run counter to those ownership criteria established by the Act and have not been included in the text.

Three commenters requested clarification in § 10.6 (b) of how the custody criteria effect Federal responsibilities under NHPA and ARPA. To the extent that any conflicts among those laws may exist, it is a general rule

of statutory construction that newer and more specific legislation takes precedence over older or more general laws. The custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal or tribal lands is as specified in § 10.6 (a).

One commenter stated that the obvious purpose of § 10.6 (c) is to create disputes between Indian tribes or between Native Hawaiian organizations regarding the custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands, and recommended deleting the subsection. One commenter recommended inclusion of language in this subsection indicating that an identified individual, Indian tribe, or Native Hawaiian organization custodian has decision-making authority regarding the treatment and disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands. Individual, Indian tribe, or Native Hawaiian custodians of human remains, funerary objects, sacred objects, or objects of cultural patrimony gain complete decision-making authority regarding the treatment and disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony upon the transfer of those human remains, funerary objects, sacred objects, or objects of cultural patrimony from the Federal agency. One commenter recommended deleting the word "traditional" from the second sentence of § 10.6 (c). Another commenter recommended adding the phrase "of the specific Indian tribe in each instance" at the end of the same sentence for clarification. The recommended language has been added to the text. Two commenters requested clarification of the purpose and nature of the public notices required in the third sentence of § 10.6 (c). Three commenters recommended the publication of notices regarding the disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands in the tribal or local newspapers of those Indian tribes that have standing to make a claim under § 10.6 (a), as well as in a newspaper of general circulation in the area in which the human remains, funerary objects, sacred objects, or objects of cultural patrimony were excavated intentionally or discovered inadvertently. Another commenter recommended requiring publication of the notices within seven (7) days of determination of which Indian tribe or Native Hawaiian organization has custodial rights. Another commenter objected to the public notice requirement in that it might offend the sensibilities of those Indian tribes or Native Hawaiian organizations involved. This subsection outlines procedures to ensure due process in the transfer of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands to their proper individual, Indian tribe, or Native Hawaiian organization custodian. Notices need only provide information adequate to allow potentially interested lineal descendants, Indian tribes, or Native Hawaiian organizations to determine their interest in claiming custody under these regulations. The requirements regarding publication of public notices have been rewritten for clarity and include provisions for publication in local and tribal newspapers of general circulation in the areas in which culturally affiliated Indian tribes or Native Hawaiian organizations now reside.

Section 10.7

This section has been reserved for procedures for the disposition of unclaimed human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands or tribal lands after November 16, 1990. One commenter recommended developing this section with input from Indian tribes and Native Hawaiian organizations. Section 3 (b) of the Act requires that regulations regarding the disposition of unclaimed human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal or tribe lands be published by the Secretary in consultation with the Review Committee, and representatives of Indian tribes, Native Hawaiian organizations, museums and the scientific community.

Section 10.8

This section carries out Section 6 of the Act related to conducting summaries of collections in the possession or control of museums that receive Federal funding or Federal agencies which may contain unassociated funerary objects, sacred objects, and objects of cultural patrimony. Four commenters objected to use of the phrase "collections that may include..." in § 10.8 (a) and throughout the section as overstepping the statutory authorization and giving the mistaken impression that these regulations apply to entire collections and not to specific unassociated funerary objects, sacred objects, and objects of cultural patrimony. The statutory language is unclear whether summaries should include only those unassociated funerary objects, sacred objects, or objects of culturally affiliated with a particular Indian tribe or Native Hawaiian organization, or the entire collection which may include these cultural items. The legislative history and statutory language does make it clear that the summary is intended as an initial step in bringing an Indian tribe and Native Hawaiian organization into consultation with a museum or Federal agency. Consultation between a museum or Federal agency and an Indian tribe or Native Hawaiian organization is not required until after completion of the summary. Identification of specific sacred objects or objects of cultural patrimony must be done in consultation with Indian tribe representatives and traditional religious leaders since few, if any, museums or Federal agencies have the necessary personnel to make such identifications. Further, identification of specific unassociated funerary objects, sacred objects, and objects of cultural patrimony would require a museum or Federal agency to complete an item-by-item listing first. The drafters opted for the more general approach to completing summaries of collections that may include unassociated funerary objects, sacred objects, or objects of cultural patrimony rather than the itemized list required for the inventories in hopes of enhancing the dialogue between museums, Federal agencies, Indian tribes, and Native Hawaiian organizations required under the Act. One commenter requested clarification of the deadlines and funding responsibility of this section. Section 10.8 (c) of these regulations clearly states that summaries under this section are to be sent to affiliated or likely affiliated tribes by November 16, 1993. Funding responsibilities lie with the museums and Federal agencies maintaining such collections. Grants to aid museums, Indian tribes, and Native Hawaiian organizations in carrying out the Act are authorized in section 10 of the Act.

Three commenters questioned use of the term "undertakings" in the last sentence of § 10.8 (a). One commenter (67–3) recommended defining the term as used in section 106 of NHPA. Two commenters recommended changing the term to "activities" or "actions" to make it clear that provisions of the Act do not necessarily apply to Federal "undertakings" conducted on private land. The term has been changed to "actions" to clarify that Federal agencies may not be responsible for ensuring that requirements of this section are met for all collections obtained as part of section 106 "undertakings" on non-Federal land.

One commenter recommended including language in § 10.8 (a) to require Federal agencies to consult with non-Federal institutions prior to initiating consultation with Indian tribes or Native Hawaiian organizations that are culturally affiliated with human remains, funerary objects, sacred objects, or objects of cultural patrimony from Federal lands but currently in the possession of the non-Federal institution. Another commenter recommended including specific language to stress that non-Federal institutions do not have authorization to unilaterally dispose of human remains, funerary objects, sacred objects, or objects of cultural patrimony from Federal lands. Requirements regarding the relationship between Federal agencies and non-Federal institutions are not specified in the Act. ARPA and NHPA assign responsibility for long term care and curation of collections from Federal land and actions to the Federal agency that manages the land or undertakes the action.

One commenter recommended including language in § 10.8 (b) specifying that summaries should include information readily available from museum records as to whether an object is an unassociated funerary object, sacred object, or object of cultural patrimony, as well as an assessment of the general reliability of the records. Information regarding individual unassociated funerary objects, sacred objects, and objects of cultural patrimony is more appropriately shared during the consultation process. The regulatory text has not been changed.

Three commenters recommended including some provision for extension of the November 16, 1993 deadline for completion of the summaries in § 10.8 (c). While provisions for extensions to the November 16, 1995 deadline for completion of inventories of human remains and associated funerary objects are included in section 5 (c) of the Act, no such provisions for extension of the summary deadlines are included in either the statutory language or in the legislative history. Provisions for extensions to the summary deadlines have not been included in these regulations.

Six commenters recommended changes regarding the identification of consulting parties in § 10.8 (d)(1). Two commenters recommended deleting § 10.8 (d)(1)(i) requiring consultation with lineal descendants, since section 7 (a)(3) of the Act only requires consultation with lineal descendants to determine the place and manner of delivery of human remains, funerary objects, sacred objects, or objects of cultural patrimony being repatriated. The subsection requiring consultation with lineal descendants has been deleted. Two commenters recommended that identification of traditional religious leaders in § 10.8 (d)(1)(ii) be made by "members of" Indian tribes and Native Hawaiian organizations to be consistent with the definition of that term. The phrase has been edited to conform with the definition of in § 10.2 (a)(13). One commenter recommended deleting § 10.8 (d)(1)(ii)(A) and (a)(ii)(B) requiring consultation with Indian tribes from whose tribal or aboriginal lands unassociated funerary objects, sacred objects, and objects of cultural patrimony were recovered since section 7 (a)(2) of the Act specifies that only lineal descendants and culturally affiliated Indian tribes and Native Hawaiian organizations have standing to make a claim. Another commenter recommended including language in the rule indicating a presumption that the Indian tribe from whose tribal lands unassociated funerary objects, sacred objects, and objects of cultural patrimony were recovered is the custodian. The requirements in § 10.8 (d)(1)(ii)(A) and (d)(1)(ii)(B) are included to ensure that all Indian tribes and Native Hawaiian organizations that are potentially culturally affiliated with particular unassociated funerary objects, sacred objects, and objects of cultural patrimony are included in the consultation process. Whether an Indian tribe from whose tribal or aboriginal lands a particular unassociated funerary object, sacred object, or objects of cultural patrimony originated is culturally affiliated with that object must be determined on an item-by-item basis. Two commenters recommended deleting the phrase "or likely to be" in § 10.8 (d)(1)(iii). This subsection defines the class of consulting parties from which the culturally affiliated Indian tribe or Native Hawaiian organization will be identified. The phrase is used to indicate that the identification of consulting parties should be inclusive to ensure all Indian tribes and Native Hawaiian organizations that are, or are likely to be culturally affiliated with the unassociated funerary objects, sacred objects, or objects of cultural patrimony are included in the consultation process.

One commenter recommended revising the requirement to initiate consultation no later than the completion of the summary process in § 10.8 (d)(2) to indicate consultation must follow completion of the summary. Another commenter recommended revising the subsection to require the initiation of consultation as early as possible. Another commenter recommended requiring museums and Federal agencies to provide Indian tribes and Native Hawaiian organizations with a "notice of summary" indicating that their collections were under review. The Review Committee recommended revising the subsection to indicate that consultation should result in telephone or face-to-face dialogue. The drafters intend the summary to serve as an initial invitation from the museum or Federal agency to the Indian tribe or Native Hawaiian organization to engage in consultation regarding the identification of unassociated funerary objects, sacred objects, and objects of cultural patrimony in their collection. All museums and Federal agencies are required to complete their summaries by November 16, 1993. Language has been added to the subsection indicating that consultation may be initiated with a letter, but should be followed up by telephone or face-to-face dialogue with the appropriate Indian tribe official.

The Review Committee recommended requiring museums and Federal agencies to provide copies of their summaries to the Departmental Consulting Archeologist in § 10.8 (d)(3). The Departmental Consulting Archeologist provides staff support to the Review Committee, which in turn is required, under section 8 (c)(2) of the Act, to monitor the summary and inventory processes to ensure a fair, objective consideration and assessment of all available relevant information and evidence. The recommended language has been included. One commenter requested clarification regarding the requirement in the second sentence of § 10.8 (d)(3) that museums and Federal agencies, upon request, provide Indian tribes and Native Hawaiian organizations with access to records, catalogues, relevant studies, or other pertinent data. The regulatory language is drawn from section 6 (b)(2) of the Act.

Museums or Federal agencies may not limit Indian tribal access to information needed to determine the geographic origin, cultural affiliation, and basic facts surrounding acquisition and accession of object covered by the summary. Museums or Federal agencies are under no obligation to pay the travel or other expenses of visiting Indian tribe representatives or traditional religious leaders.

One commenter recommended inclusion of time limits for Indian tribe and Native Hawaiian organization responses to museum and Federal agency requests for information outlined in § 10.8 (d)(4). No time limits for Indian tribe and Native Hawaiian organization response are included in the statutory language or the legislative history and none have been included in this subsection. Indian tribes and Native Hawaiian organizations are under no requirement to respond to museum or Federal agency requests for information. One commenter recommended revising the request for information under § 10.8 (d)(4)(i) to include the name and address of one or more traditional religious leaders. Requirements to request the name and address of traditional religious leaders have already been included under § 10.8 (d)(4)(iii). One commenter objected to the implication in § 10.8 (d)(4)(ii) that, prior to consultation, a museum or Federal agency official could identify a sacred object in their collection to request the name and address of the lineal descendants of its previous custodian. Documentation may be sufficient to indicate that a particular item in a museum of Federal agency's collection might fit the definition of sacred object. The museum or Federal agency should use this information to advance the consultation process by requesting the name and address of any lineal descendants of its previous custodian. One commenter recommended that the requests for information also include a description of the Indian tribe's traditional kinship system under § 10.8 (d)(4)(ii)(A). Information regarding an Indian tribe's traditional kinship system is only necessary when an individual is claiming an unassociated funerary object or sacred object, and is more appropriately requested at that time. One commenter recommended amending § 10.8 (d)(4)(iii) to require consultation and agreement with the recommendations of traditional religious leaders. The recommended requirement is not appropriate since the statutory language does not require Indian tribes or Native Hawaiian organizations to provide information regarding traditional religious leaders. One commenter recommended limiting the request for information to recommendations on how the consultation process should be conducted and that § 10.8 (d)(4)(i), (4)(ii), (4)(iii), and (4)(v) be deleted. The drafters recognize that the identification of lineal descendants, funerary objects, sacred objects, and objects of cultural patrimony may require Indian tribes and Native Hawaiian organizations to divulge sensitive information. Requesting the information at the beginning of consultation, however, may lead to a more open and effective consultation process. Indian tribe officials are under no obligation to respond to these inquires.

One commenter, fearing widespread misapplication of these regulations, recommended requiring museums and Federal agency officials to document certain information and use that information to identify unassociated funerary objects, sacred objects, objects of cultural patrimony, lineal descendants, and culturally affiliated Indian tribes and Native Hawaiian organizations. The recommended text has been included as § 10.8 (a) and the subsequent section renumbered. Submission of this information to the Departmental Consulting Archeologist is not required by these regulations. The Review Committee, pursuant to section 8 (f), may request access to this information.

Two commenters requested clarification for requiring notification prior to repatriation of unassociated funerary objects, sacred objects, and objects of cultural patrimony in § 10.8 (e) (renumbered as § 10.8 (f)). The notification required in section 5 (d) of the Act ensures due process regarding the repatriation of human remains and associated funerary objects. Provisions of this subsection extend the notification procedures to ensure due process in the repatriation of unassociated funerary objects, sacred objects, and objects of cultural patrimony. The Review Committee recommended reducing the specificity of the requirement of an object-by-object listing of unassociated funerary objects, sacred objects, and objects of cultural patrimony to be repatriated. The regulatory text has been revised to require a description of any unassociated funerary objects, sacred objects, and objects of cultural patrimony to be repatriated in sufficient detail so as to allow others to determine if they are interested in the claim. Section 10.8 (e) of these regulations requires that museums and Federal agencies consider the same types of information as are required in § 10.9 (c) in evaluating requests for repatriation. Two commenters recommended including text establishing a deadline for responses to the required notification. A minimum waiting period of thirty (30) days following publication of the notice of intent to repatriate in the **Federal Register** is established in § 10.10 (a)(3). Any claim received by a museum or Federal agency prior to actual repatriation, however, should be given full consideration. One commenter recommended requiring museum officials to consult with the appropriate Federal agency officials prior to issuance of notices by the museum regarding unassociated funerary objects, sacred objects, or objects of cultural patrimony that were excavated intentionally or discovered inadvertently on Federal lands. Notices regarding the repatriation of unassociated funerary objects, sacred objects, or objects of cultural patrimony that were excavated from Federal lands can only be issued by the appropriate Federal agency or by an institution specifically authorized to issue such notices by the appropriate Federal agency. One commenter recommended including language in this subsection informing Indian tribes and Native Hawaiian organizations of their right by law to request access to museum or Federal agency records as they relate to the review of their claim. The recommended language is included in § 10.8 (d)(3). The Review Committee recommended inclusion of text in this subsection to reiterate the requirement in § 10.10 (a)(3) that repatriation not occur until at least thirty (30) days after publication of a notice of intent to repatriate in the **Federal Register**. The proposed language has been included.

Section 10.9

This section presents procedures for carrying out section 5 of the Act related to conducting inventories of human remains and associated funerary objects in the collections of Federal agencies or museums receiving Federal funds. Fifteen commenters recommended changes to the inventory procedures in § 10.9. One commenter requested clarification of the deadlines and funding responsibility of this section. Section 10.9 (f) states that inventories under this section are to be completed not later than November 16, 1995. Funding responsibilities lie with the museums and Federal agencies maintaining such collections. Three commenters requested funding aid to comply with the Act. Although section 10 of the Act authorizes funding in

terms of grants to aid museums, Indian tribes, and Native Hawaiian organizations in carrying out the Act, funds were first appropriated during FY 1994.

One commenter requested clarification regarding the term "geographical affiliation" in the first sentence of § 10.9 (a). The term has been changed to "geographical origin" to reflect usage in section 5 (b)(2) of the Act. Two commenters recommended deleting the term "undertakings" from the last sentence of § 10.9 (a) because of its long history as a legal term of art under section 106 of the NHPA. The term has been changed to "actions" to avoid any confusion.

One commenter recommended inclusion of language in § 10.9 (b) stressing that Federal agency officials are responsible for carrying out consultation regarding human remains and associated funerary objects that were excavated or removed from Federal lands and that are currently in a non-Federal repository. One commenter suggested inclusion of language allowing shared responsibility between a Federal agency and curating institution. Federal agency officials are responsible for carrying out the Act regarding all human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands, regardless of the type of institution that currently is in possession of those human remains, funerary objects, sacred objects, or objects of cultural patrimony. Section 10.9 (a) emphasizes this responsibility of Federal agencies. Two commenters recommended including a stipulation in § 10.9 (b) allowing a museum or Federal agency to declare that, due to unresponsiveness, no further contact with an Indian tribe or Native Hawaiian organization will be pursued. The drafters consider the recommended language counterproductive to achieving the type of effective consultation envisioned by the Act. Museums and Federal agencies are required to complete inventories of human remains and associated funerary objects in their collections by November 16, 1995. If no response is forthcoming after repeated attempts to contact Indian tribe officials by telephone, fax, and mail, the museum or Federal agency official may be required to complete the inventory without consultation to meet the statutory deadline. The drafters suggest museum and Federal agency officials document attempts to contact Indian tribe officials to demonstrate good faith compliance with these regulations and the Act.

One commenter recommended rewriting the requirements regarding consultation with lineal descendants in § 10.9 (b)(1)(i) to coordinate these activities through designated Indian tribe officials. The statute gives lineal descendants priority over culturally affiliated Indian tribes or Native Hawaiian organizations for the repatriation of human remains, funerary objects, sacred objects, or objects of cultural patrimony. Establishing a system in which contact with lineal descendants is coordinated through Indian tribes or Native Hawaiian organizations would be detrimental to the rights of lineal descendants, particularly those that are not members of an Indian tribe or Native Hawaiian organization. One commenter recommended amending § 10.9 (b)(1)(i) to make it clear that museum and Federal agency officials must consult with lineal descendants of individuals whose remains and associated funerary objects are, in the opinion of the responsible Federal agency official or museum official, likely to be subject to the inventory provisions of these regulations. The drafters consider the current language to describe adequately the responsibilities of Federal agency officials or museum officials regarding consultation with lineal descendants.

One commenter recommended rewording the first sentence of § 10.9 (b)(1)(ii) to make it clear that consultation must be with Indian tribe officials. This change has been made. Two commenters recommended changing the second part of the sentence to indicate that traditional religious leaders must be recognized by members of the Indian tribe. The text has been changed to conform with the definition of in § 10.2 (a)(13). One commenter recommended inserting the word "the" prior to each usage of "human remains" throughout § 10.9 (b)(1)(ii)(A), (B), and (C) to make it clear that the procedures refer to specific human remains and not human remains in general. The recommended change has been made.

Three commenters recommended restructuring the consultation process in § 10.9 (b)(2) to allow museums and Federal agencies to make a tentative determination of cultural affiliation and then allow comment on the determination by interested groups. Section 5 (b)(1)(A) of the Act requires that inventories be completed in consultation with Indian tribe and Native Hawaiian organization officials and traditional religious leaders. The notification procedures in § 10.9 (e) are designed to ensure that all interested parties have the opportunity to participate in the consultation process. Another commenter recommended requiring consultation at the earliest possible moment in the inventory process. Language reflecting the latter recommendation has been included in the text.

One commenter recommended revising § 10.9 (b)(3)(iv) to state that if any additional documentation was used to identify cultural affiliation, this documentation must be made available on request. Language ensuring Indian tribes and Native Hawaiian organization access to relevant documentation is included in § 10.9 (e).

One commenter recommended deleting the word "reasonably" from § 10.9 (b)(4)(v) on the grounds that it is unreasonable for the United States to request an Indian tribe or Native Hawaiian organization to be reasonable in its beliefs regarding objects used for burial purposes. Reasonableness in this context refers to an accepted legal standard and has been retained in the regulatory text.

One commenter objected to the information requirements in § 10.9 (c) as exceeding requirements of the Act. Another commenter recommended amending the requirements to ensure that completion of the inventory would not be delayed. The information requirements in § 10.9 (c) were drawn from section 5 (a)(2) of the Act. One commenter recommended including text in § 10.9 (c) specifying the types of information that can not be requested. The Act does not identify any types of information that can not be requested. The drafters consider inclusion of such a requirement to be detrimental to the development of productive dialogues between museums, Federal agencies, Indian tribes, and Native Hawaiian organizations. One commenter recommended reorganizing the information requirements for clarity. Sections 10.9 (c)(1) through (c)(8) have been reorganized and renumbered. One commenter recommended changing § 10.9 (c)(7) to require either a description or photographic documentation of the human remains, funerary objects, sacred objects, or objects of cultural patrimony, and not both. The drafters consider description of the human remains, funerary objects, sacred objects, or objects of cultural patrimony to be necessary in all cases, with photographic documentation considered appropriate in some circumstances. The types of information required in § 10.9 (c) have not been changed. The drafters feel that careful, detailed consideration of all human remains and associated funerary objects is critical to carry out the statutory requirements. Basic descriptive

information is necessary to ensure accountability and that the human remains and associated funerary objects conform to the statutory definitions. Detailed information from Federal agency or museum records and other sources are essential in reaching determinations of lineal descent or cultural affiliation as part of the inventory procedures.

One commenter recommended consolidating the two listings described in § 10.9 (d)(1) and (d)(2) into one list. Separation of the two lists reflects the different purposes intended in the § 10.9 (e) inventory process. The listing of culturally affiliated human remains and associated funerary objects is sent directly to Indian tribes and Native Hawaiian organizations, with a copy to the Departmental Consulting Archeologist. The listing of culturally unidentifiable human remains and associated funerary objects is sent only to the Departmental Consulting Archeologist. One commenter objected to use of the term "clearly" regarding the determination of cultural affiliation in § 10.9 (d)(1) as being contrary to Congressional intent and recommended deleting it from the regulatory text. The term was drawn from section 5 (d)(1)(B) of the Act and reflects Congressional intent. Another commenter recommended keeping the list of those human remains and associated funerary objects that are clearly identifiable as to tribal origin separate from those human remains and associated funerary objects are determined by reasonable belief to be cultural affiliated with the same Indian tribe or Native Hawaiian organization. Since both categories of human remains and associated funerary objects are considered to be culturally affiliated with the Indian tribe or Native Hawaiian organization, and are thus available for repatriation by that Indian tribe or Native Hawaiian organization, there is no practical reason to separate the lists.

One commenter recommended clarifying throughout this subsection that museum or Federal agency officials may need to send the same inventory to multiple Indian tribes or Native Hawaiian organizations. The text has been modified to reflect this concern.

Four commenters recommended replacing the word "shall" in the second sentence of § 10.9 (e)(4) with "should." The Secretary has delegated authority to carry out some provisions of the Act to the Departmental Consulting Archeologist. These responsibilities include providing staff support to the Review Committee. The Review Committee is required under section 8 (c)(2) of the Act to monitor the inventory and identification process. Submission of inventories in electronic format is intended to facilitate the monitoring process. However, in recognition that some museums may have difficulty meeting the electronic format requirement, the drafters have changed the word "shall" in the second sentence to "should." One commenter recommended also allowing Federal agencies to use alternative methods for submission of notices to the Departmental Consulting Archeologist. The phrase "and Federal agencies" has been inserted after "museums" in the text. The Review Committee recommended inclusion of language in this subsection requiring museums and Federal agencies to retain possession of culturally unidentifiable human remains pending promulgation of § 10.11 of these regulations. The recommended language has been included.

One commenter recommended requiring listings of culturally unidentifiable human remains described in § 10.9 (e)(6) be sent to all Indian tribes and Native Hawaiian organizations as well as to the Departmental Consulting Archeologist. Section 8 (c)(5) of the Act gives the Review Committee responsibility for recommending specific action for developing a process for disposition of culturally unidentifiable human remains. Section 10.11 of these regulations has been reserved for that purpose. The drafters consider it premature at this time to establish such procedures.

Two commenters requested extending the November 16, 1995 deadline for completion of inventories in § 10.9 (f). The deadline for completion of inventories is specified in section 5 (b)(1)(B) of the Act and would require Congressional action to change. One commenter recommended including language in this subsection to indicate that the requirement to repatriate may be suspended during the preparation of the inventories. The drafters consider such a suspension of the requirement to repatriate counter to statutory language and legislative history. Two commenters recommended including language in this subsection to allow Federal agencies to apply for extensions of time to complete their inventories. Section 5 (c) of the Act specified that any museum which has made a good faith effort but which has been unable to complete an inventory may appeal to the Secretary for an extension of the time requirements. No provisions are provided in the Act for Federal agencies to apply for extension. One commenter recommended including language in this subsection limiting the number and length of extensions granted to a museum to complete its inventories. The Secretary will determine the number and length of extensions on a case-by-case basis. One commenter recommended requiring museums to apply for an extension in the second sentence of § 10.9 (f). While a museum may chose not to apply for an extension, it is likely that failure to do so would be taken into account by the Secretary in determining if the museum had failed to comply with the requirements of the Act. One commenter requested clarification regarding a situation in which a museum fails to complete an inventory of human remains and associated funerary objects from Federal lands. Federal agencies are responsible for completion of summaries and inventories of all human remains, funerary objects, sacred objects, or objects of cultural patrimony from Federal lands regardless of the type of institution in which they are currently curated. One commenter recommended incorporation of personnel qualifications in this subsection for individuals involved in the completion of the inventory plan. Museums are expected in make sure that all of their personnel are qualified to undertake the tasks expected of them.

Section 10.10

Thirty-three commenters recommended changes to the section on repatriation. One commenter recommended rewriting § 10.10 (a)(1) and § 10.10 (b)(1) to emphasis that all of the criteria for repatriation must be met. The initial sentence of each section has been rewritten to state "If all the following criteria are met..." In addition, the word "and" has been added at the end of all but the final roman numeralled subsections in these two sections. Another commenter requested clarification of the term "expeditiously" which is used in both sections. The rule of statutory construction generally holds that undefined terms are interpreted in their common meaning.

One commenter recommended inclusion of language in § 10.10 (a)(1)(ii) and (b)(1)(ii) allowing several Indian tribes or Native Hawaiian organizations to make joint claims for human remains, funerary objects, sacred objects, or objects of cultural patrimony. The drafters feel the current language allows for joint claims. Another commenter recommended amending § 10.10 (a)(1)(ii) and § 10.10 (b)(1)(ii) to clarify that the cultural affiliation of human remains, funerary objects, sacred objects, or objects of cultural patrimony can be established independently of the summary and inventory processes by presentation of a preponderance of the evidence by a requesting Indian tribe or Native Hawaiian organization. Additional text has been inserted under § 10.10 (a)(1)(ii)(B) and § 10.10 (b)(1)(ii)(B) to clarify this issue. Another commenter requested inserting the phrase "culturally affiliated" before "Indian tribe" in § 10.10 (a)(1)(iii), The recommended text has been included.

One commenter recommended deleting the phrase "which, if standing alone before the introduction of evidence to the contrary" from § 10.10 (a)(1)(iii). This phrase is taken directly from section 7 (c) of the Act regarding the standard of repatriation for unassociated funerary objects, sacred objects, and objects of cultural patrimony; and has been retained in the regulations.

One commenter recommended rewriting § 10.10 (a)(1)(iv) to make clear that a Federal agency or museum must present evidence to overcome the inference of tribal custody and prove its right of possession to unassociated funerary objects, sacred objects, or objects of cultural patrimony. The existing text is drawn from section 7 (c) of the Act and is interpreted to provide Federal agencies with some discretion as to whether information regarding right of possession must be used to challenge a request for repatriation.

One commenter recommended deleting § 10.10 (a)(1)(v) and § 10.10 (b)(1)(iii), referring to specific repatriation exemptions, to avoid confusion and havoc with Indian tribes. The specific exemptions to repatriation referred to in these subsections come from section 7 (b) and (e) of the Act.

Two commenters recommended changes to § 10.10 (a)(2) regarding right of possession. One commenter requested clarification of how right of possession might be demonstrated for prehistoric human remains, funerary objects, sacred objects, or objects of cultural patrimony. The right of possession basis for retaining cultural items in an existing collection does not apply to human remains or associated funerary objects, only to unassociated funerary objects, sacred objects, and objects of cultural patrimony. A right of possession for prehistoric cultural items fitting these categories might be written authorization from a competent authority to excavate, remove, and curate such items from a particular area or site. Another commenter recommended locating the definition of right of possession would more appropriately with the other definitions in § 10.2. The concept of right of possession has limited applicability in these regulations to unassociated funerary objects, sacred objects, and objects of cultural patrimony. The explanation of right of possession is retained at this place in the regulations because it is only used for this specific aspect of the Act.

Three commenters recommended changes to § 10.10 (a)(3) and § 10.10 (b)(2) regarding notification. Two commenters requested clarification of whether the ninety (90) days during which repatriation must take place begins from the day a request for repatriation is received or from the day the responsible museum of Federal agency official makes a positive determination that the criteria for repatriation apply. The first sentence of this section has been redrafted to clarify that the ninety (90) day period begins with the receipt of a written request for repatriation from a culturally affiliated Indian tribe or Native Hawaiian organization. Another commenter stated that ninety (90) days may not be sufficient to determine to validity of each request. Section 7 of the Act requires that repatriation must be done "expeditiously" and implies in section 7 (b) a ninety (90) day time frame for such actions. Text has been added to provide for a longer period if mutually agreed upon. It is noted that determination of the validity of a claim should not be difficult since this period only applies to requests from Indian tribes and Native Hawaiian organizations that have been determined to be culturally affiliated with specific human remains, funerary objects, sacred objects, or objects of cultural patrimony.

Five commenters recommended changes to § 10.10 (b) regarding the repatriation of human remains and associated funerary objects. One commenter identified the criteria for repatriating human remains and associated funerary objects as being very confusing and recommended rewriting them for comprehension by lay people. One commenter recommended reiterating the applicability of "right of possession" to human remains and associated funerary objects recognized in the last sentence of section 2 (13) of the Act in this section of the regulations. American law generally recognizes that human remains can not be "owned." This interpretation is consistent with the second sentence of section 2 (13) of the Act that specifically refers to unassociated funerary objects, sacred objects, and objects of cultural patrimony, and with section 7 (a)(1) and (a)(2) of the Act in which no right of possession to human remains or associated funerary objects is inferred. One commenter strongly objected to the requirement in § 10.10 (b)(2) that repatriation not occur until at least thirty days after publication of a notice of inventory completion in the **Federal Register**, referring to section 11 (1)(A) of the Act that states that nothing in the Act shall be construed to limit the authority of any museum or Federal agency to return or repatriate. Publication of the notice in the **Federal Register** was recognized in section 5 (d)(3) of the Act as necessary to ensure Constitutional due process requirements. Delaying a repatriation for thirty (30) days following publication of the notice provides any other legitimate claimant with an opportunity to come forward with a claim. This requirement in no way limits any organization's authority to repatriate. Section 11 (2) of the Act states that nothing in the Act shall be construed to delay action on repatriation requests "that are pending on the date of enactment of this Act," and makes it clear that Congress anticipated there might be some subsequent delays of repatriation initiated after November 16, 1990, due to the statutory provisions. One commenter asked whether a second **Federal Register** notice is required to document a claim following publication of a Notice of Inventory Completion. Requests for repatriation made after completion of the inventory and publication of the Notice of Inventory Completion in the **Federal Register** do not require publication of a second notice, unless it is determined as a result of a competing claim or otherwise that a different Indian tribe or Native Hawaiian organization than the one identified in the original notice is the proper recipient. In such instances, a second **Federal Register** notice is required prior to repatriation. In situations where more than one Indian tribe or Native Hawaiian organization was listed in the original notice, the museum or Federal agency official should consult with each of the listed Indian tribes or Native Hawaiian organizations prior to repatriating to any one of them.

Three commenters recommended deleting § 10.10 (c)(1) regarding the exception to the repatriation requirements for studies of human remains, funerary objects, sacred objects, or objects of cultural patrimony of major benefit to the United States. This exemption is drawn from section 7 of the Act. One commenter identified the phrase "commenced prior to receipt of a request" in this subsection as not being included in the statutory language and recommended deleting it. The phrase has been deleted. Six

commenters recommended clarifying the concept of "major benefit" in the exemption for completion of a specific scientific study in § 10.10 (c)(1). Such determinations necessarily will have to be made on a case-by-case basis. One commenter recommended that the deadline after completion of a study by which human remains, funerary objects, sacred objects, or objects of cultural patrimony must be repatriated be left to the discretion of the parties involved. The requirement that human remains, funerary objects, sacred objects, or objects of cultural patrimony be repatriated no later than ninety days (90) after completion of the study is drawn from the statutory language.

One commenter recommended replacing the phrase "proper recipient" in the first sentence of § 10.10 (c)(2) with "most appropriate recipient." The recommended change has been made.

One commenter recommended including language in this subsection requiring museums and Federal agencies to comply with multiple party claims. The language in these regulations does not preclude claims for repatriation made by groups of lineal descendants or groups of Indian tribes or Native Hawaiian organizations. Museum and Federal agency officials are responsible for assessing the merits of each claim received.

One commenter recommended deleting the "takings exemption" in § 10.10 (c)(3) since it requires complex legal analysis that would unduly burden museum and Federal agency officials and is contrary to the provisions of the Act regarding the determination of custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony. The language in this subsection was drawn from section 2 (13) of the Act. Six commenters requested additional clarification of the subsection. Additional language has been included in the text. One commenter objected to the "globalization" of the constitutional test of a Fifth Amendment taking in this subsection to include human remains and associated funerary objects, stating that such an interpretation is not supported by the statutory language and recommending that the drafters refrain from attempting to redress in regulation what the commenter considers a facially unconstitutional element of the Act. The regulation has not been changed in response to this comment. The Act does not indicate an express intention to effectuate a legislative or regulatory taking. It is possible, though not likely, that human remains may be subject to Fifth Amendment concerns, e.g., where the human remains have been incorporated into another object. The same commenter recommended including text to exempt museums from the threat of civil penalties in situations where the museum invokes its authority to refuse to repatriate human remains and associated funerary objects based on "otherwise applicable property law." A determination that repatriation of human remains, funerary objects, sacred objects, or objects of cultural patrimony constitutes a taking of property without just compensation within the meaning of the Fifth Amendment of the United States Constitution must be made by a court of competent jurisdiction and can not be "invoked" by a museum or Federal agency. Assessment of civil penalties by the Secretary will necessarily be made on a case-by-case basis and, as such, the recommended exemption is not considered appropriate. However, the drafters consider it unlikely that the Secretary would assess civil penalties while a takings issue is being considered by a court of competent jurisdiction.

One commenter recommended deleting the reference in § 10.10 (c)(4) to other repatriation limitations in § 10.15. Section 10.15 includes limitation and remedies applying to both the disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal land or tribal lands and to the repatriation of human remains, funerary objects, sacred objects, or objects of cultural patrimony in the possession or control of museums or Federal agencies.

Two commenters requested clarification regarding procedures related to the transfer of custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony to lineal descendants or Indian tribes in § 10.10 (d). Museum and Federal agency officials are responsible for making decisions regarding place and manner of repatriation. However, prior to making such decisions, they must first consult with the requesting lineal descendants or culturally affiliated Indian tribes.

One commenter recommended including additional text requiring museum and Federal agency officials to inform recipients of repatriations of any known treatments, such as application of pesticides, preservatives, or other substances, that might represent a potential hazard to the human remains, funerary objects, sacred objects, or objects of cultural patrimony or the persons handling them. The recommended text has been included as § 10.10 (e) and subsequent subsections renumbered.

Two commenters recommended including language in § 10.10 (e) (renumbered as § 10.10 (f)) advising museum and Federal agency officials that, upon the request of Indian tribe officials, they take steps to ensure that information of a particularly sensitive nature is not made available to the general public. The recommended text has been included in the rule. Documentation of some cultural items, particularly sacred objects and objects of cultural patrimony, is expected to require Indian tribe officials and traditional religious leaders to divulge some information considered sensitive to the Indian tribe or Native Hawaiian organization. There is currently no exemption available to protect such sensitive information from disclosure under the Freedom of Information Act. Museum or Federal officials may wish to ensure that sensitive information does not become part of the public record by not writing such information down in the first place.

Two commenters identified "unidentified human remains," referred to in § 10.10 (f) (renumbered as § 10.10 (g)) as a category not supported by the statutory language, and recommended deleting the term. Section 8 (c)(5) of the Act required the Review Committee to compile an inventory and make recommendations regarding specific actions for developing a process for disposition of "culturally unidentifiable human remains." Section 10.10 (g) has been amended to reflect that statutory language.

One commenter requested that § 10.10 reference the requirements of the Migratory Bird Treaty Act, the Bald and Golden Eagle Act, the Endangered Species Act and the Marine Mammal Act. While it is not appropriate to include the requirements of these acts in the regulations, museums, Federal agencies, and Indian tribes should be aware that additional statutes and regulations may affect the transport and possession of repatriated objects, For additional information, contact, the U.S. Fish and Wildlife Service, Division of Law Enforcement, PO Box 3247, Arlington VA 22203–3247.

Section 10.11

This section has been reserved for procedures related to the disposition of culturally unidentifiable human remains in museum or Federal agency collections. One commenter questioned the authority under which the Federal government can determine the final disposition of human remains for which no cultural affiliation can reasonably be established. Another commenter recommended changing the title of this section to read "culturally and geographically unidentifiable" to ensure that a "simple-minded or hostile reading of the rules" would not result in assignment of many human remains to the catch-all category. One commenter requested clarification for procedures concerning "affected remains of . . . biologically extinct peoples". Section 8 (c)(5) and (c)(7) of the Act gives the Review Committee the responsibilities of recommending specific actions for developing a process for disposition of "culturally unidentifiable human remains" and consulting with the Secretary in the development of regulations to carry out the statute. Section 13 of the Act charges the Secretary with promulgating regulations to carry out the statute. One commenter recommended interring all culturally unidentifiable human remains in a tribal or intertribal cemetery. One commenter recommended sending inventories of all culturally unidentifiable human remains to all Indian tribes and Native Hawaiian organizations. One commenter requested that this section be published promptly. Another commenter recommended seeking Indian tribal input in developing this section to ensure that "the dominant society [not dictate] the proposed language to protect their own interests." A draft of this section is being developed currently and will submitted to the Review Committee for discussion and recommendations prior to publication as proposed regulation for public comment in the **Federal Register**.

Section 10.12

This section has been reserved for procedures related to the assessment of civil penalties by the Secretary against any museum that fails to comply with the requirements of the statute. One commenter requested prompt publication of this section. A draft of this section is currently being developed and will submitted to the Review Committee for discussion prior to publication for public comment in the **Federal Register**.

Section 10.13

This section has been reserved for procedures related to the future applicability of the statute. One commenter recommended that the section should include continuing responsibilities for museums and Federal agencies to update summaries and inventories of human remains, funerary objects, sacred objects, or objects of cultural patrimony to reflect new accessions, first time receipt of Federal funds, and the recognition of new Indian tribes and Native Hawaiian organizations. One commenter requested clarification on the subject of future accessions. One commenter stressed that tribal input, comment and recommendations are imperative in formulating this section. A draft of this section is currently being developed and will be submitted to the Review Committee for discussion prior to publication for public comment in the **Federal Register**. One commenter proposed inclusion of a ten year time limit during which Indian tribes must make claims for repatriation. Time limits for claims were discussed by Congress when the bill was being considered but were not included in the Act. Inclusion of such time limits in the regulations would contradict Congressional intent.

Section 10.14

Eighteen commenters recommended changes to the section on lineal descent and cultural affiliation. Two commenters recommended further identification in § 10.14 (a) of the parties responsible for completing the required activities. On Federal lands, Federal agency officials are responsible for determining which modern Indian tribes and Native Hawaiian organizations may have valid claims upon human remains, funerary objects, sacred objects, or objects of cultural patrimony that are excavated intentionally or discovered inadvertently on lands they manage. For existing collections, the museum or Federal agency official is responsible for assembling, describing, evaluating human remains, funerary objects, sacred objects, or objects of cultural patrimony and making determinations regarding their cultural affiliation and disposition. It is the responsibility of lineal descendants, Indian tribes or Native Hawaiian organizations that disagree with determinations of cultural affiliation made by a Federal agency or museum official to develop and present information to challenge that determination.

Another commenter recommended changing all references to Indian tribe in this section to "Indian tribe or tribes" to reflect the fact that Indian tribes may bring joint claims for certain items. The drafters consider the current language to support the possibility of joint claims.

One commenter identified the criteria for determining lineal descendants in § 10.14 (b) as being overly restrictive and recommended broadening them to allow for both individual and Indian tribe and Native Hawaiian organization claims. One commenter requested including a procedure "for independent verification of claimed descent." Criteria for determining lineal descent have been narrowly defined to reflect the priority given these claims under section 3 and section 7 of the Act. One commenter requested that the section include procedures for independent verification of any claims of lineal descent based upon traditional kinship systems. Museum or Federal agency officials are responsible for evaluating claims of lineal descent.

Three commenters identified criteria for determining cultural affiliation under § 10.14 (c)(1), (2) and (3) as placing an undue and unrealistic burden of proof on Indian tribes and Native Hawaiian organizations, and recommended fewer requirements. The three criteria — existence of an identifiable present-day Indian tribe or Native Hawaiian organization, evidence of the existence of an identifiable earlier group, and evidence of a shared group identity that can be reasonably traced between the present-day Indian tribe or Native Hawaiian organization and the earlier group—are the components of the statutory definition of cultural affiliation at section 2 (2) of the Act. They have been retained in the regulations.

Three commenters recommended rewording § 10.14 (c)(2) for clarification. The second sentence of § 10.14 (c)(2) has been rewritten to read: "Evidence to support this requirement may include, but is not necessarily limited to: . . ." One commenter recommended rewording § 10.14 (c)(2)(ii) to emphasize the desirability of demonstrating linkages between claimants and archeological remains. One commenter questioned whether it is possible to make biological distinctions between earlier groups as suggested in § 10.14 (c)(2)(iii). Cultural affiliation between particular human remains, funerary objects, sacred objects, or objects of cultural patrimony and particular Indian tribes and Native Hawaiian organizations must be determined on a case-by-case basis.

One commenter recommended regarding human remains or cultural objects found within the traditional (aboriginal) territory of an Indian tribe as being culturally affiliated with that Indian tribe, regardless of the antiquity of the human remains, funerary objects, sacred objects, or objects of cultural patrimony. The statutory provisions related to intentional excavation and inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony on Federal or tribal lands (section 3 of the Act) includes provisions for the disposition of human remains, funerary objects, sacred objects, or objects of

cultural patrimony to the Indian tribe that is recognized as aboriginally occupying the area in which the human remains or objects were recovered, if upon notice, such tribe states a claim for such human remains or items. No such criteria are included in the statutory sections regarding repatriation of human remains, funerary objects, sacred objects, or objects of cultural patrimony in museum or Federal agency collections.

One commenter recommended inclusion of language from House Report 101–877 (page 5) clarifying that determinations of cultural affiliation should be based on an overall evaluation of the totality of the circumstances and evidence and should not be precluded solely because of some gaps in the record. Language from the House Report has been included as § 10.14 (d), and the subsequent sections relettered.

One commenter noted that the types of evidence listed in § 10.14 (e) were originally derived from section 7 (a)(4) of the Act—which deals exclusively with the determination of cultural affiliation — and recommends that lineal descent should be established through normally accepted methods of evidence. Section 7 (a) of the Act, of which section 7 (a)(4) is a subpart, deals with both determinations of lineal descent and cultural affiliation. It is the opinion of the drafters that each of the types of evidence listed could potentially be used to support a claim of lineal descent and should be available for use by potential claimants.

One commenter objected to oral tradition and folklore being allowed as evidence in § 10.14 (d), particularly for those areas, such as central, southwestern, southern, and coastal Texas, "where the aboriginal inhabitants have no biological descendants." One commenter recommended including a statement that physical anthropological/biological, archeological, and other "hard" scientific evidence will have the greatest bearing in determining the cultural affiliation of prehistoric materials, scaled with weight increasing as distance in time increases. One commenter recommended inclusion of a statement regarding "standards of evidence." The applicability and strength of particular types of evidence must be determined on a case-by-case basis. It would be inappropriate to place stipulations on the applicability of various types of evidence in regulation.

Two commenters recommended changing the last sentence of § 10.14 (e) to require that cultural affiliation be established with scientific certainty to avoid any misuse of the Act. A standard of scientific certainty is not consistent with Congressional intent. The statement of evidence in this subsection is drawn from section 7 (a)(4) of the Act. Two other commenters questioned whether this subsection might give the impression that scientific research is of no value in determining cultural affiliation. Section 7 (a)(4) identifies scientific information related to numerous fields as having relevance to the determination of cultural affiliation. One commenter recommended stipulating that no repatriation will occur until the analysis is completed. Section 5 (a) specifies that the geographic and cultural affiliation of human remains and associated funerary objects be determined "to the extent possible based on information possessed by the museum of Federal agency." No new scientific research is required. Delaying repatriation until new scientific research is completed contradicts the intent of Congress unless that scientific research is considered to be of major benefit to the United States.

Section 10.15

Eleven commenters recommended changes to the section on repatriation limitations and remedies. One commenter stated the section was not consistent with the statute and recommended deleting it in its entirety. Two commenters identified § 10.15 (a)(1) as being unduly harsh to Indian tribes and Native Hawaiian organizations, and recommended deleting it. Section 10.15 (a)(1) ensures that any claim received prior to the disposition or repatriation of human remains, funerary objects, sacred objects, or objects of cultural patrimony must be considered by the museum or Federal agency. Claims made after disposition or repatriation have occurred are properly the responsibility of the receiving lineal descendant, Indian tribe, or Native Hawaiian organization. The subsection has been retained as it is important for the protection of museums and Federal agencies that comply with the Act and regulations. One commenter recommended adding another subsection under the title "Multiple Claimants" to address such situations. Three commenters recommended specifying that a time period for competing parties to reach agreement on the appropriate disposition or repatriation of human remains, funerary objects, sacred objects, or objects of cultural patrimony. No time period has been established because it appears to be contrary to Congressional intent. One commenter recommended inclusion of a statement specifying who decides the disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony that cannot be shown to be culturally affiliated to a present-day Indian tribe or Native Hawaiian organization. Section 10.11 of the regulations has been reserved for procedures related to the disposition of culturally unidentifiable human remains.

One commenter recommended completing § 10.15 (b), reserved for "Failure to claim where no repatriation or disposition has occurred," as quickly as possible. Another commenter questioned whether the statutory language supports the inclusion of unclaimed cultural items as well as human remains. Section 3 (b) of the Act addresses the disposition of "unclaimed human remains and objects" and requires the Secretary to publish regulations to carry out their disposition in consultation with the Review Committee, Native American groups, and representatives of museums and the scientific community.

One commenter asked for clarification regarding whether the denial of a request for repatriation implied in § 10.15 (c) would have the effect of stopping the "90-day clock" for expedient repatriation. Museum and Federal agency officials are required to make a decision regarding claims for the disposition or repatriation of human remains, funerary objects, sacred objects, or objects of cultural patrimony within ninety (90) days of receipt of that claim. Once that decision is made, the museum or Federal agency official has carried out their responsibility. Another commenter recommended that this subsection state specifically that museums and Federal agencies must repatriate within ninety (90)-days of receipt of a written request. Section 10.10 (a)(3) and (b)(2) specify that museums and Federal agencies must repatriate human remains, funerary objects, sacred objects, or objects of cultural patrimony in their collections within ninety (90) days of receipt of a written request for repatriation that satisfies the requirements of § 10.10 (a)(1) and (b)(1), respectively, provided that the repatriation may not occur until at least thirty (30) days after publication of the appropriate notice in the **Federal Register**.

Section 10.16

Two commenters recommended changes to the section on the Review Committee. One commenter recommended deletion of the term "culturally unidentifiable human remains" on the grounds that there is no such category recognized under the Act. Section 8 (b)(5) of the Act requires the Review Committee to compile an inventory of culturally unidentifiable human remains and recommend specific actions for developing a process for disposition of such human remains. Another commenter recommended specifying the criteria to be used by the Review Committee in resolving disputes. One commenter requested clarification as to the "arbitrator" for disputes arising from the Act. The Review Committee has established its own guidelines for facilitating the resolution of disputes that include both procedures and criteria. Copies of these procedures are available from the Department of the Interior through the Departmental Consulting Archeologist, Archeological Assistance Division, National Park Service.

Section 10.17

Three commenters recommended changes to the section on dispute resolution. One commenter recommended strengthening the section to provide a realistic and definitive forum for resolving problems. Another commenter recommended including criteria to be used by the Review Committee in resolving disputes. A third commenter recommended that appropriate time frames should be established for Review Committee comments concerning disputes. The Review Committee has established its own guidelines for facilitating the resolution of disputes that include both procedures and criteria. Copies of these procedures are available from the Department of the Interior through the Departmental Consulting Archeologist, Archeological Assistance Division, National Park Service.

Appendix A

Four commenters recommended changes to the sample summary. Two commenters recommended narrowing the focus of the summary from collections held by a museum which may contain unassociated funerary objects, sacred objects, or objects of cultural patrimony to a summary of those specific objects. This proposed text was not changed for reasons previously presented in the discussion of section 10.8.

One commenter objected to the enumeration of sites and objects in the seventh paragraph of the sample summary as being both impractical and impossible. The enumeration of sites and objects in the sample summary are identified clearly as approximations. Further, provision of this type of information to Indian tribes and Native Hawaiian organizations is consistent with the requirements of section 6 of the Act as clarified in section 10.8 of these regulations.

One commenter objected to the apparently broad access to museum records given Indian tribes in the final paragraph. The sentence in question closely paraphrases section 6 (b)(2) of the Act and has not been changed.

Appendix B

This appendix was reserved for a sample inventory of human remains and associated funerary objects. One commenter stressed the importance of developing this section as quickly as possible. A sample inventory of human remains and associated funerary objects currently has been developed in consultation with the Review Committee and distributed to Indian tribes, Native Hawaiian organizations, museums, and Federal agencies. This reserved appendix has been deleted from the rule.

Appendix C

The notice of inventory completion in this appendix has been updated with a more recent version and retitled as Appendix B.

Appendix D

The Review Committee recommended deleting this section that had been reserved for a sample memorandum of understanding dealing with repatriation of human remains, funerary objects, sacred objects, or objects of cultural patrimony in Federal collections from the regulations. Guidance regarding such memoranda of understanding will be developed and distributed by the Department of the Interior.

Appendix E

The Review Committee recommended deleting this section that had been reserved for a sample memorandum of understanding dealing with intentional excavation on Federal or tribal lands from the regulations. Guidance regarding such memoranda of understanding will be developed and distributed by the Department of the Interior.

Authorship These proposed regulations were prepared by Dr. Francis P. McManamon (Departmental Consulting Archeologist, National Park Service), Dr. C. Timothy McKeown (NAGPRA Program Leader, National Park Service), and Mr. Lars Hanslin (Senior Attorney, Office of the Solicitor), in consultation with the Native American Graves Protection and Repatriation Review Committee as directed by section 8 (c)(7) of the Act.

Compliance with the Paperwork Reduction Act

The collections of information contained in this rule have been approved by the Office of Management and Budget as required by 44 U.S.C. 3501 *et seq* (OMB control number 1024-0144). Public reporting burden for this collection of information is expected to average 100 hours for the exchange of summary/inventory information between a museum or Federal agency and an Indian tribe or Native Hawaiian organization and six hours per response for the notification to the Secretary, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collected information. Two commenters questioned use of an average amount of time to characterize the expected burden. While the amount of time required to complete the reporting requirements of these regulations will vary between institutions depending on the size and nature of their collections and the comprehensiveness of their documentation, review of summaries, inventories, and notices received by the Departmental Consulting Archeologist confirms the accuracy of the previous estimates. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing the burden, to Information Collection Officer, National Park Service, Box 37127, Washington D.C. 20013 and to the Office of Management and Budget, Paperwork Reduction Project, Washington DC 20503.

Compliance with Other Laws

This rule has been reviewed under Executive Order 12866. The final rule implements provisions of the Native American Graves Protection and Repatriation Act of 1990 and addresses the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations to Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony. The final rule requires that any museum receiving Federal funds prepare summaries and conduct inventories. These requirements are within professionally accepted standards for museum record keeping consistent with the purposes of such institutions or organizations. Grants have been awarded during FY 1994 and FY 1995 to assist museums in these tasks. Federal agencies will incur costs in two ways: (1) Preparing the summaries and conducting the

inventories; and (2) conducting consultation prior to planned excavations and following inadvertent discoveries on Federal or tribal lands. The Congressional Budget Office estimated costs for summary and inventory activities at between $5 and $30 million over a five year period. Many of the actions required of Federal agencies under item (2) are recommended or required by previous legislation—such as the National Historic Preservation Act and the Archaeological Resources Protection Act—and costs for these activities are not expected to increase appreciably, particularly if the Federal agencies are able to coordinate their consultation and review activities as encouraged by these regulations and other guidance documents.

The Department of the Interior certifies that this document does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The Department of the Interior has determined that these final regulations meet the applicable standards provided in sections 2(a) and 2(b) of Executive Order 12778.

The Department of the Interior has determined that these final regulations will not have a significant effect on the quality of the human environment under the National Environmental Policy Act (42 U.S.C. 4321–4347). In addition, the Department of the Interior has determined that these final regulations are categorically excluded from the procedural requirements of the National Environmental Policy Act by Departmental regulations in 516 DM 2. As such, neither an Environmental Assessment nor an Environmental Impact statement has been prepared.

List of Subjects in 43 CFR Part 10

Administrative practice and procedure, Graves, Hawaiian Natives, Historic preservation, Indians—Claims, Indians—lands, Museums, Public lands, Reporting and record keeping requirements.

For the reasons set out in the preamble, 43 CFR Subtitle A is amended by adding Part 10 to read as follows:

PART 10—NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION REGULATIONS

Subpart A—Introduction

Sec.

10.1 Purpose and applicability.
10.2 Definitions
10.3 Intentional archeological excavations.
10.4 Inadvertent discoveries.
10.5 Consultation.
10.6 Custody.
10.7 Disposition of unclaimed human remains, funerary objects, sacred objects, or objects of cultural patrimony. [Reserved]

Subpart C—Human Remains, Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony in Museums and Federal Collections

10.8 Summaries.
10.9 Inventories.
10.10 Repatriation.
10.11 Disposition of culturally unidentifiable human remains. [Reserved]
10.12 Civil penalties. [Reserved]
10.13 Future applicability. [Reserved]

Subpart D—General

10.14 Lineal descent and cultural affiliation.
10.15 Repatriation limitations and remedies.
10.16 Review committee.
10.17 Dispute resolution.

Appendix-A to Part 10—Sample summary.

Appendix-B to Part 10—Sample notice of inventory completion.

Authority: 25 U.S.C. 3001 *et seq.*

Subpart A—Introduction

§ 10.1 Purpose and applicability.

(a) *Purpose.* These regulations carry out provisions of the Native American Graves Protection and Repatriation Act of 1990 (Pub.L. 101–601; 25 U.S.C. 3001–3013;104 Stat. 3048–3058). These regulations develop a systematic process for determining the rights of lineal descendants and Indian tribes and Native Hawaiian organizations to certain Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony with which they are affiliated.

(b) *Applicability.* (1) These regulations pertain to the identification and appropriate disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony that are:

(i) In Federal possession or control; or

(ii) In the possession or control of any institution or State or local government receiving Federal funds; or

(iii) Excavated intentionally or discovered inadvertently on Federal or tribal lands.

(2) These regulations apply to human remains, funerary objects, sacred objects, or objects of cultural patrimony which are indigenous to Alaska, Hawaii, and the continental United States, but not to territories of the United States.

(3) Throughout these regulations are decision points which determine their applicability in particularly circumstances, e.g., a decision as to whether a museum "controls" human remains and cultural objects within the meaning of the regulations, or, a decision as to whether an object is a "human remain," "funerary object," "sacred object," or "object of cultural patrimony" within the meaning of the regulations. Any final determination making the Act or these regulations inapplicable is subject to review pursuant to section 15 of the Act.

§ 10.2 Definitions.

In addition to the term *Act*, which means the Native American Graves Protection and Repatriation Act as described above, definitions used in these regulations are grouped in seven classes: Parties required to comply with these regulations; Parties with standing to make claims under these regulations; Parties responsible for implementing these regulations; Objects covered by these regulations; Cultural affiliation; Types of land covered by these regulations; and Procedures required by these regulations.

(a) *Who must comply with these regulations?* (1) *Federal agency* means any department, agency, or instrumentality of the United States. Such term does not include the Smithsonian Institution as specified in section 2 (4) of the Act.

(2) *Federal agency official* means any individual authorized by delegation of authority within a Federal agency to perform the duties relating to these regulations.

(3) *Museum* means any institution or State or local government agency (including any institution of higher learning) that has possession of, or control over, human remains, funerary objects, sacred objects, or objects of cultural patrimony and receives Federal funds.

(i) The term "*possession*" means having physical custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony with a sufficient legal interest to lawfully treat the objects as part of its collection for purposes of these regulations. Generally, a museum or Federal agency would not be considered to have possession of human remains, funerary objects, sacred objects, or objects of cultural patrimony on loan from another individual, museum, or Federal agency.

(ii) The term "*control*" means having a legal interest in human remains, funerary objects, sacred objects, or objects of cultural patrimony sufficient to lawfully permit the museum or Federal agency to treat the objects as part of its collection for purposes of these regulations whether or not the human remains, funerary objects, sacred objects or objects of cultural patrimony are in the physical custody of the museum or Federal agency. Generally, a museum or Federal agency that has loaned human remains, funerary objects, sacred objects, or objects of cultural patrimony to another individual, museum, or Federal agency is considered to retain control of those human remains, funerary objects, sacred objects, or objects of cultural patrimony for purposes of these regulations.

(iii) The phrase "*receives Federal funds*" means the receipt of funds by a museum after November 16, 1990, from a Federal agency through any grant, loan, contract (other than a procurement contract), or other arrangement by which a Federal agency makes or made available to a museum aid in the form of funds. Federal funds provided for any purpose that are received by a larger entity of which the museum is a part are considered Federal funds for the purposes of these regulations. For example, if a museum is a part of a State or local government or a private university and the State or local government or private university receives Federal funds for any purpose, the museum is considered to receive Federal funds for the purpose of these regulations.

(4) *Museum official* means the individual within a museum designated as being responsible for matters relating to these regulations.

(5) *Person* means an individual, partnership, corporation, trust, institution, association, or any other private entity, or, any official, employee, agent, department, or instrumentality of the United States, or of any Indian tribe or Native Hawaiian organization, or of any State or political subdivision thereof that discovers human remains, funerary objects, sacred objects or objects of cultural patrimony on Federal or tribal lands after November 16, 1990.

(b) *Who has standing to make a claim under these regulations?*

(1) *Lineal descendant* means an individual tracing his or her ancestry directly and without interruption by means of the traditional kinship system of the appropriate Indian tribe or Native Hawaiian organization or by the common law system of descendance to a known Native American individual whose remains, funerary objects, or sacred objects are being claimed under these regulations.

(2) *Indian tribe* means any tribe, band, nation, or other organized Indian group or community of Indians, including any Alaska Native village or corporation as defined in or established by the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. The Secretary will distribute a list of Indian tribes for the purposes of carrying out this statute through the Departmental Consulting Archeologist.

(3)(i) *Native Hawaiian organization* means any organization that:

(A) Serves and represents the interests of Native Hawaiians;

(B) Has as a primary and stated purpose the provision of services to Native Hawaiians; and

(C) Has expertise in Native Hawaiian affairs.

(ii)The term *Native Hawaiian* means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii. Such organizations must include the Office of Hawaiian Affairs and *Hui Mālama I Nā Kūpuna 'O Hawai'i Nei.*

(4) *Indian tribe official* means the principal leader of an Indian tribe or Native Hawaiian organization or the individual officially designated by the governing body of an Indian tribe or Native Hawaiian organization or as otherwise provided by tribal code, policy, or established procedure as responsible for matters relating to these regulations.

(c) *Who is responsible for carrying out these regulations?*

(1) *Secretary* means the Secretary of the Interior.

(2) *Review Committee* means the advisory committee established pursuant to section 8 of the Act.

(3) *Departmental Consulting Archeologist* means the official of the Department of the Interior designated by the Secretary as responsible for the administration of matters relating to these regulations. Communications to the Departmental Consulting Archeologist should be addressed to:

Departmental Consulting Archeologist
National Park Service,
PO Box 37127
Washington, DC 20013–7127.

(d) *What objects are covered by these regulations?* The Act covers four types of Native American objects. The term *Native American* means of, or relating to, a tribe, people, or culture indigenous to the United States, including Alaska and Hawaii:

(1) *Human remains* means the physical remains of a human body of a person of Native American ancestry. The term does not include remains or portions of remains that may reasonably be determined to have been freely given or naturally shed by the individual from whose body they were obtained, such as hair made into ropes or nets. For the purposes of determining cultural affiliation, human remains incorporated into a funerary object, sacred object, or object of cultural patrimony, as defined below, must be considered as part of that item.

(2) *Funerary objects* means items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects must be identified by a preponderance of the evidence as having been removed from a specific burial site of an individual affiliated with a particular Indian tribe or Native Hawaiian organization or as being related to specific individuals or families or to known human remains. The term *burial site* means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as part of the death rite or ceremony of a culture, individual human remains were deposited, and includes rock cairns or pyres which do not fall within the ordinary definition of grave site. For purposes of completing the summary requirements in § 10.8 and the inventory requirements of § 10.9:

(i) *Associated funerary objects* means those funerary objects for which the human remains with which they were placed intentionally are also in the possession or control of a museum or Federal agency. Associated funerary objects also means those funerary objects that were made exclusively for burial purposes or to contain human remains.

(ii) *Unassociated funerary objects* means those funerary objects for which the human remains with which they were placed intentionally are not in the possession or control of a museum or Federal agency. Objects that were displayed with individual human remains as part of a death rite or ceremony of a culture and subsequently returned or distributed according to traditional custom to living descendants or other individuals are not considered unassociated funerary objects.

(3) *Sacred objects* means items that are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their

present-day adherents. While many items, from ancient pottery sherds to arrowheads, might be imbued with sacredness in the eyes of an individual, these regulations are specifically limited to objects that were devoted to a traditional Native American religious ceremony or ritual and which have religious significance or function in the continued observance or renewal of such ceremony. The term *traditional religious leader* means a person who is recognized by members of an Indian tribe or Native Hawaiian organization as:

(i) Being responsible for performing cultural duties relating to the ceremonial or religious traditions of that Indian tribe or Native Hawaiian organization, or

(ii) Exercising a leadership role in an Indian tribe or Native Hawaiian organization based on the tribe or organization's cultural, ceremonial, or religious practices.

(4) *Objects of cultural patrimony* means items having ongoing historical, traditional, or cultural importance central to the Indian tribe or Native Hawaiian organization itself, rather than property owned by an individual tribal or organization member. These objects are of such central importance that they may not be alienated, appropriated, or conveyed by any individual tribal or organization member. Such objects must have been considered inalienable by the culturally affiliated Indian tribe or Native Hawaiian organization at the time the object was separated from the group. Objects of cultural patrimony include items such as Zuni War Gods, the Confederacy Wampum Belts of the Iroquois, and other objects of similar character and significance to the Indian tribe or Native Hawaiian organization as a whole.

(e) *What is cultural affiliation?* Cultural affiliation means that there is a relationship of shared group identity which can reasonably be traced historically or prehistorically between members of a present-day Indian tribe or Native Hawaiian organization and an identifiable earlier group. Cultural affiliation is established when the preponderance of the evidence — based on geographical, kinship, biological, archeological, linguistic, folklore, oral tradition, historical evidence, or other information or expert opinion — reasonably leads to such a conclusion.

(f) *What types of lands to the excavation and discovery provisions of these regulations apply to?*

(1) *Federal lands* means any land other than tribal lands that are controlled or owned by the United States Government, including lands selected by but not yet conveyed to Alaska Native Corporations and groups organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.). United States "control," as used in this definition, refers to those lands not owned by the United States but in which the United States has a legal interest sufficient to permit it to apply these regulations without abrogating the otherwise existing legal rights of a person.

(2) *Tribal lands* means all lands which:

(i) Are within the exterior boundaries of any Indian reservation including, but not limited to, allotments held in trust or subject to a restriction on alienation by the United States; or

(ii) Comprise dependent Indian communities as recognized pursuant to 18 U.S.C. 1151; or

(iii) Are administered for the benefit of Native Hawaiians pursuant to the Hawaiian Homes Commission Act of 1920 and section 4 of the Hawaiian Statehood Admission Act (Pub.L. 86–3; 73 Stat. 6).

(iv) Actions authorized or required under these regulations will not apply to tribal lands to the extent that any action would result in a taking of property without compensation within the meaning of the Fifth Amendment of the United States Constitution.

(g) *What procedures are required by these regulations?*

(1) *Summary* means the written description of collections that may contain unassociated funerary objects, sacred objects, and objects of cultural patrimony required by § 10.8 of these regulations.

(2) *Inventory* means the item-by-item description of human remains and associated funerary objects.

(3) *Intentional excavation* means the planned archeological removal of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on the surface of Federal or tribal lands pursuant to section 3 (c) of the Act.

(4) *Inadvertent discovery* means the unanticipated encounter or detection of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on the surface of Federal or tribal lands pursuant to section 3 (d) of the Act.

Subpart B—Human Remains, funerary objects, sacred objects, or objects of cultural patrimony from Federal or Tribal Lands

§ 10.3 Intentional archeological excavations.

(a) *General.* This section carries out section 3 (c) of the Act regarding the custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony that are excavated intentionally from Federal or tribal lands after November 16, 1990.

(b) *Specific Requirements.* These regulations permit the intentional excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony from Federal or tribal lands only if:

(1) The objects are excavated or removed following the requirements of the Archaeological Resources Protection Act (ARPA) (16 U.S.C. 470aa et seq.) and its implementing regulations. Regarding private lands within the exterior boundaries of any Indian reservation, the Bureau of Indian Affairs (BIA) will serve as the issuing agency for any permits required under the Act. For BIA procedures for obtaining such permits, see 25 CFR part 262 or contact the Deputy Commissioner of Indian Affairs, Department of the Interior, Washington, DC 20240. Regarding lands administered for the benefit of Native Hawaiians pursuant to the Hawaiian Homes Commission Act, 1920, and section 4 of Pub. L. 86–3, the Department of Hawaiian Home Lands will serve as the issuing agency for any permits required under the Act, with the Hawaii State Historic Preservation Division of the Department of Land and Natural Resources acting in an advisory capacity for such issuance. Procedures and requirements for issuing permits will be consistent with those required by the ARPA and its implementing regulations;

(2) The objects are excavated after consultation with or, in the case of tribal lands, consent of, the appropriate Indian tribe or Native Hawaiian organization pursuant to § 10.5;

(3) The disposition of the objects is consistent with their custody as described in § 10.6; and

(4) Proof of the consultation or consent is shown to the Federal agency official or other agency official responsible for the issuance of the required permit.

(c) *Procedures.* (1) The Federal agency official must take reasonable steps to determine whether a planned activity may result in the excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony from Federal lands. Prior to issuing any approvals or permits for activities, the Federal agency official must notify in writing the Indian tribes or Native Hawaiian organizations that are likely to be culturally affiliated with any human remains, funerary objects, sacred objects, or objects of cultural patrimony that may be excavated. The Federal agency official must also notify any present-day Indian tribe which aboriginally occupied the area of the planned activity and any other Indian tribes or Native Hawaiian organizations that the Federal agency official reasonably believes are likely to have a cultural relationship to the human remains, funerary objects, sacred objects, or objects of cultural patrimony that are expected to be found. The notice must be in writing and describe the planned activity, its general location, the basis upon which it was determined that human remains, funerary objects, sacred objects, or objects of cultural patrimony may be excavated, and, the basis for determining likely custody pursuant to § 10.6. The notice must also propose a time and place for meetings or consultations to further consider the activity, the Federal agency's proposed treatment of any human remains, funerary objects, sacred objects, or objects of cultural patrimony that may be excavated, and the proposed disposition of any excavated human remains, funerary objects, sacred objects, or objects of cultural patrimony. Written notification should be followed up by telephone contact if there is no response in 15 days. Consultation must be conducted pursuant to § 10.5.

(2) Following consultation, the Federal agency official must complete a written plan of action (described in § 10.5(e)) and execute the actions called for in it.

(3) If the planned activity is also subject to review under section 106 of the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), the Federal agency official should coordinate consultation and any subsequent agreement for compliance conducted under that Act with the requirements of § 10.3 (c)(2) and § 10.5. Compliance with these regulations does not relieve Federal agency officials of requirements to comply with section 106 of the National Historic Preservation Act (16 U.S.C. 470 *et seq.*).

(4) If an Indian tribe or Native Hawaiian organization receives notice of a planned activity or otherwise becomes aware of a planned activity that may result in the excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony on tribal lands, the Indian tribe or Native Hawaiian organization may take appropriate steps to:

(i) Ensure that the human remains, funerary objects, sacred objects, or objects of cultural patrimony are excavated or removed following § 10.3 (b), and

(ii) make certain that the disposition of any human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently as a result of the planned activity are carried out following § 10.6.

§ 10.4 Inadvertent discoveries.

(a) *General.* This section carries out section 3 (d) of the Act regarding the custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony that are discovered inadvertently on Federal or tribal lands after November 16, 1990.

(b) *Discovery.* Any person who knows or has reason to know that he or she has discovered inadvertently human remains, funerary objects, sacred objects, or objects of cultural patrimony on Federal or tribal lands after November 16, 1990, must provide immediate telephone notification of the inadvertent discovery, with written confirmation, to the responsible Federal agency official with respect to Federal lands, and, with respect to tribal lands, to the responsible Indian tribe official. The requirements of these regulations regarding inadvertent discoveries apply whether or not an inadvertent discovery is duly reported. If written confirmation is provided by certified mail, the return receipt constitutes evidence of the receipt of the written notification by the Federal agency official or Indian tribe official.

(c) *Ceasing activity.* If the inadvertent discovery occurred in connection with an on-going activity on Federal or tribal lands, the person, in addition to providing the notice described above, must stop the activity in the area of the inadvertent discovery and make a reasonable effort to protect the human remains, funerary objects, sacred objects, or objects of cultural patrimony discovered inadvertently.

(d) *Federal lands.* (1) As soon as possible, but no later than three (3) working days after receipt of the written confirmation of notification with respect to Federal lands described in § 10.4 (b), the responsible Federal agency official must:

(i) Certify receipt of the notification;

(ii) Take immediate steps, if necessary, to further secure and protect inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony, including, as appropriate, stabilization or covering;

(iii) Notify by telephone, with written confirmation, the Indian tribes or Native Hawaiian organizations likely to be culturally affiliated with the inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony, the Indian tribe or Native Hawaiian organization which aboriginally occupied the area, and any other Indian tribe or Native Hawaiian organization that is reasonably known to have a cultural relationship to the human remains, funerary objects, sacred objects, or objects of cultural patrimony. This notification must include pertinent information as to kinds of human remains, funerary objects, sacred objects, or objects of cultural patrimony discovered inadvertently, their condition, and the circumstances of their inadvertent discovery;

(iv) Initiate consultation on the inadvertent discovery pursuant to § 10.5;

(v) If the human remains, funerary objects, sacred objects, or objects of cultural patrimony must be excavated or removed, follow the requirements and procedures in § 10.3 (b) of these regulations; and

(vi) Ensure that disposition of all inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony is carried out following § 10.6.

(2) *Resumption of activity.* The activity that resulted in the inadvertent discovery may resume thirty (30) days after certification by the notified Federal agency of receipt of the written confirmation of notification of inadvertent discovery if the resumption of the activity is otherwise lawful. The activity may also resume, if otherwise lawful, at any time that a written, binding agreement is executed between the Federal agency and the affiliated Indian tribes or Native Hawaiian organizations that adopt a recovery plan for the excavation or removal of the human remains, funerary objects, sacred objects, or objects of cultural patrimony following § 10.3 (b)(1) of these regulations. The disposition of all human remains, funerary objects, sacred objects, or objects of cultural patrimony must be following § 10.6.

(e) *Tribal lands.* (1) As soon as possible, but no later than three (3) working days after receipt of the written confirmation of notification with respect to Tribal lands described in § 10.4 (b), the responsible Indian tribe official may:

(i) Certify receipt of the notification;

(ii) Take immediate steps, if necessary, to further secure and protect inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony, including, as appropriate, stabilization or covering;

(iii) If the human remains, funerary objects, sacred objects, or objects of

cultural patrimony must be excavated or removed, follow the requirements and procedures in § 10.3 (b) of these regulations; and

(iv) Ensure that disposition of all inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony is carried out following § 10.6.

(2) Resumption of Activity. The activity that resulted in the inadvertent discovery may resume if otherwise lawful after thirty (30) days of the certification of the receipt of notification by the Indian tribe or Native Hawaiian organization.

(f) *Federal agency officials.* Federal agency officials should coordinate their responsibilities under this section with their emergency discovery responsibilities under section 106 of the National Historical Preservation Act (16 U.S.C. 470 (f) *et seq.*), 36 CFR 800.11 or section 3 (a) of the Archeological and Historic Preservation Act (16 U.S.C. 469 (a-c)). Compliance with these regulations does not relieve Federal agency officials of the requirement to comply with section 106 of the National Historical Preservation Act (16 U.S.C. 470 (f) *et seq.*), 36 CFR 800.11 or section 3 (a) of the Archeological and Historic Preservation Act (16 U.S.C. 469 (a-c)).

(g) *Notification requirement in authorizations.* All Federal authorizations to carry out land use activities on Federal lands or tribal lands, including all leases and permits, must include a requirement for the holder of the authorization to notify the appropriate Federal or tribal official immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony pursuant to § 10.4 (b) of these regulations.

§ 10.5 Consultation.

Consultation as part of the intentional excavation or inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony on Federal lands must be conducted in accordance with the following requirements.

(a) *Consulting parties.* Federal agency officials must consult with known lineal descendants and Indian tribe officials:

(1) from Indian tribes on whose aboriginal lands the planned activity will occur or where the inadvertent discovery has been made; and

(2) from Indian tribes and Native Hawaiian organizations that are, or are likely to be, culturally affiliated with the human remains, funerary objects, sacred objects, or objects of cultural patrimony; and

(3) from Indian tribes and Native Hawaiian organizations that have a demonstrated cultural relationship with the human remains, funerary objects, sacred objects, or objects of cultural patrimony.

(b) *Initiation of consultation.* (1) Upon receiving notice of, or otherwise becoming aware of, an inadvertent discovery or planned activity that has resulted or may result in the intentional excavation or inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony on Federal lands, the responsible Federal agency official must, as part of the procedures described in § 10.3 and § 10.4, take appropriate steps to identify the lineal descendant, Indian tribe, or Native Hawaiian organization entitled to custody of the human remains, funerary objects, sacred objects, or objects of cultural patrimony pursuant to § 10.6 and § 10.14. The Federal agency official shall notify in writing:

(i) any known lineal descendants of the individual whose remains, funerary objects, sacred objects, or objects of cultural patrimony have been or are likely to be excavated intentionally or discovered inadvertently; and

(ii) the Indian tribes or Native Hawaiian organizations that are likely to be culturally affiliated with the human remains, funerary objects, sacred objects, or objects of cultural patrimony that have been or are likely to be excavated intentionally or discovered inadvertently; and

(iii) the Indian tribes which aboriginally occupied the area in which the human remains, funerary objects, sacred objects, or objects of cultural patrimony have been or are likely to be excavated intentionally or discovered inadvertently; and

(iv) the Indian tribes or Native Hawaiian organizations that have a demonstrated cultural relationship with the human remains, funerary objects, sacred objects, or objects of cultural patrimony that have been or are likely to be excavated intentionally or discovered inadvertently.

(2) The notice must propose a time and place for meetings or consultation to further consider the intentional excavation or inadvertent discovery, the Federal agency's proposed treatment of the human remains, funerary objects, sacred objects, or objects of cultural patrimony that may be excavated, and the proposed disposition of any intentionally excavated or inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony.

(3) The consultation must seek to identify traditional religious leaders who should also be consulted and seek to identify, where applicable, lineal descendants and Indian tribes or Native Hawaiian organizations affiliated with the human remains, funerary objects, sacred objects, or objects of cultural patrimony.

(c) *Provision of information.* During the consultation process, as appropriate, the Federal agency official must provide the following information in writing to the lineal descendants and the officials of Indian tribes or Native Hawaiian organizations that are or are likely to be affiliated with the human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands:

(1) A list of all lineal descendants and Indian tribes or Native Hawaiian organizations that are being, or have been, consulted regarding the particular human remains, funerary objects, sacred objects, or objects of cultural patrimony;

(2) An indication that additional documentation used to identify affiliation will be supplied upon request.

(d) *Requests for information.* During the consultation process, Federal agency officials must request, as appropriate, the following information from Indian tribes or Native Hawaiian organizations that are, or are likely to be, affiliated pursuant to § 10.6 (a) with intentionally excavated or inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony:

(1) Name and address of the Indian tribe official to act as representative in consultations related to particular human remains, funerary objects, sacred objects, or objects of cultural patrimony;

(2) Names and appropriate methods to contact lineal descendants who should be contacted to participate in the consultation process;

(3) Recommendations on how the consultation process should be conducted; and

(4) Kinds of cultural items that the Indian tribe or Native Hawaiian organization considers likely to be unassociated funerary objects, sacred objects, or objects of cultural patrimony.

(e) *Written plan of action.* Following consultation, the Federal agency official must prepare, approve, and sign a written plan of action. A copy of this plan of action must be provided to the lineal descendants, Indian tribes and Native Hawaiian organizations involved. Lineal descendants and Indian tribe official(s) may sign the written plan of action as appropriate. At a minimum, the plan of action must comply with § 10.3 (b)(1) and document the following:

(1) The kinds of objects to be considered as cultural items as defined in § 10.2 (b);

(2) The specific information used to determine custody pursuant to § 10.6;

(3) The planned treatment, care, and handling of human remains, funerary objects, sacred objects, or objects of cultural patrimony recovered;

(4) The planned archeological recording of the human remains, funerary objects, sacred objects, or objects of cultural patrimony recovered;

(5) The kinds of analysis planned for each kind of object;

(6) Any steps to be followed to contact Indian tribe officials at the time of intentional excavation or inadvertent discovery of specific human remains, funerary objects, sacred objects, or objects of cultural patrimony;

(7) The kind of traditional treatment, if any, to be afforded the human remains, funerary objects, sacred objects, or objects of cultural patrimony by members of the Indian tribe or Native Hawaiian organization;

(8) The nature of reports to be prepared; and

(9) The disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony following § 10.6.

(f) *Comprehensive agreements.* Whenever possible, Federal agencies should enter into comprehensive agreements with Indian tribes or Native Hawaiian organizations that are affiliated with specific human remains, funerary objects, sacred objects, or objects of cultural patrimony and have claimed, or are likely to claim, those human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands. These agreements should address all Federal agency land management activities that could result in the intentional excavation or inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony. Consultation should lead to the establishment of a process for effectively carrying out the requirements of these regulations regarding standard consultation procedures, the determination of custody consistent with procedures in this section and § 10.6, and the treatment and disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony. The signed agreements, or the correspondence related to the effort to reach agreements, must constitute proof of consultation as required by these regulations.

(g) *Traditional religious leaders.* The Federal agency official must be cognizant that Indian tribe officials may need to confer with traditional religious leaders prior to making recommendations. Indian tribe officials are under no obligation to reveal the identity of traditional religious leaders.

§ 10.6 Custody.

(a) *Priority of custody.* This section carries out section 3 (a) of the Act, subject to the limitations of § 10.15, regarding the custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal or tribal lands after November 16, 1990. For the purposes of this section, custody means ownership or control of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently in Federal or tribal lands after November 16, 1990. Custody of these human remains, funerary objects, sacred objects, or objects of cultural patrimony is, with priority given in the order listed:

(1) In the case of human remains and associated funerary objects, in the lineal descendant of the deceased individual as determined pursuant to § 10.14 (b);

(2) In cases where a lineal descendant cannot be ascertained or no claim is made, and with respect to unassociated funerary objects, sacred objects, and objects of cultural patrimony:

(i) In the Indian tribe on whose tribal land the human remains, funerary objects, sacred objects, or objects of cultural patrimony were discovered inadvertently;

(ii) In the Indian tribe or Native Hawaiian organization that has the closest cultural affiliation with the human remains, funerary objects, sacred objects, or objects of cultural patrimony as determined pursuant to § 10.14 (c); or

(iii) In circumstances in which the cultural affiliation of the human remains, funerary objects, sacred objects, or objects of cultural patrimony cannot be ascertained and the objects were discovered inadvertently on Federal land that is recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims as the aboriginal land of an Indian tribe:

(A) In the Indian tribe aboriginally occupying the Federal land on which the human remains, funerary objects, sacred objects, or objects of cultural patrimony were discovered inadvertently, or

(B) If it can be shown by a preponderance of the evidence that a different Indian tribe or Native Hawaiian organization has a stronger cultural relationship with the human remains, funerary objects, sacred objects, or objects of cultural patrimony, in the Indian tribe or Native Hawaiian organization that has the strongest demonstrated relationship with the objects.

(b) Custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony and other provisions of the Act apply to all intentional excavations and inadvertent discoveries made after November 16, 1990, including those made before the effective date of these regulations.

(c) *Final notice, claims and disposition with respect to Federal lands.* Upon determination of the lineal descendant, Indian tribe, or Native Hawaiian organization that under these regulations appears to be entitled to custody of particular human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands, the responsible Federal agency official must, subject to the notice required herein and the limitations of § 10.15, transfer custody of the objects to the lineal descendant, Indian tribe, or Native Hawaiian organization following appropriate procedures, which must respect traditional customs and practices of the affiliated Indian tribes or Native Hawaiian organizations in each instance. Prior to any such disposition by a Federal agency official, the Federal agency official must publish general notices of the proposed disposition in a newspaper of general circulation in the area in which the human remains, funerary objects, sacred objects, or objects of cultural patrimony were excavated intentionally or discovered inadvertently and, if applicable, in a newspaper of general circulation in the area(s) in which affiliated Indian tribes or Native Hawaiian organizations members now reside. The notice must provide information as to the nature and affiliation of the human remains, funerary objects, sacred objects, or objects of cultural patrimony and solicit further claims to custody. The notice must be published at least two (2) times at least a week apart, and the transfer must not take place until at least thirty (30) days after the publication of the second notice to allow time for any additional claimants to come forward. If additional claimants do come forward and the Federal agency official cannot clearly determine which claimant is entitled to custody, the Federal agency must not transfer custody of the objects until such time as the proper recipient is determined pursuant to these

regulations. The Federal agency official must send a copy of the notice and information on when and in what newspaper(s) the notice was published to the Departmental Consulting Archeologist.

§ 10.7 Disposition of unclaimed human remains, funerary objects, sacred objects, or objects of cultural patrimony. [Reserved]

Subpart C—Human remains, funerary objects, sacred objects, or objects of cultural patrimony in museums and Federal collections

§ 10.8 Summaries.

(a) *General.* This section carries out section 6 of the Act. Under section 6 of the Act, each museum or Federal agency that has possession or control over collections which may contain unassociated funerary objects, sacred objects, or objects of cultural patrimony must complete a summary of these collections based upon available information held by the museum or Federal agency. The purpose of the summary is to provide information about the collections to lineal descendants and culturally affiliated Indian tribes or Native Hawaiian organizations that may wish to request repatriation of such objects. The summary serves in lieu of an object-by-object inventory of these collections, although, if an inventory is available, it may be substituted. Federal agencies are responsible for ensuring that these requirements are met for all collections from their lands or generated by their actions whether the collections are held by the Federal agency or by a non-Federal institution.

(b) *Contents of summaries.* For each collection or portion of a collection, the summary must include: an estimate of the number of objects in the collection or portion of the collection; a description of the kinds of objects included; reference to the means, date(s), and location(s) in which the collection or portion of the collection was acquired, where readily ascertainable; and information relevant to identifying lineal descendants, if available, and cultural affiliation.

(c) *Completion.* Summaries must be completed not later than November 16, 1993.

(d) *Consultation.* (1) Consulting parties. Museum and Federal agency officials must consult with Indian tribe officials and traditional religious leaders:

(A) From whose tribal lands unassociated funerary objects, sacred objects, or objects of cultural patrimony originated;

(B) That are, or are likely to be, culturally affiliated with unassociated funerary objects, sacred objects, or objects of cultural patrimony; and

(C) From whose aboriginal lands unassociated funerary objects, sacred objects, or objects of cultural patrimony originated.

(2) Initiation of consultation. Museum and Federal agency officials must begin summary consultation no later than the completion of the summary process. Consultation may be initiated with a letter, but should be followed up by telephone or face-to-face dialogue with the appropriate Indian tribe official.

(3) Provision of information. During summary consultation, museum and Federal agency officials must provide copies of the summary to lineal descendants, when known, and to officials and traditional religious leaders representing Indian tribes or Native Hawaiian organizations that are, or are likely to be, culturally affiliated with the cultural items. A copy of the summary must also be provided to the Departmental Consulting Archeologist. Upon request by lineal descendants or Indian tribe officials, museum and Federal agency officials must provide lineal descendants, Indian tribe officials and traditional religious leaders with access to records, catalogues, relevant studies, or other pertinent data for the limited purposes of determining the geographic origin, cultural affiliation, and basic facts surrounding acquisition and accession of objects covered by the summary. Access to this information may be requested at any time and must be provided in a reasonable must be provided access to such materials.

(4) Requests for information. During the summary consultation, museum and Federal agency officials must request, as appropriate, the following information from Indian tribes and Native Hawaiian organizations that are, or are likely to be, culturally affiliated with their collections:

(i) Name and address of the Indian tribe official to act as representative in consultations related to particular objects;

(ii) Recommendations on how the consultation process should be conducted, including:

(A) Names and appropriate methods to contact any lineal descendants, if known, of individuals whose unassociated funerary objects or sacred objects are included in the summary;

(B) Names and appropriate methods to contact any traditional religious leaders that the Indian tribe or Native Hawaiian organization thinks should be consulted regarding the collections; and

(iii) Kinds of cultural items that the Indian tribe or Native Hawaiian organization considers to be sacred objects or objects of cultural patrimony.

(e) Museum and Federal agency officials must document the following information regarding unassociated funerary objects, sacred objects, and objects of cultural patrimony in their collections and must use this documentation in determining the individuals, Indian tribes, and Native Hawaiian organizations with which they are affiliated:

(1) Accession and catalogue entries;

(2) Information related to the acquisition of unassociated funerary object, sacred object, or object of cultural patrimony, including:

(i) the name of the person or organization from whom the object was obtained, if known;

(ii) The date of acquisition,

(iii) The place each object was acquired, i.e., name or number of site, county, state, and Federal agency administrative unit, if applicable; and

(iv) The means of acquisition, i.e., gift, purchase, or excavation;

(3) A description of each unassociated funerary object, sacred object, or object of cultural patrimony, including dimensions, materials, and photographic documentation, if appropriate, and the antiquity of such objects, if known;

(4) A summary of the evidence used to determine the cultural affiliation of the unassociated funerary objects, sacred objects, or objects of cultural patrimony pursuant to § 10.14 of these regulations.

(f) Notification. Repatriation of unassociated funerary objects, sacred objects, or objects of cultural patrimony to lineal descendants, culturally affiliated Indian tribes, or Native Hawaiian organizations as determined pursuant to § 10.10 (a), must not proceed prior to submission of a notice of intent to repatriate to the Departmental Consulting Archeologist, and publication of the notice of intent to repatriate in the **Federal Register**. The notice of intent to repatriate must describe the unassociated funerary objects, sacred objects, or objects of cultural patrimony being claimed in sufficient detail so as to enable other individuals, Indian tribes or Native Hawaiian organizations to determine their interest in the claimed objects. It must include information that identifies each claimed unassociated funerary object, sacred object, or object of cultural patrimony and the circumstances surrounding its acquisition, and describes the objects that are clearly identifiable as to cultural affiliation. It must also describe the objects that are not clearly identifiable as being culturally affiliated with a particular Indian tribe or Native Hawaiian organization, but which, given the totality of circumstances surrounding acquisition of the objects, are likely to be culturally affiliated with a particular Indian tribe or Native Hawaiian organization. The Departmental Consulting Archeologist must publish the notice of intent to repatriate in the **Federal Register**. Repatriation may not occur until at least thirty (30) days after publication of the notice of intent to repatriate in the Federal Register.

§ 10.9 Inventories.

(a) *General.* This section carries out section 5 of the Act. Under section 5 of the Act, each museum or Federal agency that has possession or control over holdings or collections of human remains and associated funerary objects must compile an inventory of such objects, and, to the fullest extent possible based on information possessed by the museum or Federal agency, must identify the geographical and cultural affiliation of each item. The purpose of the inventory is to facilitate repatriation by providing clear descriptions of human remains and associated funerary objects and establishing the cultural affiliation between these objects and present-day Indian tribes and Native Hawaiian organizations. Museums and Federal agencies are encouraged to produce inventories first on those portions of their collections for which information is readily available or about which Indian tribes or Native Hawaiian organizations have expressed special interest. Early focus on these parts of collections will result in determinations that may serve as models for other inventories. Federal agencies must ensure that these requirements are met for all collections from their lands or generated by their actions whether the collections are held by the Federal agency or by a non-Federal institution.

(b) *Consultation*—(1) *Consulting parties.* Museum and Federal agency officials must consult with:

(i) Lineal descendants of individuals whose remains and associated funerary objects are likely to be subject to the inventory provisions of these regulations; and

(ii) Indian tribe officials and traditional religious leaders:

(A) From whose tribal lands the human remains and associated funerary objects originated;

(B) That are, or are likely to be, culturally affiliated with human remains and associated funerary objects; and

(C) From whose aboriginal lands the human remains and associated funerary objects originated.

(2) *Initiation of consultation.* Museum and Federal agency officials must begin inventory consultation as early as possible, no later in the inventory process than the time at which investigation into the cultural affiliation of human remains and associated funerary objects is being conducted. Consultation may be initiated with a letter, but should be followed up by telephone or face-to-face dialogue.

(3) *Provision of information.* During inventory consultation, museums and Federal agency officials must provide the following information in writing to lineal descendants, when known, and to officials and traditional religious leaders representing Indian tribes or Native Hawaiian organizations that are, or are likely to be, culturally affiliated with the human remains and associated funerary objects.

(i) A list of all Indian tribes and Native Hawaiian organizations that are, or have been, consulted regarding the particular human remains and associated funerary objects;

(ii) A general description of the conduct of the inventory;

(iii) The projected time frame for conducting the inventory; and

(iv) An indication that additional documentation used to identify cultural affiliation will be supplied upon request.

(4) *Requests for information.* During the inventory consultation, museum and Federal agency officials must request, as appropriate, the following information from Indian tribes and Native Hawaiian organizations that are, or are likely to be, culturally affiliated with their collections:

(i) Name and address of the Indian tribe official to act as representative in consultations related to particular human remains and associated funerary objects;

(ii) Recommendations on how the consultation process should be conducted, including:

(A) Names and appropriate methods to contact any lineal descendants of individuals whose remains and associated funerary objects are or are likely to be included in the inventory; and

(B) Names and appropriate methods to contact traditional religious leaders who should be consulted regarding the human remains and associated funerary objects.

(iii) Kinds of cultural objects that the Indian tribe or Native Hawaiian organization reasonably believes to have been made exclusively for burial purposes or to contain human remains of their ancestors.

(c) *Required information.* The following documentation must be included, if available, for all inventories completed by museum or Federal agency officials:

(1) Accession and catalogue entries, including the accession/catalogue entries of human remains with which funerary objects were associated;

(2) Information related to the acquisition of each object, including:

(i) the name of the person or organization from whom the object was obtained, if known;

(ii) The date of acquisition,

(iii) The place each object was acquired, i.e., name or number of site, county, state, and Federal agency administrative unit, if applicable; and

(iv) The means of acquisition, i.e., gift, purchase, or excavation;

(3) A description of each set of human remains or associated funerary object, including dimensions, materials, and, if appropriate, photographic documentation, and the antiquity of such human remains or associated funerary objects, if known;

(4) A summary of the evidence, including the results of consultation, used to determine the cultural affiliation of the human remains and associated funerary objects pursuant to § 10.14 of these regulations.

(d) *Documents.* Two separate documents comprise the inventory:

(1) A listing of all human remains and associated funerary objects that are identified as being culturally affiliated with one or more present-day Indian tribes or Native Hawaiian organizations. The list must indicate for each item or set of items whether cultural affiliation is clearly determined or likely based upon the preponderance of the evidence; and

(2) A listing of all culturally unidentifiable human remains and associated funerary objects for which no culturally affiliated present-day Indian tribe or Native Hawaiian organization can be determined.

(e) *Notification.* (1) If the inventory results in the identification or likely identification of the cultural affiliation of any particular human remains or associated funerary objects with one or more Indian tribes or Native Hawaiian organizations, the museum or Federal agency, not later than six (6) months after completion of the inventory, must send such Indian tribes or Native Hawaiian organizations the inventory of culturally affiliated human remains, including all information required

under § 10.9 (c), and a notice of inventory completion that summarizes the results of the inventory.

(2) The notice of inventory completion must summarize the contents of the inventory in sufficient detail so as to enable the recipients to determine their interest in claiming the inventoried items. It must identify each particular set of human remains or each associated funerary object and the circumstances surrounding its acquisition, describe the human remains or associated funerary objects that are clearly identifiable as to cultural affiliation, and describe the human remains and associated funerary objects that are not clearly identifiable as being culturally affiliated with an Indian tribe or Native Hawaiian organization, but which, given the totality of circumstances surrounding acquisition of the human remains or associated objects, are identified as likely to be culturally affiliated with a particular Indian tribe or Native Hawaiian organization.

(3) If the inventory results in a determination that the human remains are of an identifiable individual, the museum or Federal agency official must convey this information to the lineal descendant of the deceased individual, if known, and to the Indian tribe or Native Hawaiian organization of which the deceased individual was culturally affiliated.

(4) The notice of inventory completion and a copy of the inventory must also be sent to the Departmental Consulting Archeologist. These submissions should be sent in both printed hard copy and electronic formats. Information on the proper format for electronic submission and suggested alternatives for museums and Federal agencies unable to meet these requirements are available from the Departmental Consulting Archeologist.

(5) Upon request by an Indian tribe or Native Hawaiian organization that has received or should have received a notice of inventory completion and a copy of the inventory as described above, a museum or Federal agency must supply additional available documentation to supplement the information provided with the notice. For these purposes, the term documentation means a summary of existing museum or Federal agency records including inventories or catalogues, relevant studies, or other pertinent data for the limited purpose of determining the geographical origin, cultural affiliation, and basic facts surrounding the acquisition and accession of human remains and associated funerary objects.

(6) If the museum or Federal agency official determines that the museum or Federal agency has possession of or control over human remains that cannot be identified as affiliated with a particular individual, Indian tribes or Native Hawaiian organizations, the museum or Federal agency must provide the Department Consulting Archeologist notice of this result and a copy of the list of culturally unidentifiable human remains and associated funerary objects. The Departmental Consulting Archeologist must make this information available to members of the Review Committee. Section 10.11 of these regulations will set forth procedures for disposition of culturally unidentifiable human remains of Native American origin. Museums or Federal agencies must retain possession of such human remains pending promulgation of § 10.11 unless legally required to do otherwise, or recommended to do otherwise by the Secretary. Recommendations regarding the disposition of culturally unidentifiable human remains may be requested prior to final promulgation of § 10.11.

(7) The Departmental Consulting Archeologist must publish notices of inventory completion received from museums and Federal agencies in the **Federal Register**.

(f) *Completion.* Inventories must be completed not later than November 16, 1995. Any museum that has made a good faith effort to complete its inventory, but which will be unable to complete the process by this deadline, may request an extension of the time requirements from the Secretary. An indication of good faith efforts must include, but not necessarily be limited to, the initiation of active consultation and documentation regarding the collections and the development of a written plan to carry out the inventory process. Minimum components of an inventory plan are: a definition of the steps required; the position titles of the persons responsible for each step; a schedule for carrying out the plan; and a proposal to obtain the requisite funding.

§ 10.10 Repatriation.

(a) *Unassociated funerary objects, sacred objects, and objects of cultural patrimony*—(1) *Criteria.* Upon the request of a lineal descendant, Indian tribe, or Native Hawaiian organization, a museum or Federal agency must expeditiously repatriate unassociated funerary objects, sacred objects, or objects of cultural patrimony if all the following criteria are met:

(i) The object meets the definitions established in § 10.2 (b) (4), (5) or (6); and

(ii) The cultural affiliation of the object is established:

(A) through the summary, consultation, and notification procedures in § 10.14 of these regulations; or

(B) by presentation of a preponderance of the evidence by a requesting Indian tribe or Native Hawaiian organization pursuant to section 7(c) of the Act; and

(iii) The known lineal descendant or culturally affiliated Indian tribe or Native Hawaiian organization presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the museum or Federal agency does not have a right of possession to the objects as defined in § 10.10 (a)(2); and

(iv) The agency or museum is unable to present evidence to the contrary proving that it does have a right of possession as defined below; and

(v) None of the specific exceptions listed in § 10.10 (c) apply.

(2) *Right of possession.* For purposes of this section, "right of possession" means possession obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American unassociated funerary object, sacred object, or object of cultural patrimony from an Indian tribe or Native Hawaiian organization with the voluntary consent of an individual or group with authority to alienate such object is deemed to give right of possession to that object.

(3) *Notification.* Repatriation must take place within ninety (90) days of receipt of a written request for repatriation that satisfies the requirements of § 10.10 (a)(1) from a culturally affiliated Indian tribe or Native Hawaiian organization, provided that the repatriation may not occur until at least thirty (30) days after publication of the notice of intent to repatriate in the **Federal Register** as described in § 10.8.

(b) *Human remains and associated funerary objects*—(1) *Criteria.* Upon the request of a lineal descendant, Indian tribe, or Native Hawaiian organization, a museum and Federal agency must expeditiously repatriate human remains and associated funerary objects if all of the following criteria are met:

(i) The human remains or associated funerary object meets the definitions established in § 10.2 (b)(1) or (b)(3); and

(ii) The affiliation of the deceased individual to known lineal descendant, present day Indian tribe, or Native Hawaiian organization:

(A) has been reasonably traced through the procedures outlined in § 10.9 and § 10.14 of these regulations; or

(B) has been shown by a preponderance of the evidence presented by a requesting Indian tribe or Native Hawaiian organization pursuant to section 7(c) of the Act; and

(iii) None of the specific exceptions listed in § 10.10 (c) apply.

(2) *Notification.* Repatriation must take place within ninety (90) days of receipt of a written request for repatriation that satisfies the requirements of § 10.10 (b)(1) from the culturally affiliated Indian tribe or Native Hawaiian organization, provided that the repatriation may not occur until at least thirty (30) days after publication of the notice of inventory completion in the **Federal Register** as described in § 10.9.

(c) *Exceptions.* These requirements for repatriation do not apply to:

(1) Circumstances where human remains, funerary objects, sacred objects, or objects of cultural patrimony are indispensable to the completion of a specific scientific study, the outcome of which is of major benefit to the United States. Human remains, funerary objects, sacred objects, or objects of cultural patrimony in such circumstances must be returned no later than ninety (90) days after completion of the study; or

(2) Circumstances where there are multiple requests for repatriation of human remains, funerary objects, sacred objects, or objects of cultural patrimony and the museum or Federal agency, after complying with these regulations, cannot determine by a preponderance of the evidence which requesting party is the most appropriate claimant. In such circumstances, the museum or Federal agency may retain the human remains, funerary objects, sacred objects, or objects of cultural patrimony until such time as the requesting parties mutually agree upon the appropriate recipient or the dispute is otherwise resolved pursuant to these regulations or as ordered by a court of competent jurisdiction; or

(3) Circumstances where a court of competent jurisdiction has determined that the repatriation of the human remains, funerary objects, sacred objects, or objects of cultural patrimony in the possession or control of a museum would result in a taking of property without just compensation within the meaning of the Fifth Amendment of the United States Constitution, in which event the custody of the objects must be as provided under otherwise applicable law. Nothing in these regulations must prevent a museum or Federal agency, where otherwise so authorized, or a lineal descendant, Indian tribe, or Native Hawaiian organization, from expressly relinquishing title to, right of possession of, or control over any human remains, funerary objects, sacred objects, or objects of cultural patrimony.

(4) Circumstances where the repatriation is not consistent with other repatriation limitations identified in § 10.15 of these regulations.

(d) *Place and manner of repatriation.* The repatriation of human remains, funerary objects, sacred objects, or objects of cultural patrimony must be accomplished by the museum or Federal agency in consultation with the requesting lineal descendants, or culturally affiliated Indian tribe or Native Hawaiian organization, as appropriate, to determine the place and manner of the repatriation.

(e) The museum official or Federal agency official must inform the recipients of repatriations of any presently known treatment of the human remains, funerary objects, sacred objects, or objects of cultural patrimony with pesticides, preservatives, or other substances that represent a potential hazard to the objects or to persons handling the objects.

(f) *Record of repatriation.* (1) Museums and Federal agencies must adopt internal procedures adequate to permanently document the content and recipients of all repatriations.

(2) The museum official or Federal agency official, at the request of the Indian tribe official, may take such steps as are considered necessary pursuant to otherwise applicable law, to ensure that information of a particularly sensitive nature is not made available to the general public.

(g) *Culturally unidentifiable human remains.* If the cultural affiliation of human remains cannot be established pursuant to these regulations, the human remains must be considered culturally unidentifiable. Museum and Federal agency officials must report the inventory information regarding such human remains in their holdings to the Departmental Consulting Archeologist who will transmit this information to the Review Committee. The Review Committee is responsible for compiling an inventory of culturally unidentifiable human remains in the possession or control of each museum and Federal agency, and, for recommending to the Secretary specific actions for disposition of such human remains.

§ 10.11 Disposition of culturally unidentifiable human remains. [Reserved]

§ 10.12 Civil penalties. [Reserved]

§ 10.13 Future applicability. [Reserved]

Subpart D—General

§ 10.14 Lineal descent and cultural affiliation.

(a) *General.* This section identifies procedures for determining lineal descent and cultural affiliation between present-day individuals and Indian tribes or Native Hawaiian organizations and human remains, funerary objects, sacred objects, or objects of cultural patrimony in museum or Federal agency collections or excavated intentionally or discovered inadvertently from Federal lands. They may also be used by Indian tribes and Native Hawaiian organizations with respect to tribal lands.

(b) *Criteria for determining lineal descent.* A lineal descendant is an individual tracing his or her ancestry directly and without interruption by means of the traditional kinship system of the appropriate Indian tribe or Native Hawaiian organization or by the common law system of descendence to a known Native American individual whose remains, funerary objects, or sacred objects are being requested under these regulations. This standard requires that the earlier person be identified as an individual whose descendants can be traced.

(c) *Criteria for determining cultural affiliation.* Cultural affiliation means a relationship of shared group identity that may be reasonably traced historically or prehistorically between a present-day Indian tribe or Native Hawaiian organization and an identifiable earlier group. All of the following requirements must be met to determine cultural affiliation between a present-day Indian tribe or Native Hawaiian organization and the human remains, funerary objects, sacred objects, or objects of cultural patrimony of an earlier group:

(1) Existence of an identifiable present-day Indian tribe or Native Hawaiian organization with standing under these regulations and the Act; and

(2) Evidence of the existence of an identifiable earlier group. Support for this requirement may include, but is not necessarily limited to evidence sufficient to:

(i) Establish the identity and cultural characteristics of the earlier group,

(ii) Document distinct patterns of material culture manufacture and distribution methods for the earlier group, or

(iii) Establish the existence of the earlier group as a biologically distinct population; and

(3) Evidence of the existence of a shared group identity that can be reasonably traced between the present-day Indian tribe or Native Hawaiian organization and the earlier group. Evidence to support this requirement must establish that a present-day Indian tribe or Native Hawaiian organization has been identified from prehistoric or historic times to the present as descending from the earlier group.

(d) A finding of cultural affiliation should be based upon an overall evaluation of the totality of the circumstances and evidence pertaining to the connection between the claimant and the material being claimed and should not be precluded solely because of some gaps in the record.

(e) *Evidence.* Evidence of a kin or cultural affiliation between a present-day individual, Indian tribe, or Native Hawaiian organization and human remains, funerary objects, sacred objects, or objects of cultural patrimony must be established by using the following types of evidence: Geographical, kinship, biological, archeological, anthropological, linguistic, folklore, oral tradition, historical, or other relevant information or expert opinion.

(f) *Standard of proof.* Lineal descent of a present-day individual from an earlier individual and cultural affiliation of a present-day Indian tribe or Native Hawaiian organization to human remains, funerary objects, sacred objects, or objects of cultural patrimony must be established by a preponderance of the evidence. Claimants do not have to establish cultural affiliation with scientific certainty.

§ 10.15 Repatriation limitations and remedies.

(a) *Failure to claim prior to repatriation.* (1) Any person who fails to make a timely claim prior to the repatriation or transfer of human remains, funerary objects, sacred objects, or objects of cultural patrimony is deemed to have irrevocably waived any right to claim such items pursuant to these regulations or the Act. For these purposes, a "timely claim" means the filing of a written claim with a responsible museum or Federal agency official prior to the time the particular human remains, funerary objects, sacred objects, or objects of cultural patrimony at issue are duly repatriated or disposed of to a claimant by a museum or Federal agency pursuant to these regulations.

(2) If there is more than one (1) claimant, the human remains, funerary object, sacred object, or objects of cultural patrimony may be held by the responsible museum or Federal agency or person having custody thereof pending resolution of the claim. Any person who has custody of such human remains, funerary objects, sacred objects, or objects of cultural patrimony and does not claim entitlement to them must place the objects in the custody of the responsible museum or Federal agency for retention until the question of custody is resolved.

(b) *Failure to claim where no repatriation or disposition has occurred. [Reserved]*

(c) *Exhaustion of remedies.* No person is considered to have exhausted his or her administrative remedies with respect to the repatriation or disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony subject to subpart B of these regulations, or, with respect to Federal lands, subpart C of these regulations, until such time as the person has filed a written claim for repatriation or disposition of the objects with the responsible museum or Federal agency and the claim has been duly denied following these regulations.

(d) *Savings provisions.* Nothing in these regulations can be construed to:

(1) Limit the authority of any museum or Federal agency to:

(i) Return or repatriate human remains, funerary objects, sacred objects, or objects of cultural patrimony to Indian tribes, Native Hawaiian organizations, or individuals; and

(ii) Enter into any other agreement with the consent of the culturally affiliated Indian tribe or Native Hawaiian organization as to the disposition of, or control over, human remains, funerary objects, sacred objects, or objects of cultural patrimony.

(2) Delay actions on repatriation requests that were pending on November 16, 1990;

(3) Deny or otherwise affect access to court;

(4) Limit any procedural or substantive right which may otherwise be secured to individuals or Indian tribes or Native Hawaiian organizations; or

(5) Limit the application of any State or Federal law pertaining to theft of stolen property.

§ 10.16 Review committee.

(a) *General.* The Review Committee will advise Congress and the Secretary on matters relating to these regulations and the Act, including, but not limited to, monitoring the performance of museums and Federal agencies in carrying out their responsibilities, facilitating and making recommendations on the resolution of disputes as described further in § 10.17, and compiling a record of culturally unidentifiable human remains that are in the possession or control of museums and Federal agencies and recommending actions for their disposition.

(b) *Recommendations.* Any recommendation, finding, report, or other action of the Review Committee is advisory only and not binding on any person. Any records and findings made by the Review Committee may be admissible as evidence in actions brought by persons alleging a violation of the Act.

§ 10.17 Dispute resolution.

(a) *Formal and informal resolutions.* Any person who wishes to contest actions taken by museums, Federal agencies, Indian tribes, or Native Hawaiian organizations with respect to the repatriation and disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony is encouraged to do so through informal negotiations to achieve a fair resolution of the matter. The Review Committee may aid in this regard as described below. In addition, the United States District Courts have jurisdiction over any action brought that alleges a violation of the Act.

(b) *Review Committee Role.* The Review Committee may facilitate the informal resolution of disputes relating to these regulations among interested parties that are not resolved by good faith negotiations. Review Committee actions may include convening meetings between parties to disputes, making advisory findings as to contested facts, and making recommendations to the disputing parties or to the Secretary as to the proper resolution of disputes consistent with these regulations and the Act.

Appendix A to Part 10—Sample Summary

The following is a generic sample and should be used as a guideline for preparation of summaries tailoring the information to the specific circumstances of each case.

Before November 17, 1993
Chairman or Other Authorized Official
Indian tribe or Native Hawaiian organization
Street
State
Dear Sir/Madame Chair:

I write to inform you of collections held by our museum which may contain unassociated funerary objects, sacred objects, or objects of cultural patrimony that are, or are likely to be, culturally affiliated with your Indian tribe or Native Hawaiian organization. This notification is required by section 6 of the Native American Graves Protection and Repatriation Act.

Our ethnographic collection includes approximately 200 items specifically identified as being manufactured or used by members of your Indian tribe or Native Hawaiian organization. These items represent various categories of material culture, including sea and land hunting, fishing, tools, household equipment, clothing, travel and transportation, personal adornment, smoking, toys, and figurines. The collection includes thirteen objects identified in our records as "medicine bags."

Approximately half of these items were collected by John Doe during his expedition to your reservation in 1903 and accessioned by the museum that same year (see Major Museum Publication, no. 65 (1965).

Another 50 of these items were collected by Jane Roe during her expeditions to your reservation between 1950–1960 and accessioned by the museum in 1970 (see Major Museum: no. 75 (1975). Accession information indicates that several of these items were collected from members of the Able and Baker families.

For the remaining approximately 50 items, which were obtained from various collectors between 1930 and 1980, additional collection information is not readily available.

In addition to the above mentioned items, the museum has approximately 50 ethnographic items obtained from the estate of a private collector and identified as being collected from the "northwest portion of the State."

Our archeological collection includes approximately 1,500 items recovered from ten archeological sites on your reservation and another 5,000 items from fifteen sites within the area recognized by the Indian Claims Commission as being part of your Indian tribe's aboriginal territory.

Please feel free to contact Fred Poe at (012) 345–6789 regarding the identification and potential repatriation of unassociated funerary objects, sacred objects, or objects of cultural patrimony in this collection that are, or are likely to be, culturally affiliated with your Indian tribe or Native Hawaiian organization. You are invited to review our records, catalogues, relevant studies or other pertinent data for the purpose of determining the geographic origin, cultural affiliation, and basic facts surrounding acquisition and accession of these items. We look forward to working together with you.

Sincerely,
Museum Official
Major Museum

Appendix B to Part 10—Sample Notice of Inventory Completion

The following is an example of a Notice of Inventory Completion published in the **Federal Register**.

National Park Service
Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Hancock County, ME, in the Control of the National Park Service.

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given following provisions of the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003(d), of completion of the inventory of human remains and associated funerary objects from a site in Hancock County, ME, that are presently in the control of the National Park Service.

A detailed inventory and assessment of these human remains has been made by National Park Service curatorial staff, contracted specialists in physical anthropology and prehistoric archeology, and representatives of the Penobscot Nation, Aroostook Band of Micmac, Houlton Band of Maliseet, and the Passamaquoddy Nation, identified collectively hereafter as the Wabanaki Tribes of Maine.

The partial remains of at least seven individuals (including five adults, one subadult, and one child) were recovered in 1977 from a single grave at the Fernald Point Site (ME Site 43–24), a prehistoric shell midden on Mount Desert Island, within the boundary of Acadia National Park. A bone harpoon head, a modified beaver tooth, and several animal and fish bone fragments were found associated with the eight individuals. Radiocarbon assays indicate the burial site dates between 1035–1155 AD. The human remains and associated funerary objects have been catalogued as ACAD–5747, 5749, 5750, 5751, 5752, 5783, 5784. The partial remains of an eighth individual (an elderly male) was also recovered in 1977 from a second grave at the Fernald Point Site. No associated funerary objects were recovered with this individual. Radiocarbon assays indicate the second burial site dates between 480–680 AD. The human remains have been catalogued as ACAD–5748. The human remains and associated funerary objects of all nine individuals are currently in the possession of the University of Maine, Orono, ME.

Inventory of the human remains and associated funerary objects and review of the accompanying documentation indicates that no known individuals were identifiable. A representative of the Wabanaki Tribes of Maine has identified the Acadia National Park area as a historic gathering place for his people and stated his belief that there exists a relationship of shared group identity between these individuals and the Wabanaki Tribes of Maine. The Prehistoric Subcommittee of the Maine State Historic Preservation Office's Archaeological Advisory Committee has found it reasonable to trace a shared group identity from the Late Prehistoric Period (1000–1500 AD) inhabitants of Maine as an undivided whole to the four modern Indian tribes known collectively as the Wabanaki Tribes of Maine on the basis of geographic proximity; survivals of stone, ceramic and perishable material culture skills; and probable linguistic continuity across the Late Prehistoric/Contact Period boundary. In a 1979 article, Dr. David Sanger, the archeologist who conducted the 1977 excavations at the Fernald Point Site and uncovered the abovementioned burials, recognizes a relationship between Maine sites dating to the Ceramic Period (2,000 B.P.–1600 A.D.) and present-day Algonkian speakers generally known as Abenakis, including the Micmac, Maliseet, Passamaquoddy, Penboscot, Kennebec, and Pennacook groups.

Based on the above mentioned information, officials of the National Park Service have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these human remains and associated funerary objects and the Wabanaki Tribes of Maine.

This notice has been sent to officials of the Wabanaki Tribes of Maine. Representatives of any other Indian tribe which believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Len Bobinchock, Acting Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, ME 04609, telephone: (207) 288–0374, before August 31, 1994. Repatriation of these human remains and associated funerary objects to the Wabanaki Tribes of Maine may begin after that date if no additional claimants come forward.

Dated: July 21, 1994

Francis P. McManamon,
Departmental Consulting Archeologist, Chief, Archeological Assistance Division.

[Published: August 1, 1994]

George T. Frampton, Jr.,
Assistant Secretary for Fish and Wildlife and Parks.

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December 4, 1995

Part III

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 29, et al.
Removal of U.S. Grade Standards and Other Selected Regulations; Interim Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 29, 31, 32, 51, 52, 53, 54, 56, 58, 70, and 160

[Docket Number FV–95–303]

Removal of U.S. Grade Standards and Other Selected Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule will remove most of the voluntary U.S. grade standards and other selected regulations covering a number of agricultural commodities (dairy products, tobacco, wool, mohair, fresh and processed fruits and vegetables, livestock, meats and meat products, eggs, and poultry and rabbit products) from the Code of Federal Regulations (CFR). These are an accumulation of regulations which have been developed for more than 75 years to facilitate the marketing of agricultural commodities by providing a uniform language which may be used to describe the quality of various agricultural commodities as valued in the marketplace. The voluntary standards and all subsequent revisions or new standards will be made available in a separate publication, except for wool and mohair standards. These standards and related regulations will be removed from the CFR and will no longer be available since there is no demand for services pertaining to wool or mohair. This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

In carrying out this responsibility, the Administrator of the Agricultural Marketing Service (AMS), will ensure that proposed, new or revised voluntary standards will appear in the "Notices" section of the **Federal Register** and that the public will have an opportunity to comment. AMS will maintain the existing numbering system in the voluntary standards. The standards for the various commodities will continue to be administered by each commodity division within AMS.

EFFECTIVE DATE: December 4, 1995. Comments must be received by February 2, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be submitted in duplicate, signed, include the address of the sender, and should bear reference to the date and page number of this issue of the **Federal Register**. Commentors are encouraged to include definitive information which explains and supports the sender's views. Written comments may be mailed to Eric Forman, Deputy Director, Fruit and Vegetable Division, USDA, AMS, Room 2085–S, P.O. Box 96456, Washington, DC 20090–6456.

Comments will be available for public inspection during regular business hours in Room 2085–South Building; 14th Street and Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Eric Forman (202) 690–0262.

SUPPLEMENTARY INFORMATION: This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Executive Order 12866

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. This rule is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

Effect on Small Entities

This action was reviewed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The Administrator of (AMS) has determined that this action will not have a significant economic impact on a substantial number of small entities. Although this action will remove provisions from the CFR, small entities should see no changes as the standards will be administered under the direction of the Administrator to ensure public input to their formulation and convenient availability to those who want copies of the standards.

Paperwork Reduction Act

In accordance with the provisions of the Paperwork Reduction Act, the information collection requirements contained in the provisions to be amended have been previously approved by the Office of Management and Budget.

Background

The Secretary of Agriculture is authorized under various statutes to provide Federal grading/certification services and to develop and establish efficient marketing methods and practices of agricultural commodities. The ultimate goal being to facilitate the efficient marketing of agricultural commodities and enable consumers to obtain the quality of products they desire at a reasonable cost. For more than 75 years, AMS has facilitated the marketing of agricultural commodities by developing official U.S. grade standards which provide a uniform language that may be used to describe the characteristics of more than 450 commodities as valued by the marketplace. These standards are widely used in private contracts, government procurement, marketing communication and, for some commodities, consumer information.

Although use of most of the U.S. standards is voluntary, they have through the years been promulgated as regulations and codified in the CFR. Rapid changes in consumer preferences, together with associated changes in commodity characteristics, processing technology, and marketing practices have outpaced the revision or issuance of regulations. As a result, industry and the marketplace have been in some instances burdened with outdated trading language. The President's regulatory review initiative has provided the impetus to develop new approaches to meet more effectively the needs of U.S. industry, government agencies, and consumers and still reduce the regulatory burden. To meet this initiative, regulations that are currently in the CFR which could be administered under the authority of AMS are being removed from the CFR. With respect to the official grade standards, this includes all the standards except those which are currently in the rulemaking process, incorporated by reference in marketing orders/agreements appearing at 7 CFR Parts 900 through 999, or those used to implement government price support. Those grade standard regulations will continue to appear in the CFR, although the text will also be available as AMS standards along with all other grade standards, except for wool and mohair standards. These standards and related regulations will be removed from the CFR and will no longer be available since there is no demand for services pertaining to wool or mohair.

This rule eliminates selected regulations which encompass approximately 1,200 pages of the CFR covering: Standards for dairy products; tobacco standards; wool standards; mohair standards; U.S. and consumer standards for fresh fruits, vegetables, nuts and other special products; uniform grade nomenclature; specifications for the classification of damaged or repaired packages of fresh fruits and vegetable; standards for inspection of variables; standards for determination of fill weights; standards for processed fruits and vegetables and related products; livestock, meats, prepared meats and meat products; standards for grades and weight classes for shell eggs; classes, standards and grades for poultry products and rabbit products; and, standards for naval stores.

Separated by Division, the following is an outline of those standards or other regulations being removed from the CFR, those that will remain in the CFR and the reason they are not being removed.

Administered by the Tobacco Division

7 Part 29	Tobacco Inspection
	Standards Being Removed From CFR
CFR Section	**Title**
29.3251–3401	Official Standard Grades for Maryland Broadleaf Tobacco.
29.4251–4391	Official Standard Grades for Pennsylvania Seedleaf Tobacco.
29.4501–4656	Official Standard Grades for Ohio Cigar-Leaf Tobacco.
29.5251–5386	Official Standard Grades for Puerto Rican Cigar-Filler Tobacco.
29.5501–5656	Official Standard Grades for Connecticut Valley Cigar-Binder Tobacco.
29.6001–6161	Official Standard Grades for Wisconsin Cigar-Binder Tobacco.
29.6251–6411	Official Standard Grades for Connecticut Valley Shade-Grown Cigar-Wrapper Tobacco.
29.6501–6661	Official Standard Grades for Georgia and Florida Shade-Grown Cigar-Wrapper Tobacco.
	Standards Being Retained in CFR Because They are Currently Referenced in Government Price Support Programs
29.1001–1225	Official Standard Grades for Flue-Cured Tobacco.
29.2251–2481	Official Standard Grades for Virginia Fire-Cured Tobacco.
29.2501–2696	Official Standard Grades for Kentucky and Tennessee Fire-Cured and Foreign-Grown Fire-Cured Tobacco.
29.3001–3182	Official Standard Grades for Burley Tobacco.
29.3501–3686	Official Standard Grades for Dark Air-Cured Tobacco.
7 CFR 160	Regulations and Standards For Naval Stores.
	Standards Being Removed From CFR
CFR Section	**Title**
160.301–305	Standards
	Appendix A to Part 160—Standard Specifications for Spirits of Turpentine.
	Appendix B to Part 160—Colorimetric Specifications for U.S. Rosin Standards (Master Cubes XA, XB, and XC).

Administered by the Livestock and Seed Division

7 Part 31	Wool Standards.
	Standards Being Removed From the CFR
31.0–16	Official Standards of the United States for grades of wool.
31.100–116	Official Standards of the United States for grades of wool top.
31.200–201	Definitions.
31.202–204	Methods for determining Grade of Wool.
31.300–302	Methods for determining grade of wool top.
31.400–402	Samples representative of official grade standards of the United States for wool and wool top.
7 Part 32	Mohair Standards.
32.1	Official Standards of the United States for grades of grease mohair.
32.100	Official Standards of the United States for grades of mohair top.
32.200–201	Definitions.
32.202–205	Methods for determining grade of grease mohair.
32.300–302	Methods for determining grade of mohair top.
32.400–403	Samples representative of official grade standards of the United States for grease mohair.
7 Part 53	Livestock (Grading, Certification, and Standards).
	Subpart B—Standards.
53.120–124	Vealers and slaughter calves.
53.130–136	Slaughter lambs, yearlings, and sheep.
53.150–159	Swine.
53.208–212	Cattle.
7 Part 54	Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards).
	Subpart B— Standards.
54.112–117	Veal and calf carcasses.
54.121–127	Lamb, yearling mutton, and mutton carcasses.
54.131–137	Pork carcasses.
	Regulations Being Retained in CFR Because They Provide Operational Regulations.
7 Part 53	Livestock (Grading, Certification, and Standards).
	Subpart A—Regulations.
53.1–53.2	Definitions.
53.3	Administration.
53.4–17	Service.

53.18–19	Charges for Service.
53.20–21	Miscellaneous.
7 Part 54	Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards).
	Subpart A—Regulations.
54.1–2	Definitions.
54.3	Administration.
54.4–18	Service.
54.19–26	Appeal service.
54.27–28	Charges for service.
54.29–31	Miscellaneous.

Standards Being Temporarily Retained in the CFR Because They Are Currently in Rulemaking

7 Part 53	Livestock (Grading, Certification, and Standards).
	Subpart B—Standards
53.201–206	Cattle
7 Part 54	Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards).
	Subpart B—Standards.
54.102–107	Carcass beef.

Administered by the Poultry Division

7 Part 56	Grading of Shell Eggs and U.S. Standards, Grades, and Weight Classes for Shell Eggs

Standards Being Removed From CFR

CFR Section	Title
	Subpart B—(Reserved)
56.200–234	Subpart C—United States Standards, Grades, and Weight Classes for Shell Eggs.
	Regulations Being Retained in CFR Because They Provide Operational Regulations, etc.
56.1–177	Subpart A—Grading of Shell Eggs.
7 Part 70	Voluntary Grading of Poultry Products and Rabbit Products and U.S. Classes, Standards, and Grades.

Standards Being Removed From CFR

CFR Section	Title
70.200–271	Subpart B—United States Classes, Standards, and Grades for Poultry.
70.300–332	Subpart C—United States Classes, Standards, and Grades for Rabbits.
	Regulations Being Retained in CFR Because They Provide Operational Regulations.
70.1–110	Subpart A—Grading of Poultry Products and Rabbit Products.

Administered by the Fresh Products Branch, Fruit and Vegetable Division

7 Part 51	Fresh Fruits, Vegetables and Other Products (Inspection, Certification, and Standards)

Standards Being Removed From CFR

51.100–299	Subpart—United States Standards for Grades of Fresh Fruits, Vegetables, Nuts and Other Special Products Uniform Grade Nomenclature.
51.300–339	Subpart—United States Standards for Grades of Apples.
51.340–354	Subpart—United States Standards for Grades of Apples for Processing.
51.355–374	Subpart—United States Standards for Fresh Shelled Lima Beans for Processing.
51.375–399	Subpart—United States Standards for Beets.
51.400–424	Subpart—United States Consumer Standards for Italian Sprouting Broccoli.
51.425–449	Subpart—United States Standards for Broccoli for Processing.
51.450–474	Subpart—United States Standards for Cabbage.
51.495–519	Subpart—United States Consumer Standards for Fresh Carrots.
51.520–539	Subpart—United States Standards for Collard Greens or Broccoli Greens.
51.540–559	Subpart—United States Standards for Cauliflower.
51.810–834	Subpart—United States Consumer Standards for Husked Corn on the Cob.
51.835–859	Subpart—United States Standards for Grades of Sweet Corn.
51.860–879	Subpart—United States Standards for Berries for Processing.
51.925–974	Subpart—United States Standards for Grapefruit (California and Arizona).
51.975–999	Subpart—United States Consumer Standards for Fresh Kale.
51.1030–1054	Subpart—United States Standards for Mustard Greens and Turnip Greens.
51.1055–1084	Subpart—United States Standards for Common Green Onions.
51.1085–1139	Subpart—United States Standards for Oranges (California and Arizona).
51.1345–1374	Subpart—United States Standards for Pears for Canning.
51.1375–1399	Subpart—United States Standards for Fresh Peas.
51.1465–1484	Subpart—United States Standards for Sweet Peppers for Processing.
51.1485–1519	Subpart—United States Standards for Grades of Pineapples.
51.1600–1629	Subpart—United States Standards for Grades of Sweetpotatoes.
51.1630–1659	Subpart—United States Standards for Shallots (Bunched).
51.1660–1684	Subpart—United States Standards for Sweetpotatoes for Canning or Freezing.
51.1685–1709	Subpart—United States Standards for Sweetpotatoes for Dicing or Pulping.
51.1710–1729	Subpart—United States Standards for Raspberries for Processing.
51.1730–1749	Subpart—United States Standards for Spinach Leaves (Fresh).
51.1750–1769	Subpart—United States Consumer Standards for Fresh Spinach Leaves.
51.1770–1809	Subpart—United States Standards for Tangerines.

51.1930–1949	Subpart—United States Standards for Green Tomatoes for Processing.
51.1950–1969	Subpart—United States Standards for Currants for Processing.
51.1970–1994	Subpart—United States Standards for Grades of Watermelons.
51.2025–2049	Subpart—United States Standards for Blueberries for Processing.
51.2050–2074	Subpart—United States Consumer Standards for Brussels Sprouts.
51.2150–2189	Subpart—United States Standards for Grades of Grapes for Processing and Freezing.
51.2190–2219	Subpart—United States Standards for Eggplant.
51.2220–2249	Subpart—United States Standards for Cucumbers.
51.2250–2274	Subpart—United States Standards for Brussels Sprouts.
51.2310–2334	Subpart—United States Consumer Standards for Fresh Parsnips.
51.2360–2394	Subpart—United States Standards for Grades of Topped Carrots.
51.2395–2424	Subpart—United States Standards for Grades of Radishes.
51.2425–2454	Subpart—United States Consumer Standards for Fresh Turnips.
51.2455–2484	Subpart—United States Standards for Bunched Carrots.
51.2485–2509	Subpart—United States Standards for Carrots With Short Trimmed Tops.
51.2510–2539	Subpart—United States Standards for Grades of Lettuce.
51.2585–2609	Subpart—United States Standards for Dandelion Greens.
51.2610–2645	Subpart—United States Standards for Turnips or Rutabagas.
51.2670–2695	Subpart—United States Standards for Southern Peas.
51.2696–2709	Subpart—United States Standards for Spinach for Processing.
51.2775–2794	Subpart—United States Consumer Standards for Fresh Cranberries.
51.2795–2829	Subpart—United States Standards for Grades of Lemons.
51.2860–2879	Subpart—United States Standards for Beet Greens.
51.2880–2890	Subpart—United States Standards for Spinach Plants.
51.2891–2899	Subpart—United States Standards for Grades of Bunched Spinach.
51.2900–2924	Subpart—United States Standards for Grades of Sweet Anise.
51.2976–2999	Subpart—United States Standards for Italian Type Tomatoes for Canning.
51.3000–3029	Subpart—United States Standards for Seed Potatoes.
51.3030–3049	Subpart—United States Standards for Fresh Cranberries for Processing.
51.3085–3114	Subpart—United States Standards for Grades of Christmas Trees.
51.3115–3144	Subpart—United States Standards for Grades of Strawberries.
51.3170–3194	Subpart—United States Consumer Standards for Beet Greens.
51.3220–3239	Subpart—United States Standards for Cauliflower for Processing.
51.3240–3269	Subpart—United States Standards for Snap Beans for Processing.
51.3270–3294	Subpart—United States Standards for Sweet Peppers.
51.3295–3309	Subpart—United States Standards for Grades of Romaine.
51.3310–3344	Subpart—United States Standards for Grade Evaluation of Tomatoes for Processing.
51.3345–3364	Subpart—United States Standards for Grades of Greenhouse Tomatoes.
51.3365–3384	Subpart—United States Standards for Grades of Sweet Corn for Processing.
51.3385–3409	Subpart—United States Standards for Grades of Mushrooms.
51.3435–3454	Subpart—United States Standards for Grades of Mushrooms for Processing.
51.3455–3474	Subpart—United States Standards for Grades of Greenhouse Leaf Lettuce.
51.3475–3499	Subpart—United States Standards for Grades of Blueberries.
51.3500–3519	Subpart—United States Standards for Grades of Brazil Nuts in the Shell.
51.3520–3534	Subpart—United States Standards for Grades of Mixed Nuts in the Shell.
51.3535–3554	Subpart—United States Standards for Grades of Endive, Escarole, or Chicory.
51.3555–3584	Subpart—United States Standards for Grades of Bunched Italian Sprouting Broccoli.
51.3585–3609	Subpart—United States Standards for Grades of Southern Peas for Processing.
51.3610–3634	Subpart—United States Standards for Grades of American (Eastern Type) Bunch Grapes.
51.3635–3664	Subpart—United States Standards for Grades of Okra for Processing.
51.3665–3694	Subpart—United States Standards for Grades of Rhubarb (Field-Grown).
51.3695–3719	Subpart—United States Standards for Grades of Fresh Freestone Peaches for Canning, Freezing, or Pulping.
51.3720–3739	Subpart—United States Standards for Grades of Fresh Asparagus.
51.3785–3804	Subpart—United States Standards for Grades of Globe Artichokes.
51.3805–3828	Subpart—United States Standards for Grades of Lima Beans.
51.3829–3854	Subpart—United States Standards for Grades of Snap Beans.
51.3855–3879	Subpart—United States Standards for Grades of Greenhouse Cucumbers.
51.3880–3899	Subpart—United States Standards for Grades of Garlic.
51.3900–3929	Subpart—United States Standards for Grades of Horseradish Roots.
51.3930–3944	Subpart—United States Standards for Grades of Kale.
51.3945–3954	Subpart—United States Standards for Grades of Okra.
51.3955–3979	Subpart—United States Standards for Grades of Creole Onions.
51.3980–3999	Subpart—United States Standards for Grades of Onion Sets.
51.4000–4009	Subpart—United States Standards for Grades of Parsley.
51.4010–4029	Subpart—United States Standards for Grades of Parsnips.
51.4030–4049	Subpart—United States Standards for Grades of Fall and Winter Type Squash and Pumpkin.
51.4050–4074	Subpart—United States Standards for Grades of Summer Squash.
51.4075–4094	Subpart—United States Standards for Grades of Green Asparagus for Processing.
51.4095–4119	Subpart—United States Standards for Grades of Beets for Processing.
51.4120–4139	Subpart—United States Standards for Grades of Cabbage for Processing.
51.4140–4169	Subpart—United States Standards for Grades of Carrots for Processing.
51.4170–4189	Subpart—United States Standards for Grades of Cucumbers for Pickling.
51.4190–4209	Subpart—United States Standards for Grades of Onions for Processing.
51.4210–4239	Subpart—United States Standards for Grades of Fresh Shelled Peas for Canning or Freezing.
51.4240–4269	Subpart—United States Standards for Grades of Gladiolus Corms (Bulbs).
51.4270–4289	Subpart—United States Standards for Grades of Dewberries and Blackberries.

51.4290–4319	Subpart—United States Standards for Grades of Juice Grapes (European or Vinifera Type).
51.4320–4339	Subpart—United States Standards for Grades of Raspberries.
51.4340–4359	Subpart—United States Standards for Grades of Red Sour Cherries for Manufacture.
51.4360–4379	Subpart—United States Standards for Grades of Sweet Cherries for Canning or Freezing.
51.4380–4399	Subpart—United States Standards for Grades of Sweet Cherries, for Export for Sulphur Brining.
51.4400–4414	Subpart—United States Standards for Grades of American (Eastern Type) Bunch Grapes for Processing and Freezing.
51.4415–4434	Subpart—United States Standards for Grades of Growers' Stock Strawberries for Manufacture.
51.4435–4454	Subpart—United States Standards for Grades of Washed and Sorted Strawberries for Freezing.
51.4455–4474	Subpart—United States Standards for Grades of Asparagus Plumosus.
51.4475–4504	Subpart—United States Standards for Grades of Cut Peonies in the Bud.
51.4505–4574	Subpart—United States Standards for Grades of Tomato Plants.
51.4575–5999	Subpart—United States Standards for Grades of Potatoes for Chipping
	Other Regulations Being Removed.
51.6000–6005	Subpart—United States Specifications for the Classification of Damaged or Repaired Packages of Fresh Fruits and Vegetables.
	Regulations Being Retained in CFR Because They Provide Operational Regulations.
51.1–99	Subpart-Regulations.

Standards Being Retained in CFR Because They are Currently Referenced in Marketing Orders/Agreements

51.475–494	Subpart—United States Standards for Grades of Cantaloups.
51.560–594	Subpart—United States Standards for Celery.
51.595–619	Subpart—United States Consumer Standards for Celery Stalks.
51.620–679	Subpart—United States Standards for Grades of Grapefruit (Texas and States Other Than Florida, California, and Arizona).
51.680–749	Subpart—United States Standards for Grades of Oranges (Texas and States Other Than Florida, California, and Arizona).
51.750–809	Subpart—United States Standards for Grades of Florida Grapefruit.
51.880–924	Subpart—U.S. Standards for Grades of Table Grapes (European or ViniferaType).
51.1000–1029	Subpart—United States Standards for Persian (Tahiti) Limes.
51.1140–1209	Subpart—United States Standards for Grades of Florida Oranges and Tangelos.
51.1210–1234	Subpart—United States Standards for Peaches.
51.1260–1299	Subpart—United States Standards for Summer and Fall Pears.
51.1300–1344	Subpart—United States Standards for Winter Pears.
51.1400–1429	Subpart—United States Standards for Grades of Pecans in the Shell.
51.1430–1464	Subpart—United States Standards for Grades of Shelled Pecans.
51.1520–1539	Subpart—United States Standards for Grades of Fresh Plums and Prunes.
51.1540–1574	Subpart—United States Standards for Grades of Potatoes.
51.1575–1599	Subpart—United States Consumer Standards for Potatoes.
51.1810–1854	Subpart—United States Standards for Grades of Florida Tangerines.
51.1855–1899	Subpart—United States Standards for Fresh Tomatoes.
51.1900–1929	Subpart—United States Consumer Standards for Fresh Tomatoes.
51.1995–2024	Subpart—United States Standards for Grades of Filberts in the Shell.
51.2075–2104	Subpart—United States Standards for Grades of Almonds in the Shell.
51.2105–2149	Subpart—United States Standards for Grades of Shelled Almonds.
51.2275–2309	Subpart—United States Standards for Shelled English Walnuts (Juglans Regia).
51.2335–2359	Subpart—United States Standards for Grades of Kiwifruit.
51.2540–2554	Subpart—United States Standards for Grades of Pistachio Nuts in the Shell.
51.2555–2584	Subpart—United States Standards for Grades of Shelled Pistachio Nuts.
51.2646–2669	Subpart—United States Standards for Grades for Sweet Cherries.
51.2830–2859	Subpart—United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types).
51.2925–2944	Subpart—United States Standards for Apricots.
51.2945–2975	Subpart—United States Standards for Grades of Walnuts in the Shell.
51.3050–3084	Subpart—United States Standards for Florida Avocados.
51.3145–3169	Subpart—United States Standards for Grades of Nectarines.
51.3195–3219	Subpart—United States Standards for Bermuda-Granex-Grano Type Onions.
51.3410–3434	Subpart—United States Standards for Grades of Potatoes for Processing.
51.3740–3784	Subpart—United States Standards for Grades of Honey Dew and Honey Ball Type Melons.

Standards Being Retained in CFR Because They are Currently Referenced in Government Price Support Programs

51.1235–1259	Subpart—United States Standards for Cleaned Virginia Type Peanuts in the Shell.
51.2710–2729	Subpart—United States Standards for Shelled Runner Type Peanuts.
51.2730–2749	Subpart—United States Standards for Grades of Shelled Spanish Type Peanuts.
51.2750–2774	Subpart—United States Standards for Shelled Virginia Type Peanuts.

Administered by the Processed Products Branch, Fruit and Vegetable Division

7 Part 52	Processed Fruits and Vegetables, Processed Products thereof, and Certain Other Processed Food Products.

Standards Being Removed From CFR

CFR Section	Title
52.201–220	Subpart—United States Standards for Inspection by Variables.
52.221–300	Subpart—United States Standards for Determination of Fill Weights (and Attachments).
52.301–330	Subpart—United States Standards for Grades of Canned Apple Juice.
52.331–360	Subpart—United States Standards for Grades of Canned Applesauce.
52.361–380	Subpart—United States Standards for Grades of Frozen Apples.
52.381–410	Subpart—United States Standards for Grades of Frozen Asparagus.
52.411–440	Subpart—United States Standards for Grades of Canned Dried Beans.

52.441–470	Subpart—United States Standards for Grades of Canned Green Beans and Canned Wax Beans.
52.471–500	Subpart—United States Standards for Grades of Canned Lima Beans.
52.501–520	Subpart—United States Standards for Grades of Frozen Lima Beans.
52.521–550	Subpart—United States Standards for Grades of Canned Beets.
52.551–580	Subpart—United States Standards for Grades of Canned Blackberries, and Other Similar Berries such as Boysenberries, Dewberries, and Loganberries.
52.581–610	Subpart—United States Standards for Grades of Canned Blueberries.
52.611–630	Subpart—United States Standards for Grades of Frozen Blueberries.
52.631–650	Subpart—United States Standards for Grades of Frozen Broccoli.
52.651–670	Subpart—United States Standards for Grades of Frozen Brussels Sprouts.
52.671–700	Subpart—United States Standards for Grades of Canned Carrots.
52.701–720	Subpart—United States Standards for Grades of Frozen Carrots.
52.741–770	Subpart—United States Standards for Grades of Sulfured Cherries.
52.821–850	Subpart—United States Standards for Grades of Canned Sweet Cherries.
52.851–880	Subpart—United States Standards for Grades of Canned Cream Style Corn.
52.881–910	Subpart—United States Standards for Grades of Canned Whole Kernel (or Whole Grain) Corn.
52.911–930	Subpart—United States Standards for Grades of Frozen Whole Kernel (or Whole Grain) Corn.
52.931–950	Subpart—United States Standards for Grades of Frozen Corn-on-the-Cob.
52.951–1000	Subpart—United States Standards for Grades of Canned Cranberry Sauce.
52.1021–1050	Subpart—United States Standards for Grades of Dried Figs.
52.1051–1080	Subpart—United States Standards for Grades of Canned Fruit Cocktail.
52.1081–1110	Subpart—United States Standards for Grades of Fruit Jelly.
52.1111–1140	Subpart—United States Standards for Grades of Fruit Preserves (or Jams).
52.1141–1170	Subpart—United States Standards for Grades of Canned Grapefruit.
52.1171–1220	Subpart—United States Standards for Grades of Frozen Grapefruit.
52.1221–1250	Subpart—United States Standards for Grades of Grapefruit Juice.
52.1251–1280	Subpart—United States Standards for Grades of Canned Grapefruit and Orange for Salad.
52.1281–1310	Subpart—United States Standards for Grades of Grapefruit Juice and Orange Juice (or Orange Juice and Grapefruit Juice).
52.1311–1340	Subpart—United States Standards for Grades of Frozen Concentrated Blended Grapefruit Juice and Orange Juice.
52.1341–1370	Subpart—United States Standards for Grades of Canned Grape Juice.
52.1371–1390	Subpart—United States Standards for Grades of Frozen Leafy Greens.
52.1391–1420	Subpart—United States Standards for Grades of Extracted Honey.
52.1421–1450	Subpart—United States Standards for Grades of Frozen Concentrate for Lemonade.
52.1451–1480	Subpart—United States Standards for Grades of Orange Marmalade.
52.1481–1510	Subpart—United States Standards for Grades of Canned Mushrooms.
52.1531–1550	Subpart—United States Standards for Grades of Olive Oil.
52.1551–1610	Subpart—United States Standards for Grades of Orange Juice.
52.1611–1640	Subpart—United States Standards for Grades of Canned Pears.
52.1641–1660	Subpart—United States Standards for Grades of Canned Field Peas and Canned Black-eye Peas.
52.1681–1710	Subpart—United States Standards for Grades of Pickles.
52.1711–1740	Subpart—United States Standards for Grades of Canned Pineapple.
52.1741–1760	Subpart—United States Standards for Grades of Frozen Pineapple.
52.1761–1780	Subpart—United States Standards for Grades of Canned Pineapple Juice.
52.1781–1810	Subpart—United States Standards for Grades of Canned Plums.
52.1811–1840	Subpart—United States Standards for Grades of Canned White Potatoes.
52.1871–1900	Subpart—United States Standards for Grades of Frozen Raspberries.
52.1901–1940	Subpart—United States Standards for Grades of Canned Spinach.
[Reserved]	Subpart—United States Standards for Grades of Frozen Spinach.
52.1941–1960	Subpart—United States Standards for Grades of Frozen Cooked Squash.
52.1961–1980	Subpart—United States Standards for Grades of Frozen Squash (Summer Type).
52.1981–2010	Subpart—United States Standards for Grades of Frozen Strawberries.
52.2011–2040	Subpart—United States Standards for Grades of Frozen Succotash.
52.2041–2070	Subpart—United States Standards for Grades of Canned Sweetpotatoes.
52.2071–2100	Subpart—United States Standards for Grades of Canned Tangerine Juice.
52.2101–2130	Subpart—United States Standards for Grades of Tomato Catsup.
52.2131–2160	Subpart—United States Standards for Grades of Frozen Mixed Vegetables.
52.2161–2190	Subpart—United States Standards for Grades of Canned Apples.
52.2191–2280	Subpart—United States Standards for Grades of Chili Sauce.
52.2281–2320	Subpart—United States Standards for Grades of Canned Peas.
52.2341–2370	Subpart—United States Standards for Grades of Dehydrated (Low Moisture) Apples.
52.2371–2390	Subpart—United States Standards for Grades of Tomato Sauce.
52.2391–2420	Subpart—United States Standards for Grades of Frozen French Fried Potatoes.
52.2421–2450	Subpart—United States Standards for Grades of Peeled Potatoes.
52.2451–2480	Subpart—United States Standards for Grades of Frozen Concentrated Sweetened Grape Juice.
52.2481–2500	Subpart—United States Standards for Grades of Dried Apples.
52.2501–2520	Subpart—United States Standards for Grades of Frozen Peas and Carrots.
52.2521–2540	Subpart—United States Standards for Grades of Frozen Concentrate of Limeade.
52.2541–2560	Subpart—United States Standards for Grades of Canned Asparagus.
52.2561–2600	Subpart—United States Standards for Grades of Canned Clingstone Peaches.
52.2601–2640	Subpart—United States Standards for Grades of Canned Freestone Peaches.
52.2641–2680	Subpart—United States Standards for Grades of Canned and Canned Solid-Pack Apricots.
52.2681–2740	Subpart—United States Standards for Grades of Canned Pimentos.
52.2741–2800	Subpart—United States Standards for Grades of Canned Pumpkin and Canned Squash.
52.2801–2820	Subpart—United States Standards for Grades of Apple Butter.
52.2821–2860	Subpart—United States Standards for Grades of Canned Kadota Figs.
52.2861–2910	Subpart—United States Standards for Grades of Comb Honey.

52.2911–2930	Subpart—United States Standards for Grades of Frozen Plums.
52.2931–2950	Subpart—United States Standards for Grades of Concentrated Tangerine Juice for Manufacturing.
52.2951–3000	Subpart—United States Standards for Grades of Canned Sauerkraut.
52.3001–3040	Subpart—United States Standards for Grades of Frozen Sweet Peppers.
52.3041–3060	Subpart—United States Standards for Grades of Canned Onions.
52.3061–3100	Subpart—United States Standards for Grades of Peanut Butter.
52.3101–3160	Subpart—United States Standards for Grades of Sugarcane Sirup.
52.3161–3180	Subpart—United States Standards for Grades of Frozen Sweet Cherries.
52.3231–3280	Subpart—United States Standards for Grades of Dehydrated Low-Moisture Prunes.
52.3281–3310	Subpart—United States Standards for Grades of Canned Hominy.
52.3311–3330	Subpart—United States Standards for Grades of Canned Raspberries.
52.3331–3420	Subpart—United States Standards for Grades of Canned Okra.
52.3421–3450	Subpart—United States Standards for Grades of Canned Tomatoes and Okra and Canned Okra and Tomatoes.
52.3451–3510	Subpart—United States Standards for Grades of Bulk Sauerkraut.
52.3511–3550	Subpart—United States Standards for Grades of Frozen Peas.
52.3551–3580	Subpart—United States Standards for Grades of Frozen Peaches.
52.3581–3620	Subpart—United States Standards for Grades of Canned Squash (Summer Type).
52.3621–3650	Subpart—United States Standards for Grades of Tomato Juice.
52.3651–3730	Subpart—United States Standards for Grades of Sugarcane Molasses.
52.3731–3750	Subpart—United States Standards for Grades of Frozen Turnip Greens with Turnips.
52.3831–3870	Subpart—United States Standards for Grades of Canned Fruits for Salads.
52.3871–3910	Subpart—United States Standards for Grades of Dehydrated, Low-Moisture Apricots.
52.3911–3950	Subpart—United States Standards for Grades of Dehydrated, Low-Moisture Peaches.
52.3951–4020	Subpart—United States Standards for Grades of Concentrated Lemon Juice for Manufacturing.
52.4021–4060	Subpart—United States Standards for Grades of Canned Grapes.
52.4061–5000	Subpart—United States Standards for Grades of Frozen Breaded Onion Rings.
52.5001–5040	Subpart—United States Standards for Grades of Frozen Sweetpotatoes.
52.5041–5080	Subpart—United States Standards for Grades of Tomato Paste.
52.5081–5160	Subpart—United States Standards for Grades of Canned Tomato Puree (Tomato Pulp).
52.5161–5200	Subpart—United States Standards for Grades of Canned Tomatoes.
52.5201–5240	Subpart—United States Standards for Grades of Concentrated Tomato Juice.
52.5241–5360	Subpart—United States Standards for Grades of Frozen Speckled Butter (Lima) Beans.
52.5361–5440	Subpart—United States Standards for Grades of Frozen Melon Balls.
52.5441–5480	Subpart—United States Standards for Grades of Green Olives.
52.5481–5520	Subpart—United States Standards for Grades of Canned Lemon Juice.
52.5521–5600	Subpart—United States Standards for Grades of Frozen Apricots.
52.5601–5760	Subpart—United States Standards for Grades of Canned Dried Prunes.
52.5761–5800	Subpart—United States Standards for Grades of Dried Apricots.
52.5801–5840	Subpart—United States Standards for Grades of Dried Peaches.
52.5841–5880	Subpart—United States Standards for Grades of Dried Pears.
52.5881–5960	Subpart—United States Standards for Grades of Frozen Berries.
52.5961–6000	Subpart—United States Standards for Grades of Table Maple Sirup.
52.6001–6040	Subpart—United States Standards for Grades of Canned Succotash.
52.6041–6080	Subpart—United States Standards for Grades of Refiner's Sirup.
52.6081–6200	Subpart—United States Standards for Grades of Canned Leafy Greens.
52.6201–6240	Subpart—United States Standards for Grades of Canned Peas and Carrots.
52.6241–6280	Subpart—United States Standards for Grades of Canned Solid-Pack Apricots.
52.6281–6320	Subpart—United States Standards for Grades of Frozen Cranberries.
52.6321–6400	Subpart—United States Standards for Grades of Frozen Concentrated Apple Juice.
52.6401–6440	Subpart—United States Standards for Grades of Frozen Hash Brown Potatoes.
52.6441–6460	Subpart—United States Standards for Grades of Canned Pork and Beans.
52.6461–6570	Subpart—United States Standards for Grades of Canned Baked Beans.
52.6571–6582	Subpart—United States Standards for Grades of Canned Celery.
	Regulations Being Retained in CFR Because They Provide Operational Regulations.
52.1–200	Subpart—Regulations Governing Inspection and Certification.
	Standards Being Temporarily Retained in CFR Because They are Currently in Rulemaking.
52.721–729	Subpart—United States Standards for Grades of Frozen Cauliflower.
52.1511–1520	Subpart—United States Standards for Grades of Frozen Okra.
52.1661–1674	Subpart—United States Standards for Grades of Frozen Field Peas and Frozen Black-eye Peas.
52.2321–2334	Subpart—United States Standards for Grades of Frozen Green Beans and Frozen Wax Beans.
	Standards Being Retained in CFR Because They are Currently Referenced in Marketing Orders/Agreements
52.771–784	Subpart—United States Standards for Grades of Canned Red Tart Pitted Cherries.
52.801–812	Subpart—United States Standards for Grades of Frozen Red Tart Pitted Cherries.
52.1001–1011	Subpart—United States Standards for Grades of Dates.
52.1841–1858	Subpart—United States Standards for Grades of Processed Raisins.
52.3181–3188	Subpart—United States Standards for Grades of Dried Prunes.
52.3751–3830	Subpart—United States Standards for Grades of Canned Ripe Olives.

Administered by the Dairy Division

7 Part 58	Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products.

Standards Being Removed From CFR

CFR Section	Title

58.2425–2454	Subpart G—United States Standards for Grades of Whipped Butter.
58.2455–2464	Subpart H—United States Standards for Grades of Bulk American Cheese.
58.2475–2500	Subpart J—United States Standards for Grades of Colby Cheese.
58.2501–2524	Subpart K—United States Standards for Grades of Cheddar Cheese.
58.2550–2569	Subpart M—United States Standards for Grades of Nonfat Dry Milk (Roller Process).
58.2570–2600	Subpart N—United States Standards for Grades of Swiss Cheese, Emmentaler Cheese.
58.2601–2620	Subpart O—United States Standards for Dry Whey.
58.2621–2650	Subpart P—United States Standards for Grades of Butter.
58.2651–2675	Subpart Q—United States Standards for Grades of Dry Buttermilk and Dry Buttermilk Product.
58.2676–2700	Subpart R—United States Scorched Particle Standards for Dry Milks.
58.2701–2725	Subpart S—United States Standards for Grades of Dry Whole Milk.
58.2726–2749	Subpart T—United States Sediment Standards for Milk and Milk Products.
58.2800–2824	Subpart V—United States Standards for Grades of Edible Dry Casein (Acid).
	Regulations Being Retained in CFR Because They Provide Operational Requirements
58.1–99	Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products.
58.100–2424	Subpart B—General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service.
	Standards Being Temporarily Retained in CFR Because They are Currently in Rulemaking
58.2465–2474	Subpart I—United States Standards for Grades of Monterey (Monterey Jack) Cheese.
58.2525–2549	Subpart L—United States Standards for Grades of Nonfat Dry Milk (Spray Process).
58.2750–2799	Subpart U—United States Standards for Instant Nonfat Dry Milk.
	Regulations Being Retained in CFR in Accordance With the Agricultural Marketing Act.
58.2825–2827	Subpart W—United States Department of Agriculture Standard for Ice Cream.

To ensure that standards will be developed, issued, and revised in accordance with procedures that continue to ensure a fair and open process, all new and proposed revisions to existing AMS standards will be published in the **Federal Register** as a "Notice" with adequate time for public comment. A final version of the standards will also be published in the **Federal Register** as a notice (in addition to continuing to be made available by AMS).

In developing or revising existing grade standards, the Administrator must first determine that a new or revised standard is needed to facilitate trade in a particular commodity. Second, because use of the standards is voluntary, there must be demonstrated interest and support from the affected industry or other interested parties. And third, the standards must be practical to use.

Initial requests for development or revision of a standard may come from the industry, trade or consumer groups, State departments of agriculture, the U.S. Department of Agriculture, or others. Once a request has been received, AMS will coordinate procedures to gather information needed to move forward with the new or revised standard. After this process is completed, a notice of proposed standards change will be published in the **Federal Register** to solicit comment from any interested parties (normally 30 to 60 days). After evaluating the comments received from interested parties, AMS will determine whether to proceed, develop a new proposal, or terminate the process. The public will be informed through a press release and a notice in the **Federal Register**.

In addition to publication in the **Federal Register**, the AMS commodity program that handles the commodity will distribute copies of each standard on request as a pamphlet or other means under the direction of the Administrator of AMS.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The standards are voluntary; (2) No changes are being made to the standards by this docket; (3) New procedures have been drafted for developing new and revising existing U.S. standards which will provide an improved form of delivery standards for those who use U.S. standards to trade; and (4) This is in-line with the President's regulatory review initiative.

List of Subjects

7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

7 CFR Part 31

Wool.

7 CFR Part 32

Mohair.

7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

7 CFR Part 53

Cattle, Hogs, Livestock, Sheep.

7 CFR Part 54

Food grades and standards, Food labeling, Meat and meat products.

7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 58

Dairy products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

7 CFR Part 160

Administrative practice and procedure, Advertising, Forests and forest products, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR chapter I is amended as follows:

PART 29—TOBACCO INSPECTION

1. The authority citation for 7 CFR Part 29 is revised to read as follows:

Authority: 7 U.S.C. 511b, 511r.

§§ 29.3251–29.3401, 29.4251–29.6661 [Removed]

2. In part 29, Subpart C—Standards, §§ 29.3251 through 29.3401 and §§ 29.4251 through 29.6661 and their undesignated centerheadings are removed.

PART 31—WOOL STANDARDS

3. Under the authority of 7 U.S.C. 415c, 1621–1627, Part 31 is removed.

PART 32—MOHAIR STANDARDS

4. Under the authority of 7 U.S.C. 415c, 1621–1627, Part 32 is removed.

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS [1, 2] (INSPECTION, CERTIFICATION, AND STANDARDS)

5. The authority citation for 7 CFR Part 51 is revised to read as follows:

Authority: 7 U.S.C. 1621–1627.

§§ 51.100–51.464, 51.495–51.556, 51.810–51.869, 51.952–51.986, 51.1030–51.1109, 51.1345–51.1387, 51.1465–51.1510, 51.1600–51.1793, 51.1930–51.1987, 51.2025–51.2062, 51.2150–51.2262, 51.2310–51.2322, 51.2360–51.2534, 51.2585–51.2630, 51.2670–51.2701 51.2775–51.2821, 51.2860–51.2908, 51.2976–51.3037, 51.3085–51.3124, 51.3170–51.3183, 51.3220–51.3398, 51.3435–51.3734, 51.3785–51.6005 [Removed]

6. In part 51, §§ 51.100 through 51.464, §§ 51.495 through 51.556, §§ 51.810 through 51.869, §§ 51.925 through 51.986, §§ 51.1030 through 51.1109, §§ 51.1345 through 51.1387, §§ 51.1465 through 51.1510, §§ 51.1600 through 51.1793, §§ 51.1930 through 51.1987, §§ 51.2025 through 51.2062, §§ 51.2150 through 51.2262, §§ 51.2310 through 51.2322, §§ 51.2360 through 51.2534, §§ 51.2585 through 51.2630, §§ 51.2670 through 51.2701, §§ 51.2775 through 51.2821, §§ 51.2860 through 51.2908, §§ 51.2976 through 51.3037, §§ 51.3085 through 51.3124, §§ 51.3170 through 51.3183, §§ 51.3220 through 51.3398, §§ 51.3435 through 51.3734, and §§ 51.3785 through 51.6005 and all their undesignated centerheadings and the subpart headings are removed.

[1] Among such other products are the following: Raw nuts, Christmas trees and evergreens; flowers and flower bulbs; and onion sets.

[2] None of the requirements in the regulations of this part shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to products covered in the regulations in this part.

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS [3]

7. The authority citation for 7 CFR Part 52 is revised to read as follows:

Authority: 7 U.S.C. 1621–1627.

§§ 52.201–52.711, 52.741–52.755, 52.821–52.963, 52.1021–52.1495, 52.1531–52.1651, 52.1681–52.1821, 52.1871–52.2294, 52.2341–52.3172, 52.3231–52.3743, 52.3831–52.6582 [Removed]

8. In part 52, §§ 52.201 through 52.711, §§ 52.741 through 52.755, §§ 52.821 through 52.963, §§ 52.1021 through 52.1495, §§ 52.1531 through 52.1651, §§ 52.1681 through 52.1821, §§ 52.1871 through 52.2294, §§ 52.2341 through 52.3172, §§ 52.3231 through 52.3743, and §§ 52.3831 through 52.6582 and all their undesignated centerheadings and the subpart headings are removed.

PART 53—LIVESTOCK (GRADING, CERTIFICATION, AND STANDARDS)

9. The authority citation for 7 CFR Part 53 is revised to read as follows:

Authority: 7 U.S.C. 1621–1627.

§§ 53.120–53.159, 53.208–53.212 [Removed]

10. In part 53, Subpart B—Standards, §§ 53.120 through 53.159, and §§ 53.208 through 53.212 and their undesignated centerheadings are removed.

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

11. The authority citation for 7 CFR Part 54 is revised to read as follows:

Authority: 7 U.S.C. 1621–1627.

§§ 54.112–54.137 [Removed]

12. In part 54, Subpart B—Standards, §§ 54.112 through 54.137 and their undesignated centerheadings are removed.

PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

13. The authority citation for 7 CFR Part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

[3] Among such other processed food products are the following: Honey; molasses, except for stockfeed; nuts and nut products, except oil; sugar (cane, beet, and maple); sirups (blended), sirups, except from grain; tea; cocoa; coffee; spices; condiments.

§§ 56.200–56.234 [Removed]

14. In part 56, Subpart B—(Reserved) and Subpart C—United States Standards, Grades, and Weight Classes for Shell Eggs, §§ 56.200 through 56.234 and their undesignated centerheadings are removed.

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS [1]

15. The authority citation for 7 CFR Part 58 is revised to read as follows:

Authority: 7 U.S.C. 1621—1627.

§§ 58.2425–58.2435 [Removed and reserved]

16. In part 58, Subpart G—United States Standards for Grades of Whipped Butter (§§ 58.2425 through 58.2435) is removed and reserved.

§§ 58.2455–58.246 [Removed and reserved]

17. In part 58, Subpart H—United States Standards for Grades of Bulk American Cheese (§§ 58.2455 through 58.2463) is removed and reserved.

§§ 58.2475–58.248 [Removed and reserved]

18. In part 58, Subpart J—United States Standards for Grades of Colby Cheese (§§ 58.2475 through 58.2481) is removed and reserved.

§§ 58.2501–58.250 [Removed and reserved]

19. In part 58, Subpart K—United States Standards for Grades of Cheddar Cheese (§§ 58.2501 through 58.2506) is removed and reserved.

§§ 58.2550–58.2562 [Removed and reserved]

20. In part 58, Subpart M—United States Standards for Grades of Nonfat Dry Milk (Roller Process) (§§ 58.2550 through 58.2562) is removed and reserved.

§§ 58.2570–58.2578 [Removed and reserved]

21. In part 58, Subpart N—United States Standards for Grades of Swiss Cheese, Emmentataler Cheese (§§ 58.2570 through 58.2578) is removed and reserved.

§§ 58.2601–58.2611 [Removed and reserved]

22. In part 58, Subpart O—United States Standards for Dry Whey (§§ 58.2601 through 58.2611) is removed and reserved.

[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.

§§ 58.2621–58.2635 [Removed and reserved]

23. In part 58, Subpart P—United States Standards for Grades of Butter (§§ 58.2621 through 58.2635) is removed and reserved.

§§ 58.2651–58.2657 [Removed and reserved]

24. In part 58, Subpart Q—United States Standards for Grades of Dry Buttermilk and Dry Buttermilk Product (§§ 58.2651 through 58.2657) is removed and reserved.

§§ 58.2676–58.2678 [Removed and reserved]

25. In part 58, Subpart R—United States Scorched Particle Standards for Dry Milks (§§ 58.2676 through 58.2678) is removed and reserved.

§§ 58.2701–58.2710 [Removed and reserved]

26. In part 58, Subpart S—United States Standards for Grades of Dry Whole Milk (§§ 58.2701 through 58.2710) is removed and reserved.

§§ 58.2726–58.2732 [Removed and reserved]

27. In part 58, Subpart T—United States Sediment Standards for Milk and Milk Products (§§ 58.2726 through 58.2732) is removed and reserved.

§§ 58.2800–58.2808 [Removed and reserved]

28. In part 58, Subpart V—United States Standards for Grades of Edible Dry Casein (Acid) (§§ 58.2800 through 58.2808) is removed and reserved.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS AND U.S. CLASSES, STANDARDS, AND GRADES

29. The authority citation for 7 CFR Part 70 continues to read as follows:

Authority: 7 U.S.C. 1621—1627.

§§ 70.200–70.332 [Removed and reserved]

30. In part 70, Subpart B—United States Classes, Standards, and Grades for Poultry and Subpart C—United States Classes, Standards and Grades for Rabbits, §§ 70.200 through 70.332, their undesignated centerheadings and the subpart headings are removed and reserved.

PART 160—REGULATIONS AND STANDARDS FOR NAVAL STORES

31. The authority citation for 7 CFR Part 160 is revised to read as follows:

Authority: 7 U.S.C. 94, 1624.

§§ 160.301–160.305 [Removed]

32. In part 160, §§ 160.301 through 160.305 and their undesignated centerheadings and Appendixes A and B are removed.

Dated: November 27, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–29462 Filed 12–1–95; 8:45 am]

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Federal Register

Monday
December 4, 1995

Part IV

The President

Proclamation 6853—National Drunk and Drugged Driving Prevention Month, 1995

Proclamation 6854—World AIDS Day, 1995

Federal Register
Vol. 60, No. 232
Monday, December 4, 1995

Presidential Documents

Title 3—

The President

Proclamation 6853 of November 30, 1995

National Drunk and Drugged Driving Prevention Month, 1995

By the President of the United States of America

A Proclamation

For many young Americans, learning to drive is a significant step along the road to maturity and independence. There are serious responsibilities that accompany getting a driver's license, and it is essential to teach our youth—and all Americans—the terrible risks of drunk and drugged driving. Males aged 21-34 are among those most likely to drive under the influence of alcohol or drugs, and there is a critical need for additional prevention efforts aimed at this group.

Alcohol use played a role in 16,600 motor vehicle-related fatalities last year—nearly 41 percent of all such deaths. While the number of these tragedies has declined significantly over the past decade, the statistics are still devastating. We must continue our campaign of public education, provide increased law enforcement, and seek tougher laws and penalties for offenders.

Last June, I called on the Congress to make "Zero Tolerance" the law of the land and require States to adopt a Zero Tolerance standard for drivers under the age of 21. I am pleased that this provision was included in the "National Highway System Designation Act of 1995," which I signed this week. It is already against the law for young people to consume alcohol, and Zero Tolerance creates a national standard that will make it effectively illegal for young people who have been drinking to drive an automobile.

Many States have already enacted Zero Tolerance laws. These laws work—alcohol-related crashes involving teenage drivers are down as much as 20 percent in those States. When all States have these laws, hundreds more lives will be saved and thousands of injuries will be prevented. I commend the Congress for heeding my call and making Zero Tolerance the standard nationwide for drivers under the age of 21.

I am also proud that citizens across the Nation are working to spread the word about the dangers of impaired driving. Vital partnerships have formed among Federal, State, and local government agencies, private businesses, and community groups. Last year, on December 15, many Americans observed "Lights on for Life Day" by driving with their headlights illuminated in remembrance of the victims of drunk and drugged driving. I hope that caring citizens will commemorate the same day this month, doing their part to help ensure a safe holiday season.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 1995, as National Drunk and Drugged Driving Prevention Month. I urge all Americans to recognize the dangers of impaired driving; to take responsibility for themselves, their guests, and their passengers; to stop anyone under the influence of drugs or alcohol from getting behind the wheel; and to help teach children safe driving behavior.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of November, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

[FR Doc. 95-29623
Filed 11-30-95; 4:40 pm]
Billing code 3195-01-P

Presidential Documents

Proclamation 6854 of November 30, 1995

World AIDS Day, 1995

By the President of the United States of America

A Proclamation

Today the world pauses to remember the millions of men, women, and children who are living with HIV and AIDS and to honor the memory of those who have lost their lives to this insidious disease. We renew our commitment to searching for a cure to AIDS and a vaccine for HIV, rededicate ourselves to reducing the number of people who become infected with the virus, and devote our efforts to protecting the dignity and rights of all those affected by the AIDS epidemic.

The statistics are overwhelming. Around the world, more than 18 million people are believed to be infected with HIV. In America alone, over half a million people have been struck by AIDS, and more than 300,000 have already lost their lives. Nearly 80,000 of our fellow citizens are diagnosed with AIDS and more than 40,000 are dying of the disease each year—some 120 every day. In addition, there are an estimated 40,000 to 60,000 Americans who contract HIV annually. The impact of these numbers goes far beyond the individuals involved—each AIDS death devastates a family, weakens a community, and changes society as a whole. HIV and AIDS present extraordinary challenges to every nation and every person on our planet.

In the past year, there has been some encouraging progress. Researchers from many countries have combined their knowledge and skills to better understand the virus that causes AIDS and its effects on the human body; new AIDS drugs are being developed and approved faster than ever before; we are beginning to find ways to rebuild immune systems destroyed by HIV so that those infected can live longer, healthier lives; and we are aggressively confronting this crisis with prevention programs at the grassroots and national levels.

But there is still much work to do. Half of all new infections occur among people under the age of 25, and one-fourth occur among teenagers. We must protect the next generation by continuing to improve the availability of health care services for those with HIV and AIDS. Since 1990, the Ryan White CARE Act has offered help and hope to hundreds of thousands of people, and we are working with the Congress to extend this vital program for an additional 5 years. However, while the CARE Act is an essential element of the safety net that protects people with HIV and AIDS, it cannot do the job alone. We must also maintain our 30-year commitment to the Medicaid program, which provides services to nearly half of all Americans living with AIDS and more than 90 percent of children with AIDS. Without the protection that Medicaid affords, these individuals and their families would lose all access to health care.

Let us also continue to ensure that our Nation responds aggressively and humanely to the needs of people living with HIV and AIDS. Throughout this epidemic, community organizations have taken the lead in the struggle against the disease and in efforts to provide compassionate care to those in need. Across this country and around the globe, generous people perform miracles every day—holding a hand, cooling a fever, listening, and understanding. Let us further support their efforts to build a better world by

strengthening the partnership between communities and government in the work to stop AIDS.

The theme of this eighth observance of World AIDS Day, "Shared Rights, Shared Responsibilities," is a call to fight against discrimination as strongly as we fight for a cure. When one human being is persecuted because of his or her HIV status, we all suffer. Let us pledge to stand together, united against HIV and AIDS and committed to ending ignorance and prejudice.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 1, 1995, as World AIDS Day. I ask the American people to join me in reaffirming our commitment to combatting HIV and AIDS and in reaching out to all those whose lives have been affected by this disease.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of November, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

[FR Doc. 95–29624
Filed 11–30–95; 4:41 pm]
Billing code 3195–01–P

Reader Aids

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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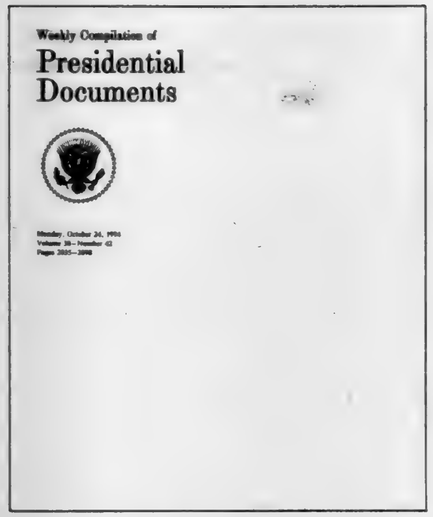

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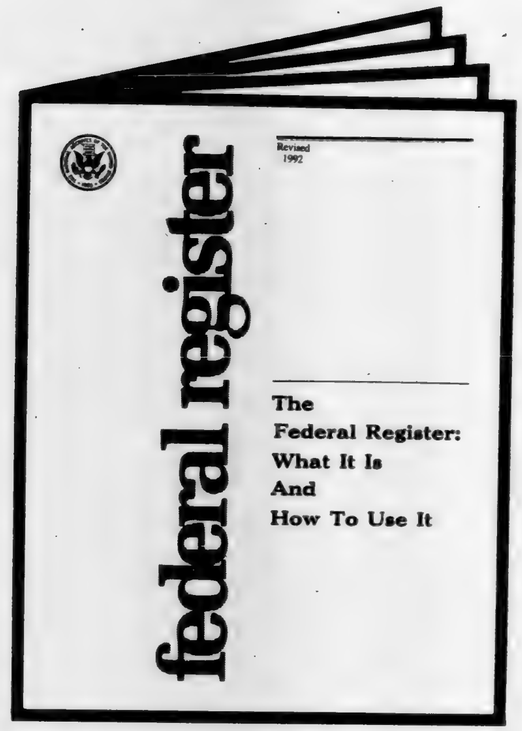

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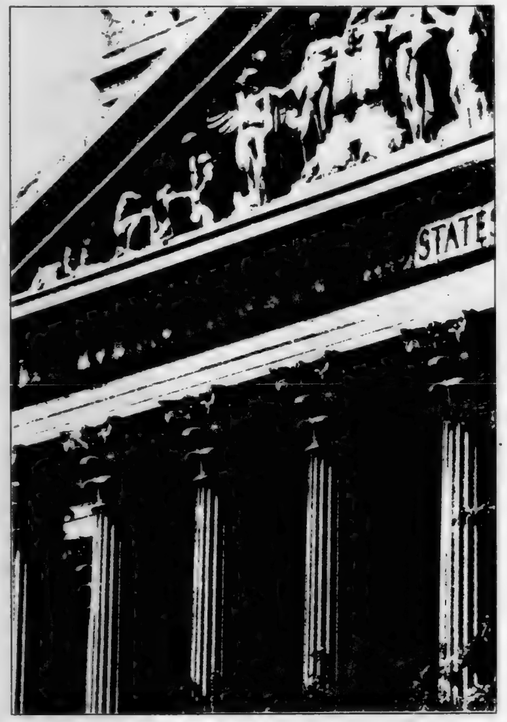

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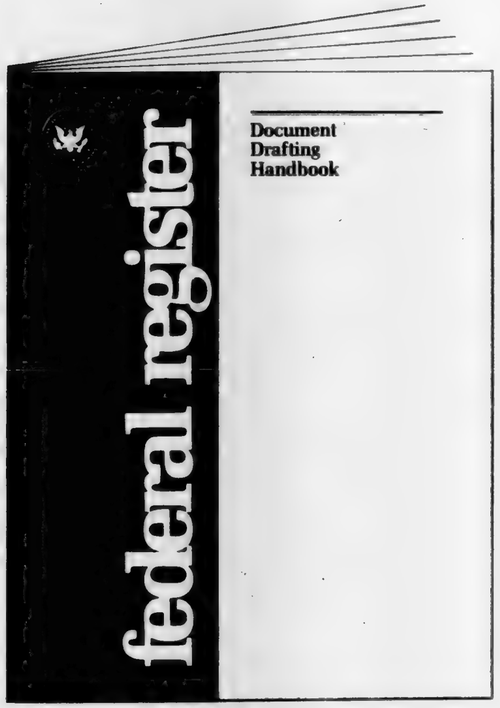

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[Two Sessions]

WHEN: January 9, 1996 at 9:00 am and January 23, 1996 at 9:00 am

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street, NW., Washington, DC (3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

LONG BEACH, CA

WHEN: December 12, 1995 at 9:00 am

WHERE: Glenn M. Anderson Federal Building, Conference Room—Room 3470, 501 West Ocean Boulevard, Long Beach, CA 90802

RESERVATIONS: 310–980–3447

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[Two Sessions]

WHEN: December 13, 1995 at 9:00 am and 1:00 pm

WHERE: National Archives—Pacific Northwest Region, Conference Room, 6125 Sand Point Way, NE., Seattle, WA 98115

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New Feature in the Reader Aids!
Beginning with the issue of December 4, 1995, a new listing will appear each day in the Reader Aids section of the **Federal Register** called "Reminders". The Reminders will have two sections: "Rules Going Into Effect Today" and "Comments Due Next Week". Rules Going Into Effect Today will remind readers about Rules documents published in the past which go into effect "today". Comments Due Next Week will remind readers about impending closing dates for comments on Proposed Rules documents published in past issues. Only those documents published in the Rules and Proposed Rules sections of the **Federal Register** will be eligible for inclusion in the Reminders.
The Reminders feature is intended as a reader aid only. Neither inclusion nor exclusion in the listing has any legal significance.
The Office of the Federal Register has been compiling data for the Reminders since the issue of November 1, 1995. No documents published prior to November 1, 1995 will be listed in Reminders.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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Rules and Regulations

Federal Register
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Tuesday, December 5, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

RIN 0563–AB29

General Crop Insurance Regulations; Florida Citrus Endorsement

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation ("FCIC") hereby amends the Florida Citrus Endorsement that supplements the General Crop Insurance Policy. The intended effect of this rule is to require that the insured crop unit suffer at least a fifty percent (50%) average percent of damage before an indemnity would be due for any catastrophic risk protection policy.

EFFECTIVE DATE: December 5, 1995.

FOR FURTHER INFORMATION CONTACT: Diana Moslak, Regulatory and Procedural Development Staff, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone (202) 254–8314.

SUPPLEMENTARY INFORMATION: This action has been reviewed under United States Department of Agriculture ("USDA") procedures established by Executive Order 12866 and Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is May 1, 2000.

This rule has been determined to be "exempt" for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget ("OMB").

The information collection requirements contained in these regulations (7 CFR part 401) were previously approved by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control numbers 0563–0003, 0563–0014, and 0563–0016. The amendments set forth in this rule do not revise the content or alter the frequency of reporting for any of the forms cleared under the above mentioned dockets. The public reporting burden for the collection of information is estimated to range from 10 to 90 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implication to warrant the preparation of a Federalism Assessment. The policies and procedures contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

This regulation will not have a significant impact on a substantial number of small entities. This action neither increases nor decreases the paperwork burden on the insured and the reinsured company. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605) and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections (2)(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions promulgated by the National Appeals Division under Pub. L. No. 103–354 must be exhausted before judicial action may be brought.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

On Tuesday, June 6, 1995, FCIC published an interim rule in the **Federal Register** at 60 FR 29749, to amend the Florida Citrus Endorsement by revising the Catastrophic Risk Protection (CAT) loss adjustment provisions contained in section 9 of the endorsement.

Following publication of the interim rule, the public was afforded 60 days to submit written comments, data, and opinions. The comments received and FCIC responses are as follows:

Comment: One comment received from an insurance company maintains that the rule is incomplete because it only addresses the loss adjustment deductible aspect of the program and does not address the dollar amount of insurance.

Response: FCIC revised Section 9 (Claim for Indemnity) because the language did not conform with the requirements of Section 508(b) of the Federal Crop Insurance Reform Act (Act) of 1994 which states that CAT shall offer a producer coverage for a 50 percent loss of yield. Under the Florida Citrus Endorsement, loss payments began once the damage exceeded 10 percent. FCIC added language to bring Section 9 in compliance with the Act. This language only addresses the 50 percent deductible. The dollar amount of insurance for CAT coverage, as determined by FCIC, is stipulated in the actuarial table. Therefore, FCIC has addressed the dollar amount of insurance for CAT coverage and the formula used to determine CAT coverage indemnities will not be changed.

Comment: One comment received from an insurance company stated that the rule was not necessary because the same result could be achieved by multiplying the maximum value FCIC assigns to a given variety of citrus by 50%, then multiplying this product by 60%.

Response: FCIC disagrees with the comment. The determination of an appropriate CAT dollar amount of

insurance is a separate issue from establishing the amount of loss that must be sustained before an indemnity is due.

Comment: One comment received from an insurance company suggested that the Act specifically addresses CAT coverage for production based programs but leaves discretion as to how to apply CAT to dollar amount of insurance crops.

Response: The Act stipulates that CAT coverage shall offer a producer coverage for a 50 percent loss in yield on an individual basis, indemnified at 60 percent of the expected market price, or comparable coverage (as determined by the Corporation). For dollar amount of insurance crops like Florida Citrus, the CAT dollar amount of insurance is stated in the actuarial table. The 50% loss threshold for CAT is not discretionary and applies to dollar amount of insurance crops.

Comment: One comment received from an insurance company suggested that changing the loss calculation for CAT represents a material change in the program and essentially creates a second Florida Citrus program.

Response: Changing the Florida Citrus CAT loss calculation did not create another program. CAT coverage was a new insurance coverage level that was required to be implemented by the Act. The change explains how CAT losses will be calculated.

Comment: One comment received from an insurance company stated their belief that CAT payment values are far short of 60% of the market value called for in the Act. Consequently, loss guidelines which result in a CAT producer being indemnified once they have sustained a loss greater than 10% helped to compensate for the insufficient CAT dollar amount of coverage.

Response: FCIC believes that it would be inappropriate to compensate for a perceived insufficient dollar amount of coverage by manipulating loss calculations, since it would violate crop loss guidelines established in the Act.

Comment: One comment received from an insurance company suggested that the rule change would not reduce paperwork nor simplify the program and could cost more money to administer since agents would have two quoting systems.

Response: FCIC disagrees with this comment. The rule change is not expected to either increase or decrease paperwork. The change does not create two quoting systems, it only informs the CAT policyholder how a claim for indemnity is calculated for this new coverage level.

Comment: One comment received from an insurance company suggested that the rule will spread confusion and bad will among their growers and creates additional work for companies and agents who are already "undercompensated" for CAT.

Response: The Act mandates guidelines for implementing CAT coverage and FCIC does not have the liberty to deviate from the guidelines. Therefore, Florida citrus producers with CAT policies will be treated the same as CAT policyholders of other crops.

Comment: One comment received from an insurance company stated that while they believed the rule change was required to bring the program in compliance with legislation, the change was made well after the April 15, 1995 contract change date, and thus it was inappropriate to implement it for the 1996 crop year.

Response: FCIC's position is that CAT was implemented when the interim rules, Catastrophic Risk Protection Endorsement and Subpart T-Regulations for Implementation, were published in the **Federal Register** on January 6, 1995. The Florida Citrus interim rule was a continuation of implementing CAT. Implementing legislation (the Act) takes precedence over a crop policy's contract change date.

Comment: One comment received from an insurance company stated that the only changes allowable after the April 15, 1995 contract change date would be a liberalization which would benefit the policyholders, as described in section 11 of the General Provisions of the MPCI Policy. Furthermore a 500% increase in the CAT policy deductible does not qualify as a liberalization.

Response: Implementing legislation takes precedence over a crop policy's contract change date. CAT insureds who sustain a complete loss of their Florida citrus can realize 100% of their CAT coverage, while under the previous loss calculation, based on 10% deductible, they would have received only 90% of their CAT coverage.

List of Subjects in 7 CFR Part 401

Crop insurance, Florida citrus.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) the Federal Crop Insurance Corporation hereby adopts as a final rule, the interim rule as published at 60 FR 29749 on June 6, 1995.

Done in Washington, DC, on November 29, 1995.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 95–29570 Filed 12–4–95; 8:45 am]

BILLING CODE 3410–FA–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 140

Debt Collection Through Offset

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: In response to President Clinton's regulatory review directive, the Small Business Administration has completed a page-by-page and line-by-line review of its regulations. As a result, SBA is proposing to clarify and streamline its regulations, revising or eliminating any duplicative, outdated, inconsistent, or confusing provisions. This rule reorganizes all of Part 140 covering agency debt collection, clarifying it and making it easier to use through the use of "plain language." It also amends the Part by removing redundant provisions and applying, where permitted by applicable statute, uniform procedural rights to all debt collection procedures. The name of the regulation has been changed from simply Debt Collection to Debt Collection Through Offset. There are no substantive changes.

EFFECTIVE DATE: This rule is effective January 4, 1996.

FOR FURTHER INFORMATION CONTACT: Cheri Wolff, Chief Counsel for General Litigation, Office of General Counsel, at (202) 205–6643.

SUPPLEMENTARY INFORMATION: 13 CFR Part 140 establishes procedures for the collection of debts owed to SBA. This rule reorganizes the entire Part, clarifying it and making it easier to use. Where permitted by relevant statute, it also amends Part 140 to give all debtors similar procedural rights.

Currently, Part 140 does not give all debtors the same procedural rights. Where a salary deduction or administrative offset procedure is used, debtors have thirty days to present evidence in response to SBA's notice of intent to collect a debt. On the other hand, where the deduction from income tax refund procedure is used, debtors are given sixty days to present evidence in response to SBA's notice. The rule eliminates this distinction and provides all debtors with the same procedural rights. All debtors will be given sixty days to present their relevant evidence.

Section-by-Section Analysis

The authority citations are amended by specifying the statutory authority for each of the three debt collection procedures.

The following is a section by section analysis of each provision of this Rule affected by these changes:

140.1: Revises section 140.1 by inserting clear language as to coverage of the regulation.

140.2: Deletes, in most respects, section 140.2 (the definition section). The definitions of administrative offset and salary offset are now included in proposed section 140.2 ("What is a debt and how can the SBA collect it through offset?"). Several other definitions are retained for clarity, but are defined as the terms appear in the text. Section 140.2 also clarifies the three debt collection procedures.

140.3: Current sections 140.3 ("Information disclosure"), 140.4 ("Salary offset"), 140.5 ("Administrative offset"), and 140.6 ("Income tax refund offset") are deleted and replaced with new Section 140.3 ("What rights do you have when SBA tries to collect a debt from you through offset?"). Section 140.3 specifies, in clear language, debtors' rights. These rights apply to all persons affected by SBA debt collection offset procedures.

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this rule involves internal administrative procedures and would not be considered a significant rule within the meaning of Executive Order 12866 and would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* It is not likely to have an annual economic effect of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this rule contains no new reporting or recordkeeping requirements.

For purposes of Executive Order 12612, SBA certifies that this rule would not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of that Order.

List of Subjects in 13 CFR Part 140

Claims; Government employees; Income taxes; Wages.

For the reasons set forth above, SBA revises Part 140 of Title 13 of the Code of Federal Regulations to read as follows:

PART 140—DEBT COLLECTION THROUGH OFFSET

Sec.

§ 140.1 What does this part cover?
§ 140.2 What is a debt and how can the SBA collect it through offset?
§ 140.3 What rights do you have when SBA tries to collect a debt from you through offset?

Authority: 31 U.S.C. 3711, Collection and compromise; 31 U.S.C. 3720A, Reduction of tax refund by amount of debt; 5 U.S.C. 5514, Installment deduction for indebtedness to the United States; 31 U.S.C. 3716, Administrative offset; 15 U.S.C. 634(b)(6), Small Business Act.

§ 140.1 What does this part cover?

This part establishes procedures which SBA may use in the collection, through offset, of past-due debts owed to the Government. SBA's failure to comply with any provision of the regulations in this part is not available to any debtor as a defense against collection of the debt through judicial process.

§ 140.2 What is a debt and how can the SBA collect it through offset?

(a) A debt means an amount owed to the United States from loans made or guaranteed by the United States, and from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, fines, penalties, damages, interest, forfeitures, or any other source. You are a debtor if you owe an amount to the United States from any of these sources.

(b) SBA may collect past-due debts through offset by using any of three procedures: administrative offset, salary offset, or IRS tax refund offset. A past-due debt is one which has been reduced to judgment, has been accelerated, or has been due for at least 90 days.

(1) *Administrative offset.* SBA may withhold money it owes to the debtor in order to satisfy the debt. This procedure is an "administrative offset" and is authorized by 31 U.S.C. 3716.

(2) *Salary offset.* If the debtor is a federal employee (a civilian employee as defined by 5 U.S.C. 2105, an employee of the U.S. Postal Service or Postal Rate Commission, or a member of the Uniformed Services or Reserve of the Uniformed Services), SBA may deduct payments owed to SBA or another federal agency from the debtor's paycheck. This procedure is a "salary offset" and is authorized by 5 U.S.C. 5514.

(i) Any amount deducted from salary in any one pay period will not exceed 15 percent of a debtor's disposable pay, unless the debtor agrees in writing to a greater percentage.

(ii) SBA also may collect against travel advances, training expenses, disallowed payments, retirement benefits, or any other amount due the employee, including lump-sum payments.

(iii) If an employee has terminated employment after salary offset has been initiated, there are no limitations on the amount that can be withheld or offset.

(3) *IRS tax refund offset.* SBA may request that IRS reduce a debtor's tax refund by the amount of the debt, as authorized by 31 U.S.C. 3720A. Where available, administrative and salary offsets must be used before collection is attempted through income tax offset. SBA may refer a debt to the IRS for a tax refund offset and take additional action against the debtor to collect the debt at the same time or in sequence. When SBA makes simultaneous or sequential referrals (within six months of the initial notice), only one review pursuant to the rules in this part and the statutes authorizing them is required.

§ 140.3 What rights do you have when SBA tries to collect a debt from you through offset?

(a) SBA must write to you and tell you that it proposes to collect the debt by reducing your federal paycheck, withholding money the Government owes you, and/or reducing your tax refund.

(b) In its written notice to you, SBA must tell you the nature and amount of the debt; that SBA will begin procedures to collect the debt through reduction of your federal paycheck, administrative offset, or reduction of your tax refund; that you have an opportunity to inspect and copy Government records relating to the debt at your expense; and that, before collection begins, you have an opportunity to agree with SBA on a schedule for repayment of your debt.

(c) SBA also must tell you that unless you respond within 60 days from the date of the notice, it will disclose to consumer reporting agencies (also known as credit bureaus or credit agencies) that you are responsible for the debt and the specific information it intends to disclose in order to establish your identity. The amount, status, history of the debt, and agency program

under which it arose also will be disclosed.

(d) If you respond to SBA within 60 days from the date of the notice, SBA will not disclose the information to consumer reporting agencies until it considers your response and determines that you owe a past-due, legally enforceable debt.

(e) Within 60 days of the notice you may present evidence that all or part of the debt is not past due or not legally enforceable.

(1) Where a salary offset or administrative offset is proposed, you will have the opportunity to present your evidence to SBA's Office of Hearings and Appeals ("OHA"). The rules in part 134 of this title govern the procedural rights to which you are entitled. In order to have a hearing before OHA, you must request a hearing within 15 days of receipt of the written notice described in this section. An OHA judge will issue a decision within 60 days of the date you filed your petition/request for a review or hearing with OHA, unless you were granted additional time within which to file your request for review.

(2) Where an income tax refund offset is proposed, you will have the opportunity to request a review and present your evidence to the appropriate SBA Commercial Loan Servicing Center at the address provided in the notice.

(f) SBA must consider any evidence you present and must first decide that a debt is past due and legally enforceable. A debt is legally enforceable if there is any forum, including a State or Federal Court or administrative agency, in which SBA's claim would not be barred on the date of offset. Non-judgment debts are enforceable for ten years; judgment debts are enforceable beyond ten years. You will be notified of SBA's decision at least 30 days before any offset deduction is made. You also will be notified of the amount, frequency, proposed beginning date, and duration of the deductions, as well as any obligation to pay interest, penalties, and administrative costs.

(g) If there is any substantial change in the status or amount of your debt, SBA will promptly report that change to each consumer reporting agency it originally contacted.

(h) SBA will obtain satisfactory assurances from each consumer reporting agency that the consumer reporting agency has complied with all federal laws relating to provision of consumer credit information.

(i) If your debt is being repaid by reduction of your income tax refund and you make any additional payments to SBA, SBA will notify the IRS of these payments and your new balance within 10 business days of receiving your payment.

(j) When the debt of a federal employee is reduced to court judgment, the employee is not entitled to further review by SBA, but is only entitled to notice of a proposed salary offset resulting from the judgment. The amount deducted may not exceed 15% of disposable pay, except when the deduction of a greater amount is necessary to completely collect the debt within the employee's remaining period of employment.

(k) When another federal agency asks SBA to offset a debt for it, SBA will not initiate the requested offset until it has received from the creditor agency a written certification that the debtor owes a debt, its amount, and that the provisions of all applicable statutes and regulations have been complied with fully.

(l) SBA may make an offset prior to completion of the procedures described in this part, if:

(1) Failure to make an offset would substantially prejudice the government's ability to collect the debt; and

(2) The time before the payment would otherwise be made to you does not reasonably permit the completion of the procedures.

(3) Such prior offset then must be followed by the completion of the procedures described in this part.

(m) Where an IRS tax refund offset is sought, SBA must follow the Department of the Treasury's regulations governing offset of a past-due, legally enforceable debt against tax overpayment.

Dated: November 22, 1995.

Philip Lader,

Administrator.

[FR Doc. 95-29564 Filed 12-4-95; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-NM-247-AD; Amendment 39-9449; AD 95-01-06 R1]

Airworthiness Directives; Boeing Model 737-200 and -300 Series Airplanes Equipped With Cargo Doors Installed in Accordance With Supplemental Type Certificate (STC) SA2969SO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Boeing Model 737-200 and -300 series airplanes, that currently requires inspections to detect cracking in the radii on the support angles on the lower jamb (latch lug fittings) of the main deck cargo door, and replacement of cracked parts. That amendment was prompted by reports of premature fatigue cracking on the support angles on the lower jamb of the main deck cargo door. The actions specified in that AD are intended to prevent in-flight separation of the main deck cargo door from the airplane due to fatigue cracking on the support angles on the lower door jamb. This amendment requires a change in the cognizant aircraft certification office for requesting approvals of alternative methods of compliance with the provisions of this AD.

DATES: Effective December 20, 1995.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of January 24, 1995 (60 FR 2323, January 9, 1995).

Comments for inclusion in the Rules Docket must be received on or before February 5, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-247-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Pemco Aeroplex, Inc., P.O. Box 2287, Birmingham, Alabama 35201-2287. This information may be examined at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia; or at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Curtis Jackson, Aerospace Engineer, Airframe Branch, ACE-120A; FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia 30337-2748; telephone (404) 305-7358; fax (404) 305-7348; or Della Swartz, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2785; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: On December 29, 1994, the FAA issued AD 95-01-06, amendment 39-9117 (60 FR 2323, January 9, 1995), applicable to certain Boeing Model 737-200 and -300 series airplanes, to require repetitive visual inspections to detect cracking in the radii on the support angles on the lower jamb of the main deck cargo door, and replacement of cracked parts with new parts. For those operators requesting approval of alternative methods of compliance (AMOC) with the requirements of that AD, that AD requires that those requests be submitted to the Seattle Aircraft Certification Office (ACO).

That AD was prompted by reports of premature fatigue cracking on the support angles on the lower jamb of the main deck cargo door. The actions required by that AD are intended to prevent in-flight separation of the main deck cargo door from the airplane due to fatigue cracking on the support angles on the lower door jamb.

Since the issuance of that AD, the FAA has reviewed the requirement for operators requesting approval of an AMOC to submit those requests to the Seattle ACO. The FAA considered the physical proximity of the supplemental type certificate (STC) holder, Pemco, which is located in Birmingham, Alabama, to the Atlanta ACO, which is located in College Park, Georgia. The FAA has determined that the Atlanta ACO would be more readily accessible to Pemco than the Seattle ACO, which is located in Renton, Washington. Consequently, the FAA finds that revising this AD to change the cognizant ACO for requesting approval of an AMOC, from the Seattle ACO to the Atlanta ACO, would allow the FAA to be more responsive to the needs of its customers. Therefore, the FAA has determined that it is appropriate to take action to revise paragraph (b) of that AD to change the cognizant ACO from Seattle to Atlanta.

Since unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD revises AD 95-01-06 to continue to require repetitive visual inspections to detect cracking in the radii on the support angles on the lower jamb of the main deck cargo door and replacement of cracked parts with new parts. This AD changes the cognizant ACO for requesting approval of an AMOC from the Seattle ACO to the Atlanta ACO.

This AD merely changes, for those operators requesting approval of an AMOC, the cognizant office from the Seattle ACO to the Atlanta ACO. In light of this, the FAA has determined that this AD has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and opportunity for prior public comment hereon are unnecessary, and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94-NM-247-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39--AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-9117 (60 FR 2323, January 9, 1995), and by adding a new airworthiness directive (AD), amendment 39-9449, to read as follows:

95-01-06 R1 Boeing: Amendment 39-9449. Docket 94-NM-247-AD. Revises AD 95-01-06, Amendment 39-9117.

Applicability: Model 737-200 and -300 series airplanes equipped with main deck cargo doors installed in accordance with supplemental type certificate (STC) SA2969SO, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in

this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent in-flight separation of the main deck cargo door from the airplane, accomplish the following:

Note 2: This AD references Pemco Alert Service Letter 737–53–0003, Revision 3, dated December 22, 1994, for information concerning inspection and replacement procedures. In addition, this AD specifies replacement requirements different from those included in the service letter. Where there are differences between the AD and the service letter, the AD prevails.

(a) Within 50 flight after January 24, 1995 (the effective date of AD 95–01–06, amendment 39–9117), or within 50 flight cycles after installation of STC SA2969SO, whichever occurs later, perform a visual inspection to detect cracking in the radii on the support angles on the lower jamb of the main deck cargo door, in accordance with Pemco Alert Service Letter 737–53–0003, Revision 3, dated December 22, 1994.

(1) If no cracking is detected, repeat the visual inspection thereafter at intervals not to exceed 450 flight cycles.

(2) If any cracking is detected, prior to further flight, replace the cracked part with a new part in accordance with the service letter. Repeat the visual inspection thereafter at intervals not to exceed 450 flight cycles.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office (ACO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspection and replacement procedures shall be done in accordance with Pemco Alert Service Letter 737–53–0003, Revision 3, dated December 22, 1994. This incorporation by reference was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of January 24, 1995 (60 FR 2323, January 9, 1995). Copies may be obtained from Pemco Aeroplex, Inc., P.O. Box 2287, Birmingham, Alabama 35201–2287. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia 30337–2748; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on December 20, 1995.

Issued in Renton, Washington, on November 28, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–29480 Filed 12–4–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 95–AWP–15]

Establishment of Class E Airspace; Byron, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class E airspace area at Byron, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 30 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Byron Airport, Byron, CA.

EFFECTIVE DATE: 0901 UTC, February 29, 1996.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6533.

SUPPLEMENTARY INFORMATION:

History

On October 10, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class E airspace area at Byron, CA (60 FR 52638). The development of a GPS SIAP at Byron Airport has made this action necessary.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. Class E airspace designations listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes a Class E airspace area at Byron, CA. The development of a GPS SIAP at Byron Airport has made this action necessary. The intended effect of this action is to provide adequate Class E airspace for aircraft executing the GPS RWY 30 SIAP at Byron Airport, Byron, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Byron, CA [New]

Byron Airport, CA
(Lat. 37°49'40" N, long. 121°37'27" W)

That airspace extending upward from 700 feet above the surface within a 4.9-mile radius of Byron Airport.

* * * * *

Issued in Los Angeles, California, on November 21, 1995.

James H. Snow,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 95–29350 Filed 12–4–95; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 455

Regulatory Flexibility Act and Periodic Review of Used Motor Vehicle Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Commission announces that its review of the Used Car Rule (the "Rule"), which was conducted pursuant to the Regulatory Flexibility Act ("RFA"), and the Commission's review program, has been completed. Having considered all of the issues raised during the comment period, the Commission is now issuing non-substantive amendments to the Rule. The Commission is making several minor grammatical changes to the Spanish language version of the Buyers Guide. Further, the Commission is amending the Rule to permit dealers to post Buyers Guides anywhere on a used vehicle, instead of requiring that they be posted on a side window, provided the Buyers Guide is conspicuously and prominently displayed and both sides can be easily read. Finally, the Commission is amending the Rule to allow dealers the option of obtaining a consumer's signature on the Buyers Guide, if accompanied by a disclosure that the buyer is acknowledging receipt of the Buyers Guide at the close of the sale.

DATES: The effective date of these non-substantive amendments will be January 4, 1996.

ADDRESSES: Requests for copies of the regulations and the notice of final, non-substantive amendments should be sent to Public Reference Branch, Room 130, Federal Trade Commission, 6th and Pennsylvania Ave., NW, Washington D.C. 20580.

FOR FURTHER INFORMATION CONTACT: George Brent Mickum IV, Attorney, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, D.C. 20580, (202) 326–3132.

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 6, 1994, the Commission, in accordance with the RFA's requirements, and its own program to review all its rules and guidelines periodically, published a Notice in the **Federal Register** soliciting comments on the Rule.[1] The Notice solicited comments about the impact of the Rule generally, and whether it had had a significant economic impact on small entities,[2] and, if so, whether the Rule should be amended to minimize any such impact. The Notice also sought comment on certain proposed changes to the Rule.

The Commission received 26 comments in response to the Notice.[3] These comments came from eight used car dealers;[4] four Attorneys General;[5] four consumer protection groups;[6] three trade associations;[7] one state government;[8] one radio station;[9] one national distributor of Buyers Guides;[10] one CPA firm that represents used car dealers;[11] and one consumer.[12]

II. The Regulation

The Commission promulgated the Used Car Rule under the authority of the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.* ("FTC Act"), and the Magnuson Moss Warranty Act, 15 U.S.C. 2309, on November 19, 1984. 49 FR 45692 (1984). The Rule became effective on May 9, 1985.[13] A violation of the Rule constitutes an unfair or deceptive act or practice under the FTC Act, and one who violates the Rule is subject to civil penalties of up to $10,000 per violation.

The Used Car Rule is primarily intended to prevent and to discourage oral misrepresentations and unfair omissions of material facts by used car dealers concerning warranty coverage. The Rule provides a uniform method for written disclosure of warranty information on a window sticker called the "Buyers Guide." The Rule requires sellers to disclose on the Buyers Guide the basic terms and conditions of any warranty offered in connection with the sale of a used car, including the duration of coverage, the percentage of total repair costs to be paid by the dealer, and the exact systems covered by the warranty.

The Rule also requires certain other disclosures, including: a suggestion that consumers ask the dealer if a pre-purchase inspection is permitted; a warning against reliance on spoken promises that are not confirmed in writing; and a list of fourteen major systems of an automobile and the major problems that may occur in these systems. The Rule also provides that the Buyers Guide disclosures are incorporated by reference into the sales contract and govern in the event of an inconsistency between the Buyers Guides and the sales contract.

The public comments on the questions asked in the Notice and the additional information gathered during the reviews are discussed below.

III. Non-Substantive Amendments to Spanish Language Version of the Buyers Guide

In the Notice, the Commission proposed two non-substantive amendments to the Rule involving the

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[1] 59 FR 23647 (May 6, 1994) ("the Notice").

[2] For the purpose of the RFA review, a "small entity" is a used motor vehicle dealer with less than $11.5 million in annual sales, as defined by the Small Business Size Standards, 13 CFR 121.601.

[3] The comments were placed on the public record under category 23 (Regulatory Flexibility Act Review Comments) of Public Record Docket No. P944202. References to the comments are made by means of the author and number of the comment and, when appropriate, the page of the comment. Two of the comments were consumer complaints that were inadvertently classified as comments. Although some comments were submitted shortly after the closing date of July 6, 1994, the Commission has included them in its analysis.

[4] Chuck Gould, J.O.A. Motors Ltd., B–03; Anonymous South Carolina dealer, B–04; Karl Kroeger, K&K Auto Sales, Inc., B–05; F. Whalen, B–06; Kenny Loveless, Northside Auto Sales, B–09; Mike Zibura, B–10; Lee S. Maas, Sun-West Audi, B–18; Duane H. Wallace, Town & Country Chevrolet Oldsmobile Inc., B–26.

[5] Alaska Attorney General, Bruce M. Botelho, B–01; Illinois Attorney General, Roland W. Burris, B–08; Iowa Attorney General, William L. Brauch, Assistant Attorney General, B–15; Washington Attorney General, Christine O. Gregoire, B–17.

[6] National Coalition for Consumer Education ("NCCE"), Carol Glade, Executive Director, B–12; Office of Consumer Credit Commissioner, Richard R. Woodward, Examiner, B–16; National Consumer Law Center ("NCLC"), B–23; National Association of Consumer Agency Administrators ("NACAA"), Lawrence A. Breeden, President, B–25.

[7] The National Independent Automobile Dealers Association ("NIADA"), B–07; the Texas Automobile Dealers Association ("TADA"), B–11; the National Automobile Dealers Association ("NADA"), B–19.

[8] Michigan Department of State, Jeff Villaire, Director, Dealer Division, Bureau of Automotive Regulation, B–14.

[9] WBBM Newsradio 78, Naomi Hood, Director, B–13.

[10] Reynolds & Reynolds, Joe Hurr, Director, Automotive Forms Marketing, B–20.

[11] Hundman & Woodward, Carl Woodward, C.P.A., B–21.

[12] Jay R. Drick, Esq., B–25. As indicated earlier, two of the comments were consumer complaints that were misclassified as comments. Warren and Irma Muncey, B–02; Sam A. Amato, B–22.

[13] Two states, Wisconsin and Maine, subsequently petitioned the Commission and received exemptions pursuant to section 455.6 of the Rule.

Spanish language version of the Buyers Guide, Section 455.5 of the Rule. The Commission received three comments favoring the changes and none in opposition.[14] The Commission has thus determined to adopt the proposed amendments.[15] The first change is grammatical: the "As Is" ("Como Esta-Sin Garantia") section of the Buyers Guide reads "El vendedor no asume ninguna responsabilidad por cualquier *las reparaciones* * * *" (emphasis added). This language is amended to read: "El vendedor no asume ninguna responsabilidad por cualquier reparacion * * *" The second change appears in the "Warranty" ("Garantia") section of the Buyers Guide. The word "vendedo" in the second full sentence is amended to "vendedor." Consequently, the sentence is also amended to read "Pida al *vendedor* una copia del documento * * *."

IV. Responses to the Federal Register Notice

Question One

Is there a continuing need for the Rule?

a. What benefits has the Rule provided to purchasers of the products or services affected by the Rule?

b. Has the Rule imposed costs on purchasers?

i. *Summary of Comments.* The comments from the eight dealers and the CPA firm (its clients are dealers) all favored rescinding the Rule. They stated that the Rule places an enormous burden on small businesses. Generally, these dealer comments [16] and the CPA firm [17] contended that the consumer benefit derived from the Rule was not justified by the cost of displaying the form, and that consumers pay no attention to the Buyers Guide. None of these comments provided any specific information in support of their contentions.

All of the other comments, including those from dealer trade associations, stated that the Rule is beneficial and that there is a continuing need for the Rule. Both NADA and NIADA reported that the Rule has helped avoid confusion regarding warranty coverage, and that the Buyers Guide is beneficial to both customers and dealers. Both NADA and NIADA stated that the costs associated with the Rule seem to be reasonable.[18]

NCCE noted that because young people and consumers with limited resources are the major purchasers of used cars, objective, reliable, point-of-sale information is essential to an effective consumer decision. The comment stated that the FTC Used Car Rule provides information to consumers that assists them in making a wise and well informed decision, stimulates comparison shopping, and stimulates the competitive spirit of our free enterprise system.[19] Michigan's Department of State noted that the longer the Rule is in place, the more the public becomes aware of issues regarding warranty coverage and extended service agreements.[20] NCLC and NACAA noted that the Rule allows consumers an opportunity to see what warranty protection is available and to compare warranty coverage among vehicles and dealers.[21] The Iowa Attorney General noted that because motor vehicle designs are growing increasingly complex and repairs more expensive, warranty coverage is of increasing importance to motor vehicle purchasers.[22] Consequently, the Rule provides the consumer with valuable information.

ii. *Discussion.* In the original rulemaking, the Commission found that "many used car dealers mislead consumers into believing that they have broad post-purchase warranty coverage when in fact consumers receive limited or no warranty protection * * *. In many cases dealers make verbal promises to repair defects after sale that are contradicted by final written contract terms * * *."[23] The Commission concluded that the "practices are pervasive and among the chief sources of complaints received by various consumer protection organizations around the country."[24]

Although the trade associations asserted that some of the aforementioned problems have abated, other comments suggested that some of these problems continue to occur. Used car complaints continue to be among the most frequent type of complaints received by consumer protection groups across the country,[25] and the majority of these organizations suggested amending the Rule in ways they contend would provide even more protection to consumers.

No evidence was adduced during this review that contravenes the Commission's 1984 findings, and no persuasive reasons were advanced in the comments that would suggest that reconsideration is appropriate. The dealer comments favoring repeal of the Rule because it is burdensome are conclusory and contradicted by other comments. For example, Reynolds & Reynolds, a publisher of Buyers Guides, noted that the average cost of a Buyers Guide is 7.6 cents. It also noted that because the compliance costs are so small they are usually absorbed and rarely passed on to the purchaser.[26] Accordingly, because the Rule is achieving its objectives and is cost effective, the Commission is retaining the Rule.

Question Two

What changes, if any, should be made to the Rule to increase the benefits of the Rule to purchasers?

a. How would these changes affect the costs the Rule imposes on firms subject to its requirements?

The comments responding to this question are discussed category-by-category below.

A. Disclosing Defects

i. *Summary of Comments.* Many comments suggested general changes to the Rule to increase its effectiveness for consumers. Six comments recommended that the Rule require dealers to make written disclosure of known defects in all "As-Is" sales.[27] Texas's Consumer Credit Commissioner suggested amending the Rule to inform consumers that "As-Is" does not mean dealers can sell vehicles with material defects.[28]

ii. *Discussion.* In the original rulemaking, after carefully considering the issue, the Commission decided not to require disclosure of known defects because it "concluded that the known defects disclosure requirement will not provide used car buyers with a reliable source of information concerning a car's mechanical condition and that the provision would be exceedingly difficult to enforce."[29] The Commission determined that the warranty and "As-Is" disclosures—along with the warnings about spoken promises and the pre-purchase inspection notice—are effective remedies for the deceptive practices occurring in the used car industry.[30] No new information was provided in this review on whether provisions requiring disclosure of known defects provide substantial information benefits in practice, nor did the Commission staff's independent review of available information contradict this determination.[31] The only pertinent evidence regarding this issue relates to Wisconsin's experience with its statute.

The SBP indicates that during the original rulemaking the Commission examined Wisconsin's experience with its used car rule, which requires dealers to inspect their cars and to disclose the results of the inspection. This examination revealed that 51% of Wisconsin consumers still ultimately experienced repair problems not identified at the time of purchase.[32]

The Commission was aware of this information when it promulgated the Rule. There is no new evidence indicating that reliable information would be disclosed if such a provision were required or that efficient enforcement would be feasible. Based on the foregoing, the Commission has determined that changing its original position on defect disclosures is unnecessary.

B. Requiring Dealers To Keep Copies of the Buyers Guide and Requiring a Signature Line

i. *Summary of Comments.* Both NACAA and the Iowa Attorney General suggested amending the Rule to require dealers to obtain a consumer signature on the Buyers Guide to ensure receipt of the document, and to retain copies of the signed Buyers Guide.[33] Both contended that enforcement of the Rule would be easier because the absence of a signed Buyers Guide in the dealer's records would create the inference that no Buyers Guide was provided. Further, the dealer copy would be evidence of the warranty disclosures that were made. On the other hand, NCLC suggested that some dealers already have consumers sign the back of the Buyers Guide at the close of the deal in an attempt to cover themselves for failing to post Buyers Guides in vehicles earlier as required by the Rule.[34] NCLC stated that such a requirement could undermine the intent of the Rule because signing a piece of paper, perhaps as part of signing a stack of papers at closing, does not prove that the Buyers Guide was posted on the vehicle, that the Buyers Guide was given to the consumer at an appropriate time, or that the buyer was apprised of the warranty terms.

ii. *Discussion.* In initially approving the form of the Buyers Guide, the Commission determined that "a uniform method of disclosure will alleviate confusion and possible deception which might result from inconsistent versions of the Buyers Guide." SBP at 45709. Consequently, the Rule does not allow dealers to modify the format of the Buyers Guide. In response to dealer requests, however, staff has informed dealers, through informal staff opinion letters, that staff was not likely to recommend enforcement actions against a dealer asking for a consumer's signature on the back of the Buyers Guide.

Allowing a signature to be obtained on the back of the Buyers Guide was permitted to assist dealers who wanted protection against consumer claims that they had failed to provide Buyers Guides, as required by law.[35] From the dealers' perspective, one effective way to document that a Buyers Guide was received by a consumer is to obtain the consumer's signature and keep a copy of the signed Buyers Guide in their files. Thus, there is now considerable incentive for dealers to obtain signatures. Requiring a signature to be obtained appears unnecessarily burdensome.

The Commission also notes that the presence or absence of a signature on a Buyers Guide, by itself, does little to ensure that the Buyers Guide will be posted as required by the Rule. There is no benefit unless dealers also are required to keep signed copies, any omissions thereby demonstrating noncompliance. However, the Commission does not believe the benefits of a mandatory signing requirement along with a recordkeeping provision are likely to justify the costs those requirements would impose.[36]

Dealers, however, may want to obtain signatures and maintain copies of the Buyers Guide in their files. The Commission staff's enforcement advice permits this, but such advice is not necessarily widely known. The Commission, therefore, is amending the Rule to allow an optional signature line on the back of the Buyers Guide. To ensure that the customer's signature is not misused, and to put dealers on notice that obtaining a signature does not satisfy all of the Rule's requirements, the optional signature line is permitted only when accompanied by language in immediate proximity to the line stating: "I hereby acknowledge receipt of the Buyers Guide at the closing of this sale."[37]

C. Scope of the Rule

1. Private Sales

NIADA suggested that the FTC require that everyone display a Buyers Guide in any used motor vehicle that is advertised for sale.[38] This issue was thoroughly considered during the original rulemaking. As noted in the SBP, private parties generally do not offer warranties, and therefore, at least as to this issue, it is unlikely that there would be any misunderstandings. Also,

[14] NIADA, B–7 at 1; TADA, B–11 at 3; NACAA, B–24 at 3.

[15] Dealers may use up existing stocks of the current version of the Spanish Buyers Guide.

[16] B–05 at 1; B–06 at 1; B–09 at 1; B–18 at 1; B–26 at 1.

[17] B–21. Henceforward, all references to the dealer comments will include this comment.

[18] See, *e.g.*, NIADA Comment, B–7 at 2.

[19] B–12 at 1. The comment indicates that the Commission's objectives in promulgating the Rule have, in large part, been achieved.

[20] B–14 at 1.

[21] NCLC, B–23 at 1; NACAA, B–24 at 1–2.

[22] B–15 at 2.

[23] SBP, 49 FR 45692, 45702 (Nov. 19, 1984).

[24] *Id.*

[25] For example, NACAA's comment notes that "[a]uto sales consistently rank among the most numerous consumer complaints. In surveys of NACAA members conducted in 1992 and 1993, auto sales were in the top five complaint categories. A report issued by the Council of Better Business Bureaus revealed that in 1993 auto sales problems were the fifth most frequent complaint made to BBBs nationwide. NAAG has also released 1993 statistics which list automobiles (including sales and service) as the third largest category of complaints." B–24 at 1.

[26] B–20 at 1.

[27] Alaska AG, B–01 at 1–2; Illinois AG, B–08 at 1; WBBM Newsradio, B–13 at 1; Michigan Department of State, B–14 at 1; Office of Consumer Credit Commissioner, B–16 at 1; NACAA, B–24 at 2–3.

[28] B–16 at 1.

[29] *Id.* at 45712.

[30] *Id.*

[31] For example, a literature search for economic research on "defects disclosures" turned up two titles, one an FTC working paper, the other a dissertation from a student at the University of Wisconsin. The two studies both use data from the 1970's (pre-Used Car Rule SBP) and neither finds a beneficial effect of the disclosures on the used car market.

[32] During the rulemaking, the Commission considered the results of a study conducted in Wisconsin, involving surveys of both dealers and consumers. See, *e.g.*, SBP at 45712.

[33] B–24 at 3; B–15 at 3–4.

[34] B–23 at 8–9.

[35] Although some dealers only give consumers the Buyers Guide at closing and do not post, Commission investigations reveal that some consumers claim that they were not provided with a copy of the Buyers Guide, when, in fact, they were.

[36] The issue of requiring dealers to maintain copies of the Buyers Guide was considered in the original proceeding. In an effort to minimize the Rule's recordkeeping requirements, the Commission decided not to require dealers to maintain copies. The primary thrust of the Rule was to provide pre-sale information about warranty coverage and to ensure that a copy of the Buyers Guide was given to the purchaser. The Commission concluded the Rule would achieve these results without a recordkeeping requirement. Dealers, of course, are free to maintain whatever records they believe are appropriate, and many in fact do keep copies. Further, recent legislation amending the Paperwork Reduction Act requires agencies to attempt to reduce the paperwork burden associated with their regulations. Adding a recordkeeping requirement would constitute a new paperwork burden.

[37] Dealers are advised that the customer's signature will be viewed merely as an acknowledgement that the customer has received the Buyers Guide, which is only one of a dealer's duties under the Rule. The dealer is still responsible for ensuring that posting occurs when a vehicle is offered for sale. Further, the dealer has the responsibility to ensure that any warranty terms that the dealer and the buyer negotiate are reflected on the Buyers Guide, as required by section 455.3(a) of the Rule. This is a non-substantive amendment that does not require Magnuson-Moss rulemaking procedures, as specified in section 18 of the FTC Act, 15 U.S.C. 57a.

[38] B–7 at 3.

enforcing the Rule in private sales would not be cost effective. NIADA offered no data that would contradict the findings in the SBP. Thus, the Commission has determined that a proceeding to amend the Rule to include private sales under the Rule is unnecessary.

2. Demonstrators

i. *Summary of Comments.* NADA suggested that Buyers Guides not be required on "demonstrator" vehicles, because such vehicles also are required to have a new car Monroney Label that cannot be removed until after the vehicle is sold at retail.[39] The purpose of the Monroney label is to provide consumers with the manufacturers' suggested retail price for the vehicle, and a list of the optional equipment that comes with the vehicle. NADA believes that the Buyers Guide, when combined with the Monroney Label, confuses customers without providing additional useful information. It stated that all demonstrators are covered by factory new vehicle warranties, and manufacturers require dealers to review the warranty coverage of new vehicles with the customer at the time of delivery.[40]

ii. *Discussion.* "Demonstrator" vehicles are considered "used" under the Rule because they have been driven for purposes other than test driving or moving.[41] However, for purposes of the Monroney Act they are "new" because they have not been titled.[42] In promulgating the Used Car Rule, the Commission expressly rejected defining whether a vehicle is new by virtue of titling laws.[43] The Commission determined that the definition of a used vehicle should be consistent with the Commission's decision in *Peacock Buick, Inc.*[44] The *Peacock* order prohibits the defendants from "[r]epresenting * * * that any vehicle is new when it has been used in any manner, other than the limited use necessary in moving or road testing a vehicle prior to delivery of such vehicle to the customer."[45]

Further, the rulemaking record reflected that used cars sold as demonstrators were subject to dealer oral misrepresentations. Thus, there was substantial justification on the record for including demonstrators within the scope of the Rule.[46] Consequently, the Commission defined a "used vehicle" as "any vehicle driven more than the limited use necessary in moving or road testing a new vehicle prior to delivery. * * *"[47] In adopting this definition, the Commission was aware that the term would cover demonstrators, and that the definition was broader than the definition employed in some states, which rely on titling to determine whether a vehicle is used. Because of the Commission's prior consideration of this issue and the fact that the Monroney Label does not serve the purposes the Buyers Guide was designed to address, the Commission has determined that amending the Rule's coverage of demonstrators is unnecessary.

3. Salvage Vehicles

Iowa's Attorney General suggested that the Commission amend the Rule to cover sales of vehicles on salvage or equivalent certificates of title.[48] The Rule excludes from the definition of a "used vehicle" "any vehicle *sold only for scrap or parts (title documents surrendered to the State and a salvage certificate issued).*"[49] Addressing this issue in the SBP, the Commission stated:

> Insofar as a vehicle is sold for its parts and not as an operating vehicle, there appears to be no need to provide consumers with the kind of information customarily used to evaluate an automobile as a means of personal transportation. Accordingly, the definition of "used vehicle" specifically excludes those cars sold only for salvage.[50]

Although the Iowa AG's comment does not discuss the reasons why the Rule should be extended to include salvaged vehicles, the Commission is aware that the sale of salvaged vehicles is viewed as a problem in some parts of the country. This occurs because unscrupulous individuals take advantage of state laws that do not require titling documents to show that a vehicle has been rebuilt from salvaged vehicles. These individuals obtain salvaged vehicles, restore them, and then transport them to a state that does not require the title to show that a vehicle has been salvaged. There, a clean title with no reference to the fact that a vehicle has been salvaged is obtained. The vehicle may then be taken to any state, even a state that requires a salvage disclosure, and be retitled and sold as a used vehicle without disclosing that it was a salvaged vehicle.

The Used Car Rule, however, only addresses warranty coverage, not the source of car parts, which is the underlying issue with vehicles rebuilt from salvaged parts. Even if the Rule were amended to require Buyers Guides for such vehicles, consumers still would not have information about the vehicle's history. Further, because the vehicle could be sold "As-Is" or with a limited warranty of short duration, a Buyers Guide is unlikely to provide the desired protection for individuals purchasing vehicles rebuilt from salvaged parts.

This problem is best addressed by the states or by federal legislation,[51] and not by an amendment to the Rule. To the extent that consumers want or need to know that the vehicle they are purchasing is constructed from a salvaged vehicle or vehicles, the more appropriate and effective remedy would be uniform laws regarding the way salvage vehicles are required to be titled. For these reasons, the Commission has determined that it is unnecessary to amend the Buyers Guide to indicate that a vehicle has been salvaged.

4. Leased Vehicles

NCLC suggested that the Rule be amended to cover leased used vehicles.[52] The comment, however, did not provide information indicating the leasing of used vehicles is particularly pervasive or fraught with the same types of problems the Commission found were associated with the sale of used cars. Other than NCLC's suggestion, there is no evidence on the record to suggest a need for the Commission to initiate a proceeding to amend the Rule. The Consumer Leasing Act, among other things, requires lessors to disclose in writing who is responsible for repairs and maintenance on the vehicle and whether warranties or service contracts are available.[53] Pursuant to that Act, if a warranty is offered the complete terms must be set forth in writing. The Commission's research into the market for used leased vehicles indicates that most used vehicles that are leased come with warranties. Thus, lessors are required to provide the same type of information required by the Used Car Rule (although not via a window sticker format). Accordingly, the Commission has determined that the suggested change is unnecessary.

D. Amend Language That the Buyers Guide Controls in the Event of a Discrepancy

i. *Summary of Comments.* NCLC suggested changing the language in Section 455.3(b) of the Rule, which incorporates the Buyers Guide into the written contract by reference and provides that the Buyers Guide controls in the event of any discrepancy. NCLC stated that the requirement that the Buyers Guide overrides any contrary provisions is too broad and might in some cases have the Buyers Guide override greater protections in the contract.[54] NCLC preferred language saying that if there are contrary provisions in the contract, the provision that offers the greatest warranty protection to the consumer is applicable.[55]

ii. *Discussion.* The purpose of the disclosure in Section 455.3(b) is to provide consumers with protection by allowing information to be considered that might otherwise not be considered under contract law. Specifically,

> By integrating the Buyers Guide within the "four corners" of the used car sales contract, the Commission intends that the Buyers Guide become part of the written agreement between buyer and seller, so that, in the event of disputes between buyers and sellers, the information on the Buyers Guide would fall outside the exclusions of the parol evidence rule of contract law.[56]

The NCLC comment envisions a situation where, for example, a written contract offers a warranty but the Buyers Guide is marked "As-Is" and then incorporated into the contract, negating or overriding the warranty described in the contract. Because the Rule states that the Buyers Guide controls, the consumer could, theoretically, be without recourse. However, the Commission has never encountered this problem, most likely because the Buyers Guide, if conforming to the Rule, should contain any extra protections set forth in the contract. In fact, the Rule places an affirmative duty on dealers to ensure that the Buyers Guide reflects the actual terms negotiated. Section 455.3(b) of the Rule states that the "information on the *final* version of the window form is incorporated into the contract * * *" (emphasis added),[57] and section 455.4 states that "*[A]ny final warranty terms agreed upon * * * must be identified in the sales contract and summarized on the copy of the Buyers Guide given to the buyer.*"[58] Accordingly, there will be no conflict where the dealer complies with the Rule. Where the dealer does not, and the Buyers Guide contains the "As-Is" statement, there usually will be ample evidence that this was not a "final" Buyers Guide reflecting the terms negotiated.[59]

For these reasons, the Commission has determined that action to amend the Rule in this regard is unnecessary.

E. "AS-IS" Version of the Buyers Guide May Be Depriving Consumers of Oral or Implied Warranty Rights Under UCC or State Law

i. *Summary of Comments.* NCLC recommended that the Commission clarify use of the word "warranty," as used on the Buyers Guide. The comment notes that, under the UCC, oral express warranties may be given in an individual transaction, notwithstanding that written warranties are not provided.[60] Consequently, NCLC believed that the term "As-Is No Warranty" on the Buyers Guide is confusing, because, pursuant to the Rule's definition, the term "No Warranty" only means no *written* warranty.[61] Therefore, NCLC contended that the "As-Is No Warranty" notice on the Buyers Guide could conflict with UCC protections and mislead consumers into believing that any express oral warranty is voided when the dealer provides an "As-Is No Warranty" Buyers Guide.[62] Moreover, NCLC contends that a dealer might make oral warranties which are recognized by state law, but later use the "As-Is No Warranty" language on the Buyers Guide as evidence that no oral warranties had been offered.

NACAA similarly stated that:

> In many jurisdictions, oral or written representations (other than [those found on] the "Buyers Guide") are enforceable. To remedy this conflict, the [R]ule should be changed to say that while dealers may not make any statements or take any actions that would be contrary to the disclosures required in §§ 455.2 and 455.3, the "Buyers Guide" may not be used to disclaim any rights that consumers may be able to assert under state or local law* * *.[63]

In addition, NCLC stated that the warranty section of the Buyers Guide should be changed. The comment pointed out that a warranty, as defined in § 455.1(d)(5), is an undertaking in writing to refund, repair, replace, maintain, or take other action with respect to the vehicle.[64] NCLC noted, however, that the form language written on the Guide speaks only in terms of repair. It does not appear to allow any option of refund, replacement, maintenance, or other action. NCLC suggested that the Buyers Guide be changed to reflect that these as well as other remedies are options.[65]

As a corollary to the foregoing discussion, several comments contended that the most frequently used version of the Buyers Guide—having only "AS-IS-NO WARRANTY" and "WARRANTY" designations—encourages dealers to sell cars without warranties. This version of the Buyers Guide provides dealers with two choices, either to give an express written warranty or to sell the car "As-Is" (with no express or implied warranties). An alternate "Implied Warranties Only" Buyers Guide is provided for in § 455.2(b)(ii) for use in those states that prohibit "As-Is" sales.

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[39] Under the Monroney Act, 15 U.S.C. 1231–33, new vehicles must display a document (called the Monroney Label) that contains the manufacturer's price, all optional equipment on the vehicle, the location of the dealer to whom the vehicle was shipped, and the Vehicle Identification Number of the car.

[40] B–19 at 2.

[41] See 16 CFR 455.1(d)(2).

[42] 15 U.S.C. 1231(d).

[43] In adopting the Rule, the Commission stated that "many states, for the purpose of titling laws, identify as 'new' vehicles for which title has not passed to a purchaser despite extensive use of the vehicle as a demonstrator model." SBP at 45707.

[44] 86 F.T.C. 1532 (1975).

[45] 86 F.T.C. at 1566.

[46] See SBP at 45707. Demonstrators include dealer-licensed vehicles that can have thousands of miles on them. These vehicles have only the period of new car warranty coverage that remains on the vehicle at the time of purchase, not the full manufacturer warranty that comes with the purchase of a new car. Thus, consumers may wish to negotiate with the dealer for additional warranty coverage.

[47] 16 CFR 455.1(d)(2).

[48] B–15 at 3.

[49] 16 CFR 455.1(d)(2)(emphasis added).

[50] SBP at 45707.

[51] The Final Report of the Motor Vehicle Title, Registration, and Salvage Advisory Committee, submitted by a Presidential Task Force on February 10, 1994, proposes federalizing the definition of a salvage vehicle to prevent the practice of allowing salvage vehicles to be retitled in states that do not require disclosure on the title certificate that a vehicle is a salvaged vehicle.

[52] B–23 at 3.

[53] 15 U.S.C. 1667 *et seq.*; see also 12 CFR 213.

[54] B–23 at 2.

[55] *Id.*

[56] SBP at 45710.

[57] Section 455.3(a) states that the dealer must provide the buyer with a Buyers Guide containing all of the disclosures required by the Rule, "and reflecting the warranty coverage agreed upon."

[58] SBP at 45711 (emphasis added).

[59] Other documents generated in used car sales transactions also would be pertinent to a decision whether a Buyers Guide reflects the "final version" of the deal negotiated between the buyer and the dealer. For example, the Warranty Disclosure Rule requires that consumers be given written information regarding warranty terms and coverage. It also provides that written warranty terms become "part of the basis of the bargain between the supplier and the buyer . . ." 16 CFR section 701.1(c)(2) Thus, if warranty documents are considered part of the contract, and a Buyers Guide indicates that a vehicle was sold "As-Is," the warranty documents would appear to be evidence that the Buyers Guide did not reflect the final deal, and the language in section 455.3(b) of the Rule would not be controlling.

[60] B–23 at 2.

[61] Under the Rule, "warranty" means "any undertaking in writing, in connection with the sale by a dealer of a used vehicle, to refund, repair, replace, maintain or take other action with respect to such used vehicle and provided at no extra charge beyond the price of the used vehicle." NCLC noted that the definition is very similar to the one that appears in the Magnuson-Moss Warranty Act, 15 U.S.C. 2301(6)(B). See SBP at 45709 ("These subsections define the terms 'warranty,' 'implied warranty,' and 'service contract' in a manner which conforms to the definitions of those terms in the Magnuson-Moss Warranty Act").

[62] According to NCLC, the UCC allows dealers to disclaim implied warranties (i.e., sell a vehicle "As-Is" and still make statements about the car that create oral express warranties). B–23 at 2.

[63] B–24 at 2.

[64] B–23 at 8–9.

[65] *Id.*

To remedy the problem, NCLC suggested that the Buyers Guide be revised to include an "Implied Warranties Only" section on the "As-Is" version of the Buyers Guide.[66] If this revision were adopted, the Buyers Guide would give dealers the option of checking one of three boxes: "As-Is No Warranty," "Implied Warranties Only," and "Warranty." The comments contended that most consumers do not know that implied warranties are available as a form of legal redress.[67] If all versions of the Buyers Guide contained an "Implied Warranties Only" provision, or at least alerted consumers that implied rights exist, consumers would be on notice that they may be forsaking possible legal redress to which they would otherwise be entitled but for the dealer's decision to sell the vehicle "As-Is." Consumers then might attempt to negotiate a better warranty agreement with the dealer than an "As-Is" deal. Also, some dealers might even choose to offer implied warranties rather than use "As-Is" sales if they were given an easy choice and did not have to use a special form or make a substitution on the form. If their only choice is "As-Is" or an express warranty, NCLC contends, dealers nearly always choose to sell vehicles "As-Is."[68]

Washington's Attorney General asserted that the Rule should only allow use of the "Implied Warranties Only" version of the Buyers Guide, because, given the choice to sell with a warranty or "As-Is," dealers opt simply to check off the "As-Is" provision. The Washington State Attorney General stated that the "As-Is" provision may provide an unintended shield for some unscrupulous dealerships that fail to use required procedures for disclaiming implied warranties under Washington contract law. The comment stated that Washington consumers are not generally aware that, under Washington law, their waiver of the implied warranty of merchantability must be knowing and voluntary. Warranty terms or the absence of implied warranties must be the subject of explicit negotiations between the parties (written disclaimers are not enough). The Rule does not disclose preconditions to a valid disclaimer of implied warranties peculiar to Washington State Law.[69]

ii. *Discussion.* The Buyers Guide focuses on written warranties because during the rulemaking the Commission found that oral promises made during used car sales were frequently contradicted by the written documents, and that the parol evidence rule operated to exclude the admissibility of oral promises contradicted by a written contract.[70] In the SBP, the Commission recognized that "As-Is" purchases could operate to exclude other contractual rights. The Commission stated that:

> consumers purchasing "as-is" but relying on contradictory oral promises are stripped of the protection afforded by either express or implied warranties and, at the same time, have no legal recourse against the dealer because prior or contemporaneous oral statements that contradict final written contract terms are generally not legally binding.[71]

To address this problem, the Commission sought to put consumers on notice that they should be wary of oral promises. Immediately under the words "Buyers Guide," on both forms of the Buyers Guide, is the following language: "IMPORTANT: SPOKEN PROMISES ARE DIFFICULT TO ENFORCE. ASK THE DEALER TO PUT ALL PROMISES IN WRITING. KEEP THIS FORM." In addition, the "As-Is" box contains the following statement: "YOU WILL PAY ALL COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle." The warnings on the Buyers Guide and its admonition to put all promises in writing help consumers by giving them information they can use to ensure they have enforceable rights. Thus, the changes suggested by NCLC (e.g., to revise the "As-Is No Warranty" title to "As-Is No Written Warranty") are not necessary. Such changes could lead to more uncertainty and disputes about warranty coverage. The Commission continues to advise that consumers get any promises in writing, rather than trying to prove later that a dealer orally promised to make repairs.

NCLC also suggested that the Buyers Guide be revised to reflect that options other than repair are available. However, repair is the most common remedy offered by dealers. Dealers, of course, are free to offer other options on the Buyers Guide, if they choose. Further, the Buyers Guide does not take the place of the warranty documents that dealers must provide pursuant to rule 701. The Buyers Guide refers to these documents in the "Warranty" box on the Buyers Guide: "ASK THE DEALER FOR A COPY OF THE WARRANTY DOCUMENT FOR A FULL EXPLANATION OF WARRANTY COVERAGE, EXCLUSIONS, AND THE DEALER'S REPAIR OBLIGATIONS."

NCLC also suggested reformatting the Buyers Guide to include "As-Is," "Implied Warranties Only," and "Warranty" sections on the same Buyers Guide. The purpose would be to increase consumer awareness of implied warranty rights and the likelihood that implied warranty rights could be negotiated. There is no evidence that suggests, however, that including "Implied Warranties Only" as a third option on the Buyers Guide would encourage consumers to negotiate for warranty coverage more than they presently do, as NCLC suggests. Nor is there any evidence that supports the assertion that dealers would choose this option over the "As-Is" option if it were displayed on the Buyers Guide.

Comments such as the Washington Attorney General's indicated a desire to alert consumers that implied warranties exist. Others suggested adding language that categorically states that implied warranties are unavailable in "As-Is" sales.[72] The "Warranty" section of the Buyers Guide contains the following language: "UNDER STATE LAW, 'IMPLIED WARRANTIES' MAY GIVE YOU EVEN MORE RIGHTS." The existing language alerts consumers that the other option to an "As-Is" sale is one with a warranty, and that, along with an express warranty, the buyer may receive even more rights (implied warranties) under state law. Similarly, amending the "As-Is" portion of the Buyers Guide to state that implied warranties are never available in an "As-Is" transaction would likely create confusion in states such as Washington, where implied warranties must be knowingly waived.[73] Further, such language would misstate the law when a service contract is sold with a vehicle.[74]

Although some consumers are not aware that implied warranties are available under state laws, many states permit "As-Is" sales and do not require disclosures or preconditions to such sales. The problem presented by the Washington Attorney General is somewhat unique insofar as it pertains to implied warranties, and might be addressed more effectively under state law. For the foregoing reasons, the Commission has determined to take no action on the suggested change.

F. Private Right of Action

i. *Summary of Comments.* NCLC and Jay Drick suggested that the Commission create a private right of action for violation of the Rule.[75] NCLC noted that currently, a consumer has a cause of action for violations of the Magnuson-Moss Warranty Act, but no equivalent cause of action for violations of the Rule.[76] These comments suggested that the Rule state that a violation of the Rule is a violation of the Magnuson-Moss Act, which affords a private legal remedy in both state and federal courts. NCLC stated that, if necessary, the language of the Magnuson-Moss Warranty Act could be amended to make this clear. According to these comments, a private right of action for violation of the Rule would increase dealers' accountability for violating the Rule.[77]

ii. *Discussion.* The actual value of a private cause of action for buyers against dealers for violating the Used Car Rule is unclear. It would be difficult for consumers to prove and quantify the injury or damages sustained as a consequence of a Rule violation for failing to post a Buyers Guide or for some other violation of the Rule.[78] In enforcing compliance with the Rule, the Commission has relied on injunctions and civil penalties to stop violations and provide deterrence.

Even if a private right of action would be useful, the Commission has no apparent authority to create one. There is no private right of action for violation of any FTC rule promulgated under the Magnuson-Moss Act. In addition, federal courts consistently have held that there is no private remedy under the FTC Act.[79]

For the foregoing reasons, the Commission is taking no action on the recommendation.

Questions Three, Four, Seven, Eight, Nine, and Eleven

Questions 3, 4, 7, 8, and 9 all deal generally with the costs and burdens that may be associated with the Rule. Consequently, they are addressed together to avoid repetition. Question 11 is also included in this section because it deals with the number of small firms that are affected by the Rule.

Question Three

What significant burdens or costs, including costs of compliance, has the Rule imposed on firms subject to its requirements?

a. Has the Rule provided benefits to such firms?

Question Four

What changes, if any, should be made to the Rule to reduce the burdens or costs imposed on firms subject to its requirements?

a. How would these changes affect the benefits provided by the Rule?

Question Seven

What significant burdens or costs, including costs of compliance, has the Rule imposed on small firms subject to its requirements?

a. How do these burdens or costs differ from those imposed on larger firms subject to the Rule's requirements?

Question Eight

To what extent are the burdens or costs that the Rule imposes on small firms similar to those that small firms would incur under standard and prudent business practices?

Question Nine

What changes, if any, should be made to the Rule to reduce the burdens or costs imposed on small firms?

a. How would these changes affect the benefits of the Rule?

b. Would such changes adversely affect the competitive position of larger firms?

Question Eleven

How many used car dealers have under $11.5 million in annual sales?

i. *Summary of Comments.* No comment furnished any information about how many dealers have sales under $11.5 million, which is how a small used motor vehicle dealer is defined by the Small Business Administration. Based on the Commission's experience in conducting inspections and investigations, the Commission believes that the overwhelming majority of independent used car dealers have annual sales under $11.5 million, and thus are small entities for purposes of the RFA analysis. Franchised dealers that sell used cars, in contrast, are likely to have annual sales in excess of $11.5 million, but their sales figures would include new car as well as used car sales.

Only a few comments addressed whether changes to the Rule—short of rescinding the Rule altogether[80]—would reduce the costs imposed on small and large firms. TADA contended that requiring a Spanish Buyers Guide to be posted on every used vehicle in addition to the English Buyers Guide, where sales are conducted in Spanish, is burdensome to dealers, and it therefore recommended that dealers be permitted to provide a Spanish Buyers Guide to the consumer only when the transaction is being consummated.[81] NIADA suggested that the burdens related to compliance are greater for small dealerships because larger dealerships have more personnel to assist in the preparation and processing of paperwork related to car sales.[82]

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[66] NCLC also suggested amending the "As-Is" box on the Buyers Guide to include language that made clear that an "As-Is" sale precludes implied warranties. B–23 at 5.

[67] An implied warranty of fitness indicates that a car "is reasonably fit for and adapted to the purposes for which it was purchased, i.e., a vehicle that will carry a driver and passenger with reasonable safety, efficiency and comfort." *Berg v. Stromme*, 79 Wn.2d 184, 195, 484 P.2d 380 (1971). The *Berg* court uses the word fitness interchangeably with merchantability.

[68] B–23 at 8.

[69] B–17 at 2.

[70] *See* UCC 2–202.

[71] SBP at 45698 (footnote omitted).

[72] NCLC, B–27 at 5.

[73] See also discussion relating to Part IV, Question 5, infra.

[74] The Buyers Guide states: "IF YOU BUY A SERVICE CONTRACT WITHIN 90 DAYS OF THE TIME OF SALE, STATE LAW 'IMPLIED WARRANTIES' MAY GIVE YOU ADDITIONAL RIGHTS."

[75] B–23 at 1–2, B–25 at 1 (a consumer and attorney).

[76] B–23 at 1.

[77] B–23 at 1–2, B–25 at 1. Mr. Drick contends the rule should allow for enforcement by private attorneys in state courts. B–25 at 1.

[78] Consumers who have disputes with dealers about warranties generally already have recourse to the courts to resolve their disputes, and such disputes normally will involve resolving who should be responsible for making repairs. For example, section 110(d) of the Warranty Act allows consumers to bring suits on their own behalf for a warrantor's failure to honor warranties or service contracts, or to comply with any other obligation under the Act. Under the law, actions generally will be brought in state courts. If a complaint alleges at least $50,000 in damages the action may be filed in federal court.

[79] The Circuit Court for the District of Columbia, in *Holloway v. Bristol-Myers Corp.*, 485 F.2d 986, 988–89 (D.C. Cir. 1973), and other federal courts have held there is no implied private right of action under the FTC's franchise disclosure rules. In *Freedman v. Meldy's Inc.*, 587 F. Supp. 658, 662 (E.D. Pa. 1984)., the court reached its decision despite the FTC's contention that the courts should recognize private rights of action under the Franchise Rule. Citing Justice Rehnquist's opinion in *Cannon v. University of Chicago*, 441 U.S. 677, 718 (1979), the *Freedman* court stated: "Congress may, if it wishes, give effect to the apparent desire of the FTC that private rights of action be afforded litigants under 16 CFR §§ 436.1–438.10. The FTC may express, as it has, its opinion that private rights of action should be provided, but the Commission's opinion cannot supplement or supply the requisite Congressional intent." 587 F. Supp. at 662.

[80] For example, two comments from independent dealers contended that the Rule and the posting requirement place an unnecessary burden on dealers. They stated the Rule creates extra, and unneeded, steps in processing a vehicle sale transaction. No quantification for the assertion was provided, however. B–03 at 1, B–26 at 1. One of the dealers also noted that virtually every car in his area is sold "As-Is" and that most consumers in the area are aware of the practice. Instead of posting Buyers Guides, he suggested posting one large sign on the lot stating: "Unless a specific warranty is provided in writing, all used vehicles for sale at this dealership are sold As-Is; the buyer will pay all costs for any repairs." B–03 at 2.

[81] B–11 at 2. TADA asserted that in cities with large Spanish-speaking populations where dealers conduct a large percentage of sales in Spanish, the Rule requires each vehicle to have two Buyers Guides, one in English and another in Spanish.

[82] B–7 at 2. NIADA noted that filling out the Buyers Guide and attaching it to the car is just another part of the logging-in procedure. With

Continued

NADA stated that the Rule is meeting the objectives of the law and is not a substantial burden on small dealers.[83] Iowa's Attorney General noted that the costs associated with Rule compliance are minimal and are passed on to the consumer.[84] However, Iowa's comment also stated that larger firms are better able to absorb the costs of compliance. Reynolds & Reynolds noted that the costs of compliance include the costs of the form and the time required to fill them out properly. These costs differ from small firms to large firms because a larger firm most likely can take advantage of volume purchases and afford a computer to print out the form, while a smaller dealer would be more likely to purchase Buyers Guides in smaller quantities and fill them out by hand.[85]

The majority of the comments that responded to these questions, however, contended that the burdens or costs associated with compliance are minimal.[86] For example, Reynolds & Reynolds reported that used car dealers can purchase Buyers Guides for an average cost of 7.6 cents.[87] While Reynolds & Reynolds believes the costs are so minimal that they are not passed along to the consumer, NIADA stated that they are.[88]

Two comments from Attorneys General addressed whether the burdens and costs of the Rule would be similar to those incurred under ordinary and prudent business practice. The Iowa Attorney General noted that the Used Car Rule imposes no costs other than those a prudent dealer would incur regardless of the Rule.[89] The Washington Attorney General stated that the burdens or costs should be similar to those that would be incurred by prudent businesses.[90]

In terms of benefits, Iowa's Attorney General noted that the Rule has undoubtedly benefited both the manufacturers and dealers by fostering competition regarding warranty coverage.[91] The comments generally suggested that the Rule also has eliminated many disputes regarding oral representations made by dealers concerning warranty coverage.[92] For example, Reynolds & Reynolds noted that the Rule removes the question as to whether or not a specific vehicle has a warranty.[93] Compliance with the Rule virtually assures that consumers are aware of available warranty coverage, and therefore consumers are significantly protected against dealer misrepresentations.[94]

ii. *Discussion.* Based on the information obtained in response to the Notice, the Commission has concluded that the costs and burdens associated with Rule compliance are not substantial. Although the costs or burdens of complying with the Rule may be marginally greater on smaller dealers that have fewer employees than larger dealerships, the costs associated with compliance are still quite small. The cost for Buyers Guides averages 7.6 cents per form, and other costs associated with the Rule (i.e., filling out the Buyers Guide and posting them), although not quantified, were represented as minimal and reasonable. At the same time, the comments contended that there are benefits from Rule compliance. Accordingly, the Commission has determined that no changes are needed to reduce the costs of the Rule on small businesses.

Further, although compliance with the Rule may be more burdensome and costly to dealers who frequently conduct sales transactions in Spanish, TADA's proposed solution (elimination of the requirement to post Spanish Buyers Guides) contravenes the Commission's rationale for the posting requirement.[95] Providing a Buyers Guide at the time of sale is insufficient to protect against the unfair and deceptive practices the Rule was designed to deter. By requiring posting, the Rule affords buyers an opportunity to comparison shop. Accordingly, the Commission has decided to take no action.

Question Five

Does the Rule overlap or conflict with other federal, state, or local laws or regulations?

i. *Summary of Comments.* In terms of "overlap," NCLC stated: There really is no overlap with state consumer protection laws (unfair and deceptive acts and practices statutes) because not all states' laws cover all violations of the Used Car Rule. The Used Car Rule itself merely effectuates a claim under a deceptive practices act in some states, by declaring certain conduct to be unfair or deceptive, which may then be prohibited by the state law.[96]

NIADA stated, however, that there may be possible overlap with Texas's Deceptive Trade Practices Act.[97] Iowa's Attorney General noted that the Rule overlaps with the Iowa Consumer Fraud Act, Iowa Code 714.16, to the extent that the Consumer Fraud Act requires that sellers of merchandise not fail to disclose material facts with the intent that others rely on the omission.[98] Although the two overlap, Iowa believed it presents no problem to either the Commission or the State of Iowa in the enforcement of the Rule or the Iowa Consumer Fraud Act.[99]

Alaska's Attorney General believed there is a "gap" in the Rule that has been addressed in state court decisions.[100] TADA noted that the Rule's definition of a "used vehicle" and the State of Texas's definition cause problems because the Commission's definition of "used vehicle" is much broader than that of some states, including Texas.[101] According to TADA this causes confusion and misunderstanding as to when a vehicle is required to display a Buyers Guide.[102]

NACAA stated that the Rule conflicts with some state laws by providing that the language in the Buyers Guide overrides contrary provisions in the contract of sale.[103] The Washington State Attorney General's Office also noted that the Commission's "As-Is" version of the Buyers Guide does not accurately reflect Washington contract law on valid disclaimer of implied warranties, thus creating a conflict.[104]

ii. *Discussion.* The comments indicated that to the extent there is any overlap between the Rule and state law, it is generally not a significant problem. The "conflict" noted by the Washington Attorney General has been addressed by the Commission staff in correspondence with the Attorney General. As was explained in the staff's letter, the purpose of the posted Buyers Guide is to show consumers what warranty coverage a dealer is offering. The Rule also requires the dealer to provide the buyer with a copy of the Buyers Guide showing the final warranty coverage agreed to. If, under Washington State law, an "As-Is" sale has not been properly consummated, the final version of the Buyers Guide should note that the car is being sold with implied warranties.[105] Because the Used Car Rule does not conflict with state consumer protection statutes in any significant way, there is no need for Commission action.

Questions Six and Ten

Since the Rule was issued, what effects, if any, have changes in relevant technology or economic conditions had on the Rule?

How many used vehicles (as defined by Section 455.1(d)(2) of the Rule) are sold annually in the United States?

i. *Summary of Comments.* The number of used cars sold annually is much larger now than when the Rule was promulgated.[106] Based on information NADA submitted, franchised dealerships accounted for nearly 10 million used car sales in 1993 (9,836,800) and NIADA reported another 16 million sales were made by independent dealers. NIADA's information indicated that 25.9 million used vehicles were sold by independent and franchised dealers in 1992.[107] Franchised dealers report that the biggest part of both their profit and their volume is coming from their used, not new, vehicle sales. "New car dealers sold more used vehicles than new for the first time in 1989, and since then relative used-car volume has grown steadily."[108]

NIADA noted that economic conditions within the industry have improved, but was unable to quantify whether the changed conditions have had an impact on the Rule. Other comments noted changes in the relevant technology and/or economic conditions that may have affected the Rule. For example, NCLC noted a significant increase in the leasing of new and used cars in support of its recommendation that Buyers Guides be posted on leased vehicles. NCLC also pointed to the proliferation of computers and copying machines within the industry, concluding this should make it easier for dealers to comply with the Rule.[109] Reynolds & Reynolds noted that many computer systems have the ability to print the form for a dealer, thereby reducing time/energy demands upon dealers to fill out the Buyers Guide.[110] Another comment noted that car manufacturers have done a better job of conveying warranty information and covered systems to dealers.[111]

The Iowa Attorney General noted that since vehicles are more complex than ever, repair costs have increased. The Washington Attorney General noted that both the demand for and price of used vehicles have been driven up because new cars are becoming increasingly expensive.[112] Thus, warranty coverage is more important to consumers than ever before, and the need for the Rule is greater than in the past.[113] Similarly, most of the comments said there was a continuing need for the Rule because of the size of the industry.

ii. *Discussion.* The economic changes in the industry—the growth in used car sales, the increased prices of used cars,[114] and the rising cost of repairs—make warranty coverage an important consideration in a sales transaction. The changes addressed in the comments demonstrate that the reasons for promulgating the Rule continue to exist. At the same time, the comments noted that technological changes have made it easier for dealers to comply with the Rule.

Question Twelve

Should the Rule's requirement that the Buyers Guide be posted in a side window of a used vehicle, as set forth in Section 455.2(a)(1) of the Rule, be modified to allow posting in a different location (for example, in the rear window of a pickup truck or other vehicle without side rear windows), as long as the Buyers Guide is conspicuous and both sides may be readily viewed?

i. *Summary of Comments.* The comments generally supported modifying the Rule as suggested. NADA recommended that the Rule afford some flexibility in the placement of the guide, allowing it to be placed elsewhere than in a side window. NCCE suggested that enforcement focus on the availability and accessibility of the information "and not on the trivial aspects of the regulation such as location of the information."[115]

One consumer protection group noted that if there are no side rear windows, the Buyers Guide should be placed in the front window.[116] One Attorney General supported the modification, noting that the Rule should allow for dealers to post the Buyers Guides in the rear windows of pick-up trucks and other vehicles lacking side rear windows to offer the dealers some flexibility.[117] The Michigan Secretary of State supported the amendment permitting the posting of Buyers Guides in other than the side window as long as the guide is prominently displayed and both sides can be readily viewed by a purchaser.[118] Other comments also supported the proposed modification of the Rule.[119]

ii. *Discussion.* The Commission is amending the Rule to delete the side window posting requirement.[120] Dealers instead will be required to post Buyers Guides prominently and in plain sight anywhere on the vehicle as long as both sides are accessible. This amendment affords dealers greater flexibility in posting Buyers Guides on all vehicles, not just pickup trucks or vehicles without side windows. For example,

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regard to the differing costs between large and small firms, the trade association noted that both size firms need to fill out a certain number of forms for each vehicle they sell. The larger dealers have more employees to do the job.

[83] B–19 at 1.

[84] B–15 at 6.

[85] B–20 at 2.

[86] See, *e.g.*, B–20 at 1.

[87] B–20 at 1. See also NIADA, B–07 at 2. Buyers Guides may be purchased in packets of 250 for $21.00.

[88] *Id.* NIADA also noted that labor costs are associated with compliance, but did not quantify those costs.

[89] B–15 at 6.

[90] B–17 at 4. But stricter compliance with Washington law on the disclaimer of implied warranties could increase the costs of repair or recision to dealers who market unmerchantable vehicles.

[91] B–15 at 4.

[92] See NIADA Comment, B–7 at 4–5.

[93] B–20 at 1.

[94] B–15 at 4.

[95] The Commission originally considered requiring Buyers Guides to be translated into several dozen languages. However, "[t]he evidence in the [rulemaking] record indicates that, besides English, Spanish is the language most frequently used during used car sales transaction." SBP at 45711 (footnote omitted). Thus, the Rule requires the window form and the content disclosures to be, in Spanish, if the sale is conducted in Spanish. Dealers who conduct transactions in both English and Spanish may post both versions of the Buyers Guide.

[96] B–23 at 5.

[97] B–07 at 5.

[98] Warranty coverage on a motor vehicle is considered to be a material fact under Iowa law.

[99] B–15 at 5.

[100] The "gap" relates to the Rule's failure to require dealers to disclose known defects. The AG asserts that the common law of most states requires disclosure. See, *e.g.*, *Patton* v. *McHone*, 822 S.W.2d 608 (Tenn. App. 1991). B–01 at 1.

[101] See also discussion at Part IV, Question 2, B, 2–3, *supra*, regarding the difference between the Rule's definition of a "used vehicle," and the state law definitions.

[102] B–11 at 2.

[103] B–24 at 2, citing section 455.3(b) of the Rule. NACAA also contended that the provision may be used by dealers to disclaim promises of greater warranty protection in oral or written form. This issue was addressed in the discussion at Part IV, Question 2, E, *supra*.

[104] B–17 at 3. See also discussion at Part IV, Question 2, E, *supra*.

[105] See staff Opinion Letter to Robert F. Manifold, Division Chief, October 12, 1989.

[106] In the original rulemaking, the Commission noted that in 1979, "two of every three cars sold in the United States were used. Consumers in that year spent $66.7 billion, including the value of trade-ins in purchasing 18.5 million used cars from all sources." SBP at 45695.

[107] B–7, see attachment to comment entitled "Used Car Sales." Other sources indicate that the dollar amount of used car sales covered by the Rule reached $281.5 billion in 1993 and $289.2 billion in 1994. See Used Gold Reference Guide, Chapter 7, p. 3, CNW Marketing Research, Bandon, Oregon, 1994.

[108] *Id.*

[109] B–23 at 5.

[110] B–20 at 2.

[111] *Id.*

[112] B–17 at 3.

[113] B–15 at 5.

[114] According to CNW Marketing Research, the average sales price for a used car sold by a franchised dealer was $11,820, and $6,835 for an independent dealer, in 1994.

[115] B–12 at 2.

[116] B–23 at 6–7.

[117] B–15 at 5.

[118] B–14 at 1.

[119] B–17 at 5, B–19 at 2, B–20 at 2.

[120] Because this amendment does not change the substantive rights afforded by the Rule or significantly affect the obligations of dealers, the Commission has concluded that section 18, 15 U.S.C. 57a, rulemaking proceedings are unnecessary to issue this amendment.

dealers could hang Buyers Guides from the rear view mirror or place them under the windshield wipers or hang them from exterior side view mirrors. These options allow consumers to view the Buyers Guide easily. Putting Buyers Guides in glove boxes or on the floor or in the trunk will not satisfy the requirement that the Buyers Guide be in plain sight and conspicuous.

Question Thirteen

What changes to the format of the Buyers Guide should be considered in order to reduce compliance costs or burdens? Would such changes have any detrimental effect on the benefits provided by the Rule? Is there any empirical or other evidence to support opinions that such changes would or would not have a detrimental effect on benefits?

i. *Summary of Comments.* Some comments recommended that the Buyers Guide should be maintained in its present form.[121] Others stated that the format of the Buyers Guide should be changed, but none provided empirical evidence in support of their assertions. For example, Reynolds & Reynolds suggested allowing the Buyers Guide to be merged with other required forms. It stated that the Buyers Guide could be combined with the state lemon laws and refund rights acts forms. The result would be a form with larger dimensions. While the combined form would be higher priced, the overall cost of complying with the multiple laws would be lowered.[122]

Both NADA and NIADA recommended that the Rule allow some flexibility in the format requirements of the Buyers Guide.[123] Specifically, NIADA suggested that reducing the size requirement of the Buyers Guide to 7" x 5" would be useful because it would minimize the window blockage in compact cars and pickup trucks, and thus reduce what it termed a driving safety hazard.[124] NIADA contended that the present Buyers Guide contains much empty space "that could be eliminated without destroying the eye catching qualities it now has."[125] NIADA also suggested putting the dealer's name and address on the front of the Buyers Guide so that the entire form could be easily filled in using an office computer printer. In addition it suggested that the language "RECEIPT OF ORIGINAL COPY ACKNOWLEDGED" and a signature line be placed on the front of the Buyers Guide.

NCLC, along with Iowa Attorney General,[126] opposed changing the format of the Buyers Guide, stating:

> It is important to keep the Buyers Guide at its current size and not to make it smaller. It must be prominent in order to be noticed by consumers so that the buyer can negotiate with the dealer over the terms on the Buyers Guide and know exactly what is provided in terms of warranties. Some of the type on the back of the Buyers Guide, indicating systems to check, is already very small.[127]

ii. *Discussion.* The Commission has decided not to modify the present size or format of the Buyers Guide. The only argument for reducing the size of the Buyers Guide is that the current size of the Buyers Guide may present a safety hazard during test drives. It is difficult to imagine that dealers would forego the option of temporarily removing Guides during test drives, if a true safety hazard existed. However, if such a hazard existed, it seems unlikely that reducing the dimensions of the Buyers Guide to 5" x 7" would significantly lessen the hazard. The Commission's amendment to allow conspicuous posting anywhere in the vehicle is likely to better address this issue than reducing the size of the Buyers Guide.

The Commission requested empirical evidence to support any proposed modifications to the size or format because, during the original rulemaking proceeding, considerable effort was expended to design a form that communicates information effectively to consumers. To evaluate the effectiveness of the Buyers Guide during the rulemaking, a series of copy comprehension tests were conducted. According to the SBP for the Rule, the results of the copy testing were incorporated into the final design of the Buyers Guide that the Commission adopted in May 1981.[128] Although the copy testing was done on prior versions of the Buyers Guide, which differed from the Buyers Guide now in use, those comprehension tests were relevant to the design of the revised format the Commission adopted in 1984. Based on those tests, certain changes to the Buyers Guide were implemented which carried through to the current version.[129]

Further, the size of the Buyers Guide was the subject of comments filed in response to the Commission's July 31, 1984 **Federal Register** Notice soliciting comment on a Baseline Study of the Rule and the Commission's tentative decision to adopt a revised rule. For example, NADA requested that the size of the form be reduced from 12 inches high by 7¼ inches wide to 6 x 8 inches. Following its review, the Commission concluded that the format and type size required by the Rule would easily fit onto a 7¼ x 11 sheet. Therefore, to avoid unnecessary costs, the Commission revised the Rule to require a form no smaller than 11 inches high by 7¼ inches wide. The Commission rejected NADA's proposal to reduce the form to the 6 x 8 size because the type sizes required by the Rule would have to be reduced to fit on the smaller sheet, making the Buyers Guide difficult to read. The final Rule the Commission published required a Buyers Guide no smaller than 11 inches high by 7¼ wide.[130]

Under these circumstances, the Commission has determined not to change the format of the Buyers Guide without copy testing or other reliable information showing that a reduced or revised Buyers Guide would be as easy to read and comprehend as the current Buyers Guide. For example, taking out the white space, as NIADA suggests, could reduce the effectiveness of the Buyers Guides. The empty space on the Buyers Guide was planned to make information stand out and to avoid making the form a jumble of information. For the same reasons, the Commission is also rejecting the suggestion that the format of the Buyers Guide be modified to incorporate other required forms.[131]

[121] Iowa Attorney General, B–15 at 7.

[122] B–20 at 1. Reynolds & Reynolds suggested that additional information could be printed on the form (i.e., standard warranty coverage) in order to save dealers from having to fill out a new form for each vehicle. There is, however, no prohibition against pre-printing information on the Buyers Guide.

[123] The Rule requires that the Buyers Guide conform to the exact wording, type style, type size, and format specified by the Rule. See Section 455.2(a)(2) of the Rule. Among other things, the Rule specifies that the form must be printed on white stock no less than 11 inches high by 7¼ inches wide. NADA stated that while the Buyers Guide does an adequate job of communicating information to consumers, "[t]here needs to be more flexibility regarding the size, typeface, additions, etc. to the form."

[124] B–7 at 3. The Rule provides that Buyers Guides may be removed during test drives. But, some commenters claim that removing Buyers Guides for test drives and re-posting them afterwards is burdensome.

[125] *Id.*

[126] B–15 at 7.

[127] B–23 at 4.

[128] SBP at 45709. The Commission announced the earlier version of the rule in 46 FR 41328 (1981). The 1981 Buyers Guide included information about the condition of major mechanical and safety systems of the car, which the Commission decided to omit in 1984.

[129] For example, based on the testing, the Commission increased the type size of the warning against relying on spoken promises, and prefaced it with the bold-face heading, "Important."

[130] 16 CFR 455.2(a)(2).

[131] Recent Commission research also suggests that the consolidation of labels may result in information overload. *See* Report to Congress by the Federal Trade Commission, Study of a Uniform National Label for Devices that Dispense Fuel to Consumers, pp. 27–30 (Oct. 1993).

Further, the Commission is rejecting the suggestion to modify the Buyers Guide to include dealer information and a signature line on the front of the Buyers Guide. NIADA noted that computer pre-printing of the Buyers Guide requires turning the page over in order to print the information. The actual burden of having to turn over the Buyers Guide to pre-print the information is quite small. Further, dealers may use an ink stamp to put this information on the back side. Both of these methods—ink stamp or turning the Buyers Guide over and pre-printing the information—are inexpensive ways of complying with the Rule.[132]

Question Fourteen

What changes to the format of the Buyers Guide should be considered in order to increase its benefits? What effect would such changes have on the costs or burdens imposed by the Rule? Is there any empirical or other evidence to support opinions that such changes would or would not increase costs or burdens?

i. *Summary of Comments.* One consumer suggested that the information be on one side only, and that a signature line be included so that the customer has a chance to read it and know he is entitled to a copy.[133] This consumer also suggested that the Buyers Guide be modified to have check boxes for the selling dealer to disclose whether or not the dealer has attempted to repair any item on the vehicle in any way, and a section for the dealer to list specifically what components or systems were found by the inspection to be in need of repair and yet were not repaired by the dealer, plus their anticipated costs.[134] NACAA noted that the Buyers Guide should be revamped to provide a checklist of symptoms and causes for auto problems, and state more strongly that consumers should have those items independently checked before committing themselves to a used car purchase.[135] Washington's Attorney General suggested that the Buyers Guide note that the Cooling-Off Rule does not apply to used car sales. Reynolds & Reynolds suggested that a customer signature box be added to the form's back to ensure that the purchaser has received warranty information (or the lack thereof) and has acknowledged it.[136]

ii. *Discussion.* The Commission has concluded that adding additional information to the Buyers Guide, such as a warning that the Cooling-Off Rule does not apply, is unnecessary.[137] The format of the present Buyers Guide achieves the Rule's objectives, and thus, for the reasons previously discussed throughout this notice, the Commission is leaving the format of the Buyers Guide essentially unchanged.[138]

V. Regulatory Flexibility Act Review

Based on its review of the record, the Commission has concluded that the Rule has not had "a significant economic impact on a substantial number of small entities" affected by the Rule.[139] As previously discussed, the comments indicate that the costs associated with Rule compliance are minimal. The record also suggests that these costs generally would be borne by a reasonably prudent business anyway.

VI. Conclusion

The comments and the Commission's experience indicate that the Rule is working and achieving its objectives, while imposing only minimal costs on used car dealers. For the reasons discussed above, however, the Commission is amending the Spanish Buyers Guide and amending the Rule to permit dealers to post Buyers Guides prominently and in plain view in all used vehicles being offered for sale (rather than on a side window). The Commission also is amending the Rule to permit dealers to put a signature line on the back of the Buyers Guide, if accompanied by a specific disclosure.

List of Subjects in 16 CFR Part 455

Motor vehicles, Trade practices.

Authority: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (1980).

Text of Amendments

For the reasons set forth in this document, pertinent sections of the Used Car Rule, 16 CFR Part 455, are amended as follows:

PART 455—[AMENDED]

The authority citation for part 455 continues to read as follows:

Authority: 88 Stat. 2189, 5 U.S.C. 2309; 38 Stat. 717 as amended; 15 U.S.C. 41 et seq.

2. Section 455.2(a)(1) is revised to read as follows:

§ 455.2 Consumer sales—window form.

(a) * * *

(1) The Buyers Guide shall be displayed prominently and conspicuously in any location on a vehicle and in such a fashion that both sides are readily readable. You may remove the form temporarily from the vehicle during any test drive, but you must return it as soon as the test drive is over.

* * * * *

3. Further, § 455.2 is amended by adding paragraph (f) to read as follows:

§ 455.2 Consumer sales—window form.

* * * * *

(f) Optional Signature Line. In the space provided for the name of the individual to be contacted in the event of complaints after sale, you may include a signature line for a buyer's signature. If you opt to include a signature line, you must include a disclosure in immediate proximity to the signature line stating: "I hereby acknowledge receipt of the Buyers Guide at the closing of this sale." You may pre-print this language on the form if you choose.

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4. Further, the first page of the sample Spanish language Buyers Guide ("GUIA DEL COMPRADOR") appearing at the end of section 455.5 is revised to read as follows:

§ 455.5 Spanish language sales.

* * * * *

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[132] The issue of obtaining consumer signatures was addressed earlier in this notice. See Part IV, Question 2, B, *supra.*

[133] Jay Drick, B–25 at 1–2.

[134] B–25 at 1.

[135] B–24 at 3.

[136] B–20 at 2.

[137] 16 CFR 429. The Cooling-Off Rule does not apply to the sale of vehicles, nor any other goods and services, offered at a seller's place of business. It also does not apply to sales of vehicles at auctions provided that the seller has a permanent place of business.

[138] See discussion at Part IV, Question 2, B, *supra.*

[139] 5 U.S.C. 603–605. The Commission received no information regarding the number of dealerships with annual sales of $11.5 million or less. But, the Commission's experience is that most independent used car dealers have annual sales less than $11.5 million and therefore are small entities for purposes of the RFA.

GUÍA DEL COMPRADOR

28 pt Triumvirate Bold caps

2 pt Rule

IMPORTANTE: Las promesas verbales son difíciles de hacer cumplir. Solicite al vendedor que ponga todas las promesas por escrito. Conserve este formulario.

10/10 Triumvirate Bold c & lc maximum line 38 picas

MARCA DEL VEHICULO MODELO AÑO NUMERO DE IDENTIFICACIÓN

Hairline Rule

6/6 pt Triumvirate Bold caps

NUMERO DE ABASTO DEL DISTRIBUIDOR (Opcional)

Hairline Rule

6/6 pt Triumvirate Bold caps

GARANTÍAS PARA ESTE VEHÍCULO:

10 pt Triumvirate Bold caps

2 pt Rule

☐ COMO ESTÁ—SIN GARANTÍA

28 pt Box
24 pt Triumvirate Bold c & lc

USTED PAGARÁ TODOS LOS GASTOS DE CUALQUIER REPARACIÓN QUE SEA NECESARIA. El vendedor no asume ninguna responsabilidad por cualquier reparación, sean cuales sean las declaraciones verbales que haya hecho acerca del vehículo.

10/10 Triumvirate Bold c & lc maximum line 38 picas

1 pt Rule

☐ GARANTÍA

28 pt Box
24 pt Triumvirate Bold c & lc

☐ **COMPLETA** ☐ **LIMITADA. El vendedor pagará el ____ % de la mano de obra y el ____ % de los repuestos de los sistemas cubiertos que dejen de funcionar durante el período de garantía. Pida al vendedor una copia del documento de garantía donde se explican detalladamente la cobertura de la garantía, exclusiones y las obligaciones que tiene el vendedor de realizar reparaciones. Conforme a la ley estatal, las "garantías implícitas" pueden darle a usted incluso más derechos.**

10/10 Triumvirate Bold c & lc
7½ picas indent
6th runaround

SISTEMAS CUBIERTOS POR LA GARANTÍA: **DURACIÓN:**

10/10 Triumvirate Bold caps

10/12 Hairline Rule

CONTRATO DE SERVICIO. Este vehículo tiene disponible un contrato de servicio a un precio adicional. Pida los detalles en cuanto a cobertura, deducible, precio y exclusiones. Si adquiere usted un contrato de servicio dentro de los 90 días del momento de la venta, las 'garantías implícitas' de acuerdo a la ley del estado pueden concederle derechos adicionales.

10/10 Triumvirate Bold c & lc maximum line 38 picas

INSPECCIÓN PREVIA A LA COMPRA: PREGUNTE AL VENDEDOR SI PUEDE USTED TRAER UN MECÁNICO PARA QUE INSPECCIONE EL AUTOMÓVIL O LLEVAR EL AUTOMÓVIL PARA QUE ESTE LO INSPECCIONE EN SU TALLER.

10/10 Triumvirate Bold caps maximum line 38 picas

VÉASE EL DORSO DE ESTE FORMULARIO donde se proporciona información adicional importante, incluyendo una lista de algunos de los principales defectos que pueden ocurrir en vehículos usados.

10/10 Triumvirate Bold c & lc maximum line 38 picas

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–27553 Filed 12–4–95; 8:45 am]

BILLING CODE 6750–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 95F–0016]

Indirect Food Additives: Paper and Paperboard Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of silver chloride-coated titanium dioxide as a preservative in polymer latex emulsions used in the coating of food-contact paper and paperboard. This action is in response to a petition filed by Johnson Matthey Chemicals.

DATES: Effective December 5, 1995; written objections and requests for a hearing by January 4, 1996.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 13, 1995 (60 FR 8243), FDA announced that a food additive petition (FAP 5B4442) had been filed by Johnson Matthey Chemicals, c/o 1000 Potomac St. NW., Washington, DC 20007. The petition proposed to amend the food additive regulations in § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of silver chloride-coated titanium dioxide as a preservative in polymer latex emulsions used in the coating of food-contact paper and paperboard.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additive in paper and paperboard products in contact with food is safe and that the regulations in § 176.170 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before January 4, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR part 176 continues to read as follows:

Authority: Secs. 201, 402, 406, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 346, 348, 379e).

2. Section 176.170 is amended in the table in paragraph (a)(5) by alphabetically adding a new entry under the headings "List of Substances" and "Limitations" to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * * *

(a) * * *

(5) * * *

List of Substances	Limitations
* * * * * * *	
Silver chloride-coated titanium dioxide	For use only as a preservative in polymer latex emulsions at a level not to exceed 2.2 parts per million (based on silver ion concentration) in the dry coating.
* * * * * * *	

* * * * *

Dated: November 24, 1995.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–29476 Filed 12–04–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Parts 182 and 186

[Docket No. 80N–0196]

Japan Wax; Affirmation of GRAS Status as an Indirect Human Food Ingredient

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to affirm Japan wax as generally recognized as safe (GRAS) as an indirect food ingredient for use as a constituent of cotton and cotton fabrics used in dry food packaging. The safety of this indirect food use of Japan wax has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective December 5, 1995.

FOR FURTHER INFORMATION CONTACT: Martha D. Peiperl, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3077.

SUPPLEMENTARY INFORMATION:

In the **Federal Register** of June 1, 1995 (60 FR 28555), FDA published a proposal to affirm the GRAS status of the use of Japan wax as an indirect human food ingredient migrating to food from cotton and cotton fabrics used in dry food packaging. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review and the report of the Select Committee on GRAS Substances (the Select Committee) on Japan wax, as well as documents in the possession of FDA and further evidence of the safety of Japan wax obtained by FDA since publication of the Select Committee's report, have been made available for public review in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

The proposal gave interested parties an opportunity to submit comments. FDA received no comments on its proposal. The agency is, therefore, adopting the proposal without any changes.

Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the proposed rule that published in the **Federal Register** of June 1, 1995 (60 FR 28555). No new information or comments have been received that would affect the agency's determination that there is no significant impact on the human environment, and that neither an environmental assessment nor an environmental impact statement is required.

Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Regulatory Flexibility Act requires analyzing options for regulatory relief for small businesses.

The agency finds that this rule is not a significant regulatory action as defined by Executive Order 12866. Furthermore, in accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses, and determined that this rule will have no significant adverse impact on a substantial number of small businesses. FDA has received no new information or comments that would alter its previous determination.

Effective Date

As this rule recognizes an exemption from the food additive definition in the Federal Food, Drug, and Cosmetic Act, and from the approval requirements applicable to food additives, no delay in effective date is required by the Administrative Procedure Act (5 U.S.C. 553(d)). The rule will therefore be effective December 5, 1995 (5 U.S.C. 553(d)(1)).

List of Subjects

21 CFR Part 182

Food ingredients, Food packaging, Spices and flavorings.

21 CFR Part 186

Food ingredients, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR parts 182 and 186 are amended to read as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. The authority citation for 21 CFR part 182 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371).

§ 182.70 [Amended]

2. Section 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* is amended by removing the entry for "Japan wax."

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. The authority citation for 21 CFR part 186 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371).

4. New § 186.1555 is added to subpart B to read as follows:

§ 186.1555 Japan wax.

(a) Japan wax (CAS Reg. No. 8001–39–6), also known as Japan tallow or sumac wax, is a pale yellow vegetable tallow, containing glycerides of the C_{19}–C_{23} dibasic acids and a high content of tripalmitin. It is prepared from the mesocarp by hot pressing of immature fruits of the oriental sumac, *Rhus succedanea* (Japan, Taiwan, and Indo-China), *R. vernicifera* (Japan), and *R. trichocarpa* (China, Indo-China, India, and Japan). Japan wax is soluble in hot alcohol, benzene, and naphtha, and insoluble in water and in cold alcohol.

(b) In accordance with paragraph (b)(1) of this section, the ingredient is used as an indirect human food ingredient with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as an indirect human food ingredient is based on the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a constituent of cotton and cotton fabrics used for dry food packaging.

(2) The ingredient is used at levels not to exceed current good manufacturing practice.

(c) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Dated: November 24, 1995.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–29478 Filed 12–04–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 53 and 301

[TD 8628]

RIN 1545–AO77

Political Expenditures by Section 501(c)(3) Organizations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations regarding excise taxes, accelerated tax assessments, and injunctions imposed for certain political expenditures made by organizations that (without regard to any political expenditure) would be described in section 501(c)(3) and exempt from taxation under section 501(a). These regulations reflect changes to the law that were enacted as part of the Revenue Act of 1987.

EFFECTIVE DATE: These regulations are effective December 5, 1995.

FOR FURTHER INFORMATION CONTACT: Cynthia Morton or Paul Accettura, (202) 622–6070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 14, 1994, proposed regulations §§ 53.4955–1, 301.6852–1, and 301.7409–1 under sections 4955, 6852 and 7409 were published in the **Federal Register** (59 FR 64359). In addition, amendments were made to regulations under other sections in order to reflect the effects of sections 4955, 6852, and 7409. Proposed regulation amendments in §§ 1.6091–2, 53.4963–1, 53.6011–1, 53.6071- 1, 53.6091–1, 301.6211–1, 301.6212–1, 301.6213–1, 301.6861–1, 301.6863–1, 301.6863–2, 301.7422–1, and 301.7611–1 were also published in the **Federal Register** (59 FR 64359). No public hearing was requested or held. The IRS received two comments on the proposed regulations, only one of which offered substantive suggestions. The IRS and the Treasury Department have considered the public comments on the proposed regulations, and the regulations are adopted as revised by this Treasury decision.

Explanation of Provisions

The regulations provide guidance with respect to sections 4955, 6852 and 7409. The sanctions in these sections apply to all organizations described in section 501(c)(3). Before sections 4955, 6852 and 7409 were enacted in 1987, revocation of recognition of exemption was the sole sanction available against political intervention by public charities. Section 4955 was modeled on the section 4945 excise tax on political expenditures (taxable expenditures) by private foundations, while sections 6852 and 7409 provide new sanctions against flagrant political expenditures and flagrant political intervention, respectively.

One comment on the proposed regulations requested that the regulations define in additional detail the term *political expenditure* and provide specific examples of activities that constitute intervention or participation in a political campaign for or against a candidate. Section 53.4955–1(c)(1) of the proposed regulations provides that any expenditure that would cause an organization that makes the expenditure to be classified as an action organization in accordance with § 1.501(c)(3)–1(c)(3)(iii) is a political expenditure within the meaning of section 4955(d)(1). By referring to the long standing action organization regulations, § 53.4955–1(c)(1) of the proposed regulations ties the definition of *political expenditure* in section 4955 to existing IRS and judicial interpretations of when an organization participates or intervenes in a political campaign on behalf of or in opposition to any candidate for public office in violation of the requirements of section 501(c)(3). The IRS and the Treasury Department believe this direct connection between section 4955 and section 501(c)(3) correctly implements the intent of Congress as expressed in the statute and the legislative history. To the extent that further guidance is needed on the interpretation of the terms political expenditure under section 4955 and intervening in political campaigns under section 501(c)(3), the IRS and the Treasury Department believe such guidance should be given in connection with the requirements for tax exemption under section 501(c)(3). Therefore, the final regulations have not revised § 53.4955–1(c)(1).

Another comment suggested that the regulations specify whether there were circumstances under which conduct would result in the imposition of a tax under section 4955 but not in revocation of exemption under section 501(c)(3). According to the statutory language and the legislative history of section 4955, the addition of that section to the Internal Revenue Code did not affect the substantive standards for tax exemption under section 501(c)(3). To be exempt from income tax as an organization described in section 501(c)(3), an organization may not intervene in any political campaign on behalf of any candidate for public office. Consistent with this requirement, section 4955 does not permit a de minimis amount of political intervention. Therefore, the final regulations have not been revised. However, there may be individual cases where, based on the facts and circumstances such as the nature of the political intervention and the measures that have been taken by the organization to prevent a recurrence, the IRS may exercise its discretion to impose a tax under section 4955 but not to seek revocation of the organization's tax-exempt status.

One comment raised questions about the interpretation of section 4955(d)(2), which relates to organizations formed primarily to promote the candidacy of a particular individual. The comment requested clarification of the standard for determining whether an organization "is formed primarily for purposes of promoting the candidacy (or prospective candidacy) of an individual for public office" under section 4955(d)(2). The comment also requested clarification of the meaning of the phrase "availed of" in the section 4955(d)(2) reference to organizations availed of primarily to promote an individual's candidacy for public office. The comment further requested examples of expenses which have the primary effect of promoting public recognition or otherwise primarily accruing to the benefit of a candidate or a prospective candidate.

The legislative history of section 4955 provides that the determination of whether an organization's primary purpose is the promotion of the candidacy or prospective candidacy of an individual for public office is based on all relevant facts and circumstances. The proposed regulations follow the legislative history. The IRS and the Treasury Department believe that, if more detailed guidance is necessary, it would be more appropriate to provide it in a form that allows for the consideration of a fuller range of facts and circumstances. Therefore, the final regulations have not been revised.

The comment also asked whether section 4955(d)(2) adds anything to the

range of activities that would already be deemed political expenditures under section 4955(d)(1). The plain language of the statute makes it clear that the expenditures described in section 4955(d)(2) are included within the general category of political expenditures that is described in section 4955(d)(1). Furthermore, the legislative history states that section 4955(d)(2) "enumerates certain expenditures as political expenditures for purposes of the excise tax * * *." The IRS and the Treasury Department believe that organizations described in section 4955(d)(2) are subject to the same restrictions on political expenditures as all other section 501(c)(3) organizations. Therefore, the final regulations have not been revised.

One comment concluded that § 53.4955–1(b) of the proposed regulations, affecting organization managers under section 4955, imposed tax on a larger group of employees and officers than are subject to tax under chapter 42 because the section did not include language contained in § 53.4946–1(f)(1)(ii) and in § 53.4946–1(f)(2). The IRS and the Treasury Department agree that the definition of foundation manager under section 4946(b) should be incorporated into the definition of organization manager when applying section 4955(f)(2). Therefore, we have clarified the final regulations to make them consistent with the interpretation in § 53.4946–1(f)(1)(ii) and in § 53.4946–1(f)(2) by adding a sentence at the end of § 53.4955–1(b)(2)(ii)(B) and at the end of § 53.4955–1(b)(2)(iii).

One comment noted that § 53.4955–1(b)(7) of the proposed regulations provides that, in certain circumstances, if an organization manager relies on a reasoned legal opinion from legal counsel, the act of the organization manager will not be considered knowing or willful and will be considered due to reasonable cause for purposes of section 4955(a)(2). The commentator requested consideration of whether the same reasoned legal opinion would protect the organization from tax under section 4955(a)(1). Section 53.4955–1(b)(7) interprets whether an act is not willful and is due to reasonable cause for purposes of section 4955(a)(2). Unlike section 4955(a)(2), section 4955(a)(1) taxes an organization without regard to whether its act of making a political expenditure was willful or due to reasonable cause. Therefore, the final regulations have not been revised. A reasoned legal opinion from legal counsel received by the organization prior to making a political expenditure may be a factor that the IRS takes into account in determining what action to take in an individual case. Section 53.4955–1 (d) and (e) of the final regulations are also relevant where an organization has corrected a political expenditure that was not willful and flagrant.

One comment requested that the regulations provide more detail on the type of behavior that would be considered flagrant under sections 6852 and 7409. Since a determination of when a specific act or acts by an organization is flagrant depends on the facts and circumstances in individual cases, the IRS and the Treasury Department believe that, to the extent guidance is necessary on this issue, it is better rendered in a form other than through regulations. Therefore, the final regulations do not expand on the definition of flagrant.

One comment suggested that § 301.7409–1 of the proposed regulations should be modified to allow the IRS, where appropriate, to provide an organization with less than the 10 days notice required under the proposed regulations before the Commissioner would recommend that a petition for injunctive relief be filed. In light of the important considerations involved when contemplating an injunction of this sort, the IRS and the Treasury Department believe that an organization should be allowed a reasonable amount of time to respond before the IRS takes action. Therefore, the final regulations retain the 10 day notice period.

Special Analysis

It has been determined that this Treasury Decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Cynthia D. Morton, Office of Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1, 53, and 301 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 1.6091–2, paragraph (g) is added to read as follows:

§ 1.6091–2 Place for filing income tax returns.

* * * * *

(g) *Returns of persons subject to a termination assessment.* Notwithstanding paragraph (c) of this section, income tax returns of persons with respect to whom an income tax assessment was made under section 6852(a) with respect to the taxable year must be filed with the district director as provided in paragraphs (a) and (b) of this section.

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Par. 3. The authority citation for part 53 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. Section 53.4955–1 is added to Subpart K to read as follows:

§ 53.4955–1 Tax on political expenditures.

(a) *Relationship between section 4955 excise taxes and substantive standards for exemption under section 501(c)(3).* The excise taxes imposed by section 4955 do not affect the substantive standards for tax exemption under section 501(c)(3), under which an organization is described in section 501(c)(3) only if it does not participate or intervene in any political campaign on behalf of any candidate for public office.

(b) *Imposition of initial taxes on organization managers*—(1) *In general.* The excise tax under section 4955(a)(2) on the agreement of any organization manager to the making of a political expenditure by a section 501(c)(3) organization is imposed only in cases where—

(i) A tax is imposed by section 4955(a)(1);

(ii) The organization manager knows that the expenditure to which the manager agrees is a political expenditure; and

(iii) The agreement is willful and is not due to reasonable cause.

(2) *Type of organization managers covered*—(i) *In general.* The tax under section 4955(a)(2) is imposed only on those organization managers who are authorized to approve, or to exercise discretion in recommending approval of, the making of the expenditure by the organization and on those organization managers who are members of a group (such as the organization's board of directors or trustees) which is so authorized.

(ii) *Officer.* For purposes of section 4955(f)(2)(A), a person is an officer of an organization if—

(A) That person is specifically so designated under the certificate of incorporation, bylaws, or other constitutive documents of the foundation; or

(B) That person regularly exercises general authority to make administrative or policy decisions on behalf of the organization. Independent contractors, acting in a capacity as attorneys, accountants, and investment managers and advisors, are not officers. With respect to any expenditure, any person described in this paragraph (b)(2)(ii)(B) who has authority merely to recommend particular administrative or policy decisions, but not to implement them without approval of a superior, is not an officer.

(iii) *Employee.* For purposes of section 4955(f)(2)(B), an individual rendering services to an organization is an employee of the organization only if that individual is an employee within the meaning of section 3121(d)(2). With respect to any expenditure, an employee (other than an officer, director, or trustee of the organization) is described in section 4955(f)(2)(B) only if he or she has final authority or responsibility (either officially or effectively) with respect to such expenditure.

(3) *Type of agreement required.* An organization manager agrees to the making of a political expenditure if the manager manifests approval of the expenditure which is sufficient to constitute an exercise of the organization manager's authority to approve, or to exercise discretion in recommending approval of, the making of the expenditure by the organization. The manifestation of approval need not be the final or decisive approval on behalf of the organization.

(4) *Knowing*—(i) *General rule.* For purposes of section 4955, an organization manager is considered to have agreed to an expenditure *knowing* that it is a political expenditure only if—

(A) The manager has actual knowledge of sufficient facts so that, based solely upon these facts, the expenditure would be a political expenditure;

(B) The manager is aware that such an expenditure under these circumstances may violate the provisions of federal tax law governing political expenditures; and

(C) The manager negligently fails to make reasonable attempts to ascertain whether the expenditure is a political expenditure, or the manager is aware that it is a political expenditure.

(ii) *Amplification of general rule.* For purposes of section 4955, knowing does not mean having reason to know. However, evidence tending to show that an organization manager has reason to know of a particular fact or particular rule is relevant in determining whether the manager had actual knowledge of the fact or rule. Thus, for example, evidence tending to show that an organization manager has reason to know of sufficient facts so that, based solely upon those facts, an expenditure would be a political expenditure is relevant in determining whether the manager has actual knowledge of the facts.

(5) *Willful.* An organization manager's agreement to a political expenditure is willful if it is voluntary, conscious, and intentional. No motive to avoid the restrictions of the law or the incurrence of any tax is necessary to make an agreement willful. However, an organization manager's agreement to a political expenditure is not willful if the manager does not know that it is a political expenditure.

(6) *Due to reasonable cause.* An organization manager's actions are due to reasonable cause if the manager has exercised his or her responsibility on behalf of the organization with ordinary business care and prudence.

(7) *Advice of counsel.* An organization manager's agreement to an expenditure is ordinarily not considered knowing or willful and is ordinarily considered due to reasonable cause if the manager, after full disclosure of the factual situation to legal counsel (including house counsel), relies on the advice of counsel expressed in a reasoned written legal opinion that an expenditure is not a political expenditure under section 4955 (or that expenditures conforming to certain guidelines are not political expenditures). For this purpose, a written legal opinion is considered reasoned even if it reaches a conclusion which is subsequently determined to be incorrect, so long as the opinion addresses itself to the facts and applicable law. A written legal opinion is not considered reasoned if it does nothing more than recite the facts and express a conclusion. However, the absence of advice of counsel with respect to an expenditure does not, by itself, give rise to any inference that an organization manager agreed to the making of the expenditure knowingly, willfully, or without reasonable cause.

(8) *Cross reference.* For provisions relating to the burden of proof in cases involving the issue of whether an organization manager has knowingly agreed to the making of a political expenditure, see section 7454(b).

(c) *Amplification of political expenditure definition*—(1) *General rule.* Any expenditure that would cause an organization that makes the expenditure to be classified as an action organization by reason of § 1.501(c)(3)–1(c)(3)(iii) of this chapter is a political expenditure within the meaning of section 4955(d)(1).

(2) *Other political expenditures*—(i) For purposes of section 4955(d)(2), an organization is effectively controlled by a candidate or prospective candidate only if the individual has a continuing, substantial involvement in the day-to-day operations or management of the organization. An organization is not effectively controlled by a candidate or a prospective candidate merely because it is affiliated with the candidate, or merely because the candidate knows the directors, officers, or employees of the organization. The effectively controlled test is not met merely because the organization carries on its research, study, or other educational activities with respect to subject matter or issues in which the individual is interested or with which the individual is associated.

(ii) For purposes of section 4955(d)(2), a determination of whether the primary purpose of an organization is promoting the candidacy or prospective candidacy of an individual for public office is made on the basis of all the facts and circumstances. The factors to be considered include whether the surveys, studies, materials, etc. prepared by the organization are made available only to the candidate or are made available to the general public; and whether the organization pays for speeches and travel expenses for only one individual, or for speeches or travel expenses of

several persons. The fact that a candidate or prospective candidate utilizes studies, papers, materials, etc., prepared by the organization (such as in a speech by the candidate) is not to be considered as a factor indicating that the organization has a purpose of promoting the candidacy or prospective candidacy of that individual where such studies, papers, materials, etc. are not made available only to that individual.

(iii) Expenditures for voter registration, voter turnout, or voter education constitute other expenses, treated as political expenditures by reason of section 4955(d)(2)(E), only if the expenditures violate the prohibition on political activity provided in section 501(c)(3).

(d) *Abatement, refund, or no assessment of initial tax.* No initial (first-tier) tax will be imposed under section 4955(a), or the initial tax will be abated or refunded, if the organization or an organization manager establishes to the satisfaction of the IRS that—

(1) The political expenditure was not willful and flagrant; and

(2) The political expenditure was corrected.

(e) *Correction*—(1) *Recovery of Expenditure.* For purposes of section 4955(f)(3) and this section, correction of a political expenditure is accomplished by recovering part or all of the expenditure to the extent recovery is possible, and, where full recovery cannot be accomplished, by any additional corrective action which the Commissioner may prescribe. The organization making the political expenditure is not under any obligation to attempt to recover the expenditure by legal action if the action would in all probability not result in the satisfaction of execution on a judgment.

(2) *Establishing safeguards.* Correction of a political expenditure must also involve the establishment of sufficient safeguards to prevent future political expenditures by the organization. The determination of whether safeguards are sufficient to prevent future political expenditures by the organization is made by the District Director.

(f) *Effective date.* This section is effective December 5, 1995.

§ 53.4963–1 [Amended]

Par. 5. In § 53.4963–1, paragraphs (a), (b), and (c) are amended by adding the reference "4955," immediately after the reference "4952," in each place it appears.

§ 53.6011–1 [Amended]

Par. 6. In § 53.6011–1, paragraph (b) is amended as follows:

1. In the first sentence, the language "or 4945(a)," is removed and ", 4945(a) or 4955(a)," is added in its place.

2. In the last sentence, the language "or 4955(a)" is added immediately following the language "section 4945(a)".

Par. 7. In § 53.6071–1, paragraph (e) is added to read as follows:

§ 53.6071–1 Time for filing returns.

* * * * *

(e) *Taxes related to political expenditures of organizations described in section 501(c)(3) of the Internal Revenue Code.* A Form 4720 required to be filed by § 53.6011–1(b) for an organization liable for tax imposed by section 4955(a) must be filed by the unextended due date for filing its annual information return under section 6033 or, if the organization is exempt from filing, the date the organization would be required to file an annual information return if it was not exempt from filing. The Form 4720 of a person whose taxable year ends on a date other than that on which the taxable year of the organization described in section 501(c)(3) ends must be filed on or before the 15th day of the fifth month following the close of the person's taxable year.

Par. 8. In § 53.6091–1, the section heading is revised and paragraph (d) is added to read as follows:

§ 53.6091–1 Place for filing chapter 42 tax returns.

* * * * *

(d) *Returns of persons subject to a termination assessment.*

Notwithstanding paragraph (c) of this section, income tax returns of persons with respect to whom a chapter 42 tax assessment was made under section 6852(a) with respect to the taxable year must be filed with the district director as provided in paragraphs (a) and (b) of this section.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 9. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 301.6211–1 [Amended]

Par. 10. In § 301.6211–1, the last sentence of paragraph (b) is amended by adding "or 6852" immediately after "section 6851".

§ 301.6212–1 [Amended]

Par. 11. In § 301.6212–1, the second sentence of paragraph (c) is amended by adding "termination assessments in section 6851 or 6852," immediately after "section 6213(b)(1),".

§ 301.6213–1 [Amended]

Par. 12. Section 301.6213–1 is amended as follows:

1. Paragraph (a)(2), first sentence, is amended by adding ", 6852," immediately after "section 6851".

2. Paragraph (e), first sentence, is amended by adding "4955," immediately after "4952,".

Par. 13. Section 301.6852–1 is added to read as follows:

§ 301.6852–1 Termination assessments of tax in the case of flagrant political expenditures of section 501(c)(3) organizations.

(a) *Authority for making.* Any assessment under section 6852 as a result of a flagrant violation by a section 501(c)(3) organization of the prohibition against making political expenditures must be authorized by the District Director.

(b) *Determination of income tax.* An organization shall be subject to an assessment of income tax under section 6852 only if the flagrant violation of the prohibition against making political expenditures results in revocation of the organization's tax exemption under section 501(a) because it is not described in section 501(c)(3). An organization subject to such an assessment is not liable for income taxes for any period prior to the effective date of the revocation of the organization's tax exemption.

(c) *Payment.* Where a District Director has made a determination of income tax under paragraph (b) of this section or of section 4955 excise tax, notwithstanding any other provision of law, any tax will become immediately due and payable. The taxpayer is required to pay the amount of the assessment within 10 days after the District Director sends the notice and demand for immediate payment regardless of the filing of an administrative appeal or of a court petition. Regardless of filing an administrative appeal or of petitioning a court, enforced collection action may proceed after the 10-day payment period unless the taxpayer posts the bond described in section 6863. For purposes of collection procedures such as section 6331 (regarding levy), assessments under the authority of paragraph (a) of this section do not constitute situations in which the collection of such tax is in jeopardy and, therefore, do not suspend normal collection procedures.

(d) *Effective date.* This section is effective December 5, 1995.

§ 301.6861–1 [Amended]

Par. 14. In § 301.6861–1, paragraph (g) is amended by:

1. Adding the language "4955(a)," immediately after "4952(a),".

2. Adding the language "4955(b)," immediately after "4952(b),".

§ 301.6863–1 [Amended]

Par. 15. Section 301.6863–1 is amended as follows:

1. Paragraph (a)(1) is amended by adding the language ", or under section 6852 (referred to as a political assessment for purposes of this section)" immediately after "for purposes of this section)".

2. Paragraphs (a)(3) first sentence, (a)(4) last sentence, and (b) first sentence are amended by adding the language "or political assessment" immediately after "jeopardy assessment" in each place it appears.

3. Paragraph (b) is amended by adding the language "(or political assessment)" immediately after "jeopardy" in the last sentence.

§ 301.6863–2 [Amended]

Par. 16. In § 301.6863–2, paragraph (a) introductory text, the first sentence is amended by adding the language "6852," immediately after "section 6851,".

Par. 17. Section 301.7409–1 is added under the undesignated centerheading "Civil Actions by the United States" to read as follows:

§ 301.7409–1 Action to enjoin flagrant political expenditures of section 501(c)(3) organizations.

(a) *Letter to organization.* When the Assistant Commissioner (Employee Plans and Exempt Organizations) concludes that a section 501(c)(3) organization has engaged in flagrant political intervention and is likely to continue to engage in political intervention that involves political expenditures, the Assistant Commissioner (Employee Plans and Exempt Organizations) shall send a letter to the organization providing it with the facts based on which the Service believes that the organization has been engaging in flagrant political intervention and is likely to continue to engage in political intervention that involves political expenditures. The organization will have 10 calendar days after the letter is sent to respond by establishing that it will immediately cease engaging in political intervention, or by providing the Service with sufficient information to refute the Service's evidence that it has been engaged in flagrant political intervention. The Internal Revenue Service will not proceed to seek an injunction under section 7409 until after the close of this 10-day response period.

(b) *Determination by Commissioner.* If the organization does not respond within 10 calendar days to the letter under paragraph (a) of this section in a manner sufficient to dissuade the Assistant Commissioner (Employee Plans and Exempt Organizations) of the need for an injunction, the file will be forwarded to the Commissioner of Internal Revenue. The Commissioner of Internal Revenue will personally determine whether to forward to the Department of Justice a recommendation that it immediately bring an action to enjoin the organization from making further political expenditures. The Commissioner may also recommend that the court action include any other action that is appropriate in ensuring that the assets of the section 501(c)(3) organization are preserved for section 501(c)(3) purposes. The authority of the Commissioner to make the determinations described in this paragraph may not be delegated to any other persons.

(c) *Flagrant political intervention.* For purposes of this section, *flagrant political intervention* is defined as participation in, or intervention in (including the publication and distribution of statements), any political campaign by a section 501(c)(3) organization on behalf of (or in opposition to) any candidate for public office in violation of the prohibition on such participation or intervention in section 501(c)(3) and the regulations thereunder if the participation or intervention is flagrant.

(d) *Effective date.* This section is effective December 5, 1995.

§ 301.7422–1 [Amended]

Par. 18. In § 301.7422–1, paragraphs (a) introductory text, (c) introductory text and (d) are amended by adding the language "4955," immediately after "4952,".

§ 301.7611–1 [Amended]

Par. 19. In § 301.7611–1, A–6, the first sentence is amended by adding the language "or 6852," immediately after "section 6851".

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: October 26, 1995.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 95–29094 Filed 12–4–95; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

RIN 3067–AC38

Review of Determinations for Required Purchase of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule establishes the procedures for FEMA's review of determinations whether a building or manufactured home is located in an identified Special Flood Hazard Area. The determination review process will provide an opportunity for borrowers and lenders of loans secured by improved real estate to resolve disputes regarding contested determinations.

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756, or by facsimile (202) 646–4596 (not toll-free calls).

SUPPLEMENTARY INFORMATION: As part of its implementation of the National Flood Insurance Reform Act of 1994 (NFIRA), FEMA published a proposed rule (60 FR 31442, June 15, 1995) to establish the procedures for its review of determinations whether a building or mobile home is located in an identified Special Flood Hazard Area. The comment period ended on August 14, 1995. The proposed rule used the term "mobile home" for consistency with the statute. However, the term "manufactured home" is preferred in the industry, and is specifically defined in both the National Flood Insurance Program (NFIP) regulations at 44 CFR part 59, and in the standard flood insurance policy. Therefore, the term "manufactured home" will be used in this final rule.

This final rule addresses FEMA's requirement under 42 U.S.C. 4012a(e)(3) to review a determination whether a building or manufactured home is located in an identified Special Flood Hazard Area (SFHA) if jointly requested by the borrower and lender for a loan secured by improved real estate or a manufactured home. FEMA will begin accepting requests for determination reviews under this regulation on January 2, 1996. Requests should be mailed to the following locations:

For Minnesota and locations east of the Mississippi River: Determination Review Coordinator, c/o Dewberry &

Davis, P.O. Box 2020, Merrifield VA 22116–2020.

For Louisiana and locations west of the Mississippi River: Determination Review Coordinator, c/o Michael Baker Jr., Inc., 3601 Eisenhower Avenue, Alexandria VA 22304–6439.

We received comments from 25 organizations and individuals, as follows: 12 lenders, 9 associations, 3 third party determinators, and 1 consultant. The greatest number of comments related to who pays the requested fee (12 comments). Others commented on whether FEMA will accept individual requests (9 comments), whether and when borrowers are required to purchase flood insurance (6 comments). We also received 6 comments stating that FEMA should not require copies of NFIP maps to be submitted because it should already have them on file. Summarized below are the comments we received and our responses to them.

Fees

The $60.00 fee for FEMA's review of determinations, contained in the proposed rule, has been increased to $80.00, based on FEMA's anticipated costs to process reviews of determinations. The $80.00 fee does not completely cover FEMA's costs, and contains some subsidy to the requestor. The costs for this service will be monitored and revised at the beginning of FY 1997, if necessary.

Determination of fee. Two responders asked how the fee was determined.

Response. The amount of time required to handle, record, document, and respond to these requests was estimated based on our experience with high volumes of similar types of requests. Using current $40 per hour fee rates for the existing Letter of Map Revision (LOMR) review process, we estimated the $80 fee based on the anticipated steps and time required to review a determination and process the request.

Fee is excessive. Five responders felt that the fee is excessive and more than commercial third party determinators charge for the same service.

Response. The vast majority of flood determinations made by third party determinators are for structures well away from the SFHA. These determinations can be done very quickly using automated processes at very low cost. For example, a third party determinator may determine that the only area of a community having SFHAs has a specific zip code. Any time that a third party determinator gets a request for a determination in that community it first checks the zip code. If it is any zip code other than the one having SFHAs, a determination of "Not in SFHA" can be made quickly. This determination takes only minutes and costs are minimal. Only when a request for a determination is for a property with the zip code containing SFHAs is more effort required. Most of these determinations are for structures well away from the boundary of the SFHA and are clearly shown in or out of the SFHA.

Determinations where a structure is located near the edge of a mapped SFHA are the most complex because additional review is often required to locate the structure accurately on the NFIP map. While these latter determinations cost the determinator more, the inexpensive determinations comprise the vast majority of determinations made. We expect that FEMA's determination reviews will cost more because we anticipate receiving primarily requests for structures near the boundary of mapped flood hazards, where a review of the technical data used in making the determination and comparing it to the printed map will be required in order to issue a response.

Multiple structures. One commenter asked how the fee would apply to multiple structures.

Response. One fee will apply to each Standard Flood Hazard Determination Form (SFHDF) submitted. Generally, an SFHDF is prepared for a single structure used as loan collateral. If a request for a determination review includes multiple buildings, the fee will be based on the number of SFHDFs included in the request.

Authority. Two responders requested that FEMA cite the specific authority for imposing a fee.

Response. The authority for FEMA to charge a fee is at 31 U.S.C. 9701, which allows Federal agencies to recover costs associated with providing something of value to a customer.

Responsibility and Disclosure. Almost half of the responders asked who would pay the fee. Two responders asked how the fee for a determination review related to the Real Estate Settlement Procedures Act, if this fee was considered a finance charge, and if the fee needed to be disclosed.

Response. These issues were sent to the Federal Financial Institutions Examination Council for the Council's review and advice. We understand that they will be considered by the Council during the comment period (October 18–December 18, 1995) following the publication of the proposed rule for loans in areas having special flood hazards (60 FR 53962, October 18, 1995).

Notification. One commenter indicated that FEMA should not rely on the **Federal Register** for notification of the initial fee or subsequent increases or decreases in the amount, and suggested that all interested parties be notified directly regarding fee changes.

Response. Publication in the **Federal Register** is a legally acceptable method to notify the public of rule changes. Notifying individual parties is not FEMA's role, and cannot be provided within the constraints of FEMA's budget and staff. We expect that organizations and trade associations that serve the banking industry will provide such notification to their constituents.

Payment Method. The proposed rule included an option of payment by credit card. On further investigation this option will not be available because of the expense that would be incurred by FEMA to process credit card payments. Payment for requests for review must be made by check or by money order, in U.S. funds, payable to the National Flood Insurance Program.

Insurance Purchase Requirements

Forced placement. Five responders questioned how the request for review of lender determinations impacts the 45-day clock for forced placement of flood insurance. One responder asked whether a lender could force place insurance during the 90-day window (45 days to submit, 45 days to review) without liability or penalty, and whether new extensions of credit should be postponed pending FEMA's Response.

Response. Section 524 of the NFIRA states that if the request is made in connection with the origination of a loan and if FEMA fails to respond before the later of the expiration of the 45-day period after receiving the request or closing of the loan, then flood insurance is not required until such a letter is provided. Thus, section 524 only temporarily delays the flood insurance purchase requirement. If the closing of the loan occurs *prior to* 45 days after FEMA receives a request, then the flood insurance purchase requirement is not waived under section 524 because FEMA has not failed to respond within the 45-day period. If loan closing occurs *after* FEMA's 45-day response period, then the mandatory flood insurance purchase requirement is waived only if FEMA's response is not issued by loan closing. We plan to respond to requests within 45 days.

However, if we do not respond within 45 days and the mandatory purchase requirement is delayed until we do respond, it is nevertheless a prudent business practice to require the purchase of flood insurance to protect the collateral. The lender always retains the prerogative to require flood insurance even when its purchase is not Federally mandated. Flood insurance premiums can be refunded if it is determined by FEMA that the structure is not located in the SFHA and the lender waives the flood insurance purchase requirement.

Mandatory purchase. We received comments noting that the proposed rule did not address when borrowers are or are not required to purchase flood insurance. Another commenter asked whether the lender could waive the flood insurance purchase requirement while the determination is under review. Others noted that FEMA's review of lender determinations should not delay flood insurance purchase requirements.

Response. As stated above, section 524 temporarily delays the flood insurance purchase requirement only when FEMA fails to respond within its allotted 45-day period. At all other times, the mandatory purchase of flood insurance for structures located in SFHAs remains in effect.

Requirement for Joint Request

Individual requests. Seven responders indicated that individual requests for determination reviews should be accepted, and that joint requests would be too time consuming.

Response. The NFIRA states that the borrower and lender of a loan secured by improved real estate or a manufactured home *may jointly* request the Director to review a determination whether the building or manufactured home is located in an area having special flood hazards. FEMA interprets the statute to require a joint request from both the borrower and the lender for this review. If an individual submits a request for a determination review, FEMA will make a reasonable attempt to obtain the needed signature. However, if it is not possible to obtain both parties' signatures for the request, FEMA will not review the request under 44 CFR 65.17, and will return the request promptly in its entirety. FEMA will notify the requestor that the data submitted with the request do not meet the requirements of 44 CFR 65.17; therefore, the lender's obligation to require the purchase of flood insurance remains in effect. Further, we shall notify the requestor that other procedures are available to individuals under 44 CFR parts 70 and 65, commonly known as the Letter of Map Amendment (LOMA) and the Letter of Map Revision (LOMR) processes, if the requestor believes that a structure has been incorrectly included in the SFHA, or if conditions have changed since the NFIP map was issued.

Signatures. One responder asked whether all borrowers had to sign the request.

Response. The request for a determination review must be signed by at least one of the borrowers, or the borrowers' legal representative for the loan. Likewise, the lender must also sign the request. To ensure the involvement of all appropriate parties as intended by the legislation, and to ensure an objective process, FEMA will not accept the signature of a third party determinator as a representative for the borrower or the lender.

Responsibility. Several requestors also asked who is responsible for the preparation of the joint submittal and whether others may join in on requests or submit on behalf of the borrower and lender.

Response. The responsibility for the preparation of the request for review of a determination is held jointly, by both the borrower and the lender. The data package may be prepared by others, but the request itself must be an original (not photocopied), and signed by the borrower and lender, as discussed above.

Time Frames

Submittal. We received many comments on the requirement to submit the request for a determination review within 45 days of the lender's notification to the borrower that flood insurance is required. Two commenters questioned FEMA's authority for limiting the time frame and five commented that the time allotted was too short or should be eliminated. Other comments indicated that the combined submission and processing time was too long or that the lender and borrower should be allowed to submit at any time, and that FEMA should expedite its review.

Response. We limited the time frame for submittal to permit us to provide reviews in a timely manner. The 45-day period is also within the time period in which loans are generally closed. This time frame avoids a protracted period of time before a final determination is made whether the property is or is not located in a SFHA. Processing times may be minimized if a request for review is submitted immediately after the lender notifies the borrower that flood insurance is required, and if a complete data package is submitted to FEMA.

Available options. One responder asked what options are available if the 45-day window for the submittal of a request for determination review is missed.

Response. In this case, flood insurance should be purchased if required. The procedures for a LOMA or LOMR are available to individuals if a structure has been inadvertently included in the SFHA or if conditions have changed since the NFIP map was issued.

Resubmittals. Two commenters asked about the charge for resubmissions. Two others asked what effect a request returned for insufficient data would have on the 45-day clock.

Response. Requests returned because the 45-day deadline was missed cannot be resubmitted. Requests returned for insufficiency of information will have the fee returned with the package. FEMA will return the entire package to the borrower with the fee and a letter explaining what information is needed for the review to be accomplished. The borrower will have 14 days from date of FEMA's letter or 45 days from the date of lender notification, whichever is later, to send the request back to FEMA. A fee must be provided with any resubmission; there is no second charge. The date of postmark from the sender will determine the timeliness of the resubmission.

Start of 45 days for FEMA review and response. Two responders asked when the 45-day FEMA review clock would begin and what effect, if any, an uncollected fee would have on the clock.

Response. The 45-day timeframe for FEMA to complete the review will begin on the day that FEMA receives a complete request supported by technical information at the proper location (addresses given above). Uncollected fees may be turned over to the Treasury Department for handling and such action will not have an impact on the processing of the review.

Definitions. One responder asked for clarification of the word "submitted" as in "submitted within 45 days of the lender's notification".

Response. Submitted means postmarked. This is defined in 44 CFR 65.17 (b) (3).

Timing of LOMAs and Determination Reviews. One responder asked how the 45-day time limit is impacted if a LOMA or LOMR is requested before the request for a determination review.

Response. The determination review procedures provide a mechanism for FEMA to review a lender's or its agent's determination of whether a structure is within a *mapped* SFHA. LOMA and LOMR procedures allow the submittal of more detailed, site-specific information than was available when

the maps were initially prepared. After reviewing this information, and if warranted, FEMA can revise the mapped SFHAs by LOMA or LOMR. If the question is whether the NFIP map was read correctly, the determination review procedure is appropriate. If the question is whether the SFHA should be changed, LOMA or LOMR procedures are appropriate. In most instances, only one procedure is applicable. However, should both procedures be underway simultaneously, most likely they will be addressed separately. While FEMA has 45 days to respond to a request for determination review, FEMA has 60 or 90 days, respectively, to respond to LOMA and LOMR requests because a more detailed review is necessary. Any determination made through the determination review procedure will consider only effective LOMAs or LOMRs, and the submittal and response timeframes for the determination review process will not change as a result of any ongoing LOMA or LOMR reviews.

Providing a Copy of the NFIP Map

Seven responders questioned why a copy of the NFIP map must be submitted with the request when FEMA already has the maps on file.

Response. The purpose of FEMA's review is to judge whether the determination presented by the lender is appropriate. If the location of the structure on the NFIP map used in that determination is not provided with the submitted data, FEMA would have to make an independent determination, which was not the intent of the NFIRA. Further, if a copy of the NFIP map used to make the determination is not provided, it would be unclear whether the current NFIP map panel was used to make the determination. A full copy of the map panel is not required. The title block, including map date, scale bar, and north arrow, and the portion of the map including the property location (with the property location noted) are the only portions of the NFIP map that need to be provided.

FEMA Processing

Effective date. Four responders had concerns about the effective date for the use of the Standard Flood Hazard Determination Form (SFHDF) and the commencement of FEMA's reviews under 44 CFR 65.17, and two responders suggested that any form be admissible before January 1996.

Response. FEMA is currently developing a system to handle requests for determination reviews and will begin accepting requests under § 65.17 on January 2, 1996. The mandatory use of the SFHDF by lenders also begins on January 2, 1996.

Technical data requirements. Five responders expressed the need for FEMA to define the technical data requirements and provide examples.

Response. FEMA needs the same technical data that were used by the lender or third party determinator to make the determination. Items that typically complete this requirement include, but are not limited to, a copy of the tax assessor's map showing the property, a map showing the location of the structure on the property, a copy of the plat for the subdivision/tract or similar document, and information showing the relationship of the NFIP map and the location of the structure on the property. Structures located in rural areas or areas where the NFIP map contains few physical features may need additional data so that the structure can be definitively located on the property and the property located relative to reference features. Multiple-unit structures would need data for the entire building. Properties with multiple buildings must show data for all structures. If a building has a porch or deck, this should be indicated in detail.

Incomplete submittals. One responder asked what happens to incomplete submissions and three asked when the fee is returned.

Response. Incomplete submissions are returned in their entirety, with the fee, to the borrower. Requests received with a postmark more than 45 days after the date the lender notified the borrower that flood insurance is required will also be returned to the borrower with the fee. The only data retained by FEMA are the database record of the receipt and disposition of the request. There are no circumstances when the fee can be reimbursed to the lender or borrower.

Format for requests. Five responders requested that FEMA provide a form or a format for requesting the reviews.

Response. FEMA will provide guidance on how to request a review, but does not plan to develop an official form to be used when requesting determination reviews. This issue has been discussed with the lending industry trade associations and they are willing to develop a recommended format that can be used.

Publication of Letters of Determination Review. One responder asked whether FEMA will publish public notices of determination reviews similar to LOMAs and LOMRs.

Response. No publication by FEMA is contemplated because the determination review does not change the effective map.

Distribution of correspondence. One responder suggested that copies of the correspondence be provided to the borrower and the lender.

Response. Copies of the Letter of Determination Review will be sent to the lender and the borrower, as well as to the third party determinator, if known. Packages returned for insufficiency will be sent to the borrower with notice of return to the lender.

Review of Accuracy of NFIP Map. One responder asked whether FEMA's review would include verification of the accuracy of the NFIP map.

Response. No. The purpose of the review is to determine whether or not the security property has been accurately located on the effective NFIP map. If the accuracy of the NFIP map is in question, procedures under 44 CFR parts 70 and 65 must be used to request a LOMA or LOMR.

Review for Letters of Map Change. One responder asked whether FEMA would review for LOMAs and LOMRs, how it would perform this task, and what LOMA/LOMR information would be provided back to the borrower and lender.

Response. When reviewing a lender's or its agent's determination, FEMA will check its Community Information System database for LOMAs and LOMRs that would affect the determination. If the original determination overlooked a LOMA or LOMR, FEMA's final response will so state and will provide the date of the letter. LOMAs and LOMRs are available through the community's map repository. In addition, FEMA publishes a compendium of all map changes semi-annually in the **Federal Register**.

Initiation of LOMA/LOMR process. Two responders promoted the automatic initiation of the LOMA/LOMR process.

Response. There will not be an automatic initiation of the LOMA/LOMR procedures from the 44 CFR 65.17 submission. Elevation data are not considered in the determination review process, but are frequently required for the LOMA/LOMR process. The § 65.17 procedure has been designed for fast response and the review of extra data will not be performed at this time. FEMA's response to a request for determination review that includes elevation data will include information regarding other procedures that are available to consider the elevation data.

Format of FEMA's Response. One responder asked whether FEMA's review would result in a Standard Flood Hazard Determination Form prepared by FEMA.

Response. No. The intent of these procedures is to provide a review of a lender's or its agent's determination. Section 524 of the NFIRA states that FEMA shall provide to the borrower and the lender a letter stating whether or not the building or manufactured home is in an area having special flood hazards.

Status inquiries. One responder wanted to know how to obtain the status of the request after submission.

Response. Due to the anticipated volume of requests, such inquiries will not be accommodated. We plan to acknowledge receipt of the request within five days and to issue the final response within 45 days.

Elevation data. A responder asked that the final rule explicitly state that FEMA will not consider elevation data for this review. The same responder advocated that the determination review process not result in the initiation of the LOMA/LOMR process.

Response. This is stated in the final rule under 44 CFR 65.17(a).

Miscellaneous Comments

Definition of "in SFHA" and "partially in SFHA". One responder asked that "in the SFHA" be defined and another responder asked how we would deal with reviews of "part in, part out".

Response. The SFHA is delineated on the NFIP map for the community. For purposes of this procedure, if any part of the structure is indicated to be in the SFHA on the NFIP map, the structure is considered to be in the SFHA and flood insurance is required. The flood insurance purchase requirement applies to *insurable structures.* If a portion of the land lies in the SFHA, the purchase of flood insurance is not Federally mandated unless the structure itself is indicated to be in or partially in the SFHA.

Determinations "Pursuant to a Revision." Several responders asked us to clarify whether these determination review procedures were available in the case of a FEMA remapping.

Response. These procedures are available for the review of lender determinations when requested within 45 days after the borrower was notified that flood insurance is required, regardless of the impetus of the request. However, the intent of the determination review procedures is to allow a mechanism for FEMA to review a lender's or its agent's determination when specifically requested. FEMA will return requests at the outset if the submitted Standard Flood Hazard Determination Form is based on an outdated map panel. After the lender conducts or obtains a determination using the current map panel in effect, FEMA will review the determination upon request if the request meets the stipulated criteria.

Applicability of Process. One responder asked if the procedure would apply to existing loans as well as loan originations.

Response. The process is available within 45 days after the lender advises the borrower that flood insurance is required as a condition for the loan. Therefore, this procedure applies to all loans.

Guarantee. One responder asked whether FEMA would guarantee its determination.

Response. No. A guarantee is only required if a third party completes the Standard Flood Hazard Determination Form for a lender. FEMA is not authorized to guarantee these determinations. However, FEMA will review the available data and ensure that the determinations are as accurate as possible.

Initial Determinations. One responder suggested that FEMA should provide initial flood hazard determinations.

Response. Although the NFIRA does not prohibit FEMA from providing initial flood hazard determinations, we interpret section 524 as providing a mechanism for FEMA to review and resolve appeals on others' determinations. As indicated in the NFIRA, FEMA's determination shall be final. As stated earlier, FEMA's review of a determination is based on the data provided by others that allowed the original determination to be made. FEMA's review of the determination will correct an error, if one was made in locating a structure relative to a mapped SFHA, but does not change the map, the location of the property on the map, or the findings of a third party determinator or lender if they correctly used the available data. Other procedures with additional data requirements are available through FEMA's LOMA and LOMR processes.

Upholding original determinations due to insufficient information. One responder asked for clarification on why the original determination would be "upheld" instead of "withheld" if insufficient information was submitted to review the determination.

Response. FEMA will presume the lender or lender's agent has made the correct determination and predicts that most determinations will not be submitted to FEMA for review. Therefore, the lender's determination is considered valid until found to be in error. We have revised the language in 44 CFR 65.17(c)(2) to clarify this issue.

Unusual cases. A responder asked for clarification of the term "unusual cases."

Response. This may have been a poor choice of words in the proposed rule. If the lender or third party determinator uses prudent and reasonable judgment in their evaluations, disputes should not arise that would require a determination review by FEMA.

Use of term "mobile home." One responder stated that 44 CFR 65.17 should use the term "manufactured home" instead of "mobile home" to be consistent with the NFIP regulations.

Response. Section 65.17 has been changed to use the term "manufactured home."

National Environmental Policy Act

This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule would not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because it would not be expected (1) to have significant secondary or incidental effects on a substantial number of small entities, nor (2) to create any additional burden on small entities. Moreover, establishing a procedure for FEMA's review of determinations is required by the National Flood Insurance Reform Act of 1994, 42 U.S.C. 4012a. A regulatory flexibility analysis has not been prepared.

Regulatory Planning and Review

This final rule would not be a significant regulatory action under Executive Order 12866 of September 30, 1994, Regulatory Planning and Review, 58 FR 51735. To the extent possible this rule adheres to the principles of regulation as set forth in Executive Order 12866. This rule has not been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866.

Paperwork Reduction Act

This final rule does not involve any collection of information for the purposes of the Paperwork Reduction Act.

Executive Order 12612, Federalism

This final rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended as follows:

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

1. The authority citation for part 65 is revised to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. Section 65.17 is added to read as follows:

§ 65.17 Review of determinations.

This section describes the procedures that shall be followed and the types of information required by FEMA to review a determination of whether a building or manufactured home is located within an identified Special Flood Hazard Area (SFHA).

(a) *General conditions.* The borrower and lender of a loan secured by improved real estate or a manufactured home may jointly request that FEMA review a determination that the building or manufactured home is located in an identified SFHA. Such a request must be submitted within 45 days of the lender's notification to the borrower that the building or manufactured home is in the SFHA and that flood insurance is required. Such a request must be submitted jointly by the lender and the borrower and shall include the required fee and technical information related to the building or manufactured home. Elevation data will not be considered under the procedures described in this section.

(b) *Data and other requirements.* Items required for FEMA's review of a determination shall include the following:

(1) Payment of the required fee by check or money order, in U.S. funds, payable to the National Flood Insurance Program;

(2) A request for FEMA's review of the determination, signed by both the borrower and the lender;

(3) A copy of the lender's notification to the borrower that the building or manufactured home is in an SFHA and that flood insurance is required (the request for review of the determination must be postmarked within 45 days of borrower notification);

(4) A completed Standard Flood Hazard Determination Form for the building or manufactured home, together with a legible hard copy of all technical data used in making the determination; and

(5) A copy of the effective NFIP map (Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM)) panel for the community in which the building or manufactured home is located, with the building or manufactured home location indicated. Portions of the map panel may be submitted but shall include the area of the building or manufactured home in question together with the map panel title block, including effective date, bar scale, and north arrow.

(c) *Review and response by FEMA.* Within 45 days after receipt of a request to review a determination, FEMA will notify the applicants in writing of one of the following:

(1) Request submitted more than 45 days after borrower notification; no review will be performed and all materials are being returned;

(2) Insufficient information was received to review the determination; therefore, the determination stands until a complete submittal is received; or

(3) The results of FEMA's review of the determination, which shall include the following:

(i) The name of the NFIP community in which the building or manufactured home is located;

(ii) The property address or other identification of the building or manufactured home to which the determination applies;

(iii) The NFIP map panel number and effective date upon which the determination is based;

(iv) A statement indicating whether the building or manufactured home is within the Special Flood Hazard Area;

(v) The time frame during which the determination is effective.

Dated: November 22, 1995.

Robert H. Volland,

Acting Deputy Associate Director for Mitigation.

[FR Doc. 95–29561 Filed 12–4–95; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to Permit FM Channel and Class Modifications [Updates] by Applications*, 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: December 5, 1995.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 414–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, adopted November 8, 1995, and released November 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 232C3 and adding Channel 232C2 at Rogers.

3. Section 73.202(b), the Table of FM Allotments under Hawaii, is amended by removing Channel 224C3 and adding Channel 224C2 at Hilo, and by removing Channel 299C1 and adding Channel 299C3 at Volcano.

4. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 294A and adding Channel 294C2 at Babbitt.

5. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by removing Channel 269C3 and adding Channel 269C2 at Gluckstadt.

6. Section 73.202(b), the Table of FM Allotments under Montana, is amended by removing Channel 281C1 and adding Channel 281C3 at East Helena.

7. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by removing Channel 275C and adding Channel 275C1 at Hobbs.

8. Section 73.202(b), the Table of FM Allotments under North Dakota, is amended by removing Channel 244A and adding Channel 244C2 at Devils Lake.

9. Section 73.202(b), the Table of FM Allotments under Ohio, is amended by removing Channel 282B1 and adding Channel 282A at Richwood.

10. Section 73.202(b), the Table of FM Allotments under South Dakota, is amended by removing Channel 257A and adding Channel 258C2 at Sisseton.

11. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 290A and adding Channel 290C3 at San Diego.

12. Section 73.202(b), the Table of FM Allotments under Utah, is amended by removing Channel 233C1 and adding Channel 233C at Logan.

13. Section 73.202(b), the Table of FM Allotments under Washington, is amended by removing Channel 265A and adding Channel 265C3 at Grandview and by removing Channel 226C2 and adding Channel 224C2 at Omak.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–29481 Filed 12–4–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 90–195; RM–7152]

Radio Broadcasting Services; Brookline, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 271A to Brookline, Missouri, as that community's first local FM service, at the request of Laurie L. Ankarlo. *See* 55 FR 10791, March 23, 1990. Channel 271A can be allotted to Brookline in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.9 kilometers (7.4 miles) northeast (37–15–26 and 93–21–19). With this action, this proceeding is terminated.

DATES: Effective January 12, 1996. The window period for filing applications will open on January 12, 1996, and close on February 12, 1996.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 776–1660.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 90–195, adopted November 3, 1995, and released November 28, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by adding Brookline, Channel 271A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–29482 Filed 12–4–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 92–214; RM–8062; RM–8144; RM–8145; RM–8146; RM–8147]

Radio Broadcasting Services; Columbia, Bourbon, Leasburg, Gerald, Dixon, and Cuba, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 244C1 for Channel 244C3 at Columbia, Missouri, and modifies the construction permit for Station KCMQ(FM) to specify operation on the higher class channel in response to a petition filed by The Greenfield Group. *See* 57 FR 44547, September 28, 1992. The coordinates for Channel 244C1 at Columbia are 38–37–40 and 92–07–00. To accommodate the Columbia upgrade, we shall substitute Channel 231A for Channel 244A at Bourbon, Missouri, at coordinates 38–05–00 and 91–15–00. In response to a counterproposal filed by Central Missouri Broadcasting, Inc., we shall allot Channel 221A to Dixon, Missouri, at coordinates 37–58–30 and 92–10–10. Lake Broadcasting counterproposed the substitution of Channel 297C3 for Channel 271A at Cuba, Missouri, and modification of its construction permit accordingly. However, since another party filed comments indicating it would file an application for Channel 297C3 and no other channels are available, we shall allot Channel 297C3 to Cuba and open a filing window. The coordinates for Channel 297C3 are 38–03–54 and 91–24–12. Jeff Weinhaus withdrew his counterproposal for Leasburg, Missouri, and Tony Knipp withdrew his counterproposal for Leasburg, Missouri, in accordance with Section 1.420(j) of the Commission's Rules. With this action, this proceeding is terminated.

DATES: Effective January 9, 1996. The window period for filing applications will open on January 9, 1996, and close on February 9, 1996.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MM Docket No. 92–214, adopted October 27, 1995, and released November 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's

copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 244C3 and adding Channel 244C1 at Columbia, by removing Channel 244A and adding Channel 231A at Bourbon, by adding Cuba, Channel 297C3, and by adding Dixon, Channel 221A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–29483 Filed 12–4–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 91–253; RM–6882]

Radio Broadcasting Services; Tioga, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Europa Communications, Inc., substitutes Channel 234B1 for Channel 234A at Tioga, Pennsylvania, and modifies the license of Station WPHD to specify the higher class channel. *See* 56 FR 42967, September 6, 1991. Channel 234B1 can be allotted to Tioga in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.3 kilometers (6.4 miles) southwest, at coordinates 41–51–00 NL; 77–13–49 WL, to avoid short-spacings to Stations WLVY, Channel 232A, Elmira, NY, WYYY, Channel 233B, Syracuse, NY, and WIYN, Channel 234A, Deposit, NY. Canadian concurrence in the allotment has been received since Tioga is located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 91–253, adopted November 3, 1995, and released November 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Pennsylvania, is amended by removing Channel 234A and adding Channel 234B1 at Tioga.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–29484 Filed 12–4–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–97; RM–8651]

Television Broadcasting Services; Tazewell, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of James F. Stair, II, allots Channel 48 to Tazewell, Tennessee, as the community's first local commercial television service. *See* 60 FR 35372, July 7, 1995. Channel 48 can be allotted to Tazewell with a plus offset in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.9 kilometers (1.2 miles) west. In order to accommodate the new TV station at Tazewell, the Commission also changes the offset designations for vacant Channel 48 at Greenwood, South Carolina, and vacant Channel 48 at Columbus, Georgia. The coordinates for Channel 48+ at Tazewell are 36–27–32 and 83–35–07. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 12, 1996.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–97, adopted November 9, 1995, and released November 28, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of TV Allotments under Tennessee, is amended by adding Tazewell, Channel 48+.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–29485 Filed 12–4–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 91–352; RM–7886]

Radio Broadcasting Services; Ava, Branson and Mountain Grove, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 292C2 for Channel 292C3 at Branson, Missouri, and modifies the construction permit for Station KRZK(FM) to specify operation on the higher class channel in response to a petition filed by Turtle Broadcasting Co. of Branson. *See* 56 FR 65206, December 16, 1991. In accordance with Section 1.420(g) of the Commission's Rules we shall modify the construction permit for Station KRZK(FM) to specify operation on Channel 292C2. The coordinates for Channel 292C2 are 36–43–00 and 93–05–00. To accommodate the upgrade at Branson, we substituted Channel 221A for Channel 222A at Ava, Missouri, at coordinates 36–55–48 and 92–39–19 and modified the license for Station KKOZ-FM and substituted Channel 223A for Channel 293A at Mountain Grove, Missouri, at coordinates 37–08–07 and 92–14–59 and modified the license for Station KCMG-FM. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 12, 1996.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MM Docket No. 91–352, adopted November 3, 1995, and released November 28, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 222A and adding Channel 221A at Ava, by removing Channel 292C3 and adding Channel 292C2 at Branson, and by removing Channel 293A and adding Channel 223A at Mountain Grove.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–29486 Filed 12–4–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 553

RIN 2127–AG04

Rulemaking Procedures; Petitions for Reconsideration; Petitions for Extension of Comment Period

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final Rule.

SUMMARY: This rule makes two amendments to NHTSA's procedural rules. The first amendment requires petitions for extension of the period for submitting written comments on a notice such as a notice of proposed rulemaking to be submitted at least 15 days before the closing date for the comment period. Previously, petitions could be submitted up to 10 days before the closing date. This change will give NHTSA additional time to process these petitions and thus ensure that, when a petition is granted, the notice extending the comment period can be published well before the original closing date.

The second amendment provides that the agency will accept petitions for reconsideration of a final rule if they are received not more than 45 days after the publication of the final rule. Previously, petitions for reconsideration had to be received not more than 30 days following publication of a final rule. NHTSA believes that the extension is warranted by the complexity of many of its final rules. The additional time will allow interested parties to review the rules more effectively and better prepare their petitions for reconsideration.

DATES: The amendments made in this rule are effective January 4, 1996.

FOR FURTHER INFORMATION CONTACT: Mary L. Versailles, Office of the Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–2992.

SUPPLEMENTARY INFORMATION: This notice makes two amendments to Part 553, Rulemaking Procedures, Title 49 of the Code of Federal Regulations (CFR). Part 553 prescribes rulemaking procedures that apply to the issuing, amending, and revoking of motor vehicle safety, damageability, domestic content labeling, fuel economy, and theft rules pursuant to the authorizing legislation formerly known as the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act. The amendments change the requirements concerning the deadlines for petitions for extension of comments period and for petitions for reconsideration.

Petitions for Extension of Comment Period

Section 553.19 specifies procedures for petitions for extension of the period for submitting written comments on a notice such as a notice of proposed rulemaking. For some time, the procedures prescribed that petitions for extension must be received by NHTSA not later than 10 days before the comment closing date stated in the notice.

In this final rule, NHTSA amends the procedures so that petitions for extension of the time period must be received by NHTSA not later than 15 days before the comment closing date. This amendment is necessary to provide NHTSA additional time to process such petitions. As stated in section 553.19, the filing of the petition does not automatically extend the time deadline for petitioner's comments. With the additional time, NHTSA will be able to more effectively consider and process the petitions.

The longer interval between the petition deadline and the comment closing date will make it easier for the agency to publish a **Federal Register** document informing the public of the extension well before the closing date. As has sometimes occurred under the previous 10-day deadline, the notice of extension of the comment period is published only a day or two before the initial scheduled closing date. The lateness of the publication reduces the value of the extension for many commenters. By two days before the initial comment closing date, most commenters will already have prepared comments. For these reasons, NHTSA amends the time period for accepting petitions for extension of time to comment on rulemakings.

Petitions for Reconsideration

Section 553.35 establishes procedures for petitions of reconsideration of a final rule. The procedures require that petitions for extension must be received by NHTSA not later than 30 days after publication of the rule in the **Federal Register**. Petitions received after that deadline are treated as petitions for rulemaking.

In this final rule, NHTSA amends the procedures to provide 45 days for the receipt of petitions for reconsideration. NHTSA believes that, by providing the public additional time to review final rules, particularly complicated ones, the

amendment will enable them to identify potential issues more thoroughly and thus petition for reconsideration more effectively.

Effective Date

The amendments made in this final rule are effective 30 days after publication in the **Federal Register**. If there is a document with an open comment period on that date of publication, and there are 15 or more days remaining in the comment period, the deadline for filing a petition for extending the comment period is the 15th day before the end of that comment period. If there are less than 15 days remaining, the deadline for such a petition is the 10th day before the end of the comment period. For any final rule published less than 30 days before date of publication, the deadline for submitting petitions for reconsideration will be extended 15 days.

Other Amendments

The agency is republishing the entirety of Part 553 to consolidate the authority citations in one area. No other substantive amendments have been made to Part 553.

NHTSA is not soliciting public comment on this amendment to part 553, since it is a rule of agency procedure, and an opportunity for public comment is therefore not required under the Administrative Procedure Act.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures. This final rule merely makes a procedural change, by amending the deadlines by which a petition for extension of comment period and a petition for reconsideration must be received by NHTSA. The final rule will have no effect on the substantive rights of any public commenters or other interested parties. For these reasons, NHTSA has determined that the effects of this rule are so minimal that a full regulatory evaluation is not required.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. For the reasons discussed above, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 553

Administrative practice and procedure.

In consideration of the foregoing, 49 CFR Part 553 is revised to read as follows:

PART 553—RULEMAKING PROCEDURES

Subpart A—General

Sec.
553.1 Applicability.
553.3 Definitions.
553.5 Regulatory docket.
553.7 Records.

Subpart B—Procedures for Adoption of Rules

553.11 Initiation of rulemaking.
553.13 Notice of proposed rulemaking.
553.15 Contents of notices of proposed rulemaking.
553.17 Participation of interested persons.
553.19 Petitions for extension of time to comment.
553.21 Contents of written comments.
553.23 Consideration of comments received.
553.25 Additional rulemaking proceedings.
553.27 Hearings.
553.29 Adoption of final rules.
553.31–553.33 [Reserved]
553.35 Petitions for reconsideration.
553.37 Proceedings on petitions for reconsideration.
553.39 Effect of petition for reconsideration on time for seeking judicial review.

Appendix to Part 553—Statement of Policy: Action on Petitions for Reconsideration

Authority: 49 U.S.C. 322, 1657, 30101, *et seq.*, 30301, *et seq.*, 30501, *et seq.*, 32101, *et seq.*, 32301, *et seq.*, 32501, *et seq.*, 32701, *et seq.*, 32901, *et seq.*, and 33101, *et seq.*; delegation of authority at 49 CFR 1.50.

Subpart A—General

§ 553.1 Applicability.

This part prescribes rulemaking procedures that apply to the issuance, amendment, and revocation of rules pursuant to Title 49, Subtitle VI of the United States Code (49 U.S.C. 30101, *et seq.*).

§ 553.3 Definitions.

Administrator means the Administrator of the National Highway Traffic Safety Administration or a person to whom he has delegated final authority in the matter concerned.

Rule includes any order, regulation, or Federal motor vehicle safety standard issued under Title 49.

Title 49 means 49 U.S.C. 30101, *et seq.*

§ 553.5 Regulatory docket.

(a) Information and data deemed relevant by the Administrator relating to rulemaking actions, including notices of proposed rulemaking; comments received in response to notices; petitions for rulemaking and reconsideration; denials of petitions for rulemaking and reconsideration; records of additional rulemaking proceedings under § 553.25; and final rules are maintained in the Docket Room, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

(b) Any person may examine any docketed material at the Docket Room at any time during regular business hours after the docket is established, except material ordered withheld from the public under applicable provisions of Title 49 and section 552(b) of title 5 of the U.S.C., and may obtain a copy of it upon payment of a fee.

§ 553.7 Records.

Records of the National Highway Traffic Safety Administration relating to rulemaking proceedings are available for inspection as provided in section 552(b) of title 5 of the U.S.C. and Part 7 of the regulations of the Secretary of Transportation (Part 7 of this title).

Subpart B—Procedures for Adoption of Rules

§ 553.11 Initiation of rulemaking.

The Administrator may initiate rulemaking either on his own motion or on petition by any interested person after a determination in accordance with Part 552 of this title that grant of the petition is advisable. The Administrator may, in his discretion, also consider the recommendations of other agencies of the United States.

§ 553.13 Notice of proposed rulemaking.

Unless the Administrator, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, a notice of proposed rulemaking is issued and interested persons are invited to participate in the rulemaking proceedings under applicable provisions of Title 49.

§ 553.15 Contents of notices of proposed rulemaking.

(a) Each notice of proposed rulemaking is published in the **Federal Register**, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the **Federal Register** or personally served, includes

(1) A statement of the time, place, and nature of the proposed rulemaking proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted; and

(5) A statement of how and to what extent interested persons may participate in the proceedings.

§ 3.17 Participation of interested persons.

(a) Any interested person may participate in rulemaking proceeding by submitting comments in writing containing information, views or arguments.

(b) In his discretion, the Administrator may invite any interested person to participate in the rulemaking procedures described in § 553.25.

§ 553.19 Petitions for extension of time to comment.

A petition for extension of the time to submit comments must be received not later than 15 days before expiration of the time stated in the notice. The petitions must be submitted to: Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street SW, Washington, DC, 20590. It is requested, but not required, that 10 copies be submitted. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted, it is granted to all persons, and it is published in the **Federal Register**.

§ 553.21 Contents of written comments.

All written comments shall be in English. Unless otherwise specified in a notice requesting comments, comments may not exceed 15 pages in length, but necessary attachments may be appended to the submission without regard to the 15-page limit. Any interested person shall submit as a part of his written comments all material that he considers relevant to any statement of fact made by him. Incorporation by reference should be avoided. However, if incorporation by reference is necessary, the incorporated material shall be identified with respect to document and page. It is requested, but not required, that 10 copies and attachments, if any, be submitted.

§ 553.23 Consideration of comments received.

All timely comments are considered before final action is taken on a rulemaking proposal. Late filed comments may be considered as far as practicable.

§ 553.25 Additional rulemaking proceedings.

The Administrator may initiate any further rulemaking proceedings that he finds necessary or desirable. For example, interested persons may be invited to make oral arguments, to participate in conferences between the Administrator or his representative and interested persons at which minutes of the conference are kept, to appear at informal hearings presided over by officials designated by the Administrator, at which a transcript or minutes are kept, or participate in any other proceeding to assure informed administrative action and to protect the public interest.

§ 553.27 Hearings.

(a) Sections 556 and 557 of title 5, United States Code, do not apply to hearings held under this part. Unless otherwise specified, hearings held under this part are informal, nonadversary, fact-finding proceedings, at which there are no formal pleadings or adverse parties. Any rule issued in a case in which an informal hearing is held is not necessarily based exclusively on the record of the hearing.

(b) The Administrator designates a representative to conduct any hearing held under this part. The Chief Counsel designates a member of his staff to serve as legal officer at the hearing.

§ 553.29 Adoption of final rules.

Final rules are prepared by representatives of the office concerned and the Office of the Chief Counsel. The rule is then submitted to the Administrator for its consideration. If the Administrator adopts the rule, it is published in the **Federal Register**, unless all persons subject to it are named and are personally served with a copy of it.

§ 553.31–553.33 [Reserved]

§ 553.35 Petitions for reconsideration.

(a) Any interested person may petition the Administrator for reconsideration of any rule issued under this part. The petition shall be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC, 20590. It is requested, but not required, that 10 copies be submitted. The petition must be received not later than 45 days after publication of the rule in the **Federal Register**. Petitions filed after that time will be considered as petitions filed under Part 552 of this chapter. The petition must contain a brief statement of the complaint and an explanation as to why compliance with the rule is not practicable, is unreasonable, or is not in the public interest. Unless otherwise specified in the final rule, the statement and explanation together may not exceed 15 pages in length, but necessary attachments may be appended to the submission without regard to the 15-page limit.

(b) If the petitioner requests the consideration of additional facts, he must state the reason they were not

presented to the Administrator within the prescribed time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator otherwise provides, the filing of a petition under this section does not stay the effectiveness of the rule.

§ 553.37 Proceedings on petitions for reconsideration.

The Administrator may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. In the event he determines to reconsider any rule, he may issue a final decision on reconsideration without further proceedings, or he may provide such opportunity to submit comment or information and data as he deems appropriate. Whenever the Administrator determines that a petition should be granted or denied, he prepares a notice of the grant or denial of a petition for reconsideration, for issuance to the petitioner, and issues it to the petitioner. The Administrator may consolidate petitions relating to the same rule.

§ 553.39 Effect of petition for reconsideration on time for seeking judicial review.

The filing of a timely petition for reconsideration of any rule issued under this part postpones the expiration of the 60-day period in which to seek judicial review of that rule, as to every person adversely affected by the rule. Such a person may file a petition for judicial review at any time from the issuance of the rule in question until 60 days after publication in the **Federal Register** of the Administrator's disposition of any timely petitions for reconsideration.

Appendix to Part 553—Statement of Policy: Action on Petitions for Reconsideration

It is the policy of the National Highway Traffic Safety Administration to issue notice of the action taken on a petition for reconsideration within 90 days after the closing date for receipt of such petitions, unless it is found impracticable to take action within that time. In cases where it is so found and the delay beyond that period is expected to be substantial, notice of that fact, and the date by which it is expected that action will be taken, will be published in the **Federal Register**.

Issued on: November 28, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–29394 Filed 12–4–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 649, 650, and 651

[Docket No. 950824215–5275–03; I.D. 050295B]

RIN 0648–AH37

American Lobster Fishery; Atlantic Sea Scallop Fishery; Northeast Multispecies Fishery; Vessel Ownership Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 1 to the American Lobster Fishery Management Plan (FMP), Framework Adjustment 3 to the Atlantic Sea Scallop FMP, and Framework Adjustment 7 to the Northeast Multispecies FMP. This rule implements framework adjustments that revise a provision in each of the FMPs that requires all permit applicants to own a fishing vessel at the time they apply for or renew a limited access permit. The intent of this rule is to allow certain applicants who have owned vessels that meet the various limited access permit qualification criteria, but who do not currently own a vessel, to preserve their eligibility to apply for a Federal limited access permit for a replacement vessel in subsequent years by obtaining a Confirmation of Permit History.

EFFECTIVE DATE: December 4, 1995.

ADDRESSES: Copies of the Framework Adjustments, Amendment 5 to the American Lobster FMP, Amendment 4 to the Atlantic Sea Scallop FMP, and Amendment 5 to the Northeast Multispecies FMP, including regulatory impact reviews, initial regulatory flexibility analyses, and final supplemental environmental impact statements are available upon request from Douglas Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097; telephone 617–231–0422.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, Fishery Policy Analyst, 508–281–9272.

SUPPLEMENTARY INFORMATION:

Background

In 1994, NMFS implemented major amendments, developed by the New England Fishery Management Council (Council), to the FMPs for the Atlantic sea scallop, northeast multispecies and the American lobster fisheries. These amendments, which were intended to address overfishing in these fisheries, implemented measures that limited access to these fisheries based upon historical participation. The Council did not, however, intend to force vessel owners to remain active in currently overfished fisheries in order to retain fishing rights for the future. To address this problem, the Council requested NMFS to implement this action, which will allow an applicant who has owned a vessel that meets the various limited access permit qualification criteria, but who does not own a vessel at the time of application, to preserve his/her right to qualify for a Federal limited access permit for a replacement vessel in subsequent years in the Atlantic sea scallop and northeast multispecies fisheries, and in the American lobster fishery. Qualified applicants will be allowed to apply for a Confirmation of Permit History and will need to apply for such annually to preserve the permit and fishing history of the qualifying vessel. See the proposed rule, which was published in the **Federal Register** on September 1, 1995 (60 FR 45690), for further background and rationale for this action.

Comments and Responses

The Council had discussed and heard public comment on this issue at the September 21–22, 1994, Council meeting, at which time the Council initiated this framework action. The public was notified of this Council meeting, and of the final Council meeting held on October 28–29, 1994, at which time this action was further discussed. No public comments were received. The proposed rule, however, which was published in the **Federal Register** on September 1, 1995 (60 FR 45690), provided the public with 15 additional days to comment. No additional comments were received by the September 15, 1995, closing date.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that it would not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

Under 5 U.S.C. 553(d)(1), because this rule relieves a restriction on the industry, it is not subject to a 30-day delay in effective date.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection-of-information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule contains a collection-of-information requirement subject to the PRA that has been approved by OMB under OMB Control Number 0648–0202. The public reporting burden for completing an application for a Confirmation of Permit History is estimated at 0.5 hours per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

List of Subjects

50 CFR Part 649

Fisheries.

50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 28, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 649, 650, and 651 are amended as follows:

PART 649—AMERICAN LOBSTER FISHERY

1. The authority citation for part 649 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 649.4, paragraph (b)(6) is added to read as follows:

§ 649.4 Vessel permits.

* * * * *

(b) * * *

(6) *Confirmation of Permit History.* Notwithstanding any other provisions of this part, a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, may apply for and receive a Confirmation of Permit History if the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a Confirmation of Permit History, the applicant must show that the qualifying vessel meets the eligibility requirements, as applicable, in this part. Issuance of a valid and current Confirmation of Permit History preserves the eligibility of the applicant to apply for or renew a limited access permit for a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time, subject to the replacement provisions specified at § 649.4. A Confirmation of Permit History must be applied for and received on an annual basis in order for the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel. If fishing privileges have been assigned or allocated previously under this part based on the qualifying vessel's fishing and permit history, the Confirmation of Permit History also preserves such fishing privileges. Any decision regarding the issuance of a Confirmation of Permit History for a qualifying vessel that has applied for or been issued previously a limited access permit under this part is a final agency action subject to judicial review under 5 U.S.C. 704. Applications for a Confirmation of Permit History shall be accepted by the Regional Director on or before December 31, 1995. For subsequent years, applications must be received by the end of the calendar year in which the Confirmation of Permit History expires. Information requirements for the Confirmation of Permit History application shall be the same as those for a limited access permit with any request for information about the vessel being applicable to the qualifying vessel that has been sunk, destroyed, or transferred. Vessel permit applicants who hold a Confirmation of Permit History and who wish to obtain a vessel permit for a replacement vessel based upon the previous vessel history may do so pursuant to paragraph (b) of this section.

* * * * *

PART 650—ATLANTIC SEA SCALLOP FISHERY

3. The authority citation for part 650 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In § 650.4, the introductory text is revised and paragraph (a)(10) is added to read as follows:

§ 650.4 Vessel permits.

Any vessel of the United States that fishes for, possesses, or lands per trip Atlantic sea scallops in quantities greater than 40 lb (18.14 kg) shucked scallops or 5 bushels (176.2 l) in-shell, except vessels that fish exclusively in state waters for sea scallops, must have been issued and carry on board a valid limited access scallop permit or a valid general scallop permit, issued under this section.

(a) * * *

(10) *Confirmation of Permit History.* Notwithstanding any other provisions of this part, a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, may apply for and receive a Confirmation of Permit History if the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a Confirmation of Permit History, the applicant must show that the qualifying vessel meets the eligibility requirements, as applicable, in this part. Issuance of a valid and current Confirmation of Permit History preserves the eligibility of the applicant to apply for or renew a limited access permit for a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time, subject to the replacement provisions specified at § 650.4. A Confirmation of Permit History must be applied for and received on an annual basis in order for the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel. If fishing privileges have been assigned or allocated previously under this part based on the qualifying vessel's fishing and permit history, the Confirmation of Permit History also preserves such fishing privileges. Any decision regarding the issuance of a Confirmation of Permit History for a qualifying vessel that has applied for or been issued previously a limited access permit under this part is a final agency action subject to judicial review under 5 U.S.C. 704. Applications for a Confirmation of Permit History shall be accepted by the Regional Director on or before December 31, 1995. For subsequent years, such applications must be received by the end of the calendar year in which the Confirmation of Permit History expires. Information requirements for the Confirmation of Permit History application shall be the same as those for a limited access permit with any request for information about the vessel being applicable to the qualifying vessel that has been sunk, destroyed or transferred. Vessel permit applicants who hold a Confirmation of Permit History and who wish to obtain a vessel permit for a replacement vessel based

upon the previous history may do so pursuant to paragraph (a) of this section.

* * * * *

PART 651—NORTHEAST MULTISPECIES FISHERY

5. The authority citation for part 651 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

6. In § 651.4, paragraph (a) introductory text is revised and paragraph (a)(10) is added to read as follows:

§ 651.4 Vessel permits.

* * * * *

(a) *Limited access multispecies permits.* Beginning on May 1, 1994, any vessel of the United States that possesses or lands more than the possession limit of regulated species specified under § 651.27(a), except vessels fishing with fewer than 4,500 hooks that have been issued a hook-gear-only permit as specified in paragraph (b) of this section, vessels fishing for regulated species exclusively in state waters, and recreational fishing vessels, must have been issued and carry on board a valid Federal limited access multispecies permit, or an authorizing letter issued under paragraph (a)(8)(v) of this section. To qualify for a limited access multispecies permit, a vessel must meet the following criteria, as applicable:

* * * * *

(10) *Confirmation of Permit History.* Notwithstanding any other provisions of this part, a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, may apply for and receive a Confirmation of Permit History if the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a Confirmation of Permit History, the applicant must show that the qualifying vessel meets the eligibility requirements, as applicable, in this part. Issuance of a valid and current Confirmation of Permit History preserves the eligibility of the applicant to apply for or renew a limited access permit for a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time, subject to the replacement provisions specified at § 651.4. A Confirmation of Permit History must be applied for and received on an annual basis in order for the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel. If fishing privileges have been assigned or allocated previously under this part based on the qualifying vessel's fishing and permit history, the Confirmation of Permit History also preserves such fishing privileges. Any decision regarding the issuance of a Confirmation of Permit History for a qualifying vessel that has applied for or been issued previously a limited access permit under this part is a final agency action subject to judicial review under 5 U.S.C. 704. Applications for a Confirmation of Permit History shall be accepted by the Regional Director on or before December 31, 1995. For subsequent years, such applications must be received by the end of the calendar year before the year for which the Confirmation of Permit History expires. Information requirements for the Confirmation of Permit History application shall be the same as those for a limited access permit with any request for information about the vessel being applicable to the qualifying vessel that has been sunk, destroyed or transferred. Vessel permit applicants who hold a Confirmation of Permit History and who wish to obtain a vessel permit for a replacement vessel based upon the previous vessel history may do so pursuant to paragraph (a) of this section.

* * * * *

[FR Doc. 95–29518 Filed 12–4–95; 8:45 am]

BILLING CODE 3510–22–F

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50 CFR Part 652

[Docket No. 900124–0127; I.D. 110795D]

Atlantic Surf Clam and Ocean Quahog Fishery; Suspension of Minimum Size Limit for Surf Clams in 1996

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Suspension of surf clam minimum size limit.

SUMMARY: NMFS informs the public that the minimum size limit of 4.75 inches (12.065 cm) for Atlantic surf clams is suspended for the 1996 fishing year. The intended effect is to reduce a regulatory burden while still safeguarding the resource by assuring that the vast majority of surf clams are larger than maximum-yield-per-recruit size.

EFFECTIVE DATE: January 1, 1996, through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Resource Policy Analyst, 508-281-9104.

SUPPLEMENTARY INFORMATION:

A final rule implementing Amendment 8 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fishery was published on June 14, 1990 (55 FR 24184). Section 652.22(a)(1) allows the Regional Director to suspend, annually, by publication of a document in the **Federal Register**, the minimum size limit for Atlantic surf clams. This action may be taken unless discard, catch, and survey data indicate that as much as 30 percent of the Atlantic surf clam resource is smaller than 4.75 inches (12.065 cm), and the overall reduced size is not attributable to beds where growth of the individual clams has been reduced because of density-dependent factors.

At its August 1995 meeting, the Mid-Atlantic Fishery Management Council (Council) accepted the recommendations of its Statistical and Scientific Committee and Surf Clam/Ocean Quahog Committee and voted to recommend that the Director, Northeast Region, NMFS (Regional Director), suspend the minimum size limit for surf clams in 1996. NMFS port agents conducted a random sample of surf clams landed in 1995. Results indicate that only 10.67 percent of the sample was composed of clams that were less than 4.75 inches (12.065 cm). Based on the sampling results, the Regional Director adopts the Council's recommendation and publishes this document to suspend the minimum size limit for Atlantic surf clams for the period January 1, 1996, through December 31, 1996.

Classification

This action is authorized by 50 CFR part 652 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 16, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29517 Filed 12–4–95; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 60, No. 233

Tuesday, December 5, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Part 226

RIN 0584–AB19

Child and Adult Care Food Program: Overclaim Authority

AGENCY: Food and Consumer Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes an amendment to the Child and Adult Care Food Program (CACFP) regulations which would explicitly authorize the Department and State agencies to assess overclaims against institutions that fail to abide by CACFP recordkeeping requirements. This authority has been successfully challenged in several judicial rulings on the grounds that such authority was not specifically established in program regulations. This rule serves to affirm the Department's authority to assess overclaims for recordkeeping infractions and to clarify any regulatory ambiguities or inconsistencies regarding overclaims authority.

DATES: To be assured of consideration, comments must be postmarked no later than February 5, 1996.

ADDRESSES: Comments should be addressed to Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Consumer Service, Department of Agriculture, 3101 Park Center Drive, Room 1007, Alexandria, Virginia 22302. Comments in response to this rule may be inspected at the address above during normal business hours, 8:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie or Mr. Edward Morawetz at the above address or by telephone at 703–305–2620.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Administrator of the Food and Consumer Service has certified that this action will not have a significant economic impact on a substantial number of small entities. There will be no significant impact because this rule represents only a clarification of current procedures.

Executive Order 12372

This Program is listed in the Catalog of Federal Domestic Assistance under No. 10.558 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule related notice published in 48 FR 29114, June 24, 1983).

Information Collection

This proposed rule contains no new information collection requirements. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), current reporting and recordkeeping requirements for Part 226 were approved by the Office of Management and Budget under Control Number 0584–0055.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" section of the preamble of the final rule. All available administrative procedures must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions. In the Child and Adult Care Food Program, the administrative procedures are set forth under the following regulations: (1) Institution appeal procedures in 7 CFR § 226.6(k); and (2) Disputes involving procurement by State agencies and institutions must follow administrative appeal procedures to the extent required by 7 CFR § 226.22 and 7 CFR Part 3015.

Background

The Child and Adult Care Food Program (CACFP) is authorized by section 17 of the National School Lunch Act, as amended (42 U.S.C. 1766). Section 17(n) of that Act stipulates that "States and institutions participating in the program shall keep accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section." Furthermore, the CACFP regulations include a number of requirements relating to recordkeeping: Section 226.7(m) requires State agencies to establish standards for institutional recordkeeping; Section 226.15(e) prescribes the minimum recordkeeping requirements for institutions in the CACFP; Section 226.10(c) requires institutions to certify that records are available to support reimbursement claims; and Section 226.10(d) establishes a timeframe for record retention. Moreover, Section 226.6(f)(1) requires that the Program agreement between the State agency and each institution stipulate that each participating institution must agree to comply with all regulatory requirements including these recordkeeping requirements. Finally, the importance with which the Department views an institution's recordkeeping responsibilities is found in Section 226.6(c)(4), where failure to maintain adequate records is specifically listed as a serious deficiency for which termination of an institution's participation may be appropriate.

On numerous occasions, the Department and State agencies have used the authority in the regulatory provisions cited above to recover funds paid to institutions which did not have records necessary to support claims for reimbursement. However, this authority has been successfully challenged in court cases in Arkansas and California. In both cases, assessment of overclaims against institutions which were based on inadequate or missing records were

overturned by the courts on the grounds that the CACFP regulations do not specifically authorize overclaims for those reasons.

In recognition of the fact that State agencies may review an institution's performance under the CACFP as infrequently as once every four years, effective administration depends on access to complete documentation of program activities for an entire review period. Such documentation is necessary for the Department and State agencies to maintain a check on possible fraud, abuse and mismanagement in the Program. Without proper records concerning the content and number of meals served, and documentation of participants' income category, there is no evidence that such participants were fed in accordance with basic program requirements, and no assurance that program funds were spent as mandated in the law and in the regulations.

Accordingly, the Department is proposing to amend Sections 226.14(a), 226.15(e) and 226.16(e), and to add new Sections 226.17(c), 226.18(g), 226.19(c), and 226.19a(c) to the CACFP regulations to clarify that failure to adhere to CACFP recordkeeping requirements may be used as a basis for State agencies to assess overclaims against sponsors.

This rulemaking also contains a technical change to the CACFP regulations which would transfer two recordkeeping responsibilities established for sponsoring organizations from Section 226.16(e) to Section 226.15(e).

Accordingly, the Department proposes to amend Sections 226.15(e) and 226.16(e) by moving Section 226.16(e) (1)–(2) to Section 226.15(e) under redesignated paragraphs (10) and (12).

List of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs-health, infants and children, Records, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR Part 226 is proposed to be amended as follows:

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

1. The authority citation for Part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, and 17, National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

2. In § 226.14, the introductory text of paragraph (a) is amended by adding a new sentence after the first sentence to read as follows:

§ 226.14 Claims against institutions.

(a) * * * State agencies may consider claims for reimbursement not properly payable if an institution does not comply with the recordkeeping requirements contained in this part. * * *

* * * * * *

3. In § 226.15:

a. The introductory text of paragraph (e) is revised;

b. Paragraphs (e)(10), (e)(11) and (e)(12) are redesignated as paragraphs (e)(11), (e)(13) and (e)(14);

c. New paragraphs (e)(10) and (e)(12) are added;

d. Newly redesignated paragraph (e)(11) is amended by removing the word "and" at the end of the paragraph;

e. Newly redesignated paragraph (e)(13) is amended by adding the word "and" after the semicolon at the end of the paragraph; and

f. Newly redesignated paragraph (e)(14) is amended by removing the first word "Maintain" from the paragraph.

The additions and revisions specified above read as follows:

§ 226.15 Institution provisions.

* * * * *

(e) *Recordkeeping.* Each institution shall establish procedures to collect and maintain all necessary program records. Failure to maintain such records shall be grounds for denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records. At a minimum, the following records shall be collected and maintained:

* * * * *

(10) Information concerning the dates and amounts of disbursement to each child care facility or adult day care facility with which it has a program agreement;

* * * * *

(12) Information concerning the location and dates of each child care or adult day care facility review, any problems noted, and the corrective action prescribed and effected;

* * * * *

4. In § 226.16, paragraph (e) is revised to read as follows:

§ 226.16 Sponsoring organization provisions.

* * * * *

(e) Each sponsoring organization shall comply with the recordkeeping requirements established in §§ 226.10(d) and 226.15(e) and any recordkeeping requirements established by the State agency in order to justify the administrative payments made in accordance with § 226.12(a). Failure to maintain such records shall be grounds for the denial of reimbursement for the costs associated with those records during the period covered by the records in question.

* * * * *

5. In § 226.17, a new paragraph (c) is added to read as follows:

§ 226.17 Child care center provisions.

* * * * *

(c) Each child care center shall comply with the recordkeeping requirements established in §§ 226.10(d) and 226.15(e), and the recordkeeping requirements contained in this section. Failure to maintain such records shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records.

6. In § 226.18, a new paragraph (g) is added to read as follows:

§ 226.18 Day care home provisions.

* * * * *

(g) Each day care home shall comply with the recordkeeping requirements established in §§ 226.10(d) and 226.15(e), and the recordkeeping requirements contained in this section. Failure to maintain such records shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question.

7. In § 226.19, a new paragraph (c) is added to read as follows:

§ 226.19 Outside-school-hours care center provisions.

* * * * *

(c) Each outside-school-hours care center shall comply with the recordkeeping requirements established in §§ 226.10(d) and 226.15(e), and the recordkeeping requirements contained in this section. Failure to maintain such records shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records.

8. In § 226.19a, a new paragraph (c) is added to read as follows:

§ 226.19a Adult day care center provisions.

* * * * *

(c) Each adult day care center shall comply with the recordkeeping requirements established in §§ 226.10(d) and 226.15(e), and the recordkeeping requirements contained in this section. Failure to maintain such records shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records.

Dated: November 27, 1995.

William E. Ludwig,

Administrator.

[FR Doc. 95–29569 Filed 12–4–95; 8:45 am]

BILLING CODE 3410–30–U

Agricultural Marketing Service

7 CFR Part 985

[Docket No. AO–79–2; FV95–985–4]

Spearmint Oil Produced in the Far West; Proposed Amendment of Marketing Order No. 985

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of order filed on proposed rulemaking.

SUMMARY: The purpose of this document is to inform all interested parties that an order was filed by the presiding Administrative Law Judge in this matter stating that briefs, proposed findings, and conclusions may be filed no later than December 22, 1995. A hearing to consider amendments to the Federal marketing order covering the handling of spearmint oil grown in the Far West and to receive evidence on whether portions of the States of California and Montana should continue to be regulated under the order, was held on November 14, 1995, in Spokane, Washington.

DATES: Proposed findings and conclusions and written arguments or briefs must be filed by December 22, 1995.

ADDRESSES: Proposed findings and conclusions and written arguments or briefs should be sent to the office of the hearing clerk, U.S. Department of Agriculture, Room 1079–South Building, Washington, DC 20250–9200.

FOR FURTHER INFORMATION CONTACT:

(1) Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, Room 2523–S, AMS, USDA, PO Box 96456, Washington, DC 20090–6456; telephone number (202) 720–5127.

(2) Robert Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW. Third Avenue, Room 369, Portland, Oregon, 97204; telephone: (503) 326–2725.

SUPPLEMENTARY INFORMATION: A public hearing was held November 14, 1995, in Spokane, Washington to receive evidence on whether the marketing order regulating the handling of spearmint oil produced in the Far West should be amended to exclude from the area of regulation portions of the States of California and Montana.

Pursuant to the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900), the Administrative Law Judge assigned to conduct the proceeding established December 22, 1995, as the date by which proposed findings and conclusions and written arguments or briefs must be filed. Any proposed findings and conclusions and written arguments or briefs must be based upon the evidence received at the hearing. Factual material other than that adduced at the hearing or subject to official notice shall not be alluded to, and will not be considered in determining whether the marketing order should be amended.

Authority: 7 U.S.C. 607–674.

Dated: November 30, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–29571 Filed 12–4–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[CO–24–95]

RIN 1545–AT51

Consolidated Groups—Intercompany Transactions and Related Rules; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Change of date and time for public hearing on proposed regulations.

SUMMARY: This document changes the date and time of the public hearing on proposed regulations that provide rules for disallowing loss and excluding gain for certain dispositions and other transactions involving stock of the common parent of a consolidated group.

DATES: The public hearing has changed to Monday, December 11, 1995, beginning at 1:00 p.m.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW. Washington, DC. Submit requests to speak and outlines of oral comments to CC:DOM:CORP:R [CO–24–95], room 5228, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Christina Vasquez of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–6803 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** for Tuesday, July 18, 1995 (60 FR 36755), announced that the Service would hold a public hearing on proposed regulations that provide rules for disallowing loss and excluding gain for certain dispositions and other transactions involving stock of the common parent of a consolidated group on Thursday, November 16, 1995, beginning at 10:00 a.m. in the IRS Auditorium.

The date and time of the public hearing has changed. The hearing is scheduled for Monday, December 11, 1995, beginning at 1:00 p.m. The requests to speak and outlines of oral comments were due October 26, 1995. Because of controlled access restrictions, attenders are not admitted beyond the lobby of the Internal Revenue Building until 12:45 p.m.

The service will prepare an agenda showing the scheduling of the speakers and make copies available free of charge at the hearing.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95–29510 Filed 12–4–95; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[SPATS No. IL–089–FOR]

Illinois Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions and additional explanatory information pertaining to a previously proposed amendment to the Illinois

regulatory program (hereinafter referred to as the "Illinois program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions and additional explanatory information for Illinois' proposed regulations pertain to termination of jurisdiction, permit fees, definitions, coal exploration, permitting, environmental resources, reclamation plans, special categories of mining, small operator assistance, bonding, performance standards, inspection, enforcement, civil penalties, administrative and judicial review, and certification of blasters. The amendment is intended to revise the Illinois program to be consistent with the corresponding Federal regulations, incorporate the additional flexibility afforded by recently revised Federal regulations, provide additional safeguards, clarify ambiguities, and improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., e.s.t., January 4, 1996. If requested, a public hearing on the proposed amendment will be held on January 2, 1996. Requests to speak at the hearing must be received by 4:00 p.m., e.s.t., on December 20, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Roger W. Calhoun, Director, Indianapolis Field Office at the address listed below.

Copies of the Illinois program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Indianapolis Field Office.

Roger W. Calhoun, Director Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana, 46204, Telephone: (317) 226–6700.

Illinois Department of Natural Resources, Office of Mines and Minerals, 524 South Second Street, Springfield, Illinois, 62701–1787, Telephone: (217) 782–4970.

FOR FURTHER INFORMATION CONTACT: Roger W. Calhoun, Director Indianapolis Field Office, Telephone: (317) 226–6700.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program

On June 1, 1982, the Secretary of the Interior conditionally approved the Illinois program. Background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the June 1, 1982, **Federal Register** (47 FR 23883). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 913.15, 913.16, 913.17.

II. Discussion of the Proposed Amendment

By letter dated February 3, 1995 (Administrative Record No. IL–1615), Illinois submitted a proposed amendment to its program pursuant to SMCRA. Illinois submitted the proposed amendment in response to an August 5, 1993, letter (Administrative Record No. IL–1400) that OSM sent to Illinois in accordance with 30 CFR 732.17(c), in response to the required program amendments at 30 CFR 913.16(s), (t), and (u), and at its won initiative. The provisions of Title 62 of the Illinois Administrative Code (IAC) that Illinois proposes to amend are 62 IAC 1700, General; 62 IAC 1701.Appendix A, Definitions; 62 IAC 1761.11, Areas where mining is prohibited or limited, 62 IAC 1772, Requirements for coal exploration; 62 IAC 1773, Requirements for permits and permit processing; 62 IAC 1774.13, Permit revisions; 62 IAC 1778.15, Right of entry information; 62 IAC 1779, Surface mining permit applications—minimum requirements for information on environmental resources; 62 IAC 1780.23, Reclamation plan: per-mining and post-mining information; 62 IAC 1783, Underground mining permit applications—minimum requirements for information on environmental resources; 62 IAC 1784.15, Reclamation plan: pre-mining and post-mining information; 62 IAC 1785, Requirements for permits for special categories of mining; 62 IAC 1795, Small operator assistance; 62 IAC 1800, Bonding and insurance requirements for surface coal mining and reclamation operations; 62 IAC 1816, Permanent program performance standards—surface mining activities; 62 IAC 1817, Permanent program performance standards—underground mining activities; 62 IAC 1825.14, High capability lands: soil replacement; 62 IAC 1840, Department inspections; 62 IAC 1843, State enforcement; 62 IAC 1845.12, When penalty will be assessed; 62 IAC 1847, Administrative and judicial review; 62 IAC 1845.5, Notice of hearing; and 62 IAC 1850, Training, examination and certification of blasters.

OSM announced receipt of the proposed amendment in the February 27, 1995, **Federal Register** (60 FR 10522) and invited public comment on its adequacy. The public comment period ended March 29, 1995.

During its review of the amendment, OSM identified concerns relating to 62 IAC 1701. Appendix A, definition of wetlands; 62 IAC 1773.20, general procedures for improvidently issued permits; 62 IAC 1773.23, review of ownership or control and violation information; 62 IAC 1773.24, procedures for challenging ownership or control shown in the Applicant Violator System; 62 IAC 1785.17, prime farmlands; 62 IAC 1816/1817.13 and 1816/1817.15, casing and sealing of drilled holes; 62 IAC 1816/1817.116(a)(3)(F) and 62 IAC 1816.116(a)(4)(A)(ii), revegetation standards for small isolated areas; 62 IAC 1816.116(a)(4)(D), revegetation standards for hay production; 62 IAC 1816/1817.116(a)(5), wetlands revegetation; 62 IAC 1816/1817.116(c), revegetation reference areas; and 62 IAC 1816.Appendix A, permit specifics yield standards. OSM notified Illinois of the concerns by letters dated April 28 and August 3, 1995 (Administrative Record Nos. IL–1649 and IL–1660, respectively). Illinois responded in a letter dated November 1, 1995 (Administrative Record No. IL–1663), by submitting a revised amendment and additional explanatory information.

Throughout the revised amendment, Illinois proposes to change its references of the "Illinois Department of Mines and Minerals" to the "Illinois Department of Natural Resources, Office of Mines and Minerals" in order to reflect a reorganization change which was effective July 1, 1995, and to change its references of the "Soil Conservation Service" and "S.C.S." to the "Natural Resources Conservation Service." Illinois, also, corrected typographical errors, revised cross-references, and revised paragraph notations to reflect organizational changes within the amended regulations. In addition, Illinois proposes revisions to and/or additional explanatory information for the following specific regulations.

A. 62 IAC 1701.Appendix A Definition of Wetlands

In its letter dated April 28, 1995 (Administrative Record No. 1649), OSM requested Illinois to provide a statement which explains the meaning of the last sentence of the "wetlands" definition [Areas which are restored or created as the result of mitigation or planned construction projects and which function as a wetland are included within this definition even when all three wetland parameters are not present]. At the May 31, 1995, meeting (Administrative Record No. 1654), Illinois stated that it was using the definition of wetlands contained in the Illinois Interagency Wetland Policy Act of 1989 (20 ILCS 830/1–6). Illinois explained that the definition applies to created wetlands which are functioning as a wetland "* * * even when all three wetland parameters are not present." Illinois further explained that generally the "hydric" soil profile may not be fully developed in an artificial wetland.

Illinois submitted a copy of the "Interagency Wetlands Policy Act of 1989" to OSM (Administrative Record No. 1650A).

B. 62 IAC 1773.20 Improvidently Issued Permits: General Procedures

At 62 IAC 1773.20(c)(4), Illinois proposes to change the word "rescind" in the sentence "If the Department decides to rescind the permit, it shall give at least 30 days written notice to the permittee" to the word "suspend."

C. 62 IAC 1773.23 Review of Ownership or Control and Violation Information

At 62 IAC 1773.23(a), Illinois proposes to change its regulation reference from "1773.22(b)" to "1773.22."

At 62 IAC 1773.23(b)(2)(B), Illinois proposes to change its regulation reference from "1773.15(b)" to "1773.15(b)(1)."

D. 62 IAC 1773.24 Procedures for Challenging Ownership or Control Links Shown in the Applicant Violator System

At 62 IAC 1773.34(a)(1), Illinois proposes to change the regulation reference from "subsections (b) through (d) below and Section 1773,25" to "30 CFR 773.24(b) through (d) and 30 CFR 773.25."

At 62 IAC 1773.24(a)(2), Illinois proposes to change the regulation reference from "subsections (b) through (d)" to "30 CFR 773.24 (b) through (d)."

At 62 IAC 1773.24(a)(3), Illinois proposes to replace the language "the State program for the State that issued the violation notice" with subsections (b) through (d) below and Section 1 773.25."

At 62 IAC 1773.24 (b) through (d), Illinois proposes to replace the originally proposed procedures for those persons eligible under subsections (a)(1) or (a)(2) to challenge the status of an ownership or control link shown in the AVS or the status of federal violations with procedures for those persons eligible under subsection (a)(3) to challenge the status of state violations. The revised regulations read as follows:

(b) Any applicant or other person who wishes to challenge an ownership or control link shown in AVS or the status of a state violation, and who is eligible to do so under the provisions of subsection (a)(3) above, shall submit a written explanation of the basis for the challenge, along with any relevant evidentiary materials and supporting documents.

(c) The Department shall review any information submitted under subsection (b) above and shall make a written decision whether or not the ownership or control link has been shown to be erroneous or has been rebutted and/or whether the violation covered by the notice remains outstanding, has been corrected, is in the process of being corrected, or is the subject of a good faith appeal within the meaning of Section 1773.15(b)(1).

(d) Notice to applicant.

(1) If, as a result of the decision reached under subsection (c) above, the Department determines that the ownership or control link has been shown to be erroneous or has been rebutted and/or that the violation covered by the notice has been corrected, is in the process of being corrected, or is the subject of a good faith appeal, the Department shall so notify the applicant or other person and, if an application is pending, OSM, and shall correct the information in AVS.

(2) If, as a result of the decision reached under subsection (c) above, the Department determines that the ownership or control link has not been shown to be erroneous and has not been rebutted and that the violation covered by the notice remains outstanding, the Department shall so notify the applicant or other person and, if an application is pending, OSM, and shall update the information is AVS, if necessary.

(3) The Department shall serve a copy of the decision on the applicant or other person by certified mail, or by any means consistent with the rules governing service of a summons and complaint under Rule 4 of the Federal Rules of Civil Procedure. Service shall be complete upon tender of the notice or of the mail and shall not be deemed incomplete because of a refusal to accept.

(4) The applicant or other person may appeal the Department's decision within 30 days of service of the decision in accordance with 62 Ill. Adm. Code 1847.3. The Department's decision shall remain in effect during the pendency of the appeal, unless temporary relief is granted in accordance with 62 Ill. Adm. Code 1847.3(k).

E. 62 IAC 1785.17 Prime Farmlands

At 62 IAC 1785.17(d)(1), Illinois proposes to reinstate the sentence "The State recognizes that the permit cannot be issued without the required consultation with USDA."

F. 62 IAC 1816 (Surface Mining Activities) and 1817 (Underground Mining Activities) Permanent Program Performance Standards

Since most of the surface mining and underground mining regulations in these parts are identical, the revisions are being combined for discussion purposes, unless otherwise noted.

1. 62 IAC 1816.13 and 1816.15 Casing and Sealing of Drilled Holes and 62 IAC 1817.13 and 1817.15 Casing and Sealing or Exposed Underground Openings

Illinois proposes to withdraw its originally proposed requirements that exposed underground openings be backfilled.

2. IAC 1816.116(a)(2)(F)/1817.116(a)(2)(F) Revegetation Standards for Success: Augmentation

a. At 62 IAC 1816/1817.116(a)(2)(F)(i), Illinois proposes to reinstate the existing language from 62 IAC 1816/1817.116(a)(2)(F)(ii) and add some clarification language. This revised provision reads as follows:

The five (5) year period of responsibility shall not recommence after deep tillage on areas where the operator has met the revegetation success standards of subsection (a)(3)(E) below.

b. Originally proposed 62 IAC 1816/1817.116(a)(2)(F) is redesignated 62 IAC 1816/1817.116(a)(2)(F)(ii), and Illinois proposes to add the follow exception to its provision that considers the application of chemical treatments or fertilizers to wetland areas as augmentation.

Except that wetlands managed as wildlife food plot areas using agricultural techniques shall not be considered augmented when normal husbandry practices, such as routine liming and fertilization, are used.

3. 62 IAC 1816.116(a)(3)(F)/1817.116(a)(3)(F) Revegetation Standards for Success: Non-contiguous Areas

If response to issues raised in OSM's letters dated April 28 and August 3, 1995 (Administrative Record Nos. IL–1649 and IL–1660, respectively), Illinois proposes to revise 62 IAC 1816/1817.116(a)(3)(F) to read as follows.

Non-contiguous areas less than or equal to four acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor, i.e., the majority of the subsoil remains in place, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period.

Also, Illinois' amendment transmittal letter dated November 1, 1995, contains a justification statement with an attached map (Administrative Record No. IL–1663). The map, which is marked as Exhibit #4, shows an example of several small substations which served an underground mine and which had minor disturbances and which were returned to cropland use. In its statement, Illinois references *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144, May 16, 1980) as justification for the proposed regulation. Illinois also attached a memorandum dated September 1, 1995, from the Illinois Department of Agriculture which concurred with the four acre threshold relative to the testing of small isolated areas for revegetation success.

4. 26 IAC 1816.116(a)(4)(A)(ii) Revegetation Standards for Success; Proof of Productivity for Non-Contiguous Areas

Illinois proposes to revise its proposed provision at 62 IAC 1816.116(a)(4)(A)(ii) which would allow the productivity results of a larger field to represent small isolated areas to read as follows.

The Department may approve a field to represent non-contiguous areas less than or equal to four acres of the same capability if it determines that the field is representative of reclamation of such areas. These areas shall be managed and vegetated in the same manner as the representative field.

In its letter dated November 1, 1995 (Administrative Record No. IL–1663), Illinois stated that "* * * These areas will be vegetated and managed in the same manner as their associated larger field under approved and proper management practices."

5. 62 IAC 1816.116(a)(4)(D) Revegetation Standards for Hay Production

At 62 IAC 1816.116(a)(4)(D), Illinois proposes to withdraw the following previously proposed language.

Prior successful hay production shall not be affected by deep tillage for crop production.

6. 62 IAC 1816.116(a)(5)/1817.116(a)(5) Wetland Revegetation

In its letter dated April 28, 1995 (Administrative Record No. 1649), OSM requested Illinois to provide a statement and technical support for 62 IAC 1816/1817.116(a)(5) which justifies why a minimum areal coverage of 30 percent for wetlands will be consistent with the revegetation standards for ground cover for areas to be developed for fish and wildlife habitat at 30 CFR 816/817.116(a)(3)(iii).

At the May 31, 1995, meeting (Administrative Record No. 1654), Illinois described a U.S. Fish and Wildlife Service, Biological Services Program, publication on the qualitative values of wetlands with various degrees of emergent vegetation at the 20 to 70 percent levels. The study ranked 70 percent cover as having the lowest value, 50 percent as having the highest value, and 30 percent as having a middle value. Illinois stated its belief that attainment of the 30 percent level of areal vegetation cover is adequate to establish a valuable wetland which is likely to improve with time, justifying its use as a revegetation success standard.

Illinois submitted the publication, which was entitled "Classification of Wetlands and Deepwater Habitats of the United States," U.S. Department of the Interior, Fish and Wildlife Service, Biological Services Program, FWS/OBS–79/31, December 1979, to OSM on June 8, 1995 (Administrative Record No. 1653). Illinois, also, submitted two additional reference documents in support of its wetlands revegetation standards: (1) Vol. II of "Wetland Creation and Restoration—The Status of the Science," U.S. Environmental Protection Agency, Environmental Research Laboratory, EPA 600/3–89/038b, October 1989, (Administrative Record No. IL–1650) and (2) Journal of Wildlife Management, 1981, University of Michigan Study, Dabbling Duck and Aquatic Macroinvertebrate Responses to Manipulated Wetland Habitat, J. Wildl. Manage.45(1):1981 (Administrative Record No. IL–1650B).

7. 62 IAC 1816.116(c) and 1817.116(c) Use of Reference Areas for Determining Revegetation

Illinois proposes to withdraw its proposed regulations at 62 IAC 1816.116(c) and 1817.116(c) concerning the use of a reference area in lieu of the Agricultural Lands Productivity Formula Target Yields to determine the success of revegetation for cropland and hayland.

8. 62 IAC 1816.Appendix A Agricultural Land Productivity Formula

a. Under the heading "Permit Specifics—Yield Standard", Illinois proposes to modify sections (a) and (b) to clarify that target yields are calculated by "pit" rather than "permit." Therefore, Illinois proposes to change the words "permit," "mine permit area," and "permit area" to "pit."

Illinois, also, submitted examples for the justification of consolidating yield targets by pit rather than permit in its November 1, 1995, submittal (Administrative Record No. IL–1663). Exhibit #1 is a composite map identifying 18 pits which are included in ten permits whose reclamation plans are developed on a pit basis to balance prime farmland, and high capability land liability. Exhibit #2 is a printout of the base yield targets from a mine with a pit which was originally contained under three separate contiguous permits. Later, all three permits were repermitted under one large permit. As a result, the yield targets were consolidated due to the repermitting. The yield differences between permits and the mean varied approximately 5 percent. Exhibit #3 is a printout of the base yield targets from a mine with a pit which was originally contained under two separate contiguous permits. These permits were not consolidated under one permit; however, as the small acreage permit represented just the last few years of mining and included the final cut impoundment, some of the cropland liability was located into the older permit. In other words, the actual soils and liability accrued were moving across permit lines. A composite yield target based on a pit concept reflects the actual way the soil was handled.

b. Illinois proposes to change previously proposed section (e) to (c) and proposes to revise the language as follows:

After mining operations have ceased, the Department shall recalculate the yield standards for the pit based solely on the soils which were disturbed. Recalculated targets shall be applicable to all areas tested for productivity subsequent to the recalculation. Approved significant revisions after permanent cessation of mining shall cause the targets to be recalculated and applied to productivity fields tested after the recalculation.

c. Illinois proposes to withdraw previously proposed sections (c), (d), and (f).

G. 62 IAC 1848.5 Notice of Hearing

At 62 IAC 1848.5(f), Illinois proposes to withdraw the following previously proposed sentence.

Any deviations from the requirements of this subsection attributable to the publishing newspaper shall not be grounds for postponement or continuance of the hearing, nor will such errors necessitate that the notice be republished.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Illinois program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Illinois program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., e.s.t., on December 20, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 20, 1995.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 95–29509 Filed 12–4–95; 8:45 am]

BILLING CODE 4310–05–M

National Park Service

36 CFR Parts 1 and 13

RIN 1024–AC21

General Regulations for Areas Administered by the National Park Service and National Park System Units in Alaska

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) is proposing to revise portions of its general regulations for areas administered by the National Park Service which define the primary scope and applicability and contain definitions for terms used in the text of the regulations. NPS is also modifying regulations which relate to National Park System units in Alaska. This revision clarifies the applicability of those NPS regulations that apply in all National Park System areas to navigable waters located within park boundaries.

In order to protect wildlife and the other values and purposes of the National Park System, the NPS developed general regulations intended

to be applicable on navigable waters located within park boundaries irrespective of ownership of submerged lands. However, a recent court case concerning a seal shot in the navigable waters of a national park revealed that a 1987 editorial correction to 36 CFR 1.2(b), aimed at clarifying a separate and distinct application of the regulations, had the unforeseen and unintended effect of arguably linking federal title to submerged lands with the exercise of management authority over activities occurring on navigable waters. Rather than litigate this issue, this rulemaking will clarify the regulations thereby ensuring the continued protection of wildlife and other National Park System values and purposes on all navigable waters within parks, regardless of ownership of submerged lands. Accordingly, the revision clarifies that NPS regulations continue to apply on navigable waters, as they have for years. Two definitions, "park area" and "boundary," would be modified as a part of this revision. The proposed rule clarifies and interprets existing NPS regulatory intent, practices and policies, and generally would not place new or additional regulatory controls on the public.

DATES: Written comments will be accepted until February 5, 1996.

ADDRESSES: Comments should be addressed to: Associate Director, Operations, National Park Service, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Dennis Burnett, Ranger Activities Division, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127, Telephone (202) 208–4874.

SUPPLEMENTARY INFORMATION:

Background

The NPS Organic Act of 1916 directs the Secretary of the Interior and the NPS to manage national parks and monuments to "conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." 16 U.S.C. 1. The Organic Act also grants the Secretary the authority to implement "rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments and reservations under the jurisdiction of the National Park Service." 16 U.S.C. 3. In addition, the Organic Act was amended in 1978 to provide:

> The authorization of activities shall be construed and the protection, management and administration of [NPS] areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress. 16 U.S.C. 1a–1.

In addition to general regulatory authority delegated in 16 U.S.C. 3, the NPS has been authorized to "[p]romulgate and enforce regulations concerning boating and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States * * *." 16 U.S.C. 1a–2(h). "Waters subject to the jurisdiction of the United States" include navigable waters. See, H. Rep. No. 1569, 94th Cong., 2nd Sess., 4292 (1976). Under these authorities the NPS has managed and regulated activities occurring on and in the waters of the National Park System.

Prior to 1966, NPS regulations for boating, sanitation and other regulations affecting waters were scattered throughout 36 CFR Parts 1 and 2. In 1966, consolidated boating regulations were published as 36 CFR Part 3. The regulations provided for the enforcement of U.S. Coast Guard regulations by the NPS "on navigable waters of the United States" located within park boundaries (31 FR 16650). In 1983, water-use activity regulations were moved from Part 2 to Part 3 (48 FR 30290). In addition to regulations generally applicable in all national park areas, special park-specific regulations have also been promulgated for, and enforced on and in navigable waters within the boundaries of National Park System units. See, e.g., 36 CFR 7.45 (f)–(h) (Everglades National Park, fishing and boating); 36 CFR 7.83(a)(Ozark National Scenic Riverways, boating); 36 CFR 13.65(b) (Glacier Bay National Park, Vessel Management/whale protection).

Applicability and Scope Provision

In 1982–83 the NPS undertook a comprehensive review of general regulations that apply in virtually all NPS administered areas (47 FR 11598). The applicability and scope provisions adopted pursuant to the 1983 rulemaking included navigable waters. In that rulemaking, 36 CFR 1.2(a) provided that the regulations contained in 36 CFR chapter 1 would apply: (1) on federally owned waters, and (2) on waters "controlled, * * * administered or otherwise subject to the jurisdiction of the National Park Service * * *." (48 FR 30252). In some park areas, the United States holds title to the submerged lands under navigable waters. In other park areas, the United States does not hold title to the submerged lands beneath navigable waters within the boundaries of the park; Federal authority to regulate within the ordinary reach of these waters is based on the commerce clause, not ownership. Like the United States Coast Guard, the NPS exercises authority over navigable waters irrespective of ownership of submerged lands. 16 U.S.C. 1a–2(h). 36 CFR 1.2(a)(2) reflects the congressional intent that NPS regulations will also apply in these waters.

The 1983 regulations also provided that—except in park areas under the legislative jurisdiction of the United States, where 10 specifically enumerated provisions were intended to apply regardless of ownership—the regulations were "not applicable on privately owned lands and waters * * *." (48 FR 30252); 36 CFR 1.2(b). While 36 CFR 1.2(b) was specific as to the applicability of the 10 enumerated provisions on privately owned lands, it was silent as to the applicability of those 10 regulations on lands and waters owned by a state or other government entity. In 1987, in response to questions concerning this issue, and in order to clarify the original NPS intent (i.e., that the 10 specifically enumerated provisions were meant to apply on all lands and waters regardless of land ownership) the term "privately owned lands and waters" was replaced with the term "non-federally owned lands and waters". (52 FR 35238; see also, 52 FR 12037). The 1987 rulemaking emphasized that it was only an editorial change and not a substantive change, the sole purpose of which was to clarify the originally intended reach of the 10 enumerated provisions; there was no change intended concerning state lands.

However, in its effort to ensure that (in areas of legislative jurisdiction) the 10 enumerated regulations clearly apply on all "non-federally owned lands and waters" within the boundaries of park areas, the 1987 revision to Section 1.2(b) inadvertently incorporated language that seems ambiguous and could preclude park regulation of "non-federally owned * * * waters." See, 52 FR 35238, September 18, 1987. The NPS recognizes that regulations must provide an ordinary person a reasonable opportunity to know what is prohibited. Accordingly, this rulemaking is proposed to clarify that NPS regulations otherwise applicable within the boundaries of a National Park System unit apply on and within waters subject to the jurisdiction of the United States located within that unit, including navigable waters and areas within their ordinary reach (up to the mean high water line in places subject to the ebb and flow of the tide, or up to the ordinary high water mark in other places that are navigable), irrespective of ownership of submerged lands, tidelands or lowlands.

This rulemaking also proposes to revise the definition of "boundary." "Boundary," as revised, would better cover the many and diverse sites that have been placed under the care and administration of the NPS. The revision would afford comprehensive protection to persons and property at NPS sites such as maintenance facilities and warehouses, administrative sites, ranger stations, visitor information centers and associated parking lots, which, though located outside a park proper, are managed and administered by the NPS as components of the National Park System. The definition is also tailored to cover the various NPS-administered sites in the District of Columbia. The term "park area" would be revised to mean the same as the term "National Park System." The proposed definition for "National Park System" repeats the statutory definition from 16 U.S.C. 1c.

The proposed revision to Section 13.2 serves three purposes: (1) Paragraph (c) is revised to clarify that Alaska National Interest Lands Conservation Act (ANILCA) Title VIII subsistence regulations apply "on the public lands within" those parks where subsistence is authorized; (2) paragraph (e) is revised to clarify that, pursuant to proposed § 1.2(a)(3), NPS general regulations are specifically applicable within the reach of navigable waters located within the boundaries of park areas in Alaska; and (3) paragraph (e) is revised to clarify that the Part 13 modifications (that generally are relaxations of prohibitions contained in the general regulations) also apply on the navigable waters of national parks in Alaska (e.g., ANILCA § 1110(a) special authorization for motorboat travel to villages).

Section-by-Section Analysis

Section 1.2 paragraph (a) is proposed as it currently exists. This paragraph limits the applicability of NPS regulations to within park boundaries and interests.

Proposed subparagraphs (a)(1) and (a)(2) provide that the regulations apply, respectively, on lands and waters located within park system boundaries that are federally owned, or administered as park lands by the NPS (in whole or in part) through an agreement with the owner, party of interest, or the person, corporation, company, organization, state or political subdivision holding an interest in, or title to, such land. An agreement could be in the form of a lease, public use easement, memorandum (of agreement), or some other written form. Lands and waters administered under this subparagraph would usually be subject to the same general regulations as federally owned lands (Parts 1 through 5, and Parts 7 and 13 as applicable). An owner or party of interest who wishes to retain certain rights or uses could do so as part of the written agreement, otherwise NPS general regulations will apply equally to the owner or party of interest as they would to third parties. Without such an agreement, NPS regulations would not apply on non-federally owned lands within park boundaries, the exception being particular regulations containing a provision that makes them specifically applicable to such lands. See, e.g., 36 CFR 2.2(g) (regulation applicable to lands and waters under legislative jurisdiction within a park); See also, 36 CFR Part 6 (59 FR 65948). Two other provisions that are contained in existing subparagraph (a)(2) are, in this rulemaking, proposed separately as subparagraphs (a)(3) and (a)(4).

Proposed subparagraph (a)(3) more clearly defines and includes waters subject to federal jurisdiction that are located within National Park System boundaries, including navigable waters, within the scope of NPS regulations. Subparagraph (a)(4) contains a provision for the NPS to administer lands and waters in the District of Columbia (pursuant to the Act of March 17, 1948 (62 Stat. 81)), that was added to the existing subparagraph (2) in 1986 (51 FR 37010). The less-than-fee interests provision, currently subparagraph (a)(3), has been revised, renumbered and proposed as subparagraph (a)(5). This provision encompasses scenic easements (sometimes referred to as negative easements) and other federal interests where NPS administration of the site is shared or limited.

Proposed paragraph (b) continues to limit the applicability of NPS general regulations to federally owned lands in the absence of an agreement or a superseding provision. Similarly, in order for NPS general regulations to apply on Indian tribal trust lands located within National Park System boundaries, the NPS must enter into an agreement with the benefiting Indian nation, tribe, band or pueblo (pursuant to proposed subparagraph (a)(2)). Without such an agreement, and regardless of jurisdictional status, NPS authority on Indian lands located within National Park System units is limited to federal laws and implementing regulations made applicable at the express direction of Congress.

Proposed paragraph (d) would extend existing administrative exceptions to include Part 13 regulations.

Section 1.4 proposes a revision to the definition of the terms "boundary" and "park area." "Boundary," as revised, would afford comprehensive coverage to the many and diverse sites that have been placed under the care and administration of the NPS, particularly those sites located in the District of Columbia. The term "park area" would be revised to mean the same as the term "National Park System." The proposed definition for "National Park System" repeats the statutory definition from 16 U.S.C. 1c.

Section 13.2 proposed paragraph (c) has been revised to clarify that subsistence regulations for Alaska apply only "on the public lands within" those parks where subsistence is authorized. Paragraph (e) has been revised to clarify that NPS general regulations (*e.g.*, Part 2), as modified by Part 13, apply to waters subject to federal jurisdiction, including navigable waters, located within the boundaries of park areas in Alaska.

Drafting Information

The primary authors of this revision are Michael Tiernan, Division of Conservation and Wildlife, Office of the Solicitor, Department of the Interior, Washington, D.C., and Steve Shackelton and Russel J. Wilson of the Alaska Field Area, National Park Service. Richard G. Robbins, Division of Conservation and Wildlife, Office of the Solicitor, Department of the Interior, Washington, D.C., also contributed.

Paperwork Reduction Act

This rule does not contain collections of information requiring approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

This rule was not subject to Office of Management and Budget review under Executive Order 12866. The Department of the Interior has determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 USC 601 *et seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

The NPS has determined that this proposed rulemaking will not have a significant effect on the quality of the

human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce incompatible uses that may compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this proposed rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental guidelines in 516 DM 6, (49 FR 21438). As such, neither an Environmental Assessment (EA) nor an Environmental Impact Statement (EIS) has been prepared.

List of Subjects

36 CFR Part 1

National parks, Reporting and recordkeeping requirements.

36 CFR Part 13

Alaska, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, it is proposed to amend 36 CFR Chapter I, Parts 1 and 13, as follows:

PART 1—GENERAL PROVISIONS

1. The authority citation for Part 1 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460 l–6a(e), 462(k); D.C. Code 8–137, 40–721 (1981).

2. Section 1.2 is amended by revising paragraphs (a), (b) and (d) to read as follows:

§ 1.2 Applicability and scope.

(a) The regulations contained in this chapter apply to all persons entering, using, visiting or otherwise within:

(1) The boundaries of federally owned lands and waters administered by the National Park Service; or

(2) The boundaries of lands and waters administered by the National Park Service for public use purposes pursuant to the terms of a written instrument; or

(3) Waters subject to the jurisdiction of the United States located within the boundaries of the National Park System, including navigable waters and areas within their ordinary reach (up to the mean high water line in places subject to the ebb and flow of the tide and up to the ordinary high water mark in other places) and without regard to the ownership of submerged lands, tidelands or lowlands; or

(4) Lands and waters in the environs of the District of Columbia, policed with the approval or concurrence of the head of the agency having jurisdiction or control over such reservations, pursuant to the provisions of the Act of March 17, 1948 (62 Stat. 81); or

(5) Other lands and waters over which the United States holds a less-than-fee interest, to the extent necessary to fulfill the purpose of the National Park Service administered interest and compatible with the nonfederal interest.

(b) The regulations contained in Parts 1 through 5 and Part 7 and Part 13 of this chapter do not apply on non-federally owned lands and waters or on Indian tribal trust lands located within National Park System boundaries, except as provided in paragraph (a) of this section or in regulations specifically written to be applicable on such lands and waters.

* * * * *

(d) The regulations contained in parts 2 through 5 and parts 7 and 13 of this chapter shall not be construed to prohibit administrative activities conducted by the National Park Service, or its agents, in accordance with approved general management and resources management plans, or in emergency operations involving threats to life, property or park resources.

* * * * *

3. Section 1.4 is amended in paragraph (a) by revising the definition of *Boundary*, by adding a definition for *National Park System*, and by revising the definition of *Park area* to read as follows:

§ 1.4 Definitions.

(a) * * *

Boundary means the limits of lands or waters administered by the National Park Service as specified by Congress, or denoted by Presidential Proclamation, or recorded in the records of a state or political subdivision in accordance with applicable law, or published pursuant to law, or otherwise published or posted by the National Park Service.

* * * * *

National Park System (Park area) means any area of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes.

* * * * *

Park area. See the definition for *National Park System* in this section.

* * * * *

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

4. The authority citation for part 13 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; subpart D also issued under 16 U.S.C. 20, 3197; § 13.65(b) also issued under 16 U.S.C. 1361, 1531.

5. Section 13.2 is amended by republishing the first sentence of paragraph (c) and revising the second sentence of paragraph (c), and by revising paragraph (e) to read as follows:

§ 13.2 Applicability and Scope.

* * * * *

(c) Subpart B of this part 13 contains regulations applicable to subsistence activities. Such regulations apply on public lands within park areas except Kenai Fjords National Park, Katmai National Park, Glacier Bay National Park, Klondike Gold Rush National Historical Park and parts of Denali National Park.* * *

* * * * *

(e) For purposes of this chapter, "federally owned lands" does not include those land interests:

(1) Tentatively approved to the State of Alaska; or

(2) Interim conveyed to a Native Corporation.

Dated: October 20, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–29565 Filed 12–4–95; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[AD–FRL–5341–1]

Clean Air Act Reclassification; Pennsylvania—Liberty Borough Nonattainment Area; PM–10; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: EPA is reopening the comment period for a proposed rule published on September 19, 1995 (60 FR 48439). In the September 19 notice, EPA proposed to find that the Liberty Borough, Pennsylvania nonattainment area for particulate matter of nominal aerodynamic diameter smaller than 10 micrometers (PM–10) did not attain national ambient air quality standards for that pollutant by the statutory attainment date. At the request of the Allegheny Health Department, EPA is reopening the comment period through December 20, 1995. (The comment period had been previously extended through November 20, 1995 (60 FR 53729).) All comments received on or before December 20, including those received between the close of the comment period on November 20 and the publication of this document, will be entered into the public record and considered by EPA before taking final action on the proposed rule.

DATES: Comments must be received on or before December 20, 1995.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

FOR FURTHER INFORMATION CONTACT: Thomas A. Casey, U.S. EPA Region III, (215) 597–2746.

Dated: December 1, 1995.

William Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. 95–29713 Filed 12–4–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 413

[BPD–788–P]

RIN 0938–AH12

Medicare Program; Uniform Electronic Cost Reporting for Skilled Nursing Facilities and Home Health Agencies

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would add the requirement that, for cost reporting periods beginning on or after October 1, 1995, all skilled nursing facilities and home health agencies must submit cost reports currently required under the Medicare regulations in a standardized electronic format. This proposed rule would also allow a delay or waiver of this requirement where implementation would result in financial hardship for a provider. The proposed provisions would allow for more accurate preparation and more efficient processing of cost reports.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on February 5, 1996.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–788–P, P.O. Box 7517, Baltimore, MD 21207–0517.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or

Room C5–11–17, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–788–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

For comments that relate to information collection requirements, mail a copy of comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Tom Talbott, (410) 786–4592.

SUPPLEMENTARY INFORMATION:

I. Background

Generally, under the Medicare program, skilled nursing facilities (SNFs) and home health agencies (HHAs) are paid for the reasonable costs of the covered items and services they furnish to Medicare beneficiaries. Sections 1815(a) and 1833(e) of the Social Security Act (the Act) provide that no payments will be made to a provider unless it has furnished the information, requested by the Secretary, needed to determine the amount of payments due the provider. In general, providers submit this information through cost reports that cover a 12-month period. Rules governing the submission of cost reports are set forth at 42 CFR 413.20 and 42 CFR 413.24.

Under § 413.20(a), all providers participating in the Medicare program are required to maintain sufficient financial records and statistical data for proper determination of costs payable under the program. In addition, providers must use standardized definitions and follow accounting, statistical, and reporting practices that are widely accepted in the health care industry and related fields. Under §§ 413.20(b) and 413.24(f), providers are required to submit cost reports annually, with the reporting period based on the provider's accounting year. Additionally, under § 412.52, all hospitals participating in the prospective payment system must meet cost reporting requirements set forth at §§ 413.20 and 413.24.

Section 1886(f)(1)(B)(I) of the Act required the Secretary to place into effect a standardized electronic cost reporting system for all hospitals participating in the Medicare program. This provision was effective for hospital cost reporting periods beginning on or after October 1, 1989. On May 25, 1994, we published a final rule with comment period implementing the electronic cost reporting requirement for hospitals (59 FR 26960). On June 27, 1995, we published a final rule that responded to comments on the May 25, 1994 final rule with comment period (60 FR 33123).

II. Provisions of the Proposed Regulations

Currently, § 413.24(f)(4) provides that for cost reporting periods beginning on or after October 1, 1989, all hospitals must submit cost reports in a standardized electronic format. While the existing regulations do not require any other provider types to file their cost reports electronically, more than 75 percent of SNFs and HHAs currently submit a hard copy of an electronically prepared cost report rather than a manually prepared cost report. HCFA's fiscal intermediaries then review the information from these cost reports for completeness and manually enter the data into their automated data reporting systems. This process takes substantially longer than processing cost reports submitted in a standardized electronic format that allows data to be automatically entered into the intermediary's system.

This proposed rule would revise existing § 413.24(f)(4) to require SNFs and HHAs to submit cost reports in a standardized electronic format for cost reporting periods beginning on or after October 1, 1995. We note that the electronic cost reports would not be due until 5 months after the end of the provider's cost reporting period. Thus, for a provider with a 12-month cost reporting period beginning October 1,

1995, the first electronic cost report would be due February 28, 1997.

The use of electronically prepared cost reports would be beneficial for SNFs and HHAs because the cost reporting software for these reports would virtually eliminate computational errors and substantially reduce preparation time. Preparation time would be decreased because providers would no longer have to perform mathematical computations to complete the cost report. Instead, the provider would only need to enter the correct costs and statistics, and the software would determine the appropriate amount of Medicare payment due the provider based on these figures. We note that the costs and statistics that would be entered into the electronic software are the same as those that are currently required for Medicare cost reports. This proposed rule would not require the reporting of any additional information.

The use of cost reporting software would also save time when the provider discovers that it needs to change individual entries in the cost report. Rather than recalculating the entire cost report, the provider would merely enter the new figures, and the software would generate a new cost report that would reflect all necessary recalculations. The use of cost reporting software would also eliminate the need for several administrative tasks associated with filing a cost report. Specifically, the provider would no longer be required to photocopy, collate, and mail a hard copy of the cost report, which is a relatively large, cumbersome document. Instead, the completed cost report would be electronically filed with the fiscal intermediary. That is, the provider would submit a disk containing the required cost report data to the fiscal intermediary.

In all, we estimate that the use of electronically prepared cost reports would result in an average of 4 to 5 hours less preparation time for an HHA and 8 to 10 hours less time for an SNF. We recognize that, initially, the preparation time saved may not be as great as we have estimated for providers that need time to become familiar with the cost reporting software. However, we believe that once providers overcome this small "learning curve," the accuracy of cost reports would increase and the preparation time would decrease in line with this estimate. We welcome comments on our estimate of time savings as well as on other advantages or disadvantages of electronic cost reporting.

We propose that the provider's software must be able to produce a standardized output file in American Standard Code for Information Interchange (ASCII) format. All intermediaries have the ability to read this standardized file and produce an accurate cost report. SNFs and HHAs would be required to use HCFA-approved software to submit cost reports to the intermediary. HCFA's approval process requires each vendor to submit for review a hard copy cost report produced from their software. The purpose of this review process is to establish that the commercial vendor's software can produce a completed cost report in accordance with the Medicare rules and instructions.

There are approximately 17 commercial software vendors servicing HHAs and SNFs that have developed HCFA-approved software programs capable of producing an electronic cost report. In addition, HCFA has developed a software package that will enable SNFs and HHAs to file an electronic data set to the fiscal intermediary in order to generate an electronic cost report. Providers would be able to use either these existing commercial software packages or HCFA's free software to comply with the requirements in this proposed rule. To receive the free software, providers may contact their intermediaries or send a written request to the following address: Health Care Financing Administration, Division of Cost Principles and Reporting, Room C5–02–23, Central Building, 7500 Security Blvd., Baltimore, Maryland 21244–1850.

We also propose that if a SNF or HHA believes that implementation of the electronic submission requirement would cause a financial hardship, it may submit a written request for a waiver or a delay of these requirements. This request, including supporting documentation, would have to be submitted to a provider's intermediary at least 120 days before the end of the provider's cost reporting period. The intermediary would review the request and forward it, with a recommendation for approval or denial, to the HCFA central office within 30 days of such request. HCFA central office would either approve or deny the request by response to the intermediary within 60 days of receipt of the request. Each delay or waiver would be considered on a case-by-case basis.

We considered proposing set criteria (possibly based on a provider's bed size or capacity, for example) under which a SNF or HHA could be exempted automatically from the electronic cost reporting requirement. However, we have not done so because we do not believe that a characteristic such as a provider's size is necessarily a reliable indicator that electronic cost reporting would impose a financial hardship, since even the smallest SNFs and HHAs are quite likely to already be using computer equipment. We welcome comments on the process for obtaining a waiver, whether set criteria for obtaining a waiver would be beneficial, as well as on the number of providers that may request a waiver.

We note that the electronic cost reporting provision would only apply to those providers that are required to file a full Medicare cost report. Those providers that are not required to file a full cost report (for example, a SNF that furnishes fewer than 1500 Medicare covered days in a cost reporting period) would not be subject to the electronic cost reporting requirement, and therefore would not have to request a waiver.

If a SNF or HHA (not granted a hardship exemption) does not submit its cost report electronically, Medicare payments to that provider may be suspended under the provisions of sections 1815(a) and 1833(e) of the Act. These sections of the Act provide that no Medicare payments will be made to a provider unless it has furnished the information, requested by the Secretary, that is needed to determine the amount of payments due the provider under the Medicare program. Section 405.371(d) provides for suspension of Medicare payments to a provider by the intermediary if the provider fails to submit information requested by the intermediary that is needed to determine the amount due the provider under the Medicare program.

The general procedures that are followed when Medicare payment to a provider is suspended for failure to submit information needed by the intermediary to determine Medicare payment are located in section 2231 of the Medicare Intermediary Manual (HCFA Pub. 13). Those procedures include timeframes for "demand letters" to providers. Demand letters remind providers to file timely and complete cost reports and explain possible adjustments of Medicare payments to a provider and the right to request a 30-day extension of the due date.

Under this proposed rule, we essentially would apply the current hospital reporting requirements to SNFs and HHAs. In our final rule with comment period published May 25, 1994, we required that, in accordance with section 1886(f)(1)(B)(I) of the Act, all hospitals must submit cost reports in a uniform electronic format for cost reporting periods beginning on or after October 1, 1989 (59 FR 26960). All hospital cost reports must be electronically transmitted to the intermediary in ASCII format. In addition to the electronic file, existing § 413.24(f)(4)(iii) requires hospitals to submit a hard copy of a settlement summary, a statement of certain worksheet totals found in the electronic file, and a statement signed by the hospital's administrator or chief financial officer certifying the accuracy of the electronic file.

Further, to preserve the integrity of the electronic file, we implemented provisions regarding the processing of the electronic cost report once submitted to the intermediary. Specifically, existing § 413.24(f)(4)(ii) provides that the intermediary may not alter the cost report once it has been filed by the provider. That is, the intermediary must maintain an unaltered copy of the provider's electronic cost report. This provision is not intended to prohibit the intermediary from making audit adjustments to the provider's cost report. Additionally, this section provides that the intermediary must reject a cost report that does not pass all specified edits. Finally, the provider's electronic program must be able to disclose that changes have been made to the provider's filed cost report. Again, we would apply these same provisions to SNFs and HHAs.

As stated above, the electronic cost reporting requirement for hospitals has been a statutory requirement for over 5 years. Our experience with the process of hospitals submitting cost reports to the intermediary in ASCII format has been uniformly positive. These cost reports are processed more expeditiously and efficiently than manually prepared cost reports or hard copies of electronically prepared cost reports. In fact, based on comments from hospitals, we amended § 413.24(f)(4) in our June 27, 1995 final rule to eliminate the requirement that hospitals submit a hard copy of the cost report in addition to the electronic file (60 FR 33123). In conclusion, based on our experience with the submission of electronic cost reports by hospitals, we believe that electronic filing would reduce the administrative burden on most SNFs and HHAs, with a waiver available in financial hardship cases. Therefore, we propose to amend § 413.24 accordingly:

- Add a new paragraph (f)(4)(i) to define the word "provider" as a hospital, SNF, or HHA;
- Redesignate existing paragraphs (f)(4)(i) through (f)(4)(iv) as (f)(4)(ii) through (f)(4)(v);
- Revise redesignated paragraph (f)(4)(ii) to state that SNFs and HHAs must submit cost reports in a standardized electronic format for cost reporting periods beginning on or after October 1, 1995; and
- In redesignated paragraphs (f)(4)(iii) through (f)(4)(v), replace the word "hospital" wherever it appears with the word "provider."

III. Impact Statement

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless we certify that a proposed rule such as this would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all providers and small businesses that distribute cost-report software to providers are considered small entities. HCFA's intermediaries are not considered small entities for purposes of the RFA.

In addition, section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operation of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds. We are not preparing a rural impact statement since we have determined, and certify, that this proposed rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

As stated above, under §§ 413.20(b) and 413.24(f), providers are required to submit cost reports annually, with reporting periods based on the provider's accounting year. This proposed rule would require SNFs and HHAs, like hospitals, to submit their Medicare cost reports in a standardized electronic format. We anticipate that this requirement would take effect for cost reporting periods beginning on or after October 1, 1995, meaning that the first electronic cost reports would be due February 28, 1997.

Currently, approximately 75 percent of all SNFs and HHAs submit a hard copy of an electronically prepared cost report to the intermediary. We believe that the provisions of this proposed rule would have little or no effect on these providers, except to reduce the time involved in copying and collating a hard copy of the report for intermediaries. In addition to the 75 percent of providers that currently use electronic cost reporting, this rule would not affect those providers that do not file a full cost report and, as stated above, would not be required to submit cost reports electronically.

This proposed rule may have an impact on those providers who do not prepare electronic cost reports, some of whom may have to purchase computer equipment, obtain the necessary software, and train staff to use the software. However, as discussed below, we believe that the potential impact of this proposed rule on those providers who do not prepare electronic cost reports would be insignificant.

First, a small number of providers that do not submit electronic cost reports may have to purchase computer equipment to comply with the provisions of this proposed rule. However, even among the 25 percent of SNFs and HHAs that do not submit electronically prepared cost reports, we believe that most providers already have access to computer equipment, which they are now using for internal recordkeeping purposes, as well as for submitting electronically generated bills to their fiscal intermediaries, for example. Thus, we do not believe that obtaining computer equipment would be a major obstacle to electronic cost reporting for most providers. For those providers that would have to purchase computer equipment, we note that, in accordance with current regulations governing payment of provider costs, Medicare would pay for the cost of the equipment as an overhead cost.

We recognize that a potential cost for providers that do not submit electronic cost reports would be that of training staff to use the software. Since most SNFs and HHAs currently use computers, we do not believe that training staff to use the new software would impose a large burden on providers. An additional cost would be the cost of the software offered by commercial vendors. However, providers could eliminate this cost by obtaining the free software from HCFA.

The requirement that hospitals submit cost reports in a standardized electronic format has been in place since October, 1989. Since that time, the accuracy of cost reports has increased and we have received very few requests for waivers. Additionally, we have not received any comments from the hospital industry indicating that the use of electronic cost reporting is overly burdensome. We believe that electronic cost reporting would be equally effective for SNFs and HHAs, with the benefits (such as increased accuracy and decreased

preparation time) outweighing the costs of implementation for most providers.

In conclusion, we have determined that this proposed rule would not have a significant effect on SNF and HHA costs because these providers would not be required to collect any additional data beyond that which the regulations currently specify; cost reporting software is available at no cost from HCFA to any provider that requests it; most SNFs and HHAs have some type of computer equipment through which they currently prepare electronic cost reports; and a waiver of the electronic cost reporting requirement would be available to providers for whom the requirement would impose a financial hardship. SNFs and HHAs would only be affected to the extent that, absent a waiver, all would be required to submit cost reports in a standardized electronic format to their intermediary. A provider that does not comply with the provisions of this rule, as specified in the preamble, would be subject to sections 1815(a) and 1833(e) of the Act, which provide that no payments will be made to a provider unless it has furnished the information requested by the Secretary that is needed to determine the amount of payments due the provider under Medicare.

We welcome comments on the effect of the electronic cost reporting requirement, its benefits or disadvantages, the proposed implementation date, and issues related to the waiver process.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget (OMB).

IV. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, agencies are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting public comment on each of these issues for the information collection requirements discussed below.

As discussed in detail above, this proposed rule would require that SNFs and HHAs submit cost reports in a standardized electronic format for cost reporting periods beginning on or after October 1, 1995. That is, providers would be required to file a diskette containing the required cost report data in a standardized electronic format. We believe that this requirement would reduce the paperwork and information collection burden for those SNFs and HHAs that currently do not submit electronically prepared cost reports. Specifically, we estimate that the number of hours each provider would save by submitting an electronically prepared cost report instead of manually preparing, and photocopying, the cost report would be an average of 9 hours for each affected SNF and 4.5 hours for each affected HHA. Assuming that approximately 25 percent of all SNFs and HHAs would be affected, that is roughly 3,000 SNFs and 2,000 HHAs, we estimate that SNFs would save approximately 27,000 hours per year completing cost reports, and HHAs would save about 9,000 hours per year.

We note that the overall information collection and recordkeeping burden associated with filing SNF costs reports has been approved by OMB through January 1998 (OMB approval number 0938–0463). Additionally, OMB has approved the information collection burden for HHA cost reports through October 1997 (approval number 0938–0022). We would not require SNFs and HHAs to report any information on the electronic cost report that is not already required in the Medicare cost reports currently submitted by these providers.

The information collection and recordkeeping requirements contained in § 413.24 are not effective until they have been approved by OMB. A notice will be published in the **Federal Register** when approval is obtained. Organizations and individuals that wish to submit comments on the information and recordkeeping requirements set forth in § 413.24 should direct them to the OMB official whose name appears in the **ADDRESSES** section of this preamble.

V. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the "DATES" section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

List of Subjects in 42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR part 413 is amended as set forth below:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

1. The authority citation for part 413 continues to read as follows:

Authority: Secs. 1102, 1861(v)(1)(A), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(v)(1)(A), and 1395hh).

2. Section 413.24 is amended by redesignating existing paragraphs (f)(4)(i) through (f)(4)(iv) as paragraphs (f)(4)(ii) through (f)(4)(v); adding a new paragraph (f)(4)(i); and revising redesignated paragraphs (f)(4)(ii) through (f)(4)(v) to read as follows:

§ 413.24 Adequate cost data and cost finding.

* * * * *

(f) Cost reports. * * *

(4) *Electronic submission of cost reports.* (i) As used in this paragraph, *provider* means a hospital, skilled nursing facility, or home health agency.

(ii) Effective for cost reporting periods beginning on or after October 1, 1989, for hospitals and cost reporting periods beginning on or after October 1, 1995, for skilled nursing facilities and home health agencies, a provider is required to submit cost reports in a standardized electronic format. The provider's electronic program must be capable of producing the HCFA standardized output file in a form that can be read by the fiscal intermediary's automated system. This electronic file, which must contain the input data required to complete the cost report and the data required to pass specified edits, is forwarded to the fiscal intermediary for processing through its system.

(iii) The fiscal intermediary stores the provider's as-filed electronic cost report and may not alter that file for any reason. The fiscal intermediary makes a "working copy" of the as-filed electronic cost report to be used, as necessary, throughout the settlement process (that is, desk review, processing audit adjustments, final settlement, etc). The provider's electronic program must be able to disclose if any changes have been made to the as-filed electronic cost report after acceptance by the intermediary. If the as-filed electronic cost report does not pass all specified edits, the fiscal intermediary rejects the cost report and returns it to the provider for correction. For purposes of the requirements in paragraph (f)(2) of this section concerning due dates, an electronic cost report is not considered to be filed until it is accepted by the intermediary.

(iv) Effective for cost reporting periods ending on or after September 30, 1994, for hospitals and cost reporting periods beginning on or after October 1, 1995, for skilled nursing facilities and home health agencies, a provider must submit a hard copy of a settlement summary, a statement of certain worksheet totals found within the electronic file, and a statement signed by its administrator or chief financial officer certifying the accuracy of the electronic file or the manually prepared cost report. The following statement must immediately precede the dated signature of the provider's administrator or chief financial officer:

> I hereby certify that I have read the above certification statement and that I have examined the accompanying electronically filed or manually submitted cost report and the Balance Sheet Statement of Revenue and Expenses prepared by _____ (Provider Name(s) and Number(s)) for the cost reporting period beginning _____ and ending _____ and that to the best of my knowledge and belief, this report and statement are true, correct, complete and prepared from the books and records of the provider in accordance with applicable instructions, except as noted. I further certify that I am familiar with the laws and regulations regarding the provision of health care services, and that the services identified in this cost report were provided in compliance with such laws and regulations.

(v) A provider may request a delay or waiver of the electronic submission requirement in paragraph (f)(4)(ii) of this section if this requirement would cause a financial hardship. The provider must submit a written request for delay or waiver with necessary supporting documentation to its intermediary at least 120 days prior to the end of its cost reporting period. The intermediary reviews the request and forwards it with a recommendation for approval or denial, to HCFA central office within 30 days of receipt of the request. HCFA central office either approves or denies the request and notifies the intermediary within 60 days of receipt of the request.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 21, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–29542 Filed 12–4–95; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[I.D. 110795H]

Gulf of Mexico Fishery Management Council; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public hearings; requests for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Gulf Council) will convene nine public hearings on Draft Amendment 8 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP) and its draft supplemental environmental impact statement (draft SEIS).

DATES: Written comments will be accepted until January 5, 1996. The hearings will be held from December 11 to December 14, 1995. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Written comments should be sent to and copies of the draft amendment are available from Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Council, 5401 West Kennedy Boulevard, Tampa, FL 33609.

The hearings will be held in AL, FL, LA, MS and TX. See **SUPPLEMENTARY INFORMATION** for locations of the hearings and special accommodations.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, 813–228–2815; Fax: 813–225–7015.

SUPPLEMENTARY INFORMATION:

Background

The Gulf and South Atlantic Fishery Management Councils will be holding public hearings on Draft Amendment 8 to the FMP and its draft SEIS. Amendment 8 proposes management measures for the fisheries for king and Spanish mackerel, cobia and dolphin (fish). Amendment 8 proposes some measures that (1) apply only to the South Atlantic Council's jurisdiction, (2) apply only to the Gulf Council's jurisdiction, or (3) apply to both Councils' jurisdictions. Proposed actions that would affect only the stocks and area under the jurisdiction of the Gulf of Mexico Council are as follows: Allow Gulf group king mackerel that can be taken only by hook-and-line (including longline) and run-around gill nets to be possessed on vessels with other gear aboard; require commercial dealer permits to buy and sell coastal pelagic fish managed under the FMP and require that dealers keep and make available records of purchase by vessel; establish a 5-year moratorium, beginning on October 16, 1995, on the issuance of both commercial vessel permits with a king mackerel endorsement and charter vessel permits; provide for transfer of vessel permits to other vessels; require that anyone applying for a commercial vessel permit demonstrate that 25 percent of annual income, or $5,000, be from commercial fishing; and require, that, as a condition for a Federal commercial or charter vessel permit, the applicant agrees to comply with the more restrictive of state or Federal rules when fishing in state waters. Amendment 8 also includes the following measures that apply to both Councils' jurisdictions: Recreational bag and commercial trip limit alternatives for cobia and dolphin (fish); retention of king mackerel damaged by barracuda bites by vessels under commercial trip limits; alternatives for Atlantic king mackerel commercial trip limits off Monroe County, FL of either 50 fish or 125 fish; changes to the procedure used to set total allowable catch; and changes to definitions of overfishing and optimum yield. Proposed measures in Amendment 8 applying only to the area and stocks under the jurisdiction of the South Atlantic Council will be summarized in news releases for public hearings to be held in the South Atlantic area during January 1996.

The hearings are scheduled from 7 p.m. to 10 p.m. as follows:

1. Monday, December 11, 1995, Larose—Larose Regional Park, 2001 East 5th Street, Larose, LA 70373
2. Monday, December 11, 1995, Port Aransas—Visitor's Center Auditorium, University of Texas, 750 Channel View Drive, Port Aransas, TX 78373
3. Monday, December 11, 1995, Key West—Lions Club, 2405 North Roosevelt Boulevard, Key West, FL 33040
4. Tuesday, December 12, 1995, Biloxi—J.L. Scott Marine Education

Center and Aquarium, 115 East Beach Boulevard, Biloxi, MS 39530

5. Tuesday, December 12, 1995, Galveston—Best Western Beachfront Inn, 5914 Seawall Boulevard, Galveston, TX 77551

6. Wednesday, December 13, 1995, Gulf Shores—Quality Inn Beachside, 931 West Gulf Shores Boulevard, Gulf Shores, AL 36547

7. Wednesday, December 13, 1995, Panama City—National Marine Fisheries Service, Panama City Laboratory, 3500 Delwood Beach Road, Panama City, FL 32408

8. Wednesday, December 13, 1995, Cameron—Police Jury Annex, Courthouse Square, Cameron, LA 70631

9. Thursday, December 14, 1995, Madeira Beach—City Hall Auditorium, 3001 Municipal Drive, Madeira Beach, FL 33708

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council office (see **ADDRESSES**) by December 4, 1995.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 28, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29516 Filed 12–4–95; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 60, No. 233

Tuesday, December 5, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Modification of Total Amount of Tariff-Rate Quota for Imported Raw Cane Sugar

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice modifies the aggregate quantity of raw cane sugar that may be entered under subheading 1701.11.10 of the Harmonized Tariff Schedule of the United States (HTS) during fiscal year 1996 (FY 96). As modified, such aggregate quantity is 1,417,195 metric tons, raw value.

EFFECTIVE DATE: November 9, 1995.

ADDRESSES: Inquiries may be mailed or delivered to the Sugar Team Leader, Import Policy and Programs Division, Foreign Agricultural Service, Room 5531, South Building, U.S. Department of Agriculture, Washington, DC 20250–1000.

FOR FURTHER INFORMATION CONTACT: Stephen Hammond (Sugar Team Leader); telephone: 202–720–1061.

SUPPLEMENTARY INFORMATION: Paragraph (a)(i) of additional U.S. note 5 to chapter 17 of the HTS provides that "the aggregate quantity of raw cane sugar entered, or withdrawn from warehouse for consumption, under subheading 1701.11.10, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), not less than, 1,117,195 metric tons, as shall be established by the Secretary of Agriculture (hereinafter referred to as "the Secretary"), and the aggregate quantity of sugars, syrups and molasses entered, or withdrawn from warehouse for consumption, under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10 and 2106.90.44, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), not less than 22,000 metric tons, as shall be established by the Secretary of Agriculture (hereinafter referred to as "the Secretary")." On August 3, 1995, the Secretary established the aggregate quantity of 1,117,195 metric tons, raw value, of raw cane sugar that may be entered under subheading 1701.11.10 of the HTS and the aggregate quantity of 22,000 metric tons (raw value basis) for certain sugars, syrups and molasses that may be entered under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the HTS during FY 96. (60 FR 42142)

Paragraph (a)(i) of additional U.S. note 5 to chapter 17 of the HTS provides that "[w]henever the Secretary believes that domestic supplies of sugars may be inadequate to meet domestic demand at reasonable prices, the Secretary may modify any quantitative limitations which have previously been established * * *." The U.S. sugar production forecast for FY '96 released on November 9, 1995 in the World Agricultural Supply and Demand Estimates (WASDE) was reduced by 80,000 short tons raw value (STRV) to 7.6 million STRV from the WASDE production forecast released on July 12, 1995. During this period, the U.S. FY '96 forecast of beginning stocks for sugar was reduced to nearly 1.2 million STRV, a decline of 90,000 STRV from the earlier forecast. The domestic wholesale refined sugar prices in the midwest market have been increasing since the tariff-rate quota amount was announced by the Secretary. During the last week of July 1995 the refined sugar price was 24.50 cents per pound. The refined sugar price during the first week of November 1995 was 26.50 cents per pound, which represents a 2 cent per pound increase.

Paragraph (b)(i) of U.S. additional note 5 provides that "the quota amounts established [by the Secretary] may be allocated among supplying countries and areas by the United States Trade Representative."

Notice

Notice is hereby given that I have determined, in accordance with paragraph (a)(ii) of additional U.S. note 5 to chapter 17 of the HTS, that an aggregate quantity of up to 1,417,195 metric tons, raw value, of raw cane sugar described in subheading 1701.11.10 of the HTS may be entered or withdrawn from warehouse for consumption during the period from October 1, 1995 through September 30, 1996.

This modified quota amount will be allocated among supplying countries and areas by the United States Trade Representative.

Signed at Washington, DC on November 28, 1995.

Daniel Glickman,

Secretary of Agriculture.

[FR Doc. 95–29526 Filed 12–4–95; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112095B]

Incidental Take of Marine Mammals; Bottlenose Dolphins and Spotted Dolphins

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) as amended, and implementing regulations, notification is hereby given that a letter of authorization to take bottlenose and spotted dolphins incidental to oil and gas structure removal activities was issued on November 27, 1995 to the Murphy Exploration & Production Company, 131 South Robertson St., P.O. Box 61780, New Orleans, LA 70161.

EFFECTIVE DATE: The letter of authorization is effective from November 27, 1995 until November 27, 1996.

ADDRESSES: The application and letter are available for review in the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 and the Southeast Region, NMFS, 9721 Executive Center Drive N, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055 or Charles Oravetz, Southeast Region (813) 570–5312.

SUPPLEMENTARY INFORMATION:

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made, and regulations are issued. Under the MMPA, the term "taking" means to harass, hunt, capture or kill or to attempt to harass, hunt, capture or kill marine mammals.

Permission may be granted for periods up to 5 years if the Secretary of Commerce finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of bottlenose and spotted dolphins incidental to oil and gas structure removal activities in the Gulf of Mexico were published on October 12, 1995 (60 FR 53139) and remain in effect until November 13, 2000.

Summary of Request

NMFS received a request for a letter of authorization on November 8, 1995, from the Murphy Exploration and Production Company. This letter requests a take by harassment of a small number of bottlenose and spotted dolphins incidental to the above mentioned activity. Issuance of the letter of authorization is based on a finding that the total takings will have a negligible impact on the bottlenose and spotted dolphin stocks of the Gulf of Mexico.

Dated: November 27, 1995

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–29515 Filed 12–4–95; 8:45 am]

BILLING CODE 3510–22–F

Modernization Transition Committee (MTC)

ACTION: Notice of Public Meeting.

TIME AND DATE: December 14, 1995 from 8:00 a.m. to 5:00 p.m.

PLACE: This meeting will take place at the Double Tree Hotel, 1750 Rockville Pike, Rockville, MD, 20852.

STATUS: The meeting will be open to the public. There will be a public comment period from 1:30-2:30 p.m. Seating is available for approximately 50 people.

MATTERS TO BE CONSIDERED: This meeting will cover: Consultation on the FY 1997 National Implementation Plan (NIP) and proposed Consolidation Certifications for WSOs Helena, MT; Havre, MT; Detroit, MI; Kansas City, MO; Concordia, KS; Worcester, MA; Providence, RI; New York City, NY; Waco, TX; West Palm Beach, FL; Daytona Beach, FL; Knoxville, TX; and Beaumont/Port Arthur, TX.

CONTACT PERSON FOR MORE INFORMATION: Mr. Nicholas Scheller, National Weather Service, Modernization Staff, 1325 East-West Highway, SSMC2, Silver Spring, Maryland 20910. Telephone: (301) 713–0454.

Dated: November 29, 1995.

Nicholas E. Scheller,

Manager, National Implementation Staff.

[FR Doc. 95–29488 Filed 12–4–95; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF ENERGY

Draft Environmental Impact Statement for the Plutonium Finishing Plant Stabilization, Hanford Site, Richland, Benton County, WA, Notice of Availability and Announcement of Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of Availability.

SUMMARY: The Department of Energy (DOE) announces the availability of the Plutonium Finishing Plant Stabilization Draft Environmental Impact Statement (DOE/EIS–0244–D). The Draft Environmental Impact Statement (EIS) was prepared pursuant to the National Environmental Policy Act (NEPA) of 1969, and its implementing regulations. The continued presence of relatively large quantities of chemically reactive materials in their present form and location within the Plutonium Finishing Plant (PFP) Facility poses an unacceptable long-term risk to workers, the public, and the environment. DOE has identified the need to expeditiously and safely reduce radiation exposure to workers and the risk to the public; reduce future resources to safely manage the Facility; and remove, stabilize, store, and manage plutonium, pending DOE's future use and disposition decisions.

DATES: DOE invites comments on the Draft PFP Stabilization EIS from all interested parties. Written comments or suggestions regarding the adequacy, accuracy, and completeness of the Draft EIS will be considered in preparing the Final EIS and should be submitted (postmarked) by January 16, 1996. Written comments received after that date will be considered to the degree practicable.

DOE will also hold one public hearing at which agencies, organizations, and the general public will be invited to present oral comments or suggestions on the Draft EIS. Location, date, and time for the public hearing is provided in the section of this notice entitled "PUBLIC HEARING." Written and oral comments will be given equal weight and will be considered in preparing the Final EIS. Requests for copies of the Draft EIS or questions concerning the project should be sent to Mr. Ben F. Burton, DOE, at the address listed in the section of this notice entitled **ADDRESSES.**

ADDRESSES: Written comments on the Draft EIS should be submitted (postmarked) by January 16, 1996, for incorporation into the public hearing record. Oral comments will be accepted at the public hearing. Written comments, requests to speak at the hearing, or questions concerning the PFP EIS should be directed to: Mr. Ben F. Burton, U.S. Department of Energy, Richland Operations Office, Attn: PFP Stabilization EIS, P.O. Box 550, MSIN B1–42, Richland, Washington 99352, (509) 946–3609, 1–800–249–8181.

FOR FURTHER INFORMATION CONTACT: For general information on DOE's EIS process and other matters related to NEPA, please contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background, Purpose and Need for Agency Action

In the late 1980s, a sudden halt in the production of weapons-grade plutonium froze the existing PFP Facility manufacturing pipeline in a state that was unsuited for long-term storage. On January 24, 1994, the Secretary of Energy commissioned a comprehensive assessment to identify and prioritize the environmental, safety, and health vulnerabilities that arise from the storage of plutonium in DOE facilities and determine which are the most dangerous and urgent. The DOE-wide assessment, commonly referred to as the Plutonium Vulnerability Study, identified 15 environmental, safety, and health vulnerabilities at the PFP Facility. These included storage of unstable forms of plutonium, a potential for criticality accidents, and seismic weaknesses. DOE has determined that a feasible alternative for resolution of the safety issues is removal of readily retrievable plutonium-bearing material in hold-up at the PFP Facility and stabilization of these and other plutonium-bearing materials at the PFP Facility through the following four treatment processes: (1) Ion exchange, vertical calcination and thermal stabilization of plutonium-bearing solutions; (2) thermal stabilization of oxides, fluorides, and process residues in a continuous furnace; (3) repackaging of metals and alloys; and (4) pyrolysis of polycubes and combustibles.

Environmental Impact Statement Preparation

The Draft EIS has been prepared in accordance with Section 102(2)(C) of the NEPA, as implemented in regulations promulgated by the Council on Environmental Quality (40 Code of Federal Regulations [CFR] Parts 1500–1508) and by DOE's Implementing Procedures (10 CFR Part 1021). The Draft EIS has been prepared to assess the potential impacts of both the proposed action, and reasonable alternatives to the proposed action, on the human and natural environment.

A Notice of Intent (Notice) to prepare the PFP EIS and hold public scoping meetings in Spokane, Richland, and Bellevue, Washington, and Hood River and Portland, Oregon, was published by DOE in the **Federal Register** on October 27, 1994. A subsequent Notice was published by DOE in the **Federal Register** on November 23, 1994, announcing additional meetings in Portland, Oregon and Seattle, Washington. The Notice invited oral and written comments and suggestions on the proposed scope of the EIS, including environmental issues and alternatives, and invited public participation in the NEPA process. Overall, scoping comments were received that assisted in identifying major issues for subsequent in-depth analysis in the Draft EIS. As a result of the scoping process, an Implementation Plan for the PFP Stabilization EIS was developed to define the scope and provide further guidance for preparing the Draft EIS.

The Draft EIS considers the proposed action, other reasonable alternatives, and the no action alternative.

Comment Procedures

Availability of Draft EIS

Copies of the Draft PFP Stabilization EIS are being distributed to federal, state, tribal and local officials and agencies, as well as organizations and individuals known to be interested in or affected by the proposed project. Additional copies may be obtained by contacting Mr. Burton as provided in the section of this notice entitled **ADDRESSES.** Copies of the Draft PFP Stabilization EIS, including appendices and reference material will be available for public review at the locations listed below.

(1) U.S. Department of Energy, Headquarters, Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Washington D.C. 20585, (202) 586–3142

(2) U.S. DOE Public Reading Room, 100 Sprout Road, Room 130 West, Richland, WA 99352, (509) 376–8583

(3) Government Publications, University of Washington Library, Box 352900, Seattle, WA 98185–2900, (206) 543–1937

(4) Gonzaga University, Foley Center, East 502 Boone Avenue, Spokane, WA 99258, (509) 328–4220

(5) Portland State University, Branford Price Millar Library, SW Harrison and Park, Portland, OR 97207, (503) 725–3690

You may also receive a copy of the Draft EIS by calling the PFP Stabilization EIS toll-free line at 1–800–249–8181.

Written Comment

Interested parties are invited to provide comments to DOE on the content of the Draft EIS as indicated in the section of this notice entitled **ADDRESSES.** Comments submitted (postmarked) after January 16, 1996, will be considered to the extent practicable.

Public Hearing

Procedures

The public is invited to provide oral comments to DOE on the Draft EIS at the scheduled public hearing. Advance registration for the presentation of oral comments at the hearing will be accepted up to the day prior to the scheduled meeting by calling 1–800–249–8181 (prior to 3:00 p.m. Pacific Time). Requests to speak at a specific time will be honored, if possible. Registrants are only allowed to register themselves to speak and must confirm the time they are scheduled to speak at the registration desk the day of the hearing. Persons who have not registered in advance may register to speak when they arrive at the hearing to the extent that time is available. To ensure that as many persons as possible have the opportunity to present comments, five minutes will be allotted to each speaker. Persons presenting comments at the hearing are requested to provide DOE with written copies of their comments at the hearing, if possible. Written comments sent by mail to the office listed in the **ADDRESSES** section above, must be submitted (postmarked) no later than January 16, 1996.

Hearing Schedule and Location

A public hearing will be held at the following location, date and time:

Red Lion Inn—Pasco, 2525 N. 20th, Pasco, Washington 99301, (509) 547–0701

Thursday, January 11, 1996, 6:00 p.m.–9:00 p.m.

Conduct of Hearing

DOE's rules and procedures for the orderly conduct of the hearing will be announced by the presiding officer at the start of the hearing. The hearing will not be of an adjudicatory or evidentiary nature. Speakers will not be cross-examined, although the presiding officer and the DOE hearing panel members will respond to comments and questions from the public. In addition, DOE representatives will be available to discuss the project in informal conversations. A transcript of the hearing will be prepared, and the entire record of the hearing, including the transcript, will be placed on file by DOE for inspection at the public locations given above in the "COMMENT PROCEDURES" section.

Signed in Richland, WA this 21st day of November 1995, for the United States Department of Energy.

John D. Wagoner,

Manager, U.S. Department of Energy, Richland Operations Office.

[FR Doc. 95–29578 Filed 12–4–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP96–79–000]

Texas Gas Transmission Corporation; Notice of Request Under Blanket Authorization

November 29, 1995.

Take notice that on November 20, 1995, Texas Gas Transmission

Corporation (Texas Gas), P.O. Box 20008, Owensboro, Kentucky 42304, filed in Docket No. CP96–79–000, a request pursuant to Section 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a delivery point for Gibbs Die Casting Corporation (Gibbs) in Henderson County, Kentucky. Texas Gas makes such request, under its blanket certificate issued in Docket No. CP82–407–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas indicates that Gibbs' natural gas requirements for its plant in Henderson County, Kentucky, are presently supplied on an interruptible sales basis by the Henderson Municipal Gas Department (City of Henderson, Kentucky), a municipal customer of Texas Gas. It is stated that Gibbs has requested that Texas Gas construct a new delivery point in Henderson County to enable Gibbs to receive natural gas transportation service directly from Texas Gas. The proposed new delivery point for Gibbs will be known as the Gibbs-Henderson Meter Station. The estimated cost to construct said facilities is $66,850, and it is stated that Gibbs will reimburse Texas Gas in full for the cost of the facilities to be installed by Texas Gas.

It is stated that Gibbs is requesting up to 2,300 MMBtu of natural gas per day to be supplied by a combination of firm transportation, interruptible transportation and released capacity for plant usage at its Henderson plants. It is further stated that this service will be provided by Texas Gas pursuant to the authority of its blanket certificate issued in Docket No. CP88–686–000 and Sections 248.223 of the Commission's Regulations. The rate schedules applicable to the proposed service will be Texas Gas' FT and IT Rate Schedules, as contained in First Revised Volume No. 1 of Texas Gas' FERC Gas Tariff.

It is indicated that because of the relatively small amount of firm natural gas service involved, that this proposal will have no significant impact on Texas Gas' peak day and annual deliveries.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29522 Filed 12–4–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–197–000 and RP95–197–001]

Transcontinental Gas Pipe Line Corporation; Notice of Informal Settlement Conference

November 29, 1995.

Take notice that an informal settlement conference will be convened in this proceeding on Monday, December 11, 1995, at 11:00 a.m., for the purpose of exploring the possible settlement of the above-referenced proceeding. The conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's Regulations. *See* 18 CFR 385.214.

For additional information, please contact Warren C. Wood at (202) 208–2091 or Donald A. Heydt at (202) 208–0740.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29523 Filed 12–4–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG96–16–000]

West Allegheny Biomass Energy Corp.; Notice of Application for Determination of Exempt Wholesale Generator Status

November 29, 1995.

On November 16, 1995, West Allegheny Biomass Energy Corp. (Applicant), of 327 Winding Way, King of Prussia, Pennsylvania 19406, filed with the Federal Energy Regulatory Commission an application for a determination of exempt wholesale generator status pursuant to 18 CFR Part 365 of the Commission's Regulations.

Applicant, a Pennsylvania corporation, states that it intends to own and operate a generating facility (Facility), to be located in Butler County, Pennsylvania, that will consist of a 12 mw biomass-fueled combustion turbine and related interconnection facilities. The facility will be located in a new industrial park being developed in Allegheny Township, Pennsylvania.

Any person desiring to be heard concerning this application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before December 11, 1995 and must be served on the Applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29524 Filed 12–4–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Research

Energy Research Financial Assistance Program Notice 96–02; Enhanced Research Capabilities at DOE User Facilities

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Basic Energy Sciences (BES) of the Office of Energy Research (ER), U.S. Department of Energy, hereby announces its interest in receiving grant applications for new capabilities or for upgrading existing research capabilities for innovative *fundamental* research at DOE-supported synchrotron light sources and neutron sources, and the Combustion Research Facility. Such instrumentation should employ state-of-the-art technology so that the photon and neutron beams are utilized more effectively. Applications for the development of new capabilities, as well as upgrading of existing capabilities are encouraged.

DATES: Potential applicants are strongly encouraged to submit a brief preapplication. All preapplications, referencing Program Notice 96–02, should be received by DOE by 4:30 p.m. E.S.T., December 29, 1995. A response discussing the potential program relevance of a formal application generally will be communicated to the applicant within 30 days of receipt. The deadline for receipt of formal applications is 4:30 p.m., E.S.T., February 8, 1996, in order to be accepted for merit review and to permit timely consideration for award in fiscal year 1996.

ADDRESSES: All preapplications, referencing Program Notice 96–02, should be sent to Dr. William T. Oosterhuis, Office of Basic Energy Sciences, Division of Materials Sciences, ER–13, U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290.

After receiving notification from DOE concerning successful preapplications, applicants may prepare formal applications and send them to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, Attn: Program Notice 96–02. The above address for formal applications also must be used when submitting formal applications by U.S. Postal Service Express Mail, any commercial mail delivery service, or when handcarried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. William T. Oosterhuis, Office of Basic Energy Sciences, Division of Materials Sciences, ER–13, U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone: (301) 903–3426.

SUPPLEMENTARY INFORMATION: As part of the President's Science Facilities Utilization Enhancement to make more efficient use of the National User Facilities listed below, the instrumentation (such as optics, detectors, and data collection electronics) needed to increase the experimental throughput at these powerful sources has to be at the state-of-the-art. At some user facilities, there is a distinct need to upgrade the instrumentation to increase the resolution, to detect more photons or neutrons per unit time, and increase the quality of the data so that more and better experiments can be carried out. At other user facilities, there is a need to put more beamlines on the experimental floor to make more experiments possible while the facility is operating. The National User Facilities supported by the Office of Basic Energy Sciences are the National Synchrotron Light Source (NSLS), High Flux Beam Reactor (HFBR), Combustion Research Facility (CRF), High Flux Isotope Reactor (HFIR), Intense Pulsed Neutron Source (IPNS), Stanford Synchrotron Radiation Laboratory (SSRL), Advanced Light Source (ALS), Advanced Photon Source (APS), and Los Alamos Neutron Scattering Center (LANSCE). These facilities have the capabilities of extreme flux, or brightness, to make certain experiments possible which would otherwise be impossible. The interest is in exploiting these capabilities to the maximum extent possible.

The Department's intention for this program is to support fundamental research which will include the upgrade and/or development of new instrumentation to optimize the use of these National User Facilities operated by the Department. The ability to conduct innovative fundamental research should be emphasized in each application. Applicants are encouraged to collaborate with industry and to incorporate cost sharing and consortia wherever feasible. The extent of the collaboration and cost sharing will be factors, along with the principal criterion of the scientific merit of the application, in the selection process by the Department.

Grant applications are encouraged from all disciplines (including solid state physics, materials chemistry, metals and ceramics, chemical sciences, structural biology, geosciences, and environmental sciences) for energy-relevant research which make use of the DOE-supported user facilities. Instrumentation appropriate for consideration would include, but not be limited to, the following: beamline optics and transport guides, monochromators of much greater resolution, more efficient detectors to reduce the background noise, electronics and data processing equipment to enable investigators to carry out new or more difficult experiments and/or more experiments in the same amount of time.

The brief preapplication, in accordance with 10 CFR 600.10(d)(2), should consist of two to three pages of narrative describing the research objectives and methods of accomplishment. The preapplications will be reviewed relative to the scope and research needs of the DOE's fundamental research programs at these facilities. Telephone and FAX numbers are required parts of the preapplication, and electronic mail addresses are desirable.

It is anticipated that approximately $5,000,000 will be available for grant awards during FY 1996 which will enable innovative fundamental research through major enhancements in instrumentation or capabilities at these user facilities, contingent upon the availability of appropriated funds. The number of awards and the range of funding will depend on the number of applications received and selected for award. Information about the development, submission, and the selection process, and other policies and procedures may be found in 10 CFR Part 605, and in the Application Guide for the Office of Energy Research Financial Assistance Program. The Application Guide is available from the U.S. Department of Energy, Materials Sciences Division, Office of Energy Research, ER–13, 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone requests may be made by calling (301) 903–3426. Electronic access to ER's Financial Assistance Guide is possible via the Internet using the following E-mail address: http://www.er.doe.gov/.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC on November 16, 1995.

D.D. Mayhew,

Associate Director, Office of Resource Management, Office of Energy Research.

[FR Doc. 95–29577 Filed 12–4–95; 8:45 am]

BILLING CODE 6455–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5336–4]

Technical Forum on the Grand Canyon Visibility Transport Commission

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Leary, Project Manager for the Grand Canyon Visibility Transport Commission, Western Governor's Association, 600 17th Street, Suite 1705, South Tower, Denver, Colorado 80202; telephone number (303) 623–9378; facsimile machine number (303) 534–7309.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) is announcing a public forum to address technical issues relating to the assessment of emissions management scenarios being performed by the Grand Canyon Visibility Transport Commission (Commission).

The Forum will convene at Desert Research Institute, 755 East Flamingo Road, Las Vegas, Nevada Las Vegas on

December 13 through 15, 1995 to address technical issues that feed into the Commission's assessment process and thus form a part of the basis for its recommendations to the U. S. Environmental Protection Agency. In addition, the Commission's Technical Committee wishes to afford interested persons an opportunity for an exchange of ideas with its members regarding databases and analytical tools and the application thereof that the Commission's Alternatives Assessment Committee will use in carrying out its integrated assessment.

Interested persons are asked to submit comments and additional technical issues to be considered at the meeting to the Technical Committee. Submissions should be made on forms which can be obtained from the Grand Canyon Visibility Transport Commission, c/o Western Governors' Association, 600 17th Street, Suite 1705 S. Tower, Denver, CO 80202. Issues must be submitted by November 17, 1995 to be considered.

The Commission was established by the EPA on November 13, 1991 (see 56 FR 57522, November 12, 1991). All meetings are open to the public. These meetings are not subject to provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended.

Dated: November 21, 1995.

Felicia Marcus,

Regional Administrator, U.S. Environmental Protection Agency, Region 9.

[FR Doc. 95–29556 Filed 12–4–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1069–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida (FEMA–1069–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: November 14, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for Lee and Collier Counties is closed effective October 31, 1995.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–29562 Filed 12–4–95; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

CCB Financial Corporation; Notice of Proposal to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has given notice under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether commencement of the activity can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 19, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. CCB Financial Corporation, Durham, North Carolina; to engage *de novo* through its subsidiary, CCB Financial Corporation, Durham, North Carolina, in making, acquiring, or servicing loans or other extensions of credit, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 29, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29547 Filed 12–4–95; 8:45 am]

BILLING CODE 6210–01–F

First Bank System, Inc.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 95-28825) published on pages 58363 and 58364 of the issue for Monday, November 27, 1995.

Under the Federal Reserve Bank of Minneapolis heading, the entry for First Bank System, Inc., is revised to read as follows:

1. First Bank System, Inc., Minneapolis, Minnesota; to acquire, through its wholly owned subsidiary, Eleven Acquisition Corp., Minneapolis, Minnesota, 100 percent of the voting shares of First Interstate Bancorp, Los Angeles, California, and thereby indirectly acquire First Interstate Bank of California, Los Angeles, California, First Interstate Bank of Montana, National Association, Kalispell, Montana, First Interstate Bank, Ltd., Los Angeles, California, First Interstate Bank of Englewood, National Association, Englewood, Colorado, First Interstate Bank of Alaska, National Association, Anchorage, Alaska, First Interstate Bank of Arizona, National Association, Phoenix, Arizona, First Interstate Bank of Denver, National Association, Denver, Colorado, First Interstate Bank of Idaho, National Association, Boise, Idaho, First Interstate Bank of New Mexico, National Association, Santa Fe, New Mexico, First Interstate Bank of Nevada, National Association, Las Vegas, Nevada, First Interstate Bank of Oregon, National Association, Portland, Oregon, First Interstate Bank of Texas, National Association, Houston, Texas, First Interstate Bank of Utah, National Association, Salt Lake City, Utah, First Interstate Bank of Washington, National Association, Seattle, Washington, First Interstate Bank of Wyoming, National Association, Casper, Wyoming, and First Interstate Central Bank, Calabasas, California.

In connection with this application, First Bank System, Inc., also has applied to acquire First Interstate Resource Finance Associates, Newport Beach, California, a venture capital firm, and thereby engage in making, acquiring, or servicing loans or other extensions of credit (including issuing letters of credit and accepting drafts) for the company's account or for the account of others, pursuant to § 225.25(b)(1) of the Board's Regulation Y, and to acquire First Interstate Bancorp's voting interest in Star System, Inc., a California nonprofit mutual benefit corporation, and thereby provide data transmission services through an electronic funds transfer network, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

First Bank System also has applied to exercise an option to acquire up to 19.9 percent of the voting shares of First Interstate Bancorp.

Comments on this application must be received by December 21, 1995.

Board of Governors of the Federal Reserve System, November 29, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29548 Filed 12–4–95; 8:45 am]

BILLING CODE 6210–01–F

James River Bankshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than December 29, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. James River Bankshares, Inc., Suffolk, Virginia; to acquire 100 percent of the voting shares of Bank of Isle of Wight, Smithfield, Virginia.

Board of Governors of the Federal Reserve System, November 29, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29549 Filed 12–4–95; 8:45 am]

BILLING CODE 6210–01–F

SouthTrust Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has given notice under § 225.23(a)(2) or (e) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (e)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received not later than December 19, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. SouthTrust Corporation, Birmingham, Alabama, and SouthTrust of Georgia, Inc., Atlanta, Georgia; to acquire Bankers First Corporation, and its subsidiary, Bankers First Savings Bank, both of Augusta, Georgia, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y. At consummation, Bankers First Corporation will merge into SouthTrust of Georgia, Inc., and Bankers First Savings Bank, FSB, will merge into SouthTrust of Georgia's bank subsidiary, SouthTrust Bank of Georgia, N.A., Atlanta, Georgia.

Board of Governors of the Federal Reserve System, November 29, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29550 Filed 12–4–95; 8:45 am]

BILLING CODE 6210–01–F

Ruth Cain Thorne; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than December 19, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Ruth Cain Thorne, Belmont, Mississippi; as Trustee of The Weatherford Foundation of Red Bay, Alabama, Inc., Red Bay, Alabama, to retain a total of 60.90 percent of the voting shares of Independent Bancshares, Inc., Red Bay, Alabama, and thereby indirectly retain shares of Bank of Red Bay, Red Bay, Alabama.

Board of Governors of the Federal Reserve System, November 29, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29551 Filed 12–4–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–3453.

The following requests have been submitted for review since the last publication date on November 29, 1995.

Proposed Projects

1. National Home and Hospice Care Survey—(0920–0298)—Reinstatement—The National Home and Hospice Care Survey (NHHCS) was conducted in 1992, 1993, and 1994. It is part of the Long- Term Care Survey. Section 306 of the Public Health Service Act States that the National Center for Health Statistics "shall collect statistics on health resources * * * [and] utilization of health care, including utilization of * * * services of hospitals, extended care facilities, home health agencies, and other institutions." NHHCS data are used to examine this most rapidly expanding sector of the health care industry. Data from the NHHCS are widely used by the health care industry and policy makers for such diverse analyses as the need for various medical supplies; minority access to health care; and planning for the health care needs of the elderly. The NHHCS also reveals detailed information on utilization patterns, as needed to make accurate assessments of the need for and costs associated with such care. Data from earlier NHHCS collections have used by the Congressional Budget Office, the Bureau of Health Professionals, the Maryland Health Resources Planning Commission, the National Association for Home Care, and by several newspapers and journals. Additional uses are expected to be similar to the uses of the National Nursing Home Study. NHHCS data cover: Baseline data on the characteristics of hospices and home health agencies in relation to their patients and staff, Medicare and Medicaid certification; costs to patients, sources of payment, patient's functional status and diagnoses, and categories of staff employees. Data collection is planned for the period July- October, 1996. Survey design is in process now.

Sample selection and preparation of layout forms will precede the data collection by several months.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)
Facility	1200	1	0.333
Current Patient	8400	1	0.19
Discharged Patient	8400	1	0.214

The total annual burden is 3,792. Send comments to Allison Eydt; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

2. National Hospital Discharge Survey—(0920–0212)—Extension—The National Hospital Discharge Survey (NHDS), which has been conducted continuously by the National Center for Health Statistics, CDC, since 1965, is the principal source of data on inpatient utilization of short-stay, non-Federal hospitals and is the only annual source of nationally representative estimates on the characteristics of discharges, the lengths of stay, diagnoses, surgical and non-surgical procedures, and the patterns of use of care in hospitals in various regions of the country. It is the benchmark against which special programmatic data sources are compared. Data collected through the NHDS are essential for evaluating health status of the population, for the planning of programs and policy to elevate the health status of the Nation, for studying morbidity trends, and for research activities in the health field. NHDS data have been used extensively in the production of goals for the Year 2000 Health Objectives and the subsequent monitoring of these goals. In addition, NHDS data provide annual updates for numerous tables in the Congressionally-mandated NCHS report, Health, United States. Data from the NHDS are collected annually on approximately 250,000 discharges from a nationally representative sample of Federal hospitals. The data items collected are the basic core of variables contained in the Uniform Hospital Discharge Data Set (UHDDS). Data for approximately half of the responding hospitals are abstracted from medical records while the remainder of the hospital supply data through commercial abstract service organizations, state data systems, in-house tapes of printouts.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)
Primary Procedure Hospitals	77	251	0.083
Alternate Procedure Hospitals	136	250	0.016
Update (Abstract Service Hospitals)	150	2	0.033
Quality Control Forms (Hospitals)	50	40	0.016
Induction Forms (Hospitals)	40	1	2

The total annual burden is 2,269. Send comments to Allison Eydt; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

3. Functional Outcome and Use of Services Following Firearm Injuries—New—Patients admitted to an urban hospital for treatment of a firearm injury will be followed in order to: (1) Examine the nature and extent of functional limitations and disability following a firearm injury, (2) examine the factors that influence patient recovery, and (3) document the use of post-acute services and barriers to receiving those services. The following data will be collected: (1) Patients will be interviewed in person prior to discharge and by phone at three months and nine months after discharge, and (2) the medical record will also be abstracted.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)
Patients with firearms injuries	320	3	0.60

The total annual burden is 576. Send comments to Allison Eydt, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: November 29, 1995.

Wilma G. Johnson,

Acting Associate Director for Policy Planning And Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–29559 Filed 12–4–95; 8:45 am]

BILLING CODE 4163–18–P

[INFO–95–07]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–3453.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Resources and Services Database of the CDC National AIDS Clearinghouse (NAC)—(0920–0255)—Extension—This is a request to extend this project for three years. NAC will mail the Resource Organization Questionnaire along with a cover letter once an organization is identified as providing AIDS-related services. Each organization will also receive a stamped, self-addressed envelope for the return of the questionnaire. If there is no response a follow-up letter will be sent along with another questionnaire and return envelope. A telephone call will be made to those organizations who respond but whose responses need clarification. Approximately one third of the entire Resources and Services Database is verified each year. As part of this process, 40 percent of these organizations will receive a copy of their current database entry by mail, including a cover letter, a list of instructions, and a stamped, self-addressed envelope. The remaining 60 percent will receive a telephone call to review their record.

The Centers for Disease Control and Prevention (CDC) National AIDS Clearinghouse (NAC), is a critical member of the network of government agencies, community organizations, businesses, health professionals, educators, and human services providers that educate the American public about Acquired immunodeficiency syndrome (AIDS) and provide services for persons infected with human immunodeficiency virus (HIV). NAC's Resources and Services Database contains records of approximately 18,000 organizations and is the most comprehensive listing of AIDS resources and services available throughout the country.

NAC's reference staff rely on the Resources and Services Database to respond to more than 100,000 requests for information or referral each year. The Database is also the main information source for the CDC National AIDS Hotline which refers approximately 1.8 million callers from the general public each year to appropriate organizations for information, services, and treatment.

In its continuing efforts to maintain an up-to-date, comprehensive database, NAC is seeking renewal of approval of the survey instrument and proposed methods. The total cost to respondents is estimated at $94,466.00.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Questionnaire	2,400	1	0.33	800
Clarification follow-up	360	1	0.17	60
Verification	10,636	1	0.33	3545
Verif. follow-up	993	1	0.17	166
Total	.....	.....	.....	3771

2. Evaluation of a Training Curriculum for Hemophilia Nurses Who Teach Home Infusion and Infection Control—New—The Hematologic Disorders Branch at CDC has plans to develop, pilot, and evaluate training curricula for hemophilia health care providers to improve their knowledge and skills in teaching home infusion of

Factors VII and IX (coagulating agents which reduce the bleeding resulting from a deciciency of natural clotting agents in the blood of people with hemophilia) and infection control related to the infusion. CDC has initiated the development of a self-learning manual for nurses with responsibility of teaching hemophilia patients and their families about home infusion and infection control (HI/IC). The goals of the manual are (1) to facilitate nurses' understanding of content that should be covered when teaching HI/IC techniques, and (2) to assist nurses in determining how they can best teach HI/IC to patients and their families. The purpose of the proposed data collection is to assess the efficacy of the manual in achieving those goals.

An experimental design will be employed in this study in which 100 randomly sampled nurses will be assigned to either an experimental condition (n=50) or to a control group (n=50). Nurses in the experimental condition will be asked to use the manual, while those in the control condition will continue their current practices and engage in any naturally-occuring learning experiences related to HI/IC. Baseline and follow-up surveys administered to both groups will yield data that will be used to determined the difference in knowledge, attitudes, and skills that can be attributed to use of the self-learning guide.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Nurses in experimental condition	50	2	0.50	50
Nurses in control condition	50	2	0.50	50
Total				100

3. Complications Associated with Home Infusion Therapy: The Nature and Frequency of Blood Contacts Among Health Care Workers—NEW—Occupational blood contact and the potential for transmission of bloodborne pathogens is a serious concern for health care workers (HCWs) who provide care to patients. There are no data on the frequency of occupational percutaneous injuries and mucocutaneous blood contact among HCWs who provide home infusion therapy.

The Hospital Infections Program, National Center for Infectious Diseases, will conduct prospective, active surveillance of HCWs who provide home infusion therapy. The objectives of the surveillance project are to (1) estimate the procedure-specific frequency of and assess risk factors for percutaneous, mucous membrane, or cutaneous blood contacts sustained by HCWS during the delivery of home infusion therapy and the performance of related procedures, such as phlebotomy and blood culture collection; (2) describe and evaluate the effectiveness of infection control precautions and safety devices to prevent blood contacts; and (3) evaluate the impact of HCWs' knowledge of universal precautions on the use of protective equipment, safety devices, and the frequency of blood contacts.

The population under surveillance will be nurses and phlebotomists from three home health care agencies. Before beginning data collection, HCWs will complete a background questionnaire to provide basic demographic information as well as information about previous blood contacts. HCWs will then complete an exposure questionnaire after each home visit for a two-four week data collection period. This questionnaire will include information about the reason for the visit, the types of procedures performed, the length of the visit, the number and types of blood contacts sustained, and the use of infection control precautions and any safety devices. At the end of their individual data collection period, each HCW will complete an infection control questionnaire to assess knowledge and attitudes related to blood contacts and the use of universal precautions. The total cost to respondents is estimated at $24,633.

Respondents (HCWs)	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden
Background questionnaire	1337	1	.083	111
Exposure questionnaire	1337	41	.0167	915
Infection control questionnaire	1337	1	.083	111
Total				1137

4. Surveillance and Epidemiology Study Core Questionnaire and Supplement Modules—(0923–0010)—Revision—ATSDR is revising and renewing the project which follows populations exposed to specific hazardous substances over a period of time to determine if they are experiencing elevated occurrence of diseases. In addition to demographic information, additional core information is collected on behavioral characteristics and health conditions. The supplemental modules are also included in the request that may be used, depending on the organ system targeted or the type of respondent (renal, liver, occupational, respiratory, etc). The total cost to respondents is estimated at $53,153.64.

Respondents	No. of Respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Households	2667	7	.369	4908

Dated: November 29, 1995.

Wilma G. Johnson,

Acting Associate Director for Policy Planning And Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–29558 Filed 12–4–95; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

[Docket No. 95N–0358]

Revised FDA Form 2830 Blood Establishment Registration and Product Listing (8/95); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the revised FDA Form 2830 Blood Establishment Registration and Product Listing (8/95). This form replaces the previous edition of FDA Form 2830 (7/93). FDA Form 2830 is used for blood establishment registration and product listing, in accordance with the agency's regulations. FDA has made minor changes to the blood establishment registration and product listing which are intended to update the form, simplify processing, provide for efficient and effective use of the data base, and decrease expenditure of resources for both FDA and industry.

DATES: FDA will continue to accept submissions using the previous FDA Form 2830 (7/93) until June 5, 1996.

FOR FURTHER INFORMATION CONTACT: Valerie A. Windsor, Center for Biologics Evaluation and Research (HFM–630), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

ADDRESSES: Submit written requests for single copies of the revised FDA Form 2830 Blood Establishment Registration and Product Listing (8/95) to the Congressional and Consumer Affairs Branch (HFM–12), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, or call FDA's automated information system at 800–835–4709. Send two self-addressed adhesive labels to assist that office in processing your requests. The revised FDA Form 2830 Blood Establishment Registration and Product Listing (8/95) may also be obtained by calling the CBER FAX Information System (FAX—ON—DEMAND) at 301–594–1939 from a touch tone phone. Submit written comments on the revised FDA Form 2830 Blood Establishment Registration and Product Listing (8/95) to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Two copies of any comments are to be submitted, except that individuals may submit one copy. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The revised FDA Form 2830 Blood Establishment Registration and Product Listing (8/95) and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: FDA is making available revised FDA Form 2830 Blood Establishment Registration and Product Listing (8/95), used in accordance with part 607 (21 CFR part 607), by owners or operators of establishments that engage in the manufacturing of blood products. Minor revisions have been made to the format of the form and the information solicited which include, but are not limited to, the following: (1) Revised FDA Form 2830 was reformatted into a single copy form, which replaces the previous four-copy form; (2) item 15, products, was revised by: (a) Adding Red Blood Cells Rejuvenated Frozen and Red Blood Cells Rejuvenated Deglycerolized and (b) adding a column to identify irradiated blood products; (3) item 13, type establishment, was revised by adding product testing laboratory, with the subheadings: Independent and associated with community or hospital blood bank; and (4) instructions for completing blood registration FDA Form 2830, were revised and included on a separate page.

In addition, the revised form continues to solicit the following information: (1) Registration number; (2) legal name and location; (3) reporting official; (4) type of ownership; (5) type establishment; (6) listing of products collected, processed, prepared, tested, and stored for distribution; and (7) human immunodeficiency virus (HIV) and hepatitis B surface antigen (HBsAg) proficiency test program name.

In accordance with § 607.20, owners or operators of all establishments that engage in the manufacture of blood products are required to register and to submit a list of every blood product in commercial distribution, whether or not the output of such blood product establishment or any particular blood product so listed enters interstate commerce.

Owners or operators of establishments that engage in the manufacturing of blood products that are currently registered with FDA need not request the revised form. In accordance with § 607.22, FDA Form 2830 will be distributed by FDA before November 15 of each year to establishments whose product registration for that year was validated, pursuant to § 607.35. In addition, these establishments are required to update their blood product listing information every June and December. New owners or operators of establishments that engage in the manufacturing of blood products may request the revised form as instructed under the **ADDRESSES** caption (see above).

Owners or operators of establishments that engage in the manufacture of blood products that are preparing to submit applications for blood establishment registration and product listing should now utilize the revised FDA Form 2830 (8/95). FDA will continue to accept submissions using the previous FDA Form 2830 (7/93) until June 5, 1996.

Under the Paperwork Reduction Act of 1995 (Pub. L. 104–13), all forms requesting a collection of information on identical items from 10 or more public respondents must be approved by the Office of Management and Budget (OMB) and must display a valid OMB control number and expiration date. OMB approval for FDA Form 2830 was obtained on February 9, 1993, and given OMB approval number 0910–0052; expiration date February 28, 1996, however, the expiration date has been extended by OMB to May 31, 1996. Since these minor revisions to FDA Form 2830 did not increase burden to the public, OMB approval was not required.

Dated: November 28, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–29479 Filed 12–4–95; 8:45 am]

BILLING CODE 4160–01–F

Request for Nominations for Members on Public Advisory Committees; Science Board to the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for members to serve on the Science Board to the Food and Drug Administration (the board). Nominations will be accepted for current vacancies and vacancies that will or may occur on the board during the next 24 months.

FDA has a special interest in ensuring that women, minority groups, and individuals with disabilities are adequately represented on advisory committees, and therefore, extends particular encouragement to nominations for appropriately qualified female, minority, or physically disabled candidates. Final selections from among qualified candidates for each vacancy will be determined by the expertise required to meet specific agency needs and in a manner to ensure appropriate balance of membership.

DATES: Nominations should be received by January 15, 1996.

ADDRESSES: All nominations and curricula vitae from academia, industry, and government representatives, except for general public representatives (consumer-nominated members), should be sent to Zelma S. Rein (address below). All nominations for general public representatives (consumer-nominated members) should be sent to Annette J. Funn (address below).

FOR FURTHER INFORMATION CONTACT:

Regarding all nominations for membership, except for general public representatives: Zelma S. Rein, Office of Science (HF–33), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3340.

Regarding all nominations for general public representatives: Annette Funn, Office of Consumer Affairs, (HFE–50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5006.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for members to serve on the board for two vacancies occurring December 31, 1995, and four vacancies occurring December 31, 1996.

Function

The function of the board is to provide advice primarily to the agency's Senior Science Advisor and, as needed, to the Commissioner of Food and Drugs and other appropriate officials on specific complex and technical issues as well as emerging issues within the scientific community in academia and industry. Additionally, the board provides advice to the agency on keeping pace with technical and scientific evolutions in the field of regulatory science, on formulating an appropriate research agenda and on upgrading its scientific and research facilities to keep pace with these changes. The board also provides the means for critical review of agency-sponsored intramural and extramural scientific research programs.

Criteria for Members

Persons nominated for membership from academia, industry, and government representatives shall be knowledgeable in the fields of chemistry, pharmacology, toxicology, clinical research, and other scientific disciplines. The term of office is up to 4 years, depending on the appointment date.

General Public Representatives (Consumer-nominated Members)

FDA currently attempts to place members on advisory committees who are nominated by consumer organizations. These members are recommended by a consortium of 12 consumer organizations that has the responsibility for screening, interviewing, and recommending consumer-nominated candidates with appropriate scientific credentials. Candidates are sought who are aware of the consumer impact of committee issues, but who also possess enough technical background to understand and contribute to the committee's work. The agency notes, however, that for some advisory committees, it may require such nominees to meet the same technical qualifications and specialized training required of other expert members of the committee. The term of office for these members is up to 4 years, depending on the appointment date. Nominations are invited for consideration for membership as openings become available.

Nomination Procedures

Any interested person may nominate one or more qualified person for membership on the board. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the board, and appears to have no conflict of interest that would preclude board membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: November 27, 1995.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 95–29572 Filed 12–4–95; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Request for Nominations to the National Advisory Committee on Rural Health

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is requesting nominations to fill five vacancies on the Secretary's National Advisory Committee on Rural Health.

DATES: Nominations must be received by close-of-business on Friday, January 5, 1996.

ADDRESSES: Nominations and the curricula vitae of nominees should be sent to Dena S. Puskin, Sc.D., Executive Secretary to the National Advisory Committee on Rural Health, Room 9–05, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Lisa Shelton at the above address, or phone (301) 443–0835 for further information.

SUPPLEMENTARY INFORMATION: The HRSA is requesting nominations under the authorities that established the National Advisory Committee on Rural Health: the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–473) and Section 22 of the Public Health Service Act.

The National Advisory Committee on Rural Health is an 18-member citizens' panel appointed by the U.S. Secretary of Health and Human Services to provide advice on rural health needs. Drawing from committee members' diverse experience with rural health care issues, the committee annually reports to the Secretary on the rural impact of the Department's policies and regulations. It also offers recommendations for strategies that could improve the provision and financing of health care services in rural areas.

Each appointee serves a four-year term and is a voting member of the committee. Appointees to the five seats becoming vacant will serve July 1, 1996 through June 30, 2000.

This year the Department is requesting nominations for five members whose expertise would include experience in one or more of the following: (1) The development and delivery of health services in rural areas; (2) state government and state-wide development of rural health programs; (3) rural mental health/substance abuse; (4) health economics and health care financing; (5) rural health professions education; and (6) rural health research.

Nomination Procedure

Any interested person may nominate for consideration one or more qualified individuals for membership on the committee. Nominators shall note that the nominee is willing to serve as a member of the committee for the full, four-year term, and that such person appears to have no conflict of interest that would preclude this service. For each nominee, nominations must include a complete curriculum vitae, a current business address, and a daytime telephone number. Nominators are invited to state why they believe a nominee to be particularly well-qualified. Please note that due to time constraints, incomplete nominations (such as those without a curriculum vitae) will not be considered.

The Department has a special interest in assuring that appropriately qualified citizens who are women, members of a minority, or who have a physical disability are adequately represented on advisory bodies. It therefore encourages the nomination of such candidates to the National Advisory Committee on Rural Health. The Department will also give close consideration to an equitable geographic representation.

Appointments shall be made without discrimination on the basis of age, race, sex, culture, religion, or socioeconomic status.

Dated: November 30, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–29531 Filed 12–4–95; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P; AA–50379–27]

Notice for Publication; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Section 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(e), will be issued to Chugach Alaska Corporation for 3,182.31 acres. The lands involved are in the vicinity of Cordova, Alaska.

Copper River Meridian, Alaska

T. 13 S., R. 5 W.;
T. 14 S., R. 5 W.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until January 4, 1996, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Chris Sitbon,

Land Law Examiner, Branch of Gulf Rim Adjudication.

[FR Doc. 95–29560 Filed 12–4–95; 8:45 am]

BILLING CODE 4310–JA–P

[ES–930–06–1320–020241A]

Amendment to the List of Affected States Under Federal Coalbed Methane Recovery Regulations

AGENCY: Bureau of Land Management.

ACTION: Removal of Indiana from the List of Affected States.

SUMMARY: The Energy Policy Act of 1992 (the Act) (P.L. 102–486) requires that the Secretary of the Interior (Secretary) administer a Federal program to regulate coalbed methane development in states where coalbed methane development has been impeded by disputes or uncertainty over ownership of coalbed methane gas. As required by the Act, the Department of the Interior, with the participation of the Department of Energy, developed a List of Affected States to which this program would apply (58 FR 21589, April 22, 1993). The List of Affected States is currently comprised of the States of Illinois, Indiana, Kentucky, and Tennessee.

The legislative body of the State of Indiana, in the form of a resolution passed on March 6, 1995, petitioned the Secretary of the Interior for removal from the List of Affected States. The resolution stated that the General Assembly of the State of Indiana petitions the Secretary of the interior to delete Indiana from the List of Affected States for the purposes of section 1339 of the Energy Policy Act of 1992. Section 1339 of the Act provides three mechanisms by which a state may be removed from the List of Affected States:

1. A state may pass a law or resolution requesting removal;

2. The governor of a state may petition for removal, but only after giving the legislature 6-months notice, during a legislative session, of his intention to submit the petition; or

3. The state legislature implements a law or regulation permitting and encouraging the development of coalbed methane.

Since the State of Indiana has met the condition for removal from the List of Affected States by passing a resolution requesting removal, the State of Indiana is officially removed from the List of Affected States.

FOR FURTHER INFORMATION CONTACT: David R. Stewart, Chief, Branch of Resources Planning and Protection, Bureau of Land Management, Eastern States, 7450 Boston Boulevard, Springfield, Virginia 22153, or telephone (703) 440–1728; or Charles W. Byrer, U.S. Department of Energy, 3610 Collins Ferry Road, Morgantown, West Virginia 26507, or telephone (304) 291–4547.

Dated: November 27, 1995.

Gary D. Bauer,

Acting State Director.

[FR Doc. 95–29543 Filed 12–4–95; 8:45 am]

BILLING CODE 4310–GJ–M

[OR–030–06–1220–00; GP6–0030]

Notice of Meeting of Southeastern Oregon Resource Advisory Council

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is given that a meeting of the Southeastern Oregon Resource Advisory Council will be held January 8, 1996 from 1:00 p.m. to 9:00 p.m. and January 9, 1996 from 8:00 a.m. to 12:00 p.m. at the Harney County Museum Club Room, 18 West "D" Street, Burns, Oregon.

At an appropriate time, the Council will recess for approximately one hour for lunch and one and one-half hours for dinner. Public comments will be received from 6:00 p.m. to 7:00 p.m., January 8. Topics to be discussed are administrative activities of the Council, the Southeastern Oregon Resource Management Plan, and standards and guidelines for livestock grazing on public lands.

DATES: The meeting will begin at 1:00 p.m. to 9:00 p.m. January 8, 1996 and 8:00 a.m. to 12:00 p.m. January 9, 1996.

ADDRESSES: The meeting will take place in the Harney County Museum Club Room 18 West "D" Street, Burns, Oregon.

FOR FURTHER INFORMATION CONTACT: Jonne Hower, Bureau of Land Management, Value District, 100 Oregon Street, Vale, OR 97918, (telephone 503 473–3144).

Lynn Findley,

Assistant District Manager, Operations.

[FR Doc. 95–29508 Filed 12–4–95; 8:45 am]

BILLING CODE 4310–33–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 25, 1995. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by December 20, 1995.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Crawford County

No. 12 School,
E of Co. Rd. 402, approximately 6 mi. W of Chester,
Chester vicinity, 95001481

Washington County

Shelton, Lynn, American Legion Post No. 27,
28 S. College Ave.,
Fayetteville, 95001480

COLORADO

Denver County

Romeo Block,
2944 Zuni St.,
Denver, 95001485

LOUISIANA

Orleans Parish

Arabella Station,
5600 Magazine St.,
New Orleans, 95001484

MARYLAND

Worcester County

Friendship United Methodist Church, Old,
Meadow Bridge Rd.,
West Post Office vicinity, 95001490

MISSOURI

Cape Girardeau County

Miller–Seabaugh House and Dr. Seabaugh Office Building,
341 Market St.,
Millersville, 95001494

Newton County

Second Baptist Church,
430 W. Grant St.,
Neosho, 95001495

Sullivan County

Milan Railroad Depot,
Jct. of E. Third St. and Short St.,
Milan, 95001493

NEBRASKA

Saline County

Rad Saline Center cis. 389 Z. C. B. J.,
Off NE 15, about 9 mi. N of Western,
Western vicinity, 95001483

NEW YORK

St. Lawrence County

Russell Town Hall,
Jct. of Main and Mill Sts., NW corner,
Russell, 95001492

Suffolk County

Sherrill, Stephen, House,
4 Fireplace Rd.,
East Hampton, 95001486

NORTH DAKOTA

Traill County

Plummer, Amos and Lillie, House,
306 W. Caledonia Ave.,
Hillsboro, 95001488

OHIO

Tuscarawas County

Cooper, Katherine, House,
118 W. 7th St.,
Dover, 95001487

SOUTH CAROLINA

Richland County

South Carolina Penitentiary,
1511 Williams St.,
Columbia, 95001489

TENNESSEE

Fayette County

Marathon Motor Works,
1200–1310 and 1305 Clinton St.,
Nashville, 95001482

WISCONSIN

Oneida County

Lake Tomahawk Site,
Address Restricted,
Lake Tomahawk vicinity, 95001496

Richland County

Tippesaukee Farm Rural Historic District (Boundary Increase),
Jct. of WI Trunk Hwy. 60 and Co. Trunk Hwy. X, Town of Richwood,
Port Andrew, 95001491

In order to assist in the preservation of the following property, the commenting period is being waived:

MASSACHUSETTS

Suffolk County

Riviera, The
270 Huntington Ave.
Boston, 95001450

[FR Doc. 95–29553 Filed 12–4–95; 8:45 am]

BILLING CODE 4310–70–P

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 347 (Sub-No. 2)]

Rate Guidelines—Non-Coal Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed guidelines.

SUMMARY: The Commission seeks comments on simplified decisional guidelines that can be used to resolve rail rate reasonableness cases in proceedings where the Constrained Market Pricing (CMP) method is unsuitable. The Commission finds that the Simplified Stand-Alone Cost Model proposed by the Association of American Railroads, as currently formulated, does not appear to be an acceptable tool for determining maximum reasonable rail rates, and that, unless it is modified, it would not be appropriate for use in future rate cases. Comments are requested on two proposals that would jointly apply a "revenue shortfall allocation method" (RSAM) test, an "average revenue-to-variable cost percentage above 180%" (R/VC>180) test, and a "revenue-to-variable cost comparison" (R/VC_{COMP}) test as a guide in determining the reasonableness of the rates charged captive shippers in those cases that are too small for use of our CMP guidelines. Comments are also invited on whether

to define in this proceeding those cases that would qualify for processing under simplified procedures or whether it is more desirable to have that determination made on a case-by-case basis.

DATES: Comments must be filed by February 5, 1996. Replies must be filed by March 4, 1996.

ADDRESSES: An original and 20 copies of all documents must refer to Ex Parte No. 347 (Sub-No. 2) and be sent to the Office of the Secretary, Case Control Branch, Attn: Ex Parte No. 347 (Sub-No. 2), Interstate Commerce Commission, 1201 Constitution Ave., N.W., Washington, DC 20423. Parties are encouraged also to submit all pleadings and attachments on a 3.5-inch diskette in WordPerfect 5.1 format.

FOR FURTHER INFORMATION CONTACT: Ellen D. Hanson or Thomas J. Stilling, (202) 927–7312. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, Interstate Commerce Commission Building, 1201 Constitution Ave., N.W., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

The Commission tentatively concludes that the proposed action, which seeks to develop standards for small rate cases, will not have a substantial impact upon a significant number of small entities, and that any impact it might have on such entities will be favorable.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: November 22, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen and Commissioner Simmons.

Vernon A. Williams,

Secretary.

[FR Doc. 95–29546 Filed 12–04–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–43 (Sub-No. 162)]

Illinois Central Railroad Company—Abandonment—In Jackson, Hinds County, MS

The Commission has found that the public convenience and neccesity permit Illinois Central Railroad Company (IC) to abandon a 5.8-mile segment of rail line known as the Little J line, between milepost LN–0.2 and milepost LN–6.0 (together with 2.14 miles of side track, for a total of 7.94 track-miles), within the City of Jackson, Hinds County, MS, subject to standard employee protective conditions.

A certificate will be issued authorizing abandonment unless, within 15 days after publication of this Notice, the Commission also finds that: (1) A financially responsible person has offered financial assistance, through subsidy or purchase, to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any offers of financial assistance must be filed with the Commission and IC no later than 10 days from publication of this Notice. The offer, referring to Docket No. AB–43 (Sub-No. 162), must be addressed to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, N.W., Washington, D.C. 20423; and (2) Myles L. Tobin, Illinois Central Railroad Company, 455 North Cityfront Plaza Drive, Chicago, IL 60611–5504. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Office of Proceedings, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27. Additional information is contained in the Commission's Decision. To purchase a copy of the full Decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Room 2229, Washington, D.C. 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

Decided: November 22, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioner Simmons.

Vernon A. Williams,

Secretary.

[FR Doc. 95–29545 Filed 12–4–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–12 (Sub-No. 152X)]

Southern Pacific Transportation Company—Abandonment Exemption—in Orange County, CA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, pursuant to 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 10903–04 the abandonment by Southern Pacific Transportation Company of 1.64 miles of railroad in Orange County, CA, subject to standard labor protective conditions and a public use condition.

DATES: Provided no formal expression of intent to file a financial assistance offer has been received, this exemption will be effective on January 4, 1996. Formal expressions of intent to file financial assistance offers [1] under 49 CFR 1152.27(c)(2) must be filed by December 15, 1995. Petitions to stay must be filed by December 20, 1995. Petitions to reopen must be filed by January 2, 1996.

ADDRESSES: Send pleadings referring to Docket No. AB–12 (Sub-No. 152X) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) Petitioner's representative: Gary A. Laakso, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: November 22, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioner Simmons.

Vernon A. Williams,

Secretary.

[FR Doc. 95–29544 Filed 12–4–95; 8:45 am]

BILLING CODE 7035–01–P

[1] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Colorado Refining Company*, Civil Action No. 95–WY–2608 (D. Colo.), was lodged on October 13, 1995, with the United States District Court for the District of Colorado.

The settlement concerns the petroleum refinery owned and operated by Colorado Refining Company ("CRC") in Commerce City, Colorado. CRC's refinery is subject to a Clean Air Act "Prevention of Significant Deterioration" or "PSD" permit which limits sulfur dioxide emissions from a "Claus Plant," and also requires CRC to maintain a continuous emission monitoring ("CEM") system to measure SO_2 emissions from the Claus Plant. The settlement resolves civil claims that CRC violated the permit limit on sulfur dioxide emissions from the Claus Plant numerous times between July 1990 and March, 1994, and that CRC failed to operate at all times a continuous emissions monitoring ("CEM") device to measure SO_2 in the gases discharged to the atmosphere.

The settlement includes a civil penalty of $320,000. In addition, CRC is required to obtain a report from a nationally recognized expert in the field of sulfur recovery technology regarding modifications and/or upgrades of the existing Claus Plant to make it effectively operate given the existing and anticipated sulfur "flowthrough" at the refinery, and, subject to EPA's approval, implement the recommendations of such expert report.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Colorado Refining Company*, Civil Action No. 95–WY–2608 (D. Colo.), DOJ Ref. #90–5–2–1–1356A. The proposed consent decree may be examined at the Office of the United States Attorney, 1961 Stout Street, Suite 1200, Federal Building, Denver, Colorado 80294; the Region VIII Office of the Environmental Protection Agency, 999 18th Street, Suite 700 South, Denver, Colorado 80202; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $4.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environment and Natural Resources Division, Environmental Enforcement Section.

[FR Doc. 95–29491 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to 28 CFR 50.7

Notice is hereby given that a proposed consent decree in *Illinois Public Interest Research Group, et al., and United States of America* v. *115th Street Corporation*, Civil Action No. 92–C–5564, was lodged on November 9, 1995 with the United States District Court for the Northern District of Illinois, Eastern Division. The proposed consent decree resolves the plaintiffs' claims against 115th Street Corporation for violations of pretreatment standards enforceable under the Clean Water Act at its organic chemicals manufacturing facility located in Chicago, Illinois.

In the proposed settlement 115th Street Corporation agrees to: Achieve full compliance with the pretreatment requirements of the Act by not later than August 19, 1996; pay a civil penalty of $1,645,000; and refrain from chemical synthesis of pigments at its Chicago facility until three years after termination of the decree unless it satisfies the specific technical requirements contained in the proposed decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *Illinois Public Interest Research Group, et al., and United States of America* v. *115th Street Corporation*, DOJ Ref #90–5–1–1–5004.

The proposed consent decree may be examined at the office of the United States Attorney, 219 South Dearborn Street, Chicago, Illinois 60604; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $18.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–29492 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of First Amendment to Consent Decree in United States v. Louisiana-Pacific, Inc. and Kirby Forest Industries, Inc.

In accordance with Departmental policy, 28 CFR 50.7, (38 FR 19029, March 29, 1984), notice is hereby given that a proposed First Amendment to Consent Decree in *United States* v. *Louisiana-Pacific, Inc. and Kirby Forest Industries, Inc.*, Civil Action No. 93–0869, was lodged with the United States District Court for the Western District of Louisiana on October 6, 1995.

The original Consent Decree in this action, lodged on May 24, 1993 and entered by the Court on September 30, 1993, required the installation of improved pollution control devices at fourteen Louisiana-Pacific, and Kirby Forest Industries' plants located in eleven states. The Decree also required Defendants to conduct an environmental audit of all of their facilities and management and to employ corporate and plant environmental managers responsible for compliance with environmental statutes at their wood panel plants.

The First Amendment to Consent Decree reflects changes resulting from additional experience with and analysis of the Regenerative Thermal Oxidation ("RTO") pollution control devices required by the Decree, from testing which determined that additional Louisiana-Pacific facilities were major emitting facilities under the Clean Air Act, thus requiring the installation of RTOs, and from permitting, construction scheduling and other developments since entry of the original Decree.

The Department of Justice will receive, for thirty (30) days from the date of publication of this notice, written comments relating to the proposed First Amendment to Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Louisiana-Pacific, Inc. and Kirby Forest Industries, Inc.*, D.O.J. Ref. No. 90–5–2–1–1823.

The proposed First Amendment to Consent Decree may be examined at the office of the United States Attorney, 705 Jefferson Street, Room 305, Lafayette, Louisiana, 70501; the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, 12th Floor, Suite 1200, Dallas, Texas 75202; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed First Amendment to Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Acting Chief, Environmental Enforcement Section.

[FR Doc. 95–29493 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CommerceNet Consortium

Notice is hereby given that, on June 9, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), CommerceNet Consortium, (the "Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the additional members at the sponsor level are: Anderson Consulting LP, San Francisco, CA; BellSouth, Atlanta, GA; Spyglass, Inc., Naperville, IL; and Loral Space & Range Systems, Sunnyvale, CA.

The following organizations have joined the Consortium as associate members: IEEE Computer Society, Washington, DC; Knight Ridder Information, Inc., Mountain View, CA; Pangea Network Technologies, Sunnyvale, CA; Personal Library Software, Inc., Rockville, MD; Cable & Wireless Innovations, Inc., Menlo Park, CA; and Mitsubishi International, Palo Alto, CA. The following organizations have joined as international associate members: CSIRO Division of Information, Anu, AUSTRALIA; European Union Bank, Antigua, WEST INDIES; Fujitsu Limited, Tokyo, JAPAN; Industry Canada, Ottawa, Ontario, CANADA; and Kokusai Denshin Denwa Co., Ltd. (KDD), Tokyo, JAPAN. The following organization was formally a sponsor but is now an associate: Mastercard International. Spry, Inc. was formally an associate but has been acquired by a sponsor, CompuServe, and the two memberships have been consolidated into one membership. Santa Cruz Operations, Inc. is no longer a member.

No other changes have been made in either the membership or planned activities of the Consortium. Membership remains open, and the Consortium intends to file additional written notifications disclosing all changes in membership.

On June 13, 1994, the Consortium filed its original notification pursuant to Section 6(b) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 31, 1994 (59 FR 45012).

The last notification was filed with the Department on January 18, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 27, 1995 (60 FR 33232).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29501 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Corporation for Open Systems International

Notice is hereby given that, on August 7, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Corporation for Open Systems International ("COS") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in COS and its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Pacific Gas & Electric Company ceased its membership in COS effective June 30, 1995. Sharp Corporation, Osaka, JAPAN, became an associate of the Digital Video Home Terminal (DVHT) Executive Interest Group effective August 3, 1995. The Cooperative Router Executive Interest Group was discontinued effective May 18, 1995.

No other changes have been made in either the membership or planned activities of COS. Membership in COS remains open, and COS intends to file additional written notification disclosing all changes in membership or planned activities.

On May 14, 1986, COS filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 11, 1986 (51 FR 21260).

The last notification was filed with the Department on June 22, 1995. This notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29499 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Fieldbus Foundation

Notice is hereby given that, on June 26, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Fieldbus Foundation ("Fieldbus") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new members are as follows: Bently Nevada Corporation, Minden, NV; Masoneilan-Dresser Industries, Avon, MA; Relcom, Inc., Forest Grove, OR; Ronan Engineering Company, Woodland Hills, CA; Groupe Schneider, Rueil-Malmaison, FRANCE; and Yamaha Corporation, Toyookamura, Iwata-gun, JAPAN.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Fieldbus intends to file additional written notifications disclosing all changes in membership.

On May 7, 1993, Fieldbus filed its original notification pursuant to Section

6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 23, 1993 (58 FR 49529).

The last notification was filed with the Department on April 6, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 1995 (60 FR 30591, 30592).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29498 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Financial Services Technology Consortium, Inc.

Notice is hereby given that, on June 15, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Financial Services Technology Consortium, Inc. (the "Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. The following parties were admitted as Associate Members of the Consortium: Beneficial Technology Corp., Peapack, NJ; Deluxe Corp., Shoreview, NM; Premenos Corporation, Concord, CA; Broadway & Seymour, Charlotte, NC; NEC Planning Research, Ltd., Tokyo JAPAN; and Telequip Corp., Nashua, NH. The following parties were admitted as Advisory Members of the Consortium: Copyright Clearance Center, Inc., Danvers, MA; and National Automated Clearing House Association, Herndon, VA.

No other changes have been made in either the membership or planned activity of the Consortium. Membership remains open, and the consortium intends to file additional written notifications disclosing all changes in membership.

On October 21, 1993, the Consortium filed its original notification pursuant to Section 6(b) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 14, 1993 (58 FR 65399).

The last notification was filed with the Department on April 20, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 28, 1995 (60 FR 33432).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29503 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Hart Communication Foundation

Notice is hereby given that, on June 26, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Hart Communication Foundation ("HCF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new members are: Anderson Instrument Co., Inc., Fultonville, NY; Honeywell, Inc., Fort Washington, PA; Instrumenfirman INOR AB, Malmo, SWEDEN; Lars Jakob Neilsen, Aabyhoj, DENMARK; Saab Tank Control, Gothenburg, SWEDEN; and Wireless Scientific, Inc., Amelia Island, FL.

The following have changed their addresses: Arcom Control Systems is now located at 13510 South Oakley Street, Kansas City, MO, and Rosemount Analytical Inc. is now located at 2400 Barranca Parkway, Irvine, CA.

The companies formerly known as Fischer & Porter and Elsag-Bailey Controls are now known as Bailey-Fischer & Porter.

The following are no longer members of HCF: Fairchild Industrial Products; Ohkura Electric Co., Ltd.; and Termiflex Corporation.

No other changes have been made in the membership, nature and objectives of the consortium. Membership in HCF remains open, and HCF intends to file written notifications disclosing all changes in membership.

On March 17, 1994, HCF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** Pursuant to Section 6(b) of the Act on May 5, 1994 (59 FR 23234). The last notification was filed with the Department on March 16, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 24, 1995 (60 FR 27558).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29506 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Minnesota Mining and Manufacturing Company, Seagate Tape Technology, Inc., and Advanced Research Corporation

Notice is hereby given that, on October 19, 1995, pursuant to Section 6(a) of the National Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Minnesota Mining and Manufacturing Company ("3M") filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to a research and development venture and (2) the nature and objective of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the joint venture are Minnesota Mining and Manufacturing Company, St. Paul, MN; Seagate Tape Technology, Inc., Santa Clara, CA; and Advanced Research Corporation, Minneapolis, MN. The general area of planned activity is to develop technologies for a small, reliable, low cost, high bandwidth, high capacity, fast access tape recorder and cartridge media.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29507 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993 Petroleum Environmental Research Forum Project 94–12

Notice is hereby given that, on September 14, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Petroleum Environmental Research Forum ("PERF") Project 94–12, titled "Sewer Inspection and Repair Technologies for Application to Refineries and Chemical Plants" has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identifies of the parties and (2) the nature and objectives of the project. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Exxon Research and Engineering Company, Florham Park, NJ; Hess Oil Virgin Islands, St. Croix, U.S. Virgin Islands; Marathon Oil Company, Findlay, OH; and Chevron Research and Technology Company, Richmond CA. The nature and objective of the project is to provide identification and field testing of technologies for inspection of sewers in refinery and chemical plant operations and matrices of potential sewer inspection and repair technologies with their advantages and disadvantages.

Participation in this project will remain open until issuance of the final project report anticipated approximately 27 months after the project commences. The participants intend to file additional written notifications disclosing all changes in its membership. Information about participating in Project 94–12 may be obtained by contacting Mr. William Hacker, Exxon Research and Engineering Company, P.O. Box 101, Florham Park, NJ 07932.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–29505 Filed 12–04–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum

Notice is hereby given that on September 18, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* ("the Act"), Petroleum Environmental Research Forum ("PERF") Project No. 93–11 filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing changes in the membership of PERF Project No. 93–11. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following additional party has become a participant in PERF Project 93–11: Exxon Production Research Company, Houston, TX.

No other changes have been made in either the membership or planned activity of PERF.

On October 18, 1994, PERF Project No. 93–11 filed it original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 1, 1994 (59 FR 61638).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29494 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PowerOpen Association, Inc.

Notice is hereby given that, on December 28, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), PowerOpen Association, Inc. ("PowerOpen"), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new members of PowerOpen are: Aspect Communications, Inc., San Jose, CA; Bolt Bernack and Newman, Inc., Cambridge, MA; CelsiusTech Systems AB, Jarfalla, SWEDEN: and Gradient Technologies, Inc., Marlboro, MA.

No other changes have been made in either the membership or planned activity of the project. Membership remains open and PowerOpen intends to file additional written notification disclosing all changes in membership.

On April 21, 1993, PowerOpen filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 22, 1993 (58 Fed. Reg. 33954).

The last notification was filed with the Department on September 30, 1994. A notice for this filing has yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29502 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Intelligent Modular Array System

Notice is hereby given that, on October 11, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Sawtek, Inc. filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Sawtek, Inc., Apopka, FL; and General Atomics, San Diego, CA. The nature and objectives of the venture are to engage in cooperative research toward the development of an Intelligent Modular-Array System (IMAS) for Monitoring of Volatile Organic Compounds (VOCs) to address the detection, differentiation and quantification of VOCs at the class level.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29495 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Semiconductor Research Corporation

Notice is hereby given that, on March 10, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Semiconductor Research Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following companies have joined membership with the consortium: IntelliSense Corporation, Wilmington, MA as an affiliate member and Ford Motor Company, Dearborn, MI as a science area member. Praxair, Inc.; M/A–COM, Inc. and Matrix Integrated Systems, Inc. have withdrawn their membership with the joint venture.

No other changes have been made in either the membership or planned activity of the group research project.

Membership in this group research project remains open, and Semiconductor Research Corporation intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, Semiconductor Research Corporation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 30, 1985 (50 FR 4281).

The last notification was filed with the Department on March 22, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 20, 1994 (59 FR 18830).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29496 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Transguide System Media Services Software Project

Notice is hereby given that, on August 23, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Harte-Hanks Television KENS-Channel 5, San Antonio, TX; KISS Radio of San Antonio, Ltd., San Antonio, TX; KMOL-Channel 4, San Antonio, TX; KSAT-TV12, San Antonio, TX; KSMG, San Antonio, TX; KTFM, San Antonio, TX; KTSA, San Antonio, TX; San Antonio, TX; San Antonio Express News, San Antonio, TX; Southwest Research Institute, San Antonio, TX; and State of Texas, acting by and through the Texas Department of Transportation, San Antonio, TX.

The purpose of the venture is to facilitate the transmission of information for the Texas Department of Transportation Operational Control Center of the TransGuide System to media outlets through the development of personal computer based software which will list current traffic incident scenarios, list current scheduled lane closures and provide a display of a high level and schematic map of the major highways and road segments where the TransGuide System is active in Bexar County.

Membership in the program remains open, and SwRI intends to file additional written notifications disclosing all changes in the membership or planned activities.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29504 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Affordable High Performance Computing Cooperative Arrangement

Notice is hereby given that, on June 29, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Pratt & Whitney Division of United Technologies Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of a cooperative arrangement known as the "Coordinated Research Agreement for Development of Affordable High-Performance Computing" (the "AHPC"). The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: United Technologies Corporation, Hartford, CT; The Massachusetts Institute of Technology, Cambridge, MA; CFD Research Company, Huntsville, AL; Platform Computing Company, Newbury, MA; The Research Foundation of the State University of New York, Amherst, NY; and The MacNeal-Schwendler Corporation, Los Angeles, CA.

The purpose of the AHPC is to pursue a coordinated research and development effort leading to development of affordable distributed computing software for use in design of advanced aircraft engine components, while providing technology for commercial and military uses.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29497 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 94–10]

Michael J. Roth, M.D.; Continuation of Registration

On October 27, 1994, the Deputy Assistant Administrator (formerly Director), Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Michael J. Roth, M.D. (Respondent), of Santa Monica, California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AR8354425, under 21 U.S.C. 824(a)(4) and deny any pending applications under 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged that:

(1) During the period March 1988 through December 1989, the Respondent prescribed, administered, and dispensed excessive amounts of controlled substances to a single patient, including Demerol, Dilaudid, Xanax, Ativan, Percordan, Tylenol with Codeine, Valium, Percocet, Methodone, and Doriden, without a legitimate medical purpose and while not acting in the usual course of professional practice;

(2) During the same time period, the Respondent further prescribed narcotic drugs to the same narcotic dependent patient for the purpose of maintenance treatment, and engaged in detoxification treatment of that patient without holding a separate DEA registration to conduct a narcotic treatment program; and

(3) During the period January 1991 through February 1993, the Respondent prescribed excessive amounts of controlled substances to two patients, including Chloral Hydrate, Ativan, Dalmane, Tylenol with Codeine, and Fiorinal, without a legitimate medical purpose and while not acting in the usual course of professional practice.

On November 19, 1993, the Respondent, through counsel, filed a timely request for a hearing. On February 23, 1994, the case was consolidated for hearing with *Michael S. Gottlieb, M.D.*, Docket No. 93–53, and *William J. Skinner, M.D.*, Docket No. 93–39. Following prehearing procedures, a hearing was held in Los Angeles, California, on March 29–30 and May 10–12, 1994, before Administrative Law Judge Paul A. Tenney. At the hearing both the Government and the Respondent called witnesses to testify and introduced documentary evidence, and after the hearing, counsel for both sides submitted proposed findings of fact, conclusions of law and argument. On October 17, 1994, Judge Tenney issued his Findings of Fact, Conclusions of Law, and Recommended Ruling, finding that the Respondent's registration was not inconsistent with the public interest, and recommending that no action be taken with respect to the Certificate of Registration of Respondent, Dr. Roth. The Government filed exceptions to his decision, and the Respondent filed responses to the Government's exceptions. On December 12, 1994, Judge Tenney transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety and the filings of the parties, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the opinion of Judge Tenney, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that the Respondent is licensed to practice as a physician and surgeon in the State of California. The DEA's allegations concern the Respondent's treatment of two patients, "Patient A" and "Patient B." Patient A had a number of significant physical conditions which caused severe pain, including pressure on the nerves from cervical degenerative joint disease; degenerative osteoarthritis of the lumbar vertebrae above a previous area where fusion surgery had been performed; spinal stenosis which occurs when the spinal canal narrows, in some cases putting pressure on a nerve; severe temporal mandibular joint degenerative disease; compression fracture of the patient's spine at L–1 and L–2; and trochanteric bursitis of the hip.

During the time period of March through October 1988, the government contended that the Respondent prescribed controlled substances to Patient A for other than a legitimate medical purpose. During this period, Dr. Skinner was the primary treating physician for Patient A. The Respondent and Dr. Michael Gottlieb were partners in a medical practice in Los Angeles, and Dr. Gottlieb would care for Patient A when Dr. Skinner was not available, and the Respondent cared for Patient A when neither Dr. Skinner nor Dr. Gottlieb was available. Respondent testified that he did not keep independent medical records of the patient while he was in partnership with Dr. Gottlieb, but when he issued prescriptions to Patient A, he followed the medical regimen established by Dr. Gottlieb and Dr. Skinner.

During the period of March 26, 1988, through October 13, 1988, the Respondent prescribed Schedule II controlled substances to Patient A on 13 occasions, and Schedules III through V controlled substances to Patient A on 23 occasions. The Respondent testified that when Patient A was in acute pain, he would prescribe Percodan, but that he would then try to taper her off that substance once the acute pain diminished. In July 1988, Patient A suffered a fall and injured her back. Dr. Gottlieb admitted the patient to the hospital on July 25, 1988, with a diagnosis of severe degenerative disc disease with marked fact hypertrophy from L3 to S1, a history of sciatica and foot drop, premature atrial contractions, and degenerative disc disease of the cervical spine. Dr. Gottlieb noted on the patient's history that she was currently using Percodan, Ativan, and Xanaz. Percodan, a Schedule II controlled substance, contains oxycodone and aspirin; Ativan, a Schedule IV controlled substance, contains lorazepam; and Xanaz, a Schedule IV controlled substance, contains alprazolam. Upon admission to the hospital, Dr. Gottlieb ordered, and Patient A was given, 150 milligrams (mg.) of Demerol and 1 mg. of Ativan. Demerol is a brand name for meperidine hydrochloride and is a Schedule II controlled substance.

On July 26, 1988, following a CAT scan, Dr. Joyce issued a report, writing that Patient A had a mild compression fracture at L1, mild stenosis at L2–3, moderate stenosis at L3–4, and a post-posterior bony fusion from L4 to the sacrum. Patient A was discharged on August 18, 1988, and the Respondent ordered administration of 100 mg. of Demerol, and then issued a prescription 70 Percodan. On August 25, 1988, the Respondent prescribed 20 Percodan and 5 Dilaudid. Dilaudid is a brand name of hydromorphone hydrochloride and is a Schedule II controlled substance.

During the period from September 1, 1988, to October 13, 1988, the Respondent prescribed to Patient A 210 Percodan and 300 mg. of Demerol. On September 29, 1988, Patient A was admitted to the hospital by Dr. Skinner, and she was discharged on October 4, 1988, with a diagnosis of a compression fracture, osteoporosis, and congenital scoliosis. On October 17, 1988, Patient A was again admitted with a complaint of severe left leg pain, and on October 23, 1988, she was discharged with the diagnosis of acute back pain secondary compression fracture of L1, acute lumbosacral spinal sprain and strain secondary to severe osteoarthritis at L2–3 with neuroforaminal narrowing, sciatica (resolved) and osteoporosis with high risk of possible spontaneous hip fracture. On October 31, 1988, Patient A was admitted to the Betty Ford Clinic with an initial diagnosis of opiate, alcohol, sedative, and amphetamine dependent (continuous), and she was discharged on December 10, 1988.

As Judge Tenney noted, "[t]here is a 'debate' or difference of opinion between those specialized in addiction medicine and those in pain management regarding the use of narcotics for the treatment of severe pain." He also noted that Dr. Smith and Dr. Ling, the Government expert witnesses, were primarily experts in addiction medicine, and Dr. Margoles and Dr. Brechner, the Respondent's expert witnesses, were primarily experts in pain management. Dr. Smith and Dr. Margoles agreed that there exists a difference of opinion within the medical community as to the appropriate level of prescribing of controlled substances for the treatment of chronic pain patients. Also significant is the fact that the opinions of Dr. Brechner, Dr. Dodge, Dr. Horacek, and Dr. Woods were supported by either their personal examination, treatment, or both, of Patient A, during the relevant time period, whereas the opinions of Dr. Smith and Dr. Ling were based upon their review of Patient A's treatment records and relevant prescription documentation.

On March 3, 1990, Dr. Smith wrote in a report for the District Attorney: "[the] spectrum of medications [prescribed to Patient A] was not justified by the medical pathology and, in fact, the medications caused the patient far more harm than benefit. The dosage of medication was clearly excessive and the duration over the several month period as outlined in the medical records was both excessive and not justified by the medical pathology." He concluded that "[a]s a result of this analysis it is my opinion then, that Dr. Skinner and his colleagues were not prescribing a narcotic medication primarily for the management of pain but, in fact, were maintaining her addiction." During the hearing before Judge Tenney, Dr. Smith testified, after reviewing the quantities of controlled substances prescribed on selected dates, that those quantities were excessive in light of the standard therapeutic dosage. He then adopted the conclusion reached in his 1990 letter to the District Attorney.

Dr. Ling, a medical expert in the areas of neurology, psychiatry, addiction, and pain medicine, opined that, based upon his review of Patient A's treatment record and pharmacy records, the Respondent's prescribing practices

during 1988 did not meet the standard of care of the average practitioner. He stated, "If this was the only records there [were], then I don't think it meets the standard of care." He also testified that, in 1988, the standard of care was not to prescribe a large amount of narcotics, for such practice could result in the patient's developing a tolerance to a controlled substance: "You'd be treating the tolerance. You'd be treating addiction. you're no longer treating the [diagnosed medical condition]." Further, Dr. Ling recommended that a physician treating a patient with a potential drug dependency problem should consult with a specialist in drug addiction. Both Dr. Smith and Dr. Ling concluded that Patient A was an addict who was opiate dependent and benzodiazipine dependent.

The Respondent presented evidence from consulting physicians, who had concluded that Patient A was not an addict, but that she was dependent upon controlled substances to treat her chronic and sometimes acute pain. Specifically, after having reviewed Patient A's medical history and having interviewed her twice, Dr. Margoles, a medical expert in pain management, testified, that throughout the years 1986 to 1988, Patient A had experienced intractable pain as a result of numerous medical problems and degenerative changes. He concluded that Patient A was a chronic pain patient, as opposed to an opioid abuser, and that she sought and was given medications to control her pain, not for euphoria. He found that, although Patient A received an increase in amounts of opioids prescribed for her use, such an increase resulted from the severity of her pain, not addiction. "It was obvious that the medication was being used to keep her going in her professional career." Also, he noted that there was no evidence in the patient's records that she sought drugs in order to obtain euphoria, no evidence of abstinent syndrome, nor clinical or laboratory evidence of toxicity. Dr. Margoles testified that the lack of toxicity evidence meant that the "patient obviously tolerated the medication that she had, that was used in her case, and evidently benefitted her and [that] she had no toxic side effects * * * no slurred speech, inability to have cognitive speech, straight speaking."

As to the Respondent's specific involvement in 1988, Dr. Mangoles also opined that the 13 prescriptions Dr. Roth wrote during a seven month period were needed to control the patient's pain problems. He also noted that the Respondent appeared "to be tapering her down all the time," and that such tapering was within the usual course of professional practice. Dr. Smith agreed with Dr. Margoles concerning the propriety of tapering Patient A, under the circumstances. Further, Dr. Margoles testified that the Respondent "acted in good faith and prescribed medication that was adequate for a given diagnosis and following good faith examination."

Finally, Dr. Margoles noted that in the 1980's, guidelines were established in prescribing controlled substances for chronic conditions. These guidelines were endorsed by various medical and legal groups, to include the California Board of Medical Quality Assurance and the California Bureau of Narcotic Enforcement. Dr. Margoles testified that the Respondent's prescribing to Patient A met these standards. Thus, he concluded that the Respondent prescribed controlled substance in the appropriate course of his professional conduct, and not for the purpose of maintaining Patient A's condition as an addict.

Also, the Respondent produced an affidavit from Dr. Dodge, a consulting neurosurgeon involved with the treatment of Patient A from 1986 through 1988, who wrote:

> In my opinion, although the amounts of drugs were large compared to the average patient, they were necessary in order to treat the patient's pain. Although the patient clearly had a drug dependence problem, I do not believe the pain was controllable by other means besides narcotics. The amounts of narcotics tended to increase at the time of the acute events . . . Dr. Skinner and the other physicians responsible for her care always attempted to minimize the amounts of drugs that she took and sought to detoxify her from those drugs when the acute phase of pain and muscle spasm from the injuries passed.
>
> In my opinion, Dr. Skinner and the other physicians responsible for her care did not violate the standard of practice in prescribing narcotic analgesics to this patient.

Further, in an affidavit, Dr. Woods, a neurologist who treated Patient A from January 1987 to January 1988, made similar observations as Dr. Dodge, and concluded: "In my opinion, Dr. Skinner and the other physicians responsible for her care did not violate the standard of practice in prescribing narcotic analgesics to this patient, in that the drugs were prescribed to control the patient's pain not to maintain her addiction."

As to the legitimacy of the quantities of the controlled substances prescribed, Dr. Brechner, a medical expert in the field of pain management and anesthesiology, testified that in 1988 he was consulted concerning an aspect of Patient A's treatment, for he had performed a facet block procedure to aid in the diagnosis of the source of Patient A's back pain. In the course of performing that procedure, he administered narcotic analgesics, observing that Patient A had "an extraordinary tolerance to narcotics, even when potentiated with the tranquilizers." Dr. Brechner also noted that Patient A suffered from severe chronic pain and from periods of acute, intractable pain. Dr. Brechner concluded that Patient A had received narcotics prescribed in amounts that were "extraordinary compared to the average patient," because of her extreme tolerance for narcotics, and that she needed the narcotics in the amounts prescribed in order to control her pain. He testified that prescribing the narcotics in lower doses was not effective, and thus, she was not "over-dosed."

Also, Dr. Brechner testified that alternative means of treatment were tried to control Patient A's pain, but that he did not believe such treatment was effective alone in treating the pain resulting from her acute pain-inducing incidents, such as the automobile accident or the fall down the stairway. Finally, Dr. Brechner testified that the doctors treating Patient A prescribed narcotics for a legitimate medical purpose, to treat her pain, and not to maintain her condition as an addict.

Further, Dr. Skinner, the Medical Director of St. John's Chemical Dependency Center from 1981 to 1990, and a medical expert in chemical dependency, testified that he had begun treating Patient A at the Respondent's request in 1983. Dr. Skinner testified extensively about the acute pain incidents experienced by Patient A through 1988, the consulting physicians' diagnoses resulting from these incidents, and the various narcotic and non-narcotic treatment regimen implemented to control her pain. He also stated that there was no evidence that drug intoxication caused any of Patient A's acute events, and that he had made an extra effort to insure her lack of toxicity throughout his treatment of her. Further, Dr. Skinner testified that all narcotics were either administered in the hospital or under the supervision of a private duty nurse selected by him from the nursing staff of the Chemical Dependency Center at Saint John's Hospital, and that the nurses were familiar with Patient A's case, her tolerances, and with treating patients who had Patient A's type of problems. As a result of his treatment of Patient A, Dr. Skinner concluded that she was not an addict: "She did not demonstrate typical findings of addiction behavior. * * * never did she evidence toxicity, never did she evidence any abstinence withdrawal syndrome, and never did she evidence, while under my care at home or in the hospitals, any evidence of street-like drug seeking behavior."

The Respondent also testified before Judge Tenney, stating that Patient A was "opiate dependent" or "opiate reliant," but not addicted. "I don't feel she was addicted to the medication from the point of view that she needed the medication every so many hours as an addict would for maintenance of the use of the drug. But she relied on the medication to take away her pain. In that sense, I'm saying she was reliant on the medication. But she could go days without having medication, even weeks, when her pain wasn't bad. Then the pain would get bad and she was reliant, again, on the medication to take away the pain." He concluded by stating that, although he was not the primary treating physician during 1988, he issued prescriptions in good faith and as part of the regimen established by her primary treatment physicians. Further, he affirmed that he did not issue any prescriptions for the purpose of enabling Patient A to reach a state of euphoria.

As to his prescribing practices during 1991 through 1993, the Respondent testified that Patient A complained that her pain was causing her insomnia. He first referred Patient A to the sleep clinic at Cedars Sinai Hospital, but she did not follow up on that referral. Next, the Respondent consulted with the director of that clinic and used the treatment regimen he suggested to try to provide Patient A relief from both her insomnia and her pain. The recommended regimen involved trying to rotate insomnia medications to determine what medication would provide Patient A relief. He prescribed benzodiazepines, to include Restoril, Prosom, Chloral Hydrate, and Dalmane. The Respondent testified that he would give Patient A three prescriptions at one time for small dosages of different substances, stating "the reason that we gave her the three medications at one time was to give her the alternative to try one and if one didn't work to try a second." The Respondent testified that he cautioned Patient A about the addictive nature of these substances, and Patient A affirmed that she was just trying to get some sleep so she could work. The Respondent affirmed that it was never his intention that Patient A would take all three prescribed medications at the same time, and that "[Patient A] knew absolutely that that wasn't the indication." Finally, the Respondent testified that he was prescribing these substances in good faith to assist Patient A in trying to obtain some sleep, not to obtain a state of euphoria.

Dr. Margoles agreed with the Respondent, testifying that Patient A needed the medications prescribed during this time period to control her pain and to help her sleep, given the pain she was experiencing. Dr. Smith, however, testified generally about sedative-hypnotic dependence, and, after reviewing the prescriptions issued during 1992 through 1993, he concluded that the Respondent's prescriptions to Patient A were beyond therapeutic use and were issued for the purpose of sustaining her addiction. However, undisputed in the record was the Respondent's testimony that Patient A's medical records reflecting his treatment of her during this time period had been stolen from the Respondent's office. Acknowledging the lack of medical records, Dr. Smith admitted that if he had been able to review the medical records "[he] could have a better understanding of what was going on in the physician's mind and whether it was appropriate prescribing."

However, the Respondent submitted letters written between September 1990 and February 1993, reflecting his referral of Patient A to other physicians for consultation. Dr. Ling, after reviewing the consulting physician's opinions, conceded that the letters supported the Respondent's opinion that Patient A suffered intractable pain during this time period. Dr. Ling also testified that he did not see any overall strategy for the treatment of Patient A, but he conceded that, lacking the medical treatment record, he could not render an opinion as to whether the Respondent's medical practices were consistent with the skill and knowledge of the average practitioner.

Also in dispute was the adequacy of the medical treatment records for Patient A during the 1988 time period. The Respondent testified that, since he shared a practice with Dr. Gottlieb, he had not kept a separate medical record, but rather he had followed the treatment regimen of Dr. Gottlieb and Dr. Skinner. Dr. Smith testified that Dr. Gottlieb's treatment records did not meet the usual medical standard of practice regarding prescription of controlled substances. Yet Dr. Brechner also reviewed Patient A's treatment records provided by Dr. Skinner and Dr. Gottlieb, as well as the hospital records, and he testified that the acute and chronic medical conditions were well documented in the medical records. Also, Dr. Margoles testified that the records sufficiently supported the Respondent's prescribing practices, for Dr. Gottlieb's records included diagnoses and a treatment plan for Patient A. Finally, there was no expert witness testimony to establish that the Respondent's recordkeeping practices, under the circumstances, failed to meet the usual medical standard.

As to Patient B, the Government's attorney stated on the record that "the government will really not submit any argument to the issue of . . . whether Patient B had legitimate medical conditions that were being treated," but noted that the Respondent's recordkeeping practices as to Patient B were deficient. Patient B's medical chart was of record, and in it the Respondent had listed several diagnoses, including "migraine v. cluster" headaches and insomnia. The Respondent also testified that a cluster headache could incapacitate someone and could cause insomnia. Three times in June, twice in July, and once in September 1992, the Respondent prescribed Fiorinal, a barbiturate containing butalbital, a Schedule III controlled substance, for Patient B's headaches. For Patient B's insomnia condition, the Respondent prescribed Prosom, a triazolobensodiazapine derivative, which is a Schedule IV controlled substance. The Respondent also testified that Patient B's medical problems were documented in his medical record, and that given the small amount of medication prescribed for Patient B, he felt it was not relevant to go into a long, lengthy work-up for this patient.

Dr. Margoles testified that Fiorinal was a medication that was used to control cluster headaches, and that the Respondent prescribed this medication to Patient B in appropriate dosages. He also testified that the Prosom was prescribed to Patient B in appropriate dosages to help him sleep, and that there was no evidence in the medical records that Patient B sought either of these medications for the purpose of euphoria. Therefore, he concluded that the medications were prescribed for a legitimate medical purpose and in the appropriate course of normal medical practice.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered in determining the public interest:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

In this case, factors two, four, and five are relevant in determining whether the Respondent's continued registration would be inconsistent with the public interest. As to factor two, the Respondent's "experience in dispensing * * * controlled substances," and factor four, the Respondent's compliance with "Federal, State, or local law," the Government contends that during the periods March through October 1988, and 1991 through 1993, the Respondent prescribed controlled substances in the treatment of Patient A not for a legitimate medical purpose and not in the usual course of his professional practice, in violation of State and Federal law. Specifically, the Government argues that controlled substances were prescribed to Patient A during these periods to maintain her addiction, and that the amount of narcotics prescribed far exceeded what Patient A needed for pain relief.

An "addict" is defined in 21 U.S.C. 802(1) as "any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to [one's] addiction." There was no dispute that very high doses of narcotic analgesics were administered to Patient A, but the evidence also demonstrated that she had a high tolerance to the controlled substances and required this dosage to effectively treat her pain. Patient A's medical records and the statements and testimony of medical experts establish that Patient A had several injuries and was plausibly experiencing severe and chronic pain. Further, the evidence did not adequately establish that Patient A was an "addict." No evidence was presented to show that Patient A had acted to "endanger the public morals, health, safety, or welfare," or that she had a compulsion to use drugs, had lost control over the drugs, or that she continued to use the drugs in spite of adverse consequences. Also, medical testimony was presented to establish that, although considered, there was no evidence of abstinent syndrome, slurred speech, inability to have cognitive speech, nor clinical or laboratory evidence of toxicity. However, there was expert testimony to establish that use of the controlled substances helped Patient A to function and participate in her professional activities in spite of chronic pain. Although the Respondent did not deny that Patient A had a chemical dependency, he testified that he was not prescribing controlled substances to Patient A to maintain an addiction, for she did not present any addictive behavior to him. Therefore, the Deputy Administrator concurs with Judge Tenney's finding that Patient A is a chronic pain patient being maintained on opioids for treatment of pain, and that she is not an "addict."

The Government also asserted that the Respondent's practices violated California Health and Safety Code Sections 11153 and 11154. Pursuant to Section 11153(a), a "prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice," and a prescription issued "for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment * * * but for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use" would not be a legal prescription pursuant to this section. Section 11154 provides in relevant part that "[e]xcept in the regular practice of his or her profession, no person shall knowingly prescribe, administer, dispense, or furnish a controlled substance to or for any person * * * which is not under his or her treatment for a pathology or condition other than addiction to a controlled substance. * * *"

The Respondent asserted that prescribing in good faith was an absolute defense to an allegation of violation of these provisions. Dr. Ling testified that he accepted that the Respondent believed Patient A was in pain, and that he was treating her in good faith. Dr. Margoles also testified to the Respondent's good faith treatment of Patient A.

The Deputy Administrator agrees with the conclusion of Judge Tenney, that the Respondent did not violate these State code provisions. See *People* v. *Lonergan*, 219 Cal.App.3d 82, 90 (1990) (acting in "good faith," as defined by California Health and Safety Code 11210, exempts a physician from criminal liability under the provision of 11153). In response to the Government's exceptions relevant to the standard applicable in this administrative proceeding, the Deputy Administrator also finds that the preponderance of the evidence establishes that the Respondent prescribed controlled substances to Patient A for a legitimate medical purpose while acting in the usual course of his professional practice, and thus, he did not violate the cited State law.

Next, the Government asserted that the Respondent performed detoxification or maintenance treatment of a narcotic drug-dependent patient without obtaining a registration for that purpose in violation of Federal law. Pursuant to 21 U.S.C. 802(30), "detoxification treatment" is

> The dispensing for a period not in excess of one hundred and eighty days of a narcotic drug in decreasing doses to an individual in order to alleviate adverse physiological or psychological effects incident to withdrawal from the continuous or sustained use of a narcotic drug and as a method of bringing the individual to a narcotic drug-free state within such period. (Emphasis added).

Further, the statute defines "maintenance treatment" as the dispensing, "for a period in excess of twenty-one days, of a narcotic drug in the treatment of an individual for dependence upon heroin or other morphine-like drugs." 21 U.S.C. 802(29) (emphasis added). However, the applicable implementing regulation states in pertinent part:

> This section is not intended to impose any limitations on a physician * * * to administer or dispense narcotic drugs in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction, or * * * to persons with intractable pain in which no relief or cure is possible or none has been found after reasonable efforts.

21 C.F.R. 1306.07(c).

The preponderance of the evidence supports a finding that the Respondent was tapering the drugs prescribed to Patient A after acute pain resolved. Dr. Ling, as well as others, testified that such tapering would be appropriate under such circumstances. Further, the record does not establish that Patient A experienced "adverse physiological or psychological effects incident to withdrawal" nor that, in fact, Patient A exhibited behavior consistent with the finding that she was an "addict." Therefore, the Deputy Administrator agrees with Judge Tenney that the "Respondent made a reasonable effort to manage the patient's intractable pain and limit the use of controlled substances in terms of treatment of [Patient A's] other medical conditions, and did not prescribe controlled substances primarily to wean the patient from dependence on narcotic analgesics." Thus, the Respondent was not maintaining Patient A's addiction nor detoxifying Patient A without a proper registration.

Next, the Government asserts that the Respondent violated 21 C.F.R. 1306.04 and California Health and Safety Code 11168, 11190, and 11191, by failing to keep adequate medical records in the course of his treatment of Patient A during 1988, and 1991 through 1993. The primary treatment records during 1988 were the records of Dr. Skinner and Dr. Gottlieb, and there was no dispute that Dr. Roth did not maintain separate treatment records recording his treatment of Patient A during this time period. Although Dr. Smith testified that Dr. Gottlieb's records were inadequate, Dr. Margoles and Dr. Bochner testified that the records sufficiently supported the Respondent's prescribing practices, for Dr. Gottlieb's records included diagnoses and a treatment plan for Patient A. Further, the Respondent testified that he merely followed the treatment regimen of Dr. Gottlieb and Dr. Skinner when he "covered" for them in treating Patient A. No expert witness testimony was presented to discredit the Respondent's professional practice of recordkeeping under these circumstances.

As to the records from 1991 through 1993, the Respondent testified, and no evidence was presented to the contrary, that Patient A's treatment records covering his treatment of her during this time period were stolen from his office. Further, the Deputy Administrator concurs with Judge Tenney's finding that the Respondent's explanation for the missing records was credible. Given the loss of these medical records, the hearing record is devoid of evidence sufficient to establish the inadequacy of the Respondent's contemporaneous recordkeeping practices. Thus, the Deputy Administrator agrees with Judge Tenney's conclusion that the inadequacies of the medical records were not clearly supported.

As to factor five, "such other conduct which may threaten the public health and safety," the Government argued that the Respondent's pattern of prescribing to Patient A caused a threat to the public health and safety. As Judge Tenney noted, this is an unusual case for it involved the Respondent's prescribing practices for a single patient, and no evidence was provided to show a pattern of excessive prescribing to any other patients. Further, as to that single patient, the Deputy Administrator concurs with Judge Tenney's finding that the "overriding purpose of [the] Respondent's prescribing practices was the treatment of Patient A's pain," a legitimate medical purpose. Also, a relevant factor in determining the public's interest is the nature of the Respondent's current practice, for the Respondent testified that the majority of his patients in 1994 were living with AIDS and in many cases in need of controlled substances to relieve their incurable pain. In the balance, the Deputy Administrator finds that it is in the public interest for the Respondent to retain his DEA Certificate of Registration.

Yet the Deputy Administrator notes with concern the large quantities of controlled substances prescribed to Patient A over an extended period of time. However, the conflicting expert opinion evidence presented leads to the conclusion that the medical community has not reached a consensus as to the appropriate level of prescribing of controlled substances in the treatment of chronic pain patients. Given this dispute, the Deputy Administrator is reluctant to conclude that the Respondent's prescribing of controlled substances to Patient A lacked a legitimate medical purpose or was outside the usual course of professional practice. It remains the role of the treating physician to make medical treatment decisions consistent with a medical standard of care and the dictates of Federal and State law. Here, the preponderance of the evidence established that the Respondent so acted.

Therefore, the Deputy Administrator finds that the public interest is best served by taking no action with respect to the continued registration of the Respondent. Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 21 C.F.R. 0.100(b) and 0.104, hereby orders DEA Certificate of Registration AR8354425, issued to Michael J. Roth, M.D., be, and it hereby is, continued, and that any pending applications, be, and they hereby are, granted. This order is effective January 4, 1996.

Dated: November 24, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–29487 Filed 12–4–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

November 29, 1995.

The Department of Labor has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5095). Comments and questions about the ICRs listed below should be directed to Ms. O'Malley, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210 within 30 days from the date of this publication in the Federal Register. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OAW/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 10325, Washington, DC 20503 ((202) 395–7316). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Agency: Bureau of Labor Statistics.

Title: Application for BLS Occupational Safety and Health Statistics Cooperative Agreements.

OMB Number: 1220–0149.

Form	Respondents	Frequency	Average time per response
BLS–OSHA1	57	Annually	2 hours.
BLS–OSHA2	57	Quarterly	1 hour.

Affected Public: States.
Total Burden Hours: 342.
Description: The BLS enters into cooperative agreements with States and political subdivisions thereof, to assist them in developing and administering programs dealing with occupational safety and health statistics and to arrange through these agreements for research to further the objectives of the Occupational Safety and Health Act.

Agency: Bureau of Labor Statistics.
Title: Comp200 Test.
Frequency: One-time.
Affected Public: Within Albuquerque, NM, and Allentown, PA, metropolitan areas; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.
Number of Respondents: 574.
Estimated Time Per Respondent: 2 hours.
Total Burden Hours: 1,148.
Description: This collection is a test of a new method of identifying and classifying occupations within an establishment. If successful the new method could ultimately allow for joint collection of three separate surveys of wage and benefit data—the Occupational Compensation Survey Program, the Employment Cost Index, and the Employee Benefit Survey. In addition to evaluating the results of the test for use in future surveys, the BLS will also publish a bulletin for each area containing the occupational earnings data collected.

Agency: Employment Standards Administration.
Title: Application for Continuation of Death Benefit for Student.
OMB Number: 1215–0073.
Agency Number: LS–266.
Frequency: On occasion.
Affected Public: Individuals or households; Business or other for-profit.
Number of Respondents: 43.
Estimated Time Per Respondent: 30 minutes.
Total Burden Hours: 22.
Description: The Office of Workers' Compensation Programs, Division of Longshore and Harbor Workers' Compensation, provides for continuation of death benefit for a child or certain other surviving dependents if the dependent qualifies as a student. This form is used as an application for these benefits.

Agency: Employment Standards Administration.
Title: Black Lung Provider Enrollment Form.
OMB Number: 1215–0137.
Agency Number: CM–1168.
Frequency: On occasion.
Affected Public: Business or other for-profit.
Number of Respondents: 6,500.
Estimated Time Per Respondent: 3 to 7 minutes.
Total Burden Hours: 525.
Total Estimated Costs for Operation and Maintenance: $2,080.
Description: 20 CFR 725.705 sets forth specific requirements for the Federal Black Lung Program to provide medical services to black lung beneficiaries and stipulates that these medical services will be performed by authorized medical providers. the CM–1168 is designed to facilitate the collection of information about medical providers and the payment of bills for the medical services they perform for the program.

Agency: Employment and Training Administration.
Title: Worker Profiling and Reemployment Service Systems Administrator Survey.
Frequency: One-time.
Affected Public: State, Local or Tribal Government.
Number of Respondents: 126.
Estimated Time Per Respondent: 10–50 minutes.
Total Burden Hours: 49.
Description: The Department of Labor is conducting a comprehensive evaluation of the operation and effectiveness of State Worker Profiling and Reemployment Service (WPRS) systems, as mandated by P.L. 103–152. The survey information will be used to describe how States have designed and implemented WPRS systems, and to identify distinct groupings or modes of State operational approaches. Respondents are State Unemployment Insurance, Employment Service and Economic Dislocated and Worker Adjustment Act administrators.

Theresa M. O'Malley,
Acting Departmental Clearance Officer.
[FR Doc. 95–29554 Filed 12–4–95; 8:45 am]
BILLING CODE 4510–24–M

LEGAL SERVICES CORPORATION

Grant Awards to Applicants for Funds To Provide Civil Legal Services to Eligible Low-Income Clients Effective as Early as January 1, 1996, or as Soon Thereafter as Feasible, Consistent With Pending Congressional Appropriations

AGENCY: Legal Services Corporation.
ACTION: Announcement of Grant Awards.

SUMMARY: The Legal Services Corporation (LSC/Corporation) hereby announces its intention to award grants and contracts to provide economical and effective delivery of high quality civil legal services to eligible low-income clients effective as early as January 1, 1996, or as soon thereafter as feasible consistent with pending Congressional appropriations.
DATES: All comments and recommendations must be received on or before the close of business on January 4, 1996.
ADDRESSES: Office of Program Services, Legal Services Corporation, 750 First Street, N.E., 11th Floor, Washington, D.C. 20002–4250.
FOR FURTHER INFORMATION CONTACT: Patricia M. Hanrahan, Office of Program Services, 202/336–8846.
SUPPLEMENTARY INFORMATION: Pursuant to the Corporation's announcement of funding availability on September 21, 1995 (60 FR 48951), the LSC will award funds to one or more of the following organizations to provide civil legal services in the indicated service areas.

Name of Organization—Service areas identified in LSC RFP (Oct. 1995)

Lgl Svcs of the Virgin Islands Inc—VI–1
Puerto Rico Lgl Svcs Inc.—PR–1, PR–2, MPR

These grants and contracts will be awarded under the authority conferred on LSC by the Legal Services Corporation Act, as amended (42 U.S.C. 2996e(a)(1)). Awards will be made so that each service area indicated is served by one of the organizations listed above, although each of the listed organizations is not necessarily guaranteed an award or contract. This public notice is issued pursuant to the LSC Act (42 U.S.C. 2996f(f)), with a request for comments and recommendations concerning the potential grantees within a period of thirty (30) days from the date of publication of this notice. Grants will become effective as early as January 1, 1996, and funds will be distributed as soon thereafter as possible, consistent with pending Congressional appropriations.

Merceria L. Ludgood,
Director, Office of Program Services.
[FR Doc. 95–29574 Filed 12–4–95; 8:45 am]
BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–30947; License No. 37–28331–01 EA 94–089]

Advacare Management Services, Inc., Bala Cynwyd, Pennsylvania; Order Imposing Civil Monetary Penalty

I

Advacare Management Services, Inc. (Licensee) is the holder of Materials License No. 37–28331–01 issued by the Nuclear Regulatory Commission (NRC or Commission), issued April 4, 1989, renewed most recently on May 9, 1994. The license authorizes the Licensee to possess and use byproduct material for diagnostic nuclear medicine studies in accordance with the conditions specified therein.

II

An inspection of the Licensee's activities was conducted on April 26–28, 1994. Subsequently, an investigation was conducted by the NRC Office of Investigations. The results of the inspection and investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated August 30, 1995. The Notice states the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations.

The Licensee responded to the Notice in two letters, dated September 21, 1995. In its responses, the Licensee admits the violations as stated in the Notice, but requests mitigation of the civil penalty.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated and that the penalty proposed for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, It is hereby ordered that:

The Licensee pay a civil penalty in the amount of $2,500 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

V

The Licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

Whether on the basis of the violations admitted by the Licensee, this Order should be sustained.

Dated at Rockville, Maryland, this 28th day of November 1995.

For the Nuclear Regulatory Commission.

James Lieberman,
Director, Office of Enforcement.

Appendix—Evaluations and Conclusion

On August 30, 1995 a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violations identified during an NRC inspection and subsequent investigation by the NRC Office of Investigations. Advacare Management Services, Inc. (Licensee) responded to the Notice on September 21, 1995. The Licensee admitted the Violations, but requested mitigation of the civil penalty. The NRC's evaluation and conclusion regarding the licensee's requests are as follows:

1. Summary of Licensee's Request for Mitigation

In its responses, the Licensee contends that mitigating circumstances were not fully considered by the NRC. In support of its contention, the Licensee noted the following:

a. A prior inspection at the Bala Cynwyd facility identified few items of non-compliance and thus provided a level of managerial assurance that the radiation protection/compliance program was acceptable.

b. The term "promptly", as used on page 3 of Mr. Martin's letter dated August 30, 1995, is clearly a subjective word. The Licensee stated that its audit reports were received in January 1994 and the NRC inspection was on April 26–28, 1994. The Licensee stated that it was in the process of correcting the multiple minor areas of non-compliance identified in the audits and although some of the corrections were not completed by April 1, 1994, the majority were corrected by the enforcement conference and by subsequent spot check inspections by Region I inspectors between the June 1994 enforcement conference and the time of the Licensee's responses. The Licensee contends that its response was, in fact, reasonably prompt.

Therefore, the licensee requests that the combination of these factors should result in a modification of the proposed civil penalty from $2,500 to $1,250.

The Licensee further noted that it recognized and self-identified material weaknesses in its radiation safety program and contracted a consultant medical radiation physicist to assist the RSO in correcting those weaknesses and that the correction process was in place at the time of the inspection.

2. NRC Evaluation of Licensee's Request for Mitigation

The fact that an inspection was conducted at the Bala Cynwyd facility, one of several Licensee facilities, and in which only a few items of noncompliance were noted, three years prior to the inspection conducted on April 26–28, 1994, does not alleviate the need for aggressive managerial oversight of the radiation safety program. In order to assure continued acceptable performance in the area of radiation safety, the Licensee is required to not only perform periodic audits of its radiation safety program in accordance with its commitments under the ALARA program, but in accordance with 10 CFR 35.23, through its Radiation Safety Officer (RSO) identify radiation safety problems, as well as initiate corrective actions and verify the implementation of those corrective actions.

Although the Licensee had corrected some of the individual violations identified by the NRC, it had not corrected the majority of

them by the Enforcement Conference. The day prior to that Conference, the Licensee submitted a lengthy letter addressing the violations and the status of corrective actions. The information in this letter was not completely accurate and at the Conference several corrections were requested. These corrections were later submitted by the Licensee. In addition, the NRC staff had questioned the RSO's ability to meet his responsibilities for the numerous facilities and Licensee management had indicated that it intended to request a separate license for a New Jersey facility in order to relieve the RSO of some responsibilities, but it had not yet done so. In addition, the Licensee did not consider the need to apply similar corrective actions at the other facilities covered by the license.

Although the Licensee had recognized that it had weaknesses in its program and had engaged a consultant to assist the RSO, and these actions led to eventual good comprehensive corrective action, they were not sufficiently prompt and comprehensive as of the time of the Enforcement Conference to provide a basis for mitigating the civil penalty.

3. NRC Conclusion

The NRC has concluded that the violations occurred as stated and an adequate basis for mitigation of the civil penalty was not provided by the licensee. Consequently, the proposed civil penalty in the amount of $2,500 should be imposed.

[FR Doc. 95–29539 Filed 12–4–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–413 and 50–414]

Duke Power Company, et al., Catawba Nuclear Station, Units 1 and 2; Correction to Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission published a Notice of Consideration of Issuance of Amendments in the **Federal Register** (60 FR 58109 dated November 24, 1995), to Duke Power Company, et al., for the Catawba Nuclear Station, Units 1 and 2. Correction is being made on page 58110, third column, last paragraph, first sentence; the 30-day notice period ending date should read "By December 26, 1995, * * *" instead of "By December 18, 1995, * * *"

Dated at Rockville, Maryland, this 28th day of November 1995.

For the Nuclear Regulatory Commission.

Robert E. Martin,

Senior Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–29536 Filed 12–4–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–277 and 50–278]

Peco Energy Company; Notice of Consideration of Issuance of Amendments to Facility Operating License, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–44 and DPR–56 issued to the PECO Energy Company (the licensee) for operation of the Peach Bottom Atomic Power Station, Units 2 and 3, located in York County, Pennsylvania.

The proposed amendments would revise surveillance requirements for the high pressure coolant injection and reactor core isolation cooling systems and would make an administrative change to Section 5.5.7 of the technical specifications to eliminate reference to a section which was previously eliminated.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the changes will not alter assumptions relative to initiation and mitigation of analyzed events. These changes will not alter the operation of process variables, or SSC [system, structure or component] as described in the safety analysis. These changes do not involve any physical changes to plant SSC or the manner in which these SSC are operated, maintained, modified or inspected. Routine testing is not assumed to be an initiator of any analyzed event. The proposed changes will not alter the operation of equipment assumed to be available for the mitigation of accidents or transients by the plant safety analysis or licensing basis. These changes have been confirmed to ensure no previously evaluated accident has been adversely affected. The proposed lower test pressure for the HPCI [high pressure coolant injection] and RCIC [reactor core isolation cooling] system flow testing is consistent with the minimum EHC [electro-hydraulic control] pressure setpoint at which reactor power can be increased without the need to adjust the EHC pressure setpoint during operation in MODE 1. Increasing the lower test pressure from 920 psig to 940 psig does not impact when the performance of the test is required. The proposed upper test pressure for the HPCI and RCIC system flow testing is consistent with the Reactor Steam Dome Pressure Limit in Specification 3.4.10. Additionally, the HPCI and RCIC systems are both designed to provide adequate core cooling at reactor pressures from 150 psig to 1150 psig. SR [surveillance requirement] 3.5.1.8 and SR 3.5.3.3 still will require verifying HPCI and RCIC pumps can develop the required flow rates against system head corresponding to reactor pressure. Therefore, the proposed changes provide adequate assurance that the HPCI and RCIC systems will be maintained operable. In addition, these proposed changes eliminate the need to adjust reactor pressure from normally stable plant conditions to perform the test. As such, the probability of plant transients is expected to be reduced. Therefore, the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not alter the plant configuration (no new or different type of equipment will be installed or removed) and will not alter the method used by any system to perform its design function. The proposed changes do not allow plant operation in any mode that is not already evaluated in the SAR [safety analysis report]. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed changes do not involve a significant reduction in a margin of safety. The proposed change to the VFTP [ventilation filter test program] in Section 5.5.7 is administrative in nature and does not involve any technical changes. This proposed change will not reduce a margin of safety because it has no impact on any safety analysis assumptions. Because this change is administrative in nature, no question of safety is involved. The proposed changes also revise the upper and lower test pressure for the HPCI and RCIC system high pressure flow tests. These changes do not impact safety analysis assumptions or the ability of the HPCI and RCIC systems to perform their design functions. The HPCI and RCIC systems are designed to provide adequate core cooling at reactor pressures from 150 psig to 1150 psig. SR 3.5.1.8 and SR 3.5.3.3 still will require verifying HPCI and RCIC pumps can develop the required flow rates against system head corresponding to reactor pressure. The proposed lower test pressure for the HPCI and RCIC system flow testing is consistent with the minimum EHC pressure setpoint that provides adequate steam flow at which reactor power can be increased without the need to adjust the EHC pressure setpoint during operation in MODE 1. Increasing the lower test pressure from 920 psig to 940 psig does not impact when the performance of the test is required. The proposed upper test pressure for the HPCI and RCIC system flow testing is consistent with the initial condition for the reactor vessel overpressure protection analysis. In addition, the proposed changes provide the benefit of eliminating the need to adjust reactor pressure from normally stable plant conditions to perform the test, thereby reducing the potential for a plant transient. Therefore, these changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 3, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Government Publications Section, State Library of Pennsylvania, (Regional Depository) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz, Director, Project Directorate I–2: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to J.W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, Pennsylvania 19101, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 21, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Dated at Rockville, Maryland, this 29th day of November 1995.

For the Nuclear Regulatory Commission.

Joseph W. Shea,

Project Manager, Project Directorate I–2, Division of Reactor Projects–I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–29537 Filed 12–4–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–266 and 50–301]

Wisconsin Electric Power Company; (Point Beach Nuclear Plant, Units 1 and 2); Exemption

I

Wisconsin Electric Power Company (WEPCo, the licensee) is the holder of Facility Operating License Nos. DPR–24 and DPR–27 which authorize operation of the Point Beach Nuclear Plant (PBNP), Unit Nos. 1 and 2. The units are pressurized water reactors (PWR) located in Manitowoc County, Wisconsin. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

Section 50.54(q) of 10 CFR Part 50 requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect Emergency Plans that meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.2.b of Appendix E requires that each licensee annually exercise its Emergency Plan.

The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12, are (1) authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) present special circumstances. Special circumstances exist when the application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule [10 CFR 50.12(a)(2)(ii)]. The underlying purpose of 10 CFR Part 50, Appendix E Section IV.F.2.b is to demonstrate that the state of emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

III

By letters dated October 6, 1995 and November 3, 1995, the licensee requested a one-time exemption from the requirements of 10 CFR 50.47 and Appendix E to conduct an annual exercise of the Point Beach Emergency Plan in 1995. The Point Beach utility-only annual emergency exercise is currently scheduled for December 13, 1995. The licensee requested an exemption from the annual exercise requirement for 1995 based on: (1) their continued excellent performance in the area of emergency preparedness, (2) their conduct, earlier in the year, of a comprehensive drill involving major elements of the emergency plan, and (3) the potential for the 1995 exercise to have a negative impact on dry cask fuel storage activities.

The Point Beach Nuclear Plant, in conjunction with the State of Wisconsin, and Manitowoc and Kewaunee counties, conducted a full participation emergency preparedness exercise on December 6, 1994. Offsite emergency response activities were evaluated by the Federal Emergency Management Agency (FEMA) and the onsite emergency response activities were evaluated by the NRC. The NRC's evaluation is documented in NRC Inspection Report Nos. 50–266/94023 and 50–301/94023, dated December 16, 1994. The report states that no violations or deviations were identified and overall performance during the exercise was good. The licensee has implemented actions to correct the one exercise weakness, concerning offsite monitoring team vehicle readiness, identified during the December 6, 1994, exercise. The licensee has received an "excellent" rating on the last two Systematic Assessment of Licensee Performance reports in the area of emergency preparedness (Inspection Report Nos: 266/93001; 301/93001, dated July 16, 1993, and 266/94001; 301/94001 dated October 21, 1994).

The licensee performed an emergency drill on August 29, 1995, involving major elements of the Point Beach Emergency Plan. All emergency response facilities were activated for the drill and communications were made to the State. The licensee performed a thorough critique of the drill to identify strengths, deficiencies, weaknesses, and areas for improvement. No deficiencies, three weaknesses, and several areas for improvement were identified during the drill. The licensee has a program for correcting the weaknesses and for implementing actions to address the areas for improvement. The licensee plans to correct weaknesses identified during the drill prior to the 1996 full-participation exercise.

Appendix E to Part 50 requires that licensees shall enable any State or local government located within the plume exposure pathway emergency planning zone (EPZ) to participate in annual exercises when requested by such State or local government. The licensee has discussed the request for exemption from the 1995 annual emergency preparedness exercise with the State and local governments within the EPZ. The State and local governments within the EPZ have informed the licensee that they do not regard the exemption as a missed opportunity for them to exercise their emergency plan. The State and local governments within the Point Beach EPZ participated in the October 11, 1995, exercise at the nearby Kewaunee Nuclear Power Plant. The licensee's next emergency preparedness exercise is scheduled for August 1996 and will include the participation of State and local government emergency response organizations.

The licensee states that the 1995 exercise, as planned, is anticipated to have a negative impact on the licensee's oversight of the storage of spent fuel in an independent spent fuel storage installation at the Point Beach Nuclear Plant. The licensee had hoped to load their first dry storage container prior to mid-September. However, due to various reasons, they are now planning to load the first container in early December following the Point Beach Unit 2 refueling outage which is scheduled to be completed by the end of November. The licensee states that it is prudent to load a dry storage container as soon as possible in order to minimize the time that Point Beach will not have the capacity for a full-core offload. In addition, the licensee states that emergency response personnel who would be involved in the emergency exercise will be involved in oversight of the process for loading the storage containers.

IV.

Based upon a review of the licensee's request for an exemption for the requirement to conduct an exercise of the Point Beach Nuclear Plant Emergency Plan in 1995, the NRC staff finds that performance of the 1995 utility-only annual exercise is not needed to achieve the underlying purpose of the regulation, that is, to demonstrate that the state of emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. The licensee has demonstrated excellent performance in the emergency preparedness area. The integrated emergency preparedness drill in August of 1995 provided a good test of the emergency preparedness program. The licensee performed a thorough critique of the drill and no deficiencies were identified during the drill. The licensee plans to correct weaknesses which were identified during the drill prior to the 1996 full-participation exercise.

The Commission has determined, pursuant to 10 CFR Part 50.12, that this exemption as described in Section II above is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Furthermore, the Commission has determined that special circumstances as provided in 10 CFR 50.12(a)(2)(ii) are present in that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

The Commission hereby grants a one-time exemption from the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.b, for annually exercising the onsite Emergency Plan at the Point Beach Nuclear Plant in the year 1995.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (60 FR 58685).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–29538 Filed 12–4–95; 8:45 am]

BILLING CODE 7590–01–P

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Meetings

Notice is hereby given of the meetings of the Prospective Payment Assessment Commission on Tuesday and Wednesday, December 12 and 13, 1995 at the Madison Hotel, 15th & M Streets, NW, Washington, DC, 202/862–1600.

The Full Commission will convene at 9:00 a.m. on December 12, 1995, and adjourn at approximately 5:15 p.m. On Wednesday, December 13, 1995, the meeting will convene at 8:30 a.m. and adjourn at approximately 3:30 p.m. The meetings will be held in Executive Chambers 1, 2, and 3 each day.

All meetings are open to the public.

Donald A. Young,

Executive Director.

[FR Doc. 95–29489 Filed 12–4–95; 8:45 am]

BILLING CODE 6820–BW–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36513; File No. SR–CBOE–95–58]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 to Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Requirement to Make Prior Arrangements or Obtain Other Assurances Before Engaging in Short Sales

November 27, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on October 19, 1995, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On October 31, 1995, the Exchange submitted Amendment No. 1 ("Amendment No. 1") to the proposal to reduce the number of days in which a customer must assure delivery of the subject securities from five days to three days.[1] The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to make certain changes to its rules relating to the requirement to make prior arrangements to borrow stock or to obtain other assurances that delivery can be made on settlement date before a member or person associated with a member may sell short. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has

[1] Letter from Timothy Thompson, CBOE, to Michael Walinskas, SEC, dated October 31, 1995.

prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this rule proposal is to establish procedures and rules regarding the need to make prior arrangements to borrow stock, warrants, or other securities that trade subject to Chapter 30 of the Exchange's rules, or to otherwise ensure availability of the subject securities before engaging in short sales. The change involves the adoption of Interpretation .04 to Rule 30.20, *"Long" and "Short" Sales.* Interpretation .04 is similar to rules of other securities exchanges[2] and would require that member organizations who effect short sales for their own account or for the accounts of customers to make an affirmative determination that delivery of the subject securities can be made on settlement date. The purpose for this rule proposal is to ensure that borrowings and short sales do not outpace the supply of deliverable stock, thus, leading to potential systematic problems. In the case of the short selling of members' proprietary positions, the proposal is intended to address unnecessary speculation in connection with the short selling of broker-dealers' proprietary positions caused by the members' ability to go short without securities to cover the short position. The proposed amendment, as with the rules of the other securities exchanges, would not apply to bona fide market making transactions by a member in securities in which it is a registered market-maker. This market-maker exemption recognizes that many short selling transactions are engaged in by market-makers to enhance market liquidity, which is beneficial to the market and thus should not be unduly restricted.

Interpretation .04 also describes the type of "affirmative determinations" that must be obtained by the member or person associated with the member to ensure that the securities will be available. The member or person associated with the member is obligated to keep a written record of each "affirmative determination." If a customer assures delivery, the written affirmative determination must record the present location of the securities in question, whether they are in good deliverable form and the customer's ability to deliver them to the member within three business days.[3] If the member or person associated with a member locates the stock, the affirmative determination must record the identity of the individual and firm contacted who offer assurance that the shares would be delivered or that were available for borrowing by settlement date and the number of shares needed to cover the short sale. The requirement to keep a written record of each affirmative determination serves two purposes: first, the written record allows the Exchange to audit compliance with the Rule, and second, the written record provides the member firm with evidence to pursue its own resolution in the event of a default.

By ensuring that securities are available for borrowing and for delivery, the Exchange believes the rule proposal will help to prevent situations where there is a shortage of deliverable stock as well as failures to deliver. By facilitating short sales and decreasing the likelihood of a fail, the Exchange believes the rule proposal is consistent with Section 6(b) of the Act in general and Section 6(b)(5) in particular by providing rules that facilitate transactions in securities, remove impediments to a free and open market and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) was provided to the Commission for its review at least five business days prior to the filing date; and (4) does not become operative for 30 days from October 31, 1995, the rule change proposal has become effective pursuant to Section 19 (b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder. In particular, the Commission believes the proposal qualifies as a "noncontroversial filing" in that the proposed amendments do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–95–59 and should be submitted by December 26, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29511 Filed 12–4–95; 8:45 am]

BILLING CODE 8010–01–M

[2] *See e.g.*, New York Stock Exchange ("NYSE") Rule 440C (and NYSE Information Memo 91–10, *Deliveries Against Short Sales*, (Oct. 18, 1991)) and Interpretation of the Board of Governors of the National Association of Securities Dealers, Inc. ("NASD"), *Prompt Receipt and Delivery of Securities*, under Article III, Section 1 of the NASD Rules of Fair Practice.

[3] *See* Amendment No. 1. This reduction from five days to three days complies with the normal settlement schedule for equity securities.

[4] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36522; File No. SR–MSRB–95–15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Consultants

November 28, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 28, 1995,[1] the Municipal Securities Rulemaking Board (MSRB" or "Board") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the MSRB. The Board has requested that the Commission delay the effective date of the proposed rule change until sixty (60) days after the Commission's approval thereof. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board proposes to amend rules G–8[2] and G–9,[3] on recordkeeping and record retention, rule G–27,[4] on political contributions and prohibitions on municipal securities business, and add a new rule G–38 regarding consultants. The Board also proposes to amend its Form G–37, and redesignate it as Form G–37/G–38.

Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Rule G–8. Books and Records To Be Made by Brokers, Dealers and Municipal Securities Dealers

(a) Description of Books and Records Required to be Made.

* * * * *

(xvi) Records Concerning Political Contributions and Prohibitions on Municipal Securities Business Pursuant to Rule G–37, Records reflecting: * * *

(D) a listing of the issuers with which the broker, dealer or municipal securities dealer has engaged in municipal securities business, along with the type of municipal securities business engaged in, during the current year and separate listings for each of the previous two calendar years[. Where applicable, a listing of the name, company, role and compensation arrangement of any person employed by the broker, dealer or municipal securities dealer to obtain or retain municipal securities business with such issuers also shall be made]; * * *

(xvii) Records Concerning Consultants Pursuant to Rule G–38. Each broker, dealer and municipal securities dealer shall maintain: (i) A listing of the name, company, role and compensation arrangement of each consultant; (ii) a copy of each Consultant Agreement referred to in rule G–38(b); (iii) a listing of the compensation paid in connection with each such Consultant Agreement; (iv) where applicable, a listing of the municipal securities business obtained or retained through the activities of each consultant; (v) a listing of issuers and a record of disclosures made to such issuers, pursuant to rule G–38(c), concerning each consultant used by the broker, dealer or municipal securities dealer to obtain or retain municipal securities business with each such issuer; and (vi) the date of termination of any consultant arrangement

* * * * *

(f) Compliance with Rule 17a–3. Brokers, dealers and municipal securities dealers other than bank dealers which are in compliance with rule 17a–3 of the Commission will be deemed to be in compliance with the requirements of this rule, provided that the information required by subparagraph (a)(iv)(D) of this rule as it relates to uncompleted transactions involving customers; paragraph (a)(viii); paragraph (a)(xi); paragraph (a)(xii); paragraph (a)(xiii); paragraph (a)(xiv); paragraph (a)(xv); paragraph (a)(xvi); [and] paragraph (a)(xvii); *and paragraph (a)(xviii)* shall in any event be maintained.

Rule G–9. Preservation of Records

(a) Records to be Preserved for Six Years. Every broker, dealer and municipal securities dealer shall preserve the following records for a period of not less than six years. * * *

(x) the records required to be maintained pursuant to rule G–8(a)(xviii).

* * * * *

Rule G–37. Political Contributions and Prohibitions on Municipal Securities Business

* * * * *

(e)(i) Each broker, dealer or municipal securities dealer shall submit to the Board, by certified or registered mail, or some other equally prompt means that provides a record of sending, and the Board shall make public, reports on contributions to officials of issuers and on payments to political parties of states and political subdivisions that are required to be recorded pursuant to rule G–8(a)(xvi). Such reports shall include information concerning the amount of contributions to officials of issuers and payments to political parties of states and political subdivisions *and an indication of the contributor category of each contribution or payment made by.* * * *

Such reports also shall include information on municipal securities business engaged in and certain other information specified in this section (e), as well as other identifying information as may be determined by the Board from time to time [in accordance with Board rule G–37 filing procedures].

(ii) *Two copies of the* [R]reports referred to in paragraph (i) of this section (e) must be submitted to the Board on Form G–37/*G–38* [in accordance with Board rule G–37 filing procedures, quarterly with due dates determined by the Board,] *within thirty (30) calendar days after the end of each calendar quarter (these dates correspond to January 31, April 30, July 31 and October 31),* and must include, in the prescribed format, by state, the following information on contributions to each official of an issuer and payments to each political party of a state or political subdivision made and municipal securities business engaged in during the reporting period: (A) name and title (including any city/county/state or political subdivision) of each official of an issuer and political party receiving contributions or payments; (B) [total number and dollar amount of contributions or payments made by] *contribution or payment amount made and the contributor category of* the persons and entities described in paragraph (i) of this section (e); and (C) such other identifying information required by Form G–37/*G–38.* Such reports also must include a list of issuers with which the broker, dealer or municipal securities dealer has engaged in municipal securities business, along with the type of municipal securities business [and the name, company, role and compensation arrangement of any person, other than a municipal finance

[1] On November 15, 1995, the MSRB filed Amendment No. 1 with the Commission. Amendment No. 1 was a minor technical amendment, the text of which may be examined in the Commission's Public Reference Room, *See* Letter from Jill C. Finder, Assistant General Counsel, MSRB, to Ethan D. Corey, Senior Counsel, Division of Market Regulation, Commission, dated November 15, 1995.

[2] *MSRB Manual*, General Rules, G–8 (CCH) ¶3536.

[3] *MSRB Manual*, General Rules, G–9 (CCH) ¶3541.

[4] *MSRB Manual*, General Rules, G–37 (CCH) ¶3681.

professional, employed by the broker, dealer or municipal securities dealer to obtain or retain municipal securities business with such issuers].

(f) The Board will accept additional information related to contributions made to officials of issuers and payments to political parties of states and political subdivisions voluntarily submitted by brokers, dealers, or municipal securities dealers or others provided that such information is submitted in accordance with [Board rule G–37 filing procedures] *section (e) of this rule.*

* * * * *

[Rule G–37 Filing Procedures. Each dealer is required to file two copies of Form G–37. Each dealer is required to file Form G–37 within thirty (30) calendar days after the end of each calendar quarter. (These dates correspond to January 31, April 30, July 31, and October 31).]

Rule G–38. Consultants

(a) Definitions.

(i) The term "consultant" means any person used by a broker, dealer or municipal securities dealer to obtain or retain municipal securities business through direct or indirect communication by such person with an issuer on behalf of such broker, dealer or municipal securities dealer where the communication is undertaken by such person in exchange for, or with the understanding of receiving, payment from the broker, dealer or municipal securities dealer or any other person; provided, however, that the following persons shall not be considered consultants for purposes of this rule: (A) a municipal finance professional of the broker, dealer or municipal securities dealer; and (B) any person whose sole basis of compensation from the broker, dealer or municipal securities dealer is the actual provision of legal, accounting or engineering advice, services or assistance in connection with the municipal securities business that the broker, dealer or municipal securities dealer is seeking to obtain or retain.

(ii) The term "issuer" shall have the same meaning as in rule G–37(g)(ii).

(iii) The term "municipal finance professional" shall have the same meaning as in rule G–37(g)(iv).

(iv) The term "municipal securities business" shall have the same meaning as in rule G–37(g)(vii).

(v) The term "payment" shall have the same meaning as in rule G–37(g)(viii).

(b) Written Agreement. Each broker, dealer or municipal securities dealer that uses a consultant shall evidence the consulting arrangement by a writing setting forth, at a minimum, the name, company, role and compensation arrangement of each such consultant ("Consultant Agreement"). Such Consultant Agreement must be entered into before the consultant engages in any direct or indirect communication with an issuer on behalf of the broker, dealer or municipal securities dealer.

(c) Disclosure to Issuers. Each broker, dealer or municipal securities dealer shall submit in writing to each issuer with which the broker, dealer or municipal securities dealer is engaging or is seeking to engage in municipal securities business, information on consulting arrangements relating to such issuer, which information shall include the name, company, role and compensation arrangement of any consultant used, directly or indirectly, by the broker, dealer or municipal securities dealer to attempt to obtain or retain municipal securities business with each such issuer. Such information shall be submitted to the issuer prior to the selection of any broker, dealer or municipal securities dealer in connection with such municipal securities business.

(d) Disclosure to Board. Each broker, dealer or municipal securities dealer shall submit to the Board by certified or registered mail, or some other equally prompt means that provides a record of sending, and the Board shall make public, reports of all consultants used by the broker, dealer or municipal securities dealer during each calendar quarter. Two copies of the reports must be submitted to the Board on Form G–37/G–38 within thirty (30) calendar days after the end of each calendar quarter (these dates correspond to January 31, April 30, July 31, and October 31). Such reports shall include, for each consultant, in the prescribed format, the consultant's name, company, role and compensation arrangement. In addition, such reports shall indicate the dollar amount of payments made to each consultant during the report period and, if any such payments are related to the consultant's efforts on behalf of the broker, dealer or municipal securities dealer which resulted in particular municipal securities business, then that business and the related dollar amount of the payment must be separately identified.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Over the last few years, the Board has been concerned about abuses associated with the awarding of municipal securities business. Rule G–37, which became effective in April 1994, prohibits a dealer from engaging in municipal securities business with an issuer within two years after any contribution to an official of such issuer made by the dealer, any municipal finance professional associated with the dealer, or any political action committee controlled by the dealer or any municipal finance professional.[5] The rule also prohibits a dealer from doing anything indirectly which would result in a violation of the rule if done directly by the dealer. For example, a violation would result if a dealer engages in municipal securities business with an issuer after directing third parties (such as consultants) to make contributions to that issuer. In addition to recording and disclosing political contributions, rule G–37 currently requires dealers to record and disclose on Form G–37 those issuers with which the dealer has engaged in municipal securities business and, where applicable, the name, company, role and compensation arrangement of any person employed by the dealer to obtain or retain business with such issuers.

Rule G–20, on gifts and gratuities, prohibits dealers from, directly or indirectly, giving or permitting to be given any thing or service of value in excess of $100 per year to any person, other than an employee or partner of the dealer, in relation to the municipal securities activities of the person's employer. All gifts given by the dealer and its associated persons, or by consultants at the direction of the dealer, are used to compute the $100 limitation and this limitation applies to gifts and gratuities to customers, individuals associated with issuers, and employees of other dealers.[6]

[5] Rule G–37(b) contains *de minimis* exception for certain contributions made by municipal finance professionals.

[6] Rule G–20(b) exempts "normal business dealings" from the $100 annual limit. These payments are defined as occasional gifts of meals or tickets to theatrical, sporting, and other entertainments, as well as the sponsoring of legitimate business functions that are recognized by the IRS as deductible business expenses, and gifts of reminder advertising. However, the rule also provides that such gifts can not be so frequent or so expensive as to raise a suggestion of unethical conduct.

The Board believes that rules G–37 and G–20, along with rule G–17, on fair dealing,[7] set appropriate standards for dealer conduct in the municipal securities industry. However, the Board is concerned about dealers' increasing use of consultants to obtain or retain municipal securities business. While the Board believes that in many instances the use of consultants is appropriate, it also believes that, in a number of instances, the use of consultants may be in response to limitations placed on dealer activities by rule G–37 and rule G–20.[8] While both of these rules prohibit dealers from doing indirectly what they are precluded from doing directly, indirect activities often are difficult to prove. The Board recognizes that vigorous enforcement of its rules, as well as the antifraud provisions of the federal securities laws, will be effective in uncovering improper conduct, as well as deterring further violations, in connection with municipal securities business. Notwithstanding such efforts, or the current rule G–37 requirement that dealers disclose certain information about consultant arrangements, the Board believes that additional information about such arrangements should be made available to issuers and the public. Currently, the limited amount of information regarding consulting arrangements and the role of consultants in helping dealers obtain or retain municipal securities business makes it difficult to determine the extent to which payments to consultants influence the issuer's selection process in connection with municipal securities business, as well as the extent to which such payments increase the cost of bringing municipal securities issues to market. The Board believes that disclosure of consulting arrangements (even those that would not result in any rule violations) is necessary. Furthermore, the Board believes that disclosure requirements regarding consultants should be embodied in a separate rule in order to highlight the importance of this information and to facilitate its disclosure to, and accessibility by, the municipal securities market and the public. Accordingly, the Board is proposing new rule G–38, on consultants. At this time, the board is not proposing any substantive restrictions on arrangements between dealers and consultants. If, at a later date, the Board learns of specific dealer practices regarding the use of consultants that it believes should be addressed, then the Board may proceed with additional rulemaking in this area.

Background

In April 1995, the Board published for comment draft rule G–38 ("April 1995 Draft Rule").[9] The April 1995 Draft Rule would have required dealers to have written agreements with consultants and to disclose such arrangements to issuers and to the public through disclosure to the Board. It defined the term "consultant" very broadly, and included, among others, persons that acted as "finders" for municipal securities business or that lobbied state and local government officials. The term also included persons who engaged in legal, accounting or financial advisory services if such persons were engaged, even in part, because they could assist a dealer in efforts to obtain or retain municipal securities business with an issuer, and included persons engaged by a dealer at the request or direction of the issuer (*e.g.*, underwriter's counsel).

While most of the commenters responding to the April 1995 Draft Rule supported the Board's goal of making additional information on consultants available to the market, many expressed concern that the definition of consultant was too broad and included a number of categories of persons who did not perform "traditional" consulting roles or services.[10] The Board carefully considered these and other concerns and suggestions expressed by the commenters, and adopted the proposed rule change. Proposed rule G–38 differs in certain respects from the April 1995 Draft Rule, particularly with regard to the definition of consultant. By making such changes, the Board believes that the proposed rule effectively addresses concerns raised by the commenters without sacrificing the Board's goal of making information about consultants available to issuers and the public.

Summary of Proposed Rule G–38

Definition of Consultant

Proposed rule G–38 defines consultant as any person used by a dealer to obtain or retain municipal securities business through direct or indirect communication by such person with an issuer on the dealer's behalf where the communication is undertaken by such person in exchange for, or with the understanding of receiving, payment from the dealer or any other person.[11] The definition specifically excludes "municipal finance professionals," as that term is defined in rule G–37(g)(iv), because such individuals are covered by the requirements of rule G–37. The definition also excludes any person whose sold basis of compensation from the dealer is the actual provision of legal advice, accounting or engineering assistance in connection with the municipal securities business that the dealer is seeking to obtain or retain. The exclusion would apply, for example, to a lawyer retained to conduct a legal analysis on a particular transaction contemplated by the dealer, or to review local regulations; an accountant retained to conduct a tax analysis or to scrutinize financial reports; or an engineer retained to perform a technical review or feasibility study. The exemption is intended to ensure that professionals who are engaged by the dealer solely to perform substantive work in connection with municipal securities business are not brought within the definition of consultant as long as their compensation is in consideration of only those professional services actually

[7] Rule G–17 provides that, in the conduct of its municipal securities business, each broker, dealer, and municipal securities dealer shall deal fairly with all persons and shall not engage in any deceptive, dishonest, or unfair practice.

[8] For example, the Commission has charged that kickbacks and conflicts of interest have occurred in connection with municipal securities offerings. In one instance, the Commission alleged that dealer personnel paid a large kickback to the issuer's financial advisor and inflated the underwriters' discount to fund the kickback. *See* SEC Litigation Release No. 14421 (February 23, 1995) regarding *SEC v. Nicholas A. Rudi, Joseph C. Salema, Public Capital Advisors, Inc. (formerly known as Consolidated Financial Management, Inc.), George L. Tuttle, Jr. and Alexander S. Williams.* In another instance, the SEC alleged that dealer personnel provided loans and direct payments to an employee of an issuer that had an important role in selecting the underwriter. *See* SEC Litigation Release No. 14397 (January 23, 1995) regarding *SEC v. Terry D. Busbee and Preston C. Bynum.*

[9] *MSRB Reports*, Vol. 15, No. 1 (April 1995) at 3–10.

[10] A summary of these comments is discussed *infra* Section II.C.

[11] "Person" is defined in Section 3(a)(9) of the Securities Exchange Act of 1934 as "a natural person, company, government, or political subdivision, agency, or instrumentality of a government."

"Municipal securities business" has the same meaning as in rule G–37(g)(vii), *i.e.*, (A) the purchase of a primary offering (as defined in rule A–13(d)) of municipal securities from the issuer on other than a competitive bid basis (*i.e.*, negotiated underwriting); (B) the offer or sale of a primary offering of municipal securities on behalf of any issuer (*i.e.*, private placement); (C) the provision of financial advisory or consultant services to or on behalf of an issuer with respect to a primary offering of municipal securities on other than a competitive basis; or (D) the provision of remarketing agent services to or on behalf of an issuer with respect to a primary offering of municipal securities on other than a competitive bid basis.

"Payment" has the same meaning as in rule G–37(g)(viii), *i.e.*, any gift, subscription, loan, advance, or deposit of money or anything of value.

provided in connection with such municipal securities business. However, any attorney or other professional used by the dealer as a "finder" for municipal securities business would be considered a consultant under the proposed rule.

Written Agreement

Proposed rule G–38 requires dealers who use consultants to evidence the consulting arrangement in writing (referred to as a "Consultant Agreement"), and that, at a minimum, the writing must include the name, company, role and compensation arrangement of each consultant used by the dealer. Such written agreements must be entered into before the consultant engages in any direct or indirect communication with an issuer on the dealer's behalf.

Disclosure to Issuers

Proposed rule G–38 requires each dealer to disclose to an issuer with which it is engaging or seeking to engage in municipal securities business, in writing, information on consulting arrangements relating to that issuer. The written disclosure must include, at a minimum, the name, company, role and compensation arrangements with the consultant or consultants. Dealers are required to make such written disclosures prior to the issuer's selection of any dealer in connection with the municipal securities business sought, regardless of whether the dealer making the disclosure ultimately is the one to obtain or retain that business. Thus, while dealers have an obligation to disclose their consulting arrangements to all issuers from which they are seeking municipal securities business, they have more leeway in the timing of their disclosures as long as the disclosure is made before the issuer selects a dealer for the municipal securities business sought.

Disclosure to the Board

Proposed rule G–38 requires dealers to submit to the Board, on a quarterly basis, reports of all consultants used by the dealer. For each consultant, dealers must report, in the prescribed format, the consultant's name, company, role and compensation arrangement, as well as the dollar amount of any payment made to the consultant during the quarterly reporting period. If any payment made during the reporting period is related to the consultant's efforts on the dealer's behalf which resulted in particular municipal securities business, whether the municipal securities business was completed during that or a prior reporting period, then the dealer must separately identify that business and the dollar amount of the payment. In addition, as long as the dealer continues to use the consultant to obtain or retain municipal securities business (*i.e.*, has a continuing arrangement with the consultant), the dealer must report information concerning such consultant every quarter, whether or not compensation is paid to the consultant during the reporting period. The Board believes that the reporting of these continuing consulting arrangements each quarter will assist enforcement agencies and the public in their review of such arrangements.

For ease of compliance and reporting, the Board has determined to delete the current reporting requirements regarding consultants from rule G–37. It also has determined to merge the reporting requirements for both rules into a single form—Form G–37/G–38. Dealers must submit two copies of such reports on proposed Form G–37/G–38.[12] The quarterly due dates are the same as the due dates currently required under the rule G–37 (*i.e.*, within 30 calendar days after the end of each calendar quarter, which corresponds to each January 31, April 30, July 31, and October 31). Finally, consistent with current rule G–37, dealers are required to submit these reports to the Board by certified or registered mail, or some other equally prompt means that provides a record of sending.[13] The Board will then make these documents available to the public for inspection and photocopying at its Public Access Facility in Alexandria, Virginia, and for review by agencies charged with enforcement of Board rules.

Recordkeeping Requirements

To facilitate compliance with, and enforcement of, proposed rule G–38, the Board also proposes to amend existing rules G–8 and G–9, concerning recordkeeping and record retention, respectively. The proposed amendments to rule G–8 require dealers to maintain: (i) A listing of the name, company, role and compensation arrangement of each consultant; (ii) a copy of each Consultant Agreement; (iii) a listing of the compensation paid in connection with each Consultant Agreement; (iv) where applicable, a listing of the municipal securities business obtained or retained through the activities of each consultant; (v) a listing of the issuers and a record of disclosures made to such issuers concerning each consultant used by the dealer to obtain or retain municipal securities business with each such issuer; and (vi) the date of termination of any consultant arrangement. The amendment to rule G–9 requires dealers to maintain these records for a six-year period.

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which provides that the Board's rules shall:

> Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The proposed rule change serves a number of the Board's enumerated purposes, including promoting just and equitable principles of trade, by ensuring that dealers compete for, and are awarded, municipal securities business on the basis of merit, and not political or financial influence. Such healthy competition will act to lower artificial barriers to those dealers not willing or able to hire consultants to obtain or retain municipal securities business, thereby maintaining the integrity of the municipal securities market, as well as the public trust and confidence that is essential to the long-term health and liquidity of the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since the proposed rule change would apply equally to all brokers, dealers and municipal securities dealers. The Board believes that the proposed rule change will improve competition in the awarding of municipal securities business by ensuring that dealers compete for, and are awarded, such business on the basis of merit, not political or financial influence.

[12] Proposed Form G–37/G–38 is included in Exhibit 3 to the proposed rule change, along with instructions for filing the Form. In addition to the new rule G–38 consultant reporting requirements, Form G–37/G–38 includes revisions to the rule G–37 political contribution reporting requirements. Such revisions include, for each contribution, a required notation of the category of the contributor (*e.g.*, municipal finance professional or executive officer) and the amount of the contribution, as well as a separate section for the reporting of "payments" to political parties distinct from "contributions" to issuer officials.

[13] For ease of compliance, the Board has included the Rule G–37 Filing Procedures within the language of rule G–37, and has included the Rule G–38 Filing Procedures within the language of new rule G–38.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board received 17 comment letters in response to its April 1995 Draft Rule from the following commenters.[14]

A.G. Edwards & Sons, Inc.
American Government Financial Services Company
American Institute of Certified Public Accounts
Artemis Capital Group
Broward County, FL Finance and Administrative Services Dept.
Chapman and Cutler
Chemical Securities, Inc.
Gilmore & Bell
Goldman Sachs & Co.
Government Finance Officers Association
JP Morgan Securities Inc.
Morgan Stanley & Co., Inc.
National Association of Bond Lawyers
Public Securities Association
Seattle-Northwest Securities Corporation
Smith Barney Inc.
Willkie Farr & Gallagher

Summary and Discussion of Comments

The April 1995 Draft Rule would have required dealers (1) to have written agreements with persons who are used by a dealer for the purpose of seeking to obtain or retain municipal securities business, and (2) to disclose such arrangements with consultants directly to issuers and to the public through disclosure to the Board.

Necessity of a New Rule

Certain commenters believe that the April 1995 Draft Rule is unnecessary and should not be adopted.[15] The majority of commenters believe that the Board's goals in proposing the rule can more readily be accomplished by amending existing rule G–37, on political contributions and prohibitions on municipal securities business.[16] One commenter states that "duplicative regulation should be avoided" noting that rules G–37 and G–20 already address the use of consultants by dealers for impermissible purposes.[17] This commenter states that:

> To the extent the market sees Rule G–38 as a rule without a needed purpose and as increasing compliance costs without any corresponding benefit, it will erode overall market support for the more important efforts to reform and improve the municipal securities markets * * *. Changes are occurring rapidly in the regulation of municipal securities, and there may be considerable merit in allowing the market to respond to Rule G–37, the [SEC's] 1994 Interpretive Release and similar efforts to see if they are effective in limiting influence peddling in the industry before additional rules are adopted.[18]

Another commenter believes that in attempting to address concerns about the possible circumvention of rules G–37 and G–20, the April 1995 Draft Rule "is overly broad, mandating disclosure about a host of professionals whose activities and terms of engagement raise no legitimate specter of 'pay-to-play' abuses and often constitute proprietary and confidential business arrangements."[19]

One commenter "strongly believes that proposed rule G–38 is not necessary" and argues that the rule "would seriously impair and discourage the traditional business relationships among professionals in the industry which have made the municipal securities market uniquely efficient in raising capital for states and localities."[20] This commenter believes that "[i]n lieu of an additional and duplicative regulatory reporting regime" the Board should amend rule G–37 to "target those consulting relationships that are used for the exclusive purpose of retaining or obtaining municipal securities business."[21] In this regard, the commenter recommends that the Board provide a focused definition of consultant, as more fully discussed below.

One of the commenters states that, pursuant to the requirements of rule G–37, basic information is filed with the MSRB about consultants with whom a dealer has a business relationship.[22] Thus, this commenter questions the need for the April 1995 Draft Rule, "which will impose significant new compliance burdens that will increase issuer borrower costs."[23] The commenter suggests that the Board review rule G–37 and Form G–37 "to determine whether they might be modified to capture additional information."[24] Instead of a new rule, the commenter favors vigorous enforcement of existing Board rules for deterring improper conduct in the municipal securities industry.

One commenter believes that the April 1995 Draft Rule will create confusion with existing disclosure requirements under rule G–37, and that any required disclosures relating to consultant activity should be embodied in the same rule.[25] Thus, this commenter suggests amending rule G–37 or, in the alternative, removing the consultant disclosure requirements currently under rule G–37 and incorporating them into a modified version of the April 1995 Draft Rule.

Board Response

In response to commenters' concerns, the Board has modified the April 1995 Draft Rule, particularly with regard to the definition of consultant, as more fully discussed below. In addition, the Board is proposing to delete from rule G–37 the current disclosure requirements regarding consultants and to include all such requirements under new rule G–38. The Board also is proposing to replace Form G–37 with a new Form G–37/G–38, to consolidate dealers' reporting requirements under both rules G–37 and G–38. The Board believes that, by modifying the definition of consultant and including all disclosure requirements within a single rule, the proposed rule effectively addresses concerns raised by the commenters, including those relating to the need for a new rule, without sacrificing the Board's goal of making information about consultants available to issuers and the public in order to ensure the integrity of the municipal securities market.

Definition of "Consultant"

The April 1995 Draft Rule defined "consultant" as any person, other than an employee or partner of a dealer, who is used by a dealer for the purpose of seeking to obtain or retain municipal securities business, including any person performing services for such dealer at the request or direction of an issuer. Fifteen of the 17 commenters expressed concern over this definition.[26] In general, the commenters are opposed to extending the definition to the following:

> Professional service providers who are not actively engaged in assisting the underwriter to obtain or retain municipal securities business (*e.g.*, an accounting firm retained to conduct a tax analysis; a certified public

[14] *MSRB Reports*, Vol. 15, No. 1 (April 1995) at 3–10. Copies of the Notice Requesting Comment and the comment letters received are included in Exhibit 2.

[15] Gilmore & Bell; Goldman Sachs.

[16] A.G. Edwards; Artemis; Broward County; Chemical; GFOA; Gilmore & Bell; JP Morgan; PSA; and Smith Barney.

[17] Gilmore & Bell.

[18] *Id.*

[19] Goldman Sachs.

[20] PSA.

[21] *Id.*

[22] GFOA.

[23] *Id.*

[24] *Id.*

[25] A.G. Edwards.

[26] A.G. Edwards; AICPA; Artemis; Broward County; Chapman & Cutler; Chemical; GFOA; Gilmore & Bell; Goldman Sachs; JP Morgan; Morgan Stanley; NABL; PSA; Seattle-Northwest; and Smith Barney.

accountant retained to provide audit and attestation services; and a law firm retained to conduct a legal analysis on a particular transaction contemplated).[27]

Professionals designated by an issuer to provide services to the dealer (*e.g.*, underwriter's counsel).[28]

Professional from whom a dealer seeks substantive or technical advice in connection with an issuer presentation with no intention of seeking their intercession with the issuer (*e.g.*, engineers who perform technical reviews or feasibility studies; lawyers who review local regulations; and accountants who scrutinize financial reports).[29]

Any individual retained as a consultant but treated by a dealer as a municipal finance professional (*e.g.*, a limited partner or other retired employee of the dealer).[30]

Lobbyists who are not acting to obtain or retain business (*e.g.*, a lobbyist employed to keep the dealer apprised of legislation that could impact the dealer or its issuer clients).[31]

PSA recommends the following definition of consultant:

Any person, other than a municipal finance professional, who is employed by the broker, dealer or municipal securities dealer on an exclusive basis with respect to either an issuer or a particular transaction to obtain or retain municipal securities business, provided that such employment (A) includes any direct or indirect communication with the issuer by such person which is made on behalf of the broker, dealer or municipal securities dealer to obtain or retain such municipal securities business, and (B) is undertaken with the understanding of receiving compensation from such broker, dealer or municipal securities dealer.

Another commenter is concerned about the Board's definition of consultant because "any third party with whom a dealer discusses any issue which might bear on the firm's decision to seek business could qualify as a consultant. After all, since firms are in business to do business, they have little reason to talk to anyone unless it is to help get business."[32] This commenter endorses PSA's definition of consultant, and believes that at least two factors are relevant to the creation of a consulting relationship: (1) The person will actively promote the underwriter—and only that underwriter—to an issuer; and (2) the person will be compensated in some way by the underwriter. Two other commenters also endorse PSA's proposed definition of consultant, and believe that it should be incorporated into rule G-37.[33] Another commenter, without criticizing the commenter's proposed definition, recommends a modified version thereof.[34] On the other hand, Morgan Stanley is critical of certain elements of PSA's definition.[35] With respect to the definition proposed in the April 1995 Draft Rule, this commenter argues that that definition inappropriately applies to three groups of professionals: (1) Professionals designated by an issuer to provide services to the dealer; (2) professionals from whom a dealer seeks substantive or technical advice in connection with an issuer presentation with no intention of seeking their intercession with the issuer; and (3) "professionals who may in fact recommend a broker-dealer to an issuer—on the basis of substantive professional familiarity and respect and not on the expectation or promise of *quid pro quo* recompense." Morgan Stanley is concerned that the Board's definition could "cause disruptions in an industry currently undergoing contraction * * * [and] may lead larger firms, with other sources of revenue, finally to conclude that the burden of ensuring municipal market compliance outweighs the benefit of what, frankly, is currently a marginal business for many of them." Morgan Stanley believes the definition of consultant "should be restored to its common-sense meaning in the context of the municipal securities business. * * * [and] should reflect * * * the two essential elements of disclosable consulting relationships in the municipal securities business: compensation and the proposed intercession with an issuer by the consultant in exchange for such compensation."[36] The commenter notes that its proposed definition incorporates "not only direct but also indirect consultant use and issuer intercession and * * * [alludes] to the possibility of compensation from persons other than the dealer." Thus, Morgan Stanley recommends the following definition of consultant:

Any person or entity used, directly or indirectly, by a broker, dealer or municipal securities dealer to obtain or retain municipal securities business through direct or indirect intercession by such person or entity with the relevant municipal issuer on behalf of such broker, dealer or municipal securities dealer where such intercession is undertaken by such person or entity in exchange for, or with the understanding of receiving, payment (as defined in rule G-37) from such broker, dealer or municipal securities dealer or any other person.

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[27] A.G. Edwards; PSA. PSA does not believe that "persons or firms which offer other professional services commonly employed in a municipal securities transaction should be treated as consultants merely because a . . . dealer engages in conversations or discussions with such persons or firms about concepts or ideas which might be offered to an issuer to achieve or encourage a particular financing." PSA argues that the definition "is so broad as to interfere with traditional and appropriate methods of developing new business opportunities."

[28] Artemis; GFOA; Gilmore & Bell; JP Morgan; Morgan Stanley; and NABL. NABL believes that the rule "should make clear that providers of substantive professional advice and services are not 'consultants' . . . and that a law firm which is selected as counsel to the underwriter, even if 'designated' as such by the issuer, does not become a 'consultant' to the underwriter. . . ." The GFOA states that "there are many instances where issuers make designations using merit-based criteria and it would not be appropriate to assume that such 'designated' persons should be treated as if they were used by a dealer to obtain or retain business . . ." and that the April 1995 Draft Rule should distinguish between "merit-based and nonmerit-based designations." Broward County shares this position. Gilmore & Bell is "not comfortable with the entire concept of calling issuer-designated persons 'consultants' to the dealer. . . ." They believe that the "whole concept of a consultant under the Rule is someone who assists the dealer in obtaining or retaining municipal securities business. In no sense is an issuer-designated representative of the dealer a person who helped the dealer get the business; rather, that issuer-designated person or firm is imposed on the dealer as a condition to participating in the offering." Morgan Stanley does not believe that issuer-designated professionals should be defined as consultants. "Far from helping dealers to solicit or win business, issuer-designated professionals are all too often imposed on dealers * * *." Morgan Stanley supports the disclosure of such relationships, and suggests removing such persons from the scope of the definition and adding a disclosure requirement to a separate section of the draft rule. JP Morgan also supports the disclosure of such relationships "once an underwriting has been won. * * * but that in no way should these * * * professionals be deemed to be 'consultants' to the dealer." A.G. Edwards, on the other hand, believes that even those persons who may be engaged by the dealer as a "precondition" to obtaining an issuer's business (*e.g.*, underwriter's counsel designated by the issuer), "are the type of 'consultants' to which the disclosure rule should apply."

[29] Morgan Stanley; PSA; and Smith Barney.

[30] Goldman Sachs. Presumably the dealer has deemed the person to be subject to rules G-37 and G-20, and is recording information on political contributions and gifts and gratuities, as required by those rules.

[31] Seattle-Northwest.

[32] Smith Barney.

[33] Chemical Securities; JP Morgan.

[34] Artemis recommends a version that would not include the elements of exclusivity or indirect communication with the issuer.

[35] Morgan Stanley opposes PSA's requirement for "exclusivity" which "is intended to disqualify a relationship under the definition if a putative consultant has also been retained to solicit the same business on behalf of another firm." Morgan Stanley does not understand "why exclusivity makes any difference. * * * [and is concerned that] the phrase could be read to disqualify a consultant who is soliciting business from more than one issuer and a consultant hired by two dealers to solicit the same piece of business on their joint behalf." Morgan Stanley also is concerned that PSA's proposal, which would limit the definition of consultant to persons hired "with respect to either an issuer or a particular transaction," will "inappropriately limit the number of consultants required to be disclosed * * * [for example,] by excluding consultants who are hired not with respect to particular issuers and transactions but according to other organizing principles: by type of transaction (*e.g.*, student loan deals), by type of issuer, by geographic area * * *."

[36] Morgan Stanley further suggests defining "compensation" to mirror the definition of "payment" under rule G-37.

Several other commenters share Morgan Stanley's view that compensation is a relevant factor in determining the existence of a consulting relationship. For example, one of the commenters does not believe the draft rule should apply to "persons who are merely engaged by a dealer *in connection with* municipal securities business * * * [but rather] should apply only to persons engaged by a dealer with the expectation of receiving compensation for seeking to obtain or retain municipal securities business."[37] Another commenter believes that "a dealer may 'use' a person in a broad sense (and in a perfectly permissible sense) without that person being a consultant to the dealer in any common sense meaning of the word."[38] But if a dealer compensates a person for services in obtaining or retaining municipal securities business, "then obviously such person is working for the dealer and a 'consulting' relationship exists. * * *"[39] In this regard, the commenter argues that, at a minimum, the definition of consultant should include any person who is paid or compensated (rather than "used") by a dealer for the purpose of seeking to obtain or retain municipal securities business. Another commenter notes that such compensation "can take various forms, such as payment of a finder's fee, a percentage of revenues or fees earned on the transaction, a fee for services in excess of the industry standard for such services, and political contributions."[40]

One of the commenters believes the definition should extend to private entities that construct or develop facilities from the proceeds of municipal financings, including nursing home and retirement center projects, housing issues, and land-based development financings.[41] This commenter believes that "it is quite common for such private parties, after making large political contributions, to bring their own finance teams, including underwriters, onto the scene and to pressure issuers to use those teams. * * * [t]hus, the private parties can be viewed as acting on behalf of the underwriters. * * *"

Board Response

In response to the commenters' concerns over the definition of consultant in the April 1995 Draft Rule, the proposed rule now defines consultant as any person used by a dealer to obtain or retain municipal securities business through direct or indirect communication by such person with an issuer on the dealer's behalf where the communication is undertaken by such person in exchange for, or with the understanding of receiving, payment from the dealer or any other person. The definition specifically excludes "municipal finance professionals," as that term is defined in rule G-37(g)(iv), because such individuals are covered by the requirements of rule G-37. The definition also excludes any person whose sole basis of compensation from the dealer is the actual provision of legal advice, accounting or engineering assistance in connection with the municipal securities business that the dealer is seeking to obtain or retain. The exclusion would apply, for example, to a lawyer retained to conduct a legal analysis on a particular transaction contemplated by the dealer, or to review local regulations; an accountant retained to conduct a tax analysis or to scrutinize financial reports; or an engineer retained to perform a technical review or feasibility study. The exemption is intended to ensure that professionals who are engaged by the dealer solely to perform substantive work in connection with municipal securities business are not brought within the definition of consultant as long as their compensation is in consideration of only those professional services actually provided in connection with such municipal securities business. However, any attorney or other professional used by the dealer as a "finder" for municipal securities business would be considered a consultant under the proposed rule.

Also, in response to certain commenters' concerns, the Board has eliminated "issuer-designated" professionals from the definition of consultant. The Board agrees with these commenters that persons who are engaged by a dealer at the request or direction of the issuer (*e.g.*, underwriter's counsel) are not, in fact, consultants because they do not assist the dealer in obtaining or retaining municipal securities business. However, the Board continues to believe that the subject of issuer involvement in the underwriting process merits review, and will address this subject, including the question of requiring disclosure of issuer-designated persons, at a future time.

Requirement of a Written Agreement

The April 1995 Draft Rule would have required dealers to have written agreements with their consultants before the consultants could provide any services on their behalf. The April 1995 Draft Rule would have provided that the "Consultant Agreement" must indicate the role to be performed by the consultant and the compensation arrangement. One of the commenters opposes the requirement of a written agreement, arguing that it could "hinder the effective and timely rendering of legal services due to the proposed rule's prohibition of services until the execution of a contract. The prospect of depriving a client of substantive legal advice for any reason, and even for a modest timeframe, is by itself troubling."[42] Another commenter also opposes this requirement, arguing that whether or not a consultant and a dealer enter into a written agreement "is a business decision best left to the interested parties."[43] One commenter, while not opposed to memorializing traditional consultant agreements, believes that the content of such agreements "is best left to private negotiation between the parties, and not subject to any specific regulatory strictures."[44] Another commenter shares this view.[45]

A number of commenters are concerned about the timing of the requirement of a written agreement. One commenter "strongly objects" to the requirement that a written agreement be in place before using the services of professional service providers, such as lawyers, accountants, and printers, and believes that such a requirement "will disrupt traditional and legitimate business relationships and impede the ability of dealers to respond to issuer's needs, particularly in the case of ad-hoc inquiries from issuers in response to which dealers routinely make use of professional providers such as lawyers or accountants."[46] Another commenter states that "it would be a legal and logistical nightmare if every firm was required to enter into a contract with the entire universe of persons and entities who provide information to underwriters in the normal course of business. It would be much less burdensome—though still in our view an unnecessary intrusion into business relationships—to limit the requirement of a written agreement to those situations in which the firm is retaining a third party to promote the firm to an issuer for a fee or other compensation."[47]

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[37] A.G. Edwards.

[38] Gilmore & Bell.

[39] *Id.*

[40] Artemis.

[41] American Government Financial Services.

[42] Goldman Sachs.

[43] PSA.

[44] A.G. Edwards.

[45] Chemical Securities.

[46] A.G. Edwards.

[47] Smith Barney.

Other commenters support the requirement of a written agreement.[49] One of these commenters believes such a requirement represents a way of discouraging the hiring of consultants solely for their personal or political influence with issuers.[49] However, this commenter conditions its support on the Board limiting the definition of consultant.[50]

Board Response

The requirement of a written agreement embodied in proposed rule G–38 is similar to the April 1995 Draft Rule, and requires dealers who use consultants to evidence the consulting arrangement in writing (referred to as a "Consultant Agreement"). At a minimum, the writing must include the name, company, role and compensation arrangement of each consultant used by the dealer. Such written agreements must be entered into before the consultant engages in any direct or indirect communication with an issuer on the dealer's behalf. Although certain commenters were opposed to the requirement of a written agreement, the Board believes that this requirement is necessary to ensure that dealers are aware of arrangements that their branch offices or local personnel may have with consultants. The requirement also will assist dealers in developing mechanisms to monitor such arrangements, and will assist enforcement agencies to inspect for compliance with rule G–38. With regard to commenters' concern over the timing of this requirement (*i.e.*, that a written agreement must be entered into before the consultant provides any services on behalf of the dealer), the Board believes that by limiting the scope of the definition of consultant (as discussed above) and by revising the timing of the agreement (*i.e.*, before any communication by the consultant with an issuer on the dealer's behalf), it has ameliorated many, if not all, of these concerns.

Disclosure of Consulting Arrangements to Issuers

The April 1995 Draft Rule would have required dealers to disclose to issuers in writing all consultants with which they have entered into a Consultant Agreement in connection with an effort to obtain or retain municipal securities business with that issuer, along with the basic terms of the Consultant Agreement. The April 1995 Draft Rule required dealers to make such disclosures when they become involved in the issuer's process for selecting a dealer for municipal securities business, whether or not the issuer requests such information in a Request for Proposal.

Most commenters agree that disclosure to issuers of consulting arrangements is appropriate. However, one of these commenters believes that the timing of the disclosure requires clarification.[51] This commenter notes that financing ideas frequently are discussed informally prior to the beginning of "the issuer's selection process," and that it would be "imprudent to stifle" such discussion.[52] Similarly, another commenter supports disclosure to issuers, but is concerned that the timing of such disclosures "is too vague."[53] This commenter believes that "it is sufficient to require that the disclosure be made at least prior to a dealer's acceptance of business from an issuer, on the theory that at that time the issuer is still in a position to rescind the award of business if the disclosed facts are sufficiently unpalatable."[54] The commenter also believes that "[l]imiting the disclosure obligation to consultants with whom the dealer has already entered into an agreement * * * would seem to create unnecessary timing issues as well as unnecessary opportunities for manipulation."[55] Accordingly, the commenter proposes extending the disclosure requirement to all consultants used by the dealer in connection with the relevant issuer or the relevant securities offering, regardless of the status of the written agreement between them.

One of the commenters believes that the disclosure of consultant relationships should only be made upon the request of the issuer, and notes that issuers can include a request for such information in their Request for Proposal and that if the issuer wants additional information, it can simply ask the dealer for further details.[56] The commenter also believes that "a specific description of a consultant's role is difficult to set forth at the onset of a relationship" and therefore disclosure of a consultant relationship should include only a general description of the role to be performed by the consultant.[57] Furthermore, the commenter believes that certain information, such as the details of the compensation arrangement, should remain confidential.

Another commenter believes that disclosure to the public is of greater importance than disclosure to issuers; "[i]ssuers are aware of the activities of consultants; the public often is not. The most powerful tool for preserving the integrity of the market is the public disclosure by the MSRB of the consulting relationships reported to it."[58] However, the commenter believes that consultants hired on the dealer's initiative should be disclosed to an issuer and the Board "only when (i) the issuer is engaged in a formal process of either reviewing its underwriting relationships or placing a specific piece of debt and (ii) the dealer is actually selected for the program or the specific underwriting."[59] The commenter states that "this two-part test will result in meaningful information regarding the actual involvement of consultants in completed municipal finance transactions being made available."[60] Another commenter also is concerned about disclosure reaching the public domain, and states that any disclosure to issuers should be made to their governing bodies "for inclusion in the publicly available records thereof" otherwise the goal of public disclosure of consultant relationship can easily be frustrated.[61]

Board Response

In response to commenters' concerns, particularly over timing, the Board has modified the proposed rule's requirement concerning disclosure of consulting arrangements to issuers. Proposed rule G–38 now requires each dealer to disclose to an issuer with which it is engaging or seeking to engage in municipal securities business, in writing, information on consulting arrangements relating to such issuer. The written disclosure must include, at a minimum, the name, company, role and compensation arrangement with the consultant or consultants. Dealers are required to make such written disclosures no later than the issuer's selection of any dealer in connection with the municipal securities business sought, regardless of whether the dealer making the disclosure ultimately is the one to obtain or retain that business.

[49] Artemis; Morgan Stanley.

[50] Morgan Stanley.

[50] In its Request for Comments, the Board asked whether it should require that all written agreements with consultants be approved by the head of the dealer's municipal finance group and the general counsel's office. Morgan Stanley supports such a requirement, while Chemical "believes it is not beneficial or necessary. . . ." Artemis supports a requirement that the agreement be approved by the head of the municipal finance group.

[51] PSA. Artemis shares this view.

[52] PSA.

[53] Morgan Stanley.

[54] *Id.*

[55] *Id.*

[56] Chemical Securities.

[57] *Id.*

[58] JP Morgan.

[59] *Id.*

[60] *Id.*

[61] Willkie Farr.

Thus, while dealers have an obligation to disclose their consulting arrangements to all issuers from which they are seeking municipal securities business, they have more leeway in the timing of their disclosures as long as the disclosure is made before the issuer selects a dealer for the municipal securities business sought. However, the Board cautions dealers that the time period set forth in the proposed rule represents the last possible opportunity to comply with the disclosure requirement, and therefore strongly recommends that dealers make such disclosures as early as possible. For example, a dealer seeking certain municipal securities business may not be aware of the issuer's selection of another dealer for that business. So too, an issuer may select a pool or group of dealers from which the issuer intends to choose underwriters for particular issues over the next few years. If a dealer has used a consultant to help secure any of this business, the Board believes that dealers should make their required disclosures to issuers as soon as possible to ensure that the disclosure is received by the issuer prior to the selection of any dealer for the municipal securities business.

Disclosure of Consulting Arrangements to the Public Through Disclosure to the Board

The April 1995 Draft Rule would have required a dealer to submit reports to the Board of all consultants with which the dealer entered into Consultant Agreements, not just those consultants that are connected with particular municipal securities business awarded during the reporting period (*i.e.*, as currently required under rule G–37). These reports would have been submitted on Form G–38 on a quarterly basis, within one month after the end of each calendar quarter. Form G–38 would have required dealers to list the names of all consultants and complete for each consultant an Attachment to Form G–38 that provides in the prescribed format the consultant's company, the role to be performed by the consultant, and the compensation arrangement. Dealers also would have been required to report all dollar amounts paid to each consultant during the reporting period and, if any amounts paid were connected with particular municipal securities business, such issue and the amount paid would have been separately identified.

A number of commenters believe that disclosures to the Board should be merged with the reporting requirements of rule G–37.[62] In the alternative, two of these commenters suggest removing the disclosure requirements from rule G–37 and incorporating them into a modified version of the April 1995 Draft Rule.[63] One such commenter believes that "consolidation and combination is sensible not only from an administrative and compliance point of view but will help ensure * * * consistency in terminology and interpretation in this complex area."[64]

Another commenter notes that rule G–37 currently requires disclosure of consulting relationships if business is obtained or retained, *i.e.*, "after the fact."[65] This commenter believes that the public would benefit if information were available "before a piece of business was awarded or a transaction completed" and thus recommends that dealers be required to report all consulting relationships entered into by (or ongoing with) firms during quarterly reporting periods, regardless of whether business is obtained during that reporting period.[66] Similarly, another commenter believes that dealers should be required to report all consultant arrangements whether or not such arrangements result in the awarding of business to the dealer.[67] And another commenter also supports disclosure of "*all* existing business consulting arrangements * * * whether or not they have resulted in a particular transaction. * * *"[68] This commenter further suggests that "such 'bulk disclosure' be organized by reference to the jurisdictions (from largest to smallest) in which each consultant is directly or indirectly employed to operate and, if applicable, to the issuers with which such consultant is employed, directly or indirectly, to intercede."[69] Finally, the commenter supports linking particular consulting relationships with particular transactions in order to avoid "a blizzard of accurate but general information [that] could conceal more than it reveals."[70]

One of the commenters suggests that dealers be required to report "a continuing arrangement, rather than report it repeatedly, each quarter."[71] Another commenter "believes that dealers should be required to list continuing arrangements each quarter and to note when any such arrangement has concluded * * *. However, if the compensation arrangements remain the same * * * [the commenter recommends] that dealers not be required to restate these terms quarterly."[72]

Board Response

The proposed rule's requirement concerning disclosure to the Board is similar to the April 1995 Draft Rule. The proposed rule requires dealers to submit to the Board, on a quarterly basis, reports of all consultants used by the dealer. For each consultant, dealers must report, in the prescribed format, the consultant's name, company, role and compensation arrangement, as well as the dollar amount of any payment made to the consultant during the quarterly reporting period. If any payment made during the reporting period is related to the consultant's efforts on the dealer's behalf which resulted in particular municipal securities business, whether the municipal securities business was completed during that or a prior reporting period, then the dealer must separately identify that business and the dollar amount of the payment. In addition, as long as the dealer continues to use the consultant to obtain or retain municipal securities business (*i.e.*, has a continuing arrangement with the consultant), the dealer must report information concerning such consultant every quarter, whether or not compensation is paid to the consultant during the reporting period. The Board believes that the reporting of these continuing consulting arrangements each quarter will assist enforcement agencies and the public in their review of such arrangements.

As recommended by certain commenters, the Board has determined, for ease of compliance and reporting, to delete the current reporting requirements regarding consultants from rule G–37. It also has determined to merge the reporting requirements of both rules G–37 and G–38 into a single form—Form G–37/G–38. Dealers must submit two copies of such reports on proposed Form G–37/G–38.[73] The quarterly due dates are the same as the due dates currently required under rule G–37 (*i.e.* within 30 calendar days after the end of each calendar quarter, which corresponds to each January 31, April 30, July 31, and October 31). Finally, consistent with current rule G–37,

[62] A.G. Edwards; Artemis; Chemical; GFOA; PSA; and Smith Barney.

[63] A.G. Edwards; Morgan Stanley.

[64] Morgan Stanley.

[65] Smith Barney.

[66] *Id.*

[67] Chemical Securities.

[68] Morgan Stanley.

[69] *Id.*

[70] *Id.*

[71] Chemical Securities.

[72] Artemis.

[73] Proposed Form G–37/G–38 is included in Exhibit 3 to the proposed rule change, along with instructions for filing the Form.

dealers are required to submit these reports to the Board by certified or registered mail, or some other equally prompt means that provides a record of sending.[74] The Board will then make these documents available to the public for inspection and photocopying at its Public Access Facility in Alexandria, Virginia, and for review by agencies charged with enforcement of Board rules.

Recordkeeping Requirements

To facilitate compliance with, and enforcement of, proposed rule G–38, the Board also proposes to amend existing rules G–8 and G–9, concerning recordkeeping and record retention, respectively. The proposed amendments to rule G–8 require dealers to maintain: (i) A listing of the name, company, role and compensation arrangement of each consultant; (ii) a copy of each Consultant Agreement; (iii) a listing of the compensation paid in connection with each Consultant Agreement; (iv) where applicable, a listing of the municipal securities business obtained or retained in connection with each Consultant Agreement; (v) a listing of the issuers and a record of disclosures made to such issuers concerning consultants used by the dealer to obtain or retain municipal securities business with each such issuer; and (vi) the date of termination of any consultant arrangement. The amendment to rule G–9 requires dealers to maintain these records for a six-year period.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will: (A) By order approve such proposed rule change, or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. The Commission requests that, in addition to any general comments concerning whether the proposed rule change is consistent with Section 15(b)(2)(C) of the Act, commentators address whether the proposed definition of consultant needs to be amended to encompass instances in which third parties initiate contact with prospective underwriters to offer their services in obtaining or retaining municipal securities business through direct or indirect communications by such person with an issuer official. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those they may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–95–15 and should be submitted by December 26, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 U.S.C. 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29513 Filed 12–4–95; 8:45 am]

BILLING CODE 8010–01–M

[74] For ease of compliance, the Board has included the Rule G–37 Filing Procedures within the language of rule G–37, and has included the Rule G–38 Filing Procedures within the language of new rule G–38.

[File No. 1–3779]

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; San Diego Gas & Electric Company, (5.0% Cumulative Preferred, $20 Per Value, 4.5% Cumulative Preferred Stock, $20 Par Value, 4.4% Cumulative Preferred Stock, $20 Par Value, Cumulative Preferred Stock, $7.20 Series, No Par Value, Cumulative Preferred Stock, $1.82 Series, No Par Value)

November 28, 1995.

San Diego Gas & Electric Company ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified securities ("Securities") from listing and registration on the Pacific Stock Exchange Incorporated ("PSE").

The reasons alleged in the application for withdrawing the Securities from listing and registration include the following:

According to the Company, it cannot justify the direct and indirect costs and expenses attendant to maintaining the dual listing of the Securities on the American Stock Exchange, Inc. ("AMEX") and on the PSE. The Company is paying $2,000.00 per year to maintain its listings on the PSE with no significant benefit to its shareholders. The Company believes that a single listing on the Amex will be sufficient to serve the needs of its shareholders.

Any interested person may, on or before December 19, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–29512 Filed 12–4–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2821]

Alaska; Declaration of Disaster Loan Area

Kenai Peninsula Borough and the contiguous areas of Lake and Peninsula Borough, Matanuska-Susitna Borough, the Municipality of Anchorage, the Chugach Regional Education Attendance Area and the Iditarod Regional Education Attendance Area in the State of Alaska constitute a disaster area as a result of damages caused by flooding which occurred from September 18 through September 24, 1995. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on *January 29, 1996,* and for economic injury until the close of business on *August 28, 1996,* at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795 or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 282106 and for economic injury the number is 868700.

Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.

Dated: November 28, 1995.

Philip Lader,

Administrator.

[FR Doc. 95–29525 Filed 12–4–95; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending September 15, 1995

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–95–634.

Date filed: September 11, 1995.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 9, 1995.

Description: Application of Horizon Air Industries, Inc. d/b/a Horizon Air pursuant to 49 U.S.C. Section 41102, applies for a certificate of public convenience and necessity authorizing service between any point in the United States and any point in Canada, subject however to the restrictions on service to Toronto, Montreal and Vancouver contained in the most recent bilateral air service treaty between the United States and Canada.

Myrna F. Adams,

Acting Chief, Documentary Services Division.

[FR Doc. 95–29500 Filed 12–04–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Approval of Noise Compatibility Program, Southwest Florida International Airport, Ft. Myers, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Lee County Port Authority under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On November 21, 1994, the FAA determined that the noise exposure maps submitted by the Lee Country Port Authority under Part 150 were in compliance with applicable requirements. On May 17, 1995, the FAA determined that the revised future noise exposure map was in compliance with applicable requirements. On November 13, 1995, the Administrator approved the Southwest Florida International Airport noise compatibility program. All of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Southwest Florida International Airport noise compatibility program is November 13, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Tommy J. Pickering, P.E., Federal Aviation Administration, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397, (407) 648–6583, Extension 29. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Southwest Florida International Airport, effective November 13, 1995.

Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measure should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reas .nably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical users, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and

d. Program measures relating to the use of light procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in

FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Orlando, Florida.

The Lee County Port Authority submitted to the FAA on November 7, 1994, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from January 1994 through April 1995. The Southwest Florida International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on November 21, 1994. The revised future noise map was determined by FAA to be in compliance with applicable requirements on May 17, 1995. Notice of these determinations was published in the Federal Register.

The Southwest Florida International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2000. It was requested that FAA evaluate and approve this material as a noise compatibility program as described in Section 104(b) of the Act. The FAA began its review of the program on May 17, 1995, and was required by a provision of the Act to approve or disapprove the program within 180-days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained fifteen (15) proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 15´ have been satisfied. The overall program, therefore, was approved by the Administrator effective November 13, 1995.

The noise compatibility program, pages VII–1 through VII–4, incorporate by reference all of the noise compatibility program measures previously approved by the FAA in 1990. A copy of the FAA's 1990 Record of Approval is included as Appendix H to this noise compatibility program. The airport operator proposes to maintain as effective all previously approved measures except a modification to reduce thrust on departures (page VII–2).

Out right approval was granted for all of the specific program controls. The approval action was for the following program controls:

OPERATIONAL MEASURES

Operational control No.	Description	NCP pages
1	The Alico One SID is recommended to continue. Adjustments to account for drift should be made by ATC to avoid drift into residential communities. FAA Action: Approved.	pgs. VII–2 to VII–6; Exhibit 17; Tables 11 & 12; and Appendix G.
2	It is recommended that once a full Stage 3 fleet occurs at the Airport, destination turns related to the Alico One SID should not begin until the aircraft reach an altitude of 4,000 feet to increase use of the Alico Corridor and increase altitude over residential areas. FAA Action: Approved.	pgs. VII–2 to VII–6; Exhibit 17; Tables 11 & 12; and Appendix G.
3	In ATC's upcoming airspace evaluation, include in the evaluation the directing of commuter aircraft departing on Runway 24 to northern destinations to turn over I–75 to reduce noise over residential areas north of the Alico Corridor. In the interim, use the Alico Corridor as much as possible for commuter departures. FAA Action: Approved.	pgs. VII–6 to VII–7; Exhibit 17; Tables 11 & 12; and Appendix G.
4	Establish a 1,600 foot minimum altitude to be maintained over the outer marker for IFR arrivals to Runway 6. This will maintain altitude over residential areas. FAA Action: Approved.	pgs. VII–7 to VII–8 and Table 12.
5	It is recommended that the Airport maintain the current ILS approach until the GPS is available. At that time, the GPS should be analyzed for possible implementation of GPS arrival procedures. This will provide for future flexibility in reducing arrival noise by avoiding densely developed residential areas. FAA Action: Approved.	pgs. VII–7 to VII–9 and Table 12.
6	Eliminate the close-in turn for departures off Runway 6 to reduce impacts on Gateway Elementary School by having ATC tower personnel delay switching to departure control until aircraft have cleared the northeast end of the Runway. FAA Action: Approved.	pgs. VII–8 to VII–9; Exhibit 17; and Tables 11 & 12.
7	It is recommended that the "distant" procedures for departures from RSW be implemented consistent with FAA Advisory Circular No. 91–53A, Noise Abatement Departure Profiles. FAA Action: Approved.	pg. VII–10 and Table 12.
8	When operating simultaneous departures, divergence should occur on Runways 6L and 24L to maximize the use of noise abatement procedures. With the proposed divergence, departures on Runway 6 would continue to follow noise abatement turns north of Gateway. FAA Action: Approved.	pgs. VII–10 and VII–11.

LAND USE MEASURES

Land use control measure No.	Description	NCP pages
1	This measure is recommended to provide for noise and avigation easements over property within the extended Airport Noise Overlay Zones 2 and 3 to be dedicated to Lee County for any use permitted by these zoning codes. This results in notification to those proposing future development within the Noise Overlay Zones and will provide protection to the airport from development near the airport. FAA Action: Approved.	pgs. VII–12 to –13, VII–25 to –26, VII–33 to –34, VII–40 to –42 & VII–44 to –45; Exhibits 16, 20 & 21; and Table 13.
2	It is recommended that Noise Overlay Zones 2 and 3 be extended in the Airport vicinity based on the 1999 (with parallel runway and runway extensions) NEM. Zone 2 and Zone 3 consists of those areas of land encompassed by the 60 DNL and 65 DNL respectively. No mobile homes are permitted in Zone 2. Zone 3 does not allow homes, churches, libraries, schools, hospitals, correctional institutions or nursing homes in the area. This will help promote future land use compatibility development in new areas in Lehigh Acres, Timber Trails and south of Alico Road, will extend protection within Alico Corridor, and will assist in the implementation of Land Use Control Measures 1 and 4. Noise Overlay Zones in Southeast Gateway should be maintained. FAA Action: Approved.	pgs. VII–12 to –13, VII–17, VII–25 to –26, VII–40 to –46; Exhibits 16, 20 & 21; and Table 13.
3	It is recommended that current and future land use designations in the Lee Plan be maintained within the Alico Corridor and Timber Trails areas. This will maintain areas for future compatible development (Alico Corridor) and effectively discourage incompatible residential development (Timber Trails). FAA Action: Approved.	pgs. VII–12 to –16, VII–41, VII–43 & VII–45, Exhibits 14 & 21; and Table 13.
4	It is recommended that the building code be amended to provide the property owner with optional sound attenuation specifications for new dwellings located with the boundary of Noise Overlay Zone 3. This will address noise impacts on new noise sensitive uses that are vested and can be constructed in both the Alico Corridor and Timber Trails areas. FAA Action: Approved The FAA strongly discourages any new noncompatible construction within the DNL 65 dB noise contour. Any new construction within this noise contour may not be eligible for Federal funding for airport noise mitigation..	pgs. VII–14 to –15, VII–37 to –38 & VII–44 to –45; and Table 13.
5	It is recommended that the Lee Plan Future Land Use Designation be amended to designate an area south of Alico Road and immediately east and west of I–75 for Industrial Commercial use (University spin-off area). This will promote land use compatibility and allow for a more logical and cohesive development in an area that will experience aircraft overflights and noise from the proposed new parallel runway. FAA Action: Approved.	pgs. VII–17, VII–26 to –32 and VII–42 to –43; Exhibits 14 & 20; and Table 13.
6	It is recommended that the Lee County Zoning regulations be amended to support commercial use zoning in areas south of Alico Road and immediately east and west of I–75. This will ensure that residential development does not occur in areas that will be subject to overflights and sideline noise from the proposed new parallel runway. FAA Action: Approved.	pgs. VII–17, VII–21 to 25 and VII–42; Exhibits 15 & 20; and Table 13.
7	It is recommended that information regarding noise exposure in the vicinity of the Airport and sample disclosure statements be distributed to all real estate agents in the area. This will provide the agents with a written notice of a property's location relative to the Airport and certain aircraft noise levels that may be incompatible with residential and other noise-sensitive land uses. The dissemination of this information may also enhance the Airport's position in the event of legal action. FAA Action: Approved.	pgs. VII–34 to –35 & VII–46; and Table 13.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on November 13, 1995. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative office of the Lee County Port Authority.

Issued in Orlando, Florida on November 28, 1995.

Charles E. Blair,

Manager, Orlando, Airports District Office.

[FR Doc. 95–29566 Filed 12–4–95; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–95–43]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 26, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–

200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on November 30, 1995.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Docket No.: 127CE.
Petitioner: Beech Aircraft Corporation.
Sections of the FAR Affected: 14 CFR 23.807(d)(1)(i).
Description of Relief Sought: To allow a single emergency exit, in addition to the cabin door, for Models B300 and B300C aircraft having nine passenger seats or less.

Docket No.: 28296.
Petitioner: FlightSafety International.
Sections of the FAR Affected: 14 CFR 61.57(c) and (d), 61.58(b), and 61.157(a) and (f)(1).
Description of Relief Sought: To permit FlightSafety International to establish a continuous qualification training program for pilots flying for operations conducted under part 91 that would allow the participants to (1) satisfy certain training and recent flight experience requirements in Level B, Level C, and Level D simulators; (2) act as pilot in command of aircraft type certificated for more than one required pilot by satisfactorily completing an approved aircraft-specific recurrent training program, with the previous 24 calendar months, in lieu of the pilot in command evaluation required in § 61.58(b); and (3) obtain an airline transport pilot certificate or an additional type rating without passing the practical test prescribed in § 61.157(a).

Docket No.: 28355.
Petitioner: National Transportation Safety Board.
Sections of the FAR Affected: 14 CFR 121.359(a).
Description of Relief Sought: To permit, as part of a 6-month NTSB investigation, USAir, Southwest Airlines, and Continental Airlines Boeing 737 flightcrews experiencing an uncommanded flight control input to deactivate the cockpit voice recorder upon clearing the active runway after landing.

Docket No.: 28370.
Petitioner: Cessna Aircraft Co.
Sections of the FAR Affected: 14 CFR 25.562.
Description of Relief Sought: To permit Cessna exemption from the emergency landing dynamic conditions of FAR for side-facing multiple seating as applied to their new Model 750 (Citation X) airplane.

[FR Doc. 95–29573 Filed 12–4–95; 8:45 am]
BILLING CODE 4910–13–M

Research, Engineering and Development Advisory Committee; Challenge 2000 Subcommittee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the Challenge 2000 Subcommittee of the Federal Aviation Administration (FAA) Research, Engineering and Development Advisory Committee to be held Monday, December 18, 1995, 1 p.m. to 3 p.m. The meeting will take place at the FAA, 800 Independence Avenue, SW., Rooms 8AB, Washington, DC.

This purpose of this meeting is to present preliminary findings of the Challenge 2000 subcommittee.

Attendance is open to the interest public but limited to the space available. With the approval of the subcommittee chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements, obtain information, or attend the meeting should contact Ms. Nancy Lane, AIR–510, 800 Independence Ave., SW., Washington, DC at (202) 267–7061, the FAA Designated Federal Official to the Subcommittee.

Members of the public may present a written statement to the Subcommittee at any time.

Issued in Washington, DC, on November 28, 1995.

Clyde A. Miller,

Manager, Research Division.

[FR Doc. 95–29568 Filed 12–4–95; 8:45 am]
BILLING CODE 4910–13–M

Notice of Intent to Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Ogdensburg International Airport, Ogdensburg, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Ogdensburg International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before January 4, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Philip Brito, Manager; New York Airports District Office; 600 Old Country Road, Suite 446; Garden City, New York 11530.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Danny L. Duprey, Executive Director of the Ogdensburg Bridge and Port Authority at the following address: Bridge Plaza; Ogdensburg, New York 13669.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Ogdensburg Bridge and Port Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Brito, Manager, New York Airports District Office; 600 Old Country Road, Suite 446; Garden City, New York 11530; telephone number (516) 227–3803. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Ogdensburg International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 20, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by Ogdensburg Bridge and Port Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 27, 1996.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00
Proposed charge effective date: April 1, 1996
Proposed charge expiration date: February 28, 2006
Total estimated PFC revenue: $125,050
Brief description of proposed project(s):
—Passenger Facility Charge Application
—Runway 9–27 Rehabilitation (Design)
—Runway 9–27 Rehabilitation (Construction)

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Not Applicable, all requested to collect PFCs.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at Fitzgerald Federal Building #111; John F. Kennedy International Airport; Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Ogdensburg Bridge and Port Authority.

Issued in Jamaica, New York on November 24, 1995.

Anthony P. Spera,

Manager, Airports Division, Eastern Region.

[FR Doc. 95–29567 Filed 12–4–95; 8:45 am]
BILLING CODE 4910–13–M

UNITED STATES SENTENCING COMMISSION

Revisions to the Sentencing Guidelines for the United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of final action regarding amendments to sentencing guidelines and policy statements effective November 1, 1995.

SUMMARY: The Sentencing Commission hereby gives notice of several amendments to policy statements and commentary made pursuant to its authority under section 217(a) of the Comprehensive Crime Control Act of 1984 (28 U.S.C. 994(a) and (u)). The Commission has reviewed amendments submitted to Congress on May 1, 1995, that may result in a lower guideline range and has designated one such amendment for inclusion in policy statement § 1B1.10 (Retroactivity of Amended Guideline Range). An earlier amendment (effective November 1, 1994) was also designated for inclusion in policy statement § 1B1.10. Two amendments, previously passed by the Commission, concerning crack cocaine and money laundering were disapproved by Congress (Pub. L. 104–38, 109 Stat. 34 (Oct. 30, 1995)).

DATES: The effective date of these policy statement and commentary amendments is November 1, 1995.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Information Specialist, Telephone: (202) 273–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the U.S. Government. The Commission is empowered by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for federal sentencing courts. Sections 994(o) and (p) of title 28, United States Code, further direct the Commission to periodically review and revise guidelines and policy statements previously promulgated, and require that guideline amendments be submitted to Congress for review. Absent action of the Congress to the contrary, guideline amendments become effective following 180 days of Congressional review on the date specified by the Commission (i.e., November 1, 1995). Unlike new guidelines and amendments to existing guidelines issued pursuant to 28 U.S.C. 994(a) and (p), sentencing policy statements, commentary, and amendments thereto promulgated by the Commission are not required to be submitted to Congress for 180 days' review prior to their taking effect.

In connection with its ongoing review of the Guidelines Manual, the Commission continues to welcome comment on any aspect of the sentencing guidelines, policy statements, and official commentary. Comments should be sent to: United States Sentencing Commission, One Columbus Circle, N.E., Suite 2–500, Washington, DC 20002–8002, Attn: Office of Communications.

Authority: Section 217(a) of the Comprehensive Crime Control Act of 1984 (28 U.S.C. 994(a)).

Richard P. Conaboy,

Chairman.

Additional Revisions to the Guidelines Manual

1. The replacement guideline for § 2H1.1 (see 60 FR 25082 (1995)) is amended by deleting Application Note 1 of the Commentary as follows:

"1. 'Offense guideline applicable to any underlying offense' means the offense guideline applicable to any conduct established by the offense of conviction that constitutes an offense under federal, state, or local law (other than an offense that is itself covered under Chapter Two, Part H, Subpart 1).

In certain cases, conduct set forth in the count of conviction may constitute more than one underlying offense (e.g., two instances of assault, or one instance of assault and one instance of arson). In such cases, determine the number and nature of underlying offenses by applying the procedure set forth in Application Note 5 of § 1B1.2 (Applicable Guidelines). If the Chapter Two offense level for any of the underlying offenses under subsection (a)(1) is the same as, or greater than, the alternative base offense level under subsection (a)(2), (3), or (4), as applicable, use subsection (a)(1) and treat each underlying offense as if contained in a separate count of conviction. Otherwise, use subsection (a)(2), (3), or (4), as applicable, to determine the base offense level.",

and inserting in lieu thereof:

"1. 'Offense guideline applicable to any underlying offense' means the offense guideline applicable to any conduct established by the offense of conviction that constitutes an offense under federal, state, or local law (other than an offense that is itself covered under Chapter Two, Part H, Subpart 1).

In certain cases, conduct set forth in the count of conviction may constitute more than one underlying offense (e.g., two instances of assault, or one instance of assault and one instance of arson). In such cases, use the following comparative procedure to determine the applicable base offense level: (i) determine the underlying offenses encompassed within the count of conviction as if the defendant had been charged with a conspiracy to commit multiple offenses. See Application Note 5 of § 1B1.2 (Applicable Guidelines); (ii) determine the Chapter Two offense level (i.e., the base offense level, specific offense characteristics, cross references, and special instructions) for each such underlying offense; and (iii) compare each of the Chapter Two offense levels determined above with the alternative base offense level under subsection (a)(2), (3), or (4). The determination of the applicable alternative base offense level is to be based on the entire conduct underlying the count of conviction (i.e., the conduct taken as a whole). Use the alternative base offense

level only if it is greater than each of the Chapter Two offense levels determined above. Otherwise, use the Chapter Two offense levels for each of the underlying offenses (with each underlying offense treated as if contained in a separate count of conviction). Then apply subsection (b) to the alternative base offense level, or to the Chapter Two offense levels for each of the underlying offenses, as appropriate.".

This amendment clarifies the operation of this guideline in cases involving multiple underlying offenses.

2. Section 5G1.3 is amended by deleting:

"(c) (Policy Statement) In any other case, the sentence for the instant offense shall be imposed to run consecutively to the prior undischarged term of imprisonment to the extent necessary to achieve a reasonable incremental punishment for the instant offense.",

and inserting in lieu thereof:

"(c) (Policy Statement) In any other case, the sentence for the instant offense may be imposed to run concurrently, partially concurrently, or consecutively to the prior undischarged term of imprisonment to achieve a reasonable punishment for the instant offense.".

The Commentary to § 5G1.3 captioned "Application Notes" is amended in Note 1 by inserting "Consecutive sentence—subsection (a) cases." immediately before "Under"; and by deleting "where the instant offense (or any part thereof)" and inserting in lieu thereof "when the instant offense".

The Commentary to § 5G1.3 captioned "Application Notes" is amended by deleting:

"2. Subsection (b) (which may apply only if subsection (a) does not apply), addresses cases in which the conduct resulting in the undischarged term of imprisonment has been fully taken into account under § 1B1.3 (Relevant Conduct) in determining the offense level for the instant offense. This can occur, for example, where a defendant is prosecuted in both federal and state court, or in two or more federal jurisdictions, for the same criminal conduct or for different criminal transactions that were part of the same course of conduct.

When a sentence is imposed pursuant to subsection (b), the court should adjust for any term of imprisonment already served as a result of the conduct taken into account in determining the sentence for the instant offense. Example: The defendant has been convicted of a federal offense charging the sale of 30 grams of cocaine. Under § 1B1.3 (Relevant Conduct), the defendant is held accountable for the sale of an additional 15 grams of cocaine that is part of the same course of conduct for which the defendant has been convicted and sentenced in state court (the defendant received a nine-month sentence of imprisonment, of which he has served six months at the time of sentencing on the instant federal offense). The guideline range applicable to the defendant is 10–16 months (Chapter Two offense level of 14 for sale of 45 grams of cocaine; 2-level reduction for acceptance of responsibility; final offense level of 12; Criminal History Category I). The court determines that a sentence of 13 months provides the appropriate total punishment. Because the defendant has already served six months on the related state charge, a sentence of seven months, imposed to run concurrently with the remainder of the defendant's state sentence, achieves this result. For clarity, the court should note on the Judgment in a Criminal Case Order that the sentence imposed is not a departure from the guidelines because the defendant has been credited for guideline purposes under § 5G1.3(b) with six months served in state custody.

3. Where the defendant is subject to an undischarged term of imprisonment in circumstances other than those set forth in subsections (a) or (b), subsection (c) applies and the court shall impose a consecutive sentence to the extent necessary to fashion a sentence resulting in a reasonable incremental punishment for the multiple offenses. In some circumstances, such incremental punishment can be achieved by the imposition of a sentence that is concurrent with the remainder of the unexpired term of imprisonment. In such cases, a consecutive sentence is not required. To the extent practicable, the court should consider a reasonable incremental penalty to be a sentence for the instant offense that results in a combined sentence of imprisonment that approximates the total punishment that would have been imposed under § 5G1.2 (Sentencing on Multiple Counts of Conviction) had all of the offenses been federal offenses for which sentences were being imposed at the same time. It is recognized that this determination frequently will require an approximation. Where the defendant is serving a term of imprisonment for a state offense, the information available may permit only a rough estimate of the total punishment that would have been imposed under the guidelines. Where the offense resulting in the undischarged term of imprisonment is a federal offense for which a guideline determination has previously been made, the task will be somewhat more straightforward, although even in such cases a precise determination may not be possible.

It is not intended that the above methodology be applied in a manner that unduly complicates or prolongs the sentencing process. Additionally, this methodology does not, itself, require the court to depart from the guideline range established for the instant federal offense. Rather, this methodology is meant to assist the court in determining the appropriate sentence (e.g., the appropriate point within the applicable guideline range, whether to order the sentence to run concurrently or consecutively to the undischarged term of imprisonment, or whether a departure is warranted). Generally, the court may achieve an appropriate sentence through its determination of an appropriate point within the applicable guideline range for the instant federal offense, combined with its determination of whether that sentence will run concurrently or consecutively to the undischarged term of imprisonment.

Illustrations of the Application of Subsection (c):

(A) The guideline range applicable to the instant federal offense is 24–30 months. The court determines that a total punishment of 36 months' imprisonment would appropriately reflect the instant federal offense and the offense resulting in the undischarged term of imprisonment. The undischarged term of imprisonment is an indeterminate sentence of imprisonment with a 60-month maximum. At the time of sentencing on the instant federal offense, the defendant has served ten months on the undischarged term of imprisonment. In this case, a sentence of 26 months' imprisonment to be served concurrently with the remainder of the undischarged term of imprisonment would (1) be within the guideline range for the instant federal offense, and (2) achieve an appropriate total punishment (36 months).

(B) The applicable guideline range for the instant federal offense is 24–30 months. The court determines that a total punishment of 36 months' imprisonment would appropriately reflect the instant federal offense and the offense resulting in the undischarged term of imprisonment. The undischarged term of imprisonment is a six-month determinate sentence. At the time of sentencing on the instant federal offense, the defendant has served three months on the undischarged term of imprisonment. In this case, a sentence of 30 months' imprisonment to be served consecutively to the undischarged term of imprisonment would (1) be within the guideline range for the instant federal offense, and (2) achieve an appropriate total punishment (36 months).

(C) The applicable guideline range for the instant federal offense is 24–30 months. The court determines that a total punishment of 60 months' imprisonment would appropriately reflect the instant federal offense and the offense resulting in the undischarged term of imprisonment. The undischarged term of imprisonment is a 12-month determinate sentence. In this case, a sentence of 30 months' imprisonment to be served consecutively to the undischarged term of imprisonment would be the greatest sentence imposable without departure for the instant federal offense.

(D) The applicable guideline range for the instant federal offense is 24–30 months. The court determines that a total punishment of 36 months' imprisonment would appropriately reflect the instant federal offense and the offense resulting in the undischarged term of imprisonment. The undischarged term of imprisonment is an indeterminate sentence with a 60-month maximum. At the time of sentencing on the instant federal offense, the defendant has served 22 months on the undischarged term of imprisonment. In this case, a sentence of 24 months to be served concurrently with the remainder of the undischarged term of imprisonment would be the lowest sentence imposable without departure for the instant federal offense.

4. If the defendant was on federal or state probation, parole, or supervised release at the time of the instant offense, and has had such probation, parole, or supervised release revoked, the sentence for the instant offense should be imposed to be served consecutively to the term imposed for the violation of probation, parole, or supervised release in order to provide an incremental penalty for the violation of probation, parole, or supervised release (in accord with the policy expressed in §§ 7B1.3 and 7B1.4)",

and inserting in lieu thereof:

"2. Adjusted concurrent sentence—subsection (b) cases. When a sentence is imposed pursuant to subsection (b), the court should adjust the sentence for any period of imprisonment already served as a result of the conduct taken into account in determining the guideline range for the instant offense if the court determines that period of imprisonment will not be credited to the federal sentence by the Bureau of Prisons. Example: The defendant is convicted of a federal offense charging the sale of 30 grams of cocaine. Under § 1B1.3 (Relevant Conduct), the defendant is held accountable for the sale of an additional 15 grams of cocaine, an offense for which the defendant has been convicted and sentenced in state court. The defendant received a nine-month sentence of imprisonment for the state offense and has served six months on that sentence at the time of sentencing on the instant federal offense. The guideline range applicable to the defendant is 10–16 months (Chapter Two offense level of 14 for sale of 45 grams of cocaine; 2-level reduction for acceptance of responsibility; final offense level of 12; Criminal History Category I). The court determines that a sentence of 13 months provides the appropriate total punishment. Because the defendant has already served six months on the related state charge as of the date of sentencing on the instant federal offense, a sentence of seven months, imposed to run concurrently with the three months remaining on the defendant's State sentence, achieves this result. For clarity, the court should note on the Judgment in a Criminal Case Order that the sentence imposed is not a departure from the guideline range because the defendant has been credited for guideline purposes under § 5G1.3(b) with six months served in state custody that will not be credited to the federal sentence under 18 U.S.C. § 3585(b).

3. Concurrent or consecutive sentence—subsection (c) cases. In circumstances not covered under subsection (a) or (b), subsection (c) applies. Under this subsection, the court may impose a sentence concurrently, partially concurrently, or consecutively. To achieve a reasonable punishment and avoid unwarranted disparity, the court should consider the factors set forth in 18 U.S.C. § 3584 (referencing 18 U.S.C. § 3553(a)) and be cognizant of:

(a) The type (e.g., determinate, indeterminate/parolable) and length of the prior undischarged sentence;

(b) The time served on the undischarged sentence and the time likely to be served before release;

(c) The fact that the prior undischarged sentence may have been imposed in state court rather than federal court, or at a different time before the same or different federal court; and

(d) Any other circumstance relevant to the determination of an appropriate sentence for the instant offense.

4. Partially concurrent sentence. In some cases under subsection (c), a partially concurrent sentence may achieve most appropriately the desired result. To impose a partially concurrent sentence, the court may provide in the Judgment in a Criminal Case Order that the sentence for the instant offense shall commence (A) when the defendant is released from the prior undischarged sentence, or (B) on a specified date, whichever is earlier. This order provides for a fully consecutive sentence if the defendant is released on the undischarged term of imprisonment on or before the date specified in the order, and a partially concurrent sentence if the defendant is not released on the undischarged term of imprisonment by that date.

5. Complex situations. Occasionally, the court may be faced with a complex case in which a defendant may be subject to multiple undischarged terms of imprisonment that seemingly call for the application of different rules. In such a case, the court may exercise its discretion in accordance with subsection (c) to fashion a sentence of appropriate length and structure it to run in any appropriate manner to achieve a reasonable punishment for the instant offense.

6. Revocations. If the defendant was on federal or state probation, parole, or supervised release at the time of the instant offense, and has had such probation, parole, or supervised release revoked, the sentence for the instant offense should be imposed to run consecutively to the term imposed for the violation of probation, parole, or supervised release in order to provide an incremental penalty for the violation of probation, parole, or supervised release. See § 7B1.3 (Revocation of Probation or Supervised Release) (setting forth a policy that any imprisonment penalty imposed for violating probation or supervised release should be consecutive to any sentence of imprisonment being served or subsequently imposed).".

The Commentary to § 5G1.3 captioned "Background" is amended by deleting:

"This guideline provides direction to the court when a term of imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment. See 18 U.S.C. § 3584. Except in the cases in which subsection (a) applies, this guideline is intended to result in an appropriate incremental punishment for the instant offense that most nearly approximates the sentence that would have been imposed had all the sentences been imposed at the same time.",

and inserting in lieu thereof:

"In a case in which a defendant is subject to an undischarged sentence of imprisonment, the court generally has

authority to impose an imprisonment sentence on the current offense to run concurrently with or consecutively to the prior undischarged term. 18 U.S.C. § 3584(a). Exercise of that authority, however, is predicated on the court's consideration of the factors listed in 18 U.S.C. § 3553(a), including any applicable guidelines or policy statements issued by the Sentencing Commission.".

This is a two-part amendment. First, this amendment clarifies the application of subsections (a) and (b) of this guideline. Second, in circumstances covered by the policy statement in subsection (c), this amendment affords the sentencing court additional flexibility to impose, as appropriate, a consecutive, concurrent, or partially concurrent sentence in order to achieve a reasonable punishment for the instant offense.

Authority to impose a partially concurrent sentence is found in the Sentencing Reform Act of 1984 (SRA). In enacting 28 U.S.C. § 994(l)(1), Congress contemplated that 18 U.S.C. § 3584 would allow imposition of partially concurrent sentences, in addition to fully concurrent or consecutive sentences. ("It is the Committee's intent that, to the extent feasible, the sentences for each of the multiple offenses be determined separately and the degree to which they should overlap be specified.") S. Rep. No. 225, 98th Cong., 1st Sess. 177 (1983). Without the ability to fashion such a sentence, the instruction to the Commission in 28 U.S.C. § 994(l)(1) to provide a reasonable incremental penalty for additional offenses could not be implemented successfully in certain situations, particularly when the defendant's release date on an undischarged term of imprisonment cannot be determined readily in advance (e.g., in the case of an indeterminate sentence subject to parole release).

Prior to the SRA, only the Bureau of Prisons had the authority to commence a federal sentence prior to the defendant's release from imprisonment on a state sentence. See, e.g., United States v. Segal, 549 F.2d 1293, 1301 (9th Cir. 1977). SRA legislative history pertaining to 18 U.S.C. § 3584 indicates that this new section was intended to authorize imposition of a federal prison sentence to run concurrently or consecutively to a state prison sentence. "This * * * [section 3584] changes the law that now applies to a person sentenced for a Federal offense who is already serving a term of imprisonment for a state offense." S. Rep. No. 225, supra at 127. "Thus, it is intended that this provision be construed contrary to the holding in United States v. Segal. * * *" Id. (at 127 n.314). See United States v. Hardesty, 958 F.2d 910, 914 (stating that, under section 3584, "Congress has expressly granted federal judges the discretion to impose a sentence concurrent to a state prison term"), aff'd en banc, 977 F.2d 1347 (9th Cir. 1992).

3. Section 1B1.10(c) is amended by deleting "and 506" and inserting in lieu thereof "505, 506, and 516".

The Commentary to § 1B1.10 captioned "Background" is amended in the fourth paragraph by inserting an asterisk immediately following "old guidelines"; and by inserting, as a note, following the Background Commentary:

"*So in original. Probably should be 'to fall above the amended guidelines'.".

This amendment expands the listing in § 1B1.10(d) to implement the directive in 28 U.S.C. § 994(u) in respect to guideline amendments that may be considered for retroactive application. The amendment also makes an editorial addition to the Commentary to § 1B1.10 (Retroactivity of Amended Guideline Range).

In addition, the Commission has updated the "Historical Notes" following the amended guideline sections, and has made a number of additional minor conforming and editorial revisions to improve the internal consistency and appearance of the Manual.

[FR Doc. 95–29514 Filed 12–4–95; 8:45 am]
BILLING CODE 2210–40–P

Sunshine Act Meetings

Federal Register
Vol. 60, No. 233
Tuesday, December 5, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Public Announcement

Pursuant To The Government In the Sunshine Act

(Public Law 94–409) [5 U.S.C. Section 552b]

DATE AND TIME: 9:30 a.m., Tuesday, December 5, 1995, by telephone conference call.

PLACE: 5550 Friendship Boulevard, Suite 400, Chevy Chase, Maryland 20815.

STATUS: Closed—Meeting.

MATTERS CONSIDERED: The following matter will be considered during the closed portion of the Commission's Business Meeting:

Appeals to the Commission involving approximately 6 cases decided by the National Commissioners pursuant to a reference under 28 C.F.R. 2.27. These cases were originally heard by an examiner panel wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: November 30, 1995.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 95–29621 Filed 11–30–95; 4:15 pm]
BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Public Announcement

Pursuant To The Government In the Sunshine Act

(Public Law 94–409) [5 U.S.C. Section 552b]

TIME AND DATE: 1:30 p.m., Tuesday, December 5, 1995, by telephone conference call.

PLACE: 5550 Friendship Boulevard, Suite 400, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of previous Commission meeting.
2. Reports from the Chairman, Commissioners, Legal, Chief of Staff, Case Operations, and Administrative Sections.
3. Revisiting the twelve-month custody reduction program under 28 C.F.R. § 2.60.
4. Discussion of the application of the Ninth Circuit policy on street time forfeiture at FTC, Oklahoma City, Oklahoma.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: November 30, 1995.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 95–29622 Filed 11–30–95; 4:25 pm]
BILLING CODE 4410–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of December 4, 11, 18, and 25, 1995.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of December 4

Friday, December 8

1:30 p.m.
Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)
(Contact: John Larkins, 301–415–7360)

Week of December 11—Tentative

Tuesday, December 12

2:00 p.m.
Briefing on Materials Events Data Base (Public Meeting)
(Contact: Samuel Pettijohn, 301–415–6822)

Thursday, December 14

10:00 a.m.
Briefing on Industry Restructuring and Deregulation (Pubic Meeting)
2:00 p.m.
Briefing on EEO Program (Public Meeting)
(Contact: Vandy Miller, 301–415–7380)

Week of December 18—Tentative

Tuesday, December 19

10:00 a.m.
Briefing on Mechanism for Addressing Generic Safety Issues (Public Meeting)
(Contact: Denny Crutchfield, 301–415–1199)
2:00 p.m.
Briefing on Generic Implications of Recent Events Involving Ingestion of Radioactive Material at Research Facilities (Public Meeting)

Week of December 25—Tentative

There are no meeting schedule for the Week of December 25.

Note: The Nuclear Regulatory Commission is operating under a delegation of authority to Chairman Shirley Ann Jackson, because with three vacancies on the Commission, it is temporarily without a quorum. As a legal matter, therefore, the Sunshine Act does not apply; but in the interests of openness and public accountability, the Commission will conduct business as though the Sunshine Act were applicable.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like4 to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: November 30. 1995.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 95–29659 Filed 12–1–95; 12:27 pm]
BILLING CODE 7590–01–M

ASSASSINATION RECORDS REVIEW BOARD

DATES: December 12–13, 1995
PLACE: ARRB, 600 E Street, NW, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: December 12–13, 9:00 a.m.

1. Review and Accept Minutes of Closed Meetings.
2. Review of Assassination Records.
3. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Thomas Samoluk, Associate Director for Communications, 600 E Street, NW, Second Floor, Washington, DC 20530.

Telephone: (202) 724–0088; Fax: (202) 724–0457.

David G. Marwell,

Executive Director.

[FR Doc. 95–29684 Filed 12–1–95; 12:27 pm]

BILLING CODE 6118–01–P

INTER-AMERICAN FOUNDATION BOARD MEETING

TIME AND DATE: December 15, 1995, 10:00 a.m.

PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

STATUS: Closed session as provided in 22 CFR Part 1004.4(b).

MATTERS TO BE CONSIDERED: Executive Session on Personnel Implications in Fiscal Year 1996 (closed session).

CONTACT PERSON FOR MORE INFORMATION: Evan M. Koster, Assistant Secretary to the Board of Directors, (703) 841–3812.

Dated: November 1, 1995.

Evan M. Koster,

Acting Sunshine Act Officer.

[FR Doc. 95–29707 Filed 12–1–95; 1:25 pm]

BILLING CODE 7025–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, December 11, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: December 1, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29765 Filed 12–1–95; 3:22 pm]

BILLING CODE 6210–01–P

Corrections

Federal Register

Vol. 60, No. 233

Tuesday, December 5, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-843]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China

Correction

In notice document 95–27832, beginning on page 56567, in the issue of Thursday, November 9, 1995, make the following correction:

On page 56574, in the third column, in the table, in the second column, the PRC-wide rate, "61.7" should read "61.67."

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control and Prevention

Fees for Sanitation Inspections of Cruise Ships

Correction

In notice document 95–28164 beginning on page 57433 in the issue of Wednesday, November 15, 1995, make the following correction:

On page 57434, in the first column, in Appendix A, in the tables, in the entries for Extra large, in the second column, "(≤60,000)" should read "(>60,000)" each time it appears.

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-35833; File No. S7-40-92]

Rules of Practice

Correction

In rule document 95–14750 beginning on page 32738, in the issue of Friday, June 23, 1995, make the following correction:

§ 200.43 [Corrected]

On page 32795, in the second column, in amendatory instruction 21, "Section 200.43" should read "Section 200.43(a)(1)(iii)".

BILLING CODE 1505–01–D

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federal register

Tuesday
December 5, 1995

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 1280
Sheep and Wool Promotion, Research, Education, and Information Order; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1280

[No. LS-94-015]

Sheep and Wool Promotion, Research, Education, and Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Sheep Promotion, Research, and Information Act of 1994 (Act), authorized the establishment of a national, industry-funded and -operated sheep and wool promotion, research, education, and information program. On January 4, 1995, the Agricultural Marketing Service (AMS) published in the **Federal Register** an invitation to submit proposals for a sheep and wool promotion, research, education, and information order (Order). AMS received an entire industry proposal as well as four other partial proposals, all of which were published for public comment in the June 2, 1995, issue of the **Federal Register**. A public meeting was held on June 26, 1995, at the Department of Agriculture (Department) to discuss the proposed Order and to solicit comments on the proposal. After evaluating the written comments submitted, the transcript from the public meeting, and other available material, an Order is issued pursuant to the provisions of the Act and will be subject to a referendum.

Before the Order is made effective, a referendum must be conducted among sheep producers, sheep feeders, and importers of sheep and sheep products, except importers of raw wool. A final referendum rule will be published separately in the **Federal Register**. If sheep producers, feeders, and importers voting in the referendum approve the proposed Order, all producers, feeders, and importers would be required to pay assessments, which would be used in a national program of sheep and wool promotion, research, education, consumer, industry, and producer information.

The certification and nomination procedures for the establishment of the National Sheep Promotion, Research, and Information Board (Board) as well as other implementing regulations will be published separately in the **Federal Register**.

ADDRESSES: Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2606–S; Livestock and Seed Division, AMS–USDA; P.O. Box 96456; Washington, D.C. 20090–6456.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720–1115.

SUPPLEMENTARY INFORMATION: Prior documents: Notice-Invitation to submit proposals published January 4, 1995 (60 FR 381); Proposed Rule-Sheep and Wool Promotion, Research, Education, and Information Order published June 2, 1995 (60 FR 28747); Proposed Rule: Procedures for Conduct of Referendum published August 8, 1995 (60 FR 40313); Notice-Certification of Organization for Eligibility to Make Nominations to the Proposed Board published August 8, 1995 (60 FR 40343); Proposed Rule-Rules and Regulations published October 3, 1995 (60 FR 51737).

Regulatory Impact Analysis

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This proposed rule was reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that any person subject to the Order may file with the Secretary a petition stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order is not in accordance with the law, and requesting a modification of the Order or an exemption from certain provisions or obligations of the Order. The petitioner would have the opportunity for a hearing on the petition. Thereafter the Secretary would issue a decision on the petition. The Act provides that the district court of the United States in the district in which the petitioner resides or carries on business has jurisdiction to review the Secretary's decision, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the decision. The petitioner must exhaust his or her administrative remedies before filing such a complaint in the district court.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 *et seq.*), the Administrator of AMS has considered the economic impact of this proposed action on small entities.

The purpose of RFA is to fit regulatory actions to the scale of the businesses that are subject to such actions so that small businesses would not be unduly or disproportionately burdened.

According to the January 27, 1995, issue of "Sheep and Goats," published by the Department's National Agricultural Statistics Service, there are approximately 87,350 sheep operations in the United States, nearly all of which would be classified as small businesses under the criteria established by the Small Business Administration (13 CFR 121.601). Additionally, there are approximately 9,000 importers of sheep and sheep products, nearly all of which would be classified as small businesses.

This proposed Order would require each person who makes payment to a sheep producer, feeder, or handler of sheep or sheep products to be a collecting person, and to collect an assessment from that sheep producer, feeder, or handler of sheep or sheep products. Any person who buys domestic live sheep or greasy wool for processing must also collect the assessment and remit it to the Board. Each person who processes or causes to be processed sheep or sheep products of that person's own production and who markets the processed products would pay an assessment and remit the assessment to the Board. Any person who exports live sheep or greasy wool would be required to remit an assessment to the Board. Finally, each person who imports into the United States sheep, sheep products, wool, or wool products, other than raw wool, would pay an assessment. The U.S. Customs Service (Customs) would collect the assessments on imported sheep and sheep products (except raw wool) and forward them to AMS for disbursement to the Board.

The rate of assessment on domestic sheep producers, feeders, and exporters of live sheep and greasy wool would be 1-cent-per-pound on live sheep sold and 2-cents-per-pound on greasy wool sold. Importers would be assessed 1-cent-per-pound on live sheep and the equivalent of 1-cent-per-pound of live sheep for sheep products and 2-cents-per-pound of degreased wool or the equivalent of degreased wool for wool and wool products. Imported raw wool would be exempt from assessments. Each person who processes or causes to be processed sheep or sheep products of that person's own production and markets the processed products would be assessed the equivalent of 1-cent-per-pound of live sheep sold and 2-cents-per-pound of greasy wool sold. All assessment rates

may be adjusted in accordance with the applicable provisions of the Act.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection requirements contained herein were submitted to OMB for approval and assigned OMB No. 0581–0093. This action sets forth the provisions for establishing a nationwide, industry-funded sheep and wool promotion, research, education, and information program. The information collection requirements as required by this action and necessary for the implementation of this Order include:

(1) A report by each collecting person required to remit assessments to the Board for live sheep or greasy wool purchased from the producer, feeder, or handler of sheep or sheep products; by each person marketing sheep or sheep products of that person's own production; and by each exporter of sheep or greasy wool. The estimated number of respondents for this report is 700. Each respondent would submit one report per month, unless otherwise prescribed by the Board, and the estimated average reporting burden is 0.5 hours per response;

(2) A requirement to maintain sufficient records to verify reports submitted under the Order. The estimated number of recordkeepers needed to comply with this requirement is 700, each of whom would have an estimated annual reporting burden of 0.5 hours;

(3) An application for certification of organization, to be completed by eligible organizations that request certification in order to be eligible to nominate producers, feeders, and importers to the Board. The estimated number of respondents is 70 (with each submitting one response), and the estimated average reporting burden is 0.5 hour per response;

(4) A nomination form by which certified organizations will nominate producers, feeders, and importers for membership on the Board. The estimated number of respondents is 60 for the first year of the Order, and 20 each year thereafter. Each respondent would submit one response per year, and the estimated average reporting burden is 0.5 hour per response; and

(5) An advisory committee membership background information form, to be completed by candidates nominated by certified organizations for appointment to the Board. The estimated number of respondents is 240 during the first year of the Order, and 80 each year thereafter. Each respondent would submit one response per year, and the estimated average reporting burden is 0.5 hour per response.

Background

The Act (7 U.S.C. 7101–7111), approved October 22, 1994, authorizes the Secretary to establish a national sheep and wool promotion, research, education, and information program. The program would be funded by a mandatory assessment on domestic sheep producers, sheep feeders, and exporters of live sheep and greasy wool of 1-cent-per-pound on live sheep sold and 2-cents- per-pound on greasy wool sold. Importers would be assessed 1-cent-per-pound on live sheep imported and the equivalent of 1-cent-per-pound of live sheep for sheep products imported and 2-cents-per-pound of degreased wool or the equivalent of degreased wool for wool and wool products imported. Imported raw wool would be exempt from assessments. Each person who processes or causes to be processed sheep or sheep products of that person's own production, and who markets the processed products, would be assessed the equivalent of 1-cent-per-pound of live sheep sold and 2-cents-per-pound of greasy wool sold. All assessment rates may be adjusted in accordance with applicable provisions of the Act.

The Act provides for the submission of proposals for a Sheep and Wool Promotion, Research, Education, and Information Order (Order). The Secretary may propose the issuance of an Order, or an association of sheep producers may submit and request the issuance of an Order. The Act provides that when the Secretary decides to propose an Order or receives a request and proposal for an Order, the Secretary shall publish the proposed Order and give due notice and opportunity for public comment. As established by the Act, the Order provides for the establishment of a Board comprised of 85 sheep producers, 10 sheep feeders, and 25 importers of sheep and sheep products. The Act further provides that any State with one member may have an alternate member.

The Department issued an invitation to submit proposals for an initial Order in the January 4, 1995, (60 FR 381) issue of the **Federal Register**. In response to that invitation, the American Sheep Industry Association (ASI), the sheep industry's producer member organization, submitted a proposed Order. In addition, the New Zealand Meat Producers Board, the Australian Meat and Live-stock Corporation, the Wools of New Zealand, the National Lamb Feeders Association, and the Lamb Committee of the National Livestock and Meat Board each submitted a partial proposal.

The Department also received letters from other interested parties. The Department did not consider these letters to be proposals because they primarily addressed information related to provisions of the Act itself. Copies of these letters and the comments received in response to the proposed Order, are available for public inspection.

The Department published ASI's proposal as Proposal I, the New Zealand Meat Producers Board's proposal as Proposal II, the Australian Meat and Live-stock Corporation's proposal as Proposal III, the Wools of New Zealand's proposal as Proposal IV, and the National Lamb Feeders Association's proposal as Proposal V. The Department modified these proposals slightly in order to (1) make them consistent with the Act and other similar national research and promotion programs supervised by the Department, (2) simplify the language and format of some provisions, and (3) add certain sections necessary for the proper administration of the Order by the Department. The Department rejected the proposal submitted by the Lamb Committee of the National Livestock and Meat Board and discussed that proposal in the proposed rule. Each proposal was published in the June 2, 1995, issue of the **Federal Register** (60 FR 28747). Interested persons were invited to submit comments on the proposals until July 17, 1995.

The Department received 137 written comments concerning the proposed Order from individual sheep producers, sheep feeders, importers of sheep and sheep products, State sheep producer organizations, general farm organizations, universities, and other interested parties. Ninety-three comments were filed on time and forty-four comments were filed after the comment period closed. The late comments generally expressed the same views as the timely comments that are discussed herein, and the commenters generally supported the primary proposed Order with certain qualifications.

The substantive changes suggested by commenters are discussed below, together with a description of changes made by the Department upon review of the proposed Order and the comments. The Department has also made other minor changes of a nonsubstantial nature for clarity and accuracy.

Of the ninety-three timely comments, sixty-two comments supported the proposed Order as published or expressed support with some

modifications or clarifications. Six comments opposed the entire Order or portions thereof. The remaining comments neither supported nor opposed the proposal in its entirety, but rather addressed specific sections in the proposed Order or made general comments relating to the Act or the Order. Forty-two comments did not express opposition to Proposal II which would provide for 6 of the 25 importer Board members to represent importers of sheep meat and that 1 member of the Executive Committee be an importer of sheep meat and that organizations that represent importers of sheep or sheep products may make nominations for representation of the importer unit. Two comments opposed Proposal II. Fifty-nine comments opposed Proposal III which would prohibit the use of assessments for specific country of origin promotion programs and two comments supported Proposal III. Forty-eight comments opposed Proposal IV which would provide that funds generated under the Act be used to promote (1) a wide range of wool products in the United States, including interior textile product; e.g., carpet rugs, and upholstery; and (2) wool generically rather than to promote wool specifically grown in the United States and four comments supported Proposal IV. Finally, fifty-two comments supported Proposal V, which would provide that domestic assessments could be used to promote "Fresh American Lamb." The discussions are organized by headings of the proposed Order's provisions.

Definitions

Two commenters recommended that we review all of the terminology in § 1280.101 through § 1280.136 in the proposed Order and clarify any terms that are ambiguous, in order to ensure that the definitions in the proposed Order generally conform with or mirror those in the Act. We agree, and reviewed the definitions and determined that the definitions in the proposed Order either mirror the definitions in the Act or conform to the Act's intent.

Section 1280.108 Degreased Wool

One commenter stated that the definition of "degreased wool" has created some confusion because the term for "degreased wool" used both in the United States and abroad, is "scoured wool." The commenter recommended that the term "degreased wool" be changed to "scoured wool." We have not adopted this recommendation because the Act defines the term "degreased wool" and we believe that the proposed Order's definition should mirror the Act's definition. Accordingly, this suggestion is not adopted.

Section 1280.113 Feeder

Five commenters opposed the definition of "feeder" in the proposed Order. One commenter suggested that a "feeder" should be defined as "a person that is the second owner of the lamb" because the definition in the Act and in the proposed Order was ambiguous and could allow a person who was primarily a producer to occupy a feeder seat on the Board but prohibit a person who is primarily a feeder to occupy a producer seat on the Board. The same commenter also stated that according to the definition in the proposed Order many producers could be feeders, but few feeders could be producers. Another commenter suggested that "feeder" should be defined as "a producer who purchases more than 500 head of lambs a year, to be finished for the commercial market." The commenter believes that the intent of the Act was not to include 4–H club members who show market sheep or other individuals who sell only a few market lambs in the definition of "feeder". Another commenter suggested that "feeder" should be defined as "any person other than a producer who purchases lambs to be finished for the commercial market." Another commenter suggested that a "feeder" should be defined as one whose main source of income (over 50 percent) comes from lambs purchased for the purpose of feeding to market weight. Another commenter opposed the definition of "feeder" but did not provide an alternate definition. The Act itself defines "feeder" as any person who feeds lambs until the lambs reach slaughter weight. The Department finds that the definition in the proposed Order should mirror that found in the Act. Accordingly, we have not adopted any of these suggestions.

Section 1280.122 Producer

Five commenters opposed the definition of "producer" in the proposed Order. One commenter suggested that "producer" be defined as any person involved in certain industry segments * * * to include but not be limited to * * * a "commercial" ewe flock, purebred operation, speciality lamb and/or wool market segment, 4–H member or youth, because that definition is more representative of the producer segment of the sheep industry. Another commenter suggested that "producer" be defined as any producer who markets less than 500 purchased lambs per year. Another commenter suggested that "producer" be defined as one who breeds sheep for the production of lamb and wool. Three other commenters opposed the definition of "producer" but did not provide an alternative definition. The Act defines "producer" as any person, other than a feeder, who owns or acquires ownership of sheep. The Department finds that the definition in the proposed Order should mirror that found in the Act. Accordingly, we have not adopted these suggestions.

One commenter suggested that the definitions of "feeder," "importer" and "producer" include a minimum age restriction and thus require an individual to be at least 18 years of age to ensure that those eligible to vote in the referendum are actually engaged in the commercial feeding, importation or production of sheep and sheep products. The Act does not specify any age limit or restriction as an eligibility requirement, and there are no age limits or restrictions on persons who are required to pay assessments. The Department believes that Congress intended that each person who is subject to the assessment should be entitled to vote. Accordingly, we have not adopted this suggestion.

Section 1280.126 Qualified State Sheep Board

One commenter opposed the definition of "Qualified State Sheep Board (QSSB)" because § 1280.126 of the proposed Order was inconsistent with § 2(5), "Findings and Declaration Policy," of the Act, which states that existing State organizations which conduct sheep and sheep product promotion, research, industry, and consumer education programs that are invaluable to the efforts of promoting the consumption of sheep and sheep products. The commenter further believes that the definition of "QSSB" would allow any private trade association to be recognized as a "QSSB," because they are entities organized and operating within the State. Additionally, the commenter states that § 1280.126 in the proposed Order defines QSSB as a sheep and wool promotion entity but also appears to include entities that conduct promotion, research or consumer information programs with respect to sheep or wool or both. Finally, the same commenter suggested that § 1280.126 in the proposed Order be amended to include the following subsection "(d)": "(d) * * * has agreed to maintain books and records as specified in regulations approved by the Secretary, to be subject to audit by or at the direction of the Secretary, to abide by all terms of the Act and the Order and to immediately suspend any and all activities funded by assessments collected pursuant to the Act and Order upon receipt of such a request from the Secretary." The Department believes that the Board would have the authority to certify a "QSSB" in each State. Furthermore, the Department believes that the Board should have the latitude to establish requirements, subject to Departmental approval, to ensure that funds expended by "QSSB's" are spent in accordance with the Act and the Order. The Act defines a "QSSB", as a sheep and wool promotion entity that is authorized by State statute or organized and operating within a State, receives voluntary contributions or dues and conducts promotion, research, or consumer information programs with respect to sheep or wool, or both, and is recognized by the Board as the sheep and wool promotion entity within the State; except that not more than one QSSB shall exist in any State at any one time. Therefore, we believe that the definition in the proposed Order should mirror that found in the Act. Accordingly, we have not adopted these suggestions.

Section 1280.127 Raw Wool

Six commenters suggested that the definition of "raw wool" should be expanded to include wooltop, noils of wool and wool waste so that the definition is both clear and consistent with the North American Free Trade Agreement "Yarn Forward" rule of origin for wool and other textile imports. The Department has reviewed the definition of "raw wool," and believes that Congress intended to assess processed sheep and sheep products but not raw wool. The Act defines "raw wool" as greasy wool, pulled wool, degreased wool, or carbonized wool. Furthermore, the Department finds that wooltop, noils of wool, and wool waste result from the processing of raw wool as defined in the Act and we believe that Congress intended that all processed products would be subject to the assessment. Therefore, to expand the definition would not be consistent with the intent of the Act. We have determined that the definition in the proposed Order mirrors that found in the Act. Accordingly, we have not adopted this suggestion.

National Sheep Promotion, Research, and Information Board

Section 1280.201 Establishment and Membership of the Board

Eighteen commenters opposed one or more aspects of the "Establishment and Membership of the Board" portion of the proposed Order. In general, the commenters felt that (1) the Board was too large and cumbersome for the sheep industry, (2) the Board should realign its membership on a 3-year basis based on actual collections from each industry segment, (3) the Board should include a packer/breaker/retailer member because including representatives of all or some of these entities would enhance communication and lead to greater promotional efficiency and cooperation, (4) the Board is not fairly representative of producer, feeder and importer groups based on total assessment contributions, and (5) a certain number of seats on the Board should be held by each member category—sheep producers, sheep feeders and importers of sheep and sheep products—based on total assessments collected from these groups.

The Act provides for the establishment and membership of the Board, including the number of members from each industry segment to be represented on the Board. The Act does not authorize the Board's membership to (1) be adjusted on a 3-year basis, (2) include a packer/breaker/retailer seat or (3) be based on total contributions from each industry segment. Accordingly, we have not adopted any of these suggestions.

One commenter suggested amending § 1280.201 to include the following subsection: "(e) in accordance with regulations approved by the Secretary, at least every 3 years and not more than every 2 years, the Board shall review the relative investments made by producers, feeders, and importers through payment of assessments and, if warranted, shall reapportion representation on the Board in order to best reflect the current state of the sheep and sheep products industry and ensure equitable representation in relation to respective groups total assessments." The Act authorizes the establishment of a 120-member Board comprised of 85 producers, 10 feeders and 25 importers. The Act does not authorize reapportionment of the Board for any reason. Accordingly, we have not adopted this suggestion. The same commenter also suggested amending § 1280.201 to include a subsection "(f)" to read: "(f) a quorum of the Board shall consist of the producer representatives, importer representatives and feeder representatives or their respective alternates and a majority vote of representatives at a meeting in which a quorum is present shall constitute an act on the Board." The Department has determined that the Board should have the latitude to determine what constitutes a quorum of the Board in developing its operating principles and procedures. Accordingly, this suggestion is not adopted.

One commenter suggested that the Board be selected in a manner similar to that used by the Consolidated Farm Service Agency for county and State committee elections. The Act requires that the Secretary appoint the Board from nominations submitted by certified organizations. Accordingly, we have not adopted this suggestion.

Forty-two commenters indicated that they did not oppose proposal II, which proposed that 6 of the 25 importer members would represent importers of sheep meat, that 1 member of the Executive Committee be an importer of sheep meat, and that organizations representing importers of sheep or sheep products may make nominations for representation for the importer unit. Two commenters opposed Proposal II because allocating six seats for meat importers would give meat importers a greater number of seats than they would have if representation were based on contributions to the annual revenue. Additionally, commenters suggested that § 1280.201(c) of the proposed Order be amended to read as follows: "The importer positions shall be allocated proportionally to importers of wool products, sheep meat, sheep, and sheep products according to the relative contributions to checkoff revenues." The Act does not provide for a specified number of seats on the Board or the Executive Committee for each importer segment; i.e., sheep meat and wool. However, the Department has determined that the Secretary should have the latitude to appoint representatives to the Board in a manner that best reflects the interests of the various importer segments. Accordingly, we have not adopted these suggestions.

One commenter perceived that the proposed Order lacks any minimum qualifications for entities seeking recognition as Qualified State Sheep Boards and suggested that the Department compare § 1280.207 and § 1280.126. Additionally, the commenter indicated that the proposed Order appears to establish such standards for those organizations certified to nominate candidates for the Board, but not for those who handle the assessments collected under the program. The Department has reviewed these sections and determined that both are consistent with the intent of the Act. Thus, we have made no changes to this section in this proposed rule.

Section 1280.202 Nominations

Two commenters suggested that the industry representatives nominated to

the Board should be elected by the members of each industry segment because the Secretary is unfamiliar with the abilities of individuals in the various industries. The Department believes that the certification and nomination process would give the Secretary the opportunity to appoint members who best represent each industry segment because certified organizations comprised of members of those segments will submit nominations to the Board. Additionally, the Act requires the Secretary to appoint the Board. Accordingly, we have not adopted this suggestion.

One commenter stated that the Department had modified the language of its initial proposal concerning nomination of importers in a way that made it appear that importer representatives need not be actual importers. The commenter suggests that the term "importer representatives" be used rather than "importer" because the term "importer representatives" would be less restrictive and does not imply that the Board members must actually import wool products. The Department did not include this portion of the proposal as submitted. However, the Department has again reviewed the original language in the initial proposal and believes that its slight modification did not materially change the proposal's meaning. The Act requires the Secretary to appoint importers to seats established under the Act from nominations submitted by qualified organizations that represent importers. Furthermore, the Act defines "importer" as any person who imports sheep or sheep products into the United States and a "person" as any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity. Consequently, the Department believes that the Act intended that persons who import sheep and sheep products should be eligible for appointment to the Board. Accordingly, we have not adopted this suggestion.

One commenter opposed the inclusion of 25 importers on the Board because U.S. producers do not have the opportunity to influence policy in foreign countries. The Act provides that 25 importers of sheep and sheep products are to be represented on the Board. Accordingly, we have not adopted this suggestion.

Two commenters suggested that § 1280.202 of the proposed Order limits nominations to members of certified organizations because the definition of "feeder" and "producer" appears to allow a producer to qualify as a feeder but specifically prohibits feeders from qualifying as producers. In addition, the commenters believe that the definition of "feeder" and "producer" may also invite First Amendment challenges by individuals claiming to occupy, or to have an opportunity to occupy a feeder seat, but who are required to join a producer trade association and pay dues to such association to be eligible to be nominated to the Board. The Department carefully reviewed the Act, the proposed Order, and the nomination procedures to ensure that the nomination process would be conducted as provided for in the Act. The Act provides for certified producer organizations to submit only nominations from their membership for the unit in which the certified organization is located. There is no similar restriction on certified feeder and importer organizations. The Department finds no need to change the Order as a result of these comments.

One commenter suggested that the Secretary should not be authorized to appoint the Board. The Act specifically authorizes the Secretary to appoint the Board from nominations submitted by certified organizations. Accordingly, we have rejected this suggestion.

Section 1280.205 Method of Obtaining Nominations

One commenter suggested that § 1280.205(a) (1) and (2) in the proposed Order should provide that individuals as well as certified organizations be certified as eligible to submit nominations. The Act provides for all nominations to be made from certified producer, feeder and importer organizations. If no organization is certified for an industry segment or for a State in the case of producers, the proposed Order permits the Secretary to obtain nominees by other means. Accordingly, we have not adopted this suggestion. The commenter further suggested that § 1280.205(2)(C) in the proposed Order be amended to read as follows: "The organization has a primary and overriding interest in representing the feeder or importer segment of the sheep industry as opposed to some other aspect of the industry." The Act establishes the criteria for certification, and it is not necessary to modify the Order in order to carry out the Act's provisions. The Department finds that the proposed changes to § 1280.205 enumerated above are unnecessary. Accordingly, we have not adopted them.

One commenter noted that § 1280.205(b)(2) in the proposed Order contained a misprint and suggested that the language "shall be made by the Secretary" be inserted between the words "Board" and "from." There was, in fact, a misprint and we have amended the language in § 1280.205(b)(2) of the Order to mirror the language in the Act.

One commenter was concerned that producer nominees would have to be members of a certified organization in order to be nominated to the Board. The Act requires producer organizations to submit only nominations from the membership of the organization for the unit in which the organization is located. Accordingly, we have not changed this subsection in this proposed rule.

Section 1280.207 Certification

One commenter suggested that the National Lamb Feeders Association be the exclusive nominator of lamb feeder representatives, and be eligible to submit the names of the 15 sheep feeders for appointment to the 10 sheep feeder positions on the Board. The Department considered a similar comment proposed during the development of the proposed Order and did not accept it for inclusion in the proposed Order. This suggestion, if accepted, would prevent other existing organizations or new organizations from being eligible to nominate feeders to the Board, thereby restricting the opportunity for all qualified organizations to participate in the nomination process in contravention of the Act. Accordingly, we have rejected this suggestion.

Section 1280.208 Term of Office

One commenter noted that the word "proportionally" was substituted for the word "proportionately" in the proposed Order. To make the Order's language consistent with the language in the Act, we have replaced the word "proportionally" with "proportionately" in § 1280.208 in this proposed Order.

Section 1280.211 Powers and Duties of the Board

Two commenters suggested that § 1280.211(h) in the proposed Order should be amended to read as follows: "to contract with entities, if necessary, to implement plans or projects in accordance with the Act and whenever possible, the Board shall use existing national organizations representative of feeders, importers, or producers to implement plans and projects in order to increase efficiency and minimize costs." The Act does not require the Board to utilize existing national organizations to implement plans and projects. The Department believes that the Board could use such organizations if it determined that they could effectively carry out certain projects, however, we believe that this language would unduly restrict the Board's authority to enter into contracts. The Department finds that § 1280.211(h) mirrors the Act which states: "* * * to contract with entities, if necessary, to carry out plans and projects in accordance with the Act." Accordingly, we have not adopted this language.

One commenter suggested that the Board should contract directly with existing national lamb organizations like the other existing livestock checkoff programs that contract with national organizations because this would ensure continued funding for such existing national organizations. The Act provides the Board with the power to contract with such entities, if necessary, to implement plans or projects in accordance with the Act. However, this suggestion if adopted as a requirement would limit the Board's ability to conduct its program in the most efficient and effective manner. Accordingly, we have not adopted this suggestion.

Section 1280.215 Use of Assessments

Fifty-nine commenters suggested that funds collected under the program should be used to fund promotion programs of "Fresh American Lamb" and other U.S. sheep products because the majority of funds collected would be generated from U.S. producers and feeders. Additionally, some commenters suggested using domestic assessments to fund promotion projects for "Fresh American Lamb" and other U.S. sheep products would provide the Board with the flexibility to establish the most effective program to enhance the markets for lamb and other sheep products. Furthermore, many commenters believe that this program is a domestic program funded primarily by U.S. growers, and because other livestock research and promotion programs do not prohibit country of origin promotion, funds generated under this program should not prohibit country of origin promotion. However other commenters contend that funds generated under the program should not be used for specific country of origin promotion, but to promote lamb and wool generically because generic promotion would provide for more equitable use of funds and be less subject to legal challenge. In addition, the same commenters pointed out that the promotion of lamb and wool generically would ensure that importers are not disadvantaged in light of their limited representation on the Board and the Executive Committee.

The Department believes that the Board should have the latitude to fund promotion plans and projects which specifically make reference to sheep and wool produced in the U.S. with the limitation that funding for such domestic country of origin plans and projects cannot exceed the combined domestic assessments collected on sheep and sheep products and further that the percentage of domestic assessments spent on the promotion of domestic sheep and sheep products shall not exceed the percentage of import assessments spent on the generic promotion of sheep and sheep products. Accordingly, § 1280.215 is revised in this proposed Order to allow Board funding of promotion plans and projects which involve identification of domestic sheep and sheep products as being U.S. produced but limit the amount of assessments the Board can spend on such plans and projects.

One commenter suggested that at least one-half of the assessments collected should be spent on promotion activities because the industry is chapging and in a crisis. The Department believes that establishing a specific amount of assessments to fund a specific program area in the Order would limit the Board's flexibility to administer the program effectively. Accordingly, we have not adopted this suggestion. This same commenter also suggested that the National Lamb Feeders Association (NLFA) receive funding from the new Board. We previously determined that the Act does not authorize such funding and do not adopt this suggestion in this proposed Order.

Two commenters suggested that funds generated under the Act and the Order should promote a wide range of wool products in the United States, including interior textile products; e.g., carpets, rugs, and upholstery. The Department believes that the Board should be given the latitude to use funds for programs in a manner that would benefit the industry most effectively. The Department anticipates that the Board would fund projects according to the needs of the industry. Accordingly, we have not adopted this suggestion.

Two commenters suggested that assessments collected on wool should be spent on wool projects and assessments collected on lamb should be spent on lamb projects. The Department believes that the Board should have the latitude to spend funds on projects that would best address the economic needs of the entire industry. Accordingly, we have not adopted this suggestion.

One commenter suggested that no more than 4 percent of the annual assessments collected should be used for overhead and administrative expenses, in order to limit the amount of assessments used for such expenses. The Act does not limit administrative and overhead expenses. The Department expects that the Board would maintain its administrative and overhead expenses at a reasonable level. Accordingly, we have not adopted this suggestion.

Some commenters suggested that any funds used for export promotion or in furtherance of other export activity should be separately accounted for, a percentage of total Board funds used in this manner should be refunded to importers who pay the assessments, and that expenditures for production-related research or information programs specifically targeted for promotion or product quality and safety-related expenditures should be treated similarly because such expenditures would not benefit importers. The Department has concluded that the Board should have the latitude to determine how funds are to be spent, subject to the approval of the Secretary. Further, the Act does not provide for reimbursements. Accordingly, we have not adopted these suggestions.

Executive Committee

Section 1280.217 Membership

One commenter suggested that each of the seven regions established under § 1280.211(n) in the proposed Order should be represented by one member of the Executive Committee for a total of seven members representing producers. The commenter further suggested that (1) each member be elected by a majority vote of the directors from their respective region; (2) three members represent feeders and be elected by a majority vote of the 10 feeder directors; and (3) three members represent importers and be elected by a majority vote of the 25 importer directors. The Department believes that the Board should have the latitude to determine how the Executive Committee is structured, within the requirements of the Act, and that the Board should establish voting requirements in its policies and procedures, subject to the Secretary's approval. In addition, the Act provides for one "feeder," member on the Executive Committee, not three. Accordingly, we have not adopted this suggestion.

One commenter suggested that § 1280.217 in the proposed Order implicates both equal protection and compelled association clauses of the Constitution because feeder and importer members would be elected by

producer members. The commenter asked that § 1280.217 be amended to allow the various industry segments to name their own representatives to the Executive Committee. The Department believes that the Board should establish procedures for the nomination and election of Executive Committee members in its policies and procedures, subject to the requirements of the Act, and approval of the Secretary. Thus, we have rejected the request to amend § 1280.217 of the proposed Order, and have published the language as initially proposed without change.

Several commenters recommended that of the three importer members who serve on the Executive Committee, one member should represent importers of sheep meat to ensure that the sheep meat industry has a voice on the Executive Committee. The Act does not specify the consist of the 3 importer members who serve on the Executive Committee. The Act merely provides that the Executive Committee would be elected by the membership of the Board. The Department believes that the Board should have the latitude to allocate the three importer member seats on the Executive Committee among importers of sheep, sheep meat, and wool and wool products. Accordingly, we have not adopted this suggestion.

Section 1280.221 Quorum

We received two comments concerning the establishment of a quorum of the Executive Committee. One commenter suggested that a quorum should be 11 members to ensure the presence of at least one nonproducer member. In addition, another commenter suggested that a quorum should consist of eight members, including the feeder representative and at least one importer representative. The language in the proposed Order mirrors the Act's requirement, which says that a quorum of the Executive Committee shall consist of eight members. The Act does not require a feeder or importer representative to be included. Importer and feeder representation within the 8-member quorum could be considered by the Board in developing its policies and procedures. Accordingly this suggestion is not adopted.

Section 1280.222 Vacancies

One commenter suggested that any vacancy on the Executive Committee be filled by the process established pursuant to § 1280.217 in the proposed Order, except that the Executive Committee members would be elected by each industry segment. The Act requires that the Executive Committee be elected by the Board which includes produces, feeders, and importers. The Department believes that the Board should have the latitude to establish the procedures for filling a vacancy on the Executive Committee consistent with the requirements of the Act and subject to the approval of the Secretary. Accordingly, we have not adopted this suggestion.

Assessments

Section 1280.224 Sheep Purchases

Four commenters were concerned about the high assessment rate compared to other commodity checkoff programs, and two of these commenters were concerned that the rate of assessment could increase over time. The Act establishes the initial assessment rate and specifies the manner in which the initial assessment rate may be adjusted. Such adjustments must be recommended by the Board and approved by the Secretary. Accordingly, this section is not amended in the Order.

One commenter suggested that the domestic and import rate of assessment should increase or decrease proportionately when the Board recommends a change in the assessment rate. The Act authorizes increases or decreases in the assessment rate for both domestic and imported sheep and sheep products. The Department believes that Congress intended that any adjustments in the initial assessment rate should be the same for all persons subject to assessment under the Act. Consequently, the Secretary will carefully review any Board recommended assessment adjustments to ensure that such adjustments are applied equally to all persons who are required to pay an assessment. Accordingly, § 1280.224(d), § 1280.225(d) and § 1280.228 (c) and (d) have been revised to reflect the intent of this suggestion.

One commenter felt that the method of collecting money at the various stages in the production chain would not be workable. The Act establishes the method of collecting assessments and identifies those persons responsible for collecting and remitting the assessment. Thus, we have not adopted this suggestion.

Section 1280.228 Imports

One commenter expressed opposition to Customs or any other government agency collecting funds from importers to promote the use of wool and sheep on the grounds that it is improper for the U.S. government to promote U.S. domestic consumption of imported or domestic products. Customs merely serves as a collecting agent as authorized by the Act. Using Customs as a collecting agent in other similar checkoff programs has proven to be an exceptionally economical way of collecting importer assessments and ensuring compliance.

Several commenters suggested that the Department work with Customs or develop a joint committee to develop and publish the Harmonized Tariff Schedule (HTS) classification numbers, assessment amount, and the conversion factors for the various HTS numbers subject to assessment. Furthermore, these commenters asked for clarification on how the clean wool equivalent would be calculated or determined on the various types of imported wool and wool products. The Department published a proposed rule in the **Federal Register** (60 FR 51737) that (1) identifies the HTS classification numbers for imported sheep and sheep products subject to assessment; (2) describes how the assessment would be calculated if the proposed Order were approved in referendum; and (3) identifies the conversion factors that would be used to convert sheep meat to a live weight equivalent and wool products to a degreased wool equivalent.

Some commenters expressed concern about multiple assessments being collected on wool or wool products imported into the U.S. after having been previously exported on one or more occasions to other countries for further processing (ie., weaving, cutting and/or assembly) and suggested that a drawback or refund of the assessment should be authorized if multiple assessments are collected. The Department believes that this comment would be more appropriately addressed in the implementing rules and regulations published in the **Federal Register** (60 FR 51737).

One commenter suggested that rates set forth in § 1280.228 (c) and (d) in the proposed Order should be reduced yearly by a percentage calculated by dividing the amounts provided to States pursuant to paragraphs (a) and (b) of § 1280.229 in the proposed Order by the total assessments collected by the Board on domestic marketings in the year funding is given to the States. Section 1280.229 of this subpart applies to QSSBs and as required by the Act sets forth the amount of annual assessments collected by the Board that must be returned to each QSSB. Section 1280.229 also specifies the minimum amount QSSBs would receive and requires that procedures be established to account for the funds. Accordingly, we have not adopted this suggestion. The same commenter suggested that "as adjusted pursuant to § 1280.229," be added at the end of the first sentence under § 1280.228 (c) and (d) in the proposed Order. The provisions of § 1280.229, as previously discussed relate to the distribution of collected assessments to QSSBs and are not applicable to the assessment rate provisions for imported sheep and sheep products set forth in § 1280.228. Thus, we have not adopted this suggestion.

One commenter suggested that the phrase "and importer representatives" be inserted after "domestic sheep industry" under § 1280.228(c). The language in the proposed Order mirrors that found in the Act. Accordingly, we have not adopted this suggestion.

One commenter suggested that the Order require a specific finding that a proposed increase in the assessment rate does not violate the U.S. GATT obligations, preferably in consultation with the U.S. Trade Representative (USTR). The Secretary is already directed to consult with USTR pursuant to 7 U.S.C. 2278. Accordingly, this suggestion is not adopted.

Several commenters suggested that raw wool should not be exempt from the assessment collection provisions of the Act because the exemption of raw wool would create "free rides" because certain importers of raw wool would benefit from the program without actually paying an assessment on raw wool. The Act exempts imported raw wool from assessments. Accordingly, we have not adopted this suggestion.

Two commenters requested an explanation of how the equivalent in wool and wool products is to be calculated—specifically for wooltop, noils of wool, and wool wastes and generally for wool products that have been further processed. The Department has published in the **Federal Register** (60 FR 51737) proposed rules and regulations concerning the method of calculation to be used in determining the assessment amount for live sheep, sheep meat, and wool and wool products.

One commenter noted that § 1280.228(d) in the proposed Order substituted the word "clean" for "degreased." The Department did substitute the word and believes that the language in the proposed Order should mirror the language in the Act. Thus, the word "clean" is replaced with "degreased" in § 1280.228(d) in this proposed Order.

One commenter suggested that "equal protection" problems could arise because of the exemption of raw wool, inadequate representation of lamb feeders, and inclusion of importers. The Act specifically exempts raw wool and sets forth the composition of the Board.

Several commenters suggested that processors of wool and wool products be allowed to retain 5 to 10 percent of the total amount of assessments collected to cover additional administrative costs associated with collecting and remitting assessments. The Act does not permit collecting persons to retain a portion of the assessments collected to offset administrative costs. Accordingly, we have not adopted this suggestion.

Section 1280.229 Qualified State Sheep Boards

One commenter suggested that the Qualified State Sheep Boards (QSSBs), the Board and those who contract with the QSSBs and the Board should separately account for checkoff funds. The commenter also suggested that each QSSB should (1) be required to give a written plan showing how it plans to protect against improper uses of assessments; (2) certify each year that it has not used assessments for forbidden purposes; and (3) permit the Secretary and the Board the opportunity to audit QSSBs and groups that contract with the Board and QSSBs. Section 1280.229(c) in the proposed Order provides that the Board would establish procedures with the approval of the Secretary to account for funds expended by the QSSBs. Additionally, § 1280.213, Books and Records of the Board, provides that (1) the Secretary may inspect and audit books and records of the Board; (2) the Board must prepare and submit from time-to-time such reports as prescribed by the Secretary; and (3) the Board's books are to be audited by an independent auditor at the end of each fiscal year, and auditor's report submitted to the Secretary. Additionally, the Department believes the Act intends that the Board, the QSSBs and any organizations receiving funds to conduct program activities would be accountable for all funds received, and would be required to expend those funds in accordance with the Act and the Order. Therefore, although the Department agrees that accountability for funds is important, we have not made changes in this proposed Order as a result of these suggestions because the proposed Order already provides for such accountability. The Department believes that the Board would develop operating procedures and guidelines to ensure that any funds collected under the authority of this subpart would be accounted for as authorized under the Act. Accordingly, we have not adopted this suggestion.

Two commenters suggested that importers receive a credit similar to the 20 percent share of funding returned to State QSSBs, contending that State funding defeats the basic purpose of the law which is to promote sheep products nationwide. The Act does not authorize the Board to distribute to importers a portion of the annual assessments similar to that distributed to QSSBs. Thus, we have not adopted this suggestion.

Section 1280.230 Collection

One commenter suggested that § 1280.230(b), Late Payment Charges, in the proposed Order should include a provision stating that any collector shall have the right to submit a written petition to the Board to have these charges waived or adjusted under this subpart. The commenter indicated the provisions should also state: "The Board shall consider such petitions and is empowered to waive or reduce penalties upon a two-thirds majority vote." Although, the Department believes that the Board should have the flexibility to establish collection procedures consistent with the Act's intent and Order provisions, we have not adopted this suggestion concerning late payments.

Another commenter suggested that the 2-percent per month late payment charge is usurious and should be pegged to the 30-year Treasury bill. The 2-percent late payment charge is designed to encourage people to remit assessments on a timely basis. The Department does not believe that reducing the late payment charge would further the purposes of the Act. Accordingly, we have not adopted this suggestion.

Fifty-three commenters supported § 1280.230(d) in the proposed Order which provides that the Secretary is authorized to receive assessments if the Board is not in place by the date the first assessments are to be collected. We have adopted this section as proposed.

Section 1280.231 Prohibitions on Use of Funds

Fifty-six commenters opposed and two supported the language of § 1280.231(d) in the proposed Order, which provides that no plans or projects shall be undertaken to promote or advertise any sheep or sheep products by brand or trade name without the approval of the Board and the concurrence of the Secretary. The commenters opposed the language because Board approval and Secretary concurrence is already authorized under

the Act and in the proposal submitted by the proponents of Proposal I. Therefore, the commenters feel that there is no need to address these plans separately from the Board's other activities and that doing so will result in additional bureaucracy and administration costs. The Act and proposed Order already authorize the Board and the Secretary to approve plans and projects for funding with assessments collected under the authority of this subpart. However, based on the Department's experience with other similar commodity promotion and research programs under the Department's oversight, branded promotion projects involve joint funding with participating private firms and a cooperative agreement. Consequently, the Department believes that such arrangements are more complex than the usual plans and projects and thus require additional review and evaluation to insure that branded promotions are in compliance with the Act and the proposed Order and Departmental policy. Based on the Department's past experience, jointly funded branded advertising projects have been reviewed and approved without added expense or undue delays. Accordingly, § 1280.231(d) of the proposed Order is published in this rule with no modifications.

One commenter suggested that § 1280.231, Prohibition on Use of Funds, be deleted because it would restrict the sheep industry's ability to defend against detrimental legislation. The Act prohibits funds generated under this program from being used in any manner for the purpose of influencing legislation or government action or policy. Accordingly, we have not adopted this suggestion.

One commenter suggested that § 1280.231(b)(2) should be strengthened because no assessments should be used to influence government decision-making under the guise of providing information requested by a friendly government official who is actually helping the industry to support or oppose legislation in which it has interest. The Department believes that the language provided in the Act and in the proposed Order addresses this concern. Accordingly, we have not adopted this suggestion.

Additional Comments

One commenter suggested that the Department conduct an economic impact study because of (1) the recordkeeping burden on the industry; (2) the loss of the Wool Act; and (3) the addition of the new program. The Administrator, AMS, previously determined pursuant to the requirements set forth in the Regulatory Flexibility Act that the economic impact on small entities would not be significant. The Department does not anticipate a significant increase in costs and paperwork burden to those persons subject to the provisions of the Act and Order because most of the records required to be maintained are normally maintained by all businesses in the sheep industry and the calculation of assessments is a one step procedure that uses readily available records. Accordingly, we have not adopted this suggestion.

One commenter asked how the vote on the referendum would be conducted and how seats on the Executive Committee and the Board would be assigned because the Board is heavily weighted toward sheep growers. The Department published proposed referendum rules for public comment on August 8, 1995, in the **Federal Register** (60 FR 40313). These proposed rules include the registration and voting procedures. Also, the Act establishes the number of seats for the Executive Committee and the Board. We have made no changes in this proposed Order based on these questions.

Several commenters suggested that additional hearings be conducted throughout the country to allow time for the necessary revisions and allow for additional public comment. The Department conducted a public meeting on June 26, 1995, and provided a 45-day comment period so that any person interested in the sheep and wool checkoff program would have the opportunity to present testimony or submit comments by the July 17, 1995, deadline. The Department does not feel it is necessary to hold additional public meetings. Also, there are timeframes set forth in the Act. Further, all costs incurred by the Department in conducting the additional meetings are reimbursable by the sheep industry. Accordingly, we have not adopted this suggestion.

A few commenters suggested that the implementation of the program be delayed to allow sheep on feed inventories to be more manageable and allow producers to be assessed their fair share. The sheep industry has requested that assessments begin as soon as possible so that promotional and other activities can begin. Because of the time frames set forth in the Act, the Department believes that Congress intended for the Department to proceed in an expeditious manner. The Department has determined that no useful purpose would be served in delaying implementation of this program.

One commenter suggested that the Department ensure that importers are eligible to participate in the referendum. The Act provides that sheep producers, sheep feeders, and importers of sheep and sheep products who, during a representative period established by the Department, were engaged in sheep production, sheep feeding or importation of sheep and sheep products—excluding importers of raw wool—are eligible to vote in the referendum. The Department believes that Congress intended that each person who is subject to the assessment is entitled to vote. Consequently, the Department has proposed and published referendum rules in the **Federal Register** (60 FR 40313).

List of Subjects in 7 CFR Part 1280

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Sheep and sheep products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that chapter XI of title 7 of the Code of Federal Regulations be amended as follows:

1. Part 1280 is proposed to be added as follows:

PART 1280—SHEEP PROMOTION, RESEARCH, AND INFORMATION

Subpart A—Sheep and Wool Promotion, Research, Education, and Information Order

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Authority: 7 U.S.C. 7101–7111.

Subpart A—Sheep and Wool Promotion, Research, Education, and Information Order

Definitions

§ 1280.101 Act.

The term *Act* means the Sheep Promotion, Research, and Information Act of 1994, 7 U.S.C. 7101–7111; Public Law No. 103–107; 108 Stat. 4210, enacted October 22, 1994, and any amendments thereto.

§ 1280.102 Board.

The term *Board* means the National Sheep Promotion, Research, and Information Board established pursuant to § 1280.201.

§ 1280.103 Carbonized wool.

The term *carbonized wool* means wool that has been immersed in a bath, usually of mineral acids or acid salts, that destroys vegetable matter in the wool, but does not affect the wool fibers.

§ 1280.104 Certified organization.

The term *certified organization* means any organization that has been certified by the Secretary pursuant to this part as being eligible to submit nominations for membership on the Board.

§ 1280.105 Collecting person.

The term *collecting person* means any person who is responsible for collecting an assessment pursuant to the Act, this subpart and regulations prescribed by the Board and approved by the Secretary, including processors and any other persons who are required to remit assessments to the Board pursuant to this part, except that a collecting person who is a market agency; i.e., commission merchant, auction market, or livestock market in the business of receiving such sheep or sheep products for sale on commission for or on behalf of a producer or feeder shall pass the collected assessments on to the subsequent purchaser pursuant to the Act, this subpart and the regulations prescribed by the Board and approved by the Secretary.

§ 1280.106 Consumer information.

The term *consumer information* means nutritional data and other information that would assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, or use of sheep products.

§ 1280.107 Customs Service.

The term *Customs Service* means the U.S. Customs Service of the Department of the Treasury.

§ 1280.108 Degreased wool.

The term *degreased wool* means wool from which the bulk of impurities has been removed by processing.

§ 1280.109 Department.

The term *Department* means the U.S. Department of Agriculture.

§ 1280.110 Education.

The term *education* means activities providing information relating to the sheep industry or sheep products to producers, feeders, importers, consumers, and other persons.

§ 1280.111 Executive Committee.

The term *Executive Committee* means the Executive Committee of the Board established under § 1280.216.

§ 1280.112 Exporter.

The term *exporter* means any person who exports domestic live sheep or greasy wool from the United States.

§ 1280.113 Feeder.

The term *feeder* means any person who feeds lambs until the lambs reach slaughter weight.

§ 1280.114 Greasy wool.

The term *greasy wool* means wool that has not been washed or otherwise cleaned.

§ 1280.115 Handler.

The term *handler* means any person who purchases and markets greasy wool.

§ 1280.116 Importer.

The term *importer* means any person who imports sheep or sheep products into the United States.

§ 1280.117 Industry information.

The term *industry information* means information and programs that would lead to increased efficiency in processing and the development of new markets, marketing strategies, increased marketing efficiency, and activities to enhance the image of sheep or sheep products on a national or international basis.

§ 1280.118 National feeder organization.

The term *national feeder organization* means any organization of feeders that has been certified by the Secretary pursuant to the Act and this part as being eligible to submit nominations for membership on the Board.

§ 1280.119 Part and subpart.

Part means the Sheep and Wool Promotion, Research, Education, and Information Order and all rules and regulations issued pursuant to the Act

and the Order, and the Order itself shall be a *subpart* of such part.

§ 1280.120 Person.

The term *person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1280.121 Processor.

The term *processor* means any person who slaughters sheep or processes greasy wool into degreased wool.

§ 1280.122 Producer.

The term *producer* means any person, other than a feeder, who owns or acquires ownership of sheep.

§ 1280.123 Producer information.

The term *producer information* means activities designed to provide producers, feeders, and importers with information relating to production or marketing efficiencies or developments, program activities, or other information that would facilitate an increase in the consumption of sheep or sheep products.

§ 1280.124 Promotion.

The term *promotion* means any action (including paid advertising) to advance the image and desirability of sheep or sheep products, to improve the competitive position, and stimulate sales, of sheep products in the domestic and international marketplace.

§ 1280.125 Pulled wool.

The term *pulled wool* means wool that is pulled from the skin of slaughtered sheep.

§ 1280.126 Qualified State Sheep Board.

The term *Qualified State Sheep Board* means a sheep and wool promotion entity that:

(a) Is authorized by State statute or organized and operating within a State;

(b) Receives voluntary contributions or dues and conducts promotion, research, or consumer information programs with respect to sheep or wool, or both; and

(c) Is recognized by the Board as the sheep and wool promotion entity within the State; except that not more than one QSSB shall exist in any State at any one time.

§ 1280.127 Raw wool.

The term *raw wool* means greasy wool, pulled wool, degreased wool, or carbonized wool.

§ 1280.128 Research.

The term *research* means development projects and studies relating to the production (including the feeding of sheep), processing, distribution, or use of sheep or sheep products, to encourage, expand, improve, or make more efficient the marketing of sheep or sheep products.

§ 1280.129 Secretary.

The term *Secretary* means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom authority has been delegated, or to whom authority may be delegated, to act in the Secretary's stead.

§ 1280.130 Sheep.

The term *sheep* means ovine animals of any age, including lambs.

§ 1280.131 Sheep products.

The term *sheep products* means products produced in whole or in part from sheep, including wool and products containing wool fiber.

§ 1280.132 State.

The term *State* means each of the 50 States.

§ 1280.133 Unit.

The term *unit* means each State, group of States, or class designation that is represented on the Board.

§ 1280.134 United States.

The term *United States* means the 50 States and the District of Columbia.

§ 1280.135 Wool.

The term *wool* means the fiber from the fleece of a sheep.

§ 1280.136 Wool products.

The term *wool products* means products produced, in whole or in part, from wool and products containing wool fiber.

National Sheep Promotion, Research, and Information Board

§ 1280.201 Establishment and membership of the Board.

There is hereby established a National Sheep Promotion, Research, and Information Board (Board) of 120 members. Members of the Board shall be appointed by the Secretary from nominations submitted in accordance with this subpart. The seats shall be apportioned as follows:

(a) *Producers.* For purposes of nominating producers to the Board, each State shall be represented by the following number of members:

Unit	Board members
Alabama	1
Alaska	1
Arizona	1
Arkansas	1
California	5
Colorado	4
Connecticut	1
Delaware	1
Florida	1
Georgia	1
Hawaii	1
Idaho	2
Illinois	1
Indiana	1
Iowa	2
Kansas	1
Kentucky	1
Louisiana	1
Maine	1
Maryland	1
Massachusetts	1
Michigan	1
Minnesota	2
Mississippi	1
Missouri	1
Montana	5
Nebraska	1
Nevada	1
New Hampshire	1
New Jersey	1
New Mexico	2
New York	1
North Carolina	1
North Dakota	2
Ohio	1
Oklahoma	1
Oregon	2
Pennsylvania	1
Rhode Island	1
South Carolina	1
South Dakota	4
Tennessee	1
Texas	10
Utah	3
Vermont	1
Virginia	1
Washington	1
West Virginia	1
Wisconsin	1
Wyoming	5

(b) *Feeders.* The feeder sheep industry shall be represented by 10 members.

(c) *Importers.* Importers shall be represented by 25 members.

(d) *Alternates.* A unit represented by only one producer member may have an alternate member appointed to ensure representation at meetings of the Board.

§ 1280.202 Nominations.

(a) *Producers.* The Secretary shall appoint producers and alternates to represent units as specified under § 1280.201(a) from nominations submitted by organizations certified under § 1280.207. A certified organization may submit only nominations for producer representatives and alternates if appropriate from the membership of the organization for the unit in which the organization operates. To be represented on the Board, each certified organization shall submit to the Secretary at least 1.5 nominations for each seat on the Board for which the unit is entitled to representation. If a unit is entitled to only one seat on the Board, the unit shall submit at least two nominations for the appointment.

(b) *Feeders.* The Secretary shall appoint representatives of the feeder sheep industry to seats established under § 1280.201(b) from nominations submitted by qualified national organizations that represent the feeder sheep industry. To be represented on the Board, the industry shall provide at least 1.5 nominations for each appointment to the Board to which the feeder sheep industry is entitled.

(c) *Importers.* The Secretary shall appoint importers to seats established under § 1280.201(c) from nominations submitted by qualified organizations that represent importers. The Secretary shall receive at least 1.5 nominations for each appointment to the Board to which importers are entitled.

(d) As soon as practicable, the Secretary shall obtain nominations from certified organizations. If no organization is certified in a unit the Secretary may use other means to obtain nominations. A certified organization shall only submit nominations for positions on the Board representing units in which such certified organization can establish that it is certified as eligible to submit nominations for representation of that unit of individual producers, feeders, or importers residing in that unit.

(e) After the establishment of the initial Board, the Department shall announce when a vacancy does or will exist. Nominations shall be initiated not less than 6 months before the expiration of the terms of the members whose terms are expiring, in the manner described in § 1280.205(b). In the case of vacancies due to reasons other than the expiration of term of office, successor Board members shall be appointed pursuant to § 1280.206.

(f) Where there is more than one eligible organization representing producers, feeders, or importers in a State or unit, they may caucus and jointly nominate a minimum of 1.5 qualified persons for each position representing that State or unit on the Board for which a member is to be appointed. If joint agreement is not reached with respect to any such nominations, or if no caucus is held, each certified organization may submit nominations for each appointment to be made to represent that State or unit.

(g) Nominations should be submitted in order of preference and, for the initial Board, in order of preference for staggered terms. If the Secretary rejects any nominations submitted and there are insufficient nominations submitted from which appointments can be made, the Secretary may request additional nominations under paragraph (a), (b), or (c) of this section.

§ 1280.203 Nominee's agreement to serve.

Any producer, feeder, or importer nominated to serve on the Board, or as an alternate, shall file with the Secretary at the time of the nomination a written agreement to:

(a) Serve on the Board if appointed;

(b) Disclose any relationship with any organization that operates a qualified State or regional program or has a contractual relationship with the Board; and

(c) Withdraw from participation in deliberations, decisionmaking, or voting on matters that concern the relationship disclosed under paragraph (b) of this section.

§ 1280.204 Appointment.

From the nominations made pursuant to § 1280.202, the Secretary shall appoint the members of the Board on the basis of representation provided in § 1280.201.

§ 1280.205 Method of obtaining nominations.

(a) *Initially established Board.* (1) *Producer and alternate nominations.* The Secretary shall solicit, from organizations certified under § 1280.207, nominations for each producer's or alternate member's seat on the initially-established Board to which a unit is entitled. If no such organization exist, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(2) *Feeder and importer nominations.* The Secretary shall solicit, from certified organizations that represent feeders and importers, nominations for each seat to which feeders or importers are entitled. If no such organization exists, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate. In determining whether an organization is eligible to submit nominations under this subparagraph, the Secretary shall determine whether:

(i) The organization's active membership includes a significant number of feeders or importers in relation to the total membership of the organization;

(ii) There is evidence of stability and permanency of the organization; and

(iii) The organization has a primary and overriding interest in representing the feeder or importer segment of the sheep industry.

(b) *Subsequent appointment*—(1) *Producer nominations.* The solicitation of nominations for subsequent appointment to the Board from eligible organizations certified under § 1280.207 shall be initiated by the Secretary, with the Board securing the nominations for the Secretary.

(2) *Feeder and importer nominations.* The solicitation of feeder and importer nominations for subsequent appointment to the Board shall be made by the Secretary from organizations certified in accordance with paragraph (a)(2) of this section.

§ 1280.206 Vacancies.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall appoint a successor from the most recent list of nominations for the position or from nominations submitted by the Board.

§ 1280.207 Certification of organizations.

(a) *In general.* The eligibility of any State organization to represent producers and to participate in the making of nominations under this subpart shall be certified by the Secretary. The Secretary shall certify any State organization that the Secretary determines meets the eligibility criteria established under paragraph (b) of this section. An eligibility determination by the Secretary shall be final.

(b) *Basis for certification.* Certification shall be based upon, in addition to other available information, a factual report submitted by the organization that shall contain information considered relevant and specified by the Secretary, including:

(1) The geographic territory covered by the active membership of the organization;

(2) The nature and size of the active membership of the organization, including the proportion of the total number of active producers represented by the organization;

(3) Evidence of stability and permanency of the organization;

(4) Sources from which the operating funds of the organization are derived;

(5) The functions of the organization; and

(6) The ability and willingness of the organization to further the aims and objectives of the Act.

(c) *Primary considerations.* A primary consideration in determining the eligibility of an organization under this paragraph shall be whether:

(1) The membership of the organization consists primarily of

producers who own a substantial quantity of sheep; and

(2) An interest of the organization is in the production of sheep.

§ 1280.208 Term of office.

Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially established Board shall be proportionately for 1-year, 2-year, and 3-year terms. No person may serve more than two consecutive 3-year terms, except that elected officers shall not be subject to the term limitation while they hold office.

§ 1280.209 Compensation.

Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as Board members.

§ 1280.210 Removal.

If the Secretary determines that any person appointed under this part fails to perform his or her duties properly or engages in acts of dishonesty or willful misconduct, the Secretary shall remove the person from office. The Secretary may remove a person appointed or certified under this part, or any employee of the Board, if the Secretary determines that the person's continued service would be detrimental to the purposes of the Act.

§ 1280.211 Powers and duties of the Board.

The Board shall have the following powers and duties:

(a) To elect officers of the Board, including a chairperson, vice chairperson, and secretary/treasurer;

(b) To administer this subpart in accordance with its terms and provisions;

(c) To recommend regulations to effectuate the terms and provisions of this subpart;

(d) To hold at least one annual meeting and any additional meetings it deems appropriate;

(e) To elect members of the Board to serve on the Executive Committee;

(f) To approve or reject budgets submitted by the Executive Committee;

(g) To submit budgets to the Secretary for approval;

(h) To contract with entities, if necessary, to implement plans or projects in accordance with the Act;

(i) To conduct programs of promotion, research, consumer information, education, industry information, and producer information;

(j) To receive, investigate, and report to the Secretary complaints of violations of this subpart;

(k) To recommend to the Secretary amendments to this subpart;

(l) To provide the Secretary with prior notice of meetings of the Board to permit the Secretary or a designated representative to attend such meetings;

(m) To provide not less than annually a report to producers, feeders, and importers, accounting for the funds expended by the Board, and describing programs implemented under the Act; and to make such report available to the public upon request;

(n) To establish seven regions that, to the extent practicable, contain geographically contiguous States and approximately equal numbers of sheep producers and sheep production;

(o) To employ or retain necessary staff; and

(p) To invest funds in accordance with § 1280.214.

§ 1280.212 Budgets.

(a) *In general.* The Board shall review the budget submitted by the Executive Committee, on a fiscal year basis, of anticipated expenses and disbursements by the Board, including probable costs of administration and promotion, research, consumer information, education, industry information, and producer information projects. The Board shall submit the budget to the Secretary for the Secretary's approval.

(b) *Limitation.* No expenditure of funds may be made by the Board unless such expenditure is authorized under a budget or budget amendment approved by the Secretary.

§ 1280.213 Books and records of the Board.

The Board shall:

(a) Maintain such books and records, which shall be made available to the Secretary for inspection and audit, as the Secretary may prescribe;

(b) Prepare and submit to the Secretary, from time-to-time, such reports as the Secretary may prescribe; and

(c) Account for the receipt and disbursement of all funds entrusted to it. The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

§ 1280.214 Investment of funds.

The Board may invest, pending disbursement, funds it receives under this subpart, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States. Any income from any such investment may be used for any purpose for which the invested funds may be used.

§ 1280.215 Use of assessments.

(a) Assessments received by the Board shall be used by the Board:

(1) To fund promotion, research, education, and information plans and projects authorized under this subpart, including promotion plans and projects which make specific reference to domestic sheep and sheep products originating or being produced and/or marketed in the U.S., except that the combined expenditures for such promotion plans and projects involving domestic country of origin shall be limited to no more than the combined domestic assessments collected on sheep and sheep products and the percentage of domestic assessments spent on the promotion of domestic sheep and sheep products shall not exceed the percentage of import assessments spent on the generic promotion of sheep and sheep products; and

(2) For the payment of expenses incurred in administering this subpart, including a reasonable reserve.

(b) The Board shall reimburse the Secretary, from assessments collected, for costs incurred in implementing and administering the Order as provided for under the Act.

Executive Committee

§ 1280.216 Establishment.

The Board shall establish an Executive Committee of the Board to assist the Board in the administration of the terms and provisions of this subpart, under the direction of the Board, and consistent with the policies determined by the Board.

§ 1280.217 Membership.

The Executive Committee shall be comprised of 14 members as follows:

(a) Eleven members of the Executive Committee shall be elected by the Board annually. Of these members:

(1) One member shall represent each of the seven regions established under § 1280.211(n) for a total of seven members representing producers;

(2) One member shall represent feeders; and

(3) Three members shall represent importers.

(b) The remaining three members of the Executive Committee shall be the elected officers of the Board.

§ 1280.218 Powers and duties.

(a) *Plans and projects.* The Executive Committee shall develop plans or projects of promotion and advertising, research, consumer information, education, industry information, and producer information, which plans or projects shall be paid for with assessments collected by the Board. The plans or projects shall not become effective until approved by the Secretary.

(b) *Budgets.* The Executive Committee shall be responsible for developing and submitting to the Board, for Board approval, budgets on a fiscal year basis of the Board's anticipated expenses and disbursements, including the estimated costs of advertising and promotion, research, consumer information, education, industry information, and producer information projects. The Board shall approve or disapprove such budgets and, if approved, shall submit them to the Secretary for the Secretary's approval.

§ 1280.219 Term of office.

Terms of appointment to the Executive Committee shall be for 1 year.

§ 1280.220 Chairperson.

The Chairperson of the Board shall serve as chairperson of the Executive Committee.

§ 1280.221 Quorum.

A quorum of the Executive Committee shall consist of eight members.

§ 1280.222 Vacancies.

To fill any vacancy caused by the death, removal, resignation, or disqualification of any member of the Executive Committee, the Board shall elect a successor for the position pursuant to § 1280.217.

Expenses

§ 1280.223 Expenses.

(a) The Board shall be responsible for all expenses of the Board and the Executive Committee.

(b) Contracts and Agreements. Any contract or agreement entered into by the Board shall provide that:

(1) The contracting party shall develop and submit to the Board a plan or project of promotion, research, education, consumer information, industry information, and producer information, together with a budget or budgets that shall show estimated costs to be incurred for such plan or project; and

(2) No plan, project, contract, or agreement shall become effective until it has been approved by the Secretary.

(c) The contracting party shall:

(1) keep accurate records of all of its transactions;

(2) account for funds received and expended, including staff time, salaries, and expenses expended on behalf of Board activities;

(3) make periodic reports to the Board of activities conducted; and

(4) make such other reports as the Board or the Secretary may require.

Assessments

§ 1280.224 Sheep purchases.

(a) *In general.* Each person making payment to a producer or feeder for sheep purchased from the producer or feeder shall be a collecting person and shall collect an assessment from the producer or feeder on each sheep sold by the producer or feeder. Each such producer or feeder shall pay such assessment to the collecting person at the rate set forth in paragraph (d) of this section.

(b) *Remittances.* Each processor making payment to a producer, feeder, or collecting person for sheep purchased from the producer, feeder, or collecting person shall be a collecting person and shall collect an assessment from the producer, feeder, or other collecting person on each sheep sold by the producer, feeder, or collecting person, and each such producer, feeder, or collecting person shall pay such assessment to the processor at the rate set forth in paragraph (d) in this section, and such processor shall remit the assessment to the Board.

(c) *Processing.* Any person who purchases sheep for processing shall collect the assessment from the seller and remit the assessment to the Board.

(d) *Rate.* Except as otherwise provided, the rate of assessment shall be 1-cent-per-pound of live sheep sold. The rate of assessment may be raised or lowered no more than 0.15 of a cent in any 1 year as recommended by the Executive Committee and approved by the Board and the Secretary. However, if the Board makes a recommendation to the Secretary to raise or lower the assessment rates, the domestic rate and the import rate must be raised or lowered simultaneously by an equivalent amount. The rate of assessment shall not exceed 2½-cents-per-pound.

§ 1280.225 Wool purchases.

(a) *In general.* Each person making payment to a producer, feeder, or handler of wool for wool purchased from the producer, feeder, or handler shall be a collecting person and shall collect an assessment from the producer, feeder, or handler on each pound of greasy wool sold. The producer, feeder, or handler shall pay such assessment to the collecting person at the rate set forth in paragraph (d) of this section.

(b) *Remittances.* Each processor making payment to a producer, feeder, handler, or collecting person for wool purchased from the producer, feeder, handler, or collecting person shall be a collecting person and shall collect an assessment from the producer, feeder, handler, or other collecting person on all wool sold by the producer, feeder, handler, or collecting person, and each such producer, feeder, handler, or collecting person shall pay such assessment to the processor at the rate set forth in paragraph (d) of this section and such processor shall remit the assessment to the Board.

(c) *Processing.* Any person purchasing greasy wool for processing shall collect the assessment and remit the assessment to the Board.

(d) *Rate.* Except as otherwise provided, the rate of assessment shall be 2-cents-per-pound. The rate of assessment may be raised or lowered no more than 0.2 of a cent per pound in any 1 year as recommended by the Executive Committee and approved by the Board and the Secretary. However, if the Board makes a recommendation to the Secretary to raise or lower the assessment rates, the domestic rate and the import rate must be raised or lowered simultaneously by an equivalent amount. The rate of assessment shall not exceed 4-cents-per-pound of greasy wool.

§ 1280.226 Direct processing.

Each person who processes or causes to be processed sheep or sheep products of that person's own production, and markets such sheep or sheep products, shall pay an assessment on such sheep or sheep products at the time of sale at a rate equivalent to the rate established in § 1280.224(d) or § 1280.225(d), as appropriate, and shall remit such assessment to the Board.

§ 1280.227 Exports.

Each person who exports live sheep or greasy wool shall remit the assessment on such sheep or greasy wool at the time of export, at a rate equivalent to the rate established in § 1280.224(d) or § 1280.225(d), as appropriate, and shall remit such assessment to the Board.

§ 1280.228 Imports.

(a) In general. Each person who imports sheep or sheep products or who imports wool or products containing wool (with the exception of raw wool)

into the United States shall pay an assessment to the Board.

(b) Collection. The Customs Service is authorized to collect and remit such assessment to the Secretary for disbursement to the Board.

(c) Rate for sheep and sheep products. The assessment rate for sheep shall be 1-cent-per-pound of live sheep. The assessment rate for sheep products shall be the equivalent of 1-cent-per-pound of live sheep, as determined by the Secretary in consultation with the domestic sheep industry. Such rates may be raised or lowered no more than 0.15-cent-per-pound in any 1 year as recommended by the Executive Committee and approved by the Board and the Secretary, but shall not exceed 2½-cents-per-pound. However, if the Board makes a recommendation to the Secretary to raise or lower the assessment rates, the domestic rate and the import rate must be raised or lowered simultaneously by an equivalent amount.

(d) Rate for wool and wool products. The assessment rate for wool and products containing wool shall be 2-cents-per-pound of degreased wool or the equivalent of degreased wool. The rate of assessment may be raised or lowered no more than 0.2-cents-per-pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, but shall not exceed 4-cents-per-pound of degreased wool or the equivalent. However, if the Board makes a recommendation to the Secretary to raise or lower the assessment rates, the domestic rate and the import rate must be raised or lowered simultaneously by an equivalent amount.

(e) The Secretary shall issue regulations regarding the assessment rates for imported sheep and sheep products. The Secretary may exclude from assessment certain imported products that contain *de minimis* levels of sheep or sheep products and waive the assessment on such products.

§ 1280.229 Qualified State Sheep Board.

(a) Except as provided in paragraph (b) of this section, 20 percent of the total assessments collected by the Board on the marketings of domestic sheep and domestic sheep products in any 1 year from a State shall be returned to the QSSB of the State.

(b) No QSSB shall receive less than $2,500 under paragraph (a) of this section in any 1 year. (c) The Board shall establish procedures with the approval of the Secretary to account for funds expended pursuant to paragraphs (a) and (b) of this section.

§ 1280.230 Collection.

(a) Each person responsible for the collection and remittance to the Board of assessments under this subpart shall do so on a monthly basis, unless the Board, with the approval of the Secretary, has specifically authorized otherwise.

(b) Late payment charges. Any unpaid assessments due the Board or from a person responsible for remitting assessments to the Board, shall be increased by 2 percent each month beginning with the day after the date such assessments were due under this subpart. Any assessments or late payment charges that remain unpaid shall be increased at the same rate on the corresponding day of each month thereafter until paid.

(c) Any unpaid assessments due to the Board pursuant to § 1280.224, § 1280.225, § 1280.226, and § 1280.227 shall be increased 2 percent each month beginning with the day following the date such assessments were due. Any remaining amount due, which shall include any unpaid charges previously made pursuant to this paragraph, shall be increased at the same rate on the corresponding day of each month thereafter until paid. For the purposes of this paragraph, any assessment determined at a date later than the date prescribed by this subpart because of a person's failure to submit a timely report to the Board shall be considered to have been payable by the date it would have been due if the report had been timely filed. The date of payment is the applicable postmark date or the date of receipt by the Board, whichever is earlier.

(d) If the Board is not in place by the date the first assessments are to be collected, the Secretary shall have the authority to receive assessments and invest them on behalf of the Board, and shall pay such assessments and any interest earned to the Board when it is formed. The Secretary shall have the authority to promulgate rules and regulations concerning assessments and the collection of assessments if the Board is not in place or is otherwise unable to develop such rules and regulations.

§ 1280.231 Prohibition on use of funds.

(a) Except as otherwise provided in paragraph (b) of this section, no funds collected by the Board under this subpart shall be used in any manner for the purpose of influencing any action or policy of the United States Government, any foreign or State Government, or any political subdivision thereof.

(b) The prohibition in paragraph (a) of this section shall not apply:

(1) To the development and recommendation of amendments to this subpart; or

(2) To the communication to appropriate government officials, in response to a request made by the officials, of information relating to the conduct, implementation, or results of promotion, research, consumer information, education, industry information, or producer information activities under this subpart.

(c) A plan or project conducted pursuant to this part shall not make false or misleading claims on behalf of sheep or sheep products or against a competing product.

(d) No such plans or projects shall be undertaken to promote or advertise any sheep or sheep products by brand or trade name without the approval of the Board and the concurrence of the Secretary.

Reports, Books, and Records

§ 1280.232 Reports.

(a) Each collecting person, including processors and other persons required to remit assessments to the Board pursuant to § 1280.224(b) for live sheep, each person who markets sheep products of that person's own production and each exporter of sheep shall report to the Board information pursuant to regulations prescribed by the Board and approved by the Secretary. Such information may include:

(1) The number of sheep purchased, initially transferred or which, in any other manner, are subject to the collection of assessment, and the dates of such transaction;

(2) The number of sheep imported or exported, or the equivalent thereof of sheep products imported;

(3) The amount of assessment remitted;

(4) An explanation for the remittance of any assessment that is less than the pounds of sheep multiplied by the assessment rate; and

(5) The date any assessment was paid.

(b) Each collecting person, including processors and other persons required to remit assessments to the Board pursuant to § 1280.225(b) for wool purchased from the producer or handler of wool or wool products, each person purchasing greasy wool for processing, each importer of wool or wool products (except raw wool), each exporter of greasy wool, and each person who markets wool of that person's own production shall report to the Board information pursuant to regulations prescribed by the Board and approved by the Secretary. Such information may include:

(1) The amount of wool purchased, initially transferred or in any other manner subject to the collection of assessment, and the dates of such transaction;

(2) The amount of wool imported (except raw wool) or the equivalent thereof of wool products imported or the amount of greasy wool exported;

(3) The amount of assessment remitted;

(4) An explanation for the remittance of an assessment that is less than the pounds of wool multiplied by the assessment rate; and

(5) The date any assessment was paid.

§ 1280.233 Books and records.

(a) Each collecting person, including processors and other persons required to remit assessments to the Board, each importer of sheep or sheep products (except raw wool), and exporter of sheep or greasy wool, and each person who markets sheep products of that person's own production, shall maintain and make available for inspection such books and records as may be required by regulations prescribed by the Board and approved by the Secretary, including records necessary to verify any required reports. Such records shall be maintained for the period of time prescribed by the regulations issued hereunder.

(b) Document evidencing payment of assessments. Each collecting person responsible for collecting an assessment paid pursuant to this subpart, other than a person who slaughters sheep or markets sheep products of his or her own production for sale, is required to give the person or collecting person from whom the collecting person collected an assessment written evidence of payment of the assessments paid pursuant to this subpart. Such written evidence serving as a receipt shall include:

(1) Name and address of the collecting person;

(2) Name of the producer who paid the assessment;

(3) Number of head of sheep or pounds of wool sold;

(4) Total assessments paid by the producer;

(5) Date; and

(6) Such other information as the Board, with the approval of the Secretary, may require.

§ 1280.234 Use of information.

Information from records or reports required pursuant to this subpart shall be made available to the Secretary as is appropriate to the administration or enforcement of the Act, this subpart or any regulation issued under the Act. In addition, the Secretary shall authorize the use under this part of information that is accumulated under laws or regulations other than the Act or regulations issued under the Act regarding persons paying producers, feeders, importers, handlers, or processors.

§ 1280.235 Confidentiality.

(a) All information from records or reports required pursuant to this subpart shall be kept confidential by all officers and employees of the Department and of the Board. Such information may be disclosed only if the Secretary considers the information relevant, the information is disclosed only in a suit or administrative hearing brought at the direction or on the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and the information relates to the Act.

(b) Administration. No information obtained under the authority of this subpart may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of the Act and any investigatory or enforcement action necessary for the implementation of the Act.

(c) General statements. Nothing in paragraph (a) of this section may be deemed to prohibit:

(1) The issuance of general statements, based on the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(2) The publication, by direction of the Secretary, of the name of any person violating this subpart and a statement of the particular provisions of this subpart violated by such person.

(d) Penalty. Any person who willfully violates the provisions of this subpart, on conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than 1 year, or both, and if the person is an officer or employee of the Board or the Department, that person shall be removed from office.

Miscellaneous

§ 1280.240 Right of the Secretary.

All fiscal matters, programs or projects, bylaws, rules or regulations, reports, or other substantive actions proposed, and prepared by the Board shall be submitted to the Secretary for approval.

§ 1280.241 Proceedings after termination.

(a) Upon the termination of this subpart, the Board shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all the funds and property owned, in the possession of or under the control of the Board, including any claims of the Board against third parties that exist at the time of such termination.

(b) The trustees shall:

(1) Act as trustees until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into by the Board pursuant to § 1280.223(b);

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such persons as the Secretary may direct; and

(4) Upon the request of the Secretary, execute such assignment of other instruments necessary or appropriate to transfer to such persons full title and right to all of the funds, property, and claims of the Board or the trustees pursuant to this subpart.

(c) Any person to whom funds, property or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligation imposed upon the Board and upon the trustees.

(d) Any residual funds not required to pay the necessary costs of liquidation shall be turned over to the Secretary to be used, to the extent practicable, for continuing one or more of the promotion, research, consumer information, education, industry information, and producer information plans or projects authorized pursuant to this subpart.

§ 1280.242 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability that has arisen or may hereafter arise in connection with any provision of this subpart or any regulation issued thereunder; or

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, the Secretary or any person with respect to any such violation.

§ 1280.243 Personal liability.

No member, employee, or agent of the Board, including employees, agents, or Board members of the QSSB, acting pursuant to the authority provided in this subpart, shall be held personally responsible, either individually or jointly, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts of either commission or omission, of such member, employee, or agent except for acts of dishonesty or willful misconduct.

§ 1280.244 Patents, copyrights, inventions, and publications.

Any patents, copyrights, inventions, or publications developed through the use of funds remitted to the Board under the provisions of this subpart shall be the property of the United States Government as represented by the Board, and shall, along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, inventions, or publications, inure to the benefit of the Board. Upon termination of this subpart, § 1280.240 shall apply to determine disposition of all such property.

§ 1280.245 Amendments.

Amendments to the subpart may be proposed, from time to time, by the Board or by any interested person affected by the provisions of the Act, including the Secretary.

§ 1280.246 Separability.

If any provision of this subpart is declared invalid or its applicability to any person or circumstances is held invalid, the validity of the remainder of this subpart of the applicability thereof to other persons or circumstances shall not be affected thereby.

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

Dated: November 29, 1995.

Lon Hatamiya,

Administrator.

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Part III

Department of Energy

10 CFR Parts 475, 476, and 478
Removal of Obsolete Regulations; Final Rule and Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Parts 475, 476, and 478

Removal of Obsolete Regulations

AGENCY: Department of Energy.

ACTION: Direct final rule.

SUMMARY: The Department of Energy is amending the Code of Federal Regulations (CFR) to remove obsolete regulations relating to defunct programs of financial assistance for electric and hybrid vehicle research and methane transportation research. This action is being taken in furtherance of the President's Regulatory Reinvention Initiative to eliminate obsolete regulations and streamline existing rules.

EFFECTIVE DATE: This action is effective on January 16, 1996, unless significant adverse or critical comments are received by January 4, 1996. The Department will publish a timely notice in the **Federal Register** if comments are received that require the effective date to be suspended or delayed for any of the CFR parts included in this direct final rule.

FOR FURTHER INFORMATION CONTACT: Mr. Romulo L. Diaz, Jr., Director, Rulemaking Support, Office of the General Counsel, (GC–75), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 586–2902.

SUPPLEMENTARY INFORMATION: In furtherance of the President's Regulatory Reinvention Initiative, the Department of Energy is engaged in a continuing and comprehensive review of its regulatory program. As part of that review, the Department is removing from Title 10 of the CFR regulations for which statutory authority has expired or has been superseded by subsequent legislation, as well as regulations governing nonfunctioning and unfunded programs. Elimination of these regulations will not interfere with the Department's ongoing activities in the area of alternative fueled vehicles. On September 22, 1995, the Department published a final rule that eliminated numerous obsolete regulations from Title 10 of the CFR. 60 FR 49195. As a result of this and prior actions, the Department has reduced its pages in the CFR by 514 pages, or 71 percent of its goal of 726 pages.

Today's action will remove the following obsolete regulations:

10 CFR Part 475—Electric and Hybrid Vehicle Research, Development and Demonstration Program

The Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, 15 U.S.C. 2501 et seq., authorized the Department to support research, development and demonstration of electric and hybrid vehicle technologies. Part 475 contains performance standards for electric vehicles which DOE developed for purposes of the demonstration program. The demonstration period extended, by law, through fiscal year 1986. 15 U.S.C. 2506(c)(3). Because the demonstration program has ended, these regulations are obsolete.

10 CFR Part 476—Electric and Hybrid Vehicle Research, Development and Demonstration Program Small Business Planning Grants

Section 9 of the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, 15 U.S.C. 2508(c)(2), authorized the Department to make grants to qualified small businesses that needed assistance in developing and submitting proposals for contracts. Part 476 contains regulations implementing the Act's provision for these small business planning grants. Congress has not appropriated funds for this program for the past 15 years. DOE does not expect the program to be revived.

10 CFR Part 478—Methane Transportation Research and Development; Review and Certification of Contracts, Grants, Cooperative Agreements and Projects

Part 478 provides procedures for grants, contracts, or cooperative agreements to support research and development for methane-fueled vehicles. The regulations implement section 4(d) of the Methane Transportation Research, Development, and Demonstration Act. 15 U.S.C. 3801 et seq. The Department has not requested, and Congress has not provided, funds for this program for many years. The Department has no plans to seek revival of this program, and it considers these regulations to be obsolete.

Rulemaking Analyses

Regulatory Planning and Review

The elimination of obsolete regulations does not constitute a "significant regulatory action" as defined in section 3(f) of Executive Order 12866 (58 FR 51735); therefore, this rulemaking has not been reviewed by the Office of Information and Regulatory Affairs of the Office of Management and Budget.

Federalism

The Department has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612, and has determined that there are no federalism implications that would warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

Given that the programs for which these regulations were promulgated are now inactive, the Department certifies that this rulemaking will not have a "significant economic impact on a substantial number of small entities."

National Environmental Policy Act

This rule amends Title 10 of the Code of Federal Regulations by removing regulations governing programs that are funded. This rulemaking will not change the environmental effect of the programs governed by the regulations being eliminated because the programs have been inactive for many years and have no current environmental effect. The Department has therefore determined that this rule is covered under the Categorical Exclusion found at paragraph A.5 of Appendix A to Subpart D, 10 CFR Part 1021, which applies to a rulemaking amending an existing regulation that does not change the environmental effect of the regulation being amended.

Paperwork Reduction Act

This rulemaking contains no reporting requirement that is subject to OMB approval under 5 CFR Part 1320, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Direct Final Rulemaking

The Code of Federal Regulation parts being removed by this rule are regulations that involve programs for which there has not been an appropriation since the mid-1980's. It is unlikely that the President will request, or that Congress will again provide, an appropriation for these programs. In the absence of funding, retention of these regulations does not serve any useful purpose. Their removal will have no direct effect on any person and, therefore, this action is expected to be uncontroversial. Accordingly, the Department has determined, pursuant to 5 U.S.C. 553, that there is good cause to conclude that prior notice and opportunity for public comment is unnecessary and contrary to the public interest.

Nevertheless, in a separate document in this **Federal Register** publication, the Department is publishing a notice of proposed rulemaking to remove these regulations. If the Department receives significant adverse or critical comments, it will withdraw this action before the effective date by publishing a subsequent notice of withdrawal in the **Federal Register**. If significant adverse comments clearly apply only to removal of certain of the affected CFR parts, the Department will withdraw this action only for the parts that are the subject of adverse or critical comments. This action would become effective for the part or parts that were not the subject of such comments.

Any public comments received on the separate notice of proposed rulemaking, which incorporates the substance of this action, will be addressed in a subsequent final rule. The Department will not institute a second comment period on this action. If no significant adverse or critical comments are received, this action will be effective January 16, 1996.

List of Subjects

10 CFR Part 475

Electric Power, Energy conservation, Motor vehicles, Research.

10 CFR Part 476

Electric power, Energy conservation, Grant programs-business, energy, Motor vehicles, Research, Small businesses.

10 CFR Part 478

Energy conservation, Government contracts, Methane, Motor vehicles, Natural gas, Research.

Issued in Washington, DC on November 29, 1995.

Robert R. Nordhaus,

General Counsel.

PARTS 475, 476, 478—[REMOVED]

For the reasons set forth in the preamble, under the authority of 42 U.S.C 7101, Title 10 of the Code of Federal Regulations is amended by removing parts 475, 476, and 478.

[FR Doc. 95–29575 Filed 12–4–95; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Parts 475, 476, and 478

Removal of Obsolete Regulations

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy is proposing to amend the Code of Federal Regulations (CFR) to remove obsolete regulations relating to defunct programs of financial assistance for electric and hybrid vehicle research and methane transportation research. This action is being taken in response to the President's Regulatory Reinvention Initiative to eliminate obsolete regulations and streamline existing rules.

DATES: Comments on this proposed rule must be received in writing by January 4, 1996.

ADDRESSES: Written comments should be submitted to Mr. Romulo L. Diaz, Jr., Director, Rulemaking Support, Office of the General Counsel, (GC–75), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 586–2902.

FOR FURTHER INFORMATION CONTACT: Mr. Romulo L. Diaz, Jr., Director, Rulemaking Support, Office of the General Counsel, (GC–75), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 586–2902.

SUPPLEMENTARY INFORMATION: In connection with the President's Regulatory Reinvention Initiative, the Department of Energy is engaged in a continuing and comprehensive review of its regulatory program. As part of that review, the Department is removing from Title 10 of the CFR regulations for which statutory authority has expired or has been superseded by subsequent legislation, and other regulations governing nonfunctioning and unfunded programs. As a result of this proposed action and prior actions, the Department will have reduced its pages in the CFR by 514 pages.

The Department is proposing to remove from the CFR the following regulations, which it has determined to be obsolete:

10 CFR Part 475—Electric and Hybrid Vehicle Research, Development and Demonstration Program

The Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, 15 U.S.C. 2501 et seq., authorized the Department to support research, development and demonstration of electric and hybrid vehicle technologies. Part 475 contains performance standards for electric vehicles which DOE developed for purposes of the demonstration program. The demonstration period extended, by law, through fiscal year 1986. 15 U.S.C. 2506(c)(3). Because the demonstration program has ended, these regulations are obsolete.

10 CFR Part 476—Electric and Hybrid Vehicle Research, Development and Demonstration Program Small Business Planning Grants

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10 CFR Part 478—Methane Transportation Research and Development; Review and Certification of Contracts, Grants, Cooperative Agreements and Projects

Part 478 provides procedures for grants, contracts, or cooperative agreements to support research and development for methane-fueled vehicles. The regulations implement section 4(d) of the Methane Transportation Research, Development, and Demonstration Act. 15 U.S.C. 3801 et seq. The Department has not requested, and Congress has not provided, funds for this program for many years. The Department has no plans to seek revival of this program, and it considers these regulations to be obsolete.

The Department of Energy is publishing, elsewhere in this issue, a direct final rule, to remove these CFR parts. As explained in the preamble for the direct final rule, the Department considers this removal action to be uncontroversial and unlikely to generate significant adverse or critical comments. If no significant adverse comments are received by the Department, the direct final rule will become effective on January 16, 1996, and there will be no further action on this proposal. If such comments are received, the direct final rule will be withdrawn for those parts that are the subject of significant adverse comments. The public comments then will be addressed in a subsequent final rule based on this proposed rule. The Department will not institute a second comment period on this action.

Issued in Washington, DC on November 29, 1995.

Robert R. Nordhaus,

General Counsel.

PARTS 475, 476, 478—[REMOVED]

For the reasons set forth in the preamble, under the authority of 42 U.S.C 7101, Title 10 of the Code of Federal Regulations is proposed to be amended by removing parts 475, 476, and 478.

[FR Doc. 95–29576 Filed 12–4–95; 8:45 am]

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Tuesday, December 5, 1995

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H.R. 2126/P.L. 104–61
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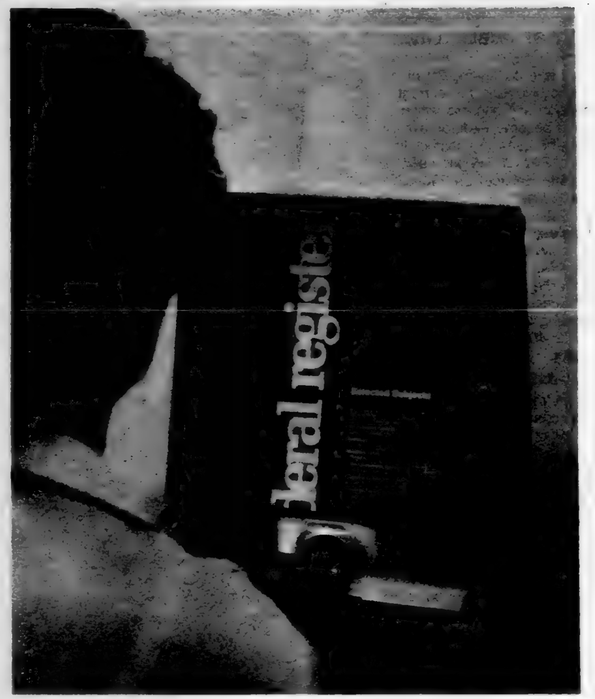

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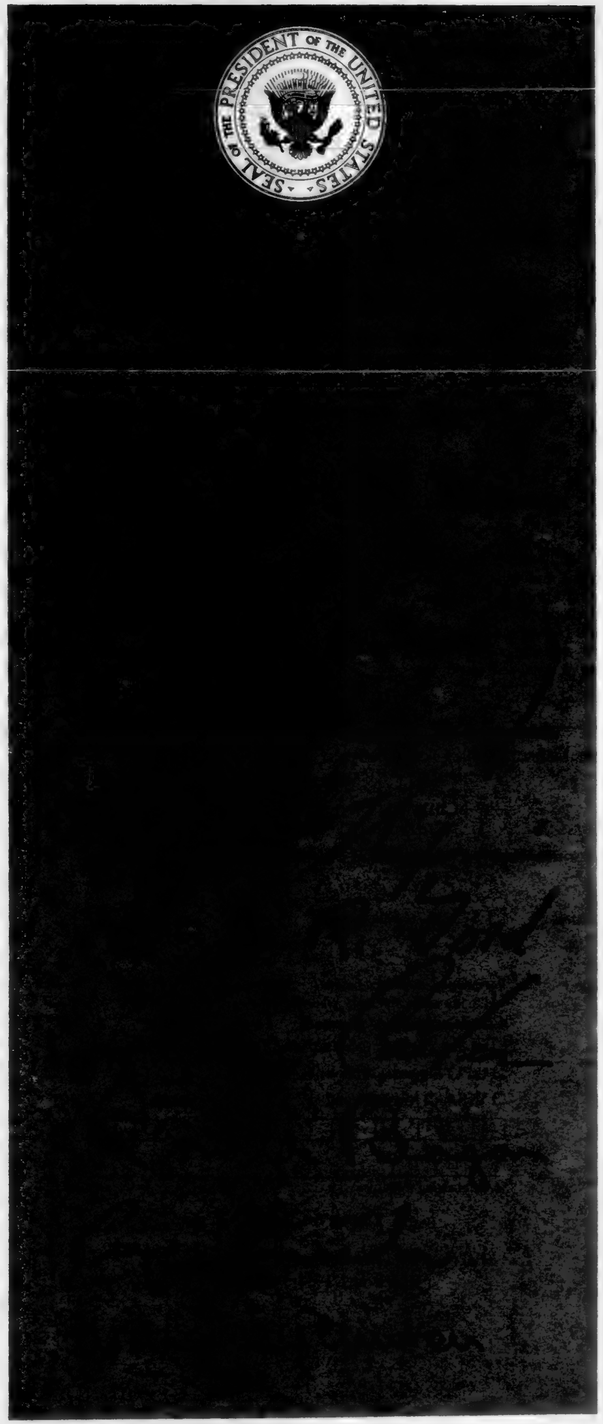

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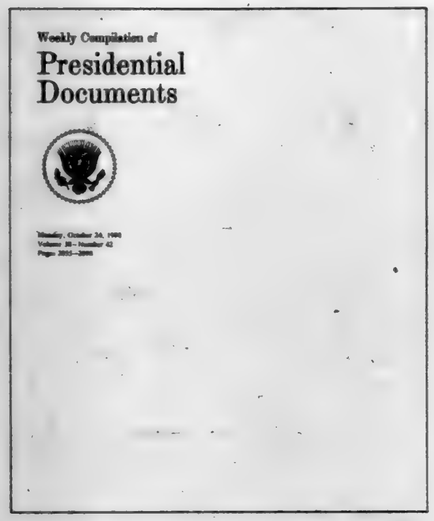

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WHEN: December 13, 1995 at 9:00 am and 1:00 pm

WHERE: National Archives—Pacific Northwest Region, Conference Room, 6125 Sand Point Way, NE., Seattle, WA 98115

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Reader Aids
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New Feature in the Reader Aids!
Beginning with the issue of December 4, 1995, a new listing will appear each day in the Reader Aids section of the **Federal Register** called "Reminders". The Reminders will have two sections: "Rules Going Into Effect Today" and "Comments Due Next Week". Rules Going Into Effect Today will remind readers about Rules documents published in the past which go into effect "today". Comments Due Next Week will remind readers about impending closing dates for comments on Proposed Rules documents published in past issues. Only those documents published in the Rules and Proposed Rules sections of the **Federal Register** will be eligible for inclusion in the Reminders.
The Reminders feature is intended as a reader aid only. Neither inclusion nor exclusion in the listing has any legal significance.
The Office of the Federal Register has been compiling data for the Reminders since the issue of November 1, 1995. No documents published prior to November 1, 1995 will be listed in Reminders.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF GOVERNMENT ETHICS

5 CFR Chapter XVI

RIN 3209–AA15

Concurrence by the Office of Government Ethics in the Issuance of Final Supplemental Standards of Ethical Conduct for Employees of the Farm Credit Administration

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule; concurrence.

SUMMARY: The Office of Government Ethics is concurring in the issuance by the Farm Credit Administration (FCA) of final supplemental standards of ethical conduct for FCA employees.

EFFECTIVE DATE: September 13, 1995.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of Government Ethics, telephone: 202–523–5757, FAX: 202–523–6325.

SUPPLEMENTARY INFORMATION: The Farm Credit Administration recently adopted as final, without change, interim rule supplemental standards of ethical conduct for FCA employees, for codification at chapter XXXI, consisting of part 4101, and a residual cross-reference provision in its old standards regulation at 12 CFR part 601. See FR Doc. 95–22610 at 60 FR 47453 (September 13, 1995); see also the prior interim rule, on which OGE concurred and co-signed, at 60 FR 30778–30783 (June 12, 1995). In accordance with its authority under Executive Order 12674, as modified by E.O. 12731, and the Ethics in Government Act, the Office of Government Ethics is concurring in the issuance by the FCA of the final rule supplemental ethical conduct standards for FCA employees which augment the Standards of Ethical Conduct for Employees of the Executive Branch, as issued by OGE and codified at 5 CFR part 2635.

List of Subjects in 5 CFR Part 4101

Conflict of interests, Government employees.

Dated: November 1, 1995.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth above, the Office of Government Ethics is concurring in the final rule issuance by the Farm Credit Administration of 5 CFR part 4101.

[FR Doc. 95–29519 Filed 12–5–95; 8:45 am]

BILLING CODE 6345–01–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 94–065–2]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are revising the regulations for the importation of fruits and vegetables to update provisions for inspections and other activities at the port of first arrival. We are clarifying the procedures by which we give notice to an importer that cleaning, disinfection, disposal, or some other action is required for a shipment of fruits and vegetables. We are also clarifying the responsibility of the owner of imported fruits or vegetables for carrying out actions ordered by an inspector in accordance with the regulations. This action provides clearer standards for persons who must comply with the regulations and aids our enforcement of the regulations.

EFFECTIVE DATE: January 5, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Jane Levy or Mr. Frank E. Cooper, Senior Operations Officers, Port Operations, PPQ, APHIS, Suite 4A03, 4700 River Road Unit 139, Riverdale, MD 20737–1236; (301) 734–8645.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 through 319.56–8 (referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of injurious insects that are new to or not widely distributed within and throughout the United States.

Section 319.56–6 of the regulations addresses requirements for the inspection and disinfection of imported fruits and vegetables at the port of first arrival. This section provides, among other things, that all imported fruits and vegetables, as a condition of entry, shall be subject to inspection, disinfection, or both, at the port of first arrival, as may be required by a U.S. Department of Agriculture inspector. The purpose of the inspection or disinfection is to detect and eliminate plant pests. This section also provides that any shipment of fruits and vegetables may be refused entry if the shipment is infested with fruit flies or other dangerous plant pests and an inspector determines that it cannot be cleaned by disinfection or treatment, or if the shipment contains leaves, twigs, or other portions of plants.

Section 319.56–6 also prohibits the movement of imported fruits and vegetables from the port of first arrival until the inspector gives notice to the collector of customs that the products have been inspected and found to be free from infestation and from plants or portions of plants used as packing or otherwise. This section also states that the importer is responsible for all charges for storage, cartage, and labor incident to inspection and disinfection, other than the services of the inspector.

On July 12, 1995, we published in the **Federal Register** (60 FR 35871–35873, Docket No. 94–065–1) a proposal to amend the regulations by revising § 319.56–6 to update provisions for inspections and other activities at the port of first arrival; to clarify the procedures by which we give notice to an importer that cleaning, disinfection, disposal, or some other action is required for a shipment of fruits or vegetables; and to clarify the responsibility of the owner of imported fruits or vegetables for carrying out actions ordered by an inspector in accordance with the regulations. We proposed these clarifications because the regulations are unclear on some points, and we have experienced difficulties enforcing some of the requirements because the regulations do not specify who is responsible for all of

the activities and costs that may be required to clear a shipment for entry into the United States. In this proposal, we also proposed to correct 7 CFR 319.37–6(e) by removing Mexico from the list of countries with restricted importation of citrus seed due to citrus canker.

We solicited comments concerning our proposal for 60 days ending September 11, 1995. We received one comment by that date. It was from a State agency and supported the proposed rule.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This rule clarifies procedures for the inspection and release of imported fruits and vegetables at the port of first arrival in the United States. This revision of the regulations updates the regulatory language to conform to procedures currently in use at ports. These changes provide a clearer standard for importers of fruits and vegetables who must comply with the regulations, and will enhance enforcement of the regulations. The changes do not add any significant new costs for importers of fruits and vegetables or other persons. Importers are already responsible for all costs of treatment, movement, storage, or destruction ordered by an inspector at a port.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule clarifies the requirements at the port of first arrival for fruits and vegetables imported into the United States. State and local laws and regulations regarding the importation of fruits and vegetables under this rule will be preempted while the fruits and vegetables are in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public, and will remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 is amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

§ 319.37–6 [Amended]

2. In § 319.37–6, paragraph (e) is amended by removing the word "Mexico,".

3. Section 319.56–6 is revised to read as follows:

§ 319.56–6 Inspection and other requirements at the port of first arrival.

(a) *Inspection and treatment.* All imported fruits or vegetables shall be inspected, and shall be subject to such disinfection at the port of first arrival as may be required by an inspector, and shall be subject to reinspection at other locations at the option of an inspector. If an inspector finds a plant pest or evidence of a plant pest on or in any fruit or vegetable or its container, or finds that the fruit or vegetable may have been associated with other articles infested with plant pests, the owner or agent of the owner of the fruit or vegetable shall clean or treat the fruit or vegetable and its container as required by an inspector, and the fruit or vegetable shall also be subject to reinspection, cleaning, and treatment at the option of an inspector at any time and place before all applicable requirements of this subpart have been accomplished.

(b) *Assembly for inspection.* The owner or agent of the owner shall assemble imported fruits and vegetables for inspection at the port of first arrival, or at any other place prescribed by an inspector, at a place and time and in a manner designated by an inspector.

(c) *Refusal of entry.* If an inspector finds that an imported fruit or vegetable is prohibited or is so infested with a plant pest that, in the judgment of the inspector, it cannot be cleaned or treated, or contains soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

(d) *Release for movement.* No person shall move from the port of first arrival any imported fruit or vegetable unless and until an inspector notifies the person (in person, in writing, by telephone, or through electronic means) that the fruit or vegetable:

(1) Has been released; or

(2) Requires reinspection, cleaning, or treatment of the fruit or vegetable at that port or at a place other than the port of first arrival, or is prohibited and must be exported from the United States.

(e) *Notice to owner of actions ordered by inspector.* If an inspector orders any disinfection, cleaning, treatment, reexportation, or other action with regard to imported fruits or vegetables, the inspector shall file an emergency action notification (PPQ Form 523) with the owner of the fruits or vegetables or an agent of the owner. The owner must, within the time specified in the PPQ Form 523, destroy the fruits and vegetables, ship them to a point outside the United States, move them to an authorized site, and/or apply treatments or other safeguards to the fruits and vegetables as prescribed by an inspector to prevent the introduction of plant pests into the United States.

(f) *Costs and charges.* The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture will be responsible only for the costs of providing the services of an inspector during regularly assigned hours of duty and at the usual places of duty.[1] The owner of imported fruits or vegetables is responsible for all additional costs of inspection, treatment, movement, storage, or destruction ordered by an inspector under this subpart, including any labor, chemicals, packing materials, or other supplies required. APHIS will not be responsible for any costs or charges, other than those identified in this section.

[1] Provisions relating to costs for other services of an inspector are contained in 7 CFR part 354.

Done in Washington, DC, this 30th day of November 1995.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–29749 Filed 12–5–95; 8:45 am]

BILLING CODE 3410–34–P

Federal Crop Insurance Corporation

7 CFR Part 401

Rice Endorsement

CFR Correction

In Title 7 of the Code of Federal Regulations, parts 400 to 699, revised as of January 1, 1995, on page 116, in § 401.120, item 9 was inadvertently omitted. The correct text, which should precede item 10, follows:

§ 401.120 Rice endorsement.

* * * * *

9. Contract Changes

The date by which contract charges will be available in your service office is December 31 preceding the cancellation date for counties with an April 15 cancellation date and November 30 preceding the cancellation date for all other counties.

* * * * *

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–190–AD; Amendment 39–9398; AD 95–20–51]

Airworthiness Directives; Boeing Model 767–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; extension of comment period.

SUMMARY: This document announces an extension of the comment period for Airworthiness Directive (AD) 95–20–51, applicable to all Model 767–200 and –300 series airplanes. That AD invites comments concerning the requirement to inspect the lower half of the aft trunnion of the main landing gear (MLG) to detect damage, cracking, missing pieces, or corrosion; and correction of discrepancies. This extension of the comment period is necessary to afford all interested persons an opportunity to present their views on the requirements of that AD.

DATES: Effective October 17, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T95–20–51, issued September 25, 1995.

Comments for inclusion in the Rules Docket must be received on or before February 12, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–190–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Information concerning this AD may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James G. Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2783; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: On October 4, 1995, the FAA issued AD 95–20–51, amendment 39–9398 (60 FR 53109, October 12, 1995), applicable to all Boeing Model 767–200 and –300 series airplanes, which requires that operators perform an external general visual inspection of the lower half of the aft trunnion of the main landing gear (MLG) to detect damage, cracking, missing pieces, or corrosion emanating from the aft trunnion bushing fillet seal or from the aft trunnion crossbolt hole. That AD invites comments on regulatory, economic, environmental, and energy aspects of the rule.

That action was prompted by reports of fractures of the outer cylinder aft trunnion due to stress corrosion cracking. This condition, if not corrected, could result in collapse of the MLG due to the problems associated with stress corrosion cracking in the aft trunnion assembly; collapse of the MLG could lead to loss of control of the airplane during landing, taxiing, and takeoff.

Since the issuance of that AD, a commenter to the rule requested an extension of the comment period. The commenter states that the additional time would provide the public with time to study the requirements of the AD and prepare comments for the Rules Docket.

The FAA has considered this request and finds it appropriate to extend the comment period to give all interested persons additional time to examine the requirements of the AD and submit comments. Accordingly, the comment period for AD 95–20–51 is extended to February 12, 1996. It should be noted that the effective date of AD 95–20–51 was October 17, 1995; this action does not change that date. Since no other portion of that AD or regulatory information has been changed, the entire rule is not being republished.

Issued in Renton, Washington, on November 28, 1995.

Darrell M. Pederson,

Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–29646 Filed 12–5–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–CE–25–AD; Amendment 39–9452; AD 95–25–07]

Airworthiness Directives; Fairchild Aircraft SA226 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Fairchild Aircraft SA226 series airplanes that are equipped with a part number 27–55001–229 actuator assembly. This action requires replacing the main landing gear door actuator tang and associated hardware with parts of improved design. Reports of the main landing gear doors hanging up and locking the landing gear links on the affected airplanes prompted this action. The actions specified by this AD are intended to prevent the inability to extend the main landing gear because of the main landing gear door actuation roller contacting the lower edge of the tang and causing the linkage to lock over-center.

DATES: Effective January 17, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 17, 1996.

ADDRESSES: Service information that applies to this AD may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; telephone (210) 824–9421. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95–CE–25–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or

at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone (817) 222–5133; facsimile (817) 222–5960.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Fairchild Aircraft SA226 series airplanes that are equipped with a part number 27–5500–229 actuator assembly was published in the **Federal Register** on August 7, 1995 (60 FR 40118). The action proposed to require replacing the main landing gear door tangs and associated hardware with parts of improved design. Accomplishment of the proposed action would be in accordance with Fairchild Aircraft Service Bulletin 226–32–059, Issued: February 14, 1991.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

In preparing the notice of proposed rulemaking (NPRM), the FAA inadvertently referenced part number (P/N) 27–55001–229 as P/N 27–5500–229 in the preamble and Applicability section of the proposed AD. The FAA is changing the AD to reflect the correct P/N.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the correction noted above and minor editorial corrections. The FAA has determined that these corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 307 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 4 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $114 (two main landing gear door actuator tang kits per airplane at $57 each) per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $108,678.

Fairchild Aircraft has informed the FAA that enough main landing gear door actuator tang kits have been distributed to equip 11 of the affected airplanes (22 kits). Assuming that each of these kits is installed on an affected airplane, the cost impact upon U.S. operators of the affected airplanes would be reduced $3,894 from $108,678 to $104,784.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

95–25–07 Fairchild Aircraft: Amendment 39–9452; Docket No. 95–CE–25–AD.

Applicability: The following airplane models and serial numbers that are equipped with a part number (P/N) 27–55001–229 actuator assembly, certificated in any category:

Model	Serial Nos.
SA226–T	T201 through T275 and T277 through T291.
SA226–T(B)	T(B) 276 and T(B) 292 through T(B) 417.
SA226–AT	AT001 through AT074.
SA226–TC	TC201 through TC419.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 1,000 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent the inability to extend the main landing gear because of the main landing gear door actuation roller contacting the lower edge of the tang and causing the linkage to lock over-center, accomplish the following:

(a) Replace the main landing gear door actuator tangs and associated hardware, part numbers 27–55001–249 and 27–55001–250, with new tangs and hardware of improved design, part numbers 27–55001–299 and 27–55001–301. Accomplish this replacement in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Aircraft Service Bulletin 226–32–059, Issued: February 14, 1991.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office (ACO), FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

(d) The replacement required by this AD shall be done in accordance with Fairchild Aircraft Service Bulletin 226–32–059, Issued: February 14, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street NW., 7th Floor, suite 700, Washington, DC.

(e) This amendment (39–9452) becomes effective on January 17, 1996.

Issued in Kansas City, Missouri, on November 28, 1995.

Dwight A. Young,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–29669 Filed 12–5–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 95–ANM–13]

Amendment of Class E Airspace; Sheridan, WY; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the airspace description of a final rule for Amendment of Class E airspace at Sheridan, Wyoming. The final rule was published in the **Federal Register** on September 29, 1995, Airspace Docket No. 94–ANM–13. This action adds language at the end of the description which slightly expands the airspace to encompass the full instrument approach procedure.

EFFECTIVE DATE: 0901U.T.C., January 4, 1996.

FOR FURTHER INFORMATION CONTACT: James Riley, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 95–ANM–13, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone number: (206) 227–2537.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 95–24282, Airspace Docket No. 95–ANM–13, published on September 29, 1995 (60 FR 50410), amended the Class E airspace at Sheridan, Wyoming. During the chart preparation process an error was discovered in the Class E5 airspace description whereby the defined airspace does not fully encompass the approach procedure. This action corrects that error by the addition of language in the airspace description that would encompass the instrument approach procedure at Sheridan County Airport.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the airspace description for the Class E airspace at Sheridan, Wyoming, as published in the **Federal Register** on September 29, 1995 (60 FR 50410), **(Federal Register** Document 95–24282; page 50411, column 1), and the description in FAA Order 7400.9C, which is incorporated by reference in 14 CFR 71.1, are corrected as follows:

§ 71.1 [Corrected]

* * * * *

ANM WY E5 Sheridan, WY [Corrected]

Sheridan County Airport, WY
(lat. 44°46′15″ N, long. 106°58′43″ W
Sheridan VORTAC
(lat. 44°50′32″ N, long. 107°03′40″ W)

That airspace extending upward from 700 feet above the surface within a 6.1-mile radius of the Sheridan County Airport; that airspace extending upward from 1,200 feet above the surface within 6.1 miles southwest and 8.7 miles northeast of the Sheridan VORTAC 138° and 318° radials extending from 16.1 miles northwest to 29.6 miles southeast of the VORTAC, and that airspace southeast of Sheridan bounded on the north by a line located 4.3 miles south of and parallel to the Sheridan VORTAC 104° radial, on the east by a 30.5-mile radius of the Sheridan VORTAC, and on the south by a line located 8.7 miles north of and parallel to the Sheridan VORTAC 138° radial, and that airspace southeast of the Sheridan County Airport, within 4.5 miles southwest of the 157° bearing from the airport, extending from the 6.1-mile radius to 17.6 miles southeast of the airport.

* * * * *

Issued in Seattle, Washington, on November 21, 1995.

Richard E. Prang,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 95–29347 Filed 12–5–95; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–36530, International Series Release No. 893, File No. S7–26–95]

RIN 3235–AG65

Exemption of the Securities of the United Mexican States Under the Securities Exchange Act of 1934 for Purposes of Trading Futures Contracts on Those Securities

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("SEC" or "Commission") is adopting an amendment to Rule 3a12–8 under the Securities Exchange Act of 1934 that would designate debt obligations issued by the United Mexican States ("Mexico") as "exempted securities" for the purpose of marketing and trading futures contracts on those securities in the United States. The purpose of this amendment is solely to permit futures on Mexican Government debt to be traded in the United States. This change is not intended to have any substantive effect on the operation of the Rule.

EFFECTIVE DATE: December 6, 1995.

FOR FURTHER INFORMATION CONTACT: James T. McHale, Attorney, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission (Mail Stop 5–1), 450 Fifth Street, N.W., Washington, D.C. 20549, at 202/942–0190.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under the Commodity Exchange Act ("CEA"), it is unlawful to trade a futures contract on any individual security, unless the security in question is an exempted security (other than a municipal security) for the purposes of the Securities Act of 1933 ("Securities Act") or the Securities Exchange Act of 1934 ("Exchange Act").[1] Debt obligations of foreign governments are not exempted securities under either of these statutes. The Commission, however, has adopted Rule 3a12–8 under the Exchange Act ("Rule")[2] to designate debt obligations issued by certain foreign governments as exempted securities under the Exchange Act solely for the purpose of marketing and trading futures contracts on those securities in the United States. The foreign governments currently designated in the Rule are Great Britain, Canada, Japan, Australia, France, New Zealand, Austria, Denmark, Finland, the Netherlands, Switzerland, Germany, the Republic of Ireland, Italy, and the Kingdom of Spain (the "Designated Foreign Governments"). As a result of being included in the Rule, futures contracts on the debt obligations of these countries may be sold in the United States, as long as the other terms of the Rule are satisfied.

On September 11, 1995, the Commission issued a release proposing to amend Rule 3a12–8 to designate the debt obligations of Mexico as exempted securities, solely for the purpose of futures trading.[3] Four commentators, the

[1] The term "exempted security" is defined in Section 3 of the Securities Act, 15 U.S.C. 77c, and Section 3(a)(12) of the Exchange Act, 15 U.S.C. 78c(a)(12).

[2] 17 CFR 240.3a12–8.

[3] *See* Securities Exchange Act Release No. 36213 ("Proposing Release") (September 11, 1995), 60 FR 48078 (September 18, 1995).

Chicago Mercantile Exchange ("CME"), Euro Brokers Investment Corporation ("Euro Brokers"), Sakura Dellsher, Inc. ("SDI"), and Centre Financial Products Limited ("Centre Financial"), submitted letters supporting the proposal.[4]

The Commission is adopting this amendment to the Rule, adding Mexico to the list of countries whose debt obligations are exempted by Rule 3a12–8. In order to qualify for the exemption, futures contracts on debt obligations of Mexico would have to meet all the other requirements of the Rule.

II. Background

Rule 3a12–8 was adopted in 1984[5] pursuant to the exemptive authority in Section 3(a)(12) of the Exchange Act in order to provide limited relief from the CEA's prohibition on the trading of futures overlying individual securities.[6] As originally adopted, the Rule provided that debt obligations of the United Kingdom and Canada would be deemed to be exempted securities, solely for the purpose of permitting the offer, sale, and confirmation of "qualifying foreign futures contracts" on such securities, so long as the securities in question were neither registered under the Securities Act nor the subject of any American depositary receipt so registered. A futures contract on such a debt obligation is deemed under the Rule to be a "qualifying foreign futures contract" if delivery under the contract is settled outside the United States and is traded on a board of trade.[7]

The conditions imposed by the Rule were intended to facilitate the trading of futures contracts on foreign government securities in the United States while requiring offerings of foreign government securities to comply with the federal securities laws. Accordingly, the conditions set forth in the Rule were designed to ensure that, absent registration, a domestic market in foreign government securities would not develop, and that markets for futures on these instruments would not be used to avoid the securities law registration requirements.

Subsequently, the Commission amended the Rule to include the debt securities issued by Japan, Australia, France, New Zealand, Austria, Denmark, Finland, the Netherlands, Switzerland, Germany, Ireland, Italy, and Spain.[8]

The CME has informed the Commission that U.S. citizens may be interested in futures products based on the debt obligations of Mexico, and has requested that Rule 3a12–8 be amended to facilitate such trading.[9] The CME has represented that it intends to develop a contract market in Mexican Certificados de la Tesoreria de la Federacion ("Cetes"), which are short-term Mexican government securities, and in Mexican Brady bonds, a class of longer term sovereign Mexican debt issues.[10]

Mexican Brady bonds were issued pursuant to the Brady plan, which allows developing countries to restructure their commercial bank debt by issuing long-term dollar denominated bonds.[11] The Commission understands that Mexican Brady bonds are currently traded primarily in the over-the-counter market in the United States.

The Commission is amending Rule 3a12–8 to add Mexico to the list of countries whose debt obligations are deemed to be "exempted securities" under the terms of the Rule. Under this amendment, the existing conditions set forth in the Rule (*i.e.*, that the underlying securities not be registered in the United States,[12] that the futures contracts require delivery outside the United States,[13] and that the contracts be traded on a board of trade) would continue to apply.

III. Discussion

A. Comment Letters

As noted above, the Commission received four comment letters, all in support of the proposal.[14] The CME additionally recommended that the Commission eliminate its practice of granting exemptions under the Rule on a country-by-country basis.[15] In support of adding Mexico to the list of Designated Foreign Governments in the Rule, the CME restated its belief that futures on Mexican sovereign debt would serve a valuable economic purpose and would benefit both U.S. investors and the Mexican economy. The CME asserted that Mexican Brady bonds are actively traded in the over-the-counter market in the United States, and that dealers and investors in Mexican Brady bonds could use the CME's proposed futures contracts to hedge the price risk in holding the underlying bonds.

Euro Brokers noted that while the underlying cash market for emerging market debt securities, including Mexico, has experienced considerable growth, there does not exist a proper hedging vehicle for positions in emerging market debt. According to Euro Brokers, this lack of an effective hedging tool limits the growth, liquidity, and stability of the market. If the CME is permitted to market and trade futures contracts on Mexican sovereign debt, Euro Brokers asserted, traders and investors will have the ability to hedge their exposure, thus generating depth, liquidity, and stability for the emerging markets as a whole both in the cash and futures markets.

SDI additionally suggested that the Commission be "flexible" in allowing the debt obligations of additional foreign governments to qualify for such exempt status.

Finally, according to Centre Financial, the fact that Mexico's debt is not rated in one of the two highest rating categories by at least two Nationally Recognized Statistical Rating Organizations ("NRSROs") is immaterial when considering the obligations as the basis of a futures or options contract. Moreover, Centre Financial suggested that the Commission consider an exemption for all sovereign debt, thereby allowing individual exchanges to determine whether a futures or options contract on a country's debt is appropriate.

It should be noted that in the Proposing Release, the Commission sought comment on: the appropriateness of designating Mexican sovereign debt as exempted securities even though its long-term debt is not rated in one of the two highest rating categories by at least two NRSROs (a factor the Commission has traditionally looked to as an indication of the liquidity of the underlying market); whether debt ratings should continue to be used in evaluating proposals to add countries to the Rule, and what alternative criteria, such as volume and depth of trading or amount of outstanding debt, could be used; whether the proposed amendment is appropriate in light of the fact that Mexico would be the first emerging market country to be included as a Designated Foreign Government; whether the CME's proposal to develop a contract market in Mexican Brady bonds raises any unique issues; and the general application and operation of the Rule given the increased globalization of the securities markets since the Rule was adopted. The commenters did not address all of these issues, but instead focused on the economic benefits of including Mexico as a Designated Foreign Government and adopting a liberal approach for further amendments to the Rule to include the sovereign debt of other countries.

B. Analysis

For the reasons discussed below, the Commission finds that it is consistent with the public interest and the protection of investors that Rule 3a12–8 be amended to include the sovereign debt obligations of Mexico. The Commission believes that the trading of futures on Mexican sovereign debt could provide U.S. investors and dealers with a vehicle for hedging the risks involved in holding Mexican debt instruments and that the sovereign debt of Mexico should be subject to the same regulatory treatment under the Rule as that of the Designated Foreign Governments for purposes of trading futures contracts on such debt obligations by U.S. persons.

In determining whether to amend the Rule to add new countries, the Commission has considered whether there is an active and liquid secondary trading market in the particular sovereign debt. The market for Mexican sovereign debt instruments appears to be active and liquid. As of March 31, 1995, there was approximately US$87.5 billion face amount Mexican government debt issued and outstanding of various classes and maturities.[16] According to the CME petition, the cash market for Cetes evidences active trading. For example, between 1993 and 1994 the monthly trading volume (in principal amount), according to the CME, of Cetes ranged from a low of approximately US$18.5 billion to a high of US$1.1 trillion. Moreover, according to a recent survey of members of the Emerging Markets Traders Association ("EMTA"), Mexican debt instruments are one of the most actively traded of all emerging markets instruments. According to the survey, the total annual trading volume for Mexican Brady bonds amounted to approximately US$282.3 billion.[17] As is the case for all sovereign issuers, there are less actively traded Mexican sovereign debt issues, but the Commission believes that as a whole the market for Mexican sovereign debt is sufficiently liquid and deep for purposes of Rule 3a12–8.

In amending the Rule to include the debt obligations of Mexico, however, the Commission has considered additional factors relating to Mexican government debt. In connection with some of the prior amendments to the Rule, the Commission noted that the long-term sovereign debt of those countries was rated in one of the two highest rating categories by at least two NRSROs.[18] This factor, as previously stated by the Commission, could be viewed as indirect evidence of an active and liquid secondary trading market. Mexico's long-term sovereign debt obligations are not rated in one of the two highest rating categories.[19]

Although the Commission in 1987 proposed to incorporate a rating standard specifically exempting securities issued by any country with outstanding long-term sovereign debt rated in one of the two highest rating categories by at least two NRSROs,[20] it ultimately declined to adopt such a rule.[21] At the time of the 1987 Rule

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[4] *See* Letter from William J. Brodsky, President and Chief Executive Officer, CME to Jonathan G. Katz, Secretary, Commission, dated October 18, 1995; letter from Donald R.A. Marshall, President, Euro Brokers to Jonathan G. Katz, Secretary, Commission, dated October 18, 1995; letter from Leo Melamed, Chairman and Chief Executive Officer, SDI to Jonathan G. Katz, Secretary, Commission, dated October 18, 1995; and letter from Richard L. Sandor, Ph.D., Chairman and Chief Executive Officer, Centre Financial to Jonathan G. Katz, Secretary, Commission, dated October 19, 1995.

[5] Securities Exchange Act Release Nos. 20708 ("Original Adopting Release") (March 2, 1984), 49 FR 8595 (March 8, 1984) and 19811 ("Original Proposing Release") (May 25, 1983), 48 FR 24725 (June 2, 1983).

[6] In enacting the Futures Trading Act of 1982, Congress expressed its understanding that neither the SEC nor the Commodity Futures Trading Commission ("CFTC") had intended to bar the sale of futures contracts on debt obligations of the United Kingdom of Great Britain and Northern Ireland ("United Kingdom") to U.S. persons, and its expectation that administrative action would be taken to allow the sale of such futures contracts in the United States. *See* Original Proposing Release, *supra* note 5, 48 FR at 24725 (citing 128 Cong. Rec. H7492 (daily ed. September 23, 1982) (statements of Representatives Daschle and Wirth)).

[7] As originally adopted, the Rule required that the board of trade be located in the country that issued the underlying securities. This requirement was eliminated in 1987. *See* Securities Exchange Act Release No. 24209 (March 12, 1987), 52 FR 8875 (March 20, 1987).

[8] As originally adopted, the Rule applied only to British and Canadian government debt securities. *See* Original Adopting Release, *supra* note 5. In 1986, the Rule was amended to include Japanese government debt securities. *See* Securities Exchange Act Release No. 23423 (July 11, 1986), 51 FR 25996 (July 18, 1986). In 1987, the Rule was amended to include debt securities issued by Australia, France and New Zealand. *See* Securities Exchange Act Release No. 25072 (October 29, 1987), 52 FR 42277 (November 4, 1987). In 1988, the Rule was amended to include debt securities issued by Austria, Denmark, Finland, the Netherlands, Switzerland, and West Germany. *See* Securities Exchange Act Release No. 26217 (October 26, 1988), 53 FR 43860 (October 31, 1988). In 1992 the Rule was again amended to (1) include debt securities offered by the Republic of Ireland and Italy, (2) change the country designation of "West Germany" to the "Federal Republic of Germany," and (3) replace all references to the informal names of the countries listed in the Rule with references to their official names. *See* Securities Exchange Act Release No. 30166 (January 6, 1992), 57 FR 1375 (January 14, 1992). Finally, the Rule was amended to include debt securities issued by the Kingdom of Spain. *See* Securities Exchange Act Release No. 34908 (October 27, 1994), 59 FR 54812 (November 2, 1994).

[9] *See* Letter from William J. Brodsky, President and Chief Executive Officer, CME, to Arthur Levitt, Jr., Chairman, Commission, dated May 3, 1995.

[10] The marketing and trading of foreign futures contracts is subject to regulation by the CFTC. In particular, Section 4b of the CEA authorizes the CFTC to regulate the offer and sale of foreign futures contracts to U.S. residents, and Rule 9 (17 CFR 30.9), promulgated under Section 2(a)(1)(A) of the CEA, is intended to prohibit fraud in connection with the offer and sale to U.S. persons of futures contracts executed on foreign exchanges. Additional rules promulgated under 2(a)(1)(A) of the CEA govern the domestic offer and sale of futures and options contracts traded on foreign boards of trade. These rules require, among other things, that the domestic offer and sale of foreign futures be effected through the CFTC registrants or through entities subject to a foreign regulatory framework comparable to that governing domestic futures trading. *See* 17 CFR 30.3, 30.4, and 30.5 (1991).

[11] There are several types of Brady bonds, but "Par Bradys" and "Discount Bradys" represent the great majority of issues in the Brady bond market. In general, both Par Bradys and Discount Bradys are secured as to principal at maturity by U.S. Treasury zero-coupon bonds. Additionally, usually 12 to 18 months of interest payments are also secured in the form of a cash collateral account, which is maintained to pay interest in the event that the sovereign debtor misses an interest payment.

[12] The Commission notes that neither Mexican Cetes nor Mexican Brady bonds are currently registered in the United States. The Commission is aware, however, that certain Mexican sovereign debt is registered in the United States and that the trading of futures on these debt issues would not be exempted under Rule 3a12–8 from the CEA's prohibition on the trading of futures overlying individual securities that are not exempted securities.

[13] The CME's proposed futures contracts will be cash-settled (*i.e.*, settlement of the futures contracts will not entail delivery of the underlying securities). The Commission has recognized that a cash-settled futures contract is consistent with the requirement of the Rule that delivery must be made outside the United States. *See* Securities Exchange Act Release No. 25072 (October 29, 1987), 52 FR 42277 (November 4, 1987).

[14] *See supra* note 4.

[15] Instead of the current country-by-country analysis, the CME suggested that the Commission's approach should be to permit futures trading on any country's sovereign debt, provided that the futures contracts do not allow delivery of unregistered foreign government securities in the United States. *See* CME comment letter, *supra* note 4. This approach would require an amendment to Rule 3a12–8 that has not been proposed at this time.

[16] *See* Exhibit D to Form 18–K, Annual Report for Foreign Governments and Political Subdivisions Thereof, filed by Mexico on June 30, 1995.

[17] The survey, which was responded to by 80 out of 333 members of the EMTA, was prepared for the EMTA by Price Waterhouse LLP. *See* 1994 Debt Trading Volume Survey, Emerging Markets Traders Association (May 1, 1995).

[18] *See* Securities Exchange Act Release No. 26217 (October 26, 1988), 53 FR 43860 (October 31, 1988) (Austria, Denmark, Finland, the Netherlands, Switzerland, and [West] Germany); Securities Exchange Act Release No. 30166 (January 6, 1992), 57 FR 1375 (Republic of Ireland and Italy); Securities Exchange Act Release No. 34908 (October 27, 1994), 59 FR 54812 (November 2, 1994) (Kingdom of Spain).

[19] As of June, 1995, Standard and Poor's Corp. ("S&P") rated Mexico's long-term foreign currency debt BB and its long-term local currency debt BBB+. As of the same date, Mexico's Bonos de Desarrollo (Bondes) were rated Baa3 by Moody's Investors Service.

[20] *See* Securities Exchange Act Release No. 24428 (May 5, 1987), 52 FR 18237 (May 14, 1987).

[21] *See* Securities Exchange Act Release No. 25072 (October 29, 1987), 52 FR 42277 (November 4, 1987).

proposal, the Commission expressed concerns that in the absence of such a requirement, the Rule might be used as a subterfuge to market or trade unregistered sovereign foreign debt through futures trading. The Commission, however, indicated that it did not intend to preclude futures trading on foreign debt that did not meet this ratings requirement and indeed subsequently sought comment on the feasibility of other factors for consideration, such as volume and depth of trading in a sovereign issuer's debt.

As discussed above, the Commission has independently determined that it is appropriate to exempt the sovereign debt of Mexico under the Rule because of the overall depth and liquidity of the existing cash market for Mexican sovereign debt. The Commission does not believe that either Mexico's status as an emerging market country with potentially more volatile debt prices, or its issuance of Brady bonds changes this conclusion.

In the Proposing Release the Commission solicited comment on whether there are alternative approaches to the country-by-country designation process for adding countries to the Rule. The Commission intends to consider this issue further, but does not believe it should delay the inclusion of Mexico in the list of Designated Foreign Governments pending action on a more generic approach. Nevertheless, the Commission continues to welcome suggestions on an objective means of including countries within Rule 3a12–8 that are consistent with the Rule's overall objectives.

IV. Regulatory Flexibility Act Consideration

Chairman Levitt has certified in connection with the Proposing Release that this amendment, if adopted, would not have a significant economic impact on a substantial number of small entities. The Commission received no comments on this certification.

V. Effects on Competition and Other Findings

Section 23(a)(2) of the Exchange Act[22] requires the Commission, in adopting rules under the Exchange Act, to consider the competitive effects of such rules, if any, and to balance any impact with the regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission has considered the amendment to the Rule in light of the standards cited in section 23(a)(2) and believes that adoption of the amendment will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. As stated above, the amendment is designed to assure the lawful availability in this country of Mexican government bond futures that otherwise would not be permitted to be marketed under the terms of the CEA. The amendment thus serves to expand the range of financial products available in the United States and enhances competition in financial markets. Insofar as the Rule contains limitations, they are designed to promote the purposes of the Exchange Act by ensuring that futures trading on Mexican government securities is consistent with the goals and purposes of the Federal securities laws by minimizing the impact of the Rule on securities trading and distribution in the United States.

Because the amendment to the rule is exemptive in nature, the Commission has determined to make the foregoing action effective immediately upon publication in the **Federal Register**.[23]

VI. Statutory Basis

The amendment to rule 3a12–8 is being adopted pursuant to 15 U.S.C. 78a *et seq.*, particularly sections 3(a)(12) and 23(a), 15 U.S.C. 78c(a)(12) and 78w(a).

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

VII. Text of the Adopted Amendment

For the reasons set forth above, the Commission is amending part 240 of chapter II, title 17 of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. § 240.3a12–8 is amended by removing the word "or" at the end of paragraph (a)(1)(xiv), removing the "period" at the end of paragraph (a)(1)(xv) and adding "; or" in its place, and adding paragraph (a)(1)(xvi) to read as follows:

§ 240.3a12–8 Exemption for designated foreign government securities for purposes of futures trading.

(a) * * *

(1) * * *

(xvi) the United Mexican States.

* * * * *

By the Commission.

Dated: November 30, 1995.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29618 Filed 12–5–95; 8:45 am]

BILLING CODE 8010–01–U

[22] 15 U.S.C. 78w(a)(2).

[23] 15 U.S.C. 553(d).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 375

[Docket No. RM96–3–000; Order No. 585]

Delegation of Authority to the Secretary, the Director of the Office of Electric Power Regulation and the General Counsel

Issued: November 30, 1995.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is revising its regulations to expand delegations to the staff in the following areas: The Secretary would be authorized to toll the time for action on requests for rehearings and issue notices in compliance with section 206(b) of the Federal Power Act, as amended by the Regulatory Fairness Act; the Director of the Office of Electric Power Regulation would be authorized to take appropriate action on uncontested interim electric rate motions that would result in lower rates, pending Commission action on settlement agreements; and the General Counsel would be authorized to grant uncontested applications for exempt wholesale generator status that do not present unusual or interpretation issues and to act on uncontested motions to withdraw EWG applications. Because of increased workload, the Commission is taking these actions in the interest of administrative efficiency.

EFFECTIVE DATE: This final rule is effective January 5, 1996.

ADDRESSES: 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Kasha Ciaglo, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington DC 20426, (202) 208–2165.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (800) 856–3920. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400 or 1200 bps, full duplex no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS in ASCII and WordPerfect 5.1 format. The complete text on diskette in WordPerfect format may also be purchased from the Commission's contractor, La Dorn Systems Corporation, also located in the Public Reference Room in 888 First Street NE., Washington, DC 20426.

I. Introduction

The Federal Energy Regulatory Commission is adopting new regulations amending: (1) 18 CFR 375.302 to authorize the Secretary to toll the time for action on requests for rehearing and issue notices in compliance with section 206(b) of the Federal Power Act (FPA), as amended by the Regulatory Fairness Act of 1988 (RFA);[1] (2) 18 CFR 375.308 to authorize the Director of the Office of Electric Power Regulation (Director) to take appropriate action on uncontested interim electric rate motions that would result in lower rates, pending Commission action on settlement agreements; and (3) 18 CFR 385.309 to authorize the General Counsel to grant uncontested applications for exempt wholesale generator (EWG) status that do not present unusual or interpretation issues and to act on uncontested motions to withdraw EWG applications.[2] These amendments are necessary in the interest of administrative efficiency.

II. Discussion

In recent years, the Commission has experienced a significant increase in its electric program workload. In light of the Commission's new responsibilities under the Energy Power Act of 1992 and significant competitive changes occurring in the electric utility industry, the Commission anticipates further increases in electric items such as rate filings, complaints, declaratory orders, corporate regulation cases, and EWG applications.[3]

The Commission is concerned about its ability to thoroughly and timely address the many significant technical, legal and policy issues that it will need to decide in the next few years[4] while simultaneously avoiding a significant backlog of more routine items. The Commission believes that it can meet its increasing workload, but only by developing more efficient ways to process cases. To this end, the Commission is expanding delegations of authority to the Secretary, the Director, and the General Counsel (and their designees) to rule on routine, uncontested, non-policy matters. The delegations should reduce overall Commission time spent on more routine items and thus provide a greater opportunity to address the more significant issues and proceedings. Thus, the delegation regulations contained in subpart C of part 375 are amended by this rule as described below.

A. Delegations to the Secretary Under § 375.302

1. Rehearing for Purpose of Further Consideration

Under 18 CFR 385.713(f), the Commission has 30 days within which to act on a request for rehearing of a Commission order, or the request is deemed denied. While the Commission makes every effort to dispose of requests for rehearing within 30 days, the difficulty of the issues raised or the timing of the 30-day period in relation to the Commission's scheduled meetings sometimes makes this impossible. In these instances, the Commission issues an order granting rehearing for the purpose of further consideration. The Secretary, or the Secretary's designee, will be authorized to toll the time for action on rehearings of Commission action under *all* of the Commission's statutes, not just the FPA. This authority will apply only to stand-alone rehearing requests. In other words, if a rehearing request is combined with any other request for Commission action, such as a request to intervene in a proceeding or for a stay of a proceeding, the Commission will continue to act on the rehearing request and the other requests contained in the filing, according to current procedures.

2. RFA Notices

When the Commission institutes an investigation under section 206 of the FPA, section 206(b) requires the Commission to provide its best estimate of when it will complete the proceeding.[5] This is known as an RFA notice. Normally, the Commission, in its order instituting the investigation, directs the presiding judge to provide a report estimating when the judge will issue an initial decision. The Commission, based on the judge's report, then estimates when it believes it will be able to complete the case. The Commission's estimate is affected by when staff believes it will be able to present a final order to the Commission. RFA notices will now be delegated to the Secretary, or the Secretary's designee. The Secretary will estimate the expected date of a final order based on discussion with appropriate staff.

B. Delegation to the Director Under § 375.308

When parties reach a settlement in an electric rate case calling for reductions in the rates in effect subject to refund, the selling public utility often files with the Commission for permission to charge lower settlement rates during the period when the Commission is evaluating the settlement agreement. This is to avoid further refunds that would be required if the Commission accepts the settlement. Such motions are almost always granted by the Commission. However, this currently requires the preparation of an interim electric rate order. The ability to take appropriate action on such interim rate motions that are uncontested will now be delegated to the Director, or the Director's designee. To the extent that a motion to charge interim rates is contested or is combined with any other request for Commission action, the

[1] 16 U.S.C. 824e(b) (1994).

[2] Applications for the determination of EWG status are filed pursuant to section 32 of the Public Utility Holding Company Act of 1935, as amended by the Energy Policy Act of 1992 (PUHCA). 15 U.S.C. 79z–5a (1994).

[3] For example, there were 874 ER filings in fiscal year 1992, 988 ER filings in fiscal year 1993, 1698 ER filings in fiscal year 1994, and 1865 ER filings in fiscal year 1995.

[4] *See* Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities, and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Notice of Proposed Rulemaking, 60 FR 17662 (Apr. 7, 1995), IV FERC Stats. and Regs. ¶ 32,514 (1995). Notice of Technical Conference and Request for Comments, Real-Time Information Networks, 60 FR 17726 (Apr. 7, 1995), IV FERC Stats. and Regs. ¶ 35,530; and Inquiry Concerning Alternative Power Pooling Institutions Under the Federal Power Act, Notice of Inquiry and Request for Comments, 59 FR 54851 (Nov. 2, 1994), IV Stats. and Regs. ¶ 35,529 (1994).

[5] This requirement was added to section 206 by the Regulatory Fairness Act of 1988. *See* 16 U.S.C. 824e(b) (1994).

Commission will continue to act on the motion according to current procedures.

C. Delegation to the General Counsel Under §375.309

To date, the Commission has acted on over 200 EWG applications. The vast majority of these applications have not presented unusual issues or issues requiring the interpretation of section 32 of PUHCA. However, the preparation of EWG orders has been time-consuming. The responsibility to grant uncontested EWG applications will now be delegated to the General Counsel, or the General Counsel's designee. Applications presenting unusual or interpretation issues will continue to be brought to the Commission, as will any contested applications and applications in which staff recommends denial of EWG status.[6]

In addition, the General Counsel or the General Counsel's designee will be authorized to act on uncontested motions to withdraw applications for EWG status. Under 18 CFR 365.5, if the Commission has not acted upon an EWG application within 60 days, it will be deemed to have been granted. While most motions to withdraw EWG applications are granted by operation of law 15 days after filing pursuant to 18 CFR 385.216(b), Commission action on a motion to withdraw an EWG application is necessary if the motion is contested or if the 60th day for action on the EWG application is sooner than the 15th day after the filing of the motion to withdraw. Contested motions to withdraw will be acted on by the Commission. However, this delegation will allow the General Counsel or the General Counsel's designee to act on uncontested motions in a timely fashion.

III. Conclusion

As explained above, in the interests of administrative efficiency, we will amend: (1) 18 CFR 375.302 to add that the Secretary, or the Secretary's designee, is authorized to toll the time for action on stand-alone requests for rehearing, and to issue RFA notices; (2) 18 CFR 375.308 to authorize the Director, or the Director's designee, to act on uncontested, stand-alone interim electric rate motions that would result in lower rates, pending Commission action on settlement agreements; and (3) 18 CFR 375.309 to authorize the General Counsel, or the General Counsel's designee, to grant uncontested EWG applications not involving unusual or interpretation issues, and to act on uncontested motions to withdraw EWG applications.

IV. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment.[7] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[8] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural.[9] As explained above, this final rule is procedural and ministerial in nature, and promotes internal administrative efficiency. Accordingly, no environmental consideration is necessary.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act[10] requires rulemakings either to contain a description and analysis of the impact the rule will have small entities or a certification that the rule will not have a substantial economic impact on a substantial number of small entities. The Commission certifies that promulgating this rule does not represent a major Federal action having a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis is required.

VI. Information Collection Statement

The Paperwork Reduction Act of 1995[11] authorizes the Office of Management and Budget (OMB) to review and approve information collection requirements imposed by agency rule. These requirements are submitted by Federal agencies in accordance with OMB's regulations,[12] as appropriate. However, this order neither contains new information collection requirements nor modifies existing information collection requirements in the Commission's regulations. Therefore, this final rule is not subject to OMB approval. A copy of this rule will be sent to OMB for informational purposes only.

VII. Administrative Findings and Effective Date

The Administrative Procedure Act (APA)[13] requires rulemakings to be published in the **Federal Register**. The APA also mandates that an opportunity for comments be provided when an agency promulgates regulations. However, notice and comment are not required under the APA when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.[14] The Commission finds that notice and comment are unnecessary for this rulemaking. As explained above, this final rule is procedural and ministerial in nature and is being promulgated to advance internal administrative efficiency. The Commission is merely amending its rules to improve the efficiency with which certain routine items are processed.

The Commission will make this rule effective January 5, 1996.

List of Subjects in 18 CFR Part 375

Authority delegations (Government agencies), Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

By the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission amends part 375, chapter I of title 18, Code of Federal Regulations, as set forth below.

PART 375—THE COMMISSION

1. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

2. In § 375.302, paragraphs (v) and (w) are added to read as follows:

§ 375.302 Delegations to the Secretary.

* * * * *

(v) Toll the time for action on requests for rehearing.

(w) Issue notices in compliance with section 206(b) of the Federal Power Act.

3. In § 375.308, paragraph (a) is amended by adding paragraph (a)(4) to read as follows:

§ 375.308 Delegations to the Director of the Office of Electric Power Regulation.

* * * * *

(a) * * *

(4) Take appropriate action on uncontested interim electric rate motions that would result in lower rates, pending Commission action on settlement agreements.

* * * * *

4. In § 375.309, paragraph (g) is added to read as follows:

§ 375.309 Delegations to the General Counsel.

* * * * *

(g) Grant uncontested applications for exempt wholesale generator status that do not involve unusual or interpretation issues and to act on uncontested motions to withdraw such applications.

[FR Doc. 95–29664 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–P

[6] Because there is no rehearing available on EWG applications, denials will continue to be addressed by the Commission.

[7] Regulations Implementing the National Environmental Policy Act, Order No. 486, 52 FR 47897 (Dec. 17, 1987), *FERC Stats. and Regs. Regulations Preambles 1986–1990* ¶ 30,783 (1987) (*codified* at 18 CFR part 380).

[8] 18 CFR 380.4.

[9] 18 CFR 380.4(a)(2)(ii).

[10] 5 U.S.C. 601–612 (1994).

[11] 44 U.S.C. 3507 *et seq.* (1994).

[12] 5 CFR Part 1320.

[13] 5 U.S.C. 551–559 (1994).

[14] 5 U.S.C. 553(B) (1994).

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulation No. 4]

RIN 0960–AE39

Federal Old-Age, Survivors and Disability Insurance; Determining Disability and Blindness; Extension of Expiration Dates for Hemic and Lymphatic System, Childhood Mental Disorders, and Malignant Neoplastic Diseases Listings

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: The Social Security Administration (SSA) issues listings of impairments to evaluate disability and blindness under the Social Security and supplemental security income (SSI) programs. This rule extends the expiration dates for the hemic and lymphatic system, childhood mental disorders, and malignant neoplastic diseases listings. We have made no revisions to the medical criteria in the listings; they remain the same as they now appear in the Code of Federal Regulations. This extension will ensure that we continue to have medical evaluation criteria in the listings to adjudicate claims for disability based on hemic and lymphatic system impairments, childhood mental disorders, and malignant neoplastic diseases at step three of our sequential evaluation process.

EFFECTIVE DATE: This regulation is effective December 6, 1995.

FOR FURTHER INFORMATION CONTACT: Regarding this **Federal Register** document—Harry J. Short, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–6243; regarding eligibility or filing for benefits—our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: On December 6, 1985, we published revised listings, including the hemic and lymphatic system and malignant neoplastic diseases listings (50 FR 50068), in parts A and B of appendix 1 (Listing of Impairments) to subpart P of part 404. On December 12, 1990, we published revised childhood mental disorders listings (55 FR 51208) in part B of appendix 1. We use the listings at the third step of the sequential evaluation process to evaluate claims filed by adults and children for benefits based on disability and blindness under the Social Security and SSI programs. The listings describe impairments considered severe enough to prevent a person from doing any gainful activity, or, for an individual under age 18 applying for SSI benefits based on disability, from functioning independently, appropriately, and effectively in an age-appropriate manner. We use the criteria in part A mainly to evaluate impairments of adults. We use the criteria in part B first to evaluate impairments of individuals under age 18. If those criteria do not apply, we may use the criteria in part A.

When we published revised listings in 1985 and 1990, we indicated that medical advances in disability evaluation and treatment and program experience would require that the listings be periodically reviewed and updated. Accordingly, we established a date of December 6, 1993, on which the hemic and lymphatic system and malignant neoplastic diseases listings would no longer be effective, and a date of December 12, 1995, on which the childhood mental disorders listings would no longer be effective, unless extended by the Secretary of Health and Human Services (the Secretary) or revised and promulgated again. Under section 102 of the Social Security Independence and Program Improvements Act of 1994, Public Law 103–296, this rulemaking authority was transferred from the Secretary to the Commissioner of Social Security (the Commissioner).

Subsequently, we issued a final rule on December 6, 1993 (58 FR 64121) extending the expiration date of the hemic and lymphatic system and malignant neoplastic diseases listings, as well as several other body system listings. That rule provided that the hemic and lymphatic system and malignant neoplastic diseases listings would no longer be effective on December 6, 1995. Also that rule republished the expiration dates that were previously established through the rulemaking process for the other listings, and provided that the childhood mental disorders listings would no longer be effective on December 12, 1995.

In this final regulation, we are extending for eighteen months the dates on which the hemic and lymphatic system listing, the malignant neoplastic diseases listing and the childhood mental disorders listing will no longer be effective. The hemic and lymphatic system and the malignant neoplastic diseases listings will therefore no longer be effective on June 6, 1997. The childhood mental disorders listing will therefore no longer be effective on June 12, 1997. We believe that the requirements in these listings are still valid for our program purposes. Specifically, if we find that an individual has an impairment that meets the statutory duration requirement and also meets or is equivalent in severity to an impairment in the listings, we will find that the individual is disabled without completing the remaining steps of the sequential evaluation process. We do not use the listings to find that an individual is not disabled. Individuals whose impairments do not meet or equal the criteria of the listings receive individualized assessments at the subsequent steps of the sequential evaluation process.

Regulatory Procedures

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), as amended by section 102 of Public Law 103–296, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. Good cause exists because this regulation only extends the dates on which the hemic and lymphatic system, childhood mental disorders, and malignant neoplastic diseases listings will no longer be effective. It makes no substantive changes to the listings. The current regulations expressly provide that the listings may be extended, as well as revised and promulgated again. Therefore, opportunity for prior

comment is unnecessary, and we are issuing this regulation as a final rule.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d). As explained above, we are not making any substantive changes in the listings. However, without an extension of the expiration dates for the hemic and lymphatic system, childhood mental disorders, and malignant neoplastic diseases listings, we will lack regulatory guidelines for assessing hemic and lymphatic system impairments, childhood mental disorders, and malignant neoplastic diseases at the third step of the sequential evaluation processes after the current expiration dates of the listings. In order to ensure that we continue to have regulatory criteria for assessing these impairments under the listings, we find that it is in the public interest to make this rule effective upon publication.

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

This regulation imposes no reporting/recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social security.

Dated: November 30, 1995.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set forth in the preamble, part 404, subpart P, chapter III of title 20 of the Code of Federal Regulations is amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart P—[Amended]

1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205 (a), (b), and (d) through (h), 216(i), 221 (a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405 (a), (b), and (d) through (h), 416(i), 421 (a) and (i), 422(c), 423, 425, and 902(a)(5)).

2. Appendix 1 to subpart P of part 404 is amended by revising items 8, 14, and 15 of the introductory text before part A to read as follows:

Appendix 1 to Subpart P—Listing of Impairments

* * * * *

8. Hemic and Lymphatic System (7.00 and 107.00): June 6, 1997.

* * * * *

14. Mental Disorders (112.00): June 12, 1997.

15. Neoplastic Diseases, Malignant (13.00 and 113.00): June 6, 1997.

* * * * *

[FR Doc. 95–29579 Filed 12–5–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

COTP Los Angeles-Long Beach, CA Regulation 93–013

CFR Correction

In Title 33 of the Code of Federal Regulations, parts 125 to 199, revised as of July 1, 1995, § 165.T1103, appearing on page 617, should be removed.

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 185

[PP 5E4429/R2182; FRL–4983–2]

RIN 2070–AB78

Oxyfluorfen; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes tolerances for residues of the herbicide oxyfluorfen in or on the raw agricultural commodities blackberry and raspberry. The regulation to establish maximum permissible levels for residues of the herbicide was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4) pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA). EPA is also deleting the metabolites of oxyfluorfen containing the diphenyl ether linkage from certain tolerance expressions.

EFFECTIVE DATE: This regulation becomes effective December 6, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 5E4429/R2182], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 5E4429/R2182]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, Crystal Station #1, 2800 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 27, 1995 (60 FR 49816), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition (PP) 5E4429 to EPA on behalf of the Agricultural Experiment Stations of Oregon, New York, Virginia, and Washington. The petition requests that the Administrator, pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, amend 40 CFR 180.381 by establishing a tolerance for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)-benzene] in or on the raw agricultural commodities blackberry and raspberry at 0.05 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 5E4429/R2182] (including any objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the document control number [PP 5E4429/R2182], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all objections and hearing requests submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Parts 180 and 185

Environmental protection, Administrative practice and procedure, Agricultural commodities, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 3, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR parts 180 and 185 are amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. In § 180.381, by revising the introductory text of paragraph (a) and by revising paragraph (b), to read as follows:

§ 180.381 Oxyfluorfen; tolerances for residues.

(a) Tolerances are established for residues of the herbicide oxyfluorfen [2-

chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] in or on the following raw agricultural commodities:

* * * * *

(b) Tolerances with regional registration are established for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] in or on the following raw agricultural commodities:

Commodity	Parts per million
Blackberry	0.05
Garbanzo beans	0.05
Guava	0.05
Papaya	0.05
Raspberry	0.05
Taro (corms and leaves)	0.05

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

b. By amending § 185.4600 by revising the introductory text to read as follows:

§ 185.4600 Oxyfluorfen.

A regulation is established permitting residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] in or on the following processed food when present therein as a result of application of the herbicide to growing crops:

* * * * *

[FR Doc. 95–29557 Filed 12–5–95; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 763

[OPPTS–00173A; FRL–4980–2]

Technical Amendments to TSCA Regulations to Update Addresses; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a technical amendment issued by EPA and published in the **Federal Register** on July 3, 1995.

DATES: The effective date of this correction is December 6, 1995.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 3, 1995, EPA issued a technical amendment to several regulations under the Toxic Substances Control Act (TSCA). The amendments revised addresses for mailing information to, requesting information from, or otherwise contacting certain offices in the Office of Pollution Prevention and Toxics. Two of the technical amendments made changes to sections that had previously been removed from 40 CFR part 763 by technical amendments that published in the **Federal Register** on June 19, 1995 (60 FR 31917). This document corrects those two technical amendments.

1. In FR Doc. 95–16287, July 3, 1995, on page 34465, third column, amendatory language item "b" and the amendment to § 763.71 is removed.

2. In the same issue of the **Federal Register**, the same document, on page 34466, in the first column, amendatory language item "d" and the amendment to § 763.119(a) is removed.

List of Subjects in 40 CFR Part 763

Administrative practice and procedure, Asbestos, Confidential Business Information, Environmental protection, Hazardous substances, imports, Intergovernmental relations, labeling, Occupational safety and health, Reporting and recordkeeping requirements, Schools.

Dated: November 13, 1995.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 95–29736 Filed 12–5–95; 8:45 am]
BILLING CODE 6560–50–F

GENERAL SERVICES ADMINISTRATION

41 CFR Part 301–11

[FTR Amendment 45]
RIN 3090–AF88

Federal Travel Regulation; Increase in the Maximum Travel Expense Amount Which May Be Claimed Without Requirement for a Supporting Receipt

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR) to increase to $75 the maximum travel expense amount which may be claimed without requirement that a supporting receipt be attached to the travel voucher. This rule reflects an Internal Revenue Service (IRS) change, effective October 1, 1995, to receipt requirements for Federal income tax purposes. This amendment is intended to reduce agency administrative costs by decreasing the number of receipts that must be attached to the travel voucher and reviewed.

EFFECTIVE DATE: This final rule is effective October 1, 1995, and applies for travel (including travel incident to a change of official station) performed on or after October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Robert A. Clauson, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

SUPPLEMENTARY INFORMATION: This final rule increases from $25 to $75 the maximum travel expense amount which may be claimed without requirement for a supporting receipt to accompany the travel voucher. Temporary Treasury Regulation (Treas. Reg.) § 1.274–5T(c)(2)(iii), as in effect prior to October 1, 1995, required a taxpayer to substantiate a travel expense deduction by maintaining documentary evidence for (a) any lodging expenditure, or (b) any other expenditure of $25 or more. On October 16, 1995, the Internal Revenue Service (IRS) issued Notice 95–50, 1995–42 I.R.B. 8 stating that IRS will amend Treas. Reg. § 1.274–5T(c)(2)(iii), effective October 1, 1995, to increase the minimum amount for "other expenditures" from $25 to $75. This FTR amendment reflects the IRS receipts requirement change. The FTR requirement for a receipt regardless of amount for the expense items listed in FTR § 301–11.3(c) (1) through (18) remains unchanged.

The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993. This final rule is not required to be published in the **FEDERAL REGISTER** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

List of Subjects in 41 CFR Part 301–11

Government employees, Travel, Travel allowances, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR part 301–11 is amended to read as follows:

PART 301–11—CLAIMS FOR REIMBURSEMENT

1. The authority citation for part 301–11 continues to read as follows:

Authority: 5 U.S.C. 5701–5709; E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

§ 301–11.3 [Amended]

2. Section 301–11.3 is amended by removing the amount "$25" where it appears in paragraph (c), and by adding in its place, the amount "$75".

Dated: November 2, 1995.

Thurman M. Davis, Sr.,

Acting Administrator of General Services.

[FR Doc. 95–29665 Filed 12–5–95; 8:45 am]
BILLING CODE 6820–24–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona: Maricopa (FEMA Docket No. 7147).	City of Phoenix	June 22, 1995, June 29, 1995, Arizona Republic.	The Honorable Skip Rimsza, Mayor, city of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, Arizona 85003–1611.	May 26, 1995.	040051

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona: Maricopa (FEMA Docket No. 7156).	City of Phoenix	June 15, 1995, June 22, 1995, Arizona Republic.	The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, Arizona 85003–1611.	May 26, 1995.	040051
Arizona: Pima (FEMA Docket No. 7152).	Unincorporated areas.	July 7, 1995, July 14, 1995, Tucson Citizen.	The Honorable Paul Marsh, Chairman, Pima County Board of Supervisors, 130 West Congress Street, Tucson, Arizona 85701.	June 14, 1995.	040073
California: Solano (FEMA Docket No. 7147).	City of Fairfield	June 7, 1995, June 14, 1995, Daily Republic.	The Honorable Chuck Hammond, Mayor, City of Fairfield, 1000 Webster Street, Fairfield, California 94533–4833.	May 18, 1995.	060370
California: Contra Costa (FEMA Docket No. 7147).	City of Hercules	June 1, 1995, June 8, 1995, West County Times.	The Honorable Beth Barkey, Mayor, City of Hercules, 111 Civic Center Drive, Hercules, California 94547.	May 16, 1995.	060434
California: Alameda (FEMA Docket No. 7152).	City of Livermore	July 13, 1995, July 20, 1995, Tri-Valley Herald.	The Honorable Cathie Brown, Mayor, City of Livermore, 1052 South Livermore Avenue, Livermore, California 94550–4900.	June 19, 1995.	060008
California: Los Angeles (FEMA Docket No. 7147).	Unincorporated areas.	June 1, 1995, June 8, 1995, Daily Commerce.	The Honorable Yvonne Brath Waite Burke, Chairperson, Los Angeles County Board of Supervisory, 500 West Temple Street, Suite 822, Los Angeles, California 90012.	May 8, 1995	065043
California: Riverside (FEMA Docket No. 7147).	Unincorporated areas.	June 1, 1995, June 8, 1995, Press Enterprise.	The Honorable Kay Cenicerос, Chairperson, Riverside County Board of Supervisors, P.O. Box 1359, Riverside, California 92502–1359.	May 16, 1995.	060245
California: Santa Barbara (FEMA Docket No. 7144).	Unincorporated areas.	May 17, 1995, May 24, 1995, Santa Barbara News Press.	The Honorable Tim Staffel, Chairperson, Santa Barbara County Board of Supervisors, 105 East Anapamu Street, Fourth Floor, Santa Barbara, California 93101.	April 21, 1995.	060331
California: Santa Barbara (FEMA Docket No. 7144).	City of Santa Maria	May 17, 1995, May 24, 1995, Santa Maria Times.	The Honorable Roger G. bunch, Mayor, City of Santa Maria, 110 east Cook Street, Santa Maria, California 93454.	April 21, 1995.	060336
California: Solano (FEMA Docket No. 7147).	Unincorporated areas.	June 7, 1995, June 14, 1995, Daily Republic.	The Honorable Barbara Kondylis, Chairperson, Solano County, Board of Supervisors, 580 Texas Street, Fairfield, California 94533–6378.	May 18, 1995.	060631
Colorado: Arapahoe (FEMA Docket No. 7152).	Unincorporated areas.	July 13, 1995, July 20, 1995, The Villager.	The Honorable Thomas R. Eggert, Chairperson, Arapahoe County, Board of Commissioners, 5334 South Prince Street, Littleton, Colorado 80166.	June 20, 1995.	080011
Colorado: Boulder (FEMA Docket No. 7147).	Unincorporated areas.	June 15, 1995, June 22, 1995, Daily Camera.	The Honorable Homer Page, Chairperson, Boulder County Board of Commissioners, P.O. Box 471, Boulder, Colorado 80306.	May 22, 1995.	080023
Colorado: Boulder (FEMA Docket No. 7147).	City of Boulder	June 23, 1995, June 30, 1995, Daily Camera.	The Honorable Leslie Durgin, Mayor, City of Boulder, P.O. Box 791, Boulder, Colorado 80306.	June 5, 1995	080024
Colorado: Boulder (FEMA Docket No. 7152).	City of Boulder	July 13, 1995, July 20, 1995, Daily Camera.	The Honorable Leslie Durgin, Mayor, City of Boulder, P.O. Box 791, Boulder, Colorado 80306.	June 14, 1995.	080024
Missouri: Boone (FEMA Docket No. 7147).	City of Columbia	June 22, 1995, June 29, 1995, Columbia Missourian.	The Honorable MaryAnne McCollum, Mayor, City of Columbia, P.O. Box N, Columbia, Missouri 65205.	June 6, 1995	290036
New Mexico: Bernalillo (FEMA Docket No. 7144).	City of Albuquerque	May 24, 1995, May 31, 1995, Albuquerque Journal.	The Honorable Martin Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.	May 4, 1995	350002
New Mexico: Bernalillo (FEMA Docket No. 7152).	City of Albuquerque	July 18, 1995, July 25, 1995, Albuquerque Journal.	The Honorable Martin Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.	June 23, 1995.	350002
Oklahoma: Comanche (FEMA Docket No. 7144).	City of Lawton	May 24, 1995, May 31, 1995, Lawton Constitution.	The Honorable John T. Marley, Mayor, City of Lawton, 103 Southwest Fourth Street, Lawton, Oklahoma 73501.	April 26, 1995.	400049
Texas: Collin (FEMA Docket No. 7144).	City of Allen	May 24, 1995, May 31, 1995, McKinney Courier Gazette.	The Honorable Joe Farmer, Mayor, city of Allen, One Butler Circle, Allen, Texas 75002–2773.	April 26, 1995.	480131

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Texas: Collin (FEMA Docket No. 7147).	Unincorporated areas.	June 14, 1995, June 21, 1995, Plano Star Courier.	The Honorable Ron Harris, Collin County Judge, 210 South McDonald Street, McKinney, Texas 75069.	May 30, 1995.	480130
Texas: Dallas (FEMA Docket No. 7152).	City of Dallas	July 13, 1995, July 20, 1995, Dallas Morning News.	The Honorable Steve Bartlett, Mayor, City of Dallas, 1500 Marilla Street, Room 5E North, Dallas, Texas 75201.	June 14, 1995.	480171
Texas: Denton (FEMA Docket No. 7147).	City of Denton	June 22, 1995, June 29, 1995, Denton Record Chronicle.	The Honorable Bob Castlebury, Mayor, City of Denton, 215 East McKinney, Denton, Texas 76201.	May 31, 1995.	480194
Texas: El Paso (FEMA Docket No. 7152).	City of El Paso	July 14, 1995, July 21, 1995, El Paso Times.	The Honorable Larry Francis, Mayor, City of El Paso, Two Civic Center Plaza, El Paso, Texas 79901–1196.	June 16, 1995.	480214
Texas: Collin (FEMA Docket No. 7147).	City of Plano	June 14, 1995, June 21, 1995, Plano Star Courier.	The Honorable James N. Mums, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	May 30, 1995.	480140

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: November 29, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–29710 Filed 12–5–95; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 65

[Docket No. FEMA–7162]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director, Mitigation Directorate, reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
California: Ventura	City of Camarillo	October 27, 1995, November 3, 1995, Camarillo Star.	The Honorable Michael Morgan, Mayor, City of Camarillo, P.O. Box 248, Camarillo, California 93011.	September 26, 1995.	065020
California: Fresno	City of Clovis	October 10, 1995, October 17, 1995, Fresno Bee.	The Honorable Harry Armstrong, Mayor, City of Clovis, 1033 Fifth Street, Clovis, California 93612.	September 20, 1995.	060044
California: Fresno	City of Fresno	October 10, 1995, October 17, 1995, Fresno Bee.	The Honorable Jim Patterson, Mayor, City of Fresno, 2600 Fresno Street, Fresno, California 93721–3604.	September 20, 1995.	060048
California: Fresno	Unincorporated areas.	October 10, 1995, October 17, 1995, Fresno Bee.	The Honorable Sharon Levy, Chairman, Fresno County Board of Supervisors, 2281 Tulare Street, Hall of Records, Room 301, Fresno, California 93721–2198.	September 20, 1995.	065029
California: Santa Clara	City of Saratoga	October 25, 1995, November 1, 1995, Saratoga News.	The Honorable Anne Marie Burger, Mayor, City of Saratoga, 13777 Fruitvale Avenue, Saratoga, California 95070.	October 6, 1995.	060351
California: Ventura	Unincorporated areas.	October 27, 1995, November 3, 1995, Ventura County Star.	The Honorable Mike Kildee, Chairperson, Ventura County Board of Supervisors, 800 South Victoria Avenue, Ventura, California 93009.	September 26, 1995.	060413
Colorado: Adams, Arapahoe, and Douglas.	City of Aurora	October 25, 1995, November 1, 1995, The Aurora Sentinel.	The Honorable Paul E. Tauer, Mayor, City of Aurora, 1470 South Havana Street, Aurora, Colorado 80012.	October 11, 1995.	080002
Louisiana: Rapides Parish.	Rapides Parish	October 12, 1995, October 19, 1995, Alexandria Daily Town Talk.	The Honorable Myron K. Lawson, President, Rapides Parish Police Jury, P.O. Box 1150, Alexandria, Louisiana 71309–1150.	September 20, 1995.	220145
Nebraska: Douglas	City of Omaha	October 11, 1995, October 18, 1995, Omaha World Herald.	The Honorable Hal Daub, Mayor, City of Omaha, City Hall, 1819 Farnam Street, Suite 300, Omaha, Nebraska 68183.	September 14, 1995.	315274
Oregon: Jefferson	City of Culver	October 4, 1995, October 11, 1995, Madras Pioneer.	The Honorable Joanne G. Heare, Mayor, City of Culver, P.O. Box 256, Culver, Oregon 97734.	September 6, 1995.	410290
Oregon: Marion and Polk.	City of Salem	October 26, 1995, November 2, 1995, Statesman Journal.	The Honorable Roger Gertenrich, Mayor, City of Salem, City Hall, 555 Liberty Street Southeast, Salem, Oregon 97301–3503.	October 6, 1995.	410167
Texas: Tarrant	City of Arlington	October 19, 1995, October 26, 1995, Fort Worth Star Telegram.	The Honorable Richard Greene, Mayor, City of Arlington, P.O. Box 231, Arlington, Texas 76004–0231.	September 27, 1995.	485454
Texas: Coryell	City of Copperas Cove.	October 12, 1995, October 19, 1995, Killeen Daily Herald.	The Honorable J.A. Darosett, Mayor, City of Copperas Cove, P.O. Drawer 1449, Copperas Cove, Texas 76522.	September 19, 1995.	480155
Texas: El Paso	City of El Paso	October 19, 1995, October 26, 1995, El Paso Times.	The Honorable Larry Francis, Mayor, City of El Paso, Two Civic Center Plaza, El Paso, Texas 79901–1196.	September 15, 1995.	480214
Texas: Bexar	City of Fair Oaks Ranch.	October 18, 1995, October 25, 1995, Hill County Recorder.	The Honorable E.L. Gaubatz, Mayor, City of Fair Oaks Ranch, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas 78015.	September 13, 1995.	481644
Texas: Collin	City of Plano	October 19, 1995, October 26, 1995, Dallas Morning News.	The Honorable James N. Muns, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	September 27, 1995.	480140

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Texas: Collin	City of Plano	November 23, 1995, November 30, 1995, Plano Star Courier.	The Honorable James N. Muns, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	October 27, 1995.	480140
Texas: Tom Green	City of San Angelo	October 20, 1995, October 27, 1995, San Angelo Standard Times.	The Honorable Dick Funk, Mayor, City of San Angelo, P.O. Box 1751, San Angelo, Texas 76902–1751.	September 27, 1995.	480623

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: November 29, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–29709 Filed 12–5–95; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
CALIFORNIA	
Grande Terrace (City), San Bernardino County (FEMA Docket No. 7145)	
Santa Ana River:	
At Atchison, Topeka, and Santa Fe Railroad Bridge	*913
Approximately 200 feet upstream of Atchison, Topeka, and Santa Fe Railroad Bridge	*920
Approximately 50 feet upstream of Southern Pacific Railroad Bridge	*922
Maps are available for inspection at City Hall, City of Grande Terrace, 22795 Barton Road, Grande Terrace, California.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Loma Linda (City), San Bernardino County (FEMA Docket No. 7145)	
San Timoteo Creek:	
Approximately 400 feet upstream of California Street	*1,210
Approximately 1,222 feet upstream of California Street	*1,222
Maps are available for inspection at City Hall, City of Loma Linda, 25541 Barton Road, Loma Linda, California.	
San Bernardino (City), San Bernardino County (FEMA Docket No. 7145)	
San Timoteo Wash A:	
At Hunts Lane	*954
At Waterman Avenue	*1,018
At divergence from San Timoteo Creek (approximately at Artesia Street)	*1,038
Warm Creek:	
Approximately 700 feet upstream of Sterling Avenue	*1,110
Approximately 1,000 feet upstream of Sterling Avenue	*1,112
Maps are available for inspection at City Hall, City of San Bernardino, 300 North D Street, San Bernardino, California.	
San Bernardino County (Unincorporated Areas) (FEMA Docket No. 7145)	
Little Sand Creek:	
Just upstream of North Sterling Avenue	*1,272
20 feet upstream of East Lynwood Avenue	*1,292
Reche Canyon Channel:	
Approximately 2,100 feet upstream of Barton Road	*1,078
At Pepper Tree Lane	*1,156
50 feet downstream of Fern Street	*1,210
140 feet upstream of Mobile Home Road	*1,246
300 feet upstream of Mobile Home Road	#3
Approximately 325 feet upstream of Tidewell Driveway	#3
Approximately 500 feet upstream of Tidewell Driveway	*1,304
At San Bernardino County Boundary	*1,330
Santa Ana River:	
Approximately 600 feet downstream of La Cadena Drive	*908
At Atchison, Topeka, and Santa Fe Railroad Bridge	*913
Twentynine Palms Channel:	
Approximately 400 feet downstream of Bullion Mountain Road	*1,725
Approximately 200 feet upstream of Bullion Mountain Road	*1,728
Alluvial Fan Flooding	
Basin 1:	
300 feet southeast of intersection of Base Line Road and Encelia Avenue	#1
Basin 2 (Smoke Tree Wash):	
100 feet south of Base Line Road along Smoke Tree Wash	#1
Basin 3:	
1,400 feet south of intersection of Foothill Drive and Springs Road	#1
Basin 5 (Joshua Mountain Wash):	
100 feet southwest of intersection of Base Line Road and Adobe Road	#1
Basins 6 and 7:	
1,500 feet south of intersection of Rocky Road and Desert Knoll Avenue	#1
Basins 8–11:	
2,000 feet south and 100 feet west of the intersection of Rocky Road and Utah Trail	#1
Maps are available for inspection at San Bernardino County Department of Public Works, 385 North Arrowhead Avenue, San Bernardino, California.	
Trinity County (Unincorporated Areas) (FEMA Docket No. 7122)	
Trinity River:	
At confluence with Coffee Creek	*2,426
Approximately 3,000 feet upstream of confluence of Coffee Creek	*2,441
Approximately 7,250 feet upstream of confluence of Coffee Creek	*2,467
Coffee Creek:	
At confluence with Trinity River	*2,426
Just upstream of Route 3	*2,488
Approximately 5,750 feet upstream of Route 3	*2,556
Middle Weaver Creek:	
At confluence of Ten Cent Gulch	*2,004
Just upstream of Oregon Street	*2,018
Just upstream of Forest Avenue	*2,031
West Weaver Creek:	
At mouth	*1,960
Approximately 900 feet upstream of mouth	*1,977
East Weaver Creek:	
At mouth	*1,950
Approximately 2,200 feet upstream of mouth	*2,002
Garden Gulch:	
At mouth	*2,031
Just upstream of Highway 299	*2,043
Just upstream of Easter Avenue	*2,072
Approximately 2,400 feet upstream of Easter Avenue	*2,122
Sidney Gulch:	
At mouth	*2,031
Just upstream of Highway 299	*2,051
Just upstream of Memorial Road	*2,070
Approximately 1,300 feet upstream of Memorial Road	*2,088
Hayfork Creek:	
At confluence with Salt Creek	*2,294
Just upstream of Highway 3	*2,311
Just upstream of Bridge Street	*2,336
Kellogg Gulch:	
At mouth	*2,317
Just downstream of Highway 3	*2,321
Carter Gulch:	
At mouth	*2,319
Just downstream of Highway 3	*2,319
Ewing Gulch:	
At mouth	*2,321
Just upstream of Highway 3	*2,335
Maps are available for inspection at the Trinity County Courthouse, Board of Supervisors Office, 101 Court Street, Weaverville, California.	
Victorville (City), San Bernardino County (FEMA Docket No. 7146)	
Mojave River:	
200 feet downstream of Unnamed Wash	*2,840
Maps are available for inspection at City Hall, City of Victorville, 14343 Civic Drive, Victorville, California.	
COLORADO	
Denver (City), Denver County (FEMA Docket No. 7132)	
Sand Creek:	
Just downstream of Interstate Highway 70	*5,236
Approximately 0.5 mile upstream of Interstate Highway 70	*5,249
Approximately 500 feet upstream of Smith Road	*5,263
Approximately 500 feet downstream of Havana Street	*5,284
Approximately 4,000 feet upstream of Havana Street	*5,298
Sand Creek Overflow:	
At confluence with Sand Creek	*5,239
Approximately 2,150 feet above confluence with Sand Creek	*5,245
Approximately 3,800 feet above confluence with Sand Creek	*5,246
Approximately 380 feet downstream of Taxiway Road	*5,251
Approximately 950 feet upstream of Taxiway Road	*5,253
Approximately 2,050 feet upstream of Taxiway Road	*5,263
Approximately 1,550 feet downstream of the divergence from Sand Creek	*5,264
Approximately 1,150 feet downstream of the divergence from Sand Creek	*5,267
At the divergence from Sand Creek	*5,272
Maps are available for inspection at the City of Denver, Department of Public Works, Wastewater Management Division, 2000 West Third Avenue, Denver, Colorado.	
Oregon	
La Grande (City), Union County (FEMA Docket No. 7146).	
Taylor Creek:	
At Gekeler Lane	*2,763
At Gemini Drive	*2,801
At Linda Lane	*2,819
Just downstream of Jupiter Way	*2,828
At Highland Drive	*2,879
At confluence with East-West Diversion Channel	*2,934
Approximately 210 feet upstream of confluence with East-West Diversion Channel	*2,956
Irrigation Ditch:	
Just upstream of confluence with Taylor Creek	*2,763
Approximately 1,000 feet upstream of confluence with Taylor Creek	*2,780
At divergence from Taylor Creek	*2,792
Taylor Creek Overflow:	
Approximately 550 feet downstream of Scorpio Drive	*2,781
At Scorpio Drive	*2,800
At Gemini Drive	*2,808
East-West Diversion Channel:	
At confluence with Little Taylor Creek	*2,894
Approximately 400 feet upstream of confluence with Little Taylor Creek	*2,911
At divergence from Taylor Creek	*2,934
Little Taylor Creek:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
At confluence with Taylor Creek	*2,802
Just upstream of Linda Lane	*2,822
At Jupiter Way	*2,831
Approximately 500 feet upstream of Jupiter Way	*2,846
Approximately 350 feet downstream of East-West Diversion Channel	*2,885
At confluence with East-West Diversion Channel	*2,894
Approximately 50 feet downstream of corporate limits	*2,927
Maps are available for inspection at La Grande Planning Department, City Hall, 1000 Adams Avenue, La Grande, Oregon.	
Union County (Unincorporated Areas) (FEMA Docket No. 7146)	
Taylor Creek:	
At the downstream corporate limit (220 feet upstream of Gekeler Lane)	*2,766
Approximately 750 feet upstream of the downstream corporate limit	*2,790
At the upstream corporate limit (approximately 4,120 feet upstream of Gekeler Lane)	*2,957
Approximately 4,320 feet upstream of Gekeler Lane	*2,970
Approximately 4,770 feet upstream of Gekeler Lane	*3,000
Approximately 4,930 feet upstream of Gekeler Lane	*3,030
Approximately 5,165 feet upstream of Gekeler Lane	*3,080
Approximately 5,255 feet upstream of Gekeler Lane	*3,100
Approximately 5,380 feet upstream of Gekeler Lane	*3,120
Approximately 5,440 feet upstream of Gekeler Lane	*3,126
Maps are available for inspection at the Union County Planning Department, 1108 K Avenue, La Grande, Oregon.	
South Dakota	
Rapid City (City), Pennington County (FEMA Docket No. 7134)	
Rapid Creek:	
Approximately 4,500 feet upstream of Jolly Lane (County Road 274)	*3,101
Approximately 5,500 feet downstream of East St. Patrick Street	*3,132
Approximately 4,500 feet upstream of Jolly Lane (County Road 274)	*3,101
Approximately 1,200 feet downstream of East St. Patrick Street	*3,141
Approximately 1,500 feet upstream of East St. Patrick Street	*3,149
Approximately 300 feet upstream of Creek Drive	*3,156
Approximately 200 feet upstream of Campbell Avenue	*3,167
Approximately 300 feet upstream of Cherry Avenue	*3,173
Approximately 500 feet downstream of East Main Street	*3,186
Approximately 500 feet upstream of Maple Avenue	*3,203
Approximately 450 feet upstream of East Boulevard	*3,206
Just upstream of Eighth Street	*3,227
Approximately 250 feet upstream of West Omaha Street	*3,262
Approximately 150 feet downstream of Sheridan Lake Drive	*3,281
Approximately 250 feet upstream of Jackson Boulevard	*3,314
Approximately 550 feet downstream of Park Drive	*3,340
Approximately 1,700 feet upstream of confluence of Rapid Creek with Red Rock Canyon	*3,386
Maps are available for inspection at Rapid City Engineering Division, 300 Sixth Street, Rapid City, South Dakota.	
TEXAS	
Terrell (City), Kaufman County (FEMA Docket No. 7145)	
Kings Creek:	
Approximately 150 feet downstream of State Highway 34 (South Crossing)	*439
Approximately 500 feet upstream of State Highway 34 (South Crossing)	*443
At Interstate Highway 20 eastbound lanes	*445
At Airport Road	*451
At College Mound Road	*458
At East College Street	*468
Just upstream of Abandoned Railroad	*478
Maps are available for inspection at 201 East Nash, Terrell, Texas.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: November 29, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–29708 Filed 12–5–95; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 675, 676, and 677

[Docket No. 951128281–5281–01; I.D. 112195D]

Groundfish Fishery of the Bering Sea and Aleutian Islands; Limited Access; Foreign Fishing; Interim 1996 Harvest Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim 1996 harvest specifications for groundfish, associated management measures, and closures.

SUMMARY: NMFS issues interim 1996 total allowable catch (TAC) amounts for each category of groundfish, pollock Community Development Quota (CDQ) amounts, and specifications for prohibited species bycatch allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). NMFS is closing certain fisheries as specified in the interim 1996 groundfish specifications. The intended effect is to conserve and manage the groundfish resources in the BSAI.

EFFECTIVE DATE: 0001 hours, Alaska local time (A.l.t.), January 1, 1996, until the effective date of the Final 1996 Initial Harvest Specifications for Groundfish, which will be published in the **Federal Register**.

ADDRESSES: The preliminary 1996 Stock Assessment and Fishery Evaluation (SAFE) Report, dated September 1995, is available from the North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252, 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Ellen R. Varosi, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the exclusive economic zone of the BSAI are managed by NMFS according to the Fishery Management Plan for Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP is implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fisheries at 50 CFR parts 675, 676, and 677. General regulations that also pertain to the U.S. fisheries appear at 50 CFR part 620.

The Council met September 27 through October 2, 1995, to review scientific information concerning groundfish stocks. The Council adopted for public review, the preliminary SAFE Report for the 1996 BSAI groundfish fisheries. The preliminary SAFE Report, dated September 1995, provides an update on the status of stocks. Copies of the SAFE Report are available from the Council (see **ADDRESSES**). The preliminary TAC amounts for each species are based on the best available biological and socioeconomic information. The Council recommended preliminary total TAC amounts of 2,000,000 metric tons (mt) and preliminary total acceptable biological catch (ABC) amounts of 2,929,885 mt for the 1996 fishing year.

Under § 675.20(a)(7), NMFS is publishing in the Proposed Rules section of this issue of the **Federal**

Register for review and comment proposed initial harvest specifications for groundfish and associated management measures in the BSAI for the 1996 fishing year. The proposed initial specification document contains detailed information on the 1996 specification process and provides a discussion of the preliminary ABC amounts, proposed establishment of the 1996 annual TAC and initial TAC (ITAC) amounts for each target species and apportionments thereof among domestic annual processing (DAP), joint venture processing (JVP), total allowable level of foreign fishing (TALFF), apportionments of each TAC amount, as applicable, prohibited species catch (PSC) allowances under § 675.21(b), and seasonal allowances of pollock and Pacific cod TAC, as applicable.

Regulations at § 675.20(a)(7)(i) require that one-fourth of each proposed ITAC amount and apportionment thereof, one-fourth of each PSC allowance established under § 675.21(b), and the first seasonal allowances of pollock TAC and pollock CDQ become effective 0001 hours, A.l.t., January 1, on an interim basis and remain in effect until superseded by the final harvest specifications, which will be published in the **Federal Register**.

This action provides interim specifications and apportionments thereof for the 1996 fishing year that will become available on January 1, 1996, on an interim basis. Background information concerning the 1996 groundfish harvest specification process upon which this interim action is based is provided in the proposed initial specifications appearing in the Proposed Rules section of this **Federal Register** issue.

Species TAC amounts are apportioned initially among DAP, JVP, TALFF, and reserves under §§ 611.93(b)(2) and 675.20(a)(2). DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen deliver their catches to foreign processors at sea. TALFF amounts are intended for harvest by foreign fishermen. Existing harvesting and processing capacity allows the U.S. industry to utilize the entire 1996 TAC specified for BSAI groundfish. Therefore, the Council recommended that DAP equal TAC for each species category, which results in no proposed amounts of TALFF or JVP for the 1996 fishing year.

As required by § 675.20(a)(3) and (a)(7)(i), each species' TAC amount initially is reduced by 15 percent, except the hook-and-line and pot gear allocations for sablefish. The sum of these 15-percent amounts is the reserve and may be reapportioned to a target species or the "other species" category during the year, providing that such reapportionments do not result in overfishing. One half of the pollock TAC placed in the reserve is designated as a CDQ reserve for use by CDQ participants. The ITAC amount for each species, except the hook-and-line and pot gear allocations for sablefish, is the remainder of the TAC amount after subtraction of the applicable reserve amount(s). One-fourth of the preliminary ITAC amount and apportionment thereof for each target species will be available on January 1, 1996. However, the first seasonal allowances of pollock TAC and pollock CDQ will be available on January 1, in lieu of the one-fourth interim allocation.

Amendment 18 to the FMP and Amendment 23 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA) established inshore and offshore component allocations of pollock in the BSAI and inshore and offshore component allocations of pollock and Pacific cod in the GOA during the years 1993 through 1995. Because Amendments 18 and 23 and their implementing regulations expire on December 31, 1995, and because the Council has yet to complete development of its comprehensive plan to address problems caused by the open access nature of the Alaska groundfish fisheries, the Council voted unanimously at its June 1995 meeting to adopt Amendments 38 and 40, which would extend the provisions of the expiring amendments through December 31, 1998. On September 18, 1995, NMFS published a notice of proposed rulemaking in the **Federal Register** to continue the apportionments between the inshore and offshore components through 1998 (60 FR 48087). On November 28, 1995, NMFS determined that Amendment 38 and Amendment 40 are consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. A final rule is to be issued shortly. Consequently, these interim specifications specify allocations of pollock to inshore and offshore components.

1. Interim 1996 BSAI Groundfish Fishery Specifications

Table 1 provides interim TAC amounts and apportionments thereof, interim TAC allocations of pollock to the inshore and offshore components, first seasonal allowances of pollock TAC and pollock CDQ, an interim sablefish apportionment to trawl gear, and Pacific cod TAC apportionment to gear types. These interim specifications become effective at 0001 hours, A.l.t., January 1, 1996.

Existing regulations at § 675.20(a)(7)(i) do not provide for an interim specification for the sablefish CDQ reserve or for sablefish managed under the Individual Fishing Quota management plan. As a result, fishing for CDQ sablefish and sablefish harvested with fixed gear is prohibited until the effective date of the final 1996 BSAI groundfish specifications.

TABLE 1.—INTERIM 1996 TAC AMOUNTS OF GROUNDFISH FOR THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA (BSAI), BERING SEA (BS), AND ALEUTIAN ISLANDS (AI).[1,2] First Seasonal Allowances of Pollock Allocations to the Inshore and Offshore Components. First Seasonal Allowances of Pollock Allocations to the Community Development Quota (CDQ) Program. Allowances of Sablefish to Trawl (TRW) Gear. Allowances of Pacific Cod to Jig Gear, H/L or Pot, or TRW

[Amounts are in metric tons]

Species/component	Area and/or gear type	Interim TAC and CDQ
Pollock:[3,4,5]		
Inshore	BS	167,344
Offshore	BS	310,781
Inshore	AI	16,839
Offshore	AI	31,272
Inshore	BogDist	298
Offshore	BogDist	553
CDQ	BS	42,188
CDQ	AI	4,245
CDQ	BogDist	75
	Total	573,595
Pacific cod:[6]		
	Jig	1,063
	H/L & Pot	23,375
	TRW	28,688
	Total	53,126
Sablefish:[7,8]		
	BS-TRW	170
	BS-H/L & Pot	0
	AI-TRW	117
	AI-H/L & Pot	0
	Total	287
Yellowfin sole	BSAI	40,375
Other flatfish[9]	BSAI	4,152
Squid	BSAI	213
Arrowtooth flounder	BSAI	2,173
Pacific ocean perch	BS	393
	AI	2,231
	Total	2,624
Flathead sole	BSAI	6,375
Other red rockfish[10]	BS	268
Atka mackerel	Western AI	8,823
	Central AI	2,380
	Eastern AI/BS	5,797
	Total	17,000
Rock sole	BSAI	12,750
Greenland turbot	BS	997
	AI	491
	Total	1,488
Sharpchin/Northern	AI	1,085
Other rockfish[11]	BS	70
	AI	147
	Total	217
Shortraker/rougheye	AI	233
Other species[12]	BSAI	4,250
	BSAI Total Interim TAC	720,211

(Interim TAC amounts have been rounded.)

[1] Amounts apply to the entire Bering Sea and Aleutian Islands management area (BSAI), Bering Sea (BS), or Aleutian Islands (AI), as indicated. With the exception of pollock, and for purposes of these specifications, the BS includes the Bogoslof District (BogDist).

[2] Zero amounts of groundfish are proposed for Joint Venture Processing and Total Allowable Level of Foreign Fishing and are not shown in this table.

[3] After subtraction of reserves, the ITAC amounts of pollock for each subarea or district are divided into roe and non-roe seasonal allowances. (See § 675.20(a)(7)(i).) For the BS subarea, the roe and non-roe seasonal allowances are 45 and 55 percent of the pollock ITAC amounts, respectively. The AI subarea and the Bogoslof District receive 100 percent of their respective ITAC seasonal allowance during the roe-season with the remainder of the respective ITAC seasonal allowance during the non-roe season.

[4] Inshore and offshore component allocations are 35 and 65 percent of the ITAC amounts, respectively. (See § 675.20(a)(2)(iii).)

TABLE 1.—INTERIM 1996 TAC AMOUNTS OF GROUNDFISH FOR THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA (BSAI), BERING SEA (BS), AND ALEUTIAN ISLANDS (AI).[1,2] First Seasonal Allowances of Pollock Allocations to the Inshore and Offshore Components. First Seasonal Allowances of Pollock Allocations to the Community Development Quota (CDQ) Program. Allowances of Sablefish to Trawl (TRW) Gear. Allowances of Pacific Cod to Jig Gear, H/L or Pot, or TRW—Continued

[Amounts are in metric tons]

[5] Sablefish CDQ reserve amounts are not deducted from the BSAI TAC. Sablefish CDQ reserve amounts are 20 percent of the TAC amounts.

[6] Pacific cod CDQ reserve amounts are not deducted from the BSAI TAC. Pacific cod CDQ reserve amounts are 10.7 percent of the TAC amounts.

[7] Sablefish CDQ reserve amounts are not deducted from the BSAI TAC. Sablefish CDQ reserve amounts are 20 percent of the TAC amounts.

[8] Sablefish may be taken only with trawl gear in the BS and AI subareas.

[9] Other flatfish includes all flatfish species, except halibut, flathead sole, rock sole, yellowfin sole, arrowtooth flounder, and Greenland turbot.

[10] Other red rockfish includes all red rockfish species except Pacific ocean perch.

[11] Other rockfish includes all rockfish species except Pacific ocean perch, other red rockfish, shortraker/rougheye, and sharpchin/northern.

[12] Other species includes squid, sculpins, sharks, skates, octopus, and eulachon.

[5] One-half of the pollock TAC (7.5 percent of each TAC) is placed in a reserve for each subarea or district to be assigned to the Community Development Quota (CDQ) program. (See § 675.20(a)(3)(ii).) For the BS subarea, the roe and non-roe seasonal allowances are 45 and 55 percent, respectively, of the CDQ pollock reserve. The AI subarea and the Bogoslof District receive 100 percent of their respective CDQ reserve allocations during the roe-season with the remainder of the respective reserve becoming available during the non-roe season.

[6] The TAC amount for Pacific cod, after subtraction of the reserves, is allocated 2 percent to vessels using jig gear, 44 percent to H/L gear, and 54 percent to TRW. (See § 675.20(a)(2)(iv).) Pacific cod TAC seasonal apportionments to vessels using H/L or pot gear are not reflected in the interim TAC amounts.

[7] Sablefish gear allocations are as follows: In the BS subarea, TRW gear is allocated 50 percent of TAC, and H/L and pot gear is allocated 50 percent. In the AI subarea, TRW gear is allocated 25 percent of TAC and H/L and pot gear is allocated 75 percent. (See § 675.24(c)(1).) Fifteen percent of the sablefish TRW gear allocation is placed in the nonspecific reserve. One-fourth of the ITAC amount for TRW gear is in effect January 1 as an interim TAC amount.

[8] The sablefish H/L gear fishery is managed under the Individual Fishing Quota (IFQ) program and subject to regulations contained in subparts B and C of 50 CFR part 676. Annual IFQ amounts are based on the final TAC amount specified for the sablefish H/L gear fishery as contained in the final specifications for groundfish. Twenty percent of the sablefish H/L or pot gear final TAC amount will be reserved for use by Community Development Quota (CDQ) participants. (See § 676.24(b)) Existing regulations at § 675.20(a)(7)(i) do not provide for an interim specification for the CDQ reserve or an interim specification for sablefish managed under the IFQ program. In addition, under § 676.16(c) retention of sablefish caught with fixed gear is prohibited unless the harvest is authorized under a valid IFQ permit and IFQ card. In 1996, IFQ permits and IFQ cards will not be valid prior to the effective date of the 1996 final specifications. Thus, fishing for sablefish with fixed gear is not authorized under these interim specifications. See §§ 676.20 and 676.23(b) for guidance on the annual allocation of IFQ and the sablefish fishing season.

[9] "Other flatfish" includes all flatfish species except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, and yellowfin sole.

[10] "Other red rockfish" includes shortraker, rougheye, sharpchin, and northern.

[11] "Other rockfish" includes all Sebastes and Sebastolobus species except for Pacific ocean perch, sharpchin, northern, shortraker, and rougheye.

[12] "Other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

2. Interim Allocation of PSC Limits for Crab, Halibut, and Herring

Under § 675.21(a), annual PSC limits are specified for red king crab and *Chionoecetes bairdi* Tanner crab in applicable Bycatch Limitation Zones of the BS subarea, and for Pacific halibut and Pacific herring throughout the BSAI. Regulations under § 675.21(b) authorize the apportionment of each PSC limit into PSC allowances for specified fishery categories.

Regulations at § 675.20(a)(7)(i) require that one-fourth of each proposed PSC allowance be made available on an interim basis for harvest at the beginning of the fishing year, until superseded by the final harvest specifications. The interim PSC limits are specified in Table 2 and are in effect on January 1, 1996, at 0001 hours, A.l.t.

TABLE 2.—INTERIM 1996 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NONTRAWL FISHERIES

Trawl fisheries	Zone 1[1]	Zone 2[1]	BSAI-wide
Red king crab, number of animals:			
yellowfin sole	12,500		
rcksol/oth.flat/flathead sole[2]	27,500		
rockfish	0		
turb/arrow/sab[3]	0		
Pacific cod	2,500		
pick/Atka/othr[4]	7,500		
Total	50,000		
C. bairdi Tanner crab, number of animals:			
yellowfin sole	56,250	381,250	
rcksol/oth.flat/flathead sole	118,750	127,500	
turb/arrow/sabl	0	1,250	
rockfish	0	2,500	
Pacific cod	56,250	65,000	
pick/Atka/othr	18,750	172,500	
Total	250,000	750,000	
Pacific halibut, mortality (mt):			
yellowfin sole			198
rcksol/oth.flat/flathead sole			183
turb/arrow/sabl			0
rockfish			28
Pacific cod			388
pick/Atka/othr			139
Total			946
Pacific herring, mt:			
midwater pollock[5]			336
yellowfin sole			79
rcksol/oth.flat/flathead sole			0
turb/arrow/sabl			0
rockfish			2
Pacific cod			6
pick/Atka/othr			42

TABLE 2.—INTERIM 1996 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NONTRAWL FISHERIES—Continued

Trawl fisheries	Zone 1[1]	Zone 2[1]	BSAI-wide
Total			465
Nontrawl fisheries:			
Pacific halibut, mortality (mt):			
Pacific cod Hook-and-line			181
Other nontrawl[6]			44
Groundfish pot gear			Exempt
Groundfish jig gear			Exempt
Sablefish hook-and-line			Exempt
Total			225

[1] Refer to § 675.2 for definitions of areas.
[2] Rock sole and other flatfish fishery category.
[3] Greenland turbot, arrowtooth flounder, and sablefish fishery category.
[4] Pollock, Atka mackerel, and "other species" fishery category.
[5] Pollock other than midwater pollock, Atka mackerel, and "other species" fishery category.
[6] Includes hook-and-line sablefish, rockfish, and Greenland turbot.

3. Closures to Directed Fishing

Under § 675.20(a)(8), if the Director, Alaska Region, NMFS (Regional Director), determines that the amount of a target species or "other species" category apportioned to a fishery or, with respect to pollock, to an inshore or offshore component allocation, is likely to be reached, the Regional Director may establish a directed fishing allowance for that species or species group. If the Regional Director establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district. Similarly, under §§ 675.21(c) and 675.21(d), if the Regional Director determines that a fishery category's bycatch allowance of halibut, red king crab, or *C. bairdi* Tanner crab for a specified area has been reached, the Regional Director will prohibit directed fishing for each species in that category in the specified area.

The Regional Director has determined that the interim TAC amounts of pollock in the Bogoslof District, Pacific ocean perch in the Bering Sea and Aleutian Island subareas, shortraker/rougheye rockfish in the Aleutian Islands subarea, other rockfish in the BSAI, and other red rockfish in the Bering Sea will be necessary as incidental catch to support other anticipated groundfish fisheries prior to the time that final specifications for groundfish are in effect for the 1996 fishing year (Table 3). Therefore, NMFS is prohibiting directed fishing for these target species and gear types in the specified area identified in Table 3 to prevent exceeding the interim amounts of groundfish TACs specified in Table 1 of this document.

An interim Zone 1 red king crab bycatch allowance of zero crab is specified for the rockfish trawl fishery, which is defined at § 675.21(b)(1)(iii)(D). Similarly, the interim BSAI halibut bycatch allowance specified for the Greenland turbot/arrowtooth flounder/sablefish trawl fishery category, defined at § 675.21(b)(1)(iii)(C), is 0 mt. The Regional Director has determined, in accordance with §§ 675.21(c)(1)(i) and 675.21(c)(iii), that the interim red king crab bycatch allowance specified for the trawl rockfish fishery in Zone 1 and the interim halibut bycatch allowance specified for the Greenland turbot/arrowtooth flounder/sablefish trawl fishery category has been caught. Therefore, NMFS is prohibiting directed fishing for rockfish in Zone 1 by vessels using trawl gear, and for Greenland turbot, arrowtooth flounder, and sablefish by vessels using trawl gear in the BSAI (Table 3).

The closures listed in Table 3 will be in effect during the period that the 1996 interim specifications for groundfish TAC amounts are in effect beginning at 0001 hours, A.l.t., January 1, 1996, and will remain in effect until superseded by the Final 1996 Initial Harvest Specifications for Groundfish. While these closures are in effect, the maximum retainable bycatch amounts at § 675.20(h) apply at any time during a fishing trip. Additional closures and restrictions may be found in existing regulations at 50 CFR part 675.

TABLE 3.—CLOSURES TO DIRECTED FISHING UNDER 1995 INTERIM TAC AMOUNTS[1]

Fishery (All gear)	Closed area[2]
Pollock in Bogoslof District	Statistical Area 518.
Pacific ocean perch	Bering Sea. Eastern AI.[3] Central AI. Western AI.
Shortraker/rougheye rockfish	AI.
Other rockfish[4]	BSAI.
Other red rockfish[5]	Bering Sea.
Rockfish (trawl only)	Zone 1.
Greenland turbot/arrowtooth/ sablefish (trawl only).	BSAI.

[1] These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 675.
[2] Refer to § 675.2 for definitions of areas.
[3] "AI" means Aleutian Islands area.
[4] In the BSAI, "Other rockfish" includes Sebastes and Sebastolobus species except for Pacific ocean perch and the "other red rockfish" species.
[5] "Other red rockfish" includes shortraker, rougheye, sharpchin, and northern.

After consideration of public comments on the Proposed 1996 Initial Specifications for Groundfish and additional scientific information presented at its December 1995 meeting, the Council may recommend other closures to directed fishing. NMFS may implement other closures at the time the Final 1996 Initial Harvest Specifications are implemented or during the 1996 fishing year, as necessary for effective management.

Classification

This action is authorized under 50 CFR 611.93(b), 675.20, and part 676 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: December 1, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–29721 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 60, No. 234

Wednesday, December 6, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

Review of Regulations and Written Policies

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of opportunity for comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is conducting a systematic review of each its regulations and written policies. Section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI) requires the federal banking agencies to identify and revise regulations and written policies that may be inefficient, cause unnecessary burden or contain outmoded, duplicative or inconsistent provisions; and to work jointly to make uniform all regulations and policies that implement common statutory or regulatory schemes. As part of this systematic review, the FDIC is seeking public comment to identify ways in which its regulation and written policies can be streamlined and made uniform with the other banking agencies. Comments and suggestions should be as specific as possible, citing the particular part of the regulation or policy statement recommended for revision or recission, and, if a revision is recommended, stating specifically the revision proposed. The FDIC already has undertaken various measures since the passage of section 303 to streamline its regulations and policies, as well as to work jointly with the other federal banking agencies to make uniform regulations and guidelines implementing common statutory and supervisory policies.

DATES: The FDIC anticipates that many of the reviews will result in the publication of proposals to revise specific regulations and statements of policy, with dates for comments identified at the time of publication. While comments may be submitted at any time through the due dates identified when those proposals are published, the FDIC urges interested parties to submit comments as soon as possible. Those submitted before the tentatively scheduled completion dates for the reviews, as displayed in the schedule at the end of this document are more likely to be considered during the early stages of the development of recommendations.

ADDRESSES: Written comments should be addressed to the Office of the Executive Secretary, FDIC, 550 17th Street, NW, Washington, D.C. 20429. Comments may be hand delivered to Room F–402, 1776 F Street, N.W., Washington, D.C. 20439, on business days between 8:30 a.m. and 5:00 p.m. Comments may be sent fax to: (202) 898–3838 or by the Internet to: comments@fdic.gov. Comments will be available for inspection at the FDIC's Reading Room, Room 7118, 550 17th Street, N.W., Washington, D.C. between 9:00 a.m. and 4:30 p.m. on business days. All comments should reference CDRI section 303, and identify the regulation or policy statement which they concern.

FOR FURTHER INFORMATION CONTACT: Steven F. Hanft, Assistant Executive Secretary (Administration), Office of the Executive Secretary, (202) 898–3907; or Judith Bailey, Counsel, Legal Division (202) 898–6955; Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: The FDIC is conducting a systematic review of its regulations and written policies. Section 303(a) of the CDRI (12 U.S.C. 4803(a)) requires that each federal banking agency shall, consistent with the principles of safety and soundness, statutory law and policy, and the public interest:

(1) Conduct a review of the regulations and written policies of that agency to—

(A) streamline and modify those regulations and policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability;

(B) remove inconsistencies and outmoded and duplicative requirements; and

(C) with respect to regulations prescribed pursuant to section 18(o) of the Federal Deposit Insurance Act (12 U.S.C. 1828(o), (real estate lending standards), consider the impact that such standards have on the availability of credit for small business, residential, and agricultural purposes, and on low– and moderate-income communities;

(2) work jointly with the Federal banking agencies to make uniform all regulations and guidelines implementing common statutory or supervisory policies; and

(3) submit a joint report to Congress at the end of such 2-year period detailing the progress of the agencies in carrying out this subsection.

Thus, there are two parts to the review required by section 303(a). First, the FDIC, like the other federal banking agencies, must review and streamline all its regulations and written policies to improve efficiency, to remove unnecessary costs and burdens, and to eliminate inconsistent, outmoded or duplicative provisions. Second, the FDIC is required to work with the other banking agencies to make uniform those regulations and guidelines that implement common statutory or supervisory policies. The federal banking agencies must report to Congress detailing the progress they have made in both the streamlining and uniformity reviews by September 23, 1996. To date, the FDIC has received some comments and uniformity reviews by September 23, 1996. To date, the FDIC has received some comments and suggestions for regulatory reform from interested parties, but the FDIC would like to encourage wider public involvement.

The FDIC has place a high proprity on regulatory review. In testimony on May 18, 1995 before the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Banking and Financial Services of the U.S. House of Representatives, Chairman Helfer stated that the FDIC would test regulations against specific criteria:

(1) Whether the regulations are necessary to ensure a safe and sound banking system, (2) whether the regulations enhance the functioning of the marketplace, or (3) whether the regulations can be justified on strong public grounds related to consumer protection.

The FDIC is devoting considerable resources to regulatory review. The FDIC has assembled staff teams to review each of its regulations and policy statements, and those teams already

have begun this reviews. Further, FDIC staff is coordinating with staff of the other federal banking agencies to review common regulations, written policies and guidelines, with the goal of working toward uniformity. A schedule for reviewing FDIC regulations and policy statements appears at the end of this notice.

The FDIC seeks to impose the least intrusive and least burdensome regulations possible while affording maximum flexibility in implementing its statutory mandates. This approach is evident in recent changes to assessment regulation (12 CFR Part 327) which automate the assessment process and permit insured institutions to take advantage of a more flexible payment schedule, and to the FDIC's regulations on real estate appraisals (12 CFR Part 323), which reduce costs and encourage lending by decreasing the number of loans requiring an appraisal.

This approach is also manifested in the implementation of various provisions of FDICIA in which the FDIC has adopted minimal regulations together with flexible guidelines, such as the audit regulations (12 CFR Part 363), standards for safety and soundness (12 CFR Part 364), and real estate lending standards (12 CFR Part 365). Further, the FDIC is reducing regulatory burden by linking supervision more closely to risk with the risk-based insurance program, whereby well-capitalized and well-managed institutions are charged considerably less for deposit insurance than institutions that are undercapitalized and exhibit weakness.

The FDIC's is mindful that regulatory burden also may be associated with examination and supervisory process, and is therefore investigating and introducing less intrusive examination techniques. The FDIC has reduced total hours per examination by 10% through pre-examination planning doing more of the examination work off-site in FDIC field offices coordinating examinations with sate and other federal regulators to eliminate supervisory overlap and to extend the examination cycle when appropriate, and increasing examination efficiency through automation of the examination process. The FDIC is beginning to develop an automated loan review program that will reduce the number of specialized loan reports requested by examiners.

The FDIC is also seeking additional reductions by surveying bankers to determine what the industry feels is burdensome about the examination process; and by investigating the use of Internet to permit electronic submission of applications, and to make available to the public supervisory materials such as Financial Institution Letters, examination manuals, and the rules and regulations of the FDIC. The FDIC has already established procedures for using the Internet to comment on proposed rules and regulations. Additional regulatory revisions that are complete or well underway include:

- Final revisions to the FDIC's regulations implementing the Community Reinvestment Act (12 CFR Part 345) have been approved by the FDIC Board of Directors and were published on May 4, 1995 (60 FR 22156), providing more objective, performance-based assessment standards that minimize the burden of compliance while improving performance. The revised regulation provides alternative examination methods for different sizes and types of institutions, and emphasizes results rather than paperwork and procedure.
- A notice of proposed rulemaking to streamline and clarify the flood insurance provisions in the FDIC's regulations on "Loans in Areas having Special Flood Hazards" (12 CFR Part 339) was published on October 18, 1995 (60 FR 53962), with comments due December 17, 1995. The proposed changes to this regulation would clarify its terms and standardize recordkeeping and reporting requirements among all insured institutions.
- A notice of proposed rulemaking to simplify the reporting of suspected criminal activity, "Reports of Apparent Crimes" (12 CFR Part 353), was published on September 14, 1995, with a comment period that closed November 13, 1995 (60 FR 47719).
- A notice of proposed rulemaking on revisions to "Disclosure of Information" (12 CFR Part 309) was published on July 6, 1995 (60 FR 35148) with a comment period that closed September 9, 1995. The proposed revisions would make it easier for the public to obtain information from the FDIC.

As it continues with its regulatory review, the FDIC would like to provide an opportunity for the earliest possible participation by consumers, banking industry representatives, and the general public, before notices of proposed rulemaking and proposed revisions to policy statements are published by the FDIC Board as part of a notice-and-comment process. To that end the FDIC is encouraging the public to provide suggestions early in the review cycle to assist in the development of specific regulatory proposals. It is anticipated that, in many cases specific recommendations for modifying the FDIC's regulations and policies will be brought before the FDIC's Board of Directors as a result of the reviews. Those recommendations, if adopted by the FDIC's Board, will be published as formal proposals for comment. Comments provided at this early stage, however, will permit the formulation of improved proposals for consideration by the FDIC's Board of Directors. The request for comments at this early stage is thus separate from, and in addition to, any future opportunity for comment on specific proposed revisions to individual regulations and policies that may result from the work of the reviewing teams.

- Comments should be submitted on regulations and written policies that are unique to the FDIC as well as those that are in common with the other federal banking agencies.
- Comments should focus on and cite particular provisions or language, and provide particular reasons why such provisions are burdensome, inefficient or outmoded.
- Comments should cite particular provisions or language that should be revised or eliminated and, where possible or appropriate, suggest alternative provisions or language.
- If the implementation of a comment would require modifying the statutes that underlie a regulation or policy, the comment should, if possible, identify the needed statutory change.

Existing FDIC regulations are found in chapter XXII of title 5 and chapter III of title 12 of the Code of Federal Regulations. FDIC Statements of Policy are compiled in 2 FDIC Law, Regulations, Related Acts (FDIC), 5001–5412. As noted above, the FDIC anticipated that many of the reviews will result in the publication of proposals to revise specific regulations and statements of policy, with due dates for comments identified at the time of publication. While comments may be submitted at any time through the due dates identified when those proposals are published, the FDIC urges interested parties to submit comments as soon as possible. Those submitted before the tentatively scheduled completion dates for the reviews, as displayed in the schedule below, are more likely to be considered during the early stages of the development of recommendations. It is hoped that, by providing this schedule, commenters will have the ability to address significant regulatory issues in an orderly and focused fashion. Page numbers in the schedule refer to the location of policy statements in the FDIC's looseleaf service known as FDIC Law, Regulations, Related Acts.

Tentative Schedule for Reviewing Regulations and Statements of Policy of the FDIC Under Section 303(a) of CDRI

FDIC.—TENTATIVE SCHEDULE OF REGULATORY REVIEWS UNDER SECTION 303

Part/page No.	Regulation/statement of policy	Target date
Page No. 5241	Joint Policy Statement on Delayed Availability of Funds	2nd Quarter 1995.
Page No. 5271	Joint Policy Statement on Basic Financial Services	2nd Quarter 1995.
310	Privacy Act Regulations	3rd Quarter 1995.
339	Loans in Areas Having Special Flood Hazards	4th Quarter 1995.
Page No. 5411	Statement of Policy Regarding Treatment of Collateralized Letters of Credit After Appointment of the Federal Deposit Insurance Corporation as Conservator or Receiver.	4th Quarter 1995.
309	Disclosure of Information	4th Quarter 1995.
307	Notification of Changes of Insured Status	4th Quarter 1995.
308	Rules of Practice and Procedure	4th Quarter 1995.
323	Appraisals	4th Quarter 1995.
324	Agricultural Loan Loss Amortization	4th Quarter 1995.
326	Minimum Security Devices and Procedures and Bank Secrecy Act Compliance	4th Quarter 1995.
328	Advertisement of Membership	4th Quarter 1995.
333	Extension of Corporate Powers	4th Quarter 1995.
335	Securities of Nonmember Insured Banks	4th Quarter 1995.
344	Recordkeeping and Confirmation Requirements for Securities Transactions	4th Quarter 1995.
353	Reports of Apparent Crimes Affecting Insured Nonmember Banks	4th Quarter 1995.
363	Annual Independent Audits and Reporting Requirements	4th Quarter 1995.
Page No. 5061	Offering Circular Requirements for Public Issuance of Bank Securities; Statement of Policy Regarding Use of Offering Circulars in Connection with Public Distribution of Bank Securities.	4th Quarter 1995.
Page No. 5073	Federal Financial Institutions Examination Council Policy Statement—Disclosure of Statutory Enforcement Actions.	4th Quarter 1995.
Page No. 5145	FDIC Statement of Policy; Bank Merger Transactions	4th Quarter 1995.
Page No. 5209	Interagency Policy Statement Regarding Advertising of NOW Accounts	4th Quarter 1995.
Page No. 5225	FDIC Statement of Policy on the Applicability of the Glass-Steagall Act to Securities Activities of Subsidiaries of Insured Nonmember Banks.	4th Quarter 1995.
Page No. 5259	Justice Department Policy on Bank Bribery Prosecution	4th Quarter 1995.
Page No. 5277	Guidelines for Monitoring Bank Secrecy Act Compliance	4th Quarter 1995.
Page No. 5289	Guidelines for Compliance with the Federal Bank Bribery Law	4th Quarter 1995.
Page No. 5305	Interagency Policy on Contingency Planning for Financial Institutions	4th Quarter 1995.
Page No. 5317	FFIEC Supervisory Policy on Large-Scale Integrated Financial Software System (LSIS)	4th Quarter 1995.
Page No. 5321	Risks and Controls in End-User Computing	4th Quarter 1995.
Page No. 5325	Interagency Statement on EDP Service Contracts	4th Quarter 1995.
Page No. 5345	FFIEC EDP Interagency Examination, Scheduling and Distribution Policy	4th Quarter 1995.
Page No. 5371	Policy Statement to Address the Problem of the Use of Large-Value Funds Transfers for Money Laundering.	4th Quarter 1995.
Page No. 5395	Statement of Policy on Alternative Dispute Resolution	4th Quarter 1995.
342	Applications for a Stay or Review of Actions of Bank Clearing Agencies	1st Quarter 1996.
Page No. 5235	FDIC Statement of Policy on Assistance to Operating Insured Depository Institutions	1st Quarter 1996.
304	Forms, Instructions, and Reports	1st Quarter 1996.
Page No. 5039	Time Limits for Filing Reports of Condition	1st Quarter 1996.
343	Insured State Nonmember Banks which are Municipal Securities Dealers	1st Quarter 1996.
Page No. 5029	Insured State Nonmember Banks—Statement of Policy and Guidelines for Investments in "Leeway Securities".	1st Quarter 1996.
311	Rules Governing Public Observation of Meetings of the Corporation's Board of Directors	1st Quarter 1996.
329	Interest on Deposits	1st Quarter 1996.
348	Management Official Interlocks	1st Quarter 1996.
Page No. 5053	Changes in Control in Insured Nonmember Banks	1st Quarter 1996.
Page No. 5065	Federal Financial Institutions Examination Council on Behalf of its Constituent Agencies—Joint Notice of Policy Statement on Discrimination.	1st Quarter 1996.
Page No. 5113	FDIC Statement of Policy on Qualified Financial Contracts	1st Quarter 1996.
Page No. 5195	Joint Notice of Adoption of Standard Descriptive Terms to be used in Competitive Factor Reports Prepared Pursuant to the Bank Merger Act (12 U.S.C. 1828(c)).	1st Quarter 1996.
Page No. 5275	Guidelines for Implementing a Policy of Capital Forbearance	1st Quarter 1996.
Page No. 5329	Policy Statement on Encouragement and Preservation of Minority Ownership of Financial Institutions.	1st Quarter 1996.
Page No. 5331	FDIC Statement of Policy Regarding the Payment of State and Local Property Taxes	1st Quarter 1996.
Page No. 5335	Statement of Policy Regarding Treatment of Collateralized Put Obligations After Appointment of the Federal Deposit Insurance Corporation as Conservator or Receiver.	1st Quarter 1996.
Page No. 5369	Statement Concerning the Responsibilities of Bank Directors and Officers	1st Quarter 1996.
Page No. 5373	Interagency Policy Statement on Documentation for Loans to Small- and Medium-sized Businesses and Farms.	1st Quarter 1996.
Page No. 5377	Statement of Policy Regarding Treatment of Security Interests After Appointment of the Federal Deposit Insurance Corporation as Conservator or Receiver.	1st Quarter 1996.
Page No. 5381	Statement of Policy on Contracting With Outside Firms	1st Quarter 1996.
Page No. 5387	Interagency Guidance on Accounting for Dispositions of Other Real Estate Owned	1st Quarter 1996.
Page No. 5391	Policy Statement of Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and Office of Thrift Supervision Concerning Branch Closing Notices and Policies.	1st Quarter 1996.
12 CFR 337.6	Brokered Deposits	1st Quarter 1996.
5 CFR 3201	Supplemental Standards of Conduct for Employees of the FDIC	2nd Quarter 1996.
341	Registration of Securities Transfer Agents	2nd Quarter 1996.

FDIC.—TENTATIVE SCHEDULE OF REGULATORY REVIEWS UNDER SECTION 303—Continued

Part/page No.	Regulation/statement of policy	Target date
Page No. 5175	National Historic Preservation Act of 1966	2nd Quarter 1996.
Page No. 5043	Improper and Illegal Payments by Banks and Bank Holding Companies	2nd Quarter 1996.
337	Unsafe and Unsound Banking Practices	2nd Quarter 1996.
346	Foreign Banks	2nd Quarter 1996.
347	Foreign Activities of Insured State Nonmember Banks	2nd Quarter 1996.
349	Reports and Public Disclosure of Indebtedness of Executive Officers and Principal Shareholders to a State Nonmember Bank and its Correspondent Banks.	2nd Quarter 1996.
360	Receivership Rules	2nd Quarter 1996.
362	Activities and Investments of Insured State Banks	2nd Quarter 1996.
Page No. 5031	Applications, Legal Fees, and Other Expenses	2nd Quarter 1996.
Page No. 5041	Consent to Service of Persons Convicted of Offenses Involving Dishonesty or a Breach of Trust as Directors, Officers or Employees of Insured Banks.	2nd Quarter 1996.
Page No. 5075	Interagency Coordination of Formal Corrective Action by the Federal Bank Regulatory Agencies	2nd Quarter 1996.
Page No. 5077	Interagency Coordination of Bank Holding Company Inspections and Subsidiary Bank Examinations.	2nd Quarter 1996.
Page No. 5079	Uniform Financial Institutions Rating System	2nd Quarter 1996.
Page No. 5081	Uniform Policy for Classification of Consumer Installment Credit Based on Delinquency Status	2nd Quarter 1996.
Page No. 5105	Applications to Establish a Domestic Branch (includes Remote Service Facilities)	2nd Quarter 1996.
Page No. 5125	Applications to Relocate Main Office or Branch (includes Remote Service Facilities)	2nd Quarter 1996.
Page No. 5155	Applications Under Section 19 of the Federal Deposit Insurance Act	2nd Quarter 1996.
Page No. 5185	National Environmental Policy Act of 1969	2nd Quarter 1996.
Page No. 5201	Interagency Policy Regarding the Assessment of Civil Money Penalties by the Federal Financial Institutions Regulatory Agencies.	2nd Quarter 1996.
Page No. 5217	FDIC Statement of Policy on Retail Repurchase Agreements	2nd Quarter 1996.
Page No. 5237	Statement Regarding Eligibility to Make Application to Become an Insured Bank Under Section 5 of the Federal Deposit Insurance Act.	2nd Quarter 1996.
Page No. 5249	Federal Financial Institutions Examination Council Supervisory Policy—Securities Lending	2nd Quarter 1996.
Page No. 5257	Federal Financial Institutions Examination Council Supervisory Policy—The Sale of U.S. Government Guaranteed Loans and Sale Premiums.	2nd Quarter 1996.
Page No. 5265	Federal Financial Institutions Examination Council Supervisory Policy—Repurchase Agreements of Depository Institutions With Securities Dealers and Others.	2nd Quarter 1996.
Page No. 5299	Statement of Policy Regarding Independent External Auditing Programs of State Nonmember Banks.	2nd Quarter 1996.
Page No. 5349	Applications for Deposit Insurance	2nd Quarter 1996.
Page No. 5057	Development and Review of FDIC Rules and Regulations	3rd Quarter 1996.
Page No. 5035	Gold	3rd Quarter 1996.
5 CFR 3202	Financial Disclosure Requirements for Employees of the FDIC	3rd Quarter 1996.
303	Applications, Requests, Submittals, Delegations of Authority, and Notices Required to be Filed by Statute or Regulation.	3rd Quarter 1996.
325	Capital Maintenance	3rd Quarter 1996.
Page No. 5067	Statement of Policy Concerning Interest Rate Futures Contracts, Forward Contracts and Standby Contracts.	3rd Quarter 1996.
Page No. 5197	Uniform Guideline on Internal Control for Foreign Exchange Activities in Commercial Banks	3rd Quarter 1996.
Page No. 5293	Supervisory Policy Statement on Securities Activities	3rd Quarter 1996.
Page No. 5327	Statement of Policy Regarding Liability of Commonly Controlled Depository Institutions	3rd Quarter 1996.
327	Assessments	4th Quarter 1996.
338	Fair Housing	4th Quarter 1996.
Page No. 5049	Administrative Enforcement of the Truth in Lending Act—Restitution	4th Quarter 1996.
Page No. 5221	Equal Credit Opportunity and Fair Housing Acts Enforcement Policy Statement	4th Quarter 1996.
Page No. 5303	Federal Financial Institutions Examination Council Statement on the Home Mortgage Disclosure Act.	4th Quarter 1996.
Page No. 5337	FFIEC Policy Statement Prescreening by Financial Institutions and the Fair Credit Reporting Act	4th Quarter 1996.
Page No. 5397	Policy Statement on Discrimination in Lending	4th Quarter 1996.
330	Deposit Insurance Coverage	4th Quarter 1996.
350	Disclosure of Financial and Other Information by FDIC-Insured State Nonmember Banks	4th Quarter 1996.
351	International Operations	4th Quarter 1996.
365	Real Estate Lending Standards	4th Quarter 1996.
Page No. 5045	Income Tax Remittance by Banks to Holding Company Affiliates	4th Quarter 1996.
Page No. 5063	Statement of Policy on Supervision of U.S. Branches and Agencies of Foreign Banks	4th Quarter 1996.
Page No. 5213	Uniform Interagency Consumer Compliance Rating System	4th Quarter 1996.
Page No. 5302.01	Statement of Policy Providing Guidance on External Auditing Procedures for State Nonmember Banks.	4th Quarter 1996.
Page No. 5359	Statement of Policy on Foreclosure Consent and Redemption Rights	4th Quarter 1996.
Page No. 5367	Interagency Policy Statement on Coordination and Communication Between External Auditors and Examiners.	4th Quarter 1996.
Page No. 5165	Policy Statement on Community Reinvestment Act	3rd Quarter 1997.
Page No. 5205	Community Reinvestment Act Information Statement	3rd Quarter 1997.
Page No. 5227	Revised Uniform Interagency Community Reinvestment Act Assessment Rating System	3rd Quarter 1997.
Page No. 5309	Statement of the Federal Financial Supervisory Agencies Regarding the Community Reinvestment Act.	3rd Quarter 1997.
Page No. 5339	Federal Financial Institutions Examination Council Community Reinvestment Act Policy Statement on Analyses of Geographic Distribution of Lending.	3rd Quarter 1997.

Dated: November 28, 1995.
Federal Deposit Insurance Corporation.
Jerry L. Langley,
Executive Secretary.
[FR Doc. 95–29541 Filed 12–5–95; 8:45 am]
BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 213

[Regulation M; Docket No. R–0892 and Docket No. R–0893]

Consumer Leasing; Extension of Comment Period

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule and official staff interpretation; extension of comment period.

SUMMARY: On September 20, 1995, the Board published a request for comment on proposed amendments to Regulation M, which implements the Consumer Leasing Act (60 FR 48752). At that time, the Board also proposed revisions to the official staff commentary to Regulation M, which were published in the same issue of the **Federal Register** (60 FR 48769). The Consumer Leasing Act and Regulation M require lessors to provide uniform cost and other disclosures about consumer lease transactions. The Board's proposal contains several substantive amendments to the regulation and would also simplify and clarify its provisions. In order to obtain additional views on the proposal from individual consumers, the Board has extended the public comment period for 90 days. The comment period for the proposed revisions to the commentary is similarly extended for 90 days.

DATES: Comments must be received by February 15, 1996.

ADDRESSES: Comments should refer to Docket No. R–0892 and Docket No. R–0893, and be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. Comments also may be delivered to room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street NW., (between Constitution Avenue and C Street) any time. Comments may be inspected in room MP–500 of the Martin Building between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding the availability of information.

FOR FURTHER INFORMATION CONTACT: Kyung H. Cho-Miller, Obrea O. Poindexter, or W. Kurt Schumacher, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–2412 or 452–3667. For users of Telecommunications Device for the Deaf (TDD), please contact Dorothea Thompson at (202) 452–3544.

SUPPLEMENTARY INFORMATION: The Consumer Leasing Act (CLA), 15 U.S.C. 1667–1667e, was enacted into law in 1976 as an amendment to the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.* The Board was given rulewriting authority, and its Regulation M (12 CFR part 213) implements the CLA. An official staff commentary that interprets the regulation has also been published (Supplement I–CL–1 to 12 CFR 213).

The CLA generally governs consumer leases of personal property involving $25,000 or less and a term of more than four months. An automobile lease is the most common type of consumer lease covered by the CLA. Like the credit provisions of the TILA, the CLA requires lessors to provide uniform cost and other disclosures in consumer lease transactions and lease advertising. Prior to entering into a lease agreement, lessors must give consumers fifteen to twenty disclosures, including the amount of initial charges to be paid, an identification of leased property, a payment schedule, the responsibilities for maintaining the leased property, and the liability for terminating a lease early.

The Board's Regulatory Planning and Review Program calls for the periodic review of Board regulations with four goals in mind: To clarify and simplify regulatory language; to determine whether regulatory amendments are needed to address technological and other developments; to reduce undue regulatory burden on the industry; and to delete obsolete provisions. On September 20, 1995, the Board published proposed revisions to Regulation M for comment (60 FR 48752). The proposal contains several substantive revisions to the regulation, for example: additional disclosure requirements about early termination charges, the gross cost of leases, the residual value, and the estimated lease charge; a requirement that certain leasing disclosures be segregated from other information; and pursuant to a statutory change, revisions to the advertising provisions for radio and television. The proposal also simplifies the language and format of the regulation to state the requirements more clearly.

The Board is extending the comment period until February 15, 1996, in order to obtain views on the proposals from consumers who have experience in leasing or are interested in leasing, by inviting certain individuals to participate in focus groups. The focus group participants will be asked to address key elements of the Board's proposed amendments to Regulation M and to provide comments on the proposed consumer leasing forms.

During the extension period, the Board's staff will undertake its review and analysis of the comments that have already been filed. The comment period is being extended primarily for the purpose of conducting these focus group interviews. Other members of the public may submit comments during this period, but they are encouraged to submit them as soon as possible. The Board does not expect this extension to delay the implementation of the final rule. The Board anticipates that revisions to Regulation M and the official staff commentary will be adopted in final form in the second quarter of 1996.

Board of Governors of the Federal Reserve System, November 30, 1995.
William W. Wiles,
Secretary of the Board.
[FR Doc. 95–29697 Filed 12–5–95; 8:45 am]
BILLING CODE 6210–01–P

12 CFR Part 230

[Regulation DD; Docket No. R–0904]

Truth in Savings

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule; official staff interpretation.

SUMMARY: The Board is publishing for comment proposed revisions to the official staff commentary to Regulation DD (Truth in Savings). The commentary applies and interprets the requirements of Regulation DD. The proposed revisions would clarify regulatory provisions or provide further guidance on issues of general interest, such as when credited interest becomes part of principal and how leap years affect the calculation of the annual percentage yield.

DATES: Comments must be received on or before February 2, 1996.

ADDRESSES: Comments should refer to Docket No. R–0904, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

Comments also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, NW. (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding the availability of information.

FOR FURTHER INFORMATION CONTACT: Jane Ahrens, Senior Attorney, or Obrea O. Poindexter, or Michael L. Hentrel, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412. For users of Telecommunications Device for the Deaf (TDD) *only*, please contact Dorothea Thompson, at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the Truth in Savings Act (12 U.S.C. 4301 *et seq.*) is to assist consumers in comparing deposit accounts offered by depository institutions. The act requires institutions to disclose fees, the interest rate, the annual percentage yield (APY), and other account terms whenever a consumer requests the information and before an account is opened. Fees and other information also must be provided on any periodic statement the institution sends to the consumer. Rules are set forth for deposit account advertisements and advance notices to account holders of adverse changes in terms. The act restricts how institutions must determine the account balance on which interest is calculated. The act is implemented by the Board's Regulation DD (12 CFR part 230). The regulation authorizes the issuance of official staff interpretations of the regulation.

The Board is publishing proposed amendments to the commentary to Regulation DD, which provides guidance to depository institutions in applying the regulation to specific transactions and is a substitute for individual staff interpretations. The commentary is updated periodically to address significant questions that arise. The Board expects to adopt the commentary in final form by April 1996 with a six-month time period for optional compliance and a mandatory compliance date of October 1996.

On January 26, 1995, the Board published a proposal to amend the regulation's rules for calculating the APY (60 FR 5142). The Congress is considering legislation that would repeal several provisions of the Truth in Savings Act, including those calling for an APY. The Board has deferred action on the proposal, pending the Congress's resolution of the legislative proposals.

II. Proposed Commentary

Section 230.2—Definitions

(2)(f) Bonus

Comment 2(f)–2 provides additional guidance regarding bonuses. The proposed comment clarifies the treatment of coupons. It also codifies guidance provided in the supplementary information accompanying the initial rulemaking (57 FR 43337, published September 21, 1992) concerning items given or offered to third parties.

2(u) Time Account

Proposed comment 2(u)–3 clarifies that an interest-bearing account meets the definition of a time account if the amount of the early withdrawal penalty is equal to at least seven days' interest for withdrawals during the first six days the account is opened and the account has a maturity of at least seven days. Thus, the Board believes that where a depository institution imposes a dollar amount as its early withdrawal penalty (assessed during the first six days an account is opened) on an interest-bearing account, rather than applying a periodic rate to a balance ("interest,"), the fixed-dollar penalty is the functional equivalent of interest.

Section 230.7—Payment of Interest

7(b) Crediting and Compounding Policies

Comment 7(b)–4 addresses crediting and compounding policies. The Board believes institutions may choose any crediting frequency. However, once interest is credited by posting interest to an account it becomes part of the principal, and if interest remains in the account, interest must accrue on those funds. The Board believes the act requires that once interest is credited to an account, institutions must calculate interest on the full principal in the account. For example, assume a consumer earns $5 in interest on a $1,000 balance for the month of January. If the institution credits interest monthly (in the example, at the end of January) and does not pay the interest by check or transfer to another account, the institution must accrue interest on $1,005 for the month of February. Comment 7(b)–4 would clarify that interest cannot be credited by posting to a consumer's account without becoming part of the principal.

Appendix A—Annual Percentage Yield Calculation

Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes

Part II. Annual Percentage Yield Earned for Periodic Statements

Comment app. A.II.A.–2 provides additional guidance on rounding the interest earned figure of the annual percentage yield earned. Proposed comment app. A.II.–3 provides additional guidance on calculating interest and the annual percentage yield earned in a leap year.

III. Form of Comment Letters

Comment letters should refer to Docket No. R–0904, and, when possible, should use a standard courier typeface with a type size of 10 or 12 characters per inch. This will enable the Board to convert the text into machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Comments may also be submitted on 3½ inch or 5¼ inch computer diskettes in any IBM-compatible DOS-based format, if accompanied by an original document in paper form.

List of Subjects in 12 CFR Part 230

Advertising, Banks, banking, Consumer protection, Federal Reserve System, Reporting and recordkeeping requirements, Truth in savings.

Certain conventions have been used to highlight the proposed revisions to the regulation. New language is shown inside bold-faced arrows, while language that would be deleted is set off with bold-faced brackets. Comments are numbered to comply with new **Federal Register** publication rules.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 230 as follows:

PART 230—TRUTH IN SAVINGS (REGULATION DD)

1. The authority citation for part 230 would continue to read as follows:

Authority: 12 U.S.C. 4301 *et seq.*

2. In Supplement I to part 230, under Section 230.2 Definitions., the following amendments would be made:

a. Under *(f) Bonus*, paragraph 1. would be revised, paragraphs 2. through 4. would be redesignated as paragraphs 3. through 5., respectively, and a new paragraph 2. would be added; and

b. Under *(u) Time account*, a new paragraph 3. would be added.

The revisions and additions would read as follows:

Supplement I to Part 230—Official Staff Interpretations

* * * * *

Section 230.2 Definitions

* * * * *

(f) Bonus.

1. ►General Rule◄ **[**Examples**]** Bonuses include items of value, other than interest, offered as incentives to consumers, such as an offer to pay the final installment deposit for a holiday club account. **[**Items that are not a bonus include discount coupons for goods or services at restaurants or stores.**]**

►2. *Examples of Excluded Items.* Items that are not bonuses include:

i. Discount coupons distributed by institutions for goods or services at restaurants or stores where the consumer must pay a sum to the restaurant or store to receive the benefit of the coupon

ii. Items of value given to a third party by an institution when a consumer opens, maintains, or renews an account—such as donations made to a charitable organization.◄

* * * * *

(u) Time account

* * * * *

►3. Fee for early withdrawal. Time accounts include interest-bearing accounts with a maturity of at least seven days that impose a dollar amount for withdrawals during the first six days after the account is opened that is equal to at least seven days' interest.◄

* * * * *

3. In Supplement I to part 230, under *Section 230.7 Payment of interest*, the following amendments would be made:

a. Under *(a)(1) Permissible methods*, paragraph 4. would be revised; and

b. Under (b) *Compounding and crediting policies*, a new paragraph 4. would be added.

The revisions and additions would read as follows:

* * * * *

Section 230.7 Payment of Interest

* * * * *

(a)(1) Permissible methods.

* * * * *

4. *Leap year.* Institutions may apply a daily rate of 1/366 or 1/365 of the interest rate for 366 days in a leap year, if the account will earn interest for February 29. ►"Leap year" is a calendar year in which February 29 occurs. For example, if the term of a time account includes days in a nonleap year but extends through February 29 of a leap year, the institution must use a daily rate of 1/365 (or a greater daily rate such as 1/360) each day the account is open in the nonleap year.

* * * * *

(b) Compounding and crediting policies.

* * * * *

►4. *Crediting and accrual of interest.* Once interest is credited to an account it becomes part of the principal on which an institution must accrue interest.►

* * * * *

4. In Supplement I to part 230, under Appendix A, the following amendments would be made:

a. Under *Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes*, a new paragraph 2. would be added; and

b. Under *Part II. Annual Percentage Yield Earned for Periodic Statements*, under *A. General Formula*, paragraph 2. would be revised, and a new paragraph 3. would be added.

The additions and revisions would read as follows:

* * * * *

Appendix A to Part 230—Annual Percentage Yield Calculation

Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes

* * * * *

►2. *Leap year.* Institutions that use a daily rate of 1/366 to pay interest on an account during a leap year may calculate the annual percentage yield using 365 or 366 days in a leap year, as follows:

i. Institutions may use 365 days in all cases.

ii. For time accounts, institutions must use 365 if the account term includes days in a nonleap year.◄

Part II. Annual Percentage Yield Earned for Periodic Statements

* * * * *

A. General Formula

* * * * *

2. *Rounding.* The interest earned figure used to calculate the annual percentage yield earned must be rounded to two decimals and reflect the amount actually paid, if at the end of the statement period the institution only accrues interest on two decimals. For example►:◄**[**, if**]**

►i. If◄ the interest earned for a statement period is $20.074 and the institution pays the consumer $20.07, the institution must use $20.07 (not $20.074) to calculate the annual percentage yield earned ►if the institution does not accrue interest on the $20.074 if interest is credited to the account, or on the $.004 if interest is paid by check or transfer to another account for the next statement period◄.

►ii. If an institution accrues interest on the .004 for the next statement period, $20.074 may be used to calculate the annual percentage yield earned for the statement period.

iii.◄ For accounts paying interest based on the daily balance method that compound and credit interest quarterly, and send monthly statements, the institution may, but need not, round accrued interest to two decimals for calculating the annual percentage yield earned on the first two monthly statements issued during the quarter. **[**However, on the quarterly statement the interest earned figure must reflect the amount actually paid**]**.

►3. *Leap year.* Institutions that use a daily rate of 1/366 to pay interest on an account during a leap year may calculate the annual percentage yield earned using 365 or 366 days during the leap year.◄

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, December 1, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29712 Filed 12–5–95; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AWP–41]

Proposed Establishment of Class E Airspace; North Las Vegas Air Terminal, NV.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a Class E airspace area at North Las Vegas Air Terminal, Las Vegas, NV. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 12 has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at North Las Vegas Air Terminal, Las Vegas, NV.

DATES: Comments must be received on or before January 5, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. 95–AWP–41, Air Traffic Division, PO Box 92007, Worldway Postal Center, Los Angeles, California, 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California, 90261.

An informal docket may also be examined during normal business at the Office of the Manger, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation

Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310)–725–6533.

SUPPLEMENTARY INFORMATION:

Comment Invited

Interest parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 95–AWP–41." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a Class E airspace area at North Law Vegas Air Terminal, Las Vegas NV. The development of a GPS SIAP at North Las Vegas Air Terminal has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the GPS RWY 12 SIAP at North Las Vegas Air Terminal, Las Vegas, NV. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.09C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

AWP NV E5 North Las Vegas Air Terminal, NV [New]

North Las Vegas Air Terminal, NV
(Lat. 36°12'45" N, long. 115°11'49" W).

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the North Las Vegas Air Terminal, excluding that portion within the Las Vegas, NV, Class B airspace area.

* * * * *

Issued in Los Angeles, California, on November 16, 1995.

James H. Snow,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 95–29351 Filed 12–5–95; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 303

Rules and Regulations Under the Textile Fiber Products Identification Act

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On January 27, 1992, Courtaulds Fibers, Inc. ("Courtaulds") applied to the Federal Trade Commission ("the Commission") requesting establishment of a new generic name and definition for a fiber it manufactures. It recommended "lyocell" be adopted as the new generic name for this fiber. The application was filed pursuant to Rule 8 (16 CFR 303.8) of the Rules and Regulations Under the Textile Fiber Products Identification Act, 15 U.S.C. 70 *et seq.*, and Subpart C of Part 1 of the Commission's Rules of Practice, 16 CFR 1.26. In the application Courtaulds stated that its cellulosic fiber differs in kind and chemical structure from any of the existing fiber definitions of Rule 7 (16 CFR 303.7).

Commission staff, with the assistance of an expert on textiles, after review of Courtauld's application, determined that various tests were necessary in order to evaluate whether lyocell was, in fact, a new generic fiber. Courtaulds performed these tests using the procedures and under the conditions outlined by the textile expert. In March 1995, Courtaulds submitted the results of these tests, as well as other materials relating to its application.

Although the Commission has determined that the proposed new fiber falls within the existing Rule 7(d) (16 CFR 303.7(d)) definition of "rayon," the Commission believes it is in the public interest to amend the Rule to recognize the fiber's unique characteristics.

Rule 7(d) currently defines "rayon" as: a manufactured fiber composed of regenerated cellulose, as well as manufactured fibers composed of regenerated cellulose in which substituents have replaced not more than 15% of the hydrogens of the hydroxyl groups.

Based on its review of the Courtaulds application and related materials, the Commission proposed to retain the current Rule 7(d) definition and to add the following sentence: Where the fiber is composed of cellulose precipitated from an organic solution in which no substitution of the hydroxyl groups takes place and no chemical intermediates are formed, the term *lyocell* may be used as a generic description of the fiber.

The Commission now solicits comments as to whether Rule 7(d) should be amended and, if so, the form of such an amendment.

DATE: Written comments will be accepted until February 5, 1996.

ADDRESS: Comments and other submissions should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth and Pennsylvania Avenue NW., Washington, DC 20580. Submissions should be identified as "Rule 7(d) Under the Textile Act—Comment."

FOR FURTHER INFORMATION CONTACT: Bret S. Smart, Program Advisor, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Boulevard, #13209, Los Angeles, CA 90024, (310) 235–7890.

SUPPLEMENTARY INFORMATION:

Section A. Background

Rule 6 (16 CFR § 303.6) of the Rules and Regulations Under the Textile Act requires covered persons to use the generic names of the fibers contained in covered textile fiber products when making required disclosures of the fiber content of the products. Rule 7 (16 CFR 303.7) sets forth the generic names and definitions that the Commission has established for manufactured fibers. These generic manufactured fibers have been found by the Commission to be individually unique and distinctive by virtue of their chemical composition and physical properties. Rule 8 (16 CFR 303.8) sets the procedures for establishing new generic names. Upon receipt of an application for a new generic name, the Commission must, within 60 days, either deny the application or assign to the fiber a numerical or alphabetical symbol for temporary use during further consideration of the application.

Courtaulds submitted its application requesting establishment of "lyocell" as a new generic fiber name on January 27, 1992. After an initial analysis the Commission granted Courtaulds the designation "CF0001" for temporary use in identifying the fiber until the final determination is made as to the disposition of the application. Commission staff, with the assistance of an expert on textiles, determined that various tests were necessary in order to evaluate whether lyocell was, in fact, a new generic fiber. Courtaulds performed these tests using the procedures and under the conditions outlined by the textile expert. In March 1995, Courtaulds submitted the results of these tests, as well as other materials relating to its application. The application and related materials have been placed on the rulemaking record.

The effect of the proposed amendment would be to allow use of the name "lyocell" as an alternative to the generic name "rayon" for the subcategory of rayon fibers meeting the further criteria contained in the sentence added by the proposed amendment. Within the established 21 generic names for manufactured fibers, there are presently two cases where such generic name alternatives may be used. Specifically, pursuant to Rule 7(e) (16 CFR 303.7(e)), within the generic category "acetate," the term "tricacetate" may be used as an alternative generic description for a specifically defined subcategory of acetate fiber. And pursuant to Rule 7(j) (16 CFR 303.7(j)), within the generic category "rubber," the term "lastrile" may be used as an alternative generic description for a specifically defined subcategory of rubber fiber.

The Commission takes this opportunity to clarify its policy concerning the criteria by which it will decide the disposition of petitions filed under Rule 8 of the Textile Act Rules, 16 CFR 303.8 (1995). In 1973, at the conclusion of the rulemaking that led to creation of the new generic name "aramid," the Commission declared the following policy for adopting generic fiber names:

> [T]he Commission, in the interest of elucidating the grounds on which it has based this decision and shall base future decisions as to the grant of generic names for textile fibers, sets out the following criteria for grant of such generic names.
>
> 1. The fiber for which a generic name is requested must have a chemical composition radically different from other fibers, and that distinctive chemical composition must result in distinctive physical properties of significance to the general public.
>
> 2. The fiber must be in active commercial use or such use must be immediately foreseen.
>
> 3. The grant of the generic name must be of importance to the consuming public at large, rather than to a small group of knowledgeable professionals such as purchasing officers for large Government agencies.
>
> The Commission believes it is in the public interest to prevent the proliferation of generic names, and will adhere to a stringent application of the above-mentioned criteria in consideration of any future applications for generic names and in a systematic review of any generic names previously granted which no longer meet these criteria.

As exemplified by today's action and reflected in this notice, the Commission generally reaffirms its 1973 criteria. In addition, it notes that where appropriate, in considering applications for new generic names for fibers that are of the same general chemical composition as those for which a generic name already has been established, rather than of a chemical composition that is radically different, but that have distinctive properties of importance to the general public as a result of a new method of manufacture or their substantially differentiated physical characteristics, such as their fiber structure, it may allow such fiber to be designated in required information disclosures by either its generic name, or alternatively, by its "subclass" name. The Commission will consider this disposition when the distinctive feature or features of the subclass fiber make it suitable for uses for which other fibers under the established generic name would not be suited or would be significantly less well suited.

The Commission believes that Courtaulds' current application describes a subclass of generic rayon fibers with significant distinctions to consumers resulting from physical characteristics of the fiber and its new mode of manufacture that meet the above standard for allowing designation by the subclass name "lyocell." Courtaulds' application and other documents and materials related to the petition describe the lyocell fiber, its manufacture and possible uses as follows:

Lyocell fiber results from the dissolution of cellulose into an aqueous solution of N-methyl morpholine oxide and the precipitation of the fiber out of solution. This process is unique among methods used to manufacture other existing rayons. As a result, the molecular structure of lyocell fiber is radically different from that of other rayons in that it has a substantially

higher degree of polymerization and greater crystallinity. These differences induce high wet and dry tenacity as well as high initial wet modulus in lyocell fiber. Consequently, garments made from the fiber are highly resistant to shrinkage and wrinkling and therefore do not require drycleaning, unlike other rayons. In addition to its use in apparel, Courtaulds maintains that lyocell may be used to produce biodegradable paper and hydro-entangled nonwoven products since, unlike other rayons, it fibrillates upon beating.

Section B. Invitation to Comment

In today's notice, the Commission is soliciting comments on all aspects of the appropriateness of the proposed amendment to Rule 7(d). Before adopting this proposed amendment, the Commission will give consideration to any written comments and materials submitted to the Secretary of the Commission within the time period stated above. Submissions will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and Commission Regulations on normal business days between the hours of 8:30 a.m. and 5 p.m. at the Public Reference Room, Room 130, Federal Trade Commission, 6th & Pennsylvania Avenue NW., Washington, DC 20580.

Section C. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory analysis, 5 U.S.C. 603-604, are not applicable to this document because it is believed the amendment, if promulgated, will not have a significant economic impact on a substantial number of small entities. In considering the economic impact of the proposed amendment on manufacturers and retailers, the Commission notes that the amendment will impose no obligations, penalties, or costs. The amendment would simply allow covered companies to use the term "lyocell" as an alternative generic description for "rayon" for a well-defined subcategory of rayon fibers. The amendment would impose no additional labeling requirements nor would it mandate any changes in labeling.

To ensure, however, that no substantial economic impact is being overlooked, public comment is requested on the effect of the proposed amendment on costs, profit, competitiveness, and employment in small entities. Subsequent to the receipt of public comments, the Commission will decide whether the preparation of a final regulatory flexibility analysis is warranted. Accordingly, based on available information, the Commission hereby certifies, pursuant to the Regulatory Flexibility Act, 5 U.S.C. § 605(b), that the proposed amendment will not have a significant economic impact on a substantial number of small entities. This notice serves as certification to that effect for the purposes of the Small Business Administration.

Section D. Paperwork Reduction Act

This proposed amendment does not constitute a "collection of information" under the Paperwork Reduction Act of 1995, P.L. 104-13, 109 Stat. 163, and the implementing regulation, 5 CFR Part 1320 *et seq.*

The generic name petition request has already been submitted to the OMB and has been assigned a control number, 3084-0047.

List of Subjects in 16 CFR Part 303

Labeling, Textiles, Trade practices.

Authority: Sec. 7(c) of the Textile Fiber Products Identification Act, 15 U.S.C. 7(c); Sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95-28555 Filed 12-5-95; 8:45 am]

BILLING CODE 6750-01-M

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulation No. 4]

RIN 0960-AE20

Living In The Same Household And The Lump-Sum Death Payment

AGENCY: Social Security Administration.

ACTION: Proposed rules.

SUMMARY: We propose to revise our rules on "living in the same household" (LISH) and the lump-sum death payment (LSDP) to bring them into accord with legislation that restricted the payment of the LSDP. This revision will include the removal from our regulations of several outdated sections and paragraphs. We also propose to incorporate into our rules the policy established previously in a Social Security Ruling (SSR) that interpreted the definition of LISH to allow for extended separations that are based solely on medical reasons.

DATES: To be sure that your comments are considered, we must receive them no later than February 5, 1996.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966-2830, sent by E-mail to "regulations@ssa.gov", or delivered to the Division of Regulations and Rulings, Social Security Administration, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 A.M. and 4:30 P.M. on regular business days. Comments may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Daniel T. Bridgewater, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-3298 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free number, 1-800-772-1213.

SUPPLEMENTARY INFORMATION:

Background

Prior to passage of the Omnibus Budget Reconciliation Act of 1981, Public Law (Pub. L.) 97-35, the widow(er) of a deceased worker could qualify for the LSDP if he/she had been LISH with the deceased at the time of death or, under certain conditions, if he/she paid the burial expenses of the deceased. Thus, a widow(er) who was not LISH with the deceased could still receive the LSDP if he/she paid the deceased's burial expenses.

Public Law 97-35 redefined who could qualify for the LSDP. Effective September 1, 1981, the LSDP no longer was payable to any individuals, other than those described in Pub. L. 97-35, or to funeral homes.

Under Public Law 97-35, the LSDP is payable to 3 categories of individuals: (1) the surviving spouse of the deceased who was LISH with the deceased at the time of death; (2) a person who is entitled to (or was eligible for) benefits as a widow(er) or mother or father on the deceased's earnings record for the month of death; or (3) a child of the deceased who is entitled to (or was eligible for) benefits on the deceased's earnings record for the month of death.

For those widow(ers) who were not LISH, a possible anomaly was created by the LSDP limitations in Public Law 97-35 and existing regulations. An example of such an anomaly is the following situation.

A worker had been living in a nursing home for 3 years prior to his death because his wife was unable to provide the daily medical care he needed. Until his death, the worker was visited frequently by his wife, who lived in the house to which the worker would have returned if he were able. The widow was receiving a Retirement Insurance Benefit (RIB) which exceeded her late husband's Primary Insurance Amount (PIA). Based on Pub. L. 97-35 and a strict interpretation of the regulatory definition of LISH, this widow would not qualify for the LSDP because she was neither LISH nor entitled to benefits based on her late husband's earnings record. (However, if the widow's RIB did not exceed her late husband's PIA, she would qualify for the LSDP.)

Present Policy

Operating instructions, as well as most of the pertinent regulatory sections, have been changed to reflect the changes in the law established by Public Law 97-35. To qualify as a LISH spouse, the widow(er) and the deceased must have "customarily lived together as husband and wife in the same residence" (§ 404.347). While temporary separations do not necessarily preclude the Social Security Administration (SSA) from considering a couple to be LISH, extended separations (including most that last 6 months or more) generally indicate the couple was not LISH.

However, in order to avoid the possible anomaly discussed above, SSR 82-50 was issued to provide for an exception when an extended separation is based solely on medical reasons. SSR 82-50 states:

> If a husband and wife are (or were) separated and continue(d) to be separated, *solely* for medical reasons, SSA may consider them to be living in the same household even if the separation is (or was) likely to be permanent and there is (or was) little or no expectation of the parties again physically residing together. As long as the spouse who is now applying for the LSDP or spouse's benefits based on a deemed marriage has continued to demonstrate strong personal and/or financial concern for the worker, SSA will assume they would have lived together (absent evidence to the contrary) had the medical reasons not necessitated their separation, and will pay the LSDP or spouse's benefits to the spouse.

Proposed Policy

Since there are still some sections of our regulations that refer to the law on entitlement to the LSDP which predated Public Law 97-35 and since these sections no longer are applicable, we propose to update or remove them. We will eliminate obsolete §§ 404.393, 404.394, 404.395, and 404.765, 404.3(a), 404.612(e), 404.615(b), and 404.2 (a)(2) through (a)(6).

Also, we propose to incorporate the LISH policy interpretation found in SSR 82-50 into our regulations. The proposed policy interpretation will clearly allow for extended separations due to the confinement of either spouse in a nursing home, hospital, or other medical institution. As long as evidence indicates the husband and wife were initially separated, and continue to be separated, solely for medical reasons and would otherwise have resided together, they will be considered to be LISH.

Electronic Version

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9 a.m. on the date of publication in the **Federal Register**. To download the file, modem dial (202) 512-1387. The FBB instructions will explain how to download the file and the fee. This file is in WordPerfect and will remain on the FBB during the comment period.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review.

Regulatory Flexibility Act

We certify that these proposed rules will not have a significant economic impact on a substantial number of small entities since these rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These proposed rules impose no additional reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social security.

Dated: November 27, 1995.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, subparts A, D, G, and H of part 404 of chapter III of title 20 of the Code of Federal Regulations are proposed to be amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

Subpart A—[Amended]

1. The authority citation for subpart A of part 404 is revised to read as follows:

Authority: Secs. 203, 205(a), 216(j), and 702(a)(5) of the Social Security Act (42 U.S.C. 203, 405(a), 416(j), and 902(a)(5)).

§ 404.2 [Amended]

2. Section 404.2 is amended by removing paragraphs (a)(2) through (a)(6) and redesignating paragraph (a)(7) as paragraph (a)(2).

§ 404.3 [Amended]

3. Section 404.3 is amended by removing paragraph (a) and redesignating paragraphs (b) and (c) as paragraphs (a) and (b), respectively.

Subpart D—[Amended]

4. The authority citation for subpart D of part 404 is revised to read as follows:

Authority: Secs. 202, 203 (a) and (b), 205(a), 216, 223, 225, 228(a)-(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403 (a) and (b), 405(a), 416, 423, 425, 428(a)-(e), and 902(a)(5)).

5. Section 404.347 is revised to read as follows:

§ 404.347 "Living in the same household" defined.

Living in the same household means that you and the insured customarily lived together as husband and wife in the same residence. You may be considered to be living in the same household although one of you is temporarily absent from the residence. An absence will be considered temporary if:

(a) It was due to service in the U.S. Armed Forces;

(b) It was 6 months or less and neither you nor the insured were outside of the United States during this time and the absence was due to business, employment, or confinement in a hospital, nursing home, other medical institution, or a penal institution;

(c) It was for an extended separation, regardless of the duration, due to the confinement of either you or the insured in a hospital, nursing home, or other medical institution, if the evidence indicates that you were separated solely for medical reasons and you otherwise would have resided together; or

(d) It was based on other circumstances, and it is shown that you and the insured reasonably could have

expected to live together in the near future.

6. Section 404.390 is amended by revising the second sentence to read as follows:

§ 404.390 General.

* * * If the insured is not survived by a widow(er) who meets this requirement, all or part of the $255 payment may be made to someone else as described in § 404.392.

7. Section 404.392 is amended by revising the section heading and the introductory text of paragraph (a) to read as follows:

§ 404.392 Who is entitled to the lump-sum death payment when there is no widow(er) who was living in the same household.

(a) *General.* If the insured individual is not survived by a widow(er) who meets the requirements of § 404.391, the lump-sum death payment shall be paid as follows:

* * * * *

§ 404.393 [Removed]

8. Section 404.393 is removed.

§ 404.394 [Removed]

9. Section 404.394 is removed.

§ 404.395 [Removed]

10. Section 404.395 is removed.

Subpart G—[Amended]

11. The authority citation for subpart G of part 404 is revised to read as follows:

Authority: Secs. 202 (i), (j), (o), (p), and (r), 205(a), 216(i)(2), 223(b), 228(a), and 702(a)(5) of the Social Security Act (42 U.S.C. 402 (i), (j), (o), (p), and (r), 405(a), 416(i)(2), 423(b), 428(a), and 902(a)(5)).

§ 404.612 [Amended]

12. Section 404.612 is amended by removing paragraph (e) and redesignating paragraphs (f), (g), and (h) as paragraphs (e), (f), and (g), respectively.

§ 404.615 [Amended]

13. Section 404.615 is amended by removing paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

Subpart H—[Amended]

14. The authority citation for subpart H of part 404 is revised to read as follows:

Authority: Secs. 205(a) and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a) and 902(a)(5)).

§ 404.765 [Removed]

15. Section 404.765 is removed.

[FR Doc. 95–29533 Filed 12–5–95; 8:45 am]
BILLING CODE 4190–29–P

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20 CFR Part 416

[Regulation No. 16]

RIN 0960–AE22

Income Exclusions in the Supplemental Security Income Program

AGENCY: Social Security Administration.

ACTION: Proposed rules.

SUMMARY: These proposed supplemental security income (SSI) regulations update existing regulations to reflect the statutory amendment of the exclusion from income of Alaska Longevity Bonus (ALB) payments. They also update existing regulations to reflect the statutory exclusion from income of hostile fire pay received by an SSI claimant or recipient and reflect the current operating procedure of excluding hostile fire pay when determining the countable income of an ineligible spouse or ineligible parent. In addition, they update existing regulations to reflect the current operating procedure of excluding impairment-related work expenses, interest on excluded burial funds, appreciation in the value of excluded burial arrangements, and interest on the value of excluded burial space purchase agreements, when determining the countable income of an ineligible spouse or ineligible parent.

DATES: To be sure that your comments are considered, we must receive them no later than February 5, 1996.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966–2830, sent by E-mail to "regulations@ssa.gov" or delivered to 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 a.m. and 4:30 p.m. on regular business days.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1762.

SUPPLEMENTARY INFORMATION: For purposes of the SSI program, income is defined in our regulations to mean anything that is received in cash or in kind which can be used to meet an individual's needs for food, clothing, or shelter. These proposed regulations include certain provisions which address items that are excluded from income.

Alaska Longevity Bonus Payments

Under section 1612(b)(2)(B) of the Social Security Act (the Act), Alaska Longevity Bonus (ALB) payments are excluded from income under certain circumstances.

Originally, the ALB program made monthly payments to residents of Alaska who had attained age 65 and had lived in the State continuously for at least 25 years. The SSI income exclusion applied to such payments if made under a program established before July 1, 1973. However, following a decision by the Alaska State Supreme Court that the 25-year residency requirement was unconstitutional, in 1984 the State legislature changed the residency requirement to 1 year.

Concerns were raised that since the revised (1984) ALB program was established after July 1, 1973, the controlling date of the original section 1612(b)(2)(B) provision, payments made under the revised ALB program could no longer be excluded for SSI purposes. Section 2616 of Public Law 98–369 was enacted on July 18, 1984 to address those concerns. Section 2616 amended section 1612(b)(2)(B) of the Act in such a way as to:

- Continue the ALB exclusion for persons who, prior to October 1985, became eligible for SSI and satisfied the 25-year residence requirement of the program as in effect prior to January 1, 1983; and
- Preclude extending the ALB exclusion to ALB payments based on the 1-year residency requirement.

Current regulations at §§ 416.1124(c)(7) and 416.1161(a)(12) follow the wording of the original statutory exclusion in section 1612(b)(2)(B) of the Act. Regulations at § 416.1124(c)(7) presently provide for excluding from the income of a claimant or recipient "[p]eriodic payments made by a State under a program established before July 1, 1973, and based solely on your length of residence and attainment of age 65 * * *." Regulations at § 416.1161(a)(12) presently provide for excluding from the income of an ineligible spouse or ineligible parent "[p]eriodic payments made by a State under a program established before July 1, 1973, and based solely on duration of residence and attainment of age 65 * * *."

The proposed regulations will change the wording of the above referenced regulations so that they conform to the 1984 legislation. The proposed regulatory language will not change current operating procedures since those procedures already conform to the 1984 legislation.

Hostile Fire Pay

Although it is unlikely that an active member of the uniformed services would apply or be eligible for SSI benefits, some military service members have spouses and children who apply for and receive SSI benefits.

Under section 209(d) of the Act, basic pay is the only form of compensation to members of the uniformed services that is treated as wages for title II purposes. Under section 1612(a)(1) of the Act, earned income in the form of wages for SSI purposes is the same as wages for the title II annual earnings test. Therefore, basic pay is the only form of military compensation that is treated as wages, and hence, as earned income, for SSI purposes.

All other forms of compensation to members of the uniformed services are considered unearned income. These other forms of compensation include allowances paid in cash for food, clothing, and shelter; free food, clothing, and shelter; and special and incentive pay.

One form of special pay is hostile fire pay, which is authorized under 37 U.S.C. 310. Hostile fire pay is a type of special pay to a service member who, for any month he/she is entitled to basic pay, is:

- Subject to hostile fire or explosion of hostile mines; or
- On duty in an area in which he/she is in imminent danger of being exposed to hostile fire or explosion of hostile mines, *and*

While on duty in that area, other service members in the same area are subject to hostile fire or explosion of hostile mines; or

- Killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action.

Section 13733(b) of the Omnibus Budget Reconciliation Act of 1993 (OBRA), Pub. L. 103–66, amended section 1612(b) of the Act to exclude from income any hostile fire pay received in or after October 1993.

Current regulations do not reflect the exclusion from income of hostile fire pay for eligible individuals, but hostile fire pay has been excluded under SSI operating procedure since October 1, 1993. Moreover, under these instructions, such pay has been excluded in determining the income of ineligible spouses and parents whose income is deemed to eligible individuals.

In addition to adding to the regulations the statutorily required exclusion of hostile fire pay from an eligible individual's income, we propose to include the current operating procedure of excluding hostile fire pay when determining the countable income of an ineligible spouse or ineligible parent. The proposed inclusion reflects the statutory authority granted the Commissioner of Social Security under section 1614(f) (1) and (2) of the Act to waive the deeming of income from an ineligible spouse or parent to an eligible individual when such deeming is determined by the Commissioner of Social Security to be inequitable under the circumstances. By specifically singling out hostile fire pay for exclusion from an eligible individual's income, Congress expressed its intent that receipt of these monies should not have an adverse effect on an individual's SSI eligibility or payment amount. This intent would not be realized if these monies were deemed to an eligible individual. The statutory exclusion of hostile fire pay would have little meaning if not applied to ineligible spouses and parents since, as noted above, it is unlikely that an active member of the uniformed services would be eligible for SSI.

Impairment-Related Work Expenses

Impairment-related work expenses (IRWE) are expenses for items or services which are directly related to enabling a person with a disability to work and which are necessarily incurred by that individual because of a physical or mental impairment as explained at regulations §§ 404.1576 and 416.976.

Prior to December 1, 1990, in determining countable income, an individual's IRWE were deducted from his/her earned income once eligibility was established without using this exclusion. Effective December 1, 1990, section 5033 of Public Law 101–508 amended section 1612(b)(4)(B)(ii) of the Act and liberalized the IRWE exclusion. The legislation allows an individual to use the IRWE exclusion to establish eligibility.

Regulations at § 416.1112(c)(6) recently have been revised to implement changes enacted by section 5033 of Public Law 101–508. These regulatory revisions were published in the **Federal Register** on August 12, 1994, at 59 FR 41400, 41405.

Regulations at § 416.1161(a) list the types of income that are excluded from the income of an ineligible spouse and ineligible parent for deeming purposes. IRWE are not included in this list, but IRWE have been excluded from the income of ineligible spouses and ineligible parents under SSI operating procedures since 1990.

We propose to add to the regulations the current operating procedure which is to exclude IRWE when determining the countable income of an ineligible spouse or ineligible parent for deeming purposes. By specifically singling out IRWE for exclusion from an eligible individual's income, Congress expressed its intent that receipt of these monies should not have an adverse effect on an individual's SSI eligibility or payment amount. This intent would not be realized if these monies were deemed to an eligible individual. The proposed regulations would reflect the statutory authority granted the Commissioner of Social Security under section 1614(f) (1) and (2) of the Act to waive the deeming of income from an ineligible spouse or parent to an eligible individual when such deeming is determined by the Commissioner of Social Security to be inequitable under the circumstances.

Interest and Appreciation in Value of Excluded Burial Funds and Burial Space Purchase Agreements

Effective November 1, 1982, section 185 of Public Law 97–248 amended the Act to provide that any interest earned on excluded burial funds and any appreciation in the value of excluded burial arrangements left to accumulate, may be excluded from income by regulation. Effective April 1, 1990, section 8013 of Pub. L. 101–239 amended the Act to provide that interest earned on the value of agreements representing the purchase of excluded burial spaces is excluded from income if left to accumulate.

Regulations at § 416.1124(c)(9) implement the exclusion of interest earned on excluded burial funds and appreciation in the value of excluded burial arrangements, effective November 1, 1982. Regulations at § 416.1124(c)(15) implement the exclusion of any interest earned on the value of agreements representing the purchase of excluded burial spaces, effective April 1, 1990.

Regulations at § 416.1161(a) (relating to the treatment of income of an ineligible spouse or ineligible parent) do not apply these exclusions for purposes of deeming income, but both types of interest and appreciation have been excluded from the income of ineligible spouses and ineligible parents under SSI operating procedure.

We propose to add to the regulations the current operating procedure which is to exclude interest on burial funds, appreciation in the value of burial arrangements, and interest on the value of burial space purchase agreements,

that are excluded from resources, when determining the countable income of an ineligible spouse or ineligible parent. The proposed regulations would reflect the statutory authority granted the Commissioner of Social Security under section 1614(f) (1) and (2) of the Act to waive the deeming of income from an ineligible spouse or parent to an eligible individual when such deeming is determined by the Commissioner of Social Security to be inequitable under the circumstances. By specifically singling out these monies for exclusion from an eligible individual's income, Congress expressed its intent that receipt of these monies should not have an adverse effect on an individual's SSI eligibility or payment amount. This intent would not be realized if these monies were deemed to an eligible individual.

We are making a technical change to conform the language of § 416.1124(c)(9) to a prior policy change. Effective July 11, 1990, changes related to the SSI burial fund exclusion were published in the **Federal Register** at 55 FR 28373–77. As a result of these changes, regulations at § 416.1231(b)(1) were amended to require that excluded burial funds be kept separate from all other resources not intended for the burial of the individual or spouse. Furthermore, section 416.1231(b)(7) was revised to provide that interest earned on excluded burial funds and appreciation in the value of excluded burial arrangements are excluded from resources if left to accumulate and become part of the separate burial fund.

Current regulations at § 416.1124(c)(9) provide that we will not count as income interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become part of the separately identifiable burial fund. We are conforming this regulation to the prior regulatory change requiring the burial fund to be separate from other nonburial-related assets and not merely separately identifiable.

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9 a.m. on the date of publication in the **Federal Register**. To download the file, modem dial (202) 512–1387. The FBB instructions will explain how to download the file and the fee. This file is in WordPerfect format and will remain on the FBB during the comment period.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

We certify that these rules will not have a significant economic impact on a substantial number of small entities since these rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These regulations will impose no additional reporting and recordkeeping requirements subject to Office of Management and Budget clearance.

(Catalog of Federal Domestic Assistance: Program No. 96.006–Supplemental Security Income.)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and Recordkeeping Requirements, Supplemental Security Income (SSI).

Approved: November 27, 1995.

Shirley Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, part 416, subpart K, of chapter III of title 20 of the Code of Federal Regulations is proposed to be amended as follows:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart K—[Amended]

1. The authority citation for subpart K of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66 (87 Stat 154).

2. Section 416.1124 is amended by revising paragraphs (c)(7) and (c)(9), by removing the "and" at the end of paragraph (c)(15) and the period at the end of paragraph (c)(16) and by adding "; and" at the end of paragraph (c)(16) and new paragraph (c)(19) to read as follows:

§ 416.1124 Unearned income we do not count.

* * * * *

(c) * * *

(7) Alaska Longevity Bonus payments made to an individual who is a resident of Alaska and who, prior to October 1, 1985: met the 25 year residency requirement for receipt of such payments in effect prior to January 1, 1983; and, was eligible for SSI;

* * * * *

(9) Any interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become a part of the separate burial fund. (See § 416.1231 for an explanation of the exclusion of burial assets.) This exclusion from income applies to interest earned on burial funds or appreciation in the value of excluded burial arrangements which occur beginning November 1, 1982, or the date you first become eligible for SSI benefits, if later;

* * * * *

(19) Hostile fire pay received from one of the uniformed services pursuant to 37 U.S.C. 310.

3. Section 416.1161 is amended by revising paragraph (a)(12), by removing the period at the end of paragraph (a)(20) and adding a semi-colon in its place and by adding new paragraphs (a)(23), (a)(24) and (a)(25) to read as follows:

§ 416.1161 Income of an ineligible spouse, ineligible parent, and essential person for deeming purposes.

* * * * *

(a) * * *

(12) Alaska Longevity Bonus payments made to an individual who is a resident of Alaska and who, prior to October 1, 1985: met the 25 year residency requirement for receipt of such payments in effect prior to January 1, 1983; and, was eligible for SSI;

* * * * *

(23) Hostile fire pay received from one of the uniformed services pursuant to 37 U.S.C. 310;

(24) Impairment-related work expenses, as described in § 404.1576 of part 404, incurred and paid by an ineligible spouse or parent, if the ineligible spouse or parent receives disability benefits under title II of the Act; and

(25) Interest earned on excluded burial funds and appreciation in the value of excluded burial arrangements which are left to accumulate and become part of separate burial funds, and interest accrued on and left to accumulate as part of the value of excluded agreements representing the purchase of excluded burial spaces (see § 416.1124(c) (9) and (15)).

* * * * *

[FR Doc. 95–29535 Filed 12–5–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 667

[FHWA Docket No. 95–28]

RIN 2125–AD59

Elimination of Regulations Concerning the Public Lands Highways Discretionary Funds Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM) to remove a regulation.

SUMMARY: The FHWA is proposing to eliminate its regulations outlining the procedures to be followed in administering the Public Lands Highways (PLH) discretionary funds program. These provisions have become outdated and unnecessary as a result of amendments made by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102–240, 105 Stat. 1914) to the statutory provisions in title 23 of the United States Code (U.S.C.) which authorize distribution of some of the funds appropriated for Public Lands Highways among the States on the basis of need. These amendments to title 23, U.S.C., significantly modify and clarify the eligibility criteria and selection process of the PLH discretionary program; as a result, the FHWA regulations concerning the PLH discretionary program have become obsolete. Consequently, in the interests of streamlining FHWA regulations and providing more flexibility in the administration of this program, the FHWA is proposing to eliminate these regulations.

DATES: Comments must be received on or before February 5, 1996.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 95–28, Federal Highway Administration, Room 4232, HCC–10, Office of the Chief Counsel, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notice of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Mohan P. Pillay, Office of Engineering, HNG–12, (202) 366–4655 or Mr. Wilbert Baccus, Office of the Chief Counsel, HCC–32, (202) 366–1397, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Through the PLH Discretionary Program, the FHWA administers the allocation of Federal funds in the manner authorized by § 202(b) of title 23 of the U.S.C. "among those States having unappropriated or unreserved public lands, nontaxable Indian lands or other Federal reservations." Approximately $56 million was made available to the States for the PLH Discretionary Program in FY 1995. The statute directs that 34 percent of the sums appropriated for public lands highways in a given fiscal year is to be allocated on the basis of need among qualifying States that apply for such funds through their State highway departments. (23 U.S.C. 202(b).) The statute also provides that these PLH funds are available for any kind of transportation project eligible for assistance under title 23, U.S.C., that is within or adjacent to or provides access to public lands areas. (23 U.S.C. 204(b).)

Although Congress did not direct that regulations be promulgated to implement the funding scheme established by this statute, the FHWA did promulgate regulations which outline the procedures for administering the PLH discretionary program. These regulations, for the most part, merely reiterate the application process and selection criteria outlined in the statute. For instance, the statute establishes that PLH discretionary funds are to be distributed on the basis of need among the States that apply through their State highway departments and that preference is to be given to those projects which are significantly impacted by Federal land and resource management activities. Part 667 restates these provisions, but it also supplements the statutory provisions with overly detailed descriptions of factors to be considered in the selection process and of the steps taken in the application and selection procedure. In addition, part 667 restates some of the factors established in the statute as defining the eligibility of certain projects for these funds.

The eligibility criteria and selection process of the PLH discretionary program were modified and greatly clarified by amendments to title 23, U.S.C., that were enacted as part of the ISTEA (Pub. L. 102–240, 105 Stat. 1914). One change resulting from these amendments is that title 23, U.S.C., now provides a more detailed explanation of the kinds of projects which are eligible for PLH discretionary funds. The regulation delineating eligibility criteria in part 667 states that funds may be used for "engineering and construction of the mainline roadway including adjacent vehicular parking areas and construction elements related to scenic easements." (§ 667.7.) After the ISTEA amendments, title 23, U.S.C., now includes a provision entitled "Eligible Projects" which lists adjacent vehicular parking areas and acquisition of necessary scenic easements as two of seven types of projects qualifying for PLH funds.

These PLH regulations have also now become inconsistent with title 23, U.S.C., as a result of the ISTEA amendments. Section 667.7 of the regulations states that "funds may not be used for right-of-way costs, maintenance or other ancillaries such as sanitary, water and fire control facilities"; however, the list of eligible projects added to title 23, U.S.C. by the ISTEA includes, "construction and reconstruction of roadside rest areas including sanitary and water facilities." Thus, in general, the provisions regarding eligibility for PLH discretionary funds currently included in the FHWA regulations have become both outdated and unnecessary.

Amendments to title 23, U.S.C., added by the ISTEA also modify the selection process and the factors that will be taken into account in allocating PLH discretionary funds among the States. As a result of the ISTEA amendments, title 23, U.S.C., now states that preference will still be given to projects which are significantly impacted by Federal land and resource management activities, but now such preference will be given only if these projects are proposed by a State which contains at least 3 percent of the total public lands in the Nation. In light of this statutory change, the regulations in part 667 have become outdated because they provide that all projects which significantly benefit or improve Federal land and resource management will be given preference.

Consequently, as this examination of part 667 reveals, these regulations concerning the PLH discretionary program are unnecessary and in many instances either straightforwardly redundant or outdated because they have become inconsistent with the

authorizing statute. Therefore, the FHWA is proposing to eliminate part 667 as opposed to amending it to account for the changes brought about by the ISTEA amendments. Elimination of these regulations would provide more flexibility in administration of the PLH discretionary program. In addition, elimination of part 667 would have the effect of further streamlining FHWA regulations in accordance with the objectives of the President's Regulatory Reinvention Initiative.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures)

The FHWA has considered the impact of this document and has determined that it is neither a significant rulemaking action within the meaning of Executive Order 12866 nor a significant rulemaking under the regulatory policies and procedures of the Department of Transportation. This rulemaking would result in the elimination of FHWA regulations regarding administration of the PLH discretionary program. These regulations have become outdated and are unnecessary in light of the fact that the statutory provisions authorizing allocation of these funds adequately delineate the procedures to be used and the factors to be considered in selecting the States that will receive funding. This rulemaking eliminating these obsolete regulations would not cause any significant changes to the amount of funding available under the PLH Discretionary Program or to the process by which applicants are selected to receive funding. Thus, it is anticipated that the economic impact of this rulemaking will be minimal. In addition, it will not create a serious inconsistency with any other agency's action or materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs; nor will elimination of these regulations raise any novel legal or policy issues. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities and has determined that elimination of the FHWA regulations regarding administration of PLH discretionary funds will not have a significant economic impact on a substantial number of small entities. Elimination of these regulations will not affect the amount of funding available to the States through the PLH Discretionary Program or the procedures used to select the States eligible to receive these funds. Furthermore, States are not included in the definition of "small entity" set forth in 5 U.S.C. 601. Therefore, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not raise sufficient federalism implications to warrant the preparation of a federalism assessment. Elimination of these obsolete FHWA regulations concerning the PLH Discretionary Program would not preempt any State law or State regulation. No additional costs or burdens would be imposed on the States as a result of this action, and the States' ability to discharge traditional State governmental functions would not be affected by this rulemaking.

Executive Order 12372

Catalog of Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not create a collection of information requirement for the purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The FHWA has analyzed this rulemaking for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this action would not have any effect on the quality of the environment. Therefore an environmental impact statement is not required.

Regulatory Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 667

Highways and roads, Public lands highway funds.

Issued on: November 27, 1995.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing and under the authority of 23 U.S.C. 202, 204, and 315, the FHWA proposes to remove and reserve part 667 of title 23, Code of Federal Regulations, as set forth below.

PART 667—PUBLIC LANDS HIGHWAYS FUNDS [REMOVED AND RESERVED]

1. Part 667 is removed and reserved.

[FR Doc. 95–29647 Filed 12–5–95; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915 and 1926

[Docket No. H–071B]

Occupational Exposure to Methylene Chloride

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed rule; Limited reopening of the rulemaking record.

SUMMARY: On October 24, 1995, the Occupational Safety and Health Administration (OSHA) reopened the record (60 FR 54462) for the proposed revision of the regulation of methylene chloride (MC) (56 FR 57036, November 7, 1991) to incorporate recently concluded research on MC carcinogenicity.

The studies incorporated in the October 24 notice address the mechanism by which MC metabolites induce lung and liver cancer in mice and draw conclusions regarding the relevance of the mouse data to the assessment of human cancer risk. OSHA determined that those studies are relevant to full consideration of concerns raised by the MC rulemaking and reopened the record until November 24, 1995, to allow the public an opportunity to comment.

The October 24 notice generated substantially more interest than OSHA anticipated and the Agency is concerned that the initial 30 days was insufficient to allow full participation by interested parties. Accordingly, OSHA is reopening the comment period until December 29, 1995.

DATES: Written comments on the materials incorporated through the October 24, 1995 notice of reopening must be postmarked by December 29, 1995.

ADDRESSES: Comments are to be submitted in quadruplicate to the Docket Office, Docket No. H–071B, U.S. Department of Labor, room N–2634, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 219–7894. Written comments limited to 10 pages or less in length also may be transmitted by facsimile to (202) 219–5046, provided that the original and 3 copies are sent to the Docket Office thereafter.

FOR FURTHER INFORMATION CONTACT: Anne C. Cyr, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, room N–3647, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 219–8148. For electronic copies of this **Federal Register** notice, contact the Labor News Bulletin Board (202) 219–4784; or OSHA's WebPage on Internet at http://www.osha.gov/. For news releases, fact sheets, and other short documents, contact OSHA FAX at (900) 555–3400 at $1.50 per minute.

SUPPLEMENTARY INFORMATION:

I. Background

On November 7, 1991, OSHA issued a notice of proposed rulemaking (56 FR 57036) to address the significant risks of MC-induced health effects. The proposed rule required employers to reduce occupational exposure to MC and to institute ancillary measures, such as employee training and medical surveillance, for further protection of MC-exposed workers.

OSHA convened public hearings (57 FR 24438, June 9, 1992) in Washington, DC on September 16–24, 1992 and in San Francisco, CA on October 14–16, 1992. The post-hearing period for the submission of additional briefs, arguments and summations ended on March 15, 1993.

On March 11, 1994, OSHA reopened the rulemaking record for 45 days (59 FR 11567) to obtain public input on three documents incorporated into the rulemaking record, one of which examined the relationship between MC exposure and human carcinogenesis. The limited reopening, which ended on April 25, 1994, generated 37 comments.

The Halogenated Solvents Industry Alliance (HSIA) subsequently submitted several recently completed studies which address the mechanism for MC-induced cancer in mice and which assert that species differences in the metabolism of MC preclude the use of mouse data to characterize human cancer risk. The utility of the mouse data in assessing human risk is a critical issue in this rulemaking. Therefore, OSHA concluded that it was appropriate, even at this late stage of the rulemaking process, to consider the HSIA-submitted studies in the drafting of the final rule. Accordingly, on October 24, 1995, the Agency reopened the rulemaking record to incorporate those studies and to provide the public with an opportunity to comment.

OSHA has been considering the impact of species differences on the MC risk assessment throughout this rulemaking, and has generated an extensive record over the nearly four years since the proposal was published. While the Agency has agreed with the HSIA that the new materials should be taken into account, the Agency still believes that every effort should be made to conclude this rulemaking expeditiously. To that end, OSHA reopened the record for 30 days to receive any additional comments and information regarding this issue. While the record was open, OSHA received many requests for the studies. Due to the substantial interest generated by the October 24 notice, the Agency has decided to allow interested parties additional time in which to submit their comments. Therefore, OSHA is extending the comment period until December 29, 1995.

OSHA will provide interested parties with copies of the materials incorporated into the methylene chloride record through the October 24, 1995 reopening notice, upon request, to facilitate full and timely public participation. Requests for copies of the studies should be addressed to the Christine Whittaker, Room N–3718, Health Standards Programs, OSHA, U.S. Department of Labor,200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 219–7174. Fax: (202) 219–7125.

II. Public Participation

Comments

Written comments regarding the materials incorporated into the methylene chloride record through the October 24, 1995 reopening notice must be postmarked by December 29, 1995. Four copies of these comments must be submitted to the Docket Office, Docket No. H–071B, U.S. Department of Labor, room N–2625, 200 Constitution Avenue, NW.. Washington, DC 20210. (202) 219–7894. All materials submitted will be available for inspection and copying at the above address. Materials previously submitted to the Docket for this rulemaking need not be resubmitted.

III. Authority

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

It is issued under section 6(b) of the Occupational Safety and Health Act (29 U.S.C. 655), and 29 CFR part 1911.

Signed at Washington, DC, this 1st day of December 1995.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 95–29719 Filed 12–5–95; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300405; FRL–4967–4]

RIN 2070–AC18

Maleic Hydrazide, Oryzalin, Hexazinone, Streptomycin; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: For each of the pesticides subject to the actions listed in this proposed rule, EPA has completed the reregistration process and issued a Reregistration Eligibility Decision (RED). In the reregistration process, all information to support a pesticide's continued registration is reviewed for adequacy and, when needed, supplemented with new scientific studies. Based on the RED tolerance assessments for the pesticide chemicals

subject to this proposed rule, EPA is proposing to revoke various tolerances for maleic hydrazide, oryzalin, and hexazinone. This document also proposes to delete as surplusage the term "negligible" from a regulation on streptomycin.

DATES: EPA must receive written comments, identified by the OPP document control number [OPP-300405], on or before February 5, 1996.

ADDRESSES: By mail, submit comments to Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, deliver comments to Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP-300405]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Jeff Morris, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Special Review Branch, Crystal Station #1, 3rd Floor, 2800 Crystal Drive, Arlington, VA 22202. Telephone: (703)-308-8029; e-mail: morris.jeffrey@epamail.epa.gov.

I. Legal Authorization

The Federal Food, Drug, and Cosmetic Act (FFDCA, 21 U.S.C. 301 et seq.) authorizes the establishment of tolerances (maximum legal residue levels) and exemptions from the requirement of a tolerance for residues of pesticide chemicals in or on raw agricultural commodities pursuant to section 408 (21 U.S.C. 346(a)). Without such tolerances or exemptions, a food containing pesticide residues is considered to be "adulterated" under section 402 of the FFDCA, and hence may not legally be moved in interstate commerce (21 U.S.C. 342). To establish a tolerance or an exemption under section 408 of the FFDCA, EPA must make a finding that the promulgation of the rule would "protect the public health" (21 U.S.C. 346a(b)). For a pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136 et seq.).

In 1988, Congress amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136 et seq.) and required EPA to review and reassess the potential hazards arising from currently registered uses of pesticides registered prior to November 1, 1984. As part of this process, the Agency must determine whether a pesticide is eligible for reregistration or whether any subsequent actions are required to fully attain reregistration status. EPA has chosen to include in the reregistration process a reassessment of existing tolerances or exemptions from the need for a tolerance. Through this reassessment process, based on more recent data, EPA can determine whether a tolerance must be amended, revoked, or established, or whether an exemption from the requirement of one or more tolerances must be amended or is necessary.

The procedure for establishing, amending, or revoking tolerances or exemptions from the requirement of tolerances is set forth in 40 CFR parts 177 through 180. The Administrator of EPA, or any person by petition, may initiate an action proposing to establish, amend, revoke, or exempt a tolerance for a pesticide registered for food uses. Each petition or request for a new tolerance, an amendment to an existing tolerance, or a new exemption from the requirement of a tolerance must be accompanied by a fee. Current Agency policy on tolerance actions identified during the reregistration process is to waive the payment of fees if the tolerance action concerns revision or revocation of an established tolerance, or if the proposed exemption from the requirement of a tolerance requires the concurrent revocation of an approved tolerance. Comments submitted in response to the Agency's published proposals are reviewed, and the Agency then publishes its final determination regarding the specific tolerance actions.

II. Chemical-Specific Information and Proposed Actions

A. Maleic Hydrazide

1. *Regulatory history.* In 1952, USDA registered maleic hydrazide for use as a growth regulator. EPA issued a Registration Standard for maleic hydrazide in 1988. In 1992, EPA issued a Data Call-In (DCI) notice for maleic hydrazide and the potassium salt of maleic hydrazide that required data to address ecological effects, environmental fate, and residue chemistry data gaps. EPA published a RED for maleic hydrazide in June 1994 that reflects a reassessment of all data submitted to date in response to the Registration Standard and the 1992 DCI. The RED also conditions the maleic hydrazide reregistration on the cranberry tolerance revocation proposed in this document. Persons interested in the details of this reassessment are referred to the maleic hydrazide RED (NTIS #PB88-236849).

2. *Current proposal.* EPA proposes to revoke the 15-ppm tolerance for maleic hydrazide residues in or on cranberries, as listed in 40 CFR 180.175(b). EPA is proposing this action for two reasons: (1) The registrant is not supporting the use of maleic hydrazide on this commodity, and end-use maleic hydrazide labels do not list cranberries as a registered use (Two States, Massachusetts and New Jersey, had FIFRA section 24(c) (Special Local Need) registrations for the use of maleic hydrazide on cranberries in 1984 and 1985; EPA cancelled those registrations in 1991, and EPA believes that since 1992 there has been little or no usage of maleic hydrazide on cranberries in those States.) Therefore, no residues of maleic hydrazide are expected in or on cranberries, making a cranberry tolerance unnecessary. (2) Also, EPA does not have adequate nature-of-the-residue data to determine that the cranberry tolerance for maleic hydrazide is protective of the public health. A tolerance under section 408 of the Federal Food, Drug, and Cosmetic Act requires a finding that the tolerance will protect the public health, and to make such a finding for the established cranberry tolerance in 40 CFR 180.175(b), EPA needs adequate data on the nature of the residue (see 40 CFR part 158 for guidance on data requirements). To date, the Agency has not received these data.

If during the comment period of this proposed rule no party indicates that it will support the use of maleic hydrazide on cranberries by providing the necessary data, EPA will issue a final rule revoking the tolerance.

B. Oryzalin

1. *Regulatory history.* Oryzalin was first registered in the United States in 1974 for use as a preemergence herbicide in fruit and nut crops, vineyards, orchards, forest areas, noncrop areas, and agricultural crops. In 1987, EPA issued a Registration Standard for oryzalin that evaluated the studies submitted to that date. EPA issued a DCI for oryzalin in 1991 requiring additional phytotoxicity data, plant and animal analytical methods, and nondietary exposure data. The January 27, 1995 RED for oryzalin reflects a reassessment of all data submitted in response to the Registration Standard and the DCI. The RED also conditions the oryzalin reregistration on the tolerance actions proposed in this document. The Agency refers persons interested in this reassessment to the oryzalin RED (NTIS publication #PB90-174137).

2. *Current proposal.* EPA proposes to revoke the tolerances for oryzalin residues in or on the following commodities listed in 40 CFR 180.304(a): cottonseed, .05 ppm; grain, barley, .05 ppm; grain, wheat, .05 ppm; peas (succulent), .05 ppm; potatoes, .05 ppm; and soybeans, .1 ppm. EPA is proposing this action because the registrant is not supporting the use of oryzalin on these commodities, and end-use oryzalin labels do not list these commodities as registered uses (these have not been registered uses since before publication of the the 1987 registration standard). As a result, residues of oryzalin in or on these commodities are not expected; therefore, the tolerances are not necessary.

EPA previously issued a proposal to remove the above-named commodities from 40 CFR 180.304(a). (See the **Federal Register** of January 18, 1995 (60 FR 3611).) That proposal is superseded by this document.

EPA has sufficient data to ascertain the adequacy of the established tolerances listed 40 CFR 180.304(a) for the above-named commodities. However, if no party indicates support for the use of oryzalin on these commodities during the comment period of this proposed rule, EPA will issue a final rule revoking the tolerances.

C. Hexazinone

1. *Regulatory history.* EPA first registered hexazinone in 1975 for use as a broad-spectrum herbicide for general weed control. In 1982, EPA issued an initial Registration Standard for hexazinone, and in 1988 EPA issued a second Registration Standard. The 1988 Standard summarized available data supporting the registration of hexazinone products and required additional product chemistry, residue chemistry, toxicology, ecological effects, and environmental fate data. The January 27, 1995 RED for hexazinone represents an assessment of the data required by the Registration Standards. The RED also conditions the hexazinone reregistration on the tolerance actions proposed in this document. Persons interested in this reassessment should contact NTIS (telephone no. 703-487-4650) for a copy of the hexazinone RED.

2. *Current proposal.* EPA proposes to revoke the tolerances for hexazinone residues in or on the following commodities in 40 CFR 180.396: eggs, .1 ppm; poultry, fat, .1 ppm; poultry, meat, .1 ppm; poultry, mbyp, .1 ppm; pineapple, fodder, 5 ppm; and pineapple, forage, 5 ppm.

EPA is proposing to revoke the egg and poultry tolerances because the maximum residue expected in poultry tissues would be .005 ppm, an order of magnitude below the limit of detection for hexazinone metabolites, resulting in no detectible residues. Therefore, tolerances are not needed for hexazinone residues in or on eggs and poultry. The pineapple fodder and forage tolerances are proposed for revocation because EPA no longer regulates pineapple fodder and forage as raw agricultural commodities (since the Agency does not consider pineapple fodder and forage to be produced in significant quantities to warrant regulation).

If no valid objections are raised during the comment period following this proposed rule, EPA will issue a final rule revoking the tolerances.

D. Streptomycin

1. *Regulatory history.* Streptomycin has been used in the United States since the 1940s to treat bacterial infections in humans and was first registered as a pesticide in 1955. At that time, it was used primarily as a bactericide/fungicide on selected agricultural and nonagricultural crops. Other uses include seed treatment, residential use, and as an aquarium algaecide. In 1988, EPA issued a Registration Standard for streptomycin requiring data to support the registered uses regulated under FIFRA.

EPA issued a RED for streptomycin on September 30, 1992, reflecting a reassessment of all data submitted in response to the Registration Standard. The RED also conditions the streptomycin reregistration on the tolerance action proposed in this document. Persons interested in this reassessment should contact NTIS (telephone no. 703-487-4650) for a copy of the streptomycin RED.

2. *Current proposal.* EPA proposes to delete "negligible" from 40 CFR 180.245 because in this case the term "negligible" is surplusage.

III. Public Comment Procedures

EPA invites interested persons to submit written comments, information, or data in response to this proposed rule. Comments must be submitted by February 5, 1996. Comments must bear a notation indicating the document control number. Three copies of the comments should be submitted to either location listed under **ADDRESSES** at the beginning of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any or all of that information as "Confidential Business Information" (CBI). EPA will not disclose information so marked, except in accordance with procedures set forth in 40 CFR part 2. A second copy of such comments, with the CBI deleted, also must be submitted for inclusion in the public record. EPA may publicly disclose without prior notice information not marked confidential.

Any person who has registered or submitted an application for registration of a pesticide under FIFRA, as amended, that contains any of the ingredients listed herein may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Documents considered and relied upon by EPA pertaining to this action, and all written comments filed pursuant to this proposed rule, will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA between 8 a.m. and 4:30 p.m., Monday through Friday, except for legal holidays.

A record has been established for this rulemaking under docket number [OPP-300405] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

IV. Regulatory Assessment Requirements

To satisfy requirements for analysis specified by Executive Order 12866, the Regulatory Flexibility Act, the Paperwork Reduction Act, and the Unfunded Mandates Reform Act, EPA has analyzed the impacts of this proposal.

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule: (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not a "significant regulatory action," because it does not meet any of the regulatory-significance criteria listed above.

B. Regulatory Flexibility Act

EPA has reviewed this proposed rule under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1164, 5 U.S.C. 601 et seq.) and has determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. Accordingly, I certify that this proposed rule does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

C. Paperwork Reduction Act

This proposed regulatory action does not contain any information collection requirements subject to review by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

D. Unfunded Mandates Reform Act

This proposed rule contains no Federal mandates under Title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, for State, local, or tribal governments or the private sector, because it would not impose enforceable duties on them.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 30, 1995.

Jack E. Housenger,

Chief, Special Review Branch, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.175, by removing paragraph (b) and designating it as "reserved" as follows:

§ 180.175 Maleic hydrazide; tolerances for residues.

* * * * *

(b) [Reserved]

§ 180.245 [Amended]

3. By amending § 180.245 *Streptomycin; tolerances for residues*, by removing the term "negligible" from the text.

§ 180.304 [Amended]

4. In § 180.304 *Oryzalin; tolerances for residues* by amending paragraph (a) in the table therein by removing the entries for cottonseed; grain, barley; grain, wheat; peas (succulent); potatoes; and soybeans.

§ 180.396 [Amended]

5. In § 180.396 *Hexazinone; tolerances for residues* by amending paragraph (a) in the table therein by removing the entries for eggs; poultry, fat; poultry, mbyp; poultry, meat; pineapple, fodder; and pineapple, forage.

[FR Doc. 95-29734 Filed 12-5-95; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Part 180

[OPP-300403; FRL-4986-2]

RIN 2070-AC18

Tebuthiuron; Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA has completed the reregistration process and issued a Reregistration Eligibility Document (RED) for tebuthiuron. In the reregistration process, all information to support this pesticide's continued registration is reviewed for adequacy and, when needed, supplemented with new scientific studies. Based on the RED tolerance assessment for the pesticide chemical subject to this proposed rule, EPA is proposing to lower the tolerance for grass hay and grass rangeland forage and change the commodity name grass, rangeland forage to grass, forage.

DATES: Written comments, identified by the OPP document control number [OPP-300403], must be received on or before January 5, 1996.

ADDRESSES: By mail, submit comments to Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, deliver comments to Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted in ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by docket number [OPP-300403]. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federeal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Ben Chambliss, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Special Review Branch, Crystal Station #1, 3rd Floor, 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8174; e-mail: chambliss.ben@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Legal Authorization

The Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 et seq., authorizes the establishment of tolerances (maximum legal residue levels) and exemptions from the requirement of a tolerance for residues of pesticide chemicals in or on raw agricultural commodities pursuant to section 408 (21 U.S.C. 346(a)). Without such tolerances or exemptions, a food containing pesticide residues is considered to be "adulterated" under section 402 of the FFDCA, and hence may not legally be moved in interstate commerce (21 U.S.C. 342). To establish a tolerance or an exemption under section 408 of the FFDCA, EPA must make a finding that the promulgation of the rule would "protect the public health" (21 U.S.C. 346a(b)). For a pesticide to be sold and distributed the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136 et seq.).

In 1988, Congress amended FIFRA and required EPA to review and reassess the potential hazards arising from currently registered uses of pesticides registered prior to November 1, 1984. As part of this process, the Agency must determine whether a pesticide is eligible for reregistration and if any subsequent actions are required to fully attain reregistration status. EPA has chosen to include in the reregistration process a reassessment of existing tolerances or exemptions from the need for a tolerance. Through this reassessment process, EPA can determine whether a tolerance must be amended, revoked, or established, or whether an exemption from the requirement of one or more tolerances must be amended or is necessary.

The procedure for establishing, amending, or repealing tolerances or exemptions from the requirement of tolerances is set forth in the Code of Federal Regulations, 40 CFR parts 177 through 180. Pursuant to 40 CFR 180.32, EPA is proposing the amendment of the following tolerances. The Administrator of EPA or any person may initiate an action proposing to establish, amend, revoke, or exempt a tolerance for a pesticide registered for food uses. Each petition or request for a new tolerance, an amendment to an existing tolerance, or a new exemption from the requirement of a tolerance must be accompanied by a fee. Current Agency policy on tolerance actions identified during the reregistration process is to waive the payment of fees if the tolerance action concerns revision or revocation of an established tolerance. Comments submitted in response to the Agency's published proposals are reviewed; the Agency then publishes its final determination regarding the specific tolerance actions.

II. Chemical-Specific Information and Proposed Actions

Tebuthiuron: Amendment to 40 CFR 180.390

1. *Regulatory background.* Tebuthiuron is a nonselective soil activated herbicide used to control broadleaf and woody weeds, grasses, and brush on terrestrial feed crop and terrestrial nonfood crop sites. Tolerances exist for tebuthiuron use on grass hay and forage as well as secondary residues in meat of cattle, goats, horses, sheep, and in milk. Tebuthiuron was registered by the Elanco Products Co. in 1974. The registration was later transferred to DowElanco in 1989. A Registration Standard was issued in July 1987 for all pesticide products containing tebuthiuron. Under this standard, registrants were required to generate and supply missing data and to replace unacceptable data. In June 1994, the Agency issued the Reregistration Eligibility Document for Tebuthiuron. This document reflects a reassessment of all data submitted in response to the Registration Standard of Tebuthiuron.

2. *Proposed action*—a. Lower the tolerance for grass hay and forage from 20 parts per million (ppm) to 10 ppm. A tolerance reduction from 20 ppm to 10 ppm is recommended for grass hay and forage based on data showing that combined residues of tebuthiuron and it's regulated metabolites did not exceed 10 ppm on any grass forage or hay sample in field trials conducted under label conditions.

b. Amend the commodity definition listed in 40 CFR 180.390 to conform to commodity definitions currently used by EPA to read as follows: "Grass, rangeland, forage" is proposed to read as "Grass, forage".

III. Public Comment Procedures

Interested persons are invited to submit written comments, information, or data in response to this proposed rule. Comments must be submitted by January 5, 1996. Comments must bear a notation indicating the document control number. Three copies of the comments should be submitted to either location listed under **ADDRESSES.**

Information submitted as a comment concerning this document may be claimed confidential by marking any or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of a comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Documents considered and relied upon by EPA pertaining to this action, and all written comments filed pursuant to this proposed rule, will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA between 8 a.m. and 4:30 p.m., Monday through Friday, except legal holidays. To satisfy requirements for analysis specified by Executive Order 12866 and the Regulatory Flexibility Act, EPA has considered the impacts of this proposal.

A record has been established for this rulemaking under docket number [OPP-300403] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

IV. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule: (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, it has been determined that this rule is not a "significant regulatory action," because it does not meet any of the regulatory-significance criteria listed above.

B. Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354; 94 Stat. 1164, 5 U.S.C. 601 et seq.), and EPA has determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations.

Accordingly, I certify that this proposed rule does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

C. Paperwork Reduction Act

This proposed regulatory action does not contain any information collection requirements subject to review by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

D. Unfunded Mandates

This proposed rule contains no Federal mandates under Title II of the Unfunded Mandates Reform Act of 1995. Pub. L. 104–4 for State, local, or tribal governments or the private sector because it would not impose enforceable duties on them.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 30, 1995.

Jack E. Housenger,

Chief, Special Review Branch, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.390, by amending the table therein by revising the entries for grass, hay and grass, rangeland, forage to read as follows:

§ 180.390 Tebuthiuron; tolerances for residues.

* * * * *

Commodity	Parts per million
• • • • •	
Grass, hay	10.0
Grass, forage	10.0
• • • • •	

[FR Doc. 95–29735 Filed 12–5–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Parts 180 and 186

[PP 3F4169 and FAP 3H5655/P628; FRL–4971–7]

RIN 2070–AC18

Imidacloprid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish permanent tolerances for residues of the insecticide (1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine) (also known as imidacloprid) and it metabolites in or on cottonseed and cotton gin byproducts, to revoke the existing feed additive tolerance for imidacloprid on cotton meal, and to establish a maximum residue limit for imidacloprid on cottonseed meal. Bayer Corp. (formerly Miles, Inc.) submitted petitions pursuant to the Federal Food, Drug Cosmetic Act (FFDCA) requesting these regulations to establish certain maximum permissible levels for residues of the insecticide.

DATES: Comments, identified by the document control number, [PP 3F4169 and FAP 3H5655/P628], must be received on or before January 5, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set fourth 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All Written comments will be available for public inspection in Rm. 1132 at the addressed given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII format. All comments and data in electronic form must be identified by the docket number [PP 3F4169 and FAP 3H5655/P628]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis H. Edwards, Jr., Product Manager (PM) 19, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–305–6386; e-mail: edwards.dennis@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to petitions from Miles, Inc., EPA issued final rules establishing pesticide tolerances under section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a, for residues of the insecticide (1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine, in or on the raw agricultural commodities apples at 0.5 part per million (ppm), potatoes at 0.3 ppm, and cottonseed at 6.0 ppm. Based on a feed additive petition (FAP) 3H5655 from Miles, Inc., EPA established food or feed additive regulations under FFDCA section 409, 21 U.S.C. 348, for the combined residues of imidacloprid and its metabolites containing the 6-chloropyridinyl moiety, all expressed as imidacloprid, on apple pomace (wet or dried) at 3 ppm, on potato chips at 0.4 ppm, on potato waste at 0.9 ppm, and on cottonseed meal at 9.0 ppm. The tolerances for cottonseed and cottonseed meal were established as time-limited tolerances and are due to expire on November 30, 1996 (see the **Federal Register** of November 30, 1994 (59 FR 61278)).

The reason the cottonseed and cottonseed meal tolerances were established as 2-year time-limited tolerances was to enable Bayer to complete additional cotton residue trials and present a final report. On June 2, 1994, the Agency issued a guidance document on crop residue trials. Among other things, this document provided guidance on the number and location of domestic crop field trials for establishment of pesticide residue trials. Based on this guidance document, the Agency determined that additional residue trials were needed and residue data on gin trash were required to fully support the cotton tolerances.

On March 31, 1995, Bayer submitted the additional residue studies. A request was also submitted to establish a tolerance for cotton gin byproducts. These data have been reviewed and determined to be adequate to support both the proposed cotton gin byproducts tolerance and the removal of the expiration date for the cottonseed and cottonseed meal tolerances.

EPA, however, has determined a section 409 feed additive tolerance is no longer necessary to prevent cottonseed meal from being deemed adulterated, and, therfore, EPA is preparing to revoke the cottonseed meal tolerance. Addtionally, EPA is proposing to establish a maximum residue limit for imidacloprid residues in cottonseed meal to simipifly enforcement.

II. Statutory Background

The FFDCA, 21 U.S.C. 301 et seq., authorizes the establishment by regulation of maximum permissible levels of pesticides in foods. Such regulations are commonly referred to as "tolerances." Without such a tolerance or an exemption from the requirement of a tolerance, a food containing a pesticide residue is "adulterated" under section 402 of the FFDCA and may not be legally moved in interstate commerce. 21 U.S.C. 331, 342. EPA was authorized to establish pesticide tolerances under Reorganization Plan No. 3 of 1970. 5 U.S.C. App. at 1343 (1988). Monitoring and enforcement of pesticide tolerances are carried out by the U.S. Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA).

The FFDCA has separate provisions for tolerances for pesticide residues on raw agricultural commodities and for residues on processed food. For pesticide residues in or on raw commodities, EPA establishes tolerances, or exemptions from tolerances when appropriate, under section 408 of the act. 21 U.S.C. 346a. EPA regulates pesticide residues in processed foods under section 409 which pertains to "food additives." 21 U.S.C. 348. Maximum residue regulations established under section 409 are commonly referred to as food additive tolerances. Section 409 food additive tolerances are needed, however, only for certain pesticide residues in processed food. Under section 402(a)(2) of the FFDCA, a pesticide residue in processed food will not render the food adulterated if the residue results from application of the pesticide to a raw commodity consistent with a section 408 tolerance and the residue in the processed food when "ready to eat" has been removed to the extent possible by good manufacturing processes and is below the tolerance set under section 408. This exemption in section 402(a)(2) is commonly referred to as the "flow-through" provision because it allows the section 408 raw food tolerance to flow through to the processed food form.

III. Proposed Removal of Expiration Date from Cottonseed Tolerance and Establishment of Cotton Gin Byproduct Tolerance

The scientific data submitted in the petition and other relevant material have been evaluated regarding the Miles' request to remove the expiration date from the cottonseed tolerance and to establish a tolerance for cotton gin byproducts. The toxicological data considered in support of the tolerance include:

1. A three-generation rat reproduction study with a no-observed-effect level (NOEL) of 100 ppm (8 mg/kg/bwt); rat and rabbit teratology studies were negative at doses up to 30 mg/kg/ bwt and 24 mg/kg/bwt, respectively.

2. A 2-year rat feeding/carcinogenicity study that was negative for carcinogenic effects under the conditions of the study and had a NOEL of 100 ppm (5.7 mg/kg/bwt in male and 7.6 mg/kg/bwt female) for noncarcinogenic effects that included decreased body weight gain in females at 300 ppm and increased thyroid lesions in males at 300 ppm and females at 900 ppm.

3. A 1-year dog feeding study with a NOEL of 1,250 ppm (41/mg/kg/bwt).

4. A 2-year mouse carcinogenicity study that was negative for carcinogenic effects under conditions of the study and that had a NOEL of 1,000 ppm (208/ mg/kg/day).

There is no cancer risk associated with exposure to this chemical. Imidacloprid has been classified under "Group E" (no evidence of carcinogenicity for humans) under EPA's cancer Assessment Guidelines by the Office of Pesticide Programs (OPP) Reference Dose (RFD) Committee.

The reference dose (RfD), based on the 2-year rat feeding/ carcinogenic study with a NOEL of 5.7 mg/kg/bwt and 100-fold uncertainty factor, is calculated to be 0.057 mg/kg/bwt. The theoretical maximum residue contribution (TMRC) from published uses is 0.008088 mg/kg/day. This represents 14% of the RfD for the overall U.S. population. For exposure of the most highly exposured subgroup in the population, children

(ages 1 to 6 years), the TMRC is 0.016735 mg/kg/day. This is equal to 30% of RfD. The proposed cotton gin byproduct tolerance will not increase the TMRC. Dietary exposure from the existing uses and proposed uses will not exceed the reference dose for any subpopulation (including infants and children) based on the information available from EPA's Dietary Risk Evaluation System.

The nature of the residue in plants and livestock is adequately understood. The residues of concern are imidacloprid and its metabolites that contain the 6-chloropyridinyl moiety, all calculated as imidacloprid. The analytical methods are common moiety methods for imidacloprid and its metabolites containing the 6-chloropyridinyl moiety using permanganate oxidation, silyl derivatization, and capillary GC-MS selective ion monitoring. Adequate geographically representative magnitude of the residue crop field trial data for imidacloprid on cotton indicate that residues of total imidacloprid will not exceed the proposed tolerances when the formulation is used as directed. Based on the results of the imidacloprid bovine and poultry feeding studies, finite imidacloprid residues will occur in meat, milk, poultry, and eggs from feeding of imidacloprid-treated feed items, or their processed feed items, when the formulations are used as directed. Appropriate secondary tolerances are established.

There are currently no actions pending against the continued registration of this chemical.

This pesticide is considered useful for the purposes for which the tolerances are sought. Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR part 180 would protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

IV. Proposed Revocation of the Feed Additive Tolerance for Cottonseed Meal

In June 1995 (60 FR 31300, June 14, 1995), EPA issued a revised policy concerning when section 409 food and feed additive tolerances were needed to prevent the adulteration of foods and animal feeds. Under EPA's revised policy, a section 409 tolerance is necessary for pesticide residues in processed food when it is likely that the level of some residues of the pesticide will exceed the section 408 tolerance level in "ready to eat" processed food. Of particular relevance to the imidacloprid feed additive tolerance is EPA's decision to interpret the term "ready to eat" processed food as food ready for consumption "as is" without further preparation. For foods that are found to be not "ready to eat," EPA takes into account the dilution of residues that occurs in preparing a "ready to eat" food.

EPA has determined that cottonseed meal is not a "ready to eat" animal feed. EPA has found no evidence that cottonseed meal is fed to livestock as a stand-alone feedstock. Rather, cottonseed meal is used as an ingredient in animal feeds. As such, cottonseed meal can constitute up to 50 percent of an animal feed.

The section 408 tolerance for imadicloprid on cottonseed is 6 parts per million (ppm). The highest residue found in crop field trials for imidacloprid on cotton was 5.2 ppm. A processing study showed that in producing cottonseed meal residues concentrated 50 percent (a concentration factor of 1.5X). Thus, given this information, it is likely that imadicloprid residues of 7.8 ppm (1.5 X 5.2) could occur in cottonseed meal. However, to project what residues are likely in "ready to eat" animal feed containing cottonseed meal the 7.8 ppm level must be divided by 2 to allow for dilution occurring when cottonseed meal is added to other ingredients in the preparation of animal feed. Once this dilution is taken into account, the likely residue of imidacloprid in animal feed would not be expected to exceed 3.9 ppm. Since this is below the section 408 tolerance level, animal feed containing such residue levels would not be adulterated, and no section 409 tolerance is needed. Accordingly, EPA proposes to revoke the section 409 feed additive tolerance for imidacloprid in cottonseed meal.

V. Proposed Establishment of a Maximum Residue Level of Imidacloprid Residues in Cottonseed Meal

In the June 1995 policy announcement, EPA noted that it generally would establish maximum residue levels (MRLs) under FFDCA section 701 for not-ready-to-eat foods where such foods could contain residues exceeding the section 408 tolerance. EPA's rationale was that such MRLs are important to the efficient enforcement of the FFDCA. It is far less resource intensive for FDA and USDA, which are the Federal agencies which regulate pesticide residue levels in foods, to monitor residue levels in the bulk commodities used in preparing ready-to-eat foods than in the myriad of ready-to-eat foods manufactured from such commodities.

MRLs will enforce the statutory requirements that, where no food additive tolerance has been established, pesticide residues in processed food resulting from application of the pesticide to the precursor raw commodity render the food adulterated unless the pesticide was used in conformity with the applicable section 408 tolerance and the pesticide residue has been removed to the extent possible in good manufacturing practice. 21 U.S.C. 342(a)(2)(C). Thus, MRLs will reflect the maximum residue in processed food consistent with a legal level of residues being present on the precursor raw commodity and the use of good manufacturing practices. Processed foods not in compliance with an applicable MRL will be deemed adulterated under section 402 of the act.

EPA will compute the MRL by multiplying the maximum residue found in the raw commodity in field trials by the concentration factor determined in processing studies using good manufacturing practices. As noted, the maximum residue from the imidacloprid field trials is 5.2 ppm and the concentration factor for processing is 1.5X. Multiplying 5.2 ppm by 1.5 yields a product of 7.8 ppm. EPA believes it is appropriate to round 7.8 ppm up to 8 ppm and proposes 8 ppm as the MRL for imidacloprid residues in cottonseed meal. For purposes of enforcement of the MRL, the same analytical method used for enforcement of the section 408 tolerances should be used.

EPA is proposing to place this MRL in existing part 186 of title 40 of the Code of Federal Regulations rather than creating a new part of title 40. Currently, 40 CFR part 186 contains section 409 feed additive tolerances organized by pesticide. EPA believes it will be clearer to the regulated community and to enforcement personnel if all regulations pertaining to residue levels of a pesticide in animal feeds are located in the same part of the Code of Federal Regulations. Because EPA is proposing to expand the type of regulation that would be included in part 186, EPA proposes modifying the title of part 186 to "Pesticides in Animal Feeds" to reflect that change.

VI. Public Participation

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that the portion of this rulemaking proposal concerning establishment, amendment, or revocation of tolerances under section 408 be referred to an Advisory Committee in accordance with section 408(e) of FFDCA.

Interested persons are invited to submit written comments on the proposed regulations. Comments must bear a notation indicating the document control number, [PP 3F4169 and FAP 35655/P628]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

VII. Administrative Matters

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950). EPA has treated regulations simular to the establishment of tolerances as also not having a significant economic impact on substantial number of small entities. Therefore, the proposed MRL is not expected to have such impact.

List of Subjects in 40 CFR Parts 180 and 186

Environmental protection, Administrative practice and procedure, Agricultural commodities, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 9, 1995.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR parts 180 and 186 be amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. In § 180.472, by amending paragraph (a) by adding and alphabetically inserting the following new entries and by removing paragraph (b) and designating it as reserved, to read as follows:

§ 180.472 1-[(6-Chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Cotton, gin byproducts	4
Cottonseed	6
* * * * *	

(b) [Reserved]

* * * * *

PART 186—[AMENDED]

2. In part 186:

a. By revising the title of part 186 to read as follows:

Part 186—Pesticides in Animal Feed

b. The authority citation for part 186 is revised to read as follows:

Authority: 21 U.S.C. 342, 348, and 701.

c. In § 186.900, by revising paragraph (b), to read as follows:

§ 186.900 1-[(6-Chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolinimine.

* * * * *

(b) A maximum residue level regulation is established for residues of the insecticide 1-[(6-choro-3-pryidinyl)methyl]-*N*-nitro-2-imidazolidinimine in or on the following feed resulting from application of the insecticide to cotton:

Food	Parts per million
Cottonseed meal	8

This regulation reflects the maximum level of residues in cottonseed meal consistent with use of 1-[(6-chloro-3-pyridinyl) methyl]-*N*-nitro-2-imidazolidinimine on cotton in conformity with § 180.472 of this chapter and with the use of good manufacturing practices.

* * * * *

[FR Doc. 95–29250 Filed 12–5–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7163]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard

Identification Branch, Mitigation Directorate, 500 C Street, SW, Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Arizona	Flagstaff (City), Coconino County.	Clay Avenue Wash	At Milton Road	*6,895	*6,894
			Approximately 450 feet upstream of Malpais Lane.	*6,897	*6,899
			Approximately 80 feet upstream of Blackbird Forest Street.	*6,900	*6,901
			At Chateau Drive	*6,905	*6,905
			Approximately 980 feet upstream of Chateau Drive.	*6,929	*6,930
			Approximately 1,300 feet upstream of Chateau Drive.	*6,931	*6,931
Maps are available for inspection at the City of Flagstaff, City Hall, 211 West Aspen Avenue, Flagstaff, Arizona.					
Send comments to The Honorable Christopher J. Bavasi, Mayor, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001.					
Idaho	Ada County, (Unincorporated Areas).	Cottonwood Gulch	Approximately 7,615 feet above Garrison Road at the City of Boise corporate limits.	None	*2,896
			Approximately 9,100 feet above Garrison Road.	None	*2,930
			Approximately 100 feet upstream of Shaw Mountain Road.	None	*2,953
			Approximately 1,280 feet above Shaw Mountain Road.	None	*2,980
			Approximately 2,280 feet above Shaw Mountain Road.	None	*3,010
		Stuart Gulch	Approximately 2,000 feet downstream of Cartwright Road at the City of Boise corporate limits.	None	*2,796
			Approximately 1,360 feet downstream of Cartwright Road.	None	*2,840
			Approximately 500 feet downstream of Cartwright Road.	None	*2,861

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Hulls Gulch	Approximately 700 feet downstream of McCord Lane at the City of Boise corporate limits.	None	*2,864
			At McCord Lane	None	*2,903
			Approximately 2,300 feet upstream of McCord Lane.	None	*2,971
Maps are available for inspection at the Ada County Development Services Office, 650 Main Street, Boise, Idaho.					
Send comments to The Honorable Vern Bisterfeldt, Chairman, Ada County Board of Commissioners, 650 Main Street, Boise, Idaho 83702.					
Idaho	Boise (City), Ada County.	Stuart Gulch	Approximately 100 feet upstream of Stuart Gulch Road.	None	*2,692
			Approximately 3,000 feet upstream of Stuart Gulch Road at an unnamed road.	None	*2,745
			Approximately 4,600 feet upstream of Stuart Gulch Road at an unnamed road.	None	*2,785
			Approximately 5,000 feet upstream of Stuart Gulch Road.	*2,800	*2,795
			Approximately 6,910 feet upstream of Stuart Gulch Road at the City of Boise corporate limits.	None	*2,825
		Stuart Gulch Split Flow Channel.	At the convergence with Stuart Gulch, approximately 2,350 feet upstream of Stuart Gulch Road.	None	*2,725
			Approximately 2,200 feet upstream of the convergence with Stuart Gulch at an unnamed road.	None	*2,775
			At the divergence from Stuart Gulch	None	*2,800
		Crane Gulch	At Hill Road	None	*2,732
			Just upstream of Parkhill Drive	None	*2,750
			Just upstream of Cottonwood Court	None	*2,773
			Just upstream of Ranch Road	None	*2,795
			Just downstream of Curling Drive	None	*2,865
		Hulls Gulch	Just upstream of the intersection of 9th Street and Heron Street.	None	*2,735
			Approximately 1,400 feet downstream of Mile High Road at 9th Street.	None	*2,761
			Approximately 1,000 feet upstream of Mile High Road.	None	*2,826
			Approximately 2,300 feet upstream of Mile High Road at the City of Boise corporate limits.	None	*2,864
		Cottonwood Gulch	Approximately 1,100 feet upstream of Garrison Road.	None	*2,748
			At confluence with Freestone Creek	None	*2,793
			Approximately 4,300 feet upstream of confluence with Freestone Creek at the City of Boise corporate limits.	None	*2,878
			Approximately 5,085 feet upstream of confluence with Freestone Creek at the City of Boise corporate limits.	None	*2,898
Maps are available for inspection at the Office of Community Planning and Development, City Hall, 150 North Capitol Boulevard, Boise, Idaho.					
Send comments to The Honorable Brent H. Coles, Mayor, City of Boise, City Hall, P.O. Box 500, Boise, Idaho 83701–0500.					
Texas	Uvalde (City), Uvalde County.	Cooks Slough	Approximately 500 feet downstream of West Main Street.	*900	*899
			Just downstream of Fort Clark Street	*903	*901
			Approximately 4,300 feet downstream of Benson Road.	*911	*908
			Approximately 300 feet downstream of Benson Road.	*915	*917

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at Uvalde City Hall, Highway 90, Uvalde, Texas.					
Send comments to The Honorable George Horner, Mayor, City of Uvalde, P.O. Box 799, Uvalde, Texas 78801.					
Texas	Uvalde County, (Unincorporated Areas).	Cooks Slough	Approximately 1,100 feet upstream of U.S. Highway 83 (or 100 feet upstream of South Grove Street).	*891	*893
			Just downstream of the grade control structure.	*906	*904
			Approximately 2,470 feet upstream of Benson Road (FM 1052).	*918	*920
Maps are available for inspection at the County Judge's Office, Uvalde County Courthouse, Courthouse Square, Corner of Main and Getty Streets, Uvalde, Texas.					
Send comments to The Honorable William R. Mitchell, County Judge, Uvalde County Courthouse, Uvalde, Texas 78801.					
Washington	Ferry County, (Unincorporated Areas).	Kettle RiverReach 7	Approximately 73.96 miles upstream of confluence with the Columbia River.	None	*1,806
			Approximately 74.66 miles upstream of confluence with the Columbia River.	None	*1,810
			Approximately 75.17 miles upstream of confluence with the Columbia River.	*1,813	*1,812
			Approximately 75.52 miles upstream of confluence with the Columbia River.	*1,814	*1,814
			Approximately 75.84 miles upstream of confluence with the Columbia River.	*1,816	*1,815
		Kettle RiverReach 1 (Near Barstow).	Approximately 9.87 miles upstream of confluence with the Columbia River.	None	*1,306
			Approximately 10.36 miles upstream of confluence with the Columbia River.	None	*1,309
			Approximately 10.85 miles upstream of confluence with the Columbia River.	None	*1,312
		Kettle RiverReach 2 (Near Orient).	Approximately 18.62 miles upstream of confluence with the Columbia River.	None	*1,389
			Approximately 18.77 miles upstream of confluence with the Columbia River.	None	*1,390
			Approximately 19.17 miles upstream of confluence with the Columbia River.	None	*1,391
		Kettle RiverReach 3 (Near Laurier).	Approximately 27.24 miles upstream of confluence with the Columbia River.	None	*1,435
			Approximately 27.53 miles upstream of confluence with the Columbia River.	None	*1,438
			Approximately 28.00 miles upstream of confluence with the Columbia River.	None	*1,441
			Approximately 28.27 miles upstream of confluence with the Columbia River.	None	*1,443
		Kettle RiverReach 4 (Near Danville).	Approximately 58.0 miles upstream of confluence with the Columbia River.	None	*1,732
			Approximately 58.43 miles upstream of confluence with the Columbia River.	None	*1,733
		Kettle RiverReach 5 (Near Curlew).	Approximately 64.87 miles upstream of confluence with the Columbia River.	None	*1,764
			Approximately 65.17 miles upstream of confluence with the Columbia River.	None	*1,765
			Approximately 65.45 miles upstream of confluence with the Columbia River.	None	*1,766
		Kettle RiverReach 8 (Near Ferry).	Approximately 84.78 miles upstream of confluence with the Columbia River.	None	*1,864
			Approximately 85.15 miles upstream of confluence with the Columbia River.	None	*1,866
			Approximately 85.78 miles upstream of confluence with the Columbia River.	None	*1,868
Maps are available for inspection at the Ferry County Planning Department, 146 North Clark, Suite 7, Republic, Washington.					
Send comments to The Honorable Ed F. Windson, Chairperson, Ferry County Commissioners, County Courthouse, 350 East Delaware, Republic, Washington 99166.					
Washington	Stevens County, (Unincorporated Areas).	Kettle RiverReach 1 (Near Barstow).	Approximately 9.87 miles upstream of confluence with the Columbia River.	None	*1,306

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 10.5 miles upstream of confluence with the Columbia River.	None	*1,310
			Approximately 10.86 miles upstream of confluence with the Columbia River.	None	*1,312
		Kettle RiverReach 2 (Near Orient).	Approximately 18.62 miles upstream of confluence with the Columbia River.	None	*1,389
			Approximately 19.17 miles upstream of confluence with the Columbia River.	None	*1,392
		Kettle RiverReach 3 (Near Laurier).	Approximately 27.24 miles upstream of confluence with the Columbia River.	None	*1,435
			Approximately 27.8 miles upstream of confluence with the Columbia River.	None	*1,440
			Approximately 28.26 miles upstream of confluence with the Columbia River.	None	*1,443
Maps are available for inspection at the Stevens County Planning Department, 260 South Oak Street, Colville, Washington.					
Send comments to The Honorable Alan L. Mack, Chairperson, Stevens County Commissioners, County Courthouse, 215 South Oak Street, Colville, Washington 99114.					

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: November 29, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–29706 Filed 12–5–95; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–173; RM–8725]

Radio Broadcasting Services; Calhoun City, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by WKZU Radio, licensee of Station WKZU(FM), Channel 272A, Ripley, Mississippi, proposing the deletion of vacant Channel 272A at Calhoun City, Mississippi. Any party wishing to express an interest in Channel 272A at Calhoun City, Mississippi, should file their expression of interest by the initial comment deadline specified herein.

DATES: Comments must be filed on or before January 22, 1996, and reply comments on or before February 6, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Harry Holliday, WKZU Radio, P.O. Box 572, Ripley, Mississippi 38663 (petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95–173, adopted November 8, 1995, and released November 30, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–29656 Filed 12–5–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 675, 676, and 677

[Docket No. 95112820–5280–01; I.D. 111495A]

Groundfish Fishery of the Bering Sea and Aleutian Islands; Limited Access; Foreign Fishing; Proposed 1996 Initial Harvest Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed 1996 initial specifications for groundfish and associated management measures; request for comments.

SUMMARY: NMFS proposes 1996 initial harvest specifications, prohibited species bycatch allowances, and associated measures for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to inform the public about proposed 1996 harvest specifications and associated management measures. The intended effect is to conserve and manage the groundfish resources in the BSAI and to

provide an opportunity for public participation in this process.

DATES: Comments must be submitted by January 4, 1996.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel.

The preliminary 1996 Stock Assessment and Fishery Evaluation (SAFE) report, dated September 1995, is available from the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99510–2252, 907–271–2817.

FOR FURTHER INFORMATION CONTACT: Ellen R. Varosi, 907–586–7228.

SUPPLEMENTARY INFORMATION: Groundfish fisheries in the BSAI are governed by Federal Regulations (50 CFR 675) that implement the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). Other applicable regulations are found at 50 CFR 611.93 (Foreign Fishing) and 50 CFR part 676 (Limited Access Management of Federal Fisheries In and Off of Alaska) and 50 CFR part 677 (North Pacific Fisheries Research Plan). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under the Magnuson Fishery Conservation and Management Act.

The FMP and implementing regulations require NMFS, after consultation with the Council, to specify for each calendar year the total allowable catch (TAC) for each target species and the "other species" category, the sum of which must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (§ 675.20(a)(2)). Regulations under § 675.20(a)(7)(i) further require NMFS to publish annually and solicit public comment on proposed annual TAC amounts, apportionments of each TAC, prohibited species catch (PSC) allowances, seasonal allowances of the pollock TAC, and seasonal allowances of the pollock Community Development Quota (CDQ) reserve. The specifications set forth in Tables 1–7 of this action satisfy these requirements. For 1996, the proposed sum of TAC amounts is 2.0 million mt. Under § 675.20(a)(7)(ii), NMFS will publish the final annual specifications for 1996 after considering: (1) Comments received within the comment period (see **DATES**), and (2) consultations with the Council at its December 1995 meeting.

The specified TAC amounts for each species are based on the best available biological and socioeconomic information. At its September and December meetings, the Council, its Advisory Panel, and its Scientific and Statistical Committee (SSC), annually review biological information about the condition of groundfish stocks in the BSAI. This information is compiled by the Council's BSAI Groundfish Plan Team (Plan Team) and is presented in the SAFE Report. The Plan Team annually produces such a report as the first step in the process of specifying TAC amounts. The SAFE Report contains a review of the latest scientific analyses and estimates of each species' biomass, maximum sustainable yield (MSY), acceptable biological catch (ABC) and other biological parameters, as well as summaries of the ecosystem and the economic condition of groundfish fisheries off Alaska. A preliminary 1996 SAFE Report, dated September 1995, provides an update on status of stocks. These preliminary assessments will be updated based on biological survey work done during the summer of 1995. Assessments will be made available by the Plan Team in November 1995 and included in the final edition of the 1996 SAFE Report. Final ABC amounts for the 1996 fishing year will be based on the most recent stock assessments. The proposed ABC amounts adopted by the Council for the 1996 fishing year are based on the best available scientific information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass.

Regulations at § 675.20(a)(7)(i) require that one-fourth of each proposed initial TAC (ITAC) amount and apportionment thereof, one-fourth of each PSC allowance established under § 675.21(b), and the first seasonal allowances of pollock become effective 0001 hours, A.l.t., January 1, on an interim basis and remain in effect until superseded by the final harvest specifications, which will be published in the **Federal Register**.

NMFS is publishing, in the Rules and Regulations section of this **Federal Register** issue, interim TAC specifications and apportionments thereof for the 1996 fishing year that will become available 0001 hours, Alaska local time, January 1, 1996, and remain in effect until superseded by the final 1996 harvest specifications.

Procedure for Estimating ABC

The Council bases its calculation of ABC on the definition contained in 50 CFR part 602—Guidelines For Fishery Management Plans (602 Guidelines). The 602 Guidelines (§ 602.11(e)(1)) state that:

ABC is a preliminary description of the acceptable harvest (or range of harvests) for a given stock or stock complex. Its derivation focuses on the status and dynamics of the stock, environmental conditions, other ecological factors, and prevailing technological characteristics of the fishery.

The 602 Guidelines also provide the Council with the flexibility needed to define overfishing appropriate to the individual stock or species characteristics, as long as it is defined in a way that allows the Council and NMFS to evaluate the condition of the stock relative to the definition (§ 602.11(c)). Application of the overfishing definition requires some flexibility because the amount of data for different stocks varies. The calculations used to derive preliminary overfishing levels for a given stock or stock complex are described in the preliminary 1996 SAFE Report.

Calculation of ABC varies among species, depending on the quality of available data and prior knowledge of a species' stock status. The Plan Team has adopted three steps for estimating ABC amounts. First, the exploitable biomass of a stock is estimated. Second, the ABC for a stock is calculated by multiplying an exploitation rate times the estimated exploitable biomass. Various exploitation rates or fishing mortality rates (F) may be used in this calculation, depending on the data available and the degree of risk the Plan Team is willing to accept. For example, the exploitation rate that would produce MSY (F_{MSY}) may be used when the stock is known to be in good condition, high in abundance, and not in danger of drastic decline. When more conservative stock management is desirable, a $F_{0.1}$ harvest strategy is used to determine an exploitation rate. This strategy determines a level of F at which the marginal increase in yield-per-recruit due to an increase in F is 10 percent of the marginal yield-per-recruit in a newly exploited fishery. Recruitment refers to the growth of juvenile fish into the adult or exploitable population. Generally, $F_{0.1}$ is a more conservative exploitation rate than F_{MSY}. Another alternative is to use historical exploitation rates when historical fishery data indicate that a stock is not affected adversely by such rates. A switch in harvest strategy from F_{35} to F=natural mortality rate (M) can be used when current maturity parameter estimates are unreliable. Finally, an empirical estimation of ABC based on historical catch levels may be used when information is insufficient to estimate the biomass of a stock. Details of overfishing, ABC, and other calculation procedures are discussed in the preliminary 1996 SAFE Report. This report is available from the Council (see **ADDRESSES**).

The Plan Team's recommendations for preliminary ABC amounts for each species for 1996 and other biological data are provided in the preliminary 1996 SAFE Report. At its September 1995 meeting, the Council's SSC reviewed the Plan Team's preliminary recommendations for 1996 ABC amounts. The SSC concurred with the Plan Team's recommendations except for Aleutian Basin (Bogoslof) pollock and Greenland turbot. The SSC's revisions to the ABC amounts for these two species are discussed below.

Bogoslof Pollock. The Plan Team indicated in the preliminary 1996 SAFE Report that the current estimate of biomass of Aleutian Basin pollock (1,020,000 mt) is conservative. This biomass estimate is based on the preliminary results from the 1995 hydroacoustic survey of the southeastern Aleutian Basin near Bogoslof Island, which indicated that the 1995 biomass is sustained almost entirely by 1988 and 1989 year classes. The Plan Team estimated an ABC for Bogoslof pollock of 265,000 mt using the biomass estimate and a target exploitation rate of 26 percent. However, the SSC used a more conservative exploitation strategy, based on a natural mortality rate of M=0.2 divided by 2 to derive an ABC of 102,000 mt.

Greenland Turbot. The Plan Team used the stock synthesis model to estimate the ABC, which was updated with 1995 catch and survey data. The Plan Team maintained the 1996 ABC at the level recommended by the Plan Team last year (18,500 mt). However, the SSC recommended a continuation of the present 7,000 mt ABC for this species in recognition of continued poor recruitment and stock abundance levels since the early 1980's. The SSC's recommendation will be reevaluated in December, after an updated assessment analysis containing results from the bottom trawl survey for the 1996 estimate becomes available.

The Council adopted the ABC amounts recommended by the SSC (Table 1).

TABLE 1.—Proposed 1996 Acceptable Biological Catch (ABC), Proposed Total Allowable Catch (TAC), Initial TAC (ITAC), and Overfishing Levels (OFL) of Groundfish in the Bering Sea and Aleutian Islands Area (AI)[1 2]

Species	ABC	TAC	ITAC=DAP/3/	OFL
Pollock:				
BS	1,250,000	1,250,000	1,062,500	1,500,000
AI	56,600	56,600	48,110	80,400
Bogoslof District	102,000	1,000	850	102,000
Pacific cod	328,000	250,000	212,500	390,000
Sablefish:[4]				
BS	1,600	1,600	680	.....
AI	2,200	2,200	468	.....
Total	3,800	3,800	1,148	4,900
Atka mackerel:				
Western AI	71,600	41,520	35,292	.....
Central AI	19,300	11,200	9,520	.....
Eastern AI/BS	47,100	27,280	23,188	.....
Total	138,000	80,000	68,000	164,000
Yellowfin sole	277,000	190,000	161,500	319,000
Rock sole	347,000	60,000	51,000	388,000
Greenland turbot:				
BS	4,690	4,690	3,987	.....
AI	2,310	2,310	1,963	.....
Total	7,000	7,000	5,950	27,200
Arrowtooth flounder	113,000	10,227	8,693	138,000
Flathead sole	138,000	30,000	25,500	167,000
Other flatfish[5]	117,000	19,540	16,609	137,000
Pacific ocean perch:				
BS	1,850	1,850	1,573	2,910
AI	10,500	10,500	8,925	15,900
Other red rockfish:[6] BS	1,400	1,260	1,070	1,400
Sharpchin/Northern AI	5,670	5,103	4,338	5,670
Shortraker/Rougheye AI	1,220	1,098	933	1,220
Other rockfish:[7]				
BS	365	329	280	365
AI	770	693	589	770
Squid	3,110	1,000	850	3,110
Other Species[8]	27,600	20,000	17,000	136,000
Totals	2,929,885	2,000,000	1,697,918	3,564,845

[1] Amounts are in metric tons. These amounts apply to the entire Bering Sea (BS) and Aleutian Islands (AI) area unless otherwise specified. With the exception of pollock, and for the purpose of these specifications, the BS includes the Bogoslof District.

[2] Zero amounts of groundfish are specified for Joint Venture Processing and Total Allowable Level of Foreign Fishing.

[3] Except for the portion of the sablefish TAC allocated to hook-and-line and pot gear, 0.15 of each TAC is put into a reserve. The ITAC for each species is the remainder of the TAC after the subtraction of these reserves.

[4] Twenty percent of the sablefish hook-and-line gear or pot gear final TAC amount will be reserved for use by Community Development Quota (CDQ) participants. (See § 676.24(b)) Regulations at § 675.20(c) do not provide for the establishment of an ITAC for the hook-and-line and pot gear allocation for sablefish. The ITAC for sablefish reflected in Table 1 is for trawl gear only.
[5] "Other flatfish" includes all flatfish species except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, and yellowfin sole.
[6] "Other red rockfish" includes shortraker, rougheye, sharpchin, and northern.
[7] "Other rockfish" includes all Sebastes and Sebastolobus species except for Pacific ocean perch, sharpchin, northern, shortraker, and rougheye.
[8] "Other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

Proposed TAC Specifications

The Council recommended adopting the Advisory Panel's recommendation for the 1996 BSAI TAC amounts, which equalled the 1995 TAC amounts and apportionments with one exception. The apportionment of the Atka mackerel TAC among the Aleutian Island districts and the Bering Sea was proposed to be revised as follows: Western Aleutians—41,520 mt (51.9 percent); Central Aleutians—11,200 (14.0 percent); and Eastern Aleutians and Bering Sea—27,280 mt (34.1 percent).

The 1,000 mt TAC proposed for pollock of the Bogoslof subarea was intended by the Council only to provide sufficient amounts of pollock to meet bycatch needs in other fisheries. The Council will consider updated information on the status of this resource at its December 1995 meeting to decide whether to allow a directed fishery under the final 1996 specifications.

The Council developed its TAC recommendations based on the preliminary ABC amounts as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC within the required OY range of 1.4–2.0 million mt. Each of the Council's recommended TAC amounts for 1996 is equal to or less than the final 1996 ABC for each species category. Therefore, NMFS finds that the recommended proposed TAC amounts are consistent with the biological condition of groundfish stocks. The preliminary ABC and TAC amounts, initial TAC (ITAC) amounts, overfishing levels, and initial apportionments of groundfish in the BSAI area for 1996 are given in Table 1 of this action. The apportionment of TAC amounts among fisheries and seasons is discussed below.

Apportionment of TAC

As required by § 675.20(a)(3) and § 675.20(a)(7)(i), each species' TAC initially is reduced by 15 percent, except the hook-and-line and pot gear allocation for sablefish. The sum of these 15-percent amounts is the reserve. The reserve is not designated by species or species group, and any amount of the reserve may be reapportioned to a target species or the "other species" category during the year, providing that such reapportionments are consistent with § 675.20(a)(2)(i) and do not result in overfishing.

The ITAC for each target species and the "other species" category at the beginning of the year is apportioned between the domestic annual harvest (DAH) category and the total allowable level of foreign fishing (TALFF), if any. Each DAH amount is further apportioned between two categories of U.S. fishing vessels. The domestic annual processing (DAP) category includes U.S. vessels that process their catch on board or deliver it to U.S. fish processors. The joint venture processing (JVP) category includes U.S. fishing vessels working in joint ventures with foreign processing vessels authorized to receive catches in the exclusive economic zone.

In consultation with the Council, the initial amounts of DAP and JVP are determined by the Director, Alaska Region, NMFS (Regional Director). Consistent with the final 1991–95 initial specifications, the Council recommended that 1996 DAP specifications be set equal to ITAC and that no groundfish be allocated to JVP and TALFF. In making this recommendation, the Council considered the capacity of DAP harvesting and processing operations and anticipated that 1996 DAP operations would harvest the full TAC specified for each BSAI groundfish species category. The proposed ABC amounts, proposed TAC and ITAC amounts, overfishing levels, and initial apportionments of groundfish in the BSAI area for 1996 are given in Table 1.

These proposed specifications are subject to change as a result of public comment, analysis of the current biological condition of the groundfish stocks, new information regarding the fishery, and consultation with the Council at its meeting scheduled for December 4–11, 1995.

Seasonal Allowances of Pollock TAC

Under § 675.20(a)(2)(ii), the TAC of pollock for each subarea or district of the BSAI area is divided, after subtraction of reserves (§ 675.20(a)(3)), into two seasonal allowances. The first allowance will be available for directed fishing from January 1 to April 15 (roe season) and the second allowance will be available from August 15 through the end of the fishing year (non-roe season). In 1995, the opening of the pollock roe season was delayed for the offshore component fishery to January 26th (§ 675.23(e)(2)). On September 18, 1995, a notice of proposed rulemaking was published in the **Federal Register** (60 FR 48087) that, if approved by NMFS, would continue to authorize a delay of the offshore component roe fishery.

The Council recommended that the seasonal allowances for the Bering Sea pollock roe and non-roe seasons be specified at 45 percent and 55 percent of the ITAC amounts, respectively (Table 2). These seasonal apportionments are unchanged from 1995. As in past years, the pollock TAC amounts specified for the Aleutian Islands subarea and the Bogoslof District are not seasonally apportioned.

When specifying seasonal allowances of the pollock TAC, the Council and NMFS consider the following nine factors as specified in section 14.4.10 of the FMP:

1. Estimated monthly pollock catch and effort in prior years;
2. Expected changes in harvesting and processing capacity and associated pollock catch;
3. Current estimates of, and expected changes in, pollock biomass and stock conditions; conditions of marine mammal stocks; and biomass and stock conditions of species taken as bycatch in directed pollock fisheries;
4. Potential impacts of expected seasonal fishing for pollock on pollock stocks, marine mammals, and stocks and species taken as bycatch in directed pollock fisheries;
5. The need to obtain fishery-related data during all or part of the fishing year;
6. Effects on operating costs and gross revenues;
7. The need to spread fishing effort over the year, minimize gear conflicts, and allow participation by various elements of the groundfish fleet and other fisheries;
8. Potential allocative effects among users and indirect effects on coastal communities; and
9. Other biological and socioeconomic information that affects the consistency

of seasonal pollock harvests with the goals and objectives of the FMP.

The publication of the final 1995 initial groundfish and PSC specifications (60 FR 8479; February 14, 1995) summarizes Council findings with respect to each of the FMP considerations set forth above. At this time, the Council's findings are unchanged from those set forth for 1995.

Apportionment of the Pollock TAC to the Inshore and Offshore Components

Regulations at § 675.20(a)(2)(iii) require that the proposed pollock ITAC amounts specified for the BSAI be allocated between the inshore and offshore processing components. These regulations are scheduled to expire at the end of 1995 although the Council has adopted Amendment 38 to the FMP and NMFS approved that amendment. Amendment 38 would continue apportionment of the pollock ITAC amounts between the inshore and offshore components. NMFS published a notice of proposed rulemaking in the **Federal Register** (60 FR 48087; September 18, 1995) that would extend these regulations and a final rule will be issued shortly. Consequently, in these proposed specifications, the pollock ITAC is apportioned between the inshore and offshore sectors as specified in the proposed rule. For the purpose of this action, the inshore and offshore components would be apportioned 35 percent and 65 percent, respectively, of the pollock ITAC specified for each subarea or district (Table 2).

TABLE 2.—SEASONAL ALLOWANCES OF THE INSHORE AND OFFSHORE COMPONENT ALLOCATIONS OF POLLOCK TAC AMOUNTS [1] [2]

Subarea	TAC	ITAC [3]	Roe season	Non-roe season
Bering Sea: [4] [5]				
Inshore		371,875	167,344	204,531
Offshore		690,625	310,781	379,844
	1,250,000	1,062,500	478,125	584,375
Aleutian Islands:				
Inshore		16,838	16,838	[6]
Offshore		31,272	31,272	[6]
	56,600	48,110	48,110	[6]
Bogoslof:				
Inshore		298	298	[6]
Offshore		552	552	[6]
	1,000	850	850	[6]

[1] TAC = total allowable catch.
[2] Based on an offshore component allocation of 0.65(TAC) and an inshore component allocation of 0.35(TAC).
[3] ITAC = initial TAC = 0.85 of TAC.
[4] January 1 through April 15—based on a 45/55 split (roe = 45 percent).
[5] August 15 through December 31—based on a 45/55 split (non-roe = 55 percent).
[6] Remainder.

Pollock CDQ Allocations

Regulations at § 675.20(a)(3)(ii) require that one-half of the pollock TAC placed in the reserve for each subarea or district, or 7.5 percent of each TAC, be assigned to a Community Development Quota (CDQ) reserve for each subarea or district. These regulations expire on December 31, 1995, although the Council has adopted Amendment 38 to the FMP and NMFS has approved that amendment. Amendment 38 would extend the CDQ Program for 3 additional years. A notice of proposed rulemaking was published in the **Federal Register** on September 18, 1995 (60 FR 48087) and a final rule is expected to be issued shortly. If the pollock TAC amount remains as specified in Table 1, the 1996 CDQ reserve amounts for each subarea would be as follows:

BSAI Subarea	Pollock CDQ	Roe season	Non-roe season
Bering Sea	93,750 mt	42,188 mt	51,562 mt.
Aleutian Islands	4,245 mt	4,245 mt	Remainder.
Bogoslof	75 mt	75 mt	Remainder.

Under the proposed regulations that would govern the CDQ program, NMFS may allocate the 1996 pollock CDQ reserves to eligible Western Alaska communities or groups of communities that have an approved Community Development Plan (CDP). The State of Alaska received six CDP applications pursuant to § 675.27 and State of Alaska regulations at 6 AAC 93. All six applications were submitted in conformance with both sets of regulations and have been fully reviewed by the State and the Council. The NMFS-approved allocations of the 1996 CDQ reserve to the successful CDP recipients are expected to be published in the **Federal Register** prior to the 1996 fishing year.

Apportionment of Pollock TAC to the Nonpelagic Trawl Gear Fishery

Regulations at § 675.24(c)(2) authorize NMFS, in consultation with the Council, to limit the amount of pollock TAC that may be taken in the directed fishery for pollock using nonpelagic trawl gear. This authority is intended to reduce the amount of halibut and crab

bycatch that occurs in nonpelagic trawl operations.

The Council did not propose to limit the amount of pollock TAC that may be taken in the 1996 directed fishery for pollock by vessels using nonpelagic trawl gear. However, the Council will consider limiting the pollock TAC amounts that may be harvested by vessels using nonpelagic trawl gear at its December 1995 meeting, pending information on prohibited species bycatch amounts in the 1995 pelagic and nonpelagic trawl gear fisheries and an assessment of the effectiveness of regulations at § 675.7(n) to reduce halibut and crab bycatch in the pelagic trawl fishery.

Proposed Allocation of the Pacific Cod TAC

Under § 675.20(a)(2)(iv), 2 percent of the Pacific cod ITAC is allocated to vessels using jig gear, 44 percent to vessels using hook-and-line gear or pot gear, and 54 percent to vessels using trawl gear. At its September 1995 meeting, the Council proposed to roll over the 1995 seasonal apportionments of the portion of the Pacific cod TAC allocated to the hook-and-line and pot gear fisheries. The seasonal apportionments are intended to provide for the harvest of Pacific cod when flesh quality and market conditions are optimum and Pacific halibut bycatch rates are low. The Council's recommendations for seasonal apportionments are set out in Table 3 and are unchanged from the percentages of seasonal apportionments specified for 1995 (60 FR 8479; February 14, 1995). These seasonal apportionments were based on: (1) Seasonal distribution of Pacific cod relative to prohibited species distributions, (2) expected variations in prohibited species bycatch rates experienced in the Pacific cod fisheries throughout the year, and (3) economic effects of any seasonal apportionment of Pacific cod on the hook-and-line and pot gear fisheries.

TABLE 3.—1996 GEAR SHARES OF THE BSAI PACIFIC COD INITIAL TAC

Gear	Percent of TAC	Share of ITAC (mt)	Seasonal Apportionment		
			Date	Percent	Amount (mt)
Jig	2	4,250	Jan. 1–Dec. 31	100	4,250
Hook-and-line	44	93,500	Jan. 1–Apr. 30	73	[1] 68,000
Pot gear			May 1–Aug. 31	19	18,000
			Sep. 1–Dec. 31	8	7,500
Trawl gear	54	114,750	Jan. 1–Dec 31	100	114,750
Total	100	212,500			

[1] Any portion of the first seasonal apportionment that is not harvested by the end of the first season will become available on September 1, the beginning of the third season.

Sablefish Gear Allocation and Sablefish CDQ Allocations

Regulations under § 675.24(c)(1) require that sablefish TAC amounts for BSAI subareas be divided between trawl and hook-and-line/pot gear types. Gear allocations of TAC amounts are specified in the following proportions: Bering Sea subarea: Trawl gear—50 percent; hook-and-line/pot gear—50 percent; and Aleutian Islands subarea: Trawl gear—25 percent; hook-and-line/pot gear—75 percent. In addition, regulations under § 676.24(b) require NMFS to withhold 20 percent of the hook-and-line and pot gear sablefish allocation as a sablefish CDQ reserve. Gear allocations of sablefish TAC amounts and CDQ reserve are specified in Table 4.

TABLE 4.—1996 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TAC

Subarea	Gear	Percent of TAC (mt)	Share of TAC (mt)	Initial TAC (mt)[1]	CDQ Share
Bering Sea[2]	Trawl	50	800	680	N/A
	Hook-and-line/pot gear[3]	50	800	N/A	160
Total				680	
Aleutian Islands	Trawl	25	550	468	N/A
	Hook-and-line/pot gear[3]	75	1,650	N/A	330
Total				468	490

[1] Except for the sablefish hook-and-line and pot gear allocation, 0.15 of TAC is apportioned to reserve. The ITAC is the remainder of the TAC after the subtraction of these reserves.
[2] Includes Bogoslof District.
[3] For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 0.20 of the allocated TAC is reserved for use by CDQ participants. Regulations at § 675.20(a)(3) do not provide for the establishment of an ITAC for sablefish hook-and-line or pot gear.

Allocation of PSC Limits for Crab, Halibut, and Herring

PSC limits of red king crab and *C. bairdi* Tanner crab in Bycatch Limitation Zones (50 CFR 675.2) of the BS subarea, and for Pacific halibut throughout the BSAI area are specified under § 675.21(a). At this time, the 1996 PSC limits are:

1. Zone 1 trawl fisheries, 200,000 red king crabs;
2. Zone 1 trawl fisheries, 1 million *C. bairdi* Tanner crabs;
3. Zone 2 trawl fisheries, 3 million *C. bairdi* Tanner crabs;
4. BSAI trawl fisheries, 3,775 mt mortality of Pacific halibut;
5. BSAI nontrawl fisheries, 900 mt mortality of Pacific halibut; and
6. BSAI trawl fisheries, 1,861 mt Pacific herring.

The PSC limit of Pacific herring caught while conducting any trawl operation for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. At this time, the best estimate of 1996 herring biomass is 186,000 mt. This amount was derived using 1994 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game (ADF&G). Therefore, the proposed herring PSC limit for 1996 is 1,861 mt. This value is subject to change, pending an updated forecast analysis of 1995 herring survey data that will be presented to the Council by the ADF&G during the Council's December 1995 meeting.

Regulations under § 675.21(b) authorize the apportionment of each PSC limit into PSC allowances for specified fishery categories. Regulations at § 675.21(b)(1)(iii) specify seven fishery categories (midwater pollock, Greenland turbot/arrowtooth flounder/sablefish, rock sole/flathead sole/other flatfish, yellowfin sole, rockfish, Pacific cod, and bottom pollock/Atka mackerel/"other species"). Regulations at § 675.21(b)(2) authorize the apportionment of the nontrawl halibut PSC limit among three fishery categories (Pacific cod hook-and-line fishery, groundfish pot gear fishery, and other nontrawl fisheries). The PSC allowances for trawl and nontrawl are listed in Table 5. In general, the preliminary 1996 fishery bycatch allowances listed in Table 5 reflect the recommendations made to the Council by its Advisory Panel. These recommendations are unchanged from 1995, except for halibut in the Greenland turbot/arrowtooth flounder/sablefish category. A halibut bycatch allowance equal to zero is proposed for this fishery category in 1996. This means that directed fisheries for these species by vessels using trawl gear would be prohibited. This action is proposed for the following reasons.

First, the management of the halibut bycatch allowance specified for the Greenland turbot/arrowtooth flounder/sablefish fishery category in past years has proved very difficult. In 1995, NMFS had provided for only a 3-day fishery for Greenland turbot to maintain halibut bycatch mortality within the specified allowance of 120 mt. After the fishery had closed, NMFS determined that the halibut bycatch mortality experienced during this 3-day fishery totaled 282 mt, or 235 percent of the specified allowance.

Second, existing regulations allow Greenland turbot, sablefish, or arrowtooth to be retained as bycatch in other trawl fisheries provided that retained amounts do not exceed maximum retainable bycatch amounts as calculated under § 675.20(h). Last, the halibut bycatch mortality that had been apportioned to this fishery category in 1995 (120 mt) is proposed to be equally redistributed among the yellowfin sole, rock sole/flathead sole/other flatfish and the Pacific cod fishery categories. The intent of this action is to better optimize the amount of total groundfish catch harvested under the halibut PSC limit established for the trawl gear fisheries.

The proposed apportionments of the PSC limits among specified trawl and nontrawl fisheries were based on last year's final recommendations that incorporated 1993 and 1994 bycatch amounts, anticipated 1996 harvest of groundfish by trawl gear and fixed gear, and assumed halibut mortality rates in the different groundfish fisheries based on analyses of 1993–1994 observer data.

Regulations at § 675.21(b)(2) authorize exemption of specified nontrawl fisheries from the halibut PSC limit. As in 1995, the Council proposes to exempt pot gear and the hook-and-line sablefish fishery from the nontrawl halibut limit for 1996. The Council proposed this exemption because of the low halibut bycatch mortality experienced in the pot gear fisheries (7 mt in 1995) and because of the 1995 implementation of the sablefish and halibut IFQ program, which would allow legal-sized halibut to be retained in the sablefish fishery.

TABLE 5.—PRELIMINARY 1996 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NONTRAWL FISHERIES

Trawl fisheries	Zone 1	Zone 2	BSAI-wide
Red king crab, number of animals:			
yellowfin sole	50,000		
rcksol/otherflat/flathead sole	10,000		
rockfish	0		
turb/arrow/sab/rockfish[1]	0		
Pacific cod	10,000		
pick/Atka/other[2]	30,000		
Total	200,000		
C. bairdi Tanner crab, number of animals:			
yellowfin sole	225,000	1,525,000	
rcksol/oth.flat/flathead sole	475,000	510,000	
turb/arrow/sabl	0	5,000	
rockfish	0	10,000	
Pacific cod	225,000	260,000	
pick/Atka/other	75,000	690,000	
Total	1,000,000	3,000,000	
Pacific halibut, mortality (mt):			
yellowfin sole			790
rcksol/oth.flat			730
turb/arrow/sabl			0

TABLE 5.—PRELIMINARY 1996 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NONTRAWL FISHERIES—Continued

Trawl fisheries	Zone 1	Zone 2	BSAI-wide
rockfish			110
Pacific cod			1,590
pick/Atka/other			555
Total			3,775
Pacific herring, mt:			
midwater pollock			1,345
yellowfin sole			315
rcksol/oth.flat			0
turb/arrow/sabl			0
rockfish			5
Pacific cod			24
pick/Atka/other[3]			169
Total			1,861
Nontrawl fisheries:			
Pacific halibut, mortality (mt)			725
Pacific cod Hook-and-line			175
Other nontrawl:			
Sablefish hook-and-line gear			[4]
Groundfish pot gear			[4]
Groundfish jig gear			[4]
Total			900

[1] Greenland turbot, arrowtooth flounder, and sablefish fishery category.
[2] Pollock, Atka mackerel, and "other species" fishery category.
[3] Pollock other than midwater pollock, Atka mackerel, and "other species" fishery category.
[4] Exempt.

At its September 1995 meeting, the Council recommended that the proposed halibut bycatch allowances listed in Table 5 be apportioned seasonally as shown in Table 6. The prohibited species bycatch allowances and the seasonal apportionment of those allowances will be subject to change at the December 1995 Council meeting, pending public comments, year-to-date information on bycatch performance and updated information on anticipated fishing patterns in 1996.

For purposes of monitoring the fishery halibut bycatch mortality allowances specified in Table 6, the Regional Director will use observed halibut bycatch rates and reported and observed groundfish catch to project when a fishery's halibut bycatch mortality allowance is reached. The Regional Director monitors the fishery bycatch mortality allowances using assumed mortality rates that are based on the best information available.

TABLE 6.—PROPOSED SEASONAL APPORTIONMENTS OF THE 1996 PACIFIC HALIBUT BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NONTRAWL FISHERIES

	Seasonal bycatch allowances (mt halibut)
Fishery Trawl Gear:	
Yellowfin sole:	
Jan. 20–Jul. 31	295
Aug. 1–Dec. 31	495
Total	790
Rock sole/flathead sole/"other flatfish":	
Jan. 20–Mar. 31	453
Apr. 1–Jun. 30	190
Jul. 1–Dec. 31	87
Total	730
Turbot/arrowtooth flounder/sablefish:	
Total	0
Rockfish:	
Jan. 20–Mar. 31	30
Apr. 1–Jun. 30	60
Jul. 1–Dec. 31	20
Total	110

TABLE 6.—PROPOSED SEASONAL APPORTIONMENTS OF THE 1996 PACIFIC HALIBUT BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NONTRAWL FISHERIES—Continued

	Seasonal bycatch allowances (mt halibut)
Pacific cod:	
Jan. 20–Jun. 30	1,487
Jul. 1–Dec. 31	103
Total	1,590
Pollock/Atka mackerel/"other species":	
Jan. 20–Apr. 15	455
Apr. 16–Dec. 31	100
Total	555
Total Trawl Halibut Mortality	3,775
Fishery Nontrawl Gear:	
Pacific cod:	
Jan. 1–Apr. 30	475
May. 1–Aug. 31	40
Sep. 1–Dec. 31	210
Total	725
Other nontrawl	175
Sablefish hook-and-line	[1]
Groundfish pot	[1]
Groundfish jig gear	[1]
Total Nontrawl Halibut Mortality	900

[1] Exempt.

Preliminary assumed halibut mortality rates recommended by the International Pacific Halibut Commission (IPHC) for the 1996 BSAI groundfish fisheries are listed in Table 7. These mortality rates are based on an average of mortality rates determined from NMFS observer data collected during 1993 and 1994, except for the BSAI trawl arrowtooth flounder fishery, which is based on data from 1991 and 1992, the 2 most recent years the fishery operated. The Council proposed that revised halibut discard mortality rates recommended by the IPHC be adopted for purposes of monitoring halibut bycatch mortality limits established for the 1996 groundfish fisheries.

For most fisheries, the 1993–94 averages, on which the 1996 recommendations are based, are somewhat lower than the actual rates used in 1995. After the December 1995 Council meeting, NMFS will consider all available data and public comments and will publish preseason assumed halibut mortality rates in the **Federal Register** as part of the final 1996 initial specifications of groundfish TAC amounts. However, the Council noted that the sablefish hook-and-line halibut fishery bycatch mortality rate is based on the fishery before the IFQ program was initiated and that the IPHC may have new data at the December 1995 meeting that would help reassess the halibut mortality rate in this fishery.

TABLE 7.—ASSUMED PACIFIC HALIBUT MORTALITY RATES PROPOSED FOR THE BSAI FISHERIES DURING 1996

	Assumed mortality (percent)
Hook-and-Line Gear Fisheries:	
BSAI sablefish	27
BSAI rockfish	24
BSAI Greenland turbot	18
BSAI Pacific cod	13
Trawl Gear Fisheries:	
midwater pollock	86
Rockfish	77
bottom pollock	77
Pacific cod	77
yellowfin sole	74
rock sole/flathead sole/other flatfish	74
Atka mackerel	61
Greenland turbot	51
arrowtooth	49
Pot Gear Fisheries—Pacific cod	7

Groundfish PSC Limits

Section 675.20(a)(6) authorizes NMFS to specify PSC limits for groundfish species or species groups for which the TAC will be completely harvested by domestic fisheries. These PSC limits apply only to JVP or TALFF fisheries. At this time, no groundfish are allocated to either JVP or TALFF and specifications of groundfish PSC limits are unnecessary.

Classification

This action is authorized under 50 CFR 611.93(b), 675.20, and 676.20 and is exempt from review under E.O. 12866.

A draft environmental assessment (EA) on the allowable harvest levels set forth in the final 1996 SAFE Report will be available for public review at the December 4–8, 1995, Council meeting. After the December meeting, a final EA will be prepared on the final 1996 TAC amounts recommended by the Council.

Consultation pursuant to section 7 of the Endangered Species Act has been initiated for the 1996 BSAI initial specifications.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 1, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

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Notices

Federal Register
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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

Collection Requirements Submitted for Public Comment and Recommendations: WIC Participant and Program Characteristics Study, 1996

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Consumer Service's (FCS) intention to request OMB review of the WIC Participant and Program Characteristics Study, 1996.

DATES: Comments on this notice must be received by February 5, 1996.

ADDRESSES: Send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information to: Michael E. Fishman, Acting Director, Office of Analysis and Evaluation, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Michael E. Fishman, (703) 305–2117.

SUPPLEMENTARY INFORMATION:

Title: WIC Participant and Program Characteristics, 1996.

OMB Number: Not yet assigned

Expiration Date of Approval: March 31, 1997.

Type of Request: New collection of information.

Abstract: Subsection (d)(4) of Section 17 of The Child Nutrition Act of 1966, as amended, the authorizing statute for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), requires biennial reports to Congress on "(A) the income and nutritional risk characteristics of participants in the program; (B) participation in the program by members of families of migrant farmworkers; and (C) such other matters relating to participation in the program as the Secretary considers appropriate."

FCS has completed five previous studies of WIC participant and program characteristics in 1984 (PC84), 1988 (PC88), 1990 (PC90), 1992 (PC92), and 1994 (PC94). To minimize the burden on state agencies, FCS and the National Association of WIC Directors (NAWD) collaborated on the development of a prototype reporting system which allows the acquisition of all participant data through the automated transfer of an agreed upon set of data elements, known as "the Minimum Data Set (MDS)."

FCS also gathers state-level program data as part of the Participant Characteristics data collection process. The "Summary of State Programs" mail questionnaire gathers information on State characteristics such as policies and eligibility standards in order to support analyses at the participant level. FCS is adding a data collection component—a mail survey of a representative sample of WIC local agencies. This survey will elicit information on selected features of WIC service delivery sites. FCS will use this information to prepare the biennial report to Congress and for ongoing program management.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes for the State Program Characteristics Survey; and 45 minutes for the local agency mail survey.

Respondents: For the State Program Characteristics Survey, the respondents are State WIC Directors. For the WIC local agency survey, the respondents are WIC local agency directors.

Estimated Number of Respondents: For the the State Program Characteristics Survey, 84 respondents are estimated. For the local agency mail survey, 350 respondents are estimated.

Estimated Number of Responses per Respondent: One.

Estimated Total Annual Burden on Respondents: 284 hours.

Copies of this information collection can be obtained from Denise Thomas, Office of Analysis and Evaluation, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

Dated: November 22, 1995.

George A. Braley,

Acting Administrator, Food and Consumer Service.

[FR Doc. 95–29750 Filed 12–5–95; 8:45 am]

BILLING CODE 3410–30–U

Forest Service

Extension of Currently Approved Information Collection for State and Private Forestry Accomplishment Reporting

AGENCY: Forest Service, USDA.

ACTION: Notice of intent; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to extend a currently approved information collection used to assess the accomplishments of agency State and private forestry cooperative programs with States and local governments.

DATES: Comments must be submitted on or before February 5, 1996.

ADDRESSES: All comments should be addressed to: Larry Yarger, Office of the Deputy Chief for State and Private Forestry, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

FOR FURTHER INFORMATION CONTACT: Larry Yarger, State and Private Forestry Deputy Area, at (202) 205–1290.

SUPPLEMENTARY INFORMATION:

Description of Forms

The following information describes the forms to be extended:

Titles—National Forms:

FS–3100–8, Annual Wildfire Summary Report.

FS–3200–6, Cooperative Forestry Accomplishment Report.

FS–3400–5, Forest Pest Management Accomplishment Report.

FS–3500–5, Flood Prevention and Small Watershed Programs.

FS–3600–2, Resource Conservation and Development Accomplishment Report.

OMB Number: 0596–0025.

Expiration Date of Approval: April 30, 1996.

Type of Request: Extension of a currently approved information collection.

Abstract: The Forest Service needs this collection of information on the cooperative programs with State and local governments to: (a) provide information to Congress on accomplishments from the use of appropriated funds, (b) provided information to better manage these programs, (c) determine minority participation in the programs, and (d) meet requirements of section 12 of Pub. L. 95–313, the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 1606), which requires adequate information to implement oversight responsibility and prove accountability for expenditures and activities under the Act.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.04 hours per response.

Type of Respondents: Local and State governments.

Estimated Number of Respondents: 53.

Estimated of Responses per Respondent: 5.45.

Estimated Total Annual Burden on Respondents: 589 hours.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information.

Use of Comments

All comments received in response to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: December 1, 1995.

Jack Ward Thomas,

Chief.

[FR Doc. 95–29732 Filed 12–5–95; 8:45 am]

BILLING CODE 3410–11–M

Extension and Revision of Currently Approved Information Collection for Recreation Customer and Use Survey Techniques

AGENCY: Forest Service, USDA.

ACTION: Notice of intent; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to request an extension and revision of a currently approved information collection for customer and use survey techniques for operations and management related to recreation use of natural resources. The revision will add questions to elicit information for experimental research linking recreation users' stated and actual preferences and behavior.

DATES: Comments must be received in writing on or before February 5, 1996.

ADDRESSES: All comments should be addressed to: J.M. Bowker, Principal Investigator, Forest Service, USDA, Southern Research Station, 320 Green St., Athens, GA 30602.

FOR FURTHER INFORMATION CONTACT: J.M. Bowker, Outdoor Recreation and Wilderness Assessment, at (706) 546–2451.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

The following describes the information collection to be extended and revised:

Title: USDA Forest Service Customer and Use Survey Techniques for Recreation Operations, Management, Evaluation and Research.

OMB Number: 0596–0110.

Expiration Data of Approval: June 30, 1996.

Type of Request: Extension of a previously approved information collection and revision to include additional questions on contingent behavior.

Abstract: The data collected will be used by Government researchers to test and develop methods to assess the value of natural resources to recreational users by exploring the linkages between their actual and stated behavior. The data will be collected individually through questionnaires and respondent cards containing seven questions about intended recreation behavior. Data to be gathered in this information collection is not available from other sources.

Estimate of Burden: Public reporting burden for this collection of information is estimated to vary from 3 to 7 minutes per response.

Type of Respondents: Individuals participating in on-site recreation activities.

Estimated Number of Respondents: 900.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 75 hours.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of this agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: December 1, 1995.

Jack Ward Thomas,

Chief.

[FR Doc. 95–29733 Filed 12–5–95; 8:45 am]

BILLING CODE 3410–11–M

Southwestern Region: Arizona, New Mexico, West Texas and Oklahoma; Notice To Extend Public Comment Period to January 12, 1996; Final Environmental Impact Statement for Amendment of Forest Plans in the Southwestern Region

AGENCY: Forest Service, USDA.

ACTION: Notice to Extend Public Comment Period, Final Environmental Impact Statement [FEIS].

SUMMARY: The Southwestern Region of the Forest Service published a notice of availability for public comment on a final environmental impact statement in the **Federal Register** (Vol. 60, No. 213, pages 55841) on November 3, 1995. This notice is issued to extend the comment period from December 4, 1995 to January 12, 1996 regarding that FEIS. The FEIS concerns Amendment of Forest Plans in the Southwestern Region, and implementation, standards and guidelines for Northern Goshawk and Mexican Spotted Owl.

EFFECTIVE DATE: This notice is effective December 6, 1995.

RESPONSIBLE OFFICIAL: The Regional Forester, Southwestern Region, is the responsible official for decisions that affect Southwestern Region Forest Land and Resource Management Plans.

FOR FURTHER INFORMATION CONTACT: Director of Ecosystem Management Planning, Arthur S. Briggs,

Southwestern Regional Office, (505) 842–3210.

Dated: November 29, 1995.

Milo Larson,

Acting Deputy Regional Forester, Southwestern Region.

[FR Doc. 95–29714 Filed 12–5–95; 8:45 am]

BILLING CODE 3410–11–M

Rural Housing Service

Housing Preservation Grants

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS) announces that it is soliciting competitive applications under its Housing Preservation Grant (HPG) program. The HPG program is a grant program which provides qualified public agencies, private nonprofit organizations, and other eligible entities grant funds to assist very low- and low-income homeowners repair and rehabilitate their homes in rural areas, and to assist rental property owners and cooperative housing complexes repair and rehabilitate their units if they agree to make such units available to low- and very low-income persons. This action is taken to comply with Agency regulations found in 7 CFR part 1944, subpart N, which requires the Agency to announce the opening and closing dates for receipt of preapplications for HPG funds from eligible applicants. The intended effect of this Notice is to provide eligible organizations notice of these dates.

DATES: RHS hereby announces that it will begin receiving preapplications on January 2, 1996. The closing date for acceptance by RHS of preapplications is April 1, 1996.

This period will be the only time during the current fiscal year that RHS accepts preapplications. Preapplications must be received by or postmarked on or before this date.

ADDRESSES: Submit preapplications to Rural Economic and Community Development (RECD) servicing offices for the HPG program; applicants must contact their RECD State Office for this information.

FOR FURTHER INFORMATION CONTACT: Sue M. Harris-Green, Senior Loan Officer, Multi-Family Housing Processing Division, RHS, USDA, Room 5337, South Agriculture Building, Washington, DC 20250, telephone (202) 720–1606. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: 7 CFR part 1944, subpart N provides details on what information must be contained in the preapplication package. Entities wishing to apply for assistance should contact the RECD State Office to receive further information and copies of the preapplication package. Eligible entities for these competitively awarded grants include State and local governments, nonprofit corporations, Federally recognized Indian Tribes, and consortia of eligible entities.

This program is listed in the Catalog of Federal Domestic assistance under No. 10.433, Housing Preservation Grants. This program is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V; 48 FR 29115, June 24, 1983). Applicants are also referred to 7 CFR part 1944, sections 1944.674 and 1944.676 (d) and (e) for specific guidance on these requirements relative to the HPG program.

The funding instrument for the HPG program will be a grant agreement. The term of the grant can vary from 1 to 2 years, depending on available funds and demand. No maximum or minimum grant levels have been set, although based on fiscal year (FY) 1996 fund availability, the Agency anticipates that the average grant will be $75,000 for a 1-year proposal. For FY 96, $11 million is available and has been distributed under a formula allocation to States pursuant to 7 CFR part 1940, subpart L, "Methodology and Formulas for Allocation of Loan and Grant Funds."

Decisions on funding will be based on the preapplications, and notices of action on the preapplications should be made no earlier than 66 days prior to the closing date.

Dated: November 28, 1995.

Maureen Kennedy,

Administrator, Rural Housing Service.

[FR Doc. 95–29694 Filed 12–5–95; 8:45 am]

BILLING CODE 3410–07–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; James L. Stephens

In the matter of: James L. Stephens, President, Weisser's Sporting Goods, 1018 National City Boulevard, National City, California 92050, with an address at 16208 Orchard Bend Road, Poway, California 92064, Respondent.

Order

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter, the "Department", having notified James L. Stephens, in his capacity as president of Weisser's Sporting Goods (hereinafter, "Stephens"), of its intention to initiate an administrative proceeding against him pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1995)) (hereinafter, the "Act"),[1] and Part 788 of the Export Administration Regulations (currently codified at 15 CFR Parts 768–799 (1995)) (hereinafter, the "Regulations"),[2] based on allegations that:

1. Between mid-1990 and early 1992, Stephens conspired with Karl Cording, individually and doing business as A. Rosenthal (PTY) Ltd., Windhoek, Namibia, with offices in Linden, South Africa and Cape Town, South Africa, and Ian Ace, manager of A. Rosenthal, Cape Town, South Africa, to export U.S.-origin shotguns, from the United States to Namibia and South Africa, without applying for and obtaining from the Department the validated export licenses that the Stephens knew were required by Section 772.1(b) of the Regulations, in violation of Section 787.3(b) of the Regulations;

2. In furtherance of the conspiracy described above, on two separate occasions on or about November 27, 1990, Stephens exported U.S.-origin shotguns, from the United States to Namibia and South Africa, without obtaining from the Department the validated export licenses Stephens knew or had reason to know were required by Section 772.1(b) of the Regulations, in violation of Sections 787.4(a) and 787.6 of the Regulations; and

3. In furtherance of the conspiracy described above, on two separate occasions on or about November 27, 1990, Stephens made false or misleading representations of material fact to a U.S. agency in connection with the preparation, submission, or use of export control documents, in violation of Section 787.5(a) of the Regulations; and

[1] The Act expired on August 20, 1994. Executive Order 12924 (59 FR 43437, August 23, 1994) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1994)) (hereinafter "IEEPA"). Executive Order 12924 was extended by Presidential Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

[2] The Regulations governing the violations at issue are found in the 1990 version of the Code of Federal Regulations. Those Regulations are codified at 15 CFR Parts 768–799 (1990). Between October 1, 1990 and March 27, 1993, the Regulations were continued in effect by Executive Order No. 12730 (55 FR 40373, October 2, 1990), issued pursuant to IEEPA.

The Department and Stephens having entered into a Consent Agreement whereby the Department and Stephens have agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Consent Agreement having been approved by me;

It is therefore ordered,

First, that a civil penalty of $60,000 shall be assessed against Stephens, $10,000 of which shall be paid to the Department on or before January 5, 1996, and the remaining $50,000 to be paid in four equal installments of $12,500 each, the first of which is due on or before March 29, 1996; the second, on or before June 28, 1996; the third, on or before September 27, 1996; and the fourth, on or before December 27, 1996. Payment shall be made in a manner specified in the attached instructions.

Second, James L. Stephens, President, Weisser's Sporting Goods, 1018 National City Boulevard, National City, California 92050, with an address at 16208 Orchard Bend Road, Poway, California 92064, shall, for a period of 15 years from the date of entry of this Order, be denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States and subject to the Regulations.

A. All outstanding individual validated export licenses in which Stevens appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all Stevens's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

B. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) as a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

C. After notice and opportunity for comment as provided in Section 788.3(c) of the Regulations, any person, firm, corporation, or business organization related to Stephens by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

D. As provided by Section 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) in any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

Third, the proposed Charging Letter, the Consent Agreement, and this Order shall be made available to the public, and this Order shall be published in the **Federal Register**.

This order is effective immediately.

Dated: November 27, 1995.

John Despres,

Assistant Secretary for Export Enforcement.

[FR Doc. 95–29683 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–580–812]

Court Decision and Suspension of Liquidation: Dynamic Random Access Memory Semiconductors of One Megabit and Above From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 6, 1995.

FOR FURTHER INFORMATION CONTACT: John Beck, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–3464.

SUMMARY: On October 27, 1995, in the case of Micron Technologies, Inc. v. United States, Cons. Ct. No. 93–06–00318, Slip Op. 95–175 (Micron), the United States Court of International Trade (the Court) affirmed the Department of Commerce's (the Department's) results of redetermination on remand of the Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea. Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in Timken Co. v. United States, 893 F.2d 337 (Fed. Cir. 1990) (Timken), the Department will not order the liquidation of the subject merchandise entered or withdrawn from warehouse from consumption prior to a "conclusive" decision in this case.

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1993, the Department published its *Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea* (57 FR 15467). On May 10, 1993, the Department published its *Antidumping Order and Amended Final Determination: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea* (58 FR 27520).

Subsequent to the Department's final determination, Micron Technologies (the petitioner) and the three respondents, Samsung Electronics Co., Ltd. and Samsung Semiconductor, Inc. (collectively Samsung), LG Semicon Co., Ltd. and LG Semicon America, Inc. (collectively Semicon and formally

Goldstar), and Hyundai Electronics Industries Co., Ltd. and Hyundai Electronics America (collectively Hyundai), filed lawsuits with the Court challenging this determination. Thereafter, the Court issued an Order and Opinion dated June 12, 1995, in Micron Technologies, Inc. v. United States, Cons. Ct. No. 93–06–00318, Slip Op. 95–107, remanding six issues to the Department. The Court instructed the Department to: (1) recalculate respondents' cost of production by allocating research and development (R&D) costs on a product-specific basis; (2) use amortized rather than current R&D expenses in its calculations; (3) reopen the record in order to afford Hyundai and Samsung an opportunity to present complete and actual fixed asset data and use this data to allocate interest expenses; (4) recalculate Hyundai's lag period; (5) recalculate Semicon's production costs without reclassifying Semicon's capitalized costs of facility construction and testing as costs of production; and (6) reexamine its conclusion that foreign currency translation losses of Samsung and Semicon are related to production of subject merchandise.

The Department filed its remand results on August 24, 1995. In the remand results, the Department: (1) recalculated respondents— cost of production by allocating R&D on a product-specific basis; (2) used amortized rather than current R&D expenses in its calculations; (3) reopened the record to afford Hyundai and Samsung an opportunity to introduce actual data regarding semiconductor fixed assets, and used such data in its allocation of interest expense; (4) recalculated Hyundai's lag periods utilizing the same methodology that it employed for Samsung and Semicon; (5) determined a new lag period for Hyundai's model HY514400 which accurately matches costs to the sales in question; (6) calculated Semicon's production costs for certain DRAMs without reclassifying as costs of production Semicon's capitalized costs of facility construction and testing; and (7) identified what evidence on the record supports the conclusion that the translation losses of Samsung and Semicon are related to production of the subject merchandise and, having determined that there is sufficient evidence on the record to support such a conclusion, included translation losses in the calculation of COP for Samsung and Semicon.

On October 27, 1995, the Court sustained the Department's remand results. *See* Micron Technologies, Inc. v. United States, Cons. Ct. No. 93–06–00318, Slip Op. 95–175 (CIT October 27, 1995).

Suspension of Liquidation

In its decision in Timken, the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish notice of a decision of the Court or Federal Circuit which is "not in harmony" with the Department's determination. Publication of this notice fulfills this obligation. The Federal Circuit also held that in such a case, the Department must suspend liquidation until there is a "conclusive" decision in the action. A "conclusive" decision cannot be reached until the opportunity to appeal expires or any appeal is decided by the Federal Circuit. Therefore, the Department will continue to suspend liquidation pending the expiration of the period to appeal or pending a final decision of the Federal Circuit if Micron is appealed.

Dated: November 29, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–29583 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–054]

Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Amendment to the Final Results of Review

AGENCY: Import Administration/ International Trade Administration, Department of Commerce.

SUMMARY: On June 15, 1995, the United States Court of International Trade (CIT) remanded the Department of Commerce's (the Department's) redetermination on remand of the final results of administrative review of the antidumping finding on tapered roller bearings, four inches or less in outside diameter, and certain components thereof (TRBs) from Japan (41 FR 34974, August 18, 1976) (*Koyo Seiko Co., Ltd. and Koyo Corp. of U.S.A.* v. *United States and NSK Ltd. And NSK Corp.*, v. *United States* (Slip Op. 95–111 (June 15, 1995)) (*Koyo*)). The CIT ordered the Department to correct two computer programming errors in the calculation of margins for Koyo Seiko Co., Ltd., and, following the corrections, affirmed the redetermination in all respects. The results covered the period April 1, 1974, through March 31, 1979, for TRBs produced by Koyo Seiko Co., Ltd., and distributed by its subsidiary, Koyo Corporation of U.S.A. (collectively, Koyo), and April 1, 1974 through July 31, 1980, for TRBs produced by NSK Ltd., and distributed by its subsidiary, NSK Corporation (collectively, NSK).

EFFECTIVE DATE: June 25, 1995.

FOR FURTHER INFORMATION CONTACT: Chip Hayes or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On June 15, 1995, the CIT issued an order remanding to the Department the redetermination on remand of the final results of administrative review of the antidumping finding on TRBs from Japan to correct two computer programming errors, and affirmed the redetermination in all other respects.

The Department's final results of review covering Koyo for the period April 1, 1974 through March 31, 1979, and NSK for the period April 1, 1974 through July 31, 1980, were published on June 1, 1990 (55 FR 22369). Koyo, NSK, and petitioner in this proceeding, the Timken Company (Timken), challenged those results to the CIT. The CIT issued four remand orders covering the review: on issues concerning Koyo in *Koyo Seiko Co., Ltd. and Koyo Corporation of U.S.A.* v. *United States* (Slip Op. 92–72 (May 15, 1992) (*KCUSA*)); on issues concerning NSK in *NSK Ltd.* v. *United States* (Slip Op. 92–79 (May 21, 1992) (*NSK*)); on issues relating to both Koyo and NSK in *The Timken Company* v. *United States* (Slip Op. 92–83 (May 22, 1992) (*Timken*)); and finally in *Koyo Seiko Co., Ltd. and Koyo Corporation of U.S.A.* v. *United States* (Slip Op. 92–139 (August 21, 1992) (*Koyo Cost*)) the CIT allowed the Department to conduct an investigation of sales made below the cost of production by Koyo.

In *KCUSA* and *NSK* the CIT ordered the Department to recalculate margins for entries pursuant to the three-criteria methodology for determining "such or similar" merchandise; to examine all possible similar home market models of approximately equal commercial value to calculate foreign market value (FMV); to include Koyo's data for net weights of certain TRBs in the calculation of U.S. customs duties; to add only thirty days to Koyo's shipping time when calculating an adjustment for U.S. inventory expenses; and to liquidate Koyo's entries between April 1, 1974 and September 30, 1977, and NSK's entries between June 6, 1974 and July 31, 1977, according to master lists prepared by the Treasury Department (Treasury). In addition, in *Timken* the CIT remanded the same final results to the Department to use the verified per-unit export department expenses as best information available when calculating the adjustment to exporter's sales price (ESP) for Koyo's export selling expenses.

In *Koyo Cost* the CIT allowed Timken to submit supplemental sales-below-cost information and directed the Department to consider the supplemental information in order to determine whether the dumping margins for the April 1, 1978 to March 31, 1979 period should be calculated without reference to the investigation of below-cost-of-production sales. That allegation, and the Department's finding of sales below the cost of production, were not relevant to time periods prior to April 1, 1978. Consequently, no investigation of sales made below the cost of production was conducted for those periods.

The Department submitted its remanded results for NSK pursuant to *NSK* and *Timken* to the CIT in August 1992. Results for Koyo pursuant to *KCUSA*, *Timken*, and *Koyo Cost* were submitted to the CIT in October 1992. The CIT affirmed those results in their entirety on March 4, 1993 (Slip Op. 93–28). Koyo, NSK, and Timken appealed various issues in those orders to the United States Court of Appeals for the Federal Circuit (the Federal Circuit). In its ruling of March 28, 1994 (*Koyo Seiko Co., Ltd. and Koyo Corporation USA.* v. *United States* (93–1310, 1341), and *NSK Ltd. And NSK Corporation* v. *United States* (93–1311), (*CAFC decision*)), the Federal Circuit affirmed the CIT's decision in *Koyo Cost* to allow the Department to conduct an investigation of sales made below the cost of production by Koyo. However, the Federal Circuit reversed the decision of the CIT in *KCUSA* and *NSK* to liquidate TRB entries made by Koyo between April 1, 1974 and September 30, 1977, and TRB entries made by NSK between June 6, 1974 and March 31, 1978, according to Treasury master lists. Pursuant to the *CAFC decision*, the CIT ordered a redetermination of the final dumping margins for 1974–1978 TRB entries (*Koyo Seiko Co.*, v. *United States and NSK Ltd.* v. *United States*, Slip Op. 94–75 (May 10, 1994) (*Koyo/NSK*)). The *Koyo/NSK* order stipulated that the margins be determined based upon the complete record of the administration review conducted by the Department and on the CIT's prior rulings in *KCUSA*, *NSK*, and *Timken*. No other issues were raised before the Federal Circuit.

The Department submitted its results pursuant to *Koyo/NSK* on July 18, 1994. On June 15, 1995, the CIT issued its decision in *Koyo* remanding those results to the Department to correct two computer programming errors alleged by Timken and affirming the redetermination in all other respects. The margin calculations on entries made by NSK from April 1, 1978, through July 31, 1980, and by Koyo from October 1, 1977, through March 31, 1979, were not challenged in these actions, and were affirmed by the CIT. Consequently, those calculations remain unchanged from the Department's August 1992 and October 1992 remanded results.

The Department has addressed the two programming errors identified by the CIT in *Koyo*. Based upon an examination of the record in the final results of review we determined that there was no programming or clerical error regarding model matching. The Department reviewed and emended the programming error regarding exchange rates. We disclosed the results to Koyo and Timken consistent with 19 CFR 353.28. We received no comments on our results from either party. The Department is therefore amending the final results of the administrative review of the antidumping finding on tapered roller bearings, four inches or less in outside diameter, and certain components thereof from Japan to reflect the amended margins calculated for Koyo and NSK in the Department's redetermination on remand, and affirmed by the CIT.

The Department will issue liquidation instructions to the Customs Service based on the following amended margins:

Firm	Period	Percent margin
Koyo	04/01/1974 to 07/31/1976	20.56
	08/01/1976 to 09/30/1977	5.99
	10/01/1977 to 93/31/1978	24.64
	04/01/1978 to 03/31/1979	17.96
NSK	06/06/1974 to 06/30/1976	17.42
	07/01/1976 to 07/31/1977	17.42
	08/01/1977 to 03/31/1978	18.63
	04/01/1978 to 07/31/1978	39.60
	08/01/1978 to 07/31/1979	19.75
	08/01/1979 to 07/31/1980	9.82

Dated: November 22, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–29727 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–028]

Notice of Final Results of Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle, From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from the American Chain Association, the petitioner in this proceeding, the Department of Commerce (the Department) has conducted an administrative review of the antidumping finding on roller chain, other than bicycle, from Japan. The review covers four manufacturers/ exporters of this merchandise to the United States during the period of April 1, 1992, through March 31, 1993.

We gave interested parties the opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have revised the results from those presented in our preliminary results.

EFFECTIVE DATE: December 6, 1995.

FOR FURTHER INFORMATION CONTACT: Greg Thompson or Donna Berg, Office of Antidumping Investigations, Import

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3003 or (202) 482–0114, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1995, the Department published in the **Federal Register** the preliminary results of its 1992–1993 administrative review of the antidumping duty order on Roller Chain, Other Than Bicycle, from Japan (60 FR 43769). The four manufacturers/exporters reviewed are Izumi Chain Manufacturing Co., Ltd. (Izumi), R.K. Excel (Excel), Hitachi Metals Techno Ltd. (Hitachi), and Pulton Chain Co. Ltd. (Pulton). Pulton submitted comments on August 30, 1995. On September 18, 1995, the petitioner submitted its case brief. Excel submitted rebuttal comments on September 25, 1995. The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

Imports covered by this review are shipments of roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle," as used in this review includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyer chain.

This review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7315.11.00 through 7619.90.00. HTSUS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Fair Value Comparisons

We compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We calculated USP according to the methodology described in our preliminary results, except for the adjustment of value-added taxes (VAT), as described below.

In light of the Federal Circuit's decision in *Federal Mogul* v. *United States*, CAFC No. 94–1097, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith* v. *United States*, 988 F. 2d 1573, 1582 (1993), and which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul* v. *United States*, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a "zero" pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude Commerce from using the "*Zenith* footnote 4" methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the "*Zenith* footnote 4" methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the *Federal Circuit* has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. Second, the Uruguay Round Agreements Act (URAA) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no cohsumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the "*Zenith* footnote 4" methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to United States price rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

Foreign Market Value

With the exception noted above for VAT, we calculated FMV according to the methodology described in our preliminary results.

Currency Conversion

We made currency conversions in accordance with 19 CFR 353.60(a). All currency conversions were made at the rates certified by the Federal Reserve Bank.

Interested Party Comments

Comment 1: Consumption Tax Adjustment

The petitioner argues that the Department erred with respect to its consumption tax (VAT) calculations for Excel's home market sales. Specifically, the petitioner claims that the Department incorrectly excluded U.S. commissions from its calculation of the hypothetical VAT amount applicable to U.S. selling expenses. Insofar as the VAT on expenses is deducted from FMV, the petitioner argues that the alleged error has the effect of lowering FMV and thereby improperly decreasing Excel's margin.

Excel contends that it would be incorrect to include commissions in the calculation of U.S. expenses because commissions were not included in the calculation of the VAT amount that was added to U.S. price. If the Department were to include commissions in the equation for U.S. expenses, Excel argues that the Department should also include commissions in the calculation of the VAT amount that is added to U.S. price.

DOC Position

In accordance with the CAFC decision (*see* the "United States Price" section of this notice), the Department has changed its VAT calculation methodology. Therefore, the comments made by the petitioner and Excel are moot.

Comment 2: Pulton's Dumping Margin

Pulton states that the Department's preliminary results correctly indicated that Pulton reported no U.S. sales during this review period. However, Pulton contends that the Department incorrectly cited the dumping margin from the most recent review when Pulton had U.S. sales. Instead of the rate of 0.01 percent published by the Department, Pulton contends the rate should be 0.00 percent (*see* 58 FR 52264, 52267 (October 7, 1993)).

DOC Position

We agree with Pulton and have corrected this inadvertent error for these final results.

Final Results of Review

As a result of our analysis of the comments received, we determine that the following weighted-average margins exist for the April 1, 1992 through March 31, 1993 period:

Manufacturer/exporter	Margin (percent)
Hitachi	[1]12.68
Izumi	0.52
Pulton	[1]0.00
Excel	0.10
All Others	15.92

[1] No sales during the period. Rate is from the last period in which there were sales.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of roller chain, other than bicycle, from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for Pulton and Excel will be zero because the margins for these firms are zero or *de minimus*. The cash deposit rates for Izumi and Hitachi will be 0.52 and 12.68 percent, respectively; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, earlier review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, earlier reviews, or the LTFV investigation, whichever is the most recent; (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the "new shipper" rate established in the first review conducted by the Department in which a "new shipper" rate was established, as discussed below.

On May 25, 1993, the CIT in *Floral Trade Council* v. *United States*, 822 F. Supp. 766 (CIT 1993), and *Federal-Mogul Corporation and the Torrington Company* v. *United States*, 822 F. Supp. 782 (CIT 1993), decided that once an "all others" rate is established for a company it can only be changed through an administrative review. The Department has determined that in order to implement these decisions, it is appropriate to reinstate the "all others" rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders. In proceedings governed by antidumping findings, unless we are able to ascertain the "all others" rate from the Treasury LTFV investigation, the Department has determined that it is appropriate to adopt the "new shipper" rate established in the first final results of administrative review published by the Department (or that rate as amended for correction of clerical errors or as a result of litigation) as the "all others" rate for the purposes of establishing cash deposits in all current and future administrative reviews.

Because this proceeding is governed by an antidumping finding, and we are unable to ascertain the "all others" rate from the Treasury LTFV investigation, the "all others" rate for the purposes of this review would normally be the "new shipper" rate established in the first notice of final results of administrative review published by the Department (46 FR 44488, September 4, 1981). However, a "new shipper" rate was not established in that notice. Therefore, the "all others" rate of 15.92 percent comes from *Roller Chain, Other Than Bicycle, from Japan, Final Results of Administrative Review of Antidumping Finding*, 48 FR 51801 (November 14, 1983), the first review conducted by the Department in which a "new shipper" rate was established.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: November 29, 1995

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–29728 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DS–P

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–106. *Applicant:* Pennsylvania State University, Department of Chemistry, 152 Davey Laboratory, University Park, PA 16802. *Instrument:* Cold Stage for Time-of-Flight SIMS. *Manufacturer:* Kore Technology, Ltd., United Kingdom. *Intended Use:* The instrument will be used for studies of organic, inorganic and biological solids to determine whether a certain biological molecule is bound inside or outside the nucleus of a frozen biological cell. *Application Accepted by Commissioner of Customs:* October 24, 1995.

Docket Number: 95–107. *Applicant:* U.S. Department of Commerce, National Institute of Standards and Technology, Bldg. 222, Rm A113, Gaithersburg, MD 20899. *Instrument:* Electron Microscope, Model CM300. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used to study the chemical and crystallographic composition, morphology, and their related spatial placement of a variety of inorganic and organic materials, such as ceramics, metals, minerals, and polymers. *Application Accepted by Commissioner of Customs:* October 26, 1995.

Docket Number: 95–108. *Applicant:* VA Medical Center of Gainesville, 1601 SW Archer Road, Gainesville, FL 32608-1197. *Instrument:* Electron Microscope, Model CM100. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used for studies of tissue from different organs, cultured cells, and cell blocks prepared from body cavity fluids. The studies will involve investigations of cell characterizations such as cytoplasmic membrane projections, presence or absence of cell junctions, type of junctions, and cytoplasmic organelles at the ultrastructural level to differentiate between cell types and their origin. In addition, the instrument will be used for training pathology residents. *Application Accepted by Commissioner of Customs:* October 26, 1995.

Docket Number: 95–109. *Applicant:* University of California, Room 301, McCone Hall, Berkeley, CA 94720. *Instrument:* Energy Dispersive Spectrometer. *Manufacturer:* Oxford Instruments, United Kingdom. *Intended Use:* The instrument will be used for studies of various materials including mineral grain separates, whole rock thin sections, soil particles, meteorites, archeological artifacts, experimental glass and crystalline charges, volcanic ashes, rare earth semiconductors, superconducting oxides, silicide and nitride ceramics, and super alloys. In addition, the instrument will be used for educational purposes in the course Geology 401. *Application Accepted by Commissioner of Customs:* October 25, 1995.

Docket Number: 95–110. *Applicant:* National Institute of Standards and Technology, Quince Orchard Road, Gaithersburg, MD 20899. *Instrument:* Mass Spectrometer, Model JMS-700. *Manufacturer:* JEOL, Japan. *Intended Use:* The instrument will be used for the quantitative and qualitative determination of compounds of biomedical interest in complex matrices through studies of the properties of concentration, molecular weight, molecular structure, and ion structure. *Application Accepted by Commissioner of Customs:* October 26, 1995.

Docket Number: 95–111. *Applicant:* University of Wisconsin-Madison, Integrated Microscopy Resource, 1525 Linden Drive, Madison, WI 53706. *Instrument:* Mode-locked Solid State Laser. *Manufacturer:* Microlase Optical Systems, Ltd., United Kingdom. *Intended Use:* The instrument will be used as a fluorescence excitation source for the study of the dynamics of the internal cellular architecture of living biological specimens. The objective of these experimental observations is to understand how the internal machinery of a cell functions during development. In addition, the instrument will be used in courses for advanced microscopy techniques for undergraduates, graduate students and visiting academic research workers. *Application Accepted by Commissioner of Customs:* October 26, 1995.

Docket Number: 95–112. *Applicant:* The Scripps Research Institute, 10666 North Torrey Pines Road, La Jolla, CA 92037. *Instrument:* Electron Microscope, Model CM100. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used for electron microscopic studies of the structure of the following biological materials which have been isolated from various plants and tissue and culture cells: (1) endoplasmic reticulum and Golgi membranes, (2) plant cells, (3) actin cytoskeletal complexes, (4) nuclear envelope membranes, (5) plasma membranes, and (6) clathin, dynamin, and GAP junctions. *Application Accepted by Commissioner of Customs:* October 16, 1995.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 95–29729 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DS–F

Indiana University Medical Center, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–043. *Applicant:* Indiana University Medical Center, Indianapolis, IN 46202-5289. *Instrument:* Radiation Therapy Simulator, Model Simulix-MC. *Manufacturer:* Oldelft, The Netherlands. *Intended Use:* See notice at 60 FR 33190, June 27, 1995.

Comments: None Received. *Decision:* Denied. *Reasons:* In its justification for duty exemption, the applicant states:

> The structural, performance and operational characteristics of the foreign and domestic units are similar. However, the foreign unit possessed a greater number of the structural and operational characteristics required, without incurring a greater expense.

The applicant lists the structural and operational features of the foreign instrument which led to the purchase decision. The applicant states that each feature of the foreign instrument is also available on the domestic instrument (manufactured by Varian Corporation) and provides cost data as follows:

> Shadow Tray: ... With the domestic unit, an additional cost of $6495.00 would have to be incurred by the institution.
> Lasers: ...With the domestic unit, an additional cost of $15,000 would have to be incurred by the institution.
> Last Image Hold: ... With the domestic unit, an additional cost of $11,350 would have to be incurred by the institution.

The application is deficient for the reason that the applicant's purchase of the foreign article was based, not on grounds that the domestic instrument is not scientifically equivalent as required by 15 CFR 301.5(1), but on lower cost of the foreign article.

Pursuant to 15 CFR Part 301.2(s):

> 'Pertinent' specifications are those specifications necessary for the accomplishment of the specific scientific research and/or science-related educational purposes described by the applicant. Specifications or features (even if guaranteed) which afford greater convenience, satisfy personal preferences, accommodate institutional commitments or limitations, *or assure lower costs of acquisition*, installation, operation, servicing or maintenance are not pertinent. (Emphasis added.)

Also, 15 CFR 301.5(d)(1)(i) provides in part:

> The determination of scientific equivalency shall be based on a comparison of the pertinent specifications of the foreign instrument with similar pertinent specifications of comparable domestic instruments... If the director finds that a domestic instrument possesses all of the pertinent specifications of the foreign instrument, he shall find that there is being manufactured in the United States an instrument of equivalent scientific value for such purposes as the foreign instrument is intended to be used.

Finally, the regulations provide in 15 CFR 301.5(e)(7) as follows:

> Information provided in a resubmission that... contradicts or conflicts with information provided in a prior submission..., shall not be considered in making the decision on an application that has been resubmitted. Accordingly, an applicant may elect to reinforce an original submission by elaborating in the resubmission on the description of the purposes contained in a prior submission and may supply additional examples, documentation and/or other clarifying detail, *but the applicant shall not introduce new purposes or other material changes in the nature of the original application.* (Emphasis added.)

Consequently, in view of the applicant's categorical statements cited above, no pertinent, scientifically relevant specifications or features independent of cost can be cited by the applicant. Accordingly, we find pursuant to Section 301.5(d)(1)(i) that the domestic and foreign instruments are scientifically equivalent.

We conclude that affording the applicant an opportunity to resubmit its application cannot result in a statement of purpose or need consonant with the regulations. The application is denied, pursuant to Section 301.5(d)(1)(i) for the reason that "there is being manufactured in the United States an instrument of equivalent scientific value for such purposes as the foreign instrument is intended to be used.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 95–29730 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DS–F

University of California, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–068. *Applicant:* University of California, Berkeley, CA 94720-3104. *Instrument:* Mass Spectrometer, Model JMS-AX505WA. *Manufacturer:* JEOL, Japan. *Intended Use:* See notice at 60 FR 48505, September 19, 1995.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides double focusing magnetic sector design with mass range to 1200 and resolution to 20 000.

This capability is pertinent to the applicant's intended purposes and we know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 95–29731 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DS–F

C–201–505

Porcelain-on-Steel Cookingware from Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On September 26, 1995, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on porcelain-on-steel cookingware from Mexico for Acero Porcelanizado, S.A. de C.V. (APSA). The review covers the period January 1, 1994 through December 31, 1994. We have completed this review and determine the net subsidy to be *de minimis* for APSA. The Department will instruct the U.S. Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from APSA exported on or after January 1, 1994, and on or before December 31, 1994.

EFFECTIVE DATE: December 6, 1995.

FOR FURTHER INFORMATION CONTACT: Norma Curtis or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 26, 1995, the Department published in the **Federal Register** (60 FR 49565) the preliminary results of its administrative review of the countervailing duty order on porcelain-on-steel cookingware from Mexico. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). We invited interested parties to comment on the preliminary results. We received no comments. The review covers the period January 1, 1994 through December 31, 1994. The review involves one company and ten programs.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and to the Department's

regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

Imports covered by this review are shipments of porcelain-on-steel cookingware from Mexico. The products are porcelain-on-steel cookingware (except teakettles), which do not have self-contained electric heating elements. All of the foregoing are constructed of steel, and are enameled or glazed with vitreous glasses. During the review period, such merchandise was classifiable under item number 7323.94.0020 of the *Harmonized Tariff Schedule* (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Programs

Based upon our analysis of the questionnaire response and verification we determine the following:

I. Programs Conferring Subsidies

Bancomext Financing for Exporters

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Since we received no comments on our preliminary results, our findings remain unchanged in these final results.

II. Programs Found Not To Be Used

In the preliminary results, we found that APSA did not apply for or receive benefits under the following programs during the period of review (POR):

A. Certificates of Fiscal Promotion (CEPROFI)
B. PITEX
C. Other Bancomext Preferential Financing
D. Import Duty Reductions and Exemptions
E. State Tax Incentives
F. Article 15 Loans
G. NAFINSA FOGAIN-type Financing
H. NAFINSA FONEI-type Financing
I. FONEI

Since we received no comments on our preliminary results, our findings remain unchanged in these final results.

Final Results of Review

For the period January 1, 1994 through December 31, 1994, we determine the net subsidy to be 0.01 percent *ad valorem* for APSA. In accordance with 19 CFR 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis*.

The Department will instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from APSA exported on or after January 1, 1994, and on or before December 31, 1994.

The Department will also instruct the U.S. Customs Service to collect a cash deposit of estimated countervailing duties of zero percent of the f.o.b. invoice price on all shipments of the subject merchandise from APSA entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. The cash deposit rates for all other producers/exporters remain unchanged from the last completed administrative review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: November 27, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–29584 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology Commerce.

ACTION: Notice of Government Owned Inventions Available for Licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government, as represented by the Department of Commerce, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR Part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: Marcia Salkeld, National Institute of Standards and Technology, Office of Technology Partnerships, Physics Building, Room B–256, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

NIST Docket No. 93–044

Title: Anti-Ferromagnetically Coupled Double-Layer Magnetic Force Microscope Probe.

Description: The magnetic force microscope probe of this invention features two magnetic layers separated by a nonmagnetic layer. The magnetic layers are preferably of different thicknesses and are strongly anti-ferromagnetically coupled. This configuration provides uniform magnetization and small stray magnetic fields.

NIST Docket No. 93–064

Title: Atomic Force Microscope Using Piezoelectric Detection.

Description: This atomic force microscope, using piezoelectric detection, determines surface properties of insulator and conductor samples without the snap-in related errors common to cantilever probe mounts.

NIST Docket No. 94–009

Title: Coupling Apparatus for Multimode Infrared Detectors.

Description: NIST researchers have invented an optical coupling device that is useful in infrared (IR) laboratory instrumentation and industrial process control. The invention combines two existing IR optical coupling devices in such a way as to overcome their individual deficiencies.

NIST Docket No. 94–039

Title: Infrared Neutral-Density Filter Having Copper Alloy Film.

Description: The infrared neutral-density optical filter of this invention has a film consisting essentially of copper and nickel, preferably using the alloy Constantan, on a dielectric substrate. The filter achieves a high optical density with a low spectral variation.

NIST Docket No. 95–011

Title: Non-Destructive Method for Determining the Extent of Cure of a Polymerizing Material and the Solidification of a Thermoplastic Polymer Based on Wavelength Shift of Fluorescence.

Description: This NIST invention uses the change in the peak fluorescence wavelength of a small amount of a fluorescent compound, a fluorophore, which has been dissolved in a polymerizing material or a thermoplastic polymer to determine non-destructively the extent of cure or solidification, respectively. Fluorophores can also be immobilized on the surface of the optic fiber probe window in lieu of being added to the polymerizing material. The invention also identifies a new class of suitable fluorophores.

Dated: November 30, 1995.

Samuel Kramer,

Associate Director.

[FR Doc. 95–29695 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[I.D. 112795B]

International Whaling Commission; Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meetings; request for comments.

SUMMARY: NOAA makes use of a public Interagency Committee to assist in preparing for meetings of the International Whaling Commission (IWC). This notice sets forth guidelines for participating on the Committee and a tentative schedule of meetings and other important dates.

DATES: Comments should be submitted on or before February 15, 1996. See **SUPPLEMENTARY INFORMATION** for dates of scheduled meetings.

ADDRESSES: Recommendations to the U.S. Commissioner to the IWC and nominations to the U.S. Delegation to the IWC should be sent to: Dr. D. James Baker, Under Secretary for Oceans and Atmosphere, Department of Commerce, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, with a copy sent to Kevin Chu, Office of International Affairs, Room 14247, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. See **SUPPLEMENTARY INFORMATION** for meeting locations.

FOR FURTHER INFORMATION CONTACT: Kevin Chu or Kim Blankenbeker, Office of International Affairs, (301) 713-2276.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce is charged with the responsibility of discharging the obligations of the United States under the International Convention for the Regulation of Whaling, 1946. This authority has been delegated to the Under Secretary for Oceans and Atmosphere, who, as the U.S. Commissioner to the IWC, has primary responsibility for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. He is staffed by the Department of Commerce, and assisted by the Department of State, the Department of the Interior, the Marine Mammal Commission, and other interested agencies.

Each year, NOAA conducts a series of meetings and other actions to prepare for the annual meeting of the IWC, which is usually held in the spring or summer. The major purpose of the preparatory meetings is to provide for input in the development of policy by members of the public and non-governmental organizations interested in whale conservation. NOAA believes that this participation is important for the effective development and implementation of U.S. policy concerning whaling. Any person with an identifiable interest in U.S. whale conservation policy may participate in the meetings, but NOAA reserves the authority to inquire about the interest of any person who appears at a meeting and to determine the appropriateness of that person's participation. Foreign nationals and persons who represent foreign governments may not attend. These stringent measures are necessary to promote the candid exchange of information. Such measures are a necessary basis for the relatively open process of preparing for IWC meetings that characterizes current practice.

The tentative schedule of meetings, including those of the IWC, and deadlines for the preparation of position papers for the 1996 Annual Meeting of the IWC is as follows:

December 13, 1995, 1 p.m.—Room 6009, Herbert C. Hoover Building, Department of Commerce, 14th Street and Constitution Avenue, Washington, D.C.—Meeting of the Interagency Committee to review past events and to begin preparation for the 1996 Annual Meeting of the IWC. As with all such meetings, interested persons who are unable to attend are welcome to submit comments. Recommendations to the U.S. Commissioner should be sent to the Under Secretary for Oceans and Atmosphere (see **ADDRESSES**).

February 15, 1995—Nominations for the U.S. Delegation to the Annual Meeting of the IWC are due to the U.S. Commissioner, with a copy to Kevin Chu (see **ADDRESSES**). All persons wishing to be considered pursuant to the U.S. Commissioner's recommendation to the Department of State concerning the composition of the delegation should ensure that nominations are received by this date. Prospective Congressional advisors to the delegation should contact the Department of State directly.

March 21, 1996, 2 p.m.—Room 6009, Herbert C. Hoover Building, Department of Commerce, 14th Street and Constitution Avenue, Washington, D.C.—Tentative Interagency Committee meeting date to review draft agenda of the IWC Annual Meeting and consider U.S. positions under those agenda items.

May 16, 1996, 2 p.m.—Room 6009, Herbert C. Hoover Building, Department of Commerce, 14th Street and Constitution Avenue, Washington, D.C.—Tentative Interagency Committee meeting date for finalizing preparations for 1996 IWC meetings.

June 24–June 28, 1996—Aberdeen, United Kingdom—48th Annual Meeting of the International Whaling Commission.

Dated: November 30, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–29607 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6714. For information on embargoes and quota re-openings, call (202) 927–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the

Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Pakistan and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits. The 1996 limits for Categories 338, 340/640, 360, 361, 363, 369–F/369–P, 369–R, 369–S and 638/639 have been reduced for carryforward applied to the 1995 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act, and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Pakistan and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Specific Limits	
219	6,879,526 square meters.
226/313	102,421,264 square meters.
237	334,595 dozen.
239	1,575,274 kilograms.
314	5,003,292 square meters.
315	68,538,238 square meters.
317/617	26,886,849 square meters.
331/631	2,049,146 dozen pairs.
334/634	197,630 dozen.
335/635	305,201 dozen.
336/636	401,514 dozen.
338	4,073,147 dozen.
339	1,137,351 dozen.
340/640	505,643 dozen of which not more than 200,757 dozen shall be in dress shirts in Categories 340–D/640–D [1].
341/641	602,272 dozen.
342/642	298,093 dozen.
347/348	665,537 dozen.
351/651	267,676 dozen.
352/652	669,190 dozen.
359–C/659–C [2]	1,204,542 kilograms.
360	2,206,738 numbers.
361	2,869,590 numbers.
363	37,886,241 numbers.
369–F/369–P [3]	1,896,163 kilograms.
369–R [4]	8,848,760 kilograms.
369–S [5]	578,911 kilograms.
613/614	20,280,350 square meters.
615	21,574,836 square meters.
625/626/627/628/629.	66,354,561 square meters of which not more than 33,177,281 square meters shall be in Category 625, not more than 33,177,281 square meters shall be in Category 626, not more than 33,177,281 square meters shall be in Category 627, not more than 6,864,265 square meters shall be in Category 628, and not more than 33,177,281 square meters shall be in Category 629.
638/639	364,003 dozen.
647/648	731,148 dozen.

[1] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030; Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 369–F: only HTS number 6302.91.0045; Category 369–P: only HTS numbers 6302.60.0010 and 6302.91.0005.

[4] Category 369–R: only HTS number 6307.10.2020.

[5] Category 369–S: only HTS number 6307.10.2005.

Imports charged to these category limits for the periods January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29602 Filed 11–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in Malaysia

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6712. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Malaysia and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel in the following categories, produced or manufactured in Malaysia and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following limits:

Category	Twelve-month restraint limit
Fabric Group	
218, 219, 220, 225–227, 313–315, 317, 326, 611, 613/614/615/617, 619 and 620, as a group.	106,424,002 square meters.
Sublevels within the group	
218	6,106,086 square meters.
219	29,580,596 square meters.
220	29,580,596 square meters.
225	29,580,596 square meters.
226	29,580,596 square meters.
227	29,580,596 square meters.
313	35,279,609 square meters.
314	42,444,038 square meters.
315	29,580,596 square meters.
317	29,580,596 square meters.
326	5,720,221 square meters.
611	3,432,132 square meters.
613/614/615/617	33,955,231 square meters.
619	4,576,177 square meters.
620	5,720,221 square meters.
Other Specific Limits	
200	257,491 kilograms.
237	346,452 dozen.
300/301	2,730,975 kilograms.
331/631	1,875,047 dozen pairs.
333/334/335/835	215,029 dozen of which not more than 129,017 dozen shall be in Category 333 and not more than 129,017 dozen shall be in Category 835.
336/636	417,481 dozen.
338/339	1,035,036 dozen.
340/640	1,205,616 dozen.
341/641	1,562,523 dozen of which not more than 557,431 dozen shall be in Category 341.
342/642/842	374,258 dozen.
345	143,515 dozen.
347/348	438,650 dozen.
350/650	134,972 dozen.
351/651	232,229 dozen.
363	3,638,060 numbers.
435	15,044 dozen.
438–W [1]	12,311 dozen.
442	18,333 dozen.
445/446	29,101 dozen.
604	1,197,472 kilograms.
634/635	729,275 dozen.
638/639	429,598 dozen.
645/646	328,583 dozen.
647/648	1,546,272 dozen of which not more than 1,082,389 dozen shall be in Category 647–K [2] and not more than 1,082,389 dozen shall be in Category 648–K [3].
Group II	
201, 222–224, 229, 239, 330, 332, 349, 352–354, 359–362, 369, 400–434, 436, 438–O [4], 439, 440, 443, 444, 447, 448, 459, 464–469, 600–603, 606, 607, 618, 621, 622, 624–630, 632, 633, 643, 644, 649, 652–654, 659, 665–670, 831–834, 836, 838, 839, 840 and 843–859, as a group.	41,591,218 square meters equivalent.

[1] Category 438–W: only HTS numbers 6104.21.0060, 6104.23.0020, 6104.29.2051, 6106.20.1010, 6106.20.1020, 6106.90.1010, 6106.90.1020, 6106.90.2520, 6106.90.3020, 6109.90.1540, 6109.90.8020, 6110.10.2080, 6110.30.1560, 6110.90.9074 and 6114.10.0040.

[2] Category 647–K: only HTS numbers 6103.23.0040, 6103.23.0045, 6103.29.1020, 6103.29.1030, 6103.43.1520, 6103.43.1540, 6103.43.1550, 6103.43.1570, 6103.49.1020, 6103.49.1060, 6103.49.8014, 6112.12.0050, 6112.19.1050, 6112.20.1060 and 6113.00.9044.

[3] Category 648–K: only HTS numbers 6104.23.0032, 6104.23.0034, 6104.29.1030, 6104.29.1040, 6104.29.2038, 6104.63.2010, 6104.63.2025, 6104.63.2030, 6104.63.2060, 6104.69.2030, 6104.69.2060, 6104.69.8026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.9052 and 6117.90.9070.

[4] Category 438–O: only HTS numbers 6103.21.0050, 6103.23.0025, 6105.20.1000, 6105.90.1000, 6105.90.8020, 6109.90.1520, 6110.10.2070, 6110.30.1550, 6110.90.9072, 6114.10.0020 and 6117.90.9025.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that

these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29601 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in Uruguay

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Uruguay and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in the following categories, produced or manufactured in Uruguay and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following limits:

Category	Twelve-month restraint limit
334	131,414 dozen.
335	113,128 dozen.
410	2,823,739 square meters of which not more than 1,613,567 square meters shall be in Category 410–A[1] and not more than 2,599,632 square meters shall be in Category 410–B[2]
433	16,861 dozen.
434	25,155 dozen.
435	50,801 dozen.
442	35,937 dozen.

[1] Category 410–A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[2] Category 410–B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.2030, 5112.11.2060, 5112.19.9010, 5112.19.9020, 5112.19.9030, 5112.19.9040, 5112.19.9050, 5112.19.9060, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29603 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Thailand

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6717. For information on

embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Thailand and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits. A directive to reduce the limits for certain categories for carryforward used during 1995 will be published in the **Federal Register** at a later date.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Thailand and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following limits:

Category	Twelve-month restraint limit
239	5,377,008 kilograms.
Levels in Group I	
200	1,021,931 kilograms.
218	16,790,460 square meters.
219	5,450,300 square meters.
300	4,087,725 kilograms.
301–P[1]	4,087,725 kilograms.
301–O[2]	817,546 kilograms.
313	19,076,049 square meters.
314	43,602,397 square meters.
315	27,251,498 square meters.
317/326	11,440,442 square meters.
363	17,713,473 numbers.
369–D[3]	194,849 kilograms.
369–S[4]	272,515 kilograms.
604	637,593 kilograms of which not more than 408,772 kilograms shall be in Category 604–A[5].
607	2,725,149 kilograms.
611	12,652,112 square meters.
613/614/615	41,185,590 square meters of which not more than 23,981,319 square meters shall be in Categories 613/615 and not more than 23,981,319 square meters shall be in Category 614.
617	14,872,574 square meters.
619	6,131,587 square meters.
620	6,131,587 square meters.
625/626/627/628/629	12,012,464 square meters of which not more than 9,538,024 square meters shall be in Category 625.
669–P[6]	5,747,563 kilograms.
Group II	
237, 330–359, 431–459, 630–659 and 831–859, as a group.	252,127,746 square meters equivalent.
Sublevels in Group II	
331/631	1,487,406 dozen pairs.
334/634	531,404 dozen.
335/635/835	422,398 dozen.
336/636	272,515 dozen.
338/339	1,724,343 dozen.
340	245,264 dozen.
341/641	579,094 dozen.
342/642	504,153 dozen.
345	258,889 dozen.
347/348/847	711,945 dozen.
351/651	204,386 dozen.
359–H/659–H[7]	1,195,544 kilograms.
433	9,395 dozen.
434	11,597 dozen.
435	52,701 dozen.
438	17,396 dozen.
442	20,202 dozen.
638/639	2,032,262 dozen.
640	449,649 dozen.
645/646	272,515 dozen.
647/648	970,153 dozen.

[1] Category 301–P: only HTS numbers 5206.21.0000, 5206.22.0000, 5206.23.0000, 5206.24.0000, 5206.25.0000, 5206.41.0000, 5206.42.0000, 5206.43.0000, 5206.44.0000 and 5206.45.0000.

[2] Category 301–O: only HTS numbers 5205.21.0000, 5205.22.0000, 5205.23.0000, 5205.24.0000, 5205.25.0000, 5205.41.0000, 5205.42.0000, 5205.43.0000, 5205.44.0000 and 5205.45.0000.

[3] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[4] Category 369–S: only HTS number 6307.10.2005.

[5] Category 604–A: only HTS number 5509.32.0000.

[6] Category 669–P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

[7] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future according to the provisions of the Uruguay Round Agreements Act and the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

The conversion factors for merged Categories 359–H/659–H and 638/639 are 11.5 and 12.96, respectively.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29604 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bahrain

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Bahrain and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the availability of the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products in the following categories, produced or manufactured in Bahrain and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I 237, 239, 330–336, 338, 339, 340–342, 345, 347,, 348–354, 359, 431–436, 438–440, 442–448, 459, 630–636, 638, 639, 640–647, 648, 649, 650–654, 659, 831–836, 838, 839, 840, 842–847, 850–852, 858, 859.	36,748,875 square meters equivalent.
Sublevels in Group I 338/339	510,633 dozen.
340/640	244,993 dozen of which not more than 183,744 dozen shall be in Categories 340–Y/640–Y [1].

[1] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995, shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29593 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits and Guaranteed Access Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing import limits and guaranteed access levels.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Guatemala and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC). The Guaranteed Access Levels are being established pursuant to a Memorandum of Understanding dated March 3, 1995 between the Governments of the United States and Guatemala.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits and guaranteed access levels for 1996.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

Requirements for participation in the Special Access Program are available in **Federal Register** notice 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; 54 FR 50425, published on December 6, 1989; and 55 FR 3079, published on January 30, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Guatemala and exported during the period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following restraint limits:

Category	Twelve-month limit
340/640	1,161,407 dozen.
342/642	408,100 dozen.
347/348	1,390,651 dozen.
351/651	244,993 dozen.
443	69,198 numbers.
448	43,356 dozen.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future according to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

Pursuant to the Memorandum of Understanding dated March 3, 1995 between the Governments of the United States and Guatemala; and under the terms of the Special Access Program, as set forth in 51 FR 21208 (June 11, 1986), 52 FR 26057 (July 10, 1987) and 54 FR 50425 (December 6, 1989), effective on January 1, 1996, guaranteed access levels are being established for properly certified textile products assembled in Guatemala from fabric formed and cut in the United States in the following categories which are re-exported to the United States from Guatemala during the period January 1, 1996 through December 31, 1996:

Category	Guaranteed Access Level
340/640	520,000 dozen.
342/642	100,000 dozen.
347/348	1,000,000 dozen.
351/651	200,000 dozen.
443	25,000 numbers.
448	42,000 dozen.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification and Export Declaration in accordance with the provisions of the certification requirements established in the directive of January 24, 1990, as amended, shall be denied entry unless the Government of Guatemala authorizes the entry and any charges to the appropriate specific limit. Any shipment which is declared for entry under the Special Access Program but found not to qualify shall be denied entry into the United States.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29592 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in India

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6705. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in India and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits. The limit for Categories 340/640 has been reduced for carryforward applied in 1995.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay

Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in India and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Levels in Group I	
218	12,013,542 square meters.
219	56,990,137 square meters.
313	32,143,792 square meters.
314	6,784,540 square meters.
315	11,395,309 square meters.
317	36,133,448 square meters.
326	8,212,147 square meters.
334/634	121,269 dozen.
335/635	539,888 dozen.
336/636	747,677 dozen.
338/339	3,558,597 dozen.
340/640	1,658,861 dozen.
341	3,819,560 dozen of which not more than 2,291,735 dozen shall be in Category 341–Y[1].
342/642	1,093,273 dozen.
345	160,606 dozen.
347/348	516,720 dozen.
351/651	231,097 dozen.
363	37,542,958 numbers.
369–D[2]	1,131,194 kilograms.
369–S[3]	617,015 kilograms.
641	1,272,851 dozen.
647/648	739,132 dozen.
Group II	
200, 201, 220–229, 237, 239, 300, 301, 330–333, 349, 350, 352, 359–362, 600–607, 611–629, 630–633, 638, 639, 643–646, 649, 650, 652, 659, 665–O[4], 666, 669, 670, and 831–859, as a group.	98,195,449 square meters equivalent.

[1] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[2] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 665–O: all HTS numbers except 5702.10.9030, 5702.42.2020, 5702.92.0010 and 5703.20.1000 (rugs).

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29591 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Kuwait

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Kuwait and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits. The limit for Category 361 is zero.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the availability of the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Kuwait and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
340/640	231,125 dozen.
341/641	127,119 dozen.
361	—0—.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995, shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29590 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Nepal

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 6, 1995.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 340 is being increased for swing and carryover. The limit for Category 640 is being reduced to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 59 FR 66007, published on December 22, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 14, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in the Nepal and exported during the twelve-month period beginning on January 1, 1995 and extending through December 31, 1995.

Effective on December 6, 1995, you are directed to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Nepal:

Category	Adjusted limit[1]
340	332,310 dozen.
640	125,906 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29585 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Egypt

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Egypt and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Egypt and

exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Fabric Group	
218–220, 224–227, 313–317 and 326, as a group.	91,072,936 square meters.
Sublevels in Fabric Group	
218	2,508,000 square meters.
219	21,427,429 square meters.
220	21,427,429 square meters.
224	21,427,429 square meters.
225	21,427,429 square meters.
226	21,427,429 square meters.
227	21,427,429 square meters.
313	39,346,901 square meters.
314	21,427,429 square meters.
315	25,162,423 square meters.
317	21,427,429 square meters.
326	2,508,000 square meters.
Levels not in a group	
300/301	8,420,461 kilograms of which not more than 2,640,953 kilograms shall be in Category 301.
338/339	2,426,813 dozen.
340/640	1,005,394 dozen.
369–S[1]	1,273,141 kilograms.
448	18,617 dozen.

[1] Category 369–S: only HTS number 6307.10.2005.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29586 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Mauritius

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Mauritius and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits. A directive to reduce the limits for certain categories for carryforward used during 1995 will be published in the **Federal Register** at a later date.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Mauritius and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Knit group	
345, 438, 445, 446, 645 and 646, as a group.	154,374 dozen.
Levels not in a group	
237	199,074 dozen.
335/835	79,133 dozen.
336	93,121 dozen.
338/339	372,799 dozen.
340/640	606,703 dozen of which not more than 369,315 dozen shall be in Categories 340–Y/640–Y[1].
341/641	420,277 dozen.
347/348	784,725 dozen.
351/651	184,557 dozen.
352/652	1,565,044 dozen of which not more than 1,330,289 dozen shall be in Category 352.
442	11,654 dozen.
604–A[2]	360,361 kilograms.
638/639	428,720 dozen.

Category	Twelve-month restraint limit
647/648/847	578,102 dozen.

[1] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[2] Category 604–A: only HTS number 5509.32.0000.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29588 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

November 30, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6716. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Singapore and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits. The 1996 limit for Categories 338/339 has been adjusted for carryforward applied in 1995.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 30, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Singapore and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
222	433,299 kilograms.
237	253,114 dozen.
239	493,300 kilograms.
331	449,555 dozen pairs.
334	69,380 dozen.
335	208,697 dozen.
338/339	1,174,717 dozen of which not more than 713,983 dozen shall be in Category 338 and not more than 793,860 dozen shall be in Category 339.
340	855,022 dozen.
341	214,996 dozen.
342	132,304 dozen.
347/348	976,659 dozen of which not more than 610,412 dozen shall be in Category 347 and not more than 474,765 dozen shall be in Category 348.
435	6,735 dozen.
604	873,704 kilograms.
631	496,144 dozen pairs.
634	264,882 dozen.
635	271,064 dozen.
638	972,868 dozen.
639	3,375,801 dozen.
640	182,283 dozen.
641	297,322 dozen.
642	284,922 dozen.
645/646	149,212 dozen.
647	568,040 dozen.
648	1,512,252 dozen.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreement on Textiles and Clothing, and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29589 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 5, 1995.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6713. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 17334, published on April 5, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 30, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period beginning on January 1, 1995 and extending through December 31, 1995.

Effective on December 5, 1995, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Levels in Group I	
237	978,399 dozen.
333/334	244,572 dozen.
335	120,161 dozen.
359–C/659–C [2]	1,074,618 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29594 Filed 12–5–95; 8:45 am]

BILLING CODE 3515–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Poland

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Poland and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits. The limits for Categories 435 and 443 have been reduced for carryforward applied to the 1995 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Poland and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
335	168,800 dozen.
338/339	1,817,844 dozen.
410	2,614,405 square meters.
433	18,463 dozen.
434	10,070 dozen.
435	12,396 dozen.
443	206,596 numbers.
611	5,195,788 square meters.
645/646	266,184 dozen.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment pursuant to the provisions of the Uruguay Round Agreements Act, the ATC, and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29596 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Burma

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Burma and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the availability of the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products in the following categories, produced or manufactured in Burma and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
340/640	93,975 dozen.
342/642	25,383 dozen.
347/348	131,659 dozen.
351/651	39,893 dozen.
448	2,316 dozen.
647/648/847	24,551 dozen.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995, shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29595 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Federative Republic of Brazil

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the

Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Brazil and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Brazil and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996, in excess of the following limits:

Category	Twelve-month restraint limit
Aggregate Limit 200–239, 300–369, 400–469 and 600–670, as a group.	434,664,537 square meters equivalent.
Sublevels in the aggregate	
218	5,350,826 square meters.
219	19,535,266 square meters.
225	9,363,945 square meters.
300/301	7,256,950 kilograms.
313	44,937,433 square meters.
314	7,357,387 square meters.
315	22,072,160 square meters.
317/326	20,065,598 square meters.
334/335	143,987 dozen.
336	79,994 dozen.
338/339/638/639	1,439,896 dozen.
342/642	423,969 dozen.
347/348	1,039,925 dozen.
350	161,335 dozen.
361	1,087,921 numbers.
363	23,218,856 numbers.
369–D[1]	518,588 kilograms.
410/624	10,701,653 square meters of which not more than 2,627,483 square meters shall be in Category 410.
433	18,239 dozen.
445/446	71,451 dozen.
604	507,986 kilograms of which not more than 388,248 kilograms shall be in Category 604–A[2].
607	4,717,019 kilograms.
647/648	479,966 dozen.
669–P[3]	1,728,629 kilograms.

[1] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[2] Category 604–A: only HTS number 5509.32.0000.

[3] Category 669–P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the 1996 levels set forth in this directive.

The conversion factor for Categories 338/339/638/639 is 10 square meters per dozen.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29597 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Honduras

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing import limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Honduras and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Honduras and exported during the period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following restraint limits:

Category	Twelve-month limit
352/652	10,070,000 dozen of which not more than 7,420,000 dozen shall be in categories 352–K/652–K[1].
435	14,688 dozen.

[1] Category 352–K: only HTS numbers 6107.11.0010, 6107.11.0020, 6108.19.9010, 6108.21.0010, 6108.21.0020, 6108.91.0005, 6108.91.0015, 6109.91.0025, 6109.10.0005, 6109.10.0007, 6109.10.0009, 6109.10.0037; Category 652–K: only HTS numbers 6107.12.0010, 6107.12.0020, 6108.11.0010, 6108.11.0020, 6108.22.9020, 6108.22.9030, 6108.92.0005, 6108.92.0015, 6108.92.0025, 6109.90.1047 and 6109.90.1075.

Imports charged to these category limits for the periods March 27, 1995 through December 31, 1995 (Categories 352/652) and April 24, 1995 through December 31, 1995 (Category 435) shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future according to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29598 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Hungary

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Hungary and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of textile products in the following categories, produced or manufactured in Hungary and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following restraint limits:

Category	Twelve-month restraint limit
351/651	225,347 dozen.
410	909,895 square meters.
433	17,255 dozen.
434	14,641 dozen.
435	25,307 dozen.
443	162,093 numbers.
444	52,289 numbers.
448	22,365 dozen.
604	1,115,345 kilograms.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995, shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29599 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Republic of Korea

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6707. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Korea and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits. A directive to reduce the limits for certain categories for carryforward used during 1995 will be published in the **Federal Register** at a later date.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in the Republic of Korea and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I	
200–223, 224–V[1], 224–O[2], 225–229, 300–326, 360–363, 369–O[3], 400–414, 464–469, 600–629, 665–669 and 670–O[4], as a group.	406,509,575 square meters equivalent.
Sublevels within Group I	
200	432,441 kilograms.
201	1,877,628 kilograms.
218	8,765,718 square meters.
219	7,981,791 square meters.
224–V	10,062,270 square meters.
300/301	2,940,444 kilograms.
313	47,919,257 square meters.
314	26,717,675 square meters.
315	17,577,926 square meters.
317/326	17,808,042 square meters.
363	1,026,231 numbers.
410	3,460,880 square meters.
604	360,019 kilograms.
607	1,051,887 kilograms.
611	3,506,288 square meters.
613/614	5,843,811 square meters.
617	4,846,088 square meters.
619/620	92,112,643 square meters.
624	8,551,920 square meters.
625/626/627/628/629.	14,960,158 square meters.
669–P[5]	2,151,808 kilograms.
Group II	
237, 239, 330–359, 431–459 and 630–659, as a group.	578,869,292 square meters equivalent.
Sublevels within Group II	
237	58,152 dozen.
239	971,233 kilograms.
333/334/335	262,972 dozen of which not more than 134,408 dozen shall be in Category 335.
336	55,573 dozen.
338/339	1,168,763 dozen.
340	607,757 dozen of which not more than 315,567 dozen shall be in Category 340–D[6].
341	175,780 dozen.
342/642	211,365 dozen.
345	113,543 dozen.
347/348	432,441 dozen.
350	16,163 dozen.
351/651	222,044 dozen.
352	172,789 dozen.
353/354/653/654	259,909 dozen.
359–H[7]	2,489,197 kilograms.
433	13,755 dozen.
434	7,055 dozen.
435	34,328 dozen.
436	14,532 dozen.
438	58,262 dozen.
440	196,084 dozen.
442	49,109 dozen.
443	322,056 numbers.
444	53,514 numbers.
445/446	51,602 dozen.
447	88,037 dozen.
448	34,548 dozen.
459–W[8]	93,455 kilograms.
631	291,752 dozen pairs.
632	1,545,530 dozen pairs.
633/634/635	1,348,047 dozen of which not more than 152,866 dozen shall be in Category 633 and not more than 569,683 dozen shall be in Category 635.
636	261,182 dozen.
638/639	5,248,417 dozen.
640–D[9]	3,096,056 dozen.
640–O[10]	2,580,046 dozen.
641	1,037,334 dozen of which not more than 39,183 dozen shall be in Category 641–Y[11].
643	768,507 numbers.
644	1,156,186 numbers.
645/646	3,546,496 dozen.
647/648	1,294,013 dozen.
650	23,653 dozen.
659–H[12]	1,289,450 kilograms.
659–S[13]	173,944 kilograms.
Group III	
831–844 and 847–859, as a group.	18,181,285 square meters equivalent.
Sublevel within Group III	
835	28,426 dozen.
Group IV	
845	2,315,056 dozen.
846	816,654 dozen.
Group VI	
369–L/670–L/870[14].	68,571,604 square meters equivalent.

[1] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

[2] Category 224–O: all remaining HTS numbers in Category 224.

[3] Category 369–O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6090 (Category 369–L); and 5601.21.0090.

[4] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L).

[5] Category 669–P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

[6] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.

[7] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060.

[8] Category 459–W: only HTS number 6505.90.4090.

[9] Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[10] Category 640–O: all HTS numbers except 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030 (Category 640–D).

[11] Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

[12] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[13] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[14] Category 870; Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6090; Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995, shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The levels set forth above are subject to adjustment in the future according to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

The conversion factors for the following merged categories are listed below:

Category	Conversion factor (Square meters equivalent/category unit)
333/334/335	33.75
369–L/670–L/870	3.8
633/634/635	34.1
638/639	12.96

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29600 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Wool Textile Products Produced or Manufactured in the Slovak Republic

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in the Slovak Republic and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits. The limit for Category 443 has been reduced for carryforward used in 1995.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in the following categories, produced or manufactured in the Slovak Republic and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996 in excess of the following limits:

Category	Twelve-month restraint limit
410	403,915 square meters.
433	11,282 dozen.
435	17,040 dozen.
443	87,731 numbers.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29605 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Nepal

November 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile Agreement, effected by exchange of notes dated May 30 and June 1, 1986, as amended and extended, establishes limits for the period beginning on January 1, 1996 through December 31, 1996.

These limits are subject to revision pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC). On the date that Nepal becomes a member of the World Trade Organization the restraint limits will be modified in accordance with the ATC.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits. The 1996 limit for Categories 336/636 has been reduced for carryforward applied to the 1995 limit.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated May 30 and June 1, 1986, as amended an extended, between the Governments of the United States and Nepal; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Nepal and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
336/636	178,773 dozen.
340	301,067 dozen.
341	967,060 dozen.
342	146,795 dozen.
347/348	678,138 dozen.
640	151,525 dozen.
641	341,652 dozen.

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

Should Nepal become a member of the World Trade Organization (WTO), the limits set forth above will be subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29587 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Indonesia

November 30, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482094212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927096704. For information on embargoes and quota re-openings, call (202) 482093715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in Indonesia and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits. The 1996 limits for Categories 336/636, 338/339, 341, 350/650, 369–S, 433, 447 and 638/639 have been reduced for carryforward applied in 1995.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 30, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Indonesia and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Levels in Group I	
200	722,583 kilograms.
219	8,026,746 square meters.
225	5,620,804 square meters.
300/301	3,434,936 kilograms.
313	14,564,446 square meters.
314	50,855,399 square meters.
315	23,107,747 square meters.
317/617/326	22,318,752 square meters of which not more than 3,297,838 square meters shall be in Category 326.
331/631	2,049,548 dozen pairs.
334/335	187,814 dozen.
336/636	495,182 dozen.
338/339	957,348 dozen.
340/640	1,249,067 dozen.
341	709,112 dozen.
342/642	312,267 dozen.
345	363,224 dozen.
347/348	1,373,974 dozen.
350/650	136,176 dozen.
351/651	405,947 dozen.
359–C/659–C1A[1]	1,186,614 kilograms.
359–S/659–S1A[2]	1,249,067 kilograms.
360	1,111,665 numbers.
361	1,111,665 numbers.
369–S1A[3]	723,722 kilograms.
433	10,537 dozen.
443	83,099 numbers.
445/446	55,684 dozen.
447	15,635 dozen.
448	20,467 dozen.
604–A1A[4]	596,343 kilograms.
611	5,296,417 square meters.
613/614/615	21,171,692 square meters.
618	4,996,270 square meters.
619/620	7,744,218 square meters.
625/626/627/628/629.	23,696,939 square meters.
634/635	249,814 dozen.
638/639	1,226,161 dozen.
641	1,904,456 dozen.
643	277,917 numbers.
644	389,083 numbers.
645/646	657,348 dozen.
647/648	2,723,299 dozen.
847	344,082 dozen.
Group II	
201, 218, 220, 222–224, 226, 227, 229, 237, 239, 330, 332, 333, 349, 352–354, 359–O1A[5], 362, 363, 369–O1A[6], 400, 410, 414, 431, 432, 434, 435, 436, 438, 439, 440, 442, 444, 459, 464, 465, 469, 603, 604–O1A[7], 606, 607, 621, 622, 624, 630, 632, 633, 649, 652–654, 659–O1A[8], 665, 666, 669–O1A[9], 670–O1A[10], 831–836, 838, 839, 840, 842–846, 850–852, 858 and 859, as a group.	79,652,572 square meters equivalent.
Subgroup in Group II	
400, 410, 414, 431, 432, 434, 435, 436, 438, 439, 440, 442, 444, 459, 464, 465 and 469, as a group.	2,933,640 square meters equivalent.
In Group II subgroup	
435	46,050 dozen.

[1] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[2] Category 359–S: only HTS numbers 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020; Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 604–A: only HTS number 5509.32.0000.

[8] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020 (Category 359–S).

[9] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S).

[7] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A).

[8] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[9] Category 669–O: all HTS numbers except 6305.31.0010, 6305.31.0020 and 6305.39.0000 (Category 669–P).

[10] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L).

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29725 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

November 30, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6713. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The import restraint limits for textile products, produced or manufactured in the Philippines and exported during the period January 1, 1996 through December 31, 1996 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1996 limits. The 1996 limits for Categories 331/631, 333/334, 335, 336, 338/339, 340/640, 347/348, 351/651, 433, 443, 447, 634, 635, 647/648, 650 and 659–H have been reduced for carryforward used in 1995.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Information regarding the 1996 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 30, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel in the following categories, produced or manufactured in the Philippines and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following limits:

Category	Twelve-month restraint limit
Levels in Group I	
237	1,529,879 dozen.
239	9,230,839 kilograms.
331/631	4,676,321 dozen pairs.
333/334	226,214 dozen of which not more than 34,405 dozen shall be in Category 333.
335	147,242 dozen.
336	535,828 dozen.
338/339	1,877,921 dozen.
340/640	833,907 dozen.
341/641	798,267 dozen.
342/642	491,008 dozen.
345	146,221 dozen.
347/348	1,623,724 dozen.
350	129,445 dozen.
351/651	505,499 dozen.
352/652	2,103,211 dozen.
359–C/659–C [1]	727,613 kilograms.
361	1,635,090 numbers.
369–S [2]	370,634 kilograms.
431	166,219 dozen pairs.
433	3,079 dozen.
443	37,229 numbers.
445/446	27,031 dozen.
447	7,070 dozen.
611	4,907,035 square meters.
633	31,638 dozen.
634	370,522 dozen.
635	310,483 dozen.
636	1,479,388 dozen.
638/639	2,046,481 dozen.
643	755,697 numbers.
645/646	665,076 dozen.
647/648	979,739 dozen.
649	6,711,896 dozen.
650	87,451 dozen.
659–H [3]	1,150,616 kilograms.
847	808,538 dozen.

Category	Twelve-month restraint limit
Group II	
200–229, 300–326, 330, 332, 349, 353, 354, 359–O [4], 360, 362, 363, 369–O [5], 400–414, 432, 434–442, 444, 448, 459, 464–469, 600–607, 613–629, 630, 632, 644, 653, 654, 659–O [6], 665, 666, 669–O [7], 670–O [8], 831–846 and 850–859, as a group.	141,102,070 square meters equivalent.
Sublevel in Group II	
604	1,733,506 kilograms.

[1] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[2] Category 369–S: only HTS number 6307.10.2005.

[3] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[4] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C).

[5] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S).

[6] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H).

[7] Category 669–O: all HTS numbers except 6305.31.0010, 6305.31.0020 and 6305.39.0000 (Category 669–P).

[8] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L).

Imports charged to these category limits for the period January 1, 1995 through December 31, 1995 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29726 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Silk Apparel Produced or Manufactured in the People's Republic of China

November 30, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482094212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6703. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Memorandum of Understanding (MOU) dated January 17, 1994 and the exchange of letters dated March 17, 1994 between the Governments of the United States and the People's Republic of China establish a limit for wearing apparel containing 70 percent or more by weight of silk, produced or manufactured in China and exported during the period beginning on January 1, 1996 and extending through December 31, 1996.

This limit may be subject to revision pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC). On the date that China becomes a member of the World Trade Organization and the United States applies the Uruguay Round Agreements to China, the restraint limit will be modified in accordance with the ATC.

A description of the silk apparel categories is available in the U.S. CORRELATION: Silk Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** 59 FR 15381, published on April 1, 1994).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 30, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Memorandum of Understanding (MOU) dated January 17, 1994 and exchange of letters dated March 17, 1994 between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of wearing apparel containing 70 percent or more by weight of silk in the following categories, produced or manufactured in China and exported during the period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following limits:

Category	Twelve-month limit
Silk Apparel Group 733, 734, 735, 736, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 750, 751, 752, 758 and 759, as a group.	346,104,629 square meters equivalent.
Specific Limit within Group	
740 (Men's and boys' shirts, not knit).	3,303,620 dozen.
741 (Women's and girls' shirts/blouses, not knit).	8,243,864 dozen.

[1] Silk handkerchiefs, gloves, hosiery, brassieres and other body supporting garments, scarves, and babies' garments are not included in this Agreement.

Imports charged to this category limit for the period January 1, 1995 through December

31, 1995 shall be charged against the level of restraint to the extent of any unfilled balance.

In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

Should China become a member of the World Trade Organization (WTO) and the United States applies the Uruguay Round Agreements to China, the limit set forth above may be subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing, and any administrative arrangement notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–29724 Filed 12–5–95; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of the Board of Visitors, Joint Military Intelligence College; Notice

SUMMARY: The Board of Visitors, Joint Military Intelligence College (BovJMIC) has been renewed, effective November 27, 1995, in consonance with the public interest, and in accordance with the provisions of Pub. L. 92–463, the "Federal Advisory Committee Act."

The BovJMIC will continue to provide the Director, defense Intelligence Agency, and the President, Joint Military Intelligence College with independent, expert advice concerning matters relating to mission, policy, accreditation, faculty, students, facilities, curricula, educational methods, research, and administration. The Board will be composed of about ten members who are acclaimed experts in the national intelligence community, and who are former high ranking military officers and civilian government officials, and distinguished representatives from academia and the Foreign Service. Efforts will be made to continue the balanced membership.

For further information regarding the BovJMIC, please contact Dr. Bill Williamson, (202) 231–3311.

Dated: November 30, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–29704 Filed 12–5–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 5, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the request are available from Patrick J. Sherrill at the address specified above.

Dated: November 30, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Extension.
Title: Addendum to Federal Direct PLUS Loan Promissory Note Endorser.
Frequency: One Time.
Affected Public: Individuals or households.
Reporting Burden:
Responses: 34,000.
Burden Hours: 17,000.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: Applications for Federal Direct PLUS Loans who have adverse credit may obtain endorsers. The information collected on this form is used to check credit of endorsers. The respondents are endorsers.

Office of Postsecondary Education

Type of Review: Extension.
Title: Federal Direct PLUS Loan Application and Promissory Note.
Frequency: One Time.
Affected Public: Individuals or households.
Reporting Burden:
Responses: 135,000.
Burden Hours: 67,500.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This information is used to determine applicant eligibility for Federal Direct PLUS Loans. The respondents are parents applying for benefits.

Office of Postsecondary Education

Type of Review: Extension.
Title: Federal Direct Stafford/Form Loan and Federal Direct Unsubsidized Stafford/Ford Loan Promissory Note and Disclosure.
Frequency: One Time.
Affected Public: Individuals or households.
Reporting Burden:
Responses: 2,757,000

Burden Hours: 459,316.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This information is used to determine eligibility for Federal Direct Stafford/Ford Loans and/or Federal Direct Unsubsidized Stafford/Ford Loans. The respondents are students applying for benefits.

Office of Elementary and Secondary Education

Type of Review: Revision.
Title: Migrant Education Interstate and Intrastate Coordination Program.
Frequency: Annually.
Affected Public: Not for Profit institutions; State, Local or Tribal Governments.
Reporting Burden:
Responses: 45.
Burden Hours: 2704.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: SEAs, LEAs, institutions of higher education, and other public and private nonprofit organizations are eligible to submit an application to the Secretary for Federal Assistance to design and operate special projects to improve interstate and intrastate migrant education program coordination activities.

[FR Doc. 95–29580 Filed 12–5–95; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 5, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the Internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Department of Education (ED) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of the collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comments at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: November 30, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.
Title: Consolidated State Plan, Section 14302 of the ESEA.
Frequency: One Time.
Affected Public: State, local or Tribal Government, SEAs or LEAs.
Reporting and Recordkeeping Burden:
Responses: 54
Burden Hours: 12,744
Abstract: In order to improve teaching and learning through better coordination and integration of program activities, SEAs may submit final consolidated State plans under Section 14302 of the ESEA. Submitting a consolidated plan will allow a State to obtain funds under many Federal programs through a single plan, rather than through separate program plans or applications.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.
Title: Early Intervention Program for Infants & Toddlers with Disabilities under the Individuals with Disabilities Education Act (IDEA).
Frequency: Annually.
Affected Public: State, local or Tribal Government, SEAs or LEAs.
Reporting and Recordkeeping Burden:
Responses: 57
Burden Hours: 1,140
Abstract: Grant application package including certifications and forms. Each eligible State submits an application that contains descriptions of required components of statewide system of early intervention services to ensure compliance with the statute. Completion of items in the application package assures a level of uniformity of system's information provided across the States for services for infants and toddlers with disabilities and their families.

Office of Postsecondary Education

Type of Review: New.
Title: Direct Loan Participant Survey.
Frequency: Annually.
Affected Public: Business or other for-profit; Not for profit institutions.
Reporting and Recordkeeping Burden:
Responses: 1,500
Burden Hours: 750
Abstract: This information is being requested specifically for providing a higher level of customer service to Direct Loan schools. Collection of this information will allow us to provide better technical assistance to DL schools and to provide a network database to schools as an information device that would enable them to communicate with schools that have similar computer configurations, software needs and processing procedures.

Office of Postsecondary Education

Type of Review: Reinstatement.
Title: State Student Incentive Grant (SSIG) Program.
Frequency: Annually.

Affected Public: State, local, Tribal or Government, SEAs or LEAs.
Reporting and Recordkeeping Burden:
Responses: 57.
Burden Hours: 228.
Abstract: The SSIG Program uses matching Federal/State funds to provide a nationwide system of grants to assist postsecondary education students with substantial financial need. On this application the states provide information the Department requires to obligate program funds and for program management. The signed assurances legally bind the states to administer the program according to regulatory and statutory requirements.

Office of Postsecondary Education

Type of Review: Reinstatement.
Title: Performance Report for the Robert C. Byrd Honors Scholarship Program.
Frequency: Annually.
Affected Public: Individuals or households; State, local or Tribal Government, SEAs or LEAs.
Reporting and Recordkeeping Burden:
Responses: 59.
Burden Hours: 2.
Abstract: This performance report is used by State educational agencies that have participated in the Robert C. Byrd Honors Scholarship Program. The U.S. Department of Education uses the information collected to assess the accomplishments of project goals and objectives and to aid in effective program management.

Office of Educational Research and Improvement

Type of Review: New.
Title: Baccalaureate and Beyond Longitudinal Study: Second Follow-up.
Frequency: On occasion.
Affected Public: Individuals or households.
Reporting and Recordkeeping Burden:
Responses: 11,500.
Burden Hours: 7,935.
Abstract: This study will collect and report data about students who completed a bachelor's degree in 1992–03. Specifically, this follow-up will collect data concerning post-baccalaureate degree attendance, persistence, and competition; transition into and experience after entry into the work force; and career paths of those who entered teaching at the elementary/secondary level.

Office of Management

Type of Review: Revision.
Title: Waivers Under Goals 2000: Educate America Act, ESEA & School-to-Work.
Frequency: One Time.
Affected Public: State, local or Tribal Government, SEAs or LEAs.
Reporting and Recordkeeping Burden:
Responses: 150
Burden Hours: 3,000
Abstract: This information collection is necessary to provide guidance to schools, LEAs and SEAs on submission of requests for waivers of statutory and regulatory requirements. The Department will use the information to grant waivers.

Office of Elementary and Secondary Education

Type of Review: Revision.
Title: The Even Start Family Program for Federally Recognized Indian Tribes and Tribal organizations.
Frequency: Annually.
Affected Public: State, Local, Tribal Governments.
Annual Reporting and Recordkeeping Burden:
Responses: 50
Burden Hours: 750
Abstract: The Even Start Family Literacy Program for federally recognized Indian tribes and tribal organizations is designed to help break the cycle of poverty and improve literacy by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified literacy program.

Office of Educational Research and Improvement

Type of Review: New.
Title: A Study of Charter Schools.
Frequency: Annually.
Affected Public: Not-for-profit institutions; State, Local or Tribal Governments.
Reporting Burden:
Responses: 1,000
Burden Hours: 535
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This is a four-year study of charter schools to determine the impact of charter schools on student achievement, on education reform, and on a multi-faceted array of other issues. It includes an annual survey of the universe and site visits at increasingly deep levels.

[FR Doc. 95–29581 Filed 12–5–95; 8:45 am]
BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.
ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 5, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public and early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: December 1, 1995.
Gloria Parker,
Director, Information Resources Group.

Office of Educational Research and Improvement

Type of Review: Reinstatement.
Title: Application for the National Assessment of Educational Progress Data Reporting Program.
Frequency: Annually.
Affected Public: Business or other-profit; Not for Profit institutions; State, Local or Tribal Government.
Reporting Burden:
Responses: 15
Burden Hours: 360
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by State Educational agencies to apply for funding under the National Assessment of Educational Progress Data Reporting Program. The Department will use the information to make grant awards.

Office of Postsecondary Education

Type of Review: Reinstatement.
Title: Annual Performance Report for the Student Services Program.
Frequency: One Time.
Affected Public: Not for Profit Institutions.
Reporting Burden:
Responses: 1
Burden Hours: 3,181
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: Data assures that grantees have conducted the project for which funded, signals problems of implementation, and indicates extent and quality of performance. The Department uses reports in evaluating projects for continuation, assessing technical assistance needs, determining future funding levels and in assigning scores to projects in competition for new grants.

Office of Postsecondary Education

Type of Review: Revision.
Title: Peformance Report for the Graduate Assistance in Areas of the National Need Program.
Frequency: Annually.
Affected Public: Not for Profit Institutions.
Reporting Burden:
Responses: 1
Burden Hours: 2,414
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: Academic departments of institutions of higher education that have received GAANN grants are required to demonstrate compliance with statutory and regulatory requirements for the distribution of fellowships and assisting project progress. Report will also be used to determine whether respondents have met the criteria for receiving continuation awards and to make post-first year awards to continuing projects.

Office of Postsecondary Education

Type of Review: Reinstatement.
Title: Performance Report for the School, College, and University Partnerships (SCUP) Program.
Frequency: Annually.
Affected Public: Not for Profit institutions; State, Local or Tribal Government.
Reporting Burden:
Responses: 1
Burden Hours: 240
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: SCUP grantees must submit the report annually so the Department can evaluate the performance of grantees prior to awarding continuation grants. The Department will also aggregate data on project outcomes related to student and school performance impact, and identify exemplary projects.

[FR Doc. 95–29699 Filed 12–5–95; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–49–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 30, 1995.

Take notice that on November 24, 1995, El Paso Natural Gas Company (El Paso), tendered for filing as part of its FERC Gas Tariff, Volume Nos. 1, 1–A, and 2, the following tariff sheets, to become effective November 13, 1995.

Third Revised Volume No. 1
Title Page
First Revised Sheet No. 100
First Revised Sheet No. 200
First Revised Sheet No. 201
First Revised Sheet No. 312
First Revised Sheet No. 340
First Revised Sheet No. 343
First Revised Sheet No. 350
First Revised Sheet No. 500–504

Second Revised Volume No. 1–A
Title Page
First Revised Sheet No. 1
2nd Revised Fourth Revised Sheet No. 20
Second Revised Sheet No. 21
1st Revised First Revised Sheet No. 22
2nd Revised Fourth Revised Sheet No. 23
Second Revised Sheet No. 24
2nd Revised Fourth Revised Sheet No. 25
Second Revised Sheet No. 26
1st Revised Third Revised Sheet Nos. 27–29
Original Sheet Nos. 30–32
Sheet Nos. 33–99
First Revised Sheet Nos. 100–103
1st Revised First Revised Sheet No. 104
First Revised Sheet No. 105
First Revised Sheet Nos. 110–113
1st Revised Original Sheet Nos. 114–115
1st Revised First Revised Sheet No. 116
1st Revised Original Sheet Nos. 117–119
First Revised Sheet No. 120
First Revised Sheet Nos. 125–128
1st Revised First Revised Sheet No. 129
First Revised Sheet No. 130
First Revised Sheet Nos. 212–214
First Revised Sheet No. 215A
First Revised Sheet No. 241
First Revised Sheet No. 249
Second Revised Sheet No. 258
First Revised Sheet No. 274
First Revised Sheet Nos. 287–288
First Revised Sheet No. 291
First Revised Sheet Nos. 334–335
First Revised Sheet No. 344
First Revised Sheet No. 348
First Revised Sheet No. 361
1st Revised Original Sheet No. 362
First Revised Sheet Nos. 400–409
First Revised Sheet Nos. 414–426
First Revised Sheet Nos. 432–444
First Revised Sheet Nos. 500–502

Third Revised Volume No. 2
Title Page
2nd Revised Thirty-Fifth Revised Sheet No. 1–D.2
Twenty-Sixth Revised Sheet No. 1–D.3

El Paso states that it is proposing to:

(1) eliminate the Minimum Monthly Bill section in the respective transportation rate schedules;
(2) provide El Paso's telephone and facsimile numbers as well as street address on the respective title pages of each volume of the Tariff;
(3) revise the designation of its transportation rate schedules;
(4) revise tariff sheets containing the Statement of Rates for transportation of natural gas to provide for a total rate;
5) provide a statement setting forth El Paso's policy on financing or construction of pipeline laterals;
(6) provide a statement describing the manner and order in which El Paso discounts its rates; and
(7) revise its Index of Customers to include each contract's expiration date and contract demand.

El Paso states that the purpose of this filing is to comply with the requirements of Order No. 582 issued September 28, 1995, at Docket No. RM95–3–000 which pertain to the form and composition of an interstate pipeline company's tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. Under § 154.209 all such motions or protests must be filed on or before December 6, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29629 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR96–3–000]

Equitable Storage Company; Notice of Petition for Rate Approval

November 30, 1995.

Take notice that on November 14, 1995, Equitable Storage Company (Equitable) located at 200 WestLake Park Blvd., Houston, Texas 77079, filed pursuant to § 284.123(b)(2) of the Commission's Regulations, a petition for rate approval requesting that the Commission approve as fair and equitable, its rate for interruptible transportation services being rendered pursuant to Section 311(a)(2) of the NGPA.

Equitable's petition states that it is an intrastate natural gas pipeline company within the meaning of Section 2(16) of the NGPA,[1] and the developer and sole owner of an intrastate natural gas pipeline system which is the subject of this petition for rate approval. The pipeline will be approximately 14.6 miles in length, will be located in the State of Louisiana, more specifically in Iberia and Vermilion Parishes, Louisiana, and will connect Equitable's Jefferson Island Underground Gas Storage and Interchange Facility TM with several intrastate and interstate natural gas pipelines.

Any person desiring to be heard or to make any protest with reference to said filing should file a motion to intervene or protest in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed with the Secretary of the Commission on or before December 15, 1995. This petition for rate approval is on file with the Commission and is available for public inspection at the Commission's Public Reference Office.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29630 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–M

[1] 15 U.S.C. 3301(16).

[Docket No. TM96–2–86–000]

Pacific Gas Transmission Company; Notice of Compliance Filing

November 30, 1995.

Take notice that on November 22, 1995, Pacific Gas Transmission Company (PGT) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A: Tenth Revised Sheet No. 4 and Second Revised Sheet No. 4A; and as part of its FERC Gas Tariff, Second Revised Volume No. 1: Eighth Revised Sheet No. 7. PGT requests the above-referenced sheets become effective January 1, 1996.

PGT asserts that the purpose of this filing is to comply with the Commission's order issued October 13, 1995 in Docket RP95–374–000.

PGT states that the above tariff sheets have been revised to reflect a change to the Gas Research Institute funding unit adjustment component for certain transportation services, in accordance with the October 13, 1995 order.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 4, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene, Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29627 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–2–99–000]

Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

November 30, 1995.

Take notice that on November 27, 1995, Kern River Gas Transmission Company (Kern River), tendered for filing as part of its FERC Gas Tariff First Revised Volume No. 1, the following tariff sheets, to become effective January 1, 1996:

Fourth Revised Sheet No. 5
Fourth Revised Sheet No. 6

Kern River states that these tariff revisions are designed to implement an increase in the maximum Gas Research Institute (GRI) surcharge as authorized by the Commission's order issued on October 13, 1995 in Docket No. RP95–374–000. Specifically, Kern River proposes to implement the following GRI surcharges for transportation under Rate Schedules KRF–1, CH–1, UP–1, MO–1, SH1 and KR1–I as follows:

(1) For firm transportation customers with load factors greater than 50%, a maximum monthly reservation surcharge of $0.2761 per Mcf.

(2) For firm transportation customers with load factors less than or equal to 50%, a maximum monthly reservation surcharge of $0.1699 per Mcf.

(3) For firm transportation, authorized overrun and interruptible transportation customers, a maximum usage surcharge of $0.0093 per Mcf.

Kern River states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. Under § 154.209, all such motions or protests must be filed on or before December 11, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29626 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–1–2–001]

East Tennessee Natural Gas Company, Notice of Filing

November 30, 1995.

Take notice that on November 27, 1995, East Tennessee Natural Gas Company (East Tennessee) submitted Substitute Fifth Revised Sheet No. 4 of its FERC Gas Tariff, Second Revised Volume No. 1. Revised Sheet No. 4 reflects the reduction of the current demand and commodity adjustments under Article 25 of its General Terms and Conditions. East Tennessee requests an effective date of November 1, 1995.

On September 29, 1995, East Tennessee Natural Gas Company filed Fifth Revised Sheet No. 4 to implement its Annual Transportation Cost Rate (TCRA) Adjustment for service under its Rate Schedules FT–A and FT–GS, as well as revised surcharges for amortization of the demand and commodity balances of its Unrecovered Transportation Cost Account. On October 27, 1995, the Commission issued an order accepting and suspending the filing to be effective November 1, 1995, subject to refund and conditions, and establishing a technical conference.

With this filing, East Tennessee is proposing a reduction in its projected demand and commodity expense for the period November 1, 1995 through October.31, 1996. These reductions as more fully described in its filing result in current adjustments of zero. East Tennessee proposes no change to its demand or commodity surcharge adjustments of negative $.01 and negative $.0013, respectively, filed September 29th.

East Tennessee further submits that on November 21, 1995 it filed with the Commission to suspend East Tennessee's obligation to respond to the Commission's data response on November 27, 1995, pending the instant filing of revised tariff sheets and Atlanta's withdrawal of its protest and request for technical conference.

East Tennessee states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to make any protest with reference to said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. Under § 154.209, all such protests should be filed on or before December 11, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29628 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–86–000]

National Fuel Gas Supply Corporation; Notice of Request Under Blanket Authorization

November 30, 1995.

Take notice that on November 24, 1995, National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP96–86–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a sales tap connection for the delivery of gas to William Baird, a new residential customer of National Fuel Gas Distribution Corporation (Distribution), on National's Line N–M54, in Sandy Lake Township, Mercer County, Pennsylvania, under the blanket certificate issued in Docket No. CP83–4–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

National estimates that total deliveries to be delivered through the proposed facility is 150 Mcf annually pursuant to National's Rate Schedule EFT. National asserts that this service will have a minimal impact on its peak day and annual deliveries. National claims that the volumes to be delivered at the proposed tap will be within the certificated entitlements of National's customer, Distribution. National states that Distribution is authorized to transport gas on behalf of William Baird. National estimates that the total cost of construction for this tap will be approximately $1,500, for which National will be reimbursed by Distribution.

National asserts that it has received the applicable environmental clearances to perform construction of residential sales taps in Pennsylvania.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29636 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP96–81–000, CP96–83–000, and CP96–84–000]

Norteño Pipeline Company and Western Gas Interstate Company; Notice of Applications

November 30, 1995.

Take notice that on November 22, 1995, Norteño Pipeline Company (Norteño) and Western Gas Interstate Company (WGI) (collectively Applicants), both at 504 Lavaca Street, Austin, Texas 78701, filed in Docket No. CP96–81–000, a joint application pursuant to Sections 7(c) and 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations for certifications of public convenience and necessity and for an order granting permission and approval to transfer facilities and services. By this application, Norteño requests a certificate of public convenience and necessity authorizing it to acquire and operate certain WGI facilities and to perform the services of WGI, and to transport and sell natural gas for resale in interstate commerce in the same manner as conducted by WGI. WGI has requested companion authority to transfer certain of its jurisdictional facilities, operations and services to Norteño. In addition, Norteño requests (1) a blanket certificate pursuant to Part 284, Subpart G of the Commission's Regulations authorizing the transportation of natural gas on behalf of others, and (2) a blanket certificate pursuant to Part 157, Subpart F authorizing certain construction and operation of facilities, sales arrangements and certain certificate amendments and abandonment under Section 7 of the Natural Gas Act.

Pursuant to Sections 153.1 and 153.10 through 153.12 of the Commission's Regulations, and Executive Order 10485, as amended by Executive Order

12038, and Secretary of Energy Delegation Order No. 0204–112, Applicants, in Docket No. CP96–83–000, request authorization for Norteño to succeed to the Presidential Permit issued to WGI in Docket Nos. CP69–236 and CP91–2126–000. The Presidential Permit covers the operation of pipeline facilities at the United States-Mexico border. The authorization sought by this application does not seek any change in the terms and conditions of WGI's existing Presidential Permit apart from the succession of Norteño as the holder of that authority.

In addition, pursuant to Section 3 of the Natural Gas Act and Sections 153.1 through 153.8 of the Commission's Regulations Applicants, in Docket No. CP96–84–000, request authorization to succeed to all of WGI's existing authorizations to import and export natural gas. The authorization sought by this application does not seek any change in the terms and conditions of WGI's existing import and export authority apart from the succession of Norteño as the holder of that authority. All of this is more fully set forth in the applications which are on file with the Commission and which are open to the public for inspection.

Applicants request that these authorizations be made effective no later than April 1, 1996, the first fully day of operation of Norteño. In addition, Applicants state that the sole purpose of these applications is to restructure WGI as a natural gas company by transferring certain of its system operations to Norteño. Applicants further state that the proposed applications will have no adverse impact on any of the existing services of WGI and there will be no disruption or interruption of current services.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 21, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participant as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 3, 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on these applications if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates and permission and approval for the proposed authorizations and abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29637 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–34–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 30, 1995.

Take notice that on November 22, 1995, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Original Volume No. 2, which tariff sheets are enumerated in Appendix A attached to the filing. The proposed effective date of such tariff sheets is January 1, 1996.

Transco states that the purpose of the instant filing is to terminate Section 7(c) firm transportation service under Rate Schedules X–287 and X–288 and to convert such services to service provided under Rate Schedule FT pursuant to Transco's blanket transportation certificate and Part 284 of the Commission's Regulations effective January 1, 1996. In that regard, Transco and its APEC shippers have agreed that, as part of the conversion process, converting APEC shippers will be entitled to elect annual firm transportation service in lieu of seasonal (November 15 through March 31) service. Long Island Lighting Company (LILCO) and New Jersey Natural Gas Company (New Jersey) have notified Transco of their election to convert their APEC service to annual firm transportation service.

Transco states that the rates applicable to the converted service are the generally applicable charges under Rate Schedule FT (including fuel), plus reservation and commodity rate surcharges as set forth on Original Sheet No. 40E to Tansco's Third Revised Volume No. 1 Tariff. Original Sheet No. 40E sets forth the charges applicable to APEC firm transportation service which has been converted from individually certificated Section 7(c) firm transportation service to annual firm transportation service under Transco's blanket certificate and Part 284 of the Commission's regulations.

Transco states that copies of the filing are being mailed to LILCO, New Jersey and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E. Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. Under Section 154.209, all such motions or protests should be filed on or before December 4, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29638 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. IS94–32–000]

Chevron Pipe Line Co.; Notice of Informal Settlement Conference

November 30, 1995.

Take notice that Commission Staff will convene an informal settlement conference in this proceeding on December 6, 1995, at 11:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined in 18 CFR 385.102(b), may attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations, 18 CFR 385.214.

For additional information, contact Donald Heydt at (202) 208–0740 or Russell Mamone at (202) 208–0744.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29633 Filed 12–5–95; 8:45am]

BILLING CODE 6717–01–M

[Docket No. ER95–557–000]

Jersey Central Power & Light Co.; Notice of Filing

November 30, 1995.

Take notice that on November 3, 1995, Jersey Central Power & Light Company tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before December 8, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29634 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–11–M

[Docket No. CP96-85-000]

National Fuel Gas Supply Corp.; Notice of Application for Abandonment

November 30, 1995.

Take notice that on November 24, 1995, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP96-85-000, an application pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations for an order permitting and approving the abandonment of certain minor underground natural gas storage facilities in Elk County, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

National Fuel states that it proposes to abandon wells and well lines in its St. Mary's storage field in the city of St. Mary's, Elk County, Pennsylvania. National Fuel relates that these wells and lines are located in a poor deliverability area of the St. Mary's reservoir and are used for observation purposes only. National Fuel estimates the cost of abandoning the instant facilities will be $60,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 21, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for National Fuel to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29635 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–319–000, et al.]

Entergy Power Inc., et al.; Electric Rate and Corporate Regulation Filings

November 28, 1995.

Take notice that the following filings have been made with the Commission:

1. Entergy Power, Inc.

[Docket No. ER96–319–000]

Take notice that on November 8, 1995, Entergy Power, Inc. (EPI), tendered for filing a Power Purchase and Sale Agreement with South Carolina Public Service Authority.

Comment date: December 12, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. New England Power Company

[Docket No. ER96–320–000]

Take notice that on November 8, 1995, New England Power Company (NEP), filed an Assignment and Release, dated October 23, 1995 (Assignment), between Canal Electric Company, Commonwealth Electric Company and NEP. NEP requests waiver for good cause shown of the Commission's sixty (60) day notice requirement (18 CFR 35.3).

Comment date: December 12, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power & Light Company

[Docket No. ER96–321–000]

Take notice that on November 8, 1995, Florida Power & Light Company (FPL), filed the Contract for Sales of Power and Energy by FPL to the Tennessee Valley Authority.

Comment date: December 12, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER96–322–000]

Take notice that on November 9, 1995, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Companies), filed a Service Agreement between GPU and North Jersey Energy Associates, a Limited Partnership (North Jersey), dated October 23, 1995. This Service Agreement specifies that North Jersey has agreed to the rates, terms and conditions of the GPU Companies' Energy Transmission Service Tariff accepted by the Commission on September 28, 1995 in Docket No. ER95–791–000 and designated as FERC Electric Tariff, Original Volume No. 3.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of November 9, 1995 for the Service Agreement. GPU has served copies of the filing on regulatory agencies in New

Jersey and Pennsylvania and on North Jersey.

Comment date: December 12, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas and Electric Company

[Docket No. ER96–323–000]

Take notice that on November 9, 1995, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Louis Dreyfus Electric Power Inc., under Rate GSS.

Comment date: December 12, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Louisville Gas and Electric Company

[Docket No. ER96–324–000]

Take notice that on November 9, 1995, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Rainbow Energy Marketing Corp. under Rate GSS.

Comment date: December 12, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Company

[Docket No. ER96–325–000]

Take notice that on November 9, 1995, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Catex Vitol Electric under Rate GSS.

Comment date: December 12, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Florida Power & Light Company

[Docket No. ER96–326–000]

Take notice that on November 9, 1995, Florida Power & Light Company (FPL), filed the Contract for Purchase and Sales of Power and Energy Between FPL and the City of Gainesville.

Comment date: December 12, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Consolidated Edison Company of New York, Inc.

[Docket No. ER96–327–000]

Take notice that on November 9, 1995, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an agreement to provide interruptible transmission service for Commonwealth Electric Company (CEC).

Con Edison states that a copy of this filing has been served by mail upon CEC.

Comment date: December 12, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Niagara Mohawk Power Corporation

[Docket No. ER96–328–000]

Take notice that on November 9, 1995, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and Industrial Energy Applications (IEA) dated October 20, 1995 providing for certain transmission services to IEA.

Copies of this filing were served upon IEA and the New York State Public Service Commission.

Comment date: December 12, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Virginia Electric and Power Company

[Docket No. ER96–329–000]

Take notice that on November 9, 1995, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between Tennessee Valley Authority and Virginia Power, dated November 1, 1995, under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to Tennessee Valley Authority under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: December 12, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Virginia Electric and Power Company

[Docket No. ER96–330–000]

Take notice that on November 9, 1995, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between Duquesne Light Company and Virginia Power, dated November 1, 1995, under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to Duquesne Light Company under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, the North Carolina Utilities Commission and the Pennsylvania Public Utility Commission.

Comment date: December 12, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Electric Energy, Inc

[Docket No. ES96–14–000]

Take notice that on November 21, 1995, Electric Energy, Inc. filed an application under § 204 of the Federal Power Act seeking authorization to issue up to $70 million in short-term notes under the unsecured revolving credit agreements it has with The Boatmen's National Bank of St. Louis and the Mercantile Bank of St. Louis National Association, from time to time over the 24-month period immediately following the date of the Commission's approval of the application.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29639 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER96-331-000, et al.]

New England Power Company, et al.; Electric Rate and Corporate Regulation Filings

November 29, 1995.

Take notice that the following filings have been made with the Commission:

1. New England Power Company

[Docket No. ER96-331-000]

Take notice that on November 9, 1995, New England Power Company (NEP), tendered for filing Supplements to its Service Agreement with Hingham (Mass.) Light Plant under NEP's FERC Electric Tariff, Original Volume No. 3.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. PowerMark, L.L.C.

[Docket No. ER96-332-000]

Take notice that on November 9, 1995, PowerMark, L.L.C. tendered for filing an application asking for blanket authorizations and certain waivers of the Commission's regulations to enable it to act as a power marketer. PowerMark, L.L.C. asks that these authorizations and waivers be made effective on January 7, 1996, or upon the date that the Commission issues an order in this docket, whichever first occurs.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Portland General Electric Company

[Docket No. ER96-333-000])

Take notice that on November 13, 1995, Portland General Electric Company (PGE), tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a copy of its proposed FERC Electric Tariff, Original Volume No. 5 (Point-to-Point Transmission Service Tariff) and FERC Electric Tariff, Original Volume No. 6, (Network Integration Transmission Service Tariff).

PGE requests an effective date of February 29, 1995 be assigned to the Tariffs.

Copies of this filing were served upon the list of entities appearing on the Certificate of Service attachment of the filing letter.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. The Montana Power Company

[Docket No. ER96-334-000]

Take notice that on November 13, 1995, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.12, open access transmission tariffs consisting of Montana's proposed: 1) FERC Electric Tariff, Original Volume No. 2 (Point-to-Point Transmission Service Tariff); 2) FERC Electric Tariff, Original Volume No. 3 (Network Integration Transmission Service Tariff); and 3) FERC Electric Tariff, Original Volume No. 4 (Control Area Services Tariff).

Montana requests that the Commission accept the tariffs for filing, effective as of January 1, 1996.

A copy of the filing was served upon Basin Electric Power Cooperative; Billings Generation, Inc.; Bonneville Power Administration; Central Montana Electric Power Cooperative, Inc.; Idaho Power Company; Montana Consumer Counsel; Montana Department of Environmental Quality; Montana Public Service Commission; Northwest Regional Transmission Association; Western Area Power Administration; Western Montana Electric Generating & Transmission Cooperative, Inc.; and Western Regional Transmission Association.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Company

[Docket No. ER96–335–000]

Take notice that on November 13, 1995, Massachusetts Electric Company, tendered for filing rate changes to its FERC Electric Tariff, Original Volume No. 1 for borderline sales.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Louisville Gas and Electric Company

[Docket No. ER96–337–000]

Take notice that on November 13, 1995, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Catex Vitol Electric under Rate GSS.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Company

[Docket No. ER96–338–000]

Take notice that on November 13, 1995, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric and Louis Dreyfus Electric Power Inc. under Rate GSS.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Southern Company Services, Inc.

[Docket No. ER96–339–000]

Take notice that on November 13, 1995, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (Southern Companies), tendered for filing an Interchange Service Contract between Southern Companies and Koch Power Services, Inc. The Interchange Service Contract establishes the terms and conditions of power supply, including provisions relating to service conditions, control of system disturbances, metering and other matters related to the administration of the agreement.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Louisville Gas and Electric Company

[Docket No. ER96–340–000]

Take notice that on November 13, 1995, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Boston Edison Company

[Docket No. ER96–341–000]

Take notice that on November 13, 1995, pursuant to 18 CFR Part 35 of the Commission's Rules and Regulations, 18 CFR Part 35, Boston Edison Company (BECo) filed a Preliminary Support Agreement under which BECo will determine a scope of work necessary to develop an emergency backup supply for New England Power Company's service to the City of Quincy, Massachusetts.

BECo requests waiver of the Commission's sixty (60) day notice requirement and requests that the agreement be permitted to become effective December 1, 1995.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29640 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 1988 No. 1988–007]

Pacific Gas and Electric Co.; Notice of Availability of Draft Environmental Assessment

November 30, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the Haas-Kings River Hydroelectric Project, located near the towns of Centerville, Fresno, and Sanger in Fresno County, California and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Any comments should be filed within 45 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First, Street, N.E., Washington, D.C. Please affix "Haas-Kings River Hydroelectric Project No. 1988" to all comments. For further information, please contact Frankie Green at (202) 501–7704.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29632 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 11560–000, et al.]

Hydroelectric Applications [Energy 2001, Inc., et al.]; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. Type of Application: Preliminary Permit.

b. Project No.: 11560–000.

c. Date filed: October 16, 1995.

d. Applicant: Energy 2001, Inc.

e. Name of Project: Halsey Forebay Project.

f. Location: On Pacific Gas & Electric Company's (PG&E) existing Bear Canal, which diverts water from the Bear River, and Halsey Forebay, near the town of Auburn, in Placer County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: David S. Fitzpatrick, President, Energy 2001, Inc., 1220 Skyline Blvd., Reno, Nevada 89509, (702) 825–2034.

i. FERC Contact: Mr. Michael Strzelecki, (202) 219–2827.

j. Comment Date: January 18, 1996.

k. Description of Project: The proposed project would be located entirely within the project boundary of PG&E's existing Drum-Spaulding Project (FERC No. 2310), and would utilize PG&E's existing Bear Canal and Halsey Forebay. The project would develop the head difference between the canal and the forebay, and include: (1) an intake on the canal; (2) two 240-foot-long, 60-inch-diameter penstocks leading to a powerhouse; (3) the powerhouse containing one generating unit with an installed capacity of 750 kW; (4) a tailrace emptying water into the Halsey Forebay; (5) an 1,800-foot-long transmission line interconnecting with an existing PG&E transmission line across from the forebay (the transmission line route has not yet been determined); and (6) appurtenant facilities.

No new access roads will be required to conduct the studies.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

2a. Type of Application: Preliminary Permit.

b. Project No.: 11561–000.

c. Date filed: October 25, 1995.

d. Applicant: Alaska Village Electric Cooperative, Inc.

e. Name of Project: Old Harbor Project.

f. Location: Partially within the Kodiak National Wildlife Refuge (administered by the U.S Fish and Wildlife Service), on an unnamed tributary to Sitkalidak Strait, near the town of Old Harbor, on Kodiak Island, Alaska. Sections 12, 13, 18, 19, and 20 in R26W, T34S.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Charles Y. Walls, General Manager, Alaska Village Electric Cooperative, 4831 Eagle Street, Anchorage, Alaska 99503–7497, (907) 561–1818.

i. FERC Contact: Mr. Michael Strzelecki, (202) 219–2827.

j. Comment Date: January 18, 1996.

k. Description of Project: The proposed Old Harbor Project would consist of: (1) a four-foot-high concrete diversion structure with an intake on the unnamed tributary to Sitkalidak Strait; (2) a 3,293-foot-long, 16-inch-diameter HDPE pipeline; (3) an 10,259-foot-long, 16-inch-diameter steel penstock; (4) a powerhouse containing one generating unit with an installed capacity of 330 kW; (5) a 4,270-foot-long transmission line interconnecting with an existing transmission line in the city of Old Harbor; and (6) appurtenant facilities.

No new access roads will be required to conduct the studies.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

3a. Type of Application: Preliminary Permit.

b. Project No.: 11562–000.

c. Date filed: October 25, 1995.

d. Applicant: Robert Craig.

e. Name of Project: Icy Gulch Project.

f. Location: On Sheep Fork and two unnamed tributaries of Carlson Creek (one which is referred to locally as Icy Gulch), about five miles east of Juneau, Alaska. The project is located partially within the Tongass National Forest, with the remainder lands being owned by the state of Alaska. Sections 22, 23, 27, 28, 32, and 33 in T41S, R68E. Section 5 in T42S, R68E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Robert Craig, P.O. Box 20422, Juneau, AK 99802, (907) 364–2818.

i. FERC Contact: Mr. Michael Strzelecki, (202) 219–2827.

j. Comment Date: January 18, 1996.

k. Description of Project: The applicant proposes to construct a 77-foot-high dam on Icy Gulch to enlarge an existing 25-acre lake owned by the National Forest Service to 95 acres. The project would also include: (1) A small diversion structure on the unnamed tributary of Carlson Creek diverting water through a 400-foot-long pipeline to the enlarged lake; (2) a 5,500-foot-long, 15-foot-diameter tunnel leading out of the lake; (3) an 11,000-foot-long, 36-inch-diameter buried steel penstock connecting the tunnel to a powerhouse; (4) the powerhouse, located at the mouth of Sheep Creek, containing two generating units with a total installed capacity of 9.0 MW; and (5) appurtenant facilities.

The lake on Icy Gulch and the unnamed tributary of Carlson Creek, which are the sources of water for the project, are located in a different basin than Sheep Creek, which is where the powerhouse is located.

No transmission line is proposed since the powerhouse will be located adjacent to the existing Thane substation.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

4a. Type of Application: Transfer of License.

b. Project No: 5334–016.

c. Date Filed: October 10, 1995.

d. Applicants: Joint Ypsilanti Recreation Organization and the Charter Township of Ypsilanti.

e. Name of Project: Ford Lake.

f. Location: On the Huron River in Washtenaw County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Robert C. Evans, 4572 Sequoia Trail, Okemos, MI 48864, (517) 351–5400.

i. FERC Contact: Thomas Papsidero, (202) 219–2715.

j. Comment Date: January 2, 1996.

k. Description of Filing: Application to transfer the license for the Ford Lake Project to the Charter Township of Ypsilanti.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

5a. Type of Application: New Major License.

b. Project No.: 2539–003.

c. Date Filed: December 23, 1991.

d. Applicant: Niagara Mohawk Power Corporation.

e. Name of Project: School Street Hydroelectric Project.

f. Location: Mohawk River, Albany and Saratoga Counties, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Jerry Sabattis, Hydro Licensing Coordinator, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 474–1511.

i. FERC Contact: Edward R. Meyer (202) 208–7998.

j. Deadline Date: See paragraph D10.

k. Status of Environmental Analysis: The Commission has waived the applicant's responsibility to respond to an additional information request for entrainment and mortality studies at the School Street Project. The application has been accepted for filing and is ready for environmental analysis at this time with one exception. The settlement negotiations among the applicant, resource agencies, and other parties have not yet closed. The details of any settlement offer that emerges from those negotiations will be considered in the environmental assessment after filing of such an offer with the Commission. In the interim, environmental analysis will proceed on all other issues as presented during scoping and in the application materials—see attached paragraph D10. No second REA notice will be issued.

l. Description of Project: The School Street Project is located on the Mohawk River approximately 2 miles from its confluence with the Hudson River in Albany and Saratoga counties, New York. The applicant owns the dam and operates the project as a pulsing facility. The dam creates a 100 Ac impoundment with a normal maximum water surface elevation of 156.1 ft msl, a usable storage capacity of 270 ac–ft, and a gross storage capacity of 788 ac–ft. The normal maximum vertical fluctuation of the water surface is 3 ft.

Project structures include: (a) A masonry gravity dam; (b) an upper gatehouse with nine timber slide gates and three steel Taintor gates; (c) a canal that leads to the lower gatehouse; (d) a lower gatehouse which consists of five steel headgates that lead to the penstocks; (e) an ice sluice adjacent to the lower gatehouse with three openings which converge into a single sluiceway; (f) five steel penstocks that feed the turbines; and (g) a powerhouse that houses five vertical Francis turbine-generator units and associated controls and equipment.

The total installed capacity of the project is 38.8 MW, an annual average energy generation of 177,700 MWh with a hydraulic capacity of 5,910 cfs. The facility creates a 4,500-ft-long bypass reach between the dam and the powerhouse tailrace. The bypass currently receives no minimum flows. The powerhouse operates under a gross head of 94 ft. There are no transmission lines or facilities included in the existing project.

The applicant proposed to replace the runners for Units 3 and 5 at the powerhouse with modern design runners to improve efficiency and increase plant life. The applicant would install a new 3,000 cfs vertical Kaplan unit, increasing the installed capacity of the project from 38.8 MW to 59.8 MW. The additional generator would require expansion of the existing powerhouse. The applicant would construct a new steel penstock to service the added unit from a new intake area at the southern end of the lower gatehouse to the new powerhouse addition.

To allow for the increased hydraulic capacity needed for the new unit, the applicant would excavate the canal, removing approximately 103,000 cubic yards of rock. The proposed maximum discharge is 8,850 cfs with proposed normal fluctuation limits of 1 ft. Minimum flows in the bypass reach would be 60 cfs, and base flow through the turbines would be 600 cfs.

Proposed recreational enhancements include redevelopment of Overlook Park downstream of Cohoes Falls in the city of Cohoes.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: A4 and D10.

o. Available Location of Application: A copy of this application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, N.E., Washington, D.C., 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202, or by calling (315) 474–1511.

6a. Type of Application: Surrender of License.

b. Project No.: 3195–068.

c. Date Filed: November 2, 1995.

d. Applicant: Sayles Hydro Associates.

e. Name of Project: Sayles Flat Project.

f. Location: South Fork American River, El Dorado County, California.

g. Filed Pursuant to: Federal Power Act, 16 USC Section 791(a)—825(r).

h. Applicant Contact: Mr. Steven Strasser, Sayles Hydro Associates, 11100 N.E. 8th Street, Suite 550, Bellevue, WA 98004, (206) 453–9800.

i. FERC Contact: Hillary Berlin, (202) 219–0038.

j. Comment date: January 6, 1996.

k. Description of Project: The licensee states that they are unable to obtain an appropriate power contract, and that all funds for the project have been exhausted.

l. The notice also consists of the following standard paragraphs: B, C1, and D2.

7a. Type of Application: Major License.

b. Project No.: 11214–001.

c. Date Filed: February 22, 1995.

d. Applicant: Southwestern Electric Cooperative, Inc.

e. Name of Project: Carlyle Reservoir.

f. Location: On the Kaskaskia River near the City of Carlyle, Clinton County, Illinois.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Mr. Robert Weinberg, 1615 M Street, N.W.—Suite 800, Washington, DC 20036, (202) 467–6370.

i. FERC Contact: Charles T. Raabe (202) 219–2811.

j. Deadline Date: January 22, 1996.

k. Status of Environmental Analysis: This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph D7.

l. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Carlyle Dam and Reservoir and would consist of: (1) An intake structure, placed below pool surface, which includes a fish screen/trashrack with 1.5-inch spaced horizontal bars; (2) five intake conduits (penstocks), each with a 96-inch inside diameter, approximately 680 feet long, placed about 500 feet east of the center of the spillway; (3) a 35-foot-wide by 73-foot-long concrete and brick masonry powerhouse equipped with: (a) five semi-kaplan type submersible generating units, each with a rated capacity of 800 kilowatts (kW), two turbines with variable pitch blades and three with fixed pitch blades; and (b) a hydraulic capacity ranging from 200 cubic feet per second (cfs) to 1,700 cfs; (4) a 1,400-foot-long, 5 kilovolt (kV), buried underground section of primary transmission line and a 3,000-foot-long section of above ground transmission line; and (5) appurtenant facilities. The project would have an estimated average annual generation of 26,293,000 kWh. The application was filed during the term of applicant's preliminary permit.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: A2, A9, B1, and D7.

o. Available Locations of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files and Maintenance Branch, located at 888 First Street, N.E., Washington, D.C. 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Barnes, Henry, Meisenheimer and Gende, Inc., 4658 Gravois Ave., St. Louis, Missouri 63116, (314) 352–8630, and at Southwestern Electric Cooperative, Inc.; South Elm Street and Route 40, Greenville, Illinois 62246, (618) 664–1025.

8a. Type of Application: Minor New License.

b. Project No.: 1994–004.

c. Date filed: November 2, 1995.

d. Applicant: Heber Light and Power Company.

e. Name of Project: Snake Creek.

f. Location: Partially within Uintah National Forest, on Snake Creek, in Wasatch County, Utah.

g. Filed Pursuant to: Federal Power Act 16 USC §§ 791(a)–825(r).

h. Applicant Contact: Mr. Alden C. Robinson, Sunrise Engineering, Inc., 25 East 500 North, P.O. Box 186, Fillmore, UT 84631, (801) 743–6151.

i. FERC Contact: Michael Spencer at (202) 219–2846.

j. Description of Project: The existing project consists of: (1) a grated penstock inlet at the entrance to Steamboat Tunnel; (2) a 16,417-foot-long, 16-inch-diameter penstock; (3) a powerhouse containing one generating unit with a capacity of 800 Kw and an average annual generation of 4.3 Gwh; and (4) a 12.4 KV transmission line.

k. With this notice, we are initiating consultation with the STATE HISTORIC PRESERVATION OFFICER (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory council on Historic Preservation, 36 CFR 800.4.

1. Under Section 4.32 (b)(7) of the Commission's Regulations (18 CFR), if any resource agency, Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate factual basis for a complete analysis of the application on its merits, they must file a request for the study with the Commission, not later than 60 days after the date of this notice, and must serve a copy of the request on the applicant.

9a. Type of Application: Amendment of Buffer Zone Management Plan.

b. Project No: 2833–044.

c. Date Filed: September 29, 1995.

d. Applicant: Lewis County Public Utility District No. 1.

e. Name of Project: Cowlitz Falls Project.

f. Location: Lewis County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Gary Kalich, Lewis County Public Utility District No. 1, P.O. Box 330, Chehalis, WA 98532, (206) 748–9261.

i. FERC Contact: Heather Campbell, (202) 219–3097.

j. Comment Date: January 12, 1996.

k. Description of Project: The Buffer Zone Management Plan (Plan), approved by the Commission in an order issued April 3, 1989, required the licensee to acquire the buffer zone in fee simple ownership. Lewis County Public Utility District No. 1 is requesting approval to amend its Plan to permit acquisition of the buffer zone through a perpetual easement with local property owners rather than fee simple purchase. Out of 900 acres in the buffer zone, the licensee proposes to acquire approximately 133 acres through the perpetual easement.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

Standard Paragraphs

A2. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D7. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," or "COMPETING APPLICATION;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice (January 16, 1996 for Project No. 2539–003). All reply comments must be filed with the Commission within 105 days from the date of this notice (February 29, 1996 for Project No. 2539–003).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply

with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: November 30, 1995, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29641 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–P

Notice of Application Tendered for Filing With the Commission

November 30, 1995.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Major License.
b. Project No. 11301–001.
c. Date filed: November 8, 1995.
d. Applicant: Fall Line Hydro Company, Inc.
e. Name of Project: Carters Reregulation Dam Project.
f. Location: On the Coosawatte River, near the town of Calhoun, Murray County, Georgia.
g. Filed Pursuant to: Federal Power Act 16 U.S.C. §§ 791(a)–825(r).
h. Applicant Contact: Mr. Robert A. Davis III, Fall Line Hydro Company, Inc., P.O. Box 2143, Lawrenceville, GA 30246, (770) 995–0891.
i. FERC Contact: Michael Dees (202) 219–2807.
j. Comment Date: 60 days from the filing date in paragraph c.
k. Description of Project: The project would utilize the U.S. Army Corps of Engineers' Carters Reregulation Dam and reservoir and would consist of the following features: (1) a proposed intake structure; (2) a proposed powerhouse housing a three hydropower units with a total capacity of 4,500 kW; (3) a proposed 12.48 kV transmission line one half mile long; and (4) appurtenant facilities.
l. With this notice, we are initiating consultation with the Georgia State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 C.F.R. 800.4.
m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

In addition to filing under the above paragraph, requests for additional studies may be submitted on a 3½-inch diskette formatted for MS–DOS based computers. In light of our ability to translate MS–DOS based materials, the text need only be submitted in the format and version that it was generated (i.e., MS Word, Wordperfect 5.1/5.2, ASCII, etc.). It is not necessary to reformat word processor generated text to ASCII. For Macintosh users, it would be helpful to save the documents in Macintosh word processor format and then write them to files on a diskette formatted for MS–DOS machines.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29631 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85–221–060, et al.]

Frontier Gas Storage Company, et al. Natural Gas Certificate Filings

November 28, 1995

Take notice that the following filings have been made with the Commission:

1. Frontier Gas Storage Company

[Docket No. CP85–221–060]

Take notice that on November 21, 1995, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., N.W., Suite 800, Washington, D.C. 20004, in compliance with provisions of the Commission's February 13, 1985, Order in Docket No. CP82–487–000, *et al.*, submitted an executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of up to a daily quantity of 50,000 MMBtu, not to exceed 5 Bcf of Frontier's gas storage inventory on an "as metered" basis to Prairielands Energy Marketing, Inc., for term ending October 31, 1996.

Under Subpart (b) of Ordering Paragraph (F) of the Commission's February 13, 1985, Order, Frontier is "authorized to commence the sale of its inventory under such an executed service agreement fourteen days after filing the agreement with the Commission, and may continue making such sale unless the Commission issues an order either requiring Frontier to stop selling and setting the matter for hearing or permitting the sale to continue and establishing other procedures for resolving the matter."

Comment date: 10 days after publication of this notice in the **Federal Register**, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

2. National Fuel Gas Supply Corporation

[Docket No. CP96–42–000]

Take notice that on November 3, 1995, National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York, 14203, filed in Docket No. CP96–42–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to partially abandon a storage service to Fitchburg Gas and Electric Company (Fitchburg) under Rate Schedule SS–1 and Yankee Gas Services Company (Yankee) under Rate Schedule SS–2. all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, National requests authorization, effective April 1, 1996, to partially abandon service to Yankee by reducing its annual SS–2 contract entitlement from 1.5 Bcf to 820,200 Mcf and to partially abandon service to Fitchburg by reducing its annual SS–1 contract entitlement from $300,000 Mcf to 60,000 Mcf.

Comment date: December 19, 1995, in accordance with Standard Paragraph F at the end of this notice.

3. Seahawk Shoreline System

[Docket No. CP96–73–000]

Take notice that on November 17, 1995, Seahawk Shoreline System (Seahawk), having its principal offices at 200 Westlake Park Boulevard, Suite 1000, Houston, Texas 77079, filed a petition requesting that the Commission disclaim jurisdiction over certain of Seahawk's natural gas gathering facilities under Section 1(b) of the Natural Gas Act (NGA).

Seahawk states that the facilities which are the subject of the petition (formerly known as the Seagull Shoreline System) are located entirely within the State of Texas and its state waters, gathering both gas and associated liquids in a two-phase flow from production platforms in the Matagorda Island Area, offshore Texas. Seahawk further states that it is currently classified as an intrastate pipeline. Seahawk states that based on its current status as an intrastate pipeline, it performs transportation under Section 311(a)(2) of the Natural Gas Policy Act (NGPA).

Seahawk contends that the Commission and the courts have reexamined, modified and more clearly delineated the requirements for determining whether a facility qualifies for a gathering exemption from Commission jurisdiction under Section 1(b) of the NGA. The result of these recent actions was the development and implementation of the "modified primary function" test. Seahawk avers that the facilities comprising its system meet this test and therefore, are not subject to Commission jurisdiction. Moreover, Seahawk states that disclaiming jurisdiction over its facilities is consistent with the Commission's regulatory and statutory objectives under the NGA and the NGPA.

Comment date: December 21, 1995, in accordance with Standard Paragraph F at the end of this notice.

4. Columbia Gas Transmission Corporation Columbia Gulf Transmission Company and Northern Natural Gas Company

[Docket No. CP96–75–000]

Take notice that on November 17, 1995, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314–1599, Columbia Gulf Transmission Company (Columbia Gulf), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314–1599, and Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000 (jointly as the Companies), filed in Docket No. CP96–75–000 a joint application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon exchange services which were once required for the exchange of offshore Louisiana gas, which was authorized in Docket Nos. CP76–191, CP77–649, CP77–657 and CP80–204, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, the Companies are seeking abandonment authority for the following rate schedules:

Docket No.	Order date	Company	Rate schedule
CP76–191	Jan. 4, 1978	Columbia	X–68
CP76–191	.....do	Columbia Gulf	X–48
CP76–191	.....do	Northern	X–57
CP77–657	Jan. 2, 1979	Columbia	X–81
CP77–657	.....do	Columbia Gulf	X–60
CP77–649	.....do	Northern	X–74
CP80–204	June 12, 1980	Columbia	X–95
CP80–204	.....do	Columbia Gulf	X–73
CP80–204	.....do	Northern	X–105

The Companies state that both Columbia and Northern purchased gas from Exxon Corporation (Exxon) at Block 332, Eugene Island Area, offshore Louisiana, and that Columbia Gulf received the gas for Columbia's account at an existing receipt point on Exxon's production platform at Eugene Island Block 314. The Companies state that Northern was unable to take delivery of its Eugene Island Block gas, and the exchange certificated under Docket No. CP76–191 provided for Columbia and Columbia Gulf to take delivery of Northern's gas from Exxon for delayed redelivery to Northern. The Companies state that all gas was on an Mcf-for-Mcf basis. The Companies state when Northern was unable to take the gas into its own system, repayment was effected out of Columbia's share of the gas produced from the Exxon wells.

The Companies state that the exchange certificated under Docket Nos. CP77–657 and CP77–649 provided for Northern to deliver gas to Columbia Gulf for the account of Columbia at the outlet side of Sea Robin Pipeline Company's measurement facilities near Erath, Louisiana and the outlet side of Columbia Gulf's measurement facilities at the Blue Water offshore pipeline system near Egan, Louisiana. The Companies state that Columbia delivered gas to Northern or to Trunkline Gas Company (Trunkline) for Northern's account at an interconnection between Columbia Gulf and Trunkline near Egan, Louisiana. The Companies state that construction of the interconnection was paid for by Northern and maintained and operated by Columbia Gulf for Northern's account. The Companies state that all exchanges of gas were on an Mcf-for-Mcf basis.

The Companies state that Columbia purchased gas from Exxon in Vermilion Area Block 372, offshore Louisiana and Northern purchased gas from Texasgulf, Inc., West Cameron Area Block 405, offshore Louisiana. The Companies state that the exchange certificated under Docket No. CP80–204 provided for Columbia to deliver up to 20,000 Mcf/d of its Vermilion Block 372 gas to Northern at the producer platform in Vermilion Area Block 372, and for Northern to deliver up to 20,000 Mcf/d of its West Cameron Block 405 gas via Natural Gas Pipeline Company of America, to Columbia Gulf at existing facilities located on producer platforms in West Cameron Area Blocks 616/630, offshore Louisiana. The Companies state that the exchange of gas was on an equivalent Btu basis.

The Companies submit that the proposed abandonments are required by the present and future public convenience and necessity, as they will eliminate exchange services no longer needed and will permit the Companies to cancel their corresponding Volume II Rate Schedules.

Comment date: December 19, 1995, in accordance with Standard Paragraph F at the end of this notice.

5. Koch Gateway Pipeline Company

[Docket No. CP96–78–000]

Take notice that on November 20, 1995, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP96–78–000 a request pursuant to §§ 157.205 and 157.211(a)(2) of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205, and 157.211) for authorization to construct and install a four-inch delivery tap through which Koch Gateway will make natural gas deliveries to Shell Oil Company's St. Rose Refinery, under Koch Gateway's blanket certificate issued in Docket No. CP82–430–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Koch Gateway proposes to construct and install a four-inch delivery tap and meter station on its Baton Rouge-New Orleans line, Index 270, in St. Charles Parish, Louisiana. The total proposed

estimated deliveries for these facilities is 5,000 Mcf daily with a peak day estimate of 10,000 Mcf per day. Koch Gateway proposes to make natural gas deliveries under its ITS Rate Schedule. Koch Gateway further states that the service would not have an impact on its curtailment plan because the proposed service is interruptible in nature.

Koch Gateway further states that the estimated cost of the proposed facilities is $29,200. It is stated that Shell would reimburse Koch Gateway for the cost of the construction of the facilities.

Comment date: January 12, 1996, in accordance with Standard Paragraph G at the end of this notice.

6. Williams Natural Gas Company

[Docket No. CP96–80–000]

Take notice that on November 21, 1995, Williams Natural Gas Company (WNG), One Williams Center, P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP96–80–000, a request pursuant to §§ 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216(b)) for authorization to abandon, by reclaim, measuring and appurtenant facilities originally installed for the delivery of sales gas to (1) Missouri Gas Energy in Jasper County, Missouri; (2) Childress Mine and Quarry in Jasper County, Missouri; (3) Sabreliner Corp. in Newton County, Missouri; and (4) NEO Hospital in Craig County, Oklahoma, under WNG's blanket authorization issued in Docket No. CP82–479–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG states that all of the affected customers have agreed to the reclaim of the facilities. WNG further states the total estimated reclaim costs are $5,460 with an estimated salvage value of $0.

WNG states it has sent a copy of this filing to the Missouri Public Service Commission and the Oklahoma Corporation Commission.

Comment date: January 12, 1996, in accordance with Standard Paragraph G at the end of this notice.

7. Williams Natural Gas Company

[Docket No. CP96–82–000]

Take notice that on November 22, 1995, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP96–82–000 a request pursuant to §§ 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212 and 157.216) for authorization to relocate and install new metering and appurtenant facilities for Farmland Industries, Inc. (Farmland) and to abandon by sale to Farmland the old meter and regulator settings and approximately 515 feet of 8-inch lateral pipeline all located in Douglas County, Kansas, under WNG's blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

WNG states the facilities were installed in 1963 to deliver sales gas to Farmland and do not currently meet the standard design specifications established by the American National Standards Institute and the American Petroleum Institute.

WNG states that it proposes to install a dual run 8-inch meter setting and appurtenant facilities approximately 400 feet north of the existing facilities. WNG states that installing the facilities at the new location will remove them from beneath high voltage power lines, and that the new metering facilities will be in compliance with established industry standards. WNG also states that the new location will eliminate the need for WNG employees to pass through Farmland's security to access WNG's facilities.

WNG states the current volume of gas flowing through the facilities is 78.5 MMcf on a peak day and 17,000 MMcf annually. WNG states that it does not anticipate any change in volume as a result of the proposed replacement.

WNG estimates the construction cost of its proposal to be $150,660. WNG states that since the meter and regulator settings and the pipeline will be sold in place to Farmland, there is no reclaim cost associated with this project.

WNG submits that this proposal will not significantly affect a sensitive environmental area.

Comment date: January 12, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29642 Filed 12–5–95; 8:45 am]

BILLING CODE 6717–01–P

[FRL–5340–2]

Prevention of Significant Deterioration of Air Quality (PSD) Final Determinations

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of final actions.

SUMMARY: The purpose of this notice is to announce that between May 1, 1994 and September 30, 1995, the United States Environmental Protection Agency (EPA) Region II Office, issued 5 final determinations, the New Jersey Department of Environmental Protection issued 3 final determinations and the New York State Department of Environmental Conservation (NYSDEC) issued 10 final determinations pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations codified at 40 CFR § 52.21.

DATES: The effective dates for the above determinations are delineated in the following chart (See **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Frank Jon of the Permitting and Toxics Support Section, Air Compliance Branch, Division of Air and Waste Management, U.S. Environmental Protection Agency, Region II Office, 290 Broadway, 21st Floor, New York, New York 10007–1866, (212) 637–4085.

SUPPLEMENTARY INFORMATION: Pursuant to the PSD regulations, the EPA Region II and the NYSDEC have made final PSD determinations relative to the sources listed below:

Name	Location	Project	Agency	Final action	Date
Eli Lilly Industries, Inc..	Mayaguez, Puerto Rico.	Proposed replacement of a steam boiler at the Mayaguez facility with a new 350 horsepower Cleaver Brooks boiler.	EPA	PSD Non-Applicability.	May 4, 1994.
Mercer and Atlantic County RRF.	Duck Island, New Jersey.	Two—833.8 tons per day MSW combustors each. Each combustor will be equipped with scrubber, baghouse, and carbon injection.	NJDEP	Final PSD Permit.	June 22, 1994.
Sithe Independence.	Oswego, New York.	1012 MW combined-cycle gas turbine (4 GE Frame 7001FA) cogeneration project firing natural gas.	NYSDEC	PSD Permit Modification.	June 29, 1994.
Selkirk Cogeneration Partners, L.P. (Phase I).	Selkirk, New York.	80 MW GE Frame 7 QC cogeneration project firing natural gas with No. 2 distillate oil and propane as a backup fuel.	NYSDEC	PSD Permit Modification.	July 15, 1994.
Virgin Islands Water and Power Authority (VIWAPA) (Units 15 & 18).	St. Thomas, Virgin Islands.	Relaxation of certain "low-load" restrictions for two existing oil-fired gas turbines (Units 15 and 18); deleting conditions prohibiting facility to operate only one of these units in combined-cycle mode at any given time; and allowing facility to burn up to 200,000 gallons per year of "off-spec" oil in two existing steam boilers (Units 11 and 13).	EPA	PSD Permit Modification.	August 24, 1994.
New Jersey Steel Corporation.	Sayreville, New Jersey.	Facility modernized its batch operation to a continuous feed Consteel process including a new larger baghouse, new canopy hood, new higher stack, and higher production rate.	NJDEP	PSD Permit Modification.	September 7, 1994.
LaFarge Corp ..	Syracuse, New York.	Proposed modifications to an existing pneumatic vessel unload system and an internal transfer/silo distribution system.	NYSDEC	PSD Non-Applicability.	September 21, 1994.
Virgin Islands Water and Power Authority (VIWAPA) (Unit 20).	St. Croix, Virgin Islands.	Revision to allow Unit 20 to begin operating for a period of up to 180 days prior to date of installation of PSD-required CEMS.	EPA	PSD Permit Modification.	November 16, 1994.
Saranac Power Partners.	Plattsburgh, New York.	240 MW combined-cycle gas turbine cogeneration project firing natural gas.	NYSDEC	PSD Permit Modification.	November 23, 1994.
Kamine Syracuse Cogeneration Project.	Syracuse, New York.	80 MW Siemens V64 firing natural gas with No. 2 distillate oil as a backup fuel.	NYSDEC	PSD Permit Modification.	December 20, 1994.
Kenetech Energy Systems.	Chateaugay, New York.	20 MW Riley Stoker Boiler firing wood	NYSDEC	PSD Permit Modification.	December 30, 1994.
Hollingsworth and Vose Company.	Easton, New York.	Addition of a new paper machine and the increased use of the boilers at an existing facility.	NYSDEC	PSD Non-Applicability.	March 29, 1995.
Newark Bay Cogeneration.	Newark, New Jersey.	Authorized an increase in the duration of the exemption for fuel transfer periods.	NJDEP	PSD Permit Modification.	April 11, 1995.
LifeSavers Manufacturing, Inc.	Las Piedras, Puerto Rico.	Removal of a GMT generator and a Clayton boiler with the addition of two new Cleaver Brooks boilers.	EPA	PSD Non-Applicability.	May 8, 1995.
Brooklyn Navy Yard Cogen Partners.	Brooklyn, New York.	Change in offset host from Domino Sugar to LILCO.	NYSDEC	PSD Permit Modification.	June 6, 1995.
Auburn Steel Company.	Auburn, New York.	Increase in hourly charging rate of the electric arc furnace from 55 to 85 tons of scrap metal/hour. Applicant has proposed to install a new larger baghouse and an annual production cap to ensure that increases at the proposed project are below the PSD de minimis levels.	NYSDEC	PSD Non-Applicability.	July 3, 1995.

Name	Location	Project	Agency	Final action	Date
Virgin Islands Water and Power Authority (VIWAPA) Unit #21.	St. Thomas, Virgin Islands.	New Unit # 21 at the Krum Bay Generating Station in St. Thomas. It is a 36 MW, simple cycle, oil-fired, GE Frame 6, gas turbine. It will burn No. 2 fuel oil with a maximum sulfur content of 0.2 percent by weight.	EPA	Final PSD Permit.	August 15, 1995.
Brystol-Myers Squibb Co.	Syracuse, New York.	Construction of three air pollution sources (biogas boiler, ground flare, and an odor scrubber). All criteria pollutants capped below the PSD de minimis levels.	NYSDEC	PSD Non-Applicability.	September 29, 1995.

This notice lists only the sources that have received final PSD determinations. Anyone who wishes to review these determinations and related materials should contact the following offices:

EPA Actions

United States Environmental Protection Agency, Region II Office, Air Compliance Branch—21 Floor, 290 Broadway, New York, New York 10007–1866

NJDEP Actions

New Jersey Department of Environmental Protection and Energy, Division of Environmental Quality, Bureau of Engineering and Technology, 401 East State Street, Trenton, New Jersey 08625

NYSDEC Actions

New York State Department of Environmental Conservation, Division of Air Resources, Source Review and Regional Support Section, 50 Wolf Road, Albany, New York 12233–0001

If available pursuant to the Consolidated Permit Regulations (40 CFR § 124), judicial review of these determinations under Section 307(b)(1) of the Clean Air Act (the Act) may be sought *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which these determinations are published in the **Federal Register**. Under Section 307(b)(2) of the Act, these determinations shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: October 30, 1995.

William Muszynski,

Deputy Regional Administrator.

[FR Doc. 95–29738 Filed 12–05–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5339–6]

Clean Air Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with 40 CFR 2.301(h)(2) EPA has determined that Trandes Corporation requires access, on a need-to-know basis, to CBI materials submitted to EPA under Title II, Section 208, of the Clean Air Act (CAA): This access is necessary to this contractor's performance under EPA contract number 68–W6–001.

DATES: The transfer of such data to this EPA contractor will occur no sooner than December 11, 1995.

FOR FURTHER INFORMATION CONTACT: Clifford D. Tyree, Project Manager/ Freedom of Information Act Officer, Certification Division, Ann Arbor, MI, 48105, telephone (313) 668–4310.

SUPPLEMENTARY INFORMATION: Title II of the Clean Air Act (CAA) requires that manufacturers of light-duty vehicles, light-duty trucks, heavy-duty engines, and motorcycles meet applicable exhaust emission standards. Section 208 of the CAA requires these manufacturers to provide "* * * such information as the Administrator may reasonably require * * *." Because this information is collected under Section 208 of the Act, EPA possesses the authority to disclose said information to its authorized representatives. EPA provides a recommended application format identifying the information needed to support their assertions that their vehicles/engines comply with the applicable emission standards. Each manufacturer is required to submit an application for certification for a certificate of conformity to the applicable regulations. These data include vehicle descriptions, engine/ vehicle descriptions, emission control system descriptions and calibrations, and sales information. Under contract No. 68–W6–0001 Trandes Corporation will provide computer data entry and computer application operational services for the Certification Division to process the data submitted by the manufacturers to support their respective exhaust emission and fuel economy programs. This contractor's responsibility is to maintain the integrity of the transfer of these data. In order to perform this function the contractor may, on a need-to-know basis, have access to these data. The contractor's address is: Trandes Corporation, 4601 Presidents Drive, Suite 360, Lanham, MD 20706.

This contract will prohibit the use of the information for any purpose not specified in the contract; will prohibit the disclosure, in any form, to a third party; and will require that each official and employee of the contractor with access to the confidential information sign an agreement to protect the information from unauthorized release or access.

Dated: November 15, 1995.

Mary Nichols,

Assistant Administrator, for Air and Radiation.

[FR Doc. 95–29743 Filed 12–05–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5338–6]

Office of Environmental Justice; Small Grants Program; Solicitation Notice for Fiscal Year (FY) 1996 Environmental Justice Small Grants to Community-Based/Grassroots Organizations and Tribal Governments

Purpose of the Grants Program

The purpose of this grants program is to provide financial assistance to eligible community groups (i.e., community-based/grassroots organizations, churches, or other non-profit organizations) and federally recognized tribal governments that are working on or plan to carry out projects to address environmental justice issues. While state and local governments and academic institutions are eligible to receive grants, preference will be given to community-based/grassroots organizations that are non-profit and incorporated, and federally recognized tribal governments. Funds can be used to develop a new activity or substantially improve the quality of existing programs.

Funding

For FY 1996, the Office of Environmental Justice Small Grants Program will award grants subject to the amount of funds appropriated by Congress. Each of EPA's ten regions are expected to have at least $100,000 to award grants under this program. A maximum of $20,000 can be awarded for each grant.

Translations Available

A Spanish translation of this announcement may be obtained by calling the Office of Environmental Justice at 1–800–962–6215.

Hay traducciones disponibles en espanol. Si usted esta interesado en obtener una traduccion de este anuncio en espanol, por favor llame a La Oficina de Justicia Ambiental conocida como "Office of Environmental Justice," linea gratuita (1–800–962–6215).

Important Pre-Application Information

Pre-applications must be postmarked no later than Saturday, March 2, 1996. Pre-applications will serve as the sole basis for evaluation and recommendation for funding. This notice contains all information and forms necessary to submit a pre-application. EPA will award grants based on the merits of the pre-application.

Pre-applications must be mailed to your EPA regional office. A list of addresses and phone numbers for the regional contacts is included at the end of this notice.

Background

In its 1992 report, *Environmental Equity: Reducing Risk for All Communities*, EPA found that minority and low-income populations may experience higher than average exposure to toxic pollutants than the general population. The Office of Environmental Justice (OEJ) was established in 1992 to help these communities identify and assess pollution sources, to implement environmental awareness and training programs for affected residents, and to work with community stakeholders to devise strategies for environmental improvements.

In June of 1993, OEJ was delegated granting authority to solicit, select, supervise, and evaluate environmental justice-related projects, and to disseminate information on the projects' content and effectiveness. Fiscal year (FY) 1994 marked the first year of the OEJ Small Grants Program. Seventy-one (71) grants totaling $507,000 were awarded in FY 1994 and in FY 1995, over $3,000,000 was awarded to 175 small grant recipients.

Eligible Activities

A. How Does EPA Define Environmental Justice Under the Environmental Justice Small Grants Program?

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no groups of people, including racial, ethnic, or socioeconomic groups, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

B. Who May Submit Pre-Applications and May an Applicant Submit More Than One?

Any affected, non-profit community organization or federally recognized tribal government may submit a pre-application upon publication of this solicitation. Applicants must be incorporated and non-profit to receive these federal funds. State recognized tribes or indigenous peoples organizations are able to apply for grant assistance as long as they meet the definition of a non-profit, incorporated organization. "Non-profit organization" means any corporation, trust, association, cooperative, or other organization that 1) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; 2) is not organized primarily for profit; and 3) uses its net proceeds to maintain, improve, and/or expand its operations. Individuals are not eligible to receive grants.

EPA will consider only one pre-application per applicant for a given project. Applicants may submit more than one pre-application as long as the pre-applications are for separate and distinct projects or activities.

Applicants who were previously awarded small grant funds may submit an application for FY 1996. The FY 1996 pre-application may or may not have any relationship to the project funded in previous years. Every pre-application for FY 1996 will be evaluated based upon the merit of the proposed project in relation to the other FY 1996 pre-applications, regardless of whether or not the proposal expands a project funded in a previous year.

C. What Types of Projects Are Eligible for Funding?

To be selected for an award, the project must develop and implement surveys, demonstrations, training, or research in areas related to environmental justice programs and activities under at least two of the following statutes:

a. *Clean Water Act*, Section 104(b) (3);
b. *Safe Drinking Water Act*, Section 1442(b) (3);
c. *Solid Waste Disposal Act*, Section 8001(a);
d. *Clean Air Act*, Section 103(b) (3);
e. *Toxic Substances Control Act*, Section 10(a);*
f. *Federal Insecticide, Fungicide, and Rodenticide Act*, Section 20(a);**
g. *Comprehensive Environmental Response, Compensation, and Liability Act*, Section 311(c);*** and
h. *Marine Protection, Research, and Sanctuaries Act*, Section 203.

* Projects under this statute are limited to research or development activities.

** Projects under this statute are limited to research activities (e.g., surveys).

*** Projects under this statute are limited to activities related to hazardous substance detection, assessment, and evaluation, and associated human health effects and risks.

D. What Are the Evaluation Criteria for the Program?

EPA will award an Environmental Justice Small Grant after it has determined that the applicant has met at least two of the following three evaluation criteria, and after review of the applicant's qualifications in the narrative section of the grant application. Each applicant is required to provide information on how it meets the evaluation criteria in the grant application.

1. Identify necessary improvements in communication and coordination among all stakeholders, including existing community-based/grassroots organizations and local, state, tribal, and federal environmental programs. Facilitate communication, information exchange, and partnerships among stakeholders to address disproportionate, high and adverse environmental exposure (e.g, workshops, awareness conferences, establishment of community stakeholder committees);

2. Motivate the general public to be more conscious of their local environmental justice issues and involve the community in efforts to address these concerns (e.g., community clean-up projects, monitoring of socioeconomic changes due to disproportionate, high and adverse environmental exposure);

3. Enhance community understanding of environmental and public health information systems and seek technical experts to demonstrate how to access, analyze, and interpret public environmental data (for example, Geographic Information Systems (GIS), Toxic Release Inventories (TRI), and other databases).

Environmental justice projects should enhance critical thinking, problem solving, and the active participation of affected communities in addressing environmental issues. Environmental justice efforts may include, but are not limited to, data gathering techniques that assist communities in their understanding of environmental justice issues. Environmental justice projects should engage and motivate individuals to weigh various concerns and make informed and responsible decisions as they work to remedy disproportionate environmental exposure.

The items discussed above are relative and can be defined differently among applicants from various geographic regions. Each pre-application should define these items as they relate to the specific project. Include a succinct explanation of how the project can serve as a model in other settings and how it addresses a high-priority environmental justice issue. The degree to which a project addresses a high-priority environmental justice issue will vary and must be defined by applicants according to their local environmental justice concerns.

E. How Much Money May Be Requested, and Are Matching Funds Required?

The ceiling for any one grant is $20,000 in federal funds. Depending on the funds appropriated by Congress, EPA's ten regional offices will each have approximately $100,000 to issue awards. Applicants are not required to cost share.

F. Are There Any Restrictions on the Use of the Federal Funds?

Yes. EPA grant funds can only be used for the purposes set forth in the grant agreement. Among other things, EPA funds cannot be used for matching funds for other federal grants, construction, personal gifts, buying furniture, litigation, lobbying, or intervention in federal rulemaking or adjudicatory proceedings. Refer to 40 CFR 30.410, entitled "How does EPA determine Allowable Costs?"

The Pre-Application

G. What is a Pre-Application?

The pre-application, which is part of this guidance document, contains four parts: 1) the "Application for Federal Assistance" form (Standard Form 424/SF 424), 2) the "Budget Information: Non-Construction Programs" form (Standard Form 424A/SF 424A), 3) a work plan, and 4) certifications/assurances forms. These documents contain all the information EPA needs to evaluate the merits of your pre-application. Finalists may be asked to submit additional information to support their projects.

H. How Must the Pre-Application Be Submitted and What Must the Standard Forms (SF) 424 and (SF) 424A, and the Work Plan Include?

The applicant must submit the original pre-application signed by a person duly authorized by the governing board of the applicant and one copy of the pre-application (double-sided encouraged). Pre-applications must be reproducible (for example, stapled once in the upper left hand corner, on white paper, and with page numbers).

As described above, a pre-application contains an SF 424, SF 424A, a work plan, and certifications/assurances forms. The following list describes the requirements for these documents. (The percentages next to the following items represent the weights EPA will use to evaluate the applicant's pre-application). Please note that certain sections are given greater weight than others.

Pre-application Materials: 1. Application for Federal Assistance (SF 424). An SF 424 is an official form required for all federal grants that requests basic information about the applicant and the proposed grant project. A completed SF 424 must be submitted as part of your pre-application. This form, along with instructions and a completed sample, is included at the end of this notice. (5%)

2. Budget Information: Non-Construction Programs (SF 424A). An SF 424A is an official form that requires the applicant to provide basic information on how the federal and non-federal share (if any) of funds will be used. A completed SF 424A must be submitted as part of your pre-application. For the purposes of this grants program, complete only the non-shaded areas. The SF 424A form, and a completed sample, is included at the end of this notice. (5%)

3. Work Plan. A work plan describes the applicant's proposed project. Work plans must be no more than five pages total. One page is one side of a single-spaced typed page. The pages must be letter size (8½" x 11"), with normal type size (10 or 12 cpi) and at least 1" margins. The only appendices and letters of support that EPA will accept are a detailed budget, resumes of key personnel, and commitment letters. (85%-delineated below)

Work plans must be submitted in the format described below:

I. A concise introduction of no more than one page that states the nature of the organization, how the organization has been successful in the past, purpose of the project, project completion plans, target audience, and expected results (10%).

II. A concise project description of no more than four pages that describes how the applicant plans to meet at least two of the three evaluation criteria outlined in Question D on page 4 of this notice ("What are the Evaluation Criteria for the Program?"). Additional credit will not be given for projects that fulfill more than two criteria (60%).

III. A conclusion of no more than one page discussing how the applicant will evaluate the success of the project, including the anticipated benefits and challenges in implementing the project (10%).

IV. An appendix with no more than two pages of resumes of up to three key personnel (5%).

V. An appendix with one page letters of commitment from other organizations with a significant role in the project. Letters of endorsement are not acceptable (No percentage assigned).

4. Certifications/Assurances. The federal government requires all grantees to certify and assure that they will comply with a variety of federal laws, regulations, and requirements. The two certifications/assurances forms must be signed and included in the application. (5%)

I. When and Where Must Pre-Applications Be Submitted?

The original plus one copy of the pre-application must be mailed to the EPA regional office where the applicant is located postmarked no later than Saturday, March 2, 1996. A list of the EPA regional office addresses (with the names of the regional contacts) and a list of the states that these offices support are included at the end of this notice.

Review and Selection Process

J. How Will Pre-Applications Be Reviewed?

EPA regional offices will review, evaluate, and select grant recipients. Pre-applications will be screened to ensure they meet all eligible activities described in Questions A, B, C, D, E, F, G, H, and I. Applications will be disqualified if they do not meet EPA's basic criteria.

K. How Will the Final Selections Be Made?

After the individual projects are reviewed and ranked, EPA officials in the regions will compare the best pre-applications and make final selections. Additional factors that EPA will take into account include geographic and socioeconomic balance, diverse nature of the projects, cost, and projects whose benefits can be sustained after the grant is completed. Regional Administrators will select the grants with concurrence from the Director of the Office of Environmental Justice at EPA Headquarters.

Please note that this is a very competitive grants program. Limited funding is available and many grant applications are expected to be received. Therefore, the Agency cannot fund all applications.

L. How Will Applicants Be Notified?

After all pre-applications are received, EPA regional offices will mail acknowledgments to applicants in their regions. Once pre-applications have been recommended for funding, the EPA regions will notify the finalists and request any additional information necessary to complete the award process. The EPA Regional Environmental Justice Coordinators or their designees will notify those applicants whose projects were not funded.

Grant Activities

M. How Much Time Do Grant Recipients Have to Complete Projects?

Activities must be completed within the time frame specified in the grant award, usually one year.

N. Who Will Perform Projects and Activities?

The recipient organization is responsible for the successful completion of the project. The recipient's project manager is subject to approval by the EPA project officer but EPA may not direct that any particular person be the project manager.

O. What Reports Must Grant Recipients Complete?

All recipients must submit final reports for EPA approval within ninety (90) days of the end of the project period. Specific report requirements (for example, Final Technical Report and Financial Status Report) will be described in the award agreement. EPA will collect, evaluate, and disseminate grantees' final reports to serve as model programs. Since networking is crucial to the success of the program, grantees may be required to submit an extra copy to a central collection point.

P. What is the Expected Time-frame for the Review and Awarding of the Grants?

December 1, 1995—Request for Applications Notice (RFA) is published in the **Federal Register**.

December 1, 1995 to March 1, 1996—Eligible grant recipients develop their pre-applications.

March 2, 1996—Pre-applications must be postmarked by this date.

March 2, 1996 to April 15, 1996—EPA regional program officials review, evaluate, and select grants.

April 15, 1996 to June 30, 1996—EPA regional grants offices process grants and make awards. Applicants will be contacted by the grants office or program office if their pre-proposal was selected for funding. Additional information may be required from the finalists, as indicated under Question G above.

August 1, 1996—EPA expects to release the national announcement of the FY 96 Environmental Justice Small Grant Recipients.

Fiscal Year 1997

Q. How Can I Receive Information on the Fiscal Year 1997 Environmental Justice Grants Program?

If you wish to be placed on the mailing list to receive information on the 1997 Environmental Justice Small Grants Program, you must mail your request along with your name, organization, address, and phone number to: U.S. Environmental Protection Agency, Office of Environmental Justice Small Grants—FY 1997 (3103), 401 M Street SW., Washington, DC 20460.

For additional information, please contact the appropriate Regional EJ Coordinator or designee listed at the end of this notice.

Dated: November 27, 1995.

Clarice E. Gaylord,

Director, Office of Environmental Justice.

Contact names and addresses

Region 1

Primary Contact: Rhona Julien, USEPA Region 1, John F. Kennedy Federal Building, One Congress Street, 10th Floor OCR, Boston, MA 02203
Secondary Contact: Pat O'Leary

Region 2

Primary Contact: Melva Hayden, USEPA Region 2, 290 Broadway, 26th Floor, New York, NY 10007
Secondary Contacts: Natalie Loney, Lillian Johnson

Region 3

Primary Contact: Reginald Harris, USEPA Region 3 (3PM–71), 841 Chestnut Building, 3DA00, Philadelphia, PA 19107–4431
Secondary Contact: Mary Zielinski

Region 4

Primary Contact: Vivian Malone-Jones, USEPA Region 4, 345 Courtland Street, N.E., Atlanta, GA 30365
Secondary Contact: Hector Buitrago

Region 5

Primary Contact: Margaret Millard, USEPA Region 5 (H–75), 77 West Jackson Boulevard, Chicago, IL 60604–3507
Secondary Contact: Garnetta Clark

Region 6

Primary Contact: Shirley Augurson, USEPA Region 6 (6M–P), 1445 Ross Avenue, 12th Floor, Dallas, Texas 75202–2733
Secondary Contact: Hattie Brown

Region 7

Primary Contact: Hattie Thomas, USEPA Region 7, 726 Minnesota Avenue, Kansas City, KS 66101
Secondary Contact: Rupert Thomas

Region 8

Primary Contact: Elisabeth Evans, USEPA Region 8 (PM–AS), 999 18th Street, Suite 500, Denver, CO 80202–2405
Secondary Contact: Patricia Denham

Region 9

Primary Contact: Lori Lewis, USEPA Region 9 (E–1), 75 Hawthorne Street, San Francisco, CA 94105
Secondary Contact: Martha Vega

Region 10

Primary Contact: Joyce Kelly, USEPA Region 10(MD–142), 1200 Sixth Avenue, Seattle, WA 98101
Secondary Contact: Susan Morales

Headquarters

Primary Contact: Angela Chung, USEPA, Office of Environmental Justice (3103), 401 M Street SW., Washington, DC 20460.

States and Territories By Region

Region 1: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
Region 2: New Jersey, New York, Puerto Rico, U.S. Virgin Islands
Region 3: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia
Region 4: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee
Region 5: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
Region 6: Arkansas, Louisiana, New Mexico, Oklahoma, Texas
Region 7: Iowa, Kansas, Missouri, Nebraska
Region 8: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
Region 9: Arizona, California, Hawaii, Nevada, American Samoa, Guam
Region 10: Alaska, Idaho, Oregon, Washington.

[FR Doc. 95–29747 Filed 12–5–95; 8:45 am]
BILLING CODE 6560–50–P

[FRL–5338–5]

Office of Environmental Justice; Environmental Justice Community/ University Partnership Grants Program Request for Applications (RFA) for Fiscal Year (FY) 1996

Purpose of Notice

The purpose of this notice is to solicit applications from eligible candidates under the Environmental Justice Community/University Partnership Grants Program sponsored by the Environmental Protection Agency, Office of Environmental Justice.

Grants Program Overview

The grants program was established to help community groups and tribal governments effectively address local environmental justice issues through active partnerships with one or more institutions of higher education. The Universities/Colleges shall support affected environmental justice community groups and American Indian tribes who engage in or plan to carry out projects that address environmental justice issues. The Universities/Colleges must focus on the design, methods, and techniques to evaluate and solve the environmental justice issues of concern to affected communities. The Universities/Colleges that have experience working with, and capabilities to effectively communicate with, affected communities, in actual partnership with such communities, will be given priority. This grants program will further the federal government's commitment to develop stronger partnerships with stakeholders in order to enhance community-based environmental protection.

The emphasis of this grants program is on meaningful, two-way cooperation between communities or tribes and institutions of higher education serving minority communities and low-income communities or tribes in order to address environmental justice issues. Partnerships must be established with formal agreements (i.e. Memoranda of Agreements) between at least one College/University and at least one socio-economically disadvantaged community which is adversely impacted by an environmental hazard. These partnerships become the catalyst for increasing environmental awareness and involvement in resolving environmental problems, such as exposure to environmental pollutants in minority communities and low-income communities and on Tribal lands.

The main objective of this grants program is to link community residence/organizations and tribes with their neighboring or affiliated academic institutions to forge partnerships to address local environmental and public health concerns. This effort is designed to ensure that these partners:

- Are aware of basic environmental regulations, laws, concepts, issues, and resources;
- Understand their role in identifying and defining problems, and monitoring contaminants related to environmental exposures;
- Are included in the dialogue that results in shaping future policies, guidances, and approaches to problem solving; and
- Are encouraged to be active partners in developing responses and setting priorities for intervention.

Through these partnerships, communities will be encouraged to become involved in accessing information from environmental databases, in cleaning-up and restoring environmental quality in communities that have environmental insults, and in surveying and monitoring environmental quality.

Number of Grants Proposed: A minimum of four grants are expected to be awarded for fiscal year (FY) 1996, depending on the amount of funding.

Grant Award Amount: A maximum of $250,000 will be awarded to each recipient, contingent upon the availability of funds. Work funded by this program is expected to begin upon award of the grant. All grants under this notice are expected to be awarded by August 1996.

Grant Term: The grant award will be a maximum of $250,000, but the project period can extend up to three years, if necessary. However, if the project period extends beyond one year the funding will be dispersed to the grantee over the course of the project period, not all in the first year.

Eligibility: Participation is limited to all institutions of higher education, which are eligible under applicable statutory authorities, including Historically Black Colleges or Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges (TCs), and institutions serving Asian-American (AA's) and other minority communities or low-income communities, and which have formal partnerships (i.e.. a signed Memorandum of Agreement) with any affected community groups (e.g., community-based/grassroots organizations, churches, schools, or other nonprofit community organizations) or with tribal governments.

The Environmental Justice Community/University Partnerships may be either a partnership among two single entities or consortium of entities. If a consortium is proposed, the lead academic institution must be identified and be one of the eligible applicants. This lead institution is recognized as the grantee and as such is responsible for all activities under the agreement.

Statutory authorities: The granting authority is multi-media and the grant proposal must address at least two of the following statutes:

Clean Water Act, Section 104(b)(3)
Solid Waste Disposal Act, Section 8001(a)
Clean Air Act, Section 103(b)(3)
Marine Protection, Research and Sanctuaries Act, Section 203
Toxic Substances Control Act, Section 10(a)[1]
Safe Drinking Water Act, Section 1442(b)(3)
Federal Insecticide, Fungicide, and Rodenticide Act, Section 20(a)[2]
Comprehensive Environmental Response, Compensation and Liability Act,
Section 111(c)(10).[3]

Background: In its 1992 report, *Environmental Equity: Reducing Risk for All Communities,* EPA found that minority and low-income communities may experience higher than average exposure to toxic pollutants than the general population. The Office of Environmental Justice (OEJ) was established in 1992 to help these communities identify and assess pollution sources, implement environmental awareness and training programs for affected residents and work with local stakeholders (community-based organizations, academia, industry, local governments) to devise strategies for environmental improvements.

In June of 1993, OEJ was delegated granting authority to solicit projects, select suitable projects from among those proposed, supervise such projects, evaluate the results of projects, and disseminate information on the effectiveness of the projects, and feasibility of the practices, methods, techniques and processes in environmental justice areas.

General: The following questions and answers are designed to respond to frequent concerns of applicants.

[1] Projects under this statute are limited to research or development activities.

[2] Projects under this statute are limited to research activities (e.g., surveys)

[3] Projects under this statute are limited to hazardous substance detection, assessment, and evaluation, and associated human health effects and risks.

A. What Specific Requirements Exist for the Environmental Justice Community/ University Partnership Grants Program?

Projects under the Environmental Justice Community/University Partnership Grants Program shall include, but not be limited to:

1. Design and demonstration of field methods, practices, and techniques, including assessment and analysis of environmental justice conditions and problems which may have a wide applicability and/or addresses a high priority environmental justice issue (e.g., socio-economic impact studies);

2. Research projects to understand, assess or address, regional and local trends in environmental justice issues or problems (e.g., monitoring of socio-economic change in a community as a result of an environmental abuse);

3. Demonstration or dissemination of environmental justice information, including development of educational tools and materials (e.g., establish an environmental justice clearinghouse of successful environmental justice projects and activities or teach about risk reduction, pollution prevention, or ecosystem protection as potential strategies for addressing environmental justice problems or issues);

4. Determine the necessary improvements in communication and coordination among local, state and tribal environmental programs and facilitate communication, information exchange, and community partnerships among all stakeholders to enhance critical thinking, problem solving, and decision making;

5. Provide technical expert consultation and training for accessing, analyzing, and interpreting public environmental data, and utilization of electronic communications technology (e.g., TRI, GIS, Internet and E-mail); and

6. Provide for a minimal "hard science" analysis capability (e.g., analyze water and soil samples to test for basic pollutants, provide radon testing kits, etc.).

Projects should involve new and innovative approaches and/or significant new combinations of resources, both of which should be identified in the partnership agreements;

An applicant is required to include in the application a signed agreement which describes the role of the prospective partner(s) in the project and its implementation, and which includes a commitment or intent to commit resources from the prospective partner(s) contingent only upon receipt of the grant award. The college/university must identify the community residents or tribal government representatives who will serve on the "partnership team." Where appropriate, the community or tribal representatives on the team may be compensated for their work; and

Applications should include partnerships between colleges and universities which are providers of training and programs for these communities. One of the goals of the partnerships should be to develop a plan to shift the focus of these organizations from maintenance to that of self-sufficiency.

B. What does Environmental Justice Involve Under the Environmental Justice Community/University Partnership Grant?

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no groups of people, including racial, ethnic, or socioeconomic groups, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

C. May an Individual Apply?

No. Only institutions of higher education may apply. The professional qualifications or community-based experience of those individuals participating in the proposed project will be an important factor in the selection process.

Funding Priorities

D. What Types of Proposed Environmental Justice Community/ University Partnerships Will Have the Best Chance of Being Funded?

The Environmental Justice Community/University Partnerships must meet the objectives and criteria as described in Section A and B. The evaluations will be conducted, and items weighed, as indicated in Section G.

E. Are Matching Funds Required?

Yes. Federal funds for the Environmental Justice Community/ University Partnerships shall not exceed 95% of the total cost of the project. EPA encourages non-Federal matching shares of greater than 5%. The non-Federal share of costs may be provided in cash or by in-kind contributions of services or property. In-kind contributions often include salaries or other verifiable costs. In the case of salaries, applicants may use either minimum wage or fair market value of similar work in the same labor market. The proposed match, including the value of in-kind contributions, is subject to negotiation with EPA. All grants are subject to audit, so the value of in- kind contributions *must be carefully documented*. The matching (non-Federal) share is a percentage of the entire cost of the project. For example, if the total project cost is approximately $260,000 then the Federal portion can be no more than $247,000, which is 95% of the total project cost. For this example, the grant recipient would be required to provide $13,000 for the project. The amount of non-Federal funds, including in-kind contributions, must be briefly itemized in Block 15 of the application form (SF 424). Among other things, *EPA funds cannot be used for matching funds for other Federal grants, construction, buying furniture, lobbying, intervention in federal rule-making, adjudicatory proceedings, litigation, or personal gifts.* Refer to 40 CFR 30.410 entitled, "How does EPA determine allowable costs?"

Application Procedure

An "Application for Federal Assistance" form (Standard Form 424 or SF 424), a "Budget Information: Non-Construction Programs" form (SF 424A), a Work Plan (described below), and a Memorandum of Agreement must be submitted. These documents contain all the information EPA needs to evaluate the merits of your proposed grant proposal.

Each instrument approved under the environmental justice delegation must be consistent with the Federal Grant and Cooperative Agreements Act of 1977, Public Law 95–224, as amended, 31 U.S.C. Section 6301; Title 40 of the Code of Federal Regulations, Parts 30 and 33, and existing media-specific regulations pertinent to the statement of work.

F. How Must the Application be Submitted and Specifically what Must it Include?

The applicants must submit one original, signed by a person authorized to receive funds for the applicant, and two copies of the application (double-sided copies encouraged). Applications must be reproducible (for example; stapled once in the upper left hand corner, on white paper, and with page numbers).

For the purposes of this grants program, an application must contains an SF 424, SF 424A, a work plan, a Memorandum of Agreement (MOA), and

the Certification Forms. The following describes these items:

1. Application for Federal Assistance (SF 424). An SF 424 is an official form required for all Federal grants. A completed SF 424 must be submitted as part of your preapplication.

2. Budget Information: Non-Construction Programs (SF 424A). An SF 424A is an official form required for all Federal grants. A completed SF 424A must be submitted as part of your application. This form, along with instructions are included at the end of this notice. In addition, a detailed budget which breaks down the budget categories is required.

3. Work Plan. A work plan describes the applicant's proposed project. Work plans must be no more than 15 pages total. One page is one side of a single spaced typed page. The pages must be letter size (8½ x 11), with normal type size (19 or 12 cpi) and at least 1" margins. The only appendices and letters of support that EPA will accept are a budget, resumes of key personnel, and commitment letters.

4. Memorandum of Agreement. The Memorandum of Agreement will provide the foundation for the working relationship between the college/university and the partners involved in the project. This agreement must be signed and have the roles and responsibilities of each partner clearly defined.

5. Necessary Signed Forms. Procurement Systems Certification, Certification Regarding Debarment, Suspension and Other Responsibility Matters, Certification Regarding Lobbying.

G. How will the Applications be Evaluated?

The applications will be evaluated by a review panel and selected according to the following criteria. The percentages next to the items are the weights EPA will use to evaluate the applications. Please note that certain sections are given greater weight than others.

(a.) A concise introduction of no more than three pages that states the nature of the college/university, how the college/university has been successful in the past, proposed uses, objectives, methods, plans, target audiences, and expected results of the project. (10%)

(b.) Clear and concise description of the project which includes the following:

1. A section describing the field methods, practices, and techniques, including assessment and analysis, which the partnership expects to implement to address national, regional and local environmental justice issues. (10%)

2. A section describing how the partnership will disseminate environmental justice information and provide training, including educational tools and materials. (10%)

3. A section describing how the partnership will improve communications and coordination among local, state, tribal and federal environmental programs and community organizations, and how the partnership will enhance critical thinking, problem solving and decision making among all stakeholders. Specify effective and realistic methods for involving members of the targeted population. (10%)

4. A section describing who or how the partnership will obtain expert consultation and provide training for the partners to access, analyze and interpret public environmental data and utilize electronic communications technology. (10%)

5. A section describing the "hard science" analysis capability of the college(s)/university(ies). (10%)

(c.) A conclusion discussing how the applicant will evaluate the success of the partnership, in terms of the anticipated strengths and challenges in developing and administering the partnership. (10%)

(d.) An appendix with a budget describing how funds will be used in terms of personnel, fringe benefits, travel, equipment, supplies, contract costs, and other. Funds can not be used for matching funds for other federal grants, construction, buying furniture, lobbying, intervention in federal rule-making, adjudicatory proceedings, litigation, or personal gifts. The budget must list proposed milestones with deadlines and estimated cost and completion dates. All costs must be consistent with the cost principles of the Office of Management and Budget (OMB), A–21. (10%)

(e.) An appendix with one or two page resumes of up to five key personnel. (5%)

(f.) An appendix with one page letters of commitment from community-based organizations with a significant role in the development and administration of the partnership. Letters of endorsement will not be considered. (5%)

(g) A Memorandum of Agreement signed by each representative of the partnership team which identifies the roles and responsibilities of each partner. (10%)

H. When and Where Must the Applications be Submitted?

An original plus two copies of the application must be mailed to EPA postmarked no later than Saturday, March 2, 1996. Applications must be submitted to this EPA headquarters address: United States Environmental Protection Agency, Office of Environmental Justice, Mail Code 3103 Environmental Justice Community/ University Partnership Grants, 401 M Street S.W., Washington, D.C. 20460.

Review and Selection Process

I. How Will Applications be Reviewed?

EPA's Office of Environmental Justice will form a selections committee comprised of EPA, other federal agency staff, and outside reviewers to evaluate proposals and recommend selections. Applications will be screened to ensure they meet all the requirements described in this Sections A–H. Reviewers will specifically evaluate the degree to which the applications meet EPA's objectives and criteria as discussed in Section G. Applications will be disqualified if they are incomplete or do not meet EPA's basic criteria.

J. How Will the Final Selections be Made?

After the applications are reviewed and ranked as described in Section G, EPA officials will compare the best applications and make final selections. Factors EPA will take into account include; geographic and socio-economic balance, diverse nature of the projects, and if the partnership's benefits can be sustained after the grant is completed.

K. How Will Applicants be Notified?

After all applications are received, EPA will mail acknowledgements to each applicant. Once applications have been recommended for funding, EPA will notify those applicants selected and request any additional information necessary to complete the award process. The EPA Office of Environmental Justice will notify those applicants whose grant applications were not selected for funding.

Post-Award

L. When Should the Proposed Partnership Begin Functioning?

Partnerships cannot operate or begin development on this specific project before funds are awarded. Start dates are currently targeted for August 1, 1996. It is EPA's intent to fund each partnership only once. Future funding is dependent upon congressional appropriations.

M. How Much Time do Grant Recipients Have to Complete the work Proposed?

Activities must be completed within the time frame specified in the grant award, usually one or two years from award date. Grant project periods may be approved for up to two years.

N. Who Will Develop and Manage the Partnerships?

Grant recipients are responsible for the successful development and management of all projects. All applications must identify a project manager. The recipient's project manager is subject to approval by the EPA project officer, but EPA may not direct that any particular person be the project officer. The lead institution (applicant) is recognized as the grantee and as such is responsible for all activities under the agreement.

O. What Reports Must Grant Recipients Complete?

Recipients of grants will be expected to report on quarterly progress, as well as final project completion. All recipients must submit final reports for EPA approval prior to the expiration of the project period. Specific reporting requirements will be detailed in the award agreement. EPA plans to collect, evaluate, and as appropriate, disseminate grantees' final reports to serve as model programs. Since networking is crucial to the success of the program, grantees may be asked to transmit an extra copy to a central collection point.

P. What is the Expected Time frame for the Review and Awarding of the Grants?

December 1, 1995
Request for Applications Published in the **Federal Register**
December 1, 1995–March 2, 1996
Eligible grant recipients develop their proposals
March 2, 1996
Proposals must be postmarked or received by EPA by this date
March 2, 1996–May 1, 1996
Federal Agency Officials and review panel evaluate and recommend award selection
May 1, 1996–June 30, 1996
EPA Grants Administration Division processes grants. Applicants will be contacted by the grants office if their proposals were selected for funding. Additional information may be required from the selectees.
August 1, 1996
EPA anticipates the awarding of the grants and the beginning of the partnership projects/activities.

Fiscal Year 1997 Grants

To Receive Information on the Fiscal Year (FY) 1997 Environmental Justice Community/University Partnership (CUP) Grants Program and future year grants, please mail or fax your request along with your name, organization, address, and phone number to the Office of Environmental Justice (OEJ), FY 1997 CUP Grants. OEJ's address is provided in Section H. OEJ's fax number is (202) 260–0852. You may also obtain this information by calling OEJ's 24 hour hotline number 1–800–962–6215

Available Translations

A Spanish translation of this announcement is available upon request. Please call the Office of Environmental Justice at 1–800–962–6215 for a copy.

Hay traducciones disponibles en espanol. Si usted esta interesado en obtener una traduccion de este anunclo en espanol, por favor llame a la Officina de Justicia Ambiental conocida como "Office of Environmental Justice", linea de emergencia (1–800–962–6215).

Working Definitions

Tribe—all federally recognized American Indian tribes (including "Alaskan Native Villages"), pueblos, and rancherios. Although the term "tribe," as defined in this notice, refers to only "federally recognized tribes," state recognized tribes or indigenous peoples organizations are able to apply for grant assistance as "other eligible grass-roots organizations" as long as they meet the definition of an incorporated, nonprofit organization.

Nonprofit—means any corporation, trust, association, cooperative, or other organization which (1) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest: (2) is not organized primarily for profit: and (3) uses its net proceeds to maintain, improve, and/or expand its operations.

November 27, 1995.

Clarice E. Gaylord,

Director, Office of Environmental Justice.

[FR Doc. 95–29744 Filed 12–05–95; 8:45 am]
BILLING CODE 6560–50–P

[FRL–5340–3]

State of New Jersey; Final Partial Program Determination of Adequacy of State/Tribe Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Partial Program Determination of Adequacy on New Jersey's Application.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that Municipal Solid Waste Landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule governing such determinations. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency has approved and will continue to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide for interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owner/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by Part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities.

The State of New Jersey applied for a partial program determination of adequacy under Section 4005 of RCRA. EPA reviewed New Jersey's application and made a tentative determination of adequacy for those portions of the MSWLF permit program that are adequate to ensure compliance with the revised MSWLF Criteria. After reviewing all comments received, EPA today is granting final partial approval to New Jersey's program.

EFFECTIVE DATE: The partial program determination of adequacy for New Jersey shall be effective on December 6, 1995.

FOR FURTHER INFORMATION CONTACT: Lorraine Graves, U.S. EPA Region II, Mail code 2AWM, 22nd Floor, 290 Broadway, New York, New York, 10007–1866, telephone: (212) 637–4099.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR Part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that facilities comply with the Federal Criteria under Part 258. Subtitle D also requires in Section 4005 that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to propose in STIR to allow partial approval if: 1) the Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with Part 258; 2) changes to a limited narrow part(s) of the State/Tribal permit program are needed to meet these requirements; and, 3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of Part 258. As provided in the October 9, 1991, municipal landfill rule, EPA's national Subtitle D standards took effect in October, 1993. Consequently, any portions of the Federal Criteria which are not included in an approved State/Tribal program by October, 1993, would apply directly to the owner/operator. The requirements of the STIR, if promulgated, will ensure that any mixture of State/Tribal and Federal rules that take effect will be fully workable and leave no significant gaps in environmental protection. These practical concerns apply to individual partial approvals granted prior to the promulgation of the STIR rule. Consequently, EPA reviewed the program approved today and concluded that the New Jersey permit program and the Federal requirements mesh reasonably well and leave no significant gaps. Partial approval will allow the Agency to approve those provisions of the New Jersey permit program that meet the requirements and provide the State time to make necessary changes to the remaining portions of its program. As a result, owners/operators will be able to work with the New Jersey permitting agency to take advantage of the Criteria's flexibility for those portions of the program which have been approved.

EPA has reviewed New Jersey's requirements to determine whether they are "adequate" under section 4005(c)(1)(C) of RCRA. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in Section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an "adequate" program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program. EPA also is requesting States/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. EPA notes that it intends to propose to make submissions of a schedule mandatory in STIR.

On March 3, 1994, the State of New Jersey submitted an application to obtain a partial program adequacy determination for its municipal solid waste landfill permit program. Additional material was submitted on July 21, 1994 and September 6, 1994. On October 28, 1994, EPA published a tentative partial determination of adequacy for New Jersey's program. Further background on the tentative partial program determination of adequacy appears at 59 FR 54190, October 28, 1994.

Along with the tentative determination, EPA announced the availability of the application for public comment. The New Jersey application for partial program adequacy determination was available for public review and comment at the New Jersey Department of Environmental Protection in Trenton, New Jersey and at the EPA Region II Library in New York, New York. The public comment period commenced on October 28, 1994 and ended on December 14, 1994.

Although RCRA does not require EPA to hold a hearing on any determination to approve a State/Tribe's MSWLF program, the Region scheduled a public hearing on this tentative partial determination. A public hearing was held in Trenton, New Jersey on December 14, 1994. A summary of the comments received, and EPA's responses thereto is contained in the public comment section of this notice.

On March 3, 1994, the State of New Jersey submitted an application for partial determination of adequacy of its solid waste landfill permit program. Certain revisions and amendments were submitted on July 21, 1994 and September 6, 1994. The application addressed all components of 40 CFR Part 258 and discussed New Jersey's enforcement authority, provisions for citizen participation, and the current status of solid waste landfills within the State. EPA reviewed New Jersey's application and tentatively determined that the State's program met the requirements necessary to qualify for a determination of partial program approval of adequacy to ensure compliance with the Federal Criteria with the exception of Subpart E—Ground-Water Monitoring and Corrective Action. Upon appropriate adoption of revisions to its existing ground-water regulations, it is expected that New Jersey will become eligible for full approval, which will include Subpart E—Ground-Water Monitoring and Corrective Action. New Jersey has provided a revised schedule for adoption of proposed regulatory revisions. The revised regulations are expected to be fully effective by late 1996, rather than by the end of 1995 as set forth in the original schedule. EPA has reviewed the revised schedule and concluded that it is reasonable. In addition, all of the New Jersey solid waste regulations are scheduled to be re-adopted during the 1995–1996 period to comply with the Governor's Executive Order #66 requiring periodic re-adoption of administrative rules.

B. Public Comment

A summary of the public comments received on the tentative determination of partial program adequacy and EPA's responses follows. Two comments were received by mail. The first involved questions and concerns of a site-specific nature in several New Jersey counties. Since the questions and concerns raised were specific to either particular facilities or working operations and were not relevant to the State's program as to its equivalency to the federal criteria or overall program adequacy, these questions were not considered in this determination and will not be discussed in this notice. However, concerns were addressed by direct correspondence with the commentor.

The second comment challenged New Jersey's wetlands protection standards. The comment asserted that New Jersey's wetland standards were not "technically comparable" to the Federal Criteria and that the State application "failed to cite regulations" that adequately protect wetlands. It also asserted that New Jersey regulations lack a counterpart to 40 CFR § 258.12(a)(1), which provides significant restrictions on locating solid waste landfill units in wetlands. In addition, the commentor remarked that New Jersey had permitted a particular county landfill expansion in violation of the Federal landfill criteria.

The New Jersey application identified and discussed its wetlands regulations as they appear in N.J.A.C. 7:26, the solid waste requirements, as well as N.J.A.C. 7:7A, the Freshwater Wetlands Protection Act Rules. The narrative portion of the New Jersey application clearly states that the New Jersey Department of Solid Waste Management shall issue a freshwater wetlands or open water fill permit only if it finds that there is no practicable alternative to the proposed activity. The rules apply to sanitary landfills proposing to engage in regulated activities set forth in N.J.A.C. 7:7A. Subsequent to the public hearing, New Jersey again addressed this issue in correspondence with EPA and reaffirmed that New Jersey regulations are consistent with the federal approach.

As to the matter of the particular county landfill expansion, it is EPA's understanding that the owner/operator of the facility in question has not received a permit to proceed with these activities. Furthermore, EPA's responsibility in this matter is only directed to a determination concerning the adequacy of the State permit program.

C. Decision

After reviewing the public comments, I conclude that New Jersey's application for a partial program adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, New Jersey is granted a partial program determination of adequacy for the following areas of its municipal solid waste permit program: location restrictions, operating criteria, design criteria, closure and post-closure care, and financial assurance criteria.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of Section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR Part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the relevant portions of the Federal Criteria. See 56 *FR* 50978, 50995 (October 9, 1991).

Today's action takes effect on the date of publication. EPA believes it has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C 553(d), to put this action into effect less than 30 days after publication in the **Federal Register**. All of the requirements and obligations in the State's program are already in effect as a matter of State law. EPA's action today does not impose any new requirements that the regulated community must begin to comply with. Nor do these requirements become enforceable by EPA as federal law. Consequently, EPA finds that it does not need to give notice prior to making its approval effective.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this notice from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this final approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of Section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: November 7, 1995.

William J. Muszynski,

Deputy Regional Administrator.

[FR Doc. 95–29740 Filed 12–5–95; 8:45 am]

BILLING CODE 6560–50–P

[OPP–42075; FRL–4968–7]

Oregon Plan for Certification of Pesticide Applicators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to approve Amendment to Oregon Certification Plan.

SUMMARY: On March 30, 1976, EPA announced approval of the Oregon plan for the certification of applicators of restricted use pesticides. Oregon has submitted an amendment to this certification plan to permit certification of applicators of 1080 Livestock Protection Collars (LPC). Notice is hereby given of the intention of EPA to grant approval of this amendment.

DATES: Written comments should be submitted on or before January 22, 1996.

ADDRESSES: Send written comments, identified by docket control number "OPP–42075" to Allan Welch, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Eighth Floor, Seattle, WA 98101.

The comments received pursuant to this notice will be available at the aforementioned location from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: welch.allan@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP–42075." No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under the SUPPLEMENTARY INFORMATION unit of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with

procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Copies of the Oregon plan amendment are available for viewing at the following locations during normal business hours:

1. U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Eighth Floor, Seattle, WA 98101. Contact: Allan Welch, (206) 553–1980, e-mail: welch.allan@epamail.epa.gov.

2. U.S. Environmental Protection Agency, Office of Pesticide Programs, Crystal Mall #2, 1921 Jefferson Davis Highway, Rm. 1121, Arlington, VA 22202. Contact: John MacDonald, (703) 305–7370.

3. Oregon Department of Agriculture, Plant Division, 635 Capitol Street N.E., Salem, OR 97310. Contact: Christopher Kirby, (503) 986–4635.

FOR FURTHER INFORMATION CONTACT: Allan Welch, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Eighth Floor, Seattle, WA 98101, Telephone (206) 553–1980, e-mail: welch.allan@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The final decision permitting registration of 1080 LPC was signed by Lee M. Thomas, Assistant Administrator for Solid Waste and Emergency Response, on October 31, 1983 (FIFRA Docket 502). This final decision requires applicators of 1080 LPC to receive specific training and to comply with recordkeeping and reporting requirements beyond that of applicators of other restricted use pesticides. For these reasons EPA has required a distinct certification process for applicators of 1080 LPC. To meet the requirement Oregon has submitted an amendment to the existing Oregon certification plan. This amendment will establish a 1080 LPC subcategory under their existing regulatory pest control category.

Oregon will only be certifying employees of the U.S. Department of Agriculture, Animal Damage Control (ADC), as 1080 LPC applicators. Certification granted ADC employees will permit them to utilize 1080 LPC in performance of their official duties. ADC estimates that approximately 34 employees of ADC will seek certification under the 1080 LPC subcategory. The only registrant of 1080 LPC in Oregon is the ADC. Therefore, the ADC will be the source of 1080 LPC.

The proposed amendment to the Oregon certification plan contains a draft Memorandum of Agreement between the Oregon Department of Agriculture (ODA) and the ADC addressing their respective roles and responsibilities. The ODA will oversee the activities of the ADC in its roles both as registrant and as employer/supervisor of 1080 LPC applicators. In addition to its responsibilities as registrant, the ADC will provide training and supervision to its 1080 LPC applicators. Certification and recertification will be based upon a written examination administered by the ODA. Recertification will be required every 5 years.

EPA finds that the proposed amendment permitting certification of 1080 LPC applicators meets the criteria specified in the Final Decision of October 31, 1983 and will assure safe and effective use of 1080 LPC. Therefore, EPA announces its intention to approve the amendment to the Oregon certification plan permitting certification of 1080 LPC applicators.

Interested persons are invited to submit written comments on EPA's intention to approve this amendment to the Oregon certification plan. A record has been established for this action under docket number "OPP–42075" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Eighth Floor, Seattle, WA.

Electronic comments can be sent directly to EPA at:

welch.allan@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Dated: October 24, 1995.

Charles Clarke,

Regional Administrator, Region 10.

[FR Doc. 95–29455 Filed 12–5–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30398; FRL–4987–9]

Safety Pet Products, Inc.; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by January 5, 1996.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30398] and the file symbol (069170–R) to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will be accepted on disks in Wordperfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30398]. No "Confidential Business Information" (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Anne Ball, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8717; e-mail: ball.anne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received an application from Safety Pet Products, Inc., 4901 W. Leigh St., Richmond, VA 23230, to register the pesticide product Nature Bath (EPA File Symbol 069170–R), containing the active ingredient sodium chloride at 95 percent, which involves a changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. This product is for general use to include in its presently registered use, a new use to kill fleas and ticks. Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

A record has been established for this notice under docket number [OPP–30398] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division at the address provided from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: November 8, 1995.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 95–29737 Filed 12–5–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180984; FRL 4988–3]

Cymoxanil, Propamocarb Hydrochloride and Dimethomorph; Receipt of Applications for Emergency Exemptions, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Florida Department of Agriculture and Consumer Services (hereafter referred to as the "Applicant") to use the pesticides cymoxanil (CAS 57966–95–7), propamocarb hydrochloride (CAS 25606–41–1) and dimethomorph (CAS 110488–70–5) to treat potentially up to 50,000 acres of tomatoes to control immigrant strains of late blight which are resistant to historically used control materials. The Applicant proposes the use of either new (unregistered) chemicals or the first food use of an active ingredient therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemptions.

DATES: Comments must be received on or before December 20, 1995.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180984," should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–180984]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain (CBI) must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway,

Arlington, VA, (703) 308–8326; e-mail: pemberton.libby@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue specific exemptions for the use of cymoxanil, propamocarb hydrochloride, and/or dimethomorph on tomatoes to control late blight. Information in accordance with 40 CFR part 166 was submitted as part of this request.

Recent failures to control late blight in tomatoes as well as potatoes with the registered fungicides, have been caused almost exclusively by immigrant strains of late blight *Phytophthora infestans*, which are resistant to the control of choice, metalaxyl. Before the immigrant strains of late blight arrived, all of the strains in the U.S. were previously controlled by treatment with metalaxyl. The Applicant states that presently, there are no fungicides registered in the U.S. that will provide adequate control of the immigrant strains of late blight. The Applicant states that each of these requested chemicals has been shown to be effective against these strains of late blight. Each active ingredient holds current registrations throughout many European countries for control of this disease. The Applicant indicates that at least a 30 percent yield reduction is expected based on the current infestation. Net revenues are expected to be reduced by over $12 million for the affected acreage without the use of these requested chemicals.

The Applicant proposes to apply propamocarb hydrochloride, manufactured by AgrEvo USA Company, as Tattoo C, at a maximum rate of 0.9 lbs. active ingredient (2.3 pt of product) per acre by ground or air, with a maximum of 5 applications per season. A 7-day PHI will be observed. Use under this exemption could potentially amount to a maximum 225,000 lb. of propamocarb hydrochloride.

The Applicant proposes to apply cymoxanil, manufactured by E.I. du Pont de Nemours and Company, as Curzate M-8, and as Manex C-8, manufactured by Griffin Corporation, at a maximum rate of 0.1 lbs. active ingredient (1.25 lb. of product) per acre, by ground or air, with a maximum of 7 applications per season and a 5-day PHI. Use under this exemption could potentially amount to a maximum 40,000 lb. of cymoxanil.

The Applicant proposes to apply dimethomorph at a maximum rate of 0.2 lbs. active ingredient (2.25 lb. of product) per acre, by ground or air, with a maximum of 5 applications per season and a 5-day PHI. Use under this exemption could potentially amount to a maximum 50,000 lbs of dimethomorph.

This notice does not constitute a decision by EPA on the applications. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide) or the first food use of an active ingredient. Such notice provides for opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

A record has been established for this notice under docket number [OPP-180984] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the Florida Department of Agriculture and Consumer services.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: November 8, 1995.

Stephen L. Johnson,
Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–29253 Filed 12–5–95; 8:45 am]
BILLING CODE 6560–50–F

[OPP–180983; FRL 4988–1]

Propazine; Receipt of Applications for Emergency Exemptions, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Texas Department of Agriculture (hereafter referred to as the "Applicant") to use the pesticide propazine (CAS 139–40–2) to treat up to 1,823,000 acres of sorghum to control pigweed. The Applicant proposes the use of a new (unregistered) chemical; additionally, an emergency exemption for this use has been requested for the previous 3 years, and a complete application for registration of this use and a tolerance petition has not been submitted to the Agency. Therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before December 21, 1995.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180983," should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–180983]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain (CBI) must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8791; e-mail: beard.andrea@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of propazine on sorghum to control pigweed. Information in accordance with 40 CFR part 166 was submitted as part of this request.

Sorghum is grown as a rotational crop with cotton and wheat, in order to comply with the soil conservation requirements. Propazine, which was formerly registered for use on sorghum, was voluntarily canceled by the former Registrant, who did not wish to support its re-registration. The Applicants claim that this has left sorghum growers in most of Texas with no pre-emergent herbicides that will adequately control certain broadleaf weeds, especially pigweed. Until 1993, the year an exemption was first requested, growers were using existing stocks of propazine. The Applicant states that other available herbicides have serious limitations on their use, making them unsuitable for control of pigweed in sorghum. Although the original Registrant of propazine has decided not to support this chemical through re-registration, another company has committed to support the data requirements for this use. Propazine was once registered for this use, but has now been voluntarily canceled and is therefore considered to be a new chemical.

The Applicant states that, since growers used existing stocks of propazine between the time of its voluntary cancellation and the availability of propazine under an emergency exemption, yields have not shown a decrease. However, the Applicant claims that significant economic losses will occur without the availability of propazine.

The Applicant proposes to apply propazine at a maximum rate of [1.2 lbs. active ingredient (a.i.)] (2.4 pts. of product) per acre, by ground or air, with a maximum of one application per crop growing season, on up to 1,823,000 acres of grain sorghum. Therefore, use under this exemption could potentially amount to a maximum total of 2,187,600 lbs. of active ingredient (546,900 gal. of product) in Texas. This is the fourth time that Texas has applied for this use of propazine on sorghum under section 18 of FIFRA. Texas was issued exemptions for this use for the past three growing seasons.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide), or if an emergency exemption for a use has been requested in any 3 previous years, and a complete application for registration of the use and/or a tolerance petition has not been submitted to the Agency. Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP–180983] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Texas Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: November 6, 1995.

Stephen L. Johnson,
Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–29252 Filed 12–5–95; 8:45 am]
BILLING CODE 6560–50–F

[FRL–5340–9]

Notice of Proposed Administrative Cost Recovery Agreement Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, Regarding the Slattery Gas Stove Site, Brooklyn, NY

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative agreement and opportunity for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9622(i), the U.S. Environmental Protection Agency ("EPA") Region II

announces a proposed administrative settlement pursuant to Section 122(h)(1) of CERCLA, 42 U.S.C. § 9622(h)(1), relating to the Slattery Gas Stove Site ("Site") in Brooklyn, Kings County, New York. This Site is not on the National Priorities List established pursuant to Section 105(a) of CERCLA. This notice is being published to inform the public of the proposed settlement and of the opportunity to comment.

The settlement, memorialized in an Administrative Cost Recovery Agreement ("Agreement"), is being entered into by EPA and Datsun Realty Corp.; J.B. Slattery & Bros., Inc.; Abraham Leser; and Solomon Obstfeld (collectively, the "Respondents"). Under the Agreement, the Respondents shall pay EPA the sum of $95,000.00, in partial reimbursement of EPA's claim for response costs incurred with respect to the Site on or prior to November 3, 1994.

DATES: EPA will accept written comments relating to the proposed settlement on or before January 5, 1996.

ADDRESSES: Comments should be sent to: Eric Schaaf, Chief, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, N.Y. 10007–1866. Comments should reference the Slattery Gas Stove Site and EPA Index No. II–CERCLA–95–0208. For a copy of the Agreement, contact the individual listed below.

FOR FURTHER INFORMATION CONTACT: Juan M. Fajardo, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, New York, 10007–1866, telephone: (212) 637–3179.

Dated: October 30, 1995.

William Muszynski,

Acting Regional Administrator.

[FR Doc. 95–29741 Filed 12–5–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5340–5]

Superfund Program; Final Model CERCLA Past Costs Consent Decree and Administrative Agreement

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Agency is publishing today the final "Model CERCLA Section 107 Consent Decree for Recovery of Past Response Costs" and the final "Model CERCLA Section 122(h)(1) Agreement for Recovery of Past Response Costs." These models, developed by the Agency and the U.S. Department of Justice, provide guidance for Agency and Department staff when negotiating settlement of CERCLA Section 107 claims for recovery of purely past response costs. The model consent decree is designed for judicially-approved CERCLA Section 107 settlements, and the model agreement is designed for administrative CERCLA Section 122(h)(1) settlements. The Agency is publishing the models in their entirety, along with the September 29, 1995 joint memorandum of the EPA and the U.S. Department of Justice announcing their issuance, to inform affected members of the public of their existence and content.

FOR FURTHER INFORMATION CONTACT: Janice C. Linett, Mail Code 2272, Office of Enforcement and Compliance Assurance, Regional Enforcement Division, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 260–7116.

Dated: October 26, 1995.

Susan Brown,

Acting Director, Office of Site Remediation Enforcement.

Memorandum

Subject: Issuance of "Model CERCLA Section 107 Consent Decree for Recovery of Past Response Costs" and "Model CERCLA Section 122(h)(1) Agreement for Recovery of Past Response Costs"

From:
Jerry Clifford, Director,
Office of Site Remediation Enforcement,
U.S. Environmental Protection Agency
Bruce S. Gelber, Acting Chief,
Environmental Enforcement Section,
Environment and Natural Resources Division,
U.S. Department of Justice

To:
Regional Counsel, Regions I—X
Regional Waste Management Division Directors, Regions I—X
Financial Management Officers, Regions I—X
Assistant Chiefs, Environmental Enforcement Section

September 29, 1995.

We are pleased to issue the final versions of two model CERCLA cost recovery settlement documents: 1) "Model CERCLA Section 107 Consent Decree for Recovery of Past Response Costs" ("Model CD"); and 2) "Model CERCLA Section 122(h)(1) Agreement for Recovery of Past Response Costs" ("Model Agreement"). The Model CD is to be used as guidance for EPA and DOJ staff when negotiating CERCLA Section 107 judicial consent decrees for recovery of past response costs. The Model Agreement is to be used as guidance for EPA and DOJ staff when negotiating CERCLA Section 122(h) administrative agreements for recovery of past response costs. Both models are designed for resolution of purely past cost claims and are not intended to be used to resolve claims for future work or payment of future response costs ("cashout" settlements). Cashout settlement terms will be provided in subsequent models.

We encourage our staffs to adhere as closely as possible to the terms of these models, subject to modifications needed to reflect site-specific circumstances. We believe use of these models will reduce negotiation timeframes, achieve nationally consistent settlements, promote compliance with current settlement practices and procedures, and increase the speed of management review and approval. When seeking approval of any settlement based upon one of these models, staff should identify any significant deviation from the relevant model and the basis for the departure. For DOJ staff, these models are available electronically on the Section's work product directory, EESINDEX, as N:/NET/SS52/UDD/EESINDEX/CERMODEL/PASTCOST.CD or PASTCOST.AOC.

We would like to thank all EPA and DOJ staff who assisted in the development of these models. If you have any questions about these models, please contact Janice Linett of the Regional Support Division at (703) 978–3057 or Tom Mariani of the Environmental Enforcement Section at (202) 514–4620.

Attachments

cc: Lawrence E. Starfield, Acting Associate General Counsel, Solid Waste and Emergency Response Division,
Stephen D. Luftig, Director, Office of Emergency and Remedial Response
Jack L. Shipley, Director, Financial Management Division
Letitia Grishaw, Chief, Environmental Defense Section

Environmental Protection Agency and Department of Justice Model Cercla Section 107 Consent Decree for Recovery of Past Response Costs

This model and any internal procedures adopted for its implementation and use are intended as guidance for employees of the U.S. Department of Justice and the U.S. Environmental Protection Agency. They do not constitute rulemaking by the Department or Agency and may not be relied upon to create a right or a benefit, substantive or procedural, enforceable at law or in equity, by any person. The Department or Agency may take action at variance with this model or its internal implementing procedures.

Model Cercla Section 107 Consent Decree for Recovery of Past Response Costs

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In the United States District Court for the District of [_____] [_____] Division [1]

Consent Decree

United States of America, [and the State of _____] Plaintiff[s], v. [Defendants] Defendants.
Civil Action No. _____
Judge _____

[**Note:** If the complaint includes causes of action which are not resolved by this consent decree, or names defendants who are not signatories to this consent decree, the title should be "Partial Consent Decree".]

I. Background

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607, as amended ("CERCLA"), seeking reimbursement of response costs incurred and to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the [insert Site Name] in [insert City, County, State] ("the Site").

[1] Follow local rules for caption format.

[[.____ The State o._____ (the "State") also filed a complaint against the defendants in this Court alleging that the defendants are liable to the State under Section 107 of CERCLA, 42 U.S.C. § 9607, and [list State laws cited in the State's complaint]. The State in its complaint seeks [insert relief sought].]]

B. The defendants that have entered into this Consent Decree ("Settling Defendants") do not admit any liability to Plaintiff[s] arising out of the transactions or occurrences alleged in the complaint[s].[2]

C. The United States and Settling Defendants agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

Therefore, with the consent of the Parties to this Decree, it is Ordered, Adjudged, and Decreed:

II. Jurisdiction

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9607 and 9613(b) and also has personal jurisdiction over Settling Defendants. Settling Defendants consent to and shall not challenge entry of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. Parties Bound

2. This Consent Decree is binding upon the United States [and the State], and upon Settling Defendants and their [heirs,] successors and assigns. Any change in ownership or corporate or other legal status, including but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Settling Defendants under this Consent Decree.

IV. Definitions

3. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in any appendix attached hereto, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.

b. "Consent Decree" shall mean this Consent Decree and all appendices attached hereto. In the event of conflict between this Consent Decree and any appendix, the Consent Decree shall control.

c. "Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

d. "DOJ" shall mean the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States.

f. "EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

g. "Interest" shall mean interest at the current rate specified for interest on investments of the Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).[3]

[[____. "Owner Settling Defendants" shall mean [insert names].]] [4]

h. "Paragraph" shall mean a portion of this Consent Decree identified by an arabic numeral or an upper or lower case letter.

i. "Parties" shall mean the United States[, the State of _____,] and the Settling Defendants.

j. "Past Response Costs" shall mean all costs, including but not limited to direct and indirect costs, that EPA or DOJ on behalf of EPA has paid at or in connection with the Site through [insert date], plus accrued Interest on all such costs through such date.[5]

[2] In situations where the court has entered summary judgment as to liability, we normally should preserve that result in a subsequent settlement by deleting this Paragraph B and replacing it with one that describes the summary judgment decision.

[3] The Superfund currently is invested in 52-week MK bills. The interest rate for these MK bills changes on October 1 of each year. To obtain the current rate, contact Vince Velez, Office of Administration and Resource Management, Financial Management Division, Superfund Accounting Branch, at (202) 260–6465.

[4] This definition is needed if the optional paragraph on Notice of Obligations to Successors-in-Title is used. *See infra* p. 14.

[5] If the past costs settlement is partial, it may be necessary to continue the definition with a brief description of the past response action(s) which are

Continued

[[____. "Record of Decision" or "ROD" shall mean the EPA Record of Decision relating to the [Site or ____ operable Unit at the Site] signed on [insert date] by the Regional Administrator, EPA Region ____, or his/her delegatee, and all attachments thereto.]]

k. "Plaintiff[s]" shall mean the United States [and the State].

l. "Section" shall mean a portion of this Consent Decree identified by a roman numeral.

m. "Settling Defendants" shall mean [insert names of settling parties, or only if very numerous, "those parties identified in Appendix A."]

n. "Site" shall mean the _____ Superfund site, encompassing approximately ____ acres, located at [insert address or description of location] in [insert City, County, State], and [insert either "depicted more clearly on the map included in Appendix B" or "designated by the following property description: _____."]

[____. "State" shall mean the State [or Commonwealth] of _____.]

[[____. "State Past Response Costs" shall mean all costs, including but not limited to direct and indirect costs, together with accrued interest, that the State of _____ has paid through [insert date] in response to the release or threatened release of hazardous substances at or in connection with the Site, but not including amounts reimbursed to the State by EPA.]]

o. "United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

V. Reimbursement of Response Costs

[**Note:** If the amount to be paid is $10,000 or greater, payment should be made by electronic funds transfer using the following Paragraph 4.]

4. *Payment of Past Response Costs to the EPA Hazardous Substance Superfund.* Within 30 days of entry of this Consent Decree, Settling Defendants shall pay to the EPA Hazardous Substance Superfund $_____ in reimbursement of Past Response Costs, plus an additional sum for Interest on that amount calculated from the date set forth in the definition of Past Response Costs through the date of payment.[6] Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with current EFT procedures, referencing USAO File Number _____, the EPA Region and Site Spill ID Number _____ [insert 4-digit number, first 2 numbers represent the Region (01–10), second 2 numbers represent the Region's Site/Spill Identification number], and DOJ Case Number _____. Payment shall be made in accordance with instructions provided to Settling Defendants by the Financial Litigation Unit of the U.S. Attorney's Office in the District of _____ following lodging of the Consent Decree. Any payments received by the Department of Justice after 4:00 p.m. Eastern Time shall be credited on the next business day. Settling Defendants shall send notice to EPA and DOJ that payment has been made in accordance with Section XI [Notices and Submissions) and to [insert names and mailing addresses of the Regional Financial Management Officer and any other receiving officials at EPA].

[**Note:** If the amount to be paid is less than $10,000, payment should be made by check using the following alternative Paragraph 4.]

4. *Payment of Past Response Costs to the EPA Hazardous Substance Superfund.* Within 30 days of entry of this Consent Decree, Settling Defendants shall pay to the EPA Hazardous Substance Superfund $_____ in reimbursement of Past Response Costs, plus an additional sum for Interest on that amount calculated from the date set forth in the definition of Past Response Costs through the date of payment. Payment shall be made by certified check or checks or cashier's check or checks made payable to "U.S. Department of Justice," referencing the name and address of the party making payment, the EPA Region and Site Spill ID Number _____ [insert 4-digit number, first 2 numbers represent the Region (01–10), second 2 numbers represent the Region's Site/Spill Identification number], USAO File Number _____, and DOJ Case Number _____. Settling Defendants shall send the check[s] to:

[Insert address of Financial Litigation Unit of U.S. Attorney's Office for the District in which the Consent Decree will be entered]

Settling Defendants shall send notice that such payment has been made to EPA and DOJ in accordance with Section XI (Notices and Submissions) and to [insert names and mailing addresses of the Regional Financial Management Officer and any other receiving officials at EPA].

[**Note:** If payment is to be made to a State, insert the following optional paragraph.]

[[____. *Payment of Past Response Costs to the State.* Within 30 days of entry of this Consent Decree, Settling Defendants shall pay to the State $_____, in the form of a certified check or checks or cashier's check or checks, in reimbursement of State Past Response Costs. The check[s] shall be made payable to _____ and shall reference [insert name of case]. Settling Defendants shall send the check[s] to: Insert address provided by State]]

VI. Failure to Comply With Requirements of Consent Decree

5. *Interest on Late Payments.* In the event that any payment[s] required by Section V (Reimbursement of Response Costs) or Section VI, Paragraph 6 (Stipulated Penalty), are not received when due, Interest shall continue to accrue on the unpaid balance through the date of payment.

6. *Stipulated Penalty.*

a. If any amounts due to EPA [or to the State] under this Consent Decree are not paid by the required date, Settling Defendants shall pay to EPA [, or to the State if the delayed payment is for State Past Response Costs,] as a stipulated penalty, in addition to the Interest required by Paragraph 5, $_____ per violation per day that such payment is late. [[____. If Settling Defendants do not comply with Section ____ (Site Access), Section ____ (Access to Information), or Section ____ [insert cross-reference to any other non-payment requirements for which a stipulated penalty applies], Settling Defendants shall pay to EPA, as a stipulated penalty, $_____ per violation per day of such noncompliance.]]

[**Note:** Escalating payment schedules may be used in Paragraph 6(a) and in the optional paragraph immediately above concerning stipulated penalties for violations of non-payment requirements of the consent decree.]

b. Stipulated penalties are due and payable within 30 days of the date of the demand for payment of the penalties by EPA [or the State]. All payments to EPA under this Paragraph shall be made by certified or cashier's check made payable to "EPA Hazardous Substance Superfund" and shall be sent to: [Insert Regional Lockbox number and address]

All payments shall indicate that the payment is for stipulated penalties and shall reference the name and address of the party making payment, the EPA Region and Site Spill ID Number _____ [insert 4-digit number, first 2 numbers represent the Region (01–10), second 2 numbers represent the Region's Site/Spill Identification number], USAO File Number _____, and DOJ Case Number _____. Copies of check[s] paid pursuant to this Paragraph, and any accompanying transmittal letter[s], shall be sent to EPA and DOJ as provided in Section XI (Notices and Submissions) and to [insert title and address of Regional Financial Management Officer and any other receiving official at EPA].

[**Note:** If applicable, insert State payment instructions for stipulated penalties for failure to pay State Past Response Costs.]

c. Penalties shall accrue as provided in this Paragraph regardless of whether EPA [or the State] has notified Settling Defendants of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of correction of the noncompliance or completion of the activity. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

7. If the United States [or the State] brings an action to enforce this Consent Decree, Settling Defendants shall reimburse the United States [and the State] for all costs of such action, including but not limited to costs of attorney time.

8. Payments made under Paragraphs 5–7 shall be in addition to any other remedies or sanctions available to Plaintiff[s] by virtue of Settling Defendants' failure to comply with the requirements of this Consent Decree.

9. The obligations of Settling Defendants to pay amounts owed the United States [and the State] under this Consent Decree are joint and several. In the event of the failure of any one or more Settling Defendants to make the payments required under this Consent Decree, the remaining Settling Defendants shall be responsible for such payments.

10. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree.

VII. Covenant Not to Sue By Plaintiff[s]

11. *Covenant Not to Sue by United States.* Except as specifically provided in Paragraph 12 (Reservation of Rights by United States), the United States covenants not to sue Settling Defendants pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), to recover Past Response Costs. This covenant not to sue shall take effect upon receipt by EPA of all payments required by Section V, Paragraph 4 (Payment of Past Response Costs to the United States) and Section VI, Paragraphs 5 (Interest on Late Payments) and 6(a) (Stipulated Penalty for Late Payment). This covenant not to sue is conditioned upon the satisfactory performance by Settling Defendants of their obligations under this Consent Decree. This covenant not to sue extends only to Settling Defendants and does not extend to any other person.

12. *Reservation of Rights by United States.* The covenant not to sue set forth in Paragraph 11 does not pertain to any matters other than those expressly specified therein. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all other matters, including but not limited to:

a. liability for failure of Settling Defendants to meet a requirement of this Consent Decree;

b. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

c. criminal liability;

d. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 6906; and

e. liability for costs incurred or to be incurred by the United States that are not within the definition of Past Response Costs.

[**Note:** If the State is a co-plaintiff, insert separate paragraphs for the State's covenant not to sue settling defendants and reservation of rights.]

VIII. Covenant Not to Sue By Settling Defendants

13. Settling Defendants covenant not to sue and agree not to assert any claims or causes of action against the United States [or the State], or its [their] contractors or employees, with respect to Past Response Costs [and State Response Costs] or this Consent Decree, including but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at the Site for which the Past Response Costs were incurred; and

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to Past Response Costs.[7]

14. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

IX. Effect of Settlement/Contribution Protection

15. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. Each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

16. The Parties agree, and by entering this Consent Decree this Court finds, that Settling Defendants are entitled, as of the effective date of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for "matters addressed" in

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being paid for or compromised, such as: ". . . for the response action described in the Record of Decision for the First Operable Unit at the Site dated _____" or "for the removal action described in the action memorandum for the Site dated _____." Exercise care in describing the activities covered, as this description may affect the scope of the covenant not to sue and contribution protection. For clarity, the description of the past response action may need to indicate which response actions are not included within the definition of Past Response Costs. Check to be sure that the date used in the definition of Past Response Costs does not inadvertently include costs that are outside the scope of the definition. In some cases, it may be useful to attach a standard, Regionally-prepared cost summary listing the costs that are within the scope of the definition. This may be done: 1) to be sure that no confusion arises as to which costs are being compromised; or 2) to indicate which outstanding past cost claims are being resolved through the settlement, *i.e.*, to indicate that the recovered costs are to be applied to particular portions of the debt.

[6] As an alternative to calculation and payment of interest from the Past Response Costs date through the date of payment, settling defendants may agree to place the amount agreed upon into an interest-bearing escrow account to be disbursed to EPA upon entry of the consent decree. If this method is used, accrued interest from the Past Response Costs date through the date the escrow account is created should be calculated and included in the escrow deposit.

[7] The settlement should, wherever possible, release or resolve any claims by settling defendants against the United States related to the site. Where a claim is asserted by a potentially responsible party, or the Region has any information suggesting federal agency liability, all information relating to potential federal liability should be provided to the affected agency and DOJ as soon as possible in order to resolve any such issues in the settlement. Settlement of any federal liability will require additional revisions to this document, and model language will be provided separately. Only in exceptional circumstances where federal liability cannot be resolved in a timely manner in the settlement should this provision be deleted and private parties be allowed to reserve their rights.

this Consent Decree. The "matters addressed" in this Consent Decree are Past Response Costs.[8]

17. Each Settling Defendant agrees that, with respect to any suit or claim for contribution brought by it for matters related to this Consent Decree, it will notify EPA and DOJ [and the State] in writing no later than 60 days prior to the initiation of such suit or claim. Each Settling Defendant also agrees that, with respect to any suit or claim for contribution brought against it for matters related to this Consent Decree, it will notify EPA and DOJ [and the State] in writing within 10 days of service of the complaint or claim upon it. In addition, each Settling Defendant shall notify EPA and DOJ [and the State] within 10 days of service or receipt of any Motion for Summary Judgment, and within 10 days of receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

18. In any subsequent administrative or judicial proceeding initiated by the United States [or the State] for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States [or the State] in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenant Not to Sue by Plaintiff[s] set forth in Section VII.

[____. Site Access][9]

[[____. Commencing upon the date of lodging of this Consent Decree, Settling Defendants agree to provide the United States [, the State,] and its [their] representatives, including EPA and its contractors, access at all reasonable times to the Site and to any other property owned or controlled by Settling Defendants to which access is determined by EPA [or the State] to be required for the implementation of this Consent Decree, or for the purpose of conducting any response activity related to the Site, including but not limited to:

a. Monitoring of investigation, removal, remedial or other activities at the Site;

b. Verifying any data or information submitted to the United States [or the State];

c. Conducting investigations relating to contamination at or near the Site;

d. Obtaining samples;

e. Assessing the need for, planning, or implementing response actions at or near the Site; [and]

f. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendants or their agents, consistent with Section ____ (Access to Information).

[**Note:** If institutional controls or any other provisions requiring monitoring are included in the decree, also include the following subparagraph g.]

[g. Assessing Settling Defendants' compliance with this Consent Decree.]

____. Notwithstanding any provision of this Consent Decree, the United States [and the State] retain[s] all of its [their] access authorities and rights, including enforcement authorities related thereto, under CERCLA, the Resource Conservation and Recovery Act, 42 U.S.C. § 6927, and any other applicable statutes or regulations.

____. Notice of Obligations to Successors-in-Title.

a. Within 15 days after entry of this Consent Decree, [Owner Settling Defendants] shall record [insert either "a certified copy of this Consent Decree" or "a notice of the entry of this Consent Decree"] with the Recorder's Office [or Registry of Deeds or other appropriate office], _____ County, State of _____.[10] Thereafter, each deed, title, or other instrument conveying an interest in the property included in the Site shall contain a notice stating that the property is subject to this Consent Decree [and any lien retained by the United States] and shall reference the recorded location of the Consent Decree and any restrictions applicable to the property under this Consent Decree.

b. The obligations of each [Owner Settling Defendant] with respect to the provision of access under Section ____ (Site Access) [and the implementation of institutional controls under Paragraph ____] shall be binding upon any and all Settling Defendants and upon any and all persons who subsequently acquire any such interest or portion thereof (hereinafter "Successors-in-Title"). Within 15 days after the entry of this Consent Decree, each [Owner Settling Defendant] shall record at the Recorder's Office [or Registry of Deeds or other appropriate office where land ownership and transfer records are maintained for the property] a notice of obligation to provide access under Section ____ (Site Access) and related covenants, if any. Each subsequent instrument conveying an interest to any such property included in the Site shall reference the recorded location of such notice and covenants applicable to the property.

c. Any [Owner Settling Defendant] and any Successor-in-Title shall, at least 30 days prior to the conveyance of any such interest, give written notice of this Consent Decree to the grantee and written notice to EPA [and the State] of the proposed conveyance, including the name and address of the grantee, and the date on which notice of the Consent Decree was given to the grantee. In the event of any such conveyance, the Settling Defendants' obligations under this Consent Decree, including their obligation to provide or secure access pursuant to Section ____ (Site Access), shall continue to be met by Settling Defendants. In no event shall the conveyance of an interest in property that includes, or is a portion of, the Site release or otherwise affect the liability of Settling Defendants to comply with this Consent Decree.]]

[____. *Access to Information*[11]]

[____. Settling Defendants shall provide to EPA [and the State], upon request, copies of all documents and information within their possession or control or that of their contractors or agents relating to activities at the Site [or to the implementation of this Consent Decree], including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Site.

[____. *Confidential Business Information and Privileged Documents.*

a. Settling Defendants may assert business confidentiality claims covering part or all of the documents or information submitted to Plaintiff[s] under this Consent Decree to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. 2.203(b). Documents or information determined to be confidential by EPA will be accorded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA [and the State], or if EPA has notified Settling Defendants that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA, the public may be given access to such documents or information without further notice to Settling Defendants.

b. Settling Defendants may assert that certain documents, records or other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendants assert such a privilege in lieu of providing documents, they shall provide Plaintiff[s] with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted. However, no documents, reports or other information created or generated pursuant to the requirements of this or any other consent decree with the United States shall be withheld on the grounds that they are privileged. If a claim of privilege applies only to a portion of a document, the document shall be provided to Plaintiff[s] in redacted form to mask the privileged information only. Settling Defendants shall retain all records and documents that they claim to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendants' favor.

____. No claim of confidentiality shall be made with respect to any data, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.]]

X. Retention of Records[12]

19. Until ____ years after the entry of this Consent Decree, each Settling Defendant shall preserve and retain all records and documents now in its possession or control, or which come into its possession or control, that relate in any manner to response actions taken at the Site or the liability of any person for response actions conducted and to be conducted at the Site, regardless of any corporate retention policy to the contrary.

20. After the conclusion of the document retention period in the preceding paragraph, Settling Defendants shall notify EPA and DOJ [and the State] at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA or DOJ [or the State], Settling Defendants shall deliver any such records or documents to EPA [or the State]. Settling Defendants may assert that certain documents, records, or other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendants assert such a privilege, they shall provide Plaintiff[s] with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted. However, no documents, reports, or other information created or generated pursuant to the requirements of this or any other consent decree with the United States shall be withheld on the grounds that they are privileged. If a claim of privilege applies only to a portion of a document, the document shall be provided to Plaintiff[s] in redacted form to mask the privileged information only. Settling Defendants shall retain all records and documents that they claim to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendants' favor.

21. By signing this Consent Decree, each Settling Defendant certifies individually that, to the best of its knowledge and belief, it has:

a. conducted a thorough, comprehensive, good faith search for documents, and has fully and accurately disclosed to EPA, all information currently in its possession, or in the possession of its officers, directors, employees, contractors or agents, which relates in any way to the ownership, operation or control of the Site, or to the ownership, possession, generation, treatment, transportation, storage or disposal of a hazardous substance, pollutant or contaminant at or in connection with the Site;

b. not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information relating to its potential liability regarding the Site, after notification of potential liability or the filing of a suit against the Settling Defendant regarding the Site; and

c. fully complied with any and all EPA requests for information regarding the Site pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e) [insert, if applicable, ", and Section 3007 of RCRA, 42 U.S.C. § 6927"].

XI. Notices and Submissions

22. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, DOJ, [the State,] and Settling Defendants, respectively.

As to the United States:

As to DOJ:

Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice (DJ # _____), P.O. Box 7611, Washington, D.C. 20044–7611

As to EPA:

[Insert names and addresses of EPA Regional contacts, usually the ORC attorney and the RPM or Project Coordinator]

[As to the State:

Insert name and address of State contact if the State is a party to the Consent Decree]

As to Settling Defendants:

[Insert name of one person who will serve as the contact for all Settling Defendants]

XII. Retention of Jurisdiction

23. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

[8] In exceptional situations, different coverage may apply.

[9] Include this section if 1) access to the site is needed and 2) the site owner is a settling defendant or other settling defendants control access to the site or to any other property to which access is needed. Renumber sections and paragraphs as necessary. If any of the settling defendants will need to provide institutional controls as part of any response action, include such a provision within this section and change the name of this section to Site Access/Institutional Controls.

[10] If an institutional controls provision is included in this section, this paragraph should be amended to require the owner settling defendants to record in the chain of title a restrictive covenant that specifies the institutional controls. The institutional controls to be implemented should be described in an appendix to this decree.

[11] Include this section only if settling defendants have been or will be involved in cleanup efforts at the site or if they may possess information which may assist the Agency in its cleanup or enforcement efforts.

[12] Renumber this section and all following section headings and paragraph numbers if either of the optional sections on Site Access or Access to Information is included.

XIII. Integration[/Appendices]

24. This Consent Decree and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree. [The following appendices are attached to and incorporated into this Consent Decree: "Appendix A" is the complete list of Settling Defendants; and "Appendix B" is the map of the Site.]

XIV. Lodging and Opportunity for Public Comment

25. This Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

26. If for any reason this Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XV. Effective Date

27. The effective date of this Consent Decree shall be the date upon which it is entered by the Court.

XVI. Signatories/Service

28. Each undersigned representative of a Settling Defendant to this Consent Decree and the [Assistant Attorney General for the Environment and Natural Resources Division] [13] of the United States Department of Justice [insert State official] certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

29. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendants in writing that it no longer supports entry of the Consent Decree.

30. Each Settling Defendant shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants hereby agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to, service of a summons.

So ordered this _____ day of _____, 19___.

_____
United States District Judge

The Undersigned parties enter into this Consent Decree in the matter of [insert case name and civil action number], relating to the _____ Superfund Site.

For the United States of America

Date: _____

_____
[Name] Assistant Attorney General [14]
Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530
[Name] United States Attorney [Address]

_____
[Name] Attorney, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611

_____
[Name] [15] Assistant Administrator for Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460

_____
[Name] Regional Administrator, Region [ ], U.S. Environmental Protection Agency, [Address]

_____
[Name] Assistant Regional Counsel, U.S. Environmental Protection Agency, [Address]

[[The undersigned party enters into this Consent Decree in the matter of [insert case name and civil action number], relating to the _____ Superfund Site.

For the State of [ ]

Date: _____

_____
[Names and addresses of State signatories]]

The undersigned party enters into this Consent Decree in the matter of [insert case name and civil action number], relating to the _____ Superfund Site.

For Defendant [ ]

Date: _____

_____
[Names and address of Defendant's signatories]

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: _____
Title: _____
Address: _____

Environmental Protection Agency Model CERCLA Section 122(h)(1) Agreement for Recovery of Past Response Costs

This model and any internal procedures adopted for its implementation and use are intended as guidance for employees of the U.S. Environmental Protection Agency. They do not constitute rulemaking by the Agency and may not be relied upon to create a right or a benefit, substantive or procedural, enforceable at law or in equity, by any person. The Agency may take action at variance with this model or its internal implementing procedures.

Model CERCLA Section 122(h)(1) Agreement for Recovery of Past Response Costs

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I. Jurisdiction

In the matter of: [Site Name] [City, County, State] [Names of Settling Parties] Settling Parties

Agreement for Recovery of Past Response Costs

U.S. EPA Region _____
CERCLA Docket No. _____
Proceeding Under Section 122(h)(1) of CERCLA 42 U.S.C. § 9622(h)(1)

1. This Agreement is entered into pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 6922(h)(1), which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14–14–D.

[Note: Also reference any internal Regional redelegations of authority under 14–14–D.]

2. This Agreement is made and entered into by EPA and the [insert names or reference attached appendix listing settling parties] ("Settling Parties"). Each Settling Party consents to and will not contest EPA's jurisdiction to enter into this Agreement or to implement or enforce its terms.

II. Background

3. This Agreement concerns the [insert Site name] ("Site") located in [insert Site location]. EPA alleges that the Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4. In response to the release or threatened release of hazardous substances at or from the Site, EPA undertook response actions at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604.

[Note: A brief description of the release or threatened release and of the response actions undertaken may be included.]

5. In performing this response action, EPA incurred response costs at or in connection with the Site.

6. EPA alleges that Settling Parties are responsible parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and are jointly and severally liable for response costs incurred at or in connection with the Site.

[Note: If Attorney General approval is not required for this settlement because total past and projected response costs of the United States at the site are not expected to exceed $500,000, excluding interest, insert the following paragraph and renumber all subsequent paragraphs.]

[_____. The Regional Administrator of EPA Region _____, or his/her delegatee, has determined that the total past and projected response costs of the United States at or in connection with the Site will not exceed $500,000, excluding interest.]

7. EPA and Settling Parties desire to resolve Settling Parties' alleged civil liability for Past Response Costs without litigation and without the admission or adjudication of any issue of fact or law.

III. Parties Bound

8. This Agreement shall be binding upon EPA and upon Settling Parties and their [heirs], successors and assigns. Any change in ownership or corporate or other legal status of a Settling Party, including but not limited to, any transfer of assets or real or personal property, shall in no way alter such Settling Party's responsibilities under this Agreement. Each signatory to this Agreement certifies that he or she is authorized to enter into the terms and conditions of this Agreement and to bind legally the party represented by him or her.

IV. Definitions

9. Unless otherwise expressly provided herein, terms used in this Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Agreement or in any appendix attached hereto, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*

b. "Agreement" shall mean this Agreement and any attached appendices. In the event of conflict between this Agreement and any appendix, the Agreement shall control.

c. "Day" shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

d. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States.

e. "Interest" shall mean interest at the current rate specified for interest on investments of the Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).[1]

f. "Paragraph" shall mean a portion of this Agreement identified by an arabic numeral or a lower case letter.

g. "Parties" shall mean EPA and the Settling Parties.

h. "Past Response Costs" shall mean all costs, including but not limited to direct and indirect costs, that EPA or the U.S. Department of Justice on behalf of EPA has paid at or in connection with the Site through [insert date], plus accrued Interest on all such costs through such date.[2]

i. "Section" shall mean a portion of this Agreement identified by a roman numeral.

j. "Settling Parties" shall mean [insert names of settling parties, or if very numerous, "those parties identified in Appendix _____."]

k. "Site" shall mean the _____ Superfund site, encompassing approximately _____ acres, located at [insert address or description of location] in [insert City, County, State], and [insert either "depicted more clearly on the map included in Appendix _____" or "designated by the following property description: _____."]

l. "United States" shall mean the United States of America, including it departments, agencies and instrumentalities.

V. Reimbursement of Response Costs

10. Within 30 days of the effective date of this Agreement, the Settling Parties shall pay to the EPA Hazardous Substance Superfund $_____ in reimbursement of Past Response Costs, plus an additional sum for Interest on that amount calculated from the date set forth in the definition of Past Response Costs through the date of payment.[3]

11. Payments shall be made by certified or cashier's check made payable to "EPA Hazardous Substance Superfund." Each check shall reference the name and address of the party making payment, the Site name, the EPA Region and Site/Spill ID Number _____ [insert 4-digit number, first 2

[13] Substitute Chief, Environmental Enforcement Section, where the case involves less than $1 million *and* at least $500,000 is being recovered by settlement. Note also that Associate Attorney General approval is required if the difference between the total amount of the claim and the amount of the settlement exceeds $2 million or 15% of claim (whichever is greater). *See* 28 CFR 0.160.

[14] *See supra* n. 13.

[15] Include AA–OECA signature block only if he or she has a concurrence role under Delegation No. 14–13–B.

[1] The Superfund currently is invested in 52-week MK bills. The interest rate for these MK bills changes on October 1 of each year. To obtain the current rate, contact Vince Velez, Office of Administration and Resource Management, Financial Management Division, Superfund Accounting Branch, at (202) 260–6465.

[2] If the past costs settlement is partial, it may be necessary to continue the definition with a brief description of the past response action(s) which are being paid for or compromised, such as: ". . . for the response action described in the Record of Decision for the First Operable Unit at the Site dated _____" or "for the removal action described in the action memorandum for the Site dated _____." Exercise care in describing the activities covered, as this description may affect the scope of the covenant not to sue and contribution protection. For clarity, the description of the past response action may need to indicate which response actions are not included within the definition of Past Response Costs. Check to be sure that the date used in the definition of Past Response Costs does not inadvertently include costs that are outside the scope of the definition. In some cases, it may be useful to attach a standard, Regionally-prepared cost summary listing the costs that are within the scope of the definition. This may be done: 1) to be sure that no confusion arises as to which costs are being compromised; or 2) to indicate which outstanding past cost claims are being resolved through the settlement, *i.e.*, to indicate that the recovered costs are to be applied to particular portions of the debt.

[3] As an alternative to calculation and payment of interest from the Past Response Costs date through the date of payment, settling parties may agree to place the amount agreed upon into an interest-bearing escrow account to be disbursed to EPA upon the effective date of the Agreement. If this method is used, accrued interest from the Past Response Costs date through the date the escrow account is created should be calculated and included in the escrow deposit.

numbers represent the Region (01–10), second 2 numbers represent the Region's Site/Spill identification number], and the EPA docket number for this action, and shall be sent to:

EPA Superfund

[Insert Regional Superfund lockbox number and address]

12. At the time of payment, each Settling Party shall send notice that such payment has been made to:

[Insert name and address of Regional Attorney and/or Remedial Project Manager]

VI. Failure to Comply With Agreement

13. In the event that any payment required by Paragraph 10 is not made when due, Interest shall continue to accrue on the unpaid balance through the date of payment.

14. If any amounts due to EPA under Paragraph 10 are not paid by the required date, Settling Parties shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 13, $_____ per violation per day that such payment is late.

[[[**Note:** If the Agreement includes any non-payment obligations for which a stipulated penalty is due, insert, "If Settling Parties do not comply with [reference sections containing non-payment obligations], Settling Parties shall pay to EPA, as a stipulated penalty, $_____ per violation per day of such noncompliance." Escalating penalty payment schedules may be used for payment or non-payment obligations.]]

15. Stipulated penalties are due and payable within 30 days of the date of demand for payment of the penalties. All payments to EPA under this Paragraph shall be identified as "stipulated penalties" and shall made in accordance with Paragraphs 11 and 12.

16. Penalties shall accrue as provided above regardless of whether EPA has notified the Settling Parties of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after performance is due, or the day a violation occurs, and shall continue to accrue through the final day of correction of the noncompliance or completion of the activity. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Agreement.

17. In addition to the Interest and Stipulated Penalty payments required by this Section and any other remedies or sanctions available to EPA by virtue of Settling Parties' failure to comply with the requirements of this Agreement, any Settling Party who fails or refuses to comply with any term or condition of this Agreement shall be subject to enforcement action pursuant to Section 122(h)(3) of CERCLA, 42 U.S.C. § 9622(h)(3). If the United States, on behalf of EPA, brings an action to enforce this Agreement, Settling Parties shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

18. The obligations of Settling Parties to pay amounts owed to EPA under this Agreement are joint and several. In the event of the failure of any one or more Settling Parties to make the payments required under this Agreement, the remaining Settling Parties shall be responsible for such payments.

19. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Agreement.

VII. Covenant Not To Sue By EPA

20. Except as specifically provided in Paragraph 21 (Reservations of Rights by EPA), EPA covenants not to sue Settling Parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), to recover Past Response Costs. This covenant shall take effect upon receipt by EPA of all amounts required by Section V (Reimbursement of Response Costs) and Section VI, Paragraphs 13 (Interest on Late Payments) and 14 (Stipulated Penalty for Late Payment). This covenant not to sue is conditioned upon the satisfactory performance by Settling Parties of their obligations under this Agreement. This covenant not to sue extends only to Settling Parties and does not extend to any other person.

VIII. Reservations of Rights By EPA

21. The covenant not to sue by EPA set forth in Paragraph 20 does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Agreement is without prejudice to, all rights against Settling Parties with respect to all other matters, including but not limited to:

a. liability for failure of Settling Parties to meet a requirement of this Agreement;

b. liability for costs incurred or to be incurred by the United States that are not within the definition of Past Response Costs;

c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606;

d. criminal liability; and

e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments.

22. Nothing in this Agreement is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States may have against any person, firm, corporation or other entity not a signatory to this Agreement.

IX. Covenant Not To Sue By Setting Parties

23. Settling Parties agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to Past Response Costs or this Agreement, including but not limited to:

a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claims arising out of the response actions at the Site for which the Past Response Costs were incurred; and

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to Past Response Costs.[4]

24. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

X. Effect of Settlement/Contribution Protection

25. Nothing in this Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Agreement. EPA and Settling Parties each reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence

[4] The settlement should, wherever possible, release or resolve any claims by settling parties against the United States related to the site. Where a claim is asserted by a potentially responsible party, or the Region has any information suggesting federal agency liability, all information relating to potential federal liability should be provided to the affected agency and DOJ as soon as possible in order to resolve any such issues in the settlement. Settlement of any federal liability will require additional revisions to this document, and model language will be provided separately. Only in exceptional circumstances where federal liability cannot be resolved in a timely manner in the settlement should this provision be deleted and private parties be allowed to reserve their rights.

relating in any way to the Site against any person not a Party hereto.

26. EPA and Settling Parties agree that the actions undertaken by Settling Parties in accordance with this Agreement do not constitute an admission of any liability by any Settling Party. Settling Parties do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Agreement, the validity of the facts or allegations contained in Section II of this Agreement.

27. The Parties agree that Settling Parties are entitled, as of the effective date of this Agreement, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for "matters addressed" in this Agreement. The "matters addressed" in this Agreement are Past Response Costs.

28. Each Settling Party agrees that with respect to any suit or claim for contribution brought by it for matters related to this Agreement, it will notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. Each Settling Party also agrees that, with respect to any suit or claim for contribution brought against it for matters related to this Agreement, it will notify EPA in writing within 10 days of service of the complaint or claim upon it. In addition, each Settling Party shall notify EPA within 10 days of service or receipt of any Motion for Summary Judgment and within 10 days of receipt of any order from a court setting a case for trial, for matters related to this Agreement.

29. In any subsequent administrative or judicial proceeding initiated by EPA, or by the United States on behalf of EPA, for injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, Settling Parties shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenant not to sue by EPA set forth in Paragraph 20.

XI. Retention of Records

30. Until ____ years after the effective date of this Agreement, each Settling Party shall preserve and retain all records and documents now in its possession or control, or which come into its possession or control, that relate in any manner to response actions taken at the Site or to the liability of any person for response actions conducted and to be conducted at the Site, regardless of any corporate retention policy to the contrary.

31. After the conclusion of the document retention period in the preceding paragraph, Settling Parties shall notify EPA at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA, Settling Parties shall deliver any such records or documents to EPA. Settling Parties may assert that certain documents, records, or other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Parties assert such a privilege, they shall provide EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted. However, no documents, reports, or other information created or generated pursuant to the requirements of this or any other judicial or administrative settlement with the United States shall be withheld on the grounds that they are privileged. If a claim of privilege applies only to a portion of a document, the document shall be provided to EPA in redacted form to mask the privileged information only. Settling Parties shall retain all records and documents that they claim to be privileged until EPA has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in Settling Parties' favor.

32. By signing this Agreement, each Settling Party certifies individually that, to the best of its knowledge and belief, it has:

a. conducted a thorough, comprehensive, good faith search for documents, and has fully and accurately disclosed to EPA, all information currently in its possession, or in the possession of its officers, directors, employees, contractors or agents, which relates in any way to the ownership, operation or control of the Site, or to the ownership, possession, generation, treatment, transportation, storage or disposal of a hazardous substance, pollutant or contaminant at or in connection with the Site;

b. not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information relating to its potential liability regarding the Site, after notification of potential liability or the filing of a suit against the Settling Party regarding the Site; and

c. fully complied with any and all EPA requests for information regarding the Site pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e) [insert, if applicable, ", and Section 3007 of the Resource, Conservation and Recovery Act, 42 U.S.C. § 6927."]

XII. Notices and Submissions

33. Whenever, under the terms of this Agreement, notice is required to be given or a document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of this Agreement with respect to EPA and Settling Parties.

As to EPA:

[Insert names and addresses of EPA Regional contacts, usually the ORC attorney and the RPM or Project Coordinator]

As to Settling Parties:

[Insert name of one person who will serve as the contact for all Settling Parties]

XIII. INTEGRATION[/APPENDICES]

34. This Agreement and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Agreement. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Agreement. [The following appendices are attached to and incorporated into this Agreement: "Appendix A is _____; etc."]

XIV. Public Comment

35. This Agreement shall be subject to a public comment period of not less than 30 days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, EPA may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

___. Attorney General Approval

[**Note:** This section should be used if Attorney General approval is required for this settlement because total past and projected response costs at the site will exceed $500,000, excluding interest, and the agreement compromises a claim (*i.e.*, recovers less than 100% of past costs, including accrued interest). If Attorney General approval is required, the Region should consult with DOJ during the negotiations process and should obtain written DOJ approval of the settlement before publishing notice of the proposed agreement in the **Federal Register** pursuant to Section 122(i) of CERCLA. The Region should discuss with DOJ any significant comments received during the public comment period. If the Region believes that the agreement should be modified based upon public comment, the Region should discuss with the DOJ attorney assigned to the case whether the proposed change will require formal re-approval by DOJ. If this section is used, renumber the Effective Date section and paragraph.]

[[____. The Attorney General or [his/her] designee has approved the settlement embodied in this Agreement in accordance with Section 122(h)(1) of CERCLA, 42 U.S.C. § 9622(h)(1).]]

XV. Effective Date

36. The effective date of this Agreement shall be the date upon which EPA issues written notice that the public comment period pursuant to Paragraph 35 has closed and that comments received, if any, do not require modification of or EPA withdrawal from this Agreement.

It is so agreed:
U.S. Environmental Protection Agency
By: _____
[Name]
Regional Administrator, Region ____

[Date]

[**Note:** If the Regional Administrator has redelegated authority to enter into Section 122(h) settlements, insert name and title of delegated official.]

The undersigned settling party enters into this Agreement in the matter of [insert U.S. EPA docket number], relating to the [insert site name and location]:
For Settling Party:

[Name]

[Address]
By: _____
[Name]

[Date]

[FR Doc. 95–29745 Filed 12–5–95; 8:45 am]
BILLING CODE 6560–50–P

[FRL–5340–4]

National Pollutant Discharge Elimination System (NPDES); Preparation of Draft General Permit for the States of Maine, Massachusetts, and New Hampshire

AGENCY: Environmental Protection Agency.

ACTION: Notice; Preparation of Draft NPDES General Permits—MAG070000, MEG070000, and NHG070000.

SUMMARY: The Regional Administrator of the six states of New England is issuing Notice of a Draft National Pollutant Discharge Elimination System (NPDES) General Permit for construction dewatering facilities in certain waters of the States of Maine, Massachusetts, and New Hampshire. This draft general NPDES Permit establishes notice of intent (NOI) requirements, effluent limitations, standards, prohibitions and management practices for the construction dewatering discharges.

Owners and/or operators of facilities discharging effluent from construction dewatering facilities will be required to submit to EPA, Region I, a notice of intent (NOI) to be covered by the appropriate general permit and will receive a written notification from EPA of permit coverage and authorization to discharge under the general permit.

The draft permit is based on an administrative record available for public review at Environmental Protection Agency, Region I, John F. Kennedy Federal Building, CMA. Boston, Massachusetts 02203.

The following **FACT SHEET AND SUPPLEMENTARY INFORMATION** section sets forth principal facts and the significant factual, legal, and policy questions considered in the development of the draft permits.

DATES: For comment period: Interested persons may submit comments on the draft general permits as part of the administrative record to the Regional Administrator of the six states of New England at the address given in the proceeding **SUMMARY** section no later than 30 days after the date of publication of the draft general permit in the **Federal Register**.

This general permit shall be effective when issued and will expire five years from the effective date.

For Further Information And Copies of Draft General NPDES Permit: Additional information concerning the draft permit may be obtained between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday excluding holidays from: Suprokash Sarker, Office of Ecosystem Protection Massachusetts State Program, Environmental Protection Agency, J.F.Kennedy Federal Building. Boston, Massachusetts 02203, Telephone (617) 565–3573.

FACT SHEET AND SUPPLEMENTARY INFORMATION

I. Introduction

The Regional Administrator of the six states of New England is issuing draft general permit for effluent discharges from construction dewatering facilities to certain waters of the States of Maine, Massachusetts, and New Hampshire. Appendix A contains the draft general NPDES permit including Part II, Standard Conditions.

II. Coverage of General Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit. Although such permits to date have generally been issued to individual discharges, EPA's regulations authorize the issuance of "general permits" to categories of discharges. (See 40 CFR § 122.28 48 FR 14146, April 1, 1983). EPA may issue a single, general permit to a category of point sources located within the same geographic area whose permits warrant similar pollutant control measures.

The Director of an NPDES permit program is authorized to issue a general permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Regional Administrator, are more appropriately controlled under a general permit than under individual permits.

Violations of a condition of a general permit constitutes a violation of the Clean Water Act and subjects the discharger to the penalties in Section 309 of the Act.

Any owner or operator authorized by a general permit may be excluded from coverage of a general permit by applying for an individual permit. This request may be made by submitting a NPDES permit application together with reasons supporting the request. The Director may require any person authorized by a general permit to apply for and obtain an individual permit. Any interested person may petition the Director to take this action. However, individual permits will not be issued for sources discharging effluent from construction dewatering facility covered by this general permit unless it can be clearly demonstrated that inclusion under the general permit is inappropriate.

The Director may consider the issuance of individual permits when:

1. The discharge is a significant contributor of pollution;
2. The discharge is not in compliance with the terms and conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
4. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general permit;
5. A Water Quality Management plan containing requirements applicable to such point sources is approved; or
6. Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;

In accordance with 40 CFR 122.28(b)(3)(iv), the applicability of the general permit is automatically terminated on the effective date of the individual permit.

Under this general permit, owners and operators of construction dewatering sites in Massachusetts, Maine and New Hampshire may be granted authorization to discharge groundwater and stormwater generated wastewaters into waters of the respective States. Dewatering associated with the construction of single family homes is not required to have a permit. This permit does not authorize the discharge of stormwater associated with construction sites which disturb greater than 5 acres of land. These sites are required to have a separate NPDES permit for stormwater discharges in accordance with 40 CFR 122.26s(b)(14)(x). Authorization under the permit shall require prior submittal of certain facility information. Upon receipt of all required information, the permit issuing authority may allow or disallow coverage under the general permit.

The following list shows the criteria which will be used in evaluating whether or not an individual permit may be required instead of a general permit.

1. Evaluation of wastewater samples for one whole effluent toxicity-test or one priority pollutant scan if required by the States and EPA.
2. Preservation of high quality waters and fisheries;
3. Facilities with an effluent discharge flow of over 100gpm
4. Production of effluent at the facility other than groundwater, seepage, and stormwater run-off.
5. History of land use.

The similarity of the discharges has prompted EPA to prepare this draft general permit for public review and comment. When issued, this permit will enable facilities to maintain compliance with the Act and will extend environmental and regulatory controls to a large number of discharges and reduce some permit backlog. The issuance of this general permit for the geographic areas described below is warranted by this similarity of (a) environmental conditions. (b) State regulatory requirements applicable to the discharges and receiving waters, and (c) technology employed.

III. Conditions of the General NPDES Permit

A. Geographic Areas

Maine (Permit No. MEG070000)

All of the discharges to be authorized by the general NPDES permit for the State of Maine from dischargers are limited to Class B,C,SB and SC waters of the State, except lakes. The drainage areas must be more than 10 square miles.

Massachusetts (Permit No. MAG070000)

All of the discharges to be authorized by the general NPDES permit for the Commonwealth of Massachusetts dischargers are limited to Class B, and SB waters as designated in Massachusetts Water Quality Standards, 314 CMR 4.00 *et seq*. Discharges into Class A water needs review and approval by MADEP.

New Hampshire (Permit No. NHG070000)

All of the discharges to be authorized by the general NPDES permit for the State of New Hampshire dischargers are into all waters of the State of New Hampshire unless otherwise restricted by the State Water Quality Standards, New Hampshire RSA 485–A:8. (or as revised).

B. Notification by Permittees

Operators of facilities whose discharge, or discharges, are described in Section II and whose facilities are located in the geographic areas described in Section III. A. above may submit to the Regional Administrator, of New England, and each State, a notice of intent to be covered by the appropriate general permit. This written notification must include the owner's or operator's legal name and address; the facility name and address; the type of facilities to be covered, the number of discharge points including the anticipated duration, volume, and rate of discharge for each outfall; a topographic map (or other map if a topographic map is not available) indicating the facility locations; a description of any wastewater treatment; storage of petroleum and chemicals on site; history of land use of the site; and the names of the receiving waters into which discharge will occur. In addition one Whole Effluent Toxicity (WET) test result and/or one priority pollutant scan of the water to be discharged may be required, on a case by case bases by the States and/or EPA. The whole effluent toxicity test will consist of one chronic and modified acute toxicity screening test with one hundred percent sample. The Ceriodaphnia dubia for fresh water and sea-urchin for marine water shall be used as test organism. A copy of the test procedure and detailed protocol will be provided by EPA. The results of the chronic biological test (C-NOEC) or the priority pollutant scan will be forwarded to the State and EPA when required.

A determination is required as to whether or not the facility's discharge will adversely affect a listed or proposed to be listed endangered or threatened species or its critical habitat (see Part F).

The facilities authorized to discharge under a final general permit will receive written notification from EPA within 30 days with State concurrence where necessary upon receipt of the complete application including necessary sampling data. Failure to respond by the State or EPA within this period, the permit will be automatically effective after 30 days of the complete notification.

C. Effluent Limitations

1. Statutory Requirements

The Clean Water Act (the Act) prohibits the discharge of pollutants to waters of the United States without a National Pollutant Discharge Elimination System (NPDES) permit unless such a discharge is otherwise authorized by the Act. The NPDES Permit is the mechanism used to implement technology and water quality based effluent limitations and other requirements including monitoring and reporting. The NPDES permit was developed in accordance with various

statutory and regulatory authorities established pursuant to the Act. The regulations governing the EPA NPDES Permit program are generally found at 40 CFR parts 122, 124, 125 and 136.

EPA is required to consider technology and water quality requirements when developing permit limits. 40 CFR part 125 Subpart A sets the criteria and standards that EPA must use to determine which technology based requirements, requirements under Section 301(b) of the Act and/or requirements established on a case-by-case basis under section 402(a)(1) of the Act, should be included in the permit.

The Clean Water Act requires that all discharges, at a minimum, must meet effluent limitations based on the technological capability of dischargers to control pollutants in their discharge. Section 301(b)(1)(A) of the Act requires the application of Best Practicable Control Technology Currently Available (BPT) with the statutory deadline for compliance being July 1, 1977, unless otherwise authorized by the Act. Section 301(b)(2) of the Act requires the application of Best Conventional Control Technology (BCT) for conventional pollutants, and Best Available Technology Economically Achievable (BAT) for non-conventional and toxic pollutants. The compliance deadline for BCT and BAT being March 31, 1980.

2. Technology-Based Effluent Limitations

EPA has not promulgated National Effluent Guidelines for construction dewatering facilities. For a category where Guidelines have been promulgated, the issuance of an individual permit for the discharges would be more appropriate (See 40 CFR 122.28(b)(3)(i)(C)). Therefore, as provided in Section 402(a)(1) of the Act, EPA has determined to issue this general permit utilizing Best Professional Judgement (BPT) to meet the above stated criteria for BAT/BCT described in Section 304(b) of the Act. Accordingly monthly average and maximum daily Total Suspended Solids (TSS) limitation are established based upon best professional judgement pursuant to Section 402(a)(1) of the CWA.

3. Water Quality Based Effluent Limitations

Under Section 301(b)(1)(C) of the Act, discharges are subject to effluent limitations based on water quality standards and to the conditions of State certification under Section 401 of the Act. Receiving stream requirements are established according to numerical and narrative standards adopted under state and/or federal law for each stream use classification. The CWA requires that EPA obtain State certification which states that all water quality standards will be satisfied. Regulations governing State certification are set forth in 40 CFR 124.53 and 124.55.

Section 101(a)(3) of the Act specifically prohibits the discharge of toxic pollutants in toxic amounts. The States of Maine, Massachusetts, and New Hampshire have similar narrative criteria in their water quality regulations (See Maine Title 38, Article 4–A, section 420 and section 464.4.A.(4); Massachusetts 314 CMR 4.05(5)(e); and New Hampshire Part Env-Ws 432.02(c)(4) that prohibits such discharges). The permit does not allow for the addition of materials or chemicals in amounts which would produce a toxic effect to any aquatic life.

The effluent from the construction dewatering facilities may contain toxic pollutants and oil and grease in the underground water and stormwater run-off. Water Quality Standards and State certification requirements applicable to these discharges have been reviewed by EPA.

D. Antidegradation Provisions

The conditions of the permit reflect the goal of the CWA and EPA to achieve and maintain water quality standards. The environmental regulations pertaining to the State Antidegradation Policies which protect the State's surface waters from falling below State standards for water quality are found in the following provisions: Maine Title 38, Article 4–A, Section 464.4.F.; Massachusetts Water Quality Standards 314 CMR 4.04 Antidegradation Provisions; and New Hampshire policy RSA 485–A;8, VI Part Env-Ws 437.01 and Env-Ws 437.02.

Compliance with the antidegradation provisions of this general permit for class B,C, SB, and SC for the State of Maine, Class B and SB for Massachusetts and all waters of New Hampshire unless otherwise restricted by the State Water Quality Standards, are expected to result in insignificant effect to the receiving water. No further antidegradation review will be required. For the State of Massachusetts discharges in the Class A water needs antidegration review.

E. Monitoring and Reporting Requirements

Effluent limitations and monitoring requirements are included in the general permit describing requirements to be imposed on facilities to be covered.

Facilities covered by the final general permits will be required to prepare a Discharge Monitoring Report containing effluent data and shall be kept on site in a secured place.

The monitoring requirements have been established to yield data representative of the discharge under authority of Section 308(a) of the Act and 40 CFR 122.41(j), 122.44(i) and 122.48, and as certified by the State.

F. Endangered Species

Discharges that may adversely affect a listed or proposed to be listed endangered or threatened species or its critical habitat are not authorized under this general permit without the written approval of the Fish and Wildlife Service and/or the National Marine Fisheries Service.

The Fish and Wildlife Service has indicated that the dwarf wedge mussel (Alsmidonta heterodon), a Federally listed endangered species, occurs in a stretch of the Connecticut River from Lebanon, New Hampshire to Weathersfield Bow, Vermont, in the Ashuelot River in Keene, New Hampshire and historically from a number of rivers in Massachusetts, Any facility whose discharge may adversely effect the mussel or any other threatened or endangered species or its habitat is required to contact the Fish and Wildlife Service at the following address in order to make a formal determination: United States Department of the Interior, Fish and Wildlife Service, 400 Ralph Pill Marketplace, 22 Bridge Street, Concord, New Hampshire 03301–4901.

The National Marine Fisheries Service has indicated that the endangered shortnose sturgeon (Acipenser breviirostrum) inhabits certain sections of the Penobscot, Kennebec and Androscoggin Rivers in Maine, and the Merrimack and Connecticut Rivers in Massachusetts. Any facility whose discharge may adversely effect the sturgeon, or any other threatened or endangered species or its habitat, is required to contact the national Marine Fisheries Service at the following address: United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Habitat and Protected Resources Division, One Blackburn Drive, Gloucester, Massachusetts 01903–2298.

G. Other Requirements

The remaining conditions of the permit are based on the NPDES regulations 40 CFR Parts 122 through 125 and consist primarily of management requirements common to all permits.

IV. State Certification

Section 401 of the CWA provides that no Federal license or permit, including NPDES permits, to conduct any activity that may result in any discharge into navigable waters shall be granted until the State in which the discharge originates certifies that the discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the CWA. The section 401 certification is under process for all States. In addition the State of Massachusetts and EPA jointly issue the final permit.

V. Administrative Aspects

A. Request To Be Covered

A facility is not covered by any of these general permits until it meets the following requirements. First, it must send a notice of intent to EPA and the appropriate State indicating it meets the requirements of the permit and wants to be covered. And second, it must be notified in writing by EPA that it is covered by this general permit.

Any facility operating under any effective individual NPDES permit may request that the individual permit be revoked and that coverage under the general permit granted, as outlined in 40 CFR 122.28(b)(3)(v). If EPA grants coverage under the general permit, EPA will so notify the facility and revoke the individual permit.

Facilities with expired individual permits that have been administratively continued in accordance with § 122.6, may apply for coverage under this general permit. When coverage is granted, the expired individual permit automatically will cease being in effect.

B. The Coastal Zone Management Act

The Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 *et seq.*, and its implementing regulations [15 CFR Part 930] requires that any federally licensed activity affecting the coastal zone with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMP. EPA, New England Region, has determined that these general NPDES permits are consistent with the CZMP. EPA has sent copies of the draft general NPDES permits to the Massachusetts, Maine, and New Hampshire coastal zone agencies for a determination that they are consistent with their respective State policies.

C. The Endangered Species Act

EPA, New England Region, has concluded that the discharges to be covered by the general NPDES permits will not affect or jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service have been forwarded copies of the draft general NPDES permits for concurrence.

D. Environmental Impact Statement Requirements

The general permits do not authorize the construction of any water resources project or the impoundment of any water body or have any effect on historical property, and are not major Federal activities needing preparation of any Environmental Impact Statement. Therefore, the Wild and Scenic Rivers Act, 16 U.S.C. 1273 *et seq.*, the National Historic Preservation Act of 1966, 16 U.S.C 470 *et seq.*, the Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.*, and the National Environmental Policy Act, 33 U.S.C. 4321 *et seq.*, do not apply to the issuance of this general NPDES permit.

E. This Permit Does Not Constitute Authorization Under 33 U.S.C. 1344 (Section 404 of the Clean Water Act) of any Stream Dredging or Filling Operation.

VI. Other Legal Requirements

A. Economic Impact (Executive Order 12291)

EPA has reviewed the effect of Executive Order 12291 on this draft general permit and has determined that it is not a major rule under that order. This regulation was submitted previously to the Office of Management and Budget for review as required by Executive Order 12291. The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to Section 8(b) of that Order.

B. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities by these draft general NPDES permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.* The information collection requirements of these draft permits have already been approved by the Office of Management and Budget under submissions made for the NPDES permit program under the provisions of the Clean Water Act. No comments from the Office of Management and Budget or the public were received on the information collection requirements in these permits.

C. The Regulatory Flexibility Act

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this permit does not have a significant impact on a substantial number of small entities. Moreover, the draft permit will reduce a significant administrative burden on regulated sources.

Dated: November 22, 1995.

John P. DeVillars,

Regional Administrator.

Appendix A—Draft General Permit Under the National Pollutant Discharge Elimination System (NPDES)

Note: The Following general NPDES permit is a combination of three permits for purposes of this **Federal Register** notice in order to eliminate duplication of material common to all permits for the individual states.

1. Massachusetts, Maine and New Hampshire General Permit.

In compliance with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. 1251 et seq. the "CWA") operators of facilities may discharge groundwater and stormwater from construction dewatering facilities into waters of the respective states in accordance with effluent limitations, monitoring requirements and other conditions set forth herein. This permit does not authorize to discharge stormwater associated with Industrial activities from construction sites which disturb greater than 5 acres of land [40 CFR 122.26(b)(14)(x)].

This permit shall become effective when issued.

This permit and the authorization to discharge expire at midnight, five years from the effective date of the **Federal Register** Publication.

This permit consists of Part I below including effluent limitations, monitoring requirements etc. and Part II General Requirements.

Operators of facilities within the general permit area who fail to notify the Director of their intent to be covered by this general permit and receive no written notification of permit coverage or those who are denied by the Director are not authorized under this general permit to discharge from those facilities to the receiving waters.

Signed this _____ day of _____

David A. Fierra Director, Office of Ecosystem Protection, Environmental Protection Agency, Region I, Boston, Massachusetts.

Andrew Gottlieb, Director, Office of Watershed Management, Department of Environmental Protection,

Commonwealth of Massachusetts, Boston, MA.

Part I

A. Effluent Limitations and Monitoring Requirements

1. During the period beginning effective date and lasting through expiration, the permittee is authorized to discharge from each outfall effluent from construction dewatering facilities to the receiving waters of the respective States.

a. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations		Monitoring requirements measurement[2]	
	Average monthly	Maximum daily	Frequency	Sample type
Flow (MGD)	Report		1/week	Instantaneous or continuous.
TSS (mg/l)	50	100	1/week	Grab.
Oil and Grease (mg/l)[1]	See note A.1.h.		1/week	Grab.
pH[1]	See Note A 1.g.		1/week	Grab.

[1] Requirement for the State Certification.
[2] Samples shall be taken only when discharging.

b. Massachusetts and Maine.

The discharge shall not cause objectionable discoloration of the receiving waters.

New Hampshire

The discharge shall not cause any discoloration of Class A receiving waters or any visible and objectionable discoloration of Class B receiving waters.

C. There shall be no discharge of floating solids or visible foam. The discharge shall be adequately treated to insure that the effluent remains free from pollutants in concentrations or combinations that settle to form harmful deposits, float as foam, debris, scum or other visible pollutants. In addition for the State of New Hampshire the discharge shall not cause the naturally occurring turbidity in Class A receiving waters to change or cause the naturally occurring turbity in Class B waters to be increased by more than 10 NTU.

d. The effluent limitations are based on the state water quality standard and are certified by the states.

e. Samples taken in compliance with the monitoring requirements specified above shall be taken at the point of discharge.

f. All discharges as designated in Section II of Supplementary Information shall pass through settling basins or interceptor structures or other approved treatment system and meet the effluent limitations in Part I.A.1.a. prior to discharge to waters of the states.

g. pH.

Massachusetts

The pH of the effluent shall not be less than nor greater than the range given for the receiving water classifications, unless these values are exceeded due to natural causes. The following table specifies ranges for Massachusetts:

Classification	Range
B	6.5–8.3
SB	6.5–8.5

Maine

The pH range in both freshwater and saltwater is 6.0 to 8.5 su. unless establishes on a case-by-case basis (By State Policy).

New Hampshire

The pH of the effluent shall not be less than 6.5 standard units (su) nor greater than 8.0 su at any time unless these values are exceeded due to natural causes.

h. Sampling for oil and grease should only be required if a periodic inspection of the discharge indicates the presence of a visible sheen.

i. A discharge structure shall be constructed if necessary to protect the erosion of the bank of the water body.

B. Monitoring and Reporting

Maine, Massachusetts and New Hampshire

Monitoring results obtained during the previous month shall be summarized on separate Discharge Monitoring Report Form(s) and shall be kept on-site in a secured place. The reports should be readily available for review at any time during the working hours by the EPA and State Officials.

The following are the EPA and state addresses for any notification and communication.

a. Planning and Administrative Unit, Office of Environmental Stewardship, Environmental Protection Agency, Post Office Box 8127, Boston, MA 02114.

b. Massachusetts Division of Water Pollution Control

(1) The Regional offices:

Massachusetts Department of Environmental Protection, Massachusetts Division of Water Pollution Control, Western Regional Office, 436 Dwight St., Suite 402 Springfield, MA 01101.

Massachusetts Department of Environmental Protection, Massachusetts Division of Water.

Pollution Control, Southeastern Regional Office, 20 Riverside Drive Lakeville, MA 02346.

Massachusetts Department of Environmental Protection Massachusetts Division of Water Pollution Control, Northeastern Regional Office, 10 Commerce Way, Woburn, MA 01801.

Massachusetts Department of Environmental Protection, Massachusetts Division of Water Pollution Control, Central Regional Office, 75 Grove Street, Worcester, Massachusetts 01605.

(2) Massachusetts Department of Environmental Protection, Office of Watershed Management, 40 Institute Road, North Grafton, MA 01536.

c. Maine Department of Environmental Protection.

State of Maine Department of Environmental Protection, Operation and Maintenance Division, State House, Station 17. Augusta, ME 04333.

d. New Hampshire Department of Environmental Services.

New Hampshire Department of Environmental Services, Water Supply and Pollution Control Division, Permits and Compliance Section; P.O. Box 95, Concord, New Hampshire 03302–0095.

C. Additional General Permit Conditions

1. Notification Requirements

a. Written notification of commencement of operations including the legal names and addresses of the owners and operator and the locations, number and type of facilities and/or operations covered shall be submitted.

(1) For existing discharges within 180 days after the effective date of this permit, by operators whose facilities and/or operations are discharging into the general permit area on the effective date of the permit; or

(2) For new or substantially increased discharges 30 days prior to commencement of the discharge by operators whose facilities and/or operations commence discharge subsequent to the effective date of this permit.

b. Operators of facilities and/or operations within the general permits area who fail to notify the Director of their intent to be covered by this general permit and do not obtain written authorization of coverage are not authorized under this general permit to discharge from those facilities into the named receiving waters.

2. Termination of Operations

Operators of facilities and/or operators authorized under this permit shall notify the Director upon the termination of discharges. The notice must contain the name, mailing address, and location of the facility for which the notification is submitted, the NPDES permit number for the water treatment facility discharge identified by the notice, and an indication of whether the operator of the discharge has changed. The notice must be signed in accordance with the signatory requirements of 40 CFR § 122.22.

3. Renotification

Upon reissuance of a new general permit, the permittee is required to notify the Director of the intent to be covered by the new general permit.

4. When the Director May Require Application for an Individual NPDES Permit

a. The Director may require any person authorized by this permit to apply for and obtain an individual NPDES permit. Any interested person may petition the Director to take such action. Instances where an individual permit may be required include the following:

(1) The discharge(s) is a significant contributor of pollution:

(2) The discharger is not in compliance with the conditions of this permit;

(3) A change has occurred in the availability of the demonstrated technology of practices for the control or abatement of pollutants applicable to the point source;

(4) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(5) A Water Quality Management Plan containing requirements applicable to such point source is approved; or

(6) The point source(s) covered by this permit no longer:

(a) Involves the same volume or substantially similar types of operations;

(b) Discharges the same type of wastes;

(c) Requires the same effluent limitations or operating conditions;

(d) Requires the same or similar monitoring and

(e) In the opinion of the Director is more appropriately controlled under a general permit than under an individual NPDES permit.

b. The Director may require an individual permit only if the permittee authorized by the general permit has been notified in writing that an individual permit is required, and has been given a brief explanation of the reasons for this decision.

5. When an Individual NPDES Permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to that owner or operator is automatically terminated on the effective date of the individual permit.

Part II, Standard Conditions

Section A. General Requirements

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

a. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405 (d) of the CWA within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

b. The CWA provides that any person who violates Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA or any permit condition or limitation implementing any of such sections in a permit issued under Section 402, or any requirement imposed in a pretreatment program approved under Sections 402(a)(3) or 402(b)(8) of the CWA is subject to a civil penalty not to exceed $25,000 per day for each violation. Any person who negligently violates such requirements is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both. Any person who knowingly violates such requirements is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both. Note: See 40 CFR § 122.41(a)(2) for additional enforcement criteria.

c. Any person may be assessed an administrative penalty by the Administrator for violating Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the CWA. Administrative penalties for Class I violations are not to exceed $10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $25,000. Penalties for Class II violations are not to exceed $10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $125,000.

2. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

3. Duty to Provide Information

The permittee shall furnish to the Regional Administrator, within a reasonable time, any information which the Regional Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Regional Administrator, upon request, copies of records required to be kept by this permit.

4. Reopener Clause

The Regional Administrator reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedules of compliance, or other provisions which may be authorized under the CWA in order to bring all discharges into compliance with the CWA.

5. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or

penalties to which the permittee is or may be subject under Section 311 of the CWA, or Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

6. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges.

7. Confidentiality of Information

a. In accordance with 40 CFR Part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information).

b. Claims of confidentiality for the following information *will* be denied:

(i) The name and address of any permit applicant or permittee;

(ii) Permit applications, permits, and effluent data as defined in 40 CFR § 2.302(a)(2).

c. Information required by NPDES application forms provided by the Regional Administrator under § 122.21 may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

8. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee must apply for and obtain a new permit. The permittee shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Regional Administrator. (The Regional Administrator shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

9. State Authorities

Nothing in Part 122, 123, or 124 precludes more stringent State regulation of any activity covered by these regulations, whether or not under an approved State program.

10. Other Laws

The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, nor does it relieve the permittee of its obligation to comply with any other applicable Federal, State, and local laws and regulations.

Section B. Operation and Maintenance of Pollution Controls

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Need to Halt or Reduce Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

4. Bypass

a. Definitions.

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. *Bypass not exceeding limitations.* The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Paragraphs B.4.c and 4.d of this section.

c. Notice.

(1) Anticipated bypass.

If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) Unanticipated bypass.

The permittee shall submit notice of an unanticipated bypass as required in Paragraph D.1.e (24-hour notice).

d. Prohibition of bypass.

(1) Bypass is prohibited, and the Regional Administrator may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c)(i) The permittee submitted notices as required under Paragraph 4.c of this section.

(ii) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in Paragraph 4.d of this section.

5. Upset

a. *Definition.* "Upset" means an exceptional incident in which there is unintentional and temporary non-compliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Paragraph B.5.c of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. *Conditions necessary for a demonstration of upset.* A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Paragraphs D.1.a and 1.e (24-hour notice); and

(4) The permittee complied with any remedial measures required under B.3. above.

d. *Burden of proof.* In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

Section C. Monitoring and Records

1. Monitoring and Records

a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application except for the information concerning storm water discharges which must be retained for a total of 6 years. This retention period may be extended by request of the Regional Administrator at any time.

c. Records of monitoring information shall include:

(1) The date, exact place, and time of sampling or measurements;

(2) The individual(s) who performed the sampling or measurements;

(3) The date(s) analyses were performed;

(4) The individual(s) who performed the analyses;

(5) The analytical techniques or methods used; and

(6) The results of such analyses.

d. Monitoring results must be conducted according to test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, unless other test procedures have been specified in the permit.

e. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

2. Inspection and Entry

The permittee shall allow the Regional Administrator, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

Section D. Reporting Requirements

1. Reporting Requirements

a. *Planned changes.* The permittee shall give notice to the Regional Administrator as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject to the effluent limitations in the permit, nor to the notification requirements under 40 CFR 122.42(a)(1).

(3) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition or change may justify the application of permit conditions different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

b. *Anticipated noncompliance.* The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

c. *Transfers.* This permit is not transferable to any person except after notice to the Regional Administrator. The Regional Administrator may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See § 122.61; in some cases, modification or revocation and reissuance is mandatory.)

d. *Monitoring reports.* Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Regional Administrator for reporting results of monitoring of sludge use or disposal practices.

(2) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Regional Administrator.

(3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

e. Twenty-four hour reporting

(1) The permittee shall report any noncompliance which may endanger health or the environment. Any

information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances.

A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances.

The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(2) The following shall be included as information which must be reported within 24 hours under this paragraph.

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See § 122.41(g))

(b) Any upset which exceeds any effluent limitation in the permit.

(c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Regional Administrator in the permit to be reported within 24 hours. (See § 122.44(g))

(3) The Regional Administrator may waive the written report on a case-by-case basis for reports under Paragraph D.1.e if the oral report has been received within 24 hours.

f. *Compliance Schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

g. *Other noncompliance.* The permittee shall report all instances of noncompliance not reported under Paragraphs D.1.d, D.1.e and D.1.f of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in Paragraph D.1.e of this section.

h. *Other information.* Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Administrator, it shall promptly submit such facts or information.

2. Signatory Requirement

a. All applications, reports, or information submitted to the Regional Administrator shall be signed and certified. (See § 122.22)

b. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

3. Availability of Reports

Except for data determined to be confidential under Paragraph A.8. above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the CWA.

Section E. Other Conditions

1. *Definitions* for purposes of this permit are as follows:

Administrator means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

Applicable standards and limitations means all State, interstate, and Federal standards and limitations to which a "discharge" or a related activity is subject to, including water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," and pretreatment standards under sections 301, 302, 303, 304, 306, 307, 308, 403, and 405 of CWA.

Application means the EPA standard national forms for applying for a permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in "approved States," including any approved modifications or revisions.

Average. The arithmetic mean of values taken at the frequency required for each parameter over the specified period. For total and/or fecal coliforms, the average shall be the geometric mean.

Average monthly discharge limitation means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Average weekly discharge limitation means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Best Professional Judgement (BPJ) means a case-by-case determination of Best Practicable Treatment (BPT), Best Available Treatment (BAT) or other appropriate standard based on an evaluation of the available technology to achieve a particular pollutant reduction.

Composite Sample—A sample consisting of a minimum of eight grab samples collected at equal intervals during a 24-hour period (or lesser period as specified in the section on Monitoring and Reporting) and combined proportional to flow, or a sample continuously collected proportionally to flow over that same time period.

Continuous Discharge means a "discharge" which occurs without interruption throughout the operating hours of the facility except for infrequent shutdowns for maintenance, process changes, or similar activities.

CWA or "The Act" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92–500, as amended by Pub. L. 95–217, Pub. L. 95–576, Pub. L. 96–483 and Pub. L. 97–117; 33 U.S.C. §§ 1251 *et seq.*

Daily Discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurements, the daily discharge is calculated as the average measurement of the pollutant over the day.

Director means the person authorized to sign NPDES permits by EPA and/or the State.

Discharge Monitoring Report Form (DMR) means the EPA standard national form, including any subsequent additions, revisions, or modifications, for the reporting of self-monitoring results by permittees. DMRs must be used by "approved States" as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

Discharge of a pollutant means:

(a) Any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source," or

(b) Any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channelled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances leading into privately owned treatment works.

This term does not include an addition of pollutants by any "indirect discharger."

Effluent limitation means any restriction imposed by the Director on quantities, discharge rates, and concentrations of "pollutants" which are "discharged" from "point sources" into "waters of the United States," the waters of the "contiguous zone," or the ocean.

Effluent limitations guidelines means a regulation published by the Administrator under Section 304(b) of CWA to adopt or revise "effluent limitations."

EPA means the United States "Environmental Protection Agency."

Grab Sample—An individual sample collected in a period of less than 15 minutes.

Hazardous Substance means any substance designated under 40 CFR Part 116 pursuant to Section 311 of CWA.

Maximum daily discharge limitation means the highest allowable "daily discharge."

Municipality means a city, town, borough, county, parish, district, association, or other public body created by of under State law and having jurisdiction over disposal or sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribe organization, or a designated and approved management agency under section 208 of CWA.

National Pollutant Discharge Elimination System means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. The term includes an "approved program."

New discharger means any building, structure, facility, or installation:

(a) From which there is or may be a "discharge of pollutants";

(b) That did not commence the "discharge of pollutants" at a particular "site" prior to August 13, 1979;

(c) Which is not a "new source"; and

(d) Which has never received a finally effective NPDES permit for discharges at that "site".

This definition includes an "indirect discharger" which commences discharging into "waters of the United States" after August 13, 1979.

It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a "site" for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a "site" under EPA's permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the Regional Administrator in the issuance of a final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the Regional Administrator shall consider the factors specified in 40 CFR 125.122.(a) (1) through (10).

An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a "new discharger" only for the duration of its discharge in an area of biological concern.

New source means any building, structure, facility, or installation from which there is or may be a "discharge of pollutants," the construction of which commenced:

(a) After promulgation of standards of performance under Section 306 of CWA which are applicable to such.

(b) After proposal of standards of performance in accordance with Section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal.

NPDES means "National Pollutant Discharge Elimination System."

Non-Contact Cooling Water is water used to reduce temperature which does not come in direct contact with any raw material, intermediate product, a waste product or finished product.

Owner or operator means the owner or operator of any "facility or activity" subject to regulation under the NPDES programs.

Permit means an authorization, license, or equivalent control document issued by EPA or an "approved State."

Person means an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof.

Point source means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

(a) Sewage from vessels; or

(b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

Primary industry category means any industry category listed in the NRDC settlement agreement (*Natural Resources Defense Council et al.* v. *Train*, 8 E.R.C. 2120 (D.D.C. 1976), modified 12 E.R.C. 1833 (D.D.C. 1979)); also listed in Appendix A of 40 CFR Part 122.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Regional Administrator means the Regional Administrator, EPA, Region I, Boston, Massachusetts.

State means any of the 3 States of Maine, Massachusetts and New Hampshire.

Secondary Industry Category means any industry category which is not a "primary industry category."

Toxic pollutant means any pollutant listed as toxic in Appendix D of 40 CFR Part 122, under Section 307(a)(l) of CWA.

Uncontaminated storm water is precipitation to which no pollutants have been added and has not come into direct contact with any raw material, intermediate product, waste product or finished product.

Waters of the United States means:

(a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(b) All interstate waters, including interstate "wetlands."

(c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) Which are used or could be used for industrial purposes by industries in interstate commerce;

(d) All impoundments of waters otherwise defined as waters of the United States under this definition;

(e) Tributaries of waters identified in paragraphs (a)–(d) of this definition;

(f) The territorial sea; and

(g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a)–(f) of this definition.

Whole Effluent Toxicity (WET) means the aggregate toxic effect of an effluent measured directly by a toxicity test.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

2. Abbreviations when used in this permit are defined below:

cu. M/day or M3/day—cubic meters per day
mg/l—milligrams per liter
µg/l—micrograms per liter
lbs/day—pounds per day
kg/day—kilograms per day
Temp. °C—temperature in degrees Centigrade
Temp. °F—temperature in degrees Fahrenheit
Turb.—turbidity measured by the Nephelometric Method (NTU)
pH—a measure of the hydrogen ion concentration
CFS—cubic feet per second
MGD—million gallons per day
Oil & Grease—Freon extractable material
ml/l—milliliter(s) per liter
Cl_2 total residual chlorine.

[FR Doc. 95–29742 Filed 12–5–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by FCC For Extension Under Delegated Authority 5 CFR 1320 Authority, Comments Requested

November 27, 1995.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. The FCC is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320, authority delegated to the Commission by the Office of Management and Budget (OMB).

DATES: Written comments should be submitted on or before February 5, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0054.
Title: Application for Exemption From Ship Station Requirements.
Form No.: FCC 820.
Type of Review: Extension of a currently approved collection.
Respondents: Businesses or other for-profit; Small businesses or organizations; Individuals or households.
Number of Respondents: 200.
Estimated Time Per Response: 1 hour and 10 minutes (1.166).
Total Annual Burden: 233 hours.
Needs and Uses: FCC Rules require this collection of information when exemptions from radio provisions of statute, treaty or international agreement are requested. The data is used by examiners to determine the applicants qualifications for the requested exemption. The data collected is required by the Communications Act of 1934, as amended; International Treaties and FCC Rules 47 CFR Parts 1.922, 80.19 and 80.59.

OMB Approval Number: 3060–0105.
Title: Licensee Qualification Report.
Form No.: FCC 430.
Type of Review: Extension of a currently approved collection.
Respondents: Businesses or other for-profit; Small businesses or organizations.
Number of Respondents: 1,900.
Estimated Time Per Response: 2 hour.
Total Annual Burden: 3,800 hours.
Needs and Uses: This collection of information enables Commission personnel to determine whether applicants are legally qualified to become or to remain common carrier telecommunications licensees. If the information is not collected, the Commission would be unable to fulfill its responsibility under the Communications Act to make a finding as the legal qualifications of an applicant or licensee. The data collected is required by the Communications Act of 1934, as amended; FCC Rules 21.11(a), 22.11(a), 25.11(a), 25.114(c), 25.115(c), and 25.141(c). To reduce paperwork burden, applicants may submit letters in lieu of completing the FCC 430 in those cases in which there has been no change in any of the required information to satisfy the annual requirement.

OMB Approval Number: 3060–0541.
Title: Transmittal Sheet for Phase 2 Cellular Applications for Unserved Areas.
Form No.: FCC 464–A.
Type of Review: Extension of a currently approved collection.
Respondents: Businesses or other for-profit; Small businesses or organizations.
Number of Respondents: 10,000.
Estimated Time Per Response: 10 minutes (.166 hour).
Total Annual Burden: 1,660 hours.
Needs and Uses: The information collected will be used by the Commission to determine whether the applicant is qualified legally, technical, and financially to be licensed as a cellular operator. Without such information, the Commission could not determine whether to issue licenses to the applicants that provide telecommunication services to the public and therefore fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. The transmittal sheet facilitates application intake and other processing functions. The applicant must certify on the form that the application is complete in every respect and contains all the information required by the Commission's cellular rules. The data collected is required by the Communications Act of 1934, as amended and Commission Rules 22.6(a)(2). The Form 464–A was previously filed in conjunction with FCC Form 401. FCC Form 401 is now obsolete and has been replaced by FCC Form 600. There is no change to the burden hours.

Federal Communications Commission.
LaVera F. Marshall,
Acting Secretary.

[FR Doc. 95–29654 Filed 12–5–95; 8:45 am]

BILLING CODE 6712–01–F

Notice of Public Information Collections being Reviewed by the Federal Communications Commission, Comments Requested

November 27 1995.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before February 5, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0020.
Title: Application for Ground Station Authorization in the Aviation Services.
Form No.: FCC 406.
Type of Review: Revision of a currently approved collection.
Respondents: Businesses or other for-profit; Small businesses or organizations; Individuals or households; State or Local Governments; Non-profit institutions.
Number of Respondents: 1,600.
Estimated Time Per Response: 1 hour.
Total Annual Burden: 1,600 hours.
Needs and Uses: FCC Rules require the collection of this information on new, modifications, renewal with modifications and assignments of Ground station authorizations. Data is used to update the existing database and make efficient use of the frequency spectrum. Data is also used by Compliance personnel in conjunction with Field Engineers for enforcement and interference resolutions. The data collected is required by the Communications Act of 1934, as amended; International Treaties and FCC Rules 47 CFR Parts 1.922, 1.924, 87.21 and 87.31. The Commission intends to revise the FCC Form 406 to collect only metric measurements in lieu of English measurements and to add a space for applicant to provide a FAX number. The number of responses and estimated burden remains unchanged.

Federal Communications Commission.
LaVera F. Marshall,
Acting Secretary.

[FR Doc. 95–29655 Filed 12–5–95; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1074–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida (FEMA–1074–DR), dated October 27, 1995, and related determinations.

EFFECTIVE DATE: November 28, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 27, 1995:

Palm Beach County for Public Assistance (already designated for Individual Assistance and Hazard Mitigation Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,
Director.

[FR Doc. 95–29705 Filed 12–5–95; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Jerry G. and Helen W. Standridge, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank

holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 20, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Jerry G. and Helen W. Standridge Revocable Trust, and Jerry G. and Helen Standridge, Trustees, all of Chickasha, Oklahoma; to acquire an additional .26 percent, for a total of 10.24 percent, of the voting shares of Chickasha Bancshares, Inc., Chickasha, Oklahoma, and thereby indirectly acquire Chickasha Bank and Trust Company, Chickasha, Oklahoma.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Conrad Milton Newton, III, Dawson, Texas; to acquire an additional 21.54 percent, for a total of 44.13 percent of the voting shares of Dawson Bancshares, Inc., Dawson, Texas, and thereby indirectly acquire First Bank & Trust Company, Dawson, Texas.

Board of Governors of the Federal Reserve System, November 30, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29645 Filed 12–5–95; 8:45 am]

BILLING CODE 6210–01–F

The First Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 2, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. The First Bancshares,Inc., Hattiesburg, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Mississippi, Hattiesburg, Mississippi (in organization).

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Chemical Financial Corporation, Midland, Michigan; to merge with State Savings Bancorp, Inc., Caro, Michigan, and thereby indirectly acquire State Savings Bank of Caro, Caro, Michigan.

2. First Decatur Bancshares, Inc., Decatur, Illinois; to acquire 100 percent of the voting shares of First Shelby Financial Group, Inc., Shelbyville, Illinois, and thereby indirectly acquire First Trust Bank of Shelbyville, Shelbyville, Illinois.

Board of Governors of the Federal Reserve System, November 30, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29644 Filed 12–5–95; 8:45 am]

BILLING CODE 6210–01–F

First Bancshares, Inc.; Notice of Proposal to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has given notice under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether commencement of the activity can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 20, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. First Bancshares, Inc., Grove Hill, Alabama; to continue engaging *de novo* through its subsidiary, I & I, Inc., Grove Hill, Alabama, in insurance agency activities in a town of less than 5,000 in population, pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 30, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29643 Filed 12–5–95; 8:45 am]

BILLING CODE 6210–01–F

Federal Open Market Committee; Domestic Policy Directive of September 26, 1995.

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on September 26, 1995.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that economic activity is expanding at a moderate rate in the current quarter. Nonfarm payroll employment increased considerably in August after essentially no growth in July; the civilian unemployment rate edged down to 5.6 percent in August. Industrial production posted a large increase in August to a level moderately above the average of the second quarter. Total nominal retail sales rose slightly on balance over July and August after registering appreciable gains in the prior two months. Housing starts were up a little in August after increasing sharply in July. Orders for nondefense capital goods have softened but still point to substantial expansion of spending on business equipment over coming months; nonresidential construction has been strong of late The nominal deficit on U.S. trade in goods and services widened slightly in July from its average rate in the second quarter. After increasing at elevated rates in the early part of the year, consumer and producer prices have risen more slowly in recent months.

Market interest rates have fallen somewhat since the Committee meeting on August 22. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G–10 currencies has declined over the intermeeting period, with most of the decline occurring over the past several days.

M2 and M3 continued to register sizable increases in August but growth of those aggregates appears to have moderated somewhat in September. For the year through August, M2 expanded at a rate somewhat below the upper end of its range for 1995 and M3 grew at a rate appreciably above its range. Total domestic nonfinancial debt has grown at a rate around the midpoint of its monitoring range in recent months.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee at its meeting in July reaffirmed the range it had established on January 31-February 1 for growth of M2 of 1 to 5 percent, measured from the fourth quarter of 1994 to the fourth quarter of 1995. The Committee also retained the monitoring range of 3 to 7 percent for the year that it had set for growth of total domestic nonfinancial debt. The Committee raised the 1995 range for M3 to 2 to 6 percent as a technical adjustment to take account of changing intermediation patterns. For 1996, the Committee established on a tentative basis the same ranges as in 1995 for growth of the monetary aggregates and debt, measured from the fourth quarter of 1995 to the fourth quarter of 1996. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. In the context of the Committee's long-run objectives for price stability and sustainable economic growth, and giving careful consideration to economic, financial, and monetary developments, slightly greater reserve restraint or slightly lesser reserve restraint would be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with growth in M2 and M3 over the balance of the year near the pace of recent months.

By order of the Federal Open Market Committee, November 27, 1995.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 95–29696 Filed 12–5–95; 8:45 am]

BILLING CODE 6210–01–F–M

[1] Copies of the Minutes of the Federal Open Market Committee meeting of September 26, 1995, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

OFFICE OF GOVERNMENT ETHICS

Submission of Proposed Modified Form for Executive Branch Confidential Financial Disclosure Reporting to OMB for Approval Under the Paperwork Reduction Act

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: The Office of Government Ethics has submitted a proposed new OGE Form 450 for confidential financial disclosure reporting under its executive branch regulations for approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. This new form will replace the existing Standard Form (SF) 450.

DATES: Comments on this proposal should be received by January 5, 1996.

ADDRESSES: Comments should be sent to Joseph F. Lackey, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; telephone: 202–395–7316.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of the General Counsel and Legal Policy, Office of Government Ethics, 1201 New York Avenue, NW., Washington, DC 20005–3917; telephone: 202–523–5757 (ext. 1110), FAX: 202–523–6325. A copy of OGE's draft form, as well as the rest of OGE's paperwork submission package to OMB, may be obtained, without charge, by contacting Mr. Gressman.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics is submitting a proposed new OGE Form 450 Executive Branch Confidential Financial Disclosure Report for three-year approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). On September 1, 1995, OGE published an advance paperwork notice of the proposed new OGE Form 450 (see 60 FR 45722–45723). During the public comment period on that advance notice, OGE received seven requests by persons outside OGE for copies of the proposed new form and two comment letters, both of which were from Federal agencies (the Nuclear Regulatory Commission and the Defense Logistics Agency (DLA)). The two comment letters generally questioned certain aspects of the confidential financial disclosure system, including the underlying OGE regulation codified at 5 CFR part 2634. The comment letters also urged a few specific changes to the wording or concepts of the proposed form. Upon review, OGE has determined not to modify the underlying reporting format nor the proposed form itself (except, as to the form, for a couple of clarifying revisions). In part in response to certain DLA suggestions, the revisions to the proposed form add references in the instructions (on page 2) to the reporting of "401k" plans and clarify that the individual holdings of such plans as well as Individual Retirement Accounts and trusts must generally be reported. The Office of Government Ethics' reasons for not otherwise modifying either the proposed form or the underlying regulation follow.

The Office of Government Ethics has already removed, by FR issuance, the requirement for reporting of Government securities, bank accounts and certain similar items which do not normally present much potential for a conflict of interest. See below for a discussion of this 1993 change, which is not reflected in the existing SF 450, but will be in the proposed OGE Form 450. In addition, in the three years since the

new executive branchwide confidential disclosure system took effect in the fall of 1992, the overall system has worked well according to the agency feedback that OGE has received. This is, particularly so since OGE and the agencies have been flexible within the regulatory framework, allowing for appropriate limitations on coverage, exceptions and alternative forms where justified. Further, OGE is committed to a future fundamental reassessment of the basic structure of the confidential disclosure system. For now, though, the redesigned proposed OGE Form 450 represents urgently needed improvements and updates to the existing Standard Form 450 which it will replace.

As noted, once finally approved by OMB and adopted by OGE, the new OGE form will replace the existing SF 450 Executive Branch Personnel Confidential Financial Disclosure Report. The SF 450 collects, as will the future OGE Form 450, information required under OGE's executive branchwide regulatory provisions. See subpart I of 5 CFR part 2634. The new OGE Form 450 will serve, as does the current SF 450, as the uniform report form for collection, on a confidential basis, of financial information required by the OGE regulation from certain new entrant and incumbent employees of the executive branch departments and agencies in order to allow ethics officials to conduct conflict of interest reviews and to resolve any actual or potential conflicts found.

The basis for the OGE regulation and the report form is two-fold. First, section 201(d) of Executive Order 12674 of April 12, 1989 (as modified by Executive Order 12731 of October 17, 1990) makes OGE responsible for the establishment of a system of nonpublic (confidential) financial disclosure by executive branch employees to complement the system of public disclosure under the Ethics in Government Act of 1978 (the "Ethics Act"), as amended, 5 U.S.C. appendix. Second, section 107(a) of the Ethics Act further provides authority for OGE as the supervising ethics office for the executive branch of the Federal Government to require that appropriate executive agency employees file confidential financial disclosure reports, "in such form as the supervising ethics office may prescribe." The current SF 450, together with the underlying OGE confidential disclosure regulation, both initially adopted in 1992 after appropriate clearances from OMB as well as the General Services Administration (GSA) for the standard form, constitute the form OGE has prescribed for such confidential financial disclosure in the executive branch. The Office of Government Ethics recently sought and subsequently obtained a limited paperwork renewal from OMB as to the existing SF 450 in order to allow sufficient time for OGE to develop and clear the new OGE Form 450 which is the subject of this notice. See 60 FR 34258–34259 (June 30, 1995). The new OGE form will not require GSA clearance, since it is not a standard (or optional) form under the GSA program. The Office of Government Ethics will provide further information in the future to the agencies and the public about the details of phasing in the new form, once it is finally cleared and adopted, and phasing out the existing standard form.

Since the OGE's financial disclosure regulation at 5 CFR part 2634 and the reporting format were adopted in 1992, there have been certain revisions to each. The most significant of these is the determination of OGE to exclude from general executive branch confidential financial disclosure the reporting of cash accounts in depository institutions (including banks), money market mutual funds and accounts and U.S. Government obligations and securities. See 58 FR 63023–63024 (November 30, 1993). The Office of Government Ethics has directed executive departments and agencies to notify all filers of this change, which is not reflected on the SF 450 itself. The new OGE replacement form will reflect that change, as well as various other changes and improvements in the reporting format, to make it clearer and more user-friendly. A more complete set of instructions for filling out the form is included in the draft OGE Form 450 and helpful examples are set forth on the reporting parts.

The Office of Government Ethics expects that the new form should be ready, after OMB clearance, for dissemination to executive branch departments and agencies early next year. As noted above, the Office of Government Ethics will provide appropriate guidance and phase-in time to departments and agencies once the new form is available. The new form will be made available in paper, on electronic disk and on OGE's electronic bulletin board entitled "The Ethics Bulletin Board System" (TEBBS). In addition, OGE will work on making available a future electronic version of the form, to allow employees the option of preparing it on a computer. The Office of Government Ethics also intends to permit departments and agencies to develop or utilize electronic versions of the form on their own, provided that they precisely duplicate the paper original to the extent possible.

Since 1992, various agencies have developed, with OGE review/approval, alternative reporting formats, such as certificates of no conflict, for certain classes of employees. Other agencies provide for additional disclosures pursuant to independent organic statutes and in certain other circumstances when authorized by OGE. However, the future OGE Form 450, as successor to the current SF 450, will remain the uniform executive branch report form for most of those executive branch employees who are required by their agencies to report confidentially on their financial interests. The confidential report form is to be filed by each reporting individual with the designated agency ethics official at the executive department or agency where he or she is or will be employed.

Reporting individuals are regular employees whose positions have been designated by their agency as requiring confidential financial disclosure in order to help avoid conflicts with their assigned responsibilities; additionally, all special Government employees (SGEs) are generally required to file. Agencies may, if appropriate under the OGE regulation, exclude certain regular employees or SGEs as provided in 5 CFR 2634.905. Reports are normally required to be filed within 30 days of entering a covered position (or earlier if required by the agency concerned), and again annually if the employee serves for more than 60 days in the position. As indicated in § 2634.907 of the OGE regulation, the information required to be collected includes assets and sources of income, gifts and travel reimbursements, liabilities, employment agreements and arrangements, and outside positions, subject to certain thresholds and exclusions.

Most of the persons who file this report form are current executive branch Government employees at the time they complete the forms. However, some filers are private citizens who are asked by their prospective agency to file a new entrant report prior to entering Government service in order to permit advance checking for any potential conflicts of interest and resolution thereof by agreement to recuse, divest, obtain a waiver, or take other remedial steps. Based on OGE's annual agency ethics questionnaire responses, approximately 285,000 SF 450 report forms were filed during 1994 throughout the executive branch. Of these, OGE estimates that no more than between 5% and 10%, or some 14,250 to 28,500 per year, are filed by private citizens whose agencies require that they file their new entrant reports prior to assuming Government responsibilities.

Each filing is estimated to take an average of one and one-half hours. The number of private citizens whose reports are filed each year with OGE is less than 10, but pursuant to 5 CFR 1320.3(c)(4)(i), the lower limit for this general regulatory-based requirement is set at 10 private persons (OGE-processed reports). This yields an annual reporting burden of 15 hours, the same as in the current OMB inventory for this information collection. The remainder of the private citizen reports are filed with other departments and agencies throughout the executive branch.

Public comment is again invited on each aspect of the proposed new OGE Form 450 as set forth in this second notice, including specifically views on the need for and practical utility of this proposed modified collection of information, the accuracy of OGE's burden estimate, the enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology). The Office of Government Ethics, in consultation with OMB, will consider all comments received, which will become a matter of public record.

Approved: November 30, 1995.

Donald E. Campbell,

Deputy Director, Office of Government Ethics.

[FR Doc. 95–29723 Filed 12–5–95; 8:45 am]

BILLING CODE 6345–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95D–0377]

Advertising and Promotion; Draft Guidances

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing two draft guidance documents entitled "Guidance to Industry on Dissemination of Reprints of Certain Published, Original Data" and "Guidance for Industry Funded Dissemination of Reference Texts." These draft guidances are related to the dissemination, by sponsors of human and animal drugs, medical devices, and biological products, of certain reprints of journal articles discussing FDA-approved products, and reference texts (medical textbooks and compendia). The draft guidances describe circumstances under which the agency would exercise its discretion to allow the dissemination of these reprints and reference texts to health care professionals.

DATES: Written comments by January 5, 1996.

ADDRESSES: Submit written comments on the draft guidance documents to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, or FAX at 301–594–3215.

FOR FURTHER INFORMATION CONTACT: Ilisa B. G. Bernstein, Office of Policy (HF–23), Food and Drug Administration, 5600 Fishers Lane, rm. 15–74, Rockville, MD 20857, 301–827–3380, or via internet at IBernste@bangate.fda.gov.

SUPPLEMENTARY INFORMATION: Health care professionals have always been able to obtain, from a number of different sources, journal articles and reference texts (i.e., medical textbooks and compendia), that discuss human and animal drugs, medical devices, and biological products. These journal articles and reference texts are commercially available and may be obtained from publishers, libraries, on-line data bases, colleagues, bookstores, companies upon request, or other sources. Sponsors of human and animal drugs, medical devices, and biological products frequently have expressed a desire to disseminate reprints of journal articles and reference texts to health care professionals.

FDA traditionally has taken the position that sponsors who wish to distribute articles and reference texts containing information that is inconsistent with the FDA-approved labeling for a product may be in conflict with the Federal Food, Drug, and Cosmetic Act and implementing regulations. The agency's position is based on its mission to help ensure the safety and efficacy of human and animal drugs, medical devices, and biological products. Sponsors seeking approval or clearance to market these products must demonstrate to FDA that the products are safe and effective for their intended use(s). Permitting sponsors to freely disseminate information that is inconsistent with the FDA-approved or cleared use(s) would diminish the incentive for sponsors to perform the clinical studies which are necessary to verify that the product is safe and effective for the unapproved use. Furthermore, information disseminated by a biased source may have a greater potential to mislead the health care professional.

FDA believes that journal articles and reference texts are often useful to health care professionals. Accordingly, the agency has reviewed its policies to determine if modifications can be made without jeopardizing the integrity of the statutorily mandated standard that marketed drugs be safe and effective and have adequate directions for their intended use(s). After careful review, the agency is proposing to modify two of its policies at this time.

First, under one proposed draft guidance, the agency would allow sponsors to disseminate, under certain circumstances, journal articles that report the results of well-controlled studies, provided they represent the peer-reviewed, published version of original efficacy trials used to support approval, licensure, or clearance. Second, under the other proposed draft guidance, the agency would allow sponsors to disseminate, under certain circumstances, reference texts that discuss human or animal drugs, medical devices, or biological products. FDA has prepared two draft guidance documents describing the proposed circumstances under which the agency would exercise its discretion regarding the dissemination of these materials by sponsors.

FDA is particularly interested in receiving comments on whether the reprints discussed in the "Guidance to Industry on Dissemination of Reprints of Certain Published, Original Data" should be from "peer-reviewed" journals. If so, please comment on what constitutes a "peer-reviewed" journal and what benefits would be afforded if these reprints are from "peer-reviewed" journals.

Interested persons may, on or before January 5, 1996, submit to the Dockets Management Branch (address and FAX number above) written comments on the draft guidance documents. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance documents and received comments are available for public examination in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The texts of the draft guidance documents follow:

Guidance to Industry on Dissemination of Reprints of Certain Published, Original Data[1]

I. Purpose of Guidance

Sponsors frequently want to disseminate reprints of articles reporting the results of the effectiveness trials that have been relied on by FDA in its approval or clearance of a drug, device, or biologic product. However, such articles may contain effectiveness rates, data, analyses, uses, regimens, or other information that is different from the approved labeling, and might, if disseminated by the sponsor, be considered violative promotional activities.

Nonetheless, the agency intends to allow the dissemination of reprints of articles that represent the peer-reviewed, published version of original efficacy trials, under the circumstances described in section II. below.

II. Circumstances for Dissemination of Certain Journal Articles Discussing FDA-Approved Products

1. The principal subject of the article should be the use(s) or indication(s) that has been approved by FDA. The article should be published in accordance with the regular peer-review procedure of the journal in which it is published, and the article reports the original study that was represented by the sponsor, submitted to FDA, and accepted by the agency as one of the adequate and well controlled studies providing evidence of effectiveness. In the case of a medical device, this guidance also applies to studies that were otherwise represented by the sponsor, submitted to the agency, and accepted by the agency as valid and material evidence of safety or effectiveness in lieu of adequate and well controlled studies;

2. The reprint should be from a bona fide peer-reviewed journal. A bona fide peer-reviewed journal is a journal that utilizes experts to review and objectively select, reject, or provide comments about proposed articles. Such experts should have demonstrated expertise in the subject of the article under review, and be independent from the journal;

3. If the article contains effectiveness rates, data, analyses, uses, regimens, or other information that is different from approved labeling, the reprint should prominently state the difference(s), with specificity, on the face of the reprint. One acceptable means of achieving the appropriate prominence for this statement is to permanently affix to the reprint a sticker stating the differences; and

4. The reprint should disclose all material other distribution channels where similar books are normally available);

4. The reference text should not focus primarily on any particular drug(s), device(s), or biologic(s) of the disseminating company, nor should it have a significant focus on unapproved uses of the drug(s), device(s), or biologic(s) marketed or under investigation by the firm supporting the dissemination of the text; and

5. Specific product information (other than the approved package insert) should not be physically appended to the reference text.

The agency recognizes that there are some useful reference texts that are written, edited, or published by a sponsor or agent of the sponsor. In these instances, FDA intends to allow the distribution of a reference text under the circumstances described in paragraphs 3 through 5 above, when the authorship, editing, and publishing of the reference text results in the presentation of a balanced perspective of the subject matter. Typically, this would be evidenced by an authorship and editorial process that fosters input from a relatively wide spectrum of sources and that allows for information from all sources to be considered.

Dated: November 30, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–29663 Filed 12–1–95; 1:21 pm]

BILLING CODE 4160–01–F

[1]This guidance does not apply to reprints of articles that discuss the specific prohibited uses of animal drugs listed in the FDA, Center for Veterinary Medicine Compliance Policy Guide 7125.06 or the Animal Medicinal Drug Use Clarification Act implementing regulations. Although this guidance does not create or confer any rights on any person and does not operate to bind FDA in any way, it does represent the agency's current thinking on the dissemination of reprints of certain published, original data. The agency will consider individual circumstances on a case-by-case basis.

Guidance for Industry Funded Dissemination of Reference Texts[2]

I. Purpose of Guidance

Sponsors have also expressed a desire to disseminate reference texts, i.e., medical textbooks and compendia, to health care professionals. These texts typically discuss a wide range of medical diagnoses and treatments, including drug product utilization, surgical techniques, and other medical topics. FDA recognizes that such texts are often useful to clinicians in the practice of medicine.

Reference texts often contain information about the use of drugs, devices, or biologic products in the treatment, diagnosis, or prevention of disease that may not be consistent with the FDA-approved labeling for the products (e.g., discussion of unapproved uses). FDA recognizes, however, that many textbooks do not necessarily highlight a particular drug or device manufacturers products. In such instances, industry's desire to disseminate these reference texts may be in conflict with the Federal Food, Drug, and Cosmetic Act (the act) and implementing regulations.[3]

Nonetheless, FDA intends to permit the distribution of sound, authoritative materials that are written, published, and disseminated independent of the commercial interest of a sponsoring company and are not false nor misleading. FDA, therefore, intends to allow the dissemination by sponsors of reference texts that discuss human or animal drug, device, or biologic products, under the circumstances described in section II. below.

II. Circumstances for Dissemination of Reference Textbooks

1. The reference text should not have been written, edited, excerpted, or published specifically for, or at the request of, a drug, device, or biologic firm (see discussion below);

2. The content of the reference text should not have been reviewed, edited, or significantly influenced by a drug, device, or biologic firm, or agent thereof (see discussion below);

3. The reference text should not be distributed only or primarily through drug, device, or biologic firms (e.g., it should be

[2]Although this guidance does not create or confer any rights, on any person, and does not operate to bind FDA in any way, it does represent the agency's current thinking on industry funded dissemination of reference texts. Although FDA believes that this guidance encompasses the vast majority of reference texts, the agency will consider, on a case-by-case basis, reference texts that do not fall within the parameters of this guidance document. This guidance does not apply to textbooks or compendia that discuss the specific prohibited uses or animal drugs listed in the Center for Veterinary Medicine Compliance Policy Guide 7125.06 or the Animal Medicinal Drug Use Clarification Act implementing regulations.

[3]Printed materials, such as medical textbooks and compendia, which supplement, explain, or are textually related to a regulated product are considered labeling for that product when disseminated by or on behalf of the manufacturer, packer, or distributor of the product. See section 201(m) of the act (21 U.S.C. 321(m)) and *Kordel* v. *United States*, 338 U.S. 345, 350 (1948).

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel

Date: December 5, 1995.

Time: 3 p.m.

Place: Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1340.

Committee Name: National Institute of Mental Health Special Emphasis Panel

Date: December 11, 1995.

Time: 1:30 p.m.

Place: Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Michael D. Hirsch, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1000.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: December 14, 1995.

Time: 1:30 p.m.

Place: Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Angela L. Redlingshafer, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: December 4, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–29874 Filed 12–4–95; 1:41 pm]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Biological and Physiological Services.

Date: December 13, 1995.

Time: 12:30 p.m.

Place: NIH, Rockledge 2, Room 5198, Telephone Conference.

Contact Person: Dr. Peggy McCardle, Scientific Review Administrator, 6701 Rockledge Drive, Room 5198, Bethesda, Maryland 20892, (301) 435–1258.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Biological and Physiological Sciences.

Date: December 20, 1995.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4142, Telephone Conference.

Contact Person: Dr. Edmund Copeland, Scientific Review Administrator, 6701 Rockledge Drive, Room 4142, Bethesda, Maryland 20892, (301) 435–1715.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 4, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–29873 Filed 12–5–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–066–96–1300–00; CACA–20139 and CACA–22901]

Proposed Sand and Gravel Mining Operation in Soledad Canyon, Los Angeles County, CA

AGENCY: Bureau of Land Management, Department of the Interior, Palm Springs-South Coast Resource Area, Desert District, California.

ACTION: Notice of Intent to prepare an Environmental Impact Statement—Second Notice.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969 and 40 CFR 1508.22, notice is hereby given that the Bureau of Land Management (BLM) will prepare an Environmental Impact Statement (EIS) for the Transit Mixed Concrete (TMC) Surface Mining Project (Project) proposed for construction and operation in Soledad Canyon, Los Angeles County, California. TMC acquired the rights to develop the Project through a competitive bid process. The BLM granted the mineral material contract to TMC in March 1990. The BLM complied with NEPA for the sale of sand and gravel for the Project site by preparing an Environmental Assessment (EA) and issuing a Finding of No Significant Impact (FONSI) in 1989.

The Project plans to mine a total of 83 million tons of materials and sell approximately 56 million tons of sand and gravel, also known as Portland cement concrete sand and gravel (PCC aggregates), over a 20-year period to fulfill contracts entered into with the BLM.

The Project includes plans to operate a concrete batch plant to produce and deliver ready-mixed concrete to the local market. All proposed mining and operations will be located north of Soledad Canyon Road and the Santa Clara River. The 500-acre site represents one of the westernmost reserves for PCC aggregate production in the Saugus-Newhall Production-Consumption Region that is located outside the floodplain of the Santa Clara River or a tributary wash.

The general mining plan is to mine on the south side of the ridge through a series of four excavation cuts. Each cut will progress from a higher elevation and proceed downslope. Fill areas for excess natural fines will be established on both the south and north sides of the ridge. Reclamation will be concurrent with mining operations and measures have been incorporated into Project design to minimize erosion, provide watershed control, and protect water quality in the Santa Clara River. A full range of alternatives to the proposed action will be considered in the EIS.

SUPPLEMENTARY INFORMATION: The Project site is on "split-estate" lands where the surface is privately owned and the minerals are federally owned and administered by the BLM. The project is subject to approval of a Surface Mining Permit and environmental analysis in accordance with the California Environmental Quality Act (CEQA). The County of Los Angeles is the Lead Agency for preparation of an Environmental Impact Report (EIR) which will be prepared separate from the EIS.

Comments from members of the public are being requested to help identify significant issues or concerns related to the proposed action to determine the scope of the issues and alternatives that need to be analyzed, and to identify and eliminate from detailed study the issues that are not significant. All comments recommending that the EIS address specific environmental issues should contain supporting documentation and rationale.

A Notice of Intent announcing BLM's intent to prepare an Environmental Impact Statement for the proposed project, was previously published in the **Federal Register** October 16, 1995. The public comment period closed November 15, 1995. Per public request,

the comment period for the Notice of Intent has been extended another 30-days. Comments submitted during the previous public comment period will be considered.

DATES: Written comments must be submitted no later than January 5, 1996 to the following address: Ms. Julia Dougan, Area Manager, Bureau of Land Management, Palm Springs—South Coast Resource Area Office, P.O. Box 2000, North Palm Springs, California, 92258–2000.

FOR ADDITIONAL INFORMATION CONTACT: Ms. Patty Cook, BLM, Palm Springs—South Coast Resource Area, P.O. Box 2000, North Palm Springs, CA 92258–2000, telephone 619–251–4853.

Dated: November 29, 1995.

Julia Dougan,

Area Manager.

[FR Doc. 95–29662 Filed 12–5–95; 8:45 am]

BILLING CODE 4310–40–P

[AZ–024–06–1430–01; AZA–29177]

Notice of Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

SUMMARY: The notice of realty action published on Friday, July 7, 1995, in **Federal Register** document 60–130, page 35420 is corrected as follows:

1. Page 35420, 2nd Column, Line 10, "Maricopa County" should read, "Pinal County".

2. Page 35420, 2nd Column, Line 24, "Sec. 19, lots 2, 3, 4, and E½SE¼NW¼," should read, Sec. 19, lots 2, 3, 4 and E½, SE¼NW¼,"

FOR FURTHER INFORMATION CONTACT: Vivian Reid, Land Law Examiner, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027, (602) 780–8090.

Dated: November 28, 1995.

Gail Acheson,

Acting District Manager.

[FR Doc. 95–29682 Filed 12–5–95; 8:45 am]

BILLING CODE 4310–32–P

[AZ–054–06–1430–00; AZA 29306]

Notice of Realty Action, Recreation and Public Purposes (R&PP) Act Classification, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands in Mohave County, Arizona have been examined and found suitable for classification for lease or conveyance to Mohave County Board of Supervisors under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). Mohave County Board of Supervisors proposes to use the lands for an educational and residential treatment youth center.

Gila and Salt River Meridian, Arizona

T. 16 N., R. 19 W.,
Sec. 16, SE¼.
The area contains 11.25 acres.

The lands are not needed for Federal purposes. Lease or Conveyance is consistent with current BLM land use planning and would be in the public interest.

The lease/patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove materials.

4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Yuma District, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, Arizona. Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

DATES: For a period of 45 days from the date of issuance of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed lease or conveyance of the lands to the Area Manager, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, AZ 86406.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the lands for an educational and treatment youth center. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with the local planning and zoning, or if the use is consistent with the State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the lands for an educational and residential treatment youth center. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Janice Easley, Land Law Examiner, Bureau of Land Management, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86406. Detailed information concerning this action is also available for review.

Dated: November 24, 1995.

Robert M. Henderson,

Acting Area Manager.

[FR Doc. 95–29681 Filed 12–5–95; 8:45 am]

BILLING CODE 4310–32–P

Minerals Management Service

Outer Continental Shelf, Gulf of Mexico Region, Proposed Central and Western Gulf Sales 157 and 161

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement Regarding Proposed Central and Western Gulf of Mexico Sales 157 and 161.

The Minerals Management Service has prepared a final environmental impact statement (EIS) relating to proposed 1996 Outer Continental Shelf oil and gas lease sales in the Central and Western Gulf of Mexico. The proposed Central Gulf Sale 157 will offer for lease approximately 31.2 million unleased acres, and the Western Gulf Sale 161 will offer approximately 28.3 million unleased acres. Single copies of the EIS can be obtained from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Unit (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394.

Copies of the draft EIS will also be available for review by the public in the following libraries:

TEXAS

Alma M. Carpenter Public Library, 330 South Ann, Sourlake
Aransas Pass Public Library, 110 North Lamont Street, Aransas Pass
Austin Public Library, 402 West Ninth Street, Austin
Bay City Public Library, 1900 Fifth Street, Bay City
Brazoria County Library, 410 Brazoport Boulevard, Freeport
Calhoun County Library, 301 South Ann, Port Lavaca
Chambers County Library System, 202 Cummings Street, Anahuac
Comfort Public Library, Seventh & High Streets, Comfort
Corpus Christi Central Library, 805 Comanche Street, Corpus Christi
Dallas Public Library, 1513 Young Street, Dallas
Houston Public Library, 500 McKinney Street, Houston
Jackson County Library, 411 North Wells Street, Edna
Lamar University, Gray Library, Virginia Avenue, Beaumont
LaRatama Library, 505 Mesquite Street, Corpus Christi
Liberty Municipal Library, 1710 Sam Houston Avenue, Liberty
Orange Public Library, 220 North Fifth Street, Orange
Port Arthur Public Library, 3601 Cultural Center Drive, Port Arthur
Port Isabel Public Library, 213 Yturria Street, Port Isabel
Reber Memorial Library, 193 North Fourth, Raymondville
Refugio County Public Library, 815 South Commerce Street, Refugio
Rice University, Fondren Library, 6100 South Main Street, Houston
R. J. Kleberg Public Library, Fourth and Henrietta, Kingsville
Rockwall County Library, 108 South Fannin Street, Rockwall
Rosenberg Library, 2310 Sealy Street, Galveston
Sam Houston Regional Library & Research Center, FM 1011 Governors Road, Liberty
Texas A & M University, Corpus Christi Library, 6300 Ocean Drive, Corpus Christi
Texas A & M University, Evans Library, Spence and Lubbock Streets, College Station
Texas Southmost College Library, 1825 May Street, Brownsville
Texas State Library, 1200 Brazos Street, Austin
University of Houston Library, 4800 Calhoun Boulevard, Houston
University of Texas at Brownsville, Arnulfo Oliveria Memorial Library, 80 Fort Brown, Brownsville
University of Texas Law School, Tarlton Law Library, 727 East 26th Street, Austin
University of Texas, LBJ School of Public Affairs Library, 2313 Red River Street, Austin
University of Texas Library, 21st and Speedway Streets, Austin
Victoria Public Library, 320 North Main, Victoria

LOUISIANA

Calcasieu Parish Library, 327 Broad Street, Lake Charles
Cameron Parish Library, Marshall Street, Cameron
Grand Isle Branch Library, Highway 1, Grand Isle
Government Documents Library, Loyola University, 6363 St. Charles Avenue, New Orleans
Iberville Parish Library, 24605 J. Gerald Berret Boulevard, Plaquemine
Jefferson Parish Lobby Branch Library, 3410 North Causeway Boulevard, Metairie
Jefferson Parish West Bank Outreach Branch Library, 2751 Manhattan Boulevard, Harvey
Louisiana State University Library, 760 Riverside Road, Baton Rouge
Lafayette Public Library, 301 W. Congress Street, Lafayette
Lafitte Branch Library, Route 1, Box 2, Lafitte
Lafourche Parish Library, 303 West 5th Street, Thibodaux
Louisiana Tech University, Prescott Memorial Library, Everet Street, Ruston
LUMCON Library, Star Route 541, Chauvin
McNeese State University, Luther E. Frazar Memorial Library, Ryan Street, Lake Charles
New Orleans Public Library, 219 Loyola Avenue, New Orleans
Nicholls State University, Nicholls State Library, Leighton Drive, Thibodaux
Plaquemine Parish Library, 203 Highway 11, South, Buras
St. Bernard Parish Library, 1125 East St. Bernard Highway, Chalmette
St. Charles Parish Library, 105 Lakewood Drive, Luling
St. John The Baptist Parish Library, 1334 West Airline Highway, Laplace
St. Mary Parish Library, 206 Iberia Street, Franklin
St. Tammany Parish Library, Covington Branch, 310 West 21st Street, Covington
St. Tammany Parish Library, Slidell Branch, 555 Robert Boulevard, Slidell
Terrebonne Parish Library, 424 Roussell Street, Houma
Tulane University, Howard Tilton Memorial Library, 7001 Freret Street, New Orleans
University of New Orleans Library, Lakeshore Drive, New Orleans
University of Southwestern LA, Dupre Library, 302 East St. Mary Boulevard, Lafayette
Vermillion Parish Library, Abbeville Branch, 200 North Street, Abbeville

MISSISSIPPI

Gulf Coast Research Laboratory, Gunter Library, 703 East Beach Drive, Ocean Springs
Hancock County Library System, 312 Highway 90, Bay Saint Louis
Harrison County Library, 14th and 21st Avenues, Gulfport
Jackson George Regional Library System, 3214 Pascagoula Street, Pascagoula

ALABAMA

Dauphin Island Sea Lab, Marine Environmental Science Consortium, Library, Bienville Boulevard, Dauphin Island
Gulf Shores Public Library, Municipal Complex, Route 3, Gulf Shores
Mobile Public Library, 701 Government Street, Mobile
Montgomery Public Library, 445 South Lawrence Street, Montgomery
Thomas B. Norton Public Library, 221 West 19th Avenue, Gulf Shores
University of South Alabama, University Boulevard, Mobile

FLORIDA

Bay County Public Library, 25 West Government Street, Panama City
Florida A & M University, Coleman Memorial Library, Martin Luther King Boulevard, Tallahassee
Florida Northwest Regional Library System, 25 West Government Street, Panama City
Florida State University, Strozier Library, Call Street and Copeland Avenue, Tallahassee
Fort Walton Beach Public Library, 105 Miracle Strip Parkway, Fort Walton Beach
Leon County Public Library, 200 West Park Avenue, Tallahassee
University of Florida Library, University Avenue, Gainesville
University of Florida, Holland Law Center Library, Southwest 25th Street and 2nd Avenue, Gainesville
West Florida Regional Library, 200 West Gregory Street, Pensacola

Dated: November 3, 1995.,

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 95–29625 Filed 12–5–95; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–739 (Preliminary)]

Clad Steel Plate From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of clad steel plate, provided for in subheading 7210.90.10 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On September 29, 1995, a petition was filed with the Commission and the Department of Commerce by Lukens Steel Company, Coatesville, PA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of clad steel plate from Japan. Accordingly, effective September 29, 1995, the Commission instituted antidumping investigation No. 731–TA–739 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 10, 1995 (60 F.R. 52688). The conference was held in Washington, DC, on October 20, 1995, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on November 13, 1995. The views of the Commission are contained in USITC Publication 2936 (November 1995), entitled "Clad Steel Plate from Japan: Investigation No. 731–TA–739 (Preliminary)."

By order of the Commission.

Issued: November 20, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–29701 Filed 12–5–95; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-No. 35)]

Intrastate Rail Rate Authority—West Virginia

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional recertification.

SUMMARY: The State of West Virginia has filed an application for recertification. The Commission, under *State Intrastate Rail Rate Authority*, 5 I.C.C.2d 680, 685 (1989) (*Authority*), provisionally recertifies the State of West Virginia to regulate intrastate rail rates, classifications, rules, and practices. After its review, the Commission will issue a recertification decision or take other appropriate action.

DATES: This provisional recertification was effective on the date the application for recertification was filed with the Commission. Authority at 685.

FOR FURTHER INFORMATION CONTACT: Elaine Sehrt-Green, (202) 927–5269 or Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

Decided: November 28, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–29693 Filed 12–5–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Auto Body Consortium 2

Notice is hereby given that, on September 18, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Auto Body Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the partnership. The notifications were filed for the purpose of limiting recovery of plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Alcan Rolled Products Co., Farmington Hills, MI; Alcoa, Alcoa Center, PA; Allen-Bradley Co., Troy, MI; Auto Body Consortium, Inc., Ann Arbor, MI; Bethlehem Steel Corporation, Southfield, MI; Chrysler Corporation, Auburn Hills, MI; Computer Integrated Welding, Inc., Auburn Hills, MI; Detroit Center Tool, Detroit, MI; Dupont Central Research and Development, Wilmington, DE; Ford Motor Co., Dearborn, MI; General Motors Corporation, Pontiac, MI; Grossel Tool Company, Fraser, MI; Helm Instrument Co., Inc., Maumee, OH; Johnson Controls, Inc., Plymouth, MI; Lamb Technicon, Warren, MI; Medar, Inc., Farmington Hills, MI; Progressive Tool and Industries, Southfield, MI; Robotron Corporation, Southfield, MI; Sensotech, Columbus, OH; Square D, Troy, MI; and Tower Automotive, Farmington Hills, MI.

The purpose of this joint venture is to develop and demonstrate intelligent resistance welding technologies and systems to improve the quality and consistency of resistance welding focusing on advanced automotive materials including conventional steels, coated steels and aluminum. The activities of the joint venture will be partially funded by an award from the Advanced Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29670 Filed 12–5–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Low Cost Flip Chip Consortium

Notice is hereby given that, on August 30, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Low Cost Flip Chip Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the Consortium. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: National Semiconductor Corporation, Santa Clara, CA; Aptos Corporation, Milpitas, CA; Delco Electronics Corporation, Kokomo, IN; Hughes Missile Systems Company, Tucson, AZ; Jabil Circuit, Inc., San Jose, CA; Litronic Industries, Costa Mesa, CA; Sheldahl, Inc., Northfield, MN; and SunDisk Corporation, Santa Clara, CA.

The purpose of the Consortium is to advance the technology and enhance the United States production capabilities of the flip-chip Direct Chip Attach assembly for integrated microcircuits with the goal of promoting both military and commercial customers to employ flip-chip assembled integrated circuits in a wide variety of applications.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29671 Filed 12–5–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—FED Joint Venture

Notice is hereby given that, on July 28, 1995, and September 8, 1995, respectively, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et. seq.* ("the Act"), the FED Joint Venture has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the Joint Venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Analog Devices, Greensboro, NC; BFGoodrich Avionics Systems, Columbus, OH; Cetek Technologies, Inc., Poughkeepsie, NY; InfilMed, Inc., Liverpool, NY; and Kaiser Electronics, San Jose, CA.

The purpose of the FED Joint Venture is to develop the technology and its commercialization under the NIST Advanced Technology Program to develop high performance video displays.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29672 Filed 12–5–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Compact Heat Pump Based Microchannel and Tangential Fan Technologies

Notice is hereby given that, on September 18, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Compact Heat Pump Based Microchannel and Tangential Fan Technologies (the "Joint Venture") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing the identities of the parties and the nature and objectives of the joint venture.

The notices were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the joint venture are: Lennox Industries Inc., Richardson, TX; Emerson Electric Co., St. Louis, MO; and Heatcraft Inc., Grenada, MS. The purpose of the joint venture is to engage in cooperative research and development of heat pump technology that could result in units that would be forty (40) percent smaller and four (4) times quieter than current units, while also requiring thirty (30) percent less refrigerant. The activities of this joint venture will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29673 Filed 12–5–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Catalyst System Consortium

Notice is hereby given that, on September 21, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), The B.F. Goodrich Company filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to a research and development venture and (2) the nature and objective of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: The B.F. Goodrich Company, Akron, OH: and Minnesota Mining and Manufacturing Company, St. Paul, MN. The objectives of the venture are to develop (a) a new catalyst system for the synthesis of cyclic olefin polymers which are both tough and optically transparent and (b) an innovative technology for fabricating optical components such as the flat-panel displays. In addition to optical applications, the new polymers might be also useful in insulation for electronics.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29674 Filed 12–5–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Continuous Biocatalytic Systems for the Production of Chemicals From Renewable Resources

Notice is hereby given that, on September 15, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Genencor International, Inc. filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to and (2) the nature and objectives of the joint venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the joint venture are Genencor International, Inc., Rochester, NY; Eastman Chemical Company, Kingsport, TN; ElectroSynthesis Company, Inc., Lancaster, NY; MicroGenomics, Inc., Somerville, NJ; and Argonne National laboratory, Argonne, IL. The objective of the joint venture is to explore economically viable biocatalytic systems for the production of various chemicals from renewable agricultural resources, including corn and other carbohydrate-rich plant materials. The biocatalytic systems are intended to be continuous as opposed to the more costly batch mode currently employed in biocatalysis, significantly reducing the amount of time required to achieve competitive process economics. If successful, the project could result in reducing the nation's reliance on imported petroleum and benefiting the U.S. chemical and chemical-consuming industries.

Constance, K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29675 Filed 12–5–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Financial Services Technology Consortium, Inc.

Notice is hereby given that, on August 18, 1995, pursuant to Section 6(a) of the

National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Financial Services Technology Consortium, Inc. (the "Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. The following party has been admitted as a Principal Member of the Consortium: Glenview State Bank, Glenview, IL. The following parties were admitted as Associate Members of the Consortium: Tandem Computers Inc., Cupertino, CA; First Virtual Holdings, Inc., San Diego, CA; IRE, Inc., Baltimore, MD; InfoStructure Services & Technology, Inc., Ames, IA; Hewlett Packard Company, Cupertino, CA; CUNA & Affiliates, Madison, WI; GTE Government Systems Corporation, Needham, MA; and Ford Motor Credit Co., Dearborn, MI. The following parties were admitted as Advisory Members of the Consortium: Northeast Parallel Architectures Center, Syracuse, NY; Bank Administration Institute, Chicago, IL; American Bankers Association, Washington, DC; and the MITRE Corporation, McLean, VA. The following party has terminated its membership in the Consortium: Columbia University, New York, NY.

No other changes have been made in either the membership or planned activity of the Consortium. Membership remains open, and the Consortium intends to file additional written notifications disclosing all changes in membership.

On October 21, 1993, the Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 14, 1993 (58 FR 65399).

The last notification was filed with the Department on June 15, 1995. A notice for this filing has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29676 Filed 12–5–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Center for Manufacturing Sciences, Inc.

Notice is hereby given that, on August 18, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), National Center for Manufacturing Sciences, Inc. ("NCMS") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following companies were recently accepted as active members of NCMS: D.H. Brown Associates, Port Chester, NY; Electrosource, Inc., San Marcos, TX; Expansion Programs International, Inc., Cleveland, OH; GenRad, Inc., Concord, MA; Indium Corporation of America, Utica, NY; Laser Fare, Inc., Narragansoff, RI; Manufacturing Control Associates, Inc., Palatine, IL; The Monarch Machine Tool Company, Sidney, OH; Progressive Technologies, Inc., Grand Rapids, MI; SILMA Incorporated, Cupertino, CA; and Chrysler Corporation, Highland Park, MI. In addition, the following companies were recently accepted as affiliate members of NCMS: American Foundryman's Society, Des Plaines, IL; Michigan Biotechnology Institute, Lansing, MI; and Surface Science Western (SSW), London, Ontario, CANADA. The following companies recently resigned from active membership in NCMS: Quad Systems Corporation, Horsham, PA; Technology Assessment & Transfer, Inc., Annapolis, MD; and University Science Partners, Inc., Ann Arbor, MI. The University of Detroit Mercy recently resigned from affiliate membership in NCMS.

No other changes have been made in either the membership or planned activities of NCMS. Membership in NCMS remains open, and NCMS intends to file additional written notification disclosing all changes in membership.

On February 20, 1987, NCMS filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on July 25, 1995. This notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29677 Filed 12–5–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Blue Band Consortium

Notice is hereby given that, on July 31, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), The Blue Band Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: Advanced Technology Materials, Inc., Danbury, CT; American Crystal Technology, Inc., Dublin, OH; Boston University, Boston, MA; Hewlett Packard Company, Palo Alto, CA; SDL, Inc., San Jose, CA; The University of Texas at Austin, Austin, TX; and Xerox Corporation, Palo Alto, CA. The objective of the venture is the rapid commercialization of optoelectronic components operating in the green, blue and ultraviolet portion of the optical spectrum.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29678 Filed 12–5–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The ATM Forum

Notice is hereby given that, on November 6, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"). The ATM Forum (the "ATM Forum") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new members of ATM Forum are: Data Connection, Ltd., Middlesex, UNITED KINGDOM; Dialogic, Parsippany, NJ; LANOptics, Nigdal, ISRAEL; Spectran Specialty Optics Co., Avon, CT; and Zenith Electronics Corp., Glenview, IL. The following company is no longer a member: Centillion Networks.

No changes have been made in the planned activities of ATM Forum. Membership remains open, and the members intend to file additional written notifications disclosing all changes in membership.

On April 19, 1993, ATM Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 2, 1993 (58 FR 31415).

The last notification was filed with the Department on August 8, 1995. A notice has not yet been published in the **Federal Register.**

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–29679 Filed 12–5–95; 8:45am]

BILLING CODE 4410–01–M

Information Collection Under Review

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" from the date listed at the top of this page in the **Federal Register.** This process is conducted in accordance with the Paperwork Reduction Act of 1995.

This collection covers:

(1) Type of Information Collection: Revision of a Currently Approved Collection

(2) The title of the form/collection; Supplement on "Police Use of Force" to the National Crime Victimization Survey (NCVS)

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection; Form number: None. Sponsored by the Bureau of Justice Statistics, United States Department of Justice.

(4) Who will be asked or required to respond, as well as a brief abstract; Primary: Individuals or households. This data collection will be only a pretest for the purpose of ascertaining the feasibility and cost of learning about use of force by law enforcement officers through interviews with an existing random sample of household members. If the pretest shows this method is feasible and cost-effective, data to be collected via the NCVS will be only one of several data collection activities that will be sponsored by the Bureau of Justice Statistics in response to a requirement for an annual statistical report as set forth in section 210402 of the Violent Crime Control and Law Enforcement Act of 1994. The draft of the supplement which is being submitted for review will be asked of all surveyed participants, whether or not they believe they have been the victim of a crime, and will begin by inquiring about any contacts with police officers on official duty during the previous year. The data collection will, consequently, obtain information about contacts such as police providing information to citizens, as well as incidents in which police arrested the respondent or threatened to use or used physical force on the respondent. Because one purpose of the pretest is to obtain accurate estimates of the percentage of respondents who will answer more than the lead-in screener questions on this supplement, and the burden on such respondents, comments are specifically invited at this time on issues of the clarity and adequacy of the wording of the questions as drafted for exploring issues related to police use of force. Copies of the draft data collection instrument named in (2) above are available for review by writing to Dr. Chaiken or Mr. Briggs at the addresses shown above. The Bureau of Justice Statistics uses information it collects in published reports, and for the U.S. Congress, the Executive Office of the President, practitioners, researchers, and others in the criminal justice community. In the case of this pretest, the results will be used primarily in determining whether or not to design and undertake data collection through the NCVS on the topic of police use of force, and if so to design the final data collection instrument.

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond; and 12,000 respondents for the pretest during the period April 1996 to July 1996, of whom 11,400 are estimated to be eligible for the lead-in screening questions only (0.0167 hours or 1 minute) and 600 will require 0.167 hours, or 10 minutes.

(5) An estimate of the total public burden (in hours) associated with the collection. 290 burden hours for the pretest.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhanced the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. e.g., permitting electronic submission of responses.

If you have additional comments or suggestions, please include them with your written response. If a copy of the proposed collection instrument with instructions is not published in this notice please contact the agency representative list below if you wish to receive a copy. Contact: Mr. Lawrence A. Greenfield, Telephone: 202–616–3281. Bureau of Justice Statistics, United States Department of Justice, Room 1012, 633 Indiana Avenue, NW, Washington, DC 20531.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Dr. Jan M. Chaiken, Director, Bureau of Justice Statistics, 633 Indiana Avenue NW, Washington, DC 20531 or call 202–307–0765,

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Systems Policy Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: November 29, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–29650 Filed 12–5–95; 8:45 am]

BILLING CODE 4410–18–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 as Amended

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Western Publishing Company, Inc., et al.*, 94–CV–1247 (CGC/DNH), was lodged on November 28, 1995, with the United States District Court for the Northern District of new York. The decree resolves claims of the United States against defendant I.S.A. In New Jersey, Inc. ("I.S.A.") in the above-referenced action under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") for contamination at the Hertel Landfill Superfund Site in the Town of Plattekill, Ulster County, New York (the "Site"). In the proposed consent decree, the defendant agrees to pay the United States $190,000 in settlement of the United States' claims for past response costs incurred by the Environmental Protection Agency at the Site and $30,000 in settlement of the United States' claims for civil penalties and damages for I.S.A.'s failure or refusal to comply with a unilateral administrative order issued to it by EPA pursuant to section 106 of CERCLA, 42 U.S.C. 9606. The payments will be made from an escrow account as noted below.

In 1991, I.S.A. and other entities and individuals were indicted by a grand

jury empaneled in the United States District Court for the Southern District of New York on numerous federal felony charges. According to a subsequent plea agreement, I.S.A. and other entities were required to be sold to unrelated third parties. In 1994, the United States entered into an Agreement and Covenant Not To Sue under CERCLA with Browning-Ferris Industries of New York, Inc.; Browning-Ferris Industries of Peterson N.J., Inc.; and Browning-Ferris Industries of South Jersey, Inc. (collectively referred to as "BFI") regarding BFI's prospective purchase of the assets of I.S.A. and the other entities. In exchange for this Agreement and covenant Not To Sue, BFI paid $250,000 to the United States, from which $55,000 was paid toward past response costs incurred by EPA at the Hertel Site. Upon the sale of the assets of I.S.A. and the other entities, I.S.A. and the others entities paid $1,000,000 of the sale price into an escrow account to be used to resolve certain liability to the United States pursuant to CERCLA at several sites, including the Hertel Superfund Site, the Warwick Superfund Site in the Town of Warwick, New York, the Ramapo Superfund Site in the Town of Ramapo, New York, and the Kin-Buc Superfund Site in Edison, New Jersey. The balance of the proceeds of BFI's purchase of the assets of I.S.A. and the other entities has been used to satisfy a $5,000,000 criminal fine, $3,500,000 in federal and state tax liability, and $300,000 of liabilities to other creditors.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Western Publishing Company, Inc., et al.*, DOJ Ref. Number 90–11–2–767A.

The proposed consent decree may be examined at the Office of the United States Attorney, United States Courthouse, 445 Broadway, Albany, NY 12207; the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, NY 10278; and the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $5.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–29680 Filed 12–5–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

National Skill Standards Board; Notice of Opening Meeting

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of open meeting.

SUMMARY: The National Skill Standards Board was established by an Act of Congress, the Goals 2000: Educate America Act of 1994, Title V, Pub. L. 103–227. The 28-member National Skill Standards Board will serve as a catalyst and be responsible for the development and implementation of a national system of voluntary skill standards and certification through voluntary partnerships which have the full and balanced participation of business, industry, labor, education and other key groups.

TIME AND PLACE: The meeting will be held from 8 a.m. to approximately 4:30 p.m. on Thursday, January 11, 1996, in the Arlington/Monticello Room, 2nd Floor of the Madison Hotel at 15th & M Streets N.W., Washington, D.C.

AGENDA: The agenda for the Board Meeting will include presentations on Existing Occupational Classification Systems, Skill Standards Initiatives in the States and discussion of upcoming National Skill Standards Board Public Hearings.

PUBLIC PARTICIPATION: The meeting from 8 a.m. to 4:30 p.m., is open to the public. Seating is limited and will be available on a first-come, first-served basis. Seats will be reserved for the media. Disabled individuals should contact Ed Rugenstein at (301) 495–1591, if special accommodations are needed.

FOR FURTHER INFORMATION CONTACT: Ed Rugenstein at (301) 495–1591.

Signed at Washington, D.C., this 30th day of November, 1995.

Judy Gray,

Executive Director, National Skill Standards Board.

[FR Doc. 95–29751 Filed 12–5–95; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95108]

National Environmental Policy Act; International Space Station

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of Tier 2 draft environmental impact statement.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), and NASA policy and procedures (14 CFR part 1216, Subpart 1216.3), NASA has prepared and issued a Tier 2 draft environmental impact statement (DEIS) for the International Space Station (ISS). The proposed action by NASA is to continue to provide U.S. participation in the assembly and operation of the ISS. This Tier 2 DEIS addresses changes to the Space Station Program and potential environmental impacts that could not be addressed in detail at the time of the Tier 1 final environmental impact statement (FEIS). These factors include modifications to the Space Station itself, its assembly and operation, and an assessment of the probability and consequences of reentry into Earth's atmosphere.

DATE: Comments on the Tier 2 DEIS must be submitted in writing to NASA on or before January 22, 1996, or 45 days from the date of publication in the **Federal Register** of the U.S. Environmental Protection Agency's notice of availability of the ISS Tier 2 DEIS.

ADDRESSES: Written comments should be addressed to Mr. David Ruszczyk, NASA Johnson Space Center, Code OF, Houston, Texas, 77058–3696. The Tier 2 DEIS may be reviewed at the following locations:

(a) NASA Headquarters, Library, Room 1J20, 300 E street SW, Washington DC 20546.

(b) NASA, Johnson Space Center, Building 111, Industry Assistance Office, Houston, TX 77058.

(c) Spaceport U.S.A., Room 2001, John F. Kennedy Space Center, FL 32899. Please call Lisa Fowler beforehand at 407–867–2468 so that arrangements can be made.

In addition, the Tier 2 DEIS may be reviewed at the following NASA locations by contracting the pertinent Freedom of Information Act Office:

(d) NASA, Ames Research Center, Moffett Field, CA 94035 (415–604–4190).

(e) NASA, Dryden Flight Research Center, Edwards, CA 93523 (805–258–3448).

(f) NASA, Goodard Space Flight Center, Greenbelt, MD 20771 (301–286–0730).

(g) Jet Propulsion Laboratory, Visitors Lobby, Building 249, 4800 Oak Grove Drive, Pasadena, CA 91109 (818–354–5179).

(h) NASA, Langley Research Center, Hampton, VA 23665 (804–864–6125).

(i) NASA, Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135 (216–433–2313).

(j) NASA, Marshall Space Flight Center, AL 35812 (205–544–5252).

(k) NASA, Stennis Space Center, MS 39529 (601–688–2164).

Limited copies of the Tier 2 DEIS are available, on a first request basis, by contacting David Ruszczyk at the address or telephone number indicated herein.

FOR FURTHER INFORMATION CONTACT: David Ruszczyk, 713–244–7756.

SUPPLEMENTARY INFORMATION: NASA issued the *Final Tier 1 Environmental Impact Statement for Space Station Freedom*, in March 1991 (the "Tier 1 FEIS") followed by the associated Record of Decision to proceed with full-scale design and development of the concept known as Space Station Freedom.

At the time the Tier 1 FEIS was prepared, detailed design information was not available. As a consequence, some issues relating to the potential environmental effects of Space Station Freedom were deferred to the Tier 2 environmental impact statement. These issues included the impacts of any significant design modifications that might be incorporated as the design matured, and a quantitative analysis of the probability and consequences of inadvertent reentry into the Earth's atmosphere during assembly and operation. Other issues that were deferred included venting of nontoxic gases during operation and change to a hydrazine propulsion system.

On March 9, 1993, the President directed NASA to undertake a redesign of the Space Station Program in such a manner that reductions in the projected costs of Space Station Freedom could be realized. The result was the current ISS, which involves design modifications and agreements to include Russia as a partner.

The proposed action considered in this Tier 2 DEIS is to continue to provide U.S. participation in the implementation of assembly and operation of the ISS. The Tier 2 DEIS considers the alternative to the proposed action, the "No-Action" alternative (*i.e.*, cancellation of U.S. participation in the ISS).

Significant design changes that have occurred since the Tier 1 FEIS include, but are not necessarily limited to, the following: the number of research laboratories has been increased from three to six; the number of logistics modules has been increased from one to two; the pressurized volume has been almost doubled; the crew size has been increased from four to six; and the orbital inclination has been changed from 28.5 degrees to 51.6 degrees, improving access by Russian launch vehicles and additional mission control capabilities. Assembly of the ISS contemplates 27 NASA Shuttle launches (reduced from 29), 15 Russian launches, 1 European Space Agency launch, and 1 launch of a vehicle yet to be determined. This would increase the total number of launches through completion of assembly from 32 to 44. Accordingly, resupply flights to the completed ISS will now include Russian as well as NASA flights; whereas Space Station Freedom was to be resupplied exclusively by NASA Space Shuttle flights.

The design of the ISS has progressed to the point where it is now possible to conduct a quantitative analysis of the probability and consequences of inadvertent reentry into the Earth's atmosphere. The Tier 2 DEIS assesses the probabilities and potential impacts associated with inadvertent reentry, and addresses potential decommissioning options, including the plan presented in the Tier 1 FEIS. Other issues addressed in the Tier 2 DEIS include the following: the cumulative effects of the U.S. launches associated with the assembly and operation of the ISS, the change to the Unsymmetrical Dimethylhydrazine/Nitrogen Tetroxide propulsion system, and the venting and outgassing of nontoxic gases from the ISS. The Tier 2 DEIS addresses environmental effects on the United States and the integrated ISS impacts on the global commons.

Dated: November 28, 1995.

Benita A. Cooper,

Associate Administrator for Management Systems and Facilities.

[FR Doc. 95–29809 Filed 12–5–95; 8:45 am]

BILLING CODE 7510–01–M

[Notice (95–109)]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee.

DATES: December 13, 1995, 8:30 a.m. to 4:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 7H46, 300 E Street, S.W., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Mary-Ellen McGrath, Office of Aeronautics, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–4729).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aeronautics Overview
—Transition and Turbulence
—Aviation Safety Reporting System
—Aeronautics and Astronautics Coordinating Board (AACB)
—Program Development Updates
—Subcommittee Reports

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Dated: November 29, 1995.

Danalee Green,

Chief, Management Controls Office.

[FR Doc. 95–29610 Filed 12–5–95; 8:45 am]

BILLING CODE 7510–01–M

[Notice (95–110)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Holl Technologies Company, (hereinafter called HTC), of 1884 Eastman Avenue, Suite 101, Ventura, CA 93003, has applied for a partially exclusive license to practice the invention protected by U.S. Patent Application No. 60/003,635, entitled "MECHANICAL CONSOLIDATION OF POWDERS USING POLYMERIC COATINGS,"

which was filed on September 12, 1995, and assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Mr. George F. Helfrich, Patent Counsel, NASA Langley Research Center.

DATES: Responses to this Notice must be received by February 5, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. George F. Helfrich, Patent Counsel, NASA Langley Research Center, Mail Code 212, Hampton, VA 23681–0001; telephone (804) 864–3521.

Dated: November 28, 1995.

Edward A. Frankle,

General Counsel.

[FR Doc. 95–29611 Filed 12–5–95; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Media Arts Teleconference

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a teleconference of the Media Arts Advisory Panel (American Film Institute Section) to the National Council on the Arts will occur on January 4, 1996 from 2:00 p.m. to 4:00 p.m. at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This teleconference is for the purpose of application evaluation, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: November 29, 1995.

Yvonne M. Sabine,

Director, Council & Panel Operations, National Endowment for the Arts.

[FR Doc. 95–29666 Filed 12–5–95; 8:45 am]

BILLING CODE 7537–01–M

Museum Advisory Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Special Exhibitions Section B) to the National Council on the Arts will be held January 8–11, 1996, from 9:00 a.m. to 6:00 p.m. on January 8–10 and from 9:00 a.m. to 5:30 p.m. on January 11, 1996. This meeting will be held in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

Portions of this meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on January 8, for opening remarks and panel instructions and on January 11, from 4:30 p.m. to 5:30 p.m. for a policy discussion.

The remaining portions of this meeting from 10:00 a.m. to 6:00 p.m. on January 8; from 9:00 a.m. to 6:00 p.m. on January 9 and 10; and from 9:00 a.m. to 4:30 p.m. on January 11, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b to Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5433.

Dated: November 29, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–29667 Filed 12–5–95; 8:45 am]

BILLING CODE 7537–01–M

Arts in Education Advisory Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Arts in Education Advisory Panel (Partnership Grants Section) to the National Council on the Arts will be held on January 10–12, 1996. The panel will meet from 11:00 a.m. to 5:30 p.m. on January 10; from 9:00 a.m. to 5:30 p.m. on January 11; and from 8:30 a.m. to 4:00 p.m. on January 12. This meeting will be held in Room 714, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C., 20506.

Portions of this meeting will be open to the public from 11:00 a.m. to 1:30 p.m. on January 10 for welcome, introductions and orientation and from 3:00 p.m. to 4:00 p.m. on January 12 for a guidelines discussion.

The remaining portions of this meeting from 1:30 p.m. to 5:30 p.m. on January 10; from 9:00 a.m. to 5:30 p.m. on January 11; and from 8:30 a.m. to 3:00 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Access Ability, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5433.

Dated: November 29, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–29668 Filed 12–5–95; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–317]

Baltimore Gas and Electric Company (Calvert Cliffs Nuclear Power Plant Unit No. 1); Exemption

I.

Baltimore Gas and Electric Company (BGE or the licensee) is the holder of Facility Operating License No. DPR–53, which authorizes operation of Calvert Cliffs Nuclear Power Plant, Unit 1 (the facility/CC–1), at a steady-state reactor power level not in excess of 2700 megawatts thermal. The facility is a pressurized water reactor located at the licensee's site in Calvert County, Maryland. The license provides among other things, that it is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II.

By letter dated July 13, 1995, the licensee requested a temporary exemption to 10 CFR 50.44, 10 CFR 50.46, and Appendix K to 10 CFR Part 50 that would enable the use of four lead fuel assemblies during CC–1 Cycles 13, 14, and 15. These regulations refer to pressurized water reactors fueled with uranium oxide pellets within cylindrical zircaloy or ZIRLO cladding. The four lead fuel assemblies to be used during these fuel cycles contain fuel rods with zirconium-based claddings that are not chemically identical to zircaloy or ZIRLO.

Since 10 CFR 50.46 and Appendix K to 10 CFR Part 50 identify requirements for calculating emergency core cooling system (ECCS) performance for reactors containing fuel with zircaloy or ZIRLO cladding, and 10 CFR 50.44 relates to the generation of hydrogen gas from a metal-water reaction between the reactor coolant and reactor fuel having zircaloy or ZIRLO cladding, a temporary exemption is required to place the four lead fuel assemblies containing fuel rods with advanced zirconium based cladding in the core during CC–1 Cycles 13, 14, and 15.

III.

Title 10 of the Code of Federal Regulations at 50.12(a)(2)(ii) enables the Commission to grant an exemption from the requirements of Part 50 when special circumstances are present such that application of the regulation in the particular circumstances would not serve the underlying purpose of the rule, or is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR 50.46 and 10 CFR Part 50, Appendix K is to establish requirements for the calculation of ECCS performance in order to assure reactor safety in the event of a loss of coolant accident. The licensee has performed a calculation demonstrating adequate ECCS performance for CC–1 and has shown that the four lead fuel assemblies do not have a significant impact on that previous calculation. The lead fuel assemblies, with the zirconium-based alloy cladding, meet the same design basis as the Zircaloy-4 fuel which is currently in the CC–1 reactor core and have similiar thermal-hydraulic characteristics. No safety limits will be changed or setpoints altered as a result of using the lead fuel assemblies.

The Updated Final Safety Analysis Report (UFSAR) analysis are bounding for the lead fuel assemblies as well as the remainder of the core. The mechanical properties and behavior of the lead fuel assemblies during postulated loss-of-coolant-accidents (LOCA) and non-LOCA transients and operational transients will be essentially the same. In addition, the four lead fuel assemblies represent a small portion of the total core and will be placed in non-limiting core locations which experience no more than 0.95 of the core power density during operation. As such, the licensee has achieved the underlying purpose of 10 CFR 50.46 and 10 CFR Part 50, Appendix K.

The underlying purpose of 10 CFR 50.44 is to ensure that means are provided for the control of hydrogen gas that may be generated following a postulated LOCA. The licensee has provided means for controlling hydrogen gas and has previously considered the potential for hydrogen gas generation stemming from a metal-water reaction. The small number of fuel rods in the four lead fuel assemblies containing advanced zirconium-based claddings in conjunction with the chemical similarity of the advanced claddings to zircaloy and ZIRLO ensures that previous calculations of hydrogen production resulting from a metal-water reaction would not be significantly changed. As such, the licensee has achieved the underlying purpose of 10 CFR 50.44.

In addition to the above, the advanced claddings have been tested for corrosion resistance, tensile and burst strength, and creep characteristics. The test results indicate that the advanced claddings are safe for reactor service under all the anticipated operating conditions considered in the CC–1 UFSAR.

IV.

For the foregoing reasons, the NRC staff has concluded that the use of the four lead fuel assemblies in the CC–1 reactor during Cycles 13, 14, and 15 will not present an undue risk to public health and safety and is consistent with the common defense and security. The NRC staff has determined that there are special circumstances present as specified in 10 CFR 50.12(a)(2)(ii) such that the application of 10 CFR 50.44, 10 CFR 50.46, and Appendix K to 10 CFR Part 50 to explicitly consider the advanced clad fuel rods present within the four lead fuel assemblies is not necessary in order to achieve the underlying purpose of these regulations.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, a temporary exemption is authorized by law and will not endanger life or property or common defense and security and is otherwise in the public interest, and hereby grants BGE a temporary exemption from the requirements of 10 CFR 50.44, 10 CFR 50.46, and Appendix K to 10 CFR Part 50 in that explicit consideration of the advanced zirconium-based clad fuel present within the four lead fuel assemblies is not required in order to be in compliance with these regulations. This exemption applies only to the four lead fuel assemblies for the time period (Cycles 13, 14, and 15) for which these assemblies will be in the CC–1 reactor core.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (60 FR 56622).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 28th day of November 1995.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–29657 Filed 12–5–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–325/324]

Carolina Power and Light Company; Brunswick Nuclear Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an exemption pursuant to 10 CFR 55.11 from certain requirements of its regulations to an applicant for a Senior Reactor Operator License (applicant) at

the Carolina Power & Light Company (CP&L), Brunswick Steam Electric Plant, located in Brunswick County, North Carolina.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow the applicant to file a new application before the two-month waiting period required by 10 CFR 55.35(a) expires and, thereafter, to be re-administered a written examination during the week of December 18, 1995. In their written request, CP&L indicated that the applicant has entered a remediation process, and will be ready for re-examination the week of December 18, 1995.

The proposed action is in accordance with CP&L's request on behalf of its employee, the above-referenced applicant for a Senior Reactor Operator License, dated November 8, 1995, for an exemption from the requirements of 10 CFR 55.35(a).

The Need for the Proposed Action

The exemption requested would allow the applicant to be administered a written re-examination during the week of December 18, 1995. This re-examination would be scheduled to coincide with a previously scheduled NRC initial examination visit, and would provide for re-examination prior to the expiration of a two-month time period required by 10 CFR 55.35(a) before an applicant can file a new application in order to retake an initial examination.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the request. The proposed exemption does not change the knowledge and skills requirements for licensing operators, and because the applicant must pass a written examination to be licensed as a Senior Reactor Operator, this proposed exemption would not increase the risk of facility accidents. In addition, the formal action of licensing an operator does not authorize changes to the facility's existing safety limits, safety settings, power operations, or effluent limits.

Because no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure, the change will not increase the probability or consequences of accidents. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

Regarding potential nonradiological impacts, the proposed action involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the requested exemption. Denial of the application would not reduce environmental impacts of plant operation. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Brunswick Steam Electric Plant, Unit 1 and 2 dated January 1974.

Agencies and Persons Consulted

In accordance with its stated policy, on November 27, 1995, the staff consulted with the North Carolina State official, Mr. Johnny James, of the Division of Radiation Protection, North Carolina Department of Environmental, Commerce, and Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the licensee's request on behalf of its employee for an exemption dated November 8, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Dated at Rockville, Maryland, this 30th day of November, 1995.

For the Nuclear Regulatory Commission.

Stuart A. Richards,

Chief, Operator Licensing Branch, Division of Reactor Controls and Human Factors, Office of Nuclear Reactor Regulation.

[FR Doc. 95–29658 Filed 12–5–95; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards; Joint Meeting of the Subcommittees on Individual Plant Examinations/Probabilistic Risk Assessment; Postponement

A joint meeting of the ACRS Subcommittees on Individual Plant Examinations (IPEs) and on Probabilistic Risk Assessment (PRA) scheduled to be held on December 14 and 15, 1995, in Room T–2B3, 11545 Rockville Pike, Rockville, Maryland has been postponed due to the need for additional information from the NRC staff. Notice of this meeting was published in the **Federal Register** on Monday, November 27, 1995 (60 FR 58393). When the meeting is rescheduled, it will be announced in the **Federal Register** Notice.

For further information contact: Dr. Medhat El-Zeftawy, the cognizant ACRS staff engineer, (telephone 301/415–6889) between 7:30 a.m. and 4:15 p.m. (EST).

Dated: November 28, 1995.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 95–29660 Filed 12–05–95; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 80th meeting on December 19, 20 and 21, 1995, Room T–2B3, at 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for this meeting shall be as follows:

Tuesday, December 19, 1995—8:30 A.M. until 6:00 P.M.

Wednesday, December 20, 1995—8:30 A.M. until 6:00 P.M.

Thursday, December 21, 1995—8:30 A.M. until 6:00 P.M.

During this meeting the Committee plans to consider the following:

A. Review of NRC's Programmatic Approach to Low-Level Waste Management. The Committee will conclude its deliberations and issue a report on the alternatives to the future course of the NRC's Low-Level Radioactive Waste Disposal Program.

B. National Research Council/ National Academy of Science Committee Report on the Technical Bases for Yucca Mountain Standards. The NRC staff will discuss with the Committee its insights on the subject report.

C. International Atomic Energy Agency (IAEA) Activities. The Committee will meet with a representative of the IAEA to discuss relevant waste-related activities.

D. Meeting with the Director, NRC's Division of Waste Management, Office of Nuclear Materials Safety and Safeguards. The Director will discuss items of current interest related to the Division of Waste Management programs. Among the topics to be discussed: pilot test of survey and statistical methodology for site decommissioning, status of HLW program, and public comment on program options for NRC's LLW program.

E. ACNW Priorities. The Committee will review Task Action Plans for the initial grouping of priority review issues identified by the Committee.

F. Committee Activities/Future Agenda. The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will also discuss ACNW-related activities of individual members.

G. Miscellaneous. The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on September 27, 1995 (60 FR 49924). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Chief, Nuclear Waste Branch, Mr. Richard K. Major, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief, Nuclear Waste Branch prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Mr. Major if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Richard K. Major, Chief, Nuclear Waste Branch (telephone 301/415–7366), between 8:00 A.M. and 5:00 P.M. EDT.

ACNW meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the "NRC MAIN MENU." Direct Dial Access number to FedWorld is (800) 303–9672; the local direct dial number is 703–321–3339.

The ACNW meeting dates for Calendar Year 1996 are provided below:

ACNW Meeting No. and 1996 ACNW Meeting Dates

81—January 24–26, 1996

82—March 27–29, 1996

83—May 2–4 or May 15–17, 1996 (TBD)

84—June 26–28, 1996

85—August 21–23, 1996

86—September 25–27, 1996

87—October 22–23, 1996

88—December 10–12, 1996

Dated: November 30, 1995.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 95–29661 Filed 12–5–95; 8:45 am]

BILLING CODE 7590–01–P

UNITED STATES NUCLEAR REGULATORY COMMISSION

Biweekly Notice

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from November 10, 1995, through November 24, 1995. The last biweekly notice was published on November 27, 1995 (60 FR 58395).

Notice Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the

expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By January 5, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248–5100 (in Missouri 1-(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona

Date of amendments request: May 2, 1995

Description of amendments request: The proposed change revises the large-break loss-of-coolant accident (LOCA) dose consequences. The large-break LOCA dose calculation is being changed to include an additional release path through allowable steam generator tube leakage to the atmospheric dump valves (ADVs) or turbine bypass valves (TBVs).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability or consequences of an accident previously evaluated are not significantly increased by this change to the large break LOCA dose consequences. This change has no effect on the LOCA safety analysis for emergency core cooling system performance, which demonstrates conformance to the acceptance criteria of 10 CFR 50.46, as described in the PVNGS Updated Final safety Analysis Section 6.3.3. This change has no effect on structures, systems or components prior to a LOCA or any other accident. The new radiological consequences of the revised large break LOCA dose calculation are below 10 CFR 100 limits for the exclusion area boundary (EAB) and low population zone (LPZ), and the 10 CFR 50, Appendix A, GDC 19 limits for the control room, as shown in Table 1–1, Column C. The NRC has previously approved changes to the PVNGS LOCA dose consequences with the acceptance criteria that the doses are still within the guidelines set forth in 10 CFR 100 and GDC 19. This acceptance criteria is described in the Safety Evaluation related to amendment Nos. 64, 50, and 37 to PVNGS Units 1, 2, and 3 respectively, dated September 8, 1992.

The LOCA dose calculation is being changed to include an additional release path through allowable steam generator tube leakage to the ADVs or TBVs. This change is necessary to reflect a revised calculation assumption that, following a large break LOCA, the secondary system pressure would fall below reactor coolant system pressure and containment pressure when operators cooldown the steam generators by using ADVs or the TBVs (in accordance with the safety analysis and EOPs [emergency operating procedures]). It is desirable to use the ADVs or TBVs to vent secondary system steam and thus reduce heat input to the reactor coolant system following a large break LOCA. No other LOCA analysis assumptions are being changed, and no changes are being made to structures, systems, components or procedures.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This change has no impact on any structures, systems, components, or procedures. The only impact is the revised radiological consequences of a large break LOCA to include an additional release path, as discussed in the response to Standard 1 above. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

This change to the large break LOCA dose consequences does not involve a significant reduction in a margin of safety. The new radiological consequences of the revised large break LOCA dose calculation are below 10 CFR 100 limits for the EAB and LPZ, and the 10 CFR 50, Appendix A, GDC 19 limits for the control room, as described in the response to Standard 1 above. The NRC has previously approved changes to the PVNGS LOCA dose consequences with the acceptance criteria that the doses are still within the guidelines set forth in 10 CFR 100 and GDC 19. This acceptance criteria is described in the Safety Evaluation related to amendment Nos. 64, 50, and 37 to PVNGS Units 1, 2, and 3 respectively, dated September 8, 1992. No equipment qualification is affected by the new assumption of a release path through the secondary system following a large break LOCA, and no post LOCA radiation zones will be changed. This change has no impact on any structures, systems, components, or procedures.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involve no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999

NRC Project Director: William H. Bateman

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: November 22, 1995

Description of amendment request: The current Technical Specifications (TS) Section 3.3.4.2 describes the limiting condition during which components in the Service Water (SW) system may be inoperable. The TS Section 3.3.4.2 states, in part, "During power operation, the requirements of 3.3.4.1 may be modified to allow any one of the following components to be inoperable provided the remaining systems are in continuous operation." The proposed change will delete the qualifying statement,"... provided the remaining systems are in continuous operation," from TS Section 3.3.4.2. Currently, this statement requires the "remaining systems to be in continuous operation" while allowing one SW loop header, or one SW pump, or one SW booster pump to be inoperable for a period of 24 hours.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change would remove the requirement for the remaining SW system components to be in continuous operation while one TS-required component is inoperable. Rather, the remaining components would remain operable, and no change would be made in normal system operation. The SW system provides an accident mitigation function and is not involved in accident initiation sequences. Therefore, the proposed change would not involve a significant increase in the probability of an accident previously evaluated.

The capacity of the SW system is such that its accident mitigation function can be performed by operation of a maximum of two SW pumps, one SW booster pumps, and one SW header. While a TS-required component is inoperable, sufficient accident mitigation capability is provided by the remaining operable components, rather than requiring the remaining systems to be in continuous operation. Therefore, the proposed change would not cause a significant increase in the consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change would remove the requirement for the remaining SW system

components to be in continuous operation while one TS-required component is inoperable. Rather, the remaining components would remain operable. The proposed change would not change the normal operation of the system, nor would any physical modifications result from the change. The function and capability of the SW systems would remain unchanged. Therefore, the proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

The proposed change would remove the requirement for the remaining SW system components to be in continuous operation while one allowed TS-required component is inoperable. Rather, the remaining TS-required components would remain operable. Adequate assurance of operability is maintained by performance of regular surveillance testing. Maintaining operable status rather than placing equipment in continuous operation does not result in a change in the ability of the SW system to perform its intended function, since the system provides an automatic response to accident conditions, and the system possesses adequate capacity to perform its normal operating function with one allowed TS-required component inoperable. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

NRC Project Director: David B. Matthews

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: October 24, 1995

Description of amendment request: The proposed amendment will increase the trip setpoints and allowable values for the low power block (P–7).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with 10CFR50.92, CYAPCO has reviewed the proposed change and has concluded that it does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not compromised. The proposed change does not involve an SHC because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change will relax the power level values for the P–7 interlock by 2 percent. This change affects both the P–7 and P–7N interlocks. The P–7 interlock affects reactor trips on 1) low flow in more than one reactor coolant loop, 2) reactor coolant pump bus under voltage, 3) more than one reactor coolant pump breaker open, 4) main steam line isolation valve closure, 5) turbine trip, and 6) variable low pressure. The P–7 interlock automatically blocks these reactor trips on decreasing power and automatically unblocks these reactor trips on increasing power. The P–7N interlock affects the reactor trip on wide range, neutron flux, high startup rate. P–7N automatically enables this reactor trip on decreasing power level and automatically blocks this reactor trip on increasing power level. The Applicable Modes requirement and Action Statements for the P–7 interlock and the reactor trips associated with both P–7 and P–7N in the Instrumentation Channel and Surveillance Requirements of Technical Specification 3/4.3.1 are being changed by 2 percent to be consistent with the change to P–7. The interlock setpoint cannot cause an accident. Also, the proposed 2 percent increase in the power level still results in a power level well below the power level at which the P–7 interlocked reactor trips are required for accident mitigation, as well as maintaining the high startup rate trip enabled at a higher power level. This proposed power level is consistent with the technical specification requirement prior to the conversion to standard format technical specifications and is also consistent with the Standard Westinghouse technical specification value. Therefore, the proposed change can neither increase the consequences of the design basis accident nor the probability of occurrence of the design basis accidents.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change only modifies the power level for the P–7 and P–7N interlocks. The proposed setpoint is a power level at which stable plant conditions are easier to maintain while transferring the power supply for the reactor coolant pumps between offsite power and the main generator. The setpoint is also well below the power level for which the reactor protection afforded by the trips that are bypassed by P–7 is needed. This cannot create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in a margin of safety.

The proposed change maintains the power level for the P–7 interlock below the power level for which the reactor trips that are blocked by the P–7 interlock are required. It also raises the power level to a value at which it is easier to maintain stable plant conditions. This will reduce the likelihood of an automatic reactor trip during the transferring of power for the reactor coolant pumps between offsite power and the main generator. The proposed change will result in the high startup rate reactor trip being enabled at a higher power level. This is conservative since it expands the range of coverage for the trip. Therefore, the proposed change does not impact the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, CT 06457.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: November 1, 1995

Description of amendment request: The proposed amendment will modifiy Surveillance Requirement 4.6.3.2, "Containment Isolation Valves," (CIVs) to change the surveillance interval from at least once per 18 months to at least once per refueling interval.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

CYAPCO has reviewed the proposed change in accordance with 10CFR50.92 and concluded that the change does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not compromised. The proposed change does not involve an SHC because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to Surveillance Requirement 4.6.3.2 of the Haddam Neck Plant Technical Specifications extends the frequency for verifying that each CIV actuates to its required position in response to a safety injection actuation test signal. The proposal would extend the frequency from at least once per 18 months to at least once per refueling interval (24 months + 25% as allowed by Technical Specification 4.0.2).

The proposed change does not alter the intent or method by which the surveillance is conducted, does not involve any physical changes to the plant, does not alter the way any structure, system, or component functions, and does not modify the manner in which the plant is operated. As such, the proposed change in the frequency of Surveillance Requirement 4.6.3.2 will not degrade the ability of the CIVs to perform their safety function.

Additional assurance of CIV operability is provided by Surveillance Requirement 4.6.3.3. Surveillance Requirement 4.6.3.3 requires the confirmation of the mechanical operability of the CIVs by the inservice inspection program. The proposed change does not modify these requirements.

Equipment performance over the last four operating cycles was evaluated to determine the impact of extending the frequency of Surveillance Requirement 4.6.3.2. This evaluation included a review of surveillance results, preventive maintenance records, and corrective maintenance records. It has been concluded that the CIVs are highly reliable, and that there is no indication that the proposed extension could cause deterioration in valve condition or performance.

As such, the proposed change to the frequency of Surveillance Requirement 4.6.3.2 will not degrade the ability of the CIVs to perform their safety function.

Based on the above, the proposed change to Surveillance Requirement 4.6.3.2 of the Haddam Neck Plant Technical Specifications does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change to Surveillance Requirement 4.6.3.2 of the Haddam Neck Plant Technical Specifications extends the frequency for verifying that each CIV actuates to its required position in response to a safety injection actuation test signal. The proposal would extend the frequency from at least once per 18 months to at least once per refueling interval (24 months + 25% as allowed by Technical Specification 4.0.2).

The proposed change does not alter the intent or method by which the surveillance is conducted, does not involve any physical changes to the plant, does not alter the way any structure, system, or component functions, and does not modify the manner in which the plant is operated. As such, the proposed change in the frequency of Surveillance Requirement 4.6.3.2 will not degrade the ability of the CIVs to perform their safety function.

Additional assurance of the operability of the CIVs is provided by Surveillance Requirement 4.6.3.3.

Equipment performance over the last four operating cycles was evaluated to determine the impact of extending the frequency of Surveillance Requirement 4.6.3.2. This evaluation included a review of surveillance results, preventive maintenance records, and corrective maintenance records. It has been concluded that the CIVs are highly reliable, and that there is no indication that the proposed extension could cause deterioration in valve condition or performance.

Based on the above, the proposed change to Surveillance Requirement 4.6.3.2 of the Haddam Neck Plant Technical Specifications does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, CT 06457.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: November 8, 1995, as supplemented November 17, 1995

Description of amendment request: The proposed amendment would remove the prescriptive Type A containment leakage test rate frequency of 40 plus or minus 10 months and add a reference to perform containment leakage rate tests in accordance with the criteria specified in Appendix J of 10 CFR Part 50 as amended by approved exemptions. In addition, the proposed amendment would revise the test pressure for Type B and C testing to correct a typographical error.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Leakage test rate frequency

1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change is administrative in nature and does not impact plant systems, structures or components. The proposed change will allow the facility's technical specifications to be revised to allow containment sphere leakage testing in accordance with Appendix J to 10 CFR Part 50 as modified by approved exemptions.

2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This change is administrative in nature and does not impact plant syst ems, structures or components. The proposed change will allow the facility's technical specifications to be revised to allow containment sphere leakage testing in accordance with Appendix J to 10 CFR Part 50 as modified by approved exemptions.

3)The proposed change does not involve a significant reduction in a margin of safety.

This change is administrative in nature and does not impact plant systems, structures or components. The underlying purpose of Appendix J is still achieved. Appendix J states that the leakage test requirements provide for periodic verification testing of the leak tightness integrity of the primary reactor containment. The appendix further states that the purpose of the tests is to assure that leakage through the primary containment shall not exceed the allowable leakage rate values as specified in the technical specifications or associated bases. As stated previously, for Big Rock Point and a large percentage of other plants, the Appendix J Type B and C testing programs provide the most significant and meaningful assessment of containment leak tightness. The testing history and structural capability of the containment establish that there is significant assurance that the extended interval between Type A tests will not adversely impact the integrity of the containment.

Test pressure revision

As stated in the technical specification change request, this revision is being performed to be consistent with accident pressure, P_a, used for Big Rock Point. 20 psig is a typographical error. 23 psig has always been used for these tests.

The proposed change does not:

1) involve a significant increase in the probability or consequences of an accident previously evaluated.

This change is administrative in nature and does not impact plant systems, structures or components. The proposed change will allow the facility's technical specifications to be revised to reflect current containment sphere leakage testing in accordance with Appendix J to 10 CFR Part 50.

2) create the possibility of a new or different kind of accident from any accident previously evaluated.

This change is administrative in nature and does not impact plant systems, structures or components. The proposed change will allow the facility's technical specifications to be revised to reflect current containment sphere leakage testing in accordance with Appendix J to 10 CFR Part 50.

3) involve a significant reduction in a margin of safety.

This change is administrative in nature and does not impact plant systems, structures or components.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201

NRC Project Director: Brian E. Holian, Acting

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: October 16, 1995

Description of amendment request: Appendix J of 10 CFR Part 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors," has recently been revised to include Option B. This option allows the implementation of a performance based Type B and C testing program. The proposed change will add a footnote to Technical Specification (TS) 4.6.1.2.d stating that the Type B and C tests scheduled for Unit 1 refueling outage Cycle 6 (1R6) will be conducted in accordance with Option B and using the guidance of Regulatory Guide 1.163, Revision 0. This option is being incorporated into the licensee's request to implement the improved TS. However, the improved TS are not scheduled to become effective until after the Unit 1 refueling outage 1R6.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The change does not involve a significant increase in probability or consequences of an accident previously evaluated. The proposed change does not involve a change to structures, systems, or components which would affect the probability or consequences of an accident previously evaluated in the Vogtle Electric Generating Plant (VEGP) Final Safety Analysis Report (FSAR). The proposed change only provides a mechanism within the Technical Specifications for implementing a performance-based method of determining the frequency for leak rate testing which has been approved by the NRC via a revision to 10 CFR 50, Appendix J.

2. The proposed change will not create the possibility of a new or different kind of accident from any accident previously analyzed. The amendment will not change the design, configuration, or method of plant operation. It only allows for the implementation of Option B of 10 CFR 50, Appendix J for Unit 1 refueling outage 1R6 without violating the plant Technical Specifications.

3. Operation of VEGP, Unit 1, in accordance with the proposed change will not involve a significant reduction in the margin of safety. The proposed change does not affect a safety limit, an LCO [limiting condition for operation], or the way plant equipment is operated. The NRC is aware that changes similar to this proposed change are required in order to implement Option B of 10 CFR 50, Appendix J. In fact, the staff indicates in Paragraph V.B. of Appendix J that Option B or parts thereof may be adopted by a licensee 30 days after the rule becomes effective by submitting notification of its implementing plan and a request for revision to Technical Specifications. Since the NRC has approved the provision for performance-based testing and must approve this Technical Specification[] change before the performance-based Option B can be implemented, the margin of safety will not be significantly reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308

NRC Project Director: Herbert N. Berkow

Gulf States Utilities Company, Cajun Electric Power Cooperative, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: May 30, 1995 (noticed in the **Federal Register** July 5, 1995, (60 FR 35080) as supplemented by letter dated November 20, 1995

Description of amendment request: The proposed amendment would revise the Technical Specifications as follows:

1. The Surveillance Frequency for the drywell bypass test is changed from 18 months to 10 years with an increased testing frequency required if performance degrades.

2. The following changes are requested for the drywell air lock testing: (a) the leakage rate surveillance is moved from the air lock Limiting Condition for Operation (LCO) to the drywell LCO, (b) the requirement for the air lock to meet a specific overall leakage limit is deleted, (c) the Note that an inoperable air lock door does not invalidate the previous air lock leakage test is deleted, (d) the Note which required that the air lock leakage test at 3 psid be preceded by pressurizing the air lock to 19.2 psid is moved to the bases, and (e) the Surveillance Frequency for the air lock leakage test and interlock test is changed from 18 months to 24 months.

3. The Actions Notes in the drywell air lock LCO and the drywell isolation valve LCO that identifies that the Actions required by the drywell LCO must be taken when the drywell bypass leakage limit is not met is deleted.

4. The requirement for the drywell air lock seal leakage rate to meet a specific leakage limit is deleted.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration for River Bend Station (RBS) and Grand Gulf Nuclear Station (GGNS), which is presented below:

I. The proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

The requested changes are either administrative changes which clarify the format of the requirement or change the requirement to match the design bases of the plant, a change which relocates the requirement to the Technical Specification Bases, or a change in surveillance interval. Each of these types of change are discussed below:

1. The administrative changes clarify the format of the requirement or change therequirement to match the design bases of the plant. Clarifying administrative format of the Technical Specifications does not result in any changes to the Technical Specification requirements and, as a result, does not involve a significant increase in the probability or consequences of an accident previously evaluated. Also, changing the requirements of the Technical Specifications to more closely match the design bases of the plant will continue to assure that the plant will respond as assumed in the accident analyses and, as a result, does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes relocate information to the Technical Specification Bases. In the Technical Specifications Bases the relocated information will be maintained in accordance with 10 CFR 50.59 and subject to the change control provisions in Chapter 5 of Technical Specifications. Since any changes to the Technical Specifications Bases will be evaluated per the requirements of 10 CFR 50.59, no increase (significant or insignificant) in the probability or consequences of an accident previously evaluated will be allowed. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

3. The proposed changes in frequency for the drywell bypass leakage and drywell air lock surveillances will continue to ensure that no paths exist through passive drywell boundary components that would permit gross leakage from the drywell to the primary containment air space and result in bypassing the primary containment pressure-suppression feature beyond the design basis limit. The Mark III primary containment system satisfies General Design Criterion 16 of Appendix A to 10 CFR Part 50. Maximum drywell bypass leakage was determined previously by reviewing the full range of postulated primary system break sizes. The limiting case was a primary system small break loss of coolant accident (LOCA) and yielded a design allowable drywell bypass leakage rate limit of approximately 35,000 scfm for GGNS and 46,000 scfm (the Technical Specification limit is based on a lower limit of 40,110 scfm) for RBS. The Technical Specifications acceptable limit for the bypass leakage following a surveillance is less than 10% of this design basis value. The most recent bypass leakage value was approximately 2.5% for GGNS and .91% for RBS of the design allowable leakage rate limit for the limiting event. EOI is committed to maintaining programmatic and oversight controls that ensure that drywell bypass leakage remains a small fraction of the design allowable leakage limit.

The drywell is typically exposed to essentially 0 psig during normal plant operation and 3 psig during drywell bypass leak rate testing. These pressures are considerably lower than the structural integrity test pressure and are less likely to initiate a crack or cause an existing crack to grow. Visual inspections of the accessible drywell surfaces that have been performed since the structural integrity tests have not revealed the presence of additional cracking or other abnormalities. Therefore, additional cracking of the drywell structure is not expected due to testing or operation and, similar to the justification for the ten year 10 CFR 50 Appendix J Type A test interval, it is not considered credible for the passive drywell structure to begin to leak sufficiently to impact the design drywell bypass leakage limit.

The primary containment's ability to perform its safety function is fairly insensitive to the amount of drywell leakage, thereby providing a margin to loss of the drywell safety function that is not normally available for safety systems. This insensitivity is demonstrated by the extremely high limiting event design basis allowable leakage for the drywell (e.g., 35,000 scfm for GGNS and 46,000 scfm for RBS). The limiting leakage is almost an order of magnitude higher for other events. Additionally, an even higher allowable leakage can be realistically accommodated by the primary containment due to the margins in the containment design. Because of the margins available, it will take valves in multiple penetration flow paths leaking excessively to cause the primary containment to fail as a result of overpressurization, the probability that drywell isolation valve leakage will result in primary containment failure due to excessive drywell leakage is not considered significant and this drywell/primary containment failure mode is not considered credible.

The proposed Technical Specification changes have no significant impact on the GGNS Individual Plant Examination (IPE) or the RBS IPE conducted per NRC Generic Letter 88–20. The IPEs considered overpressurization failure of primary containment as part of the primary containment performance assessment. Due to the magnitude of acceptable drywell leakage and the extremely low probabilities of achieving such leakage, primary containment failure due to preexisting excessive drywell leakage was considered a non significant contributor to primary containment failure. Primary containment overpressurization failure can occur with or without preexisting excessive drywell leakage in a severe accident. This is due to physical phenomena associated with potentially extreme environmental conditions inside primary containment following a severe accident. However, the calculated frequency of such extreme conditions is very small. The proposed changes do not impact the IPE evaluated phenomena causing primary containment overpressurization failure nor significantly increase the probability that the drywell has preexisting excessive leakage and therefore would not contribute to these accident scenarios.

For the reasons discussed above, the proposed changes do not have any significant risk impact to accidents previously evaluated and do not significantly increase the consequences of an accident previously evaluated. Additionally, drywell leakage is not the initiator of any accident evaluated; therefore, changes in the frequency of the surveillance for drywell leakage does not increase the probability of any accident evaluated.

Therefore, the proposed changes do not significantly increase the probability or consequences of an accident previously evaluated.

II. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The requested changes are either administrative changes which clarify the format of the requirement or change the requirement to match the design bases of the plant, a change which relocates the requirement to the Technical Specification Bases, or a change in surveillance interval. Each of these types of change are discussed below:

1. The administrative changes in the Technical Specification requirements do not involve a physical alteration of the plant (no new or different type of equipment will be installed) nor does it change the methods governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

2. The proposed relocation of requirements does not involve a physical alteration of the plant (no new or different type of equipment will be installed) nor does it change the methods governing normal plant operation. The proposed change will not impose or eliminate any requirements. Adequate control of the information will be maintained in the Technical Specification Bases. Thus, the change proposed does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change modifies the surveillance frequency for drywell bypass leakage and drywell air lock surveillances. The changes only impact the test frequency and do not result in any change in the response of the equipment to an accident. The changes do not alter equipment design or capabilities. The changes do not present any new or additional failure mechanisms. The drywell is passive in nature and the surveillance will continue to verify that its integrity has not deteriorated. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

III. The proposed change does not involve a significant reduction in a margin of safety.

The requested changes are either administrative changes which clarify the format of the requirement or change the requirement to match the design bases of the plant, a change which relocates the requirement to the Technical Specification Bases, or a change in surveillance interval. Each of these types of changes are discussed below:

1. The administrative changes in the Technical Specification requirements do not involve a physical alteration of the plant (no new or different type of equipment will be installed) nor does it change the methods governing normal plant operation. Thus, this change does not cause a significant reduction in the margin of safety.

2. The relocation of requirements will not reduce a margin of safety because it has no impact on any safety analysis assumptions. In addition, the requirements to be transferred from the Technical Specifications to the Technical Specifications Bases are the same as the existing Technical Specifications. Since any future changes to these requirements in the Technical Specifications Bases will be evaluated per the requirements of 10 CFR 50.59, no reduction (significant or insignificant) in a margin of safety will be allowed.

3. The proposed change modifies the surveillance frequency for drywell bypass leakage and associated air lock surveillances. Reliability of drywell integrity is evidenced by the measured leakage rate during past drywell bypass leakage surveillances. Appropriate design basis assumptions will be upheld, even when combined with the complementary bypass leakage surveillances as proposed. Drywell integrity will continue to be tested by means of the proposed periodic drywell bypass leakage test, performance of the drywell air lock door latching and interlock mechanism surveillance, and performance of additional surveillances including excercising of drywell isolation valves. The combination of these surveillances will provide adequate assurance that drywell bypass leakage will not exceed the design basis limit. Margins of safety would not be reduced unless leakage rates exceeded the design allowable drywell bypass leakage limit. Therefore, the proposed change does not cause a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, LA 70803

Attorney for licensee: Mark Wetterhahn, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005

NRC Project Director: William D. Beckner

Gulf States Utilities Company, Cajun Electric Power Cooperative, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: October 26, 1995

Description of amendment request: The proposed amendment would revise the technical specifications for sixteen editorial changes and would delete the requirement for a program to prevent and detect Asiatic Clams (Corbicula) in the service water system (SWS). The editorial changes covers such things as removing systems or components that do not exist in the River Bend Station, correcting typographical errors, correcting to be consistent with the writers guide for Improved Technical Specifications, adding descriptions for systems to make them clear, and wording changes to be consistent with approved facility operations. The Corbicula program is no longer needed because the facility has been modified and SWS no longer takes water from the Mississippi River; source of the larvae and infestation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

EDITORIAL CHANGES

The purposed changes involves reformatting, renumbering and rewording of the existing Technical Specifications. The reformatting, renumbering and rewording process involves no technical changes to existing Technical Specifications. As such, these changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in methods governing normal plant operation. The proposed changes will not impose or eliminate any new or different requirements. Thus, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will not reduce a margin of safety because they have no impact on any safety analysis assumptions. These changes are administrative in nature. As such, no question of safety is involved, and the changes do not involve a significant reduction in a margin of safety.

CORBICULA PROGRAM

The proposed change deletes the program associated with the prevention and detection of Asiatic Clams (Corbicula) based upon improvements to the non-safety related Normal Service Water System (SWS). The source of makeup water to the SWS is no longer the Mississippi River, which is the source of Asiatic Clams. Demineralized water or well water is used eliminating the source of asiatic clams. To prevent biofouling SWS is treated with chlorine/bromine. This program is not considered as an initiator for any previously evaluated accident. Therefore, the proposed change will not increase the probability or consequences of any accident previously evaluated.

The proposed change introduces no new mode of plant operation and it does not involve a physical modification to the plant. The possibility of the SES becoming contaminated by any other means is highly unlikely since it is a "closed-loop" system. Therefore it does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Prevention of Asiatic Clam infestation in the SWS and associated safety-related equipment is ensured by the "closed-loop" design of the SWS. Post Refuel Outage (RF–4) inspections of the safety-related heat exchangers that interface with the "closed-loop" SWS have shown no evidence of clam infestations. Therefore, the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Mark Wetterhahn, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005

NRC Project Director: William D. Beckner

Gulf States Utilities Company, Cajun Electric Power Cooperative, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: November 20, 1995

Description of amendment request: The proposed amendment would revise the technical specifications to eliminate the response time testing requirements for selected Reactor Protection System Instrumentation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The purpose of the proposed Technical Specification (TS) change is to eliminate response time testing requirements for selected components in the Reactor Protection System (RPS). The Boiling Water reactors Owners' Group (BWROG) has completed an evaluating which demonstrates that response time testing is redundant to the other TS-required testing. These other tests, in conjunction with actions taken in response to NRC Bulletin 90–01, "Loss of Fill-Oil in Transmitters Manufactured by Rosemount," and Supplement 1, are sufficient to identify failure modes or degradation in instrument response times and ensure operation of the associated systems within acceptable limits. There are no known failure modes that can be detected by response time testing that cannot also be detected by the other TS-required testing. This evaluation was documented in NEDO–32291, "System Analyses for Elimination of Selected Response Time Testing Requirements," January 1994. Entergy Operations, Inc. (EOI) has confirmed the applicability of this evaluation to River Bend Station (RBS). In addition EOI will complete the actions identified in the NRC staff's safety evaluation of NEDO–32291.

Because of the continued application of other existing TS-required tests such as channel calibration, channel checks, channel functional tests, and logic system functional tests, the response time of these systems will be maintained within the acceptance limits assumed in plant safety analyses and required for successful mitigation of an initiating event. The proposed changes do not affect the capability of the associated systems to perform their intended function within their required response time, nor do the proposed changes themselves affect the operation of any equipment. As a result, EOI has concluded that the proposed changes do not involve a significant increase in the probability or the consequences of an accident previously evaluated.

The proposed changes only apply to the testing requirements for the components identified above and do not result in any physical change to these or other components or their operation. As a result, no new failure modes are introduced. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accidents previously evaluated.

The current TS-required response times are based on the maximum allowable values as assumed in the plant safety analyses. These analyses conservatively establish the margin of safety. As described above, the proposed changes do not affect the capability of the associated systems to perform their intended function within the allowed response time used as the basis for the plant safety analyses. The potential failure modes for the components within the scope of this request were evaluated for impact on instrument response time. This evaluation confirmed that, with the exception of loss of fill-oil of Rosemount transmitters, the remaining TS-required testing is sufficient to identify failure modes or degradation in instrument response times and ensure operation of the instrument within the scope of this request is within acceptable limits. The actions taken in response to NRC Bulletin 90–09 and Supplement 1 are adequate to identify loss of fill-oil failures of Rosemount transmitters. As a result, it has been concluded that plant and systems response to an initiating event will remain in compliance with the assumptions of the safety analysis.

Further, although not explicitly evaluated, the proposed changes will provide an improvement to plant safety and operation by reducing the time safety systems are unavailable, reducing the potential for safety system actuations, reducing plant shutdown risk, limiting radiation exposure to plant personnel, and eliminating the diversion of key personnel resources to conduct unnecessary testing. Therefore, EOI has concluded that this request will result in an overall increase in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, LA 70803

Attorney for licensee: Mark Wetterhahn, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005

NRC Project Director: William D. Beckner

North Atlantic Energy Service Corporation, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: September 22, 1995

Description of amendment request: The proposed amendment would modify a requirement of the Seabrook Station, Unit No. 1 Technical Specifications. Specifically, the proposed amendment would change the ACTION referenced in Table 3.3–3, Engineered Safety Features Actuation System Instrumentation, for Functional Unit 8.b, Automatic Switchover to Containment Sump/RWST Level Low-Low. The ACTION requirement would be changed to ACTION 15 from ACTION 18. ACTION 15 requires an inoperable channel to be placed in bypass (with no time limit specified) while ACTION 18 requires an inoperable channel to be placed in the tripped condition within 6 hours.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because the proposed change would result in an inoperable Functional Unit 8.b. protective channel being placed in the bypassed condition vice tripped condition. Functional Unit 8.b. is not involved in any accident initiation sequence; therefore, the probability of a previously-analyzed accident is not increased. Placing an inoperable Functional Unit 8.b. in bypass vice trip reduces the probability of premature opening of the containment building sump isolation valves thereby reducing the potential for increasing the consequences of a previously-analyzed accident. Thus, the consequences of a previously-analyzed accident is not increased.

B. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the change does not reduce the minimum required number of channels of instrumentation to be operable. The change does not alter the function of or affect the failure modes of Functional Unit 8.b. instrumentation channels. The proposed change does not otherwise affect the manner by which the facility is operated, and it does not involve any changes to equipment or features which affect the operational characteristics of the facility.

C. The change does not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the change does not reduce the minimum required number of channels of instrumentation to be operable, and it does not involve any changes to equipment or features which affect the operational characteristics of the facility. Therefore, the protection previously provided remains unchanged.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Exeter Public Library, Founders Park, Exeter, NH 03833.

Attorney for licensee: Lillian M. Cuoco, Esquire, Northeast Utilities Service Company, Post Office Box 270, Hartford CT 06141–0270.

NRC Project Director: Phillip F. McKee

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London, Connecticut

Date of amendment request: May 26, 1995, supplemented and revised October 20, 1995.

Description of amendment request: The proposed changes would modify TS 3.8.1.1., "Electrical Power Systems, A.C. Sources, Operating," TS 3.8.1.2, "Electrical Power Systems, Shutdown," TS 3.8.2.2, "Electrical Power Systems, A.C. Distribution - Shutdown," and TS 3.8.2.4, "Electrical Power Systems, D.C. Distribution - Shutdown," to provide operational flexibility as well as consistency between action statements and to eliminate certain surveillance requirements that are not applicable in Modes 5 or 6.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (SHC), which is presented below:

In accordance with 10 CFR 50.92, NNECO has reviewed the proposed changes and has concluded that they do not involve an SHC. The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not compromised. The proposed changes do not involve an SHC because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to Surveillance Requirement 4.8.1.1.1 is being made because presently, the surveillance requirement for demonstrating offsite sources are operable states that "two" independent circuits are required. The surveillance requirement is referenced for both operating and shutdown modes. While it is accurate for operating modes, it is inconsistent with the limiting condition for operation for shutdown. The proposed change is safe because it renders the surveillance requirement consistent with the applicable limiting condition for operation (i.e., operating or shutdown) and eliminates a potential source of confusion.

The change to Surveillance Requirement 4.8.1.2 and Technical Specification 3.8.2.2 merely clarifies the diesel generator surveillance and operability requirements for Modes 5 and 6 and renders action statements for related technical specification sections consistent with and appropriate for operational Modes 5 and 6.

Regarding diesel generator surveillance requirements, automatic A.C. power for LNP events in Modes 5 and 6 is not required. This is validated by the fact that the undervoltage sensors are only required to be operable in Modes 1, 2 and 3 to meet technical specifications. Because the undervoltage sensors provide the logic that results in actuation of the sequencer, it follows that the sequencer need not be operable in Modes 5 and 6. Accordingly, the sequencer is not required to support operability of the available diesel generator in Modes 5 and 6. Further, because SIAS is blocked in Modes 5 and 6, automatic start of the diesel generator upon receipt of a SIAS is similarly not required to support operability of the diesel generator in Modes 5 and 6.

Additionally, operation of the diesel generator in parallel with the system during Modes 5 and 6 is not required to perform its intended safety function. In fact, such operation may compromise both sources as the result of a single event.

Since automatic A.C. power is not credited in the mitigation of Mode 5 and 6 events and accidents, such as fuel handling accidents, there is no increase in the probability or consequences of previously evaluated accidents.

The action statement in Technical Specification 3.8.2.2 has been revised to cite actions that are more appropriate for Modes 5 and 6 for Millstone Unit No. 2. This is due to the ability to maintain the plant in a safe condition without needing to automatically load the diesel generator through the sequencers in Modes 5 and 6. In addition, the proposed change is consistent with the CE Owner's Group Standard Technical Specification and with other Millstone Unit No. 2 action statements. Consequently, there is no increase in the probability or consequences of previously evaluated accidents.

The change to TS 3.8.2.4 merely renders the action statement consistent with, and appropriate for, operational Modes 5 and 6.

Since D.C. power is not credited in the mitigation of Mode 5 and 6 events and accidents, such as fuel handling accidents, there is no increase in the probability or consequences of previously evaluated accidents.

The action statement in TS 3.8.2.4 has been revised to cite actions that are more appropriate for Modes 5 and 6 for Millstone Unit No. 2. This is due to the ability to maintain the plant in a safe condition without D.C. power distribution available in Modes 5 and 6. In addition, the proposed change is consistent with the CE Owner's Group Standard Technical

Specifications (NUREG–1432) and with other Millstone Unit No. 2 action statements. Consequently, there is no increase in the probability or consequences of previously evaluated accidents.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not alter or affect the design, function, failure mode, or operation of the plant. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes to the technical specifications provides greater consistency between the action statements and clarifies which surveillance requirements are required in Modes 5 and 6. Since the diesel generators are not required to be loaded automatically in Modes 5 and 6, and since it is part of our shutdown risk management program to assure that adequate cooling is able to be provided, and since the diesel will still be verified to start and achieve rated speed, the proposed changes to the technical specifications do not reduce the margin of safety.

The proposed change to the TS provides greater consistency among action statements during Modes 5 and 6. Since the D.C. distribution system is not credited in the mitigation of Mode 5 and 6 events and accidents, and since it is part of our shutdown risk management program to assure that adequate fuel cooling is able to be provided, the proposed change to the TS does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: June 27, 1995, as supplemented July 21, 1995

Description of amendment request: The amendment revises the Technical Specifications (TS) to relocate TS requirements for the containment purge exhaust and supply valves, and to remove a duplicate testing requirement for the safety injection input from engineered safety features from the TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

... The proposed changes do not involve an SHC [significant hazards consideration] because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The first proposed change relocates the operability and surveillance requirements for the containment high range radiation monitors from Technical Specification Section 3.3.3 to Technical Specification Section 3.3.2. The proposed changes are administrative in nature. The proposed changes do not alter the way any structure, system, or component functions and do not modify the manner in which the plant is operated and do not involve any physical changes to the plant.

The second proposed modification will delete the testing requirement for functional unit 16, "Safety Injection Input from ESF," of Table 4.3–1 because the logic circuitry that processes

the safety injection signals and produces a reactor trip is tested under functional unit 19 "Automatic Trip and Interlock Logic," and the testing is performed on a more frequent basis (i.e., on a monthly staggered bases versus on an 18-month frequency). In addition, the same logic testing is accomplished with an 18-month TADOT of functional unit 1.a of Table 4.3–2 and with a monthly staggered actuation logic testing of functional unit 16 of Table 4.3–2. This testing ensures that operability of the logic under functional unit 16 of Table 4.3–1 is verified. The other tests will continue to verify the operability of the reactor trip system and that a reactor trip will be initiated when required.

Therefore, there is no change in the potential for an increase in the consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes do not affect the operation or response of any plant equipment or introduce any new failure mechanisms. The proposed elimination of the testing requirement line item does not affect the test results since the logic circuitry that processes the safety injection signal and produces a reactor trip will be tested and is tested under functional unit 19 of Table 4.3–1. As such, the changes do not create the possibility of a new or different kind of accident previously evaluated.

3. Involve a significant reduction in the margin of safety.

The proposed changes do not have any adverse impact on the protective boundaries nor do they affect the consequences of any accident analyzed. The operability and surveillance requirements, although relocated to other technical specifications, will still ensure that the system (the radiation monitors) is tested and within limits. The proposed elimination of the testing equipment will not change the performance or operating conditions of the safety systems. The operable reactor trip system instrumentation ensures that the assumptions in the Bases of the Technical Specifications are not affected and ensures that the margin of safety is not reduced. Therefore, the proposed changes do not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: November 14, 1994

Description of amendment requests: The proposed amendment would revise the combined Technical Specifications (TS) for the Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, for the slave relay test frequency from quarterly (Q) to refueling (R). The request would also remove table notation 4 from Table 4.3–2. The associated Bases would also be appropriately revised.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The results of WCAPs 14117 and 13878 demonstrate that slave relays are highly reliable. The WCAPs also provide guidance to assure that slave relays remain highly reliable. The aging assessment concludes that the age/temperature-related degradation of all ND relays, and NE relays produced after May 1990, is sufficiently slow such that a refueling frequency surveillance interval will not significantly increase the probability of slave relay failures. Finally, the evaluation of the interposing slave relays in the emergency diesel generator start circuitry, control room ventilation and auxiliary building ventilation realignments, steam generator blowdown isolation and radwaste isolation systems has concluded that based on the tests of the interposing relays performed during other equipment testing, reasonable assurance is provided that failures will be identified if the associated slave relays are tested on a refueling frequency.

The removal of table notation 4 from TS Table 4.3–2 is an administrative change that eliminates unnecessary redundancy from the TS and does not affect plant operation.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not alter the performance of the ESFAS mitigation systems assumed in the plant safety analysis. Changing the interval for periodically verifying ESFAS slave relays (assuring equipment operability) will not create any new accident initiators or scenarios.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated for DCPP.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes do not affect the total ESFAS response assumed in the safety analysis since the reliability of the slave relays will not be significantly affected by the increased surveillance frequency.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: William H. Bateman

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: August 18, 1995, as supplemented on November 1, 1995

Description of amendment request: The proposed amendment would revise the Operating License and Technical Specifications to allow for a power uprate to 2900 MWt. The current maximum power level is 2775 MWt.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The probability or consequences of an accident previously evaluated is not significantly increased.

Implementation of uprate power operation does not contribute to any accident evaluated in the FSAR [Final Safety Analysis Report]. The NSSS [Nuclear Steam Supply System] Components (RV [reactor vessel], RCPs [reactor coolant pumps], CRDMs [control rod drive mechanisms], SGs [steam generators], and piping) are compatible with the revised operating conditions. These components have been reanalyzed and the results show that ASME [American Society of Mechanical Engineers] Code requirements remain satisfied and are within the current Licensing Basis.

Interfacing Systems which are important to safety are not adversely impacted and will continue to perform their design function. Overall secondary plant performance is not significantly altered by the proposed changes.

The revision to the Pressure Temperature Limits will not adversely impact the RCS [reactor coolant system] Pressure Boundary. The length of time these curves will be applicable, due to increased neutron fluence, is being reduced. Before the 13 Effective Full Power Years have elapsed, new curves will be generated to reflect the analysis of the specimen capsule and will be derived utilizing NRC approved methodology.

Therefore, since the Reactor Coolant pressure boundary integrity and system functions are not adversely impacted, the probability of occurrence of an accident evaluated in the VCSNS [Virgil C. Summer Nuclear Station] FSAR will be no greater than the original design basis of the plant.

An extensive analysis has been performed to evaluate the consequences of the following accident types currently evaluated in the VCSNS FSAR:

- Non-LOCA (loss-of-coolant accident) Events
- Large Break and Small Break LOCA
- Steam Generator Tube Rupture

With the (delta)75 SGs and revised operating conditions, the calculated results (i.e., DNBR (departure from nucleate boiling ratio), Primary and Secondary System Pressure, Peak Clad Temperature, Metal Water Reaction, Challenge to Long Term Cooling, Environmental Conditions Inside and Outside containment, etc.) for the accidents are similar to those currently reported in the VCSNS FSAR and remain within applicable Regulatory Acceptance Criteria. Select results (i.e., Containment Pressure during a Steam Line Break, Minimum DNBR for Rod Withdrawal from Subcritical, etc.) are slightly more limiting than those currently reported in the FSAR due to the use of the assumed operating conditions with the (delta)75 SGs and in some cases, use of an uprated core power of 2900 MWt. However, in all cases, the calculated results do not challenge the integrity of the primary/secondary/containment pressure boundary and remain within the regulatory acceptance criteria applied to VCSNS's current licensing basis.

Given that calculated radiological consequences are not significantly higher than current FSAR results and remain well within 10 CFR 100 limits, it is concluded that the consequences of an accident previously evaluated in the FSAR are not significantly increased.

2. The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Uprate power operation will not introduce any new accident initiator mechanisms. Structural integrity of the RCS is maintained during all plant conditions through compliance with the ASME code and 10 CFR 50 Appendix G requirements. Design requirements of auxiliary systems are met with the RSGs (replacement steam generators) and uprate power operation. No new failure modes or limiting single failures have been identified. Since the safety and design requirements continue to be met and the integrity of the reactor coolant system pressure boundary is not challenged, no new accident scenarios have been created. Therefore, the types of accidents defined in the FSAR continue to represent the credible spectrum of events to be analyzed which determine safe plant operation.

3. The proposed license amendment does not involve a significant reduction in a margin of safety.

Although uprate power operation will require changes to the VCSNS Technical Specifications, the proposed changes are supported by extensive LOCA, NON-LOCA and SGTR (steam generator tube rupture) analyses. These analyses show acceptable consequences with margin to the applicable regulatory limits. All equipment required to function during accident conditions has been shown to remain qualified and thus will perform their design function, and all components remain in compliance with the codes and standards in effect when VCSNS was originally licensed (with the exception of the replacement steam generators which use the 1986 ASME Code Section III Edition).

Low Temperature Overpressure transients which could challenge RCS structural integrity are not impacted by the revision to the Pressure Temperature Limitations Curves. The curves are not directly impacted, the changes do not reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Fairfield County Library, 300 Washington Street, Winnsboro, SC 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218

NRC Project Director: Frederick J. Hebdon

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: August 29, 1995

Description of amendment request: The proposed amendment would revise the Technical Specifications for allowable values and trip setpoints for selected plant process instrumentation. The new allowable values/setpoints are in accordance with the instrument setpoint methodology accepted by the NRC staff in a letter dated July 18, 1995.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revised Trip Setpoints and Allowable Values are more conservative than those currently approved in the Technical Specifications. Therefore, any proposed system or component actuations will occur earlier, resulting in a more conservative plant response. Thus, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to the Technical Specifications does not introduce any new components nor does it modify the design of any existing components. Other than making Trip Setpoints and Allowable Values of existing instrumentation more conservative, the change does not affect the design or function of any plant system, structure, or component, nor does it change the way plant systems are operated. Thus, the possibility of a new or different kind of accident previously evaluated is not created.

3. The proposed change does not result in a significant reduction in the margin of safety.

Since the proposed revised Trip Setpoints and Allowable Values are more conservative than the existing values, the margin of safety would be increased by issuance of the changes. Thus, the proposed change does not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Gail H. Marcus

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: November 2, 1995

Description of amendment request: The proposed amendment would revise the Technical Specifications to allow 120 volt AC buses EV–1–A and EV–1–B to be energized from either their normal inverter power supply or from their alternate power supply.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated:

These buses are not used as the initiator of any analyzed accidents. Therefore, the probability of any previously evaluated accident has not increased. If an accident were to occur while the buses are supplied from the alternate power supply, there would be no change in the analyzed accident scenario since even in the event of a loss of offsite power event, the safety functions would be completed. Thus, the consequences of any previously evaluated accident have not increased.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated:

The proposed change introduces no new mode of plant operation and it does not involve physical modification to the plant. Therefore, it does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety:

This change does not involve a significant reduction in a margin of safety since the proposed change maintains a safety related, diesel-backed power supply to these buses whether the power is supplied from the inverters or from the alternate power supply. If a loss of offsite power event were to occur while the buses were supplied from the alternate power source, the safety functions being performed by components supplied from these buses would occur. Thus, there has been no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Gail H. Marcus

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: November 2, 1995

Description of amendment request: The proposed amendment to the Perry Nuclear Power Plant Technical Specifications revises those specifications associated with handling irradiated fuel in Primary Containment and the Fuel Handling Building, and selected specifications associated with CORE ALTERATIONS. Specifically, analysis identifies that only —recently— irradiated fuel contains sufficient fission products to require OPERABILITY of accident mitigation features to meet the accident analysis assumptions. Analyses also show that accident mitigation features such as building INTEGRITY and engineered safety feature (ESF) ventilation systems are not required for CORE ALTERATION events.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed requirements are imposed during specific activities which can be postulated to result in significant radioactive releases. The proposed APPLICABILITY requirements are consistent with either the original design basis analyses or with revised analyses performed to support this proposed amendment. Because the equipment controlled by the revised Specifications is not considered an initiator to any previously analyzed accident, inoperability of the equipment cannot increase the probability of any previously evaluated accident.

Consistent with the original design basis analysis, the reanalysis concludes that radiological consequences of the fuel handling accident are well within the 10 CFR 100.11 limits, as defined by acceptance criteria in Standard Review Plan Section 15.7.4. The reanalysis has previously been submitted to the Nuclear Regulatory Commission for review, and NRC confirmatory calculations reached consistent results (reference NRC Safety Evaluation for License Amendment No. 35). The results of the CORE ALTERATION events other than the fuel handling accident remain unchanged from the original design basis, which showed that these events do not result in fuel cladding integrity damage or radioactive releases. Therefore, the proposed changes do not significantly increase the consequences of any previously evaluated accident.

Based on the above, the proposed changes do not significantly increase the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed requirements are imposed when specific activities represent situations where significant radioactive releases can be postulated. The proposed APPLICABILITY requirements are consistent with design basis analyses. The proposed changes do not introduce any new modes of plant operation and do not involve physical modifications to the plant. Therefore, the proposed changes do not create the possibility of a new or different kind of accidident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change imposes controls to ensure that during performance of activities which represent situations where radioactive releases are postulated, the radiological consequences are at or below the established licensing limit. Safety margins and analytical conservatisms have been evaluated and are well understood. Substantial conservatism is retained to ensure that the analysis adequately bounds all postulated event scenarios. The current margin of safety is retained.

Specifically, the margin of safety for the fuel handling accident is the difference between the 10 CFR 100 limits and the licensing limit defined by the Standard Review Plan (NUREG 0800), Section 15.7.4. The licensing limit is defined by the Standard Review Plan as being —well within— the 10 CFR 100 limits, with "well within" defined as 25% of the 10 CFR 100 limits for the fuel handling accident. Excess margin is the difference between the postulated doses and the corresponding licensing limit. In the NRCs initial licensing review of the Perry Nuclear Power Plant (NUREG–0887, Section 15.3.3), the NRC accepted the design and analyses based on the results of the analyses being well within the guideline values of 10 CFR 100.

The proposed APPLICABILITY requirements continue to ensure that the whole-body and thyroid doses at the exclusion area and low population zone boundaries as well as control room doses are at or below the corresponding licensing limit. The margin of safety is unchanged; therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The margin of safety for the CORE ALTERATION events other than the fuel handling accident discussed above also remains the same as in the original design basis analyses, since the proposed changes do not impact on the Technical Specification requirements for systems needed to prevent or mitigate such CORE ALTERATION events.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Gail H. Marcus

Notice Of Issuance Of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and

requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Commonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendments: October 6, 1995, and supplemented November 20, 1995

Brief description of amendments: The amendments revise the Technical Specifications by incorporating a new acceptance criterion for steam generator tubes with degradation in the tubesheet roll expansion region.

Date of issuance: November 21, 1995

Effective date: November 21, 1995

Amendment Nos.: 172 and 159

Facility Operating License Nos. DPR–39 and DPR–48: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 16, 1995 (60 FR 53648) The supplemental letter provided clarifying information that did not affect the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 21, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: August 10, 1995

Brief description of amendment: The amendment revises the Haddam Neck Technical Specification Section 3/4.4.3, "Pressurizer," to add a footnote to allow the pressurizer level to be controlled, outside of the programmed level, between 25 to 50 percent, plus or minus 5 percent in Mode 3 when the reactor coolant system is borated to the required Mode 5 concentrations.

Date of Issuance: November 14, 1995

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 186

Facility Operating License No. DPR–61. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 11, 1995 (60 FR 52928) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated November 14, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, CT 06457

Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: September 13, 1995, as supplemented October 16,1995

Brief description of amendments: These amendments revise the Administrative Controls section of the BVPS–1 and BVPS–2 TSs to make them consistent with the requirements of the Offsite Dose Calculation Manual (ODCM). The ODCM was recently updated to reflect the radioactive liquid and gaseous effluent release limits and the liquid holdup tank activity limit of BVPS–1 License Amendment No. 188 and BVPS–2 License Amendment No. 70 which were issued June 12, 1995.

Date of issuance: November 21, 1995

Effective date: As of the date of issuance, to be implemented within 10 days.

Amendment Nos.: 194 and 77

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 22, 1995 (60 FR 49292) The October 16, 1995, letter did not change the initial proposed no significant hazards consideration determination or expand the amendment request beyond the scope of the September 22, 1995, **Federal Register** notice. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 21, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: February 14, 1994, as supplemented by letters dated July 25, August 15, and August 29, 1995

Brief description of amendment: The amendment changes the Appendix A Technical Specifications (TSs) to make them consistent with the revised 10 CFR Part 20, Standards for Protection Against Radiation.

Date of issuance: November 17, 1995

Effective date: November 17, 1995

Amendment No.: 116

Facility Operating License No. NPF–38. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 30, 1994 (59 FR 14888) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 17, 1995. The July 25, August 15, and August 29, 1995 letters provided clarifying information that did not change the initial propose no significance hazards consideration determination.

No significant hazards consideration comments received: No

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: May 12, 1995, as supplemented by letters dated July 6 and October 2, 1995.

Brief description of amendments: The amendments revise Technical Specification Surveillance Requirement 4.6.1.2 to add the provision that 10 CFR Part 50, Appendix J, applies, except as modified by NRC-approved exemptions.

Date of issuance: November 17, 1995

Effective date: As of the date of issuance to be implemented within 30 days

Amendment Nos.: 91 and 69

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 5, 1995 (60 FR 35078) The July 6 and October 2, 1995, letters provided clarifying information that did not change the scope of the May 12, 1995, application and initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 17, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

Northeast Nuclear Energy Company, Docket No. 50–245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of application for amendment: July 28, 1995, as supplemented September 12, October 18, and October 31, 1995.

Brief description of amendment: In order to support a full-core offload as a normal end-of-cycle event, the amendment adds License Condition 2.C(6) and will require that: (1) the reactor be subcritical for at least 100 hours prior to the start of reactor refueling operations, (2) the spent fuel pool bulk temperature be maintained less than or equal to 140—F, and (3) two trains of shutdown cooling be operable during reactor refueling operations.

Date of issuance: November 9, 1995

Effective date: As of the date of issuance.

Amendment No.: 89

Facility Operating License No. DPR–21. Amendment revised the license.

Date of initial notice in **Federal Register**: August 30, 1995 (60 FR 45180) The September 12, October 18, and October 31, 1995, submittals provided additional information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment and Final No Significant Hazards Consideration Determination are contained in a Safety Evaluation dated November 9, 1995.

No significant hazards consideration comments received: No public comments received. A request for a hearing was received from We the People, the Seacoast Anti-Pollution League, the New England Coalition on Nuclear Pollution, and Donald Del Core of Uncasville, Connecticut.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: October 6, 1995, supplemented October 23, November 2, and November 15, 1995.

Brief description of amendment: The amendment adds footnotes to Action Statement (AS) 3.8.1.1.a of the Technical Specification (TS) and its bases to allow a one-time extension of the allowed outage time (AOT) for an inoperable offsite power source from the current 72 hours to 7 days.

Date of issuance: November 22, 1995

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 192

Facility Operating License No. DPR–65. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 17, 1995 (60 FR 53812). The October 23, November 2, and November 15, 1995, letters provided clarifying information and slight modifications to the original request that were not outside the scope of the original notice and did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 22, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360

Northern States Power Company, Docket No. 50–282, Prairie Island Nuclear Generating Plant, Unit No. 1, Goodhue County, Minnesota

Date of application for amendment: January 10, 1995, as supplemented August 9 and September 20, 1995.

Brief description of amendment: The amendments revise the Prairie Island event monitoring instrumentation Technical Specifications and associated Bases to conform to Standard Technical Specifications for post-accident monitoring.

Date of issuance: November 9, 1995

Effective date: November 9, 1995, with full implementation within 30 days.

Amendment Nos.: 121/114

Facility Operating License No. DPR–42 and DPR–60. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 15, 1995 (60 FR 8753) The August 9 and September 20, 1995, letters provided updated Technical Specification pages and clarifying information in response to discussions with the staff during various teleconferences conducted during the review process. This information was within the scope of the original application and did not change the staff's initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 9, 1995.

No Significant hazards consideration comments received: No

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: December 2, 1994, as supplemented May 12, 1995.

Brief description of amendments: These amendments relocate the fire protection requirements from the Technical Specifications to the Updated Final Safety Analysis Report in accordance with the guidance in Generic Letter (GL) 86–10, "Implementation of Fire Protection Requirements," and GL 88–12, "Removal of Fire Protection Requirements from Technical Specifications."

Date of issuance: November 20, 1995

Effective date: As of date of issuance, both units, to be implemented within 30 days.

Amendment Nos.: 104 and 68

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications and the License.

Date of initial notice in **Federal Register**: April 26, 1995 (60 FR 20524) The supplemental letter provided clarifying information and did not

change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 20, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: September 14, 1995 and supplemented by letter dated October 27, 1995

Brief description of amendments: These amendments revise the technical specifications by deleting Reactor Enclosure and Refueling Area Secondary Containment Isolation Valve Tables 3.6.5.2.1–1 and 3.6.5.2.2–1, and references to them, in accordance with Generic Letter 91–08, "Removal of Component lists from Technical Specifications." The TS have been modified to state requirements in general terms that include the components listed in the tables removed from the TS.

Date of issuance: November 20, 1995

Effective date: As of date of issuance, to be implemented within 30 days.

Amendment Nos.: November 20, 1995

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 11, 1995 (60 FR 52934) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 20, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464

Tennessee Valley Authority, Docket No. 50–296, Browns Ferry Nuclear Plant, Unit 3, Limestone County, Alabama

Date of application for amendments: October 4, 1995 (TS 368)

Brief description of amendment: The amendment delete requirements for daily checks for certain instruments that do not have indications, and provides editorial changes.

Date of issuance: November 13, 1995

Effective Date: November 13, 1995

Amendment No.: 202

Facility Operating License No. DPR–68: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 11, 1995 (60 FR 52935) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 13, 1995.

No significant hazards consideration comments received: None

Local Public Document Room location: Athens Public library, South Street, Athens, Alabama 35611

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: August 7, 1995 (TS 95–03)

Brief description of amendments: The amendments address operation with a rod urgent failure condition, including limited operation with one control or shutdown bank inserted up to 18 steps below its insertion point. In addition, the surveillance interval for rod movement verifications has been increased from 31 to 92 days.

Date of issuance: November 21, 1995

Effective date: November 21, 1995

Amendment Nos.: 215 and 205

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the technical specifications.

Date of initial notice in **Federal Register**: August 30, 1995 (60 FR 45186) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 21, 1995.

No significant hazards consideration comments received: None

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: April 28, 1995

Brief description of amendment: The amendment removes the license conditions for the Transamerica Delaval, Inc. emergency diesel generators specified by paragraph 2.C.(9) and defined in Attachment 2 to the Operating License.

Date of issuance: November 16, 1995

Effective date: November 16, 1995

Amendment No.: 74

Facility Operating License No. NPF–58: This amendment revises the license.

Date of initial notice in **Federal Register**: June 6, 1995 (60 FR 29889) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 16, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: June 23, 1995, and facsimile transmission dated October 31, 1995

Brief description of amendment: This amendment relocates TS 3/4.3.3.3, "Seismic Instrumentation;" TS 3/4.3.3.4, "Meteorological Instrumentation;" and TS 3/4.4.11, "Reactor Coolant System Vents;" and the Bases for each of the three sections from the TS to the Updated Safety Analysis Report, and eliminates the special reporting requirements for inoperable seismic and meteorological monitoring instrumentation from TS 6.9.2.

Date of issuance: November 14, 1995

Effective date: November 14, 1995, and shall be implemented not later than 90 days after issuance.

Amendment No.: 201

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 2, 1995 (60 FR 39455) The October 31, 1995, facsimile transmission was clarifying in nature and did not affect the initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 14, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, Ohio 43606

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: June 7, 1995

Brief description of amendment: This amendment revises Technical Specification 3/4.9.4, Refueling Operations - Containment Penetrations; Bases 3/4.9.4, Containment Penetrations; and Limiting Condition for Operation (LCO) 3.9.4.b to allow both doors of the containment personnel airlock to be open during core alterations or movement of irradiated fuel within the containment, provided that certain specified conditions are meet. Additional changes revise or clarify TS LCO 3.9.4.c, TS Action 3.9.4.a, and TS Surveillance Requirement 4.9.4, and modify the associated Bases.

Date of issuance: November 17, 1995

Effective date: November 17, 1995

Amendment No.: 202

Facility Operating License No. NPF–3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 2, 1995 (60 FR 39454) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 17, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, Ohio 43606

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: December 6, 1994

Brief description of amendments: These changes revise Technical Specifications to allow appropriate remedial action for high particulate levels in the diesel generator fuel oil inventory and other out-of-limit properties in new diesel generator fuel oil that has been added to the existing diesel generator fuel oil storage inventory.

Date of issuance: November 17, 1995

Effective date: November 17, 1995

Amendment Nos.: Unit 1 - Amendment No. 43; Unit 2 - Amendment No. 29

Facility Operating License Nos. NPF–87 and NPF–89. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 1, 1995 (60 FR 6311) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 17, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, Texas 76019.

Union Electric Company, Docket No. 50–483, Callaway Plant, Callaway County, Missouri

Date of amendment request: January 13, 1995

Brief description of amendment: The amendment revises Technical Specifications (TS) 3.3.1 and 3.3.2 to relocate Tables 3.3–2 and 3.3–5, which provide the response time limits for the reactor trip system and the engineered safety features actuation system instruments, from the TS to the updated Final Safety Analysis Report (FSAR). The amendment also relocates the Bases discussion for TS 3.3.1 and TS 3.3.2 to Section 16.3 of the updated FSAR.

Date of issuance: November 22, 1995

Effective date: November 22, 1995, to be implemented within 30 days of issuance.

Amendment No.: 104

Facility Operating License No. NPF–30. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 15, 1995 (60 FR 8741) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 22, 1995.

No significant hazards consideration comments received: No

Local Public Document Room locations: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251

Washington Public Power Supply System, Docket No. 50–397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: June 6, 1995

Brief description of amendment: The amendment modifies the Index of the WNP–2 Technical Specifications by deleting reference to the Bases pages.

Date of issuance: November 24, 1995

Effective date: November 24, 1995

Amendment No.: 143

Facility Operating License No. NPF–21: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 19, 1995 (60 FR 37102) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 24, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: September 13, 1995, and October 19, 1995, as supplemented by letter dated October 25, 1995

Brief description of amendments: These amendments revise Technical Specification (TS) Section 15.1, "Definitions," TS Section 15.3.1.G, "Operational Limitations" (and basis), and TS Figure 15.2.1–2, "Reactor Core Safety Limits, Point Beach Unit 2." The changes reduce the reactor coolant system raw measured total flow rate limit and reflect new reactor core safety limits for Unit 2.

Date of issuance: November 17, 1995

Effective date: November 17, 1995

Amendment Nos.: 165 and 169

Facility Operating License Nos. DPR–24 and DPR–27: Amendments revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes (60 FR 54527 dated October 24, 1995). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by November 24, 1995, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment, finding of exigent circumstances, and final determination of no significant hazards consideration is contained in a Safety Evaluation dated November 17, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: September 14, 1995

Brief description of amendment: The amendment revised Technical Specification 3/4.5.5 to increase the allowed outage time for adjustment of boron concentration for the refueling water storage tank from 1 hour to 8 hours.

Date of issuance: November 13, 1995

Effective date: November 13, 1995, to be implemented within 30 days of issuance.

Amendment No.: 91

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 11, 1995 (60 FR 52936) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 13, 1995.

No significant hazards consideration comments received: No

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Notice Of Issuance Of Amendments To Facility Operating Licenses And Final Determination Of No Significant Hazards Consideration And Opportunity For A Hearing (exigent public announcement or emergency circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By January 5, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248–5100 (in Missouri 1-(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (**Project Director**): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: November 9, 1995, as supplemented by letters dated November 13, 1995, and November 16, 1995

Brief description of amendments: These amendments revise Technical Specification (TS) Section 15.4.2, "In-Service Inspection of Safety Class Components," to incorporate a new steam generator tube acceptance criterion for the Unit 2 steam generators. This criterion allows tubes that are degraded or defective in a location (within the tubesheet) that does not affect the structural integrity of the tube to remain in service. The applicable basis is also changed.

Date of issuance: November 22, 1995

Effective date: November 22, 1995

Amendment Nos.: 166 and 170

Facility Operating License Nos. DPR–24 and DPR–27. Amendments revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No The Commission's related evaluation of the amendments, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated November 22, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241.

Attorney for licensee: Ernest L. Blake, Jr., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037

NRC Project Director: Gail H. Marcus

Dated at Rockville, Maryland, this 29th day of November 1995.

For the Nuclear Regulatory Commission

Elinor G. Adensam,

Deputy Director, Division of Reactor Projects - III/IV, Office of Nuclear Reactor Regulation

[Doc. 95–29540 Filed 12–5–95; 8:45 am]

BILLING CODE 7590–01–F

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21547; No. 812–9652]

Southland Life Insurance Company, et al.

November 29, 1995.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order pursuant to the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Southland Life Insurance Company ("Southland"), Southland Separate Account A1 (the "Account"), and ING America Equities, Inc. ("ING Equities").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 6(c) of the 1940 Act granting exemptions from the provisions of Sections 26(a)(2)(C) and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of mortality and expense risk and enhanced death benefit charges from the assets of: (a) The Account in connection with the offer and sale of certain variable annuity contracts ("Existing Contracts"); (b) the Account in connection with the issuance of variable annuity contracts that are substantially similar in all material respects to the Existing Contracts ("Future Contracts," together with Existing Contracts, the "Contracts"); and (c) any other separate account established in the future by Southland in connection with the issuance of Contracts ("Future Account").

FILING DATE: The application was filed on June 29, 1995. Applicants have undertaken to amend the application during the notice period to make the representations contained herein.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on December 26, 1995, and must be

accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o R. Scott Burton, Assistant General Counsel, Southland Life Insurance Company, 5780 Powers Ferry Road, NW., Atlanta, Georgia 30327–4390.

FOR FURTHER INFORMATION CONTACT: Kevin M. Kirchoff, Senior Counsel, or Wendy Friedlander, Deputy Chief, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. Southland is a stock life insurance company organized pursuant to the laws of the State of Texas and authorized to transact life insurance and annuity business in the District of Columbia and all states other than New York and Vermont. Southland is a wholly-owned indirect subsidiary of Internationale Nederlanden Groep, N.V., a diversified financial services company with headquarters in The Hague, Netherlands.

2. ING Equities, an affiliate of Southland, will serve as the principal underwriter of the Existing Contracts. ING Equities is registered with the Commission as a broker-dealer pursuant to the Securities Exchange Act of 1934 and is a member of the National Securities Dealers, Inc.

3. The Account was established by Southland as a separate investment account pursuant to Texas insurance law on February 24, 1994, as a funding medium for variable annuity contracts. The Account is registered with the Commission as a unit investment trust under the 1940 Act. Pursuant to Texas law, the assets of the Account attributable to the Contracts are owned by Southland but are held separately from all other assets of Southland for the benefit of owners of, and persons entitled to payments under, the Contracts.

4. The Account currently has twenty-one subaccounts ("Subaccounts") that each invest exclusively in the shares of a designated investment portfolio of The Alger American Fund, Variable Insurance Products Fund, Variable Insurance Products Fund II, or the Janus Aspen Series.

5. The Existing Contracts are available for purchase in connection with retirement plans that qualify for federal tax advantages available pursuant to the Internal Revenue Code ("qualified contracts") and that do not qualify for the special federal tax advantages available pursuant to the Internal Revenue Code ("non-qualified contracts").

6. The minimum initial purchase payment is $5,000 for a non-qualified Existing Contract and $1,000 for a qualified Existing Contract. The minimum additional purchase payment is $500 for non-qualified Existing Contract and $250 for a qualified Existing Contract (or $90 for an individual retirement annuity on a monthly program of purchase payments).

7. The Existing Contracts provide a death benefit that is the greatest of the following, less taxes incurred by Southland but not taken:

(1) the aggregate purchase payments made (less partial withdrawals and any charges taken in connection with partial withdrawals), accumulated at 4% per year (0% after attained age 75) up to a maximum of two times the sum of all net purchase payments (less partial withdrawals and any charges taken in connection with partial withdrawals;

(2) the accumulation value at the time of death; and

(3) the step-up benefit [1] plus net purchase payments made, less partial withdrawals (and charges taken in connection with partial withdrawals) since the last step-up anniversary.

8. The portion of the death benefit equal to the accumulation value, or to the sum of the purchase payments made less partial withdrawals (and any charges taken in connection with partial withdrawals), constitutes the basic death benefit. The death benefit in excess of the foregoing basic death benefit, including purchase payments accumulated at 4% interest, as described in (1) of paragraph 7 above, and the step-up benefit, as described in (3) of paragraph 7 above, constitutes the enhanced death benefit ("Enhanced Death Benefit").

9. The Existing Contracts permit transfer of accumulation value among Subaccounts, subject to certain conditions. Prior to the annuity date, up to twelve transfers each contract year are permitted with no charge. Each additional transfer is subject to a charge of $25. After the annuity date, no more than four transfers each contract year are permitted. No charge is assessed for a transfer after the annuity date. Southland represents that it does not expect that the total revenues from the excess transfer charge will be greater than the total cost of administering excess transfer, on average, over the period that the Existing Contracts are in force.

10. If the more than one partial withdrawal (other than a withdrawal pursuant to a systematic withdrawal program or Individual Retirement Account income program) is made during a contract year, Southland will charge the lesser of $25 of 2% of the amount withdrawn for each additional partial withdrawal. This charge will be deducted from each Subaccount in the same proportion that the contract owner's Subaccount accumulation value bears to the contract owner's accumulation value. Southland represents that it does not expect that the total revenues from this charge will be greater than the total expected cost of administering partial withdrawals.

11. For the accounts of contract owners who reside in states that require payment of premium taxes at the time purchase payments are made, Southland currently advances the amount of the charge for premiums taxes, without reducing the contract owner's accumulation value. Southland then recovers the amount of the premium payments that it advanced upon the surrender of a contract or on the annuity date. Applicable premium taxes depend on the contract owner's place of residence and general range from 0% to 3.5% of purchase payment or the amount annuitized. Southland represents that the amount that it will recover for premium taxes will not be greater than the amount of premium taxes required to be paid.

12. The Existing Contracts do not provide for a front-end sales load to be deducted from the purchase payments. However, within certain time periods, if all or a portion of the contract value is withdrawn prior to the annuity date, a contingent deferred sales charge ("CDSC") will be calculated at the time of each withdrawal and deducted from the contract value. This charge reimburses Southland for expenses incurred in connection with the promotion, sale and distribution of the Existing Contracts. The CDSC is equal to the percentage of each purchase payment surrendered or withdrawn as shown in the table below. The CDSC is separately calculated and applied to each purchase payment at the time that the payment is surrendered or withdrawn. For purposes of calculating the CDSC, earnings are considered withdrawn before purchase payments and purchase payments are considered withdrawn or a first-in-first-out basis.

Contract anniversaries since purchase payment was made	Surrender charge as a percentage of purchase payment withdrawn
0	7
1	6
2	5
3	4
4	3
5	2
6+	0

13. Proceeds from CDSC may not cover the expected costs of distributing the Contracts. Any shortfall will be paid for from Southland's general assets, which may include revenue from the mortality and expense risk charge, described below.

14. Southland will assess the following charges ("Administrative Charges"): (i) during the accumulation period only, an annual charge of $30 per contract year from each Existing Contract, if total purchase payments paid in the first contract year are less than $100,000; and (ii) during both the accumulation and annuity periods, a charge which is equal, on an annual effective basis, to 0.15% of the average daily net asset value of each Existing Contract. Southland guarantees that it will not raise Administrative Charges for the duration of the Existing Contracts. Southland also represents that it does not expect that the total revenues from the Administrative Charges will be greater than the total expected cost of administering the Existing Contracts on average, excluding costs that are categorized properly as distribution expenses.

15. Southland assumes mortality risks under the Existing Contracts because they: (i) impose a contractual obligation to pay a death benefit if an annuitant dies prior to the annuity date; (ii) do not impose any CDSC on the death benefit; (iii) impose a contractual obligation to make annuity payments for the entire life of the annuitant under annuity options involving life contingencies; and (iv) contain annuity tables that Southland guarantees for the duration of the contract. Southland also assumes the risk that annuitants as a group will live longer than its annuity tables predict, which would require Southland to pay more in annuity payments than it anticipated.

16. Southland also assumes expense risks under the Existing Contracts because the administrative charges under outstanding Existing Contracts, which cannot be raised, may be insufficient to cover the actual administrative expenses attributable to the Existing Contracts. Administrative expenses include principally the costs of the following: processing purchase payments, annuity payments, surrenders and transfers; furnishing confirmation notices and periodic reports; calculating mortality and expense charges; preparing voting materials and tax reports; updating registration statements; actuarial and other expenses; initially devoting a data processing system to administer the Existing Contracts; ongoing operating expenses of such a system in connection with performing the foregoing functions; and fees paid to outside administrators for additional data processing services.

17. As compensation for assuming the basic mortality and expense risks, Southland will assess, during the accumulation period and the annuity period, a daily charge for mortality and expense risks at an annual effective rate of 1.25% of the net asset value of the Account ("Mortality and Expense Risk Charge"). Of this amount, approximately 0.90% is attributable to mortality risks, and approximately 0.35% to expense risks.

18. As compensation for providing the Enhanced Death Benefit, during the accumulation period but not during the annuity period, Southland will assess a daily charge at an annual effective rate of 0.12% of the net asset value of the Account ("Enhanced Death Benefit Charge").

19. Southland guarantees that it will not increase the amount of mortality and Expense Risk Charge or the Enhanced Death Benefit Charge for any Contract once that Contract is issued. If the Mortality and Expense Risk Charge and Enhanced Death Benefit Charge are insufficient to cover the expenses and costs, the loss will be borne by Southland Conversely, if the amounts deducted prove more than sufficient, the excess will be profit to Southland. Southland expects to earn a profit from the Mortality and Expense Risk Charge and the Enhanced Death Benefit Charge. To the extent that the CDSC is insufficient to cover the actual costs of distribution, the expenses will be paid from Southland's general account assets, which will include profit, if any, derived from the mortality and expense risk charge.

Applicants' Legal Analysis and Conditions

1. Pursuant to Section 6(c) of the 1940 Act, the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the 1940 Act or from any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services normally performed by the bank itself.

3. Applicants request an order pursuant to Section 6(c) of the 1940 Act exempting them from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of the Mortality and Expense Risk Charge and the Enhanced Death Benefit Charge from the assets of the Account and any Future Accounts in connection with the Contracts.

4. Applicants assert that the Mortality and Expense Risk Charge of 1.25% is reasonable in relation to the risks assumed by Southland under the Existing Contracts and reasonable in amount as determined by industry practice with respect to comparable annuity products. Applicants state that these determinations are based upon an analysis of publicly available information about similar industry products, and by taking into consideration such factors as current charge levels and benefits provided, the existence of charge guarantees and guaranteed annuity rates. Southland undertakes to maintain at its home office a memorandum, available to the Commission and its staff upon request, setting forth in detail the methodology used in making the foregoing determinations.

[1] At each step-pup anniversary, the current accumulation value is compared to the prior determination of the step-up benefit, increased by purchase payments made and reduced by partial withdrawals and any surrender and partial withdrawal transaction charges taken since that anniversary. The greater of these becomes the new step-up benefit. The step-up anniversaries are the contract date and every sixth contract anniversary thereafter (i.e., sixth, twelfth, eighteenth, etc., contract anniversaries).

5. Applicants assert that the charge of 0.15% for the Enhanced Death Benefit is reasonable in relation to the risks assumed by Southland under the Existing Contracts for providing the Enhanced Death Benefit. Southland undertakes to maintain at its home office a memorandum, available to the Commission and its staff upon request, setting forth in detail the methodology used in determining that the risk charge of 0.15% for the Enhanced Death Benefit is reasonable in relation to the risks assumed by Southland under the Existing Contracts.

6. Southland has concluded that there is a reasonable likelihood that the Account's distribution financing arrangement will benefit the Account and its investors. Southland represents that it will maintain and make available to the Commission and its staff upon request a memorandum setting forth the basis of such conclusion.

7. Applicants represent that, before relying on the exemptive relief requested in this application in connection with Future Contracts, Applicants will make the same determinations on the same basis as to the Mortality and Expense Risk Charge, the Enhanced Death Benefit Charge, and the distribution financing arrangement under such Future Contracts and maintain at their home office memoranda, available to the Commission and its staff upon request, setting forth in detail the methodology used in making such determinations.

8. Southland represents that the assets of the Account and any Future Accounts will be invested only in an underlying portfolio which undertakes, in the event it should adopt a plan for financing distribution expenses pursuant to Rule 12b-1 under the 1940 Act, to have such plan formulated and approved by a board of directors (or trustees), the majority of whom are not "interested persons" of such portfolio within the meaning of Section 2(a)(19) of the 1940 Act.

9. Applicants submit that their request for exemptive relief would promote competitiveness in the variable annuity contract market by eliminating the need for redundant exemptive applications, thereby reducing Applicants' administrative expenses and maximizing the efficient use of their resources. Applicants further submit that the delay and expense involved in having repeatedly to seek exemptive relief would impair their ability effectively to take advantage of business opportunities as they arise. Further, if Applicants were required repeatedly to seek exemptive relief with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection.

Conclusion

For the reasons summarized above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29619 Filed 12–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21549; 811–8594]

First Prairie Special Equity Fund; Notice of Application

November 29, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregulation under the Investment Company Act of 1940 (the "Act").

APPLICANT: First Prairie Special Equity Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on November 2, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 26, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, Three First National Plaza, Chicago, Illinois 60670.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end non-diversified management investment company organized as a Massachusetts business trust. On March 13, 1992, applicant filed a notification of registration pursuant to section 8(a) of the Act on Form N–8A and a registration statement under the Act and the Securities Act of 1933. Applicant's registration statement has not been declared effective and applicant has not made a public offering of its shares.

2. Applicant has not issued or sold any securities. As of the date of the filing of the application, applicant has no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. Pursuant to unanimous written consent dated October 26, 1995, applicant's Board of Trustees determined that it was advisable and in the best interests of applicant to withdraw its registration statement with the SEC, cease to be registered as an investment company, and to liquidate its assets and terminate its existence as a Massachusetts business trust.

4. Applicant is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29620 Filed 12–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21552; 811–6596]

First Prairie International Fund; Notice of Application

November 29, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: First Prairie International Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on November 2, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 26, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, Three First National Plaza, Chicago, Illinois 60670.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end non-diversified management investment company organized as a Massachusetts business trust. On March 13, 1992, applicant filed a notification of registration pursuant to section 8(a) of the Act on Form N–8A and a registration statement under the Act and the Securities Act of 1933. Applicant's registration statement has not been declared effective and applicant has not made a public offering of its shares.

2. Applicant has not issued or sold any securities. As of the date of the filing of the application, applicant has no shareholders, liabilities or assets. Applicant is not a party to any litigation or administration proceeding.

3. Pursuant to unanimous written consent dated October 26, 1995, applicant's Board of Trustees determined that it was advisable and in the best interests of applicant to withdraw its registration statement with the SEC, cease to be registered as an investment company, and to liquidate its assets and terminate its existence as a Massachusetts business trust.

4. Applicant is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29614 Filed 12–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21554; 811–6598]

First Prairie Growth Equity Fund; Notice of Application

November 29, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: First Prairie Growth Equity Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant request an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on November 2, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 26, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, Three First National Plaza, Chicago, Illinois 60670.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end non-diversified management investment company organized as a Massachusetts business trust. On March 13, 1992, applicant filed a notification of registration pursuant to section 8(a) of the Act on Form N–8A and a registration statement under the Act and the Securities Act of 1933. Applicant's registration statement has not been declared effective and applicant has not made a public offering of its shares.

2. Applicant has not issued or sold any securities. As of the date of the filing of the application, applicant has no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. Pursuant to unanimous written consent dated October 26, 1995, applicant's Board of Trustees determined that it was advisable and in the best interests of applicant to withdraw its registration statement with the SEC, cease to be registered as an investment company, and to liquidate its assets and terminate its existence as a Massachusetts business trust.

4. Applicant is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29612 Filed 12–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21553; 811–6593]

First Prairie Equity/Income Fund; Notice of Application

November 29, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: First Prairie Equity/Income Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on November 2, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 26, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, Three First National Plaza, Chicago, Illinois 60670.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end non-diversified management investment company organized as a Massachusetts business trust. On March 13, 1992, applicant filed a notification of registration pursuant to section 8(a) of the Act on Form N–8A and a registration statement under the Act and the Securities Act of 1933. Applicant's registration statement has not been declared effective and applicant has not made a public offering of its shares.

2. Applicant has not issued or sold any securities. As of the date of the filing of the application, applicant has no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. Pursuant to unanimous written consent dated October 26, 1995, applicant's Board of Trustees determined that it was advisable and in the best interests of applicant to withdraw its registration statement with the SEC, cease to be registered as an investment company, and to liquidate its assets and terminate its existence as a Massachusetts business trust.

4. Applicant is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29613 Filed 12–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21558; No. 812–9722]

The Prudential Insurance Company of America, et al.

November 29, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: The Prudential Insurance Company of America ("Prudential"), The Prudential Variable Appreciable Account ("Separate Account"), and Pruco Securities Corporation, Inc. ("Pruco Securities").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from Section 27(a)(3) of the 1940 Act and Rule 6e–3(T)(b)(13)(ii) thereunder.

SUMMARY OF APPLICATION: This order will permit the Separate Account to issue flexible premium survivorship variable life insurance contracts ("Contracts") in which the sales charge deducted from premiums up to one target premium paid during any year exceeds the sales charge payable on any excess premium payments made in any prior year.

FILING DATE: The application was filed on August 14, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 26, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, Thomas Castano, Prudential Insurance Company of America, Prudential Plaza, Newark, New Jersey 07102.

FOR FURTHER INFORMATION CONTACT: Pamela K. Ellis, Senior Counsel, or Wendy Finck Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. Prudential, a New Jersey mutual life insurance company, offers life insurance and annuities in all states, the District of Columbia, and in all United States' territories and possessions.

2. The Separate Account is a separate account established by Prudential to fund the Contracts and other variable life insurance contracts issued by Prudential. The Separate Account is registered with the Commission under the 1940 Act as an unit investment trust, and interests in the Contracts are registered with the Commission as securities under the Securities Act of 1933. The Separate Account presently is comprised of fifteen sub-accounts ("Sub-Account") each of which invests exclusively in a corresponding portfolio of the Prudential Series Fund, Inc. The Prudential Series Fund, Inc. is an open-end diversified management investment company registered under the 1940 Act. Its shares currently are sold only to separate accounts of Prudential and certain subsidiaries of Prudential that fund variable life insurance and variable annuity contracts.

3. Pruco Securities, a wholly-owned subsidiary of Prudential, is the principal underwriter for the Contracts. Pruco Securities is registered as a broker-dealer under the Securities Exchange Act of 1934.

4. The Contracts are flexible premium survivorship variable life insurance contracts. The Contracts provide life insurance coverage on two insureds with a death benefit payable when the last-surviving of the two insureds dies. The Contracts allow Contract owners to allocate premium payments among various Sub-Accounts and a fixed-rate option.

5. In addition, the Contracts offer Contract owners a choice between a fixed insurance amount or a variable insurance amount. The fixed insurance amount provides a death benefit under the Contract equal to the basic insurance amount regardless of the investment performance of the investments chosen by Contract owners, provided the Contract remains in force. The variable insurance amount provides for an initial basic insurance amount, but favorable investment performance and the payment of additional premiums generally will result in an increase in the death benefit.

6. After paying the initial premium, Contract owners generally are free to pay premiums at any time and in any amount (above a minimum of $25), and the Contracts will not lapse if the Contract fund is sufficient to cover monthly fees and charges deducted from the account value.[1] If the Contract owners pays premiums at or above certain levels, the Contract owner will be entitled to guaranteed death benefits even if poor investment performance results in the Contract fund dropping below the amount needed to pay charges due under the Contract. if target premiums are paid at the beginning of each Contract year, the Contract will stay in force during the defined period known as the limited death benefit guaranteed period (assuming no loans or withdrawals).[2] The target premiums will be level if the Contract contains no riders or extra risk charges. If the Contract includes certain riders, these premiums may increase each year, reflecting increasing rider charges. The target level premium, the premium used by Prudential to calculate the applicable charges for sales expenses, is the target premium less premiums for single life riders, and any premiums associated with aviation, avocation, occupational, or temporary extras. The target level premium is always loss than the guideline annual premium as defined in Rule 6e–3(T)(c)(8).

7. certain fees and charges are deducted under the Contracts. Each Sub-Account is assessed a daily mortality and expense risk charge, as well as monthly administrative charges, cost of insurance charges, charges for optional rider benefits, charges to compensate Prudential for the risk in providing the death benefit guarantee, and charges for special insurance class rating, if any. In addition to these daily and monthly charges, Prudential will charge the lesser of 2% or $10 for each partial withdrawal, reserving the right to increase this charge to the lesser of 2% or $25. Prudential also will charge up to $25 for each transfer among investment options exceeding 12 in any Contract year. Prudential does not currently impose a charge for decreasing the basic insurance amount but reserves the right to charge up to $25 for each decrease.

8. In addition, Prudential will deduct from each premium payment a charge for taxes attributable to premiums. This charge currently consists of two parts: (1) an amount based on an average of state and local premium taxes—presently, 2.5% of each premium payment; and (2) a charge to cover the estimated cost of an increase in Prudential's federal income tax liabilities that is measured by premiums received, and currently is 1.25% of each payment.

9. During the first 20 Contract years, Applicants also propose to deduct from premium payments a sales charge. This change will be equal to: (1) for the first Contract year, 30% of all premiums up to the amount of the target level premium and 4% of premiums paid in excess of the target level premium ("Excess Premiums"); and (2) for Contract years 2 through 20, 7.5% of all premiums paid in each Contract year to the target premium and 4% for Excess Premiums paid in each such Contract year. If the average age of the insureds is 58 years or more, these charges may be reduced to comply with the sales charge limitations contained in Rule 6e–3(T) under the 1940 Act.

Applicants' Legal Analysis

1. Section 27(a)(3) of the 1940 provides that the amount of sales charge deducted from any of the first twelve monthly payments on a periodic payment plan certificate may not exceed proportionately the amount deducted from any other such payment. Section 27(a)(3) further provides that the sales charge deducted from any subsequent payment may not exceed proportionately the amount deducted from any other subsequent payment.

2. Rule 6e–3(T)(b)(13)(ii) provides a partial exemption from the prohibitions of Section 27(a)(3). Exemptive relief from the prohibitions of Section 27(a)(3) provided by Rule 6e–3(T)(ii) is available if the proportionate amount of sales charge deducted from any premium does not exceed the proportionate amount deducted from any prior premium payment, unless an increase is caused by reductions in the annual cost of insurance or in sales charge for amounts transferred to a variable life insurance contract from another plan of insurance. Rule 6e–3(T)(b)(13)(ii) thus permits a decrease in sales load for any subsequent premium payment but not an increase.

3. Under the Contracts' sales load structure, premium payments that do not exceed the target level premium in a year will be subject to a 30% sales charge in the first year and 7.5% in each subsequent year up to the 20th Contract year. Excess Premium payments in each such year, however, will be subject to only a 4% sales charge. Consequently, if a Contract owner pays Excess Premiums in the Contract year, the Contract owner will pay one level of sales charge on the portion of the premium up to the target level premium and a lower sales charge on the Excess Premiums paid in that same Contract year. Applicants thus request an exemption from the requirements of Section 27(a)(3) and Rule 6e–3(T)(b)(13)(ii) because the Contracts' sales load structure would appear to violate the "stair-step" provisions in Section 27(a)(3) and because the exemption from Section 27(a)(3) provided by Rule 6e–3(T)(b)(13)(ii) does not seem to apply to the Contracts' sales load structure.

4. Applicants state that, had they chosen to impose the higher front-end sales load equally on all premium payments, the Contracts would qualify for exemptive relief under Rule 6e–3(T)(b)(13)(ii), subject to the maximum limits permissible under subparagraph (b)(13)(i) of the Rule. Applicants assert, however, that such a front-end charge would be less favorable to Contract owners than provided under the Contracts; under such a sales charge structure, sales load would be recovered by Prudential earlier than is the case under the Contracts' sales load structure. The sales charge structure under the Contracts benefits Contract owners by spreading Prudential's recovery of sales load over a longer period of time, and thereby permitting a greater portion of a Contract owner's Excess Premiums to be credited to account value.

5. In addition, Applicants represent that the sales load structure has been designed based on Prudential's operating expenses for the sale of the Contracts and, thus, reflects in part the lower overall distribution costs (including commissions paid to sales persons) that are associated with Excess Premiums paid over the life of a Contract. Applicants submit that it would not be in the best interests of a Contract owner to require the imposition of a higher sales load

[1] The Contract fund is defined as the total amount credited to a specific Contract and is equal to the sum of all amounts invested in the account and any earnings thereon, the amount invested in the fixed-rate option and earnings thereon, and the principal amount of any Contract debt.

[2] The Contract also allows the Contract owner to choose to pay guideline premiums that, if paid at the beginning of each Contract year, will keep the Contract in force for the life of the Contract regardless of investment performance (assuming no loans or withdrawals). As discussed below, the sales, charges for the Contract are, however, always computed with reference to the target level premium, not the issuer's higher guideline premium required to guarantee the death benefit for life.

structure than Applicants deem necessary to adequately defray their expenses.

6. applicants argue that Section 27(a)(3) was designed to address the abuse of periodic payment plan certificates under which large amounts of front-end sales loads were deducted so early in the life of the plan that an investor redeeming in the early periods would recoup little of his or her investment since only a small portion of the investor's early payments were actually invested. Applicants submit that the deduction of a reduced front-end sales load on Excess Premiums paid in any Contract year does not have the detrimental effect that Section 27(a)(3) was designed to prevent because a greater proportion of the Contracts' sales loads are deducted later than otherwise would be the case.

Conclusion

For reasons states above, Applicants submit that the requested exemptions from Section 27(a)(3) of the 1940 Act, and Rule 6e–3(T)(b)(13)(ii) thereunder, are in accordance with the standards of Section 6(c) of the 1940 Act, and are consistent with the protection of investors and the policies and purposes of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29616 Filed 12–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21550; 811–6599]

First Prairie Municipal Income Fund; Notice of Application

November 29, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: First Prairie Municipal Income Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on November 2, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 26, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, Three First National Plaza, Chicago, Illinois 60670.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end non-diversified management investment company organized as a Massachusetts business trust. On March 13, 1992, applicant filed a notification of registration pursuant to section 8(a) of the Act on Form N–8A and a registration statement under the Act and the Securities Act of 1933. Applicant's registration statement has not been declared effective and applicant has not made a public offering of its shares.

2. Applicant has not issued or sold any securities. As of the date of the filing of the application, applicant has no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. Pursuant to unanimous written consent dated October 26, 1995, applicant's Board of Trustees determined that it was advisable and in the best interests of applicant to withdraw its registration statement with the SEC, cease to be registered as an investment company, and to liquidate its assets and terminate its existence as a Massachusetts business trust.

4. Applicant is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29617 Filed 12–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21551; 811–6597]

First Prairie Quality Income Fund; Notice of Application

November 26, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregulation under the Investment Company Act of 1940 (the "Act").

APPLICANT: First Prairie Quality Income Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on November 2, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 26, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, Three First National Plaza, Chicago, Illinois 60670.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Applicant is an open-end non-diversified management investment company organized as a Massachusetts business trust. On March 13, 1992, applicant filed a notification of registration pursuant to section 8(a) of the Act on Form N–8A and a registration statement under the Act and the Securities Act of 1933. Applicant's registration statement has not been declared effective and applicant has not made a public offering of its shares.

2. Applicant has not issued or sold any securities. As of the date of the filing of the application, applicant has no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. Pursuant to unanimous written consent dated October 26, 1995, applicant's Board of Trustees determined that it was advisable and in the best interests of applicant to withdraw its registration statement with the SEC, cease to be registered as an investment company, and to liquidate its assets and terminate its existence as a Massachusetts business trust.

4. Applicant is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29615 Filed 12–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36529; International Series Release No. 892; File No. 600–20]

Self-Regulatory Organizations; International Securities Clearing Corporation; Order Approving Extension of Temporary Registration as a Clearing Agency Through November 30, 1996

November 29, 1995.

Pursuant to Section 19(a) of the Securities Exchange Act of 1934 ("Act"),[1] on October 23, 1995, the International Securities Clearing Corporation ("ISCC") filed with the Securities and Exchange Commission ("Commission") a request that the Commission extend ISCC's temporary registration as a clearing agency until November 30, 1997.[2] Notice of ISCC's request for extension of temporary registration appeared in the **Federal Register** on October 31, 1995.[3] No comments were received. This order approves ISCC's amendment by extending ISCC's registration as a clearing agency through November 30, 1996.

On May 12, 1989, the Commission granted the application of ISCC for registration as a clearing agency pursuant to Sections 17A and 19(a) of the Act[4] and Rule 17Ab2–1(c)[5] thereunder for a period of eighteen months.[6] At that time, the Commission granted ISCC an exemption from compliance with Section 17A(b)(3)(C) of the Act.[7] Section 17A(b)(3)(C) of the Act requires that ISCC's rules assure fair representation of its shareholders (or members) and participants in the selection of its directors and administration of its affairs. The Commission subsequently extended ISCC's temporary registration as a clearing agency and temporary exemption from Section 17A(b)(3)(C) of the Act until November 30, 1995.[8]

As discussed in the order first granting ISCC's temporary registration as a clearing agency, one of the primary reasons for ISCC's registration was to enable it to provide for the safe and efficient clearance and settlement of international securities transactions by providing links to centralized, efficient processing systems in the United States and to foreign financial institutions. ISCC continues to develop its capacity to offer these services.[9]

As stated above, ISCC has an exemption from the fair representation requirements of Section 17A(b)(3)(C) of the Act. Pursuant to this exemption, ISCC's sole shareholder, the National Securities Clearing Corporation ("NSCC") elects ISCC's Board of Directors. ISCC's rules for election of directors are not operatives.[10] At the time of ISCC's initial registration, ISCC requested that the exemption from the fair representation requirement of the Act remain in place until the earlier of (1) the time ISCC has twenty-five active members or (2) 1992. Although both these benchmarks have been surpassed, ISCC continues to believe that it does not have a meaningful participant base with only thirty-seven of its forty-four members currently using ISCC services. ISCC states that if its participants have the ability to participate in the selection of the board of directors these participants will have an inordinate and unintended control of the nomination and voting processes.[11]

The Commission believes that ISCC should diligently work towards compliance with the requirements of Section 17A(b)(3)(C) and expects that ISCC will no longer require an exemption from the fair representation requirements no later than the end of this extension of its registration as a clearing agency.

It is therefore ordered, that ISCC's registration as a clearing agency be, and hereby is, approved until November 30, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29689 Filed 12–5–95; 8:45 am]

BILLING CODE 8010–01–M

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[1] 15 U.S.C. § 78q–1 (1988).

[2] Letter from Julie Beyers, Associate Counsel, ISCC, to Christine Sibille, Division of Market Regulation, Commission (October 20, 1995).

[3] Securities Exchange Act Release No. 36411 (October 20, 1995), 60 FR 55399.

[4] 15 U.S.C. §§ 78q–1 and 78s(a) (1988).

[5] 17 CFR 240.17Ab2–1(c).

[6] Securities Exchange Act Release No. 26812 (May 12, 1989), 54 FR 21691.

[7] 15 U.S.C. § 78q–1(b)(3)(C) (1988).

[8] Securities Exchange Act Releases Nos. 28606 (November 16, 1990), 55 FR 47976; 30005 (November 27, 1991), 56 FR 63747; and 33233 (November 22, 1993), 58 FR 63195.

[9] ISCC has added three service providers, Standard Bank of South Africa, Westpac Custodian Nominees Limited of Australia, and Westpac Nominees-NZ-Limited, to its Global Clearance Network Service to provide settlement and custody services in South Africa, Australia, and New Zealand, respectively. Securities Exchange Act Release Nos. 35392 (February 16, 1995), 60 FR 10415 and 36339 (October 5, 1995), 60 FR 53447. ISCC also has established links with Monte Titoli, S.p.A., an Italian settlement and depository service, and Caja de Valores, S.A., an Argentine settlement and depository service. Securities Exchange Act Release Nos. 35219 (January 11, 1995), 60 FR 3685 and 35218 (January 11, 1995), 60 FR 3686.

[10] ISCC's rules provide for ISCC's Board of Directors to consist of a maximum of twenty-two members. ISCC's rules further provide that (1) twelve of those directors are to be selected from the general partners or officers of participants by ISCC's nominating committee, (2) two directors are to be officers of ISCC, and (3) eight directors are to be nominees of NSCC. Participants may submit names to ISCC's Nominating committee by submitting a petition to ISCC's Secretary signed by the lesser of 5% of the participants or fifteen participants. If a participant nominates a candidate for participant director, ballots would be sent out to all participants to vote in accordance with their usage of ISCC's system. NSCC would vote its shares to elect the participant directors selected by the participants.

[11] *Supra* note 6.

[12] 17 C.F.R. § 240.30-3(a)(50) (1994).

[Release No. 34–36525; File No. SR–CBOE–95–67]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Establishment of Uniform Listing and Trading Guidelines for Narrow-based Stock Index Warrants

November 29, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on November 9, 1995, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On November 20, 1995, the CBOE submitted Amendment No. 1 ("Amendment No. 1") to the filing to clarify issues relating to settlement values for both narrow-based and broad-based index warrants and also the reporting of hedge unwinding transactions.[1] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend Exchange rules 30.35, 30.53, and 31.5 to establish uniform listing and trading guidelines applicable to narrow-based stock index warrants.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 29, 1995, the Commission approved SR–CBOE–94–34 which established uniform listing and trading guidelines for broad-based stock index, currency, and currency index warrants.[2] this filing proposes rules governing the listing and trading of narrow-based indexes, *i.e.*, indexes that do not meet the Commission's criteria for broad-based treatment. This filing would modify the recently approved regulatory framework for the trading of broad-based stock index warrants, by adopting certain rules for the trading of warrants on narrow-based indexes that are now applicable to the trading of narrow-based index options.

The Exchange first traded narrow-based index options in September 1983. Exchange rules governing the trading of warrants, including stock index warrants, were approved in October 1990[3] and similar rules were approved for another exchange as early as 1988.[4] Because of the years of experience the Exchange has with trading index options and the Commission has with regulating index option and warrant trading, the Exchange believes that the trading of warrants based on narrow-based indexes presents no new or novel regulatory issues and should be permitted subject to the same restrictions that apply to the trading of narrow-based stock index options.

Specifically, the Exchange proposes that the margin requirements applicable to the short sales of narrow-based index options would apply to the short sale of narrow-based index warrants, and the reduced position limits applicable to narrow-based index options would apply to narrow-based index warrants. The Exchange proposes that the narrow-based index warrant position limit be set at 75% of the levels recently approved by the Commission for narrow-based index options.[5] In all other respects, the rules applicable to broad-based and narrow-based options are the same. Consequently, all other rules applicable to broad-based index warrants would apply to warrants on narrow-based indexes. In addition, the Exchange would conduct the surveillance of trading in narrow-based index warrants in a similar manner to its surveillance of trading in broad-based index warrants.

The Exchange proposes that, upon Commission approval of this filing, the Exchange be permitted, without further Commission review, to list a warrant on any narrow-based index that the Commission has previously approved for options or warrant trading. In order to expedite the review of a particular warrant issue, the Exchange proposes employing procedures similar to those set forth in Rule 24.2(b) to file for approval of the index underlying a proposed issuance of warrants.[6] However, the Exchange will not list a warrant on an index consisting of fewer than nine stocks, nor will it allow any of the indexes upon which warrants are traded to consist of fewer than nine stocks, unless the Commission separately approves such index for warrant trading.

The Exchange also proposes to amend Rule 31.5(E)(5) in order to clarify that the settlement mechanism for narrow-based index warrants will be the same as that for broad-based index warrants.[7] Accordingly, an issuer may elect to use closing prices for the securities underlying a stock index to determine settlement values at all times other than the day on which the final settlement value is to be determined ("valuation date"), as well as during the two business days preceding valuation date.[8]

2. Statutory Basis

CBOE believes the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it will permit trading in warrants based on the Mexico 30 Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and thereby will provide investors with the ability to invest in warrants based on additional indexes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–95–67 and should be submitted by December 27, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29690 Filed 12–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36439A; File No. SR–CBOE–95–56]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Modifications of the Position and Exercise Limits for Narrow-Based Index Options

November 30, 1995.

Correction

In FR Document No. 95–27424, beginning on page 56075, column 1, for Monday, November 6, 1995, a phrase in footnote number three was incorrectly stated. The first part of footnote number three is corrected to read:

Under CBOE Rule 24.4A, the current position limits for industry index options are as follows: (1) 5,500 contracts if the CBOE determines in its semi-annual review that any single underlying stock accounted, on average, for 30% or more of the index value during the 30-day period immediately preceding the review; . . ."[1]

The remainder of footnote number three remains unchanged.

In addition, the position limits for the Standard & Poor's ("S&P") Chemical Index and the S&P Retail Index were incorrectly stated as 5,500 contracts. The position limits for both the S&P Chemical Index and the S&P Retail Index are revised to be stated as 7,500 contracts.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29692 Filed 12–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36527; International Series Release No. 891; File No. SR–Amex–95–43]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 thereto by the American Stock Exchange, Inc. Relating to Index Fund Shares

November 29, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on October 26, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. On November 14, 1995, the Amex filed Amendment No. 1 to its proposal.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to list and trade under Amex Rules 1000A *et seq.* Index Fund Shares, which are shares issued by an open-end management investment company that seeks to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic equity market index.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

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[1] *See* Letter from Timothy Thompson, CBOE, to Steve Youhn, SEC, dated November 15, 1995. Specifically, as discussed below, Amendment No. 1 clarifies that narrow-based index warrants will be governed by the same settlement procedures applicable to broad-based index warrants. Furthermore, it clarifies that certain hedge unwinding transactions in narrow-based index warrants which are undertaken as a result of early exercises will be reported to the Exchange in the same manner as with broad-based index warrants.

[2] *See* Securities Exchange Act Release No. 36169.

[3] *See* Securities Exchange Act Release No. 28556 (Oct. 26, 1990).

[4] *See* Securities Exchange Act Release No. 26152 (Oct. 3, 1988).

[5] *See* Securities Exchange Act Release No. 36439 (Oct. 31, 1995). Accordingly, the Exchange proposes that position limits for narrow-based index warrants be set at 4,500,000, 6,750,000, and 9,000,000, which are equivalent to 75% of the 6,000, 9,000, and 12,000 position limit levels currently applicable to narrow-based index option trading.

[6] These criteria establish streamlined procedures for listing options on stock industry groups (*i.e.*, narrow-based). Accordingly, the Exchange proposes that the same criteria apply to subsequent proposals to establish narrow-based indexes which underlie proposed warrant issuances.

[7] *See* Amendment No. 1.

[8] *See* Amendment No. 1. The Commission notes that although the recently approved regulatory framework for broad-based index warrants establishes uniform settlement valuation provisions adopted by several exchanges, including CBOE, the CBOE in this filing proposes to amend Rule 31.5(E)(5) to clarify such provisions.

[9] 17 CFR 200.30–3(a)(12) (1994).

[1] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] In Amendment No. 1, the Amex states that any broker-dealer handling transactions for customers in "World Equity Benchmark Securities" (or "WEBS") will have an obligation to deliver to such customers a prospectus regarding WEBS pursuant to the requirements of the Securities Act of 1933. Amendment No. 1 also states that prior to listing series of Index Fund Shares for indices other than those described in the present rule filing, it will make an appropriate filing pursuant to Rule 19b–4 under the Act. Letter from James F. Duffy, Executive Vice President and General Counsel, Legal Chief, Office of Market Supervisor, Division of Market Regulation, Commission, dated November 14, 1995 ("Amendment No. 1").

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Introduction

The Amex proposed to list and trade under Rules 1000A *et seq.* Index Fund Shares issued by an open-end management investment company ("Fund") that seeks to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic equity market index. Index Fund Shares will be issued by an entity registered with the Commission as an open-end management investment company, and which may be organized as a series fund providing for the creation of separate series of securities, each with a portfolio consisting of some or all of the component securities of a specified securities index. A Fund may be managed so as to permit the purchase or sale or certain securities in the underlying portfolio in an effort to track, to the extent desired, the relevant securities index. A Fund may establish tracking tolerances which will be disclosed in the prospectus for a particular Fund or series thereof. Such Fund or series normally will not replicate exactly a specific index, but instead will seek to track an index within the tolerances stated in the prospectus.

Issuances of Index Fund Shares by a Fund will be made only in minimum Creation Unit size aggregations or multiplies thereof. The size of the applicable Creation Unit size aggregation will be set forth in the Fund's prospectus and will vary from one series of Index Fund Shares to another, but generally will be of substantial size (*e.g.*, value in excess of $500,000 per Creation Unit). It is expected that a Fund will issue and sell Index Fund Shares through a principal underwriter ("Distributor") on a continuous basis at the net asset value per share next determined after an order to purchase Index Fund Shares in Creation Unit size aggregations is received in proper form. Following issuance, Index Fund Shares would be traded on the Exchange like other equity securities by professionals, as well as retail and institutional investors.

It is expected that Creation Unit size aggregations of Index Fund Shares generally will be issued in exchange for the "in kind" deposit of a specified portfolio of securities, together with a cash payment representing, in part, the amount of dividends accrued up to the time of issuance. It is anticipated that such deposits will be made primarily by institutional investors, arbitrageurs, and the Exchange specialist. Redemption of Index Fund Shares generally will be made "in kind," with a portfolio of securities and cash exchanged for Index Fund Shares that have been tendered for redemption. Issuance or redemptions also could occur for cash under specified circumstances (*e.g.*, if it is not possible to effect delivery of securities underlying the specific series in a particular foreign country) and at other times in the discretion of the Fund.

It is expected that a Fund will make available on a daily basis a list of the names and the required number of shares of each of the securities to be deposited in connection with issuance of Index Fund Shares of a particular series in Creation Unit size aggregations, as well as information relating to the required cash payment representing, in part, the amount of accrued dividends.

A Fund make periodic distributions of dividends from net investment income, including net foreign currency gains, if any, in an amount approximately equal to accumulated dividends on securities held by the Fund during the applicable period, net of expenses and liabilities for such period.

Index Fund Shares will be registered in book entry form through The Depository Trust Company. Trading in Index Fund Shares on the Exchange may be effected until 4:15 p.m. (New York time) each business day.

Index Fund Shares initially to be listed on the Exchange will be series ("Index Series") of World Equity Benchmark Shares issued by Foreign Fund, Inc., and based on the following Morgan Stanley Capital International ("MSCI") Indices ("MSCI Indices" or "(Indices"); MSCI Australia Index; MSCI Belgium Index; MSCI Canada Index; MSCI France Index; MSCI Germany Index; MSCI Hong Kong Index; MSCI Italy Index; MSCI Japan Index; MSCI Malaysia Index; MSCI Mexico Index; MSCI Netherlands Index; MSCI Singapore (Free) Index; MSCI Spain Index; MSCI Sweden Index; MSCI Switzerland Index; and MSCI United Kingdom Index.[3]

Foreign Fund, Inc. will issue and redeem WEBS of each Index Series only in aggregations of shares specified for each Index Series. The following table sets forth the number of shares of an Index Series that it is anticipated will constitute a Creation Unit for such Index Series:

Index series	Shares per creation unit
Australia Index Series	75,000
Austria Index Series	40,000
Belgium Index Series	40,000
Canada Index Series	75,000
France Index Series	75,000
Germany Index Series	250,000
Hong Kong Index Series	40,000
Italy Index Series	40,000
Japan Index Series	250,000
Malaysia Index Series	75,000
Mexico Index Series	75,000
Neterlands Index Series	75,000
Singapore (Free) Index Series	75,000
Spain Index Series	40,000
Sweden Index Series	75,000
Switzerland Index Series	75,000
United Kingdom Index Series	75,000

3. The MSCI Indices[4]

General

The Indices were founded in 1969 by Capital International S.A. as the first international performance benchmarks constructed to facilitate accurate comparison of world markets. Morgan Stanley acquired rights to the Indices in 1986. The MSCI Indices have covered the world's developed markets since 1969, and in 1988, MSCI commenced coverage of the emerging markets.

Although local stock exchanges traditionally have calculated their own indices, these generally are not comparable with one another, due to differences in the representation of the local market, mathematical formulas, base dates, and methods of adjusting for capital changes. MSCI applies the same criteria and calculation methodology across all markets for all indices, developed and emerging.

MSCI generally seeks to have 60% of the capitalization of a country's stock market reflected in the MSCI Index for such country. Thus, the MSCI Indices balance the inclusiveness of an "all share" index against the replicability of a "blue chip" index.

Weighting

All single-country MSCI Indices are market capitalization weighted, *i.e.*, companies are included in the indices at their full market value (total number of shares issued and paid up, multiplied by price). For countries that restrict foreign ownership, MSCI calculates two indices. The additional indices are called "free" indices, and they exclude companies and share classes not purchasable by foreigners. Free indices currently are calculated for Singapore, Mexico, the Philippines, and Venezuela,

[3] The Exchange has stated that it will make an appropriate filing pursuant to Rule 19b–4 under the Act prior to listing series of Index Fund Shares for indices other than those described in the present proposal. Amendment No. 1, *supra* note 2.

[4] The description of the MSCI Indices was prepared by Foreign Fund, Inc.

and for those regional and international indices which include such markets.

Selection Criteria

The constituents of a country index are selected from the full range of securities available in the market, excluding issues which are either small or highly illiquid. Non-domiciled companies and investment trusts are also excluded from consideration. After the index constituents are chosen, they are reclassified using MSCI's schema of 38 industries and eight economic sectors to facilitate cross-country comparisons.

The process of choosing index constituents from the universe of available securities is consistent among indices. Determining the constituents of an index is an optimization process which involves maximizing float and liquidity, reflecting accurately the market's size and industry profiles, and minimizing cross-ownership.

To reflect accurately country-wide performance, MSCI aims to capture 60% of total market capitalization at both the country and industry level. To reflect local market performance, an index should contain a percentage of the market's overall capitalization sufficient to achieve a high level of tracking. The greater the coverage, however, the greater the risk of including securities which are illiquid or have restricted float. MSCI's 60% coverage target seeks to balance these considerations.

Within the overall target of 60% market coverage, MSCI aims to capture 60% of the capitalization of each industry group, as defined by local practice. MSCI believes this target assures that the index reflects the industry characteristics of the overall market and permits the construction of accurate industry indices.

MSCI may exceed the 60% of market capitalization target in the index for a particular country because, *e.g.*, one or two large companies dominate an industry. Similarly, MSCI may underweight an industry in an index if, *e.g.*, the companies in such industry lack good liquidity and float, or because of extensive cross-ownership.

Liquidity is measured by trading value, as reported by the local exchanges. Trading value is monitored over time to determine "normal" levels exclusive of short-term peaks and troughs. A stock's liquidity is significant not only in absolute terms (*i.e.*, a determination of the market's most actively traded stocks), but also relative to its market capitalization and to average liquidity for the country as a whole.

Float, or the percentage of shares freely tradeable, is one measure of potential short-term supply. Low float raises the risk of insufficient liquidity. MSCI monitors float for every security in its coverage, and low float may exclude a stock from consideration. However, float can be difficult to determine. In some markets good sources generally are not available. In other markets, information on smaller and less prominent issues can be subject to error and time lags. Government ownership and cross-ownership positions can change over time, and are not always made public. Float also tends to be defined differently depending on the source. MSCI seeks to maximize float. As with liquidity, float is an important determinant, but not a hard-and-fast screen, for inclusion of a stock in, or exclusion of a stock from, a particular index.

Cross-ownership occurs when one company has an ownership position in another. In situations where cross-ownership is substantial, including both companies in an index can skew industry weights, distort country-level valuations and overrepresent buyable opportunities. An integral part of MSCI's country research is identifying cross-ownerships to avoid or minimize inclusion of both companies in an index. Cross-ownership cannot always be avoided, especially in markets where it is prevalent. When MSCI makes exceptions, it seeks to select situations where the constituents operate in different economic sectors, or where the subsidiary company makes only a minor contribution to the parent company's results.

MSCI attempts to meet its 60% coverage target by including a representative sample of large, medium and small capitalization stocks, to capture the sometimes disparate performance of these sectors. In the emerging markets, the liquidity of smaller issues can be a constraint. At the same time, properly representing the lower capitalization end of the market risks overwhelming the index with names. Within these constraints, MSCI strives to include smaller capitalization stocks, provided they exhibit sufficient liquidity.

Calculation Methodology

All MSCI Indices are calculated daily using Laspeyres' concept of a weighted arithmetic average together with the concept of "chain-linking," a classical method of calculating stock market indices. The Laspeyres method weighs stocks in an index by their beginning-of-period market capitalization. Share prices are "swept clean" daily and adjusted for any rights issues, stock dividends or splits. The MSCI Indices currently are calculated in local currency and in U.S. dollars, without dividends and with gross dividends reinvested (*e.g.*, before withholding taxes).

In respect of developed markets, MSCI Indices with dividends reinvested constitute an estimate of total return arrived at by reinvesting one-twelfth of the month end yield at every month end.

In respect of emerging markets, MSCI has constructed its indices with dividends reinvested as follows:

- In the period between the ex-date and the date of dividend reinvestment, a dividend receivable is a component of the index return.
- Dividends are deemed received on the payment date.
- To determine the payment date, a fixed time lag is assumed to exist between the ex-date and the payment date. This time lag varies by country, and is determined in accordance with general practices within that market.
- Reinvestment of dividends occurs at the end of the month in which the payment date falls.

Price and Exchange Rates

Prices used to calculate the MSCI Indices are the official exchange closing prices. All prices are taken from the dominant exchange in each market. In countries where there are foreign ownership limits, MSCI uses the price quoted on the official exchange, regardless of whether the limit has been reached.

MSCI uses WM/Reuters Closing Spot Rates for all developed and emerging markets except those in Latin America. The WM/Reuters Closing Spot Rates were established by a committee of investment managers and data providers, including MSCI, whose object was to standardize exchange rates used by the investment community. Exchange rates are taken daily at 4 p.m. London time by the WM Company and are sourced whenever possible from multi-contributor quotes on Reuters. Representative rates are selected for each currency based on a number of "snapshots" of the latest contributed quotations taken from the Reuters service at short intervals around 4 p.m. WM/Reuters provides closing bid and offer rates. MSCI uses these to calculate the mid-point to 5 decimal places.

MSCI continues to monitor exchange rates independently and may, under exceptional circumstances, elect to use an alternative exchange rate if the WM/Reuters rate is believed not to be representative for a given currency on a

particular day. Because of the high volatility of currencies in some Latin American countries, MSCI continues to use its own timing and sources for these markets.

Changes to the Indices

In changing the constituents of the indices, MSCI attempts to balance representativeness versus undue turnover. An index must represent the current state of an evolving marketplace, yet minimize turnover, which is costly as well as inconvenient for managers.

There are two broad categories of changes to the MSCI Indices. The first consists of market-driven changes such as mergers, acquisitions, bankruptcies, etc. These are announced and implemented as they occur. The second category consists of structural changes to reflect the evolution of a market, including changes in industry composition or regulations. In the emerging markets, index restructurings generally take place every 12 to 18 months. Structural changes may occur only on four dates during the year: the first business days of March, June, September and December. They are preannounced at least two weeks in advance.

Restructuring an index involves a balancing of additions and deletions. To maintain continuity and minimize turnover, MSCI is reluctant to delete index constituents, and its approach to additions is correspondingly stringent. As markets grow because of privatizations, investor interest, or the relaxation of regulations, index additions (with or without corresponding deletions) may be needed to bring industry representations up to the 60% target. Companies are considered not only with respect to their broad industry, but also with respect to their subsector, so as to reflect if possible a broader range of economic activity. Beyond industry representativeness, new constituents are selected based on the criteria discussed above, i.e. float, liquidity, cross-ownership, etc.

In general, new issues are not eligible for immediate inclusion in the MSCI Indices because their liquidity remains unproven. Usually, new issues undergo a "seasoning" period of one year to 18 months between index restructurings until a trading pattern and volume are established. After that time, they are eligible for inclusion, subject to the criteria discussed above.

In the emerging markets, however, it is not uncommon that a large new issue, usually a privatization, comes to market and substantially changes the country's industry profile. In exceptional circumstances, where an issue's size, visibility and investor interest assure high liquidity, and where excluding it would distort the characteristics of the market, MSCI may decide to include it immediately in an Index. In other cases, MSCI may decide not to include a large new issue even in the normal process of restructuring, and in spite of substantial size and liquidity.

MSCI's primary concern when considering deletions is the continuity of the Indices. Of secondary concern are the turnover costs associated with deletions. The Indices must represent the full investment cycle, including bear as well as bull markets. Out-of-favor stocks may exhibit declining price, market capitalization or liquidity, and yet continue to be good representatives of their industry.

Companies may be deleted because they have diversified away from their industry classification, because the industry has evolved in a different direction from the company's thrust, or because a better industry representative exists (either a new issue or an existing company). In addition, in order not to exceed the 60% target coverage of industries and countries, adding new index companies may entail corresponding deletions. Usually such deletions take place within the same industry, but there are occasional exceptions.

3. Criteria for Initial and Continued Listing

Because of the open-end nature of Funds issuing Index Fund Shares, the Exchange believes it is necessary to maintain appropriate flexibility in connection with the listing of Index Fund Shares of a particular Fund or series thereof. In connection with initial listing, the Exchange will establish a minimum number of Index Shares required to be outstanding at the time of commencement of Exchange trading. For each series of Index Fund Shares, it is anticipated that a minimum of the equivalent of three Creation Units will be required to be outstanding when trading begins.

Each series of Index Fund Shares will be subject to the initial and continued listing criteria of Rule 1002A(b) which provides that following the initial twelve month period following commencement of Exchange trading of a series of Index Fund Shares, the Exchange will consider suspension of trading in, or removal from listing of, such series under any of the following circumstances:

(a) if there are fewer than 50 beneficial holders of the series of Index Fund Shares for 30 or more consecutive trading days; or

(b) if the value of the index or portfolio of securities on which the series of Index Fund Shares is based is no longer calculated or available; or

(c) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

The Exchange will require the Index Fund Shares be removed from listing upon termination of the Fund that issued such shares.

4. Trading Halts

Prior to commencement of trading in Index Fund Shares, the Exchange will issue a circular to members informing them of Exchange policies regarding trading halts in such securities. The circular will make clear that, in addition to other factors that may be relevant, the Exchange may consider factors such as those set for in Rule 918C(b) in exercising its discretion to halt or suspend trading. These factors would include: (1) for Index Fund Shares based on a domestic stock index, whether trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the applicable current index group value; (2) for Index Fund Shares based on a foreign stock index, whether trading has been halted or suspended market-wide in the applicable foreign market; or (3) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

5. Terms and Characteristics

Prior to commencement of trading of a series of Index Fund Shares, the Exchange will distribute to Exchange members and member organizations an Information Circular calling attention to characteristics of the specific series and to applicable Exchange rules. The circular also will inform member organizations regarding any applicable requirements for delivery of a prospectus to investors. The Amex has stated that any broker-dealer handling transactions for customers in WEBS will have an obligation to deliver to such customers a prospectus regarding WEBS pursuant to the requirements of the Securities Act of 1933.[5]

[5] Amendment No. 1, *supra* note 2. The Amex also states that in the event that it obtains an exemption from the prospectus delivery requirements in the future with respect to WEBS or to the other series of Index Fund Shares listed on the Exchange, the Exchange will consult with Commission staff and will file any necessary rule changes. *Id.*

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, and, in general protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will not impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–Amex–95–43 and should be submitted by December 27, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29691 Filed 12–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36526; File No. SR–PSE–95–28]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Establishing a Hedge Exemption for Narrow-Based Index Options

November 29, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 1, 1995, the Pacific Stock Exchange, Inc., ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items, I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend PSE Rule 7.6, "Position Limits for Index Options," to establish a hedge exemption from industry (narrow-based) index option position limits which would allow PSE members and member organizations, as well as public customers, to exceed the established position limits for narrow-based index options by three times the established position limit for such index options, provided that the position is "hedged" with shares of at least 75% of the number of stocks comprising the index.[1]

The text of the proposed rule change is available at the Office of the Secretary, PSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspect of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

The purpose of the proposed rule change is to establish a hedge exemption from the industry index option position limits established in PSE Rule 7.6(a).[2] Specifically, the PSE proposes to add Commentary .03 to PSE Rule 7.6, which will provide that industry index option positions may be exempt from established position limits for each contract "hedged" by an equivalent dollar amount of the underlying component securities or securities convertible into such components, provided that each option position to be exempted is hedged by a position in at least 75% of the number of component securities underlying the index, and that the underlying value of the option position does not exceed the value of the underlying portfolio. The value of the portfolio is: (a) the total market value of the net stock position,

[6] 17 CFR 200.30–3(a)(12) (1994).

[1] Position limits impose a ceiling on the number of option contracts which an investor or group of investors acting in concert may hold or write in each class of options on the same side of the market (*i.e.*, aggregating long calls and short puts or long puts and short calls). The PSE's proposal is identical to a proposal submitted by the Philadelphia Stock Exchange, Inc. ("PHLX"), *See* Securities Exchange Act Release No. 36380 (October 17, 1995), 60 FR 54403 (October 23, 1995) (File No. SR–PHLX–95–45).

[2] PSE Rule 7.6(a) provides the following position limits for industry index options: 5,500 contracts if, during the Exchange's semi-annual review, the Exchange determines that any single stock in the group accounted, on average, for 30% or more of the index value during the 30-day period immediately preceding the review; 7,500 contracts if the Exchange determines that any single stock in the group accounted, on average, for 20% or more of the index value for that any five stocks in the group together accounted, on average, for more than 50% of the index value, but that no single stock in the group accounted, on average, for 30% or more of the index value, during the 30-day period immediately preceding the review; or 10,500 contracts if the Exchange determines that the above conditions have not occurred.

less (b) the national value of (1) any offsetting calls and puts in the respective index option; and (2) any offsetting positions in related stock index futures.[3] The values of any such index option position or related futures position are determined by aggregating the national value of each option contract comprising the position. Under the proposed exemption, position limits for any hedged industry index option may not exceed three times the limits established under PSE Rule 7.6(a).

Members, member organizations, and public customers seeking to use the proposed exemption must obtain prior Exchange approval. In addition, the exemption requires that both the option and stock positions be initiated and liquidated in an orderly manner. Specifically, a reduction of the option position must occur at or before the corresponding reduction in the stock portfolio position.

Under the proposal, exercise limits will continue to correspond to position limits, so that investors may exercise the number of contracts set forth as the position limit, as well as those contracts exempted by the proposal, during five consecutive business days.[4]

Currently, PSE Rule 7.6, Commentary .02, allows public customers to apply for position limit exemptions in broad-based index options that are hedged with exchange-approved qualified stock portfolios.[5] Under the broad-based index option hedge exemption, a qualified portfolio is comprised of net long or short positions in common stocks or securities readily convertible into common stock in at least four industry groups and contains at least 20 stocks, none of which accounts for more than 15% of the value of the portfolio. To remain qualified, a portfolio must meet the standards at all time, notwithstanding the trading activity in the stocks or their equivalents.

Although the broad-based index option hedge exemption applies only to public customers, the Exchange believes it is appropriate to expand the availability of the proposed narrow-based index option position limit exemption beyond public customers.[6] The PSE believes that significant increases in the depth and liquidity of these index options could result from permitting firm and proprietary traders to be eligible for the exemption. According to the PSE, because customers rely, for the most part, on a limited number of proprietary traders to facilitate large-sized orders, not including such traders in the exemption effectively reduces the benefit of the exemption to customers. While large-sized positions in industry index options are most commonly initiated by institutional traders hedging stock portfolios on behalf of public customers, the PSE believes that proprietary traders should be afforded the same exemption so that they may fulfill their role as facilitators.

The Exchange believes that its proposed narrow-based index option hedge exemption should not increase the potential for disruption or manipulation in the markets for the stocks underlying each index. The PSE notes that the position limits for narrow-based index options, even tripled, are far less than the position limits for most broad-based index options. In addition, the proposal incorporates several surveillance safeguards, which the Exchange will employ to monitor the use of this exemption. Specifically, the Exchange will require that member firms and their customers who seek exemptions file a form with the PSE, in lieu of granting an automatic exemption similar to that for equity options. The PSE's Options Surveillance Department will monitor trading activity in PSE-traded index options and the stocks underlying those indexes to detect potential frontrunning and manipulation abuses, as well as review to ensure that the closing of positions subject to an exemption is conducted in a fair and orderly manner.

And lastly, the PSE notes that the provision itself contains several built-in safeguards. First, the hedge must consist of a position in at least 75% of the stocks underlying the index, so that the "basket" of stocks constituting the hedge will resemble the underlying index.[7] Secondly, position limits may not exceed three times the limit established under PSE Rule 7.6(a). This places a ceiling on the maximum size of the option position. Third, both the options and stock positions must be initiated and liquidated in an orderly manner, such that a reduction of the options position must occur at or before the corresponding reduction in the stock portfolio position. Lastly, the value of the industry index option position may not exceed the dollar value of the underlying portfolio. The purpose of this requirement is to ensure that stock transactions are not used to manipulate the market in a manner benefitting the option position. In addition, these safeguards prevent the increased positions from being used in a leveraged manner.

For the above reasons, the Exchange believes that the proposed narrow-based index option hedge exemption should increase the depth and liquidity of narrow-based index option markets and allow more effective hedging with underlying stock portfolios, without increasing the potential for market manipulation or disruption, consistent with the purposes of position limits. For the same reasons, the Exchange believes that exercise limits should correspond to the position limit exempted granted by this proposal.

Statutory Basis

The PSE believes that the proposal is consistent with Section 6(b) of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(c) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

[3] National values are determined by adding the number of contracts and multiplying the total by the multiplier, expressing that number in dollar terms.

[4] Exercise limits prohibit an investor or group of investors acting in concert from exercising more than a specified number of puts or calls in a particular class within five consecutive business days.

[5] *See* Securities Exchange Act Release Nos. 32900 (September 14, 1993), 58 FR 181 (September 21, 1993) (order approving hedge exemption for broad-based index options on a pilot basis); 35738 (May 18, 1995), 60 FR 27573 (May 24, 1995) (order approving broad-based index option hedge exemption on a permanent basis).

[6] The Exchange proposes to apply only the proposed narrow-based industry index option hedge exemption, and not the existing broad-based index option hedge exemption, to firms and proprietary traders as well as public customers. Telephone conversation between Michael Pierson, Senior Attorney, Market Regulation, PSE, and Yvonne Fraticelli, Attorney, Office of Market Supervision, Commission, on November 14, 1995.

[7] To determine the share amount of each component required to hedge an index option position: index value × index multiplier × component's weighing = dollar amount of component. That amount divided by price = number of shares of component. Conversely, to determine how many options can be purchased based on a certain portfolio, divide the dollar amount of the basket by the index value × the index multiplier.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection any copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 27, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29685 Filed 12–5–95; 8:45 am]

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[8] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36532; File No. SR–NASD–95–58]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Date of Implementation of the NASD's Primary Market Maker Standards and the Duration of the Pilot Program for the NASD's Short Sale Rule

November 30, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on November 27, 1995, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. As discussed below, the Commission has also granted accelerated approval of the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to Section 19(b)(1) of the Act, the NASD is proposing to delay, from December 1, 1995 to February 1, 1996, the implementation date of the Primary Market Maker standards to be used to determine the eligibility of market makers for an exemption from the NASD's short-sale rule. The NASD also proposes to extend the termination date for the pilot period to August 3, 1996 instead of June 3, 1996. The text of the proposed rule change is as follows (additions are italicized; deletions are bracketed):

Article III, Section 1

* * * * *

Section 48

(1)(3) Until *February 1, 1996* [December 1, 1995], the term "qualified market maker" shall mean a registered Nasdaq market maker that has maintained, without interruption, quotations in the subject security for the preceding 20 business days.

* * * * *

Beginning *February 1, 1996* [December 1, 1995], the term "qualified market maker" shall mean a registered Nasdaq market maker that meets the criteria for a Primary Nasdaq Market Maker as set forth in Article III, Section 49 of the Rules of Fair Practice.

* * * * *

(m) This section shall be in effect until *August 3, 1996* [June 3, 1996].

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections A., B., and C. below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On June 29, 1994, the SEC approved the NASD's short-sale rule applicable to short sales in Nasdaq National Market securities on an eighteen-month pilot basis through March 5, 1996.[2] The NASD's short-sale rule prohibits member firms from effecting short sales at or below the current inside bid as disseminated by the Nasdaq system whenever that bid is lower than the previous inside bid.[3] The rule is in effect during normal domestic market hours (9:30 a.m. to 4:00 p.m., Eastern Time). As approved by the Commission, during the first year that the rule has been in effect (from September 6, 1994 to September 6, 1995), Nasdaq market makers who maintained a quotation in a particular Nasdaq National Market security for 20 consecutive business days without interruption are exempt from the rule for short sales in that security, provided that the short sales were made in connection with bona fide market making activity ("the 20-day" test). For the next six months of the 18-month pilot period (*i.e.*, September 6, 1995 through March 5, 1996), the "20-day" test for market maker exemptions from the rule was scheduled to be replaced with a four-part quantitative test known as the "Primary Market Maker (PMM) Standards."

Under the PMM Standards, to be eligible for an exemption from the short-sale rule, a market maker must satisfy at least two of the following four criteria: (1) The market maker must be at the best bid or best offer as shown on the Nasdaq

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] *See* Securities Exchange Act Release No. 34277 (June 29, 1994), 59 FR 34885 (July 7, 1994).

[3] A short sale is a sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller.

system no less than 35 percent of the time; (2) the market maker must maintain a spread no greater than 102 percent of the average dealer spread; (3) no more than 50 percent of the market maker's quotation updates may occur without being accompanied by a trade execution of at least one unit of trading; or (4) the market maker executes 1½ times its "proportionate" volume in stock.[4] If a market maker is a PMM for a particular stock, there will be a "P" indicator next to its quote in that stock. In addition, market makers will be able to review their status as PMMs through their Nasdaq Workstation. The review period for satisfaction of the PMM performance standards is one calendar month. If a PMM has not satisfied the threshold standards after a particular review period, the PMM designation will be removed commencing on the next business day following notice of failure to comply with the standards. Market makers may requalify for designation as a PMM be satisfying the threshold standards for the next review period.

As noted above, the PMM standards were originally scheduled to go into effect on September 6, 1995. However, because of unforeseen delays in the programming of the PMM standards, the NASD proposed and the SEC approved a delay in the effective date of the PMM standards until December 1, 1995.[5] With the instant filing, the NASD is proposing a further delay of the implementation date for the PMM standards. Specifically, because of recently detected errors in a segment of the NASD's software used to calculate whether market makers are satisfying the PMM standards, the NASD is proposing to delay the effective date of the PMM standards until February 1, 1996.

With the proposed delay, a market maker's trading activity during the month of January 1996 will be evaluated according to the PMM standards to determine if it can retain its exemption until February 1996. Until January 31, 1996, the 20-day test will continue to be used to evaluate market makers' eligibility for an exemption from the rule. Thus, beginning February 1, 1996, a "P" indicator will be displayed next to every PMM that is exempt from the rule according to the new PMM standards.

Because implementation of the PMM standards will be delayed under the proposal, the NASD is also proposing to extend the pilot period for the rule so that there is sufficient time to evaluate the effectiveness and impact of the PMM standards and the effectiveness of the short sale rule with the PMM standards in place. Specifically, the NASD proposes to extend the termination date for the pilot program until August 3, 1996.

The NASD believes the proposed rule change is consistent with Sections 15A(b)(6) and 11A(c)(1)(F) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. Section 11A(c)(1)(F) assumes equal regulation of all markets for qualified securities and all exchange members, brokers, and dealers effecting transactions in such securities. Specifically, the NASD believes that continuing the operation of the present "20-day" test until the PMM standards are in place will ensure that the liquidity provided to the market by virtue of the market maker exemption will not be diminished. In addition, the NASD believes that continuation of the "20-day" test until the PMM standards are in place would avoid the confusion in the marketplace that would result if the market maker exemption were to lapse for two months and then be reinstated. Finally, the NASD believes that extending the pilot period for the short-sale rule will enhance the quality of studies analyzing the effectiveness of the rule and help to ensure that future regulatory action taken with respect to the rule is based on a greater knowledge and understanding of the rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

The NASD has requested, however, that the Commission find good cause pursuant to Section 19(b)(2) for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**.

As discussed below, the Commission finds that the proposed rule change is consistent with the requirements of the Act. Further, the Commission finds good cause for approving the proposal prior to the 30th day after the date of publication of notice of filing in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate in that it will permit the NASD to provide interested persons adequate notice that implementation of the PMM standards will be delayed until February 1, 1996 and that the expiration of the short sale rule, including the PMM standards, will be extended until August 3, 1996.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

As discussed in the Original Approval Order, the Commission believed and continues to believe that the imposition for a limited time of a short sale rule and accompanying PMM standards applicable to Nasdaq National Market securities is consistent with the requirements of Sections 15A(b) (6), 15A(b) (9) and 15A(b) (11) of the Act.[6] As discussed below, the Commission believes that delayed implementation of the PMM standards until February 1, 1996 and limited extension of the short sales rule until August 3, 1996 (rather than June 3, 1996) is consistent with the Act and the rules and regulations promulgated thereunder.[7]

Maintaining the current operation of the short sale rule until the NASD has completed and tested the systems necessary to provide market participants adequate notice of a market maker's PMM status will avoid confusion in the marketplace and assure consistency in the application of NASD rules. Moreover, extension of the short sale rule until August 3, 1996 will maintain the effectiveness of the PMM standards for six months, as envisioned by the Commission's Original Approval Order. As noted in the Original Approval Order, this will provide the Commission and the NASD the opportunity to study the effects of the rule and its exemptions and to determine whether these are practicable and necessary on an ongoing basis, or whether other alternatives would be more appropriate.

In the Original Approval Order, the Commission stated that experience with the NASD's short sale rule may demonstrate that some or all of the elements of the rule require reconsideration. The Commission notes that this is the NASD's second proposal to extend the operation of the short sale rule due to technical problems associated with the implementation of the PMM designation. The Commission is concerned about the delay in implementing the PMM designation which inhibits the ability to assess the effects of the short sale rule with the designation in place and, thus, expects that no further delays will be necessary.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number SR–NASD–95–58 and should be submitted by December 27, 1995.

VI. Conclusion

For the reasons stated above, the Commission believes the rule change is consistent with the Act and, therefore, has determined to approve it.

It is therefore ordered, pursuant to Section 19(b) (2) of the Act, that the rule change SR–NASD–95–58 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29686 Filed 12–5–95; 8:45 am]

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[4] Specifically, the proportionate volume test requires a market maker to account for volume of at least one-and-a-half times its proportionate share of overall volume in the security for the review period. For example, if a security has 10 market makers, each market maker's proportionate share volume is 10 percent. Therefore, the proportionate share volume is one-and-a-half times 10, or 15 percent of overall volume.

[5] *See* Securities Exchange Act Release No. 36171 (Aug. 30, 1995), 60 FR 46651 (Sept. 7, 1995).

furtherance of the Act, *id.* § 78*o*–3(b) (9), and to produce fair and informative quotations, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing and publishing quotations. *Id.* § 78*o*–3(b) (11). In addition, the Commission believes that the rule change will further the goals of Section 11A in that it will promote efficient and effective market operations and economically efficient execution of investor orders in the best market and assure fair competition between the exchange markets and the OTC market and among brokers and dealers. *Id.* § 78k–1(a) (1) (C).

[6] 15 U.S.C. § 78*o*–3(b)(6), (9) and (11). Section 15A(b) (6) requires, among other things, that the NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest. 15 U.S.C. § 78*o*–3(b) (6). Sections 15A(b) (9) and (11) require that the NASD's rule be designed not to impose any burden on competition not necessary or appropriate in

[7] Securities Exchange Act Release No. 34277 (June 29, 1994), 59 FR 34885 (July 7, 1994).

[8] 17 CFR 200.30–3(a) (12).

[Release No. 34–36524; File No. SR–Phlx–95–76]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Uniform Listing and Trading Guidelines for Narrow-based Stock Index Warrants

November 29, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on October 27, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On November 22, 1995, the Phlx submitted Amendment No. 1 ("Amendment No. 1") to the proposal to establish a maintenance requirement with respect to the minimum number of securities that must comprise an index underlying a warrant issuance, to clarify issues relating to settlement values for both narrow-based and broad-based index warrants, and to amend certain position limit levels applicable to narrow-based index warrants.[1] The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule change

The Phlx proposes to amend Exchange Rules 722, 803, 1000A, and 1001A to establish uniform listing and trading guidelines applicable to narrow-based stock index warrants. The text of the proposed rule change and Amendment No. 1 thereto is available at the Office of the Secretary, Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proproposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory basis for, the Proposed Rule Change

1. Purpose

In view of the recent approval of the regulatory framework for stock index warrants on broad-based stock indexes,[2] the Exchange now proposes to establish uniform listing and trading guidelines for warrants based on narrow-based indexes. To accommodate the trading of warrants on narrow-based indexes, the Exchange proposes to modify the recently approved regulatory framework for broad-based index warrants.[3] Thus, the Exchange proposes to conform the rules applicable to warrants on narrow-based indexes to those applicable to options on narrow-based indexes.

[1] Letter from Michele R. Weisbaum, Associate General Counsel, Phlx, to Michael Walinskas, SEC, dated November 22, 1995.

[2] *See* Securities Exchange Act Release No. 36167 (Aug. 29, 1995).

[3] The Exchange notes that a substantially similar regulatory scheme generally applies to broad-based index options and warrants.

The Commission approved the trading of options on narrow-based indexes in 1982 and it approved the trading of stock index warrants in 1988.[4] Because the Commission has experience regulating warrants, the Phlx does not believe that the listing of warrants on narrow-based stock indexes will present any novel regulatory issues and, therefore, should be permitted on the same basis as warrants overlying broad-based indexes.

To conform the trading of warrants on narrow-based indexes to the rules applicable to options on narrow-based indexes, the Exchange proposes that the same margin requirements applicable to short sales of narrow-based index options apply to warrants overlying the same index. In addition, the Exchange proposes to apply a position limit structure similar to that which is applicable to narrow-based index options. Accordingly, the Exchange proposes to establish position limits for narrow-based index warrants at three separate, fixed-tier amounts (4,500,000, 6,750,000, and 9,000,000), the applicable level being determined by the level of index component concentration.[5] These levels are equivalent to 75% of the position limits currently applicable to narrow-based index options. Because broad-based index warrant position limit levels were established at approximately 75% of the corresponding levels for broad-based index options, the Exchange believes it is appropriate to establish narrow-based index warrant position limits at the corresponding level applicable to narrow-based index options.[6]

Also consistent with the existing regulatory framework for broad-based warrants, the issuer may elect to use closing prices for the securities underlying the index to determine settlement values at all times other than the day on which the final settlement valued is to be determined ("valuation date"), as well as during the two business days preceding valuation date.[7] Finally, the Exchange represents that it will not list a warrant on an index consisting of fewer than nine stocks unless the SEC separately approves such index for warrant trading. In addition, the Phlx will impose a maintenance standard that requires an index to have at least nine stocks at all times, unless separately approved by the SEC.[8]

In all other respects, the Exchange represents that the rules applicable to the trading of broad-based and narrow-based index options are the same. Accordingly, it proposes that all other rules applicable to broad-based index warrants apply equally to warrants on narrow-based indexes. Finally, the Exchange represents that it will surveil trading in narrow-based index warrants in a similar manner to the surveillance of trading in broad-based index warrants.

Upon approval of this filing, the Exchange proposes that additional Commission review of a specific narrow-based warrant issuance will be required only for warrants overlying narrow-based indexes that have not previously been approved by the SEC for option or warrant trading. Thus, upon approval of this filing, the Exchange proposes it be permitted to list a warrant on any narrow-based index that the SEC has already approved for option trading.[9]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will reduce or eliminate a burden on competition by allowing the listing of warrants on narrow-based indexes in the same manner as options on narrow-based indexes.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–95–76 and should be submitted by December 27, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29687 Filed 12–5–95; 8:45 am]

BILLING CODE 8010–01–M

[4] *See* Securities Exchange Act Release Nos. 19264 (Nov. 22, 1982) and 26152 (Oct. 3, 1988).

[5] *See* Amendment No. 1.

[6] The position limit tiers have been established at levels that represent 75% of the levels recently approved by the SEC in connection with a Phlx proposal to increase position limits for narrow-based index options. *See* Securities Exchange Act Release No. 36194 (Sept. 6, 1995). Accordingly, the Exchange proposes that position limits for narrow-based index warrants be set at roughly 75% of the 6,000, 9,000 and 12,000 position limit levels.

[7] *See* Amendment No. 1. The Commission notes that although the recently approved regulatory framework for broad-based index warrants establishes uniform settlement provisions for all exchanges, the Phlx in this filing proposes to amend Section 803(e)(3) to clarify its rule language.

[8] *See* Amendment No. 1.

[9] In order to expedite SEC review of a particular warrant issuance, the Exchange may file for approval of the index underlying the proposed warrants pursuant to the procedures and criteria set forth in Rule 1009A. These criteria establish streamlined procedures for listing options on stock industry groups (*i.e.*, narrow-based). Accordingly, the Exchange proposes that the same criteria apply to subsequent proposals to establish narrow-based indexes which underlie proposed warrant issuances.

[10] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36528; File No. SR–CBOE–95–58]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to Listing Standards for Options on Equity Securities Issued in a Reorganization Transaction Pursuant to a Public Offering or a Rights Distribution

November 29, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 19, 1995, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Chicago Board Options Exchange, Inc. ("CBOE or the Exchange") proposes to amend its listing standards in respect of options on equity securities issued in a spin-off, reorganization, recapitalization, restructuring or similar transaction where the issuance is made pursuant to a public offering or a rights distribution.

The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend the special listing standards set forth in Interpretation and Policy .05 under Exchange Rule 5.3 that apply to options on equity securities issued in certain spin-offs, reorganizations, recapitalizations, restructurings or similar transactions (referred to herein as "restructuring transactions") so as to also include securities issued pursuant to a public offering or a rights distribution that is part of a restructuring transaction.

Interpretation and Policy .05 under Exchange Rule 5.3 is intended to facilitate the listing of options on equity securities issued in restructuring transactions (referred to as "Restructure Securities") by permitting the Exchange to base its determination as to the satisfaction of certain of the listing standards set forth in Exchange Rule 5.3 and Interpretation and Policy .01 thereunder by reference to specified characteristics of the "Original Security" in respect of which the Restructure Security was issued or distributed or of the trading market of the Original Security, or by reference to the number of shares of the Restructure Security issued and outstanding or to the listing standards of the exchange on which the Restructure Security is listed. Interpretation and Policy 5.3.05 permits the Exchange to certify a Restructure Security as options eligible sooner than if it had to wait until it could base its certification on characteristics of the Restructure Security itself, but only in circumstances where the factors relied upon make it reasonable to conclude that the Restructure Security will in fact satisfy applicable listing criteria.

As recently approved by the Commission, CBOE Interpretation and Policy 5.3.05 does not extend to restructuring transactions involving the issuance of a Restructure Security in a public offering or a rights distribution.[3] Although these kinds of restructuring transactions were included in Interpretation and Policy 5.3.05 as initially filed, CBOE subsequently amended that filing to eliminate them in order to permit the Commission to approve that filing without having to address the special questions raised by public offerings and rights distributions. At that time it was anticipated that CBOE would file a separate rule change proposing the extension of Interpretation and Policy 5.3.05 to restructuring transactions that involve public offerings and rights distributions.[4]

The question raised by the proposed extension of Interpretation and Policy 5.3.05 to reorganization transactions involving public offerings or rights distributions reflect that when a Restructure Security is issued in a public offering or pursuant to a rights distribution, it cannot automatically be assumed that the shareholder population of the Restructure Security and the Original Security will be the same. Instead, the holders of a Restructure Security issued in a public offering will be those persons who subscribed for and purchased the security in the offering, and the holders of a Restructure Security issued in a rights distribution will be those persons who elected to exercise their rights. Even in the case of a distribution of nontransferable rights to shareholders of the Original Security, not all such shareholders may choose to exercise their rights. As a result, it cannot be assumed that the Restructure Security will necessarily satisfy listing criteria pertaining to minimum number of holders, minimum public float and trading volume simply because the Original Security satisfied these criteria.

On the other hand, the Exchange believes that the same reasons for wanting to make an options market available without delay to holders of securities issued in reorganizations that do not involve public offerings or rights distributions apply with equal force to securities issued in reorganizations that do involve public offerings or rights distributions, so long as there can be reasonable assurance that the securities satisfy applicable options listing standards. That is, holders of an Original Security who utilize options to manage the risks of their stock positions may well find themselves to be holders of both the Original Security and the Restructure Security following a reorganization because they chose to purchase the Restructure Security in a public offering or to exercise rights in order to maintain the same investment position they had prior to the reorganization. Such holders may want to continue to use options to manage the risks of their combined stock position after the reorganization, but they can do so only if options on the Restructure Security are available. The Exchange

[3] *See* Securities Exchange Act Release No. 36020 (July 24, 1995), 60 FR 39029 (July 31, 1995) (order approving CBOE Interpretation and Policy 5.3.05).

[4] *See* Letter from Michael L. Meyer, Attorney, Schiff Hardin & Waite, to Sharon M. Lawson, Assistant Director, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market Regulation"), Commission, dated June 13, 1995 ("File SR–CBOE–95–11 Letter").

believes that it is important to avoid any undue delay in the introduction of options trading in such a Restructure Security in circumstances where there is sound reason to believe that the Restructure Security does in fact satisfy options listing standards.

Accordingly, CBOE proposes to add new paragraph (d) to Interpretation and Policy .05 under Exchange Rule 5.3, to address situations where a Restructure Security is issued pursuant to a public offering or rights distribution. Pursuant to the proposed rule change, the Exchange may certify the Restructure Security as satisfying minimum shareholder and minimum public float requirements on the basis provided for in approved Interpretation and Policy .05(c), only after at least five days of "regular way" trading. Moreover, after due diligence, the Exchange must have no reason to believe that the Restructure Security does not satisfy these requirements. Additionally, in order to base certification on Interpretation and Policy 5.3.05, the closing prices of the Restructure Security on each of the five or more trading days prior to the selection date must be at least $7.50. Finally, as is required for all underlying securities selected for options trading, trading volume in the Restructure Security must be at least 2,400,000 shares during a period of twelve months or less up to the time the security is so selected.

The effect of the proposed rule change is that a Restructure Security issued pursuant to a public offering or a rights distribution that is part of a reorganization will be eligible for options trading only if it satisfies all of the existing standards applicable to the selection of underlying securities generally, except that (A) the Exchange may assume the satisfaction of the minimum public ownership requirement of 7,000,000 shares and the minimum 2,000 shareholders requirement if (i) either the percentage of value tests of subparagraph (a)(1) of Interpretation and Policy 5.3.05 are met or the aggregate market value represented by the Restructure Security is at least $500,000,000, *and if* (ii) the Restructure Security is listed on an exchange or an automatic quotation system having equivalent listing requirements or at least 40,000,000 shares of the Restructure Security are issued and outstanding, *and if* (iii) after the Restructure Security has traded "regular way" for at least five trading days and after having conducted due diligence in the matter, the Exchange has no reason to believe that these requirements are not met, and (B) subject to the same percentage of value or aggregate market value requirements, the Restructure Security may be deemed to satisfy the minimum market price per share requirement if it has a closing market price per share of at least $7.50 during each of the five or more trading days preceding the date of selection, instead of having to satisfy this requirement over a majority of days over a period of three months. (In the event the Restructure Security has a closing price that is less than $7.50 on any of the trading days preceding its selection, it will have to satisfy this requirement on a majority of trading days over a period of three months before it can be certified as eligible for options trading.) For any Restructure Security issued in a public offering or a rights distribution that does satisfy these requirements, the effect of the proposed rule change will be to permit its certification for options trading to take place as early as on the sixth day after trading in the stock commences, instead of having to wait for three months of trading.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 in general, and furthers the objectives of Section 6(b)(5) in particular, by removing impediments to a free and open market in options covering securities issued in public offerings or pursuant to rights distributions as part of restructuring transactions and other similar corporate reorganizations.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose on any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing with also be available for inspection and copying at the principal office of CBOE. All submissions should refer to the File No. SR–CBOE–95–58 and should be submitted by December 27, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29688 Filed 12–6–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 01/71–0364]

Geneva Middle Market Investors, L.P.; Issuance of a Small Business Investment Company License

On Tuesday, August 29, 1995, a notice was published in the **Federal Register** (Vol. 60, No. 167, FR 44929) stating that an application had been filed by Geneva Middle Market Investors, L.P., at 70 Walnut Street, Wellesley, Massachusetts 02181, with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1995)) for a license to operate as a small business investment company.

Interested parties were given until close of business Wednesday, September 13, 1995 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 01/71–0364 on Friday, October 27, 1995, to Geneva Middle Market Investors, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 30, 1995.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 95–29651 Filed 12–5–95; 8:45 am]

BILLING CODE 8025–01–P

[5] 17 CFR 200.30–3(a)(12).

[Application No. 99000192]

CoreStates Enterprise Capital, Inc.; Filing of an Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1995)) by CoreStates Enterprise Capital, Inc. at 1345 Chestnut Street, Philadelphia, Pennsylvania 19107 for a license to operate as a non-leveraged bank-owned small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. *et seq.*), and the Rules and Regulations promulgated thereunder. CoreStates Enterprise Capital, Inc. plans to operate principally within the Mid-Atlantic region of the United States.

The Applicant's full-time management team will consist of Michael F. Donoghue (Director and President), Christine C. Jones (Vice President) and Maureen P. Quinn (Vice President), who collectively will be the "Principals" of the Applicant. The Principals and other officers and employees of CoreStates Bank, N.A., the Applicant's management company, will provide management services to the Applicant.

All of the Applicant's private capital will be provided by CoreStates Bank, N.A. which is wholly owned by CoreStates Financial Corporation, a bank holding company. CoreStates Financial Corporation is a Delaware corporation which has assets in excess of $29 billion and whose stock is publicly traded and is listed on the New York Stock Exchange. CoreStates Financial Corporation also has an interest in the following other SBIC's: a 5.9% interest as a limited partner in Meridian Venture Partners through ownership of National State Bank, and a 23.9% interest in Greater Philadelphia Venture Capital Corporation. CoreStates Financial Corporation is a passive investor in each such other SBICs and the Principals are not involved in their operation or management.

The Applicant will begin operations with Regulatory Capital of $2.5 million and plans to make investments in later-stage middle-market small businesses which operate in relatively stable markets and have a functionally diversified management team, predictable operating cash flow and revenues of at least $10 million.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in Philadelphia, Pennsylvania.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies.)

Date: November 30, 1995.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 95–29652 Filed 12–5–95; 8:45 am]

BILLING CODE 8025–01–P

Blue Rock Capital, L.P.

Notice of Filing of an Application for a License to operate as a Small Business Investment Company

[Application No. 99000186]

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1995)) by Blue Rock Capital, L.P. at 511 Twaddell Mill Road, Wilmington, Delaware 19807–1233 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. et. seq.), and the Rules and Regulations promulgated thereunder.

The Applicant, Blue Rock Capital, L.P., will be organized as a Delaware limited partnership and its principal area of operation will be the Mid-Atlantic area and the Northeastern United States. Blue Rock Partners, L.P. will be the Applicant's General Partner and the General Partner of Blue Rock Partners, L.P. will be Blue Rock, Inc., a Delaware corporation which is owned by Ms. Virginia G. Bonker and Mr. Terry Collison. The Board of Directors of the Applicant's Corporate General Partner consists of Ms. Bonker, Mr. Collison and Mr. Frederick J. Beste, III. BRC Management Corporation (the "Management Company") will provide management services to Blue Rock Capital, L.P. Ms. Bonker and Mr. Collison will work full time for the Management Company. None of the Applicant's limited partners will own 10 percent or more of the Applicant.

The Applicant will begin operations with Regulatory Capital of $9.8 million and make early-stage equity investments in privately-held companies with high growth potential in the Mid- Atlantic region. The Applicant will consider investments in small business which focus on information technology, business services, software, and other specialized proprietary technologies.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in Wilmington, Delaware.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies.)

Dated: November 30, 1995

Don A. Christensen,

Associate Administrator for Investment

[FR Doc. 95–29653 Filed 12–5–95; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Employer Based Claims Filing

AGENCY: Social Security Administration.

ACTION: Notice with request for comments.

SUMMARY: The Social Security Administration's Reinventing Government Phase II initiatives include a proposal to establish a controlled employer-based claims-taking process. The goal of this proposal is to make it easy for retiring employees to file for Social Security retirement benefits through their employer. The purpose of this notice is to solicit from the business community expressions of interest in participating in the pilot phase of this claims-taking process. This expression of interest pertains to the pilot phase only. Upon completion of the pilot, participants will be given the opportunity to decide on future participation. Expressions of interest should include a brief description of the employer's existing retirement process, including specifics such as the number of retirements processed each year, the degree of company assistance to retiring employees during the retirement process and how the gathering of Social Security retirement information could be incorporated into this existing process.

DATES: To be sure your expressions of interest are considered, we must receive them no later than January 22, 1996.

ADDRESSES: Expressions of interest or other comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, Maryland 21235, sent by telefax to (410) 966–2830, sent by E-mail to "regulations@ssa.gov," or delivered to the Division of Regulations and Rulings, Social Security Administration, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Sandra Steeley, Social Insurance Specialist, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, telephone (410) 965–8976.

SUPPLEMENTARY INFORMATION: The Clinton administration's Reinventing Government Phase II initiatives, announced on April 12, 1995, include a proposal to provide workers with an alternate way to file their Social Security retirement applications. Currently, workers can apply for Social Security via the mail, telephone or by visiting one of our 1,300 field offices. Under this proposal, workers would have the additional option of filing for their Social Security retirement benefits through their company's personnel office.

The benefits of this proposal will be explored within a pilot phase. Participation in the pilot will involve a commitment to continue participation for the planned 6 to 12 month duration of the pilot. Upon completion of the pilot, involved businesses will be given an opportunity to express their interest in continuing with or removing themselves from further participation in this claims-taking process based on their assessment of the benefits of the process.

The pilot of this cooperative claims-taking process will be conducted through use of paper forms and applications. SSA plans to use an abbreviated application that would minimize the information gathering process for the employer. Information gathering for each retiring employee by the employer will include about 20 short-answer questions. If the basic information gathered by the employer reveals complexities that require further exploration, SSA will develop these issues during later evidence gathering phases of the application process.

This proposal focuses on service to SSA customers. SSA believes the opportunity for a worker to file for Social Security benefits at the same time that the worker completes his/her employer retirement paperwork provides a convenient "one stop" service for the worker. Additionally, because the intent is to work towards establishing at some time in the future an electronic transfer of such information to us, we envision that we will eventually be able to provide an employer and worker with the actual amount of the worker's retirement benefit without any significant delay after submission of the employee's application. This contemplated electronic transfer would facilitate final settlement of the pension amount payable to the worker in situations involving companies that have integrated pension plans in which a worker's pension amount relates to his/her Social Security benefit.

SSA does not envision the employer as the conduit for reporting by the worker after completion of the initial Social Security application process by the worker. SSA will remain the focal point for such later reporting activities.

Dated: November 21, 1995.

Shirley S. Chater,

Commissioner of Social Security

[FR Doc. 95–29532 Filed 12–5–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

Bureau of Political-Military Affairs

[Public Notice 2296]

Imposition of Chemical and Biological Weapons Proliferation Sanctions On A Foreign Person

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The United States Government has determined that a Russian individual has engaged in chemical weapons proliferation activities that require the imposition of sanctions pursuant to the Arms Export Control Act and the Export Administration Act of 1979 (the authorities of which were most recently continued by Executive Order 12924 of August 19, 1994), as amended by the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

EFFECTIVE DATE: November 17, 1995.

FOR FURTHER INFORMATION CONTACT: Vann H. Van Diepen, Office of Chemical, Biological and Missile Nonproliferation, Bureau of Political-Military Affairs, Department of State (202–647–4930).

SUPPLEMENTARY INFORMATION: Pursuant to Sections 81(a) and 81 (b) of the Arms Export Control Act (22 U.S.C. 2798(a), 2798(b)), Sections 11C(a) and 11C(b) of the Export Administration Act of 1979 (50 U.S.C. app. 2410c(a), 2410 (b)), Section 305 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (P.L. 102–182), Executive Order 12851 of June 11, 1993, and State Department Delegation of Authority No. 145 of February 4, 1980, as amended, the United States Government determined that Anatoliy Kuntsevich, a Russian Citizen, has engaged in chemical weapons proliferation activities that require the imposition of the sanctions described in Section 81(c) of the Arms Export Control Act (22 U.S.C. 2798(c)) and Section 11C(c) of the Export Administration Act of 1979 (50 U.S.C. app. 2410c(c)).

Accordingly, the following sanctions are being imposed:

(A) Procurement Sanction. — The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned persons; and

(B) Import Sanction. — The importation into the United States of products produced by Anatoliy Kuntsevich shall be prohibited.

Sanctions on the individual described above may apply to firms or other entities with which that individual is associated. Questions as to whether a particular transaction is affected by the sanctions should be referred to the contact listed above. The sanctions shall commence on November 17, 1995. They will remain in place for at least one year and until further notice.

These measures shall be implemented by the responsible agencies as provided in Executive Order 12851 of June 11, 1993.

Dated: November 27, 1995.

Dric D. Newsom,

Assistant Secretary of State for Political-Military Affairs, Acting.

[FR Doc. 29720 Filed 12–5–95; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Security Advisory Committee

AGENCY: Federal Aviation Administration.

ACTION: Notice of Aviation Security Advisory Committee Renewal.

SUMMARY: Notice is hereby given of the renewal of the Aviation Security Advisory Committee.

The Federal Aviation Administrator is the sponsor of the Committee, which consists of 23 member organizations selected by FAA as representative of the overall viewpoint of all aviation users and the objectives of the committee. The committee is a joint Government-aviation industry initiative to improve the efficiency and effectiveness of the aviation security system. The committee provides independent expert advice on the nature and the direction in which FAA may wish to proceed to solve these complex and dynamic problems. The functions of the committee are solely advisory.

The Secretary of Transportation has determined that the information and use of the Aviation Security Advisory Committee are necessary in the public interest in connection with the performance of duties imposed on FAA by law. Meetings of the committee will be open to the public.

Issued in Washington, DC, on November 30, 1995.

E. Ross Hamory,

Executive Director, Aviation Security Advisory Committee.

[FR Doc. 95–29702 Filed 12–5–95; 8:45 am]

BILLING CODE 4910–13–M

Availability of Draft Environmental Impact Statement and Public Hearing; LaGuardia Airport East End Roadway Improvements Project

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice to hold a public hearing on a draft environmental impact statement.

SUMMARY: The New York Airports District Office of the Federal Aviation Administration (FAA) announces that the FAA, acting as "Lead Agency" and the New York State Department of Transportation (DOT), acting as a "joint lead agency" have completed the preparation of a Draft Environmental Impact Statement (DEIS) assessing modifications to the roadways serving LaGuardia Airport that have been proposed by the Port Authority of New York and New Jersey. In addition, it is the intent of this notice to inform the public that the FAA and New York State Department of Transportation (DOT) will be conducting a Public Meeting to accept comments on the Draft EIS. The Public Meeting will be held:

Date: January 10, 1996
Time: 4:30 pm to 9:30 pm
Location: LaGuardia Marriott Hotel, 105–05 Ditmars Boulevard, East Elmhurst, Queens, New York

Persons interested in contributing comments on the DEIS are invited to provide them orally at the Public Meeting. In addition, written comments may be submitted to Mr. Philip Brito at the location identified below. Written comments must be received by Mr. Brito, on or before, the end of the formal comment period on February 14, 1996. Comments received after the close of the comment period, but prior to FAA's environmental finding, will be considered by the FAA to the extent practicable. The FAA will issue a Final Environmental Impact Statement that includes corrections, clarifications, and responses to comments on the DEIS.

Copies of the Draft Environmental Impact Statement are available for review at the following locations:

John Dent, Branch Manager, East Elmhurst Public Library, 95–06 Astoria Boulevard, East Elmhurst, NY 11369
Orest Tuka, Branch Manager, Jackson Heights Public Library 35–51 81st Street, Jackson Heights, NY
Andrew Jackson, Branch Manager, Langston Hughes Public Library, 102–09 Northern Boulevard, Corona, NY 11368
Diane Vitale, Branch Manager, Corona Public Library, 38–23 104th Street, Corona, NY 11368
Gary Strong, Director, Queens Borough Public Library, 89–11 Merrick Boulevard, Jamaica, NY 11432
Lynne Pickard, Manager, Environmental Needs Division, Office of Airport Planning and Programming, FAA, APP–600, 800 Independence SW, Washington, DC 20591
Queens Community Board #3, District Manager Mary Sarro, 34–33 Junction Boulevard, Jackson Heights, NY 11372
New York City Department of City Planning, Director Joseph B. Rose, 22 Reade Street, New York, NY 10007
Robert Grotell, Deputy Director, Mayor's Office of Environmental Coordination, 52 Chambers Street, Room 315, New York, NY 10007
Queens Borough President's Office, Mr. Bruce Ley, 120–55 Queens Boulevard, Kew Gardens, NY 11424

FOR FURTHER INFORMATION CONTACT: Philip Brito, Federal Aviation Administration, New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, NY 11530, Phone: 516–227–3800.

Philip Brito,

Manager, New York Airports District Office.

[FR Doc. 95–29703 Filed 12–5–95; 8:45 am]

BILLING CODE 5000–04–M

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

[Preemption Determination No. PD–12(R); Docket No PDA–13(R)]

New York Department of Environmental Conservation; Requirements on the Transfer and Storage of Hazardous Wastes Incidental to Transportation

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Administrative determination of preemption by RSPA's Associate Administrator for Hazardous Materials Safety.

APPLICANT: Chemical Waste Transportation Institute.

STATE LAWS AFFECTED: New York Codes, Rules and Regulations (NYCRR), Title 6, Section 372.3(a)(7).

APPLICABLE FEDERAL REQUIREMENTS: Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials Regulations (HMR), 49 CFR Parts 171–180.

MODES AFFECTED: Highway and Rail.

SUMMARY: Federal hazardous material transportation law preempts 6 NYCRR 372.3(a)(7) which restricts hazardous waste transporters' activities at transfer facilities by (1) prohibiting the repackaging of hazardous wastes; (2) requiring an indication on the manifest of a transfer of hazardous wastes between vehicles; and (3) requiring secondary containment for any storage or transfer of hazardous wastes. This decision considers these requirements in the context of highway transportation of hazardous wastes, including transfers between motor and rail carriers. On their face, these requirements apply to all modes of transportation.

The first two requirements are preempted by 49 U.S.C. 5125(b)(1) because they are not substantively the same as provisions in the HMR concerning (1) the packing, repacking, and handling of hazardous material, and (2) the preparation, contents, and use of shipping documents related to hazardous material. The requirement for secondary containment is preempted because it is an obstacle to the accomplishment and carrying out of the HMR's provisions on packaging and segregation. 49 U.S.C. 5125(a)(2).

No party, including the applicant, has requested a determination that Federal law preempts the requirement in 6 NYCRR 373–1.1(d)(1)(xv), also incorporated by reference in 372.3(a)(6), that storage of hazardous wastes incidental to transport may take place only at a transfer facility that is not located on the site of a commercial hazardous waste treatment, storage or disposal facility. Accordingly, no decision is reached with respect to that requirement.

This determination does not consider the definitions of "Storage Incidental to Transport" and "Transfer Incidental to Transport," in 6 NYCRR 364.1(c)(12) and (14), because these definitions do not appear to apply to the NYCRR transfer and storage requirements nor impose any requirements or restrictions on transporters of hazardous wastes.

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001, telephone 202–366–4400.

SUPPLEMENTARY INFORMATION:

I. Background

A. Application for Preemption Determination

In September 1993, the Chemical Waste Transportation Institute (CWTI) applied for a determination that the former Hazardous Materials Transportation Act (HMTA) preempted certain requirements of the New York State Department of Environmental Conservation (NYDEC) applicable to the transfer and storage of hazardous wastes incidental to transportation (generally referred to in this determination as "NYDEC transfer and storage requirements").

In general terms, these requirements impose conditions on the transfer and storage of hazardous wastes "incidental to transport" that, if complied with, exempt the transporter from having to obtain the separate permit required for treatment, storage and disposal (TSD) facilities. As discussed more fully below, CWTI contends that these NYDEC transfer and storage requirements are preempted because they are not "substantively the same as" requirements in the HMR governing (1) the packing, repacking and handling of hazardous materials and (2) the content and use of the manifest which serves as a shipping paper accompanying a shipment of hazardous waste. CWTI also contends that most of the NYDEC transfer and storage requirements constitute an obstacle to the accomplishment and execution of the HMTA and the HMR, because they interfere with, or are not necessary for, the safe and efficient transportation of hazardous waste.

On their face, the NYDEC transfer and storage requirements apply to all modes of transportation. However, CWTI's application and all the comments addressed these requirements only in the context of highway transportation of hazardous wastes, including transfers between motor and rail carriers.

The text of CWTI's application was published in the **Federal Register** on October 15, 1993, and interested parties were invited to submit comments. 58 FR 53614. The period for public comments was extended when several States initially requested additional time to submit comments, and NYDEC advised it was proposing revisions to its regulations that have eliminated many of the specific requirements challenged by CWTI. 58 FR 65226 (Dec. 13, 1993). Additional time was then allowed for interested parties to comment on these proposed revisions to the NYDEC transfer and storage requirements, including whether requirements proposed to be repealed were being enforced. 59 FR 4312 (Jan. 31, 1994). Later, RSPA reopened the comment period to invite further comments on the effect of preemption on "States' ability to appropriately regulate transporters of hazardous waste under RCRA," as raised in a June 27, 1994 letter to RSPA from the Association of State and Territorial Solid Waste Management Officials (ASTSWMO). 59 FR 40081 (Aug. 5, 1994). The comment period closed September 23, 1994.

Extensive comments were received from NYDEC, ASTSWMO, transporters of hazardous wastes, industry organizations, and the following States: California, Colorado, Connecticut, Maine, Maryland, Massachusetts, Montana, Ohio, and Pennsylvania. Further comments were submitted by CWTI.

B. Transfer Facilities and EPA's Regulations

Hazardous wastes, like many other commodities, are seldom transported in a single vehicle from origin to destination. In issuing a 1980 amendment to its hazardous waste regulations, the Environmental Protection Agency (EPA) noted that

> Many transporters own or operate transfer facilities (sometimes called "break-bulk" facilities) as part of their transportation activities. At these facilities, for example, shipments may be consolidated into larger units or shipments may be transferred to different vehicles for redirecting or rerouting. Shipments generally are held at these facilities for short periods of time. The length of time may vary due to such factors as scheduling and weather, but because these facilities are intended to facilitate transportation activities, rather than storage, the time is typically as short as practicable.

Interim final amendments and request for comments, Hazardous Waste Management System, etc., 45 FR 86966 (Dec. 31, 1980)

Commenters on CWTI's application described as a common practice the transfer of hazardous wastes between vehicles, including transferring the contents of one container into another. For example, NCH Corporation referred to transporters who pick up hazardous waste in drums from relatively small generators and then consolidate them into loads that are large enough to be accepted by the permitted recycler or waste treatment facility. Transferring the drummed waste upon delivery to the transfer facility into a tanker truck * * * eliminates the labor-intensive and wasteful unloading, reloading, and management of multiple drums of waste that would otherwise be necessary.

According to the Association of American Railroads (AAR):

> It is a common transportation practice for hazardous waste to be transferred from truck to rail. For example, contaminated soil has been trucked from hazardous waste sites to rail sidings for rail delivery to treatment or disposal facilities. Hazardous waste liquids are trucked to sidings for pumping into tank cars and subsequent delivery to consignees for burying or recycling.

EPA's regulations provide that a transporter who mixes hazardous wastes of "different DOT shipping descriptions by placing them in a single container" must comply with the standards applicable to generators. 40 CFR 263.10(c)(2). Transporters who simply hold hazardous wastes "for a short period of time in the course of transportation," 45 FR 86966, are exempted from EPA's requirements applicable to TSD facilities. Section 263.12 of 40 CFR states that:

> A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of § 262.30 [specifying packagings that meet DOT regulations] at a transfer facility for a period of ten days or less is not subject to regulation under parts 270, 264, 265, and 268 of this chapter with respect to the storage of those wastes.

C. NYDEC Transfer and Storage Requirements

In contrast, New York subjects transfer facilities to all the requirements governing TSD facilities, including permits, unless the hazardous waste transporter limits its activities at the transfer facilities as follows:

- *Transfer* of hazardous wastes by a transporter "incidental to transport" is permitted by 6 NYCRR 372.3(a)(7) only if "(i) no consolidation or transfer of loads occurs either by repackaging in, mixing, or pumping from one container or transport vehicle into another[;] (ii) transfer of hazardous waste from one vehicle to another is indicated on the Manifest as Second Transporter"; and (iii) the transfer or storage areas where sealed containers are transferred from one vehicle to another, or unloaded for temporary storage, are "designed to meet secondary containment requirements" set forth in 6 NYCRR 373–2.9(f).
- *Storage* of hazardous wastes by a transporter "incidental to transport," is allowed by 6 NYCRR 372.3(a)(6) for ten calendar days only if conditions specified in 6 NYCRR 373–1.1(d)(1)(xv) are met. The latter section is contained in New York's Hazardous Waste Treatment, Storage and Disposal Facility Permitting Requirements. It allows the transporter an exemption from the requirement to obtain a TSD permit when it stores manifested shipments of hazardous waste in DOT-authorized packagings for ten calendar days or less, "provided that the transfer facility is not located on the site of any commercial hazardous waste treatment, storage or disposal facility subject to permitting" by NYDEC.

Violations of NYDEC's regulations are punishable by civil and criminal penalties. In addition, a transporter's permit may be revoked or suspended, and the violator may be enjoined from continuing to violate the regulations. N.Y. Envtl. Conserv. Law. 71–2703.

CWTI does not challenge the condition in § 373–1.1(d)(1)(xv) that storage of hazardous wastes at a transfer facility must be in DOT-authorized containers. While CWTI's application also argued for preemption of several other restrictions in § 373–1.1(d)(1)(xv), concerning the storage of hazardous wastes at transfer facilities (such as daily inspections, a log of receipts and shipments, and facility ownership), these other restrictions have been (1) combined with similar requirements in § 372.3(a), (2) eliminated, or (3) modified for consistency with EPA's regulations. These amendments took effect on January 14, 1995 (60 days after NYCRR filed amendments to 6 NYCRR with the New York Secretary of State on November 15, 1994). N.Y.S. Register, p.14 (Nov. 30, 1994).

The only restriction added by NYDEC's November 1994 amendments to the transfer and storage requirements is the condition that a transfer facility not be located on the site of a commercial TSD facility. CWTI refers to this additional restriction in its March 11, 1994 comments, but neither it nor any other party has discussed the effect of this condition on hazardous waste transporters or argued that this condition is preempted by 49 U.S.C. 5125.

In its application, CWTI also contends that the following definitions in 6 NYCRR 364.1(c), defining terms used in Part 364 (governing Waste Transporter Permits), are also preempted:

> (12) "Storage Incidental to Transport" means any on-vehicle storage which occurs enroute from the point of initial waste pickup to the point of final delivery for purposes such as, but not limited to, overnight on-the-road stops, stops for meals, fuel, and driver comfort, stops at the transporter's facility for weekends immediately prior to shipment, or on-vehicle storage not to exceed five days at the transporter's facility for the express purpose of consolidating loads (where such loads are not removed from their original packages or containers) for delivery to an authorized treatment, storage or disposal facility.
>
> (14) "Transfer Incidental to Transport" means any transfer of waste material associated with storage incidental to transport where such material is not unpackaged, mixed or pumped from one container or truck into another.

However, these definitions do not appear to impose any requirements or restrictions on transporters of hazardous wastes. Moreover, NYDEC has stated that these definitions do not apply to the transfer and storage requirements in 6 NYCRR Part 372 and 373. And CWTI has not indicated that the scope of requirements in Part 364, governing permits for transporters of hazardous wastes, is improperly broadened by these definitions to the extent that transporter permit requirements are preempted by 49 U.S.C. 5125. Accordingly, this determination does not consider these two definitions.

The next part of this decision summarizes the regulation of hazardous wastes as hazardous materials under the HMR, the criteria for Federal preemption of non-Federal requirements applicable to the transportation of hazardous materials, and RSPA's procedures for issuing administrative determinations of preemption. Part III addresses in detail NYDEC's three restrictions on transfer facilities that have been challenged by CWTI's application and remain in effect following the 1994 amendments to the transfer and storage requirements: (1) The prohibition against repackaging, (2) the requirement to indicate on the manifest any transfer of hazardous waste between vehicles, and (3) the requirement for secondary containment for any storage or transfer of sealed containers.

II. Federal Hazardous Materials Transportation Law

A. Scope of Federal Law and Application to Hazardous Wastes

The HMTA was enacted in 1975 to give the Department of Transportation greater authority "to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce." Pub. L. 93–633 § 102, 88 Stat. 2156, amended by Pub. L. 103–272 and codified as revised in 49 U.S.C. 5101. The HMTA "replace[d] a patchwork of state and federal laws and regulations * * * with a scheme of uniform, national regulations." *Southern Pac. Transp. Co.* v. *Public Serv. Comm'n*, 909 F.2d 352, 353 (9th Cir. 1980). On July 5, 1994, the HMTA was among the many Federal laws relating to transportation that were revised, codified and enacted "without substantive change" by Public Law 103–272, 108 Stat. 745. The Federal law governing the transportation of hazardous material is now found in 49 U.S.C. Chapter 51. Although the HMTA remains applicable to proceedings begun before July 5, 1994, this determination will cite to the preemption criteria presently set forth

in 49 U.S.C. 5125, because Congress made no substantive change.

The HMR, now issued under the 49 U.S.C. 5103(b)(1) mandate that the Secretary of Transportation "prescribe regulations for the safe transportation of hazardous material in intrastate, interstate, and foreign commerce," predate the HMTA. They had their origins in the Explosives and Combustibles Act of 1908, 35 Stat. 554 (chap. 234), and many of the provisions governing motor vehicles carrying hazardous materials were originally issued by the Interstate Commerce Commission under former § 204 of the Interstate Commerce Act. After DOT assumed responsibility for the regulation of hazardous materials, the HMR were continued, but renumbered. 32 FR 5606 (Apr. 5, 1967).

To encourage the nationwide application of uniform requirements, DOT has long encouraged States to adopt and enforce the HMR as State law. Grants are available, under the Motor Carrier Safety Assistance Program (MCSAP) of the Federal Highway Administration (FHWA), to States that enforce the "highway related portions" of the HMR "or compatible State rules, regulations, standards, and orders applicable to motor carrier safety, including highway transportation of hazardous materials." 49 CFR 350.9(a). New York has adopted the HMR "as the standard for classification, description, packaging, marking, labeling, preparing, handling and transporting all hazardous materials," 17 NYCRR 507.4(a)(1)(i), and these incorporated provisions of 49 CFR "apply to all transportation within or through the State of New York." 17 NYCRR 507.7.

Under the MCSAP program, in the year ending September 30, 1995, New York was awarded almost $3.5 million in grants for enforcement of the HMR and the Federal Motor Carrier Safety Regulations, 49 CFR Parts 350–399. As a condition of receiving MCSAP grant funds in fiscal 1996, New York has certified that it has adopted highway hazardous materials safety rules and regulations that are substantially similar to and consistent with the HMR.

All hazardous wastes are designated "hazardous substances" under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601(14)(C), and, as such, hazardous wastes were explicitly required to be "listed and regulated as * * * hazardous material[s] under the Hazardous Materials Transportation Act." 42 U.S.C. 9656(a). *See also* 49 CFR 171.8 (the term "hazardous material" includes hazardous wastes.) The HMR apply to the transportation of hazardous wastes by intrastate, interstate and foreign carriers. 49 CFR 171.1(a).

Under the HMR, all hazardous materials (including hazardous wastes) are classified according to their hazard characteristics (flammable, corrosive, etc.) and must be packaged for transportation in containers that meet prescribed design specifications or performance-oriented standards. A package containing hazardous materials must be marked and labeled, and the vehicle or freight container placarded, according to the HMR's requirements. The package also must be accompanied by a shipping paper that properly describes the hazardous material. An EPA manifest (meeting the requirements of 40 CFR part 262) must be prepared for any shipment of hazardous waste, and, if it contains all the information required by DOT, the manifest may be used as the DOT shipping paper. 49 CFR 172.205(a), (h).

In enacting RCRA in 1976, Congress provided that EPA's regulations on transporters of hazardous waste must be consistent with the requirements of the HMTA and the HMR. 42 U.S.C. 6923(b). Accordingly, the EPA regulations on transporters of hazardous wastes adopted in 1980 contain a note to explain that:

> EPA and DOT worked together to develop standards for transporters of hazardous waste in order to avoid conflicting requirements. Except for transporters of bulk shipments of hazardous waste by water, a transporter who meets all applicable requirements of 49 CFR parts 171 through 179 and the requirements of 40 CFR 263.11 [concerning an EPA identification number] and 263.31 [concerning cleanup of releases of hazardous wastes] will be deemed in compliance with this part. 40 CFR 263.10, Note.

B. Federal Preemption

A statutory provision for Federal preemption was central to the HMTA. In 1974, the Senate Commerce Committee "endorse[d] the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation." S. Rep. No. 1102, 93rd Cong. 2nd Sess. 37 (1974). More recently, a Federal Court of Appeals found that uniformity was the "linchpin" in the design of the HMTA, including the 1990 amendments which expanded the preemption provisions. *Colorado Pub. Util. Comm'n* v. *Harmon*, 951 F.2d 1571, 1575 (10th Cir. 1991). In 1990, Congress specifically found that:

> (3) many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,
>
> (4) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,
>
> (5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable.
>
> Pub. L.101–615 § 2, 104 Stat. 3244.

Following the 1990 amendments and the subsequent 1994 codification of the Federal law governing the transportation of hazardous material, in the absence of a waiver of preemption by DOT under 49 U.S.C. 5125(e), "a requirement of a State, political subdivision of a State, or Indian tribe" is explicitly preempted (unless it is authorized by another Federal law) if

> (1) complying with a requirement of the State, political subdivision, or tribe and a requirement of this chapter or a regulation prescribed under this chapter is not possible; or
>
> (2) the requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an obstacle to the accomplishing and carrying out this chapter or a regulation prescribed under this chapter.

49 U.S.C. 5125(a). These two paragraphs set forth the "dual compliance" and "obstacle" criteria which RSPA had applied in issuing inconsistency rulings prior to the 1990 amendments to the HMTA. While advisory in nature, these inconsistency rulings were "an alternative to litigation for a determination of the relationship of Federal and State or local requirements" and also a possible "basis for an application * * * [for] a waiver of preemption." Inconsistency Ruling (IR) No. 2, Rhode Island Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas, etc. 44 FR 75566, 75567 (Dec. 20, 1979). The dual compliance and obstacle criteria are based on U.S. Supreme Court decisions on preemption. *Hines* v. *Davidowitz*, 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132 (1963); *Ray* v. *Atlantic Richfield Co.*, 435 U.S. 151 (1978).

In the 1990 amendments to the HMTA, Congress also confirmed that there is no room for differences from Federal requirements in certain key matters involving the transportation of hazardous material. As now codified, a non-Federal requirement "about any of the following subjects, that is not substantively the same as a provision of this chapter or a regulation prescribed under this chapter," is preempted unless it is authorized by another Federal law or DOT grants a waiver of preemption:

> (A) the designation, description, and classification of hazardous material.
>
> (B) the packing, repacking, handling, labeling, marking, and placarding of hazardous material.
>
> (C) the preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.
>
> (D) the written notification, recording, and reporting of the unintentional release in transportation of hazardous material.
>
> (E) the design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.
>
> 49 U.S.C. 5125(b)(1). RSPA has defined "substantively the same" to mean "conforms in every significant respect to the Federal requirement. Editorial and other similar *de minimis* changes are permitted." 49 CFR 107.202(d).

Since 1984, the HMR have also included the provision in 49 CFR 171.3(c) that:

> With regard to hazardous waste subject to [the HMR], any requirement of a state or its political subdivision is inconsistent with [the HMR] if it applies because that material is a waste material and applies differently from or in addition to the requirements of [the HMR] concerning:
>
> (1) Packaging, marking, labeling, or placarding;
>
> (2) Format or contents of discharge reports (except immediate reports for emergency response); and
>
> (3) Format or contents of shipping papers, including hazardous waste manifests.

This standard (which has been incorporated by reference in New York's transportation regulations) followed the original preemption provision in the HMTA that, unless DOT granted a waiver,

> any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement set forth in this chapter [the HMTA], or in a regulation issued under this chapter [the HMR], is preempted.
>
> Pub. L. 93–633 § 112(a), 88 Stat. 2161.

New York's regulations specifically recognize that "any requirement of the State or political subdivision thereof which is inconsistent with Federal law or regulations in the field is preempted," and refer to procedures under which DOT can issue a waiver of preemption. 17 NYCRR 507.1(b).

Under 49 U.S.C. 5125(d)(1), any directly affected person may apply to the Secretary of Transportation for a determination whether a State, political subdivision or Indian tribe requirement is preempted. This administrative determination replaced RSPA's process for issuing inconsistency rulings. The Secretary of Transportation has delegated to RSPA the authority to make determinations of preemption, except for those concerning highway routing which have been delegated to FHWA. 49 CFR 1.53(b). Under RSPA's regulations, preemption determinations are issued by RSPA's Associate Administrator for Hazardous Materials Safety. 49 CFR 107.209(a).

Section 5125(d)(1) requires that notice of an application for a preemption determination must be published in the **Federal Register**. *Id.* Following the receipt and consideration of written comments, RSPA publishes its determination in the **Federal Register**. *See* 49 C.F.R. 107.209(d). A short period of time is allowed for filing of petitions for reconsideration. 49 C.F.R. 107.211. Any party to the proceeding may seek judicial review in a Federal district court. 49 U.S.C. 5125(f).

Preemption determinations do not address issues of preemption arising under the Commerce Clause of the Constitution or under statutes other than the Federal hazardous material transportation law unless it is necessary to do so in order to determine whether a requirement is authorized by another Federal law. A State, local or Indian tribe requirement is not authorized by another Federal law merely because it is not preempted by another Federal statute. *Colorado Pub. Util. Comm'n* v. *Harmon*, above, 951 F.2d at 1581 n.10.

In making preemption determinations under 49 U.S.C. 5125(d), RSPA is guided by the principles and policy set forth in Executive Order No. 12,612, entitled "Federalism" (52 FR 41685, Oct. 30, 1987). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of State authority directly conflicts with the exercise of Federal authority. Section 5125 contains express preemption provisions, which RSPA has implemented through its regulations.

Although cases cited by NYDEC and other commenters note the general presumption against preemption, RSPA must consider CWTI's application under the express preemption standards of 49 U.S.C. 5125. For that reason, the issue is not whether "there is a clearly demonstrated compelling need for preemption," as NYDEC asserts, but rather whether the non-Federal requirements, such as the NYDEC transfer and storage requirements, fit the criteria in 49 U.S.C. 5125 for preemption.

The Massachusetts Department of Environmental Protection's Division of Hazardous Materials appears to object to RSPA's procedure for issuing preemption determinations. Massachusetts asserts that RSPA's decision "must be made on the basis of adjudicatory facts, not legislative-type facts." It states that "DOT/RSPA has no authority for law-making with respect to preemption, only law-applying," and that RSPA "must make findings of fact in an adjudicative-type proceeding, and then apply the facts to Congress' preemption standard." However, RSPA disagrees with the position of Massachusetts that a formal, fact-finding process under the Administrative Procedure Act is required. As RSPA has stated, before it issues a determination of preemption, each interested party, including the jurisdiction whose requirements are challenged

> has been afforded (1) notice and an opportunity to submit any comments it wished; (2) the opportunity to petition for reconsideration; and (3) the right to judicial review. Due process does not require more. Nor is the Administrative Procedure Act applicable here, since the HMTA does not require RSPA to make a determination of preemption "on the record after opportunity for an agency hearing." 5 U.S.C. 554(a). *See Wong Yang Sun* v. *McGrath*, 339 U.S. 33 (1950), and *Gardner* v. *United States*, 239 F.2d 234, 238 (5th Cir. 1956).

Preemption Determination (PD) No. 1, State Bonding Requirements for Vehicles Carrying Hazardous Wastes, decision on petitions for reconsideration, 58 FR 32418, 32420 (June 9, 1993), affirming initial decision, 57 FR 58848 (Dec. 11, 1992), judicial review dismissed, *Massachusetts* v. *United States Dep't of Transp.*, Civil Action No. 93–1581(HHG) (D.D.C. Apr. 7, 1995), appeal pending, No. 95–5175 (D.C. Cir.).

On August 26, 1994, 49 U.S.C. 5125(d)(1) was amended to require that DOT must issue its decision on an application for a determination of preemption within 180 days after publication in the **Federal Register** of receipt of the application, or DOT must publish a statement of "the reason why the * * * decision on the application is delayed, along with an estimate of the additional time before the decision is made." Pub. L. 103–311 § 120(b), 108

Stat. 1681. Notice of CWTI's application was first published in the **Federal Register** on October 15, 1993. However, for the reasons explained above, the comment period was twice extended, later reopened, and finally closed on September 23, 1994. NYDEC's amendments to its transfer and storage requirements were not finalized until November 15, 1994, and did not become effective until January 14, 1995. These facts made it impracticable to issue this decision within 180 days of the **Federal Register** notice of CWTI's application.

III. Discussion

A. CWTI's Standing to Apply for a Preemption Determination

NYDEC and other States opposing CWTI's application assert that CWTI lacks "standing" to challenge the NYDEC transfer and storage requirements. NYDEC states that, based on CWTI's own statements, none of CWTI's members have been "adversely affected" or "aggrieved by the challenged regulations." According to NYDEC, "no [CWTI] member has demonstrated any actual harm (such as lost *profits* or penalties for failure to comply)." NYDEC also asserts that, "[s]ince the secondary containment requirement is a facility safety standard, and not a transportation issue, it is inapplicable to CWTI," and none of CWTI's members "have been impaired by the application or enforcement of this requirement in their operations."

The Pennsylvania Department of Environmental Resources and the Montana Department of Health and Environmental Sciences both contend that CWTI has failed to show that the NYDEC transfer and storage requirements have been "applied or enforced" against transporters of hazardous waste in New York. Massachusetts simply states that "CWTI has failed to state an injury for which relief pursuant to HMTA § 1811(a) [now 49 U.S.C. 5125 (a) and (b)] can be granted."

In response, CWTI submitted affidavits by two of its members stating that they do not engage in certain activities within the State of New York because of, as set forth in one affidavit, "the severity of the New York Department of Environmental Conservation regulations and the severity of the penalty for non-compliance." In other comments, private companies indicate they have been complying with the NYDEC transfer and storage requirements. For example, Chemical Waste Management, Inc. attributes the lack of enforcement actions against it to its "conformance with those standards, which in part is based on our belief that New York would exercise its enforcement prerogative on companies not in compliance." Safety-Kleen states that it has obtained permits, that it would not need in the absence of the NYDEC transfer and storage requirements, in order to permit it to "commingle and repackage our mineral spirits solvents for ultimate transport to our recycle centers."

Section 5125(d) authorizes any person who is "directly affected" by a non-Federal requirement to apply for a determination of preemption. That standard is a simple one; being "affected" means only that the requirement applies to the applicant. The plain words of the statute do not require showing that one is "adversely affected," "aggrieved," or has suffered "injury" or "actual harm." Issues of enforcement (and how the non-Federal requirement is actually applied) are relevant to whether or not there is an "obstacle" to executing and carrying out the Federal law and regulations governing the transportation of hazardous materials. But these issues do not bear on whether the applicant is within the scope of those persons entitled to use the administrative procedure set forth in § 5125(d) for obtaining a preemption determination, *i.e.*, whether the non-Federal requirement applies to the applicant.

Moreover, the question of whether NYDEC's secondary containment requirement is a "facility" or "transportation" requirement cannot be determinative of whether a person to whom that requirement applies has "standing" to ask for a determination of preemption. Where loading, unloading or storage occurs incidental to "the movement of property" in commerce, that activity is within the scope of Federal law governing the transportation of hazardous material and the HMR. *See* 49 U.S.C. 5102(12) (definition of "transportation"). Requirements affecting transportation facilities, and transporters' activities at those facilities, are subject to Federal preemption. *See* IR–28, San Jose, California; Restrictions on Storage of Hazardous Materials, 55 FR 8884, 8889–90 (Mar. 8, 1990), appeal dismissed as moot, 57 FR 41165 (Sept. 9, 1992). Similar requirements affecting a consignee's facility and its handling of hazardous materials at that facility, after transportation has ended, are "beyond the scope of the HMTA," as codified at 49 U.S.C. 5101 *et seq. Id.; see also* PD–8(R)—PD–11(R), California and Los Angeles County Requirements Applicable to the On-site Handling and Transportation of Hazardous Materials, 60 FR 8774, 8777–78 (Feb. 15, 1995) (petitions for reconsideration pending).

CWTI has provided sufficient information to establish that the NYDEC transfer and storage requirements, including the requirement for secondary containment, do apply to its members. Accordingly, it is "directly affected" by those requirements and entitled to submit this application.

B. Claims That RCRA Authorizes the NYDEC Requirements

NYDEC and many of the States that submitted comments on CWTI's application argue that the NYDEC transfer and storage requirements are authorized by the provision in RCRA that:

> Nothing in this title [42 U.S.C. § 6921 *et seq.*] shall be construed to prohibit any State or political subdivision from imposing any requirements, including those for site selection, which are more stringent than those imposed by [EPA] regulations.

42 U.S.C. § 6929 (RCRA § 3009).

NYDEC states that this provision "explicitly invites state requirements that are 'more stringent'" than Federal ones, and that "a preemption determination will effectively repeal a basic tenet upon which RCRA is based." Maryland and Pennsylvania concur that "RCRA expressly contemplates that state laws will be different and specialized to each state's concerns. States are only preempted by RCRA if state law is less stringent than RCRA."

Maryland and Pennsylvania further contend that DOT has "no authority * * * to administer or interpret RCRA. Therefore, DOT's construction or interpretation of RCRA is entitled to no weight or deference at all." The Colorado Hazardous Waste Commission similarly states that "RSPA has no expertise in the field of hazardous waste, [and] it should recognize the limits of its jurisdiction and defer to the State of New York in this matter."

The Maine Department of Environmental Protection asserts that more stringent requirements in an EPA-authorized State hazardous waste program take precedence over "HMTA's transportation rules," and that "the preemption criteria under HMTA does not extend into hazardous waste transfer activities." Massachusetts mentions the "special regulatory status of hazardous waste" and also contends that "Congress left the states with their authority to enact requirements governing generation, transportation, storage, treatment and disposal which are more stringent than RCRA." Montana states that a 1982 EPA memorandum "expressed [the] interpretation that provisions of an authorized State program which are more stringent than the Federal counterparts become a part of the requirements of RCRA, and fully enforceable by the EPA."

The California Department of Toxic Substances Control similarly asserts that "RCRA stands as the minimum standards which States must follow, and Congress did not intend to preempt states from promulgating their own requirements pursuant to RCRA." It argues that NYDEC's "loading and unloading requirements" are authorized by both RCRA § 3009 and "EPA's statutory obligation [in RCRA § 3003, 42 U.S.C. § 6923] to promulgate regulations which are necessary to protect human health and the environment in the transportation of hazardous waste." ASTSWMO also indicates that RCRA empowers States "to create regulatory systems which are more stringent than federal rules," and that "these State rules have been closely analyzed by the USEPA for consistency with federal statute and regulations, * * *"

In contrast to the States' arguments, CWTI points to EPA's own statements that it does not examine State hazardous waste transportation requirements for consistency with Federal hazardous material transportation law. CWTI cites EPA's final determination on California's hazardous waste program, 57 FR 32726, 32728 (July 23, 1992), where EPA found that "preemption issues under other Federal laws * * * do not affect the State's RCRA authorization," and an August 17, 1994 letter signed by the Director of EPA's Office of Solid Waste stating that:

> A possible issue of preemption under HMTA would not affect the programs's eligibility for RCRA authorization where the preemption concern is unrelated to RCRA authorities. * * * Thus, EPA still believes that the RCRA authorization decisions provide no basis for shielding state regulations touching upon hazardous materials transport from possible preemption challenges raised under the HMTA.

CWTI also argues that the "more stringent than" language in 42 U.S.C. 6929 simply prevents RCRA itself from prohibiting additional State requirements, so that the "more stringent than language" is not sufficient to specifically authorize the NYDEC transfer and storage requirements. According to CWTI, the "more stringent than" language does not prevent *other* Federal statutes from preempting State hazardous waste requirements.

Moreover, CWTI finds that this language applies only to sites of TSD facilities. It quotes a statement by Senator Bumpers, the sponsor of the 1980 amendment that added the "more stringent than" language to RCRA, that the purpose of that language was to "permit States to establish standards more stringent than Federal standards with regard to the selection of sites for the disposal of hazardous waste material." 125 Cong. Rec. 13,247 (1979).

CWTI contends that State requirements on hazardous waste transporters must not be in conflict with the Federal hazardous material transportation law and the HMR, because RCRA requires that (1) EPA's regulations on transporters must be "consistent with" DOT's requirements, 42 U.S.C. 6923(b), and (2) State hazardous waste programs must be "equivalent to" and "consistent with" EPA's program. 42 U.S.C. 6926(b). CWTI refers to 40 CFR 263.12, under which a transporter "who stores manifested shipments of hazardous waste in containers meeting [DOT packaging] requirements" for no more than 10 days at a transfer facility need not meet other storage facility requirements. For the position that there is no restriction on transporters mixing wastes having the same DOT shipping description, CWTI cites the provision in 40 CFR 263.10 that a transporter who "[m]ixes hazardous wastes of different DOT shipping descriptions by placing them in to a single container" must comply with the standards applicable to generators. CWTI quotes the preamble to later amendments to 40 CFR Part 263, where EPA stated that the "amendments do not place any new requirements on transporters repackaging waste from one container to another (e.g., consolidation of wastes from smaller to larger containers) or on transporters who mix hazardous wastes at transfer facilities." 45 FR 86967 (Dec. 31, 1980). Included with CWTI's application is a March 1, 1990 letter signed by the Director of EPA's Office of Solid Waste stating:

> The bulking of characteristic hazardous waste shipments to achieve efficient transportation may result in incidental reduction of the hazards associated with that waste mixture. However, this incidental reduction may not meet the definition of treatment (as defined under 40 CFR Section 260.10) because it is not designed to render the waste nonhazardous or less hazardous. Accordingly, such activity may not require a RCRA permit.

The opposing arguments by the States and CWTI clearly focus the issue of the relationship between Federal preemption under 49 U.S.C. 5125 and State requirements on hazardous waste transporters, under EPA-authorized programs. This same issue was addressed in two of RSPA's prior determinations concerning transporters of hazardous waste: PD–1(R), above, 57 FR 58848, 58854–55, and PD–2(R), Illinois Environmental Protection Agency's Uniform Hazardous Waste Manifest, 58 FR 11176, 11183 (Feb. 23, 1993). Further comments were specifically invited on this issue in the August 5, 1994 **Federal Register** notice, which reopened the comment period in response to ASTSWMO's request for an opportunity to discuss "the effect of RSPA [preemption] activities upon States' ability to appropriately regulate transporters of hazardous waste under RCRA." 59 FR 40081.

NYDEC's assertion that "the regulation of intrastate transportation of hazardous materials is a matter of peculiarly local concern" is not consistent with: (1) Congress's direction that hazardous wastes must be "listed and regulated as hazardous material[s]" under the former HMTA, 42 U.S.C. 9656(a); (2) its finding that uniform requirements "are necessary and desirable" for the safe transportation of hazardous materials, Pub. L. 101–615 § 2, 104 Stat. 3244; (3) the mandate that DOT "prescribe regulations for the safe transportation of hazardous material in interstate, intrastate, and foreign commerce," 49 U.S.C. 5103(b)(1); and (4) New York's own adoption of the HMR as State law.

As already noted, the HMR presently apply to all intrastate and interstate transportation of hazardous wastes, 49 C.F.R. 171.1(a), and RSPA has proposed to expand the HMR's coverage to intrastate motor carriers of all hazardous material. *See* Notice of Proposed Rulemaking in Docket No. HM–200, Hazardous Materials in Intrastate Commerce, 58 FR 36920 (July 9, 1993), correction, 58 FR 38111 (July 15, 1993). (At present, the HMR do not apply to intrastate motor carriers of hazardous material other than hazardous wastes, hazardous substances, marine pollutants, and flammable cryogenics in cargo and portable tanks, 49 CFR 171.1(a).)

Moreover, since the early 1900's, the HMR have applied to wastes that were hazardous in transportation. In 1976, Congress recognized this fact when it enacted RCRA and specifically directed that regulations on hazardous waste transporters must be consistent with the HMR; that requirement, in 42 U.S.C. 6923(b), remains unchanged. Under these circumstances, RSPA cannot agree that there is a "special" status for State regulations on hazardous waste transporters, removing them from preemption under 49 U.S.C. 5125, nor that a declaration that the NYDEC transfer and storage requirements are

preempted "will effectively repeal a basic tenet upon which RCRA is based."

RSPA has, in fact, looked to EPA's own interpretation of RCRA, as requested by some of the State commenters. In its authorization of California's hazardous waste program, EPA stated that permit requirements for waste transportation "facilities not regulated under RCRA would be viewed as 'broader in scope' and, therefore, not part of the authorized program," and that any such requirements could be challenged in an application to DOT "which has jurisdiction over such matters." 57 FR at 32728. Accordingly, preemption issues under Federal hazardous material transportation law

> do not affect the State's RCRA authorization. * * * EPA does not believe that an individual State's authorization application is the appropriate forum to resolve problems which clearly affect a large number of States. * * * [A] process is already in place intended to address the problem pursuant to the [HMTA].

Id. In October 29, 1992 and August 17, 1994 letters, EPA has reaffirmed this position.

EPA has consistently maintained that its approval of a State's hazardous waste program does not preclude preemption by 49 U.S.C. 5125 of that State's requirements—regardless of whether the latter are deemed "broader in scope" or "more stringent" than Federal RCRA requirements. Section 3009 of RCRA, which allows States to impose "more stringent" requirements than those established by EPA, must be read consistently with Federal hazardous materials transportation law.

A fundamental rule of construction is that two separate statutes should be construed in a manner which is consistent and gives effect to both. *Morton* v. *Mancari*, 417 U.S. 535, 551 (1974). In this case, Congress clearly intended RCRA to be implemented consistently with the HMTA. The legislative history of RCRA shows that EPA and DOT are to work together to maintain consistent standards for hazardous waste transporters which assure handling of the waste in a manner that (1) protects human health and the environment, and (2) does not interfere with transportation. H.R. Rep. No. 1491, 94th Cong., 2d Sess. 6, 27, reprinted in 1976 U.S. Code Cong. & Ad. News 6238, 6244, 6265.

To carry out that intention, in section 3003(b) of RCRA (42 U.S.C. 6923(B)), Congress encouraged EPA to consult with DOT, and it required EPA to promulgate hazardous waste transportation regulations in consultation with DOT and consistent with the HMTA and the HMR. In 1980, Congress added section 2002(a)(6) to RCRA that the EPA Administrator may delegate to DOT inspection and enforcement functions relating to the transportation of hazardous waste, "where such delegation would avoid unnecessary duplication of activity and would carry out the objectives of this Act *and of the Hazardous Materials Transportation Act.*" 42 U.S.C. 6912(a)(6) (emphasis added).

EPA's reading of the two statutes gives full effect to both. Under that construction, EPA-authorized State requirements governing hazardous waste transporters that are more stringent than EPA's own regulations are preempted when those requirements fail to meet the standards of 49 U.S.C. 5125. This properly places the power to make hazardous materials transportation preemption decisions with DOT, the agency charged by Congress to administer the Federal hazardous material transportation law.

There is no basis for the position of NYDEC and other States that any State can avoid preemption of its hazardous waste transporter requirements simply by obtaining authorization under RCRA. Similarly unfounded is the assertion by ASTSWMO that EPA actually does (or must) analyze State hazardous waste transportation requirements "for consistency with Federal statute and regulations * * *" during the authorization process. Congress could not have intended that EPA (rather than DOT) assume the burden of determining whether State requirements are consistent with Federal hazardous material transportation law and the HMR.

State requirements affecting transporters of hazardous waste are not "authorized by another law of the United States," within the meaning of 49 U.S.C. 5125, simply because they are contained in an EPA-authorized State hazardous waste program. *See* PD–1, above, 57 FR at 58855. The statement in 40 CFR 271.1(i), that nothing in EPA's State-authorization regulations "precludes a State from" adopting or enforcing more stringent requirements, is not authorization in an enabling sense. That does not constitute specific authorization of these State requirements, as is necessary to preclude preemption. *Colorado Pub. Util. Comm'n* v. *Harmon*, above, 951 F.2d at 1581 n.10.

C. NYDEC Transfer and Storage Requirements

1. Repackaging Prohibition

Section 372.3(a)(7)(i) allows a transporter to transfer hazardous wastes incidental to transport provided that

> no consolidation or transfer of loads occurs either by repackaging in, mixing, or pumping from one container or transport vehicle into another.

The HMR contain numerous requirements covering loading, unloading, and handling hazardous waste during transportation. *See* generally 49 CFR 173.1–173.40, Part 174 (railroads), and Part 177 (motor carriers). However, the HMR do not contain any general prohibition against the transfer of hazardous material from one container to another, or the combination of commodities within the same packaging. For example, 49 CFR 173.21(e) forbids mixing of two materials in the same packaging or container when it "is likely to cause a dangerous evolution of heat, or flammable or poisonous gases or vapors, or to produce corrosive materials." In another section, the HMR provide that

> Two or more materials may not be loaded or accepted for transportation in the same cargo tank motor vehicle if, as a result of any mixture of the materials, an unsafe condition would occur, such as an explosion, fire, excessive increase in pressure or heat, or the release of toxic vapors.

49 CFR 173.33(a)(2). And 49 CFR 173.10(e) forbids loading certain flammable materials from tank trucks or drums into tank cars on the carrier's property. As mentioned earlier, EPA's regulations provide that a hazardous waste transporter must also follow the requirements applicable to generators if it "[m]ixes hazardous wastes of different DOT shipping descriptions by placing them into a single container." 40 CFR 263.10(c).

With regard to motor carriers only, the HMR prohibit the transfer of a Class 3 (flammable liquid) material between containers or vehicles "on any public highway, street, or road, except in case of emergency." 49 CFR 177.856(d). (The HMR also contain segregation requirements, applicable to rail and motor carriers, limiting which hazardous materials may be "loaded, transported, or stored together." 49 CFR 174.81(f), 177.848(d).)

CWTI asserts that NYDEC's prohibition against repackaging containers of hazardous waste is preempted because it is not substantively the same as the provisions in the HMR concerning "the packing, repacking, [and] handling * * * of hazardous material," 49 U.S.C. 5125(b)(1)(B), and because it is an obstacle to the HMR. It notes that EPA does not preclude the commingling of hazardous waste by transporters, but merely specifies that a transporter who mixes wastes of different DOT shipping descriptions must comply with standards applicable to waste generators. It argues that States may not treat hazardous wastes differently than "fungible products such as coal, petroleum or acids" that may be repackaged during transportation.

CWTI points to EPA's March 1, 1990 letter, indicating that repackaging of hazardous waste, for transportation, does not constitute treatment for which a permit is required. It states that the absolute prohibition against repackaging restricts transporters from taking actions that actually promote safety, on the basis that it is safer to consolidate loads from cargo tanks to tank cars and to combine the contents of many individual packagings from multiple generators for shipment to a TSD facility.

Other commenters, including Dart Trucking Company and Price Trucking Company, complain that this restriction against repackaging results in additional truck travel, wasted fuel, increased emissions, and the inability to transfer wastes between trucks and railroads. AAR also states that:

> It generally is in the public interest to permit truck to rail transfers of hazardous waste. Rail transportation is the best mode of transporting hazardous waste; railroads have a favorable incident rate and no "midnight dumping" problem. Furthermore, rail transportation of hazardous waste to a recycling facility often can be cheaper; heretofore, it has been public policy to make recycling economical.

AAR argues that, because the HMR only prohibit truck-to-rail transfers of certain flammable materials in limited circumstances, NYDEC's absolute ban on transferring hazardous waste is inconsistent with the HMR and therefore preempted.

The Hazardous Materials Advisory Council (HMAC) asserts that hazardous wastes do not have any additional risks that justify NYDEC's "discriminatory regulation" of hazardous wastes differently from other hazardous materials. Safety-Kleen also believes that "the same guidelines that are afforded to all non-waste hazardous materials" should be applied to hazardous waste transporters; it advises that it spends approximately $500,000 per year to obtain NYDEC TSD permits "in order to commingle and repackage our mineral spirit solvents for ultimate transport to our recycle centers" outside the State of New York.

CWTI argues that 49 CFR 177.834(h) is not applicable to transfer facilities. That section, applicable only to motor carriers, provides in part that

> There must be no tampering with [a] container or the contents thereof nor any discharge of the contents of any container between point of origin and point of billed destination. Discharge of contents of any container, other than a cargo tank, must not be made prior to removal from the motor vehicle.

According to CWTI, this provision covers "illegal activity, such as stealing freight," and "discharges into the environment, not the movement of material between DOT-authorized packagings." Referring to an exchange of correspondence between the Federal Railroad Administration (FRA) and Envirosafe Services of America discussing the application of the HMR to the transfer of hazardous wastes "from gondolas to dump trucks," CWTI notes that FRA never indicated that those transfers were prohibited. NCH Corporation also argues that the "billed destination" may be an intermediate point, such as a transfer facility, and that 177.834(h)

> is clearly intended to bar irresponsible handling or diversion of hazardous materials in transportation, not to prevent the orderly transfer of material from one DOT-approved container to another at a transfer facility. * * * The transfer of material from container to container in the ordinary course of business, with no release into the environment, is not a "discharge."

NYDEC acknowledges that "the RCRA uniform manifest system does allow the commingling of wastes" by transporters, while NYDEC's transfer and storage requirements "do not allow consolidation of loads by repackaging, mixing or pumping an any intermediate, non-TSD location short of the RCRA permitted 'billed destination' which the generator specifies." It argues that its prohibition against repackaging is "consistent with and complimentary to" 177.834(h), since both its requirement and the HMR are "aimed at preventing a release of the hazardous material." NYDEC states that the term "billed destination" in 177.834(h) "plainly refers to the ultimate destination," which is the TSD facility from the generator's perspective.

NYDEC further argues that the HMR do not authorize, "either explicitly or implicitly," the commingling of hazardous wastes by transporters, but that 177.834(h)

> is obviously directed toward preventing unqualified persons from tampering with packaging and containers. This ensures that wastes are not commingled, eliminating the identification of the generator and potentially destroying the integrity of the container * * *

For this reason, NYDEC states that its repackaging prohibition is not an obstacle to accomplishing and carrying out the HMR, but rather furthers the "main objective of HMTA [which] is the safe transport of hazardous materials." According to NYDEC, added costs of doing business do not constitute an "obstacle"; it argues that an obstacle exists "only when the regulations in question require conduct that is prohibited by [49 U.S.C.] Chapter 51 or are incompatible with conduct required by Chapter 51. * * *"

California asserts, as does NYDEC, that the NYDEC "loading and unloading" requirement in 6 NYCRR 372.3(a)(7)(i) is not within the list of covered subjects in 49 U.S.C. 5125(b)(1). However, it further states that, if loading and unloading are covered subjects, the NYDEC repackaging prohibition is substantively the same as 177.834(h), because "[t]he two regulations contain the same goal of disallowing the tampering with and discharging of hazardous materials from containers before a transporter reached its destination."

Several of the State commenters contend that the NYDEC prohibition against repackaging is not preempted because it regulates a facility rather than transportation. Maine does

> not believe that opening containers of hazardous waste, pouring, pumping, mixing, or commingling are within the realm of transport activities. Such activities constitute hazardous waste management activities and Maine decided long ago that these activities must be conducted at facilities which meet appropriate design standards and in accordance with procedures developed to protect public health, safety, and the environment. We further contend that transfer activities fall under the realm of a storage/management activity and not a transport activity.

Similarly, ASTSWMO stated that opening containers and commingling waste are "management activities," for which there should be "the safeguards of contingency plans, waste analysis plans, trained personnel, sampling, compatibility determinations, etc." The Public Utilities Commission of Ohio (PUCO) also states that,

> in light of the fact that there are no Federal standards for hazardous waste facilities, CWTI bears a difficult burden to demonstrate that the NYDEC requirements, as applied or enforced, create an obstacle to the accomplishment and execution of [49 U.S.C. Chapter 51] and the Hazardous Materials Regulations. Generally, where there are Federal standards or regulations, additional

state regulations may run the risk of confusing the regulated industry. With respect to hazardous waste transfer facilities, there are no Federal standards or regulations; therefore, the NYDEC regulations create no risk of confusing the regulated industry.

Both ASTSWMO and PUCO urge RSPA not to find preemption. ASTSWMO believes that "these non-transport issues" should be addressed by EPA in a rulemaking process, rather than by RSPA in a preemption determination. PUCO sees the "need for uniform national standards for hazardous waste transfer facilities" beyond current EPA and DOT requirements, and it asks that RSPA withhold any ruling on CWTI's application until those uniform standards are established. It recommends as a model the procedures being followed under 49 U.S.C. 5119 for establishing uniform State forms and procedures for registration and permitting of hazardous material transporters.

CWTI and other commenters have explained that NYDEC's prohibition against repackaging hazardous wastes prevents transporters from transferring the contents of many drums into a cargo tank, from transferring the contents of several cargo tanks into a tank car (or from dump trucks into a gondola or hopper car), and from transferring the contents from rail cars into trucks. EPA has disclaimed any "intention of discouraging rail transportation of hazardous wastes," and stated that 1980 amendments to its regulations specifically allow "intermodal transportation involving railroads without the need for a manifest accompanying the waste during the rail portion of the shipment." Transportation of Hazardous Waste by Rail, 45 FR 86970, 86971 (Dec. 31, 1980). Intermodal shipments of hazardous wastes in bulk cannot take place without the "repackaging, mixing, or pumping" prohibited by NYDEC's section 372.3(a)(7)(i).

By its very terms, this prohibition involves "repackaging," and is not substantively the same as the HMR's requirements for "the packing, repacking, [and] handling * * * of hazardous material." 49 U.S.C. 5125(b)(1)(B). The prohibited repackaging activities fall within the scope of "repacking" and "handling," specifically because they involve "loading" and "unloading." DOT has never interpreted 49 CFR 177.834(h) as a general prohibition against transferring hazardous materials from one approved container to another. This is confirmed by the limited prohibition, covering only flammable liquids, against transfer from one container or vehicle to another on a "public highway, street, or road," subject to an exception with prescribed procedures for emergency situations. 49 CFR 177.856(d).

There is also no indication that New York State (which has adopted both 177.834(h) and 177.856(d) as State law) has interpreted the former section to restrict either (1) combining the contents of several packages of fungible commodities or (2) transferring materials between modes of transportation. Section 177.834(h) must also be understood in light of the historical practice, recognized in EPA's March 1, 1990 letter interpretation, that transporters may consolidate or mix hazardous wastes of the same DOT shipping description without thereby engaging in "treatment" (for which a permit is required) or becoming subject to the regulations applying to hazardous waste generators.

NYDEC's attempt to characterize the repackaging prohibition in 6 NYCRR 372.3(a)(7)(i) as a "facility" requirement also cannot insulate it from preemption. That prohibition applies to the "repackaging" and "handling" of hazardous materials in transportation, and it is not substantively the same as

the requirements in the HMR. For that reason, 49 U.S.C. 5125(b)(1)(B) preempts 6 NYCRR 372.3(a)(7)(1). In addition, NYDEC's prohibition against repackaging containers of hazardous waste appears to be inconsistent with the HMR because it applies solely to waste material "and applies differently from or in addition to" the HMR's requirements concerning the packaging of hazardous materials. 49 CFR 171.3(c)(1).

2. Manifest Entry for Transfer Between Vehicles

Section 372.3(a)(7)(ii) allows a transporter to transfer hazardous wastes incidental to transport provided that

transfer of hazardous waste from one vehicle to another is indicated on the Manifest as Second Transporter.

The HMR require that a hazardous waste manifest be prepared in accordance with EPA's regulations in 40 CFR 262.20 and be "signed, carried, and given" as specified in 49 CFR 172.205. A manifest which contains all the information required by DOT may be used as the DOT shipping paper. 49 CFR 172.205(h). Procedures for use of the manifest when wastes are shipped by railroad, including transfers between rail and non-rail carriers, are specifically set forth in 40 CFR 263.20(f), and allow a shipping paper to accompany the shipment (rather than the manifest).

EPA's Uniform Hazardous Waste Manifest form is shown in the Appendix to 40 CFR Part 262. Among the information required are the company name and EPA identification number for the first and second (if necessary) transporters. (If more than two transporters will be used to transport the waste, a continuation sheet must be used to "list the transporters in the order they will be transporting the waste. * * * Every transporter used between the generator and the [TSD] designated facility must be listed.") In a shaded portion, for information "not required by Federal law," are spaces for the State identification number and telephone number of any transporter. In these spaces, NYDEC requires "State of registration and motor vehicle license plate number of waste carrying portion of vehicle used to transport" plus "[t]elephone number of authorized agent." 6 NYCRR Part 372, Appendix 30. On the lower portion of the form are spaces for the transporter(s) to acknowledge receipt of the hazardous waste, by name, signature, and date.

RSPA has found that any State requirement that "significantly alter[s] the information supplied on the manifest," is preempted. PD–2(R), above, 58 FR at 11183 (preempting Illinois requirement to round quantities of hazardous waste to the nearest whole numbers, while the uniform manifest form specifying entry of the "total quantity" of hazardous waste may require the use of fractions or decimals, depending on the unit of measure).

Neither EPA's regulations nor the HMR contain any requirement for a single transporter to indicate, by license plate number or otherwise, which vehicle is used to carry the hazardous waste, or that waste has been transferred from one vehicle to another.

CWTI argues that NYDEC's requirement to indicate on the manifest when waste is transferred from one vehicle to another is not substantively the same as the HMR's requirements for "the preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents." 49 U.S.C. 5125(b)(1)(C). It asserts that a EPA negotiated rulemaking committee "specifically considered and rejected an effort to require notation by license plate number" when vehicles of the same transporter were changed.

AAR states that rail cars are usually transferred between carriers "without face-to-face contact," and "shipping paper information may be exchanged between carriers electronically." According to AAR, railroads are

excepted from the signature requirements, "including shipments which ultimately are transferred between the rail and truck modes," citing 40 CFR 263.20(f) and 49 CFR 172.205(f).

NYDEC did not specifically address the requirement in 6 NYCRR 372.3(a)(7)(ii) that the manifest show any transfer of hazardous waste from one vehicle to another owned by the same transporter. Its written comments indicate this requirement was among those being eliminated, but this requirement was retained in the amendments filed November 15, 1994.

In coordinated, but separate, rulemakings in March 1984, EPA and DOT summarized the development of a uniform hazardous waste manifest form. EPA, Hazardous Waste Management System, 49 FR 10490; RSPA Docket No. 145D, Hazardous Waste Manifest; Shipping Papers, 49 FR 10507 (Mar. 20, 1984). As EPA indicated, when it established the manifest system in 1980, it decided to allow "the regulated community to adapt its present practices, notably DOT's requirements for shipping papers, to accommodate the new EPA requirements." 49 FR 10490 (footnote omitted). Accordingly, EPA specified only "the required information that must accompany the waste," and did not require a particular format. *Id.*

The lack of a standard form soon resulted in a "proliferation of manifests as various States decided to develop and print their own forms," burdening both generators and transporters. *Id.* Based on recommendations by ASTSWMO and HMAC, and the consideration of approximately 300 comments to the two agencies, EPA and DOT amended their separate regulations to require use of a uniform manifest, effective in September 1984. At the time, they indicated that, "[u]nder limited circumstances, States may impose [additional] information or management requirements,"—but only on the waste generator. 49 FR at 10492. As stated by EPA:

> States are prohibited from applying enforcement sanctions on the transporter during the transportation of hazardous waste for any failure of the form to show optional State information entries. States may hold transporters responsible only for ensuring that the information included in the federally-required portions of the Uniform Manifest form accompanies the shipment.

Id. DOT's preamble similarly stated that, "no State may require a carrier to provide information with or on the manifest which is in addition to that authorized by the uniform manifest system." 49 FR 10508. Both agencies noted that States could require generators to send other information "under separate cover," 49 FR at 10492," or "directly to the appropriate agency of [the] State * * * [c]onsidering that the conventional means of transmitting data by mail, wire, telephone and other means are very reliable and readily available." 49 FR at 10506.

Neither RCRA nor EPA's regulations authorize a State to require on the manifest an indication that hazardous wastes have been transferred between vehicles owned or operated by the same transporter. The manifest must contain only the transporter's "company name" and EPA identification number. 40 CFR Part 262, Appendix. The HMR also contain no requirement to identify a shipment with a particular vehicle. For this reason, the requirement in 6 NYCRR 372(a)(7)(ii) that the transporter indicate, on the manifest, any "transfer of hazardous waste from one vehicle to another," is preempted because it is not "substantively the same as" the HMR's requirements for "the preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents." 49 U.S.C. 5125(b)(1)(C). In addition, NYDEC's requirement for indicating the second vehicle on the manifest appears to be inconsistent with the HMR because it applies solely to waste material "and applies differently from or in addition to" the HMR's requirements concerning the "contents of shipping papers, including hazardous waste manifests." 49 CFR 171.3(c)(3).

3. Secondary containment

Section 372.3(a)(7)(iii) allows a transporter to transfer hazardous wastes incidental to transport provided that

> if consolidation of loads takes place by moving containers from one transport vehicle to another or containers are removed from transport vehicles prior to being reloaded, the transfer or storage area must be designed to meet secondary containment requirements in accordance with subdivision 373–2.9(f) of this Title.

The containment system specified in section 373–2.9(f) includes requirements for an impervious base, drainage (unless containers are elevated), capacity limits, prevention of run-on into the containment system, and timely removal of spills or accumulated precipitation—except that containers of wastes that do not contain free liquids (other than certain acute hazardous wastes) need only be stored where there is drainage or the containers are elevated or otherwise protected from contact with accumulated liquid.

The HMR do not contain any requirements concerning the physical design or construction of fixed facilities where transporters may exchange hazardous materials between vehicles, including intermodal operations. Rather, the HMR focus on the suitability of the container and proper handling activities. Accordingly, 49 CFR 173.24(b) requires that:

> Each package used for the shipment of hazardous materials under this subchapter shall be designed, constructed, maintained, filled, its contents so limited, and closed, so that under conditions normally incident to transportation—(1) * * * there will be no identifiable (without the use of instruments) release of hazardous materials to the environment; [and] (2) The effectiveness of the package will not be substantially reduced; for example, impact resistance, strength, packaging compatibility, etc. must be maintained for the minimum and maximum temperatures encountered during transportation.

Cargo tanks and tank cars must be built to specifications and periodically retested and reinspected. *See* 49 CFR 180.407 (cargo tanks), 180.509 (tank cars). Specific procedures, and attendance requirements, apply to the unloading of both tank cars and cargo tanks. 49 CFR 174.67 (tank cars), 177.834 (cargo tanks). Separation and segregation requirements also exist to prevent mixing of incompatible materials. 49 CFR 174.81 (rail cars), 177.848 (motor vehicles).

CWTI contends that NYDEC's requirement for secondary containment is "a direct challenge to the integrity of DOT packaging standards." According to CWTI, the HMR were based on "the premise that packagings can be built to contain hazards under conditions normal to transportation." It states additional requirements in the HMR supplement this central premise: segregation and separation requirements, prohibitions on certain types of materials transported, and requirements for immediate notification of any spills, the clean up of any discharge, and financial responsibility for environmental restoration. CWTI also refers to the requirement in 49 CFR Part 130 for shippers and transporters of petroleum oils (including hazardous wastes containing these oils) in containers larger than 3,500 gallons to prepare response plans.

CWTI states that normal industry practice is to perform loading, unloading, and storage of hazardous wastes "on impervious surfaces," but that "requirements for sloping and spill/run-off containment are unnecessary." It

further asserts that both DOT and EPA have determined that there is no need for secondary containment requirements at hazardous waste transfer facilities, alluding to the absence of any such requirements in both agency's regulations. CWTI places special significance on EPA's failure to impose additional requirements after it specifically requested comments in the preamble to its December 31, 1980 rulemaking. With respect to a change to 40 CFR 263.12, EPA stated:

> The amendments provide that the hazardous wastes being held at transfer facilities must be in containers (including tank cars and cargo tanks) which meet DOT specifications for packaging under 49 CFR 173, 178 and 179. This provision should ensure that the hazardous waste remains properly packaged during this phase of transportation. Although the Agency believes that this requirement should provide adequate protection of human health and the environment during the short period that hazardous wastes are held at a transfer facility, we solicit comments on whether additional requirements should be imposed, such as contingency plans, personnel training, and inspections. Comments are specifically requested on which, if any, of the [TSD facility] Part 265 requirements should be placed on transporters who hold • shipments of hazardous waste for ten days or less.

Interim final amendments and request for comments, Hazardous Waste Management System, etc., 45 FR 86966, 86967 (Dec. 31, 1980).

NYDEC argues that the focus of Federal hazardous materials transportation law is "explicitly limited to 'transportation' issues," while its requirements for secondary containment are "facility requirements which establish minimum safety standards for transfer facilities, and, contrary to CWTI's assertion, are not intended to be a challenge to the integrity of DOT packaging standards." NYDEC also contends that these "facility standards, rather than impairing the transportation of hazardous materials, serve to advance what DOT has described as the 'manifest purpose of the HMTA' by promoting 'safety in the transportation of hazardous materials.'" (Quoting from IR–2, Rhode Island Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas, 44 FR 75566, 75571 (Dec. 20, 1979), decision on appeal, 45 FR 71881 (Oct. 30, 1980).)

According to NYDEC, the secondary containment requirement "advances HMTA's goal of safety in the transportation of hazardous materials by ensuring that hazardous materials which may inadvertently escape from leaking or ruptured containers do not enter the environment, where they are likely to present a risk to human health or the environment." Maine similarly asserts that:

> Absorbent pads and drip pans do not provide the same measure of security that is present at a permitted facility. Facility standards such as impervious surfaces combined with slopes and spill containment provide an extra measure of environmental protection that cannot be achieved by allowing this activity to be regulated under HMTA as a transportation activity.

The Connecticut Department of Environmental Protection also believes that DOT packaging standards alone will not "guarantee that hazardous materials will not leak or otherwise be released from their package." It cites two incidents "involving containers that failed while in the course of transportation," but acknowledges that "both shippers utilized containers that did not meet DOT specification/standards and/or met DOT standards/specification but were still improperly packed * * *" It further states that shippers often put hazardous wastes into "used containers since the material has negative value," and that human errors cause releases from containers that meet DOT's specifications or standards.

Connecticut notes that EPA requires secondary containment for TSD facilities, and claims that "wastes are more likely to be repacked at transfer facilities rather than virgin materials." It also comments that transfers actually take place "both on and off impervious surfaces and with or without secondary containment," and that remedial measures are not sufficient when "the damage has already been done." PUCO states that the existing industry practice to load, unload and store hazardous wastes on impervious surfaces:

> Demonstrates the need for a national uniform standard to ensure that all hazardous waste transporters are engaging in these activities in a safe, efficient manner. The need for, and the type of, secondary containment mechanism can be established through the rulemaking process.

As already discussed in connection with NYDEC's arguments on "standing," subpart III.A. above, the definition of "transportation" in 49 U.S.C. 5102(12) brings transportation-related loading, unloading and storage of hazardous materials within the scope of Federal hazardous materials transportation law, including the preemption provisions in 49 U.S.C. 5125. There is no difference in this regard where these transportation-related activities take place, and non-Federal requirements are not somehow immunized from preemption simply because they purport to apply to what the transporter does at a "facility." As noted in *Consolidated Rail Corp.* v. *Bayonne*, 724 F. Supp. 320, 330 (D.N.J. 1989), the "extent of federal regulation in the area of the transportation, loading, unloading and storage of hazardous materials is comprehensive" (holding that the HMTA preempted a city limitation on the number of loaded or unloaded butane rail cars permitted on a storage and blending facility).

Two prior inconsistency rulings confirm that non-Federal requirements that purport to regulate "facilities" are subject to preemption when those requirements affect the transportation-related loading, unloading and storage of hazardous materials. In the first, RSPA found that a prohibition against holding hazardous materials for more than 48 hours at a railroad yard without a permit was found to be inconsistent with the HMR which allow retention for up to 120 hours, if there are intervening weekends and holidays. IR–19, Nevada Public Service Commission Regulations Governing Transportation of Hazardous Materials, 52 FR 24404, 24406, 24409 (June 30, 1987), decision on appeal, 53 FR 11600 (Apr. 7, 1988). In subsequent litigation, the Ninth Circuit considered the same requirement and reversed a lower court holding that the HMR did not address the "storage of hazardous materials." *Southern Pac. Trans. Co.* v. *Public Serv. Comm'n*, above, 909 F.2d at 356.

In the other ruling, RSPA considered San Jose, California's requirements for secondary containment and segregation of hazardous materials at a motor carrier's transfer facility. IR–28, above. In arguments similar to those presented by NYDEC and other States, the city argued that its ordinance "regulates storage only and that it does not regulate transportation nor purport to do so." 55 FR at 8887. However, RSPA found that San Jose's "requirements *per se* present consistency problems when they are applied to storage of hazardous materials incidental to their transportation." 55 FR at 8893.

> State or local imposition of containment or segregation requirements for the storage of hazardous materials incidental to the transportation thereof different from, or additional to those in [49 CFR] § 177.848(f) of the HMR create confusion concerning such requirements and the likelihood of noncompliance with § 177.848(f). Since such state or local requirements, therefore, are obstacles to the execution of an HMR provision, they are inconsistent with the HMR * * *

Id.

In the same fashion, NYDEC fails to achieve its asserted goal of promoting

safety in the transportation of hazardous materials because its secondary containment requirement creates confusion as to requirements in the HMR and increases the likelihood of noncompliance with the HMR. To the extent that States perceive the need for a uniform national standard requiring secondary containment at transfer facilities, the appropriate course is to petition RSPA to add this requirement to the HMR in accordance with 49 CFR 106.31. The secondary containment requirement in 6 NYCRR 372.3(a)(7)(iii) is preempted by 49 U.S.C. 5125(a)(2).

IV. Ruling

For the reasons set forth above, Federal hazardous material transportation law preempts NYDEC's transfer and storage requirements at 6 NYCRR 372.3(a)(7). Subsection (i), prohibiting the repackaging of hazardous wastes, concerns the packing, repacking and handling of hazardous materials, and it is not substantively the same as the HMR. 49 CFR 5125(b)(1)(B). Subsection (ii), requiring an indication on the manifest of a transfer of hazardous wastes between vehicles, concerns the preparation, use and contents of shipping documents related to hazardous material, and it is not substantively the same as the HMR. 49 U.S.C. 5125(b)(1)(C). Subsection (iii) of 6 NYCRR 372.3(a)(7), requiring secondary containment for the transfer or storage of hazardous wastes at transfer facilities, is preempted because it is an obstacle to the accomplishment and carrying out of the HMR's provisions on packaging and segregation. 49 U.S.C. 5125(a)(2).

V. Petition for Reconsideration/Judicial Review

In accordance with 49 CFR 107.211(a), "[a]ny person aggrieved" by this decision may file a petition for reconsideration within 20 days of service of this decision. Any party to this proceeding may seek review of RSPA's decision "in an appropriate district court of the United States * * * not later than 60 days after the decision becomes final." 49 U.S.C. 5125(f).

This decision will become RSPA's final decision 20 days after service if no petition for reconsideration is filed within that time. The filing of a petition for reconsideration is not a prerequisite to seeking judicial review of this decision under 49 U.S.C. 5125(f).

If a petition for reconsideration of this decision is filed within 20 days of service, the action by RSPA's Associate Administrator for Hazardous Materials Safety on the petition for reconsideration will be RSPA's final decision. 49 CFR 107.211(d).

Issued in Washington, D.C. on November 30, 1995.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 95–29648 Filed 12–5–95; 8:45 am]

BILLING CODE 4910–60–P

Sunshine Act Meetings

Federal Register
Vol. 60, No. 234
Wednesday, December 6, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, December 7, 1995, 11:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Part Open to the Public; Part Closed.

CHILDREN'S SLEEPWEAR: The staff will brief the Commission on final amendments of the children's sleepwear flammability standards to exempt tight fitting sleepwear garments and sleepwear garments intended for children younger than six months of age. A final portion of the briefing will be held in closed session for discussion of issues related to enforcement of the children's sleepwear standard.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: December 1, 1995.

Sadye E. Dunn,

Secretary.

[FR Doc. 95–29907 Filed 12–4–95; 2:59 pm]

BILLING CODE 6355–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, December 7, 1995.

PLACE: Room 600, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Thunder Basin Coal Co.*, Docket Nos. WEST 94–148–R, WEST 94–303. (Issues include whether the judge erred in concluding that section 109(a) of the Mine Act does not require mine bulletin board posting of an Order of Temporary Reinstatement.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFOR: Jean Ellen (202) 653–5629 / for toll free TDD Relay 1–800–877–8339.

Dated: November 30, 1995.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 95–29857 Filed 12–4–95; 1:45 pm]

BILLING CODE 6735–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, December 12, 1995.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

6485A—Marine Accident Report: Engineroom Fire On Board Liberian Tankship SEAL ISLAND, While Moored at Dock No. 3 at Amerada Hess Oil Terminal, St. Croix, U.S. Virgin Islands, October 8, 1994

6635—Aviation Briefs of Accidents/ Incidents: 1995 File Nos:

593—Cambridge, Massachusetts February 22, 1995

766—Stevenson, Alabama April 27, 1995

5016—Dallas/Ft. Worth International Airport February 27, 1995

NEWS MEDIA CONTACT: Telephone: (202) 382–0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: December 1, 1995.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 95–29785 Filed 12–1–95; 4:26 pm]

BILLING CODE 7533–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Meeting of the Board of Directors

TIME AND DATE: 2:30 p.m., Monday, December 18, 1995.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, N.W., Suite 800, Board Room, Washington, D.C. 20005.

STATUS: Open/Closed.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/ Secretary 202/376–2441.

AGENDA:

I. Call to Order
II. Approval of Minutes:
  September 20, 1995, Regular Meeting
III. Budget Committee Report:
  November 6, 1995, Meeting
  a. Proposed FY 1996 Budget Revisions
IV. Treasurer's Report
V. Executive Director's Quarterly Management Report
VI. Personnel Committee Report:
  November 6, 1995, Closed Meeting
VII. Adjourn

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 95–29838 Filed 12–4–1:42 pm]

BILLING CODE 7570–01–M

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federal register

Wednesday
December 6, 1995

Part II

Environmental Protection Agency

40 CFR Part 122, et al.

National Pollutant Discharge Elimination System Permit Application Requirements for Publicly Owned Treatment Works and Other Treatment Works Treating Domestic Sewage; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 123, 403, and 501

[FRL–5328–9]

National Pollutant Discharge Elimination System Permit Application Requirements for Publicly Owned Treatment Works and Other Treatment Works Treating Domestic Sewage

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) today proposes to amend permit application requirements and application forms for publicly owned treatment works (POTWs) and other treatment works treating domestic sewage (TWTDS). TWTDS include facilities that generate sewage sludge, provide commercial treatment of sewage sludge, manufacture a product derived from sewage sludge, or provide disposal of sewage sludge. Today's notice solicits public comments on the proposed regulations, proposed forms and instructions.

The proposed regulations and Form 2A would replace existing Standard Form A and Short Form A to account for changes in the NPDES program since the forms were issued in 1973. This proposal would consolidate POTW application requirements, including information regarding toxics monitoring, whole effluent toxicity (WET) testing, pretreatment facility and hazardous waste contributions, and combined sewer overflows (CSOs). The most significant proposed revisions would require toxic and WET monitoring by major and pretreatment POTWs and monitoring of 17 parameters by minor POTWs. EPA believes this information is needed in order for permitting authorities to issue permits that will adequately protect the Nation's water resources.

The proposed regulations and Form 2S would replace the existing Interim Sewage Sludge form. The most significant proposed revision would require POTWs and other TWTDS to analyze sludge and provide data for ten metals, nitrogen, and phosphorus. Class I sludge management facilities (pretreatment POTWs) would also have to analyze for most of the priority pollutants. The Interim Form only requires the use of existing data. EPA believes the additional information is needed in order for permitting authorities to issue permits that meet the requirements of the sewage sludge use or disposal regulations.

The costs associated with the new requirements are not significant since many permitting authorities require essentially the same information already through a variety of reporting mechanisms. The proposed rule allows waivers where information is already available to the permitting authority. The new forms would make it easier for permit applicants to provide the necessary information with their applications and would minimize the need for additional follow-up information requests from permitting authorities. The proposal is estimated to reduce the current annual reporting and record keeping burden by about 9,000 hours, or ten percent. EPA is interested in identifying additional ways to further reduce the burden associated with the applications and is seeking comment on the use of electronic data transmission and other streamlining opportunities.

DATES: In order to be considered, comments must be received on or before March 5, 1996.

ADDRESSES: Comments should be addressed to Municipal and Sludge Application Rule Comment Clerk, Water Docket MC–4101; United States Environmental Protection Agency, 401 M Street SW., Washington, DC, 20460. Commenters are also requested to submit an original and 3 copies of their written comments as well as an original and 3 copies of any attachments, enclosures, or other documents referenced in the comments. Commenters who want receipt of their comments acknowledged should include a self-addressed, stamped envelope. All comments must be postmarked or delivered by hand by March 5, 1996. No facsimiles (faxes) will be accepted.

EPA will also accept comments electronically. Comments should be addressed to the following Internet address: ow-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Electronic comments will be transferred into a paper version for the official record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission. Comments provided electronically will be considered timely if they are submitted electronically by 11:59 p.m. (Eastern time) March 5, 1996. EPA is experimenting with electronic commenting, therefore commenters may want to submit both electronic comments and duplicate paper comments. This document has also been placed on the Internet for public review and downloading at the following location: gopher.epa.gov.

FOR FURTHER INFORMATION CONTACT: For information on Form 2A and municipal wastewater permitting issues in this notice, contact George Utting, (202) 260–9530, Permits Division (4203), United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C., 20460.

For information on Form 2S and sewage sludge permitting issues in this notice, contact Wendy Bell, (202) 260–9534, Permits Division (4203), United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C., 20460.

SUPPLEMENTARY INFORMATION:

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B. History of the NPDES Permit Program
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c. Permit Consolidation and Deconsolidation
d. The Water Quality Act of 1987 and Water Quality-Based Permitting
2. Background of the Pretreatment Program
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1. Statutory Requirements for Sewage Sludge
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D. NPDES Watershed Strategy
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F. Permit as a Shield
G. Pollutant Data from POTWs
H. Public Consultation in the Development of Today's Proposal
II. Approach Taken in Today's Notice
A. Scope of Today's Rulemaking
B. The Agency Proposes to Revise the Definition of POTW and Existing Permit Application Requirements for POTWs
C. EPA Proposes Form 2A for POTWs to Replace Standard Form A and Short Form A
D. Applicability of Form 2A to Privately Owned and Federally Owned Treatment Works
E. EPA Proposes Revised Application Requirements and Form 2S for Sewage Sludge Permits
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2. Requirement to Submit Form 2S
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3. Effluent Monitoring for Specific Parameters
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b. Reporting of Additional Pollutants for Some POTWs
4. Effluent Monitoring for Whole Effluent Toxicity
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6. Discharges from Hazardous Waste Sources
7. Combined Sewer Overflows
8. Contractors
9. Certification
C. Application Requirements for TWTDS (40 CFR 122.21(q))
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3. Permit Information
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5. Topographic Map
6. Sewage Sludge Handling
7. Sewage Sludge Quality
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b. All TWTDS
8. Requirements for a Person Who Prepares Sewage Sludge
9. Land Application of Bulk Sewage Sludge
10. Surface Disposal
11. Incineration
12. Disposal in a Municipal Solid Waste Landfill
13. Contractors
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IV. Paperwork Reduction Act
V. Executive Order 12866
VI. Executive Order 12875
VII. Unfunded Mandates Reform Act of 1995 and Consultation with State, Local, and Tribal Governments
VIII. Regulatory Flexibility Act

I. Background

A. Purpose of Today's Proposal

Today's notice proposes to amend NPDES permit application regulations for publicly owned treatment works (POTWs) and other treatment works treating domestic sewage (TWTDS). Proposed Form 2A would apply to POTWs and replace Standard Form A and Short Form A, which were developed in 1973. Proposed Form 2S would be used to report sewage sludge information consistent with applicable permit program regulations and technical standards for sewage sludge use or disposal. Proposed Form 2S would be used by POTWs and other TWTDS.

EPA proposes these application regulations and forms for several reasons. First, this rulemaking addresses changes to the NPDES program since 1973. The NPDES program applicable to POTWs has changed significantly since that time, specifically in the areas of toxics control, water quality-based permitting and pretreatment programs. Second, the proposal would consolidate application requirements from existing regulations into a "modular" permit application form, thereby streamlining and clarifying the process for permit applicants. Third, these revisions will provide permit writers with the information necessary to develop appropriate NPDES permits consistent with requirements of the Clean Water Act and thus also help to ensure for permittees the effectiveness of the permit as a shield for purposes of compliance with the CWA. Fourth, the Agency seeks to reduce redundant reporting by allowing waivers where information is already available to the permitting authority and, further, to provide a platform for electronic data transmission.

The proposed revisions would result in a net reduction in overall reporting burden hours nationwide. The burden reduction for the combined municipal and sludge proposed application requirements is calculated to be nearly 9,000 hours annually, from a total existing annual burden of 80,000 hours. This is due in part to the reduced number of WET tests calculated to be performed by POTWs. It is also due to the reduced number of major respondents that would be required to comply with the proposed regulations as compared to the number of major respondents estimated to complete the existing municipal application forms (i.e., different criteria apply). Finally, the respondent burden for CWA sec. 308 application requests also would be expected to decrease, because much of the information currently obtained through routine and medium sec. 308 requests is reflected in the proposed rule.

This burden reduction accounts for nearly 9,000 of the 287,000 hours projected to be saved, for an overall reduction of twenty-five percent for the NPDES program. The total savings will be achieved through revisions to this form, revisions to stormwater application forms, revisions to the industrial application form 2C, and reductions in discharge monitoring reports (DMRs). It is anticipated, however, that most of the NPDES burden reduction will involve reduced burden for DMRs, which currently account for greater than eighteen million annual burden hours.

At the same time, this proposed rule would result in increased net costs to municipal and sludge applicants of more than four million dollars per year on a nationwide basis. It is calculated that this proposal would apply to more than 7,000 permit applications per year, with a total universe per year of more than three thousand applicants each for municipal and sludge permitting. Costs vary considerably from application to application. Thus, the average five-year cost per application would range from an average of about $450 (less than $100 per year) for small municipalities to an average of about $4,000 (less than $1,000 per year) for larger municipalities. Most of the costs associated with this proposal would be due to proposed pollutant data requirements for municipal permittees.

The Agency believes that the proposed increased costs are appropriate because certain data may be necessary to the permit writer in order to allow the issuance of permits that provide a "shield" to permittees (see discussion, "Permit as a Shield," at I.F.), and to ensure compliance with Clean Water Act requirements, especially water quality standards.

B. History of the NPDES Permit Program

1. National Pollutant Discharge Elimination System

a. Federal Water Pollution Control Act Amendments of 1972

The Clean Water Act (CWA) was enacted in 1972 (Federal Water Pollution Control Act Amendments of 1972) to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. CWA sec. 101(a), 33 U.S.C. 1251(a). The immediate predecessor to the CWA was the Water Quality Act of 1965 (Pub. L. 89–234). The 1965 Act directed each State to develop water quality standards for all interstate navigable waters. States had difficulty developing these standards, however, and by 1971 barely half the States had developed complete programs. States that did develop standards had difficulty implementing them because the 1965 Act lacked a workable mechanism for translating State water quality standards into limits enforceable against individual dischargers.

In response to this dilemma, Congress passed the CWA. Section 402 directed EPA to assume a substantial role in directing and defining the nation's water pollution control programs. The Act established the National Pollutant Discharge Elimination System (NPDES) permit program to be administered by EPA and the States with EPA approval. The NPDES program prohibits the discharge of any pollutant into waters of the United States except when

authorized by a permit (sec. 301(a) and 402).

Section 301 significantly changed the methods used to set and enforce standards to abate and control water pollution. First, it introduced the concept of minimum technology-based discharge requirements. Initially, sec. 301(b)(1)(B) required POTWs to achieve effluent limitations based on secondary treatment. The "degree of effluent reduction achievable through application of secondary treatment" was to be defined by the Administrator, pursuant to sec. 304(d)(1). Later, POTWs were to achieve a more stringent level of technology-based discharge limits based on best practicable waste treatment technology (BPWTT) under sec. 301(b)(2)(B). That section was repealed in 1981. Finally, POTWs were required to comply with any more stringent limitations necessary to implement any applicable State water quality standards. Water quality-based discharge limitations were imposed by sec. 301(b)(1)(C).

To achieve the effluent reductions called for in sec. 301, sec. 402 provides for the NPDES permit program to implement and enforce these controls. NPDES permits may be issued on the condition that authorized discharges meet the applicable requirements of the CWA, including: technology-based limitations; water quality-based limitations; new source performance standards; toxic and pretreatment effluent standards; inspection and monitoring provisions; and ocean discharge criteria. EPA was authorized to issue regulations to implement these provisions throughout the CWA. NPDES permit requirements are based either on regulations promulgated under these sections or, in the absence of regulations, on the permit writer's best professional judgment (BPJ), when necessary to carry out the provisions of the CWA. CWA sec. 402(a)(1), 33 U.S.C. 1342(a)(1). The CWA also authorized States to assume responsibility for issuing NPDES permits, provided that State programs meet the requirements of sec. 402(b) and regulations published under sec. 304(i)(2) (previously, sec. 304(h)(2)). EPA promulgated the original regulations outlining the NPDES program on December 22, 1972 (37 FR 28390) and May 22, 1973 (38 FR 13528).

The CWA required the Administrator to promulgate guidelines for "establishing uniform application forms and other minimum requirements for the acquisition of information" from point sources, within 60 days after its enactment. CWA sec. 304(i)(1) (previously, sec. 304(h)(1)). EPA promulgated short forms to enable dischargers to meet deadlines imposed by the CWA, on February 27, 1973 (38 FR 5279). These included Short Form A, which was to be completed by all POTWs. EPA promulgated standard forms to gather additional information from certain dischargers, on July 24, 1973 (38 FR 19894). This rule included Standard Form A, for POTWs meeting certain criteria relating to size, population, and industrial contributions. At the time, there were no effluent standards for POTWs. Secondary treatment regulations, setting limits for biochemical oxygen demand, suspended solids, fecal coliform, and pH, were not promulgated until August 17, 1973 (38 FR 22298).

b. Changes leading to the Clean Water Act of 1977

The first major change in the NPDES program's focus was the shift from conventional to toxic pollutants. Though sec. 307(a) required EPA to identify and establish effluent standards for toxic pollutants, the thrust of the "first round" of NPDES permits was to control conventional pollutants, rather than to identify and establish standards for toxic pollutants. As the NPDES program was implemented, several interested parties criticized the Agency's lack of progress in establishing sec. 307(a) standards. Among the terms in settlement of litigation in 1976, EPA was to establish technology-based standards as necessary to address 65 compounds or classes of compounds for certain industries. See *NRDC* v. *EPA*, 8 E.R.C. 2120 (D.D.C. 1976). This list of 65 compounds is now contained in 40 CFR 401.15.

In 1977, amendments to the Clean Water Act refocused Agency priorities on the control of toxic pollutants. As a result, the NPDES program expanded beyond control of conventional pollutants to control of nonconventional pollutants, such as ammonia, chlorine, and nitrogen, as well as certain metals and organic chemicals. The list of the 65 compounds was incorporated into sec. 307 when the CWA was amended in 1977 (see Committee Print Number 95–32, Hearings before the Subcommittee on Investigations and Review of the Committee on Public Works and Transportation, U.S. House of Representatives, pages 399–405) and subsequently was published on January 31, 1978 (43 FR 4109). The compounds on the list were chosen according to various criteria, including known occurrence in point source effluents and substantial evidence of carcinogenicity in studies of humans or animal systems. Because the list included broad categories or classes of chemicals (e.g., chlorinated benzenes, DDT and metabolites, haloethers, etc.), EPA restructured the list in order to evaluate and control the specific pollutants of greatest concern. This produced a list of 129 individual high priority toxic pollutants. As information became available regarding the toxic effects of chemicals on the list, the Agency amended the regulations to establish the current list of 126 "priority pollutants." See 40 CFR Part 423, Appendix A. The 1977 amendments also amended sec. 402(b)(8)&(9) to require that approved State NPDES programs provide for administration of the pretreatment program to regulate industrial users of POTWs.

In 1979, EPA extensively revised the NPDES regulations to implement changes in the CWA, to conform to recent court decisions, and to clarify and improve existing procedures. The 1979 regulatory revisions eliminated duplication of substantive and procedural requirements between the existing State and Federal NPDES program regulations. Under the final regulations, promulgated on June 7, 1979 (44 FR 32854), the basic substantive and procedural requirements applicable to all NPDES permits were set out in Parts 122 and 124. Part 123 established State NPDES permit program requirements. EPA believed that this new regulatory structure would simplify the regulations and avoid inconsistencies between State and Federal programs. These regulations were challenged judicially and, as discussed below, petitions for review were merged with and resolved in litigation challenging the consolidated permit regulations and subsequent rulemakings.

c. Permit Consolidation and Deconsolidation

To simplify permitting programs, EPA published regulations on May 19, 1980 (45 FR 33290), to consolidate the requirements and procedures for five of the permit programs administered by the Agency: the NPDES program, the Underground Injection Control (UIC) program under the Safe Drinking Water Act (SDWA), State "dredge or fill" programs under sec. 404 of the CWA, the Hazardous Waste Management (HWM) program under the Resource Conservation and Recovery Act (RCRA), and the Prevention of Significant Deterioration (PSD) program under the Clean Air Act. The Agency believed it would be efficient to consolidate environmental permitting programs wherever feasible. This effort sought to eliminate gaps and overlaps and ensure consistency among the programs.

At the same time, EPA revised certain of the permit application regulations. The Agency created three new application forms: Form 1, Form 2B, and Form 2C. Form 1 requires general information about permit applicants and was required to be completed by applicants for each of the five types of permits under the consolidated permit rule. Form 2B is specific to part of the NPDES program, specifically, permit applications for concentrated animal feeding operations and aquatic animal production dischargers. Form 2C, also specific to the NPDES program, applies to manufacturing, commercial, mining, and silvicultural operations. All three forms incorporated EPA's emphasis on toxic pollutants and other modifications to the CWA and NPDES program regulations.

Following promulgation of the consolidated permit regulations, interested parties complained that the consolidated format made the regulations unnecessarily difficult to use. The division of responsibilities among various entities at the State and Federal levels resulted in additional problems. In practice, consolidated processing of multiple permits was rare because the various permit programs regulated different activities with different standards and thus imposed different types of requirements on permittees. Subsequent petitions for judicial review of various aspects of the consolidated permit regulations were consolidated with pending petitions for review of the June 7, 1979, final NPDES regulations in the United States Court of Appeals for the District of Columbia Circuit.

As part of an agreement to resolve that litigation, and in response to problems encountered by permit writers, EPA deconsolidated the five permitting programs on April 1, 1983 (48 FR 14146). The NPDES regulations remain in Part 122 (substantive permit requirements) and Part 123 (State program requirements). Part 124 (common permitting procedures) remains applicable to all of the programs. On September 1, 1983 (48 FR 39611), EPA promulgated additional revisions covering a number of issues affecting the consolidated permit program.

After deconsolidation, the NPDES program continued to use Forms 1, 2B, and 2C. In 1984, EPA amended Form 2C to include toxic pollutant sampling and, in 1986, promulgated two new NPDES forms: Form 2D, for use by new manufacturing, commercial, mining and silvicultural operations; and Form 2E, for use by facilities that do not discharge process wastewater (51 FR 26982, July 28, 1986). The Agency did not, however, revise either Standard Form A or Short Form A. Thus, these two forms do not request information to reflect all of the CWA's current requirements, including the emphasis on the control of toxic pollutants.

d. The Water Quality Act of 1987 and Water Quality-Based Permitting

On February 4, 1987, the CWA was amended again by the Water Quality Act (WQA) of 1987 (Pub. L. 100–4). The WQA included several provisions that affect POTWs and other TWTDS. Statutory amendments included requirements addressing sewage sludge, storm water, and water quality-impaired streams. In response to the 1987 amendments, EPA published technical revisions to amend the NPDES regulations on January 4, 1989 (54 FR 246). EPA promulgated final regulations for State sludge management programs on May 2, 1989 (54 FR 18716). As part of the WQA implementation effort, the Agency published rules implementing CWA sec. 304(l) and other changes to surface water toxics regulations on June 2, 1989 (54 FR 23868). This 1989 rulemaking recognized the Agency's commitment to protect water quality through water quality-based permitting.

The 1987 amendments provided that States were to adopt numeric water quality criteria for the "priority pollutants" listed pursuant to sec. 307(a)(1), if discharge of those pollutants could reasonably be expected to interfere with a designated use under State water quality standards. States were to adopt these criteria whenever they reviewed, revised, or added new water quality standards. Subsequent review of all States indicated that 43 States had adopted the criteria as required. Fourteen States, however, were not fully in compliance with the 1987 amendments as of December 22, 1992. On that date, EPA promulgated chemical-specific numeric criteria for those States, as necessary, to comply with the CWA (57 FR 60848).

On July 22, 1994, EPA published its whole effluent toxicity (WET) policy (59 FR 37494). The policy is intended (i) to promote uniform, nationwide compliance with statutory and regulatory requirements for the control of WET, and (ii) to assist permit writers in implementing these requirements. The policy reflects EPA's experience in implementing the 1989 water quality-based permitting regulations at 40 CFR 122.44(d). The WET policy provides for: evaluation of acute and chronic WET water quality criteria attainment at the edge of the respective mixing zones; review of all major dischargers for reasonable potential to cause or contribute to exceedance of WET water quality criteria; consideration of available WET testing data and other information in evaluating whether a discharger has reasonable potential to cause or contribute to exceedance of WET criteria; imposition of effluent limitations to control WET upon finding reasonable potential to cause or contribute to exceedance of WET criteria; imposition of WET monitoring conditions where appropriate for dischargers that do not have effluent limitations to control WET; schedules for compliance with WET effluent limitations; application of water quality permitting regulations to apply without regard to the pollutant(s) that may be causing toxicity, including ammonia and chlorine; and application of the water quality-based permitting regulations to all dischargers, including POTWs.

2. Background of the Pretreatment Program

Congress recognized that regulating only those pollutant sources discharging effluent directly into the nation's waters would not achieve the CWA's goal to eliminate pollutant discharges. Consequently, the CWA required EPA to promulgate nationally applicable pretreatment standards that restrict the introduction of pollutants from industrial users of POTWs, also called indirect dischargers.

EPA first issued pretreatment standards on November 8, 1973 (38 FR 30982). Following the 1977 CWA amendments, EPA revised those regulations and issued the "General Pretreatment Regulations for Existing and New Sources of Pollution," on June 26, 1978 (43 FR 27736). The regulations were revised again on January 28, 1981 (46 FR 9439). As amended, the pretreatment regulations at 40 CFR Part 403 require that "any POTW (or combination of POTWs operated by the same authority) with design influent flow rates greater than five million gallons per day (mgd) and receiving from industrial users pollutants that pass through or interfere with the operation of the POTW" establish pretreatment programs as part of its NPDES permit. In addition, POTWs with design influent flow rates of less than five mgd may be required to develop pretreatment programs if non-domestic wastes cause upsets, sludge contamination, or violations of NPDES permit conditions or if their industrial users are subject to national pretreatment standards. EPA estimates

that 1,500 treatment facilities are required to administer such pretreatment programs.

The National Pretreatment Program's primary goal is protection of POTWs and the environment from the effects of discharges into municipal sewerage systems. This protection is achieved principally through regulating industrial users that discharge toxic pollutants or unusually large amounts of conventional pollutants into municipal systems. The General Pretreatment Regulations control pollutant discharges into POTWs in several ways. First, prohibited discharge standards apply to all industrial and commercial establishments connected to POTWs. 40 CFR 403.5. These standards include general prohibitions against the introduction of pollutants into POTW that may pass through the POTW or interfere with the operations of the POTW, as well as specific prohibitions relating to the introduction of pollutants which have the potential to create hazards for the POTW, such as heat, explosivity, and corrosivity. Second, categorical pretreatment standards apply to discharges by industrial users in specific industrial categories determined to be significant sources of toxic pollutants. Categorical standards are designed to ensure that wastewaters from direct and indirect industrial dischargers are subject to similar levels of treatment.

Finally, 40 CFR 403.5(c) requires POTWs to develop and enforce local limits designed to ensure that industrial users meet both the general and specific prohibitions. Thus, local limits are intended to ensure that POTWs are able to comply with NPDES limits, including water-quality based standards. Local limits are Federally enforceable pretreatment standards, as defined by sec. 307(d). In cases where local limits are more stringent than categorical standards, the more stringent limit applies and is enforceable as a Federal standard.

On July 24, 1990, EPA promulgated amendments to the NPDES and General Pretreatment Regulations to reflect the findings of the "Report to Congress on the Discharge of Hazardous Wastes to Publicly Owned Treatment Works," also known as the Domestic Sewage Study (DSS) (55 FR 18716). The rule contained a number of regulatory changes intended to improve control of hazardous wastes discharged to POTWs, including revisions to the application requirements for POTWs at 40 CFR 122.21(j). Paragraphs 122.21(j) (1)–(3) contain whole effluent toxicity (WET) testing requirements, and paragraph 122.21(j)(4) requires POTWs with approved pretreatment programs to submit a written technical evaluation of the need to revise local limits. Today, EPA proposes to revise the WET reporting requirements at § 122.21(j) and to revise the provision for the local limits technical evaluation by making this a POTW pretreatment program requirement rather than an application requirement based on concerns about the timing of such evaluations relative to imposition of water quality-based effluent limitations in POTW permits.

3. Program To Control Combined Sewer Overflows

Combined sewer systems (CSSs) are wastewater collection systems that transport both sanitary wastewater and storm water to POTWs. During dry weather, CSSs carry sanitary wastes, as well as industrial and commercial discharges, to POTW treatment plants. In periods of heavy wet weather flows, transported sewer waters can overflow the regulator structures, which normally convey waste streams to the treatment plant, and discharge into adjacent surface waters. These discharges are called "combined sewer overflows" (CSOs). CSOs often contain high levels of suspended solids, bacteria, pathogens, and, in many instances, heavy metals and other toxic pollutants, floatables, nutrients, oxygen-demanding materials, oil and grease, and other contaminants.

CSOs are point source discharges subject to technology-based treatment requirements and applicable water quality-based standards through NPDES permits. Because they occur prior to the headworks of the POTW treatment plant, these discharges are not considered discharges from a POTW and, consequently, are not subject to secondary treatment requirements.

In the United States, approximately 1,100 (mostly older) municipalities have CSSs, with approximately 11,000 CSO outfalls that periodically discharge untreated sewage, commercial and industrial wastes, and storm water during wet weather events. Almost 85 percent of these municipalities are located in the Northeast and Great Lakes areas. Studies conducted in recent years reveal that CSO discharges are a leading cause of reduced water quality, increased health risks, degraded ecological conditions, and impaired beneficial uses within the Nation's surface waters. Although pollutant concentrations in CSOs frequently are lower than those in untreated average-flow municipal wastewater (due to dilution occurring during high flows), CSOs often result in large pollutant loadings within a short time, potentially causing beach closures, shellfish bed closures, and fish kills.

In 1989, EPA published the National Combined Sewer Overflow Control Strategy (54 FR 37370, Sept. 8, 1989). On April 19, 1994, EPA expanded on the 1989 strategy by publishing the CSO Control Policy (59 FR 18688). The Policy was developed through negotiated dialogue with State, environmental group, and municipal representatives. The Policy explains EPA's expectations for control of CSOs under the CWA and guides NPDES permitting authorities in issuing permits for CSO discharges. The Policy outlines a phased approach to permitting requirements. Under a Phase I permit, the permittee should document implementation of the nine minimum control measures identified in the Policy as minimum technology-based requirements established through best professional judgment (BPJ) to minimize CSO discharges. The nine minimum controls include review and modification of local pretreatment programs to minimize CSO impacts on receiving waters; maximization of flow to the POTW for treatment; control of solids and floatables; and monitoring to characterize effectively CSO impacts and the efficacy of CSO controls.

The nine minimum controls are measures that can generally be implemented expeditiously to reduce CSOs and their effects on receiving water quality. The Phase I permit should not only require implementation of the nine minimum controls, but should also require development of a long-term control plan. The long-term control plan describes the long-term control strategy developed to ultimately result in compliance with the requirements of the CWA (including attainment of water quality standards). Under a Phase II permit, the permittee implements the specific controls described in the long-term control plan.

C. Sewage Sludge Program

1. Statutory Requirements for Sewage Sludge

In 1987, Congress amended sec. 405 to establish a comprehensive sewage sludge control program. This program regulates the use and disposal of sewage sludge by POTWs and by other treatment works treating domestic sewage (TWTDS). Section 405 required EPA to develop technical standards that would establish sewage sludge management practices and acceptable levels of toxic pollutants in sludge.

Section 405 also provides that NPDES permits issued to TWTDS contain requirements implementing the sewage sludge standards, unless sewage sludge control requirements are included in a permit issued under one of the following: Subtitle C of the Solid Waste Disposal Act; Part C of the Safe Drinking Water Act; the Marine Protection, Research, and Sanctuaries Act; the Clean Air Act; or EPA-approved State programs that comply with sec. 405. EPA may also issue "sludge-only" permits to TWTDS that are not otherwise subject to the NPDES program or to the other permitting programs listed above.

2. Sewage Sludge Permit Program Regulations

On May 2, 1989, EPA promulgated regulations establishing the legal and programmatic framework for the National Sewage Sludge Program (54 FR 18716). Sewage sludge management provisions are to be incorporated into EPA-issued permits or permits issued by a State under an EPA-approved sewage sludge program. Sewage sludge information reporting requirements were also added to the overall NPDES permit application requirements of 40 CFR 122.21. The new regulations, however, neither listed the specific sewage sludge information requirements nor provided a form for reporting this information. Instead, the rulemaking cross-referenced the existing State Sludge Management Program regulations in Part 501 and required applicants to submit the information listed at § 501.15(a)(2). Paragraphs (i)–(v) of § 501.15(a)(2) require information on the location and permitting status of the TWTDS. Paragraphs (vi)–(xii) require technical information on the applicant's sewage sludge use or disposal practice(s).

On February 19, 1993, EPA amended the sewage sludge permit program regulations (58 FR 9404). This amendment phased in requirements for submitting sewage sludge permit application information. Any TWTDS that is required to have, or that requests, site-specific pollutant limits was required to submit permit application information by August 18, 1993, for the first round of Part 503 standards. Other TWTDS with NPDES permits must submit application information with their next NPDES permit applications. Finally, TWTDS without NPDES permits ("sludge-only facilities") were to submit identification and screening information to the permitting authority by February 19, 1994, for the first round of Part 503 standards.

3. Part 503 Technical Standards

On November 25, 1992, EPA promulgated the sewage sludge use and disposal standards required by section 405 of the CWA (58 FR 9248, *et seq.*, February 19, 1993). These standards regulate the use and disposal of sewage sludge when it is applied to land, placed on a surface disposal site (including sludge-only landfills), fired in a sewage sludge incinerator, or sent to a municipal solid waste landfill (MSWLF). The standards for each regulated sewage sludge use or disposal method consist of general requirements, pollutant limits, management practices, operational standards, and requirements for monitoring, recordkeeping, and reporting. A number of parties petitioned for review of the regulations and on November 15, 1994, the United States Court of Appeals for the District of Columbia Circuit remanded several aspects of the regulations for modification or additional justification. *Leather Industries of America, Inc. v. Environmental Protection Agency,* 40 F.3d 392 (D.C. Cir. 1994).

4. Implementation of Part 503 Technical Standards

Section 405(f) of the CWA requires that permits issued to facilities involved in sewage sludge generation, treatment, or disposal include Part 503 requirements. Both POTWs and other TWTDS are engaged in sewage sludge generation, treatment, or disposal. However, some of these facilities are not required to obtain NPDES discharge permits pursuant to sec. 402 of the CWA because they do not discharge pollutants to surface waters. These are "sludge-only" facilities.

POTW permits must contain requirements implementing applicable Part 503 technical standards and other Part 122 permit conditions (such as boilerplate conditions and compliance monitoring requirements). POTW permits may also contain any other conditions the permitting authority develops on a case-by-case basis to protect public health and the environment. The permit also establishes a POTW's responsibilities for sewage sludge it sends to other facilities for disposal.

In addition to POTWs, other TWTDS may also be issued permits. These treatment works include facilities dedicated to sewage sludge disposal (i.e., surface disposal sites and sewage sludge incinerators), as well as certain facilities that provide treatment or otherwise change the quality of the sewage sludge before ultimate use or disposal. Sewage sludge has undergone a change in quality if its pollutant concentrations, pathogen levels, or vector attraction properties have been altered sufficiently to change the sludge's regulatory status under Part 503. Therefore, processes such as stabilization, composting, digestion, heat treatment, or blending with bulking agents or with sewage sludge from another treatment works may all qualify as sewage sludge treatment. (For a more detailed discussion of who must apply for a permit, see the preamble to the May 2, 1989, regulations at 54 FR 18725.)

5. Interim Sewage Sludge Permit Application Form

On November 8, 1993, EPA published a notice about the interim sewage sludge permit application form (58 FR 59260). This interim form was developed to simplify the application process until Form 2S was completed. Section 122.21(d)(3)(ii) requires sewage sludge permit applications to include the information at § 501.15(a)(2), which includes both specific and general information. This interim form ensures that permittees submit the necessary information; helps permittees to understand exactly which requirements apply to them; and makes the application requirements consistent for all permittees.

Proposed Form 2S is based on the interim application form. EPA welcomes comments on the proposed Form 2S, especially from users of the interim form.

D. NPDES Watershed Strategy

The Watershed Protection Approach is an Agency initiative which promotes integrated solutions to address surface water, ground water, and habitat concerns on a watershed basis. It represents EPA's renewed emphasis on addressing all stressors within a hydrologically defined drainage basin, instead of viewing individual pollutant sources in isolation. It is not a new program competing with, or replacing, existing programs; rather, it provides a management framework, within which baseline CWA program requirements, related public health concerns, and newer initiatives can be integrated to address restoration and protection of aquatic ecosystems cost-effectively.

The Watershed Protection Approach has four components. First, it focuses protection and restoration activities within a geographically defined resource, the watershed. Second, it emphasizes the involvement of all affected stakeholders within a watershed; these may include Federal authorities, State governments, local governments, the regulated community, environmental groups, and other interested parties. Third, it stresses the need for appropriate stakeholders to

take comprehensive, integrated actions to address environmental priorities. Finally, it promotes a regular effort to evaluate the success of these actions in protecting and restoring the watershed.

The broad range of NPDES functions and activities gives the NPDES program a key role in implementing the Watershed Protection Approach. On March 21, 1994, the EPA Assistant Administrator for Water issued the NPDES Watershed Strategy. The Strategy represents a first step toward OW's goal of fully integrating the NPDES program into the broader Watershed Protection Approach.

The Strategy outlines national objectives and implementation activities: (1) to integrate NPDES program functions into the broader Watershed Protection Approach; and (2) to support the development of Statewide basin management approaches. To this end, the Strategy identifies six areas that are considered essential for the Agency to support these objectives:

Statewide Coordination—Support the development of Statewide basin management frameworks, coordinate EPA Office of Water grants application and reporting processes, and coordinate interstate basin efforts to facilitate implementation of the Watershed Protection Approach;

NPDES Permits—Implement a methodology for issuing NPDES permits on a watershed basis and emphasize training on watershed protection. Streamline the NPDES permit development, issuance, and review process. Develop and implement innovative approaches to NPDES permitting on a watershed basis, where feasible;

Monitoring and Assessment—Develop a Statewide monitoring strategy; establish point source ambient monitoring requirements, where appropriate, to facilitate the development of monitoring consortia and individual monitoring efforts; and promote comparable data collection, analysis, and utilization by all stakeholders;

Programmatic Measures and Environmental Indicators—Revise existing national accountability measures to facilitate implementation of the Watershed Protection Approach and establish new measures of success that reflect assessment of progress toward short- and long-term watershed protection goals;

Public Participation—Utilize existing NPDES public participation process and development of basin-wide management plans to encourage informed participation by watershed stakeholders, educate stakeholders about watershed planning efforts, and seek broad public participation in identifying local environmental goals; and

Enforcement—Include emphasis on minor facilities which are discharging to priority basins, within the base national enforcement program, and use 308 authorities, inspections and supplemental environmental projects, where appropriate, to support watershed protection activities.

The Agency views today's rulemaking as an opportunity to further the objectives of the Watershed Protection Approach and the NPDES Watershed Strategy. Both proposed Form 2A and proposed Form 2S request information which support these objectives. These questions are discussed in detail below. The Agency requests comment on what specific additional changes might be made to proposed Form 2A and proposed Form 2S to support the Watershed Protection Approach.

E. Permit Writer's Information Needs Related to Endangered Species and Historic Properties

EPA is considering whether the permit application regulations should require permit applicants to provide available information related to endangered species and historic properties. The Endangered Species Act, 16 U.S.C. § 1531 *et seq.*, creates certain obligations requiring the Agency to consult with other federal agencies (U.S. Fish and Wildlife Service and National Marine Fisheries Services) when EPA carries out, authorizes, or funds an action that may affect threatened or endangered ("listed") species. The National Historic Preservation Act, 16 U.S.C. § 470 *et seq.*, creates certain obligations requiring the Agency to consult with State officials (State Historic Preservation Officers) and/or federal officials at the Advisory Council for Historic Preservation in order for EPA to take into account the effect on historic properties of an "undertaking," as that term is defined by the National Historic Preservation Act. EPA believes that the collection of such information would be useful to regulatory officials in considering permit applications for activities or undertakings that may affect listed species or historic properties, respectively. Absent information in the permit application, EPA may need to collect such information on a case-by-case basis, which could delay the permit issuance process in some instances.

EPA invites public comment on the information that could or should be provided by the permit applicant. Specifically, if EPA established permit application questions about listed species or historic properties, what kind of information can or should the permit applicant provide? Would it be appropriate to request that the permit applicant identify whether there are known or suspected listed species, including species proposed for listing and designated critical habitat, or historic properties in the area of the POTW discharge (or sludge use or disposal site by a TWTDS) that would be affected by that POTW discharge (or sludge use or disposal by a TWTDS)? How could or should EPA provide applicants with flexibility to assist regulatory officials in the consideration of potential impacts of activities on listed species or historic properties? Though EPA does not propose what type of information related to endangered species or historic properties would be sought in today's proposal, any such information collection requests in the final regulation may affect the costs associated with complying with the permit application regulations, both in terms of financial cost and burden hours. EPA invites public comment on all aspects of efficient federal permitting of POTWs (and TWTDS) consistent with requirements of the Endangered Species Act and the National Historic Preservation Act.

F. Permit as a Shield

Section 402(k) of the CWA, also known as the "shield" provision, provides that compliance with an NPDES permit shall be deemed compliance, for purposes of sec. 309 and 505 enforcement, with sec. 301, 302, 306, 307, and 403 of the CWA (except for any standard imposed under sec. 307 for toxic pollutants injurious to human health). In response to questions raised regarding EPA's interpretation of the scope of the "shield" associated with NPDES permits under the CWA, the Agency issued a policy statement on July 1, 1994, to describe the Agency's current position on the scope of the authorization by EPA to discharge under an NPDES permit and the shield thus associated with permit authorization.

As part of an application for an individual NPDES permit, EPA requires that an applicant provide certain information on its facility. In the case of industrial permit application, this includes specific information about the presence and quantity of a number of specific pollutants in the facility's effluent, as well as general information on all waste streams and operations contributing to the facility's effluent and the treatment the wastewater receives. Present application requirements for

municipal discharges focus primarily on the operation and treatment processes at the municipal treatment works, although some quantitative information is also required.

Historically, EPA has viewed the permit, together with material submitted during the application process and information in the public record accompanying the permit, as important bases for an authorization to discharge under sec. 402 of the CWA. The availability of the sec. 402(k) shield is predicated upon the issuance of an NPDES permit and a permittee's full compliance with all applicable application requirements, any additional information requests made by the permit authority and any applicable notification requirements under 40 CFR §§ 122.41(l) and 122.42, as well as any additional requirements specified in the permit.

In the July 1, 1994, policy statement, the Agency explained that a permit provides authorization and therefore a shield for the following pollutants resulting from facility processes, waste streams and operations that have been clearly identified in writing in the permit application process when discharged from specified outfalls:

(1) Pollutants specifically limited in the permit or pollutants which the permit, fact sheet, or administrative record explicitly identify as controlled through indicator parameters (of course, authorization is only provided to discharge such pollutants within the limits and subject to the conditions set forth in the permit);

(2) Pollutants for which the permit authority has not established limits or other permit conditions, but which are specifically identified in writing as present in facility discharges during the permit application process; and

(3) Pollutants not identified as present but which are constituents of wastestreams, operations or processes that were clearly identified during the permit application process (the permit, of course, may explicitly prohibit or limit the scope of such discharges).

With respect to subparts 2 and 3 of the permit authorization described above, the Agency recognizes that a discharger may make changes to its permitted facility (which contribute pollutants to the effluent at a permitted outfall) during the effective period of the NPDES permit. Pollutants associated with these changes (provided they are within the scope of the operations identified in the permit application) are also authorized provided the discharger has complied in a timely manner with all applicable notification requirements (see 40 CFR 122.41(l) and 122.42 (a) and (b)) and the permit does not otherwise limit or prohibit such discharges. Section 122.42(b) requires that POTWs must provide adequate notice, including information on the quality and quantity of discharges to the POTW and anticipated impacts on the quantity or quality of effluent discharged by the POTW, of new introductions of pollutants by indirect dischargers into the POTW and any substantial change in the volume or character of pollutants being introduced by sources introducing pollutants into the POTW at the time of permit issuance.

Notwithstanding any pollutants that may be authorized pursuant to subparts 1 and 2 above, an NPDES permit does not authorize the discharge of any pollutants associated with wastestreams, operations, or processes which existed at the time of the permit application and which were not clearly identified during the application process.

In the July 1994 policy statement, the Agency committed to revise the NPDES permit application regulations for both municipal and industrial discharges, so as to ensure that applicants would have the responsibility to characterize more fully the nature of their effluents and the contributions of their effluents to receiving waters. The Agency stated that, in addressing this issue, it would review EPA's position on the scope of the shield provided by sec. 402(k).

Generally, the discharger is in the best position to know the nature of its discharge and potential sources of pollutants. Consequently, requiring as full a disclosure as technically possible in the permit application is one option EPA may want to consider in light of the protection afforded the discharger by the permit shield. However, in the case of POTWs, providing a permit shield only for pollutant discharges fully and completely characterized in the permit application could represent a significant burden on POTWs if they were required to identify every pollutant discharged. This is so because of the potential pollutant contribution into POTW sewer systems from industrial users and residential dischargers. Narrowing the scope of the shield and consequent expansion of potential liability would likely raise the cost associated with the failure to anticipate, detect, and provide information on these discharges.

The Agency has concerns that, using the current application form, permitting authorities using the existing municipal application forms may not always receive the information about an applicant's discharge needed to develop permits consistent with the requirements of the CWA. In today's proposed rule, the Agency is updating its POTW discharge application requirements (proposed Form 2A and proposed § 122.21(j)) to provide more information to permit writers and to streamline the permitting process by ensuring that the information needed from most applicants is consolidated onto a single application form. The Agency solicits comment on whether the proposal adequately addresses these concerns. Moreover, EPA is seeking the public's views on how to strike the proper balance between the need for environmental protection, incentives to ensure adequate disclosure, and the discharger's need for certainty that its conduct meets legal requirements.

The Agency also specifically requests comment on adding additional application requirements that would make applicants responsible for providing more information than that specified on the form. For example, the Agency is considering adding a question asking whether the POTW has any other information on pollutants not otherwise requested on the form. The Agency is also considering whether to ask whether the POTW has any information on adverse impacts on water quality, such as information concerning beach closings, citizen complaints, or fish kills. In providing comments on such questions, commenters should state whether they would have a chilling effect on—that is, might tend to inhibit—the activities of POTWs already participating, for example, in ambient monitoring. Comment is also requested on the extent to which such information is already available to permitting authorities.

G. Pollutant Data from POTWs

In preparing options for pollutant data collection for today's proposed rule, the Agency sought to identify relevant pollutant data records for reference. In so doing, the Agency reviewed POTW effluent "priority pollutant scan" data from EPA Region VI and from North Carolina. These data represented data from samples of the effluents of several hundred POTWs with a design flow greater or equal to one (1.0) mgd (i.e., "major" POTWs). Although the information requested by the Region and State differed in some respects, each required major POTWs to report on all "priority pollutants" (i.e., the pollutants listed in 40 CFR Part 122, Appendix D, Tables II and III). The Agency compiled this information in a database, and analyzed it to determine the pollutants most frequently detected in these effluents.

The Agency concluded that, although this survey was not conducted based on

statistical methodologies, it was possible to discern certain general patterns in the incidence of pollutants reported. Our review of Region VI and North Carolina data indicated that over 90% of 300 POTWs sampled reported at least one of the chemicals listed in Appendix D, Table III. Copper and zinc each appeared in two-thirds of all the POTWs surveyed; lead and nickel each appeared in about thirty percent of the effluents sampled; antimony, arsenic, cadmium, and silver each appeared in more than fifteen percent of facilities; and mercury and cyanide each appeared in slightly fewer than fifteen percent. Certain volatile organics (i.e., THMs) each appeared in roughly a quarter or more of the POTWs sampled; and certain base neutral compounds (i.e., pthalate esters) each showed up in ten to twenty percent of POTWs. Finally, only a few of the pesticides listed in Appendix D, Table II were reported in a small number of these scans.

While this information was not determinative in the Agency's decisions about what to include on the forms, it was consistent with other information provided, and supported some of the Agency's assumptions articulated elsewhere in this preamble concerning the appropriate pollutant test data to require from major POTWs. Notably lacking, however, were data on discharges from "minor" POTWs (those with a design flow of less than one (1.0) mgd). The Agency is seeking information concerning the discharges from minor POTWs and intends to collect such information between this proposal and the final rule that will provide a basis for determining the appropriate sampling requirements for those POTWs.

H. Public Consultation in the Development of Today's Proposal

In the course of developing today's proposed rule, EPA made efforts to consult with interested stakeholders in the application process. In late 1993 and early 1994, the Agency sought feedback on draft forms and other elements of the proposal from States with approved NPDES programs, local governments, the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA), the Association of Metropolitan Sewerage Agencies (AMSA), the California Association of Sanitation Agencies (CASA), the Water Environment Federation (WEF), and several environmental groups. In response to this outreach effort, the Agency received written comments from a dozen States, several municipalities, and from AMSA. Agency representatives also met with State and municipal representatives and conducted a conference call through WEF.

With respect to the POTW wastewater discharge application, the Agency was particularly interested in issues relating to pollutant data collection. The Agency indicated that it was considering a tiered approach, based upon POTW size and the level of industrial contribution (i.e., whether the POTW was required to implement a local pretreatment program). Most commenters generally supported the idea of a tiered approach (i.e., that the Agency not require the same information from all POTWs). The Agency received an array of suggestions concerning what pollutant data should be required. Among the concerns raised by commenters were the following: ease of completion; flexible implementation by States; reduced pollutant data requirements; sensitivity to impacts on small municipalities; and elimination of redundant reporting. In addition, the Agency received numerous technical comments concerning various details of the information to be reported.

In response, the Agency has made changes to the proposed rule to provide a user-friendly modular design for the forms and has revised its initial approach to municipal pollutant data collection for this proposal. The Agency's proposed approach to pollutant data collection would limit pollutant data requests to those pollutants of greatest concern and would require less pollutant data from smaller municipalities. However, the Agency is still considering several options concerning the amount of pollutant data to be provided, including options that would require minor POTWs to provide sampling data on metals, some organic compounds, and whole effluent toxicity.

With respect to the sludge application, the Agency was interested in the type and amount of pollutant data currently requested by States. Responses showed variation among States. Comments were also received that questioned the need for some of the information to be collected by Form 2S. The Agency has removed some questions that it agrees are not necessary for sludge permit applications. The Agency also requests comment on several options for pollutant data collection.

Finally, the Agency proposes to allow the use of existing data and to reduce redundant reporting by allowing permitting authorities to waive reporting of information to which they have direct access. This proposal is discussed in more detail in those portions of the preamble which focus on the relevant provisions of the proposed rule. The Agency also solicits comments on alternative considerations specifically addressed to pollutant data submission and industrial user information.

II. Approach Taken in Today's Notice

A. Scope of Today's Rulemaking

Today's notice proposes two sets of NPDES application requirements and a corresponding permit application form, together with instructions, for each. Proposed § 122.21(j) contains application requirements pertaining to wastewater treatment and discharge at publicly owned treatment works (POTWs), and would require that applicants submitting this information to EPA use new Form 2A. Proposed § 122.21(q) contains application requirements pertaining to generation, treatment, and disposal of sewage sludge at POTWs and other treatment works treating domestic sewage, and would require that applicants submitting applications to EPA use new Form 2S.

The proposed forms would be used both by EPA and by approved NPDES States that choose to adopt these forms. Approved States could also elect to use forms of their own design so long as the information requested includes at least the information required by the final NPDES/sludge regulations. EPA and State NPDES authorities may request additional information from permit applicants whenever necessary to establish appropriate permit limits and conditions. CWA sec. 308.

The proposed forms and instructions for each form are included with today's proposed rule as an appendix to the rulemaking package. EPA is not intending to publish the forms and instructions with the final rule, so as to reduce the length of the **Federal Register** notice for the final rulemaking, and solicits comment on this issue.

B. The Agency Proposes to Revise the Definition of POTW and Existing Permit Application Requirements for POTWs

Today, EPA proposes to revise the definition of the term "POTW," as defined in 40 CFR Part 122 to conform more exactly with the definition of the term at 40 CFR Part 403. "POTW" is defined at 40 CFR 403.3 as "a treatment works . . . which is owned by a State or municipality." This definition includes devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature, as well as sewers, pipes, and other conveyances that carry wastewater to a POTW treatment plant. As defined, the term "POTW" also refers to the municipality that has jurisdiction over the discharges to and from such a treatment plant. In today's proposed rule, the Agency proposes to revise the definition of POTW in Part 122 so as to be consistent with the more commonly understood definition located in Part 403.

The Agency's intention is to simplify and clarify, though EPA recognizes that any change may create unanticipated confusion. The Agency solicits comments on effects on conforming the Part 122 definition with the Part 403 definition. Specifically, the Agency is interested in the extent the change would affect: implementation of the Combined Sewer Overflow policy; regulatory consideration of sanitary sewer overflows; and implementation and applicability of the NPDES and pretreatment programs to sewerage collection systems that are not owned/operated by the owner/operator of the treatment plant to which collected waste waters are transported.

The Agency proposes to revise whole effluent toxicity testing requirements found in the existing POTW permit application regulations at § 122.21(j). Under existing § 122.21(j) (1)–(3), a POTW must provide the results of whole effluent biological toxicity testing as part of its NPDES permit application, if the POTW has a design flow equal to or greater than one million gallons per day; if it has (or is required to have) an approved pretreatment program; or if it is required to report by the Director (NPDES State Program Director or EPA Regional Administrator). The Agency proposes to revise this requirement to reflect Agency guidance and policy, as well as practical experience in implementing existing requirements, as set forth at proposed § 122.21(j)(4).

The Agency proposes to change the pretreatment requirement for local limit calculations from an application requirement to a permit requirement. Under existing § 122.21(j)(4), any POTW with an approved pretreatment program must provide a written technical evaluation of the need to revise local limits under 40 CFR 403.5(c)(1). The existing provision requires that the local limits evaluation be done prior to permit issuance. This has generated feedback from States and municipalities that it would be better to require the evaluation after permit issuance, so as to avoid the need for a second technical evaluation if the POTW's permit limits are revised in the new permit. In response to these concerns, the Agency proposes to change this from an application requirement to a POTW pretreatment program requirement, at proposed § 403.8(f)(4)(B).

C. EPA Proposes Form 2A for POTWs to Replace Standard Form A and Short Form A

Today EPA proposes a new NPDES application form, Form 2A, for POTWs. Currently, POTWs may be required to submit one of two forms, depending on the size of the POTW. While both of these forms are approved Federal forms, the NPDES regulations do not require use of the forms by POTWs when applying for a permit. Standard Form A is intended to be used by all POTWs with a design flow equal to or exceeding one million gallons per day. Standard Form A contains questions about the facility and collection system, discharges to and from the facility (including information on some specific pollutant parameters), and scheduled improvements and schedules of implementation. Short Form A is intended for use by all POTWs with a design flow of less than one million gallons per day. Short Form A contains only fifteen questions of a summary nature, and asks for virtually no information on specific pollutants. Many States use one or both of the Federal forms, but a number of States have developed State forms that request information not included on the Federal forms.

EPA proposes to replace both Standard Form A and Short Form A with a single Form 2A, subdivided into two parts, titled "Basic Application Information" and "Supplemental Application Information". Basic application information would include information about the collection system and the treatment plant, general information concerning the types of discharges from the treatment plant, identification of outfalls, certain effluent characteristics, and scheduled improvements. The Agency believes that a separate short form for all minor POTWs is no longer appropriate, because in order to establish adequate permit limits, information such as that mentioned above must be collected from all POTWs, regardless of size.

On the other hand, the Agency recognizes the need to be selective in requiring further additional information. For this reason, the Agency has divided the proposed form into two parts. To limit the reporting burden for smaller POTWs without significant industrial contributions, EPA proposes to require effluent monitoring data for 17 parameters from POTWs with design flows less than one million gallons per day (mgd) and without pretreatment programs. These 17 parameters consist mostly of conventional and nonconventional pollutants. Larger POTWs and pretreatment POTWs, by comparison, would be required to report effluent monitoring data for metals and organic compounds as well as the 17 parameters required for smaller POTWs. Thus, the Basic Application Information part of Form 2A would require reporting on those parameters required of all POTWs, while the Supplemental Application Information part of the form would be used by applicants providing data on toxic pollutants (i.e., larger POTWs and pretreatment POTWs). Similarly, the Supplemental Application Information part of Form 2A is intended to be used by applicants required to provide the results of whole effluent toxicity tests, applicants with significant industrial users, and applicants with CSOs.

The Agency also invites comment on requiring use of the form itself. As explained previously, EPA conducted significant public outreach to design an application form that is easy to use, including outreach on the form itself. Use of the form would provide all of the information requested in the proposed application regulations, whereas modification of the form may result in failure to provide information to be required in the proposed regulations. On the other hand, EPA seeks to provide maximum flexibility by "streamlining" procedures for permit development. The Agency seeks comment on whether requiring use of the form would interfere with streamlining permitting procedures.

D. Applicability of Form 2A to Privately Owned and Federally Owned Treatment Works

As in the case of existing Standard Form A and Short Form A, EPA proposes that Form 2A and the application requirements at § 122.21(j) be required only for POTWs. However, the Agency proposes that the Director have the discretion to use the proposed form for treatment works that are not POTWs. As previously discussed, the NPDES program has evolved considerably since Standard Form A and Short Form A were promulgated in 1973, and now embraces facilities that operate similarly to POTWs but which do not meet the regulatory definition of POTW. Although not owned by a State or municipality, such facilities nevertheless receive predominantly domestic wastewater, provide physical and/or biological treatment, and discharge effluent to waters of the United States. Such facilities include Federally owned treatment works (FOTWs) and privately owned treatment

works that treat primarily domestic wastewater.

EPA is aware that Federal and State permitting authorities use a number of mechanisms for obtaining NPDES permit application information from non-POTW treatment works. These mechanisms include Standard Form A, Short Form A, Form 2C ("Existing Manufacturing, Commercial, Mining, and Silvicultural Operations"), and Form 2E ("Facilities Which Do Not Discharge Process Wastewater"). The Agency believes that Form 2A would in many cases be the more appropriate application form for non-POTW treatment works, and solicits comments on its applicability to such facilities.

Nevertheless, the Agency does not propose to require Form 2A for non-POTW treatment works. Despite many functional similarities to POTWs, such facilities do not share the same regulatory requirements and thus might not be required to report the same information to permitting authorities. In many instances, non-POTW treatment works are not required under the NPDES regulations to develop pretreatment programs, meet secondary treatment requirements, or report results of whole effluent toxicity testing with their permit applications. For those facilities, requiring such information through Form 2A might be unnecessary.

The Agency solicits comments on whether the provisions of § 122.21(j) and the requirement to use Form 2A should be extended to treatment works other than POTWs. EPA is particularly interested in commenters' views on how to collect appropriate information in appropriate circumstances. EPA also seeks to design permit application requirements to account for privatization of treatment plants initially constructed as publicly owned treatment works. The permit application requirements in this proposed rule may be appropriate for partially privatized portions of POTWs, particularly because the proposed information regulations in today's rule would solicit information about sewerage collection systems that might not otherwise be collected under the industrial permit application regulations. Finally, EPA solicits comment on the extent of the similarity between POTWs and FOTWs, for example, whether FOTWs would have combined sewage collection systems. In another part of today's proposal, EPA is soliciting comment about the definition of POTW to which the permit application regulations would apply.

E. EPA Proposes Revised Application Requirements and Form 2S for Sewage Sludge Permits

Today, EPA also proposes a new form, Form 2S, to collect information on sewage sludge from treatment works treating domestic sewage (TWTDS). The term "treatment works treating domestic sewage" is a broad one, intended to reach facilities that generate sewage sludge or effectively change its pollutant characteristics as well as facilities that control its disposal. The term includes all POTWs and other facilities that treat domestic wastewater. It also includes facilities that do not treat domestic wastewater but that treat or dispose of sewage sludge, such as sewage sludge incinerators, composting facilities, commercial sewage sludge handlers that process sludge for distribution, and sites used for sewage sludge disposal. In addition, EPA may designate a facility a TWTDS when the facility's sludge quality or sludge handling, use, or disposal practices have the potential to adversely effect public health and the environment. Septic tanks or similar devices are not considered TWTDS.

In addition to proposing sewage sludge application requirements in new paragraph 122.21(q), EPA also proposes to delete the cross-reference to § 501.15(a)(2) in paragraph 122.21(d)(3)(ii). This would consolidate all of the sewage sludge application requirements in paragraph 122.21(q). The information included in § 122.21(d)(3)(ii) and § 501.15(a)(2) was not intended to be a final, comprehensive list of all of the application information required of a TWTDS. Such a comprehensive list was not possible until after promulgation of the technical sewage sludge standards. Rather, with these sections, EPA provided a minimum set of information requirements to suffice until more comprehensive sewage sludge permit application regulations could be promulgated. In light of the promulgation of technical sewage sludge use or disposal standards, at 40 CFR Part 503, EPA today proposes to modify the sewage sludge permit application requirements to add new § 122.21(q) and to revise paragraph § 122.21(d)(3)(ii) accordingly.

EPA intends to maintain consistency between the NPDES permit application requirements of Part 122 and the State sewage sludge permitting requirements of Parts 123 and 501. This reflects EPA's belief that a TWTDS should submit the same application information regardless of whether the permitting authority regulates sludge management under an approved NPDES or under a non-NPDES program. Therefore, under today's rulemaking, EPA also proposes to revise the language of §§ 123.25(a)(4) and 501.15(a)(2) to modify the sludge information requirements. EPA seeks comment on this revision.

F. Reasons for Separate Form 2A and Form 2S

EPA today proposes two separate forms for municipal wastewater discharges and sludge for several reasons. First, the forms would differ in their applicability. Form 2A would apply only to POTWs; Form 2S would require information from all TWTDS. Most facilities that generate, treat, or dispose of sewage sludge are POTWs, and will be required to submit both application forms. However, several thousand TWTDS do not discharge to surface waters and therefore are not required to have NPDES discharge permits. Thus, they would be required to submit Form 2S but not Form 2A.

Second, separate application forms are also appropriate because wastewater and sewage sludge are often regulated by different permitting authorities. In 41 States and territories, the NPDES program is administered at the State level through an EPA-approved NPDES program. Therefore, POTWs in NPDES States would obtain NPDES permits from the State permitting authority (by submitting Form 2A to the State) and sewage sludge permits from EPA (by submitting Form 2S to the EPA Regional Office). Separate application forms would facilitate this bifurcated permitting process. In addition, even when a State sludge permitting program is approved, the program will not necessarily be administered by the State's NPDES permitting authority. For example, a POTW in a State with both NPDES and sludge permitting authority could receive its NPDES permit from the water management agency and its sewage sludge permit from a solid waste agency. Separate Forms 2A and 2S would also facilitate permitting in this situation.

G. EPA Solicits Comment on the Use of Electronic Application Forms

Consistent with recent amendments to the Paperwork Reduction Act, the Agency intends to develop electronic data submission as an alternative form of application. The use of electronic media should help to streamline the application process and to reduce the amount of repetition associated with completing application forms that are only available on hard copy. As previously noted, the elimination of redundant reporting is one of the goals of this rulemaking.

It is not clear, however, how this would best be accomplished, especially because permit application forms must be "signed" to ensure reliability of permit application information (and enforceability of the permit application regulations). Options range from transmitting data electronically, submitting disk copies, or submitting a hard copy. It might be most feasible to have electronic forms that could be distributed and completed electronically, and then printed, signed, and submitted. Although the Agency is considering how "signatures" for electronic submissions could be obtained, there are other issues concerning the use of application forms, such as how to attach accompanying documents. The Agency solicits comments regarding the interest that applicants and permitting authorities may have in this area, and suggestions as to how it could most feasibly be accomplished.

III. Description of Proposed Requirements

A. EPA Proposes to Revise Requirements in § 122.21 (c), (d) and (f) Concerning the Use of Forms 1, 2A, and 2S

EPA proposes revisions to the existing general application requirements for all NPDES permittees, which would require the use of Forms 2A and 2S by applicants for EPA-issued permits. The proposed rule would not require applicants using these forms to use Form 1, as is currently required. Today's proposed rule substantially incorporates the requirements of § 122.21(f) into the requirements of proposed § 122.21 paragraphs (j) and (q).

1. Requirement to Submit Form 2A

EPA proposes in § 122.21(d) to require POTWs to submit the information at § 122.21(j) using Form 2A or an equivalent form approved by the Director. The Agency proposes to require applicants for EPA-issued permits to complete Form 2A, but is considering not requiring the use of the form so long as the proposed regulatory requirements are met. The Agency intends to allow the use of any method of electronic data submission the Agency may approve as part of the final rule in lieu of the form itself.

2. Requirement to Submit Form 2S

EPA also proposes in § 122.21 paragraphs (c)(2)(iii) and (d) to require TWTDS to submit the information at § 122.21(q) using Form 2S or an equivalent form approved by the Director. As with Form 2A, the Agency proposes to require applicants for EPA-issued permits to complete Form 2S, but is considering not requiring the use of the form so long as the proposed regulatory requirements are met. Also as with Form 2A, the Agency intends to allow the use of any method of electronic data submission the Agency may approve as part of the final rule.

B. Application Requirements for POTWs (40 CFR 122.21(j))

Today's proposed rule includes application requirements for all POTWs. These requirements are proposed at 40 CFR 122.21(j). Form 2A tracks the information required by the regulation in parallel fashion. Applicants for State-issued permits are not required to use Form 2A, so long as the other application form provided by the Director requests the information required by proposed § 122.21(j).

EPA acknowledges concerns relating to redundant reporting which were raised by State and municipal commenters during the consultation process. The Agency does not wish to require applicants to report information already provided or available to the permitting authority. Today's proposal would allow permitting authorities to waive reporting requirements, as appropriate. The introductory paragraph of proposed § 122.21(j) would allow the Director to waive any requirement in proposed paragraph (j) if the Director has access to substantially identical information. The Agency solicits comment on this approach and, specifically, on the conditions for allowing such a waiver. In today's proposed rule, the Agency also solicits comments on more narrowly defined waivers for specific requirements (see discussion below concerning pollutant data requirements and industrial user information requirements).

The Agency also solicits comment on ways to allow the permit writer or permitting authority discretion in waiving particular information where the permitting authority determines that such information is not necessary for the application. In other words, there may be flexible ways to look at each applicant in light of the overall "matrix of characteristics" regarding a particular facility. Where, for example, historical data indicate that additional sampling is not warranted unless other conditions have changed, the Agency is allowing the permitting authority to waive such sampling. Such flexibility would involve a holistic approach to implementing these proposed requirements. The Agency solicits comment as to ways in which it could be accomplished without making these provisions entirely discretionary, and thus making it difficult for the applicant to predict how discretion would be exercised. This might be particularly relevant on the second and subsequent rounds of permitting under these proposed provisions. The Agency also seeks comment on what information might be appropriate and what information might be inappropriate for such waivers.

1. Basic Application Information

Today's proposal would require all POTW applicants to provide the information in proposed § 122.21(j)(1). All of this information is also requested in Questions 1–16 of the Basic Application Information part of proposed Form 2A.

Proposed § 122.21(j)(1) of today's rule would require information on the POTW's service area and physical plant. The proposed rule would require all applicants to provide information regarding the community served and physical characteristics of the treatment works.

Proposed § 122.21(j)(1)(i) requests facility identification information. Proposed § 122.21(j)(1)(ii) requests information about the applicant, which may or may not be the facility itself. Proposed § 122.21(j)(1)(iii) asks the applicant to provide permit numbers of any existing environmental permits that have been issued to the facility.

Proposed § 122.21(j)(1)(iv) would require the applicant to list the municipalities and populations served by the POTW. The POTW may serve several areas (including unincorporated connector districts) in addition to the one in which it is located. The permit writer needs to know what areas are served and the actual population served in order to calculate the potential domestic sewage loading to the facility. The information on the community is also useful for providing notice and public comment for permit reissuance, and for public education.

Proposed § 122.21(j)(1)(v) would require the applicant to report the facility's design flow rate and the annual average daily flow rate for each of the past three years. This information enables the permitting authority to calculate limits appropriate to the POTW, to alert the permitting authority to the need for flow restrictions or facility expansion, and to compare design and actual flows.

Proposed § 122.21(j)(1)(vi) would require information on the type of collection system used by the facility. The applicant would also identify whether the collection system is a separate sanitary system or a combined storm and sanitary system. The

applicant would also estimate the percent of sewer line that each type comprises. Familiarity with the type of collection system enables the permit writer to anticipate combined collection system overloading in wet weather. The current application form, Standard Form A, requests that the applicant also provide the length of the collection system (in miles). The proposed rule does not include this requirement because the Agency does not believe that such information is useful to the permit writer.

Proposed § 122.21(j)(1)(vii) would also require information on inflow and infiltration. Inflow is the uncontrolled entrance of water into the collection system from surface sources such as unsealed manholes. Infiltration is water that enters the collection system through deteriorated or defective pipes, joints, and connections. Both conditions may indicate the need for special permit conditions (such as best management practices) to reduce the inadvertent flow of water to the POTW. EPA requests comment on the availability of inflow and infiltration information at POTWs. This provision would also request information on steps the facility is taking to minimize inflow and infiltration.

Proposed § 122.21(j)(1)(viii) would require the applicant to provide a topographic map that includes information on the layout of the treatment plant, including all unit processes; intake and discharge structures; wells, springs, and other surface water bodies; sewage sludge management facilities; and the location(s) at which hazardous waste enters the treatment plant by truck, rail, or dedicated pipe. This provision reflects the topographic map requirements of § 122.21(f)(7), and is more specifically designed to include features most likely to be found at a POTW.

Proposed § 122.21(j)(1)(ix) would require the applicant to submit a process flow diagram or schematic, together with a narrative description. The permit writer uses this information to develop secondary treatment and water quality-based permit requirements, as well as other applicable permit conditions.

Proposed § 122.21(j)(1)(x) would require information about bypasses, which are intentional diversions of wastestreams from any part of a treatment plant. Regulations governing bypasses are set forth at 40 CFR 122.41(m). Facilities experiencing bypasses are required to estimate the frequency, duration, and volume of bypass incidents, and the reasons why bypasses have occurred. Information on bypasses is used by the permit writer to develop appropriate permit limits and conditions for these discharges.

Proposed § 122.21(j)(1)(xi) would require general information regarding discharges to waters of the United States as well as discharges to destinations other than surface waters. This information enables the permit writer to account for all wastewater that enters the POTW, regardless of whether or not it is discharged directly to receiving waters. From a watershed permitting standpoint, permitting authorities may use this information to identify flows that individually or collectively may have an impact on the watershed, whether or not they are discharged directly into waters of the U.S.

If any effluent is discharged to surface impoundments with no discharges to waters of the U.S., the applicant would report the location of each surface impoundment, the annual average daily volume discharged to each surface impoundment, and whether the discharge is continuous or intermittent. If effluent is applied to the land, the applicant must prgvide the site location, the site size, and the annual average daily volume of effluent applied. The applicant must also state whether land application is continuous or intermittent. This information alerts the permit writer to the potential for point source discharges to arise from land application sites under certain circumstances, such as cold weather or high volume discharges, or from surface impoundments.

Proposed § 122.21(j)(1)(xi) would also require the applicant to report whether wastewater is discharged to another treatment works, the means by which the wastewater is transported, the average daily flow rate to that facility, and information identifying the receiving facility. The applicant must also identify the organization transporting the discharge, if other than the applicant. The permit writer needs this information in order to track the wastewater and verify the transfer.

Finally, proposed § 122.21(j)(1)(xi) would require information on other types of disposal, such as underground percolation or injection. These types of disposal may result in the transfer of pollutants to waters of the U.S. through underground flows, and thus are of interest both to the permit writer in writing the permit and to the permitting authority in designing watershed protection strategies.

Proposed § 122.21(j)(1)(xii) would require the applicant to report whether the POTW is located on a Federal Indian Reservation, discharges to a receiving water that is on a Federal Indian Reservation or upstream of and eventually flows through a Federal Indian Reservation. This information enables the permit writer to identify the proper permitting authority and applicable requirements, including applicable water quality standards.

Proposed § 122.21(j)(1)(xiii) would require the applicant to provide information about any scheduled facility improvements. Improvements to the facility may change its flow or removal efficiency, necessitating a permit modification. The permit writer may modify the permit when the improvement is complete, or may include alternate limits in the permit that would take effect upon completion of the improvement.

The current application form, Standard Form A, requests certain information about required improvements including information on dates for completion of the preliminary plan, completion of the final plan, awarding of contract, and site acquisition. EPA is proposing to delete these requirements but solicits comment on their usefulness. Standard Form A also requires the applicant to identify the authority imposing the improvement and the general and specific action codes. The Agency proposes to delete this requirement because permit writers have indicated that this information is unnecessary to writing the permit.

2. Information on Effluent Discharges

Proposed § 122.21(j)(2) of today's rule would require all POTWs that discharge effluent to waters of the U.S. to provide specific information for each outfall through which effluent is discharged to surface waters, excluding CSO outfalls. This information would be reported in Questions 17, 18, and 19 of the Basic Application Information part of proposed Form 2A. The applicant would be required to submit the information required for each outfall.

Proposed § 122.21(j)(2)(i) would require general information about each outfall. The applicant must specify the outfall number, location, latitude and longitude, distance from shore (if applicable), distance below surface (if applicable), and average daily flow (in million gallons per day). EPA enters the latitude and longitude points into the water quality data base STORET. Maps of the location of water discharges are developed to examine the relationship between NPDES outfalls and other areas of concern, such as drinking water intake points or sensitive ecosystems. This information is also used to establish water quality-based effluent limits appropriate for the particular

receiving water. The locational data requested by this question also supports the Watershed Protection Approach, because it provides Federal and State environmental managers with information they need to geographically locate discharge points.

Latitude and longitude would be required to be reported to the nearest second. This is consistent with EPA's Locational Data Policy (LDP) (See "Locational Data Policy Implementation Guidance, Guide to the Policy (March 1992)"). In accordance with this policy, all latitude/longitude measurements in Agency data collection should have accuracies of better than 25 meters (i.e., roughly, one second).

Proposed § 122.21(j)(2)(i) would require information about the interval and duration of effluent discharges that are seasonal or periodic. Such discharges arise from certain conditions, usually related to the process at an industrial user, whereby the industrial user discharges intentionally at specified times following treatment. For each outfall with an intermittent discharge, the applicant must report the annual frequency, duration, flow, and the months in which the discharge occurs. The permit writer uses this information to develop permit limits that reflect the intermittent nature of such discharges.

Proposed § 122.21(j)(2)(i) would also require the applicant to specify whether the outfall is equipped with a diffuser and the type of diffuser (e.g., high-rate) used. The permit writer uses this information to make mixing zone calculations. (See "Technical Support Document for Water Quality-based Toxics Control," EPA/505/2–90–001, March 1991.)

Most POTWs discharge treated effluent to surface waters such as streams or rivers. Proposed § 122.21(j)(2)(ii) solicits information that describes and identifies the receiving waters into which each outfall discharges. Information about the type of receiving water is useful to the permit writer because mixing zones and wasteload allocations may be calculated differently for different types of receiving waters.

This provision would also require the name of the watershed, the Soil Conservation Service watershed code, the name of the State management basin, and the United States Geological Survey hydrologic code. This locational information supports the Watershed Protection Approach, by providing Federal and State environmental managers with a means of locating dischargers within the U.S. Soil Conservation Service watershed categorization system, a State's river basin categorization system, and the U.S. Geological Survey cataloging scheme. Some States, as well as EPA Regions, are implementing a basin management approach to watershed protection and will require the information requested by this question.

Proposed § 122.21(j)(2)(iii) would require information on the level of treatment for discharges from each outfall. The CWA requires POTWs, with some exceptions, to treat influent to the level of secondary treatment prior to discharge. Secondary treatment is defined at 40 CFR 133.102 in terms of five-day biochemical oxygen demand (BOD_5), total suspended solids (SS or TSS), and pH. Part 133 allows adjustments to the secondary treatment requirements for POTWs that meet certain criteria. In addition, some POTWs are subject to requirements for "treatment equivalent to secondary treatment," as described in § 133.105. Finally, some POTWs may have more advanced levels of treatment necessary, for example, to meet water-quality based standards for certain pollutants, such as nitrogen and phosphorous.

This provision would require data on design removal efficiencies for BOD_5 and SS. Information on these parameters is necessary in order for the permit writer to set pollutant limits that accurately reflect the pollutant removal that the POTW can achieve. It may also alert the permitting authority to the need for improvements to the treatment facility.

Proposed § 122.21(j)(2)(iii) would also require information on disinfection, which usually follows secondary or advanced treatment and which destroys bacteria, viruses, and other pathogens in the wastewater. Disinfection most commonly occurs through chlorination. Many POTWs also dechlorinate their effluent prior to discharge because excessive free chlorine in a wastewater discharge can cause aquatic toxicity in the receiving water.

3. Effluent Monitoring for Specific Parameters

The purpose of proposed § 122.21(j) and proposed Form 2A is to provide the permit writer with the minimum information necessary to issue to a POTW an NPDES permit that contains effluent limitations consistent with the goals of the CWA. EPA recognizes that the quality of a POTW's effluent depends on several factors, such as the number and type of industrial users of the POTW, and that not all POTWs need to report the same information to ensure developing NPDES permits to achieve designated uses of the Nation's waters. Hence, EPA proposes a tiered approach to collect needed effluent monitoring information.

The Agency proposes to require all POTWs to report effluent monitoring information for the 17 parameters listed at proposed 40 CFR Part 122, Appendix J, Table 1 ("Effluent Parameters For All POTWs") (see also proposed Form 2A, Basic Application Information, question 19). These parameters have a high likelihood of being present in most POTW effluents.

EPA is proposing to require additional reporting of pollutant-specific data for POTWs with a design flow greater than or equal to 1.0 mgd; POTWs that have or are required to have a pretreatment program; and other POTWs required to provide this information to the permitting authority. In general, the pollutants for which additional data would be required are those for which there are State water quality standards, other than dioxin, asbestos, and "priority pollutant" pesticides. Thus, the Agency would require, at a minimum, data on those pollutants listed at proposed 40 CFR Part 122, Appendix J, Table 2 ("Effluent Parameters For Selected POTWs and Treatment Works Treating Domestic Sewage") (see also proposed Form 2A, Part A, Supplemental Application Information: Expanded Effluent Testing). The Agency would not require data, unless otherwise specified by the permitting authority, on those pollutants listed at proposed 40 CFR Part 122, Appendix J, Table 3 ("Other Parameters for Treatment Works Treating Domestic Sewage And Selected POTWs").

Proposed § 122.21(j)(3) would require that data be separately provided for each outfall through which treated sanitary effluent is discharged to waters of the United States. Further, EPA recognizes that a POTW's effluent may have similar qualities at more than one of its outfalls. EPA thus proposes to allow applicants to provide the effluent data from only one outfall as representative of all such outfalls, where two or more outfalls with substantially identical effluents, and with the approval of the permitting authority on a case-by-case basis. For outfalls to be considered substantially identical, they should, at a minimum, be located at the same plant, be subject to the same level of treatment, and have passed through the same types of treatment processes. The Agency solicits comment on this approach and, particularly, on whether data should be separately collected from all such outfalls. Alternatively, should applicants generally be encouraged to follow this approach rather than

selectively approved on a case-by-case basis?

EPA proposes that effluent and monitoring data submitted to the permitting authority meet the following conditions:

1. Maximum Period of Sample Collection: All data summarized in response to these questions is proposed to be collected within a 3-year period preceding the permit application date.

2. Minimum Number of Daily Sample Analyses: Results from a minimum of three separate daily sample analyses (pollutant scans) are proposed to accommodate data needs for each analyte on which information is requested. Additional samples might be required on a case-by-case basis.

3. Seasonal Considerations: For most POTWs, EPA expects that the three, or more, sets of results for daily sample analyses summarized in response to these information needs would represent typical daily discharges occurring during at least three different calendar seasons. For most applicants, EPA proposes to require that a minimum of 4 months and a maximum of 8 months separate at least one pair of the daily sample analysis results included in the summary. Applicants unable to meet this time requirement due to, for example, periodic, discontinuous, or seasonal discharges could obtain alternative guidance on this requirement from their permitting authority. Permitting authorities might alter this requirement to address considerations of specific POTWs.

4. Testing Methods: Sampling and analysis is proposed to be conducted in accordance with methods approved under 40 CFR Part 136. Applicants would be expected to use methods that enable pollutants to be detected at levels adequate to meet water quality-based standards. Where no approved method can detect a pollutant at the water quality-based standards level, applicants would be expected to use the most sensitive approved method. If the applicant believed that an alternative method should be used (e.g., due to matrix interference), the applicant would need to obtain prior approval from the permitting authority. If an alternative method approved in accordance with 40 CFR Part 136 is specified in the existing permit, the applicant would be expected to use that method unless otherwise directed by the permitting authority. When no approved analytical method exists, an applicant could use a suitable method and provide a description of the method. "Suitable method" means a method that is sufficiently sensitive to measure as close to the water quality-based standard as possible. The permit writer needs to know which testing methods are used in order to assess the technical validity of the results.

5. Daily Samples: For most POTWs, sampling is proposed to be conducted using composite samples mixed on a flow-proportional basis over a 24-hour period from at least eight sample aliquots (100 ml minimum) collected using an automated sample collection device. The flow-proportional basis would involve either varying the intervals between the collection of equal volume samples or varying the sample volumes collected over equal interval collection periods. The reason for using automated samplers is that they are designed to make the necessary adjustments according to the rate of flow.

For POTWs where automated sample collection devices are not available, it is proposed that appropriate daily composite samples for analysis would be produced by mixing at least four sample aliquots (100 ml minimum), each collected to represent typical segments of the operating day effluent flows.

Because pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and bacterial indicators cannot be properly sampled by continuous sampling devices, summarized results for each daily analysis are proposed to be based on individual analysis of a minimum of four grab samples collected to represent typical effluent flows over the operating day. A grab sample has 100 ml minimum volume, collected over 15 minutes or less.

For effluents from treatment ponds or other impoundments that have retention times of greater than 24 hours, single grab samples (100 ml minimum collected over 15 minutes or less) would be considered adequate to represent daily conditions for all analytes reported.

6. Maximum Data Summarization Requirements: EPA recognizes that not all analytes are sampled and analyzed at the same frequency for effluents from a single POTW or across all POTWs. EPA thus proposes that summarized results for analytes should include all data collected over the preceding three-year period, ending the calendar quarter preceding the permit application date (providing, for example, a total of 3 annual samples or 12 quarterly samples summarized per analyte, as well as any other samples taken by the applicant).

For those analytes sampled and analyzed at monthly or more frequent intervals, EPA proposes that applicants only summarize and report data collected over a single one-year period (e.g., providing a summary of 12 monthly samples, together with any other samples taken during that period, per analyte). The one-year period included in this data summarization interval would end the calendar quarter preceding the permit application date.

Applicants would be required to indicate for each analyte the number of samples summarized and whether each summary represents a one or three year summarization period.

7. All Data Must Be Reported: For each analyte, EPA proposes that all samples conducted and analyzed in accordance with 40 CFR Part 136 during the reporting period be reported (i.e., included with all other data for the period reported), regardless of whether or not they were required by the permitting authority or these proposed regulations.

8. Data Must Be Summarized: For each analyte, EPA proposes that applicants report the maximum daily discharge, expressed either as concentration or mass, of all of the samples reported. Applicants would also report the average daily discharge, expressed either as concentration or mass, of all the samples reported.

The Agency is considering requiring applicants to report only concentration numbers on the application or, alternatively, requiring that applicants who wish to report mass also provide flow information used in calculating the mass figures reported. Thus, applicants would be required to report the flow rate used in calculating the maximum daily discharge and the average of all of the flow rates used in calculating the average daily discharge.

Some States may wish to have individual pollutant data reports, rather than summary data, from applicants, either from all applicants or on a case-by-case basis, in addition to or instead of the summary data required by proposed § 122.21(j)(3). States would be encouraged to obtain this information in the manner considered most suitable to their needs.

9. Existing Data May Be Reported: Where the applicant has existing data for a given pollutant, and where such data meet the conditions described above, EPA proposes to allow the use of such data in lieu of data collected solely for the purpose of the permit application. If, for example, the applicant were to have pollutant data from two samples, only one more sample would be needed to meet the minimum requirement of three samples, assuming that other conditions were met. Also, where such data have previously been reported to the permitting authority, the permitting authority could waive such requirements as having been satisfied.

The Agency proposes the above conditions in an effort to be clear about the nature of what needs to be reported. Accordingly, the Agency solicits comment on whether these conditions are sufficiently clear, on the one hand, or whether they are overly restrictive, on the other.

The Agency also solicits comment on each of the particular conditions described above. The Agency is particularly interested in comment on two of these conditions: whether three pollutant scans is the appropriate number to require; and whether the three-year requirement for reporting test data should be waived, as proposed, where sampling for pollutants is done on a monthly basis.

The analytical data proposed to be reported would result from a variety of analytical methods, with detection limits ranging from less than 1 ppb to more than 10 ppb. The toxic analytes that are of most concern at low concentrations are primarily analyzed by gas chromatography (GC), gas chromatography/mass spectrometry (GC/MS), inductively coupled plasma emission spectrometry (ICP), and atomic absorption spectrometry (AA), and high resolution capillary column gas chromatography/high resolution mass spectrometry (HRGC/HRMS). These methods have different numeric analytical endpoints, based upon detection (e.g., method detection limit) or quantification (e.g., minimum level) levels. In addition, the wide latitude of data reporting definitions and conventions in use in various regulatory programs complicates the generation and interpretation of analytical data reported with this proposal.

In order for permit writers to develop appropriate permit requirements, they must be able to establish whether a pollutant is present and whether a reasonable potential for environmental impairment exists, as defined by water quality standards and criteria. To properly make such determinations, permit writers require more complete data and documentation than has been previously supplied with the application form, because any ambiguity increases the likelihood that the permit writer will need to include in the permit limits that are near or below 10 ppb or, alternatively, additional monitoring requirements for those pollutants for which the data are ambiguous.

Thus, it is in the best interests of both the applicant and the permitting authority that the proposed rule would require that the method detection limit (MDL), minimum level (ML), or other designated method endpoint, together with identification of the corresponding analytical methods used be stated in the permit application. Along with this information, the proposal would require applicants to submit pollutant data based upon actual sample values. In other words, even where test values are below the detection or quantification level of the method used, the actual data value should be reported, rather than reporting "non-detect" ("ND") or "zero" ("0") in such instances. If the endpoint of the method used is reported along with the actual sample results, the permitting authority will be able to determine if the data is in the "non-detect" range or "below quantification" range.

The Agency has provided guidance to the applicant in the proposed Form 2A instructions in order to minimize the conditions that lead to inaccurate sampling data. The Agency proposes that the permit applicant: (1) alert its laboratory to the analytical and detection limit requirements and the expectations for documentation; and (2) report the necessary documentation to ensure that the permit writer is fully informed as to the methods used and the results obtained. For more detailed information concerning analytical issues (acceptable methods, effluent-specific detection limits, and documentation of data and analytical problems), applicants should refer to the "Guidance on Evaluation, Resolution, and Documentation of Analytical Problems Associated with Compliance Monitoring", EPA 821–B–93–001, June 1993.

a. Pollutant Data Reporting Requirements for All POTWs

EPA has identified certain pollutants that are commonly found in POTW effluents, regardless of size, and for which permit limits may be necessary to prevent adverse effects on receiving waters. Proposed § 122.21(j)(3) would require each applicant, regardless of size, to provide monitoring information for the pollutants listed in proposed Appendix J, Table 1. These include the conventional pollutants (defined, at 40 CFR 401.16, as biochemical oxygen demand, total suspended solids, pH, fecal coliform, and oil and grease), as well as other parameters that are common to domestic wastestreams, such as ammonia (and other nitrogen compounds), and compounds of other origin, such as chlorine (which is used for disinfection during the treatment process).

The complete list is, as follows:

Flow
Temperature
Bacterial indicators (*E. coli*, Enterococci, Fecal coliform)
5-day biochemical oxygen demand (BOD_5 or $CBOD_5$)
Chlorine (total residual, TRC)
Kjeldahl nitrogen (total organic as N)
Oil and Grease
Total dissolved solids
Total suspended solids
pH
Phosphorus (PO_4–P)
Dissolved oxygen
Hardness (as $CaCO_3$)
Ammonia (as N)
Nitrate + Nitrite (as N)

The secondary treatment regulations at 40 CFR Part 133 describe the minimum level of effluent quality that must be attained in terms of BOD_5 (or $CBOD_5$), TSS, and pH, and specify technology-based criteria for each parameter. Control of BOD_5 (or $CBOD_5$) is necessary to ensure sufficient dissolved oxygen in the receiving water to protect aquatic life; BOD_5 (or $CBOD_5$) is also a key parameter in biological treatment systems. Extremely high levels of suspended solids in the POTW's influent can interfere with POTW operations. High TSS levels in the effluent also block light in the receiving water and inhibit photosynthesis. Permit writers use information for these, as well as all other parameters listed above, to set appropriate water quality-based limits for permit applicants. In instances where POTWs have been allowed to substitute chemical oxygen demand (COD) or total organic carbon (TOC) for BOD_5, in accordance with 40 CFR 133.104, applicants would report the substituted parameter.

EPA has determined that enterococci and *E. coli* are better biological indicator organisms than fecal coliform. From 1973 through 1982, the Agency studied marine and freshwater bathing beaches. These studies reveal strong correlations between instances of gastrointestinal illness and concentrations of certain indicator organisms at these beaches. That is, in both fresh and marine waters, enterococci and *E. coli* were strongly correlated with gastroenteritis. (For more information on this study, see "Ambient Water Quality Criteria for Bacteria—1986," EPA440/5–84–002, January 1986.)

Because high numbers of these organisms in receiving water indicate an increased potential for human gastrointestinal illness following swimming or ingestion, and because both enterococci and *E. coli* are contained in all domestic sewage, indicating the potential for gastrointestinal illness, EPA is

proposing to require all POTWs to test for these biological indicator organisms in their discharged effluents. The Agency is also proposing, however, to allow the use of fecal coliform as the biological indicator for those applicants where the applicable permitting authorities have not yet switched to monitoring requirements for enterococci and *E. coli*. EPA solicits comments on allowing the use of fecal coliform in cases where permitting authorities have not switched from using fecal coliform as the pathogen indicator. The Agency also solicits comment as to whether testing for enterococci and *E. coli* should be required at all before the Agency has developed approved test methods for these parameters.

The Agency proposes that all POTWs report chlorine and ammonia levels. EPA's experience with toxicity identification evaluations (TIEs) at many POTWs indicate that chlorine and ammonia frequently cause effluent toxicity. Additional studies also reveal frequent adverse effects by these compounds within receiving waters. Therefore, at POTWs that chlorinate their wastewaters without subsequent dechlorination prior to discharge, chlorine may be present in concentrations sufficient to cause toxicity in receiving waters. Ammonia, which is common in nearly all sanitary sewage, is highly toxic to aquatic life in its un-ionized form. The ratio of the relatively toxic un-ionized ammonia form (NH_3) compared with the considerably less toxic ionized ammonium form (NH_4^+) is dependent on pH and temperature.

Chlorine and ammonia are listed in many State water quality standards, and "The Quality Criteria for Water 1986" (EPA 440/5–86–001, also known as the "Gold Book") lists criteria for both pollutants. Chlorine and ammonia can react to form chloramines, which can be toxic, and are more persistent in the aquatic environment than elemental chlorine. In estuaries or ocean water, bromamines can also form. Analytical methods recommended for the quantification of total residual chlorine (TRC) also indicate the presence of chloramines and bromamines. If a disinfectant other than chlorine is used, the permitting authority has the discretion to require additional data for that disinfectant. If alternative disinfection technologies are used, the applicant must submit a description of the alternate process.

Depending on the type of treatment provided, different sampling regimes may be appropriately required. For example, POTWs that do not use chlorination for disinfection, and do not otherwise use chlorine in their treatment processes, perhaps should not be required to sample for chlorine. The Agency solicits comment on whether to waive chlorine data from such POTWs.

EPA criteria for nitrate, nitrite, and phosphorus are published in The Gold Book. Because these parameters are prevalent in most POTW effluents and because of their impacts on receiving waters, EPA is proposing to require all applicants to test for them. Nitrogen and phosphorus are often limiting nutrients in marine and fresh water systems, respectively. Excessive loadings of nitrogen (discharged as ammonia (including ammonium), nitrate, nitrite, and organic nitrogen) and phosphorus (discharged as phosphate) can stimulate algae growth, interfering with shoreline aesthetics and recreational uses. In addition, decaying algae can reduce dissolved oxygen concentrations, thus impairing the aquatic environment. At concentrations not typically encountered in surface waters, nitrate is toxic to fish.

Today, EPA proposes monitoring and reporting requirements for total nitrate plus nitrite, Kjeldahl nitrogen, and total phosphate. EPA is proposing to request the reporting of nitrate plus nitrite, combined rather than separately, because the chemical equilibrium between the two forms can change rapidly when chemical conditions in effluents and receiving waters differ. Such differences can cause concentration ratios between these two nitrogen oxide forms to change rapidly shortly after effluents enter receiving waters. Thus, separately knowing the effluent concentrations of nitrate and nitrite often bears little significance to their likely concentrations shortly after discharge into receiving waters. Kjeldahl nitrogen concentrations (a measure of organic nitrogen concentrations) are requested to allow permit writers to evaluate the total concentration and total mass of nitrogen discharged, determined by summing concentrations of discharged ammonia, nitrate plus nitrite, and Kjeldahl nitrogen, when all are reported in equivalent nitrogen concentrations (NH_3-N and NO_2+NO_3-N). Phosphate is to be reported in equivalent phosphorus concentrations (PO_4-P). Concentrations of elemental phosphorus in most effluents occur at less than potentially toxic levels; consequently, no reporting requirements are proposed for elemental phosphorus.

The Gold Book also provides criteria values on concentrations of oil and grease. Concentrations of oil and grease sufficient to create a sheen on the receiving water not only affect aesthetic qualities of these waters, but may also reduce the re-aeration rate of the receiving waters, potentially contributing to dissolved oxygen sag problems. Oil and grease may also indicate the presence of other high-molecular-weight organic pollutants of concern, because they are often discharged with or act as a sink for such pollutants. Finally, oil and grease interfere with POTW operations. Therefore, today's proposal includes monitoring and reporting requirements regarding concentrations of oil and grease.

Standard Form A currently requires applicants to test for most of the parameters discussed above. Today EPA is proposing to delete reporting requirements for the following parameters, which are currently included on the list for which sampling is required on Standard Form A:

Chemical Oxygen Demand
Fecal Streptococci
Settleable matter
Total Coliform Bacteria
Total Organic Carbon
Total Solids

EPA is proposing to delete chemical oxygen demand (COD) and total organic carbon (TOC) because biochemical oxygen demand (BOD_5 or $CBOD_5$) is generally more relevant to municipal treatment systems. EPA is proposing to delete settleable matter and total solids because there is considerable overlap between these parameters and total suspended solids and total dissolved solids. The Agency believes that the two selected parameters provide sufficient information to permit writers. Finally, the Agency proposes to drop reporting requirements for fecal streptococci and total coliform bacteria because the Agency believes that the selected pathogens (*E. coli*, enterococci, and fecal coliform) are better indicators for risk. The Agency requests comments on its proposal to delete the above Standard Form A parameters from the proposed application requirements.

In addition to the parameters discussed above, Standard Form A requires that POTWs indicate the presence of (but not provide quantitative data for) certain pollutants, if known. Such pollutants include metals, as well as other toxic and non-conventional pollutants. The Agency is proposing to require that some POTWs sample and report on certain toxic (priority) pollutants, as described in the discussion, "Reporting of Additional Pollutants for Some POTWs" (at III.B.3.b). The Agency is proposing, however, not to include POTW reporting requirements for the following pollutants listed on Standard Form A:

Bromide
Chloride
Fluoride
Sulfide
Aluminum
Barium
Boron
Cobalt
Iron
Manganese
Titanium
Tin
Algicides
Chlorinated Organic Compounds
Pesticides
Surfactants
Radioactivity

A number of these parameters (including bromide, chloride, boron, cobalt, iron, manganese, titanium, and tin) are proposed for deletion because they are relatively less toxic than priority pollutants for which the Agency is proposing to require testing (see, "Reporting of Additional Pollutants for Some POTWs" (at III.B.3.b)); and the levels of these pollutants in most municipal discharges are low. EPA is proposing to delete algicides, pesticides, and chlorinated organic compounds because the Agency does not believe it is relevant to ask for information about these contaminants at this level of generality.

EPA considered, but does not include as part of today's proposal, requirements that all applicants test and report on sulfide and sulfate concentrations in effluents. Sulfide is of concern because the anaerobic decomposition of sewage and other naturally deposited organic material is a major source of hydrogen sulfide. EPA considered proposing monitoring requirements for sulfate because high sulfate concentrations, which are caused by sewer corrosion, are converted anaerobically to hydrogen sulfide. Hydrogen sulfide is toxic to aquatic life; it also biologically reoxidizes on sewer walls that are exposed to air, forming sulfuric acid that corrodes the concrete of the sewer channels. It was considered that, based on this monitoring information, the permit writer could set permit limits for sulfide and sulfate or to require appropriate best management practices. These monitoring requirements, however, were not included as part of today's proposed requirements because of the view that sulfide is rapidly converted to sulfate in aerobic waters, which rapidly dissipates its toxic risk. In most instances, maintaining monitoring requirements and permit limits for dissolved oxygen to maintain attainable uses of receiving waters will adequately safeguard receiving waters from toxic risks due to sulfide or sulfate potentially contained in effluents. Regarding corrosivity within the sewer system, the Agency believes that, in general, the POTW is in a better position than the permit writer to address such concerns. Special considerations may lead to the requirement that some applicants submit analytical results for these chemicals, as determined on case-by-case basis. EPA invites comment on these conclusions.

The Agency also considered testing for surfactants, but is not proposing to require such testing as part of this rule because: most POTWs do not discharge surfactants at toxic levels; the Agency has not developed water quality criteria for surfactants; and sources are difficult to control. In cases where surfactants in municipal wastestreams occur at toxic levels, the Agency believes that whole effluent toxicity (WET) testing should reveal any toxicity arising from surfactants. EPA invites comment on this approach.

The Agency also considered including monitoring requirements for three additional nonconventional pollutants: aluminum, barium, and fluoride; because of their regular appearance in analytical results from the numerous pollutant scans reviewed during preparation of the proposed rule and because published criteria exist for these three conventional pollutants. But such requirements have not been included on the proposed rule for the following reasons:

(1) Toxicity problems related to excess aluminum concentrations, especially for aquatic organisms, occur primarily in acidic receiving waters (most often in waters with pH less than 6.0) having low hardness levels (i.e., concentrations of calcium less than 2.0 mg/l). The majority of effluent water analyses reviewed did not contain sufficient aluminum concentrations to likely impair beneficial uses of receiving waters;

(2) Although barium regularly appeared in the pollutant scans of effluents reviewed by EPA, the concentrations reported in all samples remained below the 1.0 mg/l Gold Book criterion value for barium in domestic water supplies; and

(3) According to the 1972 "Blue Book", potentially adverse physiological effects due to excess fluoride concentrations increase with increasing environmental temperatures. Consequently, recommended criteria for fluoride range from 1.4 to 2.4 mg/l for average annual air temperatures of 50 to 91°F. Concentrations for the majority of reported results from the many pollutant analyses reviewed by EPA revealed that although fluoride was a regular constituent of effluents, in the majority of the instances it occurred at concentrations less than suggested Blue Book criteria.

At this time, based on information currently available to EPA, concentrations of aluminum, barium, and fluoride in the majority of effluents are generally less than those necessary to produce significant risk for beneficial uses of receiving water. As such, EPA concludes at this time that it is unwarranted to require all dischargers to monitor for these chemicals as part of the municipal application process. Individual permit writers can, nevertheless, require analysis of any or all of these chemicals, wherever treatment works or environmental considerations suggest that such requirements are warranted. Further, EPA intends to continually review this conclusion as more effluent monitoring results become available, and continues to seek informed input from outside EPA on this decision.

b. Reporting of Additional Pollutants for Some POTWs

As discussed above, the Agency proposes to require all POTWs to report information on pollutant parameters commonly associated with POTW effluents. Proposed § 122.21(j)(3) (see also, proposed Part A in the Supplemental Application Information part of Form 2A) requires the reporting of additional parameters listed in proposed Appendix J, Table 2, by those POTWs that the Agency believes are most likely to discharge toxic pollutants to receiving waters. Toxic pollutants may interfere with POTW performance or pass through the POTW to receiving waters, thus potentially causing adverse water quality impacts.

Certain POTWs discharge toxic organic and inorganic pollutants primarily as a result of contributions from non-domestic sources. Section 122.21(j)(3)(iii) of today's proposal requires the applicant to submit monitoring data for the pollutants listed in proposed Appendix J, Table 2, if the POTW meets any one of the following criteria: (1) The POTW has a design flow rate equal to or greater than 1.0 mgd; (2) the POTW has a pretreatment program or is required to have one under 40 CFR Part 403; or (3) the POTW is otherwise required to submit this data by the permitting authority.

POTWs with a design flow equal to or greater than 1.0 mgd are designated as "major" POTWs by the Agency. EPA estimates that roughly 25 percent of the approximately 16,000 POTWs nationwide have design flows of at least

1.0 mgd. The Agency has found that major POTWs have a high potential to discharge toxic pollutants because of the strong likelihood that they receive industrial wastewaters and because of the large number of substances entering the treatment works from various sources. Therefore, the Agency believes that it is necessary to collect toxic pollutant data from these POTWs.

EPA also proposes to require data on toxic pollutants from POTWs that are required to develop pretreatment programs under 40 CFR Part 403. A POTW is required to develop a pretreatment program if it receives discharges from significant industrial users that may interfere with the POTW or pass through the treatment works. Approximately ten percent (approximately 1,500) of all POTWs have or are required to develop pretreatment programs. Most POTWs with pretreatment programs are also major POTWs, and so this criterion only slightly expands the requirements of this provision.

In addition to POTWs with design flows greater than or equal to 1.0 mgd and POTWs with pretreatment programs, EPA is proposing to allow the permitting authority to require any other POTW to submit monitoring data for some or all of the pollutants listed in proposed Appendix J, Table 2. The Agency would recommend that the permitting authority require an applicant to perform a complete or partial pollutant scan if toxicity is known or suspected in a POTW's effluent. Alternatively, if the facility's effluent causes adverse water quality effects, or if the POTW discharges to an impaired receiving water, the permit writer could require the applicant to provide analytical results from a complete pollutant scan.

The permit writer could also require the applicant to test for these parameters depending on the number or kinds of industrial users. EPA is proposing to grant the permit writer such discretion because smaller POTWs that receive industrial contributions also have the potential to discharge toxic pollutants. Although a POTW with a design flow less than 1.0 mgd may not have as great a volume of toxic pollutants entering its treatment system as a larger POTW, the impact of its industrial users could easily be more pronounced due to other considerations, such as smaller treatment capacity or an effluent-dominated receiving stream. Testing for toxic pollutants would provide the information needed to write a protective permit for such a POTW.

The Agency solicits comments on the above criteria for determining which POTWs must test effluent for the pollutants in proposed Appendix J, Table 2. The Agency also solicits comment on whether other POTWs should be required to sample for some or all of these pollutants. Alternatively, the Agency solicits comment as to whether other POTWs should be required to provide any existing data on these pollutants. Such data would be important information in conducting watershed assessments.

The proposed approach for determining which POTWs must submit data on toxic pollutants is not the only approach being considered by the Agency. Among the alternatives being considered is one that would expand upon the approach described above, and require toxics data from two groups of non-pretreatment minors, each of which includes about half of all minor POTWs. In this approach, POTWs with a population between 1,000 and 10,000 (and not otherwise required to report as described above) would be required to provide a single pollutant scan for the Metals, Cyanide, and Total Phenols and the Volatile Organics groups in proposed Appendix J, Table 2. POTWs with a population of less than 1,000 (and not otherwise required to report as described above) would be required to provide a single scan for certain metals (i.e., cadmium, chromium, copper, lead, nickel, zinc, silver, and mercury). The Agency specifically solicits comment on this alternative approach. Commenters are requested to address the suggested cutoff points for different levels of reporting, the pollutants for which reporting is suggested, and the number of samples that should be required.

EPA proposes that POTWs meeting the three criteria enumerated above monitor for the pollutants in proposed Appendix J, Table 2, and any other pollutants for which there are established State water quality standards. Proposed Table 2 is a subset of the priority pollutants list previously described. As discussed in the background discussion of this preamble, these pollutants are regulated under the CWA and have been identified by Congress and/or EPA as potential threats to human health or aquatic life. Proposed Table 2 also includes total phenols, a parameter commonly used as an indicator pollutant for certain priority pollutants. Also as discussed, EPA and most States have developed numeric criteria and standards for most of these pollutants.

Proposed Appendix J, Table 2 represents pollutants that have been identified in priority pollutant scans of effluent from POTWs. Permit writers will be able to use data on these pollutants as a basis to derive appropriate permit limits.

The Agency is proposing to not require pollutant data for certain priority pollutants (i.e., dioxin, asbestos, and priority pollutant pesticides). Available information on the occurrence of asbestos, dioxin, and priority pollutant pesticides reveals that these pollutants rarely occur at detectable levels in POTW effluents. Absent information to the contrary, the Agency does not consider asbestos to be a pollutant of concern in municipal wastewater effluents. Dioxin, while nearly ubiquitous, is present in such minute amounts in those industrial outfalls where it is known to be present in relatively high concentrations, that the Agency does not believe that, in general, it is appropriate to require POTWs to monitor for the pollutant at the POTW outfall, due to the high level of dilution in municipal wastestreams. Permitting authorities may wish to require such monitoring on a case-by-case basis if there is reason to believe that dioxin may be present in measurable amounts. To the extent that priority pollutant pesticides, including, for example, DDT and PCBs, appear in municipal wastestreams, the Agency believes that their presence is due, for the most part, to background concentrations, rather than to new introductions by discharges to the POTW. Where these pesticides result in toxicity problems or where other conditions merit, the Agency believes that permitting authorities should require sampling for them on a case-by-case basis. In the alternative, the Agency is considering adding pesticides to the list of required pollutants in proposed Appendix J, Table 2. The Agency solicits comment on whether routine monitoring and screening should be required for pesticides from all POTWs meeting the criteria of proposed § 122.21(j)(3)(iii) or whether the proposed approach is the appropriate one.

EPA also solicits comment on alternative ways to collect information in permit application about pollutants that occur in low levels, such as dioxin, or that otherwise present water quality concerns even in highly dilute effluent. As discussed previously, the proposal would require information about significant industrial users from certain POTWs so the permit writer should have sufficient knowledge about the potential for pass through of such pollutants. The Agency is interested in commenters' views on the adequacy of SIU identification for the purposes of developing adequate POTW permit limitations. Proposed § 122.21(j)(3)

would also require that POTWs meeting the above criteria monitor for pollutants not listed in proposed Appendix J, Table 2, for which the State or EPA have established State water quality standards (see discussion in Background section of this preamble). A number of States have established water quality standards for pollutants not listed as CWA sec. 307(a) priority pollutants. For the reasons stated in the above paragraph, the Agency believes that it is appropriate to require sampling for these pollutants, as well.

In addition, EPA considered, but is not proposing, requiring applicants to monitor for other pollutants, such as those on the "Gold Book" list of Federal Water Quality criteria, those regulated under the Safe Drinking Water Act, or those on data bases such as the Toxics Release Inventory System (TRIS), the Aquatic Toxicity Information Retrieval data base (AQUIRE), and the Integrated Risk Information System (IRIS). The Agency determined that adding these other pollutants to the list of pollutants proposed would impose additional monitoring and reporting requirements on the applicant, at substantial additional cost, but without significant benefit. Additionally, not all pollutants on these lists have been assigned numeric criteria. Moreover, available information reviewed by EPA does not indicate that these chemicals occur with either sufficient frequency or at high enough concentrations in typical POTW effluents to support their inclusion among pollutants for which monitoring is proposed to be uniformly required.

Under today's proposal, in proposed 122.21(j)(3)(v), permit writers would have the option to require monitoring and reporting for any other potentially toxic chemicals for which the authority has a reasonable basis to suspect that such materials may be contained in POTW effluents. Such basis could include the presence of industrial users known to release chemicals not included among the pollutants for which routine analyses are otherwise required. EPA invites comments on all aspects of this proposal that would allow for case-by-case information requests that might otherwise extend the time involved in streamlined permit issuance procedures.

In addition, EPA solicits comment on whether to require applicants to summarize and report, as part of the application process, analytical results for any toxic pollutant determined during the three-year period preceding the application to be a known or likely constituent of the facility's discharge. That is, when an applicant has reason to know or suspect the presence of other toxic constituents in their effluents, its reporting requirements would not necessarily be limited either to the general list of toxic pollutants provided by proposed Appendix J, Tables 1 and 2, or to specific monitoring requirements placed on the applicant by the permitting authority. EPA considers results from toxic release inventory (TRI) as providing one likely basis for information that could cause applicants to initiate additional effluent monitoring analyses during the application process.

Finally, the Agency is interested in providing flexibility where POTWs can demonstrate that the risk of occurrence of pollutants in the discharge is sufficiently small. The Agency seeks comment on whether POTWs could be exempted from providing information on specific pollutants where there are statistically valid data to allow the permitting authority to predict the absence of particular pollutants. In addition, EPA solicits comments on the appropriateness of exempting POTWs from providing information about certain contaminants which are detectable in only a small fraction of POTWs (e.g., less commonly occurring metals such as antimony) and which would not be expected to occur based on other data about the POTW or the indirect discharge.

Other approaches to collecting pollutant data were considered for proposal. EPA solicits comment on each of these, as follows:

A. Types of Industrial Contributors

This approach would have required monitoring for specific pollutants, depending on the identity of industrial users discharging to the POTW. Although this approach was supported by a number of commenters in the course of our outreach efforts, it appeared to be too difficult to implement for non-pretreatment POTWs. Non-pretreatment POTWs are not required to do user inventories of, for example, all categorical industries, and thus would probably be unaware of what monitoring data to provide. On the other hand, pretreatment POTWs would be required to provide entire priority pollutant scans if they had only 2–3 different types of industries. The Agency solicits comment on how, specifically, such an approach would work and how it would benefit applicants and provide permit writers with appropriate information.

B. TRI as a Basis for Determining Additional Pollutants for Sampling

It was suggested that we use TRI data to determine what additional pollutants for which to require sampling. Although industrial user TRI reports are not currently provided to POTWs by TRI-reporting industries, such reporting could be required, for example, through the pretreatment program. Of course, permit writers may always request TRI data from EPA. At issue is whether the applicant should be required to provide additional monitoring data for pollutants reported through TRI. The Agency solicits comment as to whether this approach might be feasible and whether it would provide useful information to the permit writer that is not otherwise available.

C. Existing Pollutant Data from SIUs

In order to obtain information on pollutants that occur in POTW discharges in low concentrations, permit writers could make use of information provided to POTWs by SIUs during the term of the existing permit. The Agency solicits comment on this approach, and is particularly interested in whether such information could be provided in lieu of requiring end-of-pipe effluent data for certain pollutants (e.g., dioxin, pesticides, or other organic chemicals received principally from industrial sources).

D. Ambient Data

Another issue considered was whether or not to require POTWs to provide the results of ambient monitoring as part of the permit application. Although some have suggested that this information would be helpful for implementation of the watershed approach, States were generally opposed to requiring POTWs to collect ambient data. The view was expressed that it is the permitting authority's responsibility to collect this information, and not the POTW's responsibility to provide it. Nevertheless, the Agency is interested in soliciting comment as to whether such data should be required.

E. Bioaccumulation Data

Although analytical methods to assess bioaccumulation in the aquatic biota are available, they are costly compared to approved test methods for pollutants in effluent. Since WET tests are an indirect indicator for human health risks, the Agency is not proposing to require bioaccumulation data from POTWs. However, such data are directly relevant to human health risk considerations. Therefore, the Agency solicits comment on whether to require bioaccumulation data. Because of cost considerations, the Agency also solicits comment as to what tradeoffs, in terms of other types of reporting, might make such an approach acceptable.

4. Effluent Monitoring For Whole Effluent Toxicity

As discussed in the background section, the July 24, 1990, amendments to the General Pretreatment Regulations require that certain POTWs provide the results of whole effluent biological toxicity testing as part of their NPDES permit application (40 CFR 122.21(j)(1)–(3)). Such testing was required to have been conducted since the last NPDES permit reissuance or permit modification, under 40 CFR 122.62(a), whichever occurred later.

In today's proposed rule, EPA proposes to revise this provision. Proposed § 122.21(j)(4) sets forth these revised requirements. First, all POTWs are required to identify any biological tests the applicant believes to have been conducted within three years of the date of application.

Second, as in the existing regulation, the following POTWs would be required to conduct and provide the results of whole effluent biological toxicity (WET) tests:

(A) All POTWs with design influent equal to or greater than one million gallons per day;

(B) All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program;

(C) Other POTWs, as required by the Director, based upon consideration of the following factors:

(1) The variability of the pollutants or pollutant parameters in the POTW effluent (based on chemical-specific information, the type of treatment facility, and types of industrial contributors);

(2) The dilution of the effluent in the receiving water (ratio of effluent flow to receiving stream flow);

(3) Existing controls on point or non-point sources, including total maximum daily load calculations for the water body segment and the relative contribution of the POTW;

(4) Receiving stream characteristics, including possible or known water quality impairment, and whether the POTW discharges to a coastal water, one of the Great Lakes, or a water designated as an outstanding natural resource; or

(5) Other considerations (including but not limited to the history of toxic impact and compliance problems at the POTW), which the Director determines could cause or contribute to adverse water quality impacts.

The Agency specifically solicits comment on whether the requirement to conduct WET testing should be extended to other POTWs. The Agency is considering several options, including:

(1) requiring all minor POTWs not covered under the above criteria to submit the results of a minimum of one WET test, so as to allow the permitting authority to scan for minor POTWs that may have toxicity problems; and

(2) where a State has identified a watershed as a priority watershed, requiring one or more WET tests for all POTWs discharging to the watershed.

Third, the Agency proposes to require WET tests for each outfall from the treatment works (not including CSOs), with exceptions for identical outfalls similar to those proposed for pollutant specific data, as discussed above. Proposed § 122.21(j)(4) would require that data be separately provided for each outfall through which treated sanitary effluent is discharged to waters of the United States. EPA proposes to allow the applicant, where the POTW has two or more outfalls with substantially identical effluents discharging to the same receiving stream, and with the approval of the permitting authority on a case-by-case basis, to provide the results of WET testing from only one outfall as representative of all such outfalls. For outfalls to be considered substantially identical, they should at a minimum be located at the same treatment plant, be subject to the same level of treatment and have passed through the same types of treatment processes. The Agency solicits comment on this approach and, particularly, on whether WET test data should be separately collected from all such outfalls.

The existing WET testing requirements do not specify the number or frequency of tests required, the number of species to be used, or whether to provide the results of acute or chronic toxicity tests. Proposed § 122.21(j)(4) sets minimum reporting requirements of four quarterly tests for a year, using multiple species (no less than two species, e.g., fish, invertebrate, plant), and testing for acute or chronic toxicity, depending on the range of receiving water dilution. This proposal is based in part on Agency guidance, and in part on Agency experience in the implementation of that guidance.

In March 1991, EPA issued guidance establishing Agency policy for WET testing protocols (see "Technical Support Document for Water Quality-Based Toxics Control (1991)," or "TSD"). In that document, the Agency recommended "as a minimum that three species (for example, a vertebrate, an invertebrate, and a plant) be tested quarterly for a minimum of a year" (see, TSD p. 58). In making this recommendation, the Agency explained that the use of three species is more protective than two species since a wider range of species sensitivity can be measured. In practice, however, a number of permitting authorities are only requiring the use of two species. Since existing requirements for using three species are less common, the Agency proposes to require the use of "multiple species." The Agency proposes this as a minimum requirement, and does not intend it as a change in the policy recommendations outlined in the TSD.

In setting a minimum frequency of quarterly testing for a year, the Agency indicated that this was recommended to adequately assess the variability of toxicity observed in effluents, as follows:

> Below this minimum, the chances of missing toxic events increase. The toxicity test result for the most sensitive of the tested species is considered to be the measured toxicity for a particular effluent sample.
>
> The data generation recommendations * * * represent minimum testing requirements. Since uncertainty regarding whether or not an effluent causes toxic impact is reduced with more data, EPA recommends that this test frequency be increased where necessary to adequately assess effluent variability. If less frequent testing is required in the permit, it is preferable to use three species tested less frequently than to test the effluent more frequently with only a single species whose sensitivity to the effluent is not well characterized. (TSD, p. 59)

It is the Agency's understanding that many permitting authorities currently require quarterly testing. While other permitting authorities require less frequent monitoring, at least from some facilities, in many instances such information is being collected on a yearly basis. This proposal would only require one cycle of quarterly testing within three years of the date of the permit application (i.e., only once in five years). The Agency solicits comment on whether this is an appropriate frequency, and specifically whether permitting authorities should be allowed to waive quarterly testing on a case-by-case basis. Commenters should indicate what specific criteria would have to be met for such a waiver.

The current whole effluent toxicity testing requirements, at § 122.21(j), do not specify whether applicants should test for acute or chronic toxicity. An acute toxicity test is defined as a test of 96-hours or less in duration in which lethality (of the test organism) is the measured endpoint. A chronic toxicity test is defined as a long-term test in which sublethal effects, such as fertilization, growth, and reproduction, are usually measured, in addition to lethality. (TSD, p.4.)

The Agency proposes that testing for acute or chronic toxicity be based upon the ratio of receiving water to effluent at the edge of the mixing zone. The term "mixing zone" refers to an area around an outfall within which a State may allow ambient concentrations above water quality criteria levels. States may have two or more mixing zones (e.g., an acute mixing zone, beyond which acute criteria must be met, and a chronic mixing zone, beyond which chronic criteria must be met). Not all States allow calculation of effluent limitations using mixing zones, and mixing zones are not universally allowed by States that do allow use of mixing zones. For purposes of determining whether acute or chronic toxicity testing is appropriate, the ratio of receiving water to effluent should be considered at the point nearest to the outfall where water quality criteria are required to be met. This proposal incorporates the recommendations of the 1991 TSD, which stated that applicants should conduct acute or chronic testing based upon the following dilutions:

(A) Acute toxicity testing if the dilution of the effluent is greater than 1000:1 at the edge of the mixing zone;

(B) Acute or chronic toxicity testing if the dilution of the effluent is between 100:1 and 1000:1 at the edge of the mixing zone. Acute testing may be more appropriate at the higher end of this range (1000:1), and chronic testing may be more appropriate at the lower end of this range (100:1); and

(C) Chronic testing if the dilution of the effluent is less than 100:1 at the edge of the mixing zone. (See TSD, pp. 58–59.) In order to determine the proper dilution ratio, measurement should be made at the point where chronic criteria apply. Thus, where there is a chronic mixing zone, the dilution ratio should be measured at the edge of the chronic mixing zone. It may be inappropriate to use an acute test if there is too little dilution.

Although the Agency is not proposing to require that applicants follow these recommendations, the Agency believes that they are reasonable, based on the discussion in the TSD. For example, with regard to the use of chronic toxicity testing where the dilution ratio falls below 100:1, the Agency stated, "[t]he rationale for this recommendation is that chronic toxicity has been observed in some effluents down to the 1.0 percent effect concentration. Therefore, chronic toxicity tests, although somewhat more expensive to conduct, should be used directly in order to make decisions about toxic impact." (TSD, p. 59.) The Agency solicits comment as to whether these recommendations should instead be added as requirements in the final rule.

The whole effluent toxicity testing requirements that currently exist, at § 122.21(j), do not specify which information must be reported as a result of such testing. To clarify reporting requirements for the applicant and the permit writer, EPA today proposes specific reporting requirements in § 122.21(j)(4). First, applicants required to perform WET tests under the proposed rule are required to indicate the number of tests performed since permit reissuance and since any modification of the permit pursuant to 40 CFR 122.62(a). It is up to the permitting authority to determine whether previously submitted results provide the equivalent of the information proposed to be required. Proposed § 122.21(j)(4)(v) sets forth in detail the information that the Agency believes will provide the permit writer with adequate information to determine whether the test was conducted in accordance with EPA methods and protocols and whether the reported results are otherwise valid. The Agency solicits comment on whether the information requested is the proper information to require or whether other information should be required, including for purposes of quality assurance. As in the current regulatory requirements, in conducting the testing, applicants must use EPA-approved methods. The Agency solicits comment on this approach.

Where biomonitoring data have been submitted to the permitting authority within three years of the permit application, applicants would be required to provide the dates on which such data were submitted and a summary of the results of each such test. Where any WET test conducted within three years prior to the permit application reveals toxicity, proposed § 122.21(j)(4)(vi) would require that applicants, at a minimum, provide any information they may have on the cause of toxicity. Further, applicants would be required to provide written details of any toxicity reduction evaluation conducted. Toxicity reduction evaluations (TREs) are used to investigate the causes and sources of toxicity and identify the effectiveness of corrective actions to reduce it. The purpose of a TRE is to help bring dischargers into compliance with water quality-based whole effluent toxicity requirements where monitoring indicates unacceptable effluent toxicity. The permitting authority may require a permittee to conduct a TRE in those cases where the discharger is unable to adequately explain and immediately correct non-compliance with a whole effluent toxicity permit limit or requirement. TREs may be required of permittees under existing permits or through a variety of other legally binding mechanisms. Since the results from TREs may have considerable impact in the evaluation of municipal permit applications, this kind of information would need to be available to the permit writer. It is recommended that applicants conducting a TRE at the time of permit application would provide a brief summary of the status and results from the ongoing TRE.

The Agency solicits comment on all of the above proposed revisions to the existing WET test requirements.

5. Industrial Discharges, Pretreatment, and RCRA/CERCLA Waste

Today's proposed rule would require applicants to provide information on industrial (non-domestic) discharges to the POTW, particularly discharges from significant industrial users (SIUs). This information is to be required by proposed § 122.21(j)(5).

Proposed § 122.21(j)(5)(i) would require the applicant to list the total number of significant industrial users (SIUs) and categorical industrial users discharging to the POTW, to estimate the average daily flow from these users and from all industrial (non-domestic) users, and to estimate the percent of total influent contributed by each class of users. This information provides the permit writer with a means of determining the relative impact, individually and collectively, of industrial contributions to the POTW.

As defined in 40 CFR 403.3, the term "industrial user" means "a source of indirect discharge," which in turn is defined as the introduction of pollutants into a POTW from any non-domestic source regulated under sec. 307(b), (c), or (d) of the CWA. In general, this term encompasses industrial and commercial sources of toxic pollutants discharging to POTWs. Commercial entities such as hospitals, nursing homes, restaurants, offices, and stores may be included.

A categorical industrial user is any discharger subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N. "Significant industrial user" is defined at 40 CFR 403.3(t) as any categorical industrial user and any other industrial user that:

(1) discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater);

(2) contributes a process wastestream which makes up 5 percent or more of

the average dry weather hydraulic or organic capacity of the POTW; or

(3) is designated as such by the control authority (40 CFR 403.12(a)) because of a reasonable potential to adversely affect the POTW's operation or violate pretreatment requirements.

Proposed § 122.21(j)(5)(ii) would require POTWs with approved pretreatment programs to describe any substantial modifications to the POTW's pretreatment program that have not yet been approved in accordance with 40 CFR 403.18. EPA is considering revising the pretreatment regulations to streamline approved program requirements. Such revisions may make the need for this information unnecessary.

Proposed § 122.21(j)(5)(iii) would require information on individual significant industrial users (SIUs) discharging to POTWs. This provision is similar to questions currently found on Standard Form A. The Agency desires to incorporate into the final rule provisions that reduce duplication of effort. One possible way is to allow the applicant to reference substantially similar information about SIUs previously submitted to the permitting authority rather than to resubmit the information. The Agency solicits comments on using this approach in the final rule and suggestions of other possible options. EPA is also considering whether to waive, either entirely or on a case-by-case basis, such reporting for any POTW with an approved pretreatment program under 40 CFR Part 403 that submits an annual report within the year preceding its application to the extent that the annual report contains information equivalent to that required in proposed Section M. The Agency solicits comment on this question.

The proposed provision requires POTWs to provide the following information for each SIU: Name and mailing address, description of the industrial processes affecting the discharge, principal products and raw materials, average daily volume of process and non-process wastewater discharged, and whether the SIU is subject to local limits or categorical pretreatment standards. The description of each SIU's industrial activity and its principal products and raw materials alerts the permit writer to the potential presence of pollutants in the discharge in concentrations that may be of concern to the POTW, and can be useful in establishing permit limits. Information on the average daily volume of process wastewater discharged helps the permit writer to estimate pollutant loads to the POTW. Knowing the volume of non-process wastewater discharged will alert both the permit writer and the POTW to the possibility of hydraulic overload to the system, and will help the POTW minimize such occurrences.

Currently, Standard Form A requires the applicant to identify the quantities of product manufactured and raw materials used by each SIU. The Agency is not proposing to require this information in today's proposal because neither the amount of production nor the amount of raw materials used necessarily correlates directly to the toxicity of the waste stream. For example, the SIU might use all of the raw material and release little into the waste stream. The Agency is instead requesting a narrative description of products and raw materials involved in the industrial activity.

Standard Form A also requires the applicant to characterize each SIU's industrial discharge. Although this information may be necessary to establish permit limits at some POTWs, this question appears to be unnecessary. In many cases, the permit writer is able to determine parameters of concern from the principal products and raw materials for that industrial user. In other cases the permit writer may request this information on a case-by-case basis.

The proposed provision would also require the applicant to describe any problems at the POTW attributable to wastewater discharged by SIUs. Identification of such problems is necessary to set permit limits for pollutants that the POTW might not adequately remove, and should lead to other strategies for control of toxic pollutants, such as: more stringent local limits or other pretreatment requirements; best management practices, if the toxic pollutants appear to be from diffuse sources; or toxicity reduction evaluations (TREs), if toxicity testing shows that the effluent causes an excursion above water quality standards in the receiving stream. Instances of pass through and interference identified in this step will alert the permit writer to violations of the POTW's NPDES permit.

6. Discharges From Hazardous Waste Sources

Proposed § 122.21(j)(6) would require applicants to provide general information concerning discharges of RCRA hazardous wastes to POTWs and discharges from hazardous waste cleanup or remediation sites. The purpose of this information is to alert the permit writer to potential concerns regarding the constituents of such discharges.

Proposed § 122.21(j)(5)(i) would require the applicant to provide information about any hazardous wastes, as defined under Subtitle C of the Resource Conservation and Recovery Act (RCRA), or authorized State law, that are delivered to the facility by truck, rail, or dedicated pipe. This requirement does not apply to RCRA hazardous wastes discharged to a sewer system that mix with domestic sewage before reaching the POTW, because the Domestic Sewage Exclusion (sec. 1004(27) of RCRA) provides that solid or dissolved material in domestic sewage is not solid waste as defined in RCRA, and therefore is not a hazardous waste.

If the POTW receives RCRA hazardous waste by truck, rail, or dedicated pipe, the applicant must list, for each waste received, the hazardous waste number, quantity, and method by which it is received. The permit writer would use this information to coordinate appropriate RCRA requirements including, where appropriate, additional permit terms to address such requirements. In addition, this information will enable permitting authorities to identify potential impacts in the POTW's discharge.

In order to establish appropriate permit requirements, the permit writer also needs to be aware of wastewaters discharged to the POTW that originate from remedial activities conducted under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the RCRA corrective action program, or other authorities. POTWs are sometimes used for the disposal of wastewaters generated during remediation of CERCLA (Superfund) sites or during RCRA corrective action activities at industrial facilities. Paragraphs (ii)–(iv), in proposed § 122.21(j)(6), would require the applicant to identify wastewaters from remedial activities known or expected to be received during the life of the permit, the origin of such wastes and the treatment, if known, that such wastes receive prior to entering the POTW. This information is intended to help the permit writer decide whether to establish additional monitoring or permit requirements for the effluent and sewage sludge.

7. Combined Sewer Overflows

In developing permit requirements to meet BAT/BCT using BPJ and to meet applicable water quality standards for CSO discharges, the permit writer requires certain information. To ensure that the permit writer has the necessary information, EPA proposes to require information that reflects the Agency's 1994 CSO Control Policy (see discussion in background section). This paragraph is intended to complement, and not overlap, other reporting that POTWs may be required to provide by the NPDES authority in accordance with the CSO Control Policy.

Proposed § 122.21(j)(7)(i) would require information about the combined sewer system (CSS), including a system map and system diagram that describe the relevant features of the system. Applicants are also required to identify the number of CSO discharge points to be covered by the permit application. Because municipalities with CSOs often have more than one treatment plant, different POTW permits may include different outfalls from their CSS.

Similarly, proposed § 122.21(j)(7)(ii) would require that applicants provide information on each outfall specifically covered by the application. This includes some locational information similar to that for outfalls of treated effluent in proposed § 122.21(j)(2), paragraphs (i) and (ii). As discussed previously, this sort of locational data is consistent with Agency policy concerning the reporting of such information. It also provides permitting authorities with a means of locating dischargers within the U.S. Soil Conservation Service watershed categorization system, a State's river basin categorization system, and the U.S. Geological Survey cataloging scheme.

This provision would also require information about any monitoring conducted on the outfall by the applicant and any CSO incidents that occurred in the year previous to the permit application. Finally, proposed § 122.21(j)(7)(ii)(E) would require the permittee to identify any significant industrial users (see discussion on pretreatment and industrial user information) that contribute to the CSO and to describe any known water quality impacts, such as beach or shellfish bed closings and fish kills. The Agency considers this to be a minimal amount of information to be provided to the permit writer, inasmuch as the permit writer must have adequate information to specifically authorize discharges at each of the identified outfalls.

8. Contractors

Proposed § 122.21(j)(8) would require the applicant to identify all contractors responsible for any operation or maintenance aspects of the POTW and to specify such contractors' responsibilities. This information enables the permit writer to determine who has primary responsibility for the operation and maintenance of the POTW, and thus determine whether a contractor should be included on the permit as a co-permittee.

9. Certification

Proposed § 122.21(j)(9) would require the signature of a certifying official in compliance with 40 CFR 122.22, which requires the signature of a certifying official on all NPDES applications. The certification would apply to all attachments identified on the application form, as well as any others included by the applicant.

10. Revision to Pretreatment Program Requirements

Existing § 122.21(j)(iv) requires applicants with a pretreatment program to provide a technical evaluation of the need to revise local limits, under 40 CFR 403.5(c)(1). Since 1990, when that requirement was promulgated, the Agency has received numerous requests to change the provision to make it effective after the date of permit issuance. The concern has been raised that a POTW most needs to review its local limits after permit reissuance, when new permit limits are in place, rather than prior to permit reissuance.

The Agency agrees with these comments and proposes to make this change. In order to be clear, the provision has been reworded and is proposed to be moved to 40 CFR 403.8(f)(4), with the existing POTW pretreatment program requirements. The Agency solicits comment on this approach.

C. Application Requirements for TWTDS (40 CFR 122.21(q))

Under § 122.21(d)(3)(ii), POTWs and other treatment works treating domestic sewage (TWTDS) are currently required to submit the sewage sludge information listed at § 501.15(a)(2) with their permit applications. Today EPA proposes regulatory language at § 122.21(q) to update the information that must be reported. Proposed revised § 501.15(a)(2) would reference the requirements of proposed § 122.21(q). EPA also proposes a new form, Form 2S, for collection of this information. Section (q) would require all TWTDS, except "sludge-only" facilities, to report information regarding sewage sludge generation, treatment, use, and disposal. The permitting authority may also require a "sludge-only" facility to submit a permit application containing this information. These proposed new requirements are intended to clarify existing sewage sludge application requirements, as necessary to implement the Agency's Part 503 standards for sewage sludge use or disposal.

As with the proposed POTW application requirements, the Agency does not wish to require redundant reporting by TWTDS. Thus, the Agency is proposing to allow a waiver for information required to be reported under § 122.21(q) similar to that proposed for § 122.21(j). This would allow the Director to waive any requirements in proposed paragraph (q) if the Director has access to substantially identical information. The Agency solicits comment on this approach and the proposed conditions for allowing such a waiver.

Also as with the proposed POTW application requirements, the Agency also solicits comment on ways to allow the permit writer or permitting authority discretion in waiving particular information where the permitting authority determines that such information is not necessary for the application. In other words, there may be flexible ways to look at each applicant in light of the overall "matrix of characteristics" regarding a particular facility. Where, for example, historical data indicate that additional sampling is not warranted unless other conditions have changed, the Agency is considering waiving such sampling. Such flexibility would involve a holistic approach to implementing these proposed requirements, and the Agency solicits comment as to ways in which it could be accomplished without making these provisions entirely discretionary, so that one could predict the exercise of discretion. This might be particularly relevant on the second and subsequent rounds of permitting under these proposed provisions. The Agency also seeks comment on what information might be appropriate and what information might be inappropriate for such waivers.

1. Facility Information

Proposed § 122.21(q)(1) would require summary information on the identity, size, location, and status of the facility. Proposed paragraph (ii) would request that the facility location be described by latitude and longitude to the nearest second. This information meets the specifications of EPA's Locational Data Policy and supports the Watershed Protection Approach, by providing permit writers and other Federal and State environmental managers with a means of geographically locating potential sources of polluted runoff. EPA believes that this change would

merely clarify, without expanding, an existing reporting requirement.

2. Applicant Information

Proposed § 122.21(q)(2) would require information concerning the identity of the applicant and its status as a Federal, State, private, public, or other entity.

3. Permit Information

Proposed § 122.21(q)(3) restates the § 501.15(a)(2)(v) requirement that the applicant list the facility's NPDES permit number and any other permit numbers or construction approvals received or applied for under various authorities.

4. Federal Indian Reservations

Proposed § 122.21(q)(4) clarifies existing § 501.15(a)(2)(iv), which asks only "whether the facility is located on Indian Lands." A sewage sludge use or disposal permit, however, may cover activities occurring beyond the boundaries of the "facility." Therefore, the proposed paragraph asks whether any generation, treatment, storage, land application, or disposal of sewage sludge occurs on a Federal Indian Reservation. EPA believes that this information will better enable the permit writer to identify the proper permitting authority and applicable requirements.

5. Topographic Map

Proposed § 122.21(q)(5) would require the applicant to submit the following information on a topographic map (or maps) depicting the area one mile beyond the property boundaries of the TWTDS: All sewage sludge management facilities, all water bodies, and all wells used for drinking water listed in public records or otherwise known to the applicant within 1/4 mile of the property boundaries. This proposed requirement is different from the existing topographic map requirement at § 501.15(a)(2)(vi) in that the proposed requirement asks for information on use and disposal sites rather than just disposal sites. EPA believes that it is just as important to get information on land application sites as on disposal sites. Neither the existing nor the proposed requirements request a map for sites that extend more than a mile beyond the TWTDS's property boundary. The permitting authority could request maps of all use or disposal sites if they believe that this information is necessary to develop adequate permits. EPA requests comments on whether maps should be required for all use or disposal sites, or whether this requirement should be modified in some other way.

6. Sewage Sludge Handling

Proposed § 122.21(q)(6) would require the applicant to prepare a flow diagram, and/or a narrative description that identifies all sewage sludge management practices (including on-site storage) to be employed during the life of the permit. EPA believes that this information is necessary because the applicant may employ sewage sludge management practices not covered under the more specific questions proposed in today's rule. To draft a complete permit, the permit writer must be aware of all sewage sludge storage, use, or disposal practices that may have an adverse affect on public health and the environment. EPA requests comments on whether more specific information about on-site and off-site storage of sewage sludge should be required of permit applicants.

7. Sewage Sludge Quality

Currently, § 501.15(a)(2)(vii) requires applicants to report "any sludge monitoring data the applicant may have." However, this requirement neither identifies the parameters that must be reported nor provides a mechanism for reporting this information. Proposed Form 2S and § 122.21(q)(7) would address this need by requiring monitoring data for specific parameters in sewage sludge that is used or disposed.

Proposed paragraph (i) of § 122.21(q)(7) would require all Class I sludge management facilities to submit the results of at least one toxicity characteristic leaching procedure (TCLP) conducted during the last five years to determine whether the sewage sludge is a hazardous waste. The TCLP is described in 40 CFR Part 261, Appendix II, and is a method for determining whether a solid waste exhibits the characteristic of toxicity, in accordance with 40 CFR 261.24. 40 CFR Part 503 does not establish requirements for the use or disposal of sewage sludge determined to be hazardous under the procedures in Appendix II of 40 CFR Part 261 and § 261.24. Hazardous sewage sludge must be used or disposed of in accordance with the hazardous waste regulations in 40 CFR Parts 261–268, or authorized State law. Using the results of the hazardous waste test, the permitting authority will determine which requirements apply to the use or disposal of the applicant's sewage sludge. EPA requests comments on whether facilities should be allowed to use a method other than a TCLP to show that their sewage sludge is non-hazardous and whether non-Class I sludge management facilities should be required to perform a TCLP.

Proposed paragraph (ii) of § 122.21(q)(7) would require all applicants to submit data on individual pollutants in the sewage sludge. Existing data could be submitted if it were two years old or less. EPA is proposing a two-tier approach for collection of pollutant data that is based on whether the treatment works has an industrial wastewater pretreatment program.

Under the two-tier approach, Class I sludge management facilities would submit sewage sludge data for the pollutants listed in proposed 40 CFR Part 122, Appendix J, Table 2 ("Effluent and Sewage Sludge Parameters for Selected POTWs and Treatment Works Treating Domestic Sewage") and Table 3 ("Other Effluent and Sewage Sludge Parameters for Treatment Works Treating Domestic Sewage and Selected POTWs") and for other selected pollutants, as part of the application for a permit for the use or disposal of sewage sludge. Other TWTDS would be required to submit data for the pollutants regulated in Part 503 and for other selected pollutants.

a. Class I sludge management facilities. A Class I sludge management facility is any POTW required to have an approved pretreatment program under 40 CFR 403.8(a) and any TWTDS classified as a Class I sludge management facility because of the potential for the TWTDS's sewage sludge use or disposal practice to affect public health and the environment adversely. Under today's proposal a Class I sludge management facility would submit sewage sludge concentration data for all the priority pollutants, except asbestos, as listed in Tables 2 and 3 of Appendix J; for the Part 503 pollutants; and for total kjeldahl nitrogen (TKN), ammonia, nitrate, and phosphorus (total).

EPA is proposing to require Class I sludge management facilities to submit data on the priority pollutants because they are known to have adverse effects on human health and the environment and are of concern to the general public. Since sewage sludge from Class I sludge management facilities has an industrial component, it is important to reassure the public that this sewage sludge will not cause harm if it is used or disposed according to Part 503. A pollutant scan every five years should help promote the beneficial use of sewage sludge by demonstrating its quality. If any pollutants that are not regulated by Part 503 show up in the scan, the results would enable the permitting authority to determine whether additional permit conditions (i.e., in addition to the requirements in Part 503) are necessary to protect public health and the environment.

Many Class I sludge management facilities are already required by their pretreatment program to monitor their sewage sludge for these pollutants. In addition, many State sewage sludge programs require monitoring for some or all of these pollutants. EPA seeks comments on this approach.

Section 405(d) of the CWA contemplates a phased approach to establishing numerical limits for pollutants in sewage sludge that is used or disposed. Moreover, sec. 405(d)(2)(D) of the CWA provides that "[f]rom time to time, but not less often than every 2 years, the Administrator shall review the regulation * * * for the purpose of identifying additional pollutants and promulgating regulations for such pollutants * * *."

The Standards for the Use or Disposal of Sewage Sludge that were published on February 19, 1993, constitute Round One of EPA's sewage sludge standards program. The Agency has identified a tentative list of pollutants for which limits will be established in a Round Two regulation (i.e., an amendment to the Round One regulation) and has announced a tentative schedule for the publication of that amendment.

Pollutants on the tentative list for the Round Two regulation include acetic acid (2,4,-dichlorophenoxy), aluminum, antimony*, asbestos, barium, beryllium*, boron, butanone (2-), carbon disulfide, cresol (p-), cyanide (soluble salts and complexes)*, dioxin/dibenzofuran (all monochloro to octochloro congeners), endsulfan-H, fluoride, manganese, methylene chloride*, nitrate*, nitrite*, pentachloronitrobenzene, phenol*, phthalate (bis-2-ethylhexyl)*, polychlorinated biphenyls (co-planar), propanone (2-), silver*, thallium*, tin, titanium, toluene*, trichlorophenoxyacetic acid (2,4,5-), trichlorophenoxypropionic acid ([2-(2,4,5-)], and vanadium. EPA has indicated that it retains the discretion either to add to or delete pollutants from the above list of pollutants.

The Agency is considering adding the above pollutants to the list of pollutants for which data have to be submitted by Class I sludge management facilities with a permit application. Eleven of the above pollutants are included in Tables 2 or 3 of proposed Appendix J or are nutrients (see pollutants marked with an asterisk). Therefore, this approach would require that Class I sludge management facilities submit data for 20 additional pollutants. The Agency requests comments on this proposal.

b. All TWTDS. Part 503 contains pollutant limits for ten inorganic pollutants for sewage sludge that is land applied (subpart B), three inorganic pollutants for sewage sludge placed on an unlined surface disposal site (subpart C), and five inorganic pollutants for sewage sludge fired in a sewage sludge incinerator (subpart E). There are no pollutant limits in Part 503 for sewage sludge placed on a lined surface disposal site or for sewage sludge placed in a municipal solid waste landfill unit.

The pollutants for which limits are included in Part 503 are arsenic, cadmium, chromium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc. Part 503 also contains an operational standard for pathogens (i.e., fecal coliform, *Salmonella* sp. bacteria, enteric viruses, and viable helminth ova) and for total hydrocarbons (THC). The operational standards for pathogens are values that can not be exceeded in sewage sludge and the operational standard for THC is a value that can not be exceeded in the air emissions for a sewage sludge incinerator stack.

With today's rulemaking, EPA proposes that applicants for a sewage sludge use or disposal permit submit sewage sludge concentration data for all of the Part 503 inorganic pollutants. The permitting authority needs to determine whether a TWTDS can change its use or disposal practice if the need arises. Data for all of the Part 503 pollutants will help the permitting authority make that determination.

The Agency is aware that many TWTDS employ only one sewage sludge use or disposal practice, and that such treatment works may object to submitting data for pollutants that are not regulated for that practice. Nevertheless, EPA believes that the additional information burden to collect and submit data for all of the Part 503 pollutants is offset by the value of the data to the permitting authority. The Agency solicits comments on whether an applicant should be required to submit data only for the pollutants regulated for the TWTDS's use or disposal practice.

As indicated previously, EPA also proposes that all applicants submit sewage sludge data for TKN, ammonia, nitrate-nitrogen, and total phosphorus with a permit application. In addition, the percent solids of the sewage sludge that is used or disposed of would have to be reported. Percent solids is required to ensure that all sewage sludge data can be converted to dry weight values.

Information on the nitrogen and phosphorus content of sewage sludge is needed for several reasons. One important use of the nitrogen data is to help the permit writer to evaluate the design of the agronomic rate for a land application site. Part 503 requires that sewage sludge be land applied at a rate that is equal to or less than the agronomic rate for the application site. The Agency also can use the data on nutrients in sewage sludge in future considerations as to whether to establish limits for nitrogen and phosphorus in sewage sludge.

The Agency is also considering adding certain pathogens to the list of pollutants for which data would be required with an application. These include *Salmonella* sp. bacteria, enteric viruses, and viable helminth ova. Part 503 contains density levels for these microorganisms that cannot be exceeded in sewage sludge that is used or disposed. In addition to pathogens, the Agency is also considering requesting data for fecal coliform, which is used in Part 503 as a pathogen indicator. The permitting authority would use these data to determine whether the sewage sludge meets the Class A or Class B pathogen requirements in Part 503. Pathogen data only would have to be submitted by persons who land apply or place sewage sludge in a surface disposal site. EPA is seeking comments on this issue as part of today's proposal.

Results of current efforts within the Agency may require that limits be established prior to the Round Two sewage sludge regulation, for dioxin/dibenzofuran and co-planar polychlorinated biphenyls (PCBs) in sewage sludge that is used or disposed. Dioxin/dibenzofuran is a carcinogen that is highly toxic in low concentrations. Because the chemical structure of co-planar PCBs is similar to the chemical structure of dioxin/dibenzofuran, they are expected to have similar human health effects (i.e., toxic in low concentrations). Data for these two pollutants could be used to develop Part 503 limits for these pollutants or to evaluate the Part 503 limits. For this reason, the Agency is considering requesting all TWTDS to submit data for these pollutants with a sewage sludge permit application. EPA seeks comments on whether TWTDS who are not Class I sludge management facilities should be required to submit data on these two pollutants.

8. Requirements for a Person Who Prepares Sewage Sludge

Proposed § 122.21(q)(8) identifies permit application information that a person who prepares sewage sludge for

use or disposal would be required to submit. A "person who prepares," as defined at 40 CFR 503.9(r), is "either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge." This section would thus pertain to any POTW or other treatment works that generates sewage sludge. It also would include facilities (such as composting operations) that receive sewage sludge from another facility and then derive a material from that sewage sludge.

Paragraphs (i) and (ii) of proposed § 122.21(q)(8) would request information on the amount of sewage sludge "prepared" at the facility. This includes the amount generated (paragraph (i)) plus any other amount that is received from off-site (paragraph (ii)). These paragraphs are intended to clarify the existing requirement at § 501.15(a)(2)(x), which tells the applicant to report annual sludge production volume. Paragraph (ii) would also solicit information on sewage sludge treatment practices at any off-site facility from which sewage sludge is received. The off-site facility providing the sewage sludge is, by definition, also a "person who prepares," and, therefore, would also be subject to sludge permitting requirements. EPA believes that information on the delivering facility enables the permit writer to assess the quality of sewage sludge received by the applicant. It also fosters more appropriate allocation of permit requirements between the applicant's facility and an off-site "person who prepares."

As in the case of the Municipal Application regulations, the Agency desires to incorporate into the final rule provisions that reduce duplication of effort. One possible way is to allow the applicant to reference substantially similar information previously submitted to a permitting authority rather than resubmit the information. The Agency solicits comments on using this approach in the final rule and suggestions of other possible options.

Before sewage sludge is applied to the land or placed on an active sewage sludge unit, it must meet the requirements for pathogen reduction in § 503.32 and for vector attraction reduction in § 503.33. Therefore, paragraph (iii) of proposed § 122.21(q)(8) would request information on sewage sludge treatment processes at the applicant's facility, including pathogen or vector attraction reduction processes. The permit writer needs to know whether pathogen and vector attraction reduction requirements are met at the applicant's facility and thus should be addressed in the applicant's permit. If these requirements are not met by the applicant, pathogen and vector attraction reduction must be met by a subsequent "person who prepares" or the owner/operator of a surface disposal site.

"Exceptional quality" (EQ) sewage sludge must meet the ceiling concentrations in 40 CFR 503.13(b)(1), the pollutant concentrations in § 503.13(b)(3), the Class A pathogen requirements in § 503.32(a), and one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8). Because of its high quality, "EQ" sewage sludge is not subject to the general requirements of § 503.12 or the management practices of § 503.14. Therefore, fewer permitting and permit application requirements pertain to facilities generating such sewage sludge. Proposed paragraph (iv) of § 122.21(q)(8) would ask for the amount of sewage sludge that is applied to the land. EPA believes that this information is all that is needed to develop sewage sludge conditions for such a facility. Under paragraph (iv), the applicant would not need to provide the other, more-detailed, information in proposed § 122.21(q)(8) paragraphs (v) and (vi) for sewage sludge meeting "EQ" criteria.

The existing requirement at § 501.15(a)(2)(viii) asks for the "name of any distributors when the sludge will be disposed of through distribution and marketing." This requires the names of any facilities that sell or give away "EQ" sewage sludge. EPA believes that "EQ" sewage sludge should be treated similarly to other fertilizers. Thus, the Agency believes that the names of distributors should not be required and is proposing to delete the requirement at § 501.15(a)(2)(viii). The Agency seeks comments on this approach.

Paragraph (v) of proposed § 122.21(q)(8) would seek information on sewage sludge that is not "EQ," but is nevertheless placed in a bag or other container for sale or give-away for application to the land. Under Part 503, such sewage sludge must meet the Class A pathogen requirements in § 503.32(a) and one of the vector attraction reduction requirements in § 503.33(b)(1) through (8). In addition, the sewage sludge must meet either the pollutant concentrations in Table 3 of § 503.13 or the annual pollutant loading rates (APLRs) in Table 4 of § 503.13. If this sewage sludge meets the Table 3 pollutant concentrations, it is "EQ" sewage sludge and thus would be subject to proposed paragraph (iv). Proposed paragraph (v) would only apply to sewage sludge subject to the Table 4 APLRs that is placed in a bag or other container for application to the land. EPA proposes to require that the applicant employing this type of sewage sludge use provide the volume of sewage sludge placed in bags or other containers and a copy of all labels or notices that accompany the product being sold or given away.

Paragraph (vi) of proposed § 122.21(q)(8) would seek information about any other "person who prepares" who receives sewage sludge from the applicant's facility. This information helps the permit writer to identify which permit requirements should apply to the applicant and whether the subsequent preparer needs to obtain a permit. Paragraphs (C) and (E) of proposed paragraph (vi) would provide the permit writer with necessary information on the quality of the sewage sludge that is ultimately land applied. This information also enables the permit writer to identify activities of the subsequent "person who prepares" that may subject the applicant to additional regulation or permit requirements. Therefore, these requirements would ensure that the sewage sludge will meet all applicable Part 503 requirements at the time of land application, regardless of the number of parties involved. One possible way to obtain this information is to allow the applicant to reference substantially similar information previously submitted to a permitting authority rather than resubmit the information. The Agency solicits comments on using this approach in the final rule and suggestions of other possible options.

9. Land Application of Bulk Sewage Sludge

Proposed § 122.21(q)(9) would request information on sewage sludge that is land applied in bulk form. This section would apply only where the applicant's permit must contain all applicable Part 503 requirements for land application. This section would not apply if the applicant generates "EQ" sewage sludge subject to proposed § 122.21(q)(8)(iv), or if the applicant places sewage sludge in a bag or other container for sale or give-away for application to the land subject to proposed § 122.21(q)(8)(v). In neither of these cases is it necessary to control the ultimate land application through a permit and thus the applicant would not need to provide this information as part of the application. The section also would not apply if the applicant provides sewage sludge to another "person who prepares" subject to proposed § 122.21(q)(8)(vi). In this case, the ultimate land application would be controlled by the subsequent "person who prepares."

Paragraph (i) of proposed § 122.21(q)(9) would clarify the existing requirement at § 501.15(a)(2)(x) which tells the applicant to report annual sludge production volume. Paragraph (ii) asks how the applicant will satisfy the § 503.12(i) notification requirement for land application sites in a State other than the State where the sewage sludge is prepared.

Paragraph (A) of proposed § 122.21(q)(9)(iii) would ask the applicant to identify the land application site. This question would request locational information which supports the Watershed Protection Approach, by providing permit writers and other Federal and State environmental managers with a means of geographically locating potential sources of polluted runoff.

Paragraphs (B) and (C) of proposed § 122.21(q)(9)(iii) would ask the applicant to identify the land application site owner and applier, if different than the applicant. EPA believes that this information is necessary in order to ensure that the permit is issued to the correct party. These proposed paragraphs would clarify and expand on existing requirements at § 501.15(a)(2)(viii).

One of the land application management practices in § 503.14 mandates that bulk sewage sludge shall not be applied to land at greater than the agronomic rate. Therefore, paragraphs (D) and (E) of proposed § 122.21(q)(9)(iii) would ask the applicant to identify the type of land application site, the type of vegetation grown on that site, if known at the time of permit application, and the vegetation's nitrogen requirement. This information enables the permit writer to calculate an appropriate permit management practice regarding agronomic rate. EPA recognizes that different crops may be grown on a site during the life of a permit. If the crop for a site is not known or likely to change, the applicant should submit whatever information is available.

Paragraph (F) of proposed § 122.21(q)(9)(iii) would request information on vector attraction reduction measures undertaken at the land application site. Before sewage sludge is applied to the land, it must meet the requirements for vector attraction reduction in § 503.33. These measures may be undertaken either by the "person who prepares" sewage sludge or by the operator of the land application site.

Paragraph (G) of proposed § 122.21(q)(9)(iii) would ask the applicant to submit any existing ground-water monitoring data for the land application site. Section 503.14(d) states that bulk sewage sludge may not be applied to land at greater than the agronomic rate. Section 503.11(b)(2) explains that "agronomic rate" is the whole sludge application rate that minimizes the amount of nitrogen that passes below the root zone and into the ground water. EPA believes that permitting authorities need to review existing ground-water monitoring data for land application sites in order to ensure that sewage sludge application rates are appropriately protective of ground water.

Section 501.15(a)(2)(ix) asks for information necessary to determine if the site is appropriate for land application and a description of how the site will be managed. This requirement could be interpreted in different ways. Today's rule attempts to clearly specify the site management requirements in proposed paragraphs (D)–(G) of proposed § 122.21(q)(9)(iii). The permitting authority could request other site management information if it is needed to identify appropriate permit conditions.

Proposed § 122.21(q)(9)(iv) would request information that the permitting authority needs in order to verify whether the § 503.12(e)(2)(i) requirement for appliers of bulk sewage sludge subject to cumulative pollutant loading rates (CPLRs) has been met. A cumulative pollutant loading rate, as defined in § 503.11(f) is "the maximum amount of an inorganic pollutant that can be applied to an area of land." This information enables EPA to ensure that the CPLRs are not exceeded when more than one facility is sending sewage sludge subject to CPLRs to the same site.

Proposed § 122.21(q)(9)(v) restates the requirement in existing § 501.15(a)(2)(ix) for information on land application sites not identified at the time of permit application.

10. Surface Disposal

Proposed § 122.21(q)(10) requests information on sewage sludge that is placed on a surface disposal site. By definition, a sewage sludge surface disposal site is a TWTDS. Many surface disposal site owner/operators, however, would not have to complete this section, but would instead submit the limited background information required by § 122.21(c)(2)(iii). The applicant would be required to provide the information requested by proposed § 122.21(q)(10) only if the surface disposal site were already covered by an NPDES permit; if the owner/operator were requesting site-specific pollutant limits; or if the permitting authority were requiring a full application.

Paragraph (i) of proposed § 122.21(q)(10) would clarify the existing requirement at § 501.15(a)(2)(x) which tells the applicant to report annual sludge production volume. Paragraph (ii) of proposed § 122.21(q)(10) would require that the applicant provide the name or number, address, telephone number, and amount of sewage sludge placed on each surface disposal site that the applicant does not own or operate. This paragraph would clarify and expand on existing requirements at § 501.15(a)(2)(viii). EPA believes that this information is necessary in order to ensure that the permit is issued to the correct party.

Paragraph (iii) of proposed § 122.21(q)(10) would request detailed information on each active sewage sludge unit at each surface disposal site that the applicant owns or operates. A "sewage sludge unit" is defined in § 503.21(n) as "land on which only sewage sludge is placed for final disposal." A "surface disposal site" is "an area of land that contains one or more sewage sludge units." Information on each active sewage sludge unit is necessary because Part 503 provides for different pollutant limits, monitoring requirements, and management practices for each unit. This information enables the permitting authority to establish proper permit conditions.

Paragraph (I) of § 122.21(q)(10)(iii) would request information on sewage sludge sent to the active sewage sludge unit by any facility other than the applicant's. This information helps the permit writer to determine which requirements apply to the surface disposal site owner/operator and which apply to the facility which sends sewage sludge to the surface disposal site. As previously mentioned, one way to reduce duplicate reporting, is to allow the applicant to reference substantially similar information already submitted to a permitting authority. The Agency solicits comments on using this approach in the final rule and suggestions for other options.

Paragraph (J) of proposed § 122.21(q)(10)(iii) would request information on vector attraction reduction measures undertaken at the active sewage sludge unit. Before sewage sludge is placed on an active sewage sludge unit, it must meet the requirements for vector attraction reduction in § 503.33. Since vector attraction reduction measures may be performed either by the facility preparing sewage sludge or by the surface disposal site owner/operator, EPA believes that both should be

required to supply information on their practices.

Section 503.24(n)(2) requires surface disposal sites to demonstrate by way of a ground-water monitoring program or certification that sludge placed on an active sewage sludge unit does not contaminate the underlying aquifer. In order to ensure that this requirement is implemented, paragraph (K) of proposed § 122.21(q)(10)(iii) would request information on ground-water monitoring programs or certifications. Because many communities rely on ground water as a source of drinking water, EPA believes that this information is necessary to protect public health and the environment.

After August 18, 1993, only surface disposal sites showing good cause may apply for site-specific pollutant limits. Paragraph (L) of proposed § 122.21(q)(10)(iii) would request the information necessary for the permit writer to determine whether such site-specific limits are warranted. This information would include a demonstration that the values for site parameters at the applicant's site differ from those used to develop the surface disposal pollutant limits in Part 503.

11. Incineration

Proposed § 122.21(q)(11) would request information on sewage sludge that is fired in a sewage sludge incinerator. According to § 503.41(k), a sewage sludge incinerator is "an enclosed device in which only sewage sludge and auxiliary fuel are fired." A sewage sludge incinerator is a TWTDS and is required to submit a full permit application.

Paragraph (i) of proposed § 122.21(q)(11) would clarify the existing requirement at § 501.15(a)(2)(x) which tells the applicant to report annual sludge production volume. Paragraph (ii) of proposed § 122.21(q)(11) would require that the applicant provide the name or identifying number, address, telephone number, and amount of sewage sludge fired in each sewage sludge incinerator that the applicant does not own or operate. This paragraph would clarify existing requirements at § 501.15(a)(2)(viii). EPA believes that this information is necessary in order to ensure that the permit is issued to the correct party.

Paragraph (iii) of proposed § 122.21(q)(11) would request detailed information on each sewage sludge incinerator that the applicant owns or operates. Paragraph (B) of proposed paragraph (iii) would request the total amount of sewage sludge fired annually in each incinerator. This information is necessary because the monitoring requirements for sewage sludge incinerators are based on the total amount fired.

Paragraphs (C) and (D) of proposed § 122.21(q)(11)(iii) would request information on compliance with the beryllium and mercury National Emissions Standards for Hazardous Air Pollutants (NESHAPs). Section 503.43 paragraphs (a) and (b) require compliance with these standards through a cross-reference to 40 CFR Part 61 subparts C and E. If the incinerator is required to perform stack testing, these paragraphs would require the applicant to submit a report of that testing.

Under § 503.43, the pollutant limits applicable to each sewage sludge incinerator are calculated based on factors unique to each incinerator. Paragraphs (E), (F), and (G) of proposed § 122.21(q)(11)(iii) would require each applicant to submit these factors for their incinerator(s). Calculating pollutant limits on an individual basis allows the actual performance of each incinerator and actual site conditions, such as topography, to be taken into account. EPA believes that this is more appropriate than mandating national pollutant limitations for sewage sludge incinerators.

In the development of Part 503, EPA determined that it would be infeasible to establish individual limits for each hydrocarbon in sewage sludge incinerator exit gas. Instead, the Agency adopted a 100 ppm total hydrocarbon (THC) limit and required continuous THC monitoring to show compliance. Part 503 was amended, on February 25, 1994 (59 FR 9095), to allow sewage sludge incinerators whose exit gas does not exceed 100 ppm carbon monoxide (CO) to show compliance with the THC operational standard by monitoring CO instead of THC. Paragraphs (H), (I), and (J) of proposed § 122.21(q)(11)(iii) would request the incinerator information necessary to establish the correct hydrocarbon monitoring requirements.

Many of the incinerator's site-specific factors that are used to calculate pollutant limits and compliance with the operational standard are highly dependent on the temperature at which the incinerator is operated and the rate at which sewage sludge is fed into the incinerator. For most incinerators, these parameters are determined during an initial performance test. In order to appropriately calculate pollutant limits and ensure appropriate pollutant limits and that the incinerator is operated within the parameters of the original performance test, EPA needs to know the information in paragraphs (K) through (O) of proposed § 122.21(q)(11)(iii).

Paragraphs (P) and (Q) of proposed § 122.21(q)(11)(iii) would request information on the monitoring equipment and air pollution control devices installed on the incinerator. Information on this equipment is necessary to ensure that the facility complies with the management practices at § 503.45.

12. Disposal in a Municipal Solid Waste Landfill

Proposed § 122.21(q)(12) would request information on sewage sludge that is sent to a municipal solid waste landfill (MSWLF). Section 503.4 states that sewage sludge sent to a MSWLF that complies with the requirements in 40 CFR Part 258 constitutes compliance with sec. 405(d) of the CWA. The questions in § 122.21(q)(12) are necessary to ensure the availability of accurate information about a MSWLF and the sewage sludge that is sent there.

Paragraphs (i) and (ii) of proposed § 122.21(q)(12) would clarify existing requirements at § 501.15(a)(2)(v), (viii), and (x) that request information on other permits, the location of disposal sites, and the annual sludge production volume. Paragraph (iii) would request information on the sewage sludge quality to ensure that it is acceptable for a MSWLF. Paragraph (iv) would request available information on whether the MSWLF is in compliance with Part 258.

13. Contractors

Proposed § 122.21(q)(13) would require the applicant to provide contractor information. The applicant would be required to identify all contractors responsible for any operation or maintenance aspects of the TWTDS, and specify their responsibilities. The permitting authority uses this information to determine who has primary responsibility for the operation and maintenance of the TWTDS.

14. Other Information

Proposed § 122.21(q)(14) would require the applicant to report any information necessary to determine the appropriate standards for permitting under 40 CFR Part 503, and any other information the permitting authority may request and reasonably require to assess the sewage sludge use and disposal practices, to determine whether to issue a permit, or to identify appropriate permit requirements. This paragraph restates the existing requirements in § 501.15(a)(2)(xi) and (xii).

15. Signature

Proposed § 122.21(q)(15) would require that a certifying official sign the form in compliance with 40 CFR 122.22. This would ensure that the person signing the form has the authority to speak for and legally bind the permittee.

IV. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request document has been prepared by EPA (ICR No. 0226.13) and a copy may be obtained from Sandy Farmer, Information Policy Branch; EPA; 401 M St., S.W. (Mail code 2136); Washington, DC 20460; or by calling (202) 260–2740.

This collection of information has an estimated reporting burden averaging 10.7 hours per response, including annual recordkeeping burden. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch; EPA; 401 M St., S.W. (Mail Code 2136); Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

V. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order."

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action" because it may adversely affect local governments by incrementally increasing permit application costs. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

VI. Executive Order 12875

Under Executive Order 12875 (58 FR 58093 (October 28, 1993)), no executive agency shall promulgate any regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless:

(a) Funds to pay the direct costs associated with the regulation are provided by the Federal Government, or

(b) The agency, prior to promulgation, provides OMB a description of its consultation with representatives of the affected governments, the nature of their concerns, any written communications submitted to the agency by them, and the agency's position supporting the need for the regulation. Each agency is also required to develop an effective process to permit elected officials and other representatives of these governments an opportunity to provide meaningful and timely input on significant unfunded mandates.

As discussed above ("Public Consultation in the Development of Today's Proposal," at I.H.), the Agency consulted with States, local governments, and other parties in the development of this proposed rule. This is further discussed in the discussion below ("Unfunded Mandates Reform Act of 1995 and Consultation with State, Local, and Tribal Governments," at VII).

VII. Unfunded Mandates Reform Act of 1995 and Consultation With State, Local, and Tribal Governments

Title II of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the Unfunded Mandates Act, EPA generally must prepare a written statement, including a cost-benefit analysis, for rules with Federal mandates that may result in expenditures to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the Unfunded Mandates Act generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Under section 203 of the Unfunded Mandates Act, EPA must develop a small government agency plan before it establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not include a Federal mandate that may result in expenditures of $100 million or more to either State, local and tribal governments in the aggregate, or to the private sector in any year. To the extent enforceable duties arise as a result of today's proposed rule on State, local and tribal governments, such enforceable duties do not result in a significant regulatory action being imposed upon State, local and tribal governments since the estimated aggregate cost of compliance for them is not expected to exceed $5.7 million annually. Thus, today's proposed rule is not subject to the written statement requirement in section 202 of the Act.

In compliance with E.O. 12875, which requires the involvement of State, local and tribal governments in the development of certain Federal regulatory actions, EPA conducted a wide outreach effort and actively sought the input of representatives of State, local, and tribal governments in the process of developing the proposed rule. Agency personnel have communicated with State and local representatives in

a number of different forums. For example, EPA staff involved in development of today's proposed rule invited comments on earlier drafts of the proposed rulemaking, forms, and instructions from States and local governments both directly and through organizations such as the Association of Metropolitan Sewerage Agencies (AMSA), the Water Environment Federation (WEF), and the California Association of Sanitation Agencies (CASA). In response to these efforts, the Agency was able to communicate directly, including through meetings and telephone communications, with representatives of a number of interested State and local representatives, including representatives of more than twenty-five local governments. Cities represented in a telephone conference arranged through WEF included Price (UT), Owosso (MI), Saginaw (MI), Rockwood (MI), Grand Rapids (MI), Roseburg (OR), Central Marin San. Dist. (CA), Little Rock (AR), Dallas (TX), Northeast Ohio Regional Sewer Dist. (OH). Cities represented in a meeting with AMSA representatives included Detroit (MI), Boise (ID), City of Los Angeles (CA), Phoenix (AZ), Passaic Valley (NJ); Middleton (NJ), Hampton Roads (VA), Orange County (CA), Anchorage (AK), and Alexandria (VA). Other discussions were held individually with representatives of local governments. The Agency received written comments from AMSA, several cities, and a number of States. In the comments received from States, a number of issues were raised concerning possible impacts on local governments. EPA invited, but did not receive, written comments from the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) and the National League of Cities.

Once the proposed rule is finalized, the Agency intends to provide information through a variety of sources, and to educate and advise local governments concerning compliance with the proposed requirements. In the Communication Plan prepared for this proposal, the Agency has outlined which organizations EPA will contact directly concerning the proposal. The same parties will also be contacted directly regarding the final rulemaking. The communication plan is available in the record supporting this proposal. The Agency seeks to assist, educate, and advise applicants on how to comply with the permit application requirements primarily through the instructions to the proposed forms, and seeks comment as to how the instructions could be improved. Additionally, the Agency intends to provide training for permit writers, so that they can assist, educate, and advise applicants on an as-needed basis when completing their applications.

VIII. Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) requires Federal agencies to consider the effect of proposed rules on small entities. Agencies must consider alternatives to proposed rules that would minimize the economic impact on small entities so long as these alternatives are consistent with the stated objective of the statute under which such rules are developed. However, the requirements of the Regulatory Flexibility Act do not alter standards otherwise applicable to agency action. For example, section 405 of the CWA requires EPA to promulgate regulations that are adequate to protect public health or the environment against reasonably anticipated adverse effects.

In developing these proposed regulations, EPA considered the effects of the proposed regulations on small entities. The regulatory flexibility analysis (RFA) conducted for this proposed rule meets the requirements specified in the "Guidelines for Implementing the Regulatory Flexibility Act" (U.S. EPA, Office of Regulatory Management and Evaluation and Office of Policy, Planning, and Evaluation, April 1992).

Most of the applicants that would be required to complete the municipal and sludge application forms, if finalized, are small entities. For the purposes of the RFA, EPA employs the definition of small government entities that was originally advanced in a related rulemaking. See U.S. EPA, "Regulatory Impact Analysis of the Part 503 Sewage Sludge Regulation," November 25, 1992, for a complete discussion of the development of this definition. For the purposes of this rule, the term "small government entities" is considered to mean small POTWs. Small POTWs are defined as POTWs processing less than 1 million gallons per day (mgd) of wastewater. POTWs of this size generally serve a population of 10,000 people or less. This definition is consistent with the designation of major and minor POTWs under the NPDES program.

The estimate of the number of small POTWs subject to both sets of proposed application requirements is based on the number of minor POTWs. Also, for the purposes of the RFA, the Agency conservatively assumed that all "sludge-only" POTWs are small entities. Generally, treatment facilities serving large populations (greater than 10,000) generate effluent of sufficient volume that it must be discharged to waters of the U.S., and thus require an NPDES permit. The Agency also assumed for purposes of the RFA that all privately owned treatment facilities are small entities. Overall, EPA estimates that nearly 70 percent of municipal applicants and 74 percent of sludge applicants are small entities.

EPA considered a range of regulatory options for the proposed forms. In this proposal, the Agency has developed a two-tier approach for municipal applicants and a two-tier approach for sludge applicants. Applicants are categorized according to size and whether or not they are required to have a pretreatment program. Under each regulatory option considered, less stringent standards are required for smaller facilities that are less likely to pollute and have a lower capacity to absorb large monitoring costs.

The costs of complying with the proposed application requirements would consist entirely of paperwork and testing costs associated with completing the forms and collecting the required information. Therefore, the costs for these activities estimated in the ICR for this proposed rule are used in the RFA. The five-year compliance cost estimates for POTWs applying for NPDES permits (i.e., for both sets of application requirements) range from $681 to $3,627 for small POTWs under the four regulatory options under consideration for the municipal permit application and the three regulatory options under consideration for the sludge application requirements. The five-year compliance cost estimates for the various options under this proposed rule range from approximately $507 to $2,849 for small privately owned treatment works. These costs would represent between 0.06 and 0.31 percent of the average annual revenues of small POTWs and small privately owned treatment works. As a percent of average household expenditures on sewage treatment, these figures would range between 0.10 and 0.54 percent for small POTWs and small privately owned treatment works. The five-year compliance costs for sludge-only facilities (i.e., paperwork costs associated with the proposed sludge application requirements) range from $375 to $2,809 under the three regulatory options under consideration for small POTWs and from $299 to $2,849 for privately owned treatment works. These costs would represent well below 0.5 percent of both the average annual revenues for small treatment works (public and private) and of the average annual household costs for sewage treatment. Thus, impacts on small treatment facilities and their customers are not expected to be severe.

List of Subjects

40 CFR Part 122

Environmental protection, Administrative practice and procedure, Confidential business information, Reporting and recordkeeping requirements, Sewage disposal, Waste treatment and disposal, Water pollution control.

40 CFR Part 123

Confidential business information, Hazardous materials, Reporting and recordkeeping requirements, Sewage disposal, Waste treatment and disposal, Water pollution control, Penalties.

40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

40 CFR Part 501

Confidential business information, Environmental protection, Reporting and recordkeeping requirements, Publicly owned treatment works, Sewage disposal, Waste treatment and disposal.

Dated: November 2, 1995.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR Chapter I as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

* * * * *

1. The authority citation for part 122 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 122.2 is amended by revising the definition for "Publicly owned treatment works ("POTW") and adding a definition for "TWTDS" in alphabetical order to read as follows:

§ 122.2 Definitions.

* * * * *

Publicly owned treatment works ("POTW") means a treatment works as defined by section 212 of the CWA, which is owned by a "State" or "municipality" (as defined by section 502(4) of the CWA). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant, as defined in § 403.3(p) of this chapter. The term also means the municipality as defined in section 502(4) of the CWA, which has jurisdiction over the Indirect Discharges, as defined in § 403.3(g) of this chapter, to and the discharges from such a treatment works.

* * * * *

TWTDS means treatment works treating domestic sewage.

* * * * *

3–6. Section 122.21 is amended by revising paragraph (c)(2)(i) through (iii) introductory text, paragraph (d)(3), the introductory text of paragraph (f), paragraph (j) and by adding paragraph (q) before the notes to read as follows:

§ 122.21 Application for a permit (applicable to State programs, see § 123.25).

* * * * *

(c) * * *

(2) *Permits under section 405(f) of CWA.* (i) Any existing treatment works treating domestic sewage (TWTDS) required to have site-specific pollutant limits, or requesting such limits, as provided in 40 CFR Part 503, must submit the permit application information required by paragraph (d)(3)(iii) of this section within 180 days after publication of a standard applicable to its sewage sludge use or disposal practice(s). After this 180-day period, TWTDS may only apply for site-specific pollutant limits for good cause and such requests must be made within 180 days of becoming aware that good cause exists.

(ii) Any TWTDS with a currently effective NPDES permit, not addressed under paragraph (c)(2)(i) of this section, must submit the application information required by paragraph (d)(3)(iii) of this section at the time of its next NPDES permit renewal application. Such information must be submitted in accordance with paragraph (d) of this section.

(iii) Any other existing TWTDS not addressed under paragraphs (c)(2)(i) or (ii) of this section must submit the information listed in paragraphs (c)(2)(iii)(A) through (E) of this section, to the Director within 1 year after publication of a standard applicable to its sewage sludge use or disposal practice(s), using Form 2S or another form approved by the Director. The Director shall determine when such TWTDS must apply for a permit.

* * * * *

(d) * * *

(3)(i) All applicants for EPA-issued permits, other than POTWs, new sources, and TWTDS, must complete Forms 1 and either 2B, 2C, or 2E of the consolidated permit application forms to apply under § 122.21 and paragraphs (f), (g), (h), and (i) of this section.

(ii) All POTWs must submit the application information required by paragraph (j) of this section, within the time periods established in paragraph (c)(2) of this section, using Form 2A or another form approved by the Director. All POTWs applying for EPA-issued permits must complete Form 2A.

(iii) All TWTDS, except "sludge-only facilities" subject to paragraph (c)(2)(iii) of this section, must submit the application information required by paragraph (q) of this section, within the time periods established in paragraph (c)(2) of this section, using Form 2S or another form approved by the Director. All such applicants applying for EPA-issued permits must complete Form 2S.

* * * * *

(f) *Information requirements.* All applicants for NPDES permits, other than POTWs and other TWTDS, shall provide the following information to the Director, using the application form provided by the Director (additional information required of applicants is set forth in paragraphs (g) through (k) of this section).

* * * * *

(j) *Application requirements for new and existing POTWs.* Unless otherwise indicated, all POTWs shall provide, at a minimum, the information in this paragraph (j) to the Director, using Form 2A or another application form provided by the Director. The Director may waive any requirement of this paragraph if the Director has access to substantially identical information.

(1) *Basic application information.* All applicants shall provide the following information:

(i) *Facility information.* Name, mailing address, and location of the facility for which the application is submitted;

(ii) *Applicant information.* Name, mailing address, and telephone number of the applicant, and indication as to whether the applicant is the facility's owner, operator, or both;

(iii) *Existing environmental permits.* Identification of all environmental permits or construction approvals received or applied for (including dates) under any of the following programs:

(A) Hazardous Waste Management program under the Resource Conservation and Recovery Act (RCRA), subpart C of this part;

(B) UIC program under the Safe Drinking Water Act (SDWA);

(C) NPDES program under Clean Water Act (CWA);
(D) Prevention of Significant Deterioration (PSD) program under the Clean Air Act;
(E) Nonattainment program under the Clean Air Act;
(F) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;
(G) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act;
(H) Dredge or fill permits under section 404 of the CWA; and
(I) Other relevant environmental permits, including State permits;
(iv) *Population.* The name and population of each municipal entity served by the facility, including unincorporated connector districts;
(v) *Flow rate.* The facility's design flow rate and annual average daily flow rate for each of the previous 3 years;
(vi) *Collection system.* Identify type(s) of collection system(s) used by the treatment works (i.e., separate sanitary sewers or combined storm and sanitary sewers) and an estimate of the percent of sewer line that each type comprises;
(vii) *Inflow and infiltration.* The current average daily flow rate volume of inflow and infiltration, in gallons per day, and steps the facility is taking to minimize inflow and infiltration;
(viii) *Topographic map.* A topographic map (or other map if a topographic map is unavailable) extending at least one mile beyond property boundaries of the treatment plant, including all unit processes, and showing:
(A) Treatment plant area and unit processes;
(B) The pipes or other structures through which wastewater enters the treatment plant and the pipes or other structures through which treated wastewater is discharged from the treatment plant. Include outfalls from bypass piping, if applicable;
(C) Each well where fluids from the treatment plant are injected underground;
(D) Wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within the map area;
(E) Sewage sludge management facilities (including on-site treatment, storage, and disposal sites) within the property boundaries; and
(F) Location at which waste classified as hazardous under RCRA enters the treatment plant by truck, rail, or dedicated pipe;
(ix) *Process flow diagram or schematic.*
(A) A diagram showing the processes of the treatment plant, including all bypass piping. This includes a water balance showing all treatment units, including disinfection, and showing daily average flow rates at influent and discharge points, and approximate daily flow rates between treatment units; and
(B) A narrative description of the diagram;
(x) *Bypasses.* The following information for each outfall that is a discharge from a bypass point:
(A) The actual or approximate number of wet-weather and dry-weather bypass incidents in the twelve months prior to the date of the permit application;
(B) The actual or approximate duration of each wet-weather or dry-weather bypass incident;
(C) The actual or approximate volume, in millions of gallons, of each wet-weather or dry-weather bypass incident; and
(D) The reason(s) why such bypasses occurred;
(xi) *Outfalls and other discharge or disposal methods.* The following information for outfalls to waters of the United States and other discharge or disposal methods:
(A) For effluent discharges to waters of the United States, the total number and types of outfalls (e.g, treated effluent, CSOs) to surface water;
(B) For wastewater discharged to surface impoundments:
(*1*) The location of each surface impoundment;
(*2*) The annual average daily volume discharged to each surface impoundment; and
(*3*) Whether the discharge is continuous or intermittent;
(C) For wastewater applied to the land:
(*1*) The location of each land application site;
(*2*) The size of each land application site, in acres;
(*3*) The annual average daily volume applied to each land application site, in gallons per day; and
(*4*) Whether land application is continuous or intermittent;
(D) For wastewater discharged to another facility:
(*1*) The means by which the discharge is transported;
(*2*) The name, mailing address, contact person, and phone number of the organization transporting the discharge, if the transport is provided by a party other than the applicant;
(*3*) The name, mailing address, contact person, phone number, and NPDES permit number (if any) of the receiving facility; and
(*4*) The average daily flow rate from this facility into the receiving facility, in millions of gallons per day; and
(E) For wastewater disposed of in a manner not included in paragraphs (j)(1)(ix) (A) through (D) of this section (e.g., underground percolation, underground injection):
(*1*) A description of the disposal method, including the location and size of each disposal site, if applicable;
(*2*) The annual average daily volume disposed of by this method, in gallons per day; and
(*3*) Whether disposal through this method is continuous or intermittent;
(xii) *Federal Indian reservations.* Information concerning whether the facility is located on a Federal Indian Reservation or whether the facility discharges to a receiving stream that flows through a Federal Indian Reservation; and
(xiii) *Scheduled improvements, schedules of implementation.* The following information regarding scheduled improvements:
(A) The outfall number of each outfall affected;
(B) A narrative description of each required improvement;
(C) Scheduled or actual dates of completion for the following:
(*1*) Commencement of construction;
(*2*) Completion of construction;
(*3*) Commencement of discharge; and
(*4*) Attainment of operational level; and
(D) A description of permits and clearances concerning other Federal and/or State requirements;
(2) *Information on effluent discharges.* Each applicant must provide the following information for each outfall, including bypass points, through which effluent is discharged, as applicable:
(i) *Description of outfall.* The following information about each outfall:
(A) Outfall number;
(B) State, county, and city or town in which outfall is located;
(C) Latitude and longitude, to the nearest second;
(D) Distance from shore and depth below surface;
(E) Average daily flow rate, in million gallons per day;
(F) The following information for each outfall with a seasonal or periodic discharge:
(*1*) Number of times per year the discharge occurs;
(*2*) Duration of each discharge;
(*3*) Flow of each discharge; and
(*4*) Months in which discharge occurs; and
(G) Whether the outfall is equipped with a diffuser and the type (e.g., high-rate) of diffuser used;

(ii) *Description of receiving waters.* The following information (if known) for each outfall through which effluent is discharged to waters of the United States:
(A) Type (e.g., stream, river, lake, estuary, ocean) and name of receiving water;
(B) Name of watershed/river/stream system and United States Soil Conservation Service 14-digit watershed code;
(C) Name of State Management/River Basin and United States Geological Survey 8-digit hydrologic cataloging unit code; and
(D) Critical flow of receiving stream and total hardness of receiving stream at critical low flow (if applicable); and
(iii) *Description of treatment.* The following information describing the treatment provided for discharges from each outfall to waters of the United States:
(A) The highest level of treatment (e.g., primary, equivalent to secondary, secondary, advanced, other) that is provided for the discharge for each outfall and:
(*1*) Design biochemical oxygen demand (BOD_5 or $CBOD_5$) removal (percent);
(*2*) Design suspended solids (SS) removal (percent); and, where applicable;
(*3*) Design phosphorus (P) removal (percent);
(*4*) Design nitrogen (N) removal (percent); and
(*5*) Any other removals that an advanced treatment system is designed to achieve.
(B) A description of the type of disinfection used, and whether the treatment plant dechlorinates (if disinfection is accomplished through chlorination);
(3) *Effluent monitoring for specific parameters.* (i) As provided in paragraphs (j)(3) (ii) through (x) of this section all applicants shall submit to the Director effluent monitoring information for samples taken from each outfall through which effluent is discharged to waters of the United States, except for CSOs. The Director may allow applicants to submit sampling data for only one outfall on a case-by-case basis, where the applicant has two or more outfalls with substantially identical effluent;
(ii) All applicants must sample and analyze for the pollutants listed in Appendix J of this part, Table 1;
(iii) The following applicants must sample and analyze for the pollutants listed in Appendix J of this part, Table 2, and for any other pollutants for which the State or EPA have established water quality standards applicable to the receiving waters:
(A) All POTWs with a design influent flow rate equal to or greater than one million gallons per day;
(B) All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program; and
(C) Other POTWs, as required by the Director;
(iv) Unless otherwise required by the Director, applicants are not required to sample for the pollutants listed in Appendix J of this part, Table 3;
(v) The Director should require sampling for additional pollutants, as appropriate, on a case-by-case basis;
(vi) Applicants must provide data from a minimum of three samples taken within three years prior to the date of the permit application. Samples must be representative of the discharge from each outfall, and at least two samples should be at least four months, but no more than eight months apart. Existing data may be used, if available, in lieu of sampling done solely for the purpose of this application. The Director should require additional samples, as appropriate, on a case-by-case basis;
(vii) All existing data for pollutants specified in paragraphs (j)(3) (ii) through (v) of this section that is collected within three years of the application must be included with the pollutant data submitted by the applicant. If, however, the applicant samples for a specific pollutant on a monthly or more frequent basis, it is only necessary, for such pollutant, to provide all data collected within one year of the application;
(viii) Applicants must collect samples of effluent and analyze such samples for pollutants in accordance with analytical methods approved under 40 CFR part 136 unless an alternative is specified in the existing NPDES permit. When no analytical method is approved, applicants may use any suitable method and must provide a description of the method. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, *E. coli*, and enterococci. For all other pollutants, 24-hour flow-weighted composite samples must be used. For a flow-weighted composite sample, only one analysis of the composite of aliquots is required. A single grab sample may be taken for effluent from holding ponds or other impoundments, so long as they have a retention time of greater than 24 hours;
(ix) The effluent monitoring data provided must include at least the following information for each parameter:
(A) Maximum daily discharge, expressed as concentration or mass, based upon actual sample values;
(B) Average daily discharge for all samples, expressed as concentration or mass, based upon actual sample values, and the number of samples used to obtain this value;
(C) The analytical method used; and
(D) The threshold level (i.e., method detection limit, minimum level, or other designated method endpoints) for the analytical method used; and
(x) Unless otherwise required by the Director, metals must be reported as total recoverable;
(4) *Effluent monitoring for whole effluent toxicity.* (i) All applicants shall provide an identification of any biological toxicity tests that the applicant knows or has reason to believe have been made during the three years prior to the date of the application on any of the applicant's discharges or on a receiving water in relation to a discharge.
(ii) As provided in paragraphs (j)(4) (iii) through (ix) of this section, the following applicants shall submit to the Director the results of valid whole effluent biological toxicity tests for acute or chronic toxicity for samples taken from each outfall through which effluent is discharged to surface waters, except for combined sewer overflows:
(A) All POTWs with design influent flow rate equal to or greater than one million gallons per day;
(B) All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program; and
(C) Other POTWs, as required by the Director, based on consideration of the following factors:
(*1*) The variability of the pollutants or pollutant parameters in the POTW effluent (based on chemical-specific information, the type of treatment plant, and types of industrial contributors);
(*2*) The ratio of effluent flow to receiving stream flow;
(*3*) Existing controls on point or non-point sources, including total maximum daily load calculations for the receiving stream segment and the relative contribution of the POTW;
(*4*) Receiving stream characteristics, including possible or known water quality impairment, and whether the POTW discharges to a coastal water, one of the Great Lakes, or a water designated as an outstanding natural resource water; or
(*5*) Other considerations (including, but not limited to, the history of toxic impacts and compliance problems at the POTW) that the Director determines

could cause or contribute to adverse water quality impacts.

(iii) Where the POTW has two or more outfalls with substantially identical effluent discharging to the same receiving stream segment, the Director may allow applicants to submit whole effluent toxicity data for only one outfall on a case-by-case basis.

(iv) Each applicant required to perform whole effluent biological toxicity testing pursuant to paragraph (j)(4)(ii) of this section shall provide the results of a minimum of four quarterly tests for a year. Applicants shall conduct tests with multiple species (no less than two species; e.g., fish, invertebrate, plant), and test for acute or chronic toxicity, depending on the range of receiving water dilution. It is recommended that applicants conduct acute or chronic testing based on the following dilutions:

(A) Acute toxicity testing if the dilution of the effluent is greater than 1000:1 at the edge of the mixing zone;

(B) Acute or chronic toxicity testing if the dilution of the effluent is between 100:1 and 1000:1 at the edge of the mixing zone. Acute testing may be more appropriate at the higher end of this range (1000:1), and chronic testing may be more appropriate at the lower end of this range (100:1); and

(C) Chronic testing if the dilution of the effluent is less than 100:1 at the edge of the mixing zone.

(v) Each applicant required to perform whole effluent biological toxicity testing pursuant to paragraph (j)(4)(ii) of this section shall provide the number of chronic or acute whole effluent toxicity tests that have been conducted since the last permit reissuance.

(vi) Provide the results using the form provided by the Director, or test summaries if available and comprehensive, for each whole effluent toxicity test conducted pursuant to paragraph (j)(4)(ii) of this section for which such information has not been reported previously to the Director.

(vii) Whole effluent toxicity testing conducted pursuant to paragraph (j)(4)(ii) of this section shall be conducted using methods approved under 40 CFR part 136.

(viii) For biomonitoring data submitted to the Director within three years prior to the date of the application, applicants must provide the dates on which the data were submitted and a summary of the results.

(ix) Each POTW required to perform whole effluent biological testing pursuant to paragraph (j)(4)(ii) of this section must provide any information on the cause of toxicity and written details of any toxicity reduction evaluation conducted, if any whole effluent toxicity test conducted within the past three years revealed toxicity.

(5) *Industrial discharges and pretreatment.* Applicants must submit the information in paragraphs (j)(5)(i) through (iii) of this section, as applicable, regarding industrial user discharges to the POTW.

(i) *General information.* General information on industrial users.

(A) Number of significant industrial users (SIUs) and categorical industrial users (CIUs) discharging to the POTW;

(B) Total average daily flow rate from all industrial (non-domestic) users, from SIUs, and from all CIUs discharging to the POTW; and

(C) Estimated percent of total influent contributed by all industrial (non-domestic) users, by SIUs only, by CIUs only, and by domestic sources discharging to the POTW.

(ii) *Pretreatment program and local limits.* POTWs with an approved pretreatment program under 40 CFR part 403 shall provide information concerning pretreatment program modifications that are required to be submitted but have not been approved in accordance with 40 CFR 403.18.

(iii) *Significant industrial users.* POTWs with one or more significant industrial users (SIUs) shall provide the following information for each SIU, as defined at 40 CFR 403.3(t), that discharges to the POTW:

(A) Name and mailing address;

(B) Description of all industrial processes that affect or contribute to the SIU's discharge;

(C) Principal products and raw materials of the SIU;

(D) Average daily volume of wastewater discharged, indicating the amount attributable to process flow and non-process flow;

(E) Whether the SIU is subject to local limits;

(F) Whether the SIU is subject to categorical standards, and if so, under which category(ies) and subcategory(ies); and

(G) Whether any problems at the POTW (e.g., upsets, pass through, interference) have been attributed to the SIU in the past three years;

(6) *Discharges from hazardous waste generators and from waste cleanup or remediation sites.* POTWs receiving RCRA, CERCLA, or RCRA Corrective Action wastes or wastes generated at another type of cleanup or remediation site must provide the following information:

(i) *RCRA hazardous waste.* If the POTW receives by truck, rail, or dedicated pipe any wastes that are regulated as RCRA hazardous wastes pursuant to 40 CFR part 261, or authorized State, or if it is expected to receive such wastes during the life of the permit, the applicant must report the following:

(A) The method by which the waste is received (i.e., whether by truck, rail, or dedicated pipe); and

(B) The hazardous waste number and amount received annually of each hazardous waste;

(ii) *CERCLA wastewaters.* If the POTW receives wastewaters that originate from response activities undertaken pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or if it is expected to receive such wastewaters during the life of the permit, the applicant must report the following:

(A) The identity and description of the site(s) at which the wastewater originates or is expected to originate;

(B) The identities of the hazardous constituents in the wastewater; and

(C) The extent of treatment, if any, the wastewater receives or will receive before entering the POTW;

(iii) *RCRA corrective action wastewaters.* If the POTW receives wastewaters that originate from remedial activities undertaken pursuant to sections 3004(u) or 3008(h) of RCRA, or authorized State, or if it is expected to receive such wastewaters during the life of the permit, the applicant must report the following:

(A) The identity and description of the facility(ies) at which the wastewater originates or is expected to originate;

(B) The identities of the hazardous constituents in the wastewater; and

(C) The extent of treatment, if any, the wastewater receives or will receive before entering the POTW; and

(iv) *Wastewaters from other remedial activities.* If the POTW receives wastewaters that originate from remedial activities other than those in paragraphs (j)(6) (ii) and (iii) of this section, the applicant shall provide a written description that includes the following information:

(A) The identity and description of the facility(ies) at which the wastewater originates or is expected to originate;

(B) The identities of the hazardous constituents in the wastewater; and

(C) The extent of treatment, if any, the wastewater receives or will receive before entering the POTW;

(7) *Combined sewer overflows.* Each applicant with combined sewer systems shall provide the following information:

(i) *Combined sewer system information.* The following information regarding the combined sewer system:

(A) *CSO discharge points.* The number of combined sewer overflow (CSO) discharge points in the combined sewer system to be covered by the application;

(B) *System map.* A map indicating the location of the following:

(*1*) All CSO discharge points;

(*2*) Sensitive use areas potentially affected by CSOs (e.g., beaches, drinking water supplies, shellfish beds, sensitive aquatic ecosystems, and outstanding natural resource waters); and

(*3*) Waters supporting threatened and endangered species potentially affected by CSOs;

(C) *System diagram.* A diagram of the combined sewer collection system that includes the following information:

(*1*) The location of major sewer trunk lines, both combined and separate sanitary;

(*2*) The locations of points where separate sanitary sewers feed into the combined sewer system;

(*3*) In-line and off-line storage structures;

(*4*) The locations of flow-regulating devices; and

(*5*) The locations of pump stations; and

(D) *System evaluation.* A list of studies, including modeling studies, hydraulic studies, past monitoring efforts, and facility plans, that have been performed on the collection system since the last permit application; and

(ii) *Information on CSO outfalls.* The following information for each CSO discharge point covered by the permit application:

(A) *Description of outfall.* The following information on each outfall:

(*1*) Outfall number;

(*2*) State, county, and city or town in which outfall is located;

(*3*) Latitude and longitude, to the nearest second; and

(*4*) Distance from shore and depth below surface;

(B) *Monitoring.* Indicate if any of the following were monitored in the past year for this CSO and provide the results of this monitoring:

(*1*) Rainfall;

(*2*) CSO flow volume;

(*3*) CSO water quality;

(*4*) Receiving water quality; and

(*5*) The number of storm events;

(C) *CSO incidents.* The following information about CSO incidents:

(*1*) The number of incidents in the past year;

(*2*) The average duration per incident;

(*3*) The average volume per CSO incident; and

(*4*) The minimum rainfall that caused a CSO incident in the last year;

(D) *Description of receiving waters.* The following information about receiving waters:

(*1*) Name and type of receiving water (e.g., stream/river, lake/pond, estuary, ocean);

(*2*) Name of watershed/stream system and the United States Soil Conservation Service watershed (14-digit) code (if known); and

(*3*) Name of State Management/River Basin and the United States Geological Survey hydrologic cataloging unit (8-digit) code (if known); and

(E) *CSO operations.* The following information concerning CSO operations:

(*1*) Whether the CSO includes contributions from significant industrial users; and

(*2*) A description of any known water quality impacts on the receiving water caused by the CSO (e.g., permanent or intermittent beach closings, permanent or intermittent shellfish bed closings, fish kills, fish advisories, other recreational loss, or exceedance of any applicable State water quality standard);

(8) *Contractors.* All applicants shall provide the name, mailing address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility; and

(9) *Signature.* All applications shall be signed by a certifying official in compliance with § 122.22.

* * * * *

(q) *Sewage sludge management.* All treatment works treating domestic sewage, except "sludge-only facilities" subject to paragraph (c)(2)(iii) of this section, shall provide the information in this paragraph to the Director, using Form 2S or another form approved by the Director. The Director may waive any requirement of this paragraph if the Director has access to substantially identical information.

(1) *Facility information.* All applicants shall submit the following information:

(i) The name, mailing address, and location of the treatment works treating domestic sewage for which the application is submitted;

(ii) The facility's latitude and longitude to the nearest second, and method of determination;

(iii) Whether the facility is a Class I Sludge Management Facility;

(iv) The design influent flow rate (in million gallons per day); and

(v) The total population served;

(2) *Applicant information.* All applicants shall submit the following information:

(i) The name, mailing address, and telephone number of the applicant;

(ii) Indication whether the applicant is the owner, operator, or both; and

(iii) The applicant's status as Federal, State, private, public, or other entity;

(3) *Permit information.* All applicants shall submit the facility's NPDES permit number, if applicable, and a listing of all other Federal, State, and local permits or construction approvals received or applied for under any of the following programs:

(i) Hazardous Waste Management program under the Resource Conservation and Recovery Act (RCRA);

(ii) UIC program under the Safe Drinking Water Act (SDWA);

(iii) NPDES program under the Clean Water Act (CWA);

(iv) Prevention of Significant Deterioration (PSD) program under the Clean Air Act;

(v) Nonattainment program under the Clean Air Act;

(vi) National Emission Standards for Hazardous Air Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

(vii) Dredge or fill permits under section 404 of CWA; and

(viii) Other relevant environmental permits, including State or local permits;

(4) *Federal Indian Reservations.* All applicants shall identify any generation, treatment, storage, land application, or disposal of sewage sludge that occurs on Federal Indian Reservations;

(5) *Topographic map.* All applicants shall submit a topographic map (or other map if a topographic map is unavailable) extending one mile beyond property boundaries of the facility and showing the following information:

(i) All sewage sludge management facilities, including use and disposal sites;

(ii) All water bodies; and

(iii) Wells used for drinking water listed in public records or otherwise known to the applicant within 1/4 mile of the facility property boundaries;

(6) *Sewage sludge handling.* All applicants shall submit a line drawing and/or a narrative description that identifies all sewage sludge management practices employed during the term of the permit, including all units used for collecting, dewatering, storing, or treating sewage sludge, the destination(s) of all liquids and solids leaving each such unit, and all processes used for pathogen reduction and vector attraction reduction;

(7) *Sewage sludge quality.* (i) If the applicant is a "Class I sludge management facility," the applicant shall submit the results of a toxicity characteristic leaching procedure (TCLP), as described in 40 CFR part 261, conducted in the last five years to determine whether the sewage sludge is a hazardous waste.

(ii) The applicant shall submit sewage sludge monitoring data for the

parameters indicated in paragraphs (q)(7)(ii) (A) through (B) of this section. Monitoring data shall be two years old or less. The data for each parameter shall include the concentration in sewage sludge (mg/kg dry weight), the sample date(s), the analytical method, and the minimum detection level for the analysis.

(A) "Class I Sludge Management Facilities," as defined in § 122.2, shall submit sewage sludge monitoring data for TKN, ammonia, nitrate, total phosphorus, the pollutants in Appendix J of this part, Tables 2 and 3, and any other parameters for which limits in sewage sludge have been established in 40 CFR part 503 on the date of permit application.

(B) All other facilities required to apply under this section shall submit sewage sludge monitoring data for TKN, ammonia, nitrate, total phosphorus and those pollutants for which limits in sewage sludge have been established in 40 CFR part 503 on the date of permit application;

(8) *Preparation of sewage sludge.* If the applicant is a "person who prepares" sewage sludge, as defined at 40 CFR 503.9(r), the applicant shall provide the following information:

(i) If the applicant's facility generates sewage sludge, the total dry metric tons per 365-day period generated at the facility;

(ii) If the applicant's facility receives sewage sludge from another facility, the following information for each facility from which sewage sludge is received:

(A) The name, mailing address, and location of the other facility;

(B) The total dry metric tons per 365-day period received from the other facility; and

(C) A description of any treatment processes occurring at the other facility, including blending activities and treatment to reduce pathogens or vector attraction characteristics;

(iii) If the applicant's facility changes the quality of sewage sludge through blending, treatment, or other activities, the following information:

(A) Whether the Class A pathogen reduction requirements in 40 CFR 503.32(a) or the Class B pathogen reduction requirements in 40 CFR 503.32(b) are met, and a description of any treatment processes used to reduce pathogens in sewage sludge;

(B) Whether any of the vector attraction reduction options of 40 CFR 503.33(b)(1) through (b)(8) are met, and a description of any treatment processes used to reduce vector attraction properties in sewage sludge; and

(C) A description of any other blending, treatment, or other activities that change the quality of sewage sludge;

(iv) If sewage sludge from the applicant's facility meets the ceiling concentrations in 40 CFR 503.13(b)(1), the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (b)(8), and if the sewage sludge is applied to the land, the applicant shall provide the total dry metric tons per 365-day period of sewage sludge subject to this paragraph that is applied to the land;

(v) If sewage sludge from the applicant's facility is sold or given away in a bag or other container for application to the land, and the sewage sludge is not subject to paragraph (q)(8)(iv) of this section, the applicant shall provide the following information:

(A) The total dry metric tons per 365-day period of sewage sludge subject to this paragraph that is sold or given away in a bag or other container for application to the land; and

(B) A copy of all labels or notices that accompany the sewage sludge being sold or given away;

(vi) If sewage sludge from the applicant's facility is provided to another "person who prepares," as defined at 40 CFR 503.9(r), and the sewage sludge is not subject to paragraph (q)(8)(iv) of this section, the applicant shall provide the following information for each facility receiving the sewage sludge:

(A) The name and mailing address of the receiving facility;

(B) The total dry metric tons per 365-day period of sewage sludge subject to this paragraph that the applicant provides to the receiving facility;

(C) A description of any treatment processes occurring at the receiving facility, including blending activities and treatment to reduce pathogens or vector attraction characteristic;

(D) A copy of the notice and necessary information that the applicant is required to provide the receiving facility under 40 CFR 503.12(g); and

(E) If the receiving facility places sewage sludge in bags or containers for sale or give-away to application to the land, a copy of any labels or notices that accompany the sewage sludge;

(9) *Land application of bulk sewage sludge.* If sewage sludge from the applicant's facility is applied to the land in bulk form, and is not subject to § 122.21(q)(8)(iv), (v), or (vi), the applicant shall provide the following information:

(i) The total dry metric tons per 365-day period of sewage sludge subject to this paragraph (q)(9) that is applied to the land;

(ii) If any land application sites are located in States other than the State where the sewage sludge is prepared, a description of how the applicant will notify the permitting authority for the State(s) where the land application sites are located;

(iii) The following information for each land application site that has been identified at the time of permit application:

(A) The name (if any), and location for the land application site;

(B) The name, mailing address, and telephone number of the site owner, if different from the applicant;

(C) The name, mailing address, and telephone number of the person who applies sewage sludge to the site, if different from the applicant;

(D) Whether the site is agricultural land, forest, a public contact site, or a reclamation site, as such site types are defined under 40 CFR 503.11;

(E) The type of vegetation grown on the site, if known, and the nitrogen requirement for this vegetation;

(F) Whether either of the vector attraction reduction options of 40 CFR 503.33(b)(9) or (b)(10) is met at the site, and a description of any procedures employed at the time of use to reduce vector attraction properties in sewage sludge; and

(G) Any available ground-water monitoring data, with a description of the well locations and approximate depth to ground water, for the land application site;

(iv) The following information for each land application site that has been identified at the time of permit application, if the applicant intends to apply bulk sewage sludge subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the site:

(A) Whether the applicant has contacted the permitting authority in the State where the bulk sewage sludge subject to 40 CFR 503.13(b)(2) will be applied, to ascertain whether bulk sewage sludge subject to 40 CFR 503.13(b)(2) has been applied to the site on or since July 20, 1993, and if so, the name of the permitting authority and the name and phone number of a contact person at the permitting authority;

(B) Identification of facilities other than the applicant's facility that have sent, or are sending, sewage sludge subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the site since July 20, 1993, if, based on the inquiry in paragraph (q)(9)(iv)(A) of this section, bulk sewage sludge subject to cumulative pollutant loading rates in 40 CFR 503.13(b)(2) has been applied to the site since July 20, 1993;

(v) If not all land application sites have been identified at the time of permit application, the applicant shall submit a land application plan that, at a minimum:

(A) Describes the geographical area covered by the plan;

(B) Identifies the site selection criteria;

(C) Describes how the site(s) will be managed;

(D) Provides for advance notice to the permit authority of specific land application sites and reasonable time for the permit authority to object prior to land application of the sewage sludge; and

(E) Provides for advance public notice as required by State and local law, but in all cases requires notice to landowners and occupants adjacent to or abutting the proposed land application site;

(10) *Surface disposal.* If sewage sludge from the applicant's facility is placed on a surface disposal site, the applicant shall provide the following information:

(i) The total dry metric tons of sewage sludge from the applicant's facility that is placed on surface disposal sites per 365-day period;

(ii) The following information for each surface disposal site receiving sewage sludge from the applicant's facility that the applicant does *not* own or operate:

(A) The site name or number, contact person, mailing address, and telephone number for the surface disposal site; and

(B) The total dry metric tons from the applicant's facility per 365-day period placed on the surface disposal site; and

(iii) The following information for each active sewage sludge unit at each surface disposal site that the applicant owns or operates:

(A) The name or number and the location of the active sewage sludge unit;

(B) The total dry metric tons placed on the active sewage sludge unit per 365-day period;

(C) The total dry metric tons placed on the active sewage sludge unit over the life of the unit;

(D) A description of any liner for the active sewage sludge unit, including whether it has a maximum permeability of 1×10^{-7} cm/sec;

(E) A description of any leachate collection system for the active sewage sludge unit, including the method used for leachate disposal, and any Federal, State, and local permit number(s) for leachate disposal;

(F) If the active sewage sludge unit is less than 150 meters from the property line of the surface disposal site, the actual distance from the unit boundary to the site property line;

(G) The remaining capacity (dry metric tons) for the active sewage sludge unit;

(H) The date on which the active sewage sludge unit is expected to close, if such a date has been identified;

(I) The following information for any other facility that sends sewage sludge to the active sewage sludge unit:

(*1*) The name, contact person, and mailing address of the facility; and

(*2*) Available information regarding the quality of the sewage sludge received from the facility, including any treatment at the facility to reduce pathogens or vector attraction characteristics;

(J) Whether any of the vector attraction reduction options of 40 CFR 503.33(b)(9) through (b)(11) is met at the active sewage sludge unit, and a description of any procedures employed at the time of disposal to reduce vector attraction properties in sewage sludge;

(K) The following information, as applicable to any ground-water monitoring occurring at the active sewage sludge unit:

(*1*) A description of any ground-water monitoring occurring at the active sewage sludge unit;

(*2*) Any available ground-water monitoring data, with a description of the well locations and approximate depth to ground water;

(*3*) A copy of any ground-water monitoring plan that has been prepared for the active sewage sludge unit; and

(*4*) A copy of any certification that has been obtained from a qualified ground-water scientist that the aquifer has not been contaminated; and

(L) If site-specific pollutant limits are being sought for the sewage sludge placed on this active sewage sludge unit, information to support such a request;

(11) *Incineration.* If sewage sludge from the applicant's facility is fired in a sewage sludge incinerator, the applicant shall provide the following information:

(i) The total dry metric tons of sewage sludge from the applicant's facility that is fired in sewage sludge incinerators per 365-day period;

(ii) The following information for each sewage sludge incinerator firing the applicant's sewage sludge that the applicant does *not* own or operate:

(A) The name and/or number, contact person, mailing address, and telephone number of the sewage sludge incinerator; and

(B) The total dry metric tons from the applicants facility per 365-day period fired in the sewage sludge incinerator;

(iii) The following information for each sewage sludge incinerator that the applicant owns or operates:

(A) The name and/or number and the location of the sewage sludge incinerator;

(B) The total dry metric tons per 365-day period fired in the sewage sludge incinerator;

(C) Information, test data, and documentation of ongoing operating parameters indicating that compliance with the National Emission Standard for Beryllium in 40 CFR part 61 will be achieved;

(D) Information, test data, and documentation of ongoing operating parameters indicating that compliance with the National Emission Standard for Mercury in 40 CFR part 61 will be achieved;

(E) The dispersion factor for the sewage sludge incinerator, as well as modeling results and supporting documentation;

(F) The control efficiency for parameters regulated in 40 CFR 503.43, as well as performance test results and supporting documentation;

(G) Information used to calculate the risk specific concentration (RSC) for chromium, including the results of incinerator stack tests for hexavalent and total chromium concentrations, if the applicant is requesting a chromium limit based on a site-specific RSC value;

(H) The concentration (ppm) of total hydrocarbons (THC) or Carbon Monoxide (CO) in the exit gas for the sewage sludge incinerator, as well as supporting documentation, both before and after correction for zero percent moisture and correction to seven percent oxygen as required in 40 CFR 503.44;

(I) The oxygen concentration in the sewage sludge incinerator stack exit gas;

(J) Information used to determine the moisture content of the sewage sludge incinerator stack exit gas;

(K) The type of sewage sludge incinerator;

(L) The combustion temperature, as obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies;

(M) The following information on sewage sludge feed rate:

(*1*) Sewage sludge feed rate in dry metric tons per day:

(*2*) Identification of whether the feed rate submitted is average use or maximum design; and

(*3*) A description of how the feed rate was calculated;

(N) The incinerator stack height in meters for each stack, including identification of whether actual or creditable stack height was used;

(O) The operating parameters for the sewage sludge incinerator air pollution control device(s), as obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies;

(P) Identification of the monitoring equipment in place, including (but not limited to) equipment to monitor the following:

(*1*) Total hydrocarbons or Carbon Monoxide;

(*2*) Percent oxygen;

(*3*) Percent moisture; and

(*4*) Combustion temperature; and

(Q) A list of all air pollution control equipment used with this sewage sludge incinerator;

(12) *Disposal in a municipal solid waste landfill.* If sewage sludge from the applicant's facility is sent to a municipal solid waste landfill (MSWLF), the applicant shall provide the following information for each MSWLF to which sewage sludge is sent:

(i) The name, contact person, mailing address, location, and all applicable permit numbers of the MSWLF;

(ii) The total dry metric tons per 365-day period sent from this facility to the MSWLF;

(iii) A determination of whether the sewage sludge meets applicable requirements for disposal of sewage sludge in a MSWLF, including the results of the paint filter liquids test and any additional requirements that apply on a site-specific basis; and

(iv) Information, if known, indicating whether the MSWLF complies with criteria set forth in 40 CFR Part 258;

(13) *Contractors.* All applicants shall provide the name, mailing address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility;

(14) *Other information.* At the request of the permitting authority, the applicant shall provide any other information necessary to determine the appropriate standards for permitting under 40 CFR part 503, and shall provide any other information necessary to assess the sewage sludge use and disposal practices, determine whether to issue a permit, or identify appropriate permit requirements; and

(15) *Signature.* All applications shall be signed by a certifying official in compliance with § 122.22.

7. Part 122 is amended by adding Appendix J to read as follows:

Appendix J to Part 122—NPDES Permit Testing Requirements for Publicly Owned Treatment Works (§ 122.21(j)) and Treatment Works Treating Domestic Sewage (§ 122.21(q))

Table 1—Effluent Parameters for All POTWS

Ammonia (as N)
Biochemical oxygen demand (BOD–5 or CBOD–5)
Chlorine (total residual, TRC)
Dissolved oxygen
E. Coli
Enterococci
Fecal coliform
Flow Rate
Hardness (as $CaCO_3$)
Kjeldahl nitrogen
Nitrate/Nitrite
Oil and grease
pH
Phosphorus
Temperature
Total dissolved solids
Total suspended solids

Table 2—Effluent and Sewage Sludge Parameters for Selected POTWS and Treatment Works Treating Domestic Sewage

Metals (Total Recoverable), Cyanide and Total Phenols

Antimony
7440–36–0
Arsenic
7440–38–2
Beryllium
7440–41–7
Cadmium
7440–43–9
Chromium
7440–47–3
Copper
7440–50–8
Lead
7439–92–1
Mercury
7439–97–6
Nickel
7440–02–0
Selenium
7782–49–2
Silver
7440–22–4
Thallium
7440–28–0
Zinc
7440–66–6
Cyanide
57–12–5
Phenols, total

Volatile Organic Compounds

Acrolein
107–02–8
Acrylonitrile
107–13–1
Benzene
271–43–2
Bromoform
75–25–2
Carbon tetrachloride
56–23–5
Chlorobenzene
108–90–7
Chlorodibromomethane
124–48–1
Chloroethane
75–00–3
2-chloroethylvinyl ether
110–75–8
Chloroform
67–66–3
Dichlorobromomethane
75–27–4
1,1-dichloroethane
75–34–3
1,2-dichloroethane
107–06–2
Trans-1,2-dichloroethylene
156–60–5
1,1- dichloroethylene
75–35–4
1,2-dichloropropane
78–87–5
1,3-dichloropropene
542–75–6
Ethylbenzene
100–41–4
Methyl bromide
74–83–9
Methyl chloride
74–87–3
Methylene chloride
75–09–2
1,1,2,2-tetrachloroethane
630–20–6
Tetrachloroethylene
127–18–4
Toluene
108–88–3
1,1,1-trichloroethane
71–55–6
1,1,2-trichloroethane
79–00–5
Trichloroethylene
79–01–6
Vinyl chloride
75–01–4

Acid-extractable compounds

P-chloro-m-cresol
59–50–7
2-chlorophenol
95–57–8
2,4-dichlorophenol
120–83–2
222,4-dimethylphenol
105–67–9
4,6-dinitro-o-cresol
534–52–1
2,4-dinitrophenol
51–28–5
2-nitrophenol
887–5–5
4-nitrophenol
100–02–7
Pentachlorophenol
87–86–5
Phenol
108–295–2
2,4,6-trichlorophenol
88–06–2

Base-Neutral Compounds

Acenaphthene
83–32–9
Acenaphthylene
208–96–8
Anthracene
120–12–7
Benzidine
92–87–5
Benzo(a)anthracene
56–55–3
Benzo(a)pyrene
50–32–8
3,4 benzofluoranthene
205–99–2
Benzo(ghi)perylene
191–24–2
Benzo(k)fluoranthene
207–08–9
Bis (2-chloroethoxy) methane
111–91–1
Bis (2-chloroethyl) ether
111–44–4
Bis (2-chloroisopropyl ether
108–60–1
Bis (2-ethylhexyl) phthalate
117–81–7
4-bromophenyl phenyl ether
101–55–3
Butyl benzyl phthalate
85–68–7
2-chloronaphthalene
91–58–7
4-chlorophenyl phenyl ether
7005–72–3
Chrysene
218–01–9
Di-n-butyl phthalate
84–74–2
Di-n-octyl phthalate
117–84–0
Dibenzo(a,h)anthracene
53–70–3
1,2-dichlorobenzene
95–50–1
1,3-dichlorobenzene
541–73–1
1,4-dichlorobenzene
106–46–7
3,3'-dichlorobenzidine
91–94–1
Diethyl phthalate
84–66–2
Dimethyl phthalate
131–11–3
2,4-dinitrotoluene
121–14–2
2,6-dinitrotoluene
606–20–2
1,2-diphenylhydrazine
122–66–7
Fluoranthene
206–44–0
Fluorene
86–73–7
Hexachlorobenzene
118–74–1
Hexachlorobutadiene
87–68–3
Hexachlorocyclopentadiene
77–47–4
Hexachloroethane
67–72–1
Indeno(1,2,3-cd)pyrene
193–39–5
Isophorone
78–59–1
Naphthalene
91–20–3
Nitrobenzene
98–95–3
N-nitrosodi n-propylamine
621–64–7
N-nitrosodimethylamine
62–75–9
N-nitrosodiphenylamine
86–30–6
Phenanthrene
85–01–8
Pyrene
129–00–0
1,2,4,-trichlorobenzene
120–82–1

Table 3—Other Effluent and Sewage Sludge Parameters for Treatment Works Treating Domestic Sewage and Selected POTWS

Metals

Molybdenum
7439–98–7

Pesticides

Aldrin
309–00–2
Alpha-BHC
319–84–6
Beta-BHC
319–85–7
Delta-BHC
319–86–8
Gamma-BHC
58–85–9
Chlordane
57–74–9
4,4'–DDD
72–54–8
4,4'–DDE
72–55–9
4,4'–DDT
50–29–3
Dieldrin
60–57–1
Alpha-endosulfan
959–98–8
Beta-endosulfan
33213–65–9
Endosulfan sulfate
1031–07–8
Endrin
72–20–8
Endrin aldehyde
7421–93–4
Heptachlor
76–44–8
Heptachlor epoxide
1024–57–3
PCB–1016 (Aroclor 1016)
12674–11–2
PCB–1221 (Aroclor 1221)
11104–28–2
PCB–1232 (Aroclor 1232)
11141–16–5
PCB–1242 (Aroclor 1242)
53469–21–9
PCB–1248 (Aroclor 1248)
12672–29–6
PCB–1254 (Aroclor 1254)
11097–69–1
PCB–1260 (Aroclor 1260)
11096–82–5
Toxaphene
8001–35–2

Other

2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)
1746–01–6

PART 123—STATE PROGRAM REQUIREMENTS

8a. The authority citation for part 123 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 et seq.

8b. Section 123.25 is amended by revising paragraph (a)(4) to read as follows:

§ 123.25 Requirements for permitting.

(a) * * *

(4) Sections 122.21(a), (b), (c)(2), (e) through (k), (m) through (p), and (q)—(Application for a permit);

* * * * *

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

9. The authority citation for part 403 continues to read as follows:

Authority: Sec. 54(c)(2) of the Clean Water Act of 1977, (Pub. L. 95–217) sections 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405, and 501(a) of the Federal Water Pollution Control Act (Pub. L. 92–500) as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987 (Pub. L. 100–4).

10. Section 403.8 is amended by revising paragraph (f)(4) to read as follows:

§ 403.8 Pretreatment Program Requirements: Development and implementation by POTW.

* * * * *

(f) * * *

(4) The POTW shall:

(i) Develop local limits as required in § 403.5(c)(1), or demonstrate that they are not necessary; and

(ii) Following permit issuance or reissuance, provide a written technical evaluation of the need to revise local limits under 40 CFR 403.5(c)(1).

* * * * *

PART 501—STATE SLUDGE MANAGEMENT PROGRAM REGULATIONS

11. The authority citation for part 501 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

12. Section 501.15 is amended by removing the reference "§ 501.15(a)(2)(ix)" in paragraphs (d)(4) introductory text, (d)(4)(i)(C), and (d)(5)(ii)(B) and adding in its place "§ 122.21(q)(9)(v)", and by revising paragraph (a)(2) to read as follows:

§ 501.15 Requirements for permitting.

(a) * * *

(2) *Information requirements.* All treatment works treating domestic sewage shall submit to the Director the information listed at 40 CFR 122.21 (q) within the time frames established in paragraph (d)(1)(ii) of this section.

* * * * *

Note: The following form will not appear in the Code of Federal Regulations.

BILLING CODE 6560-50-P

Form Approved
OMB Number
Approval Expires XX-XX-XX

EPA ID NUMBER:
(for official use only)

FACILITY NAME:

NPDES PERMIT NUMBER:

FORM 2A NPDES

BASIC APPLICATION INFORMATION

APPLICATION OVERVIEW

Form 2A has been developed in a modular format and consists of a "Basic Application Information" packet and a "Supplemental Application Information" packet. All applicants must complete the Basic Application Information packet. Some applicants also must complete portions of the Supplemental Application Information packet. To obtain the Supplemental Application Information packet, contact your permitting authority. The following items explain which parts of Form 2A you must complete.

BASIC APPLICATION INFORMATION:

All applicants must complete the Basic Application Information packet.

SUPPLEMENTAL APPLICATION INFORMATION:

A. Expanded Effluent Testing Data. A treatment works that discharges effluent to surface waters of the United States and meets one or more of the following criteria must complete Part A (Expanded Effluent Testing Data) of the Supplemental Application Information packet:

1. Has a design flow rate greater than or equal to 1 mgd, or
2. Is required to have a pretreatment program (or has one in place), or
3. Is otherwise required by the permitting authority to provide the information.

B. Toxicity Testing Data. A treatment works that meets one or more of the following criteria must complete Part B (Toxicity Testing Data) of the Supplemental Application Information packet:

1. Has a design flow rate greater than or equal to 1 mgd, or
2. Is required to have a pretreatment program (or has one in place), or
3. Is otherwise required by the permitting authority to submit results of toxicity testing.

C. Industrial User Discharges, Pretreatment, and RCRA/CERCLA Wastes. A treatment works that accepts process wastewater from any significant industrial users (SIUs) or receives RCRA or CERCLA wastes must complete Part C (Industrial User Discharges, Pretreatment and RCRA/CERCLA Wastes) of the Supplemental Application Information packet. SIUs are defined as:

1. All industrial users subject to Categorical Pretreatment Standards under 40 Code of Federal Regulations (CFR) 403.6 and 40 CFR Chapter I, Subchapter N (see instructions); and
2. Any other industrial user that:
   a. Discharges an average of 25,000 gallons per day or more of process wastewater to this treatment works (with certain exclusions); or
   b. Contributes a process wastestream that makes up 5 percent or more of the average dry weather hydraulic or organic capacity of this treatment plant; or
   c. Is designated as a SIU by the control authority.

Refer to the instructions for further explanation.

D. Combined Sewer Systems. A treatment works that has a combined sewer system must complete Part D (Combined Sewer Systems) of the Supplemental Application Information packet.

ALL APPLICANTS MUST COMPLETE THE CERTIFICATION ON PAGE 7.

FACILITY NAME:	NPDES PERMIT NUMBER:	EPA ID NUMBER: (for official use only)	Form Approved OMB Number Approval Expires XX-XX-XX

TREATMENT WORKS:

All treatment works must complete this Basic Application information packet.

1. **Facility Information.**

   Facility name _____

   Mailing address _____

   _____

   Contact person _____

   Title _____

   Phone number _____

   Facility address (not P.O. Box) _____

   _____

2. **Applicant Information.** If the applicant is different from the above, provide the following:

   Applicant name _____

   Mailing address _____

   _____

   Contact person _____

   Title _____

   Phone number _____

   Is the applicant the owner or operator (or both) of this treatment works?

   ___ owner ___ operator ___ other (describe) _____

   Indicate whether correspondence regarding this permit should be directed to the facility or the applicant.

   ___ facility ___ applicant

3. **Existing Environmental Permits.** Provide the permit number of any existing environmental permits that have been issued to your facility (include state-issued permits).

   NPDES _____ PSD _____

   UIC _____ Other _____

   RCRA _____ Other _____

4. **Population.** List the municipalities or areas served (municipalities and incorporated service areas). Also list their populations or the total population served.

Name	Population Served

   Total population served _____

5. **Flow.** Indicate the design influent flow rate of your treatment plant (i.e., the wastewater flow rate that your plant was built to handle). Also provide the average daily flow rate and maximum daily flow rate for each of the last three years. Each year's data must be based on a 12-month time period, with the 12th month of "this year" occurring no more than three months prior to this application submittal.

   a. Design maximum daily influent flow rate _____ mgd

	Two Years Ago	Last Year	This Year	
b. Annual average daily flow rate	_____	_____	_____	mgd
c. Maximum daily flow rate	_____	_____	_____	mgd

6. **Collection System.** Indicate the type(s) of collection system(s) flowing into this treatment plant. Check all that apply. Also estimate the percent contribution (by miles) of each.

   ___ Separate sanitary sewer _____ %

   ___ Combined storm and sanitary sewer _____ %

7. **Inflow and Infiltration.** Estimate the average number of gallons per day that flow into the treatment works from inflow and/or infiltration.

   _____ gpd

   Briefly explain any steps underway or planned to minimize inflow and infiltration.

   _____

   _____

   _____

8. **Topographic Map.** Attach to this application a topographic map of the area extending at least one mile beyond property boundaries. This map must show the outline of the facility and the following information. (You may submit more than one map if one map does not show the entire area.)

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8. **Topographic Map** (cont'd)

   a. The area surrounding the treatment plant, including all unit processes.

   b. The pipes or other structures through which wastewater enters the treatment works and the pipes or other structures through which treated wastewater is discharged from the treatment plant. Include outfalls from bypass piping, if applicable.

   c. Each well where wastewater from the treatment plant is injected underground.

   d. Wells, springs, other surface water bodies, and drinking water wells that are: 1) within 1/4 mile of the property boundaries of the treatment works, and 2) listed in public record or otherwise known to the applicant.

   e. Any areas where the sewage sludge produced by the treatment works is stored, treated, or disposed.

   f. If the treatment works receives waste that is classified as hazardous under the Resource Conservation and Recovery Act (RCRA) by truck, rail, or special pipe, show on the map where that hazardous waste enters the treatment works and where it is treated, stored, and/or disposed.

9. **Process Flow Diagram or Schematic.** Provide a diagram showing the processes of the treatment plant, including all bypass piping. Also provide a water balance showing all treatment units, including disinfection (e.g., chlorination and dechlorination). The water balance must show daily average flow rates at influent and discharge points and approximate daily flow rates between treatment units. Include a brief narrative description of the diagram. An example of a typical diagram is shown in Figure A of the instructions.

10. **Bypass.** Does your treatment plant have the ability to bypass untreated or partially treated wastewater?

    ___ Yes ___ No

    If no, answer only part e.

    a. How many times in the past 12 months has your treatment plant bypassed untreated or partially treated wastewater?

       Wet weather _____ incidents (____ actual or ____ approx.)

       Dry weather _____ incidents (____ actual or ____ approx.)

    b. What was the average duration per bypass incident?

       Wet weather _____ hours (____ actual or ____ approx.)

       Dry weather _____ hours (____ actual or ____ approx.)

    c. What was the average volume per bypass incident?

       Wet weather _____ million gallons (____ actual or ____ approx.)

       Dry weather _____ million gallons (____ actual or ____ approx.)

    d. Briefly explain why bypass occurs at your treatment plant.

       _____

10. **Bypass.** (cont'd)

    e. Does your treatment plant have backup generators to allow plant operation and treatment to continue during power outages?

       ___ Yes ___ No

11. **Discharges and Other Disposal Methods.**

    a. Does your treatment works discharge effluent to waters of the U.S.? ["Waters of the U.S." are defined in the instructions.]

       ___ Yes ___ No

       If yes, list how many of each of the following types of discharge points your treatment works uses:

       Discharges of treated effluent _____

       Discharges of untreated or partially treated effluent (bypass points) _____

       Combined sewer overflow points _____

       Other _____ _____

    b. Does your treatment works discharge effluent to basins, ponds, or other surface impoundments that do not have outlets for discharge to waters of the U.S.?

       ___ Yes ___ No

       If yes, provide the following for each surface impoundment:

       Location of each surface impoundment(s) _____

       _____

       Annual average daily volume discharged to surface impoundment(s) _____

       Is discharge ____ continuous or _____ intermittent?

    c. Does your treatment works land-apply treated wastewater?

       ___ Yes ___ No

       If yes, provide the following for each land application site:

       Location _____

       _____

       Number of acres _____

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11. Discharges and Other Disposal Methods. (cont'd.)

Annual average daily volume applied to site _____

Is land application _____ continuous or _____ intermittent?

d. Does your treatment works discharge or transport treated or untreated wastewater to another treatment works?

____ Yes ____ No

Describe the mean(s) by which the wastewater from your treatment works is discharged or transported to the other treatment works (e.g., tank truck, pipe).

_____

_____

If transport is by a party other than the applicant, provide:

Transporter name _____

Mailing address _____

_____

Contact person _____

Title _____

Phone number _____

For each treatment works that receives this discharge, provide the following:

Name _____

Mailing address _____

_____

Contact person _____

Title _____

Phone number _____

If known, provide the NPDES permit number of the treatment works that receives this discharge.

_____

11. Discharges and Other Disposal Methods. (cont'd.)

Provide the average daily flow rate from your treatment works into the receiving facility.

_____ mgd

e. Does your treatment works include combined sewer overflows?

____ Yes ____ No

If yes, also complete Part D of the Supplemental Application Information packet.

f. Does your treatment works discharge or dispose of its wastewater in a manner not included in 11.a. - 11.e. above (e.g., underground percolation, well injection)?

____ Yes ____ No

If yes, provide the following for each disposal method:

Description of method (including location and size of site(s) if applicable):

_____

_____

Annual daily volume disposed of by this method: _____

Is disposal through this method ____ continuous or ____ intermittent?

12. Federal Indian Reservation.

a. Is your treatment works located on a Federal Indian Reservation?

____ Yes ____ No

b. Does your treatment works discharge to a receiving water that is either on a Federal Indian Reservation or that is upstream from (and eventually flows through) a Federal Indian Reservation?

____ Yes ____ No

c. If the answer to 12.a. or 12.b. is "Yes," briefly describe.

_____

_____

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13. Operation/Maintenance Performed by Contractor(s).

Are any operational or maintenance aspects (related to wastewater treatment and effluent quality) of your treatment works the responsibility of a contractor?

____Yes ____ No

If yes, list the name, address, telephone number and status of each contractor and describe the contractor's responsibilities (attach additional pages if necessary).

Name _____

Mailing address _____

_____

Telephone number _____

Responsibilities of contractor _____

_____

14. Scheduled Improvements, Schedules of Implementation. Provide information on any uncompleted implementation schedule or uncompleted plans for improvements that will affect the wastewater treatment, effluent quality, or design capacity of your treatment works. If your treatment works has several different implementation schedules or is planning several improvements, submit separate responses to question 14 for each. (If none, go to the directions at the bottom of this page.)

a. List the outfall number (assigned in question 15) for each outfall that is covered by this implementation schedule.

_____

b. Indicate whether the planned improvements or implementation schedule are:

Required by local, state, or Federal agencies.

____ Yes ____ No

14. Scheduled Improvements, Schedules of Implementation. (cont'd.)

Planned independently of any requirement of local, state, or Federal agencies.

____ Yes ____ No

c. Provide a narrative description of each improvement required or planned for outfall(s) listed in 14.a.

_____

_____

d. Provide the proposed new maximum daily influent design flow rate (if applicable).

_____ mgd

e. Provide dates imposed by any compliance schedule or any actual dates of completion for the implementation steps listed below, as applicable. For improvements planned independently of local, state, or Federal agencies, indicate planned or actual completion dates, as applicable. Indicate dates as accurately as possible.

Implementation Stage	Schedule MO / DY / YR	Actual Completion MO / DY / YR
- Begin construction	___/___/___	___/___/___
- End construction	___/___/___	___/___/___
- Begin discharge	___/___/___	___/___/___
- Attain operational level	___/___/___	___/___/___

f. Have appropriate permits/clearances concerning other Federal/state requirements been obtained?

____ Yes ____ No

Describe briefly.

_____

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IF THIS TREATMENT WORKS DISCHARGES EFFLUENT TO WATERS OF THE UNITED STATES (AS DEFINED IN THE INSTRUCTIONS), GO TO QUESTION 15.

IF THIS TREATMENT WORKS DOES NOT DISCHARGE EFFLUENT TO WATERS OF THE UNITED STATES (AS DEFINED IN THE INSTRUCTIONS), DO NOT COMPLETE QUESTIONS 15-18. INSTEAD, GO TO QUESTION 19 (CERTIFICATION STATEMENT).

NOTE: You may also be required to complete portions of the Supplemental Application Information packet. See the Application Overview for more information.

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WASTEWATER DISCHARGES:

Complete questions 15-17 once for each outfall (including bypass points) through which effluent is discharged. Do not include information on combined sewer overflows in this section.

15. Description of Outfall.

a. Outfall number _____

b. Location _____ (City or town, if applicable) (Zip Code)

_____ (County) (State)

_____ (Latitude) (Longitude)

c. Distance from shore (if applicable) _____ ft.

d. Depth below surface (if applicable) _____ ft.

e. Average daily flow rate _____ mgd

f. Is outfall either an intermittent or a periodic discharge?

___ Yes ___ No (go to 15.g.) If yes, provide the following information:

Number of times/year discharge occurs _____

Average duration of each discharge _____

Average flow per discharge _____ mgd

Months in which discharge occurs _____

g. Is outfall equipped with a diffuser? ___ Yes ___ No

If so, describe diffuser type (e.g., high-rate) _____

16. Description of Receiving Waters.

a. Type: ___ Stream/River ___ Estuary ___ Lake

___ Ocean ___ Other: _____

b. Name of receiving water: _____

c. Name of watershed/river/stream system: _____

United States Soil Conservation Service 14-digit watershed code (if known):

_____

16. Description of Receiving Waters. (cont'd.)

d. Name of State Management/River Basin (if known): _____

United States Geological Survey 8-digit hydrologic cataloging unit code (if known):

_____

e. Critical low flow of receiving stream (if applicable).

acute _____ cfs chronic _____ cfs

f. Total hardness of receiving stream at critical low flow (if applicable).

_____ mg/l of $CaCO_3$

17. Description of Treatment.

a. What is the highest level of treatment (if any) provided for the discharge from this outfall?

___ Primary ___ Secondary ___ Equivalent to secondary

___ Advanced ___ Other. Describe: _____

b. Indicate the following removal rates (as applicable):

Design BOD_5 removal or _____ %

Design $CBOD_5$ removal _____ %

Design SS removal _____ %

Design P removal _____ %

Design N removal _____ %

Other _____ _____ %

c. What type of disinfection is used for the effluent from this outfall? If disinfection varies by season, please describe.

_____

If disinfection is by chlorination, is dechlorination used for this outfall?

___ Yes ___ No

d. Does the treatment plant have post aeration? ___ Yes ___ No

DRAFT FOR FINAL USE

EPA Form 3510-2A (Rev. 9-95). Replaces EPA Forms 7550-6 & 7550-22.

FACILITY NAME:	NPDES PERMIT NUMBER:	EPA ID NUMBER: (for official use only)

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EFFLUENT TESTING DATA:

All treatment works that discharge effluent to waters of the United States must complete question 18.

18. Effluent Testing Information: Conventional and Nonconventional Pollutants. All applicants that discharge to waters of the United States must provide effluent testing data for the following pollutants. Provide the indicated effluent testing information required by the permitting authority for each outfall through which effluent is discharged. Do not include information on combined sewer overflows in this section. All information reported must be based on data collected through analyses conducted using 40 CFR Part 136 methods. In addition, this data must comply with QA/QC requirements of 40 CFR Part 136 and other appropriate QA/QC requirements for standard methods for analytes not addressed by 40 CFR Part 136. At a minimum, effluent testing data must be based on at least three pollutant scans. Refer to the instructions for further explanation and for specific pollutant scan requirements.

Outfall number: _____ (Complete question 18 once for each outfall discharging effluent to waters of the United States.)

PARAMETER	MAXIMUM DAILY VALUE		AVERAGE DAILY VALUE		
	Value	Units	Value	Units	Number of Samples
pH (Min/Max)					
Flow Rate					
Temperature (Winter)					
Temperature (Summer)					

POLLUTANT / CAS REGISTRY NUMBER	MAXIMUM DAILY DISCHARGE				AVERAGE DAILY DISCHARGE					ANALYTICAL METHOD	ML / MDL
	Conc.	Units	Mass	Units	Conc.	Units	Mass	Units	Number of Samples		
CONVENTIONAL AND NONCONVENTIONAL COMPOUNDS.											
AMMONIA (as N)											
BIOCHEMICAL OXYGEN DEMAND (Report one) BOD-5											
CBOD-5											
CHLORINE (TOTAL RESIDUAL, TRC)											
DISSOLVED OXYGEN											
E. COLI											
ENTEROCOCCI											
FECAL COLIFORM											
HARDNESS (as $CACO_3$)											
KJELDAHL NITROGEN											
NITRATE/NITRITE											
OIL and GREASE											
PHOSPHORUS (Total)											
TOTAL DISSOLVED SOLIDS (TSD)											
TOTAL SUSPENDED SOLIDS (TSS)											
OTHER											

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EPA Form 3510-2A (Rev. 9-95). Replaces EPA Forms 7550-6 & 7550-22.

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CERTIFICATION:

All applicants must complete the Certification section. (Refer to instructions to determine who is an officer for the purposes of this certification.) All applicants must complete all applicable sections of Form 2A, as explained in the Application Overview. Indicate below which parts of Form 2A you have completed and are submitting. By signing this certification statement, applicants confirm that they have reviewed Form 2A and have completed all sections that apply to the facility for which this application is submitted.

19. Indicate which parts of Form 2A you have completed and are submitting:

☐ Basic Application Information packet

Supplemental Application Information packet:

☐ Part A (Expanded Effluent Testing Data)

☐ Part B (Toxicity Testing; Biomonitoring Data)

☐ Part C (Industrial User Discharges, Pretreatment, and RCRA/CERCLA Wastes)

☐ Part D (Combined Sewer Systems)

ALL APPLICANTS MUST COMPLETE THE FOLLOWING CERTIFICATION.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name and official title _____

Signature _____

Phone number _____

Date signed _____

Upon request of the permitting authority, you must submit any other information necessary to assess wastewater treatment practices at your treatment works or identify appropriate permitting requirements.

Send this completed application to:

Send information concerning permit fee to:

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FORM 2A NPDES

SUPPLEMENTAL APPLICATION INFORMATION

APPLICATION OVERVIEW

Form 2A has been developed in a modular format and consists of a "Basic Application Information" packet and a "Supplemental Application Information" packet. All applicants must complete the Basic Application Information packet. Some applicants also must complete portions of the Supplemental Application Information packet. To obtain the Supplemental Application Information packet, contact your permitting authority. The following items explain which parts of Form 2A you must complete.

BASIC APPLICATION INFORMATION:

All applicants must complete the Basic Application Information packet.

SUPPLEMENTAL APPLICATION INFORMATION:

A. Expanded Effluent Testing Data. A treatment works that discharges effluent to surface waters of the United States and meets one or more of the following criteria must complete Part A (Expanded Effluent Testing Data) of the Supplemental Application Information packet:

1. Has a design flow rate ≥ 1 mgd, or
2. Is required to have a pretreatment program (or has one in place), or
3. Is otherwise required by the permitting authority to provide the information.

B. Toxicity Testing Data. A treatment works that meets one or more of the following criteria must complete Part B (Toxicity Testing Data) of the Supplemental Application Information packet:

1. Has a design flow rate ≥ 1 mgd, or
2. Is required to have a pretreatment program (or has one in place), or
3. Is otherwise required by the permitting authority to submit results of toxicity testing.

C. Industrial User Discharges, Pretreatment, and RCRA/CERCLA Wastes. A treatment works that accepts process wastewater from any significant industrial users (SIUs) or receives RCRA or CERCLA wastes must complete Part C (Industrial User Discharges, Pretreatment and RCRA/CERCLA Wastes) of the Supplemental Application Information packet. SIUs are defined as:

1. All industrial users subject to Categorical Pretreatment Standards under 40 Code of Federal Regulations (CFR) 403.6 and 40 CFR Chapter I, Subchapter N (see instructions); and
2. Any other industrial user that:
   a. Discharges an average of 25,000 gallons per day or more of process wastewater to this treatment works (with certain exclusions); or
   b. Contributes a process wastestream that makes up 5 percent or more of the average dry weather hydraulic or organic capacity of this treatment plant; or
   c. Is designated as a SIU by the control authority.

Refer to the instructions for further explanation.

D. Combined Sewer Systems. A treatment works that has a combined sewer system must complete Part D (Combined Sewer Systems) of the Supplemental Application Information packet.

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REMINDER: MAKE SURE YOU SIGN THE CERTIFICATION ON PAGE 7 OF THE BASIC APPLICATION INFORMATION PACKET.

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FORM 2A NPDES

PART A. EXPANDED EFFLUENT TESTING DATA

Refer to the directions on the cover page to determine whether this section applies to your treatment works. If you complete Part A, you must also complete questions 19 and 19 of the Basic Application Information packet.

Effluent Testing: 1 mgd and Pretreatment Treatment Works. If your treatment works has a design capacity greater than or equal to 1 mgd or it has (or is required to have) a pretreatment program, or otherwise required by the permitting authority to provide the data, then provide effluent testing data for the following pollutants. Provide the indicated effluent testing information and any other information required by the permitting authority for each outfall through which effluent is discharged. Do not include information on combined sewer overflows in this section. All information reported must be based on data collected through analyses conducted using 40 CFR Part 136 methods. In addition, this data must comply with QA/QC requirements of 40 CFR Part 136 and other appropriate QA/QC requirements for standard methods for analytes not addressed by 40 CFR Part 136. Indicate in the blank rows provided below any data you may have on pollutants not specifically listed in this form. At a minimum, effluent testing data must be based on at least three pollutant scans. Refer to the instructions for further explanation and for specific pollutant scan requirements.

Outfall number: _____ (Complete question A.1 once for each outfall discharging effluent to waters of the United States.)

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POLLUTANT CAS REGISTRY NUMBER	MAXIMUM DAILY DISCHARGE				AVERAGE DAILY DISCHARGE					ANALYTICAL METHOD	ML / MDL
	Conc.	Units	Mass	Units	Conc.	Units	Mass	Units	Number of Samples		
METALS (TOTAL RECOVERABLE), CYANIDE, AND PHENOLS.											
ANTIMONY 7440-36-0											
ARSENIC 7440-38-2											
BERYLLIUM 7440-41-7											
CADMIUM 7440-43-9											
CHROMIUM 7440-47-3											
COPPER 7440-50-8											
LEAD 7439-92-1											
MERCURY 7439-97-6											
NICKEL 7440-02-0											
SELENIUM 7782-49-2											
SILVER 7440-22-4											

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Outfall number _____ (Complete question A.1. once for each outfall discharging effluent to waters of the United States.)

POLLUTANT CAS REGISTRY NUMBER	MAXIMUM DAILY DISCHARGE				AVERAGE DAILY DISCHARGE					ANALYTICAL METHOD	ML / MDL
	Conc.	Units	Mass	Units	Conc.	Units	Mass	Units	Number of Samples		
METALS (TOTAL RECOVERABLE), CYANIDE, AND PHENOLS. (cont'd)											
THALLIUM 7440-28-0											
ZINC 7440-66-6											
CYANIDE 57-12-5											
PHENOLS, TOTAL											
Use this space (or a separate sheet) to provide information on other metals requested by the permit writer.											
VOLATILE ORGANIC COMPOUNDS.											
ACROLEIN 107-02-08											
ACRYLONITRILE 107-13-1											
BENZENE 71-43-2											
BROMOFORM 75-25-2											
CARBON TETRACHLORIDE 56-23-5											
CHLOROBENZENE 108-90-7											
CHLORODIBROMOMETHANE 124-48-1											
CHLOROETHANE 75-00-3											
2-CHLOROETHYLVINYL ETHER 110-75-8											
CHLOROFORM 67-66-3											
DICHLOROBROMOMETHANE 75-27-4											
1,1-DICHLOROETHANE 75-34-3											
1,2-DICHLOROETHANE 107-06-2											
TRANS-1,2-DICHLORO-ETHYLENE 156-60-5											

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Outfall number _____ (Complete question A.1. once for each outfall discharging effluent to waters of the United States.)

POLLUTANT CAS REGISTRY NUMBER	MAXIMUM DAILY DISCHARGE				AVERAGE DAILY DISCHARGE					ANALYTICAL METHOD	ML / MDL
	Conc.	Units	Mass	Units	Conc.	Units	Mass	Units	Number of Samples		
VOLATILE ORGANIC COMPOUNDS. (cont'd)											
1,1- DICHLOROETHYLENE 75-35-4											
1,2-DICHLOROPROPANE 78-87-5											
1,3-DICHLOROPROPENE 542-75-6											
ETHYLBENZENE 100-41-4											
METHYL BROMIDE 74-83-9											
METHYL CHLORIDE 74-87-3											
METHYLENE CHLORIDE 75-09-2											
1,1,2,2-TETRACHLOROETHANE 79-34-5											
TETRACHLOROETHYLENE 127-18-4											
TOLUENE 108-88-3											
1,1,1-TRICHLOROETHANE 71-55-6											
1,1,2-TRICHLOROETHANE 79-00-5											
TRICHLOROETHYLENE 79-01-6											
VINYL CHLORIDE 75-01-4											
Use this space (or a separate sheet) to provide information on other volatile organic compounds requested by the permit writer.											
ACID-EXTRACTABLE COMPOUNDS.											
P- CHLORO-M-CRESOL 59-50-7											
2-CHLOROPHENOL 95-57-8											
2,4-DICHLOROPHENOL 120-83-2											
2,4- DIMETHYLPHENOL 105-67-9											

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Outfall number _____ (Complete question A.1. once for each outfall discharging effluent to waters of the United States.)

POLLUTANT CAS REGISTRY NUMBER	MAXIMUM DAILY DISCHARGE				AVERAGE DAILY DISCHARGE					ANALYTICAL METHOD	ML / MDL
	Conc.	Units	Mass	Units	Conc.	Units	Mass	Units	Number of Samples		
ACID-EXTRACTABLE COMPOUNDS. (cont'd)											
4,6-DINITRO-O-CRESOL 534-52-1											
2,4- DINITROPHENOL 51-28-5											
2-NITROPHENOL 88-75-5											
4-NITROPHENOL 100-02-7											
PENTACHLOROPHENOL 87-86-5											
PHENOL 108-95-2											
2,4,6-TRICHLOROPHENOL 88-06-2											
Use this space (or a separate sheet) to provide information on other acid-extractable compounds requested by the permit writer.											
BASE-NEUTRAL COMPOUNDS.											
ACENAPHTHENE 83-32-9											
ACENAPHTHYLENE 208-96-8											
ANTHRACENE 120-12-7											
BENZIDINE 92-87-5											
BENZO(A)ANTHRACENE 56-55-3											
BENZO(A)PYRENE 50-32-8											
3,4 BENZOFLUORANTHENE 205-99-2											
BENZO(GHI)PERYLENE 191-24-2											
BENZO(K)FLUORANTHENE 207-08-9											
BIS (2-CHLOROETHOXY) METHANE / 111-91-1											
BIS (2-CHLOROETHYL) ETHER /111-44-4											
BIS (2-CHLOROISOPROPYL ETHER /102-60-1											

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Outfall number _____ (Complete question A.1. once for each outfall discharging effluent to waters of the United States.)

POLLUTANT CAS REGISTRY NUMBER	MAXIMUM DAILY DISCHARGE				AVERAGE DAILY DISCHARGE					ANALYTICAL METHOD	ML / MDL
	Conc.	Units	Mass	Units	Conc.	Units	Mass	Units	Number of Samples		
BASE-NEUTRAL COMPOUNDS (cont'd)											
BIS (2-ETHYLHEXYL) PHTHALATE /117-81-7											
4-BROMOPHENYL PHENYL ETHER /101-55-3											
BUTYL BENZYL PHTHALATE 85-68-7											
2-CHLORONAPHTHALENE 91-58-7											
4-CHLOROPHENYL PHENYL ETHER / 7005-72-3											
CHRYSENE 218-01-9											
DI-N-BUTYL PHTHALATE 84-74-2											
DI-N-OCTYL PHTHALATE 117-84-0											
DIBENZO(A,H)ANTHRACENE 53-70-3											
1,2-DICHLOROBENZENE 95-50-1											
1,3-DICHLOROBENZENE 541-73-1											
1,4-DICHLOROBENZENE 106-46-7											
3,3'-DICHLOROBENZIDINE 91-94-1											
DIETHYL PHTHALATE 84-66-2											
DIMETHYL PHTHALATE 131-11-3											
2,4-DINITROTOLUENE 121-14-2											
2,6-DINITROTOLUENE 606-20-2											
1,2-DIPHENYLHYDRAZINE 122-66-7											
FLUORANTHENE 206-44-0											
FLUORENE 86-73-7											
HEXACHLOROBENZENE 118-74-1											
HEXACHLOROBUTADIENE 87-68-3											

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Outfall number _____ (Complete question A.1. once for each outfall discharging effluent to waters of the United States.)

POLLUTANT CAS REGISTRY NUMBER	MAXIMUM DAILY DISCHARGE				AVERAGE DAILY DISCHARGE					ANALYTICAL METHOD	ML / MDL
	Conc.	Units	Mass	Units	Conc.	Units	Mass	Units	Number of Samples		
BASE-NEUTRAL COMPOUNDS (cont'd)											
HEXACHLOROCYCLO-PENTADIENE/77-47-4											
HEXACHLOROETHANE 67-72-1											
INDENO(1,2,3-CD)PYRENE 193-39-5											
ISOPHORONE 78-59-1											
NAPHTHALENE 91-20-3											
NITROBENZENE 98-95-3											
N-NITROSODI N-PROPYLAMINE/621-64-7											
NI-NITROSODIMETHYLAMINE 62-75-9											
NI-NITROSODIPHENYLAMINE 86-30-6											
PENENANTHRENE 85-01-8											
PYRENE 129-00-0											
1,2,4-TRICHLOROBENZENE 120-82-1											

Use this space (or a separate sheet) to provide information on other base-neutral compounds requested by the permit writer.

Use this space (or a separate sheet) to provide information on other pollutants (e.g., pesticides) requested by the permit writer.

END OF PART A.
REFER TO THE APPLICATION OVERVIEW TO DETERMINE WHICH OTHER PARTS OF FORM 2A YOU MUST COMPLETE.

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FORM 2A NPDES

PART B. TOXICITY TESTING DATA

POTWs meeting one or more of the following criteria must provide the results of whole effluent toxicity tests for acute or chronic toxicity for each of the applicant's discharge points: 1) POTWs with a design influent flow rate equal to or greater than 1 mgd; or 2) POTWs with a pretreatment program (or those that are required to have one under 40 CFR Part 403); or 3) POTWs required by the permitting authority to submit data for these parameters.

- At a minimum, these results must include quarterly testing for a 12-month period within the past 5 years using multiple species (minimum of two species) and testing for acute and/or chronic toxicity, depending on the range of receiving water dilution. (See instructions.) Do not include information on combined sewer overflows in this section.
- In addition, submit the results of any other whole effluent toxicity tests from the past three years. If a whole effluent toxicity test conducted during the past three years revealed toxicity, provide any information on the cause of the toxicity or any results of a toxicity reduction evaluation, if one was conducted.
- If you have already submitted any of the information requested in Part B, you need not submit it again. Rather, provide the information requested in question B.6 for previously submitted information. If EPA methods were not used, report the reasons for using alternate methods. If test summaries are available that contain all of the information requested below, they may be submitted in place of Part B.

If no biomonitoring data are required, do not complete Part B. Refer to the Application Overview for directions on which other sections of the form to complete.

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B.1. Required Tests.

a. Indicate the number of whole effluent toxicity tests conducted in the past three years.

_____ chronic _____ _____ acute

B.2. Individual Test Data. Complete the following chart for each whole effluent toxicity test conducted in the last three years. Allow one column per test (where each species constitutes a test). Copy this page if more than 3 tests are being reported.

Test number: _____ Test number: _____ Test number: _____

a. Test information.

Test species			
Age at initiation of test			
Outfall number			
Dates sample collected			
Date test started			
Duration			

b. Give toxicity test methods followed.

Manual title			
Edition number and year of publication Page number(s)			

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B.2. Individual Test Data. (cont'd.)

Test number: _____ Test number: _____ Test number: _____

c. Give the sample collection method(s) used. For multiple grab samples, indicate the number of grab samples used.

24-Hour composite			
Grab			

d. Indicate where the sample was taken in relation to disinfection (check all that apply for each.)

Before disinfection			
After disinfection			
After dechlorination			

e. Describe the point in the treatment process at which the sample was collected.

Sample was collected:			

f. For each test, indicate whether the test was intended to assess chronic or acute toxicity.

Chronic toxicity			
Acute toxicity			

g. Provide the type of test performed.

Static			
Static-renewal			
Flow-through			

h. Source of dilution water. If laboratory water, specify type.

Laboratory water			
Receiving water			

i. Type of dilution water. If salt water, specify "natural" or type of artificial salt water used.

Fresh water			
Salt water			

j. Give the percentage effluent used for all concentrations in the test series.

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B.2. Individual Test Data. (cont'd.)

	Test number: _____	Test number: _____	Test number: _____
k. Parameters measured during the test. (Provide minimum/maximum)			
pH			
Salinity			
Temperature			
Ammonia			
Dissolved oxygen			
l. Test Results.			
Acute:			
Percent survival in 100% effluent	%	%	%
LC_{50}			
95% C.I.			
Other (describe)			
Chronic:			
NOEC			
IC_{25}			
Other (describe)			
m. Control responses.			
Control Mortality	%	%	%
Other (describe)			

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B.3. Toxicity Reduction Evaluation. Is your treatment works involved in a Toxicity Reduction Evaluation?

___ Yes ___ No

If yes, describe:

_____

_____

_____

B.4. Summary of Submitted Biomonitoring Test Information. If you have submitted biomonitoring test information, or information regarding the cause of toxicity, within the past three years, provide the dates the information was submitted to the permitting authority and a summary of the results.

Date submitted: _____

Summary of results: (see instructions)

_____

END OF PART B.
REFER TO THE APPLICATION OVERVIEW TO DETERMINE WHICH OTHER PARTS OF FORM 2A YOU MUST COMPLETE.

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FORM 2A NPDES

PART C. INDUSTRIAL USER DISCHARGES, PRETREATMENT, AND RCRA/CERCLA WASTES

All treatment works receiving discharges from significant industrial users or which receive RCRA or CERCLA wastes must complete Part C.

GENERAL INFORMATION:

C.1. Number of Significant Industrial Users and Categorical IUs. Provide the number of each of the following types of industrial users that discharge to your treatment works.

a. Number of non-categorical significant industrial users (SIUs). _____

b. Number of categorical industrial users. _____

C.2. Average Daily Flow from Industrial Users. Estimate the total average daily wastewater flow from all industrial users.

a. All industrial users. _____ mgd

b. Non-categorical SIUs only. _____ mgd

c. Categorical industrial users only. _____ mgd

C.3. Industrial User Contributions. Estimate the percent total influent contribution for each of the following:

All industrial users _____ %

Non-categorical SIUs only _____ %

Categorical industrial users only _____ %

Domestic sources only _____ %

C.4. Pretreatment Program. Does your treatment works have an approved pretreatment program?

___ Yes

___ No

If yes, have there been any substantial modifications to the treatment work's approved pretreatment program that have not been approved in accordance with 40 CFR 403.18?

___ Yes

___ No

If yes, identify on a separate piece of paper all substantial modifications that have not been approved.

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SIGNIFICANT INDUSTRIAL USER (SIU) INFORMATION

Supply the following information for each SIU. If more than one SIU discharges to your treatment works, copy questions C.5 – C.10 and provide the information requested for each SIU.

C.5. Significant Industrial User Information. Provide the name and address of each SIU discharging to your treatment works. (Submit additional pages as necessary.)

Name _____

Mailing address _____

_____

_____

C.6. Industrial Processes. Describe all of the industrial processes that affect or contribute to the SIU's discharge.

_____

_____

_____

C.7. Principal Product(s) and Raw Material(s).

Principal product(s):

_____

_____

Principal raw material(s):

_____

_____

C.8. Flow Rate.

a. Process wastewater flow rate. Indicate the average daily volume of process wastewater discharged into the collection system in gallons per day (gpd) and whether the discharge is continuous or intermittent.

_____ gpd (____ continuous or ____ intermittent)

b. Non-process wastewater flow rate. Indicate the average daily volume of non-process wastewater flow discharged into the collection system in gallons per day (gpd) and whether the discharge is continuous or intermittent.

_____ gpd (____ continuous or ____ intermittent)

C.9. Pretreatment Standards. Indicate whether the SIU is subject to the following:

a. Local limits ____ Yes ____ No

b. Categorical pretreatment standards ____ Yes ____ No

If subject to categorical pretreatment standards, which category and subcategory?

_____

_____

C.10. Problems at the Treatment Works Attributed to Waste Discharged by the SIU. Has the SIU caused or contributed to any problems (e.g., upsets, interference) at your treatment works in the past three years?

____ Yes ____ No

If yes, describe each episode.

_____

_____

_____

_____

_____

_____

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RCRA HAZARDOUS WASTE RECEIVED BY TRUCK, RAIL OR DEDICATED PIPELINE:

Note: You should have already indicated on the topographic map all points at which RCRA hazardous waste enters the treatment works by truck, rail, or dedicated pipe (question 8 of the Basic Application Information packet.).

C.11. RCRA Waste. Does your treatment works receive or has it in the past three years received RCRA hazardous waste by truck, rail, or dedicated pipe?

____ Yes

____ No (go to C.14.)

C.12. Waste Transport. Method by which RCRA waste is received (check all that apply):

_____ Truck _____ Rail _____ Dedicated Pipe

C.13. Waste Description. Give EPA hazardous waste number and amount (volume or mass, specify units).

EPA Hazardous Waste Number	Amount	Units

CERCLA (SUPERFUND) WASTEWATER AND RCRA REMEDIATION/CORRECTIVE ACTION WASTEWATER:

C.14. CERCLA Waste. Does your treatment works currently (or is it expected during the life of this permit that your treatment works will) receive waste from a CERCLA (Superfund) site remediation?

Current: _____ Yes (complete C.15. - C.17.) Future: ____ Yes (complete C.15. - C.17.)
_____ No ____ No

Provide a list of sites and the requested information (C.15. - C.17.) for each current and future site.

If no CERCLA waste is currently received and none is expected in the future, go to C.18.

C.15. Waste Origin. Describe the site and type of facility at which the CERCLA waste originates (or is expected to originate in the next five years), along with EPA ID numbers.

_____

_____

_____

_____

_____

_____

C.16. Pollutants. List the CERCLA pollutants that are received (or are expected to be received) include data on volume and concentration. (Attach additional sheets if necessary.)

_____

_____

_____

C.17. Waste Treatment.

a. Is this waste treated (or will it be treated) prior to entering your treatment works?

_____ Yes _____ No

If yes, describe the treatment (provide information about the removal efficiency):

_____

_____

b. Is the discharge (or will the discharge be) continuous or intermittent?

____ Continuous

____ Intermittent

If intermittent, describe discharge schedule.

_____

_____

_____

_____

_____

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C.18. RCRA Corrective Action Waste. Does your treatment works currently (or is it expected during the life of this permit that your treatment works will) receive wastes generated at a site undergoing RCRA corrective action?

Current:_____ Yes (complete C.19. - C.21.) Future: ____Yes (complete C.19. - C.21.)

_____ No ____ No

Provide a list of sites and the requested information (C.19. - C.21.) for each site.

If no RCRA corrective action waste is currently received and none is expected in the future, go to C.22.

C.19. Waste Origin. Describe the site and type of facility at which the RCRA Corrective Action Waste originates (or is expected to originate).

C.20. Pollutants. List the pollutants contained in RCRA corrective action waste that are received (or are expected to be received). Attach additional sheets if necessary.

C.21. Waste Treatment. Is this waste treated (or will it be treated) prior to entering your treatment works?

_____Yes _____No

If yes, describe the treatment, removal efficiency, and frequency of discharge.

Is the discharge (or will the discharge be) continuous or intermittent?

____ Continuous ____ Intermittent

If intermittent, describe discharge schedule.

C.22. Other Wastes from Remediation/Clean-up Sites. Describe any wastewaters received by the treatment works that are generated at a remediation/clean-up site not listed above (e.g., leaking underground tank remediation sites and state-mandated remediation sites):

END OF PART C.
REFER TO THE APPLICATION OVERVIEW TO DETERMINE WHICH OTHER PARTS OF FORM 2A YOU MUST COMPLETE.

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FORM 2A NPDES

PART D. COMBINED SEWER SYSTEMS

If your treatment works has a combined sewer system, complete Part D.

D.1. Combined Sewer Overflow (CSO) Discharge Points. Provide the number of CSO discharge points in the combined sewer system covered by this application.

_____

D.2. System Map. Provide a map indicating the following:

a. All CSO discharge points.

b. Sensitive use areas potentially affected by CSOs (e.g., beaches, drinking water supplies, shellfish beds, sensitive aquatic ecosystems, and outstanding natural resource waters).

c. Waters that support threatened and endangered species potentially affected by CSOs.

D.3. System Diagram. Provide a diagram, either in the map provided in D.2. or on a separate drawing, of the combined sewer collection system that includes the following information:

a. Locations of major sewer trunk lines, both combined and sanitary.

b. Locations of points where separate sanitary sewers feed into the combined sewer system.

c. Locations of in-line and off-line storage structures.

d. Locations of flow-regulating devices.

e. Locations of pump stations.

D.4. System Evaluation. List below studies that have been performed since the last permit application on the collection system. Include modeling studies, hydraulic studies, pest monitoring efforts, and facility plans.

Date	Title/Description	Author

GO TO D.5 ON NEXT PAGE

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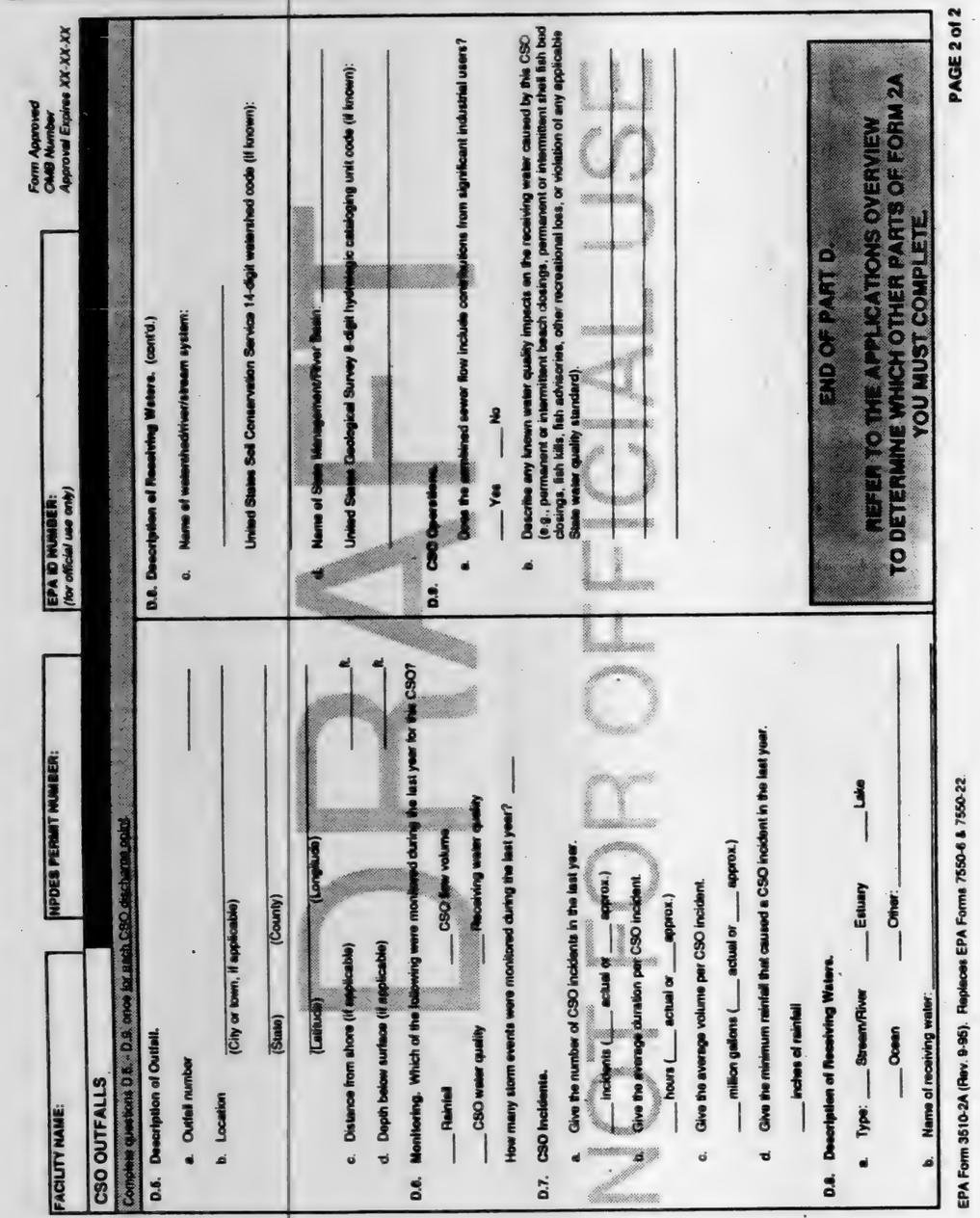

Form Approved
OMB Number
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EPA ID NUMBER:
(for official use only)

FACILITY NAME:

NPDES PERMIT NUMBER:

CSO OUTFALLS

Complete questions D.5. - D.8. once for each CSO discharge point.

D.5. Description of Outfall.

a. Outfall number _____

b. Location _____
(City or town, if applicable)

_____
(State) _____ (County)

_____
(Latitude) _____ (Longitude)

c. Distance from shore (if applicable) _____ ft.

d. Depth below surface (if applicable) _____ ft.

D.6. Monitoring. Which of the following were monitored during the last year for the CSO?

___ Rainfall ___ CSO flow volume

___ CSO water quality ___ Receiving water quality

How many storm events were monitored during the last year? ___

D.7. CSO Incidents.

a. Give the number of CSO incidents in the last year.
___ incidents (___ actual or ___ approx.)

b. Give the average duration per CSO incident.
___ hours (___ actual or ___ approx.)

c. Give the average volume per CSO incident.
___ million gallons (___ actual or ___ approx.)

d. Give the minimum rainfall that caused a CSO incident in the last year.
___ inches of rainfall

D.8. Description of Receiving Waters.

a. Type: ___ Stream/River ___ Estuary ___ Lake
___ Ocean ___ Other: _____

b. Name of receiving water: _____

c. Name of State Management/River Basin: _____

United States Geological Survey 8-digit hydrologic cataloging unit code (if known): _____

d. Name of watershed/river/stream system: _____

United States Soil Conservation Service 14-digit watershed code (if known): _____

D.8. CSO Operations.

a. Does the combined sewer flow include contributions from significant industrial users?
___ Yes ___ No

b. Describe any known water quality impacts on the receiving water caused by this CSO (e.g., permanent or intermittent beach closings, permanent or intermittent shell fish bed closings, fish kills, fish advisories, other recreational loss, or violation of any applicable State water quality standard).

END OF PART D.

REFER TO THE APPLICATIONS OVERVIEW TO DETERMINE WHICH OTHER PARTS OF FORM 2A YOU MUST COMPLETE.

PAGE 2 of 2

EPA Form 3510-2A (Rev. 9-95). Replaces EPA Forms 7550-6 & 7550-22.

BILLING CODE 6560-50-C

NOT FOR OFFICIAL USE

Instructions For Completing Form 2A

Application For a NPDES Permit

Background Information

Each wastewater treatment works that discharges treated effluent to waters of the United States must apply for a permit for its discharges. This permitting requirement is part of the National Pollutant Discharge Elimination System (NPDES) program, which is implemented by the U.S. Environmental Protection Agency (EPA). You can obtain a permit for your treatment works by filling out and sending in the appropriate form(s) to your permitting authority. If the State in which your treatment works is located operates its own NPDES program, then the State is your permitting authority and you should ask your State for permit application forms. On the other hand, if EPA operates the NPDES program in your State, then EPA is the permitting authority, and you must fill out and send in Form 2A.

These instructions explain how to fill out each question in Form 2A. Be sure to read the Application Overview section on the cover page of Form 2A before you start filling out the form. Not every applicant will have to fill out every section of Form 2A. The Application Overview section will help you determine which portions of Form 2A apply to your treatment works.

EPA has developed Form 2A in a modular format, consisting of two packets: The Basic Application Information packet and the Supplemental Application Information packet. At a minimum, all applicants must complete the Basic Application Information packet, which contains questions 1–19. As directed by the Application Overview section on page 1 of the form, certain applicants will also need to complete one or more parts of the Supplemental Application Information packet.

Commonly Asked Questions

What If I Need More Space for My Answer?

Some questions on Form 2A require you to write out short answers. If you need more room for your answer than is provided on the form, attach a separate sheet called "Additional Information." At the top of the separate sheet, put the name of your plant, your plant's NPDES permit number, and the number of the outfall that you are writing about. Also, next to your answer, put the question number (from Form 2A). Provide this information on any drawings or other papers that you attach to your application as well.

Will the Public Be Able to See the Information I Submit?

Any information you submit on Form 2A will be available to the public. If you send in more information than is requested on Form 2A that is considered company-privileged information, you may ask EPA to keep that extra information confidential. Note that you cannot ask EPA to keep effluent data confidential. If you want any of your plant's information to be confidential, tell EPA this when you submit your application. Otherwise, EPA may make the information public without letting you know in advance. For more information on claims of confidentiality, see EPA's business confidentiality regulations at Title 40, Part 2 of the Code of Federal Regulations (CFR).

How Do I Complete the Forms?

Answer every question on Form 2A that applies to your treatment works. If your answer to a question requires more room than there is on the form, attach additional sheets (see above). If a particular question does not apply to your treatment works, write "N/A" (meaning "not applicable") as your answer to that question. If you need advice on how to fill out these forms, write or contact your EPA Regional Office or your State office at the following address:

Completing Form 2A

Facility Name and NPDES Permit Number

At the top of each page of Form 2A, put your plant's name and NPDES permit number (if you already have been assigned one) in the appropriate boxes. Also put this information on the top of any "Additional Information" sheets you attach. Do not write anything in the space marked "EPA ID Number."

As stated above, Form 2A consists of two packets: the Basic Application Information packet and the Supplemental Application Information packet. These instructions provide directions for completing both of these packets.

Basic Application Information Packet

Paperwork Reduction Act Notice: The public reporting and recordkeeping burden for this collection of information (the Basic Application Information Packet) is estimated to average 5.3 hours per response. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Chief, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 401 M St., S.W., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, Attention: Desk Officer for EPA. Include the OMB control number in any correspondence. Do not send the completed application form to these addresses.

All applicants must complete the Basic Application Information packet, which consists of questions 1–19. Note that some questions in this packet may not apply to your treatment works. For these questions, write "N/A" in the response space.

Application Overview

Read the Application Overview before completing any of Form 2A. This section will help you determine which questions and parts of Form 2A apply to your facility. Note that the permitting authority may require you to complete certain questions or provide additional information as well.

As stated above, all applicants must complete the Basic Application Information packet. However, only certain types of applicants will need to complete the Supplemental Application Information packet. Refer to the directions in the Application Overview section on Form 2A to determine which parts of the Supplemental Application Information packet you need to complete.

Treatment Works

1. Facility Information

Provide your plant's official or legal name. Do not use a nickname or short name. Also provide your plant's mailing address, a contact person at the plant, his/her title, and that person's work telephone number. The contact person should be someone who has a thorough understanding of the operation of your treatment works. The permitting authority may call this person if there are questions about the application. Also provide the actual facility address (if different than the mailing address). The facility location should be a street address (not a Post Office box number)

or other description of the actual location of the facility. Be sure to provide the city or county and state in which your facility is located.

2. Applicant Information

If someone other than the facility contact person is actually submitting this application, provide the name and mailing address of that person's organization. Also provide the name of a contact person, his/her title, and his/her work telephone number. The permitting authority may call this person if there are questions about the application.

In addition, indicate whether this applicant is the owner or operator (or both) of the treatment works. If it is neither, describe the relationship of the applicant to the treatment works (e.g., contractor). Also indicate whether you want correspondence regarding this application (phone calls, letters, the permit, etc.) directed to the applicant or to the facility address provided in question 1.

3. Existing Environmental Permits

Provide the permit number of each currently effective permit issued to the treatment works for NPDES, UIC, RCRA, PSD, and any other environmental program. If you have previously filed an application but have not yet received a permit, give the number of the application, if any. If you have more than one currently effective permit under a particular permit program, list each such permit number. List any other relevant environmental permits under "Other." These may include permits issued under the following programs: (1) Federal: Ocean Dumping Act, Section 404 of the Clean Water Act, or the Surface Mining Control and Reclamation Act; (2) State: new air emission sources in nonattainment areas under Part D of the Clean Air Act or State permits issued under Section 404 of the Clean Water Act; or (3) local: any applicable local environmental permit programs.

4. Population

For all the cities, towns, and unincorporated areas served by your plant, enter the number of people served by your plant at the time you complete this form. If you do not know the population of each area, then only provide the total population for your entire treatment works. If another treatment works discharges into your plant, give the name of that other treatment works and the population it serves.

5. Flow

a. Provide your plant's current design maximum daily influent flow rate. "Design maximum daily influent flow rate" means the average amount of wastewater flow your plant was designed to receive on a daily basis. Enter the flow number in million gallons per day (mgd). Treatment works with a design flow less than 5 mgd must provide the design influent flow rate to two decimal places. Treatment works that are greater than or equal to 5 mgd must report this to 1 decimal place. This is because fluctuations of 0.01 mgd to .09 mgd in smaller treatment works represent a significant percentage of daily flow.

b. Enter the annual average daily flow rate, in million gallons per day, that your plant actually treated this year and each of the past two years for days that your plant actually discharges. Each year's data must be based on a 12-month time period, with the 12th month of "this year" occurring no more than three months prior to this application submittal.

c. Enter the maximum daily flow rate, in million gallons per day (mgd), that your plant received this year and each of the past two years. Each year's data must be based on a 12-month time period, with the 12th month of "this year" occurring no more than three months prior to this application submittal.

6. Collection System

Indicate what type of collection system brings wastewater to your plant. If you check both of the collection systems indicated on the form, you must also provide an estimate of what percentage (in terms of miles of pipe) of your entire collection system each type represents. For example, 80 percent separate sanitary sewers would mean that 80 percent of the actual miles of pipes are separate sanitary sewers (and 20 percent are combined sewers).

- "Separate sanitary sewer" means a system of pipes that only carries:

(1) Domestic wastewater from connections to houses, hotels, non-industrial office buildings, institutions, or sanitary waste from industrial facilities.

(2) Industrial wastewater received through connections to industrial plants or facilities. This consists of water that is used in the manufacturing processes conducted at the facility.

- "Combined storm and sanitary sewer" means a system of pipes that carries a mixture of storm water runoff and sanitary wastewater.

7. Inflow and Infiltration

Estimate, in gallons per day (gpd), the average amount of water that enters the treatment works through inflow and infiltration. Also explain any actions you are taking to correct or decrease inflow and infiltration.

- "Inflow" means that water enters the sewer system from the land's surface in an uncontrolled way. Usually, this happens when surface water runs in through unsealed manhole covers. It may also happen when people illegally connect their foundation drains, roof leaders, cellar drains, yard drains, or catch basins to the sewer system.
- "Infiltration" happens when non-wastewater seeps into the sewer system from the ground. Ground water usually leaks into the sewer system through defective pipes, pipe joints, connections, or manholes.

8. Topographic Map

Provide a topographic map or maps of the area extending at least to one mile beyond the property boundaries of the facility which clearly show the following:

- The area surrounding the treatment plant, including all unit processes;
- The pipes or other structures through which wastewater enters the treatment plant and the pipes or other structures through which treated wastewater is discharged from the treatment plant. Include outfalls from bypass piping, if applicable;
- Each well where wastewater from the plant is injected underground;
- Wells, springs, other surface water bodies, and drinking water wells that are: (1) Within ¼ mile of the property boundaries of the treatment plant, and(2) listed in the public record or otherwise known to you;
- Any areas where the sewage sludge produced by the treatment plant is stored, treated, or disposed;
- If the treatment works receives waste that is classified as hazardous under the Resource Conservation and Recovery Act (RCRA) by truck, rail, or special pipe, show on the map where that hazardous waste enters the treatment plant and where it is treated stored, and/or disposed.

If a discharge structure, hazardous waste disposal site, or injection well associated with the facility is located more than one mile from the plant, include it on the map, if possible. If not, attach additional sheets describing the location of the structure, disposal site, or well, and identify the U.S. Geological Survey (or other) map corresponding to the location.

On each map, include the map scale, a meridian arrow showing north and latitude and longitude at the nearest whole second. On all maps of rivers, show the direction of the current, and in tidal waters, show the directions of the ebb and flow tides. Use a 7½ minute series map published by the U.S. Geological Survey, which may be obtained through the U.S. Geological Survey Offices listed below. If a 7½ minute series map has not been published for your facility, then you may use a 15 minute series map from the U.S. Geological Survey. If neither a 7½ minute or 15 minute series map has been published for your facility site, use a plat map or other appropriate map, including all the requested information; in this case, briefly describe land uses in the map area (e.g., residential, commercial).

Maps may be purchased at local dealers (listed in your local yellow pages) or purchased over the counter at the following USGS Earth Science Information Centers (ESIC):

Anchorage-ESIC, 4230 University Dr., Rm. 101, Anchorage, AK 99508–4664, (907)786–7011
Lakewood-ESIC, Box 25046, Bldg. 25, Rm. 1813, Denver Federal Center, MS 504, Denver, CO 80225–0046, (303)236–5829
Lakewood Open Files-ESIC, Box 25286, Bldg. 810, Denver Federal Center, Denver, CO
Menlo Park-ESIC, Bldg. 3, Rm. 3128, MS 532, 345 Middlefield Rd., Menlo Park, CA 94025–3591, (415)329–4309
Reston-ESIC, 507 National Center, Reston, VA 22092, (703)648–6045
Rolla-ESIC, 1400 Independence Rd., MS 231, Rolla, MO 65401–2602, (314)341–0851
Salt Lake City-ESIC, 2222 West 2300 South, Salt Lake City, UT 84119, (801)975–3742
Sioux Falls-ESIC, EROS Data Center, Sioux Falls, SD 57198–0001, (605)594–6151
Spokane-ESIC, U.S. Post Office Bldg., Rm. 135, 904 W. Riverside Ave., Spokane, WA 99201–1088, (509)353–2524
Stennis Space Center-ESIC, Bldg. 3101, Stennis Space Center, MS 39529, (601)688–3541
Washington, D.C.-ESIC, U.S. Dept. of Interior, 1849 C St., NW, Rm. 2650, Washington, D.C. 20240, (202)208–4047

All maps should be either on paper or other material appropriate for reproduction. If possible, all sheets should be approximately letter size with margins suitable for filing and binding. As few sheets as necessary should be used to clearly show what is involved. Each sheet should be labeled with your facility's name, permit number, location (city, county, or town), date of drawing, and designation of the number of sheets of each diagram as "page ____ of ____."

9. Process Flow Diagram or Schematic

Provide a process flow diagram or schematic that shows how wastewater flows through your plant. On your diagram, include all bypass piping. "Bypass piping" is a system of pipes, conduits, gates, and valves that can be used to intentionally divert wastewater flow from any part of your plant directly to a discharge point. A bypass happens before the wastewater has been fully treated. Title your diagram "Schematic Wastewater Flow." An example of a diagram or schematic is shown in Figure A below. Also write a brief description of your diagram.

In addition to the diagram, provide a water balance that shows the following items:

- All treatment units. Treatment units include all processes used to treat wastewater, such as chlorination and dechlorination units.
- The daily average flow rate (in mgd) that has entered your plant and that has been discharged from your plant over the past 12 months.
- The daily average flow rate (in mgd) *between* treatment units in your facility for the past 12 months.

Figure A—Process Flow Diagram

If possible, submit diagrams that are approximately letter size (8 ½×11 inches) and leave blank room at the edges so the permitting authority can file or bind the diagram(s) with your application. Submit the fewest number of diagrams that show the whole area. Label all of your plant's discharge points with their outfall numbers. At the top of each sheet, write your plant's name, NPDES permit number, location (city, county, or town), the date you made the diagram, and the number of each diagram sheet as "page ____ of ____" (e.g., page 2 of 4).

10. Bypass

A "bypass" is the intentional diversion of wastewater (e.g., through an arrangement of pipes, conduits, gates, and/or valves) from any portion of your treatment plant to a discharge point before that wastewater is fully treated. Bypasses are prohibited unless the criteria in 40 CFR 122.41(m) are satisfied. For questions 10.a–10.c., provide information on both wet weather and dry weather bypasses if the treatment plant has the ability to bypass untreated or partially treated wastewater.

a. Provide the number of bypass incidents that occurred at your plant during the past 12 months. Indicate whether this is an actual or approximate number.

b. Provide the average number of hours that each bypass lasted during the past 12 months. Indicate whether this is an actual or approximate number.

c. Provide the average volume (in million gallons) of the bypasses over the past 12 months. The average volume is the total number of gallons that were diverted from your plant divided by the number of bypasses. Indicate whether this is an actual or approximate number.

d. Describe why bypasses happen at your plant.

e. Provide information regarding the presence and use of backup generators at your plant.

11. Discharges and Other Disposal Methods

a. Indicate whether your treatment works discharges effluent to waters of the United States. If the answer to 11.a. is "No," then go to 11.b.

List the number of each type of outfall to waters of the United States your treatment works has. If your plant has outfalls (other than bypass points) that discharge something other than treated sanitary effluent, give the total number of these outfalls and describe what type of effluent is discharged through them.

Note: If your treatment works discharges to waters of the United States, then you must also complete the following sections of Form 2A:

- Questions 15–18;
- Refer to the Application Overview section to determine whether you must also complete the Effluent Testing Information in Part A of the Supplemental Application Information packet.

b. A surface impoundment with no point source discharge (to waters of the U.S.) is a holding pond or basin that is large enough to contain all wastewaters discharged into it. It has no places where water overflows from it. It is used for evaporation of water and very little water seeps into the ground. Your plant must report the location of each surface impoundment, on average how much water is placed in the impoundment each day, and how often water is discharged into the surface impoundment (continuous or intermittent). If your plant discharges to more than one surface impoundment, use an additional sheet (or sheets) to give this information for each impoundment. Attach the additional sheet(s) to the application form. The information on the location of the surface impoundment may be referenced on the topographic map prepared under question 8.

c. Land application is the spraying or spreading of treated wastewater over an area of land. If your plant applies wastewater to land, you must list the site location, how many acres the site is, how much water is applied (as annual average daily application), and how often the wastewater is applied to the site (continuous or intermittent). If your plant applies wastewater to more than

one site, provide the information for each site on a separate sheet (or sheets). Attach the additional sheet(s) to your application form. The information on the location of the surface impoundment may be referenced on the topographic map prepared under question 8.

d. If your plant discharges treated or untreated wastewater to another treatment works (including a municipal waste transport or collection system), provide the information requested in question 11.d. If your plant sends wastewater to more than one treatment works, provide this information for each treatment works on an additional sheet (or sheets). Attach the additional sheet(s) to your application form. Describe how the wastewater is transported to the other treatment works. Also provide the name and mailing address of the company that transports your plant's wastewater to this treatment works as well as the name, phone number, and title of the contact person at the transportation company.

Provide the name and mailing address of each treatment works that receives wastewater from your plant as well as the name, phone number, and title of the contact person at the treatment works that receives your plant's wastewater. Also, provide the NPDES number for the treatment works, if you know it. Indicate the average daily flow, in million gallons per day, that is sent from your plant to the other treatment works.

e. Indicate whether your treatment works discharges, or has the potential to discharge, through combined sewer overflows. If your response to this question is "Yes," then you must also complete Part D of the Supplemental Application Information packet.

f. If your plant disposes of its wastewater in some way that was not described by 11.a.–11.e., briefly describe how your plant discharges or disposes of its wastewater. Also give the annual daily volumes disposed of this way and indicate whether the discharge is continuous or intermittent. Other ways to discharge or dispose include underground percolation and well injection.

12. Federal Indian Reservation

Federal Indian Reservation means all land within the limits of any Indian reservation under the jurisdiction of the United States Government notwithstanding the issuance of any patent, and including rights-of-way running through the reservation. Indicate whether your plant is located on (i.e., within the limits of) a Federal Indian Reservation and whether the water body into which your plant discharges flows through a Federal Indian Reservation after it receives your plant discharge. If you mark "Yes" for either of these questions, describe which parts of your plant are located on a Federal Indian Reservation or indicate how far upstream from a Federal Indian Reservation your plant's discharge is.

13. Operation/Maintenance Performed by Contractor(s)

If a contractor carries out any operational or maintenance aspects associated with wastewater treatment or effluent quality at this facility, provide the name, mailing address, and telephone number of each such contractor. Also provide a description of the activities performed by the contractor. Attach additional pages if necessary.

14. Scheduled Improvements, Schedules of Implementation

Provide information on any improvements to your treatment works that you are currently planning. Include only those improvements that will affect the wastewater treatment, effluent quality, or design capacity of your treatment works (such improvements may include regionalization of treatment works). Also list the schedule for when these improvements will be started and finished. If your treatment works has more than one improvement planned, use a separate sheet of paper to provide information for each one.

a. List each outfall number that is covered by the implementation schedule. The outfall numbers you use must be the same as the ones provided under question 15.

b. Indicate whether the planned improvements or implementation schedules are required by or planned independently of any local, state, or Federal agencies.

c. Provide a brief description of the improvements to be made for the outfalls listed in question 14.a.

d. If you are submitting Form 2A for a renewal of an existing NPDES permit and you plan to change your treatment works' influent design flow rate, then provide the proposed new maximum daily influent design flow rate in mgd.

e. Provide the information requested for each planned improvement. Supply dates for the following stages of any compliance schedule. For improvements that are planned independently of local, State, or Federal agencies, indicate planned or actual completion dates, as applicable. If a step has already been finished, give the date when that step was completed.

- "Begin Construction" means the date you plan to start construction.
- "End Construction" means the date you expect to finish construction.
- "Begin Discharge" means the date that you expect a discharge will start.
- "Attain Operational Level" means the date that you expect the effluent level will meet your plant's implementation schedule conditions.

f. Note whether your treatment works has received appropriate permits or clearances that are required by other Federal or State requirements. If you have received such permits, describe them.

Note: If this treatment works discharges treated wastewater to waters of the United States, go to question 15. If this treatment works does not discharge treated wastewater to waters of the United States, do not complete questions 15–18. Instead, go to question 19 (Certification Statement). (You may also be required to complete portions of the Supplemental Application Information packet.)

Effluent Discharges

Answer questions 15–17 once for *each* outfall through which your treatment works discharges effluent to surface waters of the United States. Do not include information about combined sewer overflow discharge points. Surface water means creeks, streams, rivers, lakes, estuaries, and oceans. If your treatment works has more than one outfall, copy and complete questions 15–17 once for each outfall.

15. Description of Outfall

a.–e. Give the outfall number and its location. For location, provide the city or town (if applicable); ZIP code; the county; the state; and the latitude and longitude to the nearest second. If this outfall is a subsurface discharge (e.g., into an estuary, lake, or ocean), indicate how far the outfall is from shore and how far below the water's surface it is. Measure the distances in feet. Give these distances at the lowest point of low tide. Also provide the average daily flow rate in million gallons per day.

f. Mark whether this outfall is a periodic or intermittent discharge. A "periodic discharge" is one that happens regularly (for example, monthly or seasonally), but is not continuous all year. An "intermittent discharge" is one that happens sometimes, but not regularly. Discharges from holding ponds, lagoons, etc., may be included as periodic or intermittent. Do not include discharges from bypass points or combined sewer overflows in your answer. Give the number of times per year a discharge occurs from this outfall. Also tell how long each discharge lasts and how much water is discharged, in million gallons per day. List each month when discharge happens. If you do not have records of exact months in which such discharges occurred, provide an estimate based on the best available information.

g. Note whether the outfall is equipped with a diffuser. If so, provide a brief description of the type of diffuser used (e.g., high-rate).

16. Description of Receiving Waters

a. Indicate which type of water this outfall discharges into—stream/river, lake, estuary, ocean, or other (describe).

b. Give the names of the surface waters to which this outfall discharges. For example, "Control Ditch A, then into Stream B, then into River C, and finally into River D in River Basin E."

c. Provide the name of the watershed/river/stream system in which the receiving water (identified in question 16.b.) is located. If known, also provide the 14-digit watershed code assigned to this watershed by the U.S. Soil Conservation Service.

d. Provide the name of the State Management/River Basin into which this outfall discharges. If known, also provide the 8-digit hydrologic cataloging unit code assigned by the U.S. Geological Survey.

e. If the water body is a river or stream, provide the acute and chronic critical low flow in cubic feet per second (cfs). If you are unsure of these numbers, the U.S. Geological Survey may be able to give them to you. Or you may be able to get these numbers from prior studies.

f. Give the total hardness of the receiving stream at critical low flow, in milligrams per liter of $CaCO_3$, if applicable.

17. Description of Treatment

a. Indicate the highest level of treatment that your plant provides for the discharge from this outfall.

b. Give the design removal rates, in percent, for biochemical oxygen demand (BOD_5) or carbonaceous biochemical oxygen demand ($CBOD_5$), suspended solids (SS), phosphorus (P), and nitrogen (N).

c. Describe the type of disinfection your plant uses (for example, chlorination, ozonation, ultraviolet, etc.) and any seasonal variation that may occur. If your plant uses chlorination, indicate whether it also dechlorinates.

d. Note whether the facility has post aeration.

Effluent Testing Data

18. Effluent Testing Information: Conventional and Nonconventional Pollutants

All applicants that discharge effluent to waters of the United States must complete question 18. Refer to the Application Overview section to determine if you must also complete the Effluent Testing Information in Part A of the Supplemental Application Information packet.

Do not include information about combined sewer overflow discharge points in question 18.

Refer to the following table to determine which effluent testing information questions you must complete and to determine the number of pollutant scans on which to base your data.

Treatment works characteristics	Form 2A requirements	Minimum No. of scans (see Appendix A)
•Design flow rate less than 1 mgd, *and* •Not required to have (or does not have) a pretreatment program.	Question 18	3
•Design flow rate greater than or equal to 1 mgd, *or* •Required to have a pretreatment program (or has one in place), *or*. •Otherwise required by the permitting authority to provide the data.	Question 18 *and* Part A of Supplemental Application Information Packet.	3

Complete question 18 *once for each outfall* through which effluent is discharged to waters of the United States. Indicate on each page the outfall number (as assigned in questions 15–17) for which the data are provided. Using the blank rows provided on the form, submit any data the facility may have for pollutants not specifically listed in question 18.

For specific instructions on completing the pollutant tables in question 18, refer to Appendix A of these instructions.

Certification

19. Certification

Note: Before completing the Certification statement, review the Application Overview section on the cover page of Form 2A to make sure that you have completed all applicable sections of Form 2A, including any parts of the Supplemental Application Information packet.

All permit applications must be signed and certified. Also indicate in the boxes provided which sections of Form 2A you are submitting with this application.

An application submitted by a *municipality, State, Federal, or other public agency* must be signed by either a principal executive officer or ranking elected official. A principal executive officer of a Federal agency includes: (1) The chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

An application submitted by a *corporation* must be signed by a responsible corporate officer. A responsible corporate officer means: (1) A president, secretary, treasurer, or vice president in charge of a principal business function, or any other person who performs similar policy- or decision-making functions; or (2) the manager of manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

An application submitted by a *partnership or sole proprietorship* must be signed by a general partner or the proprietor, respectively.

After completing the certification statement (all applicable sections of Form 2A must also be complete), submit the application to:

Supplemental Application Information Packet

EPA has developed Form 2A in a modular format, consisting of two packets: the Basic Application Information packet and the Supplemental Application Information packet. At a minimum, all applicants must complete the Basic Application Information packet. As directed by the Application Overview section on the

cover page of the form, certain applicants will also need to complete one or more parts of the Supplemental Application Information packet.

The Supplemental Application Information packet is divided into the following parts:

- Part A Expanded Effluent Testing Data
- Part B Toxicity Testing Data
- Part C Industrial User Discharges, Pretreatment, and RCRA/CERCLA Wastes
- Part D Combined Sewer Systems

Refer to the Application Overview section to determine which part(s) of the Supplemental Application Information packet you must complete.

Part A: Expanded Effluent Testing Data

Paperwork Reduction Act Notice: The public reporting and recordkeeping burden for this collection of information (Part A: Expanded Effluent Data) is estimated to average 5.7 hours per response. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Chief, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, Attention: Desk Officer for EPA. Include the OMB control number in any correspondence. Do not send the completed application form to these addresses.

Note: All applicants that discharge effluent to waters of the United States must complete question 18 of the Basic Application Information packet. Refer to the Application Overview section to determine if you must also complete the Effluent Testing Information in Part A of the Supplemental Application Information packet.

Refer to the following table to determine which effluent testing information questions you must complete and to determine the number of pollutant scans on which to base your data.

Treatment works characteristics	Form 2A requirements	Minimum No. of scans (see appendix A)
• Design flow rate less than 1 mgd, *and*	Question 18	3
• Not required to have (or does not have) a pretreatment program		
• Design flow rate greater than or equal to 1 mgd, *or*	Question 18 *and* Part A of Supplemental Application Information Packet.	3
• Required to have a pretreatment program (or has one in place) *or*		
• Otherwise required by the permitting authority to provide the date		

The following instructions apply only to treatment works completing Part A of the Supplemental Application Information packet. Note that the permitting authority may require additional testing on a case-by-case basis.

Complete Part A *once for each outfall* through which effluent is discharged to waters of the United States. Indicate on each page the outfall number (as assigned in questions 15–17 of the Basic Application Information packet) for which the data are provided. Using the blank rows provided on the form, submit any data the facility may have for pollutants not specifically listed in Part A.

For specific instructions on completing the pollutant tables in Part A, refer to Appendix A of these instructions.

Note: After completing Part A, refer to the Application Overview section to determine which other sections of Form 2A you must complete. If you have completed all other required sections of Form 2A, you may proceed to the Certification Statement in question 19 of the Basic Application Information packet.

Part B. Toxicity Testing Data

Paperwork Reduction Act Notice: The public reporting and recordkeeping burden for this collection of information (Part B: Toxicity Testing Data) is estimated to average 4.5 hours per response. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Chief, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 401 M St., S.W., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, Attention: Desk Officer for EPA. Include the OMB control number in any correspondence. Do not send the completed application form to these addresses.

Treatment works meeting one or more of the following criteria must submit the results of whole effluent toxicity testing:

1. Treatment works with a design influent flow rate greater than or equal to one mgd; *or*
2. Treatment works with an approved pretreatment program (as well as those required to have one); *or*
3. Treatment works otherwise required by the permitting authority to submit the results of whole effluent toxicity testing.

Applicants completing Part B must submit the results from any whole effluent toxicity test conducted during the past three years that have not been reported or submitted to the permitting authority for each outfall discharging effluent to the waters of the United States. Do not include information on combined sewer overflows in this section. If the applicant conducted a whole effluent toxicity test during the past three years that revealed toxicity, then provide any information available on the cause of the toxicity or any results of a toxicity reduction evaluation, if one was conducted.

Test results provided in Part B must be based on multiple species being tested quarterly for a minimum of one year. For multiple species, EPA requires a minimum of two species (e.g., vertebrates and invertebrates). The permitting authority may require the applicant to include other species (e.g., plants) as well. Applicants must provide these tests for acute or chronic toxicity, depending on the range of the receiving water dilution. EPA recommends that applicants conduct acute or chronic toxicity testing based on the following dilutions:

- Acute toxicity testing if the dilution of the effluent is greater than 1000:1 at the edge of the mixing zone.
- Acute or chronic toxicity testing if the dilution of the effluent is between 100:1 and 1000:1 at the edge of the mixing zone. Acute testing may be more appropriate at the higher end of this range (1000:1), and chronic testing may be more appropriate at the lower end of this range (100:1).
- Chronic toxicity testing if the dilution of the effluent is less than 100:1 at the edge of the mixing zone.

All data provided in Part B must be based on tests performed within three years prior to completing this application. The tests must have been conducted since the last NPDES permit issuance or permit modification under 40 CFR 122.62(a). In addition, applicants only need to submit data that have not previously been submitted to the permitting authority. Thus, if test data have already been submitted (within the last three years) in accordance with an issued NPDES permit, the treatment works may note the dates the tests were submitted and need not fill out the information requested in question B.2. for that test.

Additional copies of Part B may be used in submitting the required information. A permittee having no significant toxicity in the effluent over the past year and who has submitted all toxicity test results through the end of the calendar quarter preceding the time of permit application would need to supply no additional data as toxicity testing data as part of this application. Instead, the applicant should complete question B.4., which requests a summary of bioassay test information already submitted. (See below for more detailed instructions on completing question B.4.)

Where test data are requested to be reported, the treatment works has the option of reporting the requested data on Form 2A or on reports supplied by the laboratories conducting the testing, provided the data requested are complete and presented in a logical fashion. The permitting authority reserves the right to request that the data be reported on Form 2A.

B.1. Required Tests

a. Provide the total number of chronic and acute whole effluent toxicity tests conducted in the past three years. A "chronic" toxicity test continues for a relatively long period of time, often one-tenth the life span of the organism or more. An "acute" toxicity test is one in which the effect is observed in 96 hours or less.

B.2. Individual Test Data

Complete B.2. for each test conducted in the last three years for which data has not been submitted. Use the columns provided on the form for each test and specify the test number at the top of each column. Use additional copies of question B.2. if more than three tests are being reported. The parameters listed on the form are based on EPA-recommended test methods. Permittees may be required by the permitting authority to submit additional test parameter data for the purposes of quality assurance.

If the treatment works is conducting whole effluent toxicity tests and reporting its results in accordance with an NPDES permit requirement, then the treatment works may note the dates the tests were submitted and need not fill out the information requested in question B.2. for those tests (unless otherwise required by the permitting authority).

a. Provide the information requested on the form for each test reported. Under "Test species," provide the scientific name of the organism used in the test. The "Outfall number" reported must correlate to the outfall numbers listed in questions 15–17 of the Basic Application Information packet.

b. Provide the source of the toxicity test methods followed. In conducting the tests, the treatment works must use methods approved in accordance with 40 CFR Part 136 [Note: Approved methods are currently under development].

c. Indicate whether 24-hour composite or grab samples were used for each test. For multiple grab samples, provide the number of grab samples used. Refer to Appendix A of the instructions for a definition of composite and grab samples.

d. Indicate whether the sample was taken before or after disinfection and/or after dechlorination.

e. Provide a description of the point in the treatment process at which the sample was collected.

f. Indicate whether the test was intended to assess chronic or acute toxicity.

g. Indicate which type of test was performed. A "static" test is a test performed with a single constant volume of water. In a "static-renewal" test, the volume of water is renewed at discrete intervals. In a "flow-through" test, the volume of water is renewed continuously.

h. Indicate whether laboratory water or the receiving water of the tested outfall was used as the source of dilution water. If laboratory water was used, provide the type of water used.

i. Indicate whether fresh or salt water was used as the dilution water. For salt water, specify whether the salt water was natural or artificial (specify the type of artificial water used).

j. For each concentration in the test series, provide the percentage of effluent used.

k. Provide the minimum and maximum parameters measured during the test for pH, salinity, temperature, ammonia, and dissolved oxygen.

l. Provide the results of each test performed. For acute toxicity tests, provide the percent survival of the test species in 100 percent effluent. Also provide the LC_{50} (Lethal Concentration to 50 percent) of the test. "LC_{50}" is the effluent (or toxicant) concentration estimated to be lethal to 50 percent of the test organisms during a specific period. Indicate any other test results in the space provided.

For chronic toxicity tests, provide data at the most sensitive endpoint. While this is generally expressed as a "NOEC" (No Observed Effect Concentration), it may be expressed as an "Inhibition Concentration" (e.g., "IC_{25}"—Inhibition Concentration to 25 percent). The NOEC is the highest measured concentration of an effluent (or a toxicant) at which no significant adverse effects are observed on the test organisms at a specific time of observation. The IC_{25} is the effluent (or toxicant) concentration estimated to cause a 25 percent reduction in reproduction, fecundity, growth, or other non-quantal biological measurements. Indicate any other test results in the space provided.

m. Provide the mortality (in percent) of the control group. Indicate any other relevant information about the control group in the space provided.

B.3. Toxicity Reduction Evaluation

A Toxicity Reduction Evaluation (TRE) is a site-specific study conducted in a stepwise process designed to identify the causative agents of effluent toxicity, evaluate the effectiveness of

toxicity control options, and then confirm the reduction in effluent toxicity. If the treatment works is conducting a TRE as part of a NPDES permit requirement or enforcement order, then you only need to provide the date of the last progress report concerning the TRE in the area reserved for details of the TRE.

B.4. Summary of Submitted Biomonitoring Test Information

As stated above, applicants that have already submitted the results of biomonitoring test information over the past three years do not need to resubmit this data with Form 2A. Instead, indicate in question B.4. the date you submitted each report and provide a summary of the test results for each report. Include in this summary the following information: the outfall number and collection dates of the samples tested, dates of testing, toxicity testing method(s) used, and a summary of the results from the test (e.g, 100% survival in 40% effluent).

Note: After completing Part B, refer to the Application Overview section to determine which other sections of Form 2A you must complete. If you have completed all other required sections of Form 2A, you may proceed to the Certification Statement in question 19 of the Basic Application Information packet.

Part C. Industrial User Discharges, Pretreatment, and RCRA/CERCLA Wastes

Paperwork Reduction Act Notice: The public reporting and recordkeeping burden for this collection of information (Part C: Industrial User Discharges, Pretreatment, and RCRA/CERCLA Wastes) is estimated to average 4.3 hours per response. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Chief, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 401 M St., S.W., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, Attention: Desk Officer for EPA. Include the OMB control number in any correspondence. Do not send the completed application form to these addresses.

All treatment works receiving discharges from significant industrial users (SIUs) or facilities that receive RCRA or CERCLA wastes must complete Part C.

A "categorical industrial user" is an industrial user that is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, which are technology-based standards developed by EPA setting industry-specific effluent limits. (A list of Industrial Categories subject to Categorical Pretreatment Standards is included in Appendix B.)

A "significant industrial user" is defined in 40 CFR 403.3(t) as an industrial user that:

(1) is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and

(2) any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the treatment works (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream that makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the treatment works; or is designated as such by the Control Authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the treatment works operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

An "industrial user" means any industrial or commercial entity that discharges wastewater that is not domestic wastewater. Domestic wastewater includes wastewater from connections to houses, hotels, non-industrial office buildings, institutions, or sanitary waste from industrial facilities. The number of "industrial users" is the total number of industrial and commercial users that discharge to the treatment works.

For the purposes of completing the application form, please provide information on non-categorical SIUs and categorical industrial users separately.

General Information

C.1. Number of Industrial Users

Provide the number of SIUs and the number of categorical industrial users only that discharge to your treatment works.

C.2. Average Daily Flow From Industrial Users

Provide an estimate of the daily flow of wastewater, in mgd, received from all industrial users, significant industrial users only, and categorical industrial users only.

C.3. Industrial User Contributions

Estimate the contribution (in terms of the percent of total daily influent) from all industrial users, significant industrial users only, categorical industrial users only, and domestic sources only.

C.4. Pretreatment Program

Indicate whether the treatment works has an approved pretreatment program. An "approved pretreatment program" is a program administered by a treatment works that meets the criteria established in 40 CFR 403.8 and 403.9 and that has been approved by a Regional Administrator or State Director. If the answer to question C.4. is no, go to C.5.

Naote If this treatment works has or is required to have a pretreatment program, you must also complete Parts A and B of the Supplemental Application Information packet.

If the treatment works has an approved pretreatment program, identify any substantial modifications to the POTW's approved pretreatment program that have not been approved in accordance with 40 CFR 403.18.

Significant Industrial User (SIU) Information

All treatment works that receive discharges from SIUs must complete questions C.5.–C.10.

If your treatment works receives wastewater from more than one SIU, complete questions C.5.–C.10. *once for each SIU.*

C.5. Significant Industrial User Information

Provide the name and mailing address of each SIU. Submit additional pages as necessary.

C.6. Industrial Processes

Describe the actual process(es) (rather than simply listing them) at the SIU that affect or contribute to the SIU's discharge. For example, in describing a metal finishing operation, include such information as how the product is cleaned prior to finishing, what type of plating baths are in operation (e.g., nickel, chromium), how paint is applied, and how the product is polished. Attach additional sheets if necessary.

C.7. Principal Product(s) and Raw Material(s)

List principal products that the SIU generates and the raw materials used to manufacture the products.

C.8. Flow Rate

"Process wastewater" means any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Indicate the average daily volume, in gallons per day, of process wastewater and non-process wastewater that the SIU discharges into the collection system. Specify whether the discharges are continuous or non-continuous.

C.9. Pretreatment Standards

Indicate whether the SIU is subject to local limits and categorical pretreatment standards. "Local limits" are enforceable local requirements developed by treatment works to address Federal standards as well as state and local regulations.

"Categorical pretreatment standards" are national technology-based standards developed by EPA, setting industry-specific effluent limits. These standards are implemented by 40 CFR 403.6.

C.10. Problems at the Treatment Works Attributed to Waste Discharged by the SIU

Provide information concerning any problems the treatment works has experienced that are attributable to discharges from the SIUs. Problems may include upsets or interference at the plant, corrosion in the collection system, or other similar events.

RCRA Hazardous Waste Received by Truck, Rail or Dedicated Pipeline

C.11. RCRA Waste

As defined in Section 1004(5) of the Resource Conservation and Recovery Act (RCRA), "Hazardous waste" means "a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

(A) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed."

Those solid wastes that are considered hazardous are listed under 40 CFR Part 261. Treatment works that accept hazardous wastes by truck, rail, or dedicated pipeline (a pipeline that is used to carry hazardous waste directly to a treatment works without prior mixing with domestic sewage) within the property boundary of the treatment works are considered to be hazardous waste treatment, storage, and disposal facilities (TSDFs) and, as such, are subject to regulations under RCRA. Under RCRA, mixtures of domestic sewage and other wastes that commingle in the treatment works collection system prior to reaching the property boundary, including those wastes that otherwise would be considered hazardous, are excluded from regulation under the domestic sewage exclusion. Hazardous wastes that are delivered directly to the treatment works by truck, rail, or dedicated pipeline do not fall within the exclusion. Hazardous wastes received by these routes may only be accepted by treatment works if the treatment works complies with applicable RCRA requirements for TSDFs.

Applicants completing questions C.11.–C.13. should have indicated all points at which RCRA hazardous waste enters the treatment works by truck, rail, or dedicated pipe in the map provided in question 8 of the Basic Application Information packet.

C.12. Waste Transport

Indicate the method by which RCRA waste is received at the treatment works.

C.13. Waste Description

Provide the EPA hazardous waste numbers, which are located in 40 CFR Part 261, Subparts C & D, and the amount (in volume or mass) received.

CERCLA (Superfund) Wastewater and RCRA Remediation/Corrective Action Wastewater

Substances that are regulated under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) are described and listed in 40 CFR Part 302. Questions C.14.–C.22. apply to the type, origin, and treatment of CERCLA wastes currently (or expected to be) discharged to the treatment works.

C.14. CERCLA Waste

Indicate whether this treatment works currently receives waste from a CERCLA (Superfund) site or plans to accept waste from a CERCLA site in the next five years. If it does, provide the information requested in C.15–C.17.

If the treatment works receives, or plans to receive, CERCLA waste from more than one site, complete questions C.15–C.17, once for each site.

C.15. Waste Origin

Provide information about the CERCLA site that is discharging waste to the treatment works. Information must include a description of the type of facility and an EPA identification number if one exists.

C.16. Pollutants

Provide a list of the pollutants that are or will be discharged by the CERCLA site and the volume and concentration of such pollutants.

C.17. Waste Treatment

Provide information concerning the treatment used (if any) by the CERCLA site to treat the waste prior to discharging it to the treatment works. The information should include a description of the treatment technology, information on the frequency of the discharge (continuous or intermittent) and any data concerning removal efficiency.

C.18. RCRA Corrective Action Waste

Indicate whether this treatment works currently receives RCRA Corrective Action Waste or plans to accept RCRA Corrective Action Waste in the next five years. If it does, provide the information requested in C.19.–C.21.

If there is more than one site from which RCRA Corrective Action Waste is, or is expected to be, received, attach additional sheets with the information requested in questions C.19.–C.21. for each site.

C.19. Waste Origin

Provide a description of the site and of the type of facility that discharges or is expected to discharge the RCRA corrective action waste.

C.20. Pollutants

Provide a list of the pollutants that are or will be discharged by each RCRA corrective action site.

C.21. Waste Treatment

Provide information concerning the treatment used (if any) by the RCRA corrective action site to treat the waste prior to discharging it to the treatment works. The information should include a description of the treatment technology, any data concerning removal efficiency, and information on the frequency of the discharge (continuous or intermittent). If the discharge is intermittent, describe the discharge schedule.

C.22. Other Wastes From Remediation/Clean-up Sites

Describe any wastewater received or expected to be received from leaking

underground tank remediation sites and from remediation/cleanup sites that are regulated by other laws (state, municipal, etc.).

Note: After completing Part C, refer to the Application Overview section to determine which other sections of Form 2A you must complete. If you have completed all other required sections of Form 2A, you may proceed to the Certification Statement in question 19 of the Basic Application Information packet.

Part D. Combined Sewer Systems

Paperwork Reduction Act Notice: The public reporting and recordkeeping burden for this collection of information (Part D: Combined Sewer Systems) is estimated to average 8.2 hours per response. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Chief, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 401 M St., S.W., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, Attention: Desk Officer for EPA. Include the OMB control number in any correspondence. Do not send the completed application form to these addresses.

D.1. Combined Sewer Overflow (CSO) Discharge Points

A combined sewer system collects a mixture of both sanitary wastewater and storm water runoff.

Indicate the number of CSO discharge points in the combined sewer system covered by this application. Complete questions D.5.–D.9. *once for each discharge point.* Attach additional pages as necessary.

D.2. System Map

Indicate on a system map all CSO discharge points. For each such point, indicate any sensitive use areas and any waters supporting threatened or endangered species that are potentially affected by CSOs. Sensitive use areas include beaches, drinking water supplies, shellfish beds, sensitive aquatic ecosystems, and outstanding natural resource waters.

Applicants may provide the information requested in question D.2. on the map submitted in response to question 8 in the Basic Application Information packet.

All maps should be either on paper or other material appropriate for reproduction. If possible, all sheets should be approximately letter size with margins suitable for filing and binding. As few sheets should be used as necessary to show clearly what is involved. All discharge points should be identified by outfall number. Each sheet should be labeled with the applicant's name, NPDES permit number, location (city, county, or town), date of drawing, and designation of the number of sheets of each diagram as "page _____ of _____."

D.3. System Diagram

Diagram the location of combined and separate sanitary major sewer trunk lines and indicate any connections where separate sanitary sewers feed into the combined sewer system. Clearly indicate the location of all flow controlling devices in the system. Include storage equipment, flow regulating devices, and pump stations. Also indicate the areas of drainage associated with each CSO and the pumping capacity of each pump station.

The drawing should be either on paper or other material appropriate for reproduction. If possible, all sheets should be approximately letter size with margins suitable for filing and binding. As few sheets should be used as necessary to show clearly what is involved. All discharge points should be identified by outfall number. Each sheet should be labeled with the applicant's name, NPDES permit number, location (city, county, or town), date of drawing, and designation of the number of sheets of each diagram as "page _____ of _____."

D.4. System Evaluation

List any studies that have been performed on the combined sewer system since the last permit application, including inflow/infiltration studies, engineering studies, hydraulic studies, and water quality studies.

CSO Outfalls

Fill out a copy of questions D.5.–D.9. *once for each CSO discharge point.* Attach additional pages as necessary.

D.5. Description of Outfall

a.–d. Provide the outfall number and location (including city or town if applicable, state, county, and latitude and longitude to the nearest second). For subsurface discharges (e.g., discharges to lakes, estuaries, and oceans), provide the distance (in feet) of the discharge point from the shore and the depth (in feet) of the discharge point below the surface of the discharge point. Provide these distances at the lowest point of low tide.

D.6. Monitoring

Indicate whether rainfall, CSO flow volume, CSO water quality, and/or receiving water quality were monitored during the past 12 months. Provide the number of storm events monitored during the past 12 months as well.

D.7. CSO Incidents

a. Provide the number of CSO incidents that have occurred in the past 12 months. Indicate whether this is an actual or approximate number.

b. Provide the average duration (in hours) per CSO event. Indicate whether this is an actual or approximate value.

c. Provide the average volume (in million gallons) of discharge per CSO incidents over the past 12 months. Indicate whether this is an actual or approximate number.

d. Provide the minimum amount of rainfall that caused a CSO incident in the past 12 months.

D.8. Description of Receiving Waters

a. Indicate the type of water body into which the CSO outfall (identified in D.5.a.) discharges.

b. List the name(s) of immediate receiving waters starting at the CSO discharge point and moving downstream. For example, "Control Ditch A, thence to Stream B, thence to River C, and thence to River D in the River Basin E."

c. Provide the name of the watershed/river/stream system in which the receiving water (identified in question D.8.b.) is located. If known, also provide the 14-digit watershed code assigned to this watershed by the U.S. Soil Conservation Service.

d. Provide the name of the State Management/River Basin into which this outfall discharges. If known, also provide the 8-digit hydrologic cataloging unit code assigned by the U.S. Geological Survey.

D.9. CSO Operations

a. Indicate whether wastewater from significant industrial users (refer to the instructions to Part C for a definition) can enter the combined sewer system.

b. Provide a description of any known water quality impacts on the receiving water caused by CSO from this discharge point.

Note: After completing Part D, refer to the Application Overview section to determine which other sections of Form 2A you must complete. If you have completed all other required sections of Form 2A, you may proceed to the Certification Statement in question 19 of the Basic Application Information packet.

Appendix A—Guidance for Completing the Effluent Testing Information

All Treatment Works

All applicants must provide data for each of the pollutants in question 18 of the Basic Application Information packet. Some applicants must also provide data for the pollutants in Part A of the Supplemental Application Information packet. All applicants submitting effluent testing data must base this data on a minimum of three pollutant scans. All samples analyzed must be representative of the discharge from the sampled outfall.

If you have existing data that fulfills the requirements described below, you may use that data in lieu of conducting additional sampling. If you measure more than the required number of daily values for a pollutant and those values are representative of your wastestream, you must include them in the data you report. In addition, use the blank rows provided on the form to provide any existing sampling data that your facility may have for pollutants not listed in the appropriate sections. All data provided in the application must be based on samples taken within three years prior to the time of this permit application.

Sampling data must be representative of the treatment works' discharge and take into consideration seasonal variations. At least two of the samples used to complete the effluent testing information questions must have been taken no fewer than 4 months and no more than 8 months apart. For example, one sample may be taken in April and another in October to meet this requirement. Applicants unable to meet this time requirement due to periodic, discontinuous, or seasonal discharges can obtain alternative guidance on this requirement from their permitting authority.

The collection of samples for the reported analyses should be supervised by a person experienced in performing wastewater sampling. Specific requirements contained in the applicable analytical methods should be followed for sample containers, sample preservation, holding times, and collection of duplicate samples. Samples should be taken at a time representative of normal operation. To the extent feasible, all processes that contribute to wastewater should be in operation and the treatment system should be operating properly with no system upsets. Samples should be collected from the center of the flow channel (where turbulence is at a maximum), at a location specified in the current NPDES permit, or at any location adequate for the collection of a representative sample.

A minimum of four grab samples must be collected for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, E. coli, and enterococci (applicants need only provide data on either fecal coliform or E. coli and enterococci). For all other pollutants, 24-hour composite samples must be collected. However, a minimum of one grab sample, instead of a 24-hour composite, may be taken for effluent from holding ponds or other impoundments that have a retention period greater than 24 hours.

Grab and composite samples are defined as follows:

- Grab sample: an individual sample of at least 100 milliliters collected randomly for a period not exceeding 15 minutes.
- Composite sample: a sample derived from two or more discrete samples collected at equal time intervals or collected proportional to the flow rate over the compositing period. The composite collection method may vary depending on pollutant characteristics or discharge flow characteristics.

The permitting authority may allow or establish appropriate site-specific sampling procedures or requirements, including sampling locations, the season in which sampling takes place, the duration between sampling events, and protocols for collecting samples under 40 CFR Part 136. Contact EPA or the State permitting authority for detailed guidance on sampling techniques and for answers to specific questions. The following instructions explain how to complete each of the columns in the pollutant tables in the effluent testing information sections of Form 2A.

Maximum Daily Discharge. For composite samples, the daily discharge is the average pollutant concentration and total mass found in a composite sample taken over a 24-hour period. For grab samples, the daily discharge is the arithmetic or flow-weighted total mass or average pollutant concentration found in a series of at least four grab samples taken during the operating hours of the treatment works during a 24-hour period.

To determine the maximum daily discharge values, compare the daily discharge values from each of the sample events. Report the highest total mass and highest concentration level from these samples.

- "Concentration" is the amount of pollutant that is present in a sample with respect to the size of the sample. The daily discharge concentration is the average concentration of the pollutant throughout the 24-hour period.
- "Mass" is calculated as the total mass of the pollutant discharged over the 24-hour period.
- All data must be reported as both concentration and mass (where appropriate). Use the following abbreviations in the columns headed "Units."

ppm	Parts per million.
gpd	Gallons per day.
mgd	Million gallons per day.
su	Standard units.
mg/l	Milligrams per liter.
ppb	Parts per billion.
ug/l	Micrograms per liter.
lbs	Pounds.
ton	Tons (English tons).
mg	Milligrams.
g	Grams.
kg	Kilograms.
T	Tonnes (metric tons).

Average Daily Discharge. The average daily discharge is determined by calculating the arithmetic mean daily pollutant concentration and the arithmetic mean daily total mass of the pollutant from each of the sample events within the three years prior to this permit application. Report the concentration, mass, and units used under the Average Daily Discharge column, along with the number of samples on which the average is based. Use the unit abbreviations shown above in "Maximum Daily Discharge."

If data requested in Form 2A have been reported on the treatment works' Discharge Monitoring Reports (DMRs), you may compile such data and report it under the maximum daily discharge and the average daily discharge columns of the form.

Analytical Method. All information reported must be based on data collected through analyses conducted using 40 CFR Part 136 methods. Applicants should use methods that enable pollutants to be detected at levels adequate to meet water quality-based standards. Where no approved method can detect a pollutant at the water quality-based standards level, the most sensitive approved method should be used. If the applicant believes that an alternative method should be used (e.g., due to matrix interference), the applicant should obtain prior approval from the permitting authority. If an alternative method is specified in the existing permit, the applicant should

use that method unless otherwise directed by the permitting authority. Where no approved analytical method exists, an applicant may use a suitable method but must provide a description of the method. For the purposes of the application, "suitable method" means a method that is sufficiently sensitive to measure as close to the water quality-based standard as possible.

Indicate the method used for each pollutant in the "Analytical Method" column of the pollutant tables. If a method has not been approved for a pollutant for which you are providing data, you may use a suitable method to measure the concentration of the pollutant in the discharge, and provide a detailed description of the method used or a reference to the published method. The description must include the sample holding time, preservation techniques, and the quality control measures used. In such cases, indicate the method used and attach to the application a narrative description of the method used.

Reporting Levels. The applicant should provide the method detection limit (MDL), minimum level (ML), or other designated method endpoint reflecting the precision of the analytical method used.

All analytical results must be reported using the actual numeric values determined by the analysis. In other words, even where analytical results are below the detection or quantitation level of the method used, the actual data should be reported, rather than reporting "non-detect" ("ND") or "zero" ("0"). Because the endpoint of the method has also been reported along with the test results, the permitting authority will be able to determine if the data are in the "non-detect" or "below quantitation" range.

For any dilutions made and any problems encountered in the analysis, the applicant should attach an explanation and any supporting documentation with the application. For GC/MS, report all results found to be present by spectral confirmation (i.e., quantitation limits or detection limits should not be used as a reporting threshold for GC/MS).

Total Recoverable Metals. Total recoverable metals are measured from unfiltered samples using EPA methods specified in 40 CFR Part 136.3. A digestion procedure is used to solubilize suspended materials and destroy possible organic metal complexes. The method measures dissolved metals plus those metals recovered from suspended particles by the method digestion.

Appendix B: Industrial Categories Subject to National Categorical Pretreatment Standards

Industrial Categories With Pretreatment Standards in Effect

Aluminum Forming
Asbestos Manufacturing
Battery Manufacturing
Builder's Paper and Board Mills
Carbon Black Manufacturing
Coil Coating
Copper Forming
Electrical and Electronic Components
Electroplating
Feedlots
Ferroalloy Manufacturing
Fertilizer Manufacturing
Glass Manufacturing
Grain Mills Manufacturing
Ink Formulating
Inorganic Chemicals
Iron and Steel Manufacturing
Leather Tanning and Finishing
Metal Finishing
Metal Molding and Casting
Nonferrous Metals Forming and Metal Powders
Nonferrous Metals Manufacturing
Organic Chemicals, Plastics and Synthetic Fibers
Paint Formulating
Paving and Roofing
Pesticide Manufacturing
Petroleum Refining
Pharmaceutical Manufacturing
Porcelain Enameling
Pulp, Paper and Paperboard
Rubber Manufacturing
Soap and Detergents Manufacturing
Steam Electric Power Generating
Sugar Processing
Timber Products Manufacturing

Industrial Categories With Effluent Guidelines Currently Under Development (Proposed and Final Action Dates)

Pulp, Paper, and Paperboard (12/17/93–TBD)
Pesticide Formulating, Packaging, and Repackaging (4/14/94–8/95)
Centralized Waste Treatment (12/15/94–9/96)
Pharmaceutical Manufacturing (2/95–8/96)
Metal Products and Machinery, Phase I (3/95–9/96)
Industrial Laundries (12/96–12/98)
Transportation Equipment Cleaning (12/96–12/98)
Landfills and Incinerators (3/97–3/99)
Metal Products and Machinery, Phase II (12/97–12/99)

BILLING CODE 6560-50-P

Form Approved
OMB Number
Approval Expires XX-XX-XX

EPA ID NUMBER: (for official use only)

FACILITY NAME:

NPDES PERMIT NUMBER:

FORM 2S NPDES

PRELIMINARY INFORMATION

This page is designed to indicate whether the applicant is to complete Part 1 or Part 2. Review each category, and then complete Part 1 or Part 2, as indicated. For purposes of this form, the term "you" refers to the applicant. "This facility" and "your facility" refer to the facility for which application information is submitted.

FACILITIES INCLUDED IN ANY OF THE FOLLOWING CATEGORIES MUST COMPLETE PART 2.

1. Facilities that are required to have, or are requesting effluent limitations guideline or pretreatment standards pollutant limits. (This includes "sludge-only" facilities that are applying for sludge-specific pollutant limits.)
2. Facilities with a currently effective NPDES permit.
3. Facilities which have been directed by the permitting authority to submit a full permit application at this time.

ALL OTHER FACILITIES MUST COMPLETE PART 1.

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PART 1: LIMITED BACKGROUND INFORMATION

This part should be completed only by "sludge-only" facilities—that is, facilities that do not currently have, and are not now applying for, an NPDES permit for a direct discharge to a surface body of water. This part also does not pertain to facilities that are requesting, or that are required to have, site-specific pollutant limits in their permits.

For purposes of this form, the term "you" refers to the applicant. "This facility" and "your facility" refer to the facility for which application information is submitted.

1. **Facility information.**

a. Facility name _____

b. Mailing address _____

_____

_____

c. Contact person _____

Title _____

Phone number _____

d. Facility address (not P.O. Box) _____

_____

e. Indicate the type of facility:

____ Publicly owned treatment works (POTW)
____ Privately owned treatment works
____ Federally owned treatment works
____ Blending or treatment operation
____ Surface disposal site
____ Sewage sludge incinerator
____ Other. If other, explain: _____

2. **Applicant information.** If the applicant is different from the above, provide the following:

a. Applicant name _____

b. Mailing address _____

_____

_____

c. Contact person _____

2. **Applicant information.** (cont'd).

Title _____

Phone number _____

d. Is the applicant the owner or operator (or both) of this facility?

____ owner ____ operator ____ other (describe) _____

e. Indicate whether correspondence regarding this permit should be directed to the facility or the applicant.

____ facility ____ applicant

3. **Sewage Sludge Amount.** Provide the total dry metric tons per latest 365-day period of sewage sludge handled under the following practices:

a. Amount generated at the facility: _____
b. Amount received from off site: _____
c. Amount treated or blended on site: _____
d. Amount sold or given away in a bag or other container for application to the land: _____
e. Amount of bulk sewage sludge shipped off site for treatment or blending: _____
f. Amount applied to the land in bulk form: _____
g. Amount placed on a surface disposal site: _____
h. Amount fired in a sewage sludge incinerator: _____
i. Amount sent to a municipal solid waste landfill: _____
j. Amount used or disposed by another practice: _____
Describe: _____

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4. **Pollutant Concentrations.** Using the table below or a separate attachment, provide existing data on the pollutant concentrations in sewage sludge from this facility. Provide up to three data points taken at least one month apart during the last two years. If data from the last two years are unavailable, provide the most recent data.

POLLUTANT CAS REGISTRY NUMBER	CONCENTRATION (mg/kg dry weight)	SAMPLE DATE	ANALYTICAL METHOD	MINIMUM DETECTION LEVEL FOR ANALYSIS
ARSENIC 7440-38-2				
CADMIUM 7440-43-9				
CHROMIUM 7440-47-3				
COPPER 7440-50-8				
LEAD 7439-92-1				
MERCURY 7439-97-6				
MOLYBDENUM 7439-98-7				
NICKEL 7440-02-0				
SELENIUM 7782-49-2				
ZINC 7440-66-6				

5. **Treatment Provided at Your Facility.**

a. Which class of pathogen reduction does the sewage sludge meet at your facility?

____ Class A ____ Class B ____ Neither or unknown

b. Describe, on this form or another sheet of paper, any treatment processes used at your facility to reduce pathogens in sewage sludge:

_____

_____

_____

_____

c. Which vector attraction reduction option is met for the sewage sludge at your facility?

____ Option 1 (Minimum 38 percent reduction in volatile solids)
____ Option 2 (Anaerobic process, with bench-scale demonstration)
____ Option 3 (Aerobic process, with bench-scale demonstration)
____ Option 4 (Specific oxygen uptake rate for aerobically digested sludge)
____ Option 5 (Aerobic processes plus raised temperature)
____ Option 6 (Raise pH to 12 and retain at 11.5)
____ Option 7 (75 percent solids with no unstabilized solids)
____ Option 8 (90 percent solids with unstabilized solids)
____ Option 9 (Injection below land surface)
____ Option 10 (Incorporation into soil within 6 hours)
____ Option 11 (Covering active sewage sludge unit daily)
____ None or unknown

d. Describe, on this form or another sheet of paper, any treatment processes used at your facility to reduce vector attraction properties of sewage sludge:

_____

_____

_____

_____

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6. **Sewage Sludge Sent to Other Facilities.** Is sewage sludge from your facility provided to another facility for treatment, distribution, use, or disposal?

____ Yes ____ No

If yes, provide the following information for the facility receiving the sewage sludge:

a. Name of facility: _____

b. Facility contact. Name: _____
Title: _____
Phone: ( ) _____

c. Facility mailing address.
Street or P.O. Box: _____
City or Town: _____ State: ____ Zip: _____

d. Which activities does the receiving facility provide? (Check all that apply):
____ Treatment or blending
____ Sale or give-away in bag or other container
____ Land application ____ Surface disposal
____ Other (describe): ____ Incineration
_____
_____
_____

7. **Use and Disposal Sites.** Provide the following information for each site on which sewage sludge from your facility is used or disposed.

a. Site name or number: _____

b. Site contact. Name: _____
Title: _____
Phone: ( ) _____

c. Site location. (Complete 1 or 2)
1. Street or Route #: _____
County: _____
City or Town: _____ State: ____ Zip: _____
2. Latitude _____ Longitude _____

7. **Use and Disposal Sites.** (cont'd)

d. Site type:
____ Agricultural
____ Forest
____ Public contact
____ Reclamation
____ Other (describe):
_____
_____
_____
____ Lawn or home garden
____ Surface disposal
____ Incineration
____ Municipal Solid Waste Landfill

8. **Certification.** Sign the certification statement below. (Refer to instructions to determine who is an officer for purposes of this certification.)

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with the system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature of Officer: _____
Name of Officer: _____
(typed or printed)
Official Title of Officer: _____
Telephone Number: _____
Date Signed: _____

Send the completed application form to:

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PART 2: PERMIT APPLICATION INFORMATION

Complete this part if you answered "yes" to any of the questions in the PRELIMINARY INFORMATION section (cover page). In other words, complete this part if your facility has, or is applying for, an NPDES permit or if your facility (including a "sludge-only" facility) is requesting, or is required to have, site-specific pollutant limits in its permit.

For purposes of this form, the term "you" refers to the applicant. "This facility" and "your facility" refer to the facility for which application information is submitted.

APPLICATION OVERVIEW — SEWAGE SLUDGE USE OR DISPOSAL INFORMATION

Part 2 is divided into five sections (A-E). Section A pertains to all applicants. The applicability of Sections B, C, D, and E depends on your facility's sewage sludge use or disposal practices. The information provided on this page indicates which sections of Part 2 to fill out.

1. **SECTION A: GENERAL INFORMATION.**
Section A must be completed by all applicants.

2. **SECTION B: GENERATION OF SEWAGE SLUDGE OR PREPARATION OF A MATERIAL DERIVED FROM SEWAGE SLUDGE.**
Section B must be completed by applicants who either:
1) Generate sewage sludge, or
2) Derive a material from sewage sludge.

3. **SECTION C: LAND APPLICATION OF BULK SEWAGE SLUDGE.**
Section C must be completed by applicants who either:
1) Apply sewage to the land, or
2) Generate sewage sludge which is applied to the land by others.
NOTE: Applicants who meet either or both of the two above criteria are exempted from this requirement if all sewage sludge from their facility falls into one of the following three categories:
1) The sewage sludge from this facility meets the ceiling and pollutant concentrations, Class A pathogen reduction requirements, and one of vector attraction reduction options 1-8, as identified in the instructions, or
2) The sewage sludge from this facility is placed in a bag or other container for sale or give-away for application to the land, or
3) The sewage sludge from this facility is sent to another facility for treatment or blending.

4. **SECTION D: SURFACE DISPOSAL**
Section D must be completed by applicants who own or operate a surface disposal site.

5. **SECTION E: INCINERATION**
Section E must be completed by applicants who own or operate a sewage sludge incinerator.

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FACILITY NAME:	NPDES PERMIT NUMBER:	EPA ID NUMBER: (for official use only)	Form Approved OMB Number Approval Expires XX-XX-XX

A. GENERAL INFORMATION

All applicants must complete this section.

A.1. Facility information.

a. Facility name _____

b. Mailing address _____

_____

_____

c. Contact person _____

Title _____

Phone number _____

d. Facility address (not P.O. Box) _____

_____

_____

e. Facility latitude: _____ Facility longitude: _____

Method of latitude/longitude determination:

____ USGS map ____ Other (describe:) _____

____ Field survey

If map used, provide datum and scale: _____

f. Is this facility a Class I sludge management facility?

____ Yes ____ No

If yes, submit the results of a toxicity characteristic leaching procedure (TCLP) performed on this facility's sewage sludge. Submit the results of all TCLPs performed during the last five years, if not previously submitted.

g. Facility design influent flow rate: _____ mgd

h. Total population served: _____

A.1. Facility information.(cont'd)

i. Indicate the type of facility:

____ Publicly owned treatment works (POTW)
____ Privately owned treatment works
____ Federally owned treatment works
____ Blending or treatment operation
____ Surface disposal site
____ Sewage sludge incinerator
____ Other. If other, explain: _____

A.2. Applicant information. If the applicant is different from the above, provide the following:

a. Applicant name _____

b. Mailing address _____

_____

_____

c. Contact person _____

Title _____

Phone number _____

d. Is the applicant the owner or operator (or both) of this facility?

____ owner ____ operator ____ other (describe) _____

e. Indicate whether correspondence regarding this permit should be directed to the facility or the applicant.

____ facility ____ applicant

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A.3. Permit information.

a. Facility's NPDES permit number (if applicable): _____

b. List, on this form or an attachment, all other Federal, State, and local permits or construction approvals received or applied for that regulate this facility's sewage sludge management practices:

Permit Number:	Type of Permit:
_____	_____
_____	_____
_____	_____

A.4. Federal Indian Reservation. Does any generation, treatment, storage, application to land, or disposal of sewage sludge from this facility occur on a Federal Indian Reservation?

____ Yes ____ No

If yes, describe:

_____

_____

_____

A.5. Topographic Map. Provide a topographic map or maps (or other appropriate map(s) if a topographic map is unavailable) that shows the following items of information. Map(s) should include the area one mile beyond all property boundaries of the facility.

a. Location of all sewage sludge management facilities, including land application sites and locations where sewage sludge is generated, treated, or disposed.

b. Location of all water bodies within one mile beyond the facility's property boundaries.

c. Location of all wells used for drinking water listed in public records or otherwise known to the applicant within 1/4 mile of the facility property boundaries.

A.6. Line Drawing. Provide a line drawing and/or a narrative description that identifies all sewage sludge processes that will be employed during the term of the permit, including all processes used for collecting, dewatering, storing, or treating sewage sludge, the destination(s) of all liquids and solids leaving each unit, and all methods used for pathogen reduction and vector attraction reduction.

A.7. Contractor information.

Are any operational or maintenance aspects of this facility related to sewage sludge generation, treatment, use or disposal the responsibility of a contractor?

____ Yes ____ No

If yes, provide the following for each contractor (attach additional pages if necessary).

Name: _____

Street or P.O. Box: _____

City or Town: _____ State: _____ Zip: _____

Phone: ( ) _____

Responsibilities of contractor:

_____

_____

_____

_____

A.8. Pollutant Concentrations. Using the table below or a separate attachment, provide data on the pollutant concentrations in sewage sludge from this facility, specified in A. 8.a. and A. 8.b. (NOTE: Your permitting authority may require you to submit additional information.)

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A.8.a. Monitoring Information for All Facilities. All facilities must provide the information requested below. Information must be based on at least one sample. If you have existing information from mutiple samples, provide up to three data points taken at least one month apart. Data provided for the pollutants listed below must be no more than two years old.

POLLUTANT NAME CAS REGISTRY NUMBER	CONCENTRATION (mg/kg dry weight)	SAMPLE DATE	ANALYTICAL METHOD	MINIMUM DETECTION LEVEL FOR ANALYSIS
PART 503 METALS				
ARSENIC 7440-38-2				
CADMIUM 7440-43-9				
CHROMIUM 7440-47-3				
COPPER 7440-50-8				
LEAD 7439-92-1				
MERCURY 7439-97-6				
MOLYBDENUM 7439-98-7				
NICKEL 7440-02-0				
SELENIUM 7782-49-2				
ZINC 7440-66-6				
NUTRIENTS				
TKN				
AMMONIA				
NITRATE				
TOTAL PHOSPHORUS				
OTHER				
PERCENT SOLIDS				

A.8.b. Additional Monitoring Information for Class I Sludge Management Facilities. Class I sludge management facilities must provide the information requested below. Information must be based on at least one sample. If you have existing information from multiple samples, provide up to three data points taken at least one month apart. Data provided for the pollutants listed below must be no more than two years old.

POLLUTANT NAME CAS REGISTRY NUMBER	CONCENTRATION (mg/kg dry weight)	SAMPLE DATE	ANALYTICAL METHOD	MINIMUM DETECTION LEVEL FOR ANALYSIS
OTHER METALS AND CYANIDE				
ANTIMONY 7440-36-0				
BERYLLIUM 7440-41-7				
SILVER 7440-22-4				
THALLIUM 7440-28-0				
CYANIDE 57-12-5				
VOLATILE ORGANIC COMPOUNDS				
ACROLEIN 107-02-8				
ACRYLONITRILE 107-13-1				
BENZENE 71-43-2				
BROMOFORM 75-25-2				
CARBON TETRACHLORIDE 56-23-5				
CHLOROBENZENE 108-90-7				
CHLORODIBROMOMETHANE 124-48-1				
CHLOROETHANE 75-00-3				
2-CHLOROETHYLVINYL ETHER (110-75-8)				
CHLOROFORM 67-66-3				
DICHLOROBROMOMETHANE 75-27-4				
1,1-DICHLOROETHANE 75-34-3				
1,2-DICHLOROETHANE 107-06-2				
TRANS-1,2-DICHLORO-ETHYLENE /156-60-5				
1,1- DICHLOROETHYLENE 75-35-4				
1,2-DICHLOROPROPANE 78-87-5				
1,3-DICHLOROPROPENE 542-75-6				
ETHYLBENZENE 100-41-4				
METHYL BROMIDE 74-83-9				

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A.8.b. Monitoring Information for Class I Sludge Management Facilities (cont'd)

POLLUTANT NAME CAS REGISTRY NUMBER	CONCENTRATION (mg/kg dry weight)	SAMPLE DATE	ANALYTICAL METHOD	MINIMUM DETECTION LEVEL FOR ANALYSIS
VOLATILE ORGANIC COMPOUNDS (cont'd)				
METHYL CHLORIDE 74-87-3				
METHYLENE CHLORIDE 75-09-2				
1,1,2,2-TETRACHLOROETHANE 79-34-5				
TETRACHLOROETHYLENE 127-18-4				
TOLUENE 108-88-3				
1,1,1-TRICHLOROETHANE 71-55-6				
1,1,2-TRICHLOROETHANE 79-00-5				
TRICHLOROETHYLENE 79-01-6				
VINYL CHLORIDE 75-01-4				
ACID-EXTRACTABLE COMPOUNDS				
P- CHLORO-M-CRESOL 59-50-7				
2-CHLOROPHENOL 95-57-8				
2,4-DICHLOROPHENOL 120-83-2				
2,4- DIMETHYLPHENOL 105-67-9				
4,6-DINITRO-C-DRESOL 534-52-1				
2,4- DINITROPHENOL 51-28-5				
2-NITROPHENOL 88-75-5				
4-NITROPHENOL 100-02-7				
PENTACHLOROPHENOL 87-86-5				
PHENOL 108-95-2				
2,4,6-TRICHLOROPHENOL 88-06-2				

POLLUTANT NAME CAS REGISTRY NUMBER	CONCENTRATION (mg/kg dry weight)	SAMPLE DATE	ANALYTICAL METHOD	MINIMUM DETECTION LEVEL FOR ANALYSIS
BASE-NEUTRAL COMPOUNDS				
ACENAPHTHENE 83-32-9				
ACENAPHTHYLENE 208-96-8				
ANTHRACENE 120-12-7				
BENZIDINE 92-87-5				
BENZO(A)ANTHRACENE 56-55-3				
BENZO(A)PYRENE 50-32-8				
3,4 BENZOFLUORANTHENE 205-99-2				
BENZO(GHI)PERYLENE 191-24-2				
BENZO(K)FLUORANTHENE 207-08-9				
BIS (2-CHLOROETHOXY) METHANE / 111-91-1				
BIS (2-CHLOROETHYL) ETHER/111-44-4				
BIS (2-CHLOROISOPROPYL ETHER /108-60-1				
BIS (2-ETHYLHEXYL) PHTHALATE / 117-81-7				
4-BROMOPHENYL PHENYL ETHER / 101-55-3				
BUTYL BENZYL PHTHALATE 85-68-7				
2-CHLORONAPHTHALENE 91-58-7				
4-CHLOROPHENYL PHENYL ETHER / 7005-72-3				
CHRYSENE 218-01-9				
DI-N-BUTYL PHTHALATE 84-74-2				
DI-N-OCTYL PHTHALATE 117-84-0				
DIBENZO(A,H)ANTHRACENE 53-70-3				
1,2-DICHLOROBENZENE 95-50-1				
1,3-DICHLOROBENZENE 541-73-1				

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A.8.b. Monitoring Information for Class I Sludge Management Facilities (cont'd).

POLLUTANT NAME CAS REGISTRY NUMBER	CONCENTRATION (mg/kg dry weight)	SAMPLE DATE	ANALYTICAL METHOD	MINIMUM DETECTION LEVEL FOR ANALYSIS
BASE-NEUTRAL COMPOUNDS (cont'd)				
1,4-DICHLOROBENZENE 106-46-7				
3,3'-DICHLOROBENZIDINE 91-94-1				
DIETHYL PHTHALATE 84-66-2				
DIMETHYL PHTHALATE 131-11-3				
2,4-DINITROTOLUENE 121-14-2				
2,6-DINITROTOLUENE 606-20-2				
1,2-DIPHENYLHYDRAZINE 122-66-7				
FLUORANTHENE 20644-0				
FLUORENE 86-73-7				
HEXACHLOROBENZENE 118-74-1				
HEXACHLOROBUTADIENE 87-68-3				
HEXACHLOROCYCLO-PENTADIENE / 77-47-4				
HEXACHLOROETHANE 67-72-1				
INDENO(1,2,3-CD)PYRENE 193-39-5				
ISOPHORONE 78-59-1				
NAPHTHALENE 91-20-3				
NITROBENZENE 98-95-3				
N-NITROSODI N-PROPYLAMINE / 621-64-7				
N-NITROSODIMETHYLAMINE 62-75-9				
N-NITROSODIPHENYLAMINE 86-30-6				
PHENANTHRENE 85-01-8				
PYRENE 129-00-0				
1,2,4,-TRICHLOROBENZENE 120-82-1				

POLLUTANT NAME CAS REGISTRY NUMBER	CONCENTRATION (mg/kg dry weight)	SAMPLE DATE	ANALYTICAL METHOD	MINIMUM DETECTION LEVEL FOR ANALYSIS
PESTICIDES				
ALDRIN 309-00-2				
ALPHA-BHC 319-84-6				
BETA-BHC 319-85-7				
DELTA-BHC 319-86-8				
GAMMA-BHC 58-89-9				
CHLORDANE 57-74-9				
4,4'-DDD 72-54-8				
4,4'-DDE 72-55-9				
4,4'-DDT 50-29-3				
DIELDRIN 60-57-1				
ALPHA-ENDOSULFAN 959-98-8				
BETA-ENDOSULFAN 33213-65-9				
ENDOSULFAN SULFATE 1031-07-8				
ENDRIN 72-20-8				
ENDRIN ALDEHYDE 7421-93-4				
HEPTACHLOR 76-44-8				
HEPTACHLOR EPOXIDE 1024-57-3				
PCB-1016 (AROCLOR 1016) 12674-11-2				
PCB-1221 (AROCLOR 1221) 11104-28-2				
PCB-1232 (AROCLOR 1232) 11141-16-5				
PCB-1242 (AROCLOR 1242) 53469-21-9				
PCB-1248 (AROCLOR 1248) 12672-29-6				
PCB-1254 (AROCLOR 1254) 11097-69-1				

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A.8.b. Monitoring Information for Class I Sludge Management Facilities (cont'd).

POLLUTANT NAME CAS REGISTRY NUMBER	CONCENTRATION (mg/kg dry weight)	SAMPLE DATE	ANALYTICAL METHOD	MINIMUM DETECTION LEVEL FOR ANALYSIS
PESTICIDES (cont'd)				
PCB-1260 11096-82-5				
TOXAPHENE 8001-35-2				
OTHER				
2,3,7,8-TETRACHLORODIBENZO-P-DIOXIN (TCDD)/1746-01-6				

POLLUTANT NAME CAS REGISTRY NUMBER	CONCENTRATION (mg/kg dry weight)	SAMPLE DATE	ANALYTICAL METHOD	MINIMUM DETECTION LEVEL FOR ANALYSIS

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A.9. Certification. Read and submit the following certification statement with this application. Refer to the instructions to determine who is an officer for purposes of this certification.

Indicate which parts of Form 2S you have completed and are submitting:

☐ Limited Background Information packet

Permit Application Information packet:

☐ Part A (General Information)
☐ Part B (Generation of Sewage Sludge or Preparation of a Material Derived from Sewage Sludge)
☐ Part C (Land Application of Bulk Sewage Sludge)
☐ Part D (Surface Disposal)
☐ Part E (Incineration)

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with the system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature of Officer: _____

Name of Officer: (typed or printed) _____

Official Title of Officer: _____

Telephone Number: _____

Date Signed: _____

Upon request of the permitting authority, you must submit any other information necessary to assess sewage sludge use or disposal practices at your facility or identify appropriate permitting requirements.

Send this completed application to:

EPA Form 3510-2S (Rev. 9-95).

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B. GENERATION OF SEWAGE SLUDGE OR PREPARATION OF A MATERIAL DERIVED FROM SEWAGE SLUDGE

Complete this section if your facility generates sewage sludge or derives a material from sewage sludge.

B.1. Amount Generated On Site.

Total dry metric tons per 365-day period generated at your facility: _____

B.2. Amount Received from Off Site. If your facility receives sewage sludge from another facility for treatment, use, or disposal, provide the following information for each facility from which sewage sludge is received. If you receive sewage sludge from more than one facility, attach additional pages as necessary.

a. Facility name _____

b. Contact person _____

Phone number _____

c. Mailing address _____

d. Facility address (not P.O. Box) _____

e. Total dry metric tons per 365-day period received from this facility: _____

f. Describe, on this form or on another sheet of paper, any treatment processes known to occur at the off-site facility, including blending activities and treatment to reduce pathogens or vector attraction characteristics:

B.3. Treatment Provided at Your Facility.

a. Which class of pathogen reduction is achieved for the sewage sludge at your facility?

____ Class A ____ Class B ____ Neither or unknown

b. Describe, on this form or another sheet of paper, any treatment processes used at your facility to reduce pathogens in sewage sludge:

c. Which vector attraction reduction option is met for the sewage sludge at your facility?

____ Option 1 (Minimum 38 percent reduction in volatile solids)
____ Option 2 (Anaerobic process, with bench-scale demonstration)
____ Option 3 (Aerobic process, with bench-scale demonstration)
____ Option 4 (Specific oxygen uptake rate for aerobically digested sludge)
____ Option 5 (Aerobic processes plus raised temperature)
____ Option 6 (Raise pH to 12 and retain at 11.5)
____ Option 7 (75 percent solids with no unstabilized solids)
____ Option 8 (90 percent solids with unstabilized solids)
____ None or unknown

d. Describe, on this form or another sheet of paper, any treatment processes used at your facility to reduce vector attraction properties of sewage sludge:

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B.3. Treatment Provided at Your Facility. (cont'd)

e. Describe, on this form or another sheet of paper, any other sewage sludge treatment or blending activities not identified in (a) - (d) above:

Complete Section B.4 if sewage sludge from your facility meets the ceiling concentrations in Table 1 of 40 CFR 503.13, the pollutant concentrations in Table 3 of §503.13, the Class A pathogen reduction requirements in §503.32(a), and one of the vector attraction reduction requirements in §503.32(b)(1)-(8) and is land applied. Skip this section if sewage sludge from your facility does not meet all of these criteria.

B.4. Preparation of Sewage Sludge Meeting Ceiling and Pollutant Concentrations, Class A Pathogen Requirements, and One of Vector Attraction Reduction Options 1-8.

a. Total dry metric tons per 365-day period of sewage sludge subject to this section that is applied to the land: _____

b. Is sewage sludge subject to this section placed in bags or other containers for sale or give-away for application to the land?

____ Yes ____ No

Complete Section B.5 if you place sewage sludge in a bag or other container for sale or give-away for land application. Skip this section if the sewage sludge is covered in Section B.4.

B.5. Sale or Give-Away in a Bag or Other Container for Application to the Land.

a. Total dry metric tons per 365-day period of sewage sludge placed in a bag or other container at your facility for sale or give-away for application to the land: _____

B.5. Sale or Give-Away in a Bag or Other Container for Application to the Land.(cont'd)

b. Attach, with this application, a copy of all labels or notices that accompany the sewage sludge being sold or given away in a bag or other container for application to the land.

Complete Section B.6 if sewage sludge from your facility is provided to another facility that provides treatment or blending. This section does not apply to sewage sludge sent directly to a land application or surface disposal site. Skip this section if the sewage sludge is covered in Sections B.4 or B.5. If you provide sewage sludge to more than one facility, attach additional pages as necessary.

B.6. Shipment Off Site for Treatment or Blending.

a. Name of receiving facility: _____

b. Facility contact. Name: _____
Title: _____
Phone: ( ) _____

c. Facility mailing address.
Street or P.O. Box: _____
City or Town: _____ State: ____ Zip: _____

d. Total dry metric tons per 365-day period of sewage sludge provided to receiving facility: _____

e. Does the receiving facility provide additional treatment to reduce pathogens in sewage sludge from your facility? ____ Yes ____ No

Which class of pathogen reduction is achieved for the sewage sludge at the receiving facility?

____ Class A ____ Class B ____ Neither or unknown

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B.6. Shipment Off Site for Treatment or Blending. (cont'd)

Describe, on this form or another sheet of paper, any treatment processes used at the receiving facility to reduce pathogens in sewage sludge:

f. Does the receiving facility provide additional treatment to reduce vector attraction characteristics of the sewage sludge? ____ Yes ____ No

Which vector attraction reduction option is met for the sewage sludge at the receiving facility?

____ Option 1 (Minimum 38 percent reduction in volatile solids)
____ Option 2 (Anaerobic process, with bench-scale demonstration)
____ Option 3 (Aerobic process, with bench-scale demonstration)
____ Option 4 (Specific oxygen uptake rate for aerobically digested sludge)
____ Option 5 (Aerobic processes that raise temperature)
____ Option 6 (Raise pH to 12 and retain at 11.5)
____ Option 7 (75 percent solids with no unstabilized solids)
____ Option 8 (90 percent solids with unstabilized solids)
____ None

Describe, on this form or another sheet of paper, any treatment processes used at the receiving facility to reduce vector attraction properties of sewage sludge.

g. Does the receiving facility provide any additional treatment or blending activities not identified in (e) or (f) above? ____ Yes ____ No

If yes, describe—on this form or another sheet of paper—the treatment or blending activities not identified in (e) or (f) above:

B.6. Shipment Off Site for Treatment or Blending. (cont'd)

h. If you answered yes to (e), (f), or (g), attach a copy of any information you provide the receiving facility to comply with the "notice and necessary information" requirement of 40 CFR 503.12(g).

i. Does the receiving facility place sewage sludge from your facility in a bag or other container for sale or give-away for application to the land?
____ Yes ____ No

If yes, provide a copy of all labels or notices that accompany the product being sold or given away.

Complete Section B.7 if sewage sludge from your facility is applied to the land, unless the sewage sludge is covered in:

- **Section B.4 (it meets Table 1 ceiling concentrations, Table 3 pollutant concentrations, Class A pathogen requirements, and one of vector attraction reduction options 1-8); or**
- **Section B.5 (you place it in a bag or other container for sale or give-away for application to the land); or**
- **Section B.6 (you send it to another facility for treatment or blending).**

B.7. Land Application of Bulk Sewage Sludge.

a. Total dry metric tons per 365-day period of sewage sludge applied to all land application sites: _____

b. Do you identify all land application sites in Section C of this application?
____ Yes ____ No

If no, submit a copy of the land application plan with this application (see instructions).

c. Are any land application sites located in States other than the State where you generate sewage sludge or derive a material from sewage sludge?

____ Yes ____ No

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B.7. Land Application of Bulk Sewage Sludge. (cont'd)

If yes, describe—on this form or another sheet of paper—how you notify the permitting authority for the States where the land application sites are located. Provide a copy of the notification.

Complete Section B.8 if sewage sludge from your facility is placed on a surface disposal site.

B.8. Surface Disposal.

a. Total dry metric tons of sewage sludge from your facility placed on all surface disposal sites per 365-day period: _____

b. Do you own or operate all surface disposal sites to which you send sewage sludge for disposal?
____ Yes ____ No

If no, answer B.8.c - B.8.f for each surface disposal site that you do not own or operate. If you send sewage sludge to more than one such surface disposal site, attach additional pages as necessary.

c. Site name or number: _____

d. Site contact. Name: _____
Title: _____
Phone: ( ) _____
Contact is: ____ Site owner ____ Site operator

e. Mailing address _____

f. Total dry metric tons of sewage sludge from your facility placed on this surface disposal site per 365-day period: _____

Complete Section B.9 if sewage sludge from your facility is fired in a sewage sludge incinerator.

B.9. Incineration.

a. Total dry metric tons of sewage sludge from your facility fired in all sewage sludge incinerators per 365-day period: _____

b. Do you own or operate all sewage sludge incinerators in which sewage sludge from your facility is fired?
____ Yes ____ No

If no, complete B.9.c - B.9.f for each sewage sludge incinerator that you do not own or operate. If you send sewage sludge to more than one such sewage sludge incinerator, attach additional pages as necessary.

c. Incinerator name or number: _____

d. Incinerator contact. Name: _____
Title: _____
Phone: ( ) _____
Contact is incinerator: ____ Owner ____ Operator

e. Incinerator mailing address: _____

f. Total dry metric tons of sewage sludge from your facility fired in this sewage sludge incinerator per 365-day period: _____

Complete Section B.10 if sewage sludge from this facility is placed on a municipal solid waste landfill.

B.10. Disposal in a Municipal Solid Waste Landfill. Provide the following information for each municipal solid waste landfill on which sewage sludge from your facility is placed. If sewage sludge is placed on more than one municipal solid waste landfill, attach additional pages as necessary.

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B.10. Disposal in a Municipal Solid Waste Landfill. (cont'd)

a. Name of landfill: _____

b. Landfill contact. Name: _____
Title: _____
Phone: ( ) _____
Contact is: ____ Landfill owner ____ Landfill operator

c. Mailing address for municipal solid waste landfill.
Street or P.O. Box: _____
City or Town: _____ State: ____ Zip: _____

d. Location of municipal solid waste landfill.
Street or Route #: _____
County: _____
City or Town: _____ State: ____ Zip: _____

e. Total dry metric tons of sewage sludge from your facility placed in this municipal solid waste landfill per 365-day period: _____

B.10. Disposal in a Municipal Solid Waste Landfill. (cont'd)

f. List, on this form or an attachment, the numbers of all other Federal, State, and local permits that regulate the operation of this municipal solid waste landfill:

Permit Number:	Type of Permit:
_____	_____
_____	_____
_____	_____

g. Submit, with this application, information to determine whether the sewage sludge meets applicable requirements for disposal of sewage sludge in a municipal solid waste landfill (e.g., results of paint filter liquids test and TCLP test).

h. Does the municipal solid waste landfill comply with applicable criteria set forth in 40 CFR Part 258?

____ Yes ____ No

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C. LAND APPLICATION OF BULK SEWAGE SLUDGE

Complete Section C for sewage sludge that is applied to the land, unless any of the following conditions apply:

- The sewage sludge meets the Table 1 ceiling concentrations, the Table 3 pollutant concentrations, Class A pathogen requirements, and one of vector attraction reduction options 1-8 *(fill out B.4 instead)*; or
- The sewage sludge is sold or given away in a bag or other container for application to the land *(fill out B.5 instead)*; or
- You provide the sewage sludge to another facility for treatment or blending *(fill out B.6 instead)*.

Complete Section C for every site on which the sewage sludge that you reported in Section B.7 is applied.

C.1. Identification of Land Application Site.

a. Site name or number: _____

b. Site location. (Complete 1 or 2)
1. Street or Route #: _____
County: _____
City or Town: _____ State: ____ Zip: _____
2. Latitude: _____ Longitude: _____

C.2. Owner Information.

a. Are you the owner of this land application site? ____ Yes ____ No

b. If no, provide the following information about the owner:
Name: _____
Phone: ( ) _____
Street or P.O. Box: _____
City or Town: _____ State: ____ Zip: _____

C.3. Applier Information.

a. Are you the person who applies, or who is responsible for application of, sewage sludge to this land application site? ____ Yes ____ No

b. If no, provide the following information for the person who applies:
Name: _____
Phone: ( ) _____
Street or P.O. Box: _____
City or Town: _____ State: ____ Zip: _____

C.4. Site Type. Identify the type of land application site from among the following:

____ Agricultural land ____ Reclamation site
____ Forest ____ Other. If other, specify:
____ Public contact site _____
_____

C.5. Crop or Other Vegetation Grown on Site.

a. What type of crop or other vegetation is grown on this site?
_____
_____

b. What is the nitrogen requirement for this crop or vegetation?
_____

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C.6. Vector Attraction Reduction.

Are any vector attraction reduction requirements met when sewage sludge is applied to the land application site?

____ Yes ____ No

If yes, answer C.6.a and C.6.b:

a. Indicate which vector attraction reduction option is met:

____ Option 9 (injection below land surface)
____ Option 10 (incorporation into soil within 6 hours)

b. Describe, on this form or another sheet of paper, any treatment processes used at the land application site to reduce vector attraction properties of sewage sludge:

C.7. Ground-Water Monitoring.

Are any ground-water monitoring data available for this land application site?

____ Yes ____ No

If yes, submit the ground-water monitoring data with this permit application. Also submit a written description of the well locations, approximate depth to ground water, and the ground-water monitoring procedures used to obtain these data.

Complete Question C.8 only if the sewage sludge applied to this site since July 20, 1993, is subject to the cumulative pollutant loading rates (CPLRs) in 40 CFR 503.13(b)(3) (see instructions).

C.8. Cumulative Loadings and Remaining Allotments.

a. Have you contacted the permitting authority in the State where the bulk sewage sludge subject to CPLRs will be applied, to ascertain whether bulk sewage sludge subject to CPLRs has been applied to this site on or since July 20, 1993?

C.8. Cumulative Loadings and Remaining Allotments. (cont'd)

____ Yes ____ No

If no, sewage sludge subject to CPLRs may not be applied to this site.

If yes, provide the following information:

Permitting authority: _____
Contact person: _____
Phone: ( ) _____

b. Based upon this inquiry, has bulk sewage sludge subject to CPLRs been applied to this site since July 20, 1993?

____ Yes ____ No

If no, skip C.8.c.
If yes, answer question C.8.c.

c. Provide the following information for every facility other than yours that is sending, or has sent, bulk sewage sludge subject to CPLRs to this site since July 20, 1993. If more than one such facility sends sewage sludge to this site, attach additional pages as necessary.

Name of facility: _____
Facility contact: Name: _____
Title: _____
Phone: ( ) _____
Facility mailing address:
Street or P.O. Box: _____
City or Town: _____ State: ____ Zip: _____

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D. SURFACE DISPOSAL

Complete this section if you own or operate a surface disposal site.

Complete Sections D.1 - D.6 for each active sewage sludge unit.

D.1. Information on Active Sewage Sludge Units.

a. Unit name or number: _____

b. Unit location: _____

c. Total dry metric tons of sewage sludge placed on the active sewage sludge unit per 365-day period: _____

d. Total dry metric tons of sewage sludge placed on the active sewage sludge unit over the life of the unit: _____

e. Does the active sewage sludge unit have a liner with a maximum hydraulic conductivity of 1×10^{-7} cm/sec? ____ Yes ____ No
If yes, describe the liner (or attach a description): _____

f. Does the active sewage sludge unit have a leachate collection system? ____ Yes ____ No
If yes, describe the leachate collection system (or attach a description). Also describe the method used for leachate disposal and provide the numbers of any Federal, State, or local permit(s) for leachate disposal: _____

g. If you answered no to either D.1.e or D.1.f, answer the following question:

Is the boundary of the active sewage sludge unit less than 150 meters from the property line of the surface disposal site? ____ Yes ____ No

If yes, provide the actual distance in meters: _____

D.1. Information on Active Sewage Sludge Units. (cont'd)

h. Provide the following information:

Remaining capacity of active sewage sludge unit, in dry metric tons: _____
Anticipated closure date for active sewage sludge unit, if known: _____
Provide, with this application, a copy of any closure plan that has been developed for this active sewage sludge unit.

D.2. Sewage Sludge from Other Facilities. Is sewage sludge sent to this active sewage sludge unit from any facilities other than your facility?

____ Yes ____ No

If yes, provide the following information for each such facility. If sewage sludge is sent to this active sewage sludge unit from more than one such facility, attach additional pages as necessary.

a. Name of facility: _____
b. Facility contact. Name: _____
Title: _____
Phone: ( ) _____
c. Facility mailing address.
Street or P.O. Box: _____
City or Town: _____ State: ____ Zip: _____
d. Which class of pathogen reduction is achieved before sewage sludge leaves the other facility?

____ Class A ____ Class B ____ None or unknown

e. Describe, on this form or another sheet of paper, any treatment processes used at the other facility to reduce pathogens in sewage sludge: _____

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D.2. Sewage Sludge from Other Facilities (cont'd)

f. Which vector attraction reduction option is achieved before sewage sludge leaves the other facility?

____ Option 1 (Minimum 38 percent reduction in volatile solids)
____ Option 2 (Anaerobic process, with bench-scale demonstration)
____ Option 3 (Aerobic process, with bench-scale demonstration)
____ Option 4 (Specific oxygen uptake rate for aerobically digested sludge)
____ Option 5 (Aerobic processes plus raised temperature)
____ Option 6 (Raise pH to 12 and retain at 11.5)
____ Option 7 (76 percent solids with no unstabilized solids)
____ Option 8 (90 percent solids with unstabilized solids)
____ None or unknown

g. Describe, on this form or another sheet of paper, any treatment processes used at the other facility to reduce vector attraction properties of sewage sludge:

h. Describe, on this form or another sheet of paper, any other sewage sludge treatment activities performed by the other facility that are not identified in (d) - (g) above:

D.3. Vector Attraction Reduction.

a. Which vector attraction reduction option, if any, is met when sewage sludge is placed on this active sewage sludge unit?

____ Option 9 (Injection below land surface)
____ Option 10 (Incorporation into soil within 6 hours)
____ Option 11 (Covering active sewage sludge unit daily)

D.3. Vector Attraction Reduction. (cont'd)

b. Describe, on this form or another sheet of paper, any treatment processes used at the active sewage sludge unit to reduce vector attraction properties of sewage sludge:

D.4. Ground-Water Monitoring.

a. Is ground-water monitoring currently conducted at this active sewage sludge unit, or are ground-water monitoring data otherwise available for this active sewage sludge unit ?

____ Yes ____ No

If yes, provide a copy of available ground-water monitoring data. Also provide a written description of the well locations, the approximate depth to ground water, and the ground-water monitoring procedures used to obtain these data.

b. Has a ground-water monitoring program been prepared for this active sewage sludge unit?

____ Yes ____ No

If yes, submit a copy of the ground-water monitoring program with this permit application.

c. Have you obtained a certification from a qualified ground-water scientist that the aquifer below the active sewage sludge unit has not been contaminated?

____ Yes ____ No

If yes, submit a copy of the certification with this permit application.

D.5. Site-Specific Limits. Are you seeking site-specific pollutant limits for the sewage sludge placed on the active sewage sludge unit?

____ Yes ____ No

If yes, submit information to support the request for site-specific pollutant limits with this application.

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E. INCINERATION

Complete this section if you fire sewage sludge in a sewage sludge incinerator.

Complete this section once for each incinerator in which you fire sewage sludge. If you fire sewage sludge in more than one sewage sludge incinerator, attach additional copies of this section as necessary.

E.1. Incinerator Identification.

a. Incinerator name or number _____

b. Incinerator location _____

E.2. Amount Fired. Dry metric tons per 365-day period of sewage sludge fired in the sewage sludge incinerator: _____

E.3. Beryllium NESHAP.

a. Is the sewage sludge fired in this incinerator "beryllium-containing waste," as defined in the instructions?

____ Yes ____ No

Submit, with this application, information, test data, and description of measures taken that demonstrate whether the sewage sludge incinerated is beryllium-containing waste, and will continue to remain as such.

b. If the answer to (a) is yes, submit—with this application—a complete report of the latest beryllium emission rate testing and documentation of ongoing incinerator operating parameters indicating that the NESHAP emission rate limit for beryllium has been and will continue to be met.

E.4. Mercury NESHAP.

a. How is compliance with the mercury NESHAP being demonstrated?

____ Stack testing (if checked, complete E.4.b) ____ Sewage sludge sampling (if checked, complete E.4.c)

b. If stack testing is conducted, submit the following information with this application:

E.4. Mercury NESHAP. (cont'd)

- A complete report of stack testing and documentation of ongoing incinerator operating parameters indicating that the incinerator has met, and will continue to meet, the mercury NESHAP emission rate limit.
- Copies of mercury emission rate tests for the two most recent years in which testing was conducted.

c. If sewage sludge sampling is used to demonstrate compliance, submit a complete report of sewage sludge sampling and documentation of ongoing incinerator operating parameters indicating that the incinerator has met, and will continue to meet, the mercury NESHAP emission rate limit.

E.5. Dispersion Factor.

a. Dispersion factor, in micrograms/cubic meter per gram/second: _____

b. Name and type of dispersion model: _____

c. Submit a copy of the modeling results and supporting documentation with this application.

E.6. Control Efficiency.

a. Control efficiency, in hundredths, for the following pollutants:

Arsenic: _____ Lead: _____
Cadmium: _____ Nickel: _____
Chromium: _____

b. Submit a copy of the results of performance testing and supporting documentation (including testing dates) with this application.

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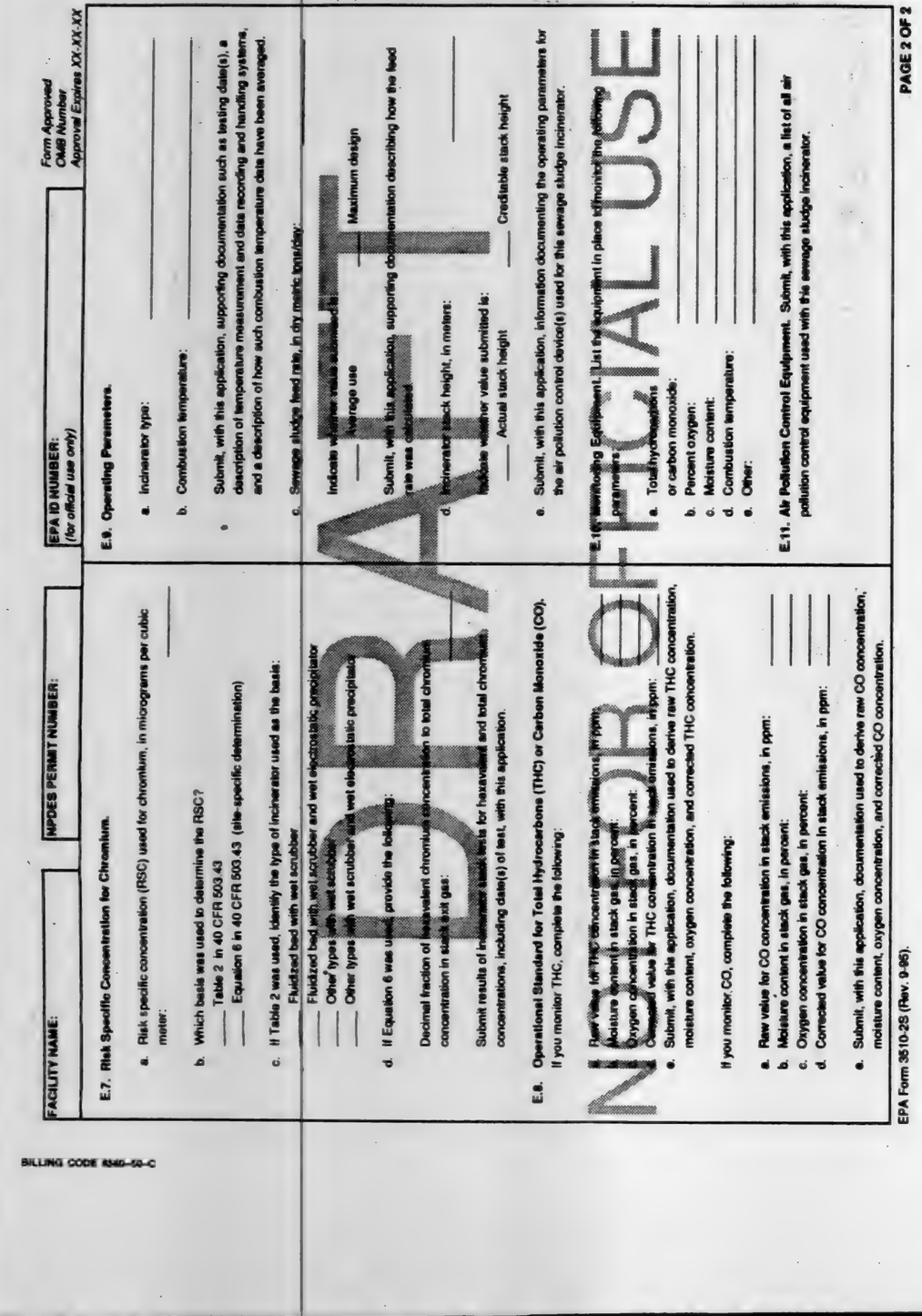

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E.6. Risk Specific Concentration for Chromium.

a. Risk specific concentration (RSC) used for chromium, in micrograms per cubic meter: _____

b. Which basis was used to determine the RSC?
___ Table 2 in 40 CFR 503.43
___ Equation 6 in 40 CFR 503.43 (site-specific determination)

c. If Table 2 was used, identify the type of incinerator used as the basis:
___ Fluidized bed with wet scrubber
___ Fluidized bed with wet scrubber and wet electrostatic precipitator
___ Other types with wet scrubber
___ Other types with wet scrubber and wet electrostatic precipitator

d. If Equation 6 was used, provide the following:
Decimal fraction of hexavalent chromium concentration to total chromium concentration in stack dust gas: _____
Submit results of incinerator stack tests for hexavalent and total chromium concentrations, including date(s) of test, with this application.

E.8. Operational Standard for Total Hydrocarbons (THC) or Carbon Monoxide (CO).
If you monitor THC, complete the following:

Raw value for THC concentration in stack emissions, in ppm: _____
Moisture content in stack gas, in percent: _____
Oxygen concentration in stack gas, in percent: _____
Corrected value for THC concentration in stack emissions, in ppm: _____
a. Submit, with this application, documentation used to derive raw THC concentration, moisture content, oxygen concentration, and corrected THC concentration.

If you monitor CO, complete the following:

a. Raw value for CO concentration in stack emissions, in ppm: _____
b. Moisture content in stack gas, in percent: _____
c. Oxygen concentration in stack gas, in percent: _____
d. Corrected value for CO concentration in stack emissions, in ppm: _____
e. Submit, with this application, documentation used to derive raw CO concentration, moisture content, oxygen concentration, and corrected CO concentration.

Indicate whether value submitted is:
___ Average use ___ Maximum design

Submit, with this application, supporting documentation describing how the feed rate was calculated.

d. Incinerator stack height, in meters: _____
Indicate whether value submitted is:
___ Actual stack height ___ Creditable stack height

e. Submit, with this application, information documenting the operating parameters for the air pollution control device(s) used for this sewage sludge incinerator.

E.10. Monitoring Equipment. List the equipment in place to monitor the following parameters:
a. Total hydrocarbons or carbon monoxide: _____
b. Percent oxygen: _____
c. Moisture content: _____
d. Combustion temperature: _____
e. Other: _____

E.11. Air Pollution Control Equipment. Submit, with this application, a list of all air pollution control equipment used with this sewage sludge incinerator.

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BILLING CODE 6560-50-C

Instructions for Completing Form 2S

Application for a Sewage Sludge Permit

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Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Chief, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 401 M St., S.W., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, Attention: Desk Officer for EPA. Include the OMB control number in any correspondence. Do not send the completed application form to these addresses.

Overview

This application form collects information from persons that are required to apply for a sewage sludge use or disposal permit.

Who Must Submit Application Information?

The following persons are "treatment works treating domestic sewage" that are required to submit sewage sludge permit application information:

- Any person who generates sewage sludge that is ultimately regulated by Part 503 (i.e., it is applied to the land, placed on a surface disposal site, fired in a sewage sludge incinerator, or placed in a municipal solid waste landfill unit);
- Any person who derives material from, or otherwise changes the quality of, sewage sludge (e.g., an intermediate treatment facility such as a composting facility, or a facility that processes sewage sludge for sale or give away in a bag or other container for application to the land), if that sewage sludge is used or disposed in a manner subject to Part 503;
- Any person who owns or operates a sewage sludge surface disposal site;
- Any person who fires sewage sludge in a sewage sludge incinerator; and
- Any other person required by the permitting authority to submit permit application information.

For purposes of this form, *you* refers to the applicant. *This facility* and *your facility* refer to the facility for which application information is being submitted.

Facility should be interpreted to include activities potentially subject to regulation under the sewage sludge program—e.g., areas of sewage sludge treatment, storage, land application, surface disposal, or incineration, even if such activities do not occur at the same location.

Which Parts of The Form Apply?

Form 2S is presented in a modular format, enabling information collection to be tailored to your facility's sewage sludge generation, treatment, use, or disposal practices. The form is divided into two main parts:

- *Part 1* is limited screening information that must be submitted by "sludge-only" (non-NPDES) facilities that are not applying for site-specific pollutant limits and have not been directed to submit a full permit application at this time.
- *Part 2* must be submitted by facilities that are submitting a full permit application at this time. These include the following:

—Facilities with a currently effective NPDES permit.
—Facilities that are required to have, or are requesting, site-specific pollutant limits, including "sludge-only" facilities that are applying for site-specific pollutant limits. (Note: all sewage sludge incinerators are required to have site-specific pollutant limits.)
—Facilities that have been directed by the permitting authority to apply for a permit at this time.

Complete either Part 1 or Part 2, but not both (unless otherwise instructed by the permitting authority).

Part 2 is divided into the following sections:

- *Section A* is general information to be provided by all applicants that fill out Part 2.
- *Section B* must be completed by any facility that generates sewage sludge or derives a material from sewage sludge.
- *Section C* must be completed by any facility that applies bulk sewage sludge to the land, or whose bulk sewage sludge is applied to the land. (Most applicants that provide this information will also submit Section B information, because it is unlikely that EPA would permit a land applier who does not generate or change the quality of sewage sludge.)
- *Section D* must be completed by the owner/operator of a surface disposal site.
- *Section E* must be completed by the owner/operator of a sewage sludge incinerator.

You need only submit the Sections of Part 2 that apply.

Part 1: Limited Background Information

Part 1 requests a limited amount of information from "sludge-only" facilities (facilities without a currently-effective NPDES permit) that are not requesting site-specific permit limits and are not directed by the permitting authority to submit a full permit application at this time. This limited screening information must be submitted as expeditiously as possible, but no later than 180 days after publication of an applicable use or disposal standard. It is intended to allow the permitting authority to identify these facilities, track sewage sludge use and disposal, and establish priorities for permitting.

1. Facility Information.

a. Provide the facility's official or legal name. Do not use a colloquial name.

b. Provide the complete mailing address of the office where correspondence should be sent. This may differ from the facility location given in Question 1.d.

c. Provide the name, title, and work telephone number of a person who is thoroughly familiar with the operation of the facility and with the facts reported in this application, and who can be contacted by the permitting authority if necessary.

d. Provide the physical location of the facility. If the facility lacks a street address or route number, provide the most accurate alternative geographic information (e.g., township and range, section or quarter section number, or nearby highway intersection).

e. Indicate the type of facility.

A *publicly owned treatment works* (POTW) is any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a State or municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

A *privately owned treatment works* is any device or system which is (a) used to treat wastes from any facility whose

operator is not the operator of the treatment works and (b) not a POTW or federally owned treatment works.

A *federally owned treatment works* is a facility that is owned and operated by a department, agency, or instrumentality of the Federal Government that treats wastewater, a majority of which is domestic sewage, prior to discharge in accordance with a permit issued under section 402 of the Federal Water Pollution Control Act.

A *blending or treatment operation* means any sewage sludge or wastewater treatment device or system, regardless of ownership (including Federal facilities), used in the storage, treatment, recycling, and reclamation of domestic sewage, including land dedicated for the disposal of sewage sludge. For purposes of this form, such devices or systems include blending or treatment operations that derive material from sewage sludge but do not generate sewage sludge.

A *surface disposal site* is an area of land that contains one or more active sewage sludge units.

An *active sewage sludge unit* is land on which only sewage sludge is placed for final disposal. This does not include land on which sewage sludge is either stored or treated. Land does not include waters of the United States, as defined in 40 CFR 122.2.

A *sewage sludge incinerator* is an enclosed device in which only sewage sludge and auxiliary fuel are fired.

2. Applicant Information.

a. If someone other than the facility contact person is submitting this application, provide the name of that person's organization.

b. Provide the complete mailing address of the applicant's organization.

c. Provide the name and work telephone number of a person who is thoroughly familiar with the operation of the facility and with the facts reported in this application, and who can be contacted by the permitting authority if necessary.

d. Indicate whether this applicant is the owner or operator (or both) of the facility. If it is neither, describe the relationship of the applicant to the facility.

e. Indicate whether you want correspondence regarding this application directed to the applicant or to the facility address provided in question 1.

3. Sewage Sludge Amount. List, on a dry weight basis, the total dry metric tons of sewage sludge per latest 365-day period handled at this facility.

Dry weight basis means calculated on the basis of having been dried at 105 degrees C until reaching a constant weight (i.e., essentially 100 percent solids content).

a. The *amount generated* is, for purposes of this application, the amount of sewage sludge generated during the treatment of domestic sewage at the facility.

b. The *amount received from off site* is any additional amount of sewage sludge handled at your facility that is not generated during the treatment of domestic sewage at your facility.

c. The *amount treated or blended on site* is the amount of sewage sludge generated on site, plus the amount received from off site, that undergoes treatment on site. *Treatment* is the preparation of sewage sludge for final use or disposal. Treatment, for purposes of this form, includes the following:

- Thickening and stabilization;
- Processing (e.g., composting) for purposes of pathogen reduction and vector attraction reduction; and
- Blending with a bulking agent or with sewage sludge from another facility.

Treatment does not include storage of sewage sludge.

d. The *amount sold or given away in a bag or other container for application to the land* is the amount placed in a bag or other container at your facility.

An *other container* is either an open or closed receptacle, including but not limited to, a bucket, box, carton, vehicle, or trailer with a load capacity of one metric ton or less.

e. The *amount of bulk sewage sludge shipped off site for treatment or blending* is the amount of sewage sludge that is shipped to another facility in bulk form (i.e., not in a bag or other container), where the other facility derives a material from the sewage sludge (i.e., it is a "person who prepares").

This question does not cover sewage sludge sent directly to a land application site, surface disposal site, municipal solid waste landfill, or sewage sludge incinerator.

f. The *amount applied to the land in bulk form* is the amount of bulk sewage sludge from your facility that is sent directly to a land application site from your facility. It does not cover sewage sludge placed in a bag or other container, nor does it cover sewage sludge shipped off site for treatment or for sale or give-away in a bag or other container.

g. The *amount placed on a surface disposal site* is the amount of sewage sludge from your facility that is placed on a surface disposal site, regardless of whether you own or operate the surface disposal site.

h. The *amount fired in a sewage sludge incinerator* is the amount of sewage sludge from your facility that is fired in a sewage sludge incinerator, regardless of whether you own or operate the sewage sludge incinerator.

i. The *amount sent to a municipal solid waste landfill* (MSWLF) is the amount of sewage sludge from your facility that is sent directly to a MSWLF, which is a discrete area of land or an excavation that receives household waste and other solid wastes.

j. The *amount used or disposed by another practice* is the amount of sewage sludge generated on site or received from off site that is not covered in Questions 3.d–3.i above.

4. Pollutant Concentrations. Provide available data on the concentrations of the listed pollutants in the sewage sludge from this facility. If concentration data are available for pollutants not on this list, provide those data as well. Provide up to three data points taken at least one month apart during the last two years. If data from the last two years are unavailable, provide the most recent data.

Express pollutant concentrations as dry weight concentrations.

You may use a separate attachment in addition to, or instead of, the table provided.

You need not perform additional pollutant monitoring to comply with this requirement; rather, only available data are requested.

Calculations on a *dry weight basis* are based on sewage sludge having been dried at 105 degrees Celsius until reaching a constant weight (i.e., essentially 100 percent solids content).

The Part 503 sewage sludge use or disposal regulation requires the use of Test Method SW–846 (in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," Second and Third Editions) to analyze samples of sewage sludge for compliance with Part 503. SW–846 is recommended, but not required, for purposes of providing sewage sludge quality information in the permit application.

5. Treatment Provided at Your Facility. Provide the following information regarding sewage sludge treatment on site. This question does not request information on sewage sludge treatment at an off-site use or disposal facility.

a. Indicate the class of pathogen reduction (Class A or Class B) that is achieved at your facility. You may select "neither or unknown" only if sewage sludge is placed on an active sewage sludge unit that is covered with soil or other material at the end of each operating day, sent to another facility for additional treatment, fired in a sewage sludge incinerator, or placed on a municipal solid waste landfill unit.

Options for meeting Class A pathogen reduction are listed at § 503.32(a). Options for meeting Class B pathogen reduction are listed at § 503.32(b).

b. Provide a written description of any treatment processes used to reduce pathogens in sewage sludge, including an indication of how the treatment fulfills one of the options for meeting Class A or Class B pathogen reduction. You may attach existing documentation (e.g., technical or process specifications) to meet this requirement.

c. Indicate whether any of the vector attraction reduction options in § 503.33(b) (1)–(11) are met before sewage sludge leaves the facility. Options 1–8 are typically met at the point where sewage sludge is generated or where a material is derived from sewage sludge, and Options 9–11 are typically met at the point of use or disposal.

You may select "none or unknown" only in the following cases:

- If sewage sludge is fired in a sewage sludge incinerator; or
- If sewage sludge is placed on a municipal solid waste landfill unit.

Land application: Sewage sludge applied to agricultural land, a forest, a public contact site, or a reclamation site must meet one of the vector attraction reduction options 1–10, which are defined at § 503.33(b) (1)–(10), respectively. Sewage sludge applied to a lawn or home garden, or placed in a bag or other container for sale or give-away for application to the land, must meet any of options 1–8, defined at § 503.33(b) (1)–(8), respectively.

Surface disposal: Sewage sludge placed on an active sewage sludge unit must meet one of vector attraction reduction options 1–11, which are defined at § 503.33(b) (1)–(11), respectively.

d. Provide a written description of any treatment processes used to reduce vector attraction characteristics of sewage sludge, including an indication of how the treatment fulfills one of options 1–11 for vector attraction reduction. You may attach existing documentation (e.g., technical or process specifications) to meet this requirement.

6. Sewage Sludge Sent to Other Facilities. If sewage sludge from your facility is sent to an off-site facility for treatment, distribution, use, or disposal, provide the information requested below for each receiving facility. If sewage sludge is sent to more than one off-site facility, attach additional pages if necessary.

For purposes of this form, an *off-site facility* is a facility or site that is located on land physically separate from the land used in connection with your facility. "Off site" may include facilities or sites that you own if they are not located on the same property or on adjacent property.

a. Provide the facility's official or legal name. Do not use a colloquial name.

b. Provide the name, title, and work telephone number of a person who is thoroughly familiar with the operation of the facility receiving the sewage sludge, and who can be contacted by the permitting authority if necessary.

c. Provide the complete mailing address at the off-site facility where correspondence should be sent.

d. Indicate which activities the receiving facility performs on the sewage sludge from your facility.

7. Use and Disposal Sites. If sewage sludge is sent directly from your facility to a use or disposal site (i.e., it is not sent to another facility), provide the following information for each such site (attach additional pages if necessary):

a. Provide the site name and/or number. The name and/or number is any designation commonly used to refer to the site. If the site has been previously designated in another permit, use that designation.

b. Provide the name, title, and work telephone number of a person who is thoroughly familiar with the operation of the use or disposal site, and who can be contacted by the permitting authority if necessary.

c. Answer either question 1 or question 2.

1. Provide the physical location (street address) of the site. If the site lacks a street address or route number, provide the most accurate alternative geographic information (e.g., township and range, section or quarter section number, nearby highway intersection).

2. Provide the latitude and longitude of the center of the site. If a map was used to obtain latitude and longitude, provide map datum (e.g., NAD 27, NAD 83) and map scale (e.g., 1:24000, 1:100000).

d. The *site type* is the intended end use of the land. Applicable sewage sludge use and disposal standards, and thus permit conditions, differ according to type of site.

Agricultural land is land on which a food crop, a feed crop, or a fiber crop is grown. This includes range land, which is open land with indigenous vegetation, and pasture, which is land on which animals feed directly on crops such as grasses, grain stubble, or stover.

Forest is a tract of land thick with trees and underbrush.

A *public contact site* is land with a high potential for contact by the public. Public contact sites include public parks, ball fields, cemeteries, plant nurseries, turf farms, and golf courses.

A *reclamation site* is land that has been drastically disturbed by strip mining, fires, construction, etc. As part of the reclamation process, sewage sludge is applied for its nutrient and soil conditioning properties to help stabilize and revegetate the land.

For purposes of this form, a *lawn or home garden* is privately-owned land on which crops or other vegetation are grown for private, non-commercial use and on which use by the general public does not occur.

A *surface disposal site* is an area of land that contains one or more active sewage sludge units. An *active sewage sludge unit* is land on which only sewage sludge is placed for final disposal.

A *sewage sludge incinerator* is an enclosed device in which sewage sludge and auxiliary fuel are fired.

A *municipal solid waste landfill* is a discrete area of land or an excavation that receives household waste and other solid wastes.

8. Certification. All permit applications must be signed and certified.

An application submitted by a *municipality, State, Federal, or other public agency* must be signed by either a principal executive officer or ranking elected official. A principal executive officer of a Federal agency includes: (1) The chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

An application submitted by a *corporation* must be signed by a responsible corporate officer. A responsible corporate officer means: (1) A president, secretary, treasurer, or vice president in charge of a principal business function, or any other person who performs similar policy- or decision-making functions; or (2) the manager of manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

An application submitted by a *partnership or sole proprietorship* must be signed by a general partner or the proprietor, respectively.

Part 2: Permit Application Information

Part 2 of this form pertains to facilities that are submitting a full permit application at this time. This includes facilities applying for an NPDES permit as well as "sludge-only" facilities that are applying for site-specific pollutant limits.

Review items 1–5 of the Application Overview section to determine which sections of Part 2 cover your facility's sewage sludge use or disposal practices. Table 1, below, summarizes which sections cover which activities.

TABLE 1.—GUIDELINES FOR COMPLETING PART 2

Activity(ies) performed	A	B	C	D	E
Generates sewage sludge or derives material from sewage sludge	✔	✔ (B.1–B.3)			
That meets ceiling concentrations in Table 1 of 40 CFR 503.13, pollutant concentrations in Table 3 of §503.13, Class A pathogen requirements in §503.32, and one of the eight vector attraction reduction options in §503.33 (b) (1)-(8)	✔	✔ (B.4)			
That is sold or given away in bag or other container for application to the land	✔	✔ (B.5)			
That is shipped off site for treatment or blending	✔	✔ (B.6)			
That is applied to the land in bulk form	✔	✔ (B.7)	✔		
That is placed on a surface disposal site	✔	✔ (B.8)			
That is fired in a sewage sludge incinerator	✔	✔ (B.9)			
That is sent to a municipal solid waste landfill	✔	✔ (B.10)			
Applies bulk sewage sludge to land	✔		✔		
Owns or operates a surface disposal site	✔			✔	
Fires sewage sludge in a sewage sludge incinerator	✔				✔

Section A: General Information

All applicants must complete Section A, which requests general information about the facility.

A.1. Facility Information.

a. Provide the facility's official or legal name. Do not use a colloquial name.

b. Provide the complete mailing address of the office where correspondence should be sent. This may differ from the facility location given in Question 1.d.

c. Provide the name, title, and work telephone number of a person who is thoroughly familiar with the operation of the facility and with the facts reported in this application, and who can be contacted by the permitting authority if necessary.

d. Provide the physical location (street address) of the facility. If the facility lacks a street address or route number, provide the most accurate alternative geographic information (e.g., township and range, section or quarter section number, nearby highway intersection).

e. Provide the latitude and longitude of the facility. This information is required by EPA's Locational Data Policy. If a map was used to obtain latitude and longitude, provide map datum (e.g., NAD 27, NAD 83) and map scale (e.g., 1:24000, 1:100000).

f. Indicate whether the facility is a Class I sludge management facility. A *Class I sludge management facility* is either:

- Any POTW required to have an approved pretreatment program under 40 CFR 403.8(a), including any POTW located in a State assuming local pretreatment program responsibilities pursuant to 40 CFR 403.10(e)); or
- Any treatment works treating domestic sewage, as defined in 40 CFR 122.2, classified as a Class I sludge management facility by the EPA Regional Administrator, or, in the case of approved State programs, the Regional Administrator in conjunction with the State Director, because of the potential for its sewage sludge use or disposal practices to adversely affect public health and the environment.

If your facility is a Class I sludge management facility, you must perform a toxicity characteristic leaching procedure (TCLP) on this facility's sewage sludge. Submit the results (pass or fail) of all TCLP tests you have performed during the past five years that you have not already submitted to the permitting authority.

g. Provide the facility's design influent flow rate. "Design influent flow rate" means the average flow the treatment works was designed to treat. Enter the design influent flow rate in million gallons per day (mgd), to two decimal places (e.g., 3.12 mgd translates to three million one hundred twenty thousand gallons per day).

h. For all areas served by the treatment works (municipalities and unincorporated service areas), enter the best estimate of the actual population served at the time of application. If another treatment works discharges into this treatment works, provide on a separate attachment the name of the other treatment works and the actual population it serves (it is not necessary to list the communities served by the other treatment works).

i. Indicate the type of facility.

A *publicly owned treatment works* (POTW) is any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a State or municipality. This definition includes sewers, pipes, or other conveyances, only if they convey wastewater to a POTW providing treatment.

A *privately owned treatment works* is any device or system which is (a) used to treat wastes from any facility whose operator is not the operator of the treatment works and (b) not a POTW or federally owned treatment works.

A *federally owned treatment works* is a facility that is owned and operated by a department, agency, or instrumentality of the Federal government that treats wastewater, a majority of which is domestic sewage, prior to discharge in accordance with a permit issued under section 402 of the Federal Water Pollution Control Act.

A *blending or treatment operation* means any sewage sludge or wastewater treatment device or system, regardless of ownership (including Federal facilities), used in the storage, treatment, recycling, and reclamation of domestic sewage, including land dedicated for the disposal of sewage sludge. For purposes of this form, such devices or systems include blending or treatment operations that derive material from sewage sludge but do not generate sewage sludge.

A *surface disposal site* is an area of land that contains one or more active sewage sludge units. An *active sewage sludge unit* is land on which only sewage sludge is placed for final disposal. This does not include land on which sewage sludge is either stored or treated. Land does not include waters of the United States, as defined in 40 CFR 122.2.

A *sewage sludge incinerator* is an enclosed device in which sewage sludge and auxiliary fuel are fired.

A.2. Applicant Information.

a. If someone other than the facility contact person is submitting this application, provide the name of that person's organization.

b. Provide the complete mailing address of the applicant's organization.

c. Provide the name and work telephone number of a person who is thoroughly familiar with the operation of the facility and with the facts reported in this application, and who can be contacted by the permitting authority if necessary.

d. Indicate whether this applicant is the owner or operator (or both) of the facility. If it is neither, describe the relationship of the applicant to the facility.

e. Indicate whether you want correspondence regarding this application directed to the applicant or to the facility address provided in question 1.

A.3. Permit Information. Provide the facility's NPDES permit number, if any. Also provide the number and type of any relevant Federal, State, or local environmental permits or construction approvals received or applied for, including but not limited to permits issued under any of the following programs:

- Hazardous Waste Management program under RCRA;
- UIC program under SDWA;
- Prevention of Significant Deterioration (PSD) program under the Clean Air Act;
- Nonattainment program under the Clean Air Act;
- National Emission Standards for Hazardous Air Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;
- Ocean dumping permits under the Marine Protection, Research, and Sanctuaries Act; or
- Dredge or fill permits under Section 404 of CWA.

A.4. Federal Indian Reservation. Identify any generation, treatment, storage, application to land, or disposal of sewage sludge that occurs on a Federal Indian Reservation.

A.5. Topographic Map. Provide a topographic map or maps (or other appropriate map(s) if a topographic map is unavailable) that shows the items identified below, including the areas one mile beyond the property boundaries of the facility.

a. Location of all sewage sludge management facilities, including land application sites and locations where sewage sludge is generated, treated, or disposed;

b. Location of all water bodies within one mile beyond the facility's property boundaries; and

c. Location of all wells used for drinking water listed in public records or otherwise known to you within ¼ mile of the facility property boundaries.

On each map, include the map scale, a meridian arrow showing north, and latitude and longitude at the nearest whole second. Use a 7½-minute series map published by the U.S. Geological Survey (USGS), which may be obtained through the USGS Earth Science Information Center (ESIC) listed below. If a 7½-minute series map has not been published for your facility site, then you may use a 15-minute series map from the U.S. Geological Survey. If neither a 7½-minute nor 15-minute series map has been published for your facility site, use a plat map or other appropriate map, including all the requested information; in this case, briefly describe land uses in the map area (e.g., residential, commercial). If you have previously prepared a map that includes these three items, that map may be submitted to fulfill this requirement if it is still accurate.

Maps may be purchased at local dealers (listed in your local yellow pages) or purchased over the counter at the following USGS Earth Science Information Centers (ESIC):

Anchorage-ESIC, 4230 University Dr., Rm. 101, Anchorage, AK 99508–4664, (907)786–7011
Lakewood-ESIC, Box 25046, Bldg. 25, Rm. 1813, Denver Federal Center, MS 504, Denver, CO 80225–0046, (303)236–5829
Lakewood Open Files-ESIC, Box 25286, Bldg. 810, Denver Federal Center, Denver, CO
Menlo Park-ESIC, Bldg. 3, Rm. 3128, MS 532, 345 Middlefield Rd., Menlo Park, CA 94025–3591, (415)329–4309
Reston-ESIC, 507 National Center, Reston, VA 22092, (703)648–6045
Rolla-ESIC, 1400 Independence Rd., MS 231, Rolla, MO 65401–2602, (314)341–0851
Salt Lake City-ESIC, 2222 West 2300 South, Salt Lake City, UT 84119, (801)975–3742
Sioux Falls-ESIC, EROS Data Center, Sioux Falls, SD 57198–0001, (605)594–6151
Spokane-ESIC, U.S. Post Office Bldg., Rm. 135, 904 W. Riverside Ave., Spokane, WA 99201–1088, (509)353–2524
Stennis Space Center-ESIC, Bldg. 3101, Stennis Space Center, MS 39529, (601)688–3541
Washington, D.C.-ESIC, U.S. Dept. of Interior, 1849 C St., NW, Rm. 2650, Washington, D.C. 20240, (202)208–4047

All maps should be either on paper or other material appropriate for reproduction. If possible, all sheets should be approximately letter size with margins suitable for filing and binding. As few sheets as necessary should be used to clearly show what is involved. Each sheet should be labeled with your facility's name, permit number, location (city, county, or town), date of drawing, and designation of the number of sheets of each diagram as "page _____ of _____."

A.6. Line Drawing. Attach to this form a line drawing, simple flow diagram, or narrative description that identifies all sewage sludge processes employed during the permit term, including the information requested on the application form.

A.7. Contractor Information.

If a contractor carries out any operational or maintenance aspects associated with this facility, provide the name, mailing address, and telephone of each such contractor. Also provide a description of the activities performed by the contractor. Attach additional pages if necessary.

A.8. Pollutant Concentrations.

- All facilities must complete *Section A.8.a.* (Part 503 Metals, Nutrients, and percent solids).
- Complete *Section A.8.b.* if this facility is a Class I sludge management facility.

A *Class I sludge management facility* is either:

—Any POTW required to have an approved pretreatment program under 40 CFR 403.8(a), including any POTW located in a State assuming local pretreatment program responsibilities pursuant to 40 CFR 403.10(e)); or

—Any treatment works treating domestic sewage, as defined in 40 CFR 122.2, classified as a Class I sludge management facility by the EPA Regional Administrator, or, in the case of approved State programs, the Regional Administrator in conjunction with the State Director, because of the potential for its sewage sludge use or disposal practices to adversely affect public health and the environment.

Provide pollutant concentration data as follows:

- Submit data for each of the pollutants listed in the appropriate section.
- For the listed pollutants, data may not be more than two years old. If existing data are not available for a pollutant, you must obtain and analyze at least one sample for that pollutant.

• In addition, if you have any available concentration data for pollutants *not* listed in the section you are completing, provide those data as well. If data for such additional pollutants are not available from the last two years, provide the most recent data.

• Express pollutant concentrations as dry weight concentrations.

• You may use a separate attachment in addition to or instead of the table provided.

Calculations on a *dry weight basis* are based on sewage sludge having been dried at 105 degrees Celsius until reaching a constant weight (i.e., essentially 100 percent solids content).

The Part 503 sewage sludge use or disposal regulation requires the use of Test Method SW–846 (in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," Second and Third Editions) to analyze samples of sewage sludge for compliance with Part 503. SW–846 is recommended, but not required, for purposes of providing sewage sludge quality information in the permit application.

A.9. Certification. All permit applications must be signed and certified. Also indicate in the boxes provided, which sections of Form 2S you are submitting with this application.

An application submitted by a *municipality, State, Federal, or other public agency* must be signed by either a principal executive officer or ranking elected official. A principal executive officer of a Federal agency includes: (1) The chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

An application submitted by a *corporation* must be signed by a responsible corporate officer. A responsible corporate officer means: (1) A president, secretary, treasurer, or vice president in charge of a principal business function, or any other person who performs similar policy- or decision-making functions; or (2) the manager of manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

An application submitted by a *partnership or sole proprietorship* must be signed by a general partner or the proprietor, respectively.

Section B: Generation of Sewage Sludge or Preparation of a Material Derived From Sewage Sludge

Complete this section if you are a "person who prepares sewage sludge." A *person who prepares sewage sludge* is a person who generates sewage sludge during the treatment of domestic sewage in a treatment works or who derives a material from sewage sludge. This section, therefore, pertains to any POTW or other treatment works that generates sewage sludge, as well as to any facility that derives a material from sewage sludge (e.g., it composts sewage sludge or blends sewage sludge with another material). Simply distributing sewage sludge or placing it in a bag or other container for sale or give-away for application to the land is not considered "deriving a material" from sewage sludge (because it does not change sludge quality), and thus a facility that only distributes or bags a sewage sludge would not be automatically required to provide the information in this section.

B.1. Amount Generated On Site. Provide the total dry metric tons per 365-day period of sewage sludge that is generated at your facility. Report only the amount of sewage sludge that is generated during treatment of domestic sewage in a treatment works, not the amount of material that is derived from sewage sludge.

B.2. Amount Received from Off Site. Provide the following information if your facility receives any sewage sludge from an off-site facility for further treatment (including blending), use, or disposal at your facility. If your facility receives sewage sludge from more than one off-site facility, provide this information separately for each such facility. Attach additional pages as necessary.

For purposes of this form, an *off-site* facility is a facility or site that is located on land physically separate from the land used in connection with your facility. "Off site" may include facilities or sites that you own if they are not located on the same property or on adjacent property.

a. Provide the official or legal name of the off-site facility. Do not use a colloquial name.

b. Provide the name and work telephone number of a person who is thoroughly familiar with the operation of the off-site facility and with the facts reported in this section, and who can be contacted by the permitting authority if necessary.

c. Provide the complete mailing address at the off-site facility where correspondence should be sent.

d. Provide the physical location (street address) of the off-site facility. If the facility lacks a street address or route number, provide the most accurate alternative geographic information (e.g., township and range, section or quarter section number, nearby highway intersection).

The off-site facility providing the sewage sludge is, by definition, also a "person who prepares sewage sludge". Both you and the off-site facility are required to apply for a permit and are required to ensure that applicable Part 503 requirements are met.

e. Provide the total dry metric tons per 365-day period received from the off-site facility.

f. Describe any treatment processes occurring at the off-site facility, including blending activities and treatment to reduce pathogens or vector attraction characteristics. "Treatment" does not include dewatering.

B.3. Treatment Provided at Your Facility. Provide the following information regarding sewage sludge treatment at your facility. This question does *not* request information on sewage sludge treatment at an off-site use or disposal facility.

a. Indicate the class of pathogen reduction (Class A or Class B) that is achieved before sewage sludge leaves the facility. You may select "neither or unknown" only if sewage sludge is placed on an active sewage sludge unit that is covered with soil or other material at the end of each operating day, sent to another facility for additional treatment, fired in a sewage sludge incinerator, or placed on a municipal solid waste landfill unit.

Options for meeting Class A pathogen reduction are listed at § 503.32(a). Options for meeting Class B pathogen reduction are listed at § 503.32(b).

b. Provide a written description of any treatment processes used to reduce pathogens in sewage sludge, including an indication of how the treatment fulfills one of the options for meeting Class A or Class B pathogen reduction. You may attach existing documentation (e.g., technical or process specifications) to meet this requirement.

c. Indicate whether any of vector attraction reduction options 1–8 are met before sewage sludge leaves the facility. Options 1–8 are published at § 503.33(b)(1)–(8), and typically are met at the point of sewage sludge generation.

Options 9, 10, and 11 (published at § 503.33(b)(9)–(11), respectively) are also available, but are typically met at the point of use or disposal and are covered elsewhere in this form.

You may select "none or unknown" only in the following cases:

• If sewage sludge is sent to another facility for additional treatment;

• If option 9 (injection below land surface) or option 10 (incorporation into soil within six hours) is met at a *land application site*;

• If option 9 (injection below land surface), option 10 (incorporation into soil within six hours), or option 11 (daily cover) is met at an active sewage sludge unit at a surface disposal site;

• If sewage sludge is fired in a sewage sludge incinerator; or

• If sewage sludge is placed on a municipal solid waste landfill unit.

Land application: Sewage sludge applied to agricultural land, a forest, a public contact site, or a reclamation site must meet one of the vector attraction reduction options 1–10, which are defined at § 503.33(b)(1)–(10), respectively. Sewage sludge applied to a lawn or home garden, or placed in a bag or other container for sale or give-away for application to the land, must meet any of options 1–8, defined at § 503.33(b)(1)–(8), respectively.

Surface disposal: Sewage sludge placed on an active sewage sludge unit must meet one of vector attraction reduction options 1–11, which are defined at § 503.33(b)(1)–(11), respectively.

d. Provide a written description of any treatment processes used to reduce vector attraction characteristics of sewage sludge, including an indication of how the treatment fulfills one of options 1–8 for vector attraction reduction. You may attach existing documentation (e.g., technical or process specifications) to meet this requirement.

e. Provide a written description of any other treatment or blending activities not described in B.3.b or B.3.d above. "Other treatment" does not include dewatering or placement of sewage sludge in a bag or other container for sale or give-away for application to land. You may attach existing documentation (e.g., technical or process specifications) to meet this requirement.

B.4. Preparation of Sewage Sludge Meeting Ceiling Concentrations, Pollutant Concentrations, Class A Pathogen Requirements, and One of Vector Attraction Reduction Options 1–8.

Complete this section if sewage sludge from this facility meets *all* of the following criteria:

• The ceiling concentrations in Table 1 of § 503.13(b)(1) and the pollutant concentrations in Table 3 of § 503.13(b)(3);

• The Class A pathogen reduction requirements in § 503.32(a); *and*

• One of the vector attraction reduction options in § 503.33(b)(1)–(8).

Sewage sludge meeting *all* of these criteria is exempt from the general requirements of § 503.12 and the management practices of § 503.14, and thus fewer permitting and permit application requirements typically pertain to facilities generating such sludge. For this reason, if you are eligible to complete Section B.4, *you may skip Sections B.5—B.7* unless specifically required to complete any of them by the permitting authority.

a. Provide the total dry metric tons per 365-day period of sewage sludge that is applied to the land and that meets the Table 1 ceiling concentrations, the Table 3 pollutant concentrations, Class A pathogen requirements, and one of vector attraction reduction options 1–8.

b. Indicate whether sewage sludge that meets the Table 1 ceiling concentrations, the Table 3 pollutant concentrations, Class A pathogen requirements, and one of vector attraction reduction options 1–8 is placed in bags or other containers at your facility.

Sewage sludge placed in a bag or other container must meet the Table 1 ceiling concentrations, the Class A pathogen requirements, one of vector attraction reduction options 1–8, and either the Table 3 pollutant concentrations *or* the annual pollutant loading rates (APLRs) in Table 4 of § 503.13. This question does not pertain to sewage sludge meeting APLRs.

An *other container* is either an open or closed receptacle, including but not limited to a bucket, a box, a carton, and a vehicle or trailer with a load capacity of one metric ton or less.

B.5. Sale or Give-Away in a Bag or Other Container for Application to the Land. Complete this section if sewage sludge from this facility is sold or given away in a bag or other container for application to the land. *Skip* this section, however, for any sewage sludge you reported in Section B.4 (i.e., sludge meeting Table 1 ceiling concentrations, Table 3 pollutant concentrations, Class A pathogen requirements, and one of vector attraction reduction options 1–8).

A bag or other container includes an open or closed receptacle such as a bucket, box, carton, or vehicle or trailer with a load capacity of one metric ton or less.

a. Provide the total dry metric tons per 365-day period placed in bags or other containers for sale or give-away.

b. Attach with this application a copy of any label or information sheet that accompanies the product being sold or given away. When sewage sludge is placed in a bag or other container for sale or give-away for application to the land, either a label must be affixed to the bag or other container, or an information sheet must be provided to the person receiving the sewage sludge. The label or information sheet must contain the following information:

• The name and address of the person who prepared the sewage sludge that is sold or given away in a bag or other container for application to the land;

• A statement that application of the sewage sludge to the land is prohibited except in accordance with the instructions on the label or information sheet; and

• The annual whole sludge application rate for the sewage sludge that does not cause any of the annual pollutant loading rates in Table 4 of § 503.13 to be exceeded.

B.6. Shipment-Off Site for Treatment or Blending. Complete this section if you provide sewage sludge to another facility, and that facility provides treatment or blending (i.e., it derives a material from sewage sludge).

Skip this section, however, for any sewage sludge that is:

• Covered in Section B.4 (i.e., it meets the Table 1 ceiling concentrations, the Table 3 pollutant concentrations, Class A pathogen reduction requirements, and one of vector attraction reduction options 1–8);

• Covered in Section B.5 (i.e., it is placed in a bag or other container at your facility); or

• Sent directly from your facility to a land application site or surface disposal site.

If you provide sewage sludge to more than one facility that provides treatment or blending, complete Section B.6 for each such facility. Attach additional pages as necessary.

a. Provide the official or legal name of the facility receiving the sewage sludge. Do not use a colloquial name.

b. Provide the name, title, and work telephone number of a person who is thoroughly familiar with the operation of the facility receiving the sewage sludge, and who can be contacted by the permitting authority if necessary.

c. Provide the complete mailing address of the receiving facility where correspondence should be sent.

d. Provide the total dry metric tons per 365-day period your facility sends to the receiving facility. Do not include sewage sludge that other facilities send to the receiving facility.

e. Indicate whether the facility receiving the sewage sludge provides additional treatment to reduce pathogens in sewage sludge from your facility. Also indicate whether Class A or Class B pathogen reduction is

achieved before the sewage sludge leaves the receiving facility.

Options for meeting Class A pathogen reduction are listed at § 503.32(a). Options for meeting Class B pathogen reduction are listed at § 503.32(b).

Provide a written description of any treatment processes used at the receiving facility to reduce pathogens in sewage sludge, including an indication of how the treatment fulfills one of the options for meeting Class A or Class B pathogen reduction. You may attach existing documentation (e.g., technical or process specifications) to meet this requirement.

f. Indicate whether the facility receiving the sewage sludge provides additional treatment to reduce vector attraction characteristics of the sewage sludge from your facility. Also indicate whether any of vector attraction reduction options 1–8 are met before the sewage sludge leaves the receiving facility. Options 1–8 are typically met at the point of sewage sludge generation or treatment; additional options are available, but these are typically met at the point of use or disposal.

Land application: Sewage sludge applied to agricultural land, forest, a public contact site, or a reclamation site must meet one of vector attraction reduction options 1–10, which are defined at § 503.33(b) (1)–(10), respectively. Sewage sludge applied to a lawn or home garden, or placed in a bag or other container for sale or give-away for application to the land, must meet one of vector attraction reduction options 1–8, defined at § 503.33(b) (1)–(8), respectively.

Surface disposal: Sewage sludge placed on an active sewage sludge unit meet one of vector attraction reduction options 1–11, which are defined at § 503.33(b) (1)–(11), respectively.

Provide a written description of any treatment processes used at the receiving facility to reduce vector attraction reduction characteristics of sewage sludge, including an indication of how the treatment fulfills one of options 1–8 for vector attraction reduction. You may attach existing documentation (e.g., technical or process specifications) to meet this requirement.

g. Provide a written description of any other treatment or blending not described in B.6.e or B.6.f above. This does not include dewatering of sewage sludge. You may attach existing documentation (e.g., technical or process specifications) to meet this requirement.

h. If you generate sewage sludge or derive a material from sewage sludge, and you provide that sewage sludge to another person who derives a material from the sewage sludge, § 503.12(g) requires you to provide that person with notice and necessary information to comply with land application requirements of Part 503. If you answered "yes" to B.6.e, B.6.f, or B.6.g, the receiving facility is a "person who prepares sewage sludge" and you must provide, with this application, a copy of any notice and other information you provide to the receiving facility.

i. If the receiving facility places sewage sludge from your facility in a bag or other container for sale or give-away for application to the land, provide a copy of all labels or notices that accompany the product being sold or given away.

A *bag or other container* includes an open or closed receptacle such as a bucket, box, carton, or vehicle or trailer with a load capacity of one metric ton or less.

When sewage sludge is placed in a bag or other container for sale or give-away for application to the land, either a label must be affixed to the bag or other container, or an information sheet must be provided to the person receiving the sewage sludge. The label or information sheet must contain the following information:

- The name and address of the person who prepared the sewage sludge that is sold or given away in a bag or other container for application to the land;
- A statement that application of the sewage sludge to the land is prohibited except in accordance with the instructions on the label or information sheet; and
- The annual whole sludge application rate for the sewage sludge that does not cause any of the annual pollutant loading rates in Table 4 of § 503.13 to be exceeded.

B.7. Land Application of Bulk Sewage Sludge. Complete this section if bulk sewage sludge from your facility is sprayed or spread onto the land surface, injected below the land surface, or incorporated into the soil in order to condition the soil or fertilize crops or vegetation grown in the soil.

Skip this section, however, for sewage sludge that is:

- Covered in Section B.4 (i.e., it meets the ceiling concentrations in Table 1 of § 503.13(b)(1), the pollutant concentrations in Table 3 of § 503.13(b)(3), the Class A pathogen reduction requirements in § 503.32(a), and one of the vector attraction reduction options in § 503.33(b)(1)-(8)); 1
- Covered in Section B.5 (i.e., it is placed in a bag or other container for sale or give-away for application to the land); or
- Covered in Section B.6 (i.e., it is sent to another facility for treatment or for blending).

Bulk sewage sludge is defined as sewage sludge that is not sold or given away in a bag or other container for application to the land. (A *bag or other container* includes an open or closed receptacle such as a bucket, box, carton, or vehicle or trailer with a load capacity of one metric ton or less.)

If you complete this section (which requests summary information for all bulk sewage sludge that is applied to the land), also complete Section C for each land application site.

a. Provide the total dry metric tons per 365-day period your facility sends to all land application sites. Do not include sewage sludge sent to land application sites by other facilities.

b. Indicate whether all land application sites are identified in Section C of this application. If you are not identifying all sites in Section C, provide a copy of the land application plan with this permit application. (Information is collected in Section C for each land application site that has been identified at the time of permit application.)

Current regulations require you to submit a *land application plan* at the time of permit application if you intend to apply sewage sludge to land application sites that have not been identified at the time of permit application. (This requirement does not apply if your sewage sludge meets the ceiling concentrations in Table 1 of § 503.13(b)(1), the pollutant concentrations in Table 3 of § 503.13(b)(3), the Class A pathogen reduction requirements in § 503.32(a), and one of the vector attraction reduction options in § 503.33(b) (1)–(8).)

At a minimum, the land application plan must:

- Describe the geographical area covered by the plan;
- Identify site selection criteria;
- Describe how sites will be managed;
- Provide for advance notice to the permitting authority of specific land application sites and a reasonable time for the permitting authority to object prior to the sewage sludge application; and
- Provide for advance public notice as required by State and local law, but in all cases require notice to land owners and occupants adjacent to or abutting the proposed land application sites.

The permit writer will work with you to develop additional details of the land application plan on a case-by-case basis. Such details include site selection criteria (site slope, run-on and run-off control, etc.) and site management guidelines (sludge application rates, access controls, etc.).

The land application plan is an alternative to either (1) requiring identification of, and permit conditions for, *all* potential land application sites at the time of permit issuance, or (2) requiring an individual permit action for each approval of a land application site. A land application plan provides for public notice when the land application plan is developed as part of the permit, and it discusses how the public will be notified on a case-by-case basis. For this reason, public notice of the permit will be required to reach areas within the territorial scope of the land application plan. The public notice must indicate that the permit includes a land application plan, and the fact sheet must briefly describe the contents of the land application plan.

c. If any land application sites are located in States other than the State where you generate the bulk sewage sludge or derive the material from sewage sludge, describe how the permitting authority will be notified in the States where the land application sites are located.

The *permitting authority* is either:

- The State, in cases where the State has an EPA-approved sewage sludge management program; or
- The EPA Region, in cases where a State sewage sludge management program has not yet been approved.

The notice must include the following:

- The physical location, by either street address or latitude and longitude, of each land application site;
- The approximate time period bulk sewage sludge will be applied to the site;
- The name, address, and telephone number of the person who prepares the bulk sewage sludge and the NPDES permit number (if applicable) of their facility; and
- The name, address, and telephone number of the person who will apply the bulk sewage sludge and the NPDES permit number (if applicable) for their facility.

B.8. Surface Disposal. Complete this section if sewage sludge from your facility is placed on a surface disposal site. If you own or operate a surface disposal site, also complete Section D.

a. Provide the total dry metric tons per 365-day period that is sent from your facility to all surface disposal sites. Do not include sewage sludge sent to surface disposal sites by other facilities.

A *surface disposal site* is an area of land that contains one or more *active sewage sludge units.* An *active sewage sludge unit* is a sewage sludge unit that has not closed. A *sewage sludge unit* is land on which only sewage sludge is placed for final disposal, excluding land on which sewage sludge is either stored or treated.

b. If sewage sludge from your facility is placed on any surface disposal sites that you do *not* own or operate, complete B.8.c–B.8.f for each surface disposal site that you do not own or operate. If you send sewage sludge to more than one surface disposal site that you do not own or operate, attach additional pages as necessary.

c. Provide the official or legal name (or number) of the site receiving the sewage sludge. Do not use a colloquial name.

d. Provide the name, title, and work telephone number of a person who is thoroughly familiar with the operation of the surface disposal site, and who can be contacted by the permitting authority if necessary.

Indicate whether the facility contact is the site owner, the site operator, or both. For purposes of this form, the *owner* is the person that owns a part of or the entire facility. The *operator* is the person responsible for the overall operation of the facility, and may be different from the *owner.* In general, the operator is the person responsible for the daily functioning of the facility, including sewage sludge use or disposal.

e. Provide the complete mailing address for the surface disposal site where correspondence should be sent.

f. Provide the total dry metric tons of sewage sludge per 365-day period *from your facility* placed on this surface disposal site. Do not include sewage sludge sent to this surface disposal site by other facilities.

B.9. Incineration. Complete this section if sewage sludge from your facility is fired in a sewage sludge incinerator. If you own or operate a sewage sludge incinerator, also complete Section E.

a. Provide the total dry metric tons of sewage sludge per 365-day period that is sent from your facility to all sewage sludge incinerators. Do not include sewage sludge sent to sewage sludge incinerators by other facilities.

A *sewage sludge incinerator* is an enclosed device in which sewage sludge and auxiliary fuel are fired. *Auxiliary fuel* is fuel used to augment the fuel value of sewage sludge, including natural gas, fuel oil, coal, gas generated during anaerobic digestion of sewage sludge, and municipal solid waste (not to exceed 30 percent of the dry weight of sewage sludge and auxiliary fuel together).

b. If you do not own or operate a sewage sludge incinerator in which sewage sludge from your facility is fired, complete B.9.c–B.9.f each sewage sludge incinerator that you do not own or operate.

c. Provide the official or legal name or number of the sewage sludge incinerator. Do not use a colloquial name.

d. Provide the name, title, and work telephone number of a person who is thoroughly familiar with the operation of the sewage sludge incinerator, and who can be contacted by the permitting authority if necessary.

Indicate whether the incinerator contact is the owner, the operator, or both. For purposes of this form, the *owner* is the person that owns a part of or the entire facility. The *operator* is the person responsible for the overall operation of the facility, and may be different from the *owner.* In general, the operator is the person responsible for the daily functioning of the facility, including sewage sludge use or disposal.

e. Provide the complete mailing address at the sewage sludge incinerator where correspondence should be sent.

f. Provide the total dry metric tons of sewage sludge per 365-day period *from your facility* fired in this sewage sludge incinerator. Do not include sewage sludge sent to this incinerator by other facilities.

B.10. Disposal on a Municipal Solid Waste Landfill.

Complete this section if sewage sludge from your facility is placed on a municipal solid waste landfill (MSWLF) unit.

Provide the information in this section once for each MSWLF on which sewage sludge from your facility is placed. If sewage sludge from your facility is placed on more than one MSWLF, attach additional pages as necessary.

The Part 503 sewage sludge use or disposal regulation does not impose additional requirements on sewage sludge that is sent to a MSWLF, but they cross-reference existing criteria for MSWLFs at 40 CFR Part 258. Therefore, if sewage sludge from your facility is placed on a MSWLF unit, your permit must contain conditions regulating such disposal.

A *MSWLF unit* is a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under § 257.2. A

MSWLF unit also may receive other types of RCRA subtitle D wastes, such as commercial solid waste, nonhazardous sludge, small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned.

a. Provide the official or legal name of the MSWLF. Do not use a colloquial name.

b. Provide the name, title, and work telephone number of a person who is thoroughly familiar with the operation of the MSWLF, and who can be contacted by the permitting authority if necessary.

c. Provide the complete mailing address for the MSWLF where correspondence should be sent. This may differ from the MSWLF location given below.

d. Provide the physical location (street address) of the MSWLF. If the MSWLF lacks a street address or route number, provide the most accurate alternative geographic information (e.g., township and range, section or quarter section number, nearby highway intersection).

e. Provide the total dry metric tons per 365-day period that is sent from your facility to this MSWLF. Do not include sewage sludge sent to the MSWLF by other facilities.

f. Provide the number and type of any relevant Federal, State, or local environmental permits or construction approvals received or applied for by the MSWLF.

g. Submit information to determine whether the sewage sludge placed on this MSWLF meets applicable requirements for disposal of sewage sludge on a MSWLF.

Sewage sludge placed on a MSWLF must meet requirements in Part 258 concerning the quality of materials placed on a MSWLF unit. In particular:

- Placement on a MSWLF of bulk or noncontainerized liquid waste, as determined using the Paint Filter Liquids Test (Method 9095 in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods—EPA Pub. No. SW–846.), is prohibited.
- Placement on a MSWLF of a regulated hazardous waste, as defined in 40 CFR 261.3, is prohibited.
- If sewage sludge is used as a cover at a MSWLF, the MSWLF owner/operator must demonstrate that the sewage sludge is suitable for use as a cover, and that it provides sufficient control of disease vectors, fires, odors, blowing litter, and scavenging and does not present a threat to human health and the environment.

h. Indicate whether the MSWLF complies with criteria set forth in 40 CFR Part 258.

Part 258 specifies minimum Federal criteria for MSWLFs, including landfills that accept sewage sludge along with household waste. Among these requirements are location restrictions, facility design and operating criteria, ground-water monitoring, and corrective action, closure and post-closure care, along with financial assurance requirements. In contrast to Part 503, Part 258 controls sewage sludge placed on MSWLFs through a facility design and management practice approach. In Part 503, EPA has adopted the Part 258 criteria as the appropriate standard for sewage sludge disposed of with municipal waste. EPA concluded that if sewage sludge is disposed of in a MSWLF complying with Part 258 criteria, public health and the environment are protected.

Note that the POTW is legally responsible for knowing whether a MSWLF is in compliance with Part 258 and may be liable if it sends its sludge to an MSWLF that is not in compliance with Part 258.

Section C: Land Application of Bulk Sewage Sludge

Complete this section if you completed Section B.7 (Land Application of Bulk Sewage Sludge). Unless the permitting authority specifically requires you to complete this section, you may *skip* this section for sewage sludge that is covered in any of the following sections of this application:

- *Section B.4* (the sewage sludge meets the ceiling concentrations in Table 1 of § 503.13(b)(1), the pollutant concentrations in Table 3 of § 503.13(b)(3), the Class A pathogen reduction requirements in § 503.32(a), and one of the vector attraction reduction options in § 503.33(b) (1)–(8)). Such sewage sludges are exempt from the general requirements and management practices of Part 503 when they are land applied (unless the permitting authority requires otherwise), and thus the site information in Section C is not required for permitting.
- *Section B.5* (the sewage sludge is placed in a bag or other container for sale or give-away for application to the land). Section C does not cover the sale or give-away of sewage sludge in a bag or other container for application to the land because EPA typically will not control the users of such sewage sludge (typically, home gardeners or other small-scale users), or the land on which the sludge is applied, through the generator's permit.
- *Section B.6* (the sewage sludge is sent to another facility for treatment or for blending). Section C does not apply to a generator that sends sewage sludge to another facility for treatment or for blending, because the Part 503 requirements addressed by Section C will largely be the responsibility of the receiving facility.

Bulk sewage sludge is defined as sewage sludge that is not sold or given away in a bag or other container for application to the land. (A *bag or other container* includes an open or closed receptacle such as a bucket, box, carton, or vehicle or trailer with a load capacity of one metric ton or less.)

Provide the information in this section for *each* land application site that has been identified at the time of permit application. Attach additional pages as necessary. In cases where the sewage sludge is applied to numerous sites with similar characteristics, you may combine the information for several sites under a single response (the name and address of each site must still be provided, however).

C.1. Identification of Land Application Site.

a. Provide the site name or number. The name or number is any designation commonly used to refer to the site. If the site has been previously designated in another permit, use that designation.

b. Answer either question 1 or question 2.

1. Provide the physical location (street address) of the land application site. If the site lacks a street address or route number, provide the most accurate alternative geographic information (e.g., township and range, section or quarter section number, nearby highway intersection).

2. Provide the latitude and longitude of the facility. If a map was used to obtain latitude and longitude, provide map datum (e.g., NAD 27, NAD 83) and map scale (e.g., 1:24000, 1:100000).

C.2. Owner Information.

a. Indicate whether you are the owner of this land application site. For purposes of this form, the owner is the person that owns a part of or the entire land application site.

b. If you are not the owner of this land application site, provide the name, telephone number, and complete mailing address for the site owner.

C.3. Applier Information.

a. Indicate whether you are the person who applies sewage sludge to this land application site.

b. If you are not the person who applies sewage sludge to this land application site, provide the name, telephone number, and mailing address of the person who applies sewage sludge to this land application site.

C.4. Site Type. The "type of land application site" is the intended end use of the land. Part 503 regulates bulk sewage sludge applied to agricultural land, forest, public contact sites, reclamation sites, and lawns and home gardens. Proper identification of the type of land application site is important because the applicable Part 503 requirements—and thus permit conditions—differ according to the type of site.

Agricultural land is land on which a food crop, a feed crop, or a fiber crop is grown. This includes range land, which is open land with indigenous vegetation, and pasture, which is land on which animals feed directly on crops such as grasses, grain stubble, or stover.

Forest is a tract of land thick with trees and underbrush.

A *public contact site* is land with a high potential for contact by the public. Public contact sites include public parks, ball fields, cemeteries, plant nurseries, turf farms, and golf courses.

A *reclamation site* is land that has been drastically disturbed by strip mining, fires, construction, etc. As part of the reclamation process, sewage sludge is applied for its nutrient and soil conditioning properties to help stabilize and revegetate the land.

C.5. Crop or Other Vegetation Grown on Site.

a. Identify the type of crop or other vegetation grown on this land application site. If the crop or vegetation to be grown on the site is not yet known, or is likely to change in an unforeseeable manner during the life of the permit, you may so indicate instead of providing the type of crop or other vegetation.

b. Provide the nitrogen requirement for the crop or other vegetation listed in C.5.a. Information on the nitrogen content of vegetation grown on the site may be obtained from local agricultural extension services, a local Farm Advisor's Office, or published sources.

C.6. Vector Attraction Reduction. Identify any vector attraction reduction requirements that are met at the land application site.

a. Specifically, indicate whether vector attraction reduction option 9 (injection below soil surface) or option 10 (incorporation into soil within 6 hours) is met.

Bulk sewage sludge that is applied to the land may meet any of vector attraction reduction options 1–10, as identified in § 503.33(b) (1)–(10), respectively. Options 1–8 were covered in Section B.3, which requests information on sewage sludge treatment at the facility generating the sewage sludge. If you met any of options 1–8 (e.g., processes to reduce volatile solids, reduce specific oxygen uptake rate, raise pH, raise percent solids), you should have identified that option in Question B.3.c and described how the option is met in Question B.3.d.

By contrast, vector attraction reduction options 9 and 10 are typically met at the land application site. Options 9 and 10 are not available for sewage sludge applied to a lawn or home garden.

b. Provide a written description of how the vector attraction reduction is met.

C.7. Ground-Water Monitoring. If any ground-water monitoring data are available for this land application site, submit the following with the application:

- Available ground-water monitoring data; and
- A written description of the well locations, approximate depth to ground water, and the ground-water monitoring procedures used to obtain these data (you may attach existing documentation to fulfill this requirement).

For purposes of this form, ground-water monitoring means the installation and periodic sampling and analysis of small-diameter wells screened in the aquifer below the base of the deepest active sewage sludge unit.

C.8. Cumulative Loadings and Remaining Allotments.

Complete Section C.8. *only* for sewage sludge that is applied to the site subject to cumulative pollutant loading rates (CPLRs). Sewage sludge applied to the site on or before July 20, 1993, is not subject to this section.

a. Indicate whether you have contacted the permitting authority in the State where the bulk sewage sludge will be applied to ascertain whether bulk sewage sludge subject to CPLRs has been applied to the site since July 20, 1993.

If applicable, provide the name of the permitting authority and the name and phone number of the contact person at the permitting authority.

You may *not* apply bulk sewage sludge subject to CPLRs to the site until you have contacted the permitting authority in that State.

The *permitting authority* is either:

- The State, in cases where the State has an EPA-approved sewage sludge management program; or
- The EPA Region, in cases where a State sewage sludge management program has not yet been approved.

If you answered yes to C.8.a, continue on to C.8.b. If you answered no, skip the rest of Section C.8.

b. Indicate whether, based on your investigation in Section C.8.a or other information, sewage sludge subject to CPLRs has been applied to the site since July 20, 1993.

If you answered yes to C.8.b, continue on to C.8.c. If you answered no, skip the rest of Section C.8.

c. Provide the following information for every other facility that sends (or has sent since July 20, 1993) bulk sewage sludge subject to CPLRs to this site:

- The official or legal name of the facility. Do not use a colloquial name.
- If available, the name, title, and work telephone number of a person who is thoroughly familiar with the facility, and who can be contacted by the permitting authority if necessary.
- The complete mailing address at the facility where correspondence should be sent.

Section D: Surface Disposal

Complete this section if you own or operate a surface disposal site and are required to submit a full permit application (i.e., Part 2 of Form 2S) at this time.

A sewage sludge surface disposal site is, by definition, a treatment works treating domestic sewage, and the owner/operator of the site is required to apply for a permit. You are required to submit Part 2 of this form (including Section D) if:

- The surface disposal site is already covered by an NPDES permit (e.g., a POTW's NPDES permit);
- You are requesting site-specific pollutant limits for an active sewage sludge unit at the surface disposal site; or
- You have been required by the permitting authority to submit a full permit application at this time.

If none of these criteria apply, you should submit Part 1 instead of Part 2 (and may therefore skip Section D). Part 1 requests a limited amount of information from so-called "sludge-only" facilities (facilities without a currently-effective NPDES permit) that are not requesting site-specific permit limits and are not otherwise required to submit a full permit application at this time. Part 1 is intended to allow the permitting authority to identify these facilities, track sewage sludge use and disposal, and establish priorities for permitting.

D.1. Information on Active Sewage Sludge Units. Complete Sections D1. through D5 for *each active sewage sludge unit* you own or operate. If you own or operate more than one active

sewage sludge unit, attach additional pages as necessary.

An *active sewage sludge unit* is an area of land on which only sewage sludge is placed for final disposal. Sewage sludge units include, but are not limited to, natural topographical depressions, man-made excavations, or diked areas designed to dispose of (not treat) sewage sludge. Sewage sludge units do not include areas where sewage sludge is generated as a result of ongoing treatment (e.g., polishing ponds) or land on which sewage sludge is placed for either treatment or storage. Sewage sludge may be stored on an area of land for a period equal to or less than two years. If sewage sludge remains on an area of land for greater than two years, the person who prepares the sewage sludge must develop a rationale for why the land should not be considered an active sewage sludge unit.

Most requirements for surface disposal of sewage sludge under Part 503 pertain to individual active sewage sludge units at a surface disposal site. Permit conditions for your facility may be developed on a unit-by-unit basis, or may be developed for the entire surface disposal site if all units are sufficiently similar.

a. Provide the name or number of the active sewage sludge unit. The name or number is any designation commonly used to refer to the unit. If the active sewage sludge unit has been previously designated in another permit, use that designation.

b. Provide the physical location (street address) of the active sewage sludge unit. If the active sewage sludge unit lacks a street address or route number, provide the most accurate alternative geographic information (e.g., township and range, section or quarter section number, nearby highway intersection).

c. Provide the total dry metric tons per 365-day period placed on the active sewage sludge unit. The amount of sewage sludge placed on an active sewage sludge unit determines the frequency of monitoring for sewage sludge placed on the active sewage sludge unit.

d. Provide the total number of dry metric tons of sewage sludge placed on the active sewage sludge unit over the life of the unit to date.

e. Indicate whether the active sewage sludge unit has a liner. A *liner* is defined as soil or synthetic material with a maximum hydraulic conductivity (permeability) of 1×10^{-7} cm/sec.

If the active sewage sludge unit has a liner, describe the material from which the liner is constructed and specify the design hydraulic conductivity of that material.

f. Indicate whether the active sewage sludge unit has a leachate collection system. A *leachate collection system* is a system or device installed immediately above a liner that is designed, constructed, maintained, and operated to collect and remove leachate from a sewage sludge unit.

If the active sewage sludge unit has a leachate collection system, describe how the system is designed and operated. Also describe the method used for leachate disposal, such as discharge to surface water (provide all applicable permit numbers) or disposal at a hazardous waste treatment, storage, or disposal facility (provide Federal, State, and local permit numbers for this facility).

g. If you answered yes to both D.1.e and D.1.f, pollutant limits do not apply to the active sewage sludge unit.

If the boundary of the active sewage sludge unit without a liner and leachate collection system is less than 150 meters from the property line of the surface disposal site, provide the actual distance in meters.

When the boundary of an active sewage sludge unit without a liner and leachate collection system is less than 150 meters from the property line of the surface disposal site, the pollutant limits for the unit are determined according to the actual distance, as indicated in Table 2 of § 503.23.

h. Provide the remaining capacity of the active sewage sludge unit, in dry metric tons, and the anticipated closure date of the active sewage sludge unit, if known. Attach to the application a copy of any closure plan that has been developed for the active sewage sludge unit.

D.2. Sewage Sludge from Other Facilities. If sewage sludge is sent to this active sewage sludge unit by any facilities other than your facility, complete this section for each such facility. If sewage sludge from more than one facility other than your facility is placed on this active sewage sludge unit, attach additional pages as necessary.

a. Provide the official or legal name of the facility providing the sewage sludge. Do not use a colloquial name.

b. Provide the name, title, and work telephone number of a person who is thoroughly familiar with the operation of the facility that is providing the sewage sludge, and who can be contacted by the permitting authority if necessary.

c. Provide the complete mailing address of the facility providing the sewage sludge.

d. Indicate the class of pathogen reduction that is achieved before sewage sludge leaves the facility that generates the sewage sludge.

Options for meeting Class A pathogen reduction are listed at § 503.32(a). Options for meeting Class B pathogen reduction are listed at § 503.32(b).

e. Provide a written description of any treatment processes used at the facility providing the sewage sludge to reduce pathogens in the sewage sludge, including, where applicable, how the treatment fulfills one of the options for meeting Class A or Class B pathogen reduction. You may attach existing documentation (e.g., technical or process specifications) to meet this requirement.

f. Indicate whether any of the vector attraction reduction options 1–8, (at § 503.33(b) (1)–(8), respectively) are met at the facility providing the sewage sludge. Options 1–8 are typically met at the point of sewage sludge generation. Additional options are available, but these are typically met at the point of disposal.

You may select "none or unknown" only if option 9 (injection below land surface), option 10 (incorporation into soil within six hours), or option 11 (daily cover) is met at the point of disposal at this active sewage sludge unit (see Section D.3.a).

g. Provide a written description of any treatment processes used at the facility providing the sewage sludge to reduce vector attraction reduction characteristics of sewage sludge, including an indication of how the treatment fulfills one of options 1–8 for vector attraction reduction. You may attach existing documentation (e.g., technical or process specifications) to meet this requirement.

h. Provide a written description of any other treatment processes at the facility providing the sewage sludge that are not described in D.2.d–D.2.g. You may attach existing documentation (e.g., technical or process specifications) to meet this requirement.

D.3. Vector Attraction Reduction. Complete this section for each active sewage sludge unit.

a. Indicate whether any of vector attraction reduction options 9–11 (at § 503.33(b) (9)–(11), respectively) are met when the sewage sludge is placed on this active sewage sludge unit.

Sewage sludge placed on an active sewage sludge unit must meet one of vector attraction reduction options defined at § 503.33(b) (1)–(11). Options 1–8 are typically met at the point of sewage sludge generation (see Question D.2.f). Options 9–11 are typically met at the point of disposal.

b. Provide a written description of any treatment processes used at the active sewage sludge unit to reduce vector attraction reduction characteristics of sewage sludge, including an indication of how the treatment fulfills one of options 9–11 for vector attraction reduction. You may attach existing documentation (e.g., technical or process specifications) to meet this requirement.

D.4. Ground-Water Monitoring.

Placement of sewage sludge on an active sewage sludge unit must not contaminate an aquifer. Compliance must be demonstrated through either: (1) the results of a ground-water monitoring program developed by a qualified ground-water scientist, or (2) certification by a qualified ground-water scientist that contamination has not occurred.

Contaminate an aquifer means to introduce a substance that causes the maximum contaminant level (MCL) for nitrate in 40 CFR 141.11 to be exceeded in ground water, or that causes the existing concentration of nitrate in ground water to increase when the existing concentration of nitrate in the ground water exceeds the MCL for nitrate in 40 CFR 141.11.

The MCL for nitrate is 10 milligrams/liter.

This section solicits existing ground-water monitoring data and other documentation to indicate the potential for contamination of an aquifer at the active sewage sludge unit, and the capability of the owner/operator of the surface disposal site to demonstrate that contamination has not occurred.

a. If ground-water monitoring is conducted for this active sewage sludge unit, provide the following:

- Available ground-water monitoring data; and
- A written description of the well locations, approximate depth to ground water, and the ground-water monitoring procedures used to obtain these data (you may attach existing documentation to fulfill this requirement).

For purposes of this application, *ground-water monitoring* means the installation and periodic sampling and analysis of small-diameter wells in the aquifer below the base of the deepest active sewage sludge unit.

b. If a ground-water monitoring program has been prepared for this active sewage sludge unit (regardless of whether ground-water monitoring is currently conducted), submit a copy of the program with this permit application. The program should include the number, depth, and location of all wells; the frequency and method of sampling; and the parameters for which the ground water is tested.

c. If you have obtained a certification from a qualified ground-water scientist that contamination of the aquifer below the active sewage sludge unit has not occurred, submit a copy of the certification with this permit application.

A *qualified ground-water scientist* is an individual with a baccalaureate or post-graduate degree in the natural sciences or engineering who has sufficient training and experience in ground-water hydrology and related fields, as may be demonstrated by State registration, professional certification, or completion of accredited university programs, to make sound professional judgments regarding ground-water monitoring, pollutant fate and transport, and corrective action.

D.5. Site-Specific Limits. Indicate whether you are seeking site-specific pollutant limits in your permit for the sewage sludge placed on this active sewage sludge unit.

After August 18, 1993, you are allowed to seek site-specific pollutant limits only for good cause, and must do so within 180 days of becoming aware that good cause exists. If you request site-specific pollutant limits with this permit application, you are required to submit information supporting the request, including a demonstration that existing values for site parameters specified by the permitting authority differ from the values for those parameters used to develop the pollutant limits in Table 1 of § 503.23. You must also submit follow-up information at the request of the permitting authority.

If the permitting authority determines that site-specific pollutant limits are appropriate, the permitting authority may specify site-specific limits in the permit as long as the existing concentrations of the pollutants in the sewage sludge are not exceeded.

Section E: Incineration

Complete this section if you own or operate a sewage sludge incinerator. If you own or operate more than one sewage sludge incinerator, complete this section for each incinerator unit. Attach additional pages as necessary.

A sewage sludge incinerator is, by definition, a treatment works treating domestic sewage, and the owner/operator of a sewage sludge incinerator is required to submit a full permit application (i.e., Part 2 of Form 2S).

E.1. Incinerator Identification.

a. Provide the name or number of the sewage sludge incinerator unit. The name or number is any designation commonly used to refer to the unit. If the unit has been previously designated in another permit, use that designation.

b. Provide the physical location (street address) of the sewage sludge incinerator. If the incinerator lacks a street address or route number, provide the most accurate alternative geographic information (e.g., township and range, section or quarter section number, nearby highway intersection).

E.2. Amount Fired. Provide the total dry metric tons of sewage sludge (dry weight basis) fired in the sewage sludge incinerator unit per 365-day period.

E.3. Beryllium NESHAP.

The firing of sewage sludge in a sewage sludge incinerator must not violate the National Emission Standard (NESHAP) for beryllium as established in Subpart C of 40 CFR Part 61. The beryllium NESHAP only applies, however, to sewage sludge incinerators firing "beryllium-containing waste." The beryllium NESHAP is 10 grams of beryllium in the exit gas over a 24-hour period, unless the incinerator owner/operator has been approved to meet a 30-day average ambient concentration limit on beryllium in the vicinity of the sewage sludge incinerator of 0.01 $\mu g/m^3$. Complete this section to demonstrate compliance with the beryllium NESHAP.

a. Indicate whether sewage sludge fired in this sewage sludge incinerator is beryllium-containing waste. Beryllium-containing waste is material contaminated with beryllium or beryllium compounds used or generated during any process or operation performed by one of several sources.

Submit information, test data, and a description of measures taken that demonstrate whether the sewage sludge fired in this sewage sludge incinerator is beryllium-containing waste, and will continue to remain as such.

b. If the sewage sludge fired in this sewage sludge incinerator is beryllium-containing waste, submit a complete report of the latest beryllium emission rate testing, as well as documentation of ongoing incinerator operating parameters indicating that the NESHAP emission rate limit for beryllium has been and will continue to be met.

E.4. Mercury NESHAP.

The firing of sewage sludge in a sewage sludge incinerator must not violate the NESHAP for mercury as established in Subpart E of 40 CFR Part 61. Complete this section to demonstrate compliance with the mercury NESHAP.

a. Indicate whether stack testing or sewage sludge sampling is being used to demonstrate compliance with the mercury NESHAP. If stack testing is

used, complete E.4.b. below. If sewage sludge sampling is used, complete E.4.c. below.

b. *Stack testing option.* Stack testing must be conducted using Method 101A in 40 CFR Part 61, Appendix B ("Determination of Particulate and Gaseous Mercury Emissions from Sewage Sludge Incinerators"). The total quantity of mercury emitted into the atmosphere from all incinerators at a site must not exceed 3200 grams over a 24-hour period.

If stack testing is used, submit the following with this application:

- A complete report of stack testing and documentation of ongoing incinerator operating parameters indicating that the incinerator has and will continue to meet the mercury NESHAP emission rate limit.
- Copies of mercury emission rate tests for the two most recent years in which testing was conducted.

c. *Sampling option.* Sewage sludge must be sampled and analyzed using Method 105 in 40 CFR Part 61 Appendix B ("Determination of Mercury in Wastewater Treatment Plant Sewage Sludge"), and the mercury emissions calculated using the following equation must not exceed 3200 grams over a 24-hour period:

$$E_{Hg} = \frac{(M)\times(Q)\times\left(F_{sm(avg)}\right)}{1000}$$

where:

E_{Hg}=mercury emissions, g/day
M=mercury concentration in sewage sludge on a dry solids basis, in micrograms/gram
Q=sludge charging rate, in kg/day
F_{sm} = weight fraction of solids in the collected sewage sludge after mixing.

If sewage sludge sampling is used, submit a complete report of sewage sludge sampling and documentation of ongoing incinerator operating parameters indicating that the incinerator has and will continue to meet the mercury NESHAP emission rate limit.

E.5. Dispersion Factor.

a. Provide the dispersion factor, in micrograms/cubic meter/gram/second, for the sewage sludge incinerator.

The *dispersion factor* is the ratio of the increase in the ground-level ambient air concentration for a pollutant at or beyond the property line of the site where the sewage sludge incinerator is located to the mass emission rate for the pollutant from the incinerator stack. The dispersion factor is calculated individually by each applicant based on the results of an air dispersion model specified by the permitting authority.

b. Provide the name and type of the air dispersion model used to obtain the dispersion factor.

Approved air dispersion models are listed in EPA's *Guideline on Air Quality Models* and EPA's Support Center for Regulatory Air Models (SCRAM) bulletin board. Unless a pre-existing modeling effort has been used to calculate dispersion factor (and the results have been approved by EPA), you should work closely with the permitting authority to prepare a modeling protocol.

c. Submit a copy of the modeling results and supporting documentation with this application.

E.6. Control Efficiency.

a. Provide the control efficiency, in hundredths, for arsenic, cadmium, chromium, lead, and nickel at this sewage sludge incinerator.

Control efficiency is the mass of a pollutant in the sewage sludge fed to an incinerator minus the mass of that pollutant in the exit gas from the incinerator stack, divided by the mass of the pollutant in the sewage sludge fed to the incinerator.

b. Submit a copy of the results of performance testing and supporting documentation, including testing dates.

Control efficiency must be determined by a performance test, the protocol for which must be approved by EPA.

E.7. Risk Specific Concentration for Chromium. The risk specific concentration (RSC) for arsenic, cadmium, chromium, and nickel is used to calculate pollutant limits for these metals in the permit. With the exception of chromium, the RSC for these metals is provided in Table 1 of § 503.43. The RSC for chromium, however, may be determined in two ways: (1) it may be located in Table 2 of § 503.43 according to the type of incinerator; or (2) it may be calculated based on the ratio of hexavalent chromium to total chromium in the exhaust stack gas.

a. Provide the RSC to be used in establishing a permit limit for chromium, in micrograms per cubic meter.

b. Specify whether the RSC was:

- Provided in Table 2 of § 503.43; or
- Calculated, using Equation 6 in 40 CFR 503.43, based on the ratio of hexavalent chromium to total chromium in the exhaust stack gas.

c. If the RSC was looked up in Table 2 of § 503.43, identify which category of incinerator type you used to obtain the RSC.

d. If you calculated the RSC using Equation 6 in 40 CFR 503.43, provide the decimal fraction of hexavalent chromium concentration to total chromium concentration in the stack exit gas. Also submit the results of incinerator stack tests for hexavalent and total chromium concentrations, including date(s) of test.

E.8. Operational Standard for Total Hydrocarbons (THC) or Carbon Monoxide (CO).

Total hydrocarbons (THC) means the organic compounds in the exit gas from a sewage sludge incinerator stack, as measured using a flame ionization detection instrument referenced to propane. Carbon monoxide (CO) can be monitored instead of THC. The operational standard for THC or CO requires that the THC or CO concentration in the exit gas be corrected for zero percent moisture and to seven percent oxygen.

a. Provide the raw value for the THC or CO concentration in stack emissions, in parts per million (ppm). The *raw value* is the concentration measured directly by the flame ionization detection instrument.

b. Provide the percent of moisture content in stack gas. This is used to correct the raw THC or CO concentration value for zero percent moisture.

c. Provide percent oxygen concentration in stack gas (in dry volume/dry volume). This is used, after correction of the THC or CO concentration for zero percent moisture, to correct the THC or CO concentration to seven percent oxygen.

d. Provide the corrected value for the THC or CO concentration in stack emissions, in ppm. The *corrected value* is the raw concentration, corrected for zero percent moisture and to seven percent oxygen.

The raw THC or CO value is first corrected for zero percent moisture by multiplying by the following correction factor (from 40 CFR 503.44):

$$\text{Correction factor (dimensionless) (0\% moisture)} = \frac{1}{(1-X)}$$

where X is the decimal fraction of the percent moisture in the sewage sludge incinerator exit gas in hundredths.

The dry value is then corrected to seven percent oxygen using the correction factor determined according to the following equation:

$$\text{Correction factor (dimensionless) (7\% moisture)} = \frac{14}{(21-Y)}$$

where Y = percent oxygen concentration in the sewage sludge incinerator stack exit gas (dry volume/dry volume).

e. Submit documentation used to derive the raw THC or CO concentration, moisture content, oxygen concentration, and corrected THC or CO concentration.

E.9. Operating Parameters.

a. Provide the type of sewage sludge incinerator—i.e., whether the incinerator is multiple hearth, fluidized bed, flash drying, electric furnace, or other.

b. Provide with the application the following data on combustion temperature: temperature data (including testing date(s)), a description of temperature measurement and data recording and handling systems, and a description of how such combustion temperature data have been averaged.

The permitting authority will use performance test data to specify the maximum combustion temperature in the permit as a "never to exceed" value. Regulated facilities must also install, calibrate, operate, and maintain an instrument that measures and records combustion temperatures continuously.

c. Provide the sewage sludge feed rate in dry metric tons per day, and indicate whether the *average daily amount* or the *maximum design capacity* feed rate was used. Submit supporting documentation describing how the feed rate was calculated.

The *average daily amount* feed rate is the average daily amount of sewage sludge fired in all sewage sludge incinerators within the property line of the site where the sewage sludge incinerators are located for the number of days in a 365-day period that each sewage sludge incinerator operates.

The *maximum design capacity* feed rate is the average daily design capacity for all sewage sludge incinerators within the property line of the site where the sewage sludge incinerators are located.

The permitting authority will use the feed rate you report as the basis for calculating pollutant limits and will include it as an enforceable condition in the permit.

d. Provide the incinerator stack height (in meters) for each stack, and indicate whether actual or creditable stack height was used.

The *actual stack height* is the difference between the elevation at the top of the stack and the elevation of the ground at the base of the stack, when the difference is equal to or less than 65 meters.

The *creditable stack height* is used if the difference is greater than 65 meters. This is determined in accordance with 40 CFR 51.100(ii).

e. Submit information documenting the operating parameters for the air pollution control device(s) used for this sewage sludge incinerator.

E.10. Monitoring Equipment. Provide a detailed list of the equipment in place to monitor total hydrocarbons or carbon monoxide, percent oxygen, moisture content, and combustion temperature. Monitoring equipment includes, but is not limited to, thermocouples, oxygen continuous emissions monitors, furnace temperature gauges, sewage sludge and auxiliary fuel feed rate monitors, differential pressure detectors, liquid or gas flow detectors, and air pollution control devices.

E.11. Air Pollution Control Equipment. Provide a list of the equipment in place to control emissions from the sewage sludge incinerator stack. Indicate the type and capacity for each piece of equipment listed.

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December 6, 1995

Part III

Consumer Product Safety Commission

16 CFR Part 1203
Safety Standard for Bicycle Helmets; Proposed Rule

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1203

Proposed Rule: Safety Standard for Bicycle Helmets

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: Pursuant to the Children's Bicycle Helmet Safety Act of 1994, the Commission is proposing a safety standard that would require bicycle helmets to meet impact-attenuation and other requirements. This proposal modifies the bicycle helmet standard proposed by the Commission in the **Federal Register** of August 15, 1994.

The proposed standard establishes requirements derived from one or more of the voluntary standards applicable to bicycle helmets. In addition, the proposed standard includes requirements specifically applicable to children's helmets and requirements to prevent helmets from coming off during an accident. The proposed standard also contains testing and recordkeeping requirements to ensure that bicycle helmets meet the standard's requirements.

DATES: Comments on the proposal should be submitted no later than February 20, 1996.

Comments on elements of the proposal that, if issued, would constitute collection of information requirements under the Paperwork Reduction Act may be filed with the Office of Management and Budget ("OMB"). OMB is required to make a decision concerning the collections of information contained in the proposed rule between 30 and 60 days after publication. Thus, although comments will be received by OMB until February 5, 1996, a comment to OMB is best assured of having its full effect if OMB receives it by January 4, 1996.

ADDRESSES: Comments to the Commission should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to the Office of the Secretary, Consumer Product Safety Commission, room 502, 4330 East-West Highway, Bethesda, Maryland 20814–4408, telephone (301)504–0800. Comments also may be filed with the Commission by facsimile to (301)504–0127, or by electronic mail via info@cpsc.gov. Comments should include a caption or cover indicating that they are directed to the Office of the Secretary and are comments on the revised proposed Safety Standard for Bicycle Helmets.

Comments to OMB should be directed to the Desk Officer for the Consumer Product Safety Commission, Office of Information and Regulatory Affairs, OMB, Washington, D.C. 20503. The Commission encourages commenters to provide copies of such comments to the Commission's Office of the Secretary, with a caption or cover letter identifying the materials as comments submitted to OMB on the proposed collection of information requirements for bicycle helmets.

FOR FURTHER INFORMATION CONTACT: Scott Heh, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0494 ext. 1308.

SUPPLEMENTARY INFORMATION:

A. Introduction and Background

Introduction. In this notice, the Consumer Product Safety Commission ("the Commission" or "CPSC") proposes a mandatory safety standard applicable to bicycle helmets.[1] This proposal modifies the bicycle helmet standard proposed by the Commission in the **Federal Register** of August 15, 1994. 59 FR 41719.

The Commission seeks comments from interested members of the public on the revised proposed standard. Comments should be limited to those aspects of the proposed standard that have changed substantively from the earlier proposal, or that are affected by a substantive change.

Because of the growing use of helmets, other nations may be developing or revising safety standards for bicycle helmets. Accordingly, the Commission invites comments from counterpart agencies in foreign governments, foreign standards developers, and others who might be interested in this proposed standard. This invitation is in addition to the routine international notification of this proposed rule that is provided by the World Trade Organization Agreement on Technical Barriers to Trade.

Background. Head injury is a leading cause of accidental death and disability among children in the United States, resulting in over 100,000 hospitalizations every year. Studies have shown that children under the age of 14 are more likely to sustain head injuries than adults, and that children's head injuries are often more severe than those sustained by adults.

In general, head injuries fall under one of two main categories—focal and diffuse. Focal injuries are limited to the area of impact, and include injuries such as contusions, hematomas, lacerations, and fractures. Diffuse brain injuries (also known as diffuse axonal injury) involve trauma to the neural and vascular elements of the brain at the microscopic level. The effects of such diffuse damage may vary from a completely reversible injury, such as a mild concussion, to prolonged coma and death.

Based on data from CPSC's National Electronic Injury Surveillance System ("NEISS"), an estimated 606,000 bicycle-related injuries were treated in U.S. hospital emergency rooms in 1994. In addition, about 1,000 bicycle-related fatalities occur each year, according to the National Safety Council.

A Commission study of bicycle use and hazard patterns in 1993 indicated that almost one-third of the injuries involved the head.[2] Published data indicate that, in recent years, almost two-thirds of all bicycle-related deaths involved head injury.[3]

Younger children are at particular risk of head injury. The Commission's 1993 study indicated that when other factors were held constant statistically, the injury risk for children under age 15 was over 5 times the risk for older riders. About one-half of the injuries to children under the age of 10 involved the head, compared to about one-fifth of the injuries to older riders. Children were also less likely to have been wearing a helmet at the time of a bicycle-related incident than were adults.

Research has shown that helmets may reduce the risk of head injury to bicyclists by about 85 percent, and the risk of brain injury by about 88 percent.[4] The Commission's Bicycle Use Study found that about 18 percent of bicyclists wear helmets.[5]

On June 16, 1994, the Children's Bicycle Helmet Safety Act of 1994 (the "Act" or "the Bicycle Helmet Safety Act") was enacted. 15 U.S.C. 6001–6006. Section 205 of this Act provides that bicycle helmets manufactured more than 9 months from that date shall conform to at least one of the following interim safety standards: (1) The American National Standards Institute (ANSI) standard designated as Z90.4–1984, (2) the Snell Memorial Foundation standard designated as B–90, (3) the ASTM (formerly the American Society for Testing and Materials) standard designated as F 1447, or (4) any other standard that the Commission determines is appropriate. 15 U.S.C. 6004 (a)–(b). On March 23, 1995, the Commission published its determination that five additional voluntary safety standards for bicycle helmets are appropriate as interim mandatory standards. 60 FR 15,231. These standards are ASTM F 1447–1994, Snell B–90S, N–94, and B–95, and the Canadian voluntary standard CAN/CSA–D113.2–M89. In that notice, the Commission also clarified that the ASTM standard F 1447 referred to in the Act is the 1993 version of that standard. The interim standards are codified at 16 CFR 1203.

Section 205(c) of the Act directed the Consumer Product Safety Commission to begin a proceeding under the Administrative Procedure Act, 5 U.S.C. 553, to:

1. Review the requirements of the interim standards described above and establish a final standard based on such requirements;
2. Include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;
3. Include in the final standard provisions that address the risk of injury to children; and
4. Include additional provisions as appropriate. 15 U.S.C. 6004(c).

Section 205(c) the Act provides that the final standard shall take effect 1 year from the date it is issued. 15 U.S.C. 6004(c). Section 205(d) of the Act provides that failure to conform to an interim standard shall be considered a violation of a consumer product safety standard issued under the Consumer Product Safety Act ("CPSA"), 15 U.S.C. 2051–2084. Section 205(d) also provides that the final standard shall be considered to be a consumer product safety standard issued under the CPSA. However, section 205(c) of the Act provides that the provisions of the CPSA regarding rulemaking procedures, statutory findings, and judicial review (15 U.S.C. 2056, 2058, 2060, and 2079(d)) shall not apply to this proceeding or to the final standard. 15 U.S.C. 6004(c). When the final standard becomes effective, it will be codified at 16 CFR 1203 and will replace the interim standards. 15 U.S.C. 6004(d).

B. Originally Proposed Standard

The Commission reviewed the bicycle helmet standards identified in the Act (ANSI, ASTM, and Snell), as well as international bicycle helmet standards and draft revisions of the ANSI, ASTM, and Snell standards that were then under consideration. Based on this review, the Commission developed a proposed final safety standard for bicycle helmets. 59 FR 41,719 (August 15, 1994).

The major features of the originally proposed standard were as follows:

1. Impact attenuation. The originally proposed standard measures the ability of the helmet to protect the head in a collision by securing the helmet on a headform and dropping the helmet/headform assembly from various heights onto a fixed steel anvil. The original proposal specified a constant mass of 5 kg for the drop assembly (not including the helmet). However, the Commission requested comment on the alternative of specifying a different drop mass for each headform size.

Under the proposed standard, the helmet is tested with three types of anvils (flat, hemispherical, and "curbstone," as shown in Figures 11, 12, and 13 of the revised proposed standard published in this notice). These anvils represent types of surfaces that may be encountered in actual riding conditions. Instrumentation within the headform records the headform's impact in multiples of the acceleration due to gravity ("g"). Impact tests are performed on different helmets, each of which has been subjected to one of four environmental conditions. These environments are: ambient (room temperature), high temperature (117–127 °F), low temperature (3–9 °F), and immersion in water for 4–24 hours.

Impacts are specified on a flat anvil from a height of 2 meters and on hemispherical and curbstone anvils from a height of 1.2 meters. Consistent with the requirements of the ANSI, Snell, and ASTM standards, the peak headform acceleration of any impact shall not exceed 300 g for an adult helmet, the value originally proposed for both adult and child helmets. In addition, maximum time limits of 6 milliseconds ("ms") and 3 ms were originally proposed for the allowable duration of the impact at the 150-g and 200-g levels, respectively.

One difference from the ANSI, ASTM, and Snell standards that was originally proposed for the mandatory standard was the designation for the area of the helmet that must provide impact protection. The originally proposed area of impact protection for the CPSC standard was reached by combining the ANSI and ASTM procedures. The procedure for defining the area of the helmet subject to impact attenuation testing is described at § 1203.11.

2. Children's helmets. The originally proposed mandatory standard specified an increased area of head coverage for small children. A study by Biokinetics & Associates Ltd. found differences in anthropometric characteristics between young children's heads and older children's and adult heads.[6] This study led to an ASTM proposal to change the position of the basic plane (an anthropometric reference plane that includes the external ear openings and the bottom edges of the eye sockets) on the smallest test headform to be more representative of children ages 4 years and under. Originally, § 1203.11(b) proposed an extent-of-protection requirement for helmets intended for children 4 years and under based on the adjusted basic plane.

3. Retention system. The dynamic strength of the retention system test addresses the strength of the chin strap to ensure against breakage or excessive elongation of the strap that may contribute to a helmet coming off the head during an accident.

The test requires that the chin strap remain intact and not elongate more than 30 mm (1.2 inches) when subjected to a "shock load" of a 4-kg (8.8-lb) weight falling a distance of 0.6 m (2 ft) onto a steel stop anvil (see Figure 8). This test is performed on one helmet under ambient conditions and on three other helmets after each is subjected to one of the different hot, cold, and wet environments.

4. Peripheral vision. Section 1203.14 of the originally proposed mandatory standard requires that a helmet shall allow a field of vision of 105 degrees to both the left and right of straight ahead. This requirement is consistent with the ANSI, ASTM, and Snell standards.

5. Labels and instructions. Section 1203.6 of the proposed mandatory standard requires certain labels on the helmet, which are consistent with all

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[1] The Commission approved this **Federal Register** notice by a vote of 2–1. Chairman Ann Brown and Commissioner Thomas H. Moore voted to approve it as published. Commissioner Mary Sheila Gall voted to approve the proposed rule with a change, which was not adopted by the Commission, to give companies more time to comply with agency requests for records.

[2] Gregory B. Rodgers, Deborah K. Tinsworth, Curtis Polen, Suzanne Cassidy, Celestine M. Trainor, Scott R. Heh, Mary F. Donaldson, "Bicycle Use and Hazard Patterns in the United States," U.S. Consumer Product Safety Commission (June 1994) ("Bicycle Use Study").

[3] Jeffrey J. Sachs, MPH; Patricia Holmgreen, M.S.; Suzanne M. Smith, M.D.; and Daniel M. Sosin, M.D., "Bicycle-Associated Head Injuries and Deaths in the United States from 1984 through 1988," Journal of the American Medical Association 266 (December 1991): 3016–3018.

[4] Robert S. Thompson, M.D.; Frederic P. Rivara, M.D.; and Diane C. Thompson, M.S., "A Case Control Study of the Effectiveness of Bicycle Safety Helmets," The New England Journal of Medicine 320 (May 1989): 1361–1367.

[5] Supra note 1.

[6] Heh. S., Log of ASTM F08.53 Headgear Subcommittee Meeting held May 21, 1992, Date of Entry—June 17, 1992. Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

three U.S. voluntary standards. These labels provide the model designation and warnings regarding the protective limitations of the helmet. The labels also provide instructions regarding how to care for the helmet and what to do if the helmet receives an impact. The labels also must carry the statement "Not for Motor Vehicle Use" and a warning that for maximum protection the helmet must be fitted and attached properly to the wearer's head in accordance with the manufacturer's fitting instructions.

The proposed mandatory standard also requires that helmets be accompanied by fitting and positioning instructions, including graphic representation of proper positioning. As noted above, the proposed mandatory standard has performance criteria for the effectiveness of the retention system in keeping a helmet on the wearer's head. However, these criteria may not be effective if the helmet is not well matched to the wearer's head and carefully adjusted to obtain the best fit. Thus, the proposed mandatory standard contains the labeling requirement described above to help ensure that users will purchase the proper helmet and adjust it correctly.

To avoid damaging the helmet by contacting it with harmful common substances, the helmet must be labeled with any recommended cleaning agents, a list of any known common substances that will cause damage, and instructions to avoid contact between such substances and the helmet.

6. Roll off. The originally proposed mandatory standard specified a test procedure and requirement for the retention system's effectiveness in preventing a helmet from "rolling off" a head. The procedure specifies a dynamic impact load of a 4-kg (8.8-lb) weight dropped from a height of 0.6 m (2 ft) to impact a steel stop anvil. This load is applied to the edge of a helmet that is placed on a headform on a support stand (see Figure 7). The helmet fails if it comes off the headform during the test.

These safety requirements, which are proposed pursuant to the Bicycle Helmet Safety Act, are found in Subpart A of the proposed Safety Standard for Bicycle Helmets. The comments received in response to the original proposal, the Commission's responses to these comments, and other changes to the original proposal are discussed in section C of this notice.

Under the authority of section 14(a) of the CPSA, the Commission also proposed certification testing and labeling requirements to ensure that bicycle helmets meet the standard's safety requirements. These certification requirements are found in Subpart B of the proposed Safety Standard for Bicycle Helmets and are discussed in section D of this notice.

Also, under the authority of section 16(b) of the CPSA, the Commission proposed requirements that records be kept of the required certification testing. These recordkeeping requirements are found in Subpart C of the proposed Safety Standard for Bicycle Helmets and are discussed in section E of this notice.

The interim standards, which are currently codified as 16 CFR 1203, will continue to apply to bicycle helmets manufactured from March 16, 1995, to the date that the final standard becomes effective. Accordingly, the interim standards will continue to be codified, as Subpart D of the standard.

As discussed below, although the Commission is proposing certain changes to the standard, the revised proposal still addresses each of the elements in the original proposal.

The Commission received 37 comments on the proposed bicycle helmet standard from 30 individuals and organizations. After considering these comments and other available information, the Commission decided to propose certain revisions to the originally proposed standard. The proposed revisions are discussed in sections C–E of this notice.

C. The Revised Proposed Standard—Comments, Responses and Other Changes

Comment: Definition of bicycle helmet. The original proposal defined bicycle helmet as "any headgear marketed as suitable for providing protection from head injuries while riding a bicycle." One comment suggested that the definition of a product should not be in terms of how it is marketed.

Response: The Commission disagrees with this comment. It is important that all products marketed as suitable for providing protection from head injuries while bicycling meet the applicable safety standard. However, the Commission proposes to amend the definition to include not only products specifically marketed for use as a bicycle helmet but also those products that can be reasonably foreseen to be used for that purpose.

Comment: Compliance with third-party standards as compliance with the rule. The Snell Memorial Foundation urged that the following statement be added to the certification portion of the rule that describes a reasonable testing program: "Helmets that are certified by the Snell Memorial Foundation to the Snell B–95 or Snell N–94 Standards are considered to be in compliance with this regulation."

Response: One of the objectives of the Children's Bicycle Helmet Safety Act of 1994 is to establish a unified bicycle helmet safety standard that is recognized nationally by all manufacturers and consumers. The Commission believes it would be contrary to the intent of the Act to provide that certified conformance to any particular existing voluntary standard is compliance with the mandatory rule.

Allowing third-party certification to a voluntary standard to serve as compliance to the mandatory rule would not adequately deal with the issue of recalls or other corrective actions if defective helmets are nonetheless produced. A third party can only decertify helmets that do not meet its standard and can only request that the responsible firm take appropriate corrective action for previously produced helmets. CPSC, on the other hand, has the authority to order a firm to take corrective actions if necessary and to assess penalties where appropriate. Accordingly, the Commission declines to adopt the language requested by this commenter.

Comment: Multiple-activity helmets. Some commenters recommended that the CPSC include provisions for children's bicycle helmets so that helmets would provide protection in activities in addition to bicycling, such as skateboarding, skating, sledding, and the like. Two commenters recommended that the CPSC bike helmet standard also apply to helmets for roller skating and in-line skating. Other comments stated that the Commission should not delay promulgation of the bike helmet standard while multi-activity issues are explored.

Response: Recent forums on head protection concluded that there is a need to develop helmets that are suitable for use in a number of recreational activities, not just bicycling.[7] However, the CPSC's authority under the Children's Bicycle Helmet Safety Act of 1994 is to set mandatory requirements for *bicycle* helmets. Establishing criteria for products other than bicycle helmets would require the Commission to follow the procedures and make the findings

[7] Forum on Head Protection in Recreational Sports, Harborview Injury Prevention and Research Center (February 18, 1994); Chairman's Roundtable, Multi-Activity Helmets, U.S. Consumer Product Safety Commission (September 19, 1994).

prescribed by the CPSA or the Federal Hazardous Substances Act ("FHSA").

In March 1994, Snell established the N–94 Standard For Protective Headgear For Use in Non-Motorized Sports. This standard provides greater head coverage than current bicycle helmet standards, tests for multiple impacts at a single location on the helmet, and tests to see if the helmet will roll off on impact. However, the Commission lacks data that multiple impacts at a single location are a factor in injuries to persons wearing bicycle helmets or that greater helmet coverage is needed for bicycle accidents. Furthermore, the use of an additional anvil in the Snell N–94 test may preclude the use of some current vent designs used in bicycle helmets. The Commission is aware of only a few helmets currently on the market that are certified to this standard.

Activities like roller skating, in-line skating, and skateboarding are typically conducted on the same types of surfaces as bicycling and can generate speeds similar to bicycling. In addition, these other activities do not put the user at a higher height than when using a bicycle. Thus, fall heights can be expected to be similar. It is reasonable to assume that the test requirements in the bicycle helmet regulation would allow the helmet to provide some protection for other activities—such as in-line skating, roller skating and skateboarding—until multiple-activity helmets become widely available. However, the Commission does not have sufficient data on the benefits and costs of additional features directed at injuries incurred other than bicycling to make the findings that would be required by either the CPSA or FHSA. Also, procedures in addition to those required by the Bicycle Helmet Safety Act would have to be followed. The Commission does not want to delay establishment of a mandatory bicycle helmet standard in order to pursue rulemaking for other types of helmets. Accordingly, this proposed regulation only addresses bicycle helmets.

Comment: General construction provisions. Section 1203.5 of the originally proposed mandatory standard included several provisions that addressed general construction characteristics of a bicycle helmet. These provisions specified that helmets shall be designed to reduce the acceleration forces imparted to the wearer's head by an impact and to remain on the wearer's head during impact. It was also specified that helmets shall be constructed not to be harmful or potentially injurious to the wearer. For example, the original proposal stated that the helmet surface shall not have projections that may increase the likelihood of injury to the rider during an accident. In addition, the original proposal provided that construction materials should be resistant to environmental conditions that may be reasonably expected during helmet use and storage and shall not be harmful to the wearer.

Some commenters on the proposed rule stated that many of the requirements in § 1203.5 are subjective, since they have no performance-related criteria. One respondent suggested that these sections be located in an informative annex rather than in the body of the standard.

Response: Sections 1203.5(a) and (d) of the original proposal—titled "General" and "Materials," respectively—contained no objective performance criteria to establish compliance. Section 1203.5(c)—"Retention System"—was redundant since it merely referenced test requirements elsewhere in the standard. Accordingly, the Commission is eliminating these paragraphs from the revised proposal.

The first proposed standard required that external projections must "readily break away" and internal projections shall be protected by "some means of cushioning." In response to the comments that this language was subjective, the Commission is revising the language to define more objective performance criteria. The revised requirement is that the helmet be examined after impact testing to determine whether there are any rigid internal projections that could contact the wearer's head.

Comment: Children's peak g-value. Some comments recommended that the peak g-value for children be dropped from 300 g to 250 g or 200 g. Some commenters suggested that no change be made in the g-value.

Response: Despite the high incidence of head injury among children, studies addressing mechanisms of injury and recovery are lacking. Therefore, even though children make up the majority of the population at risk for head injury, children's helmets sold on the market today generally are designed to meet the attenuation and absorption criteria established for the adult helmeted-headform drop tests. The criteria for testing and evaluating the performance of helmets have been established primarily on the basis of data derived from injury tolerance studies conducted on adults. This is a matter of some concern, since studies indicate that the type of head injury resulting from blunt trauma may differ significantly between adults and children.

The skull is the brain's primary protection against blunt force trauma. The properties of the skull change significantly as a child matures. Cranial capacity reaches adult size by 5 years of age. At 18 months, the brain has attained almost 70% of its adult size and, by 5–8 years, it is 90% of adult size.

Most of the head growth beyond the first 5 years involves hardening of the skull and thickening of the soft tissue around the brain. Children appear to be at greater risk of diffuse brain injury because their skulls have a lower degree of calcification, which provides a reduced capacity to absorb an impact. This results in a greater transfer of the kinetic energy from the impact site to the brain tissue.

The differences in the type of head injuries sustained by children and adults should have some bearing on helmet design. Currently, no compensation has been made for the differences between adults and children in head injury tolerance levels regarding the bending strength of the skull.

Current United States bicycle helmet voluntary standards recommend that helmets limit an attenuation impact to below 300 g in order to reduce the risk of severe injury. However, for the reasons described above, this may be inadequate to protect children. Published reports have suggested reducing the g-value for children from 300 g to 150 to 250 g.[8]

A helmet may partially compensate for the flexibility of a child's skull. However, the interior dimensions of the helmet will not perfectly fit the skull. In an accident, point contact is likely to occur between the skull and the helmet, which will tend to flex the child's skull more than an adult's. Accordingly, the Commission concludes that a differential in the g criteria is needed between adults' and children's standards. The Commission proposes to lower the g-value to 250 g. This will provide a substantial extra margin of safety to account for the increased flexibility of children's skulls, without making the criterion so stringent that it is either not cost effective or results in helmets that are so heavy or bulky that their use would be discouraged.

[8] Corner JP, Whitney CW, O'Rourke N, and Morgan DE. Motorcycle and Bicycle Protective Helmets—Requirements. Dept. of Trans. and Comm., Federal Office of Road Safety, Australia, May 1987. Lane JC. Helmets for Child Bicyclists, Some Biomedical Considerations. Federal Dept. of Transport, Office of Road Safety, Australia, CR 47, 1986.

Comment: Drop mass. Several commenters favored a variable drop mass instead of the originally proposed 5 kg drop mass, which would have been used for testing both adults' and children's helmets. (The helmet's mass is not included in the drop mass.) Some respondents felt a reduced drop mass is especially important for testing young children's helmets. One respondent opposed lowering the drop mass, stating that there is no benefit in different drop masses for each headform.

Response: A 1979 study found that in head-first free fall, a child's body mass and orientation at impact have little influence on head loading (g-forces) during impact.[9] The study also explains that head loading in adult falls is influenced by a more complex relationship between head mass and body mass. This suggests that the actual head mass of a child is an important factor in determining head loading during impact.

The helmet liner is designed to absorb the energy of impact by deformation, and to deform at force levels below that which would cause head injury. However, children's heads have less mass and their skulls are more flexible than those of adults. Therefore, a child's head may not deform the helmet's foam padding during impact if the foam is designed to protect the heavier adult head. This lack of deformation may result in greater kinetic energy being transferred to a child's brain, possibly resulting in a greater likelihood of intracranial injury. This strongly suggests that children's helmets should be tested with a lower headform mass than helmets for adults.

The Commission's Directorate for Epidemiology and Health Sciences concluded that the head mass of children under the age of 5 years ranges from approximately 2.8 to 3.9 kg. Accordingly, the Commission is proposing a reduced drop assembly mass of 3.90 kg±0.1 kg for testing helmets for children under 5. The lower mass will better represent the head mass of children under 5 years of age than the 5 kg mass specified for testing helmets for older children and adults.

Testing helmets for children under 5 years with a more appropriate mass should lead to helmets that are better designed to accommodate maturational differences of a young child's head. An even lower mass is not feasible with current test rigs, because a drop assembly mass of less than 3.90 kg would shift the center of gravity on current test equipment enough to potentially influence test results.

Comment: Extent of protection. Current U.S. voluntary bicycle helmet standards, and the originally proposed CPSC standard, specify an extent-of-protection boundary and an impact test line. The extent-of-protection boundary defines the area of the head that must be covered by the helmet. The impact line designates the lowest point on the helmet where the center of the anvil may be aligned for testing. A clearance is specified between the extent-of-protection boundary and the impact line to allow for the imprint of the test anvil.

A number of comments on the proposed standard concerned the extent-of-protection (or extent of coverage) requirements. One commenter stated that the extent-of-protection requirement was subjective since no test is applied in these areas. Some commenters believed the proposed extent-of-protection requirement was design-restrictive, since some helmets have features like rear vents that may rise above the extent of coverage line but nevertheless will provide protection if impacted on the test line.

Response: The Commission believes that a performance test using a single test line and no extent-of-protection requirement is adequate for testing the impact-attenuation capabilities of a helmet. Not requiring specific helmet coverage allows manufacturers the flexibility to include desirable features such as a central rear vent, provided the features do not hinder the helmet's ability to meet the impact requirements if tested anywhere on or above the test line. Accordingly, the Commission has deleted the extent-of-protection line from the revised proposed standard.

Comment: Extended coverage for young children's helmets. A number of commenters favored an extended area of coverage for young children's helmets. However, one commenter suggested that the coverage lines defined in the first CPSC-proposed standard were not practical, since portions of the test line extended lower than the edge of an impact headform.

Response: As noted above, young children's skulls lack the calcification of older children's and adult skulls. This is especially true of children under 5 years old, where the curve of head growth and skull development is steepest. The temporal region (area above and around the ear) is much thinner than other parts of the skull. As a result, a much smaller force at the temporal region can cause a serious injury than at other regions of the skull. Accordingly, the Commission concludes that helmets for children under 5 years should have a greater area of protection than those for older children and adults.

A recent proposal for infant helmet test lines by the ASTM Headgear Subcommittee Infant/Toddler Working Group specifies a "two-step" test line that is measured directly from the reference plane of the ISO A and ISO E headforms. The Commission considers the proposed ASTM test line appropriate for testing helmets for children under 5 years. The revised test line (Figure 5) provides an increased area of protection, including the temporal area.

Many young children's helmets on the market already provide an area of protection comparable to the revised CPSC proposal, though it is not required by any current U.S. bike helmet standard. The revised CPSC test line is easier to define and mark on a helmet than the first proposed CPSC line, which was referenced from an adjusted basic plane inclined 15 degrees from horizontal. This new test line does not extend lower than the edge of the headform.

Comment: Determining which helmets are for young children. A commenter asked for clarification of how to determine whether helmets are "intended" for children 4 years and under. The concern is that small helmets are often sold to adults with small heads.

Response: Typically, helmets for children are advertised and promoted with children's themes. The Commission will consider relevant factors, such as the design and marketing of a helmet, to determine whether it is intended for young children.

However, it is also important that consumers not mistake adult and older children's helmets that are the same size as helmets for children under 5 years of age as complying with the extra coverage and other special provisions required for helmets intended for children under 5. Therefore, the proposal provides that helmets specifically designed for children under 5 years of age be labeled to read: "Complies with CPSC Safety Standard for Bicycle Helmets for Children Under 5 years."

Comment: Peripheral vision. One commenter recommended revising the peripheral vision requirement to specify clearances of two separate 105° arcs from the center of each eye.

Response: The existing requirement of 105° clearance from the central point K is an established criterion that provides sufficient peripheral vision and allows for helmet protective coverage to the temporal area of the head. The proposed criterion is consistent with ANSI, ASTM, and Snell bicycle helmet standards, and with the FMVSS 218 motorcycle helmet standard. Therefore, the Commission makes no change to the proposed rule in response to this comment.

Comment: Vertical vision. One commenter suggested that the Commission adopt requirements for a vertical field of vision.

Response: The Commission has no information to indicate that bicycle helmets are posing a risk of injury due to inadequate upward or downward visual clearance. Accordingly, the Commission is not proposing a vertical field of vision requirement.

Comment: Dwell time. Several commenters disagreed with the dwell time specification in the first proposed CPSC standard.

Response: The Commission agrees with these comments, and the impact attenuation requirements are revised to specify only peak g as the evaluation criteria. This change was made because of a lack of scientific evidence to support application of dwell time as a bike helmet evaluation criterion.

Comment: Point loading requirements. Two commenters recommended that the Commission explore requirements to limit localized loads on the head that could be caused by strategically located high-density foam in helmet liners.

Response: The Commission has no information to indicate that some helmet designs may pose a risk of injury due to localized loading. Therefore, the Commission is not adding point loading requirements to the proposed rule at this time.

Comment: Daytime and nighttime conspicuity. Some comments related to possible requirements for helmets to improve a bicyclist's conspicuity in both daytime and nighttime conditions.

Response: Available data do not suggest that requirements to increase the visibility of bicyclists to others would significantly reduce daytime incidents. Data do show an increased risk of injury while bicycling during non-daylight hours.

Commission staff observed informal demonstrations which suggested that reflective material on bike helmets could enhance the conspicuity of a nighttime rider. However, at this time, the Commission lacks information on what requirements might be effective to achieve this goal.

The Commission intends to study this issue further in conjunction with planned work on evaluating the bicycle reflector requirements of CPSC's mandatory requirements for bicycles. 16 CFR part 1512. After that work is completed, the Commission will decide whether to propose reflectivity requirements for bicycle helmets under the authority of the Children's Bicycle Helmet Safety Act of 1994. The Commission does not intend to delay issuance of the standard proposed in this notice to coincide with any reflectivity requirements that may be issued later.

Comment: Type of test rig. The originally proposed CPSC standard and the current interim mandatory standards allow the use of either a wire- or rail-guided impact test rig. A commenter recommended that the Commission adopt a free-fall test rig that has no rigid connection between the headform and the guide system. The Commission also received a proposal from one respondent to evaluate differences between twin-wire and monorail test rigs through exhaustive comparison testing.

Response: The Commission has no information to indicate that the suggested free-fall rig provides a more reliable test system or that it represents the dynamics of a human head impacting a surface better than other types of impact test equipment. Accordingly, the Commission is not proposing a free-fall test rig.

To avoid the possibility that different results would be obtained with the two types of test rigs, the Commission is specifying only the monorail test rig in the revised mandatory standard. The suggested tests would be helpful only if both test rigs were permitted.

For helmet certification testing, the regulation does not require that the manufacturer follow specifically the procedures of the CPSC standard. Thus, a manufacturer may chose to certify helmets by testing with a wire-guided test rig, provided the manufacturer assures that the helmets will meet the requirements of the CPSC standard when tested on the standard's monorail test rig.

Comment: Dynamic strength of retention system test—spinning rollers. A comment suggested that the "jaw rods" in the strength of retention system test rig should be rotatable.

Response: The requested feature is consistent with provisions in both the ANSI and Canadian standards and should help ensure that the maximum loading is transmitted to the retention system attachment points. Accordingly, the Commission has adopted this suggestion, and the revised proposal states that the "stirrups" that represent the bone structure of the jaw shall be freely spinning cylindrical rollers.

Comment: Dimensions of impact base. Three commenters recommended revising the standard to allow a smaller impact base. The commenters claimed that the dimensions specified in the proposed standard are not consistent with many existing test rigs.

Response: The Commission concludes that there is no known reason to exclude bases with smaller surface dimensions. Therefore, the Commission proposes to reduce the minimum surface area specification from 0.30 m^2 to 0.10 m^2. This is consistent with impact base specifications in Snell helmet standards. The minimum mass of the impact base will still be the originally proposed 135 kg.

Comment: Instrument system check procedure. One commenter claimed that the instrument system check procedure specified in the first proposed rule only tests repeatability and not the accuracy of calibration. The commenter recommended that the procedure allow using a test headform, instead of the spherical impactor, for the instrument system check impacts. The commenter also suggested that the instrument system check be performed at least once a week.

Response: The commenter is correct that this instrument system check procedure primarily indicates that the test is producing repeatable results. The Commission's staff, using the procedures proposed in the originally proposed CPSC standard, obtained daily test results on an average of 12 drops of a spherical impactor on a modular elastomer programmer ("MEP") pad for 3 months. These tests yielded peak accelerations that met the originally proposed 389±8g criteria for the specified velocity range. The specific g-level that will be achieved depends on the MEP pad in use.

The Commission agrees that the instrument system check procedure should have greater flexibility to allow other laboratories to conduct testing based on their internal procedures. To help assure that consistent, reproducible data are obtained, the Commission proposes to continue the use of an impactor with a spherical impact surface, rather than impact headforms. The Commission also believes that the system check interval should not be longer than the beginning and end of each test day. The revised procedure, however, is not intended to prevent each laboratory from exercising sound engineering practice in establishing their specific methodology.

Comment: Distance between impacts. A commenter recommends revising the minimum distance between impact sites

[9] Mohan D, Bowman B, Snyder RG, and Frost, DR. A Biomechanical Analysis of Head Impact Injuries to Children. J. Biomechanical Eng. 101, pp. 250–260, U.S., Nov. 1979.

from "one fifth the circumference of the helmet" to 120 mm.

Response: The Commission believes that 120 mm allows sufficient distance to minimize the effects of impact site proximity and provides a more straightforward measurement than the original one-fifth circumference criteria. Accordingly, the Commission proposes to adopt this recommendation.

Comment: Impact velocity tolerance. One commenter suggested a change from ±2% to ±5% for the tolerance on impact velocity.

Response: Tests by CPSC staff indicated that helmet impact velocities sometimes fell outside the proposed ±2% tolerance. However, the impact velocities almost always were within ±3% of the specified value. These tests showed that a ±3% velocity tolerance is reasonable to maintain a test procedure that will reliably indicate the equipment is functioning properly. Accordingly, the velocity tolerance for helmet testing has been changed to ±3% in the revised proposal.

Comment: Number of helmets required for testing. Comments were submitted requesting clarification of the number of helmet samples needed if attachments are provided with the helmet and if the helmet fits two headform sizes.

Response: An additional set of five helmets is needed for each additional attachment (e.g., visors or shields), or combinations thereof, sold for use with the helmet. Two additional samples per set are needed if the helmet fits two headform sizes.

Comment: Fit and testing. A comment stated that the standard needed to define "fit" as it relates to the process of selecting a test headform. Another comment provided a definition of "fit" and suggested that the language for selecting a test headform should more clearly explain how a sample set of helmets is divided when a helmet fits two different headform sizes.

Response: Language addressing these concerns, including a definition of "fit," has been added to the revised proposed rule.

Comment: Wet-conditioning. A number of commenters suggested that wet-conditioning by totally immersing the helmet in water is unrealistically severe. These commenters recommended that the Commission consider a water-spray environment.

Response: Commission testing of both immersed and water-sprayed helmets under various time durations showed no consistent trend in resulting peak acceleration levels. The immersion environment has the advantages of being easier to define and of subjecting the helmet to a uniform conditioning exposure. Since testing showed that these commenters' concerns are unfounded, the Commission is retaining the immersion method of wet-conditioning in the proposed standard. However, additional specifications to standardize the wet environment are included.

Comment: Anvil test schedule. In the originally proposed standard, helmets 1 through 4 would have been tested with the flat and hemispherical anvils and the fifth helmet would be tested with the curbstone anvil. Two commenters suggested that there is no reason for a curbstone anvil impact to be treated differently from the flat and hemispherical anvil impacts.

Response: Each anvil has a unique "imprint" that could stress helmet designs differently. Therefore, the proposed standard has been revised so that each of test helmets 1 through 4 must meet the standard's impact criteria on four impacts, once with each of the three anvils and once with the anvil likely to result in the highest g-value. In the absence of an indication why another anvil would be more stringent, this fourth impact should be made with the anvil that produced the highest g-value in the previous three impacts. This is consistent with the test schedules of the Snell B–90(S), N–94, and B–95 helmet standards. (Under the revised proposal, the fifth helmet is tested only for positional stability.)

Comment: Helmet straps. A commenter recommended that the test procedure require that all slack be removed from the helmet straps when fastening the helmet to the test headform.

Response: The Commission agrees with this comment and has revised the proposal accordingly.

Comment: Lateral positional stability test. A commenter recommended the addition of a positional stability test in the lateral direction.

Response: The shape of the head is such that a properly fitted helmet is more likely to come off to the front or rear than to the side. Accordingly, the suggested lateral positioning test is unnecessary and not proposed.

Comment: Dynamic v. static-load positional stability test. One commenter suggested that the CPSC consider the static load positional stability test specified in the Canadian Standards Association ('CSA') bicycle helmet standard.

Response: The Commission believes that a dynamic test provides a more rigorous and realistic test of the restraint system, and has not adopted this suggested change.

Comment: Retention system test schedule. Some commenters asked that the CPSC consider a change to the test schedule so that at least one impact attenuation drop per sample would be performed prior to testing the retention system.

Response: CPSC staff testing did not show evidence to warrant a change in the sequence of retention system strength tests and impact tests. Accordingly, the Commission did not make this suggested change.

Comment: Use of a Rubber Pad on the Stop Anvil. One commenter recommended using a rubber pad between the steel drop mass and the stop anvil.

Response: The current ASTM and ANSI bicycle helmet standards do not require a rubber pad on the stop anvil. Based on comparison testing with and without a rubber pad, the Commission believes a rubber pad may produce a somewhat less stringent test. In the absence of any compelling reason to allow a rubber pad, therefore, the Commission has not changed the original proposal in this regard.

Comment: Self-release buckle. One commenter suggested that consideration be given to requirements for a self-release buckle that could be used to prevent strangulation if the helmet becomes caught. The commenter stated that there are now efforts in Europe to develop a test method that would ensure that buckles release or break away when subjected to a load equivalent to the weight of a child.

Response: The Commission has received reports of eight or nine deaths of children in Sweden and Norway that occurred when helmets became caught in trees or playground equipment, causing the child to become suspended by the chin strap. The Commission also has received reports of four nonfatal incidents in the United States since 1990, involving children of ages from 5 through 7 years, that occurred in the same fashion.

However, the Commission is not proposing requirements for a self-release buckle at this time. Considering the frequency and potential severity of head injuries in bicycle accidents, it is important to ensure that the helmet retention strength requirements are not compromised.

Comment: Use labeling. A number of comments concerned what information should be on a bike helmet label to inform consumers of the helmet's intended use. Some commenters favored the "Not For Motor Vehicle Use" label that was first proposed in the CPSC standard. Others felt the helmet should be labeled "For Bicycle Use Only."

Response: Currently, the ANSI and Snell voluntary standards require the label "For Bicycle Use Only." ASTM requires the label "Not for Motor Vehicle Use." The ASTM label was originally proposed because helmets are currently not made specifically for many non-bicycling activities, and people should not be discouraged from using a helmet for such activities by a label that states it is for bicycle use only.[10]

Other commenters, however, disagreed. One indicated that labeling "Not for Motor Vehicle Use" would stifle the development of separate helmet standards for other sports by voluntary organizations. The commenter believed that the "Not for Motor Vehicle Use" label suggests that a bicycle helmet is as effective for any non-motorized use as a helmet designed specifically for that activity.

The Commission has no evidence to support the contention that the ASTM label would inhibit the development of voluntary standards for non-motorized activities, and no evidence that a bicycle helmet is inadequate for some of these activities. For this reason, the Commission continues to propose the ASTM label, "Not for Motor Vehicle Use."

Comment: Label language and format. Some commenters suggested that the labels have specific language and format (e.g., the ANSI Warning Format).

Response: The Commission concludes that requiring specific language or format is inappropriate for bicycle helmet labels, because the variety of helmet styles and limited space on the interior of some helmets requires more flexibility in labeling.

Comment: Fit information on box. One commenter recommended that information on how to properly fit a helmet be required on the outside of the box.

Response: Children frequently report uncomfortable fit as a reason for not wearing a helmet all the time. It is reasonable to expect that improper fit was sometimes involved in complaints that helmets are uncomfortable. A label on the box could inform parents, before they buy the helmet, that they need to properly fit it to the child's head. However, the Commission is not aware of any information which indicates that such a label would be any more effective in assuring proper fit in use than the originally proposed instructions, which need not be on the box. Accordingly, the Commission did not adopt this requested change.

Comment: Age-specific fit instructions. A commenter suggested that instructions on fitting a helmet be age-specific, so that a young child can read them.

Response: The Commission believes that age-specific instructions are unnecessary. The Commission lacks data showing that young children would act on age-specific instructions without urging from their parents. The originally proposed rule requires that the instruction sheet have graphics showing proper fit and position of the helmet. Children who can read may well be able to understand pictures showing proper fit. If not, the involvement of parents will likely be needed to convey the information on how to fit the helmet. Parents reading along with the child and discussing the pictures will likely deliver the message of proper fit.

Comment: Life of helmets. One commenter was concerned that the requirement of § 1203.6(a) that labels be legible for the life of the helmet was indefinite, because the life of a helmet is not known.

Response: Snell N–94 and B–95 helmet standards recommend that helmets be replaced after 5 years, or less if the manufacturer so recommends. The Commission concludes that the manufacturer or importer can determine the life of a particular helmet and assure that the labels will remain legible for that time. However, to make this requirement more definite, the Commission has amended the proposal to state that the labels shall remain legible for the intended design life of the helmet.

Comment: Helmet label—post-impact instructions. Some commenters requested that more direct information be provided about what to do with a helmet that has received an impact. One respondent stated that the current wording—"after receiving an impact, the helmet should be returned to manufacturer or be destroyed and replaced"—is ambiguous.

Response: Damage to a helmet from an impact is not always visible to the user. To describe on a label the circumstances in which helmets can be used again, can be fixed, or should be destroyed, if feasible at all, would make the label excessively wordy and likely to be skimmed or ignored. Therefore, the Commission concludes that the most specific and appropriate label would state that the helmet be returned to the manufacturer or destroyed after impact because any damage may not be visible to the user.

Comment: Neck injury protection. One commenter requested that the Commission include in this **Federal Register** notice a statement encouraging helmet manufacturers to "undertake the development and marketing of helmets that protect wearers from paralyzing neck injuries as a result of bicycle riding." The commenter referred to a report that indicates that bike helmets reduce the risk of head injury, but do not seem to have any effect in reducing the risk of serious neck injury.

Response: The Commission is aware of some efforts to reduce the risks of serious neck injury to bicyclists and participants in other recreational activities. The Commission always encourages research and development of safety-related devices. The Commission's staff will continue to monitor progress in this area. However, such devices are beyond the scope of this proceeding.

Other changes to the standard:

1. Impact-attenuation test—support assembly mass. The specification that the mass of the support assembly be no greater than 25 percent of the mass of the total drop assembly has been deleted. The boundary on the location for the center of gravity at § 1203.17(a)(3) will adequately limit the mass variance between the support assembly and the headform assembly.

2. Dynamic strength of retention system test—mass of the test rig. The ASTM F1446 standard specifies a support assembly mass in the range of 6 kg to 12 kg (including the drop mass). CPSC considered this range too wide when developing the first CPSC proposed standard and specified a mass of 6 kg with a tight tolerance of ± 0.5 kg. Subsequent consideration of this issue by the ASTM Headgear Subcommittee concluded that the assembly mass, excluding the drop weight, should be specified at 7 kg (11 kg including the drop weight) with a narrow tolerance. It was agreed that this rig applies a rigorous test of retention system strength and provides a system better suited for adapting an electronic displacement transducer to provide an accurate means for measuring elongation. Accordingly, the mass of the test rig has been revised to 11 kg ± 0.5 kg.

3. Dynamic strength of retention system test—deletion of preload ballast procedure. The procedure to place a preload ballast on top of the helmet has been deleted, since the more massive test rig in the revised proposal applies a sufficient preload to the helmet retention system to set the helmet fit padding against the test headform.

[10] In fact, despite the "For bicycle use only" label, the U.S. Amateur Confederation of Roller Skating adopted the ANSI and Snell helmet standards years ago for use in competitive roller skating.

4. Children's helmets—age range. The age break for special provisions for children's helmets was originally proposed for "children 4 years of age and under." The Commission has revised this language to "children under 5 years of age." This language clarifies the intent to include children until they reach their fifth birthday.

5. Older children and adults test line. The Commission is proposing a revised test line for adults' and older children's helmets, as shown in Figure 4. The portion of the test line that extends from the front of the headform and through its center portion is essentially the test line specified in the Snell B–90 standard. Compared to the test lines in other U.S. voluntary bike helmet standards to which bike helmets are currently certified, the Snell B–90 test line provides the greatest area of impact protection in the front and central portions of the head.

The rear step in the revised CPSC test line is derived by using a 20 mm clearance from the extent-of-protection boundary specified in the August 15, 1994, CPSC-proposed bike helmet standard. The revised test region provides an acceptable area of head protection while allowing for certain design flexibility.

6. Definition of Helmet Positioning Index ("HPI"). In the originally proposed standard, the HPI is defined as a distance that locates where the brow of the helmet should be positioned on the headform. In the revised proposal, the HPI is defined (§ 1203.4(f)) to be a specified distance from the reference plane (defined at § 1203.4(l) and Figure 3), rather than from the basic plane (defined at § 1203.4(a) and Figures 1 and 2). This change is made because impact headforms are cut away (above the basic plane) at the front brow area, making it difficult to measure for the HPI from the basic plane.

D. Certification Testing and Labeling

General. Section 14(a) of the CPSA, 15 U.S.C. 2063(a), requires that every manufacturer (including importers) and private labeler of a product that is subject to a consumer product safety standard issue a certificate that the product conforms to the applicable standard, and to base that certificate either on a test of each product or on a "reasonable testing program." Subpart B of the proposed Safety Standard for Bicycle Helmets contains these certification requirements.

The originally proposed certification rule. The proposed certification rule would require manufacturers of bicycle helmets that are manufactured 1 year after the issue date of the final standard to affix permanent labels to the helmets. These labels would be the "certificates of compliance," as that term is used in § 14(a) of the CPSA. In the rule as originally proposed, all helmets would have had a label stating "Complies with CPSC Safety Standard for Bicycle Helmets (16 CFR 1203)". As explained below, the Commission is proposing somewhat different language for this label.

In some instances, the label on the bicycle helmet may not be immediately visible to the ultimate purchaser of the helmet prior to purchase because of packaging or other marketing practices. In those cases, it is proposed to advise consumers that the helmet meets the CPSC standard by a second label that would be on the helmet's container or, if the container is not visible, on the promotional material used in connection with the sale of the bicycle helmet.

The proposed certification label also contains the name and address of the manufacturer or importer, and identifies the production lot and the month and year the product was manufactured. Some of the required information may be in code.

The proposed certification rule requires manufacturers and importers to conduct a reasonable testing program to demonstrate that their bicycle helmets comply with the requirements of the standard. This reasonable testing program may be defined by the manufacturers, but must include either the tests prescribed in the standard or any other reasonable test procedures that assure compliance with the standard.

The originally proposed certification rule provides that the required testing program will test bicycle helmets sampled from each production lot in such a manner that there is a reasonable assurance that, if the bicycle helmets selected for testing meet the standard, all bicycle helmets in the lot will meet the standard.

The rule as originally proposed provided that bicycle helmet importers may rely in good faith on the foreign manufacturer's certificate of compliance, provided that a reasonable testing program has been performed by or for the foreign manufacturer; the importer is a U.S. resident or has a resident agent in the U.S.; and the required test records are kept in the U.S. As explained in section E below, the Commission proposes an exception to the requirement that test records must be kept in the U.S.

Comments, responses, and other changes to the certification testing and labeling requirements.

Comment: Production lot. One commenter stated that the rule should use "frequency of production" rather than the originally proposed "manufacturing lot" method to define a lot. The commenter explained that a manufacturing lot may encompass well over a million helmets if there are no changes in the design and production of a helmet. The commenter further explained that using frequency of production as the basis of the required reasonable testing program would require a firm to test after a specified number of helmets are produced. The commenter believes this would catch any defects more readily.

Another commenter stated that the production lot should be based on a monthly or yearly period, as a production lot could include helmets made well after the qualification testing.

Another commenter stated that the proposed definition of a production lot is unmanageable and may be expensive if a large number of helmets is produced and if there are any variations in the materials or processes in the production of the helmets. The commenter recommends that the definition of production lot be changed to either "sequentially labeled helmets bonded and tested separately, or a continuous production of like models produced in accordance with a quality system ensuring traceability for all component parts." Comment CC94–2–25.

In addition, a commenter stated that CPSC should allow manufacturers flexibility to establish their own recognized quality assurance program, such as Mil Std 105D, ISO 9000, or ASQC.

Response: The proposed rule defines a "production lot" as "a quantity of bicycle helmets from which certain bicycle helmets are selected for testing before certifying the lot." In the proposed regulation, the helmets in a lot must be essentially identical in design, construction, and materials. This definition of a production lot does not require the lot to be a specified number of helmets or a set time interval of helmet production, such as weekly or monthly. However, the definition in the proposed regulation does not prohibit certification based on testing after a specified number of helmets or period of time, provided that changes in the design, construction, or materials of the helmet are not made in that production lot. Firms must define their production lots in such a fashion that samples collected for testing represent all the bicycle helmets in a particular lot.

The firms responsible for certification know their products and manufacturing processes. These firms are in the best position to define their production lot and set up a reasonable testing program in order to assure that their helmets meet the standard. Furthermore, testing on only a number or time basis could allow changes in the helmets' specifications during a production lot that might cause failing results to go undetected until the specified interval occurs. Accordingly, the Commission is not proposing to require testing after a specified number of helmets or time period of production.

A firm is not restricted in any way from establishing its own quality control program, including programs based on Mil Std. 105D, ISO 9000, or ASQC. Therefore, no change in the proposal is required in this regard.

The Commission believes that the certifying firms can determine, based on their production lot and methods of manufacture, how best to sample their lot in order to insure that the helmets meet the standard.

Comment: Sampling. A commenter stated that the testing program should provide for sampling over the entire production lot in order to discover the production of noncomplying helmets.

Response: Under the proposed rule, there is no requirement that sampling be conducted over the entire production lot. The rule states that the manufacturers and importers may set up their own testing program, provided the program is reasonable. The testing program is to insure that the helmets selected for testing represent all the helmets in the production lot. For the guidance of certifying firms, however, the Commission notes that a reasonable testing program would include both prototype and production testing, to provide reasonable assurance that all of the bicycle helmets in the production lot being tested comply with the requirements of the standard.

Comment: Certification label. A commenter inquired whether the content of the certification label could be divided among more than one label.

Response: The originally proposed regulation did not address whether the placement should be on one label. However, the restricted space inside helmets requires that there be flexibility for the format of the certification labeling.

The Commission's Division of Human Factors believes that the name and address of the manufacturer, private labeler, or importer, where required and not in code, should be on one label. This is so the consumer can associate the address with the name if it is necessary to contact the manufacturer, private labeler, or importer for repair or replacement of the helmet. Also, if it is too difficult to find the information, consumers are less likely to follow through with repair or replacement of helmets. Accordingly, the Commission is revising the proposal to require that the name and address of firms required to be identified uncoded on the label must be on the same label.

However, the Commission now proposes to allow separate labels for the other required information, including the statement of compliance with the CPSC standard, the production lot, and the date of manufacture.

Comment: Third-party testing. A commenter suggested that certification testing should be conducted by a third party and include off-the-shelf random testing.

Response: Under the proposed rule, testing may be done by the manufacturer or importer or by a third party. Regardless of who performs the test, certifying firms are responsible for insuring compliance with all requirements of the standard. No data are available showing that third-party certification would improve compliance with the standard. Accordingly, there is no reason to change the proposal in that regard.

Comment: Verification by CPSC. A commenter suggested that the quality control testing program, testing equipment, and calibration of the testing equipment should be verified by CPSC.

Response: It would be an inefficient use of Commission resources to conduct either quality control verification or calibration of industry equipment, and the need to do this has not been demonstrated. Accordingly, the proposal is unchanged in this regard.

Comment: Production testing of features unlikely to change. A commenter stated that, once a model is certified, testing of helmets for peripheral vision, labeling, and instructions are unnecessary when performing routine compliance testing.

Response: The proposal allows each firm to establish its own testing program, provided the testing program is reasonable. No specific tests are required. When there have not been any changes in the design of the helmet, the firm may establish simple visual examination of some attributes of helmets. For example, if the manufacturer is assured that there has been no change in the physical dimensions of a helmet, there would be no need to retest the helmet's peripheral vision.

No change to the proposal is required to accommodate this commenter's concern.

Comment: Certification label content—coding of foreign manufacturer. A commenter complained that the true name of the foreign manufacturer could be coded and not disclosed.

Response: The intent of the certification label is to identify a party that the consumer or the CPSC can contact concerning the safety of a helmet. In addition, consumers need to be able to contact someone in the U.S. for repair or replacement information. Since foreign manufacturers are not subject to this regulation, there is no need for consumers to know the identity of the foreign manufacturer. Accordingly, the importer may code the foreign manufacturer's name. Similarly, a private labeler may code the U.S. manufacturer or both the importer and foreign manufacturer.

The identification of the coded information must be available upon request from the importer or private labeler whose name is required to appear on the certification label. This adequately protects the interests the consumer and the CPSC have in this information. In addition, consumers could be confused if two firms were identified on the label. Accordingly, no change to the proposal is made in this regard.

Comment: Certification label content—age of helmet. A commenter stated that permitting the coding of the product lot number and the date of manufacture denies consumers important information on the age of their helmets, as manufacturers commonly recommend replacing the helmet after 5 years. The commenter contends also that it would be easier for consumers to recognize recalls of helmets identified by dates on the helmets rather than by other codes.

Response: Under the proposed rule, the manufacturer, importer, or private labeler may code the production lot and the date of production. These codes on the helmets should not place an undue burden on the consumer in determining the date of manufacture, as this information can be obtained if necessary.

Manufacturers recommend that helmets be replaced after 5 years of use. The manufacture date or code would not identify the "use" age of the helmet, which relates more to the date of purchase of the helmet.

During recalls, the affected firms will identify the model of the helmet, any codes, where it was sold, and the dates of distribution. A consumer can readily ascertain if his/her helmet is being recalled by examining the model number and the date of manufacture, which may be coded. Having the manufacturing date coded would not

interfere with identifying a recalled helmet. Accordingly, no change in the proposal is needed in this regard.

Comment: Certification label content—date of manufacture, serial number, and test date. One firm wants to provide the date of manufacture, serial number, and test date on the helmet, rather than a production lot.

Response: The proposed regulation requires the production lot and the month and year of manufacture to be identifiable from the label, but does not require or prohibit the serial number or test date. Both the production lot and the time of manufacture may be in code. The test date would not add any information for the consumer. The serial number, however, may serve as a code to identify the production lot and, if so, may be used in its place.

Accordingly, the proposed rule has been revised to state that a serial number may be used in place of a production lot identification if it can serve as a code to identify the production lot.

Comment: Certification label content—telephone number. A commenter contends that the telephone number of the responsible firm should be on the certification label.

Response: A telephone number is not required. This might place a burden on small firms with insufficient staff to handle a large number of calls. The consumer can contact the responsible firm in writing if the need arises.

Other change: Compliance labels. Section 14(a) of the CPSA requires that certifying firms issue a certificate certifying that the product conforms to all applicable consumer product safety standards. 15 U.S.C. 2063(a). Accordingly, the original proposal would have required the label statement "Complies with CPSC Safety Standard for Bicycle Helmets (16 CFR part 1203)".

The Commission wants to guard against the possibility that small adult helmets will be purchased for children. Therefore, the revised proposed standard requires that helmets that do not comply with the requirements for young children's helmets be labeled "Complies with CPSC Safety Standard for Bicycle Helmets for Adults and Children Age 5 and Older (16 CFR 1203)". Helmets intended for children 4 years of age and younger would bear a label stating "Complies with CPSC Safety Standard for Bicycle Helmets for Children Under 5 Years (16 CFR 1203)". Helmets that comply with both standards could be labeled "Complies with the CPSC Safety Standard for Bicycle Helmets for Persons of All Ages", or equivalent language.

E. Recordkeeping

Section 16(b) of the CPSA requires that: [e]very person who is a manufacturer, private labeler, or distributor of a consumer product shall establish and maintain such records, make such reports, and provide such information as the Commission may reasonably require for the purposes of implementing this Act, or to determine compliance with rules or orders prescribed under this Act. 15 U.S.C. 2065(b).

The rule as originally proposed would have required every entity issuing certificates of compliance for bicycle helmets to maintain written records that show the certificates are based on a reasonable testing program. As explained below, the Commission proposes to relax the requirement that the records be kept in written form.

These records were proposed to be maintained for a period of at least 3 years from the date of certification of the last bicycle helmet in each production lot and shall be available to any designated officer or employee of the Commission upon request in accordance with § 16(b) of the CPSA, 15 U.S.C. 2065(b).

Comment: Location of test records. The original proposal required that records be kept by the importer in the U.S. to allow inspection by CPSC staff within 48 hours of a request by an employee of the Commission. A commenter inquired whether test records must be kept in the U.S. in the case of a Canadian firm that is owned by a U.S. firm, if the records are available to the U.S. company upon request.

Response: The situation described by the commenter would achieve the result desired by the Commission. Accordingly, the Commission has revised the proposed regulation to state that if the importer can provide the records to the CPSC staff within the 48-hour time period, the records will be considered kept in the U.S.

Comment: Records on disk. The proposed regulation stated that every person issuing a certificate of compliance for bicycle helmets shall maintain written records that show certificates are based on a reasonable testing program. A commenter requested that the certification test records be allowed to be kept on disk instead of paper.

Response: The Commission agrees with the commenter that firms should be allowed to keep the records on disk, if the records can be made available upon request in an appropriate format. Accordingly, the Commission has amended the proposal to state that certification test record results may be kept on paper, microfiche, computer disk, or other retrievable media. Where records are kept on computer disk or other retrievable media, the records shall be made available to the Commission upon request on paper copies, or via electronic mail in the same format as paper copies.

F. Regulatory Flexibility Act Certification

When an agency undertakes a rulemaking proceeding, the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., generally requires the agency to prepare proposed and final regulatory flexibility analyses describing the impact of the rule on small businesses and other small entities.

The purpose of the Regulatory Flexibility Act, as stated in section 2(b) (5 U.S.C. 602 note), is to require agencies, consistent with their objectives, to fit the requirements of regulations to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulations. Section 605 of the Act provides that an agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The Commission's Directorate for Economics has prepared a preliminary economic assessment of the safety standard for bicycle helmets. The proposed rule would establish performance requirements for bicycle helmets. The vast majority of helmets now sold conform to one (or more) of three existing voluntary standards. The one-time costs associated with the redesign and testing of helmets to the new performance standards are not known. On a per-unit basis, however, costs associated with redesign and testing are expected to be small. The Commission solicits comment on the costs of the redesign and testing of bicycle helmets that would be required by the proposed standard.

The vast majority of manufacturers now use third party testing and monitoring for product liability reasons, and are likely to continue to do so in the future. The proposed standard allows for self certification and monitoring, however, which is substantially less costly than third party testing and monitoring.

The proposed labeling requirement is unlikely to have a significant impact on small firms, since virtually all bicycle helmets now bear a permanent label on their inside surface. Industry sources report that, given sufficient lead time to modify these labels, any increased cost of labeling would be insignificant.

Accordingly, for the reasons given above, the Commission preliminarily certifies that the proposed Safety Standard for Bicycle Helmets, if promulgated, will not have any significant economic effect on a substantial number of small entities.

G. Environmental Considerations

Pursuant to the National Environmental Policy Act, and in accordance with the Council on Environmental Quality regulations and CPSC procedures for environmental review, the Commission has assessed the possible environmental effects associated with the proposed safety standard for bicycle helmets.

The Commission's regulations at 16 CFR 1021.5(c)(1) and (2) state that safety standards and product labeling or certification rules for consumer products normally have little or no potential for affecting the human environment. Preliminary analysis of the potential impact of this proposed rule indicates that the rule is not expected to affect preexisting packaging or materials of construction now used by manufacturers. Existing inventories of finished products would not be rendered unusable, since section 9(g)(1) of the CPSA provides that standards apply only to products manufactured after the effective date. Changes in coverage areas for helmets may require modification or replacement of existing injection molds. However, molds are routinely replaced due to wear or to changes in style, and modified molds could be incorporated in this replacement process. Thus, the quantity of discarded molds attributable to the rule is likely to be small. Especially in view of the statutory 1-year effective date, it is unlikely that significant stocks of current labels would require disposal.

The requirements of the standard are not expected to have a significant effect on the materials used in production or packaging, or on the amount of materials discarded due to the regulation. Therefore, no significant environmental effects are expected from the proposed rule if it is adopted. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

H. Paperwork Reduction Act

As noted above, the requirements proposed below, if issued as a final rule, would require U.S. manufacturers and importers of bicycle helmets to conduct a reasonable testing program to ensure their products comply with the standard. They are also required to keep records of such testing so that the Commission's staff can verify that the testing was conducted properly. This will enable the staff to obtain information indicating that a company's helmets comply with the standard, without having itself to test helmets. U.S. manufacturers and importers of bicycle helmets would also have to label their products with specified information.

For these reasons, the proposal published below contains "collection of information requirements" subject to the Paperwork Reduction Act of 1995, 15 U.S.C. 3501–3520, Pub. L. 104–13, 109 Stat. 163 (1995). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The control number may be displayed by publication in the **Federal Register**. Accordingly, the Commission has submitted the proposed collection of information requirements to OMB for review under section 3507(d) of the Paperwork Reduction Act of 1995. The title of the submission is "Safety Standard for Bicycle Helmets—Testing and Recordkeeping Requirements."

The Commission's staff estimates that there are about 30 manufacturers and importers subject to these collection of information requirements. There are an estimated 200 different models of bicycle helmets currently marketed in the U.S.

Industry sources advise the Commission's staff that the time that will be required to comply with the collection of information requirements will be from 100 to 150 hours per model per year. Therefore, the total amount of time required for compliance with these requirements will be 20,000 to 30,000 hours per year. However, these estimates are based on the amount of time that is currently expended in complying with the similar requirements that are in the various voluntary standards. Thus, the net burden of the proposed final collection of information requirements is expected to be insignificant, or at least a small fraction of the total hours given above. The Commission would like to receive comments on the activities and time required to comply with these requirements and how these differ from usual and customary current industry practices, on the accuracy of the Commission's burden estimate, and on how that burden could be reduced.

It is possible that firms will consider some of the records required to be provided to the Commission upon request to be trade secret or other confidential commercial information. Under section 6(a)(2) of the CPSA, the Commission may not disclose information that contains or relates to a trade secret, or is of a type referred to in 18 U.S.C. 1905 or subject to 5 U.S.C. 552(b)(4). 15 U.S.C. 2055(a)(2). Under this section and 16 CFR 1015.18-.19, persons desiring confidential treatment for information must request that it not be disclosed. If the Commission's staff nevertheless determines that the information may be disclosed because it is not confidential, the person submitting the information will be given written notice at least 10 working days before the information is released. Thus, the submitter has an opportunity to seek judicial review of the Commission's determination before the information is released. Also, see 16 CFR part 1101. These procedures also apply to rulemaking comments for which the commenter seeks confidentiality.

Any person may also submit comments to OMB on these proposed collection of information requirements. OMB is required to make a decision concerning the collections of information contained in the proposed rule between 30 and 60 days after publication. Thus, although comments will be received by OMB until February 5, 1996, a comment to OMB is best assured of having its full effect if OMB receives it by January 5, 1996. Comments should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Consumer Product Safety Commission. Persons filing comments with OMB are encouraged to send copies to the Commission's Office of the Secretary, with a caption or cover letter identifying the materials as comments submitted to OMB on the proposed collection of information requirements for bicycle helmets.

List of Subjects in 16 CFR Part 1203

Consumer protection, Bicycles, Incorporation by reference, Infants and children, Safety.

For the reasons given above, the Commission proposes to revise Part 1203 of Title 16 of the Code of Federal Regulations, to read as follows:

PART 1203—SAFETY STANDARD FOR BICYCLE HELMETS

Subpart A—The Standard

Sec.

1203.1 Scope and effective date.
1203.2 Purpose.
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Authority: Secs. 201–207, Pub. L. 103–267, 108 Stat. 726–729, 15 U.S.C. 6001–6006.

Subpart A—The Standard

§ 1203.1 Scope and effective date.

This standard describes test methods and defines minimum performance criteria for protective headgear used by bicyclists. The values stated in International System of Units ("SI") measurements are the standard. The inch-pound values stated in parentheses are for information only. The standard shall become effective 1 year after publication of the final rule and shall apply to all bicycle helmets manufactured after that date. Bicycle helmets manufactured between March 16, 1995, and the date that is 1 year after publication of the final rule, inclusive, are subject to the requirements of Subpart D, rather than this Subpart A.

§ 1203.2 Purpose.

The purpose and basis of this standard is to reduce the likelihood of serious injury and death to bicyclists resulting from impacts to the head, as provided in 15 U.S.C. 6001–6006.

§ 1203.3 Referenced documents.

The following documents are referenced in this standard.

(a) Draft ISO/DIS Standard 6220–1983—Headforms for Use in the Testing of Protective Helmets.[1]

(b) Federal Motor Vehicle Safety Standard 218, Motorcycle Helmets.[2]

(c) SAE Recommended Practice SAE J211 OCT88, Instrumentation for Impact Tests.[3]

§ 1203.4 Definitions

(a) Basic plane means an anatomical plane that includes the auditory meatuses (the external ear openings) and the inferior orbital rims (the bottom edges of the eye sockets). The ISO headforms are marked with a plane corresponding to this basic plane (see Figures 1 and 2 to this part).

(b) Bicycle helmet means any headgear that either is marketed as, or has a reasonably foreseeable use as, a device intended to provide protection from head injuries while riding a bicycle.

(c) Comfort or fit padding means resilient lining material used to configure the helmet for a range of different head sizes. This padding has no significant effect on impact attenuation.

(d) Coronal plane is an anatomical plane perpendicular to both the basic and midsagittal planes and containing the midpoint of a line connecting the right and left auditory meatuses. The ISO headforms are marked with a transverse plane corresponding to this coronal plane (see Figures 1 and 2).

(e) Field of vision is the angle of peripheral vision allowed by the helmet when positioned on the reference headform.

(f) Helmet positioning index (HPI) is the vertical distance from the brow of the helmet to the reference plane, when placed on a reference headform. The vertical distance shall be specified by the manufacturer for each size of headform the helmet fits.

(g) Midsagittal plane is an anatomical plane perpendicular to the basic plane and containing the midpoint of the line connecting the notches of the right and left inferior orbital ridges and the midpoint of the line connecting the superior rims of the right and left auditory meatuses. The ISO headforms are marked with a longitudinal plane corresponding to the midsagittal plane (see Figures 1 and 2 to this part).

(h) Modular elastomer programmer (MEP) is a cylindrical pad, typically consisting of a polyurethane rubber, used as a consistent impact medium for the systems check procedure.

(i) Preload ballast is a "bean bag" filled with lead shot placed on the helmet to secure its position on the headform. The mass of the preload ballast is 5 kg (11 lb).

(j) Projection is any part of the helmet, internal or external, that extends beyond the faired surface.

(k) Reference headform is a headform used as a measuring device and contoured in the same configuration as one of the test headforms A, E, J, M, and O defined in DRAFT ISO DIS 6220–1983. The reference headform shall include surface markings corresponding to the basic, coronal, midsagittal, and reference planes (see Figures 1 and 2 to this part).

(l) Reference plane is a plane marked on the ISO headforms at a specified distance above and parallel to the basic plane (see Figure 3 to this part).

(m) Retention system is the complete assembly that secures the helmet in a stable position on the wearer's head.

(n) Shield means optional equipment for helmets that is used in place of goggles to protect the eyes.

(o) Spherical impactor is a 146 mm (5.75 in.) diameter aluminum sphere, with a mass of 4005 ± 5 g (8.83 ± 1.10 lb), that is specifically machined for mounting onto the ball-arm connector of the drop-test assembly. The impactor is used to check the electronic equipment (see § 1203.17).

(p) Test headform is a solid model in the shape of a human head of sizes A, E, J, M, and O as defined in DRAFT ISO/DIS 6220–1983. Headforms used for the impact attenuation test shall be constructed of K–1A magnesium alloy or functionally equivalent metal. The test headforms shall include surface markings corresponding to the basic, coronal, midsagittal, and reference planes (see Figure 2 to this part).

(q) Test region is the area of the helmet, on and above a specified test line, that is subject to impact testing.

(r) Visor (peak) is optional helmet equipment for protection against sun or glare, and is sometimes used as a rock or dirt deflector.

§ 1203.5 Construction requirements—projections.

Any unfaired projection extending more than 7 mm (0.28 in.) from the helmet's outer surface shall break away or collapse when impacted with forces equivalent to those produced by the applicable impact-attenuation tests in § 1203.17 of this standard. Rigid projections on the inner surface shall not exceed 2 mm (0.08 in.) and shall not make contact with the test headform after testing in accordance with § 1203.17.

[1] Available from American National Standards Institute, 11 W. 42nd St., 13th Floor, New York, NY 10036.

[2] Available from the Department of Transportation, National Highway Traffic Safety Administration, Office of Vehicle Safety Standards, 400 7th St. S.W., Washington D.C. 20590.

[3] Available from Society of Automotive Engineers, 400 Commonwealth Dr., Warrendale, PA 15096.

§ 1203.6 Labeling and instructions.

(a) Labeling. Each helmet shall be marked so that the following information is legible and easily visible to the user and is likely to remain on the helmet and legible throughout the intended design life of the helmet:

(1) Model designation.

(2) A warning to the user that no helmet can protect against all possible impacts.

(3) A warning that for maximum protection the helmet must be fitted and attached properly to the wearer's head in accordance with the manufacturer's fitting instructions.

(4) A warning to the user that the helmet may, after receiving an impact, be damaged to the point that it is no longer adequate to protect the head against further impacts, and that this damage may not be visible to the user. This label shall also state that a helmet that has sustained an impact should be returned to the manufacturer for competent inspection, or be destroyed and replaced.

(5) A warning to the user that the helmet can be damaged by contact with common substances (for example, certain solvents, cleaners, etc.), and that this damage may not be visible to the user. This label shall also state any recommended cleaning agents and procedures, list any known common substances that damage the helmet, and warn against contacting the helmet with these substances.

(6) The statement "Not For Motor Vehicle Use".

(b) Instructions. Each helmet shall have fitting and positioning instructions, including graphic representation of proper positioning.

§ 1203.7 Samples for testing.

(a) General. Helmets shall be tested in the condition in which they are offered for sale. They must pass all tests, both with and without any attachments that may be offered by the helmet's manufacturer, and with all possible combinations of such attachments.

(b) Number of samples. Five samples of each size for each model and combination of attachments offered for sale are required to test conformance to this standard. If a helmet fits more than one size of test headform, two additional samples are needed for each additional headform size for the testing described in § 1203.10—Selecting the test headform.

§ 1203.8 Conditioning environments.

Helmets shall be conditioned to one of the following environments prior to testing in accordance with the test schedule at § 1203.13. The barometric pressure in all conditioning environments shall be 75 to 110 kPa (22.2 to 32.6 inches of Hg). All test helmets shall be stabilized within this ambient range for at least 4 hours prior to further conditioning and testing. Storage or shipment within this ambient range satisfies this requirement.

(a) Ambient condition. The ambient condition of the test laboratory shall be within 17 °C to 27 °C (63 °F to 81 °F), and 20 to 80 percent relative humidity. The ambient test helmet does not need further conditioning.

(b) Low temperature. The helmet shall be kept at a temperature of −16 °C to −13 °C (3 °F to 9 °F) for 4 to 24 hours prior to testing.

(c) High temperature. The helmet shall be kept at a temperature of 47 °C to 53 °C (117 °F to 127 °F) for 4 to 24 hours prior to testing.

(d) Water immersion. The helmet shall be fully immersed "crown" down in potable water at a temperature of 17 °C to 27 °C (63 °F to 81 °F) to a crown depth of 305 mm±25 mm (12 in.±1 in.) for 4 to 24 hours prior to testing.

§ 1203.9 Test headforms.

The headforms used for testing shall be sizes A, E, J, M, and O, as defined by DRAFT ISO/DIS 6220–1983. Headforms used for impact testing shall be constructed of K–1A magnesium alloy or other functionally equivalent metal and must have no resonant frequencies below 3000 hz.

§ 1203.10 Selecting the test headform.

A helmet shall be tested on the appropriate size(s) of headform(s) on which it fits. Fit means that it is not physically difficult to put the helmet on the headform, and that the helmet's comfort or fit padding is partially compressed. A complete set of five helmets of each size and model shall be tested on the smallest size test headform on which they fit. Two additional helmets shall be tested on each of the larger headforms the helmets fit. Testing on the larger headform(s) will include at least one peripheral vision test, dynamic retention test, positional stability test, and impact attenuation test (complete set of four impacts) using the conditioning environment that produced the highest g value in the impact attenuation tests on the smallest headform the helmet fit.

§ 1203.11 Marking the test line.

Prior to testing, the test line shall be determined for each helmet in the following manner.

(a) Position the helmet on the appropriate headform as specified by the manufacturer's head positioning index (HPI), with the brow parallel to the basic plane. Place a 5-kg (11-lb) preload ballast on top of the helmet to set the comfort or fit padding.

(b) Draw a test line on the outer surface of the helmet coinciding with the intersection of the surface of the helmet with the impact line planes defined from the reference headform as shown in:

(1) Figure 4 to this part for helmets intended for adults and for children 5 years of age and older.

(2) Figure 5 for helmets intended for children under 5 years of age.

(c) The center of the impact sites shall be selected at any point on the helmet on or above the test line.

§ 1203.12 Test requirements.

(a) Peripheral vision. The helmet shall allow unobstructed vision through a minimum of 105° to the left and right sides of the midsagittal plane when measured in accordance with § 1203.14 of this standard.

(b) Positional stability. The helmet shall not release from the test headform when tested in accordance with § 1203.15 of this standard.

(c) Dynamic strength of retention system. The retention system shall remain intact without elongating more than 30 mm (1.2 in.) when tested in accordance with § 1203.16 of this standard.

(d) Impact attenuation criteria. (1) For bicycle helmets intended for adults and children 5 years and older. The peak acceleration of any impact shall not exceed 300 g when the helmet is tested in accordance with § 1203.17 of this standard.

(2) For bicycle helmets intended for children under 5 years. The peak acceleration of any impact shall not exceed 250 g when the helmet is tested in accordance with § 1203.17 of this standard.

§ 1203.13 Test schedule.

(a) One of the set of five helmets shall be tested for peripheral vision in accordance with § 1203.14 of this standard.

(b) Helmet samples 1 through 4 shall be conditioned in the ambient, high temperature, low temperature, and water immersion environments, respectively. Helmet 5 shall be conditioned in the ambient condition.

(c) Testing must begin within 2 minutes after the helmet is removed

from the conditioning environment. The helmet shall be returned to the conditioning environment within 3 minutes after it was removed for a minimum of 2 minutes before testing is resumed. If the helmet is out of the conditioning environment for longer than 3 minutes, it shall be reconditioned for 5 minutes for each minute it is out of the conditioning environment beyond the allotted 3 minutes before testing is resumed.

(d) Helmets shall be tested for dynamic strength of the retention system prior to being tested for impact attenuation. Helmets 1 through 4 (conditioned in ambient, high temperature, low temperature, and water immersion environments) shall be tested in accordance with the dynamic retention system strength test at § 1203.16. Helmets 1 through 4 shall then be tested in accordance with the impact attenuation tests on the flat, hemispherical, and curbstone anvils in accordance with the procedure at § 1203.17. Helmet 5 (conditioned in an ambient environment) shall be tested in accordance with the positional stability tests at § 1203.15. Table 1203.13 summarizes the test schedule.

TABLE 1203.13.—TEST SCHEDULE

	§ 1203.14 Peripheral vision	§ 1203.15 Positional stability	§ 1203.16 Retention system strength	§ 1203.17 Impact tests—4 impacts per helmet
Helmet 1—Ambient	X		X	1 Flat X 1Hemi. X 1 Curb. X 1 TBD* X
Helmet 2—High Temperature			X	1 Flat X 1 Hemi. X 1 Curb. X 1 TBD* X
Helmet 3—Low Temperature			X	1 Flat X 1 Hemi. X 1 Curb. X 1 TBD* X
Helmet 4—Water Immersion			X	1 Flat X 1 Hemi. X 1 Curb. X 1 TBD* X
Helmet 5—Ambient	X	X		

* To Be Determined. The fourth impact can be on any of the anvils, at the discretion of the test personnel.

§ 1203.14. Peripheral vision test.

Position the helmet on a reference headform in accordance with the HPI and place a 5-kg (11-lb) preload ballast on top of the helmet to set the comfort or fit padding. (Note: Peripheral vision clearance may be determined when the helmet is positioned for marking the test lines.) Peripheral vision is measured horizontally from each side of the midsagittal plane around the point K (see Figure 6 to this part). Point K is located on the front surface of the reference headform at the intersection of the basic and midsagittal planes. The vision shall not be obstructed within 105 degrees on each side of the midsagittal plane from point K.

§ 1203.15 Positional stability test (roll-off resistance).

(a) Test equipment. (1) Headforms. The geometry of the test headforms shall comply with the dimensions of the full chin ISO reference headforms sizes A, E, J, M, and O.

(2) Test fixture. The headform shall be secured in a test fixture with its vertical axis pointing downward and 45 degrees to the direction of gravity (see Figure 7 to this part). The test fixture shall permit rotation of the headform about its vertical axis and include means to lock the headform in the face up and face down positions.

(3) Dynamic impact apparatus. A dynamic impact apparatus shall be used to apply a shock load to a helmet secured to a test headform. The dynamic impact apparatus shall allow a 4-kg (8.8-lb) drop weight to slide in a guided free fall to impact a rigid stop anvil (see Figure 7). The entire mass of the dynamic impact assembly, including the drop weight, shall be no more than 5 kg (11 lb).

(4) Strap or cable. A hook and flexible strap or cable shall be used to connect the dynamic impact apparatus to the helmet. The strap or cable shall be of a material having an elongation of no more than 5 mm (0.20 in.) per 300 mm (11.8 in.) when loaded with a 22-kg (48.5 lb) weight in a free hanging position.

(b) Test procedure. (1) Orient the headform so that its face is down, and lock it in that orientation.

(2) Place the helmet on the appropriate size full chin headform in accordance with the HPI and fasten the retention system in accordance with the manufacturer's instructions. Adjust the straps to remove any slack.

(3) Suspend the dynamic impact system from the helmet by positioning the flexible strap over the helmet along the midsagittal plane and attaching the hook over the edge of the helmet as shown in Figure 7.

(4) Raise the drop weight to a height of 0.6 m (2 ft) from the stop anvil and release it, so that it impacts the stop anvil.

(5) The test shall be repeated with the headform face pointing upwards, so that the helmet is pulled from front to rear.

§ 1203.16 Dynamic strength of retention system test.

(a) Test equipment. (1) ISO headforms without the lower chin portion shall be used.

(2) The retention system strength test equipment shall consist of a dynamic impact apparatus that allows a 4-kg (8.8-lb) drop weight to slide in a guided free fall to impact a rigid stop anvil (see Figure 8). Two cylindrical rollers that spin freely, with a diameter of 12.5±0.5 mm (0.49 in.±0.02 in.) that have a center-to-center distance of 76.0±1 mm (3.0±0.04 in.), shall make up a stirrup that represents the bone structure of the lower jaw. The entire dynamic test apparatus hangs freely on the retention system. The entire mass of the support assembly, including the 4-kg (8.8-lb) drop weight, shall be 11 kg±0.5 kg (24.2 lb±1.1 lb).

(b) Test procedure. (1) Place the helmet on the appropriate size headform on the test device according to the HPI. Fasten the strap of the retention system under the stirrup.

(2) Mark the pre-test position of the retention system, with the entire dynamic test apparatus hanging freely on the retention system.

(3) Raise the 4-kg (8.8-lb) drop weight to a height of 0.6 m (2 ft) from the stop anvil and release it, so that it impacts the stop anvil.

(4) Record the maximum elongation of the retention system during the impact. A marker system or a displacement transducer, as shown in Figure 8, are two methods of measuring the elongation.

§ 1203.17 Impact attenuation test.

(a) Test instruments and equipment. (1) Measurement of impact attenuation. Impact attenuation is determined by measuring the acceleration of the test headform during impact. Acceleration is measured with a uniaxial accelerometer that is capable of withstanding a shock of at least 1000 g. The helmet is secured onto the headform and dropped in a guided free fall, using a monorail test apparatus (see Figure 9), onto an anvil fixed to a rigid base. The base shall consist of a solid mass of at least 135 kg (298 lb), the upper surface of which shall consist of a steel plate at least 12 mm (0.47 in.) thick and having a surface area of at least 0.10 m^2 (1.08 ft^2).

(2) Accelerometer. A uniaxial accelerometer is mounted at the center of gravity of the test headform, with the sensitive axis aligned within 5 degrees of vertical when the test headform is in the impact position. The acceleration data channel and filtering shall comply with SAE Recommended Practice J211 OCT88, Instrumentation for Impact Tests, Requirements for Channel Class 1000.

(3) Headform and drop assembly—centers of gravity. The center of gravity of the test headform is located at the center of the mounting ball on the support assembly and lies within an inverted cone with its axis vertical, and forming a 10 degree included angle with the vertex at the point of impact. The location of the center of gravity of the drop assembly (combined test headform and support assembly) must meet FMVSS 218 S7.1.8. The center of gravity of the drop assembly lies within the rectangular volume bounded by x = −6.4 mm (−0.25 in.), x = 21.6 mm (0.85 in), y = 6.4 mm (0.25 in.), and y = −6.4 mm (−0.25 in), with the origin located at the center of gravity of the test headform. The rectangular volume has no boundary along the z-axis. The x-y-z axes are mutually perpendicular and have positive or negative designations in accordance with the right-hand rule. The origin of the coordinate axes is located at the center of the mounting ball on the support assembly. The x-y-z axes of the test headform assembly on monorail impact-test equipment are oriented as follows: From the origin, the x-axis is horizontal with its positive direction going toward and passing through the vertical centerline of the monorail. The positive z-axis is downward. The y-axis also is horizontal, and its direction is decided by the z- and x-axes, using the right-hand rule. See Figure 10 for an overhead view of the x-y boundary of the location of the center of gravity.

(4) Drop assembly. The center of gravity of the headform shall be at the center of the mounting ball.

(i) Mass of the drop assembly for testing helmets for adults and children 5 years of age and older. The combined mass of the instrumented test headform and support assembly (excluding the test helmet) for the impact test shall be 5.0 ±0.1 kg (11.00 ±0.22 lb).

(ii) Mass of the drop assembly for testing helmets for children under 5 years. The combined mass of the instrumented test headform (ISO A or ISO E) and support assembly (excluding the test helmet) for the impact test shall be 3.9 ±0.1 kg (8.60 ±0.22 lb).

(5) Impact anvils. Impact tests shall be performed against the three different anvils described below. All of the anvils shall be constructed of steel and shall be solid (i.e., without internal cavities).

(i) Flat Anvil. The flat anvil shall have a flat surface area with an impact face having a minimum diameter of 125 mm (4.92 in.) and shall be at least 24 mm (0.94 in.) thick (see Figure 11).

(ii) Hemispherical anvil. The hemispherical anvil shall have an impact surface with a radius of 48 ±1 mm (1.89 ±0.04 in.). The profile of the impact surface shall be one half the surface of a sphere (see Figure 12).

(iii) Curbstone anvil. The curbstone anvil shall have two flat faces making an angle of 105 degrees and meeting along a striking edge with a radius of 15 mm ±0.5 mm (0.59 ±0.02 in.). The height of the curbstone anvil shall not be less than 50 mm (1.97 in.), and the length shall not be less than 200 mm (7.87 in.) (see Figure 13).

(b) Test Procedure. (1) Instrument system check. The impact-attenuation test instrumentation shall be checked before and after each series of tests (at least at the beginning and end of each test day) by dropping an impactor with a spherical impact surface onto an elastomeric test medium (MEP). The impactor shall be dropped onto the MEP at a specified impact velocity (±2% of a central value) that is representative of helmet testing drop heights. Before conducting a series of drops, the center vertical axis of the accelerometer (see § 1203.17(a)(2)) shall be aligned with the geometric center of the MEP pad. Six impacts, at intervals of 75 ±15 seconds, shall be performed at the beginning and end of the day. The first three impacts at the beginning and end of the day shall be considered warm-up drops and shall be discarded from the series. The test parameters selected at each laboratory shall produce impact accelerations shown to be repeatable within ±2% of a central value.

(2) Impact sites. Each of helmets 1 through 4 (one helmet for each conditioning environment) shall impact at four different sites, one impact on the flat anvil, one impact on the hemispherical anvil, one impact on the curbstone anvil, and one impact on an anvil chosen at the discretion of the test personnel.[4] The center of any impact may be on or anywhere above the test line, provided it is at least 120 mm (4.72 in), measured on the surface of the helmet, from any prior impact center. Rivets and other mechanical fasteners, vents, and any other helmet feature within the test region are valid test sites.

(3) Impact velocity. The helmet shall be dropped onto the flat anvil from a theoretical drop height of 2 meters (6.56 ft) to achieve an impact velocity of 6.2 m/s ±3% (20.34 ft/s ±3%). The helmet shall be dropped onto the hemispherical and curbstone anvils from a theoretical drop height of 1.2 meters (3.94 ft) to achieve an impact velocity of 4.8 m/s ±3% (15.75 ft/s ±3%). The impact velocity shall be measured during the last 40 mm (1.57 in) of free-fall for each test.

(4) Helmet position. Prior to each test, the helmet shall be positioned on the test headform in accordance with the HPI. The helmet shall be secured so that it does not shift position prior to impact. The helmet retention system shall be secured in a manner that does not interfere with free-fall or impact.

[4] The intent of this requirement is that the fourth impact will be on the anvil likely to result in the highest g-value. In the absence of an indication why another anvil would be more stringent, this fourth impact should be made with the anvil that produced the highest g-value in the previous three impacts.

(5) Data. Record the maximum acceleration in g's during impact.

§ 1203.18 Reflectivity. [Reserved]

Subpart B—Certification

§ 1203.30 Purpose and scope.

(a) Purpose. Section 14(a) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2063(a), requires every manufacturer (including importers) and private labeler of a product which is subject to a consumer product safety standard to issue a certificate that the product conforms to the applicable standard. Section 14(a) further requires that the certificate be based either on a test of each product or on a "reasonable testing program." The purpose of this subpart is to establish requirements that manufacturers and importers of bicycle helmets subject to the Safety Standard for Bicycle Helmets (Subpart A of this Part 1203) shall issue certificates of compliance in the form specified.

(b) Scope. The provisions of this subpart apply to all bicycle helmets that are subject to the requirements of the Safety Standard for Bicycle Helmets.

§ 1203.31 Effective date.

Any bicycle helmet manufactured more than 1 year after publication of a final rule must meet the standard and must be certified as complying with the standard in accordance with this Subpart B.

§ 1203.32 Definitions.

The following definitions shall apply to this subpart:

(a) Foreign manufacturer means an entity that manufactured a bicycle helmet outside the United States.

(b) Manufacturer means the entity that either manufactured a helmet in the United States or imported a helmet manufactured outside the United States.

(c) Private labeler means an owner of a brand or trademark that is used on a bicycle helmet subject to the standard and which is not the brand or trademark of the manufacturer of the bicycle helmet, provided the owner of the brand or trademark caused, authorized, or approved its use.

(d) Production lot means a quantity of bicycle helmets from which certain bicycle helmets are selected for testing prior to certifying the lot. All bicycle helmets in a lot must be essentially identical in those design, construction, and material features that relate to the ability of a bicycle helmet to comply with the standard.

(e) Reasonable testing program means any tests which are identical or equivalent to, or more stringent than, the tests defined in the standard and which are performed on one or more bicycle helmets selected from the production lot to determine whether there is reasonable assurance that all of the bicycle helmets in that lot comply with the requirements of the standard.

§ 1203.33 Certification testing.

(a) General. Manufacturers, as defined in § 1203.32(a), shall conduct a reasonable testing program to demonstrate that their bicycle helmets comply with the requirements of the standard.

(b) Reasonable testing program. This paragraph provides guidance for establishing a reasonable testing program.

(1) Manufacturers and importers may define their own reasonable testing programs. Reasonable testing programs may, at the option of manufacturers and importers, be conducted by an independent third party qualified to perform such testing programs. However, manufacturers, as defined in § 1203.32(a), are responsible for insuring compliance with all requirements of this standard.

(2) To conduct a reasonable testing program, the bicycle helmets shall be divided into production lots. Sample bicycle helmets from each production lot shall be tested in accordance with the reasonable testing program. Whenever there is a change in parts, suppliers of parts, or production methods that could affect the ability of the bicycle helmet to comply with the requirements of the standard, the manufacturer shall establish a new production lot for testing.

(3) The Commission will test for compliance with the standard by using the standard's test procedures. However, a reasonable testing program need not be identical to the tests prescribed in the standard.

(4) If the reasonable testing program shows that a bicycle helmet may not comply with one or more requirements of the standard, no bicycle helmet in the production lot can be certified as complying until all noncomplying bicycle helmets in the lot have been identified and destroyed or altered by repair, redesign, or use of a different material or components to the extent necessary to make them conform to the standard.

(5) The sale or offering for sale of a bicycle helmet that does not comply with the standard is a prohibited act and a violation of § 19(a) of the CPSA (15 U.S.C. 2068(a)), regardless of whether the bicycle helmet has been validly certified.

§ 1203.34 Product certification and labeling by manufacturers (including importers).

(a) Form of permanent label of certification. Manufacturers, as defined in § 1203.32(a), shall issue certificates of compliance for bicycle helmets manufactured after the effective date of the standard in the form of a legible and readily visible label which can reasonably be expected to remain on the bicycle helmet and legible for the intended design life of the helmet. Such labeling shall be deemed to be a certificate of compliance, as that term is used in § 14 of the CPSA, 15 U.S.C. 2063.

(b) Contents of certification label. The certification labels required by this section shall contain the following:

(1) The statement "Complies with CPSC Safety Standard for Bicycle Helmets for Adults and Children Age 5 and Older (16 CFR 1203)" or "Complies with CPSC Safety Standard for Bicycle Helmets for Children Under 5 Years (16 CFR 1203)", as appropriate (for a helmet that meets the criteria for both an adult helmet and a helmet for children under age 5, the label may state "Complies with the CPSC Safety Standard for Bicycle Helmets for Persons of All Ages", or equivalent language);

(2) The name of the U.S. manufacturer or importer responsible for issuing the certificate;

(3) The address of the U.S. manufacturer or importer responsible for issuing the certificate or, if the name of a private labeler is on the label, the address of the private labeler;

(4) The name and address of the foreign manufacturer, if the helmet was manufactured outside the United States;

(5) An identification of the production lot; and

(6) The month and year the product was manufactured.

(c) Coding. (1) The information required by paragraphs (b) (4) through (6) of this section may be in code, provided:

(i) the person or firm issuing the certificate maintains a written record of the meaning of each symbol used in the code, and

(ii) the record shall be made available to the distributor, retailer, consumer, and Commission upon request.

(2) A serial number may be used in place of a production lot identification on the helmet if it can serve as a code to identify the production lot. If a bicycle helmet is manufactured for sale by a private labeler, and if the name of the private labeler is on the certification label, the name of the manufacturer or importer issuing the certificate, and the name and address of any foreign manufacturer, may also be in such a code.

(d) Placement of the label(s). The information required by paragraphs (b) (2) through (3) must be on one label, unless allowed to be in code. The other required information may be on separate labels. The label(s) required by this section must be affixed to the bicycle helmet. If the label(s) are not immediately visible to the ultimate purchaser of the bicycle helmet prior to purchase because of packaging or other marketing practices, a second label is required. That label shall state, as appropriate, "Complies with CPSC Safety Standard for Bicycle Helmets for Adults and Children Age 5 and Older", or "Complies with CPSC Safety Standard for Bicycle Helmets for Children Under 5 Years". The additional label must appear on the container or, if the container is not visible before purchase, on the promotional material used with the sale of the bicycle helmet. (For a helmet that meets the criteria for both an adult helmet and a helmet for children under age 5, the label may state "Complies with the CPSC Safety Standard for Bicycle Helmets for Persons of All Ages", or equivalent language.)

(e) Additional provisions for importers.

(1) General. The importer of any bicycle helmet subject to the standard in Subpart A of this Part 1203 must issue the certificate of compliance required by § 14(a) of the CPSA and this section.

(i) If a reasonable testing program meeting the requirements of this subpart has been performed by or for the foreign manufacturer of the product, the importer may rely in good faith on such tests to support the certificate of compliance provided:

(A) the importer is a resident of the United States or has a resident agent in the United States,

(B) the records of such tests required by § 1203.41 of Subpart C of this part are maintained in the United States, and

(C) such records are available to the Commission upon request to the importer.

(ii) Test records may be maintained outside of the United States if they will be provided to the Commission within 48 hours of a request for the records.

(2) Responsibility of importer. If the importer relies on tests by the foreign manufacturer to support the certificate of compliance, the importer shall—in addition to complying with paragraph (e(1)of this section—examine the records supplied by the manufacturer to determine that they comply with § 1203.41 of Subpart C of this part.

Subpart C—Recordkeeping

§ 1203.40 Effective date.

The recordkeeping requirements in this subpart are effective [1 year after publication of the final rule] and apply to bicycle helmets manufactured after that date.

§ 1203.41 Recordkeeping requirements.

(a) General. Every person issuing certificates of compliance for bicycle helmets subject to the standard in Subpart A of this part shall maintain records which show that the certificates are based on a reasonable testing program. The records shall be maintained for a period of at least 3 years from the date of certification of the last bicycle helmet in each production lot. These records shall be available, upon request, to any designated officer or employee of the Commission, in accordance with § 16(b) of the CPSA, 15 U.S.C. 2065(b).

(b) Contents of records. Complete test records shall be maintained. Records shall contain the following information.

(1) An identification of the bicycle helmets tested;

(2) An identification of the production lot;

(3) The results of the tests, including the precise nature of any failures;

(4) A description of the specific actions taken to address any failures;

(5) A detailed description of the tests;

(6) The manufacturer's name and address;

(7) The model and size of each helmet tested;

(8) Identifying information for each helmet tested, including the production lot for each helmet, and the environmental condition under which each helmet was tested;

(9) The temperatures in each conditioning environment, and the relative humidity and temperature of the laboratory;

(10) The peripheral vision clearance;

(11) A description of any failures to conform to any of the labeling and instruction requirements;

(12) Performance impact results, stating the location of impact, type of anvil used, velocity prior to impact, and maximum acceleration measured in g's;

(13) The results of the positional stability test;

(14) The results of the dynamic strength of retention system test;

(15) The name and location of the test laboratory;

(16) The name of the person(s) who performed the test;

(17) The date of the test; and

(18) The system check results.

(c) Format for records. The records required to be maintained by this section may be in any appropriate form or format that clearly provides the required information. Certification test results may be kept on paper, microfiche, computer disk, or other retrievable media. Where records are kept on computer disk or other retrievable media, the records shall be made available to the Commission on paper copies, or via electronic mail in the same format as paper copies, upon request.

Subpart D—Bicycle Helmets Manufactured From March 16, 1995, Through Date That Is 1 Year After the Final Rule Is Issued

§ 1203.51 Purpose and basis.

The purpose and basis of this rule is to protect bicyclists from head injuries by ensuring that bicycle helmets comply with the requirements of appropriate existing voluntary standards, as provided in 15 U.S.C. 6004(a).

§ 1203.52 Scope and effective date.

(a) Bicycle helmets manufactured after March 16, 1995, through the date that is 1 year after issuance of the final standard (Subparts A, B, and C) shall comply with the requirements of one of the standards specified in § 1203.53. This requirement shall be considered a consumer product safety standard issued under the Consumer Product Safety Act.

(b) The term "bicycle helmet" is defined at § 1203.4(b).

(c) These interim mandatory safety standards will not apply to bicycle helmets manufactured after the effective date of the final bicycle helmet standard.

§ 1203.53 Interim safety standards.

(a) Bicycle helmets must comply with one or more of the following standards, which are incorporated herein by reference:

(1) American National Standards Institute (ANSI) standard Z90.4–1984, Protective Headgear for Bicyclists,

(2) ASTM standards F 1447–93 or F 1447–94, Standard Specification for Protective Headgear Used in Bicycling, incorporating the relevant provisions of ASTM F 1446–93 or ASTM F 1446–94, Standard Test Methods for Equipment and Procedures Used in Evaluating the Performance Characteristics of Protective Headgear, respectively,

(3) Canadian Standard Association standard, Cycling Helmets—CAN/CSA–D113.2–M89,

(4) Snell Memorial Foundation (Snell) 1990 Standard for Protective Headgear for Use in Bicycling (designation B–90),

(5) Snell 1990 Standard for Protective Headgear for Use in Bicycling, including

March 9, 1994 Supplement (designation B–90S),

(6) Snell 1994 Standard for Protective Headgear for Use in Non-Motorized Sports (designation N–94), or

(7) Snell 1995 standard for Protective Headgear for Use with Bicycles B–95.

(b) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the standards may be obtained as follows. Copies of the ANSI Z90.4 standard are available from: American National Standards Institute, 11 W. 42nd Street, 13th Floor, New York, NY 10036. Copies of the ASTM standards are available from: ASTM, 1916 Race Street, Philadelphia, PA 19103. Copies of the Canadian Standards Association CAN/CSA–D113.2–M89 standard are available from: CSA, 178 Rexdale Boulevard, Rexdale (Toronto), Ontario, Canada, M9W 1R3. Copies of the Snell standards are available from: Snell Memorial Foundation, Inc., P.O. Box 493, 7 Flowerfield, Suite 28, St. James, New York 11780. Copies may be inspected at the Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, Maryland 20814, or at the Office of the Federal Register, 800 N. Capitol Street NW, Room 700, Washington, DC.

Figures to Part 1203

BILLING CODE 6355–01–U

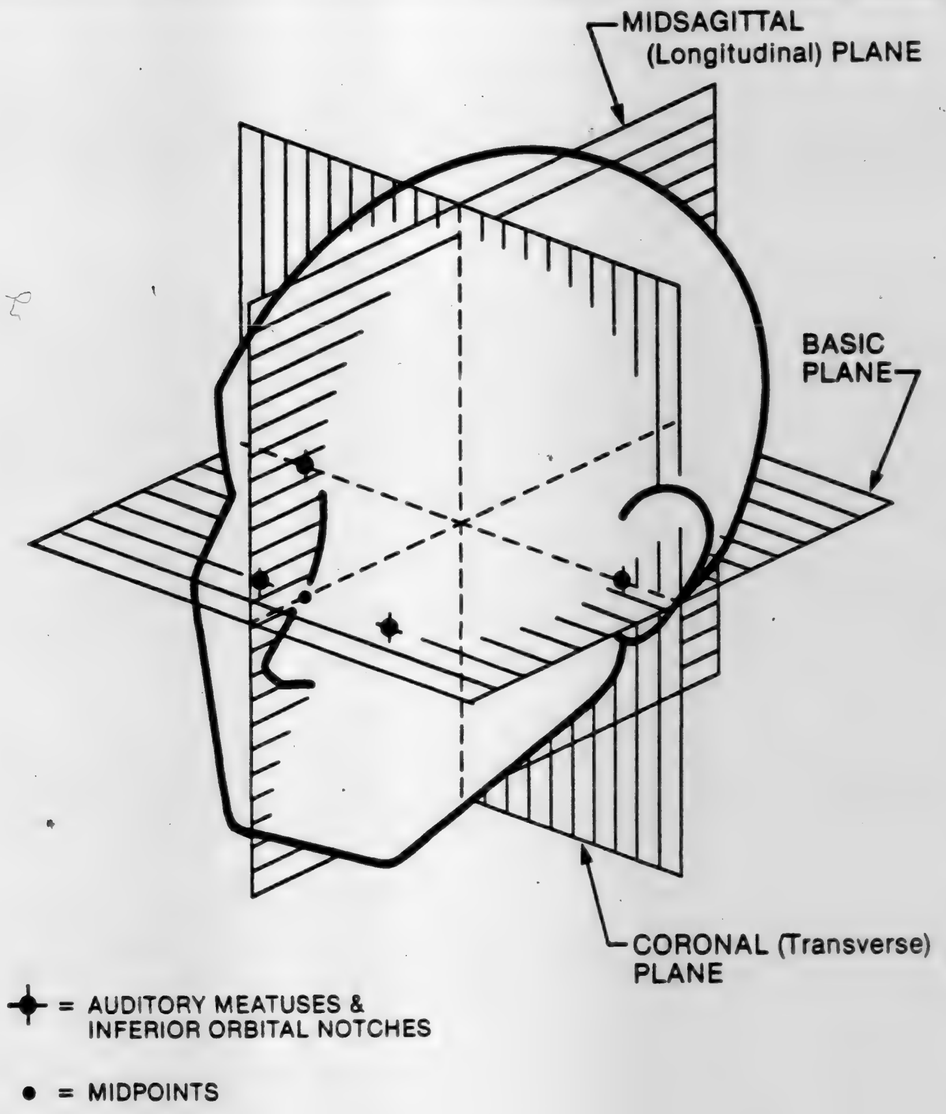


Figure 1. Anatomical Planes

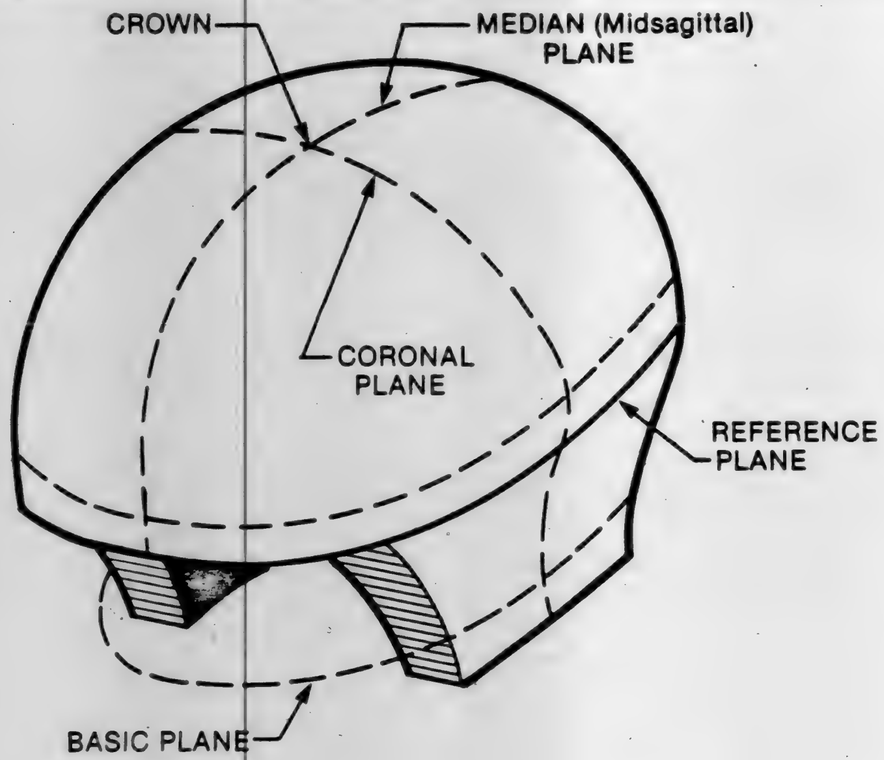
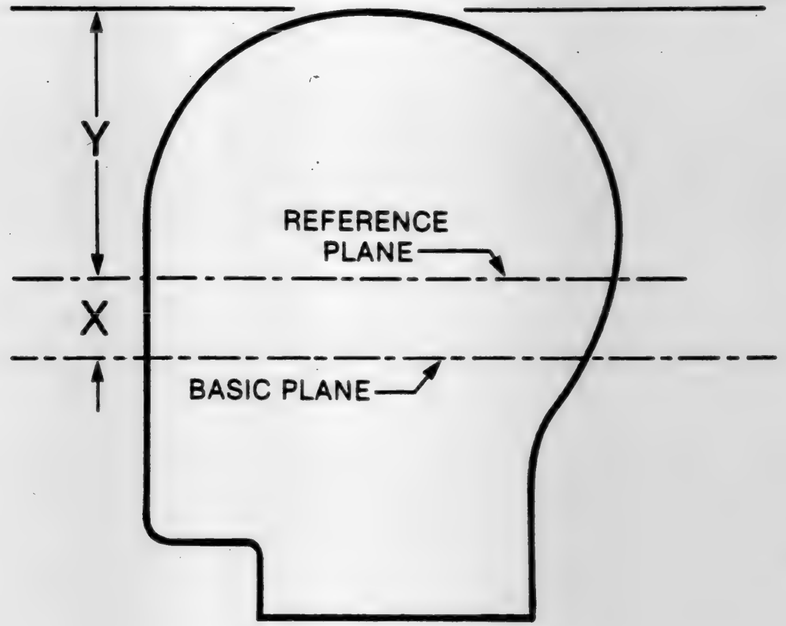


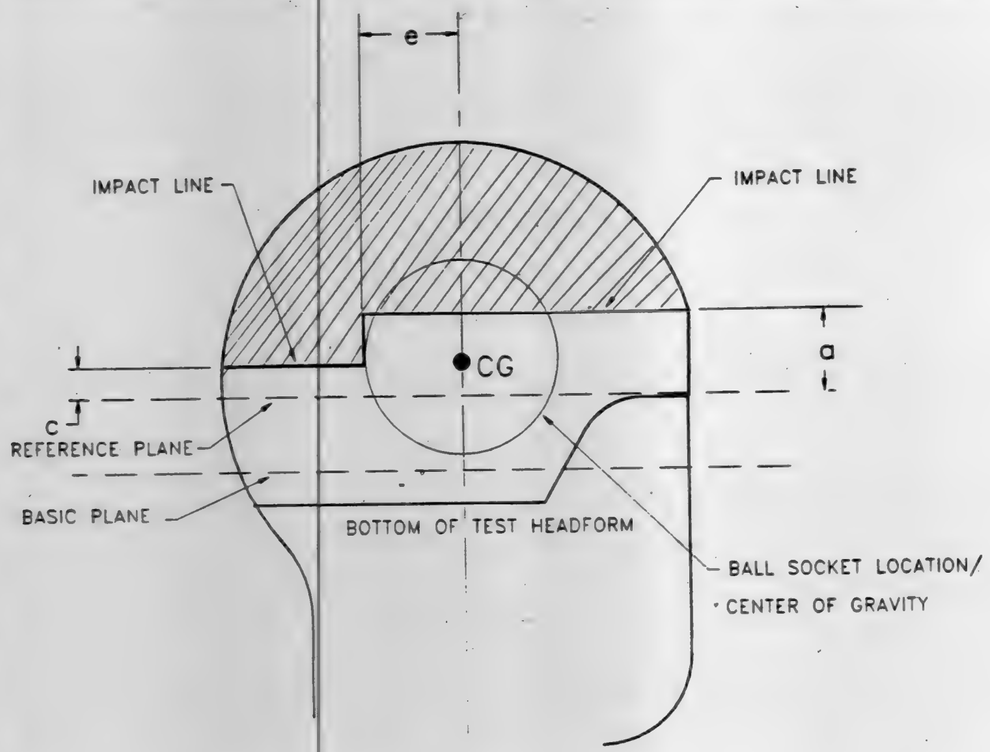
Figure 2. ISO Headform-Basic, Reference, and Median Planes



HEADFORM	SIZE	X	Y
A	500	24	90
E	540	26	96
J	570	27.5	102.5
M	600	29	107
O	620	30	110

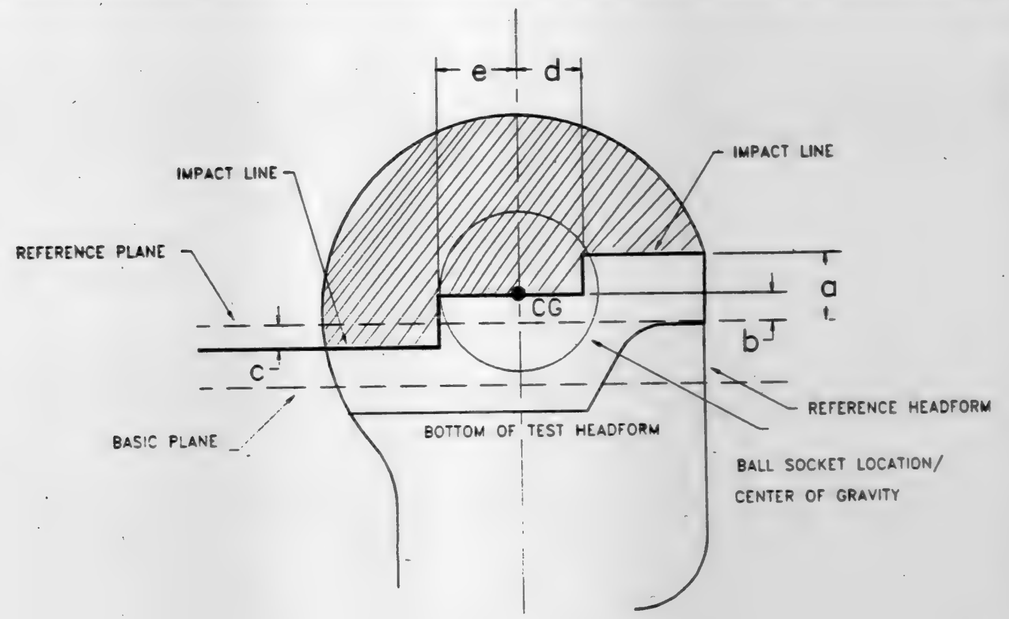
DIMENSIONS IN MILLIMETERS

Figure 3. Location of Reference Plane



HEADFORM	DIMENSIONS mm(in)		
	a	c	e
ISO A	38 (1.49)	27 (1.06)	49 (1.93)
ISO E	39 (1.54)	27 (1.06)	52 (2.05)
ISO J	41 (1.61)	27 (1.06)	54 (2.13)
ISO M	41 (1.61)	27 (1.06)	55 (2.16)
ISO O	42 (1.65)	27 (1.06)	56 (2.20)

Figure 4. Location of Test Lines for Helmets Intended for Persons Five (5) Years of Age and Older.



HEADFORM	DIMENSIONS mm (in)				
	a	b	c	d	e
ISO A	30 (1.18)	12.7 (0.50)	15 (0.59)	25 (0.98)	30 (1.18)
ISO E	32 (1.26)	12.7 (0.50)	16 (0.63)	27 (1.06)	32 (1.26)

Figure 5. Location of Test Lines for Helmets Intended for Children Under Five (5) Years of Age

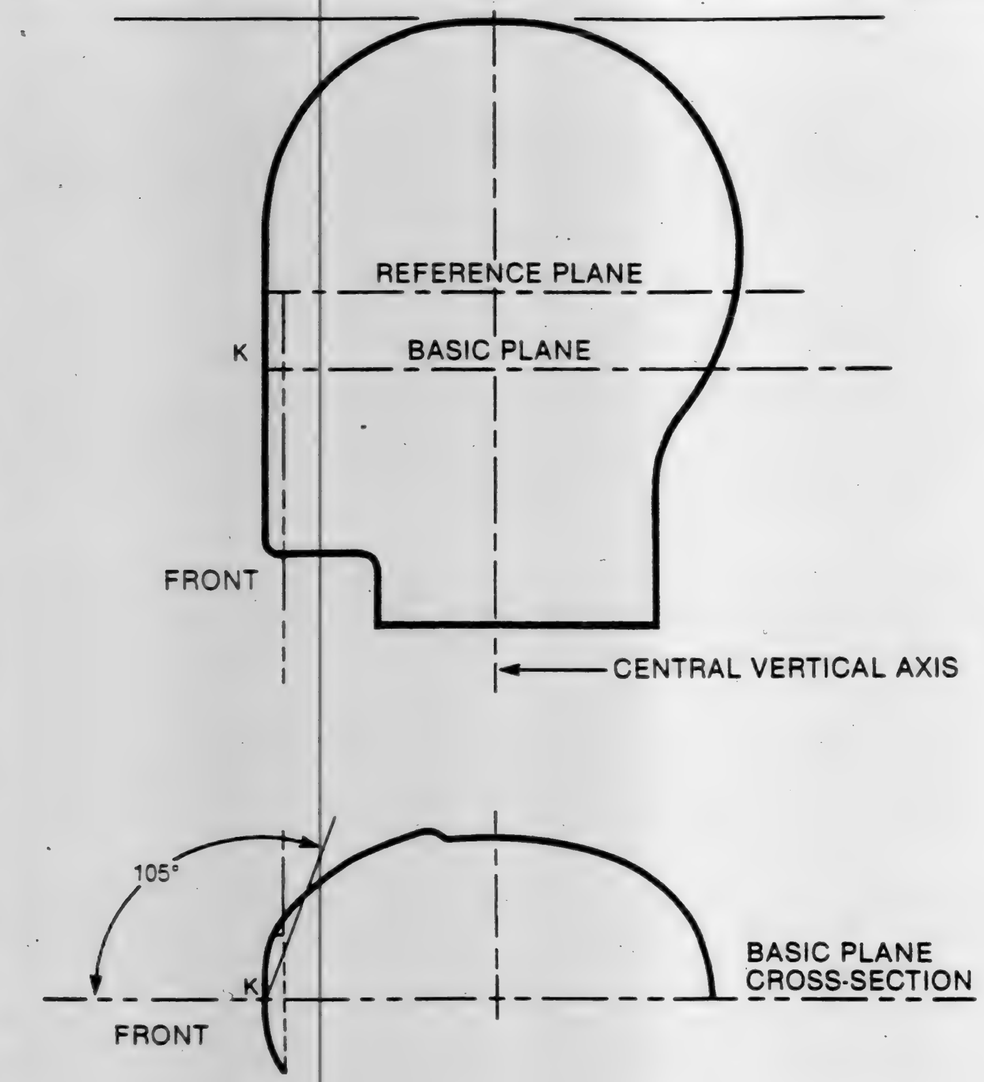


Figure 6. Field of Vision

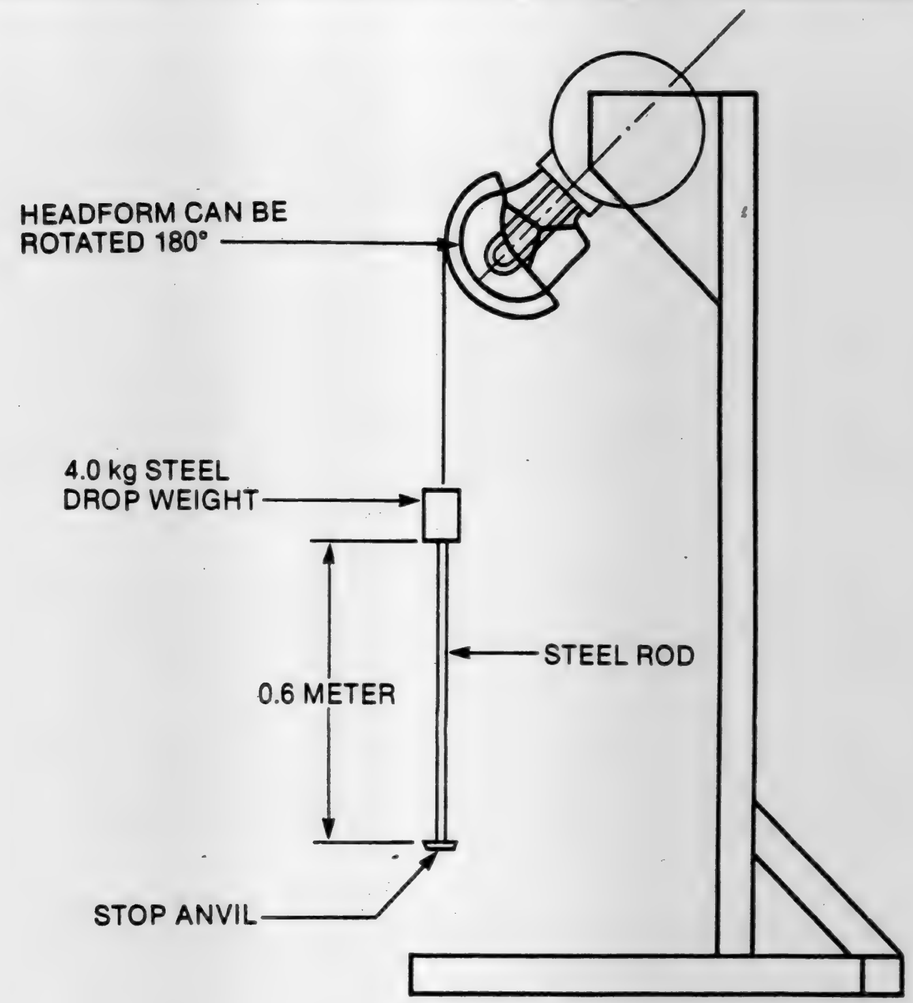


Figure 7. Typical Test Apparatus for Positional Stability Test

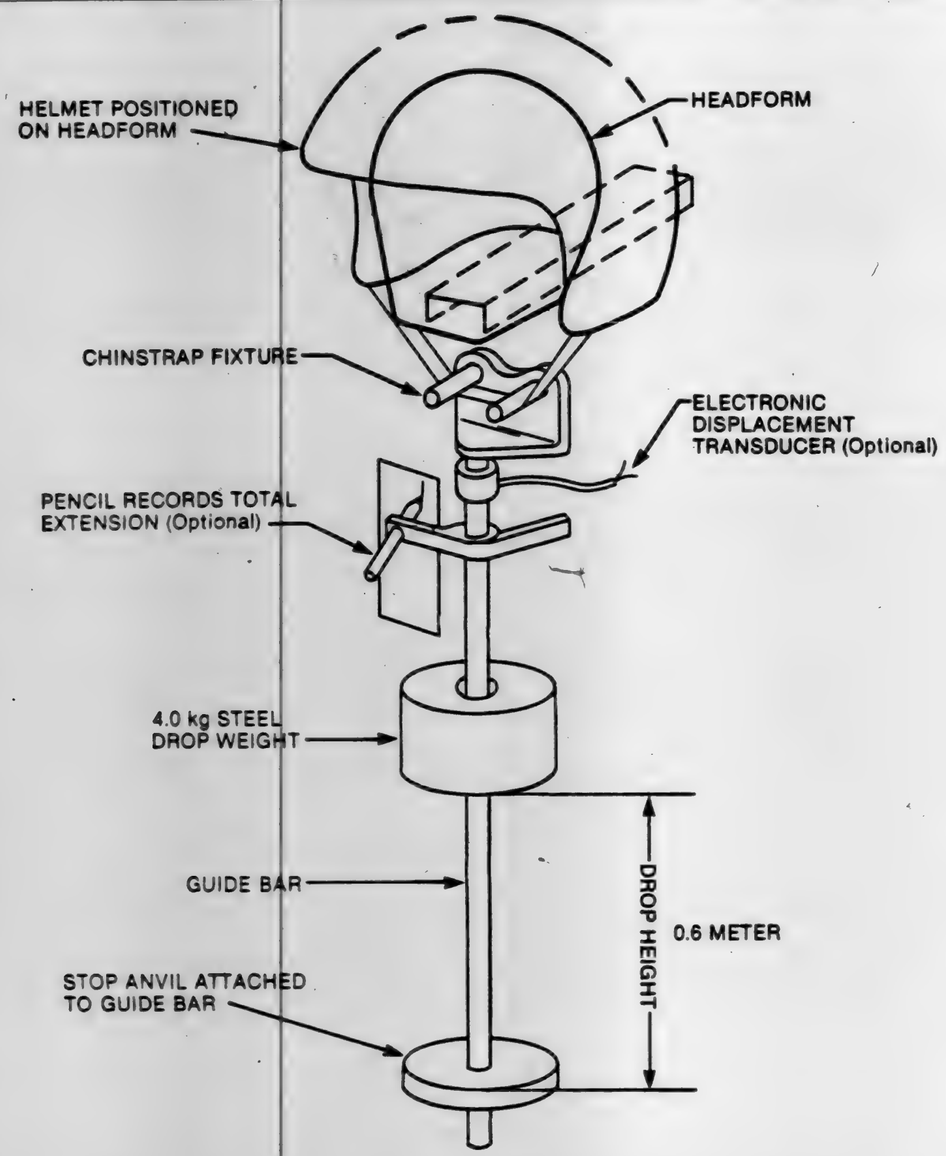


Figure 8. Apparatus for Test of Retention System Strength and Extention

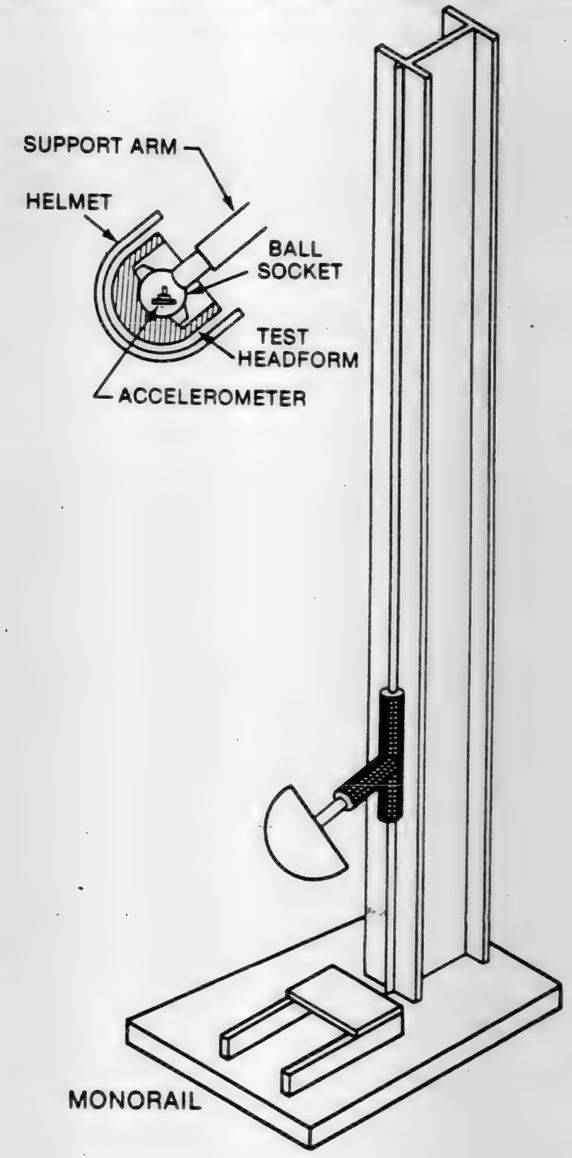


Figure 9. Impact Test Apparatus

Overhead View of Ball-Arm as Installed on Impact Test Apparatus

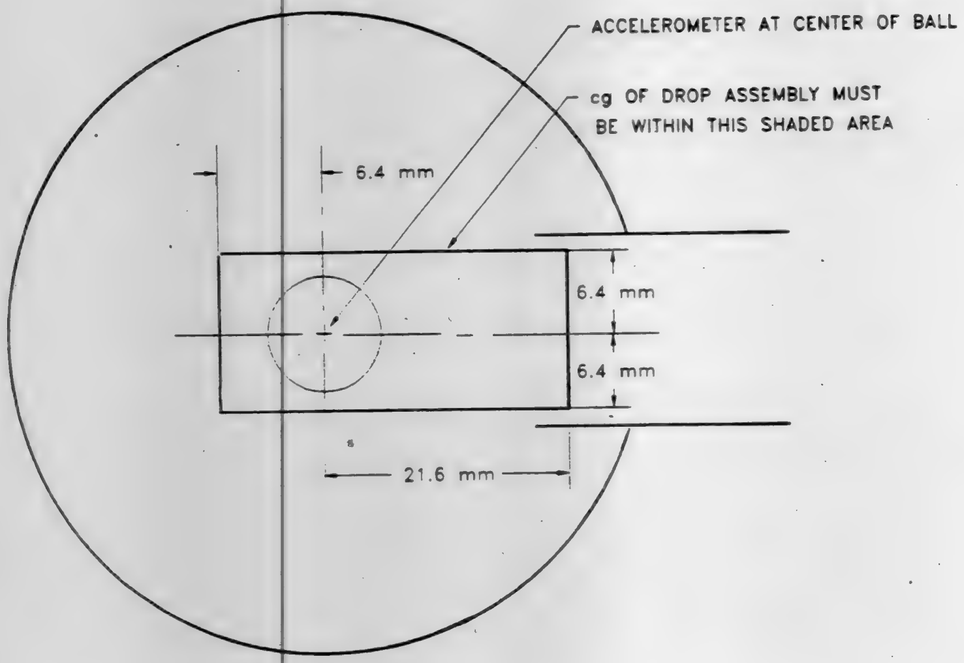


Figure 10. Center of Gravity for Drop Assembly

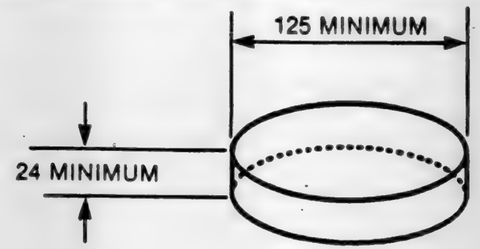


Figure 11. Flat Anvil

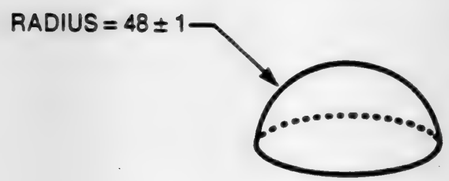


Figure 12. Hemispherical Anvil

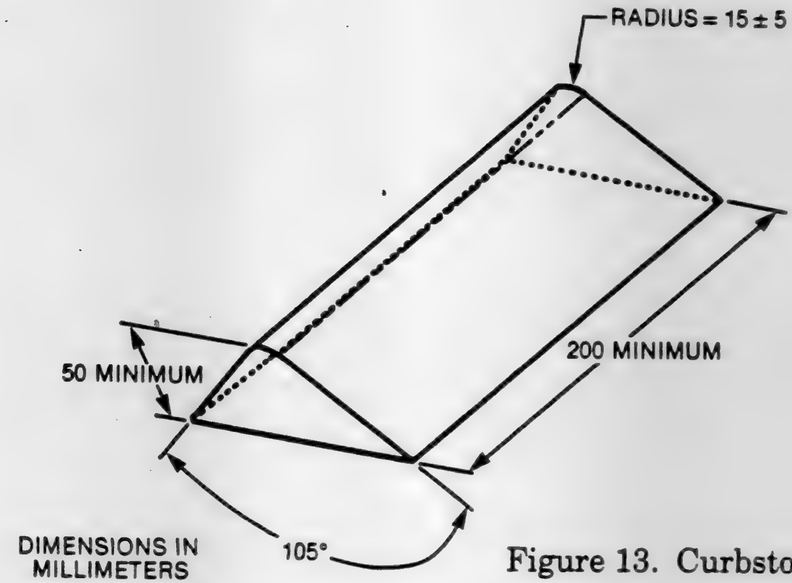


Figure 13. Curbstone Anvil

Dated: November 13, 1995.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 95–28761 Filed 12–5–95; 8:45am]

BILLING CODE 6355–01–C

federal register

Wednesday
December 6, 1995

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Requests for Proposals and Program Guidelines for Assumption of Grant Responsibilities Under the Innovative Homeless Initiatives Demonstration Program—Correction; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR 3991–N–02]

Request for Proposals (RFP) and Program Guidelines for Assumption of Grant Responsibilities Under the Innovative Homeless Initiatives Demonstration Program—Correction

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice: Request for proposals (RFP) and program guidelines for assumption of grant responsibilities under the Innovative Homeless Initiatives Demonstration Program; Correction.

SUMMARY: On November 27, 1995 (60 FR 58370), HUD published in the **Federal Register** a Request for Proposals (RFP) which solicits proposals to assume the obligations of the Recipient under Innovative Demonstration Program Project No. NY36I94–0628, a funded project in New York City designed to serve homeless persons in the Midtown area, in particular the many homeless persons who reside in or near Grand Central Station. In that notice, HUD used the word assignment, but the correct term is assùmption. The purpose of this notice is to reprint the notice, using the correct term—assumption. This notice does not alter the dates set forth in the November 27, 1995 notice.

DATES: The due date remains December 18, 1995, as set forth in the notice published in the **Federal Register** on November 27, 1995.

FOR FURTHER INFORMATION CONTACT: Kate Brennan, Office of Community Planning and Development, 451 Seventh Street SW., Washington, DC 20410–7000, telephone (202) 708–1234 (voice) or (202) 708–2565 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

A. Introduction

This Request for Proposals (RFP) solicits proposals to assume the obligations of the Recipient under Innovative Demonstration Program Project No. NY36I94–0628, a funded project in New York City designed to serve homeless persons in the Midtown area, in particular the many homeless persons who reside in or near Grand Central Station. The specific responsibilities under the grant are summarized in section C "Scope of Work." The term shall be the term remaining from the original two year grant, which as of the date of publication is approximately 12 months.

The additional sections of this RFP are:

B. Funding.
C. Scope of Work.
D. Proposal Contents.
E. Evaluation Factors.
F. Contract Award.

Note: An original and one copy of the proposal are due no later than December 18, 1995, at the following address: Department of Housing and Urban Development, Community Planning and Development Division, 26 Federal Plaza, New York, New York, 10278–0068, Attention: Joseph D'Agosta, Director. Proposals may not be sent by facsimile.

B. Funding

Funding will be approximately $480,000, which represents the remaining amount awarded under Project Number NY36I94–0628.

C. Scope of Work

The selected proposal will operate a private shelter bed initiative and a start up loan program as described in the original application, Project Number NY36I94–0628. The activities include: (1) Developing transitional housing programs in cooperation with churches and synagogues in the metropolitan New York city area, in particular in the area of Grand Central Station, that are interested in helping move homeless persons to independent living, but that may lack the capacity or funding to undertake this; and (2) a "loan" program to provide funds to homeless persons residing in this same area, to assist in their permanent housing search. The loans could be used for such things as security deposits and first month's rent and be paid back in cash or through volunteer work in the organization's homeless facility.

Copies of the original application and grant agreement are available from the Community Planning and Development Division of the HUD New York Field Office on (212) 264–2885. Written requests may be addressed to the attention of Joseph D'Agosta, Director, Community Planning and Development Division, US Department of Housing and Urban Development, 26 Federal Plaza, New York, NY, 10278–0068.

The proposal selected under this RFP will be subject to the HUD Demonstration Act of 1993 (Pub. L. 103–120, signed on October 27, 1993) and the Notice of Fund Availability (NOFA) published December 21, 1993 in the **Federal Register**, which governed the original competition. Copies of both will also be available from the Field Office for review.

D. Proposal Contents

The proposal must be submitted by a state, metropolitan city, urban county, unit of general local government, Indian tribe or a nonprofit organization, as defined in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302). Each proposal must include all information requested in this section. A newly-formed organization may substitute a description of the experience and knowledge of its principal officers and employees where a description of its own experience is requested below.

The following are required contents of a written proposal to be submitted no later than December 18, 1995 (21 days after publication of the November 27, 1995 notice in the **Federal Register***):*

I. Description of experience. Submit a narrative description of experience in assisting homeless persons and in running programs similar to those proposed in the application. Also include a description of the qualifications of key staff who will be carrying out the program and a description of staff organization.

II. Proof of Eligibility. If the proposal is from a nonprofit it must contain either documentation showing that the applicant is a certified United Way member agency; or a copy of their IRS ruling providing tax-exempt status under Section 501(c)(3) of the IRS Code of 1986, as amended.

III. Project description. Submit a narrative description of the organization's specific plan for carrying out the proposed activities. Include specific designs for (1) enlisting churches and synagogues in the development of transitional housing and the type of assistance your organization will provide to them in the development of such housing, and (2) developing a loan program that meets the needs of homeless persons seeking permanent housing. The project described should be based as closely as possible on the original application.

IV. Certifications. Submit the certifications printed here as Appendix A to this RFP. The document may be removed or photocopied (do not re-type), and must be signed by the official authorized to act on behalf of the applicant.

E. Evaluation Factors

A proposal will be selected based on the extent to which it demonstrates in the written submission the capacity to implement a program that achieves the purpose of this RFP including the speed with which the project and activities will become operational.

The following are the factors for evaluation which will receive equal consideration in the selection process:

(1) *Capacity of the organization.* The extent to which the organization demonstrates that it, or its subcontractors, has the capacity to carry out the proposed activities based on (a) the past experience of the organization in the proposed activities; and (b) the qualifications of key staff.

(2) *Timeliness.* The extent to which the organization demonstrates that the proposed activities will begin in a timely manner and will be carried out efficiently and expeditiously.

(3) *Relevance of project activities.* (a) The extent to which the proposed project mirrors the activities as described in the original application; and (b) the overall quality of the project.

F. Contract Award

Award will be made to the proposal which HUD determines is most responsive to the evaluation factors above. HUD reserves the right to reject all proposals.

Dated: November 27, 1995.

Jacquie Lawing,

Deputy Assistant Secretary for Economic Development.

Appendix A—Applicant Certifications

The Applicant hereby assures and certifies that:

1. It will comply with:

a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)) and regulations pursuant thereto (Title 24 CFR part I), which state that no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives financial assistance, and will immediately take any measures necessary to effectuate this agreement. With reference to the real property and structure(s) thereon which are provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer, the transferee, for the period during which the real property and structure(s) are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

b. The Fair Housing Act (42 U.S.C. 3601–19) and the implementing regulations at 24 CFR part 100, which prohibit discrimination in housing on the basis of race, color, religion, sex, handicap, familial status or national origin, and administer its programs and activities relating to housing in a manner to affirmatively further fair housing. For Indian tribes, it will comply with the Indian Civil Rights Act (25 U.S.C. 1301 *et seq.*), instead of Title VI and the Fair Housing Act and their implementing regulations.

c. Executive Order 11063 on Equal Opportunity in Housing, as amended by Executive Order 12259 (3 CFR 1958–1963 Comp. p. 652 and 3 CFR , 1980 Comp. 307) and the implementing regulations at 24 CFR part 107 which prohibit discrimination because of race, color, creed, sex or national origin in housing and related facilities provided with Federal financial assistance.

d. Executive Order 11246 on Equal Opportunity in Employment (3 CFR 1964–1965, Comp., p. 339) and the implementing regulations at 41 CFR part 61, which state that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of Federal contracts and shall take affirmative action to ensure equal employment opportunity. The applicant will incorporate, or cause to be incorporated, into any contract for construction work as defined in Section 130.5 of HUD regulations the equal opportunity clause required by Section 130.15(b) of the HUD regulations.

e. Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701(u)), and the implementing regulations at 24 CFR part 135), which require that to the greatest extent feasible, employment, training and contract opportunities arising in connection with the expenditure of HUD assistance covered by section 3 be given to the low-income persons and the business concerns identified in the part 135 regulations.

f. Section 504 of the Rehabilitation Act of 1973 (29 U,S.C. 794), as amended, and the implementing regulations at 24 CFR part 8, which prohibit discrimination based on handicap in Federally-assisted and conducted programs and activities.

g. The Age Discrimination Act of 1975 (42 U.S.C. 6101–07), as amended, and the implementing regulations at 24 CFR part 146, which prohibit discrimination because of age in projects and activities receiving Federal financial assistance.

h. Executive Orders 11625, 12432, and 12138, which state that program participants shall take affirmative action to encourage participation by businesses owned and operated by members of minority groups and women.

If persons of any particular race, color, religion, sex, age, national origin, familial status, or handicap who may qualify for assistance are unlikely to be reached, it will establish additional procedures to ensure that interested persons can obtain information concerning the assistance.

i. The reasonable modification and accommodation requirements of the Fair Housing Act and, as appropriate, the accessibility requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973, as amended.

2. It will provide drug-free workplaces in accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701) by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

b. Establishing an ongoing drug-free awareness program to inform employees about—

(1) the dangers of drug abuse in the workplace;

(2) the grantee's policy of maintaining a drug-free workplace;

(3) any available drug counseling, rehabilitation, and employee assistance programs; and

(4) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a;

d. Notifying the employee in the statement required by paragraph a that, as a condition of employment under the grant, the employee will—

(1) abide by the terms of the statement; and

(2) notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d(2), with respect to any employee who is so convicted—

(1) taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a, b, c, d, e and f;

h. Providing the street address, city, county, state, and zip code for the site or sites where the performance of work in connection with the grant will take place. For some applicants who have functions carried out by employees in several departments or offices, more than one location may need to be specified. It is further recognized that States and other applicants who become grantees may add or change sites as a result of changes to program activities during the course of grant-funded activities. Grantees, in such cases, are required to advise the HUD Field Office by submitting a revised "Place of

Performance" form. The period covered by the certification extends until all funds under the specific grant have been expended.

3. It will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the implementing regulations at 49 CFR part 24.

4. It will comply with the requirements of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821–4846, and implementing regulations at 24 CFR part 35.

5. It will (i) not enter into a contract for, or otherwise commit HUD or local funds for, acquisition, rehabilitation, conversion, lease, repair, or construction of property to provide housing under the program, prior to HUD's completion of an environmental review in accordance with 24 CFR part 50 and HUD's approval of the application; (ii) supply HUD with information necessary for HUD to perform any applicable environmental review when requested; and (iii) carry out mitigating measures required by HUD or ensure that alternate sites are utilized.

6. The applicant certifies that:

a. No Federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and of not more than $100,000 for each such failure.

7. For private nonprofit applicants, the applicant certifies that members of its Board of Directors serve in a voluntary capacity and receive no compensation, other than reimbursement for expenses, for their services.

8. The applicant certifies that it and its principals (see 24 CFR 24.105(p)):

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions (see 24 CFR 24.110) by any Federal department or agency;

b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in (b) of this certification; and

d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

Where the applicant is unable to certify to any of the statements in this certification, the applicant shall attach an explanation behind this page.

Signature of Authorized Certifying Official:

Title:

Applicant:

Date:

[FR Doc. 95–29608 Filed 12–5–95; 8:45 am]

BILLING CODE 4210–25–P

federal register

Wednesday
December 6, 1995

Part V

Department of Labor

Employment and Training Administration

Department of Education

Office of Vocational and Adult Education

Proposed Priority for School-to-Work Urban/Rural Opportunities Grants for Fiscal Year 1995; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education

ACTION: Notice of Proposed Priority for School-to-Work Urban/Rural Opportunities Grants for Fiscal Year (FY) 1995.

SUMMARY: The Secretaries of Education and Labor (the Secretaries) propose a priority for FY 1995 under the Urban/Rural Opportunities Grants authorized by Title III of the School-to-Work Opportunities Act of 1994 (the Act). The Secretaries intend to use this priority, along with the selection criteria published in the November 14, 1995, issue of the **Federal Register**, to select applications for funding under the FY 1995 Urban/Rural Opportunities Grants competition. The Secretaries propose to take this action to focus Federal financial assistance on implementing School-to-Work Opportunities initiatives in urban or rural areas of high poverty. This proposed priority provides for a preference to be given to applications from local partnerships proposing to implement a School-to-Work Opportunities initiative for youth residing in or attending school in an Empowerment Zone or Enterprise Community (EZ/EC) designated under section 1391 of the Internal Revenue Code (IRC), as amended by Title XIII of the Omnibus Budget Reconciliation Act of 1993.

Note: This notice is an invitation for comment upon the proposed priority as described; it is not a solicitation for applications for Urban/Rural Opportunities Grants.

DATES: Comments must be received on or before January 5, 1996.

ADDRESSES: Comments should be addressed to Karen Clark, National School-to-Work Office, 400 Virginia Avenue, SW, Room 210, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Karen Clark, National School-to-Work Office, Telephone: (202) 401–6222 (this is not a toll-free number). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Section A. Background

The Secretaries intend to award grants to local partnerships to implement School-to-Work Opportunities initiatives serving youth residing or attending school in urban or rural high poverty areas, as discussed in the solicitation for grant applications published in the November 14, 1995, issue of the **Federal Register**. As discussed in the solicitation on pages 57276–57282, the Secretaries recognize the particular challenges faced by local partnerships serving youth in urban and rural high poverty areas in preparing them for first jobs in high-skill, high-wage careers and in increasing their opportunities for further education and training. Similarly, the Empowerment Zone and Enterprise Community (EZ/EC) initiative is aimed at rebuilding communities in America's poverty-stricken inner cities and rural heartlands. Under the EZ/EC initiative, the Federal Government has designated certain geographic areas as EZs and as ECs in accordance with Internal Revenue Code (IRC) section 1391, as amended by Title XIII of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66). The selected areas were designated as EZs or ECs based on the quality of their strategic plans addressing how each zone or community would link economic development with education and training, as well as how community development, public safety, human services, and environmental initiatives together would support sustainable communities.

The Secretaries view Urban/Rural Opportunities Grants as well suited for inclusion in a comprehensive approach to economic and community development that addresses the special challenges facing youth in high poverty areas in making the transition from school to work or further education and training. By improving the quality of education and training provided to high poverty area youth, School-to-Work Opportunities initiatives enhance the economic opportunities of such youth and contribute to the improvement of impoverished communities. Communities designated as EZs or ECs have already demonstrated a capacity for the type of collaboration and cooperative planning that is critical to developing and implementing successful School-to-Work Opportunities initiatives.

Interested individuals may contact the Department of Housing and Urban Development (HUD) at 1–800–998–9999 for additional information on the urban EZ/EC initiative and the Department of Agriculture (USDA) at 1–800–645–4712 for additional information on the rural EZ/EC initiative. A listing of areas that have been selected as EZs or ECs is included in an appendix to this notice.

Section B. Priority

In addition to the priority in section 302(b)(3) of the School-to-Work Opportunities Act, the Secretaries propose to give competitive preference to applications from partnerships that propose to implement a School-to-Work Opportunities initiative serving youth who reside or attend school in an area designated as an EZ or an EC. The Secretaries would select an application for an Urban/Rural Opportunities Grant that meets this priority over an application of comparable merit that does not meet the priority.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this proposed competitive preference. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, at the National School-to-Work Office, 400 Virginia Avenue, SW., Room 210, Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday of each week, except Federal holidays.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 as implemented in 34 CFR Part 79 and 29 CFR Part 17. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Departments' specific plans and actions for this program.

Program Authority: 20 U.S.C. 6101.

(Catalog of Federal Domestic Assistance Number 278D: School-to-Work Opportunities: Urban/Rural Opportunities Grants)

Dated: November 27, 1995.

Timothy M. Barnicle,

Assistant Secretary for Employment and Training, Department of Labor.

Patricia McNeil,

Assistant Secretary for Vocational and Adult Education, Department of Education.

Appendix—Empowerment Zones and Enterprise Communities

Empowerment Zones (EZ)

Georgia: Atlanta
Illinois: Chicago
Kentucky: Kentucky Highlands*
Maryland: Baltimore
Michigan: Detroit
Mississippi: Mid Delta*
New York: Harlem, Bronx
Pennsylvania/New Jersey: Philadelphia, Camden
Texas: Rio Grande Valley*

Supplemental Empowerment Zones (SEZ)

California: Los Angeles
Ohio: Cleveland

Enterprise Communities (EC)

Alabama: Birmingham
Alabama: Chambers County*
Alabama: Greene, Sumter Counties*
Arizona: Phoenix
Arizona: Arizona Border*
Arkansas: East Central*
Arkansas: Mississippi County*
Arkansas: Pulaski County
California: Imperial County*
California: Los Angeles, Huntington Park
California: San Diego
California: San Francisco, Bayview, Hunter's Point
California: Watsonville*
Colorado: Denver
Connecticut: Bridgeport
Connecticut: New Haven
Delaware: Wilmington
District of Columbia: Washington
Florida: Jackson County*
Florida: Tampa
Florida: Miami, Dade County
Georgia: Albany
Georgia: Central Savannah*
Georgia: Crisp, Dooley Counties*
Illinois: East St. Louis
Illinois: Springfield
Indiana: Indianapolis
Iowa: Des Moines
Kentucky: Louisville
Louisiana: Northeast Delta*
Louisiana: Macon Ridge*
Louisiana: New Orleans
Louisiana: Ouachita Parish
Massachusetts: Lowell
Massachusetts: Springfield
Michigan: Five Cap*
Michigan: Flint
Michigan: Muskegon
Minnesota: Minneapolis
Minnesota: St. Paul
Mississippi: Jackson
Mississippi: North Delta*
Missouri: East Prairie*
Missouri: St. Louis
Nebraska: Omaha
Nevada: Clarke County, Las Vegas
New Hampshire: Manchester
New Jersey: Newark
New Mexico: Albuquerque
New Mexico: Moro, Rico Arriba, Taos Counties*
New York: Albany, Schenectady, Troy
New York: Buffalo
New York: Newburgh, Kingston
New York: Rochester
North Carolina: Charlotte
North Carolina: Halifax, Edgecombe, Wilson Counties*
North Carolina: Robeson County*
Ohio: Akron
Ohio: Columbus
Ohio: Greater Portsmouth*
Oklahoma: Choctaw, McCurtain Counties*
Oklahoma: Oklahoma City
Oregon: Josephine*
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Texas: El Paso
Texas: San Antonio
Texas: Waco
Utah: Ogden
Vermont: Burlington
Virginia: Accomack*
Virginia: Norfolk
Washington: Lower Yakima*
Washington: Seattle
Washington: Tacoma
West Virginia: West Central*
West Virginia: Huntington
West Virginia: McDowell*
Wisconsin: Milwaukee

*denotes rural designee

Enhanced Enterprise Communities (EEC)

California: Oakland
Massachusetts: Boston
Missouri/Kansas: Kansas City, Kansas City
Texas: Houston

[FR Doc. 95–29698 Filed 12–5–95; 8:45 am]
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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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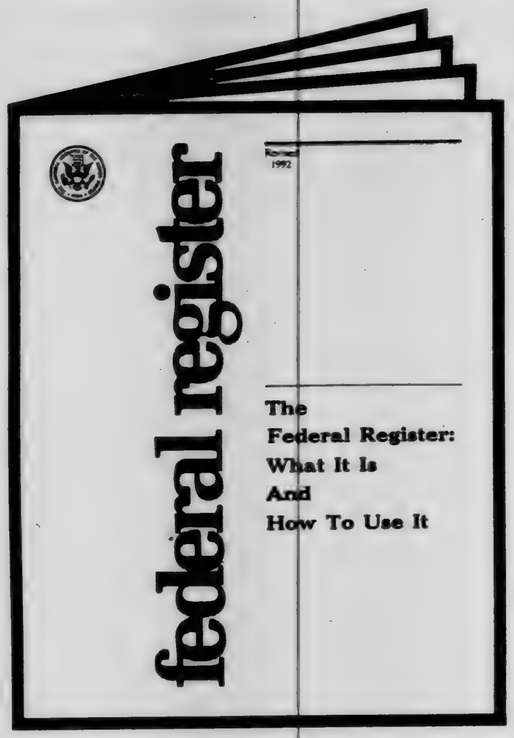

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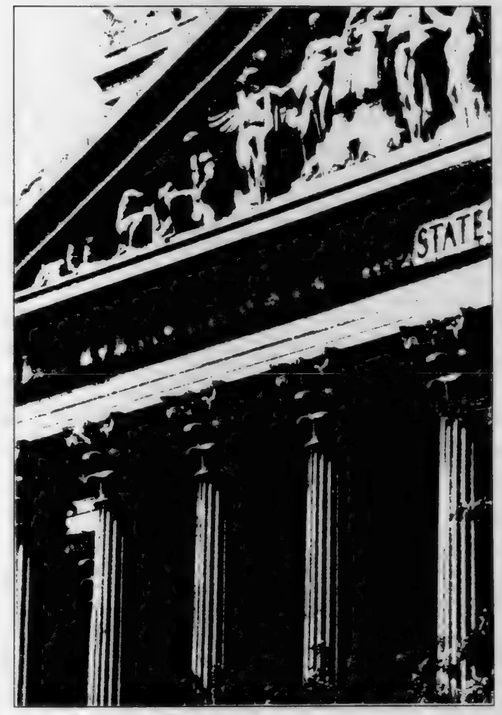

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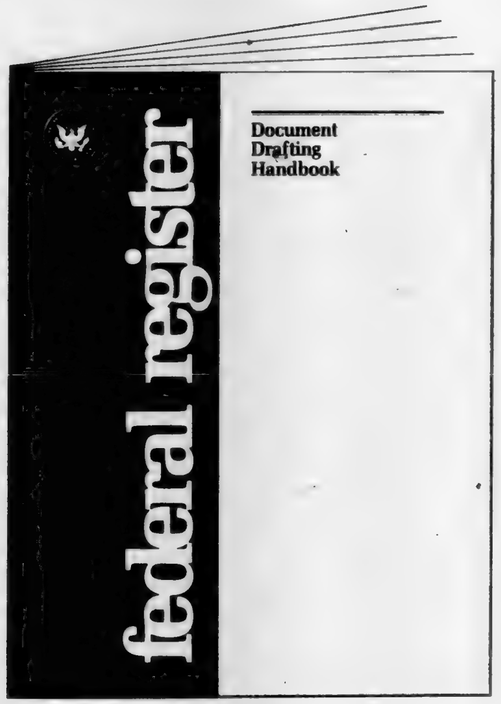

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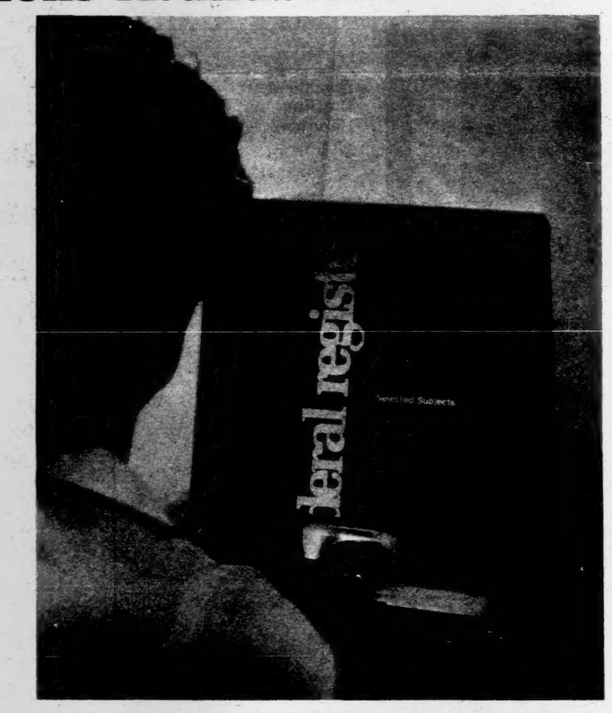

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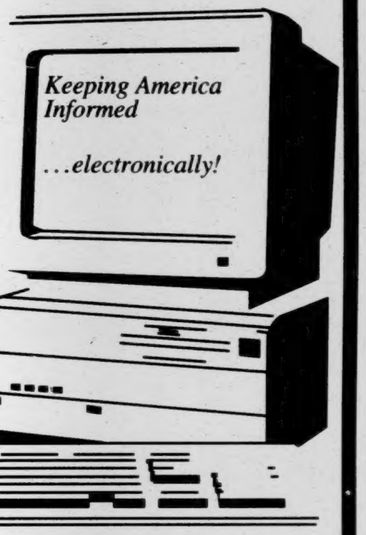

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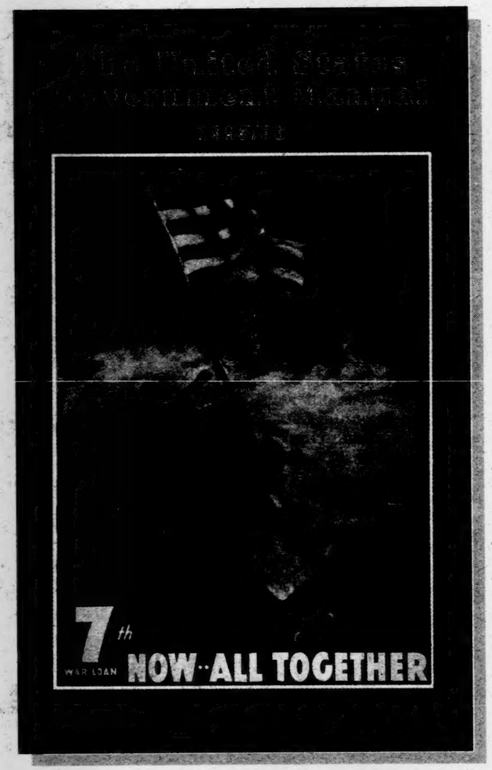

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